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PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, SECOND SESSION

SENATE—*Wednesday, September 4, 1974*

The Senate met at 10 a.m. and was called to order by Hon. JAMES ABOUREZK, a Senator from the State of South Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, who has watched over us in times past and brought us to a new day of fresh opportunity and new hope, grant us a clear sense of Thy presence and power in our daily work. May we work together for the coming kingdom when men everywhere shall live and walk together in peace and good will as the children of God.

Grant, O Lord, to the President, to the Members of Congress, and all workers in Government a rich endowment of that wisdom which comes from Thee, so that as we are strong in statecraft we may also be powerful in the things of the spirit. May each of us yield to the leading of Thy spirit, confident that where Thou dost guide, Thou wilt also provide.

We pray in the name of the Great Redeemer. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., Sept. 4, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES ABOUREZK, a Senator from the State of South Dakota, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ABOUREZK thereupon took the chair as Acting President pro tempore.

MESSAGES FROM THE HOUSE—ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of August 22, 1974, the following messages from the House of Representatives were received:

On August 27, a message announced that the Speaker had affixed his signature to the following enrolled bills:

S. 821. An act to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes;

H.R. 13871. An act to amend chapter 81 of subpart G of title 5, United States Code, relating to compensation for work injuries, and for other purposes; and

H.R. 15572. An act making appropriations for the Department of Housing and Urban Development; for space, science, veterans, and certain other independent executive agencies, boards, commissions, corporations, and offices for the fiscal year ending June 30, 1975, and for other purposes.

Under the authority of the order of the Senate of August 22, 1974, the enrolled bills were signed by the Acting President pro tempore (Mr. METCALF) on August 27, 1974.

On August 28, 1974, a message announced that the Speaker had affixed his signature to the enrolled bill (H.R. 2), an act to provide for pension reform.

Under the authority of the order of the Senate of August 22, 1974, the enrolled bill was signed August 28, 1974, by the President pro tempore.

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of August 22, 1974, the enrolled bill (H.R. 13999) to authorize appropriations for activities of the National Science Foundation, and for other purposes, was signed by the Acting President pro tempore (Mr. METCALF) on August 23, 1974.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that he presented to the President of the United States the following enrolled bills of the Senate:

On August 22, 1974:

S. 1871. An act to amend the Youth Conservation Corps Act of 1972 (Public Law 92-597, 86 Stat. 1319) to expand and make permanent the Youth Conservation Corps, and for other purposes;

S. 3703. An act to authorize in the District of Columbia a plan providing for the representation of defendants who are financially unable to obtain an adequate defense in criminal cases in the courts of the District of Columbia, and for other purposes; and

S. 3919. An act to authorize the establishment of a Council on Wage and Price Stability.

On August 27, 1974:

S. 821. An act to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes.

DEFERRAL OF PAY ADJUSTMENT FOR FEDERAL EMPLOYEES—MESSAGE FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under authority of the order of the Senate of August 22, 1974, the Acting President pro tempore (Mr. ABOUREZK) laid before the Senate the following message from the President of the United States, which was received on August 31, 1974, and referred to the Committee on Post Office and Civil Service:

To the Congress of the United States:

At a time when inflation is the main concern of every American, the Federal Government has a special obligation to take those actions which begin to stop inflation.

In this spirit and with the knowledge that the action I am taking will help to hold down the cost of living for all Americans, I now recommend a ninety-day deferral in the pending pay adjustment for Federal employees. At the same time, I am also ordering the Director of the Office of Management and Budget to proceed with a reduction of 40,000 Federal civilian positions from those planned for the current fiscal year.

Therefore, as required by law, I am transmitting to the Congress a plan to defer Federal pay raises for ninety days. This is intended to meet both the needs of those who serve the Government and the common interest of the general public, all of whom must bear the burden of increased inflation.

Under this plan, a pay increase for all Federal employees based upon an appropriate comparability adjustment would become effective on the first pay period beginning on or after January 1, 1975. The level of the comparability adjustment will be determined during the next few weeks.

I regret asking for this postponement of a Federal pay increase, but I am convinced of its necessity. Federal employees who I am asking to make a sacrifice are the foundation of sound, effective government. I am more conscious than ever of their contributions to our country.

Nevertheless, at this critical time in the economic health of our Nation, I must call on all Americans without exception to make sacrifices in order to hold down wages and prices. Federal employees, as one of the largest groups of workers in the country, have a special role to play in the fight against inflation because we in Government set the example. As we seek a noninflationary budget, it is especially important this year that Federal spending be held to a minimum.

I urge the Congress to support this action, because it is in the best interest of all Americans.

The plan to defer Federal pay raises by ninety days is attached. As required by law, the plan represents an alternative to the October effective date which would otherwise occur.

In addition, the Office of Management and Budget has now determined the specific reductions in civilian positions from those budgeted for the current fiscal year. The agencies will shortly be informed of these reductions by letters from OMB. Wherever possible, these reductions will be accomplished through normal attrition.

It is extremely important that the Federal establishment hold employment to the absolute minimum needed to get the job done. Effective use of human talents is a wise use of the tax dollar.

The pay raise deferral and the reduction in civilian positions together will reduce the 1975 budget by about $1 billion. Thus, the Federal Government is taking an essential first step in holding down the Federal budget and showing the way for restraint by all Americans.

GERALD R. FORD.

THE WHITE HOUSE, *August 31, 1974.*

MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of August 22, 1974, messages from the President of the United States submitting sundry nominations were received on August 23 and August 29, 1974, which were referred to the Committee on Armed Services.

(The nominations received during the adjournment are printed at the end of the Senate proceedings today.)

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of August 22, 1974, the following reports of committees were submitted:

On August 29, by Mr. ALLEN, from the Committee on Agriculture and Forestry, without amendment:

H. Con. Res. 564. A concurrent resolution to declare the sense of Congress that Smokey Bear shall be returned on his death to his place of birth, Capitan, N. Mex. (Rept. No. 93–1129).

On August 29, 1974, by Mr. EASTLAND, from the Committee on Agriculture and Forestry, without amendment:

H.R. 13267. An act to authorize Federal agricultural assistance to Guam for certain purposes (Rept. No. 93–1130).

On August 29, 1974, by Mr. TALMADGE, from the Committee on Agriculture and Forestry, with an amendment:

H.R. 13113. An act to amend the Commodity Exchange Act to strengthen the regulation of futures trading, to bring all agricultural and other commodities traded on exchanges under regulation, and for other purposes (Rept. No. 93–1131).

On September 3, 1974, by Mr. NUNN, from the Committee on Armed Services, without amendment:

H.R. 15406. An act to amend title 37, United States Code, to refine the procedures for adjustments in military compensation, and for other purposes (Rept. No. 93–1132).

On September 3, 1974, by Mr. KENNEDY, from the Committee on Labor and Public Welfare, with an amendment:

S. 3585. A bill to amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in the health and allied health professions, to revise the National Health Service Corps program and the National Health Service Corps scholarship training program, and for other purposes (Rept. No. 93–1133) (together with additional, minority, and supplemental views).

On September 3, 1974, by Mr. SPARKMAN, from the Committee on Foreign Relations, with an amendment:

S. 3394. A bill to amend the Foreign Assistance Act of 1961, and for other purposes (Rept. No. 93–1134).

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, August 22, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTION FEES FOR PASSPORTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1076.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 15172) to authorize the Secretary of State to prescribe the fee for execution of an application for a passport and to continue to transfer to the U.S. Postal Service the execution fee for each application accepted by that Service.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was ordered to a third reading, read the third time, and passed.

GISCARD'S HOPE FOR FRANCE; THE WORLDWIDE PROBLEM OF INFLATION

Mr. MANSFIELD. Mr. President, in Sunday's New York Times appeared a news story by James Reston entitled "Giscard's Hope for France: A New Age of Reform."

I noted with interest that the President of France, Mr. Valery Giscard d'Estaing, made a reference to what he considered to be a fact—that the President of the United States had neglected to mention Europe in his first one or two speeches and that the White House, in reply, pointed out that reference had been made to Europe during the course of the President's remarks.

I would hope that there would be a better understanding and less sensitivity on both sides so far as relations between the United States and France are concerned.

I look upon President Giscard d'Estaing as one of the new type of chiefs of state who have much to contribute to the welfare of the world. From personal knowledge, I know that he is an excellent friend of the United States; and I know, on the basis of conversations with President Ford, that that feeling is reciprocated in his feelings toward France.

I would hope that it would be possible in the weeks and months ahead for the President of the United States to work closely with the President of France; the Chancellor of the Federal Republic of West Germany, Helmut Schmidt; and the Prime Minister of the United Kingdom, Harold Wilson; and Prime Minister Tanaka of Japan. I make this suggestion because of the growing interdependence of the world and the fact that the problems of one part can no longer be considered separate and apart from the rest of the globe.

We are now in a very serious inflationary period. In my opinion, we are in a recession. But the answer to that recession will not be found by just pursuing practices which, on the surface, might appear to be beneficial to the United States alone. It will have to be done. I believe, in addition, in concert with the chief nations of Western Europe, the leaders of which I have already enumerated, and on the other side of the globe with Prime Minister Tanaka of Japan and, in a larger sense, with all nations.

What I am endeavoring to say is that inflation is not a factor affecting just one country. It is affecting all the countries—notably those without rigidly controlled economies. It reminds me of the situation which developed in the 1930's, at which time we had a worldwide depression and at which time we scarcely perceived of the need to cooperate and confer with others at that time.

Now the world is smaller; it is shrinking daily; communication is faster; problems are more and more universal.

It would be my hope that in addition to what President Ford is attempting to do in this country with regard to the economy—and I honor him for it—he and his advisers would not lose sight of the fact that what is happening economically today is something which could be considered in its worldwide context.

Therefore, Mr. President, in asking unanimous consent that this very worthwhile article on the new President of France, by James Reston, be incorporated in the RECORD, I express the hope that a closer relationship will develop between the Presidents of the two countries. I have no doubt at all that President Ford and President Giscard d'Estaing will come to an understanding of each other, that they will work cooperatively, and that the west and the world, will be the better off as a result.

Mr. President, I ask unanimous consent that this news article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Giscard's Hope for France: A New Age of Reform

(By James Reston)

Paris, August 25.—President Valery Giscard d'Estaing describes himself as an optimist. He thinks the world is a little mixed up these days but believes its problems are manageable, its people tough and adaptable and its future not too bleak.

In an interview with The New York Times here three days ago, he sat on a green velvet couch in the Elysée Palace and spoke with measured confidence about the coming age, as if the contemporary preplexities were sort of a passing nuisance that could be handled, if not resolved, once people learned to live with perpetual change and reform.

GILT AND SCARLET OFFICE

He was friendly toward the United States. He spoke about a member of his family, Admiral Conte d'Estaing, who led French naval forces in an attack on Savannah, Ga., during the American War of Independence and was beheaded during the French Revolution.

Mr. Giscard d'Estaing supported the concept of a united Europe, eloquently but vaguely, and talked mainly about France—with the utmost pride—as a model for the future, and about the role of women, youth and leadership in bringing about an age of reform.

As a former Finance Minister, he began by criticizing the economic and financial condition of the world. De Gaulle was condemned for trying to create trouble, he said, but now it is obvious that the general was right in believing that the world simply could not absorb more than $100-billion of American deficits.

Since that time, President Giscard d'Estaing continued, the world has done away with the international monetary system and has just a moving floating, situation now. Maybe this is all right technically, he asserted, but psychologically and politically it is very unsettling. People did not know where they were or where they were going, and this could be cured only by the establishment of a new international monetary system.

While on this subject, he said that in the past four or five years of widespread inflation, people of all classes had gotten in the habit of desiring a constantly higher standard of living without any consideration for where the money was coming from. He hoped this attitude was approaching its end.

The President placed considerable emphasis on the importance of equality between France and West Germany in economic and industrial power. It was for this reason, he said, that he had insisted on a faster rate of growth for France, since she was lagging.

PERMANENT STATE OF CHANGE

The problem of political leadership, he said, is to help people adjust to a permanent state of change. France is a very conservative country, he observed, and the people do not like change; they are torn between two attitudes: an intellectual desire for change and a fear of change.

In the past, he explained, France went for long periods without much change until things became intolerable, and then there were upheavals of various types: revolutions in the 19th century, serious political crises in the 20th century such as the emergence of the Popular Front in 1936 and the fall of the Fourth Republic in 1968.

His intent, he said, is to try to have a steady, reformist policy, continuous change, with a speed that could be increased or decreased according to the needs of the situation.

It is a mistake, Mr. Giscard d'Estaing said, to be afraid to contest those who fight against change. For example, a large majority of the French people were against his law facilitating abortion and contraception, but once the policy had been decided, the people accepted it quite naturally.

The President, who has been in office for just over 100 days, was asked what he hoped to achieve as a result of his spectacular victory over Francois Mitterrand, the Socialist leader, in a runoff in May. Two things, he said: to create a feeling that France is again a little ahead of her time, politically and socially, and to be a member of some European community.

EVENTS, NOT CONCEPTS

Pressed to define his concept of a European community, he replied that he had always believed it rather futile to discuss concepts. We are not living in a world of constitutions now, but in a world of events, he added, so what will matter is what happens, not what is written.

The question of federation or confederation did not seem to him to be the key to the problem, though perhaps what he envisaged was what might be called a confederation. As soon as governments are really working closely together, really making decisions together, he explained, the question of structure is not important.

Still, he insisted that he meant to move toward common action in Western Europe and had talked with the West German Chancellor, Helmut Schmidt, about developing an attitude so that Europe will be perceived as a whole by Europeans and by others. But not, he noted, as an additional structure like the Organization for Economic Cooperation and Development.

He was asked how it was possible to reconcile all the different political and economic problems in each country with common international policies—how to reconcile all this diversity with European unity.

He replied that he did not think it was all that difficult. Nations had the right to diversity. We must not try to force them into a single mold. There were differences of language, behavior, education and standards of living. The main thing to know was whether people, despite their national differences, thought of themselves as belonging to the same unity.

MATTER OF LEADERSHIP

It is a question of leadership, he insisted: If the leaders are forceful enough and imaginative enough and bring a certain lyricism to the task of leadership, the people will begin to think in a more unified way.

What the President seems to be aiming at is a peaceful revolution, a policy of perpetual change at home and a loose confederation in Western Europe. His Cabinet is drafting a charter on the quality of life. Social security is to be extended to everyone. The Government is discussing a plan for reforming the structure of French companies. Parliament will be asked this fall to pass more liberal laws on divorce, abortion and contraception.

In a way President Giscard d'Estaing, like President Nixon in his first term, seems to be trying to cut across the rigid lines of ideology and party loyalty and create a progressive coalition. To break up the old groupings of French politics, he is appealing particularly to women and to youth.

Take the situation of women in France, he said: They have limited possibilities of choice in contraception, divorce, opportunities in business. Yes, he went on, he is serious about the problems of women. The cultural change of our time, he emphasized, will probably come through women.

On relations with the United States, Mr. Giscard d'Estaing stressed the importance of consultation but showed little enthusiasm for ceremonial summit meetings or formal institutions to harmonize trans-Atlantic policies.

SPOTS ON THE SPHERE

The best technique is direct consultation between leaders, he said. In fact, there is good consultation between French and American leaders now, he added, but he was canny about discussing associations.

The world should be seen as a sphere with large spots on it, he said—the American spot, the European spot, the Soviet spot, the Chinese spot, etc. You could not have the same spot for Europe and the United States; their natures were different, their problems of defense were different, so they could have good relationships, but they could not be related in the sense of a common structure of decision.

Of course, he continued, Europe and America belong to the same political philosophy, the same economic way of life, and this creates a lot of similarities, but it does not mean association against some other part of the world.

He agreed that there were common problems of population, food, oil and other raw materials, and no doubt these required common thinking. Except for a few nations, colonialism and borders were no longer problems. These other questions were the real problems, but unfortunately they were not always seen in the same way.

The United States, he observed, believes in a world market without too many rules and the West Germans have much the same approach, but the tradition of the French, the British and the Dutch favors an organized world economy for raw materials, and for population and other major problems.

DEEP BUT INFORMAL

Accordingly, he thought there was need for a deep and complete discussion of all this, but it was important to avoid having it in a rigid international forum, where officials tend to maneuver against one another and fail to reach any real analysis.

On a more personal level, President Giscard d'Estaing said he was interested in the 200th anniversary of the American Declaration of Independence in 1976 and thought that perhaps that would provide an opportunity for him to visit the United States. He spoke of the admiral, a career officer in the Ancien Régime who was appointed head of the French Fleet when the American Revolution started and fought at the siege of Rhode Island as well as at Savannah.

Asked about his interest in Flaubert and about his own reading and writing, he replied that he had read everything written by and about Flaubert and De Maupassant. Some people like to read for the subject matter and consider language merely a supporting vehicle, he said, but he read and studied them because he liked literature. Also he was fascinated by the question whether De Maupassant was not only Flaubert's pupil but also his son.

He said he always had a book under way. Last winter he was working on three novels, but now there is the matter of how they would be received in his present position. When he has trouble falling asleep, he said, he composes stories in his head—slow, low-key stories, sufficiently articulate to keep his mind busy.

NOT STYLE, BUT SUBSTANCE

Mr. Giscard d'Estaing has sometimes been criticized for paying more attention to the style of his presidency than to the substance of his policies. To a question about this he replied that he was absolutely decided on the reforms he had proposed for the prisons, for control of wiretapping and for freedom of the press. It was unprecedented for a French President to visit prisons and shake hands with prisoners, but he had done so because he wanted to know conditions first hand.

Except in exceptional circumstances of spying or when there is court approval, he said, wiretaps are to be eliminated. The press will not be troubled for denouncing him or his administration. Pornography is another matter, he said: not the publication of it so much as exposing it to children.

Looking to the longer future, Mr. Giscard d'Estaing foresaw a different world, which, he said, was why he was striving for something different in his thinking and his political actions. He does not foresee major conflicts between the nuclear states in this century, but he does expect authoritarian, oppressive regimes in large parts of the world and probably considerable tension and localized conflicts as a result of them.

Referring to the late French philosopher Pierre Teilhard de Chardin, he recalled that Teilhad said that the real question is not what you are looking at but where you are looking from.

In the past we looked at the world from only one point of view, with the light coming only from us and everything else in shadow, Mr. Giscard d'Estaing said, but in the future there will be many more lights, coming from many different places—Brazil, Malaysia, the Philippines, Indonesia—so we will see things in a different way, in a different light.

He is an optimist about this coming world, he said, for the history of mankind is a history of progress, and optimism is in order.

Mr. GRIFFIN. Mr. President, I wish to associate myself generally with the remarks just delivered by the distinguished majority leader. Once again, the statesmanship of the majority leader is reflected by his statement, in which he has recognized the determined effort being made by President Ford in the fight against inflation which, indeed, is a worldwide problem.

To win the battle against inflation, it is important to be aware of the importance of restoring and building public confidence in the ability and determination of the Government to cope with the problem. It is unfortunate, in my opinion, that several economic spokesmen for the administration have apparently left an impression with the media that major moves to combat inflation will not be made until sometime next year.

I want to indicate my strong view that President Ford has already made major moves. He has made it clear that inflation, which he describes as "Public Enemy No. 1," has replaced Watergate as the major concern of the Nation.

Day in and day out, he has moved vigorously to deal with the problem of inflation. He had been meeting daily with economic experts in and out of the administration. He has called for legislation, to which the Congress has already responded, to reactivate the Cost of Living Council, which will monitor wages and prices. He has called upon the Congress to cooperate in reducing the level of Federal spending by at least $5 billion in this fiscal year. He has announced an economic summit meeting in response to a proposal made by the majority leader and other Senators.

And he has called for cooperation from the Congress in deferring from October 1 to January 1 a pay raise for some 3.5 million classified Federal workers.

On that point, Mr. President, I hope I shall not put the majority leader on the spot—because that is not my purpose—but I did notice that, when he was asked about it on yesterday, he did not jump to a position in opposition to the President's request for a deferral of that pay raise. I know that when the majority leader does take his position on the issue, it will be one that is well reasoned and will reflect his best judgment.

I urge other Senators to follow the example of the majority leader—to take a little time before taking a position on this issue. The vote on this question can be crucial because it can figure importantly in the psychology of the battle against inflation.

To win the battle against inflation, cooperation is needed from all segments of society. Certainly, we cannot expect that only a housewife who goes to the grocery store will sacrifice in this battle. Others will have to tighten their belts and sacrifice as well.

Whether General Motors sacrificed enough when they responded to President Ford's request and rolled back their announced price hike may be debatable. I have no doubt that some sacrifice was involved, because General Motors was prepared to demonstrate that every penny of the price increase first announced was based on increased costs.

The point is that everyone at all levels should expect to sacrifice, to some extent. And, it seems to me, that the Federal Government should expect to set the example.

I know it is difficult politically to ask Federal workers to defer a pay raise. But the request is not that they forgo it.

They will get the pay raise on January 1. The request is only that they tighten their belts for 90 days and defer the raise. If Congress would cooperate with the President to that limited extent—that move, along with the reduction of some 40,000 Federal positions, which the President intends to achieve through the process of attrition, will save $1 billion in this fiscal year. That is a big step toward the goal of saving $5 billion in this fiscal year.

I think it would be somewhat tragic if, in the first major test that Congress faces in the battle against inflation, the Congress were not to support the President. This is an important test, not only symbolically and psychologically, but substantively as well.

It should be pointed out, just for purposes of clarification, that the pay raise scheduled to take effect on October 1 would not apply to upper echelon Federal employees—Federal judges, Cabinet officials, Members of Congress, and others. In fact, personnel in those categories have not had a pay raise since 1969. So, certainly, there has been, and continues to be, sacrifice by personnel in those categories.

So far as the 3.5 million employees who would be affected, they have received pay raises during the last 5 years which total 30.1 percent. During that same period the cost of living has gone up approximately 30 percent. So, while some others have not kept pace with the cost of living, the Congress has seen to it, and I think rightly so, that those who do work in the Federal classified service have been keeping abreast of the cost of living.

Mr. President, I have taken the floor and made these remarks in the hope that I might encourage my colleagues in the Senate, where I suspect the crucial vote on the issue will be taken, to at least take some time to read carefully the President's message, to weigh the consequences of an adverse vote, in terms of what it would mean as the signal to the rest of the country and the rest of the world concerning our intentions in this all-important battle against inflation.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oregon (Mr. HATFIELD) is recognized for not to exceed 15 minutes.

IN MEMORY OF WAYNE MORSE

Mr. HATFIELD. Mr. President, when our former colleague, Senator Wayne Morse, died on July 22, it was my responsibility to announce this to the Senate. At the time, I said I planned a more extensive eulogy at a later date. I have delayed making these remarks until today so a complete transcript could be prepared from the memorial service to Senator Morse here in Washington. Now that it has been completed, I wanted to share some comments with my colleagues this morning about this remarkable gentleman.

Wayne Morse and I worked in concert on a number of matters; we were political foes on many other occasions. Throughout my years of public service, beginning as a young State legislator in 1950, Senator Morse was always a political force in our State. As has been said by some editorialists, our State will not see another Wayne Morse again. A strong voice has been stilled. He remained a fighter until the day he died.

Throughout the full and rich life of Senator Morse, he felt a commitment to the truth. His early life was highlighted by brilliant scholarship and inspirational teaching. His middle career was one of mediating differences between management and labor. In yet another career within the Senate of the United States, Wayne Morse called forth all of these skillful characteristics and meshed them by alternating the roles of the scholar and the teacher. He demonstrated an oratorical prowess seldom equaled in the history of this body. Using these skills, he helped shape much of the education and libertarian legislation that was passed during his years in the Senate.

But we would do his memory an injustice if we did not recognize the dogged determination of a fighter for principle who would take on the mightiest of the world at the drop of a scruple and who would chase the money changers from the temple, the marketplace, or the White House with a fury of fierce ferocity.

Often called a prophet without honor, we honor him now because he was proven right in so many instances. That is not to say he was never wrong. But even in those instances the fire and brimstone were brought forth with a style that evoked fear and trembling—a Morsequake, if you will—and he delighted in watching his colleagues, friends and foes, as the Morse barrage of facts, legal precedents, and constitutional quotes poured forth. Also, he never shrank from an issue when it appeared the skies were falling. He stood toe to toe with the best debators this body ever has seen.

Mr. President, I would like to share with my colleagues some thoughts on the life of Wayne Morse I gave at a memorial service in Salem, on July 26, 1974, in memory of Senator Morse.

Undaunted.

Steadfast.

Unyielding.

Indefatigable.

All these come to mind with the memory of Wayne Morse.

We, of course, had been political adversaries, but not out of willful choice or desire; rather, out of inevitable political circumstances.

But also, we were often colleagues in causes, striving together with mutual convictions that naturally wrought bonds of respect; bonds which transcend those more ephemeral differences.

At times like this, we remember what is most lasting about the imprint of a life; we remember what will endure beyond those 73 years given by God to Wayne Morse; we remember what is transcendent of mere politics, and reaches forward to our common destiny and future.

Wayne Morse cherished his convictions.

He clung to them, fought for them, and yielded to them.

One cannot say this about many men today.

Politics can breed a callousness to truth, and an enslavement to expediency and compromise. One is enticed into the worship of popular opinion, and loses his sense of conscience, of inner integrity, of accountability to conviction.

But not so with Wayne Morse.

Certainly he fought as hard or harder as any in political combat, for he was a relentless pursuer of his causes. But there was a difference. It was not just his political survival which thrust him into his battles. Rather, in larger ways it was the unquenchable strength of what he believed.

Wayne Morse never thought the point of politics, or of life, was "to get along, you go along." He was freer than most from that perpetual concern with popularity. It was more important for Wayne Morse to stand for his convictions, and struggle or truth.

Wayne Morse loved the law.

He always remained a tutor of the Constitution to all who would listen.

And it was that love which produced such bristling indignation whenever he felt others were jeopardizing the sanctity of constitutional law. Would that such a jealous love were shared by all given the responsibility of political power.

All these qualities equipped Wayne Morse for the most valued contribution he made to our country: His unceasing drive to bring the Nation from war to peace.

That is how Americans will remember him best. For he warned America; he pleaded with her; he tried to alarm her; he wanted to tell America how she was endangering her deepest ideals, and spilling innocent blood.

You could say that he spoke then like a prophet, heralding the truth to ears that rarely were open.

But he remained undaunted. Steadfast. Unyielding. Indefatigable. The Gulf of Tonkin vote was the natural outgrowth of his character and commitment. Inexorably, the truth he proclaimed was embraced by more and more others, as the Nation began to listen.

Wayne Morse always kept on fighting for peace, and for his inner beliefs, and for the Constitution.

Words by Dag Hammarskjold bring Wayne Morse back to our minds:

> He broke fresh ground—because, and only because, he had the courage to go ahead without asking whether others were following or even understood. He had no need for the divided responsibility in which others seek to be safe from ridicule, because he had been granted a faith which required no confirmation.

His zeal was infectious, both nurtured and shared by wife and family, who marched with him on his crusades, and were all bound together with unflinching devotion.

He refused to let even age defeat him. Wayne Morse would no more yield to it than to any other foe. So he died fully alive, still in political combat, with his incisive mind and penetrating voice still advocating his cause, still preaching constitutional sermons about the law he knew and loved so fervently, and still telling us what he felt in his mind and heart.

Tennyson's words best capture for me the life of Wayne Lyman Morse:

> To strive, to seek, to find, and not to yield.

Mr. President, at that same Salem service, tributes were given by Oregon Gov. Tom McCall and Oregon State President Jayson Boe. Mr. Boe, incidently, was the primary opponent this past spring challenging Senator Morse for the Democratic Senate nomination.

I ask unanimous consent that these two eulogies appear at this point in the RECORD.

There being no objection, the eulogies were ordered to be printed in the RECORD, as follows:

REMARKS BY GOV. TOM MCCALL

My relationship with Wayne Morse—often friendly but sometimes tenuous—has roots nearly 40 years old.

The first contact I can remember was in the mid-1930's, after I had won a write-in campaign for president of the senior class at the University of Oregon. Law School Dean Wayne Morse—then head of the faculty-student Executive Committee—ruled that since there was no space on the ballot for write-ins, my election was a nullity.

I think it was the only bad decision he ever made. It was the only contrary thing he ever did to me; there was much he did for me.

As a political writer, government servant and progressive Republican, I was privileged to have some unusual insights into Senator Morse's reaction to key situations, and so I feel a kinship approaching that of a family member.

We have, laughed, argued, nodded agreement, and given each other advice, some taken and some not.

I saw him strident, audacious, challenging, and penitent. To those progressive Republicans he left behind to suffer the scorn of more conventional Republicans when he left the party, he was contrite. And he told me he was grateful that they had stood up for him and with him for a more realistic political party.

At the Republican National Convention in 1952—which I attended as a news reporter—I was sitting next to him with the Oregon delegation when the name of Richard Nixon was put forth as the vice presidential nominee. He clutched my knee in his distress and asked: "Why him? Why not a progressive Republican like Leverett Saltonstall?"

It was a myth that he wanted the nomination himself. But he wanted it for a progressive—particularly one who would be evenhanded toward labor. But as he saw it, his party had fallen into the clutches of the conservatives, and there was no longer any room for him among the Republican faithful.

His decision came not out of spite. It was simply an intellectual conclusion, another victory for his conscience.

When A. Robert Smith's book "The Tiger in the Senate" came out in 1962, I was the first newsman to get this reaction. He loathed the book. He told me: "There never was a monster as bad as the one portrayed by that book."

He could make high drama in a sentence or two. Often he ran beyond that because he had such an inquisitive, acquisitive mind and understood things so well that he was always prepared, and wanted to tell the story in depth. He wanted us to know everything he did so that we would understand the issues as well as he. He didn't talk to be talking; he was applying his considerable oral skills to winning an appreciation and an understanding of his point of view.

What some people only think, Wayne Morse would often say. He could be inexplicably harsh in his assessment of those he believed were ignoring their conscience, or had none. But it was pointless to be angry with him. We came to find we'd rather have him that way than in the cozy clubhouse of the politics-as-usual association.

In the two years that my career as Governor and his as Senator overlapped, I turned to him many times for help, and got it. He had an office finely tuned to service to the citizens of Oregon, and he became the scourge of the bureaucrats.

One of the last times I saw him was more than a year ago when we crossed paths in Portland. He said: "You know what I've been doing today? I was in Columbia County campaigning for your school tax plan."

I asked him once if he knew the political risks of getting into that campaign, and of course he did. But he said he believed it offered justice to the kids and equity to the taxpayers, and he couldn't stand mute to that opportunity.

Except for his union with his beloved "Midge" and their family, and his leadership of his cattle club, Wayne Morse loosened the ties or beat his way out of about every organization he got into. His appeal was to our reason as individuals.

The closest he came in recent years to gathering an identifiable flock was the attachment of millions of young people to his banners.

Was it opposition to the Vietnam War? Most young people knew very little more about him than that. But I detect that it was not only his opposition to the war, but a feeling flowing from it that here was an honest man, that when he spoke you knew there was no hidden motive.

The young and many of their elders view most politicians with immense cynicism—a cynicism fostered outrageously by political leaders who defend Watergate with the canard that "everybody does it."

So the young have the notion that almost everybody is on the take from the oil companies, and ITT, and the milk trust, and that everybody with any influence at all can dodge taxes, and steam open other people's mail.

But they do not believe it of Wayne Morse, and oh, what his past has taught us! His life reminds us that there are other lands of the free and the brave, and that patriotism isn't an exclusively American property. He told us that personal and national principles cannot be changed to accommodate your bank account, or your political party, or your friends or even your enemies. In his uncompromising way, he encouraged us to stiffen our backs against compromise of principle.

In the name of presidential privilege, national honor, military power or economic interest, we see gross violations of the letter and spirit of the United States Constitution. And Wayne Morse—more like an author of the Constitution than a politician—reveled in running against the tide that has created a uniquely American system of government by men.

In these days we tend to honor men and women in public life for the buildings they constructed, the highways they built, the laws they passed, the institutions they endowed, or the power they obtained to manipulate the lives of others.

It is rare that we have the opportunity to honor someone whose great achievement was to have and to hold devotion to conscience, and integrity of the most immense proportions. But that is why we honor this rare man, Wayne Morse.

The United States Constitution guarantees the right of the people "to petition the Government for a redress of grievances."

Our most eloquent petitioner lies dead. Let us now take up his burden as our memorial to his name.

Eulogy for Senator Wayne L. Morse

(By Jason Boe, President, Oregon State Senate)

Inscribed in the marble of the rotunda of our state capital are these words:

"In the souls of its citizens will be found the likeness of the state which if they be unjust and tyrannical then will it reflect their vices, but if they be lovers of righteousness, confident in their liberties, so will it be clean in justice—bold in freedom."

These words, which touched Mrs. Morse so tenderly yesterday, serve well to describe the life, work and the philosophy of Senator Wayne Morse.

We assemble here today to honor the memory of Senator Morse, who was stricken on July 17th and passed away on July 22, 1974.

A national symbol of courage is dead.

Wayne Morse's leadership in causes he believed to be just transcended party lines. It arose above narrow political ideologies. In his long career in the Senate that he loved, he was extraordinary effective for the people of Oregon. Constituents who needed him came away knowing he cared—he cared for his people as all good legislators must; and knowing that he cared, people were satisfied that he would seek to solve their problems if the solution were just.

Wayne Morse's Senate performance was spectacular. He was a senator's senator. He knew the joys and inner rewards of public service. He knew the thrill of victory, he knew full well the agony of defeat.

Wayne Morse worked hard, drove hard. He made hard decisions not always popular. He never avoided the rough waters if they had to be negotiated for a goal in which he believed.

And through it all, he had the loving companionship and support of his marvelous wife Midge and their lovely family.

I had the honor to be Senator Morse's last competitor in the political process he loved; the ageless electoral struggle to reach the minds of men and women; to articulate their aspirations for a better government—a better life. Through it all, our relationship didn't change. The issues that united us were far stronger, far more powerful, far more important than any other consideration.

In the fifth verse of Chapter 74 in the book of Psalms it says: "A man was famous according as he had lifted up the axe upon thick trees." Wayne Morse never hesitated to lift up the axe when it was in defense of our individual liberties or for equal protection under the law or for the cause of world peace.

"In the souls of its citizens will be found the likeness of the State . . ."

Senator Morse was a lover of righteousness, confident in the liberties of the people. He was clean in justice, bold in freedom, and gracious in victory. His spirit was never—nor now will it ever—be defeated.

Morse of Oregon. We shall not soon see his like again.

Mr. HATFIELD. In addition, at the memorial service in Salem, Speaker of the Oregon House of Representatives Richard Eymann, former Senator Eugene McCarthy, and Morris Novick, a personal representative of George Meany from the AFL–CIO, also spoke.

Later in the day, another service was held in Eugene, Oreg., Senator Morse's home town. Unfortunately, no written comments were retained by the speakers, Dr. Wesley Nicholson, Dean Orlando Hollis, Dr. Charles Grossman, Merton Bernstein, and Justice William O. Douglas. I ask unanimous consent, however, that an article by Henny Willis, from the Eugene Register Guard, describing the service, and containing excerpts from the eulogies, appear at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Wayne Morse at Final Rest

(By Henny Willis)

Wayne Lyman Morse was laid to rest Friday on a hilltop knoll not far from his beloved Eugene ranch.

The private burial service, in Rest-Haven Memorial Park attended only by the Morse family and a few close friends, brought a political era in Oregon history to a close as praise for the 40-year public career of the old "Tiger in the Senate" echoed across the nation.

Morse, 73, died Monday after being stricken last week with a severe urinary tract infection.

Appropriately, his close associates say, Morse—perhaps this century's most renowned political maverick—was campaigning for his old Senate seat when he was stricken.

At a mid-afternoon funeral service at the First Congregational Church in Eugene, the church's (and Morse's) pastor, the Rev. Wesley Nicholson, revealed the ex-senator's last words.

Nicholson said he had visited Morse in the hospital shortly before he died and that the family had relayed to him that Morse, in what Nicholson described as a "semi-coma," had believed himself to be at a "political gathering." His last words, Nicholson said, were:

"I want to thank you all for coming. Thank you for such a beautiful day. Thank you, everybody. Thank you."

At the two-hour funeral service, eulogies came from four men who had known Morse intimately over the years.

Orlando Hollis, who taught at the University of Oregon Law School when Morse was dean and who succeeded Morse as dean, relayed anecdotes and impressions of Morse from those early years (both men came to the UO in 1929).

Hollis said Morse loved his ranch and his horses as a release from his hectic—and often controversial—public life. He said throughout his life, Morse would try as often as possible to go out at sunrise and ride his horses.

Another facet of the Morse character, Hollis said, was that he had an "ability to communicate with and understand young people, without being condescending them."

From his earliest days at the UO, Hollis said he perceived that "Wayne Morse stood in awe of no one, absolutely no one. He was a man of complete self-confidence."

Dr. Charles Grossman, Morse's personal physician and long-time friend from Portland, said one of the ex-senator's greatest strengths "was that he was always on the side of the people—the working man, the farmer, the blacks and Chicanos, the Indians."

Grossman said on July 4 this year, Morse had run a three-legged race with a young girl at a holiday fete.

"It was symbolic that he should end his life running and tied to the younger generation," Grossman said.

Merton Bernstein, a law professor at Ohio State College of Law and a one-time Morse aide during the Senate years, described his old boss as a "warm, vital person . . . a man of great compassion and tolerance—we worked not for him, but with him."

The principal eulogizer was U.S. Supreme Court Justice William O. Douglas, a longtime Morse friend.

Douglas said he last visited with Morse at the recent funeral of ex-Sen. Ernest Gruening, D-Alaska, who was only one of two U.S. senators—the other was Morse—to vote against the Gulf of Tonkin Resolution in 1964.

"In the past few weeks," Douglas said, "we've seen the death of three outstanding public servants—Earl Warren, Ernest Gruening and Wayne Morse. Each of these men respected public office as a trusteeship."

Douglas called Morse "a giant" of constitutional principles and "as good a constitutional lawyer as ever sat in the United States Senate."

The justice said Morse's vote against the Gulf of Tonkin Resolution—the passage of which triggered American escalation in Vietname—was his proudest vote.

"In his view," Douglas said, "a presidential war was the most dangerous of all."

Douglas called Morse "outspoken and blunt, but he was not filled with rancor and bitterness—he was a man of integrity fearlessness and daring will."

Douglas said government today "seems to act as though corporations have a bill of rights. It's more like a government of corporations, by corporations and for corporations. But Wayne Morse followed steadfastly the tradition of Abraham Lincoln and fought for a government of the people, by the people and for the people."

From the church filled with high-ranking political figures and average citizens, Wayne Morse was taken to his final resting place.

An era had ended. The Tiger was still.

Mr. HATFIELD. Mr. President, I also participated in a memorial service here in Washington at National Cathedral paying tribute to Wayne Morse. It was a most moving occasion, and many of Senator Morse's friends from this area gathered to pay him final tribute. As I indicated, I waited to offer this eulogy until a transcript could be prepared of the service. Even the songs seemed perfect to comment on his rich life. I ask unanimous consent that the full text of this service appear at this point in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

Memorial Service for Senator Wayne Lyman Morse of Oregon, 1900–1974, Tuesday, July 30th at 10:30, Washington Cathedral

ORGAN PRELUDE

Music of Johann Sebastian Bach

Sonatina from the Cantata "God's Time Is Best"

Sinfonia from Cantata "I Stand with one foot in the Grave"

Choral Preludes: "When we are in greatest need"

"Deck thyself, O my Soul"

PROCESSION OF THE PARTICIPANTS

(In silence)

OPENING SENTENCES AND PRAYER

(All standing)

Canon Jeffrey Cave

Lord, make us instruments of your peace;
Where there is hatred, let us sow love;
Where there is injury, pardon;
Where there is discord, union;
Where there is doubt, faith;
Where there is dispair, hope;
Where there is darkness, light;
Where there is sadness, joy;
Grant that we may not so much seek to be consoled, as to console;
To be understood, as to understand;
To be loved, as to love:
For it is in giving that we receive,
It is in pardoning, that we are pardoned,
And it is in dying that we are born to eternal life.

Oh, God of righteousness, we thank you for the faith
we inherit. It gives us the vision
of a world where children of God are not
ground down in oppression,
but lifted up freedom.

We thank you for the gift of your love.
It demands that the human person
must not be bound in misery,
but liberated in joy.

We thank you for the abundance of the earth.
It makes possible a society of persons,
not equal in poverty, but diverse in wealth.

We thank you for the pricking of conscience.
It makes us lay the foundations
for such world, not tomorrow, but today.

And, we thank you for Wayne Morse,
a faithful and good man. Amen.

Senator MARK HATFIELD. Let us remain standing and join together in responsive reading taken from Psalm 119:

R. Thy word is a lantern unto my feet, and a light unto my paths.

C. I have sworn, and am steadfastly purposed, to keep thy righteous judgments.

R. I am troubled above measure: quicken me, O Lord, according to Thy word.

C. Let the free-will offerings of my mouth please Thee, O Lord; and teach me Thy judgments.

R. My soul is always in my hand; yet do I not forget Thy law.

C. The ungodly have laid a snare for me; but yet I swerved not from Thy commandments.

R. Thy testimonies have I claimed as mine heritage forever; and why? they are the very joy of my heart.

C. I have applied my heart to fulfil Thy status always, even unto the end.

ADDRESS BY THE HONORABLE MARK HATFIELD

Undaunted. Steadfast. Unyielding. Indefatigable.

All these come to mind with the memory of Wayne Morse.

At times like this, we remember what is most lasting about the imprint of a life; we remember what will endure beyond those 73 years given by God to Wayne Morse; we remember what is transcendent of mere politics, and reaches forward to our common destiny and future.

Wayne Morse was a man of the earth.

With his ranch and cattle, he always maintained his roots with the soil.

He treasured Oregon's forests and ranges, battling to preserve their bounty and beauty.

At the bedrock of his career was his commitment to Oregon's land and people. Wayne Morse cherished his convictions. He clung to them, fought for them, and yielded to them.

Certainly he fought as hard or harder as any in political combat, for he was a relentless pursuer of his causes. But there was a difference. It was not just his political survival which thrust him into his battles. Rather, in a larger way, it was the unquenchable strength of what he believed.

Wayne Morse never thought the point of politics, or for life, was "to get along, you go along." He was freer than most from that perpetual concern with popularity. It was more important for Wayne Morse to stand for his convictions, and to struggle for truth.

Wayne Morse loved the law. He always remained a tutor of the Constitution to all who would listen.

And it was that love which produced such bristling indignation whenever he felt others were jeopardizing the sanctity of constitutional law. Would that such a jealous love were shared by all given the responsibility of political power.

All these qualities equipped Wayne Morse for the most valued contribution he made to our country: his unceasing drive to bring the nation from war to peace.

That is how Americans will remember him best. For he warned America; he pleaded with her; he tried to alarm her; he wanted to tell America how she was endangering her deepest ideals, and spilling innocent blood.

You could say that he spoke then like a prophet, heralding the truth to ears that rarely were open.

Inexorably, the truth he proclaimed was embraced by more and more others, as the nation began to listen. His zeal was infectious, both nurtured and shared by Mrs. Morse and family.

He refused to even let age defeat him. Wayne Morse would no more yield to it than to any other foe. So he died fully alive, still in political combat, with his incisive mind and penetrating voice advocating his cause, still preaching constitutional sermons about the law he knew and loved so fervently, and still telling us what he felt in his mind and heart.

It is Tennyson's words which to me would capture the life of Wayne Lyman Morse:

"To strive, to seek, to find, and not to yield."

HYMN 471—"ROCK OF AGES," (TOPLADY)

(All joining)

Rock of Ages, cleft for me
Let me hide myself in Thee
Let the water and the blood
From Thy side, a healing flood
Be of sin the double cure
Cleanse me from its guilt and power.
Should my tears forever flow,
Should my zeal no languor know,
All for sin could not atone:
Thou must save, and Thou alone;
In my hand no price I bring
Simply to Thy cross I cling
While I draw this fleeting breath
When mine eyelids close in death
When I rise to worlds unknown
And behold Thee on Thy throne
Rock of Ages, cleft for me,
Let me hide myself in Thee. Amen.

Mr. PEPPER. Canon Cave, members of the family of Senator Morse, and friends: A reading from the 39th Chapter of the Book of Ecclesiasticus:

"He who devotes himself to the study of the law of the
Most High will seek out the wisdom of all the ancients, and will be concerned with prophecies;
He will preserve the discourse of notable men and penetrate the subleties of parables;
He will seek out the hidden meanings of Proverbs and be at home with the obscurities of parables.
He will serve among great men and appear before rulers;
He will travel through the lands of foreign nations, for he tests the good and evil among men.
He will set his heart to rise early to seek the Lord who made him, and will make supplication before the Most High;
He will open his mouth in prayer and make supplication for his sins.
If the great Lord is willing, he will be filled with the spirit of understanding;
He will pour forth words of wisdom and give thanks to the Lord in prayer.
He will direct his counsel and his knowledge aright, and meditate on his secrets.
He will reveal instruction in his teaching, and will glory in the law of the Lord's covenant.
Many will praise his understanding, and it will never be blotted out;
His memory will not disappear, and his name will live through all generations.
Nations will declare his wisdom, and the congregation will proclaim his praise.
If he lives long, he will leave a name greater than a thousand.
If he goes to rest, it is enough for him.

ADDRESS BY THE HONORABLE CLAUDE DENSON PEPPER

On the first day of this month, many of us who have gathered here today in this noble edifice, assembled to pay our honor and respect to the late Senator Ernest Greuning.

Among those who came all the way across the continent from his home state of Oregon to join in that appreciation was him whose name we honor today—Senator Wayne Morse.

I shall never forget how we stood and talked together in the robing room, of his great past, of our service together in the Senate, of his hopes for the future, should he be endowed with the opportunity to resume that great career previously cut short. And, now, too soon it is his name, and his memory which we honor today.

Senator Wayne Morse was a rare man! Rare in so many respects: Rare in keen intelligence, rare in the dynamism of his spirit, rare in his peculiar capacity to be dedicated to a purpose, rare in his courage, rare in his persistence in pursuit of a dream that he entertained.

Wayne Morse, as a Senator, ranged all over the realm of public issues like a knight of the round table jousting with every defender of wrong he could reach, raising his fearful lance in support of every worthy cause that came within the scope of his restless energy.

And, what a record he made! In two respects, I should like to mention that record:

One having to do with his participation in the formulation and in the development of the policy of our country in respect to Latin America:

In nineteen hundred and fifty-five, he became Chairman of the Subcommittee on Latin American Affairs of the Senate Foreign Relations Committee.

In 1958, he began a study of the relations of our country with our neighbors to the South, and out of that study came the principles of what was later the noble declaration of the Alliance for Progress. A great member of that subcommittee was Senator John F. Kennedy. When Castro was coming to power in Cuba, it was the voice of Wayne Morse, raised in warning against our country embracing one of his character and the disposition that he was beginning to display. Thereafter, visiting with the President, with the Secretary of State—representing the President, he had a large part in the relations between our country and Latin America, always striving to make the hemisphere stronger, and to make closer the attachments of friendship between our country and theirs.

And, then in the field of education, Wayne Morse had signal distinction. During the time he was Chairman of the Education Subcommittee of the Senate Education and Labor Committee, more legislation affecting education in this country, giving federal assistance to the program of education in our nation was enacted, than ever before in the nation's history, and Wayne Morse was the one who led the passage of that legislation in the United States Senate.

His colleagues have borne eloquent testimony to the contribution that he made in this field. I quote from the remarks of Senator Abe Ribicoff, former Secretary of Health, Education and Welfare in the administration of President Kennedy:

"When the name 'Morse' appears on an educational bill, the present generation of children and children yet unborn will be assured that the bill stands for one man who in my opinion more than any other single individual in the whole history of our nation, has helped further the cause of education in the United States."

And Senator Javits:

"The work of the Senior Senator from Oregon in bringing this bill to the floor with the unanimous support of the Committee on Labor and Public Welfare is of such an extraordinary quality that I feel that that alone, whatever else ensues, deserves the highest encomium of which I am capable, but also the entire world of education."

And majority leader, Senator Mansfield, said:

"The title, 'Mr. Education', is a title well-earned by Senator Morse. I thank him from the bottom of my heart, and I congratulate him for his tremendous understanding, knowledge and ability on all matters, but especially on questions involving education."

Every aspect of education: Elementary and secondary, Higher education, Assistance to students needing financial aid in obtaining an education, All this great panorama of education passed under the careful guidance and great leadership of Wayne Morse.

Perhaps, one of the qualities of Wayne Morse that all will remember best is his steadfastness of purpose. Indeed, once he committed himself to a course, he was unshakeable in that position.

It might be said, as was said in an ode from Horace, "were the vault of Heaven to break and fall upon him, its ruins might smite him, undismayed."

He was actuated by the motivation of concern for people, and pursuit of what he thought was his just duty. And he was moved by what might be the words of Babcock, who said,

"We have hard work to do,
loads to lift;
Shun not the struggle;
Face it.
It is God's gift."

We may truly say, as was said by Shakespeare,

"He has borne himself beyond the measure of his own times, doing in the figure of a lamb the feats of a lion."

And we can say, May God long preserve the memory and the spirit of Wayne Morse; For, as his friend said to Hamlet, "We know we shall not see his like again."

A REMINISCENCE BY BISHOP SMALLWOOD WILLIAMS

Canon Cave, distinguished guests, ladies and gentlemen, and members of the family:

In my considered judgment, the late Senator Wayne Morris was one of the greatest Senators to have sat in the United States Senate.

He was not only interested in the citizens of the State of Oregon, which sent him to the U.S. Senate for twenty-four years, but his profound humanitarianism gave him a great consideration for the poor, the disenfranchised, the disinherited, and the underprivileged everywhere.

The hungry children of our nation's capitol loved him for his great concern which led him through legislative action to secure a lunch and milk program for public school children, liberal welfare, public assistance, and family aid legislation.

He was an intrepid, determined fighter for civil rights, civil liberties, and integration for all citizens of the United States of America.

He was a fierce fighter against all forms of discrimination and second class citizenship in our nation. His powerful voice, and wise counsel, and impressive presence, and liberalism in the Fifties helped to make possible the civil rights legislation for the Sixties.

Senator Morse was a very friendly person. He would invite me to have breakfast with him, in the U.S. Senate dining room, back in the Fifties, before the days of integration. The Senate dining room at that time was a lily-white situation. The usual only visible blacks were waiters and servants.

The presence of a black guest would always attract undue attention. The Senator, while conversing and eating unhurriedly, would look up and notice some of his distinguished colleagues from various parts of the country who did not share his views on racial integration. He would politely rise, as the Southern Senator from Louisiana passed, and he would warmly address his colleague and say:

"Senator, I want you to meet my good friend, Bishop Smallwood Williams."

The Senator would blush red, and shake my hand, acknowledge the introduction, and later the Senator from Georgia would pass. He would repeat the introduction with similar results; so, finally, one of the Southern Senators gave Senator Morse what I considered at that time a left-handed compliment. The Senator with the different racial philosophy from Senator Morse said:

"I differ with his racial views. However, one thing I would say about Wayne Morse—he practices what he preaches."

And may I profoundly add, not only did he practice what he preached, but we honor him today because he preached what he practiced.

For his strenuous effort and others like him; America is the bastion of the free world, And it is a better place to live; a more pragmatic example of human freedom and dignity, which our Declaration of Independence and Constitution proclaims.

Senator Wayne Morse leaves this nation a great legacy of liberalism and determinism, which his contemporaries cannot ignore, and history should not omit.

In spite of the political turbulence of our times, this nation is better because a man named Wayne Morse lived and worked here tirelessly, throughout his life, for the causes in which he believed.

May God ever bless his memory, family, and friends. Amen.

ADDRESS BY GEORGE MEANY

I came to know Wayne Morse early in his years of public service on the War Labor Board, during World War Two. That Board was a solid example of the ability of free men to govern themselves, uncoerced, in the service of their country in the time of searching trial. As a public member, the character, wisdom and diligence of Wayne Morse helped to make it possible for labor and management to measure up to that test. Yet, he never demanded or expected that either would yield, for a moment, their duty to advance most vigorously the rights and interests of those they were there to represent.

Our respect for Wayne Morse grew with familiarity over the years, as he involved himself deeply in the processes of collective bargaining, as one of the nation's leading arbitrators and mediators of labor-management disputes. His fairness, integrity and dedication to free and voluntary paths to industrial peace were above question by either side of the many controversies he helped to solve.

His contribution to human rights in industrial life, as well as political life, will endure far beyond his time.

That respect and regard continued to grow in the course of his political career, and it survived frequent differences on issues and approaches to issues. A powerful advocate and a formidable adversary, he was one whom we always wanted to have on our side. His force always exceeded his solitary vote in the Senate, for he was willing to step forward from the pack, to lead and to fight, and he fought from conviction, not from any awe of persons or institutions.

He was a friend of labor, not because he was beholden to labor, but because his largeness of heart and mind made him a champion of the plain people, the advocate of the little man surrounded by forces and aspirations beyond his reach.

He played the game on the top of the table, without guile or petty artifice. But, he brought to that great game of politics and legislation, a spirit of steel and a will of iron. He knew full well that when the battle of the common man is to be fought, any weakness of will or slackness of mind must succumb before the interest and odds against it.

He gave as much of himself to the people of the District of Columbia, who lacked the political voice or power to reward him in any way for his fidelity, as he gave the nation, when larger issues called him forth.

Wayne Morse perceived and understood the vital link between education and human progress. That great series of acts of Congress, which vastly enlarged the federal role in support of the expansion of educational opportunity during the years of Lyndon Johnson's Presidency bear the strong marks of his concern.

How often since he left the Senate, and issues and causes languished for lack of a courageous and stalwart champion, have we said among ourselves, "If we only had a Wayne Morse to lead this fight for us on the Hill?" But the only Wayne Morse was Wayne Morse himself!

We had hoped that in the fall we would be able to help return Wayne Morse in full voice to the Senate where he belonged, and where he is needed; but it was not to be. Now, we shall not see his like again. The Senate, the nation and the people have lost a great champion of justice, and we are all the poorer for that irreplacable loss.

ADDRESS BY JOSEPH L. RAUH, JR.

Canon Cave, friends, family of Wayne Morse:

I think I speak this morning not for myself, but for all those in the civil rights movement who worked with Wayne Morse: For those of us who had the privilege of working closely with him; for Clarence Mitchell, Roy Wilkens; but, really, above all, for the millions of people whose rights exist today because of Wayne Morse, and who probably do not even know his name:

Justice Brandeis once wrote, "If we would guide by the light of reason, we must let our minds be bold."

More than any other public leader of our lifetime, Wayne Morse lived by this Brandeis injunction. There is no time within memory when he failed to let his mind be bold. Over and over again in the thirty years of our friendship and collaboration, it was Wayne Morse who raised the banners toward new goals of equality and civil freedom.

Once the goals were set, no force on earth could move him from his appointed course.

It was Wayne Morse in the late Forties and Fifties, who outlined the constitutional bases, for the broad civil rights laws of the Sixties. Only too often in that period he knocked unsuccessfully at the Senate clubhouse door with its ever-present sign, "No Civil Rights legislation wanted."

It was Wayne Morse who helped keep the civil rights goals alive in Nineteen Fifty-Seven, by voting against the watered down civil rights bill of that year, and eloquently reaffirming the true needs of minority Americans. And, I suppose I may say, like so many others would say, I was one of those who advised him to vote for the bill.

It was Wayne Morse who helped stop the 1958 Congressional onslaught on the civil liberties decisions of the Warren Supreme Court. Indeed, my favorite mind's-eye picture of Wayne is at four a.m. on an August Sunday morning in 1958, with books piled high on his desk, and a "they shall not pass" look on his face. The drive for the last of the anticourt bills lapsed in the face of that threatened end of the session filibuster.

It was Wayne Morse who kept the goal of true Home Rule for the District of Columbia alive in the Fifties and Sixties, while others berated him for not accepting unworkable substitutes. Every Washingtonian should thank God for Wayne Morse, as they cast their first Home Rule vote this fall.

Often, Wayne Morse stood alone. Where others sought refuge in the crowd, he had the courage to take the stand, undaunted by the absence of colleagues or other supporters. For those who knew him, Tonkin Gulf was not a surprise, but an inevitability.

As so many have said this morning before me, we shall not see the likes of this fierce warrior for justice soon again. Almost alone among public figures, his courage never once left him faltering or hesitant. Wrong he may, on occasion, no doubt, have been. But lacking in boldness he never was.

At a time when too many would hide in the changeless center, Wayne Morse is our reminder, forever, that one man with unlimited courage can move mountains of apathy and despair.

We shall miss him more and more.

HYMN 519—"EBENEZER"

(All joining)

Once to ev'ry man and nation
Comes the moment to decide,
In the strife of truth with falsehood,
For the good or evil side;
Some great cause, God's new Messiah,
Off'ring each the bloom or blight,
And the choice goes by forever
Twixt that darkness and that light.

Then to side with truth is noble,
When we share her wretched crust,
Ere her cause bring fame and profit
And 'tis prosp'rous to be just;
Then it is the brave man chooses,
While the coward stands aside,
Till the multitude make virtue
Of the faith they had denied.

By the light of burning martyrs
Jesus' bleeding feet I track,
Toiling up new Calveries ever
With the cross that turns not back;
New occasions teach new duties,
Time makes ancient good uncouth;
They must upward still and onward
Who would keep abreast of truth.
Though the cause of evil prosper
Yet 'tis truth alone is strong;

Though her portion be the scaffold,
And upon the throne be wrong.
Yet that scaffold sways the future,
And, behind the dim unknown,
Standeth God within the shadow
Keeping watch above his own.

ADDRESS BY THE HONORABLE JAMES WILLIAM FULBRIGHT

Canon Cave and friends:

To Wayne Morse our country is deeply indebted.

The circumstances presently confronting our nation serve to emphasize the importance to the preservation of our democratic system of government of men with the personal integrity, the dedication and the courage of Wayne Morse.

Although he enjoyed personal friendships as others do, he always gave one the impression that the welfare of all the people he represented so ably was his primary concern and he was relentless in his pursuit of that objective.

He was willing, as few men are, to be aggressive and abrasive to his colleagues, or to Presidents, when he believed the peoples' interest required it. Few men have equalled his devotion to the Senate and to the country!

Some Senators distinguished themselves as great advocates; others, as far-sighted critics of national policy. Wayne Morse was both:

A remarkably knowledgeable and skillful legislative manager, especially in the fields of labor and education, and an equally distinguished critic of mistaken policies, especially in our foreign relations.

As a legislator, he was brilliant and indefatigable. As one who usually agreed with Wayne Morse in debate, but occasionally did not, I can state, unequivocally, that I greatly preferred having him on my side. He was in the classic sense of the term a great debator, a gifted practitioner of an art form now in decline. While Senators increasingly have taken to the media, and to the techniques of public relations, Wayne Morse retained an old-fashioned faith in government by discussion, and the place for that discussion, in his view, was the Senate floor. It was pre-eminently his forum, where he brought to bear his extraordinary gifts of knowledge, logic, and tenacity.

Wayne Morse and I served together on the Foreign Relations Committee for fourteen years, from 1955 until 1969. There, especially, I appreciated his remarkable energy and foresight. Whereas, many Senators made it a practice to appear only occasionally in the committee, to make a point or advance a particular cause, Senator Morse was there most of the time, listening, questioning, probing, and, in so doing, educating—educating his colleagues, and educating the American people.

Above all, in foreign relations, he was far-sighted. He was ahead of most of us in appreciating the defects of our bi-lateral foreign aid programs. He was one of the architects of the Alliance for Progress, and, under his chairmanship, the Foreign Relations Committee on Inter-American Affairs was uniquely creative and influential.

To his enduring fame and credit, Senator Morse perceived the tragic folly of the Vietnam War before virtually anyone else. His vote against the Tonkin Resolution in 1964, one of only two in the Senate, along with his then unheeded efforts to apprise the Senate of the facts of that episode, stand as a landmark of courage and prescience in the Senate.

We have heard a great deal in recent years about the need to strengthen the Senate by means of new rules of procedure and reorganized committees. For my part, I can think of a much more effective means of strengthening and rejuvenating the Senate: Elect more Senators like Wayne Morse of Oregon.

ADDRESS BY THE HONORABLE ARTHUR J. GOLDBERG

There was a man—He was a zealot! He railed against injustice, immorality and abuse of power.

He had the courage to be alone and apart, In defense of principles. Just like the tree planted by the water, where principles were involved, he could not be moved.

He alienated and challenged the establishment on occasion. He even chided his most intimate friends for lapses from what he regarded to be the true faith.

Critics were prone to say that he was too self-righteous, that he wore a hair-shirt, that he was intolerant of human failings, and that his deep-felt convictions were too strongly expressed, too single-mindedly held, and too passionately argued.

Yet, his heart was filled with love, notwithstanding, notwithstanding that he often felt that he had to speak in words of condemnation.

He was a maverick, a mugwump. The man I have described is Jeremiah, Ezekial, Isaiah, or Micah, prophets in Israel.

Is it not remarkable how many of the qualities of the Hebrew prophets Senator Wayne Morse possessed? I would not presume to characterize Wayne Morse as a prophet in the biblical sense. The prophets of the Old Testament were divinely inspired.

Yet, it cannot be gainsayed that Senator Morse, like the prophets of old, was a zealot—for integrity, morality, justice, the rule of law, peace, and steadfast adherence to basic principles.

There is an old Jewish tradition, tracing back to the prophet Isaiah, that in every age there are 36 just men, which in Hebrew is called—they're called the "Lamitvov". According to this tradition, if just one of them were lacking, the suffering of man would multiply.

Lamitvov, the legend says, are the hearts of the world multiplied; and into them, as into one receptacle, pour all of our grievances against injustice and inequity. The teaching of this legend is that one man is indispensable, and Wayne Morse was!

For Wayne Morse's career and good works proves the essential truth of this legend: Absent Wayne Morse and his great contributions to the cause of the poor, the oppressed, the wage-earner and those discriminated against, the suffering of mankind would, indeed, have multiplied!

The Lamitvov tradition is a legend. But, to paraphrase the poet, more things are wrought by legends than men dream of.

If Wayne Morse dissented from public policies contrary to the public interest, as he frequently did, if he championed social and economic justice, as he frequently did, if he fought for the elimination of illiteracy, of prejudice and racial bigotry, as he did, if he loved peace—hated war—abjured violence and discord at home and abroad, as he did, Senator Morse was giving expression to the highest patriotism, best defined by Adlai Stevenson in these words:

"What do we mean by patriotism in the context of our times? A patriotism that puts country ahead of self; A patriotism which is the steady dedication of a lifetime. These are words that are easy to utter, But this a mighty assignment. For it is often easier to fight for principles, Than to live up to them."

"When an American says he loves his country, He means not only that he loves the New England hills, The prairies glistening in the sun, The wide and rising plains, The great mountains and ranges and virgin forests of the far west, He means that he loves an inner air, An inner light in which freedom lives And in which a man can draw a breath of self-respect."

I don't know whether Adlai Stevenson was conscious of this, but he was paraphrasing the words of the first Chief Justice of the United States, John Jay, who spoke of the "Free Air of American Life."

If I were to have a capsule of Wayne Morse, I would say he took one gain from the founding fathers. His slogan was theirs: "Do not tread on me and our liberties." That to me is the essence of Wayne Morse.

Like another great American, he conceived that those who won our independence believed liberty to be the secret of happiness, and courage to be the secret of liberty.

They believed, as he did, that the greatest menace of freedom is an inert people; that public discussion is a political duty;

that this should be a fundamental principle of all American government.

They recognized the risk to which all human institutions are subject; But they knew, as he did, that order cannot be secured merely through fear of punishment for its infraction; that it is hazardous to discourage thought, hope and imagination; and that fear breeds repression, that repression breeds hate, that hate menaces stable government; that the path of safety lies in the opportunity to discuss freely supposed grievances and proposed remedies, and that the fitting remedy for evil counsels is good ones. These convictions held by the founding fathers—and Wayne Morse, perhaps represent a lesson to us, and a teaching for our present travails.

In mourning Wayne Morse's passing, we, his friends and distinguished colleagues who are gathered here today salute this indomitable combat soldier for *liberty, freedom, justice* and *peace*.

To these great ends he dedicated his life and, in so doing, left an enduring profile in courage.

PRAYERS—for the departed and those who mourn for Oregon, for our country—the Lord's prayer.

Canon Cave: As the service draws to a close, shall we stand for the prayers:

"Almighty God, our Heavenly Father, in whose hands are the living and the dead, we give Thee thanks for all Thy servants who have spent their lives in the service of our country, especially Thy servant, Wayne. Grant to him Thy mercy, and the light of Thy presence, and give to us such a lively sense of Thy righteous will that the work Thou hast begun in him may be perfected through us." Amen.

Let us pray for Oregon:

"O, God, author of all majesty, how bright is Thy glory, upon the land of Oregon! Blessed be the trees upon their hills, the valleys in their verdure, and the dry places waiting their turn of fertility. Praised be to Thee for the precious gift of rain, drawn in to Heaven from the sea, caught again upon the snowy peaks, returning fruitfully down the strong rivers, giving life to Thy people in their orchards and city places. May their lives likewise be lifted to Thee and blessed, and sent again to do Thy service upon earth; so may the land be renewed, and the souls of Thy servants, through Jesus Christ, our Lord." Amen.

Let us pray for our country:

"Almighty God, who has given us this good land for our heritage; we humbly beseech Thee that we may always prove ourselves a people mindful of Thy favor and glad to do Thy will. Bless this land with honorable industry, sound learning, and pure manners. Save us from violence, discord, and confusion; from pride and arrogance, and from every evil way. Defend our liberties, and fashion into one united people the multitudes brought hither out of many kindreds and tongues. Fill with the spirit of wisdom those to whom we entrust the authority of government, that there may be justice and peace at home, and that, through obedience to Thy law, we may show forth Thy praise among the nations of the earth. In the time of prosperity, fill our hearts with thankfulness; and in the day of trouble, suffer not our trust in Thee to fail; all of which we ask through Jesus Christ, our Lord." Amen.

All pray:

"Our Father, who are in Heaven, hallowed be Thy name. Thy kingdom come. Thy will be done. On earth as it is in Heaven. Give us this day our daily bread. And forgive us our trespasses, as we forgive those who trespass against us. And lead us not into temptation, but deliver us from evil, for Thine is the kingdom, and the power, and the glory, forever and ever." Amen.

BENEDICTION BY CANON CAVE

"The peace of God which passeth all understanding, Keep your hearts and minds in the knowledge and love of God, And of His Son, Jesus Christ our Lord, and the blessing of God almighty, the Father, the Son, and the Holy Ghost, be amongst you and remain with you always." Amen.

POSTLUDE

Choral Prelude "We Believe in One God"—Johann Sebastian Bach.

Mr. HATFIELD. In addition, Mr. President, I call to the attention of my colleagues a project begun by State Senator Edward Fadeley, a long-time friend of Senator Morse. He is collecting memories and ancedotes of Senator Morse from people across the country, and compiling them into a book for distribution to young people as another tribute to Wayne Morse. Any of you, or any of the readers of the CONGRESSIONAL RECORD, should feel free to send your comments to Mr. Fadeley. I ask unanimous consent that two letters describing this work appear at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OREGON STATE SENATE,
Salem, Oreg., Aug. 19, 1974.

Hon. MARK O. HATFIELD,
U.S. Senator From Oregon, Senate Office Building Washington, D.C.

DEAR SENATOR HATFIELD: Enclosed is a letter to the editor which explains the purpose of this letter. Could you have an appropriately edited version of this letter entered in the Congressional Record?

Whether that is possible or useful, I would appreciate it if you would personally respond to the letter with a memory of Wayne. I do not plan to charge for the booklet, but will pay the cost myself. Of course, as a contributor, you would receive a copy.

It is my hope that this booklet might come into the hands of some young person who would be stimulated to enter government activities and service, by Wayne's example.

Sincerely,

EDWARD N. FADELEY.

OREGON STATE SENATE,
Salem, Oreg.

DEAR EDITOR: Wayne L. Morse was actively involved in over a quarter century of Oregon political and social history. Many, many Oregonians had interesting contacts with him. Now is the time to preserve our memories of Wayne.

Please publish this letter as a request to your readers to share with others high points of their experiences with Senator Morse. I am asking that Oregonians write letters describing their interesting experiences with Senator Morse and send the letter to me. In return I will mail each contributor a copy of all the letters which I receive, edited in booklet form, as a keepsake or memento.

As a state political party chairman during 1966–68 and a Lane County Legislator for thirteen years I had many contacts with Wayne. My own recollections of things important, entertaining and characteristic of Wayne will be added to the booklet which those of your readers who mail me their own contributions will receive.

It would be wrong to limit the letters of recollection to those of political pros or to the political arena only. The booklet will be most fitting if it includes remembrances of human interest, or humorous events or of help sought and received. His love of horses, livestock and county and state fairs should also produce recollections worth sharing and preserving.

Please mail your letters of recollections of Wayne Morse to me at 801 East Park Street, Eugene, Oregon, 97401.

Sincerely,

EDWARD N. FADELEY,
State Senator.

Mr. HATFIELD. Also, Mr. President, I have been asked what the many friends of Senator Morse could do to honor his memory. I am pleased to pass on the fact that the University of Oregon has established a Wayne Morse Chair of Law and Public Affairs. Contributions to endow this chair are welcome, and can be sent to this chair, in care of the University of Oregon Development Fund, Carl Fisher, director, Box 3346, University of Oregon, Eugene, Oreg. 97403.

In conclusion, Mr. President, I contacted Oregon journalists and asked that they send me copies of any editorials or commentaries they addressed to the memory of Wayne Morse. I ask unanimous consent that this material appear at this point in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Corvallis (Oreg.) Gazette-Times, July 23, 1974]

DEATH RETIRES MORSE

Death came to Wayne Morse suddenly, in the middle of a hard-fought political campaign. It was timing he might have chosen for himself.

Like no other, Morse leaves his imprint on Oregon's political history. He brought the La Follette progressive heritage with him in 1929 from Wisconsin as a young law professor at the University of Oregon, bred in his bones and peculiarly attuned to Oregon voter sentiments.

Morse was a fighter, a scrapper, the maverick and "Tiger in the Senate." He was tough with a jugular instinct in politics. His own personal integrity was scrupulous.

His fiery oratory, his distinctive gravelly voice raised in a litany of uncompromising blacks and whites, served opposition best. But from the beginning it was a two-edged sword. Sharp disagreement with Interior Secretary Harold Ickes over a War Labor Board coal wage decision was instrumental in the rejection of Morse for a federal judgeship in 1943. By then, established as U of O law school dean, Morse switched tacks and ran for the Senate.

He broke with Republicans over President Eisenhower, spent a stretch in comparative limbo as an Independent and then moved across the aisle as a Democrat. Through it all, for nearly a quarter of a century, Oregon voters remained loyal; the dynamism of Morse's spell-binding speechmaking could not be resisted.

It was dissent, too, that cast Morse as hero for the youth of this area. His was one of the only two votes cast against the Gulf of Tonkin Resolution that plunged the U.S. disastrously into Vietnam. Later-day idols came along but Morse had a special niche, one of the exceedingly rare veteran politicians who turned-off youth turned to, trusted and revered.

After his defeat for re-election by Bob Packwood in 1968, it was they and other liberals who spurred his entry into the unsuccessful race against Sen. Mark Hatfield in 1972. He was back again this year, victor in the primary, pushing for another six years on the Potomac. The bloody bruises he left along his comeback trail fractured the Democratic party but his base among a segment was solid.

Brilliant, courageous, vital. Committed to a government of laws and, particularly after his appointment by Eisenhower as United Nations delegate in 1960, to a world government of laws.

A man of bitter feuds and strong passions for the causes in which he believed, he cherished his independence. He prided himself on voting his convictions and many Oregonians took somewhat perverse satisfaction in his fireband tactics and forthright acknowledgement that he would vote as he thought best, not how he thought voters wanted him to. Yet few were better at servicing the multitude of constituent requests that arrive at a Senator's office. They constituted a reservoir of good will and political support.

The U.S. constitution was the Rosette Stone against which he weighed all actions. He ruled on constitutionality with the ferocity of a founding father. His verbosity was legendary, his speeches soaring to climax after climax, but even his record-breaking Senate filibusters were filled with substance. He had a vast accumulation of wide-ranging knowledge.

Although his monument must be built primarily of driving dissent rather than innovative programs of his own, in his final Senate years Morse became a leader in education legislation. He also was a tireless and highly effective negotiator in labor disputes.

Wayne Morse had as many foes as friends but all are saddened by the death of this complex, dedicated and controversial public servant.

[From the Cottage Grove (Oreg.) Sentinel, July 25, 1974]

THE TIGER

The death of former Senator Wayne Morse on Monday ended the career of one of the most dynamic and controversial politicians in Oregon's history.

Mr. Morse, who had been a member of the United States Senate for 24 years before Bob Packwood beat him in 1968, blazed a trail in the history books of tomorrow with his outspoken method of operation in what has been called the political jungle—Washington, D.C.

We were often critical of stands taken by Mr. Morse, but as with any individual, we would defend his right to speak his piece. We were concerned when he decided to make this one last try to return to the Senate which he dearly loved. Many people told us he was strong enough to make the long hard campaign, but when he visited us in May prior to the primary election we wondered if the arduous campaign was not beginning to take its toll.

Whether the campaigning really caused the former Senator's death, only the good Lord knows that. However, Mr. Morse went down fighting in the battlefield he knew best and that is the political arena. We suspect he would have wanted it that way.

Whether you were an admirer of him or not, Wayne Morse made and left his mark on Oregon. He fought hard for what he thought was good for his state and nation and that is what he was doing at the time of his death because he felt his services were needed again back in Washington. That is all that can be asked of any man—dedication to his work and the political arena had certainly been Wayne Morse's work area for many, many years.

[From the Eastern Oregon Review, July 25, 1974]

WAYNE MORSE: POLITICAL ARTIST

(By Gary Eisler)

There was the venerable gray head, arrayed among all those young political comers who hoped to impress Oregon's Publisher's Association. One newsman elbowed another and made a joking reference to the length of speech we could expect from him. But the tone of voice expressed nothing but respect for speaker Wayne Morse.

If I'd ever thought the man could be senile, the thought vanished as he answered questions. He first made a general sketch of what he would say. Then came broad, general brush strokes of background, colored by his experience. The composition could have fallen apart into unrelated, meaningless disharmony. But then Morse laid in the final details and the whole thing came together, came to life. Every level and layer of his answer was necessary for me to understand the picture he painted.

"Yes" or "No" satisfies the question but not the questioner. He began his answers quietly enough. The ideas came lightly, easily. He flowed through several historic precedents that he personally had lived through. But soon the tempo increased and the points were stronger as he assessed the moral issues. At last he reached the climax, in which the frightening implications of what he was saying rumbled like tympany drums, in which the challenge to us to respond and do our part clashed like cymbals, until the rightness and truth of the man and what he was saying glowed inside.

That wasn't the first time I'd experienced Morse. We sat side by side at a pre-primary luncheon here. A hopeful young contender for the Oregon Legislature like myself couldn't have had a better partner for the event. Morse listened to my ideas before I spoke, helped me develop them, encouraged me with them. After he finished speaking himself he threw the spotlight onto my positions, lent his grandeur and authority to me.

He answered the main question before anyone could ask it: "Am I too old for the job? No!" Morse showed us that his age group represented millions of people who deserved representation. He explained that age meant experience for him, the kind of experience America needs in the next six years. He told us he still had his connections in Washington and that he could sit in on any committee he wanted to and participate, so he wouldn't be a "freshman" senator. And finally, he proved that he had control of his faculties and that age limitations were arbitrary and meaningless. Before I knew it, he had convinced me that his age was the best thing he had going for him.

Wayne Morse, now dead. I'm thankful I got to know Wayne Morse, the political artist.

[From the Brownsville (Oreg.) Times, July 25, 1974]

A LIVING LEGEND . . .

Legends usually develop years—even decades or longer—"after the fact"; but "Oregon's Senator," Wayne Morse, was a "Living Legend" long before he passed away, Monday.

There were no "gray areas" for "The Senator" . . . something was either "right", or . . . "wrong". As has been said (and written) time and again since he "passed the border" Monday morning:

People either loved and/or unreservedly admired him; or . . . they literally, (with few exceptions) hated or detested him.

During the 4 decades we have been connected with the news scene, we have met no person who could come close to his brilliance, perceptiveness and eloquence (this latter, despite his gravelly voice).

It has been said—we believe truly—that there was no foe too formidable to daunt him; nor was there any person, community or cause too small not to merit his attention.

Many have charged, through the years, that "Morse deserted the Republican Party". But no one who closely followed the 1950 Oregon Primary election can deny that this was the start, on the part of the "Grand" Old Party to push him out.

As a measure of the man, we remember that it was Senator Morse who was responsible for getting the Holley Dam project back on the active list, after an effort had been made to quietly bury the project. When he left the senate in January, 1969, the project was "still active" . . . Has anyone heard anything about it recently?

While others were "playing to the big, adult gatherings, Senator Morse took time out, during his busy 1972 Primary campaign to visit Central Linn's 5th-Graders (from all 3 schools) at the Halsey school. He was talking to "future voters" who—he obviously knew—could never vote for him. He discussed such matters as water pollution . . . and stayed to answer questions posed by the youngsters, despite a jam-packed schedule.

It is significant that—though the "Tiger of the Senate" clawed virtually every President during the 24 years he was a U.S. Senator . . . these same men turned to him to solve the really knotty labor problems. He always responded . . . giving the problem full attention.

When this area needed some flood-control revetment and channel work, 10 or 12 years ago; and the Corps of Engineers was dragging its feet . . . "The Senator" came here and devoted a full day looking over the situation—action soon followed.

We could go on-and-on along this line of thought; but—with millions of words (so it seems, anyway) having already been eulogized in his memory—what more is there to say?

Yes, we could go-on, commiserating, too, about the integrity (a quality which is in short-supply, in public life today) and the attitude of Oregon's "Senator for All Time" with the challenge he hurled at us (and many others, undoubtedly) during his prime years:

"I will do what I believe to be right. If the people of Oregon do not agree with me, it is their duty to elect someone else to take my place. Even if I were certain that a given stand would result in my defeat in the next election . . . if I believe I am right, I would stick with it."

That was almost prophetic . . . because we heard such a statement from the lips of Senator Morse (the 1st time) before Vietnam was an issue.

Senator Morse's last speech in Central Linn—at the LinnCo Democratic Picnic in Pioneer Park just 2 years ago—also was virtually prophetic. ("Watergate" was not yet even a whisper.) His keynote address included the following (as quoted in the Aug. 3, 1972, edition of "The Times"):

"This is a critical, vital election . . . Nixon is the issue . . . We cannot have another 4 years (of Nixon) without losing 1 procedural right after another. We are losing constitutional checks-and-balances right down to the local level."

As reported by the "covering media" this spring . . .

Yes, the "Tiger of the Senate"—Oregon's All-time Senator—is gone; but his influence continues . . . effectively.

[From the Oregon Daily Emerald, July 23, 1974]

THE TIGER WOULD STILL BE ROARING

A man with strength, courage and an unchallenged sense of moral rightousness died Monday.

Wayne Morse was for years known as "the tiger" of the United States Senate. Some said it with affection, admiration and respect. Others said it only with respect. They all said it. As a former Democratic senator from Illinois said when Morse arrived in Washington, he "mounted his horse and rode off in all directions."

In the early 1950s Morse saw the dangers of a power-hungry executive branch of government. He saw the now-too-clear faults of

Richard Nixon while Nixon was still a member of the Senate and fought bitterly against Eisenhower's choice of him as a running mate. In 1952, disgusted with Eisenhower, Wayne Morse left the GOP. After a short time as an independent, Morse joined the Democratic party in 1955.

In the 1960s Wayne Morse vehemently opposed the Vietnam War, knowing fully that a conservative state such as Oregon might not look kindly upon his stand. He was one of two senators to vote against the 1964 Gulf of Tonkin Resolution. Because of this and other unpopular stands, in 1968 Wayne Morse lost his seat in the Senate.

But instead of modifying his position to appease those in power, instead of retiring to sulk over his defeat, instead of losing faith in the American form of government, Wayne Morse quickened his pace of writing and speaking. His message was clear—we've got a good system of government here, let's not throw it away to an over-zealous, powerseeking executive. Let's get Congress out of the corner and to the center of the ring, where it can do some good.

As the years passed, Oregonians began to see just how right Wayne Morse had been. The Vietnam War was a terrible and tragic mistake. The executive branch of government possessed dangerous power and was not acting in this country's best interests.

Last March Wayne Morse decided once again to do something about the plight of this country. He once again wanted to represent the people.

In his endorsement interview with us in May, Wayne Morse talked about the next six years as being critical to the future of this country. Either we put Congress back on its feet and have this nation's representatives running this nation, or we slip into a fascist-elitist form of government, he said.

Following his primary election victory, one of Wayne Morse's campaign workers said that all the long hours already put in and all the hours ahead would be worthwhile if only to see the looks on the faces of U.S. senators when the chamber's doors opened and "the tiger" came back to the Senate.

Wayne Morse isn't going back. And impeachment is still a big IF, and the economy isn't improving and our government is saturated with unrepresentative, owned and owing politicians.

But were Wayne Morse alive today, he'd be fighting to improve the problems of this country, not sitting in a corner stewing over them. He'd be taking an active role in government, not simply denouncing it and copping out. He'd be preaching optimism, not pessimism.

We should follow his lead.

[From the Oregon Labor Press, July 26, 1974]

Wayne Morse: So Often Right, a Man for Ages

"I had rather be right than be President," said Henry Clay, one of the historic giants of the U.S. Senate, in 1839.

Another giant of that great deliberative body, Wayne Lyman Morse, never became President either, although he aspired to it in 1960. But he had the satisfaction of knowing that he was so often right on the great issues of his time.

Now, Wayne Morse, sometimes referred to as "the conscience of the Senate," belongs to the ages—like Clay, Webster, LaFollette, Borah, Norris, Vandenberg and other lions of the United States Senate.

One of the issues on which his was a lonely, minority voice of rightness was his opposition to U.S. involvement in Vietnam. It sparked a divisiveness among Oregon Democrats that ultimately resulted in his narrow defeat in 1968. This year, the wounds healed, the party united, Morse at 73 was stumping for a comeback against the upstart who unseated him.

Death denied him that opportunity. It sounded its roll call for him on the morning of July 22 in a Portland hospital. A kidney, then his heart, failed. His hospitalization last week came as a shock. Only a few weeks ago, vibrant, vigorous, ramrod straight, he thundered denunciations against the scandalous excesses of the Nixon Administration as he told the state AFL–CIO convention that the nation needs a vetoproof Congress.

Morse had served in the Senate 24 years. He was first elected as a Republican in 1944. Disenchantment with the party of Eisenhower and Nixon in 1952 caused him to become an independent; in 1955 he became a Democrat.

His trademarks were his bushy eyebrows, raspy voice, integrity, irascibility, cantankerousness, a mind of dazzling brilliance, an enormous ego, a credo of "principle above politics," the boundless energy to filibuster for nearly 24 hours, rugged devotion to old-fashioned principles, and the guts to stand up and fight for his beliefs.

The title of a book about him summed it up: "The Tiger in the Senate."

Morse talked a lot—he could take 45 minutes to answer a 30-second question. But what he said made sense. Lesser minds often required the wisdom afforded by hindsight to recognize his rightness.

In his 24 years as a senator, organized labor's scorecard showed him with 81 "right" votes, only 5 "wrong" votes on issues of concern to wage-earners as union members, citizens, taxpayers, parents, consumers.

Some of the "wrong" votes evoked the wrath of unions, but when he came up for re-election in 1968, when he challenged Mark Hatfield in 1972, and this year, he received the unanimous endorsement of the state AFL–CIO conventions.

A national labor publication said of Morse in 1968: "If ever a senator belonged to the whole country it is Oregon's Wayne Morse, whose work for labor and education has nationwide impact."

Another national labor paper said of him: "Wayne Morse has truly proved himself a giant in the Senate. He is a man of the utmost integrity, both personal and political. He wears no man's yoke. He takes no man's orders. He follows his own conscience."

Although Morse was the most vocal opponent of President Lyndon Johnson's Vietnam policies, Johnson once said of him: "No senator has done more for the average citizen than has the senator from Oregon. He has fought the money-lenders. He has fought high interest rates. He has fought for the people in his state who produce and who earn their living by the sweat of their brows."

His legislative concerns and achievements were broadgauged. His imprint was stamped on legislation concerning civil rights, senior citizens, timber and water conservation, education, public health, veteran's benefits, crime prevention, pollution control, fair taxation, transportation, public works, foreign policy.

Morse became recognized as such an authority on constitutional law that President Johnson often called him "my constitutional lawyer."

The senator once referred to himself as a "lawyer, farmer and educator."

Born in Wisconsin Oct. 20, 1900, he was educated at Wisconsin, Minnesota and Columbia universities; became dean of the University of Oregon Law School at age 30, a job he held until elected to the Senate.

In the 1930s and '40s he carved out a reputation as a consummately skilled, effective arbitrator of labor-management disputes. President Franklin D. Roosevelt appointed him chairman of the President's Railway Emergency Board in 1941, later named him to the National War Labor Board. While in the Senate, Presidents called on his talents to settle major labor-management disputes.

One of the early pieces of legislation sponsored by Morse led to creation of the Federal Mediation Service to provide professional mediation, when needed, at the bargaining table.

He was a firm believer in collective bargaining.

"American living standards are the highest in the world largely because working people have gained a fairer share of the wealth their work creates. Collective bargaining is the way that was accomplished."

Morse was as much an Oregon landmark as Mt. Hood. He had greatness, majesty, was awe-inspiring. Now, Mt. Hood remains, but Senator Wayne Morse is gone.

[From KXL Radio, July 23, 1974]

Notes and Comments

(By John Salisbury)

Wayne Morse was two men. He was the often irascible Tiger of the Senate—a rough and ready campaigner who could be depended upon to slice his opposition to bits. He was a maverick who could begin his political career as a Republican, switch to Independent and finally to Democrat and continue to win elections because he convinced people he was his own man. He was a man who received plenty of the brickbats of his chosen profession, but he was a man who could dish them out in kind.

Wayne Morse was a fighter—and if some people were not really sure where he stood, Morse himself had no doubt. He stood for what he believed in—and while he may have believed in changing his mind and his party affiliation, he always called the shots as he currently saw them. He was a brilliant constitutional lawyer and teacher, and this was his field of battle in the Senate. That was one man. The other was a gentle man—and a gentleman. And those who knew Wayne Morse well—who were his friends—knew that very human side of him, too.

Sometimes his friends and co-workers were highly critical of him. In recent years, some called him a spoiler because he campaigned where his party felt younger men should be given the chance. But they loved and respected him for his statesmanship, too. Perhaps never in his career was Wayne Morse more revered or more effective among his young and old partisans as at the last Democratic National Convention to which he was a delegate. He was particularly gentle and self-effacing, yet when called upon to give counsel he gave it readily and warmly.

None of the old tiger was about him at that time, and I got to know him then about as well as I ever did. And I enjoyed him more than I ever had. He was really a hero to the Oregon delegation and there were those who said, not unkindly, that the old tiger's claws had been clipped—by the tiger himself. But not quite. He was challenging a man whose candidacy he had once supported—Sen. Mark Hatfield. He lost that one in '72, and returned home as people speculated about other campaigns Morse might yet elect to enter. There was to be one more—the last campaign against the man who had defeated him in 1968, Sen. Bob Packwood. The Tiger's claws were by no means clipped.

At 73 years of age, the seemingly ageless Morse was fighting to regain the seat Packwood had taken from him and there were those who cried, perhaps with reason, vendetta. Was it really vendetta—or was it a deep concern for the nation living in the shadow of Watergate—or was it a love affair with the Senate itself which prompted the Tiger into his last battle? Perhaps those closest to him could answer that question. As for me, my recollections of Wayne Morse are pleasant ones. I did not agree with his viewpoint, but I liked and respected him.

Morse of Oregon—a man unique in politics, a fierce yet gentle man. Ruthless yet compassionate—honest, forthright, decent. And a prophet not without honor—even in Oregon. He is a quarter century of our most turbulent history.

[From the Rainier Review, Aug. 1, 1974]

REVIEW AND COMMENT

(By Albert R. McCall)

It was with a feeling of personal sadness and not merely one of public loss that we heard of the death of Oregon Senator Wayne Morse.

Mr. Morse was an individual of scintillating intellect. As a college instructor, as an attorney, and as a member of the august United States Senate he ranked as exceptional.

Senator Morse was respected and admired as well for his espousal of causes in which he believed. He was a lover of peace, and opposed the Vietnam war when it was not popular to do so.

But this columnist, still recalling the noted characteristics of Senator Morse, likes to think most of his kindness and courtesy to a then younger reporter-newspaperman. And that gentility and kindness to the end, we hear, marked his reception of visitors are the senatorial offices in Washington, D.C.

Mr. Morse, the aggressive politician, the sometimes hardnosed statesman—but always the kind and courteous gentleman underneath. That is how we remember him with appreciation along with our sadness.

[From the Roseburg (Oreg.) News-Review, July 26, 1974]

THE ROAR IS STILLED

(By Dick Kerruish)

During the 24 years that Wayne Morse served as a U.S. senator, it was sometimes difficult to find Oregonians who admitted to agreeing with or supporting him.

Yet Morse, who died Monday at age 73, kept getting re-elected.

It was part of the Morse mystique. He proved in the Democratic Primary Election that some of that mystique still remained when he defeated the much younger State Sen. Jason Boe, Reedsport, in a comeback attempt. He could not step down from political life, even after two consecutive defeats by incumbent senators Mark Hatfield and Bob Packwood. It was not his nature to quit.

The "Tiger of the Senate" will go down as one of the most controversial figures in Oregon's political history. A party switcher (he served in the Senate alternately as a Republican, an Independent and finally as a Democrat), he was either hated or loved. In many ways, he suited the role of senator perfectly. He looked like one; he possessed great oratorical eloquence; he was a tough, articulate compaigner. But few men during their political lifetimes have experienced the extremes of criticism and praise that were heaped on Morse.

Despite his famed cantankerousness, Oregon voters returned him to the Senate four times.

It's probably right to state that Morse gave his life in a determination to win back a Senate seat and return to the national limelight, which he loved. In truth, Morse envisioned himself as more of a national personality. Many criticized his concept of the Senate office. He seemed forever preoccupied with the big hassle—cutting down presidents, opposing the Vietnam War, going against the mainstream—while political observers question whether he ever did much of note for Oregon.

His critics will concede, however, that he never lacked the courage to declare his position on issues despite determined opposition. And he refused to budge from that position, even in the face of hopeless opposition.

But even while his accomplishments are questioned, he never-the-less demonstrated genuine, deep concern for individual Oregonians who sought his help while he was in office. Few members of Congress have been more diligent in providing aid for or communication with constituents. Requests to his office for information or assistance received immediate attention and if there were any way at all to remedy a constituent's problem, the senator would do it—or try to.

A maverick, yes. But there was something unique and spellbinding about this irascible politico. With all his contentiousness, he won the admiration of Oregonians. Perhaps he appealed to the basic stubborn independence that has traditionally characterized the people of the state of Oregon.

Say what you will about the Tiger—his roar will be missed.

[From the Daily Astorian, Astoria, Oreg., July 24, 1974]

WAYNE LYMAN MORSE

He said, "We're going to win this. We'll see you in the fall. We'll have a lot to talk about then."

Wayne Morse was on the campaign trail. There was fire in his eye. He was enjoying every minute of it.

He expected to beat Jason Boe in the Democratic primary. He did and by a much wider margin that anyone but he expected. The experts who said that Oregonians wouldn't send a 73-year old man back to the United States Senate were having second thoughts.

He is gone now and we'll never know how this race against Bob Packwood in the general election would have gone, how it would have turned out. But we can be sure that this most unusual man would have put on a campaign to remember.

He had been in the Senate 24 years when young Bob Packwood beat him six years ago. He said the voters would regret what they'd done. He said they would be asking for the opportunity to say that they were sorry, that they'd been mistaken. He must have decided almost immediately after that humiliating loss to Packwood that the voters would be given that opportunity.

He was back on the campaign trail in 1972 against the advice of his closest friends. They told him that he couldn't beat Mark Hatfield. He disregarded that advice. He brushed aside the evidence that many Democrats had not forgotten nor forgiven him for supporting Hatfield six years earlier against Bob Duncan and that they had been waiting to get even.

He couldn't be expected to believe that. The voters had forgiven him over and over again for errors and indiscretions that another politician could not have survived.

He was the Republican Party's candidate in his first election to the Senate. He turned against the party and its presidential candidate, Dwight Eisenhower, in 1952, after coming out of a national convention in which he put all his energy into getting the nomination for Eisenhower in a bitter battle against Bob Taft.

Some insiders said he deserted because the Republicans chose Dick Nixon as their vice presidential candidate, a nomination he had been encouraged to think he could have. Whether or not it was solely that or more than that, Wayne Morse heaped abuse on Dwight Eisenhower throughout that campaign.

Soon after that he registered as an Independent. It became obvious that wouldn't last. Two young Democrats, Howard Morgan and Monroe Sweetland, wooed and won him for their party. Many Republicans said that's where he should have been all along. He did seem to feel more at home with the Democrats. But it wasn't long before he was disagreeing and fighting with them. He turned on his colleague, Dick Neuberger. That separation was deep and bitter to the day of Neuberger's death.

He heaped abuse and ridicule upon Democrats as readily as upon Republicans. He was harshly critical of Harry Truman who had frequently spoken of his admiration for the senator from Oregon.

He was intolerant of anyone who disagreed with him, of anyone who was critical of his position on a public issue. He impugned their motives. Friendships with editors who strayed from consistently praising and admiring him were destroyed by his allegations that they had sold out to special interests. In his view he was the only authentic liberal in the Senate. Others who were generally thought to be liberals he described as phonies.

During his years in the Senate he attacked almost all of his colleagues. There was a notable exception. He never spoke critically of Sen. George Aiken. Perhaps the esteem others had for the senator from Vermont was too formidable to confront. But that was a rare exception. He stuck the knife into scores who could not subscribe to the proposition that Wayne Morse always was right.

In view of all of this, how did he manage to stay in the Senate for 24 years? There isn't a short, simple answer to that. It was a combination of several things. He was a masterful orator. An editor who had fallen out with him said that he wouldn't go to hear him speak "because he'll make me believe that white is black." He had an able staff led by the very able Bill Berg who meticulously handled his homework. No request from a constituent was too inconsequential or ridiculous to go unanswered. Many voters considered his courage his greatest asset. He used that to the fullest advantage, and he had the facts to back it up. His compassion for senior citizens was genuine. Organized labor would go to hell for him. Labor leaders rounded up votes for him and generously financed his campaigns.

There was all of that going for him and until Bob Packwood came along six years ago it was more than enough. But a lot of it held on after that and there was enough of it to win the Democratic senatorial nomination for him in May of this year against odds that seemed to many insurmountable. To many, sending a 73-year old man to the Senate for what he said would be only one term seemed absurd. But to many others it seemed a golden opportunity to send to Washington a man who would really shake up those no-good so and sos. One said, "Can't you see their faces when he walks in! Boy, I'd give a lot to see that!"

We will never know whether enough voters would have seen it that way to send Wayne Morse back to Washington. But we wouldn't have wagered that they would not, for this man was not an ordinary politician. Not in any way. Oregon has never had another politician like him and it is improbable that Oregon ever will. He broke all the written and unwritten rules and not only got away with it, but was praised by many for doing it.

Was he a great senator? He never was chairman of a major committee. His name was not on any important legislation as its author. But his courageous defense of unpopular thoughts and causes led people far from Oregon to say that he was "everybody's senator." Historians will prepare the balance sheet. They will not miss the point that we and many others were sure that we hadn't and never would see another person quite like him.

[From the Coos Bay (Oreg.) World, July 22, 1974]

THE "TIGER" IS DEAD

Wayne Morse is dead today, but his mark remains indelibly printed on the pages of U.S. history.

He was called the "tiger of the U.S. Senate," where he served from the state of Oregon for 24 years. The "tiger" was a mixture of idealist and pragmatist; he raised his voice where no others would and that voice is still ringing in the ears of many Americans. Morse was a firm believer in the constitutional process of government and spoke out strongly against what he deemed an illegal and unconstitutional war in Vietnam. More recently, he was adamant over what he termed a "most serious threat to the perpetuation of our system of constitutional self-government by the people of the United States." In this he referred to "the trend toward more and more government by executive supremacy and secrecy."

He never minced his words. For all his expertise, for all his dealings with some of the greatest political leaders of our times, Morse was what could be called a "straight shooter."

He was a liberal, without any threads attached. When he first ran for the Senate he advocated the 18-year-old vote, and urged other election reforms over the years.

Morse was opposed to excessive military spending at the expense of domestic programs, most importantly perhaps in his eyes the educational programs of the nation. He supported limited presence of American soldiers on foreign soil. He also supported abolishing the draft "in peacetime or in undeclared wars."

His positions and his actions were many, too much so for this space today.

But they are, as is the man, well known to millions of Americans, not just Oregonians. Morse will be remembered as one of the last men in history, perhaps, who at the age of 73 was still an energetic idealist with a strong belief in his country and its laws.

[From the Bend (Oreg.) Bulletin, July 22, 1974]

WAYNE L. MORSE, 1900–1974

Wayne Morse died this morning, victim of an infection which put him in the hospital only a few days ago. He was approaching his 74th birthday, but only a few days ago was the envy of many in his age group. He appeared ageless as he hit the comeback trail a few months ago.

He was not, of course. Time had slowed him down. His keen mind lapsed into occasional forgetfulness. He no longer looked fresh after a few hours of sleep following an 18-hour campaign day.

Morse's death ends a part of Oregon political history, a part which lasted more than 40 years. He didn't serve in office that long; he was engaged in partisan and education politics that long.

Morse was one of the state's best-known figures during that period. Few Oregonians didn't have a strong opinion about him. He was revered by some and reviled by others. Oregonians became Morse admirers or Morse haters.

He served four terms in the U.S. Senate before he lost out six years ago in an attempt to win a fifth term. By Senatorial standards they were generally unproductive terms. Morse's name is not attached to much legislation, and to no major policies. His most enduring memory was a change in the formula by which federal lands were sold to local units of government.

But that didn't stop him from becoming one of the most widely-known members of the Senate. Morse had been a teacher of debating and argument. He knew the English language extremely well. He had a gift for polished invective.

He used all those gifts, and used them well. He often used them on fellow members of the Senate, and on every President of the United States from Franklin D. Roosevelt to Richard M. Nixon. His tactics did not endear him to either Senators or Presidents.

But those same gifts made him a darling to the American Zionist movement, which repaid his efforts in the movement's behalf by large campaign contributions. They made him a darling to the liberal movement, always delighted with a speaker who would attack anyone.

The old tiger had slowed down in recent years. He was on the campaign road once more, almost like the days of old, when he was struck down. But it was not altogether like days of old. The campaign was largely the same, but Morse was older. He moved more slowly. His voice was not as strong. His memory played tricks on him. He told one group recently he was delighted to be, once again, seeking to be the "Senator from Wisconsin" (his birthplace).

Now he's gone. His detractors are not sorry to see him go. His admirers will miss him. And for many of us, some of the flavor is gone from Oregon politics. Morse's campaigns, and those of his opponents, were not always high level. But they were always interesting.

[From the Vancouver (Wash.) Columbian, July 23, 1974]

THE TOUGHEST TIGER

One of the tragedies of politics is that a candidate who has once found favor with the voters has a tough time accepting defeat. Wayne Morse had about three times as much of that never-give-up spirit as the average politician.

So it was not without significance, and some pathos, that the former Oregon senaator died Monday while trying to regain his old seat in Congress. Even though narrowly defeated for reelection by Robert Packwood in 1968 and easily beaten in 1972 when he tried to take Sen. Mark Hatfield's seat, he tried to come back again this year. He won the Democratic primary this year against a state senator whose name was not well known. Packwood supporters were reported to have regarded Morse as an easier candidate to beat than a new face. That new face now will be selected by the Oregon Democratic state central committee.

This year's Senate race was completely within character for Wayne Morse. He seemed not to care what others thought of him or his actions. He could defy a political party, as he did when he left the Republicans in 1952. He could ignore the Senate seniority system, as he did as an independent for four years. He could stand alone against the Senate, as he and Sen. Ernest Gruening, D-Alas., did in voting against the Tonkin Gulf resolution in 1964.

At home, year after year, he could withstand what seemed to be overwhelming criticism from editorial writers, politicians and voters. When election time came every six years he proved that he could get the voters needed to go back to Washington. Oregonians who cussed him between elections took pride in being represented by a maverick.

For most politicians success does not last forever. Morse had his first taste of vincibility when his self-projected candidacy for president went nowhere in 1960. Eight years later Packwood, who had entered the campaign as a little known state legislator, took his Senate seat.

In the same spirit in which he had come back to win other second engagements, or at least to prove himself right, as in the case of the Tonkin Gulf resolution, Morse refused to accept that defeat. But, for even the toughest tiger, time passes, the issues and the mood of the voters change, and defeat comes.

Yet neither defeat nor death can detract from the reputation Morse built as one of this century's great champions of law, due process and civil rights.

[From the Hermiston (Oreg.) Herald, July 25, 1974]

WAYNE MORSE

You can tell a lot about a man's character and intelligence by his style—the unique language he creates for himself—the preciseness of his language and the authenticity of his manner of speaking. Is he an accomplished actor, or a genuine human being putting forth his true thoughts and feelings?

When I remember Wayne Morse, I'll remember specific things he said about specific problems and his absolute willingness to always say exactly what he thought on any subject no matter what the political consequences might be.

Wayne Morse thought and spoke with great clarity about all of the problems facing our nation and our world. If he lost on principal at times it was never because he was misunderstood.

Many of Morse's critics were critical of Morse for not bringing home the bacon for Oregon. They were partially correct.

Wayne Morse wasn't a provincial politician. He saw himself as a citizen of the world and he did what he could to steer America toward a constructive role in world affairs. It was therefore not surprising that he was a leading authority on international affairs—especially Latin American affairs, and international law.

But it was the uncompromising integrity we will always love most about Wayne Morse. No man ever accused him of taking an illegal nickel under the table at any point during his career.

I remember some of his remarks about honesty when he spoke to a small group of students at my college in 1964. Morse said he could, if he chose, take his wife along on congressional junkets overseas and pointed out that many congressmen do this. However, the senator said whenever he traveled overseas he always paid Mrs. Morse's air fare himself rather than charging it to the government. Like everything he did—it was a matter of principle with Wayne Morse.

[From the Siuslaw (Oreg.) News, July 25, 1974]

WAYNE MORSE

Last Monday morning a great statesman and a close personal friend of this area died leaving his indelible mark on the central Oregon coast.

Wayne Morse was the "Tiger of the U.S. Senate", and at the same time he was the "Champion of the People" at the grass-roots level. Probably no clearer picture can be drawn than the one he painted in this area in fighting for our rights and freedoms during what is known locally as the "National Park Fight." His monumental insight clearly saw the problem besetting this area, and it was his astuteness and understanding of the "people at home" that brought their wishes to prevail.

Wayne Morse was truly a great man and a true politician in the finest and highest sense of the word. His moral character and fiber will live forever in the history of Oregon, and he shall be fondly and nobly remembered by all of us here on the central Oregon coast who had the privilege and opportunity to know him.

[From the Portland (Oreg.) Observer, July 25, 1974]

MORSE LEAVES LEGACY

Wayne Morse, the fighting Senator from Oregon, is dead, but his legacy will live as long as the nation survives.

Great men will honor him; even his detractors will praise his courage and his spirit. But it is we—the Black, the poor, the children, the aged—who have benefited most from this man's long and brilliant career and it is we who will cherish his memory.

Our Senator was a leader in the field of Civil Rights, and although he was the Senator from Oregon, a state with few Black voters, the achievement of equal opportunity for every individual was one of his major concerns. He began writing and introducing anti-discrimination legislation soon after his arrival in the Senate, and was an author and co-sponsor of the 1964 Civil Rights Act. This was done out of principle, not political expediency, for the Black cause was not a popular cause in those days.

Senator Morse was assigned to the unpopular Washington, D.C. Committee when he left the Republican Party, but he remained on the committee throughout the remainder of his years in the Senate, working for self-government for this majority-Black city. In 1968, Clarence Mitchell, director of the NAACP Washington Bureau, said "The Black people of Washington, D.C. pray that the people of Oregon will return 'our' Senator to the Senate."

Wayne Morse was a sponsor of the Economic Opportunity Act of 1964—the War on Poverty—which brought Headstart, the Foster Grandparents Program, manpower training, and many other essential programs to the poor of the nation. In 1958, he became the first man in the United States to introduce a medicare bill. He served on the special subcommittee that produced the Older Americans Act of 1965.

Wayne Morse's leadership produced dramatic changes in the field of education legislation. Morse became chairman of the Senate Education Subcommittee in 1961 and under his leadership the United States Senate passed more education legislation, in quantity and quality, than in the entire history of the nation. After years of indecision, the United States Congress finally endorsed the theory that the federal government has a moral obligation to the education of America's children.

The major education legislation passed under Senator Morse's guidance includes the important Elementary and Secondary Education Act, which provides special funds for the education of children of low-income families. Secretary of Health, Education, and Welfare Abraham Ribicoff said in 1965, *"When the name Morse appears on an education bill, the present generation of children and children yet unborn will be assured that the bill stands for the one man who, in my opinion more than any other single individual in the history of the nation, has helped further the cause of education in the United States."*

Senator Morse was widely acknowledged as a foreign policy statesman and his early and lonely opposition to the Vietnam war was praised throughout the world. His position as a labor law expert was unchallenged. His reputation was established as a constitutional expert, as a conservationist, as one of the Senate's leading liberals, and as a source of strength and inspiration in the passage of social legislation. His courage and willingness to fight long and hard, and often alone, and to oppose evil wherever he found it is well known.

But the Senator from Oregon will also be remembered for his concern for the individual. No problem was too small and no person too insignificant for his personal attention. Amid his speeches on the floor of the Senate, his masterful debates, his hours of research and study, Wayne Morse made time to attend to the personal problems of his constituents. The late Social Security checks, the denied welfare grants, the cases of discrimination on the docks and in the Post Office of Portland, were to him of major importance.

The world will long remember this great Senator, who was never afraid to stand alone on a matter of principle; who spent his career in the pursuit of individual liberty. He could have taken an easier path and avoided the wrath and the scorn of those who opposed him, but he lived his motto, "Principles Above Politics". His life will remain an inspiration and a challenge to those who also would serve.

[From the Medford (Oreg.) Mail Tribune, July 23, 1974]

THE TIGER LEAVES THE JUNGLE

The Tiger in the Senate, Wayne Lyman Morse, 73, an Oregon legend and a political mover and shaker, died as his last battle was just getting under way.

Morse had many bitter enemies and many devoted friends, and probably even more who loved him and detested him at the same time. Such a paradox is one of the measures of the man.

His superlative qualities were legion. He had a steeltrap mind, independence so strong that sometimes it seemed to be independence for its own sake, and a deep respect for the U.S. Constitution and its guarantees of liberty. He was absolutely fearless.

His less attractive qualities likewise were legion. He was a poor loser and a bad enemy, with a streak of petty vindictiveness that ill-became a man of his stature. The list of former friends who considered they had been stabbed in the back by Wayne Morse was a long one. He was verbose; one word would not suffice when a few thousand would do. Consistency—except a devotion to what Wayne Morse wanted and believed—was not one of his virtues.

And then there were the mixtures, paradoxical again. He could be compassionate and kind, or he could be viciously cruel (as when in 1958 he virtually elected Mark Hatfield to the Governorship by bringing up a youthful traffic mishap of Hatfield's that everyone else had forgotten, thus creating a revulsion that redounded to the discredit of Hatfield's hapless opponent, Bob Holmes).

He made his mark in the Senate by attention to great national concerns, but at the same time he was one of the most devoted, and effective, members of the Oregon delegation in getting things done for Oregon.

He quarreled with all the Presidents in office during his long service in the Senate, yet often was among their stoutest allies in the passage of crucial legislation in his areas of specialty. But none of those Presidents—Roosevelt, Truman, Eisenhower, Kennedy, Johnson—escaped the scarifying lash of his tongue.

He was one of the most successful labor arbitrators of his time, but was never able to bring his conciliatory genius to bear in the legislative jungle of the Senate. He was too abrasive, too prickly-proud, to form lasting political alliances, as his Republican, Independent and Democratic affiliations indicated.

Whatever one thought of Wayne Morse, one could not ignore him. He was always there, a monumental fact of Oregon political life, a force majeure to be reckoned with, even after he had been defeated and left the Senate in which he served for nearly a quarter of a century.

Love him or hate him—or, as with the undersigned, a curious mixture of both—he will be missed, and his like will not soon again be seen in Oregon, or in the U.S. Senate where the Tiger once stalked.—E.A.

[From the Salem (Oreg.) Times, July 25, 1974]

SALEM TIMES EDITORIAL

Wayne Morse was a unique person, a one-of-a-kind. First, he was an honest man, rare indeed in politics these days. Second, he led rather than followed, also unusual for those in public office.

Morse always spoke his mind and he didn't mince words. On occasion some of the citizenry did not seem ready to hear what he had to say. He was an object of scorn when he first opposed the Vietnam War. Years later most Americans came to the conclusion Morse had been right on the war issue all along and they listened as he attacked the insensitivity of big government and warned of the menace of the military-industrial complex. In most of his speeches in recent months, Morse argued American leaders were ignoring our Constitutional guarantees and that our nation was in danger of becoming a police state. His arguments, as usual, are convincing.

Oregon, the nation and the world will miss Wayne Morse, who never wavered where principle was concerned. One hopes a new leader with his concerns and similar integrity emerges in this country, but the wait may be long, very long.

[From The Eugene (Oreg.) Register-Guard, July 23, 1974]

END OF THE TIGER'S CAMPAIGN TRAIL

It was altogether appropriate that Wayne Morse should die in the middle of a campaign—with his boots on. The tough old Tiger never gave up, determined to vindicate himself and return to the Senate seat he lost by a whisker in 1968.

Now there was a man, this Morse. Oregon had never seen the likes of him before and may never again. No other political figure so dominated a generation—not McNary, not anybody. From the time he was first approached to run for Congress until the day he died, he exerted such an influence on Oregon politics that no question could be resolved without taking Morse into account.

He was many men. He was brilliant and eloquent. He was sometimes irascible. He was vain and completely sure of himself. But his principal stamp was his fierce independence. He wore no man's collar—not even the voters'. One of his favorite quotations was from Edmund Burke's 1774 speech to the Electors of Bristol:

"Your representative owes you not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion."

"If you want to send a senator to Washington," he used to tell his audience, "send Morse of Oregon. If you want to send a Western Union boy to do your bidding, then find a Western Union boy and send him. Don't send Morse."

This independence got him into all sorts of trouble—not that he minded. He was one of those figures who commanded a fierce loyalty or a fierce dislike. Few could be neutral about him. He demanded absolute loyalty from his subordinates and from his friends. If he didn't get it, they became former subordinates or friends. He expected them to turn as he turned and at exactly the time he turned. He wanted his monument to be in foreign policy and that may be. But it is just as likely that he will be remembered more favorably for his role in labor and education. He was unquestionably a statesman, serving the whole nation. Yet, he never forgot that he came from Oregon. If a constituent wrote the senator about a problem, he got an answer fast, usually by return mail.

He had two things going for him. First, he was twice as smart as most of the people around him. His memory was almost beyond belief. He could reach back 30 years and remember exactly what he said to Taft or what Vandenberg said to him. The other advantage he had over most mortals is that he worked twice as hard as they did, and thrived on it. At an age when most men would have retired on a generous pension, he preferred the battle. His campaign schedule last spring looked like a man-killer and maybe it was, literally.

Republicans expressed a distaste for him because he "quit" their party. They did not concede that they really kicked him out in a series of insults and slurs against the only Republican senator who was welcome in a union hall to campaign for Dewey and Warren in 1948. He was a loyal Republican for as long as he could stand it and for as long as the Republicans could stand him.

Although he was a formidable figure in the U.S. Senate, in the United Nations or on the campaign trail, he could also be a delightfully warm human being. Sitting under a tree on his College Crest farm, he was everybody's good neighbor. Talking about his cattle or his horses, he was a different man, a man in love with nature. He knew how to relax and could be an easy companion.

They called him the "Tiger of the Senate," and a tiger he was—smart, strong, skillful, determined, bent upon survival and command, fearless and his own boss. Oregon and the nation are not likely to see his kind for a long time. Maybe never.

[From the Klamath Falls (Oreg.) Herald and News, July 24, 1974]

Wayne Morse: He Called His Own Shots

Wayne Morse was always his own man. He could be overbearing, and frequently was. He lectured presidents just as he lectured his students when he was at the University of Oregon law school.

He started as a Republican, turned Independent (a change which probably characterized his attitude and philosophy best) and then became a Democrat. Even when a member of the two regular parties in the Senate, however, he didn't automatically hew to the party line.

His most memorable battle with the establishment of his party—and just one of many—was his refusal to support the Gulf of Tonkin Resolution in 1964 which led to the deep involvement of the United States in Vietnam. He was joined in that refusal by the late Ernest Gruening, then Senator from Alaska. Morse continued his vehement criticism of the United State's Southeast Asia policy and was joined by a continually growing number of disenchanted congressmen.

His nickname, "Tiger of the Senate," followed naturally. His commitment to a course of action was total. He rarely wavered. It's ironic that Morse also won fame as a skillful arbitrator of labor problems, because compromise wasn't the Morse style in the Senate.

After 24 years in the Senate, Morse lost to Bob Packwood in the general election after Morse's narrow win over Bob Duncan in the Democratic primary gave clear indication Morse was in serious trouble at home.

Morse, an old warhorse who had gone to many battles in Congress and didn't hesitate long to attack a colleague or a president if he felt they warranted it, tried to regain a senate seat in 1972 when he ran against Sen. Mark Hatfield. He lost it and it appeared that, at 72, his long and often controversial political career was over.

Morse, however, thought otherwise. He surprised many by filing for the Democratic nomination for the Senate. Not the least of the surprised was Jason Boe, president of the State Senate, who had been the early favorite for the nomination. Morse beat Boe, setting up a return match with Packwood this November.

The "Tiger" was a person about whom there were few uncommitted people. His personality, forcefulness and sometimes haughty manner usually forced people immediately into a pro- or anti-Morse stance. There was little middle ground.

Morse was never reluctant to borrow from his Congressional experience in his campaigns. The first names of high government officials were liberally sprinkled in his interviews.

"And I told Lyndon . . ." he would say in his characteristic rasp, softly pounding his fist on a handy desk. One question was usually sufficient to get Morse going for the length of an interview as he poured out a torrent of legislative history along with legal and Constitutional background on an issue. If the questioner wanted to ask a second question, he usually had to bluntly cut into Morse's discourse on the first. Morse understood. He was enough of a politician to do that.

Morse lived by a set of high ideals and his abrasive pursuant of those made enemies. Morse earned some of that enmity, but it's unlikely it bothered him much.

We were not among Morse's fans, and we're not going to lavish praise on him now.

Regardless of what we thought of his personality and our appraisal of what he accomplished for Oregon during his tenure, however, we have to say this: Wayne Morse charted his own course. He left his mark on Oregon. Very few will be able to say the same when their time comes.

[From the Review, July 24, 1974]

The Passing of Greatness

There was a certain something about the man Wayne Morse. He commanded your attention when he spoke because there was so much of America's history behind his words.

The man who had been on Capitol Hill representing his Oregon people for so long was as much a part of that history as any great statesman. Maybe more. We are sorry he was unable to achieve his last goal—to regain his seat in the Senate against the odds of age and infirmity.

He spoke of the Kennedys, Johnson, Nixon and Eisenhower as if they were old acquaintances and told you in no uncertain terms what he thought about them all. His early place in the legislative battle against a war that eventually became unpopular is historic and indicative of the outspoken manner with which he dealt with any subject. He struck you as a tough customer to take on in any political debate and yet could approach a citizen off the street with an easy manner that let you know he was working for you.

Morse was not too great to stop in here to tell us what he was thinking in his try for a Senate seat and yet was great enough to have been a driving force behind stopping a multi-billion dollar war. The paradox is as unusual as he was.

There is no uncertainty about it. Oregon and the nation lost a great man when it lost Wayne Morse.

[From the Albany (Oreg.) Democrat-Herald, July 23, 1974]

Intellect Ruled Politics for Senator Wayne L. Morse

It is hard to analyze what Wayne L. Morse might have meant to the three generations of Oregonians and Americans his public life touched at one time or another.

Hence it is difficult to say what his death on Monday takes away from all of us. It wasn't exactly the future because, at age 73. Wayne Morse's futures were used up, for the most part. Perhaps used well, but used up, nevertheless.

Nor was it the past, exactly. For, despite the occasional sneering remark that could be heard where Wayne Morse went campaigning on his last two attempts to gain public office—in 1972 and this year—he did not live in the past any more than any man of his age and accomplishment.

There will be several thousand words written this week by people trying to sort out all that Wayne Morse meant to everybody else. They will be piled atop the thousands of words already written—examining that same question in different circumstances—and will replace the words that were written, then wadded up and thrown out, which is how editorialists and critics hide their most obvious mistakes.

It is not that Wayne Morse, academician and senator, was the kind of dominant figure who makes eulogies and such pale in comparison to a recitation of his accomplishments. It is just that Morse has been a fact of life in Oregon for so long that nobody was really sure he would be anything other than that. So the words that he will get this week are likely to be either too shrill in justification or too maudlin in remembrance.

His vitriolic attacks on many of the public figures of our time will be part of the Morse legend that will be related this week. He once called Lyndon B. Johnson power mad. He once, in 1966, supported Republican Mark Hatfield over fellow Democrat Robert Duncan in the senatorial race. He fought with Clare Booth Luce, who responded with an indelicate remark about the time Morse was kicked in the head by a horse.

He switched parties, from Republican to Independent to Democrat. And he was never very loyal to any of them. "Good" Republicans pulled their hair out when Morse quit that party. (They said much later that they were never so glad to lose anybody.) Democrats pulled their hair when he jumped the traces against Duncan, then pulled some more when Morse kept right on running—and winning the Democratic primaries—after his 1968 defeat by Republican Sen. Robert Packwood.

It is likely that aspiring Oregon politicians of the future will invoke the name of Wayne Morse with the same reverence now reserved by Democrats for Franklin D. Roosevelt and by Republicans for Dwight D. Eisenhower. And they can be pretty much assured, that if Morse were their opponent, he would be having none of it. He would prefer instead to latch into the intellectual laziness that is so much a part of present-day politics and demand to know where and why they stood on the issues that Wayne Morse thought were important.

For all of his anger, independence, and stubbornness, Morse was a man ruled by his intellect. His attacks weren't against a faceless bureaucracy or an ephemeral "them," but against a president who lied, or a presidency that was, in a demonstrable pattern, exceeding the bounds of the Constitution—no matter what was said by the old "new dealers" of the Johnson administration or the "new federalists" of the Nixon administration. If he was wrong, he came by his errors honestly. If he was right, he was often right long before anybody else realized it.

[From The Oregonian, July 23, 1974]

Wayne L. Morse

The death of Wayne Lyman Morse at the age of 73 ended a tempestuous political career of a brilliant, eloquent practitioner of dissent. The former Oregon Law School dean who served in the United States Senate for 24 years seemed to be more often in the minority than not. His skill in debate, his filibusters, his party jumping and the sharpness of his accusatory tongue made his name known nationally and worldwide. His friends were loyal. His enemies were legion.

Sen. Morse created for himself a unique role in politics and government as a spokesman for Oregon, a state with a tradition of populist uprisings and independence of voters and politicians. Morse outdid other Oregon mavericks and managed in his Senate terms to impale Democratic and Republican presidents impartially. At various times he denounced Harry Truman, Dwight Eisenhower, Lyndon Johnson and Richard Nixon. However, he greatly admired Franklin D. Roosevelt under whom he served on the War Labor Board during World War II.

Sen. Morse, a liberal who defeated conservative Sen. Rufus Holman in the 1944 Republican primary with the help of many prominent Republicans who opposed Holman's record of isolationism and general futility, was an early supporter of Dwight Eisenhower for the Republican presidential nomination in 1952. But immediately after Eisenhower's nomination at the Chicago convention, Morse began attacking the nominee. He declared his independence of party and supported Adlai Stevenson. Some political observers were certain that he had hoped to get the vice presidential nomination which went to Sen. Richard M. Nixon.

Sen. Morse's conversion to the Democratic Party lost him hard-core Republican support, but among these were those who had contended that Morse was in the wrong party, anyway. His victories as a Democrat gave him a stronger base, but this was shattered in the bitter 1968 Democratic primary in which he defeated Congressman Bob Duncan, with Vietnam a central issue, but so divided the party that he lost his seat to Republican Bob Packwood.

Some of Sen. Morse's best friends urged him not to challenge Sen. Mark Hatfield, whom he had endorsed in Hatfield's earlier race against Duncan, in the 1970 senatorial contest, which Hatfield won easily. But Morse would make no concession to age or declining popularity among the voters. Seeking to regain his old seat this year, Morse won the nomination again but lost his last fight at Good Samaritan Hospital Monday.

Sen. Morse probably will be remembered longest for his adamant opposition to American intervention in Vietnam and his denunciations of Presidents Johnson and Nixon for not ending that intervention without waiting for a negotiated settlement. His only Senate supporter in voting against the Tonkin Gulf resolution, which gave President Johnson authority to commit American forces to battle in Vietnam, was Sen. Ernest Gruening of Alaska, who died last month at the age of 87.

A book about Sen. Morse, an unauthorized biography written by A. Robert Smith, Washington, D.C., newspaperman, was published in 1962 under the title, "The Tiger in the Senate." Sen. Morse tried to stop its publication, although it fairly recounts his record to that time of unorthodox politics, his "force and fury," his accomplishments and his failings. Smith wrote that it was not his purpose "to anticipate history's judgment of Wayne Morse." This newspaper, which supported him in his earlier campaigns as the liberal voice of Republicans, came to sharp disagreements with some of his later positions. In one thing all should agree: Sen. Morse was an unusual man whose faith in his own judgment was never shaken by events. The complete biography of Wayne Morse remains to be written.

[From the (Portland) Oregon Journal, July 23, 1974]

THE TIGER CLOSES THE BOOK

The death of Wayne Morse ends a political career the likes of which probably will not be seen again in Oregon, or elsewhere.

This man, who gained the title "Tiger In The Senate," frequently spoke of himself in the third person; and probably this was most appropriate, for he had only one guiding star—Wayne Morse.

For 24 years he was unbeatable as a candidate for the Senate, and in that period it was only when he attempted to step out of this role and become a "favorite son" candidate in the presidential primary of 1960 that he suffered defeat on his home ground.

In the Senate, he was not influential in the sense that, for example, the late Lyndon Johnson was, but few relished the thought of becoming his enemy. And, his incessant pounding, as on the Gulf of Tonkin Resolution, sometimes started a swing in public opinion which could be more powerful than any Senate cloakroom cabal.

Morse knew the rules of the political game and could be a loyal party worker. With some notable exceptions, for example his refusal to support Democrat Robert Duncan against Republican Mark Hatfield, he supported the party ticket; but always in the final analysis, there was only one party line for Morse and that was the Morse line.

From the day he arrived on the University of Oregon campus to teach in the law school those who became associated with him recognized that here was a brilliant mind and a driving ambition.

The combination of these gained him the deanship of the law school, the Republican nomination for the Senate and membership in that body as a Republican, then as an independent and finally as a Democrat until his defeat in 1968 by a young political unknown (outside Oregon), Robert Packwood.

Along the way he acquired a host of enemies and a host of friends, for Wayne Morse was one of those men who seem to inspire either hatred or worship.

In his career, he gained nation-wide recognition as a labor mediator, as the author of a host of important education measures and as the gadfly of the Senate.

Wayne Morse had only one career—to follow his star and that star hung over the halls of government in Washington, D.C.

He would not accept defeat and when the end came at age 73, he was using the last reserves of a remarkable store of energy to follow that star. Undoubtedly that is the way Wayne Morse wanted it.

[From the Salem (Oreg.) Statesman, July 23, 1974]

A NEEDED VOICE OF INDIGNATION IS STILLED

In the stunning shock of Wayne Morse's death, memories come flooding back of the three decades during which he was a dominant figure in Oregon's and the nation's politics. The picture which stands clear and apart from all the argumentation and acrimony is of a great man of conviction, of undaunted determination to serve his state and his nation.

At a time when such qualities are desperately needed, the loss of a person of Morse's stature is all the more cause for bereavement.

It was his reputation as an impartial U.S. Labor Dept. arbiter, in which capacity he served while dean of the University of Oregon Law School, which drew attention to him and propelled him into the race for the U.S. Senate on the Republican ticket 30 years ago this year.

He very likely was the only member of that body to serve as a Republican, an Independent and a Democrat. This told the story of his career, as he saw himself guiding a straight course through the seas of politics while the tides of partisanship shifted one direction and another. He charted his course by the star of "constitutional liberalism."

While his difficulties in working with colleagues, party leaders and U.S. presidents were legion, his dedication to principle often found him far ahead of the thinking of his time. The most notable example was his dedicated opposition to the Vietnam war. He was one of only two senators who voted against the Gulf of Tonkin resolution.

His "maverick" alienation from traditional political ties and allegiances kept him from membership in the Senate's "club". His filibusters and refusal to accept political protocol irritated his associates. In mid-term, it always seemed as though Sen. Morse had so thoroughly alienated the political power structure that he could not be re-elected. He loved this role of the underdog and played it to the hilt.

But in election after election, Oregon voters rallied to his exhortations against political pragmatists. He cut through his campaigns with a two-edged sword, condemning the political "ins" while capitalizing on his Senate seniority.

In typical fashion, he never accepted his loss to young Robert Packwood six years ago, only waiting for opportunities to regain his Senate seat.

He died with his political boots on, having won his party's nomination for the U.S. Senate, striding on toward the November campaign.

While The Statesman did not endorse his political loner-ism, we recognize his sincerity and dedication to purpose and the tremendous impact he made on the American political scene.

At a time when the national leadership needs to be charged anew with meeting its obligations and ideals, we have lost a man who knew how to attack that mission with the fervor and righteous indignation it deserves.

[From the Hood River (Oreg.) News, July 25, 1974]

IMPRINT ON HISTORY

Sen. Wayne Morse will never have the one final term in office he wanted so much and was working hard to attain. Death resulting from kidney failure following an infection took Morse this week.

At the time he started his campaign in the primary, he said he wanted to serve during a time he said would be most critical for the United States. Viewing the public disillusionment with the moral tone of the political scene, Sen. Morse felt the integrity he had built into a substantial reputation might again play an important role in the Senate.

Features and news accounts of Morse's life and death will try to focus on a single outstanding feature of his career. Many of them will point to his stand against Vietnam, when he and Sen. Gruening of Alaska were the only two to vote against the Gulf of Tonkin resolution. It was with great pride that Morse could later say his colleagues admitted "Wayne, you were right." But it was to his chagrin that many told him at the time of the voting they knew he was right, but they were voting the other way.

This single issue was far from the only major accomplishment of Morse. More than anything, it was a symbol of how he would not move from principle when he felt he was right. As a U.S. Senator he was instrumental in helping turn the nation toward federal aid to education, and federal entry into financial aid in many fields. This earned him the opposition of many who resisted the welfare state trend.

The senator was intensely proud of the role he played in resolving labor management troubles during his later years. He was equally proud of his record in handling requests and business of individual constituents.

When Wayne Morse was in Hood River during the primary campaign, he said if he were elected, he would work just as hard on a request from someone who had opposed him as he would for those who backed him. "I'll represent all the people," he insisted.

No one could doubt that he meant it, because his opponents and proponents alike agreed on the senator's integrity.

He was called a "maverick," at times, but certainly he would deny the label. He contended that all a colleague with a bill had to do get his support was to show him it was right. He had a deep feeling for the Constitution, and this brought him into conflict with almost every administration during his Senate career.

There is little doubt that Morse will take a place in Oregon and national history books alongside others such as McNary.

Rep. Al Ullman capsuled this thought in his eulogy. "Wayne Morse made a great imprint on the United States Senate, on this country and on our history," he said. "That imprint will endure and will serve as a living memorial to a great man."

[From the Ontario (Oreg.) Daily Argus Observer, July 23, 1974]

A TIGER DIES

Wayne Morse's death leaves a void in Oregon's political scene which will not soon be filled. He was a dynamic person who might take a firm stand on an issue—but presented another side, would change positions with no apparent loss of stature.

The ex-senator certainly let the nation know that Oregon was a part of the United States! During his 24 years in the Senate, he earned his title "The Tiger in the Senate."

During his recent visit to Ontario, Morse showed a vigor and physical toughness few much younger men could match. But perhaps the campaign was too strenuous for the older heart and body—and he was unable to fight off this last illness.

It will be a while before Oregon finds another "Tiger" to send to Washington. Some will welcome the quiet but there are those who say 'at least we knew what was going on when Morse was there.'

Sen. Mark Hatfield said, in reporting the death of Ex-Sen. Morse to fellow senators, "Sen. Morse was a politician from a unique mold—an enigma to many people."

Sen. Morse will perhaps be best remembered here for going to bat for eastern Oregon ranchers during the battle over rangelands. From his efforts came the highly successful "Vale Project" with its tremendous range rehabilitation program.

Even in his retirement, he was busy commenting on national and international events, never forgetting Oregon was home.

Wayne Morse will be missed.

[From KOOS radio]

Wayne Lyman Morse

Mister Integrity, Wayne Lyman Morse, the Tiger of the United States Senate is dead. Mister Integrity, Wayne Lyman Morse, the Tiger of the United States Senate lives. Wayne Morse lives in the hearts and minds of millions of Americans. Wayne Morse lives in the hearts and minds of millions of people in all the countries of the world.

Wayne Morse—to know him was to love him—or hate him—no middle ground. He had none of our common vices. I likened him to a poet chewing tobacco when writing poems. He really gave a damn. Wayne was a perfectionist, lifetime student of all subjects. A perpetual educator. His constant love, other than his wife Mildred and his three daughters, the love he honored . . . the love he sought to protect and the love he sought to defend . . . was the Constitution of the United States.

Yes, Wayne Morse . . . the student, the educator, the arbitrator, the negotiator, the farmer, the perfector of the law, the peacemaker, the scourge of the perpetrators of injustice . . . yes, Wayne Morse beat with the persistence of an unpaid madam at the door of Justice. It is a sad time for the people of our nation . . . our world. And when the ghost of Wayne Morse returns to your mind and your heart, don't stare. Welcome his shade. Goodnight, Sweet Prince.

Reminiscences About the Man From Oregon: It's Doubtful There'll Ever Be Another Morse

(By Robert B. Frazier)

Monday, hours after Wayne Morse died, I sat down and recounted some of the thoughts that were going through my head. And now, now, dammit, I'm not through. There was too much to tell.

Unfortunately, I wasn't at that big party up the McKenzie. But Governor Earl Snell was and so were a bunch of rich lumbermen right after the war. So was Bill Tugman, former editor of this newspaper. Bill was a great story teller who never let a good story grow worse.

That night up the McKenzie, somebody pulled out a deck of cards and organized a poker game. Wayne Morse, quite new in the Senate, volunteered to sit in. He paid $100 for a stack of poker chips. The lumbermen expressed concern about the way the new senator was squandering his modest wages.

Morse lost the whole bundle in record time. The lumbermen begged the senator not to send good money after bad, but the senator insisted and bought another stack of chips. He won modestly. Then the lumbermen began bluffing him. The senator showed that he could be bluffed.

As Morse's stack disappeared, Tugman decided to go to bed. "Don't worry about the boy senator," he growled at a lumberman. "Before morning he'll own your goddamn sawmill."

When Tugman woke up in the morning, the game was just ending. Morse had everything on the table. Tugman didn't know how much it was, but guessed it was several thousand dollars. The senator thanked his hosts, jumped in his car and drove to Salem for a speech and to Portland for another. He was back in Eugene that night.

Before he went to the Senate, Morse was president of the Eugene Rotary Club, a matter of Rotary pride at the time. But after he jumped the traces and refused to support Eisenhower and Nixon, Rotarians preferred to forget that he was still one of theirs. It was not for several years that he was to be invited back to speak to his old friends, the friends who had once pounded him on the back and called him Wayne.

About 1954, when he was still banished from Rotary programs, I was with him in the Eugene Hotel lobby. He met a big lumberman and invited him to lunch. "I'm speaking to the Chamber of Commerce," he said. "It's going to be a great speech. You ought to come hear it."

"Hear it, hell," the lumberman told him. "Last time I heard you, goddam it, Wayne, you convinced me and I stayed convinced for three whole days. Now that I know better, I'm going to stay away."

Once Senator Paul Douglas of Illinois, a close friend of the senator and man ideologically tuned to him, and Morse appeared together at the University of Oregon. At a press conference, Senator Douglas confessed, "I like Wayne, but I can't understand his being a Republican. He ought to be a Democrat. But at least he's my kind of Republican."

Morse replied, "I like Paul, too, but I can't understand how anybody that smart can be a Democrat. He'll be a Republican before I ever change parties."

Morse was wrong that time.

The senator was never a close personal friend and most of what I saw of him was in public. Either that or he knew I was a newspaperman, a member of a race of people he neither liked nor trusted. Thus I was never privy to his private feelings. But at least once I sensed his anguish.

It was at the Portland Rose Festival in June of 1953. Less than a month earlier, I had been kicked out of the senator's office. My mission in Portland was to cover the senator's "Homecoming," his first visit to the state since he had refused to support the Republican ticket the previous fall. The other dignitary in Portland that day was Douglas McKay, former governor and then Eisenhower's new secretary of the Interior.

Morse regarded McKay as a boob. McKay was a hero to Oregon Republicans, who knew that he was only the second Oregon man to serve in the Cabinet. Republicans were still angry at Morse for his apostacy. Democrats did not yet accept him.

It was McKay that day who got the applause, Morse who got the silence and the jeers. That must have hurt, but Morse never showed it, at least not publicly.

He could be rough. In 1955, it was rumored that Governor Paul Patterson, a beloved public servant, was ready to take him on in 1956. "I hope he doesn't" the senator told me. "He's not a well man. A campaign against me would kill him. He wouldn't dare run against me." Patterson did decide to run, but had not begun his campaign when he succumbed to a heart attack in January of 1956. Morse's eventual opponent that year was Douglas McKay. Morse won with 396,849 votes, out of 732,254 cast. I wonder if, the morning after election, he did not remember the Rose Festival of three years before.

Sometimes, I think, Morse rather enjoyed the press. He used the press as a whipping boy, just as much as Spiro Agnew ever did. Many a time I sat in a crowd and heard him denounce "that yellow rag" the Register-Guard.

Early in his Senate career, he'd flood the press with more information than anybody wanted. Morse was coming home. That announcement was followed by a series of press releases. Morse was in Illinois, pulling a horse trailer. Now he had reached Wyoming, Idaho by Wednesday. Reporters did everything but interview the nag.

This changed later. He'd slip into town and reporters would try to find him. The wire services would badger us to get an interview.

Then I, or somebody else, would bump into him downtown. "Where ya' been?" he'd ask. "I was waiting for ya' up at the farm. Had a great story to tell ya' about the speech I made on the floor of the United States Senate on the 16th. And ya' know afterward, a lot of Republican senators came up to me and said, 'Wayne, that was a great speech, one of your greatest'.

"And I said, 'Well, Lev., why don't you join me in that resolution?' And Lev said, 'Wayne, you know I can't do that. I've got to think of the voters.' See, he didn't have any independence."

Well, enough of this. It could go on for hours. There may have been more intriguing public figures to follow around over the years. But I doubt it.

[From the Eugene (Oreg.) Register-Guard, July 28, 1974]

True Story of a Senator and His President: Morse Declined Attorney General's Post

(By A. Robert Smith)

Washington.—When the telephone at the Morse residence in northwest Washington, D.C., rang that evening in late 1951, it was the White House calling the senator. Answering, Wayne Morse recognized the familiar voice of President Truman, asking if he could come to see him the next afternoon via the side gate where reporters wouldn't notice his arrival.

"I've called you down here," Truman said next day, "to offer you the attorney generalship of the United States."

Wayne Morse had just begun his second term as a Republican senator from Oregon. The Truman administration was in trouble because of tax-fixing scandals involving officials of the Internal Revenue Service and the Justice Department. Truman realized that his attorney general, Howard McGrath, was too weak to clean up the mess.

"You can write your own ticket," he told Senator Morse." It isn't often that a president gives anyone an offer like this. I'm satisfied that 99.9 per cent of our people are fine public servants. Apparently I've got a few rotten apples in the barrel. I want you to clean them out."

Morse told Truman it would be a mistake to name him, a Republican, but the president replied, "You're no Republican. You're an Independent, and that's what I want."

After discussing the offer far into the night with his wife, Midge, and with three close political advisors, the senator next day declined.

The incident is worth recalling as an object lesson in how an honest president, anxious to effect a clean-up rather than a cover-up, approached the task. No one in Washington was more fiercely independent or less partisan than Wayne Morse, who in ten years on the national scene had gained a great reputation for speaking out against what he considered wrong no matter who was to blame, Truman included.

Upon Wayne Morse's death, several writers noted that he once accused Truman of "ham acting," which illustrates his outspokenness, but also suggests, quite wrongly, that he had no use for Truman. As Truman himself recalls in his memoirs, Morse later apologized in the Senate for his unkind remark. When Truman read his remarks in the Congressional Record he wrote the Senator a note of appreciation, admitting his feelings "were somewhat ruffled" by Morse's earlier blast. But, Truman added, "I've always been an admirer of yours. Honest men may differ but they may still be friends."

Harry Truman regarded Morse as his friend for the rest of his days. In fact, when I went to Independence in 1960 to interview Truman about his relations with the senator, he refused to see me until Morse sent him a telegram "clearing" me.

"I never talk about my friends behind their backs," Truman told me.

The Truman Library is full of evidence of the mutual admiration that developed between Truman and Morse. Though different in many ways, each admired the other's courage. For Morse, Truman's high water mark of courage was his firing of Gen. Douglas MacArthur; and for Truman, Morse's was his filibuster against the Taft-Hartley labor act which Truman vetoed.

"I always liked Wayne Morse," Truman told me. "Whenever I could have Wayne in my corner, I always wanted him there."

Truman was disappointed at Morse's refusal to take the attorney generalship but not resentful. When I asked why he had offered it to Morse, he replied, "I thought he would clean things up. I thought he would do the job, do the work, as it should be done. People don't understand. They think there is a deep, dark, under-the-table reason. It isn't true with me."

President Truman knew that bold action was required in the face of the gathering crisis over the corruption of his administration, just as President Nixon has felt impelled to act boldly in the face of exposed criminal acts by some of his closest White House aides.

The specific actions of these two beleaguered presidents, however, were significantly different. Truman tried to hire the most uncontrollable clean-up man in town; Nixon fired Special Prosecutor Archibald Cox and defied his successor, Leon Jaworski (until the Supreme Court directed him to cooperate), when he found he couldn't control them or contain their inquiry.

But then Harry Truman had nothing to hide.

[From the Eugene (Oreg.) Register-Guard, July 25, 1974]

Wayne Morse—More a Prophet Than a Tiger

(By A. Robert Smith)

(Editor's Note: A. Robert Smith has been the Register-Guard's Washington correspondent for almost 25 years. As such, he has covered Wayne Morse more closely than any other reporter. In 1962, he published an unauthorized biography of the senator, "The Tiger in the Senate," thus giving Morse a nickname that he wore proudly the rest of his life.)

Washington.—Among the many efforts to analyze the Senate's champion maverick of the mid-Twentieth Century, none was quite so much to the point as one offered by Wayne Morse himself:

"I sometimes wonder if I'm going at this a little too hard. But then I think of all the men and women who wish there were just one politician in Washington who would speak his mind and cast his vote honestly and freely with only his conscience to guide him. Maybe it's a bit brash to assume that I'm that man, but believe me, I'm trying to be."

To tens of thousands of citizens from coast to coast, Senator Morse was surely that man. Every time he stood up in the Senate and verbalized his—and their—outrage over what he perceived to be wrong in high places of government and business, foreign and domestic, Morse's office was deluged with fan mail.

What Morse revealed in that statement was his own sense of purpose. Though frequently denounced by other politicians, by editorial writers and by some citizens who sharply disagreed with him, the manifestation of support he received from the common folk gave him a sense of fulfillment.

In this sense, as the advocate of lost causes, the spokesman for the underdog, the fighter against great odds, Everyman's senator, Wayne Morse was a notable success.

His means and his ends were not always that noble, of course, and his personal flaws were sometimes more noticeable than his virtues: As the journalist who probably wrote more about Wayne Morse than any other writer, it seems to me only just to confess that while he belonged to us too much space was devoted to his shortcomings, not enough to his longcomings.

But now that he belongs to history, we must pay him his due. He was long on courage, long on vision, long in determination to fight to uphold the Bill of Rights in an era when personal freedom came under constant assault.

He was also brilliant, but there are lots of brilliant pussyfooters in Washington. Morse was different.

Any one of those virtues would be enough to command acclaim for the average public man today—but Wayne Morse was far above average. Indeed, there was nothing average about him.

Having dubbed him "The Tiger in the Senate" in a biography published in 1962, I think in retrospect—looking back upon his whole career—that another symbol might be more appropriate. A tiger in debate he was, but he was much more.

In an era of growing corruption in public and private life, Wayne Morse was more like an Old Testament prophet, a political Jeremiah, condemning kings and commoners alike in their sinful ways, a harsh voice bringing discomfort to the wicked.

He was denounced for not being a healer or a peacemaker—but that was not his mission.

He was stripped of his office for not being all things to all men, for not soothing the masses, and for opposing a national war much too soon—but he did what he had to do, true to his own sense of purpose.

Wayne Morse didn't want to be a voice crying in the wilderness, although often he was. He, like most public men, wanted power and used what power he acquired with considerable skill. He would rather have been a president than a prophet—but that, too, was not the role destiny had marked for him.

At the Republican national convention in 1952 Wayne Morse, then a liberal Republican, was unstinting in his praise of Eisenhower over Taft for the presidential nomination—until Ike, having won it, agreed to take Richard Nixon as his running mate. In his hotel room afterward Morse was a picture of despair.

Professional skeptics that we are, we reporters who covered these events ascribed his sudden coolness to personal disappointment that the ticket wasn't Eisenhower-Morse. His subsequent endorsement of Adlai Stevenson and resignation from the GOP showed how very deep his disappointment had been.

Maybe there was more to it than that. Perhaps Wayne Morse, who knew something about Senator Nixon, visualized what this decision would mean to the Republican party and to the nation in due course, and he wanted none of it.

Perhaps not, and yet he had a genius for perceiving the dark underside of politics and a career-long compulsion for turning it up for all to see.

It was this vision which caused him to be the first in the Senate to oppose America's taking on the war in Vietnam in the name of defending freedom. America was defending a corrupt military regime, cried Morse to the immense discomfort of almost everyone in Washington at the time.

In the process, of course, he gained converts—and undoubtedly a place in history for being one of the two senators to vote against the Gulf of Tonkin resolution authorizing U.S. forces to enter combat in Vietnam.

His last public appearance in Washington, incidentally, was three weeks ago at the National Cathedral to eulogize the only senator who stood with him, the late Ernest Gruening of Alaska, who died a month ago.

Whether Morse's courageous opposition to the Vietnam war was his greatest achievement will be for historians or a later biographer to suggest. He had a model in the unpopular role Sen. Robert LaFollette played as a critic of American entry into World War I.

Yet he may have played a more important role in his nearly 30 years on the national political stage, namely as a symbol of honesty in politics.

Douglas McKay, the former Oregon governor who resigned from the Eisenhower cabinet to run aaginst Morse in 1956, complained that Morse, the hairshirt of Washington, "gave Oregon a black eye." That was in the days when Morse took on the president of General Motors, Charlie Wilson, who as the nominee for secretary of Defense, cracked, "What's good for the country is good for General Motors, and vice versa." And when Morse filibustered against the administration-backed tidelands oil bill.

To McKay's conservative friends and Republican stalwarts, Morse personified the worst thing imaginable—a renegade, a Republican turncoat. But when Morse overwhelmed McKay at the polls that November, it was apparent that a majority of the voters prefererred his brand of independence, his gutsy honesty.

If democracy depends on public faith in the political system and men holding office, corruption in public office becomes a form of subversion, eroding the foundation of the nation. Washington's corruption today is at the floodtide.

Perhaps the greatest contribution any public man or woman can make is to justify our faith in the honesty of those we elect. For tens of thousands of Americans, Wayne Morse more than any other figure of his time did just that.

For those who hated him, and they were legion, he could do little or no right. But for those who admired him, and they are legion, Wayne Morse gave politics a good name. And right now that seems like a considerable legacy for any person to have given his country.

[From the East Oregonian, July 22, 1974]

Morse Was Quite a Man

(By Dean Holmes)

U.S. Sen. Wayne Morse was quite a man. And there are thousands of Oregonians mourning his passing today. A husky longshoreman, a retired school teacher and an Eastern Oregon farmer, may all shed a tear today.

I became acquainted with the senator 25 years ago. It happened in a Williamette Valley High School where he was making a speech. He was a Republican, and he was, among other things, lashing out at his party's campaign for cutting the federal budget in places like veterans benefits. He was pleading the case for the ex-serviceman that day and he was doing it in typical Morse fashion.

The several hundred students from surrounding towns were tuned in to his speech. The teachers couldn't get that kind of attention.

He always said his best audiences were

high school students. Also, he said he could sense the attitudes of his audiences like a circus performer and when they started coming with him he would turn it on like a fire horse.

He was challenged by Douglas McKay at the insistence of Republican President Dwight D. Eisenhower in 1956. McKay was the popular former Oregon governor and Eisenhower's Secretary of the Interior.

Sen. Morse made a swing that year through Eastern Oregon speaking mostly to high school students. Adults also came to hear the maverick senator, who was lashing out at Eisenhower. The school auditoriums were filled. Neighboring towns closed their schools and bused their students to hear Morse.

He said that swing into Eastern Oregon let him know that he was a winner. He beat McKay by 75,000 votes.

Morse was at home with the common man or the millionaire. He had a legion of friends in both categories.

He didn't stand much on protocol.

He liked to tell of the time he was called to the White House one night for an emergency meeting. He had been out to his Maryland acreage. He drove into the underground driveway of the White House in his muddy Ford sedan with chicken coops in the back seat. He said the security people couldn't believe what they were seeing. He said that car looked strange in the parking garage that was filled with limousines.

Another time he was traveling via train along the eastern seaboard and received a note in the handwriting of President Harry Truman. Morse said Truman wanted him to come to the White House to discuss the attorney general's job. Morse was told to go to a side door in the dark to avoid alerting newsmen.

Always in a hurry, and always in top physical shape, Morse didn't drink or smoke.

Once a drunk on a cafe stool in a small Oregon town wanted to shake the senator's hand. The drunk fell to the floor. Morse, a strong man, picked him up and parked the big man on a stool with a thud. Then with a pleasant smile and a handshake he made the drunk happy and amused the other people. As he left he commented, "After that jolt that fellow won't sleep well tonight."

After he kicked over the political traces of the GOP in 1952 he lost thousands of political friends in Oregon.

In December of that year, after Eisenhower won, Morse came back to Oregon to tell his side of the story. He was invited to speak at Sheridan. The speech was in the high school gym and attracted an estimated 1,200 people in a town of 1,700 population.

The speech also marked something else. It was the first live telecast program from Oregon.

At Sheridan he refused at the last minute to speak at the Catholic Jesuit Novitate because the school administration ruled his daughters or newsmen couldn't attend. Morse said he refused to speak if newsmen were barred.

The political climate changed in later years when he moved from a Republican to an Independent, then finally a Democrat. He lost lots of devoted friends.

On his last visit to Hermiston he attracted only a few of the party faithful. Twenty years earlier he would have filled the school auditorium with students and adults.

[From the Eugene (Oreg.) Register-Guard, July 24, 1974]

UPS AND DOWNS OF MAKING FRIENDS WITH THE "TIGER": MEMORY OF MORSE BEGAN IN 1941

(By Robert B. Frazier)

I don't know why I feel this way, but I do and I want to set some things down on paper four hours after Wayne Morse died. In more than a quarter century of following Oregon politics, I have never felt as keenly the loss of a political figure. Not even Dick Neuberger, a close friend, which Wayne was not.

Maybe my regret is that Wayne was not a close friend and I am sorry about that. I think I tried. But the rift between Wayne and the Register-Guard was too great. Let me go back to the beginning.

In 1941, I was a reporter for the Oregon Daily Emerald on the campus and Wayne was dean of the law school and already a national figure. There was some hanky panky about a student body election and all agreed that Dean Morse should be the guy to adjudicate it. He found the ballots fraudulent and burned them. I have been following him ever since.

When he campaigned against "Deadwood Dave" Hoover in the 1950 primary, I sometimes drove the car for him, a courtesy that the now much more discreet Register-Guard would not allow. Wayne would sleep as we drove from Bend to Prineville, then to John Day, Ontario, Burns and so on. Sometimes he'd wake up and talk a little. At the end of the day I'd be exhausted and Wayne, after half a dozen speeches, would feel fine.

We were pretty friendly right into 1952 when Bill Tugman, my mentor and predecessor, and Wayne had a falling out about Truman's seizure of the steel mills. The fight got pretty bitter. Wayne was not a candidate that year, so I saw him only occasionally.

That summer the Republicans nominated Eisenhower and young Sen. Dick Nixon. Wayne seemed to support the ticket. But he must have ben seething inside. Maybe he wanted the vice presidential nomination. I knew that he had an intense dislike for Nixon. Morse had been badly snubbed at the convention, with a choice post that he wanted going to an obscure young state legislator named Mark Hatfield.

I did not see Morse again that summer. In late August I left for Cambridge, Mass., to accept a Nieman fellowship at Harvard. In Toronto, I picked up a copy of the Star and read that Wayne would not support the Republican ticket.

Ten days later, I arrived at Harvard and found my mailbox full of letters and Register-Guards. Wayne was taking a hell of a beating. I understood that his wife and children were snubbed in church and that he was being brutally cussed out.

So I wrote to him, telling him that while I did not agree with his decision, I had to admire his courage and guts. I got a nice letter back. He came to Boston and visited with the Nieman fellows at one of our weekly seminars.

On the Sunday before election, he was going to be in Boston again and wrote me about it, inviting me to spend the day with him. One of his activities was to take part in a television show with Walter Reuther of the United Automobile Workers and Maurice Tobin, former mayor of Boston and at that time Truman's secretary of labor.

Wayne was staying at the Parker House. In the taxi to the Statler, where Reuther was staying, Wayne took one of his famous quickie naps. Reuther had recently been the target of an assassination attempt and always had a bodyguard with him. We knocked on the door and this gorilla opened it. Reuther looked around the room corridor and said, "Hi, Wayne, come on in." Morse stepped in and I followed, only to be stopped by the gorilla's hairy arm.

"Walter," said Wayne, "let this boy in; he's as close to me as a member of my own family."

We had a fine day.

That winter, Morse and Bob Smith, our guy in Washington, got into a scrap. The Associated Press joined on Bob's side. On my way home in May of 1953, I stopped in Washington a few days and free-loaded on Bob.

When I went to see Morse, he asked where I was staying and I gulped and said, "With a friend." He ushered me into his inner sanctum, which was festooned with ribbons and plaques and pictures of horses. Then he began.

I have been castigated, chastized and just plain chewed out many times. But this reading off was classic. I could hardly believe it. What had I done? Except for one magazine article favorable to Morse I had not written a line about him for nine months, nor had I written much for the Register-Guard.

Gradually it came through. He had developed a hatred for Tugman and a contempt for Bob Smith. Jack Bell of the Associated Press was on the big list, too. Apparently anybody who looked as if he ought to have a press card in his hat was fair game. He ended up by ordering me out of the office and inviting me never to return.

I came home to cover politics, which meant frequent encounters with the senator. Naturally, I was wary. He was cool, almost icy. After I came onto the editorial page and got my name on the masthead of the paper, the ice froze a little harder.

When he and Dick Neuberger got into their big scrap in 1958, I often held Dick's sore paw. Dick didn't understand what he had done wrong, either.

In 1963 I was walking down the corridors of one of the Senate office buildings when I saw the sign on the door, "Morse of Oregon." I put my hand on the knob and started to turn it.

Then I said, "The hell with it. I've been there." I went over to see Maurine Neuberger instead.

Over the years in the course of business, I'd see Wayne from time to time. After his defeat by Bob Packwood in 1968 something seemed to happen to him. I know he was terribly hurt. And, I think, humbled. Since that defeat, I saw him more than I had seen him for several years. We had several very pleasant talks, and Wayne could be the world's most pleasant guy. He disapproved of my smoking and could not understand how little I cared about horses and cows, but the old animosity seemed to have disappeared.

Then in 1972, when he was running against Mark Hatfield, a funny thing happened. He came to the Register-Guard building. It was, as far as I know, his first visit in 20 years. He came not only once, but twice. The thaw was on.

In his later years, our relationships improved. But I always had the feeling that he thought Bill Tugman was still down here at 10th and High, hurling his thunderbolts. I very much regret that it took so long to repair what had been a fine friendship.

The last time I saw him face-to-face was May 3 when he met with the Register-Guard editorial board. Unlike most candidates, he did not arrive with an entourage of press agents, bodyguards and speech writers. He drove his own car and came in all by himself. We taped a delightful hour and a half of give-and-take.

The paper endorsed Morse in the primary and he telephoned to talk about that. He also invited me up to the farm to hear returns on election night, but I felt it would be inappropriate for me to go.

Usually after an election, we erase tapes of the old interviews and use them again. Saturday I ran across those Morse tapes and almost erased them. Now I don't think I ever will.

[From the Eugene (Oreg.) Register-Guard, July 24, 1974]

FAR MORE THAN TITANIC POLITICAL FIGURE: MORSE WAS FIRST A HUMAN BEING

(By Henny Willis)

It is not easy to think of Wayne Morse dying. He seemed somehow indestructible, a kind of masterpiece by some Renaissance sculptor who worked in granite and steel.

But, Wayne Morse was more than the titanic political figure who became—by far—the most colorful, caustic, controversial and crusty politician ever to stride across Oregon. He was first a human being, a warm companion, a genteel and courtly host, a gracious and stimulating conversationalist, an entertaining story-teller?

It is this latter Morse, the very human yet very rare individual, which I feel a deep-seated compulsion to write about. It is also this Wayne Morse, the rancher in the Western hat and the eager coffee-maker who made terrible coffee, that I will miss most.

We first met in 1967, the year I took over the political beat at the Register-Guard. I went out to his Crest Drive home in Eugene for an interview, my first trip to that spacious and imposing, yet eminently comfortable, home he and his wife built in the early 1930s. I was a little apprehensive, because I was new on the political scene and he was in his 23rd year in the United States Senate, a man of gargantuan reputation who was said to chew up political writers at the drop of an adjective. And, hovering above this first visit was his 20-year feud with the Register-Guard.

He greeted me at the door, graciously, and ushered me into the large living room. His wife had remained in Washington, D.C., and he offered me a cup of coffee he had brewed himself, apologizing in advance for how it might taste. The apology was appropriate. It was bad coffee. Later, we would joke together about his coffee, but at that first meeting, I wasn't about to begin our tenuous professional relationship with criticism.

We spent the better part of an hour chatting about various things, mostly Vietnam, and in the process I was subjected for the first time to the Wayne Morse pronouncement on U.S. involvement in Southeast Asia—an oral dissertation that was at once brilliant, rambling, intellectual, emotional. It was a quickie course in constitutional law, a passionate blast at the "Eisenhower-Nixon-Dulles military containment policy" and, more than anything, Wayne Morse's bone-marrow conviction that the war was morally wrong, legally indefensible and intellectually abhorrent.

That first meeting went well, although Morse's rhetorical style and strong convictions against the war made me feel at times more like a college student hearing a lecture than an interviewer asking questions.

There were other such visits, sometimes at the Morse home, occasionally at public gatherings. During the next year, Morse and I came to respect each other and could converse comfortably. He was a magnificent talker, expansive in mood and gesture, and though he always kept the built-in propensity to lecture, the growing familiarity between us made conversation easy and enjoyable.

Occasionally, he'd refer to a piece I'd written about him, saying, "Henny, that was fair reporting," meaning that I'd been fair in my treatment of Wayne Morse. From the old devourer of journalists, it was indeed a compliment.

The personal side of Wayne Morse came more into focus for me following his 1968 defeat by Packwood. The loss meant he was around more for interviews and brief chats; thus we became more comfortable with each other. Morse was not a man to show private emotions, unless they were emotions dictated by public events and his role in those events. He was not someone easily approachable, unlike so many politicians, and he kept his private life to himself. Yet, there were times over the years that brief glimpses of the private Morse broke through.

One such time was at his Eugene home the day Bobby Kennedy died. Though he and Kennedy were not particularly close, certainly not as friends, the assassination touched Morse deeply. In his small kitchen that summer morning, he talked at great length about public life, its rigors and demands, its rewards and challenges. One great regret I have is that I did not tape that conversation, but it does remain indelibly imprinted in memory.

Another time the private Morse emerged for me was in early 1970, when he had called me to come up to his house for an "important announcement." When I arrived, he told me he was not running against John Dellenback for Congress, a possibility that had been rumored for several weeks. We talked more and, somewhere along the line, the conversation turned to his home and his roots in Eugene.

At one point he looked out the large picture window of his living room toward the back part of his 27 acres. There was an unusual wistfulness in his voice and his facial expression and he said: "We're going to have to sell part of this. The taxes are just too high." He seemed to be saying it more to himself than to me. He loved that setting, the cattle pens, the rolling miniature hills, the large trees. He and Midge Morse had lived there for nearly 40 years and had raised their three daughters there. It was their haven from the turbulence of the public arena.

They're saying that I was the last political writer to interview Morse in depth. I don't know about that. If so, I am honored. If not, I treasure the many pleasant moments we did share.

The most vivid recollection I have of Wayne Morse is one of our last contacts with each other. It was at the State Demoforum in the Inn at Otter Crest. Morse had come over to be the keynote speaker at the Saturday night banquet. He seemed relaxed, mingled easily with the delegates and at one point, he sat for more than an hour listening to the delegates tediously debate land-use planning. As always, he was immaculately dressed in dark suit and sporting his latest condescension to male fashion—a colorful striped shirt, instead of his usual plain white. And, as always, he seemed indefatigable, sitting erect during the dull debate (Wayne Morse never slouched), everyone in the room aware of his presence.

After his banquet speech on Saturday night, the press corps automatically headed for the cocktail lounge. We were sitting together discussing, naturally, politics, when in the door walked Wayne Morse and Joe Smith, a long-time Morse colleague and the banquet's emcee. No one at the press table could ever recall seeing Wayne Morse in a cocktail lounge, especially since he was one of the most famous teetotalers in Oregon history. But, there he was. Several tables eagerly sought for him to join them, but he chose to join the press group.

He ordered a ginger ale from the mini-skirted waitress and proceeded to discuss anything the reporters wanted to talk about, which at that time was mostly his own campaign, his chances of winning the possible impeachment of Richard Nixon. Then, for some reason undiscernible to anyone present, the conversation shifted to Morse's early years. He discussed his boyhood on a Wisconsin farm, his traveling in a buggy to hear the famous orator and politician, Sen. Robert La Follette, and his later contact as a university student with La Follette.

"I once was engaged in a debate on some subject and drew the side I really didn't want to have," he said. "I talked to La Follette about that predicament and he told me something I've never forgotten. He said: 'Wayne, do you want to win the debate or educate the audience?' I told him I wanted to do both. After the debate competition, I got a telegram from La Follette and it said simply: 'You did both.' "

Wayne Morse was immensely proud of that telegram and I am immensely proud to have known the man they have billed the Tiger of the Senate. That night, over a ginger ale, he was no tiger, but a warm, friendly, interesting man with a trove of fascinating stories to tell about Bob La Follete, Harry Truman and Franklin Roosevelt.

And, there's something I never got a chance to tell him. You did both, senator, you did both.

[From the Eugene (Oreg.) Register-Guard, July 26, 1974]

MORSE REMEMBERED AS "SENATOR'S SENATOR"

(By Jerry Uhrhammer)

SALEM—Oregon's political establishment paid its last respects here today to former Sen. Wayne Morse.

An overflow crowd at a memorial service in the state Capitol's House Chamber heard the "Tiger of the Senate" eulogized as a "senator's senator" and a champion of law, whose courage and conviction should be emulated in these days of Watergate.

The memorial service here was to be followed by a funeral service this afternoon at the First Congregational Church in Eugene. Morse, whose ofttimes stormy Senate career spanned 24 years, died Monday at the age of 73 from kidney failure.

The crowd that filled the House chamber for the memorial service was dominated by government figures and politicians, including some political opponents from Morse's past.

Gov. Tom McCall, hospitalized Thursday afternoon with an viral-intestinal infection, left the Salem Memorial Hospital about 9:30 a.m. today and—while reportedly feeling dizzy at times—came to the Capitol to deliver his eulogy to Morse as scheduled.

Looking drawn and somewhat shaky, McCall called Morse "our most eloquent petitioner, under the constitutional right to petition the government for a redress of grievances."

McCall said, "The young and many of their elders view most politicians with immense cynicism—a cynicism fostered outrageously by political leaders who defend Watergate with the canard that 'everybody does it.'

"So the young have the notion that almost everybody is on the take from the oil companies, and ITT, and the milk trust, and that everybody with any influence at all can dodge taxes, and steam open other people's mail.

"But they do not believe it of Wayne Morse, and, oh what his past has taught us! . . . He told us that personal and national principles cannot be changed to accommodate your bank account or your political party or your friends or even your enemies. In his uncompromising way, he encouraged us to stiffen our backs against compromise of principle."

Concluded McCall: "Let us now take up his burden as our memorial to his name."

The governor's press aide, Ron Schmidt, said McCall planned to leave the Capitol immediately after the service and spend the next 48 hours at home recuperating from his illness. Schmidt said the governor no longer had a fever and the sharp pains and cramps he suffered at the onset of the infection Thursday had disappeared, but he still felt dizzy.

McCall was the first of six speakers who eulogized Morse during the memorial service. The others were Senate President Jason Boe, House Speaker Richard Eymann, Sen. Mark Hatfield, former Minnesota Sen. Eugene McCarthy and a representative of AFL–CIO President George Meany, Morris Novick of Washington, D.C.

Hatfield spoke of Morse's love of the law. He "always remained a tutor of the Constitution to all who would listen," he said.

Hatfield said it was "that love which produced such bristling indignation whenever he felt others were jeopardizing the sanctity of constitutional law . . . All these qualities equipped Wayne Morse for the most valued contribution he made to our country: his unceasing drive to bring the nation from war to peace. That is how Americans will remember him best," Hatfield said.

Boe called Morse a "national symbol of courage" whose leadership in causes he believed just transcended party lines and narrow political ideologies.

[From the Eugene (Oreg.) Register-Guard, July 22, 1974]

Friends, Rivals Praise Morse

The death today of former U.S. Sen. Wayne Morse brought quick expressions of sorrow from political figures in Oregon and Washington, D.C.

Gov. Tom McCall, who ordered flags flown at half staff on state buildings until after the Morse funeral, said:

"Democracy has lost a very good friend. Wayne Morse was a brilliant counsellor, a courageous man, an American who really understood freedom. We loved him for being the Tiger of the Senate. We stood behind him and said, 'That's telling 'em Wayne.' His politics weren't always those of a majority of Oregonians, because he was often far out front, leading causes not yet popular. But, he himself was immensely popular, because we always could depend on him to say what he thought. And that's the first lesson of integrity."

U.S. Sen. Bob Packwood, the man who beat Morse in 1968 and was to face him again this November: "Wayne Morse was a man of integrity and courage. He was never afraid to fight for his convictions—as dean of the UO Law School and as Oregon's U.S. senator for 24 years. He will be deeply missed by Oregon and the nation. Mrs. Packwood joins me in expressing our deepest sympathy to Mrs. Morse and the family."

U.S. Sen. Mark Hatfield, who defeated Morse in 1972. "Senator Morse was a politician from a unique mold and an enigma to many people. His interest was substance and his commitment to issues produced a unique Morse style. When convinced of a position on an issue, he was not swayed by political considerations or pressures. Those of us who have fought for nearly a decade to change U.S. policies in Indochina owe a debt of gratitude to Wayne Morse."

U.S. Sen. George McGovern, a long-time ally of Morse in opposing U.S. Vietnam policies: "The passing of Wayne Morse so closely after the death of Ernest Gruening deprived the nation of its two most courageous and persistent critics of the Vietnam tragedy. He was one of the 20th Century's most powerful voices for justice and peace."

U.S. Sen. Mike Mansfield, D-Mont.: "Wayne Morse was a man of independence who served his state and nation with credit and distinction. He was an effective senator who feared no one, answering only to his conscience. His loss is Oregon's and the nation's."

U.S. Sen. William Proxmire, D-Wis.: "He was a man of remarkable intelligence and rock-like integrity."

Oregon Senate Pres. Jason Boe, D-Reedsport, whom Morse beat in the 1974 Democratic primary: "Sen. Morse was a unique man in the annals of the political history of this state and nation. His courage, wisdom and ability to take a stand in spite of long odds will be remembered as long as a political system exists in this country. Both Oregon and the nation have suffered a grievous loss."

Oregon House Speaker Richard Eymann, D-Springfield: "He was one of Oregon's finest citizens since the beginning of statehood. As one who encouraged him to run for the Senate this time, his death is particularly grievous to me."

Congressman John Dellenback, R-Ore.: "I'm terribly sorry. He died the way he lived, with his boots on and in the middle of a fight for what he believed. Oregon has lost one of her giant trees and the nation is the poorer."

Orlando Hollis, former UO Law School dean and long-time colleague of Morse's: "I have known Wayne Morse since he came to Oregon in 1929. Oregon and the nation have lost a public figure whose influence will be with us for a long time."

Secretary of State Clay Myers: "I have great admiration for this high-principled, brilliant and able maverick. Wayne Morse's integrity serves as an example to all Americans. He was a towering figure in the U.S. Senate."

Lane County Democratic Chairman Dorothy Leeper, a close Morse friend: "His keen intellect, rare wisdom and integrity were a guiding light to so many of us. In an era of corruption and confusion, he held the torch high. His place in history remains untarnished and he will be recorded by historians as one of the great statesmen of our time. His was a profile in courage."

State Treasurer James Redden: "It is not only the citizens of Oregon who have lost a friend and champion, but the citizens of the world."

State Democratic Chairman Caroline Wilkins: "I am only one of many thousands who feel this great loss. The pursuit of his convictions and strength of courage helped shape more than a quarter century of our nation's and state's political history."

Former congressman Charles Porter of Eugene: "Wayne Morse was my ideal as a public servant even before I met him 28 years ago. What I saw of other senators during my four years as a member of Congress affirmed my opinion. Wayne Morse's virtues were classic—deep concern for the oppressed and disadvantaged, a keen intellect, tireless industry, fearless independence and, above all, integrity. . . ."

[From the Eugene (Oreg.) Register-Guard, July 23, 1974]

Morse Eulogies Stress His Integrity

Eulogies for former U.S. Sen. Wayne Morse brought warm recollections from his friends and colleagues as they recalled his fighting style.

Morse died Monday at the age of 73. Integrity was the word spoken most often by those who remembered him.

President Richard Nixon, one of the targets Morse hit most often with his sharp tongue, said Monday he will write a personal letter of condolence to Morse's family.

In Eugene, Morse was praised by former associates. And the city council adopted a resolution expressing sympathy to the Morse family and calling the former senator "one of the most distinguished citizens in our history."

"I have always admired his courage and often felt that he was much more often right than he was wrong," said Fred Cuthbert, professor emeritus and former dean of architecture at the University of Oregon. Morse was one of the first faculty members Cuthbert met when he came to the U of O in 1932.

"I was present at one of Morse's famous lambasts at Dr. (William Joseph) Kerr when he was appointed to be chancellor and interim president of the university," Cuthbert said.

Morse, then one of the youngest law school deans in the United States, said "the plot to put him (Kerr) into office stank to high heaven," Cuthbert recalled.

"And Kerr was at the meeting when Morse said it. Kerr didn't crack a smile on that one or even move a muscle."

The installation of Kerr as chancellor was part of a movement to take the university out of Eugene in unification of the State System of Higher Education.

"He was one of the great men to be sent back to the U.S. Senate from any state," said Cuthbert. "That feeling is shared even more on the east coast."

Aaron Jones, owner of Seneca Sawmill Co. in Eugène and a long-time acquaintance of Morse, called his death "a tragedy."

"Although I think of myself as a good Republican, I intended to support Morse and vote for him this time. He exemplified to me honesty and ethics in government—which is obviously in dire need at the present time. I felt he was one of the most staunch friends of the lumber industry and a most intelligent individual in regard to the lumber business, multiple use and log exports.

"I intended to cross over party lines this election, regardless of Morse's age. I can't say how bad I am touched by his death."

Jones knew Morse personally and worked closely with him in regard to the Japan log export bill. He was among those who went to Japan to gather information that led to the so-called Morse Amendment.

Jones recalled how he visited Morse in his home in 1940 as Morse's supporters talked of him some day running for President.

"It was a great thrill for me as a young student just starting college," Jones said. "The strategy was being laid for him to run for President some day—and it should have happened."

Another Eugene lumberman agreed that Morse helped the lumber business.

"In most respects, Wayne Morse was a very good friend of the forest products industry," said L. L. "Stub" Stewart, president of Bohemia, Inc.

"He spent very little time here, but when he did he was very effective. One of his great accomplishments was when he singlehandedly got the log export prohibition through the Congress.

"He was truly a great guy and a very controversial one."

Eugene Attorney Otto Vonderheit first met Morse when Vonderheit was a student at the U of O law school. Later "I visited him in Washington during the war and he was discussing the political maneuvers then of Truman and Roosevelt and so on. And he was incensed with the way they handled politics.

"He was always a man of great integrity and real high principle. Even in his first term, he was trying to get things done with integrity . . . He was just a real great man. That's about all you can say."

Acting Eugene Mayor Tom Williams said: "I am deeply saddened that a man who has given his life to public service and has made a powerful contribution toward solving American and world problems has passed from the scene.

"The death of Wayne Morse is especially tragic to this community of which he has long been a member. I want to express our profound respect for a most exemplary citizen and to extend to his family our condolences. Their loss is indeed shared by this community and by our country."

Oregon Rep. Robert Duncan, former congressman and candidate for Congress in Oregon's 3rd District, said, "A turbulent, combative and very productive life is at an end. Senator Morse asked no quarter and gave none. His was a life of great accomplishments, embracing elements of greatness that will not soon be forgotten."

Former Sen. Maurine Neuberger, whose husband, the late Sen. Richard Neuberger, was the object of a Morse feud, called Morse's death, "the end of an era."

Oregon Research Institute Director Paul Hoffman, a friend of Morse, praised him in an eloquent memo to the institute staff. "He will be remembered as the senator who always placed principle above politics; who never backed off from a controversial issue; who refused to be intimidated by the procession of corporate and political giants he found it necessary to challenge," Hoffman wrote.

On the Oregon coast, Morse was also remembered.

Mayor Paul Geuy of Florence said that Morse was popular on the coast because he was very responsive to people there.

"He was easy to talk to and not ashamed to come to this area," Geuy said. "We felt that he represented us whether or not we liked him personally."

Geuy recalled that Morse was always very active in seeking federal improvement and maintenance projects for the jetty system at the mouth of the Siuslaw river.

The mayor said that Morse once astonished a Florence businessman by remembering the man's name after meeting him once several years prior in Baker.

"He didn't even have a geographical reference," Geuy said.

He said that he asked Morse about his tremendous recall for names, and Morse told him:

"I always try to remember their first names and forget about their last. That way I know everybody by their first name."

[From The Eugene (Oreg.) Register-Guard, July 24, 1974]

Hundreds Join in Capital's Memorial to Morse

(By A. Robert Smith)

Washington.—Several hundred of Wayne Morse's friends and admirers in the nation's capital gathered at the National Cathedral Tuesday to sing and pray and to hear him praised by former allies and adversaries, including one who had supported him for president in 1960, and another he had tried to unseat in 1972.

In the congregation were senators, congressmen, former cabinet members, men and women who had worked on his office staff, and common folk, black and white.

Leading off was Sen. Mark Hatfield, R-Ore., who Morse crossed party lines to endorse for re-election in 1966 but, after his own defeat in 1968, tried to unseat two years ago.

Wayne Morse was "a man of the earth," said Hatfield, a man who treasured Oregon's ranges and forests and made a bedrock commitment to preserve and protect them.

Hatfield led the congregation in reading Psalm 119, which ended, "I have applied my heart to fulfill thy statutes, even unto the end."

The Morse for president booster was Bishop Smallwood Williams, a long-time leader of Washington's large black community, who called him "one of the greatest senators who ever sat in the U.S. Senate."

"He would invite me to have breakfast with him in the Senate dining room," recalled the minister, "and that was back in the 1950s when the restaurants of Washington were lily white" and a black guest in the senators' private lunch room was rare indeed.

Whenever a Southern senator came near, Morse would get up and with great courtesy say, "Senator, I want you to meet my good friend," and introduce his black companion. Some senators blushed with embarrassment, the bishop recalled, but one paid Morse a "left-handed compliment" by saying, "I differ with your racial views but one thing I can say is that you practice what you preach."

"The hungry children of the capital loved him," Williams asserted, because Morse was instrumental in getting a school lunch program and other aid for depressed blacks here. "He was a fierce fighter against all forms of discrimination," Williams said.

The congregation stood and sang "Rock of Ages."

Rep. Claude Pepper, D-Fla., paid tribute to the volume of education bills that came out of the Senate when Morse was chairman of the Senate Education Subcommittee, and to his work on behalf of better relations with Latin American democracies.

"He was like a knight of the round table," said Pepper, "raising his lance for every good cause—and what a record he made."

George Meany, president of the AFL–CIO, recalled they first met when they served on the War Labor Board in the early 1940s, and, after Morse entered the Senate, labor "always wanted to have him on our side." After Morse's defeat in 1968 by Sen. Bob Packwood, Meany said, "How often have we said, "If only we had a Wayne Morse to lead this fight on the Hill.' "

Packwood in the congregation heard Meany add that labor "hoped for his return to the Senate."

Joseph Rauh, a Washington attorney and leader in civil rights causes, paid tribute to Morse's dedication to the Bill of Rights. He said: "Millions of people today who owe their rights to Wayne Morse never knew his name."

Recalling Morse's leadership in the long fight for home rule in the District of Columbia, Rauh said, "Every Washingtonian should thank God for Wayne Morse when they cast their first vote this fall."

Former Supreme Court Justice Arthur Goldberg called Morse "a zealot" who "railed against immorality and abuse of power." He likened him to the prophets of the Old Testament.

"Some critics thought him too self-righteous, that he wore a hair shirt and was intolerant of others' failings," said Goldberg, "and yet his heart was filled with love for others." And, he concluded, Wayne Morse "left an enduring profile in courage.

Among those attending the memorial service were Willard Wirtz, secretary of Labor in the Johnson cabinet; Esther Peterson, consumer affairs adviser to LBJ; Joseph Califano, President Johnson's administrative assistant; John Kenneth Galbraith, former ambassador to India; Sens. Frank Church, D-Idaho, Edward Kennedy, D-Mass., Alan Bible, D-Nev., Clifford Case, R-N.J., Jacob Javits, R-N.Y., Claiborne Pell, D-R.I., and Peter Dominick, R-Colo.; and Reps. John Dellenback and Wendell Wyatt, R.-Ore.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Michigan (Mr. Griffin) is recognized for not to exceed 15 minutes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, it is my understanding that the distinguished acting Republican leader has indicated he does not wish to use his time.

The ACTING PRESIDENT pro tempore. The order will therefore be vacated.

Under the previous order, the Senator from West Virginia (Mr. Robert C. Byrd) is recognized for not to exceed 15 minutes.

Mr. MANSFIELD. Mr. President, I am empowered by the distinguished Senator from West Virginia to abdicate the time which has been allocated to him.

The ACTING PRESIDENT pro tempore. The order will be vacated.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call for the quorum be rescinded.

The ACTING PRESIDENT pro tempore. Without objection——

Mr. COTTON. I object; sorry.

The ACTING PRESIDENT pro tempore. The objection is heard.

The clerk will call the roll.

The second assistant legislative clerk continued to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

At 11:53 a.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 9456) to extend the Drug Abuse Education Act of 1970 for 3 years, with an amendment in which it requests the concurrence of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Abourezk) laid before the Senate the following letters, which were referred as indicated:

Proposed Supplemental Appropriations for the Atomic Energy Commission (S. Docket No. 93–106)

A communication from the President of the United States proposing a supplemental appropriation for the fiscal year 1975 in the amount of $73 million for the Atomic Energy Commission (with an accompanying paper). Ordered to be printed and referred to the Committee on Appropriations.

Notice of Intent To Interchange Jurisdiction of Civil Works

A letter from the Secretary of the Army and the Secretary of Agriculture giving notice, pursuant to law, of the intention of the Departments of the Army and Agriculture to interchange jurisdiction of civil works and National Forest lands at Libby Dam and Lake Koocanusa project in Montana (with accompanying papers). Referred to the Committee on Agriculture and Forestry.

Supplemental Estimate of Appropriation for the General Services Administration

A letter from the Deputy Director of the Office of Management and Budget reporting, pursuant to law, that the appropriation to the General Services Administration for "Allowances and Office Staff for Former Presidents" for the fiscal year 1975 has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation. Referred to the Committee on Appropriations.

Report by the Assistant Secretary of Defense

A letter from the Assistant Secretary of Defense transmitting, pursuant to law, a report of the estimated value, by country, of support furnished from military functions appropriations (with an accompanying report). Referred to the Committee on Appropriations.

REPORT BY THE ASSISTANT SECRETARY OF DEFENSE

A letter from the Assistant Secretary of Defense reporting, pursuant to law, on transfers of amounts appropriated to the Department of Defense. Referred to the Committee on Appropriations.

REPORT BY THE SECRETARY OF DEFENSE

A letter from the Deputy Secretary of Defense transmitting, pursuant to law, a report on funds obligated in the chemical warfare and biological research programs during the second half of fiscal year 1975 (with an accompanying report). Referred to the Committee on Armed Services.

PROPOSED LEGISLATION BY THE CIVIL AERONAUTICS BOARD

A letter from the Acting Chairman of the Civil Aeronautics Board transmitting a draft of proposed legislation to amend the Federal Aviation Act of 1958 so as to assure opportunity for the Board's participation and representation in certain court proceedings through its own counsel as a matter of right and to provide for all review of Board actions in the Courts of Appeals (with accompanying papers). Referred to the Committee on Commerce.

REPORT OF THE NATIONAL RAILROAD PASSENGER CORPORATION

A letter from the Vice President of the National Railroad Passenger Corporation transmitting, pursuant to law, a report for the month of May 1974 on the operations of the National Railroad Passenger Corporation (with an accompanying report). Referred to the Committee on Commerce.

REPORT ON THE CENTRAL RAILROAD CO. OF NEW JERSEY

A letter from the Secretary of Transportation transmitting, pursuant to law, a report on the Central Railroad Co. of New Jersey (with an accompanying report). Referred to the Committee on Commerce.

NATIONAL GAS SURVEY

A letter from the Chairman of the Federal Power Commission transmitting Volume III of the National Gas Survey entitled "Technical Task Force Reports" (with an accompanying report). Referred to the Committee on Commerce.

PUBLICATIONS OF THE FEDERAL POWER COMMISSION

A letter from the Chairman of the Federal Power Commission transmitting a copy of the following publications:

The National Power Survey "Energy Distribution Research Task Force Report" and "Sales of Firm Electric Power for Resale, 1968–1972" (with accompanying reports). Referred to the Committee on Commerce.

REPORT ON THE COST OF SHIPBUILDING

A letter from the Secretary of Commerce transmitting, pursuant to law, the annual report on the Relative Cost of Shipbuilding in the Various Coastal Districts of the United States (with an accompanying report). Referred to the Committee on Commerce.

REPORT OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

A letter from the Acting Secretary of Health, Education, and Welfare transmitting, pursuant to law, a report concerning grants approved by the Department financed wholly with Federal funds (with an accompanying report). Referred to the Committee on Finance.

LETTER FROM MR. NGUYEN MINH TRUNG OF QUANG NGAI, VIETNAM

A letter from the Assistant Secretary for Congressional Relations transmitting from the Embassy in Saigon a copy of a letter from Mr. Nguyen Minh Trung of Quang Ngai, Vietnam (with accompanying papers). Referred to the Committee on Foreign Relations.

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

Two letters from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, copies of international agreements other than treaties entered into by the United States within the past 60 days (each with accompanying papers). Referred to the Committee on Foreign Relations.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States transmitting, pursuant to law, a list of reports of the General Accounting Office for the month of July 1974 (with accompanying papers). Referred to the Committee on Government Operations.

REPORTS OF THE COMPTROLLER GENERAL

Four letters from the Comptroller General of the United States each transmitting, pursuant to law, reports of the following titles: "Need for a National Weather Modification Research Program"; "Need for More Effective Management of Community Mental Health Centers Program"; "Federal Claims Collection Act of 1966: Progress and Problems"; and "The Brazilian Economic Boom: How Should the United States Relate to It?" (with accompanying reports). Referred to the Committee on Government Operations.

PROPOSED DISTRIBUTION OF TUSCARORA JUDGMENT FUNDS

A letter from the Secretary of the Interior transmitting, pursuant to law, a proposed plan for the use and distribution of the Tuscarora judgment funds awarded in Docket 321 before the Indian Claims Commission (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

INTERIM REPORT OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

A letter from the Acting Secretary of Health, Education, and Welfare transmitting, pursuant to law, the second interim report on the administration of the Health Professions Educational Assistance Act (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION BY THE DEPARTMENT OF THE INTERIOR

A letter from the Assistant Secretary of the Interior transmitting a draft of proposed legislation providing for the continuance of civil government for the Trust Territory of the Pacific Islands (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

REPORT OF THE ARCHITECT OF THE CAPITOL

A letter from the Architect of the Capitol transmitting, pursuant to law, a report of all expenditures during the period January 1, 1974 through June 30, 1974, from moneys appropriated to the Architect of the Capitol (with an accompanying report). Ordered to lie on the table and to be printed.

PATENTS, TRADEMARKS, AND COPYRIGHTS—REPORT OF A COMMITTEE—(REPT. NO. 93-1135)

Mr. McCLELLAN, from the Committee on the Judiciary, submitted a report entitled "Patents, Trademarks, and Copyrights," pursuant to Senate resolution 56, 93d Congress, second session, which was ordered to be printed.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. McCLELLAN (by request):

S. 3960. A bill to amend title 17 of the United States Code with respect to registration for unpublished works and with respect to the fees of the Copyright Office, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. HUGH SCOTT:

S. 3961. A bill to authorize the release of one million five hundred fifty-three thousand five hundred pounds of cadmium from the national stockpile and the supplemental stockpile. Referred to the Committee on Armed Services.

S. 3962. A bill for the relief of Ilias Tsakalis; and

S. 3963. A bill for the relief of Steve Wing-On Yan. Referred to the Committee on the Judiciary.

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 3964. A bill for the relief of U.S. Pumice Co., Los Angeles, Calif. Referred jointly, by unanimous consent, to the Committee on the Judiciary and the Committee on Interior and Insular Affairs.

By Mr. INOUYE:

S. 3965. A bill for the relief of Miss Evelyn R. Rey. Referred to the Committee on the Judiciary.

By Mr. HELMS (for himself and Mr. WILLIAM L. SCOTT):

S.J. Res. 238. A joint resolution to designate March 16–23, 1975, "Demolay Week." Considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCLELLAN (by request):

S. 3960. A bill to amend title 17 of the United States Code with respect to registration for unpublished works and with respect to the fees of the Copyright Office, and for other purposes. Referred to the Committee on the Judiciary.

COPYRIGHT FEE BILL

Mr. McCLELLAN. Mr. President. I introduce, by request, a bill to amend title 17 of the United States Code with respect to registration for unpublished works and with respect to the fees of the Copyright Office, and for other purposes.

I am introducing this legislation at the request of the Librarian of Congress. It provides for the first general increase in Copyright Office fees since 1965. No action is anticipated on this legislation this year, but I am introducing it now so that it may be studied by interested parties. The Congress will wish to consider the impact of this fee increase on authors and other creators.

I ask unanimous consent that there be printed at this point in the RECORD a letter from the Librarian of Congress stating the justification for the legislation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE LIBRARIAN OF CONGRESS,
Washington, D.C., August 20, 1974.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, New Senate Office Building, Washington, D.C.

DEAR MR. EASTLAND: I am submitting for your consideration a proposed general increase in the fee schedule for the Copyright Office.

The primary purpose of the proposed bill is to increase the fees payable to the Copyright Office for registration of claims to copyright and other services rendered in order to bring the cash receipts of the Office more nearly in line with its expenditures.

Since the enactment of the present copyright law in 1909, the Congress has revised the schedule of Copyright Office fees three times, in 1928, 1948 and 1965. From 1909 until the fiscal year 1942 the applied fees of the Office exceeded its expenditures. This relationship was reversed beginning with fiscal year 1943, and the ratio of fees to costs continued to decline until the enactment of the 1948 fee schedule. Copyright Office income exceeded expenditures in the next year for the last time. Thereafter, the ratio of applied fees to expenditures declined again until the enactment of 1965 fee schedule. After a temporary increase, the ratio of applied fees to expenditures declined again. For fiscal 1973 the ratio was 47 percent. If we include the estimated value of deposit materials selected by the Library of Congress, the ratio of income to obligations reaches 122 percent.

This decline in the ratio of cash receipts to expenditures has occurred principally because of salary increases of employees of the Office, which itself is a reflection of the marked increase in the level of prices in our economy as a whole. Other factors are major cost increases in supplies, printing, and mailing.

It is our estimate that the proposed fee schedule, if applied to claims entered and services rendered in fiscal 1973, would return to the Government 79 percent of the sum appropriated to the Office.

The draft incorporates the language and format of the fee schedule in the copyright revision bill, S. 1361 and H.R. 8186 but with increased charges. The Register would be authorized to fix fees for special services and for preparing copies of C.O. records on the basis of cost and to waive the fees for the United States Government and its agencies for occasional services.

A lower fee is proposed for unpublished works in recognition of their lower processing cost and the requirement of a second registration after publications. We also propose elimination of the present artificial barrier in section 12 to unpublished registration for books, periodicals, maps, and sound recordings. Changes are proposed in sections 1(e), 19 and 24 in order to make clear that certain references in these sections apply to works registered under section 12 as well as to published works. Consequential changes are proposed in sections 2 and 13.

The present law does not establish a fee for issuance of an import statement in connection with the importation of books under ad interim copyright. A fee of $3.00 is proposed for this service.

The proposed bill would abrogate the special provision of the present law which permits registration without any fee of works of foreign origin, under certain circumstances. This special provision was enacted in 1949 in recognition of the difficult hard currency situation in post-war Europe; it now seems outmoded.

We would propose an effective date of six months after enactment in order to enable the Copyright Office to prepare for the administrative problems of a fee increase. The paper shortage and printing delays especially require this amount of preparatory time. We would also clarify in section 2 that the new fee schedule applies to claims and other items received in the Copyright Office on the effective date and to services rendered on that date. The old fee schedule would apply if the claims or other items were received in acceptable form in the Copyright Office before the effective date and to services rendered before that date.

I join with the Register of Copyrights in recommending introduction of this bill and subsequent approval.

Sincerely yours,
L. Quincy Mumford,
Librarian of Congress.

By Mr. HATFIELD (for himself and Mr. Packwood):

S. 3964. A bill for the relief of U.S. Pumice Co., Los Angeles, Calif. Referred jointly, by unanimous consent, to the Committee on the Judiciary and the Committee on Interior and Insular Affairs.

Mr. HATFIELD. Mr. President, the beautiful Three Sisters Wilderness Area in Oregon faces a serious threat of pumice mining. Because of a loophole in the 1964 Wilderness Act, which allows mining in wilderness areas, the U.S. Pumice Co. has claims in the area which it fully intends to mine. In my judgment, it would be irresponsible to stand by and watch the desecration of an area which the Congress has recognized as magnificent and unique for the purpose of supplying pumice for scouring bricks or pumice stone.

In the long run, I believe that the Wilderness Act of 1964 must be amended. Mining in wilderness areas is simply inconsistent with the purposes for which these areas are preserved. We in Oregon, however, must now deal with the immediate problem in the Three Sisters Wilderness Area.

The U.S. Pumice Co. has announced its desire to obtain access for motorized vehicles to the claims. While the Forest Service has denied access until an operation plan is submitted to them, the company will probably file a lawsuit against the Government to gain entry. The miners want to move a truck and front-end loader into the area for what they call mining claim assessment work.

The bill I am introducing today, which is similar to legislation I introduced in 1971, would provide for the reimbursement of the amount expended by the U.S. Pumice Co. in relation to their claims and would ban mining in the Three Sisters Wilderness Area. I believe that this is a fair approach and the best way to completely resolve the issue.

Mr. President, because of the twofold nature of this legislation, I ask unanimous consent that it be jointly referred to the Senate Committee on the Judiciary and the Senate Committee on Interior and Insular Affairs.

The PRESIDING OFFICER (Mr. Helms). Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, the people of Oregon are united in their belief that mining this land would be totally inappropriate. As a sample of the opinion of my constituents, I ask unanimous consent that an editorial from the Oregon Journal on this topic be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Pumice Miners, Go Home

The U.S. Forest Service ought to resist every way it legitimately can the announced intention of the U.S. Pumice Co. to build a road and drive mining machinery into the Three Sisters Wilderness west of Bend.

It would be an outrage if U.S. Pumice ever were to strip mine the block pumice to which it holds claims on Rock Mesa, at the southwest foot of the South Sister. The time to stop the miners is before they get started, and that means now.

The reason U.S. Pumice is able to assert its claim to the right to whittle part of the public's lands down into bunion scrapers and griddle cleaners is that under federal law, mining is the one commercial activity still allowed in official wilderness, from which all other mechanical intrusions are barred. That loophole in favor of the miners is a tribute not to logic or national necessity, but solely to their lobbying power and to the complaisance of the congressmen who allowed it to be inserted in the 1964 act which set up the national wilderness system in its present form.

Wilderness and grinding, roaring, dusty strip mining simply don't mix. It is absurd to suggest, as another Portland newspaper did in an editorial the other day, that for U.S. Pumice to open up its strip mine might not be so bad after all.

It is true that Rock Mesa is only a "jumbled tangle of rock," to borrow the other editorial writer's phrase, but so is the adjoining South Sister itself, not to mention Mt. Hood. Who, these days, would advocate mining on the Oregon beaches on the ground that after all, they're only sand?

It also is true that there once was a Model T road leading from the Cascade Lakes Highway to near the foot of Rock Mesa. But traces of that road are fast disappearing, now that it has been closed. Once let U.S. Pumice send its bulldozers and rock trucks crunching into that area, across the easily eroded lava gravel of the Wickiup Plain, and there will be a manmade scar on the wilderness that will last for decades.

U.S. Pumice does have a legitimate claim, under existing law, to the pumice, but that does not mean that it should be allowed to mine it. The best solution probably is for our members of Congress to obtain legislation to buy out those claims—preferably at a price based not on the ultimate value of the rock, but on the relatively trivial amount U.S. Pumice has spent on them so far.

The pumice mine project is thoroughly unwelcome in Oregon. It has not one single advocate other than the Los Angeles-based mining company itself. It must not be allowed to happen.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2711

At the request of Mr. Inouye, the Senator from Minnesota (Mr. Mondale) was added as a cosponsor of S. 2711, a bill to allow an additional income exemption for a taxpayer or his spouse who is deaf or deaf-blind.

S. 3955

At the request of Mr. Metzenbaum, the Senator from Indiana (Mr. Bayh), the Senator from Montana (Mr. Mansfield), the Senator from Connecticut (Mr. Ribicoff), the Senator from Iowa (Mr. Hughes), the Senator from Louisiana (Mr. Johnston), the Senator from California (Mr. Tunney), the Senator from Connecticut (Mr. Weicker), the Senator from South Dakota (Mr. McGovern), the Senator from Delaware (Mr. Biden), the Senator from Wisconsin (Mr. Nelson), the Senator from Florida (Mr. Chiles), the Senator from Colorado (Mr. Haskell), and the Senator from Alaska (Mr. Gravel) were added as cosponsors of S. 3955, the Foreign Investment Review Act.

SENATE JOINT RESOLUTION 132

Mr. GURNEY. Mr. President, I am pleased to announce that Senators Dole, Moss, and Humphrey have requested that their names be added as cosponsors of Senate Joint Resolution 132.

This bill would authorize the President to issue anually a proclamation designating that week in November which includes Thanksgiving Day as "National Family Week."

Since Senate Joint Resolution 132 was introduced by me on June 29, 1973, 15 Senators have joined as cosponsors. In addition, a number of Governors—including recently the Governors of Alabama, California, Georgia, Louisiana, Maine, Nebraska and West Virginia—have issued similar proclamations calling upon the citizens of their respective States to observe such a week with appropriate ceremonies and activities.

Obviously there is widespread interest in having 1 week set aside each year to recognize the importance and necessity of, and to express appreciation and gratitude for, the American family. We can all salute the beneficial role of the family unit in our country's heritage and in our modern democratic system.

In light of the heightened interest in having a "National Family Week," I fervently hope that the Subcommittee on Federal Charters, Holidays, and Celebrations and the Judiciary Committee will take favorable action on Senate Joint Resolution 132 in the very near future.

SENATE RESOLUTION 393—SUBMISSION OF A RESOLUTION RELATING TO A REPORT ENTITLED "THE COST OF CLEAN AIR"

(Referred to the Committee on Rules and Administration.)

Mr. RANDOLPH submitted the following resolution:

S. Res. 393

Resolved, That the annual report of the Administrator of the Environmental Protection Agency to the Congress of the United States (in compliance with section 312(a) of Public Law 91–604, The Clean Air Act, as amended), entitled "The Cost of Clean Air", be printed with illustrations as a Senate document.

Sec. 2. There shall be printed one thousand additional copies of such document for the use of the Committee on Public Works.

GENERAL REVISION OF THE COPYRIGHT LAW—AMENDMENT

AMENDMENT NO. 1389

(Ordered to be printed and to lie on the table.)

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senators from California (Mr. Tunney and Mr. Cranston), I submit an amendment to S. 1361, a bill for the general revision of the copyright law, title 17 of the United States Code, and for other purposes, and I ask unanimous consent that a statement prepared by Senator Tunney, together with the text of the amendment, be printed in the Record at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator John V. Tunney

This amendment will impose the same penalty for willful infringement of the copyright in a motion picture as is provided in this bill for the willful infringement of the copyright in a sound recording.

As we all know, willful copyright infringement—pirating—of sound recordings has become a massive business. This prompted the Congress, in 1971, to enact legislation making it a crime to pirate sound recordings. Experience has shown, however, that the present penalties for record piracy are inadequate. In most cases, the relatively small fine which results from a conviction of the law does not deter the pirating operators; the fine is just added in as a cost of business.

In recognition of this fact, the drafters of this copyright bill have provided special treatment, in section 506, for record piracy. Section 506 spells out penalties for criminal infringement of copyright; that is, in the words of the bill, infringement which is willful and for purposes of commercial advantage or private financial gain. The penalty for this crime is set at a $2,500 fine and/or one year in prison for the first offense with a $10,000 fine and/or three years in jail for subsequent offenses. In the case of record piracy, however, section 506 provides a special scale of penalties: $25,000 fine and/or three years in jail for the first offense and rising to a $50,000 fine and/or seven years imprisonment for subsequent offenses. These are stiff penalties, designed to realistically deter very lucrative pirating enterprises.

Mr. President, the purpose of my amendment is to apply the same high level of deterrent penalties for record piracy to film piracy.

Pirating of motion picture films has become big business. Because it violates Federal law, the Federal Bureau of Investigation is directly involved in hunting down violators. The Bureau has recently set up a special unit working out of its Los Angeles office to deal with film pirating. Unlawful duplication of films is largely done in the United States, and the resulting sixteen millimeter prints are shipped throughout the world where they are sold or rented to home users, theaters, and for outdoor rural exhibition. The largest number of prints is shipped to South Africa, the Caribbean countries, and Latin America.

It should be noted that, as a result of this piracy, the Federal Government is being cheated of substantial tax revenues as well as further impairment of its foreign dollar earnings. Those who pirate films do not pay taxes on their income and rarely are their dollar earnings abroad legally or officially repatriated. But, legitimate American film producers are major dollar earners abroad; indeed, among the largest of any industry proportionate to the total volume of business done. The industry pays substantial Federal taxes on its earnings here and abroad.

The major film companies in my State of California employ, on a continuing basis, a large law firm and investigating agency in an effort to track down film pirates at a cost of several hundred thousand dollars annually. A recent lawsuit against one such piratical enterprise cost the industry some $350,000. The existing criminal penalties are of such a nature as to make it worthwhile to continue pirating.

Indeed, in view of the so-called Stevens Amendment in this bill which permits widespread taping of program material by and in behalf of offshore cable systems located in Alaska, Hawaii, and possibly Puerto Rico, the opportunity for increased illegal piratical taping may be enhanced. By giving statutory permission to tape and record programs, the Congress is now authorizing the physical creation of the copyright owner's work. These copies could become the basis for large scale world-wide piratical trading in filmed television programs. The Stevens Amendment would legally allow the creation of the very kinds of copies and tapes that the television and film industry has so strenuously tried to eliminate.

I appreciate that the proponent of this amendment, my distinguished colleague from Alaska (Mr. Stevens), assures me that the economics of the present taping operation require that the tapes be erased and reused. However, I cannot be entirely sure that some future offshore cable operator may not find it lucrative to allow some of his legally created tapes to be put to illegal purposes. I sincerely hope that this will never happen—but to make sure that it does not, I urge that the penalties be made very, very stiff.

There is very good reason, therefore, to make the penalties for film piracy the same as for record piracy—very heavy. The need for a deterrent is obvious. As opposed to the record piracy enterprise, which must literally have a factory continually pressing out records or duplicating tapes, the film pirate needs little equipment and can turn an enormous profit on sale of a very small number of units—even one or two. Thus, deterrence is essential.

The different nature of film and record distribution also explains the slight difference in legislative language applicable to the two media. In the case of sound recordings, the increased penalties apply to infringements of the copyright given in subsections (1) and (3) of section 106. These two subsections protect the copyright holder against infringement by unauthorized reproduction or distribution of the copyrighted work. In the case of the film piracy covered by my amendment, the heavy penalties will also apply to subsection (4) of section 106—unauthorized performance of a copyrighted work.

In the case of records, this provision is not needed, since the performance of pirated records or tapes normally occurs in the home by thousands of individuals. Criminal enforcement at this level is futile and unfair. In the case of film, however, the performance must take place, in most cases, at a theater or other public or private place where people are gathered. Some businessman must be involved in arranging, advertising, and receiving compensation for the performance of the pirated film. It makes very good sense to make this person liable for severe cniminal penalties if he knows that he is performing a pirated film. In many cases, the distributor is the only person who can be reached by legal process. Therefore, subsection (4) is added in my amendment, but the effect is to give films the same protection as is afforded to sound recordings by section 506.

Amendment No. 1839

On page 138, line 36, following the words "Section 106" insert the following: "or the copyright in a motion picture afforded by subsections (1), (3), and (4) in Section 106".

ENERGY TRANSPORTATION SECURITY ACT OF 1974—AMENDMENT

Amendment No. 1840

(Ordered to be printed and to lie on the table.)

Mr. CHILES. Mr. President, I submit an amendment for printing which I intend to propose to the pending bill. I ask unanimous consent that the text of the amendment be printed at this point in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 1840

On page 9, after line 17, insert the following:

Sec. 6. Section 8 of the Act of June 19, 1886 (24 Stat. 81; 46 U.S.C. 289) is amended by inserting at the end thereof the following: "Nothing in this section shall prohibit a foreign vessel from stopping at a port or place in the United States and temporarily disembarking passengers for a period not exceeding forty-eight hours, or such longer period as the Secretary of the Treasury may determine necessary for the safety of such ship or passengers."

AMENDMENTS NOS. 1841 AND 1842

(Ordered to be printed and to lie on the table.)

Mr. COTTON submitted two amendments intended to be proposed by him to the bill (H.R. 8193) to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels.

AMENDMENTS NOS. 1843, 1844, AND 1845

(Ordered to be printed and to lie on the table.)

Mr. JAVITS submitted three amendments intended to be proposed by him to the bill (H.R. 8193), supra.

Mr. JAVITS. Mr. President, I support the important objective of this bill to increase the use of U.S.-flagships in the importation of oil into this country. This objective becomes more important as we find ourselves in a position of increasing reliance on foreign oil sources. However, I also recognize that there are strong objections which have been voiced against the approach of H.R. 8193 on various grounds, especially including the inflationary impact of increasing the cost to consumers of imported oil over already skyrocketing prices.

I believe it is essential that we place a reasonable limitation on the amount charged that is more effective than the "fair and reasonable rates" limitation presently contained in the bill. That limitation cannot be expected to adequately protect the consumer unless the prices charged by American ships are required to bear a reasonable relationship to prevailing world charter rates.

The fair and reasonable rate provisions of H.R. 8193 are generally interpreted as referring to compensatory rates for U.S.-flag vessels or rates that cover fully allocated costs. Such costs for U.S.-flag vessels operating on major oil trade routes are approximately twenty percent higher than foreign flag vessels. The charter rates prevailing in world tanker markets generally are lower than the compensatory rates for U.S.-flag tankers, but at any time they may exceed such compensatory rates.

Various estimates have been made as to the potential impact of this bill on increasing the price of imported oil. It has been argued that this legislation will force the oil companies to reveal information, now largely hidden, about how prices are currently calculated for the flag of convenience fleet, and that this might even result in a diminution of prices. On the other hand, some administration sources predict price increases aggregating billions of dollars from this legislation in its present form.

The amendment I introduce today will at least insure that this legislation will not result in any significant price increases to consumers by conditioning the American-flag preference requirement on the availability of American-flag tankers at no more than 10 percent above the prevailing world rate, with the proviso that American-flag ships will not have to reduce their prices below what will give them a fair rate of return.

I submit that this is a reasonable compromise that meets much of the strenuous objection that has been made against the bill, including those of the administration, and that it will protect the consumer against artificial price increases due to this legislation while strengthening the U.S. merchant marine.

Mr. President, I am offering an additional amendment to waive 15 cents per barrel of the license import fee on refined oil products. This is comparable to the 15-cent waiver contained in the Senate Commerce Committee bill with respect to crude oil imports

Mr. President, I ask unanimous consent that the text of the amendments I submit today be printed in the RECORD at this point.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1843

On page 4, lines 15 and 16, strike "to the extent that such vessels are available at fair and reasonable rates for such vessels" and substituting "to the extent that such vessels are available at fair and reasonable rates, not to exceed: (1) a rate equal to a world scale charter rate of 110, if the prevailing charter rate is less than world scale 100; (2) 110 per centum of the prevailing world scale charter rate, if such prevailing rate is equal to or exceeds 100."

AMENDMENT NO. 1844

At the end of the bill add the following new section:

SEC. —. On or before February 1, 1977, the Secretary of Commerce shall submit to the Congress a report concerning the effect of the United States-flag preference requirements of this Act, together with his recommendations concerning such requirements.

AMENDMENT NO. 1845

On page 9, strike lines 7 through 17 and insert in lieu thereof the following:

"SEC. 5. (a) License fees payable pursuant to Presidential proclamation for imports of crude oil imported into the United States shall be reduced by 15 cents per barrel for a period of 5 years from the date of enactment of this Act if the Secretary of the Treasury determines—

"(i) such crude oil is transported by privately owned United States-flag commercial vessels; and

"(ii) the amount resulting from the nonpayment of such license fees is passed on to the ultimate consumers of such crude oil in whatever form it is when ultimately consumed.

"(b) License fees payable pursuant to Presidential proclamation for imports of oil products into the United States shall be reduced by 5 cents per barrel for a period of 5 years from the date of enactment of this Act if the Secretary of the Treasury determines—

"(i) such refined oil is transported by privately owned United States-flag vessels; and

"(ii) the amount resulting from the nonpayment of such license fees is passed on to the ultimate consumers of such refined oil."

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 1613

At the request of Mr. HOLLINGS, the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of Amendment No. 1613 concerning the plight of our men missing in action in Indochina, intended to be proposed to (S. 3471) the Military Construction bill.

NOTICE OF HEARINGS ON SENATE JOINT RESOLUTION 119 AND SENATE JOINT RESOLUTION 130

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Indiana (Mr. BAYH), I ask unanimous consent that a statement prepared by him in connection with certain hearings scheduled by the Subcommittee on Constitutional Amendments be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BAYH

Mr. President, the Senate Subcommittee on Constitutional Amendments is scheduling further hearings on two proposed amendments to the Constitution: Senate Joint Resolution 119, for the protection of unborn children and other persons, and Senate Joint Resolution 130, to guarantee the right of life to the unborn, the ill, the aged or the incapacitated.

The next day of hearings will be on Thursday, September 12, in room 318 Russell Senate Office Building, beginning at 10:00 a.m.

Any persons wishing to submit statements for the hearing record should contact the Subcommittee on Constitutional Amendments, room 300 Russell Senate Office Building, Washington, D.C. 20510.

NOTICE OF HEARING BY THE SUBCOMMITTEE ON FOUNDATIONS

Mr. ROBERT C. BYRD. Mr. President, at the request of the distinguished Senator from Indiana (Mr. HARTKE), I ask unanimous consent that a statement prepared by him and an announcement pertaining to hearings of the Subcommittee of Foundations be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HARTKE

On September 9th and 10th, the Subcommittee on Foundations will hold hearings which will examine the role of private foundations in public broadcasting. The hearings will commence each day at 9:30 a.m. in room 2227 of the Dirksen Senate Office Building.

[PRESS RELEASE]

FINANCE SUBCOMMITTEE ON FOUNDATIONS ANNOUNCES HEARINGS ON ROLE OF PRIVATE FOUNDATIONS IN PUBLIC BROADCASTING

Senator Vance Hartke (D., Ind.), Chairman of the Finance Committee's Subcommittee on Foundations, today announced that the Subcommittee will hold two days of hearings next month on the role of foundations in public broadcasting.

Senator Hartke stated that the purpose of the hearings was to determine what role foundations had in the early days of public broadcasting, what role they are now playing, and what role they are likely to play in the future. The Senator noted that this inquiry was particularly appropriate since the President has recently proposed legislation to aid in the long-range financing of public broadcasting.

The hearings will take place at 9:30 a.m. on September 9 and 10 in the Finance Committee hearing room, Room 2227, Dirksen Senate Office Building.

Requests to Testify.—Senator Hartke advised that witnesses desiring to testify during this hearing must make their request to testify to Michael Stern, Staff Director, Committee on Finance, 2227 Dirksen Senate Office

Building, Washington, D.C., not later than August 29, 1974. Witnesses will be notified as soon as possible after this cutoff date as to when they are scheduled to appear. Once the witness has been advised of the date of his appearance, it will not be possible for this date to be changed. If for some reason the witness is unable to appear on the date scheduled, he may file a written statement for the record of the hearing in lieu of a personal appearance.

Consolidated Testimony.—Senator Hartke also stated that the Subcommittee urges all witnesses who have a common position or with the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the Subcommittee. This procedure will enable the Subcommittee to receive a wider expression of views than it might otherwise obtain. Senator Hartke urged very strongly that all witnesses exert a maximum effort, taking into account the limited advance notice, to consolidate and coordinate their statements.

Legislative Reorganization Act.—In this respect, he observed that the Legislative Reorganization Act of 1946, as amended, requires all witnesses appearing before the Committees of Congress "to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument."

Senator Hartke stated that in light of this statute and in view of the large number of witnesses who desire to appear before the Subcommittee in the limited time available for the hearing, all witnesses who are scheduled to testify must comply with the following rules:

(1) A copy of the statement must be filed by the close of business on Friday, September 6.

(2) All witnesses must include with their written statement a summary of the principal points included in the statement.

(3) The written statements must be typed on letter-size paper (not legal size) and at least 50 copies must be submitted before the beginning of the hearing.

(4) Witnesses are not to read their written statements to the Subcommittee, but are to confine their ten minute oral presentations to a summary of the points included in the statement.

(5) Not more than ten minutes will be allowed for the oral summary. Witnesses who fail to comply with these rules will forfeit their privilege to testify.

Written Statements.—Witnesses who are not scheduled for oral presentation, and others who desire to present their views to the Subcommittee, are urged to prepare a written statement for submission and inclusion in the printed record of the hearings. These written statements should be submitted to Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building not later than September 30, 1974.

CHARLES A. LINDBERGH

Mr. JAVITS. Mr. President, it is most appropriate that we pay memorial tribute to Charles A. Lindbergh, aviation pioneer and genuine American hero.

Charles Lindbergh was unusually courageous and greatly gifted in his field. Like many men of his stature he generated controversy by his words and gained fame through his deeds. He also suffered great personal tragedy; and, had something of a murky record on Nazi Germany before World War II.

But few of us who lived through the tense hours of Lucky Lindy's historic flight will ever fail to remember the jubilation at his safe landing in France, nor will we forget the charm, the personal confidence—and the sense of partial bemusement—Lindbergh first manifested on his triumphant return to America. Indeed, these qualities proved to be the essential characteristics of the man throughout his life. And throughout his life Charles Lindbergh retained a sense of deep personal dignity and detachment from the tumult of his times and the notoriety of his heroic feat.

He was one of our first and most ardent conservationists, warning us early of the danger implicit in the unwise use of technology and its devices.

Charles Lindbergh was on the whole an authentic national hero—with a confidence in the essential limitlessness of human possibilities.

Mr. President, I ask unanimous consent that the following tribute to Charles A. Lindbergh, which appears in the September 9, 1974, issue of Time magazine, be printed in its entirety in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE LONE EAGLE'S FINAL FLIGHT

In a sense it was a stunt, a daredevil adventure that no man who was concerned about his safety and his future should have attempted. But Charles Lindbergh's 1927 pioneering solo flight across the Atlantic in a single-engine plane that cruised at less than 100 m.p.h. was surely the most glorious stunt of the century—one of those pristinely pure but magnificently eloquent gestures that awaken people everywhere to life's boundless potential. For most of his life Lindbergh was looked upon as an argonaut of the air age, a Ulysses from Minnesota. When he died of cancer of the lymphatic system last week at age 72, America lost not only one of its pioneers of the machine age but perhaps its last authentic hero.

Lindbergh's father, a populist Republican Congressman from Minnesota, had taught him to be totally self-reliant—"One boy's a boy; two boys are half a boy; three boys are no boy at all," Lindbergh fondly quoted him as saying—and the son always had a vigorous contempt for the herd mentality. Itching to fly ever since he first saw an airplane as a child, Lindbergh spent a year and a half at the University of Wisconsin. Then, unable to sit any longer in a classroom, he enrolled in a flying school in Nebraska.

"I began to feel that I lived on a higher plane than the skeptics of the ground," he later wrote. "In flying, I tasted a wine of the gods of which they could know nothing. Who valued life more highly, the aviators who spent it on the art they loved, or these misers who doled it out like pennies through their antlike days? I decided that if I could fly for ten years before I was killed in a crash, it would be a worthwhile trade for an ordinary lifetime."

The young pilot barnstormed the country after he finished flying school, offering plane rides at $5 a head to farmers and small-town people. Later he flew airmail between St. Louis and Chicago, which in the primitive conditions of the '20s was about as hazardous as riding the Pony Express through a tribe of angry Comanches. A natural flyer, with as certain a feel for the whim of his plane as a bareback rider for his horse, he was ineluctably drawn to aviation's biggest prize: $25,000, offered by a New York hotel owner for the first successful completion of the 3,600-mile solo flight between New York and Paris. With the backing of some young St. Louis businessmen and $2,000 from his own savings, Lindbergh ordered a plane built by Ryan Airlines in San Diego to his peculiar specifications; it was in effect one giant gasoline tank with wings, a propeller and a bucket seat. He named it *The Spirit of St. Louis,* and in May 1927 flew it to New York.

MYSTERIOUS CHEMISTRY

Other flyers were waiting for the good weather of spring to try the distance. Learning that Atlantic squalls would soon lift, Lindbergh decided to be first and lifted off from Long Island's Roosevelt Field even before the weather turned. The *Spirit* was so weighted with fuel that he cleared the telephone lines at the end of the runway by only 20 feet. His route took him up through New England, over Nova Scotia and Newfoundland, past the green southern tips of Ireland and England, and finally over the Channel to France.

Even before he landed, some mysterious chemistry, an interaction between his own personality and public need and desire, had caught the imagination of millions. For the 33⅓ hours of the flight, many people on both sides of the Atlantic talked of little else but the chances of a man who had already been dubbed "the Lone Eagle." Shortly after 10 p.m. on May 21, he circled Le Bourget Airport, but was puzzled by what looked like enormous traffic jams on the nearby roads. He quickly found out the cause; even before the *Spirit's* propeller stilled, both Lindbergh and his plane were engulfed by shouting, crying, joyfully hysterical Parisians.

SIMPLE DIGNITY

The shouting and the hysteria did not stop for years thereafter, but Lindbergh managed to retain his simple dignity. "He stood forth amidst clamor and crowds," said U.S. Ambassador to France Myron Herrick of the 25-year-old pilot, "the very embodiment of fearless, kindly, cultivated American youth—unspoiled, unspoilable." Lindbergh was offered a $1 million movie contract, another $1 million to go into vaudeville, and presents that range form a live monkey to a home in Flushing Meadows, N.Y. Most of the presents were declined or turned over to the Missouri Historical Society, and one of the few contracts he accepted was one to write his own story, *We*—the other person being his airplane.

The Lindbergh name was magic all over the world, and the extent of his fame is impossible to understand now, when celebrities are made daily on TV. If he sent shirts to the laundry, they were not sent back. If he wrote a check, it was never cashed. If he checked a hat, it was somehow lost. All became souvenirs, precious talismans of the otherwise cynical Jazz Age.

Two years after his flight, Lindbergh, now an aviation consultant, married Anne Morrow, the bright, pretty daughter of Dwight Morrow, a rich New York City banker who was then serving as U.S. Ambassador to Mexico. Anne was a writer, later destined for fame on her own, and together they settled down to a quiet, productive life in New Jersey. Peace was short-lived, however. In 1932, the Lindberghs' first and then only child, 20-month-old Charles Jr., was kidnaped from a second-floor nursery. Ten weeks later, the body was found in a shallow grave in some woods near the Lindbergh home. Bruno Richard Hauptmann, a Bronx carpenter, was later convicted in probably the most celebrated trial of the century, and then electrocuted for the murder. Throughout the search for Charles Jr. and throughout the Hauptmann trial, the Lindberghs were hounded by the press, which treated their ordeal with savage sensationalism. Finally, Lindbergh packed up his family (there were eventually five other children) and moved to Britain and then France, where he stayed until the eve of World War II.

Impressed by the progress of Nazi Germany's air machine, and equally appalled by the lack of preparedness in Britain and France, Lindbergh in 1941 joined America First, an isolationist group, in urging the U.S. to stay out of the war. Britain and

France were doomed, he said, and Germany and the Soviet Union would eventually destroy each other. Though he immediately volunteered for service after Pearl Harbor, President Roosevelt would not forgive his earlier opposition to America's policy of helping the Allies, and he refused him a uniform. As a civilian consultant to the War Department, however, Lindbergh was able to perform valuable service in improving planes and fighting techniques, both on the assembly lines at home and on the battlefields of the South Pacific.

Nonetheless, Lindbergh never recanted his isolationist position. While he was never an anti-Semite or a fascist, as some charged at the time, he remained appallingly insensitive to the true evils of the Hitler regime. "His self-confidence thickened into arrogance," said English Writer Harold Nicolson, an old friend. "His mind had been sharpened by fame and tragedy until it had become as hard, as metallic and a narrow as a chisel."

After the war Lindbergh, while still remaining a high-level consultant to Pan American World Airways, became an early, ardent and passionate conservationist, traveling around the world in the cause of the environment. In his last years his favorite spot was a simple, five-acre retreat on the Hawaiian island of Maui. And Maui was where he chose to die and be buried. When doctors at Columbia-Presbyterian Medical Center in New York told him last month that he had only days to live. Lindbergh, confined to a stretcher, had himself flown to Maui, where he arranged the details of his funeral and burial as meticulously as he had planned his flight to Paris 47 years before. Following his instructions, he was buried within eight hours after his death. Hawaiian cowboys crafted a roughhewn casket of eucalyptus wood, and a grave was quickly dug atop a cliff overlooking the Pacific. His body was dressed in a khaki work shirt and dark cotton work trousers and, according to his wishes, his pallbearers also wore simple work clothes. The other mourners, including his wife and his son Land, wore Hawaiian-style attire.

STORIED VICTORY

In contrast to the spartan funeral, tributes poured in from over the world, more befitting a great leader than a man who considered himself a simple aviator. President Ford said that Lindbergh "represented all that was best in our country—honesty, courage and the will to greatness." It is doubtful whether younger generations could fully appreciate his achievement. For those who were listening to their radios in 1927, however, or who have the wit and imagination to re-create the epoch in their own minds, Lindbergh's daring, lonely journey will remain forever matchless, a storied victory of one man over nature, his own fears and the imponderable odds against him.

LAST FLIGHT OF CHARLES A. LINDBERGH

Mr. HUGH SCOTT. Mr. President, last Thursday, August 26, the Washington Star-News "People" section carried an article on the last flight of Charles A. Lindbergh. I would like to share this article with my colleagues because it is a testament to the ultimate consideration on the part of one of America's greatest heroes.

LAST FLIGHT

During the filming of the biographical film "The Spirit of St. Louis" several years ago, United Air Lines pilot William J. Picune served as a stand-in for Charles A. Lindbergh. Eight days before Lindbergh's death this week, Picune was the pilot of the plane that carried the stretcher-borne Lindbergh to Hawaii. Picune asked Lindbergh if he would like the plane to circle the island of Maui once before landing. "He said, 'Oh, no, captain, I don't want to inconvenience the other passengers.' "

Mr. President, not one of us would have been inconvenienced.

THE DEATH OF GEN. CREIGHTON W. ABRAMS

Mr. MANSFIELD. Mr. President, I would ask that we pause a moment to reflect on the untimely and tragic death this morning of Gen. Creighton W. Abrams, Chief of Staff of the Army.

While I did not know General Abrams well, I knew of and respected his dedication to his chosen profession.

Leading American soldiers during 38 years of service and doing his country's bidding in three wars, General Abrams was recognized early for exceptional ability. He was a fearless and brilliant armored leader under General Patton in World War II.

During the turbulence of the Korean war and the tragic Vietnam experience, he was a tower of strength to his colleagues and to his men who called him "Abe." Assuming leadership of the Army during its most difficult period in recent times, he returned it to health under the volunteer concept, winning the confidence and admiration of the Nation as he did so.

On Capitol Hill, General Abrams' name was a byword of professionalism, candor, and personal integrity. His proposals were tempered with caution and balanced with a keen appreciation for the needs of the country. Once Congress had acted in national security matters, he carried out its will in a spirit of unselfish duty and patriotism. I would remind you that it was General Abrams who took the lead in disestablishing unneeded military headquarters, in improving the ratio of combat to support forces, and in restoring a proper balance to the grade structure of the Army. His vision of service was above any narrow or parochial view. For that reason, he was rarely seen in the Halls of Congress, lobbying for this project or that system. He deliberately avoided the bypaths of press agentry and public relations. Instead, he did his job within the Army, whose men knew him and loved him. To American soldiers everywhere, this deep-voiced craggy-faced, but gentle, man epitomized what a general should be. They recognized in him the highest ideals of duty, honor, and service to country.

Mr. President, the country mourns the death of this outstanding soldier. Mrs. Mansfield and I extend our sincere condolences to his wife, Julie, and his children. He will be in our prayers.

EDUCATION PROVISIONS OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

Mr. CLARK. Mr. President, on Saturday, September 7, I will be meeting with munity from the entire State of Iowa to representatives of the education com- explain the landmark education bill which was recently enacted into law. The distinguished chairman of the Education Subcommittee, Mr. PELL, has compiled a concise summary of the provisions of the bill, and I ask unanimous consent that this factsheet be printed in the RECORD for the benefit of those Iowa citizens interested in the new law.

There being no objection, the factsheet was ordered to be printed in the RECORD, as follows:

FACTSHEET ON THE EDUCATION PROVISIONS OF H.R. 69 AS REPORTED BY THE COMMITTEE ON CONFERENCE

The conference report on H.R. 69 extends the Elementary and Secondary Education Act, the impact aid laws, the Adult Education Act, the Bilingual Education Act, and the Indian Education Act through fiscal year 1978. It also extends the Education of the Handicapped Act through fiscal year 1977 and the Emergency School Aid Act through fiscal year 1976.

TITLE I, ESEA

The Title I formula is amended to allocate funds on the basis of more current data. State agency programs for handicapped, migrant, and neglected and delinquent children will receive funds in accordance with the new formula and will continue to receive funds "off the top" in accordance with established practice. No State agency will receive less than its fiscal 1974 allocation. Each local education agency will receive at least 85% of its previous year's allocation. The 1975 authorization is estimated at $3.1 billion for LEA grants.

Part B of Title I, incentive grants to States with a high tax effort for education, is continued with a maximum appropriation of $50 million.

Part C, grants to areas with high concentrations of low income children, is extended through 1975.

Authority is contained in the bill for a separate authorization which permits the Commissioner in special circumstances to make grants to school districts which are receiving less than 90% of their previous year's allocation.

A by-pass for non-public school children is included.

OTHER TITLES

Titles II, III, and VIII of ESEA are extended through 1978 and Title III of NDEA is extended through fiscal year 1977. These programs may not be funded in any year in which there is a consolidation of programs as described below.

CONSOLIDATION

State operated programs are combined into the following divisions:

(a) "Libraries and Learning Resources" included ESEA I, NDEA III, and the guidance and counseling portion of ESEA III.

(b) "Support and Innovation" includes the balance of ESEA III, Nutrition and Health and Dropout Prevention from Title VIII, and ESEA V.

Consideration must be forward funded and during the first year there will be a 50% hold-harmless for each person.

A by-pass for non-public school children is included.

Total discretion is given to local educational agencies on spending under Libraries and Learning Resources. States distribute funds under Support and Innovation on a project grant basis.

Also adopted is a provision for a simplified State application for ESEA I, II, III, NDEA III, Adult Education, Vocational Education, and Education of the Handicapped.

The Special Projects Act is included which provided an "incubator for new categorical programs. Under this concept new programs will be protected for a period and then will compete for funding without the protection of set-asides. These new programs include Women's Educational Equity, Career Education, Consumer's Education, Gifted and Talented, Community Schools, Metric Education, and Arts in Education.

IMPACT AID

Effective in fiscal 1976, amendments are accepted which will include guaranteed funding for public housing children of 25% of entitlement, equal to about $53 million in 1976. Entitlements for military children remain as in current law. Entitlement rates for civilian children are reduced slightly for those who live within the same county (from 50% to 45%) and for those who live within a different county in the same State (50% to 40%). Entitlements for those who live in a different State are eliminated except that those payments will be reduced over a number of years as the result of hold-harmless provisions.

School districts with a 25% or more of their enrollments "a" children will be guaranteed the full amounts of their entitlements for these children.

No school district which received more than 10% of its budget from impact aid will have its payments reduced less than 10% each year. Districts which receive less are guaranteed 80% of their previous year's payments. Also every district is guaranteed that it will not lose any regular impact aid funds due to the inclusion of public housing children.

Handicapped children of military personnel will be entitled to a payment of 1½ times that of other children. These funds must be used for the purposes of providing special education for these children.

Funds which a district receives as the result of public housing children must be used for programs of compensatory education.

ADULT EDUCATION

The Commissioner's 20% set-aside is deleted and all funds are to be allocated to the States. Up to 20% of a State's funds may be used for high school equivalency programs.

The program of adult education for Indians is continued through 1978.

HANDICAPPED

All existing programs for the handicapped are extended through fiscal year 1977. For fiscal 1975, $630 million is authorized to be allocated among the States on the basis of total population ages 3–21. These funds will be particularly helpful in meeting requirements for the education of all handicapped children facing many States as the result of court decisions.

States are required to show how they will meet the needs of those children.

BILINGUAL EDUCATION

Authorizations are increased and special emphasis is placed on the training of personnel. Funds are also provided to States to assist them in developing their capacities to develop programs of bilingual education.

A national assessment of the need for bilingual education is to be conducted in 1975 and 1977 and sent to the Congress.

Also included is a program of fellowships for students who will enter the field of training teachers in bilingual education.

READING

A new program of reading improvement is included. Funds are authorized for grants to local educational agencies and States for comprehensive programs of reading improvement and projects which show promise of overcoming reading deficiencies. Also included are funds for special emphasis projects in reading, for the training of reading teachers on public television, and for reading academies.

VOCATIONAL EDUCATION

Included are two new programs which provide funds in fiscal 1975 for bilingual vocational training and bilingual vocational education.

INDIAN EDUCATION

The Indian Elementary and Secondary School Assistance Act is extended through 1978. Up to 10% of the funds are to be made available to Indian controlled schools.

An annual authorization of $2 million for special training programs for training teachers of Indian children is included and a program of fellowships for Indian students is also included.

OTHER PROGRAMS

The Emergency School Aid Act is continued through 1976. The authority to fund educational parks and the set-aside for metropolitan areas programs are repealed.

An amendment to authorize the CLEO program to assist disadvantaged students to prepare for and attend law schools is accepted.

The Ethnic Studies program is extended through 1978.

A program of grants to States to assist them in planning State equalization programs is included. Grants range from $100,000 to $1,000,000 per State depending upon population.

MISCELLANEOUS FEATURES

An upgraded National Center for Education Statistics within the Office of the Assistant Secretary for Education is created.

Regionalization of the Office of Education without an act of Congress authorizing such regionalization is forbidden.

Congress is afforded the opportunity to disapprove regulations for any Federal aid program for education.

Parents of students and students attending post-secondary institutions are afforded the right to inspect their school files and the release of documents in those files is restricted.

THE BICENTENNIAL OF ST. JOHN THE EVANGELIST CHURCH

Mr. BEALL. Mr. President, on September 15, 1974, St. John the Evangelist Church will be 200 years old. For two centuries this church, which is located in the Forest Glen-Silver Spring area of Maryland, has served the people of Maryland and the District of Columbia. Although often overlooked, St. John the Evangelist Church should be considered a focal point in the Free State's cultural legacy, as well as a landmark in the establishment and organization of the Roman Catholic Church in the United States.

The historic tradition of the St. John the Evangelist Parish stems from the colonial era, when the first of three structures was built on the site of the present church. The original church was established and dedicated by Father John Carroll in 1774. The church, or the Rock Creek Mission as it was then known, became the center of a vast and influential missionary effort which reached throughout the greater Washington area. Rapidly Father Carroll's mission became one of the most important religious organizations in the Southern Colonies.

A key to the success of the mission, and the historic tradition which it fostered in Maryland, lie in the character of its founder, the Reverend John Carroll.

Father Carroll was a member of the distinguished Carroll family who has left their mark in many ways on Maryland and the Nation. His cousin, Charles Carroll, of Carrollton, was a signer of the Declaration of Independence, a noted revolutionary leader and U.S. Senator from Maryland. According to contemporary accounts, John Carroll possessed tremendous energy, eloquent speech, and a towering intellect. His studies took him throughout Europe and he traveled to the major centers of learning and culture of his day. It was as an ordained Jesuit that Father Carroll returned to America. Although he took no active part in the Revolutionary conflict, he nevertheless, supported the rebellion from the pulpit.

At the request of the Continental Congress in 1776, Father Carroll accompanied the American commissioners on the ill-fated trip to Montreal seeking to enlist Canadian support for the American cause. Although the mission failed, Father Carroll was of notable assistance to Franklin, Chase, and Charles Carroll.

Following the Revolution, with most American religious organizations in chaos, Father Carroll petitioned Rome for the power to allow American Catholics to choose their own religious leaders. This was especially important, because the French were plotting ways to gain control of the Catholic Church in the United States. Permission was granted, and in 1790, John Carroll was named as the first Roman Catholic bishop in the United States.

As bishop, Carroll continued his great work of organizing the Catholic Church in America, and writing—notably his famous address on the death of Washington. In addition, he did outstanding work in the field of education; establishing Georgetown College—which he eventually turned over to the Society of Jesus; St. Mary's College in Baltimore; Mount St. Mary's College in Emmitsburg, Md.; and he asisted other religious orders in projects such as the establishment of the Dominican's College of St. Joseph which is also located in Emmitsburg.

In 1808, Baltimore was made an archdiocese and John Carroll became the first American archbishop. Archbishop Carroll was in Baltimore during the bombardment of Fort McHenry in 1814. As a witness to this significant happening in our Nation's history, the archbishop helped to record these events in letters to friends and other writings. He continued his fine work until his death in 1815, leaving the Catholic Church a strong and viable religious body.

Mr. President, the St. John the Evangelist Church is deeply rooted in the traditions and history of Maryland and the United States. The parish has since had many distinguished visitors and religious leaders, including Cardinal Gibbons, who laid the cornerstone of the new church in 1893. In the church's cemetary are buried some of the most famous families in Maryland and Virginia, including the Carrolls, the Brents, the Digges, the Morgans, the Moshers, and the Chiltons. It was said by the Rev. Thomas O'Gorman, D.D., on the growth of the American church:

> St. John's, Forest Glen, was the Bethlehem of the church in America and Baltimore was the Jerusalem . . . on the spot had

sprung the Catholic hierarchy of this country; on this spot was planted the mustard seed from which had grown a great tree; and St. John's Chapel, founded here by Father Carroll, has impregnated the entire country with Catholicism . . . John Carroll in this country was the Father of Religious Civilization as George Washington was of Temporal Civilization.

Mr. President, it is indeed a pleasure for me to join in congratulating the parishioners of St. John the Evangelist Church as they mark this significant milestone in the history of Roman Catholicism in America.

DEAN RUSK, FORMER SECRETARY OF STATE

Mr. TALMADGE. Mr. President, the University of Georgia is very fortunate to have on its faculty the only living former Secretary of State, Dean Rusk, who served under Presidents Kennedy and Johnson. Mr. Rusk was Secretary of State during some of the most turbulent times in recent history, and he brings to the university a wide range of experiences and knowledge that has been of great benefit to his students and associates.

Now the Sibley professor of international law in Athens, Ga., he has earned a warm reputation among the members of the academic community as one who enjoys his work and gives of himself tirelessly.

Many of the Members of the Senate know my fellow Georgian, and I think they will read with interest an account of his activities and interests now that he has left Washington. He has had and continues to have a profound influence on the course of events here and abroad.

An article appeared in the Atlanta Journal and Constitution magazine of August 18, and I ask that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE SUPERSTAR PROFESSOR—DEAN RUSK IS GETTING HIGH GRADES ON HIS PERFORMANCE AT THE UNIVERSITY OF GEORGIA

(By John W. English)

In his four years at the University of Georgia, Dean Rusk has generated enough press coverage in both local and national media to make P. T. Barnum seem like a bush league novice. Despite all the public attention, Rusk, the nation's only living former secretary of state who served two full terms, insists he's trying to be as private a citizen as possible.

After eight hyperactive and hectic years as a mainstay of the Kennedy and Johnson administrations, Rusk might have been expected to slow down when he settled into the Safuel H. Sibley chair of international and comparative law at Athens. Instead he has become the quintessential, peripatetic Mr. Chips, not only teaching his classes and seminars and earning the praise of his students, but also performing an impressive range of service activities for the university as well.

Unlike some faculty superstars elsewhere who spend their time traveling or are cloistered writing memoirs or best sellers, Rusk is on campus most of the academic year and accessible to students and faculty colleagues. In his cozy, green-carpeted office he sits surrounded by inscribed photographs of historical figures he worked with, and reads, prepares lecture material, grades student papers and chats with visitors.

He seems to be genuinely enjoying the academic life, after a 28-year detour from his first teaching job at Mills College. His former dour public image gone, he is relaxed and sociable. Conversations are full of friendly banter and wit. When his wry sense of humor surfaces, listeners are delighted.

Rusk makes about 50 off-campus speaking appearances a year, usually in the region and most often in small towns or on other campuses. His audiences have been varied: distinguished scholarly and legal groups, the national Jaycee convention, local church groups, commencements, Navy officers' wives in Athens. But his messages are always topical and often global, a reflection of his concern about the growing mood of American isolationism and his respect for ordinary citizens and their ability to understand complex foreign policy issues.

As an architect of modern history, Rusk also gives his listeners a seasoned historical perspective on current events. For example, he recently reminded the Atlanta Kiwanis Club that detente with the Soviet Union, the cornerstone of current foreign policy, actually began under President Kennedy with the nuclear test ban treaty of 1963.

As he often did in press briefings at the Department of State, he still probes what he calls "the fog of the future." In a talk to American Legionnaires, he warned that the United States might not be sitting at the table of superpowers in 10 years unless it maintains a steady defense posture with its allies, particularly Europe.

Since leaving Washington in 1970, Rusk has kept a low personal political profile, hesitating to criticize President Nixon and only recently nipping at Secretary of State Henry Kissinger. However, Rusk has publicly expressed the opinion that while impeachment would probably have little impact on foreign relations, he "would give odds against impeachment." He also noted that senators who have already spoken out for Nixon's resignation may have a conflict when asked to take an oath of impartiality to try the President.

On Kissinger's personal diplomacy approach, Rusk expressed concern that "he may become the only spokesman that other governments will receive and listen to," yet he praises his successor's negotiating talents. He doesn't try to second-guess the Nixon administration because he now lacks complete information.

Although known to be weary of the Washington scene, Rusk does continue to share his experience and knowledge with members of the current administration by serving on the advisory committee of the Arms Control and Disarmament Agency and on the State Department's law of the sea panel. Recently he also agreed to serve on a Democratic party task force seeking "sober, responsible and bold" solutions to foreign and domestic issues of the 1970s.

On campus, Rusk often guest-lectures to classes in political science, history and journalism and earns a warm reception, even from those who earlier opposed his Vietnam policies. Students comment that they are impressed with his openness dignified "Southern gentleman" presence, his incredible recall of details of historic events and his ability to clarify issues and to articulate his views.

Rusk has also drawn on his personal connections with the mighty to attract such figures as Arthur Goldberg, the late Earl Warren, Gen. Earl Wheeer, Patricia Roberts Harris and Pierre Salinger to campus events. When his undersecretary of state and close friend George W. Ball attended the annual alumni seminar in February, the inevitable comparisons were revealing. In discussing China, Rusk's formal diplomatic style and conservative positions were in clear contrast to Mr. Ball's more free-wheeling, critical stance.

"When China went communist in 1949, we (the U.S.) had some of the feelings of a jilted lover," Rusk told the 400 assembled alumni. Later he said: "It will take a great deal of patience, time, persistence to get agreements on large or small points which might be in the interests of both sides but (control) of Taiwan will, for some time, remain the bone in the throat for both sides."

"Lamentably maladroit" was the way Ball characterized America's recent relations with China. He also called the present U.S. policy towards China a "reprise of an old theme"—the open door policy of the turn of the century.

Much of the credit for the success of the China seminar, which drew more than twice as many alumni as past events, goes to Rusk, according to Tyus Butler, alumni relations director. "He has given generously of his advice, time and counsel," Butler said. "As keynote speaker in 1971 and a seminar participant for the past two years, he has been a major factor in the success of the program."

Rusk has also recently aided the university's educational television station, WGTV, with its Great Decisions series by appearing on three of the eight shows and helping with others. On those shows, broadcast in March and April, he talked on "The Atlantic Community," "The President Vs. the Congress: Who makes Foreign Policy Decisions?" and "Cuba and the Panama Canal."

Great Decisions producer James Shehane said of Rusk's assistance: "Without him, we couldn't have done the series. He's been extremely helpful in contacting participants for the show because he can pick up the phone and get someone like Treasury Secretary William Simon."

In another recent public television show, Rusk appeared on William F. Buckley's "Firing Line," and admitted that he may have made at least two mistakes in judgment about Vietnam: "I underestimated the tenacity of the North Vietnamese and I overestimated the patience of the American people."

Unless asked directly, however, Mr. Rusk avoids discussing Vietnam and says it will be up to future historians to decide 10 or 20 years hence whether his policies contributed to a durable peace there or not.

Dealing with newsmen occupies more of Rusk's time than he likes, though he rarely refuses an interview. Recently he has told groups of journalists—such as the American Society of Newspaper Editors, Sigma Delta Chi, the Georgia Press Association and the Georgia Association of Broadcasters—both good news and bad.

"I do believe that the American people are better served by the totality of their news media than are the people in any other country I've visited," he tells media people. "The press has a duty to get the news. There are times when public officials have a duty to keep their mouths shut. This creates a built-in tension between press and officials, which in my view is wholesome and must never be eliminated either by law or some sort of treaty between the press and public officials.

But Rusk worries aloud about the press' problem of extraction—choosing what news to report in limited time and space. "Citizens ought to know that there is a lot going on to which they have no access. It is difficult, therefore, for the average citizen to get a view of reality—especially of the government—from the media."

Another annoyance Rusk has with the press is its neglect in not verifying information before it's published. When Neil Sheehan, the New York Times reporter who prepared the Pentagon Papers for publication, came to Athens to speak, Rusk visited with him informally and criticized the Times' secret handling and sensational release of the documents. "The New York Times' editors did not call together the Washington press corps and say, 'Here's some material the people have a right to know,' and then make it available to all the press," Rusk said. "No. They postponed the people's right to know for three months in order to insure that the New York Times would give it to them as a scoop."

Rusk also wondered why Sheehan never called to ask if any of the statements attributed to him in the Pentagon Papers were true. According to Rusk, the Times man admitted he had no satisfactory explanation.

Rusk has publicly charged David Halberstam with incomplete reporting in the book "The Best and the Brightest." "Although he said in his introduction that he interviewed 400 sources, Halberstam never interviewed me or some of the other principals I have checked with, namely Bob McNamara and Walt Rostow," Rusk said.

Rusk hinted he might write an article answering Halberstam's popular version of recent history. In his first year out of office, Rusk put his own recollections of his Washington years on tape for the Kennedy and Johnson libraries. He says this tape will not be made public for 20 years.

International law affecting the environment has become one of Rusk's academic passions and he has been chiding the press for ignoring the law of the sea conference in Venezuela in June. Rusk wrote an article in a campus newletter about the meeting's significance. In it he said:

"Unless the world community can achieve major advances in the law of the sea within the next year or two, we may see a race for the national control of open ocean areas comparable to the race for control of land areas which occurred when Europe exploded into great colonial empires. . . .

"It is of even more importance that we recognize that the outcome of the conference can affect each of us in our daily lives and that the human race is at a crucial fork in the road: either we shall create a new, rational and fair law of the sea or we shall find ourselves in a new era of tension, controversy and possible violence."

Raising such contemporary issues is Rusk's forte, and when an inter-American colloquium was held on campus, the law of the sea was on the agenda.

On the challenge of establishing a durable peace in the world, Rusk sees his role now as "strengthening and deepening the processes of international law. It is on that point I have decided to spend the time that remains to me. I'm not going to pretend to write any prescriptions on the other aspects of the problem because, in a certain sense, my voice comes out of the past. A new generation will have to take hold of these questions and find the answers. The generation that is leaving the scene cannot prescribe the answers to those entering the scene. One of the things my generation can do is pray that some answers are found."

Rusk expresses an enormous confidence in the younger generation. "I've visited a lot of campuses in the last four years and have found that this generation is more alert, better informed and more concerned with real issues than those of the past." At the same time, he urges students not to ignore the mistakes of their fathers and repeat those of their grandfathers.

"I hope your generation can put another 25 years without a hostile nuclear-weapon firing on to the 25 we've recorded," he often tells students.

Rusk gets his points across to students subtly both in the classroom and in informal contacts. The student journalists on the University of Georgia student newspaper, the Red and Black, quietly recognized that Rusk made good copy with his insights and cogent quotes. When the Middle East war erupted last fall, news editor Joyce Murdoch went to see him and wrote a long front page story of their discussion. Later the article won her first place and a $900 scholarship in a national newswriting contest.

Red and Black editor Susan Wells said, "Mr. Rusk not only lends prestige to the law school and campus, but he's also very open to students and even gave us an exclusive interview after refusing to see others from the press."

In the classroom, Rusk is an inventive teacher, usually talking eloquently about complex matters from brief notes. Drawing from his own experience, he likes to pose ethical issues for students to consider. He once asked journalism students how they would handle this dilemma: You are a reporter covering the State Department and a friend there leaks a confidential document to you. What should you do: have your friend indicted for giving away government secrets which may harm the national interest or use the information in a published story and protect your source? He thus gets students to consider larger issues in the context of current problems.

"He's not just a history book of the law but he keeps current with the law and is participating in it," said Bill Aileo, past student editor of the Georgia Journal of International and Comparative Law. "He's been a great resource for students writing journal articles, either helping in their research or in editing. He's also put us into contact with some of the top people in international law who have made contributions to the journal: Phillip Jessup and Harding Dillard of the World Court and the late Wilfred Jenks of the International Labor Organization. Mr. Rusk even wrote an article on the legal regulations on the use of force which we published."

Aileo, who just graduated from law school, said Rusk had also helped several students find out about job opportunities in government agencies that they'd never even heard of.

As a senior faculty member, Rusk has handled his share of administrative responsibilities, and has served on the University Council, a faculty body, and the UGA Press Committee, the book publishing division.

For his contributions to the university thus far, Rusk earns accolades from president Fred C. Davison:

"Since returning to his native state, Mr. Rusk has established himself as a teacher of rare ability and extraordinary energy. It has been my privilege to be present among groups of all ages when Professor Rusk has talked with them. With enthusiasm and skill, he performs the noblest task of a teacher: that of kindling the minds of his listeners, whoever they be.

"His almost incredible breadth of experience is combined with unusual recall, and the constant evaluation and re-evaluation of ideas, so evidently a part of his thought processes, place him in what must be a small group of master teachers. He accepts the demands of eager listeners and learners modestly but generously, bringing honor and distinction to the campus and to Georgia."

Rusk accepts such acclaim with characteristic modesty. His career both in academia and public life has been studded with honors—a Rhodes fellowship, more than 20 honorary degrees and most recently an endowed chair at the Lyndon B. Johnson School of Public Affairs at the University of Texas.

Mrs. Johnson created that distinguished professorship in his name with a grant of $500,000 from the LBJ Foundation in recognition of his loyalty and service to the late President. Rusk earlier had donated his appointment books—one of the few items he took with him when he left the State Department—to Texas' LBJ library.

Although he left all his public and private papers in the State Department, Rusk claims that almost everything about the Kennedy and Johnson administrations has become public knowledge, except for some of the "kitchen gossip." And though he admits he has been working on a book "in a rather desultory fashion," he is supremely discrete and presumably won't reveal that gossip. At the annual Law Day in early May, Rusk acknowledged that he is getting on in years. In a simple ceremony at the university law school, an oil portrait of him—resplendent in his red Oxford robe—was dedicated before a small gathering, including Sen. Edward M. Kennedy as guest of honor. Rusk said he wanted to thank artist Henry Nordhausen for softening the lines of age and bringing out more humanity than he probably had. The portrait, a gift of the Loridans Foundation of Atlanta, which also contributes part of his annual salary, hangs near the main rear entrance to the building.

Surgery last August slowed Rusk down last fall, but he resumed his busy schedule the second half of the past school year. Since he has already turned 65, he has two more years before reaching the university's mandatory retirement age. Until then, he will draw one of the highest state salaries—$46,000. According to most estimates, he earns it.

SAYINGS OF PROFESSOR RUSK

"When I was a small boy, I remember a preacher saying, 'When you point your finger at someone else, you're pointing three fingers at yourself.' "

"There are times when a public official ought to be silent or even when the public would prefer not to know the whole brutal truth."

On his new anonymity: "A man came up to me in the Atlanta airport and asked, 'Aren't you John Foster Dulles?' I replied, 'If I am, there's been quite a miracle."

"Coup d'etats blow up like a summer storm. There were 82 during my term of office and not one caused by the CIA."

"At any given point, half of the people want someone else to be President."

On the apolitical nature of most citizens everywhere: "When I was a boy in Cherokee County, we didn't get up every morning and beat our chests and say, 'What can we do for Woodrow Wilson today?' "

"In a speech on China, I once said in short words and short sentences what we'd been saying for some time in long words and unintelligible sentences, and everybody thought this was new policy."

To members of an audience who had to leave early: "Don't worry about me. I've been walked out on by Mr. Gromyko."

"Governments don't like to be overthrown."

On the authenticity of the Khrushchev memoirs: "They were edited. There are no vulgarisms in them and Khrushchev was vulgar."

"I believe man will do what is necessary to survive."

"The press demands complete candor from a public official on every subject except one—namely, what he thinks about the press. I think it's fair to say the press can dish it out, but doesn't like to take it."

"As I grow older, I become allergic to long speeches—either listening to them or giving them."

"There's nothing more dangerous than a security treaty you don't mean. If we want to make them a bluff, we'd better get out of them."

When the Vietnam peace settlement seemed imminent, he told reporters: "The situation looks pregnant, but I want to see the baby before I describe it."

"We are all prisoners of the information we get."

SOVIET STALLING ON DÉTENTE

Mr. THURMOND. Mr. President, as a result of the most recent summit meeting and other events, it appears that progress on a meaningful détente has practically come to a standstill.

Past history shows us the Communists have used détente throughout history for various reasons but such moves have never seriously deterred their efforts toward world domination.

A recent editorial on this subject entitled "Soviets Stalling on Détente" appeared in the August 19, 1974, issue of the Aiken, S.C., Standard newspaper.

Mr. President, I ask unanimous consent this editorial be printed in the RECORD at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SOVIETS STALLING ON DÉTENTE

A preparatory meeting to plan a European Security Conference received scant news mention recently when it quietly folded its tent for the summer, planning to reconvene on Sept. 2. The conference, intended to lower tensions between the Western allies and Communist East Europe, cannot even agree on what to talk about if it ever does convene.

The significance of the summer recess is that it precludes the possibility of reaching an agreement this year on how best to reduce the tensions in Europe. And so another timetable for detente has been derailed.

It is hardly surprising. Detente on the Washington and Moscow levels has not been receiving high marks either since the dramatic meeting last month in Moscow between President Nixon and Leonid Brezhnev. Sobriety has supplanted expectation.

Students of Soviet relations with capitalistic societies should not find the roller coaster aspects of detente surprising. Detente, by any other name, dates back to 1921 when Lenin, following his consolidation of power, decided that his country needed a period of rehabilitation. He proceeded to negotiate regular diplomatic relations with capitalist powers, using their superior technology and productivity to prop up the Soviet economy. Thus was detente born.

Lenin's detente came to a close when Stalin emerged as his successor and embarked on a period of militarization in about 1930—a period which continued for more than a quarter of a century until the dictator died. His successor, Khrushchev renewed Russia's on-and-off-again detente in 1957, but called it "peaceful coexistence." Khrushchev did not have peace in mind, but wanted a breathing spell so that the Soviet Union could recover from the economic damage that Khrushchev had created and from the political wounds of the power struggle that led to his winning office.

Since 1921, four years after the Communists conquered Russia, there has been no intention on the part of the Soviet leaders to alter the basic policy of Communistic imperialism. Moscow has used detente for the same reason that football teams use halftime pauses—to rest and to reassess strategy.

The failure to achieve significant limitations on offensive arms at the Moscow meeting last month and the stalemate at the European Security Conference reveal glaringly that Brezhnev is a practitioner of the same Soviet art of leadership. He could not maintain the facade of detente as long as his predecessors did because times have changed. The dooms-day nature of strategic weapons leaves less lattitude for concessions and the complexity of missiles and atoms mandates precautions on the side of extra safety.

What the future holds is uncertain. It is clear, however, that as the current cycle of detente approaches another decisive point the United States can best be prepared to face it by keeping our nation healthy and our powder dry.

IS THERE STILL HOPE FOR FARMING IN NEW ENGLAND?

Mr. McINTYRE. Mr. President, I would like to call my colleagues' attention to three articles which have appeared in New England regional publications in recent months.

The three are closely related and the message in each is applicable not only to all the States of New England, but to any State which has lost self-sufficiency in food production, the aesthetics of open fields and pastureland, and, to resort to that trite phrase, "farming as a way of life."

I would like to quote excerpts from two of these articles and then ask that the full text of the third be printed at the conclusion of these remarks.

Mr. President, let me point up these quotes by citing a rather astonishing statistic.

At the time of the Civil War, my native State of New Hampshire was only 40 percent forested. Today, it is estimated that as much as 85 percent of the State is tree covered.

The implication of this is spelled out in an essay written by Leander Poisson for the Speaking Out page of the New Hampshire Times earlier this year.

Incidentally, Mr. President, many of us in my State welcomed the appearance of the New Hampshire Times on the publication scene and are rejoicing over the growing success of this splendid new statewide newspaper.

The author of this particular Speaking Out column is an architect and former professor who argues that New England's economy will get worse before it gets better, because the region is too dependent upon food and energy from far away places.

The thrust of his argument is found in the following paragraphs. Mr. Poisson writes:

> The most critical energy crisis that New England faces is exaggerated by the fact that its agricultural base has been destroyed . . .
>
> As a region, New England was almost 50 percent self-sufficient in food production at the close of World War II. Less than 100 years ago, it was 100 percent self-sufficient. *It is at present just barely two percent self-sufficient.*
>
> In order to survive as a populated area, New England must have as its first priority the restoration of its agricultural base.

To underscore Mr. Poisson's case, and to do it on positive note, I'd like to quote from the publication which inspired the founding of the New Hampshire Times and happily influenced its thrust and format—the Maine Times.

Earlier this year, Maine Times Editor John Cole, writing in his personal column, had this to say:

> The Maine fields that once grew grain for the creatures, food for the farm family and the farm community have been reclaimed by the woods. I see those on my travels. It is third or fourth growth now—contorted pasture pine, alder, popple, birch and early oak. These are woods without grandeur, without the giants that once were cleared for corn. To most travelers the woodlots might appear to have always been so scruffy; yet each of them is laced with dauntless rows of rock, piled three generations ago by men who marked their pastures where the spindly trees now grow.
>
> These are not woods but what's left of fields that were plowed by men and animals every spring as soon as the snows melted, the ground thawed and the March winds blew enough to dry the mud. In my southwestern part of Maine, and across New Hampshire and Vermont there are hundreds of thousands of acres of popple, birch and scrawny pine that once were turned, planted and harvested with the rhythm of every passing season. But with the coming of the machine, the Industrial Age, the wonders of chemical-corporate farming, lettuce for 200 million Americans could be grown in California, corn in Kansas, apples in Washington and beef creatures in Texas and Montana.

Mr. President, John Cole then goes on to point out that this trend may have run its course, declaring:

> The high-energy, high-waste farming that allows us to shred lettuce today that was packed yesterday in California is coming to an end. The cost of moving those crates from here to there has become so high that New England's short growing season is no longer such a liability. There soon won't be petroleum enough or pesticide enough to grow everyone's apples on Oregon trees; the withering orchards of Maine's abandoned farms will be revived again; and beef creatures will once again graze in new pastures bordered by old rock walls.

Mr. Cole concludes:

> From the fields that were once forests and then became woods will come the foodstuffs that will allow much of the New England community to become more self-sustaining than it has been for a century. The job will be done because changing economics will make it good economics.

Mr. President, there are certainly some who would question such a positive assertion; those who might well concede the desirability of restoring New England's agricultural base but would remain skeptical that it could ever be accomplished.

For those I would recommend a close reading of the third and final article I cite, an article written by the famous poet and literary historian Malcolm Cowley for the August issue of another handsome new and most promising regional publication, Blair & Ketchum's Country Journal. Country Journal, though published in Vermont, again embraces in its coverage all of New England.

Mr. Cowley, who has lived on an old, 7-acre tobacco farm near Sherman, Conn., since 1936, says developers' dollars and rising costs are squeezing farmers out of existence.

But, he answers "Yes" to the question asked in the title of his article—"Is There Still Hope for Farming in New England?"—if we act now.

Mr. President, because I believe Mr. Cowley's message and recommendations are so important—again, not only to New England but to every State with similar agricultural problems—I ask unanimous consent that the full text of his article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Country Journal, August 1974]

IS THERE STILL HOPE FOR FARMING IN NEW ENGLAND?

(By Malcolm Cowley)

Memories first, before we try to summon up the future. Hope is to be found there, I believe, but it depends partly on the world situation (food, fuel) and partly on national, state, and local policies regarding the use of land. We can raise our voices about those policies; indeed, we had better do so without delay. Meanwhile it is a wry pleasure to think about the fairly recent past of what used to be a Connecticut farming town.

When I first came to Sherman more than forty years ago, it was reported by the census as having 330 people and something like 100 farms; I forget the exact number. Most of the farms didn't deserve the name; they were simply fields and a house where an old couple subsisted with the help of a cow, a flock of chickens, and usually a team of superannuated horses. In the valley north of the Center, though, were rich tobacco and dairy farms. The hills were grassy there and dotted with cattle to their rounded tops. On the valley floor were big white houses, red barns, and silos like baronial donjons standing guard over luxuriant fields of corn, alfalfa, and tobacco. Driving past them on a winding dirt road was like exploring Arcadia.

I remember how marginal farms, mostly in the South End, were abandoned as old couples died off or moved to Danbury. I remember when the last field of tobacco was planted during World War II; that year the crop couldn't be sold because the tobacco warehouse had closed. I remember how dairy farmers complained of not being able to earn a decent living and how one after another sold off his herd. More and more houses were built for people who had jobs in Danbury or did freelance work in New York. The town was becoming residential, and it was also becoming forested as trees crept down from the hillsides and at places crossed the valley. There were no Arcadian vistas any more.

Sherman is still a good town, more determined than most to preserve its rural character, but today it has only three dairy farms. Three other dairymen sold off their herds last spring. Among those herds the best was that of my friend and neighbor Kenneth Edmonds, who, incidentally, had been taking care of my only field. He paid rent for it too: a truckload of manure each fall. I don't know what will happen to the field after Ken stops mowing it, but there was no use pleading with him. Ken was tired; he had been milking cows twice a day, seven days a week, for fifty years. Now he is looking forward to his first vacation.

What is happening in Sherman had already happened in most of the state, and most of New England. Connecticut now has fewer than 4,000 working farms—not half so many as in 1960—and the number includes part-time operations, as well as little factories cranking out eggs or broilers from a production line. Dairying, however, has been the chief agricultural activity, and the state now has only 900 dairy farms, with the total falling by more than ten per cent each year. Rhode Island has 700 farms of all types, not many of which send milk to market. The state agricultural college recently sold off its prize bulls, as if to mark the end of an era. In Massachusetts Governor Francis W. Sargent has established an Emergency Commission on Food. He said at a news conference last September, "We must reverse a thirty-year trend which has resulted in the virtual disappearance of food production in this state."

One can hardly blame the farmers for going out of business. They are capable men, for the most part, but they are faced with more problems than a genius should be asked to solve. Manpower is often the most urgent problem. The farmers are growing old—fifty-eight is their average age in Connecticut—and they need help with the chores. Help is almost impossible to find, except at a price the farmer is unable to pay. "The younger generation just doesn't want to be tied up for seven days a week," Ken Edmonds says. "They don't want those hours staring them in the face every day."

Another problem is the high cost of machinery, fuel, feed, fertilizer, baler twine—in fact, of everything the farmer has to buy. Except for roughage, most of which comes out of his own silo, almost all his supplies are shipped in from other parts of the country, at very high freight rates. How much he pays for the supplies depends on the open market (and to some extent on the big midwestern processors, with their notions of what the traffic will bear). The selling price of milk at the farm is something else again: it is fixed by the government and seldom rises as fast as the cost of feed and fertilizer. From 1968 to 1972, gross farm income in Connecticut rose by $6.5 million, while net farm income was falling by $12.2 million. In 1973 net income was further reduced by a fantastic increase in the cost of supplies.

Property taxes are a less serious problem in Connecticut than in some of the other New England states. By the terms of Public Act 490, passed in 1963, a farmer can ask to have his land assessed at its "use value," generally much lower than its value as commercial real estate. The law has reduced tax assessments on farmland by an average of something like sixty-five per cent. On the other hand, there has been no reduction in state or federal inheritance taxes. The state tax is high in Connecticut, and it is levied on the same estimate of net worth as the federal tax. When a farmer dies, the Feds move in to value his land at the inflated price that a developer might pay for it. The farmer's heirs might wish to stay on the land, but instead they have to sell it off as the only way to find money for the tax collectors.

Inflated land values are perhaps the greatest present threat to agriculture in New England. The threat is all the greater for a special reason, namely, that the best farmland, fairly level and well drained, is also the best for residential and commercial development. It used to be the marginal farms that were abandoned; now more and more, as population spreads, it is the richest farms that are taken over. How can a young dairyman—granted that there are still a few of these—compete with a real estate syndicate eager to invest foreign money? How can he afford to pasture cows on land that will cost him from $1,000 to as much as $10,000 an acre?

In the South and the Middle West, older men with capital still buy land for the income it will yield from crops or cattle, but the present yield in New England is too low in relation to land values for anything but tax-loss farming (and not much of that). In Connecticut, for example, the last 900 dairymen are working seven days a week for an average return of 3.9 per cent on the market value of their land, stock, and equipment. They could sell off everything, pay a capital-gains tax, invest the remaining proceeds in bonds or certificates of deposit, and—to judge by the financial pages—they could earn much more than their present farm incomes by living in idleness.

So once again, what are the prospects for a revival of farming in New England? I still think that the long-term prospects are good, owing to worldwide shortages of food and also to the fact that western and southern farmers are now facing many of the same problems (besides such problems of their own as drought in the High Plains and deteriorating cropland). But the short-term prospects are bleak, and even our distant hopes might be foreclosed. That is, our New England farmland might be lost forever unless steps are promptly taken to help the remaining farmers stay in business and encourage younger men to take their places.

The first step might be a joint resolution presented for adoption by the various state legislatures. It might read something like this: *Resolved that the preservation of open farming and grazing land is to the best interests of the people of [Connecticut, Vermont, etc., and is an effort deserving the aid and encouragement of the state government.*

What good, you might ask, would a resolution do? At the very least it would lead to wider discussion of an urgent problem. If the resolution is adopted after many arguments have been heard, it will provide a reasoned basis for various measures that must be taken if farming in New England is to be maintained at anywhere near its present level, not to speak of its being revived or extended. Some of the measures will interfere with the plans of land speculators, while others will cost the states money. New Englanders, like Scotsmen, always want to know why public money should be spent.

And why should it be spent in an effort to preserve farmland? Why should we continue trying to compete with western agribusiness? Why shouldn't we resign ourselves to importing all our food from other parts of the country: milk from Wisconsin, potatoes from Idaho, lettuce from Arizona, and apples from the state of Washington? Or again, why should we mourn—as most of us do—when one farmer after another is forced by age and economics to abandon his fields and let them grow up into scrubby woodland? Or when he sells them to a developer with plans for still another residential suburban, a vacation community, an industrial park, or a supershopping center under acres of asphalt?

Here I won't repeat the ecological answer: that this populated region needs meadows and streams, woods and wetlands, a diversity of open spaces to depollute the air and maintain a supply of drinkable water. "The farmer is the keeper of these lands," says a thoughtful paper recently issued by the Connecticut Conservation Association.[1] "He is the steward of the land. As long as he remains, these resources remain. When he is gone, all too often these irreplaceable natural entities are buried."

Yes, the ecological answer is true and reasonable, every word of it, but my own feeling for New England goes beyond reason into the darker realm of love and aversion. I love the countryside as it was—and as it is today in scattered areas like the Upper Connecticut Valley, the Lamoille Valley, or the Harlem Valley across the state line in New York. I hate to live in the midst of neglected fields, which seem to reproach me; I even hate to drive through miles of scrubland crossed at intervals by stone fences. A deprived and resentful landscape seems to be closing in on me. When the road comes out into open farmland, I feel a sense of relief, as if I were drawing a free breath after years in prison. "Isn't this fine, for a change," I say in mantalk, while my wife uses the forbidden word: "Yes, it's beautiful."

Beauty in itself isn't enough to persuade a state legislator that he should vote for an appropriation, but beauty in New England has an economic value. Almost the whole region has found that tourists are an important source of revenue. The better the region looks, the more tourists will be attracted, not to mention vacationers and permanent residents (for whom there is room enough, if their new communities don't gobble up the farmland). The more farms are preserved, the more pastures are reclaimed, the better

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[1] For a copy of the White Paper on agriculture in Connecticut, to which I am greatly indebted, write to Robert F. Kunz, Director, Connecticut Conservation Association, Bridgewater, Connecticut 06752.

(more beautiful) the region will look, and—as most legislators already realize—the more it will comfortably yield in state and local taxes.

That is by no means the only economic argument for a revival of agriculture. Every farmed or grazed or gardened acre produces something that adds to the wealth of the community—and the statement is true even when the farmer is losing money. If he makes it instead, much of the money goes into improving the farm or the neighborhood. Think of the big white handsome clapboard houses and the brick houses, weathered pink, that dot the New England countryside or cluster in villages. Except in coastal areas, most of those houses grew out of the soil, either directly or indirectly—directly, if they were built with money from corn, tobacco, cattle, Merino sheep, or Morgan horses; indirectly, if they were built by merchants or bankers who prospered from dealing with local farmers. Now that so many of the big houses have to be propped up with New York or Boston money, they seem to me a little less substantial.

"Don't make subjective judgments," I tell myself. "Don't say anything that isn't realistic." Well, here are a few realistic statements.

Every good field abandoned is a loss to the community. Henceforth the field produces nothing, though in thirty years it might yield a meager crop of firewood or pulpwood. If it becomes part of a residential development, this in turn produces nothing (except from a few backyard gardens, rather more of these in 1974 than in 1973). Essentially the new residents are here in their role as consumers, and almost everything they consume is trucked in from a distance. Even their incomes are imported from the larger towns where they work in offices or factories. The new residents are pleasant people and they make a contribution to the community by showing good will and public spirit, but what they contribute in taxes is seldom enough to pay for what they demand in services (new schools, sewers, paved highways kept free from snow, and everything else that a suburb expects). When a farming town in Connecticut goes residential, taxes on old-time property owners are very soon tripled or quadrupled, and they are forced to sell off their acreage.

Once again that isn't the whole story. Those farmed acres in New England once supported—in many areas they still support—a network of local industries and commercial enterprises. Depending on the type of farming, there are (or were) canneries, creameries, cheese factories (now surviving only in Vermont), carding mills (now a few in Maine), feed mills, slaughterhouses, tobacco warehouses, and woodworking plants willing to pay a farmer cash for a few wintercut logs. As farming dwindles in one area after another, those local enterprises vanish and the skills they encouraged are forgotten. The remaining farmers not only lose their local outlets but feel lonelier than ever after the Grange Hall becomes a franchised supermarket. There are personal tragedies involved. I think of E. A. Robinson's miller, the one who hanged himself after a last word to his wife:

"There are no millers any more,"
  Was all that she had heard him say;
And he had lingered at the door
  So long that it seemed yesterday.

"That is Robinson in a sentimental mood," I tell myself; but I remember that the private sentiment is connected with a blow to the public economy of our whole region.

The process has gone too far to be simply reversed. When or if farming is revived in New England, it will have to be a different sort of farming, either more intensive, or on a broader scale. Meanwhile some practical steps can be taken to halt the decay, to put heart into the remaining farmers, and to keep the countryside open by restoring the pastures.

The white paper on Agriculture in Connecticut puts forward several measures that would help to keep farming alive in the state. Among these it lays most stress on the creation of "agricultural preserves" and on the purchase by the state of "development rights" to open land. Later I shall have something to say about that purchase. As for creating agricultural preserves, it is a practice started by California in 1965. It has been rather more successful in New York, where the enabling act was passed in 1971, and it is now being considered for adoption on a wider scale by New Jersey.

In New York such agricultural preserves, or districts, are initiated by the farmers themselves, who must agree, in each case, that 500 or more contiguous acres should be placed in the district. Their application is reviewed by the county government and discussed at one or more public hearings. If approved by both the county and the state, the district can be officially protected. Protection means briefly "No development," but it has other features as well. Local governments cannot restrict farming practices—such as spreading manure—beyond the requirements of health and safety. Public agencies that want to acquire land in an agricultural district must prove that other acceptable sites are not available. Public-service districts are restricted in their power to tax farmland for services (water, sewage, etc.) that farmers do not require. Also commercial farmers can request annual property-tax assessments based on the agricultural value of their land.

Each agreement runs for eight years, after which it must be reviewed to see whether the land it covers still meets the requirements for an agricultural district. So far, such districts comprise 1.5 million acres, or one-fifth of the best farmland in New York. Apparently the agreements have worked where adopted, and they have led to some glorious battles with public utilities and dam builders, notably in the rich Schoharie Valley. The Connecticut Conservation Association recommends a similar system of preserves for its own state, but with refinements embodied in the still pending New Jersey plan. Since the system will reduce the tax basis of local governments, the CCA recommends that the towns be reimbursed for what they lose. The purchase of development rights would also cost money, and—rather than a bond issue to supply it—the CCA believes that it should come from a statewide tax of perhaps four mills on real-estate transfers.

The CCA also suggests other measures that would help to keep Connecticut farms in operation. Briefly they are: (1) subsidies to farmers who permit hunting, fishing, and picnicking on their land; (2) farm markets on state-owned land along highways or even in state parks; (3) college workshops for farmers on management and production techniques (but who would milk the cows while the farmer was attending the workshops?); (4) better training and placement programs for farm labor (and perhaps subsidies to make farm work more competitive with industry); (5) a low-interest revolving loan fund to assist in farm improvements; (6) lower taxes on farm buildings as well as land; (7) negotiating lower insurance costs; and (8) educational loans or grants-in-aid for students planning to be farmers.

Most of those eight measures are directed toward solving the special problems of Connecticut, which is prosperous, thickly peopled, and in immediate danger of losing all its farmland, besides most of its open space. In northern New England the state governments have less money that can be devoted to loans and subsidies. The remaining farms there are different, with fewer plowed fields, except in the Aroostook and the Lake Champlain Valley, and more of the land is in pasture. The immediate problem, the one that demands thought and subsidies, is how to keep the pastures open.

My friend the novelist Wallace Stegner, who lives on the West Coast but owns many northern Vermont acres, has some lively comments. "The horrid fact about New Hampshire," he says, "is that too many city people loved it too much, and hence bought chunks of it, and having no skill or time for farming, pronounced *famine*, they let it grow up to weeds and chokecherry and spruces and tough little cedars. In Vermont things haven't gone as far as in New Hampshire (I'm totally ignorant of Massachusetts and Connecticut), but they're going.

"We have discussed, in Greensboro, some alternatives: reforesting, which produces a fourth-rate wilderness"—[but not always, as I maintain in a forthcoming article for *Country Journal*] "cooperative mowing and plowing, which is hard to do in the face of Vermont individualism and recalcitrance; and hippy occupation, which takes care of a garden plot and not much more. No city feller can afford, by himself, the machinery it takes to keep a farm's hayfields and pastures open. He has to *be* there to do it with stock, because cattle and sheep won't eat maple seedlings and ash seedlings and so on after they're a year or two old, and neither will they eat ferns and junk and weeds after the first few weeks of the growing season. Result: leave stock out of a pasture or a woodlot for a year or two and there's no recovery—you have to plow or poison, and start over.

"My guess is that an association or cooperative of people determined to keep the pastoral (as opposed to the wilderness or the subdivided) character of New England would get substantial support—clutches of tractors and machinery here and there, clutches of hired hands who would plow up, harrow, disk, etc., and keep open those farms that have ceased to be farmed, and fallen into the hands of professors from Princeton, the Mafia, California speculators, Florida speculators, and local peasants determined to make a pile subdividing. Once the farms are opened, they can be kept open with grazing, as you suggest—either sheep or cattle, if they're managed right, and rotated among the fields properly, will do it."

I like Stegner's idea of landowners' cooperatives; the situation is desperate, and volunteer action would help immensely. But my own guess is that the cooperatives, if they were to thrive, would need state aid and encouragement, perhaps in the form of subsidies for reclaiming pastures. State road crews might be made available for mowing and brush cutting (of course at a fee to the landowner). Controlled burning is another suggestion. It is a very old practice in the Maine blueberry barrens, but elsewhere in New England it has never been widely adopted, I suppose for fear that the fires might spread. Why not have pasture fires that are supervised by the local fire department? Again there is the great question of fencing, which is indispensable on grazing land, but is also expensive. In some areas the old stone fences might be mended once again; they would still make good neighbors. For areas where they were never built, or would cost too much to repair with high-priced labor, might it be possible to invent or adapt some cheap form of portable fencing? I think about those miles of snow fencing that highway departments keep in storage: might they be rented out during the summer?

Then I remember England, where I saw sheep farmers driving from one pasture to another with truckloads of fence panels, which apparently they had made for themselves out of crossed saplings.

Those suggestions are made from the depths of my inexperience, and I hope that the various agricultural colleges will set themselves to finding better answers. Meanwhile I might quote again from Stegner's letter. "I have a friend," he says, "whom perhaps you know—Frol Rainey of the U. of Pennsylvania Archaeological Museum—who has installed forty or fifty sheep on his Greensboro farm, and hired a retired farmer to live in the farmhouse and look after them." I do know Professor Rainey and know his farm as well; it is a fairly level hilltop and, until the milking herd had to be sold off, it was said to be the highest dairy farm in Vermont. Stegner continues, "It's not a paying proposition as yet, but there's substantial federal support, and with more acreage and a bigger flock, he might make it go." I hope he makes it go, and if he needs more acreage, he can probably rent it at a reasonable figure—not buy it—from neighbors eager to have their pastures kept open. With the present high cost of acreage, fairly large-scale farming on leased land has become a possible development in New England.

For the farmer such a practice has two obvious advantages: it enables him to broaden out his operation, and it greatly reduces his capital investment. For the landowner, leasing his land to an active farmer also has advantages (beyond such payments as he might receive, which would not and should not be large). It would maintain the value of his land and the attractiveness of the neighborhood. In states with laws like Connecticut's Public Act 490—New Hampshire has recently adopted a similar measure—it would permit him to apply for a lower tax assessment on his property.

When I gloom about the situation on walks through abandoned fields, it seems to me that the practice of leasing land for agriculture might be vastly extended. Associations of landowners—Wallace Stegner's suggestion—would have more acreage to offer than individuals. And what about the land trusts that are becoming more numerous in southern New England, to meet the threat that a whole town will be built or paved over? One such trust is active in Sherman. So far it has acquired only forest and scrub and swampland, but isn't cultivated farmland even more precious to the community? Some of the trusts have talked about venturing into this new field. Nature Conservancy, which I think is the only trust that operates on a national scale, has been offered about 1,800 acres of Connecticut land in Bridgewater and New Milford. George D. Pratt, Jr., who made the princely offer, is a lifelong conservationist who attached a condition to the gift. There are three farms on the land, and Pratt wants to have them kept in operation. So far Nature Conservancy has had no experience in farm management. Two of the farms are rented and hence present no serious problem, but the third, in New Milford, is the richest and most productive dairy farm in the neighborhood. Fortunately Pratt's experienced farm manager, Peter Petersen, has agreed to go along with the deal and to train a successor before he retires.

Land trusts that will operate or lease out farms are only one of many possibilities. What about the broad tracts of New England that are owned by the states or by the federal government? Most of this land is utterly unsuited to agriculture and should be kept as wilderness or devoted to tree crops or recreation, but there are areas of richer soil whose use might be reconsidered. I think of interstate highways with their habit of seizing more land—often in fertile valleys—than is conceivably needed by present or future traffic. Some of the surplus land is mowed once a year by the road crews. Couldn't it be grazed or plowed by farmers, at no public expense, so long as nothing was built on it? Also I think of the Saratoga Battlefield across the Hudson, an expanse of 2,432 acres most of which used to be farmland. It is a handsome park only part of which is visited by the public; the rest is woodland or meadows that are mowed—again once a year—by the National Park Service. If they were grazed instead, the magnificent view over the Hudson Valley would be preserved and the land would look more as it did when Johnny Burgoyne surrendered.

Returning to the private sector, what about ski resorts, a subject on which my ignorance is abysmal? I know, however, that trails and slopes have to be kept free of brush, and I presume that much of the work is done with defoliants such as the Army used in Vietnam. Sheep, however, are the ancient and still the best mowing machines for steep slopes. Mightn't sheep growers add to their incomes by contracting to do a sprout-removal job for resort operators? There are problems involved, but I should guess that most of these will be solved after we have lost most of our grazing land and after the rest of it becomes more precious to the region and the hungry world.

In the case of highly productive land in immediate danger of being taken over by jerry builders, some public agency—state, county, or town—might buy the land to keep it from going out of production. That bold step was first considered by Suffolk County, at the eastern end of Long Island. There the situation is deteriorating. Suffolk has been a very rich agricultural county, famous for potatoes, ducklings, and cauliflower, but its farmland is rapidly disappearing under suburban developments; very soon it will have vanished. Apparently Suffolk farmers have not made use of the New York law that permits the creation of agricultural reserves. The law offers many advantages, but not enough of them, in this case, to counterbalance the glittering offers of real-estate speculators.

Two years ago John V. N. Klein, the County Executive, came up with the proposal that Suffolk should float a bond issue big enough to pay for half its remaining agricultural land—that would be 30,000 acres—and then lease back the acres to operating farmers. The proposal was beautifully simple, and it attracted inquiries from twelve states that thought of adopting it. In New England it would be justified only in the case of highly productive acres—truck farms, for example, or the shade-grown-tobacco fields of the Hartford Basin, important to the economy of the state, but now being built over. Even in rich Suffolk County, it involved more money than the county legislature thought it could raise; the proposal had to be scaled down. In a later form it undertakes, as a beginning, to preserve 12,000 acres of agricultural land. Some of the acres would be bought outright, as in the original scheme, and leased back to farmers. More of them, however, would not change ownership; the county would simply buy "development rights" to keep them from being built upon or subdivided. Meanwhile the price of Suffolk land has continued to rise. Even development rights would now cost more than Klein's earlier figure of $45 million, a sum that the county legislature was willing to make available. Last spring he had to request an additional $15 million, with the request still pending.

The purchase of development rights by a public agency—if the rights are worth money and the agency can pay for them—is clearly of advantage to farmers who want to stay in business. It gives them fresh capital that can be used for stocking and improving the land. It reduces their tax assessments in states where they haven't the benefit of a law like Connecticut's Public Act 490. When a farmer dies, the Feds can't appraise his land at its development value, which has ceased to be part of his estate. His heirs have a smaller inheritance tax to pay and, if they wish, they can still be farmers.

Those are a few of the measures by which New England farms might be kept in operation, while waiting for an agricultural revival that is likely to come, but might otherwise come too late. Some of the measures had better be adopted promptly, if our region is not to become a wilderness hatched and spangled with housing developments. So far we have been waging a purely defensive struggle against the panzer divisions of invading bulldozers. We win victories here and there, but we are certain to lose the war unless we can assemble other forces, including an agricultural interest strong enough to undertake a counter-offensive against the spoilers.

THE MAINTENANCE OF OUR MILITARY STRENGTH

Mr. THURMOND. Mr. President, public note should be taken of the fact that Secretary of State Henry Kissinger made a strong statement recently in behalf of maintaining our military strength.

This statement was made at the annual American Legion convention in Miami Beach, Fla., and was the subject of an editorial comment in the August 24, 1974, issue of the Charleston, S.C., News and Courier newspaper. As a renowned arbitrator of military disputes and a man who has faced the hard bargaining of Communist rulers, Secretary Kissinger understands well the significance of military strength.

Of particular interest was Secretary Kissinger's comments that we must keep our conventional forces as well as our nuclear forces at a high level of strength. This means providing the infantrymen with tanks, armored personnel carriers, antitank weapons, attack helicopters, and other armaments which would be used in conventional conflicts.

He noted that challenges at the conventional level might well be more difficult to counteract than those in the strategic realm. This is a point which Secretary of Defense James Schlesinger has also found necessary to make in recent public pronouncements.

Mr. President, I ask unanimous consent that the Charleston newspaper article entitled, "Maintaining Military Muscle" be printed in the Record at the conclusion of my remarks.

[From the Charleston (S.C.) News and Courier, Aug. 24, 1974]

Maintaining Military Muscle

When Secretary of State Kissinger urged earlier this week that the U.S. keep militarily strong, he was addressing American Legion conventioneers, but he also may have intended his remarks for the Senate, where attempts were being made to chop $1 billion from the Pentagon budget. Whether Mr. Kissinger's speech had a double purpose or not, what he said re-emphasized a line of thinking that many brush aside in this age of nuclear weapons.

In an area of rough strategic balance, Secretary Kissinger said, the threat of an all-out nuclear war becomes less believable. Attack and retaliation capabilities are such that the risks in nuclear warfare have an inhibiting effect. "Thus," Mr. Kissinger said, "challenges at the conventional level may become more difficult to prevent . . . our conventional forces must therefore be strong. They keep the nuclear threshold high by helping to contain, discourage or altogether prevent hostilities."

Military might sufficient to deter aggression by conventional means therefore strengthens the American diplomatic hand. If nuclear war is unthinkable and a conventional war appears unwinnable, the remaining alternative is negotiation. When adequate military muscle can reduce tensions and convince would-be aggressors that the conference table is the only place to profitably settle differences, two great arguments are made for maintaining armed forces with first-rate capabilities.

While presenting a case for a strong defense, Secretary Kissinger also gave assurance that the U.S. has departed from one track of a foreign policy course set about 25 years ago. Referring to recent fighting on Cyprus, Mr. Kissinger said the U.S. could not be the world's policeman, but will use its influence for conciliation and peace. That should make happy those who have argued that the policeman's role long has been too costly and too thankless.

SIKKIM THREATENED WITH ANNEXATION

Mr. PELL. Mr. President, India, a nation of more than 600 million people, is attempting to assert total control over Sikkim, a tiny nation of only 200,000 people.

Regrettably, this is not the first time that India has employed coercion and military force to achieve political ends. Twice before, in the case of Goa and in its conflict with Pakistan, India has used military force in an effort to expand its boundaries and to alter the map of South Asia. Indeed, I can think of no other nation since World War II that can match the Indian Government's record of forceful expansion of its boundaries. It was last year that India dispatched troops to Sikkim, presumably to maintain order, and now India has announced its intention to virtually swallow Sikkim through the questionable unilateral action of amending its constitution.

In a poignant public address, the formal leader of Sikkim, Chogyal Palden Tondub Namgyal, has revealed to the world the plight of the people of Sikkim. Sikkim's unique status, under which it has enjoyed considerable autonomy and independence while retaining close ties with India, is being fundamentally threatened.

I earnestly hope that India will reconsider its policy, and will refrain from dictating to Sikkim such a fundamental change in its political status. Only by adhering to the international principle of self-determination, and thus allowing the people of Sikkim to decide their own fate, can India contribute to a just and legitimate solution to the political future of Sikkim.

In the New York Times of September 2, 1974, there appeared a valuable and perceptive analysis of the current situation in Sikkim. I ask unanimous consent that the article, entitled "Sikkim Leader Says India Illegally Seeks Absorption," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Sikkim Leader Says India Illegally Seeks Absorption

(By Bernard Weinraub)

New Delhi, September 1.—Prime Minister Indira Gandhi's decision to place Sikkim under Indian sovereignty has unleased angry attacks on the Indian Government.

In a message released today the Chogyal, or titular ruler, Palden Thondub Namgyal, told Mrs. Gandhi that assurances of Sikkim's separate identity, guaranteed under a 1950 treaty, were being "negated by current hasty moves in the Indian Parliament for Sikkim's representation without the genuine consent and knowledge of the Sikkimese people."

He said that the present steps "will amount to unilateral abrogation of the 1950 treaty and integration of Sikkim into India."

Meanwhile, The Statesman, an English-language daily published in New Delhi and Calcutta, commented: "Few in this country can really believe that what India needs most urgently at the moment is control over more territory and people."

"SORRY PROGRESSION"

Another newspaper, The Hindustan Times of New Delhi, said acidly: "Only the most blind or cynical will derive any satisfaction over the sorry progression of the Indian presence in Sikkim from that of friend to master.

"The crusading zeal and decisiveness that the Government displays over Sikkim has not been available for tackling the more urgent problems and mounting crises at home. Perhaps there is no need for the common man to ask for bread. He's getting Sikkim."

The Government decided, last week that Sikkim, a small Himalayan protectorate of India's would have the status of "an associate state," enabling it to have representation in the Indian Parliament. The Government insists that the move was at the behest of the Sikkim Assembly for "fuller participation of Sikkim in the economic and social institutions of India," and would not erode the special personality of Sikkim.

But politicians, many supporting the Government, and newspapers this weekend viewed the move as placing Sikkim firmly within India as a virtual 22nd state. Before the current move, India was responsible for the protectorate's foreign relations and defense, and kept an eye on domestic matters as well.

Sikkim, with a population of 200,000, has served as a buffer between Chinese-controlled Tibet and the Indian border. Within the last year, the Chogyal has been stripped of his powers by India and is now a figurehead.

His wife, the former Hope Cooke, a 1962 graduate of Sarah Lawrence College, has been living in New York.

Officials here are puzzled why Mrs. Gandhi decided to press for a constitutional amendment that would further link Sikkim to India. Some Indian political sources maintain that the Chogyal, who is a Buddhist with ethnic links to Tibet, has been carrying on secret talks with China to try to assure Sikkim's independent status, thus alarming India.

DRAWS ANGRY ATTACKS

Others say that the ethnic Nepali Hindu majority in Sikkim stirred Indian fears that the populace would some day seek to merge with nearby Nepal.

Sikkim will probably not resemble an actual Indian state, but there will probably be a modicum of separate and distinct identity.

In any event, the Government's move to place Sikkim firmly within the Indian orbit has stirred angry attacks by critics who claim that tensions with China will increase, that India will gain international enmity and that surrounding countries such as Nepal, Bhutan and even Bangladesh will further resent India's dominance on the subcontinent.

Moreover, there was anger that the Government was rushing with only one day of debate, in an effort to reduce controversy about the measure.

So far, numerous parties—ranging from the right-wing Jan Sangh to the Communist—are supporting the Government on Sikkim. A handful of Opposition figures, however, as well as the press have been caustic.

Last year Sikkim's Nepalis rebelled against the Chogyal, charging corruption, election-rigging and nepotism. New Delhi persuaded the Chogyal to hand over the administration to an Indian official. The Chogyal also agreed to allow a free election to the Legislative Assembly. His supporters were routed and the way was opened for India to cement her grip on Sikkim.

THE CANCER CIRCUIT RIDERS

Mr. SPARKMAN. Mr. President, there appeared in a recent issue of Parade magazine a very interesting article entitled "The Cancer Circuit Riders." It is a story of a tremendous undertaking and successful execution of a well-organized program against the ravages of cancer by the University of Alabama Medical Center in Birmingham. I believe it is an encouraging story that should be told far and wide.

I ask unanimous consent that this article be printed as a part of my remarks in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Cancer Circuit Riders

(By Theodore Irwin)

Birmingham, Ala.—Medical "circuit riders" fanning out from here to other cities and towns in the state are helping to salvage lives of thousands afflicted with cancer.

In an aggressive drive to alert private physicians to the latest research advances in treatment, the University of Alabama Medical Center has been sending out specially trained doctors, nurses and technicians as missionaries, in effect. They come from a new regional Treatment Demonstration Unit, one of seven scattered through the nation as part of the National Cancer Institute's cancer control program.

Behind the campaign is the realization that too many unnecessary deaths from cancer occur each year from outdated treatment. "We sell optimism, urgency and the latest treatment," says Dr. John R. Durant, director of the university's Cancer Research and Training Center. "The time has come for the end of pessimism, procrastination and painkillers. The greatest detriment to treatment of a cancer patient is a physician's attitude of despair. If he thinks nothing can be done, he sends the patient home to die. But even if the patient is going to die, the quality of survival is very important."

Other cancer specialists tend to agree that many physicians—GP's, internists, pediatricians, gynecologists and surgeons—haven't kept up with new treatment techniques. Some resist using chemotherapy (drugs) because of past reports of severe side effects and little benefit. Certain older doctors still rely on what they learned in medical school decades ago.

The average M.D., points out Dr. Sidney Arje of the American Cancer Society, is not equipped to cope with the full therapeutic approach. Too often the doctor starts treatment and then, when the patient deteriorates, he is referred—too late—to a cancer center.

Studies reveal that only a low percentage of our population, particularly in small towns and cities, receive proper treatment for cancer.

There was, for example, a case cited by Dr. Durant of a woman whose breast cancer spread to other parts of her body so that she lost the use of her legs and arms. The patient never received chemotherapy—the doctor had just "watched her."

In one city of 65,000 a physician gave a patient too much radiation, resulting in a destroyed lung. In Gadsen (pop. 54,000) a doctor who took X-rays of a man saw spots on a lung but thought it was a viral infection or tuberculosis. It turned out to be cancer. In another town a surgeon wasn't aware that in breast cancer he doesn't always have to do a radical mastectomy (total removal of a breast).

THE PURPOSE

It's to prevent and correct these and other grave misjudgments that Treatment Demonstration units like Birmingham's have been created.

Knowledge is "delivered" by visits—a kind of road show—to groups of doctors and hospital staffs in other Alabama cities as well as through seminars, lectures and tumor clinics. At local meetings, doctors present their problem cases for guidance. Within the past year, the Birmingham cancer experts have made 20 road-show trips, making contact with more than 400 licensed physicians.

Besides Dr. Durant, 32-year-old oncologist (cancer specialist) Dr. John R. Carpenter, director of the Prototype Chemotherapy Network, goes out on the circuit-riding trips, providing information about new drugs and where to get them.

Connie Henke, an attractive, sandy-haired nurse who is a clinical specialist in oncology, takes along the new drugs and shows nurses and doctors how to use them. Miss Henke is one of four missionary RN's, and the Birmingham unit expects to have 10 before long.

DR. ROTH'S TASK FORCE

Another important element of the task force is a Radiation Therapy Network, headed by Dr. Robert Roth. The idea is to help doctors, radiologists, and technicians learn the right exposure to radiation and to see that a community cobalt machine is adjusted correctly.

Driving a van that's a motor home converted into a testing lab, radiation technologist John Killough has traveled some 25,000 miles, on 153 trips to hospitals. When special treatment problems arise, Dr. Roth or a staff radiation physicist accompanies Killough.

Although the cancer circuit riders go only where they're invited, there's more demand for them then can be met. "Doctors out there on the firing line," says Dr. Durant, "are really hungry for information."

When a demonstration was scheduled, for instance, in Decatur (pop. 38,000), 50 doctors in the area showed up. For two-day formal presentations by Dr. Durant at the university's center, as many as 100 physicians pour in.

PROGRAM STRONGPOINTS

Of the various types of cancer, Birmingham's outreach program began by concentrating on blood malignancies—childhood leukemia, Hodgkins disease, five other cancers of the lymph system—and most recently, breast cancer. The blood-type cancers were chosen because recent dramatic advances in therapy have greatly improved survival chances for these patients and because they are difficult to treat without knowledge of the latest information.

Among the more than 50 new anti-cancer drugs investigated and approved in the past decade, nine have been found acceptable for leukemia (plus radiation), five or more for Hodgkins and other lymph cancers, as many as six for breast cancer. Cancers of the colon-rectum, lung, pancreas and some other sites have generally not responded effectively to medication. Where drugs can be useful, alone or in combinations, they must be given at the right time, the dosage adjusted to the patient's condition. That's where Birmingham's chemotherapy demonstrators do their job.

Linked to the show-and-tell program is the University Cancer Center's back-up services for consultation. The objective: whenever feasible, a cancer patient is to be treated in his home town, by his own doctor, in cooperation with the center's oncologists.

Doctors participating in the drug and radiation networks utilize MIST (Medical Information System via Telephone), a kind of hot line. When a local doctor believes a patient has cancer, he calls the center over a toll-free line. A center oncologist sends him a plan for drug and/or radiation treatment, details for evaluating the patient's condition, and other instructions. Nurse Connie Henke may see the patient and doctor, fetching needed drugs.

A good many of the doctors taking advantage of the MIST system have been reeducated through the roadshow demonstrations. And case after case reported by oncologists indicated that people have definitely benefited.

Last fall, for example, Dr. Durant and a radiologist visited Sylacauga (pop. 12,255) to tell area doctors what can be done for Hodgkins and other lymph disease. Then, in December a 54-year-old salesman was found, through a biopsy, to have a large tumor in his abdomen. Right after the patient emerged from the operating room, his physician, Dr. James Wright, phoned Dr. Durant, who arranged for the salesman to be brought to Birmingham's Cancer Center. Following treatment with radiation and drugs, the patient was sent back to Sylacauga for Dr. Wright to continue the therapy. By January the salesman had returned to work, still under Dr. Wright's supervision.

In Tuscaloosa, Dr. Durant recently gave a talk before 15 physicians on the value of adriamycin, a new drug for cancer of connective tissue. A doctor in the audience happened to have a woman patient with this type of malignancy, but he didn't know how to cope with it. As a result of the demonstration, the woman, with a liver full of tumor, was treated with adriamycin plus DTIC, another drug, and blood transfusions. Her liver is now back to normal.

In such cases, oncologists usually avoid the word "cure." With cancer, it's "remission," "partial remission" or "total remission." Realistically, normal life expectancy becomes a possibility.

RESULTS DO SHOW

"At the very least, modern treatment can improve the quality and quantity of survival for those not cured," points out Dr. Diane P. Fink, director of the Cancer Control Division of the National Cancer Institute.

Largely due to research and cancer control projects, survival rates for some types of the disease have been steadily rising. With childhood leukemia, which used to be invariably fatal within a year of onset, about one-fourth of those afflicted can now expect to live free of symptoms at least five years. At certain cancer centers, as many as half of these patients survive five years or more. In Hodgkins, Dr. Durant maintains that seven out of 10 patients at Birmingham's center return to good health, though he can't say for how long.

As viewed by Dr. Charles G. Zubrod of the National Cancer Institute, "Chemotherapy is now clearly responsible for producing normal life expectancy in at least 10 types of widespread cancer." Besides leukemia and Hodgkins, these include cancers of the muscles, bone, skin and kidney.

Dr. Durant believes that about 15 percent of cancer patients in the country are dying needlessly or prematurely. In Alabama alone, he maintains that treatment demonstrations could save 1500 lives each year—and this state is sparsely populated.

In addition to the Birmingham project, similar demonstration programs have been launched simultaneously in Los Angeles, Denver, Cincinnati, Hanover, N.H., and two in New York City. These including Birmingham's, are reaching out to some 120 hospitals.

Recently the National Cancer Institute has also established 14 demonstration networks for breast cancer and five networks for head-and-neck cancer. As times goes on, new knowledge permitting, other types will be added.

Meanwhile, most cancer cases continue to be handled by community private physicians. As the medical circuit riders reach them with their message—that cancer is not always a dirty word—patients and their families, too, will find many of their fears allayed by brightening hope.

(People in need of treatment who want to know about the nearest Cancer Center in their area can write to: Cancer, Bldg. 31, Room 10A23, National Cancer Institute, Bethesda Md. 20014.)

OUR NEW PRESIDENT

Mr. THURMOND. Mr. President, after the brief Senate recess we returned to our duties here in the Senate with a new President at the helm.

Speaking with my constituents and others in the Nation I find they are impresed with the style and openness of President Gerald R. Ford.

He has brought to our Nation just the right type of leadership after the long nightmare of Watergate. As has been stated by others, he is the right man at the right time.

It is my hope the Congress will give him the support he needs to set the country on a firm course. He has correctly assessed our No. 1 problem as inflation but if he is to succed in dealing with it wide public and Congressional cooperation will be required. In that regard, I pledge to him my efforts to help reduce Federal spending and bring about a more businesslike management of the public's resources by the public money managers in Washington.

To accomplish these goals President Ford will need strong support. An editorial calling for such support appeared in the August 21 issue of the Aiken Standard, Aiken, S.C. I ask unanimous consent that this editorial entitled, "Ford Needs Full Support" be printed in the RECORD at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

FORD NEEDS FULL SUPPORT

When Gerald Ford stepped into the Oval office as the 38th President of the United States he undoubtedly felt many emotions. In the modern day context his rise to office is indeed a log cabin to White House story.

Starting as an adopted child, he progressed steadily through many walks of life with an unwavering sense of purpose, hard work, integrity and a fine appreciation of American institutions.

His purpose and will should stand Mr. Ford in good stead as he takes the bridge of the ship of state. So will his depth of experience in government—25 years in the House of Representatives and 10 months as vice president have given him a deep understanding of the workings of Congress and the White House. A lawyer by profession he also has a fine appreciation of the judiciary branch.

Mr. Ford's unique qualifications, his steadiness and his friendships in Congress—indeed his low-key approach—are comforting in view of the trying times that lie ahead as the United States dresses its wounds and seeks to recover some of the time lost by the distraction of Watergate.

By the same token, Americans should recognize that Mr. Ford is not Merlin the magician. Our national problems are deep-seated. They are massive in size and not susceptible to any easy or magical cure.

We believe, however, that as Americans enter the post-Watergate era, they can begin to assess the issues with the conviction that morality in the executive branch will not be a problem. At the outset was can we address ourselves with undivided attention to world peace, inflation, the energy crisis, pollution and the spectrum of other problems. Mr. Ford begins his term of office with the knowledge that 479 of the 535 members of Congress voted for his confirmation and the fact that an overwhelming majority of voters in 1972 cast their ballots for the conservative philosophy that he represents.

Nevertheless, the new chief executive still will need the full understanding and cooperation of the American people as well as Congress. We must accept at face value his assertion that he will serve the nation first and think of his political future second.

The dynamism of the American Constitution has brought Mr. Ford to the highest office in the land and the most powerful position of leadership in the world. The constitutional process should continue to quiet the raging national waters in the critical days ahead.

NEED FOR PEACE IN CYPRUS

Mr. ROBERT C. BYRD. Mr. President, in behalf of the congregation of St. John Greek Orthodox Church in Charleston, W. Va., I ask that the following letter be printed in the Record to express their prayer for peace and freedom in Cyprus.

There being no objection, the letter was ordered to be printed in the Record, as follows:

August 22, 1974.

Hon. Senators and Congressmen of the
State of West Virginia.

Honorable Gentlemen: We, the Congregation of St. John Greek Orthodox Church in Charleston, West Virginia, are proud of the fact that we were born and reared in America, the blessed land of prosperity, Democracy and human equality. We are also proud of the fact that our ancestors reached the shores of this land, coming from Greece and from Cyprus where the dignity of man and Democracy were proclaimed three thousand years ago.

Whereas we were reared under the influence of these two backgrounds as proud Americans of Greek decent, we now find out and proclaim the following:

That Liberty, Democracy and the pursuit of Happiness are taken away from the freedom loving people of Cyprus.

That an Alien power, Turkey, has invaded the island and conspired to bring this about.

That our government in Washington and the other great powers of the free world have not as yet used their forceful influence to restore the freedom of the Cypriot people.

That in the mean time unbelievable atrocities that remind dark ages, killings, rapes, bombings, and other brutalities are committed by the Turkish soldiers in violation of all human rights.

That in Greece, itself a strong indignation is arousing against our country and the fact that we have left Cyprus all alone.

That Greece is ready to go to war in order to defend the Freedom of Cyprus as all peaceful means of achieving this have been exhausted,

We urge you, our elected representatives, to bring before the Congress of our land this mesage and ask them to put and exert all their influence on our government for peace and Freedom in Cyprus.

We join together with the other five million Americans of Greek descent in a voice of protest, for what is going on in Cyprus.

We have elected you to represent us and all we are asking from you is to do Just that!

We ask you to do your duty, as Americans and free people. Save Cyprus. Save peace.

Sincerely yours,
Fr. Terry Linos and the Charleston
Committee for Justice in Cyprus.

SENATOR RANDOLPH AGAIN STRESSES NEED FOR AFFIRMATIVE ACTION TO COMBAT RUINOUS INFLATION—CONFERS WITH MAJORITY LEADER

Mr. RANDOLPH. Mr. President, this morning it was my privilege to confer with our distinguished majority leader, Mike Mansfield, concerning the critical economic problems confronting the Nation and the urgent need for affirmative solutions by the Congress and the executive branch.

Senator Mansfield is to be commended for publicly warning of the prospects for a serious recession and comparing present conditions to the 1930s. I agree with his assessment and made similar comment in the Senate on August 22.

It is absolutely essential that we move and move at once on all fronts to curb the ruinous inflationary conditions which are having a disastrous impact on our citizens. As I warned last February and a few days ago, only dramatic and drastic programs will lead to solutions to the grave problems of our economy—action is needed now.

Mr. President, I am deeply disturbed by news reports that the President's Executive Director of the so-called Economic Summit Conference has discounted the possibility of major actions this year and firmly indicated that no large scale antiinflationary programs will be undertaken until the start of 1975.

AMBASSADOR McGHEE LOOKS AT WELFARE

Mr. MATHIAS. Mr. President, I have recently read a most perceptive article on the issue of welfare reform written by George C. McGhee, former American Ambassador to West Germany, an official of the National Urban Coalition and currently president of the Federal City Council. "A New Look at Welfare" in the Saturday Review, pleads the case of the need to reform welfare rather than to eliminate it—a reform which would permit us "to take deep satisfaction in being citizens of a country that is compassionately concerned for its people." Because I feel this is of such a timely nature, I ask unanimous consent that Ambassador McGhee's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A New Look at Welfare

To most Americans *welfare* is a dirty word. It connotes wangling and weaseling for public dollars. It has been made to seem that our welfare system is somehow at odds with the national character. This attitude unquestionably reflects the American tradition—in most respects a sound one—that people should look after themselves. We tend, however, to take a stereotyped view of welfare as a system in which lazy loafers who refuse to work are supported by those who do. Naturally, everyone dislikes paying hard-earned money for taxes that maintain spurious projects.

Europeans, from the time of Bismarck in the mid-nineteenth century, have accepted the ultimate responsibility of the State for the well-being of its people. Americans, I believe, see the magnitude and complexity of the welfare problem, but many tend to look at welfare astigmatically, distortedly—from one side only.

Like everyone else, I naturally oppose giving welfare to those who don't need it and to those who refuse to work. With 25 million Americans living below the official "poverty level," and unemployment at 5.2 percent in January and going up—it is not surprising that at last report, 14,700,000 Americans were receiving $1,782,000,000 a month in welfare. Of those, however, 73 percent comprised the aged, the infirm, and dependent children. But I also question severely the easy assumption that many able-bodied people prefer idleness to work. A few years ago this question was investigated thoroughly by a blue-ribbon Commission on Income Maintenance Programs, chaired by a hard-headed Chicago industrialist, Ben Heineman. The Heineman panel concluded that people do work if the opportunity is available. Apart from the few unfortunate misfits of modern society, when able-bodied people are not working, the reason is usually that they cannot find a job.

Cheating is reprehensible, particularly when its done with public money. However, there is, I believe, a tendency to magnify cheating on welfare. Even though businessmen occasionally cheat on taxes, no one is advocating abolition of the free-enterprise system. Let's eliminate the cheating—but not welfare.

I would like, therefore, to propose another way of looking at welfare. As we seek to improve it, why can't we view it with pride as we would our local United Givers Fund or any other community undertaking that enlists our social zeal? Why don't we think in terms of the indispensable role welfare plays in helping the elderly couple around the corner who have lost their pension through no fault of their own or the mother whose husband has died and who has children to support? Why do we always have to look at it in terms of cheaters? Why can't we take deep satisfaction in being citizens of a country that is compassionately concerned for its people?

Certainly, we must tighten up the regulations. At the same time, however, we must devise a better way than now exists for helping those who *need* help. Setting national standards for welfare levels and for competence in administration is one example. Providing aid to the working poor is another, and it is long overdue. Many who work a full week just don't earn enough to support their families.

It is to President Nixon's credit that early in his administration he launched a far-reaching welfare-reform program called the Family Assistance Plan. The Committee for Economic Development, a top-level business group strongly supported the program. The plan provided a $2400 minimum for a family of four, a figure which at that time was exceeded only in the wealthy states. The plan also provided for aid to the working poor. The program passed the House but was defeated by deep-seated opposition in the Senate Banking and Currency Committee. Why? Partly over disagreement on the legitimate issue of work incentives but also because the plan suffered for want of sustained White House interest. One can only hope that the recent introduction of the Federal Supplemental Security Income Program for establishing an income floor for the aged and disabled presages a new interest in welfare by the administration.

Like national defense, welfare should be a matter beyond party. Politics and human suffering don't go together. Welfare is not the beginning but the end of efforts to better the lot of our citizens. We must start with full-employment efforts, an adequate minimum wage, unemployment and health insurance, and social security—which are not gifts but come largely from contributions by employers and employees.

At the same time, let's also decide as a nation that we intend to do the right thing by those who—after all these assists—still need help. And let's decide that in extending such help, we will be generous and will not wince if it's called *welfare*.

DISPOSAL OF CHEMICAL MUNITIONS

Mr. McINTYRE. Mr. President, the Department of the Army has notified the Senate, by letter dated July 30, 1974, of its plans for disposal of a portion of the deterrent stockpile of chemical agents and munitions stored at the Rocky Mountain Arsenal, Colo.

I will continue to report significant events involving the chemical and biological warfare programs which are under the purview of the Armed Services Committee.

Since this is a subject of general interest, I ask unanimous consent to have a copy of that letter printed in the Record at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Secretary of the Army,
Washington, July 30, 1974.

Hon. Gerald R. Ford,
President of the Senate,
Washington, D.C.

Dear Mr. President: In October 1973, I advised the members of Congress that determination had been made that the portion of the U.S. National deterrent stockpile of chemical agents and munitions stored at Rocky Mountain Arsenal, Colorado, need no longer be retained. These stocks include agent GB stored in underground tanks, one-ton containers, bombs and missile warheads.

This determination provided authority for preparation of detailed disposal plans for on-site demilitarization/detoxification of munitions and agent GB and the eventual elimination of the possible risk associated with the storage of this materiel in close proximity to as populated an area as Denver. It is planned to accomplish the disposal of these stocks concurrently with the on-going disposal of obsolete M34 GB filled clusters at Rocky Mountain Arsenal. You were advised of the initiation of the M34 disposal program on 26 September 1973.

In developing disposal plans for the deterrent stocks, the initial segment selected for disposal is 189 tons of agent GB contained in five underground storage tanks which will be neutralized in the same facilities and under the same stringent controls afforded the agent currently being drained from the obsolete clusters. Operations will consist of draining the agent from the underground tanks, chemical detoxification, evaporation of water from the resultant agent-free salts, and storage of the dried salts in sealed drums at Rocky Mountain Arsenal. The ultimate disposition of these salts will be the subject of a separate action which will encompass all of the salts resulting from the agent GB disposal program. Existing emission control standards will continue to ensure that emissions will be within the existing standards established by the State of Colorado as well as Federal guidelines.

Secretary Schlesinger has requested that I notify you of this disposal action planned for initiation during September 1976. I am also notifying the Speaker of the House of Representatives of this action. You will be advised as plans are approved for disposal of the balance of the deterrence stocks at Rocky Mountain Arsenal.

The plan for disposal of 189 tons of agent GB has been reviewed by the Acting Surgeon General of the United States Public Health Service. Since the disposal of the deterrent stockpile at Rocky Mountain Arsenal is essentially an expansion of current operations, a Supplement to the environmental statement covering the M34 cluster disposal program has been filed with the President's Council on Environmental Quality. The Council has approved this action.

The Department of Defense is taking extensive precautions to protect the health and safety of the public and personnel who will be involved in this operation. It is also taking extraordinary precautions to assure that there will be no adverse effect on the environment.

Sincerely,

Howard H. Callaway.

THE SENATE SHOULD REMEMBER THE GENOCIDE CONVENTION'S IMPORTANCE

Mr. PROXMIRE. Mr. President, the Senate has returned to business today after a much needed Labor Day recess. It is fortunate that we have had this time to pause and collect our thoughts and energies, for we return to deal with a large volume of business. Several committees have recently reported or will soon report their recommendations on major legislation concerning tax reform, health care and insurance, and measures to deal with the Nation's economy. These are pressing issues which call upon the Senate to make critical decisions.

It is easy for us to be caught up in the issues of the moment, but it is vital that we consider without delay the Genocide Convention, which was favorably reported by the Foreign Relations Committee 3 years ago and has languished in the full Senate since then. In the narrow view of some it is not of the same immediacy as the fight against inflation, but no one who remembers the holocaust of the Second World War will doubt the tremendous significance of this treaty. President Harry Truman first submitted this treaty to the Senate some 25 years ago; it is inexcusable that we have not dealt with it in all this time.

By ratification of the Convention on the Prevention and Punishment of the Crime of Genocide, the Senate will formally and substantively make known its condemnation of this terrible crime. The Second World War presented us with this profound issue three decades ago, and it is still with us. Let us address the immediate issues of the moment. But let us not forget the fundamental issues of our generation. Mr. President, I urge the Senate to ratify this Convention before the end of this session.

PROCUREMENT REFORM PROGRESS: LATEST GAO MONITORING REPORT

Mr. CHILES. Mr. President, in December 1972, the Commission on Government Procurement completed a 2½-year study and submitted to the Congress and to the President a four-volume report with 149 recommendations. The main thrust of these recommendations is to replace the present patchwork and fragmented Federal procurement process with an integrated system for more effective policymaking, management, and control. I was privileged to be one of the 12 Members who served on the Commission which included three other Members of the Congress, the Comptroller General of the United States, and representatives of both the executive branch and private business. With his usual foresight, Congressman Chet Holifield, who served as Vice Chairman of the Commission, asked the General Accounting Office—GAO—to report periodically on the executive branch response to the 149 Commission recommendations.

GAO's just-released report shows that substantial progress has been made over that previously reported. Executive branch positions either have been established or are in process on more than three-fourths of the recommendations. Implementing actions on 25 of them have been initiated and are completed on four others.

The Congress, I am happy to say, has initiated legislative action on 33, or more than half of the Commission recommendations directed to Congress. One piece of legislation implements the Commission's first and key recommendation—the creation of an Office of Federal Procurement Policy—OFPP—to fill a void in executive branch leadership. That bill, S. 2510, has now been sent to the President for signature. The status of other legislation introduced is summarized in chapter 3 of the GAO report which I will include at the end of my statement.

I was pleased to see from the GAO report that the executive branch has accepted the eight recommendations the Commission considered next in importance to creation of the OFPP—to establish a modernized and unified statutory framework for all Government procurement. Senator Roth and I hope to introduce legislation shortly to implement these recommendations.

For all this progress, however, the Comptroller General observes in his report that much remains to be done and recommends that the executive branch place priorities on completing some of the more urgent reforms. I wholeheartedly agree. Such reforms include those which will set in motion the six basic functions in OFPP legislation just sent to the President—Commission recommendations A-10, A-11, A-15, A-16, A-22 through 26, and D-1. I note from the GAO report that executive branch positions have been established on only one of these recommendations, and no implementing actions have been completed.

For example, the status of recommendations to implement the national policy of reliance on the private sector is the same now as it was 6 months ago. The interagency task group responding to the recommendations, led by the Office of Management and Budget—OMB—has not yet developed a first draft of its position or even provided a target completion date. In view of the task group's inability to make substantial progress over the past 15 months in arriving at a position, GAO has recommended that OMB, first, reevaluate the task group effort and membership; second, insure that a positive program is being actively pursued; and third, reach agreement with the task group on a target completion date. I trust these recommendations will be heeded.

Another high priority executive branch reform is the General Services Administration—GSA—wholesale operation which competes with private enterprise. Each year GSA spends billions of dollars to satisfy Federal agency needs for commercial products but does not charge its Federal customers the full cost of supplying their needs. There is no way of presently determining whether such needs can be satisfied more economically by Federal agency use of existing commercial distribution systems. The Commission recommended that GSA-type wholesale operations continue only where they can be shown to be more cost effective than commercial systems. I note from the GAO report that the recent executive branch proposal on this recommendation deferred the submission of implementing actions until 6 months after a policy position is established. This means another 2- or 3-year delay on this important recommendation since legislation will be required to fully implement it. I believe that legislation on this matter should be considered early in the next session of Congress.

I will be in contact with OMB on behalf of our Subcommittee on Federal Procurement to urge more executive branch attention to these and other high priority procurement reforms which include as well—

A single governmentwide coordinated system of procurement regulations;

Timely private sector participation in the regulatory process;

Acquisition of professional services; and

Acquisition of major systems.

In addition to monitoring executive branch action on each of the 149 Commission recommendations as of July 1, 1974, GAO applied a test of responsiveness to 79 final or near-final executive branch actions. It found that action on 32 of the recommendations was either nonresponsive or only partially responsive because of, first, insufficient rationale for modifications or rejections; second, unsupported claims that recommendations were already being implemented; or third, inadequate implementation plans.

For example, GAO found the proposed executive branch action nonresponsive on 12 recommendations concerned with the acquisition of major systems. While the executive branch is proposing acceptance of these recommendations, its response included a series of negating reservations, restrictions, modifications, and qualifications and unsupported claims that they were already being implemented. I have had a recent exchange of correspondence with the Department of Defense—DOD—lead agency for the interagency study of these recommendations. The Department's current position is that it will develop implementation for these recommendations. Our subcommittee hopes to be able to work with the Senate Armed Services and Appropriations Committees through future hearings to consider legislation and executive branch implementation in this important area which involves such a large part of the annual defense budget.

To resolve the individual problem areas disclosed in the recent GAO report and to improve overall effectiveness of implementing actions, the Comptroller General directed a series of recommendations to the Director of OMB. The Legislative Reorganization Act of 1970 requires that a response be submitted by OMB to the House and Senate Committees on Appropriations and Government Operations within 60 days.

Each of the 42 problem areas, as well as the various degrees of executive branch responsiveness and the specific recommendations of the Comptroller General, are individually identified in chapter 5 of the GAO report. I ask unanimous consent that this chapter, together with chapter 3 and the Comptroller General's letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C.

Hon. CHET HOLIFIELD,
Chairman, Committee on Government Operations, House of Representatives.

DEAR MR. CHAIRMAN: In accordance with your request, we are continuing to monitor the executive branch response to the recommendations of the Commission on Government Procurement. This fourth in a series of reports summarizes as of July 1, 1974, (1) status of the 149 Commission recommendations (2) extent to which the recommendations have been accepted, modified or rejected, (3) implementing actions initiated and completed, and (4) executive branch responsiveness to the recommendations.

Executive branch progress has been significant in the past 6 months. Overall status of the 149 Commission recommendations is (1) executive branch positions established —40 recommendations, (2) proposed positions under consideration at executive branch level—83 recommendations, and (3) interagency task group efforts still in progress—26 recommendations. Of the 40 positions established to date, the executive branch has adopted 32, modified 5, and rejected 3 of the recommendations.

We evaluated the responsiveness of executive branch final or near-final actions on 79 of the Commission recommendations and found them to be partially responsive or nonresponsive in 32 instances because of:

Insufficient rationale for modifications.

Unsupported statements that the recommendations were already being implemented.

Inadequate implementation plans to accomplish recommendation objectives.

On the executive branch near-final actions, we recognize revision is still possible, and thus the degree of responsiveness shown in this report may change. Chapter 5 contains information on responsiveness and other individual problem areas, together with our recommendations for corrective measures.

The executive branch is now entering the crucial implementation phase. A number of problems are emerging, including question of responsiveness. The report contains recommendations to the Director, Office of Management and Budget, to insure:

Sufficient staff support to handle the implementation "bulge."

Establishment of relative priorities and completion dates for implementing actions.

Evaluation and approval of the effectiveness of proposed implementing actions.

Development of a legislative priority program for coordination with appropriate congressional committees.

At July 1, 1974, the executive branch had begun implementation action on 25 Commission recommendations and had completed implementation of 3 others. The Congress itself has initiated legislation on 33 other Commission recommendations. Legislation introduced by you and Senator Chiles to create an Office of Federal Procurement Policy is nearing enactment. Much remains to be done on other legislation.

As stated in our last report, we believe a coordinated legislative approach in the Congress will help immeasurably to expedite consideration of needed Government-wide legislation and enhance the likelihood of favorable action. The Senate has taken a major step in this direction with the establishment of its Ad Hoc Subcommittee on Federal Procurement. This Subcommittee is coordinating with other Committees and is holding joint hearings on matters of mutual interest.

As you requested, we are sending copies of this report to the Senate Ad Hoc Subcommittee on Federal Procurement; other congressional committees interested in procurement matters; Director, Office of Management and Budget; Administrator of General Services; heads of the 14 lead agencies involved in the executive branch program; and each member who served on the Commission on Government Procurement.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

CHAPTER 3—STATUS OF CONGRESSIONAL LEGISLATION

The Commission found that the present statutory foundation for procurement policy "is a welter of disparate and confusing restrictions and of grants of limited authority to avoid the restrictions." It attributed the problem in part to weak policy leadership in the executive branch and in part to the fact that the Congress had never focused its attention on the overall procurement process.

The Commission, in pointing out that statutes provide the foundation for the whole framework of Government procurement, identified more than 4,000 procurement-related statutes. Statutes most often including procurement laws were those creating individual agencies, authorizing individual programs, appropriating funds for agency programs, and providing for methods of procurement and contract award procedures.

Two of these statutes, enacted by the Congress some 25 years ago, are fundamental to the procurement process in that they established methods of procurement and award procedures for Federal agencies. One, the Armed Services Procurement Act of 1947, is applicable to Department of Defense agencies, the National Aeronautics and Space Administration, and the Coast Guard. The other, the Federal Property and Administrative Services Act of 1949, is applicable to civilian agencies, including the Atomic Energy Commission. The Procurement Commission noted that, although both DOD and NASA are governed by the 1947 act, each relies on its separate organic act or on separate statutory provisions to issue separate and, often inconsistent, procurement regulations. AEC generally has followed the Federal Procurement Regulations (FPRs) issued by GSA under the 1949 act but, in a few cases, has decided to adopt more liberal regulations under the broader statutory authority of its organic act. The Tennessee Valley Authority has exercised its own organic act authority rather than follow the FPRs. The Commission found that many statutes, including the two basic procurement acts, were outmoded and that the whole body of procurement law included many inconsistent and redundant provisions.

Commission legislative recommendations call for modernizing and consolidating the two basic procurement statutes, enacting new legislation in several important areas, and repealing obsolete or redundant laws.

The Senate responded by establishing, in July 1973, the Ad Hoc Subcommittee on Federal Procurement under its Committee on Government Operations. The Subcommittee is coordinating with other committees and holding joint hearings in areas of mutual interest. The House currently has not established such a focal point, legislative jurisdiction being split among several committees, such as Government Operations, Judiciary, Armed Services, and Small Business.

As of July 1, 1974, Members of Congress have introduced bills responding to 33 of the 64 Commission recommendations requiring or indicating preferences for legislative action. Table 1 summarizes the status of legislative action on these Commission-related bills.

TABLE 1

Bill No.	Introduced	By	Committee referred to	Purpose	Commission recommendation [1]	Status
S. 1414	March 1973	Chiles	Senate Government Operations.	To improve executive branch budgeting and programing and strengthen congressional control.	C-2, 5	Reported out of committee; partially incorporated in congressional budget reform act signed by the President July 1974.
H.R. 9059 *superseded by* H.R. 15233.	June 1973	Holifield, Horton.	House Government Operations.	To create OFPP	A-1	Hearings held 1973; reported out of committee June 1974; passed House July 1974.
H.R. 9060	June 1973	Holifield, Horton.	House Government Operations.	To clarify distinction between contract and grant-type assistance transactions.	F-1	No action.
H.R. 9061	June 1973	Holifield, Horton.	House Judiciary	To modernize and consolidate basic procurement statutes.	A-2-9; E-1, 4; G-21-24; J-2.	No action.
H.R. 9062	June 1973	Holifield, Horton.	House Judiciary	To establish integrated system for contract legal remedies.	G-2-12	No action.
S. 2510	October 1973	Chiles, Roth	Senate Government Operations.	To create OFPP	A-1	Passed Senate March 1974; sent to House.
S. 2785	December 1973	Percy	Senate Government Operations.	To authorize multiyear leasing of automated data processing equipment.	D-13	Hearings held; approved by subcommittee May 1974.
S. 3311	April 1974	Chiles, Roth	Senate Government Operations.	To raise ceiling for use of simplified small purpose procedures from $2,500 to $10,000.	A-7	Passed Senate June 1974; sent to House.
H.R. 14494	April 1974	Holifield, Horton	House Government Operations.	To raise ceiling for use of simplified small purchase procedures to $10,000.	A-7	Hearings held; reported out of committee June 1974; passed House July 1974.
S. 3514	May 1974	Chiles, Roth, et al.	Senate Government Operations.	To clarify distinction between contract and grant-type assistance transactions; authorize feasibility study of policy guidance for Federal assistance programs.	F-1, 2	Hearings in progress.
S. 3610	June 1974	Hathaway	Senate Judiciary	To establish regional small claims boards	G-4	No action.

[1] See ch. 5 schedules for identity of these Commission recommendations.

Senate bill 1414, the first one introduced, seeks to organize the Federal budget according to (1) primary national needs, (3) key program steps, taken from the framework described in the Commission report for acquisition of major systems.[1] The Senate Government Operations Committee favorably reported out this bill but initial Senate action was to incorporate only some provisions as amendments to the budget reform bill (H.R. 7130), now signed into law.

As discussed in chapter 2, Senate bill 2510, the legislation to create OFPP, passed the Senate in March 1974. The House Government Operations Committee reported out its version in June 1974 and the bill passed the House in July.

House bill 9060, introduced last year to distinguish between contract and grant-type assistance transactions, has not been acted upon to date. Senate bill 3514, introduced in May 1974, combines the purpose of the House bill with another Commission recommendation for a feasibility study of developing policy guidance for Federal assistance programs. Hearings on this bill began in late June before the Senate Ad Hoc Subcommittee on Federal Procurement.

House bills 9061 and 9062, introduced last year to modernize and consolidate basic procurement statutes and to establish an integrated system of legal remedies, were referred to the House Judiciary Committee. No action on these bills has occurred or is contemplated during the remainder of this session. Bill 9061, the proposed new procurement statute, has suffered from a House committee jurisdictional conflict. The two existing basic procurement statutes are under the separate cognizance of the Armed Services and Government Operations Committees; but the Judiciary Committee has been assigned legislative responsibility. The Ad Hoc Subcommittee on Federal Procurement expects to introduce a Senate version of a new procurement statute this summer.

This Senate Ad Hoc Subcommittee has also taken action on bills to authorize multiyear leasing of automated data processing equipment and to raise the ceiling for simplified small purchase procedures from $2,500 to $10,000. The small purchase bill passed the Senate in June 1974 and a House version passed in July.

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CHAPTER 5—EXECUTIVE BRANCH PROGRESS, STATUS, RESPONSIVENESS

Table 2 shows the extent to which executive branch positions have been established on Commission recommendations since our last report.

TABLE 2.—POSITIONS ESTABLISHED

	Number of recommendations	
	At Jan. 1, 1974	At July 1, 1974
Positions in process at lead agency task group level (see table 3 for status)	70	26
Positions in process at executive branch review and coordination level (see table 4 for status)	78	83
Positions established (see table 5 for implementation status)	1	40
Total	149	149

As shown, the majority of the interagency task group efforts are now completed and many of their proposed positions are in process at the executive branch review and coordination level. Executive branch positions have been established on 40 of the recommendations, or about 27 percent.

Positions in process at lead agency task group level

Our last report showed that all task groups had scheduled submissions of their proposed positions by the end of June 1974. Table 3 shows the number still in process and their stages of development at July 1, 1974.

Table 3—Task group stage of development, July 1, 1974

	Number of recommendations
First draft not completed	10
First draft completed	2
Awaiting response from participating agencies	7
Processing submission or resubmission	3
Preparing implementation	4
Total	26
Target for submission by:	
July 1974	9
August 1974	3
September 1974	5
November 1974	1
January 1975	2
Not established	6
Total	26

About half these 26 remaining task group efforts have gone beyond the first draft stage; some are awaiting responses from participating agencies. Target dates given to us by the task groups indicate that more than half the submissions will be made to the GSA Office of Procurement Management during the next 3 months. First drafts have not been completed for 10 of the recommendations and target dates have not yet been established for 6 of them. The schedules at the end of this chapter (1) identify recommendations having task group efforts still in progress, (2) show new target dates or absence of target dates, (3) discuss problem areas warranting attention and (4) include GAO recommendations directed to OMB to resolve these problems (see Commission recommendations A-22 through A-26, A-44, and A-46).

Positions in process at executive branch level

The executive branch level currently has proposed positions on 83 recommendations under review and coordination. Table 4 shows their stages of completion at July 1, 1974.

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[1] See Vol. 2, pt. C, "Acquisition of Major Systems," particularly recommendations C-2 and C-5.

TABLE 4.—*Executive branch level stage of completion, July 1, 1974*

	Number of recommendations
Positions in GSA Office of Procurement Management	2
Positions out for official comment by:	
Agency heads	31
Private sector	1
Agency heads and private sector	4
Official comments on positions under consideration	20
Positions referred to OMB for final resolution	25
Total	83

As indicated above, most interagency task groups' positions submitted to the executive branch level are either out for official agency and/or private sector comments or the comments are under consideration. When analysis of official agency comments indicate a concensus on the task group position, it is usually adopted as an executive branch position in a meeting between GSA and its Interagency Procurement Policy Advisory Group. Otherwise, if an agency dissents on a significant issue, or if a major policy matter is involved, the position is normally referred to OMB for final resolution. The schedules at the end of this chapter identify the Commission recommendations in each category shown in table 4; the proposed executive branch position on each; and, if referred to OMB, the reasons why. The schedules also include discussions of problem areas in three instances and recommended corrective measures addressed to OMB (see Commission recommendations A-18, A-43, and A-48).

Positions established

Final executive branch positions have been established on 40 recommendations, of which the executive branch has adopted 32, modified 5, and rejected 3. The schedules at the end of this chapter identify these recommendations and if modified or rejected the reasons why.

Implementation status

After executive branch positions are established, implementation actions are initiated. Frequently, this involves drafting legislation for submission to the Congress, a Federal Management Circular, or coordinated Federal and Armed Service Procurement Regulations. Table 5 shows the status at July 1, 1974, of implementation actions on the 37 recommendations adopted either as proposed by the Commission or as modified by the executive branch.

TABLE 5.—*Status of implementation actions, July 1, 1974*

	Number of recommendations
Action not yet initiated	5
Action initiated by the:	
Executive branch	25
The Congress [1]	4
Implementation completed	3
Total	37

[1] See ch. 3 for total legislation initiated by the Congress (which includes Commission recommendations on which executive branch positions have not as yet been established).

Schedules at the end of this chapter identify these recommendations and the type of implementation planned or initiated. They include GAO recommendations where implementation actions are believed to be inadequate to accomplish objectives of Commission recommendations.

Responsiveness to recommendations

The executive branch approach is to consider Commission recommendations as a baseline for improving the Federal Government Procurement process. In individual cases, alternative solutions or modifications to the recommendations may be offered. The key to our evaluation was to determine whether a considered and positive response had been made to the problems identified in the Commission report, using the following criteria.

Clarity of executive position in accepting, modifying, or rejecting Commission recommendations.

Accuracy of decision-supporting material, including interpretations of recommendations and underlying data.

Completeness and objectivity of discussion of issues.

Convincingness of rationale and other material supporting executive branch positions.

Adequacy of proposed implementation for accomplishing the objectives of Commission recommendations.

We evaluated the responsiveness of 79 executive branch positions and related implementation plans that had been established as of July 1, 1974, or that had progressed sufficiently to permit such evaluation.

On those positions not fully established, all steps through obtaining official agency coordination (see step 6 in chart 1) had usually been completed and the executive branch direction or concensus was clear. It is still possible, however, for the executive branch to change its indicated direction in these cases.

In making the evaluations, we found the GSA staff analyses of task group submissions and official agency comments to be of great assistance. The analyses were well prepared and indicative of the skill and knowledge of the analysts. They summarized clearly and concisely the (1) task group position and extent to which it changed the Commission's recommendation, (2) official views of the agencies solicited, (3) problems and issues involved in reaching an executive branch position or implementing it, and (4) significant matters to be resolved by the Interagency Procurement Policy Advisory Group or by OMB.

Table 6 summarizes the results of our evaluation of executive branch responsiveness to Commission recommendations.

TABLE 6.—*Extent of responsiveness*

	Number of recommendations
Positions considered responsive	47
Positions considered partially responsive	14
Positions considered nonresponsive	18
Total	79

Of the recommendations reviewed, we found 32 to be either partially responsive or nonresponsive. The reasons can be classified generally into three categories.

1. Insufficient rationale advanced for recommendation modification (A-36, C-3, C-4, C-6 D-7, E-1, E-2, E-3).[2]

2. Unsupported statements that Commission recommendations were already being implemented (A-49, B-6, C-1 through C-12).

3. Proposed implementation inadequate to accomplish recommendation objective (A-11, A-27, A-38, B-1 through 4, E-4, F-2, G-14, G-16, H-3, J-6).

Two of the recommendations cited above (G-14 and G-16) involve the role of GAO in the bid protest area. Despite longstanding discussions on the implementation of these recommendations, GAO and the executive branch have not been able to reach complete agreement. Progress has been made and a current effort is underway to reconcile the remaining differences.

The schedules at the end of this chapter, showing policy positions and implementing actions on Commission recommendations, cover in detail the degree of executive branch responsiveness and the individual problem areas. They also include GAO recommendations directed to OMB to resolve cases of partial responsiveness and nonresponsiveness.

Recommendations to the Director, OMB[3]

In addition to the recommendations previously referred to in this chapter for actions on individual Commission recommendations, our review disclosed some matters of a general nature which we believe warrant OMB's attention.

The implementation phase of the executive branch response is the most critical one, and problems have emerged on some of the recommendations, as identified in GAO comments in the schedules. We have noted also that an implementation "bulge" has impacted the FPR and ASPR Committees as a result of the increasing number of executive branch positions now emerging. These committees are not staffed to handle this additional workload.

We therefore recommend that the Director of OMB

Insure that appropriate staff support is provided to the implementing agencies and

Provide for evaluating the effectiveness of implementation actions to be issued on adopted Commission recommendations and for final OMB approval of each.

Recommendations in prior report

Our report of January 31, 1974, observed that completing a program of this nature, size, and complexity is likely to require, at the present pace, at least several years of effort. We recommended that the executive branch develop an overall plan which would establish relative priorities and completion dates for final actions on Commission recommendations. From this plan we believed a legislative program could also be established and coordinated with interested congressional committees. Suggested criteria in that report for establishing relative priorities and agency comments on our prior recommendations follow.

1. We suggested that the highest priorities would be assigned to those recommendations which provide a framework for setting procurement policy and a Government-wide regulatory system. These are:

Establishing a focal point in the executive branch for procurement policy leadership. The executive branch is now responding to legislation in this area.

Modernizing and consolidating existing procurement statutes to provide a forward looking and common statutory base for procurement policy. GSA has referred to OMB a marked up version of House bill 9061 based on an analysis of executive agency comments. The Ad Hoc Subcommittee on Federal Procurement is currently preparing to introduce a Senate version.

Establishing a single Government-wide coordinated system of procurement regulations. The interagency task group report on this recommendation has been remanded for further work. Both this recommendation and the one directed to achieving more timely private sector participation in the regulatory-making process could benefit at this time from a higher priority effort.

2. We suggested the next highest priorities be assigned to those recommendations meeting the criterion of greater significance, judged by such factors as the proportion of procurement dollars and number of transactions involved. Recommendations which obviously qualify under this criterion are those that would make fundamental changes in the manner of acquiring major systems, commercial products, and professional services.

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[2] C-3, C-4, and C-6 are also included under category 2.

[3] GAO intends that the Office of Federal Procurement Policy carry out these recommendations as well as the ones referred to earlier in this chapter, when pending legislation to create this Office is enacted. This legislation has passed both the Senate and House.

Official agency comments have been obtained on the major system task group report but there are serious problems with the proposed executive branch implementation (see C–1 through C–12 in the schedules).

The interagency task group report on the principle commercial product recommendation (D–6) has just been submitted to GSA and must be processed through the various executive branch review and coordination stages.

Regulatory treatment of the implementing action on professional services has been recently initiated. It requires substantial development by the implementing agencies.

We believe that each of the above areas will have a significant impact on the Government's acquisition process, both in dollars and number of transactions, and that higher priority treatment would be beneficial.

3. We suggested a third criterion involving the requirement for legislation. We believe that the protracted time and level of consideration needed to develop a policy position, enact legislation, and issue regulatory guidance dictate a higher level of effort and thus a priority assignment. At this time the combined efforts of the Congress and the executive branch have resulted in introducing bills in the House and/or Senate on about half the Commission recommendations involving legislation. Much remains to be done to complete the legislative process on many of these bills (see ch. 3). Placing relative priorities on executive branch responses to the legislation already introduced and on the remaining legislation to be introduced would help to accelerate the legislation program.

Comments on our prior recommendations were furnished by the GSA Deputy Administrator. He supported the objectives of the recommendations and said that by the end of June 1974 the executive branch will have had enough experience with the widely different implementing media for the various recommendations to be able to make sound projections of eventual completion dates for many of them. With respect to legislation, he supported the need for coordination with appropriate committees and he said dates could be projected for at least the submission of legislative proposals.

We therefore recommend that the Director of OMB insure (1) establishment of relative priorities and completion dates for final implementing actions on Commission recommendations and (2) development of a legislative program for coordination with appropriate committees of the Congress.

THE 1975 PUBLIC WORKS APPROPRIATIONS BILL

Mr. HATFIELD. Mr. President, I call attention to a statement by President Ford issued on August 29, 1974, when he signed into law the 1975 public works appropriations bill, H.R. 15155. As the ranking Republican on this subcommittee, I naturally was pleased the bill was approved, for I know the President was under pressure from some advisers to veto the bill, because of what those advisers saw as inflationary factors contained in the bill, even though it was some $21 million under the administration request.

My purpose in calling this to my colleagues' attention is to praise the spirit of cooperation shown by the White House in the period leading up to this decision. Several Members of Congress were notified that the President and his advisers were concerned with the cost of some sections of this bill, and some accommodation was sought. That is, Congress was notified before the fact, and asked if through cooperation, a compromise could be found.

Members of this body will form their own opinions on the content of the message by the President when he signed the bill. On behalf of myself, as a member of the Appropriations Committee, however, I want to express my appreciation for this spirit of mutual understanding and cooperation shown by White House and Office of Management and Budget officials with whom I discussed this matter. I hope this spirit continues.

Mr. President, I ask unanimous consent that this message from the President when he signed this bill into law be printed in the Record.

There being no objection, the message was ordered to be printed in the Record, as follows:

Statement by the President

I have signed H.R. 15155, a public works appropriations bill for fiscal year 1975 providing funds for water and power development, the Atomic Energy Commission, and related agencies and commissions.

The bill raises for one of the first times the question of how well the executive and legislative branches can cooperate in carrying out the new Congressional Budget Act of 1974. Under that act, a President who signs an appropriations bill but wishes to avoid spending all of the funds may either seek a recision of appropriations or seek a deferral. In either case, the President's action requires the concurrence of the Congress.

This public works bill is troublesome because it would increase the 1975 outlays by $80 million above the budget and would commit us to major outlay increases in future years. I am strongly opposed to those increases because they would intensify our number one problem—inflation.

Nonetheless, I also recognize that this bill is the product of much hard work and deliberation and contains funds for many worthy projects. A veto would commit us to the time-consuming process of reformulating a public works appropriations bill at a time when our energies should be focused on more pressing matters.

After discussions with Congressional leaders, I have therefore decided to sign this bill with the hope and expectation that under the budget act, the Congress will work in cooperation with the executive branch to defer for one full year the expenditure of that amount of appropriated funds which would contribute excessively to inflationary governmental spending.

I am totally committed to close cooperation between the Congress and the Executive, and I know that this spirit will continue to prevail as we work together to halt the inflationary spiral.

GENERAL HAIG SHOULD NOT BE RECALLED TO ACTIVE DUTY

Mr. PROXMIRE. Mr. President, I would strenuously oppose the recall to active duty of retired Gen. Alexander Haig. Articles in the Washington Post and New York Times indicate that the administration has floated a trial balloon to see if there is opposition to the recall of General Haig as Supreme Allied Commander of the North Atlantic Treaty Organization and U.S. troops in Europe.

I hope there would be significant opposition to this move. Returning Alexander Haig to active-duty status would send a clear signal throughout the military officer corps that politics pays off—and in a big way.

Every young aggressive officer would feel rightly that the door to success opens through the political process. If Alexander Haig could go from a colonel to a four-star general in 4 years and be rewarded for his political service to former President Nixon with the highest military post in Europe, then military officers may be tempted to line up with one political party or another.

The politicizing of the U.S. military would be one of the most dangerous developments in domestic politics in our generation.

General Haig is a fine officer, committed to his country, and loyal to his obligations. But the plain fact is that we have no idea what role he played at the White House—what political favors he owes or has given, what part he played in the Watergate coverup.

He may be completely untainted or he may have been involved in events not yet unfolded. We simply do not know.

General Haig left his Army post to serve in a political capacity. He knew the difficulty of the choice and yet readily took it. Under no circumstances should we now be allowed to reverse that decision and carry on as if nothing had happened in the interim.

In no other case of recalling an officer has the officer been intimately involved in national and party politics, the running of the White House machinery, and service during the greatest scandal the Nation has ever known.

I will oppose any attempt to appoint General Haig to any military position requiring the advise and consent of the Senate. The separation of politics and military service is a basic safeguard of American democracy.

It distinguishes the United States from Latin American countries where generals move in and out of politics and engage in unconstitutional activities.

Mr. President, I ask unanimous consent that the articles from the Washington Post and the New York Times be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, Sept. 14, 1974]

Haig's Return To Army Duty Is Expected

(By Michael Getler)

There are growing indications that Alexander M. Haig Jr. will soon leave his post as White House Staff Chief and be recalled to active military duty by President Ford, according to government sources.

Senior government officials believe the most likely spot for the former four-stage general to resume his military career would be as commander of one of the main U.S. military commands, or as an eventual replacement for Army Gen. Andrew J. Goodpaster as the NATO Supreme commander.

Haig has had a meteoric military career rising from a colonel when he first went to work as deputy to Henry A. Kissinger, on the White House National Security Council staff in 1969, to a four-star general and Army chief of staff in early 1973.

Then, when the Watergate scandal started breaking openly around President Nixon, he asked Haig to become the White House chief of staff, replacing H. R. (Bob) Haldeman, who had resigned. Haig gave up his Army career to do so.

The President and the Secretary of the Army each has the authority to recall retired officers back into service. In 1962, President Kennedy recalled the former Army Chief of Staff, Gen. Maxwell Taylor, to active duty and later appointed him chairman of the Joint Chiefs of Staff.

Haig's potential resumption of his military career has been rumored for a number of days. But such a move is sensitive within the Army, especially because he is viewed by many officers as having been far more involved with politics than is sound practice for military leaders. Thus, the likelihood is that rather than have Haig come back directly to the Army staff, a position in one of the major outside commands is more pallatable, at least for a new start. Haig's political and diplomatic experience make the NATO post seem most likely to most observers.

Some of Mr. Ford's political advisers, while having great respect for Haig, have also been suggesting to the President that the former general was too closely identified with the Nixon presidency, and that it would be best to let him go back to the military.

White House press secretary J. F. terHorst, through an aide, would not comment on continuing reports of Haig's pending departure from the White House. The spokesman reiterated only what has been said earlier, namely that President Ford had asked Haig to remain in his current post indefinitely.

Government sources also say Haig has had offers from private industry with six-figure salaries mentioned.

[From the New York Times, Sept. 4, 1974]

Ford Is Expected To Name General Haig NATO Commander

(By David Binder)

Washington, September 3.—Gen. Alexander M. Haig, Jr., chief of the White House staff, is expected to be appointed supreme commander of the North Atlantic Treaty Organization and of United States forces in Europe by President Ford, two authoritative Administration officials said today.

To take the post he will be recalled to active duty as a four-star Army general, a status from which he retired in August, 1973, three months after he replaced H. R. Haldeman as President Nixon's top White House aide, the officials said.

The White House said through a spokesman that it could not comment on the report. Another high Administration official said that President Ford was exploring several options concerning General Haig and that he wanted him to stay on for a while. This official said that the decision was not imminent. But the NATO post was the most likely one for General Haig, he added.

WOULD SUCCEED GOODPASTER

General Haig, who will be 50 years old in December, would succeed Gen. Andrew J. Goodpaster, 59. President Nixon named General Goodpaster supreme allied commander in Europe in March, 1969. The commander has the double function of overseeing the 15-member Atlantic defense community and the more than 300,000 United States servicemen stationed in Europe.

The officials who disclosed Mr. Ford's intention to shift General Haig said that they did not know when an official White House announcement would be made or even why the move was being contemplated.

Nor was it possible to learn immediately what factors determined the expected shift: Whether it was President Ford's wish to reshape the White House operation by eliminating the major holdovers from the Nixon Administration or General Haig's wish to return to a purely military job.

A White House official said he believed that it was primarily General Haig's desire to return to military duty that had prompted the exploration of new job opportunities for him.

In any case, the NATO post would provide a comfortable way for Mr. Ford to respond to some demands that General Haig, who was so intimately associated with President Nixon during the last 15 months of the Watergate scandal, be removed from the White House.

Last Aug. 14, only five days after he was sworn in, President Ford said through his press secretary, J. F. terHorst, that he had asked General Haig to stay as chief of the White House staff "for the duration," and Mr. terHorst added that Mr. Ford had requested General Haig to remain "indefinitely."

Last week General Haig said in a telephone interview that Mr. Ford had asked him "three times to stay" at his White House post.

One of two officials who confirmed the plan to appoint General Haig to the military post in Brussels said today that "President Ford has the highest regard for Al."

AIDE TO KISSINGER

In 1969, General Haig joined the Nixon Administration as military adviser to Henry A. Kissinger, who was then assistant to the President for national security affairs. Two years later, General Haig was appointed vice chief of staff of the Army. He held that post until his current White House appointment on May 4, 1973.

During his last tour of Army duty General Haig made no secret of his desire to rise to higher military posts and he had his eye on the chairmanship of the Joint Chiefs of Staff. That post is currently filled by Gen. George S. Brown of the Air Force.

A Pentagon spokesman said that General Haig would have been eligible for the Joint Chiefs job, had he stayed in the Army, despite his relatively young age.

It appeared that the Ford Administration had already begun the delicate process of sounding out United States allies in NATO about the acceptability of General Haig as supreme commander. The first word of such moves came yesterday from a diplomatic source in Western Europe.

Asked how their governments might respond to the appointment of General Haig, two Western European Ambassadors said today they thought it would not be well-received because of his identification in European minds with Mr. Nixon's Watergate troubles and his downfall.

Soundings also have to be made in the Department of Defense with Secretary James R. Schlesinger, the Joint Chiefs and others concerned with NATO, a Pentagon spokesman said. In addition, General Haig would also have to receive Senate approval for the post, he said.

If he accepted the appointment General Haig would take a pay cut. His White House job pays him $42,500 a year. The NATO chief gets the base pay for a full general, which is $36,000. But the supreme commander receives generous allowances and quarters from the organization.

In returning to active duty General Haig would probably also become eligible for a larger share of his Army pension, a Pentagon spokesman said. On resignation from the Army a year ago his $24,000-a-year pension was cut in half.

FEDERAL RESTRICTIONS ON STATE LOTTERIES

Mr. McINTYRE. Mr. President, I read with considerable dismay the remarks last week of Attorney General Saxbe regarding possible prosecution against State lotteries. This was just the latest in a long series of Federal actions that have attempted to thwart the operation of State lotteries, and I believe the time has come to put an end to this unwarranted Federal interference.

Since 1964, when New Hampshire became the first State in the Nation to adopt a sweepstakes to raise revenue, more than $18 million has been distributed to local school districts in my State. The sweepstakes has been a source of much-needed revenue for our educational system, and has been a model of honest administration and operation. In the last decade, 12 other States throughout the Nation have put lotteries into operation, and I predict that the number will continue to grow.

But the public acceptance of State-run lotteries has been nearly outweighed by meddlesome Federal regulations—laws that were originally designed to attack only illegal forms of gambling. Thus, sales of State lottery tickets are in some instances restricted, the use of the mails for promotional or sales purposes is prohibited, and advertising is not allowed on radio or television. The States literally have to run a gauntlet of anachronistic Federal laws in order to keep up the daily operation of their lotteries.

Mr. President, a lot more will be said on this subject in the coming weeks, and the arguments for removing all Federal restrictions on State-run lotteries will be made clear and compelling. I look forward to swift congressional action in this area, and will do everything I can to aid in the process.

CREDIT UNIONS GROW

Mr. PROXMIRE. Mr. President, a recent article in the Wall Street Journal is one of the best primers on credit unions that I have ever seen.

The piece spells out the history, nature, and size of the credit union movement succinctly.

For that reason, Mr. President, I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, Aug. 19, 1974]

Credit Unions Gain in Members, Money, Make Plans To Expand Their Activities

(By James Carberry)

In beautiful downtown Burbank, Calif., there's a credit union that's getting ready to play the horses. It doesn't expect to make a killing at the track, however. The Arabian Horse Federal Credit Union plans to make loans to people who need cash to buy horses and for various equestrian-related purposes.

Its sponsor is the International Arabian Horse Association, whose 15,000 members own and ride horses as a hobby. A horse can cost $1,000 or more, a fairly sizable investment; so the credit union was founded recently to make horse ownership possible for the "little guy," says Walter Bagot, an association official and an Indianapolis advertising executive. Because "it's managed by horsemen, it will lend a sympathetic ear to borrowers," he says.

The implication is that borrowers can get a better deal from a credit union than from a bank, finance company or other lender. A lot of borrowers evidently think so, because credit unions are emerging as strong competitors in the giant consumer-loan market. According to the Federal Reserve Board, they now hold about 13.4% of the $145.8 billion in consumer credit outstanding (which includes loans for household or other personal expenditures but excludes real estate loans). In 1960, they held 9% of the consumer credit outstanding; and in 1950, only 4%.

BAVARIAN FARMERS' SAVINGS

The first credit union was founded in mid-19th Century Europe, when some Bavarian farmers pooled their savings and made loans to neighbors at rates lower than those charged by commercial lenders. Since then, credit unions have virtually encompassed the globe. Membership in the 23,000 U.S. credit unions numbers about 28 million; it is expected to grow at a rate of about one million a year.

A credit union is owned by its depositors, who hold shares in proportion to their savings, usually one share for each $5 on deposit. Dividends are paid regularly, at annual rates of 5% to 7% of the amount of deposit, which is somewhat less than the rates paid on bank savings accounts. Deposits in federally chartered credit unions, which are about half the credit unions in the country, are insured up to $20,000 per account; federal share insurance also covers deposits in about 16% of the state-chartered credit unions. Federally chartered credit unions are regulated by the National Credit Union Administration, a federal agency; the others are regulated by state agencies.

Credit-union borrowers are charged rates comparable to, and sometimes less than, those levied by other lenders. For example, a Federal Reserve study found that in the first quarter of this year, both credit unions and banks were charging an annual average interest rate of 10.5% on new-car loans.

PAYROLL DEDUCTION, LIFE INSURANCE

Credit unions attributed their growth partly to their ability to provide services generally unavailable from competitors. Payroll withholding, a convenient way of saving in which part of the worker's pay is automatically deposited, is usually available to members of credit unions organized to serve employes of a company or government unit. So is free credit life insurance, which provides for payment of the loan balance in the event of the borrower's death; many banks charge for such insurance. As nonprofit institutions, credit unions distribute some of their surplus cash to depositors and borrowers (most members are both). In 1973, about one of every six paid loan interest refunds of up to 20%; that meant, for example, that borrowers who last year paid $500 in interest got up to $100 refunded.

A lot of borrowers come to credit unions because they can't get a loan elsewhere, credit union officials say. Sometimes they have unusual reasons for wanting help. Several years ago, a financially distressed Californian borrowed from his credit union so he could pay a drunk-driving fine; if he hadn't come up with the cash, he would have gone to jail for six months, leaving his family without support.

The year-old Feminist Federal Credit Union in Detroit has among its 900 members "married women who couldn't get credit in their own names, and widows and divorcees who couldn't get credit at all," says Joanne Parrent, an official of the credit union. Its borrowers include a woman who opened a restaurant, another who started a small art studio, and the Detroit Women's Symphony, which needed a loan to expand its concert season.

In Massachusetts, the Half-Way Houses Federal Credit Union provides financial help for parolees and probationers refused credit elsewhere; in San Francisco, a credit union provides the same service for ex-drug addicts. And in about 200 low-income neighborhoods around the country, credit unions have been organized as alternatives to finance companies, which charge much higher interest rates, according to the Credit Union National Association, a trade group.

PRAISE AND SHORTCOMINGS

Such operations warm the hearts of credit-union advocates. "I have said many times that next to the church, credit unions do the greatest good for people of any institution," says Rep. Wright Patman, chairman of the House Banking and Currency Committee.

Be that as it may, credit unions have their limitations. While they do offer some service, they don't offer a lot of others, such as checking accounts and credit cards. But they are beginnig to move in that direction, for they are awash in cash and must find new ways of putting it to work.

Credit unions hold about $26 billion in savings deposits, or only about 4% of total personal savings deposits in the U.S.; but their rate of growth is among the fastest of any savings institution. It's estimated that their savings this year will grow by $3.5 billion to $4 billion, compared with a $3.2 billion increase in 1973. But this year their automobile-loan volume, which accounts for a third of their total loan volume, has declined sharply as more consumers buy smaller, less expensive cars, or simply hang on to their old cars a lot longer. As a result, credit unions presently have about $3 billion in "highly liquid assets" available for lending, says Jay Becklin, an economist with the Credit Union National Association, a trade group. And he has a suggestion: "Because of inflation, people are spending more of their disposable income for food, fuel and other consumables. Credit unions must get into financing those purchases."

CONVENIENCE IN BAYTOWN

One that is already doing this is the Exxon Baytown Credit Union, whose 18,000 members are employes of an Exxon refinery at Baytown, Texas, and their families. The credit union provides qualified members notes that can be used like personal checks. The notes represent a line of credit of up to $5,000. Members also can use the credit union's credit card, which is honored by most of the merchants in the community of $45,000.

"Before, members had to come in and make an application for a loan when they wanted to buy school supplies, clothing and other goods on credit," says J. H. Thomas, manager of the credit union. "Now, they don't; and it's obvious a lot more convenient."

Credit unions also are introducing new services they hope will attract new members—and potential new borrowers. Rhode Island about two years ago became the first (and is still the only) state to permit credit unions to offer checking accounts, and six credit unions there now do so in cooperation with a bank. In Washington, D.C., the U.S. State Department Federal Credit Union opened 24-hour automated teller windows in three offices at scattered locations where many of its members work. Using special identification cards, members can make withdrawals against their credit-union savings accounts, or cash checks drawn on their banks.

MOVING INTO HOUSING

With more cash in the kitty, credit unions are plowing some of it into loans of larger amounts and longer maturities. Many recently have begun to make home-mortgage loans, and some have participated in real-estate ventures. The Michigan Credit Union League's housing foundation provided some funds for acquisition of land near Detroit where two housing projects were developed by the Michigan State Housing Authority. "A lot of our members are in the middle-income group ($6,000 to $19,000 a year): they can't qualify for a federal housing subsidy, and don't earn enough to afford most conventional housing," says a league official. "These houses are priced within their means." (About half the houses in the projects are owned by league members).

Historically, credit unions have kept a low profile, waiting for prospective members to walk into their offices and join up. But some have gone out to meet the competition head-on. In Framingham, Mass., the Suburban Credit Union, which is open to anyone who lives in the Framingham area, regularly places advertisements in local media saying it offers a 6% savings passbook rate, higher than that paid by banks. The credit union says this has contributed to a surge in members.

Credit unions also are trying to broaden their membership base. By law, a credit union's members must share a "common bond"; traditionally, that bond has been one of employment—in the same industry or profession, or, more frequently, in the same factory or office. But regulatory authorities, in considering applications for new credit-union charters, in recent years have accepted a looser interpretation of this requirement. The "common bond" joining members of the Wisconsin State Central Credit Union, for example, is that they live in the state. Three years ago, the Wisconsin legislature authorized credit unions there to open branches; State Central has opened four, and expects to open two or three a year, which could eventually give it a statewide network and a strong competitive position.

Like banks and thrift institutions, credit unions now have a central source of capital, the U.S. Central Credit Union, which was chartered recently in Kansas. Designed to prevent liquidity crises, the Central will funnel funds through 10 regional credit unions to cash-hungry local credit unions. Its funds will come from contributions from each credit union. (A bill to create a federal agency that would have done essentially the same thing died in a Congressional committee.)

Because credit unions are exempt from payment of federal income taxes, many of their competitors feel they have an unfair advantage. "If they are going to enter new areas of financial services, and operate more like banks, why should they be entitled to an exemption?" asks one banker.

Credit-union officials are divided on the question. Wilfred S. MacKinnon, president of the Texas Credit Union League, argues that "credit unions should be allowed to enter any type of service they can. And if they make money at it, they should pay taxes. But these are really two issues, and they should be considered separately."

So far, credit unions only have a toehold in markets dominated by the banks and other giant competitors. But many credit-union officials feel they may have no choice but to plunge right in. "They must provide services that are needed, that their competitors are providing, or they'll die," says Walter Polner, former economist with the Credit Union National Association and now a private consultant.

TRIBUTES TO FORMER SENATOR KARL MUNDT

Mr. ABOUREZK. Mr. President, since I did not know Senator Karl Mundt, the man whom I succeeded in the Senate, I have asked two of his closest friends to prepare eulogies to be inserted in the CONGRESSIONAL RECORD. Fred C. Christopherson who was, for many years, the editor of the Sioux Falls Argus Leader, now retired, and Henry J. Schmitt, the present editor and publisher of the Aberdeen American News, at my request sent memorial tributes for one of their oldest friends. I ask unanimous consent that their statements be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

Comment About the Late Senator Karl E. Mundt

(By Fred C. Christopherson, retired editor of the Sioux Falls Argus-Leader)

Karl Mundt was my friend. He was also the friend of all South Dakotans. In a broad sense, he was the friend of all Americans and all of the peoples of the world.

He did much for South Dakota specifically in programs to improve the state income and to promote a better life. But all of these activities, important though they are, are overshadowed by his massive contribution to world understanding and to world communication.

World War II flared shortly after Mundt was elected to Congress. He was in a position to survey at first hand the devastating impact of the conflict. He saw it in the ceremonies in Washington. He saw it in London when he was there in 1944 and the German bombs were being dropped on that city by the first guided missiles.

All of this intensified his determination to do what he could to promote peace. As a war correspondent, I visited with him in my room at the Savoy Hotel in London. While we talked, bombs were exploding. "If people really understood each other and their problems," he told me, "terrible wars like this could be avoided."

My recollection of this is vivid because he spoke with so much emphasis and deep concern. So it was that he went forward thereafter to utilize his many talents and broad influence to get people to talk together. He worked quietly toward this goal, often letting others take the lead in order to accomplish his objective of world communication.

Out of his efforts came many tangible developments—the Voice of America, a special impetus to the United States Information Agency, UNESCO and the exchange of students among nations and innumerable visitations among the leaders of thought in the United States and other countries. It is entirely possible that much of former President Richard Nixon's forward thrusts in the international field stemmed at least in part from his close association with Mundt in their Congressional days.

Yes, Karl Mundt accomplished much in his long career. He took a primary part in developing the massive Missouri River Development program and countless other worth while projects. But if history records rightly his claim to fame, he should be recognized foremost as a prince of peace and one of the world's leaders in the endeavor to eliminate the horrible scourge of war. For this, he richly deserves a place in the greatest of the world's halls of fame. Surely his constructive achievements warrant his nomination for the Nobel peace prize.

[From the Aberdeen American News, Aug. 18, 1974]

Karl Mundt's Great Influence

The death of former Sen. Karl Mundt Friday caused sadness among his many friends in South Dakota. A severe stroke he suffered in 1969 had saddened them also. It was that crippling illness that brought to an end five years ago the political career of the man who had served longer in Congress than any other person from this state.

Sen. Mundt was a skilled practitioner in the science of government. This made possible his long tenure of office and permitted him to become a dominant influence in Republican politics in his native state.

The stroke that removed him from the political arena in 1969 was a contributing factor to the fall of the South Dakota Republican party which in 1970 lost the governorship and two U.S. representatives to the Democratic party. (There were other contributing factors including the retirement of incumbent representatives, Ben Reifel and E. Y. Berry.)

The only South Dakotan to be elected to the Senate for four terms Mr. Mundt, through anti-communist activities and prominence in the hearings involving Wisconsin's late Sen. Joseph McCarthy and the U.S. Army, had become his state's best known citizen in the Capital and in the nation.

Sen. Mundt yielded that distinction when George McGovern, at that time the junior senator, became a candidate for the Democratic presidential nomination and in due time the nominee.

Unfortunately South Dakota and the nation were deprived of his services at a time when Sen. Mundt would have had his greatest influence in government. As fellow members of the House of Representatives in the 1940s Mr. Mundt and young Richard Nixon who was later to become President of the United States, were teamed in an effort to expose communist infiltration in the United States. They remained close friends.

Had illness not stilled him, Sen. Mundt could have been in a position to give Mr. Nixon the type of advice that could have avoided the buildup of the inexperienced, power-hungry staff which accompanied the former President to his downfall.

However, during his active years most of which were as a member of the minority party in the national government, he made constructive contributions to the United States and to South Dakota.

Sen. Mundt was respected and appreciated by many.

NEW ENGLAND FARMING

Mr. BROOKE. Mr. President, New England is known for many things these days, but I suspect that farming would not be listed among them. This is too bad. For farming has been an essential livelihood to New England and New Englanders throughout our rich history.

Unfortunately, recent times—like our winters—have been rough on the New England farmer. Caught between the rising costs of essential goods and the enormous pressures from large developers, farmers throughout the region are finding it increasingly difficult to survive.

In last month's Country Journal, Malcolm Cowley speaks eloquently to the problems confronting our farmers in an article entitled "Is There Still Hope for Farming in New England?" Happily, the conclusion at which he arrives is that there is indeed hope. But he maintains that this hope is for the future while the short-term outlook is nothing but bleak.

The reason for the distressing short-term forecast is simply that increased prices for essential farming needs—machinery, feed, fertilizer, fuel, and so forth—pressure farmers from one side, while relentless developers pressure them from the other. Clearly relief is in order and Mr. Cowley puts forth some interesting proposals. At stake is not simply the survival of a way of life in New England; at stake is the survival of New England itself. For anyone who has ever spent time in our lovely region knows that its very essence lies in its beauty. And its beauty, for the most part, lies in its gently rolling hills, its fertile valleys, and its acres of open expanse—that is, its farmland.

This farmland must be protected. And the best way to protect it is to keep the farmer on it, managing it, and caring for it. For the farmer is, as Mr. Robert Kunz of the Connecticut Conservation Association aptly put it—

The keeper of these lands. He is the steward . . . As long as he remains, these resources remain. When he is gone, all too often these irreplaceable natural entities are buried.

Mr. President, I ask unanimous consent that Mr. Cowley's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Is There Still Hope for Farming in New England?

(By Malcolm Cowley)

Memories first, before we try to summon up the future. Hope is to be found there, I believe, but it depends partly on the world situation (food, fuel) and partly on national, state, and local policies regarding the use of land. We can raise our voices about those policies; indeed, we had better do so without delay. Meanwhile it is a wry pleasure to think about the fairly recent past of what used to be a Connecticut farming town.

When I first came to Sherman more than forty years ago, it was reported by the census as having 330 people and something like 100 farms; I forget the exact number. Most of the farms didn't deserve the name; they were simply fields and a house where an old couple subsisted with the help of a cow, a flock of chickens, and usually a team of superannuated horses. In the valley north of the Center, though, were rich tobacco and dairy farms. The hills were grassy there and dotted with cattle to their rounded tops. On the valley floor were big white houses, red barns, and silos like baronial donjons standing guard over luxuriant fields of corn, alfalfa, and tobacco. Driving past them on a winding dirt road was like exploring Arcadia.

I remember how marginal farms, mostly in the South End, were abandoned as old couples died off or moved to Danbury. I remember when the last field of tobacco was planted during World War II; that year the crop couldn't be sold because the tobacco warehouse had closed. I remember how dairy farmers complained of not being able to earn a decent living and how one after another sold off his herd. More and more houses were built for people who had jobs in Danbury or did freelance work in New York. The town was becoming residential, and it was also becoming forested as trees crept down from the hillsides and at places crossed the valley. There were no Arcadian vistas any more.

Sherman is still a good town, more determined than most to preserve its rural character, but today it has only three dairy farms. Three other dairymen sold off their herds last spring. Among those herds the best was that of my friend and neighbor Kenneth Edmonds, who, incidentally, had been taking care of my only field. He paid rent for it too: a truckload of manure each fall. I don't know what will happen to the field after Ken stops mowing it, but there was no use pleading with him. Ken was tired; he had been milking cows twice a day, seven days a week, for fifty years. Now he is looking forward to his first vacation.

What is happening in Sherman had already happened in most of the state, and most of New England. Connecticut now has fewer than 4,000 working farms—not half so many as in 1960—and the number includes part-time operations, as well as little factories cranking out eggs or broilers from a production line. Dairying, however, has been the chief agricultural activity, and the state now has only 900 dairy farms, with the total falling by more than ten per cent each year. Rhode Island has 700 farms of all types, not many of which send milk to market. The state agricultural college recently sold off its prize bulls, as if to mark the end of an era. In Massachusetts Governor Francis W. Sargent has established an Emergency Commission on Food. He said at a news conference last September, "We must reverse a thirty-year trend which has resulted in the virtual disappearance of food production in this state."

One can hardly blame the farmers for going out of business. They are capable men, for the most part, but they are faced with more problems than a genius should be asked to solve. Manpower is often the most urgent problem. The farmers are growing old—fifty-eight is their average age in Connecticut—and they need help with the chores. Help is almost impossible to find, except at a price the farmer is unable to pay. "The younger generation just doesn't want to be tied up for seven days a week," Ken Edmonds says. "They don't want those hours staring them in the face every day."

Another problem is the high cost of machinery, fuel, feed, fertilizer, baler twine—in fact, of everything the farmer has to buy. Except for roughage, most of which comes out of his own silo, almost all his supplies are shipped in from other parts of the country, at very high freight rates. How much he pays for the supplies depends on the open market (and to some extent on the big mid-western processors, with their notions of what the traffic will bear). The selling price of milk at the farm is something else again: it is fixed by the government and seldom rises as fast as the cost of feed and fertilizer. From 1968 to 1972, gross farm income in Connecticut rose by $6.5 million, while net farm income was falling by $12.2 million. In 1973 net income was further reduced by a fantastic increase in the cost of supplies.

Property taxes are a less serious problem in Connecticut than in some of the other New England states. By the terms of Public Act 490, passed in 1963, a farmer can ask to have his land assessed at its "use value," generally much lower than its value as commercial real estate. The law has reduced tax assessments on farmland by an average of something like sixty-five per cent. On the other hand, there has been no reduction in state or federal inheritance taxes. The state tax is high in Connecticut, and it is levied on the same estimate of net worth as the federal tax. When a farmer dies, the Feds move in to value his land at the inflated price that a developer might pay for it. The farmer's heirs might wish to stay on the land, but instead they have to sell it off as the only way to find money for the tax collectors.

Inflated land values are perhaps the greatest present threat to agriculture in New England. The threat is all the greater for a special reason, namely, that the best farmland, fairly level and well drained, is also the best for residential and commercial development. It used to be the marginal farms that were abandoned; now more and more, as population spreads, it is the richest farms that are taken over. How can a young dairyman—granted that there are still a few of these—compete with a real-estate syndicate eager to invest foreign money? How can he afford to pasture cows on land that will cost him from $1,000 to as much as $10,000 an acre?

In the South and the Middle West, older men with capital still buy land for the income it will yield from crops or cattle, but the present yield in New England is too low in relation to land values for anything but tax-loss farming (and not much of that). In Connecticut, for example, the last 900 dairymen are working seven days a week for an average return of 3.9 per cent on the market value of their land, stock, and equipment. They could sell off everything, pay a capital-gains tax, invest the remaining proceeds in bonds or certificates of deposit, and—to judge by the financial pages—they could earn much more than their present farm incomes by living in idleness.

So once again, what are the prospects for a revival of farming in New England? I still think that the long-term prospects are good, owing to worldwide shortages of food and also to the fact that western and southern farmers are now facing many of the same problems (besides such problems of their own as drought in the High Plains and deteriorating cropland). But the short-term prospects are bleak, and even our distant hopes might be foreclosed. That is, our New England farmland might be lost forever unless steps are promptly taken to help the remaining farmers stay in business and encourage younger men to take their places.

The first step might be a joint resolution presented for adoption by the various state legislatures. It might read something like this: *Resolved that the preservation of open farming ad grazing land is to the best interests of the people of* [Connecticut, Vermont, etc.] *and is an effort deserving the aid and encouragement of the state government.*

What good, you might ask, would a resolution do? At the very least it would lead to wider discussion of an urgent problem. If the resolution is adopted after many arguments have been heard, it will provide a reasoned basis for various measures that must be taken if farming in New England is to be maintained at anywhere near its present level, not to speak of its being revived or extended. Some of the measures will interfere with the plans of land speculators, while others will cost the states money. New Englanders, like Scotsmen, always want to know why public money should be spent.

And why should it be spent in an effort to preserve farmland? Why should we continue trying to compete with western agribusiness? Why shouldn't we resign ourselves to importing all our food from other parts of the country: milk from Wisconsin, potatoes from Idaho, lettuce from Arizona, and apples from the state of Washington? Or again, why should we mourn—as most of us do—when one farmer after another is forced by age and economics to abandon his fields and let them grow up into scrubby woodland? Or when he sells them to a developer with plans for still another residential suburb, a vacation community, an industrial park, or a supershopping center under acres of asphalt?

Here I won't repeat the ecological answer: that this populated region needs meadows and streams, woods and wetlands, a diversity of open spaces to depollute the air and maintain a supply of drinkable water. "The farmer is the keeper of these lands," says a thoughtful paper recently issued by the Connecticut Conservation Association.[1] "He is the steward of the land. As long as he remains, these resources remain. When he is gone, all too often these irreplaceable natural entities are buried."

Yes, the ecological answer is true and reasonable, every word of it, but my own feeling for New England goes beyond reason into the darker realm of love and aversion. I love the countryside as it was—and as it is today in scattered areas like the Upper Connecticut Valley, the Lamoille Valley, or the Harlem Valley across the state line in New York. I hate to live in the midst of neglected fields, which seem to reproach me; I even hate to drive through miles of scrubland crossed at intervals by stone fences. A deprived and resentful landscape seems to be closing in on me. When the road comes out into open farmland, I feel a sense of relief, as if I were drawing a free breath after years in prison. "Isn't this fine, for a change," I say in mantalk, while my wife uses the forbidden word: "Yes, it's beautiful."

Beauty in itself isn't enough to persuade a state legislator that he should vote for an appropriation, but beauty in New England has an economic value. Almost the whole region has found that tourists are an important source of revenue. The better the region looks, the more tourists will be attracted, not to mention vacationers and permanent residents (for whom there is room enough, if their new communities don't gobble up the farmland). The more farms are preserved, the more pastures are reclaimed, the better (more beautiful) the region will look, and—as most legislators already realize—the more it will comfortably yield in state and local taxes.

That is by no means the only economic argument for a revival of agriculture. Every farmed or grazed or gardened acre produces something that adds to the wealth of the community—and the statement is true even when the famer is losing money. If he makes it instead, much of the money goes into improving the farm or the neighborhood. Think of the big white handsome clapboard houses and the brick houses, weathered pink, that dot the New England countryside or cluster in villages. Except in coastal areas, most of those houses grew out of the soil, either directly or indirectly—directly, if they were built with money from corn, tobacco, cattle, Merino sheep, or Morgan horses; indirectly, if they were built by merchants or bankers who prospered from dealing with local farmers. Now that so many of the big houses have to be propped up with New York or Boston money, they seem to me a little less substantial.

Don't make subjective judgments," I tell myself. "Don't say anything that isn't realistic." Well, here are a few realistic statements.

Every good field abandoned is a loss to the community. Henceforth the field produces nothing, though in thirty years it might yield a meager crop of firewood or pulpwood. If it becomes part of a residential development, this in turn produces nothing (except from a few backyard gardens, rather more of these in 1974 than in 1973). Essentially the new residents are here in their role as consumers, and almost everything they consume is trucked in from a distance. Even their incomes are imported from the larger towns where they work in offices or factories. The new residents are pleasant people and they make a contribution to the community by showing good will and public spirit, but what they contribute in taxes is seldom enough to pay for what they demand in services (new schools, sewers, paved highways kept free from snow, and everything else that a suburb expects). When a farming town in Connecticut goes residential, taxes on old-time property owners are very soon tripled or quadrupled, and they are forced to sell off their acreage.

Once again that isn't the whole story. Those farmed acres in New England once supported—in many areas they still support—a network of local industries and commercial enterprises. Depending on the type of farming, there are (or were) canneries, creameris, cheese factories (now surviving only in Vermont), carding mills (now a few in Maine), feed mills, slaughterhouses, tobacco warehouses, and woodworking plants willing to pay a farmer cash for a few wintercut logs. As farming dwindles in one area after another, those local enterprises vanish and the skills they encouraged are forgotten. The remaining farmers not only lose their local outlets but feel lonelier than ever after the Grange Hall becomes a franchised supermarket. There are personal tragedies involved. I think of E. A. Robinson's miller, the one who hanged himself after a last word to his wife:

"There are no millers any more,"
 Was all that she had heard him say;
And he had lingered at the door
 So long that it seemed yesterday.

"That is Robinson in a sentimental mood," I tell myself; but I remember that the private sentiment is connected with a blow to the public economy of our whole region.

The process has gone too far to be simply reversed. When or if farming is revived in

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[1] For a copy of the White Paper on agriculture in Connecticut, to which I am greatly indebted, write to Robert F. Kunz, Director, Connecticut Conservation Association, Bridgewater, Connecticut 06752.

New England, it will have to be a different sort of farming, either more intensive, or on a broader scale. Meanwhile some practical steps can be taken to halt the decay, to put heart into the remaining farmers, and to keep the countryside open by restoring the pastures.

The white paper on Agriculture in Connecticut puts forward several measures that would help to keep farming alive in the state. Among these it lays most stress on the creation of "agricultural preserves" and on the purchase by the state of "development rights" to open land. Later I shall have something to say about that purchase. As for creating agricultural preserves, it is a practice started by California in 1965. It has been rather more successful in New York, where the enabling act was passed in 1971, and it is now being considered for adoption on a wider scale by New Jersey.

In New York such agricultural preserves, or districts, are initiated by the farmers themselves, who must agree, in each case, that 500 or more contiguous acres should be placed in the district. Their application is reviewed by the county government and discussed at one or more public hearings. If approved by both the county and the state, the district can be officially protected. Protection means briefly "No development," but it has other features as well. Local governments cannot restrict farming practices—such as spreading manure—beyond the requirements of health and safety. Public agencies that want to acquire land in an agricultural district must prove that other acceptable sites are not available. Public-service districts are restricted in their power to tax farmland for services (water, sewage, etc.) that farmers do not require. Also commercial farmers can request annual property-tax assessments based on the agricultural value of their land.

Each agreement runs for eight years, after which it must be reviewed to see whether the land it covers still meets the requirements for an agricultural district. So far, such districts comprise 1.5 million acres, or one-fifth of the best farmland in New York. Apparently the agreements have worked where adopted, and they have led to some glorious battles with public utilities and dam builders, notably in the rich Schoharie Valley. The Connecticut Conservation Association recommends a similar system of preserves for its own state, but with refinements embodied in the still-pending New Jersey plan. Since the system will reduce the tax basis of local governments, the CCA recommends that the towns be reimbursed for what they lose. The purchase of development rights would also cost money, and—rather than a bond issue to supply it—the CCA believes that it should come from a statewide tax of perhaps four mills on real-estate transfers.

The CCA also suggests other measures that would help to keep Connecticut farms in operation. Briefly they are: (1) subsidies to farmers who permit hunting, fishing, and picnicking on their land; (2) farm markets on state-owned land along highways or even in state parks; (3) college workshops for farmers on management and production techniques (but who would milk the cows while the farmer was attending the workshops?); (4) better training and placement programs for farm labor (and perhaps subsidies to make farm work more competitive with industry); (5) a low-interest revolving loan fund to assist in farm improvements; (6) lower taxes on farm buildings as well as land; (7) negotiating lower insurance costs; and (8) educational loans or grants-in-aid for students planning to be farmers. necticut, which is prosperous, thickly peo-

Most of those eight measures are directed toward solving the special problems of Con- pled, and in immediate danger of losing all its farmland, besides most of its open space. In northern New England the state governments have less money that can be devoted to loans and subsidies. The remaining farms there are different, with fewer plowed fields, except in the Aroostook and the Lake Champlain Valley, and more of the land is in pasture. The immediate problem, the one that demands thought and subsidies, is how to keep the pastures open.

My friend the novelist Wallace Stegner, who lives on the West Coast but owns many northern Vermont acres, has some lively comments. "The horrid fact about New Hampshire," he says, "is that too many city people loved it too much, and hence bought chunks of it, and having no skill or time for farming, pronounced *famine*, they let it grow up to weeds and chokecherry and spruces and tough little cedars. In Vermont things haven't gone as far as in New Hampshire (I'm totally ignorant of Massachusetts and Connecticut), but they're going.

"We have discussed, in Greensboro, some alternatives: reforesting, which produces a fourth-rate wilderness"—[but not always, as I maintain in a forthcoming article for *Country Journal*] "cooperative mowing and plowing, which is hard to do in the face of Vermont individualism and recalcitrance; and hippy occupation, which takes care of a garden plot and not much more. No city feller can afford, by himself, the machinery it takes to keep a farm's hayfields and pastures open. He has to be there to do it with stock, because cattle and sheep won't eat maple seedlings and ash seedlings and so on after they're a year or two old, and neither will they eat ferns and junk and weeds after the first few weeks of the growing season. Result: leave stock out of a pasture or a woodlot for a year or two and there's no recovery—you have to plow or poison, and start over.

"My guess is that an association or cooperative of people determined to keep the pastoral (as opposed to the wilderness or the subdivided) character of New England would get substantial support—clutches of tractors and machinery here and there, clutches of hired hands who would plow up, harrow, disk, etc., and keep open those farms that have ceased to be farmed, and fallen into the hands of professors from Princeton, the Mafia, California speculators, Florida speculators, and local peasants determined to make a pile subdividing. Once the farms are opened, they can be kept open with grazing, as you suggest—either sheep or cattle, if they're managed right, and rotated among the fields properly, will do it."

I like Stegner's idea of landowners' cooperatives; the situation is desperate, and volunteer action would help immensely. But my own guess is that the cooperatives, if they were to thrive, would need state aid and encouragement, perhaps in the form of subsidies for reclaiming pastures. State road crews might be made available for mowing and brush cutting (of course at a fee to the landowner). Controlled burning is another suggestion. It is a very old practice in the Maine blueberry barrens, but elsewhere in New England it has never been widely adopted, I suppose for fear that the fires might spread. Why not have pasture fires that are supervised by the local fire department? Again there is the great question of fencing, which is indispensable on grazing land, but is also expensive. In some areas the old stone fences might be mended once again; they would still make good neighbors. For areas where they were never built, or would cost too much to repair with high-priced labor, might it be possible to invent or adapt some cheap form of portable fencing? I think about those miles of snow fencing that highway departments keep in storage: might they be rented out during the summer?

Then I remember England, where I saw sheep farmers driving from one pasture to another with truckloads of fence panels, which apparently they had made for themselves out of crossed saplings.

Those suggestions are made from the depths of my inexperience, and I hope that the various agricultural colleges will set themselves to finding better answers. Meanwhile I might quote again from Stegner's letter. "I have a friend," he says, "whom perhaps you know—Frol Rainey of the U. of Pennsylvania Archaeological Museum—who has installed forty or fifty sheep on his Greensboro farm, and hired a retired farmer to live in the farmhouse and look after them."

I do know Professor Rainey and know his farm as well; it is a fairly level hilltop and, until the milking herd had to be sold off, it was said to be the highest dairy farm in Vermont. Stegner continues, "It's not a paying proposition as yet, but there's substantial federal support, and with more acreage and a bigger flock, he might make it go." I hope he makes it go, and if he needs more acreage, he can probably rent it at a reasonable figure—not buy it—from neighbors eager to have their pastures kept open. With the present high cost of acreage, fairly large-scale farming on leased land has become a possible development in New England.

For the farmer such a practice has two obvious advantages: it enables him to broaden out his operation, and it greatly reduces his capital investment. For the landowner, leasing his land to an active farmer also has advantages (beyond such payments as he might receive, which would not and should not be large). It would maintain the value of his land and the attractiveness of the neighborhood. In states with laws like Connecticut's Public Act 490—New Hampshire has recently adopted a similar measure—it would permit him to apply for a lower tax assessment on his property.

When I gloom about the situation on walks through abandoned fields, it seems to me that the practice of leasing land for agriculture might be vastly extended. Associations of landowners—Wallace Stegner's suggestion—would have more acreage to offer than individuals. And what about the land trusts that are becoming more numerous in southern New England, to meet the threat that a whole town will be built or paved over? One such trust is active in Sherman. So far it has acquired only forest and scrub and swampland, but isn't cultivated farmland even more precious to the community? Some of the trusts have talked about venturing into this new field. Nature Conservancy, which I think is the only trust that operates on a national scale, has been offered about 1,800 acres of Connecticut land in Bridgewater and New Milford. George D. Pratt, Jr., who made the princely offer, is a lifelong conservationist who attached a condition to the gift. There are three farms on the land, and Pratt wants to have them kept in operation. So far Nature Conservancy has had no experience in farm management. Two of the farms are rented and hence present no serious problem, but the third, in New Milford, is the richest and most productive dairy farm in the neighborhood. Fortunately Pratt's experienced farm manager, Peter Petersen, has agreed to go along with the deal and to train a successor before he retires.

Land trusts that will operate or lease out farms are only one of many possibilities. What about the broad tracts of New England that are owned by the states or by the federal government? Most of this land is utterly unsuited to agriculture and should be kept as wilderness or devoted to tree crops or recreation, but there are areas of richer soil whose use might be reconsidered. I think of interstate highways with their habit of seizing more land—often in fertile valleys—than is conceivably needed by present or future traffic. Some of the surplus land is mowed once a year by the road crews. Couldn't it be grazed or plowed by farmers, at no public expense, so long as nothing was built on it? Also I think of the Saratoga Battlefield across the Hudson, an expanse of 2,432 acres most of which used to be farmland. It is a handsome park only part of which is visited by the public; the rest is woodland or meadows that are mowed—again once a year—by the National Park Service. If they were grazed instead, the magnificent view over the Hudson Valley would be preserved and the land would look more as it did when Johnny Burgoyne surrendered.

Returning to the private sector, what about ski resorts, a subject on which my ignorance is abysmal? I know, however, that trails and slopes have to be kept free of brush, and I presume that much of the work is done with defoliants such as the Army used in Vietnam. Sheep, however, are the ancient and still the best mowing machines for steep slopes. Mightn't sheep growers add to their incomes by contracting to do a sprout-removal job for resort operators? There are problems involved, but I should guess that most of these will be solved after we have lost most of our grazing land and after the rest of it becomes more precious to the region and the hungry world.

In the case of highly productive land in immediate danger of being taken over by jerry builders, some public agency—state, county, or town—might buy the land to keep it from going out of production. That bold step was first considered by Suffolk County, at the eastern end of Long Island. There the situation is deteriorating. Suffolk has been a very rich argricultural county, famous for potatoes, ducklings, and cauliflower, but its farmland is rapidly disappearing under suburban developments; very soon it will have vanished. Apparently Suffolk farmers have not made use of the New York law that permits the creation of agricultural reserves. The law offers many advantages, but not enough of them, in this case, to counterbalance the glittering offers of real-estate speculators.

Two years ago John V. N. Klein, the County Executive, came up with the proposal that Suffolk should float a bond issue big enough to pay for half its remaining agricultural land—that would be 30,000 acres—and then lease back the acres to operating farmers. The proposal was beautifully simple, and it attracted inquiries from twelve states that thought of adopting it. In New England it would be justified only in the case of highly productive acres—truck farms, for example, or the shade-grown-tobacco fields of the Hartford Basin, important to the economy of the state, but now being built over. Even in rich Suffolk County, it involved more money than the county legislature thought it could raise; the proposal had to be scaled down. In a later form it undertakes, as a beginning, to preserve 12,000 acres of agricultural land. Some of the acres would be bought outright, as in the original scheme, and leased back to farmers. More of them, however, would not change ownership; the county would simply buy "development rights" to keep them from being built upon or subdivided. Meanwhile the price of Suffolk land has continued to rise. Even development rights would now cost more than Klein's earlier figure of $45 million, a sum that the county legislature was willing to make available. Last spring he had to request an additional $15 million, with the request still pending.

The purchase of development rights by a public agency—if the rights are worth money and the agency can pay for them—is clearly of advantage to farmers who want to stay in business. It gives them fresh capital that can be used for stocking and improving the land. It reduces their tax assessments in states where they haven't the benefit of a law like Connecticut's Public Act 490. When a farmer dies, the Feds can't appraise his land at its development value, which has ceased to be part of his estate. His heirs have a smaller inheritance tax to pay and, if they wish, they can still be farmers.

Those are a few of the measures by which New England farms might be kept in operation, while waiting for an agricultural revival that is likely to come, but might otherwise come too late. Some of the measures had better be adopted promptly, if our region is not to become a wilderness hatched and spangled with housing developments. So far we have been waging a purely defensive struggle against the panzer divisions of invading bulldozers. We win victories here and there, but we are certain to lose the war unless we can assemble other forces, including an agricultural interest strong enough to undertake a counter-offensive against the spoilers.

FAIRNESS DOCTRINE: FAIR OR FOUL?

Mr. PROXMIRE. Mr. President, Steve Knoll, writing in the August 31 issue of the New Republic, points out the Federal Communications Commission's fairness doctrine inhibits broadcast journalists from doing the kind of investigative work done by print journalists.

Mr. Knoll examines the fairness doctrine—I prefer to call it the "unfairness" doctrine—as the FCC applied it to a documentary of NBC, "Pensions: The Broken Promise."

There are several interesting aspects to this case, most of which Mr. Knoll notes.

First, the FCC and NBC are now in court over the application of the fairness doctrine to that documentary.

Next, the subject of private pension plans had never really been examined before in great detail by television. Thus, there were no easily recognizable persons or groups on the other side of the issue. There is some question, as Mr. Knoll reports on NBC's viewpoint, of whether a controversial issue really existed because pension abuses were real.

Third, and Mr. Knoll does not make this point, spokesmen for pension funds were given a chance to defend themselves, but did not choose to do so. The complaint, as Mr. Knoll notes, came from a third party.

Fourth, the program won an award for excellence the same day the FCC staff made a ruling in the case.

Fifth, the pension abuses cited in the program were the subject of legislation, which President Ford signed into law Monday with great attention.

Who knows, perhaps the NBC program helped pass the law.

Mr. Knoll equates the FCC's control over broadcasting with a sword of Damocles. Then he quotes Clay Whitehead, who has submitted his resignation as director of the White House Office of Telecommunications Policy, as saying:

> The value of the sword of Damocles is that it hangs, not that it drops.

Mr. Whitehead knew that very well. It was he who set off furor in late 1972 when he announced that legislation was being drafted to make local stations responsible for the content of network programing.

That, of course, has been the policy of the FCC. But the reaction was as if something entirely new had been advocated. Actually, the reaction was to the real meaning of Mr. Whitehead's announcement. It was seen for what it was: An attempt to intimidate broadcasters.

Mr. Whitehead pointed to the dangling sword.

The FCC's fairness doctrine sounds like it is a good thing. After all, it says that all sides of controversial issues of public importance should be broadcast. Any good journalist will do that without being told.

But being told carries with it the threat of losing one's license for failing to do so. The result, can be—and often is—the failure to broadcast programs that should be broadcast.

Had there been no NBC presentation about pensions, would the FCC have insisted there be such a program? Mr. Knoll says:

> It is inconceivable that the FCC would have insisted that one be produced.

But, for a moment, just think of the consequences should a governmental agency have the power to insist that television or radio broadcast any program on any subject. Would not that power be instantly recognized for what it would be: infringement on free speech. Potential dictatorship. Conceivably the end to political freedom.

Would anyone who is dedicated to our Constitution and to our way of life condone such governmental power?

I think not.

Yet, that is the sword that now hangs over American broadcasters. It is the fairness doctrine.

Not all that sounds good is good.

Mr. President, I ask unanimous consent that Mr. Knoll's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Fair or Foul?

(By Steve Knoll)

The success of old-fashioned print journalism in exposing Watergate and its associated scandals has shamed the network news establishment into allocating new funds, manpower and air time for investigative reporting. That's good news, but I wonder how much encouragement the networks will get from the Federal Communications Commission. I raise the question, having in mind what happened to an NBC News documentary entitled "Pensions: The Broken Promise," broadcast in September 1972. That program managed rather successfully to portray the inadequacies of many private pension plans, and it managed just as successfully to get NBC in trouble with the FCC, which wields the sword of Damocles known as licensing authority. (As Clay Whitehead, the departing director of the White House Office of Telecommunications Policy, once said in one of his more inspired moments, "The main value of the sword of Damocles is that it hangs, not that it drops.")

The FCC found merit in a complaint filed by Accuracy in Media—a nonprofit, self-appointed "media monitor" of predominantly right-wing complexion—that NBC had violated the Fairness Doctrine by pinpointing the defects of many private pension plans and not allocating sufficient time to those who feel that some other plans as currently administered are all right. The FCC did not dispute the truthfulness of the documentary's conclusion that on the whole the private pension situation is "deplorable." But the Fairness Doctrine has nothing to do with truth; it simply requires that if a broadcaster presents one side of what is deemed "a controversial issue of public importance," he must—at the same time or at some other time—present the other side. There are many within the industry who feel that this seemingly innocuous requirement, when enforced by the government on a case-by-case and complaint-by-complaint basis, inhibits the networks from engaging in vigorous investigative reporting, or at least threatens to do so unless the requirement is modified (as it may be as a result of NBC's court appeal of the FCC ruling on "Pensions").

Unhappily for the Fairness Doctrine, the truth is not always, or even usually, equidistant from opposite poles. If it were, the requirements of the doctrine might not be so menacing to tought investigative reporting by TV. Jay McMullen of CBS, an outstanding news producer, once observed that in an investigative documentary, one doesn't merely report that X says blue and Y says green: "You nail down what it really is, and you know when you do that, you will be attacked." The question becomes, "What is the climate in which you'll be attacked? Is it a climate that favors investigative journalism or not? Is it a climate in which various groups are looking for an excuse to throttle you?"

The FCC ordered NBC to balance what it considered the one-sided presentation of "Pensions" with a broadcast of opposing views. Now this requirement could have been met without too much difficulty by giving the Accuracy in Media people some time on the "Today" show. After all, why shouldn't NBC "balance" its documentary? The answer is, first of all, that by so doing NBC would implicity admit a defect in the original presentation where—in its opinion and that of many others—no such defect existed (the program won a prestigious Peabody award for exemplary investigative journalism on the same day the FCC staff ruling was issued). Moreover, it would be establishing a precedent by which hard-hitting documentaries would have to be "balanced" by other programming material that could contradict their conclusions.

It would indeed be useful for television to develop the equivalent of a "letters to the editor" department where airing of other views on "Pensions" might be appropriate. But note that the FCC did not rule that "Pensions: The Broken Promise" was biased, only that it was one-sided (admittedly an elusive distinction). NBC in effect argues that the abuses documented were real, that there is no "other side" to them, hence the program's subject was not a "controversial issue" that should trigger the Fairness Doctrine. The FCC maintains that the program embraced the entire private pension system along with proposed legislation to regulate it, and therefore the Fairness Doctrine requirement of "rough balance" does apply.

Traditionally the FCC has not been strict in applying "rough balance," so why pick on "Pensions"? The answer, in essence, is that NBC did something unusual—it broadcast an investigative report on a subject that had not previously received significant coverage on television, and had the gumption to tell the FCC it had no specific plans to cover the subject again except, in the journalistic vernacular, "as developments warrant." While the Fairness Doctrine does not call for self-cancelling balance within a single program, in effect it does just that when the program reflects a broadcasters' *total* coverage of the "controversial issue of public importance."

Thus, in practical application, the doctrine applies with particular force to documentaries that explore issues previously unexplored, as opposed to documentaries on "soft" (non-controversial) subjects or well-trod themes. If the FCC "Pensions" ruling is upheld, it is almost inconceivable that NBC (and other networks) will continue producing strong documentaries that come to conclusions, dumping the balancing material in the "Today" show or its equivalent. The requirement for "balance" will be met in the original broadcast ("on-the-one-hand-and-on-the-other-hand"), and television journalism's adversary thrust will be further blunted. In reviewing the constitutionality of the FCC decision, the US Court of Appeals for the District of Columbia Circuit will in effect decide whether television news is merely an even-handed conveyor of the views of others, a sounding board for partisans and advocates on every side of an issue, or whether it can also do probing journalism in the tradition of the printed media.

Government-administered "fairness" has already forced the network's corporate lawyer to assume a role in the formulation—and review—of editorial judgments he is not qualified to make, and in most cases, does not want to make. It has also fostered sublimal restraints in the minds of producers and reporters anxious to earn the approbation of their superiors. NBC News senior executive producer Reuven Frank speaks candidly of "fairness filler," material inserted in television news simply to satisfy management's sense of what will satisfy the federal standard of "rough balance." Similarly, the National News Council has noted "a tendency of network news shows to frequently place favorable and unfavorable stories about a given subject in [juxtaposition] even though the stories may not be of equal importance."

It has been argued that broadcasting, as a government-licensed press, can't and shouldn't enjoy the same First Amendment protection that is given to its print cousins. But the Communications Act was never intended to supplant the First Amendment; indeed, it includes a specific prohibition against FCC censorship, though the force of that prohibition has been eroded by FCC regulation of news content and second-guessing of editorial decisions. It is perfectly possible to retain a public interest scheme of broadcast regulation, preserving the government's role as a watchdog against monopolistic practices, while respecting "no trespass" signs at the door of the TV-radio newsroom.

In the landmark *Red Lion* decision of 1969, the Supreme Court affirmed the constitutionality of the Fairness Doctrine, specifically upholding the commission's rules on personal attack and political editorializing. The Court held that "differences in the characteristics of news media justify differences in the First Amendment standards applied to them." The scarcity of spectrum space for broadcasting was stressed as the rationale for the Fairness Doctrine and kindred obligations unique to broadcasting. The high court declared, "It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount."

The *Red Lion* case chosen by broadcasters to test the constitutionality of the Fairness Doctrine must have been selected by a masochist in their ranks. A Red Lion, Pennsylvania radio station had broadcast a vehement attack on journalist Fred J. Cook by a right-wing preacher, the Rev. Billy James Hargis, and denied Cook free time to reply. Cook complained to the FCC, and the issue was joined. Any decent man's sympathies would be with Cook. But, that isn't the point: it was on the application of the personal attack rule in Cook's case—*not*, for example, on FCC editorial judgments on documentary content—that the constitutionality of the entire Fairness Doctrine came to stand or fall. In the end, it stood. But was it the final word from the courts on the matter? I hope not.

The 1969 decision did have an escape clause: ". . . if experience with the administration of these doctrines indicates that they have the net effect of reducing rather than enhancing the volume and quality of coverage, there will be time enough to reconsider the constitutional implications." The high tribunal considered such baleful results unlikely, "since if present licensees should suddenly prove timorous, the commission is not powerless to insist that they give adequate and fair attention to public issues."

Yet if NBC had never done a documentary on private pension plans, it is inconceivable that the FCC would have insisted that one be produced. In the summer of 1972, when the White House was dismissing Watergate as a "third-rate burglary attempt," could the FCC realistically have been expected to get on the backs of the broadcasters to dig deeper? An agency of government is not a suitable instrument to prod the media into vigilant scrutiny of official wrongdoing. Neither can it push them to expose failings in the private sector.

Although the FCC recently expanded its "Fairness and Political Broadcasting" bureaucracy to handle the mounting volume of complaints, prospects today for a "rollback" of the doctrine do seem a little bit brighter. Two years ago, when the U.S. Court of Appeals in Washington upheld FCC action against radio station WXUR, Media, Pennsylvania, Chief Judge David Bazelon delivered a ringing dissent, taking apart the Fairness Doctrine and suggesting that "more freedom for the individual broadcaster" might "enhance, rather than retard, the public's right to a marketplace of ideas." Another member of the same court was meanwhile developing second thoughts about the doctrine, with broadcasting's laggard performance on Watergate as the catalyst. Judge J. Skelly Wright asserted, "Our experience with the First Amendment has confirmed that the people's right to know—the *informing* function of the First Amendment —is its primary function."

Two members of the Supreme Court have expressed misgivings about *Red Lion*. Justice William O. Douglas, who hadn't participated in the 1969 decision, states flatly that "the Fairness Doctrine has no place in our First Amendment regime." Justice Potter Stewart, who supported *Red Lion*, now reveals he did so "with considerable doubt," and that his views in fact "closely approach those of Justice Douglas."

Dean Burch left his post as FCC chairman earlier this year after repeatedly expressing perplexity about the constitutional basis for the doctrine. And John Pettit, who as FCC general counsel defended the agency's "Pensions" ruling before the court of appeals, is on record with the view that "perhaps Justice Douglas is right" in placing broadcasters on the same First Amendment footing as print.

The FCC's present chairman, Richard E. Wiley, continues to defend applications of the doctrine on a case-by-case basis. In Wiley's view, any eventual reforms "must not preclude commission review—and perhaps even reversal—of the licensee's judgment where warranted."

The First Amendment contains the unambiguous and sweeping injunction, "Congress shall make no law . . . abridging the freedom of . . . the press." Today broadcast journalists wait anxiously as Congress begins to ponder whether to unmake laws that do just that, and the courts move toward decisions that will define the parameters and possibilities of investigative reporting on the air. If in the end the FCC is rebuffed, NBC will have accomplished far more than the spotlighting of inequities in pension plans by undertaking its documentary.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? There being no further morning business, the period of time for morning business has now expired.

ENERGY TRANSPORTATION SECURITY ACT OF 1974

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 8193, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 8193) to require that a percentage of United States oil imports be carried in United States-flag vessels.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Energy Transportation Security Act of 1974".

SEC. 2. Section 901(b)(1) of the Merchant Marine Act of 1936 is amended by inserting after the words "to the extent such vessels are available", the following: "at the range of ports nearest the point where such equipment, materials, or commodities are manufactured or produced".

SEC. 3. Section 901 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1241), is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary of Commerce shall take such steps as are necessary to assure that a quantity equal to not less than 20 per centum of the gross tonnage of all oil transported on ocean vessels (whether transported directly from the original point of production or indirectly from such point to and from any intermediate points used for storage, refining, processing, packaging, unloading, or reloading of oil) for import into the United States shall be transported on privately owned United States-flag commercial vessels (to the extent that such vessels are available at fair and reasonable rates for such vessels), and to insure fair and reasonable participation of such vessels in such transportation from all geographical areas in which such oil is produced or refined or both. With respect to any period beginning after June 30, 1975, the quantity of such oil required to be transported on privately owned United States-flag commercial vessels shall be equal to not less than 25 per centum of the gross tonnage of all oil transported on ocean vessels for import into the United States, and for any period beginning after June 30, 1977, such quantity shall be equal to not less than 30 per centum of such gross tonnage: *Provided*, That (1) the Secretary of Commerce finds and determines 6 months prior thereto, in the exercise of his sole discretion, that the tonnage of privately owned United States-flag commercial vessels, including vessels on order and scheduled to be ready for commercial service by such date, will be adequate to carry such quantity; and (2) in the event that such tonnage is not found to be adequate to carry such quantity, there shall be carried on such vessels the basic 20 per centum requirement together with any excess over such requirement, but not to exceed the applicable per centum requirement, for which such Secretary finds that adequate tonnage will be available.

"(2) The Secretary of Commerce may by rule establish a system of reasonable classification of persons and imports subject to the provisions of this subsection, and such Secretary shall treat all persons in the same such classification in substantially the same manner. If any person alleges (A) that he has been incorrectly classified under any such rule; (B) that there is no reasonable basis in fact for any such classification; or (C) that as a consequence of any agency action, he is or may be treated substantially differently from any other person in the same classification, such person may request, and, upon a reasonable showing, obtain, a hearing in accordance with section 554 of title 5, United States Code. Upon an agency decision, such person may request judicial review in the United States Court of Appeals for the District of Columbia. The scope of such review shall be governed by section 706 of title 5, United States Code.

"(3) The Secretary of Commerce is authorized to grant credits toward the fulfillment of the requirements of paragraph (1) of this subsection in the case of oil transported by privately owned United States-flag commercial vessels, over 100,000 deadweight tons, between foreign ports until such time as an oil discharge facility, capable of discharging fully laden vessels of over 200,000 deadweight tons, is in operation on any coast of the United States: Provided, That the Secretary of Commerce shall take all reasonable steps to assure that the authority provided in this paragraph not encourage, directly or indirectly, the construction, operation, or maintenance of a fleet of privately owned United States-flag commercial vessels different in numbers, types, or sizes than the fleet that would otherwise result.

"(4) As used in this subsection—

"(A) 'oil' means crude oil and the following products refined or derived from crude oil: unfinished fuels, gasoline, kerosene, aviation fuels, naphtha, cracking stocks, distillate heating oil, diesel oil, and residual oils:

"(B) 'privately owned United States-flag commercial vessels' are vessels of United States registry (or if at any time documented under the laws of any foreign nation, then documented under the laws of the United States for not less than three previous years), built in the United States which are not more than 20 years old or which have been reconstructed and are not beyond their economic lives (as determined by the Secretary of Commerce), and with respect to which the owner or lessee thereof has entered into a capital construction fund agreement with such Secretary pursuant to which such vessel shall be replaced at the end of its 20 years life, or at the end of its extended economic life in case of reconstruction, and such agreement includes a mandatory deposit schedule to finance such replacement: *Provided*, That any such vessel in excess of 20,000 deadweight tons, the construction of which is contracted for after December 31, 1974, or the delivery of which is made after December 31, 1978, shall be constructed and operated using the best available pollution prevention technology, and shall be equipped with a segregated ballast capacity determined appropate by the Secretary of Transportation which shall be achieved in part by fitting, throughout the cargo length, a double bottom of a minimum height of one-fifteenth of the beam or such other appropriate height as determined by the Secretary of Transportation; and

"(C) 'United States' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico.

"(5) Each department, agency, or other instrumentality of the United States which is affected by any obligation imposed under this subsection, and any officer or employee thereof, shall take all appropriate action to assure compliance with such obligation and with regulations which shall be issued by the Secretary of Commerce to implement and enforce the provisions of this subsection. Each citizen of the United States and each person subject to the jurisdiction of the United States shall comply with such obligations and any applicable regulations isued by such Secretary under this subsection.

"(6) The Secretary of Commerce shall review, evaluate, and report annually to the Congress and the President on the implementation of the provisions of this subsection and the effectiveness of such provisions. Each such report shall include, but not be limited to, a study of (1) the adequacy and availability of construction and reconstruction facilities in the United States for the vessels needed to meet the provisions of paragraph (1) of this subsection, and (2) the reasonableness of the prices charged and delivery dates for the construction and reconstruction of such vessels."

SEC. 4. The provisions of this Act shall not apply to any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with such refiner) does not exceed 30,000 barrels per day: Provided, That the total quantity of such oil imported by or for such refiner does not in any year exceed the rated refining capacity of such refiner.

SEC. 5. License fees payable pursuant to Presidential proclamation for imports of crude oil imported into the United States shall be reduced by 15 cents per barrel for a period of 5 years from the date of enactment of this Act if the Secretary of the Treasury determines—

(a) such crude oil is transported by privately owned United States-flag commercial vessels; and

(b) the amount resulting from the nonpayment of such license fees is passed on to the ultimate consumers of such crude oil in whatever form it is when ultimately consumed.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, I ask unanimous consent that members of the staff of the Committee on Commerce be permitted to be present on the floor during debate on this legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. COTTON. Mr. President, I ask unanimous consent that we may have two Members——

Mr. LONG. That includes all Members, minority as well as majority.

I also ask unanimous consent that Mr. Robert Best of the staff of the Committee on Finance be permitted the privileges of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and I have been informed this will be a live quorum. This is, of course, without the Senator losing his right to the floor.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 379 Leg.]

Abourezk
Aiken
Allen
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cotton
Griffin
Haskell
Inouye
Long
Mansfield
Metzenbaum
Montoya
Proxmire
Sparkman
Stafford
Stennis
Talmadge

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Bartlett
Beall
Bennett
Bible
Cannon
Case
Chiles
Clark
Domenici
Dominick
Eagleton
Gravel
Hatfield
Helms
Huddleston
Hughes
Jackson
Javits
Johnston
Mathias
McClellan
McGovern
McIntyre
Mondale
Nelson
Nunn
Pastore
Randolph
Ribicoff
Scott,
  William L.
Stevens
Symington
Thurmond
Weicker
Williams

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. McGEE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Illinois (Mr. STEVENSON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from California (Mr. CRANSTON), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Arkansas (Mr. FULBRIGHT) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Kentucky (Mr. COOK), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from Florida (Mr. GURNEY), the Senator from Wyoming (Mr. HANSEN), the Senator from Nebraska (Mr. HRUSKA), the Senator from Idaho (Mr. McCLURE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), the Senator from Delaware (Mr. ROTH), the Senators from Pennsylvania (Mr. HUGH SCOTT and Mr. SCHWEIKER), the Senator from Ohio (Mr. TAFT), the Senator from Texas (Mr. Tower), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. FONG) and the Senator from Illinois (Mr. PERCY) are absent on official business.

The PRESIDING OFFICER (Mr. CLARK). A quorum is present.

ORDER OF BUSINESS

Mr. LONG. Mr. President, I ask unanimous consent that without prejudice to my rights to the floor I may yield briefly to the Senator from Mississippi (Mr. STENNIS).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I certainly appreciate the courtesy of the Senator from Louisiana. I shall use only a minute and a half.

GEN. CREIGHTON ABRAMS

Mr. STENNIS. Mr. President, along with many thousands of his admirers, I mourn the passing of Gen. Creighton Abrams. He was a highly exceptional and outstanding military officer in many ways. At his confirmation hearings on his nomination for Chief of Staff of the Army I remarked to him that I thought of him as a fine field officer with "mud on his boots." He took my expression as a compliment, and that is the way I intended it, in that he was an Army man, at home and at his best out with the troops and even in the smoke of battle.

General Abrams came to the office of Chief of Staff of the Army following the dubious assignment he had had for a military man, of winding down the war. Some of the talk in the corridors then was that he should not be appointed Chief of Staff because he would be under the handicap of having an unpopular war associated with his name, and therefore other leadership would be more appropriate.

His record of achievements as Army Chief of Staff totally refuted all of this talk. He met the demanding and crucial situation that the Army was in when he became Chief with a fine knowledge and understanding of the problem, and with the determination and ability to find solutions and apply them. All in all, he was one of the very best Chiefs of Staff of the Army that we have had. His accomplishments as Chief were varied and many.

In response to my question as to whether or not he thought the Volunteer Forces system would work, being the realist that he was, he pointedly said, "We must make it work." As usual, he used few words with much meaning.

As far as I know, he never gave a press conference, he never appeared on a television program, and he gave out press releases only when the demands of the situation required it. He left all these things to others and stayed busy making a truly great soldier, which will also serve as a fine example to others.

I am thankful for his career, for his contributions to the Nation and to the U.S. Army.

As a member of the Senate Armed Services Committee, I feel also that I am speaking for the committee when I pay him this tribute and also when I extend to his wonderful wife and his six fine sons and daughters my utmost sympathy and condolences in their earthly loss.

May God rest his wonderful soul.

Mr. President recently I made a short speech to the Cadet Corps at the Military Academy at West Point on the subject "The American Military Uniform." The late General Abrams personified in every major respect the meaning and the traditions of the American military uniform. I ask unanimous consent that a copy of these remarks be included in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE MILITARY UNIFORM

Members of the Cadet Corps, members of the Cadet Wing, and Friends of the Academy:

It is a privilege to be here and to address you for a few minutes on the Parade Grounds at West Point.

First, I want you to know that you have many backers and much solid support within the membership of the United States Senate. There are many of us there who consistently give solid support to you and others who wear the American military uniform.

Among my splendid experiences here today was the briefing by two of your worthy and outstanding members of the Cadet Corps regarding your Cadet administered Honor Code and the Honor System. I was most favorably impressed as well as greatly encouraged. Make that Honor Code a part of your very being while you are here. Thereafter, whatever path you follow, make this Code a part of you forever.

I hope that each one of you will have the privilege, and that you will accept that privilege, of wearing the American military uniform for a permanent career. First, an active military career is a highly honorable profession. Further, military strength has been essential for our security during our Nation's entire history, and it will continue to be essential far beyond our time. You will have honor, action and reward in a military career.

From the moment our national independence was declared, the man in the military uniform has been on the front lines, winning our independence and maintaining the security and safety of our people. As a whole, he has always operated at a high level of integrity and personal honor. This is as it should be; he will continue to do so.

In my official work in Washington, individual military officers come and go, but the uniform stays on. It is the American military uniform that I honor because it symbolizes a great profession of honor and integrity.

As you prepare here, may you prepare well. As you assume further and broader duties, may this preparation here, the support of a great nation, and the help of a Divine Power sustain you and our country as we face our future and its problems unafraid.

TRIBUTE TO GEN. CREIGHTON ABRAMS, CHIEF OF STAFF, U.S. ARMY

Mr. THURMOND. Mr. President, today a distinguished soldier, Gen. Creighton W. Abrams, Chief of Staff of the U.S. Army, passed away at Walter Reed Army

Hospital here in Washington. He succumbed at 12:35 a.m. from complications as a result of the removal of a cancerous lung last June. General Abrams' death represents a distinct loss to the Army and the Nation. I extend to his widow and family my heartfelt sympathy.

When a man reaches the pinnacle of his profession he leaves a mark. In the case of General Abrams, although he had served as Chief of Staff for less than 2 years—since October 12, 1972—he did leave for the Army a sense of direction which deserves to be followed.

This legacy directly relates to his character as being a soldier's soldier. He was closely identified with the infantry footslogger, the man in the lower ranks who has to win and hold ground by which victories are measured. While air power, and often sea power, are critical to victories in war the ultimate measure is who holds what land. It was the man who had the dirty job of taking and holding land that General Abrams was most closely identified.

In the short span of less than 2 years, General Abrams set for the Army new directions which deserve to be continued. Briefly, these directions involved a general reorganization in January of 1973 followed by higher levels of readiness and a shifting of forces from support to combat missions.

He came to the Army's top job after serving as U.S. Commander in Vietnam from July 1968 to the end of the war in early 1972. During this time he supervised the Nixon military initiatives into Cambodia and Laos, and urged the increased use of seapower and airpower which were instrumental in bringing U.S. involvement in that war to a close.

After the successful mining of Haiphong and bombing of Hanoi, U.S. withdrawal was possible because of the Vietnamization program which had molded our allies there into an effective fighting force. In all of these policies General Abrams had an important role.

Upon returning to the United States as Chief of Staff for the Army, General Abrams found the 13 Army divisions in various states of unpreparedness. He immediately implemented a program which resulted in his reporting to the Congress earlier this year that 12 of our 13 divisions were combat ready.

However, his brief tenure may well be significant more for the programs he initiated than those he completed.

Perhaps the most public attention was given to his aggressive reduction of headquarters spaces throughout the world. Under his leadership the Army closed or consolidated numerous headquarters in the United States and overseas. He sharply reduced his own headquarters staff in the Pentagon and this set the tone, as President Ford has done, of leading by example.

He was a strong advocate of Army aviation as represented by the Army's exploitation in South Vietnam of the transport and attack helicopter. Shortly after becoming Chief of Staff he told the Army Aviation Association of America that the helicopter provided an essential element of the success of ground forces in Vietnam.

In the current year General Abrams became a strong spokesman for maintaining Army strength at 785,000. He noted the continued reduction of Army strength since Vietnam to a point where manning had reached the levels of the early 1950's. His plea to Congress was to allow stability and with it would come higher readiness and better personnel management.

Tied to his pleas to maintain Army manning at 785,000 was a plan to rearrange Army organization in a way to increase our combat divisions from 13 to 16. General Abrams believed this could be done within the 785,000 strength by reducing headquarters and shifting emphasis from support to combat forces.

A key element of his plan was to integrate reserve and guard forces into the regular divisions. This policy makes use of our reserve and guard in a meaningful way and is economical because of the fact that they cost only a fraction of the sum needed for active forces.

In summary I would venture the opinion that General Abrams made contributions of great substance in a very brief time as the Army's Chief. In less than 2 years he had initiated many worthwhile ideas. It is my hope that his successor will go forward with many of these sensible efforts to make the Army hard and lean.

Mr. President, in closing I ask unanimous consent that a brief biography of General Abrams be printed in the Record at the conclusion of my remarks.

There being no objection, the biography was ordered to be printed in the Record, as follows:

Gen. Creighton W. Abrams, Chief of Staff, U.S. Army

Creighton Williams Abrams was born in Springfield, Massachusetts, September 15, 1914. He graduated from Agawam High School, Agawam, Massachusetts, in 1932, from the U.S. Military Academy in 1936, and was commissioned a Second Lieutenant in the U.S. Cavalry.

General Abrams' first four years in the Army were spent as a troop officer in the 1st Cavalry Division. In 1940 he joined the 1st Armored Division, and in 1941 joined the newly-formed 4th Armored Division. As a member of the 4th Armored Division from its activation in 1941 until V–E Day in 1945, General Abrams took part as a battalion or combat command commander in every campaign the Division fought.

Following V–E Day, General Abrams was assigned to the War Department General Staff. Assignments at the Armored School and attendance at the Command and General Staff College followed, and in 1949 he assumed command of the 63d Tank Battalion of the 1st Infantry Division and later the 2d Armored Cavalry Regiment.

After graduating from the Army War College, he was assigned to Korea, where he served in several key staff positions. Returning to the States in 1955, he served as Chief of Staff of the Armored Center at Fort Knox.

In 1956 General Abrams was promoted to Brigadier General and assigned to the Department of the Army General Staff as the Deputy Assistant Chief of Staff for Reserve Components.

General Abrams returned to Europe in 1959 as Assistant Division Commander of the 3d Armored Division. In June 1960 he was promoted to Major General and assumed command of the 3d Armored Division in October 1960. Returning to Washington in May 1962, he became the Assistant Deputy Chief of Staff for Military Operations for Civil Affairs. After filling several important Staff positions in Washington, he became Commanding General of V Corps in Germany 15 July 1963 and was promoted to Lieutenant General 1 August 1963.

General Abrams was promoted to the rank of General 4 September 1964 and on the same date was sworn in as Vice Chief of Staff, U.S. Army. General Abrams became the Deputy Commander, U.S. Military Assistance Command, Vietnam, 6 April 1967 and assumed command of the Assistance Command in July 1968. On 12 October 1972 General Abrams became the twenty-sixth Chief of Staff of the United States Army.

General Abrams has been awarded the Distinguished Service Cross with Oak Leaf Cluster, the Defense Distinguished Service Medal, the Distinguished Service Medal with three Oak Leaf Clusters, the Silver Star Medal with Oak Leaf Cluster, the Bronze Star Medal with Valor Device, and numerous other U.S. and foreign decorations.

CREIGHTON ABRAMS—A SOLDIER'S SOLDIER

Mr. McINTYRE. Mr. President, I was saddened this morning when I heard of the untimely death of Gen. Creighton W. Abrams, Chief of Staff of the U.S. Army.

I did not have the privilege of knowing him personally—away from his duties in uniform. But, I did get a measure of the man when I saw him in the field in Vietnam during my visit there in 1970. I was impressed by his dignity and coolness in the holocaust that was Vietnam at that time.

I also had a chance to see him when he appeared before the Senate Armed Services Committee to speak in behalf of Army needs and Army programs. In the veritable sea of uniforms, faces and voices that flows before the committee each year, his stood out. His voice, unlike some, was not loud, not overbearing, not pompous, not righteous, not indignant, not demanding. No. His voice was quiet. His thoughts were personal and candid. He spoke modestly but with force and meaning.

I will not attempt to recite his long list of honors. This will be done by others and, I am certain, with eloquence. Instead, I will let him speak for himself. And this is the best tribute that any man can receive. On April 10, 1973, when General Abrams appeared before the committee, I asked him the following question:

> General Abrams, historically, the esprit de corps of the Marines—remember, I am an old Army man—has in the minds of the American people set them somewhat above the level of the three services in their reputation for discipline, toughness, combat readiness, and outstanding performance. On the other hand, the other services are sometimes criticized for being too permissive and overreacting to their respective military manpower problems. What are your views on this?

His answer, and I quote it in full, was as follows:

> First of all, I agree with your description of the image of the U.S. Marine Corps. That is also the view that I have. Historically that has been the position that they have occupied in the minds of the American people and the officialdom of the American Government. Furthermore, I think it is well earned, and justified.

With respect to the Army, the Army is, I think, somewhat of a different thing. Historically the Army has required tremendous expansion in time of war. Back to as far as I can go in my own experience, World War II—I belonged to the 1st Cavalry Division, I joined in 1936, and it was all horses and mules—the Army was 168,000 total, including the Air Corps, which was then part of the Army. And it went to 8 million before World War II was over.

A similar, although not as drastic an expansion was made when we had to go and fight in Korea, and a similar thing happened when it came time to go and fight in Vietnam.

What happened in each of those times was that vast numbers of citizens were called to the colors by the draft—at least for those three wars that was what happened—and it became necessary to train and create an officer corps and a noncommissioned officer corps in the shortest possible time. Their experience level was low.

Let me give a personal example. When I was a second lieutenant my wife had to go home. She was the oldest child and her father passed away. I was down at Fort Bliss. The plane ticket was $125, and that was a month's salary. I went down to Paso del Norte Hotel in El Paso, walked up to the deskman, and gave him a check for $125. I said, "I don't have the money in the bank, but I need the money."

The man at the desk counted out the $125. I was a second lieutenant. Then I purchased the plane ticket and my wife went home.

At the end of World War II, I had gone up to West Point to make a speech. I flew up there in an airplane with one of the instructors at Fort Knox, who was a pilot, and we got weathered in. I had plenty of money with me, but we stayed there 5 days. Then I just had to get back to Fort Knox, because I had classes to meet. I was a teacher there.

There was no flying. The weather wasn't clear. I bought a train ticket at West Point, and I got on the train down there at the West Point station.

We went down to the Pennsylvania Station in New York and I went up to check my ticket for Louisville at the ticket counter, and the man said "there is no such train."

"Well," I said, "could you let me have another ticket?"

So he goes to make out another ticket—I have forgotten what it cost, $58 or something like that—and he wouldn't substitute. He said the ticket I had was no good, although I had paid for it. "It is very simple," he said, "just turn it in when you get home and they will refund your money."

And I said, "I don't have money for another ticket."

I went across the street to the Pennsylvania Hotel to cash a check. I was in uniform. I was a colonel, but I couldn't cash it.

I did have enough money to pay for the ticket, but I didn't have any money for meals.

When I got to Louisville, I gave the porter a silver dollar which I had carried all during the war.

That is what happens, and the American people sensed the change. And we have been through that, at least in my experience, now three times. Now we have to get back that status with the American people. That is what we are in the process of trying to do now, get the status of integrity, honesty, and character in our officer corps. And it applies to all grades, from general to second lieutenant, no grades are exempt, including the noncommissioned officers. That is what now has to be rebuilt, and we have to do that.

Mr. President, the Nation will miss General Abrams for his leadership, for his lifetime dedication to the Army, and to the common soldier. I regret that I did not have the time to have known him better.

ENERGY TRANSPORTATION SECURITY ACT OF 1974

The Senate continued with the consideration of the bill (H.R. 8193) to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels.

Mr. LONG. Mr. President, the Senator from Minnesota may not be able to be with us tomorrow to present an amendment that he wishes to offer, and I would like to accommodate the Senator. He can offer his amendment at this time. I do not oppose it. I do not believe that the Senate will oppose it.

First, I would like to ask consent that Wayne Thevenot, Doug Svendson of my staff, and Bert Rosen of the Post Office and Civil Service Committee staff, be permitted to remain on the floor while the bill is being debated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that I may yield to the Senator from Minnesota for the offering of his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1837

Mr. MONDALE. I thank the distinguished floor manager for his courtesy in permitting me to call up my amendment in this fashion. It is a matter of grave importance to those of us who serve States along the Great Lakes, whose ports are now in desperate circumstances.

I have worked on this amendment with the staff of the distinguished floor manager, and with the staff of the Senator from Michigan (Mr. Griffin) who served as a cosponsor; this amendment is supported, in addition, by Senator Proxmire, Senator Hart, Senator Hugh Scott, my colleague, Senator Humphrey, Senator Nelson, Senator Stevenson, Senator Bayh, Senator Hartke, and Senator Taft.

Mr. President, on behalf of these Senators, I call up my amendment No. 1837 and ask that its reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

> Section 809 of the Merchant Marine Act, 1936 (46 U.S.C. 1213), is amended to read as follows: "Contracts under this chapter shall be entered into so as to equitably serve, insofar as possible, the foreign-trade requirements of the Atlantic, Gulf, Great Lakes, and Pacific ports of the United States. In order to assure equitable treatment for such range of ports referred to in the preceding sentence, not less than 10 per centum of the funds appropriated or otherwise made available for the foreign-trade requirements of the United States pursuant to this Act or any law authorizing funds for the purposes of such Act shall be allocated for the foreign-trade requirements of each such port range. Furthermore, in awarding contracts under this chapter, preference shall be given to persons who are citizens of the United States and who have the support, financial and otherwise, of the domestic communities primarily interested.".

Mr. MONDALE. Mr. President, this amendment amends section 809 of the Merchant Marine Act of 1936 by inserting after the words "the foreign-trade requirements of the Atlantic, Gulf, Great Lakes, and Pacific ports," the following sentence:

> In order to assure equitable treatment for such range of ports referred to in the preceding sentence, not less than 10 per centum of the funds appropriated or otherwise made available for the foreign-trade requirements of the United States pursuant to this Act or any law authorizing funds for the purposes of such Act shall be allocated for the foreign-trade requirements of each such port range.

Mr. President, in 1970 when we made some very important improvements in the Merchant Marine Act for the first time, we added the Great Lakes range of ports officially as the fourth seacoast of the United States.

Under the Merchant Marine Act, this range of ports was then to be considered an essential route of trade for the United States in foreign commerce, and was to be promoted and maintained in the interest of the United States. Regrettably, since that time, not a single U.S. flagship has sailed the Great Lakes; not a single dime of maritime subsidy has gone either for construction differential or operating differential subsidies.

The result is that many ports, including my own port in Duluth-Superior, and throughout the Great Lakes, have been turned into virtually deserted areas. I think this is an atrocious policy for the United States, as well as being very, very unfair to our area. Hundreds of longshoremen, seamen, and pilots have lost their jobs.

These ports have been responsible for millions of dollars worth of commerce upon which these communities depend. That commerce has disappeared.

For this reason, we are asking that this amendment be adopted, which sets aside a minimum of 10 percent of the construction and operating subsidies for each of the four great seacoasts.

Mr. President, this will, in my opinion, force the Maritime Administration to undertake a long and overdue look at establishing a balanced four-seacoast strategy.

Mr. President, I have discussed my amendment with representatives of the International Longshoremen Association, the AFL–CIO, and the National Farmers Union. They have assured me of their full and enthusiastic support.

We are very hopeful that this amendment will be adopted. I think once adopted, it will be a strengthening feature for the transportation system of this country.

Mr. President, I ask unanimous consent to have an article from the January issue of the Maritime magazine printed in the Record.

There being no objection, the article was ordered to be printed in the Record as follows:

GREAT LAKES FLEET

The United States Great Lakes fleet is rapidly approaching total obsolescence. Approximately 45 percent of that fleet is more than half a century old; less than 30 new bulk carriers and tankers have been added to this service since 1950, and not a single one since 1961. Since 1955, our Great Lakes fleet has declined by more than 130 vessels, representing nearly 1 million deadweight tons. The result: The loss of almost 5,000 shipboard jobs.

The opening of the St. Lawrence Seaway a decade ago, making the Great Lakes our "fourth seacoast" by enabling oceangoing vessels to carry cargoes to and from the heartland of the American continent, was supposed to stimulate American-flag shipping. It has not done so. It has been a boon for foreign-flag shipping instead.

To correct these deficiencies, we propose:

(1) The extension to Great Lakes operators of the same right to establish tax-deferred construction reserve funds being sought for the entire deep-sea fleet.

(2) The earmarking of a portion of ship construction subsidies for replacement of the Great Lakes fleet and specifically for deepsea ships which will service this area.

(3) The earmarking of a portion of ship operating subsidies for vessels which will make voyages into and out of the Great Lakes. The purpose of operating subsidies is to help American-flag vessel compete with foreign-flag vessels. Certainly the situation on the Great Lakes, where foreign-flag shipping is overpowering U.S.-flag operations, also poses a competitive threat which must be overcome.

Mr. LONG. Mr. President, I hope that the Senate agrees to this amendment. I believe it is meritorious. It seeks to provide some needed help to the Great Lakes. I hope that the amendment can achieve its objective. I believe the general purpose of it is to say, if we can persuade America-flag ships to sail on the Great Lakes, they would have their share of the operating subsidy differential. I believe that is what we are talking about.

Mr. MONDALE. It is also for the purpose of nudging the Maritime Administration and to seek to persuade shipping companies through the availability of these construction and operating subsidies to use the Great Lakes. Those subsidies are essential, as we all know, if we are going to have shipping under U.S. flags with U.S. conditions, pay, and the rest.

There has to be a differential paid. Otherwise, it is just not economically feasible for U.S.-flag ships to use this range of ports.

Mr. LONG. I support the amendment, Mr. President, and I hope it will be accepted.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. COTTON. Mr. President, I did not object until the distinguished Senator from Louisiana sought to have this amendment offered, and also wanted to retain the floor. I did not think that he intended to amend this bill without giving anyone else a chance to express themselves on the amendment.

I would ask unanimous consent that I may be allowed to offer comments on the amendment, with the understanding that it will not deprive the Senator from Louisiana of the floor.

Mr. LONG. Mr. President, I yield.

Mr. SPARKMAN. Mr. President, will the Senator yield long enough for me to ask the Chair to lay before the Senate a message from the House of Representatives on S. 3473?

Mr. COTTON. If I have the floor, I yield.

DEPARTMENT OF STATE AND USIA APPROPRIATIONS AUTHORIZATION ACT OF 1974

Mr. SPARKMAN. On behalf of the Senator from Arkansas (Mr. FULBRIGHT), the chairman of the Committee on Foreign Relations who could not be here today, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3473, with amendments thereto.

The PRESIDING OFFICER (Mr. CLARK) laid before the Senate the amendment of the House of Representatives to the bill (S. 3473) to authorize appropriations for the Department of State and the U.S. Information Agency, and for other purposes, as follows:

Strike out all after the enacting clause, and insert:

That this Act may be cited as the "Department of State and United States Information Agency Appropriations Authorization Act of 1974".

AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF STATE

SEC. 2. (a) There are authorized to be appropriated for the Department of State for the fiscal year 1975, to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purpcses authorized by law, the following amounts:

(1) for the "Administration of Foreign Affairs", $360,785,000, of which $250,000 are authorized to be appropriated for the purpose of providing protection for the representatives of the United States to the United Nations appointed by the President under section 2 of the United Nations Participation Act of 1945, including Delegates and Alternate Delegates to any session of the General Assembly of the United Nations;

(2) for "International Organizations and Conferences", $229,604,000;

(3) for "International Commissions", $17,832,000;

(4) for "Educational Exchange", $75,000,000; and

(5) for "Migration and Refugee Assistance", $9,470,000.

(b) In addition to amounts authorized by subsection (a) of this section, there are authorized to be appropriated for the Department of State for the fiscal year 1975 not to exceed $11,500,000 for increases in salary, pay, retirement, or other employee benefits authorized by law.

(c) In addition to amounts otherwise authorized, there are authorized to be appropriated to the Secretary of State for the fiscal year 1975 not to exceed $40,000,000 to carry out the provisions of section 101(b) of the Foreign Relations Authorization Act of 1972, relating to Russian refugee assistance.

(d) Appropriations made under subsections (a) and (b) of this section are authorized to remain available until expended.

DEATH GRATUITIES FOR CERTAIN FOREIGN SERVICE PERSONNEL

SEC. 3. The Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (70 Stat. 890), is amended by inserting immediately before section 15 (22 U.S.C. 2680) the following new section:

"SEC. 14. (a) Subject to the provisions of this section and under such regulations as the Secretary of State may prescribe, the Secretary is authorized to provide for payment of a gratuity to the surviving dependents of any Foreign Service employee who dies as a result of injuries sustained in the performance of duty outside the United States in an amount equal to one year's salary at the time of death. Appropriations for this purpose are authorized to be made to the account for salaries and expenses of the employing agency. Any death gratuity payment made under this section shall be held to have been a gift and shall be in addition to any other benefit payable from any source.

"(b) A death gratuity payment shall be made under this section only if the survivor entitled to payment under subsection (c) is entitled to elect monthly compensation under section 8133 of title 5, United States Code, because the death resulted from an injury (excluding a disease proximately caused by the employment) sustained in the performance of duty, without regard to whether such survivor elects to waive compensation under such section 8133.

"(c) A death gratuity payment under this section shall be made as follows:

"(1) First, to the widow or widower.

"(2) Second, to the child, or children in equal shares, if there is no widow or widower.

"(3) Third, to the dependent parent, or dependent parents in equal shares, if there is no widow, widower, or child.

If there is no survivor entitled to payment under this subsection, no payment shall be made.

"(d) As used in this section—

"(1) the term 'Foreign Service employee' means a chief of mission, Foreign Service officer, Foreign Service information officer, Foreign Service Reserve officer of limited or unlimited tenure, or a Foreign Service staff officer or employee;

"(2) each of the terms 'widow', 'widower', 'child', and 'parent' shall have the same meaning given each such term by section 8101 of title 5, United States Code.

"(3) the term 'United States' means the several States and the District of Columbia.

"(e) The provisions of this section shall apply with respect to deaths occurring on and after January 1, 1973.".

LIMITATION ON PAYMENTS

SEC. 4. There are authorized to be appropriated funds for payment prior to January 1, 1975, of United States expenses of membership in the United Nations Educational, Scientific, and Cultural Organization, the International Civil Aviation Organization, and the World Health Organization notwithstanding that such payments are in excess of 25 per centum of the total annual assessment of such organizations.

PROHIBITION ON USE OF FUNDS

SEC. 5. No part of any funds appropriated under this Act shall be used to make any payment to the Foreign Service Retirement and Disability Fund to meet any unfunded liability of such fund created by the inclusion of officers and employees of the Agency for International Development in the Foreign Service Retirement and Disability System.

AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES INFORMATION AGENCY

SEC. 6. (a) There are authorized to be appropriated for the United States Information Agency for fiscal year 1975, to carry out international informational activities and programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan

Numbered 8 of 1953, and other purposes authorized by law, the following amounts:

(1) $228,368,000 for "Salaries and Expenses" and "Salaries and Expenses (special foreign currency program)," except that so much of such amount as may be appropriated for "Salaries and Expenses (special foreign currency program)" may be appropriated without fiscal year limitation;

(2) $6,770,000 for "Special international exhibitions"; and

(3) $4,400,000 for "Acquisition and construction of radio facilities".

Amounts appropriated under paragraphs (2) and (3) of this subsection are authorized to remain available until expended.

(b) In addition to amounts authorized by subsection (a) of this section, there are authorized to be appropriated without fiscal year limitation for the United States Information Agency for the fiscal year 1975 not to exceed $4,200,000 for increase in salary, pay, retirement, or other employee benefits authorized by law.

ANNUAL UNITED STATES INFORMATION AGENCY REPORTS TO CONGRESS

SEC. 7. Section 1008 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1439) is amended to read as follows:

"REPORTS TO CONGRESS

"SEC. 1008. The Secretary shall submit to the Congress annual reports of expenditures made and activities carried on under authority of this Act, inclusive of appraisals and measurements, where feasible, as to the effectiveness of the several programs in each country where conducted.".

PRIOR AUTHORIZATION BY CONGRESS

SEC. 8. Section 701 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1476) is amended by adding at the end thereof the following new subsection:

"(e) The provisions of this section shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts administered by the United States Information Agency as authorized by law.".

Mr. SPARKMAN. Mr. President, I move that the Senate disagree to the amendments of the House on S. 3473, ask for a conference thereon, and that conferees on the part of the Senate be appointed.

The motion was agreed to; and the Presiding Officer appointed Mr. FULBRIGHT, Mr. SPARKMAN, Mr. MANSFIELD, Mr. AIKEN, and Mr. CASE conferees on the part of the Senate.

REREFERRAL OF S. 1134 TO THE COMMITTEE ON FOREIGN RELATIONS

Mr. SPARKMAN. Mr. President, if the Senator will yield; on behalf of the Senator from Arkansas (Mr. FULBRIGHT), the chairman of our committee, I ask that S. 1134 be rereferred to the Committee on Foreign Relations. This bill would set up a system of licensing for mining minerals from the deep sea bed. It was reported from the Committee on Interior and Insular Affairs on August 21. It is identical to the bill which was referred to the Committee on Foreign Relations and the Committee on Interior and Insular Affairs jointly in the 92d Congress.

We have a letter from Senator JACKSON agreeing to the rereferral.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. I thank the Chair.

ENERGY TRANSPORTATION SECURITY ACT OF 1974

The Senate continued with the consideration of the bill (H.R. 8193) to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. COTTON. Mr. President, I sympathize entirely with the purpose of the Senator from Minnesota. But, I would observe that passage through the seaway to the Great Lakes at certain times of the year is not possible, and that there is some limitation on the size of ships that can go in the seaway to the Great Lakes. And, in 1970 when we considered the Merchant Marine Act, there were some who did not want to give them the fair deal of being included with the Atlantic, Gulf, and Pacific ports of the United States and put the Great Lakes on the same basis. I was not one of those. I was very glad to support the Great Lakes because of the investment we made in the seaway, and with the desire to do everything reasonably possible to promote traffic in the Great Lakes and their ports which they were entitled to.

But, now after obtaining in 1970 what some term a special privilege, although I did not consider it as such, I think we ought to understand thoroughly just what this amendment offered by the distinguished Senator from Minnesota concerns. He has offered it with the best of motives. In my book, the best of motives is to take care of your constituents.

But, the effect of this amendment is to earmark appropriations. If there were other members of the Committee on Appropriations on the floor, or if the chairman of the Committee on Appropriations the distinguished Senator from Arkansas, were on the floor, I think they would have something to say right away.

This amendment provides in pertinent part the following:

> Not less than 10 percent of the funds appropriated or otherwise made available for the foreign-trade requirements of the United States pursuant to this act or any law authorizing funds for the purposes of such act shall be allocated for the foreign trade requirements of each such port range.

Thus, we will bypass the Appropriations Committee, and earmark at least 10 percent of such funds. I now do see other members of the Appropriations Committee are in the Chamber. The idea of allocating funds to be appropriated that, right off, 10 percent of whatever funds the Appropriations Committees recommend and Congress adopts have to go to the Atlantic, Gulf, Great Lakes, and Pacific ports, to me, is inconceivable. In the first place, I do not favor it.

Second, the distinguished Senator from Michigan (Mr. GRIFFIN) has already had adopted in the substitute reported by the Commerce Committee a provision intended to protect and to promote Great Lakes' traffic.

This particular bill concerns oil and petroleum products. It deals with tankers. To be sure—and I would be less than honest if I did not add this—one of my objections to it, not the chief one, but one of my objections to this bill, is the fact that this is an unwise precedent. In the past, we have required a preference for the shipment in American bottoms of merchandise which either was owned by the Government or was financed by the Government. In other words, the preference applied to Public Law 480 agricultural products, and so forth.

If this bill is passed, it will proceed to set a precedent which, in the opinion of this Senator, will open up all kinds of restrictions on all kinds of privately-owned cargoes.

Except for section 2, this bill, as it now stands, has to do only with oil and with tankers. Any tankers that are constructed as a result of this bill will be very large because of the economics. And, no tanker of such size could possibly ever get into the Great Lakes. As a matter of fact, it is my understanding—and I am sure that one of the distinguished Senators will immediately correct me if I am wrong—that the size of a vessel that can navigate the seaway into the Great Lakes is limited to approximately 25,000 deadweight tons.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. COTTON. I yield.

Mr. LONG. Permit me to offer my explanation about this parliamentary situation.

I will not ask for an immediate vote on this amendment, if the Senator feels that this matter deserves further consideration. I would be happy to agree that we would not vote on it for the next several hours, if the Senator so desired. I did not anticipate that there would be objection to this particular amendment.

There is a Great Lakes amendment on the bill—one, I might say, that I am not happy about, by the way. The more I hear about it, the less I agree with it. It was offered by Mr. GRIFFIN.

Mr. COTTON. That is one point on which we are in accord.

Mr. LONG. But this particular amendment, in my judgment, is one which would help the Great Lakes States and one which I believe, if we give it careful consideration, we will agree is only fair.

Basically, what I understand the amendment to mean is this: Where there is very great difficulty at this moment in prevailing upon American-flag ships in foreign commerce to sail on the Great Lakes, this amendment, in effect, would say that in the event that those on the Great Lakes can persuade American-flag ships to sail to the Great Lakes ports, that sum of money—in this case 10 percent—of the money available for ship construction and operating differential would be available to those ships that could be prevailed upon, hopefully, to trade in Great Lakes ports.

Mr. COTTON. But, the Senator is not only talking about tankers.

Mr. LONG. No. We are just talking about ships, period.

Mr. COTTON. Yes.

Mr. LONG. Insofar as this amendment is not strictly germane to the original purpose of the bill, I would point out that the same is true of the Griffin amendment, which has already been attached to the bill by the committee. As between the two amendments, I think that this is a better approach and would have less objection from those of us who hail from other parts of the Nation than would the Griffin amendment.

If the Senator prefers that we not vote on this matter at this time, I will not press it at this point. I would be happy to wait until the Senator has had a chance to discuss it with others and to give it more consideration.

Mr. COTTON. Mr. President, I thank the Senator for his courtesy.

I think it is only fair that we lay our cards on the table about what the Senator from New Hampshire will seek to do. I understand that at some point we will vote on the committee amendment, which really constitutes a new text, which was substituted for the bill that came to the committee from the House. It is my understanding that if this substitute committee amendment, as it may adopted, then that is it; but if not, then we can consider further amendments, including that of the distinguished Senator from Minnesota, to the House-passed bill. But, I expect that the Senator from Louisiana probably has the votes to adopt the substitute.

It is the position of the Senator from New Hampshire—and I think I can say that it is also the position of a number of Senators—that the House bill, bad as it is, it is not as bad as that reported by our Commerce Committee, and I say "bad" because my opposition, frankly, is parochial, because what it does to New England is something fearful to contemplate. Thus, I cannot become too excited about earmarking funds to help the Great Lakes in a bill that already discriminates against and crucifies the Northeast—not only New England, but the entire Northeast region.

Therefore, I shall do everything in my power to prevent the adoption of the committee amendment, because the House bill, bad as it is and discriminatory as it is, is infinitely less dangerous than the version reported by our Commerce Committee, in the opinion of the Senator from New Hampshire.

If, by any chance, we prevail in preventing the adoption of the committee amendment, as I understand it, other amendments will be in order. Is my understanding correct?

Mr. LONG. Mr. President, the parliamentary situation, as far as I understand it at this moment, is that the committee amendments will be voted on after amendments to the committee amendments have been voted upon. In other words, after amendments to the committee amendments have been voted on, we would vote on the committee amendments.

At that point, I suppose, the bill would no longer be subject to amendment. But I have not really given a great deal of thought to the parliamentary situation, my thought being that as usually on legislation, it is just a matter of trying to accommodate ourselves to the will of the Senate.

The Senator knows as well as I do, from his long years of service, very fine and creditable service, to this body, that one can always find a way to vote on what one wants to offer, one way or another, even if one has to offer a substitute for the bill or a motion to recommit, or do it in some other fashion.

This particular amendment is one that I would hope that, when we have had a chance to study it, the Senate will agree is meritorious, that it does help the Great Lakes, and that it really offers no real threat to the rest of us, because it seeks to achieve only what we had hoped would be the case for the Great Lakes from the very beginning—that is, that ships would sail on it and that some of those ships would be American ships.

I assure the Senator that anything he wants to have voted on, we shall accord him an opportunity to offer his amendment and have it voted on, either as an amendment to the committee amendment or as an amendment to the bill, however he wants to do it. I certainly want the Senator to have his rights protected. I do not think that anyone is seeking not to do that in this instance.

Mr. COTTON. I want to make sure that I do understand this. It is true I have been here a long time, but I do not profess to be an authority on the procedure of the Senate.

The Senator from Louisiana considers what I have been referring to technically as the committee amendment, as the substitute to the bill that was referred to our Commerce Committee, and he feels that it should be——

Mr. LONG. As far as the Senator from Louisiana is concerned, I do not know whether the Parliamentarian considers this an amendment in the nature of a substitute or a mere committee amendment. In my judgment, it is a distinction without a difference, because it achieves the same result.

Mr. COTTON. If the Senator will forgive me, this so-called committee amendment strikes out of the bill that was referred to the Commerce Committee everything after the enacting clause and proceeds to substitute a new bill. This committee amendment is in the nature of a substitute now.

I would like, in order to clarify this, to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COTTON. My inquiry is this: is the material to be inserted after striking out all after the enacting clause of the House bill in the nature of committee amendments, or is it a substitute offered by the committee?

The PRESIDING OFFICER. The Parliamentarian informs the Chair that it is a single committee amendment in the nature of a substitute and, once amended, it is no longer subject to amendment.

Mr. COTTON. So that all amendments that anyone may have must be offered before the vote comes on the substitute.

The PRESIDING OFFICER. The Senator is correct.

Mr. COTTON. And there can be no other substitute offered as a substitute.

The PRESIDING OFFICER. The Parliamentarian informs the Chair that the committee amendment is amendable in two degrees, and two more amendments in the nature of substitutes could be offered.

Mr. COTTON. I am sorry, but I could not hear the first part of what the Chair stated. Would he kindly repeat it?

The PRESIDING OFFICER. The amendment is considered original text for the purpose of amendment, and thus is open to amendment in two more degrees.

Mr. COTTON. In two more degrees?

The PRESIDING OFFICER. And two more substitutes would be in order.

Mr. COTTON. In regard to any amendment that is offered to this substitute, then, may an amendment to the amendment be offered?

The PRESIDING OFFICER. The Senator is correct.

Mr. COTTON. Mr. President, that being the situation, unless one wishes to gamble on the whole substitute being rejected, all amendments have to be offered prior to the vote on the substitute, and in view of that fact, I do not feel justified in asking that the vote on the amendment offered by the Senator from Minnesota be delayed to some further day. But, if there are sufficient Senators here, since I do oppose this amendment I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. LONG. Mr. President, in view of the fact that there are not sufficient Senators present to order the yeas and nays at this time, I should like to address myself to the bill itself, and then, in due course, we can vote on the amendment later on today. I shall be happy to protect the Senator with regard to the yeas and nays and ask for them when we have enough Senators present.

Mr. COTTON. In other words, the Senator from Minnesota will withdraw his amendment for the time being?

Mr. LONG. No; what I had in mind is that I would hope that we would simply let the amendment of the Senator from Minnesota remain the pending amendment, his amendment to the committee amendment, and that I might simply have the opportunity to address myself to the bill itself, and that others who care to speak on the amendment or the bill would have the same privilege thereafter. Then, in due course, when the Senate gets around to voting on the matter, I shall be happy to accommodate the Senator and protect his right for the yeas and nays on the Mondale amendment. So it is the pending amendment.

I do not see any reason why we should displace it. I personally would like to discuss the bill itself for a while, and others may be so disposed. In due course, we shall get around to voting on the amendment and anything else.

Mr. COTTON. If the Senator would permit me at this time I wish to propound one question to the Senator from Minnesota.

Mr. LONG. Yes.

Mr. COTTON. In his amendment on page 2, lines 6 and 7, I find the words, "who have the support, financial and otherwise, of the domestic communities primarily interested."

My question is, Does this mean that the existing streamship companies will not be eligible, for example, for such aid?

Mr. MONDALE. I will respond to the Senator from New Hampshire as follows: This amendment is designed to require the Merchant Marine Administration to allocate a minimum of 10 percent of its differential construction and operating subsidies—a minimum of 10 percent—to each of the four great seacoasts, one of which is the Great Lakes, which has not heretofore received a single dime under the subsidy program.

In awarding such contracts to the range of ports within each of the seacoasts, the Administration shall give preference to persons who are citizens of the United States—in other words, U.S. citizens seeking such subsidies, and especially those who have demonstrated support from the communities primarily interested in these ports.

In other words, where a U.S. citizen applies for these subsidies, and has substantial support in the communities or in a community involved, that would be an additional factor to be considered by the Administrator in the awarding of a subsidy.

There is a technical error in my amendment, and I modify it to provide that at the beginning of the amendment a reference will be made to a new section, section 6. I failed, due to a drafting error, to provide for an additional section beginning on page 9, line 18.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 9, line 18, insert the following new section:

SEC. 6. Section 809 of the Merchant Marine Act, 1936 (46 U.S.C. 1213), is amended to read as follows: "Contracts under this chapter shall be entered into so as to equitably serve, insofar as possible, the foreign-trade requirements of the Atlantic, Gulf, Great Lakes, and Pacific ports of the United States. In order to assure equitable treatment for such range of ports referred to in the preceding sentence, not less than 10 per centum of the funds appropriated or otherwise made available for the foreign-trade requirements of the United States pursuant to this Act or any law authorizing funds for the purposes of such Act shall be allocated for the foreign-trade requirements of each such port range. Furthermore, in awarding contracts under this chapter, preference shall be given to persons who are citizens of the United States and who have the support, financial and otherwise, of the domestic communities primarily interested.".

Mr. COTTON. I think the Senator's amendment is still ambiguous, but I understand the Senator from Louisiana will see to it that we have an opportunity to discuss the amendment later, and have a rollcall vote.

Mr. LONG. Yes. I was informed by the assistant majority leader that he hoped the vote on this amendment, if it was to be a rollcall, could occur sometime after 3:30, because there were Senators on their way back who hoped to be present.

Mr. President, I would like now to address myself briefly to the committee amendment, or the bill itself. The Senate is considering what I believe to be a very vital proposal. As amended, the bill would improve our national security posture by requiring that oil transported into the United States be transported on American-flag vessels. Specifically, it would require 20 percent of American oil imports be transported on privately owned U.S.-flag vessels, to the extent that such vessels are available at fair and reasonable rates.

This reserved share would increase to 25 percent after June 30, 1974, and to 30 percent after June 30, 1977, provided that the Secretary of Commerce makes the determination that sufficient U.S. tonnage exists to carry the increased amount.

This legislation was introduced as S. 2089 by the chairman of the Committee on Commerce (Mr. MAGNUSON) and the Senator from Maryland (Mr. BEALL) on June 27, 1973. It was identical to H.R. 8193, introduced in May of this year by Representative LEONOR K. SULLIVAN, chairman of the House Committee on Merchant Marine and Fisheries. Subsequently, Senators JACKSON and MATHIAS joined as cosponsors of S. 2089, while 226 Members of the House of Representatives introduced or cosponsored 46 bills identical to H.R. 8193.

In the period between October 1973 and March 1974, the House Committee on Merchant Marine and Fisheries Subcommittee on Merchant Marine had 15 days of public hearings on H.R. 8193, and it was favorably reported by the subcommittee and the full committee, and passed by the House of Representatives by a rollcall vote of 266 to 136.

This past May, the Senate Commerce Committee's Subcommittee on the Merchant Marine, of which I am proud to be chairman, held public hearings on S. 2089 and H.R. 8193 in which testimony was received from 15 witnesses, including officials from the Departments of State and Commerce, the Federal Energy Administration, a number of petroleum and shipping company and trade association representatives, economists, and labor union officials.

On June 26 and 27, the full committee considered H.R. 8193.

The committee feels that the bill as reported is much stronger than the 1972 bill and the House-passed bill. For example, what little remained of the argument that the bill would result in increased costs to the consumer has been mooted because of an amendment waiving a portion of the oil import license fee for crude oil imports transported on U.S. tankers, and requiring the savings from the waiver to be passed on to the ultimate oil consumer. Other committee improvements include a requirement that a portion of profits be reinvested in new vessels and a requirement that new vessels incorporate the best available pollution prevention technology, including segregated ballast capacity and double bottoms, so as to protect our marine environment.

On June 27, the Senate Commerce Committee, by a vote of 14 to 2, with 2 abstentions, reported favorably H.R. 8193, with an amendment.

Mr. President, I ask unanimous consent that I might yield at this time, without losing my right to the floor, to the Senator from South Carolina.

Mr. COTTON. Mr. President, will the Senator first yield briefly to me?

Mr. LONG. To make a brief statement, with the understanding that his statement will appear prior to my statement in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COTTON. Mr. President, will the Senator withhold that for one moment?

Mr. LONG. I withhold it.

Mr. COTTON. The Senator from Louisiana, as chairman of our Committee's Subcommittee on Merchant Marine held the hearings on this bill. In those hearings, was testimony given in regard to deleting from the House bill the right of the President and Congress to waive the bill's provisions in case of an emergency?

Mr. LONG. No, there is no testimony on that. I may offer an amendment myself to provide some of the type of flexibility that that amendment would provide during the course of the consideration of this measure. I shall discuss that as the debate goes along with the Senator from New Hampshire and others.

Mr. COTTON. Was there testimony in the hearings presided over by my friend from Louisiana regarding the provision applicable to the House bill to allow foreign-flag vessels to transfer to the U.S. flag and qualify for cargo preference after a 3-year period? Was that subject discussed at all?

Mr. LONG. No. The House bill, I think, permitted that. There was no testimony on that aspect of it.

Mr. COTTON. Was there any testimony on the so-called Great Lakes amendment?

Mr. LONG. No, there was no testimony on that.

Mr. COTTON. Was there testimony on the double-bottom requirement?

Mr. LONG. No; there was not. But the committee, in connection with other legislation, has looked rather extensively into the pollution problem and into this matter of double bottoms, and the committee felt that it had adequate knowledge from its own records in other hearings and other legislation.

Mr. COTTON. I was present, and I know the committee wrote it in the pending bill.

Mr. LONG. Yes.

Mr. COTTON. All I wanted to know was had there been any testimony on it?

Mr. LONG. Not in connection with this particular bill. But, as the Senator, I am sure, knows, the committee had received a lot of testimony on that subject in connection with other legislation, so that we can make available to the Senator a lot of information on that subject which, I believe, both he and other Members pretty well know, to begin with.

As the Senator so well knows, the transportation of oil is one of the principal factors of pollution of the high seas, and we are concerned about that just, as I am sure, the Senator is.

Mr. COTTON. I am not insinuating that there is anything wrong about the committee's action, and I am not questioning that. I just wanted to establish the fact that there was no testimony on this provision during the committee's hearings on this bill.

Was there, in the hearings this year before the Senator's subcommittee, discussion of a license fee waiver for crude oil?

Mr. LONG. No; there was not.

Mr. COTTON. Those are all the questions I desire to ask at the moment.

Mr. LONG. Mr. President, what we tried to do in the course of this matter—and I will yield in just a minute—was to accommodate everybody who wanted to be heard. I do not know of anybody who is complaining.

Now, we had one particular day that we set aside to be sure that witnesses that the Senator from New Hampshire wanted to testify were heard.

I assume one reason why the so-called flexibility provision that the Senator discussed was not the subject of more testimony was that up to that point we had the feeling—and I would hope the Senator would listen to what I am about to say—one reason I believe there was very little testimony—in fact none, so far as I know—on the so-called flexibility provision that the Senator discusses is that up until the time this bill had been reported we had no reason to think that if we put that provision in that it would make those who opposed the bill favor it anyway, and that, in view of the fact that those who opposed the bill did not appear to be of a mind to be for it no matter what we did, as long as it was going to require us to move any more oil in American bottoms, there was no interest in receiving testimony at that point in support of that position.

I subsequently have come to view the matter somewhat differently because I, frankly, discussed this legislation with the President of the United States, and my impression is that the President would feel much better about this legislation if we had something in it that gave the President some additional discretion.

I look at that differently than I do when I have had no expression of interest from the White House to that effect.

Mr. COTTON. Mr. President, may I say that I am afraid the Senator from Louisiana is drawing a wrong inference from my questions, in the first place. The Senator knows he has no greater admirer in the Senate than the Senator from New Hampshire.

In the second place, I meant no criticism on the conduct of the hearings. I again thank the Senator for his courtesy for extending the hearings a day so that some of the people from New England who, I think, with reason feel they are being terribly discriminated against, could be heard.

I am not suggesting anything improper. But, I think it is fair to point out that these points were written in by the committee and had not been touched upon in the hearings this year on this bill.

Mr. LONG. Mr. President, today the Senate considers what I believe is a vitally important legislative proposal—H.R. 8193 as amended which would regulate commerce and strengthen national security by requiring that a percentage of the oil imported into the United States be transported on U.S.-flag vessels.

Specifically, this legislation would require that 20 percent of American's oil imports be immediately transported on privately owned U.S.-flag vessels to the extent such vessels are available at fair and reasonable rates. This reserved share would increase to 25 percent after June 30, 1974, and to 30 percent after June 30, 1977, providing that the Secretary of Commerce makes a determination that sufficient U.S. tonnage exists to carry the increased amount.

This legislation was introduced as S. 2089 by Senators MAGNUSON, chariman of the Senate Commerce Committee, and BEALL, on June 27, 1973. It was identical to H.R. 8193, introduced in May of that year by Congresswoman LEONOR K. SULLIVAN, chairman of the House Committee on Merchant Marine and Fisheries. Subsequently, Senators JACKSON and MATHIAS joined as cosponsors of S. 2089 while 266 members of the House introduced or cosponsored 46 bills identical to H.R. 8193.

In the period from October, 1973 through March, 1974, the Subcommittee on Merchant Marine of the House Merchant Marine and Fisheries Committee held 15 days of extensive public hearings on this legislation. On May 8, 1974, H.R. 8193, which was favorably reported by the subcommittee and full committee, passed the House by a rollcall vote of 266 to 136.

This past May, the Senate Commerce Committee's Subcommittee on Merchant Marine, of which I am chairman, held 4 days of public hearings, receiving testimony from 15 witnesses including those from the Departments of State and Commerce, the Federal Energy Administration, a number of petroleum and shipping companies and trade association representatives, economists, and labor union officials.

On June 26 and 27, the full committee considered H.R. 8193. At that time, many amendments, designed to strengthen the provisions of the House-passed bill were adopted, including amendments to waive a portion of the oil import license fee for crude oil imports transported on U.S. tankers and to require such savings be passed on to the ultimate oil consumer; to require that a portion of vessel profits be reinvested in new vessels; and to require that the vessels incorporate the best available pollution prevention technology, including segregated ballast capacity and double bottoms, so as to protect our marine environment.

On June 27, the Senate Commerce Committee, by a vote of 14–2, with 2 abstentions, favorably reported H.R. 8193, as amended.

I would like to take this time now to briefly outline both the reasons why the committee so acted and the benefits that will accrue to our Nation from this legislation's enactment.

NATIONAL SECURITY

The passage of H.R. 8193 as amended is essential if we are to guarantee that in a period of international crisis, our Nation has a sufficient number of U.S.-flag tankers to supply our Armed Forces and meet the needs of our basic domestic industries.

It is a fact recognized by Congress and naval defense experts that a strong, active civilian merchant marine is an essential part of our national defense. Through the vehicle of the Merchant Marine Act of 1936, Congress took the positive step of in fact charging the privately-owned civilian merchant marine with the defense mission of serving as a "naval and military auxiliary in time of war or national emergency."

Yet today, there are virtually no U.S.-flag tankers regularly engaged in the carriage of our oil imports. Instead, these imports are carried on foreign-flag vessels, a practice which severely threatens our security by making us dependent on others for this vitally needed shipping service.

No one has to be reminded of the economic chaos created in the United States when the Arab oil exporting nations instituted their embargo against us. Because we had allowed ourselves to become dependent on foreign sources of oil, the cutoff of this oil resulted in the loss of thousands of jobs for Americans, in sharply escalating consumer prices, and in numerous other hardships for all Americans.

Contrary to what the experts had been saying for years, oil was used as a political weapon by the Arab world, and countries that were supposedly friendly to the United States acted against us. Saudi Arabia, for example, exerted such intense pressure on the four American oil companies operating in that country that they were forced to act in a manner inconsistent with the best interests of the United States by closing off to our military forces in Europe their usual supply of Saudi Arabian oil.

Unless we have the tanker capability under our own flag to carry our oil imports, those nations controlling the ships engaged in our trade could, by withdrawing those vessels, achieve the same results. Using U.S.-flag tankers would eliminate this threat to the military and economic security of the United States. By easing our dependency on foreign-flag shipping, we guarantee this Nation a tanker fleet capable of providing the United States with an uninterrupted flow of oil imports.

A U.S.-flag tanker fleet can give us the flexibility to transport oil from alternative sources if a military or political crisis forecloses our access to more traditional sources. Further, a U.S. flag tanker fleet will be manned by U.S. seamen with a long tradition of devotion to the United States and heroism in every hostile action since the Revolutionary War.

Furthermore, Mr. President, if we should be confronted with a cutoff of oil, as happened when the Arabs embargoed the United States and ordered companies not to deliver oil to the U.S. fleet in the Mediterranean, a ship under the American flag manned by American seamen can be ordered by this Government to go wherever we want it to go. In the case of American ships under the American flag there is no doubt about the right of this Congress or the U.S. Government when a boycott is imposed upon us to at least require that all that oil at sea, which would be presumed to be enough to keep us going several months while we make plans to adjust to a changed set of circumstances, that all of it, even that which might be destined somewhere else, be redirected to the United States.

So there are tremendous advantages to having U.S.-flag ships.

Contrary to what the opponents of this legislation would have us believe, only vessels flying the U.S. flag and manned by American seamen are under the control of the United States and can be relied upon to respond to our needs in any emergency.

The theory, advanced by these opponents that American-owned Liberian- and Panamanian-flag vessels are under the "effective control" of the United States is nothing more than a myth, totally unsupported by the facts.

This concept rests on the assumption that in time of war or national emergency, oil company owned Liberian- and Panamanian-flag vessels will be made available to the United States. The only assurance given is a contract the owners sign with the U.S. Government in return for war-risk insurance. This contract, however, is based solely on domestic law and has no standing in international maritime law.

The proponents of this theory overlook three crucial facts: First, the executive order issued last November by the President of Liberia—which prohibited all Liberian-flag vessels from participating in the carriage of arms to the Mideast—was a legal exercise of power under the principle of international law that provides that the nation of the vessel's flag, and not the vessel's owner, controls the vessel.

Second, the Department of Defense, in 1969 testimony before the House Appropriations Committee, admitted that—

> Based on experience during the Vietnam War, it may be concluded that in similar circumstances in the future, there will be some difficulty in finding foreign crews to sail ships under effective U.S. control into the war zone.

Finally, the Department of Commerce, in testimony last fall on this legislation before the House Merchant Marine and Fisheries Committee, pointed out that effective control vessels are committed to serving other nations and would therefore not be available to the United States in an emergency and that most effective control vessels are too large to enter U.S. ports.

In his testimony before the Commerce Committee, Under Secretary of Commerce John Tabor indicated that generally recognized principles of international law dictate that only the state of registry has the right to requisition and control vessels flying its own flag. He pointed out that there is an apparent conflict between U.S. domestic law and international practice concerning the "doctrine of effective control." He cited as an example of this the Liberian Government decree of November 3, 1973, forbidding vessels of its registry to carry military supplies to Israel.

The United States is running a real risk by depending on these foreign-flag vessels which are no more under the control of the United States than is foreign based oil. As long as the vessel does not fly the U.S. flag, the United States has no economic or legal control over it.

INTERNATIONAL TRADE

The committee also acted favorably upon this legislation in response to the growing international trend toward Government control, management, and participation in the field of international shipping.

At this time in world history, when nations on all corners of the globe are asserting their independence from others; when nations controlling all types of vitally needed raw materials are banding together to protect their economic interests, when the underdeveloped nations can succeed in imposing a code of conduct for liner trade that reserves a portion of the cargo for the trading nations' ships; one thing stands out: The United States, of all the major trading nations in the world, is reluctant to take the necessary steps to protect itself.

The United States, while becoming increasingly dependent on foreign sources of oil, has allowed itself to become almost totally dependent on others for the transport of our oil imports. Less than 5 percent of our oil imports are carried by U.S.-flag vessels, and no U.S.-flag vessels are regularly engaged in the carriage of oil to the United States.

While the tide of nationalism in ocean shipping is sweeping the world, the United States engages in outdated rhetoric. The same Arab nations that cut off our supply have formed the Arab Maritime Petroleum Transport Co. for the avowed purpose of carrying 40 percent of their oil exports on their ships. Our position in dealing with these nations will be strengthened if we have a national law reserving 30 percent for U.S.-flag ships, rather than the 5 percent which we now carry.

Despite this development; despite the fact that such countries as Japan, France, Spain, Venezuela, and Ecuador have either policies or laws reserving oil for their flag vessels, our Government clings to the argument that similar action by the United States would invite retaliation.

If the United States insists that some of the oil comes to the United States in American bottoms, because we are the buyer, that would give the foreigner the basis for arguing that some of that oil should also go into ships of the seller, the oil-producing countries.

Mr. President, that is one of the cleverest arguments that has ever been contrived during the period that this legislation has been under study. It was not prepared in time to tell it to the committee in the hearings, but in time to argue it in the cloakrooms or elsewhere, or with the White House liaison people buttonholing Senators.

Mr. President, anybody who is knowledgeable in this subject knows that any time those oil exporting countries want to do so, they can require that as much as 50 percent of all of that oil be shipped from their country in ships owned by them, for a very simple reason: It is their oil.

They can tell us just as they told us when they cut us off, that they would not sell us any, and then tell us what they told us when they quadrupled the price we had to pay: "You either buy it on our terms or you do not get any." And they are still doing it.

As a matter of fact, the oil companies will all tell you privately that they think their days are numbered over there; that it is just a matter of time before those nations nationalize the whole thing. The oil companies are hoping that when the Arab and other oil exporting countries do nationalize, that they will at least permit the American oil companies to provide some service, the transportation of the oil, or some refining of it, or to stay in the picture to some extent.

Everybody knows that a person is being completely deceitful to try to make someone think that those oil exporting countries do not have it completely within their power to require that a major percentage of that oil be carried in their bottoms any time they want to do so. They will do it whenever it suits their purposes.

One thing that is holding them back from doing that is the fact that if they proceed to buy the ships—and some of the ships cost $100 million apiece, the big supertankers—and they will not sell oil and they did when they boycotted the United States and would not sell us anything, then if the ships are not being used they are losing money.

So, to some extent, the fact that the oil exporting countries own a tanker fleet gives those of us who are purchasers of oil on the world market some leverage in making them come to terms with us. Short of that their tankers are useless and they are losing money on their investment of $100 million per ship.

That is one of the reasons that those countries will be somewhat slow about insisting that they transport the oil, especially when a nation like the United States indicates that it has some desire and some intention of becoming self-sufficient in oil one of these days.

That, Mr. President (Mr. HATHAWAY), like a lot of other arguments, that can be generated, in my judgment is completely specious. There is no doubt about it.

When they are ready to insist that some of that oil go in ships owned by those countries that have the power to insist upon it and make it stick, then it does not make any difference whether you like it or do not like it, or what the logic of your argument may be. You either do it or do without the oil, because nowadays we do not think in terms of gunboat diplomacy, where we hope to go in and capture some nation because they have something that they do not want to sell on our terms.

Mr. President, despite the fact that such countries as France, Japan, Spain, Venezuela, and Ecuador have other policies or laws reserving oil for their flag vessels, our Government clings to the argument that similar action might invite retaliation.

Mr. President, I ask unanimous consent that a table which has been prepared concerning this information be made a part of the RECORD at this point.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

Carriage of foreign trade by tonnage (1970 figures):

	Percent
Soviet Union	56
Japan	47
Norway	43
France	38
Spain	37
United Kingdom	35
West Germany	29
Italy	23
United States	5

Mr. LONG. The United States only carried 5 percent of its oil. It is, however, a fact that no country, including the United States, and no American oil company retaliated against any other nation that has acted to assure a percentage of its oil trade for its flag vessels.

This committee and Congress must take the lead and act to put such groundless claims that have blocked the development of our merchant marine to permanent rest. It is time for Congress to place the United States on an equal footing with the rest of the world's maritime and trading nations.

ENVIRONMENTAL PROTECTION

H.R. 8193 as amended is also critical to our fight to preserve and protect our marine environment.

With the passage of the Ports and Waterways Safety Act of 1974, Congress regulated the U.S. merchant marine with the most advanced marine environmental protection law in the world. Besides imposing fines for all types of marine pollution, the law allows the Coast Guard to require new systems of shipboard pollution control, such as segregated ballast. None of the U.S. requirements are required by other maritime nations.

H.R. 8193 as amended goes ever further. It specifically requires that vessels built to carry oil under this legislation be constructed using the best available pollution control technology, including a segregated ballast-double bottom system. And, it sets a vessel age limitation of 20 years that will result in the utilization of new and efficient tonnage employing modern environmental safeguards.

As a result of these stringent environmental rules, the potential for catastrophic oil spills is significantly reduced for U.S.-flag tankers. Secretary of the Interior Rogers C. B. Morton commented on this point in a letter to Congress in April 1973. He said that if the United States does not receive its oil in U.S. tankers "that comply with U.S. requirements, oil will probably be imported on foreign-flag tankers that are built and operated to much lower standards."

COST BENEFITS

Every member of the committee, and I am sure every Senator, was keenly interested in the question of how this legislation would affect the consumers of oil and oil products. After careful deliberation, the committee concluded that there should not be any increase in the prices of oil attributed to the enactment of this bill.

Because of the lack of reliable information about the foreign subsidiaries of American corporations, the U.S. Government and the consumer do not know with any certainty how the transportation costs of our oil imports are arrived at, and whether they are justified. This legislation would correct this situation. The use of American-flag tankers affords protection to the consumer, because all information relevant to the cost of shipping on U.S. bottoms must be made available to the Secretary of Commerce. Unless the Secretary decides that the rate being charged by a U.S. tanker is fair and reasonable, the tanker would not be able to participate under this legislation.

Therefore, this legislation will provide the American people, for the first time, with the benefit of a cost monitoring system for tanker transportation which will insure that only justifiable and necessary costs are passed on to the consumer.

And, as I noted earlier, the amendment adopted by the committee allowing a waiver of part of the oil import license fee for crude imported on U.S.-flag vessels will guarantee a further cost benefit and savings to the American consumer.

I shall explain that briefly.

In our judgment, and certainly in the judgment of this Senator, the best estimate that was given to us on the cost of using American ships, American materials, and American seamen, as compared to the cost of building our ships abroad and manning them with labor out of Hong Kong or Singapore, would indicate that the Maritime Administration—after all, they deal in subsidies, in ship construction, in the cost of operating ships and they do not have an ax to grind so we would expect them to be unbiased—estimates that the cost of using American ships and American labor would be about $0.003 per gallon. If you multiply that by 40 gallons per barrel, that works out to be $0.12 per barrel for the oil entering in American ships. That is what we believe to be the highest estimate.

That is not the American Petroleum Institute's estimate, Mr. President. The API went before the House committee and came up with a figure which we believe was exaggerated, 15 to 1, a cost of $15 billion a year.

The American Petroleum Institute, generally dominated and controlled by the major oil companies of this Nation.

Having exaggerated 15 to 1, in my judgment, before the House committee, they concluded if you are going to exaggerate, you ought to do a big job, not a little job.

The API represents some of the largest companies in America and, therefore, can think big. So, having exaggerated to the tune of 15 to 1 on the House side, they came before the Senate committee and exaggerated 60 to 1 which, I must say, shows some forward movement of that organization.

They gave us a figure of $60 billion as the annual cost before the Senate committee.

Mr. President, I must congratulate the imagination of those people, that they would present that $60 billion figure. It shows that they are used to thinking in very, very big terms. If one should exaggerate, he should not be outdone. I do not know who they were trying to outdo, but the best proof that their estimate of $60 billion was wrong is presented to us and passed on in other figures which we will see.

The best proof that the API figure of $60 billion is wrong is the API's own witnesses before the House committee. They estimate only $15 billion there, which, of course, we think is 15 times too high as well.

Mr. President, if you look at the ingredients that go into arriving at the cost, in my judgment there is about a difference of $0.12 per barrel which would be about what I would think a fair and proper difference would be. That is about what the Maritime Administration estimated.

Presently, an import fee of 15½ cents a barrel is levied on foreign oil coming into this country. We propose in this bill, by a committee amendment, to say that we will waive the 15 cents of the import fee on oil coming into the United States in American bottoms. If anyone is concerned about the consumers using foreign oil, he ought to be very happy about that; because if it comes in American bottoms, it ought to be 3 cents a barrel cheaper rather than 12 cents a barrel more expensive to bring the oil in in American ships. It should result in a saving to the American consumer.

Insofar as these major oil companies are worried about the cost to the public—I do not think that so far they have convinced the public that they are worried about that—the major oil companies can have the assurance that they will have a reduction that will more than offset the increase in the cost—that is, a reduction in the import fee that would be charged.

That does not cause those who are opposing this bill to relent. When I say "those who are opposing the bill," I am not speaking of any Senator. I am speaking of the people who are really behind this, the people who are really determined, dug in, and dedicated to defeating this legislation. They all know who they are, and so do I. They are the multinational oil companies of the United States, the big 10.

I must say that I have many times supported these companies when I thought they were right about matters, and I have no apology for it. But I do find that when I support their position, I am usually given a shower bath of oil and go away with the feeling that there must be something wrong with the Senator from Louisiana, because he is supporting the oil companies even though he comes from an oil-producing State.

I note that the Washington Post does not take the same attitude when someone may happen to agree with their position in supporting the oil companies. For example, they say, speaking about the Senator from New Hampshire, that he has nothing on his side but the fact that he is right. In other words, there is nothing going for the opposition except righteousness. Well, among the angels, I suppose we will have to list the big 10 oil companies—Exxon, Texaco, Mobil, and the rest of them.

I suppose that on the side of the angels we will have to list the Chamber of Commerce of the United States. I understand how the position of the Chamber of Commerce is dictated. I can understand that, because I recall the days when Louisiana was suffering badly because of oil imports. We are a major oil producing State. I was fighting to try to save the domestic oil industry of this Nation, particularly that of Louisiana.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. LONG. I shall yield in a moment. The Chamber of Commerce would meet down in New Orleans and resolve that they were against any limitations on oil imports. From the Louisiana point of view, with the oil industry paying approximately 50 percent of the cost of supporting that State government, those oil imports were hurting the local economy greatly.

I understand how the Chamber of Commerce works. They appoint a committee on trade, and the people who indicate an interest in serving on the committee are those who work for multinational corporations. The oil companies have a great deal of influence among that group, as they are some of the most influential multinational corporations in the world. That group prepares a resolution, and the Chamber of Commerce proceeds to support the resolution supported by its trade committee.

So I can understand how the U.S. Chamber of Commerce can be persuaded to support the position of the major oil companies.

We ought to know who is who in this debate. It should be made clear that that does not express the position of 90 percent of the oil producers in the United States, if we are talking in terms of the number of producers. In other words, of the thousands of producers in this country, most of them could not care less whether or not this bill is passed. I think that most independents would state that since they have to deal with American labor in this country, they do not see any reason why Texaco, and Exxon should be spared having to do what we have to do in this country, and that is to learn to live with American labor.

ECONOMIC BENEFITS

As I mentioned earlier, recent international oil developments have played havoc with the American economy and dollar. I believe that the enactment of H.R. 8193 as amended and the resultant use of U.S.-flag tankers to carry a percentage of our oil imports would, on the other hand, be an energy-related economic plus for this country.

Using U.S.-flag instead of foreign-flag vessels would have a positive impact on our balance of payments. Depending on the distance the oil is carried, the dollar outflow for each barrel of imported oil could be reduced by as much as 20 percent. It has been estimated by various witnesses that at the 30 percent U.S.-flag penetration into the oil import shipping field, the contribution in terms of balance of payments over the life of the ships built to meet this goal would be approximately $11 billion.

Another significant economic benefit from H.R. 8193 as amended is its impact on domestic employment. This legislation would lead to the construction of a large number of new and efficient U.S.-flag tankers. These vessels, built in U.S. shipyards and manned by American crews, would produce thousands of additional job opportunities throughout the country on board ships, in shipyards and in service and supply industries. And, equally important, the construction and operation of U.S.-flag ships will mean that tax dollars will be generated for the U.S. Treasury.

Opponents of this legislation refer to 18th century literature in the minority report. I believe that we need to focus on 20th century, 1974 economic facts and national requirements. Others refer to this legislation and special interest groups. If strengthening our national security, improving our balance of payments, protecting our marine environment, providing employment opportunities to American men and women, and assuring our energy transportation capability are special interests, put me down for them.

I believe that enactment of H.R. 8193 and the resultant construction and use of a modern U.S. tanker capability are in the national interest and I urge my colleagues, as did the House of Representatives by a margin of 160 votes and the Senate Commerce Committee by an overwhelming vote of 14 to 2, to approve this measure. Its passage will strengthen our merchant marine and reduce our dangerous dependence on foreign-flag, foreign-manned tankers for the carriage of our oil imports.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. COTTON. The Senator referred to me personally. Otherwise, I would not interrupt him. I assume he does not want to yield

Mr. LONG. I do yield to the Senator.

Mr. COTTON. Then, let us go back four pages, where the Senator from Louisiana talked about the editorial in the Washington Post which speaks kindly of the Senator from New Hampshire. I can assure the Senator from Louisiana that he was no more shocked than I. I never expected to be referred to kindly in the Washington Post.

The Senator from Louisiana rather sarcastically indicated that we were not angels in opposing this bill, and that we were all tied up with the oil companies.

Mr. LONG. Mr. President, if the Senator wants to arrive at that conclusion, he may draw any conclusion he wishes from what I say. I did not mean to suggest that. I have the highest admiration for the Senator.

All I said is that when we talk, as this editorial does, about the maritime lobby at work, we ought to keep in mind that the Seafarers' Union are not the only people in America who know what it is to hire a lobbyist.

In this case, I am aware that, from this Senator's point of view, the industrial power of this Nation that is opposing enactment of this law is headed by the major oil companies, and that accounts for 99 percent of it, in my opinion.

Mr. COTTON. I am not going to argue that point with the Senator. I do not give a hoot in hell what the oil companies want or do not want. And, I so stated at the very outset of my minority views in the committee report, accompanying H.R. 8193, at page 57.

So far as this Senator is concerned, he is interested in seeing that the people in the State of New Hampshire do not go cold this winter. He regards this bill as perhaps the worst blow to the consumer. We have all bowed down and worshipped the consumer. "Consumer" has become a magic word. If this bill is not an anticonsumer bill, there never has been such a bill introduced or considered.

No person representing any oil company has conferred with me, has talked with me, or has sought to influence my vote on this bill to the slightest degree. I am not interested in what the oil companies want. This Senator is not interested in either the unions or the oil companies. He is interested in defeating a bill that is going to make it more difficult and more costly for his own people in New England to keep warm this winter. I do not want any misunderstanding about that point.

I am not objecting to what the Senator has said. He is a great orator. He said he did not know that he was dealing with angels, and so forth. He may be dealing with angels or he may be dealing with devils. But, when he deals with me, he is dealing with somebody who is fighting for his own people, just as the Senator from Louisiana would fight to the death for Louisiana. Is that not right?

Mr. LONG. I did not challenge the motives of the Senator one iota. I would be happy to produce what I said for the record; because I have not—and if I have, I will apologize—suggested anything about what the Senator is doing in opposing this measure other than that he is a great Senator and is saying what the good Lord gives him the right to say.

Mr. COTTON. All the Senator did was call me an angel, and I cannot object to that. Nevertheless, the inference was there, not that I am representing the oil companies, but that the oil companies are the only people interested in opposing this bill.

Mr. LONG. Senator, there are some others, and I shall be glad to get around to some of those after a while, I suppose.

I think it is well to keep in mind that in my judgment—and I am not speaking about who took what position. Mr. President, I say to the Senator what I try to say about every Senator: we have an honest difference of opinion in these matters. I want to state my view, and I do not want to reflect on any Senator—because I think every Senator here is a fine man, worthy of representing his State, and I particularly include in that the Senator from New Hampshire.

But, Mr. President, when people start writing about these lobbies, I think it is well that we talk about them a little bit. The Seafarers' Union supports this bill. I am glad the Seafarers' Union supports this bill, because I think the bill is right, and I think they are a good union. If I could have only one union supporting me in the State of Louisiana, I would pick the Seafarers' Union. Let me state that those people have some influence. I am happy to say so.

When the Washington Post writes that if one is supporting the side of the Seafarers' Union one must be a bad person, and then, if one is on the other side, there is nothing but right on that side, one is on the side of the angels, that necessarily includes the Nixon administration. The last time we had this battle, we had letters out here from every Cabinet officer that had any relevance whatsoever to this matter opposing this legislation, speaking for the Nixon administration.

I am happy to see that in this category, they would place the Nixon administration, every Cabinet member who had anything to do with it, John Mitchell, Maurice Stans, or anybody else who had something to do with the upholding of the position of the major oil companies are angels today. Maybe some other day they will be devils, but today they are angels. This includes the Nixon administration.

They might differ with the U.S. Chamber of Commerce from time to time, but not today. Today, they are angels. Nothing but right is on the side of those opposing this bill.

Mr. President, in my judgment, 99 percent of the business opposition to this, whether it is called the Chamber of Commerce or whether it is called by any other name, is from the large, multinational oil companies. I discussed this matter with those people. I have been accused, time and again, of being their spokesman out here. They know me; I know them. I do not blame them for wanting to keep what they have. But this is a last-ditch fight to keep something of capitalism that went out with Uncle Tom's cabin. That was the idea that a company could do business all over the world and if some poor soul so much as complained about the lousy food that was put before him, just dump him off at the first God-forsaken port that was passed and leave him there, and let him worry about how to get halfway around the world, back to where he came from.

They do not want to fool around with organized labor. They do not want to bother with organized labor, and they have made it clear to me, time and again, if not to other Senators, that the reason they are fighting this bill is that they do not want to be bothered with American labor, American labor unions in particular.

Mr. Paul Hall, testifying for the Seafarers Union, came before us, and he said he would offer those people a no-strike agreement—no strike, just negotiating; if we cannot come to terms, we will not go out on strike.

The oil companies said nothing doing. Nothing doing. They like it too well the way they have it. And why should they not? They can pick up these poor coolies out of Hong Kong, they can pick up South Americans out of Belem, Brazil, pick up some poor Pakistani or some poor Hindu out of India, and if those poor souls are dissatisfied for a moment, just dump them off at the first port they come to.

Mr. President, these companies are enjoying what Captain Bligh had before the mutiny on the Bounty. No wonder they want to hold onto this to the bitter end, if it can be done. But, Mr. President, some of them have seen the light a little bit. Gulf Oil which is supporting this bill indicated that they would like to talk to labor, consider labor's position, talk about it.

Here is Tenneco, one of the growing companies in the United States. They say they have thought about this matter.

Let me just read:

> As you know, Tenneco includes integrated oil operations and shipbuilding activities in its various businesses. We have studied this legislation carefully and after weighing all its aspects, we feel that a cargo preference approach to the revitalization of our maritime industry will substantially benefit the nation and the individual American consumer.

Let me say a little bit more about the oil companies while we are at it. I do not condemn them for this. I say they have a right to do it. But when we are talking about a lobby at work, we ought to recognize that the lobbying is on both sides.

We fought this battle some years ago, and lobbyists for the major oil companies thought that it was rather amusing that shipbuilding companies, like Avondale in Louisiana, could not express an interest and urge us to pass this bill, because it could do nothing but help bring more business to the shipbuilding industry. I found out subsequently why these people could not be found in support of the bill. They hoped that it would pass, but they could not be found supporting it or asking anybody to vote for it.

They had been informed in whatever way would be most appropriate by the major oil companies that if they hoped to fabricate those big rigs to drill off Louisiana and off Texas and in the Atlantic and in the North Sea and elsewhere, if they hoped to build those big rigs for use by the major oil companies, they had better not be found supporting this bill. So we heard nothing from them. One would have thought they would have been up here for this maritime lobby at work. But they were just as quiet as a tomb.

I am not aware that they are making any effort now, for the reason that they have to do business with these major oil companies. They hope to sell them rigs, they hope to sell them all sorts of equipment. So they would be very timid in the way they approach this matter for fear they might offend a very good customer, one whom they hope to trade with down through the years.

Mr. President, the cost of buying from foreigners all sorts of things that we ought to be producing for ourselves is absolutely destroying this Nation. The President of the United States talked about inflation, and I said something about it. It was just out of context, but I said that I was somewhat dismayed that he seemed to think in that speech that just by cutting Government spending, we could bring inflation under control. Just the other day I heard Mr. Leonard Woodcock say on one of the nationwide discussion programs on television something that I believe to be true, and I believe he stated that it can be documented. He said if we add the surplus that is being achieved today in State and local governments to the deficit that this Government is spending at the Federal level, it works out to an overall surplus for Government as a whole. Our deficit is sufficiently small, when all things are considered on a consolidated basis, that I think that would be correct. It is not Government spending that is the big culprit in this inflation that we are suffering. We can find some of the things that are some of the big culprits.

The situation that existed in oil when those oil-exporting countries banded together and made us pay four times the price for oil has a lot to do with it, because that had its effect all the way through the economy. The escalation clause in the labor contracts that say that when the cost of living goes up, the wage goes up with it—and some of the contracts say that the wage goes up more than the increase in the cost of living—those escalation clause contracts at least include the cost of the product, and that has something to do with it. It can help to make it worse once some of the other factors get out of line.

But, Mr. President, one of the biggest things that is adding to inflation today is the fact that we have abroad around 100 billion of U.S. dollars that we have no way of bringing home, that we have no way of redeeming; 100 billion surplus U.S. dollars that we cannot make good in gold or anything else.

Now, with all those U. S. dollars floating around the world that this country cannot make good, that just has to affect the commodity market. It has to affect the price of oil, the price of sugar, the price of copper, the price of manganese, the price of tin, the price of everything we are importing into this country, from electronics to automobiles. All of those things are affected by the fact that this Nation has been required to devalue its dollar again and again, and will be required to devalue again because we are failing to pay our own way, and we are buying so many goods and services from others that could just as well be produced here.

It is estimated that this bill, over the life of these ships that we would build, would improve our balance-of-payments situation by $11 billion, over the life of the ships. It would also provide a lot of good jobs for American seamen. And even more than that, a lot of good jobs for American workers in shipyards, steel mills, railroads, and elsewhere. For every seafaring job that we provide on one of these ships, there would be 10 jobs provided to men who would be working in the steel mills, men who would be manufacturing the equipment that goes aboard the ships, men who would be transporting the steel, the materials, and the machinery by rail, mostly, from the point of production to the point where the shipyard is. All of those jobs would be almost 10 times as many as the jobs of actually manning the ships themselves.

So there is tremendous economic benefit to this measure, that would help us to make good and redeem some of these hundreds of billions of dollars that have gone abroad through buying all sorts of goods and services that we do not need here.

Mr. President, I shall wait with some interest to see how anyone is going to contend that we are increasing the cost to the consumer when, with an estimated cost increase of 12 cents per barrel, he is given a rebate of 15 cents on that same barrel of oil. It seems to me that the consumer gets a lot better price than he would otherwise, but there is this big issue of whether or not the big international oil companies—I suppose they were probably our first multinational companies to go abroad, thinking back, in the old days of Standard Oil of New Jersey, when it started out with oil for the lamps of China—can realize their cherished dream of hoping to retain at least this portion of the industry beyond the reach of American labor.

It just seems to some of us here that they ought to become acquainted with American labor. I have. Everyone in this body has. Any businessman inside the United States has. Any independent producer of oil has become acquainted with American labor. It seems to me it would do these people no harm to do so.

I am not impressed with the argument that $13,000 is too much to pay an American seaman. Those men work hard. They have to be on those ships 24 hours a day. They have to be on duty 7 days a week. They are gone for months at a time from their loved ones. You have an average crew of about 25 men manning a ship that would cost about $100 million. A quick calculation would indicate to me that that involves an investment of $4 million per worker on that ship, and with that kind of investment per worker, it seems to me that $13,000 is not out of line with what the oil companies would pay for the kind of technicians with the kind of skill that would be involved with a $4 million investment in machinery per worker. In addition $13,000 includes all the fringe benefit costs—health insurance, vacation time, and pension benefits. These men do not take home anywhere near $13,000.

It seems to me we want to continue the myth that we can keep right on buying goods and services from all over the world without ever making plans to pay for some of it.

Mr. President, we are looking at a trade bill which will be reported out of the Committee on Finance sometime within a month, I suppose, or maybe less. There is one thing about that trade bill that has upset me, just as every other trade measure has concerned me. That is that the Commerce Department and the State Department have tried to hang on to this fiction that we have a favorable balance of trade, when in fact we do not.

For example, they leave the freight off of the imports, even though almost every other modern nation on earth, and the International Monetary Fund, insist that you include the freight with the imports, because what you are paying for something obviously includes the cost of hauling it to you. But having left the freight off on the import side, they then proceed to pad the export side by adding to the export side all the giveaways like Public Law 480 and everything of that sort—it averages out to be about a $5 billion padding on the figures each year.

So, if you pick up the good news anouncements they put out every 3 months, their quarterly good news announcement, if it says we are running about a $1.5 billion unfavorable balance, I would add $5.5 billion to that, so that if they say a billion and a half, that means we are losing $7 billion. If they say we are breaking even, we are losing $5.5 billion.

I have finally succeeded in passing legislation to require that at least they give us this information in both fashions, so that we can judge for ourselves whether we want to keep our figures the way other nations keep theirs, or go along with this fraudulent myth that we are being paid for all the things we are giving away, and that it is not costing us anything to haul products into the United States, even though the purchase price includes the freight.

Make those two simple calculations, and here is what it shows: From 1966 to 1974, according to these good news announcements, during that 8-year period, they would have you believe we made a profit of $2.5 billion. Take out the giveaways, take out all the grain we gave to India and all these various other gifts we made to other countries, and put the freight we paid for with dollars on the bill for imports, as other countries do, and what do we find? We did not make $2.5 billion, we lost $38.9 billion during that 8-year period.

During that period, we went in the red by $78.8 billion. Half of it was in these trade accounts. It is matters like this that other nations do to keep from losing all that money. Here is our No. 1 culprit. It is not Government spending that is the No. 1 culprit in inflation. The No. 1 culprit is that our dollars abroad are not worth a tinker's dam.

If one has any doubt about it, go over there and start to buy merchandise. It does not begin to buy what it once did. The reason is we have been running a great big deficit. Part of it is our balance of trade and part of it is in our giveaway program.

Of course, we know when we put a plus on a lot of books, particularly in dual-entry systems, we have to put a minus somewhere else so that it works out to that extent somewhat as it does in the Public Law 480 program.

They put that down, on our trade figures, if we gave away $1 billion worth of grain to India this year, as a plus, as though we made $1 billion, when we gave $1 billion away without any hope of ever seeing any part of that come back. That goes down as a plus as though we made $1 billion profit, an occasion for celebration, one might say.

Now, they have got to charge it off against somebody, and who do they charge the $1 billion off to? They charge that to the poor old farmer on the theory that his product could not be sold. He had to call on the Government for help. The Government took it off his hands and gave it away—took it from him and gave it away—and that, therefore, we ought to charge this off against the farmer and make him agree to accept less in the future in what he could expect for his product because he is the man who lost the $1 billion.

So they charge it against the farmer, and then they charge it as a profit as though he made $1 billion profit in our trading figures when we gave away $1 billion in commodities.

Mr. President, I ask unanimous consent that a table showing our balance-of-trade figures for the years 1966 through 1974, with a summary that I have prepared for the years 1966 through 1974 appear in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[In billions of dollars]

Year	Balance of trade: F.o.b. (plus foreign aid shipments)	Balance of trade: C.i.f. (minus foreign aid)	Balance of payments (liquidity)
1966	3.9	−.7	−2.2
1967	4.1	−.3	−4.7
1968	.9	−3.5	−1.6
1969	1.3	−2.9	−6.1
1970	2.7	−1.7	−4.7
1971	−2.1	−6.6	−22.7
1972	−6.4	−11.4	−14.7
1973	+1.7	−3.8	−7.9
1974 (1st half annual rate)	−3.6	[1] −8.0	−14.2
1966–74	+2.5	−38.9	−78.8

[1] Estimated.

Mr. LONG. So, Mr. President, it seems to me that we have here a measure that can strengthen the Nation, add to its security, and provide jobs and opportunity for the benefit of this economy and for the benefit of a great number of workers who are without those jobs today.

I do hope very much that the Senate will pass this bill.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1837 of the Senator from Minnesota (Mr. MONDALE) as modified.

The Senator from Maryland.

Mr. BEALL. Mr. President, I rise in support of H.R. 8193, the Energy Transportation Security Act of 1974 which, as the chairman of the committee has ably explained, would require that 20 percent of America's oil imports be immediately transported on privately owned U.S.-flag vessels to the extent they are available at fair and reasonable rates. This reserved share would increase to 25 percent after June 30, 1975, and to at least 30 percent after June 30, 1977—providing the Secretary of Commerce makes a determination that sufficient U.S. tonnage exists to carry these increased amounts.

I would like to begin my remarks by reviewing some recent events which, I think, make America's need for this legislation greater now than ever before.

During the past few years there has been an alarming and rapid change in the status of this Nation's energy supply and energy transportation capability. The petroleum supply for the people of the United States has been manipulated by Arab oil exporting countries as well as by some of our own oil companies. Prices of foreign oil have quadrupled while supplies have been cut back. Motorists have been told when they may and may not buy gasoline and how much they can buy.

The oil shortage has had a very serious impact on our economy and some of our present inflation problems are attributed to the short supply of oil which has affected our productive capacity. We know from bitter experience the consequence of the energy shortage and we have now embarked on Project Independence to develop sufficient domestic supply. The fulfillment of the Project Independence goal, however, is a long way off. In the meantime, in addition to being dependent on others for the basic supply, we are also dependent on others for the means of transportation of that supply. It is very much in the national interest to develop an independence in transportation capability. There is no question that we are dangerously dependent on foreign flag, foreign crewed ships for almost exclusive carriage of our oil imports.

Enactment of this legislation would provide a significant and desirable step in reversing this potentially disastrous position in which we now find ourselves. It is legislation essential to the security of the United States. It is legislation which will provide thousands of jobs for American workers onboard ships, in shipyards, and in service industries. In addition, it will afford increased protection to our marine environment.

Mr. President, let me now elaborate on some of these key issues.

First, the matter of national security of the United States. It is a recognized fact that a strong, active civilian merchant marine is an essential element of our national defense picture. It is, therefore, the undeniable responsibility of Congress to assure the maintenance of a strong peacetime merchant marine which will be ready to serve in the event of a sudden outbreak of hostilities.

Currently, as the chairman has pointed out and, as has been pointed out in the committee report the number of U.S.-flag tankers is totally insufficient to supply our Armed Forces and meet the needs of our basic domestic industries in a period of international crisis. As of December 31, 1973, our U.S.-flag tanker fleet consisted of 320 vessels, totaling only 7.8 million deadweight tons—less than 4 percent of the world's total tonnage. Most of these ships are small, averaging only 32,600 deadweight tons. At present, the United States imports approximately 30 percent of its petroleum needs. Of these imports, only about 5 percent are carried on U.S.-flag vessels. In other words, we are dependent on foreign flag tankers for 95 percent of our oil imports.

We can no longer afford to place this Nation's security in the hands of our mythical "effective control fleet". This concept proposes that in times of crisis, the U.S.-owned fleet of tankers registered under the flags of Liberia and Panama will revert to U.S. control. The fallacy of this expectation is that it rests on the premise that the owner of the vessel is the one who controls the vessel. However, there is no factual basis for believing that these foreign flag, foreign manned tankers are any more under the control of the United States than is the foreign-based oil on which we are also dependent.

Mr. President, I have serious doubts as to whether our allies can be counted on to respond to our needs in times of national emergency. Recent events have indicated that countries controlling our oil supply may be willing to use their strategic advantage to make our effective control fleet worthless. Indeed, countries that offer "flags of convenience" need oil, too. It is certainly reasonable to assume, therefore, that in a period of tension, these nations may be forced to restrict the operations of vessels under their registry, subject to approval of the oil-producing nations.

Even more threatening, however, is the vulnerable position of the oil companies themselves. Without questioning the patriotism of the U.S. citizens who operate these companies from home offices in this country, it is to be expected that their corporate interests may not always coincide with the interest of our national security. Most recently, oil companies importing oil from Arab nations were ordered to embargo shipments to the United States, and to stop supplying our military forces in Europe. The Arabs caveated this order with a threat to cut off any oil major in violation of this embargo. Indeed, last fall some American multinational oil companies did, in fact, yield to this order of Saudi Arabia and withheld oil from America's military forces in Europe. However, supplies of oil destined for the American consumer were diverted to our Armed Forces, and immobilization of our servicemen was averted. However, that does not detract from the significance of this incident, for it was the U.S. consumer who bore the brunt of this unfortunate situation.

In a future crisis, these nations may demand not only a cutoff of oil to the United States, but also a denial of our effective control fleet. Given our present dependence on these vessels, the results could be disastrous. On the other hand, a healthy U.S.-flag tanker fleet could give us flexibility to transport oil from alternative sources if a military or political crisis forecloses our access to more traditional sources.

The passage of H.R. 8193 would guarantee growth of the American-flag tanker fleet. Under the Merchant Marine Act of 1970, the U.S. fleet has been able to make significant strides through ship construction and operating subsidy provisions of that act. However, the Merchant Marine Act of 1970 was not intended to be, and must not be considered as, the only solution to rebuilding our merchant marine. It has become all too apparent that the availability of cargo is essential to the survival and growth of the U.S. merchant marine fleet.

Mr. President, the chairman of the committee, I think, very adequately discussed the lack of inflationary impact of this legislation. I think there was testimony which showed quite conclusively that this legislation will not cause the price to American consumers to go up. As a matter of fact, he pointed out that under the legislation we are waiving 15 cents per barrel import fee that is charged when crude oil is brought into this country, and that fee is being waived if it is brought in in American bottoms, so that this has the effect of negating any inflationary impact or any impact that would be on the cost to the domestic consumers of the oil.

Mr. President, during recent weeks there have been many false rumors circulated about the inflationary impact of this legislation. It is my opinion, as well as the opinion of a majority of the Commerce Committee, that enactment of the Energy Transportation Security Act will bring about no increase in the prices of oil.

During the merchant marine hearings, the committee received a wide variety of estimates on the cost of this legislation to the consumer. Testimony ranged from an increase of 79 cents per barrel by oil companies opposing the bill to an economist's testimony estimating a cost savings of 68 cents per barrel. However, the Maritime Administration estimated the cost increase to be one-third of a cent per gallon for 1974. This figure is truly insignificant when compared to the high prices Americans are now paying at the gasoline pump. A major argument of those advocating inflationary impact is the high cost of building and operating U.S. ships. It is undeniable that it presently costs more to build and operate an American-flag ship than those under foreign registry. However, the U.S. inflation rate that will affect the construction and operation of U.S.-flag tankers is not nearly as high as that in other countries of the world. Consequently, the gap between costs of foreign-flag and U.S.-flag vessels will decrease over the years.

In addition, the oil companies based their cost estimate on the assumption that a captive noncompetitive market would be created for U.S.-flag vessels which could charge a captive market premium. I wish to stress on this point that there will be free entry and free competition among all U.S.-flag carriers, subject to reasonable rate limitations by the Secretary of Commerce. Moreover, H.R. 8193 would reserve only a maximum of 38 percent after 1977 of our oil imports for vessels of U.S. registry. Foreign-flag vessels would be available to carry the remainder.

Furthermore, a serious question exists as to the relationship of prices American consumers now pay for oil transportation and the cost of that transportation service. More specifically, we know that major oil companies have wholly owned foreign subsidiaries which in turn own the foreign-flag ships used to import the parent company's oil into the United States. We also know that presently the cost of shipping oil on U.S.-flag vessels may be slightly higher than on foreign-flag ships. However, there is a lack of evidence on whether the price American consumers pay for oil transportation on vessels owned by the oil companies actually reflects the lesser cost of constructing and operating tankers of foreign registry. No such evidence was offered at the merchant marine hearings on this bill. Consequently, cost figures are totally irrelevant to the consumer price impact of this bill in the absence of proof that cost savings will mean lower prices at fuel pumps in the United States.

This legislation will establish a cost monitoring system for transoceanic freight rates. U.S.-flagships need only be used if their rates are fair and reasonable. To determine the fairness of transoceanic rates, the Secretary of Commerce must make periodic investigations of the actual cost of such shipping. For the first time, the American people will have the benefit of a cost monitoring system in tanker transportation which will insure that only justifiable and necessary costs of transportation are passed on to the consumer.

Finally, the Senate Commerce Committee has adopted an amendment which will allow a waiver of 15 cents per barrel of the oil import fee when crude oil is carried on U.S.-flag vessels—providing the cost savings are passed on to the ultimate consumer. This amendment will eliminate much of the cost advantage of importing oil on tankers of foreign registry by providing a cost cushion for U.S.-flag tankers.

In view of the above considerations, Mr. President, I firmly believe that the Energy Transportation Act of 1974 will not cause any significant increase in the price of petroleum products to American consumers.

Furthermore, let me make clear that I believe the Senate has a unique opportunity in H.R. 8193, to have our Nation's recent energy crisis result in more, rather than fewer jobs for America's workers. In recent months, we have all seen the economic and employment effects of the energy crisis as industries have retrenched and energy worries have deepened, leading to reduced employment throughout the Nation.

H.R. 8193, the Energy Transportation Security Act, gives us an initiative to begin to build up our employment, as a direct result of the lessons learned during the energy crisis. In effect, we will be profiting from that crisis. In the process, we will create a huge new source of employment in America's shipyards, and will provide employment for thousands of U.S. seamen who are now idle because of the lack of shipping opportunities aboard U.S.-flag vessels.

Now, to be perfectly candid, Mr. President, representing a state with one of the Nation's largest shipbuilding yards, I know full well the strong economic stimulus that a thriving, healthy shipyard can provide a whole region. The most recent example of this is the revival of Brooklyn Naval Yard as a civilian shipyard and the way it aided the Bedford-Stuyvesant section of Brooklyn.

Shipyards, which are basic industries to this Nation, have an employment multiplier effect on auxiliary and related industries because they employ a whole range of subcontractors, including electronics, steel, ship fittings, and related goods.

Thus, employment in U.S. shipyards benefits many industries. Commerce Department spokesmen have indicated that the program envisioned under H.R. 8193 will produce an additional 225,000 man-years of work in U.S. shipyards alone and almost three times this amount in allied industries. This means at least $4 billion in shipbuilding wages and more than $10 billion in related industries. This truly massive benefit from H.R. 8193 will help to overcome many of the negative effects which the energy crisis has had on U.S. employment.

The situation aboard ship will be equally beneficial to U.S. workers. Presently, thousands of shipyard workers are without work, due to the steady decline in the U.S. fleet and the continued foreign building of U.S. companies. Seagoing jobs are currently at their lowest point in modern history. The future remains bleak unless an assured source of cargo, such as H.R. 8193 would provide, can be obtained.

Passage of H.R. 8193 would produce over 5,000 new jobs aboard ship in the next decade. This would assure that valuable and trained American seamen, many of whom would have been lost to the industry, remain at sea and are available to aid the Nation in the event of national crises.

I would note that one reason the number of seamen's jobs continues to decline despite the impact of the 1970 act on shipbuilding, is that new U.S. vessels are much more productive than older vessels. For instance, the T.T. *Brooklyn,* America's first supertanker of 225,000 tons, has a crew of 27. On the other hand, a World War II T-2 tanker had a crew of from 37 to 45 and was much slower than the *Brooklyn.* Accordingly, we must build up the size of our U.S. fleet, for merely keeping it at its present level means diminishing employment as older vessels are phased out and more productive ones, with lower crew sizes, are phased in.

Mr. President, passage of H.R. 8193 would be an economic boost to the entire Nation, but to its workers in particular. The new shipbuilding, shipboard and allied industry jobs produced by H.R. 8193 will mean employment for literally thousands of Americans.

Moreover, there is growing concern in the United States to protect our waters, coastlines, and the sea life from the destruction of oil pollution. An additional, immeasurable benefit resulting from the enactment of the Energy Transportation Securities Act will be the increased protection afforded our marine environment.

For example, part of the normal ship tank cleaning operations already accounts for more than one-half of marine oil pollution problems. More specifically, after discharging its cargo at a refinery, a tanker must take sufficient sea water into her cargo tanks to insure proper propeller emersion and to provide suitable sea-keeping characteristics. This ballast water, as it is called, is put directly into the cargo tanks and mixes with oil that has remained in shallow puddles at the bottom of the tanks. This oily ballast is then pumped overboard before the tanker reloads with a fresh supply of oil. The resulting intentional oil pollution from this process is responsible for nearly 70 percent of marine oil pollution.

This legislation requires that U.S.-flag tankers be constructed and operated using the best available pollution prevention technology, including a segregated ballast system, which will significantly diminish this needless destruction of our marine environment. The United States now receives approximately 95 percent of its oil imports in foreign-flag ships which have not such strict environmental standards.

We not only risk our Nation's security by depending on those foreign-flag vessels, but at the same time are placing our Nation's shore and ocean environment in grave peril from low operating standards that are notorious aboard flag of convenience vessels. Studies by the Organization for Economic Cooperation and Development, by the U.S. Department of Commerce, and by international shipping scholars have unanimously concluded that flag of convenience vessels are less safe than vessels of U.S. registry. Factors contributing to these undesirable safety standards are lax inspection regulations, the absence of any policing force, low-crew standards, and the fact that few, if any, of these vessels ever return to their country of registry, and thus avoid discipline for infractions of international safety conventions committed on the high seas. As a result, flag of convenience vessels—which today carry almost half of U.S. oil imports—have developed an appalling accident record that has included almost every large or costly petroleum shipping accident in recent years.

In contrast, the U.S. fleet is strictly controlled and maintained under Coast Guard supervision. If a U.S. crewman or officer is negligent or breaks the law, the U.S. Coast Guard steps in quickly to suspend or revoke his papers. If a U.S.-vessel pollutes, the Coast Guard can quickly levy fines against the U.S. operator. U.S.-flag vessels are manned by crews that are highly trained and stringently tested by the U.S. Coast Guard. Taken together, these factors make U.S.-flag tankers unquestionably among the most environmentally safe vessels in the world and we do not have the same protection when we are using so-called flag-of-convenience vessels.

In addition, this legislation excludes from its provisions U.S.-flag vessels older than 20 years or reconstructed vessels beyond their economic lives. Accordingly, tankers with deteriorating equipment and poor safeguards will be systematically replaced by U.S.-flag tankers containing the most modern and environmentally sound equipment available.

As a result, Mr. President, the enactment of H.R. 8193 would assure the citizens of our country that at least a percentage of our oil imports are being carried on tankers employing the strictest and safest manning and construction standards of any vessels in the world, and in a manner consistent with the overwhelming national desire to protect and preserve our Nation's marine environment.

Mr. President, this measure was overwhelmingly adopted by the House of Representatives. I now urge my colleagues to also give their overwhelming support to this legislation in order that our Nation may have: First, increased national security; second, more complete disclosure of oil transportation costs and how these costs are reflected in the price Americans pay for petroleum products; third, increased employment opportunities for U.S. shipbuilders and seamen, and fourth, an efficient, minimal pollution merchant marine fleet that will help our Nation's shipping industry become one of the most modern and technologically advanced in the world.

Mr. COTTON. Will the Senator yield?

Mr. BEALL. Yes, I am happy to yield to the Senator.

Mr. COTTON. First, I congratulate the Senator on a very able presentation, but I would wish to take exception to one statement the Senator just made which I may be subject to misinterpretation.

The Senator said that this measure was overwhelmingly approved in the House of Representatives. It was not, this measure that is before us. It was a bill of similar nature, but which did not go nearly as far as the measure we are now considering in the Senate.

Mr. BEALL. I agree with the Senator. I think better protection of national interests than does the bill passed by the House of Representatives.

Mr. GRIFFIN. Would the Senator yield?

Mr. BEALL. I am happy to yield to the Senator from Michigan.

Mr. GRIFFIN. The pending question, as I understand it, is the amendment of the Senator from Minnesota (Mr. MONDALE) and there has been some discussion about when the vote may come on that. The yeas and nays, I understand, will be requested.

There is an order for a vote on a treaty at 3:30, and after consulting with the various interested parties I would ask unanimous consent that the vote on the Mondale amendment immediately follow the vote on the treaty coming at 3:30—that is in the form of a unanimous consent agreement.

Mr. COTTON. Reserving the right to object, is the Senator from Minnesota here?

Mr. GRIFFIN. He does not seem to be on the floor, but it has been discussed with him.

Mr. LONG. It was agreeable to him.

Mr. GRIFFIN. That we would make that unanimous consent.

Mr. COTTON. I do not like to set a precedent for any time limit whatsoever. But, it would seem to me that if we go ahead and vote on the treaty and then vote on his amendment, nobody will know what they are voting on.

Mr. LONG. Mr. President, may I ask unanimous consent that after the vote on the treaty there be a limitation of 10 minutes, to be equally divided between the Senator from Minnesota (Mr. MONDALE) and the Senator from New Hampshire (Mr. COTTON) so that both sides can briefly explain the amendment?

Mr. COTTON. I think that perhaps 5 minutes is enough. But, I do not want this taken as a precedent.

Mr. LONG. I think if the Senators believe they will vote in 10 minutes that they will stay here, because they know by the time they get somewhere they will turn around and return.

Mr. GRIFFIN. I would agree with the Senator from Louisiana, that the purpose of this is to accommodate some of our colleagues who would like to know when these votes are coming, if at all possible.

Mr. COTTON. The Senator from Minnesota has important business which will take him out of town. I want to make it clear that I do not intend to agree for some time yet to a time limitation, but I will agree to one in this instance because the Senator from Minnesota does happen to be required to leave for an out-of-town appointment. I think we should have 5 minutes apiece so that the Senators would know roughly what it is all about.

Mr. GRIFFIN. Mr. President, I will modify my request accordingly.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I am pleased to rise in support of the legislation now before the Senate, the Energy Transportation Security Act, H.R. 8193, as amended by the Senate Commerce Committee.

Because of unalterable geographical circumstances, the people of Hawaii are uniquely dependent upon water carriers for moving the bulk of goods between our State and other land masses.

Hawaii, as an island State, noncontiguous to mainland United States, obviously does not enjoy a rail or highway system connecting it to the mainland. As a result, Mr. President, my State and the well-being of its people are almost entirely dependent on a lifeline of ships which travel along the 2,500 miles between Hawaii and west coast ports.

To add to our woes, Hawaii's total lack of mineral resources creates a particular reliance on a quality ocean transportation system, especially our oil tanker fleets.

It is for these reasons that I am especially interested in the legislation we are considering today. This legislation by requiring the use of U.S.-flag tankers for the carriage of a percentage of our Nation's oil imports, would further stimulate the construction of U.S. ships capable of serving our Nation's needs in any emergency.

This legislation will also guarantee to the people of Hawaii as well as to the citizens of the continental United States a secure and reliable oil import transportation system. If any nation or group of nations were to withdraw its tonnage from our trade, those areas of the country that depend heavily on oil imports—Hawaii and the east coast, especially—will suffer the most. Only the use of U.S.-flag tonnage will insure that ships will always be available to carry in vitally needed oil.

Equally important, Mr. President, this legislation will afford to the consumers dependent on oil imports the benefit of a cost monitoring system for tanker transportation. By requiring the Secretary of Commerce to determine fair and reasonable rates, the American people have some assurance that the U.S.-flag tankers participating under this legislation will be charging only necessary and justifiable costs.

As a representative of the State of Hawaii and as an American, I believe this legislation deserves the full attention of all those concerned with the security and economic well-being of our country.

I am convinced that if we attempt to accomplish the intent of this legislation entirely through subsidy as suggested by some opponents of H.R. 8193, the cost would be staggering and we could not be assured of achieving the success that H.R. 8193 would produce.

In addition, we have seen that subsidy alone would not provide the U.S. fleet with the steady supplies of cargo it needs to be assured of continuous employment for the future. Without these cargoes, the U.S. fleet will continue to experience periods of "boom and bust" in which U.S. shipping operators will never be certain whether they will be able to survive economically or not.

In the past, it has been evident that the giant multinational oil companies and others who control the cargo have been reluctant to charter U.S. flag vessels. Additionally, U.S. ships have been the last hired-first fired of the world shipping industry. And even when newer and more competitive vessels have come off the construction ways, the multinational oil companies have been reluctant to hire these vessels even at rates which are highly competitive with the existing world rate.

For these reasons, Mr. President, I feel it is essential that the Nation enact legislation which would allot to the U.S. fleet a significant share of the Nation's vital oil imports. In this way, my State and others which are also dependent on oil imports for a major portion of our energy supplies can be assured that not only will we obtain the benefits of a more dependable tanker fleet but also that we will be afforded the economic benefits of U.S. ships and crews which pay U.S. taxes and wages and which contribute to the Nation's balance of payments.

I urge my colleagues to vote in favor of this legislation in order that the entire Nation may enjoy the economic and security benefits of H.R. 8193, the Energy Transportation Security Act.

Mr. President, for the purpose of developing the legislative record on the measure before us, H.R. 8193, I wish to enter into a colloquy with the manager of the bill, the distinguished Senator from Louisiana.

As I view the proposed bill and accompanying report, I judge that it is intended that the Secretary of Commerce have the broadest authority under the act. This I believe is necessary and good. I assume that in the exercise of his authority, he will seek advice from industry and labor in reaching his conclusions. There has been a suggestion that an advisory committee be established to give such aid to the Secretary. Rather than impose this on the Secretary by legislation, I believe he should recognize that Congress would expect him to seek such advice. I am sure he will agree with this.

I would also hope that in establishing the rules and regulations in each case, and most particularly for possible rate guidelines, that they would be published first for public comment before becoming final.

I would hope that the manager of the bill agrees with my remarks on the matter of the advisory committee.

Mr. LONG. Yes, I believe that the Senator's views are well taken, and I believe they are correct.

Mr. INOUYE. Mr. President, on my second matter, I wish to receive a reaffirmation that it is the importer that has the obligation of complying with the quota requirements. I do recognize in some cases the importer and the carrier may well be the same. But more often than not, there will be different interests and I believe he will agree that it is virtually impossible for an independent carrier to know the quota obligations concerning the cargo he is carrying for a nonrelated importer. I am sure the Senator will concur.

Mr. LONG. Yes, I do, and I believe the committee report helps to make that clear.

Mr. INOUYE. Finally, I would like the RECORD to clearly indicate that there is nothing in this bill at this moment that would amend the Merchant Marine Act of 1970.

Mr. LONG. The Senator is correct.

Mr. INOUYE. I thank the Senator very much.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. COTTON. Mr. President, I wish to express my vigorous opposition to the passage of the pending bill, H.R. 8193. This proposed legislation is ill conceived, would be costly to the American consumer and taxpayer, and cannot accomplish its stated purpose.

In the 92d Congress the Senate considered a similar proposal in the form of an amendment to H.R. 13324, the maritime appropriation authorization bill. At that time, Mr. President, the Senate displayed its wisdom by rejecting that earlier proposal. However, there are even more compelling reasons for the Senate to reject the current proposal, H.R. 8193, and I would like to summarize briefly those which I believe are the most significant.

In my opinion, Mr. President, the most important policy issue to which the Senate should be alerted at the very outset is that if the pending bill is passed, we will embark upon a new and probably endless course by virtue of the precedent it would set in establishing statutory quotas on the carriage of privately owned commercial oil cargoes. Heretofore, such Federal cargo preference statutes have been limited to the carriage of Government-owned and Government-financed cargoes. Thus, with enactment of H.R. 8193 we would establish a strong precedent for extension of cargo preference to other commercial cargoes, such as exports of agricultural products, which are perhaps the most important exports we have and which are our greatest help in trying to maintain our balance-of-payments. It also could be used to set a precedent for the application of cargo preference to other raw materials for which the United States is dependent upon foreign sources.

Mr. President, I believe the following observation made in an editorial which appeared in the Journal of Commerce on January 29, 1973, is worth quoting in order to bring this issue squarely before the Members of the Senate:

> What we do fear is the probability that if this type of government incursion into the sphere of seaborne commerce got embedded in the law, it would not be the last of its kind. On the contrary, like the camel's head, it would be followed by more and wider interventions, some of which could be supported by arguments more plausible than any advanced in support of cargo preference laws for oil.
>
> We can visualize this crusade being pressed from one stage to another by the AFL–CIO Maritime Committee and its friends in Congress, each stage in turn being proclaimed as a small but necessary readjustment in past thinking, but one that will produce more work for shipyards and more jobs for American maritime labor.
>
> We find it hard to believe that the United States could venture very far in this direction before discovering that a very important sector of its free economy had disappeared altogether.

Mr. President, I would like to emphasize that the testimony in support of the proposed legislation serves to confirm the fear expressed in this editorial. For example, both the American Maritime Association and the National Maritime Union of America, AFL–CIO, during the hearings on the bill before the House Committee on Merchant Marine and Fisheries clearly indicated that whatever justification exists for the extension of cargo preference to commercial cargoes of oil also exists for extending cargo preference to numerous other imports and exports.

Throughout the debate on H.R. 8193, Mr. President, there will be representations by both the proponents and the opponents with regard to the potential cost impact of this legislation on the American consumer and taxpayer. The Commerce Committee has received widely varying cost estimates. For example, the American Petroleum Institute has estimated that there would be an immediate cost increase of 79 cents per barrel rising to $1.44 per barrel by 1985, or a cumulative cost to the consumer of $60 billion during the next decade. The Federal Energy Administration has estimated that the cost to the consumer from this cargo preference legislation could approach $3 billion per year by 1980. The Maritime Administration of the Department of Commerce estimates that this legislation would result in an annual cost of $123 million by 1980 rising to $183 million by 1985. The Committee also received an estimate which projected a net benefit to the consumer ranging from 36 cents to 59 cents per barrel.

Perhaps the one statement that can be made with any certainty with regard to the issue of cost is that no one really knows the potential cost impact of H.R. 8193. Clearly, I doubt that the proponents of this legislation can give us any assurance whatsoever that there will be no cost impact if H.R. 8193 is enacted. As a matter of fact, in the report of the Committee on Commerce accompanying H.R. 13324 of the 92d Congress, which contained a similar cargo preference provision, the proponents noted the following:

> * * * Obviously, if that program [i.e., the mandatory oil import program] is eliminated at some future date, none of the foregoing analysis with respect to the lack of impact on American-flag carriage on consumer costs would remain true. *At that point, these additional costs would have an impact on consumer prices.* (Emphasis supplied.)

Mr. President, the mandatory oil import program is no longer in effect. Therefore, taking the proponents' earlier position at face value, there will, in fact, be a cost impact on consumer prices.

Further, Mr. President, the experience under the existing cargo preference statute applicable to the shipment of Government-owned and Government-financed agricultural commodities demonstrates the potential cost impact of H.R. 8193. In this connection, I invite the attention of my colleagues to the committee's printed hearings at page 582 and the response which I received from the Acting Secretary of Agriculture enclosing a computer printout, which is reproduced in the hearing record, showing the rates charged on such shipments during calendar years 1969 through 1973. Quoting from the Acting Secretary's letter:

> For fiscal year 1973, the average of all differentials paid under the Title I, Public Law 480 program was about $25 per ton and you will note in many cases that the differential amounted to *more than half the entire rate.* (Emphasis supplied.)

In short, Mr. President, there are potentially extremely serious cost consequences presented by H.R. 8193. The proponents may characterize such consequences in terms of only pennies per gallon. But, when those pennies are multiplied by the millions of barrels we will be importing, the cost to the consumer becomes apparent. In this connection, Virginia H. Knauer, Special Assistant to the President for Consumer Affairs, in a letter to me dated June 7, noted in part the following:

> Some proponents of the legislation say that these increases are minimal and therefore bearable by consumers. I say that such a position is hostile to the interests of consumers. The increases—even by conservative estimates—will amount to literally millions of unnecessary dollars out of the pockets of American consumers every year. Moreover the cumulative effect of the assault of "minimal" price increases upon the consumer's buying power can be truly unsettling, as we are seeing at the present time.

Mr. President, the proponents of H.R. 8193 contend that cargo preference will provide our Nation with the security of having the necessary transport capability to carry needed oil to our country. However, as the Arab oil embargo clearly demonstrated, our real concern for assuring dependable energy supplies is to have secure energy sources. If the supply of foreign oil is interrupted at the foreign source, it will be of little avail to have several million deadweight tons of tanker vessels under American registry. This bill does nothing to make those foreign sources more secure. If anything, it jeopardizes existing foreign oil supply availability.

It jeopardizes foreign oil supply sources, Mr. President, because it invites retaliation. The moment we start insisting on a certain percentage, such as 20 percent and later 30 percent as proposed in H.R. 8193, and which shows that the proponents of this measure want to make its impact gradual, betraying a fear of this bill which they, themselves, either consciously or subconsciously, have in their minds, other nations will follow our lead. Thus, H.R. 8193 will jeopardize our foreign oil supply availability, and invite retaliation, especially by Arab countries which now are building their own shipping capacity.

As noted by Secretary of Commerce Dent in his letter to me dated July 22, this legislation would "provide an excuse for foreign countries to adopt similar discriminatory measures. Such actions could take the form of cargo preference damaging to other segments of the U.S. economy." The Arab Organization of Petroleum Exporting Countries will be quick to discern that H.R. 8193 would create a nontariff trade barrier.

Retaliation by these countries would be extremely damaging to our national security from an energy standpoint. Also, it should be remembered that these Arab countries are interested in developing their own tanker capacity, and they have already placed orders for tanker construction. This measure can only encourage the adoption by the Arabs of similar measures applicable to their oil exports.

Further, Mr. President, as the Department of State pointed out in its testimony before our Subcommittee on Merchant Marine, enactment of H.R. 8193 would place the United States in violation of more than 30 treaties of friendship, commerce, and navigation—FCN treaties. These treaties obligate the United States to give treatment to flag vessels of our treaty partners equal to that which we give our own vessels with respect to carriage of commercial cargoes. Surely, U.S. violation of these treaties would encourage similar measures on the part of our treaty partners and other nations.

Remember that we have more than 30 such treaties with other nations, and the moment we enact this measure, we violate those treaties. Are we so dumb, or do we think that these other nations are so dumb that they will not realize what we have done? Then they, too, will disregard such treaties with us and assert their own preference. Accordingly, this bill is certain to bring retaliation and take cargoes out of American bottoms and jobs away from American seamen.

Mr. President, much is alleged concerning the employment opportunities to be provided American seamen through enactment of H.R. 8193. Nothing could be further from the truth. Based upon estimates made by the Department of Commerce, assuming realistic constraints on shipyards, H.R. 8193 would create some 2,200 incremental man-years of seafaring employment and 143,200 man-years of shipyard and support industry employment through 1980, at an estimated minimum cost of $800 million—nearly $1 billion. This brings about the absurd result of making the shipyards and support industries, which least need it, the biggest employment benefit recipients, and the seafarers—the sailors—who need it the most, the recipients of the smallest benefits.

Even without H.R. 8193, a shipbuilding manpower study conducted in March of this year for the Maritime Administration concludes that manpower requirements for skilled shipbuilding occupations will increase 8 to 12 percent per year through June 1975, and that a major impediment to planned expansion will be the limited availability of skilled personnel in several local labor markets.

As a matter of fact, our commercial shipyard industry now has a record peacetime backlog of orders valued at more than $6.5 billion, and in this booming commercial market, the Navy is having serious problems trying to prevail upon this industry to build naval vessels. H.R. 8193 will only serve to fan the flames of this boom at inflated costs which will be borne by the American taxpayer.

It was only 3 days ago that the Secretary of the Navy visited the Portsmouth Naval Shipyard in my State of New Hampshire. Ever since I have been in the Congress, from the years I was in the House and all through the 20 years in the Senate, I have been fighting to keep that shipyard operating. Secretary after Secretary of the Navy had decided to close it down because they thought they could get the work done cheaper and faster in private commercial yards.

But, I have maintained that we had to have some public yards to keep the private yards honest and to have them in time of need. Last week, the Secretary of the Navy visited the Portsmouth Naval Shipyard, which is running at peak, and he proceeded to tell them that we never needed it so badly as we need it now, and that there is no prospect of its being closed. He stated that it would be the saddest mistake we ever made if we closed it because there is such a backlog in the shipyards that build naval vessels of all kinds that the Department of the Navy is having extreme difficulty in getting the ships that it needs built. Now, that is highly significant. Also, if we start immediately a crash program to build more shipyard capacity—and I know that if my friend from Louisiana were here on the floor, he would differ with this because he says we ought to have more and more capacity—it will cost an exorbitant amount of money to build such excess capacity.

Now, in light of all of this, I cannot possibly think of anything more utterly senseless than to penalize the people who, at least in the northern part of this country, may be cold this winter. Passage of H.R. 8193 will penalize the consumer, the purchasers of heating oil and of gasoline. It will penalize the schoolhouses that must be heated. It will penalize the utilities that are furnishing power and light and have to have fuel. Yet, H.R. 8193 will benefit only a very few, while causing all this hardship. It is just inconceivable to this Senator that the Senate would even consider passage of such a disastrous piece of legislation, especially in light of our Nation's recent energy crisis.

My final principal reason for opposing H.R. 8193, Mr. President, is that it would result in a most unfair economic hardship on my constituents in New Hampshire and other consumers in New England and the Northeast. True, that is a parochial reason. But of the 12 States in this country that have no refineries, 6 of them are in New England. We have not one refinery in our region.

I note the presence in the Chamber of the distinguished Senator from Hawaii (Mr. INOUYE), who comes from one of the most beautiful climates in the world, where we all wish we could go every time we have a vacation. I note in the chair the distinguished Senator from North Carolina (Mr. HELMS), who lives in one of the greatest States in this Union, and one that, while it has, I suppose, occasionally some cold weather, certainly does not have a climate which can be compared to the rigors of New England, or of New York, Minnesota, Michigan, and other Northern States which experience cold, bitter winters.

Moreover, unlike many other sections of the country, New England is heavily dependent upon imports of foreign oil for its petroleum needs. Therefore, New England would have to pay a disproportionate share of the higher costs resulting from cargo preference.

In this connection, Mr. President, I would like to point out that the provision contained in this bill to waive 15 cents per barrel of the oil import fee when crude oil is transported on U.S.-flag vessels only serves to exacerbate the discriminatory effect of cargo preference on the New England region. Due to the lack of refinery capacity to which I have just referred, imports to New England are primarily oil products rather than crude oil. As a result, this provision is an added discrimination against the State I represent, and the region represented by other Members of this body which extends beyond New England, including, certainly, the Northeast.

Whatever cost savings may accrue to consumers in New England by the waiver of this oil import fee can only be minimal, while other sections of the country which import mainly crude oil will receive the lion's share of any savings. In my book there would be no saving. In my book, it is just a degree of hardship for all consumers in this country as this energy crisis continues. This crisis is not over. It is going to intensify. I do not care what State you come from or what region you come from, it is just a matter of degree of what your consumers will suffer as a result of passage of this bill. As stated in the Washington Post editorial to which I have already referred:

> Supporters of the new bill try to argue that shifting oil imports to more expensive ships will not necessarily mean more expensive oil. The congressman who believes that will believe anything. The bill is, in fact, a transparent attempt to make the public subsidized the shipping industry through its fuel costs as well as through its taxes.

Mr. President, the foregoing summarizes my principal reasons for my opposition to H.R. 8193. However, I would like to bring to the attention of my colleagues that this legislation is also strongly opposed by the Departments of Commerce, State, Agriculture, Treasury, Defense, Transportation, Justice, and Interior, as well as the Federal Energy Administration and the Office of Consumer Affairs. All these are lined up unanimously opposing this legislation.

On August 1, 1974, I inserted in the RECORD at pages 26272–26279 letters from each of these departments and agencies of the executive branch, which were in response to my requests for their positions and comments on H.R. 8193 as reported by the Commerce Committee. A copy of those letters which I inserted in the Record has been placed on each Senator's desk, and I invite attention to them.

Surely, such unanimous opposition by those departments and agencies which would administer or be affected by the proposed cargo preference legislation should be given careful consideration.

I have not tried to ascertain the attitude of President Ford on H.R. 8193, and I have no intention of trying to approach him about it, unless we reach that dire situation that this dangerous bill passes, comes out of conference, and is sent to be signed by the President. Except for the fact that I know that all these departments oppose the bill, the only news I have received about the President's attitude was kindly expressed on the floor this morning by the distinguished manager of the bill, the Senator from Louisiana (Mr. Long). He gave me the information. He asserted that, first, he had talked casually with the President, mentioned this bill to him and I think he said that the President would feel a little better about it if it carried a provision that was applicable to the House bill concerning waiver authority vested in the President and Congress in case of an emergency.

Now, that is not what I would call enthusiastic endorsement of the bill.

Certainly, if passed, H.R. 8193 should be vetoed, because if there ever was a bill that promoted inflation, this one is it. Inflation is something we tear our hair about day and night.

The only information I can give as to President Ford's attitude on this bill is what I heard today from the manager of the bill, the Senator from Louisiana. Apparently he has news I have not yet received.

I know the Departments are all against it because I have their opposition in writing. I wish all my colleagues will look at the Record and read the reasons for their opposition.

In conclusion, for all the foregoing reasons, as well as those set forth in my statement before our Subcommittee on Merchant Marine on May 30, which I inserted in the Congressional Record the same date, my minority views contained in the committee report accompanying H.R. 8193, the minority views of my distinguished colleague from Kansas (Mr. Pearson), also contained in the committee report, the numerous objections raised by the various departments and agencies of the executive branch, which were unanimous in their opposition to this legislation, I earnestly solicit the opposition of my colleagues in the Senate to the Energy Transportation Security Act of 1974. It is bad legislation. It should be defeated, just as the Senate wisely rejected a similar proposal 2 years ago.

Now, Mr. President, as we reach the time for a decision, I wish to recapitulate my objections to the bill:

First, it is inflationary. It has got to be inflationary. It is bound to cost more money for the consumer. H.R. 8193 will contribute to inflationary pressures in the construction and operation of U.S.-flag tankers.

Second, H.R. 8193 will establish the precedent of statutory quotas on the carriage of privately owned commercial oil cargoes, which preference heretofore has always been limited to the carriage of Government-owned and Government-financed cargoes. This could be expanded to other commercial cargoes, including our agricultural exports, and raw materials for which the United States is dependent upon foreign sources. We would invite this extension.

Third, there is bound to be retaliation as a result of our violation of treaties with more than 30 countries.

Fourth, H.R. 8193 would impose a statutory requirement for double bottom tanker vessel construction for which there is evidence that double bottoms are, at best, of small significance in protecting the environment. Double bottoms raise serious technical questions as to safety, and they would significantly increase tanker vessel construction costs.

At the International Conference on Marine Pollution, in recommending safeguards against oil spillage in the ocean, they voted against the recommendation of double bottoms for tanker vessels. The Norwegians, for instance, stated:

> We have had experience in Norway with double bottoms on oil and bulk oil carriers. We experienced much more difficulty with double bottoms than single bottom vessels. For example:
>
> 1. Gas would collect in the pipelines and owners found they had to install detectors in the double bottom as a safety measure against explosions.
>
> 2. There would be extensive leakage of oil into the double bottoms.
>
> 3. Cracks in the structure always occur and if the double bottom gets oil in it, without a piping system to remove the oil, it has to be discharged through the engine room, which is exceedingly dangerous to the ship and the crew.

It was also brought out that a ship fitted with a double bottom was more likely to capsize, was more unwieldy, and that double bottoms were actually dangerous.

Now, strict requirements for the safety of ships are enforced by the Coast Guard, which set the standards. The Coast Guard's most recent regulations do not require double bottoms.

Many ecologists and environmentalists have expressed apprehension about the fact that as soon as Alaska begins to get the pipeline constructed and brings the oil to the Pacific coast millions of tons of oil will be shipped down through a passage to the west coast which is one of the most dangerous passages anywhere in the world.

I would like to quote from an editorial which appeared in the Washington Post on September 1, 1974, on this point:

> Speaking of Alaska, a lot of ecologists are worried about the possibilities of oil spills on the upper Pacific coast when the Alaskan pipeline goes into operation. Tankers will be carrying 2 million barrels of oil a day down through one of the roughest and most dangerous ship passages in the world. All of the tankers on this service will be American-flag, under the long-standing law that prohibits foreign ships from carrying cargoes between American ports. Has Congress required double bottoms for these tankers?
>
> You bet it has not.

And, Mr. President, you can bet that it will not, because it simply adds to the cost and, if anything, increases the danger.

Now, these points that I have discussed are all written by the committee into a new bill which is a substitute for the House bill and which is before the Senate, and on none of those points was there, as far as I have been able to ascertain, any direct testimony.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. COTTON. Yes, I yield.

Mr. LONG. Mr. President, is not the Senator aware of the fact that one of the biggest items on pollution of the sea is that these big ships, having loaded full of oil—and as we know we are talking about huge amounts of oil, these are enormous ships, a ship carrying a million barrels of oil—so these big ships today will sail, let us say, to England or to the United States loaded down with this oil—when they deliver the oil, and a lot of that is heavy oil, they have inches of sludge on the side of that tank?

When they go back and get into warm water, they proceed to flush those tanks out and flush all that junk out onto the sea, which pollutes the sea, and someone should stop them from doing this.

Now, what this bill would say is that we would use the double bottoms, fill the double bottom with water, which would not be the same tank in which the oil usually goes, and would also have some ballast tanks for water only.

Those ballast tanks would not be filled with oil, so we would not have these tanks polluting the sea.

Otherwise, if we do not do something like this, we are not going to be able to swim in the waters off New Hampshire or in the waters off North Carolina or Florida.

I can recall when it used to be very nice to go swimming in the Bahamas. If we go down there now and we go in swimming, we would do well to have a can of distillate so we can wash oil off where those big supertankers have been changing oil from one tanker to another tanker at a transshipment point.

Now anybody knows that if we are serious about stopping this pollution of the sea, we ought to start requiring that: One, we should not have these ships breaking in two like the *Torrey Canyon*, which filled the whole English Channel with oil; or, two, we should not have them flushing their tanks all over the ocean and high seas because after a while it will not be good for anybody.

Now, does the Senator really favor flushing those tanks out all over the Atlantic and the Pacific?

Mr. COTTON. I have here a statement made by the Honorable John M. Murphy, Democrat of New York, before the Department of Transportation on the Coast Guard's proposed regulations for tanker construction.

Congressman Murphy is chairman of the Coast Guard Subcommittee of the House Merchant Marine and Fisheries Committee.

Congressman Murphy points out that the International Conference on Marine Pollution of the Intergovernmental Maritime Consultative Organization rejected the requirement for double bottom and that the Coast Guard has refused to include that requirement in its regulations.

Now, I do not claim to be the expert that the Senator from Louisiana is on these matters. But, if it is necessary to go to that expense for the protection against the pollution of waters and add that expense to the oil bill of the consumers of this country, I would suggest that the distinguished Senator from Louisiana take it up and convince the Coast Guard, with whom he is in close contact as chairman of the subcommittee that deals with it. That is the place to make regulations.

I am just simply taking the decision of the Coast Guard and the decision of the International Conference, in preference to the declaration of the Senator from Louisiana.

Mr. LONG. As I understand it, the chairman of our committee (Mr. MAGNUSON) testified before a Coast Guard hearing in favor of double bottoms. I understand the Coast Guard decision is not final. For that matter, the committee recommendation is not final. If the Senate wants to change it, it can.

It is my understanding that the Interior Department submitted testimony to the Department of Transportation with regard to construction standards for tankers. It has advocated double bottoms, and advocated that this be required in these regulations for building tankers of this sort.

Mr. COTTON. Both of those Departments are opposed to this bill.

Mr. LONG. I know it.

Mr. COTTON. Let me further note that in conclusion, Congressman MURPHY states the following:

> I felt compelled, in view of the mountain of evidence and testimony to which I have been exposed, to come here to state for the record that double bottoms have the highest risk of probability of any currently known ship construction configuration of causing more oil to be spilled on more beaches in just one severe accident than all single skin accidents combined in any projected ten-year period.

Mr. LONG. It is my understanding that at the IMCO conference, the U.S. Coast Guard advocated double bottoms and they were not able to prevail.

I cannot understand why many nations on this Earth just do not care enough about pollution. It could well be, for example, that nations that do not border on the sea just do not care enough about the effect of the sea being polluted that they are willing to pay the cost of controlling pollution. But that is not the case of the United States. We are very much concerned about pollution. We think that we ought to lead the way in working toward——

Mr. COTTON. Who are "we"?

Mr. LONG. Those of us on the majority, on this committee, feel that the United States ought to try to lead the way in trying to control pollution of the sea. To me, it is a sad travesty to see these big tankers being flushed, with the huge amount of deliberate pollution of the sea involved in that as a regular proposition. They should not be permitted to flush those tanks and pollute the ocean until it is not good for marine life or anything else.

I just feel that someone ought to take the lead. As the Coast Guard could not prevail at this international conference, at least maybe we can prevail here to do something about this matter. I do not know why this man testified he did not think double bottoms were safe. I have known what it is to operate a ship without a double bottom, to know what it is to almost lose it, and having to be brought in by tug because the salt water got into the fuel. But it absolutely defies my imagination to understand why one would contend that a ship with only one thickness of steel between itself and the sea would be safer than a ship that has two bottoms, you might say, between itself and the sea.

In addition to a bottom, it has a void tank below it, which, if it sprung a leak, would still not permit the ship to be flooded.

Mr. COTTON. Mr. President, I thank the Senator for his observations. I know he will be back at it again when presented with the opportunity.

I ask unanimous consent that at this point there be inserted in the RECORD the statement of the Honorable JOHN M. MURPHY before the Department of Transportation, in which Mr. MURPHY, chairman of the Coast Guard Subcommittee in the House, speaks of the 6 weeks of the IMCO debate that he and his staff listened to.

I will not take the time to read this statement because I have promised to yield to my colleague from New Hampshire (Mr. MCINTYRE).

I direct the attention of the Senator from Louisiana to this statement inasmuch as the questions he just raised are so well answered by his counterpart in the House of Representatives, who apparently spent a lot of time on this. He will find the answers to his questions there.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE HONORABLE JOHN M. MURPHY BEFORE THE DEPARTMENT OF TRANSPORTATION (COAST GUARD)

TANK VESSELS IN DOMESTIC TRADE

JULY 31, 1974.

Mr. Chairman, I appear here today to support the proposed Coast Guard rules and suggest that no changes be made of a substantial nature, especially as regards the design and construction of vessels.

I felt compelled to appear in person because of representations that have been made to this body and to the Coast Guard by advocates in and out of Congress who insist that the so-called double bottom segregated ballast system be made mandatory under these regulations.

As chairman of the Coast Guard subcommittee of the House Merchant Marine and Fisheries Committee, I have conducted extensive hearings into the problems of operational and accidental tank ship pollution and the recommended alternatives for eliminating such pollution. Further, I and members of my staff, were appointed to the IMCO (Inter-Governmental Maritime Consultative Organization) delegation which met in London during the months of October-November 1973, and which thoroughly explored the most efficient methods of reducing pollution of the world's oceans and waterways.

As I understand it, none of the people in the legislative branch of Government who are advocates of the double bottom system attended the IMCO convention, despite the fact that many were invited. On the other hand, members of the merchant marine and fisheries committee staff sat day and night for six weeks throughout the debate and the presentation of evidence and I attended similar meetings in excess of a week.

I had assumed in view of the wealth of knowledge and experience that is contained in the hearings of the House and the IMCO conference which overwhelmingly disputes the double bottom concept of pollution control that this issue would have been put to rest for the forseeable future. I can only assume that the advocates of double bottoms have not read any of the publications or extracts of these meetings.

I found great resentment against the cavalier attitude—the arrogance if you will—on the part of IMCO participants against those people in the United States who think their commitment to clean up the world's oceans and waterways is greater than that of the English, the French, the Norwegians, the Germans, the Danes, the Japanese, and others.

For people who were 3,674 miles distant from the intense IMCO debate to airily dismiss the combined expertise of the greatest maritime nations in the world—including experts from the United States outside of Government—is utter folly.

The Norwegian delegation in particular, was made up of men of the highest integrity. They were precise, knowledgeable, and persuasive. But above all, they had the facts—engineering-wise and experience-wise—to convince most participants at IMCO.

The Norwegians stated, "We have had experience in Norway with double bottoms on oil and bulk ore carriers. We experienced much more difficulty with double bottoms than single bottom vessels. For example:

"1. Gas would collect in the pipelines and owners found they had to install detectors in the double bottom as a safety measure against explosions.

"2. There would be extensive leakage of oil into the double bottom.

"3. Cracks in the structure always occur and if the double bottom gets oil in it, without a piping system to remove the oil, it has to be discharged through the bilge and through the engine room, which is exceedingly dangerous to the ship and the crew."

In short, Norway felt that double bottoms are dangerous to safety and pollution citing problems of grounding and sinking, difficulty in mooring, difficulty in salvaging and the constant threat of gas seepage into the double bottom space and explosions.

The British and French, who still shudder at the thought of *Torrey Canyon*, were also unalterably opposed to double bottom tank ship requirements. The British delegation pointed out that experience with double bottoms found the following negative effects:

1. Adverse effect on stability.
2. Adverse effect on stability of intact vessel when loaded.
3. Poor stability of damaged vessel.
4. Additional adverse effect when wind loading.
5. Possibility of leakage into the double bottom.
6. Added weight to double bottom.

The French delegation suggested at one point that IMCO actually prohibit double bottoms as a threat to the world's oceans.

I would remind you for the record that the original support and engineering data on double bottoms came to the Coast Guard from engineers who have since re-evaluated original data and collected new information. The advocates of double bottoms listened to them before, and I ask, why don't they listen to them now?

I feel it is no secret at this point in time that the Coast Guard advocacy of double bottoms at the IMCO conference was one of a series of acceptable alternatives one of which, segregated ballast, was overwhelmingly adopted.

As it turns out, however, thanks to those advocates whose knowledge and information has remained static since 1970–71, what was once an alternative has become an albatross around the neck of the United States Merchant Marine industry. The vote against the United States official stand on double bottoms at IMCO was much more substantial than the almost 3 to 1 ratio would indicate. Several delegations, including the Canadians, told me their vote for the United States position was a "sympathy vote", that they in no way supported the double bottom concept, and, in fact, if their votes had been crucial, would have voted against.

The evidence is now clear.

The facts are there for all to see, but the advocates refuse to accept—or even worse—they refuse to even acknowledge new evidence.

The Coast Guard is on the right course in this case. Their efforts in these regulations are directed at the major cause of oil pollution, i.e., segregated ballast for the intentional discharge of oil which causes 70 percent of the pollution by tankers and the development of vessel traffic systems to correct the accidents which cause an additional 18 percent of the pollution. I would point out that 85 percent of this figure is due to ship operator error. This means that when we discuss double bottoms, we are talking in the neighborhood of 3 percent of the total of accidental ship pollution.

Mr. Chairman, if double bottoms would solve even 1 percent of the problem, I would say go ahead and make them mandatory.

If double bottoms were neither effective or ineffective, I would probably not waste my time here today.

But, I felt compelled in view of the mountain of evidence and testimony to which I have been exposed to come here to state for the record that double bottoms have the highest risk probability of any currently known ship construction configuration of causing more oil to be spilled on more beaches in just one severe accident than all single skin accidents combined in any projected ten year period.

The French took the firmest stand at the IMCO convention, because they had come to the same conclusion that I just have—with one difference—they offered mathematical proof. According to the French presentation, their studies, using the same grounding and accident figures presented by the United States delegation, showed that pollution would be increased instead of decreased in double bottoms. They calculated that in the double bottom ship, there would annually be 235 tons of pollution by accidental outflow. On the other hand, in a non-double bottom ship, there would be an annual pollution of 123 tons by accidental outflow.

As I said at the beginning, my staff and I sat through six weeks of the IMCO debate. The people in the other body who are now sending "doomsday" communications and who are now trying to lay down the law on this issue, didn't deem it worthwhile to show up. One staff person did appear for approximately 20 minutes, but never sat down because the debate "was boring."

Now, these people want to dictate policy on an issue about which their ignorance knows no bounds.

Mr. Chairman, I am against oil and other types of pollution.

I support the IMCO recommendations.

I am convinced the regulations we have before us are the correct ones and the most promising.

I have faith in Admiral Benkert and his staff and their assessment of the solutions needed.

On a note of proprietary interest, Mr. Chairman, I understand that because the Coast Guard has changed its policy subsequent to exposure to the testimony of the House Merchant Marine and Fisheries Committee hearings and the convincing evidence presented at IMCO—the Coast Guard now stands accused of having "caved in" to industry pressure on the double bottom issue.

I think this is grossly unfair—I know it is untrue.

They were there and the House Merchant Marine and Fisheries Committee was there. Together we have studied the facts, and until those dilettantes who have only skimmed the surface have looked at and studied these same facts, I, for one, will studiously ignore them.

I suggest this panel do the same.

I urge this body to listen to the tape recorded debate of IMCO committee number 2 during the days of the double bottom debate.

Further, I urge this body to read the hearings of the Coast Guard subcommittee and the 1973 activities report of the House Merchant Marine and Fisheries Committee, particularly the section dealing with the IMCO meeting, which I submit for the record.

This record should convince anyone, as I am, that double bottoms are not the answer.

The record of the Merchant Marine and Fisheries Committee shows that the so-called double bottom solution to accidental oil pollution was no solution at all.

To the contrary, an analysis of the dynamics of a double bottom tanker, under adverse conditions showed that just one failure owing to the decreased stability of such vessels could cause a catastrophic discharge of oil greater than the annual 60,000 tons of spillage from conventional tankers—as the Norwegians pointed out.

There appeared to be four serious disadvantages to double bottom tankers that did not surface in original Coast Guard studies. These included: (1) an inherent decrease in stability, with a decrease in resistance to capsizing; (2) a loss of buoyancy in a grounded double bottom which would impair salvage efforts and increase the potential for losing an entire cargo; (3) the potential for gas accumulation in the double bottom and the danger of explosion; and (4) the fact that they only work with minor accidents.

I have also attached a chart showing the effects of single skinned and double bottom groundings along with supportive information. These charts and this information were prepared by the same people who developed the original tentative double bottom data for the Coast Guard. (Tanker Design and Equipment Committee, American Institute of Merchant Shipping—attachment three.)

I cannot help repeating that I think it is remarkable that the double bottom advocates in Congress believed them then, but they won't believe them now.

As far as I can determine, price is no longer the major objection of shipbuilders to this concept.

Segregated ballast is as much of an anathema to some United States shipbuilders as double bottoms were.

The problem is that a myth was created, and once created—like all myths—they die hard.

I ask you not to be intimidated by the "ivory tower" experts who would use this issue naively at best, or for a few days of political gain at worst.

If they win, in the long run the American merchant marine, the American people, and a good chunk of the United States coastline will stand a good chance of losing in an exorbitant and irretrievable manner.

In summation, I feel that what is happening here, thanks to Admiral Benkert and his staff, is that the Coast Guard aggressively sought the facts over these past three years and gained valuable knowledge on the best way to protect the marine environment. We are fortunate that the Coast Guard had the insight to put the knowledge that they have gained during these years to work and that they had the wisdom to come up with the package before us today.

I hope that we all now have the courage to see that this package is adopted.

I am convinced that if the final operating requirements outlined in these regulations are adopted for all vessels across the board and the design and construction requirements remain intact, as is, we have the best possible package given current technology.

DOUBLE SKINS

Another proposed method of mitigating the effect of tanker accidents is to require that tankers have double sides, double bottoms or complete double skins. Studies already submitted to IMCO have clearly demonstrated that double sides provide a low probability of success in mitigating outflow from collisions due to the breaching of both skins in most accidents of this nature. In addition, double side designs tend to decrease ship stability and to increase the risk of total loss. An additional problem with double skin tankers is the risk personnel would inclur during internal inspection of the void spaces.

Constructing tankers with double bottoms has been proposed by some as a means of dealing with grounding accidents which account for a significant amount of oil loss from tanker accidents. Conclusions presented in IMCO's Study I, undertaken by the United States, initially showed the average outflow in groundings of double bottom tankers to be about half the outflow of single bottom vessels. While these conclusions are believed to be correct under the assumptions of that study, subsequent examination of the assumptions leads to different conclusions. Specifically, the basic study did not adequately consider the drawbacks of double bottoms in extreme conditions and the future areas of operations which may be very different from existing ones, *e.g.*, more deepwater terminals.

With respect to serious grounding accidents, it appears that inadequate consideration was given in the study to the loss of buoyancy resulting from flooding of the empty double bottom space in groundings of double bottom ships. This loss of buoyancy complicates freeing a stranded ship and increases the probability of suffering total loss. Naturally, the importance of this factor depends on the comparative frequency of minor groundings which do not impede the progress of the ship and the more serious ones which leave the vessel stranded. In the latter case, cargo might have to be removed to free the vessel and in the extreme to save the ship.

The implications of buoyancy loss may be expressed in terms of the relative amounts of oil cargo that must be removed from the double bottom ship when the hull is breached and the empty space between the two bottoms is flooded. In this situation a 250 MDWT segregated-ballast-double bottom ship could require lightening by some 16,000 tons of cargo to give the same buoyancy as a single skin ship (segregated ballast or conventional) of like capacity. If time and facilities are available to transfer this quantity of oil to another vessel, the ability of the double bottom vessel to prevent oil outflow would be unimpaired. If not, the specified amount of cargo would have to be jettisoned. In such circumstances, the grounding outflow for a double bottom VLCC could be considerably higher than for a single skin ship in the same situation. Roughly the same results would be obtained in the case of smaller tankers. In addition, the empty double bottom space in a loaded tanker reduces a ship's resistance to overturning in comparison with the single bottom ship.

Of paramount importance in considering the efficacy of the double bottom design is the fact that the total loss of a single loaded tanker, due to loss of buoyancy, or the occurrence of a few major incidents in which cargo would have to be jettisoned, would more than offset the advantages claimed for double bottoms. Furthermore, review of major tanker grounding accidents, of which the *Torrey Canyon* is the best-known example, shows that double bottoms would have had no positive effect. Thus the possible benefits of double bottoms in reducing outflow being uncertain at best, they hardly seem to justify the added capital costs imposed by such construction. This capital would be better employed through the installation and use of improved navigational equipment.

Mr. COTTON. Mr. President, I also ask unanimous consent that an editorial from the Washington Post, dated Friday, August 23, 1974, entitled "The Maritime Lobby At Work" be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

The Maritime Lobby at Work

A few citizens may still think that the price of oil is not yet high enough, or that the layers of subsidy to the maritime industry are not yet thick enough. Those few will be glad to know that the shipping lobby has been hard at work, and Congress is now in the final stages of passing a bill to create a small number of jobs for seamen at a huge cost to taxpayers and consumers. The bill is formally titled the Energy Transportation Security Act, but it might have been more accurately styled the Shipyards' and Sailors' Public Welfare Act of 1974. Nearly all of the oil imported into this country arrives in ships under foreign flags, most commonly Liberian. The ships are cheaper to build abroad and cheaper to operate with foreign crews. The bill would require 20 per cent of all our imports to be transported in American-flag tankers, with the proportion rising to 30 per cent by 1977.

The shipbuilding industry and, even more so, the maritime unions are a rich and indiscriminate source of political campaign funds. It is the classic effect: the most prolific sources of contributions are the industries that survive only by government protection and subsidy. The amounts of money already going to this industry are not small. Since the Merchant Marine Act was passed four years ago, the federal government has spent near $1 billion in ship construction subsidies. Operating subsidies are running about $250 million a year. Of a typical tanker crewman's pay of $13,800 a year, $10,350 comes from federal funds.

Supporters of the new bill try to argue that shifting oil imports to more expensive ships will not necessarily mean more expensive oil. The congressman who believes that will believe anything. The bill is, in fact, a transparent attempt to make the public subsidize the shipping industry through its fuel costs as well as through its taxes.

The chief reason offered publicly in support of this bill is that the national security requires it—and never mind that both the Department of Defense and the Maritime Administration oppose the bill. The Maritime Administration points out that American shipyards are already heavily backlogged and cannot possibly build enough new tankers to meet the bill's requirements on time. To meet them even by 1980, three years late, would require immediate construction of a new shipyard, leading in turn to excess capacity as soon as these tankers were built.

Currently the world's tanker fleet is run by hundreds of owners including oil companies, shipping companies and individuals. No political power controls them. Even during the oil embargoes last winter no government tried to use shipping as a weapon. There was no way to do it. But there will be a way if the oil exporting countries follow the pattern that this bill would establish, and force their customers—including the United States—to use the exporting countries' tankers. Some of the oil-exporting countries are moving in this direction, with the Arab countries already getting into the tanker business in a very big way. If the United States now sets a world-wide precedent for requiring noncompetitive national-flag shipping, we may have to live with very unpleasant and costly consequences as other countries enthusiastically follow our lead. It is the exporting country, after all, which decides which ships to load. In this respect, the bill constitutes a real menace to our national security.

But the bill's authors are mainly interested in jobs. The Senate Commerce Committee grandly reported that the bill would generate 225,000 man-years of employment. But the great majority would be in the shipyards and support industries, which are already overstrained. Only one-sixth of the new jobs would actually be at sea, since the modern tanker is a highly automated machine. Sen. Norris Cotton (R-N.H.) argues that the committee's estimate of new jobs is much too high. He places it at about 145,000, created at a cost of $800 million in direct subsidies alone. "In other words," he pointed out, "the minimum average cost to the American taxpayer will be about $5,500 per man-year of employment, which is almost one-half the median income of $12,051 for all American families in 1973!" Sen. Cotton is conducting a lonley opposition to the bill. He has nothing on his side but the fact that he is right. The bill passed the House by an enthusiastic 266 to 136 last May, then the Senate Committee reported it in July 14 to 2. There seems little doubt that it will pass the Senate.

President Ford has threatened to veto bills that would aggravate inflation. The Energy Transportation Security Bill would not only do that, but jeopardize the whole tradition of a free and unrestricted market in ocean shipping. As the world's biggest importer and biggest exporter, the United States will pay more heavily than any other nation if that tradition now collapses. If this bill comes to President Ford's desk, he would perform an important public service by vetoing it.

Mr. COTTON. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, I enjoyed listening to the colloquy between the distinguished chairman of the subcommittee and the ranking Republican member. This is a bill in which we have evidence both in favor and in opposition to the enactment of this proposal, as is often the case. It also will have an effect on my own State.

Both management and labor representatives have come by the office urging that I vote in favor of this bill and otherwise support it. There are shipyards in Tidewater, Virginia—Newport News Shipyards, one of the largest in the world—and naturally I am interested in this proposal.

The committee report indicates that the bill would require 20 percent initially and by June 30, 1977, 30 percent of the oil imported into this country to be transported on U.S.-flag commercial vessels to the extent that such vessels are available at fair and reasonable rates.

I know that all of us want to improve our merchant marine. We have enacted such legislation in the past, just a few years ago, that would increase our standing. We would like for merchandise that goes throughout the world, whether it be oil or other produce, to be transported on American vessels.

On the affirmative side of the proposal, we would like to end the reliance of this country on foreign-flag vessels for the carriage of U.S. oil imports.

We would like to have a sufficient fleet of our own ships for national security purposes. We would like to stop the payment of dollars for the carriage of oil in foreign-flag tankers, which would assist in reducing any balance of payment deficits.

We would like to require that U.S.-flag tankers be built in our own shipyards.

The American shipbuilding industry would be strengthened. Employment would be given to shipyard workers. We would like to have additional U.S.-flag tankers to provide additional jobs for the American seaman.

Mr. President, I notice on page 58 of the report on the opposite side, and against this proposal, the views of the distinguished Senator from New Hampshire (Mr. Cotton).

On page 58, it is stated that:

> The Government presently subsidizes wages, including fringe benefits, for American seamen on the magnitude of in excess of 70 percent of the total wage cost.

We are talking about something in a period of inflation, and I agree with President Ford that it is the most serious problem that confronts the country. The quotation continues:

> For example, of an average annual salary for an American licensed merchant marine officer amounting to $53,000, the American taxpayer pay $38,319 of this amount; for unlicensed American seamen of a total annual wage cost of $26,000, the American taxpayer pays $18,928.

I wonder whether the distinguished Senator from New Hampshire would comment briefly on this. I know that he has just been talking about the bill generally and sharing his feelings. However, he may tell us why we have to pay a subsidy in such a large amount? I realize that this is not a part of the bill, but we are called upon to assist the shipbuilding industry to a greater extent. Is this an accurate statement? Do I understand correctly that we are paying an average of $38,319 as a subsidy toward the total income of the licensed merchant marine officer?

Mr. COTTON. That is true. I say to my friend and colleague that that is under the Merchant Marine Act of 1936, as amended by the Merchant Marine Act of 1970, in order to keep the American-flag ships operating by providing parity with foreign-flag ships. Unless the Government made up the difference, our foreign competitors, who pay their officers and their seamen much less, would take all the business, and we could not compete. So Congress, in the Merchant Marine Act made provision for an operating-differential subsidy, and this bill is designed to subsidize them more, although indirectly.

Let me add that the subsidy we pay in wages to the seamen and the officers is small compared with the subsidy we pay toward the construction of these new vessels. In the last 5 years, the taxpayers have paid more than a billion dollars in subsidy to construct ships to carry the American flag, and that includes tankers.

Mr. WILLIAM L. SCOTT. I wonder whether the American people realize that we are paying such a subsidy. I receive a great deal of mail any time a question arises as to an increase in pay for Members of Congress above the $42,500 we now receive, and here it says that the average merchant marine officer receives compensation of $53,000 a year, more than $10,000 above the salary of a Member of this body, and that 70 percent of that amount is paid by way of subsidy.

I am also impressed by the statement farther down on the page which indicates about the plight of the American citizen in his dual role, first as a taxpayer—he would have to pay additional taxes—and then as a consumer, in the form of additional cost of oil by having these vessels licensed by our own Government.

I recall that a couple of years ago, then President Nixon appeared before a joint session of Congress and indicated that we needed somehow to increase the technical knowhow of the American worker and that we needed to increase the productivity, so that we would be able to reduce the unit cost of whatever is produced in this country. It seems to me that perhaps we need to increase the technical knowledge and reduce the cost of building our ships. That might mean that we would not have to pay a subsidy such as this.

Mr. COTTON. I invite the attention of the Senator from Virginia to the fact that the costs he has been talking about, which have startled him so, are at least open. The Merchant Marine Act provides for them, and they are not hidden. The Congress must appropriate the necessary funds. That is the subsidy for the American merchant marine. But the cost in H.R. 8193 will be hidden. The people will not be able to know about it. However, the added costs will be right out of the pockets of the consumer and the taxpayer, because of the increased cost of oil and of getting it here. I do not wonder that it shocked the Senator from Virginia. In the Merchant Marine Act, the costs are all out in the open. This is worse, because these will be hidden costs—no one knows how much.

Mr. WILLIAM L. SCOTT. I thank the Senator.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. WILLIAM L. SCOTT. I yield.

Mr. BEALL. I would be remiss if I did not invite the Senator's attention to page 17 of the committee's report, when he talks about new technology, because on page 17 he will observe that in comparing the kind of ship built today with the kind of ship that was available after World War II, many of which are still in use, there has been a considerable advancement in technology. The new super tanker has a dead weight tonnage of 225,000, as opposed to a 14,000-ton tanker that was used during World War II. The large tanker today has a crew of 27, as opposed to a crew of 37 to 45 for one that is one-tenth smaller.

Mr. WILLIAM L. SCOTT. Is the Senator saying that the technology has improved to the extent that we could do away with this subsidy?

Mr. BEALL. No. I am saying that the technology has improved to the extent that we are making our ships much more efficient. If one of our purposes is to build a merchant marine and provide protection for ourselves in the form of national security, so we will not be dependent on foreign controlled ships to bring a necessary natural resource into our country, then it is a small price to pay.

Mr. WILLIAM L. SCOTT. I share the Senator's desire to have a strong merchant marine. I believe that every Member of this body shares the Senator's desire in that respect.

I have attempted in my remarks, first, to say positive things, and then I wanted to say something on the other side. There is much that can be said for and against this proposal.

Frankly, I am uncertain about the general provisions of the bill. But when this committee amendment is attached, which I believe the Senator from Michigan advocated, to transfer shipping to the Great Lakes, then I have no doubt as to how I am going to vote.

Mr. BEALL. I voted against the amendment of the Senator from Michigan, because I am opposed to it; but in spite of the fact that I voted against it, it was adopted in the committee. I am going to vote for the bill, despite the fact that the amendment is in it, because I think that even with the amendment it is extremely important that the bill is passed. The amendment in itself does not make the bill undesirable, from my point of view. From the point of view of national security, of providing a good merchant marine fleet, of providing marine environmental protection, and of providing an impetus to an industry that needs some provision made for it, I think this bill does the job.

Mr. WILLIAM L. SCOTT. I appreciate the Senator's comment. I do not share his conclusion with regard to the Griffin amendment. I think it is regional legislation.

Mr. BEALL. I do, too.

Mr. WILLIAM L. SCOTT. I feel that we should be thinking about the entire country and not be dividing the country by pitting one section and its commerce against the other. That is what our Founding Fathers had in mind when they formed this country—that we would not have this rivalry between our individual States and sections of the country.

I believe it is a poor amendment that the committee has adopted, and is now a part of the bill. Mr. President, among other arguments that have been brought to my attention are the higher costs for the shipment of the foreign oil in American-flag vessels; I understand it would add to the cost of the final user of residual oil.

The higher costs for oil would be passed on to all of the users, not only of oil, but of electric power.

In Virginia, the Virginia Electric Power Co. which recently received an increase in its rates, an authorized increase by our State Corporation Commission, is now asking for an additional increase. I believe one of the reasons is that the company is paying more for oil to produce the electricity.

We are told by the environmentalists that we must not use coal, that it pollutes the atmosphere, and we have to use oil, and many companies have converted. I hope there will be some reconversion and that we will try to use coal with low sulfur that will not unduly pollute the atmosphere.

We are not talking only about the price of oil; we are also talking about the price of energy in other forms that oil contributes to. The staff tells me that the east coast of the United States will bear the brunt of the added cost of the oil, since the 17 eastern seaboard States consume 70 percent of all of the imported oil during the calendar year 1970; that foreign countries could very well retaliate by requiring that their products be carried in their flag vessels rather than U.S. vessels.

Mr. LONG. Will the Senator yield?

Mr. WILLIAM L. SCOTT. I am glad to yield.

Mr. LONG. Is the Senator aware of the fact that this bill provides that of the 15.5 cents import fee that all imports must bear for the oil coming in in American bottoms, 15 cents of that 15.5 cents would be waived?

The Maritime Administration said that by using American labor and American ships, it would cost about 12 cents a barrel more to haul the oil to the eastern seaboard than it would if we were using foreign ships with coolie labor. If we thereby rebate the fee on this 20 percent of oil that would be coming in in American bottoms, does not the Senator recognize that that would then mean that the oil coming in in American bottoms would be cheaper to the consumer here than it would be otherwise?

Mr. WILLIAM L. SCOTT. Let me say, Mr. President, that the distinguished Senator from Louisiana has me at a disadvantage. He is chairman of the committee. He is much better informed on this proposal in the bill than I am. But I ask him, considering all factors, if we use the American-flag ships, will the cost of oil to the consumer be greater, remain the same, or be less, if he could say?

Mr. LONG. It would be less.

Mr. WILLIAM L. SCOTT. It would be less?

Mr. LONG. It would be less.

Mr. WILLIAM L. SCOTT. That is contrary to the information I have received, but I am glad to hear it.

Mr. LONG. Especially would it be less to people using Venezuelan crude, and that is mainly what they are bringing up the eastern seaboard.

Mr. WILLIAM L. SCOTT. It is not coming from the Middle East?

Mr. LONG. I say it would be a lot less for people using Venezuelan crude. It is estimated that on the average, the cost of bringing oil to the eastern seaboard is about 12 cents a barrel. That is on the average. But it is less than the average for Venezuelan crude, because that is not so far away as the Near East oil is.

As I said to the Senator, there is a fee of 15.5 cents which is charged on all foreign oil coming in now, and this would be waived with regard to the oil coming in in American bottoms. That waiver of that fee should more than offset any cost of using American labor and American materials.

Mr. WILLIAM L. SCOTT. Mr. President, my staff tells me that use of American vessels will add 4 cents per barrel to the cost for the final user of residual oil. Is that a fair statement?

Mr. LONG. The Senator is estimating one-third of what I am estimating. I am estimating that it is going to cost 12 cents a barrel more to haul this oil in American ships with American labor, which is three times the estimate the Senator just gave me. Our estimate is that it would cost 12 cents a barrel more to bring the oil here, but we would waive a 15-cent fee. By waiving that fee, the consumer would then get the oil 3 cents a barrel cheaper than he is paying for it now.

Mr. WILLIAM L. SCOTT. Let me ask the distinguished Senator, about the fee, are we talking about an import tax, or what is meant by fee?

Mr. LONG. That is what we are talking about. Under an existing Presidential proclamation relating to the importation of foreign oil, there is levied a fee of 15.5 cents. On the schedule, by the way, it goes up to 21 cents. Of that, we would require that 15 cents of that fee be remitted to those that bring in oil in American bottoms. By doing that, it is our estimate that we more than wipe out any cost increase that could occur by using American working men and American material.

Keep in mind that for every job we provide American seamen bringing oil in here, we provide at least 10 times that many jobs in building the ships, fabricating the material, making the products that go abroad, and transporting it on the railroads back and forth, because most of it does move by rail, to use in building those ships and putting that material aboard those ships. So it is jobs for railroad labor, it is jobs for trucking labor, it is jobs for the workers in the shipyards, it is jobs for everybody who produces electronic equipment, pumps, ventilators, anything else that has to go aboard a ship.

The overwhelming bulk of the jobs, I would say about 90 percent of them, are not on the ship but in making the ship and the materials that go aboard it.

So out of what will be done to help the American working people and help the American economy, most of it is not for the seamen that will sail on the ships that call at Norfolk or some of the U.S. ports; most of that is in the shipyard workers and the steelworkers and the coal workers and the railroad workers and the producers of all the other items that go into construction of the big ships.

In talking about ships, keep in mind that the ships we are talking about cost as much as $100 million, and we would like to manufacture some of them here. We know that one way or another, we will be paying for them.

I point out that the statement that it is Government deficit that is creating inflation will not really hold up, because my best information indicates that all Government funds, including State and local, when added to the Federal Government, actually end up with a Government surplus rather than a Government deficit at the present time.

That is not what created inflation. One of the big things that created inflation is the fact that we have $100 billion of American money kicking around over in Europe, with no way to redeem it, make it good, or repatriate it.

All of this American money that has been spent buying goods and services that should have been spent here, buying goods and services in this country, naturally tends to run up prices of oil, sugar, manganese, copper, tin, coffee, automobiles, electronics—just anything that we buy from abroad, because by devaluing the dollar, it can do nothing else than that when we keep spending all our money overseas with these enormous deficits in balance of payments and balance of trade; that is what is cheapening the dollar to a far greater degree than any deficit created here in Washington, D.C.

Mr. WILLIAM L. SCOTT. I appreciate the distinguished chairman's comments, and since he appears willing, I would like to pose a few other questions.

I am told that this would create an undesirable precedent, in that other products, perhaps automobiles or grains, should also be carried in American vessels, and there might be retaliation by other nations around the world, that they would put restrictions against us. Could the Senator comment on that?

Mr. LONG. Well, there are two things. First, we are already requiring that certain things be hauled in U.S. bottoms. We require that 50 percent of all of these commodities we give away all over the world be hauled in American bottoms.

Mr. WILLIAM L. SCOTT. Well, is that not a part of the problem of inflation? The Senator was talking about deficit spending.

Mr. LONG. It does not have anything at all to do with it.

Mr. WILLIAM L. SCOTT. We can give away $200 billion in foreign aid since World War II, and it has nothing to do with inflation?

Mr. LONG. I am just talking about the transportation part of it.

Mr. WILLIAM L. SCOTT. All right.

Mr. LONG. If you are going to give away a billion dollars worth of something, at least it does not create as heavy a burden on your deficit if you deliver it in your own ships as it does if you give it away with the other fellow's ships. When the Senator speaks about people insisting that a part of this maritime work be done in our own ships, other countries are doing it already, the oil-importing countries. I have already put that in the RECORD, but here it is. For example, Japan is bringing 47 percent, in fact she requires 47 percent be transported in her bottoms: Korea, 43 percent; France, 38 percent; the United Kingdom, 35 percent; West Germany, 29 percent; and Italy, 23 percent—they are doing it now. As far as these exporting countries insisting that some of this oil be moved in ships owned by them, any time they want to do it they have the power to do it. All they have to do is just tell us, as they did when they boycotted us last winter, or as they did when they quadrupled the price of oil, "If you don't like it, that is just too bad; you just don't get the oil."

They have the power to do it to us any time they want to. But we are in a better position to resist if we have something to say about the transportation of the oil, than we would have just to be completely at everybody's mercy. If these are American-owned ships, flying the American flag, manned by American seamen, subject to laws passed here in the Congress of the United States, if the Arabs try to boycott us tomorrow, at least we could require that the ships bringing every bit of the oil in are owned by the United States, rather than having them do like King Faisal did, and say, "Take those ships and redirect them somewhere else, and don't even let the U.S. Navy have any of that oil." We would at least have much more capacity to say what would happen on these ships that we own, than on ships that are under foreign flags, controlled by the laws of foreign nations, with foreign seamen aboard them.

Mr. WILLIAM L. SCOTT. I appreciate the Senator's comments. As the Senator probably observed, from the beginning of my remarks, I am in somewhat of a dilemma, on this bill, in deciding between two somewhat conflicting points of view. If the Griffin amendment is included, I shall have no hesitancy in voting against the bill.

Mr. LONG. There will be an effort to strike the Griffin amendment.

Mr. WILLIAM L. SCOTT. I am glad to hear that.

Mr. LONG. Some of us have some doubts about that amendment, and there will be a motion to strike it. I am not sure it will remain in the bill.

Mr. WILLIAM L. SCOTT. I appreciate the Senator's comments. Let me ask one or two further short questions of the Senator, if I may.

I am told there would have to be additional bureaucracy or additional government employees to ship the petroleum, and dollars to see that the law is being observed. I note from the report an additional cost estimate of only about $1 million a year; would the Senator comment on any additional employees that might be needed?

Mr. LONG. We do not believe we are going to need that. We believe that the existing agencies with their existing data can provide everything we need in the way of administering this law.

Mr. WILLIAM L. SCOTT. Would the Senator comment also on whether the shipbuilding industry already has a backlog of orders? I am told that there are 30 tankers on order as a result of a $303.5 million federally subsidized program under the Merchant Marine Act of 1970, and it will be 3 years before they can become current, that they have a 3-year backlog on orders for ships. Is this a fair statement?

Mr. LONG. These kinds of ships are long lead-time items, anyway. From the time you place a supertanker on order—and some of these are larger than any American shipyards have ever built—you have to expect it is going to take some time from the time you place it on order until you can expect delivery. It may very well be that for this Nation to have on the ocean the kind of merchant marine that we should have, we ought to build more shipyards. If so, more power to them. It may be that we should expand the ones that we have.

In either event, I would point out that when we debate the trade bill, we are going to see more and more that people tend to project the trade of the United States as one in which we will export more and more agricultural commodities and we will import more and more manufactured goods.

There is only one thing wrong with all that; the Senator can figure it out for himself. If that is what the trend is going to be, the Senator and I know that every year, even though we produce more on the farm, we use fewer workers on the farm to do it. Each year American agriculture is more efficient, more mechanized, and uses less labor. As we export farm commodities, and every year, even though we produce more, we hire fewer people to do it, and we import more and more manufactured commodities from abroad, where are we going to find jobs for all of our people? At some point, we are going to have to do just the kind of thing we are talking about, saying, "Here is one area where, if we want to, we can require that some of this trade be in our own ships."

So, in view of the fact that we have to bring all of this oil in, let us insist that some of it be in our ships. Here is this great American merchant marine, at one time the pride of the whole world, at the present time carrying only 6 percent of U.S. foreign trade. That is a pitiful thing to be said of what was once the greatest maritime power on Earth.

This is a step, not a small step but a good step, toward moving us back to being a great maritime power again.

Mr. WILLIAM L. SCOTT. Mr. President, I agree with the statement that the distinguished Senator has made. As I recall—and I have not checked the record on the House side—I did support the 1970 bill. I believe in a strong merchant marine, and appreciate the comments of the Senator.

In the event, as he suggests, that a motion is offered and adopted to delete section 2, I will probably vote in favor of the bill. If the Griffin amendment is not deleted I might well vote against the entire bill.

My primary concern is section 2, or the committee amendment known as the Griffin amendment.

It provides that section 901(b)(1) of the Merchant Marine Act of 1936 which requires that 50 percent of the gross tonnage of all U.S. Government——

The PRESIDING OFFICER (Mr. HELMS). Will the Senator suspend? The Senate is not in order. Senators are asked to take their conversations to the cloakroom. The Senator will not proceed until order is restored.

The Senator may proceed.

Mr. WILLIAM L. SCOTT. The amendment requires that 50 percent of the gross tonnage of all U.S. Government equipment, materials, or commodities transported on ocean vessels shall be transported on privately owned U.S.-flag commercial vessels to the extent such vessels are available at the range of ports nearest the point where such equipment, materials, or commodities are manufactured or produced.

Mr. President, this is regional legislation. I believe it is against the best interests of the country to pit one State or region against the other. It is not the type of government that we have. That is why some provisions are in our Constitution giving the Federal Government authority to legislation in specific fields on behalf of the entire country.

The committee report states that the purpose of this amendment is to correct a long-standing grievance of the Great Lakes region; namely, that since there is currently no regularly scheduled U.S.-flag vessel service between the Great Lakes and other continents, cargoes originating in the Great Lakes are being diverted to other ranges of ports—Atlantic, Gulf, and Pacific—solely because U.S.-flag vessels are available at these ports. Although the committee report further states that the amendment "is not intended to be a cargo routing statute" and infers rather that it is a nonavailability or waiver provision, its effect is to divert traffic to the Great Lakes ports.

I am opposed to this amendment for a number of reasons:

First, U.S.-flag vessels may be forced to go to selected ports to pick up cargoes rather than have the cargoes move to those ports which are customarily served by these vessels. Should the U.S.-flag vessel fail to alter its port for receiving cargo, the Government would be free to ship its cargo on foreign-flag vessels from this selected port. Conceivably, also, should the U.S.-flag vessel on the other hand decide to accommodate the port selected for shipment of the cargo, the rerouting of the traffic very likely would be more costly to the Government and result in a delay in its movement.

Second, because the Department of Defense procures and consolidates its supplies in depots in many instances, to return these supplies to be shipped from the nearest port of their point of manufacture or production would impose an unmanageable and expensive burden on the Department. Private industry would not do anything like this, Mr. President. I also understand that the Department of Defense is opposed to this amendment. The Department has sent me a copy of its letter to the distinguished Senator from New Hampshire (Mr. COTTON) in that regard.

Third, it is incorrect to state that cargoes are diverted to coastal ports solely because U.S.-flag vessels are not available in the Great Lakes since ports are selected by the Department of Defense, for example, on the principle of the lowest overall cost consistent with operational requirements. This is sound traffic management. There is nothing to indicate that shipments by way of the Great Lakes would be consistent with this prinprinciple.

Fourth, although the Maritime Administration advises that presently only 11 U.S.-flag vessels—1 break-bulk and 10 container ships—over 1,000 dead weight tons are capable of transiting the St. Lawrence Seaway, it would appear that the amount of traffic diverted from coastal ports could become significant in the future. In this regard, as a matter of reference, I bring to your attention the fact that for a 12-month period—fourth quarter fiscal year 1973 through the first three quarters of fiscal year 1974—approximately 710,930 measurement tons of Department of Defense cargo moved through the port of Hampton Roads, Va. Of this tonnage, 565,953 measurement tons were for export and 144,997 tons were for import. In addition, a substantial amount of traffic moved through this port on through-bills of lading, arrangements for which were made by freight forwarders or agents of steamship companies.

I urge that the committee amendment adding section 2 to the bill not be adopted by the Senate, but in the event it is adopted, that it be eliminated in a conference with the House of Representatives.

EXECUTIVE SESSION—PROTOCOL TO THE CONVENTION FOR THE INTERNATIONAL COUNCIL FOR THE EXPLORATION OF THE SEA

The PRESIDING OFFICER. Under the previous order, the hour of 3:30 having arrived, the Senate will now go into executive session and proceed to vote on executive V, 93d Congress, first session, Protocol to the Convention for the International Council for the Exploration of the Sea.

The resolution of ratification will be read for the information of the Senate.

The resolution of ratification was read, as follows:

> *Resolved, (two-thirds of the Senators present concurring therein)*. That the Senate advise and consent to the ratification of the Protocol to the Convention for the International Council for the Exploration of the Sea, done at Copenhagen on August 13, 1970 (Ex. V., 93–1).

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification on Executive V, 93d Congress, 1st session, the Protocol to the Convention for the International Council for the Exploration of the Sea?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Illinois (Mr. STEVENSON), the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Delaware (Mr. BIDEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the

Senator from Michigan (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. McGEE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from California (Mr. CRANSTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Indiana (Mr. HARTKE), and the Senator from Arkansas (Mr. FULBRIGHT) are absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Delaware (Mr. BIDEN), and the Senator from North Dakota (Mr. BURDICK) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kentucky (Mr. COOK), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. FANNIN), the Senator from Florida (Mr. GURNEY), the Senator from Wyoming (Mr. HANSEN), the Senator from Idaho (Mr. McCLURE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Delaware (Mr. ROTH), the Senator from Ohio (Mr. TAFT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are absent on official business.

I further announce that, if present and voting, the Senator from Hawaii (Mr. FONG) and the Senator from Illinois (Mr. PERCY) would each vote "yea."

The yeas and nays resulted—yeas 65, nays 0, as follows:

[No. 380 Ex.]

YEAS—65

Abourezk
Aiken
Allen
Bartlett
Beall
Bennett
Bible
Brooke
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cotton
Domenici
Dominick
Eagleton
Goldwater
Gravel
Griffin
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Inouye
Jackson
Javits
Johnston
Long
Magnuson
Mansfield
Mathias
McClellan
McGovern
McIntyre
Metzenbaum
Mondale
Montoya
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Symington
Talmadge
Thurmond
Tower
Weicker
Williams

NAYS—0

NOT VOTING—35

Baker
Bayh
Bellmon
Bentsen
Biden
Brock
Buckley
Burdick
Church
Cook
Cranston
Curtis
Dole
Eastland
Ervin
Fannin
Fong
Fulbright
Gurney
Hansen
Hart
Hartke
Humphrey
Kennedy
McClure
McGee
Metcalf
Moss
Packwood
Percy
Roth
Stevenson
Taft
Tunney
Young

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE CHAIR

The PRESIDING OFFICER (Mr. HUGHES). The Chair, on behalf of the President of the Senate pro tempore, appoints the Senator from New Mexico (Mr. DOMENICI) to attend the United Nations World Food Conference, to be held in Rome, Italy, November 5–16, 1974.

ANNOUNCEMENT OF POSITION ON VOTE—PROTOCOL TO CONVENTION ON EXPLORATION OF THE SEA

Mr. TAFT. Mr. President, because of a flight delay I was not present on the floor until just after completion of the vote on the protocol of the Convention for the International Council for the Exploration of the Sea.

I wish to announce that if present I would have voted "aye."

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS AND JOINT RESOLUTIONS

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries, stating that the President had approved and signed the following bills and joint resolutions:

On August 22, 1974:

S. 3066. An act to establish a program of community development block grants, to amend and extend laws relating to housing and urban development, and for other purposes.

On August 23, 1974:

S. 3331. An act to clarify the authority of the Small Business Administration, to increase the authority of the Small Business Administration, and for other purposes; and

S. 3782. An act to amend the Public Health Service Act to extend through fiscal year 1975 the scholarship program for the National Health Service Corps and the loan program for health professions students.

S.J. Res. 66. Joint Resolution to authorize the erection of a monument to the dead of the 1st Infantry Division, U.S. Forces in Vietnam.

On August 24, 1974:

S. 3919. An act to authorize the establishment of a Council on Wage and Price Stability;

On August 27, 1974:

S. 2957. An act to amend the title of the Foreign Assistance Act of 1961 concerning the Overseas Private Investment Corporation to extend the authority for the Corporation, to authorize the Corporation to issue reinsurance, to terminate certain activities of the Corporation, and for other purposes;

On August 28, 1974:

S. 3190. An act to authorize appropriations for fiscal year 1975 for carrying out the Board for International Broadcasting Act of 1973; and

On August 30, 1974:

S. 2510. An act to establish an Office of Federal Procurement Policy within the Office of Management and Budget, and for other purposes.

S.J. Res. 220. Joint resolution to provide for the reappointment of Doctor William A. M. Burden as citizen regent of the Board of Regents of the Smithsonian Institution.

S.J. Res. 221. Joint resolution to provide for the reappointment of Doctor Caryl P. Haskins as citizen regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 222. Joint resolution to provide for the appointment of Doctor Murray Gell-Mann as citizen regent of the Board of Regents of the Smithsonian Institution.

On September 3, 1974:

S. 1871. An act to amend the Youth Conservation Corps Act of 1972 (Public Law 92-597, 86 Stat. 1319) to expand and make permanent the Youth Conservation Corps, and for other purposes; and

S. 3703. An act to authorize in the District of Columbia a plan providing for the representation of defendents who are financially unable to obtain an adequate defense in criminal cases in the courts of the District of Columbia, and for other purposes.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HATHAWAY) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORTS ON TRAFFIC SAFETY PROGRAMS—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. ABOUREZK) laid before the Senate a message from the President of the United States transmitting two reports of the Department of Transportation in accordance with the reporting requirements of the Highway Safety and National Traffic and Motor Vehicle Safety Acts, which, with the accompanying reports, was referred to the Committee on Public Works and ordered to be printed. The message is as follows:

To the Congress of the United States:

The 1950's and early 1960's were marked by enormous growth in the Nation's highway systems—the number of vehicles which used them and the miles which they traveled nearly doubled. We developed a modern, flexible form of transportation. It was also deadly. Deaths rose from 34,700 in 1950 to top 53,000 in 1966, when the Congress determined that a national effort was needed to contain the runaway slaughter and passed the Highway Safety and National Traffic and Motor Vehicle Safety Acts. The attached reports, which I am transmitting in accordance with the reporting requirements in those acts, describe the various traffic safety programs, with emphasis on activities during 1973.

Without question, the seven-year-old national traffic safety effort has proved beneficial. As will be seen by figure 1 in the motor vehicle safety report, annual deaths among passenger car occupants, which were rising throughout the early 60's, have since leveled off and remained fairly constant in face of a rise through 1972 in traffic deaths. This is in spite of large increases in mileage driven, number of vehicles, drivers, average speed, and alcohol consumption—to name some of the factors which we know contribute to highway accidents. The overall growth in traffic fatalities is attributable to motorcycle, pedestrian, and bicycle accidents. There is little doubt that our motor vehicle safety standards are saving lives and reducing the severity of injuries.

Improvements in the Nation's highways are also making a major contribution to progress in traffic safety. Since 1967 the death rate per 100 million miles traveled has declined steadily on our modernized roadways.

Although total traffic fatalities remain shockingly high, the fatality rate has declined from 5.5 per 100 million vehicle miles to 4.3—a significant decrease of 22 percent since 1967. Had the 1967 fatality rate continued, almost 72,000 Americans would have been killed in highway accidents in 1973, instead of the estimated total of just over 56,000. This estimated saving of 16,000 lives in a single year represents an enormous financial saving to society in terms of wages, medical costs, legal expenses, and property damage, not to mention human suffering. Such savings would not have come about without the combined efforts of Federal, State, and local officials involved in this national emphasis, as well as private citizens who have supported the program.

In 1973, the lowering of speed limits and other effects of the energy shortage situation had a dramatic impact on highway fatality statistics. During the last two months of the year, as States reduced their speed limits and motorists voluntarily limited their driving, the number of fatalities declined by as much as 25 percent below the November/December 1972 totals in some States. As a result, the Nation as a whole ended the year having lost 2,000 fewer lives than had been projected.

The saving in lives during the past year provides an added incentive for the Government and the Nation to persist in the endeavor to make our vehicles, our highways, and our drivers safer. I am confident that well-managed programs and well-managed use of our resources will continue to have a positive effect in improved highway safety.

GERALD R. FORD.

THE WHITE HOUSE, *September 4, 1974.*

SCHEDULE OF BUSINESS FOR TUESDAY, SEPTEMBER 10, 1974

Mr. MANSFIELD. Mr. President, am I correct in stating there is now a 10-minute limitation on the Mondale amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. GOLDWATER. Mr. President, reserving the right to object, I would like to ask the majority leader a question.

Many of us are faced with the problem next Tuesday of a primary election. Those of us who live in the West will require some advance notice of planning.

I was wondering what the disposition of the leadership might be relative to those of us who have the problem of having to vote next Tuesday in our home States.

Mr. MANSFIELD. Well, may I say that this is the first time this year that this matter has come up.

There have been a number of primaries. The joint leadership has done its best to try to protect the rights of the Senators who are unavoidably absent; it would be our intention to do the same this time.

I would point out, though, that the joint leadership would like, if possible, to complete the business of the Senate by October 15. Whether or not we can make it remains to be seen. We do have three appropriation bills yet to consider, we very likely have a trade bill yet to consider.

I would hope some consideration would be given to the Long-Ribicoff catastrophic illness bill as long as it seems that we will not get a national health insurance plan out of the House as of this moment.

So I want to assure the distinguished Senator from Arizona (Mr. GOLDWATER), who has asked for very little in his many years in the Senate, that we will do our best to protect him and others in the matter of voting while they are away.

Mr. GOLDWATER. I might inform the leader, since he is a westerner, too, that the airlines have curtailed transportation rather drastically to the Western States. It is no longer possible for me to fly all night to get back here from Arizona. It used to be possible. The old famous Red Eye from Los Angeles is no longer flying. So when we go west now we are confronted with not just an out-in-the-morning and back-in-the-night, but it is an out-in-the-morning and back-the-next day, or the day after. Those of us who have to be home for September 10th voting probably cannot make it back here much before late in the afternoon of the 11th. If there are just these Bed Check Charlie type of vote we have been having all year, we do not mind missing those. But if it is something really important, we would like to be here. Anything that the leader can do to make sure that we are not caught out in the boondocks when the votes come would be appreciated.

Mr. MANSFIELD. We will do our best. But the leadership has been forced to use these bed-check votes, so-called, to get the Members here in sufficient numbers to comprise a quorum. I would not refer to a vote on the convention which we have just voted upon as a bed-check vote. Anything that this administration sends down to the Senate for consideration and approval must be important.

Mr. GOLDWATER. I grant that. We are used to voting on treaties, and we expect to. I did not want to raise anything in my comments about that. But we have had a lot of funny votes this year that we did not need to have. I just did not want to be in Arizona when you had a really good one.

Mr. MANSFIELD. This calls for a rollcall vote. We cannot vote on this convention any other way.

Mr. GOLDWATER. I know that. I realize that. I am not complaining. I am here. It is when I am not here.

Mr. MANSFIELD. I yield to the Senator from Rhode Island.

Mr. PASTORE. The Senator from Arizona has answered the question for me. He claims they could not get back the same day. I was wondering if we could not have an agreement that if there are any votes on next Tuesday, they would not start until 5 o'clock in the afternoon. That would give us a chance to get back.

The PRESIDING OFFICER. The Chair will observe that under the previous order——

Mr. GOLDWATER. I could not get back before 4:45. I am not complaining as one Senator. There are one or two others, though not many of us. I just wanted to get some idea.

Mr. PASTORE. We have a primary in my State, too. It would be rather inconvenient not to vote. On the other hand, we do not want to lose any votes here.

Mr. HUGH SCOTT. What is the parliamentary situation, Mr. President?

Mr. MANSFIELD. I ask unanimous consent——

Mr. PASTORE. Reserving the right to object.

Mr. MANSFIELD. That the unanimous-consent agreement be laid aside temporarily while we discuss this.

Mr. PASTORE. I withdraw my right to object.

Mr. HUGH SCOTT. If the majority leader will yield, Mr. President, in our various meetings on this side we have frequently discussed the fact that, with all due respect, since we have no control over the proceedings—and as the distinguished majority leader knows our relationships are of the finest, and nothing has happened or will happen to alter that—from time to time that there do seem to be votes where a certain air of restraint might save some Senators from unavoidably running into a situation where they have to be recorded as absent, when the vote is not of the highest importance. Each Senator can demand, any time he wants, seconds.

The PRESIDING OFFICER. The Senate will be in order. The Senator is entitled to be heard.

Mr. HUGH SCOTT. Yet on various occasions both the distinguished majority leader and I have indicated that we hoped Senators would not ask for votes on matters where they are unanimous, excepting, of course, treaties; that they will not ask simply because it looks good in their biography that something passed 88 to 0; that they would spare all Senators, particularly at this time shortly before an election, to give Senators a chance to go home, to try to play down votes so as to enable them to be here and, in return, ask of them the consideration that if they must be away—and we can arrange not to have major votes—and yet someone feels there should be a vote on whether or not we need more manhole covers in the District of Columbia, perhaps we can vote on that matter in their absence.

I do not know whether we need more manhole covers in the District of Columbia or not, and I hope nobody will demand seconds on that.

Mr. MANSFIELD. May I say that I personally would wish for fewer rollcall votes. I think we have gone off the deep end on many occasions to have rollcall votes which were known beforehand to have no opposition. Of course, the treaties and conventions are different. We have to have a rollcall vote on those. But there are so many other votes we have that we could well do without.

Mr. HUGH SCOTT. I think we could do well without frivolous, duplicitous, or barratrous votes. I will look up those words after I yield back my time.

Mr. MANSFIELD. It sounds like a diet cola.

ENERGY TRANSPORTATION SECURITY ACT OF 1974

The Senate continued with the consideration of the bill (H.R. 8193) to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels.

The PRESIDING OFFICER. Under the previous order, the Mondale amendment will be considered for 10 minutes equally divided between the distinguished Senator from Minnesota and the distinguished Senator from New Hampshire. Who yields time?

Who yields time? The Senator from Minnesota.

Mr. MONDALE. I yield myself 2 minutes.

Mr. President, this amendment is offered by myself, Mr. Griffin——

Mr. COTTON. Point of order, Mr. President. We only have 5 minutes on each side, and I think the Senator should be heard.

The PRESIDING OFFICER. The Chair is in agreement. The Senate will be in order.

Mr. MAGNUSON. The Senator from Minnesota proposed the amendment. I will yield the rest of my time to those who are against it.

Mr. MONDALE. I yield myself 2 minutes.

This amendment is offered by myself, Mr. Griffin, Mr. Hugh Scott, and several other Senators. It is supported by the distinguished manager of the pending measure (Mr. Long). It is a modest proposal. It would require the Merchant Marine Administration to provide at least 10 percent of the total appropriations for operating subsidies and construction subsidies for shipping under U.S. flag on the Great Lakes-St. Lawrence Seaway system.

Since 1970 there has not been a single U.S. flag ship on the Great Lakes. Last year there were 13,000 longshoremen employed on the Great Lakes. This year there are only 3,000.

The number of ships traveling on the Great Lakes has dropped by 50 percent in a single year.

The cargo carried on the Great Lakes is down nearly 60 percent in a single year. From Duluth east to New York, each of these ports which are so very important to the economy and of the entire region have turned from strong, vital parts of the national economy and transportation system into literally ghost towns. It is a tragic and serious situation.

We are trying, through this modest amendment, to get the Maritime Administration to put some minimum focus on the need for including within the Nation's transportation policies an adequate response to the needs of the ports along the Great Lakes.

The PRESIDING OFFICER. The Senator's 2 minutes have expired. Who yields time?

Mr. MAGNUSON. I yield to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I have, as I said earlier, every sympathy for the position of the distinguished Senator from Minnesota, and other Senators who represent States adjacent to the Great Lakes. I think that most of us recognize that the Maritime Administration has not given the Great Lakes what most of us feel should be their fair share. In fact, they have not been given much of anything. But, Mr. President, this bill is not the way to remedy this situation. In fact, it sets a precedent which is extremely dangerous.

As one member of the Appropriations Committee—and I would think that other members of the Appropriations Committee would feel the same way—I believe this amendment would write into the law an ironclad provision that whenever an appropriation is made for any kind of subsidy—for construction, operation, or anything else—for the merchant marine, at least 10 percent of it automatically has to go to each of the Great Lakes, Atlantic, Gulf, and Pacific ports.

It sets a bad precedent. The next thing we know, someone will introduce a bill providing that for appropriations made for some other purpose, *x* percent shall be earmarked.

The part of the budget which is under the control of the Appropriations Committee is small now. Every time you start earmarking, you invite trouble in the future—not necessarily on this bill, but on any bill.

In 1970, when the Great Lakes wanted to be recognized along with the Pacific, Atlantic, and Gulf coasts, I felt that they were entitled to that recognition. I do not think the Maritime Administration has implemented what Congress intended, and I would be willing to vote for some measure that would bring them that recognition, or when they come before our committee, we can do something about it.

However, I feel that this bill sets a dangerous precedent of earmarking funds that go on forever, on every appropriation. Pretty soon we will have all kinds of other funds earmarked.

For that reason, I hope the amendment will not be approved.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. Helms). Who yields time?

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. COTTON. I yield for 1 minute, if I have any time.

Mr. AIKEN. Does not the Senator from New Hampshire feel that Lake Champlain, which over the years handles millions of tons of foreign cargo, foreign freight, ought to be cut in for at least 5 percent of the handout money?

Mr. COTTON. I love Lake Champlain, but I do not think we should legislate in advance in this way. Let us treat each case as it comes along.

I am most anxious to cooperate in doing something to remedy the situation for the Great Lakes. I think they have been discriminated against. I just object to this amendment, because it puts the whole thing into a vise.

Mr. MONDALE. Mr. President, I yield 1 minute to the Senator from Louisiana.

Mr. LONG. Mr. President, speaking as the manager of the bill—and I speak for the distinguished Chairman of the Committee—we see no harm in this amendment. We think it has hopes of realizing for the Great Lakes what all of us hoped would be the case when the St. Lawrence project was built. It does have some flexiblity in it. As I understand, the Secretary could make regulations with regard to this 10 percent.

I ask the Senator if that is not the case—that the Secretary would have the authority to make regulations with regard to the 10 percent feature.

Mr. MONDALE. That is correct.

Basically, the problem is, I say to the Senator from Louisiana and my colleagues, that the administration and the administrator have agreed that more has to be done. They have been agreeing to that for many years, but nothing has been done. This is a modest attempt to try to get them to respond to what we think are the dictates of the 1970 act and to do it without hurting other areas.

Mr. STEVENS. Mr. President, will the Senator yield for a question?

Mr. MONDALE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. MONDALE. I yield.

Mr. STEVENS. Do I correctly understand that this amendment not only reserves 10 percent to the Great Lakes but also 10 percent to the Atlantic coast and the Pacific coast?

Mr. MONDALE. Yes. We have four seacoasts described in the 1970 act. The only seacoast that has not received a dime of operating construction money under the act has been the Great Lakes-St. Lawrence Seaway. This amendment says that each coast must get at least 10 percent.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. MONDALE. I yield back the remainder of my time.

The PRESIDING OFFICER All time has been yielded back or used.

The question is on agreeing to the amendment of the Senator from Minnesota. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from North Dakota (Mr. Burdick), the Senator Idaho (Mr. Church), the Senator from Mississippi (Mr. Eastland), the Senator from North Carolina (Mr. Ervin), the Senator from Michigan (Mr. Hart), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr.

McGee), the Senator fom Montana (Mr. Metcalf), the Senator from Utah (Mr. Moss), the Senator from Illinois (Mr. Stevenson), and the Senator from California (Mr. Tunney), are necessarily absent.

I further announce that the Senator from California (Mr. Cranston), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), and the Senator from Arkansas (Mr. Fulbright) are absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. Stevenson), the Senator from North Dakota (Mr. Burdick), and the Senator from Minnesota (Mr. Humphrey) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kentucky (Mr. Cook), the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Fannin), the Senator from Wyoming (Mr. Hansen), the Senator from New York (Mr. Javits), the Senator from Idaho (Mr. McClure), the Senator from Oregon (Mr. Packwood), the Senator from Delaware (Mr. Roth), the Senator from North Dakota (Mr. Young) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. Fong), and the Senator from Illinois (Mr. Percy), are absent on official business.

I further announce that, if present and voting, the Senator from New York (Mr. Javits), and the Senator from Illinois (Mr. Percy) would each vote "yea."

The result was announced—yeas 37, nays 30, as follows:

[No. 381 Leg.]

YEAS—37

Abourezk
Allen
Bible
Biden
Byrd, Robert C.
Cannon
Chiles
Clark
Domenici
Dominick
Eagleton
Gravel
Griffin
Huddleston
Hughes
Inouye
Jackson
Johnston
Long
Magnuson
Mansfield
McGovern
Metzenbaum
Mondale
Montoya
Nelson
Nunn
Proxmire
Randolph
Schweiker
Scott, Hugh
Sparkman
Stennis
Stevens
Symington
Taft
Talmadge

NAYS—30

Aiken
Bartlett
Beall
Bennett
Brooke
Byrd, Harry F., Jr.
Case
Cotton
Goldwater
Gurney
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Mathias
McClellan
McIntyre
Muskie
Pastore
Pearson
Pell
Ribicoff
Scott, William L.
Stafford
Thurmond
Tower
Weicker
Williams

NOT VOTING—33

Baker
Bayh
Bellmon
Bentsen
Brock
Buckley
Burdick
Church
Cook
Cranston
Curtis
Dole
Eastland
Ervin
Fannin
Fong
Fulbright
Hansen
Hart
Hartke
Humphrey
Javits
Kennedy
McClure
McGee
Metcalf
Moss
Packwood
Percy
Roth
Stevenson
Tunney
Young

So the amendment was agreed to.

Mr. MONDALE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from New Hampshire (Mr. McIntyre) be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. And that following the Senator from New Hampshire, the Senator from South Carolina (Mr. Hollings) be recognized to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, today we are debating a major piece of legislation that will have great effects on my State of New Hampshire and the entire region of New England. Let me say at the outset that I do not believe this legislation is in the best interest of New England, New Hampshire or the United States as a whole. And I want to congratulate my distinguished senior colleague, Norris Cotton, for his leadership in opposing this measure.

For many years now New England has been strongly dependent on imported oil to maintain its industry, run its electric generating plants and warm its homes. New England uses more No. 2 fuel oil than the rest of the country, and a major proportion of its residual fuel oil.

In the Northeast we use about 50 percent of its residual fuel oil. Because we are unable to produce all of this fuel in this country, 90 percent is imported. Imports of fuel into the New England area are what make the region hum. It is our lifeline right now, and it is an expensive lifeline.

Mr. COTTON. Mr. President, may we have order in the Chamber? I want to be sure my colleagues hear the Senator's remarks.

The PRESIDING OFFICER. The Senate will be in order.

The Senator may proceed.

Mr. McINTYRE. Heating oil in New England used to cost about 20 cents a gallon to the average homeowner. Today, now, this moment the cost is about 40 cents a gallon. Residual fuel oil used to go for about $3.50 a barrel, now it is well over $12 a barrel. These are costs that translate into higher electric bills, sometimes reaching over $100 a month in winter when they were were less than half that 2 years ago.

Because of the high cost of fuel to New England, it seems to me that enactment of this legislation that would require that 30 percent of U.S. oil be imported in U.S.-owned-and-operated ships is not in our region's interest. Estimates that have come to me point out that New England will see its No. 2 fuel oil cost rise by at least 1 cent per gallon if this bill is enacted. That translates out to another 2½ percent price increase on top of the already burdensome increases that our homeowners have paid this year.

What is worse, this bill requires that our homeowners, the people from Waltham, Mass.; Pawtucket, R.I.; Berlin, N.H.; New London, Conn.; Lewiston, Maine; and so on, pay for the security that the Members of this body seem to believe is necessary for the whole country.

We will be the ones that will pay the price for using U.S.-owned ships to transport 30 percent of our imports. And we will be the ones first hurt in these times when prices are rising daily.

I fully understand the concern that the members of this body have for our national security. There is good reason to feel that it is in our best interests to be secure in fuels, but I do not see the argument of forcing one region of the country, in this case the east coast, to pay for the security of us all.

Labor, whom I frequently support, is strongly pushing this bill on the American people. They believe it should be done in the name of national security. Where is the national security, I ask, when you see the people pauperized in the supposed need for control of the fuel supply? Is not there an ulterior motive behind the labor view that we should control our shipping with our own crews?

There is. We have seen, time and again, that an uncompetitive American group will apply for subsidies to maintain its business. In this case, we are seeing the American unions come forth not to maintain themselves, but to increase their income at the expense of the taxpayer. There is no problem in American shipyards, and there should be no problem in crews as our current maritime expansion continues.

In the early years of this decade, the 1970's, we embarked on a program of building U.S. ships, including tankers, that is run by the Maritime Administration. Now that program is going full swing and has cost about $1 billion. But, according to the Secretary of Commerce:

> The current maritime program has already stretched the limits of U.S. shipyard capacity to build large tankers, and the increased demand for such ships resulting from the enactment of H.R. 8193 would force upward the prices of steel and other scarce materials without significantly increasing the rate of tanker construction over the next few years.

The PRESIDING OFFICER. Will the Senator suspend? The Senate is not in order. The Senator is entitled to be heard. The Chair requests Senators to take their conversations to the cloak room.

The Senator may proceed.

Mr. McINTYRE. We do not want to add more inflationary pressures, and more shortages to an economy that is already reeling from lack of basic materials.

Let us go another step further. The proponents of this bill, in the name of national security—and if that is not a farce, I never heard one, Mr. President. I work on the Armed Services Committee, and when we get DOD opposing something that the proponents say is in the interest of national security, something has got to be wrong somewhere.

They would have the American companies own enough ships to transport fuels to this country in the event that other ships of other nations are denied access to the Middle East supplies that they traditionally import into this country. This is an expensive piece of protection that may not protect us at all.

As I see it, if the Arabs ever reinstitute another embargo such as the one we saw last winter, the chances are pretty slim that they will let American ships come into their ports to load. What is the point of embargoing the ships of other nations that trade with the United States and letting in American ships because they happen to be American owned? There is none.

Additionally, what is the point of building a huge tanker fleet when the Arab nations have already announced that they are considering building their own fleet? Do we want a fleet, and the Arabs have one too. Seems to me there will be a lot of tankers around.

A decision by the largest economic giant of the world to build its own ships will encourage other countries to do the same. The Washington Post, in an editorial on Friday, August 23, noted that:

> If the United States now sets a world-wide precedent for requiring non-competitive national-flag shipping, we may have to live with very unpleasant and costly consequences as other countries enthusiastically follow our lead. It is the exporting country after all which decides which ships to load.

Might the exporting country decide that it will load the ships of nations that are particularly friendly? Not ours?

While I know that the House of Representatives has already passed this legislation, I would like to bring up a few other points.

At a meeting that I attended last spring in Durham, N.H., sponsored by the International Center of New England, the New Hampshire Council on World Affairs and the Squam Lakes Science Center, Carroll L. Wilson, of Massachusetts Institute of Technology, told us some problems that we can face in the future as our energy base changes.

The difficulties we are now having, he said, will compound. We import about 1 million barrels of gasoline a day, he said. This could be cut off if the refiners in Europe are forced to direct their production to domestic needs. If these imports are cut, I ask, what happens to the huge fleet of tankers that we are building. We will end up paying for them whether we can use them or not, and we will have further tied up our shipyards to the extent that we will worsen our position to not even being able to add to our nuclear submarines fleet as required by our defense posture.

We also assume that we will continue to increase our imports. What happens to these tankers if we do not? Consumption of petroleum products is up in this country, and production of crude oil is down, but consumption is not up as much as our figures suggested and production may begin to increase because of the price increases we have seen for oil in this country over the past 2 years.

What I am pointing out, Mr. President, is that we should not set ourselves on a course today that may have major repercussions in the future, and will cost one segment of the country more than another.

While this bill has support from many groups, it lacks support from many others. The administration of President Ford, through the Maritime Administration and the Department of Defense, opposes the bill. The tanker fleet operators, generally, oppose the bill, the terminal operators who store the fuel oppose the bill, the fuel oil dealers oppose the bill, and even Mr. President—believe it or not—the major oil companies oppose this bill.

But foremost, Mr. President, my distinguished colleague, the senior Senator from my home State of New Hampshire is against this bill.

I would like to congratulate Senator COTTON for his long and determined vigil against this legislation. He has worked diligently to protect the American consumer from the costs that would come from this attempt to grab jobs at public expense with no public benefit by the unions.

I yield the floor.

AMENDMENT NO. 1812

Mr. HOLLINGS. Mr. President, I call up my amendment, No. 1812, and ask the clerk to report.

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

> On page 3, beginning with line 23, strike out all through line 2 on page 4.
>
> Redesignate the following sections of the bill accordingly.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays.

The **PRESIDING OFFICER.** Is there a sufficient second? There is not a sufficient second.

Mr. HOLLINGS. Mr. President, this amendment should not take too much time in trying to accommodate our distinguished colleague from Minnesota who has to leave and who wants his position known on this particular amendment.

Specifically it differs from the amendment of the Senator from Minnesota in that my amendment talks about—Mr. President, I ask unanimous consent for the yeas and nays.

The yeas and nays were ordered.

Mr. HOLLINGS. I ask unanimous consent that the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, Jr.) be added as a cosponsor.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. HOLLINGS. I have offered the amendment to delete section 2 from the Energy Transportation Security Act of 1974. The Senate Commerce Committee has approved this section which was offered by Senator ROBERT GRIFFIN to the House-passed Energy Transportation Security Act, commonly known as the "Oil Import Cargo Preference Bill" which would amend the Merchant Marine Act of 1936, section 901(b) (1) to require Government-impelled export cargoes to move through "the port or range of ports nearest the point where such equipment materials or commodities are manufactured or produced."

Introduced at the behest of Great Lakes ports interests, the Griffin amendment would virtually exclude coastal ports from competing for substantial Eximbank financed, Public Law 480, AID and other Government-backed shipments originating in the Midwestern United States. It is inconsistent with constitutional mandate in article 1, section 9, C16 that—

> No preference shall be given any regulation of commerce * * * to the ports of one State over those of another.

If enacted, the Griffin amendment would cause substantial cargo diversions from coastal ports and result in serious job losses for coastal port area residents dependent on the handling, processing, documentation and promotion of international commerce for their livelihood.

In addition, intrusion by governmental regulation via the Griffin amendment into established, competitive, commercial practice would be inimical to the best interests of American industry. Compelled under the Griffin amendment to ship to the nearest port or port range, the options of the American supplier to provide satisfactory delivery to his customers would be severely reduced as his prerogatives to obtain healthy competition among inland, port and ocean services for his business would be curtailed. Certainly the Griffin amendment runs counter to the goal of maintaining viable service by transportation systems through competitive private enterprise.

The so-called Griffin amendment to H.R. 8193 should be deleted. This amendment would amend section 901(b) (1) of the Merchant Marine Act of 1936. This section is often referred to as the Cargo Preference Act of 1954 or the 50–50 act.

The 50–50 act defines certain equipment, materials, and commodities which are procured by or contracted for by the U.S. Government or with the assistance of the U.S. Government for a foreign nation, as being Government preference cargo. The act then requires that at least 50 percent of the gross tonnage of such cargo when transported on an ocean vessel must be transported on privately owned U.S.-flag commercial vessels. This 50 percent requirement does not apply when U.S.-flag vessels are not available at fair and reasonable rates.

The 50–50 act has been interpreted by the General Accounting Office and by several agencies and departments that ship cargoes under its provisions, as requiring the shippers of preference cargo to use reasonable efforts to seek out U.S.-flag ships. If for example, U.S.-flag ships do not call at port X, but are available at port Y and can provide the needed service at fair and reasonable rates, the shipper is required to route cargo through port Y to meet the U.S.-flag vessel requirement, even in those instances when port X may be closer to the cargo's origin point.

The Griffin amendment would change existing law so as to provide that foreign-flag ships can be used to carry government generated cargo if a U.S.-flag ship is not available "at the port or range of port nearest the point where such equipment, materials, or commodities are manufactured or produced." Thus, the use of foreign-flag ships would be encouraged even though U.S.-flag ships were available at fair and reasonable prices at ports not closest to the origin of cargo.

The amendment totally ignores the fact that the fastest, cheapest, most efficient and most natural service is often found at a port not the closest to the origin of cargo. Thus, the amendment creates rather than corrects an inequitable situation.

For a number of reasons, the U.S.-flag cargoliner vessels in the foreign trade and indeed most of their foreign-flag competitors do not call at ports on the Great Lakes, but rather confine their services to tidewater ports located on the east, gulf, and west coasts. The lengthy transit into the Great Lakes, the relatively short shipping season, and size restrictions on vessels made necessary by the locks unfortunately have made providing cargoliner service to and from the Great Lakes uneconomical. This regrettable fact of life has been dramatically underscored through the past months of energy shortage in which there has been a substantial decline in the number of cargoliner vessels calling at Great Lakes ports.

It has been estimated that about 35 percent of all preference cargo tonnage originates in one of the Great Lakes States. However, less than 5 percent of all preference cargoes is shipped through the Great Lakes ports. This has led some to conclude that the Cargo Preference Act mentioned above should be amended to require U.S.-flag vessels to serve at a particular port or groups of ports and if they fail to do so, preference cargo originating in the vicinity of those ports would not have to be transported aboard U.S.-flag vessels. Indeed, this is the thrust of the Griffin amendment, which is clearly designed to increase the volume of preference cargoes being shipped through Great Lakes ports.

This approach, based on the idea that Great Lakes ports are being discriminated against, is clearly erroneous. Great Lakes ports handle less than 5 percent of all commercial exports even though over 35 percent of these exports originate in one of the Great Lakes States. Those ports, in short, receive about the same percentage of preference cargo as they do of commercial cargo.

The reasons why they receive so little commercial are outlined briefly above—ports are uneconomical to serve; can only be reached with small relatively inefficient vessels and are closed 4 months of the year due to ice. In fact, over the past 10 years at least four U.S.-flag operators have started services to the Great Lakes but had to withdraw because of the financial losses they were experiencing—despite the fact that the services were being subsidized by the U.S. Government. It should be obvious that tampering with the Cargo Preference Act will correct none of these fundamental problems.

During the 1969 Great Lakes shipping season, the Department of Defense conducted a test program to determine the economic feasibility of shipping cargo through Great Lakes ports. Despite chartering two U.S.-flag vessels to provide regular service to England and Europe—despite force-feeding of vessels with cargo to insure an optimum load on every voyage—despite a commitment from senior Pentagon officials, including then Secretary Laird, formerly of Wisconsin, to make the test succeed—it was a failure. The results, which were extensively reviewed by the General Accounting Office and by many Members of Congress in addition to the Defense Department, clearly demonstrated that despite the best conditions and intentions, preference cargoes could not be efficiently and economically shipped through Great Lakes ports. They found that it cost $415,000 more than it would have cost to ship through other ports.

The Griffin amendment was included in H.R. 8193 during an executive session of the Senate Commerce Committee. Hearings have never been held on the amendment in either the House of Representatives or the Senate. Indeed, insofar as it is known, there has never been any study, discussion, or analysis of the pros and cons of this sweeping change in longstanding law.

The enactment of the Griffin amendment would have the effect of forcing Government-sponsored cargoes onto foreign ships. Thus, it would frustrate the goals and objectives of the Merchant Marine Act of 1970 and do serious damage to segments of the U.S.-flag fleet. Legislation, particularly legislation as important as this, should not be enacted until careful study and thorough hearings have created a record upon which the judgment of its merits and demerits can be made.

The Great Lakes Senators and House Members are constantly besieged by their particular constituency for unnatural, uneconomic, unserviceable, unconstitutional preferences.

Look at the particular committee conference report on the Members' desks; we get to where we vote on everything. We had hearings and everything else. But without any hearings, record vote or otherwise, this was accepted at the last minute when many of us had to be at other committee meetings and, in essence, really adulterates the actual thrust of this bill, which is a cargo preference for all of the United States, all of the several States of this particular Republic.

So if we can build up a capability in this energy crisis of carrying oil, at least 20 percent carriage capability, and not just rely totally on foreign flags, instead of doing that it comes around and says that we have got to go to the nearest domestic American-flag lines, and they are in business for profit, then it goes over to the foreign-flag vessel. So what starts off at this very moment a cargo preference carriage act for the United States of America becomes under the Griffin amendment a cargo preference for foreign-flag vessels.

This is all in the spirit of helping out our great State of Michigan.

I would like to, and we did not put up a great howl because we still question what the Senator from Minnesota has just done; he gave it 10 percent, but he gave it in sort of constitutional terms. The Senator just gave it all around and tried to give at least a 10 percent allocation to each one of them, knowing all along he is only getting 5 percent through the regular laws of supply and demand and shipping economy.

So if that sustains in conference—I doubt if it sustains on the House side—but if that sustains, very cleverly what sounded like grandiose or equal justice under law, I think, everybody being treated equally, at least 10 percent, taken away from the Gulf and Eastern Seaboard, at least a 5 percent gross amount put through the Great Lakes.

As the Senator from Minnesota, and I am sure the Senator from Michigan would point out, this is particularly a serious matter because of the energy crisis.

I do not know whether the gentlemen have been up to the Great Lakes, I wish they would have traveled as I did just 3 years ago at this time. At this time of year, there was no ice or fog. But to go through the locks, we are limited by size of the vessel.

I had the opportunity to be on and to help pilot a particular vessel, but only certain private boats can get in, a certain number, and sometimes a big cargo vessel has to wait.

So we have the time factor, we have the size factor, and then, of course, we have the geographical factor, because cargo is one closer to my port of Charleston, S.C., than New York, you only have to look at the geography, and if we are shipping a lot of farm machinery down to our markets for the United States, the Latin American markets, they all go through New Orleans, they go through the Port of Charleston and the eastern seaboard.

But coming on down by truck and rail, carriers to the eastern ports are much faster, more efficiently handled, more economically handled, and that is the way it goes. Of course, finally, 4 months out of the year they are not even in business up there in that particular area.

So what we are trying to do—by law, politicians say—is this. Here is a port that is not a port 4 months out of the year; it just does happen to be, we cannot make apples out of oranges.

It is a burden, particularly with respect to oil preference cargo where we are going into the supertankers.

The Senator from Louisiana, the distinguished chairman handling this bill, knows that particular vessel is not going to be able to get there and be carried.

As I have previously discussed, section 901(b)(1) of the Merchant Marine Act of 1936 has since 1954 required that at least 50 percent of Government-generated cargoes move on U.S.-flag ships. This section was enacted in the belief that it is only reasonable that when our Government acts as shipper, it should move at least half of its cargo on our national-flag ships so as to promote the objectives found in the Merchant Marine Act of 1936. Many foreign governments move all of their government-generated cargoes on their national-flag vessels. These objectives are set out in section 101 of that act in a declaration of policy which states in part:

> It is necessary for the national defense and

> development of its foreign and domestic commerce that the United States shall have a merchant marine sufficient to carry . . . a substantial portion of the waterborne export and import foreign commerce . . . to provide shipping services essential for maintaining the flow of such domestic and foreign waterborne commerce at all times, (b) capable of serving as a naval and military auxiliary in time of war and national emergency.

The proponents of the Griffin amendment urge, we believe, that their intent is not to divert Government cargoes to foreign-flag ships, but to encourage a greater supply of U.S.-flag shipping in the Great Lakes. However, as I have stated before, the lengthy transit into the Great Lakes, the relatively short shipping season, and the size restrictions on vessels made necessary by the locks, unfortunately have made providing cargoliner service to and from the Great Lakes uneconomical. I do not believe that U.S.-flag cargoliner service would generally result from the Griffin amendment and furthermore, this amendment would cause a substantial diversion of Government cargoes to foreign vessels even though more efficient and economic U.S.-flag vessels were available at other ports. Thus, the amendment would be contrary to the purpose and intent of the Cargo Preference Act of 1954 and of the purpose and intent of the Merchant Marine Act of 1936.

So right to the point, we hope that this particular Griffin amendment, actually put on at the very last minute, without hearings, without debate, and certainly, in my opinion, unconstitutionally added, will be deleted from the bill so that we will have a good Cargo Preference Act.

Mr. LONG. Mr. President, permit me to say to the Senator that I will support his amendment.

Since having voted for the Griffin amendment in committee, I have been called to task by shipping people from Louisiana and elsewhere in the country. I have not been able to defend the amendment.

For example, here is an advertisement by the Fesco Lines, Far Eastern Shipping Co., Vladivostok, U.S.S.R. These people are advertising their new shipping service. They say, "Meet the new kids on the block."

In seeking business, they advertise they hope to do business through their offices in Milwaukee, Detroit, Duluth, Cleveland, and Toledo, and offer sailing schedules out of Chicago, Milwaukee, Detroit, Toledo, and Cleveland.

I did not know that under the Griffin amendment cargo which ordinarily would have been destined for New Orleans, Baltimore, Savannah, or New York, or somewhere, such as U.S. AID cargo under Public Law 480, and cargo of that sort, is to be put instead aboard these Russian ships.

I thought I was voting for something at the time that would not be 100 percent inconsistent with the philosophy of the bill, as the Senator so well pointed out.

The bill is to help U.S. shipping and the amendment is one that hurts U.S. shipping. The Hollings amendment, I think, is necessary if the bill is to be consistent in trying to see to it that we maintain a certain stature and try to move forward toward placing the American merchant marine back in the fine position that it once occupied, rather than moving away from that position.

I believe that is the case now for the majority of us on the committee. Of course, the rollcall will show, when we call the vote.

I discussed this with the chairman of the committee (Mr. MAGNUSON). He voted for the amendment, and I believe he felt the same way I did about it, that we simply did not have adequate time to study it and we were anxious to report the bill.

Having had the opportunity to study it, and having seen what the reaction was from people who understood it a lot better than we did, we feel that we could support the Hollings amendment to strike this from the bill.

Mr. HOLLINGS. Mr. President, I think at this point it will be well to place in the RECORD a letter in its entirety from the Honorable John K. Tabor, the Under Secretary of Commerce.

I ask unanimous consent that the letter may be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE UNDER SECRETARY OF COMMERCE,
Washington, D.C., September 3, 1974.
Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: This is in reply to your request of August 21, 1974, for the views of this Department on the possible detrimental effects of section 2 of H.R. 8193, as reported by the Senate Commerce Committee.

Section 2 would alter existing cargo preference legislation (Section 901(b)(1) of the Merchant Marine Act, 1936, 46 U.S.C. 1241) by providing that the determination of availability of privately owned U.S.-flag commercial vessels to carry Government-impelled cargoes shall be made "at the range of ports nearest the point where such [cargoes] are manufactured or produced." If U.S.-flag vessels were not available at such nearest range of ports, the cargo could then be transported on foreign-flag vessels.

A literal reading of section 2 would force vessels to go to the "range of ports nearest the point where [Government-impelled cargoes] are manufactured or produced" to pick up such cargoes rather than require such cargoes to be routed to the ports which are customarily served by privately owned U.S.-flag commercial vessels. If U.S.-flag vessels did not offer service at the "range of ports" indicated, the Government agency would have a strong inducement to transport cargo reserved under the existing legislation for U.S.-flag vessels on foreign-flag vessels. We are aware that the report of the Senate Committee on Commerce contains contradictory language to the effect that the section "does not require that cargo move through the nearest range of ports." (See S. Rept. No. 93-1031, 93rd Cong. 2d Sess., 35 (1974).

The literal reading of the section causes a serious conflict with existing cargo preference statutes. This conflict would be most detrimental to the shipment of military cargoes. Military cargoes are required by the 1904 Cargo Preference Act (10 U.S.C. 2631) to be carried in U.S.-flag vessels. The Comptroller General held in 48 Comp. Gen. 429 (1968) that this Act requires that military cargoes either be routed to ports served by U.S.-flag ships, or that the Department of Defense attract U.S.-flag ships to other ports where the cargo is directed for shipment. Section 2 of the bill would require military cargoes to be routed to the range of ports nearest to the place of manufacture or production. The resulting dilemma could be solved only by adopting one of the costly and inefficient alternatives. Military cargoes could be accumulated so as to induce U.S.-flag vessels to call at the designated port, or U.S.-flag vessels could be routed to pick up small lots at each of a number of ports which they normally do not serve. The not effect of either alternative would be to disrupt present cargo routings, which are the product of decades of cargo trends and transportation experience. Transportation efficiency would be ignored. The resulting higher costs would be borne by the U.S. taxpayer, while the inevitable delays in supplying our armed forces abroad would undermine our national security.

Another detrimental effect of the "range of ports" requirement applicable to all Government-impelled cargoes would be added shipment costs and time delays since the nearest port may not be served by the appropriate intermodal facilities, have the most suitable loading and discharging capabilities or be served by the optimum ships for the transportation involved. Likewise, the requirement could have an adverse effect on distribution systems, such as existing rail, barge and truck service, that are used to marshal Government-impelled cargoes from the points of origin to the loading ports. In this era of efficient and economical intermodal transportation systems and facilities, the routing of cargo based on a standard of the distance from the point of manufacture or production to a range of loading ports is an anachronism. Applied only to Government-impelled cargoes this concept is anomalous to the developments that have occurred and are continuing with respect to the transportation of commercial export cargoes that have resulted in more efficient and cost effective cargo movements.

Finally, it should be noted that the "range of ports" requirement would not provide significant benefits to the U.S.-flag merchant marine in the Great Lakes area, since only a very limited number of U.S.-flag commercial vessels can transit the St. Lawrence Seaway fully laden.

As you know, this Department has strongly opposed enactment of H.R. 8193 in the form in which this act was passed by the House of Representatives on May 8, 1974. We do not view the proposed legislation that has been reported to the Senate as an improved version. The many amendments to the legislation that were added by the Senate Commerce Committee, including section 2 which your amendment would delete, do not alter our opposition to this unwise legislation.

Please advise if we can be of further assistance.

Sincerely,

JOHN K. TABOR.

Mr. HOLLINGS. Mr. President, I would like to quote a couple of passages from that letter. I do not want to mislead. This does not change, as I understand it, the administration's position in its opposition to the particular provisions of the Cargo Preference Act, that is, the bill in its entirety. But barring that, the distinguished Under Secretary goes right to the heart, and he says:

> The literal reading of the section causes a serious conflict with existing cargo preference statutes. This conflict would be most detrimental to the shipment of military cargoes.

He goes into how military cargoes are protected under the 1904 Cargo Preference Act, and says it is entirely too costly.

> Another detrimental effect of the "range of

ports" requirement applicable to all Government-impelled cargoes would be added shipment costs and time delays.

Finally, it should be noted that the "range of ports" requirement would not provide significant benefits to the U.S.-flag merchant marine in the Great Lakes area—

I do not know but what, if this particular amendment is maintained, the President would have to veto this bill. It would be an unnatural situation on this closeness of range of ports. It would be something that would have to pass unnoticed to him.

I am sure he has a notification of it now.

I know our distinguished friend from Michigan has no idea of injuring military cargoes and going to the most expensive route.

I yield to the Senator from Kansas.

Mr. PEARSON. Mr. President, I want to say a word in support of the amendment of the distinguished Senator from South Carolina.

Section 2 of the committee bill does not relate, of course, to the title of the bill or the purpose of the bill regarding energy transportation. It would, in effect, have an enormous effect upon the agricultural commodities and the export of various food assistance programs.

It would require not only that a certain percent of exports be in American bottoms, and also the nearest range of ports. But the truth of the matter is that the internal transportation system within this country has now been developed over a period of time to provide by the most practical means, the most economic means, the most efficient means of transportation of food grains and feed grains through river transportation and unit trains.

I merely want to put into the RECORD now some of the statistics from the various States as to the range of ports now being used. In the State of Iowa, 85 percent of the food grains are shipped from the gulf ports; from Missouri, 100 percent; from Kansas, 90 percent.

The gulf coast receives about 70 percent of the export grains from South Dakota, while the east coast receives 55 percent of production from Ohio and Indiana destined for overseas markets.

What this amendment would do in section 2 of the bill, it seems to me, would be to disrupt a highly developed internal transportation system for food and feed grains which has been developed over a long time, providing for the most economical means, the most efficient means, and the most practical means for grain transportation.

Mr. President, I support the amendment proposed by the distinguished Senator from South Carolina (Mr. HOLLINGS) to strike section 2, the so-called "Great Lakes provision" from the pending cargo preference legislation.

H.R. 8193 is offered as a bill to require petroleum products to be imported on U.S.-flag commercial vessels. The short title is the "Energy Transportation Security Act of 1974." But section 2 of the bill, as reported by our Committee on Commerce, has nothing to do with energy transportation. This section deals primarily with transportation of U.S. agricultural commodities destined for export under various food assistance programs.

Under the terms of the committee bill, the exporting company must look to the nearest "range of ports" from the point of production for transportation of Government owned or financed grain. This simply means that food and feed grains produced in those States which lie closer to the lakes than any coastal facilities must be shipped from the lakes if transportation facilities are available. Under this bill, the cargo preference associated with food-for-peace consignments takes on a new dimension: the exporter is told not only that his consignment must be shipped on U.S. bottoms, but also that his consignment must be shipped from the range of ports nearest to the producing region.

Mr. President, the economics of internal transportation of grain destined for export have reached an advanced state of development. The comparatively low cost of river transportation and the economic advantages of unit train operation have overcome geographic proximity as the controlling factors for determining ports of embarkation. Thus, only a small proportion of our exported grain is moved from the Great Lakes ports although they are closest to the producing regions of most of the corn and wheat grown in the United States.

The following statistics are relevant in understanding the internal movement of grain for eventual export. About 50 percent of the Minnesota export production is shipped from the gulf coast; Iowa ships 85 percent from the gulf; Illinois about 70 percent; Missouri 100 percent; and Kansas 99 percent. The gulf coast receives about 70 percent of the export grain from South Dakota, while the east coast receives 55 percent of the production of Ohio and Indiana destined for the overseas market.

Under the terms of section 2 of the committee bill, the economies of transportation which would have established this pattern would be overturned by legislative fiat regardless of the fact that it is more efficient and practical to move grain from the gulf and east coast ports. The bill would require those shipments subject to the preference to be transported from the lakes.

Mr. President, I support the amendment by Mr. HOLLINGS to delete section 2 of the committee bill. I believe it is unjustified and imposes burdens upon the internal transportation system which it has not been designed to accommodate. Enormous investment has been made in gulf coast and east coast port facilities to accommodate our grain trade. The transportation system has been designed to manage volumes of traffic to these ports. It is unreasonable and unrealistic to conclude that the Senate, by fiat and without the benefit of hearings or superficial analysis, can defy historic experience and the traditional pattern of commerce without severe economic repercussions and inefficiencies resulting from such a mandate as contained in section 2 of the committee bill.

Mr. President, the Senate would be well advised to approve the Hollings amendment and thus limit the mischief done by H.R. 8193 to the transportation of petroleum products. If there is any justification for mandating grain traffic out of the lakes by Federal edict, then that issue properly should be addressed separately in separate legislation.

I hope the amendment of the Senator from South Carolina will be accepted.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. Mr. President, I realize that this amendment points up a certain amount of competition among various regions of our country. The only thing that the so-called Griffin amendment seeks to do—is to give the Great Lakes—St. Lawrence Seaway area a fair and equal opportunity. It does not seek any preference for the area.

It does seek to do something about the discriminatory application and implementation of the existing cargo preference law.

Several unintentional inaccuracies have crept into the debate, and I should like to correct them, at least for the RECORD.

The Senator from South Carolina said that the amendment refers to "the port or range of ports."

There is an important technical difference that should be noted. The Griffin amendment refers to a "range of ports"—a whole group of ports—rather than to a single nearest port.

Furthermore, it was suggested by the distinguished Senator from Virginia (Mr. SCOTT) in his argument that the Griffin amendment would require that cargo be routed through the nearest range of ports. The fact is that the present 50–50 law places a restriction on the right of a Government agency to ship its cargoes by whatever means it chooses. The proposed amendment would not add further restrictions but, instead, would give an agency more discretion in routing cargo if U.S. vessel were not available at the range of ports nearest the point of cargo manufacture or production.

As the committee report clearly states, the amendment is not intended to be a cargo routing statute. Whether or not a U.S.-flag vessel is available at the nearest range of ports, the shipping agency can still route the cargo through any port it chooses, based on normal factors governing routing.

The principal normal factors governing routing are economics. If it were not economically advantageous to route cargo through the Great Lakes, even after the adoption of the so-called Griffin amendment if it were to remain in the bill, there would be no mandatory requirement that such cargo would have to go through Great Lakes ports.

It has also been suggested or argued that the Griffin amendment would apply to and affect military cargoes. This is not true. Shipments of military cargo are governed by a 1904 act which requires that 100 percent of such cargo be shipped in U.S. vessels.

The basic law to which the Griffin amendment applies does not affect military cargo. That should be made clear in the legislative history.

Mr. President, the Mondale amendment pointed to the need for a positive program to construct U.S.-flag ships for seaway traffic. The absence of a positive program to bring U.S.-flag overseas shipping into the lakes has been bad enough. But, incredibly, Federal maritime officials have actually promoted the diversion of cargo away from Great Lakes ports, because there is no U.S.-vessel service.

For example, at a National Maritime Council dinner in Detroit last October, local shippers were urged by the Assistant U.S. Maritime Administrator for Commercial Development to channel their exports to U.S.-flag vessels, according to an article in the October 5 edition of the Detroit News. That article also pointed out the following:

> The dinner was paid for by the Federal Maritime Administration, three unions, and 12 American operators of ocean ships, who cooperated in the effort to sell Detroit area shippers on the use of American ships.
>
> The appeal to Detroit area shippers might have appeared to be misplaced since none of the American operators paying for the dinner provides ocean vessel service from Detroit.

This discriminatory policy is also reflected in the administration of the 50-50 cargo preference law. Under that law at least 50 percent of foreign aid shipments must be carried in American-flag vessels to the extent that such vessels are available at reasonable prices. Agricultural commodities constitute the largest portion of these shipments and much of it originates in the Midwest and the Great Lakes region.

However, in the last 4 years there has been a precipitous decline in the volume of this cargo moving through Great Lakes ports. For example, in 1971 approximately 44 percent of cargo originating in the midwestern agricultural States under title II of Public Law 480 was shipped overseas via the seaway. Through June of this year the Great Lakes share had dropped to only 14 percent, or more than a threefold reduction.

Because most of this is general cargo, and therefore labor intensive, the effect on employment at Great Lakes ports has been devastating. It is my understanding that man hours of employment at Detroit ports are down about 40 percent this year over last, and this is typical of the situation throughout the Great Lakes.

So far this year the number of ocean going vessels calling at Great Lakes ports is off by more than 50 percent and the diversion of government cargo away from Great Lakes ports is driving foreign-flag vessels out of the lakes. The number of regularly scheduled foreign liner services is down by more than 100 percent from 22 in 1972 to 10 in 1974.

In the Merchant Marine Act of 1970, Congress sought to provide for a more equitable administration of the 50-50 cargo preference law by directing the Secretary of Commerce to establish regulations governing the administration of the cargo preference law by the various Federal agencies.

As the Commerce Committee stated in its report on that legislation, the change in the law was needed to correct—

> [a] lack of uniform and rational administration has worked to the disadvantage of shippers, carriers, and *geographic areas of our nation*. . . ." (Emphasis added)

It is rather ironic that one of the intended beneficiaries of that provision, tended beneficiaries of that provision—the Great Lakes region—is actually worse off today than it was in 1970.

Because this congressional mandate for greater fairness in the administration of the cargo preference law has not been followed, I offered an amendment in the Commerce Committee to the pending bill to correct this practice. As agreed to by the committee, the amendment simply provides that the 50 percent U.S.-flag requirement may be waived if U.S. vessels are not available at the range of ports nearest to where the cargo is manufactured or produced.

Thus, if U.S. vessels are not available at Great Lakes ports, cargo originating out of that region may be shipped through the seaway without regard to the 50-percent limitation. The amendment does not require that preference cargo be shipped through a particular port range. It only means, as the committee report clearly states, that—

> Cargo will not be diverted from a range of ports solely because a U.S.-flag vessel is not available there, but is available elsewhere.

In many instances this diversion leads to higher transportation costs. The Department of Agriculture, in a June 6 letter to Senator COTTON which is included in the hearing record, pointed out that the cost of using U.S.-flag vessels frequently is 100 percent higher than the comparable cost of using foreign-flag vessels.

While I recognize that some of my colleagues from coastal States may be concerned about this amendment, the impact on those States should be minimal. For instance, a doubling of agricultural aid commodities shipped through Great Lakes ports represents only about 1½ percent of all exports of preference cargo. Furthermore, the amendment would not affect military cargo or Export-Import Bank financed shipments, which are governed by other laws.

Without some relief for the Great Lakes, I could not support the pending measure. Adding yet another Government subsidy to induce the construction of more U.S. tankers, is of no benefit to Great Lakes shipping. None of the modern tankers are even capable of "fitting" into the seaway locks. My amendment and the amendment offered by the senior Senator from Minnesota (Mr. MONDALE) will help to assure that Federal maritime policy takes into account the shipping needs of all regions and port areas.

The importance of the Great Lakes-St. Lawrence Seaway transportation system was initially recognized when Congress appropriated $130 million to open the seaway in 1959. In 1966 the Secretary of Commerce determined that several trade routes from Great Lakes ports were essential to the foreign commerce of the United States.

In 1970 the existing seaway interest debt of approximately $23 million was canceled and that same year Congress authorized nearly $10 million to demonstrate the feasibility of winter navigation in the Great Lakes. That program was extended for 2 more years in 1973.

If this investment is to pay off every effort must be made to establish a competitive American-flag overseas fleet in the Lakes. Conflicting Federal policies that discourage use of the seaway must be changed.

Unfortunately, those of us in the Great Lakes area know from past experience how difficult it is to get these policies changed without legislation. Regrettably that is the case today.

Mr. President, I urge my colleagues to vote against the Hollings amendment—which would strike out the Griffin amendment.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. TAFT. Mr. President, I commend the Senator from Michigan for his leadership in what I think is a long overdue proposal in the entire Great Lakes maritime problem.

I would extend my remarks further, were it not for the fact that a time problem is involved.

I also point out a further discrimination that is intimately connected with this matter, and I am sure the Senator has mentioned this in his remarks. The discrimination situation with respect to the Great Lakes ports is one that I have talked about in the Senate and in the House over a period of 4 or 5 years. It is clear that not only are we being discriminated against so far as the maritime laws are concerned but also in getting the products to those ports. I realize that we cannot correct that here today, but we can take a small step forward to do something about giving recognition to this problem. I think the Senator's amendment is very much in order, for that reason, and I certainly am going to oppose any attempt to strike it from the bill.

Mr. GRIFFIN. I thank the Senator.

Mr. HOLLINGS. Mr. President, I disagree with those who feel that there has been discrimination. I do not think there is any discrimination whatever in this law at this time. In fact, the constitutional provision, article I, section 9, clause 6, prohibits that. Those who want to discriminate and give a preference should first move to amend that particular section of the Constitution.

Second, while the distinguished Senator from Michigan is very thorough and not only had the amendment adopted but also the language in the report modified to fit his particular intention and need, the fact is that the Under Secretary of Commerce, the Honorable John K. Tabor, states that regardless of that language—

> We are aware that the report of the Senate Committee on Commerce contains contradictory language to the effect that the section is not a cargo routing measure.

But, in essence, a literal reading of section 2 would force those vessels in cargo preference fashion, which would be discriminatory.

The PRESIDING OFFICER (Mr. Nunn). The question is on agreeing to the amendment of the Senator from South Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from North Dakota (Mr. Burdick), the Senator from Idaho (Mr. Church), the Senator from Mississippi (Mr. Eastland), the Senator Michigan (Mr. Hart), the Senator from Massachusetts Mr. Kennedy), the Senator from Wyoming (Mr. McGee), the Senator from Montana (Mr. Metcalf), the Senator from Utah (Mr. Moss), the Senator from Illinois (Mr. Stevenson), the Senator from California (Mr. Tunney), the Senator from Delaware (Mr. Biden), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. Humphrey), the Senator from Indiana (Mr. Hartke), the Senator from California (Mr. Cranston), and the Senator from Arkansas (Mr. Fulbright) are absent on official business.

I further announce that, if present and voting, the Senator from North Dakota (Mr. Burdick), the Senator from Illinois (Mr. Stevenson), and the Senator from Minnesota (Mr. Humphrey) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Utah (Mr. Bennett), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kentucky (Mr. Cook), the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Fannin), the Senator from Wyoming (Mr. Hansen), the Senator from New York (Mr. Javits), the Senator from Idaho (Mr. McClure), the Senator from Oregon (Mr. Packwood), the Senator from Delaware (Mr. Roth), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. Fong) and the Senator from Illinois (Mr. Percy) are absent on official business.

I further announce that, if present and voting, the Senator from New York (Mr. Javits) would vote "nay."

The result was announced—yeas 52, nays 13, as follows:

[No. 382 Leg.]

YEAS—52

Abourezk
Aiken
Allen
Bartlett
Beall
Bible
Brooke
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Cotton
Domenici
Dominick
Eagleton
Ervin
Goldwater
Gravel
Gurney
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Inouye
Jackson
Johnston
Long
Magnuson
Mathias
McClellan
McIntyre
Muskie
Nunn
Pastore
Pearson
Pell
Randolph
Ribicoff
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Svmington
Thurmond
Tower
Weicker
Williams

NAYS—13

Clark
Griffin
Hughes
Mansfield
McGovern
Metzenbaum
Mondale
Montoya
Nelson
Proxmire
Schweiker
Scott, Hugh
Taft

NOT VOTING—35

Baker
Bayh
Bellmon
Bennett
Bentsen
Biden
Brock
Buckley
Burdick
Church
Cook
Cranston
Curtis
Dole
Eastland
Fannin
Fong
Fulbright
Hansen
Hart
Hartke
Humphrey
Javits
Kennedy
McClure
McGee
Metcalf
Moss
Packwood
Percy
Roth
Stevenson
Talmadge
Tunney
Young

So the amendment was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I rise today to reaffirm my strong support for H.R. 8193 as amended. In so doing, I would like to commend Senator Long, chairman of the Subcommittee on Merchant Marine of the Commerce Committee, and the members of his subcommittee for the conscientious job they did during the hearings on this legislation as well as all the members of the full committee for their contribution during our deliberation and markup of the bill.

The testimony presented at the subcommittee's hearings showed conclusively that the enactment of this legislation would result in numerous benefits for the United States. The use of American-flag tankers to carry a percentage of our oil imports as required by H.R. 8193 as amended would among other things strengthen our security, provide jobs for Americans in shipbuilding and allied industries and on board ship and improve our balance of payments posture.

In addition, H.R. 8193 as amended affects another area that I, as a U.S. Senator and an American citizen from the Northwest region of our country, have been extremely interested in—the struggle to preserve and protect our Nation's marine environment.

Every Member of this body is fully aware of the continuing and growing concern in the United States over the risks facing our waters, coastlines, and sea life from the carriage of oil in tankers. As the United States increases the amount of oil it imports, the potential for damage likewise rises. Not only will the probability of pollution from accidents in our ports and harbors be greater as the number of tankers increase, but pollution from the normal operations of tankers, which already account for more than half of the oil pollution problem, will likewise increase.

I am proud, therefore, that the Commerce Committee acted to amend the legislation we are now considering so as to make it the latest in a series of American environmental protection measures. H.R. 8193 as amended by the committee goes further than any legislation enacted to date to insure that America's marine environment will be protected as much as possible against both intentional and accidental oil pollution.

This legislation requires that U.S.-flag tankers constructed to carry oil under the provisions of H.R. 8193 be built using the best available pollution technology, including a segregated ballast-double bottom system. The segregated ballast-double bottom system has long been considered by the U.S. Coast Guard as the best means for eliminating intentional oil pollution. In fact, a report prepared by the Coast Guard under the authority of the Ports and Waterways Safety Act (P.L. 92-340) and presented in June, 1973, concluded, and I quote:

> . . ships incorporating the segregated ballast and double bottom feature were definitely the best alternative from a pollution abatement/cost point of view.

Significantly, this concept, advanced by the Coast Guard as well as the Environmental Protection Agency, and incorporated into H.R. 8193 by the Senate Commerce Committee, was rejected by other maritime nations at last year's International Conference on Marine Pollution.

The international rejection of strict environmental standards prompted the Commerce Committee to rightfully conclude that the United States, to preserve and protect its marine environment, will have to act unilaterally. The committee also noted that it would be meaningless to adopt environmental safeguards if only foreign flagships, as is the case today, carry the bulk of our oil imports. The United States has virtually no control whatsoever over a foreign flagship, and none over its construction and manning. Only if a foreign flag offender puts into a U.S. port can he be penalized under our national laws. If he, however, dumps oil and then heads out into international waters, the only recourse available to the United States is to make a complaint to the nation whose flag the vessel flies.

The United States now receives one-half of its oil imports in the flag of convenience vessels of Panama and Liberia. Figures compiled by the Organization for Economic Cooperation and Development, OECD, demonstrate that when compared to OECD fleets, including that of the United States, losses for Liberian flag vessels are twice as high and for Panamanian vessels, three times as high.

The U.S. Coast Guard is not able to regulate foreign-flag vessels as it does the U.S. fleet. It has no jurisdiction over the manning of foreign vessels or for the inspection of such vessels; nor is it able to assess foreign standards of crew competency.

In contrast, American-flag vessels are manned by crews which are highly trained and stringently and frequently tested by the Coast Guard. Adding to this and the already strict Coast Guard imposed construction standards, the provisions of H.R. 8193 as amended make U.S.-flag tankers among the most environmentally safe vessels in the world.

In addition to requiring that new vessels be constructed using the best available pollution technology, the legislation specifically excludes from its provisions U.S.-flag vessels either older than 20 years or reconstructed but beyond their economic lives. In so doing, tankers with deteriorating equipment and less modern safeguards will be systematically replaced by U.S.-flag tankers containing the equipment necessary to best protect our environment.

In closing, Mr. President, I would like to remind my colleagues that in the past, when we considered environmental legislation, concern was expressed as to whether Americans would lose their jobs, and whether the American people would, as a result, experience higher prices. I am pleased to note that with respect to H.R. 8193 as amended, the entire maritime industry—labor and management, shipbuilding and seafaring—not only supports the legislation but has unequivocably stated that the environmental safeguards for U.S. vessels, which are already high, can and will be strengthened; that this legislation, while protecting our environment, will make jobs for Americans in the shipbuilding and seafaring and allied industries, not take them away; and that the American people will, through the other provisions of H.R. 8193 as amended, experience no higher price for their oil through the use of U.S.-flag tankers.

It is rare indeed that this body has the opportunity to enact legislation that not only adds to the protection of our environment but affords the Nation numerous other benefits, all at no cost to the American people. We have that opportunity now with H.R. 8193 amended.

THE ENERGY TRANSPORTATION SECURITY ACT— A CONNECTICUT PERSPECTIVE

Mr. RIBICOFF. Mr. President, after carefully considering the arguments on both sides, I shall vote against the pending bill, H.R. 8193—the Energy Transportation Security Act. Since the Senate last considered this issue 2 years ago, the energy situation—both in terms of availability and price—have changed drastically. And the reasons for rejecting this bill have become all the more compelling.

On the basis of the evidence presented this legislation will not only be inflationary but substantially increase the cost of oil products for consumers in Connecticut and New England.

While various sets of figures have been presented, it is apparent that there will be significant additional costs involved if 30 percent of U.S. oil imports is required to be moved in U.S.-flag vessels.

One estimate made by the FEA is that there will be an increased transportation cost of between 0.3 to 1 cent per gallon on all imports—with the upper end of the estimate being the more likely. If all price controls are removed in the future, the price of domestic oil will increase to a parity with the delivered price of foreign oil including the higher cost of using U.S.-flag tankers. Thus, with a projected oil consumption of 25 million barrels per day in the 1980's the total cost to U.S. consumers could be $1.2 to $4.2 billion per year.

The New England Fuel Institute, representing 1,300 independent heating oil distributors has informed me that:

> The requirement that 30 percent of all oil imports be carried on U.S.-flag vessels will overtax to the utmost the capacity of the American registered tanker fleet just at a time when a world surplus of tanker capacity is becoming available.

The passage of this act would create in a very short time, a shortage of U.S. registered tanker capacity that would be most costly to the New England consumer.

NEFI also maintains that:

> New England home heating oil consumers will have the price of the 30 percent of No. 2 oil that is imported increased by 2.3 cents per gallon. This will increase the home heating oil bill of its 2.4 million heating oil customers by $27,600,000 for the coming winter.
>
> Residual heating oil costs will increase by more than $50,000,000 through the next year. Since one half of the residual oil is used by New England utilities and one half by regional industry, costs to overall New England consumers for energy and industry products and services would rise by another $50,000,000. The passage of this act would add over $77,000,000 to the bills that New England consumers will pay for heating oil, energy, industry services and products.

The added costs of imported oil will ultimately fall hardest on the area of the country most heavily dependent on foreign oil—New England.

As the Bridgeport Post in an editorial of August 10, 1974, pointed out:

> Most of this added cost would be paid directly by consumers on the Eastern Seaboard. Count Connecticut residents and businesses among the penalized.

The cargo preference legislation would increase the cost of oil to U.S. consumers in the following ways:

First, past experience with cargo preference for Government cargos has indicated that the "fair and reasonable" rates for U.S. ships in a captive market are usually higher.

Second, the difference in rates between U.S. and foreign flag tankers of smaller size is much greater so that the lack of deepwater ports in the United States will increase the cost.

Third, the passage of cargo preference legislation by the United States could result in similar action by producing nations for their own exports.

Fourth, also, cargo preference laws would reduce the flexibility of using readily available tankers or diverting tankers to alternate destinations thereby further increasing the cost of U.S. imports.

When you are talking about something adding "only" a penny or two to a gallon—you are talking about a total $1 or $2 billion in added costs.

I agree with my colleague, the distinguished senior Senator from New Hampshire, that the goal of increasing the tanker vessel capacity of the American merchant marine lies with our present tax laws which encourage the major oil companies to transfer windfall profits to foreign tanker subsidiaries.

If the objective is to insure fuel supplies for the United States—unless we have reliable access to the foreign oil, what good is there in having the tanker capacity?

Mr. President, no one has all the answers to the energy shortage. No field is as complex and important for the economic well-being of this country. The choices facing the Congress in setting a national energy policy are difficult. However, the choice before us today is clear. I shall oppose any legislation that will increase the cost of fuel to the consumers and businesses of Connecticut.

ORDER FOR ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10:30 a.m. tomorrow.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS BIDEN AND EAGLETON, FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS, AND FOR RESUMPTION OF THE UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized on tomorrow under the standing order, the distinguished Senator from Delaware (Mr. BIDEN) be recognized for not to exceed 15 minutes, that he be followed by the distinguished Senator from Missouri (Mr. EAGLETON) for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes each, at the conclusion of which the Senate shall resume the consideration of the cargo preference bill.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MAGNUSON. Mr. President, as I understand it, we are going to have a Democratic conference in the morning at 9:30.

Mr. ROBERT C. BYRD. That is correct.

Mr. GOLDWATER. Can I come?

Mr. MAGNUSON. The Senator can come, because it will be to discuss the question of whether or not the Senator from New Hampshire and I can again prevail with the whole Senate in stopping amendments on the floor of the Senate to the HEW bill.

Mr. COTTON. We will have a Republican conference also.

Mr. MAGNUSON. I understand there will be a Republican conference on the same subject. If we can do that, we can get that bill out. It is one of the major bills remaining.

Mr. COTTON. I hope you are very successful in your conference.

Mr. MAGNUSON. Oh, I know it will be. If I can do as well as the Senator can do, I will be successful.

Mr. ROBERT C. BYRD. Mr. President, there will be no further rollcall votes tonight.

ALCOHOL AND DRUG ABUSE EDUCATION ACT AMENDMENTS OF 1974

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 9456. This has been cleared on both sides of the aisle.

The PRESIDING OFFICER (Mr. NUNN) laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 9456) to extend the Drug Abuse Education Act of 1970 for 3 years, as follows:

In lieu of the matter proposed by the Senate engrossed amendment, insert:

That this Act may be cited as the "Alcohol and Drug Abuse Education Act Amendments of 1974".

SEC. 2. (a) Section 1 of the Drug Abuse Education Act of 1970 (21 U.S.C. 1001) is amended to read as follows: "This Act may be cited as the 'Alcohol and Drug Abuse Education Act'.".

(b) Section 2 of such Act is amended to read as follows:

"SEC. 2. (a) The Congress hereby finds and declares that drug and alcohol abuse diminishes the strength and vitality of the people of our Nation; that an increasing number of substances, both legal and illegal, are being abused by increasing numbers of individuals; that abuse of any substance is complex human behavior which is influenced by many forces, including school, family, church, community, media, and peer groups; and that prevention and early intervention in such behavior require cooperation and coordination among all of these elements in strategies designed to respond to carefully defined problems.

"(b) It is the purpose of this Act to encourage the development of new and improved curricula on the problems of drug abuse; to demonstrate the use of such curricula in model educational programs and to evaluate the effectiveness thereof; to disseminate curricular materials and significant information for use in educational programs throughout the Nation; to provide training programs for teachers, counselors, law enforcement officials, and other public service and community leaders; and to offer community education programs for parents and others, on drug abuse problems.

"(c) It is further the purpose of this Act to provide leadership to schools and other institutions in the community by supporting projects to identify, evaluate, demonstrate, and disseminate effective strategies for prevention and early intervention and to provide training and technical assistance to schools and other segments of the community in adapting such strategies to identified local needs."

(c) Section 3 of such Act is amended to read as follows:

"ALCOHOL AND DRUG ABUSE EDUCATION PROJECTS

"SEC. 3. (a) The Commissioner of Education shall carry out a program of making grants to, and contracts with institutions of higher education, State and local educational agencies, and public and private education or community agencies, institutions, and organizations to support and evaluate demonstration projects, to encourage the establishment of such projects throughout the Nation, to train educational and community personnel, and to provide technical assistance in program development. In carrying out such program, the Commissioner of Education shall give priority to school based programs and projects.

"(b) Funds appropriated for grants and contracts under this Act shall be available for activities, including bilingual activities, such as—

"(1) projects for the development, testing, evaluation, and dissemination of exemplary materials for use in elementary, secondary, adult, and community education programs, and for training in the selection and use of such materials;

"(2) comprehensive demonstration programs which focus on the causes of drugs and alcohol abuse rather than on the symptoms; which include both schools and the communities within which the schools are located; which emphasize the affective as well as the cognitive approach; which reflect the specialized needs of communities; and which include, in planning and development, school personnel, the target population, community representation, and parents;

"(3) creative primary prevention and early intervention programs in schools, utilizing an interdisciplinary 'school team' approach, developing in educational personnel and students skills in planning and conducting comprehensive prevention programs which include such activities as training drug and alcohol education specialists and group leaders, peer group and individual counseling, and student involvement in intellectual, cultural, and social alternatives to drug and alcohol abuse;

"(4) preservice and inservice training programs on drug and alcohol abuse prevention for teachers, counselors, and other educational personnel, law enforcement officials, and other public service and community leaders and personnel;

"(5) community education programs on drug and alcohol abuse, especially for parents and others in the community;

"(6) programs or projects to recruit, train, organize, and employ professionals and other persons, including former drug and alcohol abusers and former drug- and alcohol-dependent persons, to organize and participate in programs of public education in drug and alcohol abuse; and

"(7) projects for the dissemination of valid and effective school and community drug and alcohol abuse educational programs.

"(c) In addition to the purposes described in subsection (b) of this section, funds in an amount not to exceed 10 per centum of the sums appropriated to carry out this Act may be made available for the payment of reasonable and necessary expenses of State educational agencies for assisting local educational agencies in the planning, development, and implementation of drug and alcohol abuse education programs, including such projects as—

"(1) inservice training of education personnel,

"(2) technical assistance to local school districts,

"(3) creative leadership in programing for indigenous minorities, and

"(4) training of peer counselors.

"(d)(1) Financial assistance under this section may be made only upon application at such time or times, in such manner, and containing or accompanied by such information as the Commissioner deems necessary, and only if such application—

"(A) provides that activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(B) provides for carrying out one or more projects or programs eligible for assistance under subsections (b) and (c) of this section and provides for such methods of administration as are necessary for the proper and efficient operation of such projects or programs;

"(C) sets forth policies and procedures which assure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in subsections (b) and (c) of this section, and in no case supplant such funds; and

"(D) provides for making such reports, in such form and containing such information, as the Commissioner may reasonably require, and for keeping such records and affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"(2) An application from a local education agency for financial assistance under this section may be approved by the Commissioner only after the applicant has submitted the application to the State educational agency. The State educational agency shall, not more than thirty days after the date of receipt of the application, submit to the Secretary in writing its comments on the application. A copy of such comments shall be submitted at the same time to the applicant.

"(3) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulation, be subject to the requirements set forth in subsections (d)(1) and (d)(2).

"(e)(1) The Commissioner may use funds in an amount not exceeding 1 per centum of the funds appropriated to carry out this section for a fiscal year for independent analysis and evaluation of the effectiveness of the drug and alcohol abuse education programs assisted under this section.

"(2) The Commissioner shall, not later than March 31 of each calendar year, submit an evaluation report to the House and Senate Committees on Appropriations, the House Committee on Education and Labor, and the Senate Committee on Labor and Public Welfare. Such report shall—

"(A) contain the agency's statement of specific and detailed objectives for the program or programs assisted under the provisions of this Act, and relate these objectives to those in the Act,

"(B) include statements of the agency's conclusions as to effectiveness of the program or programs in meeting the stated objectives, measured through the end of the preceding fiscal year,

"(C) make recommendations with respect to any changes or additional legislative action deemed necessary or desirable in carrying out the program or programs.

"(D) contain a listing identifying the principal analyses and studies supporting the major conclusions and recommendations, and

"(E) contain the agency's annual evaluation plan for the program or programs through the ensuing fiscal year for which the budget was transmitted to Congress by the President, in accordance with section 201 (a) of the Budget and Accounting Act of 1921 (31 U.S.C. 11).

"(f) There are authorized to be appropriated to carry out the purposes of this section $26,000,000 for the fiscal year ending June 30, 1975, $30,000,000 for the fiscal year ending June 30, 1976, and $34,000,000 for the fiscal year ending June 30, 1977. Not less than 60 per centum of the amount appropriated for a fiscal year under this section shall be used for drug and alcohol abuse education programs and projects in elementary and secondary schools."

(d) Section 4 of such Act is amended to read as follows:

"SEC. 4. (a) Each recipient of Federal assistance under this Act, pursuant to grants, subgrants, contracts, subcontracts, loans, or other arrangements, entered into other than by formal advertising, and which are otherwise authorized by this Act, shall keep such records as the Commissioner shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary and the Comptroller General of the United States or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, subcontracts, loans, or other arrangements referred to in subsection (a)."

(e) Section 5 of such Act is amended by striking out "drug abuse" each time it appears and inserting in lieu thereof "drug and alcohol abuse".

(f) Section 8 of such Act is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by adding after subsection (a) the following new subsection:

"(b) The term 'Commissioner' means the Commissioner of Education.".

Mr. HUGHES. Mr. President, in June of this year the Senate passed H.R. 9456, extending the Drug Abuse Education Act of 1970, with an amendment in the nature of a substitute consisting of the provisions of S. 2848 as reported by the Committee on Labor and Public Welfare. S. 2848 had been introduced by the distinguished Senator from New York (Mr. JAVITS) with a number of cosponsors from both sides of the aisle. Our Subcommittee on Alcoholism and Narcotics held hearings on the legislation in February, and S. 2848 was reported by the committee and approved by the Senate without a dissenting vote.

Following meetings between our staff and the staff of the Select Subcommittee on Education of the House Education and Labor Committee, the House has now agreed to accept the basic provisions of H.R. 9456, as passed by the Senate, with further amendment. This final version is acceptable to the Senator from New York and to me. Indeed, I am well-satisfied with the bill, and I want to express my appreciation not only to the distinguished Senator from New York, who is always a source of wisdom and commonsense, but to the distinguished chairman of the House Select Subcommittee on Education, Mr. BRADEMAS, and to the author of the original bill, Mr. MEEDS. We have been able to work together through our staffs in a spirit of accommodation and good will, and I believe that the result of this effort on all sides is a good bill.

Mr. President, this new Alcohol and Drug Abuse Education Act authorizes a relatively modest amount of money, only $90 million over a 3-year period. It continues and expands the scope of this small program administered by the Office of Education since passage of the act of 1970.

Yet, I believe it is an important program for two reasons: First, it speaks to school administrators in a more direct and credible fashion than do those programs administered by other Federal agencies whose orientation is toward health or law enforcement programs; and second, it assists those thousands of smaller communities throughout the Nation which have not experienced crises of heavy abuse of heroin but have found their young people increasingly involved in dangerous experimentation with the whole range of drugs, including alcohol. Indeed, communities everywhere are now reporting a rise in alcohol abuse among young people, and a turning away from heroin toward the use of alcohol either alone or in combination with marihuana or the various barbiturates and hallucinogens.

For the smaller community, and I know this to be true in Iowa and other Midwestern States, the program to be continued under this bill has become one of the most useful tools for educating both schoolchildren and the adult community toward a better understanding of alcohol and drug abuse and toward constructive alternatives for solving personal problems.

In conclusion, Mr. President, I want to emphasize that the bill contains the provision added by the Senate requiring the Commissioner of Education to submit to the Congress an annual evaluation report with a detailed listing of program objectives, conclusions as to effectiveness, a listing of the principal studies leading to these conclusions, an evaluation plan for the ensuing year, and any legislative recommendations deemed necessary or desirable in carrying out the program. I am confident that this provision will not only help to improve the approach of the Office of Education to the difficult task of evaluation, but that it will also assist the Congress in exercising its oversight responsibilities during the next 3 years.

Mr. JAVITS. Mr. President, I urge my colleagues to concur in the House amendment to the Senate-passed Alcohol and Drug Abuse Education Act Amendments of 1974—H.R. 9456.

The bill we are considering today which concurs in the Senate amendment with an amendment is substantially similar to the bill I authored and introduced with Senator HUGHES, the chairman of the Alcohol and Narcotics Subcommittee of the Committee on Labor and Public Welfare, who has provided all Americans with outstanding leadership and dedication to establishing a national commitment to a war against alcoholism and drug abuse, and cosponsored by Senators WILLIAMS, DOMINICK, CRANSTON, BEALL, EAGLETON, HATHAWAY, RANDOLPH, SCHWEIKER, STAFFORD, TAFT, and JOHNSTON.

The House amendment provides the following revisions to the Senate-passed bill:

First, the statement of purpose provision has been modified to reiterate the inclusion of "school-based" programs.

Second, the grant authority provision is modified to require a priority in grant approval to "school-based programs and projects."

Third, not less than 60 percent of appropriations are earmarked for "drug and alcohol abuse education programs and projects in elementary and secondary schools."

Fourth, the effectiveness evaluation provision would permit "independent" analysis and evaluation.

When I introduced this bill almost 8 months ago, I directed my comments to what I believed then were the crucial issues surrounding the national problem of dependency, particularly youthful dependency, upon dangerous substances.

Subsequent events have affirmed my deep concerns, and have tended to substantiate my basic points:

First, that heroin abuse, while still a grave problem demanding appropriate national attention and resources, is slowly on the downgrade among our Nation's youth;

Second, that polydrug use—the indiscriminate ingestion of several kinds of nonnarcotic drugs such as amphetamines, barbiturates, tranquilizers, and the like—is on the upgrade; and

Third, that there has developed, as part of this phenomenon of polydrug use, a disturbing pattern of destructive alcoholic intake by the young—even the very young—among us. In too many instances, alcohol is being abused in much the same way that the hard drugs were abused in the early 1970's: as part of a destructive, total lifestyle which affects the youthful consumer's family unity, his schoolwork, the nature of his associations with his peers, and his intellectual and emotional access to alternative productive avenues of personal growth.

I believe we stand at a point now where we have to deal with a serious threat to the stability of our adolescent and young adult population. We have but two ways to go. I hope we have learned from our sobering experience with the heroin epidemic that so tragically afflicted our young people to choose the right path.

In the past we have chosen to deal with "the drug problem" solely in terms of the clinical or treatment model. I am concerned that when we relate to the drug abuse phenomenon simply as an issue involving sick people who have become dysfunctional through improper use of certain chemicals, we are asking the medical and other health professionals to add to their already excessive burdens total responsibility for a multidisciplinary problem which not only is not theirs alone, but not theirs to begin with.

The destructive use of chemical substances is similar to other basic problems in one's daily life that must be attended to before they lead to dysfunction. I believe what we must begin to concentrate upon now are those elements in human behavior which are influenced by school, family, church, community, media, and peer groups. We must focus upon prevention and intervention strategies that bring about cooperation and coordination among all these elements.

We should not be concentrating solely upon the care in clinical treatment programs of those already crippled through alcohol and drug abuse. Rather we must choose to provide leadership to schools and allied institutions in the community and encourage the creation of effective strategies for prevention and early intervention that will involve a substantially larger segment of our national population at risk.

I do not advocate that we neglect our alcoholic and addict population. I suggest, rather that we do not reserve our concern solely for that small desperate segment of our population, to the detriment of our infinitely larger population at risk that may be spared the agony of addiction by early attention, care, and concern. We must provide exposure to positive programs in the areas of education, training, creative leadership and the like which may help provide those pathways to productive, constructive life syles and goals that will allow each individual to realize his or her full creative potential. This is the purpose of my bill which we are considering today.

The bill before us provides the only source of funding at the Federal level for prevention and early intervention programing through the use of the educational process. We must concentrate upon the human resources present in our primary and secondary school systems, and in our systems of higher education, and their connecting roots in the communities, and the community institution which they serve. Also, because the bill is aimed at the total population, it will provide assistance to those smaller, nonurban communities all over America whose fundamental drug problem is not one of heroin addiction, but rather one of developing local strategies to deal with alternatives to the burgeoning use of nonnarcotic stimulant and depressant drugs.

I urge the passage of this bill not on the false assumption that it guarantees an end to the drug problem in America, but on the basis of demonstrable past experience, that it provides a worthwhile beginning effort in the right direction. It will help forward total educational community involvement in solutions to a problem that affects all of us and must be attended to by all of us: Teacher, student, parent, minister, policeman, clinician, involved citizen.

As legislators, let us begin the process here and now.

Mr. President, I ask unanimous consent that there be printed in the RECORD a recent Department of Health, Education, and Welfare news release describing approximately $3.4 million of federally supported community and school based drug education projects, with a listing of such grants by State, amount and type of project.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

NEWS RELEASE

Grants totaling more than $3.4 million will support 584 projects to help schools and communities deal with the problems of drug use and abuse, HEW Secretary Caspar W. Weinberger announced today.

The awards, which will provide training for 3,500 school and community leaders, went to the 50 States, Puerto Rico, American Samoa, the Virgin Islands, and the District of Columbia.

Local education agencies received over $2.7 million for 338 projects to train groups of administrators, teachers, counselors or psychologists, school board members, paraprofessionals, and school nurses. Training will focus on the development of prevention and early intervention programs for students in grades 9 through 12.

In addition, community agencies received nearly $800,000 to train local persons to recognize and correct drug problems in their areas. Those who will be trained include school personnel; health and social workers; church, civic, and youth groups; and law enforcement and other officials.

All persons attending training sessions will live at U.S. Office of Education Training and Resource Centers for a 10- to 13-day period. Each center will also serve as a continuing resource for both school and community teams and will provide technical assistance after the trainees have returned to their local areas.

Since the program began in 1972, over 11,000 people have been trained. Training is conducted at: Awareness House, Oakland, Calif.; Brass Foundation, Chicago, Ill.; Trinity University, San Antonio, Texas; University of Miami, Florida; and Adelphi University, Garden City, N.Y.

COMMUNITY AND SCHOOL-BASED DRUG EDUCATION PROJECTS, FISCAL YEAR 1974 (DRUG ABUSE EDUCATION ACT OF 1970)

State	Community-based projects	School-based project
Alabama	$10,729	32,218
Alaska	4,516	33,490
Arizona	27,789	31,692
Arkansas	15,031	44,675
California	53,259	206,450
Colorado	26,768	45,333
Connecticut	5,374	58,247
Delaware	3,915	26,676
District of Columbia	2,310	
Florida	5,724	93,841
Georgia	30,151	42,124
Hawaii		48,263
Idaho	14,721	26,450
Illinois	5,626	122,321
Indiana	40,754	51,480
Iowa	6,116	51,651
Kansas	10,348	22,552
Kentucky	23,072	25,653
Louisiana	34,435	54,938
Maine	7,897	33,180
Maryland		24,545
Massachusetts	10,765	100,224
Michigan	21,097	153,081
Minnesota	3,093	69,086
Mississippi	28,861	22,189
Missouri	41,289	64,969
Montana		24,234
Nebraska		43,991
Nevada	2,976	24,011
New Hampshire		6,015
New Jersey	27,824	72,551
New Mexico	9,644	33,610
New York	41,539	118,522
North Carolina	26,353	25,848
North Dakota		19,113
Ohio	25,884	86,331
Oklahoma	22,975	46,563
Oregon	23,736	54,766
Pennsylvania	15,287	84,847
Rhode Island	2,669	16,121
South Carolina	4,970	41,582
South Dakota	10,597	25,693
Tennessee	8,154	30,965
Texas	25,029	130,117
Utah	39,362	36,332
Vermont	6,721	16,750
Virginia	17,804	39,396
Washington	3,554	70,192
West Virginia		18,415
Wisconsin	11,077	42,502
Wyoming	8,562	28,480
American Samoa		16,195
Puerto Rico		38,223
Virgin Islands		25,640
Total	801,835	2,731,070

Mr. JAVITS. Mr. President, I believe the bill we are now considering, which concurs in the Senate amendment with an amendment, is a most satisfactory resolution of the differences between the original House and Senate passed drug abuse education bills. In great measure the satisfactory accommodation of all viewpoints is due to the efforts of staff on behalf of the Members of both the House and the Senate.

In particular, I would want to commend Mary Ellen Miller, counsel to the Alcohol and Narcotics Subcommittee, Jay Cutler, minority counsel to the Committee on Labor and Public Welfare, Jack Duncan, counsel to the House Select Subcommittee on Education, and Martin LaVor, minority legislative associate of the Health Committee on Education and Labor.

Mr. HUGHES. Mr. President, I move that the Senate concur in the amendment of the House to the Senate amendment to H.R. 9456.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Iowa.

The motion was agreed to.

Mr. HUGHES. I ask unanimous consent that there be included at this point in the RECORD the following summary of H.R. 9456 as passed.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF H.R. 9456 AS AMENDED BY THE SENATE AND FURTHER AMENDED BY THE HOUSE

1. Extends the Drug Abuse Education Act of 1970 grant and contract authorities for another three years—Fiscals 1975, 1976, and 1977; adds alcoholism education, and makes the Commissioner of Education the responsible officer.

2. Authorizes $26 million in Fiscal 1975, $30 million in Fiscal 1976, and $34 million in Fiscal 1977—a total of $90 million over 3 years. Requires not less than 60 per centum of the sums appropriated to be used for programs and projects in elementary and secondary schools.

3. Eligible applicants are institutions of higher education, State and local education agencies, and public and private education or community agencies, institutions, and organizations, with priority to be given to school based programs and projects.

4. Activities to be funded, including bilingual activities, will include development, testing, evaluation, and dissemination of curricular materials and training in the selection of materials; development of comprehensive school and community programs that focus on the causes of youthful drug and alcohol abuse; pre-service and in-service training for school personnel, law enforcement officers, and other public service and community leaders; and public education programs for parents and other interested persons in the community.

5. Up to 10% of the sums appropriated will be available to State education agencies for the costs of assisting local education agencies in developing and carrying out drug and alcohol abuse education programs. Local education agency applicants will submit grant applications to State education agencies for comment within 30 days.

6. Applications must include assurances that the purposes of the Act will be carried out, that Federal funds will not supplant other available funds, and that appropriate records will be kept, with access for HEW and GAO personnel.

7. Not more than 1% of sums appropriated will be used for independent analysis and evaluation of programs, and an annual evaluation report will be submitted to the Congressional authorizing and appropriating committees.

SENATE JOINT RESOLUTION 238—TO DESIGNATE MARCH 16–23, 1975, DEMOLAY WEEK

Mr. HELMS. Mr. President, I send to the desk a joint resolution authorizing and requesting the President of the United States to proclaim and designate March 16 to March 23, 1975, as National DeMolay Week, and I ask unanimous consent for its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—and I will not object—I understand that this has been cleared with the majority leader and with the distinguished Senator from Nebraska (Mr. HRUSKA), and the leadership on the other side of the aisle.

Mr. HELMS. Senator MCCLELLAN.

Mr. ROBERT C. BYRD. So I do not object.

Mr. WILLIAM L. SCOTT. Mr. President, reserving the right to object, I would like to have my name added as a cosponsor.

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution to designate March 16–23, 1975, DeMolay Week.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration, and, without objection, the joint resolution will be considered to have been read the second time at length.

Mr. HELMS. Mr. President, I ask unanimous consent that a letter from the President of the United States endorsing this resolution be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, August 28, 1974.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR JESSE: Many thanks for your August 20 letter enclosing a proposed Resolution which would proclaim March 16–23, 1975 as "National DeMolay Week".

I share your high regard for The Order of DeMolay and recognize it to be an outstanding organization of young men, dedicated to character building, citizenship and other virtues associated with Freemasonry.

I commend you for offering this joint resolution and trust it will be promptly considered by the Congress upon its return from summer recess.

As President, I will be proud to designate a special week in March to honor the Order when the joint resolution passes Congress.

With warmest personal regards,

Sincerely,

GERRY FORD.

Mr. HELMS. The Order of DeMolay is a nationwide organization of young men dedicated to furthering the principles and precepts which serve as the foundation of our national character. As the DeMolay chapters all across our land celebrate the 55th anniversary of their founding, I am asking the Senate to mark the occasion by designating a special national DeMolay Week in their honor.

The Order of DeMolay is a fraternal organization closely associated with freemasonry. Indeed, each chapter of DeMolay is sponsored by a Masonic lodge in its community. The mature and established generation extends its encouragement and assistance to the younger, and thus provides for a continued adherence and dedication to proven values and sound principles.

The purpose of the Order of DeMolay is to build up the character and integrity of its youthful membership. Its goal is to provide each community and the Nation with better citizens, and to create leaders through the development of character by emphasizing the virtues of comradeship, reverence of God, love of parents, patriotism, courtesy, cleanliness, and fidelity.

The entire program of the Order of DeMolay, Mr. President, revolves about these seven cardinal principles. DeMolay does not attempt to take the place of the home, church, or school, but seeks to supplement these with a supporting program of teaching good citizenship to its members. DeMolay accomplishes its goal of building better citizens by offering the teenage young man a wholesome occupation of his spare time in the company of worthwhile associates in an environment which encourages truthfulness and fidelity.

The Order of DeMolay takes its name from the last Grand Master of the Order of Knights Templar, an organization which served on the front line of defense of Western culture for many centuries. Though Jacques DeMolay was persecuted and tortured, he refused to betray others to those who would unjustly destroy and pillage the order, DeMolay was burned at the stake in 1314, a martyr to fidelity, truth, loyalty, and tolerance.

The modern Order of DeMolay cherishes these virtues and provides a real strength to society in these times of a declining interest in and adherence to moral values. The order involves teenage boys in building their communities through charitable activities of its own, as well as assisting many other local organizations in their efforts.

I have had a close association with the DeMolay chapter in my community, and have been greatly impressed with the spirit and determination of the young men who belong to it, and who participate in its activities. I am proud to associate myself here with the principles and accomplishments of this fine group of dedicated young men. I commend them upon their anniversary and wish them every success in the years to come. It is in that spirit that I offer this resolution for the consideration of the Senate.

The joint resolution (S.J. Res. 238) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

Whereas the Order of DeMolay is a character-building organization of young men from thirteen to twenty-one years of age; and

Whereas the Order of DeMolay for more than fifty years has worked to instill in its members strong qualities of personal character and integrity through programs of athletic competition, social activities, civic service and charitable projects, thereby preparing them to be better citizens and leaders in their communities; and

Whereas this organization merits the appreciation of the Congress and all Americans for its many public-minded activities: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and directed to publish and proclaim that the week of March 16–23, 1975, be designated "DeMolay Week".

Mr. HELMS. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 10:30 a.m. After the two leaders or their designees have been recognized under the standing order, Mr. BIDEN will be recognized for not to exceed 15 minutes; after which Mr. EAGLETON will be recognized for not to exceed 15 minutes; after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes with statements limited therein to 5 minutes each, at the conclusion of which period the Senate will resume consideration of the cargo preference bill. Rollcall votes are anticipated on tomorrow.

ADJOURNMENT TO 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 10:30 a.m. tomorrow.

The motion was agreed to; and, at 5:31 p.m., the Senate adjourned until tomorrow, Thursday, September 5, 1974, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate on August 23, 1974, pursuant to the order of August 22, 1974:

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) and section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Samuel Vaughn Wilson, [redacted], Army of the United States (brigadier general, U.S. Army).

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of setcion 593(a), title 10 of the United States Code, as amended:

To be lieutenant colonel

LINE OF THE AIR FORCE

Maj. George R. Armitage, Jr., [redacted].
Maj. Al H. Asay, [redacted].
Maj. Bobby R. Baker, [redacted].
Maj. Bruce Beatty, [redacted].
Maj. Maxie O. Beheler, [redacted].
Maj. Donald H. Caswell, [redacted].
Maj. Charles H. Collins, [redacted].
Maj. Kenton B. Creuser, [redacted].
Maj. George A. Demers, [redacted].
Maj. John M. Hafen, [redacted].
Maj. William K. Hanson, [redacted].
Maj. Glenn A. Kowal, [redacted].
Maj. John S. W. Lee, [redacted].
Maj. John E. McCarthy, [redacted].
Maj. John S. McLaughlin, [redacted].
Maj. Fred L. Michel, [redacted].
Maj. Charles L. Mielke, [redacted].
Maj. William O. Neal, [redacted].
Maj. Carl G. Oliver, [redacted].
Maj. Albert L. Powell, [redacted].
Maj. Grover C. Ripley, [redacted].
Maj. Wesley D. Robertson, [redacted].
Maj. Jack D. Saulls, [redacted].
Maj. John H. Sowerby, [redacted].
Maj. Kenneth R. Stick, [redacted].
Maj. James H. Tuten, [redacted].
Maj. Newton T. Williams, Jr., [redacted].
Maj. Robert S. Zetzer, [redacted].

CHAPLAIN CORPS

Maj. William C. Mays, [redacted].

MEDICAL CORPS

Maj. Daniel B. Jackson, [redacted].

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, sections 3370 and 3383:

ARMY PROMOTION LIST

To be colonel

Ashcraft, Allan C., [redacted].
Basil, Jack C., Jr., [redacted].
Bater, Ralph S., Jr., [redacted].
Black, Charles E., [redacted].
Burney, Philip G., [redacted].
Clardy, John C., [redacted].
Golosov, Robert E., [redacted].
Graham, John R., [redacted].
Gray, Charles W., [redacted].
Gray, Roy C., Jr., [redacted].
Green, William J., [redacted].
Hand, Paul E., [redacted].
Heon, Jean Marie, Jr., [redacted].
Jardin, Edmund V., [redacted].
Kernan, Charles H., [redacted].
King, Jack H., [redacted].
Lemley, John E., [redacted].
Merkel, Donald E., [redacted].
Micun, Richard P., [redacted].
Montgomery, James R., [redacted].
Pruitt, Rufus H., [redacted].
Settle, Clair W., [redacted].
Sirhal, Charles M., [redacted].
Stephens, Robert A., [redacted].
Thompson, George R., Jr., [redacted].
Wedgwood, William G., [redacted].

CHAPLAIN

To be colonel

Bauder, Richard K., [redacted].
Kolb, Erwin J., [redacted].

ARMY NURSE CORPS

To be colonel

Aird, Margery E., [redacted].
Barbieri, Marian C., [redacted].
Bolduc, Ernestine H., [redacted].
Creigh, Helen J., [redacted].
Frederico, Anna, [redacted].
Johns, Lois A., [redacted].
Ligon, Esther R., [redacted].
Stone, Lyndsey, [redacted].
Van Brocklin, Hattie, [redacted].

DENTAL CORPS

To be colonel

Addy, Richard T., [redacted].
Akins, Allen C., [redacted].
Brown, Robert E., [redacted].
Cole, William W., [redacted].
Cusick, Kenneth H., [redacted].
Dell, Colman L., [redacted].
Dyer, Raymond C., [redacted].
Husen, Herbert R., [redacted].
Immes, Henry C., [redacted].
Merz, Donald M., [redacted].
Noonan, Roger G., [redacted].
Popowicz, Andrew, [redacted].
Winters, Matthew F., [redacted].

MEDICAL CORPS

To be colonel

Badger, Virginia, [redacted].
Butler, Richard L., [redacted].
Campana, Hernan A., [redacted].
Chalaire, Frank M., [redacted].
Crudo, Frank S., Jr., [redacted].
David, Walter E., [redacted].
Freeman, James H., [redacted].
George, Lynn D., [redacted].
Goodrich, Edward O., [redacted].
Hidalgo, Carlos A., [redacted].
Humbrecht, Mary, [redacted].
Kraft, Sumner C., [redacted].
Laird, Robert D., [redacted].
Morse, James O., [redacted].
Mueller, Travis H., [redacted].
Newell, Robert C., [redacted].
O'Leary, John B., [redacted].
Sieber, Otto F., Jr., [redacted].
Ward, Joseph P., [redacted].

MEDICAL SERVICE CORPS

To be colonel

Bartholomai, C. W., [redacted].
Bertea, Octavian, [redacted].
Bonner, Francis E., [redacted].
Bowden, Leon A., [redacted].
Brandstein, Murray, [redacted].
Cook, Clarence H., Jr., [redacted].
Davis, Frank E., [redacted].
Elzea, William D., [redacted].
French, Vernon A., [redacted].
Hafer, Robert L., Jr., [redacted].
Haigh, James T., [redacted].
Harper, Jewell B., [redacted].
Hassell, Joe W., [redacted].
Ho, Stanley B. H., [redacted].
Jellerson, Richard, [redacted].
Johnson, G. D., Jr., [redacted].
Jones, Jasper I., [redacted].
Kinsaul, Charlie F., [redacted].
Macon, James M., [redacted].
Majka, Richard A., [redacted].
McCall, Willard J., [redacted].
McCarthy, George W., [redacted].
Mitchell, Robert M., [redacted].
Morrison, Robert E., [redacted].
Munzer, Grace E., [redacted].
Murawski, William J., [redacted].
Rio, Kenneth W., [redacted].
Sandifar, Dallas E., [redacted].
Schroeder, William, [redacted].
Smith, Donald S., II, [redacted].
Smith, Harold F., [redacted].
Sullivan, Joseph B., [redacted].
Tudor, Walter J., [redacted].
Vrchota, Clement F., [redacted].
Wittner, Harvey, [redacted].
Zucker, Gerald A., [redacted].

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Anderson, B. J., [redacted].
Choren, Bernadine G., [redacted].
Fondacaro, Alfred P., [redacted].
Hazelton, Frank T., [redacted].
Jarneic, Frank I., [redacted].

VETERINARY CORPS

To be colonel

Hewitt, Henry C., [redacted].
McManus, Norbert R., [redacted].
Peacock, Walter H., [redacted].

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, sections 3366, 3367, and 3383:

ARMY PROMOTION LIST

To be lieutenant colonel

Ackerman, Rene J., [redacted].
Agan, Eugene F., Jr., [redacted].
Akre, Richard D., [redacted].
Allen, Robert D., [redacted].
Althouse, Howard W., [redacted].
Arnold, Charles E., [redacted].
Baggett, Jimmy D., [redacted].
Bailey, Malcolm K., [redacted].
Barnard, Joe D., [redacted].
Bass, David A., [redacted].
Blankenbeker, Richard, [redacted].
Boone, Don W., [redacted].
Boyt, Edward A., [redacted].
Braverman, Robert, [redacted].
Breazzano, James, [redacted].
Browning, Howard B., [redacted].
Bynum, James L., [redacted].
Carne, Robert G., [redacted].
Clark, Francis M., [redacted].
Claybrook, Linden D., [redacted].
Coker, Larry G., [redacted].
Comte, A. J., Jr., [redacted].
Conneely, Joseph J., [redacted].
Crawford, Byron D., [redacted].
Dearing, James H., [redacted].
DeLucia, Francis C., [redacted].
Diaz, Roberto, [redacted].
Dodd, Robert E., Sr., [redacted].
Durfee, Charles L., [redacted].
Engel, Frederick W., [redacted].
Estermyer, Charles, [redacted].
Fox, John F., [redacted].
Fruend, Philip S., [redacted].
Gahres, Frederick L., [redacted].
Gatlin, Clifford I., [redacted].
Gehrt, Floyd F., [redacted].
Geiglein, John E., [redacted].
Gelinas, William P., [redacted].
Gordon, Johnnie W., Jr., [redacted].
Haley, Richard H., [redacted].
Hanson, Roy C., [redacted].
Harvey, James, [redacted].
Hasam, Lewis K., [redacted].
Helm, Lewis M., [redacted].
Henritzy, Adam F., [redacted].
Hinckfoot, Walter G., Jr., [redacted].
Hollis, Levy V., [redacted].
Johnson, Alan E., [redacted].
Joiner, James L., [redacted].
King, Mark R., [redacted].
Klemme, Roland V., [redacted].
Kloppenburg, Gary C., [redacted].
Knies, John B., [redacted].
Kohlhoff, Karl F., [redacted].
Lamm, Arthur E., Jr., [redacted].
Land, James R., [redacted].
Larkin, Donald J., [redacted].
Lau, Daniel K. M., [redacted].
Lee, Haydn C., Jr., [redacted].
Lewis, John S., [redacted].
Liebert, Richard W., [redacted].
Loewis, Franklin A., [redacted].
Losekamp, Bernard F., [redacted].
Magerovsky, Eugene L., [redacted].
Manolakis, Soterios G., [redacted].
Marvin, Ernest A., Jr., [redacted].
Mattison, Franklin S., [redacted].
McClendon, Joe M., [redacted].
McCloskey, John C., [redacted].
Meus, Allen B., [redacted].
Miller, Edward M., [redacted].
Mills, Thomas L., [redacted].
Mitchell, Ennis L., [redacted].
Moesser, John D., [redacted].
Montgomery, Marion, [redacted].
Moore, Billy G., [redacted].
Morgan, Jackie T., [redacted].
Nicholson, Herschel H., [redacted].
North, Leroy A., [redacted].
Olsen, Alfred, [redacted].
Peipher, John F., [redacted].
Pennycuick, Robert F., [redacted].
Perry, James T., [redacted].
Ralphs, Seeley E., [redacted].
Read, Herman M., Jr., [redacted].
Ridgeway, Herbert L., Jr., [redacted].
Robbins, Stoyell M., [redacted].
Sanders, Robert J., [redacted].
Saxton, Billy R., [redacted].
Schumann, David R., [redacted].
Sellers, Nicholas, [redacted].
Skalican, John J., [redacted].
Trail, James H., Jr., [redacted].
Tulaney, John E., [redacted].
Tuman, Donald E., [redacted].
Utsey, Bert G., Jr., [redacted].
Walker, Jack W., [redacted].
Walsh, Francis E., [redacted].
Weber, Louis L., [redacted].
Welch, Daniel A., [redacted].
Werner, Charles P., [redacted].
Wilson, William D., [redacted].
Wiskemann, Kenneth A., [redacted].
Wolff, Aaron J., Jr., [redacted].

CHAPLAIN

To be lieutenant colonel

Nelson, Oral D., [redacted].

ARMY NURSE CORPS

To be lieutenant colonel

Antilla, Betty J., [redacted].
Baro, Marte J., Jr., [redacted].
Barrelle, Margaret, [redacted].
Bourne, Olga C., [redacted].
Burg, Doris P., [redacted].
Condiloro, Angela, [redacted].
Donahue, William W., [redacted].
Dove, Hetzel E., [redacted].
Finn, Elizabeth P., [redacted].
Gretenhart, L. F., [redacted].
Hamilton, William P., [redacted].
Heller, Rita, [redacted].
Istvan, Dorothy E., [redacted].

Leslie, Martha [redacted].
Magdalenski, Fred F., [redacted].
McNerney, Cynthia L., [redacted].
McQuillan, Constance, [redacted].
Norris, C. T [redacted].
Olson, Beverly L., [redacted].
Palmer, Monica B., [redacted].
Prather, Elaine R., [redacted].
Scicchitano, C. E., [redacted].
Scoville, Beverly V., [redacted].
Sullivan, Gerald E., [redacted].
Tench, Mary L. [redacted].
Throwe, Gerald J., [redacted].
White, Agnes I. [redacted].

DENTAL CORPS

To be lieutenant colonel

Billingsley, Audell [redacted].
Blevins, Byron C. [redacted].
Chamberlain, William, [redacted].
Dixon, Richard L. [redacted].
Draper, Theron N. [redacted].
Hembree, John H., Jr., [redacted].
Johnson, Robert D., [redacted].
Maas, David H [redacted].
McGinnis, J. P., Jr., [redacted].
Pittman, H. V., Jr [redacted].
Wolfson, Sherwood H. [redacted].

MEDICAL CORPS

To be lieutenant colonel

Giulian, Karl A., [redacted].
Hope, Peter B [redacted].
Kuglar, Everett C., [redacted].
Messany, Franklin L., [redacted].
Raborn, Charles P., [redacted].
Santiago, Juan J., [redacted].

MEDICAL SERVICE CORPS

To be lieutenant colonel

Alex, Robert J. [redacted].
Bagley, Richard M., [redacted].
Ballard, William C., [redacted].
Bengel, James E., [redacted].
Boland, Ernest P [redacted].
Boyajian, Myron H., [redacted].
Cannarella, Joseph, [redacted].
Cantwell, George E., [redacted].
Cates, Raymond H., Jr., [redacted].
Chapman, Edwin R., [redacted].
Cochran, Donald G., [redacted].
Crowell, Edwin P., [redacted].
Czarnecki, Roland F., [redacted].
Daniel, Julian W. [redacted].
Delsanto, Peter [redacted].
Dempsey, Donald L., [redacted].
Donnick, Robert M., [redacted].
Downer, William J. J., [redacted].
Eastwood, Reuben A., [redacted].
Elmore, Elmon M., [redacted].
Ender, Traugott, [redacted].
Eschenfelder, V. P., [redacted].
Fountain, William A., [redacted].
Foy, Jerome S. [redacted].
Fredericks, Herman, [redacted].
Freeman, Jimmy L., [redacted].
Frey, Cecil G. [redacted].
Guida, Anthony M., [redacted].
Hammonds, Mallory W., [redacted].
Hanners, Donald R., [redacted].
Harper, F. A. Jr. [redacted].
Hernandez, Alfred, [redacted].
Hess, Garnet H. [redacted].
Holmes, Roy J. [redacted].
Jerome, Leslie L., [redacted].
Kaye, E. Donald, [redacted].
Kemp, Harold L. [redacted].
King, Douglas D., [redacted].
Kobren, Nelson H., [redacted].
Kornegay, Ervin T., [redacted].
Kusaba, George [redacted].
Laitin, Howard [redacted].
Lambert, Dorothy A., [redacted].
Lewis, Carl B. [redacted].
Linder, Robert D., [redacted].
Lownsbery, N. E., Jr., [redacted].
Marhefsky, Louis A., [redacted].
Martin, Roberts R., [redacted].
Matthews, Lee C., [redacted].
Mazur, Joseph L. R., [redacted].
Milan, Robert N., [redacted].
Norman, Ernest J., [redacted].
O'Steen, Wendell K., [redacted].
Parker, John L., [redacted].
Perillo, Albert S., [redacted].
Peterson, Donovan E., [redacted].
Phillips, William G., [redacted].
Prochazka, George J. [redacted].
Racki, Henry R., [redacted].
Ragan, Arthur D., [redacted].
Reagan, Walter A., [redacted].
Reinsch, Herman T., [redacted].
Renner, Leelyn J., [redacted].
Renner, William H., [redacted].
Rosen, Martin J., [redacted].
Russell, John W. Jr., [redacted].
Scibelli, Arthur P., [redacted].
Sherer, Richard B., [redacted].
Smith, Richard J., [redacted].
Stoetzel, Paul M. [redacted].
Stroud, Robert W., [redacted].
Terrell, Leroy S., [redacted].
Thomas, John K., [redacted].
Thygeson, Earl S., [redacted].
Tutwiler, Richard C., [redacted].
Ubertalli, James A., [redacted].
Valenta, George F., [redacted].
Woodruff, John I., [redacted].
Wright, Charles D., [redacted].
Young, James L., [redacted].
Yuh, Larry P. C., [redacted].

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

Daniel, Alfred N., [redacted].
Herden, Irene L., [redacted].
Pennucci, Jean C., [redacted].
Phelps, Elmer E. Jr., [redacted].
Ruiz, Guzman, Buenav, [redacted].
Taketa, Takumi J., [redacted].

VETERINARY CORPS

To be lieutenant colonel

Brown, George M., [redacted].
Fletcher, William D., [redacted].
Geci, Theodore R., [redacted].
Harting, Robert D., [redacted].
Johnson, Malcolm C., [redacted].
Malm, Gerhard A., [redacted].

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., sections 591, 593, and 594:

DENTAL CORPS

To be lieutenant colonel

Boyce, William A., [redacted].
Hammer, Henry S., [redacted].
Pagan, William J., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Cavin, Elwyn [redacted].
Dobbs, Robert M., Jr., [redacted].
Dossett, Burgin E., [redacted].
Flair, Robert C., [redacted].
Fuqua, William B., [redacted].
Harris, Julian L., [redacted].
Kennedy, Charles W., [redacted].
Kichler, Jack [redacted].
Olson, Ralph A., [redacted].
Patterson, Joseph P., [redacted].
Santaella-Latimer, L. R. [redacted].
Teneyck, James R., [redacted].

The following-named officers for appointment in the Army of the United States, under the provisions of title 10, U.S.C., section 3494:

MEDICAL CORPS

To be lieutenant colonel

Hart, Gerald N., [redacted].
Bobbitt, Roy L., [redacted].
Calkins, Richard A., [redacted].
Ruy, Peter B., [redacted].

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., section 3385:

ARMY PROMOTION LIST

To be colonel

Beale, Walter H., Jr., [redacted].
Boyer, Donald L., [redacted].
Hugh, Roy D., [redacted].
Sprayberry, Robert H., [redacted].
Strawberry, Robert W., [redacted].
Sullivan, Michael T., Jr., [redacted].
Thompson, Walter M., Jr., [redacted].
Webster, Norton R., [redacted].

ARMY PROMOTION LIST

To be lieutenant colonel

Anderson, Douglas F., [redacted].
Atteberry, Ernest W., [redacted].
Brackeen, Charlie D., [redacted].
Brennan, Daniel L., [redacted].
Brewer, Tom, [redacted].
Camuso, Anthony L., [redacted].
Carlson, John W., [redacted].
Chastain, Richard L., [redacted].
Davis, Derwin H., [redacted].
Ditzler, Francis W., Jr., [redacted].
Doody, Lee A., Jr., [redacted].
Empson, Edgar P., [redacted].
Genovese, Peter E., Jr., [redacted].
Gorski, Chester E., [redacted].
Graybill, David C., [redacted].
Hall, William H., Jr., [redacted].
Hoyt, John V., [redacted].
Krenitsky, Peter, [redacted].
Leach, Dan P., [redacted].
Litchfield, William C., [redacted].
Martin, Joseph G., Jr., [redacted].
McDonald, John E., Jr., [redacted].
Munger, Edward E., [redacted].
Nordgren, Daniel J., [redacted].
O'Hayer, Thomas J., [redacted].
Pelka, Robert F., [redacted].
Przedpelski, Zygmunt J., [redacted].
Puckett, Harold W., [redacted].
Record, Walder J., [redacted].
Redmond, Michael J., [redacted].
Reinartz, David F., [redacted].
Samia, Robert K., [redacted].
Scraba, Stanley A., [redacted].
Skelton, Thomas E., [redacted].
Stevens, Jack D., [redacted].
Stuart-Collazo, William, [redacted].
Williams, John F., Jr., [redacted].
Wilson, Harlan Y., Jr., [redacted].
Winner, Francis L., [redacted].
Woodin, Archie J., [redacted].

IN THE NAVY

The following-named officers of the U.S. Navy for permanent promotion to the grade of lieutenant (junior grade) in the line and staff corps, as indicated, subject to qualification therefor as provided by law:

LINE

Adams, Charles R.
Adams, Michael R.
Adamson, Robert E.
Adkins, William K., Jr.
Aiken, Joel W.
Akerson, Daniel F.
Algiers, Michael A.
Allen, Barbara A.
Allsopp, Ralph S., Jr.
Almony, Joseph R.
Altman, David H.
Ammerman, Larry R.
Andersen, Harald
Anderson, Dennis J.
Anderson, Leroy
Anderson, Thomas E., Jr.
Anderson, Thomas F.
Angleton, John M.
Angstead, Donald E.
Anton, William M.
Anzelon, Judy M.
Arfman, John F., Jr.
Armstrong, Andrew A.
Armstrong, David J.
Arnold, James C.
Arthur, Marvin L., Jr.
Arthur, William C.
Ashby, Donald A.
Ashton, Richard A.
Averett, Gregg H.
Avery, Robert B.
Axtell, Robert D.
Ayres, Steven E.
Babin, Ordale P., Jr.
Bacon, William R.
Bahn, Theodore I.
Bahnmiller, Michael P.
Bahr, Walter E.
Bailey, Bernis H.
Bailey, Robert J.
Baker, Kenneth J.
Baker, Norman E.
Baldridge, Craig J.
Barbero, Frank, Jr.
Barker, John P.
Barker, Michael D.
Barnett, Stewart R., III
Barrett, James M.
Barry, Phillip A.
Barry, William P.
Bateman, Douglas A.
Bates, Marshall E.
Battell, James J., Jr.
Batten, Hugh N., Jr.
Baxla, Robert E.
Beamgard, Richard S.
Becker, Dennly R.
Becker, Stephen E.
Beckley, Stephen A.
Beckwith, Donald C.
Bell, Edison L.
Bell, James M.
Bell, John F.
Belli, Lawrence A.
Belinoff, Alan E.
Berck, Henry F., Jr.
Berman, Michael R. P.
Bernard, Eugene P.
Bernard, Paul L.
Berry, Colin M.
Besser, Robert S.
Best, David R.
Bethke, Gary W.
Bevers, Richard E.
Biber, Reginald E.

Bier, Gary L.
Biggers, Edward M.
Bigos, Randall E.
Birkholz, Howard D.
Bishop, Grover C.
Bloom, Wade D.
Bloomfield, Walter W., Jr.
Blount, Thomas E.
Bloxom, Richard R.
Bommett, David E.
Booth, David H.
Borsh, Richard M., Jr.
Boutz, Allen R.
Bowman, Neil O.
Boyd, Garland A., Jr.
Brabenec, John J., III
Brace, Timothy B.
Bradley, William F.
Branan, Phillip H.
Brandon, William R.
Brandt, Charles R.
Brannan, Lee R., Jr.
Brasher, Stephen J.
Breede, Matthew J.
Brenner, Robert C.
Brennon, Roy L., Jr.
Britt, James F.
Brooks, Nicholas G.
Broome, Norval L.
Brophy, James M., III
Brown, Gerald A.
Brown, Paul M.
Brown, Richard M., III
Brown, Stanley M., III
Brown, William H., Jr.
Browning, Dural W.
Brunet, Gerard J.
Bruninga, Robert E.
Bruun, James L.
Bryan, Carroll L., II
Bugelski, Michael T.
Burger, James C.
Burggren, Peter C.
Burkhardt, Harold J.
Burnham, Johnny W.
Burr, Frederic W.
Busching, William
Bush, William F.
Butcher, Kenneth W.
Butler, William R.
Butterfield, David A.
Cable, Robert L.
Cadden, Charles J.
Callaham, Thomas E.
Callaway, Dwight M.
Campbell, Fred P.
Campbell, William R.
Carlton, Kenneth M.
Carrig, Michael F.
Carter, John C.
Cary, Helin W.
Caster, Gary D.
Cavender, John B., III
Chaffee, Edmund J.
Chamowitz, Michael, Jr.
Chatham, Ralph E.
Cheney, Martin J.
Chepenik, Stanley B.
Chernesky, John J., Jr.
Childers, Robert B.
Christian, Richard
Christopher, Angelu D.
Church, Donald W.
Clabaugh, Ronald S.
Clark, Robert A.
Clark, Robert A.
Clausen, Charles P.
Clayton, Richard E.
Cleverdon, Thomas F.
Cocowitch, John H.
Coffer, Joe R.
Coffin, Robert P.
Combs, Osie V., Jr.
Connolly, Hubert C.
Conrad, Emerson S.
Conrad, James H.
Conway, Patrick M.
Coons, William E.
Cooper, Marshall G.
Cope, Stuart S.
Coppins, Michael F.
Corn, Richard, III
Corner, Malcolm D.
Corsey, John W.
Cowan, Daniel G.
Cowell, David E.
Cox, Harold L., Jr.
Cox, Patrick G.
Cox, Quida L.
Crane, Larry S.
Creamer, Chadwick G.
Creekman, Charles T., Jr.
Creighton, Richard A.
Crim, George N.
Crossland, Roger L.
Cruser, Thomas P.
Cuccias, Robert F., Jr.
Culverson, Kenneth
Culwell, Clarence W., Jr.
Custer, Laurence D.
Cutcher, John M.
Dandal, Ides W.
Daniel, David D.
Daniel, James M.
Darden, Welborn O., Jr.
Darnell, Donald L.
Darrow, Edward E., Jr.
Davies, William E.
Davis, Norman F.
Dean, Thomas E.
Dearth, Lawrence C.
Defliese, Phillip L., Jr.
Dejohn, Charles A.
Denton, Walter R.
Deuter, Richard C.
Devane, John M., III
Devaney, James F.
Dibello, Michael F.
Didier, Henry N.
Diel, Harry A.
Dieter, Kenneth A.
Dietz, Douglas W.
Dilloff, Neil J.
Dillon, Hall S., II
Dinwiddie, David O.
Dipadova, Arthur A.
Dixon, Lewis R.
Doane, Robert K.
Dodd, Carl T.
Dolan, James E., Jr.
Donnelly, Robert J.
Doryland, Adrian T.
Doubleday, Michael W.
Douglass, Gene A.
Doyle, John J.
Dunbar, Terry F.
Duncan, Robert R.
Dunnington, Robert A.
Dwyer, Dennis E.
Dye, George W.
East, Don C.
Eckert, Warren R.
Eckhardt, Bruce K.
Edson, James M.
Edwards, Jesse D.
Eklof, Sven P.
Ekstrom, Robert H.
Ellis, James M.
Ellis, Thomas C.
England, Don R.
Engstrom, George H.
Erickson, Paul R.
Evans, John O.
Ewan, Lawrence K.
Fages, Malcolm I.
Falkner, James R.
Falten, Paul J., Jr.
Fare, Freddie E.
Fargo, Thomas B.
Farrell, Gerard M.
Farver, Richard K.
Farver, Rick C.
Fenneman, Leigh R.
Fenoughty, Carolyn A.
Ferranti, John P., Jr.
Fetterly, Larry R.
Fiebig, Edward R.
Finnegan, Gerard R., Jr.
Fisk, Stephen W.
Fitzgerald, Robert L.
Flores, Roberto, Jr.
Floyd, Stephen D.
Foote, Herbert W.
Ford, Robert E.
Fox, John R.
Fraley, Randall M.
Francis, Robert M.
Frederick, Georgie
Freed, John W.
Fuller, Daniel W.
Funke, David J.
Galbraith, Donald E., II
Galloway, Harold L.
Garcia, Larkin E.
Gardner, Daniel E.
Garland, Gary W.
Gaudi, Robert D.
Gautreaux, Terrence M.
Gebhart, John W.
Geisler, Fred A.
Gengler, Patrick L.
Gex, John M.
Geyton, James M.
Gibbons, Peter W.
Gibson, Robert L.
Giffen, Robert M,. III
Gilmer, Franklin B.
Goldstein, Abraham J.
Gongaware, William
Good, Layne W.
Gouslin, William A.
Graef, Stephen R.
Graham, Bryce L.
Graham, Roy E.
Gramprie, Gail L.
Grant, George M.
Green, Albert A.
Griffin, William R.
Grimmer, George K.
Gronemann, Bruce W.
Grunge, Lance C.
Gruver, William K.
Guilfoil, Thomas P.
Guppy, Gerald F.
Gurnon, Richard G.
Haas, Frank A.
Hackman, Rhodric C.
Hagerman, Jon G.
Haggerty, Jerry M.
Haigis, John
Haines, Frank D.
Hall, William B., Jr.
Hallenbeck, Amos E., Jr.
Hammar, Jonathan A.
Hancock, Edward L., Jr.
Hanna, Norman W., II
Hansen, Donnel E.
Hansen, Frederick D.
Hardy, Charles T.
Harkness, George C.
Harleston, William, Jr.
Harlow, Margaret A.
Harmon, Sidney W.
Harris, Ronald R.
Harrison, John G., Jr.
Harrison, Mark M.
Harsanyi, William S.
Hart, William G.
Haser, Gerald D.
Hawkins, Jeffrey B.
Heilman, Stephen C.
Heller, Stephen L.
Hemmerle, George E.
Henderson, Harold A.
Hendricks, Leon A.
Henry, Dean
Henry, Gary R.
Henson, Lovell K.
Herda, Raymond J., Jr.
Herrick, Glenn W.
Herrick, John B.
Hersh, Joel R.
Heustis, Robert L.
Hickman, Charles R.
Hight, Jimmy F.
Hinman, David A.
Hitchcock, James R.
Hobbs, Harold T.
Hoffman, Richard B.
Hogan, John E.
Hoke, Mark A.
Holden, Hollis W.
Holdt, Bruce E.
Holmes, Ronald E.
Horn, Paul B., Jr.
Horsley, Russell D.
Horst, Gary L.
Horton, Daniel W.
Houde, Paul L.
Hough, Marvin F.
Houle, Normand A.
House, Frederick A.
House, Prentice L.
Howd, Robert F.
Howdyshell, Walter S.
Howick, James F.
Hoyt, Carol A. P.
Hrenko, John, Jr.
Hughes, John G.
Hume, Richard L.
Hunter, Bruce R.
Hunter, Edward E.
Hunter, Peter G.
Hussey, Anthony J., Jr.
Hutchins, Albert M.
Huth, Douglas P.
Hyde, John W.
Hyjek, Michael L.
Ilgenfritz, Kenneth
Iselin, Robert A.
Jackson, Douglas L.
Jackson, Timothy H.
Jacques, Harry A., Jr.
Jamison, Earl J.
Jaques, James A., III
Jarrell, John A.
Jeffcoat, John P.
Jenners, Joseph A.
Jennings, Olin H., III
Jennings, Edward P., II
Jensen, Jon R.
Johanson, Donald W.
Johnson, Gary F.
Johnson, Jon R.
Johnson, Richard G.
Jones, Bobby D.
Jones, Darrell W.
Jones, James D.
Judnich, Francis A.
Kain, Michael R.
Kalman, George
Kampen, Roy W.
Kane, John E., II
Kane, Thomas J.
Kapinos, James M.
Kaufman, Edwin J.
Kavale, Joseph J.
Keesling, William D.
Keller, Terrence K.
Kendall, Charles W.
Kengla, Donald C.
Kenyon, Ralph E.
Ketring, Michael E.
Kidd, Raymond C.
Kidder, John L.
Kidder, Marvin W.
Kidder, Paul A.
Kincheloe, Everet V.
King, Franklin G.
Kingsbury, Robert L.
Kingseed, Jeb B.
Kjellander, Jon P.
Klotz, Steven I.
Knuth, Dean L.
Koehler, David L.
Kokstein, Robert G.
Kopinitz, Seigmond
Krafft, Frederick W., Jr.
Kraska, Kenneth W.
Krumbholz, Karl O.
Krupski, Paul J.
Kuhlman, Henry F., Jr.
Kuhn, Richard C.
Kunigonis, Michael
Lackey, Herman E.
Lambert, John P.
Landon, Philip C.
Langford, William K.
Langland, Rodger A.
Lassen, Clyde E.
Laughead, David C.
Lautenschlager, Jack A.
Lawhorn, Robert M.
Lawson, Thomas N.
Ledbetter, Wayne D.
Lee, Earl C.
Lehtonen, Harold, II
Liberatore, Mary A.
Lilly, Dale R.
Linger, Theodore G.
Lingo, Michael W.
Lins, Roderick W.
Lobalbo, Benedetto
Locke, Gerard F.
Lopez, Delio, Jr.
Low, James R.
Luczak, Daniel W.
Ludwig, Bruce B.
Luebbecke, Donald S.
Lydiard, Jeffrey R.
MacDonald, James, R.
Mack, Lawrence J., Jr.
Madren, Samuel T.
Madruga, Robert J.
Magoun, Peter R.
Mandsager, Dennis L.
Manes, Ezra E., Jr.
Mangan, John L.
Mann, Craig R.
Manning, Robert J.
Manson, Terrance L.
Marnane, Michael J.
Marshall, Harold E.
Martel, Reginald T.
Martin, Roy L., Jr.
Marvin, Richard B.
Maslin, George W., Jr.
Matarese, Marcia D.
May, Clarke D.
Mayberry, Jack B.
Mazach, John J.
Mazour, Thomas J.
McCarty, James D.
McClanahan, Michael W.
McCoy, James G.
McCoy, Rex C.
McCracken, James R.
McCurry, Robert A.
McGonigle, Paul W.
McGuane, Gary F.
McGugin, Leonard F., Jr.
McHale, Robert V.
McHugh, Donald, Jr.
McMenamin, William F.
McNall, Lynn T.
McPherron, Charles A.
McReynolds, Darwin
McReynolds, Michael J.
McWhirter, Janice H.
Meador, Garry R.
Meek, Terry L.
Melchioris, Charles, Jr.
Menke, James E.
Merkl, Richard L.
Michaels, James R.
Midkiff, George N.
Miller, Joseph G.
Miller, Patrick A.
Missimer, Jack R.
Mitchell, Larry J.
Mitchell, Tom E.
Mitschang, George W.
Mobley, Joseph S.
Modzelewski, Daniel M.
Moe, George L.
Mollet, Robert E.
Molochko, Gerald A.
Monteville, Arthur R. Jr.
Montgomery, John B.
Moomy, David H.
Moore, Edmund E.
Moore, Hollis A., III
Moore, Larry I., III
Moore, Richard A.
Morrow, Roy E.
Mosby, David C.
Moss, Dennis R.
Motten, Alexander F.
Moulder, Edward D.
Moulton, David W.
Moussette, David K.
Moyer, Jeffrey K.
Mulkeen, John J., Jr.
Muller, David G., Jr.
Mulvey, Gerald K.
Musselman, Stephen
Mussett, Gerald T.
Myers, Henry B.
Myers, Terry R.
Naile, Thomas C.
Nann, Peter A.
Nelms, Kenneth L.
Ness, Frank G.
Newman, Vernon L.
Newton, William H., III
Nickens, Donnell J.
Nicol, Henry O., III
Nie, John C.
Norvell, Larry M.
Nurthen, William A.
Nutter, Robert W.
Nye, Richard R.
O'Connor, Theodore J.
O'Dell, James M.
Oehler, Michael W.
Offerdahl, David C.
Ogle, Russell W.
Ohlert, Edward J.
O'Keefe, Michael J.
Oleson, Gary Y.
Olsen, Charles C., Jr.
Olson, Larry S.
Olson, Michael D.
Othic, Francis E.
Panzigrau, Jerome E.
Para, Alan E.
Park, Patrick J.
Parker, Lutrelle F.
Patrick, Peter D.
Patterson, Philip D.
Patterson, Thomas L.
Payne, Robert L., Jr.
Pedrotty, John R., Jr.
Pence, Daniel M.
Perkins, Thomas A., III
Perrault, Thomas J.
Peterson, Carl M.
Phillips, Charles D.
Phillips, Kenneth K.
Picquet, Roger T.
Piland, Monroe G., III
Pinz, Bradley A.
Pisz, Robert J.
Pitkin, Richard C.
Pittman, Alan R.
Plank, George E.
Plunkett, John C.
Plyer, Bruce A.
Pohl, William C.
Pool, James A.
Porritt, Richard H., Jr.
Porter, David G.
Powell, David L.
Pratt, James W.
Prell, Richard E.
Prescott, Leonard F., III
Prevost, John J.
Prokasky, Stephen S.
Puhlman, Robert L.
Purcell, Richard L.
Quigley, Michael D.
Quinton, Mark S.
Ragland, Gordon G., Jr.
Rainey, Daniel L., Jr.
Ralston, Gary G.

Rankin, Thomas P.
Rathburn, Curtis S.
Rauch, Dale A.
Raymond, Terry A.
Regener, Donald F.
Reid, James E.
Reid, Jaseph B.
Rentschler, Donald
Renuart, Robert F.
Revenaugh, John T.
Reynerson, Donald M.
Reynolds, Richard B.
Rhedin, David V.
Richards, Francis G.
Richards, John R.
Richardson, Frederick K.
Riebe, Donald E.
Riegel, Michael G.
Ries, Robert R.
Ries, Stephen H.
Riffle, Donald L.
Rios, Trinidad, Jr.
Robinson, Charles L.
Roddy, Charles P.
Rogers, Herman A.
Romberg, Wayne D.
Root, Stephen L.
Rose, Marilyn R.
Ross, Jessie C., Jr.
Rowland, Curtis A.
Rugen, Sanford L.
Ruhe, Barnaby S.
Runnerstrom, Eric
Rusch, Preston G.
Rusczyk, Richard S.
Russell, Thomas G.
Saavalainen, Mark T.
Samuels, Arthur M.
Sandberg, Larry A.
Sanders, James T.
Sanders, John R.
Sanders, Penelope L.
Sarich, Ace J.
Saur, Joseph M.
Savory, John R.
Sawyer, David R.
Sawyer, William J.
Schilhabel, Larry A.
Schmidt, Edwin A.
Schmidt, Hubert F.
Schmidt, Joseph D., Jr.
Schnaars, Carolyn J.
Schott, Jeffrey M.
Schranz, Peter A.
Schrobo, Stephen M.
Schrot, John R.
Schukis, Francis J.
Schwartz, Robert W.
Schwechten, Robert, II
Scott, Lawrence W.
Scott, William R.
Seekins, Steven S.
Segur, Gregory V.
Seitz, Thomas A.
Sellers, Ronald E.
Sellman, Robert L.
Sexton, Ralph J.
Shaffer, John N., Jr.
Shapiro, Alan J.
Shaughnessy, Ruth C.
Shaw, Daniel N.
Shaw, William R.
Shipman, Mary C.
Shelton, Diana C.
Shelton, John R.
Shewell, Daniel J.
Sholars, Robert E.
Shoudy, Peter N.
Shower, William A., Jr.
Shultz, John W.
Shumaker, Karl C.
Sidner, Robert W.
Siegel, Dan A.
Siemon, Douglas H.
Siler, Virgil R.
Silverthorne, Craig W.
Simmons, Edward J.
Siple, Roy C.
Sitz, William W.
Skiles, Rolland W.
Skille, Alan J.
Slaton, Steven G.
Smedberg, James E.
Smith, Baker A.
Smith, Charles H.
Smith, Donald S.
Smith, Gordon K.
Smith, Gregory C.
Smith, John V., Jr.
Smith, Kenneth L.
Smith, Randal E.
Smith, William G.
Snapp, Paul T.
Snell, Dean A.
Snell Dennis A.
Snyder, Thomas F.
Soo, Robert L.
Spencer, Jerome F.
Spengler, Richard P.
Staeheli, Bruce W.
Stahl, Lawrence O.
Standley, Cecil E.
Stanga, Robert D., Jr.
Stankowski, Barbara J.
Stark, Thomas A.
Stasiowski, James M.
Steelman, Barry L.
Steinger, Gerard R.
Stender, Robert G.
Stephan, George M.
Stevens, James D.
Stevenson, Robert W.
Stewart, John M.
Stewart, Michael M.
Stockhaus, Daniel Q.
Stone, John L.
Stout, Charles M.
Stribling, Ronald A.
Strohaker, John G.
Strzemienski, Stephan J.
Stubbs, Gary W.
Sumner, Gary B.
Sutton, Harry W.
Swenson, Carl F.
Swoope, James P.
Tauber, Richard J.
Taylor, Eugene W.
Taylor, John M.
Taylor, Richard H.
Taylor, Samuel W.
Teetz, William R.
Tennant, Douglas M.
Thacker, Richard L.
Thompson, Douglas S.
Thompson, Richard A.
Thompson, Robert B., Jr.
Thomson, James S.
Timberlake, William
Tomasko, John A.
Trafton, Wilbur C.
Trenker, Gary C.
Tribelhorn, Ronald W.
Trumbower, Glenn C.
Tucker, Richard K.
Tully, Webb W.
Twyman, William E.
Tyler, Gary L.
Tyler, John T., Jr.
Tyson, Robert K.
Uffenorde, George D.
Unruh, Howard K.
Uthe, David, II
Vance, Thomas C.
Vandenberg, George E.
Vanhoften, James D.
Vercher, John B.
Vetsch, William J.
Vines, Larry P., Sr.
Vinson, James W.
Vitek, Michael F.
Voight, Thomas C.
Waddell, James B.
Wagner, Paul H.
Waite, Lynn L.
Walker, Jon B.
Wallace, David K.
Wallace, Donald S.
Wallace, Harold B.
Walling, Kenneth E.
Watkins, Val E.
Watkins, William A.
Weaver, Lloyd R.
Webb, Stephen E.
Weber, Douglas E.
Weborg, Gene M.
Webster, Kirwin S.
Weeks, Steven B.
Weir, Marshall R.
Wellborn, Richard B.
West, Edward M.
West, James C., Jr.
West, John G.
Westcott, Richard E.
Westfall, John C.
Wheat, Luther W.
Wheaton, Martha J.
Whitaker, Dwight V., III
White, Allen H.
White, Phillip J.
White, Robert D.
Whitman, David R.
Whitney, Darrell E.
Wierzbicki, Gregory T.
Williams, David M.
Williams, David M.
Williams, Douglas H.
Williams, James H.
Williams, Lillian A.
Williams, Pharis E.
Williamson, Edward H.
Wilson, Dennis A.
Wilson, Martin B.
Wilson, Phillip R.
Winge, Donald E.
Wojtkowiak, Daniel
Wolf, Peter T.
Wolfe, Daniel T.
Wolpert, William L.
Woo, Robert A.
Wood, Don A.
Woodall, Jonathan H.
Woodard, John H.
Wozniak, John F.
Wright, Gerrit L.
Yerick, Martin R.
Young, William F.
Yunker, John M.
Zarichny, Russell J.
Zeola, John P.
Zogby, Reagan J.
Zweerink, James E.
Zysk, Thomas S.

SUPPLY CORPS

Allen, Dennis J.
Anunson, Merton G.
Beaty, Richard M.
Beckett, John C.
Burgess, Roy H.
Campbell, Thomas A.
Cantrell, Floyd O.
Chitty, Frederick C.
Compton, David D.
Crandall, Stephen G.
Davies, David A.
Devries, Christine R.
Evanoff, Richard A.
Featherstone, Harry L., Jr.
Gallagher, Stephen
Garner, Darrell W.
Gibbons, Lawrence B.
Ginman, Richard T.
Harris, Richard A., Jr.
Haynes, James M.
Hemmy, Victor H., Jr.
Herbst, Howard P.
Herrington, Michael C., Sr.
Hodgskin, Henry A., Jr.
House, Thomas F.
Huban, George H.
Jaudon, James E.
Jenkins, Gwilym H., J.
Jepson, Francis E.
Jones, David C.
Jordan, Larry J.
Jordan, Robert R.
Kamel, Mohsen
Keeton, Ronald J.
Lee, Burton J.
Leenstra, Richard B.
Lemburg, Myrl L.
Leverentz, James M.
Lorenc, Edward L.
Marquez, Ernest B., II
Master, Meryln M.
McCarthy, Justin D.
McGinnis, William J.
Mitchell, Colonus J.
Morrell, Dennis L.
Nolan, Richard T.
Parr, John B.
Pecuch, Ramon
Pennington, Craig H.
Pollock, William J.
Reese, James M.
Reinmann, Edward C., Jr.
Richard, James C.
Richards, John D.
Ridgley, Joe L.
Robertson, James M., III
Ross, Charles A.
Schimpf, Barry J.
Scott, William C.
Shaw, Mark C.
Shelton, Billy R.
Shirley, Richard H., Jr.
Simmons, John R.
Stankeivicz, David
Tarleton, George L.
Taylor, Allen G., Jr.
Thomes, James K.
Tinker, William M.
White, Charles E.
Wilson, Paul A.
Wilson, Richard D.
Woods, Charles J.
Woodward, George G.
Worthen, Winston K.
Young, Charles K.
Zulak, Barbara

CIVIL ENGINEER CORPS

Alfredson, Leonard
Bleakley, Robert L.
Bone, Talbot W.
Borowski, Casimir, Jr.
Brookman, Peter J.
Burke, William F., III
Cahill, Patrick J.
Carpenter, Ronald G.
Casey, Michael F.
Ching, Clayton Y.
Christensen, Thomas H.
Deluca, John, Jr.
Delunas, Leonard J.
Dempsey, John G.
Fehlig, Charles J.
Filson, James V.
Fucile, Eugene P.
Givens, Larry R.
Gnerlich, Robert R.
Gregory, Ronnie R.
Groncznack, Robert
Hanley, John T.
Hart, Stephen L.
Heath, John E.
Johnson, Michael R.
Jones, John E.
Keller, William J., Jr.
Key, Thomas S.
MacCaferri, Don A.
Mason, Robert D.
Micheau, Terry W.
Mondoux, William J., III
Parker, Robert V.
Pilie, Joseph M., Jr.
Rabold, Bernard L., Jr.
Rockwood, Thomson W.
Rowett, Henry M.
Samuelson, Gene R.
Schramer, Mathias

Shepard, David B.
Smith, Earl L., Jr.
Smith, Louis M.
Spore, James S., III
Stpeter, Harold B.
Teater, Richard M.
Thomas, Kenneth W., Jr.
Thompson, Stephen R.
Venable, Joseph B.
Vogt, John F.
Wade, Richard L.
Walley, James M., Jr.
Walsh, David F.
Wenck, Stanley E.
Williams, James R.
Wright, James C.
Yankoupe, George W.

MEDICAL SERVICE CORPS

Baker, Charles W.
Blome, Michael A.
Bowman, Jeffry S.
Brubaker, Ralph W.
Cowart, Paul R.
Criscitiello, Joseph J.
Donohue, Edwin A.
Flondarina, Melchor
Galbreath, Robert S.
Hermann, Dean A.
Higgins, Janet L.
Kellner, John R.
Leadbeater, Warrell F.
Lemmerman, Donald J.
Logan, Robert S.
Maskulak, Michael J.
Mitchell, Michael L.
Mitchell, Troy G.
Moore, Patrick H.
Moses, William R.
Mullin, Jimmie
Myers, Charles M.
Oldham, Richard T.
Potter, Duane E.
Pron, Sergei F.
Renfro, Mary A.
Reynolds, Richard D.
Steiner, Joseph R.
Talcott, Bruce E.
Todd, Michael L.
Turocy, Regis H.
Ziner, Anthony J.

NURSE CORPS

Arlov, Christine S.
Bessent, William M.
Bloshinski, Elizabeth
Chick, Carole L.
Cronin, Mary A.
Deveney, Anne M.
Dretsch, Margaret F.
Eilers, Barbara G.
Ellis, Jeannine K.
Field, Marion G., Jr.
Fitzsimmons, James
Gryniewski, Margaret K.
King, Susan G.
Luck, Reginald L.
Lyons, Doris A.
Marostica, Marilyn
Minzes, David H.
Monahan, Jeanne S.
Parrotte, David F.
Poland, Edith A.
Roberts, James W.
Robinson, Leslie E.
Snider, Stephen E.
Trent, James E.
Walgren, Kenneth D.
Zuber, Beverly A.

The following named officers of the United States Navy for transfer to and appointment in the Supply Corps in the permanent grade of lieutenant (junior grade) and temporary grade of lieutenant:

Arllen, Eric A.
Forney, Robert A.
Owens, James D.
Welch, Benjamin H., II

The following named officers of the United States Navy for transfer to and appointment in the Supply Corps in the permanent grade of ensign:

Ehmcke, Lance D.
Frietze, Michael J.

The following named officers of the United States Navy for transfer to and appointment in the Supply Corps in the permanent grade of ensign and temporary grade of lieutenant (junior grade):

Branaman, Larry G.
Capizzi, David A.
Cassano, Anthony J., Jr.
Crowley, Indy C.
Dennis, David A.
Fennell, Walter F., Jr.
Grames, Steven M.
Hart, Joseph M., Jr.
Lowndes, Rawlins
Kennan, Kevin B.
Solomon, John W.

The following named officers of the United States Navy for transfer to and appointment in the Civil Engineer Corps in the permanent grade of lieutenant (junior grade) and temporary grade of lieutenant:

Cosgrove, Robert M.
Ellis, Howard D.
Hein, Gary W.
Shepard, Scott H.

The following named officers of the United States Navy for transfer to and appointment in the Civil Engineer Corps in the permanent grade of ensign and temporary grade of lieutenant (junior grade):

Clements, Neal W., Jr.
Di George, Frank P., II
Elkins, James E.
Gecan, Anton S.
Interholzinger, Jared
McKay, Kenneth P.

The following named officers of the United States Navy for transfer to and appointment in the Judge Advocate General's Corps in the permanent grade of lieutenant (junior grade) and temporary grade of lieutenant:

Mitchell, Thomas W.
Riggio, Michael V.
Seiders, Marlin D., Jr.
Warden, Irving D., Jr.

Lieutenant (junior grade) Michael R. Hargrave, of the United States Navy, for permanent grade of ensign in the Nurse Corps subject to qualification therefor as provided by law.

IN THE MARINE CORPS

The following-named temporary disability retired officers for reappointment to the grade of lieutenant colonel in the Marine Corps, subject to the qualifications therefor as provided by law:

Navorska, Donald R., [redacted] USMC.

The following-named temporary disability retired officer for reappointment to the grade of captain in the Marine Corps, subject to the qualifications therefor as provided by law:

Bell, John R., [redacted], USMC.

Executive nominations received by the Senate on August 29, 1974, pursuant to the order of August 22, 1974:

IN THE NAVY

The following-named (Naval Reserve Officers Training Corps Candidates) to be permanent Ensigns in the Line or Staff of the Navy, subject to the qualifications therefor as provided by law:

Dana M. Broach
Michael D. Crocker
Benjamin L. Devane
John E. Flynn
Richard D. Gillespie
James E. Haas
Zenon Hac
John A. Sokolowski
David J. Thorn

The following-named (Civilian College Graduates) to be permanent Commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualification therefor as provided by law:

Bafael Correa-Coronas
John A. Hansen
Oscar L. Jaurigue

Walter F. Merdinger (Ex-Army Officer), to be a permanent Captain in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualification therefor as provided by law:

John W. C. Copeman (Civilian College Graduate), to be a permanent Commander and a temporary Captain in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualification therefor as provided by law.

Ollie B. Emerine (Ex-Lt., USNR), to be permanent Commander and a temporary Captain in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualification therefor as provided by law.

The following-named U.S. Navy Officers to be Commanders in the Dental Corps in the Reserve of the U.S. Navy for temporary service, subject to the qualification therefor as provided by law:

Jimmy E. Albright
Robert S. Burke

Dale T. Zorn, U.S. Navy Officer to be a Commander in the Medical Corps in the Reserve of the U.S. Navy for temporary service, subject to the qualification therefor as provided by law.

James D. Arnold (Naval Reserve Officer), to be a permanent Lieutenant and a temporary Lieutenant Commander in the Dental Corps of the Navy, subject to the qualification therefor as provided by law.

Arlie E. Burnham, Jr. (Civilian College Graduate) to be a permanent Lieutenant and a temporary Lieutenant Commander in the Denetal Corps of the Navy, subject to the qualifications therefor as provided by law.

Martin A. Funk (Naval Reserve Officer) to be a permanent Commander in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

Robert R. Schuteenhofer (Naval Reserve Officers' Training Corps Candidate) to be a permanent Ensign in the Line or Staff Corps of the Navy, subject to the qualification therefor as provided by law.

Janet R. Hutcheson (Civilian College Graduate) to be a permanent Commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

Peter B. Blanchard, U.S. Navy Officer, to be a Commander in the Medical Corps in the Reserve of the U.S. Navy, for temporary service, subject to the qualification therefor as provided by law.

The following-named temporary commissioned warrant officers to be permanent Chief Warrants in the classification indicated subject to the qualification therefor as provided by law:

Boatswain

Billy R. Coggin
Vurgel I. Gay
Richard V. Golden
Leroy R. Middleton
Larry E. Smith
William J. Stewart

Operations Technician

Charles A. Converse
William A. Murphy, Jr.
William H. Snider
Adam S. Walloch
James A. Winkler

Explosive Ordnance Disposal Technician

Paul C. Kinney

Aviation Ordnance Technician

Edwin J. Connors
Dale M. Floe
Gerald W. Schmitt
Harry M. Schwaeble

Surface Ordnance Technician

Adrian L. Hanna
Edwin M. Jordan
William A. Knupple
Albin C. Leblanc
Adoplh R. Matura
Robert E. Mauldin
William H. Murray
Daniel M. Sauer
Richard H. Wicks
Melvin E. Worley

Ordnance Control Technician

Chester D. Capodilupo
James D. Chalmers
William D. Jasper
Thomas N. Jones
Robert G. Marshall
Albert L. Smith
David M. Swarner

Underwater Ordnance Technician

Ralph J. Harker
Phillip E. Kern
James O. Mustin

Aviation Maintenance Technician

Richard S. Kanaski
Grady W. Turnbow
Robert A. Zabielski

Machinist

Russel G. Ashcraft
John R. Blackstock
Henry L. Boyd
Alvia J. Dunnagan
Elmer L. Feeser
Rolf J. Gestalter
Albert J. Hermann
Stanley O. Hunter
Paul N. Johnson
Ronald W. Miller
Richard L. Patterson
Albert L. Petty
Richard D. Shaw
Carl L. Snipes
John H. Stuke
James C. Zingale

Aviation Control Technician

Grady K. Cheatham
Jerry M. Snyder

Electrician

Richard R. Allen
Ervel E. Atterbury
Richard Blair
Manfred G. Kiese
Jerry L. Lamont
Ramon A. Ymzon

Naval Communicator

Lyle N. Aardahl
Sidney C. Arnold
Charles C. Finley
Bobby G. Lathrop
Robert L. McDonald
Adrain R. Pittman
Raymond L. Reed
Edward J. Schultz
Larry G. Smith
Frank C. Sutton
Charles E. Tims
Stephen M. Udell

Aviation Boatswain

Joseph J. Breslin
Thomas A. Morrison
James G. Reese

Aviation Electronics Technician

John P. Dooley
James R. Foley
Thomas G. Gibbons
John B. Gilbert
Bobby J. Howard
Eugene K. Warner

Communications Technician

Peter J. Azzole
Frankie N. Saunders
Joseph L. Taskoski
James F. Whipple

Electronics Technician

Dennis J. Benjamin
Charles L. Box
Thomas W. Brooks
Harold M. Brown
Ralph S. Caldwell
Michael W. Crawford
Darrel D. Delaney
James J. Gessl
Walter Gibson
Edward C. Goodell
Richard D. Hedelund
Thomas G. Hunter
William D. Hurd
John M. Iannetta
Jerry G. Kincade
Louis S. Caretti
Charles B. Clark
Richard E. Cloughley
Terrence J. Comfort
Jeffrey L. Coolidge
Thomas R. Little
William R. Lowe
Clinton L. McKenzie
John E. Miller, Jr.
Bruce B. Pimm
Russell M. Safford
Donald F. Shaw
Clyde K. Stapp
Johnny S. Tomlinson

Ship Repair Technician

James R. Andrews
Garland T. Loftis
Daniel S. Lynch
William A. Lynch
Charles E. Runyan

Ship's Clerk

David J. Anderson
Hector Arcosta
Thomas L. Armstrong
Merton A. Canfield
G. H. Childress
Gary T. Crawford
Charles H. Fortier
James R. Fuller
William J. Holdcroft
Michael R. Hopkins
Eugene H. Hornung
Jimmy E. Howard
John W. Kea
John D. Kidd
James E. Mansmith
Gerald H. Prinz
Jimmie D. Pritchard
Herbert M. Sauls
Henry H. Taylor
Neil R. Totten
Jack R. Wallace

Data Processing Technician

Ronald L. Bilodeau
Richard A. Lott

Supply Corps

Adwin D. Bradford
Jerry D. Christian
Leroy A. Clayton
Joseph T. Dame
James M. Emberton
Edward M. Gundersen
Aloysius F. Kempa
James B. Kidd
Roy C. McKay
Harry W. Owen
Wendell L. Parrish
Peter J. Rehill
Alphonse M. Sgueglia
James W. Warosh
Courtland C. Weeder

Photographer

Walter E. Hamler

Civil Engineer Corps Warrant

John D. Becker
Delmar Herron

The following-named officers of the U.S. Navy for temporary promotions to the grade indicated in the staff corps as indicated subject to qualification therefor as provided by law:

SUPPLY CORPS

Lieutenant

Appleby, Michael R.
Archer, Marvin D.
Argento, Terry J.
Ayers, Robert S.
Baggett, Joseph E.
Bakaley, Stephen L.
Ball, Edgar S., Jr.
Beassie, Leslie J.
Beaty, Richard M.
Bell, Dennis E.
Bender, Danny A.
Bird, Robert R.
Blackwell, Andrew P.
Bocchino, David L.
Boecker, Theodore J.
Bohannon, Donald C.
Bolt, Steven D.
Bond, Lewis F., III
Boring, George T.
Bott, Kerry C.
Bradley, Richard E.
Byrnes, Gerald L.
Calia, John E.
Callaway, Michael P.
Camp, Robert T.
Carden, Robert J.
Carlson, James H.
Caskey, John W., Jr.
Chambers, Thomas R.
Chamberlain, Stephen P.
Chitty, Frederick C.
Clack, Jeffrey R.
Clark, Thomas C.
Clark, David W.
Cole, John L.
Colvin, Bruce A.
Conroy, Denis S.
Cotton, Robert L.
Crandall, Stephen G.
Croll, John M.
Cummins, John L.
Davis, Peter M.
Denning, Steven A.
Denning, Steven J.
DiFrancesco, Albert P.
Dmetruk, Stephen F.
Donlan, Robert J.
Engel, Steven R.
Ensminger, David S.
Etcher, John S.
Fages, Sheldon N.
Farrell, Anthony J.
Faulders, Cyril T., III
Faurie, Bruce R.
Featherstone, Harry L., Jr.
Flohr, Larry E.
Flora, James H.
Fuller, Dana A., Jr.
Gaither, Roderick
Gibbons, Lawrence B.
Gilbert, Jack A.
Gillespie, Daniel D.
Gillum, Virgil D.
Ginman, Richard T.
Giordano, Donald M.
Gordohn, Richard E.
Grant, Charles W.
Gregory, Troy R.
Griffin, James H., III
Griggs, William C.
Griggs, Joe L.
Grimes, David M.
Guerard, Franklin P.
Gulden, Gary W.
Gunia, Earl G.
Hall, Clifford R.
Haller, Brian Q. III
Hammons, Thomas J.,
Harder, Melvin S., III

Hayes, Reginald S.
Hayes, John R., Jr.,
Heleniak, James F.
Henke, Louis, III
Herrington, Michael C., Sr.,
Hickey, Paul D.
Hinkel, Shelby, Jr.
Hodgkins, Henry A., Jr.
Holland, Benjamin A.
Hollingsworth, Charles L
Holt, Lonnie D.
Houlihan, Timothy P.
Howell, Arthur E., III
Huefner, James H.
Hurley, Patrick E.
Jackson, John E.
Jenkins, Michael L.
Jenkins, Walter W.
Jenkins, Gwilym H., Jr.
Joens, Steven K.
Johnson, Frederick B.
Johnson, William E.
Joslin, Richard M.
Kalourek, William T.
Keeton, Ronald J.
Kelly, Daniel C.
Kilroy, Clark E.
Kirkland, Donald E.
Kirkpatrick, Gerald E.
Knauss, Walter W., III
Lakes, Danny E.
Lambert, John R.
Lauer, Thomas H., II
Long, Wayne R.
Lorenc, Edward L.
Lowry, Robert S.
Maas, Robert D.
Madge, Norman W.
March, Earle B., Jr.
Martinec, Dennis P.
Mathew, Paul A.
Mayo, Thomas J.
McCray, James E., II
McGee, Gary O.
McKenzie, Donald R., Jr.
McLaughlin, James P.
Merritt, Karl W.
Miner, Kenneth H., Jr.
Mitchell, Kent R.
Moffitt, Michael A.
Moore, Joseph N.
Morrisset, John W.
Nichol, Eldon E.
Nightingale, Frederick C.
Nolan, Lawrence F.
Pathwickpaszyc, John C.
Pearce, John F., III
Pennington, Craig H.
Perkins, Charles A.
Perkins, George W., Jr.
Peterson, Carl R., Jr.
Pew, Curtis E.
Pierce, William B.
Proctor, Leonard L.
Randall, Bobby L.
Reardon, Robert J.
Reutemann, Edward C., Jr.
Rich, Lyle V.
Richardson, Albert C.
Ridgley, Joe L.
Robertson, James M., III
Robinson, Scott
Rogers, John W.
Rorex, Thomas A.
Rose, Robert W., Jr.
Ross, Charles A.
Royer, Frank E.
Rutledge, Dennis H.
Saunders, Daniel T.
Schlax, Thomas P.
Schmidt, William G.
Schneider, Larry J.
Schneider, Jeffery W.
Schreiber, Thomas J.
Seymour, Lyle M.
Sharrocks, Charles S., Jr.
Shiffman, Robert L.
Shirley, Richard H., Jr.
Shock, Richard W.
Shoemaker, Charles K.
Sides, Stephen L.
Siegel, Allen R.
Siembieda, Eugene J., Jr.
Simmons, John R.
Simmons, Roger S.
Slettvet, Richard M., Jr.
Smith, Thomas P.
Spratlen, Nicholas L.
Steigelman, Anthony E.
Stevens, Lawrence A.
Stilwell, Robert R.
Storm, Louis O., II
Strackbein, Edward M.
Sumrow, Ronald G.
Sunday, John L.
Taylor, Richard S.
Thomes, James K.
Thompson, John E.
Thompson, Joseph M.
Tibbetts, Joel F.
Tufts, John E.
Valade, Richard H.
Vining, Michael P.
Vinson, Charles M.
Vogelsang, James E.
Ward, John D.
Ward, James T.
Watkinson, Lyle P.
Weidemann, James L.
Wells, Randolph R.
Wenslaff, William A.
Wilcox, Thomas A.
Willis, Roger A.
Williams, Richard L.
Wimett, William T.
Winslow, Dennis M.
Woodiel, James C.
Wong, Frederick G.
Wood, Robert H., II
Woods, Kevin J.
Young, Roger A.

CIVIL ENGINEER CORPS

Ackerbauer, Blair
Mallshouse, Clare E.
Biter, Denzil J.
Bryant, Harold W.
Campbell, Bruce S.
Cherry, John M.
Christensen, Thomas H.
Cortney, Michael C.
Dean, Joseph C.
Dierckman, Thomas E.
Elsbernd, Robert L.
Foster, William W.
Glynn, William G.
Gnerlich, Robert R.
Gregory, Ronnie R.
Hall, William M.
Herning, Robert E.
Hill, Jerry D.
Hillman, Cecil M.
Hocker, Robert G., Jr.
Hyatt, Andrew J.
Key, Thomas S.
Kotz, John S.
Laboon, Thomas A., Jr.
Law, George L.
Leppert, John D.
Marcy, Hugh W.
Masler, John G., Jr.
McConnell, Craig V.
Morrow, James F., III
Pizzano, Robert C.
Pyles, Troy K.
Pabold, Bernard L., Jr.
Ramsower, David C.
Rautenberg, Robert C.
Robins, John M.
Scullion Leonard P.
Shaw, Danny G.
Simon, Lee E
Stockwell, Christopher J.
Stone, John T., Jr.
Stpeter, Harold B.
Thomas, Clarence E., Jr.
Thomson, Francis S., Jr.
Tull, Terrence W.
Turowski, Henry J., Jr.
Walker, William F.,
West, Joseph D.
Wong, Jack J., Jr.
Zachary, James M.
Zuber, David E.

JUDGE ADVOCATE GENERAL'S CORPS

McConnell, Daniel D.
Radd, John D.

MEDICAL SERVICE CORPS

Agent, Selwyn K.
Baker, Gerald C.
Barber, Norman J.
Bartlett, James V.
Bauer, Peter J.
Blome, Michael A.
Bowman, Jeffry S.
Boyles, Robert W.
Broadhurst, Ronald W.
Brown, George R.
Buffington, John R.
Crabtree, Roger D.
Crafton, Lonnie D.
Dawson, Richard L.
Delong, Douglas S.
Dial, William S.
Dotto, Kenneth M.
Enright, Charles A.
Escamilla, Joel
Finke, Ronnie L.
Fristad, Arvid C.
Fry, Wendell J.
Gibson, Kenneth D.
Greenan, John E., III
Grimes, Thomas A.
Hastings, Jerry L.
Hermann, Dean A.
Hetrick, John R.
Hickey, Rodney D.
Higgins, Janet L.
Hisoire, Dennis P.
Holman, Larry D.
Hovis, Robert S.
Hughes, Francis J., Jr.
Huju, John I.
Hummel, James R.
Johnson, David E.
Joseph, William A.
Kane, Robert J.
Kieschnick, Travis L.
Knee, Dale O.
Kochis, James B.
Kolesar, Joseph T.
Kunkel, Clyde E.
Kurtich, Richard B.
Leadbeater, Warrell F.
Lemmerman, Donald J.
Lewis, Morris N.
Love, Douglas, Jr.
Malinoski, James W.
Malinky, Robert L.
Manley, Edward
Martin, Donna R.
McBride, Joseph E.
McNair, John D.
Mills, Wayne M.
Mitchell, Troy G.
Moody, Johnny M.
Morey, Arlen D.
Mullen, Michael J.
Mullin, Jack A.
Mullin, Jimmie J.
Pavlik, Robert E.
Peterson, Jack L.
Peters, Anthony J., III
Renfro, Mary A.
Ridgeway, Robert K.
Roman, Michael J.
Ruffin, Tommy L.
Ryan, Alan B.
Schick, Gary E.
Schweinfurth, Karl E.
Seelbach, Richard A.
Seible, Lawrence G.
Shannon, Kenneth R.
Shepherd, Jack W.
Sheridan, Peter F.
Siddle, David L.
Smith, Richard L.
Smith, Steven L.
Spillane, Dennis
Thompson, J. Ronald
Tingley, Terry J.
Todd, David J.
Todd, Michael L.
Tomlinson, Tommy M.
Turocy, Regis H.
Upton, Billy G.
Waggoner, Lemuel A.
Wallace, William E.
Wanamaker, John C.
Weappa, Larry R.
West, Joseph J.
Williams, Warren, Jr.
Yacovissi, Robert
Yost, Harry E.

NURSE CORPS

Ahrens, William D.
Ames, Ervin L.
Arlov, Christine S.
Bailey, Donna L.
Bessent, William M.
Bird, Meredith S.
Breeding Patricia A.
Broad, John R.
Cheeks, Jacqueline E.
Cothern, Jimmie G.
Cronin, Mary A.
Delowrey, Blance S.
Donegan, Janet M.
Dretsch, Margaret F.
Dunn, Richard A.
Eilers, Barbara G.
Ellis, Jeannine K.
Fiddler, Iris E.
Field, Marion G. Jr.
Foley, Barbara A.
Fortier, Elaine S.
Garrison, Richard A.
Gryniewski, Margaret K.
Hagen, Karen P.
Haley, Kathleen A.
Hamachek, Susan M.
Hamer, Terry L.
Hargrave, Michael R.
Head, Walter W., Jr.
Hodges, Gail L.
Hohon, Henry P.
Honeywell, Joseph L.
Jones, Donald G.
King, Susan G.
Lloyd, Thomas M.
Loftus, Margaret M.
Loveridge, Lois E.
Luck, Reginald L.
Marquart, Alison W.
Matika, Linda C. T.
McConnell, Maryann S.
Mitchell, Henry Jr.
Nickerson, Carolyn J.
Norrick, Albert J.
O'Connell, Linda G.
Petersen, Patricia L.
Peterson, Janet L.
Peterson, Peggy J.
Phillips, Donald W., Jr.
Picchi, Christine A.
Rice, Edward V.
Roberts, James W.
Robinson, Leslie E.
Roy, Terry D.
Ruschmeier, Elizabeth
Sample, Priscilla
Santos, Debra A.
Schemmer, Carol L.
Shaia, Evelyn R.
Shepherd, Martha P.
Smith, Margaret L.
Smith, Susanne T.
Soileau, Joseph C.
Spangler, Catherine E.
Sullivan, Peggy J.
Trent, James E.
Walgren, Kenneth D.
Ward, Elizabeth A.
Wilkins, Karen L.
Williams, Edward I.
Wright, Mitchell P.
Williams, Edward I.

The following-named officers of the United States Navy for permanent promotion to the grade of lieutenant in the staff corps, subject to qualification therefor as provided by law:

SUPPLY CORPS

Devries, Christine R.
Shelton, Betty J.
Zulak, Barbara

Executive nominations received by the Senate September 4, 1974:

In the Coast Guard

The following-named officers of the Coast Guard for promotion to the grade of lieutenant:

James B. Clarke
Julius B. Sadilek, Jr.
Michael R. Adams
Timothy G. Balunis
Edward A. McKenzie
James H. Davis
Klaus Adie
Carroll H. Holst
Richard E. Schmidt
Alfred P. Howland
James E. Cain
Timothy A. Thompson
Michael A. Eberhardt
Stanley E. Lehman
William T. Mahoney
John L. Sprague
Thomas F. Weber
Richard L. Harvey
Christopher A. Kiefer
James A. Kramer
Charles O. Gill
John L. Glen
Gilbert O. Montoya
Roy C. Lewis, Jr.
William F. Landry
Thomas H. Walsh
Charles E. Sibre
Joseph G. Milo
Robert T. Trainor
Kelly S. Callison
Kenneth P. Rothhaar
Alan Gracewski
James T. Clarke
Charles D. Wurster
Ronald H. Frazier
Thomas M. Gemmell
Kenneth W. Bicknell
Roger W. Coursey
Charles D. Pike
William R. Phillips
Charles C. Beck
John P. Wiese
John T. Orchard
Peter A. Tebeau
Paul H. Millewich
Donald C. Gerber
Gordon D. Marsh
Donald B. Gilbert
Stewart I. Marsh
Stephen C. Ploszaj
Richard V. Harding
Michael M. Leone
Ronald F. Silva
Daniel E. Kalletta
Bo C. Josephson
Robert W. Gulick
Robert N. Tabor
Jay E. Taylor
James T. Armstrong
Larry M. Wilson
Wayne E. Verry
Stanley J. Norman
Charles H. King
Laurance H. Howell
John G. Hersh
William J. Inmon
Kenneth R. Borden
Henry P. Libuda
Edward F. Murphy
Gregory S. Cope
Larry H. Gibson
David E. Henrickson
Bruce W. Platz
Gerald G. Kokos
James R. Riesz
Carl A. Swedberg
William E. Willis
Richard E. Cox
Tom R. Wilson
Patrick A. Turlo
Ralph D. Lewis
Donald E. Plake
David J. Ramsey
Robert C. Foley
Bryant M. Nodine
Jonathan K. Waldron
Michael A. Conway
Charles S. Harris
Wynn O. Harper
Ray W. Coye
James A. Kinghorn
Tony E. Hart
Charles D. Kroll
Kenneth R. Mass
Thomas J. Marhevko
Thad W. Allen
Dennis W. Cleaveland
James A. Sylvester
James A. Brokenik
Carl R. Schramm
Albert F. Sganga
Kenneth M. Coffland
Paul D. Barlow
Fred S. Fox
Robert J. Camuccio
Gregory D. Mucci
Norman L. Sealander
Richard X. Engdahl
Anthony Bordieri
Robert F. Gonor
Steven A. Wallace
David J. Isbell
Hallie D. Bohan
Peter A. Barrett
Norman J. Dufour
Charles S. Allen
John P. Wood
Robert P. Moore
Jon E. Rosselle
Steven J. Cornell
Brian T. Kingsbury
David F. Wallace
Thomas A. Rummel
Donald T. Wetters
Philip C. Volk
Frank J. Kline
Paul W. Ljunggren
Richard C. Sasse
Terry A. Robertson
Bradley R. Troth
Henry R. Przelomski
John M. Smith
Robert D. Alling
Don E. Bumps

James B. Willis
William M. Miller
Gary R. McCaffrey
John K. Roberts
Philip J. Cappel
Charles E. Bills
Bruce E. Lee
Rand D. Lymangrover
Robert M. Bush
Craig D. Eide
Alan R. Dujenski
Robin A. Wendt
James R. McGuiness
Daniel F. Shotwell
John R. Walters
Albert A. Joens
Robert M. Letourneau
Donald E. Estes
Melvin L. Kankelfritz
Perry W. Campbell
Robert N. Zimmer
Robert E. Carmen
Duane E. Sulerud
Milton D. Moore
Frederick F. Lieder
Roger D. Holmes
Charles K. Bell
William T. Horan
Harold B. Morton
Edward J. Park
William G. Shorter
Edson J. Reeves
Joseph H. Thompson, Jr.
Charles T. Winfrey
Clyde R. Keller, Jr.
John G. Witherspoon
David C. Nelson
Alvin A. Sarra, Jr.
William J. Seney
Robert C. Dorfler
Thomas Heald, III
John D. Leslie
James R. Nagle, II

The following-named temporary officers to be permanent commissioned officers in the Regular Coast Guard in the grade of lieutenant (junior grade):

Carroll H. Holst
Richard E. Schmidt
Alfred P. Howland
James E. Cain
Timothy A. Thompson
Michael T. Eberhardt
Stanley E. Lehman
William T. Mahoney
John L. Sprague
Thomas F. Weber
Robert N. Zimmer
Robert E. Carmen
Duane E. Sulerud
Milton D. Moore
Frederick F. Lieder
Roger D. Holmes
Charles K. Bell
William T. Horan
Harold B. Morton
Edward J. Park
William G. Shorter
Edson J. Reeves
Richard L. Harvey
Christopher A. Kiefer
James A. Kramer
Charles O. Gill
John L. Glen
Gilbert O. Montoya
Roy C. Lewis, Jr.
William F. Landry
Melvin L. Kankelfritz
Perry W. Campbell
Joseph H. Thompson, J
Charles T. Winfrey
Clyde R. Keller, Jr.
John G. Witherspoon
David C. Nelson
Alvin A. Sarra, Jr.
William J. Seney
Robert C. Dorfler
Thomas Heald III
John D. Leslie
James R. Nagle II

The following-named Coast Guard Reserve officer to be a permanent commissioned officer in the Regular Coast Guard in the grade of lieutenant:

James J. Keller

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of Title 10, Sections 3366 and 3367:

ARMY PROMOTION LIST

To be lieutenant colonel

Ackley, George C., Jr., [redacted].
Acuff, Milton L., Jr., [redacted].
Adams, Edward L., [redacted].
Adams, Richard E., [redacted].
Agan, Eugene F., Jr., [redacted].
Alameda, Donald J., [redacted].
Allen, Jearald D., [redacted].
Allen, John W., [redacted].
Allen, Lamonte D., [redacted].
Allen, Nard V., [redacted].
Almon, Robert N., [redacted].
Alouf, Raymond T., [redacted].
Altenburg, Fred G., [redacted].
Amick, George L., [redacted].
Anania, Joseph, [redacted].
Anderson, Duane L., [redacted].
Anderson, James J., [redacted].
Anderson, Johnny D., [redacted].
Anger, Allan W., [redacted].
Angus, Jack E., [redacted].
Ankenbrandt, William, [redacted].
Annenberg, Robert B., [redacted].
Anson, Ylo, [redacted].
Armantrout, Frank G., [redacted].
Armstrong, Donald, [redacted].
Arrington, Billy J., [redacted].
Aske, Lambert J., Jr., [redacted].
Azar, James T., [redacted].
Bailey, James A., [redacted].
Bajer, John M., [redacted].
Baker, Harry L., Jr., [redacted].
Ball, Donald A., [redacted].
Banks, William F., [redacted].
Barber, Joel A., Jr., [redacted].
Barlow, Claude T., [redacted].
Barrera, Florencio, [redacted].
Barrett, Clifford I., [redacted].
Barros, Antonio P., [redacted].
Barry, David M., [redacted].
Baxter, Robert L., [redacted].
Bean, Loring B., [redacted].
Beasley, James W., [redacted].
Beatty, Earl Leslie, [redacted].
Belkov, Philip S., [redacted].
Bell, Christopher C., [redacted].
Bell, James D., [redacted].
Benabe-Benabe, Efra, [redacted].
Benassi, William, [redacted].
Bennie, James, Jr., [redacted].
Benton, Paul L., [redacted].
Bercovitz, George E., [redacted].
Berger, William H., [redacted].
Beruvides, E. M., [redacted].
Beyer, William L., [redacted].
Black, Joseph L., [redacted].
Blackshear, T. R., [redacted].
Blalock, Harold B., [redacted].
Blien, Jack W., [redacted].
Blott, William C., [redacted].
Bobst, Jack E., [redacted].
Bogaert, Theodore J., [redacted].
Bond, Robert J. [redacted].
Boros, Edward J., [redacted].
Boyles, Robert G., [redacted].
Boynton, Walker L., [redacted].
Bradie, Michael, [redacted].
Brady, Joseph T., [redacted].
Brigham, Sanford C., [redacted].
Brochhagen, Henry H., [redacted].
Bronson, William F., [redacted].
Brooks, F. B., [redacted].
Brown, Carlton M. Jr., [redacted].
Brown, Gerard L., [redacted].
Brown, Gerard R., [redacted].
Brown, Robert K., [redacted].
Brown, Russell, [redacted].
Brown, William C., [redacted].
Brownell, Donald P., [redacted].
Bryant, Columbus, [redacted].
Bunnell, Charles R., [redacted].
Burks, Archie R., [redacted].
Burre, David J., [redacted].
Burstein, Lawrence, [redacted].
Burton, Ralph C., [redacted].
Cagnina, Frank J., [redacted].
Calhoun, John R., [redacted].
Calton, Fitzhugh L., [redacted].
Cannon, Dan B., [redacted].
Cappell, John O. III, [redacted].
Carl, William E., [redacted].
Carlson, Edwin S., [redacted].
Carpenter, Roy E., [redacted].
Carter, William C., [redacted].
Case, Richard S., [redacted].
Caso, Adolph, [redacted].
Castelli, Joseph A., [redacted].
Cates, Edward L., [redacted].
Caudill, Robert M., [redacted].
Cerullo, Louis J., [redacted].
Chambers, Charles E., [redacted].
Chambers, Lomer R., [redacted].
Champion, Kenneth W., [redacted].
Channell, Howard F., [redacted].
Chapman, Carl S., [redacted].
Charon-Rodriquez, S., [redacted].
Cherpinsky, Richard, [redacted].
Chesnutt, A. B. Jr., [redacted].
Childs, Robert E., [redacted].
Christensen, Walton, [redacted].
Chun, Lawrence K. P., [redacted].
Clang, Robert R., [redacted].
Clark, Joe R., [redacted].
Clark, Raoel H., [redacted].
Claxton, John W., [redacted].
Clayton, Lawrence G., [redacted].
Clement, John P. III, [redacted].
Clemons, Samuel H., [redacted].
Cloud, John M., [redacted].
Cobb, Leroy M., [redacted].
Co[illegible]sky, Frank J., [redacted].
Cogswell, Richard J., [redacted].
Cole, Donald C., [redacted].
Collet, Robert C., [redacted].
Collins, Jack R., [redacted].
Conger, William F., [redacted].
Cook, Reuben D., [redacted].
Cooper, William R., [redacted].
Cote, Thomas E., [redacted].
Craig, Lois H., [redacted].
Creel, Mike C., [redacted].
Crumpton, Bobby R., [redacted].
Cummings, Robert C., [redacted].
Cummings, Truman E., [redacted].
Cumpian, Jose G., [redacted].
Custead, Jerry R., [redacted].
Dains, Jay D., [redacted].
Dalzell, Arthur H., [redacted].
Damon, William B., [redacted].
Dankert, Derald T., [redacted].
Davis, Frank L., [redacted].
Davis, Gene C., [redacted].
Davis, Henry M., [redacted].
Davis, Thomas G., [redacted].
Davis, William R., [redacted].
Dawson, Earl N., Jr., [redacted].
Dean, Wilson P., [redacted].
Debner, Donald W., [redacted].
Deroos, Gordon D., [redacted].
Deruve, Arthur, [redacted].
Devine, James F., [redacted].
Devine, John A., [redacted].
Dick, Sheldon L., [redacted].
Dimick, David L., [redacted].
Diperna, Anthony J., [redacted].
Disheroon, Fred R., [redacted].
Dominik, Joseph W., [redacted].
Doten, Herbert R., [redacted].
Doyle, Leo D., [redacted].
Dmytryk, Stanley G., [redacted].
Drennon, Clarence B., [redacted].
Drew, James B., Jr., [redacted].
Driscoll, Paul J., [redacted].
Duerr, Richard D., [redacted].
Duggan, Maurice, [redacted].
Dunkelberger, James, [redacted].
Durham, William H., [redacted].
Easter, Loy Dalton, [redacted].
Eberly, Dewey H., [redacted].
Echols, James D., [redacted].
Edwards, Paul R., [redacted].
Edwards, William J., [redacted].
Ehmann, Richard R., [redacted].
Ellison, William R., [redacted].
Elsea, Jac E., [redacted].
Epperson, Theo S., [redacted].
Estes, James O., [redacted].
Eusey, Donn O., [redacted].
Evans, Richard, [redacted].
Ewing, Virgil O., [redacted].
Extrand, Charles W., [redacted].
Fairbank, John Carr, [redacted].
Fantini, Joseph C., [redacted].
Farrel, Paul J., [redacted].
Faulkner, Jack S., [redacted].
Fay, James H., Jr., [redacted].
Feagley, Jack P., [redacted].
Febres-Silva, Ellis, [redacted].
Ferguson, John D., [redacted].
Ferrermena, Ramon J., [redacted].
Firth, Henry Owen, [redacted].
Fisher, George H., [redacted].
Fleming, James B., [redacted].
Flynn, S. B., Jr., [redacted].
Ford, William R., [redacted].
Forker, Olan D. [redacted].
Forkner, Frederick, [redacted].
Fouts, Daniel W., [redacted].
Fox, James D., [redacted].
France, G. M. III, [redacted].
Frasier, Raymond F., [redacted].
Frate, William A., [redacted].
Freeman, William R., [redacted].
Gaebelein, James M., [redacted].
Garbo, Salvatore J., [redacted].
Garcia, Rudolph V., [redacted].
Gardner, John D., [redacted].
Gase, Louis J., [redacted].
Gates, Philip W., [redacted].
Gause, James E., [redacted].
Gedeon, Ernest R., [redacted].
Gee, Freddy, [redacted].
George, John W., Jr., [redacted].
Gibson, Murray W., [redacted].

Gildart, Philip J., [redacted].
Gill, Norman R., [redacted].
Gilliam, Milford S., [redacted].
Glaser, Robert E., [redacted].
Gleiser, Ferman O., [redacted].
Glenn, Michael D., [redacted].
Gleue, Merlin W., [redacted].
Glover, Joe M., [redacted].
Goebel, Ernest W., [redacted].
Goff, Roy C., [redacted].
Gomulka, Stanley J., [redacted].
Gordon, Thomas B., [redacted].
Goss, Melvin L., [redacted].
Graham, Henry N., [redacted].
Green, Paul M., [redacted].
Green, Raymond B., Jr., [redacted].
Greene, Delbert M., [redacted].
Griggs, Ulysses S. J., [redacted].
Grimes, Walter H., [redacted].
Grob, Rudolph O., [redacted].
Gross, Paul J., [redacted].
Grossman, Peter G., [redacted].
Gunby, Frank M., Jr., [redacted].
Haight, Gordon L., [redacted].
Haitz, Cornelius S., [redacted].
Hammond, James A. [redacted].
Hancock, James F., [redacted].
Hand, Francis D., Jr., [redacted].
Handorf, William A., [redacted].
Hansen, George J., [redacted].
Hanson, Douglas D., [redacted].
Hara, Henry S., [redacted].
Hardy, John L., [redacted].
Hardy, William H., [redacted].
Harootunian, Harry, [redacted].
Harrell, Adam, [redacted].
Harris, Gerald E., [redacted].
Hart, Eugene P., [redacted].
Hartschuh, Donald C., [redacted].
Haskett, Martin C., [redacted].
Hatten, Richard E., [redacted].
Hawkins, Averill E., [redacted].
Hawkinson, James Q., [redacted].
Haywood, Charles C., [redacted].
Heckman, John H., [redacted].
Hering, Louis, [redacted].
Herndon, George B., [redacted].
Herring, Billie D., [redacted].
Hershbarger, Robert, [redacted].
Herzog, George A., [redacted].
Hess, Richard W., [redacted].
Hester, E. W., Jr., [redacted].
Higgins, Richard C., [redacted].
Hill, Eugene F., [redacted].
Hill, Hal E., [redacted].
Hill, John E., [redacted].
Hill, Robert W., [redacted].
Hocevar, Joseph R., [redacted].
Hohensinner, Thomas, [redacted].
Holcomb, Gary E., [redacted].
Holland, Christian, [redacted].
Holm, Jerry L., [redacted].
Holmes, James R., [redacted].
Holt, Wayne H., [redacted].
Hoover, Max M. Jr., [redacted].
Hopkins, Rodney A., [redacted].
Horton, Sidney L., [redacted].
House, David G. [redacted].
Howard, Ernest M., [redacted].
Hubbard, Charles W., [redacted].
Hughes, Paul E., [redacted].
Hull, Louis E. [redacted].
Hurdle, Lawrence W., [redacted].
Huston, Richard J., [redacted].
Ianni, Robert C., [redacted].
Inaba, Gilbert Y., [redacted].
Ishibashi, Theodore, [redacted].
Ivaska, Raymond D., [redacted].
Izumo, Hiromu, [redacted].
Jaccard, Mermod C. J., [redacted].
Jackson, Donald, [redacted].
Jackson, Ralph E., [redacted].
Jakes, James W., [redacted].
Jallins, Walter J., [redacted].
January, James D., [redacted].
Johnson, Adley E., [redacted].
Johnson, Dale E., [redacted].
Johnson, Dion, [redacted].
Johnson, Harold W., [redacted].
Johnson, Homer A. Jr., [redacted].
Johnson, James A., [redacted].
Johnson, Johnny M., [redacted].
Johnson, Joseph H. J., [redacted].
Johnson, Kenneth G., [redacted].
Johnson, Lamarr L., [redacted].
Johnson, Lloyd N., [redacted].
Johnson, Raymond T., [redacted].
Johnson, Richard A., [redacted].
Johnston, William R., [redacted].
Jones, Carlton C., [redacted].
Jones, Harry D., [redacted].
Jones, Robert L., [redacted].
Jones, William D., [redacted].
Jordon, Frederick H., [redacted].
Jordan, Lennon G. Jr. [redacted].
Juarbe-Perez, Will, [redacted].
Kaczmarczyk, Theodo, [redacted].
Kalitka, Peter F., [redacted].
Kam, Grover M. Y., [redacted].
Kates, Charles M., [redacted].
Kaufman, Richard C., [redacted].
Keadle, Jack L., [redacted].
Keene, William B., [redacted].
Kemp, Gordon A., [redacted].
Kenemer, Jack, [redacted].
Kennedy, John R., [redacted].
Kerby, Jack O., [redacted].
Kercsi, Emil F., [redacted].
Kernan, Redmond F., [redacted].
Kimura, Shigeo, [redacted].
King, Francis E., [redacted].
King, Jimmie F., [redacted].
King, Samuel M., [redacted].
King, William R., [redacted].
Kish, Andrew W., [redacted].
Knopf, Arthur E., [redacted].
Kowalski, Louis E., [redacted].
Kowitz, David D., [redacted].
Kuntz, William E., [redacted].
Kuwahara, Harold Y., [redacted].
Lacy, Richard H., [redacted].
Lamb, Heber B., [redacted].
Lang, David Jr., [redacted].
Langford, Wilbur R., [redacted].
Lareau, Paul C., [redacted].
Larkin, Francis J., [redacted].
Laroche, Joseph A., [redacted].
Larson, Robert D., [redacted].
Lau, Daniel K. M., [redacted].
Laubscher, Lawrence, [redacted].
Leach, Ernest M., [redacted].
Leck, Cleon C. [redacted].
Leverett Flynt L. J. [redacted].
Levine, Marvin, [redacted].
Leavitt, J. L. III, [redacted].
Lenard, Edward M., [redacted].
Lennon, James F., [redacted].
Lesica, John P., [redacted].
Lewis, Edward T. Jr., [redacted].
Linaberger, Charles, [redacted].
Lingo, Robert A. [redacted].
Liprie, Sam F., [redacted].
Locaputo, Michael P., [redacted].
Loman, Billy D., [redacted].
Looney, Milton A., [redacted].
Love, Kenneth R., [redacted].
Lubkin, Yale J., [redacted].
Lundgren, George H., [redacted].
Lynn, David C., Jr., [redacted].
MacDonald, Robert J., [redacted].
Magee, Edkar L. Jr., [redacted].
Magee, Ralph W., [redacted].
Makaea, George W., [redacted].
Malmer, Charles D., [redacted].
Mangels, Robert L., [redacted].
Manheimer, Ben P. Jr., [redacted].
Manley, Willis L., [redacted].
Manning, John I., [redacted].
Manus, Ralph K., Jr., [redacted].
Markey, C. J. II, [redacted].
Marrero-Aulet, Roberto, [redacted].
Martin, Jerry R., [redacted].
Martin, John F., [redacted].
Martin, Robert III, [redacted].
Martin, Robert B., [redacted].
May, John E., [redacted].
Maze, Glenn L., [redacted].
McCaskill, William, [redacted].
McClaran, Edward B., [redacted].
McColl, Alexander M., [redacted].
McConnell, James C., [redacted].
McCormack, David H., [redacted].
McCuin, Earl G., [redacted].
McDowell, James R., [redacted].
McIntosh, Thomas J., [redacted].
McKay, Jack G., [redacted].
McLean, Willard J., [redacted].
McLendon, Lem J., [redacted].
McTighe, Thomas, [redacted].
Mechling, Chris R., [redacted].
Meisenheimer, Willi, [redacted].
Meister, George T., [redacted].
Melnikov, Miles P., [redacted].
Michael, James W., [redacted].
Michael, Ralph A. [redacted].
Miegel, Allen P., Jr., [redacted].
Miller, Eugene R., [redacted].
Miller, Harold A., [redacted].
Miller, Robert M., [redacted].
Miller, William E., [redacted].
Millhollon, Joe B., [redacted].
Mills, Richard H., [redacted].
Minor, William R., [redacted].
Moffett, Tommy C., [redacted].
Mojica, Gilberto E., [redacted].
Molitor, Leo T., Jr., [redacted].
Moody, Ellis R., [redacted].
Moore, Curtis T., [redacted].
Morgan, James G., [redacted].
Morris, Otis A., [redacted].
Morrison, James H., [redacted].
Moseley, Paul L., [redacted].
Moser, Daniel H., [redacted].
Moten, John E., [redacted].
Mowry, James D., [redacted].
Mugler, Glenn P., [redacted].
Muller, Edward W., [redacted].
Munroe, Calvin W., [redacted].
Murdock, Robert B., [redacted].
Musselman, Alan M., [redacted].
Mutter, Herbert B., [redacted].
Nalley, Wayland J., [redacted].
Neil, Charles S., [redacted].
Nelms, James W., [redacted].
Nicely, James D., [redacted].
Nixon, James T., [redacted].
Obregon, Conrad J., [redacted].
Olynyk, Stephen D., [redacted].
Orbell, Raymond J., [redacted].
Orr, Billy J., [redacted].
Overend, Charles R., [redacted].
Palmer, Bobby G., [redacted].
Palmer, Cecil E., [redacted].
Palmer, Glenn H., Jr., [redacted].
Palmer, Thomas B., [redacted].
Paredes, Robert, [redacted].
Park, Russell E., [redacted].
Parker, Jesse W., [redacted].
Patrick, William S., [redacted].
Patterson, Stanley, [redacted].
Peavy, Freddie H., [redacted].
Peele, William G., [redacted].
Pelosky, Robert J., [redacted].
Pengra, Vale C., [redacted].
Penn, Donor D. [redacted].
Perez, George Louis, [redacted].
Perkins, Marvin D., [redacted].
Petersen, F. W., [redacted].
Peterson, Ralph W. I., [redacted].
Pfleghardt, Robert, [redacted].
Phelps, Paul E., [redacted].
Phillips, Benjamin, [redacted].
Phillips, Joseph A., [redacted].
Phillips, Samuel W., [redacted].
Pierce, Martin E., [redacted].
Pincock, Don S., [redacted].
Pirie, George C., Jr., [redacted].
Pisarich, Ray V., Jr., [redacted].
Polley, Richard E., [redacted].
Pope, John C., [redacted].
Poplin, Earl S., [redacted].
Porter, Kenneth B., [redacted].
Potts, Walter R., [redacted].
Poverello, Robert A., [redacted].
Powell, John S., [redacted].
Powers, Clifford L., [redacted].
Prescott, Luther E., [redacted].
Pressley, Alton B., [redacted].
Previs, Arthur L., [redacted].

Prickett, Grover C., [redacted].
Prieser, Dale E., [redacted].
Prone, Joseph G., [redacted].
Prospero-Altiery M., [redacted].
Purcell, Robert W., [redacted].
Pyle, Langston, [redacted].
Radcliffe, Robert G., [redacted].
Ramseur, Henry M., [redacted].
Randau, John A., [redacted].
Rappel, Frank R., [redacted].
Reay, Tommy L., [redacted].
Reck, Russell, [redacted].
Redock, Sanford A., [redacted].
Reed, Alfred D., [redacted].
Reed, Earle R., [redacted].
Reed, Paul M., [redacted].
Reese, Robert L., [redacted].
Rensel, George, Jr., [redacted].
Respess, Robert B., [redacted].
Reynolds, Alfred M., [redacted].
Rhoads, Robert C., [redacted].
Riccio, Donald R., [redacted].
Rice, Robert G., [redacted].
Rice, Robert N., Jr., [redacted].
Richey, Robert R., [redacted].
Riedel, George F., [redacted].
Rihn, James S., [redacted].
Ringer, Frederick, [redacted].
Rios-Rolon, Wilthro, [redacted].
Rixner, Alton J., [redacted].
Roberts, Jerry W., [redacted].
Robinson, Bobby L., [redacted].
Rocha, Manuel, [redacted].
Rodgers, Sterling M., [redacted].
Roob, Gerald L., [redacted].
Ross, George H., Jr., [redacted].
Ross, James E., [redacted].
Roybal, Frederick J., [redacted].
Ruckh, Charles W., [redacted].
Rudnick, Gerald S., [redacted].
Rudolph, Robert J., [redacted].
Rutledge, Howard L., [redacted].
Sachs, Arthur, [redacted].
Salmon, Dan A., [redacted].
Sanborn, Everett C., [redacted].
Santos, Francis J., [redacted].
Sarantos, George N., [redacted].
Sauer, James A., [redacted].
Saunders, Norman D., [redacted].
Savage, Robert G., [redacted].
Schaefer, Frederick, [redacted].
Schaefer, John O., [redacted].
Scherer, Loyd H., [redacted].
Scheuermann, Earl R., [redacted].
Schilder, Keith E., [redacted].
Schoenwald, Walter, [redacted].
Schramm, Harold A., [redacted].
Schule, Ronald L., [redacted].
Schulz, Alger W., [redacted].
Schumpert, William, [redacted].
Schutzmann, Roy L., [redacted].
Schwalbe, Everett L., [redacted].
Schwerdtfeger, Fred, [redacted].
Scott, Everett B., [redacted].
Scott, Jack H., [redacted].
Scott, Willard A., [redacted].
Seidel, Walter R., [redacted].
Seyfried, Robert E., [redacted].
Shelton, Tommy J., [redacted].
Seymour, Kenneth W., [redacted].
Shearon, Gerald D., [redacted].
Shepley, James M., [redacted].
Shetler, Robert C., [redacted].
Shudarek, Ervin P., [redacted].
Silva, Thomas J., [redacted].
Silvi, Albert H., [redacted].
Simpson, Charles E., [redacted].
Simpson, James, [redacted].
Sisk, William M., [redacted].
Skeens, Earl G., Jr., [redacted].
Skelton, Russel M., [redacted].
Smith, Bernard C., [redacted].
Smith, Charles E., [redacted].
Smith, Clarence A., [redacted].
Smith, Doyle D., [redacted].
Smith, Grover C., [redacted].
Smith, John E., [redacted].
Smith, Lynwood K., [redacted].
Smith, Robert E., [redacted].
Smith, Robert F., [redacted].
Smith, Robert S., [redacted].
Smith, Stephen T., [redacted].
Smith, William M., [redacted].
Snashall, Robert R., [redacted].
Snow, Clifford N., [redacted].
Soha, Charles R., [redacted].
Sorensen, Glade V., [redacted].
Spillers, Roger, [redacted].
Spitters, Frank, Jr., [redacted].
Spraggins, Gerald R., [redacted].
Sprague, Charles R., [redacted].
Stanley, Thomas R., [redacted].
Starr, Luther J., [redacted].
Steele, Siegfried W., [redacted].
Steiner, John W., [redacted].
Stepanovitch, Sava, [redacted].
Stockton, George K., [redacted].
Stone, C. O., Jr., [redacted].
Stone, Kenneth E., [redacted].
Stone, Patrick S., [redacted].
Strohecker, Daniel, [redacted].
Strong, Joseph R., [redacted].
Strong, Warren R., [redacted].
Suarez, Edward, [redacted].
Sudman, Robert H., [redacted].
Sulzbach, William L., [redacted].
Surman, George R., [redacted].
Suter, Paul J., [redacted].
Sweetman, James L., [redacted].
Sykes, George E., [redacted].
Taaffe, Donald R., [redacted].
Tackett, Charles M., [redacted].
Taebel, Delbert A., [redacted].
Tallat-Kelpsa, Algi, [redacted].
Tallman, Charles W., [redacted].
Taricani, Joseph R., [redacted].
Tassotti, Dante R., [redacted].
Taylor, Arnie L., [redacted].
Taylor, Burrell C., [redacted].
Taylor, John W., [redacted].
Tegtmeyer, George F., [redacted].
Tenhoff, Clair A., [redacted].
Teubert, Richard L., [redacted].
Thedieck, James J., [redacted].
Thomas, David J., [redacted].
Thomas, Jackie L., [redacted].
Thomas, Rudolph C., [redacted].
Thompson, Donald C., [redacted].
Thompson, James R., [redacted].
Thomson, John M., [redacted].
Timmerman, Raymond, [redacted].
Tinsley, Robert W., [redacted].
Tisher, Thomas H., [redacted].
Toohey, William M., [redacted].
Torrell, John J., [redacted].
Towery, Bobby A., [redacted].
Trapp, Gerald W., [redacted].
Trussell, James M., [redacted].
Turrentine, James L., [redacted].
Valenti, Anthony, [redacted].
Vallejo, Edmundo, [redacted].
Varner, Alphonso B., [redacted].
Vaughn, Edward M., Jr., [redacted].
Villacres, Jorge N., [redacted].
Viney, John A., [redacted].
Walden, Oscar D., [redacted].
Walker, Charles C., [redacted].
Walker, James E., [redacted].
Walker, Leonard A., [redacted].
Wallace, Kenneth E., [redacted].
Walsh, Harvey W., [redacted].
Walters, Thomas J., [redacted].
Warlick, Thomas W., [redacted].
Watkins, G. L., Jr., [redacted].
Watson, Richard W., [redacted].
Watts, Donald R., [redacted].
Wax, Morton I., [redacted].
Weber, Michael M., [redacted].
Weese, John D., [redacted].
Weidner, Richard E., [redacted].
Weil, Richard G., [redacted].
Wells, Henderson R., [redacted].
Wendt, Oliver H., [redacted].
Werner, Charles P., [redacted].
Wheeler, Dudley B. J., [redacted].
White, Herbert W., [redacted].
White, Lewis O., [redacted].
Whitman, Robert L., [redacted].
Widrig, Frank C., Jr., [redacted].
Wiele, William W., [redacted].
Wiest, Don S., [redacted].
Wigley, George M., [redacted].
Wiley, Alton W., [redacted].
Wiley, Arthur G., Jr., [redacted].
Wilke, Gilbert P., [redacted].
Wilkerson, W. H., [redacted].
Wilkinson, Thomas A., [redacted].
Williams, Allan R., [redacted].
Williams, David C., [redacted].
Williams, Harry K., [redacted].
Williams, Nevin R., [redacted].
Williamson, Reuben, [redacted].
Wills, Thomas J., [redacted].
Willson, Tyson, Jr., [redacted].
Wilson, Jerry C., [redacted].
Winchester, R. P., [redacted].
Winn, Jimmy L., [redacted].
Winters, Arnold L., [redacted].
Winters, Ross V., [redacted].
Woehr, William S., [redacted].
Wohlbold, Ernest M., [redacted].
Wong, Genson L., [redacted].
Woolsey, Herbert L., [redacted].
Worley, Ross E., Jr., [redacted].
Worthington, Lyman, [redacted].
Wright, Bruce T., [redacted].
Yarbrough, Robert E., [redacted].

CHAPLAIN

To be lieutenant colonel

Ballentine, Wyman W., [redacted].
Bershon, Richard Y., [redacted].
Betsill, Paul A., [redacted].
Bracy, Russell E., [redacted].
Brown, Winslow E., [redacted].
Carver, Russel J., [redacted].
Chance, Ernest L., [redacted].
Cohen, Donald L., [redacted].
Combs, Louis K., Jr., [redacted].
Downes, Thomas J., [redacted].
Dunn, Roger T., [redacted].
Durbin, Samuel E., [redacted].
Ellsworth, Arnold T., [redacted].
Fritz, Howard W., [redacted].
Graham, William H. I., [redacted].
Hess, Robert S., [redacted].
Holliday, Joseph V., [redacted].
Hollis, William R., [redacted].
Horne, Robert M., [redacted].
Huseth, Joseph L. F., [redacted].
Jaeger, James C., [redacted].
Kita, Edward J., [redacted].
Klein, Ernest C., [redacted].
Knab, Frank J., [redacted].
Knights, Ward A., Jr., [redacted].
Komschlies, C. G., [redacted].
Lieberman, Alvin I., [redacted].
Loftus, Conrad W., [redacted].
Logue, Charles D., [redacted].
Lucas, Adlail, [redacted].
McCollum, Robert R., [redacted].
Norris, Harwell E., [redacted].
Outtrim, William B., [redacted].
Person, Richard L., [redacted].
Phillabaum, Jack H., [redacted].
Phillips, Daniel P., [redacted].
Pratt, Glenn R., [redacted].
Pusey, Paul M., [redacted].
Rakestraw, John A., [redacted].
Rendahl, Roger E., [redacted].
Sauer, Walter K., [redacted].
Schkade, Raymond C., [redacted].
Schneider, Harold D., [redacted].
Singleton, James C., [redacted].
Smith, Billy T., [redacted].
Spear, Ralph S., [redacted].
Spencer, Herbert H., [redacted].
Taylor, Wallace M., [redacted].
Terry, Frederick D., [redacted].
Torer, Roland R., [redacted].
Watness, Luther O., [redacted].
York, Edwin R., [redacted].

WOMEN'S ARMY CORPS

To be lieutenant colonel

Hubik, Dolores H., [redacted].
Mecklem, Grace L., [redacted].
Messer, Rhoda Marie, [redacted].
Pennington, Doris V., [redacted].
Ramirez, Marie Diaz, [redacted].

SENATE—*Thursday, September 5, 1974*

The Senate met at 10:30 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, our Father, at the threshold of this new day, we ask Thee to bless this Nation which Thou hast given us for our heritage. Bless those whose executive burdens are heavy. Enable them to serve with diligence and to rule with justice and mercy. Bless all who legislate that wise measures may be enacted.

Bless those who are rich that their possessions may be held in stewardship for Thee. Bless those who are poor and accord them kindness from others.

Bless those who are strong. Move them to use their strength in unselfish service to others. Bless those who are weak and reinforce them with divine energy.

Bless those who are happy. May they remember Thee also when times are less bright. Bless those who are sad and bring comfort to their hearts.

Bless each one of us here that we may be guided by the spirit of the Man of Nazareth.

And this we pray in His name. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, September 4, 1974, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE 200TH ANNIVERSARY OF THE CONVENING OF THE FIRST CONTINENTAL CONGRESS IN PHILADELPHIA

Mr. HUGH SCOTT. Mr. President, today marks the 200th anniversary of the convening of the First Continental Congress in Philadelphia.

Tonight on the CBS Bicentennial Minutes, I have the honor of noting this anniversary and noting that the delegates chose not to meet in the State House, now Independence Hall, but rather in a union labor building, Carpenters' Hall, not under the control of His Ungracious Majesty.

For nearly 2 months, the delegation met at Carpenters' Hall and laid the foundation for the Second Continental Congress which brought forth the Declaration of Independence.

On May 14 of this year I successfully introduced, along with Senator MANSFIELD, Senate Concurrent Resolution 85 proclaiming October 14, 1974, a day of national observance for this important anniversary. The resolution also calls for the appointment of an eight-member congressional delegation to represent the Congress in ceremonies at Carpenters' Hall. For the record, October 14, 1774, was the date on which the delegates to the first Congress adopted the Declaration and Resolves, expressing to the King of England their rights as Englishmen and their determination to achieve those rights.

Mr. President, we have all seen the stress under which our system has labored recently. Yet we emerge with relatively few bruises, considering the risk to governmental structures. The system worked and, indeed, we owe it to those courageous men who met and considered, and wisely structured, a future for those people who became, not citizens of England, but citizens of the greatest Nation on the face of the globe, the United States of America, and that is what we did 200 years ago and that is the way it was.

Mr. President, I ask unanimous consent to have printed in the RECORD Senate Concurrent Resolution 85, and I now yield to the distinguished majority leader.

There being no objection, Senate Concurrent Resolution 85 was ordered to be printed in the RECORD as follows:

S. CON. RES. 85

Whereas the meeting at Carpenters' Hall in the City of Philadelphia in the Colony of Pennsylvania from September 5 to October 26, 1774, which has become known as the First Continental Congress, will have observed during 1974 its two hundredth anniversary; and

Whereas the actions of that Congress in uniting, for the first time, the thirteen disparate American Colonies to seek redress of their many grievances against the Parliament and King of England, set in motion a series of events leading to the meeting of the Second Continental Congress which produced the Declaration of Independence and guided the new Nation through the American War for Independence; and

Whereas the precedents set by the meeting of the first Congress in 1774 form the foundation upon which rest in principles and practices of the existing Congress of the United States of America; and

Whereas October 14, 1774, was the date on which the delegates to the first Congress adopted the Declaration and Resolves, expressing to the King of England their rights as Englishmen and their determination to achieve those rights, and is therefore, in itself, an historic date; and

Whereas on October 14, 1974, special ceremonies, sponsored by the City of Philadelphia, the National Park Service of the Department of the Interior and the American Revolution Bicentennial Administration, will be held at Carpenters' Hall in Philadelphia, Pennsylvania, to properly and appropriately observe for the Nation the two hundredth anniversary of the First Continental Congress; and

Whereas the two hundredth anniversary of the First Continental Congress marks one of the first historic commemorative events of the American Revolution Bicentennial celebration; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that October 14, 1974, be proclaimed a Day of National Observance for the Two Hundredth Anniversary of the First Continental Congress and that the people of our Nation be called upon to fittingly observe and honor this important date in our country's history.

SEC. 2. That the President pro tempore of the Senate and the Speaker of the House be authorized to select, upon the recommendation of the respective majority and minority leaders, four Members of each House to represent the Congress of the United States of America at ceremonies in Carpenters' Hall, Philadelphia, on October 14, 1974, and to present at said ceremonies to a representative of the City of Philadelphia a copy of this resolution.

SEC. 3. That the expenses of the Members are authorized to be paid from the contingency funds of the Senate and House of Representatives as approved, respectively, by the Committee on Rules and Administration and the Committee on House Administration.

Mr. MANSFIELD. Mr. President, today the U.S. Senate celebrates a most significant anniversary. Two hundred years ago today, on September 5, 1774, the First Continental Congress met in Philadelphia's Carpenters' Hall, in what now can be considered the first act of our Federal Union. Eleven of the Original Colonies sent delegates to Philadelphia in that first effort to act collectively for the colony states. It was through this congressional forum that the notions of our federal system were first experienced and on this experience the fundamental role of the Congress as a repository of the basic powers of government was fully confirmed. The agenda for that First Continental Congress was immense, but it is significant to recall that one of their first acts was a declaration of personal rights which later were embodied in the Bill of Rights of our Constitution.

Over the past 200 years it has been necessary to reaffirm that basic declaration of our First Continental Congress. It is not enough to rely upon the convictions of that generation. It is necessary for each generation of Americans to struggle to maintain that early resolve and to appreciate that these basic personal liberties were and still are the first purposes and priorities of our Government.

During these past 200 years some periods may be looked on with greater pride than others. Slow were some generations to define the limits of child labor, the right for workers to assemble and petition for grievances, the right of all Americans to the same basic protections, but in the end, these basic principles have always prevailed.

This 93d Congress, I believe, has demonstrated its appreciation of these basic purposes and limitations of government which preoccupied the First Continental Congress. I believe this 93d Congress has fulfilled the hope of those great men who met in Philadelphia 200 years ago today.

In passing, Mr. President, may I say that I do not know what the Gallup rating of the First Continental Congress was, but I am sure that it had its share of difficulties, and had to endure its share of criticism, as have all Congresses since that time.

But, Mr. President, my colleagues may recall that in the waning months of last year the rating of Congress stood at 21 percent. Two months ago it stood at 31 percent, and last week it stood at 48 percent. I think that figure indicates that the American people have appreciated the responsibility and the restraint of Congress, both branches, during the perilous times through which we have journeyed.

I only hope it will be possible—although I do not think it will be—that this rating could be enhanced. But regardless of the rating, I still want to see this body and our sister body across the Capitol, both comprising what we call the U.S. Congress, continue to act with responsibility and restraint in the years, in the decades, and in the centuries ahead.

Mr. HUGH SCOTT. Mr. President, indeed they did have their critics. They sounded a lot like the critics today; and their papers, often under the influence of politicians who knew the power of the press from the beginning, thundered at their adversaries, predicted disaster, saw no future for the Colonies and, in many cases, pleaded for loyal allegiance to His Gracious Majesty, our noble benefactor, the King.

Those who braved the criticism and ignored the critics ranged, indeed, from the courageous lawyer, Samuel Adams, a progenitor of that great family who in the long line of succeeding generations were a staunch part of the magnificent structure of our country's government and its history, from Adams, then, that bold man of conservative origin, to Patrick Henry, a radical conservative who believed in liberty but, although he called himself not a Virginian but an American, did not believe in the Union, as then planned; to thoughtful and yet constructively conservative men such as Hamilton of New York; to men as wise as Benjamin Franklin; as farseeing libertarians as the country planter from Monticello, Big Red, the tall Virginian, Thomas Jefferson.

They ranged across the spectrum, and they were great and they were wise and they wrought mightily, and what they did they left to us to continue and to be worthy of.

The poet Goethe said: "That which we have inherited from our ancestors we must earn again in order to deserve"; and that is how we were tested and that is how we have come through our trials and tribulations, and we will again.

A nation which could call on a rather satisfied, somewhat paunchy gentleman to return from his peaceful retirement on his rich Virginia lands, where he was enjoying the venison from his property, in spite of his wooden dentures, to become the modern Cincinnatus, George Washington, and to lead the forces to victory, a nation which could summon the talents of men who believed in the principles of Rousseau or Thomas Paine, who were greatly daring and greatly respected and, importantly, greatly contributory, a nation which had that talent, set for us a path on which we must continue to trace our own footsteps for history's writings.

I believe we can. I believe we are aware of the vision, I believe we will be worthy, God helping us.

CONSIDERATION OF CERTAIN MATTERS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Nos. 1078, 1079, and 1081.

The PRESIDING OFFICER (Mr. JOHNSTON). Without objection, it is so ordered. The clerk will state the first bill by title.

RETURN OF SMOKEY BEAR TO CAPITAN, N. MEX.

The concurrent resolution (H. Con. Res. 564) to declare the sense of Congress that Smokey Bear shall be returned on his death to his place of birth, Capitan, N. Mex., was considered and agreed to.

The preamble was agreed to.

AUTHORIZATION FOR FEDERAL AGRICULTURAL ASSISTANCE TO GUAM

The bill (H.R. 13267) to authorize Federal agricultural assistance to Guam for certain purposes was considered, ordered to a third reading, read the third time, and passed.

AMENDMENT OF TITLE 37, UNITED STATES CODE, TO REFINE THE PROCEDURES FOR ADJUSTMENTS IN MILITARY COMPENSATION

The bill (H.R. 15406) to amend title 37, United States Code, to refine the procedures for adjustments in military compensation, and for other purposes was announced as next in order.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. NUNN. Mr. President, I call attention to calendar item H.R. 15406 which I reported favorably from the Armed Services Committee on Tuesday. This bill revises the method of allocating pay increases for active duty members of the uniformed services so that future pay increases will be distributed among the various elements of military compensation: basic pay, quarters, and subsistence allowances. Under present law, increases in military compensation go entirely into basic pay. It is estimated that the cumulative 5-year savings resulting from enactment of this bill will be in excess of $3 billion.

CURRENT LAW

Current law (Public Law 90-207, 1967) requires that whenever Federal civilian General Schedule employees receive a pay raise, the military will receive a comparable increase in basic pay only. For example, on October 1, 1973, Federal employees received a 4.77-percent pay increase which was translated into a 6.16-percent increase in military basic pay.

H.R. 15406

This bill amends existing law by providing, in substance, that whenever there is a civilian increase each of the military pay components—basic pay, quarters, and subsistence allowances—will receive the same percentage increase. Under the present system, there results in many cases a duplication of benefits since subsistence is increased separately for enlisted personnel in addition to the basic pay increases. Moreover, the approximately 1.1-million military personnel occupying Government quarters receive the advantage of quarters, plus basic pay increases. Finally, by increasing basic pay disproportionately there is increased cost of retired pay and other items related to basic pay, such as reenlistment bonuses, et cetera.

COST SAVINGS

A conservative estimate indicates a savings of more than $3 billion will accrue over the next 5 years if H.R. 15406 is enacted into law. These savings accrue because of future reductions in the cost of: First, total basic pay; second, retirement pay—based on basic pay; third, other items related to basic pay such as reenlistment bonuses, separation pay, and the like; and fourth, basic allowance for subsistence, which is currently funded separately in addition to increases in basic pay. It is important to note that these savings would not be achieved by reducing any service member's current level of pay; rather, these savings would be achieved through a revision in the way that future military pay increases are calculated.

Mr. President, H.R. 15406 has already passed the House and is supported by the Department of Defense. In addition, the General Accounting Office and the Brookings Institution have issued separate reports agreeing with the substance of this bill after independent analyses of this matter. These reports have been included in the record of the hearings on this legislation.

Mr. President, I urge prompt action on this important bill.

Mr. THURMOND. Mr. President, I rise in support of H.R. 15406 which was approved by the Committee on Armed Services in a unanimous vote August 23, 1974.

The purpose of this bill is to refine the procedures for adjustments in military compensation. Under current law whenever salary rates for civil service employees under the General Schedule are increased the pay for the military is comparably adjusted upward. However, the law requires that the amount of the increase be applied solely to basic pay.

As the Members know, basic pay is only a portion of regular military compensation and is often accompanied by allowances for subsistence and quarters, neither of which are subject to Federal income tax.

Thus, by limiting the increase to basic pay which makes up about 75 percent of military compensation, the result was that the military received a percentage increase greater than their civilian counterparts.

While this policy was acceptable when military pay failed the civilian comparability test, in recent years it has resulted in disproportionate increases for the military. Thus, for the past 2 years the Defense Department has recommended the change incorporated in this bill.

As a result of H.R. 15406 future increases in military pay will be applied among basic pay, quarters allowance, and subsistence allowance. This will, in effect, equalize future pay hikes rather than giving the military a larger increase than their civilian counterparts.

Mr. President, the Defense Department estimates this bill would save approximately $160 million in the current fiscal year.

In closing, Mr. President, I urge prompt and favorable action on this legislation which passed the House July 1, 1974.

The bill (H.R. 15406) was ordered to a third reading, was read the third time, and passed.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Delaware (Mr. BIDEN) is recognized for not to exceed 15 minutes.

Mr. HUGH SCOTT. Mr. President, I suggest the absence of a quorum on the time of the Senator from Delaware (Mr. BIDEN).

The PRESIDING OFFICER. Without objection, it is so ordered. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware is recognized for not to exceed 15 minutes.

FIRST CONTINENTAL CONGRESS

Mr. BIDEN. Mr. President, ten-score years ago today, 56 mostly middle-aged, mostly propertied men, representing 12 of the 13 Colonies, gathered officially in Carpenter's Hall in Philadelphia to discuss steps to thwart the "wicked ministry" of King George 3d, as they referred to it.

They met as a Congress, one we now call the First Continental Congress.

A succession of acts of British ministries over the preceding decade had brought these men to Philadelphia, then a town of approximately 38,000 persons.

These burdensome acts of state included the Sugar Act, the Currency Act, the Stamp Act, the Quartering Act, and the Townshend Act, the latter having generated James Otis' protest, "Taxation without representation is tyranny."

These men, Mr. President, were reluctant rebels.

These men were no noisy secessionists, although 19 of them would sign the Declaration of Independence issued at the breakaway Second Continental Congress 2 years later.

Most simply met in hopes that their ultimate labors, which extended into late October, would persuade the King to overrule his offending ministers and redress injuries inflicted upon their interests—mercantile, civil, and others.

Caesar Rodney, one of the three delegates from my State of Delaware—then referred to as the Three Lower Counties on the Delaware—called the gathering the "greatest assembly that was ever collected in America."

Patrick Henry, a delegate, told his fellows:

> I am not a Virginian, but an American.

And at one social gathering among the many toasts offered was one that exemplified the spirit of the proceedings—one that we may well inscribe in our own senatorial hornbooks:

> May no man enjoy freedom who has not spirit enough to defend it.

I believe this toast an appropriate one to our day, Mr. President, because, in my judgment, we have just had a "close call" in this country. It is been a scary summer.

Just in time we have unseated a Chief Executive, who, whatever his own intentions and perceptions may have been, persisted in actions that were severing the Federal Government from its constitutional moorings.

Now, we have a new President, 1 month in office.

The political floodwaters have ebbed.

Gone is anxiety with which we greeted each hourly newscast or edition of our daily newspaper.

Assuringly, the new President informs us that the long national nightmare has ended.

I believe him—or want to.

He encourages us to believe that an era of good feeling is now encompassing us.

I believe this—or want to.

Commendably, he has traveled on his own initiative that long mile from the White House to the Capitol to speak separately to us in the Senate and to our colleagues in the House of Representatives and he has assured us that the grand avenue—Pennsylvania Avenue—is a two-way street.

I believe this—or want to.

In the heady atmosphere of an openhanded Presidency, in contrast to the menacing messages of his predecessor, we find ourselves nodding agreeably that "the system" works.

I believe this—or want to.

A recent Gallup poll reports that public approval of this Congress has increased markedly—from 30 percent last spring to 48 percent last month.

I believe this—or want to.

The American way, we are told, is to let bygones be bygones.

I believe this—or want to.

The President tells us that "the code of ethics that will be followed will be the example that I set."

I believe this—or want to.

We are quick to assume that the Sun now shines upon our parochial political world along the Potomac.

And, the new President informs us that he wants not a honeymoon, but a good political marriage.

I believe this—or want to.

We are told that the constitutional principle of the accountability of the President was preserved—as a result of the changing of the guard August 8.

I believe this—or want to.

And yet, Mr. President, assigning all the best intentions to everyone, I pause.

That very same delegate, Patrick Henry, whom I quoted earlier, also complained many years later that the Presidency, as established in the Constitution, "squints toward monarchy."

And here in 1974, nearly 200 years after Patrick Henry's observation, I do not see the Presidency melting like a block of ice in the summer sun.

I do see wisdom in the famed playwright's remark: "what is past is prologue."

The lesson of August 8, I conclude, is that "being President means never to have to say you're sorry."

This Watergate affair leaves us—at least me—with the uncomfortable feeling that this is still more a government of men than of laws.

Now, Mr. President, I look not for villains or conspiracies. A President's political death—as has just occurred—diminishes us as a Nation.

Ours is a good country, the best—with far, far many more good points than bad.

A visiting member of the French Parliament last year observed to a member of my staff:

> You're in pretty good health here, you know. Your Watergate is out in the open. Back home in my France, there are so many Watergates that no one will permit them to be brought to light.

We in the United States have a lot going for us.

But then we expect a lot from ourselves and our governors.

This is why I continue to have misgivings—or worse—about our Federal institutions.

Good men and women are essential; but, in themselves, they cannot overcome, if the institutional arrangements within which they operate are in substantial disrepair.

The Presidency continues to be glamorized. Illustratively, the Washington Post ran a 20-inch long story the other day about where the President's swimming pool will be built within the White House grounds. Of great national import, I should observe.

The Presidency has been swelled, as George Reedy and others who have worked in the White House, inform us.

Immediate staff of the President has increased 25 percent in the last 5½ years.

Theodore Roosevelt's view of the Presidency as that "bully-pulpit" has become in recent years more bully than pulpit in the hands of both Democratic and Republican Presidents.

Political liberals and their scribes are to be called to account for their persistent reliance upon Presidential governing at the cost of, first, infecting the Presidency with Caesarism and second, weakening the legislative branch of the Congress.

I am not the first on this block to point this out.

Nor am I the first on this block to point out the institutional deficiencies of the Congress.

Many Members of Congress have labored hard to make this a better place in which to legislate.

I was only 4 years old when the LaFollette-Monroney Reorganization Act was passed.

Subsequent improvements—in the fields of internal reforms and campaign-financing reforms and extending the suffrage—are the work of many, both departed and still sitting here in this chamber.

Senator ERVIN, whose pending departure from the Senate will be a great loss, is chairman of the so-called "Watergate" committee which has recently put forward 3 dozen reforms.

So I am a "new kid" on this block.

But, be that as it may, my constituents, more than half a million of them, expect me to exercise my judgments on matters of major policy.

And the 200th anniversary of the first meeting of the First Continental Congress is appropriate to discuss such a thing. Because here in our time, in 1974, we, too, have been afflicted by a "wicked ministry" about which the Continental Congress delegates previously complained.

In my judgment, there is a need for a post-Watergate reconstruction of the Presidency and the Congress.

PRESIDENCY

There is a wrong-headed view of the Presidency, and Presidents.

This view is that he—a President—is some sort of secular Moses leading us from the wilderness.

Historians, politicians, and clergymen have helped to give this view respectability.

Congress itself on occasion has been a willing partner in this inflation of the Presidency.

The Office of Presidency has come a long way from the three clerks of the Washington administration and the time when Thomas Jefferson conducted official business in the boarding-house parlor off his bedroom.

Presidents have come to be looked upon—and have looked upon themselves—as war-and-peace makers, mythmakers, and rain-makers.

Men of learning, who should know better, have assisted at these creations.

The time has come for Presidents to promise not more, but less.

The time has come for Americans to elect as Presidents those who, as they toil, are competent, accessible, fair-dealing, plain-speaking persons willing to share their burdens—and glory—with the Congress.

Presidents are needed to render unto the Congress the things that are Congress's—for example, a full role in the war powers and a full role in budgetary policy. These traits would be their distinctions.

I do not believe these are Sunday sentiments to be ignored on legislative days.

These observations are not theory.

We are confronted, in fact, with a condition not a theory.

Three consecutive Presidents have been unexpectedly removed from office—the first by assassination, the second by forced retirement and the third, just 1 month ago, by forced resignation.

We, in the Congress, had better abandon our Presidential crutches and look to ourselves for a full role in governing.

And, in governing, we 535 women and men of the Congress, should maintain our sense of proportion—the most important office of the land is, or should be, that of "citizen."

Kingman Brewster, Jr., president of Yale University, provides us with some insights into the Constitution itself:

> The Constitution of the U.S. is a charter which was designed to provide a process for orderly diversity of interests and views.
>
> Its spirit, its allocation of powers, and its procedures were an inspired vision and an ingenious design to permit a diverse and scattered people to work out their destiny without resort to the dictate of the tyrant on the one hand or the disarray of fratricidal squabble on the other.
>
> Now if we would restore the ethic, the rationale, the values of the Constitution we cannot expect it to be done for us adequately by any of the branches of government.
>
> There are severe limitations on what we can expect of the executive, the legislature, or even the courts. These limitations are much more severe today than they ever have been before.
>
> The insistence on the accountability of the authority is also more fundamental than the fine print of legal strictures . . .
>
> Noblesse oblige is no substitute for the willingness of the governors to take into serious account the feelings and opinions of the governed.
>
> Most important, it presupposes an openness and disclosure, so that those affected by the exercise of authority may decide whether or not they are in fact satisfied with what has been done to them, for them, or in their name.

We need, as Kingman Brewster eloquently outlines for us, to return to first principles—actually, the five bedrock principles which I read into the Constitution: First, federalism; second, separation of powers; third, checks and balances; fourth, majority rule; and fifth, protection of indivdual rights. There has been an encouraging beginning in recent months, in my opinion.

First, the War Powers Act of 1973, although flawed, imposes upon the President an obligation to secure congressional approval within 90 days after he has committed American troops to armed hostilities abroad.

Second, the new Budget Act of 1974 establishes a mechanism—the individual Senate and House Budget Committees and the Congressional Budget Office—within Congress for supervision and control of aggregate expenditures. It also limits the President's authority to impound appropriated funds.

The work of trimming the Presidency must continue. The spirit of "brotherism" needs be repelled.

Presidents have a role, but there is room on the politicial marquee for other principals.

The ways of representative government are often slow, sometimes ill-considered and not always wise. But, representative government, by which I mean "democracy," is the worst form of government except for any other form, as Winston Churchill reminded us during World War II.

CONGRESS

In our obligated task, we should be careful to distinguish, for example, between the flaws of the previous occupants of the Presidency that led to the ultimate constitutional crisis and those institutional deficiencies that are at fault. By keeping this distinction in mind, we should not, then, burden President Ford and his successors with unwise restrictions that would impair the proper functioning of the Chief Executive.

As for the Congress, the annals of the learned journals and the CONGRESSIONAL RECORD itself are continually filled with proposals to refashion the Congress.

I believe that change—or "reform" as some would have it—has no value in itself.

In putting forward proposals, I have tried to follow three guidelines for effective reforms:

First. A factual, not an abstract or sentimental, basis for identifying a deficiency;

Second. The principle, legal or otherwise, that suggests a remedy is needed; and

Third. A precise relief to be invoked.

First of all, Mr. President, all of us in the Senate should be able to make a contribution to the discussion as to what additional legislative and legal safeguards should be established.

One approach would be to reserve a week during the early days of the new Congress, the 94th Congress—either in January or early February of next year—during which time, here in open session in the Senate Chamber, all Senators, including newcomers elected in November of this year, would be able to exchange views and make proposals. This is not without precedent. In the mid-1920's, the House of Representatives as a body discussed its internal operations in open session for nearly a week.

Another approach, one which could supplement the first approach, would be to establish a joint congressional committee to consider holding hearings and making recommendations. The diversity of proposals may fall within the jurisdiction of several committees, and it would have merit to submit all proposals to one source, that is, to one committee. Many of these proposals have already been discussed publicly and some have been studied and restudied. A joint committee would not be obliged to start at the beginning, but simply compile existing materials and oral viewpoints of Members of Congress and concerned citizens in open hearings—and report to the full Senate and House of Representatives within, perhaps, 1 year.

Among the proposals I suggest be studied are the following:

First. Amend the 25th amendment to the Constitution to provide for a special national election if, as is now the case, both the President and Vice President are to be nonelected and 2 or more years remain until the next regularly scheduled Presidential election.

Second. Repeal the 22d amendment to

the Constitution that limits Presidents to two full terms, thereby providing accountability to a President in his second term, should he wish to run again. I realize that is not a popular proposal these days. The two-term limitation now serves as a shield to a President in his second term.

Third. Amend article II, section 4 of the Constitution, the impeachment clause, to include malpractice as an additional basis for impeachment—a basis advocated at the Constitutional Convention by Alexander Hamilton. The fourth edition of Black's Law Dictionary defines "malpractice" as "any professional misconduct, unreasonable lack of skill or fidelity in professional or fiduciary duties, evil practice, or evil or immoral conduct."

Fourth. Provide for radio and television coverage of the full sessions of the Senate and the House. The recent television coverage of the House Judiciary Committee proceedings indicates that the Congress performs best when it is watched most.

Fifth. Establish in both Senate and House a technique, as outlined in Senate Resolution 123, which members of the executive branch could be questioned. This would be similar to the question period in the British House of Commons but with more opportunity for meaningful questioning.

Sixth. Provide greater monitoring by Congress, of the CIA, with its estimated 17,000 employees and $750 million annual budget. The CIA has been touched by Watergate in a way not yet clear to the Congress and to the American people.

Seventh. Require still stricter accounting of campaign-financing contributions and expenditures, including: (*a*) requiring corporations to file annually their campaign contributions with the Securities and Exchange Commission, which, in turn, must share this information with any Federal elections supervisory agency; (*b*) requiring each individual to file with a campaign contribution his or her social security number; and (*c*) requiring each taxpayer to list on IRS form 1040/1040A his or her campaign contributions by amount and to whom.

Eighth. Enable nonincumbent candidates, as well as incumbent candidates, to enjoy franking privileges for a 90-day period prior to a primary, run-off, special or general election.

Ninth. Review congressional committee system, as has been done in the House, with a view to studying such alterations as requiring that bills, defeated within legislative committees be reported to the full Senate for consideration, and combining, as once was the situation, both authorizing and appropriating functions within each legislative committee not by name but simply by number and assigning in rotations bills as introduced to these numbered standing committees.

There are many other fruitful proposals that have been put forward by others more experienced than I. All of these are worthy of consideration.

Let us make this anniversary of the Continental Congress an embarkation point toward that goal once stated by Abraham Lincoln:

> It is as much the duty of government to render prompt justice against itself, in favor of citizens, as it is to administer the same among individuals.

Mr. President, I ask unanimous consent to have printed at this point in the record the following articles: an article by Emerson Wilson in the Wilmington, Del., Morning News; an article in the Wilmington Evening Journal about a reenactment of the First Continental Congress taking place today and tomorrow in Philadelphia; a poem by Edward Doyle commemorating Caesar Rodney, whose hard ride from Delaware to Philadelphia enabled the Declaration of Independence to be approved; a well-written article by Bill Frank in the Wilmington, Del., Morning News; a brief history of early Delaware, issued by the Division of Historical and Cultural Affairs of the State of Delaware; and a feature article about the First Continental Congress meeting, issued by the U.S. Interior Department.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Wilmington (Del.) Morning News, July 16, 1974]

Looking Back 200 Years

(By William P. Frank)

Oct. 21, 1776, was the first general election day in Delaware after the new state constitution was adopted—and it was a day of brawling, anarchy and violence in the town of Lewes, county seat of Sussex.

Patriots who favored the Declaration of Independence and freedom from England were afraid to walk the streets of the seacoast town.

Tories, whose feelings ranged from lukewarm toward independence to outright loyalty for the crown of England, controlled Lewes that day. Fortified with plenty of rum, the Tories roamed through the town, acting out their anti-independence attitudes upon the few known patriots who were brave or foolhardy enough to show themselves in public places.

The chief target of the Tories anger was Henry Fisher, a leader among the Delaware River and Bay pilots, and a prominent patriot.

The Continental Congress and the Pennsylvania Safety Council in Philadelphia depended upon Fisher as a source of information of what was happening in the Delaware Bay, off the coast of Sussex County.

In the parlance of today, he would be known as the leader of the underground intelligence corps, gathering news about invading British and pirates and sending warnings to Philadelphia, either by overland riders or ships.

The story here is about the day he was almost lynched but survived the turbulent day of Oct. 21, 1776.

About 10 days before, Fisher realized Lewes was going to be taken over by a rough crowd of Tories converging upon the town—drunkards, rowdies, vandals and the troublemakers bent only on stirring up a fuss.

The taverns were crowded with them. The streets were jammed. Fiery anti-independence speeches were bellowed out at corners wherever people paused to listen.

Fisher kept his wife and several daughters safe in their home. He himself walked about only when it was necessary. He was careful not to be too prominent.

That he was not molested can be attributed chiefly to the fact that he was well known and respected by many. His father before him had been a prominent doctor in Sussex County—at times the only doctor in Sussex County.

On the eve of election day, the drinking increased and the temper of the crowd rose. Fisher had hoped he would get some support from the friends of the United States in the county. But only a few appeared in Lewes. Most patriots were worn out by arguments and bickerings. They thought the American cause was fruitless. Washington and his army had accomplished very little. There was also talk of great British invasions of the Delaware Valley. Reports were received daily of British men-of-war appearing off the Delaware Capes.

Fisher felt sadly alone. Although his faith in the destiny of the United States never wavered, he was gloomy about the prospects. He knew only too well what would happen at least to him, if not his family, if the American cause collapsed. If only a couple of companies of Continental troops or even Delaware Militia under Caesar Rodney would appear.

The recently adopted state constitution of August, 1776, forbade the presence of armed troops near polling places on election day. Fisher knew he was by himself and was determined to face it, by himself.

On the morning of Oct. 21, 1776, he gathered his family at breakfast to discuss what they were to do in the event something fatal happened before the day ended.

"Henry, they wouldn't dare harm you," his wife said.

"Perhaps not, but then—many of the men out there know I've been sending messages to the Congress, to Caesar Rodney, and the Pennsylvania Safety Council."

"But harm you? They wouldn't dare."

"They will, if they get drunk enough."

A servant slipped it through the rear of the house.

"Mr. Fisher," he said breathlessly, "Must be about 500 or 600 men down the street. Very ugly and not sober."

Fisher replied,

"All right now, John. You leave. I don't want you hurt."

He also directed his wife and daughters to the upper rooms of the house.

With that, Fisher sat at his desk in the front room and waited. It wasn't long before the crowd was milling around outside his house. A rock came hurtling through the window. Fisher ducked to avoid it and the flying glass.

Still he did nothing but wait.

He heard his name called out, not by one but by scores.

"Fisher! Henry Fisher, you patriot rat, come out!"

No effort was made by the crowd to break in the door. Maybe it wasn't done to the home of a well-established resident of Lewes. Or maybe crowds just didn't break into the homes of Delaware River and Bay pilots.

As the caterwauling continued, Fisher decided he would have to face the mob. Removing a pistol from his belt, he cooly walked out to the edge of the crowd. Some men backed away. He stood there, staring at the leaders and asked,

"Here I am. What do you want?"

A drunken plug-ugly staggered up to him. He motioned for the crowd to be silent. He said,

"Henry Fisher, we despise you and the Continental bastards in Philadelphia."

"You are free to have your opinions."

"Well, we are free to do a lot of things. We can burn your house down, Fisher, if we had a mind to."

"You have the crowd with you. I couldn't stop you anyway."

"You're damned right you couldn't stop us. Neither you nor your scum soldiers."

"I see a lot of scum in front of me."

"Henry Fisher, this is not the time for insolence."

"Well, what is it you want? My life? My home? My family? I am not armed, as you can see. I come to you in peace. What is it you want?"

Some of the mob growled at the bully to let Fisher alone and said, "Let's get on our way."

"No—not yet!" the bully replied. "Fisher, we want an axe. Your axe."

"Why"?

"We're going to chop down your Liberty Pole—that damned stinking Liberty Pole up the street. We hate it. We hate the Declaration of Independence, or whatever you call that lousy piece of paper. We want an axe."

"Why ask me?" Fisher replied. "It appears to me the likes of you could get an axe anywhere."

"No, we want your axe, Mister Fisher. Your axe for the Liberty Pole."

Fisher paused and as he paused the crowd grew silent. He spoke out clearly so all could hear:

"If you prize my axe for chopping down the Liberty Pole, then I must refuse you. You have the crowd here, strong enough to push me and force yourselves into my home and get an axe—but by God, I'll not give you an axe. I'm ready to die that way—and you'll remember it, all of you—from all parts of Sussex, the day you killed a Sussex Countian because he dared to stand up against a drunken mob."

Cheers mingled with cries of anger. Cheers came from men who admired courage. Anger from men who were impatient.

The bully rushed forward and grabbed Fisher by the throat.

"Damn you, Fisher!" he yelled. "You impertinent rebel. You traitor to the king! We'll roast you alive."

He began to drag Fisher into the street.

The cries of Mrs. Fisher and her daughters who had watched from the upper rooms mingled with the sounds of the melee.

For a while, it was touch-and-go as to whether Fisher would be beaten to death, maimed or released. The mobsters fought among themselves and finally, Fisher was pulled away safely by a handful of cooler men.

They formed a cordon around him and edged him back to his house and pushed him in.

Fisher bolted the door and leaned against it to catch his breath. His wife and daughters dashed down from the upper floors to help him to his chair.

Once more a rock came in this time through a window in the dining room, but it was a kind of farewell warning.

Fisher did not go out on the streets that day; nor the next day but he learned what happened. The mob did get not one but several axes. The Liberty Pole came down amid cheers for King George and General William Howe, commander of the British troops in America.

The hilarious mob toted the pole triumphantly through the streets of Lewes and later cut it into pieces and sold them for 13 pence—"hangman's wages," they called the price.

As for the election of Sussex County representatives to the Delaware Assembly that day, fierce men, armed with clubs, stood at the door of the Lewes court house. Any man who showed up to vote was asked, "For the King? Or that rascal, Washington and that traitor, John Hancock?"

Only Tories were allowed to vote. Anyone who dared to say he was for Washington was clubbed and shoved out into the street to be beaten by other Tories.

And so ended the first general election day in Sussex County of the newly formed Delaware State. Sussex Countians sent nine men to the Council or the State Senate; seven to the State House of Assembly—and despite the riotous events of Oct. 21, 1776, Delaware continued with her sister colonies in the ranks for liberty and national independence.

Henry Fisher was never again molested. He continued serving his country and state, sending messages to Philadelphia and keeping George Washington informed of British activities off the Delaware Capes. He lived to see the 13 colonies welded into a unified nation.

[From the Wilmington (Del.) Morning News, Aug. 23, 1974]

Summer of 1774

(By Emerson Wilson)

The summer of 1774 had been a busy one in Three Lower Counties on the Delaware as speakers went from town to town to urge opposition to the oppressive rule of the English Parliament.

Gov. John Penn would not call a special session of the General Assembly, so Speaker of the House Caesar Rodney called a special convention of the members to be held in New Castle on Aug. 1. This convention heard resolutions adopted at meetings in all three counties, appointed committees to study what should be done next and then adjourned to meet again in New Castle on Aug. 22.

This convention appointed Caesar Rodney, George Read and Thomas McKean as "deputies" to represent the three counties at the "General Continental Congress" to be held in Philadelphia in September or in whatever city or time that the other colonies agreed on.

The convention also adopted nine resolutions explaining what its members thought should be done and what they were actually protesting against. But they ended the list with the proviso that "it is not our meaning that by these instructions our said deputies should be restrained from agreeing to any measures that shall be approved by the Congress."

The first provision was that the members of the colony continued to pledge true allegiance to King George "and the Protestant succession as established by the illustrious House of Hanover," and "that it is our most earnest desire that the connection which subsists between Great Britain and her colonies, whereby they are made one people, may continue to the latest period of time."

Having got that out of the way, the convention went on to resolve that the people of the colony had the same rights as anyone born in England and were to be taxed by their own consent only.

The third resolution stressed that the only lawful representatives of the people of the colonies were the members they elected to their own General Assemblies and that only they had the right to pass laws governing taxation and the internal police.

They also held that all trials for treason or any other felony had to be held in the place where such crimes were alleged to have occurred and that the juries had to be drawn from that vicinity. This was in protest against the announced British policy of taking persons accused of treason to London for trial.

All acts of Parliament restraining American manufactures and imposing taxes on the colonies were declared unconstitutional and destructive of British liberty. Another resolution held that all of the penalties placed upon the city of Boston following the Boston Tea Party were "oppressive in their operation and subversive of every idea of justice and freedom."

Still another announced that it was the indispensable duty of all the colonies to aid Massachusetts and to see that its constitutional rights were re-established.

The convention also declared its "fixed, determined, and unalterable resolution" to maintain, defend and preserve their rights and liberties and to transmit them "entire and inviolate to our posterity" and to adopt and execute all peaceable and constitutional measures adopted by the Congress.

British advocates of the cause of the colonies were thanked for their efforts, although unsuccessful, to see that the rights and liberties of the colonies should be maintained.

The convention told the deputies to join with those from the other colonies in preparing petitions to the king and to both houses of Parliament asking for a redress of grievances. The deputies were directed to agree to no importation of British goods and no exportation of colonial goods to Great Britain until relief should be obtained.

These resolutions were as strong as any adopted by any colony and indicated that the Three Lower Counties were ready to take as effective measures as possible to get what they wanted. The convention even went so far as to tell the deputies that if some other colony had a more radical idea, and Congress favored it, they could go along, resting assured that the people of this colony would support them in such action.

Heretofore, these people had been considered mostly as residents of Pennsylvania, thus John Dickinson wrote his "Letters of a Pennsylvania Farmer" although his farm was in Kent County. Now there was some discussion of how they should be called in the new Congress but no action was taken. When the Congress met the colony was referred to as "The Three Lower Counties," "The Three Lower Counties on the Delaware" and as the "Delaware Counties." The official name of "The Delaware State" was not adopted until September 1776. It is interesting to note that the British Parliament referred to them formally as "The Counties of New Castle, Kent and Sussex on Delaware."

[From the Wilmington (Del.) Evening] Journal, Aug. 23, 1974]

To Relive 1774 Congress

Two former U.S. Senators and a former governor of Delaware were named today by Gov. Sherman W. Tribbitt as deputies to the reconstructed First Continental Congress in Philadelphia.

The re-enactment of the First Continental Congress will take place September 5 and 6 as part of the prelude to the national bicentennial of the Declaration of Independence.

The Delaware deputies are former U.S. Sen. J. Caleb Boggs, Republican; former U.S. Sen. J. Allen Frear Jr., Democrat, and former Gov. Elbert N. Carvel, Democrat. Boggs is also a former Delaware governor and a former U.S. Representative from Delaware.

The First Continental Congress which met in Carpenters' Hall, Philadelphia, in September of 1774 paved the way for the independence of the American colonies in 1776.

The original deputies from Delaware to the First and Second Continental Congresses were Caesar Rodney of Kent County, George Read and Thomas McKean of New Castle County.

Tribbitt will join with his appointees at the reenactment of the First Continental Congress in Philadelphia along with governors and "deputies" from 11 other States.

The announcement of Tribbitt's appointments was made today from the steps of the Old Courthouse in New Castle. It was in this building, once the State's capital, that the Delaware Assembly in August of 1774 decided to join other colonies in protests against English policies toward America.

A Brief Survey of Delaware History

On August 28, 1609, Henry Hudson, an Englishman in the employ of the Dutch East India Company, sailed to the mouth of Delaware Bay, which he feared to explore because of the shoals. On the basis of Hudson's voyage, the Dutch claimed the Delaware and named it the South River. The following summer, Captain Samuel Argall of Virginia cruised into the bay, which he named "Delaware" in honor of his patron Thomas West, Lord DeLaWarr; he named the cape James (now Cape Henlopen) for his king, James I.

The English failed at first to exploit their discovery, but the Dutch continued to explore the bay and river. In 1621, they formed the Dutch West India Company, which built fortified trading colonies at New Amsterdam on Manhattan Island and at Fort Naussau on the Delaware near the present site of Gloucester, New Jersey. In 1630, the first grant for land within the present boundaries of Delaware was issued by the Dutch governor, Peter Minuit, to a company of patroons who would control the land between Cape Henlopen and Bombay Hook. This company hired Captain David Pietersen de Vries of Hoorn, to establish a whaling colony at Zwaanendael, the present site of Lewes. DeVries sent a party in the ship WALVIS, under the command of Peter Heyes, to establish the station in the spring of 1631. The colonists brought tools and building materials, with which to build their permanent storehouse and dwelling. They were massacred by Indians almost immediately, apparently because Giles Hosset, the patroons' agent, had provoked a petty dispute with the local chief.

When DeVries arrived the next year, he tried to make friends with the Indians, but he was never able to reestablish the Zaanendael station. The site would not be permanently resettled until Plockhoy's Mennonite colony of 1661.

NEW SWEDEN

A Swedish colony, promoted by a dissident Dutch merchant, William Usselinx, was established at Fort Christina, near the present site of Wilmington, in the spring of 1638. Peter Minuit, former Dutch administrator at New Amsterdam, was appointed the colony's first governor. The Swedish government eventually bought the Dutch shares in the company, but several Dutchmen remained in the employ of New Sweden. Within a few years, the colony on the Christina had an air of permanence, with a fort, a church, and families to till the land. In 1643, the first native Swedish governor, Johan Printz, arrived on the Delaware to establish a capital at Tinicum Island and a fortified settlement at Upland, both of which are now in Pennsylvania.

The Dutch, in the meantime, were augmenting their position in the New World. In 1651, the aggressive New Amsterdam commander, Peter Stuyvesant, built Fort Casimir and garrisoned it with soldiers and settlers from Fort Nassau. This new fort on the site of New Castle, only six miles from Fort Christina, was an open challenge to the Swedes. Printz went to Sweden to find means of removing the Dutch, and Johan Rising went out to govern New Sweden. As soon as he arrived Rising captured Fort Casimir by a mere show of strength, and renamed it Fort Trinity.

The following year, Stuyvesant conquered the entire Swedish colony by another virtually bloodless maneuver. Rising and a few of his associates were sent home, but the Swedish settlers and clergy remained.

NEW NETHERLAND ON THE DELAWARE

Stuyvesant delegated his authority on the South River to a Frenchman, Jean Paul Jacquet, who had the rank of vice-director in the West India Company. In 1656, the company sold the territory between Bombay Hook and the Christina River to the City of Amsterdam, which appointed Jacob Alrichs to be its director. The City began to develop a village, New Amstel, around Fort Casimir, to drain the marshes, and to settle some of the rich land along the river. The West India Company moved its capital to Fort Altena, as Fort Christina had been renamed.

William Beeckman replaced Jacquet as vice-director for the company in 1658, and Alexander D'Hinojossa became commander of the territories owned by the City of Amsterdam when Alrich died in 1659. Hinojossa was a military man, who believed in covering his flanks; he planned to build a new capital at Appoquinimink, with a stone fort near the center of the City's holdings. At Zwaanendael, the West India Company established a fort and trading station commanded by Peter Alrich, nephew of the late vice-director.

Hinojossa and Beeckman constantly argued over their respective prerogatives, but in 1663 the City of Amsterdam settled the dispute by buying all the Delaware colony from the West India Company. Beeckman left the river, rather than serve under Hinojossa.

THE DUKE OF YORK PERIOD

In 1664, Sir Robert Carr sailed into the Delaware Bay to take possession of the Dutch settlement in the name of James, Duke of York and Albany, the brother of Charles II. Except for Hinojossa and a few other high-ranking Dutch officials, the Dutch, Swedish and Finnish settlers decided to remain peacefully under English rule. Peter Alrich pledged his allegiance to the Duke, and was allowed to retain command at Zwaanendael, now known as Whorekill. Hinojossa lived out the rest of his days as a small farmer in Maryland. A serious rebellion, led by Marcus Jacobsen, the "Long Finn," was put down in 1669, but for the most part the several ethnic groups on the Delaware lived together peacefully.

Richard Nicholls, the Duke's first governor, and his successor, Francis Lovelace, continued most of the Dutch institutions. For example, they governed the colony from Manhattan through a deputy on the Delaware.

Since English and Dutch local government systems differed only in detail, the transition from the one to the other was relatively easy. Within months after the English conquest, Dutch and English officials were serving together under their new titles; the schout became the sheriff, and the schepens became justices of the peace. The old court jurisdictions of Whorekill, New Castle and Upland eventually became known as counties.

The Dutch navy briefly reestablished the New Netherlands colony in 1673. They appointed Peter Alrich vice-director for the South River. The British reoccupied the colony the next year.

Under Governor Edmund Andros, the colony became a functioning commonwealth, and no longer a mere frontier garrison. Alrich was removed, but later regained favor and again held public office under the Duke. The courts on the Delaware granted land, adjudicated minor disputes, and governed the colony with little interference.

In 1680, Andros established a new court on the St. Jones, to have jurisdiction over the territory between Duck Creek and Cedar Creek. At the same time he changed the name of Whorekill to the more euphonious Deal. By the end of the Duke of York period, the governmental structure of the future Delaware colony had begun to take shape.

A CURIOUS EXPERIMENT

The Duke of York and his brother the king sought to reward the heirs of an old Stuart retainer, Admiral Penn, by granting a large tract in the New World to his son, William. The king may have seen the Pennsylvania grant as an easy way to pay his debts and to rid England of the increasingly troublesome Society of Friends. Whatever his motive, the king gave William Penn a grant for a large colony above the fortieth parallel on the upper Delaware, to be called Pennsylvania, also the Duke's private colony including New Castle and the land within a twelve-mile radius, and the former Dutch territory on the west bank of the bay. The King's Pennsylvania charter was dated March 1681, but the Duke's personal conveyances were not executed until August 1682, just before Penn set sail for America.

Two months later, Penn arrived at New Castle, where he took possession of the area within the twelve-mile circle from the Duke's attorneys; in a later ceremony, at Captain Cantwell's house beyond the Appoquinimink, Penn's representatives took possession of the lower Delaware territory.

In December, Penn convened a legislative assembly at Upland with jurisdiction over both Pennsylvania and the lower territories on the Delaware. The second assembly, the following year, contained an equal number of delegates from Pennsylvania and from the lower counties, which Penn had renamed Kent, Sussex, and New Castle. Although the proprietor had promised that the two parts of the colony would be treated equally, it soon became apparent that the Quakers in Pennsylvania intended to control the government. When pirates began to harass the lower counties, the pacifist Pennsylvania Quakers refused to bear arms or authorize a military expedition. The rift between the two parts of the colony widened as Pennsylvania became more populous than the lower counties. Finally, in 1704, the three lower counties on the Delaware established their own separate assembly at New Castle. For the rest of the Colonial period, the lower counties on the Delaware continued as a separate government, with its seat at New Castle and its head in Philadelphia. The Delaware governor's appointment was subject to royal approval, but the proprietor could appoint the Pennsylvania governor without the King's concurrence. The Penns thriftily chose to appoint a single governor for both colonies who would be acceptable to the Crown.

Although the Pennsylvania and Delaware governments were legally and culturally separate, they were bound together by a variety of circumstances. Both Pennsylvania and the three lower counties paid their annual feudal quitrent dues to the Penn agents in Philadelphia. If a settler wanted to enter a claim for vacant land, he was obliged to apply at the Land Office there. All the colonial officers except the legislators were named by the proprietor or his deputies.

Philadelphia businessmen, by virtue of their ready cash and their nearness to the land office, controlled considerable tracts in lower Delaware, which permitted them to dominate the colony's economy. A young man seeking his fortune would go to Philadelphia to serve his apprenticeship in both politics and his profession.

THE BOUNDARY QUESTION

Disputes with the Maryland proprietors over the south and west boundaries of the three lower counties retarded the development of that region for a century. The Calverts originally claimed the entire peninsula north of Virginia, but finally conceded that the Penns had actual possession, if not legal title, on the Delaware coastline. South of Lewes and west of tidewater, the Penns and the Calverts asserted rival claims to the land. The Penns claimed that the Zwaanendael settlement, established a year before the Calvert charter was issued in 1632, was the basis for a valid claim, since the Maryland charter gave the Calverts only land "hitherto unsettled" by Europeans. From 1684 until 1769, the dispute between the Penns and the Calverts was argued in the English courts and political circles. In 1685, the Board of Trade ordered the disputing parties to divide the peninsula into two equal parts, from Cape Henlopen northward to the fortieth degree of latitude. In 1732, the two parties agreed to draw a line westward from Cape Henlopen to the Chesapeake, and to accept the center of this line as the middle point, from which a dividing line would be run northward to the twelve-mile circle around New Castle.

Unfortunately for the Calverts, the map

attached to the agreement identified Fenwick Island as Cape Henlopen. The mistake was discovered too late, and in 1750 the Chancellor ordered the line to be drawn westward from Fenwick Island. After an argument over the location of the line's western end, the two parties finally fixed the middle point at the present southwest corner of Delaware. The southern boundary of Pennsylvania, the western boundary of the lower counties, and the twelve-mile circle, were finally surveyed by two noted English astronomers, Charles Mason and Jeremiah Dixon, who arrived on the Delaware in 1763. Mason and Dixon accepted the transpeninsular line, but they established the other boundaries through four years of astronomical observations and field surveys. When the completed boundary survey was presented to the proprietors' commissioners on January 29, 1768, it contained the most sophisticated mathematical work ever accomplished in North America. Mason and Dixon had set a boundary stone every mile from the transpeninsular line to sidelong Hill in western Maryland; the mile stones were marked with a simple M (for Maryland) and P (for Pennsylvania), but the crownstones every five miles were elaborately carved with the Penn and Calvert arms facing their respective colonies.

Confirmation of the Mason and Dixon survery by the King in Council in 1769 meant that many Delawareans could finally secure clear titles to their land. A considerable amount of the disputed land in western Delaware had been granted by both the Penns and the Calverts; although the older grant usually was honored, the defense of such a disputed title could be so expensive as to render the land worthless. In order to protect their titles, landowners as far east as Lewes had been forced to enter their claims with both proprietors, and to pay a registration fee at both land offices.

DELAWARE IN THE REVOLUTION

The events of 1776 meant a break not only with Britain, but with Pennsylvania. It is interesting to note that the lower counties were adamant in asserting their independence from Pennsylvania, they were not necessarily unanimous for independence from Britain. Ardent revolutionaries gathered around Dr. John McKinly and his Council of Safety to plan overt acts of rebellion. Stimulated by the published arguments of John Dickinson and the persuasive oratory of such men as Caesar Rodney and Thomas McKean, a large percentage of the Delaware populace embraced the Continental cause, but the Tory faction included some of the more influential families.

At the Congress in Philadelphia, the two Delaware representatives were divided on the resolution for independence; the third delegate, Caesar Rodney, was at home when he learned that the resolution was about to come to a vote. Upon hearing that his two colleagues could not agree, he made his famous ride to Independence Hall, arriving July 2, 1776, in time to break the deadlock and to put the state on record for separation from England.

Although several professed Loyalists were elected to the first state constitutional convention in September 1776, they accepted the fact, if not the sentiment, of independence and proceeded to cooperate in framing a constitution for "The Delaware State", of which Dr. McKinly became the first President.

In spite of her small size and her large Tory minority, Delaware provided a surprising number of soldiers. A tenth of the state's population bore arms on the Continental side, but Delaware's most important role in the Revolution was logistic, as a supplier of provisions for Washington's army. Because the state was rich in grain and removed from the theater of war, it was able to maintain a steady flow of food to the troops throughout the war. The British maintained a particularly tight blockade of the Delaware River, in spite of almost constant harassment from the small boats of the Continental navy and from the small garrison at Lewes.

Few land actions occurred in Delaware, except during the Brandywine campaign, when select troops from Washington's army fought a heroic holding action at Cooch's Bridge.

In 1777, the capture of Dr. McKinly and the State archives caused a dislocation of the state government, even though the British eventually surrendered Dr. McKinly and most of the papers. The last President of Delaware under the constitution of 1776 was Joshua Clayton, who presided over the transition to a strong executive form of government provided by the state constitution of 1792. Chief executive under this new constitution was the popularly-elected Governor, who was invested with broad appointive powers. This 1792 constitution prescribed the basic structure of Delaware government that has remained to the present day. A bicameral General Assembly, separate chancery and law courts, an appointive judiciary, and elected county officers, are all features that were included in the 1792 constitution.

Delaware's alacrity in ratifying the Federal constitution on December 7, 1787, earned her the title of "First State," and precedence among the states on ceremonial occasions. Delaware was also to take a leading role in the development of American industry, transportation and education during the early years of the nineteenth century, but politically the state remained conservative, clinging to the Federalist party until long after it had dwindled to a mere shadow elsewhere. When the Jeffersonians embargoed international trade, Delaware industrialists tried to turn the embargo and subsequent war with Britain to an economic advantage. Although Delaware was spared the agony of being a battlefield during the War of 1812, her coast was the scene of several naval engagements.

After a postwar slump occasioned by the reintroduction of overseas goods, the state continued on a course of economic and industrial progress. An agricultural boom, resulting from the introduction of budded fruit trees and scientific fertilization, was further stimulated by new processes for preserving food, and by the economic advantage of convenient railroad transportation.

As a border state with a large Quaker minority, Delaware was split by the slavery controversy; abolitionists established active slave-smuggling networks to carry Negroes to the north, while slave dealers, including the infamous Patty Cannon, carried northern free Negroes southward into bondage along the same routes. As the inevitable conflict of 1861 approached, President Lincoln proposed to experiment with compensated emancipation in Delaware, but his idea was rejected. With sons on both sides, Delawareans felt the full brutality of the war, even though the military engagements occurred elsewhere. After the war, Delaware followed the south into a period of political and social conservatism that would last a century. From 1863 until 1895, a series of conservative administrations prevented Delaware from formally ratifying the thirteenth, fourteenth, and fifteenth amendments to the Federal Constitution. The divided Republican party reorganized during the early years of the present century, and for thirty years dominated state politics. The past three decades have enjoyed a well-balanced two-party system.

The 1792 frame of government, revised in 1831 and 1897, was radically altered by acts and amendments passed by the General Assembly between 1970 and 1973. Reapportionment, followed by a government reorganization enacted by the 1970 session, a new criminal code implemented in 1973, and a series of constitutional amendments, represent the most radical changes in Delaware's governmental structure since the convention of 1792.

MEETING PLACE OF THE CONTINENTAL CONGRESS, SEPTEMBER 5 TO OCTOBER 26, 1774

The First Continental Congress met in Carpenter's Hall during the autumn of 1774 to decide how the colonies should meet the British threats to their freedom. This Congress united the colonies from Massachusetts to the Carolinas behind a policy of resistance to oppressive imperial policies; it defined colonial rights and denied the power of Parliament to limit them; it gave voice to Colonial grievances and pledged the colonies not to trade with Britain until these grievances were redressed; it vowed support for the beleaguered people of Boston; and it resolved that a Second Continental Congress should meet if colonial appeals for justice went unanswered.

THE CARPENTERS' COMPANY AND ITS HALL

Edmund Woolley, who built Independence Hall, Samuel Rhoads, who built the Pennsylvania Hospital and Benjamin Franklin's house, and David Evans, who built Old City Hall, were all members of the Carpenters Company of Philadelphia. These master craftsmen worked not only with hammer and saw but were also architects and builders. From the date of the company's organization in 1724, its members were responsible for much of the design and construction of what grew to be the largest and best built city of the American colonies.

Patterned after the guilds of England, the Carpenters' Company was founded "for the purpose of obtaining instruction in the science of architecture and assisting such of their members as should by accident be in need of support, or the widows and minor children of members." It is today the oldest builder's organization in the United States.

As the 18th century advanced and Philadelphia rode the crest of America's first building boom, the Carpenters' Company prospered. In 1763 the membership appointed a committee "to fix upon a Propper Lott of Ground to Build a Hall" where the company could meet and transact its business.

In 1770 they began to build a meeting hall on a long, narrow lot south of Chestnut Street between Third and Fourth Streets. Robert Smith provided the plans while other members supplied the labor and materials. By 1774 the structure was finished.

The new building was designed in the shape of a cross, giving the unusual effect of a facade on all four sides. Trim and well-proportioned, the two-story structure stood back from the street at the end of a narrow court. Finely wrought appointments and a pleasing cupola made what was unpretentious in mass excellent in quality. An entry divided the first floor into two rooms, and on the second floor were three rooms and a hallway.

THE FIRST CONTINENTAL CONGRESS AT CARPENTERS' HALL

Larger and more impressive public buildings were to be raised in the years ahead, yet Carpenters' Hall would be remembered long after their disappearance. As the Columbian Magazine observed in 1790:

"This edifice, though more humble in its architecture and less conspicuous in its situation, than some of the others, is, nevertheless, rendered famous, by being the place in which that august body,—the first general Congress of America, assembled and held their councils."

The decade between the appointment of the committee to build a hall and the completion of the building was marked by what John Adams called "a radical change in the principles, opinions, sentiments, and affections of the people."

This change had brought the colonies and the mother country close to a parting of the ways. Inflammatory acts of Parliament now met with riotous resistance. An open break loomed.

On June 17, 1774, Massachusetts proposed a general Congress "to consult upon the present state of the Colonies and the miseries to which they are and must be reduced by the operation of certain acts of Parliament respecting America, and to deliberate and determine upon wise and proper measures, to be by them recommended to all the Colonies, for the recovery and establishment of the just rights & liberties, civil and religious, and the restoration of union & harmony between Great Britain and the Colonies, most ardently desired by all good men."

That state suggested the Congress meet at Philadelphia on September 1 and appointed five delegates, the second group to be so named. Soon all of the colonies except Georgia followed suit.

By September 4 most of the delegates were in town. It became clear that they were of two minds. Some, led by Samuel Adams of Massachusetts, were determined to resist Britain by any means short of war. Others, led by Speaker of the Pennsylvania Assembly Joseph Galloway, wished to patch up the quarrel. In the maneuvering that marked the preliminary meeting of the delegates on September 5, the radical faction first asserted their strength. Would the delegates accept Speaker Galloway's invitation to meet in the Assembly Room of the State House? Or would they accept the city's offer to meet in Carpenters' Hall?

According to John Adams:

"At ten the delegates all met at the City Tavern, and walked to Carpenters' Hall, where they took a view of the [east] room, and of the chamber where is an excellent library; there is also a long entry where gentlemen may walk, and a convenient chamber opposite to the library. The general cry was that this is a good room. . . ."

So the radicals won out.

A disappointed Galloway wrote the same evening:

"The Congress this Day met at Carpenters' Hall, notwithstanding the Offer of the Assembly Room a much more Proper Place."

"GENTLEMEN FROM THE SEVERAL COLONIES"

The delegates were men of exceptional ability and long experience. All had served their colonies in responsible positions, many as legislators or judges.

Samuel Adams, the organizer, and Patrick Henry, the voice of the resistance against Great Britain, were the best known delegates.

Two others had won respect both in England and in the colonies for their political writings—Richard Bland with *An Inquiry into the Rights of the British Colonies*, and John Dickinson with his *Letters of a Farmer in Pennsylvania*. Rhode Island's Stephen Hopkins was a veteran of the Albany Congress of 1754, where the idea of Colonial union was first broached. Nine other delegates had attended the Stamp Act Congress of 1765, which declared that taxation without representation was a violation of colonial rights. And among the delegates not yet widely known outside their own colonies were John Adams, John Jay, Roger Sherman, and George Washington.

For President the members chose portly, aristocratic Peyton Randolph, Speaker of the Virginia House of Burgesses and acknowledged leader of the Virginia delegation. As Secretary they chose Charles Thomson whose leadership of the local Sons of Liberty had earned him recognition as "the Sam Adams of Philadelphia."

Next, the "gentlemen from the several Colonies" produced their credentials, which the Congress read and approved. Following the adoption of rules, Congress appointed the two important committees: One to "State the rights of the Colonies in general, the several instances in which these rights are violated or infringed, and the means most proper to be pursued for obtaining a restoration of them"; the other to "examine and report the several Statutes, which affect the trade and Manufactures of the colonies."

For the next 2 weeks, these committees deliberated, Congress assembling only to admit new delegates.

Then came a flurry of activity when Congress pledged assistance to Boston's embattled people, who suffered under the punitive measures known as the Intolerable Acts.

Finally, on September 24, the delegates moved to consider the reports of the two committees.

RESISTANCE OR RECONCILIATION?

This was the signal for members of more moderate temper to make a last effort at reconciliation. Joseph Galloway introduced his Plan of Union providing for an American legislature that would have an equal voice with Parliament in colonial affairs. This plan, unacceptable to the radicals, was defeated.

Having voted down the attempt at reconciliation, Congress now conferred on means of asserting American rights and forcing recognition of them.

From their debates came the Declaration of Rights and Grievances, affirming those fundamental rights which have become the cornerstone of American political faith:

"Life, liberty, & poverty . . . a right in the people to participate in their legislative council . . . the great and inestimable privilege of being tried by their peers . . . a right peaceably to assemble, consider of their grievances, and petition. . . ."

These expressions would recur again and again in the great charters of the Nation.

To force recognition of these rights, the Congress unanimously adopted "The Association," which pledged the colonies not to import from, export to, or consume goods made in Great Britain. The Association was much more than an economic weapon; it was, as the modern authority on the work of the Continental Congress, Edmund C. Burnett, has stated, "an important step toward the creation of an organic union among the colonies. . . ."

Even as the Declaration and the Association were being debated, the ablest penmen of the Congress—Patrick Henry, John Dickinson, John Jay, John Adams, Richard Henry Lee—were at work drafting memorials to justify acts taken by the colonies.

These appeared as a series of notable state papers: An address to the people of Great Britain, a memorial to the inhabitants of the British colonies, a letter to the inhabitants of Quebec, and the Address to the King.

As the First Continental Congress neared its end, the thoughts of its members turned to the future. On October 22 they resolved "that another Congress should be held the tenth day of May next, unless the redress of grievances, which we have desired, be obtained before that time."

The decision to resist having been made, the Congress dissolved itself on Oct. 26, 1774. By its work, the middle ground of compromise had been swept away; now the colonies must submit or triumph.

CARPENTERS' HALL IN THE REVOLUTION

With war in progress, Carpenters' Hall became a center of military activity. The Americans established a hospital on the lower floor and stored arms and equipment in the basement. The British also used the hall as a hospital following their occupation of Philadelphia in 1777. By June of the next year the Continental Army was again in possession of the city, and Col. Benjamin Flowers, commissary general of military stores, took over the lower floor and cellar. A brass-founder's and file-cutter's shop was set up on the grounds around the building.

The commissary general remained in the building through the 1780's. When the Rev. Manasseh Cutler visited Carpenters' Hall in 1787, he found the room where the Congress had met full of:

"Trophies of War . . . pieces of Cannon, small-arms, side-arms of officers and men, Colors, standards, tents, military chests, and all the various accouterments of officers and men; and many complete uniforms of different regiments, from field officers down to privates collected principally from the two captured armies of Burgoyne and Cornwallis. There are also in this collection several trophies captured by partisans of the American Army, in bold and desperate attempts, displayed in honor to those Heroes who obtained them."

CARPENTERS' HALL IN THE FEDERAL PERIOD

In 1790 the Secretary of War, Henry Knox, rented the ground floor. From this office, Knox, five clerks, and a doorkeeper conducted the affairs of the Nation's military services and supervised relations with the Indians.

The next tenant, secured after the Carpenters' Company had erected New Hall and moved along with Secretary Knox to the new quarters, was the First Bank of the United States. Business was transacted on the first floor, at this time probably thrown open by removal of partitions. The directors of the wealthy and powerful institution met in a room on the second floor. Gold, silver, and banknotes were stored in cellar vaults.

Six years later, in 1797, the First Bank transferred operations to its magnificent new building across Whalebone Alley. Within a year the Bank of Pennsylvania had rented Carpenters' Hall. Its stay is best remembered for America's first great bank robbery, an inside job that netted its perpetrators the then astounding sum of $160,000 in coin and banknotes. The culprits were apprehended when one of them deposited large sums in the bank he had just robbed.

Many other organizations rented space in the hall. For 17 years before 1790, the Library Company with its large book collection and scientific apparatus maintained reading rooms on the second floor. During the 1780's the American Philosophical Society had shared this space. The Tailors' Company rented a room from time to time at 10 shillings a night, closet and firewood thrown in. The Philadelphia Society for Promoting Agriculture met there after 1785. At a meeting held on July 3, 1787, this influential body was honored by the presence of that pioneer scientific farmer, George Washington.

LATER HISTORY OF CARPENTERS' HALL

On the records of the Carpenters' Company are the names of these organizations which used Carpenters' Hall during the first half of the 19th century: United States Customs, Second Bank of the United States, Franklin Institute, Philadelphia College of Pharmacy, Fuel Saving Society, Society of the Education of Female Children, Musical Fund Society, The Hicksite Friends, Johnny Willets School, and The Apprentice's Library.

In October 1824 the Franklin Institute held the first exhibition of American manufactures in the hall. Among some 300 items displayed were these prize-winning entries: Blister steel and grass bonnets, japanned goods and broadcloths, camel's hair brushes, and a bass drum.

Finally, in 1828 C. J. Wolbert and Co. rented the building as an auction hall. Thus it was that in 1848 the historian Benson J. Lossing found Carpenters' Hall filled with every species of merchandise and the wall which once echoed the eloquent words of Henry, Lee and the Adamses, reverberating with the clatter of the auctioneer's voice and hammer.

Eight years after Lossing's visit, the Carpenters' Company decided to rescue the building and renovate it, "especial care to be taken to preserve, as much as possible, every feature in said Hall as it now exists indicative of its original finish." This early restoration was opened to the public on Sept. 5, 1857. In the century since then, it has been maintained as a historic landmark and kept open by the Carpenters' Company, which continues to meet here.

LIBERTY BELL

(By Edward Doyle)

Written in honor of Caesar Rodney, whose vote permitted passage of the Declaration of Independence, on the occasion of the Sesqui-Centennial Exposition at Philadelphia in 1926)

LIBERTY BELL

Liberty Bell without a tongue,
  Over the Hall of Congress swung.
True was its metal, and wrought well;
  Yet, as it swayed, no one could tell
Whether it ever, or soon, would sound.
  "Find Rodney,—quick!" the cry went round.

Far in the field, drear miles away,
  Rodney was arming for the fray.
Learning that he, and he alone,
  Could give that bell eternal tone,
How, through a cloud of wood and weed,
  He spurred and spurred his lightning steed!

Liberty Bell without a tongue,
  Over the Hall of Congress swung.
Rightward and left, it swung for hours.
  Whether the Dawn, or Midnight Powers,
That wrestled on high, would win the bell
  For silence, or sound, no one could tell.

Out of the cloud of wood and weed,
  Village and town, dropt Rodney's steed.
Into the Hall the rider sprang,
  Touched the bell, and, God! it rang!
Rang! Rang a grand sunrise of sound,
  Awaking Man the whole world round!

ORDER OF BUSINESS

The **PRESIDING OFFICER.** Under the previous order, the Senator from Missouri (Mr. EAGLETON) is recognized for not to exceed 15 minutes.

CONTINUED AID TO TURKEY VIOLATES LAW

Mr. **EAGLETON.** Mr. President, throughout our history Congress in fulfilling its constitutional responsibilities has sought to provide the Executive with maximum flexibility in the conduct of foreign affairs. It was, of course, the intention of the framers that the President be allowed to negotiate with foreign governments with as little statutory restriction as was deemed by Congress to be in the national interest. This scheme has served the United States well even in this era of foreign entanglements.

But one area where Congress felt that the national interest was best served by restrictive legislation—by keeping the Executive on a short leash—was the area of military assistance. Recognizing the inherent danger of providing arms to foreign governments by grants or sales, Congress passed legislation carefully circumscribing the use of those arms. And we carefully limited the President's discretion in continuing military assistance to a recipient nation when that nation is in violation of the applicable statutes.

For the past month the Government of Turkey has been in violation of the provisions of section 505 of the Foreign Assistance Act and chapter 1, section 4 of the Foreign Military Sales Act. Whether or not it suits the policy of the executive branch at this time, these laws state categorically that a violating nation "shall be immediately ineligible" for further assistance.

According to the Committee on Appropriations tables of transfers of U.S. resources to foreign nations, Turkey received an estimated $201,122,000 in fiscal year 1974, and received $80 million in military assistance.

It seems apparent that the law is either being ignored or openly abridged in order to accommodate an ill-perceived short-range gain—ill-perceived because we have gained nothing and lost much in our "tilt" toward Turkey.

Section 505, subsection (a)(1)(C) states in part:

> No defense articles shall be furnished to any country on a grant basis unless it shall have agreed that . . . it will not, without the consent of the President, use or permit the use of such articles for purposes other than those for which furnished . . .

Mr. President, Turkey did consent to that carefully drawn condition in a bilateral agreement with the United States signed in July 1947. Article IV of that agreement requires Turkey to obtain U.S. approval for the use of American arms for purposes other than those for which such assistance was furnished.

In a June 1964 letter to the Prime Minister of Turkey, President Johnson warned of the consequences of using American arms for an invasion of Cyprus. The President referred to the 1947 military aid agreement and said:

> I must tell you in all candor that the United States cannot agree to the use of any United States supplied military equipment for a Turkish intervention in Cyprus.

Later in his letter, President Johnson said:

> You have your responsibilities as Chief of the Government of Turkey; I also have mine as President of the United States.

The President knew full well when he sent that letter that his statutory responsibility was to declare Turkey immediately ineligible for military assistance if Turkey went ahead with its plan to intervene in Cyprus. And that was back in 1974.

What are the purposes for which we furnish a nation with weapons under military assistance programs? Subsection (b) of section 505 of the Foreign Assistance Act addresses that question directly when it requires the President to determine that each of the four following conditions be met:

> (1) that such country conforms to the purposes and principles of the Charter of the United Nations;
>
> (2) that such defense articles will be utilized by such country for the maintenance of its own defensive strength, or the defensive strength of the free world;
>
> (3) that such country is taking all reasonable measures, consistent with its political and economic stability, which may be needed to develop its defense capacities; and
>
> (4) that the increased ability of such country to defend itself is important to the security of the United States.

Mr. President, the words "immediately ineligible" strongly imply that the President must make an expeditious determination that these four conditions have been met. Now, more than a month after the invasion of Cyprus, it is obvious that Turkey has clearly violated conditions one and two. It cannot, in my opinion, legitimately be argued that the administration has acted in good faith to expeditiously implement the provisions of this law.

The Foreign Military Sales Act is equally specific in defining the purposes for which military sales are authorized. Section 4 reads as follows:

> SEC. 4. Purposes for Which Military Sales by the United States Are Authorized.—Defense articles and defense services shall be sold by the United States Government under this Act to friendly countries solely for internal security, for legitimate self-defense, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security, or for the purpose of enabling foreign military forces in less developed friendly countries to construct public works and to engage in other activities helpful to the economic and social development of such friendly countries.

Mr. President, even the wildest imagination could not construe the Turkish invasion of Cyprus as conforming to the purposes and principles of the U.N. Charter. Turkish troops have actually engaged U.N. peacekeeping forces on Cyprus. Certainly the aggressive actions of Turkey cannot be interpreted as "legitimate self-defense"—or "internal security"—or "public works"—or "helpful to the economic and social development" of Cyprus. Those are quotations from the aforementioned statute.

It is clear, therefore, that the action of Turkey is in direct violation of the 1947 bilateral agreement and, consequently, in violation of the legal authority under which that country receives military aid. The President in this rare instance has virtually no discretion under the law—he must determine that Turkey is immediately ineligible for military grant assistance and military sales.

Mr. President, the legal provisions I have cited apply directly to the Cyprus situation. There is, however, another provision which would apply to the situation as well. Section 620(i) of the Foreign Assistance Act states in part that—

> No assistance shall be provided under this or any other Act . . . to any country which the President determines is engaging in or preparing for aggressive military efforts . . . directed against . . . any country receiving assistance under this or any other act.

Cyprus receives both Public Law 480 and regular foreign assistance grants. Therefore, when Turkey invaded that nation, it violated this provision as well.

In a press conference on August 19, Secretary of State Henry Kissinger stated that he would seek a legal opinion on the issues I have discussed today. He also strongly implied that it would not be in our interests to terminate military aid to Turkey at this time.

Mr. President, it is always in the interest of the United States to assure that our laws are faithfully executed. I would rather believe that the delay in receiving a legal opinion on military assistance to Turkey is unrelated to the State Department's perception of the best policy to follow in the Cyprus matter. Yet, the implication is inescapable. There is no excuse for the failure to implement what is a clear requirement of law.

It is my personal belief that a cutoff of military aid to Turkey would indeed serve to inspire accommodation among the warring factions on Cyprus. If such action is taken immediately, as is required, it will present a tangible expression of concern to Greece—an expression which might save U.S. bases in that country and hopefully stem the tide of anti-Americanism. And it may demonstrate to Turkey that, although it has won a military victory, that victory cannot be sustained over time unless it is transformed into political accommodation.

Mr. President, we have just emerged from a trying period of American history—a period when laws were winked at and rationalized to fit the concept of policymakers. By and large, we have learned that policies created in ignorance of or in spite of the law are doomed to failure.

I am sure that it is not President Ford's intention to ignore the law in this instance. I have greatly admired his efforts to restore confidence in the law during his brief tenure as President. But it is my belief that he is being ill-advised or being kept uninformed of the legal ramifications of his inaction in the Cyprus matter in order to protect erroneous policy judgments made by the foreign affairs bureaucracy.

I call upon the President to make the inescapable determination he is required to make under the statutes I have cited today. He has no choice but to declare Turkey ineligible to receive further military assistance. Such action will not only conform the administration's actions with the law; it will begin to correct the grevious errors our Government has made in sacrificing relations with Greece in favor of a nation which has committed aggression.

Mr. President, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. HUDDLESTON). Under the previous order, there will now be a period for the transaction of routine morning business, not to exceed 15 minutes, with statements therein limited to 5 minutes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

PROPOSED DISPOSAL OF CERTAIN LAND AT THE NASA AMES RESEARCH CENTER, MOFFETT FIELD, CALIF.

A letter from the Administrator, National Aeronautics and Space Administration, reporting, pursuant to law, the plan to dispose of approximately five acres of land at the Ames Research Center, Moffett Field, Calif. (with accompanying papers). Referred to the Committee on Aeronautical and Space Sciences.

PROPOSED MILITARY CONSTRUCTION, NAVAL AND MARINE CORPS RESERVE

A letter from the Acting Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, eleven facilities projects proposed to be undertaken for the Naval and Marine Corps Reserve (with accompanying papers). Referred to the Committee on Armed Services.

PROPOSED LEGISLATION TO CONTINUE THE DURATION OF THE FEDERAL SAVINGS AND LOAN ADVISORY COUNCIL

A letter from the Associate General Counsel, transmitting substitute language to the earlier proposed legislation, to amend section 8a of the Federal Home Loan Bank Act to continue the duration of the Federal Savings and Loan Advisory Council (with accompanying papers). Referred to the Committee on Banking, Housing and Urban Affairs.

FIVE-YEAR FINANCIAL PROGRAM FOR OPERATIONS AND CAPITAL ACQUISITIONS, FISCAL YEARS 1975–79—NATIONAL RAILROAD PASSENGER CORPORATION

A letter from the President, National Railroad Passenger Corporation, transmitting, pursuant to law, the National Railroad Passenger Corporation (AMTRAK) Five-Year Financial Program for Operations and Capital Acquisitions, fiscal year 1975–79 (with accompanying papers). Referred to the Committee on Commerce.

REPORT OF NATIONAL RAILROAD PASSENGER CORPORATION, JULY 1974

A letter from the Vice President, Government Affairs, National Railroad Passenger Corporation, reporting, pursuant to law, the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad (with accompanying papers). Referred to the Committee on Commerce.

REPORT ON IMPLEMENTATION OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, the annual report on implementation of the Alaska Native Claims Settlement Act (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

PROPOSED INTERIM CONCESSION PERMIT, JACOB RIIS PARK SITE, GATEWAY NATIONAL RECREATION AREA, NEW YORK

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed concession permit with Childs Associates, Inc., which will authorize it to provide food service facilities and a surf shop for the public at the Jacob Riis Park site within Gateway National Recreation Area for a period of approximately 2 years from February 15, 1974, through December 31, 1975 (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

REPORT ON POSITIONS ESTABLISHED DURING FISCAL YEAR ENDING JUNE 30, 1974, NASA

A letter from the Administration, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on the positions which the National Aeronautics and Space Administration had established as of June 30, 1974, pursuant to the authority provided in subsection (2) of Section 203(b) of the National Aeronautics and Space Act of 1958 (72 Stat. 426, 429), (with an accompanying report). Referred to the Committee on Post Office and Civil Service.

REPORT ON THE FEDERAL ENERGY ADMINISTRATION SURVEY OF REFINERS AND IMPORTERS OF GASOLINE

A letter from the Administrator, Federal Energy Administration, transmitting, pursuant to law, a report on the Federal Energy Administration Survey of Refiners and Importers of Gasoline, August 28, 1974 (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

PETITIONS

Petitions were laid before the Senate and referred as indicated.

By the PRESIDENT pro tempore:

A resolution adopted by the Legislative Council of the State of Arkansas urging legislation to bring about a substantial reduction in the cost of fuels used in generating electricity. Referred to the Committee on Banking, Housing and Urban Affairs.

A resolution adopted by the Singing River Hospital Medical Staff of Pascagoula, Miss., urging the repeal of the Professional Standards Review Organization law. Referred to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SYMINGTON, from the Committee on Armed Services, with an amendment:

H.R. 16136. An act to authorize certain construction at military installations, and for other purposes (Rept. No. 93–1136).

By Mr. KENNEDY, from the Committee on Labor and Public Welfare, with an amendment:

S. 3280. A bill to amend the Public Helath Service Act to revise and extend programs of health delivery and health revenue sharing, and for other purposes (Rept. No. 93–1137).

By Mr. McGOVERN, from the Committee on Agriculture and Forestry, with amendments:

S. Res. 391 relating to the President's Committee on Food and the continuing serious nature of the supply, demand, and price situation of fertilizer, farm chemicals, and fuels and energy (especially natural gas) used by food and agriculture industries (Rept. No. 93–1138).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. EASTLAND:

S. 3966. A bill to promote the expedient completion of certain projects for the reconstruction of highways on the National System of Interstate and Defense Highways. Referred to the Commitee on Public Works.

By Mr. DOLE:

S. 3967. A bill to extend the State and Local Fiscal Assistance Act of 1972 for 5 years. Refered to the Committee on Finance.

By Mr. McGOVERN:

S. 3968. A bill to authorize the Secretary of the Interior to carry out certain programs within the Pine Ridge Indian Reservation, S. Dak. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE:

S. 3967. A bill to extend the State and Local Fiscal Assistance Act of 1972 for 5 years. Referred to the Committee on Finance.

EXTENSION OF REVENUE SHARING ACT

Mr. DOLE. Mr. President, one point has been made very clear by the conversations and contacts I have had with thousands of people all over the State of

Kansas in recent weeks—revenue sharing is a very successful, a very beneficial, and a very popular program. Because of the benefits, I introduce today this bill to extend the State and Local Fiscal Assistance Act, commonly known as the Revenue Sharing Act.

BALANCE OF GOVERNMENT

Revenue sharing marks the beginning of a healthy trend toward return in State and local governments to their more traditional roles in the solution of State and local problems. By so doing, revenue sharing helps keep our Federal spending in closer touch with reality. Rather than have a gigantic organization of bureaucrats in Washington arbitrarily passing out Federal funds, this method of Federal funding permits local governments to determine how funds should be spent and to decide which projects need funding and which do not.

The exclusion of State and local officials from many programs usurped by Federal agencies has helped assure that priorities for funding were established in a vacuum. It has been wasteful and often counterproductive. Under revenue sharing local officials have had greater flexibility and far greater input in determining which projects in their communities shall receive an allocation of our limited fiscal resources.

ANTI-INFLATIONARY

This bill, if enacted, will be useful in holding down inflation. By giving local government a greater hand in Federal spending, the people will have a better opportunity to hold down Government spending and to fight inflation. Revenue sharing takes many decisions on inflationary tax expenditures out of the hands of Washington bureaucrats and puts them in the hands of local government, where they should be, so that ordinary people will have a better opportunity to take action in holding down inflationary Government spending.

It is significant that Governors, mayors, and elected officials in Kansas and many other States as well have heartily endorsed revenue sharing.

FACILITATE PLANNING

Another important asset of the Revenue Sharing Act has been that it facilitates forward planning by State and local governments on the funding available to them. It is precisely for this reason—the need for future planning—that I introduce this bill today. My bill would extend the Revenue sharing Act for 5 years beyond its present expiration date of December 31, 1976. If we extend the Revenue Sharing Act for 5 years now, the long-range planning capabilities of State and local officials would be greatly enhanced.

At the same time, this extension would not be for such a long time that we might become locked in on a particular level of appropriation. My bill increases the level of appropriation for revenue sharing by $150 million for each fiscal year. At the end of 5 years, this level of appropriation could be modified as might be needed.

IMPROVEMENTS IMPORTANT

Numerous refinements and technical improvements have been proposed for the Revenue Sharing Act. My introduction of this bill in this form, ought not to imply that certain impovements are not needed or desirable. On the contrary, I feel that several improvements in the allocation formula and perhaps elsewhere, could be made and should be considered. But these changes would not represent essential modification of the program. They would be more in the nature of "fine-tuning" efforts.

Since the revenue sharing formula is very complex, I would suggest that hearings and study are needed before any such changes are proposed. I believe that as the committee considers this extension proposal, it could at the same time study the recommendations that I, and many of my colleagues might propose to accomplish this "fine-tuning" I spoke of.

I would hope that this extension will be accepted by my colleagues for the benefit of constituents in Kansas and all across the Nation.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3967

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That (a) section 105(b)(1) of the State and Local Fiscal Assistance Act of 1972 is amended by striking out "and" at the end of subparagraph (F), and by striking out subparagraph (G) and inserting in lieu thereof the following:

"(G) for the period beginning July 1, 1976, and ending September 30, 1976, $1,662,500,000;

"(H) for the fiscal year beginning October 1, 1976, $6,650,000,000;

"(I) for the fiscal year beginning October 1, 1977, $6,800,000,000;

"(J) for the fiscal year beginning October 1, 1978, $6,950,000,000;

"(K) for the fiscal year beginning October 1, 1979, $7,100,000,000;

"(L) for the fiscal year beginning October 1, 1980, $7,250,000,000; and

"(M) for the period beginning October 1, 1981, and ending December 31, 1981, $1,850,000,000."

(b) Section 105 (b) (2) of such Act is amended by striking out "and" at the end of subparagraph (D), and by striking out subparagraph (E) and inserting in lieu thereof the following:

"(E) for the period beginning July 1, 1976, and ending September 30, 1976, $1,195,000;

"(F) for each of the fiscal years beginning October 1, 1976, October 1, 1977, October 1, 1978, October 1, 1979, and October 1, 1980, $4,780,000; and

"(G) for the period beginning October 1, 1981, and ending December 31, 1981, $1,195,000."

SEC. 2. (a) Section 104 (c) of the State and Local Fiscal Assistance Act of 1972 is amended by inserting after "6 months" the following: ", or one-fourth of such net revenues, in the case of an entitlement period of 3 months".

(b) Section 107 (b) (5) of such Act is amended to read as follows:

"(5) Special rule for periods beginning July 1, 1976, and October 1, 1981.—In the case of the entitlement periods beginning July 1, 1976, and ending September 30, 1976, and beginning October 1, 1981, and ending December 31, 1981, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be one fourth of the amounts which (but for this paragraph) would be taken into account."

(c) Section 108 (c) (1) (C) of such Act is amended by striking out "December 31, 1976" and inserting in lieu thereof "December 31, 1981".

(d) Section 141 (b) of such Act is amended—

(1) by striking out "December 31, 1976" in paragraph (5) and inserting in lieu thereof "September 30, 1976"; and

(2) by adding at the end thereof the following:

"(6) The one-year periods beginning on October 1 of 1976, 1977, 1978, 1979, and 1980.

"(7) The period beginning October 1, 1981, and ending December 31, 1981."

By Mr. McGOVERN:

S. 3968. A bill to authorize the Secretary of the Interior to carry out certain programs within the Pine Ridge Indian Reservation, South Dakota. Referred to the Committee on Interior and Insular Affairs.

Mr. McGOVERN. Mr. President, I am sure my colleagues recall the highly publicized Wounded Knee occupation of early 1973. The trial of those who led that incident is still underway in a Federal court in St. Paul. It is also featured in the news.

Since that event, my correspondence has been full of questions about the living conditions on reservations throughout the United States. Articles in the printed media and radio and televison programs have further emphasized the deplorable conditions which prevail on the reservations.

The Department of the Interior has long been charged with the responsibility of assuring Indian welfare. Yet, we still see that Indians have the lowest per capita income of all Americans. They have the least adequate medical care—1 physican per 1,400 Indians as against 1 for about 600 citizens in the country as a whole. Indians suffer the highest suicide rate—twice the national average, but with tragic peak rates among the young people, those between 25 and 34 years of age, compared with the national experience which shows peak suicide rates among the rest of the population in the seventies age group. Indians have a school dropout rate of 44 percent as against the national average of 25 percent; an unemployment rate averaging between 30 and 40 percent, compared with the 5- to 6-percent national average; and the smallest percentage of students in college—about 5 percent of Indians entering first grade go on to complete college, as against 20 percent for the Nation. In short, every indicator of human progress is several times worse for the American Indian.

The Federal Government, through the Bureau of Indian Affairs of the Department of the Interior, in cooperation with the Congress, must begin to improve assistance to the Indian reservations. There has long been recognized a special relationship between the Federal Government and our Indian citizens. The Government is a trustee of Indian property. The BIA was established to encourage Indians to assume responsibility for managing their own affairs and funds, to protect and further their political and social sophistication with freedom to preserve their culture and heritage and, of special importance, to assist them in obtaining a higher standard of living.

But these goals still remain far beyond our grasp. They cannot be accomplished simply because of the lack of opportunity and of capital for Indians to provide for themselves those public works and other facilities which would allow their economic development.

Today I am introducing a bill to create a pilot program which could provide for a model for comprehensive Indian reservation development. I have selected the Pine Ridge Reservation because it was the scene of the Wounded Knee incident and because it is still threatened. We can, by passing this legislation, both assure some stability and development for Pine Ridge and create a model through which other reservations could be improved.

I ask unanimous consent that the full text of the Pine Ridge Indian Reservation Economic Development Demonstration Act be printed in its entirety in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to establish and carry out a demonstration program of public works on the Pine Ridge Indian Reservation in South Dakota. The program is designed to create a model for development of the Nation's Indian reservations through a demonstration of the benefit, care, assistance and encouragement to economic independence it will provide the members of the Oglala Sioux Tribe who reside thereon.

GENERAL PROVISIONS

Sec. 2. Findings.—(a) The Congress finds and declares that the 71-day occupation of the community of Wounded Knee in early 1973 resulted in millions of dollars in property damage, in death and injuries, and that the incident further drew attention of all Americans to the plight of Indians living on the Reservation: including:

(1) the lowest income per family of four ($1,500) of any minority group;

(2) the least adequate medical care—one physician per 1,400 Indians as against a national average of one physician to about 600 citizens;

(3) the highest suicide rate—twice the national average, with the peak rates in the 25 to 34 age group as opposed to a peak in the 70's age group for the population as a whole;

(4) the highest school drop-out rate—44 percent as against a 25 percent national average;

(5) the highest unemployment rate averaging between 30 and 40 percent as against the five to six percent national rates;

(6) the smallest number of students in college—about five percent of Indians entering first grade go on to complete college, as against 20 percent for the nation;

(7) a life expectancy of 65.1 years as against 70.9 for the national average;

(8) the lack of opportunity for our Indian citizens on reservations to provide for themselves those public works and other facilities which would allow for their economic development.

(b) The Congress further finds and declares that there is a special relationship between the federal government and our Indian citizens which is of such long standing that it cannot be easily or quickly changed. The federal government is trustee of Indian property; on many reservations only federal and tribal laws apply; the Bureau of Indian Affairs in the Department of the Interior was established to encourage Indians and tribes to assume responsibility for the management of their own funds and affairs, to protect and further their political and social sophistication with freedom to preserve their culture and heritage, and to assist in obtaining a higher standard of living.

Sec. 3. The program authorized by the first section of this Act shall include, among other matters, the following projects:

(1) Stock Dam Development and Repair Project.—Such project shall provide for the repair and construction of stock watering dams on tribal lands of the Pine Ridge Indian Reservation.

(2) Oglala Irrigation Project.—Such project shall consist of the completion and repair of the main canal and the development of approximately 1200 acres of land which will come under irrigation with the completion of such main canal, such development to include grading of land, weed control, and construction of lateral ditches and fences.

(3) White Clay Creek Clean-Up Project.—Such project shall run from White Clay Dam, two miles south of Pine Ridge Village, to Oglala Dam and shall include the straightening of the channel, clearing of areas, and the filling of still water areas.

(4) Bison and Elk Corral Project.—Such project to consist of the construction of corrals and other fencing for utilization in connection with the management of existing and expanding elk and buffalo herds, and the treatment of diseases, vaccinations, and periodic checks of such herds.

(5) Community Service Centers Project.—Such project to involve the construction of adequate community centers in the communities of Oglala, Manderson and Wakpamni Lake, South Dakota.

(6) Kyle Dam Developmet Project.—Such project to involve certain repairs and other improvements to Kyle Dam and the development of a recreational area (including campground and picnic area) in connection therewith.

(7) White Clay Dam Model Farm Project.—Such project to involve the establishment of a 476 acre truck farm, including the establishment of an adequate irrigation system to serve such farm.

(8) Reservation Secondary Road Improvement Project.—Such project to include the improvement of approximately twenty-five miles of secondary road in each district for better access to recreational facilities, school bus routes, and home sites.

(9) Wounded Knee Creek Development and Clean-Up Project.—Such project to involve the clean up of the land and channel from Denby Dam to the mouth of Wounded Knee Creek, including the straightening, where necessary, of such channel.

(10) Development of Geologic and Historical Sites Project.—Such project to involve the identification and marking of all significant geologic and historic sites throughout the Pine Ridge Reservation.

(11) Pine Ridge Street Improvement Project.—Such project to involve the construction, within the Pine Ridge Reservation, of sidewalks, curbs, gutters, pavement, cross walks, street signs, street names and numbers.

(12) Well Drilling Project.—Such project to involve the drilling of wells for approximately eight hundred families for purposes of health and sanitation.

(13) Shelter Belts Project.—Such project to involve the establishment of shelter belts for communities and individual dwellings on the Pine Ridge Reservation.

(14) Spring Development Project.—Such project to involve the establishment of not less than three hundred water springs throughout the reservation.

(15) East Dam Addition and Improvement Project.—Such project to consist of the construction of an additional structure to control the flow of water from the Wolf Creek drainage area, to provide recreation, and to supply water for development of East Pine Ridge Irrigation Project.

(16) Denby Dam Development Project.—Such project to involve the removal of trees and cleaning of spillway, the refilling of cracks and joints, the development of a recreation area with campgrounds and picnic areas, and the control and eradication of water weed growth.

(17) Red Shirt Village Model Farm Project.—Such project to consist of the development of a truck farm on approximately three hundred acres of bottom land in the isolated Red Shirt Village Community, such farm to be irrigated from the Cheyenne River.

(18) Recreation Dam Construction Project.—Such project to consist of the construction of a large recreation dam on the eastern end of the Pine Ridge Reservation, together with a campground, picnic area, and other recreational facilities.

(19) Badlands Rescue Unit Project.—Such project to involve the establishment and operation of an adequate professional Rescue Squad capable of providing assistance to tourist, hikers, and other persons within the Pine Ridge Reservation requiring such assistance, including training in connection therewith.

(20) Household Survey Project.—Such project shall consist of a household survey, on a door-to-door basis, within the Pine Ridge Reservation which will provide, among other items, an accurate account of households, their families, and social security and military numbers.

(21) Tribal Identification Cards Project.—Such project shall provide for the issuance to each member of the tribe so requesting of a laminated identification card, containing the name, address, date of birth, allotment number, account number, social security number, and degree of Indian blood of the member to whom such card is issued.

(22) Senior Citizen Work Assistance Program Project.—Such project shall provide for the establishment of a work force for the purpose of providing services to senior citizen residing in non-Federal housing on the Pine Ridge Reservation.

(23) Oglala Sioux Tribe Home Finance Agency.—Such project shall provide for the establishment and carrying out of a program to provide home financing at low interest rates to Indians residing on the Pine Ridge Reservation.

(24) Enlargement of the Oglala Sioux Home Improvement Project.—Such project shall provide financial assistance to Indians residing on the Pine Ridge Reservation to enable such Indians to carry out home improvements sufficient to provide decent, safe, and sanitary housing.

(25) Housing Planning Project.—Such project shall provide for a review evaluation of current and future housing programs, and planning for new housing programs to meet projected future needs of the members of the Oglala Sioux Tribe.

(26) Sun Dance Grounds Project.—Such project shall consist of the construction of an Oglala Sioux Sun Dance grounds in the traditional and cultural style that is relevent to the Ogala Sioux and with a seating capacity to accommodate approximately 2,000 people.

(27) Rodeo and Pow Wow Complex Project.—Such project shall consist of rodeo arena with a seating capacity of five thousand, race track, and a separate enclosed Pow Wow Ground with a seating capacity of two thousand, for the Oglala Sioux Tribal Fair and Rodeo to be available during the bicentennial year of 1976, together with build-

ings for displays and concessions and camping facilities.

(28) Judicial System Project.—Such project shall provide for the establishment of a judicial system adequately to meet the needs of the Pine Ridge Reservation, including buildings and other facilities, resources, and training.

(29) Constitutional Review and Revision Project.—Such project shall provide for a review of the Tribal Constitution for the Oglala Sioux Tribe, and, if necessary, an updating of such Constitution.

(30) Educational Programs Project.—Such project shall provide for Indian involvement and direction of the education systems on Pine Ridge Reservation with a view to making such systems more responsive to the needs of Indian students within such systems.

(31) Decentralization of Government Project.—Such project shall provide means whereby Federal agencies are better able to make their services available to members of the Oglala Sioux Tribe on a local level and within their respective districts, such as adequate office space and other facilities for personnel necessary to such services.

(32) Transportation Systems Project.—Such project shall consist of the establishment and operation of an adequate public transportation system within Pine Ridge Reservation to serve members of the Oglala Sioux Tribe, including the purchase of small buses and other vehicles required in connection therewith.

(33) Parks and Recreation Project.—Such project shall include the planning, development, construction, and operation of roadside parks, playground areas, picnic areas, trails (hiking and nature), swimming, boating, boat marinas, and special environmental education areas (natural areas).

(34) Sport Fisheries and Wildlife Project.—Such project shall involve a cooperative program with the National Park Service, Bureau of Sport Fisheries and Wildlife, the Pine Ridge Reservation, and the State of South Dakota to provide for survey, inventory, development and maintenance of big game units, small game production units, upland bird habitat improvements, and development of waterfowl areas, the construction and operation of fish hatcheries, and lakes, ponds, and streams.

(35) Financial Institutions Development Project.—Such project shall provide for the planning, development, establishment and operation of financial institutions, including the construction of facilities essential thereto, necessary to meet the needs of the members of the Oglala Sioux Tribe on the Pine Ridge Reservation. Such project shall further provide for the establishment and operation of a program of management training for a minimum period of twelve months to assure competent management for such institutions comprised of members of the Oglala Sioux Tribe residing on the Pine Ridge Reservation.

Sec. 3. In carrying out the projects authorized by this Act, the Secretary of the Interior is authorized to enter into contracts or other agreements with any individual, association, cooperative, or other entity, or agency of the United States, the State of South Dakota, or any political subdivision of such State, or the governing body of the Pine Ridge Reservation to assist the Secretary in carrying out his duties under this Act. In awarding contracts, or entering into agreements, under this Act, the Secretary of the Interior shall, to the extent feasible, give a preference to members of the Oglala Sioux Tribe residing on the Pine Ridge Reservation.

Sec. 4. The Secretary of the Interior is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal agencies, with or without reimbursement, in carrying out the provisions of this Act. Each such Federal agency is authorized to cooperate fully with the Secretary of the Interior in making its services, equipment, personnel, and facilities available for such purposes.

Sec. 5. There is authorized to be appropriated the sum of $14,772,000 to carry out the provisions of this Act.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 321

At the request of Mr. Taft, the Senator from Kansas (Mr. Dole) and the Senator from Pennsylvania (Mr. Hugh Scott) were added as cosponsors of S. 321, a bill to exclude from gross income the first $500 of interest received from savings account deposits in lending institutions.

S. 796

At the request of Mr. Pell, the Senator from Maine (Mr. Hathaway) was added as a cosponsor of S. 796, to improve museum services.

S. 2993

At the request of Mr. Javits, the Senator from Minnesota (Mr. Humphrey) was added as a cosponsor of S. 2993, the Emergency Energy Employment Assistance Act of 1974.

S. 3658

At the request of Mr. Biden, the Senator from Minnesota (Mr. Humphrey), the Senator from Ohio (Mr. Metzenbaum), and the Senator from Utah (Mr. Moss) were added as cosponsors of S. 3658, the Condominium Disclosure Act.

S. 3862

At the request of Mr. Thurmond, the Senator from California (Mr. Tunney) and the Senator from Tennessee (Mr. Brock) were added as cosponsors of S. 3862, a bill to prohibit any change in the status of any member of the uniformed services who is in a missing status under chapter 10 of title 37, United States Code, until the provisions of the Paris Peace Accord of January 27, 1973, have been fully complied with, and for other purposes.

S. 3887

At the request of Mr. Johnston, the Senator from Louisiana (Mr. Long), the Senator from Texas (Mr. Bentsen), and the Senator from South Carolina (Mr. Hollings) were added as cosponsors of S. 3887, a bill to protect consumers and domestic producers of shrimp by requiring that imported shrimp and food products made in whole or in part of imported shrimp bear marking showing the country of origin of such imported shrimp.

S. 3941

At the request of Mr. Domenici, the Senator from West Virginia (Mr. Randolph) was added as a cosponsor of S. 3941, a bill to authorize payment for one comprehensive physical examination per year for each person enrolled in medicare.

S. 3955

At the request of Mr. Metzenbaum, the Senator from New Hampshire (Mr. McIntyre), the Senator from New Mexico (Mr. Domenici), and the Senator from Maryland (Mr. Beall) were added as cosponsors of S. 3955, the Foreign Investment Review Act of 1974.

SENATE CONCURRENT RESOLUTION 115—SUBMISSION OF A CONCURRENT RESOLUTION CONCERNING THE CRISIS IN CYPRUS

(Referred to the Committee on Foreign Relations.)

THE CYPRUS TRAGEDY

Mr. JAVITS. Mr. President, I am introducing a resolution relative to the dangerous, heart-rending crisis on Cyprus. The dangerous and shortsighted actions of Turkey on Cyprus; Turkey's repeated violations of United Nations and Geneva cease-fire declarations, and, the inexcusable attacks of the Turkish Armed Forces on members of the United Nations Forces in Cyprus must be condemned in clear and unmistakable terms. Turkey's efforts to impose its will by force cannot be acquiesced in by the United States or the world community. Such actions have dangerously exacerbated tensions on Cyprus and in the eastern Mediterranean, are completely counterproductive to any lasting settlement of the crisis and are totally out of date in this time.

The resolution I am introducing focuses on two critical elements of a settlement of this crisis. First is the continuation of the emergency relief effort, in which the United States is playing a significant role, for all Cypriot refugees coupled with a comprehensive program of economic assistance to rehabilitate the crippled Cypriot nation and economy. Second is the removal of all foreign troops from the island with the exception of United Nations peacekeeping forces.

The resolution expresses the support of the Congress for President Ford's and Secretary of State Kissinger's efforts in their pursuit of these goals and of any additional measures that may be required by the circumstances.

Mr. President, in my judgment the true dimension of the Cyprus crisis may not as yet be appreciated fully by the American people. This may be understandable in view of the near exhaustion of our Nation over Watergate and the Vietnam war ordeals we have just emerged from. However, that does not alter the facts of the situation, nor does it do away with the need for vigorous U.S. diplomacy in upholding the basic principles of freedom and democracy. The full anguish of the situation has perhaps been fully understood in this country only by the Greek-American community, which has watched fellow Greeks being killed, maimed, and subjugated by naked military force while the whole world seemed to stand by immobilized.

The origins of the Cyprus crisis are deep and ancient and the original Greek-junta supported coup against President Makarios presented the Turkish side with a colorable claim for some action under its treaty rights to protect Turkish Cypriots. But, it is now all too clear that this incident has been seized upon and exploited for purposes going far beyond anything justified or legitimized by the initial pretext. And, this is a point which so sorely vexes the Greek peoples.

It is high time that the rights and wrongs of the situation be declared in clear terms—and backed up by effective U.S. actions. This is the purpose of my speaking today and it is the purpose of my resolution to galvanize the Congress into action. We have a long and honorable history as a nation which has refused to sit by while a small community of people is being bullied by overwhelming military force. The United States, the NATO and all free world nations have a great stake also in the integrity of the United Nations peacekeeping force which has been subjected to military force so cynically by Turkish forces in defiance of the solemn decisions of the U.N. Security Council.

Mr. President, I have worked for years to try to improve relations between Greece and Turkey including presiding over the Greek-Turkish economic cooperation project under the auspices of the North Atlantic Assembly.

And I feel in good conscience today impelled in that very spirit to speak out against the deep intolerable injustices that are being perpetrated in terms of Turkish forces continuing utilization of and reliance upon the military dictate in the Cyprus situation.

I ask unanimous consent that there be printed at the end of my remarks in the Record the text of the resolution I am introducing today.

There being no objection, the concurrent resolution was ordered to be printed in the Record, as follows:

S. Con. Res. 115

Whereas the unilateral resort to armed force on Cyprus by the Government of Turkey has imperiled the sovereignty and constitutional integrity of Cyprus, and

Whereas the unjustified occupation of forty percent of Cyprus by the Turkish armed forces has severely disrupted the life and economy of Cyprus, has cruelly abused the people of Cyprus, has created many thousands of destitute refugees and has gravely jeopardized the independence of Cyprus:

Now, therefore, be it resolved by the Senate (the House of Representatives concurring) That it is the sense of the Congress of the United States that

(1) the United States deplores and condemns the repeated violations by the armed forces of Turkey of the ceasefire declarations agreed to by the United Nations Security Council and the Three Party Negotiations in Geneva, finds inexcusable the repeated attacks on members of the United Nations Force in Cyprus by Turkish armed forces and deems unjustified the effort by the Government of Turkey to seek to impose its will on Cyprus by the use of force; and that

(2) the United States in concert with other nations should continue to provide its fair share of the emergency refugee relief assistance required to alleviate the needs of all Cypriot refugees, and should support a comprehensive program of economic assistance designed to rehabilitate the crippled economy of Cyprus; and that

(3) in order to restore peace, unity and stability to Cyprus, all foreign armed forces, other than United Nations peacekeeping forces, should be withdrawn promptly from Cyprus; and that

(4) the Congress supports the efforts of President Ford and Secretary of State Kissinger to restore the sovereignty and constitutional integrity of Cyprus and to establish appropriate safeguards for the preservation of human rights and for the safety of its minority and any additional measures in pursuance of these objectives that may be required by the circumstances.

Sec. 2. Upon agreement to this resolution by both Houses of the Congress, the Secretary of the Senate shall transmit a copy of such resolution to the President of the United States.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 110

At the request of Mr. Kennedy, the Senator from Michigan (Mr. Hart), and the Senator from New Jersey (Mr. Williams) was added as a cosponsor of Senate Concurrent Resolution 110, relating to the situation in Cyprus.

SENATE RESOLUTION 394—SUBMISSION OF A RESOLUTION DISAPPROVING THE ALTERNATIVE PLAN FOR PAY ADJUSTMENTS FOR FEDERAL EMPLOYEES

(Referred to the Committee on Post Office and Civil Service.)

Mr. STEVENS. Mr. President, I submit a resolution to disapprove the President's alternative plan for pay adjustments for Federal employees. For the fourth consecutive time since 1970, a President has sought to postpone a Federal pay increase which the law provides to take place each October 1 as a means of bringing Federal pay up to comparability with pay for the same level of work in the private sector.

With the end of the economic stabilization program on April 30, 1974, controls were lifted on our entire economy. The request for delay in essence reimposes these controls on only one segment of our economy—the Federal white collar worker.

Certainly a better case for balancing the budget could be made through delay in pay adjustment for Federal workers if all Federal workers were affected. However, almost 1.5 million other Federal employees and employees of Federal corporations will continue to receive pay increases through 1974. For example, Congress has just voted sizable pay increases for the teachers, police and the firefighters of the District of Columbia. The President signed that act on September 1 and ordered the pay adjustments to take effect immediately.

The Postal Service employees numbering almost 700,000 have received and will continue to receive pay adjustments in 1974. More than 500,000 Federal employees working under the blue-collar Wage Board System have been and will be receiving their pay increases on time. And, of course, all private enterprise employees and employees of State, county, and municipal governments are entitled to receive their proper pay increases on time.

Additionally, since the recommendations of a 5.5 percent increase, wages in the private sector have increased 1.7 percent. Thus, even if the pay adjustment takes place on October 1, the Federal white-collar worker will be at least 1.7 percent behind the employee in the private sector.

It seems to me very unfair to single out the Federal white-collar worker to battle inflation alone. Federal white-collar employees cannot win that battle alone when all other categories of the population are receiving pay increases.

White-collar employees do not need to be told that "double digit inflation" does not distinguish between Federal white-collar employees and other citizens. In fact, the statistics show that the standard of living of Federal white-collar employees this year will be almost 10 percent below last year on October 1, 1974. By October 1, 1975, they may be 20 percent below their standard of living in 1973.

Mr. President, I send to the desk the resolution, which I submit on behalf of myself, the Senator from Utah (Mr. Moss), the Senator from Kansas (Mr. Dole), my colleague from Alaska (Mr. Gravel), and the Senator from Maryland (Mr. Beall); and I ask unanimous consent that its text be printed in the Record at this point.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

S. Res. 394

Resolved, That the Senate disapproves the alternative plan for pay adjustments for Federal employees under statutory pay systems recommended and submitted by the President to Congress on August 31, 1974, under section 5305(c) of title 5, United States Code.

Mr. STEVENS. Mr. President, I ask unanimous consent that the resolution be held at the desk for the remainder of the day, in the event other Senators wish to add their names as cosponsors of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, again the subject of comparability pay adjustments for Federal employees is upon us. And again we are faced with the difficult task of deciding whether a proposed deferral of such an increase is in fact wise and just.

I have read the President's August 31, 1974, statement to the Congress in this regard, and agree wholeheartedly with his conviction that the Federal Government has a special obligation "to take those actions which begin to stop inflation." However, I am compelled to disagree that a 90-day postponent in implementing a very important salary recomputation for Federal white-collar workers is appropriate for inclusion among "those actions."

I have the greatest admiration and respect for President Ford, and feel that he deserves every commendation for his determination and initiatives to cure our Nation's economic woes. Moreover, I support him fully in that effort, and only after deep thought and careful consideration of the factors involved do I submit that the situation warrants an essential "exception"—if indeed it is one—to the established anti-inflation policy.

ANNUAL ARGUMENTS

Mr. President, since its adoption by Congress in 1970, we have heard almost annually the arguments for carrying out the provisions of the "comparability" law for Federal employees according to the designated October 1 date. These traditional defenses run generally along the lines that the pay adjustments are not really inflationary at all; that they have already been "deferred" for 6 months; and that it is unfair to single out Federal white-collar workers and military personnel.

The Senate, by an overwhelming margin of 72 to 16, agreed to those points last fall in voting to approve the "regular" effective date as scheduled by law. I supported the resolution at that time, and am again demonstrating my interest in fairness and reason on behalf of Federal employees by acting as a principal sponsor of the similar resolution being introduced today.

POPULAR STAND

It might, of course, be popular among many of my constituents at home to take a firm and politically-expedient stand against any pay adjustment at all for Federal workers. Indeed, for a Senator from Kansas—where there are few more than just 10,000 such employees—who is seeking to maintain the confidence of his electors at the polls this November 5, it would be very easy to voice strong opposition to any salary increases whatsoever amid the "anti-inflation" clamor.

I have never chosen any course which I did not firmly believe to be "right" before, however, and do not intend to do so now. I voted against the congressional pay raises for the very reason that high-level Government officials should set the example and could, by contrast, make the sacrifices necessary to combat inflation. But that sentiment just does not apply to the great number of Federal workers who are struggling with everyone else to cope with staggering cost-of-living figures.

TRIM THE FAT

Mr. President, I consider myself as much or more committed to the cause for fiscal restraint in the battle against inflation as any Member of Congress. And to manifest this commitment, I have consistently strived to take responsible action whenever measures containing unnecessary "fat" have been before us.

Just recently, in fact, I voted against an "inflated" agriculture appropriations bill—a very anguishing decision for a representative of so many farmers and other steadfast supporters in related industries—and then followed through with votes to make across-the-board reductions, or recommit certain legislation for further study of ways to "trim the fat." But the nominal 5.5 percent "catchup" pay adjustment for Federal employees cannot, in my judgment, be equitably rationalized as part of such "fat."

SHARING THE BURDEN

Mr. President, I have no doubt that the vast majority of Government workers are more than willing to do their part to stop inflation. Many in fact have stated this publicly during "on the street" press interviews. But at the same time, they express the mutual feeling that unless everyone has to make a sacrifice, it simply is not right that only they should bear the burden.

If the U.S. blue-collar workers and postal employees were being asked to accept deferral of their pay increases, or more significantly, if unions in the private sector would agree to a similar delay in obtaining pay raises for their members, the situation would be different. We all know that that is not the case, however, and that other priorities must receive our attention instead as anti-inflation alternatives.

FOR THE GENERAL WELFARE

The President's plan for a 90-day deferral of comparability pay adjustments begins with the language:

> In consideration of the economic conditions affecting the general welfare. . . ."

It is because of that word "general" that the scheduled October 1 date should be allowed to stand, for to me that means "everyone"—including more than 3 million affected civilian and military employees.

As a member of the Post Office and Civil Service Committee who is genuinely concerned with curbing inflation through any method possible—without abandoning our basic obligations of responsibility and fairness—I strongly urge my colleagues in the Senate to act affirmatively on this resolution before the September 30 deadline. In so doing, I have every confidence that this large sector of civil servants, whom we are attempting to bring into equality with the remaining 93 percent of the American work force, will continue to do their individual parts to stem the tide of inflation and restore economic stability—"for the general welfare" of everyone.

SENATE RESOLUTION 395—SUBMISSION OF A RESOLUTION TO REFER A BILL TO THE COURT OF CLAIMS

(Referred to the Committee on the Judiciary.)

Mr. HATFIELD submitted the following resolution:

S. RES. 395

Resolved, That the bill (S. 2345) entitled "A bill for the relief of Leo Lucas", now pending in the Senate, together with all the accompanying papers, is hereby referred to the chief commissioner of the United States Court of Claims; and the chief commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

SENATE RESOLUTION 396—SUBMISSION OF AN AMENDMENT RELATING TO THE PRINTING OF LEGISLATIVE PROCEEDINGS WITH RESPECT TO THE DEATH OF FORMER SENATOR KARL E. MUNDT

(Referred to the Committee on Rules and Administration.)

Mr. McGOVERN submitted the following resolution:

S. RES. 396

Resolved, That the legislative proceedings in the United States Congress relating to the death of the former Senator from South Dakota, Mr. Mundt, be printed as a Senate document.

ADDITIONAL COSPONSORS OF RESOLUTIONS

SENATE RESOLUTION 387

At the request of Mr. BIDEN, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Maine (Mr. HATHAWAY), the Senator from Rhode Island (Mr. PELL), and the Senator from California (Mr. TUNNEY) were added as cosponsors of Senate Resolution 387, a resolution to authorize the hiring of interns by Senators.

SENATE RESOLUTION 392

At the request of Mr. TAFT, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of Senate Resolution 392, a resolution concerning the safety and freedom of Valentyn Moroz, Ukrainian historian.

REVISION OF THE COPYRIGHT LAW—AMENDMENT

AMENDMENT NO. 1846

(Ordered to be printed and to lie on the table.)

Mr. ERVIN submitted an amendment intended to be proposed by him to the bill (S. 1361) for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes.

NOTICE OF HEARING

Mr. JACKSON. Mr. President, I wish to announce to the Members of the Senate and other interested parties that the Committee on Interior and Insular Affairs and the Committee on Commerce have scheduled a joint open hearing on the nomination by the President of Mr. Lynn A. Greenwalt to be Director of the U.S. Fish and Wildlife Service for September 20. The hearing will be held in room 3110 of the Dirksen Senate Office Building and will begin at 10 a.m. Persons wishing to testify or submit statements concerning this nomination should so advise the staff of the Interior Committee.

Mr. President, I ask unanimous consent that a brief biographical sketch of Mr. Greenwalt be inserted in the RECORD at this point in my remarks.

There being no objection, the biographical sketch was ordered to be printed in the RECORD, as follows:

LYNN A. GREENWALT

Lynn A. Greenwalt, 43, is a career employee of the U.S. Fish and Wildlife Service whose late father, Ernest J., was a wildlife refuge manager for that agency for 34 years.

Greenwalt was an assistant director of the wildlife agency prior to being named by Secretary Morton to head the Bureau of Sport Fisheries and Wildlife in September 1973. The Bureau of Sport Fisheries and Wildlife was redesignated as the U.S. Fish and Wildlife Service by Act of Congress effective July 1, 1974.

Before his assignment as assistant director in May 1973, Greenwalt had been Chief, Division of Wildlife Refuges responsible for the National Wildlife Refuge System's 30 million acres on 350 refuges in 49 States.

From November 1970 to October 1971, Greenwalt was supervisor of the Bureau's conservation law enforcement agents in the Pacific region, headquartered at Portland, Oregon.

Greenwalt began his Federal career with summer jobs on Wichita Mountains National Wildlife Refuge in Oklahoma from 1946 to 1952. He attended grade and high school at Cache, Oklahoma.

Other Federal employment included work at the Arizona Cooperative Wildlife Research Unit, Tucson; Bear River Refuge, Brigham City, Utah; National Elk Refuge, Jackson, Wyoming; Salt Plains Refuge, Jet, Oklahoma; Bosque del Apache Refuge, San Antonio, New Mexico; Fish Springs Refuge, Dugway, Utah; Regional Division of Wildlife Refuges, Albuquerque, New Mexico. He became associate regional supervisor of the Division of Wildlife Refuges in Minneapolis before joining the Bureau's law enforcement arm.

Greenwalt attended Reedley, California, Junior College and received his B.S. degree in zoology at the University of Oklahoma in 1953, adding an M.S. in wildlife management from the University of Arizona in 1955.

He is married to the former Judith A. Cunningham. Her father, Frederick A., was a refuge manager for 20 years before retiring in 1963.

The Greenwalts have three boys: Mark 16; Scott, 14; and Grant, 10. The family resides in Rockville, Maryland.

NOTICE OF HEARINGS ON S. 2591, THE FINANCIAL INSTITUTIONS ACT OF 1973

Mr. McINTYRE. Mr. President, I am pleased to announce that the Subcommittee on Financial Institutions will continue hearings on September 11, 12, and 17, 1974, on S. 2591, the Financial Institutions Act of 1973.

During these hearings, testimony will be received from members of the academic community and representatives of public interest groups. The hearings will commence each morning at 10 a.m. in room 5302, Dirksen Senate Office Building.

Anyone who wishes further information regarding these hearings should contact Mr. William Weber, room 5300, Dirksen Senate Office Building, 225-7391.

ADDITIONAL STATEMENTS

THE CYPRUS SITUATION

Mr. BEALL. Mr. President, shortly after the Cyprus crisis developed, I wrote to the Department of State requesting a clarification of our policy. I have now received a reply from the Honorable Linwood Holton, Assistant Secretary of State for Congressional Relations, and I ask unanimous consent that the text of this letter be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, D.C., August 30, 1974.
Hon. J. GLENN BEALL, Jr.
U.S. Senate, Washington, D.C.

DEAR SENATOR BEALL: Thank you for your letter of August 2 requesting on behalf of a number of your constituents information concerning the US role in the Cyprus crisis. I sincerely regret the delay in this reply.

Following the July 15 overthrow of Archbishop Makarios by elements of the Cypriot National Guard controlled by mainland Greek officers, the United States acted immediately to promote a peaceful resolution of the crisis and prevent the outbreak of international conflict. A high-level US delegation, led by the Under Secretary of State for Political Affairs, visited both Athens and Ankara for this purpose. These efforts were regrettably unsuccessful and Turkish forces landed on Cyprus on July 20.

Since the Turkish intervention, continuous US efforts, under the direction of Secretary Kissinger acting in close consultation with the President, have been directed at achieving two goals: first, establishing an effective cease-fire; and, second, initiating and sustaining negotiations that would lead to a settlement on Cyprus satisfactory to all parties. Three days after the Turkish landing, the Foreign Ministers of the United Kingdom, Greece and Turkey met in Geneva as representatives of the Guarantor Powers of Cyprus' constitutional order under the Zurich Agreement of 1960. The United States was not a participant in the talks but a high-ranking American diplomat was present at Geneva by invitation to maintain close contact with the three delegations.

In preparation for the second round of talks in Geneva, a third high-level American diplomat traveled to Athens, Ankara and Nicosia for consultations and then proceeded to Geneva where he attended the second round of the Guarantor talks, which began on August 8.

Shortly thereafter, when it began to appear that serious fighting on Cyprus might resume, Secretary Kissinger intensified his own personal direct communications with the Governments of the United Kingdom, Greece, Turkey and Cyprus in an effort to keep the Geneva talks from faltering. Nevertheless, the negotiations broke up, and Turkish military activity on Cyprus resumed. We believed, and have so stated publicly, that diplomatic remedies at Geneva had not been exhausted. On August 15 the White House expressed President Ford's disapproval of the Turkish resumption of military activities on Cyprus.

At the direction of President Ford, Secretary Kissinger made the following points at his August 19 press conference. The United States will insist on the strict maintenance of the cease-fire on Cyprus. The imperative and urgent need is to begin negotiations. We will continue to support efforts to bring the parties to the negotiating table. The United States will play any role requested by the parties. We are also prepared to support the able efforts of British Foreign Secretary Callaghan in this regard. In these negotiations, we believe it will be necessary for Turkey, as the stronger power on the ground, to display flexibility and a concern for Greek sensitivities, both in terms of territory and the size of military forces on the island. The United States greatly values the traditional friendship of Greece. It has the highest regard for Prime Minister Karamanlis, and wishes every success to his democratic government. We will use our influence in any negotiation to take into full account Greek honor and national dignity.

In the United Nations, the United States has supported every Security Council resolution on Cyprus. The most recent resolution formally records the Security Council's disapproval of unilateral military actions taken against the Republic of Cyprus, urges withdrawal of military forces other than those authorized by international agreements, and urges resumption of negotiations which are not to be prejudged by any advantage resulting from military operation.

The United States has provided air transport for UN troop contingents on their way to Cyprus for duty in the UN force that has attempted to keep peace on the island since 1964. We have already provided more than $2 million in money and supplies to relieve the human suffering of the people of Cyprus, and we are seeking additional ways in which we may be of assistance.

We are very much aware of the suffering of the Cypriot people during these difficult times and are sincerely sympathetic to their plight. The United States remains convinced that only through a return to negotiations can a fair and lasting solution to the Cyprus problem be found and peace and stability throughout the area restored.

I hope you will call on me if you believe we can be of further assistance.

Cordially,

LINWOOD HOLTON,
Assistant Secretary for Congressional Relations.

THE FORGOTTEN POW'S

Mr. PELL. Mr. President, Mrs. Alfred A. Robitaille of my home State of Rhode Island has recently written two letters published in the Providence Journal-Bulletin, which I would like to bring to the attention of my colleagues.

Both concern our prisoners of war captured during the Vietnam war, and those who still remain unaccounted for. Mrs. Robitaille writes movingly about her concern, and the concern of many others for this tragedy.

Mr. President, as one sharing Mrs. Robitaille's concern, I ask unanimous consent that the text of these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

REMEMBER POW-MIA

As we all know, just a year ago 591 POWs came home. We were overjoyed and many of us were glued to the TV sets every day just to see our brave men come off the planes.

A year has passed, and many people have forgotten these men. Worse than that, many have forgotten that there are twice as many men still missing. Some have just vanished from the face of the earth. People have the idea that these men all are dead. But the fact that many have disappeared mysteriously will prove to your readers that some of these men may still be alive—somewhere.

There are still more than 1,200 men still unaccounted for, but many people have stopped wearing bracelets, thinking the war is over. It is not. I have heard several returned POWs speak, and they have stated that in their opinion there are men alive and prisoners in Indochina.

One POW stated that when he was released, he knows for sure there were three men left behind. These could be a few of the many bed-ridden men and amputees whom we did not see get off those planes a year ago! Could any of our six men from Rhode Island who are still missing be one of those three men left behind? These 1,200 men fought for us; let's not let them down. Are we going to forget that these men ever existed?

There is a small newspaper called "The Voice," which gives the public an update of the POW-MIA situation (Prisoner of war-missing in action). Distributors all over our state will gladly get "The Voice" to you. They also will send you free literature and bumper stickers, or sell you a bracelet.

If anyone is interested in further information, please call 828-0279.

MRS. BETTY ROBITAILLE.
West Warwick.

OUR FORGOTTEN MEN . . .

Everyone is anxious to forget Vietnam, but the families of those men still listed as missing in action still feel the pangs of war daily and the heaviness of the unresolved questions about the whereabouts of their loved ones. We have men from R.I. who have been declared dead, but these men have never been found, nor have their dog-tags or belongings.

More than 50 American men are known to have been captured and are still listed as POWs by our government. Since their capture, some of these men have had their pictures in foreign newspapers or have made propaganda broadcasts. This alone proves they were captured, but there is no evidence as to what the Communists have done with these prisoners.

Some people say that they are "probably" all dead. Can we just forget about them based on a "probably"? There is no proof that any of these men are alive, but there is nothing to prove they are dead, either. Until we find some answers, none of the over 1000 MIA families will find peace.

Last year when our 562 military men and 32 civilians were released, the Communists claimed there were 55 who died in captivity. Just a short time ago, they finally gave us the 12 and 11 bodies which they said was all they had. Twelve and eleven did not equal 55 when I went to school. Are we so gullible as to take the word of the Communists?

MRS. BETTY ROBITAILLE.

West Warwick.

INDIAN EDUCATION AT BRIGHAM YOUNG UNIVERSITY

Mr. BENNETT. Mr. President, in these days when there is great concern about the future of our Indian citizens and the feeling that they are not being given equal rights, it is heartening to know that at least in one private educational institution their needs are being recognized and met.

I am enclosing a clipping from a recent issue of a Salt Lake paper which reports that at Brigham Young University there is actually a Department of Indian Education with a man of Indian descent in charge, which not only has the highest enrollment of Indian students of any university in the country, but also has the highest national average of its Indian students who have graduated, 19.7 percent, which is approximately five times as great as the average of our other institutions.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INDIAN EDUCATION'S A SUCCESS AT BYU

(By Hazel Parkinson)

PROVO.—John Maestas, the personable outgoing chairman of the Indian Education Department at Brigham Young University, bubbles with enthusiasm when he talks about the program.

He begins by telling that BYU has the highest Indian student enrollment of any institute of higher learning in America with 535 students enrolled in 1974. And BYU had the highest national average of its Indian students who graduated—19.7 percent as compared to the national average of 4 percent.

"We do not mean to brag, when we say that we probably have the most successful program in the country. Indian educators have told us so.

SUCCESS FACTORS

"Success is based on two principles. First, our program is not a remedial one. We strongly believe that you cannot tell a student that he is a remedial student without creating an emotional problem which leads to failure.

"Our students take the same classes as any other student at BYU. But the structure of the program is the second key.

"We have a small group of teachers who are a real team of teaching specialists in their various fields. They are devoted to excellence in teaching. They are committed to helping students to succeed. Indian students compete at the same levels as other students. By avoiding reference to deficiency or remedial, students are given a positive approach to help make up deficiencies without creating emotional problems.

SMALLER CLASSES

"With smaller classes, teachers can and do devote individual tutoring or additional helps each day, if necessary, to help students keep up and succeed.

"Our program is not an Indian studies program. We are not in the business of just studying about Indians, but rather it is an Indian education program with a major thrust centering around our academic offerings.

"Our academic services are supported by personal services, such as counseling, tutoring, employment, health career education, financial counseling, extracurricular programs and activities.

"Classes are organized to include a balanced ratio of Indian and non-Indians in the class. We've found there is a much better learning-competitive atmosphere especially in the first year of basic requirement classes.

"Many faculty members try to get their own children into the mixed classes."

MANY TRIBES REPRESENTED

Mr. Maestas went on to say that there are 77 different tribes and tribal blends represented in the program. Largest group is Navajo. Twelve students are from Canada. Thirty Indian students were involved in a tutoring program for elementary age students during the school year. In 1974–75, 150 students are scheduled to be tutors. During the summer, 30 students were employed as tutors on their reservations. And thirty students are in the teacher-training program.

"Close to 85 percent of our students come from reservations.

"Every Indian student enrolled is a member of the Tribe of Many Feathers, the Indian student organization. The tribe also is open to non-Indian students."

The tribe sponsored a wide variety of activities—Indian Week, student newspaper, intramural teams, dance and folklore presentations, arts and craft displays and the Lamanite Generation, singing group.

The tribe also takes responsibility for providing input and support to the total Indian program.

While BYU doesn't offer a degree in Indian Studies, there are Indian-related courses in sociology, history, anthropology, home economics and range management.

John is of Indian and Mexican descent. He was reared in New Mexico and Colorado. He was the first Indian to be elected student body president in his high school.

He attended Adams College, Alamosa, Colo., for a year, got married, quit school, and became the father of three boys. He worked on a farm and as a meat cutter. After a while he realized that getting a college education was indeed important to him. He wasn't getting ahead without it. He reenrolled and got a degree in speech. He received his M.A. degree at BYU. He also taught English classes and was a debate coach before moving into the Indian Education area.

CUBA

Mr. HASKELL. Mr. President, I have followed with great interest reports of the results of the trip by Mr. Pat Holt, staff director of the Senate Foreign Relations Committee, to the Republic of Cuba. Mr. Holt spent 10 days in that country from June 29 to July 8 of this year.

Mr. Holt's trip was, of course, entirely a factfinding one and in no way signaled a change in official American policy toward Cuba. Secretary of State Henry Kissinger in a letter to Senator FULBRIGHT validating Mr. Holt's passport made this abundantly clear when he said:

> Our general opposition to travel by Americans to Cuba . . . reflects our continuing assessment that is important to our national interest and to the security of the hemisphere to seek the isolation of Cuba in cooperation with other American republics.

Now, however, there are signs of change in the official American attitude toward Cuba. The Senate called this year for a reexamination of our Cuban policy in section 14 of the State-USIA authorization bill. More recently, President Ford stated in his press conference of August 28 that American policy toward Cuba was being reviewed. I believe that the time has finally come for our Government to undertake a serious reassessment of our Cuban policy, and I was gratified by the statesmanship revealed both in the Senate's action and in the President's statement.

Mr. President, this first perceptible change in American policy since its enunciation in a speech by Under Secretary of State Ball on April 23, 1964, is as it should be, for the world, too, has changed dramatically in the last decade. The Khrushchev regime in the Soviet Union has toppled from power—largely, I might add, as a result of its "adventurist" Cuban policies. We have seen a major anti-Communist war in Vietnam escalated and deescalated. A Marxist regime in Latin America has come to a violent and unconstitutional end. There has been a rapprochement of sorts with both the People's Republic of China and the Soviet Union. And we now have a new President of the United States.

Thus, the opportunities for rapprochement are now greater than at any time in the past decade, for the very forces which shaped our policy in the 1960's have largely disappeared.

Traditionally, American animosity toward Cuba has rested on the twin pillars of subversion in the Western Hemisphere and collusion with the Soviets. Spokesmen for three successive administrations have voiced these charges time and time again. In 1973, then Deputy Assistant Secretary of State for Latin America Robert A. Hurwitch traveled this trodden path once more when he said:

> As it has been since the early 1960s, U.S. policy toward Cuba is based on Organization of American States resolutions urging the diplomatic and economic isolation of Cuba as long as Cuba remains a threat to the peace and security of the hemisphere. In our view, this threat results from Cuba's support of subversion in other countries of Latin America and its close military ties to the Soviet Union.

While these contentions, if accurate, do constitute a strong indictment of the Castro government, I maintain that these premises upon which our past policy has rested are anachronistic. To emphasize constraints placed upon American freedom of action as a result of an OAS policy that was largely engineered by the United States constituted a self-serving evasion of the real issues. In the words of Prof. James Higgins of Boston University, who has himself visited Cuba five times since 1967:

> The U.S. State Department . . . having really imposed the trade embargo by its influence over the OAS in 1964, says we are bound by it because everybody else has voted for it.

Professor Higgins goes on to point out that "other countries who voted for it in the beginning are now changing their attitude toward Cuba."

A brief perusal of the actions of OAS member countries and other states since 1964 shows this assessment to be essentially correct. Since the original OAS action, Mexico, Peru, Jamaica, Barbados, Trinidad-Tobago, and Guyana, as well as Chile—prior to recent events—have all recognized the Castro government. Ecuador, Panama, Venezuela, Colombia, Argentina, and even Costa Rica all have quasi-recognition policies and are moving inexorably closer to the establishment of formal relations. In fact, it was only through great American pressure that the Cuba question was kept off the OAS agenda at this year's OAS Conference of Foreign Ministers.

In short, while the rest of the hemisphere adapted its policies to a new international environment, the United States Cuban policy until recently suffered from a deplorable myopia. As nominal arbiter of the Western Hemisphere community of nations, we found ourselves in the unenviable position of the "leader" of the French Revolution who, seeing his people march by, excused himself with the words:

> Pardon me, I must go ask my people where they are going so that I can lead them.

In the Cuban case, American foreign policy seemed oblivious to the geopolitical realities that were so quickly perceived in the rapprochement with the Soviet Union and the People's Republic of China. Secretary of State Kissinger is reported to have pointed out this discrepancy privately in discussions with other administration officials.

Of course, there were those that still maintained that Cuba's subversive policies posed a real threat to the Americas. Yet it was apparent that for all her rhetoric, Cuba's program for hemispheric revolution had been a dismal failure. Not a single successful revolution had occurred. Not a single government toppled. The most violent disciple of Cuban revolution—Che Guevara—died among a pitiful group of less than two dozen followers in the rugged mountains of Bolivia in 1967. From that time, Castro's revolutionary enthusiasm had waned, his active support of subversion had ebbed. Even the Defense Intelligence Agency admitted that—

> In some cases Castro's efforts are limited to propaganda attacks against the existing government. In other cases, he may train selected insurgents in Cuba, or provide financial assistance . . . At the same time, however, it is clear that Cuban support for Latin American insurgents is at a low level.

Certainly other members of the OAS who are more directly affected by potential subversion than the United States have begun to review their policies. Venezuela is just one example. There are many others. As the former American Ambassador to Cuba during the early days of the Castro regime, Philip Bonsal, stated:

> I would say that, even in the countries which may be threatened with social upheaval, the currents coming from Cuba are considerably weaker than they were some years ago. Cuba is a distant country to most of the other republics. The Cubans are just not the people who are going to overturn the governments of these countries at the present time.

Yes, Mr. President, the Cuban threat has diminished. But even if it had not, a point that must be made is that isolation of Cuba is not going to prevent revolution in Latin America. As Professor Higgins has perceptively stated in his testimony before the Senate Subcommittee on Western Hemisphere Affairs:

> When you have 70% of 300 million people living in poverty, when you have 80 million illiterates, when you have 30% of the people dying under 40 years of age, when you have 5% of the people with 30% of the wealth . . . if you are not going to have revolutionary change then, there is no logic on earth.

Mr. President, Cuba is not the source of revolutionary pressure in Latin America. Cuba is itself a product of the emotions, the latent forces, that have bred unrest and insurrection and continue to do so among our southern neighbors. If we, as Americans wish to transmit a legacy of democratic processes to our Latin American allies, if we really want to prevent a recurrence of the Cuban tragedy, then we must resist the temptation to grab at every easy solution that comes along. Rather, we must address ourselves with renewed interest to the festering problems of poverty and disease, political irresponsibility and repression.

I contend, therefore, that the subversion argument has been overdrawn. But what of the question of Soviet-Cuban collusion? In the past testimony before various congressional committees, the State Department repeatedly warned of the dangers of ties between the Soviet Union and Cuba, and cited them as cause for maintaining our own intransigent posture. No one would deny, Mr. President, that Cuban-Soviet collusion represents—or could represent—a grave potential threat to American security. The possibilities of confrontation have been poignantly demonstrated. Yet I see no sign either from Cuba or from the current Soviet Government that the perilously adventurist policies of the early 1960's will be repeated. And it seems to me that the best way to prevent such a repetition is to encourage Cuban independence from the Soviet Union, for by pursuing a policy which isolates Cuba from her hemispheric neighbors we are driving her more deeply into the Soviet camp. As my colleague Senator McGee so ably put it:

> We fail to recognize that the greatest defense there is [against Soviet exploitation] is dignity of independence.

Mr. President, again no one is denying that potential dangers exist. Nor is anyone berating the need for caution in approaching a change in Cuban-American relations. But I contend that we must inject an element of perspective into our debate over Cuban-Russian ties. The policies of the Cuban and Soviet Governments, while in most respects still abhorrent to our own, have undergone some change. And if we have learned anything from the past two decades, it certainly should be the inevitability of change.

Mr. President, I am not necessarily advocating diplomatic recognition for Cuba tomorrow. Nor am I arguing that we should abandon our opposition to the Castro regime or our support of a free Cuba. But neither, do I accept the argument that we are condemned to repeat the mistakes of the past by cementing ourselves into outdated and ineffective foreign policies. We must not let momentum become our master. Our attitudes toward Cuba, like those toward the Soviet Union and China, must find their origin in the world of 1974, not in the world as it existed 10, 15, or 20 years ago.

For this reason, I applaud the shift, subtle as it is, in the official American attitude indicated by President Ford's statement. It introduces a long-needed element of freshness into the debate over our Western Hemisphere policy. It constitutes an important American reawakening.

It is my fervent hope that the Cubans will respond positively to President Ford's encouragement. While I do grant that the Cubans have in many ways been intransigent, I certainly feel that there have been subtle signs that they, too, are rethinking their policies. As Secretary Hurwitch has pointed out:

> On matters of mutual interest . . . we have demonstrated that we can deal with each other.

This willingness to cooperate was demonstrated by the Cubans when they approached the United States in 1969 on the possibility of an accord on hijacking. It was also evidenced in the United States-Cuban agreement on the refugee airlift.

Mr. President, I am convinced that the United States and the Republic of Cuba can, in the future, come to substantive agreement on problems of mutual interest. In the words of Senator Fulbright, my distinguished colleague and chairman of the Senate Foreign Relations Committee:

> We are the big country, and ought to take the responsibility . . . The initiative should come from the United States. We are not in any great danger or peril but it is costing us money and we have problems, and it would be to our interest, whether Castro is nice or not, whether he shaves or not, to normalize our relations and quit spending a lot of money on a futile pursuit of the cold war.

Mr. President, I believe that many of my colleagues share Senator Fulbright's views. I also believe a majority of Americans feel this way. Polls taken last year by George Gallup revealed that 7 in 10 Americans, 71 percent, favored improved relations with Cuba. It is, therefore, tremendously reassuring to know that our policy is now being reconsidered at the highest levels.

I am firmly convinced that there is a place in American foreign policy thinking for more modest overtures to the Cubans. Such measures as a relaxation of travel restrictions on Americans desiring to visit Cuba, a relaxation of restrictions on the movement within the United States of Cuban diplomats at the United Nations—to more closely conform to privileges granted other nations—and frank discussions in the Organization of American States leading to an end to the economic embargo will not seriously jeopardize U.S. interests and will place our foreign policy on a more realistic plane. I am certain such a modest change in direction would meet with approval both at home and abroad and could not but advance the cause of American leadership in the Western Hemisphere and around the world.

I strongly commend President Ford for his steps in this direction, and I pledge my firm support for any effort designed to remove the sources of animosity between the United States and Cuba, and to restore the traditional friendship between our countries.

GEN. ALEXANDER HAIG

Mr. GOLDWATER. Mr. President, I am serious when I say that it distresses me to have to take issue this morning with an opinion expressed in yesterday afternoon's Washington Star-News by my friend and colleague from Wisconsin, Senator PROXMIRE.

The subject under discussion was the possibility that Gen. Alexander Haig would return to active duty status after his assignment at the White House as chief of staff for Presidents Nixon and Ford. Reportedly, General Haig would be appointed commander of NATO and of American forces in Europe.

Mr. President, I have not discussed this with Senator PROXMIRE so that I am not sure he was quoted exactly right and in the proper context, but if he was not I certainly urge him to correct me.

Mr. President, Senator PROXMIRE was quoted in the Star-News and again on numerous radio programs as stating that he would "strenuously oppose" any recall to active duty for General Haig—

> Returning Alexander Haig to active duty status would send a clear signal throughout the military officer corps that politics pays off and in a big way—

Senator PROXMIRE was quoted as saying—

> If Alexander Haig could go from a Colonel to a Four-Star General in four years and be rewarded for his political service to former President Nixon with the highest military post in Europe, then military officers may be tempted to line up with one party or another.

Mr. President, it seems to me that my friend from Wisconsin, who has spent many years now investigating spending and waste and related irregularities at the Pentagon, has learned absolutely nothing about America's military chain of command.

Senator PROXMIRE, in the statement in the Star-News, praised General Haig as a "fine officer" but said he would nonetheless oppose his appointment to any military position requiring confirmation by the Senate. It strikes me that Senator PROXMIRE in his description of Haig might have supplied a clue as to just how a colonel becomes a high-ranking general in 4 years. However, it does not provide any clue as to why Senator PROXMIRE ignores the fact that General Haig throughout his recent publicized career has been taking most of his orders from the Commander in Chief of the U.S. Armed Forces as defined in the U.S. Constitution.

If the Wisconsin Senator wants to hold promotion against a U.S. military officer, he is entitled to do so. However, to strenuously oppose a recall to duty for a man he describes as a "fine officer" merely because he followed orders strikes me as ridiculous.

We have heard many things in this Chamber said about the military and the continued civilian control over the U.S. armed services. I, for one, believe civilian control is necessary and has been one of the reasons for our success. But, if we are to have civilian control in the Commander in Chief, we must expect all of our finest officers to carry out whatever orders they receive from their Commander in Chief. This is the military way. It is burned into the consciousness of our military leaders from the beginning of their training that orders must be carried out; that discipline is essential to effective military operations. This concept is so well known and so clear that I can only suspect that those in the Senate who strenuously object to General Haig's return to active duty are guilty of playing partisan politics with a very serious matter.

EDUCATION AMENDMENTS OF 1974

Mr. PELL. Mr. President, with the signing by President Ford of the Education Amendments of 1974, what is, in effect, the elementary and secondary education bill, the Subcommittee on Education of the Senate Committee on Labor and Public Welfare can now turn to other matters which, while the subject of study and discussion at the staff level, will now become the main issues of subcommittee action. These will include oversight study, hearings, and whatever legislative activity is deemed necessary.

I regret that the subcommittee could not have devoted this whole year to the type of work on which we will now begin to focus. It was our hope to finish our work on the elementary and secondary education bill last fall or very early this year. However, it seems impossible to bring an education bill to the floor of the Senate without raising the busing issue with all the consequent acrimony and emotion.

On June 30, 1975, the following pieces of legislative authority will expire: The Higher Education Act of 1965, the Vocational Education Act of 1963, and the National Institute of Education. Although these are only three pieces of legislation, what we are really talking about is all Federal legislation affecting higher education, including student assistance, institutional aid, and library assistance; the total Federal effort in support of vocational education; and the fledgling National Institute of Education, which was authorized in the Education Amendments of 1972.

While the higher education programs were reauthorized 2 years ago, there were many new programs contained in that legislation, and it is incumbent upon the committee to study these programs to see what has and what has not been effective. It is my view that our oversight work in these areas will not result in any major redirection, since these programs are only getting off the ground. I believe one of the major weaknesses of our governmental system is that we legislate a program one year and look for results the next; we then change direction if results are not immediately forthcoming. Therefore, I believe that next year's legislation on the subject of the National Institute of Education and the higher education amendments will seek to refine the approach rather than redirect Federal activity. For example, the National Institute of Education which, unfortunately, has been the subject of much controversy, is just now getting its feet on the ground and defining its role within the education community and the Federal Government. It may be that the Congress has given the National Institute of Education too few guidelines respecting national policy, and, therefore, policy guidelines and funding earmarkings will be necessary.

The Education Amendments of 1972 established a new Federal approach to student assistance and also, for the first time, identified a degree of direct Federal responsibility for institutional aid. Here again, I believe the basic substance and structure of the Federal student assistance package, which is comprised of the basic educational opportunity grant program, the supplemental educational opportunity grant program, the college work-study program, the guaranteed student loan program, and the national direct student loan program, is solid and can continue to operate as the years go by. There may be adjustments needed within the mechanism to insure that the structure is not used as a means of targeting all the aid to the lowest income students, and that the legislative intent of the Congress is recognized and followed, that is, the creation of student assistance programs which are helpful to not only low, but also middle-income students. The subcommittee intends to hold hearings on higher education programs in early October, starting with a review of the basic educational opportunity grant family contribution schedule, submitted by the Office of Education.

In our review of postsecondary education programs, the Subcommittee on Education will have the benefit of the final report on financing postsecondary education in the United States of the National Commission on the Financing of Postsecondary Education. This commission was established by the Education

Amendments of 1972 and conducted a thorough study on various means by which postsecondary education could be financed. Their recommendations will, I am sure, be of great assistance to us in our work.

One portion of the student assistance package is the guaranteed student loan program. This program has been in existence for 9 years. It has been the source of constant attention from the Congress in that it has required such attention to keep it in operation. In today's high interest money market, it is very chancy to rely upon such a program. Two years ago, a student loan marketing association was begun to see if more money could be generated. However, the cost of the guaranteed student loan program is open-ended and will continue to grow each year, something over which the Federal Government will have no control. I believe that we should not study this issue just on the basis of the default rate and the mechanics of the loan, but also with reference to the question of whether or not this type of program should be continued.

There has been much discussion about the outrageously high default rate. This has been pointed to when people discuss the proprietary postsecondary institutions. However, the monetary default rate is not limited to this type of institution. It is also a growing problem at traditional public and private educational institutions. Hearings on the default rate will be held on the 18th and 19th of September.

Another matter pertaining to proprietary career institutions is the question of accreditation. Again, we are not talking about an issue which only affects this type of school. The Federal Government has been lax in its efforts on accreditation, a laxity, to my mind, based on omission rather than commission. As the Congress adopted more and more programs of student assistance, without any overall plan or approach, the question of accreditation arose. It was originally left up to a small office in the Department of Health, Education, and Welfare. Accreditation authority grew with little guidance from the Congress as to what the Federal role would be. Private accreditation is used for Harvard, the University of Mississippi, and Cal Tech, as well as for local typing schools. Therefore, the Senate will, in its work on the higher education amendments, consider and discuss the whole question of accreditation. Hearings on accreditation, especially as it affects proprietary schools, will be held on September 11 and 12.

The present standing authority for vocational education assistance was enacted in 1968. It has not been studied in depth by the Congress since that time. However, this is an area where, I believe, more and more of our Federal money should go. Too many youngsters graduate from secondary school without any skills. Junior colleges and proprietary, profitmaking, postsecondary institutions probably grew due to the fact that high school graduates do not have marketable skills. In fact, private vocational schools have proliferated so substantially in the past few years, and instances of abuse have so increased, that the Federal Trade Commission has recently found it necessary to propose regulations to protect the rights of students in these schools.

Therefore, it will be one of our major efforts to study and discuss vocational education but not within the limited parameter as now set forth in the statute. Perhaps we should junk the term, vocational education, and refer to career training. Education must be treated as a unified whole; we cannot continue to fragment and compartmentalize efforts to educate and train youngsters. Congress must take the lead in the whole question of making available adequate training facilities for students, opportunities which should be made available at the high school level, thus taking pressure away from the postsecondary institutions and their budgets. Hearings on vocational education are projected for late September.

There are other matters which we wish to study: The use of Federal funds for unnecessary travel and expenses, the incorrect award of contracts, and the contracting-out functions formerly performed by Federal employees.

It is my hope that legislation in the areas I mentioned can be discussed on its own merits when it is before the Senate. This is something we will not be able to do if we are faced with the busing issue every time an education bill is on the floor. It would be in the interest of the various programs if we would be allowed to treat these education matters in a discrete fashion, apart from the busing issue.

Our oversight work and hearings will start shortly. Those who wish to be heard or wish to discuss these matters should contact Stephen J. Wexler, counsel, Subcommittee on Education, U.S. Senate, Washington, D.C. 20510.

NATURAL GAS CRISIS

Mr. ROTH. Mr. President, the United States is headed toward a natural gas crisis. By every indication, the supply of natural gas next winter will not be sufficient to meet anticipated needs and major shortages are expected.

Mr. Monty Hoyt, writing in the August 23, 1974, Christian Science Monitor, succinctly summarized the possible implications of this shortage to industries on the East coast: A Connecticut chemical manufacturer may have to curtail production thereby endangering 80,000 jobs; a New Jersey gas distributor may have to cut off supplies to 19 plants with a total employment of 25,000; South Carolina reports the jobs of 200,000 people are threatened; and, General Motors states the natural gas shortage poses a serious threat to continued operations.

Two impressions can be derived from Mr. Hoyt's article. First, the impending natural gas shortage could have a serious impact on employment next winter. And second, the impact of the shortage will be concentrated in selected geographic areas depending on the supplies of individual pipeline companies.

Mr. President, on June 19, 1974, I introduced legislation which could attack both these problems. S. 3677 would authorize the Federal Power Commission to allocate natural gas supplies when a clear threat to public health and welfare is present. Its major intent is to spread the impact of shortages equitably among all regions. This and similar legislation is presently under consideration by the Commerce Committee.

Mr. President, because of the timely nature of Mr. Hoyt's article and the direct importance it has for legislation now before the Senate, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Aug. 23, 1974]

BUT NATURAL GAS SHORTAGE LOOMS

(By Monty Hoyt)

WASHINGTON.—A long, cold winter could have a chilling effect on industry and nonessential services in the East and Midwest.

Natural gas curtailments in record numbers are expected this winter, which could cause large scale shutdowns of factories and wide unemployment in areas where substitute fuels are unavailable.

A Connecticut chemical manufacturer reports that if natural gas shortfalls are as large as predicted, the company's plants will be forced to close down. This will cause a chain reaction, putting 80,000 people out of work at a rayon and cellophane plant and rippling through the clothing and food-packaging industries, the manufacturer says.

A New Jersey gas distribution company has been told by its supplier to expect 27 percent less gas this winter, which could mean curtailments to the distributor's customers of as much as 60 percent over a three-month period. Nineteen plants with a total work force of 25,000 employees depend on this company for their operations.

South Carolina reports that the two interstate pipeline companies, Transcontinental Gas Pipeline Corporation and Southern Natural Gas Company, will cut deliveries to industrial customers by 38 billion cubic feet of gas this winter, 43 percent of what is needed. Some 358 industries employing over 200,000 employees could be affected. To make up the deficit, 5.4 million barrels of oil would be required.

The giant automaker, General Motors, has stated that a natural gas shortage "represents a serious threat to the continued and uninterrupted manufacturing operations" of its plants, particularly since there is no substitute for natural gas or propane (a natural gas derivative also in short supply) in many auto part processes.

EMERGENCY SEEN

"We have a natural-gas emergency right now," testified John N. Nassikas, chairman of the Federal Power Commission before the Senate Commerce Committee this week. "We have had one for the past two to three years."

But this winter the FPC projects an 81 percent jump in the level of curtailments of natural gas in the interstate markets over last winter. (The shortfall is expected to be 1.8 trillion cubic feet of gas.)

John C. Sawhill, federal energy administrator, said, "There is no reason to feel optimistic about the natural-gas situation.

"The severity of the shortage in different areas depends on such factors as degree of curtailment by gas suppliers, availability of alternate fuels, and weather."

Those areas most likely to be hard hit are the North and Southeast, Appalachia, and the Great Lakes regions, which are almost totally dependent on gas sources from other areas.

CUTOFF PRIORITIES

Under FPC curtailment procedures, pipeline companies and distributors are supposed to cut off major industrial customers first (those on "interruptible" contracts being cut back before those on "firm" contracts). Residential and small commercial customers are given the highest priority, which means they are the last to be curtailed.

The FPC does consider requests for relief from gas customers who can demonstrate "irreparable injury" because of curtailment.

Even though he described the natural-gas situation as "bad," Mr. Nassikas indicated there were some promising signs for alternate fuels: "Oil products are in far better supply this winter, so are propane, diesel fuel, and residual No. 6 oil used by the utilities." And conversions from gas to oil or coal-fired boilers by utilities are being stepped up.

Both Mr. Sawhill and Mr. Nassikas have repeatedly advocated the deregulation of natural-gas prices by the FPC as being the greatest spur to the exploration and discovery of new gas sources.

WOMEN'S EQUALITY DAY

Mr. CLARK. Mr. President, August 26, Women's Equality Day, marked the 54th anniversary of the date women were granted the right to vote in this country, and it is an appropriate time to assess the progress made since then in eliminating discrimination against women.

Women comprise 53 percent of the American population, but they are notoriously under-represented in government, academic, and business circles. Perhaps the most serious inequity is job discrimination which deprives working women—many who are the sole support of their families—of the opportunity to earn a livable wage. Women generally find themselves at the low end of the pay scale. According to the Department of Commerce, the average woman earns about three-fifths the salary of a man working the same number of hours.

In the last few years, significant progress has been made in improving the status of women. On the Federal level, a number of laws affecting women have been passed by the 93d Congress. All of them may not seem important—but each of them is a step forward:

The elimination of the Women's Coast Guard Reserve and the creation of one reserve which now includes women;

Prohibiting the Small Business Administration from practicing sex discrimination;

Prohibiting sex discrimination with regard to the expenditure of Federal manpower funds;

Prohibiting sex discrimination in any law enforcement and criminal justice program which is federally financed;

Prohibiting sex discrimination in housing and mortgage lending;

Extending the minimum wage to domestic workers;

Establishing uniform enlistment qualifications for male and female enlistees in the Armed Forces;

Authorizing the Secretary of Health, Education, and Welfare to develop nonsexist curriculums and nondiscriminatory programs designed to achieve equality for all students, regardless of sex; and,

Revising private pension plans to more equitably assist women.

Many inequities have already been struck down, but those that remain are constant barriers—in obtaining credit, in social security payments, in getting a job, or in pursuing a career.

Much work still remains to be done to fully eliminate discrimination and equalize opportunities for women. More than 100 bills now are pending in Congress which would affect women. Included in this group are bills which would prohibit credit discrimination on the basis of sex, amend the social security laws as they pertain to women, authorize funds to be allocated by the Secretary of Health, Education, and Welfare for child care and family services, and provide that 10 percent of all Federal civil service positions be available on a "flexible hours" basis. Additionally, only five States have yet to ratify the equal rights amendment before it would become the 27th amendment to the Constitution. The adoption of this amendment would be one of the best ways for this country to celebrate its 200th birthday—by affirming that sex should no longer be a barrier to the legal rights and fundamental dignity of every human being, men and women.

FREEDOM OF SPEECH AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, many critics of the Genocide Convention claim that it would restrict the freedom of speech guaranteed Americans by the first amendment. Such critics generally refer to article III of the Convention which states that "direct and public incitement to commit genocide" is a punishable act. Even though the Foreign Relations Committee, the American Civil Liberties Union and Supreme Court Justive William H. Rehnquist while testifying as the Assistant Attorney General have already pointed out why there is no conflict between the Convention and the Bill of Rights, perhaps it will help if this explanation is restated.

It is important to make the distinction between the "advocacy" of illegal acts such as genocide and the "incitement" of others to engage in such acts. The Supreme Court in the 1969 case of Brandenburg against Ohio pointed out that the right to advocate criminal acts is lost when "such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action." The wording of article III clearly does not refer to "advocacy" but only to the "public incitement" to commit genocide. The Supreme Court says that the first amendment does not protect such incitement.

Mr. President, I contend that this case clearly and definitively refutes the argument that provisions of the Genocide Convention if ratified would limit constitutionally protected speech. Normally in such a case we might expect some healthy skepticism from civil liberties groups, and as a spokesperson for the American Civil Liberties Union said:

> If this convention did interfere with the first amendment, the American Civil Liberties Union would be the first one to be complaining, without regard to whether or not we commend the objectives of the convention.

However, this civil libertarian went on to add that "we do not think there is any problem under the first amendment to the Constitution."

Mr. President, I submit that this argument against ratification of the Genocide Convention is groundless, and urge the Senate to ratify this treaty without further delay.

TRIBUTE TO SENATOR MANSFIELD

Mr. BIDEN. Mr. President, Senator Mike Mansfield has served longer than any other majority leader in the 186 years of Congress. His has been a voice of fairness, courage, and vigilance for the 13 years he has served as majority leader. During my short time in the Senate, I have watched with great admiration his skill in keeping abreast of hundreds of bills debated on the floor of this Chamber.

But the tribute I pay today to Mike Mansfield is not based solely on the length of his service, or his legislative abilities and skills alone.

He has brought to the Senate a sensitivity uncommon to the office of majority leader. As a result, he has earned the personal respect and admiration of each Member of this body.

Someone once said that the basic difference between a politician and a statesman was that the former thought only in terms of the next election, while the latter was more concerned about the next generation. Unfortunately, few politicians become statesmen, perhaps because there are so few with the foresight, the warmth, the sagacity, and the integrity of Mike Mansfield. It is a privilege and an honor for me to serve with him in the U.S. Senate.

GEORGE JOSEPH, JR.'S RESPECT FOR THE CONSTITUTION

Mr. ERVIN. Mr. President, the Dunn Dispatch for August 2, 1974, published an article by George Joseph, Jr., of Dunn, N.C., who is the son of an immigrant from Lebanon, which manifests his love for our Constitution, and the Dunn Dispatch for August 5, 1974, carried an editorial commenting on this article.

I ask unanimous consent that a copy of the article and the editorial be printed in the body of the Record.

There being no objection, the article and editorial were ordered to be printed in the Record, as follows:

[From the Dunn (N.C.) Dispatch, Aug. 2, 1974]

Erwin Chamber Leader Promotes Constitution

Erwin.—In the belief that it does not do anyone any harm to read and study the Constitution of the United States, the president of the Erwin Area Chamber of Commerce has sent each chamber member a copy of the document.

George Joseph Jr. whose father is a native of Lebanon and who is now mayor of Erwin, said he is a strong believer in the Constitution over which so much has been said in recent weeks as efforts to impeach President Richard Nixon are being made in the National House of Representatives.

Joseph emphasized that he is not taking

any sides in the impeachment efforts. He said he voted for Mr. Nixon in 1972.

"I have learned to love and respect the Constitution of my country," said Joseph. "It was written by the founding fathers of this country and in my opinion they did a magnificent job. It is our job as a people to see that it means what it says and that we respect it."

Joseph, who is credited by many with having put new life into the local chamber, also sent members a map of Erwin and Dunn and the rest of Harnett county.

The chamber president said has was motivated in sending each member a copy of the U.S. Constitution because this year marks the 198th anniversary of the signing of the Declaration of Independence.

[From the Dunn (N.C.) Dispatch, Aug. 5, 1974]

GOOD WORK GEORGE JUNIOR

Americans have a failing that is not hard to understand, but which is most unfortunate, the inability to see the forest because of the trees.

Like the son of a wealthy man, who has never known want or need, the typical American tends to assume that the rights, liberties and privileges he has inherited have always been there and always will be.

We know that the Constitution of the United States and the Declaration of Independence exist, and most of us have an idea of how they were conceived and adopted, but do we really know what their significance is?

George Joseph Jr. of Erwin, president of the Erwin Area Chamber of Commerce, decided it would be a very good idea to try to refresh some memories as to the content and meaning of the Constitution.

So coinciding with the 198th anniversary of the signing of the Declaration of Independence, he sent each member of the Chamber a copy of the precious document.

The interesting thing about the action by George Junior is that he has much in common with the men who made possible the establishment of the United States of America.

Because, like many of them, he is the son of an immigrant, a man who has relived the story of why America came into being.

George Joseph Sr. is a native of Lebanon. Since becoming a citizen of the United States he has enjoyed success in business, politics and as an individual.

Joseph's Department Store is an Erwin institution, known far beyond the limits of the Harnett County town for the quality of the merchandise and the excellence of the service.

George Senior is currently mayor of the growing and prosperous town that his son is doing such a fine job promoting through his Chamber of Commerce work.

To say "This could only have happened in America," might sound trite—even a little corny—but there can be little doubt that it is the truth.

So it really is not surprising that young Joseph should be so dedicated—as indeed so are his father and his brother Louis, a mainstay of the local fire department and rescue squad—to his country and its Constitution.

How much better off we would be today if all of those Americans whose ancestors were at Jamestown or on the Mayflower or members of other early settler groups still were so devoted to America.

We sincerely hope that all recipients of George Junior's copies of the Constitution will read it again, for we are sure that at some time or times they have read it before, experience a re-awakening as to its meaning and the importance of the things for which it stands.

It would be a fine thing indeed if the idea caught on, and Americans everywhere became more conscious of what their country offers them, as well as what their country demands of them if they are to hope for its survival.

Good work, George Jr.—T.W.

TAX HELP FROM IRS FOR SPANISH-SPEAKING AMERICANS

Mr. MONTOYA. Mr. President, the recent hearings on the Internal Revenue Service held by my Subcommittee on Treasury, Postal Service and General Government, have brought to light the confusion many taxpayers face when filing their Federal income tax returns or when responding to inquiries of the Internal Revenue Service. Perhaps the most difficult IRS experience for taxpayers is the threat of audit. Most Americans simply do not understand the audit or appeal process and thus feel that their honesty and integrity are being questioned when their payment of income tax is reviewed.

I will soon be introducing legislation which will make it mandatory that a copy of Internal Revenue Service Publication 556 be sent with the initial correspondence stating that the citizen's income taxes are being reviewed. Publication 556, "Audit of Returns, Appeal Rights, and Claims for Refund," explains why a return has been selected for audit, procedures for appeals within the Service or the courts, and refund claims and procedures. In a tax system which depends on voluntary self-assessment it is imperative that we make compliance with such a system as easy and comfortable as possible. A clear understanding of all procedures helps the taxpayer at every step.

As part of their ongoing effort to provide better taxpayer service, the Internal Revenue Service has recently released Publication 556 in Spanish. The audit and appeal process can be confusing for an English-speaking citizen, but confusion is certainly compounded for the citizen who speaks a language other than English.

I would like to call to the attention of my colleagues, especially those who represent Spanish-speaking constituents, this new IRS pamphlet in the hope that they will assist the Internal Revenue Service in publicizing the existence and availability of this publication in Spanish. Publication 556, in both English and Spanish, may be picked up at any IRS office or by writing to me in Washington.

ALBERT GULL HONORED

Mr. McGOVERN. Mr. President, a resident of my home State of South Dakota has received recognition for distinguished service as a volunteer weather observer at Edgemont, in the southwestern part of the State. Mr. Albert H. Gull is one of only 29 observers selected to receive the John Campanius Holm Award from the National Oceanic and Atmospheric Administration—NOAA—the parent agency of the National Weather Service. It is a distinct honor for a volunteer such as Mr. Gull to receive this recognition, and I would like to publicly congratulate him. Also I ask unanimous consent that the following portion of the announcement from the Department of Commerce be published in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

John Campanius Holm Awards, created in 1959 by the National Weather Service (formerly the Weather Bureau), are made annually to honor volunteer observers for outstanding accomplishments in the field of meteorological observations. The award is named for a Lutheran minister who is the first person known to have taken systematic observations in the American colonies. The Reverend Holm made records of the climate, without the use of instruments, in 1644 and 1645, near the present site of Wilmington, Delaware.

Mr. Gull has taken excellent care of the recording rain gage at Edgemont, South Dakota, for more than 25 years. In addition to this work, he provides reports of any unusual weather conditions. For example, on May 23, 1954, he notified weather officials in Brookings, South Dakota, of heavy rainfall and beginning flood conditions in his area; the data proved to be extremely valuable. In 1973, he volunteered for and was placed in the Black Hills Flash Flood reporting network. He has also constructed an instrument shelter that meets requirements of satisfactory thermometer exposure and has privately-owned maximum and minimum thermometers.

True to the tradition so often associated with the National Weather Service's volunteer observers, Mr. Gull is well known in the community as "Mr. Weatherman." His interest extends not only in the pursuit of weather observations, but also to getting the information to the surrounding area through ham radio or other means.

The National Weather Service has more than 13,000 volunteer observers who make and record daily weather observations in all parts of the United States. The valuable information they gather is processed and published by the Environmental Data Service, another major component of NOAA, and becomes a valuable part of the Nation's Weather history.

BRAZIL'S INDEXING SYSTEM

Mr. BIDEN. Mr. President, I think we would all agree with President Ford that inflation is, indeed, "Public Enemy No. 1." We have gone through several "phases," yet inflation has now reached double-digit proportions.

In a recent article in the New York Times, Paul Singer, a Brazilian economist, describes his country's approach to the problem. In Brazil, an indexing mechanism has been created in which incomes are automatically raised when the price level reaches a certain point. Additionally, prices may not rise by more than costs.

Unhappily, partly because of built-in inequities, this system has not had the hoped-for result of reducing inflation while accelerating economic growth. Nevertheless, as Mr. Singer indicates, the program "should be studied since it can provide at least some inklings of how inflation could be neutralized." I commend this article to the attention of my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 25, 1974]

Lessons of Brazil's Indexing System—Inflation Burden Is Unevenly Shared

(By Paul Singer)

Sao Paulo, Brazil.—It is interesting for a Brazilian economist to watch the present outcry against inflation in the United States.

According to the Gallup Poll, inflation is now considered the nation's most important problem by 48 per cent of those polled, a much higher proportion than those more concerned by the political crisis occasioned by Watergate at mid-summer when the study was released.

But by Brazilian standards the United States inflation rate is rather minor. It slowly speeded up after 1956, reaching a yearly average of 4.4 per cent between 1967 and 1972 and of 7.8 per cent for the last two years. This would be considered as almost no inflation in Brazil, where yearly price rises have not been less than 15 per cent in any of the last 20 years.

One could easily conclude that the sensitivity of consumers to price rises is much lower in Brazil than in the North.

It seems that consumers get used to a certain rate of increase in the cost of living. If inflation ran for many years at about 4 or 5 per cent a year then, as in the United States—or 20 to 25 per cent, as in Brazil—one should expect people to become really upset only when such regular rates are suddenly and drastically exceeded.

But psychological interpretations will not take us very far. People "get used" to a certain level of inflation only if they are compensated within a short interval by adequate raises in their nominal incomes.

It is possible that people would tolerate a much higher rate of inflation if their incomes were quickly enough adjusted to new price levels than they would a lower rate with an actual decrease in real income for a long stretch of time.

That would be a politically sound argument for a thorough system of indexing—in the United States or Brazil—which would automatically raise incomes as soon as the price level crosses certain bench marks.

The problem with such a system stems from the fact that most incomes are also costs: wages are the cost of labor, interest rates are the cost of money usage, rent the cost of land usage and so on.

Thus, it is feared that indexed incomes could generate a new round of cost increases, which would occasion another waive of price rises, accelerating the pace of inflation until it becomes explosive. To counter such a danger, indexing is often coupled with price controls. Prices are not allowed to rise by more than costs.

Where productivity gains are attainable, prices would rise less than costs because real costs per unit would decrease and so inflation could possibly decline—if new inflationary shocks, such as price rises in major imports or important bottlenecks, can be avoided.

In fact, it is very difficult to reduce the rate of inflation in a market economy that is growing basically because more resources—labor, capital and land—must be devoted to expand production capacity. (Switching resources to "improductive" activities, such as space travels or armaments, has the same effect.)

Since these resources must be paid for, they contribute to the expansion of demand well before they help the expansion of the supply of consumer goods, if they ever do. Such lags are unavoidable and they help to generate inflationary pressures, the effects of which are reinforced by "external" events.

It seems almost impossible to stop an inflationary ascent without first stopping growth, generating a certain amount of unemployment and unused capacity and thereby reducing effective demand at the same time that the proportion of total resources devoted to investment activities falls to such extent that the gap beween demand and supply of consumer goods is fully eliminated.

In short, it seems that without recession an acceleration of inflation cannot be reverted.

The present inflationary crisis in the United States seems so difficult to overcome because first, it is becoming politically less acceptable to throw the economy into recession and, second, a recession's effect on inflation is rather short-lived.

It is often affirmed that Brazil had the unique experience of slowing down inflation while economic growth was not only maintained but even accelerated. This would be an achievement with a just claim to the status of a "miracle."

But it is also asserted that, through widespread indexing, no income group was really harmed while inflation was being reduced, so that economic growth, greater price stability and social justice were all attained at once.

If all this were true, then Brazil would be worthwhile studying in order to find out how it was done.

Unhappily what happened was quite different. Inflation in Brazil reached its peak in 1964, when prices rose more than 90 per cent. From that point on, severe restrictions on credit availability and on the expansion of money supply were applied, which had the double result of slowing down inflation and economic growth.

Between 1964 and 1967, the yearly rate of inflation was reduced to about 27 per cent, but during those same years the Brazilian economy suffered one recession after the other. Per-capita income grew by only 3.9 per cent in that period, or less than 1.3 per cent a year.

The reduction of the rate of yearly price rises was achieved by well-known, traditional means which were made politically feasible only by the military take-over in 1964.

Once inflation was down to a 27 per cent annual rate, most restrictive measures were eliminated and the economy started to grow again at high rates.

From 1968 on, the yearly growth rates of the gross national product in real terms, or after adjustment for price rises, stayed above 9 per cent, which corresponds to the "historical" trend of the Brazilian economy, starting before the inflationary crisis began in 1962. Between 1957 and 1961 the G.N.P. in real terms had been expanding at a yearly rate of 8.3 per cent.

What happened to inflation after the boom period in 1968 is a matter of controversy. It seems that inflation was further reduced, by means of severe price controls and important productivity gains, to close to 20 per cent in 1970 but since 1971 has begun to climb again.

Price controls became less effective as inflationary pressures mounted, but some indexes were based only on official prices and so the actual price rise was somewhat underestimated.

In any case, there is no doubt that inflation has been accelerating again, at least since 1973. During the last 12 months, prices in Brazil have risen by more than 30 per cent.

The claim that the Brazilian indexing system assured a fair distribution of the inflationary burden is also quite debatable. In this country, different incomes are adjusted or corrected by different indexes and at different intervals.

For instance, the minimum wage is adjusted once a year by an index that is also used to adjust some debts to the National Housing Bank. Wages in general are also adjusted once a year, but by a different index. The value of Treasury bonds is adjusted every three months, also by an index of its own. All these indexes are issued by the Federal Government and cannot be challenged.

It is obvious that those which have their incomes adjusted only once a year suffer a much greater income loss than those which are adjusted every quarter.

Brazilian labor unions are under strict Government control and therefore cannot react against this discrimination towards workers.

An ideal indexing system would be one that would adjust all incomes equally to relatively small price rises, so that when inflation quickens, adjustments would become more frequent.

To adjust economic calculus to a currency of ever-changing value, a fictitious currency of constant real value could be used. Such a fictitious currency could always be translated into the real, but floating, currency by means of an official index.

Considering such a model, some interesting questions could be asked: Would such a system allow the free movement of relative prices? What type of monetary policy would be required to keep an economy under such system growing?

Unhappily, we do not get the answers from the Brazilian experience, because the indexing system here is in fact used to redistribute income. It is an instrument of economic policy used to favor capital accumulation and the flow of resources into sectors which are given higher priority.

There are already some fictitious currencies, the Building Price Unit, for example, which is designed to protect investments in building from inflation. The effect of such an indexing procedure, with the prices and financing of buildings reckoned in price units, should be studied since it can provide at least some inklings of how inflation could be neutralized.

JOHN STANG, VFW COMMANDER FROM KANSAS

Mr. DOLE. Mr. President, one of Kansas' most distinguished sons was recently elected to the position of commander in chief of the Veterans of Foreign Wars. The rise of Mr. John Stang of La Crosse, Kans., to this position of tremendous national importance is entirely appropriate. I wish to commend him for his success and to commend the VFW for selecting such a highly qualified candidate for their highest office.

In my own efforts to assist veterans, Mr. Stang has been of great assistance. I can speak personally for his qualifications in the area of veterans affairs. Beyond a doubt, he will be of great assistance to myself and to all Senators and Congressmen in the coming year in our efforts to improve veterans legislation.

John Stang's qualifications and expertise have been built upon many years of veterans leadership and public office. He comes to the national position from the position of commander of the Kansas VFW. He has been active in public and community affairs in numerous offices, including the positions of county attorney and member of the Kansas Veterans' Commission.

The acceptance of the position of commander in chief by Mr. Stang is a great honor for Kansas and the Nation as a whole. His leadership in that capacity will be of tremendous benefit to all veterans.

Mr. President, I request unanimous consent that Mr. Stang's acceptance speech and biographical sketch be included in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

REMARKS

Thank you my comrades for the great honor you have bestowed on me today. I especially want to express my sincere gratitude to the members of my own Post and District and to the Department of Kansas and the Western Conference for supporting my candidacy, and I thank the other three Conferences for having faith in me and accepting me. I shall do my best to prove worthy of your confidence and trust, and a special thanks to my family for their support and help. I have missed a few birthdays at home, anniversaries, school plays and other family events. Mary Lou and the girls have been quite understanding and I want them to know that I appreciate this.

A special thanks, also, to the three great Past Commanders-in-Chief under whom it has been my privilege to serve. I refer to Joe Vicites, Pat Carr, and of course, Ray Soden. All three—great gentlemen, great patriots and valued friends.

Now it's obvious that I am not a handsome, dark complexioned man like Joe Vicites, nor a great orator such as Pat Carr, and everyone knows I can't sing like Ray Soden—but with your help and the help of all the comrades and the ladies of the Auxiliary, we will continue to tend to the growth of this organization, both in numbers and prestige. But this can't be done without your help. I want you to know that your help and advice have been appreciated in the past and I certainly seek it in the future.

It has been a busy and productive week for all of us and I intend to keep my remarks brief this morning. The same ideals and goals which have always motivated the Veterans of Foreign Wars of the United States are still with us. Each of us knows the job we must continue to do for our country, our fellow veteran, our communities and our organization. I will limit my further remarks to two special areas of continuing responsibility and concern to us, of the Veterans of Foreign Wars—national security and veterans benefits.

During these past 75 years the Veterans of Foreign Wars has pioneered in establishing practically every veterans right, benefit and program on the law books today.

These programs express to gratitude of the nation for its veterans—who have made an extra sacrifice in the national interest by their service in the Armed Forces during war time. As comprehensive as these rights and benefits are, there is still much vital work to be done. We know there are many who would reduce or eliminate entirely some—if not all—of our precious and hard won veterans rights and benefits. You have expressed your concern by the approval of hundreds of mandates. It will be my solemn and high obligation to have these mandates favorably considered and approved during the coming year.

First and foremost, we must maintain the present veterans programs. We must not yield one inch—to those who would weaken, reduce or destroy a single veterans right or benefit.

Last year the Veterans Administration proposed to the Congress a drastic pension revision, which is still under consideration, if this VA pension proposal—which has been grossly mislabeled as a reform proposal—were the law of the land today, three-fourths of the veterans and their dependents receiving a VA pension would be unable to qualify. I want you to know that your organization will fight this travesty with all the tools at our command.

Congress had made it clear that it wants veterans to have medical care second to none. Because the Veterans Administration did not request enough money to carry out its mission to provide the highest quality medical care for veterans, conditions in VA hospitals have deteriorated far too much during these past several years.

Budget cutting of VA hospitals is part of the campaign of the Office of Management and Budget to close veterans hospitals. I have been impressed with the mountain of evidence obtained by V.F.W. officers and members throughout the nation—which was used so effectively to persuade the Congress that the Veterans Administration needed more money for its hospitals—even though the VA had not requested the money. In our campaign to save VA hospitals and to prevent cuts in veterans hospital care, over $600 million has been added to the VA hospital budgets by Congress during the last several years. Without this additional money—which Congress appropriated, and the VA spent—one wonders what shape VA hospitals would be in today.

The Anti-Veterans policy of the Office of Management and Budget is not the only threat to the future of VA hospitals. Coming down the road at a high rate of speed is a national health care system for all Americans. The Veterans of Foreign Wars does not have a position on national health care. However, we must make certain that the finally approved national health care program does not take away any present hospital and medical benefits to which veterans are presently entitled—contains no language which can be interpreted as authority for the Department of Health, Education and Welfare, or any other government agency to take over VA hospitals, and that the independence and integrity of the Veterans Administration hospital and medical care systems be maintained and strengthened.

The larger goal, however, continues to be how to keep anti-veterans officials and broad axe budget-cutters from killing veterans programs. One way is for the Congress to be more active in its supervision of the Veterans Administration. A most important proposal in this regard is called the "VA Accountability Act". Approval of any one of the accountability act bills pending in Congress will require advance notice and approval of the Congress before a VA hospital or Regional Office can be closed—VA land sold or transferred—or the VA rating schedule revised. I intend to work vigorously for passage of this proposal.

During the coming year, every effort will continue—to have legislation approved which will help our older comrades, especially the World War I veterans whose primary concern is adequate, meaningful pension assistance. Others may forget the World War I veterans—but the V.F.W. will never forget these men who are the bedrock of our organization.

My father was a veteran of World War I. And if it wasn't for the GI Bill formulated by the World War I veterans, I probably wouldn't be standing before you today. They helped us. We must help them.

While we have made great strides in achieving comparable GI Bill assistance for Vietnam veterans, we must remember that the Vietnam veteran is entitled to everything that veterans of World War II and Korea received regardless of the additional costs imposed by inflation. In any discussion of similarity of benefits it is absolutely essential that the Congress and the Veterans Administration take into account the changes in the cost of these benefits in the light of the existing economy.

For our disabled comrades—or if deceased—their surviving widows and orphans, we will be calling upon the Congress to keep their payments abreast of inflation and improved in line with your recommendations as embodied in the mandates you have approved.

We will continue our intense, abiding concern for a strong viable veterans preference for veterans employed by the federal, state or local governments—and our support of the Veterans Employment Service of the Department of Labor, and its responsibility of job counseling and placement of veterans seeking employment in the private sector.

The Veterans of Foreign Wars will be working to have at least one national cemetery in each state—so that every veteran who desires—may have the honor of burial in a national cemetery.

Most important, perhaps, from a symbolic standpoint is returning Veterans Day back to November 11th. Much progress has been made in achieving this goal in Congress. There has been a massive effort by the Veterans of Foreign Wars which has resulted in 42 states returning Veterans Day to November 11th as a state holiday. The evidence is so overwhelming that Congress is out of step with the rest of the nation and should approve a bill bringing Veterans Day back to November 11th before it finally adjourns this year.

Of course, veterans legislation is important to all of us and all of us must strive to maintain our present veterans programs and to improve them. If, however, our nation should not remain a free nation and become subjugated to another world power—there is little likelihood any of these veterans programs would survive—so I now turn to another important area—that of national security and foreign affairs.

Some have questioned the right of our organization to speak out on matters relating to the security of our country and foreign affairs. Others have mindlessly dismissed us as "warmongers" whose views should be ignored or quickly discarded. Now let me answer—on your behalf—those who would either question our right or too quickly dismiss our advice.

There is no group in America that has more clearly earned the right to speak out on matters relating to the security of our country and foreign affairs than this great organization of overseas veterans—in fact—we have a clear duty to do so—and I intend to carry out that duty.

I will start on this business of the V.F.W. being an organization of "warmongers"—the Veterans of Foreign Wars hates war—but we will never lessen our total support for those young Americans called upon to be our warriors.

We will always remember the courage, the patriotism and pride displayed by our returning POWs. They were so brave—pity would be an insult. Like brave men everywhere they have no need of ancestors.

We will never forget those Americans still cruelly carried as missing in action. The love, sorrow and decent concern of their families is our love, sorrow and concern—we will keep the faith of however long it takes.

Now there are some who say, "wouldn't it be a fine thing if the V.F.W. would display "Compassion" towards those whose highly developed—and late-blooming beliefs—led them to flee underground or out of the country when the chips were down." I mean, of course, the draft dodgers and deserters.

Now I have, I believe, my fair share of human compassion, and I'll tell you for whom I have it reserved. My compassion is—for the families of the more than 56,000 young men killed in action in Southeast Asia.

For the 303,000 young Americans who were wounded, many thousands of whom are disfigured for life.

For the POWs who returned—and those who didn't.

For the MIAs and their next of kin.

For the two and a half million young Americans who served in Southeast Asia with honor—and finally my compassion is—for the dead and the missing—and the honored survivors of all of our nation's wars—whose service would be made a mockery of should this nation grant amnesty.

As you can see, my comrades and ladies of the Auxiliary, I have just used up my total supply of compassion. There is none left for people who left America in its hour of need and in so doing pushed better men into the line of fire.

It is impossible for me to display compassion for those who broke the laws of our nation. They deserve to be treated like any other lawbreaker.

As I mentioned earlier, we are not "warmongers". But neither are we blind to those nations abroad and groups at home that would strip away the military forces that are the "shield of our republic".

Some say "detente" with the Soviet Union and China will now permit vast reductions in our Armed Forces.

As far as I can determine "detente" is a french word which has been both mispronounced—and misunderstood—by Americans, while it has been skillfully used by the Soviets to advance their long term unchanging goal of world supremacy. Bluntly stated, the Communist idea of "detente" with the United States can be summarized in this phrase, "What is mine is mine, and what is yours is negotiable".

Now concrete, verifiable toughly negotiated, mutual reductions of armaments are one thing. A woeful American slide deeper into a position of strategic inferiority is what I fear—and what in your name I will oppose—today, tomorrow and for as long as it takes.

Comrades, in 3,425 years of recorded history there have only been 286 years without war.

This is the central fact that I will never forget when I hear people trying to tell me that the cause of peace would be advanced by unilateral American disarmament. This would not be policy—it would be lunacy.

V.F.W. "Warmongers"?

Nothing could be further from the truth. We want no "veterans of future wars" to swell our ranks—but the way to assure there will be no veterans of future wars—is to backstop skillful, tough diplomacy with military power second to none—as stated by President Ford.

And if calling for this combination of diplomacy backed up by power makes me a "warmonger"—I proudly accept the title.

Once again, I ask you for your help in furthering the strength and goals of this great organization—an organization which is bigger than any of its members—or the Commander-in-Chief. If I did not believe that this team can and will add to the illustrious record of those who have gone before us, I would not be worthy of the trust you have placed in me.

Again, I want you to know how much I appreciate this trust. Have a safe trip home. I thank you.

JOHN J. STANG, COMMANDER-IN-CHIEF, 1974–75, VETERANS OF FOREIGN WARS OF THE UNITED STATES

John J. Stang, of LaCrosse, Kansas, an attorney and lieutenant-colonel in the U.S. Army Reserve, was elected Commander-in-Chief of the Veterans of Foreign Wars of the United States at the organization's 75th annual National Convention, August 16–23, held in Chicago, Ill. He was elected Senior Vice Commander-in-Chief at the organization's 74th annual National Convention, held in New Orleans, August 17–23, 1973; and Junior Vice Commander-in-Chief of the organization at the National Convention in Minneapolis, Minn., August 18–25, 1972.

A graduate of the University of Kansas School of Business, Stang received his law degree in 1957 from the University of Kansas and entered private practice in LaCrosse. He later received a Juris Doctor Degree from the University of Kansas School of Law.

He enlisted in the Army in 1946 following graduation from high school. After completing active duty he was discharged as a staff sergeant, entered college and enrolled in the Reserve Officers Training Corps. He was commissioned in 1950 and immediately was called to active duty in the Korean War, serving as executive officer of an artillery battery. He was separated from active duty in 1952 as a first lieutenant.

During the 1961 Berlin Crisis, Stang was again called to active duty. At the time he was Junior Vice Commander of the V.F.W. Department (state) of Kansas. He was released in 1962 and recently was graduated from the Command and General Staff College at Ft. Leavenworth, Kans.

Stang has held most V.F.W. Post and District offices. He was elected Kansas Department Commander in 1963. He has served on the National Council of Administration, as vice chairman of the National Security Committee and chairman of the National Legislative Committee in 1970–71, when V.F.W. officials met for the first time with the newly-created Senate Veterans Affairs Committee in Washington, D.C., during the Mid-Winter Conference. He served as Judge Advocate General in 1971–72.

He has been active in his community and state and has served on the city commission of LaCrosse and was Mayor for two years. He has served as County Attorney and served four years on the three-man Governor appointed Kansas Veterans' Commission.

He is a member of the LaCrosse Chamber of Commerce, Lions Club, American Legion, the state and national Bar Associations and a legal fraternity. He has been active in the Boy Scout organization for a number of years and is presently a member of the National Eagle Scout Association. Stang was born January 2, 1928.

He and his wife, Mary Lou, live at 319 Fairway Drive, LaCrosse, with their three daughters, Karen, Sharon and Debra.

MR. SAXBE AND CRIME CONTROL

Mr. METZENBAUM. Mr. President, Senators who were out of town this past weekend may have missed an important editorial published on Sunday in the Washington Post. The piece deals with an extraordinary, very timely, and, I believe, crucial statement by Mr. William Saxbe, the Attorney General, on crime in the United States.

Bill Saxbe is a distinguished native of Ohio. For 5 years, as my immediate predecessor, he was a wise, tough, independent-minded, and courageous member of this body. I am proud to call him my good friend.

That is not to say that Bill Saxbe and I have always agreed on everything. We belong to different parties, and we have had different perspectives on a number of National and State issues.

That fact makes it all the more striking that I find myself in close agreement with his statement about the causes of crime in America, and about what we should and should not attempt to do to reduce crime.

As the Post suggests, the real importance of Mr. Saxbe's statement is that it may well initiate a welcome new national policy on the prevention of crime and its causes, at the very beginning of the Ford administration.

The Post summarizes its views in this way:

> Mr. Saxbe's speech, in is entirety, should be given serious attention by those within the Ford administration who will be dealing with such matters as public works employment, the control of handguns and the problem of television and motion picture violence. The control of crime has to be looked at in a larger context.

Mr. President, I ask unanimous consent that the full text of the Post editorial on Mr. Saxbe's statement be published in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MR. SAXBE AND CRIME CONTROL

Before a group of police chiefs in Chicago the other day, Attorney General William Saxbe unburdened himself of some thoughts on the subject of crime, its causes and its potential consequences. On the whole, it was a more balanced and thoughtful presentation than you might have supposed from the passages of the speech that gained the greatest national attention. Mr. Saxbe said that crime was increasing at a freightening rate and that some dark—but unnamed—forces within our society might one day use the fact of increasing crime to push for the creation of a national police force, a force Mr. Saxbe warned would jeopardize our liberty.

Unfortunately, the Attorney General's theorizing on the possible need for a national police force made the biggest splash. This, together with his dire view of the crime statistics, was almost all the nation learned about his speech, and perhaps for understandable reasons; the notion of a national police force does tend to concentrate the mind. But a careful reading of his full text reveals much more that is useful as a measure of what the nation's chief law enforcement official really has on his mind. Indeed, the implications for national policy in what Mr. Saxbe said are far too important to ignore, especially in a new administration.

Mr. Saxbe spoke of a reported increase in serious crime of 5 per cent for this year over last year. He was speaking of such offenses as murder, rape and assault with a deadly weapon, and he said such an increase in these crimes was alarming to him. Now we all know that the manner in which local police forces tabulate those figures is far from uniformly accurate. Moreover, we have seen in the past how crime statistics can be manipulated, depending on the political exigencies of the moment. The Nixon administration, for example, would have had us believe the problem was under control many months ago—at the time of the last election.

So, even though the statistics are disturbing, they are probably less interesting, in terms of coming to grips with the crime problem, than some of the things Mr. Saxbe had to say about the causes of crime. He began and ended by confessing to a certain mystification with which we can all commiserate. He did, however, draw a direct connection between serious crime among young people and unemployment among the same age group, especially those in the central cities. He pointed out that three of every four persons arrested for serious crimes were under 25 years of age. Using the data of the Bureau of Labor Statistics, Mr. Saxbe told the police chiefs that unemployment among minority youths was "awesomely high" and that in some age groups in the inner city it was 33 per cent. It is important to note that if BLS says one in every three young blacks is out of a job, the figure is probably closer to half of the young black population. The reason is that BLS bases its figures for unemployment on those "actively seeking" work, and after a certain period large numbers of unemployed persons of all ages who have not acquired jobs are somewhat arbitrarily held to be no longer "actively" seeking work and therefore technically no longer unemployed.

"One lesson," Mr. Saxbe said, "is that we are not going to solve the crime problem among the young—especially in the cities—until they are brought into society's mainstream." And he added:

"To do that, a basic step is to impart real education and employment skills and couple it with actual jobs. This is not only needed to help control crime. It is also the decent, the humanitarian, thing to do. This approach alone will not solve all crime problems related to poverty and discrimination. But unless we succeed in this, other efforts have little potential for lasting success."

Mr. Saxbe's observations on crime's relationship to unemployment are important because the Ford administration is in the midst of an internal debate about public works employment and its impact on the economy. Crime control would hardly be reason in itself to take such a step. And there are economic reasons for seriously considering it irrespective of its connection with crime control. But it logically follows that those with *something* to do have less reason to commit crimes and that those with a sense of a stake in their society are less likely to act in defiance of its rules.

Mr. Saxbe went on to take note of increasing white collar crime and crime among government officials at the state and local level, to say nothing of the federal level. He asked what sort of example the successful of the society were setting for the young: "The young learn from us and what they see and what they must be learning are sources of growing dismay."

He was constrained as well to mention the outpouring of violence on television and in films: ". . . the average 8-year-old has seen more violence on television than the average soldier encounters during a hitch in the army." He castigated the television industry for wrapping itself in the First Amendment when called to account for its practices, and he criticized parents for permitting their children to be exposed to "the unending deluge of such garbage."

From the Attorney General's viewpoint, then, crime is a problem with many causes and few solutions. He described a pattern of national frustration about crime, and it was in this context that he expressed his fears that if "we go on as we are, there is every possibility that crime will inundate us. The nation would then be faced with the prospect of falling apart or devising a national police in one final effort to restore domestic order. We should never doubt for a moment that there are men and forces at work in this country eagerly awaiting an opportunity to devise such a program as a first step toward total control over our lives."

Mr. Saxbe distinctly warned against that notion: "Any nation can stop crime if it is willing to have an internal army of occupation," he said, "but there has never been a government which stopped crime by oppression that eventually did not live to regret it." He argued instead that those "that have survived and flourished have done so by developing an inner strength in their people and in their institutions."

It goes almost without saying that most persons whould agree. We certainly do. And we also think Mr. Saxbe's speech, in its entirety, should be given serious attention by those within the Ford administration who will be dealing with such matters as public works employment, the control of handguns and the problem of television and motion picture violence. The control of crime has to be looked at in a larger context. President Ford has expressed himself as having the goal of trying to make us more of a nation of one people. We think that the manner in which he goes about that task may well assist in shedding light on the problem of what we do about rising crime.

THE NEW MORMON TEMPLE

Mr. BENNETT. Mr. President, on Monday, September 9, 1974, President Spencer W. Kimball, spiritual leader of more than 3 million members of the Church of Jesus Christ of Latter-day Saints—Mormon—will preside over the laying of the cornerstone of the new Mormon Temple, which is located just outside the Washington Capitol Beltway in Kensington, Md.

The ordinances performed in temples—such as marriages, sealings of family units for eternity and vicarious work for the dead—are an integral part of the religious life of members of the Mormon Church and this, the 16th temple in use by the church today, will serve more than 300,000 Mormons living east of the Mississippi.

This impressive $15 million edifice will be opened to the public from September 17 through October 26 before its dedication in November, after which time it will be reserved exclusively for the use of members of the church deemed worthy to enter. I wish to extend my sincere and wholehearted invitation to you, my colleagues, and your families—as well as to all others in the area who so desire—to come to the temple during the period it is open. I feel sure you will agree with me that by building the Washington Temple, the Church of Jesus Christ of Latter-day Saints has made a very lovely and fitting contribution to the beauty of our Nation's Capital.

DON SLAWSON

Mr. DOLE. Mr. President, the Petroleum Independent, a publication of the Independent Petroleum Association of America, recently carried an article featuring an enterprising young Kansas oilman, Donald S. Slawson of Wichita. Mr. Slawson has, through a combination of enthusiasm and hard work, built up a major oil drilling company in the short space of 18 years. As such, he displays the optimistic determination which continues to pervade the industry during this critical economic period, and which promises to carry the industry successfully through it.

At a time when some are calling for an end to the oil depletion allowance and a rollback on the industry's profits, Don Slawson and his colleagues struggle to develop the means for meeting this country's energy needs, and which will help to achieve America's goal of energy self-sufficiency by 1980.

Mr. President, I believe that Don Slawson's story will be a source of real encouragement, not only to those in the oil industry, but to all Americans. For his story portrays the proven, traditional American virtues of free enterprise and tireless efforts in the face of adversity which promise to see us all through this difficult period of energy shortages.

Mr. President, I ask that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Don Slawson—Optimistic Independent

Although Donald C. Slawson, 40, has been an independent oilman for close to 18 years, there aren't too many individuals younger than he in the field. "The median age in the industry has moved up steadily," he explains. "It illustrates the quasi-depression that oil has been in." He notes that oilmen have been leaving the business, placing their investments in fast food or real estate ventures because they're more lucrative.

But he has no plans to retire from the oil patch. Increased oil prices have enabled the Slawson Drilling Co. to buy two new rigs—the first to appear in Kansas for 15 years. The past 12 months have seen the firm drill 75 aditional wells and nearly double its staff. Undeveloped lease holdings, meanwhile, have tripled in the last year and a half.

And if it weren't for legislative threats looming in Congress, there would have been more progress. "The proposed rollback especially hurt," lamented Slawson. If it hadn't been for all the uncertainty, "I probably would've purchased another rig, maybe bought more leases, been more aggressive." There is no doubt in this producer's mind that if current anti-oil bills become law, his operations will suffer. His capital would shrink, and that's what business is all about.

He says, however, "I have to be optimistic about the industry's situation—there are a lot of problems, but I don't want to dwell on them. There are great opportunities. I'm more optimistic than I've been in the last ten years."

Slawson was hired fresh from the University of Kansas, where he majored in political science and geology, by Pickrell Drilling. His career there as a geology and land work trainee was brief. Within 9 months, he had left to create his own firm. Beginning by purchasing mineral royalty rights, he expanded into exploration and finally started to acquire his own rigs. He now drills primarily for himself. While most of his interests lie in Kansas, his holdings are also in Oklahoma, Nebraska and Colorado. He feels that his company is making a "substantial contribution" towards alleviating America's energy problems.

Conservation is an important issue with him. He feels that there's been a great deal of waste, and company procedures reflect efforts to preserve resources. Winter and summer, office temperatures have been altered, with employees currently being encouraged to wear sport shirts. The firm uses gas-economizing vehicles, and telephone calls are substituted, whenever possible, for trips.

A member of both IPAA and the Kansas Independent Oil and Gas Association (KIOGA), Slawson believes that such organizations are absolutely esesntial—"now more than ever." He's an IPAA vice president and serves as vice chairman to the Special Materials Committee, which has done valuable research into the tubular goods situation. With the Kansas group, he's the Public Information Committee chairman, in which capacity he helps to monitor the political activities at the state level. The committee was created last year when KIOGA recognized the need to educate and involve its 1500 members in the political controversy surrounding the industry. He is proud of the committee's successes.

Slawson's responsibilities extend to being on the board of directors of the First National Bank and the Sedgwick County United Fund and on the board of trustees for the Wichita Collegiate School, the Wesley Medical Center and the Institute of Logopedics.

He is a member of the Plymouth Congregational Church and enjoys golf, snow skiing and tennis, considering himself a "B-player" of the last.

He and his wife, Judy, have three sons—Steve, 18, Craig, 16, and Todd, 13.

DICTATORSHIPS AND DIPLOMACY

Mr. CRANSTON. Mr. President, I wish to bring to the attention of the Senate an article which appeared recently in The Los Angeles Times. In "Dictatorships and Diplomacy," Clayton Fritchey points up the ultimate foolishness of our country's "long-time policy of supporting right-wing military dictatorships around the world on the questionable assumption that they are vital to American security."

The tragic and senseless bloodshed on Cyprus surely demonstrates the moral bankruptcy, as well as the naivete, of American support for the tyrannical Greek military junta.

Before the Senate Foreign Relations Committee, I recently argued for a severe cutback in American funds to authoritarian and dictatorial governments. As we consider the Foreign Assistance Act in the coming weeks, I hope my colleagues will give serious thought to Mr. Fritchey's arguments.

I ask unanimous consent that the following article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DICTATORSHIPS AND DIPLOMACY

(By Clayton Fritchey)

Something can still be salvaged from the Cyprus disaster if it prompts the United States to reconsider its longtime policy of supporting anti-democratic right-wing military dictatorships around the world on the questionable assumption that they are vital to American security.

The dismal end results of blindy sticking with the Greek colonels and generals is only one example of how this shortsighted policy has more often betrayed U.S. interests than advanced them. If any confirmation of this is needed, a quick look at Southeast Asia and Korea ought to suffice.

In the case of Greece, the official justification (under Democrats as well as Republicans) for aiding, if not abetting, the military junta that overthrew a democratic government in 1967 was that Greece, supposedly being the southern anchor of NATO, was indispensable to the collective defense in case of aggression in the Mediterranean.

If the clash over Cyprus has served no other purpose, it at least has demonstrated the bankruptcy, to say nothing of the naivete, of relying on Greece as an important and dependable ally. The military establishment organized by the junta with massive help from the United States was so feeble that, when put to the test, it couldn't even stop a limited Turkish expeditionary force. Since this was the military machine that in a showdown was counted on to help stand off a superpower like Russia, it is just as well we know now rather than later how reckless it really is when the shooting starts.

The tyrannical junta apparently demoralized the armed forces as well as the Greek people. The generals, in short, lost the confidence of everybody but Washington. Also distressing is that Washington, even though it had advance knowledge of the junta's plans, did not have enough influence to head off the Greek-inspired coup that overthrew the Cyprus government of Archbishop Makarios and set off the chain of events which finally culminated in the sacking of the U.S. embassy in Cyprus and the killing of our ambassador.

In sum, after being supported for years by both American guns and butter, the Greek militarists simply told Washington to go to hell when it suited their purpose to do so. This should not have come as a surprise for, during the Arab-Israeli war, the Greek generals also refused to co-operate in expediting the U.S. arms aid to Israel.

Once the hostilities began in Cyprus, it may well be that, if Secretary of State Henry Kissinger had to tilt between Greece and Turkey, it was the better part of valor to tilt on the side of the Turks. That remains to be seen. Unfortunately, however, this decision was forced on Washington just at the moment a new Greek democratic government was replacing the hated military junta.

The upshot is that Premier Constantine Karamanlis, the new leader of the country that invented democracy, has been weakened at the moment when he needed all the support he could get. With Greek crowds taking to the streets to chant "Americans, go home," it is not hard to understand why Karamanlis felt he had to withdraw his country from NATO.

Not long ago, Congress and the American public were being told that the administration had to play ball with the Greek military dictatorship not only because of NATO but also because of the naval bases we had to have for the U.S. Sixth Fleet, which patrols the Mediterranean. Now that these bases are to be closed to us, however, the Pentagon finds they are no great loss because the Navy can always go back to the old bases in Italy or, perhaps new ones in Turkey.

The debacle of our policy in Greece comes at a time when Congress is showing signs of taking a new hard look at the military dictatorships we have been supporting for so long in South Vietnam, South Korea, Cambodia and Taiwan. The recent House slash of aid to Vietnam was an eye-opener.

Since the end of World War II, America's costly interventions in Asia on behalf of anti-democratic right-wing governments have generally been undertaken in the name of saving the people from anti-democratic left-wing governments, although the people often can't seem to tell the difference.

As of now, the best hope for the future is the accession of a new U.S. President who supports a detente with China and Russia, but who is not saddled with old personal commitments to such Asian generals as Nguyen Van Thieu, Park Chung Hee and Chiang Kai-shek.

SOUTH DAKOTANS MOURN THE DEATH OF A FORMER SENATOR

Mr. McGOVERN. Mr. President, people from all parts of South Dakota, from all walks of life and from all political persuasions, joined with Members of this body in mourning the death of their former colleague and ours, Senator Karl E. Mundt.

Senator Mundt was buried on August 21 following services at First Methodist Church in Madison, S. Dak., his hometown of many years.

At that service, former Representative E. Y. Berry of South Dakota, who was friend and colleague of Senator Mundt for many years, delivered a moving and human tribute to his friend.

I ask unanimous consent that former Representative Berry's remarks, as printed in the Madison Daily Leader, along with a number of editorials and articles which appeared in newspapers in South Dakota paying tribute to Senator Mundt, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Madison (S. Dak.) Daily Leader]

MUNDT EULOGY TEXT PUBLISHED

(EDITOR'S NOTE.—The following eulogy to former Sen. Karl E. Mundt was delivered Wednesday by the Honorable E. Y. Berry, former congressman of South Dakota.)

This is a sad day.

In all my life, nothing has been more difficult—nothing has been harder—nothing has been more dreaded than to attend the funeral of Karl E. Mundt.

As an old man reminiscences—friends have come and gone but no friend will be more keenly missed than that friend close to each of us—Senator Karl.

Rose and I probably knew Karl and Mary as well as anyone except possibly their own close relatives, because for 16 years we lived next door to each other in unpretentious row houses across the alley from the New Senate Office Building.

You really learn about a man when you watch his comings and goings day after day for that length of time.

Karl was a hard worker. He went back to his office almost every evening, and generally it would be after midnight before he would return home.

There was one side of Senator Karl however, that many people did not have an opportunity to see. On many warm sunny Sunday afternoons he and I would drive our cars out into the alley and wash them ourselves. Then we would generally play gin rummy until dinnertime. If he lost, he was always trying to find time to play the next game.

But, it wasn't the winning or losing of a few cents that Karl enjoyed, it was instead the thrill of competition—the thrill of being able to do a little better job than anyone else. Everything he did, he did in a competitive spirit. Competition was really the stimulus of his life.

It was this spirit of competition that drove him back to his office night after night to read and study, that he might find solutions to the problems of state, the problems of his constituancy and the problems of world affairs. He was always ahead, always a leader, always a thinker and a doer.

No man has sprung from South Dakota soil to reach such heights. For 25 years he was an advisor to presidents. One president flew half way across the continent to dedicate the Karl E. Mundt Library here in Madison.

Actually Karl was an excellent example of American greatness. He didn't spring from a family name, he didn't spring from family wealth, he rose to the heights he did by his own hard work and his uncanny ability to communicate.

Whether it was as a professor of speech here in this great college in Madison, which he loved so much, or whether it was part of the man, he believed in the power of communication. One of his early activities was in helping to found the National Forensic League.

It was this belief in the value of communication that, following World War II, he fathered the Smith-Mundt Act hoping that it would be a stepping stone toward world peace through education and a better understanding in generations to come. He sponsored the Voice of American legislation to bring better communication and understanding across the seas by explaining the operation of democracy to those people in their own languages.

He was recognized as one of the 10 best speakers in America and his speaking services were in demand across the nation. It was an ironic and disasterous quirk of fate that this great master of communication should have been stricken five years ago, leaving him not only with physical disability but with almost complete inability to communicate.

I must point out here that not only were his talents turned to national and international problems, but his list of accomplishments for South Dakota read like a ledger. To mention only a few, they ran from Missouri River development to the establishment of Ellsworth Air Force Base and the gasification plant in Rapid City to the EROS plant in Sioux Falls, and on and on and on. No project was too large and no project was too small for him to tackle.

Today, we pay tribute to this great man—tomorrow history will record his legacy of accomplishments in building for us, who survive, a greater state and a greater nation.

Karl was not only all of these, but he was a deeply religious man as well. Probably not the type to sit in a church pew each Sunday, but he had a deep inward religion. I have flown with him a great many times and each time as the pilot was revving up the motors, I have watched Karl close his eyes and offer a short silent prayer. Last Friday—as the Master Pilot revved up the motors Karl closed his eyes once again, this time to hear his Maker say, "Well done thou good and faithful servant—enter thou into the joy of thy Lord."

[From the Sioux Falls (S. Dak.) Argus-Leader, Aug. 18, 1974]

MUNDT REMEMBERED AS A HARD WORKER AS LEADER DEDICATED TO SOUTH DAKOTA

Friends and political allies of former Sen. Karl E. Mundt remember him as a man who put in long hours and work, and as one who was dedicated to South Dakota.

Mundt, 74, died Friday at Georgetown Hospital in Washington, D.C.

"He'd come home for dinner at night, then go back to his office and work until one or two in the morning," said former Rep. E. Y. Berry of Rapid City, who served in the House when Mundt was a senator. Berry now heads the Karl E. Mundt Foundation, an organization aimed at promoting education at Dakota State College in Madison, S.D., where Mundt once was a teacher.

Berry said he first met Karl Mundt at a Republican convention in the late 1930s, about the time Mundt decided to run for Congress.

"My first impression was—here is a comer. He had ideas, ambitions," Berry said.

"I'll never forgget the night he decided to run for the Senate. We were both in the Black Hills camping. At that time Sen. Harlan Bushfield was dying of cancer, and Karl was testing the waters.

"We sat by ourselves in the timber, talking. It was no easy decision for him, but he knew what he wanted to do."

Mundt's personal attorney William Arneson of Madison, met the former senator as an eighth grade student, when Mundt was principal and later superintendent at Bryant, S.D.

"He was a great, dynamic man," recalls Arneson.

"I had a feeling, even back in those days, that he would run for Congress. Everybody who worked with him did."

Circuit Court Judge Joseph Bottum of Rapid City knew Mundt when the two were members of the state Young Republicans.

"I would say he was dedicated to his state," Bottum said. "He felt he had a mission. If anything got in his way in trying to do something for his state, he really went to bat."

Bottum said that although he and Mundt were good friends, they had at least one area of difference—"I believed in short speeches. He (Mundt) believed in long ones."

Mundt's former administrative aide, W. E. O'Brien of Madison said that the former senator got along well, even with his political opponents.

"He was the friendliest guy I ever knew," O'Brien said.

O'Brien said Mundt would have been pleased to learn about a proposal recently introduced in Congress by several Republican senators, which would name a synthetic gas plant at Rapid City in Mundt's honor. Mundt had helped obtain the $9 million needed to build the plant.

Merrill Hunter, publisher of the Madison Daily Leader and vice president of the Mundt Foundation, called Mundt's death an "end to a brilliant political career."

Hunter said he had known Mundt since about 1947, and has helped in the development of the Karl E. Mundt Library in Madison. The library already has a good collection of papers compiled from Mundt's 33 years in Congress, he said.

"Karl Mundt was certainly hard-working and dedicated to public service," Hunter said. "After he dismissed his staff in his Washington office at night, he'd sit down and type letters himself. And, he was a great friend of agriculture."

Rep. James Abdnor, South Dakota's only Republican congressman, issued a statement Friday praising Mundt's work on the state, national and international level.

"For over three decades he was a formidable force in the U.S. Congress, gaining prominence not only in national circles, but in the international sphere through his work with the North Atlantic Treaty Organization," Abdnor said.

He attained great distinction, not only in his own right, but for the state of South Dakota . . . like all who served with and admired him, I am saddened by his death.

And, South Dakota Republican party Chairman E. Steeves Smith, Mitchell, said South Dakotans are saddened to learn of Mundt's death.

"He served in Congress longer than any other South Dakotan. His accomplishments will not be forgotten," Smith said.

South Dakota's two senators, both Democrats, praised Mundt and his work in the Congress.

Sen. James Abourezk, who won Mund't seat in 1972 after the ailing senator did not run for re-election, said, "The passing of Senator Mundt saddens every South Dakotan. I join with the people of this state in sending my condolences to Mrs. Mary Mundt and expressing my appreciation for the dedicated public service her husband gave to this state for many years."

Sen. George McGovern, who served in the Senate with Mundt, said, "It was he who presented me to the Senate when I was first sworn in as a new senator 12 years ago.

"From that day to this, he was always congenial and kind to me. During the years we shared in the Senate, there was never a harsh word or quarrel between us."

McGovern added, "I will remember him as a public servant who loved the great satisfaction of political competition and public service. I will remember him as a respected competitor, cooperative colleague and good-humored friend."

[From the Madison (S. Dak.) Daily Leader]

HUNDREDS ATTEND FUNERAL OF FORMER SENATOR MUNDT

With grey skies overhead, hundreds of persons gathered here Wednesday for the funeral of former Sen. Karl Mundt, 74, who died Friday in Washington.

Despite the blocking off of a street near the United Methodist Church for parking, mourners still found it difficult to find a place to park. Many persons had originally planned on flying to Madison, but due to construction at the Madison Airport, they were forced instead to land at either Sioux Falls or Howard and drive to Madison for the services.

Combined forces of the Madison Police Department, Lake County sheriff's office and the South Dakota Highway Patrol were used in the difficult task of traffic control.

Although closed circuit television was installed in the church and monitors set up in the church parlors to accommodate the large crowd, many persons still were unable to get into the church for the services. Newsmen from throughout the nation were on hand to cover the event.

Mourners included the great and near great, congressmen, governors and many other leaders both in politics and business.

Pall bearers will be Stan Hauck, Cliff Norton, Charles Galloway, Tom Felker, Merrill Hunter and Wallace B. Hanson.

Honorary pall bearers will include: Fred Christopherson, Erling Haugo, Berry, F. N. Cosgrove, Archie Gubbrud, Hoadley Dean, Joseph H. Bottum, Steve Smith, Kenneth Kellar, Nils A. Boe, George A. Rice, John A. Kennedy, Jack Gibson, Morton Henkin, Chan Gurney, Mrs. Vera Bushfield, Joe Foss, Gov. Richard Kneip, William Morrison, Frank Farrar, Dr. Harry Bowes, Dr. V. A. Lowry, Henry Schmidt, Evans Nord, Joe Floyd, Leo Temmy, Anson Yeager, O. D. Hansen, Max Rysdon, Gordon Mydland, Gordon Olson, Jerry Prostrollo, James Abdnor, Andrew Bogue, Sigrud Anderson, Ben Reifel, Axel Beck, Charlie Howard, Dr. Ted Wrage, William Dougherty, O. J. Tommeraasen, W. E. O'Brien, Robert L. McCaughey, Albert Parker, William R. Arneson, William Wenk, Floyd Bresee, Mayor Robert Olson, H. I. Reilly, L. F. Ericsson, J. H. Lammers, Dr. J. A. Muggly, Dr. Howard Wold, George Scully, Charles Gaeckle, Ken Bertness, Ray Wenk, Walter Wiedenman, Preston Tyrrell, E. M. Fredrickson, Walter Kundert, Harry Runchey, Max Farrar, Gladys Pyle, Jeanette Luck and Ray Gallagher and Sen. George McGovern.

Burial was in Graceland Cemetery here. A reception was to be held in the Karl Mundt Library after interment.

Not since former Pres. Richard Nixon dedicated the Mundt Library has there been so many newsmen in Madison to cover a story. Wire services, newspapers, radio and television were represented here Wednesday.

A special program on Mundt will be aired by KELO–TV at 10:30 p.m. Wednesday.

[From the Aberdeen (S. Dak.) American News, Aug. 18, 1974]

KARL MUNDT'S GREAT INFLUENCE

The death of former Sen. Karl Mundt Friday caused sadness among his many friends in South Dakota. A severe stroke he suffered in 1969 had saddened them also. It was that crippling illness that brought to an end five years ago the political career of the man who had served longer in Congress than any other person from this state.

Sen. Mundt was a skilled practitioner in the science of government. This made possible his long tenure of office and permitted him to become a dominant influence in Republican politics in his native state.

The stroke that removed him from the political arena in 1969 was a contributing factor to the fall of the South Dakota Republican party which in 1970 lost the governorship and two U.S. representatives to the Democratic party. (There were other contributing factors including the retirement of incumbent representatives, Ben Reifel and E. Y. Berry.)

The only South Dakotan to be elected to the Senate for four terms Mr. Mundt, through anti-communist activities and prominence in the hearings involving Wisconsin's late Sen. Joseph McCarthy and the U.S. Army, had become his state's best known citizen in the Capital and in the nation.

Sen. Mundt yielded that distinction when George McGovern, at that time the junior senator, became a candidate for the Democratic presidential nomination and in due time the nominee.

Unfortunately South Dakota and the nation were deprived of his services at a time when Sen. Mundt would have had his greatest influence in government. As fellow members of the House of Representatives in the 1940s Mr. Mundt and young Richard Nixon who was later to become President of the United States, were teamed in an effort to expose communist infiltration in the United States. They remained close friends.

Had illness not stilled him, Sen. Mundt could have been in a position to give Mr. Nixon the type of advice that could have avoided the buildup of the inexperienced, power-hungry staff which accompanied the former President to his downfall.

However, during his active years most of which were as a member of the minority party in the national government, he made constructive contributions to the United States and to South Dakota.

Sen. Mundt was respected and appreciated by many.

[From the Sioux Falls (S. Dak.) Argus-Leader]

Senator Karl Mundt Buried On Edge Of Hometown Ending Political Odyssey Over Three Decades

(By Thomas E. Slaughter)

Madison.—The body of former Sen. Karl E. Mundt was buried in a small cemetery on the edge of his hometown Wednesday, ending a political odyssey that spanned three decades.

Nearly 600 persons came to Madison to pay tribute to the 74-year-old Mundt, regarded by many as a neighbor, friend and political servant.

Mundt, who was born 27 miles south of Madison in Humboldt, died Friday in Washington, D.C. of a heart ailment.

The Madison United Methodist Church, which Mundt attended during his days as an instructor at Dakota State College, was packed with friends and dignitaries. Many viewed the service in the church basement on a closed-circuit television hookup.

A long-time friend of Mundt's who served 20 years in the U.S. House of Representatives, former Rep. E. Y. Berry of Spearfish, S.D., delivered the eulogy and described Mundt as an example of greatness.

Berry said, "Nothing has been harder—nothing has been more dreaded to attend the funeral of Karl Mundt.

"No man has sprung from South Dakota soil to reach such heights. For 25 years he was an adviser to presidents . . . Actually, Karl was an excellent example of American greatness."

Mundt was elected to the House in 1938, served five terms and was elected to the Senate in 1948 where he served until 1972.

During his 34 years in the Congress, Mundt held several key positions including seats on the Senate Foreign Relations, Appropriations and Operations committees.

However, a stroke in November 1969 left Mundt helpless and kept him from the Senate chambers. In an unusual move, Senate Republicans stripped him of his committee assignments just before his last term expired in 1972. Mundt did not run for reelection.

Several state dignitaries attended the service including Sen. George McGovern, D-S.D., Gov. Richard Kneip and former Govs. Archie Gubbrud, Frank Farrar and Sigurd Anderson.

The Rev. R. L. Kruckenberg, pastor of the church, read a letter from President Ford to Mundt's widow, Mary. The letter said in part, "Our prayers and thoughts are with you at this time."

Kruckenberg said of Mundt, "He is with us and will be in many areas of our life. The senator loved people, and people all over the world loved him."

Mundt was regarded as a tough-minded investigator, an authority on foreign affairs and a dogged anti-Communist.

He rose to national prominence for his roles in two controversial investigations—The Alger Hiss case and the Army-McCarthy hearings.

In 1948, Mundt and Richard M. Nixon, then a congressman, led the House Un-American Activities Committee's investigation of Hiss, a high State Department official accused of giving secret documents to the Communists.

Then in 1954, Mundt chaired a bitter Republican fracas between Eisenhower-appointed Army officials and Sen. Joseph McCarthy of Wisconsin.

Mundt was born June 3, 1900. He graduated from Carleton College in Northfield, Minn., and attended Columbia University in New York where he earned a master's degree.

Mundt married Mary Moses of Northfield in 1924. The couple did not have any children.

He served as head of the Speech Department at Dakota State from 1928 to 1936, when he left the faculty to enter private business.

Mundt was the founder of the National Forensics League and was a vice president of the Isaak Walton League and served on the South Dakota Game, Fish and Parks Commission.

[From the Sioux Falls (S. Dak.) Argus-Leader, Aug. 19, 1974]

Mundt's Perception of World Change

South Dakota's former U.S. Sen. Karl Mundt, who died Friday in Washington, will be remembered for many things. Some of these things were recounted in the Argus-Leader's editorial of Jan. 1, 1973, which is reprinted in an adjoining column.

That editorial appeared two days before Sen. Mundt completed his service in the 91st Congress. His career was remarkable in length of public service and also in reflecting changes that affected the United States and its people in the transition from isolationism to internationalism.

Mundt's international viewpoint during and after World War II contrasted with his first two terms in Congress. Before the United States entered the war, following the bombing of Pearl Harbor Dec. 7, 1941, he voted against the extension of the draft and also opposed lend-lease under which the United States aided Great Britain and Russia, which were fighting Nazi Germany.

After the war, he was among the first Congressmen to advocate nuclear weapons control. When it was learned that Russia had developed the atomic bomb, Mundt urged prompt action to bring about international atomic control. Without that, he said, "Civilization will crash in atomic war."

He suggested a meeting of all members of the United Nations outside the framework of the U.N. so that the veto could not be used, saying:

"We should say, 'Look, this is it. We've got the bomb. Pretty soon everybody'll have the bomb. What are we going to do—start a war and destroy each other? Or, are we going to establish complete, adequate security against that by establishing complete international control?"

In the 29 years since World War II ended, no third atomic weapon has even been fired in anger. The bombings of Hiroshima and Nagasaki, Japan ended that war. There are now six members of the nuclear nations' club. But the world—and particularly the U.S. and Russia—has learned to live with the threat. It is an accommodation that has come about outside the United Nations by necessity, as Mundt perceived. The alternative is the end of modern civilization.

Mundt said one time that the toughest assignment he ever received was the temporary chairmanship of the Army-McCarthy hearings. He said, "Emotions ran high, and so did prejudice. One day as many as 5,000 telegrams from across the nation hit my desk. Most of them were unhappy about something—either I was too hard on (Sen.) McCarthy or I was too pleasant to him . . ." But he added, "I have found the public to be unfailingly fair once it is provided with the basic facts of an issue or problems." That comment was characteristic of the man and the senator.

There wasn't any Capitol Hill chore or detail that Mundt wouldn't attempt for his South Dakota constituency. He retained home state friendships while serving as a highly effective member of the world's most exclusive club—the U.S. Senate with 100 elected senators of the 50 states—before his illness left him incapacitated in 1969.

His perception of world change and fostering of international exchange programs and the Voice of America rank high among his many contributions to his country.

[From the Pierre, (S. Dak.) Capital Journal]

A Loyal South Dakotan

Karl E. Mundt was born June 3, 1900. He died August 16, 1974. He will be remembered by South Dakotans generally as a political figure who served this state in the Congress longer than any of his predecessors or contemporaries. Our own recollection of him begins as a schoolboy for a brief time in Pierre. It extends through more than thirty years of close cooperation in working for development of the water resources of South Dakota.

His political life began in 1931 when he was appointed as a member of a bi-partisan and theoretically non-political Game and Fish Commission as result of support by the Izaak Walton League of which he was one of the early organizers in South Dakota and served as a National Vice-President. It sustained an early set-back in 1936 when he first ran as a candidate for Representative in Congress and was defeated. In 1938 he again was a candidate and was elected.

For the next thirty years he pursued a simple and successful political course based on the proposition that it was his job to represent South Dakotans and that he would work at that job.

He was fully aware of the disastrous effect of the drought decade upon the lives and fortunes of South Dakotans and one of the early advocates of developing the water resources of this state. He joined former Governor M. Q. Sharpe and Col. Lewis A. Pick and W. G. Sloan in travelling into every state in the Missouri basin to advocate putting the Missouri river to work for the benefit of the people. He was particularly effective in persuading South Dakotans to unite in common support of the Pick-Sloan program. He was equally effective in persuading his colleagues in Congress to carry that program forward.

His memory will be perpetuated by the library bearing his name on the campus of the state college at Madison. His papers have been donated to that library and will be studied in the future by historians. They will reveal the image of a loyal South Dakotan who served his state long and well.

A PROPOSAL FOR THE BEEF PRODUCER, THE CONSUMER, AND THE COUNTRY

Mr. McGOVERN. Mr. President, a livestock industry consulant from McCook, Nebr., has described in a most succinct way a series of proposals which would provide wide-ranging benefits to beleaguered livestock producers, consumers, and our food and agricultural economy.

Harold Hundley of McCook shows us the way out of a loss situation for cattle feeders to a resumption of abundant, stable supplies, and reasonable prices for beef.

I found Mr. Hundley's article so thought-provoking, Mr. President, that I ask unanimous consent that it be printed in the Record as it appeared in Monday's issue of Feedstuffs magazine so that our colleagues may acquaint themselves with his message.

There being no objection, the article was ordered to be printed in the Record, as follows:

Too Many Cattle Have Put the Industry at the Mercy of Packers and Consumers

(By Harold Hundley)

(Editor's Note.—Harold Hundley is a private consulant for feedlots, swine operations and dairy farms, as well as a consultant for Circle B Feeds at Scottsbluff, Neb. For 24 years, he was a commercial nutritionist, research director, biological laboratory director for major feed manufacturers, ingredient processors and research development companies. Hundley is the originator of oyster *shell* feeding to cattle and developed microminerals for cattle, swine and poultry.)

The cattle feeding industry is at the crossroads. Which way are we going? Never in the history of cattle feeding has the cattleman worked so hard and lost so much.

The American consumer is a myth. This myth has no loyalty to anyone except his or her pocketbook. We have seen butter replaced by oleo, leather by plastic and now beef replaced by substitutes because the original was priced too high. Much of this is because the pocketbook has been stretched to the limit due to inflation.

What are you going to do about it? What can we do about it?

The American cattlemen—including ranchers, feeders, cattle buyers, cowboys, feed companies, managers, nutritionists, college experts, peddlers and others involved—are going to have to wake up and change their ways if this industry is going to survive.

Cattlemen are going to have to recognize their competition, mainly themselves. Why do intelligent people work so hard to produce so many which lowers the market price? Where did all the feeder calves come from? Some ranchers must have bred everything but the fence posts. Too many cattle put us in the hands of the packers and supermarkets who are controlled by that American myth, the consumer.

Cattlemen are not efficient enough. Compare the following and see if you still think you are:

Chicken—3 lb. broiler produced on 6 lb. feed. Sold for average of 35 cents per lb. dressed.

Turkey—1 lb. meat produced on 4½ lb. feed. Many Grade C turkeys sell dressed for 39 to 49 cents lb.

Swine—1 lb. meat produced on 2.67 lb. feed.

Dairy Cattle—100 lb. of milk for 39 lb. concentrate, 6 lb. long hay and 70 lb. silage at a feed cost of approximately $3.50 for top producers. Milk retails lowest at $1.47 per gallon locally, making 100 lb. milk retail for $17.70. How much does the dairyman get?

Beef cattle—Top feeders on a fed basis get feed conversion of about 1 lb. meat for 6 lb. feed.

Average feed lots in good weather get: Steers 1:8 cost of 32 to 45 cents per lb.; Heifers 1:9 at cost of 32 to 45 cents per lb.

Winter of 1974 of poor weather gave: Steers to 1 to 10½ at cost of approximately 45 cents per lb.; Heifers 1 to 12 at cost of approximately 45 cents per lb.

With current grain prices you cannot make a profit with any of these feed conversions.

BEEF PROMOTION

Beef promotion needs to be changed. We have got to stop telling ourselves how good or how bad the industry is and put more emphasis and money into making beef meat the most sought-after product on the consumer market.

Cattlemen should demand that the feed company, medical supplier, equipment supplier and all others you do business with contribute to help advertise your product.

Beef promotion has got to be a 365-day job. Get the public's attention and keep it.

When was the last time you received a free sample of cooked beef in a supermarket? Why not roast beef slices on picks or miniature hamburgers served by a pretty girl? You never have but you get pop, ice cream, bread, sausage, cigarettes, soap and numerous others.

Let's find a new way to prepare and cook beef fast. Many restaurants operate the buffet system. They always serve fried chicken. Why? Because it is fast, easy to cook and serve and gives the appearance of a large serving of meat.

The beef industry needs a new, pleasing, palate-watering cut of meat or meat process that will give them their fair share of the buffet market.

ADDITIVES AND MORE TESTING

Growth additives are important if used correctly. We need to put on political pressure to use diethylstilbestrol in both feeding and implants on a 14-day withdrawal basis. We need to get tough with those countries who are banning it as an excuse to cut off our meat exports. This goes for any other hormones of value now or in the future.

Other additives are needed such as "Cattle Zoom" which will reduce by $20 to $35 per head the feed used on a 130-day feeding period.

We will get those additives only if enough probing research is done without fear of killing some cattle to learn about better additives and their usage.

Phosphorus is very important. It is the only element known in beef cattle feeding that changes the rib eye in beef cattle. Most companies did not use enough even before the phosphorus shortage. I disagree with the experts who tell us to use less per animal. What we need is more phosphorus production.

Other elements need testing. There are roughly 60 trace mineral elements and compounds that we know nothing about because no one ever tested them on cattle. How do we know we can't get a 1 to 2 conversion on cattle on them?

There are better methods of feeding cattle such as waste management, more efficient supplements and fitting your roughage to the most efficient production.

There are problem areas in nitrates, feed processing, water usage and ration formulation that require bolder nutritionists with more ruminant experience.

A combination of these will give better feed conversion at a lower cost.

Top-gaining feeder cattle make better profit margins. Feeders cannot be satisfied with 2½ lb. per day gains in cattle to compete with their competitors. They have to be competitive.

A feeder recently that had a 4.55 lb. per day payweight on 130 days and a feed conversion of 100 lb. meat on 579 lb. feed actually made $2.17 per head on a $41.50 cwt. market while using $4.79 per cwt. corn. This was a net figure above all costs. This beats losing $75.00 to $150.00 per head which was happening to others at the time this record was made.

A DOMESTIC SUMMIT ON THE ECONOMY

Mr. HUDDLESTON. Mr. President, on July 23 of this year, Senators Bartlett, Chiles, Domenici, Nunn, and I introduced Senate Resolution 363 calling for a domestic summit on the economy. Under this proposal, we, the sponsors, envisioned a series of meetings of the top leadership of Congress, the executive branch, business and labor to develop a game plan—a set of recommendations—for dealing with what must be considered the most pressing of domestic problems. On July 23, that resolution passed the Senate by a vote of 88 to 5.

Following adoption of the resolution, the five of us who developed the proposal met with then Vice President Ford and with Presidential Counselor Kenneth Rush; Director of the Office of Management and Budget, Roy Ash; Chairman of the Federal Reserve System, Arthur Burns; then Chairman of the Council of Economic Advisers, Herbert Stein; and Secretary of the Treasury, William Simon.

The result of these and other moves was the scheduling of the domestic summit on the economy for September 27 and 28.

This morning, the five original cosponsors of Senate Resolution 363 met with Chairman of the Council of Economic Advisers, Alan Greenspan; Director of the Office of Management and Budget, Roy Ash; Secretary of the Treasury, William Simon; Presidential Counselor, Kenneth Rush; Executive Director of the Summit, William Seidman; and other members of the Summit Steering Committee to discuss the impending conference and our views of its objectives and goals; and to present a series of papers on selected aspects of our economic problems.

When we introduced our resolution, we did so with the idea that extraordinary situations demand extraordinary action. The economy was—and is—in serious trouble, and I know the five cosponsors remain convinced that action must be forthcoming. Our Nation cannot wait, hoping that things will get better or that the difficulties will go away. They will not and the longer we delay in addressing ourselves to them, the more pronounced they are likely to become.

At the same time, I know we five are all very much aware of the extreme complexities involved in the current economic situation and the conflicting indicators which abound. For this reason, however, a summit is especially important. It must examine the apparently conflicting economic trends and seek to deal with a variety of problems, where the traditional remedies for one would only aggravate others. For these reasons, there are certain approaches which I believe should be pursued in connection with the conference.

I believe we must strive to remain as flexible as possible in seeking solutions at the conference. If we find that existing problems call for new ideas, we must be open and receptive to those proposed solutions. However, if new ideas are not the answer, we should not hesitate to fall back on old and tried methods. It is, therefore, incumbent not only on the executive and congressional participants, but upon all participants in the summit to seek those solutions which will best meet the needs of today's problems. If all participants arrive at the summit with their feet firmly planted in concrete, the hopes for cooperation will have been dealt a severe blow.

I believe we must seek a package plan. Our economic problems are multiple and varied. One proposal, one solution will not suffice. Instead, we need a many-pronged package which will seek to address many situations. Furthermore, it will be easier for all to participate in our efforts—and all must certainly participate if our efforts are to be successful—if we all know that each person is carrying his fair share of the burden. A simple example of this is the Federal pay increase which the President has proposed deferring. While I am cognizant of the time restriction which forced the President to act, the fact remains that the many affected Federal employees would certainly find such a proposal more acceptable, more reasonable, if it were part of a comprehensive package—a package which required other segments of society to do their part and which offered policies designed to contain the rampant inflation we have recently experienced.

I believe we must seek, in the summit, a dialogue with the American people. The problems are complex, but they involve every American. And, our solutions will be more tolerable if each recognizes and understands the difficulties of developing viable solutions to the problems facing us.

Both during the conference and in our Senate work, I believe we must not lose sight of the important goal of restricting Federal spending—we should continue to seek to cut outlays in fiscal 1975 and look beyond to budget priorities for fiscal 1976.

But, most of all, I believe we must preserve a unity of purpose, a desire to further our goal of delineating the economic problems which face us and of confronting them head-on.

The task will not be easy. But it must be done and it must be done before it is too late.

Many persons and many interests will—and should—have substantive recommendations, but such recommendations should be offered in an effort to deal with our problems on a serious and fair basis—and not designed to preserve or provoke some special favor or privileged position.

I, for one, recognize the dangers in the upcoming summit. But, I also recognize the possibilities. And, I hope that all those who participate and all those who listen will direct their efforts away from the pitfalls—in procedure as well as policy—and toward the potential.

TRIBUTE TO GEN. CREIGHTON W. ABRAMS

Mr. GOLDWATER. Mr. President, it would not surprise me if a tiny bit of every true American fighting man died yesterday when news was received that Gen. Creighton W. Abrams, Army Chief of Staff, had finally succumbed to his long battle with cancer.

Mr. President, General Abrams has been described by President Ford as an American hero in the best tradition. He was described by Secretary of Defense James R. Schlesinger as—

> An authentic national hero whose character and contributions in a different period in our nation's history, a less divisive period * * * would have been universally acclaimed.

As a member of the Senate Armed Services Committee and a retired reserve officer and as just a plain American, I should like to endorse these accolades and add to them my belief that he was the best Army Chief of Staff in our Nation's recent history. To my way of thinking he encompassed everything that a fine commander, whether in the field of battle or in the bureaucratic confines of the Pentagon, needed for success and honor in his profession. General Abrams was a tough, soft-spoken soldier whose integrity was never questioned. His compassion to those in difficulty was well known, although General Abrams never sought or acceded to programs of personal publicity.

General Abrams would have been 60 years old on September 15. He had undergone surgery for the removal of a cancerous left lung on June 6. Since that time, he had been waging a steadily losing battle for his life.

And, at 12:35 a.m., Wednesday, at Walter Reed Hospital, death came quietly with the soft foot tread of a friend.

NEW POLICY OF PROTECTING CONTINENTAL SHELF FISHERY RESOURCES APPLAUDED

Mr. PELL. Mr. President, all of us who value the continued prosperity and well-being of the American fishing community share its deep concern over the tragic depletion of our Continental Shelf fishery resources. It is for this reason that I applaud the significant program announced today by the Department of State designed to protect these invaluable marine resources.

The new policy, effective 90 days from today, prohibits both the deliberate and accidental taking of fishery resources anywhere on the Continental Shelf of the United States. In the case of intentional attempts to catch Continental Shelf resources, the United States has notified foreign governments that it is prepared to board the offending vessels, and to seize the ship and arrest the individuals involved if necessary. If it is determined that the taking of the resources was unintentional and that the size of the fish catch incidental, a warning will be issued and the fish returned to the sea.

This new policy, although strong, is realistically only a partial solution to the pressing problem of endangered marine resources. That the initiative has come from the Department of State is laudable. Hopefully, this will be but the first of many urgently required conservation measures adopted by the United States until a comprehensive international law of the sea regime comes into existence.

REA'S FUTURE: ITS NEW MANAGERS

Mr. McGOVERN. Mr. President, as chairman of the Subcommittee on Agricultural Credit and Rural Electrification, of the Committee on Agriculture and Forestry, it has been my privilege to observe progress of the rural electrification program in recent years.

Therefore, it was encouraging to read, in the recent issue of Rural Electrification magazine, which is published by the National Rural Electric Cooperative Association, the profiles of three new managers of electric cooperatives—in Nebraska, in North Carolina, and in Ohio.

The managers of our more than 900 rural electric borrowers throughout the Nation have provided a leadership and a focus for the progress which has been made by the rural electric program throughout its nearly 40 years. And it is heartening to observe, as many of the pioneers are retiring, that their successors show promise, ideals, and ability.

I have two reasons for being attracted to the article in question. First, its author, Richard A. Pence, who is director of communications for NRECA, is a native to my State who has made commendable contributions to the rural electric program. And second, one of the subjects of the article, Thomas A. Thomas, is also a native of my State, and his father is also a manager of an electric distribution system.

Mr. President, I ask unanimous consent that the article, "The Young Managers," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE YOUNG MANAGERS

(By Dick Pence)

Thomas A. Thomas, Edward E. Brown, Jr. and Gary Wyckoff are all managers of rural electric systems.

They have something else in common:

Not one of them was born when, on May 11, 1935, the rural electrification program was created by Executive Order.

More and more of the pioneers of that early day are finishing their careers in rural electrification. A new generation of management is taking their place. A new generation that wasn't even alive when the electricity began flowing to most of rural America. A new generation that may or may not have the same dedication to the cause that brought electricity and nurtured the growth of a new concept in self-help.

What about this new generation? Who are its members? Where did they come from? How do they view rural electrification today? And what do they see for the future?

In an effort to find some answers to these and other questions, we confronted three young faces at REA's New Managers' Conference earlier this year. They may be typical of the kind of young men who are assuming leadership roles in today's rural electrification program—or they may not. If it's the former, the future of the program is being placed in a safe repository.

A look then at three young managers:

THOMAS A. THOMAS

(Born: Webster, S.D. Age: 29. Manager, Cuming County Public Power District, West Point, Neb. (2,600 consumers, 1,200 miles of line) since Nov. 26, 1973. Graduated Webster High School; two years business college in Sioux City, Iowa. Married to the former Mary Knudsen, Viborg, S.D. A daughter, nearly two and another child expected.)

When Tom Thomas turns 30 later this month he still may be the youngest rural electric system manager in the nation. And being a rural electric manager has been his goal almost since he can remember.

It's not surprising that it was, nor was it a surprise to his family. Tom's father, Don Thomas, is manager of Lake Region Electric Association at Webster, S.D., and has been an employee of that co-op since Tom was ten years old.

Tom's start in rural electrification came in his teens when he worked on line crews for Lake Region during the summers. After high school and business college, he went to work for H-D Electric Cooperative at Clear Lake, S.D., in 1964. Two years later he became plant accountant at East River Electric Power Cooperative at Madison, S.D., and after four years moved to Beadle Electric Cooperative at Huron, S.D.

On Nov. 26, 1973, after three years at Beadle Electric, he became manager of Cuming County PPD.

Tom says that it is the idealism of the rural electrification program that directed him toward his career. "I like the old ideals. The fulfillment of a need. The consumer-ownership concept," he says. "We need to renew these ideals. The problems change but we must base our operations on those principles that this program was built on."

For Tom, this is an important factor in his choice of jobs and his approach to it. He points out that he's seen first hand all sides of the electric power business. His father is a co-op manager; one of his grandfathers, plus a great uncle and an uncle, have worked or do work for private power companies. Tom is now manager of a public power district.

Did he ever consider a career with a private power company? "No sir!" was the quick response.

His brief career as a PPD manager has led him to believe that there's always room for improvement. "Sad as it may be," says Tom, "there seems to be less consumer orientation. There's no annual meeting, no capital credits and some tendency to be more withdrawn from the consumers."

Becoming closer to the consumers has thus become his challenge and goal as a manager.

His outlook, of course, is tempered by his age. He shares with many members of his generation the concerns for individual well-being and for improved living conditions. But he views such things as the energy-environment conflict with Midwestern practicality. "I don't happen to believe we have people out there who are abusing the use of electricity," he declares. "They're using it to make their living and to feed the country. Some of the mandates on the environment that come from Washington just don't make sense when it comes to agriculture."

His biggest problem? "Time. There just doesn't seem to be time to do all the things that need to be done, especially when you have a small staff available to do the work."

As far as the difficulties involved in being a rural electric manager at such a relatively young age, Tom admits that "the older employees will test you. But they also will test someone who comes up through the ranks."

He doesn't think his youth is a drawback. When a system is hiring a manager, he says, it's not necessarily buying age. "What it's buying is an individual—his personality, his character, his background and even his family."

Naturally, Tom hopes that more younger people will be drawn to careers in rural electrification. But he doesn't think rural electrics are "paying the salaries they should to attract bright, young people." A priority item for him is improvement of wages.

Offsetting the pay situation, however, at least for Tom, is the opportunity to live and to raise his family in a rural area. West Point, a town of 3,400, is a "beautiful location," he claims. And Omaha, only 75 miles away, has the educational and cultural opportunities that may be lacking at home.

Where will the future lead Tom? Hopefully, I'll still be in rural America and with rural electrification." He set his goal to be a rural electric manager early in life. His goal now is to build on that experience and go on to progressively more responsible opportunities.

EDWARD E. BROWN, JR.

(Born: Martin County, N.C. Age: 31. Manager, Albemarle Electric Membership Corporation (5,100 members, 800 miles of line), Hertford, N.C. Graduated Jamesville H.S., University of North Carolina (B.A. degree in English; M.S. degree in journalism with minor in personnel management). Married to the former Jean Andrews, Plymouth, N.C. A girl, 6, a boy, 3.)

In contrast to Tom Thomas, who grew up in the rural electric family, Ed Brown declares that he never even heard of an electric co-op until he was in graduate school at the University of North Carolina.

Although he had grown up in a rural area, Ed was blissfully unaware of rural electrification until it came time to do his master's thesis. A journalism professor, who had come into contact with rural electrification through a newsletter school sponsored by the North Carolina statewide association, suggested that the then-current power company-rural electric public relations battle might be a thesis topic. The result was "The Role of Public Relations in a Major Controversy"—a study of the public relations programs employed by Carolina Power & Light Co. and Tarheel Electric Membership Association (the N.C. statewide) during a fight over territorial legislation in the early 1960s.

It was this thesis that led to Ed's career in rural electrification. During preparation of the thesis he worked closely with both power company and statewide personnel. "Toward the end of the thesis," says Ed, "it occurred to me that both the statewide and the power company had job openings in my field."

What tipped the scales for Ed was the approach taken by the two entities in their advertising and PR programs and the way these programs were described to him.

"The whole basis of the power company approach was 'unfair competition'—taxation, nonregulation, low-interest money. It ignored density and other problems faced by the co-ops," recalls Ed. "On the other hand, the co-ops weren't defensive. Their whole slant was one of people who had a right to continue operating their own electric systems. The power company didn't talk about people."

Ed now says that "both sides were articulate and convincing" and only later did he begin to see the real differences between them. As a result, he now views the conclusions of his thesis as "somewhat naive. The problem was I'd never heard of a co-op even though one was located within 30 miles of where I grew up," he says.

In February of 1968, then, Ed became associate editor of *The Carolina Farmer* (now *Carolina Country*) for the N.C. statewide. This job later evolved into director of advertising and associate editor.

After Ed had been at the statewide for two years, he decided that he wanted to be a rural electric manager. "I wanted the chance to be closer to the membership and have a real voice in getting the job done," he says. "At the statewide, the job is promoting and selling ideas; there's no real authority to get the job done."

So he joined the staff of Albemarle EMC in 1973 and when its manager retired late last year, he moved into that spot.

Being relatively young, says Ed, hasn't proved to be a problem. "All through the community you're seeing younger people rising to positions of responsibilities."

Some of Ed's observations on the problems facing rural electrification and his system:

"The co-ops are now getting a rude awakening when they hire new managers. It takes more money to hire them. And the wage and salary plans below the manager's level need to be upgraded, too."

"The statewides or NRECA can't do everything for the local systems. There are some things we have to do ourselves. We have to staff for industrial and community development—that can't be done in Washington or in Raleigh."

"Inflation is forcing our costs up faster than we can develop rate changes. Power sales are off because of the energy crisis and relatively mild weather. These are creating money problems."

"There's a growing feeling among managers that they should become just another utility. We can't lose sight of the membership. If we do, we'll have more problems."

What about the future Ed has mapped out for himself?

"I don't have a predetermined goal. I just want to get management experience so I'll have the experience to move up in the program if the opportunity comes. Right now, I'm very happy. I have a challenge in my job. I could retire there."

GARY WYCKOFF

(Born: Piketon, Ohio. Age: 35. Graduated Piketon H.S., Ohio State University (B.S. in ag education and economics). Manager, Firelands Electric Cooperative (5,500 members, 800 miles of line), New London, Ohio, since Jan. 17, 1974. Married to the former Judy Brewster of Piketon; three sons, 12, 11 and 9.)

Gary Wyckoff is another of the young managers who came by their careers naturally. His father, Charles Wyckoff, now president of NRECA, has been involved in the rural electrification program since way before Gary was born—even though electricity didn't reach them until Gary was about two.

Gary's goal always has been to become an electric co-op manager—a post he considers to be "a real honor." However, following his graduation from OSU he went to the Ohio statewide but found no job openings. So he began teaching vocational agriculture and science at Richmond Dale, Ohio, H.S., a career that lasted five years.

In 1965, he became electrical advisor at Rush County REMC, Rushville, Ind., and two years later he took a similar post at Whitely County REMC, Columbia City, Ind. In 1971, he became staff assistant at Midwest Electric, St. Marys, Ohio, a spot he held until he became manager at Firelands.

He credits Ray Forkner of Rush County REMC with giving him his "basic training" in rural electrification and for influencing his life toward staying in rural electrification.

Some of Gary's thoughts on rural electrification:

Membership—"There's no question but that the co-op has to change just as people and America have to change. We don't have the same degree of consumer allegiance as we once had. At the same time, we're getting a strong identity as local institutions. Many young people are concerned about local issues and appreciate the fact that we're local and can give attention to individual problems. Our members feel they can have a personal contact with anyone in our organization and that they have an input into the services we provide."

Young people—"We don't need to apologize about the rural electrification program. There are many opportunities for those who want to work at it. There are opportunities to be leaders in the development of their communities. They can make the decisions that will improve the lives of those in their area. There's still the opportunity to accomplish the original goal of rural electrification—to improve the lives of the people."

Salaries—"You have to pay good salaries to attract good people. Young people out of college can draw salaries elsewhere that are higher than experienced people in rural electrification are making, even though co-ops often pay the best salaries in their areas. But we have to stay competitive. We're going to have to pay people to manage co-ops."

Today's managers—"Young managers are going to have to do some of the work older managers didn't do—bringing up salaries and benefits, for instance. Past managers have done a great job, but in some areas they haven't pushed hard enough."

NRECA—"NRECA has been the predominant factor in changing board, management and employee thinking in the program. In the future, it's going to have to play a much greater role in the political arena. It will have to expand and protect our vital interests while doing more to unite the total membership to protect their interests."

Today's biggest problem—"It's selecting people within and without the organization who will have the interest and ability to perform their jobs. This has been a weakness throughout the program. The biggest thing is to select people who can make a contribution within the context of the co-op program. I take a great deal of time in selecting personnel."

The future—"They say you have to move on to move up. But my ultimate goal was to be where I am—in a leadership and management role within the co-op program—so now I want to become as good at it as I can."

RETIREMENT OF CHIEF REPORTER CHARLES J. DRESCHER

Mr. KENNEDY. Mr. President, I wish to join my colleagues in saluting Mr. Charles Drescher on the occasion of his retirement as chief reporter of the Senate, and to commend him for his 24 years of outstanding service to the Senate.

In large measure, the Senate works and the CONGRESSIONAL RECORD exists because of dedicated men like Charles Drescher. All of us know the Official Reporter's Office. All of us know the effective, competent, helpful, and accommodating way that Mr. Drescher performed his difficult and demanding job. And all of us appreciate, perhaps most of all, the never failing good humor he always displayed, not only to Members of the Senate, but also to the members of our staffs.

And the fruits of his work were obvious every day. Certainly, to all of us, one of the wonders of the modern Senate is the daily CONGRESSIONAL RECORD that appears in our office before most of us arrive each day, with the debates of the previous day pulled together into a coherent document reflecting the Senate's work.

Of course, others also share the credit for these achievements. But to many of us, Charles Drescher is Mr. Congressional Record, a symbol of the Senate at its best.

As we say "well done" to a good and faithful public servant and wish him well in his retirement, we know that we shall also miss him very much.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

ENERGY TRANSPORTATION SECURITY ACT OF 1974

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 8193, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 8193) to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BEALL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, I ask unanimous consent that Philip Brill, of my staff, be accorded the privilege of the floor during the consideration and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that Mr. Tom Cantrell, of Senator HANSEN's staff, be accorded the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, a few moments ago the distinguished Senator from Maryland and I were discussing the bill now before the Senate, and we agreed that not in recent times has there been a piece of legislation about which so many Senators know so little. Yesterday I occupied for 3 hours the chair in which the distinguished Senator from Kentucky (Mr. HUDDLESTON) now sits as he presides over the Senate, and I learned all about the construction of cargo vessels and the discharge of sludge, and heard conflicting estimates of the costs to arise from this bill if enacted, which proves that there is a lot of information yet to be obtained and a lot of wisdom yet to be gained.

I would presume, Mr. President, that most Senators are in the situation in which the junior Senator from North Carolina finds himself, being barraged by information from all sides, much of it in conflict, but all of it crying out for careful evaluation, because the consumers of this country are likely to get it in the neck, even at best, if this legislation, H.R. 8193, is indeed enacted by Congress and signed into law by the President of the United States.

If enacted, this bill will require that 20 percent of all U.S. waterborne petroleum imports be carried on U.S.-flag vessels. After June 30, 1975, the U.S.-flag participation rate will rise to 25 percent, and after June 30, 1977, 30 percent participation will be required.

Because U.S. operators generally experience higher operating and construction costs than their foreign competitors, this legislation will require the consumers of foreign petroleum in the United States to pay the added cost of this U.S.-flag carriage. It has been estimated by the Maritime Administration that in 1975 this added cost will aggregate $79,300,000, and that by 1980 the annual cost of the program will have risen to $122,870,000. By 1985 the annual cost of cargo vessels for petroleum imports will have grown to $183,110,000.

Mr. President, since it is the American consumers of foreign-produced petroleum who must ultimately bear these added costs, it follows that those regions of the United States which are most heavily dependent on foreign oil will be most strongly affected by the legislation. I would call again to the attention of Senators from the Northeastern tier of States that in 1970, for example, the 17 Eastern Seaboard States, which constitute Petroleum Administration for Defense District 1, imported more than 70 percent of all the petroleum imported into the United States in that year. Although some of this oil moved overland from Canada, most was made up of waterborne imports from offshore sources.

Mr. President, the point is this: Had cargo preference been in effect in 1970, more than two-thirds of its cost would have been borne by the consumers of oil in those 17 States, a region which in 1970 contained only 40 percent of the total population of the United States.

This disparity of dependence on foreign offshore sources of petroleum is likely to become more pronounced in the years ahead. The National Petroleum Council has projected that by 1985, petroleum demands in PAD District 2, the upper Midwest, will far exceed local production. If we assume, as seems likely, that most of the surplus production of other nearby districts, along with most Canadian imports, will move to district 2 to meet this demand, the east coast will be left almost totally dependent on foreign waterborne imports.

If the entire district 1 deficit in 1985 were to be met by offshore sources, more than 90 percent of the waterborne imports in that year would move through the east coast markets, along with 90 percent of the cost of cargo preference.

Now, although the east coast situation is the most striking, there are other areas of the country which will also pay a heavy price for cargo preference. For example, most of the oil currently consumed in Hawaii is imported from abroad and, as a consequence, the Hawaii consumers, like the consumers on the east coast, will have to bear a disproportionate share of the cost of this legislation, H.R. 8193.

Because of these regional disparities in the distribution of the cost of the cargo preference for waterborne oil imports, H.R. 8193 should be rejected by Congress, in the opinion of the junior Senator from North Carolina. It will be grossly unfair to expect such a small percentage of the total population to so substantially subsidize American shipping.

The benefits of a strong and vital American merchant marine accrue to all Americans, and the cost of building and maintaining such a capacity should be equitably distributed among all of our citizens.

It has been estimated——

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. HELMS. I would be delighted to yield.

Mr. LONG. Is the Senator aware of the fact that the committee proposes in the bill that of the import fee of 15.5 cents which is charged on oil imports 15 cents will be forgiven for the oil that comes in American bottoms?

Now, the estimate the Senator referred to, I believe, is probably the best estimate, of what the cost will be, and that works out to about 12 cents a barrel difference between using American ships and American seamen and using foreign seamen and foreign-made ships.

According to those figures, oil coming into the eastern seaboard in American ships, when we take into account the rebate of the import fee, would actually be coming in 3 cents a barrel cheaper than oil that is being brought in foreign bottoms.

I would suggest to the Senator that rather than the oil costing those on the eastern seaboard more it would cost them less and, so far as the burden is concerned, the burden of the tax rebate is shared generally by all taxpayers of the entire Nation, not just those on the eastern seaboard.

Mr. HELMS. Was the Senator speaking of crude oil?

Mr. LONG. Yes.

Mr. HELMS. He is not speaking of refined products?

Mr. LONG. No. But I have no objection to treating refined products the same way. As a matter of fact, someone raised the point that we ought to do the same thing for petrochemical feedstocks, and I have no objection to an amendment—in fact one is being prepared—to say that naphtha or other feedstocks coming in from abroad would receive the same consideration.

Now, there is another item that is very important in this. Part of the cost is the cost of building ships that will not pollute the sea to nearly the extent that we have been experiencing. We have had a lot of talk about the Santa Barbara spill and the big blowout in the Gulf of Mexico. Well, it takes more money to keep one of those wells from blowing out than to do it in the most economical way; but if we do it the most economical, the cheapest, way, we are going to be a lot more subject to the wells blowing out and having enormous spillout in the Gulf of Mexico or the Pacific or the Atlantic than we would otherwise.

There is 10 times as much pollution occurring in the sea and soiling the beaches of North Carolina and Louisiana and Florida, all of the other States that have a beautiful coastline, 10 times as much pollution of the sea, resulting from the operation of these tankers, as there is from the blowouts of wells which are more dramatic but, in the long run, do not contribute nearly as much pollution.

Now, it costs us something to move toward reducing and controlling the pollution of the sea. But when we go out there and swim along one of those beaches and we find the beach covered with oil, it would make any Senator from a coastal State want to think about whether we should not be doing something about controlling all of the pollution that fouls our beaches, denies us the use of them and, frankly, I think if this thing continues indefinitely, the sea will not produce the food that we should be expecting it to produce in order to meet the increasing population needs of the world.

I think when we take those factors into consideration, the State of North Carolina would be one of the most benefited from this legislation.

Mr. HELMS. I thank the Senator for his comments.

I would observe that the waiver would substantially reduce funds to the Treasury and, of course, that is another concern of the distinguished Senator from Louisiana as well as of the Senator from North Carolina.

Mr. LONG. Well, Senator, if you will just take a look at yesterday's RECORD on page 30235, the Senator will see a little chart in the last column that I placed in the RECORD.

That shows the difference between what our trade policy is really doing and these fraudulent good news announcements we have been getting year after year which would lead us to believe that we are making money in foreign trade when, in fact, we are losing money because these official trade figures have been leaving out the cost of bringing these products here in foreign bottoms.

Now, the Senator will notice where they told us we had made a profit of $2.5 billion we actually had a loss. We lost almost $40 billions during that 8-year period in our trade program.

When we consider the shipping costs in bringing imports into the United States, and when we subtract the giveaways which they are putting on the plus side just as though we were being paid for them, such as when we were giving away grain to India, and matters of that sort——

Mr. HELMS. That kind of Federal arithmetic, I would say to the distinguished Senator, has resulted in a $475 billion deficit to date. The Congress has been playing that shell game for 35, 40 years with the American people, I agree with the Senator.

Mr. LONG. A deficit can be overcome over time. But, in my opinion, these deficits in our balance of payments and trade accounts are far more serious than our domestic deficits. At least domestically we have a way of overcoming them, late though our actions might be. But we have $100 billion of so-called Eurodollars, mainly in Europe, some in Japan, that we have no way of repatriating.

Our banks have gone overseas to pursue our dollars, as the Senator well knows with respect to that matter, and some of those dollars are being loaned out four and five times over to finance the expansion of new industries and new endeavors in these foreign lands. But how could anyone do anything less than lose confidence in the American dollar when the United States continues to run, by any honest bookkeeping, a trade deficit that averages about $5 billion a year, as well as certain aid, giveaway programs, and stationing of military troops abroad, and things of that sort which use up anything we can earn from our investments over there, and have this sort of a deficit without any indication that we are ever going to correct it.

In my judgment that has a great deal to do with the fact that the dollar has been devalued; it has been devalued again, and that means every time we buy oil or sugar or cotton or cocoa or manganese or bauxite, it just costs a lot more because our dollars do not buy what they once bought. The fact is that we are not earning our way. We are buying a great deal of services that we cannot afford, and there is no indication of turning it around, and that has a lot to do with this problem.

Now, we estimate that this bill, over the life of the ships, would give us a favorable impact on our balance of payments of $11 billion which is a move in the right direction, and if we do not do some of these things, I, for the life of me, do not see how we are ever going to turn around these disastrous trade policies which, from an international point of view, have bankrupted this country.

Mr. HELMS. Let us get back to the Senator's table. The Senator is very persuasive and, as he knows, I share his concern about the economics of the trade situation in general. But, tell me what the table has to do with the loss of general Treasury revenue from the waiver of the license fee on imported oil?

Mr. LONG. Well, what we really have here in this table is a comparison between the official balance-of-trade statements by this Government and what they really amount to if you take the CIF which, for example, takes freight into consideration——

Mr. HELMS. That is right.

When this Nation has been giving away $1 billion of aid and grain to India, they would put that down on the trade figures as though we made $1 billion when we were not going to be paid one red copper cent for it.

Now, take out the giveaways, and put the freight in, as practically every other nation would do, almost all nations on Earth evaluate their trade on a CIF basis, which includes insurance and freight—and, if we do that, we will see that we have had a deficit in our balance of payments in trade over the last 8 years of almost $40 billion, which is at variance with the so-called good news announcements which would have led us to believe that we had a gain of $2.5 billion during that period of time.

I wish to say to the Senator, that just has to be inflationary.

Mr. HELMS. There is no question about that.

Mr. LONG. When this Nation every year keeps buying from abroad billions of dollars of goods and services with no prospect of paying for it and the fact that running that kind of deficit makes a dollar lose, we lose confidence in the dollar, it means the dollar buys a great deal less of everything we bring into the country, be it sugar, oil, manganese, foreign-made automobiles or automobile parts made by American companies for use on assembly lines. That is a major factor in the inflation we have.

Now, insofar as we use more of our own shipping, it tends to reduce that big deficit.

Mr. HELMS. Well, there are arguments both ways on that and I am trying to thread my way through the jungle of conflicting opinions relative to this legislation and its ultimate effects.

The Senator is very persuasive and I commend him on his comments about the inflationary aspects of this and other facets of the Federal Government.

Mr. BEALL. Will the Senator yield?

Mr. HELMS. I am delighted to yield to the Senator from Maryland.

Mr. BEALL. I could not help but note when the Senator was talking about the effect that this bill has, in the Senator's opinion, on those of us who reside in the eastern part of the United States, those of us dependent upon imported oil as the principal source of supply. I, of course, am in the same situation as the Senator from North Carolina because, obviously, we are as dependent in Maryland as those in North Carolina are on imported oil.

I have great concern for my consumers, I have concern as to the price they pay for the product they receive, but also I have some concern as to the availability of that product.

Now, a lot of arguments have been thrown around and the oil companies' opinions in testimony before the committee indicate that if this bill goes into effect in 1975 the price will be increased by 79 cents per barrel. This works out to an increase in gasoline prices of about slightly less than 2 cents a gallon.

Well, that would be regrettable. However, that is the most liberal interpretation of increased costs that has been placed by anybody testifying before the committee, and this is from the people opposed to the bill, because it is from the oil companies who want to have the control themselves over how they ship the oil, rather than letting the Government have some say in this matter.

I think we all agree that the most reliable figures are those that have been submitted by the Maritime Administration, and they have suggested that the price is going up 12 cents per barrel, and this is about 35/100ths of a cent per gallon if you convert it to the cost per gallon of gasoline.

The Senator from Louisiana pointed out very accurately that the committee was aware of this, and the committee, of course, is not anxious to have the price of gasoline to the consumer go up, therefore, the committee in its wisdom put in the section that waived the import fee on oil that is shipped in these domestic ships and that, therefore, any cost increase would be negated by taking this action.

The chairman further indicated that the committee is willing to accept an amendment that will broaden the exemption or the waiver to include refined products which would affect the Senator from North Carolina and the Senator from Maryland, as well as the Senator from New Hampshire.

So, I think when we consider it in all its aspects, there will be little if any impact as far as cost is concerned on the average consumer as a result of the passage of this legislation.

Therefore, I think we have to move into what should be our secondary concern and that is the availability of the supply.

I remember, as I am sure the Senator from North Carolina does, that our constituents were lined up at gas pumps last spring because we did not have a supply, because, in effect, the oil-producing companies lost control of the supply and the Arab nations decided they were not going to sell us any more of their oil.

Therefore, we went through this very traumatic experience last year of having to wait in line to get gas and to have the productive capacity of our country affected, because we did not have an adequate supply of oil.

This has happened and it can happen again, presumably, because 98 percent of the oil that comes in, comes in in ships over which we have no control.

So it seems to me, if we are concerned about our supply, we should be concerned about how that supply gets to us and the extent to which we can control the availability of ships that will provide oil for the people of North Carolina and the people of Maryland.

Therefore, I think in the interest of national security and the interest of making the supply itself more secure to our consumers, we had better get about the business of trying to develop the merchant marine fleet that will give us the capability of bringing this oil into the country in case those countries who control the ships decide they do not want to let us use their ships any more.

I would point out to the Senator from North Carolina that other countries have been prudent in this respect. It is interesting to note on page 30 of the committee report that Spain requires that all of its imports be carried on its flag vessels. Japan, which is 100 percent dependent on foreign oil, requires that 50 percent of the oil imported into its country be brought in its own flag vessels. You can go on through this list of other countries that in their wisdom, have seen fit to guarantee that they are going to have some control over the means of transportation in bringing the oil to their people.

I think that is the kind of prudent step we should be taking as representative of the people of Maryland, in my case, and as representative of the people of North Carolina in the Senator's case.

Mr. HELMS. My friend from Maryland is, as always, exceedingly eloquent. I am tempted to respond, but I yield first to the Senator from New Hampshire who wants to address that point.

Mr. COTTON. I am very fond of the Senator from Maryland and have great respect for not only his eloquence but also his sincerity. I am sure he is sincere in what he said.

First, he said that we all agree that the best cost estimate came from the Maritime Administration. Now, when anybody says that we all agree in this body, they are sticking their neck out because here is one Senator who does not agree to any such thing.

I would say that the Federal Energy Administration cost estimates deserve pretty careful consideration, because it is concentrating on the total energy problem while the Maritime Administration deals with but one facet of it—shipping.

Here is what the Federal Energy Administration states as a cost estimate. I am merely reading the summary after the preliminary analysis:

> A direct cost of 14.4 cents per barrel and an additional cost of 20.2 cents per barrel would represent an average cost upon all oil imports of about 35 cents per barrel or 0.8 cents per gallon. This is probably a minimum figure because it does not include costs such as those arising from using smaller tankers for finished products or for the lack of deepwater ports, or for the probable continued increase in the cost of building ships which will increase differential costs between U.S. and foreign. At 35 cents per barrel with a total consumption of 25 million barrels per day in 1980, the cost to the consumer from cargo preference legislation could approach 3 billion dollars per year.

Now, I grant that that is just somebody else's estimate. The only fact that we can all agree upon is that nobody knows what the increased cost would be, whether it would be infinitesimal or whether it would be very substantial.

But, we only have to use the ordinary reasoning powers that God endowed most of us with at birth, just plain commonsense, to know that when we put a restriction on imports—and, I hasten to add the first such restriction that has ever been placed on import of privately owned merchandise—it is bound to have some effect on the cost.

I do not know whether North Carolina has a refinery, or where the nearest refinery to North Carolina is situated. I do not know whether Maryland has a refinery, or where the nearest refinery to Maryland is situated. But, there are only 12 States in this Nation which do not have refineries. Of those 12, 6 are New England States.

Let me tell the Senator and other Members of the Senate that if anybody thinks that the passage of this bill is not going to work a hardship on the people of my section of the country they are in error. I do not want to tell the Senator from North Carolina about his State, because he knows more about it than I do. I do not want to tell the Senator from Maryland about his State, because he surely knows more about it than I do. But, I can speak for my own State. I am fighting this bill with all my might. I am fighting with all my might because it is pressing down, in the words of William Jennings Bryan, like a crown of thorns upon the head of every New Englander. It just cannot help but do that.

I am sure the Senator from Maryland, knowing him as I do, is most sincere in anything he says. But, Maryland has a twofold interest. It can afford to pay a little more for its petroleum products so long as it is sure that it is keeping a backlog for its shipyards and shipbuilding industry.

I do not blame the Senator for taking care of the shipbuilding industry. I respect him for it, and I would not respect him if he did not fight for it.

But, I do not think that, in view of Maryland's interest in shipbuilding, his heart is going to bleed quite so much for poor old New England and the consumers of this country elsewhere as it would if Maryland did not have this particular interest.

Mr. BEALL. Will the Senator yield?

Mr. COTTON. I yield.

Mr. BEALL. First, let me say that I did not mean to imply that we agreed on figures. Certainly, in the short time I have been in this body, I know that we cannot even agree on a get well resolution for a sick Member, let alone agree on figures.

I was indicating that I thought, on the basis of the discussion we have been having for the last couple of days, that we had reached something of an agreement that the most reliable figures came from the Maritime Administration because this particular agency of Government had more experience in this than any other agency.

I have a great respect for the people at the FEO. Their administrator is a friend of mine. He comes from Baltimore. They are doing a good job. But I find some fault with their figures.

I think if I heard the Senator from New Hampshire correctly, he mentioned the figure of 35 cents per barrel as their estimate of the increase in cost. Then he said if we translate this to a price per gallon of gasoline, it comes out to an increase of 8 cents.

It is my recollection that there are 42 gallons in a barrel. If we divide 42 into 35, we come out with something less than 1 cent.

Mr. COTTON. Not 8 cents; eight-tenths of a cent.

Mr. BEALL. Eight-thousandths of a cent?

Mr. COTTON. Eight-tenths of a cent.

Mr. BEALL. Then we are in agreement.

I think the record ought to be clear to show that it is not 8 cents per gallon.

Mr. COTTON. I said eight-tenths of a cent.

Mr. BEALL. I share the concern of the Senator from New Hampshire. He is right. We do build some ships in Baltimore, and several thousand people in the Baltimore community benefit directly from the building of ships. Naturally, I want to protect those people to the extent I can. I would hope that the shipbuilding industry in Baltimore, the shipbuilding industry in the Carolinas, and the shipbuilding industry in all sections of this country where it exists would prosper, as I do any other industry.

But I still think we ought to be concerned about, in my case, the other 4 million people in the State of Maryland who are not concerned with the shipbuilding industry. I think I am concerned about them when I try to guarantee that we are going to have some control over the supply of fuel imported into this country. I think our principal concern for them should be the price they pay for this product.

I think the Commerce Committee, in waiving the import fee, has recognized there may be some additional cost to the consumers. But in recognition of this fact we have waived this fee. So, as a matter of fact, even if you accept FEA's estimate of the cost, there is not going to be any additional cost for the consumers of these products because we have eliminated the additional cost through the waiver of the import fee.

Mr. COTTON. That is for crude oil.

Mr. BEALL. I understand from the chairman we are willing to accept an amendment that would include refined products. I certainly cannot speak to the needs of the people——

Mr. COTTON. May I speak to that? That cuts both ways. Here we are desperately fighting in New England to get some refining capacity.

We tried to get refineries into certain localities but they have refused to accept them.

The oil companies know perfectly well that if we amend this bill and waive the fee for refined oil, it will make it more difficult for us to get a refinery.

Mr. BEALL. I have some sympathy for the Senator's argument. I cannot speak with authority on the needs of New England. I feel I have some affection for the New England States because, as the Senator knows, I received most of my education in New England, 3 years of it, in the same school that the Senator went to, in the State of New Hampshire. So part of my heart belongs in the State of New Hampshire, with the people of New Hampshire, and New England. I have concern for the Senator's constituents. Of course, he knows their needs better than I do, even though I have familiarity with them.

I really think this bill will not do a disservice to those fine people in New England. But the Senator disagrees with me, and I can accept that disagreement. I must say I agree with the Senator with regard to refineries.

It is very difficult to get refinery capacity in the United States. In Maryland, a company has been trying to locate a refinery in the State of Maryland, and they have not been able to do it because no one, if you will, will let them light anywhere. Everyone objects, and, as a result, there will not be a new refinery in Maryland.

This has to be a concern to all of us, wherever we live. We have to have some place set aside where we can bring these products in and have them refined so we can produce for the people of America the kind of product they are demanding every day.

I do not know how we will resolve it, but in the meantime, it seems to me prudent, that, to the extent possible, we guarantee that we will have control not only over the supply but also means of getting the supply into this country, as long as we do not have the refining capacity.

I think this bill goes a long way to providing the additional guarantee to the consumers of America at little or no extra cost to them.

Mr. COTTON. I do not quite agree with the Senator's statement. We are both very proud of the fact that we attended school in New Hampshire. Having spent some time in New Hampshire, I think the Senator from Maryland knows how cold it gets in the winter. I hope he remembers that.

Mr. BEALL. It gets almost as cold as in western Maryland.

Mr. LONG. Will the Senator yield?

Mr. HELMS. I yield.

Mr. LONG. I urge the Senator from New Hampshire to make available to us the document to which he referred about the cost estimate. I am convinced it is erroneous. For example, that estimate to which he refers places an even higher cost on something that is tenuous and speculative. For example, it starts out estimating, as I understand it, the difference in using American ships and foreign ships which would amount to about 14 cents a barrel. Then, if I understand that estimate, it goes on to say that in addition to this, it is going to cost you 20 cents a barrel because we think other nations will emulate the United States and insist on using their ships, if they are the exporting nation, to ship oil to the United States.

There is just nothing to support that. The Japanese have been using 47 percent of their own ships and that has not caused those shipping oil to Japan to insist on using their own tanker fleet. France has been using 38 percent; Spain, 37 percent; United Kingdom, 25 percent; West Germany, 29 percent, and Italy 23 percent. In no case has that caused the Arab nations to insist that they would use a similar proportion of Arab ships to ship to those countries.

In the second place, if and when the oil exporting countries ever decided that they wanted to own their own tanker fleet and require that their fleet be used for some part of this transportation, they have all the muscle it takes to do it.

When they quadrupled the price of oil last year, we discovered that although it was unreasonable and although we thought it was unfair and victimized the entire world—the less developed world in particular—it did not make any difference. They made up their minds to do it and had the muscle to do it.

With regard to the secondary costs referred to in the FEA memorandum, the cost of other nations emulating what the United States proposes to do in this case, the major consuming nations already are doing the same thing we are talking about doing. I am talking about the United Kingdom, France, Spain, Norway, West Germany, and so forth. They are already doing it, and the other nations are not retaliating.

Furthermore, if and when the producing nations and the exporting nations decide that they want to insist on using ships produced in those countries or manned by their own seamen, they have all the muscle it takes to do it, whether we like their argument or not. We did not like their argument when they quadrupled the price of oil, but they have the power to do it. They say, "If you are going to buy the oil from us, you will have to pay $10 a barrel or better."

Mr. COTTON. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. COTTON. I am very glad to accede to the Senator's request that I make this available. This is a memorandum from the Federal Energy Administration, and I offer it to appear at the close of the remarks of the distinguished Senator.

Mr. LONG. I thank the distinguished Senator. I will read it before it appears in the RECORD.

Mr. COTTON. The Senator is going to permit it to appear in the RECORD?

Mr. LONG. Yes. I think it should be in the RECORD.

Mr. COTTON. The Senator from Louisiana asked for it, and I am happy to have it in the RECORD.

Mr. LONG. I read from this document:

> The American Petroleum Institute estimates that the creation of a captive market would increase U.S. flag ship costs by an additional 20 percent, imitation by foreign countries 25 percent.

That is the item which, in my judgment, has no business being in there; because if the other countries want to insist upon using their tankers to export oil, they have the power to do that, whether their argument is good or not. It does not make any difference what the argument is. If they want to do it, they are going to do it. But such a course entails a risk, as those countries well know, and that is one of the things that has impended them from doing this—that is, if they want to use their tankers, at such time as the United States regains its self-sufficiency, we might not want to buy their oil anymore. If that is the case, those tankers would be worthless to that foreign country, and their investment in those tankers would therefore be lost.

When one looks at this FEA estimate, what it actually estimates on direct cost, it estimates 14.4 cents per barrel, and that is not out of line with what we estimate ourselves, at least what the Maritime Administration estimated as to what we thought the cost of this legislation would be with respect to the additional cost of moving the material. That is a lesser figure than the 15-cent import fee which this legislation would waive; and by waiving the import fee, it would result in an overall saving to the consumer of the product.

Mr. President, I ask unanimous consent that this memorandum be printed in the RECORD, as the Senator has suggested.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

COST OF CARGO PREFERENCE LEGISLATION

DIRECT COSTS

Construction and operating cost of U.S. flag tankers would be much greater than the same costs for a similar foreign flag tanker. Based upon current subsidies granted by the Maritime Administration for the construction of U.S. flag tankers, the construction cost of a large U.S. flag tanker would be about 60% greater than for a similar foreign ship. Based upon the same source operating costs such as labor, insurance and similar costs for a U.S. flag tanker are about 40% greater than for a similar foreign flag tanker.

Based upon current construction and operating costs with a 10% return upon investment, the Maritime Administration estimates the transportation cost of crude oil in a 250,000 deadweight ton U.S. flag tanker moving from the Persian Gulf to the U.S. east coast would be about $1.35 per barrel. In a foreign flag ship the comparable costs would be 87¢ per barrel. The additional cost of using a U.S. flag tanker rather than a foreign flag tanker would be about 48¢ per barrel.

The proposal would require 30% of U.S. oil imports to be moved in U.S. flag vessels with the remainder of the imports moving in foreign tankers. If the additional cost of 48¢ per barrel is considered in relation to all imports rather than a particular barrel, it represents a minimum additional average cost of 14.4¢ per barrel for every barrel imported.

ADDITIONAL COSTS

In addition to the additional direct cost, it would be difficult to estimate intangible costs resulting from the proposed cargo preference legislation. Some of these are:

1. Past experience with cargo preference for government cargos indicates that the "fair and reasonable" rates for U.S. ships in a captive market would likely be higher than the computed rate determined above.

2. The difference in cost between U.S. and foreign flag tankers of smaller size would be much greater so that the lack of deepwater ports in the United States forcing the use of smaller tankers could double the cost.

3. The passage of cargo preference legislation by the United States could result in similar action by producing nations for their exports. Such foreign vessels in a captive market would also tend to have higher rates than competitive foreign rates which would increase the cost of foreign tankers carrying U.S. oil imports.

4. The cargo preference laws would reduce the flexibility of using readily available tankers or diverting tankers to alternate destinations which would increase the cost of U.S. imports.

5. An increase in the delivered cost of oil imports due to cargo preference legislation would tend to increase the price of any domestic oil not subject to price control.

Because of the numerous variables in any computation of additional costs, the total cost of cargo preference legislation cannot be estimated with any exactitude. The American Petroleum Institute estimates that the creation of a captive market would increase U.S. flag ship costs by an additional 20%, imitation by foreign countries 25%, and reduced flexibility 5%. If these percentages are correct, they would represent additional costs of 67¢ per barrel or with a 30% cargo preference an average cost of 20.2¢ per barrel over all imports. This does not include any costs in domestic crude resulting from cargo preference legislation.

SUMMARY

A direct cost of 14.4¢ per barrel and additional costs of 20.2¢ per barrel would represent an average cost up on all oil imports of about 35¢ per barrel or .8¢ per gallon. This is probably a minimum figure because it does not include costs such as those arising from using smaller tankers for finished products or for lack of deepwater ports, or for the probable continued increase in the cost of building ships which will increase differential cost between U.S. and foreign. At 35¢ per barrel with a total consumption of 25 million barrels per day in 1980, the cost to the consumer from cargo preference legislation could approach 3 billion dollars per year.

Mr. COTTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Senator RANDOLPH has called to my attention the concern of the independent petrochemical manufacturers over the possible impact this bill could have on their feedstocks imports. I appreciate his assistance to me in this aspect of the bill and am happy to join him in sponsoring an amendment which will waive 15 cents of the import license fee not only on our crude oil imports, but on all our oil imports.

Mr. President, I send this amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> On page 9, line 8, strike the word "crude".
> On page 9, line 12, strike the word "crude".
> On page 9, line 16, strike the word "crude".

Mr. LONG. Mr. President, I wish to explain the purpose of this amendment.

Where it is suggested that 15 cents of the import fee be rebated on crude oil that comes to us in American bottoms, the point has been made, with regard to some New England States, that this would not apply to residual fuel oil, and logically it seems to me that it should, if American ships are used.

It has also been stated that this does not apply to petrochemical feedstocks, naphtha, and other semirefined products, and that this could create a problem for the petrochemical industry, particularly the chemical manufacturers. This point has been explained to me by the Senator from West Virginia (Mr. RANDOLPH), and the proposed amendment has been prepared by Mr. JAVITS because of the same concern.

Because it is the feeling of the committee that there should be a reduction of the import fee in an amount that we believe should be adequate to cover the additional cost of using American ships and American seamen, this amendment, in my judgment, makes sense. If it had been proposed in the committee, I would have voted for it.

Mr. RANDOLPH. Mr. President, I am grateful to the Senator from Louisiana (Mr. LONG) for his cooperation on this vital matter.

The cargo preference requirements which would be imposed by the enactment of H.R. 8193 could have a direct and significant adverse effect on the U.S. petrochemical industry.

Regardless of its impact on consumer prices, the use of U.S.-flag tankers will increase the cost of oil imported into the United States.

In the case of the petrochemical industry, this increase in the cost of oil imports would directly increase the production cost of petrochemicals. Petroleum—in the form of crude oil or certain unfinished oils, chiefly naphtha—is the basic raw material, or feedstock, which the petrochemical industry converts into chemicals and plastics, and an increase in the cost of raw materials will directly increase the cost of production. The cost of these feedstocks can, in some cases, account for as much as 85 percent of the total cost of production of some basic petrochemicals like ethylene. And the increased cost which enactment of H.R. 8193 would impose is, therefore, of considerable real significance, to the U.S. petrochemical industry.

And its significance is magnified by the fact that this added cost would have to be paid by the U.S. petrochemical producers, but not by its overseas competitors. It would give foreign petrochemical producers a cost advantage over U.S. producers.

This cost advantage would have several effects.

First, it would tend to make U.S. exports more costly and therefore, less competitive. Petrochemical exports from the United States have exceeded $3 billion last year—but these exports face rapidly increasing production capacity abroad and rising production costs at home. Production capacity in Europe has increased sixteenfold since 1959, and Japanese capacity has been increasing at a rate of 50 percent per year for the past decade. The combined European and Japanese capacity now exceeds that of the United States.

U.S. exports of petrochemicals account for about 10 percent of domestic production. Exports for 1973 were valued at $3.5 billion while domestic production is estimated at $22 billion.

The disadvantage of higher feedstock costs to domestic petrochemical producers will probably have its most serious effect on exports to third country markets—those without local petrochemical production—where U.S. producers compete head on with European and Japanese manufacturers and these are important growth markets.

Second, the cost disadvantage may tend to increase the level of imports. Imports of petrochemicals into the United States have increased 600 percent since 1964 and are now more than $1 billion a year. They now account for 5 percent of the domestic market and the share is rising.

In addition, the cost disadvantage, over the long term, may discourage investment in expanded petrochemical facilities in the United States.

The Department of Commerce has specifically called attention to this problem in its presentation to the Senate Commerce Committee in May of this year. Under Secretary John K. Tabor told the committee:

> If the prices required by U.S. industry are higher than the prices of their foreign competitors who need not use relatively expensive U.S.-flag tankers, U.S. industries will be priced out of the international market. The adverse impact upon both the United States balance of payments and domestic employment is obvious. For those who would hope that the additional costs resulting from the proposed legislation would be absorbed without difficulty in reducing industrial profits, and not in higher prices, the outlook is no brighter. If profits for a particular industry are greater for plants located outside the United States, capital and even entire factories will move to those more favorable locations. Industries most directly affected by the higher petroleum costs inherent in the proposed bill, such as the petrochemical industry, will probably be the first to seek opportunities for development outside of the United States.

The U.S. petrochemical industry, a $22 billion industry with more than 350,000 employees, would be unfairly and needlessly handicapped if the cargo preference applied to the imports of petrochemical feedstocks.

It should be clear that imports of petrochemical feedstocks are small, amounting in the estimate of the Department of the Interior to less than 4 percent of our total petroleum imports. Therefore the adoption of an amendment providing petrochemical feedstocks with the license fee reduction—which is now only applicable to crude oil—would not significantly affect the thrust of the bill, but the failure to adopt the amendment would significantly affect a major U.S. industry.

The committee report indicates that the reduction in import fees by 15 cents per barrel provided in section 5 of the bill will offset any cost increase resulting from the other provisions of this bill. Unfortunately, however, the committee amendment applies only to crude oil. It does not provide for any such waiver in fees for petrochemical feedstocks, like naphtha, which would be imported under the bill. Section 5 of the bill provides no significant relief for petrochemical producers. This amendment will help provide such relief.

Finally, Mr. President, I would note the committee discussion on page 39 concerning the provisions for the Secretary to grant full or partial exemptions to importers or persons from the cargo preference requirements established in H.R. 8193. Committee report indicates that several groups advocated exemptions but the case which was made during the hearings was not persuasive. As a method of meeting the unique situations which confront certain importers or industries, the committee has provided the above mentioned waiver authority to the Secretary. This, in my judgment, was a recognition, at least in part, of the unusual situation of the independent petrochemical producer.

I believe that, based upon the comments in the report of the committee and discussions with Senators who have formulated this measure, it is the committee's intention that an industry such as independent petrochemical producers will have a priority in receiving prompt and thorough consideration of a waiver request and, if a case is made, in the granting of waivers by the Secretary.

Mr. President, I commend the diligent and effective floor manager of this measure, Senator LONG, for his cooperative endeavors to insure fair and equitable treatment of the petrochemical industry under this bill. It is a privilege to work with the Senator from Louisiana (Mr. LONG) on this issue.

I urge adoption of our amendment.

Mr. COTTON. Mr. President, will the Senator yield for a question?

Mr. LONG. I yield.

Mr. COTTON. The amendment, insofar as it has to do with petrochemicals, was in the bill 2 years ago, was it not?

Mr. LONG. It was handled in a different fashion. Two years ago, we excluded petrochemical feedstock imports. We think now that it makes better sense simply to rebate the import fee on those imports to the extent that American bottoms are used. In our judgment, that would be a more appropriate way to do it.

Mr. COTTON. As a matter of fact, I would like to say to the Senator from Louisiana that I was going to offer an amendment to protect New England to waive the import fee not just for crude oil but also for oil products, because what we need most is No. 6 for home heating and No. 2 for industry and schoolhouses.

The Senator's amendment takes care of part of my concern. I am very glad to have him offer it, because I am sure if he offers it, it will pass, whereas if I offer it, it might not.

Mr. LONG. If it has the support of the Senator from New Hampshire I am certain it will pass.

I am happy that this matter was discussed today. I am confident that the bill should be so amended, and that a significant contribution has been made by the Senator from New Hampshire, the Senator from New York, the Senator from West Virginia, and others.

Mr. COTTON. With all due respect, the Committee on Commerce rewrote this bill several times. We took the text of the House bill, threw it aside, and rewrote the entire bill. But, when we rewrote this bill, there generally was not at any one time a quorum of the members of the committee present, except when it was ordered reported.

That is one reason why I am a little unhappy about this legislation. The House sent a carefully drawn bill over, after extended hearings. I did not like the House bill too much either because of its adverse effect on New England.

Although I hate writing legislation on the floor, the Senator's amendment is a good amendment, and as far as I am concerned—and I would expect as far as most of the opponents of the bill are concerned—we would be glad to go along with it.

Mr. LONG. I am pleased that the Senator supports the amendment. Perhaps in this respect I am catching up with the Senator from New Hampshire rather than moving ahead of him. But having had the point explained to me, I have become convinced that the amendment is correct, and I hope the Senate will agree to it.

Mr. COTTON. What would be the cost to the Treasury of the Senator's amendment? For crude oil only, it is estimated by the Commerce Department that it would cost the Treasury a revenue loss of $185 million in 1975, and $275 million in 1980. The revenue loss will be increased when we include all refined oils, under the Senator's amendment. Does the Senator have any estimate to give us on how much that would be?

Mr. LONG. I will be happy to get it. But let me point out that this would involve a burden on the Treasury of a much lesser figure than that which the Senator made reference to, in that it should improve our balance of payments by a figure somewhere in the vicinity of $500 million per year, so that if one puts the two side by side, the tremendous improvement in our balance of payments compared to the loss of revenue, we will find that it is a well-justified amendment.

Mr. COTTON. I was merely asking the question so we would have as complete information as possible. As far as I am concerned, representing a State in New England, I will say very frankly we want oil. We want to keep warm next winter and whether it is $100 million or $200 million, it is not going to change my support of the Senator's amendment.

Mr. LONG. With regard to the statement that the Senator referred to of the Federal Energy Administration, they were estimating that the direct increased cost of using American ships rather than foreign ships was 14.4 cents. I do not go along with them in their estimate of an add-on to assume that foreign nations are going to do the same thing, for example, that foreign nations are going to add their own shipping. I do not think they would build it here in American yards; they would build it in Japanese yards or German yards, where they could do it cheaper.

But if you take the 14.4 cent figure, the 15 cents that would be forgiven would be more than enough to offset the increased fuel costs to New England or any of the import areas with regard to what we estimate the average cost of using an American ship to be.

Mr. COTTON. If the Senator will yield to me a moment longer, I will not interrupt him further.

Mr. LONG. I believe that—yes, I yield.

Mr. COTTON. Let us not forget that we are not just talking about oil, because once we depart from the fixed policy of only making requirements for shipment in American bottoms of Government-owned commodities such as Public Law 480 grain, this is not going to be confined to oil. I think one of the most dangerous things about this bill, which every farmer in the Midwest ought to have in mind, is that it is going to be extended to all kinds of commodities. We will have opened Pandora's box when we forsake the long-established policy of only requiring shipment in American bottoms of Government-owned or Government-financed cargoes. I think that should be borne in mind.

Mr. LONG. Mr. President, it is not the United States that has created this precedent. It is not even the creating of a precedent by the United States. We are doing this already with regard to Public Law 480 sales. We have done this type of thing before, and we have done it historically, as far back as the memory of anyone here goes, with regard to shipments between two American points, between one American port and another American port. Other nations around the world are already doing this same thing. The big oil importers are doing it already.

The Senator sought the estimate for this and I now have it. I am told that MarAd estimates that the fee waiver cost involved in this amendment would be $100 million in 1975.

Mr. COTTON. Whose estimate?

Mr. LONG. The Maritime Administration estimates that this would cost approximately $100 million when in full operation in 1975. That will protect the Senator's constituents, about whom he is properly concerned, from what one would fear might be an increase in energy cost to them as a result of using more American shipping.

I hope that New England will benefit, just as would the rest of the Nation, from the additional jobs and employment that would be involved in building these ships. In the long run, there are going to be about 10 jobs involved in building the ships, if we include the cost of mining the ore, making the steel, moving it across the railroads, or through trucking lines to the ports, making it into the electronic equipment and the navigation equipment and the electrical equipment that goes aboard the ships. The entire American economy should benefit from this.

Mr. COTTON. The trouble with that is that all the shipyards have such a backlog of orders that we would have to build new shipyards if we are going to benefit, and that would cost a good deal of money. Then, if the situation changes in a few years, we would have a surplus of shipbuilding capacity.

New England is not going to get any money from building ships as a result of this bill. The Navy cannot get all their ships built because the private yards have such a backlog of orders.

Mr. LONG. Mr. President, that gets us to a problem that the Senator would do well to consider. I put in the RECORD on yesterday a chart to which I refer the Senator. It appears on yesterday's RECORD at page 30235. That shows how we have really been making out in trade.

The reason I make this point is that I have been complaining for many years here that the trade figures published as the official so-called good news announcements have been fraudulent. They have been deceitful. We have been losing $5.5 billion a year on the average in trade when they would report that we broke even.

If the Senator will look at that chart, he will see how in the years 1966 through 1974, contrary to the official estimates, which would count the giveaways as though we were being paid for it—which is completely fraudulent, in my judgment——

Mr. COTTON. I grant that.

Mr. LONG. They also would leave the freight off the imports, which is part of the cost of bringing commodities to the United States. By making those two simple calculations, one will find that instead of making a profit of $2.5 billion during that period of time, we lost $38.9 billion in our balance of trade.

I see nothing in the trade bill that is in the Finance Committee that could cause us to expect to reverse that. We cannot negotiate away that big trade deficit. When we try to do it, people point out to us that we are making almost an equal amount by American investments abroad. But the difficulty there is that what we are making by these American investments abroad is needed to pay for the troops in Europe, is needed to pay for the foreign aid, for the military aid, for all the things we are doing in other respects around the world. So we cannot count the $5 million profit on investment twice. We can only use it once. Therefore, everybody agrees that we should move toward a balance in our trade account.

What will the Trade Act do? The best I can make of it is that it is going to increase the importation of manufactured commodities in the United States and increase the sale of farm products to people abroad outside the United States. That sounds great, until one recognizes that historically, and I am sure that the future will prove the same, we do not produce these large amounts of additional farm commodities by increasing the number of people. Year by year, agriculture becomes more efficient. We produce more food, but we employ fewer people. Where are we going to find the jobs for our people to support that kind of trade policy?

In other words, here is a trade policy where, more and more, we ship agricultural products, and more and more we bring in manufactured commodities. Agriculture will be employing fewer people year by year than the year before, because of improved technology.

Where are we going to find the jobs for our people to offset that kind of policy? It seems to me that we are going to have to get some of that in the areas we are talking about here. We say, well, even if others can manufacture ships cheaper than we can, we want to have a certain number of U.S. ships out on the high seas anyway, and even if we can hire somebody over in Hong Kong cheaper than we can at the port of New York or the port of New Orleans or Plymouth or any other port, we have some people over here that are good people that we would like to see man some ships, and we will do it for a number of reasons, including having the know-how available in case we need it in case of a national emergency.

So it seems to me if we are going to correct a $5 billion deficit on a trade account, we will just never negotiate that away. I have had the Secretary of the Treasury tell me this. To correct a deficit of that magnitude, we are going to have to do that in some areas where we are acting unilaterally, where we say, here is what we are going to do and, having done it, if you want to negotiate, negotiate later.

The Senator will recall the only time we made any heartening progress at all in that area was when John Connally, as Secretary of the Treasury, moved to try to make some drastic changes in our trade picture.

Mr. COTTON. That I will grant the Senator. However, I am not now talking about added employment for American seamen. It strikes me this bill will generate some employment, but it will be minimal. The employment generated for building ships will be much more extensive.

If our present shipyards are operating at capacity, I do not think that this bill is going to be very productive in the matter of employment.

Second, we must build economically, so we are going to build very large tankers. But, we do not have any deepwater ports to accommodate the size tankers contemplated. And these large tankers will be no good to us unless we can get oil into them. If the foreign oil people cut us off our supply, what are we going to do with the tankers?

We can bring whisky in them, I suppose. That is about the only commodity that the American public never complains about insofar as price is concerned. But, what is the use of building large tankers without any oil to put in them?

Mr. LONG. Mr. President, there is no doubt in my mind that, as long as the technology exists at a state where we can produce energy from oil cheaper than we can produce it from the known state of the art for atomic power, and things of that sort, we will be importing a large amount of oil.

The reason I say that is even though we might attain the capacity to produce our requirements of energy here in this country, I am convinced that because the production cost is so much cheaper in the Near East, where they have such fantastic deposits and at such a low production cost, that it makes good sense in terms of world economics for this Nation to import a lot of oil even though it is capable of producing its entire requirements here.

Mr. COTTON. But the Department of Defense does not say that.

Mr. LONG. Well now, they made that mistake in the past. But I think that, having been burned, they might have learned better.

I yield to the Senator from New York (Mr. Javits).

Mr. JAVITS. Mr. President, I would like to have two people on the floor to help me. I ask unanimous consent that David Dunn and Don Zimmerman may have the privilege of the floor during debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I thank the Senator.

Mr. LONG. Mr. President, let me make this clear for the Record that looking to the future it makes sense that this Nation should further expand its merchant fleet. As we look at our products and see that most nations, either by way of subsidy or by way of preferring their own products, find ways to maintain a certain percentage of their presence on the seas, it is a sad commentary to see this Nation, with less than 6 percent of its ocean commerce moving in American bottoms.

So I would hope, Mr. President, that in due course this Nation would further consider its situation and consider further expanding its maritime industry.

I see nothing wrong with building some new ways in existing shipyards, just as I see nothing wrong with building more shipyards in the United States. It seems to me this is one area in which we would do well to expand and put people to work rather than to wither and see America take a further and further backward place among the family of nations.

Mr. JAVITS. Mr. President, I wish to address an inquiry to the manager of the bill on the majority side which will deal with two of the amendments which were printed on my behalf as of this morning.

One is the amendment relating to the reduction of the license fee on refined oil to be equivalent to the license fee on crude oil which was as provided for in the original bill.

My amendment is No. 1845. The amendment now pending at the desk, which is the amendment of the manager of the bill, does exactly what I propose and, with his permission, I would like to ask unanimous consent to be joined as a cosponsor of that amendment, and I so request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I am delighted that the Senator did it. It is always best when the manager of the bill himself handles these things, and I am very pleased.

Mr. LONG. Mr. President, the logic of the amendment is compelling. I was not aware at the time I offered the amendment the Senator had the identical amendment. I am told the language is somewhat different, but it achieves exactly the same result.

Mr. JAVITS. I am entirely content. I would just like to be joined as cosponsor with the Senator.

Mr. LONG. I believe that this would take care of that problem which might otherwise be rather critical.

Mr. President, I gained the impression from discussing this matter with the do not want to quote the President, I do not think that is quite proper but I think President of the United States—and I it is fair for one to relate the overall impression he gained—that the President of the United States felt that, all things considered, he would like to sign this bill but that he felt the Executive needed more flexibility in the administration of it.

I have prepared an amendment that I think would provide this flexibility. If not, we could talk about it in conference.

The House bill provides more flexibility than the Senate bill, but this would provide additional flexibility.

It simply says that the requirements of this bill can be waived by the President upon determining that an emergency exists justifying a temporary waiver and that such a waiver would not exceed 180 days.

My thought is that if the President thought that the circumstances required waiving these requirements for 6 months and in the event that Congress should agree with him, we should have no difficulty in extending the waiver by law.

But in the event that Congress did not agree with him, then the waiver should expire at the end of 6 months.

It seems to me that while this matter is negotiable, this would place the matter in conference on the Senate side as well as the House side to indicate that we do want to cooperate with the President in providing him such waiver as we think he needs without placing in the hands of the executive the power to waive the whole thing forever.

So I send this amendment to the desk and ask for its consideration.

Mr. JAVITS. Mr. President, a point of order.

Is there not a pending amendment?

The PRESIDING OFFICER. There is a pending amendment.

Mr. JAVITS. Well, do I not have the floor?

I was not quite through, but that is fine, what the Senator has done is fine and I have no objection.

The PRESIDING OFFICER. The Chair will state that there is a pending amendment which must be disposed of before we can consider any further amendment.

Mr. LONG. I beg the Senator's pardon.

Mr. JAVITS. I thank my colleague.

The other thing I would like to mention is the fact that this amendment which is pending, to which I have now been joined—is that correct, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. This amendment is very gratifying to us in the Northeast because, as the Senator knows, we have in the main refined oil imports rather than crude.

I would like to raise another point with the Senator, and then I would like to say a word about what he has just put into the Record by way of a very, I think, modest approach to a national security amendment. This does not go nearly the distance that is gone by the House provision respecting national security which would give the President truly wide discretion. Senator Cotton has an amendment like that, but if he does not present it I think it would be well to ask unanimous consent that the Cotton amendment immediately follow the insertion in the Record of Senator Long's amendment.

I have not gone into the many arguments about this bill, which are being so ably made by others, as it is not a bill in which I have been very actively engaged since I have many other responsibilities. I believe the national security interest is the dominant aspect of this bill as well as the fact that it is alleged by the State Department to contravene so many treaties.

Finally, Mr. President, I wish to ask the Senator from Louisiana the following question:

I had an amendment No. 1844, which would require a report in 3 years concerning the effect of the U.S.-flag preference requirements of the act by the Secretary of Commerce in order to give us some monitoring of what is going on.

Now, the fact is that in section 3, paragraph 6, there is a requirement for annual reports and the only difference between my amendment and that requirement for annual reports is that it is not suggested that it would be appropriate for the Secretary to make any recommendations to the Congress.

Now, sometimes there are Secretaries who proceed like the founders of our country in the Constitution. They do not care very much about the mandate, they go ahead and do what needs to be done. But sometimes Secretaries are squeamish on that score.

So I would ask the manager whether he would consider simply inserting the fact that the Secretary may make recommendations at the same time that he tabulates what is going on under the act?

Mr. LONG. Mr. President, I, personally, have no objection to that. I am sure the Senator is aware of the language that appears on page 8, lines 15 to 24, which do relate to this subject of having a study and a report.

Mr. JAVITS. Well, if the Senator will do it himself in due course and insert that the Secretary may also make recommendations, I will have no amendment to present.

Mr. LONG. I will be happy to either offer such an amendment or accept one from the Senator.

Now that I have been joined on my amendment, I would hope we might have enough lung power to agree to the Long-Randolph-Javits amendment.

Senator COTTON stated that he was for the amendment, I am not aware of any objection.

Mr. JAVITS. I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana and the Senator from New York.

The amendment was agreed to.

Mr. JAVITS. Mr. President, may I ask the Senator if he would mind if we put this recommendation in, which we can do right now?

Mr. LONG. I have no objection.

I ask unanimous consent that we may lay aside—

The PRESIDING OFFICER. The clerk read as follows:

> At the end of the bill add the following new section: on line 18, strike period. Add: "together with his recommendations concerning such requirements."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. I thank my colleague.

Mr. LONG. Mr. President, I now offer my proposed amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

> On page 8, after line 24, insert the following:
>
> "(7) The requirements of paragraph (1) may be waived by the President upon determining that an emergency exists justifying a temporary waiver of such requirements. Any such waiver shall not exceed 180 days unless authorized by law."

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR MANSFIELD BEFORE THE DEMOCRATIC CAUCUS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a statement delivered by me before the Democratic Caucus today, and a resolution which was unanimously agreed to by the caucus, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR MIKE MANSFIELD (DEMOCRAT, OF MONTANA) BEFORE THE DEMOCRATIC CAUCUS

This Majority Conference is the first to be convened with Gerald Ford as President of the United States.

We convene at the end of a political nightmare. For the Senate the question of impeachment has been overtaken by events and is now moot. By endorsing the report of its Judiciary Committee the House has closed the matter for both parts of the Legislative Branch. Insofar as the events related to Watergate require further federal action at this time, the responsibility rests not with the President, not with the Congress but with the Attorney General, Mr. Saxbe, with the Special Prosecutor, Mr. Jaworski, and the Courts.

What remains for the Senate and House in this connection is the repair and rehabilitations of the nation's political institutions which were severely strained by Watergate. A high responsible approach to the mid-term elections and careful compliance with existing federal campaign contributions legislation can be helpful in this regard. So, too, can the completion of action on the pending adjustments in this legislation—on the new campaign act—to which conferees have just been appointed.

As for the dozens of recommendations proposed by the Ervin Committee, with regard to the whole question of how this nation conducts and finances its electoral campaigns, particularly those involving the selection of the President and Vice President, these are not matters that will be or should be disposed of this year. Consideration, however, should begin now and continue through succeeding Congresses because they are of sufficient importance, may I say, not to be wafted away in the fading smoke of Watergate.

In addressing these and other legislative matters, it should be kept in mind that after considerable discussion the Joint Leadership in the House and in the Senate are now agreed on an adjournment for mid-October. Whether it is to be a sine die adjournment remains undecided at this point. The intent is to terminate the 93d Congress in mid-October but certain essential business must be acted on before that date if it is to be realized.

In my judgment, for example, the nomination of Nelson Rockefeller as Vice President is properly subject to disposition in the 93rd Congress. Consideration of the nomination, however, will not be rushed through the Congress. Mr. Rockefeller's designation will be as thoroughly aired as was Gerald Ford's when he was named to be the Vice President. While the vacancy cannot be acted on in haste, it can be expedited by diligent consideration in Committee and on the floor. As I understand it, the Committee on Rules and Administration is in the midst of an investigation which is going to be thorough and comprehensive.

There is no reason to assume that the Committee will not be ready to make its report to the Senate in time for consideration before mid-October.

Four appropriations bills remain to be acted on by the Senate. They will provide funds for Labor-HEW, military construction, foreign aid and agriculture. With regard to the Labor-HEW Appropriation, I would note that this bill is a source of perennial difficulty. It is, as the Conference knows, veto-prone. I would ask, therefore, that all Senators go as far as they can in trusting the judgment of the Chairman of the Subcommittee on HEW, Senator Magnuson, and his Republican colleague, Senator Cotton as to what is possible and what is not. To the extent that we can restrain ourselves from offering floor amendments to this measure, we will enhance the prospects of its prompt enactment.

Beyond the Appropriations bills, there is the trade bill, now pending before the Senate Finance Committee, and there is a good possibility that the Senate will have that measure to act on prior to adjournment. The fate of Consumer Protection rests on the cloture vote scheduled later this month. Strip-mining reform and Urban Mass Transportation ought to be cleared before adjournment. So, too, should the Freedom of Information Act which is in Conference.

As for health insurance and tax reform, they remain with the House which must act first. Senate action this session will depend largely on how expeditiously the House moves to process these bills. While the need for comprehensive health insurance is imperative, in my judgment, rather than respond to this need in haste, it would be preferable to be certain that we act with prudence. It represents a far-reaching adjustment and we should take care that it is very carefully designed for the needs of tomorrow, as well as today. As for taxes, the conclusions of the impending Economic Summit Conference would be highly relevant to any broad adjustment in the present structure of taxation and it may be desirable to await its outcome. That should not rule out, however, the possibility of some prompt tax relief for the lower, fixed income groups whose burdens beyond all others have so obviously been multiplied by the inflation.

The Senate and the House have done their legislative work well to date and, I am confident, we will finish it well in the next few weeks. What looms ahead, however, in the closing days of this session and at the outset of the next is a new dimension of national difficulty. This government and this nation are most immediately confronted with the sputtering economic machine on which the material well-being of the people of the nation must be sustained.

Nor are we alone in this situation. Over those nations with whom we have been most closely aligned—the Western Europeans and Japan—the sky of economic recession is also lowering. Unless the present drift can be arrested, the portents are clearly those of depression. I need scarcely point out the devastating implications of this prospect to the hopes of Americans both individually and as a nation, not to speak of the dangers to international stability and human survival.

Our first responsibility in this situation is to our own people. It is for the Congress in concert with the President to determine what action is to be taken to stem a vicious inflation, to end the crisis in housing, to eliminate the threat of shortages in food and fiber, commodities and materials, to provide aid to those Americans who are bearing the brunt of the human burden of recession in the form of unemployment and inadequate income and to restore a tolerable momentum to our economic life. In exercising this responsibility, I would hope that we would be mindful at all times of the impact of what we do or do not do on other nations. We are in a very real sense all in the same boat.

In helping the nation focus on the economic issue, I would note the key role played by Senator Chiles, Senator Huddleston, Senator Nunn and others who proposed this full-fledged Economic Summit Conference. As you know, the President has acted on this suggestion and the preliminary meetings with representatives of the Executive Branch, the Legislative Branch and the private sector are already scheduled. What the results will be cannot be predicted. For now, all that we seem to know is that there are great divisions in this nation—inside and outside the government—as to what actions and what remedies might be effective. An opportunity presents itself in this impending economic conference to begin to put an end to those divisions and to set the nation on a common course of response to our difficulties. Insofar as this Conference and the Senate are concerned, it ought to be clear that we are ready and willing to work with the President to that end.

Whereas, the President of the United States, pursuant to Senate Resolution 363, passed in the Senate by a vote of 85–5 has convened a "Summit Conference" for the purpose of soliciting views and recommendations on the state of the national economy, and

Whereas, many members of the Senate shall participate in these preliminary and final conferences, and

Whereas, the Conference of Democratic Senators recognizes that the State of the Nation's economy is the most serious problem facing this country and the world, be it

Resolved that, the Democratic Conference of the Senate supports fully the President of the United States in his effort to give the highest priority to this problem; and urges that every alternative be considered by the "Summit Conference," and

Resolved further that the Conference of Democratic Senators stands ready to remain in session throughout the year if necessary, to cooperate with the President in meeting the grave economic problems confronting the country.

APPOINTMENT OF MEMBERS TO ATTEND THE INTERPARLIAMENTARY UNION MEETING, TOKYO, JAPAN

The **PRESIDING OFFICER** (Mr. HATHAWAY). The Chair, on behalf of the President of the Senate pro tempore, in accordance with Public Law 85–474, appoints the following Senators to attend the Interparliamentary Union Meeting, to be held in Tokyo, Japan, October 3–11, 1974: The Senator from Alabama (Mr. SPARKMAN), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Indiana (Mr. HARTKE), the Senator from Nevada (Mr. CANNON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nebraska (Mr. CURTIS), the Senator from South Carolina (Mr. THURMOND), the Senator from Hawaii (Mr. FONG), the Senator from Kansas (Mr. PEARSON), and the Senator from Virginia (Mr. WILLIAM L. SCOTT).

Mr. **MANSFIELD**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **MANSFIELD**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

ENERGY TRANSPORTATION SECURITY ACT OF 1974

The Senate continued with the consideration of the bill (H.R. 8193) to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels.

UNANIMOUS-CONSENT REQUEST

Mr. **MANSFIELD**. Mr. President, I am about to propound a unanimous-consent request.

I ask unanimous consent that on the pending bill, there be a time limitation of 3 hours on the bill itself, with 30 minutes on amendments, to be equally divided between the sponsor of the amendment and the manager of the bill; and as far as the time on the bill is concerned, that it be divided equally between the distinguished Senator from New Hampshire (Mr. COTTON) and the distinguished Senator from Louisiana, the manager of the bill (Mr. LONG); and that the agreement be in the usual form.

The **PRESIDING OFFICER**. Is there objection?

Mr. **GOLDWATER**. Mr. President, reserving the right to object, I will say to the majority leader that after my discussion I shall not object, but I do wish to say a few things about this matter and my reservation.

I could, Mr. President, stand here and object to any unanimous-consent request relative to the limitation of time, but I have canvassed this body enough to know that this bill and all the amendments that are wanted to it will pass. We are getting close to the time of adjournment. Many of us have primary elections next week, and for me to remain adamant on this matter, I think, would be a disservice to the body, although I have to say that I think this is probably one of the worst bills to come before the Senate during my tenure.

It is not needed. It has not been asked for by the people who know what they are doing. It will add tremendously to inflation. All the bottoms that we have in this country will carry about 6 to 8 percent of the oil that we need to keep this country's energy going. The first bottom, according to my understanding, that could be delivered would be sometime late in this decade, and we are inviting all the competition in the world to come in and raise prices.

I think the bill will add tremendously to inflation. I do not think our Government can afford to build anything except those things necessary in the defense of our country; and inasmuch as we have bottoms owned by other countries, I see no need for this country to go to the expense of the billions of dollars needed to provide bottoms to carry 20 percent of the crude that would be needed in this country.

I do not think the American public understands this bill. I am sure that most Members of this body do not understand it.

If I felt certain that the President would veto it I probably would have a lighter mind toward it. But I have a suspicion that he will sign it, and I regret to see that, if he does, because it comes at a time when he should be making some and taking some real steps toward ending inflation in this country.

I will vote against the bill and, as I say, I think it is a bad bill. It should be recommitted, at least, and it should be, in my opinion, held off until the next Congress so that everyone interested in this country can have a chance to come in and say something about it, testify for or against it.

So, Mr. President, I will not object. I will withdraw the objections I gave to my leaders on any time limitation on this bill, and let us get along with it.

Mr. **MANSFIELD**. I thank the distinguished Senator.

Mr. President, I would like to amplify my request that there be a half hour on any motion to recommit, and that on other motions and appeals there be a time limitation of 10 minutes, the time to be equally divided in all instances as in other circumstances.

Mr. **LONG**. Mr. President, will the Senator yield for a question?

Mr. **MANSFIELD**. Yes.

Mr. **LONG**. The Senator's proposal does include the usual germaneness requirements?

Mr. **MANSFIELD**. Yes.

The **PRESIDING OFFICER**. Is there objection to the unanimous-consent request?

Mr. **COTTON**. Mr. President, if the distinguished majority leader will yield, I had said that I would not agree to any time limit on debate.

I do not think that the Senator from Arizona could possibly feel as bitter about this bill as I do because he does not come from the section of the country that is going to suffer from it the most. Frankly, I do not see how any New England Senator could vote for it. But, I know that we have got representatives of the maritime unions sitting up there looking at us, and I have seen the effect since I know they have got the power to pass this bill. And, I do not wish this to reflect upon my friend, the Senator from Louisiana (Mr. LONG). He would make a good evangelist because he can sell anything he wants to, and before he gets through debating he thinks God sent a message to him directly. He is perfectly sincere. But, anyone with a teaspoonful of ordinary commonsense knows that this bill has to be inflationary.

But, this bill is going to pass. In my opinion, the President is going to sign it. But, if the President signs it, I will never listen to another word from him about fighting inflation because the minute he signs his name to this bill he has lost, in my opinion, any power or influence—even the great influence of Office of the President—to really face up to the worst problem we have in this country, and that is inflation. And, this bill has to be inflationary.

I hate this bill because of what it does to my part of the country, and because of its inflationary effect.

As I recall, the largest total vote we had yesterday was 67 out of 100 Senators. Today is Thursday, and Friday there probably will be even fewer Senators here. Therefore, there is no use trying to prolong this agony until next week, because then, or the week after, or the week after that, they have got the votes to pass this bill.

I also have a shrewd suspicion that under certain circumstances the bill will be signed by the President.

I am coming to the end of 20 years of service in the Senate, and I usually have gotten along with everybody. I have tried to be good-natured about it. But, I do not know as I have been as bitter, really, as downright bitter in my heart in all of those 20 years of Senate service, as I now am about this lousy bill.

However, Mr. President, there is no sense in prolonging the agony. When you are told that you have got to go to the dentist and have a tooth out, you might as well go and have it done right away and get it over with.

I did have several amendments. But, I do not have as many now because the distinguished Senator from Louisiana seemed to pick them up one by one, by submitting them in unprinted form. I am awfully glad he did it because I am sure he is within the powers-that-be. He has the forces of labor behind him. He has all the forces of righteousness behind him. And, if he offers something, it is going to be adopted. I could not be sure that mine would.

I am not going to object. But, as I understand it, there will be a motion to recommit the bill. How much time will there be on that motion?

Mr. MANSFIELD. Thirty minutes.

Mr. COTTON. Thirty minutes.

Also, is my understanding correct that each side will have an hour and a half on the bill in the event it is needed for some amendment which has real merit and is important with far-reaching implications?

Mr. MANSFIELD. The Senator is correct, 3 hours on the bill.

Mr. COTTON. He can call on that time.

I think that is a perfectly fair proposal.

Incidentally, after it is agreed to, I would like to be recognized to offer a substitute to the pending amendment of the Senator from Louisiana.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from New Hampshire be recognized after the Chair makes his decision.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COTTON. I am willing to go along and agree with the unanimous-consent agreement requested by the distinguished majority leader. He knows that I always try to go along with him when I can.

Mr. MANSFIELD. The Senator is correct.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none and without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, if the Senator will yield, I think it would be well to ask the Senate to take notice that there will be votes this afternoon and, quite possibly, we may go a little late in the evening.

I thank the Senator.

AMENDMENT NO. 1842

Mr. COTTON. I thank the distinguished majority leader.

Mr. President, I send to the desk a printed amendment No. 1842 and offer it as a substitute to the pending amendment offered by the distinguished Senator from Louisiana.

The PRESIDING OFFICER. The Clerk will report the amendment.

The assistant legislative clerk read as follows:

> Mr. COTTON offers an amendment as a substitute to the amendment offered by Mr. LONG.

The PRESIDING OFFICER. Who yields time?

Mr. COTTON. Mr. President, I would like to have this amendment read because I think it is necessary for the Senators to hear it.

The PRESIDING OFFICER. The clerk will read the amendment in full.

The assistant legislative clerk read as follows:

> In lieu of the language proposed by Mr. LONG, add the following new section:
>
> "SEC. 6. The provisions of this Act will become effective whenever and for such periods as the President determines that such provisions are necessary or desirable for our national interests. Such determination will be made in consultation with the Secretaries of Defense, State, and Commerce, giving consideration to the impact on the economy, our foreign relations, and our national security."

Mr. COTTON. Mr. President, I offer my amendment in the nature of a substitute in an attempt to meet the grave fear which I, and I believe several of my colleagues entertain over the unknown impact of this bill.

What my amendment would do is to vest authority in the President of the United States, in consultation with the Secretaries of Defense, State, and Commerce, to determine the effective date of the bill and the periods of its effectiveness when "necessary or desirable for our national interests."

Now, I know in all probability my amendment will not meet with the approval of at least the leading proponents of this bill, and I anticipate its opposition by the Senator from Louisiana.

Mr. President, if this debate has shown anything at all, it is that no one really knows the impact on the economy, on our foreign relations, or on our national security of H.R. 8193 in the form that it is before the Senate.

My amendment would require these factors to be considered by the President in making his determination.

It is just inconceivable to me, Mr. President, that the Senate of the United States would act in any other than a responsible manner with due regard for all these most important factors, which at this moment are not known.

I, therefore, urge the adoption of my amendment as a substitute for the pending amendment of the Senator from Louisiana.

Now, Mr. President, let me say this, it is perfectly true that if my amendment were adopted the President could, for not only a period of time, but permanently, refuse to let this bill go into effect. However, if this amendment is adopted—and this is important and I wish we had the entire Senate here to listen to it—the President probably will and almost must sign the bill.

Now, it is inconceivable to me that the President would sign the bill and not at least let it take effect until it could be shown what its effect is actually going to be. He certainly is not going to sign the bill and then not allow it to go into effect.

I want to repeat here that every department of this Government is dead set opposed to this bill. People talk about it being for national security but the Department of Defense does not think so. The Department of Defense opposes it.

The Department of Commerce is opposed to it and is afraid of it.

When I say "afraid of it," I mean afraid of it in the sense that they are not sure what its effect will be.

The Department of Transportation also is opposed to it. The President's Special Assistant for Consumer Affairs is opposed to it. The Department of Justice is opposed to it. The Department of the Interior is opposed to it. The Federal Energy Administration is opposed to it.

I think that 99 out of 100 people who have some knowledge of the bill are of the opinion that it has to be inflationary. It will increase the price of oil necessary for running the industries, providing jobs, and heating the homes of the people of this country. That is why they are afraid of it.

Mr. GOLDWATER. Will the Senator yield for a question?

Mr. COTTON. I am happy to yield to the Senator.

Mr. GOLDWATER. I noticed on page 44 of the report, under the section dealing with costs, estimated costs, that a guess is around a million dollars a year.

Now, the question I have is, one, who is going to provide the money to build the bottoms?

Can the Senator answer that?

Mr. COTTON. Who always provides the money?

Mr. GOLDWATER. The Federal Government.

Mr. COTTON. The Federal Government.

Mr. GOLDWATER. Well, I cannot understand why the report did not show that. It shows less than a million dollars a year and then goes on to explain that is for additional administrative expense.

Does the Senator have any idea how many millions or billions of dollars it will take to build enough bottoms to allow this country to carry 20 percent of the oil that comes in?

Mr. COTTON. Well, yes, I have my own opinion, and on page 59 of the report, which is part of the minority views I filed, in the middle of the page, I say:

> Under the most optimistic assumption (i.e., no impact on shipbuilding costs resulting from H.R. 8193), the combined *minimum cost* of construction-differential subsidy (not taking into account the double bottom requirement which could add 5–11% to tanker vessel costs) and operating-differential subsidy through 1980 to produce this incremental seafaring, shipyard, and support industry employment is estimated to be approximately *$800 million*.

Thus, the minimum cost will be slightly less than $1 billion under the most favorable circumstances.

Mr. GOLDWATER. I thank the Senator for that information. Has he given any thought to what the price of gasoline may go to under this bill if it becomes law?

Mr. COTTON. Yes, the Senator has given much thought to it because it means a lot to his part of the country, as it does to every other part of the country. The thing that troubles the Senator most, and which I cannot answer, is how much I think it will raise the price of gasoline. I do not believe anybody knows. That is why I am so afraid of this bill. It is a shot in the dark. I do not know whether it will raise the price of gasoline 2 cents a gallon, 10 cents a gallon, or 18 cents a gallon, and I do not believe anybody else does. Nobody downtown knows for sure. I have letters from the several departments saying that they are not certain what the cost of this bill will be.

This bill is a blank check. That is why this bill is one of the most vicious bills, in the opinion of this Senator, ever presented in this body in the 20 years he has been here.

Mr. GOLDWATER. I agree with the Senator. I stated that earlier.

If this bill becomes law, how long is it before we are supposed to carry 20 percent of the imports in our bottoms?

Mr. COTTON. Immediately upon enactment, 20 percent; then in 1975 it goes up to 25 percent; and in 1977, to 30 percent.

Mr. GOLDWATER. Yet we can only carry about 6 to 8 percent now?

Mr. COTTON. I think that is the fact.

Mr. GOLDWATER. What do unions propose that we do? Should we lease ships from Greece, from Iran, from Iraq, and from other countries?

Mr. COTTON. No. I respect their viewpoint. They are interested in jobs. They expect us to build more tankers, for us to furnish them jobs.

As the Senator knows, for all the years I have been in Congress—8 years in the House and 20 years in the Senate—I have always been fighting to save the Portsmouth Naval Shipyard. Last Saturday the Secretary of the Navy came up and visited the yard. Do you know what he told us? He told us not to worry any more about the Portsmouth Naval Shipyard. He said if we closed it, it would be the most tragic mistake. He said that we need it. It is running at full steam. We only wish it was larger because, he said, all of the private shipyards in this country which build vessels of various types for the Navy have such a backlog of orders that the Navy is having difficulty in letting out contracts to build their new ships. So thank God we did not permit the closing of the Portsmouth yard.

Mr. GOLDWATER. If the Senator will yield, we have been told precisely the same thing before the Armed Services Committee time after time. Even though the committee would like to see our Navy improved, we cannot do it because we cannot place any more bottoms in any shipyards. This gets to a major point of my argument.

We have been standing on this floor debating energy now for over a year, and we have not done one thing about it, not one thing. I will remind the Senator that, to my knowledge, there is only one place on the coastlines of America that we could unload a modern tanker, and we do not propose to build modern tankers.

When I was last in Iran, I saw 53 tankers lined up to get oil. The smallest one was 200,000 tons. We do not build them that big. Iran has provided docks for 500,000-ton tankers. They are being built in Japan. We are not building them. We do not have the ability to build them that large in any of our shipyards.

What I fear we will do to satisfy the Maritime Union is to build a lot of small 50,000-ton tankers where we can dock them in the ports of America instead of going modern and building offshore unloading places, as almost every other country in the world has done.

We stand on this floor, we listen to Presidential hopefuls talk about energy, and nothing has happened in 2 years. Here we are, ready to sink what little energy we have.

I want to tell the Senator I admire his fight on this. I wish more troops could have been brought into the battle because this is a bill that we are going to long regret.

Mr. COTTON. I thank the Senator.

The PRESIDING OFFICER. The time of the Senator has expired.

Does the Senator modify his amendment to conform with the amendment of the Senator from Louisiana so that it will be a true substitute?

Mr. COTTON. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, follows:

On page 8, after line 24, add the following new subsection:

"(7) The provisions of this Act will become effective whenever and for such periods as the President determines that such provisions are necessary or desirable for our national interests. Such determination will be made in consultation with the Secretaries of Defense, State, and Commerce, giving consideration to the impact on the economy, our foreign relations, and our national security."

The PRESIDING OFFICER. The Senator's time on the amendment has expired.

Mr. COTTON. Mr. President, I allow myself 10 minutes on the bill.

I am in agreement with everything the distinguished Senator from Arizona has said.

The maritime unions have done yeoman service in preserving the American merchant marine. I have supported them in that endeavor. Were I to continue to be here, I would continue to support them. But, I cannot support them on this bill.

From what has been said on the floor by the Senator from Louisiana and others supporting this bill, national security is a principal reason to support H.R. 8193. But, some have not talked as loudly as that when somebody is trying to slash the defense appropriation bill to pieces. If I am wrong the Senator can certainly correct me in a moment, but if I understand the English language, the manager of the bill has said not once, but several times, "We need some new shipyards. We need shipyards big enough to build the large type of tanker that is economical. It is uneconomical to continue to build the smaller type." So he visualizes building new shipyard capacity.

Naturally, the unions are interested in jobs. If we start a program of building these huge tankers, it does furnish jobs. But, when the energy crisis is over we will have surplus tonnage, and we will have wasted a lot of money in financing excess shipyards.

Also, what will we do with these supertankers? There is not a deepwater port in this country that I know of where they can unload.

Moreover, I cannot imagine the Arabs rushing about and tearing their shirts to fill up our tankers. If they do not furnish us oil, of what use will these tankers be? Perhaps we can use them to carry whisky, because that is the only commodity I know of whose price the people of this country never seem to object to.

I do not know all the effects of the bill. The Senator may be right. I may be right in my judgment, or I may be wrong, which I doubt. But, the point is, and I repeat—and then I will yield the floor—that the tragedy of this bill is its utter uncertainty. That is what all these departments of the executive fear. They do not know what it is going to cost. They do not know what is contemplated under it. That is why the amendment I am offering is at least some insurance against these unknowns.

I am told by people, who I think are speaking with knowledge, that the President would like to sign this bill. At the same time, the President is anxious not to jeopardize the fight against inflation. If it goes to him in its present form, I would hope and rather expect that he would veto it. If it had this provision, he certainly would sign it. If he signs it, he is under an obligation to put it to trial, and then we can know its effect. And, nothing will prevent the Congress then from making the program permanent, without the control of the President, if it works out well.

Mr. President, if this substitute were adopted, it would relieve the fears of the entire executive branch, and the fears of many American people. The press has been overwhelmingly against this bill, even the liberal press, such as the Washington Post. Those fears could be laid aside. But, at present nobody knows what the cost will be. It certainly will be inflationary.

I believe it also is a bad mistake in this bill not to permit foreign-flag vessels to return to American registry and qualify after 3 years, as now is the case with government-owned and government-financed cargoes. I think we should encourage it. They should be able to come back under American registry, and I think that should be put in this bill.

Subject to two other minor amendments, if the substitute I have offered were adopted, so far as I am concerned, there would be no more amendments. I will vote for but not speak on the recommittal motion, if it is offered, and we will be able to vote on the bill before sundown.

Mr. President, I think this substitute is a form of insurance. It insures, first, that the bill will be signed and will be given a trial; and, second, that we will not have to fear the potential adverse results which could occur if we did not have such insurance.

The PRESIDING OFFICER (Mr. BAKER). The time of the Senator has expired.

Who yields time?

Mr. LONG. I yield myself 5 minutes.

Mr. President, I did discuss this matter with the President of the United States, and I gained the impression that the President felt that in the event he saw fit to sign this bill, he would like to have more flexibility than the Senate bill provided. I have proposed an amendment, therefore, to provide that the President could waive the provisions of this bill for a period of 6 months. At the end of 6 months if he wanted to continue to waive the provisions of this bill and not use American shipping to the extent the bill would suggest, he would lay the matter in the lap of Congress. That is negotiable. I would be willing to agree to any sort of arrangement that would make sense, such as saying that perhaps with respect to a number of points in the trade bill we are working on, if he thought we ought not do this, he would indicate that it should not be done, and that Congress could reverse that in a certain period of time—90 days or some such period—in the event that Congress disagreed with the President.

But the President and his representatives, in connection with the trade bill, where we run into these kinds of problems time and again, have been very willing to agree to share the responsibility with Congress. It seems to me that that is how it should be done.

So that the President could waive the provisions of the bill, if he thought circumstances required it. Then, after 6 months, the provisons of the law would go back into effect, unless Congress saw fit to act, presumably on the President's recommendation, to continue the waiver.

The House has provisions which go beyond that, as follows:

> Whenever the President of the United States or the Secretary of Defense declares that an emergency exists justifying a temporary waiver of the provisions and so notifies the appropriate agencies . . .

If we adopt the amendment I have suggested, we will then have in conference the power of the President to waive entirely the provisions of the bill and a provision by which we would expect the President to share that responsibility with Congress after 6 months.

The Senator's provision, as he is proposing it here, would say that the bill would not even go into effect. It would not even go into effect unless and until the President consulted with the Secretary of Defense, the Secretary of State, and the Secretary of Commerce, and thought about the impact on the economy and various and sundry things, and decided that it should go into effect.

I am inclined to agree with the Senator from New Hampshire that the President, even though he does have an unfavorable report from the Secretary of Defense, the Secretary of State, and the Secretary of Commerce, would nevertheless put the bill into effect if he signed it. I think that is probably correct. But I would say, for us, why would we in Congress want to pass a bill if we did not mean business? If we do not intend that it should go into effect, if we have no confidence, it seems to me that we should have some doubt that we should pass the bill at all. Why should we leave it up to the whim of the President, if we think the bill has any merit?

For that reason, I hope the amendment of the Senator from New Hampshire is not agreed to.

If the bill is passed as I have suggested, with the amendment granting the flexibility I have suggested, if it goes through, I would certainly expect in conference to try to find out exactly how much flexibility the President thought he had to have and how much of that responsibility he was willing to share with Congress, and work this thing out, as we have done time and time again in connection with items of this sort in the trade bill, and the matter was mutually acceptable.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG. I yield myself 5 more minutes.

In my judgment, it makes better sense to have the Congress share some of this responsibility rather than simply leave it up to the President to say that the bill never will go into effect, or if it does go into effect, he can suspend it any time he wants to, in which case it might never go back into effect.

There is something else involved here. I am reasonably well convinced that Gerald Ford, as President of the United States, probably would, as the Senator from New Hampshire suggested, permit this bill to go into effect if he is President. But he has only 2 years to go in that term. There may be someone else who will be President after that.

It seems to me if the Congress means business the Congress should say that the bill, if enacted, is not to be inoperative; at least the Congress should be in the picture and have some say about it.

Mr. President, I do think that there have been some needless fears expressed. For example, it has been said on the floor that we will not be building supertankers in this country. That is wrong. We are building some now.

It is suggested that we will not have any superports. We have reported out of the committees the bills to build superports. The superports will be built; they will be here.

The Maritime Administration is not even willing to pay an operating subsidy on ships over 200,000 tons, because it thinks those ships are sufficient efficient that it is not necessary to pay an operating subsidy on those big, highly mechanized ships.

Admittedly, we do not have enough ships now to carry 20 percent of the oil. But the purpose of the bill is that we should expand our capacity.

Again let me make the cost arguments. I do not rely for one moment upon the estimates of the American Petroleum Institute for the costs of this bill. They are as prejudiced in this situation as anyone could be. The estimates that they gave for the costs on this side exceed by 4 to 1 what their estimate was on the House side. If there is anyone who can destroy credibility, it would be the American Petroleum Institute, who put an estimate in on the House side that the cost would be about $15 billion, and then came over to this side and estimated the cost at $60 billion, four times that figure.

About the fairest and most reliable estimates that we believe one could look to would be that of the Maritime Administration, and they estimate that there might be a difference of 12 cents per barrel. We propose in this bill to forgive 15 cents of the import fee, so that those who are receiving oil from these American tankers manned by American crews, built in American shipyards, ought to be receiving it at about 3 cents a barrel cheaper than they were receiving it from the others.

Now, that does not satisfy the people who are really fighting this bill. I know who they are and most people know who they are. They are the major multinational oil companies.

They are good people, Mr. President, and I have done business with them from time to time, and we have a lot of their activity in Louisiana. We are happy to have them around. They are fine folks. But they have become badly spoiled.

The kind of business they are able to do—hiring seamen all over the world and any time anybody so much as complains about the food aboard the ship, dump that fellow off 12,000 miles from home and let him find his way home—is something that went out of style in this country with Uncle Tom's Cabin. We, over here, recognize that we have to contend with union labor from time to time. We do have to contend with people who band together and try to have better working conditions.

While it may shock some of them to think of a workingman making $1,000 a month, we have a number of good secretaries, some who have not been working very long, in the Senate Office Building who start out at that pay scale. These seamen would make that working 7 days a week, on duty or off, around the clock, 24 hours a day, being away from home over a long period of time.

Most of the jobs, as I said before, Mr. President, provided by this legislation will be in building the ships, manufacturing the steel, manufacturing the electrical equipment, the electronics, and the other things that go aboard under a Buy America provision.

There will be 10 jobs made available in the shipyards.

Mr. President, I yield myself 4 more minutes.

There will be 10 jobs made available in the shipyards, in the steelyards, in the railroads, hauling the materials around the shipyards, for every one job that will be aboard the ships.

Mr. President, we cannot continue to countenance trade policies where we simply give away all this country can earn and so much more. I have put in the RECORD the fact that we have a trade deficit, by any fair estimate, of $40 billion over the last 8 years, when we take into account the freight and subtract the giveaways.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COTTON. I am willing to yield back my time and vote.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from New Hampshire yield back his time?

Mr. COTTON. I do, and ask for the yeas and nays.

Mr. LONG. Mr. President, I ask unanimous consent that the yeas and nays be ordered on the Cotton substitute.

The yeas and nays were ordered.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER (Mr. William L. Scott). Without objection, it is so ordered.

Mr. COTTON. Mr. President, point of order.

I understand that it was agreed that we would not have a rollcall vote by unanimous consent and that we must get 11 Senators in here. Should we not do that?

Mr. LONG. Mr. President, from time to time, the leadership on this side of the aisle has taken that attitude. I have never agreed to that. To me, it is sort of ridiculous to run down someone to come in to raise his hand to agree to the yeas and nays when all we have to do is ask unanimous consent and it will be ordered.

Mr. COTTON. I have disagreed with the Senator from Louisiana on enough subjects. I shall not press this.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. William L. Scott). Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, if the Senator from Louisiana will permit me, now that there are 11 Senators on the floor, I wonder if he would agree that I might ask unanimous consent that the previous order for the yeas and nays be vacated, so that we can ask them in the regular manner.

Mr. LONG. Mr. President, I have many times asked unanimous consent to have the yeas and nays ordered when I was the manager of a bill, and the yeas and nays were ordered. I do not see any reason why I should not do so. Unanimous consent was given, and to me, I say again, it is rather ridiculous to send out the aides to go round up 11 Senators to come in here and second an order for the yeas and nays, when all one has to do is ask unanimous consent and it will be granted, unless someone wishes to object. I do not have any doubt that I can get 11 seconds.

Mr. GRIFFIN. We have them here now; and rather than have this particular quarrel, which is unnecessary, could we not go ahead and do it in the regular way?

Mr. LONG. I am not going to agree to rescind the unanimous consent that was given. I think we ought to vote. Does the Senator have any doubt that the yeas and nays can be ordered by unanimous consent?

Mr. GRIFFIN. No, not at all.

Mr. LONG. Then why do we not just vote?

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays on the Cotton substitute.

The yeas and nays were ordered.

The PRESIDING OFFICER. (Mr. William L. Scott). The question is on agreeing to the amendment, as amended, of the Senator from New Hampshire (Mr. Cotton), in the nature of a substitute for the amendment of the Senator from Louisiana (Mr. Long).

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUDDLESTON (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Minnesota (Mr. Humphrey). If he was present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from North Dakota (Mr. Burdick), the Senator from Idaho (Mr. Church), the Senator from Wyoming (Mr. McGee), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from Maine (Mr. Muskie), and the Senator from Illinois (Mr. Stevenson) are necessarily absent.

I further announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Indiana (Mr. Hartke), and the Senator from Minnesota (Mr. Humphrey) are absent on official business.

I also announce that the Senator from California (Mr. Tunney) is absent because of hospitalization due to minor surgery.

On this vote, the Senator from North Dakota (Mr. Burdick) is paired with the Senator from Illinois (Mr. Stevenson). If present and voting, the Senator from North Dakota would vote "yea" and the Senator from Illinois would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kentucky (Mr. Cook), the Senator from Nebraska (Mr. Curtis), the Senator from Arizona (Mr. Fannin), the Senator from Wyoming (Mr. Hansen), the Senator from Idaho (Mr. McClure), the Senator from Oregon (Mr. Packwood), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I also announce that the Senator from New Jersey (Mr. Case), the Senator from Colorado (Mr. Dominick), the Senator from Hawaii (Mr. Fong), the Senator from Illinois (Mr. Percy), and the Senator from Texas (Mr. Tower) are absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. Case) would vote "nay."

The result was announced—yeas 24, nays 48, as follows:

[No. 383 Leg.]

YEAS—24

Aiken
Baker
Bartlett
Bennett
Cotton
Goldwater
Griffin
Gurney
Helms
Hruska
Javits
Kennedy
Mansfield
McIntyre
Pastore
Pearson
Pell
Ribicoff
Roth
Scott, Hugh
Scott,
  William L.
Stafford
Taft
Thurmond

NAYS—48

Abourezk
Allen
Beall
Bentsen
Bible
Biden
Brooke
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Clark
Cranston
Dole
Domenici
Eagleton
Eastland
Ervin
Gravel
Hart
Haskell
Hatfield
Hathaway
Hollings
Hughes
Inouye
Jackson
Johnston
Long
Magnuson
Mathias
McClellan
McGovern
Metzenbaum
Montoya
Moss
Nelson
Nunn
Proxmire
Randolph
Schweiker
Sparkman
Stennis
Stevens
Symington
Talmadge
Weicker
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Huddleston, for

NOT VOTING—27

Bayh
Bellmon
Brock
Buckley
Burdick
Case
Church
Cook
Curtis
Dominick
Fannin
Fong
Fulbright
Hansen
Hartke
Humphrey
McClure
McGee
Metcalf
Mondale
Muskie
Packwood
Percy
Stevenson
Tower
Tunney
Young

So Mr. Cotton's amendment was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana (Mr. Long).

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. PEARSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

Messages from the President of the United States were communicated to the

Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. WILLIAM L. SCOTT) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ENERGY TRANSPORTATION SECURITY ACT OF 1974

The Senate continued with the consideration of the bill (H.R. 8193) to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels.

MOTION TO RECOMMIT H.R. 8193

Mr. PEARSON. Mr. President, I move that H.R. 8193 be recommitted to the Committee on Commerce with instructions to the committee to determine the inflationary consequences of its provisions, to evaluate its effect on the national effort to achieve energy self-sufficiency, to investigate the cost-effectiveness and environmental consequences of the committee amendment requiring double bottom construction on new tankers, and that the same be reported back to the Senate on or before October 1, 1974.

Mr. President, a parliamentary inquiry. Is there a time limitation?

The PRESIDING OFFICER. There is a time limitation of 30 minutes to be equally divided.

Who yields time?

Mr. PEARSON. Mr. President, I yield myself 10 minutes at this time.

The PRESIDING OFFICER. The Senator is recognized.

Will the Senators suspend so that we may have order?

The Senator is entitled to be heard. The Chair would ask the Senators to take their seats.

The Senator from Kansas is recognized.

Mr. PEARSON. Mr. President, in support of this motion to recommit, it should be noted that the committee in its hearing record failed to establish a reasonable basis for determining the inflationary impact of the bill in ship construction.

The construction subsidy required to build the tankers to carry at least 30 percent of our imports by 1977 will be about $800 million according to the Department of Commerce estimates.

It is generally known that steel products are in short supply. These products will be diverted to ship construction needlessly—inflating the cost of these products to the consumer generally.

It has already been noted and generally understood that there are already overburdened shipyards which will have to expand capacity rapidly, thus inflating the cost of all ship construction, including naval construction.

The new tankers built to meet the cargo preference will become part of a worldwide excess capacity—rates will go down in the 1980's and operating subsidy costs will go up to the taxpayers.

So, Mr. President, the committee has failed to consider the inflationary impact of the ship construction effort required by this bill.

The second point is the inflationtary cost in the energy costs to consumers.

Freight rates on U.S.-flag ships have always been higher. The issue is how much will these higher rates cost American consumers of imported oil products.

The Federal Energy Administration estimated up to $3 billion per year by 1980.

The Maritime Administration estimated $123 million initial consumer cost—up to $183 million by 1985.

The American Petroleum Institute estimated immediate cost increase of 79 cents per barrel—increasing to $1.44 per barrel by 1985. A cumulative cost of $60 billion over the next decade.

A private sector economist—Stanley H. Ruttenberg, estimated no increased consumer cost under the bill.

The conclusion is that the committee has no consensus upon which to base any reasonable cost estimate.

The committee by implication did admit that the bill will entail higher costs—and proposes a waiver of the 15 cents per barrel import license fee on oil imports.

Thus the committee, Mr. President, has failed to provide the Senate with a reasonable basis for assessing the increased freight costs under this bill.

Mr. President, the committee has further failed to consider the impact of H.R. 8193 on the national effort to achieve energy self-sufficiency.

Project Independence is a national policy. But the bill would institutionalize the current pattern of imports, and require the investment of billions by the private sector and Government in maintaining the current pattern of oil imports.

Mr. COTTON. A point of order, Mr. President, the Senate is not in order and I think it is important we should hear the Senator.

Mr. PEARSON. I thank the Senator.

The PRESIDING OFFICER. The Senate will be in order. The Senator is entitled to be heard.

The Senator from Kansas.

Mr. PEARSON. The Commerce Department estimates that construction subsidy alone will cost $800 million to meet requirements of the 1970 act.

This investment in ships will perpetuate dependence upon foreign oil—and make impractical investment in U.S. reserves.

Thus, the committee should be required to address this issue, and demonstrate that the bill, perhaps with amendments, can be made consistent with Project Independence goals.

A last point in support of the motion to recommit, Mr. President, is that the committee has failed to consider fully the "double bottom" requirement in the pending committee amendment.

We have had no testimony on this particular point, particularly in the last 3 or 4 years, and there is a new study published in July 1974, by the American Institute of Merchant Shipping, a technical study that should be considered.

That study would show that double bottoms decrease the stability of ships, increase the chance of capsizing, result in loss of buoyancy in a grounding which impairs salvage efforts and potentially increases chances of spillage.

For all these reasons, Mr. President, to summarize, the committee in its hearing records failed to establish a reasonable basis for determining the inflationary impact of the bill on ship construction or energy costs and on the double bottom issue. I think this requires the Senate's good judgment that we send this back to the committee for a report on the issues.

Mr. GOLDWATER. Will the Senator yield?

Mr. PEARSON. I yield to the distinguished Senator from New Hampshire for 3 minutes.

Mr. McINTYRE. Mr. President, I rise in support of the motion offered by the distinguished Senator from Kansas (Mr. PEARSON) to recommit H.R. 8193 to the Commerce Committee. His motion makes clear the compelling reasons for further consideration of this bill, and I congratulate him and my distinguished senior colleague from New Hampshire (Mr. COTTON), for their leadership on this issue.

The bill before us is inflationary, it may weaken rather than strengthen our national security, and it beggars one region of the country at the expense of special interests. We, in New England, who must depend on imported fuels for our very survival, will bear the brunt of this further Federal subsidy of the maritime industry.

Today less than 2 percent of the Nation's fuel imports are carried in U.S.-built ships. Importers today use ships registered in such countries as Liberia, Panama, Norway, and Greece. There are also many ships registered in Hong Kong. By the early 1980's though, the United States, under existing maritime programs should be able to transport at least 20 percent of our imports in U.S.-built ships.

But this act would require that by 1977 we use U.S.-built ships to carry 30 percent of our imports. This requirement would mean a drastic acceleration in ship construction calling for millions more in Federal subsidies. And there would have to be at least half a billion dollars spent for a new shipyard to meet the deadlines. In light of current shortages that is certainly inflationary.

On top of that, the bill is strongly opposed by the Department of Defense. DOD believes the measure would increase the cost of transport, encourage other countries to build tanker fleets that would cut down on ship mobility, conflict with Project Independence, not provide any more assurances of oil supplies in the event of another cutoff, encourage wasteful spending on tankers that could bring on a glut of capacity, and finally disrupt the Department's supply network that is so necessary for our defense. This bill will not bring on security, it will, in fact, upset the security measures we have already taken.

And last, this bill will have a severe impact on those regions of the country that depend on imported fuels. We have already seen our home heating bills doubled. My conscience could not allow me to add a further burden on the shoulders of my fellow New Englanders. I do not intend to stand by and see the New England region's consumers sacrificed for the sake of some special interests.

Mr. President, I strongly oppose this bill and wholeheartedly support the motion to recommit.

The PRESIDING OFFICER. Who yields time?

Mr. PEARSON. I yield to the Senator from Arizona.

Mr. GOLDWATER. I have in my hand a report entitled the Energy Transportation Security Act of 1974. Is this the only report?

Mr. PEARSON. To my knowledge, yes.

Mr. GOLDWATER. Were there any witnesses who testified before the committee?

Mr. PEARSON. Yes; a number of witnesses testified on a number of issues.

Mr. GOLDWATER. Were there any witnesses from the petroleum industry?

Mr. PEARSON. I am sure there were. Is the Senator asking whether or not there was a published set of the hearings?

Mr. GOLDWATER. Yes. I am wondering if this is all we have to go by, this report, which is very, very scanty.

I want to know who testified, what they said, if we heard from the shipbuilding industry, the petroleum industry, or did we just hear one side of the story.

Mr. LONG. If the Senator will yield, may I send to the Senator a copy of the hearings? I regret that under recent procedures the pages just do not put hearings on each Senator's desk anymore.

Mr. GOLDWATER. I am glad to know that on such an important subject as this we have more than just this skimpy report.

Mr. PEARSON. I reserve the remainder of my time.

Mr. MAGNUSON. Will the Senator yield?

Mr. LONG. I yield.

Mr. MAGNUSON. When the Department of Defense states that this is going to have some effect upon them, they tell a story that they have been using for a long, long time. There may be some other objections.

The PRESIDING OFFICER. The Chair requests that the Senator use his microphone.

Mr. MAGNUSON. The Department of Defense has always said, "You need not worry about the entire merchant marine, because we have plenty of tonnage under control with our allies."

I listened to this story prior to World War II. It turned out that we had to spend some $8,400 million to build ships to take care of our own needs. We received little or no help, despite the fact that Norway, England, and these other people were supposed to be in a pool.

They said, "We have control of the ships."

You have absolutely no control at all. This bill, if you would have American tankers, would give you some control. I am not talking about the fuel costs and things that the Senator mentioned. But to bring in the Department of Defense on this thing is an old broken record. They never supported merchant marine bills.

Mr. President, you have a ship built with U.S. money, transferred to ownership in Greece, insured by England, with Italian officers and an Indian crew. You have fine control over ships like that.

That is what has been going on all over the world. For the Department of Defense to suggest that this bill is something that they do not want is an old broken record. They think they can rely upon all these other ships flying foreign flags. We are better off with American ships.

I am not arguing the point that the Senator is arguing about, about the difference of cost and things like that. I could argue that. But we have no control over shipping of oil, hardly any in the world.

The American-flag fleet is comparatively small.

I just want to set the record straight. If you want to go back to some of the hearings that we have had over the years, 25 years, the Department of Defense vis-a-vis the importance of a merchant marine, the fourth arm of defense, ships in any capacity flying the American flag with American crews, this is the most desirable. Why they continue this, I do not know. Usually it is the influence of the State Department.

We have gotten to the point where the American merchant marine is hauling about 5.5 percent of all of our goods overseas, backward and forward, exports and imports. What kind of a fourth arm of defense is that?

They suggest that they have ships under control. The Senator mentioned the Honduran flag, the Liberian flag, the Panamanian flag. There are more ships under the Panamanian flag than there is under the total American flag. Just one country alone has tankers that they never see. They might go through the canal, but nobody charges them.

How the Defense Department gets into this act, I do not know. They have always been against American-flag ships. I will give you Senators chapter and verse.

The Senator from Louisiana showed the Senator from Arizona the hearings we held on this bill. I can go to the Commerce Committee warehouse and show you a stack of hearings 2 feet high.

Where this came from in the Defense Department, I do not know. Did anybody sign that? Did the Joint Chiefs of Staff sign that? Did the Secretary of Defense sign it? I do not know where the Senator got those figures.

I just want to set the record straight. That is an old story with the Defense Department and the State Department.

Mr. McINTYRE. Will the distinguished Senator from Kansas yield 10 seconds?

Mr. PEARSON. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Kansas has 5 minutes remaining.

Mr. COTTON. I yield to the Senator from New Hampshire for 5 minutes on the bill.

Mr. PEARSON. I yield the Senator 5 minutes on the motion.

Mr. McINTYRE. Mr. President, to reply to the distinguished Senator from Washington, those of us who opposed this bill were drawn to the question of the position of the Department of Defense on the bill only by reading page 5 of their report which talks about the benefits of the bill, and then has a whole big paragraph on national security.

I would suspect that if we wanted to find out something about national security we might ask the Department of Defense. The Department of Defense says that they are opposed to this bill. One of the benefits that the proponents are saying to us as Members of Congress for this bill is that it is going to strengthen the national defense.

I leave it to the Senate. I am sure that the distinguished Senator from Washington had no trouble agreeing with the Department of Defense when we were talking about putting Trident submarines off the coast of Washington. But I am just saying that we who defend against this bill simply look to their own report to see that the benefits of national defense are extolled for the passage of the bill when DOD says they are opposed to it.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. MAGNUSON. I did not say they did not oppose it. I said this is the historic way of these people. They say, "We are all right. We can depend on ships flying foreign flags." Well, we cannot. I did not bring this up to say that we should not. I would like them to come up and give cold, hard testimony on this subject.

Mr. LONG. I yield myself 4 minutes.

Mr. President, much has been said about the fact that the executive departments have sent letters here against this bill, and I think we ought to understand this matter.

Richard Nixon was opposed to the bill. He wanted every one of the departments to oppose it, and they all sent out letters opposing it. I am not at all sure that Jerry Ford is opposed to it. My impression is that President Ford would like to sign this bill. He would like a little more flexibility. That is why I offered an amendment, which was just agreed to, that would give him more flexibility.

I think, and the Senator from New Hampshire (Mr. COTTON) says he thinks, that Jerry Ford wants to sign this bill. If this matter had started out with Mr. Ford in the White House, we might not have all these letters here against it. If the President is against something, we can expect that all his departments will send letters against it, because they are following the program of their boss.

The argument has been made that this bill would be inflationary. I contend that it is exactly the opposite. I do not think anybody can rely upon figures given by the American Petroleum Institute about the cost of this bill. They are as prejudiced as anybody has ever been on anything, because they are trying to keep alive the old-time maritime situation. They do not have to negotiate with labor. They can hire their labor anywhere from Singapore to Timbuktu. Any time anybody so much as complains about the food aboard ship, they can put him ashore and have him try to find his way back home.

They do not want to fool around with the American labor unions. That is the reason for the determined opposition of the oil industry to the bill—that is, the major oil companies. The majors pretty well control the American Petroleum Institute, and that accounts for the opposition by the American Petroleum Institute.

The American Petroleum Institute, in testimony before the House, testified to one figure, and before the Senate, they testified to another figure. I suppose they figured that if you want to exaggerate the cost of something, you ought to do a good job of it.

We estimate that the cost of moving the oil in American ships rather than by foreign bottoms would be about what the Maritime Administration estimates, which is about 12 cents a barrel. They came up with an estimate of four or five times that. Having done so on the House side, they came to the Senate and testified to a figure four times that. Having decided to exaggerate, I suppose the American Petroleum Institute decided that they would do a good job, and that is all right with me. They can plead their case any way they wish.

We have proposed in this bill that the 12 cents a barrel of the additional cost of using American ships would be more than covered by 15 cents of the import fee, so that the net savings on the average barrel of oil coming in should be about 3 cents a barrel.

Admittedly, that would cost the Treasury something, but look at what it would gain us in our balance of payments. It would cost about $100 million. We estimate that it would save us approximately $500 million a year, in full operation over a 20-year period, over the life of these ships. It would mean a total saving on balance of payments of approximately $11 billion.

Mr. President, some misinformation has been spread to lead one to believe that Government spending is responsible for this inflation. If we add State and local spending to the Federal spending, Government as a whole has a surplus in the United States right now. So it is not the Government spending that is creating the inflation. There are some other culprits, such as the disastrous, horrible, unfavorable balance of trade and unfavorable balance of payments which has been going on for almost 8 years.

In a statement on page S30235 of the Record, I show what really has been happening to trade. They have been reporting over that 8-year period that we have made a profit of $2.5 billion. They get that by leaving out the trade and put in the giveaways, as though they are being paid for that. If we give away a billion dollars to India, they put it in as a billion dollar profit, and they charge that against the poor farmer. He is supposed to take a lesser price, because we gave it away to India and charged it as a plus to India, as though he made a plus there. So they have to subtract it from the farmer.

We have been running a deficit of $40 billion in the last 8 years, and during most of those years have been putting out a news announcement that we had a good, favorable balance of trade.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG. I yield myself 4 additional minutes.

We have $100 billion in Europe, Japan, and elsewhere outside the United States which we have no way of repatriating, which is depressing the value of the dollar, making us devalue and devalue again the dollar. That makes us pay more for everything we bring into this country, because nothing is done to balance our trade accounts.

The Secretary of the Treasury told me that you cannot negotiate away a $5 billion deficit, which is what we averaged over the last 8 years. That is somebody else's profit. You have to move in certain areas where you can act unilaterally, where the United States has the power to do something whether the other fellow is willing to permit it or not. We can say that we will use some of our own ships and will manufacture the ships ourselves.

There are 10 jobs available in the building of ships—in steel, in making the equipment, in fabricating the ship, in moving the material on the railroads—to each job we derive from manning those ships and sailing them around the world.

It is estimated that our balance-of-payments gain from the use of those flag tankers will be $114 million per ship over its 20-year life. If anyone does not think that this $100 billion of American money, American dollars, that is kicking around in Europe and all over the world, which cannot find its way home, has anything to do with the higher price we are paying for sugar, for oil, for ore of all kinds—bauxite or anything else—then he does not understand international economics. All that money over there upsets everybody who understands world trade. That is an area in which we will have tremendous improvement by requiring that more of this oil we are going to import will come in American bottoms.

Insofar as there might be an increase in the cost, we propose to cushion that by rebating a portion of the fee that would be charged when the fuel comes in. New England should get its oil for less, and so should all the other importing people, if they use American bottoms. It should come to them at a lesser cost rather than a greater cost.

Mr. COTTON. I yield myself 4 minutes on the bill.

Mr. President, I should like the attention of my colleague from New Hampshire (Mr. McIntyre). I want to make sure that there is not the slightest doubt that my colleague, Senator McIntyre, knew what he was talking about when he discussed—as a member, incidentally, of the Committee on Armed Services—the attitude of the Defense Department.

The last speaker would have us believe that this attitude is some hangover from Richard Nixon. It is not. It is the fixed opinion. I wrote the Defense Department as well as the other departments just before this bill came to the floor. One reason I wrote them is that this bill, which came to our committee from the House, was rewritten with generally less than a quorum present.

I received a letter of several pages from the Department of Defense. The Department of Defense feels that this bill, instead of promoting national security, is detrimental to national security. Every ounce of steel that is going to be used to put men to work will mean that the Defense Department will have to come back to this Congress and ask for more money for national defense, because it will push up the price of steel that we want to use for submarines and for weapons.

That is so simple. Nobody is kidding us any. There is no Member of the Senate who does not know that.

Mr. President, every one of the departments I wrote to is against the bill. Their attitude is not necessarily the attitude of Richard Nixon. For 25 years, we blamed everything bad in this country on Herbert Hoover, and now we are going to start for the next 25 years to blame everything in this country on Richard Nixon. He is not President anymore. This letter represents the attitude of the Department of Defense.

Let there be no mistake about it, the Senator from New Hampshire (Mr. McIntyre) knew exactly what he was talking about. The answer to it was entirely erroneous and did not have any basis in logic or in fact.

The PRESIDING OFFICER (Mr. Helms). The Senator's time has expired.

Who yields time?

Mr. HANSEN. Mr. President, I ask for the yeas and nays.

Mr. GRAVEL. Will the Senator from Louisiana yield to me?

Mr. LONG. I yield for 2 minutes.

Mr. GRAVEL. I should like to address myself to one or two points.

When we are talking about defense, talking about attack, I think it is very clear what happened this winter, when the conventional capability of the United States of America was brought to its knees by the Arab embargo on oil. I am talking about the capability in NATO, the 6th Fleet, our capability in the Far East. We could not move for 3 days because they denied us the oil we needed for our forces.

The simple reason this took place is that they had a monopolistic control situation in the Arab oil countries. When we talk in terms of defense, they did not have to shut off the oil imports at that time. They could have stopped the tankers. This was done. Liberia embargoed Israel not through oil production, but through transportation. So the Arabs did not have to shut off oil.

All they have to do is pressure the owners, the Greeks who own the tankers or the Indonesians who own the tankers and say, do not ship any more oil to the United States with your tankers, because if you do continue to ship, we are not going to let you ship any more.

So they can embargo. They can do exactly what they did last winter through indirection rather than direction. We would be fools to continue to let that situation exist. If the Liberia example is not the handwriting on the wall, I do not know what is.

When we talk about the statement from our defense planners, I cannot think of anything more idiotic than to have the superpower of the world brought to its knees in a crisis by small, minor countries. The only thing more humiliating to me is to let Panama and Liberia bring us to our knees the next time.

I am sympathetic to the problem in New England, the inflation problem, but I suggest that my colleagues are absolutely, 180 degrees wrong. Why is it that we had a tremendous increase in price in New England and every other part of the United States? It is because the Arabs quadrupled the price of oil. The price of oil in the world today is determined in the Persian Gulf, nowhere else. To think we can alter that is foolhardy.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAVEL. Mr. President, will the Senator yield to me 1 more minute.

Mr. LONG. I yield 1 more minute.

Mr. GRAVEL. The situation was this: It was the New England political group that insisted on buying cheap Arab oil over the years. They got cheap Arab oil until the Arabs had made sufficient incursion into our economy, and then they quadrupled the price.

Mr. KENNEDY. Will the Senator yield?

Mr. GRAVEL. Let me make this point, and then I shall be happy to yield.

What we want to do now is to give this same power, put this monopolistic power in the hands of foreign interests. We want to continue to give them the power so that the Arabs do not have to do it; it can be done by the Liberians, by the Panamanians, and by anybody else who wants to have at us.

I am happy to yield.

Mr. KENNEDY. The Senator from Alaska is completely inaccurate when he talks about the opportunity for New Englanders to buy cheap foreign oil.

The PRESIDING OFFICER. The time has expired.

Mr. LONG. I yield another minute.

Mr. KENNEDY. The Senator knows that with the promulgation of the oil import program in 1959, New England was caught in a position where we were virtually prohibited from buying cheap oil from abroad, under the oil import program. Finally, the administration released us from the oil import program—3 years after its own task force recommended such action—and let us import that oil. That occurred only as the price was rising. Now we are able to purchase foreign oil freely—but at astronomical prices. So we have gotten the squeeze both ways.

The Senator from Alaska, if he is explaining an oil position, ought to be accurate in terms of understanding the problems of New England, because it is not as he stated it.

Mr. GRAVEL. The Senator from Alaska is not explaining an oil position. He is explaining the facts as they are.

When we look back over a decade, it was the efforts made to fracture and pierce the veil of the import quotas, pressures made by the population and the people in this country who wanted cheaper oil. They could not pay for the expensive American oil. They wanted the cheap Arab oil, so the veil was pierced.

Mr. KENNEDY. Let me just add, they did not get it.

Mr. GRAVEL. The whole import quota program was a sham. It was pierced here and there, until it was like a sieve. That is why it did not work. So we had a dependency, and today we do, also.

We import today into this country 7 million barrels a day of foreign oil, and that foreign price is determined by the Arabs. At least, we ought to have the good sense to transport it or to take away the monopolistic control with respect to transportation. All this does is suggest that.

I submit that monopolistic controls will become more serious, because, regardless of what we do here today, the Arabs are going to rise to about 40 percent of their oil being transported by their tankers. They are going to take our money that they are ripping off with the quadrupling of price, and then build a fleet, and then they are going to have us both ways: they are going to have us in production and they are going to have us in transportation. We are darned fools if we let them do it.

Mr. COTTON. Mr. President, I yield myself 3 minutes on the bill.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. COTTON. Never in the years that I have been here have I heard anything more ridiculous than came from the lips of the Senator from Alaska. I am usually very, very lenient in anything I have to say about colleagues.

In the first place, I am ashamed that the Senate of the United States should even insinuate that this country has gone so far that we have to get down on our knees and crawl to any of the smaller countries on this earth. If they shut off our oil, we will find some way to keep our people warm. But we certainly——

Mr. GRAVEL. Will the Senator yield?

Mr. COTTON. I am not going to yield yet.

Mr. GRAVEL. Will the Senator yield?

Mr. COTTON. I do not yield, so do not waste your breath.

I take 2 minutes more.

Let me say, we certainly do not have to beg the Greeks or worry about the Arabs making the Greeks shut off the use of their ships. The Greeks have had help and they want some more, and so does everybody else.

Through the years, the first time I went downtown representing New England's Senators, I went downtown with the beloved and revered brother of the Senator of Massachusetts. I went with John F. Kennedy, who was then a freshman Senator. We sought to get a relaxation on the oil import quota program.

We were turned down flat. We were turned down flat by the Eisenhower administration. We were turned down flat later by the Kennedy administration, because when I went down and reminded the President of our previous trip, he said,

> Well, now I have to think of all the people, not just New England.

We were turned down flat by the Johnson administration, and by the Nixon administration. New England has had it, and it has had it to the core. Anyone who has any sense at all knows that those parts of this country which do not have refining capacity are going to pay through the nose, under the provisions of this bill. Now people are growing cold up there, and I do not like to hear a lot of slush from someone who has only arrived on the scene recently, when I have been through this battle all these years in New England.

This is a rotten bill. It is the worst bill that I have ever had to vote on, and I thank God I will not have to vote on any more of them. I will have nothing to do with any more half-baked propositions that were sent in here when we did not know what we were talking about, any more than the Senator from Alaska knows what he is talking about.

Mr. GRAVEL. Mr. President, will the Senator from Louisiana yield to me for one brief moment?

Mr. LONG. I yield.

Mr. GRAVEL. Mr. President, history can be quite a teacher. The actions of John D. Rockefeller, Sr., which ushered in the entire body of antitrust legislation in this country, were undertaken because he did not have control of production. He had control of refining and transportation. That is what caused the problems of that era.

I submit that we are continuing to give control of production to foreign governments, and small ones at that.

Mr. LONG. Mr. President, let me just make clear to our New England friends why, in my judgment, this measure will not increase the cost to energy to New England by one penny, not one red copper cent.

The only reliable estimate I would be willing to take on the cost of moving oil in American bottoms compared to doing it in foreign bottoms would be the estimate of the Maritime Administration. I surely would not take the estimate of the American Petroleum Institute. They are determined that this bill should not pass. That outfit is pretty well controlled by Exxon, Mobil, Texaco—you name them, the top major producers. They produce in my State. They are good people, but they are together in an organized effort to defeat this bill, so much so that they went to the House side and gave a ridiculous estimate of $15 billion as the cost of the bill, and then came to the Senate committee and estimated it at $60 billion. The best evidence that API is wrong is that its own estimates contradict each other by fourfold.

The Maritime Administration estimates it would cost 13 cents a barrel more, on the average, to haul the oil in American bottoms than it does in ships made in foreign shipyards.

There is presently a fee of 15 cents a barrel on oil coming into the country. This bill says we will remit 15 cents a barrel on the oil coming in U.S. ships. I amended the bill, at the suggestion of the Senators from West Virginia and New York, to say that the same thing would be true of residual fuel oil and the same thing would be true of feed products from chemical plants. So all imports in American bottoms would not have to pay the 15-cent fee which will be charged on all foreign oil coming in.

Let us assume the cost increases by 12 cents, and we reduce the fee by 15 cents. That should cut the cost a net 3 cents a barrel.

I do not think that will get Exxon to agree to this bill. It will not get the Texas Co. to agree to the bill, or Mobil, or any of the major companies. They are fighting the bill for one simple reason. That is not what they have been upset about, to begin with. What they have been upset about is that from time immemorial, they have not had to contend with labor unions. When I read this Chamber of Commerce thing, the Trade Committee of the U.S. Chamber of Commerce resoluting to the U.S. Chamber the same way as to the New Orleans Chamber, I remember that when they pick that trade committee, they just say, "Who is interested in being on a trade committee?" The fellows in the big national corporations all raise their hands, and their resolution does not represent Louisiana at all.

I think any fair-minded person will agree that the Maritime Administration estimates are the best estimates, and that the cost will be more than covered. And not only should it reduce the cost of energy, but it will enormously help us with our balance of payments, which is in desperate trouble, and the enormous amount of dollars overseas.

I would like the distinguished Senator from Massachusetts to consider one point.

It is estimated that these ships will cost around $100 million apiece. That is where most of the jobs are for the American working men, not on the ships, but building them, and it is estimated that each one of these ships will save us $114 million per ship over the life of the ships. That is the Maritime Administration estimate.

Mr. President, our balance of payments is in very bad shape, and that is one of the reasons why we have had such pressure on the dollar, with $100 billion of American money kicking around overseas with no way to repatriate it and bring it back home. We have to do some of this to repatriate the dollar.

The **PRESIDING OFFICER**. Who yields time?

Mr. **PEARSON**. Mr. President, do I still have time?

The **PRESIDING OFFICER**. The Senator has 4 minutes remaining.

Mr. **PEARSON**. I yield 4 minutes to the Senator from Massachusetts.

Mr. **BROOKE**. Mr. President, this bill has been of great concern to me and I am sure that this holds true for all Members of the Senate. I have looked over this bill from an environmental point of view and from the point of view of Project Independence. I have also looked at it from the point of view of jobs. And in this regard I have some very practical questions. As I am sure has been pointed out, they concern the senior Senator from Massachusetts, and they certainly concern the junior Senator.

We lost the Boston Navy Yard, and we are very much concerned about getting some work there for a new group that wants to open up a shipyard in those facilities.

My question to the distinguished Senator from Kansas—and he has been very enlightening throughout this debate; he has done, I think, an outstanding job on this legislation—is whether he fears that if this bill is not passed there will be available work, say, for a group that wants to open up a new shipyard using the Boston Navy Yard facilities. I understand that most shipyards have as much work as they can take at the present time, but I am talking about a new shipyard. Is it a fact that they cannot or will not be able to get sufficient work under the Merchant Marine Act of 1970?

Mr. **PEARSON**. In response to the distinguished Senator from Massachusetts, it is my understanding that the present shipyards have a backlog of 3 or 4 years' work now. Part of the argument, as I understand it from the proponents, was that this would increase not only the demand for construction in the existing shipyards but, likewise, for expansion.

I cannot answer with any particularity as to whether or not a given shipyard such as the Boston Shipyard would be reopened or the phasing out continued over a longer period of time.

Mr. **BROOKE**. I appreciate that, but I am asking what——

Mr. **LONG**. Mr. President, may I comment on that?

Mr. **BROOKE**. Benefits will be derived from the Merchant Marine Act of 1970.

Mr. **LONG**. May I comment on that?

Mr. **BROOKE**. Yes.

Mr. **LONG**. I will do it on my time.

The speakers against this bill have been saying time and time again that we do not have enough ships and we do not have enough shipbuilding capacity to even carry the 20 percent of the oil that this would require us to carry in the American merchant marine when it is available to us.

My answer to that is we ought to build more ships and, if need be, build more ways and open some of these shipyards that have been closed down.

Now, obviously, if we are able to move forward to haul more of our cargo in American bottoms, we will need the shipyards and we will need to open them up. As far as I am concerned, I hope very much that we will be having new shipyards and opening more, for a very simple reason: Under the trade bill we are going to keep losing jobs in manufactured commodities because we are going to be importing more and more and we are going to be exporting more and more agricultural commodities. We have to make some of it up somewhere, and where better to make it up than in handling some of this trade in American ships.

So, no doubt about it, we will have to build a lot more American ships and there will be a tremendous demand for shipyards in the event the bill passes.

Mr. **BROOKE**. Would the Merchant Marine Act of 1970 guarantee work for these shipyards?

Mr. **PEARSON**. I might say to the Senator as to whether or not the Boston Shipyard would be utilized would depend upon the facilities there. I think this bill envisions the construction of tankers, perhaps supertankers, and whether or not that particular shipyard could accommodate that kind of construction is a question I cannot answer. Perhaps the Senator could, but I do not think it would be the kind of construction that I understand, from very little knowledge, the Boston Shipyard is capable of handling.

Mr. **BROOKE**. But under the Merchant Marine Act of 1970 would there be any guaranteed work?

Mr. **PEARSON**. Not that I know of.

Mr. **LONG**. Senator, there was not the capacity to build the additional ships in the shipyards this year, but because these things require leadtime the shipyards would have been happy to have taken the additional orders, and they would like to have them this far in advance, but they were not able to get them, and one of the reasons why they were not is that under the existing state of the law it just would not be good business to build an American tanker if one were not confident he were going to have some cargo for it; and, that being the case, we need this bill so that when we build a tanker we would be fairly well assured that we are going to have some business and be able to operate at a profit. Otherwise, why would one want to place the order? One would be wiser to place it with the Japanese yards where they might be able to build it somewhat cheaper.

Mr. **BROOKE**. I thank the Senator.

The **PRESIDING OFFICER**. Who yields time?

Mr. **PEARSON**. I am prepared, Mr. President, to yield back any time, if I have any.

Mr. **LONG**. I think all time has expired.

The **PRESIDING OFFICER**. All time having expired or yielded back, the question is on agreeing to the motion to recommit. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **GRIFFIN** (when his name was called). On this vote I have a pair with the distinguished Senator from Oregon (Mr. Packwood). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. **ROBERT C. BYRD**. I announce that the Senator from North Dakota (Mr. Burdick), the Senator from Idaho (Mr. Church), the Senator from Wyoming (Mr. McGee), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), and the Senator from Illinois (Mr. Stevenson) are necessarily absent.

I further announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Indiana (Mr. Hartke), and the Senator from Minnesota (Mr. Humphrey) are absent on official business.

I also announce that the Senator from California (Mr Tunney) is absent because of hospitalization due to minor surgery.

On this vote, the Senator from North Dakota (Mr. Burdick) is paired with the Senator from Indiana (Mr. Hartke). If present and voting, the Senator from North Dakota would vote "yea" and the Senator from Indiana would vote "nay."

I further announce that, if present and voting, the Senator from Illinois (Mr. Stevenson) and the Senator from Minnesota (Mr. Humphrey) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kentucky (Mr. Cook), the Senator from Nebraska (Mr. Curtis), the Senator from Arizona (Mr. Fannin), the Senator from Wyoming (Mr. Hansen), the Senator from Idaho (Mr. McClure), the Senator from Oregon (Mr. Packwood), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I also announce that the Senator from Colorado (Mr. Dominick), the Senator from Hawaii (Mr. Fong), the Senator from Illinois (Mr. Percy), and the Senator from Texas (Mr. Tower) are absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. Percy) would vote "aye."

The result was announced—yeas 26, nays 49, as follows:

[No. 384 Leg.]

YEAS—26

Aiken
Baker
Bartlett
Bennett
Brooke
Clark
Cotton
Goldwater
Gurney
Helms
Hruska
Javits
Kennedy
Mansfield
McIntyre
Muskie
Pastore
Pearson
Pell
Ribicoff
Roth
Scott,
  William L.
Stafford
Taft
Thurmond
Weicker

NAYS—49

Abourezk
Allen
Bayh
Beall
Bentsen
Bible
Biden
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Cranston
Dole
Domenici
Eagleton
Eastland
Ervin
Gravel
Hart
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Inouye
Jackson
Johnston
Long
Magnuson
Mathias
McClellan
McGovern
Metzenbaum
Montoya
Moss
Nelson
Nunn
Proxmire
Randolph
Schweiker
Scott, Hugh
Sparkman
Stennis
Stevens
Symington
Talmadge
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Griffin, for

NOT VOTING—24

Bellmon
Brock
Buckley
Burdick
Church
Cook
Curtis
Dominick
Fannin
Fong
Fulbright
Hansen
Hartke
Humphrey
McClure
McGee
Metcalf
Mondale
Packwood
Percy
Stevenson
Tower
Tunney
Young

So Mr. Pearson's motion to recommit the bill with instructions was rejected.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion to recommit was rejected.

Mr. MAGNUSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. Who yields time?

Mr. PELL. Mr. President, I send to the desk an amendment on behalf of myself and the Senator from Connecticut (Mr. Ribicoff) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 6, line 23, strike out the words "distillate heating oil, diesel oil, and residual oils", and insert in lieu thereof "diesel oil but not including residual oils".

Mr. PELL. Mr. President, the amendment I have offered would exempt certain petroleum products——

The PRESIDING OFFICER. Will the Senator suspend? The Senate is not in order.

The Senator may proceed.

Mr. PELL. Mr. President, the amendment I have offered would exempt certain petroleum products from the provisions of the import requirements under the cargo preference legislation. Specifically, the amendment would exempt from the cargo preference requirement distillate heating oil No. 2, used in the heating of homes, and residual fuel oils, used by industry and for generating electricity.

I propose this amendment because it is of vital importance to the industry, the economy and the people of my own State of Rhode Island, and indeed, to all of New England and the northeast section of our country.

As my colleagues may know, New England is uniquely dependent on imported petroleum products for heating and for power. As has been noted previously in this debate, in New England we use more No. 2 fuel oil than all of the rest of the country. In New England, we use half of all of the residual oil consumed by the entire Nation. And last year, because sufficient supplies of residual oils were not produced in this country, 95 percent of the residual fuel oils used in New England were imported.

I can not emphasize too strongly the unique position in which the New England region finds itself in regard to energy supplies. We are, first of all, more dependent on petroleum products than other sections of the Nation which rely more heavily on coal and natural gas. In New England, for example, we depend on residual fuels for 75 percent of the energy requirements for generating electricity and for industry, while in the remainder of the country coal and natural gas supplies 70 percent of the energy required for those uses.

And because of our location, at the end of the supply lines, and our heavy demands, New England must import much more of its petroleum than does the rest of the country.

Because of these circumstances, New England already is paying a disproportionate share of increased energy costs that have resulted from the exorbitant price increased by oil exporting nations. Home heating oil, which used to cost a Rhode Islander about 20 cents a gallon, now costs him 40 cents a gallon.

Because the price of imported residual oils have increased from about $3.50 a barrel to more than $12 a barrel, electric rates, already among the highest in the Nation, have soared. The fuel adjustment charges on utility bills to Rhode Island homeowners now exceed, in many cases, the basic electric bill itself—all because of the increased cost of residual oil.

With this background, I believe it is manifestly unfair and indeed unthinkable to ask New England consumers and New England industry to pay even higher costs to subsidize the operation of our maritime industry. The cost of energy in New England already is about 30 percent higher than it is in the rest of the Nation. New England already is paying a heavy penalty for our dependence on petroleum and particularly imported petroleum.

Mr. KENNEDY. Will the Senator yield?

Mr. PELL. I yield.

Mr. KENNEDY. I ask unanimous consent to be made a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, may I be recognized in my own right?

Mr. PELL. If the Senator would defer for a moment, I have not finished.

Although I know there are many varying estimates of the costs that would be imposed by this cargo preference bill, I am convinced that the legislation would in fact impose a substantial additional cost on New England consumers, on top of an already burdensome energy bill.

I am aware that the legislation has been modified today, through an amendment offered by the senior Senator from New York (Mr. Javits) and the distinguished manager of the bill, the senior senator from Louisiana (Mr. Long), to provide a 15-cent-a-barrel remission on petroleum products.

Even with this remission, however, the cargo preference requirement will mean an increase of between 20 cents a barrel according to estimates provided by the Federal Energy Administration and 27 cents a barrel according to estimates provided by the Commerce Department. And what would this increase mean to the Rhode Island consumer—to virtually every homeowner in New England? It would mean an estimated increase of between $12 and $16 a year on the electric bill for the average home.

When we add the increased costs for home heating resulting from this bill, the total extra cost for electricity and home heating would be between $22 and $27 for homeowners in New England. It is a cost we can not bear. The bill before us would impose an unfair and discriminatory burden on the consumers and on the industry of New England.

For that reason, I consider it essential that home heating oils and residual oils be excluded from the cargo preference requirements. It is time we give some preference to the average American homeowner, and for that reason I urge my colleagues to support this amendment.

I yield the floor.

Mr. KENNEDY. Will the Senator yield me 4 minutes?

Mr. PELL. I yield 4 minutes to the Senator from Massachusetts. I also ask that the yeas and nays be ordered on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I am a co-sponsor of this amendment. I commend the Senator from Rhode Island for introducing it. There have been a number of different tables which have been introduced during the course of this discussion and debate as to the extent the consumers in New England and in this country are going to be advantaged or disadvantaged as a result of this legislation. I have very serious questions about those tables which have been introduced to try and give us some assurance that consumers would not pay increased costs for products which would travel in these American bottoms.

I think the amendment which the Senator from Rhode Island has introduced, and which I have cosponsored, says to those of us in New England who import 100 percent of our residual oil—of the total residual oil that is imported in this country more than 60 percent of it is consumed on the east coast—that some effort will be made to ease the discriminatory impact on New England. We have had an increase in our utility rates of 138 percent in the last 15 months, and utilities are our major consumers of residual oil. I think there is a substantial body of information that believes that the consumer impact of this bill—whatever its extent—will be particularly serious for those of us in the New England States.

I would hope that this amendment would be accepted. I think it is a reasonable amendment. I think it is not inconsistent with the central thrust of this legislation. It would make a great deal of difference to an area that has experienced, as the Senator from Rhode Island has stated, a one-third additional cost for energy in the home area as well as a 138-percent hike in utility costs.

New England now imports nearly 100 percent of its residual oil, some 165 million barrels in 1973, and approximately 25 percent of its home heating oil, or 32 million barrels.

Since we rely on oil for far more of our energy needs than other parts of the Nation, it is obvious that we would suffer disproportionately if the price to the consumer of these products rose as a result of increased transportation costs.

We can be compensated in part either by exempting this fuel or by providing some compensation to our consumers. One way would be to waive a substantial portion of the import fee which now discriminates against New England.

I would hope that some mechanism of this nature could be adopted to relieve the enormous burden on our consumers of escalating fuel prices.

I would note that when coupled with the 15-cent waiver on other refined products approved earlier today, this eases the consumer impact somewhat.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I yield myself 5 minutes.

Mr. President, I thought that we had taken care of the problem that would involve the residual fuel oil for New England when we agreed to an amendment that was agreed to after the Senator from Rhode Island had submitted his amendment but prior to the time he had called it up.

It had been brought to my attention by Senator RANDOLPH and Senator JAVITS that although the fee remission of 15 cents appeared to take care of the problem with regard to crude oil, for people who would use products other than crude, the 15-cent remission still might leave them a higher cost to contend with. For that reason, I proposed an amendment with Senators RANDOLPH and JAVITS that would remit 15 cents of the fee on the residuals and the products as well as the crude oil itself.

It is my feeling that this should offset any transportation increase that would affect New England with regard to their residual fuel oil or whatever fuel oil might be involved.

I would be happy to support an amendment to make whatever adjustment might be necessary with regard to any cost differential that might be involved in connection with the residual fuel oil, if that should be the problem.

Mr. President, on the face of it, I cannot buy the recommendation that the Secretary of Commerce gave to the Senator, whereby he indicated that taking the same base figure from which the Maritime Administration worked, he proceeded to reach a figure showing that the increased cost would be more than twice as high as the Maritime Administration estimated.

He arrived at that figure by assuming that 40 percent of a barrel of crude becomes gasoline, and therefore that you would write the cost off against 40 percent of that which is inside a barrel of oil. After you remove the gasoline, you still have the residual fuel oil and even some other products that could be made from that barrel of oil. So, instead of dividing by 40 percent of that barrel, it would be more accurate to divide by about 90 percent. If that were done, you would arrive at the estimate I have been given by the Maritime Administration, which estimated that about 12 cents a barrel would be the additional cost of moving this oil in U.S. bottoms.

I ask the Senator from Rhode Island if he can come into agreement more closely on what the cost would be of bringing the residual fuel oil and the products into the country and allow a rebate in the fee for that. Would he be willing to support that as a substitute for his amendment?

Mr. PELL. Mr. President, I thank the Senator from Louisiana for his consideration and thoughtfulness.

It is really basically a question of arithmetic. We have different estimates, too. I realize that all estimates are open to criticism. There is the estimate of the maritime industry, the estimate of the Commerce Department, there is the estimate of the Federal Energy Administration, and there is that of the New England Fuel Institute. But being reasonably fair, it would seem that the increase in cost per barrel, with the acceptance of the Javits amendment earlier, would still be somewhere in the neighborhood—and I am shaving downward—of 15 to 20 cents a barrel more than would be the case without this bill being passed.

If conceivably the Senator from Louisiana could see his way to increase the remission of the import fee so that there would be no increase in cost, or virtually no increase in cost, I would then be prepared to support the bill. Otherwise, although I would naturally prefer 20 percent remission rather than 15 percent—I would accept that—I could not assure the Senator of my support for the basic bill.

Mr. LONG. Mr. President, I am looking at the fee schedule that exists on products. The Senator will see that as of November 1, 1974, the fee would be as follows: Crude, 18 cents; motor gasoline, 59.5 cents; all other finished products and unfinished oil, 42 cents. As of May 1, 1975, the fee would be as follows: Crude, 21 cents; motor gasoline, 63 cents; all other products, 52 cents.

So the fee is sufficiently high—that is, by May of next year—that it would be possible to accommodate the Senator. I should think, if needed, the transportation costs could be that great.

I would think that if we had this in conference, we could study these figures more closely. We could study the Senator's figures as well as those we have available to us here, and see if we could arrive at a figure that we thought would cover whatever additional transportation costs might be involved.

In other words, what the Senator has shown me are some figures which I think we should study together and attempt to work out after we have had a chance to let the Maritime Administration people and the Commerce people meet with us and discuss how they arrive at this figure, because it seems to me that the figure should be lower than that. I would be willing to put it high enough, if the Senate is willing to go along with us. In any event, New England would not pay any more for fuel.

The PRESIDING OFFICER (Mr. GOLDWATER). The Senator's time has expired.

Mr. LONG. I yield myself 2 additional minutes.

Mr. PELL. I appreciate the thought that we should change it in this bill, because it will be too late to change it after we go to conference. If we could bring the original 15-cent remission, which, by the amendment today, was made 20 cents, if we could bring that up substantially to, say, 40 cents, then the extra cost to the consumer would be negligible and I could support the bill. Otherwise, I shall feel compelled to hold my position.

Mr. LONG. Mr. President, out of the time that I have available to me on the bill, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. COTTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. LONG. Mr. President, I believe the Senator from Rhode Island has an amendment to offer. I urge that the Senator offer his amendment, because I shall be prepared to support it. I think we can look at this matter more closely in conference and see if a higher remission would be justified with regard to fuel oil.

The PRESIDING OFFICER. I remind the Senator that there is an amendment pending and the yeas and nays have been ordered to that.

Mr. LONG. Yes, I know that, Mr. President, but the Senator can offer an amendment, and I suggest that he offer it.

Mr. PELL. In other words, the Senator would like me to modify the amendment.

Mr. LONG. Or offer an amendment to it.

Mr. COTTON. A point of order, Mr. President. He cannot modify the amendment.

Mr. LONG. He can by unanimous consent, or he can if the Senate votes for it.

The PRESIDING OFFICER. Does anyone ask unanimous consent that the amendment be amended?

Mr. PELL. I would, but I want my position understood.

I still do not like the basic thrust of the bill. If this amendment is accepted, however, I would then be willing to support the bill.

I guess it is better than nothing.

I modify the amendment: on page 9, line 9, after the word "barrel," add the words "of oil other than residual fuel oil and shall be reduced by 42 cents per barrel for residual fuel oil."

Mr. COTTON. I must object.

The PRESIDING OFFICER. The objection is heard.

Mr. PASTORE. Will the Senator withhold his objection for a moment?

Mr. COTTON. Certainly.

Mr. PASTORE. I realize that this more or less modifies the very, very difficult situation that we are confronted with in New England, which the Senator from New Hampshire is trying to defend. Certainly, I shall vote for this amendment, because of its impact upon the bill. But I want it understood that I must vote against the bill, because I am opposed to the bill.

I hope that the Senator from New Hampshire will not interpose an objection, that he will permit us to modify the amendment, and each of us will exercise our own conviction at the proper time. I hope that he will do that.

Mr. COTTON. I guess if I am requested by my friend from Rhode Island (Mr. PASTORE), I must. But, the junior Senator from Rhode Island offered an excellent amendment and got the yeas and nays, and now has been charmed out of it by our dear friend from Louisiana and offers one that, to me, is rather meaningless. He has to have unanimous consent to modify his amendment. After the yeas and nays have been ordered, it becomes the property of the Senate.

I am tired to death of having everybody tramp on New England in this bill, but reluctantly, at the request of the senior Senator from Rhode Island, I withdraw my objection to withdrawing the yeas and nays and offering this rather pallid, anemic amendment.

The PRESIDING OFFICER. Without objection, the yeas and nays are withdrawn.

Mr. PASTORE. And the amendment can be modified.

Mr. JAVITS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Will the Senator send the modification to the desk?

Mr. PELL. Yes, Mr. President.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk read as follows:

On page 9, line 9, after the word "barrel" add the words: "of oil other than residual fuel oil and shall be reduced by 42 cents per barrel for residual fuel oil".

Mr. LONG. I just want to be sure that this is a modification in the nature of a substitute for the original amendment.

Mr. PELL. That is correct. It is a modification in the nature of a substitute for my original amendment.

Mr. PASTORE and Mr. JAVITS addressed the chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PASTORE. I had not planned to speak on this bill. As a matter of fact, many contentions have been made that this is a great boon for New England. Of course, it is not. Anything that adds to the cost means that the consumers of Rhode Island, my own State, will have to pay more.

I realize the merit of some of the aspects of this bill. What we are trying to do is, actually, more or less advance the theory of buy American. I did that when it came to textiles. We did that with the shoe industry.

I do not think that the future of this country and its progress depends upon slave labor. We buy from these very, very depressed nations and run our ships under foreign flags. There is much to be said in that respect.

Maybe the real thrust at this time should be against the big profits of the oil companies. I think that the added cost is going to be rather minimal, but there will be an added cost. We cannot pay an American worker a standard wage and pay a foreign worker a slave wage and argue that it is not going to cost the American consumer more. But the big question arises, if we put the American consumer out of a job, we are going to end up without an American consumer, because he will be unable to buy. This comes at a very unfortunate time.

In 1973, the cost of fuel, the cost of electricity in Rhode Island, increased by 73 percent. In 1974, it will go up an additional 10 percent. That is our problem.

It is being said that if we transport this oil in American bottoms, we will be giving jobs to American workers, which is a good argument. And I am all for it.

The PRESIDING OFFICER. The time of the Senator from Rhode Island has expired.

The Senator from Louisiana has 4 minutes remaining.

Mr. LONG. How much time do I have on the bill?

The PRESIDING OFFICER. Two hours and 20 minutes.

Mr. LONG. I yield myself 4 minutes.

Mr. PASTORE. Mr. President, I repeat, I had expected to remain silent on this bill, because I can see it both ways. But we in Rhode Island and we in New England have a very, very difficult situation. I just received my bill. I have a real modest home with seven rooms in Rhode Island. I got a bill of $97. That is my electricity bill, $97. It has almost doubled.

Now, I can afford to pay it. But what does that poor person on social security do? What is he going to do about it? Here we are, when we could buy the oil cheap from abroad, they put on a quota. They told us we could not buy it.

We had to protect the American oil producer. Now that we cannot buy the oil, and we have to buy it at an increased cost, they tell us that the oil we use on the Atlantic seaboard we have to import from abroad, so we are buying the oil at $14, $15, or $16 a barrel while the domestic oil is being sold at $5.75 a barrel. So we are being hit both ways.

All I am saying is that while there is tremendous merit in the "Buy American" provisions in this bill, it is going to hurt us in New England. I do not care what compromise you effect with my junior colleague, it will hurt us in Rhode Island. For that reason, I have to be against the bill.

I would hope at least if this bill is going to pass, and I know it is going to pass—I have been reading the lists of recent votes we have been taking here, and at least it looks to me as if this bill is going to pass—this bill by my junior colleague will be a slight improvement, but we will have to take it and suffer with it.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. JAVITS. I would like to associate myself with the sentiments expressed by the Senator from Rhode Island, because he has expressed my views so well, and to add one further point: At a time when the world needs trading stability and trading ability more than anything else, we will contravene, by this bill, a whole series of treaties under which we trade with foreign countries. They are no angels, either, but we are the most powerful economic Nation on Earth, and I do not think we have to do it this way, frontally confronting them with a strictly protectionist measure. In the interests of doing something for shipyard workers and people who man ships, I would much rather face the issue with an increase in the subsidy we have already given them, than go this route.

Mr. COTTON. Mr. President, will the Senator yield so that I may ask him one quick question?

Mr. JAVITS. I do not have the time.

Mr. PASTORE. I yield to the Senator.

Mr. COTTON. The Senator uses the word "contravene." What he means is that by passing this bill, we violate our treaties with 30 countries; is that not correct?

Mr. JAVITS. Exactly. And I feel so deeply about what Senator Pell has done that——

Mr. PASTORE. It is an improvement, if the bill is going to pass. But even with the improvement, we in Rhode Island will be hurt.

Mr. JAVITS. Exactly. It is the same thing with us.

Mr. PASTORE. Mr. President, you cannot get an American or expect an American to work for the same wages as, let us say, a Pakistani or an Indian, and that is exactly what we do on these foreign-flag ships. I say very frankly, if this country is going to survive on slave labor from abroad, morally it is wrong; but on the other hand, we do have a serious situation in my State. This is inflationary, to say the least. Any improvement is welcome, but this bill is going to pass, and we will have to meet it pragmatically.

Mr. JAVITS. It is exactly the same thing with us, because the price of oil has gone up more than anything else, and is crushing real estate and many other things in my State.

Mr. PASTORE. The argument is made by many people, "This is going to cost you $25 a month more on your electric bill." Somebody else comes along and says, "No, it is only going to be $15." We cannot depend on it.

Mr. LONG. Mr. President, there has always been some sort of levy, as far back as I can recall and as far back as anyone here knows, on oil imports into this country. There is an import fee on them now.

It was the thought of the committee that we would propose that, insofar as it might cost more money to use American ships or to build American ships, because that is the big part of the cost—we are told that to use one of these supertankers it does not cost any more to use an American ship than a foreign one, because of the higher degree of skill required, but there is a higher cost of construction because we pay our labor more in the shipyards.

But insofar as the increase in cost is concerned, it was the thought of the committee that we would offset the cost, to the degree that it would mean no increase in cost to the consumer of the product, in a way that would affect all of us in this country, to bear our share of the cost of using our own ships. We would do that by using Government revenues to the extent of reducing some of the fee on the product coming into the country.

I personally would strongly support the idea that if the fee is too high, we make whatever adjustment is necessary so there will be no burden on New England or impact on any particular group in this country, that the advantage of having a merchant fleet is something we would all share and should all pay for equally. When we determine exactly what is the cost of bringing this product in, I would like to see the fee adjusted and equalized as much as, in good conscience and judgment, we could make it.

So I am pleased to support the amendment. Between the time we act on the bill and the time we resolve the matter in conference, we will have a lot more chance to study the bill and the backup figures on which the Senator bases his assumptions. Insofar as possible, I hope we can succeed with the theory of this bill, that we need a merchant fleet, we need to cut down the enormous deficits in our balance of trade, and we ought to use more of our own resources to do it, and try to do it in a way that works no particular hardship on any section of the country.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. PASTORE. Does the Senator not concede that insofar as oil is consumed on the Atlantic seaboard, it is imported oil?

Mr. LONG. It is to a large measure.

Mr. PASTORE. To a large measure. Therefore, it is the oil that has to be transported by these American bottoms we are speaking about in this bill. There is no question about that.

If the proponents of this measure could only do this; if they could say to the people in New England, and particularly the people in Rhode Island, "We will charge you no more for a barrel of crude oil than you would pay for domestic crude oil," then they would have the answer. But they do not have that in the bill.

Domestic crude oil today is selling for $5.75 a barrel. The imported oil is selling for $13 to $15 per barrel, because that is what the Arab nations are saying we must pay.

Now, when we could have bought it cheaply they told us that we have got to have a quota.

The PRESIDING OFFICER (Mr. GOLDWATER). All time has expired.

Mr. PASTORE. Mr. President, may I have more time, 2 more minutes?

Mr. LONG. I will yield the Senator 2 more minutes.

Mr. PASTORE. When we could have bought it cheaply from abroad they told us, "No, you have to protect the American petroleum industry, the American producer," and, for that reason, they put a quota on.

Now, all I am saying is that if we could equalize this price so that the people in the Midwest and the West would pay as much for the crude oil as we pay in New England we have got the answer to the problem. But we have not answered that problem, and that is the main problem. The problem is that we, New England, have to pay the high prices that the Arab nations tell us we have to pay, and now the Senator is telling us that we have got to pay more money to transport it.

When we add the two together we are being crucified, and that is what I am saying, and that is the reason why I am against the bill.

Mr. LONG. Well, Mr. President, what we are trying to do with this bill is not only to help strengthen the position of this Nation to have control over its own destiny by having a merchant fleet over which the laws of this country apply, but we are also trying, as I am trying to do by supporting this amendment, to see that no one, no section of the country, would have to pay any more to bear the burden of this bill than anyone else would pay.

I believe, Mr. President, that I have at least demonstrated my good faith in supporting the amendment and hoping that this could be done.

I am told that to a certain extent prices have been equalized in the country and that the retail prices do not fully reflect the higher cost of the oil in New England and, further, the Federal Energy Administration has authority over pricing and that they could, if they wanted to, do more about this problem.

With regard to the old oil that is being held down under price controls in other parts of the country, I am afraid it is just not within our capacity to solve that problem here.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment. All time has expired.

Mr. PELL. Mr. President, if the Senator will yield me 1 minute on the bill, I do not like this bill either. I intended to vote against it, but I am very appreciative of the willingness of the floor manager of the bill to accept and change the amendment as generously as he has, and so I will not vote against the bill, which is very important to the people of my State, but I must reserve my right to vote against the conference report if this amendment is not contained within the report of the conference.

But, as a matter of record, I still think it is a poor bill, and if my amendment had not been accepted, I would certainly vote against it.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Rhode Island. [Putting the question.]

The amendment was agreed to.

AMENDMENT NO. 1840

Mr. CHILES. Mr. President, I call up my amendment 1840 and request for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) proposes an amendment, No. 1840.

The amendment is as follows:

On page 9, after line 17, insert the following:

SEC. 6. Section 8 of the Act of June 19, 1886 (24 Stat. 81; 46 U.S.C. 289), is amended by inserting at the end thereof the following: "Nothing in this section shall prohibit a foreign vessel from stopping at a port or place in the United States and temporarily disembarking passengers for a period not exceeding forty-eight hours, or such longer period as the Secretary of the Treasury may determine necessary for the safety of such ship or passengers.".

Mr. CHILES. Mr. President, I am proposing an amendment to the Energy Transportation Security Act to amend section 8 of the act of June 19, 1886, the Jones Act.

The present statute provides that: "no foreign vessels shall transport passengers between ports or places in the United States, either directly or by way of a foreign port," under penalty of $200 for each passenger so transported and landing.

The U.S. Customs Service, through regulation, has interpreted the statute so that in the case of a foreign vessel which takes a passenger on board in a port of the United States, it will be deemed to have landed a passenger in violation of the coastwise laws if that passenger goes ashore, even temporarily, if during the course of the voyage that vessel makes a stop for more than 24 hours.

The thrust of the amendment I am offering is to liberalize the restrictions incorporated in the Jones Act so that foreign vessels would be permitted to stop at a port or place in the United States and temporarily disembark passengers for a period not exceeding 48 hours.

So, Mr. President, the purpose of this amendment is to allow an increase from 24 hours to 48 hours. In my particular State we have a number of these foreign cruise vessels actually picking up passengers in New York to go down to the Caribbean. At present, when stopping in Florida passengers cannot disembark if the ship stays in port for more than 24 hours; stops are made at Port Canaveral or Miami or Port Everglades, where passengers cannot disembark to visit Florida attractions. These are American passengers now, spending American dollars, and they could spend some of these dollars at Disney World and at Cypress Gardens and at Bok Tower, and other places in Florida. But, because of the old Jones Act and the way the customs regulations now read on 24 hours, we see people going down to spend the money in the Caribbean but prohibit them from spending it, American dollars, in American places.

Mr. COTTON. Mr. President, point of order.

The PRESIDING OFFICER. The Senator from Florida has the floor.

Mr. COTTON. Yes, but he is using the floor for a nongermane amendment and, under our unanimous-consent agreement, it is distinctly provided that amendments must be germane. If we are going to use up the afternoon considering amendments when we are trying to vote on this bill, I must raise the point that this amendment is not germane to this bill.

The PRESIDING OFFICER. The unanimous consent agreement under which we are operating provides for germaneness of amendments. Does the Senator from Florida wish a ruling on the germaneness?

Mr. CHILES. The Senator from Florida does. As I understand, we are dealing with an Energy Transportation Act, and I do not know when the unanimous-consent agreement was arranged for, but——

Mr. LONG. Mr. President, the bill amends the Jones Act, and I would hope that the Senate would not be too strict on germaneness on this matter. I have discussed the matter with the chairman of the committee, and while we have not had a chance to study it, we do not see any harm that the amendment would do. It might do some good, and we would be pleased to take it to conference.

Mr. COTTON. If the Senator from Florida wants to run this thing into next week, that is fine. I have two or three amendments that I do not expect or anticipate much——

Mr. CHILES. The Senator from Florida is through with his discussion if we are ready to take a vote on the amendment.

Mr. COTTON. The attendance has gone down, and if we do not finish it tonight, it goes into next week.

Mr. CHILES. Mr. President, I yield back the remainder of my time.

Mr. PASTORE. Mr. President, point of order. We are talking at cross-purposes here.

The PRESIDING OFFICER. Will the Senator yield? Does the Senator push his point of order?

Mr. COTTON. I certainly do.

The PRESIDING OFFICER. The Chair will advise it will have to take a few moments to study this matter. The amendment has not been read.

Mr. CHILES. I believe I am ready to yield back my time if the chairman is ready to go to a vote. It might be quicker to dispose of it instead of researching the point of order.

Mr. LONG. Mr. President, I think it would take less time to dispose of the amendment than to fight the germaneness.

Mr. COTTON. I do not care about the germaneness; I want to get this done.

Mr. LONG. It amends the same title——

The PRESIDING OFFICER. Will the Senator yield? A point of order has been made and the Chair is advised that the amendment is not germane to the bill under the unanimous-consent agreement, and holds that the point of order is well taken.

Who yields time? If there are no further amendments——

Mr. COTTON. Mr. President——

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 1797

Mr. COTTON. Mr. President, I call up my amendment and I ask unanimous consent that the reading of the amendment be dispensed with. I can explain this in just 2 minutes.

The PRESIDING OFFICER. Will the Senator advise what amendment he is calling up?

Mr. COTTON. It is——

The PRESIDING OFFICER. The clerk will report the amendment if we know which one it is.

The second assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. COTTON) proposes an amendment No. 1797.

Mr. COTTON. Now I renew my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. What was the request?

Mr. COTTON. The request that I be allowed to explain the amendment.

Mr. CHILES. I object.

The PRESIDING OFFICER. The objection is heard.

The clerk will read the amendment.

The second assistant legislative clerk read as follows:

On page 7, lines 3 and 4, strike "built in the United States,"; and

On page 7, line 13, strike *"Provided"* and insert in lieu thereof the following: *"Provided,* That the term 'privately owned United States-flag commercial vessel' shall not be deemed to include any vessel which, subsequent to the date of enactment of this subsection, shall have been either (i) built outside the United States, (ii) rebuilt outside the United States, or (iii) documented under any foreign registry, until such vessel shall have been documented under the laws of the United States for a period of 3 years: *Provided, however,* That the provisions of this subsection shall not apply where, (1) prior to the enactment of this subsection, the owner of a vessel, or contractor for the purchase of a vessel, originally constructed in the United States and rebuilt abroad or contracted to be rebuilt abroad, has notified the Maritime Administration in writing of its intent to document such vessel under United States registry, and such vessel is so documented on its first arrival at a United States port not later than 1 year subsequent to the date of the enactment of this subsection, or (2) where prior to the enactment of this subsection, the owner of a vessel under United States registry has made a contract for the rebuilding abroad of such vessel and has notified the Maritime Administration of such contract, and such rebuilding is completed and such vessel is thereafter documented under United States registry on its first arrival at a United States port not later than 1 year subsequent to the date of the enactment of this subsection: *And provided further,*".

Mr. CHILES. Mr. President, I withdraw my objection.

Mr. COTTON. Mr. President, I thank the distinguished Senator from Florida (Mr. CHILES). If I injured his feelings by raising the point of germaneness, I apologize, and after this amendment is disposed of I will be very glad to have him offer his amendment, and I will not oppose it.

I have not long to stay in this body and I do not want to leave any hard feelings. I do not want to pick on any of our fine, young, able, talented Members, and he is one of the ablest.

Mr. PASTORE. Will the Senator add the word handsome?

Mr. COTTON. Well, I will say active.

Mr. President, this has been in the existing cargo preference law all the time. The law has provided that vessels that were flying under foreign flags were given an opportunity to come under the American flag.

That is in the law and the House bill left it applicable to this bill. Our committee took it out. I think this should be restored to this bill.

Therefore, that is what my amendment is, to put back into this bill what has been the law all the time and was left undisturbed by the House bill but taken out by the pending substitute text.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield myself 5 minutes.

Mr. President, this amendment would help maritime labor, seagoing jobs, but it would hurt the shipyards and, in my judgment, the amendment should not be agreed to.

This amendment would permit those who built their ships in Japanese or Spanish yards, or elsewhere, by registering under the American flag for 3 years, to have the same advantage we intend under this bill for American-made ships.

Mr. COTTON. Mr. President, will the Senator yield? If he does not want this amendment, although I cannot conceive of any reason for his objecting to it, but if he objects to it, this is his show, and I will withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Who yields time?

Mr. COTTON. I would like to be recognized after the Senator from Florida (Mr. CHILES) presents his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1840

Mr. CHILES. Mr. President, I send to the desk amendment No. 1840 and request its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

> On page 9, after line 17, insert the following:
>
> SEC. 6. Section 8 of the Act of June 19, 1886 (24 Stat. 81; 46 U.S.C. 289), is amended by inserting at the end thereof the following: "Nothing in this section shall prohibit a foreign vessel from stopping at a port or place in the United States and temporarily disembarking passengers for a period not exceeding forty-eight hours, or such longer period as the Secretary of the Treasury may determine necessary for the safety of such ship or passengers.".

Mr. CHILES. Mr. President, I have explained the amendment, the chairman spoke to it, and I think we are ready for the vote.

I yield back my time.

Mr. LONG. I yield back my time.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Florida (Mr. CHILES).

The amendment was agreed to.

AMENDMENT NO. 1798

Mr. COTTON. Mr. President, I call up amendment No. 1798.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk proceeded to read the amendment.

Mr. COTTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

> On page 4, lines 8 and 22, and on page 5, line 1, in each instance, strike "not less than".

Mr. COTTON. Mr. President, this amendment would establish a ceiling on the percentage of imported oil required to be transported on U.S.-flag commercial vessels. As reported by the Commerce Committee, H.R. 8193 requires not less than 20 percent of all oil imported into the United States be transported on U.S. vessels; after June 30, 1975, that percentage increases to not less than 25 percent; and after June 31, 1977, not less than 30 percent must be transported on American bottoms. Thus, these percentages are actually floors setting minimum requirements which could escalate to a 100 percent cargo preference requirement.

The pending amendment would delete the escalator clause and establish the percentages stated in the bill as ceilings on the amount of imported oil subject to cargo preference, which I understood to be the purpose of the bill.

Mr. LONG. Mr. President, that is the purpose of the bill.

I have no objection to the amendment. I yield back the remainder of my time.

Mr. COTTON. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on the amendment of the Senator from New Hampshire (Mr. COTTON).

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. COTTON. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The clerk will report the unprinted amendment.

The second assistant legislative clerk read as follows:

> "SEC. —. The same safety and pollution prevention requirements and standards shall be applicable to all privately-owned United States-flag commercial vessels employed in the transportation of oil either in the foreign commerce of the United States or between ports of the United States."

Mr. COTTON. Mr. President, there has been a good deal of discussion today and yesterday about whether a double bottom is a means of safety and should be required, or whether it is a menace and may make the ship unstable and should not be required.

As the situation now stands, the requirements as drawn up and enforced by the Coast Guard do not require double bottoms. An international conference voted against requiring it and the Coast Guard does not recommend it. But, in this bill it is required for vessels to qualify for cargo preference.

Now, I do not want to do anything detrimental to Alaska, or to anyone, but I would like to read from a recent editorial:

> Speaking of Alaska, a lot of ecologists are worried about the possibilities of oil spills on the upper Pacific coast when the Alaska pipeline goes into operation. Tankers will be carrying two million barrels of oil a day down through one of the roughest and most dangerous ocean passages in the world.

All of the tankers on this service will, under our law, of course, be American flag under the longstanding law preventing foreign ships from carrying cargoes between American ports.

Either a double bottom is a necessary safety requirement or it is not. My amendment does not say one way or the other. But, if it is necessary for safety and to prevent oil pollution, then it should apply equally to American-flag ships on the foreign trade and the coastal trade. This amendment does not undertake to provide whether it should be required or not, but it says the same safety requirements shall prevail in each case, which I would think would be only fair.

Mr. MAGNUSON. Will the Senator yield?

Mr. COTTON. I yield.

Mr. MAGNUSON. I think this is a very fine amendment. At least we would show that we intend to take care, as much as we can, of the possibility of polluting. This is very important to the Puget Sound area. If an oil tanker would have a spill with the tides coming in, we would be a year getting the oil back out. So I am all for this proposal.

I made a statement in a Coast Guard hearing recently on this matter, taking them to task. I say to my friend from New Hampshire, for their somewhat continued opposition to double-bottom tankers, I highly support the amendment.

Mr. President, I ask unanimous consent that my statement, which I delivered at the marine environment hearings in Seattle on July 23 on this very matter, be printed in the RECORD. That statement highly supports this type of amendment.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR WARREN G. MAGNUSON

(Hearings on proposed rules for protection of the marine environment: Seattle, Wash., July 23, 1974)

I welcome this opportunity to present my views here in Seattle on proposed regulations governing the design and operations of tank vessels engaged in the domestic trade. I have long been concerned about the protection of the marine environment, and I view these regulations as critical to the health and safety of Puget Sound waters. Most importantly, these regulations will govern vessels transporting oil from Valdez into our ports. I know the residents of my State view the coming of Alaska oil with uncertainty and fear of pollution. With this in mind, I have attempted to do what I could to ensure the safest marine transportation system possible including:

Sponsorship and passage of the Ports and Waterways Safety Act of 1972;

Sponsorship of efforts to create the Puget Sound vessel traffic control system; and

Sponsorship of an amendment to the Alaska Pipeline Act to accelerate the applicability date of these regulations.

Shortly, I expect to introduce legislation to expand our Federal liability laws as a precaution to disaster and as an incentive to those that handle oil to be extra cautious.

We cannot tolerate irresponsible action on the part of those who benefit from the movement of oil. Preservation of the beauty and livability of Puget Sound demands the highest of precaution against spillage and possible harm to our waters and shorelines. Risk must be minimized, vessels made safer, people trained, and potential punishment made strong and clear to the violator. To that end, these proposed regulations must be made as stringent as possible. I believe that these standards as proposed can be substantially improved with increased benefit to the environment and without overburden to the tanker or oil industry. The purpose of my presentation today is to outline some suggested improvements. I hope as many residents of my State as possible also take this opportunity to make their views known.

1. BACKGROUND OF THE PORTS AND WATERWAYS SAFETY ACT OF 1972

The parent authority for these proposed regulations is the Ports and Waterways Safety Act of 1972 (P.L. 92-340), legislation which evolved from a bill I introduced on

June 16, 1971. At that time, with the eye-opening experience of the *Torrey Canyon* still fresh in everyone's minds, Congress began to focus on the very real possibility of major oil pollution disasters from oil tankers of ever growing size. The very real dangers of crowded ports and harbors were highlighted once again in the collision between the *Oregon Standard* and the *Arizona Standard* in San Francisco Bay on January 18, 1971. The combination of mammoth tankers and congested harbors in a time of expanding oil imports augured a clear need—a need for fundamental changes in our marine transportation system, especially as it pertains to tank vessels carrying potential pollutants.

We learned many things at our first legislative hearings. We learned that the master of a vessel traditionally was allowed to make any decision he pleased about the movement of his vessel; that oil pollution from vessels, both intentional and accident, was becoming wide-spread; that tankers were growing to immense sizes and all ships were becoming more numerous; and that, unfortunately, tankers were being built and designed exclusively for the economic benefit of their owners and customers, with little thought being given to their impact on the marine environment. But we also discovered that much could, and indeed had to be done to improve tanker design, construction, and operation.

On March 28, 1972, the Senate Commerce Committee ordered H.R. 8140, the bill which eventually became the Ports and Waterways Safety Act and the descendant of my bill, reported. It was signed by the President on July 10, 1972, ushering in a new chapter in maritime legislation. The new law has two basic sections, each with a separate, but related purpose. Both were drafted to enhance the safety of our overall marine transportation system.

Title I provides the Coast Guard with authority for establishment of vessel traffic control system in congested or hazardous ports and waterways. The system to be installed would depend on the needs of each particular geographical location, ranging from a simple regulated navigation area to a sophisticated vessel movement control system using radar. As many of those in the audience know, Puget Sound has one of the first vessel traffic control systems. The components of the Puget Sound VTS are (1) a traffic separation system; (2) a vessel movement reporting system; and (3) a continuously manned vessel traffic center. Radar is now being installed in the more heavily travelled areas of the Sound and the entire system will become mandatory in certain controlled areas on September 30 of this year.

Title II of the Act is what concerns us here today. Under this title the Coast Guard is authorized, and directed, to fashion comprehensive standards governing the "design, construction, alteration, repair, maintenance, and operation" of vessels carrying oil or other polluting substances in bulk. The guiding purpose of the Act is to foster standards designed to prevent or mitigate hazards to "life, property, and the marine environment". The scope of the authority is broad and extends to nearly every aspect of ship construction and operation relating to the safety and seaworthiness of the vessels covered.

2. THE 1973 IMCO CONFERENCE ON MARINE POLLUTION FROM SHIPS

It should be pointed out that the reason these regulations are being considered now, rather than soon after the Ports and Waterways Safety Act became law, is because of the delayed triggering dates for promulgation of the regulations contained in the Act. Section 201 provides for these regulations to be promulgated not later than January 1, 1976. The intent of Congress in this section was to allow an international treaty on tanker standards, then in the early formative stages, to be developed, since the business of shipping is inherently, and inescapably, international. Such a treaty was developed and signed in November of 1973 and presently awaits ratification by the requisite number of countries before it takes force.

3. LEGISLATION ON THE ALASKA PIPELINE

Now that the 1973 Convention on Marine Pollution from Ships has been formulated, the Coast Guard is moving forward with their regulations. But the proposed regulations we are discussing today deal only with vessels in the "coastwise" or "domestic" trade; they do not encompass U.S.-flag vessels in the foreign trade or foreign vessels entering our waters. All vessel movements between U.S. port and U.S. port are reserved by law to U.S. flag vessels—this is the domestic trade. During consideration of the Alaska Pipeline bill, I offered an amendment which was accepted to accelerate the time when Coast Guard regulations for tankers in the domestic trade must be promulgated. The language of the treaty was known and there was no excuse not to address the question of the domestic trade immediately. The idea was to make these regulations law at the earliest possible moment so that vessel owners could have clear notice of the standards they must meet, and so that more tankers would incorporate new anti-pollution standards in their construction plans. Since a number of new pollution-preventing construction features cannot be retrofitted into existing tankers, cut-off dates for certain features would have to be written into the law. I felt that the longer the delay on effective regulations, the greater the number of new ships which would have to be "grandfathered." I will speak more of the "grandfather" date problem later in this presentation.

Unfortunately, the deadline mandated in the Alaska Pipeline Law has come and gone. I am disappointed that these regulations will probably not go in effect until September at the earliest. I wish to urge the Coast Guard to work expeditously toward final regulations and make up for as much lost time as possible.

4. THE PROPOSED REGULATIONS

This brings me to my main purpose for my statement today—the proposed pollution prevention regulations for tank vessels in the domestic trade. I wish to make some general comments on the rules before turning to what I consider to be one of the most important, but by no means the only, issue raised by the Coast Guard's proposed action, the question of double bottoms on new tankers.

A. TREATMENT OF U.S. VESSELS IN THE DOMESTIC TRADE VIS-A-VIS VESSELS IN THE FOREIGN TRADE

The preamble to the proposed rules which appeared in the Federal Register on June 28, 1974, reaches what I read to be a very disturbing, and erroneous, conclusion. The drafters of the regulations implicitly seem to have concluded that U.S. vessels in the domestic trade and U.S. flag vessels in the foreign trade as well as foreign vessels must all be uniformly regulated—that all vessels of similar type and size subject of standards of construction and operation under the Ports and Waterways Safety Act must be treated the same whether they operate in the domestic or foreign trade. The only distinction in the law, it is stated, is that relating the timing of regulation issuance for the coastwise trade contained in the Alaska Pipeline Law. In fact, the drafter concludes:

"It is clear that the intent of the Congress in subsection 7(D) was to assure in the implementation of subsection 7(C) [the issuance of regulations] *that no distinction of treatment between U.S. and foreign vessels* be inferred from any treaty, convention, or international agreement." Federal Register, Vol. 39, No. 126—Friday, June 28, 1974. Page 24151 (Emphasis supplied)

The notice then states that the proposed regulations are to be considered as interim regulations until regulations for U.S. vessels in the foreign trade and foreign vessels entering our waters will be effective.

Mandatory similar treatment of all U.S. flag vessels, whether they operate in the domestic or foreign trade, was not the clear intent of the Congress. Furthermore, there is every indication that different treatment was contemplated by at least the Senate Committee on Commerce when it reported the Ports and Waterways Safety Act.

First of all, the first sentence of subsection 7(D) of the Act reads as follows:

"Any rule or regulation promulgated pursuant to this subsection (7) *shall be equally applicable to foreign vessels and United States-flag vessels operating in the foreign trade.*" (Emphasis supplied).

Clearly, the mandated equal treatment is between foreign vessels and U.S. vessels in the foreign trade *only*. U.S. vessels in the domestic trade are left out of this language.

Secondly, the Report (No. 92-724) which accompanied H.R. 8140 to the Senate floor specifically dealt with this issue. On page 29, it reads:

"Subsection (7)(D) provides that any rule or regulation for protection of the marine environment promulgated pursuant to subsection (7) shall be equally applicable to foreign trade. As was stated by the Assistant Secretary of Commerce for Maritime Affairs, and with respect to which the committee is in agreement, regulations for the design, construction, alteration, and repair of vessels for the protection of the marine environment must not competitively disadvantage United States-flag vessels vis-a-vis their foreign competition. Since any group of such standards will inevitably involve cost, they must apply equally to United States-flag vessels operating in the foreign trade and to foreign vessels entering our navigable waters. *Of course, the same rationale does not apply to United States-flag vessels operating in domestic trades in which competition from foreign-flag vessels is precluded by law.*" (Emphasis supplied).

Because U.S. flag ships compete with foreign vessels in the foreign trade, the mandatory unilateral imposition of pollution prevention standards on U.S. vessels in the foreign trade would naturally make them more expensive and therefore put our vessels at a competitive disadvantage. As just stated, this is not the case in our domestic trade where foreign competition is precluded by law. Consequently, requiring higher standards on vessels in the domestic trade is not competitively disadvantageous and Congress did not feel that it was necessary to mandate uniform standards for all U.S. vessels in the law. Furthermore, because of the fact that vessels in our domestic trade invariably spend more time along our shores and in congested ports and waterways, there is good reason why these vessels should meet higher standards than those in the foreign trade.

In summary, I believe the drafter of the proposed regulations is incorrect in concluding that all U.S. vessels must eventually conform to the same regulations. The law does not require this, and common sense would seem to indicate the opposite. I grant that U.S. vessels in the two trades might have different costs. But these are costs which protect the quality of our marine environment where exposure to accident is greater, and which, when translated into the cost of gasoline at the pump, is relatively small.

B. BUILT-IN SAFETY FEATURES VERSUS OPERATIONS STANDARDS

The basic thrust of the Ports and Waterways Safety Act is *prevention* of either the accident or the spill. Prior to its passage, most oil pollution legislation dealt largely with liability and responsibility for clean-up. The Ports and Waterways Safety Act changed that approach to one which seeks to prevent, in advance, the growing incidence of oil spill mishaps. Clean-up and liability are necessary but certainly not enough.

It is common knowledge that human error is the key element in most maritime accidents. The Coast Guard has reported that human error is a contributing factor in 85% of reported marine casualties. Since this is so, I would urge the Coast Guard to opt for built-in safety features wherever possible. Unquestionably, a combination of both construction and operation standards is required. But we must always be cognizant of the possible accident, just as we must build automobile safety into the car itself. Accordingly, preparing tankers for accidents so as to minimize oil pollution is, to my mind, the best approach to improving their safety.

C. THE COMPREHENSIVENESS OF THE PROPOSED STANDARDS

The Statement of Policy in title II of the Ports and Waterways Safety Act says that it is necessary to establish "comprehensive minimum standards". In contrast, the proposed regulations before us are narrow in scope, limited to a few of the many possible design requirements available to prevent or minimize pollution.

For example, once again referring to the Report, the Commerce Committee had considered several other areas worthy of consideration:

"Subsection (7) (A) provides that the Secretary will begin publication as soon as practicable of proposed rules and regulations setting forth minimum standards of design, construction, alteration, and repair of vessels for the purpose of protecting the marine environment. Broad areas for standards are also prescribed; for example, standards to improve vessel maneuvering and stopping ability and to reduce the possibility of accidents. Standards in this category might include minimum propulsion and particularly reverse propulsion requirements, bow thrusters or lateral thrusters, flaps, or standards might be stated in terms of performance requirements for maneuverability, crash stop ability and directional control ability." (Page 28)

Maneuverability will be extremely important to large vessels operating in Puget Sound. The various ways to make vessels more maneuverable include: stopping and backing power; controllable-pitch propellers; vertical-axis propellers; multiple stern anchors; remote release for anchors; rudders; twin screws; radar; and numerous others. Despite this, the Coast Guard has limited its design requirements to those discussed in the new IMCO Treaty on Marine Pollution from Ships. I believe the Coast Guard should expand its regulations to include these features where they are feasible or explain why they are not feasible.

D. THE ISSUE OF DOUBLE BOTTOMS ON NEW TANKERS

Considerable controversy has surrounded the question of whether new tankers ought to be built with a double bottom. This has been a very important, and contentious issue, and one which certainly merits a good deal of discussion.

By the way of background, I would like to point out that agencies of the United States Government have actively and consistently advocated the incorporation of the segregated ballast system/double feature on new tankers in connection with the debate over the Alaska Pipeline, and the development of the new IMCO Treaty on Marine Pollution from Ships.

During the discussion of the merits of an Alaska pipeline versus a trans-Canada pipeline, Rogers C. B. Morton, Secretary of the Interior, stated publicly on a number of occasions that tankers bringing North Slope oil from Port Valdez to the West Coast would be required to be built to the highest environmental protection standards. For example, Secretary Morton stated explicitly on June 22, 1972, in testimony before the Joint Economic Committee, that newly built U.S.-flag vessels carrying oil from Alaska to West Coast ports will be required to have the segregated ballast/double bottom system. In my view, it is fair to conclude that these statements had influence in the Congressional voting which eventually approved the construction of the Alaska Pipeline across Alaska.

The United States Coast Guard played a large role in the preliminary negotiations which led up to the 1973 Convention on Marine Pollution from Ships. At least a year prior to the Conference in London which finalized the new treaty, the United States delegation (led by the Coast Guard) advocated inclusion of segregated ballast/double bottom system on all new tankers as a mandatory provision in the new treaty. A study undertaken and presented at a preparatory session by the Coast Guard concluded that if this system were required, operational pollution from new tankers would be reduced 95%, accidental pollution would be reduced 35%, and total pollution 67%. At the Conference itself, another study document on the segregated ballast/double bottom system was introduced. This document estimated that if double bottoms, with heights of 1/15 of the beam of each vessel, had been built into vessels involved in stranding incidents in United States navigable waters between 1969 and 1973, oil discharges would have been prevented in 90% of the cases and approximately 11,000 of the 12,499 tons of oil or 87% of the pollution would have been prevented. Unfortunately, a majority of the Conference voted down the United States proposal for double bottoms. Nonetheless, strong arguments in favor of this system remain a matter of record.

Secondly, as I stated earlier, when this Committee reported the Ports and Waterways Safety Act of 1972, we expressed our desire to have anti-pollution efforts concentrate on *prevention* rather than clean-up. In our discussion of possible construction standards for tankers which would be effective in preventing pollution should a mishap occur, we concluded that the double bottom feature was "perhaps the clearest instance of a standard presented at the Committee's hearings that must be seriously considered". (Report, page 17) The Coast Guard's own research points to the pollution-prevention effectiveness of the double bottom. (See also *Risk Analysis of the Oil Transportation System*, Oceanographic Institute of Washington, page 5, Sept. 1972).

Thirdly, the cost of a double bottom system is not much greater than a segregated ballast system. (*See page 14, Hearings on the 1973* IMCO Conference on Marine Pollution from Ships, Serial No. 93-52, Committee on Commerce.) Indeed, there are several large tank vessels now being built in the United States with the segregated ballast/double bottom feature. Furthermore, no competitive disadvantage to our merchant marine arises if the system is required for vessels in the coastwise trade since again foreign-flag ships are precluded by law from operating between U.S. ports. To the extent that all costs, including those associated with oil pollution risks, are included in the cost of the vessel, the true costs of transporting oil are more accurately reflected.

On balance, I believe that the arguments for double bottoms outweigh those against. In fact, recently the Senator Commerce Committee in legislation giving oil cargo preference to U.S. vessels approved language which requires new vessels seeking the preference to be built with double bottoms. Once again, this is evidence of our desire to have the safest vessels possible.

E. OTHER COMMENTS

1. *Grandfather dates.* Applicability cut-off dates should be selected to require that all vessels which can, as a practical matter, meet the standards specified. This is very important in connection with the proposed design requirements and their incorporation into vessels being built for the Alaska Pipeline. Vessel owners who can comply should not be allowed a loophole to build to old standards. For instance, contract signing can be speeded up to avoid deadlines. The Coast Guard ought to take great care in obtaining the greatest compliance possible.

2. *Tonnage cut-offs.* The U.S. Delegation to this IMCO Conference advocated that all tank vessels above 20,000 dwt be built with segregated ballast capability. But these regulations use 70,000 dwt as the cut-off for the segregated ballast system requirement. Again, this aspect should be re-examined to see if tighter standards might not be required.

F. SUMMARY

There is no question that tankers will be safer and less pollution will result because of these proposed regulations. But in their present form they do not afford the maximum protection possible, given the alternatives available. Transportation of oil poses risks. Those risks should be borne by those who benefit from that transport—by the owner of the vessel and by the owner and ultimate consumers of the cargo. The threat of oil pollution should not rest with the beach-owner, the fisherman, or those residents of our State who live here because of our natural beauty and clean environment.

I urge the Coast Guard, on behalf of my constituents, to make the system as safe as it can be made. Past experiences like the *Torrey Canyon*, the *Ocean Eagle*, and the *Oregon* and *Arizona Standard* highlight the danger. We should not forget that the total number of ships lost each year is high (e.g. 151 vessels out of a total of 28,378 in 1970); and that most accidents occur in in-shore waters. We must bring tankers into the Age of Safety.

Mr. COTTON. Mr. President, I ask unanimous consent that an editorial from the Washington Post of Sunday, September 1, 1974, entitled "Tankers and Protectionism," from which I quoted, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TANKERS AND PROTECTIONISM

Sen. Mike Gravel of Alaska rises to defend the grossly inflationary and dangerous Energy Transportation Security bill. We gladly print the senator's letter today, for it offers us a welcome opportunity to address several further defects in the bill. The limitations of space, and a decent regard for our readers' patience, required us to confine our previous editorial on this subject to only a few of our objections. At risk of sounding like a Scottish sermon ("And eleventhly, dear brethren . . .") we shall now turn to the issues of ecological protection and safety that the senator and several other readers have raised.

This bill would require that by 1977 at least 30 per cent of our oil imports arrive in American-flag ships. It is a feather-bedding bill, intended to create jobs regardless of the cost—which would be grotesquely high—to the consumer and taxpayer through direct and indirect subsidies. The bill, having passed the House, is about to come to a vote in the Senate. Its whole history is a classic case of high-powered lobbying by an alliance of shipyards and maritime unions that continuously pour large sums of money into election campaigns. To give a gloss of respectability to a piece of crudely protectionist legislation, and to pick up a bit of support outside the industry, the authors of the bill inserted a requirement for double bottoms for new American tankers. This rule has been for some time an aim of many organizations that work to protect the environment. Present evidence suggests that the double bottom may not be as effective a protection as other types of cargo segregation. It is expensive but, since the bill would create a captive market for the American shipyards, the industry does not greatly care how much the new requirements might cost. It is the public that will pay the difference.

If Congress thinks that this kind of safety standard is essential, why not legislate it directly? Why pursue it through the roundabout route of cargo preferences? Why apply the standard to only 30 per cent of the tanker deliveries? The answer is, obviously, that the purpose of the bill is to create jobs and profits, not to protect the ecology of the shoreline. The Coast Guard already enforces stringent safety regulations on any ship entering American waters regardless of the flag that it flies. If Senator Gravel considers these regulations inadequate, he might more usefully pursue legislation to improve them for *all* of the ships coming into our ports.

Speaking of Alaska, a lot of ecologists are worried about the possibilities of oil spills on the upper Pacific coast when the Alaska pipeline goes into operation. Tankers will be carrying two million barrels of oil a day down through one of the roughest and most dangerous ocean passages in the world. All of the tankers on this service will be American-flag, under long-standing law that prohibits foreign ships from carrying cargoes between American ports. Has Congress required double bottoms for these tankers? You bet it has not.

It is quite true, unfortunately, that other nations are also moving toward cargo preference legislation. If the United States now proceeds with its 30 per cent requirement, it will hardly be in any position to protest when other nations impose even higher percentages. The Arab oil producing countries are rapidly expanding their tanker operations, and there is an ominous probability that the world is now building more tankers than it can use. The shipping industry was no more prescient than anyone else in foreseeing last year's quadrupling of prices and this year's reduction in demand. In a market where tankers are lying empty, it is quite possible that Arab countries will move to protect their shipping investments by making sales contingent on delivery in their own tankers. For the United States, that tactic would raise very serious questions not only of cost but of national security. If the present bill is enacted, other nations will be able to cite it as precedent for whatever cargo rules they might want to impose.

If the Senate passes this bill, as it probably will, it forces a hard choice on President Ford. A veto might damage his relationship with the labor movement. It would certainly anger one of the richest and most active lobbies in Washington. It would make Mr. Ford seem to be lining up with those oil companies that, for reasons having little to do with the public interest, also oppose the bill. But if the President fails to veto it, he will have accepted an important defeat in his fight against inflation. He will have led the way in destroying the tradition of an open market in ocean shipping, at a time when the Arab oil producers are in a much stronger position than we to establish and exploit a captive market. The case for a veto is overwhelming.

Mr. LONG. I yield back the remainder of my time, Mr. President. I shall vote for the amendment.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open for further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. GRIFFIN. Mr. President, perhaps it might have been a bit more difficult for me to vote on this measure if the Senate had seen fit on yesterday to adopt my amendment, which was designed to provide a measure of fairness and equity for Great Lakes ports in the administration of the cargo preference laws. Of course, I was pleased that the Senate did adopt the Mondale amendment, which represented only a small bow to the Great Lakes region.

However, I am compelled to oppose this bill. At a time when inflation is domestic enemy No. 1, the last thing we need is legislation like this, particularly when it will perpetuate and extend discrimination against the Great Lakes region.

At the present time, the maritime industry receives more than $500 million a year in direct Federal subsidies, and there is a record peacetime backlog of shipyard orders amounting to more than $6.5 billion. As a result of this Federal support, the volume of cargo carried in U.S.-flag ships increased by more than 60 percent in 1973. Despite that impressive record, proponents of the pending measure want even more subsidy.

Of course, if this bill is passed, all the direct subsidies provided under existing law would be continued. But the tanker segment of the U.S. merchant fleet would be guaranteed, in addition, carriage of up to 30 percent of all oil imported into the United States. By creating a noncompetitive captive market for such ships, the consumer will end up paying an extra $3 billion per year for imported oil by 1980, according to the Federal Energy Administration.

Today it is popular as well as important to be concerned about the consumer. But where are some of the so-called consumer advocates on this issue? As the Wall Street Journal aptly editorialized in connection with this bill:

> Now that the American consumer really needs him, Ralph Nader seems to have gone fishing.

Apparently, "consumerism" does not apply to all consumers—but only to those whose interests do not conflict with certain special interest groups.

This bill is a rip-off, so far as the consumer is concerned. Furthermore, it does nothing to bolster national security. At any time the foreign oil tap is turned off, a fleet of empty tankers will not be of much help in heating our homes or keeping American industry in operation.

Moreover, this bill will not increase energy supplies one iota. On the contrary, to subsidize a U.S. tanker fleet is more likely to encourage further dependence on imports of foreign oil. The money that is to be spent under this legislation could be put to much better use by encouraging production of more energy from domestic sources.

This bill also conflicts directly with another priority goal now before the Congress—I refer to the trade reform legislation. It will be ironic indeed, if Congress should pass this bill and thereby set up a new nontariff trade barrier at the very same time that we are seeking as a nation to negotiate reductions in international trade barriers.

For all these reasons, Mr. President, I shall cast my vote against the bill.

I ask that the editorial to which I referred earlier be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 30, 1974]

WHERE ARE YOU, RALPH NADER?

Now that the American consumer really needs him, Ralph Nader seems to have gone fishing. Congress is on the verge of passing a fancy item called the Energy Transportation Security Act of 1974, in what can only be a straightforward deal with the free-spending maritime unions. The bill requires that 30% of all oil imports be carried on U.S.-flag vessels, compared to almost none today; it would add at least $20 billion and perhaps $60 billion to U.S. energy costs over the next decade. Why are the consumer advocates so quiet?

What is really ironic is that the maritime unions have been pushing cargo-preference legislation for years, scattering campaign contributions and sky-high lecture fees all over Capitol Hill to insure an attentive audience. They've always been rebuffed. Yet now, with Congress supposedly on a higher moral plane inspired by the Watergate revelations, great merit is suddenly discovered in the idea. The House has passed the measure by a 266 to 136 vote and the Senate is poised to adopt it in the next few days.

The argument that has been winning the day with the labor liberals in Congress is "national security." That is, in order to secure delivery of imported oil, the United States must build up its own fleet of tankers, manned with U.S. seamen. The Commerce Department estimates this will require the construction of 40 tankers at a cost of $4 billion by 1977. If in that year the Arabs cut off our oil, we won't get any more oil, but Americans can rest easy that what does get here will be carried in U.S. vessels. Somewhere else in the world there will be 40 empty tankers; some national security.

The cost of building and manning American tankers is so much higher than the competition that even the House Merchant Marine Subcommittee shamelessly admits it might add "a penny a gallon at most" to the price of gasoline; the Maritime Administration projects two cents a gallon by 1985. With U.S. consumption now at 100 billion gallons a year, that alone is $1 billion a year in increased cargo costs, rising to more than $2 billion a year by 1985.

And that calculation assumes that the rest of the world is going to happily permit the United States to violate existing treaties that prohibit preferences for commercial cargoes. It would be hard to reason with Saudi Arabia or Venezuela if they propounded laws requiring that 30% of the crude they ship to the United States must be carried in Saudi or Venezuela bottoms at the highest commercial rates, which of course will be those charged by the U.S.-flag vessels.

There is nothing in this legislation that is good for consumers, taxpayers or the nation as a whole. But those who should be complaining loudest about it, the Naderites and Common Cause, do not wish to irritate the AFL–CIO and thereby lose labor support for their Consumer Protection Agency, which is also before the Congress. The homebuilders and mortgage bankers haven't complained either. They're too busy pleading for direct relief themselves. Yet here is a measure that will take $4 billion from the capital market in three years and at least $20 billion from consumer spending in ten. Doesn't anyone realize the pork barrel is empty?

Perhaps they do, and are simply counting on President Nixon to take time out from his other troubles to veto the bill if it passes. The administration, at least, opposes the bill, which may be why so many members of Congress can vote for such a boondoggle and still live with their consciences. What alarms us most, though, is that a bill so worthless and inflationary can command so much support in Congress at a time when the United States is going through one of its worst inflations in its history. If Congress passes this, what won't it pass?

NEW ENGLAND FUEL NEEDS

Mr. KENNEDY. Mr. President, for the past several years, the reliance of Massachusetts and New England on refined oil products has become common knowledge to every citizen of our region.

Perennial threats of home heating oil shortgages, fears during the winter of inadequate residual oil supplies for our utilities, and last spring's shortage of gasoline have combined with skyrocketing prices to demonstrate our reliance on oil.

In addition, our dependence on independents, at both the wholesale and retail level, has meant that our region has been the battleground for every effort by the majors to gain greater control over the marketing of petroleum products.

In a recent statement, Charles Burkhardt, executive vice president of the New England Fuel Institute, has outlined the view of the independent home heating oil dealers of future policies.

His testimony before the Project Independent hearings in Boston deserves the attention not only of my colleagues from New England but of my colleagues from other regions as well. I, therefore, ask unanimous consent that this thoughtful presentation be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

PETROLEUM ENERGY: NEW ENGLAND'S ONLY ENERGY OPTION IN THIS CENTURY

(By Charles H. Burkhardt)

My name is Charles H. Burkhardt. I am Executive Vice President and Managing Director of the New England Fuel Institute, an association comprised of approximately 1,300 member companies whose major, and in many cases sole business, is the retail and wholesale distribution of No. 2 home heating oil. These independent home heating oil distributors deliver about 82% of all of that product at the retail level and the independent wholesalers, 40% at their level. It can readily be seen from this, that the home heating oil market throughout New England, which amounts to about 110,000,000 barrels or about 4,600,000,000 gallons on an annual basis, is in the hands of small businessmen, generally known as independents, branded and unbranded.

The place of No. 2 home heating oil, and for that matter residual oil, in the New England economy is most important and an assured supply in almost a matter of life and death if the factories, plants and industries, schools and hospitals are to keep running and millions of homes are to be heated. Space heating has always been the major consumer of energy in New England and will continue to be such until the year 2000 at least. Up until that time, distillates will continue to provide the major portion of the energy requirements necessary for space heating. There will be some increase in the use of gas for heating, but the rate of growth for this fuel, according to the New England Energy Policy Staff, will be limited by price differentials and problems of supply. Electricity's share of the market as far as space heating is concerned, will increase slightly.

The attached graph (not reproduced in the RECORD), demonstrates clearly that for the remainder of this century, distillates will be the major source of energy for the region's major use, space heating. Coupled with residual oil, the share of petroleum will be so great by the year 2000, as to dwarf electricity and gas. Also, New England's major source of energy as shown in Figure 2, will, for this century, continue to be petroleum, including distillate, residual oils, gasoline and jet fuel.

Table 1, and the graphs on New England total energy requirements for the next twenty-five years, were developed by the New England Energy Policy Staff of the New England Regional Commission.

The depth of the penetration of the New England economy by No. 2 home heating oil and residual oils, and the dependence of the economy on oil supply, is enormous. It is safe to say that the New England home heating oil market is the most homogenous and concentrated in the entire world. New England is the locale of 5.8% of the nation's population, yet it consumes over 20% of the nation's home heating oil; 2,400,000 homes and buildings are heated by middle distillate; seventy-one percent of the regions buildings and seventy-four percent of its population depend on No. 2 home heating oil.

Ninety-two percent of all of its schools and education institutions are heated by fuel oil, primarily residual oil, although No. 2 home heating oil also has a good share of the school, education and institutional market. The per capita consumption of No. 2 home heating oil in the six state area is about the highest in the world. The average consumption per home for Southern New England ranges at about 1650 gallons per year, and for Northern New England close to 1800 gallons per year.

Up until the past year, the New England home heating oil market was increasing steadily at about 50,000 to 55,000 net, new oil burner installations per year. This gradual and continual rate of growth has now been interrupted to a considerable extent by the supply situation that existed in the late fall and early winter of 1973. The resulting publicity even though of a short range nature, has retarded this moderate 2% to 3% annual growth rate, and has resulted in a complete disruption of the new home market share for distillate oil. This had hovered at about 25% of the new home market for several years.

It was reduced abruptly during last fall to the present time, to about eight percent. This placed an additional load on other forms of energy, one of which is in no way as efficient as the direct burning of oil. This, of course, is electric resistance heating, which consumes approximately 3½ times as much oil to produce the same amount of residential heat energy in the home as does the direct burning of distillate oil on the site.

So, one of the peculiar contradictory contributions of the energy supply crisis faced throughout last fall and early winter was, that it tended to interrupt normal energy use patterns in a manner that increased inefficiencies in energy applications. This denied the primary objective of the Federal Energy Administration—the conservation of energy, especially petroleum.

Two million, four hundred thousand residences and/or homes are heated by No. 2 home heating oil comprising about 71% of New England's buildings. Ninety-two percent of its schools and education institutions are heated by No. 2 oil or resid. It therefore becomes apparent that there is no possible way for any abrupt or reasonably fast transition from the use of refined petroleum products as a source of heating and industrial power to occur in any reasonable period of time. No one in his right mind, or with any reasoned capacity, could foresee the conversion of 2,400,000 residences from oil to any other forms of energy, even if it was practical and available.

The massive use of oil for space heating and the permanence of the heating equipment, plus the equipment's physical characteristics makes it improbable, unlikely, and almost impossible for any mass conversions or changes to take place.

The truth is, with existing Federal Regulations, coupled with chronic supply restrictions, the established installations of heating equipment, the patterns of energy distribution, the methods of generating power, the facilities for storing energy, that oil has been so integrated into the New England economy that it presents a problem that boggles the mind and imagination as to any way it can be disturbed or displaced to any marked degree by any other forms of energy including gas and/or electricity.

The only source of energy that is immediately available and which would require only a moderate disturbance of existing power generating facilities is coal. It could be used to a large extent for electric generation, but the problems involved with pollution and EPA regulations are such as to discourage and negate this transition. Requisite purchase patterns for large quantities of coal that would be economically sound are long range, embracing 5, 10, 20 and even 30 year supply contracts. Variances granted by EPA during the petroleum supply crisis of latter 1973, which seriously disturbed all forms of New England's energy distribution patterns, were such as to allow utilities who could be major coal users, to contract only for short periods of time, in some cases only for a few months. So, while coal does offer a limited energy option for New England, it is hampered by a number of contrived, legal, or regulatory restrictions that make it at this moment, economically unfeasible over the long term, and it is not practical for the 2,400,000 homes and residences now using No. 2 home heating oil.

The supply of natural gas for New England will be sharply limited this coming winter. Long term rate problems, especially affecting natural gas production and sale at the wellhead, are such as to inhibit general and continued growth. Further, there is no adequate pipeline or network of piping throughout Northern New England that could provide for distribution of large quantities of gas, north of Rockland, Massachusetts in the East, and Springfield in the Central area. Builders in these areas are being forced to install electric resistance heating because the supply of natural gas does not have an adequate piping network to enable it to reach areas that are being developed. Since oil is the fuel required to furnish this additional electrical energy, this further points up its essential position in the New England industry and total economy; that is that, petroleum is the entrenched basic source of the area's energy. An economic and physical catastrophe beyond imagination would occur if there were any substantial cutbacks in the supply of refined petroleum products for New England. Its entire industry, productive power generation, health and comfort and the total economy would be disturbed and disorganized with massive, dangerous and disruptive consequences.

Since it would take an entire generation in time to supply New England's electrical energy needs through alternate forms of power, especially nuclear energy, the New England states, their governments, industry, and its consumers are faced with the basic fact that for this generation and century, and even into the next, they are locked into a petroleum consuming economy and that measures to displace petroleum at this time, can only be minimal—a proverbial "drop in the bucket". There are no short term panaceas. There is no quick or easy way to change New England's dependence on Petroleum. It is here and for long term. The sooner we all realize it, the better off we will be.

This is the reason for the title of this paper, "*Petroleum* Energy Options for New England", because for this generation, a good 25 year intense effort is going to be necessary before there is any in-depth change in New England's massive dependence upon refined petroleum products. Broad federal policies governing the price of other forms of energy, controls on energy distribution, environmental protection regulations, distributive quotas and allocations, consumer ecological movements and consumer anti-pollution movements, would all have to change within a short period of time if the total program required for transferring New England's energy dependency from petroleum to electricity, gas or coal was in any way to be accomplished. This is just not in the cards, nor is it possible.

The disagreements between energists and conservationists are so great in principle, in philosophy and in practice, and they would require such tremendous compromises, that it is not reasonable to assume that the milenium is at hand or that there will be any substantial changes for this generation in New England's dependency upon petroleum as its major source.

Therefore, it is our considered opinion that New England now has only one energy option, the *petroleum* energy option for this generation, and that this option at present is insecure and to some extent interruptible, especially in view of the fact that the continuation of production and to some extent the distribution of crude oil and refined petroleum products, has passed from the hands of the major oil companies to nations that are fast becoming rabid economic imperialists.

The control of the major international oil companies that has provided over 50 years of orderly growth for the petroleum industry with ample supply at low prices is coming to an end. It is being replaced with control by individual producing nations, many of whom at this point in history are immature as to the handling of the tremendous producing and economic responsibilities they are grasping for so avidly.

The stark and disturbing fact that a major OPEC oil producing nation has raised the price of crude oil and petroleum products 13 times in 12 months is a concrete example of what New England, America and the Western World will have to face.

While the major oil companies were motivated by profit, many of the nations that are moving to succeed them are to a major extent, motivated by an abnormal desire for gain plus a grasp for power. They are introducing a form of economic imperialism that will have strange and terrible results.

So, international politics instead of profit, will be the dominating factor and will bring with it all of the disruptive political and economic reprisals that history has been so replete with for the past 5,000 years. As much reviled and even reprehensible as are some of the acts and practices of the major international oil companies, there will be times when even we independents, who have opposd them vigorously for years, will look with regret and nostalgia on the two generations of low cost, peaceful energy production, refining and distribution, they provided.

Therefore, New England must look to its own problems, since it will be well locked into a petroleum economy for at least twenty-five years before there will be a substantial effective change-over to other forms of energy, or newer ones not yet conceived or discovered, that will forever end its energy dependence on petroleum.

This can only be achieved by embarking upon a series of vast organized projects that will provide New England consumers with the greatest possible supply of petroleum products at the lowest cost. New England must, of necessity, look towards putting its petroleum distribution and supply needs and thereby its energy house in order. This will require a great degree of statesmanship and understanding, a meeting of the minds between energy producers and distributors and the environmental protectionists. There will have to be a great deal of give and take, because the basic requirements for New England's economic survival in a technical culture depends upon a rational, reasonable interlocking of the energists and the conservationists purposes—the energy producing philosophy and the nature preserving philosophy.

This now takes us to what will be required. The first premise involved is the production of the basic commodity, crude oil. With some degree of certainty, we can say that substantial supplies of crude in calculated quantities, can be made available from offshore drilling on the continental shelf. This will have to be undertaken as soon as possible in every way consonant with reasonable, determined effort to prevent the pollution of the seas or the disturbance of the marine life or ecology therein. For with the production of crude directly from off-shore sources in any reasonable quantities, New England will have a secure supply close by, that would be capable of being continued during times of war or national calamity.

The second premise requires the construction of at least two refineries in New England. To properly and advantageously utilize imported crude oil or crude oil produced from the continental shelf, refineries must be located in New England. Their construction would help immeasurably in providing an adequate supply of residual and distillate products at reasonable cost and would reduce the area's absolute dependence on refineries not associated or identified with New England.

Imagine if all of New England's maple syrup was boiled down or refined at the Gulf of Mexico, or Trinidad, Aruba, Venezuela or Europe and shipped in; or all of its ice-cream transported from Canada. It may seem humorous or a distant comparison, but it is equally ridiculous to ignore the crude oil beneath the continental shelf offshore and import 30% of all our #2 home heating oil, and 90% of our residual needs in face of the stark economic fact that each 1¢ per gallon increase in the price of #2 home heating oil adds $46,000,000 to the New England consumer's cost burden for home heating. Each 1¢ added to a gallon of residual oil's price adds $72,660,000 to the cost of electricity, manufactured products, industry services and heating combined. Of that $72,660,000 increase, $36,000,000 is for electricity cost increases caused by a one cent per gallon rise in the price of residual oils.

This tremendous economic cross that New England has to bear, could be radically lightened by on-site refineries that would produce at least 200,000 barrels per day of fuel oils and gasoline. This would result in savings of $236,000,000 in reduced petroleum product costs for New England consumers, businesses, utilities and industry combined, in a single year.

Those who would oppose a refinery, and in one case a local majority of only 32 votes defeated this possible economic benefit to the entire New England population, provide an impact that is disturbing. One wonders if such decisions by such small numbers that affect the lives of millions, is not a peculiar form of dictatorship that is contradictory of the democratic process. Some thought has to be given as to what is best for the common good, what affects the most people beneficially.

While it might seem narrow to say so, since it is their home and their lives that are affected, it is still hard to understand, how such small numbers of people can assume such dictatorial power over the economic needs of millions. While it may not be best to say so, eventually such actions are going to lead to a "Big Brother" dictum that will some day say that *this* must be located *here*. It is already in the cards, and we must consider that the common good cannot be negated or denied for too long, as the very institutions that allow for such denial will be jeopardized to their very foundations.

Now to the third premise, New England must have at least, one or possibly two, deepwater port facilities that will take the VLCCs (very large cargo carriers) and/or eventually the ULCCs (ultra-large cargo carriers). There is no port in the U.S. that can handle the super-tankers of today. These tankers can bring in vast supplies, that could provide for New England's needs for days. These ultra deepwater terminals must be erected, and since the New England economy is most dependent on this commodity, it stands to reason that New England should be the location. It is almost impossible to believe that the United States, with its massive industrial technology, that has placed men on the moon, has not yet constructed a port facility that can handle super-tankers.

Following drilling off the continental shelf, refineries and deepwater ports, comes the urgent need to increase deepwater terminal storage facilities so that New England will have on hand a 90-day supply of refined petroleum products. Indeed, there would be no panic at the beginning of any winter with a 90-day supply of heating oil on hand. Such facilities would provide an optimum situation, almost euphoric one for the New England consumer, and the region's industrial, heating and power generation. All existing deepwater terminals would be increased in size so they would proportionately share the burden of storing this 90-day supply, something which is now actively militated against by policies of the FEA that prevent inventory appreciation. The prohibition of inventory appreciation alone, has brought the erection of additional storage facilities in New England to a standstill. Something has to be done about it.

Now, added to off-shore drilling and crude production, refineries, superports for mammoth tankers, and increased deepwater terminal storage to provide a minimum of 90 day supply at peak use, we must then increase inland storage, (the fifth premise), by at least 35% to 40% with some designed uniformity as to locations. This would provide another 14 to 21 days supply.

Vast inland storage facilities would be erected throughout the six New England states at strategically located points through private or government financing or both. These modern inland storage facilities would be available to major oil companies and independents alike, as pickup points. This would complete the network of petroleum energy options for producing crude, refining it plus storage and bulk distribution.

It is possible that pipelines could be erected from the enlarged deepwater or offshore terminals to these large cooperative inland terminals, that would facilitate distribution as well as make it invisible. This would lessen the necessity for surface transportation. Added to this would be the inland storage facilities that now exist and are owned and operated by the independents or majors.

It is necessary, from our viewpoint, that starting with the deepwater offshore massive terminals and enlarged coastal deepwater terminals, that something must be done to provide independents permanent access to them. This must be an integral part of any planning or long term construction projects especially in view of the fact that at wholesale, independents distribute 40% of the No. 2 home heating oil, and 82% at retail. Further, 25% or slightly more of all of the residual oil is distributed throughout New

England by independents and 50% of the residual used by industry, is distributed by the same independents.

It is absolutely necessary to insure that a massive plan for crude production, refining, super-ports, terminal storage, (deepwater and inland alike), be conceived in a manner that will preserve the present distribution pattern so successfully maintained and operated by the independents over the past 35 years. Because of the vast amount of money required, the situation must be carefully observed so that full control would not fall into the hands of major oil companies who at present, are the only ones with financial resources to undertake such a vast security project for the region.

The FEA at this point should undertake to sponsor, in conjunction with private industry, (major oil companies and independents alike), measures as well as actual activities to begin to implement this plan:

(1). Off-shore crude production

(2). The erection of at least two refineries to produce the gasoline, distillate and residual oils needed

(3). The creation of deepwater ports or terminal capable of handling VLCCs and ULCCs

(4). The enlargement of existing deepwater terminal facilities to provide a storage capacity of 90 days for heating and residual oils.

(5). The increase of inland storage capacity by 35% to 40% to provide another 14 to 21 days of storage especially for No. 2 home heating oil.

(6). Assurance that the very successful, present method of massive fuel oil distribution by independents at wholesale and retail will be preserved.

Indeed, New England has no other major option for the coming twenty-five years, other than a petroleum energy option. Unless it opts to make that specific option a successful achievement, disruption and chaos will inevitably result from the continual decline of industry, power and production; a prospect that we cannot afford to face and one that those who vigorously oppose every single movement for increased petroleum facilities must understand. Mass compromises of a statesman—like nature, with sincere understanding, are absolutely necessary if New England is to proceed to stabilize its petroleum economy while it searches for alternative forms of energies. A search that should take at least twenty-five years before the transition is substantially initiated.

Mr. MUSKIE. Mr. President, I have decided reluctantly to vote against H.R. 8193, the Energy Transportation Security Act of 1974. This decision did not come easily. I understand and appreciate many of the merits of this legislation. In recent years, this country has passively stood by while other great maritime powers have greatly expanded their merchant marine. At the same time, we have allowed ourselves to become increasingly dependent on foreign sources of oil. The undesirable consequences of these two developments were never more apparent than during the recent petroleum embargo last winter when this country was virtually at the mercy of the Middle Eastern oil-producing countries for our fuel supplies.

I believe we must not let this situation repeat itself. I believe we must encourage and develop greater self-sufficiency in terms of our domestic energy sources. I believe we must take steps to expand our merchant marine and to increase maritime and maritime-related employment of U.S.—rather than foreign—nationals.

I also believe, though, that we must be concerned with the cost of expanding our domestic sources of energy and our energy transporting capabilities. And in regard to this legislation, after extensive study, I have concluded that enactment of this legislation would place an intolerable burden on the American consumer, especially those consumers in New England who import 92 percent of their oil needs.

A recent Federal Energy Administration study indicated that enactment of this legislation would cost American consumers between 0.3–1.0 cent per gallon for their oil imports. The New England Fuel Institute has estimated that this legislation, if passed, would cost the American consumer 2.3 cents per gallon, and would raise New England fuel costs by $77 million this winter.

I believe in this highly inflationary period the American consumer must not be forced to pay increased fuel prices. Hence, I have decided to vote against this legislation.

Mr. ROTH. Mr. President, I rise to express my firm opposition to the Energy Transportation Security Act of 1974. Passage of this bill will cost all Americans as consumers and taxpayers billions of dollars. It will add fuel to the fires of inflation at a time when we are seeking to stamp out inflation. It will not promote a strong American merchant marine, but encourage a weak and parasitic merchant marine, living off captive cargoes generated by our free enterprise system.

This bill requires a certain percentage of our oil imports to be transported in U.S.-built and registered tankers. At first blush, the bill looks good, but closer examination shows that there are many sound reasons to oppose it.

In the first place, passage will make oil more expensive, and the cost will have the greatest impact on States like Delaware which import a high proportion of their energy requirements. How much more expensive is anybody's guess. The Wall Street Journal has estimated that consumers will pay an extra $20 to $60 billion over the next decade. Why are the costs so high?

Because American shipping is expensive and because this bill will do away with competition, promoting inefficiencies that will make our shipping even more expensive and dependent upon subsidies. Moreover, this bill is going to induce a tremendous inflation in the shipbuilding industry, an industry which is already experiencing boom conditions as the result of the activity stimulated by the Merchant Marine Act of 1970.

Much is made in the committee report of the provision which will exempt a 15-cent national security fee from each barrel of oil imported in U.S. tankers. One should not be misled by this argument. That money would otherwise go into the U.S. Treasury and will have to be made up in increased taxes or financed by inflation. The point is that subsidies to the shipbuilding and shipping industries are not going to be free. They have got to come from somewhere, and if it is not from the American people as "consumers," then it will be from the American people as "taxpayers."

How else is this law going to cost the taxpayers? The least expensive way is the $3 million a year that we are going to spend on new bureaucrats and redtape just to administer it. In addition to this small beginning, we are going to be paying a billion dollars in subsidies for construction of tankers and for seamen's pay.

The shipping and shipbuilding industries are already well-endowed by the U.S. taxpayers. During the past 5 years $1.5 billion in subsidies have been paid out for construction of much-needed new ships. But passage of this bill will add to those subsidies at least an extra $800 million, even under the best assumptions. The committee report optimistically suggests that because foreign rates of inflation are higher than U.S. rates, the construction cost differentials will decrease and the subsidies will not need to be so high. I would not want to bet on it, especially if this kind of legislation, which will encourage very high rates of inflation in the shipbuilding industry, is passed.

But in addition to construction subsidies, there will also be additional subsidies for U.S. seamen. These subsidies are not minimal. As Senator COTTON points out in his minority views on this bill, the average unlicensed American seaman makes $26,000 a year of which the Government pays almost $19,000. The licensed merchant marine officer makes $53,000 of which the taxpayer provides more than $38,000.

Supporters of this legislation argue that it is needed in the interest of national security. What does the Department of Defense say about this argument?

It says the bill will "adversely affect the ready availability of tankers in times of tension and war" and that passage would be "inimical to the security of the United States."

How does this legislation fit in with Project Independence which is supposed to give us a capability for self-sufficiency in energy supplies? Not very well. In fact, it is just contrary to the spirit of Project Independence. It says that the United States should build a huge tanker fleet which will just be about ready in the early 1980's just when our importing requirement will begin to be drastically reduced. If we pass this legislation we are going to create a powerful vested interest in the continuation of energy dependence on foreign countries.

How is this legislation going to affect our foreign relations? It will violate 30 international treaties which we have signed for the very purpose of preventing such abuses of the free enterprise system as cargo preference legislation. In this game, the United States as a whole can only lose even if some special interests within the United States gain.

What kind of a precedent does this legislation establish for our Yankee trader traditions? A very bad precedent.

For the first time in our history, we will be restricting the right of private cargoes, owned by private U.S. interests, to choose the kind of transport they want. I am one of those who supported cargo preference legislation for Government cargoes, but I oppose tampering with the private enterprise system. What begins as cargo preference for oil may be expanded to include our agricultural exports or almost every other item traded by the United States.

Finally, I believe this legislation would be very damaging for the health of our merchant marine. I am very unhappy about the situation of our American merchant marine. Many of the vessels owned by American companies are registered under the flags of little countries like Liberia, Panama, and Honduras to avoid U.S. taxes and U.S. labor legislation. This is deplorable. I think we should take the steps we did in the Merchant Marine Act of 1970 to strengthen our domestic merchant marine. I would like to see sound legislation to end the use of so-called flags of convenience or necessity. But this legislation would be counterproductive to that purpose. It would only set aside a huge, protected market for American shipping, resulting in a weak and expensive merchant marine. The merchant marine would no longer be capable of competing for the world cargoes and would be a parasite on the overseas trading of the United States.

Mr. PEARSON. Mr. President, I am opposed to Senate passage of H.R. 8193, the so-called Energy Transportation Security Act of 1974.

In minority views which accompany the report of our Committee on Commerce, I have outlined the principal objections to this bill. H.R. 8193 provides no meaningful improvement in our national security posture; indeed, this legislation would institutionalize the current dependence of the United States upon foreign petroleum products by launching a massive new capital investment program to construct tankers to transport crude oil and refined petroleum products to our shores. The investment in these ships, obviously, would be a basis for rationalizing continued, massive oil imports at a time when our resources should be concentrated upon expanding domestic production.

Because H.R. 8193 cannot insure a supply of foreign oil to our economy in the face of boycotts by the producing nations, the obviously inflationary effect of its mandatory provisions cannot be balanced against an overriding national security need. It is impossible to determine how much it will cost American consumers of petroleum products to require the carriage of up to 30 percent of our imports on U.S.-flag vessels. We only know that the cost will be substantial. It is irrefutably established that ocean freight rates for transportation of agricultural commodities on U.S.-flag vessels averaged 250 percent greater than rates for comparable transportation on foreign-flag vessels between 1968 and 1972. Because there is every reason to believe that a substantial disparity in rates will be maintained in the future, particularly under conditions of cargo preference to U.S.-flag vessels, the cost to the consumer of this bill potentially is enormous.

The bill would commit the taxpayers to a multi-billion dollar construction program, commit the economy to reliance upon foreign sources of crude and refined products, and require the consumer to absorb the higher transportation cost levied by shipping companies who, because of their guaranteed share of the market, have no incentive to be competitive with their foreign-flag counterparts.

Mr. President, the principal proponents of this legislation, that is the shipping companies and the seafaring unions, have admitted in cross-examination that it establishes a precedent to which they intend to look for further legislation in the future. If a cargo preference to U.S.-flag vessels is justifiable in the case of petroleum products, then it must be equally appropriate in the case of other maritime traffic.

H.R. 8193 for the first time extends by statute a cargo preference for ocean transportation of commercial cargoes. The Congress in the past has limited this concept to Government-owned and Government-financed cargoes. This bill opens the door to a pattern of legislation which would constitute a massive and unwarranted intrusion into the decision-making process of importers and exporters in the private sector. If H.R. 8193 is enacted, it will be inflationary with respect to energy costs in America. The precedent established by this bill, if extended to other classes of trade, will generate a new wave of inflation which will exacerbate the double digit inflation situation to which the American economy is subjected at this time.

Mr. President, the American agricultural community is deeply concerned over the prospect of congressional approval of this legislation. I will try to identify the several reasons for strong feelings agains thte provisions of H.R. 8193 as well as the precedent which it would establish.

First, agricultural production, processing and distribution consume approximately 15 percent of the total daily use of petroleum products in this country. If, for example, the cargo preference requirement were to add 50 cents per barrel to the cost of imported petroleum products, the total increased cost of fuel to the agricultural business community would be approximately $175 million per year. This cost would burden the farmer, and of equal concern, it would inflate the cost of food to the consumer.

Second, American agriculture is crippled by the short supply of rod steel, sheet steel, and other such products. These shortages directly contribute to reduced farm production. The effect of H.R. 8193 will simply be to divert the short supply of steel products to unneeded tanker construction at the expense of agriculture and other sectors of the economy.

Third, this cargo preference bill clearly establishes a precedent which proponents hope to extend to our enormously important and substantial trade in farm commodities. The cargo preference attached to Public Law 480 shipments has been tolerable to agriculture only because the taxpayers have been willing to pay the higher freight rates on U.S.-flag vessels. I have already observed that these rates over the past 5 years have averaged 250 percent higher than foreign-flag rates for comparable services. But if cargo preferences were attached to commercial sales of commodities, the American farmer and grain exporter would be at an insurmountable competitive disadvantage. As a practical matter, the granaries in Canada, Australia, the European Community, Argentina, Brazil and other exporting countries would be emptied before U.S. products subject to the preference could be sold on the world market. The viability of our agricultural economy, the U.S. balance-of-payments position, and the strength of the dollar itself depend upon continued access to export markets for commodities and the specter of this cargo preference precedent casts a long shadow over rural America, and the advantages in international commerce which derive from the productivity of our agricultural base.

Fourth, American farmers through their cooperatives have undertaken to operate refineries which, in the aggregate, supply about 30 percent of agriculture's on-farm fuel. Only two farmer cooperatives operating refineries would fall into the "independent refiner" category as defined in the Senate bill. Most independent refiners, as defined, operate inland facilities which cannot economically utilize foreign crude on a direct import basis.

Mr. President, American farmer cooperatives have recently undertaken a bold anti-inflation initiative. They propose to barter agricultural products in exchange for crude oil with oil exporting nations. It is entirely possible that this cargo preference bill will introduce cost factors which will make the goals of the barter program unobtainable and deny our farmers the benefits which such a program would obviously entail.

Mr. President, the U.S. Department of Agriculture has characterized H.R. 8193 as "disastrous for farmers." The National Association of Wheat Growers shares this view, and stresses the increased cost in the production, processing, and distribution of food products. The American Farm Bureau Federation and the National Grange have articulated comparable views. The National Council of Farmers Cooperatives is unequivocal in its opposition to this legislation for all of the reasons which I have outlined in this statement.

Mr. President, I share the view of Agriculture Secretary Earl Butz when, on July 29, he said:

> The defeat of H.R. 8193 would be a valuable service to American agriculture.

I would simply observe that the defeat of this legislation would not only benefit American agriculture, but the entire American economy and the more than 210 million Americans who together consume, directly or indirectly, petroleum products which in the years immediately ahead will continue to be supplied by foreign producers.

Mr. President, I trust the Senate will recognize this bill for what it is: a special interest, inflationary, anticompetitive proposal unrelated to the real national security interest, which, if enacted, will establish a precedent that will burden the American economy for decades.

Mr. BROOKE. Mr. President, I have given H.R. 8193 a good deal of long, hard thought. And it is my reluctant conclusion that it does not merit the support of the Senate.

I say this for several reasons.

First, I am concerned that this measure would further aggravate our No. 1

economic problem—inflation—just at a time when Americans are looking to us for leadership in coping with it.

Second, the measure perpetuates our dependency on imported oil at a time when it is the expressed policy of both the administration and the Congress to reduce, and ultimately perhaps eliminate, this dependency.

Third, from a regional standpoint, the bill will mean higher oil prices for the New England consumer. Imported oil is at this time the lifeblood of our region—meeting nearly half our oil needs. With the enormous price increases sustained by our region over the last 12 months, New Englanders are pressed to the limit. To further exacerbate this situation would be cruel and discriminating.

Fourth, the arguments pertaining to the marine environment are far from compelling. Indeed, Mr. Brock Evans of the Sierra Club has informed me that this bill is not the proper vehicle for such efforts and that more suitable legislation already exists. I will submit a copy of my correspondence with him and his reply into the Record at the conclusion of my remarks.

While listing my objections to the bill, it should be clear that I am in sympathy with many of the goals of this bill. As an enthusiastic supporter of the Merchant Marine Act of 1970, I have long believed that the Federal Government should take those steps necessary to rejuvenate our merchant marine fleet. Such action could only be in our best interests. But clearly the way to achieve this objective is by utilizing the many provisions of the 1970 act. The fact that shipyards are now operating at full capacity is an indication that this course is being followed.

Adding to the difficulty of my decision is the fact that the Boston Navy Shipyards, recently closed by the Department of Defense, is now open to possible arrangements whereby private shipbuilders could utilize these extensive facilities. Passage of this bill today would admittedly secure a great deal of work for these private concerns. But I believe that such work can be obtained through the 1970 act. There are currently $6.5 billion worth of contracts waiting to be acted upon. There is no reason why some of this work cannot be done in Boston. Now, of course, the ships that we would build might not be tankers, but the point is not what kind of ships are to be built in Boston but that ships are built. I think there will be plenty of work to be done in the new shipyard and I look forward to helping shipbuilders secure that work.

In the end then it is the cost of this legislation to the ultimate consumer that prohibits me from lending my support to it. Estimates put forth by both ardent proponents and opponents of this measure have differed widely. The oil companies argue that the cost will come to nearly $60 billion by 1985, a figure I find difficult to believe. At the same time I cannot accept the proponents' argument that there will be a real savings of 68 cents per barrel. This estimate is based on very elusive data such as increased employment, increased taxes, and balance-of-payment benefits.

Furthermore, as Senator Pearson has said, their estimates ignore the history of maritime rates and the traditional inflationary effects of restraining competition in transportation.

I think more realistic price estimates have been provided by the Federal Energy Administration and the New England Fuel Institute, an organization which represents New England's independent heating oil distributors. FEA's estimate of increased transportation costs runs between 0.3 and 1 cent per barrel. NEFI's estimate is even more alarming. Says Charles Burkhardt, NEFI's executive vice president:

> New England home heating oil consumers will have the price of the 30 percent of No. 2 oil that is imported increased by 2.3 cents per gallon. This will increase the home heating oil bill of the 2.4 million heating oil consumers by $27,600,000 for the coming winter.
>
> Residual heating oil costs will increase by more than $50,000,000 through the next year. Since one half of the residual oil is used by New England utilities and one half by regional industry, costs to overall New England consumers for energy and industry products and services would rise by another $50,000,000.
>
> The passage of this act would add over $77,000,000 to the bills that New England consumers will pay for heating oil, energy, industry services, and products.

It is then with reluctance that I am forced to oppose passage of H.R. 8193. This is, I think, the right thing to do for this Nation in these very difficult times. And I would hope that a majority of my colleagues would agree.

Mr. President, I ask unanimous consent that a memorandum from the New England Economic Research Office which clearly details the impact of this legislation on New England be printed in the Record at this time, along with Mr. Burkhardt's telegram and my letter to Mr. Evans and his response.

There being no objection, the material was ordered to be printed in the Record, as follows:

Oil Cargo Preference Legislation, H.R. 8193

SUMMARY

Oil Cargo Preference Legislation (H.R. 8193) extends Federal Cargo Preference requirements for the first time to privately-owned commercial cargoes by requiring that 30 percent of U.S. oil and oil products imports be carried in U.S. ships by 1977.

The legislation raises broad questions of principle involving our relations with our allies and it will be costly for New England consumers.

The burdens of this legislation will hit New England disproportionately by reason of its heavy dependence on oil. In 1973, New England imported approximately 200 million barrels of oil. This is almost 50% of its oil needs. By comparison the country as a whole imported less than 20% of its needs.

No other region in the country is so dependent upon oil or oil imports and it is unlikely that New England's dependence on oil will diminish in the near future. Unfortunately this legislation could lead to price increases not only for imported oil and products but for domestically produced oil shipped to New England by raising tanker rates on the Gulf to East Coast route. As in the past with the Oil Import Program, additional energy costs as a result of national policy will fall disproportionately on the region.

COSTS OF THE LEGISLATION

There are many arguments about the dollars-and-cents cost of this legislation to American consumers. The estimates depend to a large extent upon the underlying assumptions. Certainly all are highly speculative. The Senate Commerce Committee was willing to conclude "that no cost increase should result", (p. 12) yet there are indications that direct costs and costs resulting from uneconomic dislocations and uneconomic allocations of resources could be significant.

DO AMERICAN SHIPYARDS NEED WORK?

American shipyards including those in New England are already experiencing a record peacetime shipbuilding boom. There is currently a backlog of orders valued at more than $6.5 billion; thirty tankers have been ordered, including nine VLCC's; there are one hundred and four subsidy applications presently pending for additional tanker contracts. This activity has been stimulated by the Merchant Marine Act of 1970, and it suggests that there is no need to guarantee cargoes to stimulate tanker construction. Additional stimulus to tanker construction can only inflate tanker building costs. In addition it will pull scarce materials like steel into a totally uneconomic enterprise, and higher tanker construction costs would increase the gap between U.S. and Foreign Flagship tanker rates, which are falling.

TANKER SURPLUS BY 1980

This legislation should also be considered in light of the almost universal expectation that there will be a significant world tanker *surplus* by 1980. In fact there is already a major surplus of VLCC's. Current VLCC rates are *less than one eighth* of their level last September. There are already many VLCC's sitting idly in foreign ports waiting for the cargo rates to go up. Experts expect this tanker surplus to increase to eventually include even the smaller "handy-size" tankers which the U.S. depends upon for virtually all of its imports. Higher oil prices, Conservation, North Sea development and "Project Independence" will increase the tanker surplus by reducing (relative to earlier projections) demands for oil. It seems unwise from the New England consumer's standpoint to pass legislation which would not only add to this tanker surplus, but would also significantly reduce New England's ability to take advantage of lowered world tanker rates.

FALLING FOREIGN TANKER PRICES

Attached is a chart of monthly tanker price movements comparing American and foreign flagship tanker rates. The two trade routes are not identical, but they provide a useful indication of the relationship between U.S. and foreign tanker prices. As required by the Jones Act, all of the domestic oil carried from the Gulf coast is carried on U.S. flagships. The Caribbean to Atlantic Coast (which includes Venezuela) route is of particular interest to New England since it is the greatest source of foreign oil to New England. This route uses almost exclusively foreign flagships.

This chart demonstrates three significant relationships between U.S. and foreign rates. First, it suggests the extent to which U.S. flagships are more expensive. Although the two routes are of approximately the same length, the American tankers averaged 40% more per ton during 1973 and have averaged more than 100% more during 1974. Again, these two routes are not identical, but they are comparable. This is a clear indication of the way in which Cargo Preference restrictions introduce costly (to the consumer) noncompetitive forces into the market.

A second relationship which this chart indicates is the declining world tanker prices over the last eight months. The average tanker rate in April, 1974 was only 37% of their peak level last October. (Although monthly averages are not yet available for May and June, spot tanker prices indicate that they have not gone back up.) These declining prices for new tanker contracts support the general expectation that tanker rates are going to continue to decline as the world tanker surplus grows. This legislation would prevent New England from taking full advantage of these declining rates.

Third, in contrast to the decline in foreign tanker rates, there has been no significant similar decrease in American tanker rates over the same period. With a "captive" market for U.S. tankers on the Gulf Coast route, rates are less competitive, and the American consumer pays added costs. It is difficult to argue . . . although it has been done . . . that similar high costs would not result if a separate market were established for 20 or 30% of all imports.

15 CENTS OIL IMPORT FEE WAIVER

The Senate Commerce Committee has added a 15c per barrel oil import fee waiver for U.S. flag tankers in recognition of the powerful argument that this legislation does entail potential cost increases to the consumer. What this 15¢ waiver does is take money from the Treasury (about $200 million per year by 1980) to reassure those concerned about the price impact of the legislation. It is a new type of Merchant Marine subsidy by taxpayers rather than consumers.

POTENTIAL COSTS GREATER THAN ESTIMATED

The exact costs of this legislation are difficult to quantify although many have tried to do so. However an illustrative example will serve to show the potential magnitudes involved. The U.S. Atlantic coast imported 572 million barrels (104 million tons) of oil from the Caribbean in 1973 representing approximately 40% of its total imports. The present oil tanker rate difference between U.S. and foreign flagship tankers along the approximately comparable Gulf and Caribbean routes is about $.72 per barrel ($4.00 per ton). If this legislation were to be in effect requiring that 30% of this oil be imported on U.S. flagships, this oil alone would have cost an additional $123 million to the Atlantic Coast States. Even subtracting the oil import fees at 15¢ per barrel, ($25 million which would be lost from the Treasury) the cost increase would still be on the order of $97 million. And this estimate is based on the current price differential, which is likely to be an inaccurate indicator of future price differences, and covers only about 40 per cent of our imports, and those from the nearest source.

$97 million is a major cost difference to be made up by the speculative benefits to be derived from improvements in shipyard unemployment, balance of payments and increased taxes on big oil corporations.

CONCLUSION

There is a great deal of uncertainty involved in all of the cost estimates that have been made. What signs there are seem to indiacte that there are significant costs involved. This legislation is likely to have a major inflationary effect on U.S. tanker prices, and would add to the likelihood of a major world tanker surplus in the years to come. It would also significantly reduce our ability to take advantage of lower competitive world tanker rates. The beneficial objectives of this bill could be better achieved in other

MONTHLY TANKER PRICE MOVEMENTS[1]

	American flag—U.S. Gulf to U.S. Atlantic coast[2]		Foreign flag—Caribbean to U.S. Atlantic coast[3]	
	ATRS[4] index	Price, ton of oil	World-scale[5] index	Price, ton of oil
1973:				
January	+81.0	$5.16	131.0	$2.67
February	+42.5	4.06	146.0	2.98
March	+75.0	4.98	155.0	3.16
April	+35.0	3.85	153.0	3.12
May	+48.0	4.22	180.0	3.67
June	+116.0	6.16	289.4	5.90
July	+192.5	8.34	312.7	6.36
August	+95.0	5.56	285.0	5.81
September	+185.0	8.13	307.0	6.27
October	−206.0	8.56	402.0	8.16
November	(6)	(6)	269.5	5.50
December	+135.0	6.70	181.0	3.69
1974:				
January	+151.5	7.17	180.0	3.76
February	+178.0	7.92	166.8	3.49
March	+200.0	8.55	175.0	3.65
April	+163.0	7.50	147.5	3.08

[1] Source: C. D. Mallory Co., a New York brokerage firm.

[2] Based on trade route from Port Arthur, Tex., to New York, 1,835 mi.

[3] Based on trade route from Aruba, Netherland Antilles to New York, 1,763 mi.

[4] American tanker rate schedule, the price index used by U.S. flagships. Roughly equivalent to Worldscale index if 100 is added.

[5] Price index used by most foreign flagships.

[6] No tanker rates reported for November.

TELEGRAM

BOSTON, MASS.

Hon. EDWARD W. BROOKE,
421 Old Senate Office Building, Washington, D.C.:

The New England Fuel Institute and its 1,300 independent wholesale and retail heating oil distributors on behalf of the 2.4 million heating oil consumers throughout New England wish to protest vigorously and vehemently the rape of the retail heating oil market throughout New England that will be perpetrated by Senate passage of the Energy Transportation Security Act of 1974, H.R. 8193. The requirement that 30 percent of all oil imports be carried on U.S.-flag vessels will overtax to the utmost the capacity of the American registered tanker fleet just at a time when a world surplus of tanker capacity is becoming available. The passage of this act would create in a very short time, a shortage of U.S. registered tanker capacity that would be artificial and most costly to the New England consumer.

New England home heating oil consumers will have the price of the 30 percent of No. 2 oil that is imported increased by 2.3 cents per gallon. This will increase the home heating oil bill of the 2.4 million heating oil consumers by $27,600,000 for the coming winter.

Residual heating oil costs will increase by more than $50,000,000 through the next year. Since one half of the residual oil is used by New England utilities and one half by regional industry, costs to overall New England consumers for energy and industry products and services would rise by another $50,000,000.

The passage of this act would add over $77,000,000 to the bills that New England consumers will pay for heating oil, energy, industry services and products. We know, that as a Senator representing New England, you would not and could not countenance this. Not only would it add substantially to inflation but the shortage of American shipping to carry the required percentage of petroleum products would rapidly have an escalating and further inflationary impact on shipping costs. This $77,000,000 would only be the beginning. NEFI urgently requests that you protect New England energy consumers by voting against the Energy Transportation Security Act of 1974, H.R. 8193, now before the Senate.

CHARLES H. BURKHARDT,
Executive Vice President,
New England Fuel Institute.

JUNE 21, 1974.

Mr. BROCK EVANS,
Sierra Club,
Washington, D.C.

DEAR MR. EVANS: In the very near future the Senate will be considering S. 2089, a bill which would require that 30 percent of our imported oil be transported in vessels flying the American flag.

In the past I have opposed such a measure because of its impact on imported oil prices. However, in light of the very interesting articles on supertankers in the May 13 and May 20 issues of the *New Yorker*, I think the matter should at least be examined from a possible environmental point of view. As you will recall, the articles claim that a large portion of tanker accidents and oil spillage involve ships flying "flags of convenience." Such ships seem almost oblivious to the problems of ocean pollution. On the other hand, American vessels are reportedly subject to very stringent regulations. Could it be then that this measure offers the United States the chance to make a significant contribution to reducing ocean pollution?

I know you must be terribly busy, and I therefore doubly appreciate any thoughts you might have on this matter.

With every best wish, I am,

Sincerely,

EDWARD W. BROOKE.

SIERRA CLUB,
Washington, D.C., July 10, 1974.

Hon. EDWARD W. BROOKE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BROOKE: Thank you for writing and requesting our comments on S. 2089, a bill which would require that 30% of our imported oil be transported in vessels flying the American flag.

While you correctly point out that a recurring problem with oil spills involves ships flying "flags of convenience," and that no doubt American vessels are better built and subject to stringent regulations, we frankly do not think that this bill offers any meaningful solution to the problem.

However, we suggest that there are better solutions yet than passing a bill like this. The Ports and Waterways Safety Act of 1972 provides that the Coast Guard can set regulations for all vessels entering American ports whether foreign or American. The Coast Guard, under the authority of this Act, could if it wanted to, require standards of foreign vessels which would bring them up to the level of American vessels. This is one prime method of protecting against oil spills that we see as immediately feasible.

Another method would be to make the owner of the oil liable for damage by requiring unlimited liability on the part of the owners of the oil for any oil spilled. We can think of no more certain method of insuring that the utmost precautions would be taken by the oil companies under such circumstances to guarantee that any vessels carrying their oil would be designed with the maximum possible safety standards.

The net effect of this legislation will be to subsidize the American ship building industry to what will amount to billions of dollars which will be paid by American consumers. If environmental protection is the aim then environmental regulations are the answer, not destroying free market economics with subsidies in environmental trappings. The result of destroying the free market in ship building will mean higher oil prices to the American consumer, especially in places such as the New England states where nearly all the oil consumed is imported.

It is true that, if passed, it would require at least 30% of oil to be transported in American, and therefore "allegedly safer," vessels. We wonder however what the basis for selecting the 30% figure was. Why wasn't it 35% or 47% or 100%? It seems to us that if oil spills are a problem, which everybody acknowledges, that we should talk in terms of more meaningful figures which would solve the problem—if this is to be viewed as the solution.

Thank you for your interest in exploring methods to give better protection against the oil spills which we all know are going to come, under current circumstances.

Very truly yours,

Brock Evans,
Director, Washington Office.

Mr. DOLE. Mr. President, much of the legislation we have considered during this second session of the 93d Congress has been closely related to the energy crisis. H.R. 8193 is certainly within this area of concern, and its passage is essential if we are indeed to become independent with regard to energy resources.

EXPAND MARITIME FLEET

The Merchant Marine Act of 1970 went a long way toward assisting in the establishment of an American maritime fleet. That act's provisions for construction differentials and operation differential subsidy payments have been a big stimulus to the domestic shipping industry. The House has passed a bill extending the act, and the commerce committee expects to report the measure in the near future. Meanwhile, the recent commerce appropriations bill contained adequate authorizations to continue these subsidies.

To insure and further stimulate the continued growth of this U.S. maritime fleet, we need the legislation under consideration today. The requirement in the bill for the use of 20 percent U.S.-flag vessels, increasing to 30 percent by June 30, 1977, will provide the assurance necessary for the proper and efficient operation of our fleet.

RELIANCE ON FOREIGN VESSELS

The whole problem of over-reliance on foreign vessels really manifested itself in dramatic fashion back in the early 1960's when we sold wheat to Russia under the stipulation that 50 percent of it be transported on American bottoms. We ran into difficulty in obtaining enough vessels to complete the shipment, and ended up diverting U.S. flagships that had previously been designated for Public Law 480, or food for peace, usage.

That valuable human assistance program, then, suffered as a direct result of our insufficiency of cargo vessels to meet established commitments. Unless by this legislation we facilitate the construction of more ships to augment our present fleet, the same thing could conceivably happen with respect to oil. And we already know from our experience this past year that whether it be the petroleum itself—or the vessels to ship it—we do not want to be in a position where we have to rely on foreign Governments.

IMPLICATIONS ON AGRICULTURE

Of great concern to me and my State of Kansas are the agricultural implications of this legislation. While there are always certain doubts about the actual long-range effects of any new proposals such as those of the Energy Transportation Security Act, I am convinced that both the farmer and consumers in general will benefit from this bill.

One of the principal reasons for such a conclusion is that the required pass-through of savings from waiver of the 15-cents-per-barrel import license fee should result in reduced costs of incoming foreign crude oil. Moreover, the primary rate for the vessels themselves will be for oil imports, meaning that back-haul rates will be minimal—covering only the costs and thereby creating a big incentive for agriculture exports.

ENERGY INDEPENDENCE

Mr. President, I am pleased to support this legislation, for it demonstrates our sincere desire to become independent and competitive in worldwide commerce and energy resources. Enactment of H.R. 8193 can represent a major step forward toward true energy independence, and I urge my colleagues to join me in pursuing that goal.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. COTTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. All time has been yielded back. The bill having been read a third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BAKER (when his name was called). On this vote I have a pair with the distinguished Senator from Kentucky (Mr. Cook). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

Mr. STAFFORD (when his name was called). On this vote I have a pair with the Senator from Oregon (Mr. Packwood). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

Mr. HUDDLESTON (when his name was called). On this vote I have a pair with the Senator from Minnesota (Mr. Humphrey). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the Senator from Indiana (Mr. Hartke). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withdraw my vote.

Mr. HATFIELD (after having voted in the affirmative). On this vote I have a pair with the Senator from North Dakota (Mr. Young). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from North Dakota (Mr. Burdick), the Senator from Idaho (Mr. Church), the Senator from Wyoming (Mr. McGee), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), and the Senator from Illinois (Mr. Stevenson) are necessarily absent.

I further announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Indiana (Mr. Hartke), and the Senator from Minnesota (Mr. Humphrey) are absent on official business.

I also announce that the Senator from California (Mr. Tunney) is absent because of hospitalization due to minor surgery.

On this vote, the Senator from Illinois (Mr. Stevenson) is paired with the Senator from North Dakota (Mr. Burdick). If present and voting, the Senator from Illinois would vote "yea" and the Senator from North Dakota would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bartlett), the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kentucky (Mr. Cook), the Senator from Nebraska (Mr. Curtis), the Senator from Arizona (Mr. Fannin), the Senator from Wyoming (Mr. Hansen), the Senator from Idaho (Mr. McClure), the Senator from Oregon (Mr. Packwood), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I also announce that the Senator from Colorado (Mr. Dominick), the Senator from Hawaii (Mr. Fong), the Senator from Illinois (Mr. Percy), and the Senator from Texas (Mr. Tower) are absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. Percy), would vote "nay."

The result was announced—yeas 42, nays 28, as follows:

[No. 385 Leg.]

YEAS—42

Abourezk
Allen
Bayh
Beall
Bentsen
Bible
Biden
Byrd, Robert C.
Cannon
Case
Cranston
Dole
Domenici
Eagleton
Ervin
Gravel
Hart
Haskell
Hathaway
Hollings
Hughes
Inouye
Jackson
Johnston
Long
Magnuson
Mathias
McGovern
Metzenbaum
Montoya
Moss
Nunn
Pell
Randolph
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stevens
Symington
Talmadge
Williams

NAYS—28

Aiken
Bennett
Brooke
Byrd, Harry F., Jr.
Chiles
Clark
Cotton
Eastland
Goldwater
Griffin
Gurney
Helms
Hruska
Javits
Kennedy
McClellan
McIntyre
Muskie
Nelson
Pastore
Pearson
Proxmire
Ribicoff
Roth
Stennis
Taft
Thurmond
Weicker

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—5

Baker, against
Stafford, against
Huddleston, against
Mansfield, against
Hatfield, for

NOT VOTING—25

Bartlett
Bellmon
Brock
Buckley
Burdick
Church
Cook
Curtis
Dominick
Fannin
Fong
Fulbright
Hansen
Hartke
Humphrey
McClure
McGee
Metcalf
Mondale
Packwood
Percy
Stevenson
Tower
Tunney
Young

So the bill (H.R. 8193) was passed.

Mr. LONG. Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

That this Act may be cited as the "Energy Transportation Security Act of 1974".

Sec. 2. Section 901 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1241), is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary of Commerce shall take such steps as are necessary to assure that a quantity equal to 20 per centum of the gross tonnage of all oil transported on ocean vessels (whether transported directly from the original point of production or indirectly from such point to and from any intermediate points used for storage, refining, processing, packaging, unloading, or reloading of oil) for import into the United States shall be transported on privately owned United States-flag commercial vessels (to the extent that such vessels are available at fair and reasonable rates for such vessels), and to insure fair and reasonable participation of such vessels in such transportation from all geographical areas in which such oil is produced or refined or both. With respect to any period beginning after June 30, 1975, the quantity of such oil required to be transported on privately owned United States-flag commercial vessels shall be equal to 25 per centum of the gross tonnage of all oil transported on ocean vessels for import into the United States, and for any period beginning after June 30, 1977, such quantity shall be equal to 30 per centum of such gross tonnage: *Provided*, That (1) the Secretary of Commerce finds and determines 6 months prior thereto, in the exercise of his sole discretion, that the tonnage of privately owned United States-flag commercial vessels, including vessels on order and scheduled to be ready for commercial service by such date, will be adequate to carry such quantity; and (2) in the event that such tonnage is not found to be adequate to carry such quantity, there shall be carried on such vessels the basic 20 per centum requirement together with any excess over such requirement, but not to exceed the applicable per centum requirement, for which such Secretary finds that adequate tonnage will be available.

"(2) The Secretary of Commerce may by rule establish a system of reasonable classification of persons and imports subject to the provisions of this subsection, and such Secretary shall treat all persons in the same such classification in substantially the same manner. If any person alleges (A) that he has been incorrectly classified under any such rule; (B) that there is no reasonable basis in fact for any such classification; or (C) that as a consequence of any agency action, he is or may be treated substantially differently from any other person in the same classification, such person may request, and, upon a reasonable showing, obtain, a hearing in accordance with section 554 of title 5, United States Code. Upon an agency decision, such person may request judicial review in the United States Court of Appeals for the District of Columbia. The scope of such review shall be governed by section 706 of title 5, United States Code.

"(3) The Secretary of Commerce is authorized to grant credits toward the fulfillment of the requirements of paragraph (1) of this subsection in the case of oil transported by privately owned United States-flag commercial vessels, over 100,000 deadweight tons, between foreign ports until such time as an oil discharge facility, capable of discharging fully laden vessels of over 200,000 deadweight tons, is in operation on any coast of the United States: *Provided*, That the Secretary of Commerce shall take all reasonable steps to assure that the authority provided in this paragraph not encourage, directly or indirectly, the construction, operation, or maintenance of a fleet of privately owned United States-flag commercial vessels different in numbers, types, or sizes than the fleet that would otherwise result.

"(4) As used in this subsection—

"(A) 'oil' means crude oil and the following products refined or derived from crude oil: unfinished fuels, gasoline, kerosene, aviation fuels, naphtha, cracking stocks, distillate heating oil, diesel oil, and residual oils;

"(B) 'privately owned United States-flag commercial vessels' are vessels of United States registry (or if at any time documented under the laws of any foreign nation, then documented under the laws of the United States for not less than the three previous years), built in the United States, which are not more than 20 years old or which have been reconstructed and are not beyond their economic lives (as determined by the Secretary of Commerce), and with respect to which the owner or lessee thereof has entered into a capital construction fund agreement with such Secretary pursuant to which such vessel shall be replaced at the end of its 20 year life, or at the end of its extended economic life in case of reconstruction, and such agreement includes a mandatory deposit schedule to finance such replacement: *Provided*, That any such vessel in excess of 20,000 deadweight tons, the construction of which is contracted for after December 31, 1974, or the delivery of which is made after December 31, 1978, shall be constructed and operated using the best available pollution prevention technology, and shall be equipped with a segregated ballast capacity determined appropriate by the Secretary of Transportation which shall be achieved in part by fitting, throughout the cargo length, a double bottom of a minimum height of one-fifteenth of the beam or such other appropriate height as determined by the Secretary of Transportation; and

"(C) 'United States' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico.

"(5) Each department, agency, or other instrumentality of the United States which is affected by any obligation imposed under this subsection, and any officer or employee thereof, shall take all appropriate action to assure compliance with such obligation and with regulations which shall be issued by the Secretary of Commerce to implement and enforce the provisions of this subsection. Each citizen of the United States and each person subject to the jurisdiction of the United States shall comply with such obligation and any applicable regulations issued by such Secretary under this subsection.

"(6) The Secretary of Commerce shall review, evaluate, and report annually to the Congress and the President on the implementation of the provisions of this subsection and the effectiveness of such provisions together with his recommendations concerning such requirements. Each such report shall include, but not be limited to, a study of (1) the adequacy and availability of construction and reconstruction facilities in the United States for the vessels needed to meet the provisions of paragraph (1) of this subsection, and (2) the reasonableness of the prices charged and delivery dates for the construction and reconstruction of such vessels.

"(7) The requirements of paragraph (1) may be waived by the President upon determining that an emergency exists justifying a temporary waiver of such requirements. Any such waiver shall not exceed 180 days unless authorized by law."

Sec. 3. The provisions of this Act shall not apply to any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with such refiner) does not exceed 30,000 barrels per day: *Provided*, That the total quantity of such oil imported by or for such refiner does not in any year exceed the rated refining capacity of such refiner.

Sec. 4. License fees payable pursuant to Presidential proclamation for imports of oil imported into the United States shall be reduced by 15 cents per barrel of oil other than residual fuel oil and shall be reduced by 42 cents per barrel for residual fuel oil for a period of 5 years from the date of enactment of this Act if the Secretary of the Treasury determines—

(a) such oil is transported by privately owned United States-flag commercial vessels; and

(b) the amount resulting from the nonpayment of such license fees is passed on to the ultimate consumers of such oil in whatever form it is when ultimately consumed.

Sec. 5. Section 809 of the Merchant Marine Act, 1936 (46 U.S.C. 1213), is amended to read as follows: "Contracts under this chapter shall be entered into so as to equitably serve, insofar as possible, the foreign-trade requirements of the Atlantic, Gulf, Great Lakes, and Pacific ports of the United States. In order to assure equitable treatment for such range of ports referred to in the preceding sentence, not less than 10 per centum of the funds appropriated or otherwise made available for the foreign-trade requirements of the United States pursuant to this Act or any law authorizing funds for the purposes of such Act shall be allocated for the foreign-trade requirements of each such port range. Furthermore, in awarding contracts under this chapter, preference shall be given to persons who are citizens of the United States and who have the support, financial and otherwise, of the domestic communities primarily interested.".

Sec. 6. Section 8 of the Act of June 19, 1886 (24 Stat. 81; 46 U.S.C. 289), is amended by inserting at the end thereof the following: "Nothing in this section shall prohibit a foreign vessel from stopping at a port or place in the United States and temporarily disembarking passengers for a period not exceeding forty-eight hours, or such longer period as the Secretary of the Treasury may determine necessary for the safety of such ship or passengers.".

Sec. 7. The same safety and pollution prevention requirements and standards shall be applicable to all privately-owned United States-flag commercial vessels employed in the transportation of oil either in the foreign commerce of the United States or between ports of the United States.

Amend the title so as to read: "An Act to regulate commerce and strengthen national security by requiring that a percentage of the oil imported into the United States be transported on United States-flag vessels.".

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The title of the bill will be appropriately amended.

The title was amended so as to read: "An act to regulate commerce and strengthen national security by requiring that a percentage of the oil imported into the United States be transported on U.S.-flag vessels."

Mr. LONG. I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Magnuson, Mr. Long, Mr. Hollings, Mr. Inouye, Mr. Cotton, Mr. Pearson, and Mr. Griffin conferees on the part of the Senate.

Mr. MANSFIELD. Mr. President, the

expeditious handling of this highly controversial measure may be attributed to the cooperative efforts of the two Senators who have most ably represented opposing views on the measure.

As a proponent of the merits of the measure, the competent and distinguished Senator from Louisiana (Mr. Long) most expertly presented the arguments favorable to the position of those who supported the bill, H.R. 8193. Senator Long is unsurpassed in presenting extremely complex legislation to the Senate in a succinct manner. He also is adept at working in a harmonious manner with those who oppose his views in an effort to reach a position that would be acceptable to all involved. We are indebted to Senator Long once again for assuring that this very important piece of legislation was given due consideration and thorough discussion on the Senate floor.

Presenting equally as strongly held and deeply felt views on this measure was the Senator from New Hampshire, Senator Cotton. His clear and detailed advocacy of his views were of help to all of us in understanding the ramifications of the measure. As always, when dealing with a measure so highly controversial, Senator Cotton approached the debate with a reasoned and rational explanation of his understanding and feelings about the bill. The Senate is most appreciative to Senator Cotton for his willingness to talk and consult and debate and work with others who held views opposed to his. We are in his debt for aiding the expeditious and thorough disposition of this vitally important, highly controversial legislation.

All Senators are to be commended for their cooperation.

COPYRIGHT LAW REVISION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of S. 1361, with the understanding that there will be no action on the bill tonight.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1361) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment, and subsequently reported from the Committee on Commerce with amendments.

The amendment of the Committee on the Judiciary is to strike all after the enacting clause and insert:

TITLE I—GENERAL REVISION OF COPYRIGHT LAW

Sec. 101. Title 17 of the United States Code, entitled "Copyrights," is hereby amended in its entirety to read as follows:

TITLE 17—COPYRIGHTS

Chapter	Sec.
1. Subject Matter and Scope of Copyright	101
2. Copyright Ownership and Transfer	201
3. Duration of Copyright	301
4. Copyright Notice, Deposit, and Registration	401
5. Copyright Infringement and Remedies	501
6. Manufacturing Requirement and Importation	601
7. Copyright Office	701
8. Copyright Royalty Tribunal	801

Chapter 1.—SUBJECT MATTER AND SCOPE OF COPYRIGHT

Sec.

101. Definitions.
102. Subject matter of copyright: In general.
103. Subject matters of copyright: Compilations and derivative works.
104. Subject matter of copyright: National origin.
105. Subject matter of copyright: United States Government works.
106. Exclusive rights in copyrighted works.
107. Limitations on exclusive rights: Fair use.
108. Limitations on exclusive rights: Reproduction by libraries and archives.
109. Limitations on exclusive rights: Effect of transfer of particular copy or phonorecord.
110. Limitations on exclusive rights: Exemption of certain performances and displays.
111. Limitations on exclusive rights: Secondary transmissions.
112. Limitations on exclusive rights: Ephemeral recordings.
113. Scope of exclusive rights in pictorial, graphic, and sculptural works.
114. Scope of exclusive rights in sound recordings.
115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords.
116. Scope of exclusive rights in nondramatic musical works and sound recordings: Public performances by means of coin-operated phonorecord players.
117. Scope of exclusive rights: Use in conjunction with computers and similar information systems.

§ 101. Definitions

As used in this title, the following terms and their variant forms mean the following:

An "anonymous work" is a work on the copies or phonorecords of which no natural person is identified as author.

"Audiovisual works" are works that consist of a series of related images which are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the works are embodied.

The "best edition" of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes.

A person's "children" are his immediate offspring, whether legitimate or not, and any children legally adopted by him.

A "collective work"' is a work, such as a periodical issue, anthology, or encyclopedia, in which a number of contributions, constituting separate and independent works in themselves, are assembled into a collective whole.

A "compilation" is a work formed by the collection and assembling of pre-existing materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship. The term "compilation" includes collective works.

"Copies" are material objects, other than phonorecords, in which a work is fixed by any method now known or later developed, and from which the work can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "copies" includes the material object, other than a phonorecord, in which the work is first fixed.

"Copyright owner," with respect to any one of the exclusive rights comprised in a copyright, refers to the owner of that particular right.

A work is "created" when it is fixed in a copy or phonorecord for the first time; where a work is prepared over a period of time, the portion of it that has been fixed at any particular time constitutes the work as of that time, and where the work has been prepared in different versions, each version constitutes a separate work.

A "derivative work" is a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgment, condensation, or any other form in which a work may be recast, transformed, or adapted. A work consisting of editorial revisions, annotations, elaborations, or other modifications which, as a whole, represent an original work of authorship, is a "derivative work."

A "device," "machine," or "process" is one now known or later developed.

To "display" a work means to show a copy of it, either directly or by means of a film, slide, television image, or any other device or process or, in the case of a motion picture or other audiovisual work, to show individual images nonsequentially.

A work is "fixed" in a tangible medium of expression when its embodiment in a copy or phonorecord, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. A work consisting of sounds, images, or both, that are being transmitted, is "fixed" for purposes of this title if a fixation of the work is being made simultaneously with its transmission.

The terms "including" and "such as" are illustrative and not limitative.

A "joint work" is a work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.

"Literary works" are works other than audiovisual works, expressed in words, numbers, or other verbal or numerical symbols or indicia, regardless of the nature of the material objects, such as books, periodicals, manuscripts, phonorecords, or film, in which they are embodied.

"Motion pictures" are audiovisual works consisting of a series of related images which, when shown in succession, impact an impression of motion, together with accompanying sounds, if any.

To "perform" a work means to recite, render, play, dance, or act it, either directly or by means of any device or process, or in the case of a motion picture or other audiovisual work, to show its images in any sequence or to make the sounds accompanying it audible, and, in the case of a sound recording, to make audible the sounds fixed in it.

"Phonorecords" are material objects in which sounds other than those accompanying a motion picture or other audiovisual work, are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "phonorecords" includes the material object in which the sounds are first fixed.

"Pictorial, graphic, and sculptural works" include two-dimensional and three-dimensional works of fine, graphic, and applied art, photographs, prints and art reproductions, maps, globes, charts, plans, diagrams, and models.

A "pseudonymous work" is a work on the copies or phonorecords, of which the author is identified under a fictitious name.

"Publication" is the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display, constitutes publication. A public performance or display of a work does not of itself constitute publication.

To perform or display a work "publicly" means:

(1) to perform or display it at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered;

(2) to transmit or otherwise communicate a performance or display of the work to a place specified by clause (1) or to the public, by means of any device or process, whether the members of the public capable of receiving the performance or display receive it in the same place or in separate places and at the same time or at different times.

"Sound recordings" are works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work, regardless of the nature of the material objects, such as disks, tapes, or other phonorecords, in which they are embodied.

"State" includes the District of Columbia and the Commonwealth of Puerto Rico, and any territories to which this title is made applicable by an act of Congress.

A "transfer of copyright ownership" is an assignment, mortgage, exclusive license, or any other conveyance, alienation, or hypothecation of a copyright or of any of the exclusive rights comprised in a copyright, whether or not it is limited in time or place of effect, but not including a nonexclusive license.

A "transmission program" is a body of material that, as an aggregate, has been produced for the sole purpose of transmission to the public in sequence and as a unit.

To "transmit" a performance or display is to communicate it by any device or process whereby images or sounds are received beyond the place from which they are sent.

The "United States," when used in a geographical sense, comprises the several States, the District of Columbia and the Commonwealth of Puerto Rico, and the organized territories under the jurisdiction of the United States Government.

A "useful article" is an article having an intrinsic utilization function that is not merely to portray the appearance of the article or to convey information. An article that is normally a part of a useful article is considered a "useful article."

The author's "widow" or "widower" is the author's surviving spouse under the law of his domicile at the time of his death, whether or not the spouse has later remarried.

A "work of the United States Government" is a work prepared by an officer or employe of the United States Government as part of his official duties.

A "work made for hire" is:

(1) a work prepared by an employee within the scope of his employment; or

(2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, as a photographic or other portrait of one or more persons, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire. A "supplementary work" is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes. An "instructional text" is a literary, pictorial, or graphic work prepared for publication with the purpose of use in systematic instructional activities.

§ 102. Subject matter of copyright: In general

(a) Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

(1) literary works;

(2) musical works, including any accompanying words;

(3) dramatic works, including any accompanying music;

(4) pantomimes and choreographic works;

(5) pictorial, graphic, and sculptural works;

(6) motion pictures and other audiovisual works;

(7) sound recordings.

(b) In no case does copyright protection for an original work of authorship extend to any idea, plan, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

§ 103. Subject matter of copyright: Compilations and derivative works

(a) The subject matter of copyright as specified by section 102 includes compilations and derivative works, but protection for a work employing pre-existing material in which copyright subsists does not extend to only part of the work in which such material has been used unlawfully.

(b) The copyright in a compilation or derivative work extends only to the material contributed by the author of such work, as distinguished from the pre-existing material employed in the work, and does not imply any exclusive right in the pre-existing material. The copyright in such work is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection in the pre-existing material.

§ 104. Subject matter of copyright: National origin

(a) UNPUBLISHED WORKS.—The works specified by sections 102 and 103, while unpublished, are subject to protection under this title without regard to the nationality or domicile of the author.

(b) PUBLISHED WORKS.—The work specified by sections 102 and 103, when published, are subject to protection under this title if—

(1) on the date of first publication, one or more of the authors is a national or domiciliary of the United States, or is a national, domiciliary, or sovereign authority of a foreign nation that is a party to a copyright treaty to which the United States is also a party; or

(2) the work is first published in the United States or in a foreign nation that, on the date of first publication, is a party to the Universal Copyright Convention of 1952; or

(3) the work is first published by the United Nations or any of its specialized agencies, or by the Organization of American States; or

(4) the work comes within the scope of a Presidential proclamation. Whenever the President finds that a particular foreign nation extends, to works by authors who are nationals or domiciliaries of the United States or to works that are first published in the United States, copyright protection on substantially the same basis as that on which the foreign nation extends protection to works of its own nationals and domiciliaries and works first published in that nation, he may by proclamation extend protection under this title to works of which one or more of the authors is, on the date of first publication, a national, domiciliary, or sovereign authority of that nation, or which was first published in that nation. The President may revise, suspend, or revoke any such proclamation or impose any conditions or limitations on protection under a proclamation.

(c) The expropriation, by a governmental organization of a foreign country, of a copyright, or the right to secure a copyright, or any right comprised in a copyright, or any right in a work for which copyright may be secured, or the transfer of a copyright or of any such right, or the power to authorize any use of the work thereunder, from the author or copyright owner to a governmental agency of a foreign country pursuant to any law, decree, regulation, order or other action of the government effecting or requiring such transfer, shall not be given effect for the purposes of this title.

§ 105. Subject matter of copyright: United States Government works

Copyright protection under this title is not available for any work of the United States Government, but the United States Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise.

§ 106. Exclusive rights in copyrighted works

Subject to sections 107 through 117, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

(1) to reproduce the copyrighted work in copies or phonorecords;

(2) to prepare derivative works based upon the copyrighted work;

(3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;

(4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, motion pictures and other audiovisual works, and sound recordings, to perform the copyrighted work publicly;

(5) in the case of literary, musical, dramatic and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly.

§ 107. Limitations on exclusive rights: Fair use

Notwithstanding the provisions of section 106, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching, scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include:

(1) the purpose and character of the use;

(2) the nature of the copyrighted work;

(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

(4) the effect of the use upon the potential market for or value of the copyrighted work.

§ 108. Limitation on exclusive rights: Reproduction by libraries and archives

(a) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a library or archives, or any of its employees acting within the scope of their employment, to reproduce no more than one copy or phonorecord of a work, or distribute such copy or phonorecord, under the conditions specified by this section, if:

(1) The reproduction or distribution is

made without any purpose of direct or indirect commercial advantage; and

(2) The collections of the library or archives are (i) open to the public, or (ii) available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field,

(3) The reproduction or distribution of the work includes a notice of copyright.

(b) The rights of reproduction and distribution under this section apply to a copy or phonorecord of an unpublished work duplicated in facsimile form solely for purposes of preservation and security or for deposit for research use in another library or archives of the type described by clause (2) of subsection (a), if the copy or phonorecord reproduced is currently in the collections of the library or archives.

(c) The right of reproduction under this section applies to a copy or phonorecord of a published work duplicated in facsimile form solely for the purpose of replacement of a copy or phonorecord that is damaged, deteriorating, lost, or stolen, if the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price.

(d) The rights of reproduction and distribution under this section apply to a copy, made from the collection of a library or archives where the user makes his request or from that of another library or archives, of no more than one article or other contribution to a copyrighted collection or periodical issue, or to a copy or phonorecord of a small part of any other copyrighted work, if:

(1) The copy becomes the property of the user, and the library or archives has had no notice that the copy would be used for any purpose other than private study, scholarship, or research; and

(2) The library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(e) The rights of reproduction and distribution under this section apply to the entire work, or to a substantial part of it, made from the collection of a library or archives where the user makes his request or from that of another library or archives, if the library or archives has first determined, on the basis of a reasonable investigation that a copy or phonorecord of the copyrighted work cannot be obtained at a fair price, if:

(1) The copy becomes the property of the user, and the library or achives has had no notice that the copy would be used for any purpose other than private study, scholarship, or research; and

(2) The library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(f) Nothing in this section—

(1) shall be construed to impose liability for copyright infringement upon a library or archives or its employees for the unsupervised use of reproducing equipment located on its premises, provided that such equipment displays a notice that the making of a copy may be subject to the copyright law;

(2) excuses a person who uses such reproducing equipment or who requests a copy under subsection (d) from liability for copyright infringement for any such act, or for any later use of such copy, if it exceeds fair use as provided by section 107;

(3) in any way affects the right of fair use as provided by section 107, or any contractual obligations assumed at any time by the library or archives when it obtained a copy or phonorecord of a work in its collections.

(g) The rights of reproduction and distribution under this section extend to the isolated and unrelated reproduction or distribution of a single copy or phonorecord of the same material on separate occasions, but do not extend to cases where the library or archives, or its employee:

(1) is aware or has substantial reason to believe that it is engaging in the related or concerted reproduction or distribution of multiple copies or phonorecords of the same material, whether made on one occasion or over a period of time, and whether intended for aggregate use by one or more individuals or for separate use by the individual members of a group; or

(2) engages in the systematic reproduction or distribution of single or multiple copies or phonorecords of material described in subsection (d).

(h) The rights of reproduction and distribution under this section do not apply to a musical work, a pictorial, graphic or sculptural work, or a motion picture or other audio-visual work, except that no such limitation shall apply with respect to rights granted by subsections (b) and (c).

§ 109. Limitations on exclusive rights: Effect of transfer of particular copy or phonorecord

(a) Notwithstanding the provisions of section 106(3), the owner of a particular copy or phonorecord lawfully made under this title, or any person authorized by him, is entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy or phonorecord.

(b) Notwithstanding the provisions of section 106(5), the owner of a particular copy lawfully made under this title, or any person authorized by him, is entitled, without the authority of the copyright owner, to display that copy publicly, either directly or by the projection of no more than one image at a time, to viewers present at the place where the copy is located.

(c) The privileges prescribed by subsections (a) and (b) do not, unless authorized by the copyright owner, extend to any person who has acquired possession of the copy or phonorecord from the copyright owner, by rental, lease, loan, or otherwise, without acquiring ownership of it.

§ 110. Limitations on exclusive rights: Exemption of certain performances and displays

Notwithstanding the provisions of section 106, the following are not infringements of copyright:

(1) performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title and that the person responsible for the performance knew or had reason to believe was not lawfully made;

(2) performance of a nondramatic literary or musical work or of a sound recording, or display of a work, by or in the course of a transmission, if:

(A) the performance or display is a regular part of the systematic instructional activities of a governmental body or a nonprofit educational institution; and

(B) the performance or display is directly related and of material assistance to the teaching content of the transmission; and

(C) the transmission is made primarily for:

(i) reception in classrooms or similar places normally devoted to instruction, or

(ii) reception by persons to whom the transmission is directed because their disabilities or other special circumstances prevent their attendance in classrooms or similar places normally devoted to instruction, or

(iii) reception by officers or employees of governmental bodies as a part of their official duties or employment;

(3) performance of a nondramatic literary or musical work or of a dramatico-musical work of a religious nature, or of a sound recording, or display of a work, in the course of services at a place of worship or other religious assembly;

(4) performance of a nondramatic literary or musical work or of a sound recording, otherwise than in a transmission to the public without any purpose of direct or indirect commercial advantage and without payment of any fee or other compensation for the performance to any of its performers, promoters, or organizers, if:

(A) there is no direct or indirect admission charge, or

(B) the proceeds, after deducting the reasonable costs of producing the performance, are used exclusively for educational, religious, or charitable purposes and not for private financial gain, except where the copyright owner has served notice of his objections to the performance under the following conditions:

(i) The notice shall be in writing and signed by the copyright owner or his duly authorized agent; and

(ii) The notice shall be served on the person responsible for the performance at least seven days before the date of the performance, and shall state the reasons for his objections; and

(iii) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation;

(5) communication of a transmission embodying a performance or display of a work by the public reception of the transmission on a single receiving apparatus of a kind commonly used in private homes, unless:

(A) a direct charge is made to see or hear the transmission; or

(B) the transmission thus received is further transmitted to the public;

(6) performance of a nondramatic musical work or of a sound recording in the course of an annual agricultural or horticultural fair or exhibition conducted by a governmental body or a nonprofit agricultural or horticultural organization;

(7) performance of a nondramatic musical work or of a sound recording by a vending establishment open to the public at large without any direct or indirect admission charge, where the sole purpose of the performance is to promote the retail sale of copies or phonorecords of the work and the performance is not transmitted beyond the place where the establishment is located.

§ 111. Limitations on exclusive rights: Secondary transmissions

(a) CERTAIN SECONDARY TRANSMISSIONS EXEMPTED.—The secondary transmission of a primary transmission embodying a performance or display of a work is not an infringement of copyright if:

(1) the secondary transmission is not made by a cable system, and consists entirely of the relaying, by the management of a hotel, apartment house, or similar establishment, of signals transmitted by a broadcast station licensed by the Federal Communications Commission, within the local service area of such establishment, and no direct charge is made to see or hear the secondary transmission; or

(2) the secondary transmission is made solely for the purpose and under the conditions specified by clause (2) of section 110; or

(3) the secondary transmission is made by a common, contract, or special carrier who has no direct or indirect control over the content or selection of the primary transmission or over the particular recipients of the secondary transmission, and whose activities with respect to the secondary transmission consist solely of providing wires, cables, or other communications channels for the use

of others: *Provided*, That the provisions of this clause extend only to the activities of said carrier with respect to secondary transmissions and do not exempt from liability the activities of others with respect to their own primary or secondary transmission; or

(4) the secondary transmission is not made by a cable system but is made by a governmental body, or other nonprofit organization, without any purpose of direct or indirect commercial advantage, and without charge to the recipients of the secondary transmission other than assessments necessary to defray the actual and reasonable costs of maintaining and operating the secondary transmission service.

(b) Secondary Transmission of Primary Transmission to Controlled Group.—Notwithstanding the provisions of subsections (a) and (c), the secondary transmission to the public of a primary transmission embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, if the primary transmission is not made for reception by the public at large but is controlled and limited to reception by particular members of the public.

(c) Secondary Transmissions by Cable Systems.—

(1) Subject to the provisions of clause (2) of this subsection, secondary transmissions to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission and embodying a performance or display of a work shall be subject to compulsory licensing upon compliance with the requirements of subsection (d) in the following cases:

(A) Where the signals comprising the primary transmission are exclusively aural and the secondary transmission is permissible under the rules, regulations or authorizations of the Federal Communications Commission; or

(B) Where the community of the cable system is in whole or in part within the local service area of the primary transmitter; or

(C) Where the carriage of the signals comprising the secondary transmission is permissible under the rules, regulations or authorizations of the Federal Communications Commission.

(2) Notwithstanding the provisions of clause (1) of this subsection, the secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, in the following cases:

(A) Where the carriage of the signals comprising the secondary transmission is not permissible under the rules, regulations or authorizations of the Federal Communications Commission; or

(B) Where the cable system, at least one month before the date of the secondary transmission, has not recorded the notice specified by subsection (d).

(d) Compulsory License for Secondary Transmissions by Cable Systems.—

(1) For any secondary transmission to be subject to compulsory licensing under subsection (c), the cable system shall at least one month before the date of the secondary transmission or within 30 days after the enactment of this Act, whichever date is later, record in the Copyright Office, a notice including a statement of the identity and address of the person who owns or operates the secondary transmission service or has power to exercise primary control over it together with the name and location of the primary transmitter, or primary transmitters, and thereafter, from time to time, such further information as the Register of Copyrights shall prescribe by regulation to carry out the purposes of this clause.

(2) A cable system whose secondary transmissions have been subject to compulsory licensing under subsection (c) shall, during the months of January, April, July, and October, deposit with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation—

(A) A statement of account, covering the three months next preceding, specifying the number of channels on which the cable system made secondary transmissions to its subscribers, the names and locations of all primary transmitters whose transmissions were further transmitted by the cable system, the total number of subscribers to the cable system, and the gross amounts paid to the cable system irrespective of source and separate statements of the gross revenues paid to the cable system for advertising, leased channels, and cable-casting for which a per-program or per-channel charge is made and by subscribers for the basic service of providing secondary transmissions of primary broadcast transmitters; and

(B) A total royalty fee for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during said period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

(i) ½ percent of any gross receipts up to $40,000;

(ii) 1 percent of any gross receipts totaling more than $80,000 but not more than $80,000;

(iii) 1½ percent of any gross receipts totaling more than $40,000 but not more than $120,000;

(iv) 2 percent of any gross receipts totaling more than $120,000, but not more than $160,000; and

(v) 2½ percent of any gross receipts totalling more than $160,000.

(3) The royalty fees thus deposited shall be distributed in accordance with the following procedures:

(A) During the month of July in each year, every person claiming to be entitled to compulsory license fees for secondary transmissions made during the preceding twelve-month period shall file a claim with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation. Notwithstanding any provisions of the antitrust laws (as designated in section 1 of the Act of October 15, 1914, 38 Stat. 730, Title 15 U.S.C. section 12, and any amendments of such laws), for purposes of this clause any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(B) After the first day of August of each year, the Register of Copyrights shall determine whether there exists a controversy concerning the statement of account or the distribution of royalty fees. If he determines that no such controversy exists, he shall, after deducting his reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If he finds the existence of a controversy he shall certify to that fact and proceed to constitute a panel of the Copyright Royalty Tribunal in accordance with section 803. In such cases the reasonable administrative costs of the Register under this section shall be deducted prior to distribution of the royalty fee by the tribunal.

(C) During the pendency of any proceeding under this subsection, the Register of Copyrights or the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(e) Definitions.—

As used in this section, the following terms and their variant forms mean the following:

A "primary transmission" is a transmission made to the public by the transmitting facility whose signals are being received and further transmitted by the secondary transmission service, regardless of where or when the performance or display was first transmitted.

A "secondary transmission" is the further transmitting of a primary transmission simultaneously with the primary transmission or nonsimultaneously with the primary transmission if by a "cable system" not located in whole or in part within the boundary of the forty-eight contiguous States.

A "cable system" is a facility, located in any State, Territory, Trust Territory or Possession that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast stations licensed by the Federal Communications Commission and makes secondary transmissions of such signals or programs by wires, cables, or other communications channels to subscribing members of the public who pay for such service. For purposes of determining the royalty fee under subsection (d)(2)(B), two or more cable systems in contiguous communities under common ownership or control or operating from one headend shall be considered as one system.

The "local service area of a primary transmitter" comprises the area in which a television broadcast station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules and regulations of the Federal Communications Commission.

§ 112. Limitations on exclusive rights: Ephemeral recordings

(a) Notwithstanding the provisions of section 106, and except in the case of a motion picture or other audiovisual work, it is not an infringement of copyright for a transmitting organization entitled to transmit to the public a performance or display of a work, under a license or transfer of the copyright or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than one copy or phonorecord of a particular transmission program embodying the performance or display, if—

(1) the copy or phonorecord is retained and used solely by the transmitting organization that made it, and no further copies or phonorecords are reproduced from it; and

(2) the copy or phonorecord is used solely for the transmitting organization's own transmissions within its local service area, or for purposes of archival preservation or security; and

(3) unless preserved exclusively for archival purposes, the copy or phonorecord is destroyed within six months from the date the transmission program was first transmitted to the public.

(b) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance or display of a work, under section 110(2) or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than thirty copies or phonorecords of a particular transmission program embodying the performance or display, if—

(1) no further copies or phonorecords are reproduced from the copies or phonorecords made under this clause; and

(2) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are destroyed within seven years from the date the

transmission program was first transmitted to the public.

(c) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a government body or other nonprofit organization to make for distribution no more than one copy or phonorecord for each transmitting organization specified in clause (2) of this subsection of a particular transmission program embodying a performance of a nondramatic musical work of a religious nature, or of a sound recording of such a musical work, if—

(1) there is no direct or indirect charge for making or distributing any such copies or phonorecords; and

(2) none of such copies or phonorecords is used for any performance other than a single transmission to the public by a transmitting organization entitled to transmit to the public a performance of the work under a license or transfer of the copyright; and

(3) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are all destroyed within one year from the date the transmission program was first transmitted to the public.

(d) The transmission program embodied in a copy or phonorecord made under this section is not subject to protection as a derivative work under this title except with the express consent of the owners of copyright in the pre-existing works employed in the program.

§ 113. Scope of exclusive rights in pictorial, graphic, and sculptural works

(a) Subject to the provisions of clause (1) and (2) of this subsection, the exclusive right to reproduce a copyrighted pictorial, graphic, or sculptural work in copies under section 106 includes the right to reproduce the work in or on any kind of article, whether useful or otherwise.

(1) This title does not afford, to the owner of copyright in a work that portrays a useful article as such, and greater or lesser rights with respect to the making, distribution, or display of the useful article so portrayed than those afforded to such works under the law, whether title 17 of the common law or statutes of a State, in effect on December 31, 1974, as held applicable and construed by a court in an action brought under this title.

(2) In the case of a work lawfully reproduced in useful articles that have been offered for sale or other distribution to the public, copyright does not include any right to prevent the making, distribution, or display of pictures or photographs of such articles in connection with advertisements or commentaries related to the distribution or display of such articles, or in connection with news reports.

(b) When a pictorial, graphic, or sculptural work in which copyrights subsists under this title is utilized in an original ornamental design of a useful article, by the copyright proprietor or under an express license from him, the design shall be eligible for protection under the provisions of title III of this Act.

(c) Protection under this title of a work in which copyright subsists shall terminate with respect to its utilization in useful articles whenever the copyright proprietor has obtained registration of an ornamental design of a useful article embodying said work under the provisions of title III of this Act. Unless and until the copyright proprietor has obtained such registration, the copyright pictorial, graphic, or sculptural work shall continue in all respects to be covered by and subject to the protection afforded by the copyright subsisting under this title. Nothing in this section shall be deemed to create any additional rights or protection under this title.

(d) Nothing in this section shall affect any right or remedy held by any person under this title in a work in which copyright was subsisting on the effective date of title III of this Act, or with respect to any utilization of a copyrighted work other than in the design of a useful article.

§ 114. Scope of exclusive rights in sound recordings

(a) LIMITATIONS ON EXCLUSIVE RIGHTS.—The exclusive rights of the owner of copyright in a sound recording are limited to the rights specified by clauses (1), (3), and (4) of section 106. The exclusive rights of the owner of copyright in a sound recording to reproduce and perform it are limited to the rights to duplicate the sound recording in the form of phonorecords or copies of audiovisual works that directly or indirectly recapture the actual sounds fixed in the recording, and to perform those actual sounds. These rights do not extend to the making or duplication of another sound recording that is an independent fixation of other sounds, or to the performance of other sounds, even though such sounds imitate or simulate those in the copyrighted sound recording.

(b) PERFORMANCE RIGHTS DISTINCT.—The exclusive right to perform publicly, by means of a phonorecord, a copyrighted literary, musical, or dramatic work, and the exclusive right to perform publicly a copyrighted sound recording, are separate and independent rights under this title.

(c) COMPULSORY LICENSE FOR PUBLIC PERFORMANCE OF SOUND RECORDINGS.—

(1) Subject to the provisions of sections 111 and 116, the public performance of a sound recording is subject to compulsory licensing under the conditions specified by this subsection, if phonorecords of it have been distributed to the public under the authority of the copyright owner.

(2) Any person who wishes to obtain a compulsory license under this subsection shall fulfill the following requirements:

(A) He shall at least one month before the public performance and thereafter at intervals and in accordance with requirements that the Register of Copyrights shall prescribe by regulation, record in the Copyright Office a notice stating his identity and address and declaring his intention to obtain a compulsory license under this subsection;

(B) Deposit with the Register of Copyrights, at annual intervals in accordance with requirements that the Register of Copyrights shall prescribe by regulation, a statement of account and a total royalty fee for the period covered by the statement, based on the royalty rates specified by clause (4).

(3) In the absence of a negotiated license, failure to record the notice, file the statement, or deposit the royalty fee prescribed by clause (2) renders the public performance of a sound recording actionable as an act of infringement under section 501 and fully subject to the remedies provided by sections 502 through 505, but not including the criminal remedies provided by section 506.

(4) The annual royalty fees under this subsection may, at the user's option, be computed on either a blanket or a prorated basis. Although a negotiated license may be substituted for the compulsory license prescribed by this subsection, in no case shall the negotiated rate amount to less than the applicable rate provided by this clause. The following rates shall be applicable:

(A) For a radio or television broadcast station licensed by the Federal Communications Commission, the royalty rate shall be as follows:

(i) in the case of a broadcast station with gross receipts from its advertising sponsors of more than $25,000 but less than $100,000 a year, the yearly performance royalty payment shall be $250; or

(ii) in the case of a broadcast station with gross receipts from its advertising sponsors of more than $100,000 but less than $200,000 a year, the yearly performance royalty shall be $750; or

(iii) in the case of a broadcast station with gross receipts from its advertising sponsors of more than $200,000 a year, the blanket rate shall be one percent of the net receipts from advertising sponsors during the applicable period. The alternative prorated rate is a fraction of one percent of such net receipts, based on a calculation made in accordance with a standard formula that the Register of Copyrights shall prescribe by regulation, taking into account the amount of the station's commercial time devoted to playing copyrighted sound recordings and whether the station is a radio or television broadcaster.

(B) Subject to section 111, for background music services and other transmitters of performances of sound recordings the blanket rate is 2 percent of the gross receipts from subscribers or others who pay to receive the transmission during the applicable period. The alternative prorated rate is a fraction of 2 percent of such gross receipts, based on a calculation made in accordance with a standard formula that the Register of Copyrights shall prescribe by regulation, taking into account the proportion of time devoted to musical performances by the transmitter during the applicable period, and the extent to which the transmitter is also the owner of copyright in the sound recordings performed during said period.

(C) For an operator of coin-operated phonorecord players, as that term is defined by section 116, and for a coble system, as that term is defined by section 111, the compulsory licensing rates shall be governed exclusively by those respective sections and not by this subsection.

(D) For all other users not otherwise exempted, the blanket rate is $25 per year for each location at which copyrighted sound recordings are performed. The alternative prorated rate shall be based on the number of separate performances of such works during the year and, in accordance with a standard formula that the Register of Copyright shall prescribe by regulation, shall not exceed $5 per day of use.

(d) EXEMPTIONS.—In addition to users exempted from liability by section 110 or subject to the provisions of section 111 or 116, any person who publicly performs a copyrighted sound recording and who would otherwise be subject to liability for such performance is exempted from liability for infringement and from the compulsory licensing requirements of this section, during the applicable annual period, if—

(1) In the case of a broadcast station, its gross receipts from advertising sponsors were less than $25,000; or

(e) DISTRIBUTION OF ROYALTIES.—

(1) During the month of September in each year, every person claiming to be entitled to compulsory license fees under this section for performances during the preceding twelve-month period shall file a claim with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation. Such claims shall include an agreement to accept as final, except as provided in section 809 of this title, the determination of the Copyright Royalty Tribunal in any controversy concerning the distribution of royalty fees deposited under subclause (B) of subsection (c)(2) of this section to which the claimant is a party. Notwithstanding any provisions of the antitrust laws (the Act of October 15, 1914, 38 Stat. 730, and any amendments of any such laws), for purposes of this subsection any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their

claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(2) After the first day of October of each year, the Register of Copyrights shall determine whether there exists a controversy concerning the distribution of royalty fees deposited under subclause (B) of subsection (c)(2). If he determines that no such controversy exists, he shall, after deducting his reasonable administrative costs under this section, distribute such fees to the copyright owners and performers entitled, or to their designated agents. If he finds that such a controversy exists he shall certify to that fact and proceed to constitute a panel of the Copyright Royalty Tribunal in accordance with section 803. In such cases the reasonable administrative costs of the Register under this section shall be deducted prior to distribution of the royalty fee by the tribunal.

(3) For the purposes of this section—

(A) One half of all royalties to be distributed shall be paid to the copyright owners, and the other half shall be paid to the performers, of the sound recordings for which claims have been made under clause (1); and

(B) During the pendency of any proceeding under this section, the Register of Copyrights or the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims which respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(f) Relation to Other Sections.—The public performance of sound recordings by means of secondary transmissions and coin-operated phonorecord players is governed by sections 111 and 116, respectively, and not by this section, except that there shall be an equal distribution of royalty fees for such public performances between copyright owners and performers as provided by subsection (e)(3)(A) of this section.

(g) Definitions.—As used in this section, the following terms and their variant forms mean the following:

(1) "Commercial time" is any transmission program, the time for which is paid for by a commercial sponsor, or any transmission program that is interrupted by a spot commercial announcement at intervals of less than fourteen and one-half minutes.

(2) "Performers" are musicians, singers, conductors, actors, narrators, and others whose performance of a literary, musical, or dramatic work is embodied in a sound recording.

(3) "Net receipts from advertising sponsors" constitute gross receipts from advertising sponsors less any commissions paid by a radio station to advertising agencies.

§ 115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords

In the case of nondramatic musical works, the exclusive rights provided by clauses (1) and (3) of section 106, to make and to distribute phonorecords of such works, are subject to compulsory licensing under the conditions specified by this section.

(a) Availability and Scope of Compulsory License.—

(1) When phonorecords of a nondramatic musical work have been distributed to the public under the authority of the copyright owner, any other person may, by complying with the provisions of this section, obtain a compulsory license to make and distribute phonorecords of the work. A person may obtain a compulsory license only if his primary purpose in making phonorecords is to distribute them to the public for private use. A person may not obtain a compulsory license for use of the work in the duplication of a sound recording made by another.

(2) A compulsory license includes the privilege of making a musical arrangement of the work to the extent necessary to conform it to the style or manner of interpretation of the performance involved, but the arrangement shall not change the basic melody or fundamental character of the work, and shall not be subject to protection as a derivative work under this title, except with the express consent of the copyright owner.

(b) Notice of Intention to Obtain Compulsory License; Designation of Owner of Performance Right.—

(1) Any person who wishes to obtain a compulsory license under this section shall, before or within thirty days after making, and before distributing any phonorecords of the work, serve notice of his intention to do so on the copyright owner. If the registration or other public records of the Copyright Office do not identify the copyright owner and include an address at which notice can be served on him, it shall be sufficient to file the notice of intention in the Copyright Office. The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(2) If the copyright owner so requests in writing not later than ten days after service or filing of the notice requird by clause (1), the person exercising the compulsory license shall designate, on a label or container accompanying such phonorecord of the work distributed by him, and in the form and manner that the Register of Copyrights shall prescribe by regulation, the name of the copyright owner or his agent to whom royalties for public performance of the work are to be paid.

(3) Failure to serve or file the notice required by clause (1), or to designate the name of the owner or agent as required by clause (2), forecloses the possibility of a compulsory license and, in the absence of a negotiated license, renders the making and distribution of phonorecords actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506.

(c) Royalty Payable Under Compulsory License.—

(1) To be entitled to receive royalties under a compulsory license, the copyright owner must be identified in the registration or other public records of the Copyright Office. The owner is entitled to royalties for phonorecords manufactured and distributed after he is so identified but he is not entitled to recover for any phonorecords previously manufactured and distributed.

(2) Except as provided by clause (1), the royalty under a compulsory license shall be payable for every phonorecord manufactured and distributed in accordance with the license. With respect to each work embodied in the phonorecord, the royalty shall be either three cents, or three quarter cent per minute of playing time or fraction thereof, whichever amount is larger.

(3) Royalty payments shall be made on or before the twentieth day of each month and shall include all royalties for the month next preceding. Each monthly payment shall be accompanied by a detailed statement of account, which shall be certified by a Certified Public Accountant and comply in form, content, and manner of certification with requirements that the Register of Copyrights shall prescribe by regulation.

(4) If the copyright owner does not receive the monthly payment and statement of account when due, he may give written notice to the licensee that, unless the default is remedied within thirty days from the date of the notice, the compulsory license will be automatically terminated. Such termination renders the making and distribution of all phonorecords, for which the royalty had not been paid, actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506.

§ 116. Scope of exclusive rights in nondramatic musical works and sound recordings: Public performances by means of coin-operated phonorecord player

(a) Limitation on Exclusive Right.—In the case of a nondramatic musical work embodied in a phonorecord, and in the case of a sound recording, the exclusive right under clause (4) of section 106 to perform the work publicly by means of a coin-operated phonorecord player is limited as follows:

(1) The proprietor of the establishment in which the public performance takes place is not liable for infringement with rerspect to such public performance unless:

(A) he is the operator of the phonorecord player; or

(B) he refuses or fails, within one month after receipt by registered or certified mail of a request, at a time during which the certificate required by subclause (1)(C) of subsection (b) is not affixed to the phonorecord player, by the copyright owner, to make full disclosure, by registered or certified mail, of the identity of the operator of the phonorecord player.

(2) The operator of the coin-operated phonorecord player may obtain a compulsory license to perform the work publicly on that phonorecord player by filing the application, affixing the certificate, and paying the royalties provided by subsection (b).

(b) Recordation of Coin-Operated Phonorecord Player, Affixation of Certificate, and Royalty Payable Under Compulsory License.—

(1) Any operator who wishes to obtain a compulsory license for the public performance of works on a coin-operated phonorecord player shall fulfill the following requirements:

(A) Before or within one month after such performances are made available on a particular phonorecord player, and during the month of January in each succeeding year that such performances are made available in that particular phonorecord player, he shall file in the Copyright Office, in accordance with requirements that the Register of Copyrights shall prescribe by regulation, an application containing the name and address of the operator of the phonorecord player and the manufacturer and serial number or other explicit identification of the phonorecord player, and in addition to the fee prescribed by clause (9) of section 708(a), he shall deposit with the Register of Copyrights a royalty fee for the current calendar year of $8 for that particular phonorecord player. If such peformances are made available on a particular phonorecord player for the first time after July 1 of any year, the royalty fee to be deposited for the remainder of that year shall be $4.00.

(B) Within twenty days of receipt of an application and a royalty fee pursuant to subclause (A), the Register of Copyrights shall issue to the applicant a certificate for the phonorecord player.

(C) On or before March 1 of the year in which the certificate prescribed by subclause (B) of this clause is issued, or within ten days after the date of issue of the certificate, the operator shall affix to the particular phonorecord player, in a position where it can be readily examined by the public, the certificate, issued by the Register of Copyrights under subclause (B), of the latest application made by him under subclause (A) of this clause with respect to that phonorecord player.

(2) Failure to file the application, to affix the certificate or to pay the royalty required by clause (1) of this subsection renders the public performance actionable as an act

of infringement under section 501 and fully subject to the remedies provided by section 502 through 506.

(c) Distribution of Royalties.—

(1) During the month of Jannary in each year, every person claiming to be entitled to compulsory license fees under this section for performances during the preceding twelve-month period shall file a claim with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation. Such claim shall include an agreement to accept as final, except as provided in section 809 of this title, the determination of the Copyright Royalty Tribunal in any controversy concerning the distribution of royalty fees deposited under subclause (a) of subsection (b)(1) of this section to which the claimant is a party. Notwithstanding any provisions of the antitrust laws (the Act of October 15, 1914, 38 Stat. 730, and any amendments of any such laws), for purposes of this subsection any claimants may agree among themselves as to the proportionate divsion of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(2) After the first day of October of each year, the Register of Copyrights shall determine whether there exists a controversy concerning the distribution of royalty fees deposited under subclause (A) of subsection (b)(1). If he determines that no such controversy exists, he shall, after deducting his reasonable administrative costs under this section, distribute such fees to the copyright owners and performers entitled, or to their designated agents. If he finds that such a controversy exists he shall certify to that fact and proceed to constitute a panel of the Copyright Royalty Tribunal in accordance with section 803. In such cases the reasonable administrative costs of the Register under this section shall be deducted prior to distribution of the royalty fee by the tribunal.

(3) The fees to be distributed shall be divided as follows:

(A) One eighth of the fees to be distributed shall be allocated to copyright owners and performers of sound recordings, and the remainder to owners of copyright in nondramatic musical works;

(B) The fees allocated to copyright owners and performers of sound recordings shall be divided equally between them, as provided by section 114(f);

(C) The fees allocated to owners of copyright in nondramatic musical works shall be distributed as follows;

(i) Every copyright owner not affiliated with a performing rights society shall receive the pro rata share of the fee to be distributed to which such copyright owner proves his entitlement; and

(ii) The performing rights societies shall receive the remainder of the fees to be distributed in such pro rata shares as they shall by agreement stipulate among themselves, or, if they fail to agree, the pro rata share to which such performing rights societies prove their entitlement.

(D) During the pendency of any proceeding under this section, the Register of Copyrights or the Copyright Royalty Tribunal shall withhold from distribution an account sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(4) The Register of Copyrights shall promulgate regulations under which persons who can reasonably be expected to have claims may, during the year in which performances take place, without expense to or harassment of operators or proprietors of establishments in which phonorecord players are located, have such access to such establishments and to the phonorecord players located therein and such opportunity to obtain information with respect thereto as may be reasonably necessary to determine, by sampling procedures or otherwise, the proportion of contribution of the musical works of each such person to the earnings of the phonorecord players for which fees shall have been deposited. Any person who alleges that he has been denied the access permitted under the regulations prescribed by the Register of Copyrights may bring on an action in the United States District Court for the District of Columbia for the cancellation of the compulsory license of the phonorecord player to which such access has been denied, and the court shall have the power to declare the compulsory license thereof invalid from the date of issue thereof.

(d) Criminal Penalties.—Any person who knowingly makes a false representation of a material fact in an application filed under clause (1)(A) of subsection (b), or who knowingly alters a certificate issued under clause (1)(B) of subsection (b) or knowingly affixes such a certificate to a phonorecord player other than the one it covers, shall be fined not more than $2,500.

(e) Definitions.—As used in this section, the following terms and their variant forms mean the following:

(1) A "coin-operated phonorecord player" is a machine or device that:

(A) is employed solely for the performance of nondramatic musical works by means of phonorecords upon being activated by insertion of a coin;

(B) is located in an establishment making no direct or indirect charge for admission;

(C) is accompanied by a list of the titles of all the musical works available for performance on it, which list is affixed to the phonorecord player or posted in the establishment in a prominent position where it can be readily examined by the public; and

(D) affords a choice of works available for performance and permits the choice to be made by the patrons of the establishment in which it is located.

(2) An "operator" is any person who, alone or jointly with others:

(A) owns a coin-operated phonorecord player; or

(B) has the power to make a coin-operated phonorecord player available for placement in an establishment for purposes of public performance; or

(C) has the power to exercise primary control over the selection of the musical works made available for public performance in a coin-operated phonorecord player.

(3) A "performing rights society" is an association or corporation that licenses the public performance of nondramatic musical works on behalf of the copyright owners, such as the American Society of Composers, Authors and Publishers, Broadcast Music Inc., and SESAC, Inc.

§ 117. Scope of exclusive rights: Use in conjunction with computers and similar information systems

Notwithstanding the provisions of sections 106 through 116, this title does not afford to the owner of copyright in a work any greater or lesser rights with respect to the use of the work in conjunction with automatic systems capable of storing, processing, retrieving, or transferring information, or in conjunction with any similar device, machine, or process, than those afforded to works under the law, whether title 17 or the common law or statutes of a State, in effect on December 31, 1974, as held applicable and construed by a court in an action brought under this title.

Chapter 2.—COPYRIGHT OWNERSHIP AND TRANSFER

Sec.
201. Ownership of copyright.
202. Ownership of copyright as distinct from ownership of material object.
203. Termination of transfers and licenses granted by the author.
204. Execution of transfers of copyright ownership.
205. Recordation of transfers and other documents.

§ 201. Ownership of copyright

(a) Initial Ownership.—Copyright in work protected under this title vests initially in the author or authors of the work. The authors of a joint work are co-owners of copyright in the work.

(b) Works Made for Hire.—In the case of a work made for hire, the employer or other persons for whom the work was prepared is considered the author for purposes of this title, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.

(c) Contributions to Collective Works.—Copyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole, and vests initially in the author of the contribution. In the absence of an express transfer of the copyright or of any rights under it, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series.

(d) Transfer of Ownership.—

(1) The ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of interstate succession.

(2) Any of the exclusive rights comprised in a copyright, including any subdivision of any of the rights specified by section 106, may be transferred as provided by clause (1) and owned separately. The owner of any particular exclusive right is entitled, to the extent of that right, to all of the protection and remedies accorded to the copyright owner by this title.

§ 202. Ownership of copyright as distinct from ownership of material object

Ownership of a copyright, or of any of the exclusive rights under a copyright, is distinct from ownership of any material object in which the work is embodied. Transfer of ownership of any material object, including the copy or phonorecord in which the work is first fixed, does not of itself convey any rights in the copyrighted work embodied in the object; nor, in the absence of an agreement, does transfer of ownership of a copyright or of any exclusive rights under a copyright convey property rights in any material object.

§ 203. Termination of transfers and licenses granted by the author

(a) Conditions for Termination.—In the case of any work other than a work made for hire, the exclusive or nonexclusive grant of a transfer or license of copyright or of any right under a copyright, executed by the author on or after January 1, 1975, otherwise than by will, is subject to termination under the following conditions:

(1) In the case of a grant executed by one author, termination of the grant may be effected by that author or, if he is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one half of that author's termination interest. In the case of a grant executed by two or more authors of a joint work, termination of the grant may be effected by a majority of the authors who executed it; if any of such authors is dead, his termination interest may be exercised as a unit by the person or persons who, under clause (2) of this subsection, own and are

entitled to exercise a total of more than one half of his interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow (or her widower) and children or grandchildren as follows:

(A) The widow (or widower) owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow (or widower) owns one half of the author's interest;

(B) The author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow (or widower), in which case the ownership of one half of the author's interest is divided among them;

(C) The right of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of his children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of thirty-five years from the date of execution of the grant; or, if the grant covers the right of publication of the work, the period begins at the end of thirty-five years from the date of publication of the work under the grant or at the end of forty years from the date of execution of the grant, whichever term ends earlier.

(4) The termination shall be effected by serving an advance notice in writing, signed by the number and proportion of owners of termination interests required under clauses (1) and (2) of this subsection, or by their duly authorized agents, upon the grantee or his successor in title.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(b) EFFECT OF TEMINATION.—Upon the effective date of termination, all rights under this title that were covered by the terminated grant revert to the author, authors, and other persons owning termination interests under clauses (1) and (2) of subsection (a), including those owners who did not join in signing the notice of termination under clause (4) of subsection (a), but with the following limitations:

(1) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(2) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of subsection (a). The rights vest in the author, authors, and other persons named in, and in the proportionate shares provided by, clauses (1) and (2) of subsection (a).

(3) Subject to the provisions of clause (4) of this subsection, a further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under clause (2) of this subsection, as are required to terminate the grant under clauses (1) and (2) of subsection (a). Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under clause (2) of this subsection, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him, his legal representatives, legatees, or heirs at law represent him for purposes of this clause.

(4) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the persons provided by clause (3) of this subsection and the original grantee or his successor in title, after the notice of termination has been served as provided by clause (4) of subsection (a).

(5) Termination of a grant under this section affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(6) Unless and until termination is effected under this section, the grant, if it does not provide otherwise, continues in effect for the term of copyright provided by this title.

§ 204. Execution of transfers of copyright ownership

(a) A transfer of copyright ownership, other than by operation of law, is not valid unless an instrument of conveyance, or a note or memorandum of the transfer, is in writing and signed by the owner of the rights conveyed or his duly authorized agent.

(b) A certificate of acknowledgment is not required for the validity of a transfer, but is prima facie evidence of the execution of the transfer if:

(1) in the case of a transfer executed in the United States, the certificate is issued by a person authorized to administer oaths within the United States; or

(2) in the case of a transfer executed in a foreign country, the certificate is issued by a diplomatic or consular officer of the United States, or by a person authorized to administer oaths whose authority is proved by a certificate of such an officer.

§ 205. Recordation of transfers and other documents

(a) CONDITIONS FOR RECORDATION.—Any transfer of copyright ownership or other document pertaining to a copyright may be recorded in the Copyright Office if the document filed for recordation bears the actual signature of the person who executed it, or if it is accompanied by a sworn or official certification that it is a true copy of the original signed, document.

(b) CERTIFICATE OF RECORDATION.—The Register of Copyrights shall, upon receipt of a document as provided by subsection (a) and of the fee provided by section 708, record the document and return it with a certificate of recordation.

(c) RECORDATION AS CONSTRUCTIVE NOTICE.—Recordation of a document in the Copyright Office gives all persons constructive notice of the facts stated in the recorded document, but only if:

(1) the document, or material attached to it, specifically identifies the work to which it pertains so that, after the document is indexed by the Register of Copyrights, it would be revealed by a reasonable search under the title or registration number of the work; and

(2) registration has been made for the work.

(d) RECORDATION AS PREREQUISITE TO INFRINGEMENT SUIT.—No person claiming by virtue of a transfer to the owner of copyright or of any exclusive right under a copyright is entitled to institute an infringement action under this title until the instrument of transfer under which he claims has been recorded in the Copyright Office, but suit may be instituted after such recordation on a cause of action that arose before recordation.

(e) PRIORITY BETWEEN CONFLICTING TRANSFERS.—As between two conflicting transfers, the one executed first prevails if it is recorded, in the manner required to give constructive notice under subsection (c) within one month after its execution in the United States or within two months after its execution abroad, or at any time before recordation in such manner of the later transfer. Otherwise the later transfer prevails if recorded first in such manner, and if taken in good faith, for valuable consideration or on the basis of a binding promise to pay royalties, and without notice of the earlier transfer.

(f) PRIORITY BETWEEN CONFLICTING TRANSFER OF OWNERSHIP AND NONEXCLUSIVE LICENSE.—A nonexclusive license, whether recorded or not, prevails over a conflicting transfer of copyright ownership if the license is evidenced by a written instrument signed by the owner of the rights licensed or his duly authorized agent, and if:

(1) the license was taken before execution of the transfer; or

(2) the license was taken in good faith before recordation of the transfer and without notice of it.

Chapter 3.—DURATION OF COPYRIGHT

Sec.

301. Pre-emption with respect to other laws.
302. Duration of copyright: Works created on or after January 1, 1975.
303. Duration of copyright: Works created but not published or copyrighted before January 1, 1975.
304. Duration of copyright: Subsisting copyrights.
305. Duration of copyright: Terminal date.

§ 301. Pre-emption with respect to other laws.

(a) On and after January 1, 1975, all rights in the nature of copyright in works that come within the subject matter of copyright as specified by sections 102 and 103, whether created before or after that date and whether published or unpublished, are governed exclusively by this title. Thereafter, no person is entitled to copyright, literary property rights, or any equivalent legal or equitable right in any such work under the common law or statutes of any State.

(b) Nothing in this title annuls or limits any rights or remedies under the common law or statutes of any State with respect to:

(1) unpublished material that does not come within the subject matter of copyright as specified by sections 102 and 103, including works of authorship not fixed in any tangible medium of expression;

(2) any cause of action arising from undertakings commenced before January 1, 1975;

(3) activities violating rights that are not equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106, including breaches of contract, breaches of trust, invasion of privacy, defamation, and deceptive trade practices such as passing off and false representation.

§ 302. Duration of copyright: Works created on or after January 1, 1975

(a) IN GENERAL.—Copyright in a work created on or after January 1, 1975, subsists from its creation and, except as provided by the following subsections, endures for a term consisting of the life of the author and fifty years after his death.

(b) JOINT WORKS.—In the case of a joint work prepared by two or more authors who did not work for hire, the copyright endures for a term consisting of the life of the last surviving author and fifty years after his death.

(c) ANONYMOUS WORKS, PSEUDONYMOUS WORKS, AND WORKS MADE FOR HIRE.—In the case of an anonymous work, a pseudonymous work or a work made for hire, the copyright endures for a term of seventy-five years from the year of its first publication, or a term of one hundred years from the year of its creation, whichever expires first. If, before the end of such term, the identity of one or more of the authors of an anonymous or pseudonymous work is revealed in the records of a registration made for that work under subsection (a) or (d) of section 407, or in the records provided by this subsection, the copyright in the work endures for the term specified by subsections (a) or (b), based on the life of the author or authors whose identity has been revealed. Any person having an interest in the copyright in an anonymous or pseudonymous work may at any time record, in records to be maintained by the Copyright Office for that purpose, a statement identifying one or more authors of the work; the statement shall also identify the person filing it, the nature of his interest, the source of his information, and the particular work affected, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation.

(d) RECORDS RELATING TO DEATH OF AUTHORS.—Any person having an interest in a copyright may at any time record in the Copyright Office a statement of the date of death of the author of the copyrighted work, or a statement that the author is still living on a particular date. The statement shall identify the person filing it, the nature of his interest, and the source of his information, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall maintain current records of information relating to the death of authors of copyrighted works, based on such recorded statements and, to the extent he considers practicable, on data contained in any of the records of the Copyrighted Office or in other reference sources.

(e) PRESUMPTION AS TO AUTHOR'S DEATH.—After a period of seventy-five years from the year of first publication of a work, or a period of one hundred years from the year of its creation, whichever expires first, any person who obtains from the Copyright Office a certified report that the records provided by subsection (d) disclose nothing to indicate that the author of the work is living, or died less than fifty years before, is entitled to the benefit of a presumption that the author has been dead for at least fifty years. Reliance in good faith upon this presumption shall be complete defense to any action for infringement under this title.

§ 303. Duration of copyright: Works created but not published or copyrighted before January 1, 1975

Copyright in a work created before January 1, 1975, but not theretofore in the public domain or copyrighted, subsists from January 1, 1975, and endures for the term provided by section 302. In no case, however, shall the term of copyright in such a work expire before December 31, 1999; and, if the work is published on or before December 31, 1999, the term of copyright shall not expire before December 31, 2024.

§ 304. Duration of copyright: Subsisting copyrights

(a) COPYRIGHTS IN THEIR FIRST TERM ON JANUARY 1, 1975.—Any copyright, the first term of which is subsisting on January 1, 1975, shall endure for twenty-eight years from the date it was originally secured: *Provided,* That in the case of any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire, the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further,* That in the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work, the author of such work, if still living, or the widow, widower, or children of the author, if the author be not living, or if such author widow, widower, or children be not living, then the author's executors, or in the absence of a will, his next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further,* That in default of the registration of such application for renewal and extension, the copyright in any work shall terminate at the expiration of twenty-eight years from the date copyright was originally secured.

(b) COPYRIGHTS IN THEIR RENEWAL TERM OR REGISTERED FOR RENEWAL BEFORE JANUARY 1, 1975.—The duration of any copyright, the renewal term of which is subsisting at any time between December 31, 1973, and December 31, 1974, inclusive, or for which renewal registration is made between December 31, 1973, and December 31, 1974, inclusive, is extended to endure for a term of seventy-five years from the date copyright was originally secured.

(c) TERMINATION OF TRANSFERS AND LICENSES COVERING EXTENDED RENEWAL TERM.—In the case of any copyright subsisting in either its first or renewal term on January 1, 1975, other than a copyright in a work made for hire, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or of any right under it, executed before January 1, 1975, by any of the persons designated by the second proviso of subsection (a) of this section, otherwise than by will, is subject to termination under the following condition:

(1) In the case of a grant executed by a person or persons other than the author, termination of a grant may be effected by the surviving person or persons who executed it. In the case of a grant executed by one or more of the authors of the work, termination of the grant may be effected, to the extent of a particular author's share in the ownership of the renewal copyright, by the author who executed it or, if such author is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one half of that author's termination interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow (or his widower) and children or grandchildren as follows:

(A) The widow (or widower) owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow (or widower) owns one half of the author's interest;

(B) The author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow (or widower) (in which case the ownership of one half of the author's interest is divided among them;

(C) The rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of his children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of fifty-six years from the date copyright was originally secured, or beginning on January 1, 1976, whichever is later.

(4) Termination shall be effected by serving an advance notice in writing upon the grantee or his successor in title. In the case of a grant executed by a person or persons other than the author, the notice shall be signed by all of those entitled to terminate the grant under clause (1) of this subsection, or by their duly authorized agents. In the case of a grant executed by one or more of the authors of the work, the notice as to any one author's share shall be signed by him or his duly authorized agent or, if he is dead, by the number and proportion of the owners of his termination interest required under clauses (1) and (2) of this subsection, or by their duly authorized agents.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any furture grant.

(6) In the case of a grant executed by a person or persons other than the author, all rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to all of those entitled to terminate the grant under clause (1) of this subsection. In the case of a grant executed by one or more of the authors of the work, all of a particular author's rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to the author or, if he is dead, to the persons owning his termination interest under clause (2) of this subsection, including those owners who did not join in signing the notice of termination under clause (4) of this subsection. In all cases the reversion of rights is subject to the following limitations:

(A) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyright work covered by the termination grant.

(B) The future rights that will revert upon termination of the grant become vetoed on the date the notice of termination has been served as provided by clause (4) of this subsection.

(C) Where an author's rights revert to two or more persons under clause (2) of this subsection, they shall vest in those persons in the proportionate shares provided by that clause. In such a case, and subject to the provisions of subclause (D) of this clause, a further grant, or agreement to make a further grant, or a particular author's share with respect to any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under this clause, as are required to terminate the grant under clause (2) of this subsection. Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under this subclause, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him, his legal representatives, legatees, or heirs at law represent him for purposes of this subclass.

(D) A further grant, or agreement to make a further grant, or any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the author or any of the persons provided by the first sentence of clause (6) of this [subsection, or between the persons provided by subclause (C)] of this clause, and the original grantee or his successor in title, after the notice of termination has been served as provided by clause (4) of this subsection.

(E) Termination of a grant under this subsection affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(F) Unless and until termination is effected under this section, the grant, if it does not provide otherwise, continues in effect for the remainder of the extended renewal term.

§305. Duration of copyright: Terminal date

All terms of copyright provided by section 302 through 304 run to the end of the calendar year in which they would otherwise expire.

Chapter 4.—COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION

Sec.

401. Notice of copyright: Visually perceptible copies.
402. Notice of copyright: Phonorecords of sound recordings.
403. Notice of copyright: Publications incorporating United States Government works.
404. Notice of copyright: Contributions to collective works.
405. Notice of copyright: Omission of notice.
406. Notice of copyright: Error in name or date.
407. Deposit of copies or phonorecords for Library of Congress.
408. Copyright registration in general.
409. Application for registration.
410. Registration of claim and issuance of certificate.
411. Registration as prerequisite to infringement suit.
412. Registration as prerequisite to certain remedies for infringement.

§ 401. Notice of copyright: Visually perceptible copies

(a) GENERAL REQUIREMENT.—Whenever a work protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed copies from which the work can be visually perceived, either directly or with the aid of a machine or device.

(b) FORM OF NOTICE.—The notice appearing on the copies shall consist of the following three elements:

(1) the symbol © (the letter C in a circle), the word "Copyright," or the abbreviation "Copr.";

(2) the year of first publication of the work; in the case of compilations or derivative works incorporating previously published material, the year date of first publication of the compilation or derivative work is sufficient. The year date may be omitted where a pictorial, graphic, or sculptural work, with accompanying text matter, if any, is reproduced in or on greeting cards, postcards, stationery, jewelry, dolls, toys, or any useful articles;

(3) the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner.

(c) POSITION OF NOTICE.—The notice shall be affixed to the copies in such manner and location as to give reasonable notice of the claim of copyright. The Register of Copyright shall prescribe by regulation, as examples, specific methods of affixation and positions of the notice on various types of works that will satisfy this requirement, but these specifications shall not be considered exhaustive.

§ 402. Notice of copyright: Phonorecords of sound recordings

(a) GENERAL REQUIREMENT.—Whenever a sound recording protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed phonorecords of the sound recording.

(b) FORM OF NOTICE.—The notice appearing on the phonorecords shall consist of the following three elements:

(1) the symbol (the letter P in a circle);

(2) the year of first publication of the sound recording;

(3) the name of the owner of copyrights in the sound recording, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner; if the producer of the sound recording is named on the phonorecord labels or containers, and if no other name appears in conjunction with the notice, his name shall be considered a part of the notice.

(c) POSITION OF NOTICE.—The notice shall be placed on the surface of the phonorecord, or on the phonorecord label or container, in such manner and location as to give reasonable notice of the claim of copyright.

§ 403. Notice of copyright: Publications incorporating United States Government works

Whenever a work is published in copies or phonorecords consisting preponderantly of one or more works of the United States Government, the notice of copyright provided by section 401 or 402 shall also include a statement identifying, either affirmatively or negatively, those portions of the copies or phonorecords embodying any work or works protected under this title.

§ 404. Notice of Copyright: Contributions to collective works

(a) A separate contribution to a collective work may bear its own notice of copyright, as provided by sections 401 through 403. However, a single notice applicable to the collective work as a whole is sufficient to satisfy the requirements of sections 401 through 403 with respect to the separate contributions it contains (not including advertisements inserted on behalf of persons other than the owner of copyright in the collective work), regardless of the ownership of copyright in the contributions and whether or not they have been previously published.

(b) When the person named in a single notice applicable to a collective work as a whole is not the owner of copyright in a separate contribution that does not bear its own notice, the case is governed by the provisions of section 406(a).

§ 405. Notice of copyright: Omissions of notice

(a) EFFECT OF OMISSION ON COPYRIGHT.—The omission of the copyright notice described by sections 401 through 403 from copies or phonorecords publicly distributed by authority of the copyright owner does not invalidate the copyright in a work if:

(1) the notice has been omitted from no more than a relatively small number of copies or phonorecords distributed to the public; or

(2) registration for the work has been made before or is made within five years after the publication without notice, and a reasonable effort is made to add notice to all copies or phonorecords that are distributed to the public in the United States after the omission has been discovered; or

(3) the notice has been omitted in violation of an express requirement in writing that, as a condition of the copyright owner's authorization of the public distribution of copies or phonorecords, they bear the prescribed notice.

(b) EFFECT OF OMISSION ON INNOCENT INFRINGERS.—Any person who innocently infringes a copyright, in reliance upon an authorized copy or phonorecord from which the copyright notice has been omitted, incurs no liability for actual or statutory damages under section 504 for any infringing acts committed before receiving actual notice that registration for the work had been made under section 408, if he proves that he was misled by the omission of notice. In a suit for infringement in such a case the court may allow or disallow recovery of any of the infringer's profits attributable to the infringement, and may enjoin the continuation of the infringing undertaking or may require, as a condition for permitting the infringer to continue his undertaking, that he pay the copyright owner a reasonable license fee in an amount and on terms fixed by the court.

(c) REMOVAL OF NOTICE.—Protection under this title is not affected by the removal, destruction, or obliteration of the notice, without the authorization of the copyright owner, from any publicly distributed copies of phonorecords.

§ 406. Notice of copyright: Error in name or date

(a) ERROR IN NAME.—Where the person named in the copyright notice on copies or phonorecords publicly distributed by authority of the copyright owner is not the owner of copyright, the validity and ownership of the copyright are not affected. In such a case, however, any person who innocently begins an undertaking that infringes the copyright has a complete defense to any action for such infringement if he proves that he was misled by the notice and began the undertaking in good faith under a purported transfer or license from the person named therein, unless before the undertaking was begun—

(1) registration for the work had been made in the name of the owner of copyright; or

(2) a document executed by the person named in the notice and showing the ownership of the copyright had been recorded.

The person named in the notice is liable to account to the copyright owner for all receipts from purported transfers or licenses made by him under the copyright.

(b) Error in Date.—When the year date in the notice on copies or phonorecords distributed by authority of the copyright owner is earlier than the year in which publication first occurred, any period computed from the year of first publication under section 302 is to be computed from the year in the notice. Where the year date is more than one year later than the year in which publication first occurred, the work is considered to have been published without any notice and is governed by the provisions of section 405.

(c) Omission of Name or Date.—Where copies or phonorecords publicly distributed by authority of the copyright owner contain no name or no date that could reasonably be considered a part of the notice, the work is considered to have been published without any notice and is governed by the provisions of section 405.

§ 407. Deposit of copies or phonorecords for Library of Congress

(a) Except as provided by subsection (c), the owner of copyright or of the exclusive right of publication in a work published with notice of copyright in the United States shall deposit, within three months after the date of such publication—

(1) two complete copies of the best edition; or

(2) if the work is a sound recording, two complete phonorecords of the best edition, together with any printed or other visually perceptible material published with such phonorecords.

This deposit is not a condition of copyright protection.

(b) The required copies or phonorecords shall be deposited in the Copyright Office for the use or disposition of the Library of Congress. The Register of Copyrights shall, when requested by the depositor and upon payment of the fee prescribed by section 708, issue a receipt for the deposit.

(c) The Register of Copyrights may by regulation exempt any categories of material from the deposit requirements of this section, or require deposit of only one copy of phonorecord with respect to any categories.

(d) At any time after publication of a work as provided by subsection (a), the Register of Copyrights may make written demand for the required deposit on any of the persons obligated to make the deposit under subsection (a). Unless deposit is made within three months after the demand is received, the person or persons on whom the demand was made are liable:

(1) to a fine of not more than $250 for each work; and

(2) to pay to the Library of Congress the total retail price of the copies of phonorecords demanded, or, if no retail price has been fixed, the reasonable cost to the Library of Congress of acquiring them.

§ 408. Copyright registration in general

(a) Registration Permissive.—At any time during the subsistence of copyright in any published or unpublished work, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim by delivering to the Copyright Office the deposit specified by this section, together with the application and fee specified by sections 409 and 708. Subject to the provisions of section 405(a), such registration is not a condition of copyright protection.

(b) Deposit for Copyright Registration.—Except as provided by subsection (c), the material deposited for registration shall include:

(1) in the case of an unpublished work, one complete copy or phonorecord;

(2) in the case of a published work, two complete copies or phonorecords of the best edition;

(3) in the case of a work first published abroad, one complete copy or phonorecord as so published;

(4) in the case of a contribution to a collective work, one complete copy or phonorecord of the best edition of the collective work.

Copies or phonorecords deposited for the Library of Congress under section 407 may be used to satisfy the deposit provisions of this section, if they are accompanied by the prescribed application and fee, and by any additional identifying material that the Register may, by regulation, require.

(c) Administrative Classification and Optional Deposit.—The Register of Copyrights is authorized to specify by regulation the administrative classes into which works are to be placed for purposes of deposit and registration, and the nature of the copies or phonorecords to be deposited in the various classes specified. The regulations may require or permit, for particular classes, the deposit of identifying material instead of copies or phonorecords, the deposit of only one copy or phonorecord where two would normally be required, or a single registration for a group of related works. This administrative classification of works has no significance with respect to the subject matter of copyright or the exclusive rights provided by this title.

(d) Corrections and Amplification.—The Register may also establish, by regulation, formal procedures for the filing of an application for supplementary registration, to correct an error in a copyright registration or to amplify the information given in a registration. Such application shall be accompanied by the fee provided by section 708, and shall clearly identify the registration to be corrected or amplified. The information contained in a supplementary registration augments but does not supersede that contained in the earlier registration.

(e) Published Edition of Previously Registered Work.—Registration for the first published edition of a work previously registered in unpublished form may be made even though the work as published is substantially the same as the unpublished version.

§ 409. Application for registration

The application for copyright registration shall be made on a form prescribed by the Register of Copyrights and shall include:

(1) the name and address of the copyright claimant;

(2) in the case of a work other than an anonymous or pseudonymous work, the name and nationality or domicile of the author or authors and, if one or more of the authors is dead, the dates of their deaths;

(3) if the work is anonymous or pseudonymous, the nationality or domicile of the author or authors;

(4) in the case of a work made for hire, a statement to this effect;

(5) if the copyright claimant is not the author, a brief statement of how the claimant obtained ownership of the copyright;

(6) the title of the work, together with any previous or alternative titles under which the work can be identified;

(7) the year in which creation of the work was completed;

(8) if the work has been published, the date and nation of its first publication;

(9) in the case of a compliance or derivative work, an identification of any pre-existing work or works that it is based on or incorporates, and a brief, general statement of the additional material covered by the copyright claim being registered;

(10) in the case of a published work containing material of which copies are required by section 601 to be manufactured in the United States, the names of the persons or organizations who performed the processes specified by subsection (c) of section 601 with respect to that material, and the places where those processes were performed; and

(11) any other information regarded by the Register of Copyrights as bearing upon the preparation or identification of the work or the existence, ownership, or duration of the copyright.

§ 410. Registration of claim and issuance of certificate

(a) When, after examination, the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited constitutes copyrightable subject matter and that the other legal and formal requirements of this title have been met, he shall register the claim and issue to the applicant a certificate of registration under the seal of the Copyright Office. The certificate shall contain the information given in the application, together with the number and effective date of the registration.

(b) In any case in which the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited does not constitute copyrightable subject matter or that the claim is invalid for any other reason, he shall refuse registration and shall notify the applicant in writing of the reasons for his action.

(c) In any judicial proceedings the certificate of a registration made before or within five years after first publication of the work shall constitute prima facie evidence of the validity of the copyright and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration made thereafter shall be within the discretion of the court.

(d) The effective date of a copyright registration is the day on which an application, deposit, and fee, which are later determined by the Register of Copyrights or by a court of competent jurisdiction to be acceptable for registration have all been received in the Copyright Office.

411. Registration as prerequisite to infringement suit

(a) Subject to the provisions of subsection (b), no action for infringement of the copyright in any work shall be instituted until registration of the copyright claim has been made in accordance with this title. In any case, however, where the deposit, application, and fee required for registration have been delivered to the Copyright Office in proper form and registration has been refused, the applicant is entitled to institute an action for infringement if notice thereof, with a copy of the complaint, is served on the Register of Copyrights. The Register may, at his option, become a party to the action with respect to the issue of registrability of the copyright claim by entering his appearance within sixty days after such service, but his failure to do so shall not deprive the court of jurisdiction to determine that issue.

(b) In the case of a work consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, the copyright owner may either before or after such fixation takes place, institute an action for infringement under section 501, fully subject to the remedies provided by sections 502 through 506, if, in accordance with requirements that the Register of Copyrights shall prescribe by regulation, the copyright owner—

(1) serves notice upon the infringer, not less than ten or more than thirty days before such fixation, identifying the work and the specific time and source of its first transmission, and declaring an intention to secure copyright in the work; and

(2) makes registration for the work within three months after its first transmission.

412. Registration as prerequisite to certain remedies for infringement

In any action under this title, other than an action instituted under section 411(b), no award of statutory damages or of attorney's fees, as provided by sections 504 and 505, shall be made for:

(1) any infringement of copyright in an unpublished work commenced before the effective date of its registration; or

(2) any infringement of copyright commenced after first publication of the work and before the effective date of its registration, unless such registration is made within three months after its first publication.

Chapter 5.—COPYRIGHT INFRINGEMENT AND REMEDIES

Sec.
501. Infringement of copyright.
502. Remedies for infringement: Injunctions.
503. Remedies for infringement: Impounding and disposition of infringing articles.
504. Remedies for infringement: Damages and profits.
505. Remedies for infringement: Costs and attorney's fees.
506. Criminal offenses.
507. Limitations on actions.
508. Notification of filing and determination of actions.

§ 501. Infringement of copyright.

(a) Anyone who violates any of the exclusive rights of the copyright owner as provided by sections 106 through 117, or who imports copies or phonorecords into the United States in violation of section 602, is an infringer of the copyright.

(b) The legal or beneficial owner of an exclusive right under a copyright is entitled, subject to the requirements of sections 205 (d) and 411, to institute an action for any infringement of that particular right committed while he is the owner of it. The court may require him to serve written notice of the action with a copy of the complaint upon any person shown, by the records of the Copyright Office or otherwise, to have or claim an interest in the copyright, and shall require that such notice be served upon any person whose interest is likely to be affected by a decision in the case. The court may require the joinder, and shall permit the intervention, of any person having or claiming an interest in the copyright.

(c) For any secondary transmission by a cable system that embodies a performance or a display of a work which is actionable as an act of infringement under subsection (c) of section 111, a television broadcast station holding a copyright or other license to transmit or perform the same version of that work shall, for purposes of subsection (b) of this section, be treated as a legal or beneficial owner if such secondary transmission occurs within the local service area of that television station.

§ 502. Remedies for infringement: Injunctions.

(a) Any court having jurisdiction of a civil action arising under this title may, subject to the provision of section 1498 of title 28, grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain infringement of a copyright.

(b) Any such injunction may be served anywhere in the United States on the person enjoined; it shall be operative throughout the United States and shall be enforceable, by proceedings in contempt or otherwise, by any United States court having jurisdiction of that person. The clerk of the court granting the injunction shall, when requested by any other court in which enforcement of the injunction is sought, transmit promptly to the other court a certified copy of all the papers in the case on file in his office.

§ 503. Remedies for infringement: Impounding and disposition of infringing articles.

(a) At any time while an action under this title is pending, the court may order the impounding, on such terms as it may deem reasonable, of all copies or phonorecords claimed to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

(b) As part of a final judgment or decree, the court may order the destruction or other reasonable disposition of all copies or phonorecords found to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

§ 504. Remedies for infringement: Damages and profits.

(a) In General.—Except as otherwise provided by this title, an infringer of copyright is liable for either:

(1) the copyright owner's actual damages and any additional profits of the infringer, as provided by subsection (b); or

(2) statutory damages, as provided by subsection (c).

(b) Actual Damages and Profits.—The copyright owner is entitled to recover the actual damages suffered by him as a result of the infringement, and any profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages. In establishing the infringer's profits, the copyright owner is required to present proof only of the infringer's gross revenue, and the infringer is required to prove his deductible expenses and the elements of profit attributable to factors other than the copyrighted work.

(c) Statutory Damages.—

(1) Except as provided by clause (2) of this subsection, the copyright owner may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for all infringements involved in the action, with respect to any one work, for which any one infringer is liable individually, or for which any two or more infringers are liable jointly and severally, in a sum of not less than $250 or more than $10,000 as the court considers just. For the purposes of this subsection, all the parts of a compilation or derivative work constitute one work.

(2) In a case where the copyright owner sustains the burden of proving, and the court finds, that infringement was committed willfully, the court in its discretion may increase the award of statutory damage to a sum of not more than $50,000. In a case where the infringer sustains the burden of proving, and the court finds, that he was not aware and had no reason to believe that his acts constituted an infringement of copyright, the court in its discretion may reduce the award of statutory damages to a sum of not less than $100. In a case where an instructor, librarian or archivist in a nonprofit educational institution, library, or archives, who infringed by reproducing a copyright work in copies or phonorecords, sustains the burden of proving that he believed and had reasonable grounds for believing that the reproduction was a fair use under section 107, the court in its discretion may remit statutory damages in whole or in part.

§ 505. Remedies for infringement: Costs and attorney's fee

In any civil action under this title, the court in its discretion may allow the recovery of full costs by or against any party other than the United States or an officer thereof. Except as otherwise provided by this title, the court may also award a reasonable attorney's fee to the prevailing party as part of the costs.

§ 506. Criminal offenses

(a) Criminal Infringement.—Any person who infringes a copyright willfully and for purposes of commercial advantage or private financial gain shall be fined not more than $2,500 or imprisoned not more than one year, or both, for the first such offense, and shall be fined not more than $10,000 or imprisoned not more than three years, or both, for any subsequent offense: *Provided, however*, That any person who infringes willfully and for purposes of commercial advantage or private financial gain the copyright in a sound recording afforded by subsections (1) and (3) in section 106 shall be fined not more than $25,000 or imprisoned for not more than three years, or both, for the first such offense and shall be fined not more than $50,000 or imprisoned not more than seven years, or both, for any subsequent offense.

(b) Fraudulent Copyright Notice.—Any person who, with fraudulent intent, places on any article a notice of copyright or words of the same purport that he knows to be false, or who, with fraudulent intent, publicly distributes or imports for public distribution any article bearing such notice or words that he knows to be false, shall be fined not more than $2,500.

(c) Fraudulent Removal of Copyright Notice.—Any person who, with fraudulent intent, removes or alters any notice of copyright appearing on a copy of a copyrighted work shall be fined not more than $2,500.

(d) False Representation.—Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than $2,500.

§ 507. Limitation on actions

(a) Criminal Proceedings.—No criminal proceeding shall be maintained under the provisions of this title unless it is commenced within three years after the cause of action arose.

(b) Civil Actions.—No civil action shall be maintained under the provisions of this title unless it is commenced within three years after the claim accrued.

§ 508. Notification of filing and determination of actions

(a) Within one month after the filing of any action under this title, the clerks of the courts of the United States shall send written notification to the Register of Copyrights setting forth, as far as is shown by the papers filed in the court, the names and addresses of the parties and the title, author, and registration number of each work involved in the action. If any other copyrighted work is later included in the action by amendment, answer, or other pleading, the clerk shall also send a notification concerning it to the Register within one month after the pleading is filed.

(b) Within one month after any final order or judgment is issued in the case, the clerk of the court shall notify the Register of it, sending him a copy of the order or judgment together with the written opinion, if any, of the court.

(c) Upon receiving the notifications specified in this section, the Register shall make them a part of the public records of the Copyright Office.

Chapter 6.—MANUFACTURING REQUIREMENT AND IMPORTATION

Sec.
601. Manufacture, importation, and public distribution of certain copies.

602. Infringing importation of copies or phonorecords.
603. Importation prohibitions: Enforcement and disposition of excluded articles.

§ 601. Manufacture, importation, and public distribution of certain copies

(a) Except as provided by subsection (b), the importation into or public distribution in the United States of copies of a work consisting preponderantly of nondramatic literary material that is in the English language and is protected under this title is prohibited unless the portions consisting of such material have been manufactured in the United States or Canada.

(b) The provisions of subsection (a) do not apply:

(1) where, on the date when importation is sought or public distribution in the United States is made, the author of any substantial part of such material is neither a national nor a domiciliary of the United States or, if he is a national of the United States, has been domiciled outside of the United States for a continuous period of at least one year immediately preceding that date; in the case of work made for hire, the exemption provided by this clause does not apply unless a substantial part of the work was prepared for an employer or other person who is not a national or domiciliary of the United States or a domestic corporation or enterprise;

(2) where the Bureau of Customs is presented with an import statement issued under the seal of the Copyright Office, in which case a total of no more than two thousand copies of any one such work shall be allowed entry; the import statement shall be issued upon request to the copyright owner or to a person designated by him at the time of registration for the work under section 408 or at any time thereafter;

(3) where importation is sought under the authority or for the use, other than in schools, of the Government of the United States or of any State or political subdivision of a State;

(4) where importation, for use and not for sale, is sought:

(A) by any person with respect to no more than one copy of any one work at any one time;

(B) by any person arriving from abroad, with respect to copies forming part of his personal baggage; or

(C) by an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to copies intended to form a part of its library;

(5) where the copies are reproduced in raised characters for the use of the blind;

(6) where, in addition to copies imported under clauses (3) and (4) of this subsection, no more than two thousand copies of any one such work, which have not been manufactured in the United States or Canada, are publicly distributed in the United States.

(c) The requirement of this section that copies be manufactured in the United States or Canada is satisfied if:

(1) in the case where the copies are printed directly from type that has been set, or directly from plates from such type, the setting of the type and the making of the plates have been performed in the United States or Canada; or

(2) in the case where the making of plates by a lithographic or photoengraving process is a final or intermediate step preceding the printing of the copies, the making of the plates has been performed in the United States or Canada; and

(3) in any case, the printing or other final process of producing multiple copies and any binding of the copies have been performed in the United States or Canada.

(d) Importation or public distribution of copies in violation of this section does not invalidate protection for a work under this title. However, in any civil action or criminal proceeding for infringement of the exclusive rights to reproduce an distribute copies of the work, the infringer has a complete defense with respect to all of the non-dramatic literary material comprised in the work and any other parts of the work in which the exclusive rights to reproduce and distribute copies are owned by the same person who owns such exclusive rights in the nondramatic literary material, if he proves:

(1) that copies of the work have been imported into or publicly distributed in the United States in violation of this section by or with the authority of the owner of such exclusive rights; and

(2) that the infringing copies were manufactured in the United States or Canada in accordance with the provisions of subsection (c); and

(3) that the infringement was commenced before the effective date of registration for an authorized edition of the work, the copies of which have been manufactured in the United States or Canada in accordance with the provisions of subsection (c).

(e) In any action for infringement of the exclusive rights to reproduce and distribute copies of a work containing material required by this section to be manufactured in the United States or Canada, the copyright owner shall set forth in the complaint the names of the persons or organizations who performed the processes specified by subsection (c) with respect to that material, and the places where those processes were performed.

§ 602. Infringing importation of copies or phonorecords

(a) Importation into the United States, without the authority of the owner of copyright under this title, of copies or phonorecords of a work that have been acquired abroad is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under section 501. This subsection does not apply to:

(1) importation of copies or phonorecords under the authority or for the use of the Government of the United States or of any State or political subdivision of a State but not including copies or phonorecords for use in schools, or copies of any audiovisual work imported for purposes other than archival use;

(2) importation, for the private use of the importer and not for distribution, by any person with respect to no more than one copy or phonorecord of any one work at any one time, or by any person arriving from abroad with respect to copies or phonorecords forming part of his personal baggage; or

(3) importation by or for an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to no more than one copy of an audiovisual work solely for its archival purposes, and no more than five copies or phonorecords of any other work for its library lending or archival purposes.

(b) In a case where the making of the copies or phonorecords would have constituted an infringement of copyright if this title had been applicable, their importation is prohibited. In a case where the copies or phonorecords were lawfully made, the Bureau of Customs has no authority to prevent their importation unless the provisions of section 601 are applicable. In either case, the Secretary of the Treasury is authorized to prescribe, by regulation, a procedure under which any person claiming an interest in the copyright in a particular work may, upon payment of a specified fee, be entitled to notification by the Bureau of the importation of articles that appear to be copies or phonorecords of the work.

§ 603. Importation prohibitions: Enforcement and disposition of excluded articles

(a) The Secretary of the Treasury and the Postmaster General shall separately or jointly make regulations for the enforcement of the provisions of this title prohibiting importation.

(b) These regulations may require, as a condition for the exclusion of articles under section 602:

(1) that the person seeking exclusion obtain a court order enjoining importation of the articles; or

(2) that he furnish proof, of a specified nature and in accordance with prescribed procedures, that the copyright in which he claims an interest is valid and that the importation would violate the prohibition in section 602; he may also be required to post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

(c) Articles imported in violation of the importation prohibitions of this title are subject to seizure and forfeiture in the same manner as property imported in violation of the customs revenue laws. Forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be: however, the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his acts constituted a violation of law.

Chapter 7.—COPYRIGHT OFFICE

Sec.
701. The Copyright Office: General responsibilities and organization.
702. Copyright Office regulations.
703. Effective date of actions in Copyright Office.
704. Retention and disposition of articles deposited in Copyright Office.
705. Copyright Office records: Preparation, maintenance, public inspection, and searching.
706. Copies of Copyright Office records.
707. Copyright Office forms and publications.
708. Copyright Office fees.
709. Delay in delivery caused by disruption of postal or other services.

§ 701. The Copyright Office: General responsibilities and organization

(a) All administrative functions and duties under this title, except as otherwise specified, are the responsibility of the Register of Copyrights as director of the Copyright Office in the Library of Congress. The Register of Copyrights, together with the subordinate officers and employees of the Copyright Office, shall be appointed by the Librarian of Congress, and shall act under his general direction and supervision.

(b) The Register of Copyrights shall adopt a seal to be used on and after January 1, 1975, to authenticate all certified documents issued by the Copyright Office.

(c) The Register of Copyrights shall make an annual report to the Librarian of Congress of the work and accomplishments of the Copyright Office during the previous fiscal year. The annual report of the Register of Copyrights shall be published separately and as a part of the annual report of the Librarian of Congress.

§ 702. Copyright Office regulations

The Register of Copyrights is authorized to establish regulations not inconsistent with law for the administration of the functions and duties made his responsibility under this title. All regulations established by the Register under this title are subject to the approval of the Librarian of Congress.

§ 703. Effective date of actions in Copyright Office

In any case in which time limits are prescribed under this title for the performance of an action in the Copyright Office, and in which the last day of the prescribed period falls on a Saturday, Sunday, holiday or other non-business day within the District of Columbia or the Federal Government, the action may be taken on the next succeeding business day, and is effective as of the date when the period expired.

§ 704. Retention and disposition of articles deposited in Copyright Office

(a) Upon their deposit in the Copyright Office under sections 407 and 408, all copies, phonorecords, and identifying material, including those deposited in connection with claims that have been refused registration, are the property of the United States Government.

(b) In the case of published works, all copies, phonorecords, and identifying material deposited are available to the Library of Congress for its collections, or for exchange or transfer to any other library. In the case of unpublished works, the Library is entitled to select any deposits for its collections.

(c) Deposits not selected by the Library under subsection (b), or identifying portions or reproductions of them, shall be retained under the control of the Copyright Office, including retention in Government storage facilities, for the longest period considered practicable and desirable by the Register of Copyrights and the Librarian of Congress. After that period it is within the joint discretion of the Register and the Librarian to order their destruction or other disposition; but, in the case of unpublished works, no deposit shall be destroyed or otherwise disposed of during its term of copyright.

(d) The depositor of copies, phonorecords, or identifying material under section 408, or the copyright owner of record, may request retention, under the control of the Copyright Office, of one or more of such articles for the full term of copyright in the work. The Register of Copyrights shall prescribe, by regulation, the conditions under which such requests are to be made and granted, and shall fix the fee to be charged under section 708(a)(12) if the request is granted.

§ 705. Copyright Office records: Preparation, maintenance, public inspection, and searching

(a) The Register of Copyrights shall provide and keep in the Copyright Office records of all deposits, registrations, recordations, and other actions taken under this title, and shall prepare indexes of all such records.

(b) Such records and indexes, as well as the articles deposited in connection with completed copyright registrations and retained under the control of the Copyright Office, shall be open to public inspection.

(c) Upon request and payment of the fee specified by section 708, the Copyright Office shalll make a search of its public records, indexes, and deposits, and shall furnish a report of the information they disclose with respect to any particular deposits, registrations, or recorded documents.

§ 706. Copies of Copyright Office records

(a) Copies may be made of any public records or indexes of the Copyright Office; additional certificates of copyright registration and copies of any public records or indexes may be furnished upon request and payment of the fees specified by section 708.

(b) Copies or reproductions of deposited articles retained under the control of the Copyright Office shall be authorized or furnished only under the conditions specified by the Copyright Office regulations.

§ 707. Copyright Office forms and publications

(a) CATALOG OF COPYRIGHT ENTRIES.—The Register of Copyrights shall compile and publish at periodic intervals catalogs of all copyright registrations. These catalogs shall be divided into parts in accordance with the various classes of works, and the Register has discretion to determine on the basis of practicability and usefulness, the form and frequency of publication of each particular part.

(b) OTHER PUBLICATIONS.—The Register shall furnish, free of charge upon request, application forms for copyright registration and general informational material in connection with the functions of the Copyright Office. He also has authority to publish compilations of information, bibliographies, and other material he considers to be of value to the public.

(c) DISTRIBUTION OF PUBLICATIONS.—All publications of the Copyright Office shall be furnished to depository libraries as specified under section 1905 of title 44, United States Code, and, aside from those furnished free of charge, shall be offered for sale to the public at prices based on the cost of reproduction and distribution.

§ 708. Copyright Office fees

(a) The following fees shall be paid to the Register of Copyrights:

(1) for the registration of a copyright claim or a supplementary registration under section 408, including the issuance of a certificate of registration, $6;

(2) for the registration of a claim to renewal of a subsisting copyright in its first term under section 304(a), including the issuance of a certificate of registration, $4;

(3) for the issuance of a receipt for a deposit under section 407, $2;

(4) for the recordation, as provided by section 204, of a transfer of copyright ownership or other document of six pages or less, covering no more than one title, $5; for each page over six and for each title over one, 50 cents additional;

(5) for the filing, under section 115(b), of a notice of intention to make phonorecords, $3;

(6) for the recordation, under section 302(c), of a statement revealing the identity of an author of an anonymous or pseudonymous work, or for the recordation, under section 302(d), of a statement relating to the death of an author, $5 for a document of six pages or less, covering no more than one title; for each page over six and for each title over one, 50 cents additional;

(7) for the issuance, under section 601, of an import statement, $3;

(8) for the issuance, under section 706, of an additional certificate of registration, $2;

(9) for the issuance of any other certification, $3; the Register of Copyrights has discretion, on the basis of their cost, to fix the fees for preparing copies of Copyright Office records, whether they are to be certified or not;

(10) for the making and reporting of a search as provided by section 705, and for any related services, $5 for each hour or fraction of an hour consumed;

(11) for any other special services requiring a substantial amount of time or expense, such fees as the Register of copyrights may fix on the basis of the cost of providing the service.

(b) The fees prescribed by or under this section are applicable to the United States Government and any of its agencies, employees, or officers, but the Register of Copyrights has discretion to waive the requirement of this subsection in occasional or isolated cases involving relatively small amounts.

§ 709. Delay in delivery caused by disruption of postal or other services

In any case in which the Register of Copyrights determines, on the basis of such evidence as he may by regulation require, that a deposit application fee, or any other material to be delivered to the Copyright Office by a particular date, would have been received in the Copyright Office in due time except for a general disruption or suspension of postal or other transportation or communications services, the actual receipt of such material in the Copyright Office within one month after the date on which the Register determines that the disruption or suspension of such services has terminated, shall be considered timely.

Chapter 8.—COPYRIGHT ROYALTY TRIBUNAL

Sec.
801. Copyright Royalty Tribunal; Establishment and purpose.
802. Petitions for the adjustment of royalty rates.
803. Membership of the Tribunal.
804. Procedures of the Tribunal.
805. Compensation of members of the Tribunal; expenses of the Tribunal.
806. Reports to the Congress.
807. Effective date of royalty adjustment.
808. Effective date of royalty distribution.
809. Judicial review.

§ 801. Copyright Royalty Tribunal: Establishment and purpose

(a) There is hereby created in the Library of Congress a Copyright Royalty Tribunal.

(b) Subject to the provisions of this chapter, the purpose of the Tribunal shall be: (1) to make determinations concerning the adjustment of the copyright royalty rates specified by sections 111, 114, 115, and 116 so as to assure that such rates are reasonable and in the event that the Tribunal shall determine that the statutory royalty rate, or a rate previously established by the Tribunal, or the revenue basis in respect to section 111, does not provide a reasonable royalty fee for the basic service of providing secondary transmissions of the primary broadcast transmitter or is otherwise unreasonable, the Tribunal may change the royalty rate or the revenue bases on which the royalty fee shall be assessed or both so as to assure a reasonable royalty fee; and (2) to determine in certain circumstances the distribution of the royalty fees deposited with the Register of Copyrights under sections 111, 114, and 116.

§ 802. Petitions for the adjustment of royalty rates

(a) On July 1, 1975, the Register of Copyrights shall cause to be published in the Federal Register notice of the commencement of proceedings for the review of the royalty rates specified by sections 111, 114, 115, and 116.

(b) During the calendar year 1982, and in each subsequent fifth calendar year, any owner or user of a copyrighted work whose royalty rates are specified by this title, or by a rate established by the Tribunal, may file a petition with the Register of Copyrights declaring that the petitioner requests an adjustment of the rate. The Register shall make a determination as to whether the applicant has a significant interest in the royalty rate in which an adjustment is requested. If the Register determines that the petitioner has a significant interest, he shall cause notice of his decision to be published in the Federal Register.

§ 803. Membership of the Tribunal

(a) In accordance with Section 802, or upon certifying the existence of a controversy concerning the distribution of royalty fees deposited pursuant to sections 111, 114, 115, and 116, the Register shall request the American Arbitration Association or any similar successor organization to furnish a list of three members of said Association. The Register shall communicate the names together with such information as may be appropriate to all parties of interest. Any such party within twenty days from the date said communication is sent may submit to the Register written objections to any or all of the proposed names. If no such objections are received, or if the Register determines that said objections are not well founded, he shall certify the appointment of the three designated individuals to constitute a panel of the Tribunal for the consideration of the specified rate or royalty distribution. Such panel shall function as the Tribunal established in section 801. If the Register determines that the objections to the designation of one or more of the proposed individuals are well founded, the Register shall request the American Arbitration Association or any similar successor organization to propose the necessary number of substitute individuals. Upon receiving such additional names the Register shall constitute the panel. The Register shall designate one member of the panel as Chairman.

(b) If any member of a panel becomes unable to perform his duties, the Register, after consultation with the parties, may provide for the selection of a successor in the manner prescribed in subsection (a).

§ 804. Procedures of the Tribunal

(a) The Tribunal shall fix a time and place for its proceedings and shall cause notice to be given to the parties.

(b) Any organization or person entitled to participate in the proceedings may appear directly or be represented by counsel.

(c) Except as otherwise provided by law, the Tribunal shall determine its own procedure. For the purpose of carrying out the provisions of this chapter, the Tribunal may hold hearings, administer oaths, and require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of documents.

(d) Every final decision of the Tribunal shall be in writing and shall state the reasons therefor.

(e) The Tribunal shall render a final decision in each proceeding within one year from the certification of the panel. Upon a showing of good cause, the Senate Committee on the Judiciary and the House of Representatives Committee on the Judiciary may waive this requirement in a particular proceeding.

§ 805. Compensation of members of the Tribunal; expenses of the Tribunal

(a) In proceedings for the distribution of royalty fees, the compensation of members of the Tribunal and other expenses of the Tribunal shall be deducted prior to the distribution of the funds.

(b) In proceedings for the adjustment of royalty rates, there is hereby authorized to be appropriated such sums as may be necessary.

(c) The Library of Congress is authorized to furnish facilities and incidental service to the Tribunal.

(d) The Tribunal is authorized to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

§ 806. Reports to the Congress

The Tribunal immediately upon making a final determination in any proceeding for adjustment of a statutory royalty shall transmit its decision, together with the reasons therefor, to the Secretary of the Senate and the Clerk of the House of Representatives for reference to the Judiciary Committees of the Senate and the House of Representatives.

§ 807. Effective date of royalty adjustment

(a) Prior to the expiration of the first period of ninety calendar days of continuous session of the Congress, following the transmittal of the report specified in section 806, either House of the Congress may adopt a resolution stating in substance that the House does not favor the recommended royalty adjustment, and such adjustment, therefore, shall not become effective.

(b) For the purposes of subsection (a) of this section

(1) Continuity of session shall be considered as broken only by an adjournment of the Congress sine die, and

(2) In the computation of the ninety-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than three days to a day certain.

(c) In the absence of the passage of such a resolution by either House during said ninety-day period, the final determination by the Tribunal of a petition for adjustment shall take effect on the first day following ninety calendar days after the expiration of the period specified by subsection (a).

(d) The Register of Copyrights shall give notice of such effective date by publication in the Federal Register not less than sixty days before said date.

§ 808. Effective date of royalty distribution

A final determination of the Tribunal concerning the distribution of royalty fees deposited with the Register of Copyrights pursuant to sections 111, 114, and 116 shall become effective thirty days following such determination unless prior to that time an application has been filed pursuant to section 809 to vacate, modify or correct the determination, and notice of such application has been served upon the Register of Copyrights. The Register upon the expiration of thirty days shall distribute such royalty fees not subject to any application filed pursuant to section 809.

§ 809. Judicial review

In any of the following cases the United States District Court for the District of Columbia may make an order vacating, modifying or correcting a final determination of the Tribunal concerning the distribution of royalty fees—

(a) Where the determination was procured by corruption, fraud, or undue means.

(b) Where there was evident partiality or corruption in any member of the panel.

(c) Where any member of the panel was guilty of any misconduct by which the rights of any party have been prejudiced.

TRANSITIONAL AND SUPPLEMENTARY PROVISIONS

SEC. 102. This title becomes effective on January 1, 1975, except as otherwise provided by section 304(b) of title 17 as amended by this title.

SEC. 103. This title does not provide copyright protection for any work that goes into the public domain before January 1, 1975. The exclusive rights, as provided by section 106 of title 17 as amended by this title, to reproduce a work in phonorecords and to distribute phonorecords of the work, do not extend to any nondramatic musical work copyrighted before July 1, 1909.

SEC. 104. All proclamations issued by the President under sections 1(e) or 9(b) of title 17 as it existed on December 31, 1974, or under previous copyright statutes of the United States shall continue in force until terminated, suspended, or revised by the President.

SEC. 105. (a)(1) Section 505 of title 44, United States Code, Supplement IV, is amended to read as follows:

"§ 505. Sale of duplicate plates

"The Public Printer shall sell, under regulations of the Joint Committee on Printing to persons who may apply, additional or duplicate stereotype or electrotype plates from which a Government publication is printed, at a price not to exceed the cost of composition, the metal, and making to the Government, plus 10 per centum, and the full amount of the price shall be paid when the order is filed."

(2) The item relating to section 505 in the sectional analysis at the beginning of chapter 5 of title 44, United States Code, is amended to read as follows:

"505. Sale of duplicate plates."

(b) Section 2113 of title 44, United States Code, is amended to read as follows:

"§ 2113. Limitation on liability

"When letters and other intellectual productions (exclusive of patented material, published works under copyright protection, and unpublished works for which copyright registration has been made) come into the custody or possession of the Administrator of General Services, the United States or its agents are not liable for infringement of copyright or analogous rights arising out of use of the materials for display, inspection, research, reproduction, or other purposes."

(c) In section 1498(b) of title 28 of the United States Code, the phrase "section 101 (b) of title 17" is amended to read "section 504(c) of title 17".

(d) Section 543(a)(4) of the Internal Revenue Code of 1954, as amended, is amended by striking out "(other than by reason of section 2 or 6 thereof)".

(e) Section 3202(a) of title 39 of the United States Code is amended by striking out clause (5). Section 3206(c) of title 39 of the United States Code is amended by striking out clause (c). Section 3206(d) is renumbered (c).

(f) In section 6 of the Standard Reference Data Act (section 290(e) of title 15 of the United States Code, Supplement IV), subsection (a) is amended to delete the reference to "section 8" and to substitute therefor the phrase "section 105".

SEC. 106. In any case where, before January 1, 1975, a person has lawfully made parts of instruments serving to reproduce mechanically a copyrighted work under the compulsory license provisions of section 1(e) of title 17 as it existed on December 31, 1974, he may continue to make and distribute such parts embodying the same mechanical reproduction without obtaining a new compulsory license under the terms of section 115 of title 17 as amended by this title. However, such parts made on or after January 1, 1975, constitute phonorecords and are otherwise subject to the provisions of said section 115.

SEC. 107. In the case of any work in which an ad interim copyright is subsisting or is capable of being secured on December 31, 1974, under section 22 of title 17 as it existed on that date, copyright protection is hereby extended to endure for the term or terms provided by section 304 of title 17 as amended by this title.

SEC. 108. The notice provisions of sections 401 through 403 of title 17 as amended by this title apply to all copies or phonorecords publicly distributed on or after January 1, 1975. However, in the case of a work published before January 1, 1975, compliance with the notice provisions of title 17 either as it existed on December 31, 1974, or as amended by this title, is adequate with respect to copies publicly distributed after December 31, 1974.

SEC. 109. The registration of claims to copyright for which the required deposit, application, and fee were received in the Copyright Office before January 1, 1975, and the recordation of assignments of copyright or other instruments received in the Copyright Office before January 1, 1975, shall be made in accordance with title 17 as it existed on December 31, 1974.

SEC. 110. The demand and penalty provisions of section 14 of title 17 as it existed on December 31, 1974, apply to any work in which copyright has been secured by publication with notice of copyright on or before that date, but any deposit and registration made after that date in response to a demand under that section shall be made in accordance with the provisions of title 17 as amended by this title.

SEC. 111. Section 2318 of title 18 of the United States Code is amended to read as follows:

"§ 2318. Transportation, sale or receipt of phonograph records bearing forged or counterfeit labels

"Whoever knowingly and with fraudulent intent transports, causes to be transported, receives, sells, or offers for sale in interstate or foreign commerce any phonograph record, disk, wire, tape, film, or other article on which sounds are recorded, to which or upon which is stamped, pasted, or affixed any forged or counterfeited label, knowing the label to have been falsely made, forged, or counterfeited shall be fined not more than $25,000 or imprisoned for not more than three years, or both, for the first such offense and shall be fined not more than $50,000 or imprisoned not more than seven years or both, for any subsequent offense."

SEC. 112. All causes of action that arose under title 17 before January 1, 1975, shall be governed by title 17 as it existed when the cause of action arose.

SEC. 113. If any provision of title 17, as amended by this title, is declared unconstitutional, the validity of the remainder of the title is not affected.

TITLE II—NATIONAL COMMISSION ON NEW TECHNOLOGICAL USES OF COPYRIGHTED WORKS

ESTABLISHMENT AND PURPOSE OF COMMISSION

SEC. 201. (a) There is hereby created in the Library of Congress a National Commission on New Technological Uses of Copyrighted Works (hereafter called the Commission).

(b) The purpose of the Commission is to study and compile data on:

(1) the reproduction and use of copyrighted works of authorship—

(A) in conjunction with automatic systems capable of storing, processing, retrieving, and transferring information, and

(B) by various forms of machine reproduction, not including reproduction by or at the request of instructors for use in face-to-face teaching activities; and

(2) the creation of new works by the application or intervention of such automatic systems or machine reproduction.

(c) The Commission shall make recommendations as to such changes in copyright law or procedures that may be necessary to assure for such purposes access to copyrighted works, and to provide recognition of the rights of copyright owners.

MEMBERSHIP OF THE COMMISSION

SEC. 202. (a) The Commission shall be composed of thirteen voting members, appointed as follows:

(1) Four members, to be appointed by the President, selected from authors and other copyright owners;

(2) Four members, to be appointed by the President, selected from users of copyright works;

(3) Four nongovernmental members to be appointed by the President, selected from the public generally;

(4) The Librarian of Congress.

(b) The President shall appoint a Chairman, and a Vice Chairman who shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office, from among the four members selected from the public generally, as provided by clause (3) of subsection (a). The Register of Copyrights shall serve ex officio as a nonvoting member of the Commission.

(c) Seven voting members of the Commission shall constitute a quorum.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner as the original appointment was made.

COMPENSATION OF MEMBERS OF COMMISSION

SEC. 203. (a) Members of the Commission, other than officers or employees of the Federal Government, shall receive compensation at the rate of $100 per day while engaged in the actual performance of Commission duties, plus reimbursement for travel, subsistence, and other necessary expenses in connection with such duties.

(b) Any members of the Commission who are officers or employees of the Federal Government shall serve on the Commission without compensation, but such members shall be reimbursed for travel, subsistence, and other necessary expenses in connection with the performance of their duties.

SEC. 204. (a) To assist in its studies, the Commission may appoint a staff which shall be an administrative part of the Library of Congress. The staff shall be headed by an Executive Director, who shall be responsible to the Commission for the administration of the duties entrusted to the staff.

(b) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 per day.

EXPENSES OF THE COMMISSION

SEC. 205. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

REPORTS

SEC. 206. (a) Within one year after the first meeting of the Commission it shall submit to the President and the Congress a preliminary report on its activities.

(b) Within three years after the enactment of this Act the Commission shall submit to the President and the Congress a final report on its study and investigation which shall include its recommendations and such proposals for legislation and administrative action as may be necessary to carry out its recommendations.

(c) In addition to the preliminary report and final report required by this section, the Commission may publish such interim reports as it may determine, including but not limited to consultant's reports, transcripts of testimony, seminar reports, and other Commission findings.

POWERS OF THE COMMISSION

SEC. 207. (a) The Commission or, with the authorization of the Commission, any three or more of its members, may, for the purpose of carrying out the provisions of this title, hold hearings, administer oaths, and require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of documentary material.

(b) With the consent of the Commission, any of its members may hold any meetings, seminars, or conferences considered appropriate to provide a forum for discussion of the problems with which it is dealing.

TERMINATION

SEC. 208. On the sixtieth day after the date of the submission of its final report, the Commission shall terminate and all offices and employment under it shall expire.

TITLE III—PROTECTION OF ORNAMENTAL DESIGNS OF USEFUL ARTICLES

DESIGNS PROTECTED

SEC. 301. (a) The author or other proprietor of an original ornamental design of a useful article may secure the protection provided by this title upon complying with and subject to the provisions hereof.

(b) For the purposes of this title—

(1) A "useful article" is an article which in normal use has an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article which normally is a part of a useful article shall be deemed to be a useful article.

(2) The "design of a useful article", hereinafter referred to as a "design", consists of those aspects or elements of the article, including its two-dimensional or three-dimensional features of shape and surface, which make up the appearance of the article.

(3) A design is "ornamental" if it is intended to make the article attractive or distinct in appearance.

(4) A design is "original" if it is the independent creation of an author who did not copy it from another source.

DESIGNS NOT SUBJECT TO PROTECTION

SEC. 302. Protection under this title shall not be available for a design that is—

(a) not original;

(b) staple or commonplace, such as a standard geometric figure, familiar symbol, emblem, or motif, or other shape, pattern, or configuration which has become common, prevalent, or ordinary;

(c) different from a design excluded by subparagraph (b) above only in insignificant details or in elements which are variants commonly used in the relevant trades; or

(d) dictated solely by a utilitarian function of the article that embodies it;

(e) composed of three-dimensional features of shape and surface with respect to men's, women's, and children's apparel, including undergarments and outerwear.

REVISIONS, ADAPTATIONS, AND REARRANGEMENTS

SEC. 303. Protection for a design under this title shall be available notwithstanding the employment in the design of subject matter excluded from protection under section 302, if the design is a substantial revision, adaptation, or rearrangement of said subject matter: *Provided,* That such protection shall be available to a design employing subject matter protected under title I of this Act, or title 35 of the United States Code or this title, only if such protected subject matter is employed with the consent of the proprietor thereof. Such protection shall be independent of any subsisting protection in subject matter employed in the design, and shall not be construed as securing any right to subject matter excluded from protection or as extending any subsisting protection.

COMMENCEMENT OF PROTECTION

SEC. 304. (a) The protection provided for a design under this title shall commence upon the date when the design is first made public.

(b) A design is made public when, by the proprietor of the design or with his consent, an existing useful article embodying the design is anywhere publicly exhibited, publicly distributed, or offered for sale or sold to the public.

TERM OF PROTECTION

SEC. 305. (a) Subject to the provisions of this title, the protection herein provided for a design shall continue for a term of five years from the date of the commencement of protection as provided in section 304(a), but if a proper application for renewal is received by the Administrator during the year prior to the expiration of the five-year term, the protection herein provided shall be extended for an additional period of five years from the date of expiration of the first five years.

(b) If the design notice actually applied shows a date earlier than the date of the commencement of protection as provided in section 304(a), protection shall terminate as though the term had commenced at the earlier date.

(c) Where the distinguishing elements of a design are in substantially the same form in a number of different useful articles, the design shall be protected as to all such articles when protected as to one of them, but not more than one registration shall be required. Upon expiration or termination of protection in a particular design as provided in this title all rights under this title in said design shall terminate, regardless of the number of different articles in which the design may have been utilized during the term of its protection.

THE DESIGN NOTICE

SEC. 306. (a) Whenever any design for which protection is sought under this title is made public as provided in section 304 (b), the proprietor shall, subject to the provisions of section 307, mark it or have it marked legibly with a design notice consisting of the following three elements:

(1) the words "Protected Design", the abbreviation "Prot'd Des." or the letter "D" within a circle thus Ⓓ;

(2) the year of the date on which the design was first made public; and

(3) the name of the proprietor, an abbreviation by which the name can be recognized, or a generally accepted alternative designation of the proprietor; any distinctive identification of the proprietor may be used if it has been approved and recorded by the Administrator before the design marked with such identification is made public.

After registration the registration number may be used instead of the elements specified in (2) and (3) hereof.

(b) The notice shall be so located and applied as to give reasonable notice of design protection while the useful article embodying the design is passing through its normal channels of commerce. This requirement may be fulfilled, in the case of sheetlike or strip materials bearing repetitive or continuous designs, by application of the notice to each repetition, or to the margin, selvage, or reverse side of the material at reasonably frequent intervals, or to tags or labels affixed to the material at such intervals.

(c) When the proprietor of a design has complied with the provisions of this section, protection under this title shall not be affected by the removal, destruction, or obliteration by others of the design notice on an article.

EFFECT OF OMISSION OF NOTICE

SEC. 307. The omission of the notice prescribed in section 306 shall not cause loss of the protection or prevent recovery for infringement against any person who, after written notice of the design protection, begins an undertaking leading to infringement: *Provided*, That such omission shall prevent any recovery under section 322 against a person who began an undertaking leading to infringement before receiving written notice of the design protection, and no injunction shall be had unless the proprietor of the design shall reimburse said person for any reasonable expenditure or contractual obligation in connection with such undertaking incurred before writen notice of design protection, as the court in its discretion shall direct. The burden of proving written notice shall be on the proprietor.

INFRINGEMENT

SEC. 308. (a) It shall be infringement of a design protected under this title for any person, without the consent of the proprietor of the design, within the United States or its territories or possessions and during the term of such protection, to—

(1) make, have made, or import, for sale or for use in trade, any infringing article as defined in subsection (d) hereof; or

(2) sell or distribute for sale or for use in trade any such infringing article: *Provided, however*, That a seller or distributor of any such article who did not make or import the same shall be deemed to be an infringer only if—

(i) he induced or acted in collusion with a manufacturer to make, or an importer to import such article (merely purchasing or giving an order to purchase in the ordinary course of business shall not of itself constitute such inducement or collusion); or

(ii) he refuses or fails upon the request of the proprietor of the design to make a prompt and full disclosure of his source of such article, and he orders or reorders such article after having received notice by registered or certified mail of the protection subsisting in the design.

(b) It shall be not infringement to make, have made, import, sell, or distribute, any article embodying a design created without knowledge of, and copying from, a protected design.

(c) A person who incorporates into his own product of manufacture an infringing article acquired from others in the ordinary course of business, or who, without knowledge of the protected design, makes or processes an infringing article for the account of another person in the ordinary course of business, shall not be deemed an infringer except under the conditions of clauses (i) and (ii) of paragraph (a)(2) of this section. Accepting an order or reorder from the source of the infringing article shall be deemed ordering or reordering within the meaning of clause (ii) of paragraph (a)(2) of this section.

(d) An "infringing article" as used herein is any article, the design of which has been copied from the protected design, without the consent of the proprietor: *Provided, however*, That an illustration or picture of a protected design in an advertisement, book, periodical, newspaper, photograph, broadcast, motion picture, or similar medium shall not be deemed to be an infringing article. An article is not an infringing article if it embodies, in common with the protected design, only elements described in subsections (a) through (d) of section 302.

(e) The party alleging rights in a design in any action or proceeding shall have the burden of affirmatively establishing its originality whenever the opposing party introduces an earlier work which is identical to such design, or so similar as to make a prima facie showing that such design was copied from such work.

APPLICATION FOR REGISTRATION

SEC. 309. (a) Protection under this title shall be lost if application for registration of the design is not made within six months after the date on which the design was first made public as provided in section 304(b).

(b) Application for registration or renewal may be made by the proprietor of the design.

(c) The application for registration shall be made to the Administrator and shall state (1) the name and address of the author or authors of the design; (2) the name and address of the proprietor if different from the author; (3) the specific name of the article, indicating its utility; (4) the date when the design was first made public as provided in section 304(b); and (5) such other information as may be required by the Administrator. The application for registration may include a description setting forth the salient features of the design, but the absence of such a description shall not prevent registration under this title.

(d) The application for registration shall be accompanied by a statement under oath by the applicant or his duly authorized agent or representative, setting forth that, to the best of his knowledge and belief (1) the design is original and was created by the author or authors named in the application; (2) the design has not previously been registered on behalf of the applicant or his predecessor in title; (3) the design has been made public as provided in section 304(b); and (4) the applicant is the person entitled to protection and to registration under this title. If the design has been made public with the design notice prescribed in section 306, the statement shall also describe the exact form and position of the design notice.

(e) Error in any statement or assertion as to the utility of the article named in the application, the design of which is sought to be registered, shall not affect the protection secured under this title.

(f) Errors in omitting a joint author or in naming an alleged joint author shall not affect the validity of the registration, or the actual ownership or the protection of the design: *Provided*, That the name of one individual who was in fact an author is stated in the application. Where the design was made within the regular scope of the author's employment and individual authorship of the design is difficult or impossible to ascribe and the application so states, the name and address of the employer for whom the design was made may be stated instead of that of the individual author.

(g) The application for registration shall be accompanied by two copies of a drawing or other pictorial representation of the useful article having one or more views, adequate to show the design, in a form and style suitable for reproduction, which shall be deemed a part of the application.

(h) Related useful articles having common design features may be included in the same application under such conditions as may be prescribed by the Administrator.

BENEFIT OF EARLIER FILING DATE IN FOREIGN COUNTRY

SEC. 310. An application for registration of a design filed in this country by any person who has, or whose legal representative or predecessor or successor in title has previously regularly filed an application for registration of the same design in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States shall have the same effect as if filed in this country on the date on which the application was first filed in any such foreign country, if the application in this country is filed within six months from the earliest date on which any such foreign application was filed.

OATHS AND ACKNOWLEDGMENTS

SEC. 311. Oaths and acknowledgments required by this title may be made before any person in the United States authorized by law to administer oaths, or, when made in a foreign country, before any diplomatic or consular officer of the United States authorized to administer oaths, or before any official authorized to administer oaths in the foreign country concerned, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States, and shall be valid if they comply with the laws of the state or country where made.

EXAMINATION OF APPLICATION AND ISSUE OR REFUSAL OF REGISTRATION

SEC. 312. (a) Upon the filing of an application for registration in proper form as provided in section 309, and upon payment of the fee provided in section 315, the Administrator shall determine whether or not the application relates to a design which on its face appears to be subject to protection under this title, and if so, he shall register the design. Registration under this subsection shall be announced by publication.

(b) If, in his judgment, the application for registration relates to a design which on its face is not subject to protection under this title, the Administrator shall send the applicant a notice of his refusal to register and the grounds therefor. Within three months from the date the notice of refusal is sent, the applicant may request, in writing, reconsideration of his application. After consideration of such a request, the Administrator shall either register the design or send the applicant a notice of his final refusal to register.

(c) Any person who believes he is or will be damaged by a registration under this title may, upon payment of the prescribed fee, apply to the Administrator at any time to cancel the registration on the ground that the design is not subject to protection under the provisions of this title, stating the reasons therefor. Upon receipt of an application for cancellation, the Administrator shall send the proprietor of the design, as shown in the records of the Office of the Administrator, a notice of said application, and the proprietor shall have a period of three months from the date such notice was mailed in which to present arguments in support of the validity of the registration. It shall also be within the authority of the Administrator to establish, by regulation, conditions under which the opposing parties may appear and be heard in support of their arguments. If, after the periods provided for the presentation of arguments have expired, the Administrator determines that the application for cancellation has established that the design is not subject to protection under the provisions of this title, he shall order the registration stricken from the record. Cancellation under this subsection shall be announced by publication, and notice of the Administrator's final determination with respect to any application for cancellation shall be sent to the applicant and to the proprietor of record.

(d) Remedy against a final adverse determination under subparagraphs (b) and (c) above may be had by means of a civil action against the Administrator pursuant to the provision of section 1361 of title 28, United States Code, if commenced within such time after such decision, not less than 60 days, as the Administrator appoints.

(e) When a design has been registered under this section, the lack of utility of any article in which it has been embodied shall be no defense to an infringement action under section 320, and no ground for cancellation under subsection (c) of this section or under section 323.

CERTIFICATION OF REGISTRATION

SEC. 313. Certificates of registration shall be issued in the name of the United States under the seal of the Office of the Administrator and shall be recorded in the official records of that Office. The certificate shall state the name of the useful article, the date of filing of the application, the date on which the design was first made public as provided in section 304(b) or any earlier date as set forth in section 305(b), and shall contain a reproduction of the drawing or other pictorial representation showing the design. Where a description of the salient features of the design appears in the application, this description shall also appear in the certificate. A renewal certificate shall contain the date of renewal registration in addition to the foregoing. A certificate of initial or renewal registration shall be admitted in any court as prima facie evidence of the facts stated therein.

PUBLICATION OF ANNOUNCEMENTS AND INDEXES

SEC. 314. (a) The Administrator shall publish lists and indexes of registered designs and cancellations thereof and may also publish the drawing or other pictorial representations of registered designs for sale or other distribution.

(b) The Administrator shall establish and maintain a file of the drawings or other pictorial representations of registered designs, which file shall be available for use by the public under such conditions as the Administrator may prescribe.

FEES

SEC. 315. (a) There shall be paid to the Administrator the following fees:

(1) On filing each application for registration or for renewal of registration of a design, $15.

(2) For each additional related article included in one application, $10.

(3) For recording assignment, $3 for the first six pages, and for each additional two pages or less, $1.

(4) For a certificate of correction of an error not the fault of the Office, $10.

(5) For certification of copies of records, $1.

(6) On filing each application for cancellation of a registration, $150.

(b) The Administrator may establish charges for materials or services furnished by the Office, not specified above, reasonably related to the cost thereof.

REGULATIONS

SEC. 316. The Administrator may establish regulations not inconsistent with law for the administration of this title.

COPIES OF RECORDS

SEC. 317. Upon payment of the prescribed fee, any person may obtain a certified copy of any official record of the Office of the Administrator, which copy shall be admissible in evidence with the same effect as the original.

CORRECTION OF ERRORS IN CERTIFICATES

SEC. 318. The Administrator may correct any error in a registration incurred through the fault of the Office, or, upon payment of the required fee, any error of a clerical or typographical nature not the fault of the Office occurring in good faith, by a certificate of correction under seal. Such registration, together with the certificate, shall thereafter have the same effect as if the same had been originally issued in such corrected form.

OWNERSHIP AND TRANSFER

SEC. 319. (a) The property right in a design subject to protection under this title shall vest in the author, the legal representatives of a deceased author or of one under legal incapacity, the employer for whom the author created the design in the case of a design made within the regular scope of the author's employment, or a person to whom the rights of the author or of such employer have been transferred. The person or persons in whom the property right is vested shall be considered the proprietor of the design.

(b) The property right in a registered design, or a design for which an application for registration has been or may be filed, may be assigned, granted, conveyed, or mortgaged by an instrument in writing, signed by the proprietor, or may be bequeathed by will.

(c) An acknowledgement as provided in section 311 shall be prima facie evidence of the execution of an assignment, grant, conveyance, or mortgage.

(d) An assignment, grant, conveyance, or mortgage shall be void as against any subsequent purchaser or mortgage for a valuable consideration, without notice, unless it is recorded in the Office of the Administrator within three months from its date of execution or prior to the date of such subsequent purchase or mortgage.

REMEDY FOR INFRINGEMENT

SEC. 320. (a) The proprietor of a design shall have remedy for infringement by civil action instituted after issuance of a certificate of registration of the design.

(b) The proprietor of a design may have judicial review of a final refusal of the Administrator to register the design, by a civil action brought as for infringement if commenced within the time specified in section 312(d), and shall have remedy for infringement by the same action if the court adjudges the design subject to protection under this title: Provided, That (1) he has previously duly filed and duly prosecuted to such final refusal an application in proper form for registration of the designs, and (2) he causes a copy of the complaint in action to be delivered to the Administrator within ten days after the commencement of the action, and (3) the defendant has committed acts in respect to the design which would constitute infringement with respect to a design protected under this title.

INJUNCTION

SEC. 321. The several courts having jurisdiction of actions under this title may grant injunctions in accordance with the principles of equity to prevent infringement, including in their discretion, prompt relief by temporary restraining orders and preliminary injunctions.

RECOVERY FOR INFRINGEMENT, AND SO FORTH

SEC. 322. (a) Upon finding for the claimant the court shall award him damages adequate to compensate for the infringement, but in no event less than the reasonable value the court shall assess them. In either event the court may increase the damages to such amount, not exceeding $5,000 or $1 per copy, whichever is greater, as to the court shall appear to be just. The damages awarded in any of the above circumstances shall constitute compensation and not a penalty. The court may receive expert testimony as an aid to the determination of damages.

(b) No recovery under paragraph (a) shall be had for any infringement committed more than three years prior to the filing of the complaint.

(c) The court may award reasonable attorney's fees to the prevailing party. The court may also award other expenses of suit to a defendant prevailing in an action brought under section 320(b).

(d) The court may order that all infringing articles, and any plates, molds, patterns, models, or other means specifically adapted for making the same be delivered up for destruction or other disposition as the court may direct.

POWER OF COURT OVER REGISTRATION

SEC. 323. In any action involving a design for which protection is sought under this title, the court when appropriate may order registration of a design or the cancellation of a registration. Any such order shall be certified by the court to the Administrator, who shall make appropriate entry upon the records of his Office.

LIABILITY FOR ACTION ON REGISTRATION FRAUDULENTLY OBTAINED

SEC. 324. Any person who shall bring an action for infringement knowing that registration of the design was obtained by a false or fraudulent representation materially affecting the rights under this title, shall be liable in the sum of $1,000, or such part thereof as the court may determine, as compensation to the defendant, to be charged against the plaintiff and paid to the defendant, in addition to such costs and attorney's fees of the defendant as may be assessed by the court.

PENALTY FOR FALSE MARKING

SEC. 325. (a) Whoever, for the purpose of deceiving the public, marks upon, or applies to, or uses in advertising in connection with any article made, used, distributed, or sold by him, the design of which is not protected under this title, a design notice as specified in section 306 or any other words or symbols importing that the design is protected under this title, knowing that the design is not so protected, shall be fined not more than $500 for every such offense.

(b) Any person may sue for the penalty, in which event, one-half shall go to the person suing and the other to the use of the United States.

PENALTY FOR FALSE REPRESENTATION

Sec. 326. Whoever knowingly makes a false representation materially affecting the rights obtainable under this title for the purpose of obtaining registration of a design under this title shall be fined not less than $500 and not more than $1,000, and any right or privileges he may have in the design under this title shall be forfeited.

RELATION TO COPYRIGHT LAW

Sec. 327. (a) Nothing in this title shall affect any right or remedy now or hereafter held by any person under title I of this Act.

(b) When a pictorial, graphic, or sculptural work in which copyright subsists under title I of this Act is utilized in an original ornamental design of a useful article, by the copyright proprietor or under an express license from him, the design shall be eligible for protection under the provisions of this title.

RELATION TO PATENT LAW

Sec. 328. (a) Nothing in this title shall affect any right or remedy available to or held by any person under title 35 of the United States Code.

(b) The issuance of a design patent for an ornamental design for an article of manufacture under said title 35 shall terminate any protection of the design under this title.

COMMON LAW AND OTHER RIGHTS UNAFFECTED

Sec. 329. Nothing in this title shall annul or limit (1) common law or other rights or remedies, if any, available to or held by any person with respect to a design which has not been made public as provided in section 304(b), or (2) any trademark right or right to be protected against unfair competition.

ADMINISTRATOR

Sec. 330. The Administrator and Office of the Administrator referred to in this title shall be such officer and office as the President may designate.

SEVERABILITY CLAUSE

Sec. 331. If any provision of this title or the application of such provision to any person or circumstance is held invalid, the remainder of the title or the application to other persons or circumstances shall not be affected thereby.

AMENDMENT OF OTHER STATUTES

Sec. 332. (a) Subdivision a(2) of section 70 of the Bankruptcy Act of July 1, 1898, as amended (11 U.S.C. 110(a)), is amended by inserting "designs," after "patent rights," and "design registration," after "application for patent,".

(b) Title 28 of the United States Code is amended—

(1) by inserting "designs," after "patents," in the first sentence of section 1338(a);

(2) by inserting ", design," after "patent" in the second sentence of section 1338(a);

(3) by inserting "design," after "copyright," in section 1338(b);

(4) by inserting "and register designs" after "copyrights" in section 1440; and

(5) by revising section 1498(a) to read as follows:

"(a) Whenever a registered design or invention is used or manufactured by or for the United States without license of the owner thereof or lawful right to use or manufacture the same, the owner's remedy shall be by action against the United States in the Court of Claims for the recovery of his reasonable and entire compensation for such use and manufacture.

"For the purposes of this section, the use or manufacture of a registered design or an invention described in and covered by a patent of the United States by a contractor, a subcontractor, or any person, firm, or corporation for the Government and with the authorization or consent of the Government, shall be construed as use or manufacture for the United States.

"The court shall not award compensation under this section if the claim is based on the use or manufacture by or for the United States of any article owned, leased, used by, or in the possession of the United States, prior to, in the case of an invention, July 1, 1918, and in the case of a registered design, July 1, 1976.

"A Government employee shall have the right to bring suit against the Government under this section except where he was in a position to order, influence, or induce use of the registered design or invention by the Government. This section shall not confer a right of action on any registrant or patentee or any assignee of such registrant or patentee with respect to any design created by or invention discovered or invented by a person while in the employment or service of the United States, where the design or invention was related to the official functions of the employee, in cases in which such functions included research and development, or in the making of which Government time, materials, or facilities were used."

TIME OF TAKING EFFECT

Sec. 333. This title shall take effect one year after enactment of this Act.

NO RETROACTIVE EFFECT

Sec. 334. Protection under this title shall not be available for any design that has been made public as provided in section 304(b) prior to the effective date of this title.

SHORT TITLE

Sec. 335. This title may be cited as "The Design Protection Act of 1973."

The amendments of the Committee on Commerce are as follows:

On page 97, beginning at line 31, insert the following new language:

(8) the public performance by a radio or television broadcasting station licensed by the Federal Communications Commission of a copyrighted sound recording by any means including a phonorecord.

On page 98, in line 26, after the word "service" insert a semicolon and the word "or".

On page 98, beginning at line 27, insert the following new language:

(5) the secondary transmission is made by a cable system serving a local community prior to March 31, 1972, and such local community is so situated as to be principally dependent upon such system for access to broadcast signals.

On page 99, in line 29, after the word "subsection (d)" insert a semicolon and the word "or".

On page 99, beginning at line 30, insert the following new language:

(C) Where the carriage of signals comprising the secondary transmission of sports events is not permissible under rules which the Federal Communications Commission shall promulgate: *Provided,* That in adopting such rules the Commission may consider the effect upon broadcasting, cable television, and sports of the policy objectives contained in Public Law 87–331, and any other factors the Commission deems appropriate.

On page 102, in line 5, after the word "States," insert the words "Hawaii, or Puerto Rico.".

On page 106, beginning at line 14, strike out the following language:

(A) For a radio or television broadcast station licensed by the Federal Communications Commission, the royalty rate shall be as follows:

(i) in the case of a broadcast station with gross receipts from its advertising sponsors of more than $25,000 but less than $100,000 a year, the yearly performance royalty payment shall be $250; or

(ii) in the case of a broadcast station with gross receipts from its advertising sponsors of more than $100,000 but less than $200,000 a year, the yearly performance royalty shall be $750; or

(iii) in the case of a broadcast station with gross receipts from its advertising sponsors of more than $200,000 a year, the blanket rate shall be one percent of the net recepts from advertising sponsors during the applicable period. The alternative prorated rate is a fraction of one percent of such net receipts, based on a calculation made in accordance with a standard formula that the Register of Copyrights shall prescribe by regulation taking into account the amount of the station's commercial time devoted to playing copyrighted sound recordings and whether the station is a radio or television broadcaster.

On page 106, at the beginning of line 36, strike out "(B)" and insert in lieu thereof "(A)".

On page 107, at the beginning of line 9, strike out "(C)" and insert in lieu thereof "(B)".

On page 107, at the beginning of line 14, strike out "(D)" and insert in lieu thereof "(C)".

On page 107, beginning at line 27, insert the following language: "period, if in the case of a background music service or other transmitter of performances of sound recordings, its gross receipts from subscribers or others who pay to receive the transmission were less than $10,000."

On page 107, beginning at line 31, strike out the following language: "period, if—

(1) In the case of a broadcast station, its gross receipts from advertising sponsors were less than $25,000; or

(2) In the case of a background music service or other transmitter of performance of sound recordings, its gross receipts from subscribers or others who pay to receive the transmission were less than $10,000.

On page 109, in line 1 after the word "that" insert the words "in the case of sound recordings by means of secondary transmissions".

On page 109, beginning at line 15, strike out the following language:

(3) "Net receipts from advertising sponsors" constitute gross receipts from advertising sponsors less any commission paid by a radio station to advertising agencies.

On page 109, on line 1 after the word sert the following language:

"(3) The fees to be distributed shall be divided as follows:

"(A) To every copyright owner not affiliated with a performing rights society the pro rata share of the fees to be distributed to which such copyright owner proves his entitlement; and

"(B) To the performing rights societies the remainder of the fees to be distributed in such pro rata shares as they shall by agreement stipulate among themselves, or if they fail to agree, the pro rata share to which such performing rights societies prove their entitlement.

"(C) During the pendency of any proceeding under this section, the Register of Copyrights or the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.".

On page 114, beginning at line 11, strike out the following language:

(3) The fees to be distributed shall be divided as follows:

(A) One eighth of the fees to be distributed shall be allocated to copyright owners and performers of sound recordings, and the remainder to owners of copyright in nondramatic musical works;

(B) The fees allocated to copyright owners and performers of sound recordings shall be divided equally between them, as provided by section 114(f);

(C) The fees allocated to owners of copyright in nondramatic musical works shall be distributed as follows:

(i) Every copyright owner not affiliated with a performing rights society shall receive the pro rata share of the fees to be distributed to which such copyright owner proves his entitlement; and

(ii) The performing rights societies shall receive the remainder of the fees to be distributed in such pro rata shares as they shall by agreement stipulate among themselves, or, if they fail to agree, the pro rata share to which such performing rights societies prove their entitlement.

(D) During the pendency of any proceeding under this section, the Register of Copyrights or the Copyright Royalty Tribunal shall withhold from distribution an account sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

On page 147, at the end of line 29, insert "and".

On page 147, in line 30, strike out "and 116".

On page 148, in line 1, after "114," insert "and".

On page 148, in line 11, after "115" strike out "and 116".

On page 148, in line 25, after "sections", strike out "111, 114, and 116" and insert in lieu thereof "111 and 114".

So as to make the bill read:

TITLE I—GENERAL REVISION OF COPYRIGHT LAW

SEC. 101. Title 17 of the United States Code, entitled "Copyrights," is hereby amended in its entirety to read as follows:

TITLE 17—COPYRIGHTS

CHAPTER *Sec.*
1. SUBJECT MATTER AND SCOPE OF COPYRIGHT ---------- 101
2. COPYRIGHT OWNERSHIP AND TRANSFER 201
3. DURATION OF COPYRIGHT---------- 301
4. COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION ---------- 401
5. COPYRIGHT INFRINGEMENT AND REMEDIES ---------- 501
6. MANUFACTURING REQUIREMENT AND IMPORTATION ---------- 601
7. COPYRIGHT OFFICE---------- 701
8. COPYRIGHT ROYALTY TRIBUNAL---------- 801

Chapter 1.—SUBJECT MATTER AND SCOPE OF COPYRIGHT

Sec.
101. Definitions.
102. Subject matter of copyright: In general.
103. Subject matters of copyright: Compilations and derivative works.
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§ 101. Definitions

As used in this title, the following terms and their variant forms mean the following:

An "anonymous work" is a work on the copies or phonorecords of which no natural person is identified as author.

"Audiovisual works" are works that consist of a series of related images which are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the works are embodied.

The "best edition" of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes.

A person's "children" are his immediate offspring, whether legitimate or not, and any children legally adopted by him.

A "collective work" is a work, such as a periodical issue, anthology, or encyclopedia, in which a number of contributions, constituting separate and independent works in themselves, are assembled into a collective whole.

A "compilation" is a work formed by the collection and assembling of pre-existing materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship. The term "compilation" includes collective works.

"Copies" are material objects, other than phonorecords, in which a work is fixed by any method now known or later developed, and from which the work can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "copies" includes the material object, other than a phonorecord, in which the work is first fixed.

"Copyright owner," with respect to any one of the exclusive rights comprised in a copyright, refers to the owner of that particular right.

A work is "created" when it is fixed in a copy or phonorecord for the first time; where a work is prepared over a period of time, the portion of it that has been fixed at any particular time constitutes the work as of that time, and where the work has been prepared in different versions, each version constitutes a separate work.

A "derivative work" is a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgement, condensation, or any other form in which a work may be recast, transformed, or adapted. A work consisting of editorial revisions, annotations, elaborations, or other modifications which, as a whole, represent an original work of authorship, is a "derivative work."

A "device," "machine," or "process" is one now known or later developed.

To "display" a work means to show a copy of it, either directly or by means of a film, slide, television image, or any other device or process or, in the case of a motion picture or other audiovisual work, to show individual images nonsequentially.

A work is "fixed" in a tangible medium of expression when its embodiment in a copy or phonorecord, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. A work consisting of sounds, images, or both, that are being transmitted, is "fixed" for purposes of this title if a fixation of the work is being made simultaneously with its transmission.

The terms "including" and "such as" are illustrative and not limitative.

A "joint work" is a work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.

"Literary works" are works other than audiovisual works, expressed in words, numbers, or other verbal or numerical symbols or indicia, regardless of the nature of the material objects, such as books, periodicals, manuscripts, phonorecords, or film, in which they are embodied.

"Motion pictures" are audiovisual works consisting of a series of related images which, when shown in succession, impact an impression of motion, together with accompanying sounds, if any.

To "perform" a work means to recite, render, play, dance, or act it, either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, to show its images in any sequence or to make the sounds accompanying it audible, and, in the case of a sound recording, to make audible the sounds fixed in it.

"Phonorecords" are material objects in which sounds other than those accompanying a motion picture or other audiovisual work, are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "phonorecords" includes the material object in which the sounds are first fixed.

"Pictorial, graphic, and sculptural works" include two-dimensional and three-dimensional works of fine, graphic, and applied art, photographs, prints and art reproductions, maps, globes, charts, plans, diagrams, and models.

A "pseudonymous work" is a work on the copies or phonorecords, of which the author is identified under a fictitious name.

"Publication" is the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display, constitutes publication. A public performance or display of a work does not of itself constitute publication.

To perform or display a work "publicly" means:

(1) to perform or display it at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered;

(2) to transmit or otherwise communicate a performance or display of the work to a place specified by clause (1) or to the public, by means of any device or process, whether the members of the public capable of receiving the performance or display receive it in the same place or in separate places and at the same time or at different times.

"Sound recordings" are works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work, regardless of the nature of the material objects, such as disks, tapes, or other phonorecords, in which they are embodied.

"State" includes the District of Columbia and the Commonwealth of Puerto Rico, and any territories to which this title is made applicable by an act of Congress.

A "transfer of copyright ownership" is an assignment, mortgage, exclusive license, or any other conveyance, alienation, or hypothecation of a copyright or of any of the exclusive rights comprised in a copyright, whether or not it is limited in time or place of effect, but not including a nonexclusive license.

A "transmission program" is a body of material that, as an aggregate, has been produced for the sole purpose of transmission to the public in sequence and as a unit.

To "transmit" a performance or display is to communicate it by any device or process whereby images or sounds are received beyond the place from which they are sent.

The "United States," when used in a geographical sense, comprises the several States, the District of Columbia and the Commonwealth of Puerto Rico, and the organized territories under the jurisdiction of the United States Government.

A "useful article" is an article having an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article that is normally a part of a useful article is considered a "useful article."

The author's "widow" or "widower" is the author's surviving spouse under the law of his domicile at the time of his death, whether or not the spouse has later remarried.

A "work of the United States Government" is a work prepared by an officer or employee of the United States Government as part of his official duties.

A "work made for hire" is:

(1) a work prepared by an employee within the scope of his employment; or

(2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, as a photographic or other portrait of one or more persons, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire. A "supplementary work" is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes. An "instructional text" is a literary, pictorial, or graphic work prepared for publication with the purpose of use in systematic instructional activities.

§ 102. Subject matter of copyright: In general

(a) Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

(1) literary works;

(2) musical works, including any accompanying words;

(3) dramatic works, including any accompanying music;

(4) pantomimes and choreographic works;

(5) pictorial, graphic, and sculptural works;

(6) motion pictures and other audiovisual works;

(7) sound recordings.

(b) In no case does copyright protection for an original work of authorship extend to any idea, plan, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

§ 103. Subject matter of copyright: Compilations and derivative works

(a) The subject matter of copyright as specified by section 102 includes compilations and derivative works, but protection for a work employing pre-existing material in which copyright subsists does not extend to any part of the work in which such material has been used unlawfully.

(b) The copyright in a compilation or derivative work extends only to the material contributed by the author of such work, as distinguished from the pre-existing material employed in the work, and does not imply any exclusive right in the pre-existing material. The copyright in such work is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection in the pre-existing material.

§ 104. Subject matter of copyright: National origin

(a) UNPUBLISHED WORKS.—The works specified by sections 102 and 103, while unpublished, are subject to protection under this title without regard to the nationality or domicile of the author.

(b) PUBLISHED WORKS.—The works specified by sections 102 and 103, when published, are subject to protection under this title if—

(1) on the date of first publication, one or more of the authors is a national or domiciliary of the United States, or is a national, domiciliary, or sovereign authority of a foreign nation that is a party to a copyright treaty to which the United States is also a party; or

(2) the work is first published in the United States or in a foreign nation that, on the date of first publication, is a party to the Universal Copyright Convention of 1952; or

(3) the work is first published by the United Nations or any of its specialized agencies, or by the Organization of American States; or

(4) the work comes within the scope of a Presidential proclamation. Whenever the President finds that a particular foreign nation extends, to works by authors who are nationals or domiciliaries of the United States or to works that are first published in the United States, copyright protection on substantially the same basis as that on which the foreign nation extends protection to works of its own nationals and domiciliaries and works first published in that nation, he may by proclamation extend protection under this title to works of which one or more of the authors is, on the date of first publication, a national, domiciliary, or sovereign authority of that nation, or which was first published in that nation. The President may revise, suspend, or revoke any such proclamation or impose any conditions or limitations on protection under a proclamation.

(c) The expropriation, by a governmental organization of a foreign country, of a copyright, or the right to secure a copyright, or any right comprised in a copyright, or any right in a work for which copyright may be secured, or the transfer of a copyright or of any such right, or the power to authorize any use of the work thereunder, from the author or copyright owner to a governmental agency of a foreign country pursuant to any law, decree, regulation, order or other action of the government effecting or requiring such transfer, shall not be given effect for the purposes of this title.

§ 105. Subject matter of copyright: United States Government works

Copyright protection under this title is not available for any work of the United States Government, but the United States Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise.

§ 106. Exclusive rights in copyright works

Subject to sections 107 through 117, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

(1) to reproduce the copyrighted work in copies or phonorecords;

(2) to prepare derivative works based upon the copyrighted work;

(3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;

(4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, motion pictures and other audiovisual works, and sound recordings, to perform the copyrighted work publicly;

(5) in the case of literary, musical, dramatic and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly.

§ 107. Limitations on exclusive rights: Fair use

Notwithstanding the provisions of section 106, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purpose such as criticism, comment, news reporting, teaching, scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include:

(1) the purpose and character of the use;

(2) the nature of the copyright work;

(3) the amount and substantiality of the portion used in relation to the copyright work as a whole; and

(4) the effect of the use upon the potential market for or value of the copyrighted work.

§ 108. Limitations on exclusive rights: Reproduction by libraries and archives

(a) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a library or archives, or any of its employees acting within the scope of their employment, to reproduce no more than one copy or phonorecord of a work, or distribute such copy or phonorecord, under the conditions specified by this section, if:

(1) The reproduction or distribution is made without any purpose of direct or indirect commercial advantage; and

(2) The collections of the library or archives are (i) open to the public, or (ii) available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field.

(3) The reproduction or distribution of the work includes a notice of copyright.

(b) The rights of reproduction and distribution under this section apply to a copy or phonorecord of an unpublished work duplicated in facsimile form solely for purposes of preservation and security or for deposit for research use in another library or archives of the type described by clause (2) of subsection (a), if the copy or phonorecord reproduced is currently in the collections of the library or archives.

(c) The right of reproduction under this section applies to a copy or phonorecord of a published work duplicated in facsimile form solely for the purpose of replacement of a copy or phonorecord that is damaged, deteriorating, lost, or stolen, if the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price.

(d) The rights of reproduction and distribution under this section apply to a copy, made from the collection of a library or archives where the user makes his request or from that of another library or archives, of no more than one article or other contribution to a copyrighted collection or periodical issue, or to a copy or phonorecord of a small part of any other copyrighted work, if:

(1) The copy becomes the property of the user, and the library or archives has had no notice that the copy would be used for any purpose other than private study, scholarship, or research; and

(2) The library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(e) The rights of reproduction and distribution under this section apply to the entire work, or to a substantial part of it, made from the collection of a library or archives where the user makes his request or from that of another library or archives, if the library or archives has first determined, on the basis of a reasonable investigation that a copy or phonorecord of the copyrighted work cannot be obtained at a fair price, if:

(1) The copy becomes the property of the user, and the library or archives has had no notice that the copy would be used for any purpose other than private study, scholarship, or research; and

(2) The library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(f) Nothing in this section—

(1) shall be construed to impose liability for copyright infringement upon a library or archives or its employees for the unsupervised use of reproducing equipment located on its premises, provided that such equipment displays a notice that the making of a copy may be subject to the copyright law;

(2) excuses a person who uses such reproducing equipment or who requests a copy under subsection (d) from liability for copyright infringement for any such act, or for any later use of such copy, if it exceeds fair use as provided by section 107;

(3) in any way affects the right of fair use as provided by section 107, or any contractual obligations assumed at any time by the library or archives when it obtained a copy or phonorecord of a work in its collections.

(g) The rights of reproduction and distribution under this section extend to the isolated and unrelated reproduction or distribution of a single copy or phonorecord of the same material on separate occasions, but do not extend to cases where the library or archives, or its employee:

(1) is aware or has substantial reason to believe that it is engaging in the related or concerted reproduction or distribution of multiple copies or phonorecords of the same material, whether made on one occasion or over a period of time, and whether intended for aggregate use by one or more individuals or for separate use by the individual members of a group; or

(2) engages in the systematic reproduction or distribution of single or multiple copies or phonorecords of material described in subsection (d).

(h) The rights of reproduction and distribution under this section do not apply to a musical work, a pictorial, graphic or sculptural work, or a motion picture or other audiovisual work, except that no such limitation shall apply with respect to rights granted by subsections (b) and (c).

§ 109. Limitations on exclusive rights: Effect of transfer of particular copy or phonerecord

(a) Notwithstanding the provisions of section 106(3), the owner of a particular copy or phonorecord lawfully made under this title, or any person authorized by him, is entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy or phonorecord.

(b) Notwithstanding the provisions of section 106(5), the owner of a particular copy lawfully made under this title, or any person authorized by him, is entitled, without the authority of the copyright owner, to display that copy publicly, either directly or by the projection of no more than one image at a time, to viewers present at the place where the copy is located.

(c) The privileges prescribed by subsections (a) and (b) do not, unless authorized by the copyright owner, extend to any person who has acquired possession of the copy or phonorecord from the copyright owner, by rental, lease, loan, or otherwise, without acquiring ownership of it.

§ 110. Limitations on exclusive rights: Exemption of certain performances and displays

Notwithstanding the provisions of section 106, the following are not infringements of copyright:

(1) performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title and that the person responsible for the performance knew or had reason to believe was not lawfully made;

(2) performance of a nondramatic literary or musical work or of a sound recording, or display of a work, by or in the course of a transmission, if:

(A) the performance or display is a regular part of the systematic instructional activities of a governmental body or a nonprofit educational institution; and

(B) the performance or display is directly related and of material assistance to the teaching content of the transmission; and

(C) the transmission is made primarily for:

(i) reception in classrooms or similar places normally devoted to instruction, or

(ii) reception by persons to whom the transmission is directed because their disabilities or other special circumstances prevent their attendance in classrooms or similar places normally devoted to instruction, or

(iii) reception by officers or employees of governmental bodies as a part of their official duties or employment;

(3) performance of a nondramatic literary or musical work or of a dramatico-musical work of a religious nature, or of a sound recording, or display of a work, in the course of services at a place of worship or other religious assembly;

(4) performance of a nondramatic literary or musical work or of a sound recording, otherwise than in a transmission to the public without any purpose of direct or indirect commercial advantage and without payment of any fee or other compensation for the performance to any of its performers, promoters, or organizers, if:

(A) there is no direct or indirect admission charge, or

(B) the proceeds, after deducting the reasonable costs of producing the performance, are used exclusively for educational, religious, or charitable purposes and not for private financial gain, except where the copyright owner has served notice of his objections to the performance under the following conditions:

(i) The notice shall be in writing and signed by the copyright owner or his duly authorized agent; and

(ii) The notice shall be served on the person responsible for the performance at least seven days before the date of the performance, and shall state the reasons for his objections; and

(iii) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation;

(5) communication of a transmission embodying a performance or display of a work by the public reception of the transmission on a single receiving apparatus of a kind commonly used in private homes, unless:

(A) a direct charge is made to see or hear the transmission; or

(B) the transmission thus received is further transmitted to the public;

(6) performance of a nondramatic musical work or of a sound recording in the course of an annual agricultural or horticultural fair or exhibition conducted by a governmental body or a nonprofit agricultural or horticultural organization;

(7) performance of a nondramatic musical work or of a sound recording by a vending establishment open to the public at large without any direct or indirect admission charge, where the sole purpose of the performance is to promote the retail sale of copies or phonorecords of the work and the performance is not transmitted beyond the place where the establishment is located;

(8) the public performance by a radio or television broadcasting station licensed by the Federal Communications Commission of a copyrighted sound recording by any means including a phonorecord.

§ 111. Limitations on exclusive rights: Secondary transmissions

(a) CERTAIN SECONDARY TRANSMISSIONS EXEMPTED.—The secondary transmission of a primary transmission embodying a performance or display of a work is not an infringement of copyright if:

(1) the secondary transmission is not made by a cable system, and consists entirely of the relaying, by the management of a hotel, apartment house, or similar establishment, of signals transmitted by a broadcast station licensed by the Federal Communications Commission, within the local service area of such station, to the private lodgings of guests or residents of such establishment, and no direct charge is made to see or hear the secondary transmission; or

(2) the secondary transmission is made solely for the purpose and under the conditions specified by clause (2) of section 110; or

(3) the secondary transmission is made by a common, contract, or special carrier who has no direct or indirect control over the content or selection of the primary transmission or over the particular recipients of the secondary transmission, and whose activities with respect to the secondary transmission consist solely of providing wires, cables, or other communications channels for the use of others: *Provided*, That the provisions of this clause extend only to the activities of said carrier with respect to secondary transmissions and do not exempt from liability the activities of others with respect to their own primary or secondary transmission; or

(4) the secondary transmission is not made by a cable system but is made by a governmental body, or other nonprofit organization, without any purpose of direct or indirect commercial advantage, and without charge to the recipients of the secondary transmission other than assessments necessary to defray the actual and reasonable costs of maintaining and operating the secondary transmission service; or

(5) the secondary transmission is made by a cable system serving a local community prior to March 31, 1972, and such local community is so situated as to be principally dependent upon such system for access to broadcast signals.

(b) Secondary Transmission of Primary Transmission to Controlled Group.—Notwithstanding the provisions of subsections (a) and (c), the secondary transmission to the public of a primary transmission embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by section 502 through 506, if the primary transmission is not made for reception by the public at large but is controlled and limited to reception by particular members of the public.

(c) Secondary Transmissions by Cable Systems.—

(1) Subject to the provisions of clause (2) of this subsection, secondary transmissions to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission and embodying a performance or display of a work shall be subject to compulsory licensing upon compliance with the requirements of subsection (d) in the following cases:

(A) Where the signals comprising the primary transmission are exclusively aural and the secondary transmission is permissible under the rules, regulations or authorizations of the Federal Communications Commission; or

(B) Where the community of the cable system is in whole or in part within the local service area of the primary transmitter; or

(C) Where the carriage of the signals comprising the secondary transmission is permissible under the rules, regulations or authorizations of the Federal Communications Commission.

(2) Notwithstanding the provisions of clause (1) of this subsection, the secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, in the following cases:

(A) Where the carriage of the signals comprising the secondary transmission is not permissible under the rules, regulations or authorizations of the Federal Communications Commission; or

(B) Where the cable system, at least one month before the date of the secondary transmission, has not recorded the notice specified by subsection (d); or

(C) Where the carriage of signals comprising the secondary transmission of sports events is not permissible under rules which the Federal Communications Commission shall promulgate: *Provided* That, in adopting such rules the Commission may consider the effect upon broadcasting, cable television, and sports of the policy objectives contained in Public Law 87-331, and any other factors the Commission deems appropriate.

(d) Compulsory License for Secondary Transmissions by Cable Systems.—

(1) For any secondary transmission to be subject to compulsory licensing under subsection (c), the cable system shall at least one month before the date of the secondary transmission or within 30 days after the enactment of this Act, whichever date is later, record in the Copyright Office, a notice including a statement of the identity and address of the person who owns or operates the secondary transmission service or has power to exercise primary control over it together with the name and location of the primary transmitter, or primary transmitters, and thereafter, from time to time, such further information as the Register of Copyrights shall prescribe by regulation to carry out the purposes of this clause.

(2) A cable system whose secondary transmissions have been subject to compulsory licensing under subsection (c) shall, during the months of January, April, July, and October, deposit with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation—

(A) A statement of account, covering the three months next preceding, specifying the number of channels on which the cable system made secondary transmissions to its subscribers, the names and locations of all primary transmitters whose transmissions were further transmitted by the cable system, the total number of subscribers to the cable system, and the gross amounts paid to the cable system irrespective of source and separate statements of the gross revenues paid to the cable system for advertising, leased channels, and cable-casting for which a per-program or per-channel charge is made and by subscribers for the basic service of providing secondary transmissions of primary broadcast transmitters; and

(B) A total royalty fee for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during said period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

(i) ½ percent of any gross receipts up to $40,000;

(ii) 1 percent of any gross receipts totalling more than $40,000 but not more than $80,000;

(iii) 1½ percent of any gross receipts totalling more than $80,000, but not more than $120,000;

(iv) 2 percent of any gross receipts totalling more than $120,000, but not more than $160,000; and

(v) 2½ percent of any gross receipts totalling more than $160,000.

(3) The royalty fees thus deposited shall be distributed in accordance with the following procedures:

(A) During the month of July in each year, every person claiming to be entitled to compulsory license fees for secondary transmissions made during the preceding twelve-month period shall file a claim with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation. Notwithstanding any provisions of the antitrust laws (as designated in section 1 of the Act of October 15, 1914, 38 Stat. 730, Title 15 U.S.C. section 12, and any amendments of such laws), for purposes of this clause any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(B) After the first day of August of each year, the Register of Copyrights shall determine whether there exists a controversy concerning the statement of account or the distribution of royalty fees. If he determines that no such controversy exists, he shall, after deducting his reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If he finds the existence of a controversy he shall certify to that fact and proceed to constitute a panel of the Copyright Royalty Tribunal in accordance with section 803. In such cases the reasonable administrative costs of the Register under this section shall be deducted prior to distribution of the royalty fee by the tribunal.

(C) During the pendency of any proceeding under this subsection, the Register of Copyrights or the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(e) Definitions.—

As used in this section, the following terms and their variant forms mean the following:

A "primary transmission" is a transmission made to the public by the transmitting facility whose signals are being received and further transmitted by the secondary transmission service, regardless of where or when the performance or display was first transmitted.

A "secondary transmission" is the further transmitting of a primary transmission simultaneously with the primary transmission or nonsimultaneously with the primary transmission if by a "cable system" not located in whole or in part within the boundary of the forty-eight contiguous States, Hawaii, or Puerto Rico.

A "cable system" is a facility, located in any State, territory, trust territory, or possession that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast stations licensed by the Federal Communications Commission and makes secondary transmissions of such signals or programs by wires, cables, or other communications channels to subscribing members of the public who pay for such service. For purposes of determining the royalty fee under subsection (d)(2)(B), two or more cable systems in contiguous communities under common ownership or control or operating from one headend shall be considered as one system.

The "local service area of a primary transmitter" comprises the area in which a television broadcast station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules and regulations of the Federal Communications Commission.

§ 112. Limitations on exclusive rights: Ephemeral recordings

(a) Notwithstanding the provisions of section 106, and except in the case of a motion picture or other audiovisual work, it is not an infringement of copyright for a transmitting organization entitled to transmit to the public a performance or display of a work, under a license or transfer of the copyright or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than one copy or phonorecord of a particular transmission program embodying the performance or display, if—

(1) the copy or phonorecord is retained and used solely by the transmitting organization that made it, and no further copies or phonorecords are reproduced from it; and

(2) the copy or phonorecord is used solely for the transmitting organization's own transmissions within its local service area, or for purposes of archival preservation or security; and

(3) unless preserved exclusively for archival purposes, the copy or phonorecord is destroyed within six months from the date the transmission program was first transmitted to the public.

(b) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance or display of a work, under section 110(2) or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than thirty copies or phonorecords of a particular transmission program embodying the performance or display, if—

(1) no further copies or phonorecords are reproduced from the copies or phonorecords made under this clause; and

(2) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are destroyed within seven years from the date the transmission program was first transmitted to the public.

(c) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization to make for distribution no more than one copy or phonorecord for each transmitting organization specified in clause (2) of this subsection of a particular transmission program embodying a performance of a nondramatic musical work of a religious nature, or of a sound recording of such a musical work, if—

(1) there is no direct or indirect charge for making or distributing any such copies or phonorecords; and

(2) none of such copies or phonorecords is used for any performance other than a single transmission to the public by a transmitting organization entitled to transmit to the public a performance of the work under a license or transfer of the copyright; and

(3) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are all destroyed within one year from the date the transmission program was first transmitted to the public.

(d) The transmission program embodied in a copy or phonorecord made under this section is not subject to protection as a derivative work under this title except with the express consent of the owners of copyright in the pre-existing works employed in the program.

§ 113. Scope of exclusive rights in pictorial, graphic, and sculptural works

(a) Subject to the provisions of clauses (1) and (2) of this subsection, the exclusive right to reproduce a copyrighted pictorial, graphic, or sculptural work in copies under section 106 includes the right to reproduce the work in or on any kind of article, whether useful or otherwise.

(1) This title does not afford, to the owner of copyright in a work that portrays a useful article as such, any greater or lesser rights with respect to the making, distribution, or display of the useful article so portrayed than those afforded to such works under the law whether title 17 of the common law or statutes of a State, in effect on December 31, 1974, as held applicable and construed by a court in an action brought under this title.

(2) In the case of a work lawfully reproduced in useful articles that have been offered for sale or other distribution to the public, copyright does not include any right to present the making, distribution, or display of pictures or photographs of such articles in connection with advertisements or commentaries related to the distribution or display of such articles, or in connection with news reports.

(b) When a pictorial, graphic, or sculptural work in which copyright subsists under this title is utilized in an original ornamental design of a useful article, by the copyright proprietor or under an express license from him, the design shall be eligible for protection under the provisions of title III of this Act.

(c) Protection under this title of a work in which copyright subsists shall terminate whenever the copyrght proprietor has obtained registration of an ornamental design of a useful article embodying said work under the provisions of title III of this Act. Unless and until the copyright proprietor has obtained such registration, the copyright pictorial, graphic, or sculptural work shall continue in all respects to be covered by and subject to the protection afforded by the copyright subsisting under this title. Nothing in this section shall be deemed to create any additional rights or protection under this title.

(d) Nothing in this section shall affect any right or remedy held by any person under this title in a work in which copyright was subsisting on the effective date of title III of this Act, or with respect to any utilization of a copyrighted work other than in the design of a useful article.

§ 114. Scope of exclusive rights in sound recordings

(a) Limitations on Exclusive Rights.—The exclusive rights of the owner of copyright in a sound recording are limited to the rights specified by clauses (1), (3), and (4) of section 106. The exclusive rights of the owner of copyright in a sound recording to reproduce and perform it are limited to the rights to duplicate the sound recording in the form of phonorecords or copies of audiovisual works that directly or indirectly recapture the actual sounds fixed in the recording, and to perform those actual sounds. These rights do not extend to the making or duplication of another sound recording that is an independent fixation of other sounds, or to the performance of other sounds, even though such sounds imitate or simulate those in the copyrighted sound recording.

(b) Performance Rights Distinct.—The exclusive right to perform publicly, by means of a phonorecord, a copyrighted literary, musical, or dramatic work, and the exclusive right to perform publicly a copyrighted sound recording, are separate and independent rights under this title.

(c) Compulsory License for Public Performance of Sound Recordings.—

(1) Subject to the provisions of sections 111 and 116, the public performance of a sound recording is subject to compulsory licensing under the conditions specified by this subsection, if phonorecords of it have been distributed to the public under the authority of the copyright owner.

(2) Any person who wishes to obtain a compulsory license under this subsection shall fulfill the following requirements:

(A) He shall at least one month before the public performance and thereafter at intervals and in accordance with requirements that the Register of Copyrights shall prescribe by regulation, record in the Copyright Office a notice stating his identity and address and declaring his intention to obtain a compulsory license under this subsection;

(B) Deposit with the Register of Copyrights, at annual intervals in accordance with requirements that the Register of Copyrights shall prescribe by regulation, a statement of account and a total royalty fee for the period covered by the statement, based on the royalty rates specified by clause (4).

(3) In the absence of a negotiated license, failure to record the notice, file the statement, or deposit the royalty fee prescribed by clause (2) renders the public performance of a sound recording actionable as an act of infringement under section 501 and fully subject to the remedies provided by sections 502 through 505, but not including the criminal remedies provided by section 506.

(4) The annual royalty fees under this subsection may, at the user's option, be computed on either a blanket or a prorated basis. Although a negotiated license may be substituted for the compulsory license prescribed by this subsection, in no case shall the negotiated rate amount to less than the applicable rate provided by this clause. The following rates shall be applicable:

(A) Subject to section 111, for background music services and other transmitters of performances of sound recordings the blanket rate is 2 percent of the gross receipts from subscribers or others who pay to receive the transmission during the applicable period. The alternative prorated rate is a fraction of 2 percent of such gross receipts, based on a calculation made in accordance with a standard formula that the Register of Copyrights shall prescribe by regulation, taking into account the proportion of time devoted to musical performances by the transmitter during the applicable period, and the extent to which the transmitter is also the owner of copyright in the sound recordings performed during said period.

(B) For an operator of coin-operated phonorecord players, as that term is defined by section 116, and for a cable system, as that term is defined by section 111, the compulsory licensing rates shall be governed exclusively by those respective sections and not by this subsection.

(C) For all other users not otherwise exempted, the blanket rate is $25 per year for each location at which copyrighted sound recordings are performed. The alternative prorated rate shall be based on the number of separate performances of such works during the year and, in accordance with a standard formula that the Register of Copyrights shall prescribe by regulation, shall not exceed $5 per day of use.

(d) Exemptions.—In addition to users exempted from liability by section 110 or subject to the provisions of section 111 or 116, any person who publicly performs a copyrighted sound recording and who would otherwise be subject to liability for such performance is exempted from liability for infringement and from the compulsory licensing requirements of this section, during the applicable annual period, if in the case of a background music service or other transmitter of performances of sound recordings its gross receipts from subscribers or others who pay to receive the transmission were less than $10,000.

(e) Distribution of Royalties.—

(1) During the month of September in each year, every person claiming to be entitled to compulsory license fees under this section for performances during the preceding twelve-month period shall file a claim with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation. Such claim shall include an agreement to accept as final, except as provided in section 809 of this title, the determination of the Copyright Royalty Tribunal in any controversy concerning the

distribution of royalty fees deposited under subclause (B) of subsection (c)(2) of this section to which the claimant is a party. Notwithstanding any provisions of the antitrust laws (the Act of October 15, 1914, 38 Stat. 730, and any amendments of any such laws), for purposes of this subsection any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(2) After the first day of October of each year, the Register of Copyrights shall determine whether there exists a controversy concerning the distribution of royalty fees deposited under subclause (B) of subsection (c)(2). If he determines that no such controversy exists, he shall, after deducting his reasonable administrative costs under this section, distribute such fees to the copyright owners and performers entitled, or to their designated agents. If he finds that such a controversy exists he shall certify to that fact and proceed to constitute a panel of the Copyright Royalty Tribunal in accordance with section 803. In such cases the reasonable administrative costs of the Register under this section shall be deducted prior to distribution of the royalty fee by the tribunal.

(3) For the purposes of this section—

(A) One half of all royalties to be distributed shall be paid to the copyright owners, and the other half shall be paid to the performers, of the sound recordings for which claims have been made under clause (1); and

(B) During the pendency of any proceeding under this section, the Register of Copyrights or the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(f) Relation to Other Sections.—The public performance of sound recordings by means of secondary transmissions and coin-operated phonorecord players is governed by sections 111 and 116, respectively, and not by this section, except that in the case of sound recordings by means of secondary transmissions there shall be an equal distribution of royalty fees for such public performances between copyright owners and performers as provided by subsection (e)(3)(A) of this section.

(g) Definitions.—As used in this section, the following terms and their variant forms mean the following:

(1) "Commercial time" is any transmission program, the time for which is paid for by a commercial sponsor, or any transmission program that is interrupted by a spot commercial announcement at intervals of less than fourteen and one-half minutes.

(2) "Performers" are musicians, singers, conductors, actors, narrators, and others whose performance of a literary, musical, or dramatic work is embodied in a sound recording.

§ 115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords

In the case of nondramatic musical works, the exclusive rights provided by clauses (1) and (3) of section 106, to make and to distribute phonorecords of such works, are subject to compulsory licensing under the conditions specified by this section.

(a) Availability and Scope of Compulsory License.—

(1) When phonorecords of a nondramatic musical work have been distributed to the public under the authority of the copyright owner, any other person may, by complying with the provisions of this section, obtain a compulsory license to make and distribute phonorecords of the work. A person may obtain a compulsory license only if his primary purpose in making phonorecords is to distribute them to the public for private use. A person may not obtain a compulsory license for use of the work in the duplication of a sound recording made by another.

(2) A compulsory license includes the privilege of making a musical arrangement of the work to the extent necessary to conform it to the style or manner of interpretation of the performance involved, but the arrangement shall not change the basic melody or fundamental character of the work, and shall not be subject to protection as a derivative work under this title, except with the express consent of the copyright owner.

(b) Notice of Intention To Obtain Compulsory License; Designation of Owner of Performance Right.—

(1) Any person who wishes to obtain a compulsory license under this section shall, before or within thirty days after making, and before distributing any phonorecords of the work, serve notice of his intention to do so on the copyright owner. If the registration or other public records of the Copyright Office do not identify the copyright owner and include an address at which notice can be served on him, it shall be sufficient to file the notice of intention in the Copyright Office. The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(2) If the copyright owner so requests in writing not later than ten days after service or filing of the notice required by clause (1), the person exercising the compulsory license shall designate, on a label or container accompanying each phonorecord of the work distributed by him, and in the form and manner that the Register of Copyrights shall prescribe by regulation, the name of the copyright owner or his agent to whom royalties for public performance of the work are to be paid.

(3) Failure to serve or file the notice required by clause (1), or to designate the name of the owner or agent as required by clause (2), forecloses the possibility of a compulsory license and, in the absence of a negotiated license, renders the making and distribution of phonorecords actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506.

(c) Royalty Payable Under Compulsory License.—

(1) To be entitled to receive royalties under a compulsory license, the copyright owner must be identified in the registration or other public records of the Copyright Office. The owner is entitled to royalties for phonorecords manufactured and distributed after he is so identified but he is not entitled to recover for any phonorecords previously manufactured and distributed.

(2) Except as provided by clause (1), the royalty under a compulsory license shall be payable for every phonorecord manufactured and distributed in accordance with the license. With respect to each work embodied in the phonorecord, the royalty shall be either three cents, or three quarter cent per minute of playing time or fraction thereof, whichever amount is larger.

(3) Royalty payments shall be made on or before the twentieth day of each month and shall include all royalties for the month next preceding. Each monthly payment shall be accompanied by a detailed statement of account, which shall be certified by a Certified Public Accountant and comply in form, content, and manner of certification with requirements that the Register of Copyrights shall prescribe by regulation.

(4) If the copyright owner does not receive the monthly payment and statement of account when due, he may give written notice to the licensee that, unless the default is remedied within thirty days from the date of the notice, the compulsory license will be automatically terminated. Such termination renders the making and distribution of all phonorecords, for which the royalty had not been paid, actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506.

§ 116. Scope of exclusive right in nondramatic musical works and sound recordings: Public performances by means of coin-operated phonorecord player

(a) Limitation on Exclusive Right.—In the case of a nondramatic musical work embodied in a phonorecord, and in the case of a sound recording, the exclusive right under clause (4) of section 106 to perform the work publicly by means of a coin-operated phonorecord player is limited as follows:

(1) The proprietor of the establishment in which the public performance takes place is not liable for infringement with respect to such public performance unless:

(A) he is the operator of the phonorecord player; or

(B) he refuses or fails, within one month after receipt by registered or certified mail of a request, at a time during which the certificate required by subclause (1)(C) of subsection (b) is not affixed to the phonorecord player, by the copyright owner to make full disclosure, by registered or certified mail, of the identity of the operator of the phonorecord player.

(2) The operator of the coin-operated phonorecord player may obtain a compulsory license to perform the work publicly on that phonorecord player by filing the application, affixing the certificate, and paying the royalties provided by subsection (b).

(b) Recordation of Coin-Operated Phonorecord Player, Affixation of Certificate, and Royalty Payable Under Compulsory License.—

(1) Any operator who wishes to obtain a compulsory license for the public performance of works on a coin-operated phonorecord player shall fulfill the following requirements:

(A) Before or within one month after such performances are made available on a particular phonorecord player, and during the month of January in each succeeding year that such performances are made available on that particular phonorecord player, he shall file in the Copyright Office, in accordance with requirements that the Register of Copyrights shall prescribe by regulation, an application containing the name and address of the operator of the phonorecord player and the manufacturer and serial number or other explicit identification of the phonorecord player, and in addition to the fee prescribed by clause (9) of section 708(a), he shall deposit with the Register of Copyrights a royalty fee for the current calendar year of $8 for that particular phonorecord player. If such performances are made available on a particular phonorecord player for the first time after July 1 of any year, the royalty fee to be deposited for the remainder of that year shall be $400.

(B) Within twenty days of receipt of an application and a royalty fee pursuant to subclause (A), the Register of Copyrights shall issue to the applicant a certificate for the phonorecord player.

(C) On or before March 1 of the year in which the certificate prescribed by subclause (B) of this clause is issued, or within ten days after the date of issue of the certificate, the operator shall affix to the particular phonorecord player, in a position where it can be readily examined by the public, the certificate, issued by the Register of Copyrights under subclause (B), of the latest application made by him under subclause (A) of this clause with respect to that phonorecord player.

(2) Failure to file the application, to affix the certificate or to pay the royalty required by clause (1) of this subsection renders the public performance actionable as an act of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506.

(c) Distribution of Royalties.—

(1) During the month of January in each year, every person claiming to be entitled to compulsory license fees under this section for performances during the preceding twelve-month period shall file a claim with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation. Such claim shall include an agreement to accept as final, except as provided in section 809 of this title, the determination of the Copyright Royalty Tribunal in any controversy concerning the distribution of royalty fees deposited under subclause (a) of subsection (b)(1) of this section to which the claimant is a party. Notwithstanding any provisions of the antitrust laws (the Act of October 15, 1914, 38 Stat. 730, and any amendments of any such laws), for purposes of this subsection any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(2) After the first day of October of each year, the Register of Copyrights shall determine whether there exists a controversy concerning the distribution of royalty fees deposited under subclause (A) of subsection (b)(1). If he determines that no such controversy exists he shall, after deducting his reasonable administrative costs under this section, distribute such fees to the copyright owners and performers entitled, or to their designated agents. If he finds that such a controversy exists he shall certify to that fact and proceed to constitute a panel of the Copyright Royalty Tribunal in accordance with section 803. In such cases the reasonable administrative costs of the Register under this section shall be deducted prior to distribution of the royalty fee by the tribunal.

"(3) The fees to be distributed shall be divided as follows:

"(A) To every copyright owner not affiliated with a performing rights society the pro rata share of the fees to be distributed to which such copyright owner proves his entitlement; and

"(B) To the performing rights societies the remainder of the fees to be distributed in such pro rata shares as they shall by agreement stipulate among themselves, or if they fail to agree, the pro rata share to which such performing rights societies prove their entitlement.

"(C) During the pendency of any proceeding under this section, the Register of Copyrights or the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.".

(4) The Register of Copyrights shall promulgate regulations under which persons who can reasonably be expected to have claims may, during the year in which performances take place, without expense to or harassment of operators or proprietors of establishments in which phonorecord players are located, have such access to such establishments and to the phonorecord players located therein and such opportunity to obtain information with respect thereto as may be reasonably necessary to determine, by sampling procedures or otherwise, the proportion of contribution of the musical works of each such person to the earnings of the phonorecord players for which fees shall have been deposited. Any person who alleges that he has been denied the access permitted under the regulations prescribed by the Register of Copyrights may bring on an action in the United States District Court for the District of Columbia for the cancellation of the compulsory license of the phonorecord player to which such access has been denied, and the court shall have the power to declare the compulsory license thereof invalid from the date of issue thereof.

(d) Criminal Penalties.—Any person who knowingly makes a false representation of a material fact in an application filed under clause (1)(A) of subsection (b), or who knowingly alters a certificate issued under clause (1)(B) of subsection (b) or knowingly affixes such a certificate to a phonorecord player other than the one it covers, shall be fined not more than $2,500.

(e) Definitions.—As used in this section, the following terms and their variant forms mean the following:

(1) A "coin-operated phonorecord player" is a machine or device that:

(A) is employed solely for the performance of nondramatic musical works by means of phonorecords upon being activated by insertion of a coin;

(B) is located in an establishment making no direct or indirect charge for admission;

(C) is accompanied by a list of the titles of all the musical works available for performance on it, which list is affixed to the phonorecord player or posted in the establishment in a prominent position where it can be readily examined by the public; and

(D) affords a choice of works available for performance and permits the choice to be made by the patrons of the establishment in which it is located.

(2) An "operator" is any person who, alone or jointly with others:

(A) owns a coin-operated phonorecord player; or

(B) has the power to make a coin-operated phonorecord player available for placement in an establishment for purposes of public performance; or

(C) has the power to exercise primary control over the selection of the musical works made available for public performance in a coin-operated phonorecord player.

(3) A "performing rights society" is an association or corporation that licenses the public performance of nondramatic musical works on behalf of the copyright owners, such as the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc.

§ 117. Scope of exclusive rights: Use in conjunction with computers and similar information systems

Notwithstanding the provisions of sections 106 through 116, this title does not afford to the owner of copyright in a work any greater or lesser rights with respect to the use of the work in conjunction with automatic systems capable of storing, processing, retrieving, or transferring information, or in conjunction with any similar device, machine, or process, than those afforded to works under the law, whether title 17, or the common law or statutes of a State, in effect on December 31, 1974, as held applicable and construed by a court in an action brought under this title.

Chapter 2.—COPYRIGHT OWNERSHIP AND TRANSFER

Sec.
201. Ownership of copyright.
202. Ownership of copyright as distinct from ownership of material object.
203. Termination of transfers and licenses granted by the author.
204. Execution of transfers of copyright ownership.
205. Recordation of transfers and other documents.

§ 201. Ownership of copyright

(a) Initial Ownership.—Copyright in work protected under this title vests initially in the author or authors of the work. The authors of a joint work are co-owners of copyright in the work.

(b) Works Made for Hire.—In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of this title, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.

(c) Contributions to Collective Works.—Copyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole, and vests initially in the author of the contribution. In the absence of an express transfer of the copyright or of any rights under it, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series.

(d) Transfer of Ownership.—

(1) The ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of interstate succession.

(2) Any of the exclusive rights comprised in a copyright, including any subdivision of any of the rights specified by section 106, may be transferred as provided by clause (1) and owned separately. The owner of any particular exclusive right is entitled, to the extent of that right, to all of the protection and remedies accorded to the copyright owner by this title.

§ 202. Ownership of copyright as distinct from ownership of material object

Ownership of a copyright, or of any of the exclusive rights under a copyright, is distinct from ownership of any material object in which the work is embodied. Transfer of ownership of any material object, including the copy or phonorecord in which the work is first fixed, does not of itself convey any rights in the copyrighted work embodied in the object; nor, in the absence of an agreement, does transfer of ownership of a copyright or of any exclusive rights under a copyright convey property rights in any material object.

§ 203. Termination of transfers and licenses granted by the author

(a) Conditions for Termination.—In the case of any work other than a work made for hire, the exclusive or nonexclusive grant of a transfer or license of copyright or of any right under a copyright, executed by the author on or after January 1, 1975, otherwise than by will, is subject to termination under the following conditions:

(1) In the case of a grant executed by one author, termination of the grant may be effected by that author or, if he is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one half of that author's termination interest. In the case of a grant executed by two or more authors of a joint work, termination of the grant may be effected by a majority of the authors who executed it; if any of such authors is dead, his termination interest may be exercised as a unit by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one half of his interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow (or her widower) and children or grandchildren as follows:

(A) The widow (or widower) owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow (or widower) owns one half of the author's interest;

(B) The author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow (or widower), in which case the ownership of one half of the author's interest is divided among them;

(C) The rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of his children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of thirty-five years from the date of execution of the grant; or, if the grant covers the right of publication of the work, the period begins at the end of thirty-five years from the date of publication of the work under the grant or at the end of forty years from the date of execution of the grant, whichever term ends earlier.

(4) The termination shall be effected by serving an advance notice in writing, signed by the number and proportion of owners of termination interests required under clauses (1) and (2) of this subsection, or by their duly authorized agents, upon the grantee or his successor in title.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of this notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(b) Effect of Termination.—Upon the effective date of termination, all rights under this title that were covered by the terminated grant revert to the author, authors, and other persons owning termination interests under clauses (1) and (2) of subsection (a), including those owners who did not join in signing the notice of termination under clause (4) of subsection (a), but with the following limitations:

(1) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(2) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of subsection (a). The rights vest in the author, authors, and other persons named in, and in the proportionate shares provided by, clauses (1) and (2) of subsection (a).

(3) Subject to the provisions of clause (4) of this subsection, a further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under clause (2) of this subsection, as are required to terminate the grant under clauses (1) and (2) of subsection (a). Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under clause (2) of this subsection, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him, his legal representatives, legatees, or heirs at law represent him for purposes of this clause.

(4) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the persons provided by clause (3) of this subsection and the original grantee or his successor in title, after the notice of termination has been served as provide by clause (4) of subsection (a).

(5) Termination of a grant under this section affects only those rights covered by a grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(6) Unless and until termination is effected under this section, the grant, if it does not provide otherwise, continues in effect for the term of copyright provided by this title.

§ 204. Execution of transfers of copyright ownership

(a) A transfer of copyright ownership other than by operation of law, is not valid unless an instrument of conveyance, or a note or memorandum of the transfer, is in writing and signed by the owner of the rights conveyed or his duly authorized agent.

(b) A certificate of acknowledgment is not required for the validity of a transfer, but is prima facie evidence of the execution of the transfer if:

(1) in the case of a transfer executed in the United States, the certificate is issued by a person authorized to administer oaths within the United States; or

(2) in the case of a transfer executed in a foreign country, the certificate is issued by a diplomatic or consular officer of the United States, or by a person authorized to administer oaths whose authority is proved by a certificate of such an officer.

§ 205. Recordation of transfer and other documents

(a) Conditions for Recordation.—Any transfer of copyright ownership or other document pertaining to a copyright may be recorded in the Copyright Office if the document filed for recordation bears the actual signature of the person who executed it, or if it is accompanied by a sworn or official certification that it is a true copy of the original signed document.

(b) Certificate of Recordation.—The Register of Copyrights shall, upon receipt of a document as provided by subsection (a) and of the fee provided by section 708, record the document and return it with a certificate of recordation.

(c) Recordation as Constructive Notice.—Recordation of a document in the Copyright Office gives all persons constructive notice of the facts stated in the recorded document, but only if:

(1) the document, or material attached to it, specifically identifies the work to which it pertains so that, after the document is indexed by the Register of Copyrights, it would be revealed by a reasonable search under the title or registration number of the work; and

(2) registration has been made for the work.

(d) Recordation as Prerequisite to Infringement Suit.—No person claiming by virtue of a transfer to the owner of copyright or of any exclusive right under a copyright is entitled to institute an infringement action under this title until the instrument of transfer under which he claims has been recorded in the Copyright Office, but suit may be instituted after such recordation on a cause of action that arose before recordation.

(e) Priority Between Conflicting Transfers.—As between two conflicting transfers, the one executed first prevails if it is recorded, in the manner required to give constructive notice under subsection (c) within one month after its execution in the United States or within two months after its execution abroad, or at any time before recordation in such manner of the later transfer. Otherwise the later transfer prevails if recorded first in such manner, and if taken in good faith, for valuable consideration or on the basis of a binding promise to pay royalties, and without notice of the earlier transfer.

(f) Priority Between Conflicting Transfer of Ownership and Nonexclusive License.—A nonexclusive license, whether recorded or not, prevails over a conflicting transfer of copyright ownership if the license is evidenced by a written instrument signed by the owner of the rights licensed or his duly authorized agent, and if:

(1) the license was taken before execution of the transfer; or

(2) the license was taken in good faith before recordation of the transfer and without notice of it.

Chapter 3.—DURATION OF COPYRIGHT

Sec.

301. Preemption with respect to other laws.
302. Duration of copyright: Works created on or after January 1, 1975.
303. Duration of copyright: Works created but not published or copyrighted before January 1, 1975.
304. Duration of copyright: subsisting copyrights.
305. Duration of copyright: Terminal date.

§ 301. Pre-emption with respect to other laws

(a) On and after January 1, 1975, all rights in the nature of copyright in works that come within the subject matter of copyright as specified by sections 102 and 103, whether created before or after that date and whether published or unpublished, are governed exclusively by this title. Thereafter, no person is entitled to copyright, literary property rights, or any equivalent legal or equitable right in any such work under the common law or statutes of any State.

(b) Nothing in this title annuls or limits any rights or remedies under the common law or statutes of any State with respect to:

(1) unpublished material that does not come within the subject matter of copyright as specified by sections 102 and 103, including works of authorship not fixed in any tangible medium of expression;

(2) any cause of action arising from undertakings commenced before January 1, 1975;

(3) activities violating rights that are not equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106, including breaches of contract, breaches of trust, invasion of privacy, defamation, and deceptive trade practices such as passing off and false representation.

§ 302. Duration of copyright: Works created on or after January 1, 1975

(a) In General.—Copyright in a work created on or after January 1, 1975, subsists from its creation and, except as provided by the following subsections, endures for a term consisting of the life of the author and fifty years after his death.

(b) Joint Works.—In the case of a joint work prepared by two or more authors who did not work for hire, the copyright endures for a term consisting of the life of the last surviving author and fifty years after his death.

(c) Anonymous Works, Pseudonymous Works, and Works Made for Hire.—In the case of an anonymous work, a pseudonymous work or a work made for hire, the copyright endures for a term of seventy-five years from the year of its first publication, or a term of one hundred years from the year of its creation, whichever expires first. If, before the end of such term, the identity of one or more of the authors of an anonymous or pseudonymous work is revealed in the records of a registration made for that work under subsection (a) or (d) of section 407, or in the records provided by this subsection, the copyright in the work endures for the term specified by subsections (a) or (b), based on the life of the author or authors whose identity has been revealed. Any person having an interest in the copyright in an anonymous or pseudonymous work may at any time record, in records to be maintained by the Copyright Office for that purpose, a statement identifying one or more authors of the work; the statement shall also identify the person filing it, the nature of his interest, the source of his information, and the particular work affected, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation.

(d) Records Relating to Death of Authors.—Any person having an interest in a copyright may at any time record in the Copyright Office a statement of the date of death of the author of the copyrighted work, or a statement that the author is still living on a particular date. The statement shall identify the person filing it, the nature of his interest, and the source of his information, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall maintain current records of information relating to the death of authors of copyrighted works, based on such recorded statements and, to the extent he considers practicable, on data contained in any of the records of the Copyright Office or in other reference sources.

(e) Presumption as to Author's Death.—After a period of seventy-five years from the year of first publication of a work, or a period of one hundred years from the year of its creation, whichever expires first, any person who obtains from the Copyright Office a certified report that the records provided by subsection (d) disclose nothing to indicate that the author of the work is living, or died less than fifty years before, is entitled to the benefit of a presumption that the author has been dead for at least fifty years. Reliance in good faith upon this presumption shall be complete defense to any action for infringement under this title.

§ 303. Duration of copyright: Works created but not published or copyrighted before January 1, 1975

Copyright in a work created before January 1, 1975, but not theretofore in the public domain or copyrighted, subsists from January 1, 1975, and endures for the term provided by section 302. In no case, however, shall the term of copyright in such a work expire before December 31, 1999; and, if the work is published on or before December 31, 1999, the term of copyright shall not expire before December 31, 2024.

§ 304. Duration of copyright: Subsisting copyrights

(a) Copyrights in Their First Term on January 1, 1975.—Any copyright, the first term of which is subsisting on January 1, 1975, shall endure for twenty-eight years from the date it was originally secured: *Provided*, That in the case of any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire, the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That in the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work, the author of such work, if still living, or the widow, widower, or children of the author, if the author be not living, or if such author, widow, widower, or children be not living, then the author's executors, or in the absence of a will, his next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That in default of the registration of such application for renewal and extension, the copyright in any work shall terminate at the expiration of twenty-eight years from the date copyright was originally secured.

(b) Copyrights in Their Renewal Term or Registered for Renewal Before January 1, 1975.—The duration of any copyright, the renewal term of which is subsisting at any time between December 31, 1973, and December 31, 1974, inclusive, or for which renewal registration is made between December 31, 1973, and December 31, 1974, inclusive, is extended to endure for a term of 75 years from the date copyright was originally secured.

(c) Termination of Transfer and Licenses Covering Extended Renewal Term.—In the case of any copyright subsisting in either its first or renewal term on January 1, 1975, other than a copyright in a work made for hire, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or of any right under it, executed before January 1, 1975, by any of the persons designated by the second proviso of subsection (a) of this section, otherwise than by will, is subject to termination under the following condition:

(1) In the case of a grant executed by a person or persons other than the author, termination of the grant may be effected by the surviving person or persons who executed it. In the case of a grant executed by one or more of the authors of the work, termination of the grant may be effected, to the extent of a particular author's share in the ownership of the renewal copyright, by the author who executed it or, if such author is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one half of that author's termination interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow (or her widower) and children or grandchildren as follows:

(A) The widow (or widower) owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow (or widower) owns one half of the author's interest;

(B) The author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow (or widower), in which case the onwership of one half of the author's interest is divided among them;

(C) The rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of his children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of fifty-six years from the date copyright was originally secured, or beginning on January 1, 1975, whichever is later.

(4) The termination shall be effected by serving an advance notice in writing upon the grantee or his successor in title. In the case of a grant executed by a person or persons other than the author, the notice shall be signed by all of those entitled to terminate the grant under clause (1) of this subsection, or by their duly authorized agents. In the case of a grant executed by one or more of the authors of the work, the notice as to any one author's share shall be signed by him or his duly authorized agent or, if he is dead, by the number and proportion of the owners of his termination interest required under clauses (1) and (2) of this subsection, or by their duly authorized agents.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(6) In the case of a grant executed by a person or persons other than the author, all rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to all of those entitled to terminate the grant under clause (1) of this subsection. In the case of a grant executed by one or more of the authors of the work, all of a particular author's rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to that author or, if he is dead, to the persons owning his termination interest under clause (2) of this subsection, including those owners who did not join in signing the notice of termination under clause (4) of this subsection. In all cases the reversion of rights is subject to the following limitations:

(A) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(B) The future rights that will revert upon termination of the grant become vetoed on the date the notice of termination has been served as provided by clause (4) of this subsection.

(C) Where an author's rights revert to two or more persons under clause (2) of this subsection, they shall vest in those persons in the proportionate shares provided by that clause. In such a case, and subject to the provisions of subclause (D) of this clause, a further grant, or agreement to make a further grant, of a particular author's share with respect to any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under this clause, as are required to terminate the grant under clause (2) of this subsection. Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under this subclause, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him, his legal representatives, legatees, or heirs at law represent him for purposes of this subclass.

(D) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the author or any of the persons provided by the first sentence of clause (6) of this [subsection, or between the persons provided by subclause (C)] of this clause, and the original grantee or his successor in title, after the notice of termination has been served as provided by clause (4) of this subsection.

(E) Termination of a grant under this subsection affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(F) Unless and until termination is effected under this section, the grant, if it does not provide otherwise, continues in effect for the remainder of the extended renewal term.

§ 305. Duration of copyright: Terminal date

All terms of copyright provided by sections 302 through 304 run to the end of the calendar year in which they would otherwise expire.

Chapter 4.—COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION

Sec.

401. Notice of copyright: Visually perceptible copies.
402. Notice of copyright: Phonorecords of sound recordings.
403. Notice of copyright: Publications incorporating United States Government works.
404. Notice of copyright: Contributions to collective works.
405. Notice of copyright: Omission of notice.
406. Notice of copyright: Error in name or date.
407. Deposit of copies or phonorecords for Library of Congress.
408. Copyright registration in general.
409. Application for registration.
410. Registration of claim and issuance of certificate.
411. Registration as prerequisite to infringement suit.
412. Registration as prerequisite to certain remedies for infringement.

§ 401. Notice of copyright: Visually perceptible copies

(a) General Requirement.—Whenever a work protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed copies from which the work can be visually perceived, either directly or with the aid of a machine or device.

(b) Form of Notice.—The notice appearing on the copies shall consist of the following three elements:

(1) the symbol © (the letter C in a circle), the word "Copyright," or the abbreviation "Copr.";

(2) the year of first publication of the work; in the case of compilations or derivative works incorporating previously published material, the year date of first publication of the compilation or derivative work is sufficient. The year date may be omitted where a pictorial, graphic, or sculptural work, with accompanying text matter, if any, is reproduced in or on greeting cards, postcards, stationery, jewelry, dolls, toys, or any useful articles;

(3) the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner.

(c) Position of Notice.—The notice shall be affixed to the copies in such manner and location as to give reasonable notice of the claim of copyright. The Register of Copyrights shall prescribe by regulation, as examples, specific methods of affixation and positions of the notice on various types of works that will satisfy this requirement, but these specifications shall not be considered exhaustive.

§ 402. Notice of copyright: Phonorecords of sound recordings

(a) General Requirement.—Whenever a sound recording protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed phonorecords of the sound recording.

(b) Form of Notice.—The notice appearing on the phonorecords shall consist of the following three elements:

(1) the symbol ℗ (the letter P in a circle);

(2) the year of first publication of the sound recording;

(3) the name of the owner of copyrights in the sound recording, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner; if the producer of the sound recording is named on the phonorecord labels or containers, and if no other name appears in conjunction with the notice, his name shall be considered a part of the notice.

(c) Position of Notice.—The notice shall be placed on the surface of the phonorecord, or on the phonorecord label or container, in such manner and location as to give reasonable notice of the claim of copyright.

§ 403. Notice of copyright: Publications incorporating United States Government works

Whenever a work is published in copies or phonorecords consisting preponderantly of one or more works of the United States Government, the notice of copyright provided by section 401 or 402 shall also include a statement identifying, either affirmatively or negatively, those portions of the copies or phonorecords embodying any work or works protected under this title.

§ 404. Notice of Copyright: Contributions to collective works

(a) A separate contribution to a collective work may bear its own notice of copyright, as provided by sections 401 through 403. However, a single notice applicable to the collective work as a whole is sufficient to satisfy the requirements of sections 401 through 403 with respect to the separate contributions it contains (not including advertisements inserted on behalf of persons other than the owner of copyright in the collective work), regardless of the ownership of copyright in the contributions and whether or not they have been previously published.

(b) Where the person named in a single notice applicable to a collective work as a whole is not the owner of copyright in a separate contribution that does not bear its own notice, the case is governed by the provisions of section 406(a).

§ 405. Notice of copyright: Omission of notice

(a) Effect of Omission on Copyright.—The omission of the copyright notice described by sections 401 through 403 from copies or phonorecords publicly distributed by authority of the copyright owner does not invalidate the copyright in a work if:

(1) the notice has been omitted from no more than a relatively small number of copies or phonorecords distributed to the public; or

(2) registration for the work has been made before or is made within five years after the publication without notice, and a reasonable effort is made to add notice to all copies or phonorecords that are distributed to the public in the United States after the omission has been discovered; or

(3) the notice has been omitted in violation of an express requirement in writing that, as a condition of the copyright owner's authorization of the public distribution of copies or phonorecords, they bear the prescribed notice.

(b) Effect of Omission on Innocent Infringers.—Any person who innocently infringes a copyright, in reliance upon an authorized copy or phonorecord from which the copyright notice has been omitted, incurs no liability for actual or statutory damages under section 504 for any infringing acts committed before receiving actual notice that registration for the work had been made under section 408, if he proves that he was misled by the omission of notice. In a suit for infringement in such a case the court may allow or disallow recovery of any of the infringer's profits attributable to the infringement, and may enjoin the continuation of the infringing undertaking or may require, as a condition for permitting the infringer to continue his undertaking, that he pay the copyright owner a reasonable license fee in an amount and on terms fixed by the court.

(c) Removal of Notice.—Protection under this title is not affected by the removal, destruction, or obliteration of the notice, without the authorization of the copyright owner, from any publicly distributed copies of phonorecords.

§ 406. Notice of copyright: Error in name or date

(a) Error in Name.—Where the person named in the copyright notice on copies or phonorecords publicly distributed by authority of the copyright owner is not the owner of copyright, the validity and ownership of the copyright are not affected. In such a case, however, any person who innocently begins an undertaking that infringes the copyright has a complete defense to any action for such infringement if he proves that he was misled by the notice and began the undertaking in good faith under a purported transfer or license from the person named therein, unless before the undertaking was begun:

(1) registration for the work had been made in the name of the owner or copyright; or

(2) a document executed by the person named in the notice and showing the ownership of the copyright had been recorded.

The person named in the notice is liable to account to the copyright owner for all receipts from purported transfers or licenses made by him under the copyright.

(b) Error in Date.—When the year date in the notice on copies or phonorecords distributed by authority of the copyright owner is earlier than the year in which publication first occurred, any period computed from the year of first publication under section 302 is to be computed from the year in the notice. Where the year date is more than one year later than the year in which publication first occurred, the work is considered to have been published without any notice and is governed by the provisions of section 405.

(c) Omission of Name or Date.—Where copies or phonorecords publicly distributed by authority of the copyright owner contain no name or no date that could reasonably be considered a part of the notice, the work is considered to have been published without any notice and is governed by the provisions of section 405.

§ 407. Deposit of copies or phonorecords for Library of Congress

(a) Except as provided by subsection (c), the owner of copyright or of the exclusive right of publication in a work published with notice of copyright in the United States shall deposit, within three months after the date of such publication:

(1) two complete copies of the best edition; or

(2) if the work is a sound recording, two complete phonorecords of the best edition, together with any printed or other visually-perceptible material published with such phonorecords.

This deposit is not a condition of copyright protection.

(b) The required copies or phonorecords shall be deposited in the Copyright Office for the use or disposition of the Library of Congress. The Register of Copyrights shall, when requested by the depositor and upon payment of the fee prescribed by section 708, issue a receipt for the deposit.

(c) The Register of Copyrights may by regulation exempt any categories of material from the deposit requirements of this section, or require deposit of only one copy of phonorecord with respect to any categories.

(d) At any time after publication of a work as provided by subsection (a), the Register of Copyrights may make written demand for the required deposit on any of the persons obligated to make the deposit under subsection (a). Unless deposit is made within three months after the demand is received, the person or persons on whom the demand was made are liable:

(1) to a fine of not more than $250 for each work; and

(2) to pay to the Library of Congress the total retail price of the copies or phonorecords demanded, or, if no detail price has been fixed, the reasonable cost to the Library of Congress of acquiring them.

§ 408. Copyright registration in general

(a) Registration Permissive.—At any time during the subsistence of copyright in any published or unpublished work, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim by delivering to the Copyright Office the deposit specified by this section, together with the application and fee specified by sections 409 and 708. Subject to the provisions of section 405(a), such registration is not a condition of copyright protection.

(b) Deposit for Copyright Registration.—Except as provided by subsection (c), the material deposited for registration shall include:

(1) in the case of an unpublished work, one complete copy or phonorecord;

(2) in the case of a published work, two complete copies or phonorecords of the best edition;

(3) in the case of a work first published abroad, one complete copy or phonorecord as so published;

(4) in the case of a contribution to a collective work, one complete copy or phonorecord of the best edition of the collective work.

Copies or phonorecords deposited for the Library of Congress under section 407 may be used to satisfy the deposit provisions of this section, if they are accompanied by the precribed application and fee, and by any additional identifying material that the Register may, by regulation, require.

(c) Administrative Classification and Optional Deposit.—The Register of Copyrights is authorized to specify by regulation the administrative classes into which works are to be placed for purposes of deposit and registration, and the nature of the copies or phonorecords to be deposited in the various classes specified. The regulations may require or permit, for particular classes, the deposit of identifying material instead of copies or phonorecords, the deposit of only one copy or phonorecord where two would normally be required, or a single registration for a group of related works. This administrative classification of works has no significance with respect to the subject matter of copyright or the exclusive rights provided by this title.

(d) Corrections and Amplifications.—The Register may also establish, by regulation, formal procedures for the filing of an application for supplementary registration, to correct an error in a copyright registration or to amplify the information given in a registration. Such application shall be accompanied by the fee provided by section 708, and shall clearly identify the registration to be corrected or amplified. The information contained in a supplementary registration augments but does not supersede that contained in the earlier registration.

(e) Published Edition of Previously Registered Work.—Registration for the first published edition of a work previously registered in unpublished form may be made even though the work as published is substantially the same as the unpublished version.

§ 409. Application for registration

The application for copyright registration shall be made on a form prescribed by the Register of Copyrights and shall include:

(1) the name and address of the copyright claimant;

(2) in the case of a work other than an anonymous or pseudonymous work, the name and nationality or domicile of the author or authors and, if one or more of the authors is dead, the dates of their deaths;

(3) if the work is anonymous or pseudonymous, the nationality or domicile of the author or authors;

(4) in the case of a work made for hire, a statement to this effect;

(5) if the copyright claimant is not the author, a brief statement of how the claimant obtained ownership of the copyright;

(6) the title of the work, together with any previous or alternative titles under which the work can be identified;

(7) the year in which creation of the work was completed;

(8) if the work has been published, the date and nation of its first publication;

(9) in the case of a compilation or derivative work, an identification of any pre-existing work or works that it is based on or incorporates, and a brief, general statement of the additional material covered by the copyright claim being registered;

(10) in the case of a published work containing material of which copies are required by section 601 to be manufactured in the United States, the names of the persons or organizations who performed the processes specified by subsection (c) of section 601 with respect to that material, and the places where those processes were performed; and

(11) any other information regarded by the Register of Copyrights as bearing upon the preparation or identification of the work or the existence, ownership, or duration of the copyright.

§ 410. Registration of claim and issuance of certificate

(a) When, after examination, the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited constitutes copyrightable subject matter and that the other legal and formal requirements of this title have been met, he shall register the claim and issue to the applicant a certificate of registration under the seal of the Copyright Office. The certificate shall contain the information given in the application, together with the number and effective date of the registration.

(b) In any case in which the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited does not constitute copyrightable subject matter or that the claim is invalid for any other reason, he shall refuse registration and shall notify the applicant in writing of the reasons for his action.

(c) In any judicial proceedings the certificate of a registration made before or within five years after first publication of the work shall constitute prima facie evidence of the validity of the copyright and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration made thereafter shall be within the discretion of the court.

(d) The effective date of a copyright registration is the day on which an application, deposit, and fee, which are later determined by the Register of Copyrights or by a court of competent jurisdiction to be acceptable for registration, have all been received in the Copyright Office.

§ 411. Registration as prerequisite to infringement shall

(a) Subject to the provisions of subsection (b), no action for infringement of the copyright in any work shall be instituted until registration of the copyright claim has been made in accordance with this title. In any case, however, where the deposit, application, and fee required for registration have been delivered to the Copyright Office in proper form and registration has been refused, the applicant is entitled to institute an action for infringement if notice thereof, with a copy of the complaint, is served on the Register of Copyrights. The Register may, at his option, become a party to the action with respect to the issue of registrability of the copyright claim by entering his appearance within sixty days after such service, but his failure to do so shall not deprive the court of jurisdiction to determine that issue.

(b) In the case of a work consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, the copyright owner may either before or after such fixation takes place, institute an action for infringement under section 501, fully subject to the remedies provided by sections 502 through 506, if, in accordance with requirements that the Register of Copyrights shall prescribe by regulation, the copyright owner—

(1) serves notice upon the infringer, not less than ten or more than thirty days before such fixation, identifying the work and the specific time and source of its first transmission, and declaring an intention to secure copyright in the work; and

(2) makes registration for the work within three months after its first transmission.

§ 412. Registration as prerequisite to certain remedies for infringement

In any action under this title, other than an action instituted under section 411(b), no award of statutory damages or of attorney's fees, as provided by sections 504 and 505, shall be made for:

(1) any infringement of copyright in an unpublished work commenced before the effective date of its registration; or

(2) any infringement of copyright commenced after first publication of the work and before the effective date of its registration, unless such registration is made within three months after its first publication.

Chapter 5.—COPYRIGHT INFRINGEMENT AND REMEDIES

Sec.
501. Infringement of copyright.
502. Remedies for infringement: Injunctions.
503. Remedies for infringement: Impounding and disposition of infringing articles.
504. Remedies for infringement: Damages and profits.
505. Remedies for infringement: Costs and attorney's fees.
506. Criminal offenses.
507. Limitations on actions.
508. Notification of filing and determination of actions.

§ 501. Infringement of copyright

(a) Anyone who violates any of the exclusive rights of the copyright owner as provided by sections 106 through 117, or who imports copies or phonorecords into the United States in violation of section 602, is an infringer of the copyright.

(b) The legal or beneficial owner of an exclusive right under a copyright is entitled, subject to the requirements of sections 205 (d) and 411, to institute an action for any infringement of that particular right committed while he is the owner of it. The court may require him to serve written notice of the action with a copy of the complaint upon any person shown, by the records of the Copyright Office or otherwise, to have or claim an interest in the copyright, and shall require that such notice be served upon any person whose interest is likely to be affected by a decision in the case. The court may require the joinder, and shall permit the intervention, of any person having or claiming an interest in the copyright.

(c) For any secondary transmission by a cable system that embodies a performance or a display of a work which is actionable as an act of infringement under subsection (c) of section 111, a television broadcast station holding a copyright or other license to transmit or perform the same version of that work shall, for purposes of subsection (b) of this section, be treated as a legal or beneficial owner if such secondary transmission occurs within the local service area of that television station.

§ 502. Remedies for infringement: Injunctions

(a) Any court having jurisdiction of a civil action arising under this title may, subject to the provisions of section 1498 of title 28, grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain infringement of a copyright.

(b) Any such injunction may be served anywhere in the United States on the person enjoined; it shall be operative throughout the United States and shall be enforceable, by proceedings in contempt or otherwise, by any United States court having jurisdiction of that person. The clerk of the court granting the injunction shall, when requested by any other court in which enforcement of the injunction is sought, transmit promptly to the other court a certified copy of all the papers in the case on file in his office.

§ 503. Remedies for infringement: Impounding and disposition of infringing articles

(a) At any time while an action under this title is pending, the court may order the impounding, on such terms as it may deem reasonable, of all copies or phonorecords claimed to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

(b) As part of a final judgment or decree, the court may order the destruction or other reasonable disposition of all copies or phonorecords found to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

§ 504. Remedies for infringement: Damages and profits

(a) In General.—Except as otherwise provided by this title, an infringer of copyright is liable for either:

(1) the copyright owner's actual damages and any additional profits of the infringer, as provided by subsection (b); or

(2) statutory damages, as provided by subsection (c).

(b) Actual Damages and Profits.—The copyright owner is entitled to recover the actual damages suffered by him as a result of the infringement, and any profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages. In establishing the infringer's profits, the copyright owner is required to present proof only of the infringer's gross revenue, and the infringer is required to prove his deductible expenses and the elements of profit attributable to factors other than the copyrighted work.

(c) Statutory Damages.—

(1) Except as provided by clause (2) of this subsection, the copyright owner may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for all infringements involved in the action, with respect to any one work, for which any one infringer is liable individually, or for which any two or more infringers are liable jointly and severally, in a sum of not less than $250 or more than $10,000 as the court considers just. For the purposes of this subsection, all the parts of a compilation or derivative work constitute one work.

(2) In a case where the copyright owner sustains the burden of proving, and the court finds, that infringement was committed willfully, the court in its discretion may increase the award of statutory damages to a sum of not more than $50,000. In a case where the infringer sustains the burden of proving, and the court finds, that he was not aware and had no reason to believe that his acts constituted an infringement of copyright, the court in its discretion may reduce the award of statutory damages to a sum of not less than $100. In a case where an instructor, librarian or archivist in a nonprofit educational institution, library, or archives, who infringed by reproducing a copyrighted work in copies or phonorecords, sustains the burden of proving that he believed and had reasonable grounds for believing that the reproduction was a fair use under section 107, the court in its discretion may remit statutory damages in whole or in part.

§ 505. Remedies for infringement: Costs and attorney's fees

In any civil action under this title, the court in its discretion may allow the recovery of full costs by or against any party other than the United States or an officer thereof. Except as otherwise provided by this title, the court may also award a reasonable attorney's fee to the prevailing party as part of the costs.

§ 506. Criminal offenses

(a) Criminal Infringement.—Any person who infringes a copyright willfully and for purposes of commercial advantage or private financial gain shall be fined not more than $2,500 or imprisoned not more than one year, or both, for the first such offense, and shall be fined not more than $10,000 or imprisoned not more than three years, or both, for any subsequent offense, provided however, that any person who infringes willfully and for purposes of commercial advantage or private financial gain the copyright in a sound recording afforded by subsections (1) and (3) in section 106 shall be fined not more than $25,000 or imprisoned for not more than three years, or both, for the first such offense and shall be fined not more than $50,000 or imprisoned not more than seven years, or both, for any subsequent offense.

(b) Fraudulent Copyright Notice.—Any person who, with fraudulent intent, places on any article a notice of copyright or words of the same purport that he knows to be false, or who, with fraudulent intent, publicly distributes or imports for public distribution any article bearing such notice or words that he knows to be false, shall be fined not more than $2,500.

(c) Fraudulent Removal of Copyright Notice.—Any person who, with fraudulent intent, removes or alters any notice of copyright appearing on a copy of a copyrighted work shall be fined not more than $2,500.

(d) False Representation.—Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than $2,500.

§ 507. Limitations on actions

(a) Criminal Proceedings.—No criminal proceeding shall be maintained under the provisions of this title unless it is commenced within three years after the cause of action arose.

(b) Civil Actions.—No civil action shall be maintained under the provisions of this title unless it is commenced within three years after the claim accrued.

§ 508. Notification of filing and determination of actions

(a) Within one month after the filing of any action under this title, the clerks of the courts of the United States shall send written notification to the Register of Copyrights setting forth, as far as is shown by the papers filed in the court, the names and addresses of the parties and the title, author, and registration number of each work involved in the action. If any other copyrighted work is later included in the action by amendment, answer, or other pleading, the clerk shall also send a notification concerning it to the Register within one month after the pleading is filed.

(b) Within one month after any final order or judgment is issued in the case, the clerk of the court shall notify the Register of it, sending him a copy of the order or judgment together with the written opinion, if any, of the court.

(c) Upon receiving the notifications specified in this section, the Register shall make them a part of the public records of the Copyright Office.

Chapter 6.—MANUFACTURING REQUIREMENT AND IMPORTATION

Sec.

601. Manufacture, importation, and public distribution of certain copies.
602. Infringing importation of copies or phonorecords.
603. Importation prohibitions: Enforcement and disposition of excluded articles.

§ 601. Manufacture, importation, and public distribution of certain copies

(a) Except as provided by subsection (b), the importation into or public distribution in the United States of copies of a work consisting preponderantly of nondramatic literary material that is in the English language and is protected under this title is prohibited unless the portions consisting of such material have been manufactured in the United States or Canada.

(b) The provisions of subsection (a) do not apply:

(1) where, on the date when importation is sought or public distribution in the United States is made, the author of any substantial part of such material is neither a national nor a domiciliary of the United States or, if he is a national of the United States, has been domiciled outside of the United States for a continuous period of at least one year immediately preceding that date; in the case of work made for hire, the exemption provided by this clause does not apply unless a substantial part of the work was prepared for an employer or other person who is not a national or domiciliary of the United States or a domestic corporation or enterprise;

(2) where the Bureau of Customs is presented with an import statement issued under the seal of the Copyright Office, in which case a total of no more than two thousand copies of any one such work shall be allowed entry; the import statement shall be issued upon request to the copyright owner or to a person designated by him at the time of registration for the work under section 408 or at any time thereafter;

(3) where importation is sought under the authority or for the use, other than in schools, of the government of the United States or of any State or political subdivision of a State;

(4) where importation, for use and not for sale, is sought:

(A) by any person with respect to no more than one copy of any one work at any one time;

(B) by any person arriving from abroad, with respect to copies forming part of his personal baggage; or

(C) by an organization for scholarly, educational, or religious purposes and not for private gain, with respect to copies intended to form a part of its library;

(5) where the copies are reproduced in raised characters for the use of the blind;

(6) where, in addition to copies imported under clauses (3) and (4) of this subsection, no more than two thousand copies of any one such work, which have not been manufactured in the United States or Canada, are publicly distributed in the United States.

(c) The requirement of this section that copies be manufactured in the United States or Canada is satisfied if:

(1) in the case where the copies are printed directly from type that has been set, or directly from plates made from such type, the setting of the type and the making of the plates have been performed in the United States or Canada; or

(2) in the case where the making of plates by a lithographic or photoengraving process is a final or intermediate step preceding the printing of the copies, the making of the plates has been performed in the United States or Canada; and

(3) in any case, the printing or other final process of producing multiple copies and any binding of the copies have been performed in the United States or Canada.

(d) Importation or public distribution of copies in violation of this section does not invalidate protection for a work under this title. However, in any civil action or criminal proceeding for infringement of the exclusive rights to reproduce and distribute copies of the work, the infringer has a complete defense with respect to all of the non-dramatic literary material comprised in the work and any other parts of the work in which the exclusive rights to reproduce and distribute copies are owned by the same person who owns such exclusive rights in the non-dramatic literary material, if he proves:

(1) that copies of the work have been imported into or publicly distributed in the United States in violation of this section by or with the authority of the owner of such exclusive rights; and

(2) that the infringing copies were manufactured in the United States or Canada in accordance with the provisions of subsection (c); and

(3) that the infringement was commenced before the effective date of registration for an authorized edition of the work, the copies of which have been manufactured in the United States or Canada in accordance with the provisions of subsection (c).

(e) In any action for infringement of the exclusive rights to reproduce and distribute copies of a work containing material required by this section to be manufactured in the United States or Canada, the copyright owner shall set forth in the complaint the names of the persons or organizations who performed the processes specified by subsection (c) with respect to that material, and the places where those processes were performed.

§ 602. Infringing importation of copies or phonorecords

(a) Importation into the United States, without the authority of the owner of copyright under this title, of copies or phonorecords of a work that have been acquired abroad is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under section 501. This subsection does not apply to:

(1) importation of copies or phonorecords under the authority or for the use of the government of the United States or of any State or political subdivision of a State but not including copies or phonorecords for use in schools, or copies of any audiovisual work imported for purposes other than archival use;

(2) importation, for the private use of the importer and not for distribution, by any person with respect to no more than one copy or phonorecord of any one work at any one time, or by any person arriving from abroad with respect to copies or phonorecords forming part of his personal baggage; or

(3) importation by or for an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to no more than one copy of an audiovisual work solely for its archival purposes, and no more than five copies or phonorecords of any other work for its library lending or archival purposes.

(b) In a case where the making of the copies or phonorecords would have constituted an infringement of copyright if this title had been applicable, their importation is prohibited. In a case where the copies or phonorecords were lawfully made, the Bureau of Customs has no authority to prevent their importation unless the provisions of section 601 are applicable. In either case, the Secretary of the Treasury is authorized to prescribe, by regulation, a procedure under which any person claiming an interest in the copyright in a particular work may, upon payment of a specified fee, be entitled to notification by the Bureau of the importation of articles that appear to be copies or phonorecords of the work.

§ 603. Importation prohibitions: Enforcement and disposition of excluded articles

(a) The Secretary of the Treasury and the Postmaster General shall separately or jointly make regulations for the enforcement of the provisions of this title prohibiting importation.

(b) These regulations may require, as a condition for the exclusion or articles under section 602:

(1) that the person seeking exclusion obtain a court order enjoining importation of the articles; or

(2) that he furnish proof, of a specified nature and in accordance with prescribed procedures, that the copyright in which he claims an interest is valid and that the importation would violate the prohibition in section 602; he may also be required to post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

(c) Articles imported in violation of the importation prohibitions of this title are subject to seizure and forfeiture in the same manner as property imported in violation of the customs revenue laws. Forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be; however, the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his acts constituted a violation of law.

Chapter 7.—COPYRIGHT OFFICE

Sec.
701. The Copyright Office: General responsibilities and organization.
702. Copyright Officer regulations.
703. Effective date of actions in Copyright Office.
704. Retention and disposition of articles deposited in Copyright Office.
705. Copyright Office records: Preparation, maintenance, public inspection, and searching.
706. Copies of Copyright Office records.
707. Copyright Office forms and publications.
708. Copyright Office fees.
709. Delay in delivery caused by disruption of postal or other services.

§ 701. The Copyright Office: General responsibilities and organization

(a) All administrative functions and duties under this title, except as otherwise specified, are the responsibility of the Register of Copyrights as director of the Copyright Office in the Library of Congress. The Register of Copyrights, together with the subordinate officers and employees of the Copyright Office, shall be appointed by the Librarian of Congress, and shall act under his general direction and supervision.

(b) The Register of Copyrights shall adopt a seal to be used on and after January 1, 1975, to authenticate all certified documents issued by the Copyright Office.

(c) The Register of Copyrights shall make an annual report to the Librarian of Congress of the work and accomplishments of the Copyright Office during the previous fiscal year. The annual report of the Register of Copyrights shall be published separately and as a part of the annual report of the Librarian of Congress.

§ 702. Copyright Office regulations

The Register of Copyrights is authorized to establish regulations not inconsistent with law for the administration of the functions and duties made his responsibility under this title. All regulations established by the Register under this title are subject to the approval of the Librarian of Congress.

§ 703. Effective date of actions in Copyright Office

In any case in which time limits are prescribed under this title for the performance of an action in the Copyright Office, and in which the last day of the prescribed period falls on a Saturday, Sunday, holiday or other non-business day within the District of Columbia or the Federal Government, the action may be taken on the next succeeding business day, and is effective as of the date when the period expired.

§ 704. Retention and disposition of articles deposited in Copyright Office

(a) Upon their deposit in the Copyright Office under sections 407 and 408, all copies, phonorecords, and identifying material, including those deposited in connection with claims that have been refused registration, are the property of the United States Government.

(b) In the case of published works, all copies, phonorecords, and identifying material deposited are available to the Library of Congress for its collections, or for exchange or transfer to any other library. In the case of unpublished works, the Library is entitled to select any deposits for its collections.

(c) Deposits not selected by the Library under subsection (b), or identifying portions or reproductions of them, shall be retained under the control of the Copyright Office, including retention in Government storage facilities, for the longest period considered practicable and desirable by the Register of Copyrights and the Librarian of Congress. After that period it is within the joint discretion of the Register and the Librarian to order their destruction or other disposition; but, in the case of unpublished works, no deposit shall be destroyed or otherwise disposed of during its term of copyright.

(d) The depositor of copies, phonorecords, or identifying material under section 408, or the copyright owner of record, may request retention, under the control of the Copyright Office, of one or more of such articles for the full term of copyright in the work. The Register of Copyrights shall prescribe, by regulation, the conditions under which such requests are to be made and granted, and shall fix the fee to be charged under section 708(a)(12) if the request is granted.

§ 705. Copyright Office records: Preparation, maintenance, public inspection, and searching

(a) The Register of Copyrights shall provide and keep in the Copyright Office records of all deposits, registrations, recordations, and other actions taken under this title, and shall prepare indexes of all such records.

(b) Such records and indexes, as well as the articles deposited in connection with completed copyright registrations and retained under the control of the Copyright Office, shall be open to public inspection.

(c) Upon request and payment of the fee specified by section 708, the Copyright Office shall make a search of its public records, indexes, and deposits, and shall furnish a report of the information they disclose with respect to any particular deposits, registration, or recorded documents.

§ 706. Copies of Copyright Office records

(a) Copies may be made of any public records or indexes of the Copyright Office; additional certificates of copyright registration and copies of any public records or indexes may be furnished upon request and payment of the fees specified by section 708.

(b) Copies or reproductions of deposited articles retained under the control of the Copyright Office shall be authorized or furnished only under the conditions specified by the Copyright Office regulations.

§ 707. Copyright Office forms and publications

(a) CATALOG OF COPYRIGHT ENTRIES.—The Register of Copyrights shall compile and publish at periodic intervals catalogs of all copyright registrations. These catalogs shall be divided into parts in accordance with the various classes of works, and the Register has discretion to determine on the basis of practicability and usefulness, the form and frequency of publication of each particular part.

(b) OTHER PUBLICATIONS.—The Register shall furnish, free of charge upon request, application forms for copyright registration and general informational material in connection with the functions of the Copyright Office. He also has authority to publish compilations of information, bibliographies, and other material he considers to be of value to the public.

(c) DISTRIBUTION OF PUBLICATIONS.—All publications of the Copyright Office shall be furnished to depository libraries as specified under section 1905 of title 44, United States Code, and, aside from those furnished free of charge, shall be offered for sale to the public at prices based on the cost of reproduction and distribution.

§ 708. Copyright Office fees

(a) The following fees shall be paid to the Register of Copyrights:

(1) for the registration of a copyright claim or a supplementary registration under section 408, including the issuance of a certificate of registration, $6;

(2) for the registration of a claim to renewal of a subsisting copyright in its first term under section 304(a), including the issuance of a certificate of registration, $4;

(3) for the issuance of a receipt for a deposit under section 407, $2;

(4) for the recordation, as provided by section 205, of a transfer of copyright ownership or other document of six pages or less, covering no more than one title, $5; for each page over six and for each title over one, 50 cents additional;

(5) for the filing, under section 115(b), of a notice of intention to make phonorecords, $3;

(6) for the recordation, under section 302(c), of a statement revealing the identity of an author of an anonymous or pseudonymous work, or for the recordation, under section 302(d), of a statement relating to the death of an author, $5 for a document of six pages or less, covering no more than one title; for each page over six and for each title over one, 50 cents additional;

(7) for the issuance, under section 601, of an import statement, $3;

(8) for the issuance, under section 706, of an additional certificate of registration, $2;

(9) for the issuance of any other certification, $3; the Register of Copyrights has discretion, on the basis of their cost, to fix the fees for preparing copies of Copyright Office records, whether they are to be certified or not;

(10) for the making and reporting of a search as provided by section 705, and for any related services, $5 for each hour or fraction of an hour consumed;

(11) for any other special services requiring a substantial amount of time or expense, such fees as the Register of Copyrights may fix on the basis of the cost of providing the service.

(b) The fees prescribed by or under this section are applicable to the United States Government and any of its agencies, employees, or officers, but the Register of Copyrights has discretion to waive the requirement of this subsection in occasional or isolated cases involving relatively small amounts.

§ 709. Delay in delivery caused by disruption of postal or other services.

In any case in which the Register of Copyrights determines, on the basis of such evidence as he may by regulation require, that a deposit, application, fee, or any other material to be delivered to the Copyright Office by a particular date, would have been received in the Copyright Office in due time except for a general disruption or suspension of postal or other transportation or communications services, the actual receipt of such material in the Copyright Office within one month after the date on which the Register determines that the disruption or suspension of such services has terminated shall be considered timely.

Chapter 8.—COPYRIGHT ROYALTY TRIBUNAL

Sec.
801. Copyright Royalty Tribunal: Establishment and purpose.
802. Petitions for the adjustment of royalty rates.
803. Membership of the Tribunal.
804. Procedures of the Tribunal.
805. Compensation of members of the Tribunal; expenses of the Tribunal.
806. Reports to the Congress.
807. Effective date of royalty adjustment.
808. Effective date of royalty distribution.
809. Judicial review.

§ 801. Copyright Royalty Tribunal: Establishment and purpose.

(a) There is hereby created in the Library of Congress a Copyright Royalty Tribunal.

(b) Subject to the provisions of this chapter, the purpose of the Tribunal shall be: (1) to make determinations concerning the adjustment of the copyright royalty rates specified by sections 111, 114, and 115, so as to assure that such rates are reasonable and in the event that the Tribunal shall determine that the statutory royalty rate, or a rate previously established by the Tribunal, or the revenue basis in respect to section 111, does not provide a reasonable royalty fee for the basic service of providing secondary transmissions of the primary broadcast transmitter or is otherwise unreasonable, the Tribunal may change the royalty rate or the revenue bases on which the royalty fee shall be assessed or both so as to assure a reasonable royalty fee; and (2) to determine in certain circumstances the distribution of the royalty fees deposited with the Register of Copyrights under sections 111, 114, and 116.

§ 802. Petitions for the adjustment of royalty rates

(a) On July 1, 1975, the Register of Copyrights shall cause to be published in the Federal Register notice of the commencement of proceedings for the review of the royalty rates specified by sections 111, 114, and 115.

(b) During the calendar year 1982, and in each subsequent fifth calendar year, any owner or user of a copyrighted work whose royalty rates are specified by this title, or by a rate established by the Tribunal, may file a petition with the Register of Copyrights declaring that the petitioner requests an adjustment of the rate. The Register shall make a determination as to whether the applicant has a significant interest in the royalty rate in which an adjustment is requested. If the Register determines that the petitioner has a significant interest, he shall cause notice of his decision to be published in the Federal Register.

§ 803. Membership of the Tribunal

(a) In accordance with section 802, or upon certifying the existence of a controversy concerning the distribution of royalty fees deposited pursuant to sections 111 and 114, the Register shall request the American Arbitration Association or any similar successor organization to furnish a list of three members of said Association. The Register shall communicate the names together with such information as may be appropriate to all parties of interest. Any such party within twenty days from the date said communication is sent may submit to the Register written objections to any or all of the proposed names. If no such objections are received, or if the Register determines that said objections are not well founded, he shall certify the appointment of the three designated individuals to constitute a panel of the Tribunal for the consideration of the specified rate or royalty distribution. Such panel shall function as the Tribunal established in section 801. If the Register determines that the objections to the designation of one or more of the proposed individuals are well founded, the Register shall request the American Arbitration Association or any similar successor organization to propose the necessary number of substitute individuals. Upon receiving such additional names the Register shall constitute the panel. The Register shall designate one member of the panel as Chairman.

(b) If any member of a panel becomes unable to perform his duties, the Register, after consultation with the parties, may provide for the selection of a successor in the manner prescribed in subsection (a).

§ 804. Procedures of the Tribunal

(a) The Tribunal shall fix a time and place for its proceedings and shall cause notice to be given to the parties.

(b) Any organization or person entitled to participate in the proceedings may appear directly or be represented by counsel.

(c) Except as otherwise provided by law, the Tribunal shall determine its own procedure. For the purpose of carrying out the provisions of this chapter, the Tribunal may hold hearings, administer oaths, and require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of documents.

(d) Every final decision of the Tribunal shall be in writing and shall state the reasons therefor.

(e) The Tribunal shall render a final decision in each proceeding within one year from the certification of the panel. Upon a showing of good cause, the Senate Committee on the Judiciary and the House of Representatives Committee on the Judiciary may waive this requirement in a particular proceeding.

§ 805. Compensation of members of the Tribunal; expenses of the Tribunal

(a) In proceedings for the distribution of royalty fees, the compensation of members of the Tribunal and other expenses of the Tribunal shall be deducted prior to the distribution of the funds.

(b) In proceedings for the adjustment of royalty rates, there is hereby authorized to be appropriated such sums as may be necessary.

(c) The Library of Congress is authorized to furnish facilities and incidental service to the Tribunal.

(d) The Tribunal is authorized to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

§ 806. Reports to the Congress

The Tribunal immediately upon making a final determination in any proceeding for adjustment of a statutory royalty shall transmit its decision, together with the reasons therefor, to the Secretary of the Senate and the Clerk of the House of Representatives for reference to the Judiciary Committees of the Senate and the House of Representatives.

§ 807. Effective date of royalty adjustment

(a) Prior to the expiration of the first period of ninety calendar days of continuous session of the Congress, following the transmittal of the report specified in section 806, either House of the Congress may adopt a resolution stating in substance that the House does not favor the recommended royalty adjustment, and such adjustment, therefore, shall not become effective.

(b) For the purposes of subsection (a) of this section

(1) Continuity of session shall be considered as broken only by an adjournment of the Congress sine die, and

(2) In the computation of the ninety-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than three days to a day certain.

(c) In the absence of the passage of such a resolution by either House during said ninety-day period, the final determination by the Tribunal of a petition for adjustment shall take effect on the first day following ninety calendar days after the expiration of the period specified by subsection (a).

(d) The Register of Copyrights shall give notice of such effective date by publication in the Federal Register not less than sixty days before said date.

§ 808. Effective date of royalty distribution

A final determination of the Tribunal concerning the distribution of royalty fees deposited with the Register of Copyrights pursuant to sections 111, 114, and 116 shall become effective thirty days following such determination unless prior to that time an application has been filed pursuant to section 809 to vacate, modify or correct the determination, and notice of such application has been served upon the Register of Copyrights. The Register upon the expiration of thirty days shall distribute such royalty fees not subject to any application filed pursuant to section 809.

§ 809. Judicial review

In any of the following cases the United States District Court for the District of Columbia may make an order vacating, modifying or correcting a final determination of the Tribunal concerning the distribution of royalty fees—

(a) Where the determination was procured by corruption, fraud, or undue means.

(b) Where there was evident partiality or corruption in any member of the panel.

(c) Where any member of the panel was guilty of any misconduct by which the rights of any party have been prejudiced.

TRANSITIONAL AND SUPPLEMENTARY PROVISIONS

SEC. 102. This title becomes effective on January 1, 1975, except as otherwise provided by section 304(b) of title 17 as amended by this title.

SEC. 103. This title does not provide copyright protection for any work that goes into the public domain before January 1, 1975. The exclusive rights, as provided by section 106 of title 17 as amended by this title, to reproduce a work in phonorecords and to distribute phonorecords of the work, do not extend to any nondramatic musical work copyrighted before July 1, 1909.

SEC. 104. All proclamations issued by the President under section 1(e) or 9(b) of title 17 as it existed on December 31, 1974, or under previous copyright statutes of the United States shall continue in force until terminated, suspended, or revised by the President.

SEC. 105. (a)(1) Section 505 of title 44, United States Code, Supplement IV, is amended to read as follows:

"§ 505. Sale of duplicate plates

"The Public Printer shall sell, under regulations of the Joint Committee on Printing to persons who may apply, additional or duplicate stereotype or electrotype plates from which a Government publication is printed, at a price not to exceed the cost of composition, the metal, and making to the Government, plus 10 per centum, and the full amount of the price shall be paid when the order is filed."

(2) The item relating to section 505 in the sectional analysis at the beginning of chapter 5 of title 44, United States Code, is amended to read as follows:

"§ 505. Sale of duplicate plates."

(b) Section 2113 of title 44, United States Code, is amended to read as follows:

"§ 2113. Limitation on liability

"When letters and other intellectual productions (exclusive of patented material, published works under copyright protection, and unpublished works for which copyright registration has been made) come into the custody or possession of the Administrator of General Services, the United States or its agents are not liable for infringement of copyright or analogous rights arising out of use of the materials for display, inspection, research, reproduction, or other purposes."

(c) In section 1498(b) of title 28 of the United States Code, the phrase "section 101 (b) of title 17" is amended to read "section 504(c) of title 17".

(d) Section 543(a)(4) of the Internal Revenue Code of 1954, as amended, is amended by striking out "(other than by reason of section 2 or 6 thereof)".

(e) Section 3202(a) of title 39 of the United States Code is amended by striking out clause (5). Section 3206(c) of title 39 of the United States Code is amended by striking out clause (c). Section 3206(d) is renumbered (c).

(f) In section 6 of the Standard Reference Data Act (section 290(e) of title 15 of the United States Code, Supplement IV), subsection (a) is amended to delete the reference to "section 8" and to substitute therefor the phrase "section 105".

SEC. 106. In any case where, before January 1, 1975, a person has lawfully made parts of instruments serving to reproduce mechanically a copyrighted work under the compulsory license provisions of section 1(e) of title 17 as it existed on December 31, 1974, he may continue to make and distribute such parts embodying the same mechanical reproduction without obtaining a new compulsory license under the terms of section 115 of title 17 as amended by this title. However, such parts made on or after January 1, 1975, constitute phonorecords and are otherwise subject to the provisions of said section 115.

SEC. 107. In the case of any work in which an ad interim copyright is subsisting or is capable of being secured on December 31, 1974, under section 22 of title 17 as it existed on that date, copyright protection is hereby extended to endure for the term or terms provided by section 304 of title 17 as amended by this title.

SEC. 108. The notice provisions of sections 401 through 403 of title 17 as amended by this title apply to all copies or phonorecords publicly distributed on or after January 1, 1975. However, in the case of a work published before January 1, 1975, compliance with the notice provisions of title 17 either as it existed on December 31, 1974, or as amended by this title, is adequate with respect to copies publicly distributed after December 31, 1974.

SEC. 109. The registration of claims to copyright for which the required deposit, application, and fee were received in the Copyright Office before January 1, 1975, and the recordation of assignments of copyright or other instruments received in the Copyright Office before January 1, 1975, shall be made in accordance with title 17 as it existed on December 31, 1974.

SEC. 110. The demand and penalty provisions of section 14 of title 17 as it existed on December 31, 1974, apply to any work in which copyright has been secured by publication with notice of copyright on or before that date, but any deposit and registration made after that date in response to a demand under that section shall be made in accordance with the provisions of title 17 as amended by this title.

SEC. 111. Section 2318 of title 18 of the United States Code is amended to read as follows:

"§ 2318. Transportation, sale or receipt of phonograph records bearing forged or counterfeit labels

"Whoever knowingly and with fraudulent intent transports, causes to be transported, receives, sells, or offers for sale in interstate or foreign commerce any phonograph record, disk, wire, tape, film, or other article on which sounds are recorded, to which or upon which is stamped, pasted, or affixed any forged or counterfeited label, knowing the label to have been falsely made, forged, or counterfeited shall be fined not more than $25,000 or imprisoned for not more than three years, or both, for the first such offense and shall be fined not more than $50,000 or imprisoned not more than seven years or both, for any subsequent offense."

SEC. 112. All causes of action that arose under title 17 before January 1, 1975, shall be governed by title 17 as it existed when the cause of action arose.

SEC. 113. If any provision of title 17, as amended by this title, is declared unconstitutional, the validity of the remainder of the title is not affected.

TITLE II—NATIONAL COMMISSION ON NEW TECHNOLOGY USES OF COPYRIGHTED WORKS

ESTABLISHMENT AND PURPOSE OF COMMISSION

SEC. 201. (a) There is hereby created in the Library of Congress a National Commission on New Technological Uses of Copyrighted Works (hereafter called the Commission).

(b) The purpose of the Commission is to study and compile data on:

(1) the reproduction and use of copyrighted works of authorship—

(A) in conjunction with automatic systems capable of storing, processing, retrieving, and transferring information, and

(B) by various forms of machine reproduction, not including reproduction by or at the request of instructors for use in face-to-face teaching activities; and

(2) the creation of new works by the application or intervention of such automatic systems or machine reproduction.

(c) The Commission shall make recommendations as to such changes in copyright law or procedures that may be necessary to assure for such purposes access to copyrighted works, and to provide recognition of the rights of copyright owners.

MEMBERSHIP OF THE COMMISSION

SEC. 202. (a) The Commission shall be composed of thirteen voting members, appointed as follows:

(1) Four members, to be appointed by the President, selected from authors and other copyright owners;

(2) Four members, to be appointed by the President, selected from users of copyright works;

(3) Four nongovernmental members to be appointed by the President, selected from the public generally;

(4) The Librarian of Congress.

(b) The President shall appoint a Chairman, and a Vice Chairman who shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office, from among the four members selected from the public generally, as provided by clause (3) of subsection (a). The Register of Copyrights shall serve ex officio as a nonvoting member of the Commission.

(c) Seven voting members of the Commission shall constitute a quorum.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner as the original appointment was made.

COMPENSATION OF MEMBERS OF COMMISSIONS

SEC. 203. (a) Members of the Commission, other than officers or employees of the Federal Government, shall receive compensation at the rate of $100 per day while engaged in the actual performance of Commission duties, plus reimbursement for travel, subsistence, and other necessary expenses in connection with such duties.

(b) Any members of the Commission who are officers or employees of the Federal Government shall serve on the Commission without compensation, but such members shall be reimbursed for travel, subsistence, and other necessary expenses in connection with the performance of their duties.

STAFF

SEC. 204. (a) To assist in its studies, the Commission may appoint a staff which shall be an administrative part of the Library of Congress. The staff shall be headed by an Executive Director, who shall be responsible to the Commission for the administration of the duties entrusted to the staff.

(b) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 per day.

EXPENSES OF THE COMMISSION

SEC. 205. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

REPORTS

SEC. 206. (a) Within one year after the first meeting of the Commission it shall submit to the President and the Congress a preliminary report on its activities.

(b) Within three years after the enactment of this Act the Commission shall submit to the President and the Congress a final report on its study and investigation which shall include its recommendations and such proposals for legislation and administrative action as may be necessary to carry out its recommendations.

(c) In addition to the preliminary report and final report required by this section, the Commission may publish such interim reports as it may determine, including but not limited to consultant's reports, transcripts of testimony, seminar reports, and other Commission findings.

POWERS OF THE COMMISSION

SEC. 207 (a) The Commission or, with the authorization of the Commission, any three or more of its members, may, for the purpose of carrying out the provisions of this title, hold hearings, administer oaths, and require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of documentary material.

(b) With the consent of the Commission, any of its members may hold any meetings, seminars, or conferences considered appropriate to provide a forum for discussion of the problems with which it is dealing.

TERMINATION

SEC. 208. On the sixtieth day after the date of the submission of its final report, the Commission shall terminate and all offices and employment under it shall expire.

TITLE III—PROTECTION OF ORNAMENTAL DESIGNS OF USEFUL ARTICLES

DESIGNS PROTECTED

SEC. 301. (a) The author or other proprietor of an original ornamental design of a useful article may secure the protection provided by this title upon complying with and subject to the provisions hereof.

(b) For the purposes of this title—

(1) A "useful article" is an article which in normal use has an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article which normally is a part of a useful article shall be deemed to be a useful article.

(2) The "design of a useful article", hereinafter referred to as a "design", consists of those aspects or elements of the article, including its two-dimensional or three-dimensional features of shape and surface, which make up the appearance of the article.

(3) A design is "ornamental" if it is intended to make the article attractive or distinct in appearance.

(4) A design is "original" if it is the independent creation of an author who did not copy it from another source.

DESIGNS NOT SUBJECT TO PROTECTION

SEC. 302. Protection under this title shall not be available for a design that is—

(a) not original;

(b) staple or commonplace, such as a standard geometric figure, familiar symbol, emblem, or motif, or other shape, pattern, or configuration which has become common, prevalent, or ordinary;

(c) different from a design excluded by subparagraph (b) above only in insignificant details or in elements which are variants commonly used in the relevant trades; or

(d) dictated solely by a utilitarian function of the article that embodies it;

(e) composed of three-dimensional features of shape and surface with respect to men's, women's, and children's apparel, including undergarments and outerwear.

REVISIONS, ADAPTATIONS, AND REARRANGEMENTS

SEC. 303. Protection for a design under this title shall be available notwithstanding the employment in the design of subject matter excluded from protection under section 302, if the design is a substantial revision, adaptation, or rearrangement of said subject matter: *Provided*, That such protection shall be available to a design employing subject matter protected under title I of this Act, or title 35 of the United States Code or this title, only if such protected subject matter is employed with the consent of the proprietor thereof. Such protection shall be independent of any subsisting protection in subject matter employed in the design, and shall not be construed as securing any right to subject matter excluded from protection or as extending any subsisting protection.

COMMENCEMENT OF PROTECTION

SEC. 304. (a) The protection provided for a design under this title shall commence upon the date when the design is first made public.

(b) A design is made public when, by the proprietor of the design or with his consent, an existing useful article embodying the design is anywhere publicly exhibited, publicly distributed, or offered for sale or sold to the public.

TERM OF PROTECTION

SEC. 305. (a) Subject to the provisions of this title, the protection herein provided for a design shall continue for a term of five years from the date of the commencement of protection as provided in section 304(a), but if a proper application for renewal is received by the Administrator during the year prior to the expiration of the five-year term, the protection herein provided shall be extended for an additional period of five years from the date of expiration of the first five years.

(b) If the design notice actually applied shows a date earlier than the date of the commencement of protection as provided in section 304(a), protection shall terminate as though the term had commenced at the earlier date.

(c) Where the distinguished elements of a design are in substantially the same form in a number of different useful articles, the design shall be protected as to all such articles when protected as to one of them, but not more than one registration shall be required. Upon expiration or termination of protection in a particular design as provided in this title all rights under this title in said design shall terminate, regardless of the number of different articles in which the design may have been utilized during the term of its protection.

THE DESIGN NOTICE

SEC. 306. (a) Whenever any design for which protection is sought under this title is made public as provided in section 304(b), the proprietor shall, subject to the provisions of section 307, mark it or have it marked legibly with a design notice consisting of the following three elements:

(1) the words "Protected Design", the abbreviation "Prot'd Des." or the letter "D" within a circle thus Ⓓ;

(2) the year of the date on which the design was first made public; and

(3) the name of the proprietor, an abbreviation by which the name can be recognized, or a generally accepted alternative designation of the proprietor; any distinctive identification of the proprietor may be used if it has been approved and recorded by the Administrator before the design marked with such identification is made public.

After registration the registration number may be used instead of the elements specified in (2) and (3) hereof.

(b) The notice shall be so located and applied as to give reasonable notice of design protection while the useful article embodying the design is passing through its normal channels of commerce. This requirement may be fulfilled, in the case of sheetlike or strip materials bearing repetitive or continuous designs, by application of the notice to each repetition, or to the margin, selvage, or reverse side of the material at reasonably frequent intervals, or to tags or labels affixed to the material at such intervals.

(c) When the proprietor of a design has complied with the provisions of this section, protection under this title shall not be affected by the removal, destruction, or obliteration by others of the design notice on an article.

EFFECT OF OMISSION OF NOTICE

SEC. 307. The omission of the notice prescribed in section 306 shall not cause loss of the protection or prevent recovery for infringement against any person who, after written notice of the design protection, begins an undertaking leading to infringement: *Provided*, That such omission shall prevent any recovery under section 322 against a person who began an undertaking leading to infringement before receiving written notice of the design protection, and no injunction shall be had unless the proprietor of the design shall reimburse said person for any reasonable expenditure or contractual obligation in connection with such undertaking incurred before written notice of design protection, as the court in its discretion shall direct. The burden of proving written notice shall be on the proprietor.

INFRINGEMENT

SEC. 308. (a) It shall be infringement of a design protected under this title for any person, without the consent of the proprietor of the design, within the United States or its territories or possessions and during the term of such protection, to—

(1) make, have made, or import, for sale or for use in trade, any infringing article as defined in subsection (d) hereof; or

(2) sell or distribute for sale or for use in trade any such infringing article: *Provided, however,* That a seller or distributor of any such article who did not make or import the same shall be deemed to be an infringer only if—

(i) he induced or acted in collusion with a manufacturer to make, or an importer to import such article (merely purchasing or giving an order to purchase in the ordinary course of business shall not of itself constitute such inducement or collusion); or

(ii) he refuses or fails upon the request of the proprietor of the design to make a prompt and full disclosure of his source of such article, and he orders or reorders such article after having received notice by registered or certified mail of the protection subsisting in the design.

(b) It shall be not infringement to make, have made, import, sell, or distribute, any article embodying a design created without knowledge of, and copying from, a protected design.

(c) A person who incorporates into his own product of manufacture an infringing article acquired from others in the ordinary course of business, or who, without knowledge of the protected design, makes or processes an infringing article for the account of another person in the ordinary course of business, shall not be deemed an infringer except under the conditions of clauses (i) and (ii) of paragraph (a)(2) of this section. Accepting an order or reorder from the source of the infringing article shall be deemed ordering or reordering within the meaning of clause (ii) of paragraph (a)(2) of this section.

(d) An "infringing article" as used herein is any article, the design of which has been copied from the protected design, without the consent of the proprietor: *Provided however,* That an illustration or picture of a protected design in an advertisement, book, periodical, newspaper, photograph, broadcast, motion picture, or similar medium shall not be deemed to be an infringing article. An article is not an infringing article if it embodies, in common with the protected design, only elements described in subsections (a) through (d) of section 302.

(e) The party alleging rights in a design in any action or proceeding shall have the burden of affirmatively establishing its originality whenever the opposing party introduces an earlier work which is identical to such design, or so similar as to make a prima facie showing that such design was copied from such work.

APPLICATION FOR REGISTRATION

SEC. 309. (a) Protection under this title shall be lost if application for registration of the design is not made within six months after the date on which the design was first made public as provided in section 304(b).

(b) Application for registration or renewal may be made by the proprietor of the design.

(c) The application for registration shall be made to the Administrator and shall state (1) the name and address of the author or authors of the design; (2) the name and address of the proprietor if different from the author; (3) the specific name of the article, indicating its utility; (4) the date when the design was first made public as provided in section 304(b); and (5) such other information as may be required by the Administrator. The application for registration may include a description setting forth the salient features of the design, but the absence of such a description shall not prevent registration under this title.

(d) The application for registration shall be accompanied by a statement under oath by the applicant or his duly authorized agent or representative, setting forth that, to the best of his knowledge and belief (1) the design is original and was created by the author or authors named in the application; (2) the design has not previously been registered on behalf of the applicant or his predecessor in title; (3) the design has been made public as provided in section 304(b); and (4) the applicant is the person entitled to protection and to registration under this title. If the design has been made public with the design notice prescribed in section 306, the statement shall also describe the exact form and position of the design notice.

(e) Error in any statement or assertion as to the utility of the article named in the application, the design of which is sought to be registered, shall not affect the protection secured under this title.

(f) Errors in omitting a joint author or in naming an alleged joint author shall not affect the validity of the registration, or the actual ownership or the protection of the design: *Provided,* That the name of one individual who was in fact an author is stated in the application. Where the design was made within the regular scope of the author's employment and individual authorship of the design is difficult or impossible to ascribe and the application so states, the name and address of the employer for whom the design was made may be stated instead of that of the individual author.

(g) The application for registration shall be accompanied by two copies of a drawing or other pictorial representation of the useful article having one or more views, adequate to show the design, in a form and style suitable for reproduction, which shall be deemed a part of the application.

(h) Related useful articles having common design features may be included in the same application under such conditions as may be prescribed by the Administrator.

BENEFIT OF EARLIER FILING DATE IN FOREIGN COUNTRY

SEC. 310. An application for registration of a design filed in this country by any person who has, or whose legal representative or predecessor or successor in title has previously regularly filed an application for registration of the same design in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States shall have the same effect as if filed in this country on the date on which the application was first filed in any such foreign country, if the application in this country is filed within six months from the earliest date on which any such foreign application was filed.

OATHS AND ACKNOWLEDGMENTS

SEC. 311. Oaths and acknowledgments required by this title may be made before any person in the United States authorized by law to administer oaths, or, when made in a foreign country, before any diplomatic or consular officer of the United States authorized to administer oaths, or before any official authorized to administer oaths in the foreign country concerned, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States, and shall be valid if they comply with the laws of the state or country where made.

EXAMINATION OF APPLICATION AND ISSUE OR REFUSAL OF REGISTRATION

SEC. 312. (a) Upon the filing of an application for registration in proper form as provided in section 309, and upon payment of the fee provided in section 315, the Administrator shall determine whether or not the application relates to a design which on its face appears to be subject to protection under this title, and if so, he shall register the design. Registration under this subsection shall be announced by publication.

(b) If, in his judgment, the application for registration relates to a design which on its face is not subject to protection under this title, the Administrator shall send the applicant a notice of his refusal to register and the grounds therefor. Within three months from the date the notice of refusal is sent, the applicant may request, in writing, reconsideration of his application. After consideration of such a request, the Administrator shall either register the design or send the applicant a notice of his final refusal to register.

(c) Any person who believes he is or will be damaged by a registration under this title may, upon payment of the prescribed fee, apply to the Administrator at any time to cancel the registration on the ground that the design is not subject to protection under the provisions of this title, stating the reasons therefor. Upon receipt of an application for cancellation, the Administrator shall send the proprietor of the design, as shown in the records of the Office of the Administrator, a notice of said application, and the proprietor shall have a period of three months from the date such notice was mailed in which to present arguments in support of the validity of the registration. It shall also be within the authority of the Administrator to establish, by regulation, conditions under which the opposing parties may appear and be heard in support of their arguments. If, after the periods provided for the presentation of arguments have expired, the Administrator determines that the applicant for cancellation has established that the design is not subject to protection under the provisions of this title, he shall order the registration stricken from the record. Cancellation under this subsection shall be announced by publication, and notice of the Administrator's final determination with respect to any application for cancellation shall be sent to the applicant and to the proprietor of record.

(d) Remedy against a final adverse determination under subparagraphs (b) and (c) above may be had by means of a civil action against the Administrator pursuant to the provision of section 1361 of title 28, United States Code, if commenced within such time after such decision, not less than 60 days, as the Administrator appoints.

(e) When a design has been registered under this section, the lack of utility of any article in which it has been embodied shall be no defense to an infringement action under section 320, and no ground for cancellation under subsection (c) of this section or under section 323.

CERTIFICATION OF REGISTRATION

SEC. 313. Certificates of registration shall be issued in the name of the United States under the seal of the Office of the Administrator and shall be recorded in the official records of that Office. The certificate shall state the name of the useful article, the date of filing of the application, the date on which the design was first made public as provided in section 304(b) or any earlier date as set forth in section 305(b), and shall contain a reproduction of the drawing or other pictorial representation showing the design. Where a description of the salient features of the design appears in the application, this description shall also appear in the certificate. A renewal certificate shall contain the date of renewal registration in addition to the foregoing. A certificate of initial or renewal registration shall be admitted in any court as prima facie evidence of the facts stated therein.

PUBLICATION OF ANNOUNCEMENTS AND INDEXES

Sec. 314. (a) The Administrator shall publish lists and indexes of registered designs and cancellations thereof and may also publish the drawing or other pictorial representations of registered designs for sale or other distribution.

(b) The Administrator shall establish and maintain a file of the drawings or other pictorial representations of registered designs, which file shall be available for use by the public under such conditions as the Administrator may prescribe.

FEES

Sec. 315. (a) There shall be paid to the Administrator the following fees:

(1) On filing each application for registration or for renewal of registration of a design, $15.

(2) For each additional related article included in one application, $10.

(3) for recording assignment, $3 for the first six pages, and for each additional two pages or less, $1.

(4) For a certificate of correction of an error not the fault of the Office, $10.

(5) For certification of copies of records, $1.

(6) On filing each application for cancellation of a registration, $15.

(b) The Administrator may establish charges for materials or services furnished by the Office, not specified above, reasonably related to the cost thereof.

REGULATIONS

Sec. 316. The Administrator may establish regulations not inconsistent with law for the administration of this title.

COPIES OF RECORDS

Sec. 317. Upon payment of the prescribed fee, any person may obtain a certified copy of any official record of the Office of the Administrator, which copy shall be admissible in evidence with the same effect as the original.

CORRECTION OF ERRORS IN CERTIFICATES

Sec. 318. The Administrator may correct any error in a registration incurred through the fault of the Office, or, upon payment of the required fee, any error of a clerical or typographical nature not the fault of the Office occurring in good faith, by a certificate of correction under seal. Such registration, together with the certificate, shall thereafter have the same effect as if the same had been originally issued in such corrected form.

OWNERSHIP AND TRANSFER

Sec. 319. (a) The property right in a design subject to protection under this title shall vest in the author, the legal representatives of a deceased author or of one under legal incapacity, the employer for whom the author created the design in the case of a design made within the regular scope of the author's employment, or a person to whom the rights of the author or of such employer have been transferred. The person or persons in whom the property right is vested shall be considered the proprietor of the design.

(b) The property right in a registered design, or a design for which an application for registration has been or may be filed, may be assigned, granted, conveyed, or mortgaged by an instrument in writing, signed by the proprietor, or may be bequeathed by will.

(c) An acknowledgement as provided in section 311 shall be prima facie evidence of the execution of an assignment, grant, conveyance, or mortgage.

(d) An assignment, grant, conveyance, or mortgage shall be void as against any subsequent purchaser or mortgage for a valuable consideration, without notice, unless it is recorded in the Office of the Administrator within three months from its date of execution or prior to the date of such subsequent purchase or mortgage.

REMEDY FOR INFRINGEMENT

Sec. 320. (a) The proprietor of a design shall have remedy for infringement by civil action instituted after issuance of a certificate of registration of the design.

(b) The proprietor of a design may have judicial review of a final refusal of the Administrator to register the design, by a civil action brought as for infringement if commenced within the time specified in section 312(d), and shall have remedy for infringement by the same action if the court adjudges the design subject to protection under this title: *Provided,* That (1) he has previously duly filed and duly prosecuted to such final refusal an application in proper form for registration of the designs, and (2) he causes a copy of the complaint in action to be delivered to the Administrator within ten days after the commencement of the action, and (3) the defendant has committed acts in respect to the design which would constitute infringement with respect to a design protected under this title.

INJUNCTION

Sec. 321. The several courts having jurisdiction of actions under this title may grant injunctions in accordance with the principles of equity to prevent infringement, including in their discretion, prompt relief by temporary restraining orders and preliminary injunctions.

RECOVERY FOR INFRINGEMENT, AND SO FORTH

Sec. 322. (a) Upon finding for the claimant the court shall award him damages adequate to compensate for the infringement, but in no event less than the reasonable value the court shall assess them. In either event the court may increase the damages to such amount, not exceeding $5,000 or $1 per copy, whichever is greater, as to the court shall appear to be just. The damages awarded in any of the above circumstances shall constitute compensation and not a penalty. The court may receive expert testimony as an aid to the determination of damages.

(b) No recovery under paragraph (a) shall be had for any infringement committed more than three years prior to the filing of the complaint.

(c) The court may award reasonable attorney's fees to the prevailing party. The court may also award other expenses of suit to a defendant prevailing in an action brought under section 320(b).

(d) The court may order that all infringing articles, and any plates, molds, patterns, models, or other means specifically adapted for making the same be delivered up for destruction or other disposition as the court may direct.

POWER OF COURT OVER REGISTRATION

Sec. 323. In any action involving a design for which protection is sought under this title, the court when appropriate may order registration of a design or the cancellation of a registration. Any such order shall be certified by the court to the Administrator, who shall make appropriate entry upon the records of his Office.

LIABILITY FOR ACTION ON REGISTRATION FRAUDULENTLY OBTAINED

Sec. 324. Any person who shall bring an action for infringement knowing that registration of the design was obtained by a false or fraudulent representation materially affecting the rights under this title, shall be liable in the sum of $1,000, or such part thereof as the court may determine, as compensation to the defendant, to be charged against the plaintiff and paid to the defendant, in addition to such costs and attorney's fees of the defendant as may be assessed by the court.

PENALTY FOR FALSE MARKING

Sec. 325. (a) Whoever, for the purpose of deceiving the public, marks upon, or applies to, or uses in advertising in connection with any article made, used, distributed, or sold by him, the design of which is not protected under this title, a design notice as specified in section 306 or any other words or symbols importing that the design is protected under this title, knowing that the design is not so protected, shall be fined not more than $500 for every such offense.

(b) Any person may sue for the penalty, in which event, one-half shall go to the person suing and the other to the use of the United States.

PENALTY FOR FALSE REPRESENTATION

Sec. 326. Whoever knowingly makes a false representation materially affecting the rights obtainable under this title for the purpose of obtaining registration of a design under this title shall be fined not less than $500 and not more than $1,000, and any rights or privileges he may have in the design under this title shall be forfeited.

RELATIONSHIP TO COPYRIGHT LAW

Sec. 327. (a) Nothing in this title shall affect any right or remedy now or hereafter held by any person under title I of this Act.

(b) When a pictorial, graphic, or sculptural work in which copyright subsists under title I of this Act is utilized in an original ornamental design of a useful article, by the copyright proprietor or under an express license from him, the design shall be eligible for protection under the provisions of this title.

RELATION TO PATENT LAW

Sec. 328. (a) Nothing in this title shall affect any right or remedy available to or held by any person under title 35 of the United States Code.

(b) The issuance of a design patent for an ornamental design for an article of manufacture under said title 35 shall terminate any protection of the design under this title.

COMMON LAW AND OTHER RIGHTS UNAFFECTED

Sec. 329. Nothing in this title shall annul or limit (1) common law or other rights or remedies, if any, available to or held by any person with respect to a design which has not been made public as provided in section 304(b), or (2) any trademark right or right to be protected against unfair competition.

ADMINISTRATOR

Sec. 330. The Administrator and Office of the Administrator referred to in this title shall be such officer and office as the President may designate.

SEVERABILITY CLAUSE

Sec. 331. If any provision of this title or the application of such provision to any person or circumstance is held invalid, the remainder of the title or the application to other persons or circumstances shall not be affected thereby.

AMENDMENT OF OTHER STATUTES

Sec. 332. (a) Subdivision a(2) of section 70 of the Bankruptcy Act of July 1, 1898, as amended (11 U.S.C. 110(a)), is amended by inserting "designs," after "patent rights," and "design registration," after "application for patent,".

(b) Title 28 of the United States Code is amended—

(1) by inserting "designs," after "patents," in the first sentence of section 1338 (a);

(2) by inserting ", design," after "patent" in the second sentence of section 1338(a);

(3) by inserting "design," after "copyright," in section 1338 (b);

(4) by inserting "and register designs" after "copyrights" in section 1440; and

(5) by revising section 1498(a) to read as follows:

"(a) Whenever a registered design or invention is used or manufactured by or for the United States without license of the owner thereof or lawful right to use or manufacture the same, the owner's remedy shall be by action against the United States in the Court of Claims for the recovery of his reasonable and entire compensation for such use and manufacture.

"For the purposes of this section, the use or manufacture of a registered design or an invention described in and covered by a patent of the United States by a contractor, a subcontractor, or any person, firm, or corporation for the Government and with the authorization or consent of the Government, shall be construed as use or manufacture for the United States.

"The court shall not award compensation under this section if the claim is based on the use or manufacture by or for the United States of any article owned, leased, used by, or in the possession of the United States, prior to, in the case of an invention, July 1, 1918, and in the case of a registered design, July 1, 1976.

"A Government employee shall have the right to bring suit against the Government under this section except where he was in a position to order, influence, or induce use of the registered design or invention by the Government. This section shall not confer a right of action on any registrant or patentee or any assignee of such registrant or patentee with respect to any design created by or invention discovered or invented by a person while in the employment or service of the United States, where the design or invention was related to the official functions of the employee, in cases in which such functions included research and development, or in the making of which Government time, materials, or facilities were used."

TIME OF TAKING EFFECT

Sec. 333. This title shall take effect one year after enactment of this Act.

NO RETROACTIVE EFFECT

Sec. 334. Protection under this title shall not be available for any design that has been made public as provided in section 304(b) prior to the effective date of this title.

SHORT TITLE

Sec. 335. This title may be cited as "The Design Protection Act of 1973."

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF COMMODITY EXCHANGE ACT (H.R. 13113)—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 1080, H.R. 13113, an act to amend the Commodity Exchange Act to strengthen the regulation of futures trading, to bring all agricultural and other commodities trade on exchanges under regulation, is called up and made the pending business before the Senate, there be a time limitation thereon of 2 hours, the time to be equally divided between and controlled by Mr. Aiken and Mr. Talmadge; that there be a time limitation on any amendment thereto of 1 hour, a time limitation on any amendment to any amendment thereon of 30 minutes, a time limitation on any debatable motion or appeal of 10 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW AND FOR CONSIDERATION OF UNFINISHED BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order tomorrow, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with the statements therein limited to 5 minutes each, at the conclusion of which period, the Senate will resume consideration of S. 1361, and that the unfinished business be temporarily laid aside and remain in a temporarily laid-aside status until the close of business tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HIGHWAY AUTHORIZATION BILL (S. 3934) — UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 3934, the highway authorization bill, is called up and made the pending business before the Senate there be a time limit thereon of 2 hours, to be equally divided between Senator Bentsen and Senator Stafford; that there be a time limit on any amendment thereto of 1 hour; that there be a time limit on any amendment to an amendment of 30 minutes; that there be a time limit on any debatable motion or appeal of 20 minutes; and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROLLCALL VOTES BEFORE 3:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no rollcall votes after the hour of 3:30 p.m tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in adjournment until the hour of 10 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 10 o'clock a.m.

After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each.

At the conclusion of the period for the transaction of routine morning business, the Senate will resume consideration of S. 1361, the copyright bill. Amendments will be in order and there may be rollcall votes.

There will be no rollcall votes after the hour of 3:30 p.m. tomorrow.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and at 5:50 p.m., the Senate adjourned until tomorrow, Friday, September 6, 1974, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 5, 1974:

DEPARTMENT OF DEFENSE

Will Hill Tankersley, of Alabama, to be Deputy Assistant Secretary of Defense for Reserve Affairs, vice Theodore C. Marrs, resigned.

FEDERAL ENERGY ADMINISTRATION

Melvin A. Conant, of New York, to be an Assistant Administrator of the Federal Energy Administration (new position).

FEDERAL TRADE COMMISSION

Paul Rand Dixon, of Tennessee, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1974 (reappointment).

DEPARTMENT OF STATE

John Sherman Cooper, of Kentucky, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the German Democratic Republic.

Kenneth Rush, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to France.

SENATE—*Friday, September 6, 1974*

The Senate met at 10 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Two hundred years ago today, Benjamin Franklin arose in the First Continental Congress and moved that the Members engage in prayer. Responding to the invitation of the Congress, the Reverend Jacob Duche appeared the next day in ecclesiastical vestments, read the 35th Psalm and followed it "with a fervent prayer." Since that day, September 7, 1774, the sessions of the Congress have been convened with prayer. Let us pray today in the words of that first prayer in Congress:

"O Lord, our Heavenly Father, High and Mighty King of Kings, and Lord of Lords, who dost from Thy throne behold all the dwellers on Earth and reignest with power supreme and uncontrolled over all the Kingdoms, Empires and Governments; look down in mercy we beseech Thee, on these American States, who have fled to Thee from the rod of the oppressor, and thrown themselves on Thy gracious protection, desiring henceforth to be dependent only on Thee; to Thee, they have appealed for the righteousness of their cause, to Thee do they now look up for that countenance and support which Thou alone canst give; take them, therefore, Heavenly Father, under Thy nurturing care; give them wisdom in council and valor in the field; defeat the malicious designs of our cruel adversaries; convince them of the unrighteness of their cause; and if they persist in sanguinary purpose, O, let the voice of Thy own unerring justice, sounding in their hearts, constrain them to drop the weapons of war from their unnerved hands in the day of battle!

"Be Thou present, O God of wisdom, and direct the councils of this honorable assembly; enable them to settle things on the best and surest foundation, that the scene of blood may be speedily closed; that order, harmony and peace may be effectually restored, and truth and justice, religion and piety prevail and flourish among Thy people. Preserve the health of their bodies and vigor of their minds; shower down on them, and the millions they here represent, such temporal blessings as Thou seest expedient for them in this world, and crown them with everlasting glory in the world to come.

"All this we ask in the name and through the merits of Jesus Christ, Thy Son, our Saviour. Amen."—The Reverend Jacob Duche, September 7, 1774.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 6, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, September 5, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE STATE OF THE ECONOMY

Mr. MANSFIELD. Mr. President, the first of the presummit economic meetings was held yesterday at the White House. The President, in convening that meeting, had the following to say: "The conference on inflation," the President said, "unites Republicans and Independents and Democrats in an election year against an enemy that doesn't recognize one political party from another."

Mr. President, as I have indicated, the first of the economic meetings preceding the summit meeting at the end of this month has taken place. A number of others will follow, with meetings to be held throughout the country to cover various aspects of the economic areas. From the reports I have received from the two Democratic senatorial members of yesterday's meeting, Senator PROXMIRE and Senator BENTSEN, they have been encouraging. However, as was to be expected—and this should surprise no one—the economists found themselves on all sides of the question about what should be done to halt inflation and turn it downward. It appears to me that the emphasis was on interest rates and an easing in the supply of credit available to business and consumers. That is the closest that the people in attendance could come to what could be considered a consensus. Certainly, they are matters which should be looked into and, in my opinion, comprise a reasonably good first step.

I was also pleased to note that the Secretary of the Treasury, William E. Simon, and the Chairman of the Federal Reserve Board, Arthur F. Burns, will be leaving tomorrow for an emergency meeting with the Finance Ministers of the leading industrial nations of the West and Japan. This fits in with my belief that the economic situation which confronts this country confronts the free world, as well, and that the need is for constant consultation and, hopefully, common decisions. We should always keep in mind the economic situation which confronts the free world.

For example, as of August 30, we find that France was suffering from a 15.6-percent inflation rate; the United Kingdom was 18 percent; Japan's was 25 percent; Israel's was 38 percent; and Italy's was 41 percent. Only three nations in the free world held inflation below the double-digit figure. They are West Germany, Luxembourg, and the Netherlands.

As far as our own situation is concerned, we are confronted with a 12 percent inflation rate; a 12 percent plus prime interest rate; a steadily increasing unemployment rate; a decrease in productivity between 5 and 6 percent under last year's; a lag in wages behind prices for the past 16 successive months; a decline in the stock market which amounted to $500 billion in losses since January 1973 in stocks held by 31 million stockholders. These facts and figures tell a story which must not and cannot be lost on the administration or the Congress, because it is to us jointly that the American people and, to a certain extent, the people of the free world look for guidance and relief.

There are some things which I believe

can be done; at least, they should be gone into thoroughly and considered on the basis of what their performances have been in the past and, hopefully, will be of use in the immediate future. They are as follows:

First. The restoration of wage and price controls on the same basis as in effect under phase II of former President Nixon's economic program, but updated to fit in with the present wage-price structure.

Second. Restoration of regulation W, which restrained consumer credit, by forcing more rapid repayment of an installment debt and a larger downpayment when credit is extended initially. This would discourage buying, and the continued repayment of debt already incurred will feed money into capital markets and help to depress the extraordinarily high interest rates.

Third. Give serious consideration to the so-called Brazilian index plan as it could be applied to wages, salaries, and taxes. What this proposes is, in effect, an escalator clause which would allow workers to at least remain even with inflation rather than being outstripped by it, as is the case today. A majority of the labor contracts have automatic cost of living clauses tied to wages, and social security retirees, civil service retirees, and military retirees have cost of living clauses which add to their retirement benefits periodically.

Fourth. We ought to reinstitute the Reconstruction Finance Corporation which would do the job for business in need, which it performed prior to and during World War II, as well as for a period after the war. Furthermore, it operated at a profit. It would be my belief that, instead of loans and/or subsidies to be legislated and appropriated by the Congress, as in the case of Penn Central and Lockheed, that it would be far better to recreate the RFC so that matters of this kind could come to them rather than to the Congress.

These are some simple suggestions which I think can be understood by all, which may or may not have merit, but which, at least, have the virtue of simplicity.

The ACTING PRESIDENT pro tempore. The Chair recognizes the distinguished Republican leader, the able and and distinguished senior Senator from Pennsylvania (Mr. HUGH SCOTT).

Mr. HUGH SCOTT. Mr. President, of course, if the outcome of the economic summit warrants it, Congress should stay in session for the purpose of acting upon measures which either the congressional leadership or the executive feel are necessary to advance the fight against inflation. As I see it, there is no purpose whatever in our coming back unless we intend to do something about it. By "intend," I mean just that. Unless the Ways and Means Committee of the other body is prepared to introduce tax reform legislation with some additional compassion for the lower income and middle-income people, perhaps, but with some recognition of the need for tax incentives to encourage industry and provide jobs for labor, unless the Ways and Means Committee will assure the public at large that they intend to do this or other necessary things if they come back, I see no reason for our meeting at that time simply to wring our hands or indulge in the general breast-beating.

With all due respect, what the leadership of Congress, through the majority, has failed to do for 38 years I do not think can be done in 3 months. With all due respect, I just do not see how it can be done. If there have been solutions lying around all this time, why have we not resorted to them? Why have there been such strenuous efforts to oppose impoundment of funds which the Executive feels were not needed? The success in the courts in releasing those funds added to inflation.

Mr. EAGLETON. Will the Senator yield on that point?

Mr. HUGH SCOTT. Not at this time. I am going pretty well.

Why have there been so many successive vetoes overridden? Why, indeed, have those who have started the fire been so unwilling to call out the Roman fire department? Fiddling is fun, but fiddling does not get us results.

I must say I think some of the suggestions of the distinguished majority leader certainly ought to be very carefully looked into. The Reconstruction Finance Corporation was one of the few Latin agencies which proved to be fiscally literate. Introduced by President Hoover, that much-maligned man, it has lasted through a number of administrations, and went out with a great record. Maybe there is something to be done along the lines of the RFC.

I should not want to compete with the services being held in the rear of the Chamber.

The ACTING PRESIDENT pro tempore. Let us have order in the Senate, please.

Mr. HUGH SCOTT. I am sure more is being accomplished back there than we have accomplished on the floor for some time.

Mr. PASTORE. I move for a point of order, Mr. President.

Mr. HUGH SCOTT. If the Senator wishes to make a point of order, I have no idea what he wishes a point of order on.

Mr. PASTORE. I just want quiet so that we can hear you.

Mr. HUGH SCOTT. Since the Senator has been contributing to the confusion, I am delighted that he——

Mr. PASTORE. I am just listening. I talk so people can hear me.

Mr. HUGH SCOTT. Confusion is free and should be shared.

Mr. PASTORE. That is right.

Mr. HUGH SCOTT. I do, therefore, hope that something will come out of this summit conference, where we have contributed the talents of some 40 Senators in these various meetings that will take place, and where the best brains of the economic community are being summoned for ideas. I think the honest thing to do is to say that nobody really knows how to defeat inflation yet; therefore, the challenge demands that we find a way to do it.

Other nations have not done it, and Brazil, which was called a miracle, has now moved over with the rest of us to the double digit inflation company.

So I would like to see things done, but I do not want us to come back here simply as an exercise in negativism, to a situation which means that this body has to sit on its hands waiting for the Ways and Means Committee of the other body to move initially, as the Constitution requires.

So, let us see what we can do. It is time to stop fiddling while Rome burns, and if Rome is burning, we have to think of measures by which we can call out the fire department, increase—if we need to—the number of firemen, and support the means of putting out the blaze. We are all for that, and I hope we can do it.

Mr. EAGLETON. Will the Senator yield for a question?

Mr. HUGH SCOTT. I yield.

Mr. EAGLETON. I should like to ask a question of the Senator from Pennsylvania. I have listened with great interest to his remarks, and I should like to zero in on the impoundment matter of which he made specific mention.

The Senator from Pennsylvania is a 'Philadelphia lawyer" in the most noble sense of that term. He must know, and I am sure he does know, that the principal contention of the Congress with respect to President Nixon's impoundments was that he was acting illegally in impounding various funds. Indeed, it was more than subjective conjecture by the Congress. Every court that had occasion to rule on this matter ruled adversely to President Nixon's viewpoint on impoundment. Indeed, the executive branch refused to appeal any case by the certioari route to the Supreme Court of the United States.

I daresay the distinguished minority leader is interested in the rule of law and that the laws be observed. That is what many of us in Congress were trying to accomplish in challenging these impoundment actions. We sincerely believed that the President was acting without the benefit of the law and in an autocratic manner. I know that the distinguished minority leader believes in the rule of law. Is that not correct?

Mr. HUGH SCOTT. The Senator from Missouri is entirely correct. I thank him for the free commercial directed to me as a Philadelphia lawyer. I wish he had added, "and a good one."

Mr. EAGLETON. I said a "noble" one, which is even better than "good."

Mr. HUGH SCOTT. I thank the Senator.

My point is not that we should not have made it at all. My point was to point out that the law was used to spring the money loose, and there is another way of doing it. The other way of doing it is the opposite of what we are doing in Congress.

The Congress would have put clauses in the law which provided that the President, whoever he may be, cannot impound these funds. I would rather see us put clauses in that if the money is not needed in some part of this country or the world, the President can impound those funds. Congress is so jealous of its authority that it is doing the reverse and thereby encouraging inflation.

Mr. EAGLETON. Does not the Senator think, under the Constitution, that it is very clear that the power of the purse belongs to Congress? Further, that we cannot delegate by statute that which is constitutionally mandated for us to do?

Mr. HUGH SCOTT. All I can say is, the power which can give it to the President is also the power which can give it conditions. It can say, "So much money is appropriated; the President does not need to spend it all unless authority is shown." He can make that statement to Congress; that is perfectly constitutional.

There is not a cent spent in this country by the Federal Government that is not approved by Congress, and since we have approved all these hundreds of thousands of millions of dollars, up into the billions now, it seems to me that we cannot avoid a considerable part of the blame for inflation. That is all I am saying.

Let us not try to create an impression in this country that Congress did not do it. I think Congress has a lot to do with it. The executive has its faults, too, but we did a lot of this spending. Every time we positively say we are going to give our constituents millions of dollars, we are also saying we are going to take it away from someone. That is all I am saying.

I am sure the Senator from Missouri, who is a very distinguished lawyer, understands the point I am making, and he and I are both filled with all the virtue which we can command with regard to the people's interest. I am only explicating it a bit, that is all.

Mr. EAGLETON. I think I understand what the distinguished Senator is saying. By the same token, with his fertile and agile mind, I believe he understands what I am saying.

So let us do what we can to dispel false impressions. One very false impression was that President Nixon was acting very nobly in impounding funds, when in fact he was acting illegally. Let us not immortalize illegality. President Nixon declined to take any of the several cases to the Supreme Court on the question of impoundment. Why did he not go to the Supreme Court? I find it singularly interesting that he did not take a single impoundment case to the Supreme Court.

I do not want to enshrine illegality, and I am sure the Senator from Pennsylvania does not, either.

Mr. HUGH SCOTT. I understand perfectly what the Senator is saying. He is only making the point, I think, that we must all abide by the law, as the President did when he accepted the Court decisions without pushing further appeals. But his actions were not illegal until the courts said they were illegal; therefore, the President was not acting illegally, he was acting within what he thought were his constitutional responsibilities, as President Johnson did and other Presidents have done, on impoundment. When the court said, "You cannot do it," he could not do it, and he did not.

All I am saying is, why does not Congress share that? Why does not Congress say to the President, "If you do not need to spend the money, then do not spend the money in that fiscal year."

Mr. President, I yield the floor.

Mr. PASTORE. Mr. President, will the Senator yield?

The ACTING PRESIDENT pro tempore. The time of the Senator from Pennsylvania has expired.

Mr. PASTORE. Do I understand that the Senator from Montana has time available?

Mr. MANSFIELD. No, we are in morning business now.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore (Mr. ALLEN). Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited to 5 minutes each.

THE STATE OF THE ECONOMY

Mr. PASTORE. Mr. President, I did not intend to get into this debate, but I think something needs to be said. I think we at this time are accomplishing very little with recriminations. Let the past be the past, and let us get on with the future.

This situation is quite desperate, Mr. President. Prices are going up every day. There is not an article that you can buy in any food store today that did not cost less yesterday and will not cost more tomorrow. Profits are astronomical on the part of certain businesses, and yet at the same time this country is faced with this inflationary spiral that is eating up the very fiber of our society.

I have been in the supermarkets, Mr. President. I do not know whether or not any other Senator goes to a supermarket, but I have been to the supermarkets, and I have seen elderly couples who have to live on $200 a month pick up a piece of meat, rump steak, and they have to put it down, because they cannot afford to buy it. People cannot buy hamburger any more. They are eating frankfurters if they can afford them. And I am sorry to say that some people are eating dog food because they cannot afford to buy anything else. Something needs to be done, not tomorrow. Something needs to be done right away. This idea that the President says nothing will be done until next year, I cannot buy that. I cannot subscribe to that.

There is an imminence that is impending not only upon the administration, but upon Congress, and that is what the majority leader has been saying all along. He is concerned about this. We are all concerned about it, and I think what we ought to do is stop the rhetoric and begin action. That is really why the majority leader said that if it is important for us to stay here until Christmas, let us stay until something is done.

The President says, "I have a plan." We have not heard the plan yet. We want to give him all the credit possible, and we want to give him all the cooperation possible, but at the same time, the people of this country want some results.

We talk about cutting down the budget. Yes, we have dedicated ourselves to reducing it from $305 to $295 billion. I hope that will help. But the minute we do that, we are going to put a lot of people out of work. The minute we do that, we are going to have a public service program which will cost us billions of dollars. I am afraid we are meeting ourselves coming down the hill.

We need to do things that have to be done. Here we are; we are going to spend in Europe $19 billion in this fiscal year. We have over 7,200 atomic weapons in Europe. We have France that is now a nuclear power, and we have Great Britain that is a nuclear power. Why do we have to be committed as much as we are committed in Europe? Why do we not save $5 or $6 billion there? I heard only the other day that the only industrial nation in the world that does not have a double-digit inflation is West Germany and they do not have an unemployment problem at all.

I was in Wiesbaden 2 years ago. I took my early morning walk, and there it was: I saw them breaking up a street. The only German in that crew was the foreman. Everybody else came from another country. They are importing help, and here we are; we cannot give our own people work. There is something wrong, and the American people are saying, "You are the Congress, you are the President, we have elected you; now, why do you not do something about it?" And we should.

We get all this razzmatazz about that we might try this or we might try that, that it will be to the middle of the road, it will be to the left, it will be to the right—just a lot of words, when what the people want is relief. Yes, the workers are asking for more money, because they want to keep up with the cost of living.

The minute they get more money, the profits go up again, the cost goes up again, and I have been in the market, Mr. President, and seen where they have one price tag pasted over another price tag pasted over another price tag. The public is being gouged, and what we need to do is get the Justice Department off its haunches, to begin to investigate the oil companies, to begin to investigate the profiteers, and to make sure that the burden is equally shared by all Americans

We have rich people in this country who pay less taxes than you and I do. I am interested to know how much taxes Nelson Rockefeller pays. If he paid less than I did, and I have to wait for my paycheck at the beginning of the month to meet my monthly bills, if he paid less than I did, you can bet your bottom dollar he is not going to get my vote. He will have to show me that he paid his share of the taxes, and that will be my test.

Mr. President, I want to congratulate the majority leader, who is a dedicated man and does not rise up just for the sake of rising up. There is no frivolousness about Senator MANSFIELD. He is disturbed about this. They say they have a plan; he wants them to come up with answers, and he says, "If you do, we will stay here morning, noon, and night and even on our holidays, to make sure that the American people get relief."

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mr. EAGLETON. Mr. President, I seek recognition on another subject matter, but I cannot resist adding an addendum to the remarkably cogent remarks of my colleague from Rhode Island.

I, too, wish to pay tribute to the distinguished majority leader for his very candid and forthright statement of yesterday and the position that he has taken. His position is not merely the position of a majority leader of a political party, but it is the position of a statesman speaking about and of this country in a time of crisis.

When he says we are prepared to stay here until Christmas, I agree with him. Whatever needs to be done legislatively we will do. We will stay as long, as patiently, and as enduringly as the human equation will permit.

Similarly, I want to jon in the remarks of the Senator from Rhode Island with respect to our commitments overseas, specifically his reference to West Germany, the only major world power that is experiencing less than double-digit inflation.

I know not whether the Senator from Rhode Island was on the floor 2 weeks ago when we were debating my amendment to the military appropriation bill. I am not here to "redebate" that debate, but I will recall to my friend one statistic from that debate. It bears on the subject of our commitments around the world.

Mr. President, do you know, and does my friend from Rhode Island know, how many civilian employees there are of the Defense Department? I emphasize "civilian," not uniform personnel. I was back in Missouri over the 10-day recess, and I asked this same question in a rhetorical form before various audiences. The highest guess I got out of an audience was 200,000. Somebody said, "I will make you a wild guess, I will bet you they employ 200,000 civilian employees."

Well, that guesser could not have been more wrong, Mr. President. They employ seven times that many. The Defense Department employs 1,400,000 civilians. If my memory does not fail me, 1,400,000 is larger than the population of about 15 of our States. I know it is larger than the population of Montana; I know it is larger than the population of Rhode Island; I know it is larger than the population of Delaware; and the Dakotas, Wyoming, Alaska, Idaho, and other States. That is how many civilians they employ here and around the world—1,400,000.

I am not recommending, nor would the Senator from Rhode Island, that we precipitously chop off the head of every civilian employee of the Department of Defense. However, there is a thing called attrition. There are vacancies caused by death and retirement.

For instance, if there are today 12 bartenders at the Officers' Club at Andrews Air Base, were one of them to die, would we have to fill that vacancy? Could they not make do with 11 bartenders? Would we not be as safe in our beds at night if the martinis flowed a little more slowly with only 11 bartenders?

In the PX's around the world, do we have to have as many civilian clerks and checkout tellers? Could we not make do with a few less?

Do we need 1,400,000 civilian employees?

Have you ever been out to the Pentagon, Mr. President, and tried to get into the front door at 5 o'clock? It is like the thundering herd of the Osage. You take your life in your hands. Such a mass of humanity comes out of there that you had better wear football pads and a helmet, because your life is in danger, so thunderous is the massive exodus from the Pentagon at the quitting hour.

So there are places we can cut. There are places we should cut. With respect to our commitments overseas, I am sure the Senator from Rhode Island is aware of the difficulty the wives of our servicemen experience in trying to get employment. When the servicemen wives try to get a teaching position in the schools, they cannot get it.

We send our men there to defend Western Europe, defend their freedom, and when the wives of these men try to get jobs, it is darned tough.

Mr. PASTORE. It is not only tough, but we have an agreement with the German Government that we just will not do that.

Mr. EAGLETON. We will not do that.

Mr. PASTORE. That is how stupid we can get.

Mr. EAGLETON. Yes, indeed, how stupid can we get.

Mr. PASTORE. We have an agreement with them that if they need any civilian help, it has got to be German help.

Mr. EAGLETON. German, Yugoslavian, or Italian or any other country except the United States.

As the Senator points out, they have about 2 million foreign workers in West Germany at this time from Yugoslavia, Italy, and other countries. I will not belabor the point. Suffice it to say, there are many places where the budget can be cut. That is Congress' role, and we should exercise it. We do not have to wait for the minisummit, the maxisummit, or the supersummit. We can do something here and now to make a beginning.

We realize that there is no easy answer. There is no instantaneous, aspirin tablet-like cure for our grave economic ills. There is no politician nor an economist who has the instant, easy answer. However, we can make some beginnings in cutting out some of this stupid waste.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The time of the Senator from Missouri has expired.

Mr. EAGLETON. Mr. President, will the Senator yield me 2 minutes?

Mr. MANSFIELD. Mr. President, I seek recognition.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. MANSFIELD. I yield my time.

The ACTING PRESIDENT pro tempore. The distinguished Senator is recognized for 5 minutes.

OIL EXECUTIVE SALARIES SOAR

Mr. EAGLETON. Mr. President, one of the most important factors in today's inflation is the increasing cost of fuel. In the past year, the price of petroleum products rose by more than 50 percent. Together food and fuel accounted for almost two-thirds of 1973's inflation. This year the increases will be even greater.

In an effort to come to grips with the inflation problem, the President has urged restraint by all sectors of the economy, beginning with major cutbacks in the Federal Government's own spending, and I support that effort.

But while the American worker is exhorted to go slow on his wage demands, there appears to be little spirit of self-sacrifice among the ranks of the oil companies' top executives.

In its annual survey of executive compensation, Business Week, May 4, 1974, reports that during 1973 top oil company executives received an average 20.9 percent increase in their total pay packages.

Listed as the 10th highest paid executive in the country is the chairman of Exxon whose total individual compensation for 1973—hear this, Mr. President, was $620,766—that is the chariman of Exxon, $620,766, a little, tiny increase over the year before, they gave him a little nudge, $81,600 increase for good measure.

Mr. PASTORE. Was that not for the rise in the cost of living?

Mr. EAGLETON. Yes, I presume so.

Mr. PASTORE. It was for a rise in the cost of living. [Laughter.]

Mr. EAGLETON. He was having market basket problems.

Mr. PASTORE. That is right.

I read in the newspaper that one of the top executives of this country, who makes three-quarters of a million dollars a year, was given an increase for the rise in the cost of living.

Mr. EAGLETON. I do not know whether the chairman of Exxon shops in the same supermarket as the Senator from Rhode Island, but I believe that when he looks at rump steak, he buys the whole rump.

By the way, these salary figures of the man from Exxon do not include the multiple fringe benefits enjoyed by most top executives, such as stock options, company savings plans, and dividends, and the like.

All right. Ranking 13th—the Exxon man was 10th—among all the executives in 1973 was the chairman of the Board of Mobil Oil whose individual compensation was $530,009, and he got an increase of $75,000—on a cost-of-living basis, I guess, over 1972.

Then there are other increases reported in this Business Week article, and I ask unanimous consent that all of these salary increases be printed in the RECORD at this point.

There being no objection, this list was ordered to be printed in the RECORD, as follows:

Oil company	1973 salary	Other payments	1972 salary	Other payments
Cities Service Co.:				
Robert V. Sellers, chairman	$185,573	$45,800	$137,660	----------
Charles J. Waldelich, president	150,373	37,100	119,326	----------
Exxon Corp.:				
J. K. Jamisson, chairman	401,886	195,000	364,166	$175,000
C. C. Garvin, Jr., president	275,000	120,000	222,916	105,000
Gulf Oil Corp.:				
B. R. Dorsey, chairman	300,000	190,000	250,000	95,000
James E. Lee, president	171,666	95,000	184,000	67,500
Mobil Oil Corp.:				
Rawleigh Warner, Jr., chairman	287,667	212,000	260,000	195,000
William P. Tavoulares, president	235,000	155,000	210,000	140,000
Phillips Petroleum Co.:				
W. W. Keeler, chairman	105,593	----------	300,000	42,000
John M. Houchin, chairman	274,038	58,510	250,000	35,000
W. F. Martin, president	190,968	45,640	164,480	23,100
Shell Oil Co.:				
Harry Bridges, president	$240,000	$125,000	$225,000	$100,000
J. B. St. Clair, executive vice president	143,340	60,000	129,996	50,000
Standard Oil Co., of California:				
Otto N. Miller, chairman	450,000	28,432	275,000	24,620
J. E. Goslino, vice chairman	201,987	18,680	200,000	17,833
H. J. Haynes, president	200,000	20,591	200,000	17,833
Sun Oil Co.:				
Robert G. Dunlop, chairman	168,877	93,800	166,600	84,000
H. Robert Sharbaugh, president	140,354	70,000	135,601	56,000
Texaco, Inc.:				
Maurice F. Granville, chairman	266,752	6,966	212,450	5,664
John K. McKinley, president	171,245	4,764	145,810	4,152
Union Oil Co. of California:				
Fred L. Hartley, president	223,333	71,250	210,000	41,500
Charles F. Parker, senior vice president	116,000	18,700	112,333	25,575

Mr. EAGLETON. In conclusion, Mr. President, I say this: Considering the profits of nearly $2.5 billion realized by Exxon in 1973, and $849 million by Mobil, these executives may think they are worth such salaries to their companies. But I think the American consumer has a right to question how well he, the American consumer, is being served by this use of his fuel dollar.

I yield the floor.

THE STATE OF THE ECONOMY

Mr. MANSFIELD. Mr. President, I am delighted that we are having some discussion on the economic situation, and also that it is being looked on not as a political matter but as a matter of national significance and importance which affects all of our people.

If the present inflationary rate of 12 percent a year continues it will take in less than 9 years twice as much money to buy what that money will buy today. It is just a case of arithmetic. Multiply 12 percent by 9 and you reach 108. So that is one of the reasons why prices are outstripping wages and savings and making it difficult for the American people, one reason why there is a need for action now.

There has been some talk about reducing the budget, which I think when it was sent up by President Nixon amounted to roughly $305 billion.

I just happen to see in this room two chairmen, the chairman of the full Senate Appropriations Committee and the chairman of the Subcommittee on State, Commerce, and Justice.

The distinguished Senator from Rhode Island reduced his area of appropriation responsibility by 3.5 percent—3.5 percent.

The distinguished chairman of the full Appropriations Committee, the Senator from Arkansas (Mr. McCLELLAN), reduced the defense appropriation bill by $5.1 billion, or roughly 6 percent.

There will be other reductions in other subcommittees which will be approved by the full committee and the Senate as a whole.

So I do not think we ought to consider just a $5 billion reduction to get down just under $300 billion. I think we ought to go toward $10 billion and, in the meantime, we ought to be very careful of the type of legislation which we authorize which in time calls for appropriations.

So I think the Senate has done well. I hope that the trend inaugurated by these two committee chairmen will continue.

I would point out that as of now we are below the $300 billion figure, as far as the Senate is concerned, and I would hope there would be a minimum of compromising in conference, so that differing amounts between the two Houses can be split down the middle.

I mentioned Western Europe and Japan, but one place I did not mention, to indicate just how worldwide inflation is, is Latin America, a part of our own area and a part of this hemisphere.

In the past 5 years alone, consumer prices in a number of South American countries have increased by these percentages:

Chile, 5,652 percent—it is unbelievable, it sounds like Germany at the end of World War I. Uruguay, 549 percent. Argentina, 332 percent. Brazil, 151 percent. This is a 5-year period. Colombia, 101 percent. Bolivia, 85 percent. Ecuador, 70 percent. Paraguay, 63 percent. Peru, 51 percent. Venezuela, 19 percent.

So we see that it is not a local problem, it is not an American problem. It is a worldwide problem as far as the free world is concerned.

It does not apply to the Communist countries where they have an enforced standard of living and wages which are controlled along with prices and all the other commodities involved.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. CRANSTON (for Mr. RANDOLPH), from the Committee on Labor and Public Welfare, with an amendment:

S. 3108. A bill to amend the Rehabilitation Act of 1973 (Rept. No. 93–1139).

ORDER FOR THE COMMITTEE ON LABOR AND PUBLIC WELFARE TO SUBMIT A REPORT ON S. 3108 UNTIL MIDNIGHT TONIGHT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be authorized to submit a report on S. 3108, a bill to amend the Rehabilitation Act of 1973, until midnight tonight.

The PRESIDING OFFICER (Mr. INOUYE). Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PELL:

S. 3969. A bill to provide for a study of the feasibility of allowing individuals, during their working years, voluntarily to make additional contributions to the social security program established by title II of the Social Security Act and during retirement receive additional social security benefits based on such additional contributions. Referred to the Committee on Finance.

S. 3970. A bill to provide certain reduced rate rail, air, and urban and rural mass transportation for persons 65 years of age or older. Referred to the Committee on Comemrce.

By Mr. DOLE:

S. 3971. A bill to amend title 38, United States Code, to increase the rates and income limitations for payments of pension to veterans and their widows, and for other purposes. Referred to the Committee on Veterans' Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PELL:

S. 3969. A bill to provide for a study of the feasibility of allowing individuals, during their working years, voluntarily to make additional contributions to the social security program established by title II of the Social Security Act and during retirement to receive additional social security benefits based on such additional contributions. Referred to the Committee on Finance.

RETIRED HOMEOWNERS PROTECTION TRUST FUND STUDY ACT

Mr. PELL. Mr. President, one of the great tragedies of our inflationary age occurs when a retired homeowner finds that he must sell his home because he cannot keep up payments on a continuing mortgage, increased property taxes, or high maintenance costs. Often this happens because the retired homeowner faces unexpected retirement expenses far above what he had planned for, and perhaps as a consequence of illness or other catastrophic income-draining emergencies.

Today I am introducing legislation which calls for a study of one possible means of avoiding heartbreaking loss of homes by the elderly retired. I propose a study to assess the practicality of allowing individuals covered by social security to make voluntary additional contributions to a retired homeowners protection trust fund. During retirement, these persons could then be eligible for sufficient benefits from the fund to guarantee them against loss of their home caused by an inability to pay continuing property taxes, maintenance costs, and the like.

I believe that this potential solution is worthy of serious study, and therefore I have drafted the Retired Homeowners Protection Trust Fund Study Act, calling for the Secretary of Health, Education, and Welfare to conduct such a study, and report the findings, with his recommendation for appropriate legislative action, to the Congress.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Health, Education, and Welfare is directed to conduct a study with a view to determining the feasibility of modifying the program established by title II of the Social Security Act so as to permit individuals who are covered under such program voluntarily to make additional contributions thereto and receive additional benefits thereunder during retirement, thereby providing the means of meeting home mortgage and real property tax payments and similar expenses which they will incur during their retirement years.

(b) The Secretary of Health, Education, and Welfare shall, not later than one year after the date of enactment of this Act, complete the study authorized by subsection (a) and shall submit to the Congress a full and complete report thereon together with his recommendations for such legislation as he may deem appropriate in light of the findings resulting from such study.

By Mr. PELL:

S. 3970. A bill to provide certain reduced mail rate, air, and urban and rural mass transportation for persons 65 years of age or older. Referred to the Committee on Commerce.

SENIOR CITIZENS REDUCED RATE TRANSPORTATION ACT OF 1974

Mr. PELL. Mr. President, today I am introducing the Senior Citizens Reduced Rate Transportation Act of 1974, which will provide reduced rate transportation for elderly persons traveling on rail, air, and bus lines which receive Federal financial support for their operations.

I have always believed that the mobility problems of the elderly constitute a particular problem, in that retirement should be a time of life in which transportation, both for the necessities of life and for pleasure, becomes more important and yet inevitably more difficult.

We cannot expect elderly persons, living on a fixed income, to be able to afford to be mobile if we do not assist them in every way we can. The legislation I have introduced today will help to meet the two different transportation needs of many elderly Americans: short-distance travel, primarily bus and rail-oriented, and long-distance air and rail services.

This legislation will reduce the rates which persons age 65 and over pay for federally subsidized rail and bus transportation by 75 percent. It will reduce the rates for federally subsidized air transportation by 66⅔ percent.

There is no doubt in my mind that this legislation would provide many needed benefits for the elderly, and I would hope that it receives serious consideration in this session of the Congress.

Mr. President, I request unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Senior Citizens Reduced Transportation Act of 1974".

RAIL TRANSPORTATION

SEC. 2. Title IV of the Rail Passenger Service Act of 1970 is amended by inserting at the end thereof the following:

"REDUCED RATE TRANSPORTATION FOR THE ELDERLY

"SEC. 406. Effective for fiscal years beginning after June 30, 1974, the Corporation shall not receive any financial assistance pursuant to this Act unless it provides rail transportation for persons 65 years of age or older at not to exceed 25 per centum of the regular charge for such transportation."

AIR TRANSPORTATION

SEC. 3. Title IV of the Federal Aviation Act of 1958 is amended by inserting at the end thereof the following:

"REDUCED RATE TRANSPORTATION FOR THE ELDERLY

"SEC. 418. Effective for fiscal years beginning after June 30, 1974, no air carrier shall receive any payment determined pursuant to section 406(b)(3) unless it provides air transportation furnished by such carrier for persons 65 years of age or older at not to exceed 33⅓ per centum of the regular charge for such transportation."

URBAN AND RURAL MASS TRANSPORTATION

SEC. 4. Effective for fiscal years beginning after June 30, 1974, no applicant for Federal financial assistance for an urban or rural transportation system pursuant to (1) subsection (a) or (c) of section 142 or section 103(e)(4) of title 23, United States Code, (2) the Urban Mass Transportation Act of 1964, or (3) section 147 of the Federal Aid Highway Act of 1973, shall receive such assistance unless it provides transportation furnished by such system for persons 65 years of age or older at not to exceed 25 per centum of the regular charge for such transportation.

SEC. 5. Transportation vouchers purchased under sections 2, 3, and 4 of this Act shall not be valid for transportation between the hours of 9 a.m. until 9 p.m. on Friday, and 9 a.m. until 9 p.m. Saturday.

By Mr. DOLE:

S. 3971. A bill to amend title 38, United States Code, to increase the rates and income limitations for payment of pension to veterans and their widows, and for other purposes. Referred to the Committee on Veterans' Affairs.

VETERANS PENSION IMPROVEMENT BILL OF 1974

Mr. DOLE. Mr. President, there has been a great deal of talk both in and out of Congress in recent months about providing special assistance to the large number of our senior citizens who are suffering greatly from the effects of inflation. Today, I am introducing a measure which would actually do something to assist over 2 million of those senior citizens. A measure of this type is long overdue and I hope the Senate can act quickly on its passage.

RISING COST OF LIVING

In the past year, we have seen the cost of living, fuel expenses and other necessary expenses spiral at a drastic rate. The impact of these spiraling living expenses has been greatest on those with fixed incomes, primarily our elderly veterans.

We have seen the cost of gasoline nearly double. We have seen the cost of propane more than triple, and propane is the primary heating fuel for many older veterans who live in rural areas in Kansas. The cost of food has gone up. The cost of nearly every item an elderly veteran must purchase has skyrocketed.

Yet the incomes of veterans and their beneficiaries and the widows of veterans have remained at the same level. The Congress has been preoccupied with numerous issues, but there is no doubt in my mind that an increase in the pensions for these deserving veterans is long overdue. We need to act promptly so that an increase can be provided before the end of the 93d Congress this year.

PENSION INCREASE

The bill I am introducing would provide a substantial offset to the tremendous rate of inflation of the past year by providing an increase of 10 percent in all pensions. This level of increase is the bare minimum necessary to offset the rising costs that these senior citizens have been forced to meet in the past year.

As the President and numerous economic experts have indicated, we must work hard to control inflation. At the same time, particular areas of our economy may need special assistance. The veterans of World War I and earlier conflicts are among those who need special assistance.

They have earned a fair pension. In the especially severe conditions of earlier wars, they faced an unusually hard task in serving their country. In my opinion, we owe this 10-percent pension increase to them as a minimum starting point.

EQUALITY FOR WIDOWS

Mr. President, it costs as much for a widow to live as it does for a single veteran. This simple fact should be obvious. Yet we see that under the present system, the pension for widows is less than two-thirds of that provided a single veteran.

I believe that this obvious inequity should be ended immediately. My bill would accomplish this by making the pension for a widow equal to that for a single veteran. Such a measure is totally justified. As I stated before, it costs a widow as much to live as it does a single veteran. In addition, the widows of veterans served their country together with their veteran husbands. The wives of former soldiers suffered the anguish of having their husbands across the sea fighting for their Nation. The widows of veterans have had to work especially hard and have suffered the inequities resulting from the gap in the veteran's career from the time he spent serving his Nation.

Mr. President, the discrimination against widows should stop immediately. The junior Senator from Kansas hopes that the Senate and the House of Representatives will act promptly on this measure I introduce to resolve this inequity.

OFFSET SOCIAL SECURITY INCREASES

A matter of great concern to veterans and their beneficiaries alike has been the decline in veterans pension when social security payments increase. Veterans who served their country loyally and faithfully have rightfully earned their pension. Pension is a reward for that service, and after all these years when veterans are beginning to enjoy the pensions provided by their Government, it is especially disturbing to see their pensions reduced when social security and other sources of income increase. Many have grown dependent upon their pension income and the loss or reduction of it is especially painful.

My bill resolves this matter by increasing income limitations by $500. This increase would prevent the distress and difficulties that have resulted from pension cuts following social security increases. At the same time, my bill stays within the long-establihsed policy set by Congress that pensions should assist those most in need.

We are presently looking at another social security increase in January of the coming year. Without enactment of my measure, a further reduction in veterans pensions will undoubtedly occur. Enactment of my bill this year would prevent this reduction in pensions. The need for this bill is clear and it is evident that we need to act quickly on its passage.

COST OF LIVING INCREASE

Many veterans and widows of veterans have been penalized by the slow actions of Congress. The cost of living, as I noted earlier, has risen sharply since the last increase in pension rates. An increase is more than justified, yet the Congress has not acted to increase pensions. My bill would prevent this from happening in the future by providing for an automatic cost-of-living increase. This provision would prevent pensioners from suffering because of slow action by the Congress.

My bill resolves the problem of lags in pension increase with a cost-of-living escalator. The cost-of-living escalator would automatically increase pensions every June according to the rise in the cost of living as determined by the Secretary of Health, Education, and Welfare. This provision is parallel to a similar measure in the Social Security Act. It is logical that increases provided to social security should also be provided to pension.

This provision would prevent the drop in purchasing power which pensioners have suffered because of inflation and because of delays in pension increases by Congress. In future years, when Congress becomes bogged down in other issues and fails to make appropriate increases in veterans pensions, veterans will be able to continue receiving a fair and equitable pension.

Mr. President, hundreds of veterans have contacted me by mail and I have talked with many others who express the need for improved pension benefits. I have here a few representative letters which express the difficulties and the needs of veterans. I request unanimous consent that these letters be inserted in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEAR SENATOR DOLE: Seems like I have read that the D.V.A.'s have had their income limit lifted. Why can't the same be done for World War I veterans? As I have lost my veterans pension, all the income I have is a small retirement check that pays my rent and my social security check with which I pay on all outstanding bills, utility bills and grocery bill. Please see what you can do about this.

FRED L. BHOUTEAU.

INDEPENDENCE, KANS.

DEAR MR. DOLE: I received the Congressional Record of veterans affairs and I think it is a very good thing. I am glad they are doing something for us veterans.

There is another thing that should be done to help and that is to raise the income limit that we get. I got a small increase in my social security and if there isn't something done to raise the income limit on what we get on social security, they will take that much off my veterans check. If there isn't a bill in Congress to raise the limit on income then I would like for you to start the bill so it will save us veterans from a cut in our checks. I thank you for what you have done for us.

Mr. CECIL LONGMIRE.

PAOLA, KANS.

DEAR SIR: Received my veterans check this Friday a.m.—February 1st—in the amount of $75.96. I'm always glad to receive money from any source and am thankful for the receipt of the above check. I cannot, at the same time, refrain from expressing my deep disappointment at the amount.

Before the 20% social security increase of 1973, I was getting $86.10 from my vet pension. After receiving said 20% increase in social security, my vet check was reduced to $68.96. The check I received this a.m. is in the amount of $75.96, as stated above.

The receipt thereof was further coupled with the warning that the impending social security increase of 1974 will not be reflected in the further deduction of my vet check—until 1975. (This would be because of the income limitation not being removed).

I cannot understand the thinking involved by Congress in this matter. They obviously increase the social security and decrease the vet pension. (In making this statement, I'm sure I speak for thousands of other pensioners, similarly situated).

Cannot the "powers that be" devise some plan to remove this income limitation?

Am writing this in all good nature, but feel that an injustice has been done (perhaps unwittingly).

Am a W. W. 1 vet—age 84. Am dependent upon these two sources of income.

Thanks for reading this rather long letter.

Regards.

LOUIS D. BROCKETT.

TOPEKA, KANS.

SENATOR DOLE: Can't you do something about the wage limit for veterans widows on pension? A 50-year-old veteran's widow is only allowed $300 a year. A 65-year-old person on social security can make around $2,000 a year. I don't think that's quite fair.

If I were unable to work, I would have to go on welfare because the pension check would not even pay my rent. Please try to do something for us working widows.

Thank you.

HELEN J. WITZKE.

WICHITA, KANS.

DEAR SENATOR DOLE: I got the 7 percent increase in my April social security check and at the same time my pension from my husband's World War I service was decreased. Every time my social security is raised, I get cut down in my pension check. Therefore, I am reduced to almost poverty. I am still where I was at the first social security increase. The government is not helping me one cent. Please help the World War I veterans get their pensions.

Mrs. RUTH N. SHOOP.

FREDONIA, KANS.

SENATOR BOB DOLE: I am a widow. My husband was a W.W. I veteran. I have been receiving a veterans pension which the government has cut down to almost nothing on account of the interest to report on a small savings and including my social security check.

I rent and pay utilities. I think it is so unfair for us older people with such small incomes.

What little savings one has may be needed for nursing home or hospital. Who knows?

This may not be in your jurisdiction, Mr. Dole, but I think a widow should be allowed a larger deduction from the government. Thank you.

Mrs. ESTHER D. JOHNSON.

SALINA, KANS.

Mr. DOLE. Mr. President, the need for this legislation is clear. In my opinion, its passage should be one of the highest priorities of Congress. It is my intent to work for passage of improved pension legislation prior to the end of the 93d Congress this year. It is my hope that every Senator will serve the interests of their veteran constituents by joining me in this effort.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 521 of title 38, United States Code, is amended to read as follows:

"(b) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of his spouse) and has no child, pension shall be paid according to the following formula: If annual income is $300 or less, the monthly rate of pension shall be $157. For each $1 of annual income in excess of $300 up to and including $800, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $800 up to and including $1,300, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $1,300 up to and including $1,600, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $1,600 up to and including $2,200, the monthly rate shall be reduced 6 cents; for each $1 of annual income in excess of $2,200 up to and including $2,500, the monthly rate shall be reduced 7 cents; and for each $1 of annual income in excess of $2,500 up to and including $3,100, the monthly rate shall be reduced 8 cents. No pension shall be paid if annual income exceeds $3,100.".

(b) Subsection (c) of such section 521 is amended to read as follows:

"(c) If the veteran is married and living with or reasonably contributing to the support of his spouse, or has a child or children, pension shall be paid according to the following formula: If annual income is $500 or less, the monthly rate of pension shall be $169 for a veteran and one dependent, $174 for a veteran and two dependents, and $179 for three or more dependents. For each $1 of annual income in excess of $500 up to and including $800, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $800 up to and including $2,200, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $2,200 up to and including $2,900, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $2,900 up to and including $3,300, the monthly rate shall be reduced 5 cents; and for each $1 of annual income in excess of $3,300 up to and including $4,300, the monthly rate shall be reduced 6 cents. No pension shall be paid if annual income exceeds $4,300.".

(c) Such section 521 is further amended by adding the following new subsection at the end thereof:

"(h) The rates payable under subsections (b) and (c) of this section shall be increased by such percentage as the Secretary of Health, Education, and Welfare shall certify in the Federal Register for social security recipients as a cost-of-living increase under section 215 of the Social Security Act, effective the same date as such latter increase.".

SEC. 2. (a) Subsection (b) of section 541 of title 38, United States Code, is amended to read as follows:

"(b) If there is no child, pension shall be paid according to the following formula: If annual income is $300 or less, the monthly rate of pension shall be $157. For each $1 of annual income in excess of $300 up to and including $800, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $800 up to and including $1,300, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $1,300 up to and including $1,600, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $1,600 up to and including $2,200, the monthly rate shall be reduced 6 cents; for each $1 of annual income in excess of $2,200 up to and including $2,500, the monthly rate shall be reduced 7 cents; and for each $1 of annual income in excess of $2,500 up to and including $3,100, the monthly rate shall be reduced 8 cents. No pension shall be paid if annual income exceeds $3,100.".

(b) Subsection (c) of such section 541 is amended to read as follows:

"(c) If there is a widow and a child or children, pension shall be paid according to the following formula: If annual income is $500 or less, the monthly rate of pension shall be $169 for a widow and one child, $174 for a widow and two children and $179 for three or more children. For each $1 of annual income in excess of $500 up to and including $800, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $800 up to and including $2,200, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $2,200 up to and including $2,900, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $2,900 up to and including $3,300, the monthly rate shall be reduced 5 cents; and for each $1 of annual income in excess of $3,300 up to and including $4,300, the monthly rate shall be reduced 6 cents. No pension shall be paid if annual income exceeds $4,300.".

(c) Subsection (d) of such section 541 is hereby repealed.

(d) Subsection (e) of such section 541 is hereby redesignated subsection (d).

(e) Section 541 is further amended by adding the following new subsection at the end thereof:

"(e) The rates payable under subsections (b) and (c) of this section shall be increased by such percentage as the Secretary of Health, Education, and Welfare shall certify in the Federal Register for social security recipients as a cost-of-living increase under section 215 of the Social Security Act, effective the same date as such latter increase.".

SEC. 3. This Act shall take effect on January 1, 1975.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2854

At the request of Mr. CRANSTON, the Senator from West Virginia (Mr. ROBERT C. BYRD) was added as a cosponsor of S. 2854, a bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolic, and Digestive Disease in order to advance a national attack on arthritis.

S. 3108

At the request of Mr. CRANSTON, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 3108, a bill to amend the Rehabilitation Act of 1973.

SENATE RESOLUTION 397—SUBMISSION OF A RESOLUTION RELATING TO THE ELIGIBILITY OF TURKEY FOR FURTHER MILITARY ASSISTANCE FROM THE UNITED STATES

(Referred to the Committee on Foreign Relations.)

Mr. EAGLETON submitted the following resolution:

S. RES. 397

Whereas section 505(d) of the Foreign Assistance Act of 1961 and section 3(c) of the Foreign Military Sales Act provide that any foreign country which uses defense articles or defense services furnished such country under either such Act in substantial violation of any provision of such Act or any agreement entered into under such Act shall be immediately ineligible for further assistance under such Act; and

Whereas the President of the United States in a 1964 letter to the Prime Minister of Turkey warned the Government of Turkey that the use of United States defense articles or defense services "for a Turkish intervention in Cyprus" would be contrary to Article IV of the July 1947 bilateral agreement between Turkey and the United States, which article requires Turkey to obtain the approval of the United States for the use of defense articles and defense services (furnished by the United States) for any purpose other than those for which such articles and services were furnished; and

Whereas the Government of Turkey has, since July 20, 1974, used defense articles and defense services furnished to that country under the Foreign Assistance Act of 1961 and the Foreign Military Sales Act for the purpose of intervening militarily on the island of Cyprus: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should immediately declare Turkey ineligible for further assistance under the Foreign Assistance Act of 1961 and ineligible for further cash sales, credits, or guarantees under the Foreign Military Sales Act and, in compliance with the provisions of such Acts, make no further military assistance available to such country under either such Act.

SEC. 2. The Secretary of the Senate shall promptly transmit a copy of this resolution to the President of the United States.

COPYRIGHT LAW REVISION—AMENDMENT

AMENDMENT NO. 1847

(Ordered to be printed and to lie on the table.)

Mr. INOUYE submitted an amendment intended to be proposed by him to the amendment proposed by the Committee on Commerce to the bill (S. 1361) **for the** general revision of the copyright law, title 17 of the United States Code, and for other purposes.

FEDERAL AID HIGHWAY AMENDMENTS OF 1974—AMENDMENTS

AMENDMENT NO. 1848

(Ordered to be printed and to lie on the table.)

Mr. STAFFORD. Mr. President, the amendment to S. 3934 which I am now sending to the desk and which I will propose when we consider the Federal-Aid Highway Amendments of 1974, would remove the prohibition, currently contained in the bill, against any State's deciding to impose a speed limit less than 55 miles per hour on certain roads. The committee frankly did not intend to restrain States permanently from imposing speed limits lower than 55 miles per hour, but in adapting language from the law imposing a temporary national speed limit we overlooked the need to eliminate that prohibition. My amendment would simply leave States free to lower speed limits where they find it desirable to do so.

I ask unanimous consent to have the text of my amendment printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1848

On page 17, line 19, beginning with the word "or", strike everything through the semicolon in line 1, page 18. On page 18, line 1, change "(3)" to "(2)". On page 18, lines 9 and 10, strike "clauses (2) and (3)" and insert in lieu thereof "clause (2)".

AMENDMENT NO. 1849

(Ordered to be printed and to lie on the table.)

Mr. STAFFORD. Mr. President, I am sending to the desk an amendment to S. 3934, the Federal Aid Highway Amendments of 1974, which I intend to propose when the bill comes to the floor next week.

My amendment would strike that section of the 1974 highway amendments which increases permissible axle and gross weights limits of trucks using the Interstate Highway System. I firmly believe that any weight increase at this time will result in bigger as well as heavier trucks on our highways, and I am greatly concerned that such increases mean greater safety hazards and accelerated bridge and road deterioration.

On August 20 the other body voted decisively, 252 to 159, to eliminate a very similar weight increase provision from its mass transit bill. I hope that when the question is considered in this Chamber, the reasons found compelling by a substantial majority of Members in the other body will convince my colleagues in the Senate to stand solidly against this new step toward bigger trucks.

Mr. President, I ask unanimous consent that the minority views of myself and the junior Senator from New York (Mr. BUCKLEY), contained in the report on S. 3934, and the text of my amendment, be printed at this point in the RECORD.

There being no objection, the material

was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1849

On page 8, beginning with line 2, strike all through line 21 on page 9, and renumber succeeding sections accordingly.

MINORITY VIEWS OF SENATOR STAFFORD AND SENATOR BUCKLEY

The Committee has recommended an increase in allowable weights of vehicles using the Interstate System to permit 20,000 pounds per single axle, 34,000 pounds per tandem axle, with gross weight determined by a formula, but in no case to exceed 80,000 pounds. We are opposed to such increases because we believe they will have a detrimental effect on highway safety, on the amenities of highway travel, and could hamper long-term efforts to rationalize our freight transportation system.

The Committee points out that the reported measure does not deal with truck dimensions, but only with weights. While this is an accurate characterization of the actual language, we do not believe it provides a complete picture of the provision's effect. The primary reason for increasing weight limitations is to permit trucks to carry heavier payloads. The 80,000 pound gross weight limit would increase current payload limits by 10 percent. But, as the Federal Highway Administrator noted in his testimony before the Transportation Subcommittee:

"Of course, such increases of this magnitude could not be obtained without increases in State-permitted lengths where the commodity is of low density, since full cubic capacity of the vehicle would be obtained before the weight limit was reached."

Thus, permitting heavier weights on the Interstate could, in our opinion, bring about pressures at the State level for increases in existing length limitations, in order to permit a larger segment of the trucking industry to take advantage of increased weight allowances.

The trend toward longer trucks has been steadily rising since 1946. A chart compiled by the Truck Trailer Manufacturers Association shows that in 1946 no trailers longer than 34 feet were being produced, and the majority were less than 26 feet long. In 1972, 32 percent of the trailers produced were 45 feet or more in length and 85 percent exceeded 40 feet. Add to this the fact that over 10 percent of the 1972 production was the 27-foot model that is often used in pairs, and the dramatic increase in the number of very large truck combinations becomes even more apparent. Length increases of one or two feet are almost imperceptible but the cumulative effect of numerous increases can be staggering. Virtually no studies have been carried out to test the effect of length increases on highway safety, but we believe that the widening gap between automobile and truck sizes must be considered a growing safety hazard to highway travel.

There is data to show that the increased vehicle weights proposed will result in increased pavement maintenance costs of approximately 20 percent and will accelerate requirements for bridge replacement. Also, in States which do not currently permit the heavier trucks to run on non-Interstate roads, the pressure will be to conform off-Interstate weight limits to those permitted on the Interstate System, thus raising serious questions about the safety of older bridge structures not designed to accommodate the heavy vehicles.

Finally, we are concerned about enacting weight increases for trucks at a time when efforts are underway to encourage greater use of railroads for long-haul, economical transportation of freight. It is generally agreed that the railroads are more efficient and economical for certain types of freight service than trucks. To take action now that could encourage a further shift of freight transportation from rail to trucks, despite the long-term advantage of rail use, seems to us ill-advised.

It is for the foregoing reasons that we oppose any increase in Federal truck weight limitations.

ROBERT T. STAFFORD.
JAMES L. BUCKLEY.

SCHEDULE OF HEARINGS BY THE SUBCOMMITTEE ON EDUCATION

Mr. PELL. Mr. President, yesterday, I introduced into the RECORD a schedule of hearings and oversight work for the Subcommittee on Education of the Senate Committee on Labor and Public Welfare.

The first hearings are scheduled for the 11th and 12th of next week and deal with the subject of accreditation. To many, this would appear to be an exercise in an academic esoterica, not one which goes to the very real problems facing higher education today. However, when one considers those problems—the high default rate on the guaranteed student loan program, the closing of both private, profitmaking and public, nonprofit-making institutions, with the resultant investment loss by students and, more important, the social cost of loss of confidence in the established postsecondary institutions of our country—one realizes that these problems revolve around the question of how our institutions of postsecondary education are accredited, how they are recognized for participation in the Federal programs.

Very often, higher education and its ills are discussed in a manner which, in the field of medicine, would be referred to as treating the symptom and not the cause; for example, recently, the Washington Post and the Boston Globe both published intensive, well-researched stories on the misuse of Federal and private funds and student loan programs and the resultant injury to students attending these postsecondary training institutions. While the cost to the Government in the payoff of defaults on the guaranteed student loan program and the damage to the individuals in not meeting their expectations are very real problems, the real reason why these alleged abuses may have developed grows out of the fact that the schools were accredited. That is why the first hearings will turn on this topic. What exactly is accreditation? Who is responsible for it? Is accreditation a closed corporation, with the same individuals who are doing the accrediting also running the schools? Has the Department of Health, Education, and Welfare fully utilized the powers granted it by statute to monitor the accrediting faction? Is the Department of Health, Education, and Welfare relying on private accreditation to do what is essentially a Federal function; that is, the designating of those postsecondary institutions which are eligible for participation in Federal programs?

Our first hearings will consist of 2 days, and I ask that a tentative witness list be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

TENTATIVE WITNESS LIST SUBCOMMITTEE ON EDUCATION HEARING ON ACCREDITATION

SEPTEMBER 11, 1974,WEDNESDAY,
ROOM 1218—10 A.M.

The Department of Health, Education, and Welfare: Terrell H. Bell, U.S. Commissioner of Education; John Proffitt, Director, Accreditation and Institution Eligibility Staff; Charles M. Cooke, Jr., Deputy Assistant Secretary for Legislation (Education); Harold Orlans, Senior Research Associate, National Academy of Public Administration Foundation.

SEPTEMRER 12, 1974, THURSDAY,
ROOM 4232, 10 A.M.

Panel Discussing Nonprofit Academic Accreditation: Frank G. Dickey, Ph.D., Executive Director, National Commission on Accrediting; Robert Kirkwood, Ph.D., Executive Director, Federation of Regional Accrediting Commissions of Higher Education.

Association of Independent Colleges and Schools: Dana R. Hart, Executive Secretary, Accrediting Commission; Richard R. Fulton, Executive Director.

Panel Representing the National Association of Trade and Technical Schools and the American Home Study Council.

Mr. PELL. Mr. President, in closing, I would point out that these hearings on accreditation are merely the beginning of our oversight investigation of postsecondary and higher education. With this background on accreditation, we will move into a discussion of the guaranteed student loan program. Those hearings will concern themselves not with the philosophy of the loan program itself, but with how it functions. What is the default rate? Where does the default rate lie, and how can it best be dealt with? We will be better equipped to draft legislation in the next Congress which will meet these very real problems if we are able to generate an in-depth hearing record as background.

ADDITIONAL STATEMENTS

PRESIDENT'S PROPOSAL TO DELAY PAY INCREASE FOR FEDERAL EMPLOYEES SHOULD BE REJECTED

Mr. ROBERT C. BYRD. Mr. President, in 1970, the Congress established a system whereby pay increases for Federal employees and military personnel are to be recommended annually by the Chairman of the Civil Service Commission and the Director of the Office of Management and Budget. This procedure was created in order to assure a reasonable, balanced, equitable judgment as to the need for Federal pay increases, and it was designed to do away with the previous system in which Congress was annually called upon to determine the size of such pay increases.

Under the new system, if the President indicates no opposition by September 1 to a proposal by the heads of the Civil Service Commission and OMB for a Federal pay increase, the recommended pay increase automatically goes into effect on October 1 of a given year. If the President expresses his timely opposition, the proposal does not go into effect unless either House of Congress enacts a resolution rejecting the President's proposal to delay such increases.

The last Federal pay increase went into effect in October 1973, and it amounted to a 4.77-percent increase.

Recently, the heads of OMB and the Civil Service Commission recommended a 5.5-percent increase for Federal workers to go into effect on October 1 of this year. It should be understood, of course, that the proposed pay increase does not include Members of Congress. President Ford, acting before the September 1 deadline, proposed that the pay increase be delayed until January 1, on the basis that such a delay would constitute a saving of $700 million. He also proposed a reduction of 40,000 in the number of Federal employees, such reduction to be accomplished by attrition—in other words, the jobs of persons who retire or resign will not be filled. The job reduction proposal was first made by President Nixon in July and Mr. Ford's proposal is a followup of former President Nixon's policy.

I support the proposal whereby 40,000 Federal jobs would go unfilled, this constituting a $300 million saving to the taxpayers. However, in my judgment, the proposal to delay a 5.5-percent pay increase to Federal workers and to military personnel is unjustified and unfair. Government statistics show an increase in the Cost of Living Index of at least 11 percent during the past year. Hence, the recommended pay increase for Federal workers is only half of the cost-of-living increase in the meantime. It seems to me to be unrealistic for the President to ask Federal employees—who, under the law, have no right to strike, and I do not advocate that they be given the right to strike—to forgo a pay increase unless the President is equally prepared to ask all workers in the private sector to roll back the pay increase which they have already secured, and to which they are entitled, during this past year. In other words, the pay of workers in comparable jobs in the private sector has increased on the average—according to OMB and the Civil Service Commission—by 5.5 percent, while the last pay increase received by Federal workers was a year ago in October, and, even then, it amounted to only 4.77 percent. Federal workers should not be asked to delay for 90 days the increase to which they are already entitled and which would put them on a par with the wage increases which workers in comparable private sector jobs have already received.

Moreover, while, on the one hand, Mr. Ford has rejected consideration of standby wage and price controls in the war on inflation, he now proposes to institute a form of wage control for 90 days over Federal employees and military personnel, and I do not think that this is fair.

Finally, the President, in proposing the delayed wage increase until January 1, said that Government workers should provide an example of sacrifice in the war against inflation. Yet, according to press reports, administration spokesmen have indicated that the American people need not expect any "real action" in dealing with inflation until the President delivers his state of the Union and budget messages in January. It seems to me that, for the administration to ask Government workers to provide the example for belt-tightening, beginning on October 1, while, at the same time, indicating that the administration's "real action" programs will not be announced until January, sets a double standard, and, in my opinion, this is wrong.

OUR MISSING-IN-ACTION

Mr. HRUSKA. Mr. President, one of the most persistent and heartbreaking aftermaths of the Vietnam conflict has been the failure to secure an accurate accounting of our men who are listed as missing in action in Southeast Asia. The expectations that accompanied the signing of the Paris peace agreements in January 1972, have not been fulfilled. Article 8(b) which specifically provided for an accounting of MIA's has been virtually ignored by the Communists.

In the year and a half since the signing of those agreements, we have gained little new information about our missing men. A few bodies have been returned, but there are hundreds still missing. The agony of the families of our MIA's is unimaginable. We can only share a measure of that agony. And, we can remain firm in our resolve to pursue the accounting even though we are faced with the callous attitude of the Communist governments.

The Congress has gone on record several times to reaffirm its support for continued efforts to push for an accounting. All diplomatic channels must be explored and re-explored. No effort should be spared. As a nation and as a people, we cannot abandon these men and their families.

The one ray of hope in this entire matter has come from the families of our MIA's. I have had the honor of meeting on several occasions with the wives and families of several MIA's from Nebraska. Their quiet courage and resolution have earned them the respect and admiration of people throughout the country.

While I know that all of us have often wished there was something we could do to ease the pain for these families, we have been discouraged by the lack of cooperation from the Communists.

Mr. President, there is something we can do. It is something the families have requested of us. Let us act now.

The immediate problem which affects all MIA families relates to sections 555 and 556 of title 37 of the United States Code. Those familiar with these sections of the law know that they relate to the pay and allowances permitted POW's, MIA's and their families. One of the requirements of this law is that the Secretaries of the respective services are required to conduct status review hearings 1 year following the date a man was declared missing. On the basis of that review, the Secretary can determine whether to retain a man in a missing status or whether on the basis of information contained in the file or on the basis of no new information being added to the file make a presumptive finding of death.

The National League of Families, an organization whose members are the families of MIA's throughout the country, held its annual convention in Omaha, Nebr., late in June. It was the overwhelming opinion of the families that the law must be changed. Their reasoning was sound, and their call for action clearly stated.

First, they feel that it is too early to proceed with presumptive findings of death, particularly when our Government has received no cooperation from the Communists toward achieving an accounting. There is no new information being added to a missing man's file because we do not have access to such information. The families are concerned that once our Government declares a man dead, the Communists will be relieved of all obligation to heed our demands for an accounting.

More importantly, the families object to the very principle of permitting the Department of Defense to declare a man presumptively dead on the basis of a law that was originally intended to provide for pay and allowances.

Uppermost in the minds of the families is that we do nothing which diminishes our Government's ability or the pressures of world opinion to achieve an accounting. In the meantime, the families want us to review the law with respect to presumptive findings of death.

The National League of Families voted to send Congress a message. Mr. President, we must heed the call for action. My colleague from South Carolina, Senator STROM THURMOND, has introduced a bill to which I have joined as a cosponsor. That bill, S. 3862, does two things.

First, it prohibits the Secretaries of the services from making presumptive findings of death until there is an accounting of our men or until the President informs the Congress that our Government has done all possible to achieve such an accounting.

Second, it would give the Armed Services Committees of both the House and Senate 180 days to study sections 555 and 556 of title 37 of the United States Code with a view to determining whether these sections should be repealed or amended.

I joined in cosponsoring this bill because I felt this was the best way to give the families an opportunity to make their views known to their elected representatives.

I have written a letter to President Ford asking that the administration press for the fulfillment of the provisions of the Paris agreement regarding the MIA question.

I also have asked the distinguished chairman of the Armed Services Committee to schedule hearings in the near future so we can study these specific sections of the law carefully. A representative group of families should be called in to testify so their views will be reflected in any recommended changes in the law.

At this time I ask unanimous consent that my letters to President Ford and the Senator from Mississippi be printed in the RECORD.

In my judgment, we have an obligation to our MIA's and their families. We will not fulfill that obligation if we ignore this plea for help.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

Washington, D.C., *September 4, 1974.*

The President,
White House,
Washington, D.C.

Dear Mr. President: Recently you met with representatives of the National League of Families whose membership consists of the families of our men who are listed as missing-in-action in Southeast Asia.

As you know, one of the most disturbing aftermaths of the Vietnam conflict has been a failure to secure an accounting of our MIAs as provided for in Article 8(b) of the Paris Peace Agreements. These Agreements clearly detailed the obligations of all parties for arrangements for the location and repatriation of the remains of the dead, as well as an exchange of information about the missing. This has not been the case. Events of the past year and a half have only shown the callous disregard of the Communists on this critical issue.

As one who has several MIA families living in my state, I have been acutely aware of their concerns and our obligations to them. The National League of Families held its annual convention in Omaha in June. The families came away from that meeting with a firm resolve to continue their untiring efforts to keep this whole matter before the leaders of our government and the nation as a whole. Their meeting with you was in line with this policy.

May I now ask you to renew the faith of our MIA families that their loved ones have not been forgotten. I urge you to take some positive steps to see that Article 8(b) of the Paris Agreements is fulfilled. This assurance would immeasurably ease the burden these families share. I know you would agree that we cannot forget these men who gave so much to their country.

With kind regards,
Sincerely,

Roman L. Hruska,
U.S. Senator, Nebraska.

Washington, D.C.,
September 4, 1974.

Hon. John C. Stennis,
U.S. Senate,
Washington, D.C.

Dear John: As you know, one of the most disturbing aftermaths of the Vietnam conflict has been the failure to secure an accurate accounting of our men who are listed as missing-in-action in Southeast Asia. The families of these men were confident that an exchange of prisoner information would be forthcoming when the Paris Agreements were signed in January, 1973. That has not been the case. Events of the past year and a half have only shown the callous disregard of the Communists for our desire to learn the truth about our missing men. We are entitled to an accounting, and we have gotten nowhere in that effort.

As one who has several MIA families living in my state, I am acutely aware of their concerns and our obligations to them. Recently, the National League of Families, whose membership consists of the families of our MIAs, held its annual convention in Omaha. The families came away with a clear message to the Congress. The purpose of this letter is to see what we can do to fulfill our obligations to them.

Our distinguished colleague, Senator Thurmond, has introduced a bill, S. 3862, to which I have joined as a co-sponsor. That bill essentially adopts the recommendations of the National League of Families with respect to the procedures by which the Department of Defense is making status review changes and presumptive findings of death.

The bill does two things.

First, it prohibits the Secretaries of the Services from making presumptive findings of death until there is an accounting of our men or until the President informs the Congress that our government has done all possible to achieve such an accounting.

Second, it would give the Armed Services Committees of the House and Senate 180 days to study Sections 555 and 556 of Title 37 of the U.S. Code with a view to determine whether these sections should be repealed or amended. As you know, these sections of the law relate to the pay and allowances permitted POWs, MIAs and their families. Those sections are now the only basis by which the Department of Defense has the authority to make presumptive findings of death.

I note with interest that the Senate Armed Services Committee has included language in the Military Construction Bill similar to an amendment offered by Senator Hollings. If adopted, this would serve as an effective interim approach while the Congress proceeds to consider permanent legislation to improve Sections 555 and 556 of the U.S. Code.

The chief point, however, is that we must consider permanent legislation. I urge you as the Chairman of the Senate Armed Services Committee to schedule hearings in the near future so that the families of our MIAs will have an opportunity to testify and make their case to their elected representatives. Certainly, any legislation which is considered by the Congress must consider their contributions.

With kind regards,
Sincerely,

Roman L. Hruska,
U.S. Senator, Nebraska.

DR. JAMES TOBIN ON THE ECONOMY

Mr. McGOVERN. Mr. President, Dr. James Tobin authored an article in the New York Times today, September 6, 1974, which outlines some of the major concerns of the current dilemma of inflation and recession. He makes the point that economic policies should be followed within the context of a "new social contract." He believes that economic policy should be directed toward restoring the real purchasing power of the individual and that policies be taken "not to increase employment, but to keep it from rising."

Mr. President, I ask unanimous consent that this article by one of the Nation's greatest economists be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

There Are Three Types of Inflation—We Have Two

(By James Tobin)

New Haven, Conn.—Three decades of experience tell us that inflation is endemic to modern democratic industrial societies. Fortunately the same record indicates that these economies are nonetheless capable of yielding their citizens substantial gains in well-being decade after decade. But hysteria about inflation may lead to policies that keep economic progress well below its potential.

The United States inflation of 1973–74 is a complex and difficult case, unique in our history. In general we may distinguish three types of inflation: a) excess demand inflation, popularly summarized as "too much money chasing too few goods," b) the wage-price-wage spiral, and c) shortages and price increases in important commodities. Our current inflation is a combination of b) and c). But public discussion generally ignores these distinctions and identifies every inflation, including the present case, as the classical type a). From this diagnosis, mistaken in my opinion, follows the classical remedy, the "old-time religion" of restricting aggregate demand by tight monetary policy and by fiscal austerity.

With some oversimplification, we can say that the U.S. suffered a severe case of excess-demand inflation a) in 1966, when President Johnson and Secretary of Defense Robert McNamara piled war demands onto an economy already operating close to its capacity, and ignored their economists' pleas to raise taxes. Reenforced by a lesser dose of excess demand in 1968, the 1966 outburst left in its wake a surprisingly stubborn case of inflation type b), the wage-price-wage spiral. Attaining a momentum of its own, this inflation first accelerated and then abated somewhat under the deliberately recessionary policy of 1969–71, assisted by Phases I and II of the controls introduced in August 1971.

At the end of 1972 the ongoing wage-price dynamic was producing over-all inflation of 3½ per cent per year, down from 5 per cent in 1969 and 1970. However, it was obvious, as events confirmed, that some of the improvement was transient window dressing which would not survive relaxation of controls and completion of the recovery from recession.

Some observers view the 1973 expansion of the American economy as another case of excess demand and blame the Federal Reserve and the Nixon budget for overheating the economy once again. But unemployment never fell below 4.6 per cent, and the Government cooled off the boom pretty quickly after midyear. In any case, the underlying wage-price-wage dynamic was proceeding at year-end with wage increases of 7 to 8 per cent, which with normal productivity gains would mean price inflation in the neighborhood of 5 per cent per year.

But meanwhile the United States was hit by a severe type c) inflation, a spectacular increase in commodity prices. For the first time since the Korean war, external events sharply increased the prices facing American producers and consumers. Everyone knows about the world shortages of food and energy, and about the aggressive new policies of the oil-producing nations, who have in effect imposed an excise tax of $10 to $15-billion a year on American consumers of their products. What may be less well understood is the role of the 16 per cent depreciation of the dollar in foreign exchange since 1970. Working precisely as the architects of the policy hoped, dollar depreciation made imports about $10 billion a year more expensive to Americans. Combined with booms in Europe and Japan, depreciation also increased foreign demand for U.S. products, notably basic agricultural and industrial commodities. Foreign demands for our exports created shortages and price increases for American buyers.

Now there are two important differences between types b) and c) inflation. First, the wage-price-wage spiral keeps going of its own momentum. Wage increases are covered by price boosts, and subsequent wage settlements respond both to past wage patterns and to price inflation. The type c) commodity price increases, however, are once-for-all adjustments to new supply-demand situations: those prices won't necessarily fall, but all that is needed to improve the rate of inflation is that they stop rising.

Second, the wage-price-wage spiral does not of itself impose any collective loss on the nation or on the urban nonagricultural sector of the economy in which it occurs. One man's price is another's income; when buyers pay more, sellers receive more. The inflation may proceed unevenly, so that some workers, consumers, and property owners lose while others gain; such relative distributional changes are always occurring, inflation or no inflation. But it is simply vulgar nonsense—no less for constant repetition by economists, politicians, bankers, and journalists—to say that an internal self-contained inflation causes per se a loss of economic welfare in aggregate.

The commodity price increases are a different matter. They are symptoms of a real national economic loss, and in particular a loss to urban wage-earners and consumers. In current circumstances, we are paying more for oil and other imports. We're not just paying more dollars but more work and resources; under our new foreign exchange rate policy we can no longer buy foreign goods with paper dollar i.o.u.'s. We are also paying more, about $25 billion a year gross, to our own farmers. Recorded declines of real wages are the painful and unavoidable consequences. To attribute them indiscriminately to "inflation" is superficial and misleading.

The economy is currently in recession, and the prospects are for abnormally slow growth in output and for rising unemployment. The Federal Reserve is administering the classical medicine for excess demand inflation a), because that is the only medicine it has. Some of its spokesmen, supporters, and critics regard every inflation, almost by definition, as the excess demand type—on the ground that, whatever the proximate origins of inflation, it could be avoided by sufficiently resolute restriction of demand. The idea is that the wage-price-wage spiral will unwind if enough slack—idle capacity and unemployment—is created. Extreme advocates of the old-time religion even argue that determined disinflation of demand could have yielded big enough reductions in prices of other goods and services to offset or average out the recent price increases of food, fuel, and basic materials.

The trouble with this prescription is that it will not succeed without years of economic stagnation, high unemployment, and lost production, with much more severe consequences for real economic welfare than the inflation itself. Experience shows that the wage-price-wage spiral is extremely resistant to unemployment, recession, and economic slack. The unpleasant fact of life is that the wage- and price-setting institutions of our economy, and of every other non-Communist economy, are biased toward inflation. Wages and prices rise when and where demand is strong much more readily than they decline when and where demand is weak. While the classical medicine would have prevented the Vietnam burst of inflation, it will take much more time and pain than its advocates admit to overcome the wage-price-wage inflation now built into our economy.

The main inflationary threat this year is that the temporary inflation of type c will be permanently built into the ongoing wage-price-wage spiral. The setbacks to real wages reflected in higher prices of food, fuel, and other commodities cannot really be reversed. General attempts to "catch up" by escalated wage settlements will simply be defeated by accelerated price inflation. So Washington is right to be alarmed by this year's wage settlements.

But there is very little the Federal Reserve can do about them, even if the Fed provokes a full-blown recession. The settlements are already in the works, and they depend much more on the recent history of wages and prices than on the current strength or weakness of demand. The budgetmakers of the Executive and the Congress are in much the same position. They too can be nobly and resolutely austere, pretending they are fighting a classical type (a) inflation. But the results of budget cutting will be measured more in lower unemployment and production statistics than in wages and prices. Present anti-inflation hysteria may well yield policies that bring us the worst of several worlds.

Is there a more promising and less costly way to confront the unique inflationary problem of 1974? If ever there was a time for what the Europeans call "incomes policy," the time is now. It may be that the Nixon experiment with wage and price controls was never a good idea, and the stop-and-go alternation of phases certainly didn't help. But the total abandonment in April of this year of every legal or informal restraint was incredibly untimely.

What was needed was Presidential leadership—in open, candid understanding with business, labor, agriculture, and consumers—to establish realistic moderate guideposts for wages and prices. We still need what some of us have called a new social contract for the economy, along the following lines: (1) Monetary and fiscal policy would be geared, not to increase unemployment, but to keep it from rising, and to achieve, not to thwart, the 4 per cent a year growth in production of which our economy is capable. (2) Workers' take-home pay would be increased by cutting Social Security payroll taxes and by making the structure of those taxes more equitable and progressive. This tax cut would provide part of the demand stimulus needed under (1). (3) Labor, for its part, would consent to a general wage guidepost of 8 or 9 per cent, and Washington would expect and exact comparable moderation in business and agricultural price-setting.

The hour is late. But the long national nightmare is over. Our new President has the trust and goodwill of the American people. If the economic problem he confronts is unique, he also enjoys a unique opportunity to seek a new direction.

RETURN TO GOLD?

Mr. GOLDWATER. Mr. President, in view of President Ford's recent speech on correcting inflation and a growing demand in financial publications for a "return to gold," I believe this question will loom ever larger on the economic horizon of the United States in the weeks to come.

Mr. President, there is no escape from gold. All the power of Government, even to the extent of cutting off people's heads if they don't accept paper has been shown by history to be futile. As William McChesney Martin has said, "our nation needs a dollar with a store of value."

In this connection, Mr. President, I wish to remind the Members of the Senate that the Committee on Monetary Research and Education is due to meet next November 13 and 14 at Georgetown University Center for Strategic and International Studies. This bids fair to be an important turning point in our monetary development. For that reason, I ask unanimous consent that a magazine article by Henry Hazlitt entitled "Return to Gold?" be printed in the RECORD. The article appeared in the August 2 issue of National Review magazine, and I recommend it to each and every Member of this august body.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INFLATION: RETURN TO GOLD?

(By Henry Hazlitt)

In 1931 Great Britain abandoned the convertibility of its money into gold. In 1933 the United States followed. In the 40 years since then the nations of the world have been, for nearly all practical purposes, on a paper money basis.

Until 1931 the absolute necessity of maintaining the gold standard was taken for granted by the overwhelming majority of the world's bankers and monetary economists. But after our country went off gold, and things seemed to get a little better rather than worse, even expert opinion began to change. Most economists began to agree that gold was a "barbarous relic," or at least an unnecessary one, and that government monetary managers could be trusted to manage inconvertible paper currencies not only responsibly but expertly. Gold might be all very well for filling teeth, but there was no reason why governments should go to the expense of buying and storing huge quantities of it to serve as a "reserve" to keep their currencies sound.

Under the Bretton Wood agreements of 1944, the United States was the only country that returned even technically to a gold standard. It agreed to make the dollar convertible into gold at $35 an ounce. Not for its own citizens or any other private person, however, but only for the central banks of other countries. Some monetary economists began to attack even this arrangement. They contended that the price of gold was being held up to $35 an ounce solely by our government's standing offer to buy it at that figure. If this "government support" were withdrawn, they argued, gold would fall to about only half that price.

On August 15, 1971 our government abandoned even this narrowly restricted gold standard. It broke its pledged word to exchange an ounce of gold for 35 paper dollars. In December of 1971 it formally "devalued" the dollar by about 7 per cent. On February 12, 1973 it again devalued the dollar, this time by 10 per cent.

So gold is now not only demonetized; it is worse than demonetized. Though the law may soon be changed. American citizens, as well as those of some other countries, are still prohibited from holding gold, except in the form of jewelry or old coins. Yet instead of gold falling to $18 an ounce with the removal of government "support," its price soared in the few free gold markets of the world. On February 27, in London, gold was selling above $180 an ounce, more than four times its present "official" American price of $42.22 an ounce.

Nobody knows what the future price is going to be, but even the opponents of the gold standard now admit that the recent free market prices reflect a profound distrust of the world's paper currencies. Central bankers and monetary economists are beginning to ask again whether it is possible to halt inflation permanently without a return to a full gold standard.

To understand their change of thought, it is important to recall part of the history of the gold standard and what has happened since it was abandoned. Gold coins have come down to us from the most ancient times. What is known as the gold standard, however, is of comparatively recent origin. For centuries gold and silver coins circulated side by side. But England early became the leading industrial and commercial nation, and its leadership was determining. It adopted a single gold standard in 1816. Between 1866 and 1874 silver was demonetized in Germany, the United States, Sweden, Norway, the Netherlands, and Japan; then in the five countries of the Latin Monetary Union in 1884. In 1873 there were some nine countries on the gold standard; in 1890, 22 countries; in 1900, 29 countries; in 1912, 41 countries. Just before the outbreak of the First World War, the gold standard was practically everywhere accepted and unquestioned. Because each currency was convertible into a fixed weight of gold, the chief national currencies were convertible into each other at the same relative fixed rates. Yet there was no formal international agreement to that effect.

The outbreak of the First World War in 1914 violently disrupted this system. Every country involved suspended convertibility of its currency into gold. It did this not because the need for gold had suddenly fallen but precisely because it had suddenly increased. Every belligerent wanted to conserve its gold in order to import essential armaments or foodstuffs. It knew that, in war, gold was the only money foreign sellers would trust.

But suspending gold convertibility, governments found, served another immediate purpose. It made it less necessary for them to balance their budgets. They could pay for their increased war expenditures at home simply by issuing more paper money. They no longer had to fear that holders could demand gold for this money.

When more money is issued the buying power of each unit tends to fall. As a broad rule, prices of goods tends to rise in proportion to the increase in the money supply. Here is what happened, for example, in three leading countries between 1913 and 1919. In the United States the money supply was increased 73 per cent; wholesale prices increased 106 per cent. In Great Britain the money supply was increased 144 per cent; wholesale prices increased 157 per cent. In Germany the money supply was increased 726 per cent; wholesale prices increased 703 per cent.

When the war was over, the defeated nation, Germany, launched on hyper-inflation, which at the end of 1923 had brought the value of the mark down to one-trillionth of its prewar value. The victorious and neutral nations, after about 1920, began trying to put their monetary houses back in order. In one sense, some even overdid it. In April 1925, Britain not only returned to the gold standard but did so at the old rate of $4.86. This was in effect a decision to deflate, but the British authorities did not seem to realize that. In early 1925, not only was the pound still at a 10 per cent discount from its old gold parity (it had fallen as low as $3.18 in February of 1920), but British wholesale prices were 60 per cent higher than they had been in 1913.

As it turned out (partly because of a downward plunge in world prices), wholesale prices in Great Britain declined 40 per cent between 1925 and 1931. But the power of British labor unions kept up wage rates and costs. So British exports stagnated, imports increased, and unemployment mounted. There was finally a massive run on gold. England abandoned the gold standard on September 20, 1931.

The pound sterling had immense prestige. When England went off gold, the shock of confidence was worldwide. If sterling was not good, was any other currency good?

Was the dollar good? A foreign run on the gold of the United States came with dramatic suddenness. The run was met, but at the cost of an unparalleled liquidation of bank credit. Some banks failed. An increasing number were in trouble. The government set up a Reconstruction Finance Corporation to rescue the "sound" ones.

But a bank panic had developed. In the four months between November 1932, when Franklin D. Roosevelt defeated President Hoover, and Inauguration Day, March 4, 1933, government was largely paralyzed. Foreigners withdrew more gold. Many Americans also began taking their money out of the banks to put it into gold. Banks were closing their doors everywhere.

On Monday, March 6, two days after his inauguration, President Roosevelt declared a four-day bank closing, or "holiday." Three days later, on his recommendation, Congress passed within a few hours an Act "to provide relief in the existing national emergency in banking, and for other purposes." The new law gave the President blanket authority to do pretty much as he saw fit regarding money and banking even to seize the gold in the hands of the people. On April 5 it was made unlawful to export gold, to own or hold gold coins, gold bullion, or gold certificates.

For many months President Roosevelt was captivated by the ideas of George F. Warren, a professor of agricultural economics at Cornell University. Warren believed that the commodity price level could be changed at will by changing the gold content of the dollar. So for months that content was declared to be on a "24-hour basis." The President and his Secretary of the Treasury, Henry Morgenthau Jr., would meet at breakfast to fix and announce a new price of gold. Sometimes they chose a "lucky number." "If people knew how we fixed the price of gold," wrote Morgenthau in his dairy, "they would be frightened."

Commodity prices were expected to respond in proportion to these price changes in gold. They failed to do so. On January 31, 1934, however, the President finally announced a reduction of the gold content of the dollar 40.94 per cent, to 59.06 per cent of its par value. This meant that the price of gold was raised from the former $20.67 an ounce to $35. It remained there until the end of 1971.

In the 40 years since 1934 it has become fashionable to say that the gold standard "broke down." But the supporters of the standard insist it was destroyed by governments, by the politicians in power, because it stood in the way of inflation. Excessive spending and chronic budget deficits paid for by printing more money, they argue, could not long continue if the currency were constantly convertible into gold on demand. It is no mere coincidence, they maintain, that almost immediately after the world departed from the gold standard in the early Thirties, a worldwide inflation set in that has continued, and accelerated, ever since. In the decade between 1934 and 1944, the American "money supply"—currency in the hands of the public plus demand bank deposits—was increased almost fourfold. In the same period consumer prices went up more than 30 per cent. Finally, in 1944, a major effort was made by the representatives of 44 nations meeting at Bretton Woods, New Hampshire to "stabilize" the world's currencies. They set up an International Monetary Fund. Each member nation agreed to adopt an official "par value" for its currency, expressed in terms of the American dollar. It also agreed to keep its currency within 1 per cent of parity with the dollar. It would do this by buying dollars whenever its currency got above that figure and selling dollars whenever it got below.

Probably few of the delegates realized quite how enormous were the potentialities of this system for inflation. Only the U.S. put itself under the obligation of redeeming its currency in gold (at a rate of $35 an ounce). And it was not obliged to do even this for all holders of dollars but only for foreign central banks. As other nations were not obliged to keep their currencies convertible into gold but only into dollars, nearly all of them expanded their issue of paper money very freely. When they found they could not maintain their money at par even with dollars, they simply "devalued." The British pound, once the world's most prestigious currency, was devalued in 1949 from $4.03 to $2.80, and again in 1967 from $2.80 to $2.40. Practically every one of the more than a hundred currencies in the IMF was devalued at least once, and some dozens of times.

Meanwhile our own government took lightly our responsibilities as the supposed "anchor" currency. We began to inflate—to issue more money—even faster than some other leading countries. So we found ourselves, after 1957, running a heavy "deficit in the balance of payments." As a result, we lost gold. Our stock of it fell from $23 billion at the end of 1957 to $10 billion at the end of 1971. Yet because other countries could hold their reserves or settle their own international balances in paper dollars, they continued to accept such dollars from us. These dollars were in effect obligations by us to pay gold on demand. But we did not much mind paying the dollars out. We could simply replace them by printing more paper dollars.

At the end of 1971 foreign central banks alone were holding $51 billion of these—five times as much as our stock of gold. When these foreign central banks lost confidence and at last insisted on gold for their dollars, we reneged. We officially abandoned even our very restricted gold standard on August 15, 1971.

This brief history is enough to show that, even if the IMF system was not a positive encouragement to inflation, it did nothing to prevent it. The IMF was set up for business in 1946. The accompanying table, specially prepared by the First National City Bank of New York, shows what happened to 24 of the leading currencies of the world in the 24 years from 1943 to 1972 and what was still happening in 1973.

The depreciation of each country's currency unit is figured as the reciprocal of the increase of consumer prices in that country. Thus the buying power of the dollar in 1972 was only 57 per cent as much as it was in 1948. That buying power fell nearly 6 per cent more last year. In all but two other countries in the table, the situation was even worse. In the United Kingdom, the median country, the buying power in 1972 was down to 36 per cent of what it was in 1948. In these 24 years the median buying power of these 24 currencies shrank at an average rate of more than 4 per cent annually. The acceleration of inflation nearly everywhere is shown by what happened in 1973, when the median yearly rate of depreciation doubled to more than 8 per cent. In both the U.S. and Britain the rate of depreciation has been running even higher in recent months.

When we look at leading South American countries—Argentina, Brazil, Uruguay, Chile—we find that in 1972 all their currencies would buy less than 1 per cent of what they could buy in 1948. They were depreciating at *annual* rates of from 28 to 78 per cent in that 24-year period. They depreciated at similar rates last year. In other words, prices in those countries have been soaring 100 to 300 per cent *a year*.

This is why monetary economists are beginning to take a more sympathetic interest in proposals to restore the gold standard. Political thought is also changing. There was one significant sign within the last few weeks, when Congress tacked onto another bill an amendment that would restore in a few months the right of American citizens to own gold. What many of the legislators in favor of the amendment are trying to do is to give private citizens at least this method of protecting themselves against further depreciation of their paper dollars.

There is no agreement among the advocates of the full gold standard on how, when, or at what rate to return to it. But they do agree that only the constant obligation of the monetary authorities to convert dollars into gold on demand—to any amount and for anybody who holds the dollars—can prevent the over-issuance of paper money and bring inflation to a halt. They acknowledge that it is easy to draw up on paper a tidy-looking plan by which the government will agree to issue no more paper dollars, or at least restrict itself to printing only 3 or 5 per cent more a year. But they point out that there is no record of any government's abiding by such restrictions as long as it did not have to make its money constantly convertible.

As they sum it up: the case for the gold standard is precisely that the supply of gold is limited by nature; it always costs something to produce. Gold may not be a theoretically perfect basis for money, but it has the overwhelming merit of making the money supply, and therefore the value of the monetary unit, independent of governmental manipulation and political pressure groups.

BUYING POWER OF MONEY: 1948-72

	1972 index of the value of money (1948=100)	Average annual rates of depreciation of money	
		1948-72 [1]	1973
West Germany	[2] 62	[3] 2.1	6.4
Belgium	58	2.2	6.5
United States	57	2.3	5.9
Switzerland	56	4.1	8.1
Canada	54	2.6	[4] 7.1
Italy	46	3.2	[4] 9.5
South Africa	44	3.3	8.7
Venezuela	40	4.1	[4] 3.5
India	39	3.9	[4] 15.5
Netherlands	39	4.1	7.4
Sweden	37	4.1	6.7
United Kingdom	36	4.1	7.9
Australia	[2] 36	[3] 4.3	[4] 8.9
New Zealand	35	4.2	7.6
Norway	35	4.3	6.9
Denmark	34	4.3	8.5
Finland	29	5.0	10.3
Mexico	29	5.1	[4] 10.1
France	27	5.4	6.8
Peru	13	8.2	[4] 8.8
Argentina	[5] 1	28.1	[4] 37.6
Brazil	[5] 1	56.2	[4] 11.3
Uruguay	[5] 1	73.8	49.2
Chile	[5] 1	77.6	59.9

[1] Compounded annually.
[2] 1949=100.
[3] 1949-72.
[4] Estimated.
[5] Less than 1.

PROGRESS ON BUDGET CUTTING

Mr. MOSS. Mr. President, today's report of the Joint Committee on Reduction of Federal Expenditures contains hopeful news for "economizers" everywhere.

According to the Joint Committee's latest tabulations, Congress is well on the road to cutting below the administration's budget targets. But it will also demonstrate a growing determination to apply limited funds where they are most needed.

Recently, the Senate slashed $5.5 billion from Defense Department spending plans. The reduction will mean an immediate cut of $2.7 billion from current outlays, with additional savings in the years to come. Expected cuts in foreign assistance and military construction alone could bring the cuts to well over $3 billion. This is not the only area in which Congress has cut funding.

Roy Ash, Director of the Office of Management and Budget recently criticized Congress for failing to take action on administration proposals which he said would have cut government outlays by almost $1 billion. What Mr. Ash failed to note was that Congress has refused to act on other administration proposals—for new and expanded Federal programing, which would have cost some $1.4 billion.

On the other side of the ledger, Congress had redirected $2 billion in Federal spending to high priority areas where it had long been denied. The largest share of this money, more than two-thirds, is earmarked for veterans' disability and educational benefits. The rest has been to small business development, school lunch, and civil service retirement programs.

From the figures contained in the Joint Committee's report it now appears Congress will make a huge net cut in administration's spending proposals. We are heading in the right direction.

METRICATION

Mr. PELL. Mr. President, a leading spokesman for metrication and one whose expertise in this important area has received considerable acclaim is Joseph E. Kochhan, who is product director at the Brown and Sharpe Manufacturing Co. in my home State of Rhode Island.

My own legislation, S. 100, which provides for an orderly conversion by our country to metrication, has not succeeded in this Congress. I continue to believe that delays in the approval of this legislation will be costly to us in terms both of future industrial progress and international trade. A well-coordinated approach to metric conversion is most economic. Piecemeal conversion will not prove nearly as effective.

And yet our Nation is increasingly committing itself to this kind of conversion.

Mr. Kochhan has been speaking out on these issues for some time. He has been addressing labor union conventions, technical societies, and other interested groups. His words of wisdom have a timeliness and a meaning for all of us today.

I am particularly impressed by an address he has recently given entitled "Metrication—Phase II." In this address he gives some excellent advice to industries considering the benefits of conversion; and at the same time he points out that the legislation we have been considering in the Congress is long overdue.

Mr. President, I ask unanimous consent that the address by Joseph Kochhan be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

METRICATION—PHASE II

For a long time now we have been talking about the story of metrication in the United States. Much of the material we have been discussing has been historical. It has been interesting, and for some of us it has been rather fascinating to trace down the history of this metric revolution, our many aborted attempts here in the United States, and now what appears to be a certainty that metrication will actually occur.

I think we've talked enough about the history. I think we have talked enough about the background and I think it is time we got on with the job of deciding exactly what the S.I. system is all about and how it will affect us, specifically during the next few years, and how we should cope with it. The International System of Units, or Systeme International d'Unites (S.I.) is now certain to become our system of measures. Let's not be confused; the S.I. is not the old European metric system. It does not involve the sizes of things. It does not concern itself with standardization of hardware. International standards are a problem, a very real problem, but let's not be confused with the difference between S.I. and the standards using S.I. Also, let's not be confused about this matter of cost. I'm afraid that in many of the statements made concerning the metrication of America, cost has been grossly overstated. I am sure that with planning over a period of time the cost of metrication can be effectively minimized. I am sure that machine tools do not have to be replaced on a wholesale basis and that the cost of metrication can be, to a great extent, blended into the normal cost of doing business.

As I said before, the history of measurement and of metrication, as it has taken over in its slowly gathering momentum, is fascinating. The arguments over the years have been interesting and in some cases, bordering on the ridiculous. The tugging involved, the statements and contradictions, the generalizations and accusations, have been fantastic. The Machine Tool Builders Association as little as five years ago, on the basis of a questionnaire circulated to all members, unanimously indicated they were not in favor of metrication for the United States, and then, only two years ago, a similar questionnaire elicited a 70-odd percent supporting vote and a 80-odd percent statement that in fact the metrication of America was inevitable.

Over the last ten years then, three factors have radically changed these arguments, have crystallized the position in which we find ourselves.

1. The need for a common language has become all too evident. In the shrinking world of technology, economics and politics the need for a common language has become self-evident.

2. The creation of S.I. as a formalized, organized and structured system replacing the rather loose "metric system," has given us a rallying point.

3. More than a rallying point, the S.I. system has been embraced by the world and as such, it has become common language. You all recall the study made by N.B.S. back in 1968 and the report in 1971 and the various legislative attempts which have been made for the last few years. In the last session of the Senate, Senator Pell's bill was run through and didn't even get to the House—it "died" on its way to the lower body. We do know now that there is at least one bill pending in the Senate, a revised edition of the bill which was passed last year, and there are some fourteen bills in the House; it is quite apparent that something is going to happen, and it undoubtedly will happen this year, but the amazing thing for all of us to realize is that by the time our legislators finally get around to passing the legislation it may be, in fact, ex post facto. In other words, the stems are already in motion, the wheels are already turning to convert American industry. In fact, it is pretty near impossible to imagine that any system as far reaching as the measurement system which is endorsed by General Motors, Ford, American Motors, Chrysler, Xerox, Eastman Kodak, I.B.M., Caterpillar Tractor, International Harvester, John Deere, just to mention a few of the major names, will not in fact, automatically become the system of the country.

Let's take a look at this S.I. First of all, it is not the "conventional metric system." Secondly, it is not involved with the size of anything, and thirdly, it is not going to cost $100,000,000,000, which has been bandied around as the price of admission to the S.I. world. There are in fact, three measurement systems extant; the first is the English system—three thousand years old, coming about through all kinds of rather crude and amateurish attempts at defining standards but, by guess and by golly and by chance and by muddling, it has become a quite well defined system probably due, as much as anything, to the good efforts of the National Bureau of Standards in the United States, the National Physical Laboratory in England and the British Standards Institution, all of which, by the way, were formed during the first two years of this century. The inch and the pound are the heart of the greatest industrial effort in the world, and as such, we shouldn't look down on the system which has brought us to our present position.

The metric system is certainly the junior system, being only 300 years old. It was established and sponsored by that great churchman, statesman, politician, Bishop Tallyrand. There were no controls on the system and so it became rather prostituted as time went on. Its system, in fact, is almost as awkward as the English system. The third measurement system is the S.I., the system we are concerned with at this time, and it was only in 1960 that it was truly formalized. It is the preferred system of the International Standards Organization and it is now the official basis of our United States units, inch and pound by derivation and definition. The amazing thing about the system S.I. is that it is based on seven fundamentals and all necessary units are derived from these seven, the seven being—

Length—Meter
Mass—Kilogram
Time—Second
Electric Current—Ampere
Thermo dynamic temperature—Kelvin
Amount of substance—Mole
Luminous intensity—Candela

All of these are readily reproducible anywhere in the world except for the kilogram. The kilogram is based on the standard of mass, which is held by the Institute in Paris from which duplicates have been created which are in every civilized country in the world, plus two supplementary units which are used, a unit for plain angles for radian and for solid angles, steradian.

Now, from these seven basic units, with the two supplementary units, there are derived many other units. These fall into two categories—the named units and the unnamed. For example, the named unit, that which defines electrical resistance, is the Ohm, power the Watt, magnetic flux density the Tesla, quantity of electricity the Coulomb, frequency the Hertz, force the Newton, energy the Joule, and so on. The unnamed are just by the description of their components. For example, area is square meter, volume is cubic meter, velocity is meter per second, density is kilogram per cubic meter, etc.

What is the difference between the so-called S.I. system and the old European metric systems? I believe the primary difference is that of coherence. Each derived unit is related to each other unit or to its base unit without conversion factors. For example, in S.I., a force of one Newton applied through one meter can produce energy equivalent to one joule of heat. The same is produced by one watt of power in one second. Contrast this with a similar definition in the English system. The force of one pound applied through a distance of one inch produces energy equivalent .000107 btu, which is the same produced by 1 HP in .000505 hours. Now the bar, the unit of pressure, and the calorie, unit of heat for example, are not cohesive and are not in the S.I. Secondly, the S.I. system is absolute. Force is not defined by action of gravity. Mass versus force is an area of great confusion in our language, as well as in our understanding.

The pound is used incorrectly for mass and force, whereas in the English system the poundal should be used for force and the slug to define mass. This is the greatest difference between the metric system and the S.I. system. In European practice, where the unit of force is the kilogram force, the value of absolutism leads to simplicity. For example, in the S.I. a force of one Newton accelerates a mass of one kilogram one meter per second per second. In contrast, in the old metric system, a force of one kilogram force accelerates the same mass, i.e., one kilogram, 9.80665 meters per second per second. It is very difficult to separate in our thinking force and mass. Sugar is sold by the kilogram, i.e. mass. A tensile machine indicates stress in Newtons, i.e., force. Technically, weight means the force of Newtons of gravity acting on an object. The layman will continue to use the term "weight" when he means "mass" and to measure it by kilograms. So, in technical work, discontinue the use of the term "weight" altogether. Stay on the safe side—use the word "force" or "mass" as applicable.

Now the other aspect of S.I. is that it is unique. There is only one unit for each quantity regardless of involvement, either mechanical, thermal or electrical. Power in engines, air conditioners or generators is defined in terms of watts. However, still not completely clear, still not completely coherent but to be kept to a minimum, are the non-coherent factors of hours, calendar units (days, weeks, months, years, etc.) and angles in terms of units of degrees. The calendar is a pretty tricky thing to decimalize and the matter of angles defined in units of degrees goes back to the Summarians, and this is a pretty difficult thing to overcome and change. You remember that I said earlier that S.I. is not involved in size of anything. There are two different types of standards—there is a standard of policies, of rules and of systems, and then there are standards of things—tires, threads, pins, etc. The general conference of weights and measures that created S.I. has nothing to do with hardware, threads, splines and that sort of thing. This is not to say that there doesn't need to be a lot of work done on the standards of things, but let's be careful that we define the difference between these two areas of standardization. For example, in welding fillets, the American Welding Society, AWS, can very neatly arrange for the conversion of the size of these fillets to nice, round metric numbers; this is easy. However, the actual physical size of these fillets, which we consider required in this country, is quite different from those required by our European cousins. Here is where we have to do a lot of work in this business of the standardization of things. But remember, it really has nothing to do with the metric system per se or with the system S.I. per se because the system S.I. merely establishes the standard of policy, of rules and of systems and has nothing to do with the standardization of things.

Now the cost has been bandied about as being that of approximately One Hundred Billion Dollars. As a matter of fact, you have as many figures available as you have speakers on the subject. Sometime ago there appeared in the I.A.M. publication THE MACHINIST a list of tools which an employee would have to obtain to shift to working in the metric system. Whether or not there was any political axe to grind behind this or any leverage that was being exerted to cause employers to underwrite the cost of personal tools I don't know, but it did seem strange to note that in this list of tools, which in total valued at well over $1,000, there were such things included as hammers, screw drivers, drive punches, squares and such capital items as electronic gages and rather expensive large vernier type tools.

Actually, the individual is not going to have to buy many new tools. When he gets his mikes and his scales, possibly a new scale for his combination square and maybe a new test indicator, he is going to be well along as far as his new tool box is concerned.

Most machine tools themselves are not even related to measurement. Presses and that type of device, metal forming tools, are just as adaptable to English dimensions as they are to metric, and vis-a-vis. On machine tools which do concern themselves with measurement, hand wheels, scales, etc., there are many conversion devices available, both mechanical and electronic, and it is not the end of the world that reference be made to a handy wall chart or pocket calculator, particularly of the electronic kind which today seems to be available at every corner drugstore.

Careful planning of the acquisition of machine tools over the next several years during the conversion cycle will minimize the cost of conversion and bring it down to not too much more than the normal replacement costs.

So, how do we go about preparing for metrication? I suppose there are basically two steps. The first is the adoption of the S.I. units of weights and measures; the second is the adoption of the new standards based on I.S.O. and I.E.C. recommendations. I.S.O. is the International Organization for Standardizations and I.E.C. being the International Electro Technical Commission.

Management has two possible directions in which it can go over the next several months. First of all, it can wait until forced to start the change. Now obviously, that's going to be great as far as cost is concerned right now. No cost now, but it anticipates a very costly crash program later on in the cycle. The second direction is to prepare now and in thus doing to amortize the cost of investigation, planning, training and acquisition of equipment. By planning now you can take advantage of obsolescence of equipment over the next several years; let the English die and replace equipment normally with equipment of either metric capabilities or at least dual capabilities.

Now what should you do in order to plan the metrication of your company? First of all you should establish a metric task force and in doing so, you need a metric supervisor. His job will be to organize the task force, to draw up detailed conversion plans, and most important, to maintain a stable atmosphere somewhere between rejection and over enthusiasm; both conditions can kill an ordering metrication program.

Now, what about this man—what should he be? Well, essentially he should have an engineering background; he should be familiar with the theory and application of standards; he should have a complete and detailed draftsman's knowledge of present systems; he should exude enthusiasm; he should be of an age which will permit his carrying through of the assignment of the entire 10 or 12 year cycle. It is not a job you want to assign to someone two years before retirement, even though that person may have all the other characteristics. Also, he needs to have that elusive quality of leadership.

What about the task force itself? What about its selection? Every man must know his own department and as a representative of his own department he must know not only in detail the functions and operations of his department but he also must know its inter-relations with all other departments. He must be familiar with the principles of metrication and he must be broadminded. Now by that I mean he must not be a narrow person to the extent he thinks only about the functions of his own department. He must be able to view the entire picture from a non-partial standpoint for the good of the total whole rather than just the good of his individual department. This is necessary because there will be frequent compromises which may, from a superficial standpoint, adversely affect the functions of his individual department.

What are the responsibilities of the task force? Well, I guess that first they are to develop a detailed and in-depth conversion plan applicable to the company as a whole as well as to individual departments. The job of the task force is also to establish an internal information center to maintain references and to perform research as needed, and to be a single, valid source of metrication data for your company. They need to communicate; they need to publish frequent newsletters, type progress reports (and these should have the widest circulation so that everyone remotely connected will have the message as to what is going on and where the metrication program stands in the company). These should not be broach-brush P.R. type of statements but rather in great detail and in minute terms the program should be followed and defined.

Next, the task force should establish a training program geared to employees' need to know. It is not necessary that every employee become a PhD qualified type in the metrication procedure any more than it is necessary for them to have the same complete knowledge of all of the ramifications of the current or conventional or English system. However, it is necessary that the training program be geared to the employee's need to know and be implemented on schedule, and this is the function of the task force.

It is also important that the task force insure adherence to the established program, directly and rescheduling any activities which deviate from the plan. There are three phases to the program. First, there is investigation. This must be in-depth, with full top management support. It must involve the drafting of an organization chart showing the responsibility of each department and of the selected personnel from that department who function either on or with the task force. It involves a report on each department and its metric capabilities, its equipment, its equipment cost, training needs, reference information needed, etc.

The second step, or the second phase of the program, is program development. This is the spelling out in minute detail of the steps of the program; this is a joint effort between the task force and the department representation.

The third phase is the actual implementation. Investigations are complete, plans are drawn up and now it's "GO", but the task force must maintain full control of the conversion and again spread the word.

Now what are some typical departmental responsibilities. First of all, design services. Here's a case where new standards are going to be needed and a wonderful opportunity to clean house; to comply with I.S.O. and I.E.C. recommendations, and you can get those from A.N.S.I., which is actually the U.S. or U.S.A. official representative of both of these organizations. You need to consider, discuss and decide what you want to do as far as dual dimensioning is concerned. There are some things to be said about this, pro and con. What about new designs? Are they to be 100% metric? Is it going to be essential, necessary, desirable or impossible to convert old designs? These are all factors that have to be considered and decided upon in a logical, thoughtful way by the design service department. How about manufacturing? Some people think that manufacturing is going to have the most difficult part of this whole program. I don't agree. I think that when manufacturing gets the ball it is going to be pretty well standardized and relatively simple. It may be that costs to convert in manufacturing will be greater than in other departments—I'm not even sure about that—but it certainly is not going to be the most difficult area.

Manufacturing needs to start thinking *now* about its equipment. Dual controlled equipment? What about individual tools? Who is going to buy them? Will this, as has happened in some companies already, become a matter of negotiation tnd an element in the annual or semi-annual contractual bargaining?

What about training? Some companies approach this area on a visual basis such as my favorite English company in Liverpool—Whitely, Lang & Niell—who have labeled everything in sight including door jambs, desks, file cabinets and even tea cups with the metric dimensions, be they linear or volumetric.

Inspection Department. Here again is a case where there is an equipment requirement, but again this can perhaps be absorbed over a period of time through the purchase of dual dimensioned equipment. This is probably the thing that should be done anyway, starting right now in all companies, and particularly so in the more expensive pieces of gaging equipment, coordinate measuring machines, vernier calipers, etc., where dual dimensioned equipment is available.

How about the Purchasing Department? It is their responsibility to be sure they have lined up vendors for raw material such as steel, parts such as fasteners, tools such as micrometers, etc., and to have this data available. Particularly in the area of raw material and parts they should make complete lists, catalogs, brochures, etc., of this material and their degree of availability for the Engineering Department.

Now what about Sales? Certainly here Sales has an opportunity to talk metric, to determine the needs of its customers in the metric world and to project an image of progress on the part of the company as far as its metrication program is concerned.

To repeat—the adoption of the S.I. system is inevitable for American industry, it's going on right now. It is essential, if you want to do the job effectively, efficiently and economically, you must prepare now. To do this you need to prepare with a metric task force and an organized plan. If you do this properly it will not turn out to be as tough a task as you think it may be, right now.

FORT MONROE, VA.

Mr. HARRY F. BYRD, JR. Mr. President, in a recent series of newspaper articles in the Newport News-Hampton Daily Press, Mr. P. J. Budahn discusses the historic significance of Fort Monroe, Va.

From a one-man garrison during the American Revolution to its present role as the Training and Doctrine Command Headquarters for the U.S. Army, the history of Fort Monroe—as Mr. Budahn so eloquently points out—has been the history of our country.

Fort Monroe, Mr. President, remains of continuing importance to the Nation. I, consequently, would like to share this series of articles with my colleagues and I ask unanimous consent that the text of the articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Newport News-Hampton (Va.) Daily Press, Aug. 31, 1974]

History of Fort Monroe Has Been History of Nation

(By P. J. Budahn)

Two hundred years ago, as the nation was preparing for the American Revolution, the strategic spot of Old Point Comfort had a one-man garrison.

Today, Ft. Monroe stands upon the point amid questions on the fitness of its buidings, reports of possible close-out and efforts by local leaders to save the post.

But two centuries ago the question was decided. John Daines operated a makeshift lighthouse at Old Point Comfort and tended the ruins of what was Virginia's most elaborate fortification at the time.

It was called Ft. George. Like every fort ever built at Old Point Comfort, it had a troubled construction history.

Ft. George's problems began long after it was actually built and lasted long after it was destroyed.

In the early 1700s, the colonists feared that European wars would spill into the new world. Old Point Comfort was part of a four-fort system guarding Hampton Roads and the James and York rivers.

After the threat went away, so did the troops and cannon. For 17 years, the General Assembly resisted repeated calls by the governor to build a permanent fort on the point.

The assembly finally authorized the construction of Ft. George in 1728. It was finished four years later.

Ft. George was the most elaborate fort built by the colony. It consisted of two parallel brick walls 16 feet apart. The space between the walls was filled with sand.

It looked more formidable than it was. One hole in the outer wall would have weakened the entire structure.

Luckily for the colonists, it was never put to the test. A hurricane in 1749 destroyed it.

The General Assembly sank back into its apathy and refused to authorize funds to rebuild Ft. George. It was in ruins when the Revolutionary War started.

For a while, Lord Cornwallis considered occupying the ruins of Ft. George. He rejected it for a number of tactical reasons and went, instead, to his rendezvous with destiny at Yorktown.

Ironically, Ft. George's major role in the Revolution came at the hands of the French.

The French fleet which took part in the seige of Yorktown landed a battery at Old Point Comfort. The battery would serve as a final line of defense if a British fleet broke through the line of French warships to rescue Lord Cornwallis and his troops.

But independence brought no major change in policy. The new American government conducted four major coastal defense studies between 1793 and 1807. None of the studies recognized the strtegic importance of Old Point Comfort.

It took the burning of Washington, D.C., during the War of 1812 for the lesson to be learned.

[From the Newport News-Hampton (Va.) Daily Press, Sept. 1, 1974]

War of 1812 Spurred Construction of Old Fort Monroe

(By P. J. Budahn)

The strategic value of Old Point Comfort, overlooked in the years after the American Revolution, was tragically emphasized during the War of 1812.

The lesson was so strong that only in the past year—150 years after the founding of Ft. Monroe—has there been serious talk of abandoning it as a military installation.

Local leaders, now conducting an intensive campaign to save Ft. Monroe, are trying to protect one of the bitter lessons of war.

In the summer of 1813, a British fleet sailed past the abandoned fortifications at Old Point Comfort and anchored off Hampton. About 2,500 troops landed.

Their plundering of Hampton was a dress rehearsal for the British sweep through Washington, D.C., the next summer.

The looting and destruction of Hampton and Washington sealed the fate of Old Point Comfort, an on-again, off-again fort during the first two centuries Anglo-Saxons spent in Virginia.

A study of the nation's coastal defenses was set up under Brevet Brig. Gen. Simon Bernard, a former aide to Napoleon, in 1816.

Hampton Roads and Boston harbor were picked at the sites of "the great naval arsenals of the south and the north." Great fortresses in both areas would protect local docks and shipbuilding facilities and serve as rendezvous points for operations on the eastern coast.

The actual construction of Ft. Monroe began in March 1819. Its designers believed it was the largest fort in the world, not counting forts that surrounded entire cities.

The plans called for the fort to have 412 cannon. It would have a normal garrison of 60 men and 2,625 men in wartime.

The original cost of the construction alone was fixed with startling precision—$816,814.96. Thte estimate was off by a million dollars.

The Bernard board also recommended

building a fort on a natural shoal between Ft. Monroe and Norfolk. It was originally called Ft. Calhoun. The name was later changed to Ft. Wool.

Ft. Calhoun was designed to hold 232 cannon. Its garrison was put at 200 men in peacetime and 1,130 in war.

Like Ft. Monroe, it had a pinpointed estimated cost—$904,355.40—that was about a million dollars short of its actual cost.

Much of the construction was done by military convicts. Ft. Monroe's first garrison, an artillery company, arrived in July 1823 to guard the convicts.

Most of the work at Ft. Monroe was completed by 1835, although building continued for another 10 years. Ft. Calhoun was never finished as the deisgners intended because of an ever-sinking foundation.

Meanwhile, the Ft. Monroe garrison grew and played a role in many military operations of the early 1800s.

A battalion was sent to the Midwest in 1832 to take part in the Black Hawk War. They spent five years fighting the Seminole Indians in Florida and were sent to Mexico in the 1840s.

Troops from Ft. Monroe also were dispatched to two ominous engagements—the Nat Turner uprising at Southampton County in 1831 and John Brown's raid on Harper's Ferry in 1859.

The clouds of civil war were brewing. For the first time in over 200 years, the fortification at Old Point Comfort would be ready when the storm broke.

[From the Newport News-Hampton (Va.) Daily Press, Sept. 4, 1974]

FORT MONROE HAD TWO KEY ROLES IN WORLD WAR I

(By P. J. Budahn)

A training center and a major element of the coastal defense system during World War I, Ft. Monroe underwent a massive construction effort. Buildings went up by the dozen and land was reclaimed from the sea.

The "war to end all wars" helped mold much of Ft. Monroe into its present shape. Peninsula leaders are struggling to keep it by a campaign to save Ft. Monroe from Army close-out plans.

But 60 years ago, the post seemed too important and too productive to ever die.

Throughout the first world war, Ft. Monroe had two important roles. It was headquarters for the defense of the Chesapeake Bay. And it had the Army's coastal artillery school.

Within two weeks after the start of unrestricted submarine warfare by Germany, troops from Ft. Monroe occupied Cape Henry and an adjacent island. They fortified the areas with five- and six-inch batteries.

Across the channel between Ft. Monroe and Ft. Wool, they stretched a submarine net.

But the soldiers of Ft. Monroe did more than wait for an enemy that never came. They trained thousands of soldiers, officers and enlisted men, in the skills of artillery.

Artillery was given new roles on European battlefields and Ft. Monroe graduates were trained to use them. They learned about cannon on railways and tractors, about trench mortars and about new anti-aircraft guns.

An officer candidate course was set up. At one time, 200 prospective artillery officers arrived each week. Because of a serious shortage of trained personnel, many of the new graduates became the instructors for following classes.

The post grew to handle the swelling number of trainees. A landfill project reclaimed about 25 acres of land from Mill Creek.

By one count, over 250 buildings of every description were built between U.S. entry into the war and the armistice 19 months later.

Eventually, Ft. Monroe's part in the war effort spilled over the entire Peninsula.

Langley Field was used to train balloon-carried artillery spotters.

Mulberry Island was bought as an artillery range. Later, when a better range was obtained, Camp Eustis became a major training area in its own right and a staging ground for units destined for Europe.

Armstice found almost 3,000 trainees at Ft. Monroe. Since there seemed to be no need for a large standing army, they were allowed to leave service immediately.

Ft. Monroe slipped into its peacetime routine, training small numbers of men at its artillery school and planning the defense of the Chesapeake Bay in the unlikely event that another war should threaten U.S. shores.

The future of the post seemed assured. It had proven its worth in wartime. Conceived as a fortress before the Civil War, it had adapted to the modern warfare of the twentieth century.

Looking forward from the end of "the great war," it seemed that Ft. Monroe would last forever.

VIRGINIA FAVORS ERTS

Mr. MOSS. Mr. President, the Commonwealth of Virginia has found that several of its agencies have strong interests in exploring the potential for ERTS technology for the future.

Let me read a short portion of a letter I have received from the Honorable Maurice B. Rowe, Secretary of Administration, Commonwealth of Virginia.

Informal experimental applications thus far include regional land use and land cover inventories from ERTS, CARETS—Central Atlantic Regional Ecological Test Site—and high altitude color infrared products and the possible mineral location based on lineaments shown in ERTS images. The results of these, as well as the results of more formal experiments from throughout the United States indicate a great potential for the use of ERTS data—

> [I]t would seem that the establishment of an "operational" ERTS program at this time would be of great merit.

Mr. President, I ask unanimous consent that the letter of the Honorable Maurice B. Rowe be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
July 17, 1974.

Hon. FRANK E. MOSS,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: We appreciate your invitation to comment upon the proposals to establish an operational Earth Resources Technology Satellite (ERTS) system. In response we offer the following views.

Although there is currently no practical, on-going use of ERTS data being made by state agencies in Virginia, several agencies have strong interests in exploring the potential for applications of such technology in the future. Informal experimental applications thus far include regional land use and land cover inventories from ERTS, CARETS, and high altitude color infrared products and the possible mineral location based on lineaments shown in ERTS images. The results of these, as well as the results of more formal experiments from throughout the United States indicate a great potential for the use of ERTS data.

This technology should prove to be a valuable tool in the geographic sciences, planning, and resource management and should continue to be refined and developed toward greater reliability, greater detail, and easier user access and application. Toward this end, it would seem that the establishment of an "operational" ERTS program at this time would be of great merit.

Because the usefulness of remote sensing data is closely related to and in most cases dependent upon the display of the data in map form, it would seem appropriate to assign an operational ERTS program to an agency, such as Department of Interior, U.S. Geological Survey, which already has much experience in mapping and could provide for the integration of this new technology into an existing program.

The Commonwealth of Virginia is looking forward to taking further advantage of the resource of remote sensing technology in the future. We hope these comments add some support to efforts to make this possible.

Sincerely,

MAURICE B. ROWE.

FEDERAL LAWS, RULES, AND REGULATIONS WHICH AFFECT RETAILERS

Mr. GOLDWATER. Mr. President, not the least of the burdens placed on the business community today by the Federal Government is a virtual ton of paperwork.

I believe, if my memory serves me correctly, that as of today it is costing the American taxpayer some $16 billion to handle paperwork such as the regulations and rules which have been placed on business groups throughout our country.

Mr. President, to give you an idea of what I am talking about, I recently received from the National Retail Merchants Association a list of the Federal rules and regulations which affect them and require their attention. I haven't gone to the trouble, Mr. President, of counting each and every regulation, but I can assure you the list exceeds 50 separate items. In this day and age, I do not have to tell any Member of this Senate what an added burden this is to heap on our retail merchants. Many of them have been forced to hire accounting firms to take care of the paper blizzard. These costs quite naturally are passed on to the consumer and force another boost in the price of essential goods and services.

Because of its importance to the Congress of the United States, Mr. President, I ask unanimous consent to have the list of regulations and requirements printed in the RECORD in its entirety.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FEDERAL LAWS, RULES, AND REGULATIONS WHICH AFFECT RETAILERS

Sherman Antitrust Act (As amended by Miller-Tydings Act)

Clayton Antitrust Act (As amended by Antimerger Act)

Price Discrimination (Robinson-Patman Act)

Federal Trade Commission Act (As amended by Wheeler-Lea and McGuire Fair Trade Acts), and Commission regulations and guides on:

Acquisitions and mergers.

Adhesives—Deceptive Labeling and Advertising of Adhesive Compositions.

Advertising—Children's Premiums on Television.

Advertising Allowances—Advertising Allowances and Other Merchandising Payments and Services.

Amplifiers—Power Output Claims for Amplifiers Utilized in Home Entertainment Products.

Bait Advertising.

Batteries—Deceptive Use of "Leakproof," "Guaranteed Leakproof," etc. as Descriptive of Dry Cell Batteries.

Beauty and Barber Equipment and Supplies Industry.

Belts—Misbranding and Deception as to Leather Content of Waist Belts.

Binoculars—Deception as to Nonprismatic and Partially Prismatic Instruments Being Prismatic Binoculars.

Cigarette Advertising.

Clothing—Discriminatory Practices in Men's and Boys' Tailored Clothing Industry.

Cocktail Glass Frosting—Failure to Disclose the Lethal Effects of Inhaling Quick-Freeze Aerosol Spray Products Used for Frosting Cocktail Glasses.

Debt Collection Deception.

Dog and Cat Food Industry.

Door-to-Door Sales—Cooling-Off Period for Door-to-Door Sales.

Fallout Shelters—Advertising Fallout Shelters.

Feather and Down Products Industry.

Foods—Retail Food Store Advertising and Marketing Practices.

"Free" Merchandise—Use of Word "Free" and Similar Representations.

Furniture—Household Furniture Industry.

Games of Chance—Games of Chance in the Food Retailing and Gasoline Industries.

Gasoline—Posting of Minimum Octane Numbers on Gasoline Dispensing Pumps.

Glass Fiber Fabrics—Failure to Disclose That Skin Irritation May Result from Washing or Handling Glass Fiber Curtains and Draperies and Glass Fiber Curtain and Drapery Fabrics.

Greeting Cards—Discriminatory Practices in Greeting Card Industry.

Guarantees—Deceptive Advertising of Guarantees.

Hairpieces—Labeling, Advertising and Sale of Wigs and Other Hairprices.

Handbags—Ladies' Handbag Industry.

Insurance—Mail Order Insurance Industry.

Ladders—Deceptive Advertising and Labeling as to Length of Extension Ladders.

Light Bulbs—Incandescent Lamp (Light Bulb) Industry.

Lipstick Survey.

Lubricating Oil—Deceptive Advertising and Labeling of Previously Used Lubricating Oil.

Negative Option Plans—Use of Negative Option Plans by Sellers in Commerce.

Photographic Film—Deception in the Use of Word "Free" in Connection with Sale of Photographic Film and Film Processing Service.

Pricing—Deceptive Pricing.

Radiation—Advertising Radiation Monitoring Instruments.

Radios—Deception as to Transistor Count of Radio Receiving Sets, Including Transceivers.

Schools—Private Vocational and Home Study Schools.

Sewing Machines—Misuse of "Automatic" or Terms of Similar Import as Descriptive of Household Electric Sewing Machines.

Shell Homes—Advertising Shell Homes.

Shoes—Shoe Content Labeling and Advertising.

Sleeping Bags—Advertising and Labeling as to Size of Sleeping Bags.

Tablecloths—Deceptive Advertising and Labeling as to Size of Tablecloths and Related Products.

Television Sets—Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets.

Textiles—Avoiding Deceptive Use of Word "Mill" in Textile Industry.

Textiles—Care Labeling of Textile Products.

"Tile," Ceramic.

Tires—Tire Advertising and Labeling.

Wall Paneling—Decorative Wall Paneling Industry.

Watch Industry.

Antitrust Civil Process Act.

Wool Products Labeling Act.

Fur Products Labeling Act.

Textile Fiber Products Identification Act.

Flammable Fabrics Act.

Fair Packaging and Labeling Act.

Consumer Product Safety Act.

Federal Hazardous Substances Act.

Poison Prevention Packaging Act.

Federal Energy Administration Act of 1974.

Emergency Petroleum Allocation Act of 1973.

Emergency Daylight Saving Time Energy Conservation Act of 1973.

Energy Supply and Environmental Coordination Act of 1974.

Federal Energy Office Regulations.

Consumer Credit Protection Act (Truth-in-Lending Act) Regulation Z.

Civil Rights Act of 1964 (Title VII).

Civil Rights Act of 1968 (Title I).

Civil Rights Act of 1866, 1870, 1871.

Equal Employment Opportunity Regulations regarding:

Records and Reports.

Sex Discrimination.

Religious Discrimination.

National Origin Discrimination.

Employment Testing.

Fair Labor Standards Act.

Work Hours Act.

Labor-Management Relations Act of 1947.[*]

Labor-Management Reporting Act and Disclosure Act of 1959.

Williams-Steiger Occupational Safety and Health Act of 1970 Social Security Act (as amended).

Small Business Act (as amended).

Internal Revenue Code of 1954.

Tariff Act of 1930 (as amended).

Securities Act of 1933.

Securities Exchange Act of 1934.

Fair Credit Reporting Act.

Food, Drug and Cosmetic Act.

BRAZIL DEATH SQUADS

Mr. ABOUREZK. Mr. President, since World War II we have given both economic and military aid to Brazil in the amount of $3.8 billion. In those years that country has achieved a meteoric rise in its gross national product and in other market figures. It is a place very inviting for foreign investment.

But as these figures rise for Brazil, the reports of torture and murder are also on the rise. Particularly since the coup in 1968, Amnesty International and other groups have received countless reports and eyewitness documentations of electric shock, water torture, beatings, burnings and the like.

In a September 4, 1974 article, the Washington Post makes some disturbing estimates on the number of "executions" carried out by the "Death Squad," a civilian vigilante group which includes large numbers of off-duty policemen. Similar to other unofficial groups in Latin America, like La Mano Blanca in Guatemala, it is out of the control of the very regime that spawned it with rightwing law-and-order rhetoric.

Brazil's motto, "Order and Progress," gives a clue as to why such violence and disorder accompany a desirable investment climate. Wide swaths are being cut through the Amazon jungle for roads and factories; industrialization at low wages and with no curbs on pollution is pushed by the Brazilian government at an incredibly fast rate. There are more and more nonessential consumer goods provided for the middle and upper classes. At the same time that wealth is accumulating in a few hands the vast majority of Brazilians are actually sliding lower on the poverty scale. As protests have mounted over this situation, decree after decree has been issued by Brazilian rulers taking away more civil liberties. One torture victim joked bitterly in a film interview that I saw.

> Torture is the only democratic institution we have left—they do it to everyone regardless of class, race or religion.

With this picture in mind, one can see that the $60 million in military credit sales due from the United States to Brazil in fiscal year 1975 will not be going to protect its borders from Uruguay, Argentina or Bolivia—Brazilian citizens are the enemy that will be fought with these weapons. Institutionalized repression by Brazil's rulers, paramilitary activities by groups closely associated with the police and security forces in that country. Do the American people approve of their tax dollars pouring into a country in this? Does Congress?

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BRAZIL DEATH SQUADS—APPARENT KILLINGS BY POLICE ON RISE

(By Bruce Handler)

RIO DE JANEIRO.—Widespread police brutality—including killings by police-linked "Death Squads"—continues virtually unchecked in Brazil, and President Ernesto Geisel has asked for a crackdown.

The issue this time is not the torture of leftist political prisoners, for which Brazil's military government has been frequently condemned overseas, but police violence at the local level.

Geisel, a retired army general who preaches a stern law-and-order line, announced that he was "appalled and shocked" by a recent impromptu execution in the crime-ridden Rio suburb of Nova Iguacu, in which witnesses saw two state policemen stand two teen-aged boys against the wall of a barber shop and mow them down with a barrage of submachine-gun and pistol shots.

The president called the slayings "perverse" and demanded "rigorous punishment."

Rio de Janeiro state troopers Artur Sergio Machado and Genesio Vicente Viana later were arrested in connection with the crime.

Local residents described one of the victims, Pedro Paulo da Silva, 17, as a troublemaker and a bully—but hardly a dangerous criminal. No one even knew the name of the other boy.

Nova Iguacu is a stronghold of a Death Squad, a vigilante gang made up of off-duty policemen who summarily execute petty criminals in an effort to "clean up crime." Death Squad killers usually tie the victim's hands behind his back, shoot him dozens of times and then dump the body on a deserted road. Often they leave a crudely drawn skull and crossbones on the corpse, with the initials E.M.—for the Portuguese "Esquadrad da Morte," or "Death Squad."

Last year there were 99 Death Squad-style slayings in Nova Iguacu. So far this year the rate has risen to around 15 a month.

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[*] (Wagner and Taft-Hartley Acts.)

Since they first appeared in the 1950s, Death Squads in various cities have been held responsible for—or proudly have taken responsibility for—1,500 to 2,000 killings. Only a handful of Death Squad murderers—all of them policemen—have been arrested, tried, convicted and sent to prison.

"The president can try to eliminate this type of police violence, but he won't succeed," one of Rio's top crime reporters said. "These policemen are like the Mafia. They don't go around wearing badges that say: 'I'm from the Death Squad,' and when they do get caught, they never tell on their friends."

The newsman described Death Squad gunmen as "cold and calculating—and great shots." He said they are capable of killing three, four or five times, just as though it were like getting up in the morning and eating breakfast.

Death Squad victims usually are muggers, rapists, car thieves and drug pushers—people the police consider "noxious to society"—the reporter went on. He said that police forces, especially in the tough Rio suburbs, are fed up with what they consider excessive leniency in the courts, so they take justice into their own hands.

Gov. Raimundo Padilha of Rio de Janeiro state has pledged to fire such policemen, who he says "don't have the least respect for human life."

Many Brazilians, including nonviolent police and ordinary citizens, are sympathetic with Death Squads. In Sao Paulo, the nation's largest city, former police inspector Astorige Correia de Paula e Silva, who was serving 16 years for a Death Squad murder, walked out of a local jail recently, after it was rumored that he was about to be transferred to a state prison. That would have caused him to lose his special jail room, which had a TV set, hi-fi and refrigerator and was open to women visitors.

Paula e Silva turned himself in a few days later, and it appears that he will be allowed to keep his well-appointed cell. Twelve policemen accused of helping him escape were suspended for 60 days.

A jury in the northeastern state of Bahia last week acquitted fired policeman Manoel Quadros in a murder trial in which he was accused of belonging to a Death Squad. Witnesses testified that Quadros had a reputation as one of the most sadistic policemen in the region.

Quadros allegedly burned prisoners with cigarettes and liked to chop up the bodies of already dead criminals with a machete. Three more murder charges still hang over him.

The American movie "Magnum Force," which depicts a fictional death squad within the San Francisco police, just opened in Rio. Distributors think it will be a big hit. The film had no trouble getting censorship clearance from the federal police, a requirement for all movies to be shown in Brazil.

A film industry executive here said: "We were a little worried at first. I think we were helped by the fact that in this picture the policemen who take the law into their own hands wind up getting killed by a law-abiding policeman."

AMBASSADOR RODGER DAVIES

Mr. PELL. Mr. President, the front line of our Nation's security is our Foreign Service and the latest casualty on that thin line is Ambassador Rodger Davies.

He was a fine, decent, and good man who had the respect of all those with whom he came in contact. It is hard to understand why anyone would wish to harm him except as a symbol of U.S. policies, policies for which he was not necessarily responsible.

He, Ambassadors Cleo Noel and John Gordon Mein lead the ranks of our Foreign Service officers who have been killed in the line of duty. Actually, over the past decade nearly 50 Americans in the Foreign Service, or members of their families, have been the victims of acts of violence in the line of duty abroad. Of these, 9 have been assassinated and 13 kidnapped.

As a former Foreign Service officer presently in the center of our Government—far removed from its dangers, I commend and congratulate my former colleagues who serve their country at hazardous posts often unsung and unpraised.

In this regard, I ask unanimous consent to have printed in the RECORD an editorial that appeared in the Washington Post on Wednesday, August 21, 1974.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE DEATH OF AMBASSADOR DAVIES

The murder of Rodger Davies, the American ambassador to Cyprus, stands as a warning that the diplomat's trade is becoming a dangerous one. As hit-and-run terrorism becomes an increasingly common form of politics, the men who represent this country become the targets of a peculiarly vengeful and hysterical strain of anti-Americanism. It is quite true that these assaults stain and discredit the organizations that carry them out, but that argument is hardly likely to dissuade them. It is in the nature of the terrorists to take a perverse pride in the irrationality of their methods.

At the time of his death, Ambassador Davies was serving his country with intelligence, dignity and great skill. He arrived at his post just before the outbreak of the current crisis and quickly earned two letters of commendation from Secretary Kissinger for his cool, competent performance under circumstances that combined a local civil war with a foreign invasion. The extreme ugliness of the affair is indicated by the reports that it was gunmen of the Eoka-B who attacked the embassy under cover of a general riot and raked it with fire from high-powered weapons. Eoka-B is the bloody-minded Greek Cypriot underground that played a role in the original attempt by the Greek colonels last month to overthrow the Cypriot government. That coup, of course, brought the Turkish landings down on the island. Now that they are defenseless against the Turks overrunning their island, it is characteristic of the terrorists that they should seek revenge by shooting the American ambassador.

Over the past decade, a dozen American diplomats have been killed on duty. When John Gordon Mein was machine-gunned in Guatemala City in 1968, it was the first time in our history that an American ambassador had been assassinated. It was, apparently, a failed attempt at a political kidnaping. Last year our ambassador to the Sudan, Cleo A. Noel Jr., was shot in cold blood by Palestinian gunmen who also killed the embassy's charge d'affaires, G. Curtis Moore. The chief political effect of these killings was to erode sympathy in this country for the Palestinian cause, and to increase suspicion of other Palestinians' legitimate aims. But that consideration does not, evidently, weigh heavily in the councils of the Black September group.

Again, vice consul John S. Patterson was kidnaped last March from the United States consulate at Hermosillo, Mexico. His body was found a month ago. The kidnapers, who demanded at one point a half a million dollars' ransom, called themselves the People's Liberation Army of Mexico. Presumably they were attempting, unsuccessfully, to emulate the kidnaping a year earlier of Terrance Leonhardy, the American consul general at Guadalajara, who was held for $80,000 in cash and the freeing of 30 prisoners by the Mexican government.

The death Monday of Ambassador Davies is a matter of profound sorrow to his children and his friends. It cannot change American policy, or advance the causes that the gunmen represent. Diplomats in Nicosia, and in many other capitals, have been struggling to effect an end to the fighting on Cyprus. In view of the present perilous position of the Greek community there, for Greek Cypriots to attack the American embassy seems almost a suicidal gesture.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. All time allotted for the transaction of routine morning business has expired.

UNFINISHED BUSINESS—S. 707—TEMPORARILY LAID ASIDE

Mr. MANSFIELD. Mr. President, I move that the unfinished business be laid before the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the unfinished business, S. 707, will be——

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be laid aside temporarily.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COPYRIGHT LAW REVISION

The ACTING PRESIDENT pro tempore. The Chair will state to the distinguished majority leader that at this time the Senate will resume consideration of S. 1361, a bill to amend the copyright law. The unfinished business, S. 707, will be temporarily laid aside until the completion of the action on S. 1361, or the close of business today, whichever shall come first.

The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 1361) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. McCLELLAN. Mr. President——

Mr. ERVIN. Mr. President, if the Senator from Arkansas will yield, I will ask unanimous consent that William Pursley be allowed the privilege of the floor to assist me in the consideration of this pending business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent to have Mr. Dennis Unkovic, of the staff of the Committee on the Judiciary, present on the floor during the debate on the copyright bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair recognizes the distinguished Senator from Arkansas and he may yield time as he sees fit.

Mr. McCLELLAN. I am glad to yield to anyone who wishes a unanimous consent.

Mr. PASTORE. Mr. President, I ask unanimous consent that Nicholas Zapple and John Hardy of the Commerce Committee be allowed the privilege of the floor during the debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that Hilary Hilscher be allowed the privilege of the floor during the debate and vote on this measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, I ask unanimous consent that J. C. Argetsinger and Charles Bruce, members of the Judiciary Committee staff, be allowed the privilege of the floor during the debate and vote on this measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I would like to ask unanimous consent that amendment No. 1846 be voted on before any other amendment, including amendments made by the Commerce Committee.

The PRESIDING OFFICER. Is there objection to the request of the distinguished Senator from North Carolina to the consideration of his amendment?

Mr. McCLELLAN. Mr. President, reserving the right to object, and I shall not object, but I have been advised there will be a motion made to recommit this bill.

If that is true, if that should be made, I suggest the motion be made now, let us save our energies and time.

I do not care about going through a lot of futile motion here if the Senate does not want this bill. Let us get it decided and send it back, that is my idea, not to waste a day's time if the Senate does not want to consider the bill.

Mr. PASTORE. Will the Senator yield?

Mr. McCLELLAN. I yield to the Senator.

Mr. PASTORE. I agree with the Senator 100 percent.

This is a highly controversial bill. I doubt very much that the House will take any action. They have not had hearings. The Judiciary Committee of the House will have the nomination of Nelson Rockefeller and, of course, we are driving hard to adjourn by October 15.

It is my information that even if we do come back after the election, in all probability it will not be considered by the House and I think it would be rather unfortunate if we did expend a week and then ended up with sending a bill, even if we pass a bill, over to the House where no action is going to take place.

Mr. McCLELLAN. Mr. President, I make no further suggestion. We worked on it for years, let us wait until the House passes a bill before we take any further action.

Mr. PASTORE. I say "Amen" to that. I agree 100 percent.

Amen, amen, amen.

Mr. McCLELLAN. Mr. President, we do have in this bill a number of things that are not controversial, that I think should be enacted into law, but the purpose of getting this bill up at this time would be to try to let the Senate work its will.

It was anticipated possibly that the House could not act, but if the Senate worked its will and we knew what it was we could immediately introduce the same bill the Senate passed early in the next session of Congress, and pass it, and then let the House take that bill, or its own bill, and try to get copyright reform legislation enacted next year.

Now, this is not a personal matter with me. I worked hard to try to serve the best interests of this country in getting out a bill and getting it to the floor where the Senate could work its will. Whatever its will is is going to be satisfactory to me, except that I do not propose to stand here today to go through a lot of futile effort to enlighten the Senate and inform the Senate what this bill contains and give it an opportunity to settle issues. If it is not ready for the issues, let us send the bill back and forget it.

The ACTING PRESIDENT pro tempore. Without objection, the request of the Senator from Nebraska (Mr. HRUSKA) and the Senator from Alaska (Mr. STEVENS) as to privilege of the floor will be granted.

Without objection, it is so ordered.

Now, the Senator from Arkansas reserved the right to object to the unanimous-consent request of the distinguished Senator.

Mr. McCLELLAN. I reserve further the right to object if anyone else wants to be heard after what I have said, all right. If not, let us get the motion. I do not know whether we want to vote today, Mr. Leader, or put it over until Monday morning. It makes no difference to me.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the distinguished Senator from North Carolina?

Mr. McCLELLAN. To state the request again, I reserve the right to object until this other question is settled, Mr. President.

Mr. MANSFIELD. It will be the pending amendment.

Mr. McCLELLAN. I have no objection to it being the pending amendment.

Mr. ERVIN. I agree with the Senator from Arkansas, that we should vote on this amendment first.

Mr. McCLELLAN. I agree with that.

Mr. ERVIN. I also agree with the Senator from Arkansas that it would be futile to debate the merits of the amendment if there is a motion to recommit. I will now make a motion that——

Mr. MANSFIELD. Would the Senator not make that motion at this time? I think the Senate should be notified. Permission has been granted, I believe, to the Senator from North Carolina, that his amendment will be the pending business.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the distinguished Senator from North Carolina? The request is that amendment No. 1846 be considered first.

Mr. McCLELLAN. Reserving the right to object, I do not understand his request. Apparently we do not understand it.

Mr. ERVIN. This was to clear up a difficulty under the rule since the bill was referred to two committees. The Commerce Committee made amendments which are not as comprehensive as this amendment. The distinguished Senator from Rhode Island has agreed to cosponsor this amendment. In case we have a vote on the merits, I wanted this to be voted on first. But I do agree with the Senator from Arkansas that we ought to pass on the motion to recommit.

I would at this time like to make such a motion.

Mr. MANSFIELD. Mr. President, would the Senator withhold that? I think the Senate should be placed on notice rather than to be caught short. But with the understanding that the distinguished Senator from Arkansas will yield to the Senator from North Carolina to call up his motion to recommit, I would like to have permission at this time to put in a request for a quorum call and to have all Senators notified so that they will be aware of what is developing.

Mr. ERVIN. I think that is quite appropriate.

Mr. McCLELLAN. Mr. President, the only thing I want to be certain of is if this bill is going to be recommitted, I want it recommitted now or forget about it. If it is not going to be recommitted, let us get to work on it and do the best we can.

Mr. MANSFIELD. That would be the first order of business because the Senator would be recognized as soon as the quorum call is completed.

Mr. McCLELLAN. The only question that occurs to me is I do not think anyone anticipated that the bill would be passed on today, and a number of Senators are absent. It might be well, and I make this as a suggestion for the consideration of the leadership, to let the motion be made, let the bill go over to Monday morning at a given time, and give everybody an opportunity to vote on it. Some Senators may feel like they were not notified. Such a course of procedure could be followed. I just submit that to the leadership.

Mr. MANSFIELD. If the Senator will yield, the Senate was on notice that we would begin today, that this would be the pending business. When Senators leave on the basis of that information, I think they ought to take their own chances. But it is up to the Senate to decide.

Mr. McCLELLAN. I just made that suggestion to the leadership. I did not know. If he is satisfied that they had their opportunity, it is all right with me.

Mr. PASTORE. If the Senator will yield, it was announced some time ago that this would be the pending business.

Mr. McCLELLAN. I know that, but I know we often have pending business here, and we often do things to accommodate Senators who are out campaigning, and so forth. I have no objection to doing it today. I simply made that suggestion. I do not know, but there may be Senators who would want to be present.

Mr. STEVENS. Is there a chance that we might have a unanimous-consent agreement as to the time at which we might vote on this motion to recommit today?

Mr. McCLELLAN. We can vote on it now, as far as I am personally concerned. The question that ought to be determined first is: Do we want to carry it over till Monday or act on it today?

Mr. STEVENS. I think in view of the conversations, we ought to be able to vote on it by about noon.

Mr. McCLELLAN. We can vote on it before then. We can vote as soon as we get a quorum.

Mr. HRUSKA. Will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. HRUSKA. I am informed by the Republican staff that there are a number of absentees on this side of the aisle. I am not informed as to how many are absent on the Democratic side. I fully sympathize with the plight of the majority leader. Notice was served and we should all be present. But the people who are here are not to be blamed for absentees who are not here. If we have some absentees on this side, I would like to make inquiry whether a head count has been made on the Democratic side to see if there are any on that side.

Mr. MANSFIELD. I would be delighted to tell the Senator. I would point out if Senators are not here, they are away at their own peril.

Mr. HRUSKA. That is right.

Mr. MANSFIELD. We also have some absentees on this side. I would hope we have a quorum. That is all we need. It does not look good coming back on a Wednesday and on a Friday have a number of Members absent.

Mr. PASTORE. If the Senator will yield, I had a very important appointment back in my State, but I stayed here in order to work on this bill. I quite agree with the Senator from Arkansas. His point is why waste a lot of breath, why waste a lot of time, why waste a lot of effort and a lot of sweat if this is going to be recommitted anyway. Let us not wait until the end in order to do it. Let us do it now and if the motion to recommit does not prevail, then we will begin to work on amendments. I think he is absolutely right. We ought to vote by 1 o'clock.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum, and I insist it be a live quorum call.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INOUYE). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote occur at 3 p.m. on Monday next on the motion to recommit which is to be offered by the Senator from North Carolina (Mr. ERVIN) and the Senator from Rhode Island (Mr. PASTORE).

I ask unanimous consent that, if this request is agreed to, beginning on 2 p.m. on Monday next, the time be equally divided between the distinguished chairman of the committee, the Senator from Arkansas (Mr. McCLELLAN), and the cosponsors of the motion, the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Rhode Island (Mr. PASTORE).

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, I do not intend to object, but I wonder whether at this point the motion could either be offered or at least read by the clerk.

Mr. PASTORE. It is a motion to recommit.

Mr. GRIFFIN. It is a straight motion to recommit or a motion to recommit with instructions?

Mr. ERVIN. I propose to make a motion. If the majority leader will yield, I propose to move to recommit to the Judiciary Committee, with the direction that it hold hearings on the provisions of the bill which undertake to give royalties to recording companies and performing artists.

Mr. GRIFFIN. I thank the Senator.

Mr. McCLELLAN. Mr. President, has the Senator asked unanimous consent?

Mr. ERVIN. No.

Mr. McCLELLAN. If I correctly understand, the instruction would be to hold hearings on this one issue.

Let me ask another question, as to jurisdiction: To which committee will this matter go, and who will hold the hearings? Other committees have asserted jurisdiction and have had this matter. I am perfectly willing to turn it over to them from now on and let them hold hearings from now until eternity and report it back. I have held hearings and held hearings, and I am tired of holding hearings.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. PASTORE. If the motion of the Senator from North Carolina should be agreed to, then I would expect that the Judiciary Committee could assume exclusive jurisdiction. While it does involve CATV, we in our committee have already studied it, and I do not think we have any further reason to deal with that matter. As a matter of fact, the controversial item is section 114, about which the Senator from North Carolina speaks.

Mr. McCLELLAN. I will undertake to carry out the will of the Senate as to instructions, but hearings have already been held, and Senators can make up their minds as to whether or not they want to vote for it. I do not know what else can be done. Give me some indication of the kind of hearings.

Mr. ERVIN. The people who are interested in this matter are entitled to be heard. Hearings have been held in the past, but they were held a number of years ago, and there have been none recently. At the time the hearings were held originally, the broadcasters and the juke box operators who were opposed to the imposition of these so-called new royalties and they made such a strong showing that the bill could not get out of committee. I think we need new hearings to give these people an opportunity to be heard.

Mr. McCLELLAN. If that is all, I cannot see why we cannot delete that section and pass the bill.

Mr. PASTORE. That is all right with me.

Mr. McCLELLAN. The point I am making is that I think everybody knows how they are going to vote on that issue. If we want to waste more time and delay this bill, that is perfectly all right with me. If the only issue is to hold hearings, the matter can be voted up or down, and we can handle the bill.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the majority leader?

Mr. PASTORE. Mr. President, if the Senator will yield, Senator COTTON has an amendment that deals with a grandfather clause insofar as CATV is concerned. I do not know how he might feel about it.

I would be perfectly willing to have the bill recommitted with instructions to delete section 114 and related sections. Then it can be reported back to the floor, and then the Senate can work its will on the remaining parts. That would be satisfactory to me, and I think it would satisfy the Senator from North Carolina.

Mr. ERVIN. I think it might be better to have an instruction to amend the bill so as to incorporate amendment 1846, because it is necessary to strike out a number of references.

Mr. McCLELLAN. As I said before, I have no interest one way or the other in the outcome of this issue. I might have an opinion and vote one way or the other, but I have no strong feelings about it. It has occurred to me that it is no great disappointment to me if the Senate does not want this bill. I have worked on this matter for 7 years, and I can let it rest a while.

Mr. PASTORE. The reason why the Senator from North Carolina and I are opposed to section 114 and the related sections is that it allows and creates a new royalty for certain artists who sing and recording companies. Many singers, male and female, go to Las Vegas and make $2,000 a week.

Mr. MANSFIELD. More than that.

Mr. PASTORE. More than that.

In this time of inflation, when many people in this country have to live on $200 a month, on social security, the Senate of the United States is going to grant a royalty so that every time you listen to a record that is played on radio and TV, you have to pay the singer a couple of pennies. It is ridiculous to me. I do not think the big stars of show business need this kind of help. As a matter of fact, they are among the big money makers of the country, and I say God bless them. They are good singers. They get paid every time they make a record. Now we are going to pay them every time the record is played by a radio station. I do not think that is fair.

I think we have a lot more serious problems in the Senate than to indulge in that sort of thing at this time. That is why we are opposed to that particular section.

Insofar as the other parts of the bill are concerned, questions are raised about CATV. At the present time, a radio station or a television station that serves the public free is required to pay a certain royalty for copyrighted material, which is already authorized under the law, to a creator of the song, the man who writes the song. Because of a Supreme Court ruling, if CATV takes the

TV picture out of the air from a broadcasting station and retransmits it to a subscriber who pays the cable company, they do not have to pay a royalty; and all this bill says is that they have to pay a certain royalty, just as the broadcaster on television who gives it to the public free. This, too, is modified by the Cotton amendment.

I do not find fault with the requirement that a cable system pay a reasonable fee.

I do not find too much fault with that. But I do find fault with creating a new royalty for a singer or another artist, who, up to this time, is not entitled to it, so that every time a radio station plays his records, the station has to pay him a royalty. I think it is unfair. And the recording company that makes the record gets paid a certain fee.

Now, that is going a little bit too far, when too many people in this country are hungry.

The PRESIDING OFFICER. Is there objection?

Mr. HRUSKA. Mr. President, reserving the right to object, it would appear that the section having to do with the performer's royalty is the obstruction, the obstacle to consideration of the bill. May I suggest, Mr. President, that the Senator from North Carolina might consider having a vote by unanimous consent occur on the deletion of this particular section and have that vote occur at 2:30 or 3 o'clock on Monday.

If the amendment is agreed to, that obstacle will be removed. If, on the other hand, the amendment is defeated, the Senator from North Carolina could still make his motion to recommit with instructions if he so desires.

Mr. ERVIN. I think the Senator from Nebraska has made a very helpful suggestion. I think that if we can agree to vote on the amendment at some reasonable time on Monday, we could debate——

Mr. MANSFIELD. I modify my unanimous-consent request so that the vote on the amendment, instead of on the motion to recommit, would occur at the hour of 3 o'clock, under the same conditions as requested before.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. HUGH SCOTT. Reserving the right to object, I have no objection to the 3 o'clock. I simply want to clarify something.

May I inquire whether, after that motion to delete, we may then have a vote on recommital if desired? Is that the intent of the Senators involved?

Mr. PASTORE. Right.

Mr. McCLELLAN. Will the Senator yield?

Mr. HUGH SCOTT. Yes.

Mr. McCLELLAN. If we are going to have a motion to recommit and know that we are going to have it, let us have it and not waste any more time. That is what I was trying to get at. There is no use in going through all the motions here of adopting amendments and rejecting amendments, and then have the Senate recommit it. If that is the will of the Senate now, let us recommit it.

Mr. HUGH SCOTT. Reserving the right to object, I am supporting the bill, as is known, and I am anxious to support the Senator from Arkansas. If he wants a motion to recommit now, I personally have no objection, to see where the votes lie. If we cannot vote now, I hope that we will go through the 3 o'clock arrangement on Monday to accommodate a number of Senators, including this one.

I should like to add to the suggestion made the fact that while I strongly support the performers' royalty in my amendment—and I strongly believe in it—I believe that performing artists also are capable of going hungry, so I am not moved by the concern of my friend from Rhode Island over the hungry. Anybody can go hungry, including a performing artist who strikes it rich once and never writes another tune. He cannot live forever on that tune unless there is some benefit to him.

Mr. PASTORE. He can run for the Senate.

Mr. HUGH SCOTT. He can always run for the Senate. The Senator from Rhode Island is a performing artist in his own right.

Mr. PASTORE. But I do not want a fee every time I get up to talk.

Mr. HUGH SCOTT. If he speaks outside of this body, as he well knows, he is entitled to a fee, and that is his prerogative.

Mr. ERVIN. Will the Senator yield?

Mr. HUGH SCOTT. What I am trying to get at will be lost unless I get at it at greater speed. That is, if we do not have the votes for the performing artists' royalty, and it seems we do not, we may have to do this by unanimous consent. If we do, I hope there will be a commitment to hold hearings in the Committee on the Judiciary under the chairmanship of the chairman of the subcommittee, the Senator from Arkansas (Mr. McCLELLAN), so that we can then determine the pros and cons.

I believe, and I am sure the Senator from California agrees with me, that this is a good amendment. I do not want to lose it forever. I have been fighting for this amendment since 1944.

Mr. CRANSTON. Will the Senator yield?

Mr. HUGH SCOTT. I have been fighting for it since I was in the other body. Yes, I yield.

Mr. CRANSTON. I appreciate the Senator's amendment; I support it. I returned from California to support it and to be here when the bill is considered. However, I have no objection to it going over until Monday. I should like to know if we are going to have any other votes today if this is put over until Monday.

One other point. I wish the Senator from Rhode Island would take into account the fact that with so many performing artists coming from California, he should be more prudent about who he suggests should run for the Senate of the United States.

Mr. PASTORE. May I answer that?

Mr. MANSFIELD. Yes.

Mr. PASTORE. Next to you, anybody.

Mr. MANSFIELD. We have two of them there, you know.

The PRESIDING OFFICER. Is there objection?

Mr. HUGH SCOTT. The Senator from North Carolina agreed to my suggestion that if it is to be deleted, and I hate to preside at the burial of a friend, but if it is deleted, may we have an understanding that there will be hearings held? Is that the understanding of the Senator from North Carolina?

Mr. ERVIN. If it is deleted, it is dead.

The Senator says that he has been working for this since 1944. I do not think there would be any use in hearings if it is deleted, because, as a matter of fact, if the Senate committee had considered the bill as it passed the House, this would never have been in it, because they would have had to move to amend, and eight members of the Committee on the Judiciary are opposed to this performing artist warranty. They think it is against the Constitution and not good economics. So if it is deleted, the Senator would have to offer another bill in the next session or some other time.

Mr. HUGH SCOTT. Still reserving the right to object, I think the Senator will recall that this was reported out of the Committee on the Judiciary by a majority vote

Mr. ERVIN. Oh, no. It was 8 to 8.

Mr. HUGH SCOTT. It still was reported out.

Mr. ERVIN. The bill that passed the House without these warranties in it. The bill that the Senator is talking of was rewritten before it was introduced. Then, when it was put in the bill and I offered an amendment to strike them, I got eight votes against me, and my amendment failed because it did not get a majority vote.

Mr. HUGH SCOTT. The Senator is acting like a Philadelphia lawyer, I am afraid. He lost.

Mr. ERVIN. I lost because, if they had taken the House bill and allowed us to vote on the House bill, the Senator from Pennsylvania would have had to act like a Philadelphia lawyer and offer an amendment to put in these new, bogus royalties. Then he would have lost the same way I lost, by an 8 to 8 vote.

Mr. HUGH SCOTT. All I am suggesting is that the Senator lost in committee and he is liable to win on the floor. But I hope he will be gracious in victory, and I hope he will be able to explain it to all of the thousands of performing artists in the country, who are deprived of a benefit to which I think they have a rightful claim.

Mr. ERVIN. I can, because the Constitution of the United States does not give the Congress the power to give a warranty to a performing artist or a record maker. It only gives it to authors.

Mr. HUGH SCOTT. I cannot agree with the Senator. I know the Constitution is his personal property and I hesitate to question him.

Mr. ERVIN. I do not propose to stand by and see the Senator from Pennsylvania mangle the Constitution.

Mr. HUGH SCOTT. The Senator may be sure that I do not mangle the Constitution. I read it differently from the Senator from North Carolina, and I must say in all modesty I read it better. But since the Senator wishes to shield himself behind the Constitution, and thereby deny money that people are needing, I must submit that he has the votes. If the Senator will not agree to a hearing, I can introduce another bill and we can hold hearings in the Senator from Arkansas' committee.

Mr. ERVIN. If the Senator from Pennsylvania thinks we have the votes and we can agree to this amendment with a voice vote, we can then proceed on Monday with other amendments.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I wish to add to that resolution the proviso that if the amendment which the distinguished Senator from North Carolina (Mr. ERVIN) offers is rejected, it will be followed immediately by a motion to recommit, to be offered by the distinguished Senator from North Carolina.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. Mr. President, reserving the right to object, if there is going to be a motion to recommit in connection with this amendment, I would certainly hope we could make the motion now and vote on it first.

Several Senators addressed the Chair.

Mr. MANSFIELD. Only if it fails.

Mr. ERVIN. Then a motion would be in order?

Mr. MANSFIELD. Yes.

Mr. ERVIN. All right. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. It is understood that this motion to recommit will be offered only if the first motion is defeated.

Mr. HUGH SCOTT. Mr. President, reserving the right to object, just to be clearer, I would like to make the point that I would have no objection to a motion to recommit occurring today. I would hope it would occur before 1 o'clock, or 1:15, or something, but if the Senator is prepared to make the motion to recommit today, I would prefer it.

Mr. ERVIN. I would say that I would not care to make a motion to recommit if the amendment is agreed to. I would have no reason to.

Mr. MANSFIELD. Mr. President, may I ask the distinguished Senator from North Carolina if he intends to make his points in support of his proposals this afternoon?

Mr. ERVIN. Yes, I will be delighted to.

Mr. HUGH SCOTT. Mr. President, will the Senator from Montana permit a further suggestion?

Mr. MANSFIELD. Yes, indeed.

Mr. HUGH SCOTT. Would it be possible to have a vote on the motion to recommit before the vote on the performing artists amendment?

Mr. ERVIN. No. If we agree to the amendment, I would withdraw the motion to recommit.

The PRESIDING OFFICER (Mr. INOUYE). The Chair has been advised by the Parliamentarian that there is pending before the body a unanimous-consent request submitted by the Senator from North Carolina.

Mr. HUGH SCOTT. Will the Chair state the request?

The PRESIDING OFFICER. Is there objection to that request?

Mr. HUGH SCOTT. Will the Chair restate the request, please?

The PRESIDING OFFICER. That there be no votes taken before the consideration of his amendment, and that it be in order for him to offer his amendment at this time.

Mr. McCLELLAN. Mr. President, reserving the right to object, as I understand the situation now, this amendment of the distinguished Senator from North Carolina is the pending business.

Mr. MANSFIELD. That is correct.

Mr. McCLELLAN. It is the pending business, and there will be no votes on any other amendments unless some procedure provides for it. As of now, there would be no votes on any other amendments until this amendment is disposed of.

I would think, however, that a motion to recommit is in order at any time. I do not know.

Mr. HUGH SCOTT. That is what I am trying to preserve here, the right to move to recommit at any time, rather than to have that a part of the unanimous-consent request. I would prefer it that way.

Mr. ERVIN. I have withdrawn my motion to recommit. I would not care to renew it if the amendment is adopted.

Mr. MANSFIELD. But with the proviso that if the pending amendment is defeated on Monday, then it will be followed by a vote on the motion to recommit.

Mr. HUGH SCOTT. I would like it understood that any Senator is free to make a motion to recommit prior to the vote on the Ervin amendment.

Mr. MANSFIELD. That is his right.

Mr. ERVIN. Mr. President, if the Senator from Pennsylvania will move to recommit now, I will cosponsor his motion.

Mr. MANSFIELD. Mr. President, I would hope the Senator would not, because a number of Senators have been led to believe the vote would occur on Monday, and in the best interests of all concerned I would appreciate it if the Senator would not make such a motion.

Mr. HUGH SCOTT. I defer to the distinguished majority leader, because in his case the quality of mercy is not strained, and I have found a certain strain in my conversation with the Senator from North Carolina, whom I also respect and admire.

Mr. ERVIN. The quality of the Constitution has not been strained by the Senator from North Carolina; it has been strained by my friend from Pennsylvania.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. Is there any motion or unanimous-consent request now pending?

The PRESIDING OFFICER. The unanimous-consent request submitted by the Senator from North Carolina is pending.

Mr. McCLELLAN. I thought it had been agreed to.

Mr. HUGH SCOTT. Mr. President, I think under the circumstances we had better let it go, with the understanding that any Senator may move to recommit prior to this vote on Monday. In consideration of Senators who might not be able to get here right this minute, perhaps we had better let it go until Monday.

The PRESIDING OFFICER. Without objection, the unanimous consent request——

Mr. GRIFFIN. Mr. President, reserving the right to object, to be sure the minority leader understands, as I understand it the unanimous-consent request, if agreed to, would preclude any motion to recommit prior to the vote on the amendment Monday at 3 o'clock.

The PRESIDING OFFICER. It will not.

Mr. HUGH SCOTT. Then, Mr. President, unless we can get an agreement that any Senator may offer a motion to recommit prior, immediately prior to the time of the vote on the amendment of the Senator from North Carolina——

The PRESIDING OFFICER. The Senator is correct.

Mr. HUGH SCOTT. I would be constrained, to use the Senator's great word, to object; and if the Senator could agree that the unanimous-consent agreement be so modified, I would be in accord with that.

Mr. ERVIN. Did the Senator address his remarks to me?

Mr. HUGH SCOTT. Well, rather hopefully I did.

Mr. ERVIN. I have no objection to that, if we have the time set to vote on the amendment with the understanding that if any Senator wants to make a motion to recommit before that vote, he has that power.

Mr. HUGH SCOTT. I would agree to that.

The PRESIDING OFFICER. With that modification, is there objection? The Chiar hears none, and it is so ordered.

The Clerk will report the amendment.

The amendment was stated as follows:

The Senator from North Carolina (Mr. ERVIN) on behalf of himself and others proposes an amendment, No. 1846.

Mr. GURNEY. Will the Senator from North Carolina yield?

Mr. ERVIN. Yes, I yield to the Senator from Florida who is a cosponsor of the amendment.

Mr. GURNEY. Yes; and I do want to say as strongly as I can that I am totally in favor of the amendment and I think when the Senate reads the RECORD made today and we have the vote on it on Monday, the amendment will prevail.

However, there is one point that does bother me, and that point came out in the earlier colloquy which several of us had here on the floor prior to the beginning of the floor statements on the bill, and that, of course, refers to the situation which is going to occur on Monday.

We have had a unanimous-consent agreement that we will vote upon the amendment of the Senator from North Carolina on Monday afternoon, and if that amendment prevails, then we will go on, of course, and consider other amendments to the bill and, hopefully, pass this very fine copyright bill.

If the amendment fails, of course, then the unanimous-consent agreement provided that there would be an immediate vote upon recommittal.

We agreed to that unanimous consent, but after it we had some further conversation. That conversation indicated very clearly to me that one of the Senators who feels very strongly about the fact that recording artists should receive royalties wants to recommit the bill, so that hearings could be held upon it, upon this subject, and he indicated that he might well offer a motion to recommit, which it was agreed he could at any time.

That vote, of course, would precede the vote upon the Senator from North Carolina's amendment, and if the bill goes back to the committee it is my feeling that probably we will have no copyright bill this year at all, and heaven knows when we will.

So what we really need to do, if that procedure is adhered to, if the Senator from Pennsylvania or some other Senator offers a motion to recommit which is voted upon prior to the vote upon the Senator from North Carolina's amendment, then I think we should make it very clear to the Senate, and this is the purpose of this colloquy, that that motion to recommit should be voted down so that then we can vote first, seriously, upon the amendment of the Senator from North Carolina.

Mr. ERVIN. I agree with the distinguished Senator from Florida on that point.

I made a motion with instructions, originally, simply because so many Senators were absent and I thought they could still have an opportunity to vote on the amendment. I am sorry my distinguished friend from Pennsylvania is not here.

I think the reservation I agreed to in the unanimous-consent agreement at his request was what we call in North Carolina a heads I win, tails you lose proposition.

I think the distinguished Senator from Pennsylvania wants to count the votes of the Members of the Senate. If he finds out the majority are wise enough to support my amendment, he would make a motion to commit instead of pressing the burial of his pet amendment.

Therefore, I agree with the Senator from Florida that if a motion to recommit is made before the amendment is voted on, that that motion to recommit should be defeated.

Mr. HRUSKA. Will the Senator yield?

Mr. ERVIN. I am happy to yield to the Senator from Nebraska who is one of the cosponsors of this amendment.

Mr. HRUSKA. Not only am I a cosponsor of the amendment, but I am in full support of it and I want to associate myself with the remarks which the Senator from North Carolina has just completed in support of his amendment.

I do believe it would be regrettable if there were a premature motion to recommit before the vote is taken on the amendment of the Senator from North Carolina. The reason for this is that it would mean that this bill would be lost for this session altogether. It would mean perhaps that the chairman of the subcommittee would not want to go forward with it even next year until the other body has acted upon the bill.

Mr. President, too much time, talent and effort has been expended upon the rest of this bill, which has great merit, with some amendments that will be proposed and disposed of. Too much time has been invested in it to suggest the loss in this body of this bill.

So I would join with the Senator's suggestion that if a motion to recommit is made prematurely, this body should turn it down, vote at 3 o'clock or as soon thereafter as possible upon the amendment made by the Senator from North Carolina, and then proceed in the light of the result of that vote.

Mr. ERVIN. I would like to state, Mr. President, that I agree with everything that the distinguished Senator from Florida and the distinguished Senator from Nebraska have said on this point.

Mr. GURNEY. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. GURNEY. I want to thank the Senator from North Carolina for yielding. Both Senators are supporting this strategy of the Senate that we will engage in on Monday next. I would hope that the Senators and their staff who are interested in handling this particular piece of legislation would be so advised if we do, indeed, vote down that motion to recommit, if it is made prior to the vote upon the amendment of the Senator from North Carolina.

I would like to add simply to what the Senator from Nebraska said. A great deal of work has gone into this copyright bill. It has been pending, as I understand it, for 7 years before the Judiciary Committee. The basic law has really not been revised for 65 years, except in small portions here and there.

This is a good bill and we do need it, with a few amendments, particularly the one now being offered and discussed by the Senator from North Carolina. I would certainly hope—and I am delighted that my distinguished colleagues from North Carolina and Nebraska have agreed with me—that the Senate should vote down any motion to recommit prior to the vote on the amendment of the Senator from North Carolina.

I thank the Senator.

Mr. McCLELLAN. Mr. President, is there now any motion or unanimous-consent request pending?

The PRESIDING OFFICER. There is none pending.

Mr. McCLELLAN. Mr. President, the Senate at long last is today proceeding to the consideration of legislation for the general revision of the copyright law. The adoption of copyright legislation is one of the powers of the Congress specifically enumerated in article I of the Constitution. Our first copyright law was enacted in the very first session of the Congress in 1790. Since then it has been revised generally on only three occasions, the last being in 1909.

Copyright revision legislation has been under consideration by the Subcommittee on Copyrights for a number of years. The subcommittee held 19 days of hearings receiving testimony from approximately 200 witnesses. Unfortunately the progress of this legislation was necessarily delayed because of events beyond the control of the subcommittee.

Although this legislation provides for a complete revision of title 17 of the United States Code, only a few sections of S. 1361 are highly controversial. While it is understandable that our debate should focus on those sections, it should not obscure the many beneficial provisions of this legislation, which are not in dispute.

The Constitution makes clear that the purpose for protecting the writings of an author is to promote the public interest. But, as stated in the committee report on the act of 1909—

> The granting of such exclusive rights, under the proper terms and conditions, confers a benefit upon the public that outweighs the evils of the temporary monopoly.

Some of the most important provisions of this legislation are found in chapter 3 relating to the duration of copyright. The existing statute provides for an initial term of 28 years with the option of a renewal for a second term of the same duration. This legislation establishes a general copyright term enduring for the life of the author and 50 years after his death. The adoption of this term will bring U.S. law into conformity with the generally recognized international standard. However, the treatment of authors and other creators under this legislation is less favorable than in the copyright legislation of most major nations of the Western World.

With respect to the use of copyrighted materials for nonprofit purposes, the bill in my judgment provides a carefully structured balance between the legitimate rights of the creators, and the reasonable needs of users. Particular attention has been given in this legislation to the needs of classroom teachers and public libraries. A detailed discussion of these subjects is contained in those portions of the Judiciary Committee report devoted to an explanation of sections 107 and 108 of S. 1361. While the report of the committee accurately reflects a sharp difference of opinion on other sections of the bill, the committee achieved satisfactory and workable compromises on these issues. The committee is satisfied that the provisions of this legislation will not interfere with the reasonable needs of education and libraries. I can assure the Senate that the committee carefully considered the scope of all the educational and library exemptions. I hope that the Senate will not disturb the delicate balance achieved on these issues by the committee.

No section of this legislation has been more burdensome to the Committee than section 111 relating to secondary transmissions by cable television systems. I have long been of the view that a fair and workable resolution of the CATV controversy required a coordinated resolution of regulatory and copyright issues. The copyright legislation initially came before the Subcommittee at a time when the Federal Communications Commission was effectively freezing the orderly development of the cable industry and denying millions of our citizens of the varied services which can be provided by cable. Consequently the subcommittee found it necessary in its initial reporting of section 111 to include some provisions of a regulatory nature.

On December 19, 1969, I wrote to the chairman of the Committee on Commerce stating that I was prepared to recommend a delay of several months in floor action on the copyright bill if the Commerce Committee desired to consider and report CATV regulatory legislation. The Commerce Committee consulted the Federal Communications Commission and subsequently the chairman of the Subcommittee on Communications introduced legislation drafted by the Commission. On March 25, 1970, in introducing that legislation the senior Senator from Rhode Island (Mr. PASTORE) stated—

> It is my hope that the Committee will hold hearings on this proposal in the very near future.

No legislation on this subject was reported and apparently none was actively considered by the Commerce Committee although a number of such bills were introduced and referred to that committee.

During this period the Federal Communications Committee under the able leadership of its then Chairman, Dean Burch, commenced a CATV rulemaking proceeding. After some efforts to delay the adoption of the Commission rules, the rules became effective on March 15, 1972. The Commission acted in the expectation that the Congress would then proceed with the resolution of the cable copyright issues. Meanwhile, the Supreme Court in two cases held that cable systems were not liable for copyright infringement under the act of 1909.

The approach taken in section 111 is to resolve the copyright issues on the basis of the regulatory scheme adopted by the Commission. This legislation does not determine what signals may be carried by cable television systems. It grants to cable systems a copyright compulsory license to carry such signals as are authorized by the regulations of the Commission. As a condition of the compulsory license, under the bill as reported by the Judiciary Committee, all cable systems would be required to pay a reasonable copyright royalty, the initial schedule of which is established by this legislation. While the committee was divided on the amount of the copyright royalties to be paid, there was general agreement that the Congress should initially establish the rates, subject to the provisions of chapter 8 of S. 1361 providing for impartial periodic review of the rates by the Copyright Royalty Tribunal.

The section of the bill that produced the sharpest division within the Judiciary Committee is section 114 which would establish a performance royalty in sound recordings. Under this section, the commercial users of recordings would be required to pay a copyright royalty to recording artists and the record companies which produce such copyrighted material. Very effective arguments have been presented on both sides of this question. The only comment I wish to make on this section of the bill relates to the contentions of certain of the opponents that the provision is a "rip-off" that was slipped into the bill. To the contrary, this is a very responsible proposal which deserves our careful attention. As described in more detail in the Committee report, most major Western nations have adopted similar provisions in their copyright or related legislation.

The general revision of the copyright law occurs infrequently. The country for many years will have to live with whatever bill is ultimately enacted. Therefore, the committee has taken particular care that the language of the bill is sufficiently flexible to allow for further evolution in technology and communications. In considering proposed amendments we must be careful not to adopt provisions, whose intent is unclear, and which may cause difficulties for many years.

I am reminded of this because of a personal experience with the ill-advised jukebox exemption that was adopted by the Congress in the act of 1909. When I came to the House of Representatives in 1935 one of the first bills that I recall being considered at a hearing was legislation to repeal the jukebox exemption. Almost 40 years later I find myself as the manager of legislation which would finally repeal that exemption.

As one who has struggled with this bill for many years, I can assure my colleagues that it is impossible to satisfy everyone. Whatever we do will disappoint some interest. It would, perhaps, have been more popular for me to have adopted different positions on some issues in this legislation, or to abandon good faith commitments when circumstances changed.

The Judiciary Committee has tried to resolve each issue by applying the standard of what best promotes the constitutional mandate to encourage and reward authorship. Some may disagree with the conclusions we have reached. All that I ask of them is that they also resolve these issues on the basis of what is right for the country, and just for the various interests.

Mr. President, it is doubtful if the House of Representatives will have time to act on this legislation in the remaining weeks of this session. However, Senate passage of S. 1361 will serve a useful purpose in that it will facilitate final action on copyright revision legislation in the next Congress. I anticipate that the bill passed by the Senate will be reintroduced at the start of the 94th Congress, and it should be then processed expeditiously. Our goal should be the enactment of a new copyright statute by the end of 1975.

Mr. HUGH SCOTT. Mr. President, I am delighted that the Senate is now considering the copyright revision bill, S. 1361. It is only through the fine and diligent efforts of Senator JOHN MCCLELLAN that the bill is to be voted upon. As chairman of the Subcommittee on Patents, Trademarks, and Copyrights, Senator MCCLELLAN has done a masterful job in producing a substantive reform of our copyright statutes. Although this bill has placed heavy responsibilities on Senator MCCLELLAN's time, he has always placed copyright reform at the top of his legislative priorities. I would like to extend my personal congratulations for his fine efforts on this bill.

In the next several days a number of amendments to S. 1361 will be discussed. Generally, I think the bill as approved by the Senate Judiciary Committee constitutes a good compromise approach to the many conflicting legitimate interests touched by this revision of our copyright law.

I would like to note my approval of a suggestion of the Commerce Committee that was advanced by Senator PHILIP HART. Senator HART's amendment would direct the Federal Communications Commission to establish rules governing the carriage of sports events on cable television. The amendment favors neither the cable television nor the sports interests. The Committee has advanced certain basic criteria for studying this complex issue that are designed to balance the competing but legitimate rights of sports and cable television. Under the amendment, the Federal Communications Commission is provided with adequate time to give the issue full detailed analysis. It is crucial to point out that the FCC on July 17, 1974, approved identical language. Although the majority of the Judiciary Committee in its review of S. 1361 did not vote to include a similar amendment in the bill, I am very hopeful the approach of the Commerce Committee to sports and cable television will obtain wide acceptance.

There is another important issue I feel very strongly about. Section 114 of S. 1361 establishes a performance royalty for performing artists, musicians, and record companies in recorded music that is performed for profit. This is an idea I have endorsed for more than 30 years. My full comments on section 114 have been printed in my additional views to the Judiciary Committee Report—93–983—of S. 1361. I was personally delighted when the Judiciary Committee voted to retain section 114. The Commerce Committee, on the other hand, after its very brief study of the bill recommended rejection of the performance royalty. I think this was unfortunate since after a great deal of consideration Senator MCCLELLAN's Copyright Subcommittee and the Senate Judiciary Committee approved it. I do hope the Senate will endorse the performance royalty. However, because of the strong views of some of the members of the Commerce Committee that they have not had adequate opportunity to hear from broadcasters, performers, and record companies on the equities of the issue, I have no objection to removing section 114 from the bill to permit such futher considerations. Thus, though I will support removal of section 114 from the bill at this time, this should not be considered any determination of the issue on its merits. This will simply allow all Senators more time to study the merits of the performance royalty. I would encourage Senator PASTORE to provide an opportunity for hearings of this issue in his subcommittees. I will personally be happy to testify at any time on the strong factors supporting the establishment of a performance royalty.

Copyright reform has languished for far too long. Too many problems in this technical area will continue to arise until substantive copyright reform becomes a reality.

Mr. ERVIN. I would like to make some remarks in support of my amendment.

Mr. HUGH SCOTT. We have made some wise lucubrations.

Mr. ERVIN. Yes, I think the Senator has been wise not to argue the point. But I would hope that I can show him the error of his ways.

Mr. GURNEY. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. GURNEY. Mr. President, there is a genuine need for reform of the Copyright Act in light of technological and scientific advances since its enactment in 1909. Congressional action to update the copyright law is long overdue.

S. 1361, a bill for the general revision of the copyright law, title 17 of the United States Code, which we are now considering, is an important and historic piece of legislation. In general, I consider S. 1361 to be a well-drafted document. It is fair to say that it is an accurate restatement of judicial decisions in the copyright field, and it provides genuine reform. The bill reflects the significant developments in technology and communications which have rendered the existing law inadequate to our country's present-day needs. For instance, S. 1361 takes into account changes in such areas as commercial and educational broadcasting, cable television, photocopying, videotaping, microfilming, and computer programing.

S. 1361 is a product of over 10 years' work by the Subcommittee on Patents, Trademarks and Copyrights. The distinguished senior Senator from Arkansas, Mr. McCLELLAN, who introduced this bill in the 93d Congress, should be congratulated for his able leadership and for the outstanding work of his subcommittee's staff in this important legislative field.

Because S. 1361 is a lengthy and comprehensive bill dealing with a complex legal subject, it is not surprising that it contains some sections which have generated considerable controversy and have produced amendments and proposals for amendment in both the Judiciary and Commerce Committees.

At this time I would like to discuss briefly a few of these controversial provisions, especially sections 111 and 114 relating to cable television and the recording arts performance royalty.

Section 111 provides for the first time that community antenna television systems must obtain compulsory licenses to retransmit TV programs and must make copyright payments by virtue of the fact that they provide reception to viewers of television broadcast signals. At present, cable operators do not pay for the programs they carry. Despite numerous court decisions finding no copyright liability under existing law, and although owners and producers of copyrighted works are already compensated by TV stations and networks, the CATV industry has agreed to pay royalties for its service.

In the original draft of the bill, section 111 would have imposed a virtual blackout on CATV systems of many televised sports programs. Under the language of former subsection (c)(2)(C), a CATV system within the local service area of any TV station—and most systems are—would have been prevented from carrying sports events at any time, without first obtaining special permission from the sports teams involved—even though reception of distant stations' signals were permitted under FCC rules and the games could be broadcast by local TV stations.

Accordingly, I introduced an amendment to delete this "sports blackout" provision from S. 1361. The response I received from my constituents was overwhelming. Letters and phone calls poured into my office from viewers who depend on CATV for viewing sports, from mayors and city councilmen of cities and towns with local cable systems, and from small cable operators in Florida and CATV systems all over the country—and they were unanimously opposed to the sports blackout provision.

The Judiciary Committee in executive session adopted my amendment to eliminate the sports blackout provision on a 12 to 2 vote. However, when the copyright revision bill was referred to the Committee on Commerce, my good friend and able colleague, the distinguished senior Senator from Michigan, Senator HART, who was one of the two Judiciary Committee members voting to retain the sports blackout language, was successful in inserting into the bill as new subsection (c)(1)(C) a so-called compromise provision.

Under the Hart amendment it is an act of copyright infringement for any CATV system to retransmit sports events where carriage is not permitted under FCC rules. The amendment directs the FCC to adopt such rules whereby it "may consider the effect upon broadcasting, cable television, and sports of the policy objectives contained in Public Law 87-331" and other appropriate factors. Public Law 87-331 provides for exemption from antitrust laws for professional sports agreements. Thus the policy objectives to be considered by the Commission must include preferential treatment for professional sports.

As it stands, the judiciary version of S. 1361 makes no reference to sports blackout on CATV or to mandatory or discretionary referral to the FCC or to special consideration for sports. The Judiciary Committee's report, at page 132, does state that protection for sports is an issue more properly left to the rulemaking process of the FCC. Certainly this seems to me an appropriate way to handle the sports blackout issue, and in fact, the FCC is currently considering this very problem.

The Federal Communications Commission has already asserted its jurisdiction over cable television matters. Furthermore, the FCC has been considering a docket concerning CATV's carriage of sports for 2 years, and it claims it can act without specifice policy guidelines from the Senate. Final Commission rulemaking on this matter is expected at any time. Therefore, it would be premature and unwise for the Senate to insert this amendment on this issue to this bill at this time. Once the FCC's rulemaking has taken effect, the Congress can respond as it sees fit, if it need to. Moreover, there were no hearings and little debate in the Commerce Committee on the Hart proposal. Under the circumstances I think the Senate would be ill advised to take precipitous action regarding the CATV sports blackout before the FCC has reached its decision, particularly when the amendment which is now before us may have such negative and far-reaching consequences for so many parties.

Now, I am not suggesting that the Senate should cop out on this controversial issue. I am not saying that we avoid taking a position on CATV sports blackouts merely because the FCC claims greater expertise in this area. In fact, I hope that the Senate will thoroughly discuss this important matter and will decisively vote against the Hart-Commerce amendment.

I do not wish to imply that the FCC should not take up the matter of sports on cable television. After all, professional sports has a legitimate concern in its own future. And the Federal Communications Commission as the agency which is concerned directly with broadcasting and CATV should study and if necessary promulgate rules which touch upon the effects of TV and CATV upon sports.

But it is possible that the Commission's rulemaking in this area could effectively eliminate sports programing on CATV systems. That, in my opinion, would be a disaster for millions of sports loving, CATV viewing consumers and for hundreds of small local cable operators. Therefore, Congress should not merely shunt off this issue to a Federal agency and leave unresolved a problem which is of major significance to millions of Americans who rely upon CATV exclusively to view televised sports events. Congress has the responsibility to provide policy guidance and direction to the FCC in this matter. In so doing, it should advise the commissioners and those in the cable bureau and others at the FCC who may be concerned with the CATV and sports issues that any rulemaking which they might adopt which provides for a sports blackout on the cable systems of our country is contrary to public policy. That is why it is important that we take a positive stand on this sports blackout issue and why we should reject the Hart-Commerce amendment.

In my opinion, any provision in the copyright law which could lead to a virtual blackout of sports on CATV would be grossly unfair to Americans who are dependent on cable television for their favorite sports entertainment. In many areas of Florida—which has 106 operating CATV systems—viewers would be unable to watch the professional baseball, football, hockey, or basketball games carried on TV which they can now enjoy as cable subscribers.

Personally, I am not convinced that importation by CATV systems of distant broadcast signals carrying professional sports events will necessarily cause harm to local sports enterprises. I have seen no evidence, and none has been offered, to substantiate this charge. CATV can now carry all the programs offered on TV stations, consistent with FCC carriage and nonduplication rules, and there is nothing to indicate that retransmission by cable has any damaging effect at all upon attendance at home games or the profits of sports clubs. In fact, thanks largely to TV and CATV, all sports, particularly professional sports, have been enjoying tremendous popularity in this country. If game attendance is lagging or public interest in particular teams or events seems to be wanning, it is not, I suggest, the fault of CATV.

In addition, I do not favor granting special treatment in the copyright law, to professional sports which is not also available to amateur athletics, movie theaters or other businesses which arguably might be affected in a negative fashion by the importation of programming by CATV systems.

In general, I do not like legislation granting special favors to particular businesses or industries to the detriment of others and at the expense of the American people. The Hart-Commerce language, which is now before us, like the sports blackout provision which was previously rejected by the Judicary Committee, assumes that professional sports enterprises deserve some special considerations not afforded to others. It should be pointed out that professional sports already enjoys preferential treatment in the law. For instance, Congress has granted limited TV blackouts in hometown areas where games are not sold out in advance. And professional sports agreements receive an exemption from antitrust laws under Public Law 87-331, the specific act cited in the Hart amendment. I think it would be unwise to insert such discriminatory language into a new copyright bill which, like its predecessor act, will be law for many decades.

Any exception carved out in that law for professional sports would be contrary to the purpose and concept of the compulsory licensing established in S. 1361. Under section 111, CATV systems are to purchase licenses at reasonable rates so that they can retransmit to subscribers programs broadcast by TV stations, probably at high prices, for sports programs, normally carried—and already paid for—by TV networks and stations.

It is obvious that a sports blackout provision could be financially disastrous to cable operators throughout the country. Struggling CATV's, faced with high capital outlays and mounting overhead expenses, would be unable to meet the demands for additional payments of giant sports enterprises. They could then be arbitrarily denied access to popular sports entertainment. It is doubtful that they could attract new subscribers or even keep the present ones. With the consequent loss in subscriber revenues and the disappearance of investment capital, the CATV industry could suffer irreparable damage. I do not believe that the Congress wants to enact legislation which could produce such undesirable results to both the viewing public and the CATV industry.

I believe that the American people will benefit from the growth and development of CATV in our country. We need more diversity and greater choice in programing; increased competition and more experimentation in the communications field. I believe that the copyright revision bill adopted by the Judiciary Committee should provide a healthy climate for cable television, as well as for sports and the entertainment business. Therefore, I urge you all to vote for section 111 as passed by the Judiciary Committee and to table the Hart-Commerce amendment and the language in subsection (c)(2)(C) that refers the CATV sports blackout issue to the FCC.

The problem related to section 114 and the recording arts performance royalty is somewhat different.

As passed by the Judiciary Committee, S. 1361 establishes a copyright in sound recordings and provides that for the first time all radio and television stations, CATV systems, jukebox operators, background music operators and others who play records for profit must make royalty payments to performers and recording companies. Failure to deposit with the copyright royalty tribunal, the fees set out in section 114 would render the public performance of recordings an act of copyright infringement.

In the Judiciary Committee I introduced an amendment to exempt all broadcasting stations from copyright liability and to delete the royalty payments required under section 114. Senator ERVIN proposed an amendment—similar to the amendment which we are about to consider—which would eliminate completely the copyright in sound recordings. Both amendments failed on 8 to 8 tie votes.

A "compromise" was reached by the Judiciary Committee on the amount of copyright fees that broadcasters would have to pay. Stations with annual gross receipts from advertisers totaling less than $25,000 are exempt. If a station grosses $25,000 to $100,000, it pays $250 per year; $100,001 to $200,000, it pays $750 per year; over $200,000, it pays 1 percent of net receipts or a prorated rate.

When S. 1361 reached the Commerce Committee, a number of changes affecting broadcasters and the jukebox industry were made in the copyright bill, many of which will be discussed later at greater length. For the moment I shall touch briefly on those provisions which deal with radio and television stations.

In effect, the Commerce Committee adopted the Gurney amendment by exempting broadcasters, in section 110(8), and deleting the royalty payments for broadcasting stations in section 114. While I am pleased that the Commerce Committee endorsed my position with regard to radio and TV stations, I regret that it also retained the copyright liability for jukebox operators and others who play records for profit. In my opinion, there is no sound reason for creating a new property right in sound recordings in the copyright law or for treating broadcasters any differently than the jukebox operators, CATV systems or other businessmen.

Fortunately, the Senate has the opportunity to rectify this inequitable situation by voting for the Ervin amendment to the copyright revision bill.

The language of the amendment introduced by the senior Senator from North Carolina clears up any confusion which may exist as a result of the Commerce Committee admendments to the judiciary bill. The amendment does not establish any new rights or requirements for anyone nor does it take anything away from anyone. It merely states what has been the law and the widely accepted fact for many years—namely, that there is no compensable property right in sound recordings and no recording arts performance royalty for broadcasters because they play records for profit. In my opinion, this situation is equitable, it works well, and it should remain unchanged. That is why I am pleased to be a cosponsor of the Ervin amendment.

Broadcasting stations have for years benefited performers and recording companies alike, as well as the listening public, by providing exposure for new recordings. I do not believe that licensees should now be compelled to pay for this service and in so doing, incur an added, often prohibitive cost to their broadcast operations. Broadcasters should not have to pay fees to record companies and recording artists who benefit most under the current arrangement.

Royalty payments are also inconsistent with the long-standing commercial relationship of the parties and have not been recognized by the courts. The antipiracy statute, Public Law 92-140, which Congress enacted a few years ago to prevent illegal copying and sale of recordings, established a limited copyright in sound recordings. This provision survives in the bill, is sufficient protection for performers and recording companies, and deserves support. However, I oppose creating a new compensable property right in the law at the expense of broadcasters.

Many broadcasters—especially small town radio stations and marginal operators in metropolitan areas—simply cannot afford the additional royalty payments. Many stations, faced with high operating costs and heavy competition, will be hit disastrously if S. 1361 is not amended.

The royalty costs cannot always be passed along automatically to advertisers, and if they are passed on, the consumers will be hit, too. Stations may be forced to cut back on non-revenue-producing news and public affairs programing to meet the added cost of the fees. That would hurt all of us listeners.

I should point out that radio stations already pay negotiated fees amounting to roughly 3.7 percent of their gross revenues to music licensing organizations, like ASCAP, BMI and SESAC, representing composers and publishers. Thus broadcasters do pay for the records they play and they do not get "a free ride." The records used by disc jockeys are usually donated to the stations so that they receive exposure by on-air play.

Copyright payments to composers and publishers will continue under section 115 of the bill. But I see no good argument to extend broadcasters' liability to record manufacturers and performers. Whether or not they are really "authors and inventors" in the constitutional sense, their contributions do not merit copyright protection.

Record industry revenues have increased substantially over the past decade whereas radio profit margins have been stable or declining during that period. Studies show that the giant record industry and the performing artists are profiting handsomely from the sale and use of recordings under the present setup. Thus, there is no need for these additional revenues at the expense of broadcasters. If performers are insufficiently compensated, it seems to me that their gripe should be with the record companies who hire them, not with the stations that happen to use their products.

For these reasons I hope the Senate will approve the Ervin amendment to S. 1361.

In general—except for the Ervin amendment, which I have discussed briefly, and the Baker amendment, which deals with a special problem between Vanderbilt University and CBS and will be discussed later—the Judiciary Committee's draft of the copyright revision bill is preferable to the version adopted by the Commerce Committee. Therefore, I urge you to vote in favor of the Judiciary bill and against the Commerce amendments, especially the Hart "sports blackout" amendment I discussed. I sincerely hope that Congress will enact S. 1361 during this session and that America will soon enjoy the benefits from a modern copyright law.

Mr. ERVIN. Mr. President, I wish to make a few remarks.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ERVIN. Mr. President, this amendment is offered on behalf of myself and 21 other Members of the Senate, the Senator from Rhode Island (Mr. PASTORE), the Senator from Florida (Mr. GURNEY), the Senator from Texas (Mr. BENTSEN), the Senator from Oregon (Mr. HATFIELD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Nebraska (Mr. HRUSKA), the Senator from Iowa (Mr. CLARK), the Senator from South Carolina (Mr. THURMOND), the Senator from South Dakota (Mr. MCGOVERN), the senior Senator from Nebraska (Mr. CURTIS), the junior Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. DOLE), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from South Dakota (Mr. ABOUREZK), my colleague from North Carolina (Mr. HELMS), the Senator from New Mexico (Mr. DOMENICI), the Senator from North Dakota (Mr. YOUNG), the Senator from Georgia (Mr. NUNN), the Senator from Alaska (Mr. STEVENS), the Senator from Arizona (Mr. FANNIN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Alabama (Mr. ALLEN).

I ask unanimous consent that the RECORD show that these 22 Senators joined me in cosponsoring this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I rise to urge that the Senate adopt an amendment, this amendment, to S. 1361.

First, Mr. President, I ask unanimous consent that the statement of the amendment by the clerk be omitted, and that I be permitted to state the purpose and the effect of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 88, strike out lines 13 and 14, and insert in lieu thereof "audible,".

On page 92, line 34, strike out "and sound recording,".

On page 96, lines 8 and 9, strike out "or of a sound recording,".

On page 96, lines 28 and 29, strike out "or of a sound recording,".

On page 96, lines 31 and 32, strike out "or of a sound recording,".

On page 97, lines 21 and 22, strike out "or of a sound recording".

On page 97, lines 25 and 26, strike out "or of a sound recording".

On page 105, beginning with line 1, strike out all that follows through page 109, line 17, and insert in lieu thereof the following:

"§ 114. Scope of exclusive rights in sound recordings

"(a) The exclusive rights of the owner of copyright in a sound recording are limited to the rights specified by clauses (1) and (3) of section 106, and do not include any right of performance under section 106(4).

"(b) The exclusive right of the owner of copyright in a sound recording to reproduce it under section 106(1) is limited to the right to duplicate the sound recording in the form of phonorecords that directly or indirectly recapture the actual sounds fixed in the recording. This right does not extend to the making or duplication of another sound recording that is an independent fixation of other sounds, even though such sounds imitate or simulate those in the copyrighted sound recording.

"(c) This section does not limit or impair the exclusive right to perform publicly, by means of a phonorecord, any of the works specified by section 106(4).".

On page 111, lines 21 and 22, strike out "and in the case of a sound recording,".

On page 113, beginning with line 34, strike out all through line 36, on page 114, and insert in lieu thereof the following:

"(3) The fees to be distributed shall be divided as follows:

"(A) To every copyright owner not affiliated with a performing rights society the pro rata share of the fees to be distributed to which such copyright owner proves his entitlement; and

"(B) To the performing rights societies the remainder of the fees to be distributed in such pro rata shares as they shall by agreement stipulate among themselves, or, if they fail to agree, the pro rata share to which such performing rights societies prove their entitlement.

"(C) During the pendency of any proceeding under this section, the Register of Copyrights or the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.".

On page 147, line 29, strike out ", 114, and".

On page 148, line 6, strike out "114,".

On page 148, line 25, strike out "and 114.".

On page 150, line 25, strike out ", 114 and,".

Mr. ERVIN. When this bill passed the House it had no provision in it which attempted to give royalties to recorders of records or to performing artists.

When the bill reached the Senate Judiciary Committee it was rewritten and introduced separately. As a result of that, it was rewritten so as to incorporate for the first time in the history of this Nation, these new royalties which I contend are contrary to the Constitution, and also unjustified by the economic state of the Nation.

As a result of this rewriting, it was necessary for those who opposed these new proposed royalties to offer an amendment to the rewritten Senate bill, and we lost on a tie vote of 8 to 8 in the Judiciary Committee. So that is the necessity of this amendment.

This amendment is very simple in its purpose and in its effect. It would strike from the bill all of the provisions which attempt to create royalties for the benefit of those who make sound recordings, and royalties for the benefit of those who are performing artists.

The Constitution is very plain on this subject. It says in article I, section 8:

> The Congress shall have Power To promote the Progress of Science and useful Arts by securing for limited Times to Authors and Inventors the exclusive Rights to their respective Writings and Discoveries;

Now, there is no contention that a preforming artist is a discovered. There is no contention that a sound recording is a discovery. So they come under the provision of this bill which gives Congress the power to enact legislation which would give royalties for limited times to authors to preserve to them their exclusive right to their respective writings.

Now, manifestly a recording artist, in his capacity as a recording artist, is not an author; and a sound recorder, in his capacity as a sound recorder, is not an author.

The recording artist merely sings a song which somebody else has composed. The composer is the author of the song, and there is nothing original, as far as the writing is concerned, in the work of a performing artist.

The law is well established in a multitude of cases that to be copyrightable "a work must be original in that the author has created it by his own skill, labor, and judgment." Now, the word "work" is used in that connection in the sense of a being a writing or something in the nature of a writing.

Every American, except an inventor, and every American except an author, is required to depend upon contracts with other individuals for his compensation. This amendment would delete from this bill provisions which are designed to allow Congress to impose what is, in effect, a tax upon radio broadcasters or television broadcasters or jukebox operators or restaurants which play music when they serve the meals, a tax for the benefit of sound recorders like the Columbia Record Co. I have never known or heard of that record company or of any other record company being on the verge of failure.

As I will point out, the profits of the record companies have been going up while the profits of these people they want Congress to tax for their benefit have been stabilized or, in some cases, have gone down.

Despite the opinion of my good friend, the Senator from Pennsylvania, I do not know any recording artist who is on the verge of bankruptcy, and I do not know any reason why a recording artist should not be just like lawyers, doctors, and schoolteachers, and all other Americans, except authors and inventors, who must depend upon their contracts for their compensation which they receive.

I urge the Senate to adopt this amendment which, as I have stated, would eliminate from this bill the establishment of a recording arts performance royalty.

In my judgment such a royalty would be both constitutionally unsound and economically unwise. It would impose a severe financial burden on broadcasters and jukebox operators who would be obligated to pay this royalty for the benefit of record manufacturers and performers. Particularly at a time when the only economic certainty facing our Nation is continuing inflation the Congress should not increase the costs of operations for the thousands of businesses in the broadcasting and jukebox industries.

Mr. President, as I have stated, the amendment for which I speak is cosponsored by 20 other Members of the Senate. It failed to be adopted by the Judiciary Committee as I have stated because the committee was evenly divided, 8 to 8. The Commerce Committee, to which S. 1361 was subsequently referred, proceeded to eliminate the royalty from the bill. Indeed, the Commerce Committee, in effect, is in basic support of the position embodied in my amendment. My amendment differs from the Commerce Committee's action only in eliminating from section 106 of S. 1361 the recognition of a copyright in the performance of a sound recording. This is necessary, in my opinion, because there is no constitutional basis for or economic reason to justify the establishment of copyright liability for the performance of a sound recording. I appreciate the spirit of cooperation on the part of members of the Commerce Committee who have agreed to permit the Senate to proceed with my amendment before the Commerce Committee's amendments. By proceeding in this manner, I believe the Senate will have the best opportunity to resolve the question of whether or not it should establish the recording arts performance royalty. My amendment would accomplish exactly what the Commerce Committee proposes—the elimination of royalty payments by broadcasters and jukebox operators—and, in addition, would eliminate from S. 1361 establishment of a copyright in the performance of a sound recording.

Mr. President, this controversy is not new. Almost from the beginning of efforts to revise the copyright law, special interests mounted a campaign to impose a royalty fee on broadcasters and jukebox operators for the performance of sound recordings. This campaign has thus far failed because of two good reasons. In the first place, the establishing of such copyright liability is of doubtful constitutional authority. In the second place, requiring broadcasters and jukebox operators to fatten the bulging treasuries of record manufacturers and to add to the glittering personal fortunes of recording stars is economically unwise.

Recognizing a recording arts performance royalty under the copyright law raises serious constitutional questions. Article I, section 8, clause 8 of the U.S. Constitution provides that Congress shall have power "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." I do not accept the view that record manufacturers and performers are "authors" or "inventors" in the constitutional sense. Even though their contributions in producing a sound recording are significant, such contributions do not constitute original intellectual creations which would justify protection under the copyright law. To create performance royalties for the benefit of record manufacturers and performers under copyright law would stretch the Constitution's meaning beyond reason and justification.

In addition to the serious constitutional questions about the recording arts performance royalty, I am concerned about the economic impact such a royalty would have on broadcasters and jukebox operators. With respect to broadcasters—except for those with annual revenues of less than $200,000—the royalty would be based on a percentage of gross advertising revenues. Mr. President, the amount of gross advertising revenues of a broadcaster tells us nothing about the net profit of a broadcaster. Under S. 1361 as reported by the Judiciary Committee, a broadcaster who is actually losing money would be required to pay a royalty. In the case of a large broadcast operation, the amount of such a royalty could be enormous. Payment of such a royalty would mean financial disaster if not death for a broadcaster in such a situation.

The only legitimate need for the creation of a copyright in recordings themselves has already been satisfied by the Congress in its antipiracy statute, Public Law 92–140, which since 1971 has protected record industries from illegal copying of their recordings. The protection, with criminal penalties for violations, remains in the current bill and should be supported.

Now, the recording companies and performing artists, both of whom profit from the promotion of records by radio and jukebox play, are trying to gain additional revenues from radio stations and jukebox operators by way of a new statutory fee.

Mr. President, I would like to make a reference at this point to a case of Shaab against Kleindienst, which was reported in 345 Federal Supplement 589.

In this case, the plaintiff, who had no right whatever to records or copyrighted recordings, was desirous of pirating other people's records who had been authorized by the Office of Musical Compositions to record their musical compositions. This is one of these unfortunate opinions in that it was written by Judge Per Curiam.

There are two kinds of judges who should be barred from writing opinions. One is Judge Expediency and the other is Judge Per Curiam.

My experience is that Judge Per Curiam writes an opinion when the judge who writes it is anxious to adjourn and go golfing, and does not want to be charged with the possibility that he is responsible for the paternity of a bastard opinion. This opinion has some very loose language in it. But when you analyze the opinion it merely holds that the plaintiff could not enjoin the Attorney General from prosecuting him for violation of a public law of 1971, which said that where there were authorized recordings of copyrighted musical compositions, a man could not commit piracy of those musical compositions. For that reason he could not get an injunction against the Attorney General for prosecuting him for violation of the 1971 act in the event he did pirate those.

While Judge Per Curiam wrote the opinion, and some of his language is very loose and susceptible of distortion, the real decision is in perfect harmony with the 1971 act. That act was passed to keep someone from stealing—or pirating may be a more polite word—a sound recording of someone who had been authorized by the owner of the copyright to record his musical compositions.

Mr. President, as the distinguished Senator from Pennsylvania stated, there has been an effort to try to get for performing artists and record manufacturers since at least 1944 what is equivalent to an interest in the gross receipts of every broadcasting company and jukebox operator in the country without them having an investment in the broadcast companies or the jukebox operators and thereby run the risk of sustaining any loss.

There have been no hearings on this provision that the amendment strikes for some years. When they had hearings before, the broadcasters and the jukebox operators came before the committee and made such a strong presentation of the economic injustice, which was being sought by those who wanted a new royalty created for their benefit, that they could not get the bill out of committee until it was resurrected recently and called from the grave by an 8 to 8 vote. The bill had been sleeping.

I trust that the Senate will adopt this amendment and help to bury once and for all this proposal which violates the Constitution and also good economics.

It is simply not true that performers and record companies need this additional revenue. To the contrary, the pressures for promotion of recordings has led to a continuing concern on the part of the broadcasting industry and the Government with the "payola" problem.

In terms of total revenues, the recording industry is larger than the radio industry. In 1972, sales of prerecorded music—records and tapes—were estimated by RIAA to be $1,924,000,000; this compares with radio revenues of $1,407,000,000. Both industries are growing, but the recording industry is growing faster—its revenues have increased 42 percent in the last 5 years—1968–72—and 164 percent in the last 10 years. Radio revenues have increased 38 percent in the last 5 years, and 107 percent in the last 10.

Radio profit margins have been stable—or even declining—over the last 10 years. Profits in 1972 were 9.55 percent of revenue; in 1968 they were 11.09 percent. Further, in the 5-year period 1963–67, the average profit margin was 9.51 percent, while in the following 5-year period—1968–72—the average profit margin was 9.25 percent.

Mr. President, there is no economic or financial justification for Congress to impose what I believe would be a tax on broadcasters and jukebox operators. I believe in the principle of free enterprise and the right of parties to make whatever lawful, contractual arrangements among themselves they may desire for the promotion and protection of their respective economic interests. I do not favor the imposition of a tax by the Government for the direct benefit of certain economic interests at the direct expense of other interests. The Congress has more important business to consider than a proposal to shower special favors on certain, special industries.

Mr. President, two committees of the Senate have studied this matter. The Judiciary Committee, of which I am a member, is evenly divided on the question of establishing a recording arts performance royalty. When I offered this same amendment in the Judiciary Committee's executive session on S. 1361, the amendment failed 8 to 8. The Commerce Committee has decided to eliminate the performance royalty. In effect, no committee which has studied this question actually recommended the establishing of this performance royalty. For this reason, I believe it would be particularly appropriate and wise for the Senate to adopt my amendment and, thereby, eliminate from S. 1361 the recording arts performance royalty.

In closing, I would like to say there are two reasons why this amendment should be adopted and this performance royalty should be eliminated.

The first is that it is of doubtful constitutionality. Congress has the power to preserve and protect the interests of authors in their writings. A performing artist is not an author. A sound recorder is not an author.

In the second place, the economic condition of those who seek the aid of Congress to give them something they cannot get by contract is much better than those on whom they wish Congress to impose this imposition for their special benefit.

I sincerely trust that the Senate, on Monday, when it votes on this amendment, will adopt the amendment.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. ERVIN. I yield to the distinguished Senator from Nebraska.

Mr. HRUSKA. Mr. President, the Senator has made a very splendid contribution to an understanding of the law and the merits pertaining to the amendment he has proposed. I listened with great interest to his citation of the authorities and to his reasoning.

I should like to ask the Senator from North Carolina to consider this analogy, which was proposed to me by a friend of mine who is interested in the proposed legislation and is a student of the law. He suggested that perhaps there is an analogy with the situation in question and that of the development and use of a washing machine. An inventor develops and perfects a new aspect of the machine, consisting, perhaps, of a more efficient wringer than had been previously used. After that patent is given to the inventor, each time one of those machines is made with that improved wringer, the inventor receives a royalty for the manufacture of that machine.

The housewife buys that machine and puts it in her utility room and uses it. If the performance royalty would be imposed upon that housewife each time she used that machine, to be paid to the manufacturer—not the man who invented the improvement but the man who made the machine—would there not be an analogy between that type of payment to the manufacturer and the performance royalty that is sought to be exacted by the bill before the Senate today?

Mr. ERVIN. That is precisely what the provision of the bill we seek to strike does. It provides that every time a man uses the record, he has to pay another royalty.

Mr. HRUSKA. But not to the man who composed the music.

Mr. ERVIN. No. The man who composed the music is protected, because he copyrights it, and he is entitled to copyright it, under the law and under the Constitution. But this proposes that every time the man uses it—it is already under a contract which makes no provision for any such performance royalty—he has to pay another royalty.

Mr. HRUSKA. And that it be by force of statute.

Mr. ERVIN. Yes.

Mr. HRUSKA. Is it conceivable that that payment could be construed as a levy or an assessment or a tax?

Mr. ERVIN. In essence, it is nothing in the world but a tax which would be imposed by Congress for the benefit of people engaged in private enterprise. It is contrary to the principle that people in private enterprise must depend upon the contracts they make for their compensation.

Mr. HRUSKA. Is it not a cardinal principle in Congress that any measure imposing a tax must originate in the other body of Congress?

Mr. ERVIN. Absolutely.

Mr. HRUSKA. And when it comes to a matter of consideration in this body a measure pertaining to raising money by taxes is considered by the Committee on Finance.

Mr. ERVIN. It is quite clear that whenever Congress imposes a law which takes away money from an individual, that is a tax. So this not only offends the provisions of the Constitution relating to the protection and the rights of authors in their writings, but also offends the provision which requires that tax laws originate in the House of Representatives.

Mr. HRUSKA. I thank the Senator very much.

Mr. ERVIN. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered.

APPOINTMENT TO ATTEND INTERPARLIAMENTARY UNION MEETING, TOKYO, JAPAN, OCTOBER 3–11, 1974

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore of the Senate, in accordance with Public Law 84–474, appoints the Senator from Vermont (Mr. STAFFORD) to attend the Interparliamentary Union meeting, to be held in Tokyo, Japan, October 3–11, 1974.

PROGRAM

Mr. GRIFFIN. Mr. President, I take this time to inquire of the distinguished majority leader if he can tell us what the program may be for the rest of the day and so far into the future as he may be able to shed any light.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished acting Republican leader, the Senator from Michigan (Mr. GRIFFIN), there will be no further action on any legislation today.

COMMODITY FUTURES TRADING COMMISSION ACT OF 1974

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at this time, Calendar 1080, H.R. 13113, be laid before the Senate and made the pending business, and that the copyright bill and the consumers protection bill both be laid aside temporarily.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The bill will be stated by title.

The second assistant legislative clerk read as follows:

> Calendar No. 1080, H.R. 13113, an act to amend the Commodity Exchange Act to strengthen the regulation of futures trading, to bring all agricultural and other commodities traded on exchanges under regulation, and for other purposes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that that bill be the pending business when we come in on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill which had been reported from the Committee on Agriculture and Forestry with an amendment to strike out all after the enacting clause and insert:

> That this Act may be cited as the "Commodity Futures Trading Commission Act of 1974".

TITLE I—COMMODITY FUTURES TRADING COMMISSION

SEC. 101. (a) Section 2(a) of the Commodity Exchange, as amended (7 U.S.C. 2, 4), is amended—

(1) By inserting "(1)" after the subsection designation.

(2) By striking the last sentence of section 2(a) and inserting in lieu thereof the following new sentence: "The words 'the Commission' shall mean the Commodity Futures Trading Commission established under paragraph (2) of this subsection."

(3) By adding at the end thereof the following new paragraph:

"(2) There is hereby established, as an independent agency of the United States Government, a Commodity Futures Trading Commission. The Commission shall be composed of a Chairman and four other Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. In nominating persons for appointment, the President shall seek to establish and maintain a balanced Commission, including, but not limited to, persons of demonstrated knowledge in futures trading or its regulation and persons of demonstrated knowledge in the production, merchandising, processing or distribution of one or more of the commodities or other goods and articles, services, rights and interests covered by this Act. Not more than three of the members of the Commission shall be members of the same political party. Each Commissioner shall hold office for a term of five years and until his successor is appointed and has qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office, and except (A) any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (B) the terms of office of the Commissioners first taking office after the enactment of this paragraph shall expire as designated by the President at the time of nomination, one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years, and one at the end of five years.

"(3) The Commissioner shall have a General Counsel, to be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall report directly to the Commission and serve as its legal advisor. The Commission shall appoint such other attorneys as may be necessary, in the opinion of the Commission, to assist the General Counsel, represent the Commission in all proceedings pending before it, and perform such other legal duties and functions as the Commission may direct.

"(4) The Commission shall have an Executive Director, to be appointed by the President, by and with the advice and consent of the Senate. The Executive Director shall report directly to the Commission and perform such functions and duties as the Commission may prescribe.

"(5)(A) Except as otherwise provided in this paragraph and in paragraphs (3) and (4) of this subsection, the executive and administrative functions of the Commission, including functions of the Commission with respect to the appointment and supervision of personnel employed under the Commission, the distribution of business among such personnel and among administrative units of the Commission, and the use and expenditure of funds, shall be exercised solely by the Chairman.

"(B) In carrying out any of his functions under the provisions of this paragraph, the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

"(C) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

"(D) Personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman shall not be affected by the provisions of this paragraph.

"(E) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

"(F) The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any functions of the Chairman under this paragraph.

"(6) No Commissioner or employee of the Commission shall accept employment or compensation from any person, exchange, or clearinghouse subject to regulation by the Commission under this Act during his term of office, nor shall he participate, directly or indirectly, in any contract market operations or transactions of a character subject to regulation by the Commission.

"(7) The Commission shall have an official seal, which shall be judicially noticed."

(b) Section 12 of the Commodity Exchange Act, as amended (7 U.S.C. 16), is amended by striking such section and inserting in lieu thereof the following:

"SEC. 12. (a) The Commission may cooperate with any department or agency of the Government, any State, territory, district, or possession, or department, agency, or political subdivision thereof, or any person.

"(b) The Commission shall have the authority to employ such investigators, special experts, Administrative Law Judges, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress. The Commission may employ experts and consultants in accordance with section 3109 of title 5 of the United States Code, and compensate such persons at rates not in excess of the maximum daily rate prescribed for GS–18 under section 5332 of title 5 of the United States Code. The Commission shall also have authority to make and enter into contracts with respect to all matters which in the judgment of the Commission are necessary and appropriate to effectuate the purposes and provisions of this Act, including, but not limited to, the rental of necessary space at the seat of Government and elsewhere.

"(c) All of the expenses of the Commissioners, including all necessary expenses for transportation incurred by them while on official business of the Commission, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commission.

"(d) There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for the fiscal year ending June 30, 1975, for the fiscal year ending June 30, 1976, for the fiscal year ending June 30, 1977, and for the fiscal year ending June 30, 1978."

SEC. 102. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(60) Chairman, Commodity Futures Trading Commission."

(b) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(98) Members, Commodity Futures Trading Commission."

(c) Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraphs:

"(134) General Counsel, Commodity Futures Trading Commission.

"(135) Executive Director, Commodity Futures Trading Commission."

SEC. 103. The Commodity Exchange Act, as amended, is amended—

(a) By striking the word "Secretary" and the words "Secretary of Agriculture" wherever such words appear therein (except where the words "Secretary of Agriculture" first appear in section 5(a) (7 U.S.C. 7) or where said words would be stricken by subsection (b), (c), or (d) of this section) and by inserting in lieu thereof the word "Commission".

(b) By striking the words "the Secretary of Agriculture or" wherever they appear in the phrase "the Secretary of Agriculture or the Commission".

(c) By striking the words "the Secretary of Agriculture, who shall thereupon notify the other member of" from section 6(a) thereof (7 U.S.C. 8).

(d) By striking "the Secretary of Agriculture (or any person designated by him)," from section 6(b) thereof (7 U.S.C. 15).

(e) By striking the word "he", "his", or "He" wherever such word is used therein to refer to the Secretary of Agriculture, and by inserting in lieu thereof the word "it", "its", or "It", respectively.

(f) By striking the words "United States Department of Agriculture" and "Department of Agriculture" wherever they appear therein and by inserting in lieu thereof the word "Commission".

(g) By inserting in section 5(a) (7 U.S.C. 7) after the words "Secretary of Agriculture" where the same first appear therein the words "or the Commission".

SEC. 104. All of the personnel of the Commodity Exchange Authority, property, records, and unexpended balance of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with administration of the Commodity Exchange Act shall be transferred to the Commodity Futures Trading Commission upon the effective date of this Act.

SEC. 105. Section 8 of the Commodity Exchange Act, as amended (7 U.S.C. 12, 12–1), is amended by adding at the end thereof the following new paragraphs:

"The Commission shall submit to the Congress a written report within one hundred and twenty days after the end of each fiscal year detailing the operations of the Commission during such fiscal year. The Commission shall include in such report such information, data, and recommendations for further legislation as it may deem advisable with respect to the administration of this Act and its powers and functions under this Act.

"The Comptroller General of the United States shall conduct reviews and audits of the Commission and make reports thereon. For the purpose of conducting such reviews and audits the Comptroller General shall be furnished such information regarding the powers, duties, organizations, transactions, operations, and activities of the Commission as he may require and he and his duly authorized representatives shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of the Commission except that in his reports the Comptroller General shall not include data and information which would separately disclose the business transactions of any person and trade secrets or names of customers, although such data shall be provided upon request by any committee of either House of Congress acting within the scope of its jurisdiction."

SEC. 106. The Commodity Exchange Act, as amended, is amended by adding at the end thereof the following new section:

"Sec. 14. (a) Any person complaining of any violation of any provision of this Act or any rule, regulation, or order thereunder by any person registered under section 4d, 4e, 4k, or 4m of this Act may, at any time within three years after the cause of action accrues, apply to the Commission by petition, which shall briefly state the facts, whereupon, if, in the opinion of the Commission, the facts therein contained warrant such action, a copy of the complaint thus made shall be forwarded by the Commission to the respondent, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be prescribed by the Commission.

"(b) If there appear to be, in the opinion of the Commission, any reasonable grounds for investigating any complaint made under this section, the Commission shall investigate such complaint and may, if in its opinion the facts warrant such action, have said complaint served by registered mail or by certified mail or otherwise on the respondent and afford such person an opportunity for a hearing thereon before an Administrative Law Judge designated by the Commission in any place in which the said person is engaged in business: *Provided*, That in complaints wherein the amount claimed as damages does not exceed the sum of $2,500, a hearing need not be held and proof in support of the complaint and in support of the respondent's answer may be supplied in the form of depositions or verified statements of fact.

"(c) After opportunity for hearing on complaints where the damages claimed exceed the sum of $2,500 has been provided or waived and on complaints where damages claimed do not exceed the sum of $2,500 not requiring hearing as provided herein, the Commission shall determine whether or not the respondent has violated any provision of this Act or any rule, regulation, or order thereunder.

"(d) In case a complaint is made by a nonresident of the United States, the complainant shall be required, before any formal action is taken on his complaint, to furnish a bond in double the amount of the claim conditioned upon the payment of costs, including a reasonable attorney's fee for the respondent if the respondent shall prevail, and any reparation award that may be issued by the Commission against the complainant on any counterclaim by respondent: Provided, That the Commission shall have authority to waive the furnishing of a bond by a complainant who is a resident of a country which permits the filing of a complaint by a resident of the United States without the furnishing of a bond.

"(e) If after a hearing on a complaint made by any person under subsection (a) of this section, or without hearing as provided in subsections (b) and (c) of this section, or upon failure of the party complained against to answer a complaint duly served within the time prescribed, or to appear at a hearing after being duly notified, the Commission determines that the respondent has violated any provision of this Act, or any rule, regulation, or order thereunder, the Commission shall, unless the offender has already made reparation to the person complaining, determine the amount of damage, if any, to which such person is entitled as a result of such violation and shall make an order directing the offender to pay to such person complaining such amount on or before the date fixed in the order. If, after the respondent has filed his answer to the complaint, it appears therein that the respondent has admitted liability for a portion of the amount claimed in the complaint as damages, the Commission under such rules and regulations as it shall prescribe, unless the respondent has already made reparation to the person complaining, may issue an order directing the respondent to pay to the complainant the undisputed amount on or before the date fixed in the order, leaving the respondent's liability for the disputed amount for subsequent determination. The remaining disputed amount shall be determined in the same manner and under the same procedure as it would have been determined if no order had been issued by the Commission with respect to the undisputed sum.

"(f) If any person against whom an award has been made does not pay the reparation award within the time specified in the Commission's order, the complainant, or any person for whose benefit such order was made, may within three years of the date of the order file in the district court of the United States for the district in which he resides or in which is located the principal place of business of the respondent, or in any State court having general jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages and the order of the Commission in the premises. The orders, writs, and processes of the district courts may in these cases run, be served, and be returnable anywhere in the United States. Such suit in the district court shall proceed in all respects like other civil suits for damages, except that the findings and orders of the Commission shall be prima facie evidence of the facts therein stated and reviewable only for purposes of determining if such findings and orders are supported by substantial evidence. The petitioner shall not be liable for costs in the district court, nor for costs at any subsequent state of the proceedings, unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit.

"(g) Either party adversely affected by the entry of a reparation order by the Commission may, within thirty days from and after the date of such order, appeal therefrom to the district court of the United States for the district in which said hearing was held: *Provided*, That in cases handled without a hearing in accordance with subsections (b) and (c) of this section or in which a hearing has been waived by agreement of the parties, appeal shall be to the district court of the United States for the district in which the appellee is located. Such appeal shall be perfected by the filing with the clerk of said court a notice of appeal, together with a petition in duplicate which shall recite prior proceedings before the Commission and shall state the grounds upon which the appeal is based, with proof of service thereof upon the adverse party. Such appeal shall not be effective unless within thirty days from and after the date of the reparation order the appellant also files with the clerk a bond in double the amount of the reparation awarded against the appellant conditioned upon the payment of the judgment entered by the court, plus interest and costs, including a reasonable attorney's fee for the appellee, if the appellee shall prevail. Such bond shall be in the form of cash, negotiable securities having a market value at least equivalent to the amount of bond prescribed, or the undertaking of a surety company on the approved list of sureties issued by the Treasury Department of the United States. The clerk of the court shall immediately forward a copy thereof to the Commission which shall forthwith prepare, certify, and file in said court a true copy of the Commission's decision, findings of fact, conclusions, and order in said case, together with copies of the pleadings upon which the case was heard and submitted to the Commission. Such suit in the district court shall proceed in all respects like other civil suits for damages, except that the findings of fact and orders of the Commission shall be prima facie evidence of the facts therein stated and reviewable only for purposes of determining if such findings and orders are supported by substantial evidence. The appellee shall not be liable for costs in said court. If the appellee prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of his costs. Such petition and pleadings certified by the Commission upon which decision was made by it shall upon filing in the district court constitute the pleadings upon which the trial shall proceed, subject to any amendment allowed in that court.

"(h) Unless the registrant against whom a reparation order has been issued shows to the satisfaction of the Commission within fifteen days from the expiration of the period allowed for compliance with such order that he has either taken an appeal as herein authorized or has made payment in full as required by such order, he shall be prohibited from trading on all contract markets and his registration shall be suspended automatically at the expiration of such fifteen-day period until he shows to the satisfaction of the Commission that he has paid the amount therein specified with interest thereon to date of payment: *Provided*, That if on appeal the appellee prevails or if the appeal is dismissed the automatic prohibition against trading and suspension of registration shall become effective at the expiration of thirty days from the date of judgment on the appeal, but if the judgment is stayed by a court of competent jurisdiction the suspension shall become effective ten days after the expiration of such stay, unless prior thereto the judgment of the court has been satisfied.

"(i) The provisions of this section shall not become effective until one year after the date of its enactment: *Provided*, That claims which arise within nine months immediately prior to the effective date of this section may be heard by the Commission after such one year period."

Sec. 107. The Commodity Exchange Act, as amended, is amended by adding at the end thereof the following new section:

"Sec. 15. The Commission shall take into consideration the public interest to be protected by the antitrust laws as well as the policies and purposes of this Act, and endeavor to take the least anticompetitive means of achieving the objectives of this Act, in issuing any order or adopting any Commission rule or regulation, or in requiring or approving any bylaw, rule, or regulation of a contract market."

TITLE II—REGULATION OF TRADING AND EXCHANGE ACTIVITIES

Sec. 201. Section 2(a) of the Commodity Exchange Act, as amended (7 U.S.C. 2, 4), is amended—

(a) By striking after the word "eggs," the word "onions,".

(b) By striking the period at the end of the third sentence of the section and substituting therefor the following: ", and all other goods and articles, except onions as provided in Public Law 85–839, and all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in: *Provided*, That the Commission shall have exclusive jurisdiction with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty'), and transactions involving contracts of sale of a commodity for future delivery, traded or executed on a contract market designated pursuant to section 5 of this Act and which, in acordance with section 4h of this Act, may not lawfully be executed or consummated otherwise than through a member of a contract market: *And provided further*, That, except as hereinabove provided, nothing contained in this section shall (i) supersede or limit the jurisdiction at any time conferred on the Securities and Exchange Commission or other regulatory authorities under the laws of the United States or of any State, or (ii) restrict the Securities and Exchange Commission and such other authorities from carrying out their duties and responsibilities in accordance with such laws. Nothing in this section shall supersede or limit the jurisdiction conferred on courts of the United States or any State. Nothing in this Act shall be deemed to govern or in any way be applicable to transactions in foreign currency, security warrants, security rights, resales of installment loan contracts, repurchase options, government securities, or mortgages and mortgage purchase commitments, unless such transactions involve the sale thereof for future delivery conducted on a board of trade."

Sec. 202. Section 2(a) of the Commodity Exchange Act, as amended (7 U.S.C. 2, 4), is amended by adding at the end of paragraph (1) the following new sentences: "The term 'commodity trading advisor' shall mean any person who, for compensation or profit, engages in the business of advising others, either directly or through publications or writings, as to the value of commodities or as to the advisability of trading in any commodity for future delivery on or subject to the rules of any contract market, or who, for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning commodities; but does not include (i) any bank or trust company, (ii) any newspaper reporter, newspaper columnist, newspaper editor, lawyer, accountant, or teacher, (iii) any floor broker or futures commission merchant, (iv) the publisher or any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation including their employees, (v) any contract market, and (vi) such other persons not within the intent of this definition as the Commission may specify by rule, regulation, or order: Provided, That the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession. The term 'commodity pool operator' shall mean any person engaged in a business which is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market, but does not include such persons not within the intent of this definition as the Commission may specify by rule or regulation or by order.".

Sec. 203. The Commodity Exchange Act, as amended, is amended by inserting after section 4i (7 U.S.C. 6i), the following new section:

"Sec. 4j. (1) The Commission shall within six months after the effective date of the Commodity Futures Trading Commission Act of 1974, and subsequently when it determines that changes are required, make a determination, after notice and opportunity for hearing, whether or not a floor broker may trade for his own account or any account in which such broker has trading discretion, and also execute a customer's order for future delivery and, if the Commission determines that such trades and such executions shall be permitted, the Commission shall further determine the terms, conditions, and circumstances under which such trades and such executions shall be conducted: *Provided*, That any such determination shall, at a minimum, take into account the effect upon the liquidity of trading of each market: *And provided further*, That nothing herein shall be construed to prohibit the Commission from making separate determinations for different contract markets when such are warranted in the judgment of the Commission, or to prohibit contract markets from setting terms and conditions more restrictive than those set by the Commission.

(2) The Commission shall within six months after the effective date of the Commodity Futures Trading Commission Act of 1974, and subsequently when it determines that changes are required, make a determination, after notice and opportunity for hearing, whether or not a futures commission merchant may trade for its own account or any proprietary account, as defined by the Commission, and if the Commission determines that such trades shall be permitted, the Commission shall further determine the terms, conditions, and circumstances under which such trades shall be conducted: *Provided*, That any such determination, at a minimum, shall take into account the effect upon the liquidity of trading of each market; *And provided further*, That nothing herein shall be construed to prohibit the Commission from making separate determinations for different contract markets when such are warranted in the judgment of the Commission, or to prohibit contract markets from setting terms and conditions more restrictive than those set by the Commission."

Sec. 204. (a) The Commodity Exchange Act, as amended, is amended by adding the following new section:

"Sec. 4k. (1) It shall be unlawful for any person to be associated with any futures commission merchant or with any agent of a futures commission merchant as a partner, officer, or employee (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation or acceptance of customers' orders (other than in a clerical capacity) or (ii) the supervision of any person or persons so engaged, unless such person shall have registered, under this Act, with the Commission and such registration shall not have expired nor been suspended (and the period of suspension has not expired) nor revoked, and it shall be unlawful for any futures commission merchant or any agent of a futures commission merchant to permit such a person to become or remain associated with him in any such capacity if such futures commission merchant or agent knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired) or revoked: *Provided*, That any individual who is registered as a floor broker or futures commission merchant (and such registration is not suspended or revoked) need not also register under these provisions.

"(2) Any such person desiring to be registered shall make application to the Commission in the form and manner prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the applicant. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission such information as the Commission may require. Such registration shall expire two years after the effective date thereof, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in section 6(b) of this Act: *Provided*, That upon initial registration, the effective period of such registration shall be set by the Commission, not to exceed two years from the effective date thereof and not to be less than one year from the effective date thereof".

(b) Section 6(b) of the Commodity Exchange Act as amended (7 U.S.C. 9), is amended by inserting after the words "futures commission merchant" each time those words appear, the following: "or any person associated therewith as described in section 4k of this Act,".

(c) Section 8a(1) of the Commodity Exchange Act, as amended (7 U.S.C. 12a(1)), is amended by inserting after the words "futures commission merchants" the following: "and persons associated therewith as described in section 4k of this Act."

Sec. 205. (a) The Commodity Exchange Act, as amended, is amended by adding the following new sections:

"Sec. 4l. It is hereby found that the activities of commodity trading advisors and commodity pool operators are affected with a national public interest in that, among other things—

"(1) their advice, counsel, publications, writings, analyses, and reports are furnished and distributed, and their contracts, solicitations, subscriptions, agreements, and other arrangements with clients take place and are negotiated and performed by the use of the mails and other means and instrumentalities of interstate commerce;

"(2) their advice, counsel, publications, writings, analyses, and reports customarily relate to and their operations are directed toward and cause the purchase and sale of commodities for future delivery on or subject to the rules of contract markets; and

"(3) the foregoing transactions occur in such volume as to affect substantially transactions on contract markets.

Sec. 4m. It shall be unlawful for any commodity trading advisor or commodity pool operator, unless registered under this Act, to make use of the mails or any means or instrumentality of interstate commerce in connection with his business as such commodity trading advisor or commodity pool operator: *Provided*, That the provisions of this section shall not apply to any commodity trading advisor who, during the course of the preceding twelve months, has not furnished commodity trading advice to more than fifteen persons and who does not hold himself out generally to the public as a commodity trading advisor.

"Sec. 4n. (1) Any commodity trading advisor or commodity pool operator, or any person who contemplates becoming a commodity trading advisor or commodity pool operator, may register under this Act by filing an application with the Commission. Such application shall contain such information, in such form and detail, as the Commission may, by rules and regulations, prescribe as necessary or appropriate in the public interest, including the following:

"(A) the name and form of organization, including capital structure, under which the applicant engages or intends to engage in business; the name of the State under the laws of which he is organized; the location of his principal business office and branch offices, if any; the names and addresses of all partners, officers, directors, and persons performing similar functions or, if the applicant be an individual, of such individual; and the number of employees;

"(B) the education, the business affiliations for the past ten years, and the present business affiliations of the applicant and of his partners, officers, directors, and persons performing similar functions and of any controlling person thereof;

"(C) the nature of the business of the applicant, including the manner of giving advice and rendering of analyses or reports;

"(D) the nature and scope of the authority of the applicant with respect to clients' funds and accounts;

"(E) the basis upon which the applicant is or will be compensated; and

"(F) such other information as the Commission may require to determine whether the applicant is qualified for registration.

"(2) Except as hereinafter provided, such registration shall become effective thirty days after the receipt of such application by the Commission, or within such shorter period of time as the Commission may determine.

"(3) All registrations under this section shall expire on the 30th day of June of each year, and shall be renewed upon application therefor subject to the same requirements as in the case of an original application.

"(4)(A) Every commodity trading advisor and commodity pool operator registered under this Act shall maintain books and records and file such reports in such form and manner as may be prescribed by the Commission. All such books and records shall be kept for a period of at least three years, or longer if the Commission so directs, and shall be open to inspection by any representative of the Commission or the Department of Justice. Upon the request of the Commission, a registered commodity trading advisor or commodity pool operator shall furnish the name and address of each client, subscriber, or participant, and submit samples or copies of all reports, letters, circulars, memorandums, publications, writings, or other literature or advice distributed to clients, subscribers, or participants, or prospective clients, subscribers, or participants.

"(B) Unless otherwise authorized by the Commission by rule or regulation, all commodity trading advisors and commodity pool operators shall make a full and complete disclosure to their subscribers, clients, or participants of all futures market positions taken or held by the individual principals of their organization.

"(5) Every commodity pool operator shall regularly furnish statements of account to each participant in his operations. Such statements shall be in such form and manner as may be prescribed by the Commission and shall include complete information as to the current status of all trading accounts in which such participant has an interest.

"(6) The Commission is authorized, without hearing, to deny registration to any person as a commodity trading advisor or commodity pool operator if such person is subject to an outstanding order under this Act denying to such person trading privileges on any contract market, or suspending or revoking the registration of such person as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or suspending or expelling such person from membership on any contract market.

"(7) The Commission after hearing may by order deny registration, revoke or suspend the registration of any commodity trading advisor or commodity pool operator if the Commission finds that such denial, revocation, or suspension is in the public interest and that—

"(A) the operations of such person disrupt or tend to disrupt orderly marketing conditions, or cause or tend to cause sudden or unreasonable fluctuations or unwarranted changes in the prices of commodities;

"(B) such commodity trading advisor or commodity pool operator, or any partner, officer, director, person performing similar function, or controlling person thereof—

"(i) has within ten years of the issuance of such order been convicted of any felony or misdemeanor involving the purchase or sale of any commodity or security, or arising out of any conduct or practice of such commodity trading advisor or commodity pool operator or affiliated person as a commodity trading advisor or commodity pool operator; or

"(ii) at the time of the issuance of such order, is permanently or temporarily enjoined by order, judgment or decree of any court of competent jurisdiction from acting as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or as an affiliated person or employee of any of the foregoing, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of commodities or securities; or

"(C) any partner, officer, or director of such commodity trading advisor or commodity pool operator, or any person performing a similar function or any controlling person thereof is subject to an outstanding order of the Commission denying trading privileges on any contract market to such person, or suspending or revoking the registration of such person as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or suspending or expelling such person from membership on any contract market.

"SEC. 40. (1) It shall be unlawful for any commodity trading advisor or commodity pool operator registered under this Act, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly—

"(A) to employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or

"(B) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

"(2) It shall be unlawful for any commodity trading advisor or commodity pool operator registered under this Act to represent or imply in any manner whatsoever that he has been sponsored, recommended, or approved, or that his abilities or qualifications have in any respect been passed upon, by the United States or any agency or officer thereof: *Provided*, That this section shall not be construed to prohibit a statement that a person is registered under this Act as a commodity trading advisor or commodity pool operator, if such statement is true in fact and if the effect of such registration is not misrepresented."

(b) Section 6(b) of the Commodity Exchange Act, as amended (7 U.S.C. 9), is amended by inserting immediately before the words "or as floor broker" each time those words appear, the following: "commodity trading advisor, commodity pool operator,".

"(c) Section 8a(1) of the Commodity Exchange Act, as amended (7 U.S.C. 12a(1)), is amended by inserting immediately before the words "and floor brokers" the following: "commodity trading advisors, commodity pool operators,".

SEC. 206. The Commodity Exchange Act, as amended, is amended by adding the following new section:

"SEC. 4p. The Commission may specify by rules and regulations appropriate standards with respect to training, experience, and such other qualifications as the Commission finds necessary or desirable to insure the fitness of futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers. In connection therewith, the Commission may prescribe by rules and regulations the adoption of written proficiency examinations to be given to applicants for registration as futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers, and the establishment of reasonable fees to be charged to such applicants to cover the administration of such examinations. The Commission may further prescribe by rules and regulations that, in lieu of examinations administered by the Commission, contract markets may adopt written proficiency examinations to be given to applicants for registration as futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers, and charge reasonable fees to such applicants to cover the administration of such examinations. Notwithstanding any other provision of this section, the Commission may specify by rules and regulations such terms and conditions as it deems appropriate to protect the public interest wherein exception to any written proficiency examination shall be made with respect to individuals who have demonstrated, through training and experience, the degree of proficiency and skill necessary to protect the interests of the customers of futures commission merchants and floor brokers."

SEC. 207. Section 5 of the Commodity Exchange Act as amended (7 U.S.C. 7), is amended by adding after subsection (f) thereof the following new subsection:

"(g) When such board of trade demonstrates that transactions for future delivery in the commodity for which designation as a contract market is sought will not be contrary to the public interest."

SEC. 208. Section 5a of the Commodity Exchange Act, as amended (7 U.S.C. 7a), is amended—

(a) By inserting after the world "purposes" in subsection (7) the following: "*And provided further*, That this subsection shall apply only to futures contracts for those commodities which may be delivered from a warehouse subject to the United States Warehouse Act".

(b) By striking out "and" at the end of subsection (8).

(c) By striking out the period at the end of subsection (9) and inserting in lieu thereof a semicolon.

(d) By adding at the end of subsection (9) thereof the following new subsection:

"(10) permit the delivery of any commodity, on contracts of sale thereof for future delivery, of such grade or grades, at such point or points and at such quality and locational price differentials as will tend to prevent or diminish price manipulation, market congestion, or the abnormal movement of such commodity in interstate commerce. If the Commission after investigation finds that the rules and regulations adopted by a contract market permitting delivery of any commodity on contracts of sale thereof for future delivery, do not accomplish the objectives of this subsection, then the Commission shall notify the contract market of its finding and afford the contract market an opportunity to make appropriate changes in such rules and regulations. If the contract market within seventy-five days of such notification fails to make the changes which in the opinion of the Commission are necessary to accomplish the objectives of this subsection, then the Commission after granting the contract market an opportunity to be heard, may change or supplement such rules and regulations of the contract market to achieve the above objectives: *Provided*, That any order issued under this paragraph shall not apply to contracts of sale for future delivery in any months in which contracts are currently outstanding and open: *And provided further*, That no requirement for an additional delivery point or points shall be promulgated following hearings until the contract market affected has had notice and opportunity to file exceptions to the proposed order determining the location and number of such delivery point or points;".

SEC. 209. Section 5a of the Commodity Exchange Act, as amended (7 U.S.C. 7a), is amended by adding a new subsection (11) as follows:

"(11) provide a fair and equitable procedure through arbitration or otherwise for the settlement of customers' claims and grievances against any member or employee thereof: *Provided*, That (i) the use of such procedure by a customer shall be voluntary, (ii) the procedure shall not be applicable to any claim in excess of $15,000, (iii) the procedure shall not result in any compulsory payment except as agreed upon between the parties, and (iv) the term 'customer' as used in this subsection shall not include a futures commission merchant or a floor broker; and".

SEC. 210. Section 5a of the Commodity Exchange Act, as amended (7 U.S.C. 7a), is amended by inserting the following new subsection (12) as follows:

"(12) except as otherwise provided in this subsection, submit to the Commission for its approval all bylaws, rules, regulations, and resolutions made or issued by such contract market, or by the governing board thereof or any committee thereof which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relate to other trading requirements except those relating to the setting of levels of margin. The Commission shall approve, within thirty days of their receipt unless the Commission notifies the contract market of its inability to make such determination within such period of time, such bylaws, rules, regulations, and resolutions upon a determination that such bylaws, rules, regulations, and resolutions are not in violation of the provisions of this Act or the regulations of the Commission and thereafter the Commission shall disapprove, after appropriate notice and opportunity for hearing, any bylaw, rule, regulation, or resolution which the Commission finds at any time is in violation of the provisions of this Act or the regulations of the Commission. In the event of an emergency requiring immediate action, the contract market by a two-thirds vote of its governing board may place into immediate effect without prior Commission approval a rule dealing with such emergency if it notifies the Commission of such action with a complete explanation of the emergency involved. The Commission may adopt a regulation exempting enumerated types of contract market operational and administrative rules from the requirement that they be submitted to the Commission for its approval."

SEC. 211. The Commodity Exchange Act, as amended, is amended by inserting the following new section immediately after section 6b (7 U.S.C. 13a):

"SEC. 6c. Whenever it shall appear to the Commission that any contract market or other person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of this Act or any rule, regulation, or order thereunder, or is restraining trading in any commodity for future delivery, the Commission may bring an action in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such act or practice, or to enforce compliance with this Act, or any rule, regulation or order thereunder, and said courts shall have jurisdiction to entertain such actions: Provided, That no restraining order or injunction for violation of the provisions of this Act shall be issued ex parte by said court. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the Commission, the district courts of the United States and the United States courts of any territory or other place subject to the jurisdiction of the United States shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding any person to comply with the provisions of this Act or any rule, regulation, or order of the Commission thereunder, including the requirement that such person take such action as is necessary to remove the danger of violation of this Act or any such rule, regulation, or order: Provided, That no such writ of mandamus, or order affording like relief, shall be issued ex parte. Any action under this section may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or in the district where the act or practice occurred, is occurring, or is about to occur, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found."

SEC. 212. (a) Section 6 of the Commodity Exchange Act, as amended (7 U.S.C. 8, 9, 13b, 15), is amended—

(1) By substituting a comma for the period at the end of the fourth sentence in paragraph (b) and adding thereafter the following: "and may assess such person a civil penalty of not more than $100,000 for each such violation."

(2) By adding, in the sixth sentence in paragraph (b), a comma after the word "petition" and inserting thereafter and before the word "praying" the following phrase: "within fifteen days after the notice of such order is given to the offending person,".

(3) By adding after paragraph (c) thereof the following new paragraph:

"(d) In determining the amount of the money penalty assessed under paragraph (b) of this section, the Commission shall consider, in the case of a person whose primary business involves the use of the commodity futures market—the appropriateness of such penalty to the size of the business of the person charged, the extent of such person's ability to continue in business, and the gravity of the violation; and in the case of a person whose primary business does not involve the use of the commodity futures market—the appropriateness of such penalty to the net worth of the person charged, and the gravity of the violation. If the offending person upon whom such penalty is imposed, after the lapse of the period allowed for appeal or after the affirmance of such penalty, shall fail to pay such penalty the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court."

(b) Section 6b of the Commodity Exchange Act, as amended (7 U.S.C. 13a), is amended to read as follows:

"SEC. 6b. If any contract market is not enforcing or has not enforced its rules of government made a condition of its designation as set forth in section 5 of this Act, or if any contract market, or any director, officer, agent, or employee of any contract market otherwise is violating or has violated any of the provisions of this Act or any of the rules, regulations, or orders of the Commission thereunder, the Commission may, upon notice and hearing and subject to appeal as in other cases provided for in paragraph (a) of section 6 of this Act, make and enter an order directing that such contract market, director, officer, agent, or employee shall cease and desist from such violation, and assess a civil penalty of not more than $100,000 for each such violation. If such contract market, director, officer, agent, or employee, after the entry of such a cease and desist order and the lapse of the period allowed for appeal of such order or after the affirmance of such order, shall fail or refuse to obey or comply with such order, such contract market, director, officer, agent, or employee shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100,000 or imprisoned for not less than six months nor more than one year, or both. Each day during which such failure or refusal to obey such cease and desist order continues shall be deemed a separate offense. If the offending contract market or other person upon whom such penalty is imposed, after the lapse of the period allowed for appeal or after the affirmance of such penalty, shall fail to pay such penalty, the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court. In determining the amount of the money penalty assessed under this section, the Commission shall consider the appropriateness of such penalty to the net worth of the offending person and the gravity of the offense, and in the case of a contract market shall further consider whether the amount of the penalty will materially impair the contract market's ability to carry on its operations and duties."

(c) Section 6(c) of the Commodity Exchange Act, as amended (7 U.S.C. 13b), is amended by deleting the words "not less than $500 nor more than $10,000" and substituting therefor the words "not more than $100,000".

(d) Section 9 of the Commodity Exchange Act, as amended (7 U.S.C. 13), is amended as follows:

(1) Subsection (a) is amended by striking "$10,000" and substituting therefor "$100,000".

(2) Subsection (b) is amended by striking "$10,000" and substituting therefor "$100,000".

(3) Subsection (c) is amended by striking "$10,000" and substituting therefor "$100,000".

SEC. 213. Section 8a of the Commodity Exchange Act, as amended (7 U.S.C. 12a), is amended by striking subsection (7) and inserting in lieu thereof the following new subsection:

"(7) to alter or supplement the rules of a contract market insofar as necessary or appropriate by rule or regulation or by order, if after making the appropriate request in writing to a contract market that such contract market effect on its own behalf specified changes in its rules and practices, and after appropriate notice and opportunity for hearing, the Commission determines that such contract market has not made the changes so required, and that such changes are necessary or appropriate for the protection of persons producing, handling, processing, or consuming any commodity traded for future delivery on such contract market, or the product or byproduct thereof, or for the protection of traders or to insure fair dealing in commodities traded for future delivery on such contract market. Such rules, regulations, or orders may specify changes with respect to such matters as:

"(A) terms or conditions in contracts of sale to be executed on or subject to the rules of such contract market;

"(B) the form or manner of execution of purchases and sales for future delivery;

"(C) other trading requirements, excepting the setting of levels of margin;

"(D) safeguards with respect to the financial responsibility of members;

"(E) the manner, method, and place of soliciting business, including the content of such solicitations; and

"(F) the form and manner of handling, recording, and accounting for customers' orders, transactions, and accounts; and".

SEC. 214. Section 8a of the Commodity Exchange Act, as amended (7 U.S.C. 12a), is amended by adding the following new subsection (8):

"(8) to make and promulgate such rules and regulations with respect to those persons registered under this Act, who are not members of a contract market, as in the judgment of the Commission are reasonably necessary to protect the public interest and promote just and equitable principles of trade, including but not limited to the manner, method, and place of soliciting business, including the content of such solicitation; and".

SEC. 215. Section 8a of the Commodity Exchange Act, as amended (7 U.S.C. 12a), is amended by adding the following new subsection (9):

"(9) to direct the contract market whenever it has reason to believe that an emergency exists, to take such action as, in the Commission's judgment, is necessary to maintain or restore orderly trading in, or liquidation of, any futures contract. The term 'emergency' as used herein shall mean, in addition to threatened or actual market manipulations and corners, any act of government affecting a commodity or any other major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such commodity and which, in the Commission's judgment, will of itself have a greater adverse impact on the market than the intervention action proposed pursuant to this subsection: *Provided*, That nothing herein shall be deemed to limit the meaning or interpretation given by a contract market to the terms 'market emergency', 'emergency', or equivalent language in its own bylaws, rules, regulations, or resolutions."

SEC. 216. The Commodity Exchange Act, as amended, is amended by inserting the following new section immediately after section 8b (7 U.S.C. 12b):

"SEC. 8c. (1) (A) Any exchange or the Commission if the exchange fails to act, may suspend, expel, or otherwise discipline any person who is a member of that exchange, or deny any person access to the exchange. Any such action shall be taken solely in accordance with the rules of that exchange.

"(B) Any suspension, expulsion, disciplinary, or access denial procedure established by an exchange rule shall provide for written notice to the Commission and to the person who is suspended, expelled, or disciplined, or denied access, within thirty days, which includes the reasons for the exchange action in the form and manner the Commission prescribes. Otherwise the notice and reasons shall be kept confidential.

"(2) (A) Any person suspended, expelled, disciplined by an exchange or denied access to it is entitled to Commission review of that decision, pursuant to such regulations as the Commission, by rule, prescribes.

"(B) The Commission may, in its discretion, upon application of any person who is adversely affected by any other exchange action, review that action.

"(3) The Commission may affirm, modify, set aside, or remand any exchange decision it receives pursuant to subsection (2), after a determination on the record whether the action of the exchange was in accordance with the policies of this Act. Subject to judicial review, any order of the Commission entered pursuant to subsection (2) shall govern the exchange, in its further treatment of the matter.

"(4) The Commission, in its discretion, may order a stay of any action taken pursuant to subsection (1) pending review thereof.

"(5) Nothing in this section shall require any person to resort to the procedure set forth in subsection (2), or prohibit any person from seeking any other form of relief available to him under State or Federal law, or limit the liability of any person to suit by any State or Federal regulatory or prosecutorial agency."

SEC. 217. No person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins, pursuant to a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract contrary to any rule, regulation, or order of the Commodity Futures Trading Commission designed to insure the financial solvency of the transaction or prevent manipulation of fraud: *Provided*, That such rule, regulation, or order may be made only after notice and opportunity for hearing. If the Commission determines that such transactions are contracts for future delivery within the meaning of the Commodity Exchange Act, as amended, such transactions shall be regulated in accordance with the provisions of such Act.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. Section 9 of the Commodity Exchange Act, as amended (7 U.S.C. 13), is amended by adding the following new subsections:

"(d) It shall be a felony punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any Commissioner of the Commission or any employee or agent thereof, to participate, directly or indirectly, in any transaction in commodity futures or any transaction of the character of or which is commonly known to the trade as an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty', or for any such person to use information acquired by virtue of his employment or position and participate, directly or indirectly, in any transaction in an actual commodity: *Provided*, That such prohibition against any transaction in an actual commodity shall not apply to a transaction in which such person sells an agricultural commodity which he has produced in connection with his own farming or ranching operations nor to any transaction in which he sells livestock which he has owned at least three months. With respect to such excepted transactions, the Commission shall require any Commissioner of the Commission or employee or agent thereof who participates in any such transaction to notify the Commission thereof in accordance with such regulations as the Commission shall prescribe and the Commission shall make such information available to the public.

"(e) It shall be a felony punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both, together with the costs of prosecution—(1) for any Commissioner of the Commission or any employee or agent thereof who, by virtue of his employment or position, acquires information which may affect or tend to affect the price of any commodity futures or commodity and which information has not been made public to impart such information with intent to assist another person, directly or indirectly, to participation in any transaction in commodity futures, any transaction in an actual commodity, or in any transaction of the character of or which is commonly known to the trade as an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty' or 'decline guaranty'; and (2) for any person to acquire such information from any Commissioner of the Commission or any employee or agent thereof and to use such information in any transaction in commodity futures, any transaction in an actual commodity, or in any transaction of the character of or which is commonly known to the trade as an 'option', 'privilege', 'indemnity', 'bid', 'offer' 'put', 'call', 'advance guaranty', or 'decline guaranty'."

SEC. 302. Section 4c of the Commodity Exchange Act, as amended (7 U.S.C. 6c), is amended—

(a) By inserting "(a)" after "SEC. 4c.".

(b) By striking paragraph (B) in its entirety and inserting in lieu thereof the following:

"(B) if such transaction involves any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974, and if such transaction is of the character of, or is commonly known to the trade as, an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty', or".

(c) By adding at the end thereof the following new subsection:

"(b) No person shall offer to enter into, or confirm the execution of, any transaction subject to the provisions of subsection (a) of this section involving any commodity regulated under this Act, but not specifically set forth in section 2(a) of this Act, prior to the enactment of the Commodity Futures Trading Commission Act of 1974, which is of the character of, or is commonly known to the trade as, an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty', contrary to any rule, regulation or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe within one year after the effective date of the Commodity Futures Trading Commission Act of 1974: *Provided*, That any such order, rule, or regulation may be made only after notice and opportunity for hearing: *And provided further*, That the Commission may set different terms and conditions for different markets."

SEC. 303. Section 4a(1) of the Commodity Exchange Act, as amended (7 U.S.C. 6a), is amended by inserting, following the word "straddles" in the last sentence of such paragraph the words "or 'arbitrage' " and by adding the following new sentences at the end of such paragraph: "The word 'arbitrage' in domestic markets shall be defined to mean the same as a 'spread' or 'straddle'. The Commission is authorized to define the term 'international arbitrage'."

SEC. 304. Section 4a(3) of the Commodity Exchange Act, as amended (7 U.S.C. 6a), is amended by deleting the period at the end of the first sentence and adding "as such terms shall be defined by the Commission within ninety days after the effective date of the Commodity Futures Trading Commission Act of 1974 by order consistent with the purposes of this Act: *Provided*, That such terms shall permit the hedging of a person's anticipated production of seed quantities of a commodity and the hedging by the users of products of traded commodities as well as users of the commodities." and by deleting the remainder of paragraph (3): *Provided*, That until the Commission issues regulations defining what constitutes bona fide hedging transactions and positions and such regulations are in full force and effect, such terms shall continue to be defined as set forth in the Commodity Exchange Act prior to its amendment by the Commodity Futures Trading Commission Act of 1974.

SEC. 305. Section 4b of the Commodity Exchange Act, as amended (7 U.S.C. 6b), is amended—

(a) By deleting the word "cotton" where it appears in the last full paragraph of such section, and inserting in lieu thereof the words "a commodity".

(b) By striking the period at the end of such section and adding the following: ": *And provided further*, That such transactions shall be made in accordance with such rules and regulations as the Commission may promulgate regarding the manner of the execution of such transactions."

SEC. 306. Section 5a(6) of the Commodity Exchange Act, as amended (7 U.S.C. 7a), is amended by deleting the semicolon at the end of said subsection and inserting in lieu thereof the following: "and adopted by the Commission;".

SEC. 307. Section 5a(8) of the Commodity Exchange Act, as amended (7 U.S.C. 7a), is amended—

(a) By deleting the words "not been disapproved by the Secretary of Agriculture pursuant to paragraph (7) of section 8a" and inserting in lieu thereof the words "been approved by the Commission pursuant to paragraph (12) of section 5a".

(b) By deleting the word "so", and inserting the words "by the Commission" immediately before the semicolon at the end of such subsection.

SEC. 308. Section 6(b) of the Commodity Exchange Act, as amended (7 U.S.C. 9), is amended—

(a) By striking in the second sentence "a referee" and inserting in lieu thereof "an Administrative Law Judge".

(b) By striking the word "referee" each other place it appears and inserting in lieu thereof "Administrative Law Judge".

SEC. 309. Section 9(c) of the Commodity Exchange Act, as amended (7 U.S.C. 13), is amended by inserting after "section 4i" the following: "section 4k, section 4m, section 4o, section 17,".

SEC. 310. Section 5108(c) of title 5 of the United States Code is amended by adding after paragraph (11) thereof the following new paragraph:

"(12) The Commodities Futures Trading Commission, subject to the standards and procedures prescribed by this chapter, may place an additional twenty positions in GS-16, GS-17, and GS-18 for purposes of carrying out its functions."

SEC. 311. All operations of the Commodity Exchange Commission and of the Secretary of Agriculture under the Commodity Exchange Act, including all pending administrative proceedings, shall be transferred to the Commodity Futures Trading Commission as of the effective date of this Act and continue to completion. All rules, regulations, and orders heretofore issued by the Commodity Exchange Commission and by the Secretary of Agriculture under the Commodity Exchange Act to the extent not inconsistent with the provisions of this Act shall continue in full force and effect unless and until terminated, modified, or suspended by the Commodity Futures Trading Commission.

SEC. 312. Pending proceedings under existing law shall not be abated by reason of any provision of this Act but shall be disposed of pursuant to the applicable provisions of the Commodity Exchange Act, as amended, in effect prior to the effective date of this Act.

SEC. 313. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 314. The Commodity Exchange Act, as amended, is amended by adding the following new section at the end thereof:

"SEC. 16. (a) The Commission may conduct regular investigations of the markets for goods, articles, services, rights, and interests which are the subject of futures contracts, and furnish reports of the findings of these investigations to the public on a regular basis. These market reports shall, where appropriate, include information on the supply, demand, prices, and other conditions in the United States and other countries with respect to such goods, articles, services, rights, interests, and information respecting the futures markets.

"(b) The Commission shall cooperate with any other Federal agency which makes market investigations to avoid unnecessary duplication of information-gathering activities.

"(c) The Department of Agriculture, Department of State, Department of Commerce, and any other government agency which has market information sought by the Commission shall furnish it to the Commission upon the request of any authorized employee of the Commission. The Commission shall abide by any rules of confidentiality applying to such information.

"(d) The Commission shall not disclose the names of individual companies."

SEC. 315. Section 4g of the Commodity Exchange Act, as amended, is amended by inserting "(1)" after the section designation and by adding the following new subsections:

"(2) Every clearinghouse shall prepare a daily trading report in the form and manner which the Commission prescribes by rule. The daily trading report shall include—

"(A) the time of each trade made on the exchange that day;

"(B) the good, article, service, right, or interest which is the subject of the contract;

"(C) the number of futures contracts involved in each trade;

"(D) the price of the futures contract in each trade;

"(E) the delivery month specified in the futures contract in each trade;

"(F) the identification of the traders involved in each trade; and

"(G) any other information the Commission requires.

"(3) Daily trading reports shall be delivered to the Commission at the time and place it designates. The Commission may disclose daily trading reports, or information from those reports, to the public if, in the determination of the Commission, disclosure will further the regulation of futures trading.

"(4) Before the beginning of trading each day, the exchange shall make public the volume of trading on each type of contract for the previous day and such other information as the Commission deems necessary in the public interest and prescribes by rule, order, or regulation."

SEC. 316. The Commodity Exchange Act, as amended, is amended by adding at the end thereof the following new section:

"SEC. 17. It is unlawful for a futures commission merchant (or any employee thereof) to accept and order from any person to buy or sell any futures contract and for a commodity trading advisor to advise any person to buy or sell a futures contract unless he obtains a signed statement from such person, in such form as the Commission prescribes, which states that the person understands the speculative nature of futures contract trading, the high probability of loss of initial and later investments in futures contracts, and any other information the Commission prescribes."

SEC. 317. The Commodity Exchange Act, as amended, is amended by adding at the end thereof the following new section:

"SEC. 18. (a) The Commission shall establish and maintain, as part of its ongoing operations, research and information programs to (1) determine the feasibility of trading by computer, and the expanded use of modern information system technology, electronic data processing, and modern communication systems by commodity exchanges, boards of trade, and by the Commission itself for purposes of improving, strengthening, facilitating, or regulating futures trading operations; (2) assist in the development of educational and other informational materials regarding futures trading for dissemination and use among producers, market users, and the general public; and (3) carry out the general purposes of this Act.

"(b) The Commission shall include in its annual reports to Congress plans and findings with respect to implementing this section."

SEC. 318. The Commodity Exchange Act, as amended, is amended by adding at the end thereof the following new section:

"SEC. 19. (a) In order to promote the use of forward contracting in the sale and purchase of agricultural commodities (including livestock), the Commission is authorized and directed to encourage and otherwise assist any insurance companies and other insurers which meet the requirements prescribed pursuant to this section to form, associate or otherwise join together in a pool to provide insurance coverage to protect the parties to any forward contract against financial loss resulting from failure of the other party to comply with the terms of the contract for future delivery: *Provided*, That no buyer or seller may be insured under this section with respect to any agricultural commodity contracted for sale through a board of trade as defined in section 2 of this Act.

"(b) In order to promote the effective administration of the forward contracting insurance program and to assure that the objectives of this section are furthered, the Commission is authorized to prescribe appropriate requirements for insurance companies and other insurers participating in such pool including, but not limited to, minimum requirements for capital or surplus or assets.

"(c) The Commission is authorized to enter into agreements with the pool formed or otherwise created under this section to assume not more than 50 per centum of the loss suffered by such pool in any year in excess of premiums collected during the duration of the pool: *Provided*, That the premium charged any insured shall not exceed 2 per centum of the total value of the contract being insured: *Provided further*, That the Commission shall from time to time negotiate with representatives of the pool to establish premiums which the Commission finds will provide profits to the members of the pool necessary to carry out the purposes of this section.

"(d) Any payments made by the Commission as provided in subsection (c) of this section shall be reimbursed from funds of the Commodity Credit Corporation."

SEC. 319. The Commodity Futures Trading Commission shall investigate the need for legislation providing for the registration of future associations. It shall report its findings to the Congress within two years after enactment of this Act.

SEC. 320. The Commodity Futures Trading Commission shall submit to the Congress, not later than June 30, 1976, a report respecting the need for legislation insuring owners of commodity futures accounts and persons handling or clearing trades in such accounts against loss by reason of the insolvency or financial failure of a futures commission merchant carrying such accounts. The report shall contain the recommendations of the Commission concerning the form and nature of any such legislation.

SEC. 321. (a) This Act shall become effective one hundred and eighty days after enactment. Activities necessary to implement the changes effected by this Act may be carried out after the date of enactment and before as well as after the effective date. Activities to be carried out after the date of enactment and before the effective date shall include, but are not limited to, appointment of the members of the Commodity Futures Trading Commission, designation of boards of trade as contract markets, registration of futures commission merchants, floor brokers, and other persons required to be registered under the Act, approval or modification of bylaws, rules, regulations, and resolutions of contract markets, and the necessary steps to regulate futures trading in silver immediately on the effective date of this Act.

(b) Funds appropriated for the administration of the Commodity Exchange Act may be used to implement this Act, and the positions authorized by sections 102 and 310 of this Act may be filled immediately after the date of enactment of this Act.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time that has been used today on H.R. 13113 not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

TELEGRAM OF SENATOR ROBERT C. BYRD TO THE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I have today sent the following telegram to the President of the United States:

September 6, 1974.

The President,
The White House,
Washington, D.C.:

I compliment you on the conduct and progress of the first of the economic summit meetings. The meeting which was held yesterday, and which was attended by several of the Nation's top economists, supports the viewpoint which I expressed at the White House during your recent meeting with Congressional leaders, when I stated my belief that some form of standby wage and price stabilization authority should not be ruled out. The overwhelming majority of the economists at the meeting yesterday appeared to support this viewpoint.

I, therefore, urge that you not rule out the consideration of such standby authority. I strongly urge that wage and price guidelines be established as soon as possible, with initial reliance on voluntary compliance, but with mandatory standby controls as a backup element in the attack on inflation. Any such guidelines should guarantee equity to wage earners in view of the fact that wage demands during the past 18 months have been restrained, the result being that wages have not kept pace with rapidly increasing prices.

I also urge that energy conservation steps be initiated in view of the fact that spiralling energy costs have contributed greatly to inflationary pressures. The continuing possibility of curtailment, or increased costs, of foreign oil supplies cannot be overlooked in the effort to control inflation. If such a possibility should become a reality, the impact on our already serious problem of inflation would be disastrous. In my judgement, your strong leadership is needed to make the American people clearly aware that the energy problem has not gone away and that any successful attack on inflation will require the conservation of energy resources, and the development of new energy resources through adequately funded research programs.

I urge that action be taken immediately, through the Federal Reserve Board, to relax high interest rates so as to encourage home building. Young people in today's tight money market, can no longer hope to purchase a home, and every action should be taken to encourage increased deposits in savings institutions that provide home mortgages.

I urge, additionally, that action be taken in concert with other industrial nations suffering from inflation in order that a common effort among free world powers can be mounted against worldwide inflation.

Moreover, I would urge that aggressive action be taken promptly to deal with present, and projected worsening of raw materials shortages, such raw materials being necessary to increase productivity in our country, which in turn would beneficially ease upward pressures on costs of finished products. In the face of quadrupled costs of oil in the past year, many developing nations are following the lead of Mid-Eastern oil-producing countries and are increasing the prices of scarce minerals and other raw materials, such as chrome, manganese, copper, tungsten, bauxite—all of which are necessary to the continued functioning of American industry and the production of American consumer goods.

Finally, Mr. President, I respectfully urge that, in keeping with your previous open, candid, and honest public statements, you frankly outline to the American people the dimensions of the dual problem of inflation and stagnation, and that they be clearly apprised of the sacrifices that will have to be made by every citizen in order to restore equilibrium to the economy and basic confidence in the economy.

I present the foregoing suggestions in the hope that they will be helpful in combatting the Nation's No. 1 problem, and I assure you of my support for your aggressive leadership and prompt actions along the lines I have proposed.

Robert C. Byrd,
U.S. Senator.

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD AND SENATOR GRIFFIN ON MONDAY AND FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND CONSIDERATION OF H.R. 13113

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the two leaders or their designees have been recognized on Monday next under the standing order, the junior Senator from West Virginia (Mr. Robert C. Byrd) be recognized for not to exceed 15 minutes, and that he be followed by the assistant Republican leader (Mr. Griffin) for not to exceed 15 minutes; after which there be not in excess of 15 minutes for the transaction of routine morning business, with statements limited therein to 5 minutes each; at the conclusion of which then, in accordance with the distinguished majority leader's earlier statement, the Senate resume consideration of H.R. 13113, an act to amend the Commodity Exchange Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO TEMPORARILY LAY ASIDE S. 707

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the unfinished business, S. 707, be temporarily laid aside on Monday at the conclusion of routine morning business, and that it remain in a temporarily laid aside status until the close of business on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOHN O. MARSH, COUNSELOR TO THE PRESIDENT

Mr. HARY F. BYRD, JR. Mr. President, I very much favor the comments of the people of the Seventh Congressional District of Virginia on the appointment of John O. Marsh, Jr., by President Ford to be counsellor to the President.

Mr. Marsh is well known throughout the Seventh Congressional District. He served as a Member of the House of Representatives of that district for 8 years.

Incidentally, the Seventh Congressional District has had only four Members to represent it in the House of Representatives during the past 40 years.

In 1933 the late A. Willis Robertson was elected Congressman from that district and served in the House until he was elected to the Senate in 1946.

He was succeeded by the late Burr Powell Harrison, of Winchester, who served from 1946 until his voluntary retirement in January of 1963.

It was at that time that John O. Marsh, Jr., became the Seventh District Representative and served until he voluntarily relinquished that office in January of 1971.

Since then the district has been represented by J. Kenneth Robinson, of Winchester, an able and excellent Representative for the people of the Shenandoah Valley.

As a longtime chosen friend of John O. Marsh, Jr., I was pleased that the President selected him as his counselor.

The Clarke Courier, a paper published in Berryville, Va., carried in its columns of August 29, 1974, an excellent profile on former Congressman Marsh.

The article was written by Dean Levi, a top reporter for the Richmond News-Leader. The article first appeared in the Richmond newspaper and then was republished in the Clarke Courier.

It gives a good insight into the workings of a top official in the White House, and it gives a good insight into Mr. Marsh.

I ask unanimous consent that this article by Dean Levi, first published in the Richmond News-Leader, and then subsequently in the Clarke Courier, be published at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Marsh One of the New Boys on the Block

(By Dean Levi)

Washington.—An orange-hued, early morning sun forecast another breezeless and withering day for the nation's capital.

It was 7:45 a.m. as the 48-year-old former Virginia congressman strolled into the White House and to his office, just a few steps from President Ford's Oval Office and the offices of Secretary of State Henry E. Kissinger and Gen. Alexander M. Haig, White House staff chief.

John Otho Marsh Jr., named earlier this month by Ford as his counselor, wore a rumpled-looking gray suit and a conservative club tie.

BRIEF CALL ON PRESIDENT

He paid his customary call on the New President, who already had begun his day's work.

"I just wanted guidance on some personnel questions that had come to me," said Marsh. The meeting Thursday lasted about three minutes.

Marsh, a former four-term congressman from the 7th District, now lives in Arlington with his wife and three children. But he still calls a log cabin deep in the Shenandoah Valley near Strasburg his home.

On Wednesday night, he and Mrs. Marsh had attended a dinner party at the White House at the invitation of the President for the cabinet; Ford's senior staff members, and vice president-designate, Nelson Rockefeller.

Lying on a sofa in Marsh's office was a copy of the Washington Post. The newspaper had a picture of the Marshes as they entered the mansion.

No sooner had Marsh popped into his two-room office in the West Wing than he popped back into the hallways again. Seconds later, Haig walked in looking for the President's assistant.

BREAKFAST WAITS

Marsh's breakfast of fried eggs and toast, brought in on a tray from the White House kitchen, grew cold; the orange juice grew warm.

Marsh had no time for a bite.

Navy Cmdr. Howard J. Kerr, his military assistant and a former aide to Vice President Spiro T. Agnew, pored over a stack of papers. Kerr also answered at least a dozen telephone calls.

Marsh finally got down to the day's business at his desk, actually an oblong table. On hand was a North Carolina native, Dr. Theodore C. Marrs, special assistant to the President.

Marsh grinned at Kerr.

"I was going to see General Haig, but the President had called for him, and I think he out-ranks us."

TWO SECRETARIES BUSY

Marsh first took care of some correspondence. Two secretaries were pounding away on typewriters in the outer office.

Dr. Marrs made a call.

"We need a briefing for Jack Marsh for jobs to be filled—the high level and low levels . . .

"Now, I want you to shine, damn it," said Dr. Marrs to the listener on the other end.

For the next couple of hours, the pace was hectic, but not frantic.

Marsh and Haig finally got together.

COLD EGGS REMOVED

A White House staffer removed the tray and cold eggs.

Secretaries poured coffee.

The telephone rang, seemingly every few seconds.

And Marsh gave orders.

"Let's go ahead and get the briefing."

"Hey, get Sue back in here."

"We have made a note of your interest . . .," he said, in dictating a letter.

"I'LL GET BACK TO YOU"

He answered a call. Hunched over the telephone, with his hand to his forehead, he told the caller:

"Well, listen. Let me work on this and see what I can do. I'll get back to you, but I've got a feeling he isn't going to start."

And to Kerr: "That's gonna be a tough one."

And to a reporter: "I just take this box home with me every night." He referred to a large office box he held on his lap, filled with papers, papers and papers.

"That goes to the President," he told Kerr. "Would you write to that fella? I've got to get some of those calls off today."

And he kidded a visitor to his office: "We're Virginia-izing everybody in here. I tell 'em all the rest of the 49 states joined Virginia and that's how the Union came about.

PAPERS ON THE FLOOR

Marsh moved to a chair and papers began littering the floor.

"These are two items I've got to show the President when I go in and see him."

At 10:30 a.m., Marsh left his office for a meeting, in the Roosevelt Room, a few steps away.

Marsh, who was nominated by former President Nixon as an assistant secretary of state, has a framed picture of Nixon on his office wall. He also has one of President Ford: "To my very good friend . . . in appreciation and with best wishes . . ." says the inscription.

Marsh's offices are comfortable, although somewhat small. The wall trim is a Williamsburg blue, nearly matching the wall-to-wall carpeting. He works under an eight-arm brass chandelier.

LINCOLN AND LEE

There are busts of Lincoln and Robert E. Lee on bookshelves and a picture of his three children is prominently displayed. A brass candlestick stands on his table-desk, while a coffee table is the focal point for a sofa and three easy chairs.

Who is Marsh?

(As he put it: "John Who?")

President Ford tells it in part. Framed is this citation: ". . . Reposing special trust and confidence in your Integrity, Prudence and Ability, I do appoint you counselor to the President of the United States of America. This 10th day of August, 1974."

Marsh grew up in Harrisonburg and was president of his high school senior class. He was an infantryman in World War II and was commissioned a second lieutenant when he was 19.

SPEEDED-UP COURSE

He took pre-law and received his law degree from Washington and Lee University in an accelerated program which took him four years.

"I was just a country lawyer," he said in his flat-sounding Valley accent. "I just wanted to practice law in a small town."

He picked Strasburg in 1952. He picked politics a few years later.

Marsh served four terms as a Democratic congressman from the conservative Seventh District. Then, in 1970, he announced that he would not seek re-election and would open a law office.

NOMINATION BY NIXON

Two years later, Nixon nominated Marsh as assistant secretary of defense for legislative affairs. The Senate confirmed the nomination in April 1973.

Last January, Ford, then vice president, asked Marsh to join his staff.

At noon yesterday, the meeting ended and Marsh was hungry.

"I'll have cottage cheese and tomatoes with Thousand Island dressing," he told his assistant.

Marsh appears to keep himself under tight rein, but he has a vast storage of nervous energy. He keeps within his weight and tries to jog two miles after work. On the outside, he appears to be as casual as an old comfortable tweed coat.

"The biggest problem," he said, "is returning those phone calls. I dial most of my calls."

"SOME RESPONSIBILITY"

And of his job, in somewhat of an understatement: "I stay fairly busy, and there's some responsibility with it.

"We're new boys on the block here."

It was late afternoon when Marsh conferred with President Ford a second time. This time it was about a speech Ford was to give at the University of Ohio.

But before Marsh and the President got down to business, Ford said he hoped to "attend a couple of Redskins (football) games this season if they don't walk off the field." (His reference was to a professional football players' strike.)

SECURITY MAN EVIDENT

Outside Ford's office, in the rose garden, a security man, dressed neatly in a suit, paced back and forth, a two-way radio in his hand. The President's secretary ate her lunch, brought in on a tray, in the anteroom.

Back in his own office, Marsh asked Kerr the time of Secretary of State Kissinger's stag party in the Old Executive Office for Saudi Arabi's minister of state for foreign affairs.

"Eight o'clock: that's good. It'll give me a chance to go home. . . ."

The telephone rang, again.

On a shelf near his desk was a book on swimming pools. Ford wants one, and he's been getting a lot of publicity on the subject.

It had been Marsh's job to "get the people together about that pool and, then, turn it over to General Haig."

QUORUM CALL

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered.

PROGRAM

Mr. MANSFIELD. Mr. President, responding further to the Senator from Michigan, there is a time limitation on the bill H.R. 13113 which has been mutually agreed to all around. It will be followed by Calendar No. 1067, H.R. 6395, which has to do with the Okefenokee National Wildlife Refuge in Georgia.

That will be followed by the Big Cypress National Preserve, Calendar No. 1077, H.R. 10088.

It is hoped that if those bills are out of the way on Monday, it will be possible to take up Calendar No. 1086, S. 3280, a bill to amend the Public Health Service Act and related laws, to revise and extend programs of health revenue sharing and health services, and for other purposes.

Then there will be, on Tuesday next, the military construction bill, Calendar No. 1084, H.R. 16136.

On Wednesday, the highway construction bill, Calendar No. 1063, S. 3934, will be considered.

Somewhere along the way, we shall turn to consideration of Calendar No. 1070, S. 3838, a bill to authorize the regulation of obligations issued by financial institution holding companies, and for other purposes.

Also we shall consider Calendar No. 1085, Senate Resolution 391, a resolution relating to the President's committee on food and the continuing serious nature of the supply, demand and price situation of fertilizer, farm chemicals, and fuels and energy—especially natural gas—used by food and agriculture industries.

I believe that on Monday or Tuesday, the Committee on Appropriations will meet to mark up the HEW appropriation bill, and we hope to get that considered by the Senate later in the week.

While I have been definite on what would follow what, I hope that the Senate will allow the joint leadership a little flexibility so that, depending on the situation at any given time, we may take up any of this legislation.

Mr. GRIFFIN. For example, it may depend on what happens to the amendment and the possible motion to recommit on the copyright bill, I suppose.

Mr. MANSFIELD. That is true. And if that motion is brought up and fails, then we shall have to push the program somewhat ahead.

However, I have just thought of something. I remember the distinguished Senator from Arizona (Mr. GOLDWATER) indicating that there was a primary election in his State on Tuesday next, but that he would be very much interested in the military construction bill; so that might have to wait until Wednesday. Anyway, because of his interest in that bill, unless he gives us his approval, we would keep his situation in mind; but I would appreciate it if the Republican leader would find out what the wishes of the Senator from Arizona are in this respect, and we can work out something next week.

Mr. GRIFFIN. I will be glad to do that.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. Yes, indeed.

Mr. ROBERT C. BYRD. This question is directed also to the distinguished assistant Republican leader. Would it be feasible to think in terms of votes on Tuesday after the hour of, say, beginning at 5 o'clock or 5:30, or 6 o'clock? It seems to me that in the colloquy yesterday or the day before between Mr. PASTORE, Mr. GOLDWATER, and the majority leader, there was something said to the effect that votes could be held circa 6 o'clock p.m., so that Senators who had been away for the elections in various areas could very possibly be back in time to vote.

Mr. GRIFFIN. It is my impression that that would be all right. I think we might proceed on that assumption. Of course, there are Members on both sides of the aisle, I would suspect, who are affected by the primary election situation.

Mr. ROBERT C. BYRD. I thank both leaders.

Mr. MANSFIELD. Do I understand correctly that it might be possible for the Senator from Arizona (Mr. GOLDWATER) to get back later that day?

Mr. GRIFFIN. Later that day, that is correct.

Mr. MANSFIELD. That is about it as far as the calendar is concerned. I want to commend the Senate and all its Members for the cooperation, accommodation, and understanding they have shown, and for helping to keep the calendar as clean as it is at this time.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader again yield?

Mr. MANSFIELD. Yes.

Mr. ROBERT C. BYRD. I think it is generally understood that there will be a vote on the motion to invoke cloture on the consumer protection bill on Thursday, the 19th.

Mr. MANSFIELD. That is correct.

Mr. ROBERT C. BYRD. I understand from the journal clerk that that has not definitely been tied down already by unanimous consent. Should we think of doing that now?

Mr. MANSFIELD. Yes, just to make it certain. We really do not have to ask, but I shall.

First, I wish to notify the Senate that a cloture motion will be filed on Tuesday, September 17, and that the vote on the cloture motion will occur on the 19th, without fail.

That is about it. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I would point out for the RECORD that a unanimous consent agreement has been entered into today under which an amendment offered by the distinguished Senator from North Carolina (Mr. ERVIN) will be voted on at 3 o'clock on Monday next. If that amendment fails, it will be followed immediately by a vote on a motion to recommit—consent has been granted by the Senate to that effect—and beginning at the hour of 2 o'clock, there will be a disposition of the time between the Senator from North Carolina (Mr. ERVIN) and the Senator from Rhode Island (Mr. PASTORE), on the one hand, and the chairman of the Committee on Appropriations (Mr. MCCLELLAN) on the other. That has been agreed to unanimously by the Senate.

Mr. GRIFFIN. Mr. President, will the majority leader yield?

Mr. MANSFIELD. I yield.

Mr. GRIFFIN. I have no personal interest in this myself, but just for clarification and the possible edification of the membership, it is not also possible, whether or not it may happen, as I have understood the colloquy, that a motion to recommit could be made in advance of the 3 o'clock vote, and conceivably we could have a vote before that?

Mr. MANSFIELD. That is correct.

Mr. GRIFFIN. I think Senators might at least be cautioned on that point.

Mr. MANSFIELD. That is right. All I was stating was what had actually been granted in the form of a unanimous consent agreement.

Mr. GRIFFIN. Yes. I thank the Senator.

ADJOURNMENT TO 10 A.M. MONDAY, SEPTEMBER 9, 1974

Mr. HARRY F. BYRD, JR. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. Monday next.

The motion was agreed to; and at 12:44 p.m. the Senate adjourned until Monday, September 9, 1974, at 10 a.m.

SENATE—*Monday, September 9, 1974*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

With the Psalmist we pray:

"Unto Thee, O Lord, do I lift up my soul. Good and upright is the Lord: therefore will He teach sinners in the way. The meek will He guide in judgment; and the meek will He teach His way. All the paths of the Lord are mercy and truth unto such as keep His covenant and His testimonies."—Psalms 25: 1, 8–10.

Grant us, O Lord, open minds to Thy Spirit that we may discern Thy will and be guided into the truth. In knowing the truth may we follow it at all cost for the well-being of this Nation and for the rule of righteousness on the Earth.

Through Him who is the Way, the Truth, and the Life. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, September 6, 1974, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EQUAL JUSTICE UNDER THE LAW?

Mr. MANSFIELD. Mr. President, on yesterday, President Gerald Ford announced his decision to grant a "full, free, and absolute pardon unto Richard Nixon for all offenses against the United States which he, Richard Nixon, has committed or may have committed or taken part in during the period from January 20, 1969, through August 9, 1974."

I recognize, under the Constitution, that this is a decision for the President and the President alone to make. A pardon is not given to clear an innocent man but is given for the purpose of mitigating guilt. Otherwise, why a pardon? I am certain that President Ford, in granting this pardon to former President Nixon, did so on the basis of what he thought was best for the country; did so in good conscience; and did so after prayer and deliberation.

It would be easy for me to criticize the President's judgment, but I will not do so because I think he faced up to his responsibility, made a decision which he thought was right but, in doing so, made a decision which raises many questions. What about the 58 men who have been charged with crimes which cover Watergate and related matters? Thirty-five of them have been convicted or pleaded guilty. Four have been acquitted or have had the charges dropped; and a number still have charges pending. What do we do about those who have been sentenced to prison? Are we all equal under the law or are we not? In my opinion, if we believe in that axiom—and I do—it applies to all of us—Presidents and plumbers, the high, the low, the poor, the rich.

It would be my hope that the Special Prosecutor, Mr. Leon Jaworski, would heed carefully the words of President Ford at his last full-fledged press conference, and the responsibility which has been accorded to him that he "has an obligation to take whatever action he sees fit in conformity with his oath of office, and that should include any and all individuals." That obligation includes authority to "investigate and prosecute offenses against the United States," and that takes in everybody.

May I say that I am also concerned that an agreement has been reached whereby, after 3 years, the White House tapes will become the property of former President Nixon. During that period, the former President and the Federal Government will have access to those tapes. It is my belief that those tapes should be retained in the control of the Federal Government, and I would suggest that except for those portions of the tapes dealing with the national security, they all be published.

I am disappointed—and this is not new with me—that the constitutional process of impeachment was not carried out all the way so that all the facts would become available to the American people, but that was a congressional responsibility which was "cut off at the pass" when the House accepted rather than approved the findings of the House Judiciary Committee. By that action, the impeachment proceedings came to a stop. Watergate, rather than being behind us, as many had thought, is now once again, unfortunately, before us.

ORDER OF BUSINESS

Mr. GRIFFIN. Mr. President, the Senator from Nebraska wishes to make a statement, so I shall yield to the Senator from Nebraska so much of the time available to the minority leader as may be necessary.

Mr. CURTIS. I thank my distinguished friend.

PRESIDENTIAL PARDON

Mr. CURTIS. Mr. President, President Ford has shown great statesmanship in the action that he has taken which will relieve former President Richard Nixon from harassment and torment. In my opinion, justice has been done. The chief end of all law is to do justice. I believe that it is very unlikely that a trial of Richard Nixon, in any jurisdiction where a fair trial could be had, would result in a conviction. I do not think it should.

In the turmoil and controversy that accompany a matter of this kind, we should not lose sight of the basic fundamentals of American justice. I refer to the principle that an accused person is entitled to a presumption of innocence, that guilt must be established beyond a reasonable doubt, that the rules of evidence must be followed, and that testimony must be under oath and subject to cross-examination.

The action taken by President Ford will relieve Mr. Nixon of the ordeal of defending himself. Furthermore, I believe that this action is wise and good from the standpoint of the public interest, and that it meets with the approval of the vast majority of American citizens. It will also enable President Ford to carry on in the international field without losing the benefit of the outstanding achievements of former President Nixon.

I commend President Gerald Ford for taking this courageous and just stand. What he has done has been in the interest of justice. The action taken by President Ford will forever stand as the right action, long after his critics have been forgotten.

The prophet Micah said it so well:

> * * * O man, what is good; and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God?

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. ABOUREZK). Does the Senator from Michigan desire further time?

Mr. GRIFFIN. Yes.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

PRESIDENTIAL PARDON

Mr. GRIFFIN. Mr. President, if Presidents had been expected never to exercise the pardon power, I am sure that our Founding Fathers would not have written it into the Constitution.

Obviously they thought there would be times when considerations of mercy would justify exercise of the pardon power.

As the distinguished majority leader has said, it is easy at a time like this to criticize President Ford, who has made a very difficult decision; and I have no doubt that we will hear much criticism.

This, then, was a decision that only the President of the United States is empowered to make. He has made it. It is final. It cannot be withdrawn or reversed by Congress or anyone else.

History will finally judge the actions of the President in this situation. Personally, I think he will fare very well.

It is altogether natural for one to wonder about the various considerations that must have gone into this, the most difficult decision of the new administration. President Ford had to decide: Would he move now, on the eve of action, considered almost certain, by the Special Prosecutor, Mr. Jaworski? Or would President Ford wait some indefinite, indeterminate period of time while the country resumed the agony of concern about the future of the former President?

If, after consulting with the Higher Being and his own conscience, President Ford had come to the conclusion, in his own mind, that he would grant a pardon at the end of a trial, if the former President were to be convicted, then I wonder if it is reasonable to criticize him for taking his bold and decision action now—who can say that this does not better serve the national interest?

It is very doubtful that the former President could have gotten a speedy and a fair trial, as the Constitution guarantees to citizens accused of crime.

Furthermore, while I have no personal testimony to deliver, I have no doubt in my own mind that the condition of the health of the former President was a factor in the decision—and the timing of the decision—by President Ford, of course, one of the most legitimate reasons for an Executive to use the pardon power is health.

Some have said that now other details about the Watergate mess may not come out. I do not think that necessarily follows, as we know, other Watergate defendants are scheduled to be tried. In the course, of those trials, additional information is likely to come out. Whether each of them can, and will, receive the fair and speedy trial guaranteed by the Constitution is a question that must be judged on a case-by-case basis.

Just as each of the others has a separate case, so the former President's case is different. It is altogether possible that we may learn more about the Watergate business now than would have been the case if the pardon had not been granted. As I understand it, possible use of the fifth amendment, for example, will no longer be available.

Now that President Ford's decision has been made, the only reasons I could imagine for any prolonged second-guessing about it would be political. I do not think the American people want the Congress to get bogged down again in the Watergate morass. This, I believe, was a major consideration in President Ford's decision. He wants the country—particularly the Congress and the administration—to focus upon and face up to the other urgent problems—like inflation—that confront our Nation and the world.

President Ford has made his decision. Whether we agree or disagree with it, we cannot change it. So, let us look forward instead of backward. Let us get on with the urgent business that really needs the attention of Congress and the country.

Mr. MANSFIELD. Mr. President, may I be recognized in the time of the Senator from West Virginia?

The PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. MANSFIELD. May I ask how much time the distinguished Senator from Alabama wanted?

Mr. ALLEN. Two minutes.

Mr. MANSFIELD. And the distinguished Senator from South Dakota?

Mr. ABOUREZK. Two minutes.

Mr. MANSFIELD. Mr. President, before I yield 5 minutes——

Mr. ALLEN. Three minutes.

Mr. MANSFIELD (continuing). To the distinguished Senator from Alabama, may I say that I am sorry that the distinguished acting Republican leader used the word "political" in reference to the action taken by the President of the United States. I am sure that the Senator knows that I am just about as close to becoming a nonpolitical or an apolitical Senator as I can, and I would not wish the implication to go to the country that this is a matter of politics. As it was with President Ford, so it is with all of us in the Senate, a matter of conscience. I do not doubt the anguish that prevailed, the prayer, the deliberation that the President underwent before arriving at this decision. I know it was not an easy decision to make. But I do want to assure my distinguished and good friend, the acting Republican leader, that this is not a political matter, this is a situation which weighs on the minds and the consciences of all of us—to use the words of the President of the United States in another context, Republicans, Democrats, and independents alike.

Mr. GRIFFIN. I accept that in the spirit in which the distinguished majority leader offers it, and I regret it if my remarks tended to indicate any criticism of the majority leader. Indeed, I particularly noticed that in his statement the majority leader said it would be easy to criticize the President's decision, but he—the majority leader—was very restrained in that regard.

I am not really referring to the reaction which every Member of Congress, of course, is bound and entitled to make to this action. I only express the hope that, looking down the road, we will not get bogged down again in a prolonged political hassle; we cannot reverse the President's decision; and we ought to turn as quickly as possible to other urgent matters that the Congress can do something about.

Mr. MANSFIELD. I appreciate the remarks of the distinguished acting Republican leader. I was not, incidentally, referring to myself. I was referring to his side of the aisle.

I want to assure the distinguished Senator from Michigan, the President's home State, that as far as the Democratic majority is concerned, we shall, with our Republican colleagues, continue to act in the future as we have over the past 1½ or 2 tragic years, with responsibility and with restraint.

I yield 3 minutes of my time to the distinguished Senator from Alabama.

Mr. ALLEN. My thanks to the distinguished majority leader.

PRESIDENTIAL PARDON

Mr. ALLEN. Mr. President, I wish to commend the distinguished majority leader for the statesmanship that he always displays when we have critical problems before the Senate and his nonpolitical approach to these problems. The distinguished majority leader knows that I have not always agreed with the positions which he has taken from time to time, but I do admire his spirit of fairness, his absolute honesty and integrity, and the nonpolitical view that he takes of the major crises that come before the Senate and the Nation.

President Ford, acting under the authority given him by the Constitution, has granted a full pardon to former President Nixon.

Along with most other Americans, I have mixed emotions at this action. I have a strong belief in equal justice before the law and feel that no man is above the law. Yet, I would hate to see any President or former President go to prison. Then too, I have compassion for Mr. Nixon and his family. He has resigned the highest office in the world, and he and his family have endured disgrace, shame, and humiliation. His place in history has been marred for all time. I can say without any hesitation that I had rather be dead than to be required to resign from the Senate because of a breach of trust in the performance of my duties.

Furthermore, a long trial and possible imprisonment of Mr. Nixon could further polarize our people and widen the divisions among them at a time when we need unity as we face the terrific problems confronting the Nation and the Congress.

President Ford has acted courageously, conscientiously, and without regard to the unfavorable political consequences bound to ensue from his action.

Furthermore, he may have created more problems than he has solved; for what action, if any, will he now take as to the other Watergate participants?

Let us pray that the President's action was as wise as it was compassionate and courageous.

Mr. President, I yield the floor.

Mr. MANSFIELD. Mr. President, I yield 3 minutes to the distinguished Senator from South Dakota (Mr. ABOUREZK).

PRESIDENTIAL PARDON AND THE DEFINITION OF MERCY

Mr. ABOUREZK. Mr. President, in February of 1973, a little over a year and a half ago, a group of Sioux Indians, just prior to the Wounded Knee takeover and occupation, went to the town of Custer, S. Dak., to engage in a protest against what they considered to be unfair treatment of an Indian who had been stabbed and killed by a non-Indian. The non-Indian had not been charged with any serious crime.

During the course of the protest, the chamber of commerce building and a part of the courthouse in Custer, S. Dak., were burned. As a result of that action, a number of people were charged with rioting and with arson, and from those charges, an Indian woman by the name of Sarah Bad Heart Bull was convicted, just this year, of taking part in the riot. She was sentenced to an indeterminate sentence of 1 to 5 years. Although Sarah has no husband and she has 5 children, she was given 24 hours by the judge to take care of her affairs before she went to prison.

In addition to that, Sarah Bad Heart Bull was denied bond pending appeal of her case. Because Sarah Bad Heart Bull has no friends in high places, no money, and no power, she is now in prison. I do not know whether her lawyer is being paid or whether he is working pro bono.

With all of the explanations given for the pardon of Richard Nixon yesterday, and with the new definitions of the quality of mercy, I would hope that someone could define to Sarah Bad Heart Bull and to her family the new definition of mercy, because I am unable to do so.

I thank the Senator for yielding.

Mr. MANSFIELD. Mr. President, I yield 3 minutes to the distinguished Senator from Utah (Mr. MOSS).

THE PARDON ISSUED BY THE PRESIDENT TO FORMER PRESIDENT NIXON

Mr. MOSS. Mr. President, I am sure all of us have heavy hearts this morning in discussing the events of yesterday and the pardon issued by the President to former President Nixon.

There is no doubt, of course, of the complete, unfettered power of the President to issue a pardon, and apparently even to issue a pardon in advance, though I am sure that is likely to be questioned.

The thing that gives me the greatest concern is the timing of the issuance of the pardon. Like almost everyone else, I think, I would not like to see a former President of the United States incarcerated nor suffering punishment that was degrading to him, simply because there would be a reflection back on the great office that he had held and had relinquished. But I am puzzled indeed by the timing of this matter, because the former President of the United States, Mr. Nixon, had never been officially charged with any offense. He was named at one time as an unindicted coconspirator, but that was no indictment of him. He was designated as unindicted. So at this point we do not know, really, what charge was against him, and therefore of what he has been pardoned.

Another thing that is puzzling to me is the issuance of a pardon not only for any offense that he is suspected to have committed, but any other offense that he may have committed over a period of 5½ years. The sweep of that is really breathtaking, because no one knows how far it extends, or what might be encompassed by it. In fact, it is rather just an excuse for everything that has gone before, without knowing what has gone before.

So the matter does come back to us in a very puzzling way, and it is going to take a great deal of restraint and thought on the part of Congress, the Judiciary, and the courts, and especially the Special Prosecutor, who was appointed supposedly with complete independence to pursue the Watergate matter, as to how to proceed.

The thing that bothers me most of all is that it revives, it seems to me, this great Watergate issue that had begun to subside. It had gone from the congressional scene pretty well, and was off the front pages of the newspapers. The cases were going on in the courts. But suddenly it is back here; it is now on the front pages of the newspapers, on the television news, and it will be discussed in the Congress and I am sure will be revived again, and will go on in the campaign discussions in the election that is before us.

So it is with sorrow and deep regret that I indicate that I think a great mistake was made in the way this was done, and I do hope we can deal with it with maturity, compassion, and understanding, though also recognizing that our obligation has not been erased, and the people of this country are still entitled to know the facts and still entitled to believe that the law is evenhanded and no person is above the law. The former President should be treated alike with everyone else.

The stirring statement made by the Senator from South Dakota about the person in his State who has had such a severe trauma probably illustrates what I am trying to say as much as anything else. A poor Indian woman ought to have equal treatment with a person who has held the office of President of the United States.

ORDER OF BUSINESS

The PRESIDENT pro tempore. The Senator from Montana has 2 minutes remaining.

Mr. MANSFIELD. Mr. President, I reserve the remainder of the time of the Senator from West Virginia.

The PRESIDENT pro tempore. Under the previous order, the Senator from Michigan (Mr. GRIFFIN) is recognized for not to exceed 15 minutes.

Mr. GRIFFIN. Mr. President, I yield such time as he may require to the Senator from Nebraska.

PRESIDENTIAL PARDON

Mr. CURTIS. Mr. President, I thank my distinguished friend, the Senator from Michigan, for again yielding to me.

Mr. President, I made my statement a bit ago, but I cannot restrain myself from adding to it.

I listened to statements last night, I have listened to some statements this morning and, if I am any judge of the English language, they are made on the presumption of guilt, which is contrary to everything that is right and good in the American system of justice.

At the height of the presentation of evidence in relation to Watergate and the impeachment, the severest critic never went so far as to even imply involvement of President Nixon in the Watergate break-in. The whole question devolved around what happened afterward and the course that he took.

There is a lot of loose talk about treating people with justice or with equality. I am for that. But I believe that every case must stand on its own merits. I believe that Senators, as well as Presidents, should have equal justice applied to them. I hear no voices raised in that regard.

Mr. President, it could well be that Watergate will be revived in public discussion. Without any malice or anything personal about it, I say if it is revived, it will be revived by those who believe that it is to their political advantage to do so.

THE PARDON OF FORMER PRESIDENT NIXON

Mr. McCLELLAN. Mr. President, I have released to the press today the following statement:

I was surprised at the announcement by President Ford that he had granted to former President Nixon an unconditional pardon. I had not anticipated such action and certainly had not expected it at this time. I think this is a mistake. In my judgment, if warranted at all, this pardon is premature.

I am concerned about the consequences that will ensue—the impact and repercussions that it will have on law enforcement. It raises grave questions of equal justice under the law. What should be done now with his subordinates who have pled guilty or who have been convicted and are now serving sentences for the crimes they may have committed. What should be, and what will now be, the attitude of courts and juries who are yet to try others who are facing indictments and prosecution for alleged offenses growing out of Watergate and related activities.

I do not in any measure doubt President Ford's sincerity and good faith in the action he has taken, but I do have serious doubts about the wisdom of the course he has pursued—about the precedent he has established.

PRESIDENTIAL PARDON RAISES CRITICAL QUESTIONS

Mr. RANDOLPH. Mr. President, President Ford's pardon of former President Nixon raises several critical questions.

What disposition will there be, predicated on the action of the Chief Executive, as to those persons who participated in the Watergate tragedy? Some of these have already been judged to be guilty. They have served or are serving sentences in varying degrees of imprisonment and fines. There are other individuals who are awaiting proceedings in the courts.

I share the concern of those Americans who have a desire that justice be done in all cases and ask how this can be accomplished. I also share the concern of those Americans who expect a further explanation by the President of his intention not only as to the pardon but his recommendations for other persons involved in this case.

It seems to me that our system of justice demands that the former President be treated in a manner consistent with fairness and tempered with judicial responsibility. I question President Ford's decision because it does not permit the judicial system to run its course.

Former President Nixon has not been indicted by a Federal grand jury for the acts he is alleged to have committed as President nor has he been found guilty.

In all that is being done there must be understanding so that the cleansing process reflects both compassion and justice. Citizens generally recognize that there must be a balance between the two.

I am concerned that the President's action will be especially divisive at a time when national unity is essential to solving our severe economic problems.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, which statements limited to 5 minutes each.

Is there morning business? The Senator from Alabama.

DESEGREGATION IN THE PUBLIC SCHOOLS

Mr. ALLEN. Mr. President, I ask unanimous consent that there be inserted in the record at the conclusion of my remarks an article appearing in the Thursday, September 5, 1974, Washington Star-News entitled, "HEW Called Lax on the School Bias in West, North," and an article appearing in the Philadelphia Inquirer Saturday, September 7, 1974, entitled "U.S. Yields to North on Integration."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. ALLEN. Mr. President, the article in the Star-News was based on a report by the Center for National Policy Review, and it charges HEW officials with faithlessness to a legal duty to uphold the law, that is, with respect to desegregation of the public schools.

Then the article in the Philadelphia Inquirer quotes Mr. Caspar Weinberger, Secretary of the Department of Health, Education, and Welfare, in answer to the charges made in the report of the Center for National Policy Review. I am not critical of Mr. Weinberger, as such, because he did not enunciate the Federal policy with respect to the desegregation of the public schools; he was merely relating what the policy is and has been for many, many years, because ever since the decision in the Brown case in 1954 it has been the Federal policy to protect the foster and defend segregation in the Northern school system while, at the same time, demanding immediate desegregation of the school systems in the Southern States.

Mr. President, I want to take exception to a statement made by Mr. Weinberger as to how the schools were desegregated in the South. He said:

> The threat of Federal fund cutoffs, used to whip Southern schools into line, frequently would produce more rather than less desegregation in the North, he said in an interview.

Now, it was not the cutoff of Federal funds that caused the desegregation of the public schools in the South; it was the force and power of the Justice Department and the Federal Judiciary that demanded the immediate desegregation of the public schools in the Southern States. So it was not the cutoff of funds that caused that desegregation.

People in the South have always been willing to adhere to a uniform policy on the part of the Federal Government with respect to the desegregation of the schools. We called for a uniform policy. We want a uniform policy, but why have we not had a uniform policy in this country?

Let us see what Mr. Weinberger says about it.

> Weinberger conceded that HEW has made greater progress in desegregating the Southern schools.

One of the reasons is, I think, that we have followed the law. But, second, the public has been willing to accept desegregation in the South. Does that mean that southern people are more law abiding, that they follow the dictates of the Supreme Court more than the people outside of the South?

Let us see what he says is the reason why we have not had desegregation in the northern schools. Let us see what he says about the schools outside of the South not having been desegregated.

I might say, Mr. President, there is more segregation in the North and in the West than there is in the South, and in some States there is more segregation now in the public school systems than there was 5 years ago. So the Federal Government is fostering and defending segregation in areas outside of the South.

Here is what Mr. Weinbreger says is the reasons they have not desegregated schools in the North and East and West.

> I think we have to face the fact that we are dealing with a very fierce public opposition to desegregation in many Northern cities.

But is that any reason not to enforce the law, that there is fierce opposition?

There was opposition in the South. But the strong arm of the Federal Government ran roughshod over the fierce opposition in the South and, as a result, we have desegregated the schools in the South.

There is little feeling in the South that the schools should not be open to everyone on a freedom-of-choice basis, and if busing could be eliminated, forced busing of schoolchildren, from one end of the county to another—in some southern school systems the children have to go as far as 40 and 50 miles a day on a bus, so if we could eliminate the forced mass busing of schoolchildren—if we could have a freedom-of-choice plan, then we could have a system for our schools in the South that would have public support.

Mr. President, I say again that the same rules that apply in one section of the country ought to apply throughout the country, but that is not true. The United States, according to the headlines, is yielding to the North on the subject of integration of the schools, or desegregation of the public schools.

I am hopeful that at some time, hopefully in the near future, we will have a uniform policy with regard to desegregation of the public schools throughout the country.

I state categorically that it was not any cutoff of Federal funds that forced the desegregation of the public schools in the South. It was the strong arm of the Federal Government acting through the Justice Department and acting through the district courts carrying out the mandate of the Supreme Court.

Mr. President, I yield back the remainder of my time.

EXHIBIT 1

[From the Washington Star-News, Sept. 5, 1974]

HEW CALLED LAX ON SCHOOL BIAS IN WEST, NORTH

(By John Mathews)

The Office of Civil Rights of the Department of Health, Education, and Welfare has generally failed to use its powers to require desegregation in Northern and Western school districts, according to a government policy research organization.

Charging HEW officials with "faithlessness to legal duty . . . to uphold the law," a study by the Center for National Policy Review said government files "literally bulge with documented evidence of violation of laws."

"HEW officials are aware that evidence of violations of law exists; that is why they have failed to close files, in some cases years after the investigation began," the study said.

Limits placed on busing to desegregate schools by former President Richard M. Nixon—which have also been supported by President Ford—are only part of the answer for inaction, the study declared. HEW's "dismal performance" must also be attributed to "a hardening of agency arteries," the study said, characterized by indecision, delay, "sloppy" investigative work and unrealistic legal standards for bringing charges against a school district.

The Center, which is associated with the law school at Catholic University, had direct access to HEW files after a favorable ruling in a freedom-of-information suit by U.S. District Judge June L. Green. A three judge U.S. Court of Appeals panel, headed by Judge Harold Leventhal, overturned the ruling, but months after interns at the center had already examined files.

Peter D. Holmes, the current director of the HEW civil rights office, issued a statement today criticizing the study for failing to "take significant note of a number of major actions" taken by his office in school districts outside the South.

The report fails to recognize that due-process procedures under Title VI of the Civil Rights Act, as well as court decisions requiring a significant burden of proof, lead to the lengthy period required to move against a school district, Holmes said.

HEW has taken significant actions in the North, he added, including studies of equitable treatment of minority children in New York and other cities and reviews of applications for Emergency School Aid funds that require student and faculty desegregation before receipt of federal funds.

The center study, conducted under the general supervision of William L. Taylor, the director, generally faults the Nixon administration, although it does note how HEW backed off in 1965 from citing Chicago schools for discriminatory practices during the Johnson administration.

Investigations of Northern school districts reached a high of 28 in 1968, but have dropped off during the Nixon administration years to 16 in 1969, then 15 in 1970, 11 in 1971, 9 in 1972 and only one in 1973.

From 1965, the year after enactment of the Civil Rights Act, until 1973, HEW has conducted only 84 reviews of Northern school districts.

Of the 84 Northern districts reviewed, only four have reached the point where HEW has cited the school district for discriminating against minority children. Mt. Vernon, N.Y., and Boston—now desegregating under a court ruling—have appealed the HEW finding, and in Wichita, a desegregation plan has been negotiated.

Only Ferndale, Mich., a small Detroit suburb, has reached the ultimate step of having its federal funds cut off. It took 42 months from the initial HEW investigation to the fund cutoff. Nearly all black students in the school district attend a 50-year-old school, originally built for blacks.

HEW's civil rights office, headed during the years examined in the study by J. Stanley Pottinger, now the assistant attorney general for civil rights, had been previously faulted for failing to use its powers to require further desegregation in Southern states.

In February 1973 U.S. District Judge John Pratt found HEW's civil rights office guilty of "benign neglect" and ordered it to move against Southern school districts and college systems. As a result, Alexandria fully desegregated its elementary schools last September: Baltimore begins increased desegregation today and this academic year, public colleges in Maryland, Virginia and other states are taking additional desegregation steps.

The study quotes staff members of the HEW Office of Civil Rights who said the average time from the initiation of an investigation to the citing of a school district should be about a year. But, since 1971, the study says the process has taken an average of about 32 months. Some individual cases cited in the report include:

Perth Amboy, N.J.—An investigation began in June 1969 and was concluded in four months. The HEW Office of General Counsel, however, asked for more information and it took 3½ years for a new report.

South Bend, Ind.—In October 1969 an investigation discovered possible higher spending in white schools and boundary changes that concentrated blacks in certain schools. No follow-up has occurred since then.

Dayton, Ohio—Investigation began in 1968, but HEW lawyers insisted on detailed student assignment data back to 1915. A data processing contract of $57,000 was needed to amass the data, but no decision was made to let the contract. Two years later, the NAACP filed suit and the government stepped out of the case.

EXHIBIT 2

[From the Philadelphia Inquirer, Sept. 7, 1974]

UNITED STATES YIELDS TO NORTH ON INTEGRATION

WASHINGTON.—The government is taking a conciliatory approach to Northern school desegregation because of "very strong, bitter opposition" north of the Mason-Dixon Line, Health, Education and Welfare Secretary Caspar Weinberger said Friday.

The threat of Federal fund cutoffs, used to whip Southern schools into line, frequently would produce more rather than less desegregation in the North, he said in an interview.

"I think we have to face the fact that we are dealing with a very fierce public opposition to desegregation in many northern cities," said Weinberger. He declined to name any specific trouble spots.

"The bulk of segregated practices occurs in concentrated urban areas of the North, where the opposition to busing and various forms of desegregation appears to be far stronger than in the South," he said.

Weinberger conceded that HEW has made greater progress in desegregating Southern schools.

"One of the reasons is, I think, that we had farther to go," he said. "But secondly, the public has been much more willing to accept desegregation in the South."

Weinberger criticized a private civil rights study released Thursday that charged that

HEW was dragging its feet on Northern school cases despite evidence in its own files of violations.

"There are frequently many ways you can accomplish a great deal more by persuasion and discussion and negotiations to produce desegregation plans," he said. "There are many situations in which withdrawal of funds promotes more segregation.

"To conclude that we haven't done our job because we haven't withheld Federal funds is, I think, a totally unwarranted conclusion.

"We are doing our job under very difficult circumstances where there is a very strong divergence of viewpoints between what the law says and what the public wants."

In the North, Weinberger said, Federal civil rights enforcers often can achieve better results by convincing local school boards to design plans, "with the necessary public support," than by "going in with a blunderbuss, taking away their Federal funds and put them in a frame of mind and attitude in which they would make no effort to try to comply with the law."

"We are enforcing the civil rights laws," Weinberger declared, "and the fact that you don't use an extreme or ultimate remedy doesn't mean not pursuing the problem actively."

Weinberger said HEW is "caught in the middle" between those pressing for faster action in the 32 Northern and Western states and others opposing change. "The more active we become in many areas" he said "the stronger the public criticism."

If HEW "just stands up here and cracks the whip and takes away Federal funds," Weinberger said, "you would have a far greater pattern of desegregation and bitterness."

On another topic, Weinberger said skyrocketing medical bills are "giving ammunition to people who want nationalization of the health industry."

He made it clear that he opposes any further Federal controls on doctors and hospitals.

"There has got to be some voluntary restraint or, without it, there will have to be some sort of government cost controls," he said.

NERVE-GAS WEAPONRY

Mr. MANSFIELD. Mr. President, in this month's issue of the Atlantic Monthly, scientific writer, John F. Henahan, has presented a penetrating summary with most disturbing conclusions of the present controversy regarding the nerve-gas weaponry desired by the Army. In the article, "The Nerve-Gas Controversy: The Army's Push for a New Chemical Weapons System," Representative WAYNE OWENS, a Democrat from Utah, is most appropriately credited with the primary congressional leadership regarding this matter. Congressman OWENS' interest in this subject which vitally affects all of us stems in a large measure from the disastrous consequences in 1968 of chemical testing in his own State of Utah.

Congressman OWENS is to be commended and supported for his continuing investigation and deep interest in the whole question of the use of chemical weapons and the testing—or lack thereof—by the Defense Department. Congressman OWENS had repeatedly sounded the alarm when there has been an attempt to rush forward with the development of this new weaponry and thereby bypass the negotiations underway at the Geneva Conference of the Convention on Disarmament. This country is indebted to his leadership, diligence, and persistence.

I ask unanimous consent that the article from the Atlantic Monthly be placed in the RECORD at this point for the benefit and enlightenment of all of us.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NERVE GAS CONTROVERSY

(By John F. Henahan)

"I do not intend to debate the morality of chemical warfare, or of any other form of warfare. Rather, I would speak to you on the avoidance of war."

The speaker was William E. Dismore, a wiry young man with close-cropped hair and the easygoing charm and confidence of an astronaut. Although he was dressed in unassuming civilian garb, Dismore is a colonel in the U.S. Army Chemical Corps. His audience was a collection of chemists and chemical engineers gathered in the Los Angeles Convention Center for the 167th National Meeting of the American Chemical Society.

The colonel was there to assure the chemists that regardless of morality, there is a real need to maintain a large stockpile of chemical-warfare agents as a deterrent or perhaps for retaliatory use against chemical attack from Russia. On the other hand, Colonel Dismore said, the old stockpile of nerve gases and other chemical-warfare agents is beginning to deteriorate. It is becoming increasingly difficult to store and transport these agents safely, some of which are so powerful that a single drop can consign an average human being to a very quick and unpleasant death. Because of the inadequacies of the old stockpile, it must be destroyed, the colonel insisted, and to take its place, a new, modernized stockpile of what are known as "binary agents" must be created.

As now conceived, each binary weapon, whether contained in an artillery shell, missile warhead, or some other delivery device, would consist of two "relatively nontoxic" components which would combine to form a lethal nerve gas only as the projectile was on its way to the target. Until then, the two components would remain separated, and pose no toxic threat to life while in storage or during shipment from one location to another.

Dismore's address last March was more evidence of the Army's current campaign to convince the American people and the Congress that they should invest in the binary-weapons system. Although the initial down payment would be only $5.8 million, the Army has not yet brought itself around to admitting in public that the ultimate cost of destroying the old stockpile and replacing it with binaries could be as much as $2 billion, as some outside experts estimate.

To the public, the Army stresses that the binary system, if given the go-ahead, would represent a "quantum jump in safety" over our present stockpile of 50 million pounds of nerve-gas agents. The binaries would help the Army solve a major public relations problem that threatened to scuttle the entire chemical-warfare program in the late sixties. At the time, the public had begun to wonder whether the Army's chemical weapons might be as big a threat to their own lives as they were to the enemy's. In short succession a nerve-gas test accidentally killed 64,000 sheep in Utah, a series of nerve-gas leaks broke out in various storage depots, and the Army floated a plan, since abandoned, to ship 27,000 tons of chemical munitions across the country for burial at sea. The Army seems to feel that the binary system's safety features will make the hazards of the past less likely and at the same time lower he level of revulsion that the idea of chemical weapons arouses in most people.

Safe as they might be in storage, the two components of a binary weapon in combination form one of two types of lethal nerve-gas agents, code-named GB and VX respectively. Chemically, both are organophosphates, deadly offshoots of what began as an innocent search for improved insecticides in Germany in the thirties. GB is a colorless, odorless liquid that evaporates at room temperature. When inhaled, ten one thousandths of a gram in a cubic meter of air can kill an average adult in less than a minute. The VX agents have the added military advantage of being able to persist in the atmosphere for days and to kill by absorption through the skin as well as by inhalation. Both agents kill quickly but messily. By blocking the action of an enzyme which controls the transmission of electrical impulses from one nerve cell to another, the nerve gas paralyzes the muscles that control breathing, defecation, urination, and other body processes

The binaries might be dressed up as a new look in chemical weaponry for the man in the street, but the program is hardly a surprise to Congress. More than $11 million for research and development of the binary munitions has been appropriated since 1968, but that is not the crucial expenditure. This year, the Army is asking for $5.8 million for procurement—that is, funds for setting up a production line for binary weapons at Pine Bluff Arsenal in Arkansas. According to the Army plan, one binary component, an organophosphate called DF, will be loaded into 155-millimeter artillery shells. The other component is an alcohol, and it will be produced by the chemical industry and stored in separate canisters.

Before that initial procurement can be made, it must go the congressional rounds: through the House, and then to the Senate, where action on the binary-weapon program is expected in late summer. Senator Edward Kennedy (Democrat, Massachusetts) has said that at that time he will fight strongly to block the procurement. Should the binary program be stopped at some stage of this year's congressional action on it, the Department of Defense can be expected to try again next year, and the Army's research and development on binary weapons will continue as in the past.

In any event, if past experience with escalating defense budgets means anything, a small initial procurement now or in the future will encourage the Defense Department to believe that it has been authorized to follow the program through to its $2 billion conclusion. "Little budgets almost invariable turn into big budgets," observes Representative Wayne Owens (Democrat, Utah), one of the strongest congressional critics of the binary program.

As details of the DOD plans were revealed before congressional hearings in May, what troubled the binary program was the military's uncanny sense of timing. By broaching the idea at this time, the Defense Department seems to be making a calculated end run around negotiations on international chemical-weapons disarmament under way in Geneva. For the first time in five years, the twenty-six nations meeting there appear to be close to breaking a deadlock over on-site verification that has kept Russia and the United States on opposite sides of the question until now.

"A decision to go ahead with binaries at this time could almost certainly mean an end to disarmament negotiations, and with them, the prospect for improving U.S. security to a far greater extent than binaries ever could," Dr. Julian Perry Robinson told the same ACS meeting that Colonel Dismore addressed in March. The thirty-three-year-old Englishman from the University of Sussex probably knows more about chemical-warfare weapons—from their production to their international security implications—than anyone else inside or outside the walls of the Pentagon. Within the last few months, his careful, low-key attack on the folly of chemical weapons in general and binary weapons in particular has been heard at the Pugwash Conference in Helsinki in April, the ACS meeting, and the two congressional hearings in May.

Noting that the American delegation to the Geneva Conference of the Convention on Disarmament (CCD) has yet to make a counterproposal for an end to the production and storage of chemical weapons that the Russians put forward in 1972, Robinson, a former chemist, remarks:

"The United States, rightly or wrongly, is not credited by its CCD colleagues with a constructive attitude toward the negotiations. If it were now to embark on a billion-dollar acquisitions program [the other billion would go for destruction of the old stockpile], what confidence could remain in U.S. good intentions?"

In addition to its impact on the CCD negotiations, the binary-weapons issue could cloud chances that the Senate will finally get around to ratifying the Geneva protocol of 1925, an international agreement outlawing the first use of chemical and biological weapons as weapons of war. Although the protocol has been ratified by more than fifty countries, including the USSR, the United States has still to ratify, even though President Nixon recommended that the Senate do so in 1970. The chief stumbling block is the Administration's contention, contrary to the UN position of all but a few countries (England, Australia, and Portugal), that the protocol does not apply to tear gases and herbicides, both of which were used on a grand scale in Vietnam. Senate liberals want a reversal of that contention, rather than a protocol with gaping holes in it. Although the binary program does not relate directly to the protocol, the emergence of this new "safer" chemical-weapons system could dilute some of the horror of chemical weapons that would normally prompt the Senate to vote for ratification.

By now the Army's justification for the binaries has become familiar to congressional ears, and that justification has little to do with its impact on disarmament negotiations. Rather, the Army stresses the safety factor, and the use of binary weapons in a tit-for-tat encounter with the Russians, probably on a European battlefield. In defending the impending binary stockpile, the Army must in the same breath justify the raison d'etre for the old stockpile, an assignment that was most recently handled by Amos A. Jordan, Deputy Assistant Secretary of Defense for International Security Affairs.

Reinforced by three generals, three colonels, and seven military aides, Jordan told the Foreign Affairs subcommittee in May that if the Russians attacked our side with chemical weapons and if we were not able to retaliate in kind, they would have a "significant tactical advantage." This would hold true even if our forces had protected themselves against attack with the gear required for defense against nerve-gas agents. If, on the other hand, we could retaliate with our own nerve-gas barrage, we would put the Russians in the same uncomfortable position, forcing them to waddle around in their own rubber suits and gas masks, decreasing their mobility, restricting their use of the terrain, and otherwise blunting the force of their attack. Stalemate. (Critics, including Julian Perry Robinson, dispute this point, observing that Soviet tanks and other military vehicles are already equipped with filters for nerve gas and other chemical agents and could roam through a chemical-saturated battlefield pretty much at will.) Finally, said Mr. Jordan the chemical option might reduce the likelihood that we would have to cross the nuclear threshold to an even more devastating kind of warfare. Albeit not completely. In Pentagonese, the argument goes like this:

"A capability to respond in kind with chemical weapons would not necessarily rule out an ultimate need to move to tactical nuclear weapons but would provide a non-nuclear option to redress an adverse military situation created by enemy use of chemical weapons in conventional warfare. Therefore, any determination to use nuclear weapons could be made on the basis of its own merits in light of the overall conflict situation."

Stripped of the jargon, the statement seems to mean that we wouldn't plan to use the nuclear weapons in response to a chemical attack, but then again, if the going got sufficiently rough, we might decide to do so after all.

On the anti-binary side, one of the most persuasive, and in a historical perspective, most incongruous, witnesses before the Foreign Affairs subcommittee was Dr. Charles Price, speaking in behalf of the American Chemical Society, a scientific organization made up of more than 100,000 professional chemists and chemical engineers from academia and industry. Until recently, the ACS was among the strongest partisans for chemical weapons and in the twenties was part of the lobbying movement (along with veterans' organizations and the chemical industry) that was responsible for this country's failure to ratify the protocol then. Since 1970, however, it has become obvious to the Army Chemical Corps that a gradual greening in the ranks of the ACS has stripped the Army of one of its most enamored allies. Not only has the Society called for ratification of the protocol *without* the tear-gas-herbicide disclaimer, but there, standing before the House Foreign Affairs subcommittee on a warm May day in Washington, was the ruggedly handsome ACS spokesman, casting aspersions on the whole concept of chemical weaponry with nary a word for the proposed binary system.

Times have changed, said Price, a University of Pennsylvania chemist. In World War I, the prime victim of a chemical attack using the gases and primitive delivery systems of the day was the soldier in the trench. But now that an attack with nerve gases mounted in modern artillery shells, or in modern missile warheads, can cover thousands of acres with some of the most lethal concoctions devised by man, argues Price, "they could exact a great toll among civilians as well as the military. In fact, since substantial measures of protection and advanced training are usually available to the military, the most likely victims of chemical warfare will be civilians. Chemical-warfare agents have become weapons of indiscriminate destruction, and in our view, every step toward their nonuse and eventual elimination should be encouraged."

Arguing that production of binary weapons should be postponed at this time, Price suggested that the safety factor was far outweighed by the possibility that initiation of the program could easily "serve as a moral sanction for other nations to do likewise, and so tend to encourage proliferation of these weapons.

"A greater concern of the American Chemical Society is that the more such know-how is developed, especially in an open society like that of the United States, the more readily the technology can be disseminated to less developed nations. Furthermore, the simplicity and accessibility of the components of the binary agents make this weapon potentially available to terrorists." And this indeed is the most frightening aspect of the binary-weapons debate. The hazards and costs of building and storing conventional chemical weapons are great enough to deter small countries, not to mention urban guerrillas, from getting into the binary business. The same "quantum jump in safety" our Army emphasizes in making the case for binaries, together with the ease of production of which Price speaks, amounts to an invitation to an appalling proliferation of the weapon.

Dr. Robinson agrees with Price, adding that because most small countries have the means for manufacturing binary nerve-gas weapons, their use by these nations in a small-scale foray could quickly mushroom into an international calamity.

"Suppose, for example, that a client government of the United States decided to acquire nerve gas and then used it to escalate a local conflict. There is very little anti-gas protection available outside Europe, and under such circumstances, the consequences of nerve-gas employment could be mass destruction on a large scale. How conceivable is it that a direct superpower confrontation could not be avoided? Or look at it another way. What if a client government of the Soviet Union did this? Could the resultant pressures for direct U.S. intervention be resisted? One need look no further than the Middle East to envisage the enormous dangers to world peace of proliferation."

And what would Russia's reaction to this country's decision to create a new chemical-weapons system be, other critics ask. Would the USSR have any real inclination to destroy its own chemical stockpile, as proposed in Geneva, while the United States is embarking on its accelerated nerve-gas production scheme? Would this not be considered a provocation, especially when the new weapons begin to move into Germany as replacements for the old system? Or, is there any way to determine if it is our nerve-gas stockpile that induced Russia to create a stockpile that some experts say is more powerful than our own, while building up its defenses against chemical weapons in both the civilian and military sectors? If it did, would Russia not be forced for its own national security reasons to continue what might appear to them to be a new cycle in the chemical arms race?

Convincing answers to such questions have not been forthcoming from Administration spokesmen in the past, and they were no more evident at the congressional hearings in May. Leon Sloss, deputy director for Politico-Military Affairs of the State Department, allotted 122 words in his oral statement to the subject of binaries. All aspects of the issue, including the impact on further arms-control agreements, will be "under study" over the next several months, after which the Administration will make its own decision on whether or not the program is necessary and worthwhile, Mr. Kloss said.

If his remarks seemed bland to the members of the House Foreign Affairs subcommittee, the comments of Dr. Fred Ikle, director of the Arms Control and Disarmament Agency, were downright frustrating. The ACDA serves as technical backup for ongoing deliberations in the field of international disarmament. In earlier statements, Ikle has candidly stated that the binary program could be disruptive to the American negotiating position at the CCD in Geneva. This time there was little trace of that conviction in Ikle's three-page statement, and it was only under sharp questioning from Representative Edward Biester (Republican, Pennsylvania) that he would admit that the binaries might indeed prove to be a problem in Geneva. "DOD was very uptight about his earlier statements and must have gone downtown and bitched about it," said a discouraged staff member of the House subcommittee. "We practically had to rape him to get any kind of meaningful testimony out of him."

Putting all the other arguments for or against binary weapons aside, what rankles a legislator like Representative Owens is the fact that Congress is being asked to put its imprimatur on a weapons system that has never really been tested where it will ultimately be used—in the atmosphere. Representative Owens, whose concern over the direction that U.S. chemical-weapons policy is taking, goes back to that sheep kill in his home state in March, 1968, an event responsible in large part for inducing Congress to make its most recent appraisals for the whole issue, including the binaries. It is, in fact, the Utah disaster that has made the Army cautious about testing the binaries in the open air. Following the public outcry that accompanied that disaster, the law now demands that atmospheric tests of nerve-gas agents can be carried out only after the Army files an environmental impact statement and receives authorization from the Secretary of Health, Education, and Welfare. Meanwhile, the Chemical Corps has been relying on nonlethal mock nerve-gas weapons to evaluate how the lethal materials perform under battlefield conditions. Even the binary critics admit that simulation testing is far from ideal. Nerve gases have their own peculiar chemical characteristics and are uniquely subject to the vagaries of wind, rain, and other meteorological conditions. For the time being then, it appears that the binaries are safe enough to store but not safe enough to test in the atmosphere.

Nevertheless, the military certainly realizes the Congress will not continue to fund the development of any costly new weapons system until it can be claimed that it has been adequately tested. The suspicion that the open-air testing of binaries is in the cards is implicit in a recent letter to Representative Owens from General Creighton W. Abrams, U.S. Army Chief of Staff. The results of simulation testing are still under study, the general wrote last March, and it may be "necessary for us to recommend to the Secretary of Defense that carefully controlled, limited, open-air tests of toxic agents be undertaken to verify the effectiveness of the ammunition before making any decision regarding production."

With all the unanswered questions about atmospheric testing, strategic need, proliferation, and ultimate cost of the proposed binary program, Representative Owens contends that there is no pressing need to rush ahead with it at this time. If we really believe in the need for a military deterrent, we already have, in addition to conventional forces, our nuclear weapons and our present stockpile of chemical weapons. As he told the chemists in Los Angeles:

"Obviously we cannot discard all of our deterrent capability; the climate of today's world is not that amicable yet. It seems to me that we are strong enough militarily to make the first real gesture towards chemical weapons arms control by delaying the adoption of the binary chemical system and devoting the talents of our best and most highly placed policy-makers to our negotiations, on both chemical weapons and nuclear arms control. We do not jeopardize the status quo of current CW capabilities by delaying the binary chemical munitions because it is the same nerve-gas agent which we currently have in our own stockpile. We do not give away any technological edge by delaying further engineering and testing of the binary; we have been working on the system for the last twenty years. We may not only encourage arms control but also discourage other nations from embarking on their own production of CW weapons if we, as world leaders, indicate our willingness to take more time to discuss this issue before committing our resources to further chemical weapons construction."

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with an amendment:

S. 3221. A bill to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act; and for other purposes, together with minority views (Rept. No. 93-1140).

INTRODUCTION ON BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. TALMADGE:

S. 3972. A bill for the relief of Kathleen Crosson. Referred to the Committee on the Judiciary.

By Mr. HUGH SCOTT:

S. 3973. A bill to amend the Emergency Petroleum Allocation Act of 1973 to reduce the price of crude oil, residual fuel oil, and refined petroleum products, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BROOKE (for himself and Mr. KENNEDY):

S. 3974. A bill to provide for a plan for the preservation, interpretation, development, and use of the historic, cultural, and architectural resources of the Lowell Historic Canal District in Lowell, Mass., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. RANDOLPH:

S. 3975. A bill to provide for the establishment of the New River Gorge National Park in the State of West Virginia, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. McCLELLAN (for himself, Mr. HUGH SCOTT and Mr. BAKER):

S. 3976. A bill to amend title 17 of the United States Code to remove the expiration date for a limited copyright in sound recordings, to increase the criminal penalties for piracy and counterfeiting of sound recordings, to extend the duration of copyright protection in certain cases, to establish a National Commission on New Technological Uses of Copyrighted Works, and for other purposes. Considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUGH SCOTT:

S. 3973. A bill to amend the Emergency Petroleum Allocation Act of 1973 to reduce the price of crude oil, residual fuel oil, and refined petroleum products, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. HUGH SCOTT. Mr. President, I am today introducing a bill to allow the President to roll back prices on fuel and fuel-related products if profits become excessive. Before taking such action, however, the President would have to take four factors into consideration:

First. The historical petroleum-related taxable income;

Second. The historical return on capital investment;

Third. The extent to which any increase in petroleum-related taxable income is attributable to increased sales or other business factors other than increased prices; and

Fourth. The extent to which there is a demonstration that petroleum-related taxable income will be utilized for exploration or energy research and development.

A number of people have expressed an interest in levying an excess profits tax on oil companies. I think this is the wrong approach. First, such a tax would be extremely difficult to administer. Second, there would be no benefit to the consumer.

Under my bill, if the President decided that a price rollback was in order, then it would be put into effect, literally, at the wellhead. The oil company, for example, would then sell its products at the lower price, and that price would be reflected all along the line, down to the consumer.

Mr. President, this approach would ease the consumer's burden while taking into consideration the problems associated with the extraction, production, processing and distribution of fuel and fuel-related products. I hope that my bill will be considered closely by the appropriate committees in Congress and by the administration.

By Mr. BROOKE (for himself and Mr. KENNEDY):

S. 3974. A bill to provide for a plan for the preservation, interpretation, development and use of the historic, cultural, and architectural resources of the Lowell Historic Canal District in Lowell, Mass., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. BROOKE. Mr. President, at the outset of the 93d Congress I introduced with Senator KENNEDY a bill to establish the Lowell Historic Canal District National Cultural Park, S. 943. Since that time a great deal of work has been done in Lowell on this novel concept—work which has led to a slightly different approach in preserving and protecting this historic segment of this historic city.

Today I reintroduce with Mr. KENNEDY a revised version of this proposal which is based on the fruits of that work. There are several differences between the old and the new versions, but the most important change is that this new version, rather than establishing a park within the national park system, would instead establish a separate entity, providing the National Park Service with an important advisory role. This appears to be the most appropriate arrangement—especially in light of our expressed desires to give local people more control over their own affairs.

Mr. President, the House Committee on Interior and Insular Affairs' Subcommittee on National Parks and Recreation has already held hearings on this legislation. At those hearings I submitted testimony regarding the considerable merits of the bill, and to give my colleagues a broader understanding of what is involved in this measure I ask unanimous consent that my testimony be printed in the RECORD at this time along with a copy of the revised bill.

There being no objection, the testimony and bill were ordered to be printed in the RECORD, as follows:

Mr. Chairman, it is with great pleasure that I appear before this distinguished Committee this morning to offer my support of the measure authorizing the creation of the Lowell Cultural Park, introduced by myself and Senator Kennedy in the Senate and by Representative Paul Cronin in the House.

There are three themes in our social and cultural needs of the day which would be ably served by enactment of this legislation.

The first such theme is connected with the bicentennial celebration. Americans everywhere are developing a growing awareness of their national history—particularly in light of having so recently witnessed events which will loom large in the future chronicles of our times.

The second theme is that we need to increase the recreational opportunities in and near our urban centers.

And the third theme deals with a new strategy both in approaching the prosperity of—and for ameliorating the social frustrations within—our cities, young and old. While the citizens immediately reap the benefits from reorganization and preservation of the natural and technological resources, new models are established which are oriented to growth and to constructive redistribution.

This bill, to create a cultural park in Lowell, Massachusetts can and will contribute in each of these considerations.

The proposal has a short, but distinguished, history. Former Congressman Bradford Morse, who served with great distinction in the House of Representatives was the first to introduce this legislation in the 92nd Congress in a bill calling for a Lowell Historic Canal District National Cultural Park.

His very able successor, Representative Paul Cronin, reintroduced the bill with the cosponsorship of the entire Massachusetts delegation, on February 21 of last year. Since then, a revised version has been put forth and it is this version which we are here today to discuss.

Mr. Chairman, as I stated when I reintroduced the Senate version, S. 943, the creation of an urban national park in Lowell would represent an innovative means of grappling with the problems not uncommon to cities which have a rich historical tradition, but a declining industrial base. The legislation proposes that the historic mill section of the town be included within our national park system, under the cultural park category. Such designation would ensure that the unique story contained in the Lowell experience may be made available to all people. I might add that this is the designation given to the Wolf Trap Farm Park in Virginia, an addition to the national park system with which many of my colleagues are pleasantly familiar.

Lowell is without question distinctly qualified for this classification. In the year of our bicentennial, Lowell will be 150 years old. In its early years it played a vital role in what many people regard as America's most important historical movement: the industrial revolution. Its five miles of canals serviced the most productive textile mills in the country. And to these mills came so many people with so many wonderfully divergent ethnic backgrounds. The result is a city with a unique cultural heritage—a heritage I believe the Congress should make every effort to preserve.

Unfortunately, the pace of American life has all but left behind these industrial giants of the Nineteenth Century. Modern technology has brought on a new industrial revolution which all too often discards or ignores the industrial underpinnings of our past.

Lowell is a prime victim of this rush into the future. Its giant textile mills which had proudly paced the country in textile production now lie silent. Its bustling economy now suffers one of the nation's highest unemployment rates. And while its ethnic diversity thrives, its population declines.

Yet, the citizens of Lowell have not succumbed to this adversity. Rather they have enthusiastically banded together to revitalize their city—using their rich past as their solid foundation.

And as I have said many times, Mr. Chairman, herein lies the beauty of the measure before us today. On the one hand, it offers the citizens of this country a unique glimpse of our industrial past—a glimpse made all the more important because of the approaching bicentennial—while on the other hand it offers the citizens of Lowell a base on which to build a new future.

The proposal calls for the restoration and beautification of the old canal system; the reactivation of one of the mills, complete with Eighteenth Century looms; technological exhibits and museums; and the recreation of an early settlement and/or Indian village. These attributes make a compelling case for congressional approval of this legislation, Mr. Chairman.

The significance and extent of these historic attributes will doubtless be expanded in the near future. I have been informed by the Director of the Park Service, Mr. Ronald Walker, than an extensive historical survey is now underway in Lowell. In his letter, Mr. Walker wrote:

"We are pleased to inform you that the Historic American Engineering Record (HAER), one of the continuing programs administered by the National Park Service, is conducting a recording survey in Lowell, Massachusetts, this summer to document significant historic engineering and industrial works. Like other surveys by the HAER, the current project will produce measured drawings, professional photographs, historical monographs, and technical analyses which ultimately will be deposited in the Library of Congress where they will be made available to the public."

Indicative of the local support for preservation is the list of cosponsors of the summer survey. According to Director Walker these following groups are participating: The City of Lowell, Human Services Corporation, Historical Commission of the City of Lowell, City Development Authority, Proprietors of the Locks and Canals on Merrimack River, Lowell Technological Institute, and the Lowell Historical Society.

And as a further endorsement of the soundness of this legislative proposal, I would like to pass along one other comment of the Park Service Director, who wrote:

"The power and transportation canal system in Lowell will serve as the primary focus for the HAER recording team. The system is of clear national significance and is remarkably preserved. The records produced by the project should make an important contribution to our understanding of American technological and industrial development."

Mr. Chairman, if I may be permitted, I would like to close on a personal note. I had the very fortunate experience of growing up in the one city which is marvelously served by the National Park Service: Washington, D.C. Rock Creek Park, the C & O Canal, and a host of lesser known but important parklands make this city the beautiful, livable city that we know today.

This is the way it should be in all our cities. And we in the Congress, acting in conjunction with the National Park Service, can bring to our cities the wonderful experiences of national parks—experiences which all too often our urban populations are unable to enjoy. The bill before us today is a step in this direction.

But it also represents a far more important step. As we become more aware of our great heritage we become increasingly aware of the role that cities have played in this history. To keep pace with this awareness, the Congress must begin the difficult but rewarding task of identifying those urban areas which will illuminate for generations to come the critical role that cities have played in our national development.

Early and favorable consideration of the bill before us today will ensure that the great role played by Lowell and its people will be forever etched in our nation's conscience.

S. 3974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That for the purpose of preserving and interpreting for the educational and inspirational benefit of present and future generations the unique and significant contribution to our national heritage of certtin historic and cultural lands, waterways, and edifices in the City of Lowell, Massachusetts (the cradle of the industrial revolution in America as well as America's first planned industries city) with emphasis on harnessing this unique urban environment for its educational value as well as for recreation, there is heareby established the Lowell Historic Canal District Commission (hereinafter referred to as the "Commission"), the purpose of which shall be to prepare and implement a plan for the preservation, interpretation, development and use, by public and private entities, of the historic, cultural, and architectural resources of the Lowell Historic Canal District in the City of Lowell, Massachusetts.

SEC. 2(a). The Commission shall consist of nine members, as follows:

(1) The Secretary of the Interior, the Secretary of Housing and Urban Development, the Secretary of Transportation, and the Secretary of Commerce, all ex officio; and

(2) Five members appointed by the Secretary of the Interior, one of whom shall be the Director of the National Park Service, two of whom shall be appointed from recommendations submitted by the Mayor of the City of Lowell, and two of whom shall be appointed from recommendations submitted by the Governor of the Commonwealth of Massachusetts. The members appointed pursuant to this paragraph shall have knowledge and experience in one or more of the fields of history, architecture, the arts, recreation planning, city planning, or government.

(b) Each member of the Commission specified in paragraph (1) of subsection (a) and the Director of the National Park Service may designate an alternate official to serve in his stead. Members appointed pursuant to paragraph (2) of subsection (a) who are officers or employees of the Federal government, the City of Lowell or the Commonwealth of Massachusetts, shall serve without compensation as such. Other members, when engaged in activities of the Commission, shall be entitled to compensation at the rate of not to exceed $100 per diem. All members of the Commission shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Commission.

SEC. 3(a). The Commission shall elect a Chairman from among its members. Financial and administrative services (including those relating to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided by the Commission by the Department of the Interior, for which payments shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Secretary of the Interior: *Provided*, That the regulations of the Department of the Interior for the collection of indebtedness of personnel resulting from erroneous payments shall apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of said Secretary for the administrative control of funds shall apply to appropriations of the Commission: *And provided further*, That the Commission shall not be required to prescribe such regulations.

(b) The Commission shall have power to appoint and fix the compensation of such additional personnel as may be necessary to carry out its duties, without regard to the provisions of the civil service laws and the Classification Act of 1949.

(c) The Commission may also procure, without regard to the civil service laws and the Classification Act of 1949, temporary and intermittent services to the same extent as is authorized for the executive departments by secion 15 of the Administrative Expenses Act of 1946, but at rates not to exceed $100 per diem for individuals.

(d) The members of the Commission specified in paragraph (1) of section 2(a) shall provide the Commission, on a reimbursable basis, with such facilities and services under their jurisdiction and control as may be needed by the Commission to carry out its duties, to the extent that such facilities and services are requested by the Commission and are otherwise available for that purpose. To the extent of available appropriations, the Commission may obtain, by purchase, rental, donation, or otherwise, such additional property, facilities, and services as may be needed to carry out its duties. Upon the termination of the Commission all property, personal and real, and unexpended funds shall be transferred to the Department of the Interior.

Sec. 4. It shall be the duty of the Commission to prepare the plan referred to in the first section of this Act, and to submit the plan together with any recommendations for additional legislation, to the Congress not later than two years from the effective date of this Act. The plan for the Lowell Historic Canal District shall include considerations and recommendations, without limitation, regarding (1) the objectives to be achieved by the establishment, development and operation of the area; (2) the types of use, both public and private, to be accommodated; (3) criteria for the design and appearance of buildings, facilities, open spaces and other improvements; (4) a program for the staging of development; (5) the anticipated interpretive, cultural and recreational programs and uses for the area; (6) the proposed ownership and operation of all structures, facilities and lands; (7) areas where cooperative agreements may be anticipated; (8) estimates of costs, both public and private, of implementing the plan; and (9) procedures to be used in implementing and insuring continuing conformance to the plan.

Sec. 5(a) If either the Senate or House of Representatives has not, within 60 legislative days following the submission of the plan prepared by the Commission to the Congress, disapproved the plan by resolution, the Commission may proceed with the implementation of the plan in the manner set forth therein and in accordance with the authorities hereinafter provided. If, within such 60 legislative day period either the Senate or House of Representatives disapproves by resolution any portion of the plan, the Commission may not proceed as to that portion which is disapproved. In the event of any disapproval of the plan in whole or in part, the Commission may, within 60 calendar days, resubmit to the Congress appropriate revisions, which revisions shall be acted upon in the same manner as provided in this Section for the initial submission of the plan itself.

(b) The Commission shall be dissolved (1) upon the termination, as determined by its members, of need for its continued existence for the implementation of the plan and the operation or coordination of the entity established by the plan, or (2) upon expiration of a two-year period commencing on the effective date of this Act, whereupon the completed plan has not been submitted to the Congress, whichever occurs first.

Sec. 6. In proceeding with the implementation of the plan the Commission shall—

(1) acquire lands and interests therein within the Lowell Historic Canal District by purchase, lease, donation, or exchange;

(2) hold, maintain, use, develop, or operate buildings, facilities, and any other properties;

(3) sell, lease, or otherwise dispose of real or personal property as necessary to carry out the plan;

(4) enter into and perform such contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States, the Commonwealth of Massachusetts and any governmental unit within its boundaries, or any person, firm, association, or corporation as may be necessary;

(5) establish (through covenants, regulations, agreements, or otherwise) such restrictions, standards, and requirements as are necessary to assure development, maintenance, use, and protection of the Lowell Historic Canal District in accordance with the plan; and

(6) borrow money from the Treasury of the United States in such amounts as may be authorized in appropriation Acts on the basis of obligations issued by the Commission in accordance with terms and conditions approved by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any such obligations of the Commission.

Sec. 7. Title to property of the Commission shall be in the name of the Commission, but it shall not be subject to any Federal, State, or municipal taxes.

Sec. 8. There are authorized to be appropriated such sums as may be necessary for the development of the plan to be prepared pursuant to this Act.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2801

At the request of Mr. Proxmire, the Senator from Delaware (Mr. Roth) was added as a cosponsor of S. 2801, a bill to prevent the Food and Drug Administration from regulating safe vitamins as dangerous drugs.

S. 3305

At the request of Mr. Clark, the Senator from Washington (Mr. Jackson) and the Senator from South Dakota (Mr. Abourezk) were added as cosponsors of S. 3305, the National Huntington's Disease Control Act.

S. 3357

At the request of Mr. Burdick, the Senator from California (Mr. Cranston) was added as a cosponsor of S. 3357, a bill to restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the Nation, and for other purposes.

S. 3465

At the request of Mr. Dole, the Senator from North Carolina (Mr. Helms) was added as a cosponsor of S. 3465, a bill to amend the Consolidated Farmers Home Administration Act.

S. 3492

At the request of Mr. Brock, the Senator from New Mexico (Mr. Montoya), and the Senator from Alaska (Mr. Gravel) were added as cosponsors of S. 3492, a bill to prohibit discrimination on the basis of sex or marital status in the granting of credit.

S. 3524

At the request of Mr. Hugh Scott, the Senator from Connecticut (Mr. Ribicoff) was added as a cosponsor of S. 3524, a bill to amend title 18 of the United States Code to permit the mailing, broadcasting, or televising of lottery information and the transportation, mailing, and advertising of lottery tickets in interstate commerce but only concerning lotteries which are lawful.

S. 3869

At the request of Mr. Hartke, the Senator from California (Mr. Tunney) and the Senator from New Jersey (Mr. Williams) were added as cosponsors of S. 3869, a bill to notify employees when Federal installations are scheduled to be closed.

ADDITIONAL COSPONSOR OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 110

At the request of Mr. Kennedy, the Senator from Texas (Mr. Bentsen) was added as a cosponsor of Senate Concurrent Resolution 110 relating to the situation in Cyprus.

AMENDMENT OF THE FOREIGN ASSISTANCE ACT—AMENDMENT

AMENDMENT NO. 1850

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK submitted an amendment intended to be proposed by him to S. 3394, a bill to amend the Foreign Assistance Act of 1961, and for other purposes.

Mr. ABOUREZK. Mr. President, the tragedy of Cyprus, a tragedy not yet finished, has brought with it, as have other crises, accusations that the United States has some responsibility for or at least knew about the plans leading up to the bloody events still taking place.

As we in the Congress now try to understand the situation on that small Mediterranean island, and formulate a response, we must analyze first the history of Cyprus itself, as well as U.S. ties to Turkey and Greece, both of whom have military and political presence on Cyprus.

The history of Cyprus consists of a series of occupations: by Alexander the Great, the Roman Empire, Richard the Lionhearted, Guy de Lusignan of France, the Republic of Venice, the Ottoman Empire, and finally that of Great Britain, which withdrew its rule when in 1960 the Cypriots won their struggle for independence.

Most of the island's population is of Greek origin dating back from the earliest occupations; and a minority, about 18 percent, is of Turkish descent, dating mostly from the occupation of the Ottoman Empire which began in the 16th century.

The British, Turkish, and Greek agreement in 1960 meant that the momentous task of social, economic, and political unification of Cyprus would now be undertaken by Cypriots—headed by Archbishop Makarios, the only elected leader of Cyprus to date.

The divisions at that time, exacerbated by foreign interests, ran deep but not impossibly deep. Some of the Greek Cypriots demanded union with Greece and felt that the Turkish minority had disproportionate power. A Greek Cypriot right wing underground group, EOKA, formed by General Grivas in the early fifties to drive both British and Turks out of Cyprus, has continued its campaign of terror against President Makarios through the sixties and seventies; at least two attempts on the life of the President have been made by this group.

In addition to the problems posed by Griva's Fascists, some Turkish Cypriots demanded union with Turkey. While the greatest part of the Cypriot people and its government struggled on over the last 15 years for the unification and neutrality of Cyprus, extremists carried out illegal actions to undermine that majority's will. In spite of that, Makarios remained the only leader who could hold the people's confidence, and move toward the ambitious task of forming out of a culturally divided island, beset by foreign meddling, a politically independent society that could work toward economic self-sufficiency and cultural identity.

A small minority of Cypriots continue pressing demands to make Cyprus into either Greek or Turkish property. As we have just witnessed, annexation only leads to war on Cyprus. The neutral and independent state suffered first a right-wing military coup carried out and led by Greek national guardsmen who drove the democratically elected President Makarios into exile, and then suffered the Turkish reaction to that coup, a bloody and callous invasion. Throughout the world people mourn not only the death and pain of displacement suffered by the Cypriot people, but despair for the fallen ideal. Cyprus, from a long and conquered past, has risen to construct an inspired present only to be trampled again.

Now as we grope for a reaction, one appropriate for the most powerful country in the world, we must ask once again as we have had to do in the light of the CIA role in Chile: What is our responsibility in the attempted coup and in the ensuing bloodbath on Cyprus?

Here are the basic facts of our relationships with Greece and Turkey: First, the United States has supported the military dictatorships which have ruled Greece through force and torture since 1967. The aid has been mostly in military and police benefits for successive regimes which have shown little interest in material or social benefits for the Greek people. Second, the United States has also supplied Turkey with military hardware for many years, with the result that Turkey is actually superior to Greece in arms preparedness, efficiency, and amount of weaponry. Both countries belong to NATO, supposedly an alliance of free world states against Communist aggression. Both countries have routinely used torture against their own citizens during their years of NATO membership. Third, various attempts have been made by the Greek secret police, often called the Greek CIA, so closely are the two agencies tied, to assassinate Archbishop Makarios.

Eric Rouleau, a journalist for the French newspaper Le Monde, claims that the latest plan against Makarios was formulated by General Ioannides of the Greek junta together with a CIA agent of Greek origin by the name of Coron, and that for the action they used 1,000 carefully chosen Greek national guardsmen stationed in Cyprus, as well as members of EOKA-B who, according to Rouleau and other sources, are financed, armed, and infiltrated by both the Greek secret police and the CIA.

It is further claimed, by Mr. Ioannis Zigdis, a Greek centrist and former minister under Papandreou who has just returned to Greece from years of exile in Washington, that our Department of State and its Secretary were aware of the coup plot beforehand, and that the plot was complementary to rather than in conflict with the Nixon-Kissinger doctrine. A map of the Mediterranean suggests the geopolitical importance of Cyprus. We must ask ourselves, given our close ties with the former Greek junta, how U.S. officials could not have known about the plot against Makarios? How, given the scope of U.S. intelligence over the globe, U.S. officials could not have known the comparative strength of Turkish forces? How could they have been unable to predict a Turkish reaction to the Greek coup d'état? And we must ask, if U.S. officials did have foreknowledge of the coup in Cyprus, why there was not the most strenuous effort to prevent it? Once again with the memories of the bloody Chilean coup fresh in mind, we are forced to question our State Department's policy when a democratically elected President is overthrown by a group over whom we have considerable influence.

What illusion was the Greek junta under when it overthrew Makarios? It had to know that the action would provoke Turkey, a country with known military superiority. Hundreds of Greek Cypriots shouted "Betrayer!" to U.S. Ambassador Davies the day he was murdered—did they expect that the United States would protect them from the invading Turks? Was our Secretary of State surprised when Greece announced its withdrawal from an active part in NATO?

Our ties with Greece gave us great influence in its politics. We did not exert that influence when we had foreknowledge of the coup plan. Our donor's relationship with Turkey gives us some leverage to curb their continued military thrust. But we have said little and done nothing about their aggression against the Cypriot people.

Once again we witness the consequences of secret diplomacy that depends on the wisdom of a handful of people. When they are unwise we bear the moral responsibility for their actions, and in other parts of the world other people bear the brunt of those actions.

As an alternative to the posture of an inept giant helplessly watching a bloody brawl, the amendment my colleagues and I are submitting today is aimed at withdrawing all economic and military assistance to Turkey until an agreement is reached which is acceptable to Cyprus, Greece, and Turkey. Since Greece's new government does not hold responsibility for the actions of last summer and so far demonstrates no territorial ambitions on Cyprus, and furthermore is scheduled for only $71 million total for fiscal year 1975 compared with Turkey's $232 million, the amendment deals only with Turkey. If the situation were different I feel sure that any legislation proposed by us would include sanctions against Greece as well.

It is our sense and intention that the amendment encourage moves toward the reinstatement of a neutral and independent Cyprus, governed by Cypriots.

FEDERAL-AID HIGHWAY AMENDMENTS OF 1974—AMENDMENT

AMENDMENT NO. 1851

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY. Mr. President, today the Senator from Missouri (Mr. EAGLETON) and I are submitting an amendment to S. 3934, the Federal-Aid Highway Amendments of 1974. I send it to the desk and ask that it be printed.

Mr. President, by way of introduction I would like to explain to my colleagues that this amendment is a substitute for S. 3840, a bill that Senator EAGLETON and I introduced in July of this session. This amendment is simply a more comprehensive version of S. 3840.

Mr. President, the intent of our amendment to S. 3934, the Federal-Aid Highway Amendments of 1974, is to revoke the Federal motor vehicle safety standard which requires a safety belt interlock and buzzer system in new automobiles. Briefly stated, our amendment provides the following:

First. Upon enactment of the provision it would repeal the Department of Transportation standard requiring a safety belt interlock system and buzzer system as mandatory equipment on new automobiles.

Second. It would continue the standard which requires that seat belts be provided in every new car and would permit the Department to also require a warning light to indicate that seat belts should be fastened.

Third. It would require that any new standard other than those mentioned in paragraph 2 would have to be approved by the House and Senate Commerce Committees after public hearings had been held.

Fourth. It would authorize owners of automobiles already equipped with interlock and buzzer systems to disconnect these systems.

What prompted me to alter my position and address the issue of passive restraints—air bags, and so forth—was the realization that if we were successful in revoking the mandate of an interlock and buzzer, Congress would have left the Department of Transportation with only one realistic option—that is, to push for the mandate of an air bag as an occupant restraint system. I thus did not want to be responsible for forcing upon the consumer an air bag whose estimated cost runs from $200 to $300 per copy, while attempting to lift from the shoulders of the American citizen the interlock and buzzers which cost between $50 and $100 per vehicle.

At the same time, I felt that Congress should not place itself in the position of writing safety standards with respect to air bags. I feel that it would be rather precipitous for Congress to go on record for or against air bags given the fact that four major U.S. manufacturers have already stated that at least 3 additional years will be needed to meet the specifications for passive restraints. I feel that the state of the arts with respect to air bags is such that it would be impractical, unreasonable, and inappropriate for Congress to assert itself at this time by legislating standards. Such technical problems as now exist with the air bag system should more appropriately be explored jointly by both the Department of Transportation and the auto manufacturers.

Mr. President, I feel that the amendment submitted today by the Senator from Missouri and myself effectively deals with the controversial issue of air bags for it would require that any new standard dealing with occupant restraints would have to first undergo public hearings and then be subject to approval by both the Senate and House Commerce Committees.

Given that the air bag system is expected to impact on the consumer in the amount of between $3 to $5 billion and considering the fact that research and development are not far enough advanced realistically for DOT to mandate their installation in all size vehicles, I feel confident that in this instance final congressional review and approval of such regulations prior to enactment is not only warranted but extremely desirable.

Mr. President, the Senator from Missouri is inadvertently absent, and I ask that remarks he prepared for delivery today be printed in the RECORD following the text of our amendment.

There being no objection, the amendment and statement was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1851

On page 26, after line 14, insert the following:

AUTOMOBILE SAFETY STANDARDS

SEC. 123. Section 103(a) of the National Traffic and Motor Vehicle Safety Act of 1966 is amended by inserting "(1)" after "SEC. 103. (a)" and by adding at the end thereof the following new paragraph:

"(2)(A) Effective with respect to motor vehicles manufactured after the date of enactment of this paragraph, Federal motor vehicle safety standards may not (except as otherwise provided in subparagraph (B)) require that any such vehicle be equipped (i) with a safety belt interlock system, (ii) with any warning device other than a warning light designed to indicate that safety belts should be fastened, or (iii) with any occupant restraint system other than integrated lap and shoulder safety belts for front outboard occupants and lap belts for other occupants.

"(B) Effective with respect to motor vehicles manufactured after the date of enactment of this paragraph, the Secretary shall not promulgate any Federal motor vehicle safety standard requiring any occupant restraint system, or warning system in connection therewith, except as authorized in subparagraph (A), until after public hearings with respect thereto and approval of the proposed standard by resolution of the Committee on Commerce of the United States Senate and the Committee on Interstate and Foreign Commerce of the United States House of Representatives.

"(C) Notwithstanding any provision of Federal law to the contrary any safety belt interlock system or audible warning device in connection with safety belts may be rendered inoperative to the extent such system or device was required by a Federal motor vehicle safety standard promulgated prior to enactment of this paragraph."

STATEMENT BY SENATOR THOMAS F. EAGLETON

CONGRESS SHOULD REVIEW AIR BAGS

Mr. President, Senator Buckley and myself are submitting an amendment to S. 3934, the Federal-Aid Highway Amendments of 1974.

Mr. President, this amendment is a modified version of S. 3840 which would revoke existing Federal motor vehicle standards requiring the safety belt interlock and buzer systems in new automobiles.

Briefly, the amendment will provide the following:

1. Upon enactment of the provision it would repeal the Department of Transportation standard requiring a safety belt interlock system and buzzer system as mandatory equipment on new automobiles.
2. It would continue the standard which requires that seat belts be provided in every new car and would permit the Department to also require a warning light to indicate that seat belts should be fastened.
3. It would require that any new standard other than those mentioned in paragraph two would have to be approved by the House and Senate Commerce Committees after public hearings.
4. It would authorize owners of automobiles already equipped with interlock and buzzer systems to disconnect these systems.

The amendment is different from the original bill principally in that it would require Senate and House Committees' approval of any future occupant restraint system standard before it takes effect.

Mr. President, it is not enough that Congress undo the problems created by past, ill-conceived safety regulations. It should assure the American people that no similar standards will be promulgated in the future without a full public hearing and congressional review.

Even before final congressional action to revoke the interlock and buzzer standards, the Department of Transportation has begun pushing for a mandatory air bag system beginning with 1977 model cars.

Mr. President, as a personal matter, I believe there is impressive evidence that the air bag can save lives and prevent injuries. But before we permit the Department to require installation of such a system on all new cars, at an estimated cost of about $300 per copy, I believe those who have questioned the effectiveness of the system should be given an opportunity to present their views and to suggest alternative systems for the consideration of the two congressional committees concerned.

In short, having been burned by the interlock and buzzer systems, the American people and the Congress want to be darned sure it dosen't happen again. If we are going to add $300 to the price of new cars which is already $500–$600 above last year's sticker prices, we had better know what we are doing. We had better know that there is not a cheaper way of providing the same protection.

This provision of the Buckley-Eagleton amendment differs from the provision recently adopted by the House. The House amendment seeks to preclude the air bag as mandatory equipment on automobiles, requiring that such equipment can be offered only as an option to seat belts.

Our amendment seeks to avoid the pitfall of trying to write standards which are highly technical and better left to the experts. Instead, it provides for final congressional review and approval of such regulations before they can take effect and I think we owe that much to the American people.

Mr. President, an editorial in the *Wall Street Journal* today makes the important point that regulations such as those requiring the interlock and buzzer systems are not only expensive to consumers but harmful to the overall goal of auto safety.

The editorial states:

"This kind of overreaching regulation is not merely expensive, but dangerous to the cause it tries to serve. Policies that insult and annoy the public had at least better deliver the claimed benefits, or they will give even the cause of safety a bad name."

With our new provision, Senator Buckley and I are attempting to salvage the good cause of safety by assuring that we do not have a repetition of the interlock and buzzer situation. The only way that can be done, short of requiring Congress to write the standard itself, is to provide for a review procedure and that is what our amendment does.

Mr. President, I ask that my letter to the Wall Street Journal's editorial response be printed in the RECORD.

The letter is as follows:

[Letters to the Editor]

SENATOR EAGLETON RESPONDS

Editor, The Wall Street Journal:

As sponsor of a bill in the Senate to make seatbelt interlocks and buzzers optional rather than mandatory, I must take exception to the points raised in your editorial "Regulatory Overkill" (Aug. 15). While you state that the buzzer is ample inducement to buckle-up and the interlock system "simply a gratuitous insult and annoyance," the evidence is all to the contrary.

The Insurance Institute for Highway Safety, in the most professional study of the subject yet undertaken, found that there was no significant increase in seatbelt use in cars equipped with lights and buzzers relative to those without such equipment. They concluded that buzzers were "a public health failure." Moreover, for 1974 model cars equipped with interlocks, there was a substantial increase in seatbelt usage. Well over half of the drivers observed, however, had partially or completely circumvented the systems, only two-thirds of the way through the model year. As time goes on, undoubtedly more of these interlocks will be disconnected.

Under my bill, these interlocks and buzzers would still have to be offered by manufacturers as optional equipment, and no position is taken on the as-yet unproven passive restraint systems. Lap and shoulder belts would, of course, continue to be mandatory. But the interlocks and buzzers are a clear example of where the federal government has attempted to impose its will on the decisions of an individual which affect only himself. Furthermore, it is an attempt which has failed at a not inconsiderable cost to the public in terms of time, money and aggravation.

THOMAS F. EAGLETON,
United States Senate.

[Senator Eagleton's report on seatbelt usage is correct. A further editorial on the subject appears today.—Ed.]

EXPORT-IMPORT BANK AMENDMENTS OF 1974—AMENDMENTS

AMENDMENTS NOS. 1852 AND 1853

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER. Mr. President, I send to the desk two amendments to S. 3917, the Export-Import Bank authority extension bill. Both of my measures were previously introduced as amendments to S. 3660.

My first amendment was initially introduced on June 18, 1974, and would absolutely prohibit any Export-Import Bank investment in fossil fuel energy research, exploration, or production activities in Communist countries. I recognize that S. 3917 contains restrictions in this area which are not in current law; nevertheless, I believe Congress should take decisive action to remove all uncertainty and insure there is no Siberian energy deal. My amendment would provide that assurance.

My second amendment was initially introduced on July 8, 1974, and is cosponsored by Senator Cannon. It will require that all Eximbank direct loans be made at the prevailing market rate for loans of comparable maturity. S. 3917 contains general language requiring that the Bank "supplement and encourage, and not compete with, private capital;" nevertheless, the Bank has made it clear that its direct loan interest rates will not exceed 8½ percent, even when many businesses are forced to pay 12 percent, 15 percent, or even more for private loans. My amendment is, therefore, essential to stop the Bank from siphoning off massive amounts of capital from the already hard-pressed private market, for the purpose of making cutrate loans. The American taxpayer should not be forced to subsidize the 4 percent of all U.S. exports which qualify for cutrate Eximbank loans, and my amendment will end this subsidy.

I ask unanimous consent that the amendments be printed in the Record.

There being no objection, the amendments were ordered to be printed in the Record, as follows:

Amendment No. 1852

At the appropriate place, insert the following:

Sec. —. Section 2(b) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following new paragraph:

"(——) The Bank in the exercise of its functions shall not guarantee, insure or extend credit, or participate in any extension of credit, in connection with the purchase or lease of any product or service if the intended use of such product or service involves research, exploration, or production of fossil fuel energy resources in any Communist country (as defined in Section 620(f) of the Foreign Assistance Act of 1961, as amended)."

Amendment No. 1853

At the appropriate place, insert the following:

"(——) The Bank shall conduct its operations on a self-sustaining basis, and shall require the payment of interest on the unpaid balance of any extension of credit by the Bank at a rate which is not less than the prevailing private market rate on loans of comparable maturity, as determined by the Secretary of the Treasury as of the last day of the month preceding the date of the extension of credit."

NOTICE OF HEARING ON S. 2350 AND S. 3484

Mr. MOSS. Mr. President, the National Society of Professional Engineers in April of this year identified the Earth resources technology satellite program—ERTS—as one of the top 10 outstanding engineering achievements of 1973. The society described ERTS as the first step in developing a Space/Earth system specifically devoted to assisting in managing the Earth's dwindling natural resources. Considering the problems this country has today, such a system should be receiving top national priority. Thus far, ERTS has not received adequate priority.

Two days of hearings have been held on two bills, S. 2350 and S. 3484, both of which are designed to make ERTS data available in a routine, dependable fashion and remove the current uncertainties associated with that system. Both bills would continue the ERTS research and development currently being conducted by NASA. In connection with the hearings, I wrote to the Governors of all of the States inquiring about the importance of ERTS to their individual States. Twenty-eight Governors have replied. The result has been overwhelming endorsement of the ERTS system and the resulting benefits. The majority of those responding indicated that their State now makes routine use of ERTS data. Over 80 percent of the States are investigating the potential of considerably expanded usage of such data. Many Governors indicated the need to reduce delays in providing data or to improve the resolution of the ERTS pictures. Many also indicated the need to provide assurance to users and potential users that ERTS data would continue to be available.

Mr. President, the hearings on S. 2350 and S. 3484 will resume on Wednesday, September 18, at 9:30 a.m., in room 235 of the Russell Senate Office Building.

NOTICE OF HEARING

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, September 17, 1974, at 10:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

Thomas J. Meskill, of Connecticut, to be U.S. circuit judge for the second circuit, vice J. Joseph Smith, retired.

Any person desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

The subcommittee consists of the Senator from Arkansas (Mr. McClellan); the Senator from Nebraska (Mr. Hruska); the Senator from North Dakota (Mr. Burdick); the Senator from Pennsylvania (Mr. Hugh Scott); and myself as chairman.

ANNOUNCEMENT OF HEARING

Mr. KENNEDY. Mr. President, I am pleased to announce that the Subcommittee on Health has scheduled a hearing on S. 2854, the National Arthritis Act, introduced by Senators Cranston, Williams, and Javits last December, and since that time cosponsored by an additional 70 Senators, for Tuesday, September 10, at 10 a.m. in room 4200 of the Dirksen Senate Office Building. At that time I look forward to hearing from representatives of the Department of Health, Education, and Welfare, the Arthritis Foundation, the American Academy of Orthopedic Surgeons, the American Academy of Pediatrics, and the National Council on Senior Citizens, among others.

Individuals who wish to testify or to submit written statements should contact the Senate Health Subcommittee, room 4228, Dirksen Senate Office Building, Washington, D.C. 20510.

ADDITIONAL STATEMENTS

PUBLIC SCHOOLS: HEW HARASSMENT OF FINE WINSTON-SALEM/FORSYTH COUNTY SYSTEM

Mr. HELMS. Mr. President, as Senators are aware, Congress has over the years enacted legislation providing various forms of Federal financial assistance to public schools. This assistance money is generally distributed by the Department of Health, Education, and Welfare. In this legislation, Congress provided that no such financial assistance was to be given to school systems that operate in a racially discriminatory manner. These strings were attached because it was felt that they were necessary as a part of the general effort by the Federal Government to abolish all remnants of dual school systems.

This provision currently exists as an anachronism in our law. The Federal courts have already accomplished the abolition of dual school systems, racial discrimination, and the like. The court-ordered desegregation plans that accomplished this are still on the books. They survive as a deterrent to the reinstitution of discriminatory policies. Where the courts have already acted, there is no current reason for the existence of a power within the Department of Health, Education, and Welfare to make a determination as to whether a given school system is maintaining discriminatory policies.

On May 16 of this year, I therefore proposed an amendment to the education bill which provided that no officer or employee of the Department of Health, Education, and Welfare administering any federally assisted program could withhold funds from any State educational agency, local educational agency, institution of higher education, or other educational institution based upon a determination that such agency or institution was operating any such program in a racially discriminatory manner, if such agency or institution was operating under a desegregation plan ordered by any court of the United States.

While the discrimination question has become solely academic, the problems created by HEW in the exercise of this power are very real. There currently exists within the Department of Health, Education, and Welfare a collection of bureaucrats who, under the guise of racial equality, are destroying the public schools of my State, and, I have no doubt, the schools of many other States. In my statement on the Senate floor in connection with that amendment, I called my colleagues' attention to the case of the Winston-Salem/Forsyth County School System. It is a fine, progressive school system of which that community is justly proud. However, the quality of education in that school system is not to the credit of the Federal Government. It is in spite of the Federal Government.

The Winston-Salem/Forsyth County area is inhabited by many fine people and dedicated citizens who have worked unselfishly to provide the best possible education for their children. In addition, the area contains several fine colleges and universities which have provided the best teachers and administrators to be found anywhere.

In spite of the hard work and generous efforts of the people of Forsyth County, the Department of HEW has determined that the school system is operating in a racially discriminatory manner. HEW's determination is predicated upon the assumption that if a disproportionate number of students of a minority race are placed in a remedial class or receive discipline, racial discrimination exists. According to HEW, this determination, based solely upon statistics, justifies their withholding Federal assistance funds from the school system.

Of course, the real tragedy of the situation is that the school officials must then either redistribute the students in the various classes to meet arbitrarily imposed bureaucratic standards; or they must give up trying to obtain assistance funds. In either event, the students are the losers, because on the one hand they are denied the remedial help they need, or on the other hand, their school is denied the assistance funds it needs to help them. Thus, the Department of Health, Education, and Welfare is operating in a manner that is counterproductive to the needs of the children of America.

Although the amendment that I offer on May 16 to correct this situation received 41 favorable votes, it was rejected by the Senate. HEW continued to harass the Winston-Salem/Forsyth County school system. The Office for Civil Rights of HEW sent a team of seven people to North Carolina to investigate this school system. According to the Director of that office in Atlanta, the Winston-Salem/Forsyth County school officials extended cooperation to this investigating team. Nonetheless, HEW concluded that racially identifiable classes existed. That is to say that certain remedial classes designed to help students with learning deficiencies contained a disproportionate number of minority students for a limited period of the school day. In one instance, 25 percent of the day; in another instance, 33 percent of the day.

HEW placed the burden upon the school system to prove that their attempts to assist students in need of remedial help was justified. The investigating team refused to accept teacher recommendations as a basis for skills grouping, or even a partial basis for it. HEW required objective criteria through testing but complained about the lack of qualified—that is to say certified—individuals to administer and evaluate the tests. Apparently the so-called objective criteria arrived at through testing is not acceptable to these bureaucrats if it is not evaluated to their satisfaction.

Of course, tests and individuals to administer them are expensive. Under this arrangement, school systems need funds not only to support remedial programs but also to provide evidence to prove that the remedial programs are needed and that the proper students are in the proper classes. This ridiculous situation reminds me of the old question about which came first, the chicken or the egg. The school systems cannot obtain the assistance funds if they cannot prove they have the students properly assigned to classes. They cannot afford the expensive tests, et cetera, if they do not have the assistance funds. And, of course, one wonders just how much of the taxpayers' money is actually devoted to helping children to learn and how much is spent on paying these bureaucrats to require school officials to provide evidence of their competence.

The investigating team that visited the Winston-Salem/Forsyth County school system found other things about which they chose to comment. For example, the team was dissatisfied because the school system was asking parents to consent to the placing of a student in a class for the educable mentally retarded. The team would prefer that parents' consent be given for the students to be tested for possible placement in such a program. In this situation parents ask that their children be given special help, but HEW says "no."

According to the bureaucrats, children should not receive special help for learning disabilities simply because their parents, who have raised them since birth and who know them better than anyone, ask for this help, and school officials concur in this recommendation. HEW requires that the students be tested to see if the parents and school officials know what they are talking about. Of course, all of this testing, evaluating, investigating and reporting is done at the expense of the hard-pressed American taxpayer.

The HEW investigators also chose to mention that a disproportionate number of minority students received discipline; however, HEW offered a solution for that. Let me quote the Director of the Office for Civil Rights:

> Because minority students have been and may continue to be disproportionately and adversely affected by suspensions and expulsions, a reduction in the number of students suspended and expelled would improve your district's compliance posture.

One wonders exactly what the Director means by this statement. Does he favor not punishing students for their misbehavior simply because the school system has filled its discipline quota for that particular category of students? Or to keep the statistics in balance, would HEW prefer that students in other categories be disciplined whether they deserve it or not? Of course, either alternative would be unconscionable. With the rising rate of crime and the increased incidence of drug abuse among young people, how can any responsible individual, be he bureaucrat or school official, advocate a reduction in proper discipline? Examples of serious crimes being committed in public schools across the Nation are too numerous to catalog. One needs only to read the daily papers for documentation.

Finally, on August 14, the board of education for the Winston-Salem/Forsyth County School System voted not to attempt compliance with the HEW requirements and to accept the consequent loss of Federal funds.

In my view, the board is to be commended for their courageous decision. They put the education of the children of their community ahead of the expensive accessories which may be beneficial but are not fundamentally necessary to a good educational opportunity. Furthermore, I have an idea that the good people of Winston-Salem and Forsyth County will find a way to provide the most beneficial of these accessories, and they will do it without Federal funds and HEW harassment.

Mr. President, I ask unanimous consent that an editorial from the Winston-Salem Journal of August 16, 1974, and an editorial from the Greensboro Daily News of August 30, 1974, commenting on this matter, be printed in the Record at the conclusion of my remarks. I also ask unanimous consent that a copy of a letter of August 31, 1974, from the chairman of the Winston-Salem/Forsyth County Board of Education to the Senator from North Carolina, together with a copy of a letter of August 7, 1974, to the Superintendent of that school system from the Director, Office for Civil Rights, Region IV, Department of Health, Education, and Welfare, as well as his reply of August 20, 1974, be printed in the Record following the aforementioned editorials.

There being no objection, the editorials and letters were ordered to be printed in the Record, as follows:

[From the Winston-Salem Journal, Aug. 16, 1974]

REJECTING FEDERAL FUNDS

In May, a group of civil rights specialists from the Department of Health, Education and Welfare visited the Winston-Salem/Forsyth County school system in search of any discriminatory practices that might disqualify the system for federal aid funds. The group's conclusions, presented in a 14-page letter to Superintendent of Schools Marvin Ward the other day, charged that the system did, in fact, practice discrimination, or face a cutoff of students to special education classes, in the grouping of students by ability, and in the expelling and suspending of students charged with disciplinary offenses.

HEW offered the school system two choices: either comply with federal guidelines to end the alleged discrimination, or face a cutoff of federal funds—a possible total of $360,000—used for the hiring of some 60 teachers' aides at the elementary and secondary school levels. In a special meeting of the Board of Education on Wednesday, board members first rejected HEW's charges, then voted by a 3–2 margin not to attempt compliance with the federal guidelines and to accept the consequent loss of federal funds.

Although three members of the board were not present for the vote, the decision makes sense as a matter of principle and educational policy. To be sure, if any deliberate discrimination by identifiable individuals is involved in any of the three areas mentioned by HEW, it should be—and, one hopes, would be—eradicated immediately by the school board itself. HEW's accusations, however, are based primarily on numbers and ratios, not on an evaluation of human actions in human situations.

The absurdity of the HEW approach is best illustrated in the matter of discipline. According to the HEW report, the system's "discipline policies are discriminatory because minority students are suspended and expelled in numbers disproportionate to their overall ratio in the school district." That is, quite simply, a presumption of guilt based on bookkeeping, not on human beings. If the system, during the course of a week or a month or several months, finds that it has expelled too many students of one race and not enough of another, what precisely is it supposed to do? Kick out a "proportionate" number of students of the other race? Bring back a "proportionate" number of expelled students in order to balance the books?

The solution to alleged discrimination in special education classes and in the grouping of students by ability is only slightly less aburd: According to Mr. Ward, the system would have to re-register all students at the secondary school level in order to achieve racial ratios acceptable to HEW in those areas. With schools opening two weeks from now, that is hardly a sound option, no matter how much money HEW dangles before the board.

"It's time that this total school system took a look at this so-called free (federal) money," said Board of Education Chairman Omeda Brewer at the Wednesday morning meeting. And of course she is right. Federal funds always come with strings attached, and as long as those strings are reasonable, the money may be accepted in good faith. But this time HEW has attached ropes, and the ropes cannot be justified by circumstances. Better to reject the HEW funds, than to follow a course that makes bad sense, and an even worse educational policy.

[From the Greensboro Daily News, Aug. 30, 1974]

FORSYTH AND HEW

We have been following with interest and no little admiration the determined effort of the Winston-Salem-Forsyth County school board to go to the mat with HEW's Office of Civil Rights over a $360,000 special education grant.

The neighboring school board, although divided over its response, reportedly believes to a person that HEW has exceeded its warrant under Title VI of the Civil Rights Act in demanding certain modification of Forsyth's special education programs—one for slow learners, one for the "academically talented." It happens, for reasons now under dispute between the two parties, that the first program is mainly but not entirely black, while the second is mainly but not entirely white."

The response of HEW to the situation has been described editorially as follows by the Winston-Salem Journal: "At the start, HEW created a sour atmosphere. . . . Apparently accustomed to steamrollering school boards, the Office of Civil Rights set forth its guidelines in a letter that was peremptory, officious and seemingly inflexible." The tone is familiar enough, we must say. But as a result, the Forsyth board refused to play dead and instead told HEW on August 14 that rather than submit to the guidelines in their present form it will forego the federal grant and find other means of financing the program.

The heart of the dispute is this: HEW has no authority, under statutory law or court order, to act as a super school board and set curricular policy for Forsyth's or any other school system. But HEW has nonetheless, prospered mightily in its steamroller approach, a calculated blend of legal threat and moral blackmail. It has thereby rendered many school boards unsure of their legal and ethical ground, and cowed them into concessions they deemed educationally unsound. Inevitably, this means that in case after case learning gives way to theories of social betterment which may or may not be valid.

In Forsyth's case, HEW insists that there must be more racial integration in both special education programs. And it is not, we gather, particular as to the means by which the goal is reached. If it takes more "objective" testing and less subjective teacher judgment to get more whites into the slow-learner group, and more "affirmative action" and less objective testing to get more blacks into the program for the academically talented, then that is how it should be done—never mind the logical contradiction or the inconsistency of policy.

We have no idea who will win this test of wills, nor indeed can it be declared out of hand which side has the better case on the merits. But the school board is to be commended for standing its ground on what it views as a vital question of sound educational policy.

HEW, in its officious attentions to higher and public education, frequently gets away with too much. HEW has every authority to see that there is educational equality under the law; but so far as we are aware it has no authority to assure educational leveling under the law, which is quite another matter.

If enough school boards and school officials muster the pluck to seek to vindicate their authority and rights under the law, then Congress itself—that great evader of policy-making responsibility—may at last be compelled to establish, so that all may understand, what this nation's educational policy really is. Is it to assure equality of opportunity for all—which is both right and attainable? Or is it to try to assure equality of educational result for all—which is neither right nor attainable?

WINSTON-SALEM/FORSYTH
COUNTY SCHOOLS,
Winston-Salem, N.C., August 21, 1974.
Hon. JESSE HELMS,
U.S. Senator, U.S. Senate Office Building, Washington, D.C.

DEAR MR. HELMS: Several months ago our Superintendent shared with you a copy of a letter which he had received from the Office of Civil Rights concerning our application for funds under the Emergency School Aid Act, and his reply to that letter. This letter and the attached correspondence is being sent to you to advise you of further developments in this case.

Our ESAA project for 1974–75 was approved April 4, 1974 in the amount of $360,000 and we were cleared by OCR, subject to the findings of an on-site visit. The Office of Civil Rights sent an investigating team of seven (7) people to our school system for a full week in May and our staff worked cooperatively with them to provide all information requested.

We anticipated the findings and recommendations from this visit during June, but we received no word until August 12, despite numerous inquiries and reminders from our staff that the summer was slipping away and plans for the 1974–75 school year were rapidly being finalized. In the meantime, we received a grants award document and a check for $108,200 from the Office of Education as a first installment of the $360,000 grant.

On August 12, the enclosed fourteen page letter was received by our Superintendent. He and two members of his staff went to Atlanta the next day to consult with OCR staff members to get clarification of the letter and to point out the problems created by its tardiness. Upon their return, a special meeting of the Board was held on August 14 and after thorough review of the situation and the options open to the Board, we chose to withdraw our ESAA application. I believe you will understand our reasons as you read the attached materials.

Our decision was not an easy one. We were less than two weeks away from school opening and had sixty (60) employees who were expecting to begin work in the ESAA program. In spite of this, we felt that the time had come to say that educational decisions in the Winston-Salem/Forsyth County Schools must be made by the local Board and our professional staff on the basis of what we believe to be best for our schools and not on the basis of racial quotas and guidelines interpreted by the Office of Civil Rights.

Thank you for your interest in this matter and for your efforts in behalf of sound educational legislation.

Sincerely,
MRS. JAMES BREWER,
Chairman, Winston-Salem/Forsyth County Board of Education.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Atlanta, Ga., August 7, 1974.
Re Emergency School Aid Act Review, May 20–24, 1974.
Mr. MARVIN WARD,
Superintendent, Winston-Salem/Forsyth,
Winston-Salem, N.C.

DEAR MR. WARD: Thank you for the cooperation extended to the staff of the Office for Civil Rights during their visit to your district to review your district's compliance with the Civil Rights related assurances of the Emergency School Aid Act.

As you know, Section 185.43(e) of the ESAA regulation sets forth the continuing conditions of eligibility of recipients as follows:

"The limitations on eligibility set forth in this section shall be continuing conditions of eligibility during the entire period for which assistance is made available to an educational agency under the Act, and such agency's failure to comply with such conditions after the award of such assistance shall be grounds for termination of assistance and for such other sanctions as the Assistant Secretary may determine."

The Office for Civil Rights review delineates two areas of the ESAA regulations with which your district is not in compliance. These two areas are assignment of students to classes and the administration of disciplinary sanctions. The sections of the ESAA regulations which apply to these two areas are 185.43(d)(5), 185.43(c)(1–4) and 185.43 (d)(4).

As you know, section 185.43 of the ESAA regulations with regard to student assignments provides as follows:

(d) Discrimination against children.

No educational agency shall be eligible for assistance under the Act if, after June 23, 1973, it has had or maintained in effect any practice, policy, or procedure which results or has resulted in discrimination against children on the basis of race, color or national origin, including but not limited to:

(5) Assigning students to ability groups, tracks, special education classes, classes for the mentally retarded, or other curricular or extracurricular activities on the basis of race, color, or national origin. Racially or ethnically identifiable groups, tracks, or classes which cannot be justified educationally under the criteria set out in paragraph (c) of this section shall be presumed to be assigned on the basis of race, color, or national origin.

(c) Classroom segregation.

No educational agency shall be eligible for assistance under the Act if, after June 23, 1972, it has or maintained in effect any procedure for the assignment of children to or within classes which results in any separation of minority group from nonminority group children for more than 25 percent of the school day classroom periods, in conjunction with desegregation or the conduct of the Act. This paragraph shall not be construed to prohibit bona fide ability grouping as a standard pedagogical practice. Such grouping is that which is:

(1) Based upon nondiscriminatory, objective standards of measurement which are educationally relevant to the purposes of such grouping and which, in the case of national origin minority group children do not essentially measure English language skills;

(2) Determined by the nondiscriminatory application of the standards described in subparagraph (1) of this paragraph, and maintained for only such portion of the school day classroom periods as is necessary to achieve the purpose of such grouping;

(3) Designed to meet the special needs of the students in each group determined by the application of the standards described in subparagraph (1) of this paragraph and to improve the academic performance and achievement of students determined to be in the less academically advanced groups, by means of specially developed curricula, specially trained or certified instructional personnel, and periodic retesting to determine academic progress and eligibility for promotion; and

(4) Validated by test scores or other reliable objective evidence indicating the educational benefits of such grouping.

With regard to disciplinary sanction, section 185.43(d)(4) of the ESAA regulations provides:

Discrimination against children:

Imposing disciplinary sanctions, including expulsion, suspension, or corporal or other punishment, in a manner which discriminates against minority group children on the basis of race, color, or national origin.

We have determined that your district is not in compliance with sections 185.43(d)(5), 185.43(c)(1–4) and 185.43(d)(4) for the reasons described below.

1. Assignment of Students to Regular Classes.

a. Elementary schools.

Five elementary schools in your district utilize ability grouping as a method of student assignment. These schools are Griffeth Elementary, Kernersville Elementary, Clemmons Elementary, Old Town Elementary and Union Cross Elementary. Union Cross was not visited during the review, but the other four schools were visited. Grouping practices in the four visited schools resulted in racially identifiable classes for more than 25 percent of the school day.

According to principals interviewed at Clemmons, Old Town, and Kernersville Elementary Schools, grades one through four, all first grade students are grouped heterogenously, and ability grouping starts at the second grade. At Griffeth Elementary grouping is begun at the first grade. The grouping is accomplished by using three groups, generally labeled high, average and low.

The four schools group students for the language arts block of study, and forty to forty-five minutes each for reading and mathematics. Students at Kernersville Elementary School are grouped for language arts for three and one-half hours, or 58 percent, of the six hour school day, and students at Clemmons and Old Town Elementary Schools are grouped for two and one-half hours or 41 percent, of the school day period in language arts.

In order for the grouping utilized to be considered beneficial, each of these schools must meet the requirements of 185.43(d)(5) and 185.43(c)(1–4) of the ESAA Regulations. There was no evidence to substantiate that grouping was based upon nondiscriminatory, objective standards of measurement. Schools differ in their student assignment procedures and techniques. There is no uniform criteria employed by all teachers or all schools. At Clemmons Elementary, for example, second grade students read aloud, take a vocabulary test, take skill tests and their grades are studied by teachers at the first of the year prior to receiving a section assignment from a teacher. Social Studies and Science are taught during the language arts block. It appears, therefore, that grouping is not maintained for only such portion of the school day classroom period as is necessary to achieve the purpose of the grouping. There were indications that programs were designed to meet the special needs of students because at each grade level different educational series were utilized by the three basic groups. Also, the low sections have fewer children assigned and have teacher corps interns and ESAA aides. The review team is unaware, however, of any specially trained instructors that are assigned to the low groups or if any special periodic retesting is used to determine the academic progress of the low groups. There is no indication that any of the elementary schools visited, with the exception of Kernersville, could validate by test scores or other reliable objective evidence the educational benefits of such groups.

Griffeth, Kernersville, and Old Town are unable to justify their ability grouping practices sufficiently to meet all the requirements of 185.43(c) (1–4).

At Kernersville Elementary a study has begun to show the academic progress made by different ability groups. This study could possibly provide objective evidence to show the educational benefits of the grouping. In order to show educational benefits, the study must show that the average academic gain made by low achievers in a certain grade is equal to or greater than the average academic gain made by all other students in the same grade and over the same period of time. Data gathered in the study should be submitted to our office for evaluation. If this data is not submitted or if it fails to show educational benefits, then Kernersville will be subject to the same recommendations which will be made for the other elementary schools.

Because Union Cross was not visited, the amount of time students spend in racially identifiable classes is unknown. It is also unknown whether this school has any objective evidence to justify its ability grouping practices. If students spend more than 25 percent of the school day in racially identifiable classes and if there is no objective evidence available, then Union Cross will be subject to the same recommendations which will be made for the other elementary schools.

b. Intermediate schools. Grouping of students in high, middle, and low groups at Skyland and Brown is practiced for math and language arts and approximates twenty-five percent of the school day; therefore, the time spent in racially identifiable classes does not exceed a strict interpretation of the Regulations. However, the majority of the students who attend these two schools come from feeder schools, Kernersville and Clemmons. Thus, the grouping which begins at the elementary level is perpetuated and continues to extend to the secondary level. At these schools there was no justification for the grouping to meet all the requirements of 185.43(d)(5) and (c)(1–4).

c. Junior high schools. A disproportionate number of minority students were assigned to basic math classes and required reading classes. The student assignment practices in the junior high schools result in racially identifiable classes for more than twenty-five percent of the school day.

It is our understanding that seventh grade math assignments are made primarily on the basis of teacher recommendation. Although Metropolitan Achievement test scores are used there are no prescribed ranges for basic and general courses. A prescribed range for advanced math is utilized; however, Mr. Harold Simpson's memo of February 20, 1974, stated that "the greater emphasis should be on teacher recommendation." The reviewers could not determine that the math grouping was based upon nondiscriminatory objective standards of measurement relevant to the grouping. It was determined that the grouping practices herein employed were maintained for such portion of the day as to achieve the purpose of the grouping. It was noted that different text books are used in the basic and general math courses. There was no indication, however, that specially trained teachers were assigned to the low achieving sections or that periodic retesting occurred to determine academic progress. Finally, there were no indications that test scores or other objective evidence indicating the benefits of the grouping was available. The same conclusions appear to apply to the eighth grade as well.

A review of class schedules indicated that an effort was made to assign students to language arts classes so that the racial composition of the classes approximated the school racial ratio. However, during the 1973–74 school year a disproportionate number of minority students had to leave their language arts classes to attend a required reading class. When these students left their language arts classes, those classes tended to become racially identifiable. In addition, the students who had to leave their language arts classes (most of whom were minority students) were denied the opportunity to learn the basic English concepts which were being taught during their absence from class. Students in racially identifiable math classes and also assigned to reading classes, are grouped for up to thirty three percent of the class day.

(d) High schools and senior high schools. At the high school level students complete student registration cards which must be evaluated by teachers of previous courses. All courses on the form are not offered at all schools; certain courses require that grades in prior courses be at a specific level; certain courses at specified levels require teacher recommendation. Mrs. Frances Snow's (English Curriculum Director) memo of January 30, 1974 cites teacher recommendation as the most accurate guide for grouping and requests that teachers in grades 8–11 make recommendations for each student for the next grade level.

At the grades 9–10 level, although students may select course levels in English, math and science, teacher recommendations are made in these areas also. It appears that the offering of courses of varying degrees of difficulty in English and Biology is an integral part of the occurrence of racially identifiable classes.

Math classes are also a source of concern because many minority students arrive at the ninth grade, after having been assigned to low math sections in grade eight, who would enroll in remedial arithmetic or in the math courses not requiring a prerequisite.

It should be noted that the January 30 memo sets levels for 9–12 English according to Differential Aptitude test score results. It would appear that a poor performance on the test might affect a student's initial ninth grade assignment and hence his English placement throughout high school. Principals interviewed at the senior high level (11–12) were not aware of the criteria in Ms. Snow's memo.

The review team determined that your assignment practices, based primarily on teacher recommendation at the high school level, do not indicate that nondiscriminatory, objective standards of measurement, educationally relevant to the purposes of your assignment procedures, were utilized in determining assignments.

At the high school level it does appear that your assignment practices were maintained for only that part of the day as is necessary to achieve the purpose of the assignment.

Your district was not able to furnish evidence that your method of student assignment meets the special needs of the students in each group, and improves the academic performance and achievement of students determined to be in less academically advanced groups by means of specially developed curricula, specially trained or certified instructional personnel, and periodic retesting to determine academic progress.

Finally, your district did not provide objective evidence validating the benefits of your assignment practices by test scores or other reliable data.

Assignment of teachers to high school English classes raises questions regarding race because there were not any minority teachers who taught level four or honors

English in any of the high schools even though it was determined that teachers teaching level four English did not possess any special qualifications which would differentiate them from other English teachers.

Statistics gathered by the review team indicated that in four out of five senior high schools, greater than 80 percent of each school's minority student population were assigned to level one and level two English. The fifth school, R. J. Reynolds Senior High, does not offer level one English, but 59 percent of its minority population is assigned to level two English.

Four senior high schools did not have any minority students assigned to level four English and there were not minority students assigned to advanced placement, or level five English.

Fifty percent of a total number of 290 senior high English classes are racially identifiable.

Teachers are discriminatorily assigned to teach different levels of senior high English. No minority staff member teaches level four English and minority staff are disproportionately assigned to teach level one and level two English.

2. Assignment of Students to the Academically Talented Program. The review team observed three sets of criteria for the identification and placement of students in the Academically Talented Program—(1) AT The Academically Talented Program, (2) Fulfilling the Promise, (3) Special Education Programs and Related Services. Each of the documents recommend a different I.Q. score for placement (ranging from 115 to 125). The "AT" booklet listed above recommends a score of 125 which exceeds the requirements of the NC State Department Rules and Regulations.

Teachers are also required to exercise subjective judgment in recommending students for the program. It appears that the criteria established by the district and the effect of teacher judgment has resulted in proportionately few minority students enrolled in the program. The NC State Rules and Regulations require that "Attention needs to be given to selection of minority students who can benefit from the program. . . ." The results of the district's efforts over the period 1971–72 through 1973–74 has been a decrease in the ratio of minority students in the AT program from 6.3 percent to 5.4 percent (overall minority ratio: 31%).

There is only one minority teacher of a total number of fourteen teachers who teach academically talented students.

The existence of this program serves to separate nonminority students from minority students who are enrolled in the regular curriculum program.

3. Assignment of Students to Educable Mentally Retarded Classes. The following findings of the review team are violations of the NC Rules and Regulations:

a. Students have been tested and evaluated for placement in the classes for the educable mentally retarded since the 1792–73 school year by three examiners (from a total of four) who are not certified. Although NC State Rules and Regulations permit persons other than qualified examiners to administer tests, evaluations have to be interpreted and supervised by a qualified examiner prior to placement. The one person certified as a psychological examiner, Ms. Carpenter, has not been evaluating students for placement or supervising the evaluations of the other personnel. It is our understanding that she has engaged in administrating personality inventories to those students who did not receive full scale psychological tests. Students evaluated and placed during the last two years, therefore, were not assigned in accordance with NC State Rules and Regulations.

b. There is no parental consent form in which a parent gives his permission for his child to be *tested* for possible placement in the EMR program.

c. The parental consent form, which is currently being utilized to obtain parental permission to *place* a student in the EMR program, inadequately describes the EMR program.

d. The state exceptional children regulations require that a placement committee review the following information prior to placing a child in the EMR program:

1. Teacher observations
2. Cumulative school record
3. Social competencies and adaptive behavior
4. Speech and language development
5. Recent medical evaluation (including vision and hearing)
6. Psychological report

The placement committee does not appear to be functioning properly because of its failure to review some of the above information. First, teacher observations are recorded in teacher referral forms for testing. The district's established policy is that no child is to be considered for testing unless a completed referral form is submitted. However, a review of folders indicated that there were a number of incomplete forms and there were some folders which did not contain a referral form.

Cumulative record folders were incomplete. Specifically, academic grades and achievement test scores were not contained in the folders, thus it would be difficult for the placement committee to determine important facts about a child's achievement before placement in the program or even after his placement in the program.

Social histories and adaptive behavior scales could not be found in the record folders suggesting that the committee does not review such information.

Finally, forty-six percent or 11 of 24 records on which in-depth surveys were completed did not contain evidence that students had been given a hearing test. A few students who had failed the hearing test were placed in the FMR program. Twenty-five percent (6) of all the records surveyed contained information which indicated that students had failed the Snellen Eye Test. The record folders did not contain information to show that any follow-up on hearing and visual problems had been made.

There do not appear to be any achievement test scores or other objective data that would show the educational benefits of assignment to the EMR program and hence justify these student assignments pursuant to 185.43(d)(5) and 185.43(c)(1–4) of the ESAA Regulations.

4. The program for trainable mentally retarded students enrolled approximately 50% black students and approximately 50% white students during the 1974–75 term. There does not appear to be serious over-inclusion of minority group students in this program. There remains, however, the problem of assignment to centers which result in racially identifiable classes.

We found racially identifiable TMR programs at three of the six centers where TMR students are assigned. In each of these three instances, the race of all or at least 88 percent of the students assigned to the TMR program at the center reflects the race of the students who attended the center before student desegregation.

Easton TMR, ages 6–15. Students: 3 black, 34 white.

Kimberley Park TMR, ages 6–15. Students: 30 black, 4 white.

Lowrance TMR, ages unknown, Students: 10 black, 0 white.

There are no directions regarding the assignment of TMR students in your court order. We were informed that administrative decisions were made regarding assignment of students from certain zones to certain TMR centers. Also, we were informed that transportation is provided or is available for all TMR students.

5. Administration of Disciplinary Sanctions. Discipline codes are not specific, vary from school to school, and are widely interpreted by individual principals. There is no system by which a student may appeal his suspension. The system does not afford students any form of due process prior to the suspension.

A review of categories of suspensions revealed that minority students were suspended more for offenses that were conditioned upon administrative interpretation and subjective confrontation than for those categories subject to objective criteria.

Your district's discipline policies are discriminatory because minority students are suspended and expelled in numbers disproportionate to their overall ratio in the school district. During the 1973–74 school year 56 percent of all students suspended in grades 7–12 (29 percent overall minority ratio) were minority students and 58 percent of all students expelled were minority students. At the elementary level (33 percent overall minority ratio) 71 percent of all students suspended were minority students.

The approach currently being practiced by the school district is to remove from school students who are disciplinary problems.

6. There are disproportionate racial assignments in State and Title I Kindergartens at Griffeth Elementary and Old Town Elementary. These disproportionate racial assignments raise questions about the nature of your student assignment practices. There is nothing in Title I Regulations or NC State Regulations that would prevent your district from eliminating the racial identifiability and racial disproportionate assignments in your kindergarten program.

With regard to student assignments, we recommend the following affirmative action plan be implemented at the beginning of the 1974–75 school year:

(1) Ability grouping at Griffeth Elementary, Clemmons Elementary, and Old Town Elementary should be eliminated because it cannot be justified in accordance with the ESAA Regulations. Stratified heterogeneous and heterogeneous grouping are examples of acceptable student assignment methods. Whatever method of student assignment is used, we would expect classes to approximate the overall school or grade racial ratio; however, a ten percent deviation is allowable. As previously indicated this recommendation may also apply to Union Cross Elementary and Kernersville Elementary.

So that your affirmative action plan may be comprehensive and all inclusive, we recommend that ability grouping is a continuation of the ability grouping practiced at the elementary level.

(2) Ability grouping in math at the junior high level cannot be justified in accordance with the ESAA Regulations; therefore, the ability grouping must be eliminated. As stated previously, heterogeneous and stratified heterogeneous grouping are acceptable student assignment methods.

Required reading should be offered to students during some other period during the day, rather than during the language arts class period.

The racial composition of classes in all required courses should approximate the overall grade or school racial ratio; therefore, deviations of more than ten percent would not be expected.

(3) At the high school level the tracking system which is based primarily on teacher judgment should be eliminated. Students should not be assigned to English, Math or Science classes on the basis of teacher recommendation. Students should be assigned to English, Math, and Science classes in a nondiscriminatory manner and we would expect the racial composition of these classes to approximate the grade or school racial ratio.

Teachers should be assigned to teach level four English in a manner that would not raise questions concerning the nature of your teacher assignment method.

(4) At the senior high level, English classes are a continuation of the tracking system which begins at the high school level (9–10). Students should not be assigned to English classes on the basis of teacher recommendation.

Teachers are discriminatorily assigned to teach different levels of English. Teachers should be assigned to teach English in a nondiscriminatory manner. Consideration should be given to assigning minority staff to teach level four English and fewer minority teachers should be assigned to teach level one and level two English.

(5) With regard to the academically talented program, as recommended by the NC State Department of Education (Rules and Regulations for 1973–74), you should actively recruit and retain minority group students and minority group teachers in all phases of the academically talented program from the elementary level through the senior high level.

(6) With regard to the educable mentally retarded program, because intelligence testing was accomplished by three non-certified psychological examiners, all students in the program should be retested and reevaluated by a certified psychological examiner. Those students dicovered to be improperly placed in the program should be given special remedial assistance and be reassigned to the regular curriculum program.

In accordance with State Regulations governing this program, the following is recommended:

(a) A parental consent form should be designed to obtain parental consent prior to testing a child for possible placement in the program.

(b) The parental consent form used to obtain permission to assign a student to the program should be revised to adequately describe the EMR program.

(c) The placement committee should review, for each student being considered for placement, the following: a complete referral form, a complete cumulative record folder containing academic grades and achievement test scores, a social history and an adaptive behavior scale, and a complete medical evaluation.

The placement committee should make certain that any medical follow-up necessary to resolve hearing and visual problems is accomplished.

(7) In order to eliminate the racial identifiability of TMR classes, we request administrative action to revise the assignment practices of the TMR students in order to ensure complete desegregation of these centers before the beginning of the 1974–75 school year.

(8) In order for your district to adhere to section 185.44(f) of the ESAA Regulations which pertains to the administration of discipline, it will be necessary for you to submit an affirmative action plan to accomplish the following:

(a) A positive approach for correcting disruptive behavior should be developed. Suspensions and expulsions should be reserved for the most extreme violations of school rules and they should be applied in a nondiscriminatory manner. Principals should be instructed to use suspensions and expulsions only as a last resort.

(b) Both students and parents should be involved in writing and revising school rules so as to develop a uniform, district-wide disciplinary code. Parents and students should be asked to suggest alternatives to severe disciplinary sanctions such as suspension and expulsion.

(c) The district-wide disciplinary code should be designed and implemented as soon as possible. This code should specifically define offenses and should avoid the use of broad phrases such as, "undesirable behavior will not be permitted." Also, the code should specify the punishment for the offense. The code should be oriented to contemporary, pluralistic cultural lifestyles.

(d) In the current expulsion process, the major function of the hearing panel is to determine what to do with a student rather than establishing the student's guilt or innocence of the offense. A student should be afforded due process. He should be given a notice of charges against him and a notice of adverse witnesses. At the hearing a student should be able to present evidence and witnesses to show the hearing panel his side of the issue. A student should have the right to have an attorney or an advocate to help him present his case. Students should not be expelled unless substantial evidence has been presented to show a student's guilt of an offense.

(e) Disciplinary practices should be monitored regularly to assure fair and uniform application of disciplinary sanctions.

(f) Because minority students have been and may continue to be disproportionately and adversely affected by suspensions and expulsions, a reduction in the number of students suspended and expelled would improve your district's compliance posture.

(9) State Kindergarten and Title I program directors should be requested to provide advice and assistance as you revise your kindergarten assignments to eliminate racially identifiable kindergarten classes.

The submittal of affirmative action plans for both student assignment and administration of disciplinary sanctions is necessary for your district to comply with the conditions of your current ESAA grant. These affirmative action plans should be submitted within 15 days of the date of this letter.

If you have any questions, please do not hesitate to call me at area code (404) 526–2359.

Sincerely yours,

William H. Thomas,
Director, Office for Civil Rights (Region IV).

Winston-Salem/Forsyth
County Schools,
Winston-Salem, N.C., August 20, 1974.

Mr. William H. Thomas,
Director, Office for Civil Rights, Region IV, Atlanta, Ga.

Dear Mr. Thomas: Following our meeting with members of your staff on August 12, a special meeting of the local school board was called to consider your assessment of our assignment practices and disciplinary procedures, as well as your recommendations for dealing with the problem areas.

After carefully weighing the situation and reviewing a possible response to your recommendations prepared by our staff, the board reached the conclusion that the best interests of our educational program would not be served by attempting to comply with ESAA regulations as interpreted by the Office for Civil Rights. The board, therefore, voted to withdraw its application for ESAA funds and return the initial payment of $108,200.

While I regret the termination of our ESAA project after only one year of operation, I do want to express my appreciation to the members of your staff for their assistance throughout our relationship.

We have notified the Office of Education about our school board's action.

Sincerely,

Marvin Ward,
Superintendent.

PROTECTING HUMAN RIGHTS

Mr. ABOUREZK. Mr. President, as the world community has developed in this century its attitude toward protecting human rights, it has also begun to codify that attitude. Slavery, cruel punishment, torture, and certain war crimes are now considered universal crimes. Seventy-five years ago the idea that representatives of various countries would be able to get together and view human rights with the same eye seemed impossibly distant. Great and rapid strides have been made. Yet at the same time the opposite trend seems to be taking place. Amnesty International claims that the use of torture has actually increased over the past 15 years: that while the concept of human rights is being refined and acted upon more than ever, the universal crimes continue and even increase in some areas.

Our sensitivities become attuned to detecting these events. The phenomenon of thousands of Americans writing their Congressmen and women about the plight of the Ache Indians in Paraguay would have seemed ludicrous in the 18th century—which is not so long ago. Yet, while Americans react in outrage when they hear of great crimes against humanity, especially when those crimes may be partially financed by their Government, U.S. economic and military aid continues to regimes who find themselves so lacking in support and legitimacy in their own populace that they must use physical repression to stay in power.

In specific reference to Chile, which rates as one of the outstanding mistakes in U.S. foreign policy and a disaster for the Chileans, we find once again a striking instance of the Chilean junta's need to bully those who discover and speak out against its practices. Mr. Joseph Novitski, Washington Post writer, was put under house arrest in Santiago as a result of his investigation and reporting of the murder of two men who supported Allende. The Post was restrained from publishing his report for 2 days because of threats of some nature to Mr. Novitski by Santiago officials. Furthermore, when he tried to teletype his report to Washington, the Radio Corp. of America subsidiary in Chile refused to serve him because they might later be held responsible for the story's contents. An American subsidiary refusing service to an American reporter doing his job—is this what supporting a dictatorship has done to us? In the light of so many official Chilean denials of torture, illegal detention, and intimidation, I urge my colleagues to reflect on the implications of this latest event and the web of denials that has surrounded all such events over the past year.

I ask unanimous consent that the following articles, from the September 2 Washington Post, be inserted in the Record.

Writer Held

The accompanying story by Joseph Novitski about the apparent summary execution of two Chileans was withheld from publication by Washington Post editors for two days because of threats against Novitski made by Chilean officials in Santiago.

The threats were never specific, but it is known that the government prepared an expulsion decree against Novitski last June, The decree has never been put into effect.

On Saturday, Novitski was told by security officials that he was under house arrest. He was ordered not to make any efforts to gather news or to transmit news stories to Washington. The house arrest was lifted Saturday night, and Novitski was told that he was free to pursue his profession in accordance with the credentials issued by the Chilean government.

The government officials in Santiago never made clear that it was the accompanying story that prompted them to send agents to Novitsky's apartment Friday and then place him under house arrest Saturday. But, in response to questions, officials indicated the story was the cause for the actions, which were ordered at a high level. The story is based on Chilean court documents.

Novitski reports that the Chilean security men who dealt with him personally over the last two days went out of their way to be courteous and helpful given the circumstances. Novitski was permitted to telephone The Washington Post and the U.S. embassy in Santiago whenever he wished. A U.S. embassy official stayed with him most of the last 48 hours.

When the Post protested Novitski's treatment to the Chilean ambassador in Washington Saturday evening, Ambassador Walter Heitmann said he knew nothing of the case, but expressed no concern over Novitski's house arrest saying that the reporter had been warned before for writing "misleading" articles.

The Radio Corporation of America (RCA) subsidiary in Santiago refused to transmit Novitski's story about the executions. The subsidiary's manager cited a Chilean government decree that makes managers or telecommunications officers potentially responsible for any news story they transmit that the government says is detrimental to Chile's image in the world. After being refused by RCA Novitski dictated his story to Washington by telephone.

Two Chileans Slain After Detention

(By Joseph Novitski)

LEFTIST DEAD

Santiago, Chile, August 29 (delayed).—Two men arrested two weeks ago in a small Chilean town near Santiago died the day they were detained, each with one bullet in his head, according to the records of the Santiago Court of Appeals.

The court, in two recent decisions, agreed to extend a form of judicial protection to the widows and daughters of the dead men, both of whom were members of Marxist political parties that had supported the late President Salvador Allende.

The court action, agreeing to consider a plea to prevent any arrest order for the widows, put on public record what appears to have been the first summary executions in many months in Chile.

It is understood that military authorities have ordered an investigation into the deaths, but neither the court decisions nor any announcement of an investigation has been published in Chilean newspapers.

The military junta that overthrew Allende, a Socialist, last September, prohibited summary executions early this year.

As far as is known, none of the death sentences handed down by courts martial has been carried out since Feb. 13, while nine death sentences for political offenses have been commuted by military commanders during that period.

However, Dr. Hector Garcia, a 50-year-old physician and member of the Socialist Party, and Ruben Lamich, a 48-year-old contractor and member of the Communist Party, died in custody according to the cases heard by the appeals court.

The two men, according to files that bear docket numbers 967–74 and 980–74, were detained separately Aug. 13, in Buin, a semi-rural town just south of Santiago. Their bodies were returned to their families through the Santiago morgue on Aug. 14 and Aug. 15.

On petition by the widows of the two men, the appeals court agreed last week to ask military and police authorities if there are any orders to arrest the women or their children. There has been no answer yet.

Maria Garcia, the doctor's widow, told the court that her husband had been detained at the Buin hospital, where he worked. She said he had been interrogated briefly, in her presence, shortly before dawn on the same day, when eight men in civilian clothes and two uniformed policemen came to the Garcia home in a police car.

Dr. Garcia's death certificate, cited in the petition, gave the time of his death as 10:30 a.m. Aug. 13, a little more than an hour after he was detained. Mrs. Garcia told the court that at about the same time, an army officer at the regimental base at San Bernardo told a lawyer and a friend of the family that the regiment knew nothing of Garcia's arrest.

Mrs. Garcia said her brother, Candido Garcia, was called to the Buin police station Aug. 14 and told that Dr. Garcia was dead. Garcia was given the doctor's identification papers. Later that day he located the doctor's body in the Santiago morgue.

The autopsy report cited in the court record declared that Dr. Garcia died as a result of one bullet wound in the forehead. It also mentioned bruises on his arms and legs and a cut on his jaw.

The court of appeals has limited access to the record of the petition for protection from arrest made by Mrs. Lamich, the widow of the dead contractor. However, court sources reported that the record showed he had been arrested on the same day in Buin and had died as a result of one shot in the head. The secretary of the court said the court had agreed to consider Mrs. Lamich's plea and had ordered the minister of the interior, who is head of the plainclothes police in Chile, and the commander of the Santiago military garrison, which has jurisdiction over Buin, to report whether any arrest order has been issued for Mrs. Lamich.

If an arrest order has been issued for either Mrs. Garcia of Mrs. Lamich, the court will consider issuing a preventive writ of habeas corpus, which would enjoin authorities from arresting the women or their children. Some wives of political supporters of President Allende have been detained in the 11 months since he was overthrown. Minors have also been detained for political offenses.

Of the 1,008 habeas corpus petitions considered this year by the appeals court here, all but one of those entered on behalf of people detained for political reason have been turned down.

The one writ that was granted, in the case of a 14-year-old boy, was overturned by the Supreme Court after it had heard arguments from the Ministry of Interior that the boy had been a member of the Communist Party Youth and an active supporter of Allende's government. He is still detained.

UNNECESSARY PROTECTION

Mr. CURTIS. I call to the attention of my colleagues an outstanding editorial out of the August 19, 1974, edition of the Progressive Grocer.

The editorial addresses itself to the continuing debate on this floor about an Agency for Consumer Advocacy. I sincerely hope my colleagues will read it and keep it in mind as we approach the time for a fourth attempt to invoke cloture.

Mr. President, I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Progressive Grocer, August 1974]

Unnecessary Protection

No one will question the premise that consumers are entitled to fair and honest treatment—certainly not the food distribution industry, which sometimes goes beyond the limit of prudent operations to give customers the most for their money.

But it is possible, even necessary, to question the motivation and competence of those who seem most obsessed with the need for additional consumer "protection."

Many of these people surfaced during the recent Congressional debates on the Consumer Protection Agency. It is perhaps significant that they constantly described consumers as "victimized" by advertising, "lured" by merchandising, and "deceived" by promotions. The choice of words suggests not only a warped view of these marketing functions but also a basic disrespect for the consumer's intelligence.

It seems to us that worthwhile consumer protection in these stressful times includes protecting them from groundless doubts about the overall honesty and integrity of the business community. An agency genuinely concerned with the public welfare should therefore operate in a balanced, judicial fashion, seeking harmony. We fear, though, that certain activists prefer to regard consumer protection as an aggressive, adversary function.

The practical contribution of any federal agency depends on the answers to a few basic questions:

How is it organized, staffed, and administered? What is the training, experience, and orientation of key personnel?

Who evaluates the agency's performance? What standards are used? How is "achievement" measured—by the number of legal actions, headlines, and confrontations, or by evidence of quietly effective intercessions?

Are there safeguards against baseless accusations or wasteful fishing expeditions? Is there any protection from the protectors?

A consumer agency can perform a useful service if it takes the path of conciliation and works to build bridges between business and the public. On the other hand, if it opts for the adversary role, it can be a source of much unwarranted irritation and suspicion. And we certainly don't need any more of that.

In our opinion, another layer of protection is unnecessary and potentially disruptive. Consumer agencies at other levels of government have not always interpreted their mission in a positive and constructive way—nor have they always recognized the point at which responsible inquiry leaves off and reckless interference begins.

Too often, protection becomes a subjective matter. Surely many watchdogs think they are protecting the home when they chase the mailman and attack the milkman.

THE TWO-TIER ARMS RACE

Mr. PROXMIRE. Mr. President, in the competition for influence within the Federal Government between arms control advocates and advocates of weapons development, the voice of arms restraint is pathetically weak.

The arms race continues to accelerate despite the obvious conclusions that the numbers of weapons on both sides defy interpretation into the standard context of "Who's ahead."

What strategist can explain the difference in a strategic relationship where one power has 11 weapons for each adversary city over 100,000 in population while the other has 36 weapons for each city of similar size? And in each case the individual weapon is many times more powerful than the one that destroyed Hiroshima. Incidentally we have the 36, the Russians have 11. But even if it were reversed the argument for American arms restraint would be overwhelming.

At what point do the numbers on both sides defy rational interpretation? Does it any longer make sense to say we have more of this or that than they do or we have less when even the minimum amount necessary to eliminate the major population centers of each side was available years ago?

It appears that we have slipped from the rational basis for an arms race of keeping ahead or equal to any combination of adversaries to a strictly psychological arms race where the numbers are meaningless in a military sense but all powerful in a bargaining environment.

This "two-tier" arms race is threatening to erase the rational basis for comparison and replace it with a purely behavioral-psychological justification.

There can be no doubt that a new rethinking of arms control should be encouraged—one that will discard the traditional reliance on diplomatic activity and will start instead with the psychological factors apparently driving arms development beyond rational explanation.

Mr. President, a recent examination of the relative influence of arms control advocates and weapons development advocates has been produced by the Center for Defense Information.

Since it contains a number of new analyses and projections not available elsewhere, I commend it to my colleagues.

Mr. President, I ask unanimous consent that the August issue of the Defense Monitor be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ARMS RESTRAINT: TOO WEAK A VOICE—NUCLEAR WEAPONS BEYOND COMPREHENSION

QUANTUM LEAP IN THE ARMS RACE

The strategic nuclear weapons race continues at high velocity while the glacier-like Strategic Arms Limitation Talks inch forward. As of mid-1974, 7940 United States strategic nuclear weapons are targeted on the Soviet Union, and 2600 Soviet strategic nuclear weapons are targeted on the United States. Since July 1972 when the SALT I agreements were signed the U.S. had deployed an average of one new strategic nuclear weapon every eight hours. Unless checked, the U.S. arsenal of such weapons of mass destruction will swell to 10,000 by 1977. The Soviet Union has deployed one strategic nuclear weapon every 48 hours since 1972. The pace of U.S. nuclear weapons building since SALT I is thus five times that of the Soviet Union.

STRATEGIC NUCLEAR WEAPONS

	1972	1974	Added since SALT I
United States	5,760	7,940	2,180
Soviet Union	2,200	2,600	400

Both the United States and Soviet Union have roughly 200 cities of over 100,000 people. Clearly, strategic nuclear weapons are deployed in far greater numbers than the cities they could annihilate in a nuclear war. Each of the U.S. and Soviet strategic nuclear weapons is at least three times the explosive power of the bomb dropped on Hiroshima. Some are 16,000 times as powerful.

ARMS BEYOND ANY RATIONAL USE

	1972	1974	Added since SALT I
U.S. strategic nuclear weapons	26 weapons per each Soviet city over 100,000	36 weapons per each Soviet city over 100,000	10 weapons per each Soviet city over 100,000.
Soviet Union strategic nuclear weapons	9 weapons per each American city over 100,000	11 weapons per each American city over 100,000	2 weapons per each American city over 100,000.

NUCLEAR WEAPONS BEYOND COMPREHENSION

[Total deliverable megatonnage 1974[1]]

	ICBM's	SLBM's	Bombers	Total raw megatonnage	Equivalent[2] megatonnage
United States	1,584	336	2,889	4,807	4,100
Soviet Union	7,895	636	810	9,341	4,300

[1] This includes strategic weapons only. It does not include tactical nuclear weapons, nuclear weapons on surface ships, or nondeployed nuclear weapons stockpiled in reserve.

[2] Equivalent megatonnage is a better measure of killing power than raw megatonnage because much of the explosive power of very large weapons is wasted and a point of diminishing returns is reached beyond a certain raw megatonnage in the amount of damage done to a target area

During the Second World War the United States dropped just over 2 million tons of TNT on Germany and Japan—2 megatons. By mid-1974 the United States maintained a strategic nuclear weapon force capable of delivering 4807 megatons—the equivalent of over 2400 World War IIs. Today a single U. S. Titan missile can deliver an explosion on a target five times as powerful as all of those WWII United States bombing raids. Moreover a single U. S. Poseidon submarine can disperse nuclear death to more cities than all the German and Japanese cities bombed by all the Allies throughout World War II—all within an hour. The land-based tactical nuclear weapons of the United States abroad can deliver the equivalent of 275 WWIIs in response to an attack on our allies. This perhaps may lead to the destruction of these allies in the process of "saving" them.

The Hiroshima bomb dropped on August 6, 1945 was the largest single explosive ever used in wartime. This bomb was equivalent to 13,000 tons of TNT in explosive power (13 kilotons or .013 megatons), a pigmy by today's standards where a single warhead or bomb may yield 25 megatons. Yet the Hiroshima bomb killed 68,000 people while injuring 76,000 more. Today the smallest of the 7940 strategic weapons is over 3 times larger than the Hiroshima bomb. A B–52 bomber is capable of carrying four 24-megaton bombs equivalent to 7385 "Hiroshimas" in explosive power. The total U. S. strategic and tactical nuclear stockpile now measures roughly 8000 megatons, equivalent to an unimaginable 615,385 "Hiroshima".

PRESENT NUCLEAR KILLING POWER (RAW MEGATONNAGE)

	World War II equivalents (2 MT each)	Hiroshima equivalents (.013 MT each)
United States:		
ICBM's	791	121,692
SLBM's	168	25,846
Bombers	1,445	222,231
Total	2,404	369,769
Soviet Union:		
ICBM's	3,948	607,308
SLBM's	318	48,923
Bombers	405	62,307
Total	4,671	718,538

WHY HAS THIS BEEN ALLOWED?

No nation other than the United States has ever used nuclear weapons in warfare. No war has yet occurred where both sides have been armed with atomic and thermonuclear weapons. The destructive power of such weaponry and of such a war is so prodigious that it escapes human imagination. The weapons, as Raymond Aron has noted, are no longer "mansized."

Pentagon advocates of new strategic nuclear weapons systems have pushed an untutored Congress into ever new authorizations to the point of absurdity in the name of national security. In an age of "nuclear plenty" and incredible overkill capacity such arguments ought logically to fail, but the voices advocating arms restraint have been weak within the U.S. government, a government largely stacked in favor of the Pentagon and the arms building community.

RAPID TURNOVER IN STRATEGIC WEAPONS—THE QUALITATIVE ARMS RACE (1945–74)

Between the First and Second World Wars the United States produced and deployed a single type of strategic bomber, the B–17. Altogether, 21,391 B–17s were produced between 1938 and 1944. Since 1945 the United States has built no less than 4 new types of long-range bombers, the B–36, B–52, B–58, FB–111. The U.S. is now developing a fifth type, the B–1 bomber. Within the B–52 series there has been continued modernization and modification so that the B–52H bomber is virtually a different airplane from the original B–52A.

The rapid turnover in bomber systems has been paralleled by a similar phenomenon in U.S. strategic land and sea-based missiles. The United States has produced and deployed 8 different types of land-based missiles (Thor, Jupiter, Atlas, Titan I, Titan II, Minuteman I, Minuteman II, Minuteman III) and different sea-based missiles (Polaris A–1, Polaris A–2, Polaris A–3 and Poseidon C–3).

United States has scrapped more bombers and missiles than Soviets have built (1946–74)

By mid-1974 the United States maintained some 2206 delivery vehicles capable of hurling nuclear weapons at 7940 separate targets. The Soviet Union maintained 2439 such delivery vehicles capable of firing at 2600 separate targets. Since World War II ended, the United States has produced some 4747 strategic delivery vehicles to 2465 for the Soviet Union. The United States has built and subsequently scrapped more nuclear delivery vehicles (ICBMs, SLBMs, bombers) than the Soviet Union has built.

NUCLEAR DELIVERY SYSTEMS

	United States	Soviet Union
In-being 1974:		
ICBM's	1,054	1,567
SLBM's	656	732
Bombers	496	140
Total	2,206	2,439
Total built 1946–74:		
ICBM's	2,264	1,578
SLBM's	1,200	732
Bombers	1,283	155
Total	4,747	2,465
Built and scrapped 1946–74:		
ICBM's	1,210	11
SLBM's	544	0
Bombers	787	15
Total	2,541	26

All of the strategic bombers flown during World War II have now been either scrapped or rendered unflyable. This includes the 21,391 B–17s built since 1938 and the 4,204 B–29s produced since 1942. The United States has also built and scrapped 1,800 B–47s and 340 B–50s since 1946. Not counting such medium-range bombers and the leftover strategic bombers from World War II, some 2,541 additional U.S. strategic bombers and missiles have been discarded onto the scrap heap since 1946. Thus, the United States has scrapped more strategic nuclear delivery vehicles than the Soviet Union has built and deployed. This growing U.S. strategic scrap heap represents billions of dollars of waste. It also indicates the much more rapid turnover of U.S. strategic weapons as compared to Soviet strategic weapons. This U.S. scrap heap is also an indication of U.S. technological superiority in the weapons currently deployed. One indicator is the fact that 1,507 of the Soviet Union's 1,567 land-based strategic missiles (96%) are still liquid-fueled, whereas 1,000 of the 1,054 U.S. ICBMs are propelled by the more efficient, advanced solid fuels. The U.S. missile force is substantially MIRVed (400 Minuteman and 384 Poseidon missiles in 1974) whereas the Soviet Union has yet to deploy its first MIRVed missile. Moreover, U.S. missiles are considerably more accurate than Soviet missiles, a fact which more than makes up for the greater size of the Soviet missiles.

Negotiations fail to slow weapons production

The slow progress of the Strategic Arms Limitation Talks compared to the runaway strategic nuclear weapons race indicates that the "era of negotiation" has not yet replaced the "era of confrontation."

For the uninitiated, the past 15 years may have seemed like a period of rapid strides in arms control. Eight multilateral and seven bilateral U.S.-Soviet arms control agreements have been signed. Indeed more strategic arms control pacts have been concluded in this 1959–1974 period than in all of previous history. Yet there is less here than meets the eye. No treaty has seriously limited or restrained the strategic nuclear weapons race.

ARMS CONTROL SINCE 1959

Multilateral agreements

Antarctic Treaty 1959.
Limited Test Ban 1963.
Outer Space 1967.
Latin American Nuclear-Free Zone 1967.
Non-Proliferation Treaty 1968.
Seabeds Arms Control Treaty 1971.
Geneva Protocol (signed in 1925—reintroduced before U.S. Senate since 1970).
Biological Weapons Convention 1972.

U.S./U.S.S.R. bilateral agreements

"Hot Line" Agreement 1963.
Improved "Hot Line" Agreement 1971.
Nuclear Accidents Agreement 1971.
ABM Treaty (2 sites) 1972
Interim Agreement on Offensive Strategic Arms 1972.
ABM protocol (1 site) 1974.
Threatened Test Ban 1974.

966 NUCLEAR TESTS, 1945–74

	United States	U.S.S.R.	United Kingdom	France	China	India	Total
1945 to 1963:							
Above ground	193	161	21	4			379
Underground	89	3	2	4			98
After limited test ban treaty (Aug. 5, 1963 to July 1, 1974):							
Above ground	0	0	0	36	15		51
Underground	285	139	3	9	1	1	438
Total tests	567	303	26	53	16	1	966

Pentagon policy predominance

Advocates of weapons production within the U.S. government enjoy far more influence over decisions taken by the President and Congress than do advocates of arms limitations. In the debate over the Fiscal 1976 Defense budget every major new weapons program asked for was approved. Yet while many unilateral U.S. steps are taken this year which spur on the arms race little has been done to restrain weapons research and production.

Arms controllers versus arms producers

Secretary of State Henry Kissinger has become the chief advocate of arms limitation in the government. Pitted against advocates of arms limits at the State Department and the Arms Control and Disarmament Agency are the Department of Defense, the Armed Services, the weapons laboratories, defense contractors, and the Joint Chiefs of Staff. The Central Intelligence Agency has stayed neutral on the subject of arms limitations by providing impartial analyses in the debate between those who equate more arms with more security, and those who argue that arms limitation is the path to a more stable and secure peace.

Pentagon riches—Them that have, get

In the struggle within the U.S. government between those who seek national security through a policy of arms restraint and those who seek it through more and more weaponry, U.S. policy decisions are the product not of rationality, but of which side has the battalions. The voice of ACDA is often drowned by the Pentagon. DoD budgetary and manpower advantages contribute to this. The Defense Department spends 975 times as much money annually as the Arms Control and Disarmament Agency. DoD employs 15,000 times as many people as ACDA. A single DoD-supported school for overseas dependents in Ankara, Turkey gets a budget in excess of all ACDA. The cost of a single fighter plane is well over the entire Agency budget.

PENTAGON AND ACDA: THE RICH AND THE POOR

Year	Budgets		People	
	Pentagon	ACDA	Pentagon	ACDA
1962	$50,248,000,000	$1,800,000	3,877,362	126
1963	50,864,000,000	6,500,000	3,749,422	220
1964	50,742,000,000	7,500,000	3,717,165	220
1965	50,667,000,000	9,000,000	3,689,164	214
1966	65,667,000,000	10,000,000	4,232,188	238
1967	72,440,000,000	9,000,000	4,679,485	238
1968	75,597,000,000	9,000,000	4,864,879	263
1969	78,516,000,000	9,000,000	4,801,749	268
1970	76,150,000,000	9,500,000	4,260,078	249
1971	74,843,000,000	8,600,000	3,841,964	249
1972	77,731,000,000	9,100,000	3,405,736	249
1973	80,452,000,000	10,000,000	3,283,806	244
1974	87,105,000,000	8,100,000	3,203,000	204
1975	92,579,000,000	9,500,000	3,180,000	212

The Department of Defense maintains five times as many public information officers as there are people in ACDA altogether.

While no one expects ACDA and the Pentagon to maintain similar budgets and numbers of personnel for such different missions, the disparity of resources gives the Pentagon an enormous advantage in lobbying, public information programs, staff work, and problem analysis. The prodigious resources of the military serve to impress, influence, and sell the Pentagon point of view in U.S. policy debates and to the public.

PENTAGON SELLING JOB—BARGAINING CHIP DOUBLETHINK

Pentagon advocates of new strategic weapons contend that the production of these new "bargaining chips" strengthens the hand of U.S. negotiators at SALT vis-a-vis their Soviet counterparts. Such "chips" can later be dismantled in return for similar adversary concessions, or so the theory goes.

Building additional weapons as a step toward disarmament is itself a brand of Orwellian "doublethink". A review of the post-World War II arms limitation agreements indicates that no pact has yet cut back on a weapons system once developed and fully deployed. Weapons built as "bargaining chips" remain as costly and superfluous permanent additions.

The "bargaining chip" is a rationale designed by the Pentagon to sell Congress on new weapon systems. It has been effective in getting Congressional approval. Once the weapons are approved, produced, and deployed the Pentagon changes the rationale. Then the weapons system (e.g., MIRV) is no longer an expendable chip, but a vital part of the U.S. deterrent. Such "bargaining chips" cost enormous amounts, and lead to more arms competition with the Soviet Union.

ARMS CONTROL AND DISARMAMENT AGENCY PROBLEMS

U.S. policy has always been dominated by views more congenial to the Pentagon than to those who advocate more U.S. arms restraint. ACDA has been hindered from a more effective policy voice by the fact that it has been unable to get adequate access to the President. ACDA has lost its central role in SALT, has had its operating and research budgets cut, and has devoted inadequate resources to a program of public information. The ACDA "purge" following the SALT I accords with the Soviet Union in 1972 stripped the Agency of needed and valuable arms control advocates.

Inability to get the Presidential ear

Despite the fact that according to law ACDA's Director is the "principal adviser to the President on arms control and disarmament", he has never been permitted to perform that task. Neither William Foster nor Gerard Smith, former directors, nor current ACDA Director, Fred Iklé, have ever had such access and influence. Currently, Secretary of State Kissinger dominates arms control policy. This is fine when the Secretary can devote adequate time to the subject, but inevitably the subject of arms control gets shelved when other foreign policy crises erupt diverting his time and energy into other matters. The arms control law is sound and the President should comply with it by appointing an ACDA Director he can rely upon for sound advice and fulltime service.

Loss of the SALT negotiating role

The ACDA Act indicates that the agency should be given the responsibility for staffing and backstopping arms control negotiations. However, ACDA's role in the crucial Strategic Arms Limitation Talks (SALT) has been downgraded from the first round of those negotiations which were concluded in 1972. No longer is the ACDA Director the chief U.S. negotiator facing the Soviet negotiators. Now heading the SALT delegation for the U.S. is former Under Secretary of State U. Alexis Johnson who reports directly to Secretary of State Kissinger. ACDA maintains only a representative on the SALT team and continues to assist in the conference work but its influence in important forums like the National Security Council has waned since the ACDA Director was removed from the leadership role in the U.S. SALT delegation.

Decline in research and public information

ACDA was set up with the responsibility to do research on arms control and disarmament developments, problems, and proposals. It is also responsible for making information available to the Congress, scholars, and attentive public on the subject. Neither ACDA research nor its public information programs have been vigorous or well financed. ACDA external research funds have been cut from a high of 5.9 million dollars (FY 1966) to a low point of 1.0 million dollars (FY 1974). ACDA publications have always been few. Only six publications were published each year from 1962–1972. These were cut back in 1973 when Pentagon criticism led to the temporary one-year termination of *World Military Expenditures*, and budget cuts led to the termination of the useful quarterly annotated bibliography of arms control literature. ACDA currently assigns only 5 persons to its public information program. In contrast the Department of Defense employs 1083 public information officers in addition to hiring numerous high-priced private advertising agencies.

ACDA also has no counterpart to the Armed Forces Radio and Television Service which provides motion picture films, film clips, and still photography to the press and public.

Clearly the Arms Control Agency offers little competition to the Pentagon in the fields of research and public information.

Budget slashes and inflation

Budget slashes, especially since 1972, and inflation in recent years have made it increasingly difficult for ACDA to do its job. The ACDA budget has been cut some $1,900,000 from Fiscal 1966 to Fiscal 1974, nearly 20%. Some of this has been restored in Fiscal 1975, but not without the damage to ACDA in the intervening years. Added to the budget cuts is the impact of inflation. The price level has risen by 57% since the Agency was formed and, combined with the budget cuts, has led to a decrease in real purchasing power for ACDA of almost $4 million from FY 1966 to FY 1974. This is a significant cut in spending power in a small budget like ACDA's. The recent Congressional decision to cut ACDA's period of authorization from 2 to 1 year may indicate further budgetary trouble ahead.

ACDA: TODAY AND BEFORE THE PURGE

In the year following the 1972 SALT I agreements with the Soviet Union, all the top 11 senior ACDA officials were replaced, most having resigned at the request of the White House. The reason for this purge is known only to the officials in the President's inner circle, but it is widely believed that the Agency was sacrificed to appease SALT I critics, to preserve the administration's status with the political right wing, and to insure an ACDA considered to be "more loyal" to the administration. Whatever the reasoning, Gerard Smith's ACDA group is gone, succeeded by a new group headed by present ACDA Director, Fred Iklé.

The ACDA Purge: 1972–1973 at a Glance

All 11 top ACDA officials were replaced in the year after SALT I was concluded in July 1972. This group had nearly six times as much direct arms control experience as those who have replaced them.

The ACDA Director was stripped of his previous role as chief negotiator at the Strategic Arms Limitation Talks. ACDA's influence in such important arenas as SALT and the National Security Council has declined.

The ACDA budget was cut from $10.0 million in Fiscal Year 1973 to $8.1 million in Fiscal Year 1974. ACDA external research was halved from $2.0 million to $1.0 million. These cuts and the effects of rising inflation have severely cut back on the agency's ability to perform its mission.

Eight of the 14 members of the hitherto vocal and active ACDA General Advisory Committee were asked to resign.

These vacancies remained for 1½ years. The new GAC Chairman is Harold Agnew, Director of the Los Alamos Weapons Laboratory. Dr. Agnew's career experience has been in the production of nuclear weapons and his new role on the GAC suggests a conflict of roles between weapons development and arms control.

Professional military men and men from military-oriented "think tanks" (e.g. RAND Corp.) have taken over ACDA leadership posts. ACDA Director Iklé is from RAND. Two of the four ACDA Divisions are headed by professional military men, recently retired Rear Admiral Davies (USN), and Colonel Behr (USAF). A third division is headed by RAND physicist Amron Katz and his deputy, Brigadier General Kaericher.

A comparison of ACDA senior officials under Smith as of July 1972 and those under Iklé in mid-1974 indicates that there is far less arms control and diplomatic experience shared by current ACDA leaders than by the men they replaced after the ACDA purge. Gerard Smith's ACDA had six times as much operational arms control experience as the current group and a decided 58% advantage in nonarms control diplomatic experience. On the other hand, Iklé's ACDA today has had a marginally deeper experience in military service, training, and study. While the senior officials in ACDA have changed between July 1972 and July 1974, the mid-level and lower-level staff remains virtually intact in the same period, adding some continuity in the day-to-day working of the Agency.

ACDA LEADERSHIP EXPERIENCE: 1974 AND BEFORE THE PURGE (TOP 11 AGENCY POSITIONS)

[In years]

	Operational arms control experience	Nonarms control diplomatic experience	Military service and military problems experience
ACDA before purge (1972)	91	117	144
ACDA after purge (1974)	16	74	162

Contrast at the Top

Nowhere is the contrast between ACDA in mid-1972 and ACDA in mid-1974 more striking than in the two top leadership roles of the Agency. Current Director Fred Iklé was previously a defense analyst for the RAND Corporation and the present ACDA Deputy Director, J. Owen Zurhellen, is a foreign service officer with expertise in Japanese affairs. While no doubt talented men, Iklé and Zurhellen cannot match the credentials of Gerard Smith and Phillip Farley who they replaced, nor have they shown the same degree of public commitment to arms control as their predecessors.

Mr. Smith's long experience in the Department of State and the Atomic Energy Commission, his close contact with his opposite numbers in the Joint Chiefs of Staff and Department of Defense over the years, his career-long work in arms control and disarmament matters, and his participation in numerous international negotiations culminating in the 1969–1972 SALT sessions as head of the U.S. delegation all served to make him an ACDA Director with some policy clout. Between them, Smith and his number two man, Farley, served in the Government some twenty-three years in roles directly related to arms control and disarmament. Iklé and Zurhellen have obtained their meager two years of experience on the job at the head of ACDA.

This inexperience and lack of previous on-the-job commitment to arms limitation and disarmament among the leadership of the present ACDA partially accounts for the more passive and uncertain voice of ACDA on behalf of arms control within the administration. ACDA in the past two years has acquiesced or supported the Pentagon proposals for the Trident submarine, B-1 supersonic bomber, new counterforce weaponry, the building of a new U.S. base at Diego Garcia in the Indian Ocean—all of which spur on the U.S.-Soviet arms race. The Agency has also opposed friendly Congressional amendments such as the "Harrington Amendment" which called for ACDA-prepared "Armed Control Impact Statements" on new DoD weapons programs and would have given ACDA increased opportunity to alert Congress to Pentagon proposals which might hopelessly complicate arms limitation negotiations and continue to fuel the arms race. Such positions do not reassure those who look to ACDA to speak out on policy from an arms restraint perspective.

"Coordinated Administration Positions"

In fairness to Iklé there have been few precendents where ACDA Directors have spoken out very vigorously on the need for U.S. arms building restraint in order to curb the arms race. Pressure is put on ACDA heads to conform to "coordinated administration policy positions", and these administration positions have heavily favored Pentagon points of view often divergent from those of the arms control community. ACDA speeches are cleared and censored from above to conform to policy.

In an administration where foreign and arms control policy has been tightly controlled from the top, and where dissent in public from administration positions is swiftly punished, the ACDA Director is caught in a dilemma. Does he speak out to try to rally Congressional and public support, thereby risking losing his job or having his agency further frozen out of intragovernmental policy-making? Or does he play the insiders game of dissent within the government prior to policy decisions, combined with public backing of that policy once made, even if he opposes it? ACDA Directors since the beginning of the Agency have chosen to be "team players" hoping to influence policy from within. This path risks falling into what has been termed the "effectiveness trap", the muffling of dissent and criticism in the hope of eventually persuading political leaders to change policy. This approach has the double lure of also allowing the official to keep his job and to avoid the unpleasantry which comes with opposition to policy. This more docile definition of the ACDA Director's job has not succeeded in carving out a very large role in arms control policy for the Agency. One indicator of this is the fact that neither Smith nor Iklé have had regular or direct access to the President in this administration, the closest point of contact being the Secretary of State and the National Security Council.

A Silver Lining

While ACDA has spoken with a relatively weak voice for arms limitation and disarmament, it is possible for the Agency to become a strong advocate. A first-class middle-level staff remains in ACDA dedicated to arms control. As the senior officials at ACDA grow in experience it is reasonable to expect that they will begin to take stronger stands and become more persuasive. Fred Ikle's acknowledged expertise in strategic matters, his forthrightness in declaring that the Minuteman ICBM program might well be dispensable, and his recent willingness to take a stand against binary chemical weapons advocated by the Army are moderately encouraging signs. Moreover, the new ACDA Director has cultivated Congressional contacts vigorously. One result of this is a modest upturn of the ACDA operating budget ($7,065,000 FY 1974 to $8,000,000 FY 1975) and in external research funds ($1,000,000 FY 1974 to $1,500,000 FY 1975) approved by Congress.

CENTER CONCLUSIONS

The U.S.-Soviet nuclear weapons race continues unabated despite the Strategic Arms Limitation Talks.

The size of U.S. and Soviet nuclear arsenals has reached the point of absurdity. The U.S. long-range bombers, ICBMs, and SLBMs today carry over 4800 megatons of explosive power. This is equivalent to 369,769 "Hiroshimas" and over 2400 times as much explosive power as was used by the U.S. in bombing Germany and Japan in the Second World War.

The United States is ahead in the nuclear weapons race. U.S. weaponry is far more sophisticated than Soviet weapons. One gauge of this U.S. advantage is the fact that the United States has scrapped more bombers and missiles than the Soviet Union has built since 1946!

The Department of Defense dominates U.S. arms policy largely by deploying superior resources in policy fights. The Pentagon has great advantages in manpower and budget over ACDA.

A more rational defense policy would tend to result if the following steps were taken.

1. Increase the ACDA role in the SALT negotiations and all other major arms control talks. Appoint an ACDA official to head each U.S. delegation. This gives the Agency added clout in the National Security Council, greater access to the President and a vital part in the making of policy. It also gives ACDA access to information that it needs to conduct and evaluate various proposals that other agencies might otherwise be more reluctant to share.

2. Create a special Joint Arms Control Committee in Congress with separate status from current committees. This will generate more interest, attention, and more support for arms restraint and ACDA.

3. Return ACDA to complete civilian control by appointing only civilians to the role of ACDA Director, ACDA Deputy Director, or ACDA Division or Deputy Division Director. Professional military men should be maintained only in subordinate or consultative roles.

4. Increase the role of ACDA in disseminating information on arms control and disarmament to the public. More in-house ACDA research could be published, and comparisons of military and public welfare spending in the recently resurrected World Military Expenditures should be published as well. ACDA should also encourage scholars and publicists to think and write on arms control matters. Resurrecting the now defunct Arms Control and Disarmament Quarterly Bibliography is a step that would facilitate this.

5. Make the ACDA Director as powerful a Presidential adviser as the Joint Chiefs of Staff. The ACDA Director should be the "principal adviser to the President" in arms control and disarmament matters in fact as well as in law.

6. Require ACDA to report to the President and to Congress on the impact on arms control of current and proposed U.S. weapons systems. Have the ACDA Director testify on this and the status of other arms control matters at least twice a year.

WHAT DO YOU DO WITH IT?

"And one of the questions we have to ask ourselves as a country is what in the name of God is strategic superiority? What is the significance of it politically, militarily, operationally at these levels of numbers? What do you do with it?"—Henry Kissinger, July 3, 1974, Secretary of State.

A CONSIDERABLE UNDERSTATEMENT

"Further expansion of the strategic capabilities on both sides serves no purpose . . . the increase in these gross capabilities are unnecessary. In fact, the capabilities at the levels they have already reached are perhaps unnecessarily high." James Schlesinger, Secretary of Defense, July 3, 1974.

PENTAGON INFLUENCE OUTWEIGHS ACDA IN POLICY DEBATES

Military resist arms restraint

"My impression from what I have observed is that both sides have to convince their military establishments of the benefits of restraint and that is not a thought that comes naturally to military people on either side."—Henry Kissinger, July 3, 1974, Secretary of State.

Yet national security requires weapons limits

"Seeking security through military strength alone does not necessarily serve our best interests in the nuclear age. The addition of new weapons systems can actually diminish security by causing counter-reaction by an adversary. Conversely, restraints in the development and deployment of weapons systems, brought about by verifiable arms control agreements, can result in increased stability and higher confidence that nuclear war can be avoided."—Gerard Smith, former ACDA Director and SALT I Negotiator.

SUITABLE CHIPS ARE HARD TO FIND

"Finding a suitable bargaining chip is a fundamental problem. It is hard to think of an arms program that simultaneously is good enough to worry an opponent and bad enough for the military to be willing to give it up in negotiations."—Dr. Jack Ruina, MIT and former President of the Institute for Defense Analysis.

AND MAY UNDERMINE LONG-RANGE NATIONAL SECURITY

"The ABM was sold as a bargaining chip; Trident was sold as a bargaining chip, and this new counterforce targeting is being sold as a bargaining chip. It took us four years to win World War II. What we dropped on Germany and Japan in four years was one twenty-fifth of 1 percent in TNT equivalent of what we have in the nuclear stockpile ready to drop tomorrow. . . . Looking at the other vital aspects of true national security, the economic picture, I am worried about still more bargaining chips that pop up regularly and so heavily increase our military cost."—Senator Stuart Symington, February 5, 1974, Senate Armed Services Committee.

A VOICE FROM THE PAST BEFORE ACDA

"Here is a gap equally as serious as the missile gap—the gap between America's incredible inventiveness for destruction and our inadequate inventiveness for peace. We prepare for the battlefield but not for the bargaining table. We pour our talent and funds into a feverish race for arms supremacy, bypassing almost entirely the quest for arms control."—Senator John F. Kennedy, March 7, 1960, University of New Hampshire.

SIMAS KUDIRKA: ON THE ROAD TO FREEDOM?

Mr. HELMS. Mr. President, according to an unofficial report, the Supreme Soviet has released Simas Kudirka. As Senators will remember, Kudirka is the Lithuanian seaman whose attempted "defection" to the United States was so brutally aborted by the Soviets in November of 1970. The circumstances surrounding Kudirka's bid for freedom reflect poorly on the honor of the United States, particularly in light of the State Department determination that Kudirka is, in fact, an American citizen. Kudirka's mother is a native of Brooklyn, N.Y., thus making his quest for asylum a legitimate demand even by the most rigorous standards.

For nearly 4 years now, this brave man has been imprisoned by the Soviets. Having read Aleksandr Solzhenitsyn's accounts of prison camp life in the Soviet Union, one begins to understand the depth of the suffering endured by the inmates. The tragedy of Kudirka's degradation and deprivation during his prison term pales in comparison, however, with the ultimate punishment of the Soviet Union: the denial of the basic freedom of migration, as symbolized by the Berlin Wall. Mobility is such an intrinsic element of the American lifestyle that I think that we are incapable of properly appreciating the restrictions on movement—both internal and external—imposed by the Communist bloc on its captive peoples.

It now appears that the Soviet Union may allow Kudirka and his mother to emigrate to the United States. While we must all rejoice at the personal victory of this one man and its implications for others like him, we cannot let one reversal in Soviet policy distort our perspective. Our joy cannot be complete, our battle not won, until the emigration policy of the U.S.S.R. is permanently and universally altered to allow for consistent freedom of movement for anyone wishing to leave the grim embrace of communism. As long as the Soviet Union continues to confine its population, either through terrorism or taxation, we must and shall continue to deplore—and loudly—the unprincipled, dictatorial tactics which are such a characteristic component of the Soviet manner of government.

In the meantime, the United States owes Simas Kudirka its every energy. We shamefully let him and the cause of freedom down once. Seldom are we given a second chance. But here and now, we have the opportunity to make up some of the damages we have wrought. We callously watched him beaten and dragged from an American ship on which he had placed his hopes for freedom. We complacently listened while he was sentenced by the Soviet courts to 10 years imprisonment for "theft." We have barely noticed the time that he has served in the labor camps of Russia.

Now we can try to secure for him the right to return "home" to the United States should he so desire. His patriotism and devotion to freedom are sorely needed in a country where amnesty is being touted for those who preferred flight to freedom. I pray for his speedy release.

Mr. President, I ask unanimous consent that an article from the August 31 New York Times, headed "Soviet Is Said To Free Would-Be Defector," be printed in the Record at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

Soviet Is Said To Free Would-Be Defector

(By Christopher S. Wren)

Moscow, Aug. 30.—A Lithuanian seaman serving a 10-year prison term here for having attempted to defect to a United States Coast Guard cutter in 1970 has been freed by Soviet authorities, the dissident nuclear physicist Andrei D. Sakharov reported today.

Simas Kudirka was released from Vladimir prison east of Moscow on Aug. 23 by a decree of the Supreme Soviet, the nation's parliamentary body, according to Mr. Sakharov, who maintains contacts throughout the fragmented Soviet dissident movement.

The seaman, who is 44 years old, was reported to be staying with his mother, Marija Sulskiene, a 67-year-old Brooklyn-born widow, near the Lithuanian port town of Momel.

Rumors of his release had circulated in Moscow for several days but were confirmed only today. Mr. Sakharov, speaking with Western newsmen here by telephone, said that he had not talked with the seaman. "Kudirka has not contacted me but my information is quite correct," the physicist told the newsmen.

Mr. Kudirka, the focus of a national outcry in the United States after Coast Guard officials returned him to Soviet authorities, figured anew in Soviet-American relations last month when Washington recognized him as an American citizen by virtue of his parentage.

His mother, Mrs. Sulskiene, was declared an American citizen last May after a State Department investigation showed that she had been born in Brooklyn. Her parents brought her back to Lithuania 60 years ago before the country was absorbed by the Soviet Union in 1940.

Mr. Kudirka's release was seen as a significant gesture by the Soviet Union toward the United States at a time when a compromise is reportedly being thrashed out on granting American trade concessions in return for a freer Soviet emigration policy.

Tonight the American Embassy said that it still had no official confirmation of Mr. Kudirka's release. "He hasn't contacted us yet," said an official.

Following his recognition as an American citizen last month, American consular officials sought to visit Mr. Kudirka, citing a 1964 consular agreement that gives them the right of access to any American citizen under detention here.

The request was denied on the ground that Mr. Kudirka was a Soviet citizen. Soviet authorities have not recognized him or his mother as having American citizenship.

It was expected here that both would now ask to emigrate to the United States, but tonight Embassy officials said no applications had been received.

However, Mr. Kudirka's surprise release suggested that the Soviet might extend the gesture by granting him and his mother the essential Soviet exit visas.

The seaman's case dates back to Nov. 23, 1970, when he, then a radio operator aboard the Soviet fishing trawler Sovetskaya Litva, leaped onto the deck of the Coast Guard cutter Vigilant as the two ships lay moored for fishing talks off the coast of Martha's Vineyard in Massachusetts.

He begged for political asylum, but after eight hours the Coast Guard permitted a Soviet party to board the cutter, beat him nearly unconscious and drag him back to the trawler.

Two ranking Coast Guard officers were retired from the service and a third was reprimanded as a result of the incident.

In 1971, Mr. Kudirka was sentenced to 10 years' imprisonment, reportedly on a theft charge to mask the actual reason, although there were assertions that he was convicted of treason.

Occasional reports since from dissident circles here indicated that the seaman had become politically radicalized in prison. Most recently he was transferred from a labor camp at Potma in the Mordovian prison complex to the harsher Vladimir prison for having joined in a hunger strike.

After his release in Vladimir last Friday, Mr. Kudirka stopped briefly in Moscow, Mr. Sakharov said, but continued on to Lithuania when he could not contact any of his friends.

Mr. Kudirka's release appeared to be part of an effort by the Soviet Union to defuse the controversial emigration issue.

Last weekend, Soviet authorities released Silva Zalmanson, a Soviet Jewish woman serving 10 years for plotting to hijack a Soviet airliner in Leningrad in 1970.

Today Mr. Sakharov reported that she had been granted a three-day conjugal visit with her husband, Eduard S. Kuznetsov, who received 15 years as the leader of the hijacking plot, and was now visiting him in Moscow's Lefortovo prison.

THE GENOCIDE CONVENTION THREATENS NO AMERICAN'S LEGAL RIGHTS

Mr. PROXMIRE. Mr. President, many opponents of the Genocide Convention are critical of the provisions in article VII which might permit the extradition of a person accused of genocidal acts. Many of these critics are sincerely concerned that an American citizen might be dragged from our country to stand trial under a foreign legal system which did not provide the same legal safeguards guaranteed by our Constitution. I certainly sympathize with these apprehensions, but I feel that article VII of the Genocide Convention does not warrant such concern.

Article VII states that:

> The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

It does not constitute an extradition treaty in itself, but only obligates the parties to grant extradition in accordance with their regular laws and treaties. At this time, no U.S. law or extradition treaty covers genocide, and such a law would have to be part of the implementing legislation enacted pursuant to ratification of the convention.

The Congress will have to address the nature of that implementing legislation after it has ratified the convention. However, aspects of this legislation have been discussed in the Foreign Relations Committee and the executive branch has made some tentative suggestions. In his testimony before the committee, Mr. George Aldrich, Deputy Legal Advisor, Department of State, suggested the theory of concurrent jurisdiction might be a key to such legislation. The accused would be under the jurisdiction of both the country of his citizenship and the country where he committed his crime. By prosecuting any U.S. citizen accused of genocidal acts committed abroad, the United States could rightly refuse to extradite that citizen on the basis of the double jeopardy provisions contained in extradition treaties. Hence, the accused would be taken to trial for acts committed abroad, but would still enjoy the legal safeguards of the Constitution. This is clearly appropriate under article VII of the convention.

Mr. President, ratification of the Genocide Convention will not threaten the legal rights of any American. I urge the Senate to take this action.

JOSEPH A. BEIRNE

Mr. BEALL. Mr. President, it was with regret that I learned of the recent passing of Joseph A. Beirne, founder and for many years the president of the Communications Workers of America.

Mr. Beirne was known by many as the philosopher of the American labor movement. He dealt thoughtfully with the role of labor in our increasingly automated society, and was deeply concerned about ways in which automation could make the life of the working man and woman easier. Said Beirne:

> The more we can save human labor for important tasks and remove ourselves from lives of meaningless drudgery, the closer we shall be to the truly great society.

I extend my condolences to his family on this occasion. The American Labor movement has lost a great champion, but I am confident that his accomplishments will long be remembered by the workers of this country.

I ask unanimous consent that the obituary of Mr. Beirne, which appeared in the Washington Post of September 3, be printed in the Record.

There being no objection, the obituary was ordered to be printed in the Record, as follows:

J. A. Beirne, CWA Head, Dies

(By Martin Weil)

Joseph A. Beirne, 63, who was known as one of the nation's most imaginative and innovative union leaders as head of the Communications Workers of America for 27 years, died of cancer yesterday at the Washington Hospital Center.

Mr. Beirne (pronounced burn) who was forced by illness to step down this year as president of the 500,000 member union he led since its founding in 1947 was known as the philosopher of the American labor movement.

The title reflected in part his authorship of at least two books and his concern with such issues as the future of the labor movement in increasingly automated industries.

One such industry is the nation's telephone system, particularly American Telephone & Telegraph and its Bell System operating companies, which employ the majority of CWA members.

Although he was aware of the difficulties inherent in leading a strike against so highly automated an enterprise as the Bell System, Mr. Beirne did not shrink from doing so when the union's militant demands were rebuffed at the bargaining table.

Under the leadership, the CWA struck the Bell System three times—in 1947, in 1968 and in 1971.

"The $30 billion computer they call the Bell Telephone System is the most spectacular achievement of automation," he said before the 1968 strike, "but without the skills of our members who repair and keep it running, that computer will eventually become an enormous pile of junk."

Nevertheless in much of his speaking and writing he emphasized ways in which labor could make automation work in behalf of the worker, to bring higher wages, better jobs, longer vacations and shorter hours.

"The more we can save human labor for important tasks and remove ourselves from lives of meaningless drudgery, the closer we shall be to the truly great society," he wrote in one of his books, "Challenge to Labor."

Joseph Anthony Beirne was born Feb. 16, 1911, in Jersey City, N.J. In 1927, at the age of 16, he went to work as a stock boy in a dime store. The next year he started his career in the communications industry, joining Western Electric at Kearney, N.J., as a utilities and instrument repairman at 32 cents an hour.

Although he had dropped out of high school to begin work, he continued his schooling at night, finishing high school, and completing some college courses.

Described by associates as dynamic, methodical, and restless, he was quickly elected president of the Western Electric employees association in his area.

In the late 1930s he played a key role in forming a national union of telephone workers to bargain with AT&T. In 1943 he became president of this union, the National Federation of Telephone Employees, the predecessor of the CWA.

In addition to serving as a vice president of the AFL–CIO, Mr. Beirne has been a member of its executive council and chairman of its international affairs committee.

During the 1972 national presidential campaign, he was one of a smaller than usual number of labor leaders to throw their support behind the Democratic nominee, Sen. George S. McGovern (D-S.D.). He was a member of the Democratic National Committee.

He was a vice president and director of the United-Councils of America. He also served on the Peace Corps advisory council and on President Johnson's National Commission of Technology Automation and Economic Progress.

In defining his role once, he said, "When you're head of a union you've got to be a sociologist, marriage counselor, father confessor, psychiatrist, economist, legal expert, all wrapped into one. You must have the desire to help people help themselves."

Glenn Watts, his successor as CWA chief, said "It would seem a divine sense of justice that Joe received his call on Labor Day, and every last one of us who knew and loved him will miss him."

In addition to his wife, of the home, 3103 Cummings La., Chevy Chase, he is survived by three daughters, Carole Anne McDonald, Maureen Anne Houston and Bren Anne Leiss.

ONE HUNDRED AND EIGHTEEN A–7'S GROUNDED FOR ENGINE PROBLEMS

Mr. PROXMIRE. Mr. President, a major problem with the A–7 attack aircraft has forced the grounding of 118 planes and is the cause of 3 recent crashes.

In addition to the three crashes by Navy A–7E's, seven Air Force A–7D's have crashed, four of which are believed to be related to engine problems.

Apparently the Allison TF41 engine has experienced severe compressor stalls encountered in normal flight. The result has been the grounding of 118 planes with the prospect of many more aircraft without engines during modifications. This development could delay deliveries of the A–7D's to the Air National Guard.

Mr. President, an excellent article explaining the problems encountered by the A–7 engine has been published by Aviation Week and Space Technology. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Aviation Week & Space Technology, Sept. 9, 1974]

USAF, Navy Seek Fixes to A–7 Engine

Washington.—Air Force and Navy are seeking modifications to the Allison TF–41 engines in the LTV Aerospace A–7 to stem in-flight stalls that have caused three recent crashes and other engine problems that have grounded 118 of the attack aircraft. The problems could delay delivery of A–7Ds to the Air National Guard.

At least 40 in-flight compressor stalls have occurred in the past several months in both USAF and Navy A–7s with both the Allison TF–41 A–1 and A–2 Spey engines. Three Navy A–7E crashes were related to compressor stall problems. USAF has had seven A–7D crashes, of which four have been related to engine problems, but not compressor stalls. Three crashes are believed to have been related to engine maintenance problems.

In the compressor stalls encountered, the aircraft have been involved in straight and level flight at a variety of altitudes, and the mishaps are believed related to changes in the variable-geometry inlet guide vane in conjunction with combinations of engine rpm.

In a second, unrelated engine problem involving the fixed first-stage turbine cooled vane, USAF forecasts that as many as 110 A–7Ds will remain on the ground without engines in the next few weeks.

The Navy now has 40 of its A–7s without engines for the same reason and has had as many as 100 of the aircraft on the ground at the same time. The Navy appears to have discovered the problem with the cooled vane in the high-pressure section of the turbine earlier than USAF and corrected it at Naval Air Rework Facilities (NARF).

The Air Force anticipates it will have a maximum of 125 A–7Ds without engines before it begins to get corrected engines back to operating units from modification facilities. By February, the Air Force expects to have engines with necessary modifications for all of its A–7s, with an excess of three TF41s. A normal operating condition of 59 spare engines on hand is planned by next June.

The cooled vane causing engine problems that have involved damage to the turbine has leading edge holes added to the vane to provide a film of air to traverse the vane and hold down the temperature. The vane is exposed to the hottest gas as it comes out of the combustor.

The leading edge holes were developed as part of the component improvement program on the TF41 to extend engine endurance by decreasing stress on the vane which funnels the flow of gas into the first stage of the turbine. Temperatures of 1,800F were discovered in spots on two of the vanes in both the A–1 and A–2 versions of the engine.

The hot spots were not detected until after the product improvement changes had been made in both engine variants by the Navy and USAF.

The damage, both cracks and erosion, is believed related to ingestion of gases into the cooling holes on the vanes' leading edges. Parts of the vanes have broken loose and gone into the turbine.

The problem did not occur during TF41 testing and development of the component improvement modifications. It began to appear in the inventory aircraft operating in a wider spectrum of flight conditions with larger numbers of the modified engines in service.

On the basis of the engine tests in cells, the leading edge cooling modifications were put into engines already in service during aircraft rework or overhaul as well as those coming off the production line. At least 50–65% of USAF and Navy engines—both A–1 and A–2 —have been modified with the air film cooling system.

One reason USAF has so many of its A–7s down without engines, including 14 Air National Guard aircraft, is because a number of TF41s were sent back to overhaul prematurely to avoid taking a chance on cracks in the cooling vane.

USAF is allowing its A–7Ds to continue the normal operations after engine inspections have been completed. The problems with the cooling vane occur mostly at 200–300 hr. operating time in the engines that have the leading edge vents installed. In older engines without these cooling modifications, cracking in the vane still occurs, but does not start until about 400–600 hr. engine time.

USAF officials are considering establishing an intermediate maintenance facility similar to the Navy's NARF at each A–7D base or one at a central location to serve at least three A–7D bases. The facilities would be staffed and equipped to accomplish engine modifications.

The immediate problem with the cooled vane can be resolved with installation of vanes without the leading edge cooling vents, similar to the vanes used in early versions of the TF41. But both Navy and USAF want to develop a vane that will provide 1,000 hr. per engine.

Modifications are now being made to the engines at Navy NARFs in Jacksonville, Fla., and Alameda, Calif. These engines have been found to have a longer operating life than engines modified by USAF.

The Air Force is also studying the possibility of using the NARFs because they are already established, but the service has not determined if the Navy can handle its own work load at the NARFs and still provide overhaul for USAF.

The Air Force is more likely to establish the NARF-type system within its service because of the long-term impact on intermediate maintenance for all aircraft, not just A–7Ds.

Allison will soon start component improvement work under contracts totalling about $25 million. Part of the work will be aimed at developing an improved cooling system for the vane. Both an air film and non-film cooling systems are being studied by the company.

The TF41 engines without the holes in the vane leading edge have been limited to approximately 900 hr. in the Navy prior to necessary overhaul. USAF has been getting about 750 hr. per engine, but because some cracks have been detected in these engines, inspections are being conducted by USAF at increments of 100, 200, 400, 600 and 750 hr.

Repairs and modifications to engines where stress or damage is detected must be made at depot level. This requires the USAF engines be sent to Oklahoma City and this has, in part, caused the backlog of aircraft without engines.

Both services are considering both immediate fixes and a long-range modification program to correct the engine stall problem. Some reasons for the compressor stalls have been identified and corrections determined. Other fixes are still being weighed. The stalls are believed caused by:

Inlet guide vane coordinating improperly with engine speed.

Mechanical rigging and fuel control dynamics. A lag in the air temperature sensor delays proper inlet position.

Binding of the inlet guide vane.

Bleed valve sticking inside the control for the inlet vane.

Difficulty in adjusting the variable inlet guide vane during field maintenance. A small margin between the compressor surge and operating line exists under certain acceleration/deceleration conditions.

Throttle movements changing the operating point on the compressor map—the plot of pressure ratio vs. airflow with constant rpm. lines.

Allison has released some design changes to increase the surge margin. These can be accomplished in the field at the operating level. Other changes must be made at the depot level and are related to inlet guide vane scheduling ram system, which activates the vane as engine rpm. is changed. The ram system is produced for Allison by Kontak Manufacturing, Ltd., Grantham, England, which is a vendor on the TF41.

One of the difficulties both the Navy and USAF have encountered in problems with the TF41 engine is that detailed data on the military version of the engine is not extensive so that to correct problems in the engine data must be obtained at the same time the problems are being isolated.

The Rolls-Royce Spey RSp5 Mk.202 engine is used with the McDonnell Douglas F-4K Phantom for the British Royal Air Force. The F-4K engines recently have developed turbine blade problems, which forced some F-4Ks out of service because of a shortage of spare engines. The Rolls-Royce engine in the F-4K also has encountered the cooled turbine vane problem, but to a lesser degree than in the A-7s.

Mr. PROXMIRE. Mr. President, I intend to ask the Department of Defense for a complete report on the status of the A-7, its engine failure problems, and a firm statement about whether or not the Defense Department intends to request any more funds for either version of the aircraft.

Congress has acted irresponsibly in providing funds for the A-7 the past several years when the Secretary of Defense has not requested such funding. We have no need for any further purchases of this aircraft and its associated problems.

INFLATION

Mr. HARRY F. BYRD, JR. Mr. President, in the September issue of the Atlantic magazine, Mr. Roger G. Kennedy, a vice president of the Ford Foundation, writes on the effect inflation has on the private institutions that provide so many valuable services to our society.

Mr. Kennedy points out what many of us have reiterated many times: the average American is getting hit hard by inflation. What Mr. Kennedy also offers, is a rundown on the tremendous damage our Government-caused inflation is causing the churches, the colleges, the hospitals, the libraries, and all the great centers of private philanthropic and charitable activity.

He concludes:

> Inflation takes money from individuals who save, of course; it also alters the balance between the government and independent institutions. It transfers money from the latter to the former and with money goes the power to make a fact out of an opinion. That is a perilous transfer, and it is being made every day by taxation through inflation.

I ask unanimous consent to print his article, "The Wages of Inflation," in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Atlantic Magazine, September 1974]

THE WAGES OF INFLATION

(By Roger G. Kennedy)

It has to be said: a large chunk of the savings of many Americans has been taxed away while they weren't looking, and it isn't coming back. Taxing savings through inflation has, in effect, become a part of our public policy, and without much discussion. The consequences of this kind of taxation are severe; among them, if the process continues far enough, will be the balance and vitality of our society.

Everybody knows that prices are higher, and that individual savings have lost value, but not everybody has been watching while, since the early 1960s, this country has suffered a serious erosion of the vigor of its independent institutions. This has happened not because of any seditious conspiracy, but from the unadmitted addition of taxation upon savings to taxation upon earnings.

During the 1960s the Johnson Administration chose to try to fund a war in Southeast Asia along with huge domestic programs without taxing earnings or income enough to pay for them both. President Johnson feared that his Great Society programs would be lost if they were put in pawn to higher taxes, and he believed that the Vietnam War would soon end—and that with its conclusion, its drain upon tax revenues would end too.

The government printed money to pay its debt; the economy continued to overheat, and inflation increased. Inflation became a "tax" levied upon those who saved. This was the first stage of the capital levy. It struck all savers: for instance, pension funds which owned bonds to secure their obligation to tend the needs of the old, or colleges which owned bonds to meet the educational needs of the young, found the value of those bonds cut in half in less than a decade.

Then, despite much rhetoric to the contrary, the next Administration, and a Congress insensitive to, or incapable of, dealing with inflation, administered more of the same mode of surreptitious taxation. Once again it fell directly upon savings while squeezing income. Since 1970, the Nixon Administration and the Congress had forced another capital levy. This time, continued inflation has "paid" for budget deficits not only to sustain vast defense expenditures and domestic programs but also, in part, to redress an imbalance of payments. Inflation rates were at peacetime highs well before the oil crisis—or even before crop failures.

Then came dollar devaluations—two of them—and in their wake, American buyers paid higher prices for foreign goods. The dependence of the American economy upon costly imports, oil the most conspicuous among them, has grown, so a result of dollar devaluation was the relative increase in the cost of foreign products.

DAMAGE

Neither the Administration nor the Congress had adequately weighed the cost of taxing savings as distinguished from the kinds of incomes taxes we have become used to.

While everybody paid part of the bill for continuing deficits, we are just beginning to recognize how much was paid by the endowed institutions of the country. First, like all of us, they were hurt by rising costs. If they were bond investors in the early 1960s, by 1968 they had paid the first stage of the capital levy. Next, after 1968, many switched from bonds to stocks, and they were struck again: national economic policy laid a second stage of the capital levy upon those whose savings were in stocks. The price of the average stock on the New York Stock Exchange is less than half what it was in 1968. Was inflation the only cause of this loss of capital? Not entirely, but it is hard to see how stock prices could stay high and still face the competition from bonds which had become, in 1968, relatively "cheap." Inflation, growing in virulence, not only had forced bonds yields to levels which were fiercely competitive with stocks, but also had shaken that confidence in the economy which is the necessary condition to buying a share of stock.

A small college, for example, which had its $20 million endowment in long-term corporate bonds in 1960 had lost $10 million in market value by 1970. Bonds bought in 1960 yielded 4 percent annually; over the decade inflation pushed interest rates up to more than 8 percent, so nobody would purchase the old bonds in 1970 at more than half their old price. The trustees of such a college, watching their assets decline, and hearing tales of triumph in the great speculative stock market of the late 1960s, might well have moved half or more of the remaining endowment into stocks. If they did so in 1968, and since that time have fared no better than a fund which had a dollar invested in every stock on the New York Stock Exchange, they would have lost half the money they put into stocks. That would be another $2.5 million. They would now have an endowment worth about a third of what they had in 1960. Meanwhile, their operating costs have increased at the rate of 7 percent a year (this is close to the average for educational institutions).

Pensioners cannot compute the damage so readily as college trustees, but it is there. Young people seeking education in institutions which are caught in the squeeze between falling endowments and rising prices can feel the damage. The old and the young, therefore, will suffer. Museums and hospitals and libraries will cut services. These institutions can do their jobs less well because much of their capital has been taxed away. It has gone to support action for which recent governments have been unwilling to levy additional income taxes. Taxing current income is politically unpleasant; taxing savings is not felt so fast.

THE TAXMAN COMETH BY NIGHT

There is no need here to debate the importance of the programs which have been funded by these capital levies. I, for one, think we have had ample resources to pay for what we wanted. The issue is one of candor. If government comes in the night to take away our savings, we can at least insist that it come by day.

It is not right to remain silent when so much that has been painfully built, so much that is precious to our tradition and our present values, is being eroded by a continuing, unadmitted capital levy. Our independent institutions are being taxed away, slowly it is true, but surely. Does it matter? I think it does.

The strongest argument for independent institutions is that they provide sanctuary, support, and stimulus to independent persons. Some solecists are alone, some saints chose to stand alone, but most men need a community to form a horizontal dimension in their lives. We require the sustenance of ideas shared with contemporaries. We don't need universal agreement, just enough of it to reassure us that we are not insane.

Endowed institutions help provide community. But even in the company of the like-minded, there is a sort of temporal loneliness; though we may have the agreement of contemporaries, most of us require some solace of tradition. Each of us can serve better our special truth if we find a few others enough like us to be relevant, and better still, if we can locate ourselves in time through discovering that we stand in some continuity. Churches, colleges, libraries provide continuity, and their savings—endowments—provide for continuity.

A community of shared values within diversity and a continuity of values over time sustain vigorous individuals and a heterogeneous society.

Without institutions to provide community and continuity few men could stand alone against bullying despots or bullying crowds. Institutions can harbor ideas which, if left unsheltered, would be lost in the crush and dust. Though our Bill of Rights, for example, does provide protection against the tempests of mass opinion, and against knavery in office, it presupposes that the law does not exist in isolation. It assumes the existence of institutions in society serving the same purposes. Furthermore, it assumes, because its framers lived in a context of endowed institutions, that savings will flow into the maintenance of such sanctuaries.

These sanctuaries do not protect themselves. They are very easily lost. Liberty, expressing itself through diverse institutions, dies unless it is in the interest of powerful groups to maintain it. In the eighteenth century its death was feared most from despotism, a blunt instrument. In the twentieth century, in this country, inflation is a more subtle but a deadly peril. Inflation takes money from individuals who save, of course; it also alters the balance between the government and independent institutions. It transfers money from the latter to the former, and with money goes the power to make a fact out of an opinion. That is a perilous transfer, and it is being made every day by taxation through inflation.

KARL MUNDT

Mr. SPARKMAN. Mr. President, I was saddened by the death of my longtime friend and colleague in both the House and in the Senate, Karl Mundt. Karl came to the House of Representatives 2 years after I did. However, I had known him back in 1934 when he and I were both active in Kiwanis. In that year he was district governor of Kiwanis for South Dakota and I was district governor of Kiwanis in Alabama. Karl was a very able Member of both Houses of Congress and a very friendly person.

Whenever I think of Karl Mundt I recall happy days that we had in the House gymnasium. We both played volleyball and ordinarily we were on opposing sides. We made a great game out of blocking each other in the play.

In work or play Karl Mundt was always a fine, happy, genteel person. I cherished his friendship and I mourn his passing.

Mrs. Sparkman and I extend to his wonderful mate throughout the years, Mary, our deepest sympathy.

BRITISH HEALTH SYSTEM APPEARS BATTERED

Mr. BROCK. Mr. President, an article recently appeared in the Christian Science Monitor concerning Britain's system of socialized medicine and the grave problems plaguing it. I believe that this should be considered fair warning to the medical society of the United States and our Federal Government. Measures should be taken to prevent any severe health care shortages, in order to provide for the country's health and well-being. They must be carefully designed and implemented to assure that we do not find ourselves in a like situation as Britain. I consider Mr. Richard Burt's article as valuable, revealing information for my colleagues, and ask that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Christian Science Monitor]

British Health System Appears Battered

(By Richard Burt)

London.—Is Britain's system of socialized medicine—the National Health Service (NHS)—on the verge of collapse? Politicians, medical personnel, and concerned citizens have begun to ask this question as the NHS goes through the most serious crisis of its 30-year history.

Once a model of efficient, high-quality, government-sponsored health care, the problems plaguing the NHS appear almost endless. Among them are:

A major slowdown in new hospital construction and medical-equipment purchases. Hospitals are typically receiving one-third of the funds they request for new equipment, and planning for new hospitals has ground to a halt. In Mersey, for instance, planning has been discontinued for two new hospitals that would have provided 1,500 new beds.

Severe staff shortages. In some regions, a 10 percent short-fall in nurses is reported. Other professions, especially occupational, psychiatric, and speech therapists, are said to be even more urgently required. These shortages have resulted, ironically, in an underutilization of existing hospital facilities—at a time when the national waiting list for NHS beds has grown to over 500,000.

VARIATION BY REGION

The underutiilzation problem varies by region, but in Coventry a new psychiatric hospital has only been able to use half its beds because staff cannot be found, and in Oxford 370 hospital beds are not being used.

Continuous labor problems. One after another, nurses, technicians, and hospital-service employees have struck for more wages and improved hospital conditions. A three-day strike last week by X-ray technicians stopped all but the most urgent surgery throughout the nation. Routine operations had to be postponed, adding further to the patient backlog.

Financing, of course, is at the root of these problems. Although the Labour government's Secretary for Social Services, Barbara Castle, promised earlier this month that an additional $100 million would be spent to beef up national health care, critics contend that this sum will only allow the NHS to limp along at its present level.

According to the British Medical Association (BMA), over $1 billion is needed to solve the chronic problems of staff, equipment, and bed shortages. In addition, the BMA is pressing for the restoration of nearly $250 million slashed from the NHS budget by the former Conservative government last year.

LABOR DISPUTES FACED

But before these long-term difficulties can be attacked, the Labour government must solve several labor disputes that threaten to disrupt NHS over the next few months. Although Mrs. Castle last week successfully negotiated a new, $6 million wage contract with hospital engineers, observers fear that the size of the settlement will only increase the militancy of other unions which are seeking similar increases.

The union representing X-ray technicians, for example, has threatened that unless their pay demands are met, several key hospitals will be closed beginning Aug. 5. And discontent over wages is not only isolated to the lower rungs of the hospital hierarchy—British doctors, increasingly unhappy over statistics that show their salaries to be among the lowest in Europe, are insisting on the right to establish private practices.

"SUMMIT CONFERENCE" DUE

Wage demands and the general state of NHS health will come under intense scrutiny soon in a special "summit conference" of doctors, dentists, nurses, and government officials. According to Dr. Derick Stevenson, secretary of the BMA, the group will tell the government that it must either increase health spending or perform major surgery on NHS services.

"The government has promised to the public a free and comprehensive health service which they are not able to provide," Dr. Stevenson said in a recently published interview.

"Either the government must find the money or investigate other ways of financing the service. If they are unable for political reasons to do this, then there is no alternative but to see what service can be dispensed with."

VITALI RUBIN ARRESTED IN BED

Mr. CRANSTON. Mr. President, Dr. Vitali Rubin of the U.S.S.R. is a specialist in Chinese philosophy. He lost his academic post when he applied for a visa for Israel in 1972.

Dr. Rubin suffers from a heart condition and has been recuperating in bed. But on September 4, he was dragged from his bed and arrested for "parasitism."

I have repeatedly urged Soviet authorities to permit Dr. Rubin to emigrate, but to no avail. Perhaps the publicity given to this shameful episode in the West will bring about the release of this long-suffering individual.

Mr. President, I ask unanimous consent that an article from the New York Times describing Dr. Rubin's arrest be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Sept. 5, 1974]

Russians Arrest Ailing Jew in Bed

(By Christopher S. Wren)

Moscow, Sept. 4.—A prominent Jewish-movement activist, suffering from a heart condition, was dragged from his bed by policemen early this morning and arrested on grounds that he refused to work, his wife charged today.

Vitaly A. Rubin, a 50-year-old specialist in Chinese philosophy who lost his academic post when he applied in 1972 to go to Israel, was taken to a police station to face charges of "parasitism," his wife told Western newsmen.

When the police learned of his health problem, she said, they summoned an ambulance to take him to a hospital, where he is expected to remain about a week.

Dr. Rubin's arrest came at a time when the Soviet authorities have been making conspicuous concessions on the issue of Jewish emigration. The concessions included the release from prison late last month of Silva Zalmanson, a woman serving a 10-year sentence for a 1971 plot with her husband to hijack a Soviet airliner at Leningrad.

Yesterday, a new gesture on emigration was made when Anatoly Livitin-Krasnov, a Russian Orthodox religious writer, was granted permission to leave for Israel next week.

TIGHTER SURVEILLANCE REPORTED

However, at least one Jewish activist here insists that the authorities have begun to tighten surveillance of Jews who want to emigrate, and reported that the police had been following him for several days.

According to Mrs. Rubin, a uniformed policeman was let into the Rubins' apartment by a neighbor at 6:30 A.M. He walked into their bedroom, she said, ordered Dr. Rubin to dress and go to the police station because he was unemployed, she said.

Parasitism, or avoiding "socially useful work," is a punishable offense in the Soviet Union. It has been used to threaten or to prosecute dissidents, including some who were dismissed from their jobs and refused to take more menial work.

Mrs. Rubin told correspondents that she had informed the policeman that her husband was suffering from a cardiac condition and had to see a doctor that morning. The policeman left and returned with another.

Together they dragged him out of bed, dressed him and took him away, she said, without showing an arrest order.

Mrs. Rubin said her husband was resting comfortably in a regular civilian hospital. She did not know whether he would be summoned again to the police station.

Two weeks ago, Dr. Rubin asserted that the authorities were trying to humiliate him by forcing him to take menial work.

THE RASMUSSEN NUCLEAR SAFETY REPORT UNDERMINES PRICE-ANDERSON ACT

Mr. GRAVEL. Mr. President, when the AEC released a draft of the Rasmussen report on August 20, it became clear why renewal of the Price-Anderson Act was rushed through Congress a few weeks in advance. The Rasmussen report undermines all the main arguments of Price-Anderson advocates.

First, the new report explicitly tries to discredit the accident calculations of the earlier Brookhaven report, which was the basis of the Price-Anderson Act.

Second, the Rasmussen report explicitly claims that 100 nuclear powerplants will be a better risk than other risks which are commercially insurable.

Nuclear advocates cannot have it both ways. If they believe the Rasmussen report, then they do not need the protection of the Price-Anderson Act. But if they say they do need the Price-Anderson Act, they cannot expect anyone to believe the Rasmussen report.

A MODEST ACCIDENT EVERY FIVE CENTURIES?

On page 24 of the summary report, the Rasmussen study claims:

> The chance of an accident causing $100,000,000 damage would be about one in 50,000 per plant per year. Such an accident would be expected on the average to occur once every 5 centuries for 100 operating reactors. The probability would be about one in 1,000,000 per plant per year of causing damage of about 2–3 billion dollars.

It is important to note that fire causes $2.7 billion in damage in this country every year, and yet the insurance industry is happy to do business in fire insurance.

Then why does the insurance industry refuse to write more than $110 million in nuclear power insurance? Why does it write a special exclusion clause into policies so that it does not have to cover our homes, cars, and business property against damage from nuclear powerplants?

It is time for Congress to take a hint about nuclear "safety" from the hard-nosed insurance experts.

INSURANCE WILL TEST REPORT'S CREDIBILITY

Now that the Rasmussen report—WASH 1400—is out, everyone can see that my proposed revision of the Price-Anderson Act makes good sense. I propose that Congress provide injured parties with the right to go to court for claims above the aggregate liability-limit in force under the no-fault provisions of the Price-Anderson Act.

Several of my colleagues inquired before the vote on Price-Anderson if nuclear utilities would be able to get insurance for this kind of normal liability.

The Rausmussen report is their answer. Of course insurance companies will sell insurance for the $2 billion accident if they believe the Rasmussen report, which says that it will happen only once in a 1,000 years. With odds that good, insurance companies or utility mutuals could make a fortune on nuclear insurance.

If they hesitate, however, we must ask: What do they know about nuclear risks that Congress does not know?

Every responsible Member of Congress owes it to his constituents to pursue that question. According to the Rasmussen report, 15 million people live within 20 miles of current or planned nuclear powerplants..

A SET-BACK FOR STATES' RIGHTS

Prior to release of the Rasmussen report, the House passed renewal of the Price-Anderson Act by a vote of 360 to 43 on July 10. On August 8, the Senate passed it without opposition on a voice vote. The bill actually provides even less protection for the public than in 1957, due to inflation.

The only roll-call vote in the Senate was on an amendment offered by Senator Schweiker; it would have permitted individual States to set additional insurance requirements for nuclear powerplants located within the State. The amendment was defeated 28 to 60. Had I been here, I would have voted with the 28.

In addition, I would have offered three amendments of my own to the committee's bill, H.R. 15323. The first would have eliminated the dollar limit on liability; the second would have increased the no-fault coverage to a billion dollars in 1977—compared with the $560 million figure set in 1957; and the third would have stopped the licensing and export of nuclear powerplants.

When the debate was scheduled for August 1, I returned from Alaska especially for it. However, when the debate was suddenly postponed for a week, I was unable to be present because of my shortly pending primary election in Alaska.

TABLES REVEAL MEAGER AMOUNT OF PUBLIC PROTECTION

Mr. President, I had prepared four fact sheets for the debate on H.R. 15323, and I ask unanimous consent that they be printed in the Record.

There being no objection, the fact sheets were ordered to be printed in the Record, as follows:

[Factsheet No. 1]

H.R. 15323: Amendment To Create Unlimited Liability

Aug. 1, 1974.

Sponsors: Mr. Gravel, Mr. Nelson, Mr. Hart.

WHO SUPPORTS THIS AMENDMENT

We have asked the League of Conservation Voters to put this vote on its next environmental rating chart, and the League has agreed; the League SUPPORTS this amendment. Additional supporters include:

Ralph Nader's Congresswatch, Common Cause, the Oil, Chemical and Atomic Workers, the U.A.W., Friends of the Earth, the Sierra Club, Task Force Against Nuclear Pollution, Environmental Action, Environmental Policy Center, Women's Intnatl League for Peace & Freedom, and additional members of the Coalition for Fair Nuclear Insurance.

TEXT OF THIS AMENDMENT

The following language is added to the end of Section 6 (page 8): ": And provided further, That injured parties may bring suit against a licensee to recover damages incurred as the result of a nuclear incident to the extent that such damages and injuries could not be reimbursed under the limits of liability otherwise provided by this subsection; any liability for damage or injury in excess of the specified limits shall be determined by the ordinary rules of tort law."

PRECEDENT

This is the same provision which Congress incorporated in the Alaska pipeline act to provide injured parties with recourse to the courts for claims *above* the aggregate liability-limit in force under its no-fault provisions.

PURPOSES OF THIS AMENDMENT

1. To provide a chance for nuclear power victims to receive full compensation for losses not covered by the aggregate liability-limits provided in the bill.
2. To provide another incentive for nuclear licensees to make very sure that such losses will never occur.

NEED FOR THIS AMENDMENT

The amendment is a pro-safety amendment. It restores in the nuclear power industry the *normal* deterrent to reckless activity—namely, financial liability for the consequences. It is both reasonable and prudent to make nuclear utilities take financial responsibility for what they do, like other businesses.

It is most unlikely that AEC inspectors will be able to catch every safety violation in a rapidly expanding nuclear industry; therefore it is important to protect public safety by restoring unlimited liability which operates as an automatic deterrent to carelessness.

One very healthy consequence of this amendment will be to give nuclear investors and creditors an increased stake in assuring public safety. It will stimulate maximum carefulness in the nuclear power program; perhaps plants will be built underground, as urged repeatedly by Dr. Edward Teller.

If nuclear licensees can convince investors and creditors that the plants are safe, then this amendment will be no deterrent to the growth of nuclear power. Furthermore, this amendment will surely increase *public confidence* in nuclear power. Unless utilities consider nuclear power safe enough for their stockholders, there is little likelihood that the American people will consider it safe enough for themselves.

[FACT SHEET NO. 2]

H.R. 15323: AMENDMENT TO INCREASE COMPENSATION TO NUCLEAR VICTIMS

AUG. 1, 1974.

By Mr. Gravel.

WHO SUPPORTS THE AMENDMENT

Ralph Nader's Congresswatch.
Friends of the Earth.
Sierra Club.
Task Force against Nuclear Pollution, Inc.
Environmental Action.
Environmental Policy Center.
Oil Chemical & Atomic Workers.
Common Cause.
U.A.W.

TEXT OF THIS AMENDMENT

On page 6, lines 4 & 5, strike out "not less than $2,000,000 nor more than $5,000,000", and insert in lieu thereof the following: "$10,000,000".

On page 6, lines 7, 8 and 9, strike out "The Commission is authorized to establish a maximum amount which the aggregate deferred premiums charged for each facility within one year may not exceed."

PURPOSE OF THIS AMENDMENT

To increase the amount of compensation available to nuclear power victims under the no-fault provisions of this bill.

NEED FOR THIS AMENDMENT

Without this amendment, members of the Senate would be in the position of voting for less protection for the public until 1990 than the protection offered back in 1957. That could be hard to justify.

Compensation for nuclear power victims was set in 1957 at $560 million. Just to prevent that already inadequate protection from decreasing due to inflation, Congress would have to double the amount approximately every 10 years (assuming 7% annual inflation).

At a minimum, this bill should provide $2 billion in available compensation starting in 1977, just to maintain the level set in 1957.

However, under the Committee's bill, the $2 billion figure could not be reached until 1990 at the earliest (see Committee Report, p. 28). Indeed, under the Committee's bill, the figure in 1990 could still be less than one billion dollars.

This amendment sets the deferred premium at $10 million per power plant. It would provide $2 billion in compensation by 1983, if there were 202 nuclear plants licensed to operate by then (see Committee Report, p. 28).

The $10 million figure will be no deterrent to the growth of nuclear power. It represents a possible additional expense of only 2% of the cost of each plant—which typically costs $500 million.

Furthermore, the full $10 million premium will never have to be paid unless there is a whopping catastrophe from one of these allegedly "safe" plants.

ADDITIONAL BENEFIT

This amendment would end the tax-payers' liability for nuclear power accidents as soon as the law goes into effect—1977.

Tables from JCAE report 93-1027 follow:

TABLE 1.—OPERATING REACTORS ASSESSED AT $2,000,000 EACH

[Dollar amounts in millions]

Year	Number of operating reactors[1]	Assessment	Insurance	Total, assessment plus insurance	Remain AEC indemnity
1977..	96	$192	$125	$317	$243
1978..	112	224	125	349	211
1979..	129	258	125	383	177
1980..	146	292	125	417	143
1981..	159	318	125	443	117
1982..	179	358	125	483	77
1983..	202	404	125	529	31
1984..	228	456	125	581	0
1985..	257	514	125	639	0
1986..	283	566	125	691	0
1987..	312	624	125	749	0
1988..	342	684	125	809	0
1989..	373	746	125	871	0
1990..	407	814	125	939	0

[1] Based on estimates in WASH–1139 (December 1972).

TABLE 2.—OPERATING REACTORS ASSESSED AT $3,000,000 EACH

[Dollar amounts in millions]

Year	Number of operating reactors[1]	Assessment	Insurance	Total, assessment plus insurance	Remain AEC indemnity
1977..	96	$288	$125	$143	$147
1978..	112	336	125	461	99
1979..	129	387	125	512	48
1980..	146	438	125	563	0
1981..	151	477	125	602	0
1982..	179	537	125	662	0
1983..	202	606	125	731	0
1984..	228	684	125	809	0
1985..	257	771	125	896	0
1986..	283	849	125	974	0
1987..	312	936	125	1, 061	0
1988..	342	1, 026	125	1, 151	0
1989..	373	1, 119	125	1, 244	0
1990..	407	1, 221	125	1, 346	0

[1] Based on estimates in WASH–1139 (December 1972).

TABLE 3.—OPERATING REACTORS ASSESSED AT $5,000,000 EACH

[Dollar amounts in millions]

Year	Number of operating reactors[1]	Assessment	Insurance	Total, assessment plus insurance	Remain AEC indemnity
1977..	96	$480	$125	$605	0
1978..	112	560	125	685	0
1979..	129	645	125	770	0
1980..	146	730	125	855	0
1981..	159	795	125	920	0
1982..	179	895	125	1, 020	0
1983..	202	1, 010	125	1, 135	0
1984..	228	1, 140	125	1, 265	0
1985..	257	1, 285	125	1, 410	0
1986..	283	1, 415	125	1, 540	0
1987..	312	1, 560	125	1, 685	0
1988..	342	1, 710	125	1, 835	0
1989..	373	1, 865	125	1, 990	0
1990..	407	2, 035	125	2, 160	0

[1] Based on estimates in WASH–1139 (December 1972).

TABLE 4.—OPERATING REACTORS ASSESSED AT $10,000,000 EACH

[Dollar amounts in millions]

Year	Number of operating reactors[1]	Assessment	Insurance	Total assessment plus insurance	Remain AEC Indemnity
1977..	96	$960	$125	$1, 085	0
1978..	112	1, 120	125	1, 245	0
1979..	129	1, 290	125	1, 415	0
1980..	146	1, 460	125	1, 585	0
1981..	159	1, 590	125	1, 715	0
1982..	179	1, 790	125	1, 915	0
1983..	202	2, 020	125	2, 145	0
1984..	228	2, 280	125	2, 405	0
1985..	257	2, 570	125	2, 695	0
1986..	283	2, 830	125	2, 955	0
1987..	312	3, 120	125	3, 245	0
1988..	342	3, 420	125	3, 545	0
1989..	373	3, 730	125	3, 855	0
1990..	407	4, 070	125	4, 195	0

[1] Based on estimates in WASH–1139 (December 1972).

Source: From Report 93-1027, JCAE, July 23, 1974.

[Fact Sheet No. 3]

H.R. 15323. MR. GRAVEL'S SUBSTITUTE AMENDMENT

AUG. 1, 1974.

WHO SUPPORTS THIS AMENDMENT

League of Conservation Voters. Ralph Nader's Congresswatch. Friends of the Earth. Environmental Policy Center. Task Force against Nuclear Pollution. Environmental Action.

TEXT OF THIS AMENDMENT

Strike everything after the enacting clause and insert in lieu thereof the following:

"That this Act may be cited as the Nuclear Power Moratorium Act of 1974.

"SEC. 2. (a) The Congress herewith declares that the deployment of civilian nuclear-fission powerplants is presently inconsistent with national security and public safety, as required by Section 3.d. of the Atomic Energy Act of 1954, and the Atomic Energy Commission is herewith directed under the authority of Section 187 of that Act to enforce an immediate moratorium on the operation, construction, and export of all civilian nuclear-fission powerplants, with allowance for temporary exceptions where time is required to activate nonfission substitutes, provided that operation of every plant shall be terminated no later than January 1980.

(b) The moratorium described in Section 2. (a) shall last indefinitely, or until the electric utilities have demonstrated to Congress and to their respective customers that the use of nuclear fission to generate electricity will not constitute a significant hazard to the health and safety of the public, or render this country vulnerable to blackmail, terrorism, or economic chaos."

PURPOSES OF THIS AMENDMENT

1. To reduce the chance of a catastrophic nuclear power accident, atomic terrorism or blackmail, fabrication of private atomic-bombs, irreversible nuclear pollution, and dependence on foreign uranium.

2. To redirect our financial resources toward safe alternatives like solar electricity and solar fuels.

In Oct. 1973, Solar Panel IX reported to the AEC that solar electricity (from the wind), solar fuels (from plants), and solar heating and cooling could become economically viable in the next 5 years. In addition, the Panel stated that 100% of current US energy needs could be met by using just 5% of the solar energy falling on 4% of our continental land mass.

NEED FOR THIS AMENDMENT

In 1973, nuclear power contributed only 1.2% of our total energy. Greater dependence on nuclear power would make America vulnerable to severe economic disruption and hardship. After one bad accident, the public could demand that *all* nuclear plants be shut down, without waiting for substitutes to be built. This amendment provides an orderly way to get rid of the problem.

Nuclear power plants are likely to become enormously attractive objects for blackmailers and terrorists, and a small force of people may even use them to destroy or paralyze our country.

By 1985, plants planned for the U.S. will be producing more radioactivity than the explosion of a quarter-million Hiroshima bombs every year. Irreversible poisoning of our land and water is a certainty if just 1% of the long-term radioactivity ever escapes into the environment. It defies common sense to claim that the multiple and complex containment operations for radioactivity will be achieved with 99.9% success. In perpetuity.

Especially in view of the industry's limited confidence in their own plants, as demonstrated by the pressure for H.R. 15323, a moratorium is the most responsible position to protect America.

[Fact Sheet No. 4]

H.R. 15323: MR. GRAVEL'S CASE FOR "NO" ON THE UNAMENDED BILL

AUG. 1, 1974.

WHO SUPPORTS THE VOTE "NO" POSITION

League of Conservation Voters.
Ralph Nader's Congresswatch.
Friends of the Earth. The Sierra Club.
Task Force against Nuclear Pollution, Inc.
Environmental Action.
Environmental Policy Center.
Women's Intnatl League for Peace & Freedom.
Oil, Chemical & Atomic Workers.
Common Cause. U.A.W.

THREE REASONS TO VOTE "NO"

The present law does not expire until 1977.

1. This bill limits the liability of nuclear power licensees. It carefully protects the assets of the nuclear power industry by placing the assets of all other industries and individuals at risk.

If nuclear power is not safe enough for utility stockholders and creditors, it is not safe enough for the American people.

2. This bill sets an outrageously low dollar-limit on the amount of compensation available to nuclear power victims. An AEC lab estimated in 1965 that a single nuclear accident could cause $17 billion in damage and contaminate an area as big as the state of Pennsylvania. The limit of compensation to injured parties would remain only $560 million for many years under this bill.

This bill would let the utility industry—which has over $100 billion in non-nuclear assets, over $25 billion in annual revenue, and over $4 billion in net income (1971)—to get off with aggregate payments of only $560 million to victims of its activity.

3. It is asking for trouble if Congress encourages an inherently dangerous technology like nuclear fission simultaneously removing the normal deterrent to reckless activity—namely, unlimited liability for the consequences.

In the nuclear industry more than in any other, we want to create the greatest possible incentives for licensees to take maximum care. We need unlimited liability as an automatic deterrent to carelessness.

ADDITIONAL NOTE

It is time for Congress to take a hint from the American insurance industry about nuclear "safety". Why does that industry, which finds fire to be an insurable risk ($2.75 billion in damage every year). consider nuclear power to be a BAD risk?

If the insurance industry believed the AEC's nuclear safety claims, insurance companies would hasten to sell as much insurance as they possibly could on such a safe bet. Instead, they hasten to put a special nuclear "exclusion clause" in property insurance policies.

Why does the nuclear industry feel that "safe" nuclear power is not safe enough for its investors and creditors?

Why did the British Government just reject American nuclear reactors for Britain after extensive inquiry into their safety problems?

Why did 100 top scientists at the 1973 Pugwash Conference unanimously state that the unsolved problems of nuclear power "combine to create grave and justified misgivings about the vast increase in the use of nuclear power that has been widely predicted?

Why is 46% of the American public either opposed to or concerned about nuclear power plants? (Recent poll by Natl Analysts, Philadelphia, a division of Booz, Allen & Hamilton management consultants.)

Mr. GRAVEL. Mr. President, I would like to note that factsheet No. 2 includes tables 1–4 from the PCAE Report 93–1027; these four tables show the amount of public protection which will be provided under the act when the AEC sets the retrospective premiums between $2 million and $5 million per nuclear plant; they also show the far greater protection which would have been provided by my amendment, which would have set the premium at $10 million per plant.

AN ECONOMIC SUMMIT CONFERENCE

Mr. TOWER. Mr. President, on behalf of Senator Humphrey and myself I would like to praise the efforts of some of my fellow colleagues in the Senate who have been most instrumental in developing the concept for the National Economic Conference. Senators BARTLETT, CHILES, DOMENICI, HUDDLESTON, and NUNN were the initiators of the idea for such a meeting and have been extremely instrumental in developing the procedures for the conference. In addition to their efforts as a group, each has given considerable thought to our economic problems. Each has thought about our domestic problems in a calm and cool manner and has disciplined himself to take the time to write down his thoughts.

They have not fallen into the trap of speaking too much while thinking too little.

These five Senators met with the steering committee last week and presented their views both individually and collectively. I ask unanimous consent that their joint statement to the steering committee and their individual views be printed in the RECORD.

These thoughts are extremely well done, and they deserve our individual attention; and I hope that each Member of this body has a chance to review them.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

JOINT STATEMENT TO THE STEERING COMMITTEE FOR PRESIDENT FORD'S SUMMIT CONFERENCE ON INFLATION, SEPTEMBER 5, 1974, THE WHITE HOUSE

Throughout 1974 from our mail and from our phone calls, from trips back home and from committee and floor activities, the message has been the same: the American people want and must have immediate and effective measures to deal with inflation. Thus far, only piece-meal action has been taken. But, the magnitude, pervasiveness, and complexity of the inflation problem requires more than this shotgun approach.

Therefore, we resolved to try to devise a way to arrive at solutions to this crisis. Our efforts culminated in Senate Resolution 363, introduced and passed on July 23, 1974, by a vote of 88–5. The resolution called for the convention of a Domestic Summit Conference on the economy bringing together leaders from the many different sectors of our economy. President Ford subsequently adopted our proposal, and the nation stands ready to embark upon this new method of dealing with a domestic problem.

Part of the purpose of the Domestic Summit should be to engage the American people in a dialogue on our economic problems. This dialogue would serve as a means of getting the best ideas available from the private sector, educating all Americans to the problems before us, and creating a climate of cooperation and common purpose to foster solutions to our difficulties.

The American public must know that mutual sacrifices and restraint are going to be necessary in all sectors of the economy just as they are in war time. It is our hope that each element of our society will contribute to the summit, and that the summit will result in an integrated, comprehensive action plan for dealing with inflation. By accumulating the aggregate remedial measures into an integrated plan, we believe that the overall effect of the action plan will exceed the sum of its parts if those parts were advanced separately.

It is our strong impression that more than anything else the economy requires the bolstered confidence that can only come by the early adoption of a plan of action comprehensive enough to deal with inflation and our other pressing economic ills. The Summit meetings should be a means of getting agreement on an action which is fair to all by asking all to contribute equally.

As a first step, we view the balancing of the Fiscal Year 1975 budget as an urgent requirement. A balanced budget would be a positive step by the Congress and the Executive working together to fight inflation. It would also have a strong confidence building effect by showing that the Federal government can act immediately and effectively on inflation. Everyone in America understands that a budget cut is a cut against inflation. A balanced budget would also provide a context for other actions and the equal sacrifice by all groups necessary for an effective overall plan.

The Chairman of the Federal Reserve Board, Dr. Arthur Burns, has indicated that cutting the federal budget would facilitate the easing of credit restraints and the lowering of the unprecedentedly high interest rates prevailing today. Dr. Burns has also suggested that $3 to $4 billion public service employment program would be a valuable tool in dealing with excessive unemployment. Recent analysis suggests that such an employment program would more than offset the unemployment created by the budget cuts necessary to achieve a balanced budget.

While these elements are not sufficient in themselves, they are illustrative of the combination of measures that we feel should emerge from the Domestic Summit Conference. A balanced budget to fight inflation, a public service employment program to deal with high unemployment and an easing of interest rates to stimulate sluggish economic growth, should be central aspects of the action plan resulting from the Summit.

In addition, we feel there are other actions that should be a part of the action plan. While these are not exhaustive they do address three areas where we feel effort would be fruitful. These are: efficiency in government, productivity in the economy, and sufficiency of supplies.

We feel it would be promising to invite experienced executives from business and industry to undertake a study of efficiency in the Federal government. This has already been done in some twenty states at an average savings in the operation of state governments of 3 percent. This study could be done at no cost to the taxpayer. And yet if the same results were achieved as at the state level, savings of nearly $10 billion would be realized in the Federal government. We would urge serious consideration of this study.

There is increasing evidence that the American economy is not now operating at the high level of productivity that it has in the past. Wage rates have increased and currency adjustments have occurred which have changed the productivity of our economy relative to other nations. Sagging productivity in Great Britain over the last decade has been the key element in the economic chaos now running rampant in that country. We feel that attention to increasing the productivity of American industry and agriculture is vital to a sound economy.

The adequacy of supplies of commodities, especially food and fuel, over the last year have clearly been a major problem for the U.S. economy. Rapidly rising prices in food and fuel have been major elements fanning the flames of inflation here at home. Whereas not all of these price increases have resulted from short supply alone, serious attention should be given to all the possibilities of increasing the domestic availability of commodities crucial to the functioning of our economy. This will require special attention to specific sectors, especially agriculture and energy. It will also be furthered by a constructive and cooperative approach to other nations in working out arrangements to secure the sufficiency of supplies all nations need to run their economies smoothly.

Statement Presented to Steering Committee Domestic Summit

(By Senator Dewey F. Bartlett)

Last May, Dr. Arthur Burns, Chairman of the Federal Reserve, in referring to our domestic inflation, said, "If past experience is any guide, the future of our country is in jeopardy."

In August, conservative David Rockefeller, President of the Chase Manhattan Bank, warned, "I'm not an alarmist and I don't feel like an alarmist. The situation is uncertain enough so that one shouldn't discard the possibility of a panic."

But, it did not take these alarming statements by men respected for their knowledge of the economy to cause the average citizen to believe that our economy was in bad shape—they already believed it was, whether we were facing inflation, depression or both.

The people's frustration has been magnified because Congress and the Administration did not appear to be doing much about inflation and other problems of our economy. Only the Federal Reserve seemed to be interested in fighting inflation—but with unbearable, record-high rates of interest that seem to fuel the fires of inflation as well as increase unemployment.

It has appeared obvious to our citizens that the problems of our economy are broad and deep and that they require the attention of all the leaders of the executive and legislative branches of government, business, industry, universities, and our citizenship at large.

The series of domestic summit conferences on the economy are reassuring to the people that at least the problem is being faced.

I am convinced that our top priority must be the harnessing of federal expenditures and programs to bring them in line with government's ability to pay.

While all sorts of rationalizations can be advanced to defend our almost $500 billion deficit, the fact remains that we have been living beyond our means. This is a substantial contributing factor to our soaring inflation.

The steering commitee should recommend a balanced budget for fiscal '75 and fiscal '76. A balanced budget for these years will have a most favorable psychological impact in all aspects of the economy—particularly, inflation, and could lead to an easing of interest rates.

There are those who have claimed that government spending is out of control, that we can not balance the budget even if Congress and the executive branch have the courage to attempt it. Some have pointed out that only approximately 20% of the federal budget is not earmarked for specific programs and expenditures, not leaving enough fiscal flexibility for prudent management. They further point out that existing legislation will continue to earmark an increasing percentage of future budgets.

Though I am convinced that the budget of both fiscal '75 and '76 can be balanced, I am concerned that current trends and programs, if unchanged, may have our government out of fiscal control in the near future. I recognize legislation will undoubtedly be necessary to achieve a balanced budget for fiscal '76 and possibly even for fiscal '75.

Our economy is influenced greatly by the cost of government programs and the cost of administering these programs.

While I favor a general reduction in federal spending to create a balanced budget for fiscal '75 and '76, I recognize the danger in taking an across the board, meat-ax approach to the bureaucracy, budget, and federal programs.

The Domestic Summit Conference on the economy should be a continuing effort for several years. Our machine of government is failing "to promote the general welfare." A few quick decisions to fine tune it may provide much neded help but will not suffice for the long pull—it's time for a major overhaul—and this takes time and effort.

In due time, all programs should be reviewed to make them more efficient and more efficiently administered without impairing their responsivenes to public need. The percentage of controllable expenditures should be increased so government can improve its ability to control spending. Long term programs requiring periodic increases in spending should be carefully reviewed to make certain that future commitments may be met within a strong healthy economy.

First, let's look at the efficiency of government administration. Though some may question the value of balancing the budget, few will object to more efficient and less costly administration.

Being a businessman most of my life, it strikes me the obvious first step toward the reduction of Federal expenditures is an objective survey of the entire government to see that the taxpayers are receiving a fair return on their tax dollars.

But most every citizen, politician and bureaucrat is concerned by the almost automatic failure of the usual government study.

Therefore, today, I am proposing a different but proven approach—not an expensive and useless in-house or management consultant firm study—nor a Hoover Commission—but a Peoples' Economic Efficiency Program—P.E.E.P.—utilizing the peoples' task force concept. My suggestion follows from the successful results of similar economic efficiency programs carried out by governors of most of the States during the late 60's and early 70's.

In 1963, Ohio faced a financial crisis. The State had a deficit of $80 million. The newly elected Governor established a Council for Reorganization of Ohio State Government comprised of 94 loaned executives from business and industry. The Council, under the guidance of a management consulting firm, made 511 recommendations for the more efficient operation of the State. Seventy-five per cent of these recommendations were implemented with an actual annual savings of $60 million. This savings was accomplished at no cost to the State. Over 100 Ohio companies paid the entire cost of the study which included contributed time and money in the amount of $650,000.

Early in my administration, Oklahoma, in 1967, became the third State to apply this unique technique. Actual savings of $20 million were obtained by implementing 250 of 399 cost-saving recommendations.

Many States, hard-pressed for additional revenues from over-taxed constituents followed suit—including large States such as California and Pennsylvania.

Though different approaches were used, twenty States followed the Ohio approach. Summary data on these 20 States shows the following totals:

Annual expenditures	$27,073,575,000
Departments studied	1,435
State employees	973,958
Full-time loaned executives	1,394
Number of Recommendations	13,562
Potential Savings:	
Annual	$2,094,000,000
One-time	$558,000,000
Actual Savings:	
Annual	$629,000,000
One-time	$127,110,000

The attached summary at the end of this statement quickly shows the successful savings realized in each State—an average of approximately 3% of the annual expenditures.

A 3 percent savings on the Federal level would eliminate our deficit for fiscal year 1975 with sufficient left over to begin reducing our Federal debt.

Though the Federal Government is much larger than any of the States, the same approach can be made with the Federal Government, in segments, based on a logical priority over a few years.

I want to stress that P.E.E.P. is a proven action program that works—and there are reasons why it does work so well.

1. A preliminary study is made by a qualified consulting firm to recommend the objectives, areas of interest, budget, number of full-time loaned task force persons. Length of time required, starting date, etc. This should be agreed to before the full time loaned task force begins its work.

2. The best brains in the country are available as task force persons—it is the only way that such a group of experts can be assembled. A full time commitment of 4–6 months is the maximum that is feasible.

3. Experts, with no conflict of interest and no axe to grind, develop credibility and support for their recommendations. The study is performed openly with weekly progress and action reports to the press. Thus, a dialogue with the general public is created as the public becomes aware of many of the suggestions made by the task force.

4. Many improvements and savings are adopted and realized as the study progresses—as a department head determines the plausibility of an idea, he adopts it without delay.

5. The department heads feel pressure from the task force recommendations which nearly always develop public support. Hence, this

approach is one way of interesting the bureaucracy in becoming efficient. It is a way of eliminating sacred cows.

6. An additional value of having outside objective evaluation is that many of the people in Government will make suggestions for changes to a task force which they would not make through their own chain of command.

7. Recommendations are practical and are implemented mostly by administrative action—some do require legislation. No recommendation reduces or jeopardizes the service. In the states, 80% of the recommendations did not require legislation.

8. The cost of P.E.E.P. would be minimal. Only 3% of the total task force would be consulting firm employees. The balance would be loaned task force experts.

9. Recommendations reduce costs, improve delivery of services, and eliminate red tape.

10. Recommendations reduce the number of government employees—by attrition.

In addition to government efficiency, there are important policy decisions that should be examined.

Policy decisions would be necessary for needed changes to increase the percentage of controllable expenditures and to maximize fiscal flexibility for prudent governmental management. Policy and operational efficiency are frequently inter-twined.

Particular care must be made in selecting task force persons where policy decisions are involved in order that a cross-section of political thought will be represented. Undoubtedly, there will be areas of controversy—but also there will be areas of agreement.

Where controversy exists, a national debate should ensue with the probability of improvements in existing programs realized through compromise in Congress and with the administration.

I am convinced the public would welcome a careful scrutinization of the Federal dollar and the Federal programs. I know the average American is doubtful, probably justifiably about the efficiency of government.

P.E.E.P. in its oversight-action approach can help the Federal Government save billions of dollars, assume prudent control of government spending, establish a sound, healthy economy and hopefully restore to the people a measure of confidence in their public servants. P.E.E.P. deserves a trial run.

At the very least, the taxpayers deserve a government which lives on a fat-free diet.

SUMMARY DATA—STATE MANAGEMENT STUDIES

	Annual expenditures	Departments studied	State employees	Full-time loaned executives	Number of recommendations	Potential savings		Actual savings	
						Annual	One-time	Annual	One-time
Ohio (1963)	$1.8 billion	36	53,000	94	511	$50 billion		$60 million	
Washington (1965)	$1 billion	37	42,000	90	670	$60 million	$10 million	$20 million	$5 million.
Oklahoma (1967)	$455 million	36	26,000	52	399	$46 million	$4 million	$20 million	
California (1967)	$5 billion	63	160,000	252	2,000	$233 million	$175 million	$175 million	$25 million.
Arkansas (1967)	$500 million	41	20,000	62	382	$27 million			
Nebraska (1968)	$250 million	40	23,000	41	425	$23 million	$10 million	$15 million	$6 million.
Indiana (1969)	$1.1 billion	38	25,000	62	632	$92 million	$6 million	$49 million	$4 million.
West Virginia (1969)	$390 million	55	32,000	52	789	$50 million	$5 million	$30 million	
Delaware (1969)	$197 million	62	12,000	31	516	$18 million	$19 million	$10 million	
Iowa (1970)	$500 million	77	28,000	58	593	$23 million	$10 million	$7 million	$110,000.
Virginia (1970)	$1.7 billion	68	63,900	57	392	$61 million	$30 million	$18 million	$6 million.
New Jersey (1970)	$1.6 billion	88	47,000	70	741	$85 million	$56 million	$42 million	$5 million.
Tennessee (1971)	$1.2 billion	73	28,651	49	575	$178 million	$40 million	$50 million	
Connecticut (1971)	$1.1 billion	129	38,300	64	821	$154 million	$42 million	$44 million	$16 million.
South Carolina (1972)	$982 million	90	38,088	38	502	$110 million	$13 million	$24 million	
Pennsylvania (1972)	$5.8 billion	120	125,000	85	885	$552 million	$85 million	$85 million	
Alabama (1972)	$1.6 billion	81	42,519	47	639	$107 million	$18 million	$20 million	
Maine (1973)	$483 million	103	12,500	42	807	$29 million	$7 million	$8 million	
North Carolina (1973)	$2 billion	103	69,000	72	676	$87 million	$60 million	$27 million	
Florida (1974)	$3.8 billion	95	88,000	79	617	$109 million	$8 million		

STATEMENT OF SENATOR LAWTON CHILES TO STEERING COMMITTEE FOR PRESIDENT FORD'S SUMMIT CONFERENCE ON INFLATION

President Ford began his Administration by declaring inflation public enemy number one. This recognition of the priority that this problem has for the people of this country is a promising start for his Presidency. It is a boost to confidence to feel that the priorities of our government are again in line with the priorities of the people. My travels to Florida this summer tell me that there is no other issue that affects the people more than inflation. And there is no other issue that the people expect their government to take up the leadership on more than inflation.

The economy is basic to all our goals and hopes as a nation. If the economy is weak, there can be no strong defense, no international leadership, and no unmenaced national security. And if the inflation undermines our economic strength then the possibilities are diminished that the nation can secure the rights to life, liberty and the pursuit of happiness for which our government was instituted and for which our people still strive. When the economy is well, we lose sight of just how fundamental it is to all our concerns. Now I think both the government and the people must have one goal: to strengthen our economy by controlling inflation.

So the economy is now a people problem: it affects everyone in all walks of life in every dimension of their lives. But it is also a leadership problem, a problem for our government and for public officials. These together mean, I think, that the judgments that we make in government have to be strong enough to deal with the problems before us but at the same time sensitive to the effects on all people of our economic difficulties. We cannot remove the scourge of inflation at any cost, or place all the burden on a few. No one group can be sacrificed for the good of the rest. There must be a game plan but it must be a fair plan.

The economy requires action now. But it requires action of the most judicious kind. We face a very special kind of inflation now. Usually we have inflation when there is too much demand and too little supply driving prices up. In this type of inflation business is operating at full capacity, and the work force is fully employed. Since there is nowhere for additional goods to come from, prices go up. The cure for this kind of inflation has typically been a balanced budget and tight money policy to trim back demand.

But this is not the kind of inflation we have today. What we have today is an economy that is inflating rapidly while it is growing slowly with high unemployment and idle plant capacity. It seems clear that we wouldn't have inflation today if it weren't for excess spending and easy credit policies. But the near panic in financial markets, the slump in economic activity and the large number of people out of work, are telling us that the cause of inflation is not just too much demand.

We now face inflation and economic downturn at one and the same time. People are as worried about the prospect of a recession as they are about inflation. In these circumstances what we would do to fight inflation may worsen our prospects for growth and employment. What we would do to stimulate the economy and to ease the strains on financial markets may lead to more inflation. What we need is a set of selective and balanced policies which attempt to meet each problem in the context of the others not only for the sake of fairness but for the sake of effectiveness.

We can not expect to improve the state of the economy as a whole unless we improve the conditions of each of the parts. We can't just put the lid on inflation and let the economy go into a recession, or ease up on credit greatly and let inflation go, or spend more to get the economy moving only to find real growth wiped out by price increases. What we need is a plan of action that is balanced by the need to meet the conflicting problems of inflation and slow growth.

We need to look at all the tools we have from taxes to interest rates and use each up to the point where it begins to do more harm than good. Federal spending does need to be reduced, interest rates do need to be eased, productivity does need to be increased, purchasing power of consumers does need to be preserved, incentives for saving and investment do need to be improved, and jobs and supplies must increase. We must try to choose carefully not only what we do but how much we do so that we relieve the pressure on each problem and on all our people rather than solving one problem by creating another or helping one beleaguered group at the expense of another.

A good example of this is the need for a public service employment program. I believe we must have a balanced budget in this fiscal year (FY 1975). This will require a cut in spending of up to $10 billion. But a budget cut of this size will probably increase unemployment significantly. We should have an employment program ready to go into effect if unemployment increases due to budget cuts or if unemployment continues to increase as it has in the recent past. It just isn't fair to say we are going to wash out inflation by the usual formula of holding down demand and put the whole burden of this policy on the unemployed. The American people as a whole will not accept this sacrifice of one group as a solution to our economic ills.

I am impressed by the arguments of Dr. Arthur Burns, Chairman of the Federal Reserve Board, for the need for such a program while we are cutting the budget and pursuing other policies to hold down inflation. Chairman Burns calculates that a public service employment program would cost from $3 to $4 billion. He believes that each public service job in law enforcement, health, recreation or social services would cost on the average $5,000 or $6,000 which would mean that a program like this could generate up to 800,000 jobs.

This would not create another Federal hand-out or a make-work program. Rather it would replace unemployment compensation and welfare payments with useful work. If we think about the cost to the taxpayer of almost a million people being out of work who will need some kind of relief, it would probably approach the cost of the program *itself* without yielding any of the benefits. We need to remember that by providing jobs we are providing people the opportunity to contribute to the growth in output, to pay taxes and to buy goods and services that others produce. Jobs, then, increase growth, increase government revenue, and increase demand, all of which will help our overall economic situation.

These jobs would also make tangible contributions to our communities and localities where unemployment is the worst and the needs the greatest. A public service employment program should be put into force and effect through existing agencies of state and local governments. This would enable these jobs to best address the specific needs of the community without creating still another Federal bureaucracy. There are many crying needs in our cities and localities which could be met by such a program. A work service program could have a large training component which would then enable a person who had been unemployed to find a job when economic conditions improve. A program of this sort could be meaningful both to the individual and to our society.

In seeking a balanced set of policies to meet both inflation and the prospects of recession, I was impressed the other day by testimony before the Senate Budget Committee by an economist from the Wharton School of Finance at the University of Pennsylvania. He was discussing alternative sets of policies that might be pursued now, and one alternative suggested to me the kind of balance I think we need to strike. He had calculated that if we had a public service program of $3 billion to increase employment and spur growth and a $10 billion cut in the Federal budget to fight inflation, that the employment created by the $3 billion employment program would more than wipe out the unemployment resulting from the $10 billion budget cut that we need to fight inflation. This is the kind of combinations of policies that we need to come up with to meet the unusual economic circumstances in which we find ourselves. With a public service employment program we can cut the budget to fight inflation without putting more people out of work. Hopefully too, this will permit the easing of interest rates and the availability of credit to spur economic growth.

Another example of the kind of care I think we need to exercise is in the international economic area. We should remember that many of the inflationary problems we have now stem from the rapid rise in prices for food and fuel and that these price increases derived in no small part from changes in international economic conditions and some miscalculations on our part in our own foreign economic policies.

I think we need to be especially watchful of the relationship between our domestic economic situation and developments in the rest of the world. We cannot solve our internal economic problems at the expense of the rest of the world without that eventually coming back to harm us any more than we can solve inflation at home at the expense of the unemployed. At the same time we have to be sure that other nations do not try to solve their problems at our expense.

As we move strongly to meet our problems internally, I think we should be equally firm in our determination to seek with other nations a more open world economy in which global trade and finance can enhance the ability of nations to meet their problems rather than solve them at the expense of one another. Cooperation on trade rules, monetary reform, investment, energy, and commodity supplies is essential if we are to move forward economically, and if the menace of inflation is not to become a worldwide phenomenon.

REMARKS OF SENATOR PETE DOMENICI TO THE STEERING COMMITTEE FOR THE SUMMIT CONFERENCE ON INFLATION

My colleagues and I have pointed out that we consider balancing the federal budget during this fiscal year to be extremely critical to success of any overall plan to bring inflation under control and to stabilize and strengthen our nation's economy. I would like to extend that basic proposition with some additional remarks on the urgency of this specific action.

The history of Congressional inability to deal adequately with Federal government spending is well-documented and needs no great elaboration here. I think it is sufficient to point out that not since Fiscal Year 1969 has our Federal government receipts exceeded its outlays. An even more dramatic fact is that Fiscal Year 1969 is the *only* year since 1960 that the Federal government has operated in the black. The result is that our national debt now stands at $482 billion and the interest on that debt is now running at about $31.5 billion a year.

During the same period from fiscal 1960 through fiscal 1974, annual outlays by the Federal government increased from about $92 billion to about $270 billion. This year the Administration's budget request projected total spending at about $305 billion.

These astronomical increases in expenditures and their accompanying deficits are the final responsibility of the Congress. It is the Congress that has the power and the duty to raise money and determine how it be spent. Our outdated system for fulfilling that tremendous responsibility has been entirely deficient in the past, contributing directly to both the present size of our budget and our national debt, and also to the uncontrollability of the Federal spending process.

Many Members of Congress point with pride to claims that they as individual legislators have consistently voted for less money than the Administration requested for some specific program or for all programs. The hard truth is, however, that Congressional action or inaction during the four-year period from Fiscal Year 1970 through Fiscal Year 1973 actually had the effect of increasing outlays by almost nine billion dollars over the outlays anticipated in those budget requests. Again, there can be no doubt that the lack of a Congressional budgetary system contributed to that unfortunate situation chiefly because of the existence in our present system of "uncontrollable" items. The Fiscal Year 1975 budget estimate of $305 billion is made up of about $226 billion which falls into this category of uncontrollable for many reasons, but basically because our lack of a decent budget system encouraged it.

We have a new budget system which will correct many of the gross deficiencies and eliminate many of the problems I have cited. This new system will, for the first time, permit the Congress to consider simultaneously and in relationship to each other, the three major elements of the Federal budget:

1. Its total amount;
2. The appropriate distribution of that total among all the many worthwhile uses to which it could be devoted; and
3. The appropriate relationship of that total amount to revenues generated by the Federl government.

I have supported the activities of the 93rd Congress which produced this landmark legislation and I am confident that it will provide the framework to allow the Congress to conduct this Nation's financial affairs much better than in the past. The unfortunate fact is that this is purely a future prospect and our needs relative to economic stability and inflation control are *here and now*. We must take decisive action on the Federal budget right now if there is any benefit to be gained from such action.

My own premise is that there are definite and identifiable benefits to be gained from immediate action to obtain a balanced Federal budget in FY 1975, the current fiscal year. I am convinced that this is a specific action which can set the stage for such other elements of a comprehensive inflation control plan as may ultimately be developed through the economic summit or any other process.

I have concluded that this Nation's ability to generate the tremendous amount of investment and savings capital will be increased in direct proportion to decreases in Federal spending. This is true, particularly under present circumstances when every additional dollar spent by the government takes that dollar away from the supply of savings available to the private economy. In short, we must reduce the inflationary stimulus provided by government spending and the best way to do that in the near term is to limit spending to income produced during the current fiscal year.

I am not unaware of the arguments made by many prominent economists that reductions of this amount in Federal spending may have little effect or in fact, be counterproductive. For my own part, however, I am convinced that those reductions will have a direct beneficial effect, for many reasons some of which I have mentioned and therefore must be undertaken.

I am also convinced that there are some indirect benefits which will flow from reduced Federal spending. The first of these has to do with psychology and credibility—the psychological effect on the American public and the credibility of the Federal government, especially the Congress and the Executive, to respond to our economic crisis.

There can be no doubt that we will have to reduce total demand for goods and services, requiring personal and business restraint and even sacrifice. We cannot expect our citizens to meet those challenges, to contribute for the common good, unless those of us who control the Federal spending machine are willing to do the same thing. In short, our efforts to control inflation in order to be credible with the American people must be predicated on restraint in government spending.

The second and very important indirect benefit I see flowing from reduced Federal outlays is the "grease" it will provide for the application of other essential elements of a truly comprehensive plan for curbing inflation. The most obvious example is that a lower level of government spending would reduce the burden placed upon monetary policy as the great stabilizer of the economy. Doctor Arthur Burns has frequently stated that if the Federal budget could be trimmed there could be an easing on the money supply which has served to keep credit tight and hold interest rates at record levels.

I would be remiss if I were to conclude without mentioning an extremely important consideration in reducing Federal outlays. At its easiest—just making uniform cuts in the various appropriations bills or the budget request—it would still be extremely difficult. But we cannot afford the luxury of accepting the easiest way, although that way may be exceedingly difficult itself. We must face up to the even more difficult task of selective reductions in some government programs. It will take the utmost in genuine cooperation between the Executive and the Congress to reshape the Federal budget even by the relatively small amounts in question here so as to hold inequities and resultant disruptions to a minimum.

I would not even suggest that I have those kinds of answers at this point. I can promise, and in this I am sure I speak for my colleagues who helped start this movement toward a domestic summit on the economy, that these answers must be found. They must be found and integrated into legislation initiatives required to reduce Federal spending. My colleagues and I have been working on various legislative approaches to provide the framework of flexibility the Congress and the Executive will need to hold actual government expenditures to the level of actual government receipts for this fiscal year.

Food, Energy, and Other Basic Materials

(By Senator Walter D. Huddleston)

America, and the world, may have gone from the golden age of plenty to an exaccerbating era of shortages and/or high commodity prices. Experiences with foodstuffs, energy, and most basic raw materials point to this fact.

Food became, for the U.S., the first inflationary shortage apparent to consumers. In an effort to pursue dentente and, at the same time, balance the trade account, the U.S. in 1972 exported vast quantities of wheat to Russia. This massive program, an extension of 20 years of foreign policy, helped create shortages—and higher prices—at home. This year, a most serious drought in America's bread basket may well reduce total crop production by 6% and boost consumer prices by 13% to 17%. Last year, retail food prices rose 14.5%.

Compounding weather problems are cost increases in energy and related products critical to farming. Petrochemical fertilizers have increased corn crop yields from 40 to 125 bushels per acre; without these products the U.S. would pay $20 billion more for its food. But, fertilizer prices have risen rapidly as have the prices of seed, equipment, labor, feed and interest.

And, further price increases could result from other factors. There are no domestic or world wide grain reserves to cushion a shortfall or to meet a disaster. Some of the U.S. and Canadian grain crop was planted late and could fall victim to early frost—which has already occurred in Canada and the upper parts of the Midwest. Relief efforts of still unknown dimensions will be required for the survival of millions in Asia and Africa.

Along with various foodstuffs, available oil, gasoline, and related products have witnessed dramatic shortages and inflationary problems. Long gas lines remain the most prominent symbol; a crude oil price increase from $3.00 to $10.00 per barrel over a 12-month period remains as the economic measure of inflation.

Oil shortages result in part from declining domestic discovery, oil field yield. and oil field production.

Cartelization of Arabian supplies, where the vast majority of proven reserves exist, has compounded the problem. The impact of that cartel can be seen in the fact that OPER will garner some $70 billion more this year than in 1973, disrupting the entire world money flow and creating a new economic problem—petrodollars.

Those tables demonstrate clearly a general cost increase to the U.S. consumer in terms of gasoline, home heating oil, electricity and food.

If energy is a problem, so are the other basic materials of life. One example of commodity shortages is the fact that there is not enough steel available to build all of the oil drilling equipment on order; the effort to switch from oil to coal was hampered by a shortage of roofing bolts. Aluminum, also in short supply, faces cartelization of bauxite producing countries; all mineral industries must bear higher costs of raw materials and energy. Thus, after 20 years of price stability in basic materials, brutal inflation has set in.

While the U.S. may be moving from a demand-pull to a cost-push inflation, there are unquestionably industrial commodities which remain in short supply and situations where commodity price increases have not made their way through the industrial process into end products. And, there are strong indications that demand will remain strong for industrial materials, especially if we are to seek such proposed goals as increased energy self-reliance, extension of mass transit systems, improved housing and expanded rural development.

The report "Understanding the Energy Dilemma", published by the Joint Committee on Atomic Energy states: "Trends indicate that from the year 1970 through about 1982 or 1983, the United States will use as much oil and gas as it has used from the beginning of its history until the year 1970. To compound the problem, much of the world itself now has energy consumption patterns that are growing at a faster rate than our own." Other commodities face similar, equally dramatic, demand situations.

Solving the shortage problem, in the face of rising consumer expectations, requires massive industry expansion—creating a need for capital. The National Academy of Engineering (NAE) estimates that the energy industry will need to invest $60 billion annually between now and 1985. The Chase Manhattan Bank estimates that capital investment in non-energy mining and mineral processing must total $90.5 billion by 1978 to keep pace—at current rates of inflation. NAE contrasts this to total industrial capital investment in the U.S. for 1972, of $100 billion; that year personal savings and retained earnings totalled $80 billion. Capital, too, is scarce; the scarcity and the resulting price inflation in money is demonstrated by a current prime rate of 12% up from 10% in 1973 and 5¾% in 1972.

The decline in quality of resources, as previously seen in domestic petroleum, and the systematic withdrawal of undeveloped material-producing lands (i.e., some near surface coal, farm lands in developing suburban areas, and some off-shore oil fields) only aggravates the problems of scarcity and capital expenditures to find and develop new areas.

Thus, shortages and high prices permeate commodities from food through energy, metallic and non-metallic minerals. These shortages led President Ford to state, when signing into law the Forest and Rangeland Renewable Resources Planning Act of 1974: "One of the essential lessons of the recent energy crisis is that if we are to prevent shortages of natural resources in the future, we must plan for the future today. Our resources, however abundant, are not inexhaustible. They must be conserved and replenished."

Resources of varying quality do exist, sufficient for a dynamic economy. Their scarcity in high quality from domestic sources, and the inability of the materials industry to expand its extraction, harvesting and processing activities within a stable marketplace of both materials and money, has turned an age of abundance into a possible age of relative scarcity and inflation. This holds true for producers and consumers alike in such industries as food, energy, petrochemicals, steel, aluminum, copper, housing, transportation, and across the entire breadth and width of the economy.

The resolution of shortage and high commodity price problems lies in both short and long-term policy options.

In agriculture, close monitoring of foreign sales and exports must be maintained. Intermittent meetings should be held among the importing and exporting nations to determine true needs and sales which might be delayed or withheld. Efforts must be undertaken to insure that all nations share the burden of providing food grains when needed to relieve hunger and starvation. Agricultural inputs must be made widely available on a priority basis.

Over the longer run, we must examine closely the premises upon which our production estimates are based; is the U.S. an ever yielding agricultural basket or are there physical and economical limits to the amounts of grain and foodstuffs which we can raise?

In energy, not only is it important that the U.S. take steps to conserve and secure supplies and to develop our own vital domestic resources, but we must also take steps that seek to insure that the use of the so-called "petro-dollars" is responsible and does not lead to the downfall of international trade and finance.

In the non-fuel minerals and raw materials area, new impetus should be given to discovery and development efforts. Additional emphasis must be placed upon research to discover more economical ways of utilizing lower grade ores, to substitute less expensive materials and to encourage the use of recycled items. Provision must be made for adequate industrial capacity to produce the materials we need to provide our citizens with an acceptable standard of living and to guarantee our ability to meet the goals upon which our nation's economic and military strength depend. The structure of our basic industries must be reviewed to determine whether or not they are as efficient as possible and to determine what antitrust efforts are required.

In the shorter run we must seek to restore confidence and certainty in the business community, to restrain price increases beyond that merited; to reassure the consumer that efforts are being made to provide reasonably priced and readily available goods for the future.

Statement by Senator Sam Nunn to the Steering Committee for the Economic Summit Conference

PRODUCTIVITY

The success of the American economy since the end of World War II has been based on the fact that productivity has almost doubled in the past 25 years.

Since 1947, productivity in the total private economy has grown at an average rate of 3.1 percent per year. However, in a number of recent years the rate of growth fell well below this average. In 1969 and 1970, for example, output per man-hour increased only 0.4 percent and 1 percent respectively, although productivity then grew at a faster than average rate for the next two years. However, beginning toward the middle of 1973 and continuing through the first half of 1974, productivity has hardly grown at all.

A healthy rate of productivity growth means that the economy can support a steadily rising rate of wages without necessarily forcing a major increase in prices. The absence of productivity growth during the past year has intensified inflationary pressures throughout the economy. With a strong productivity performance, the economy would have been better able to absorb the cost of the many wage increases recently granted employees. The result has been a sharp increase in unit labor costs. Employers, faced with such a sharp rise in cost, naturally attempt to pass the increased cost along to consumers through higher prices.

No single action—law, executive order, or private decision—can possibly have a prompt positive effect on productivity growth. Over the long term there are a number of areas encompassing the major factors affecting productivity which warrant attention including:

a. capital investment;
b. technological advances;
c. structure of private industry;
e. labor and management programs;
f. government programs.

Productivity is a critical factor in attaining higher living standards. The recent lack of growth in productivity has intensified inflationary pressures throughout the economy. Because of the number and complexity of the factors affecting productivity, it is difficult to pinpoint the causes of productivity decline and prescribe remedies to yield prompt effective results. However, because productivity is a critical factor, it is necessary to address the problem and try to find solutions. The American public needs to understand the role of productivity and its effect on the economy.

I would propose that the National Commission on Productivity and the Work Force or another appropriate agency of the Executive Branch be provided with additional funding to undertake an intensive two-year program to fill this need and provide the information needed by the general public to understand the role productivity plays in our economy. I would also propose that the Commission or agency so designated stimulate the efforts of engineering schools, business schools, and other appropriate state and local organizations having the requisite expertise to find ways to increase productivity. I believe that substantial benefits can be gained with minimal investments in such endeavors.

As an example of such an endeavor, I would cite the efforts currently under way at Georgia Tech. There the engineers and scientists are seeking, within the confines of their limited financial resources, to assist individual industries with their specific productivity problems.

In order to speed up the delivery of improved technology, the representatives of the Georgia Tech Experiment Station, functioning essentially as "county extension agents", visit companies and trade groups throughout the state and identify specific productivity problems. Next, they assist the industry in finding and implementing solutions to deal with these problems.

The Georgia program is already achieving meaningful productivity gains in several industries. I believe that the concept can be employed throughout our country by drawing upon the expertise of the academic community or by establishing separate state or regional productivity centers to assist industries in the implementation of improved technology and management systems to increase productivity. I recommend that the Economic Summit Conference explore this concept and consider the establishment, through appropriate agencies, of this productivity consultative concept.

In the belief that this type of system could have meaningful short term and major long term benefits, I am attaching a copy of a draft proposal by the Georgia Tech Experiment Station which details their efforts and suggests a possible nationwide application of the system.

PROPOSAL FOR A PROGRAM TO INCREASE INDUSTRIAL PRODUCTIVITY

(Submitted by Engineering Experiment Station at Georgia Tech)

Purpose: The purpose of the proposed program is to develop and demonstrate methods for improving industrial productivity through systematic application of technology. A State Productivity Program, incorporating elements of the Georgia Tech Engineering Experiment Station's productivity program, will be developed. Attention will be directed to factors that will allow the program to be replicated (1) in other states, (2) on regional bases, and (3) nationally.

Objectives: One objective of the program is to show that productivity can be increased in several industrial segments by:

(1) Identifying technical problems affecting the productivity of selected industrial segments.

(2) Developing economic solutions to these problems through specific development projects, and

(3) Translating these solutions into use by industry.

A second objective of the project is to develop productivity program structures that can be replicated on state, regional, and national bases and to provide assistance for national policy-makers in decisions concerning the relationships between industrial productivity requirements and state and national technical resources.

INTRODUCTION

The causes of inflation are, of course, many and not fully understood. There is consensus, however, that improved productivity is a key ingredient in any anti-inflation campaign. One method for improving industrial productivity is through the systematic application of technology to industrial processes. The proposed program addresses the technical aspects of increasing productivity. It has several advantages:

(1) It is a "here and now" effort, capable of achieving realistic cost savings in the short run.

(2) It establishes a base for more substantive work in the more complex and longer range aspects of productivity.

(3) As a pilot effort in Georgia, it has the potential for expansion to regional and national levels of activity and, consequently, for a significant impact on the national problem of inflation.

BACKGROUND

The industry of Georgia, along with that of other states, faces the twin problems of inflation and resource scarcity. These problems are being addressed through the Productivity Program at Georgia Tech. In this program, productivity problems in the following industries have been identified in coordination with industry personnel:

(1) Food processing;
(2) Sawmills and lumbering;
(3) Carpet manufacturing; and
(4) Stone and granite production.

These problems include: energy use reductions, automation development, waste utilization, and reduction of the impact of government regulations on small business.

Engineering and economic analyses of the problems have led to pilot development projects in each area. In these projects, technology is being applied to develop cost-effective engineering solutions that will allow products to be produced at less cost. Results of these projects are being delivered to users through direct industry contact and through appropriate trade association briefings, seminars, and publications.

A particularly good example of the approach that has been followed is in the poultry processing industry. Here engineering teams and industry personnel identified, during site visits, the need for automation equipment to alleviate the already critical labor shortage. A development project has been conducted to design poultry handling equipment. This equipment has been successfully demonstrated to the industry and is currently being transferred to private industry for manufacture. Not only has this project led to solution of one particular problem, but through the rapport established with industry several other productivity related technical problems have been identified and pilot efforts have been initiated in these areas.

METHOD OF APPROACH

In the proposed program, the key elements are:

(1) Identification of problems that reduce productivity.

(2) Conduction of development projects.

(3) Delivery of results to industry.

The interrelation of these elements is as important as the element themselves. A necessary factor for success of this program is that the three separate functions must operate in a closed-loop fashion. That is, information developed during work on the project and delivery of results must be treated as new information that may identify or help to define other productivity related problems.

In the proposed program, specific productivity related problems will be identified and defined in coordination with industry. In our view, this task will include engineering and engineering economics studies of industrial operations to define specific problem areas where worthwhile pay-off can be achieved. Secondly, after problem areas have been defined, specific projects will be conducted to obtain required solutions. Thirdly, results will be delivered to industrial users and the economic incentive will be demonstrated.

Since the methods described above are independent of the specific industry sectors addressed, they should be applicable to productivity problems in other states, to regional needs, and to national requirements. Furthermore, trade association memberships transcend state and regional boundaries. Consequently, use of associational definition and delivery vehicles should be helpful in applying the techniques developed in the proposed effort to more general utilization. In conduction of the program, attention will be directed to identifying factors necessary for successful translation of the program elements into use in other states and regions. Special attention will be directed to considerations necessary for implementation of a national program.

It is proposed that the Engineering Experiment Station undertake the identification and problem definition effort using its resources. It is further proposed that funds be provided to conduct development projects that have already been identified through the EES productivity program in the areas of:

(1) Industrial Noise Control techniques for the sawmill and lumbering industry,

(2) Waste Utilization techniques to develop uses for industrial wastes generated by the carpet and apparel industry,

(3) Energy reduction techniques for the carpet, food processing and agricultural industries,

(4) Automation development for the food processing industry.

It is proposed that delivery of results be funded cooperatively using EES resources already allocated under the EES Productivity Program and funds allocated to the proposed program.

FUNDING REQUIREMENTS

I. Identification of problems that reduce productivity.

EES participation through the EES Productivity Program to identify and define, with industry, technical problems that reduce productivity—$100,000; Federal contribution—$0.

II. Conduction of Development Propects.

EES participation	$0
Federal participation:	
Development of noise control techniques	200,000
Waste utilization	200,000
Energy reduction	250,000
Automation development	100,000
Total	750,000

III. Delivery of results to industry:

EES participation through EES productivity program	$100,000
Federal participation	150,000

APPENDIX

Productivity program outline

I. Identification of Problems that Reduce Productivity.

A. Conduct site visits with engineering teams and industry personnel to identify productivity problems.

B. Develop potential solutions to the problems.

C. Perform cost-benefit analyses of the proposed solutions.

D. Determine, in cooperation with industry personnel, the most advantageous projects to undertake.

II. Conduction of Development Project.

A. Establish project teams.

B. Establish industry advisory groups to provide guidance.

C. Conduct the development effort.

III. Delivery of Results to Industry.

A. Demonstrate the feasibility of the solution to industry.

B. Work with trade groups and equipment manufacturers to transfer the new technology.

C. Evaluate the impact of the new technology on the industry.

A PREMATURE PARDON

Mr. PELL. Mr. President, the blanket and absolute pardon granted former President Nixon by President Ford is, I believe, premature and unwise at this time, coming as it does before any formal charges were filed against Mr. Nixon and before any admission or judgment of guilt before a court. Unfortunately, the granting of this absolute pardon at this time effectively closes the door on the possibility of formal judgment being entered through the judicial process.

The American people are a compassionate people. They are not vengeful. But wrongdoing by a President of the United States is a gravely serious matter that affects the entire Nation. And when a former President is granted a pardon, I believe the people have a right to know just what illegal acts, or acts of omission, were committed and pardoned.

This premature pardon has deprived the American people of any hope of a definitive judgment that would finally conclude this unhappy chapter in our national history. Instead of a judgment, the American people have been given a large question mark, and that question mark will remain throughout the history of our Nation.

The pardon, coming as it does before any charges were filed and before any finding of guilt, also raises the specter of double standards of justice—one standard for the powerful and another for the powerless; pardons for the powerful and prosecution for the powerless.

All things considered, the pardon of Mr. Nixon, while a compassionate act, was a disservice to the American people.

SOME ASPECTS OF DÉTENTE

Mr. BROCK. Mr. President, in view of the varied interpretations of the last summit meeting in Moscow and of the underlying concept of détente, I think this is an appropriate moment to take stock and to see where we are headed.

First, a few words about the word, "détente," itself. In this country there is a tendency to use "détente" indiscriminately and alternatively with the terms "peaceful coexistence" and "rapprochement," which people like to interpret as "the beginning of friendship with the Soviet Union." In my judgment, it is a mistake to be careless about these semantics, especially since the Soviets are very realistic and precise in their definitions. As a recent article in the influential Soviet journal, "Problems of Peace and Socialism," defines it:

> Peaceful coexistence is a specific international form of class confrontation linked to the people's struggle not only for peace but also for the revolutionary transformation of society to a strengthening of the Socialist community and to mass action against imperialism.

In view of the Soviet definition emphasizing that we are simply facing a special new kind of confrontation, it behooves us to remember that the term "détente" literally only means a "lessening of tension." If we are lucky, we may proceed from here to a period of peaceful coexistence, that is, living side-by-side without war, to a period of rapprochement, that is, coming closer to each other, and finally and hopefully to a beginning of friendship. By trying to sell this four-step sequence to the American people on an "all at once" basis, we are doing ourselves a disservice. Moreover, as I see it, we are laying ourselves open to a rude awakening. So much for semantics.

Turning now to the practical side of détente, we are faced with an extensive public debate about the merits of increased trade with the Soviet Union. Secretary Kissinger, in the course of recent hearings on the Senate side, was asked whether increased American loans and sales to the U.S.S.R. would not have a positive effect on Soviet military power. The Secretary's reply was that, "So far there has been no significant effect on the Soviet economy," that, "The Soviets have always allocated to the military sector whatever was necessary," that, "Our decision to trade or not to trade cannot bring about a reduction in Soviet armaments," and that, "We will keep trade on a level which has no significant impact on the U.S.S.R. economy."

With all due respect for Dr. Kissinger, I would submit that the Secretary's reply was rather ambiguous. If, as suggested, the aim of the administration is to leave trade on an insignificant level, one cannot help wondering what the fuss is all about. On the other hand, the answer, "The Soviet military will always get what they need," obviously challenges the intelligence of the listeners. Shall we then conclude that the Soviet Union is hermetically divided into a military and a civilian sector, and that whatever happens in the civilian sector will have no socioeconomic effects on the other part of the economy? Such a thesis is untenable. In view of the continued Soviet emphasis on more trade as a key feature of détente, it seems appropriate to take a look at the underlying rationale for the Kremlin's policy.

Any routine inspection of international economic statistics will show that the Soviet Union's GNP is second only to that of the United States, and that its military program is in effective competition with parallel endeavors in this country. On the other hand, there are economic criteria which are less easily discernible, and which indicate that the Soviet economic system is actually only half developed.

One of our distinguished scholars, Dr. Gertrude Schroeder, from the University of Virginia, has recently done some excellent work in this area of research, demonstrating that the unbalanced growth of the Soviet economy has resulted on one hand in near parity with American production in some sectors of heavy industry, and on the other in technological backwardness in consumer goods, industries, as well as in agriculture. Moreover, and most important, large reserves of mineral, fuel, and timber resources have remained unexploited.

According to Professor Schroeder's data, Soviet productivity in resource use—GNP per unit of the total inputs of labor and capital—was only about one-third the U.S. level, about half that of Western Europe, and about at the level of Italy. In 1971, labor productivity was about two-fifths of that in the United States, and productivity of labor in agriculture was only one-tenth.

The large lag of Soviet living standards behind those of the West is, of course, widely known. Soviet per capita consumption in the Soviet Union in 1971 was only one-third of that in the United States, a little more than half that of West Germany, France, and the United Kingdom, and below that of Italy and Japan. It is of particular interest that Soviet consumers are not even as well taken care of as their Communist brethren in East Germany and Czechoslovakia. Moreover, the above-mentioned data do not show the additional qualitative differences between Soviet goods and the products of market economies.

Naturally, the Soviet ruling circles are fully aware of this situation, and are now facing the dilemma of choosing between continued relative regression and accepting new methods of economic development. There are a number of reasons why the second choice is a difficult one for the Soviet leadership to make. Almost since the creation of the Soviet state, the Kremlin has used its labor and capital resources quite extravagantly, in order to obtain the fastest possible economic growth rate. This approach, while highly successful at the beginning, was of course facilitated by the huge reserves of manpower which existed in Russia's rural areas. By the middle of the sixties, however, this source of labor supply had been exhausted, with the result that the growth rate of the Soviet Union began to fall off.

The Kosygin-Brezhnev team, which for the last 10 years has been trying to achieve a more balanced and improved pattern of growth, is now encountering a serious impasse. Its earlier efforts to rebuild the Soviet economy in accordance with the much-publicized program of the Soviet economist, Lieberman, apparently have failed because of the emasculating influence of the Soviet bureaucracy.

This leaves the Kremlin with the choice of reorganizing the Soviet economy from the bottom up by doing away with solidly entrenched institutional arrangements, such as strict party control, central planning, arbitrary pricing, et cetera, through the introduction of a competitive market or to look for large-scale assistance in the form of capital and technology from the West. The Politburo's emphasis on "détente" reveals what the decision of the Communist Party has been.

What then are the potential effects on the Soviet economy of improved economic relations with the United States? In my judgment, the importation of heavy equipment and machinery from capitalist countries financed by long-term American, West German, and Japanese credits will solve for the Kremlin several problems with one stroke: It will make available the latest products of Western technology, thus eliminating the need for time-consuming and expensive experimentation; it will provide the necessary data and technical samples if mass production should later be required; it will permit the Soviet planners to continue their present distribution patterns by allocating on a priority basis the scarcest resources to the military sector; it will enable the Kremlin to make good on its promise to continue to raise Socialist living standards; it will permit the leadership to expedite the reorganization of their lagging agriculture; it will make it possible for the Soviet Union to retain and increase its substantial war chest of gold—with an estimated value of $10 billion—while eventually paying off its debts in cheaper dollars; and, most important, it will assist in the preservation and consolidation of Russia's economic and political system.

In view of these effects of U.S. assistance to the Soviet Union, it seems to me that Secretary Kissinger's implied assertion cannot be maintained that the Soviet military potential will remain unaffected. By the same token, it will be quite difficult to measure the impact of U.S. exports on Soviet armaments. Should we then conclude that more United States-Soviet trade is undesirable? Not necessarily. Clearly there ought to be a definite quid pro quo, but before elaborating on this point, we also must recognize that the bargaining position of the Soviet Union has greatly improved during the last year.

Actually, the change in the price of raw materials has benefited the Soviet Union to an extraordinary degree. The U.S.S.R. today is in an entirely different situation than it was 2 years ago. Earlier American official estimates predicted a Soviet hard-currency deficit of about $1.3 billion for 1973 and subsequent years. This data was based on estimated receipts of approximately $500 million for the main hard-currency exports from the U.S.S.R.; namely, oil, oil products, timber, and timber products.

Considering current commodity prices, however, the Russians should be able to earn at least four times more than they were earning before. This unexpected income should take care of the projected debts. In addition, there are also reports that since mid-1973 the Russians have been selling their military equipment for hard currency. The combined effect of these developments suggests that the Russians are no longer in desperate need of Export-Import Bank credits. Consequently, the threat to withhold these credits as well as MFN is not as strong a weapon as it was a year ago. In other words, it is necessary to be realistic and not to overrate our ability to pressure the Soviet Union.

Nevertheless, in view of the underlying political and economic factors mentioned, export expansion to the Soviet Union should be pursued only if the following conditions are met:

First, there ought to be a definite quid pro quo with the Soviet "quid" expressed in political concessions;

Second, the results and effects of increased trade with the Soviet Union must not be judged on a short-term basis. What is good for Occidental Petroleum is not necessarily good for the United States. To express it in more concrete terms, increased sales of machinery and technology will be reflected positively in the balance sheets of the American exporters and producers. They will also have a beneficial effect on the relevant payrolls, and they even will add to U.S. tax receipts. All these elements will be stressed by Soviet negotiators—who only have to copy the tactics of their predecessors applied in the case of previous emergency situations;

Third, the above short-term benefits must be weighed against possible long-term disadvantages involving the following questions:

How will credits be repaid? Are increased imports from the Soviet Union a realistic answer since the trade pattern of the last 50 years suggests otherwise? In other words, what do they have to sell on a competitive basis?

Can U.S. capital and technology not be put to better uses domestically or in other parts of the globe, particularly the developing nations?

Is a strengthening of the Soviet economy and of the Communist system in the U.S. national interest?

Is a long-range tying up of U.S. resources while leaving them under the exclusive control of the Soviet government advisable?

The Senate's Committee on Banking, Housing and Urban Affairs has recently been involved in considering these questions in connection with legislation which would extend the authorization of the Export-Import Bank. I have actively participated in these deliberations with the aim of asserting the all-important control of Congress with regard to our future relations with the Soviet Union. I believe that a modest positive response to the Soviet desire for expanded economic relations is in our national interest.

In my judgment, the risks of such a policy would be limited, and it would provide a continuing incentive to the Kremlin to conduct itself with restraint.

By the same token, it is necessary to recognize that the question of expanded relations with the Soviet Union must not be left solely to determination by the private interests of individual firms. Nor should it be determined by arguments about profits, jobs, balance of payments, or the loss of trade to other countries.

It is Congress which must have the authority to disapprove further business with the Soviet Union at any time by adoption of a concurrent resolution of disapproval. If we observed that our resources were being used to strengthen significantly Soviet military capabilities, or if the Soviet Union did not conduct itself with reasonable restraint in areas of conflict, we must be able to stop the upward development of economic relations promptly.

Accordingly, a continued review of Soviet-American trade combined with a careful evaluation of Soviet behavior in the diplomatic field will be necessary.

To sum up, it is necessary, in my judgment, to support actively the current policy of détente; however, this should be done without any illusions that trade will democratize the Soviet Union, and it should be done in such a fashion that Congress will be able to call a stop whenever national interest requires this.

MISSOURI IMPRESSED BY ERTS

Mr. MOSS. Mr. President, the Honorable Christopher S. Bond, Governor of Missouri, has written to me about Missouri's use of ERTS and high-flying aircraft data. Here is part of what he said:

> The potential of the ERTS program is impressive and I am hopeful that it could be established as an "operational" system.

Mr. President, I ask unanimous consent that Governor Bond's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE,
STATE OF MISSOURI,
Jefferson City, Mo., July 24, 1974.

Hon. FRANK E. MOSS,
Chairman, Committee on Aeronautical and Space Sciences, Washington, D.C.

DEAR SENATOR MOSS: Thank you for your recent letter inviting state government input with regard to the important matter of continuing with the ERTS System program.

Missouri state agencies and university scientists have had opportunities to study and evaluate many of the applications of ERTS imagery through the cooperation of NASA as well as the Department of Interior's EROS Program. We have also utilized data obtained from Skylab and high-level reconnaissance aircraft. Application includes mapping forest coverage in the Grand River Basin, regional structural geology, floodstage mapping, and land-use analysis. Both the Topographic Division and the Water Resources Division of the U.S. Geological Survey have used this data extensively in Missouri, and the Soil Conservation Service is making increasing use of it in their activities.

The potential of the ERTS program is impressive and I am hopeful that it could be established as an "operational" system. Strong emphasis should be maintained with respect to the supportive underflight coverage because of the broad application of that data. The importance of the acceptance and use of the program should not be overlooked.

Your interest in the ERTS program is sincerely appreciated.

Sincerely yours,
CHRISTOPHER BOND,
Governor.

PHILADELPHIA INQUIRER WINS JOURNALISM AWARD

Mr. HUGH SCOTT. Mr. President, over the recess, I was most pleased to learn that the Philadelphia Inquirer has won its 11th national journalism award. So far this year, the Inquirer has won more major national journalism awards than any other newspaper in the country.

I extend congratulations to Mr. Donald Drake for his award-winning article, "Life and Death and the Anesthesiologist," and a salute to the entire staff of this fine newspaper.

I ask unanimous consent that the Inquirer article announcing the awards be printed as part of today's RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INQUIRER WINS 11TH NATIONAL AWARD

The Philadelphia Inquirer has won three more journalism awards for 1973, including its eleventh national prize.

The latest national honor was won by medical writer Donald Drake for an article entitled "Life and Death and the Anesthesiologist." The award and $500 is presented by the American Society of Anesthesiologists.

Drake, a native of New York and a graduate of New York University, joined The Inquirer in 1966 and was science writer before becoming the newspaper's medical specialist three years ago.

Donald Barlett and James Steele won the Pennsylvania Bar Association's William A. Schnader journalism award for their series, "Crime and Injustice."

The investigative team of Barlett and Steele recently was honored by the American Bar Association for the same series and has won other national awards for that study of justice in Philadelphia and an investigative series on the oil industry.

For an article, "The Family Doctor Stages a Comeback," Inquirer reporter Murray Dubin won an honorable mention from the American Academy of Family Physicians.

So far this year, The Inquirer has won more major national journalism honors than any other newspaper in the country, the eleven national awards are:

The George S. Polk Memorial Award, the Sidney Hillman Memorial Award, two John Hancock Awards, the Heywood Broun Memorial Award, the American Bar Association's Silver Gavel Award, the UCLA-Gerald Loeb Memorial Award, the Walker Stone Award, the Ernie Pyle Memorial Award, the National Aviation and Space Writers Association Award and the American Society of Anesthesiologist Award.

THE RASMUSSEN NUCLEAR SAFETY REPORT

Mr. GRAVEL. Mr. President, it may take quite a while for independence experts to evaluate crucial parts of the AEC's report WASH-1400 on potential nuclear power accidents—the report which is widely referred to as the Rasmussen report.

In my opinion, the most significant statement in the whole report deals with the alleged consequences of the worst possible accident. The summary report makes the following statement on page 27:

> WASH-740 [the Brookhaven Report] assumed that 50% of all the core radioactivity would be released to the environment. This study [WASH-1400], using available experimental data, finds it physically impossible to attain total core releases as large as those used in WASH-740.

According to the main report of WASH-1400, this should be true for acts of sabotage too. On page 244, it says:

> The study did not explicitly consider the possible risk due to potential acts of sabotage. Of course, any consequence produced by sabotage could not exceed the largest predicted by the study and would likely be smaller.

FINDING THE CAUSE OF DISAGREEMENT

The main report presents, on page 118, the fractions of the core radioactivity which could be released in the worst possible accident or sabotage according to the new calculations.

These fractions may not be so different from the ones used by the Union of Concerned Scientists in July 1971, when those independent experts concluded that lethal effects would be possible up to 75 miles, and injuries up to 200 miles, downwind from a nuclear powerplant accident. In October 1973, they stated that more than 100,000 people could receive lethal or near-lethal radiation exposures from an accident at the Indian Point nuclear powerplant, 24 miles from New York City. That report is in the July 25, 1974, RECORD, pages E5023–E5024, reprint No. 90. The DCS is located at 1208 Massachusetts Avenue, Cambridge, Mass. 02138.

The Rasmussen Report comes up with a very optimistic assessment of the consequences of the worst possible nuclear power accident. No opinion of that assessment is possible until an independent analysis is made of the separate volume—appendix VII—which presents the assumptions, computer models, and data from which the release fractions were derived. In addition, appendix VI will have to be independently evaluated because it presents the models used for predicting the injuries and property damage caused by the radioactivity.

HOPING RASMUSSEN IS RIGHT

I will be a most happy man if the Rasmussen Report can be confirmed on the important matter of damage from the worst possible nuclear power accident. It is no fun for me to imagine this land threatened by radioactive disasters.

But I refuse to indulge in wishful thinking about nuclear safety. It would be irresponsible or naive in the extreme to accept the Rasmussen Report on faith when so many of its contributors have a direct personal stake in public acceptance of nuclear power.

It would be far more responsible in this case to take our guidance from the insurance industry. We will soon know if the Rasmussen Report has any credibility when and if the insurance industry starts to insure us against nuclear power plant accidents.

PREDICTIONS VERSUS "REAL EXPERIENCE"

As for the probability that the worst possible release of radioactivity will ever happen, I think figures like one-chance-in-a-billion-reactor-years are meaningless. I have already placed strong arguments on this point in the RECORD of July 25, pages 25337–41, reprint No. 90.

Before claiming it is a better study than previous studies, the Rasmussen report itself makes the following admission on page 25 of the main report:

> A review of previously performed estimates of the likelihood of failure of engineered systems reveals that they generally predicted probabilities that were quite small compared to real experience.

FUNDING A ONE-SIDED DEBATE

To produce the Rasmussen report's 11 volumes, it took 50 man-years of effort and 3 million tax dollars. This country may be in severe danger simply because Congress has never provided that kind of support to a team of independent experts who might well tell us a very different story about nuclear power hazards. In order to get any guidance untied to direct vested interests, Congress is depending on experts who must volunteer their effort on a spare-time basis.

Even with the equivalent of 50 experts working full time for a year, the Rasmussen report was limited to using just two nuclear power plants as the basis for the study.

The two plants chosen were the PWR Surry Power Station, Unit I, 788 megawatts electrical capacity, and the BWR Peach Bottom Atomic Power Station, Unit II, 1,065 megawatts electrical capacity. The basis for their selection was that they were the largest plants of each type that were about to start operation.

IMPROVING THE PRODUCT?

Designs for these two plants were started in 1966, according to the Rasmussen report, page 27. Since then, numerous and significant changes have been made in nuclear power plants. Of course the changes have been intended to increase and not to lessen their safety, but "the road to hell is paved with good intentions," as the old saying goes. In 1971, the Campbell Soup Co. produced chicken vegetable soup infected with lethal botulism. To use the words of the company's president:

> The accident occurred by several unusual conditions happening simultaneously . . . coupled with a new process designed to produce a better product.

SIXTH YEAR OF INDEPENDENCE OF SWAZILAND

Mr. HARTKE. Mr. President, September 6 marked the 6th year of independence of the Kingdom of Swaziland.

Swaziland, a beautifully rugged country in the southern sixth of Africa, was formerly a British colony. The first legislative body, an advisory council, was established in 1921.

The First Advisory Council fully intended to incorporate the Kingdom into South Africa, but because of South Africa's racial policies, after World War II, Great Britain began to prepare Swaziland for independence in response to political events that were taking place all over Africa.

The present head of state, Kind Sobhuza II, bears the title of Ngwenyama, which means lion or leader of the Swazi nation.

Today, Swaziland has a bicameral parliament that is elected every 5 years with the power to enact all laws.

The stable economy makes investment in Swaziland desirable. Based on the development of its mining industry, and followed closely by the sugar industry, which is second in export earnings, Swaziland consistently maintains a favorable balance of trade.

I take great pleasure in saluting King Sobhuza II, the Government and people of Swaziland on their National Day.

THE CONTRIBUTION OF DEFICIT SPENDING TO INFLATION

Mr. FANNIN. Mr. President, during the recent hearings conducted by the Senate Committee on the Budget, the committee was fortunate to receive the testimony of Murray L. Weidenbaum. Mr. Weidenbaum is Mallinckrodt Distinguished University Professor at Washington University in St. Louis and was Assistant Secretary of the Treasury for Economic Policy in 1969–71.

Professor Weidenbaum stated that one of the several ways in which the Federal budget exercises an inflationary effect is through subterfuges such as credit subsidies and off-budget agencies. By this subterfuge the amount of fiscal stimulus is underreported. The amount of fiscal restraint is overreported by using inappropriate measures such as the full-employment budget.

He further recommended that we halt new extrabudgetary credit programs. Credit programs are a second type of governmental activity excluded from the budget. This is done by means of loan guarantees and federally sponsored enterprises. So long as they are excluded from the budget, there is a strong incentive to convert Federal spending to these indirect techniques.

The August 1974 edition of the Morgan Guaranty Survey contains an article entitled "Federal Agency Financing" which strongly supports the testimony of Professor Weidenbaum. The article points out:

> The exclusion of large totals from the budget process can cause difficulties, of course, by severely underestimating the impact on the economy of federal government borrowing and spending.

The report goes on to state:

> Not to be overlooked is the hard fact that borrowing by federal agencies, particularly when conducted on the scale of recent years, can have serious consequences for the orderly functioning of U.S. financial markets. At the outset it must be recognized that the credit market activity of federal agencies does nothing to create new funds, but only influences the pattern of distribution of an already existing pool of funds. In effect, the superior borrowing power of the U.S. government is transferred to "private" federal agencies making them much stronger competitors for capital market funds than other borrowers. The result is that, by providing access to credit at lower costs and better terms than might ordinarily be available, federal agencies subsidize certain segments of society at the expense of others. And the size of this subsidy is not inconsequential: the value of interest subsidies for major direct and guaranteed loan programs approved in fiscal 1974 is officially estimated to exceed $7 billion over the life of the program.

Mr. President, this is an excellent article, and it is unfortunate that we cannot reproduce all the accompanying charts in the Record. I ask unanimous consent that the full text of the Morgan Guaranty Survey article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Federal Agency Financing

In May, when the Administration announced a big new program to head off a slump in housing, the first shoe was dropped. The money and capital markets did not have to wait long for the second shoe to fall: in short order the Federal Home Loan Banks and the Federal National Mortgage Association stepped up their borrowings—more than $5 billion since May and more to come—to give housing a financial lift.

Such borrowings spotlight an area of public finance which, unlike regular Treasury money-raising, remains relatively obscure to the general public: the large and expanding role of government credit agencies.

Federal agency borrowing, which began in 1917 with a modest program to help farmers, has blossomed out to encompass financing for such diverse activities as foreign trade, student loans, the postal system, and even construction of a football stadium and subway system for the nation's capital. And new agencies and instrumentalities keep springing up. Three of the latest: the Federal Financing Eank (which raises no funds for itself but which borrows on behalf of several federal agencies such as the Postal Service and the Farmers Home Administration), the Environmental Financing Authority, and the U.S. Railway Association, which is slated to begin operations in fiscal 1976.

As their number has proliferated the debt of these agencies has grown dramatically—from just over $1 billion in 1945 to more than $80 billion in 1973. As can be seen in the accompanying chart, the growth in agency debt in the postwar period has averaged 14.5% a year.

This enormous appetite for borrowed funds has made federal credit agencies a major taker of funds raised in securities markets. In 1973, for example, the agencies were by far the single largest borrower, accounting for more than 30% of the net increase in all securities in the U.S. (Bond market reception of federal agency issues is analyzed below.)

Original, federal credit programs were established to solve specific emergency problems such as the collapse of real estate credit during the depression of the 1930s. In recent years, however, the goals of the agencies have become much broader. More and more, the agencies have sought to effect changes in the allocation of the economy's resources in pursuit of social rather than purely economic objectives.

Following that pattern, federal agencies have directed their credit programs to certain areas, singling them out for preferential treatment. Such activities are said to provide so-called externalities: for example, a well-housed and well-educated population or a strong agricultural sector are believed to benefit the economy as a whole in excess of the costs involved.

Moreover, the credit-market activities of the federal agency sector are supposed to ameliorate the imperfections in domestic financial markets. Federal agency financing transforms weak regional markets into strong national markets and facilitates the shift of funds from areas where there is an excess supply to areas where there is a shortage. Additionally, federal credit agencies help to fill any gaps in credit availability of private financial institutions. A prime example is the secondary mortgage market provided by the Federal National Mortgage Association (Fannie Mae), the Government National Mortgage Association (Ginnie Mae), and the Federal Home Loan Mortgage Corporation (Freddie Mac).

Despite such recognized virtues, a growing number of financial analysts have begun to question whether continued expansion of the number and scope of federal agencies is sound. Indeed, some observers think the trend may already have gone too far.

Critics point to a number of drawbacks. Most obvious of these is the fact that the lion's share of agency borrowing is not reflected in the federal government's budget figures. (The "de-budgeting" trend among federal agencies is traced below.) Over much of the past five years, for example, borrowing by budget agencies has been insignificant relative to that of agencies not reflected in the budget (accompanying chart). Since a budget is basically a priority system, bypassing budget review makes it more likely that such programs may not be regularly subjected to cost-benefit analysis.

More important, perhaps, is the real possibility that federal agency programs can at times run counter to the aims of fiscal policy. Although all federal credit agencies are subject to some form of supervision and either by law or custom consult with the Treasury, from a purely operational viewpoint such borrowings often are fragmented and are conducted to accomplish some special objective, such as support for housing construction. While in itself such an activity is in accord with the stated purpose for which these agencies were established, it may take little account of the broader objectives of economic stabilization.

The President's 1972 budget message recognized this shortcoming:

"Federal credit programs . . . outside the budget . . . escape regular review by either the executive or legislative branch. The evaluation of these extra-budgetary programs has not been fully consistent with budget items. Their effects on fiscal policy have not been rigorously included in the overall budget process. And their effects on overall debt management are not coordinated well with overall public debt policy."

The exclusion of large totals from the budget process can cause difficulties, of course, by severely understating the impact on the economy of federal government borrowing and spending. Last year, for example, the net increase in direct U.S. Treasury debt was less than $8 billion, which would be construed as having a much smaller impact on the economy than in 1971 when Treasury debt increased by a very large $26 billion. However, when federal agency borrowing is added in, such an interpretation is markedly altered: the increase in the total of direct U.S. Treasury and federal agency debt is almost identical—about $30 billion—in both years.

Similarly, the activities of these agencies, particularly as they apply to the housing industry, can also act as a partial offset to counter-cyclical monetary policy. Since the housing industry relies heavily on credit, and therefore is quite interest-sensitive, it has historically taken the brunt of a restrictive monetary policy. Such a role for housing has been muted in recent years, however, as Congress has devised a variety of programs to ease the adverse impact on the housing sector. Massive support by federal credit agencies, while partially insulating the housing industry from the effects of tight money and high interest rates, has made it more difficult for monetary policy to influence real economic activity. Additionally, because so large a portion of funds is being siphoned off by the U.S. government and its agencies, the Federal Reserve System might feel constrained at times to be more expansionary than it wishes in order to provide added liquidity for private needs.

Not to be overlooked is the hard fact that borrowing by federal agencies, particularly when conducted on the scale of recent years, can have serious consequences for the orderly functioning of U.S. financial markets. At the outset it must be recognized that the credit market activity of federal agencies does nothing to create new funds, but only influences the pattern of distribution of an already existing pool of funds. In effect, the superior borrowing power of the U.S. government is transferred to "private" federal agencies making them much stronger competitors for capital market funds than other borrowers. The result is that, by providing access to credit at lower costs and better terms than might ordinarily be available, federal agencies subsidize certain segments of society at the expense of others. And the size of this subsidy is not inconsequential; the value of interest subsidies for major direct and guaranteed loan programs approved in fiscal 1974 is officially estimated to exceed $7 billion over the life of the programs.

Finally, borrowings by federal housing agencies can be self-defeating to the extent that they attract funds which ordinarily would have been lodged in thrift institutions—the major suppliers of mortgage credit—in the first place. In 1973, for example, households are estimated by the Federal Reserve to have bought more than $8 billion of federal agency securities in contrast to liquidations of $500 million in 1971 and $3.5 billion in 1972. The years 1971 and 1972 showed heavy flows of funds into thrift institutions; 1973, in contrast, was marked by a sharp round of disintermediation from the savings institutions. Currently, there are indications that small investors have exhibited keen interest in several recent large security issues of the Federal Home Loan Bank and Fannie Mae which together with noncompetitive tenders in the latest Treasury financing, may be viewed as a mirror image of recent disintermediation. To some extent, of course, such outflows from thrift institutions into agency securities and then back into housing represents a "wash" with not net impact on housing activity. Nevertheless, there are real costs involved: housing activity gets financed but only at the expense of generalized upward pressure on interest rates.

Today, against a background of financial strain and pervasive inflation pressures, a hard look at federal spending programs is needed. President Ford has endorsed that urgent requirement. It is to be hoped that the Administration and Congress will also be taking a hard look at the various federal credit programs outside the budget. It's a review that is long overdue.

How the Market Treats the Agencies

Late last month, the Federal Financing Bank (FFB)—the government's newest "off-budget" agency and a newcomer to the U.S. capital markets—auctioned $1.5 billion of short-term securities. Long anticipated, the issue was well received by investors: applications totaled almost $4½ billion which resulted in an initial average yield of 8.05%, only slightly above the yield on one-year Treasury bills marketed about the same time. The issue has subsequently dropped in price, raising the yield to around 9%.

Even so, the FFB issue was marketed at a lower rate than most other recent agency issues—reflecting some special features which made the FFB securities virtually indistinguishable from direct Treasury obligations.*

Increasingly, the obligations of federal agencies have become popular outlets for the funds of a wide range of investors. At the end of 1973, this was the pattern of ownership:

	Billions of dollars
Commercial banks	29.6
Households	20.0
Nonbank finance	19.8
State and local governments	8.1
Corporations	4.3

In addition to the obvious rate attraction (recent issues by the Banks for Cooperatives and the Federal Intermediate Credit Banks yielded 9⅞%), the popularity of agency securities is not difficult to understand. Some agency securities (such as FFB and Farmers Home Administration securities and Ginnie Mae "pass-throughs") are backed by the full faith and credit of the U.S. But even those issues that do not contain this explicit guarantee (e.g., Fannie Mae issues) appear to be nearly riskless: they are the legal obligation of the issuing agency, an instrumentality of the U.S. government, and are usually backed by other assets such as mortgage pools, which themselves are often insured. Further, most of these agencies have stand-by authority to get emergency loans from the U.S. Treasury. Another strong attraction is that interest on most federal agency securities (Fannie Mae is a notable exception) is exempt from state and local taxes, which further increases their yield.

All in all, with the exception of direct Treasury issues, federal agency securities are the highest quality debt available—and the market treats them accordingly.

Debudgeting the Budget

In 1967, the Commission on Budget Concepts, appointed by President Lyndon Johnson, recommended sweeping reforms in federal budget format. These recommendations provided the impetus for removal of credit agencies no longer federally owned from budget coverage.

Over the past half dozen years, six agencies (the Federal Land Banks, Federal Intermediate Credit Banks, Banks for Cooperatives, the Federal National Mortgage Association, the Federal Home Loan Banks, Federal Home Loan Mortgage Corporation)—comprising what is collectively referred to as "government-sponsored enterprises"—have been "de-budgeted." More recently, a seventh—the Student Loan Marketing Association—has been set up outside the budget. Even though privately owned, the seven are federally chartered and borrow under U.S. government auspices. The transactions of this group have been excluded from the budget, and their debt is not part of the gross federal debt nor is it subject to the federal debt ceiling established annually by Congress.

The latest wrinkle is to de-budget wholly-owned government agencies. Examples are the Export-Import Bank, removed from budget coverage in August 1971, and the Postal Service, which was de-budgeted in July 1973. In the process a new concept has been spawned: "off-budget" agencies (in contrast to "government-sponsored agencies"). Their debt is included in gross federal debt but is not subject to the statutory debt limit.

And the list of "off-budget" agencies keeps growing. Effective May 1973 the Rural Electrification Administration and the Rural Telephone Bank were excluded from the budget and given expanded authority to borrow from the public. Similarly, the newly created Environmental Financing Authority, U.S. Railway Association, and the Federal Financing Bank are all "off-budget" agencies.

NET BORROWING BY FEDERAL AGENCIES

[In billions of dollars]

	1969	1970	1971	1972	1973
To aid housing:					
Government National Mortgage Association[1]	−1.1	−0.4	1.4	1.6	2.9
Federal Home Loan Bank System	3.7	2.1	−2.7	.6	8.8
Federal National Mortgage Association	4.1	4.7	2.5	1.5	3.8
Federal Housing Administration	(1)	−.1	(2)	(2)	(2)
Total housing	6.8	6.3	1.1	3.7	15.4
To aid agriculture:					
Commodity Credit Corporation	−.8	−.3			
Banks for Cooperatives	.1	.3	(2)	.1	.7
Federal Intermediate Credit Banks	.6	.7	.7	.3	1.1
Federal Land Banks	.6	.5	.7	1.0	1.9
Farmers Home Administration		.9	.8	2.1	1.8
Total agriculture	.4	2.0	2.2	3.5	5.5
For other purposes:					
Export-Import Bank	−.6	−.3	−.5	1.2	(2)
Tennessee Valley Authority	.2	.3	.4	.5	.4
Postal Service				.3	(2)
Student Loan Marketing Association					.2
Government Services Administration				.4	.2
Washington Area Metropolitan Transportation Authority				.2	.4
Total other	−.4	(2)	(2)	2.6	1.2
Total agency borrowing	6.8	8.3	3.3	9.7	22.1

[1] Includes pass-through securities.
[2] Less than $50,000,000.

MONEY AND CAPITAL MARKET SECURITIES, 1973

[Dollar amounts in billions]

	Amount	Percent
Net increase in:		
Federal Government securities	$7.7	11.0
Federal agency securities	22.1	31.3
State and local government securities	10.1	14.3
Corporate and foreign bonds	13.0	18.4
Open-market paper	12.0	17.0
Investment company shares	−1.6	−2.2
Other corporate equities	7.3	10.3
Total	70.6	100.0

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business?

If not, morning business is concluded.

UNFINISHED BUSINESS (S. 707) TEMPORARILY LAID ASIDE

The PRESIDING OFFICER. Pursuant to the previous order, the unfinished business (S. 707) will be temporarily laid aside and will remain in a temporarily laid aside status until the close of business today.

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*These include, among others: a short (eight-month) maturity; "full faith and credit" guarantee; auction through the Federal Reserve at a regular Treasury bill auction; full tax and loan account credit; and eligibility for Federal Reserve collateral, wire transfer, and savings and loan investment.

COMMODITY FUTURES TRADING COMMISSION ACT OF 1974

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 13113, which the clerk will report.

The second assistant legislative clerk read as follows:

A bill (H.R. 13113) to amend the Commodity Exchange Act to strengthen the regulation of futures trading, to bring all agricultural and other commodities traded on exchanges under regulation, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Time for debate on this bill shall be limited to 2 hours to be equally divided and controlled by the Senator from Vermont (Mr. AIKEN) or his designee and the Senator from Georgia (Mr. TALMADGE), with 1 hour on any amendment, 30 minutes on any amendment to an amendment, and 10 minutes on any debatable motion or appeal.

Who yields time?

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. TALMADGE. I yield to the distinguished Senator.

Mr. CURTIS. Mr. President, I ask unanimous consent that the time allotted to the distinguished Senator from Vermont be granted to the junior Senator from Nebraska.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on Agriculture and Forestry be granted the privilege of the floor during the consideration of H.R. 13113: Michael R. McLeod, Carl P. Rose, Henry J. Casso, Forest Reece, William Taggart, and James E. Thornton.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, H.R. 13113 makes extensive changes in the Commodity Exchange Act, brings under Federal regulation all agricultural and other commodities, goods, and services traded on exchanges, and otherwise strengthens the regulation of the Nation's $500 billion commodity futures trading industry.

The bill is designed to further the fundamental purpose of the Commodity Exchange Act in insuring fair practice and honest dealing on the commodity exchanges and providing a measure of control over those forms of speculative activity which often demoralize the markets to the injury of producers, consumers, and the exchanges themselves.

Mr. President, one of the earliest signals of the current economic troubles was evident in the commodity futures markets. Unexpectedly, large export sales, very tight stock positions, and continued uncertainties due to weather all contributed to major surges in commodity prices.

The most dramatic price swings were in the futures markets. At the same time, the volume of futures trading has increased enormously. The expanded activity of futures trading and especially the persistent price increases have caused a wide-felt concern that market abuse and manipulation of prices were occurring.

In response to the apparent problem, several bills were introduced in both the House and Senate. The House, after extensive hearings, passed H.R. 13113, which was referred to the Committee on Agriculture and Forestry, as were several Senate bills.

The Committee on Agriculture and Forestry during consideration of these proposed bills held extensive hearings. In total, over 75 firms, associations, government agencies and other interested parties appeared before the committee or submitted testimony for the record.

The most evident fact in both the evidence presented to the House and in our hearings was the inadequacy of the currently regulatory machinery, established by the Commodity Exchange Act, to cope with the changing nature of futures markets.

Briefly, the development of futures markets—which took shape between 1850 and 1900—was a natural development to meet producers' needs for stable markets as well as commodity users' need to assure supplies in the future. These markets also enable widely separated buyers and sellers to "hedge" and carry on market operations without meeting face to face. They also allow the shifting of risk to third parties through speculation.

Legislative focus during the formative years was mostly on prohibiting futures trading, but during the early part of this century the focus switched from prohibiting futures trading to regulation of futures trading.

The Futures Trading Act of 1921, based on the taxing power of the Constitution, was the first regulatory effort, but this law was ruled unconstitutional. The same legislation was reintroduced in 1922 as the Grain Futures Act, but it was based on the commerce clause of the Constitution and was upheld.

The Grain Futures Act proved inadequate, but it did provide the basis for investigations by USDA, which subsequently submitted legislative recommendations beginning in 1927. After extensive hearings in the 1934-36 period, the legislation was renamed the Commodity Exchange Act in 1936, and broader coverage and authority were included in the act.

Between 1936 and 1968, the Commodity Exchange Act was amended repeatedly to meet the changing conditions and needs of the market. But these many amendments have not changed the basic form of commodity futures regulations, and the flexibility and general capability to regulate are limited by the law. Specifically, a large number of commodities are exempted from regulation. While the current act has served us well, it is clear that it was written for a much simpler economy and at a time of significantly lower trading volumes.

During the past fiscal year alone, the value of contracts traded on the regulated exchanges jumped 28 percent to over $341 billion. This represents a fivefold increase in just 5 years.

In addition, the value of futures contracts of nonregulated commodities traded in 1973 exceeded $150 billion. This makes the total commodity futures industry a $500 billion a year business—something quite different from what was envisioned when the act was drafted.

It is clear that the existing Commodity Exchange Act was not designed to handle the volume or complexity of today's market. The overwhelming weight of the testimony in 2 weeks of hearings before the Committee on Agriculture and Forestry was in favor of major revisions of the act as well as in the Commission's role and composition.

Several fundamental changes seem imperative to assure the Commission's basic purpose of insuring fair practices and honesty on the exchanges; controlling speculative activities that periodically demoralize markets, represent potential injury to producers, processors, consumers and ultimately the exchanges themselves; and efficiently providing the economic services so necessary to our economy.

The most basic question considered was what type of Commission would be best and what its relationship to other Government agencies should be. The overwhelming weight of the testimony favored a full-time and independent Commission. The size of futures markets, the importance of futures trading to our overall economy, and the need for neutrality all require an independent full-time Commission free of any potential conflicts of interest.

A part-time Commission would lack the prestige needed to carry out effectively their responsibilities. It would be difficult if not impossible to attract the quality of people needed for this Commission on a part-time basis, and the decisions of a part-time Commission could easily become staff-dominated, negating the importance of the Commissioners.

A clear possibility of conflict of responsibilities exists if the Commission continued as a part of the Department of Agriculture. The Department of Agriculture has a duty under the law to provide price and income protection to farmers thus affecting commodity prices. And for the same reason, it is clear the Commission needs its own legal staff and the authority to go directly to the courts. Finally, the expansion of Commission regulatory authority to the currently nonregulated commodities dilutes the appropriateness of continued direct affiliation with the Department of Agriculture.

To achieve its objectives, the Commission must have the authority to review and modify rules, regulations, and bylaws of exchanges. It must also be able to set uniform fitness standards for all persons engaged in futures trading activities and to accomplish the regulatory function. The Commission must have an adequate and appropriate array of administrative and criminal penalties. Only through these measures can the integrity and adequacy of futures markets be assured to all parties.

In establishing this Commission, it is the committee's intent to give it exclusive jurisdiction over those areas delineated in the act. This will assure that the affected entities—exchanges, traders, customers, et cetera—will not be subject to conflicting agency rulings. However, it is not the intent of the committee to exempt persons in the futures trading industry from existing laws or regulations such as the antitrust laws, nor for the Commodity Futures Trading Commission to usurp powers of other regulatory bodies such as those of the Federal Reserve in the area of banking or the Securities and Exchange Commission in the field of securities.

The vesting in the Commission of the authority to have administrative law judges and apply a broad spectrum of civil and criminal penalties is likewise not intended to interfere with the courts in any way. It is hoped that giving the Commission this authority will somewhat lighten the burden upon the courts, but the entire appeal process and the right of final determination by the courts are expressly preserved.

The question of extending regulation to the unregulated exchanges and commodities received extensive consideration. The conclusion reached by the committee was that it is unthinkable to recognize the need for closer regulation in one sector of futures trading while totally exempting another. Whether a commodity is grown or mined, or whether it is produced in the United States or outside, makes little difference to those in this country who buy, sell, and process the commodity, or to the U.S. consumers whose prices are affected by the futures market in that commodity.

A person trading in one of the currently unregulated commodities should receive the same protection afforded to those who trade in the regulated markets. Moreover, this conclusion was supported by the great weight of the testimony, including testimony for exchanges which deal in both regulated and unregulated commodities. The committee did, however, recognize that the "world commodities" represent some special problems and has given the Commission the flexibility to distinguish between different commodities.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD two sections of the committee report: a summary of the major provisions of H.R. 13113, and the text of the committee consideration of H.R. 13113.

There being no objection, the summary and text were ordered to be printed in the RECORD, as follows:

SUMMARY OF MAJOR PROVISIONS OF H.R. 13113, AS AMENDED BY THE COMMITTEE

The bill, as amended by the Committee, consists of three titles.

TITLE I

Title I creates an independent regulatory commission called the Commodity Futures Trading Commission consisting of a Chairman and four other Commissioners. The Commissioners will be appointed by the President, by and with the advice and consent of the Senate. In nominating persons for appointment, the President is to seek to establish and maintain a balanced Commission that will include persons of demonstrated knowledge.

Not more than three of the members of the Commission shall be members of the same political party. The Commissioners shall be appointed for staggered five-year terms. With certain exceptions, the executive and administrative functions of the Commission shall be exercised by the Chairman. The Chairman is to be compensated at Executive Level III. The other Commissioners are to be compensated at Executive Level IV.

The Commission will have a General Counsel and an Executive Director to be appointed by the President, by and with the advice and consent of the Senate. They are to be compensated at Executive Level V.

All existing authority under the Commodity Exchange Act which is presently vested in the Secretary of Agriculture and the Commodity Exchange Commission will be transferred to the new Commission. All existing personnel of the Commodity Exchange Authority will be transferred to the new Commission.

A customers' reparation procedure before the new Commission is authorized for handling customers' complaints which arise from violations of the Act. A reparation by the Commission is subject to judicial review. However, the Commission's findings of fact and order are reviewable only for determining in such findings and order are supported by substantial evidence. The procedure will not become effective until one year after the date of enactment of the bill. However, claims arising within nine months immediately before such effective date could be heard by the Commission after the one-year period.

The Commission—in issuing any order, rule, or regulation or in requiring or approving any bylaw, rule, or regulation of a contract market—is to take into consideration the public interest to be protected by the antitrust laws and to endeavor to take the least anticompetitive means of achieving the objectives of the Act.

TITLE II

Title II provides broad authority to the Commission to regulate futures trading and exchange activities.

All goods, articles, services, rights, and interests traded for future delivery are brought under Federal regulation.

Commodity trading advisors and commodity pool operators are required to register with the Commission. In addition, the existing registration and examination for fitness requirements applicable to futures commission merchants and floor brokers are expanded to include all individuals handling customers' accounts.

The new Commission will determine whether trading by floor brokers and futures commission merchants for their own account and at the same time trading for their customers will be permitted. If the Commission determines that such dual trading will be permitted, the Commission shall further determine the circumstances under which it shall be conducted. The Commission may make separate determinations for different contract markets.

Contract markets will be required to demonstrate that futures contracts for which they seek designation will not be contrary to the public interest.

The new Commission may establish additional points for the delivery of a commodity in order to diminish price manipulation, market congestion, or the abnormal movement of the commodity in interstate commerce.

Contract markets must submit for Commission approval bylaws, rules, regulations, and resolutions which relate to the terms and conditions of futures contracts or other trading requirements. In addition, the Commission may require a contract market to make changes in its rules and practices which are necessary or appropriate for the protection of the public interest.

The Commission will have authority to go directly into court to enjoin any contract market or other person from violating the Act or restraining trading in any commodity for future delivery. However, no restraining order, injunction, or writ of mandamus will be issued ex parte.

The Commission will have authority to act in emergency situations and direct a contract market to take such action as is necessary to maintain or restore orderly trading. The term "emergency" is defined as meaning—in addition to threatened or actual market manipulations and corners—any act of government affecting a commodity or any other major market disturbance which prevents the market from accurately reflecting the forces of supply and demand. In addition, the "emergency" itself must have a greater adverse impact on the market than the action the Commission proposes to take.

Penalties in amounts up to $100,000 could be imposed in both administrative and criminal proceedings for violations of the Act.

The Commission will have authority to regulate transactions for the delivery of silver bullion, gold bullion, and bulk silver and gold coins pursuant to standardized margin or leverage account contracts.

TITLE III

Title III makes it a felony for Commissioners, employees, or agents of the Commission to participate, directly or indirectly, in any transaction in commodity futures or options or an actual commodity. It is also a felony for such person to impact confidential information to others for the purpose of assisting them in participating in such transactions. The persons receiving the confidential information are likewise prohibited from using such information.

The ban on trading in options in commodities presently subject to regulation is continued. Options trading with respect to all other commodity futures is likewise banned if contrary to Commission rules or regulations prohibiting or allowing such trading. The Commission is to prescribe the regulations governing such trading within one year after the effective date of the bill.

The term "arbitrage" is added to the Commission's authority to allow the exceeding of speculative limits. Arbitrage in domestic markets is defined as meaning the same as a "spread" or "straddle". The Commission is authorized to define the term "international arbitrage".

The Commission is authorized to define bona fide hedging transactions or positions. However, the new definition must permit hedging of a person's anticipated production of seed quantities of a commodity and hedging by the users of products of traded commodities as well as users of the commodities.

The authority under which a futures commission merchant or floor broker may "cross trades" for cotton is made applicable to all commodities under rules and regulations issued by the Commission.

The Commission is authorized to conduct regular investigations of the markets for commodities which are the subject of futures contracts, and furnish reports of its findings to the public on a regular basis.

Every clearinghouse must prepare a daily trading report in the form and manner prescribed by the Commission. The Commission could disclose daily trading reports, or information from the reports, if disclosure furthers the regulations of futures trading.

It would be unlawful for a futures commission merchant to accept a futures contract order from any person, or for a commodity trading advisor to advise any person to buy or sell a futures contract, without first obtaining a statement from such person that he understands the risks involved.

The Commission would establish research and information programs to investigate the feasibility of trading by computer and the expanded use of modern information system technology.

In order to promote the use of forward contracting, the Commission would encourage and assist private insurers to provide insurance to protect the parties to any forward contract from losses resulting from breaches of the contract.

The Commission is to investigate the need for legislation providing for the registration of futures associations. The Commission is to report its findings to Congress within two years.

The Commission is to investigate and report to Congress, not later than June 30, 1976, on the need for legislation providing insurance against losses caused by the financial failure of futures commission merchants.

The bill is effective 180 days after enactment. However, activities necessary to implement the bill may be carried out after enactment and before the effective date.

COMMITTEE CONSIDERATION

The Committee on Agriculture and Forestry began hearings on H.R. 13113 and the three Senate bills, S. 2485, S. 2578, and S. 2837, on May 3. It conducted 8 days of hearings, which were completed on May 22. During the course of these hearings, the Committee heard from 58 witnesses and received written statements from 18 other parties. The Committee staff summarized each statement and sent a copy of the statement and a summary to each member of the Committee.

On August 7, the Committee began its executive mark-up of the futures trading legislation pending before it and completed the mark-up on August 8. In its mark-up, the Committee attempted to consider the views of all parties who had testified or submitted statements to the Committee. The Committee utilized a print which provided a brief summary of how the various witnesses stood on the main issues involved in the regulation of commodity futures trading. It also considered the differences between the provisions of the various Senate bills and the House bills, as well as all amendments which had been submitted by interested parties.

The Committee proceeded gingerly and with caution in its efforts to rewrite the legislation regulating such an important industry as commodity futures trading. It noted that the total volume of trading in futures in 1973 was over $500 billion. Moreover, it recognized that the futures market is a very important part of our economy, providing an indispensable tool for agricultural producers, manufacturers, exporters, and consumers. In view of the current plight of the American economy, the Committee did not want to take any precipitous action which would be detrimental to the trading of commodity futures or do anything that would tend to damage viable futures contracts.

Moreover, the Committee felt that by relying on the broad range of testimony it received from the U.S. Department of Agriculture, the General Accounting Office, the various commodity exchanges, the user groups, farm organizations, consumer organizations, and law professors, it could avoid any unnecessary pitfalls and develop a bill that would be beneficial both to those who are to be regulated and to the users of the market, as well as the American consumer. The Committee was fortunate to have the benefit of the advice and technical assistance of experts in the Department of Agriculture who have been regulating commodity futures trading for many years, particularly the very able assistance to Alex C. Caldwell, the Administrator of the Commodity Exchange Authority in the Department of Agriculture.

NATURE OF THE COMMISSION (SEC. 101)

One of the most basic issues that had to be resolved by the Committee was the nature of the Commission—whether the Commission should be a full-time independent Commission similar in structure and status to the Securities and Exchange Commission or whether it should be a quasi-independent, part-time Commission as provided for in the House bill. The Committee received a great deal of testimony on this issue during the hearings and Committee members asked many of the witnesses very direct questions on this point. The overwhelming weight of the testimony was in favor of the full-time, independent Commission, particularly when the Committee members asked the witnesses who testified for their own personal views. In some cases, the organization for which the witness was testifying had no position on this point, but the witness' own personal view was that the Commission should be full-time and independent. Although some witnesses did want the Commission to retain some ties to the Department of Agriculture and a few questioned the need for a full-time commission, only the USDA witness strongly opposed a full-time Commission.

The Committee felt that the weight of the testimony was correct on this issue. Some members felt that there was an inherent conflict between the role and mission of the Department of Agriculture and the regulation of commodity futures trading. Since the enactment of the Agricultural Adjustment Act of 1933, as a result of the great depression, it has been the duty of the Department of Agriculture to provide price and income protection for farmers.

The USDA role in providing price and income protection for farmers has grown through the years, and the need for assistance to the Nation's farmers is as great in this day of skyrocketing costs of farm production and extreme fluctuations in commodity prices as it was in the depression years of the 1930's.

However, the Committee felt that it is not the function and the role of the commodity markets to have an impact one way or the other on farm prices. The proper regulatory function of an agency which regulates futures trading is to assure that the market is free of manipulation and other practices which prevent the market from being a true reflection of supply and demand. Therefore, the agency which regulates futures trading must have a neutral role on commodity prices. The Committee felt this neutral role can best be maintained by a completely independent agency. Moreover, while in the past the Commodity Exchange Authority of the USDA has been authorized to regulate only certain agricultural commodities that are produced in the United States, the Committee felt that agricultural products not produced in this country and commodities such as silver and copper, which have no relation to agriculture, could not be effectively regulated within the Department of Agriculture or an agency dominated by the Department of Agriculture.

The Committee noted that the estimated value of commodities traded in 1973 was over $520 billion, over twice the volume of trading in all securities in the United States. It felt that the importance of futures trading to the economy of this country warranted a full-time, independent commission. Because this Commission would have to regulate futures trading in a wide diversity of commodities ranging from precious metals to agricultural commodities, and because the Commission would need to bring under regulation those exchanges which are now non-regulated, the Committee felt that effective regulation could not be accomplished by Commissioners working on a part-time basis.

Moreover, members of the Committee expressed some dissatisfaction with agencies which are dominated and run by staff members who are not appointed by the President and subject to Senate confirmation. They felt that such a regulatory agency is often unresponsive to either Congress or to the needs of the people. It noted that in all probability a part-time commission would really be a staff-dominated commission.

In the Committee hearings, as well as the informal sessions that members had with both the commodity exchanges and the users of these exchanges, there was great concern expressed about the type of persons who would serve on the Commission. Many segments of the industry, particularly those who are now non-regulated, expressed strong concern that the Commission include members with expertise in the so-called "world commodities."

The Committee itself was quite concerned about the type of individual who would serve on the Commission. The Committee felt that it would be impossible to get the best qualified and most knowledgeable individuals to serve in the Commission on a part-time basis, for most of these individuals would have a conflict of interests. It felt that people who use the market to hedge, or people who speculate in the market, or other knowledgeable individuals who are involved in the market in one way of another, would be reluctant to give up all involvement in the market for a part-time job.

By establishing a full-time prestigious commission, the Committee felt that it would induce the best and most knowledgeable people to serve.

The Committee does not want a commission that is dominated by any particular interest group. It wants a commission that has broad knowledge of all aspects of the industry to be regulated, as well as a commission that is responsive to the needs of farmers and the needs of consumers. Therefore, the Committee adopted an amendment which requires the President, in making appointments, to seek to establish a balanced commission that would include, but not be limited to, persons of demonstrated knowledge in futures trading and its regulation and persons of demonstrated knowledge in the production, merchandising, processing or distribution of commodities or other goods and services. The Committee wishes to emphasize that the Commissioners are to have a broad range of knowledge.

RELATIONSHIP OF THE COMMISSION TO ANTITRUST LAWS (SEC. 107)

During the hearings, the Committee received testimony from the Department of Justice regarding the relationship of the new Commodity Futures Trading Commission to the antitrust laws. The Department of Justice did not like the language of the House bill which merely required the Commission to take into consideration the public interest to be protected by the antitrust laws as well as the policies and purposes of the Act. The Department of Justice objected to this language stating, "We believe, however, that the language of Section 106 is not sufficiently precise to guard against anticompetitive agency action. A requirement merely to 'take into consideration' antitrust policy might result in agency imposition or approval of an anticompetitive rule which was not necessary to achieve a valid regulatory objective."

The Department of Justice suggested in lieu of this language a requirement that the Commission insure that its action represent the least anticompetitive means of achieving the objectives of the Act.

The Committee did not want to encourage excessive litigation to test the decisions of the Commission to determine whether they represented the least anticompetitive means of achieving the objectives of the Act. It did not want to make the antitrust laws more restrictive in the commodities industry than they are in the securities industry.

However, the Committee did not want to exempt the futures industry from the antitrust laws and it did not wish to encourage the Commodity Futures Trading Commission to restrict competition and ignore the public policies protected by the antitrust laws. Therefore, the Committee amendment would retain the requirement in the House bill that the Commission take into consideration the public interest to be protected by the antitrust laws and it would go one step further by requiring that the Commission endeavor to take the least anticompetitive means of achieving the objectives of the Act.

EXCLUSIVE JURISDICTION OVER FUTURES TRADING (SEC. 201)

While the Committee did wish the jurisdiction of the Commodity Futures Trading Commission to be exclusive with regard to the trading of futures on organized contract markets, it did not wish to infringe on the jurisdiction of the Securities and Exchange Commission or other government agencies. Therefore, the Committee adopted clarifying amendments to the House bill. The Committee wished to make clear that where the jurisdiction of the Commodity Futures Trading Commission is applicable, it supersedes State as well as Federal agencies. The Committee also wished to make clear that nothing in the Act should be construed as superseding or limiting jurisdiction of Federal and State courts.

Also, the Committee included an amendment to clarify that the provisions of the bill are not applicable to trading in foreign currencies and certain enumerated financial instruments unless such trading is conducted on a formally organized futures exchange. A great deal of the trading in foreign currency in the United States is carried out through an informal network of banks and tellers. The Committee believes that this market is more properly supervised by the bank regulatory agencies and that, therefore, regulation under this legislation is unnecessary.

Likewise, the Committee believes that regulation by the Commission of transactions in the specified financial instruments (i.e., security warrants, security rights, resale of installment loan contracts, repurchase options, government securities, mortgages and mortgage purchase commitments), which generally are between banks and other sophisticated institutional participants, is unnecessary, unless executed on a formally organized futures exchange.

EXEMPTION OF WORLD COMMITTEE (SEC. 201)

During the hearings, the Committee received testimony regarding the exemption from regulation of the so-called "world commodities". The overwhelming weight of the testimony favored the regulation of all commodities, goods, and services. The only witnesses who favored exempting the "world commodities" were the nonregulated exchanges themselves. Moreover, the Committee did not feel it could justify imposing stricter regulation on the commodities which are now regulated while exempting completely trading in certain other commodities. However, the Comimttee did recognize that there are some unique differences that are characteristic of the "world commodities". Therefore, it notes that the Comimttee bill provides the Commission with the authority to differentiate between different commodities. The Commission will have ample authority and flexibility to treat different commodities differently. The Committee expects that the Commission will be composed of broadly knowledgeable people and that these Commissioners will have an understanding of the differences in the various commodities and treat them accordingly.

COMMODITY TRADING ADVISOR AND COMMODITY POOL OPERATOR (SEC. 202)

The Committee approved without change the provisions of the House bill for the regulation of commodity trading advisors and commodity pool operators. However, the Committee wished to make clear that many individuals who are engaged in the buying and selling of commodities may, in the course of their arms-length transactions with customers, offer opinions on the value of commodities or commodity futures which are entirely gratuitous. Any such incidental expression of views does not bring either an employee or his employer within the definition of "commodity trading advisor."

DELIVERY POINTS (SEC. 208)

The Committee accepted the House provision on delivery points with an amendment to give contract markets 75 days, instead of 60 days, to make changes in delivery points as deemed necessary by the Commission and an amendment to eliminate any requirement that receipts issued under the United States Warehouse Act be accepted in satisfaction of futures contracts where such a requirement is totally inappropriate.

In addition, the Committee wishes to emphasize that farmers' views and needs are to be considered in the establishment of delivery points for any commodity produced within the United States. If the Commission receives complaints about the delivery points for any commodity from farmers or farm organizations, it should investigate to see whether the delivery points established for the commodity conform with the provisions of the Act. The Commission should give farmers an opportunity to be heard fully when the designation of any delivery point is in question.

RESTRAINING ORDERS, INJUNCTIONS, AND WRITS OF MANDAMUS (SEC. 211)

There was a great deal of concern about the provisions of the House bill authorizing the Commission to seek injunctions against persons who are "about to engage" in violations of the Act and against persons who are "in a position to" effectuate a squeeze or corner or otherwise restrain trading in any commodity for future delivery.

The Committee noted that the authority to seek injunctions against persons about to violate the law has several precedents in Federal statutes. It also noted that this authority has been used very sparingly by the courts. The courts have interpreted "about to engage" language as authorizing injunctions only in narrowly limited circumstances, where an actual violation has occurred or is occurring or in those rare instances where, unless enjoined from doing so, a person intends to proceed with his plans despite an agency's litigation challenging those plans. Therefore, the Committee did not feel that the "about to engage" language would be abused and it felt that this authority in the House bill should be retained.

On the other hand, the Committee did feel that the "in a position to" language in the House bill was unprecedented in Federal statutes. The Committee did not feel that the Commission should be authorized to obtain an injunction against a person merely because he has the *ability* to effectuate a squeeze or corner or to restrain trading, even though he might not have the slightest intention of abusing his power. Therefore, the Committee eliminated the "in a position to" authority in the House bill.

Also, the Committee amended the House bill to authorize the Commission to go directly into court without going through the Attorney General to seek an injunction. The Committee felt that the Commission would have adequate legal counsel to obtain any injunction that would be necessary and that the requirement that the Commission go through the Attorney General would only result in delay, when the need for the injunction might be quite urgent. Moreover, the Committee felt that the Commission's attorneys would likely be more knowledgeable in futures trading than the attorneys in the Department of Justice.

EMERGENCY POWERS (SEC. 215)

During the Committee's hearings, much comment was received about the emergency powers that could be exercised by the Commission under section 215. The Committee felt that the term "emergency" was defined too loosely in the House bill and was disturbed by the fact that the Commission would be authorized to use extraordinary powers in cases other than a "market emergency". Therefore, the Committee amended this section to define more narrowly an "emergency" and to allow the Commission to use its extraordinary emergency powers only in the case of a defined emergency. Under the Committee amendment, the "emergency" itself must, in the Commission's judgment, have a greater adverse impact on the market than the action that the Commission proposes to take.

The Committee wishes to emphasize that nothing in the emergency powers section, the injunctions section (Sec. 211), or any other provision of the bill is to be used by the Commission to violate unnecessarily the sanctity of contract. The Committee fully realizes that the users of the futures markets will be reluctant to continue to depend on the markets if they feel that their contracts will be violated and abrogated by arbitrary governmental action. The Committee intends that the emergency powers, the power to seek injunctions, the power to alter exchange rules and bylaws, and the other powers granted to the Commission under this Act are to be used to make the markets work more effectively and to make them a more reliable marketplace.

Therefore, the Commission is not to exert its extraordinary emergency powers except when it is clear that threatened or actual market manipulations and corners or other major market disturbances will in fact disrupt the markets and adversely affect the legitimate users of the markets.

Also, the Commission must be particularly careful with commodities traded on international exchanges, for it should not take any "emergency" action that would drive trading out of exchanges in the United States.

OPTIONS TRADING (SEC. 302)

The Committee retained the provision in the House bill that bans trading in options in commodities that are now regulated. It also retains the House provision permitting trading in options in all other commodities if not contrary to the rules, regulations, or orders of the Commission. Under the House provision, the Commission would have the authority to prohibit trading in options of any kind.

The Committee amendment requires the Commission to prescribe the regulations governing options trading within one year after the effective date of the bill. The Committee intends that options not be traded except on organized exchanges and in conformity with the rules and regulations of the Commission. However, the Commission would not have the authority to regulate trading in puts and calls for securities. Where traded on exchanges, these puts and calls are regulated by the Securities and Exchange Commission. Where traded among banks, they are regulated by the bank regulatory agencies.

DEFINITION OF ARBITRAGE (SEC. 303)

During the hearings, the Committee received some testimony that indicated that there was a substantial difference between "international arbitrage" and the word "arbritrage" as used in domestic markets. It was pointed out that international arbitrage is used to hedge against fluctuations in currency and changes in shipping rates. The Committee felt that this was a highly technical matter, and that it should not attempt to define international arbitrage. Therefore, it authorized the Commission to define international arbitrage.

HEDGING (SEC. 304)

The Committee retained the House provision which authorizes the Commission to define "bona fide hedging transactions or positions." However, the Committee did amend this section to require the Commission to allow hedging of "contract" bushels of seed and to require that the Commission extend anticipatory hedging privileges to persons, such as bakers, who use products of traded commodities rather than the commodity itself.

The Committee wishes to emphasize that, in giving the Commission authority to define hedging, it does not intend that hedging be defined in such a manner as to deny traditional legitimate users of the futures market an opportunity to continue to hedge. The Committee felt that the Commission should have the authority to define hedging because the current definition is too narrow to permit certain businessmen the opportunity to hedge legitimately on the market.

EFFECTIVE DATE OF SILVER REGULATION (SEC. 321)

While retaining the effective date provision in the House bill—180 days after enactment—the Committee included, as part of the activities to be carried out after the date of enactment and before the effective date, "the necessary steps to regulate futures trading in silver immediately on the effective date of this Act."

The Committee discussed the possibility of regulating trading in silver futures upon the date of enactment but was persuaded that the Commodity Exchange Authority was not in a position to regulate effectively such trading immediately upon enactment. The Committee, however, does feel that conditions on the silver futures market require the most effective and informed regulation on the effective date of the Act. For these reasons, the Committee has emphasized by this amendment that the Commission should take all steps necessary to ensure that, on the effective date of the Act, silver futures trading will be effectively regulated. The Committee suggests that these steps might include, but not be limited to, investigations and hearings on the performance of the silver futures market, the development of draft rules and regulations pertaining to silver futures trading, and hearings on the proper speculative limits for silver futures trading.

Mr . TALMADGE. Mr. President, the intent of this legislation is not to interfere with the sanctity of contracts but rather to assure it. By protecting the futures market from manipulation, the committee bill would protect the sanctity of futures contracts.

The creation of a strong regulatory commission is not meant to deprive exchanges of self-regulation, but rather to assure they assume responsibile and adequate self-regulation. The Commission is given the tools to require that the exchanges perform their regulatory functions better.

Mr. President, I believe the committee bill combines the best features of the House bill and the bills introduced in the Senate. It was unanimously ordered reported by the Committee on Agriculture and Forestry. On behalf of the committee, I urge the Senate to approve the Commodity Futures Trading Commission Act of 1974.

Mr. CLARK. Mr. President, I ask unanimous consent that Larry Gold and Brady Williamson of my staff and Shirley Johnson of the Antitrust Subcommittee of the Senate Judiciary Committee have the privilege of the floor during the debate on H.R. 13113 as amended, the Commodity Futures Trading Commission Act of 1974.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska.

Mr. CURTIS. Mr. President, I yield myself such time as I may require.

Mr. President, in his statement opening the 8 days of hearings the Committee on Agriculture and Forestry held on the various bills to amend the Commodity Exchange Act our distinguished chairman (Mr. TALMADGE) stated:

> The trading of futures is basic not only to the prices that farmers receive for their commodities, but also to the prices that all of us pay as consumers. It is essential that the trading in commodity futures take place with as little abuse and manipulation as possible. It is important that the public have confidence in our Federal system of regulating the trading of commodity futures.

Mr. President, there is some dispute among farmers in my State with regard to the exact effect the futures markets have upon the cash prices they receive for their grain and livestock. However, I believe there can be no disagreement over the fact that if we are to have futures markets that they must be free of abuse and manipulation.

It is my belief that the commodity exchanges themselves must keep their own houses in order if abuses and manipulation are to be prevented. Therefore, it was my personal goal as the committee considered this legislation to write a bill that would place the responsibility for regulation upon the exchanges themselves while providing the government with sufficient authority to make certain that the interests of farmers and consumers alike are protected.

Mr. President, I believe that we have accomplished that goal in the bill now before the Senate. I do have some concerns, however, with regard to the new independent Commission which is created in the committee bill.

It is my sincere hope that we are not creating a new bureaucracy that will become an "over-regulatory" agency in order to justify its continual expansion. I am pleased that both the House-passed bill and the committee version now before the Senate provide for only 4-year funding authorization. This means that the Commission will be forced to come back before the Committee on Agriculture and Forestry in 1978 for a full review of its activities.

Mr. President, the senior Senator from Oklahoma (Mr. BELLMON) is necessarily absent from the Senate today, and I therefore ask unanimous consent that a statement he has prepared with reference to section 318 of the committee bill be printed immediately following my remarks.

The PRESIDING OFFICER (Mr. JOHNSTON). Without objection, it is so ordered.

(See exhibit 1.)

Mr. CURTIS. In closing, Mr. President, I compliment our chairman, the senior Senator from Georgia (Mr. TALMADGE) for his handling of this most complicated legislation. All witnesses who wanted to be heard were given the opportunity to testify, and each member of the committee was given every opportunity to participate in drafting this bill. I also commend the committee staff, particularly Mike McLeod, our general counsel, and Carl Rose, the committee counsel, for the many hours they spent working on this bill in preparation for committee consideration and in the drafting of the committee report.

EXHIBIT 1

STATEMENT OF SENATOR HENRY BELLMON

The final section of the legislation being considered, H.R. 13113, does not deal directly with futures trading in the strict sense defined in Section 2 of the Commodity Exchange Act, but is so closely related that the Committee on Agriculture and Forestry felt it should be included in the legislation.

As Senators know, under the government agricultural programs in effect for the next four years, farm prices for most commodities are free to move wherever supply and demand take them, limited in some cases only by support prices at levels that would be disastrous, considering current costs, should market prices fall that low. Thus, there is potential for very wide swings in prices, which we are already experiencing.

Therefore, farmers need to plan ahead for their production and processors need to assure supplies of needed commodities and fix their cost in advance so that the processors, in turn, may make forward sales to customers. This need to establish prices ahead, of course, is the reason that commodity futures markets exist.

Many farmers and ranchers have neither the volume, the time nor the expertise to engage in futures trading. Therefore, those engaged in the marketing of farm products, and processors as well have moved into the breach by contracting with producers in advance to buy their products at pre-determined prices. And in many, if not most cases, these buyers immediately hedge themselves against price changes by selling an equivalent amount of commodity futures. This practice of forward contracting between farmers and buyers has increased tremendously in recent years as the potential for wide price movement has increased.

When sellers and buyers make business decisions on the assumption that their crop contracts will be fulfilled, it can be a very serious blow if one of the parties breaches the contract. While in some few cases dishonesty may be involved in the breach of a contract, it is much more common that breaches result from poor business judgment or an unavoidable set of circumstances. But the loss to the other party is not the less damaging, regardless of the cause or motive. I might add that the law of contracts and the right to sue in court does not help much when the party breaching the contract is bankrupt.

Therefore, there is great need for insurance that parties to contracts may purchase which will cover losses due to contract breach. The only insurance presently available is standard bonding, which is not tailored to the risk involved, and which has been considered to be unreasonably expensive—and therefore not used in this way.

Section 415 of the bill under consideration attempts to fill this void by encouraging private insurance companies to form an insurance pool similar to the National Flood Insurers Association. This pool or association of private insurors would offer insurance against contract breach to the parties to agricultural product contracts, with premium charges related in the normal way to the risk involved. Let me make clear that this insurance program would be completely voluntary and the fact that one party to a particular contract purchased insurance against default by the other party does not affect the action the second party can or must take.

Because this is a new field, there is no loss experience on which to base premiums and reserves. It is entirely possible, therefore, that until experience is gained the premiums might not be sufficient to cover all losses if a particularly widespread loss situation should arise. This possibility makes it extremely risky for insurance companies to enter the field. As one solution to the problem, Section 415(c) provides for government participation in any losses in the early years of the pool, but is phased out as loss experience is gained.

This phase-out is accomplished by providing that the government may assume up to half the loss in excess of premiums paid in over the *entire life* of the association or pool. You can see that as time passes and premiums continue to be paid in each year, it becomes less and less likely that losses in any one year will exceed cumulative premium payments. But government participation in the early years is probably going to be crucial in attracting private insurance companies into the pool.

This section will fill a great need in the best possible way—government participation would be at a minimum, and for a limited time. This is not going to mean a bonanza for private insurance companies. The law specifically authorized the Commodity Futures Trading Commission to negotiate with representatives of the insurers to establish premiums which will provide profits necessary to get the companies to participate in the pool but the premium shall not exceed two percent of the value of the contract being insured.

Mr. TALMADGE. Mr. President, how much time does the distinguished Senator from Iowa desire?

Mr. CLARK. Will the Senator yield 10 minutes?

Mr. TALMADGE. I yield 10 minutes to the distinguished Senator from Iowa.

Mr. CLARK. Mr. President, as a member of the Agriculture Committee, and as a sponsor of one of the commodity futures trading bills (S. 2837) considered by the committee, it is a privilege to support H.R. 13113 as amended. This bill will generate the kind of informed and effective regulation of the Nation's commodity exchanges that has been missing for so long. It deserves the support of the full Senate.

Relatively few people have a clear understanding of futures trading and commodity exchanges. Yet the trading of commodity futures has grown in the last few years to over $520 billion in trading volume in 1973—more than double the volume of trading in all securities. Beyond the sheer volume of trading, the importance of the commodities traded to the farmer and farm community, to the commodity user, the consumer, and to the economy itself cannot be overstated. Corn, wheat, cattle, soybeans, hogs, eggs, cotton, cocoa, coffee, copper, foreign currencies, lumber, silver, and sugar are only a few of the more than 40 commodities actively traded on organized exchanges.

Yet, in spite of the volume and the importance of the commodities trade, the current Commodity Exchange Act, enacted almost 40 years ago, is an outmoded patchwork of regulation. It was enacted almost 40 years ago at a time when commodity futures trading, particularly speculation, was only a fraction of what it is now. Tthe 1936 act only authorized regulation of basic agricultural commodities. It did not in any way regulate the exchanges themselves or major nonagricultural commodities like silver, coffee, lumber, sugar, cocoa, copper, platinum, and foreign currencies—commodities with the greatest growth in trade.

The 1936 act established the Commodity Exchange Authority, a small regulatory organization within the Department of Agriculture, but the CEA had little power to police the industry or insure that the industry policed itself. Given all of this, there was no doubt, as all of the committee witnesses agreed, that a thorough revamping of the act is necessary if there is to be effective regulation of commodities futures industry.

The initial impetus for this legislation came from a six-part series in the Des Moines Register last year on a particular example of abuse arising from the lack of effective regulation—the Bernard Rosée case. Rosée was a former trader on the Chicago Board of Trade expelled from the board in 1960 after being defrauded by a member firm of over $500,000. The Register's investigation of the case and the results of the Soviet grain deal in 1972 convinced me of the need for a thorough reform of the commodity futures industry because it was clear that neither the Commodity Exchange Act nor the Commodity Exchange Authority could effectively regulate the commodity futures markets.

That concern was shared by thousands of farmers in Iowa and across the country. Many of them strongly suspect that manipulation of the commodity exchanges has resulted in higher grain prices, higher beef prices, and shortages. The result of that concern was S. 2837, legislation sponsored by Senators HART, SCOTT of Pennsylvania, CASE and myself, to strengthen the regulation of the Commodity Futures Trade. The Senate committee bill includes many of the features of S. 2837. While there are some areas that, in my judgment, should have been strengthened, this bill is an outstanding example of good legislation.

It is essential to note the contribution of the committee chairman, Senator TALMADGE, and the staff of the Agriculture Committee for their painstaking work on the bill. In April, the full committee held eight days of exhaustive hearings taking testimony from 58 witnesses and receiving an additional 18 statements. Witnesses before the committee represented farm organizations, commodity users, commodity exchanges and member firms, consumer groups, law professors, the Department of Agriculture and the General Accounting Office. The GAO report on the Commodity Exchange Authority and commodity futures trading was an excellent investigative and analytical effort, by the way, and its recommendations are reflected throughout the bill. Under the active leadership of Chairman TALMADGE, the committee discussed and considered the viewpoints of each group and carefully evaluated the bill approved by the House to arrive at the Senate version of H.R. 13113.

It is a mark of the committee's success in dealing with the complex questions and differing views that the bill was approved unanimously.

The most important feature of the bill is title I, sections 101 and 102, which create an independent, full-time, five member Commodity Futures Trading Commission. The Commission will have its own legal staff, and it will be able to go into court to obtain injunctions on its own. This kind of strong commission was vigorously recommended by the GAO in its study and testimony before the committee. A majority of witnesses, an overwhelming majority, testified in favor of this provision.

Not only will the bill provide the strong, informed, effective regulation of the commodity exchanges so necessary, but it will put to rest one of the problems which has plagued the Commodity Exchange Authority—its placement in the Department of Agriculture. Indeed, for a regulatory function to be placed in a Department which has such a major involvement with many of the commodities traded is a completely untenable situation. Neither has the cause of impartial and effective regulations been served, nor has the CEA the ability to deal with the exchanges and their firms with any real authority. The House version of H.R. 13113 merely perpetuates the current system by creating a part-time Commission with the Secretary of Agriculture or his designee as a member. The House bill also would permit the Secretary or his designee to be appointed Chairman by the President, requiring that the Commission go through the Justice Department to obtain injunctions. The legislation before us today corrects those weaknesses, giving the new Commission both independence and authority.

In the committee's judgment, the provision for direct injunctive powers in the new Commission was essential. Under section 211, the Commission itself can ask the Federal courts to enjoin a contract market or individual from engaging in certain actions that violate the statute or the Commission's rules and regulations. To insure fairness, the courts could not issue orders to restrain or enjoin on an ex parte basis.

Another important provision is section 315. It requires reporting and recordkeeping by futures commission merchants and floorbrokers. Under this section, every clearinghouse will be required to deliver a daily report to the

Commission, specifying the day, the time, the commodity, the number of contracts, the price, the delivery month, and the identification of the traders for every trade. Most of this information is now being collected. The reporting of the time of the trade, a new requirement, is particularly important since it gives the Commission and the exchanges themselves a major tool to police abuses and manipulations in trading that occur on the floor of the exchanges. Given the very heavy volume on the largest exchanges, this will permit for the first *time* a quick check of whether the trading is being done in compliance with the law and the rules of the Commission and the exchanges.

Many customers have claimed that there may be trading abuses, that orders are not properly executed for them, or that a floor broker may take advantage of his position to trade for his own account on a more favorable basis than for a customer. The exchanges themselves have acknowledged that this problem is a very real one and have taken steps to prevent trading abuses. Yet, until now, there has been no sure way to detect them. While it may entail certain additional costs and certain changes in operations, this reporting requirement will give the Commission the ability to effectively police their own trading floors. Both the CEA and the GAO support this provision.

An especially important provision for the farm community is the authority of the Commission to permit the delivery of any commodity on futures contracts at places that will tend to prevent or diminish price manipulation, market congestion or the abnormal movement of a commodity in interstate commerce.

After requesting that an exchange establish these additional delivery points, the Commission can step in and order it if the exchange does not. As the committee report emphasizes, the farmers' views and needs should be considered in the establishment of delivery points within this country and farmers should be heard fully by the Commission in its deliberations on delivery points.

Among the bills other major provisions are:

A customer reparations procedure for handling customer complaints against futures commission merchants;

A requirement that all individuals handling customer accounts, as well as commodity advisors and commodity pool operators, register with the Commission and be subject to fitness tests;

Authority for the Commission to review and approve all exchange by-laws, rules, and regulations and to take action in emergency situations to maintain or restore orderly trading;

A provision that, after 6 months of study and review, the Commission will issue regulations on the practice of floor brokers and futures commission merchants to trade for themselves and their customers—a practice known as "dual trading."

While S. 2837 called for a ban on all dual trading unless the exchange could show that such trading was necessary for liquidity, a provision I preferred, I know the new Commission will look very closely at this problem which involves both a conflict of interest and possible trading abuses and will issue regulations which deal with these problems.

I also would like to touch on one area that the bill does not confront—the relationship of exports of farm commodities, particularly by large grain companies, and the prices of commodities on the futures markets. We are all too aware of the disastrous results of the Soviet grain deal. It did not benefit farmers, retailers, wholesalers, or consumers—it seemed to benefit only the Soviet Union and the large grain exporters. Yet it caused major increases in futures and cash prices for wheat.

As a result of that, Congress adopted an export reporting provision in the Agricultural Amendments of 1973 which required the Secretary of Agriculture to take reports from exporters on the amount of their exports of farm products. Recently, the Senate Agriculture Committee held an executive session with the Secretary of Agriculture to express displeasure with the Department's export reporting mechanism and to get a commitment from him for more timely reporting, particularly necessary in light of the expected shortfall in corn and soybean production this season. Chairman TALMADGE's statement in the August 16 CONGRESSIONAL RECORD is an excellent presentation of the situation.

While S. 2837 did contain an export reporting provision, H.R. 13113 does not. However, the commitment Secretary Butz has made to the Agriculture Committee must be kept. Such reports must be given to the new Commodity Commission by the Department under the provisions of section 314 of the act.

One other important point deserves mention in consideration of this bill—its cost. At a time when the American people are rightly concerned about the cost of Government and its impact on inflation, the projected costs for the new Commission are minimal: $7.3 million in fiscal year 1975 and $10.9 million in each of the next 4 fiscal years. It is a modest cost to pay for informed and effective regulation of an industry which is so important in its impact on the American economy.

I am delighted to enthusiastically support H.R. 13113 as amended. It is a landmark bill that we can all support, and I hope the Senate approves it overwhelmingly.

I reserve the remainder of my time.

The **PRESIDING OFFICER.** Who yields time?

Mr. **MANSFIELD.** Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll, the time to be equally divided.

The assistant legislative clerk proceeded to call the roll.

Mr. **CURTIS.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **CURTIS.** Mr. President, on behalf of the Senator from New York (Mr. BUCKLEY) I send an amendment to the desk and ask that it be stated.

The **PRESIDING OFFICER.** The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 114, after line 6, insert the following subsection:
>
> (d) By striking the last sentence of subsection (a) as designated by this section.

Mr. **CURTIS.** Mr. President, I understand that the intent of the bill is to grant exclusive jurisdiction over commodity futures trading to the new Commission, except to the extent the bill specifies that other Federal and State agencies and Federal and State courts are to retain jurisdiction. However, as I understand it, it is also the intent of the bill that, even in the cases where the State agencies and State courts retain jurisdiction, the Federal substantive law embodied in the Commodity Exchange Act as amended by the bill would preempt the field completely, so that if any substantive State law were contrary to or inconsistent with Federal law, the Federal law would govern.

Section 4c of the existing Commodity Exchange Act contains the following sentence:

> Nothing in this section or section 4b shall be construed to impair any State law applicable to any transaction enumerated or described in such sections.

All of the transactions referred to in that sentence are covered by the existing act as amended by the bill. In order to assure that Federal preemption is complete, I believe that the sentence I quoted should be deleted form the act.

Mr. **TALMADGE.** Mr. President, I have studied the amendment of the distinguished Senator from Nebraska. I agree with its import. I urge the Senate to adopt it.

The **PRESIDING OFFICER.** Is all time yielded back?

Mr. **TALMADGE.** I yield back my time on the amendment.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment of the Senator from Nebraska (putting the question).

The amendment was agreed to.

Mr. **CLARK.** Mr. President, I call up an unprinted amendment to H.R. 13113.

The **PRESIDING OFFICER.** The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. **CLARK.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

> On page 82, line 8, insert after "market", the following: ", and transactions regulated by the Commission pursuant to section 217 of the Commodity Futures Trading Commission Act of 1974."

Mr. **CLARK.** Mr. President, section 217 of the bill requires the Commission to regulate transactions for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins pursuant to a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract.

This amendment to section 201 of the bill makes it clear that the Commission's jurisdiction to regulate such transactions shall—except as specifically provided in section 201—be exclusive.

Mr. TALMADGE. Mr. President, I have studied the amendment of the distinguished Senator from Iowa, as has the distinguished Senator from Nebraska. I think it is a good amendment. I urge the Senate to accept it.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. TALMADGE. I yield back the remainder of my time.

Mr. CURTIS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa (putting the question).

The amendment was agreed to.

Mr. TALMADGE. If there be no further amendments, Mr. President, I ask for the third reading of the bill.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. TALMADGE. Mr. President, I wish to express my appreciation as chairman of the Committee on Agriculture and Forestry, to each individual member of that committee, Democrat and Republican. Our committee has always operated on a nonpartisan basis. In this instance, the vote of our committee to report the bill to the Senate was unanimous.

I wish also to express the appreciation of every member of our committee to our very able and effective and hardworking staff. They did an outstanding job on this very complex bill. They accumulated all of the data that we needed. They made field trips and inspections. Whenever we needed information in deliberating and marking up the bill, they had it immediately at their fingertips.

I also express my appreciation especially to Senators HUMPHREY, McGOVERN, and CLARK, because they themselves introduced bills regulating the commodities exchange. These bills were introduced before the House took any action. Many features of their bills were included in the House bill, which is pending before the Senate at the present time.

The Senator from Nebraska (Mr. CURTIS), the distinguished ranking minority member of the committee, deserves special praise, because he was extremely helpful, able, and effective in getting this bill reported to the Senate. Many amendments that he proposed are included in the bill.

Mr. President, if no one else desires time, as far as I am concerned, I am ready for the Senate to vote.

Mr. CLARK. I should like to raise one question, if the Senator will yield.

Mr. TALMADGE. I yield to my distinguished colleague from Iowa.

Mr. CLARK. Yesterday there was a report in the Washington Star entitled "Crop Exporting Check Shelved," in which, if I can summarize, the Department of Agriculture reportedly has shelved a widely publicized plan to monitor major export sales of the Nation's corn stocks and other key crops.

As the chairman knows, previously Secretary of Agriculture Earl Butz had reported to the committee that a daily monitoring would occur. I shall quote two paragraphs:

> But Don Paarlberg, the Agriculture Department's chief economist, said in an interview that the plan has now been at least temporarily dropped.
>
> He said he and his aides decided, and Butz agreed, it would be impractical to administer because it would be too easy for sophisticated grain trades to evade the regulations.

It seems important to me that that kind of daily monitoring occur, for the obvious reason of the shortages. I should appreciate hearing the chairman's feelings or comments on that.

Mr. TALMADGE. The Senator will recall that as a result of the disastrous wheat deal of 1972, we included in the Agriculture and Consumer Protection Act of 1973 a provision authorizing the Secretary to obtain reports containing any needed information on export sales by private traders so that we would not be taken by surprise and find ourselves short of essential agricultural commodities.

The Senator will recall also that at the last meeting of our Committee on Agriculture and Forestry, we had Secretary Butz before us to see how he was policing the act of 1973, with particular reference to the reports on exports.

The Secretary stated at that time that he was not only requiring the weekly reports authorized in that bill, he was also requiring the exporters to make daily reports to his department. Our committee was very well pleased with this statement.

When I returned to Washington from Georgia this morning, a member of the staff called my attention to the Washington Star article to which the Senator has just referred, I immediately placed a call to Secretary Butz, and I have received assurances from him, and I can state positively on the Senate floor, that the Secretary is going to reinstitute the daily surveillance of exports. Mr. Butz said that the Department of Agriculture temporarily abandoned it because they did not think the statistical information that they were getting was too accurate, but he is going to continue it and those reports will be made daily to the ASCS.

Mr. CLARK. I thank the distinguished Senator from Georgia.

Mr. TALMADGE. I thank the distinguished Senator from Iowa for raising that point.

Mr. HART. Mr. President, I support the commodity futures trading bill. This bill is a comprehensive reform of a crucial segment of the food industry—it is a bill that is especially pertinent in these times of inflationary food prices.

Last December I introduced, along with Senators HUGH SCOTT, CASE, and CLARK, a bill to reform futures trading. That bill was considered by the Senate Agriculture and Forestry Committee during its hearings and deliberations. My thanks are extended to Chairman TALMADGE for the careful consideration which was given to my bill and the other two Senate bills—and for the speed with which the committee moved on this important legislation.

The bill before the Senate today incorporates a number of key provisions which were in the bill I introduced. To name a few:

It creates an independent regulatory agency to regulate futures trading.

It regulates all commodities on which futures are trade, including coffee, sugar, cocoa, and silver which are presently unregulated.

It gives the new Commission power to seek injunctions from a court.

It gives the Commission extraordinary powers during an emergency situation, which is defined to cover an event similar to the Russian grain deal.

It requires all persons who sell futures to the public to register with the commission and to obtain a statement from the customer attesting to his knowledge of the speculative nature of futures trading.

It requires each exchange to compile a daily trading report listing the time of each trade and the name of the trader. Presently, it is impossible to know who is making a trade—whether it is a farmer, grain company, or foreign government.

The need for reform of commodities futures trading came to my attention when the price of soybeans rose from $3.30 a bushel to $12.90 a bushel within a few months. Persons knowledgeable about soybean prices knew that $12.90 never represented the real value. This is shown by the drop in price within a few weeks from the $12.90 high to about $6 a bushel. Yet, because the futures price is referred to in pricing the cash commodity, some people actually paid $12.90 for soybeans. That higher cost was passed on to the farmer when he purchased soybeans for feed for his livestock. And, it eventually was passed on to the consumer in the form of higher meat costs.

It is my belief that if this legislation before us today had been law at that time the wild gyrations of the market would not have taken place on soybean prices or on wheat prices after the Russian sale. This bill gives the commission authority by way of emergency powers and injunctions to prevent inflationary prices which do not reflect supply and demand—but are the result of speculation, manipulation of the markets, or some other force.

It is my hope that this bill will be quickly passed by Congress, signed by the President and the commissioners appointed and confirmed so this tool to fight inflation may go to work.

Mr. CRANSTON. Mr. President, I rise to express my strong support for the Senate version of H.R. 13113, the Commodity Futures Trading Commission Act of 1974. This legislation is the result of many months of hard work on the part of the Senate Agriculture Committee. The House has also put a great deal of effort into its version of the bill.

A strong and healthy commodity futures market is vital to the well-being of our Nation's economy. I am pleased that H.R. 13113, as reported by the Senate Agriculture Committee performs the difficult task of strengthening the regulation of commodity futures trading, thereby increasing public trust in this market.

The trading of commodity futures has great importance to the people of California. Agriculture is the No. 1 industry in California, and at the present time, the State produces every commodity regulated by the Commodity Exchange Act. Because Californians are affected very directly by commodity futures trading, I am concerned that they be adequately protected from any price fluctuations brought about by manipulation of the commodity futures market. Everyone who uses the commodity futures market deserves this protection. Indeed, the principal function of this market is to serve as a hedge—a protection against adverse cash market price movements.

As a cosponsor of S. 2485, one of the initial commodity futures trading bills introduced by Senator HUMPHREY, I presented testimony to the Senate Agriculture Committee and followed this legislation carefully. H.R. 13113, as reported by the Senate Agriculture Committee, contains a number of provisions which I feel are essential to insure a strong commodity futures market. The most important of these provisions is the establishment of in independent, full-time Commodity Futures Trading Commission. An independent commission will eliminate any possible conflict between the Department of Agriculture's role as a protector of farm prices and the commodity market's impartial role. Only a full-time and fully independent commission can deal effectively with the complex issues involved in the regulation of futures trading.

The Senate version of H.R. 13113 leaves a number of important decisions to be decided by this new Commodity Futures Trading Commission. The Senate Agriculture Committee struggled with the questions of dual trading, establishment of additional delivery points, and a number of other issues. It was decided that these questions could best be resolved by the new commission itself. I feel this is a wise decision, and I look forward to cautious and careful deliberations on these matters by the commission.

Another provision of H.R. 13113 which has great importance for strong commodity futures trading regulation concerns the new commission's injunctive powers. As reported by the Senate, H.R. 13113 authorizes the new Commodity Futures Trading Commission to go directly into court to enjoin any contract market or other person from violating the act or restraining trading in any commodity for future delivery. This provision will give the new commission power to enforce its regulations and thus deter market manipulations by its very existence.

The Commodity Futures Trading Commission Act of 1974 is a complex piece of legislation which will make a substantial impact on regulation of commodity futures trading. Especially in this time of spiraling inflation, the public must be assured that regulation is being done in the best interest of a healthy economy. Such assurance can now come about through firm, impartial regulation of commodity futures trading. The Senate Agriculture Committee moved cautiously and judiciously to provide this regulation. I commend the committee for its fine work and urge passage of H.R. 13113.

Mr. DOLE. Mr. President, I join my colleagues in the Agriculture and Forestry Committee in support of the Commodity Futures Trading Commission Act of 1974 (H.R. 13113), which we consider for passage today.

UPDATES COMMODITY EXCHANGE ACT

The provisions of this bill will greatly improve the Commodity Exchange Act which was originally passed in 1922. The act was modified greatly in 1936 and some minor changes again in 1968. However, the use and activity of the commodity markets have changed and intensified greatly since 1968. With the shift from a surplus management economy to a market-oriented position, the use of futures trading has been stimulated so that over $500 billion in business is transacted annually.

ECONOMIC AND INDIVIDUAL PROTECTION

With this shift and dramatic increase in transactions has come the need for more careful regulation of the commodity exchanges for protection against manipulation of markets and to protect any individual who desires to participate in futures market trading.

That is the purpose of this legislation and the committee is unanimous in its confidence that this bill will greatly improve the operation of our commodity exchanges.

Four of the top five commodities being traded—wheat, soybeans, corn, and cattle—are of great importance to my State of Kansas. Being the Nation's leading wheat producing State and one of the top cattle producing States, the farmer-producers in Kansas know the value of these commodity exchanges. Farmers and businessmen throughout Kansas utilize the Kansas City Board of Trade, the Chicago Board of Trade, and the Chicago Merchantile Exchange extensively to protect and profit on their investment.

EXCHANGES SHOULD ASSURE FAIR PLAY

Commodity exchanges are places where two or more individuals may meet and trade contracts in various designated commodities. For viable, active markets, the exchanges largely regulate themselves, as they should. The Commodity Exchange Authority has served to watch over the operations of these self-regulated exchanges. Now, with the growth of trading to over a half-trillion dollars, it is obvious that the small staff and minimal authority of the present CEA need expansions and improvement. That has been the objective of the committee as we conducted extensive hearings and through considerable deliberations in making our determinations of what the bill should contain to change and improve the present authorities.

NEED TO REGULATE ALL COMMODITIES

Most agricultural commodities have been under CEA jurisdiction since the first act. Generally, these markets have been operated properly and efficiently. There are other commodities, however, which have never been regulated and the entire concept of futures trading could be jeopardized if some transgression or manipulation were to surface in the trading of those unregulated commodities. That is why I requested that any CEA legislation require that trading of all commodity contracts be regulated. Our established markets deserve this protection. Our public needs this protection.

Concurrent with the need to protect the public against manipulation is the need to assure access to the use of these markets. To accomplish that access and to encourage participation without fear or risk of losing any investment through the bankruptcy or insolvency of a futures commission merchant, I amended the bill to include the provision that the Commission research and recommend to Congress on the need for a Federal futures insurance corporation to protect the public against such possible losses.

QUALIFICATION OF PERSONNEL

Expansion of exchange operations has meant a growth in the number of personnel in trading firms and of the exchanges themselves. This bill contains a provision which I supported calling for the registration and fitness qualifications of all individuals handling customers' accounts.

In trading of existing regulated commodities there has often been requests for changes or additions in contract delivery points. These delivery points have been traditional and were originally based on modes of transportation, processing at terminal points, and other factors characteristic of the commodities. It was apparent that the authority should exist to examine, review, and possibly change these delivery points when such changes are properly justified. This bill contains such a provision.

There are many other provisions in this important legislation which are outlined in the report and about which the chairman and other members of the committee have already commented.

It is important to emphasize that all members of the committee took considerable time and great interest in this complicated legislation and it is, therefore, an excellent bill which will enhance the proper trading in commodities, improve the economy, and project the public.

MARKET VIABILITY ESSENTIAL

Some measures contained in the House version of the bill determined to be excessively regulatory were amended. I refer to the emergency definitions and injunctive powers. The need for such provisions were recognized by the committee members. The concepts remain, but the implementation has been changed so as not to inhibit the viability of the markets.

Of some concern was the determination of how this expanded regulatory body should be established. Whether full time or part time, whether independent or within the Department of Agriculture. It is significant to note that the House expanded greatly the authority and responsibilities of the Commodity Exchange Authority, changed its name to a commission, designated part-time commissioners, and generally gave birth to a new Commission, but affiliated it with the Department of Agriculture.

INDEPENDENT FULL-TIME COMMISSION

In the Senate considerations it seemed the expansion of regulation to all commodities, whether agriculture or not, gave new thrust to the need for independence of this Commission, and the recent expansion of trading in presently regulated commodities, when coupled with the new regulation of all other futures trading commodities, would necessitate the full-time independent commission, which is provided in the Senate bill.

Mr. President, this bill has been closely studied and improved by the Committee on Agriculture and Forestry. It is a true nonpartisan effort of the members who are genuinely concerned with the proper operation of this vital segment of our economy. We acknowledge our oversight authority and obligation to the proper operation of such a new agency and shall be watchful, cooperative, and helpful in its operation and improvement as it is established.

I join my fellow members of the committee in urging the passage of this important legislation and urge my colleagues in the Senate to support it.

Mr. TAFT. Mr. President, I strongly support the creation of an independent Commodity Futures Trading Commission, patterned after the Securities Exchange Commission, for the purpose of regulating commodities futures markets.

For the sake of protecting our farmers, industrial commodity users, investors in commodities, and particularly our consumers, this step should be taken. Commodity prices are high enough without artificial increases imposed through unfair speculative practices. The new commission would have powers necessary to minimize such distortions.

This legislation is extremely timely. Effective regulation of futures markets is becoming more important, due to the increased volume of trading, substantial increases in open contracts, sharp rises in the prices of many commodities, increased volatility of prices and the number and complexity of price-making forces in the markets. The demise of Government commodity stockpiles has reduced a former stabilizing influence on commodities futures markets. Both increasing sophistication and disaffection with other types of investments have brought the general public, with its great need for adequate protection, into the futures markets in growing numbers. Furthermore, the possibility that market manipulation was widespread during recent period of drastic commodities price fluctuations, augmented by the Russian wheat deal, and the operation of our export control system, has received increasing public attention. Action is needed so that the public legitimately can be confident that the Government is doing what it can to prevent these unwarranted distortions.

The provision of an independent regulatory authority rather than a unit in the Department of Agriculture, regulatory power over the many commodities not now regulated, registration requirements for commodity trading advisers and commodity pool operators, Government regulation of the extent to which trading for floor brokers' own accounts is acceptable, commission approval of contract market bylaws and power to require changes in contract market rules and practices, strong commission enforcement powers and commission authority to act in emergency situations for the purpose of maintaining or restoring orderly trading, should help to accomplish this goal. I believe that an independent commission is preferable to retention of regulatory authority within the Department of Agriculture, which has provided price and income protection for farmers through the years and thus may not be the best place for an agency which must have a neutral role on commodity prices. in addition, the sheer magnitude of the job merits a full time, independent commission.

I generally believe that Government economic regulation should be held to a minimum, but the commodities futures market is one area in which more regulation is needed. The estimated value of commodities traded in 1973 was over $520 billion, over twice the volume of trading in all securities in the United States. The proper operation of this market is crucial not only to large investors and farmers, but to every housewife trying to cope with higher food prices. Those who depend on the operation of the huge commodities market should be assured the minimum protections which the Senate is considering today.

Mr. HUGH SCOTT. Mr. President, I am delighted that the Senate will today begin to consider the Commodities Futures Trading Commission Act of 1974 (H.R. 13113, as amended). This is an important piece of legislation for the American consumer.

As a sponsor of one of the bills reviewed by the Senate Agriculture Committee, I believe H.R. 13113 as amended represents a solid approach to a very difficult regulatory problem. The committee members and its able chairman are to be congratulated for their extensive efforts in remolding H.R. 13113 into its present form. This was accomplished only after listening to 58 witnesses during 8 days of hearings.

Reform of the 1936 Commodity Exchange Act has been long overdue. We need to bring stability to the often madly fluctuating commodities marketplace. Closer regulation will, hopefully, eliminate the misuse of information that results in false, and misleading fluctuations in the price of our commodities. The consumer can only benefit from this type of approach.

It is important to note that the bill not only strengthens the regulation of already regulated commodities and exchanges, but it also regulates some exchanges and commodities not previously covered. For example, coffee, cocoa, and sugar will be subject to Government regulation for the first time. These commodities are those normally traded on the international exchanges. For Pennsylvania, cocoa is a vital commodity that is traded on the international exchange based in New York City. The committee carefully examined the international commodities and felt they should be regulated. I believe the way the Senate bill has been carefully drafted means it will not hinder or harm trading on the international commodities markets. I think the bipartisan, unanimous support of H.R. 13113 by the Senate Agriculture Committee is an affirmation of the whole committee's view that none of the markets will be adversely affected by this legislation.

The bill would establish a full-time commission with five members called the Commodities Futures Trading Commission. After extensive hearings it was clear to the committee that a full-time commission was needed to deal with the $500 billion a year trading volumes in commodities. I would hope that at least one of the commissioners would have some personal knowledge or background in the workings of the international commodities. Since these international commodities have not been regulated prior to this point, a commissioner with knowledge of the international commodities and their peculiar problems would be invaluable.

For the consumer, this bill will mean that commodity prices will more clearly reflect demands and actual available supplies. The kind of speculation which places artificial strains on prices will be under close scrutiny. This will mean more realistic prices for the farmer and the end products like bread for the consumer will likewise be less subject to rapid increase and decrease in demand. Two points covered in the legislation will be particularly beneficial to customers of the commodities markets. First, the bill provided for a customer reparations procedure for handling customer complaints against futures merchants. And second, in the bill there is a requirement that all individuals handling customer accounts as well as commodity pool operators register with the commission and be subject to fitness tests.

H.R. 13113 is an excellent approach to a difficult problem which must be solved. It is significant that many of the ideas incorporated in the bill are a result of an extensive study by the GAO. I hope the Senate acts quickly and favorably on the bill.

Mr. HATHAWAY. Will the distinguished chairman yield?

Mr. TALMADGE. I yield.

Mr. HATHAWAY. As I understand, the committee has amended section 207 of the House bill dealing with "Contract market designation" by striking the House provision that the Commission must, before designating a contract market, find that such transactions serve an "economic purpose" and inserting in lieu thereof, language that the independent Commission must find that designation of a contract market will "not be contrary to the public interest."

Mr. TALMADGE. The Senator is correct. The committee intends by its language to broaden the scope of the test which the Commission must apply before designation of a particular contract market.

By adopting the language proposed by the committee it is intended that not just the board of trade, but producers and other interested parties would have an opportunity to comment upon any proposed designation of a market and to show, if the case warrants, that such a contract market would not be in the public interest. Clearly, if a market were being used almost entirely for speculation rather than for legitimate hedging, it would not be in the public interst.

Mr. HATHAWAY. I thank the distinguished chairman.

I joined with the Senators from Idaho (Mr. CHURCH and Mr. McCLURE), also my colleague, the Senator from Maine (Mr. MUSKIE), in offering an amendment to this bill while it was being considered in committee. The amendment would have permitted producers of potatoes, a commodity important to the economy of both Maine and Idaho, to petition the Commission and then, by referendum of eligible producers, determine whether trading in potatoes should be allowed to continue, or, where trading had been halted, to determine by the same procedure whether trading ought to be once again allowed.

Unlike any other commodity traded, potatoes are traded by specific variety and geographic location—Idaho russets on the Chicago board and Maine round whites on the New York board.

There is considerable controversy as to whether present trading is in the best interest of the growers themselves.

Under the committee amendment, am I correct that the growers themselves will have an opportunity to challenge, before the Commission, whether the designation of a contract market would be in the public interest?

Mr. TALMADGE. The Senator is correct.

Mr. HATHAWAY. I thank the distinguished senior Senator from Georgia, and I commend him for his excellent work in the preparation of this much-needed piece of legislation.

Mr. President, I wonder if I might ask the distinguished senior Senator from Georgia to yield for another point I would like to make about this bill.

Mr. TALMADGE. I yield.

Mr. HATHAWAY. When it comes time for this new Commission to promulgate rules under this act, I would like it to consider a rule that would be similar to an SEC rule that applies to the stock market. This is the rule that allows a stock to be sold short only if the sale is not preceded by a down tick of the stock ticker. In other words, you can only sell short if the last previous sale registered a gain, or at least held even. The point is you cannot sell short on a constant downslide. One object is to prevent speculators from "riding a market down," that is from making a downward trend even worse by selling short.

I would think such a rule might be useful in helping to prevent undue speculation in the commodities markets. One of the most fundamental and important purposes of this act is to prevent abuse of the commodities markets by speculators, who are not in the same position as the producer who has a crop to sell.

Because of that purpose, I would like to see the Commission look at the possibility of a similar rule for the Commodities Exchange Commission. That is, I would like to have it look into the feasibility and merit of prohibiting speculators—hedgers would not be subject to the same limitation—from selling short unless the last previous price registers at least a momentary upturn or stability in the market.

I think that the Commission might do well to look into the possibility of such a rule.

Mr. TALMADGE. If there is nothing further, Mr. President, I suggest that the Chair put the question.

The PRESIDING OFFICER. Is all time yielded back?

Mr. TALMADGE. Mr. President, I yield back the remainder of my time.

Mr. CURTIS. I yield back the remainder of my time, Mr. President.

The PRESIDING OFFICER. All remaining time is yielded back.

The bill having been read the third time, the queston is, shall it pass?

The bill (H.R. 13113) was passed.

Mr. TALMADGE. Mr. President, I ask that the Secretary of the Senate be authorized to correct any technical errors that appear in the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. TALMADGE, Mr. McGOVERN, Mr. HUMPHREY, Mr. CLARK, Mr. CURTIS, Mr. DOLE, and Mr. BELLMON conferees on the part of the Senate.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CURTIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

QUORUM CALL

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ESTABLISHMENT OF BIG CYPRESS NATIONAL PRESERVE IN THE STATE OF FLORIDA

Mr. MANSFIELD. Mr. President, notwithstanding the agreement previously entered into, I ask unanimous consent that the Senate at this time turn to the consideration of Calendar No. 1077, H.R. 10088, and that it be laid before the Senate as the pending business, with the unfinished business (S. 707) to be laid aside until the end of the day.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 10088) to establish the Big Cypress National Preserve in the State of Florida, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 2, beginning in line 18, after the word "only:", insert the following new language:

Provided further, That no improved property, as defined in this Act, or the mineral estate, excluding limestone, in any property, shall be acquired without the consent of the owner unless the Secretary, in his judgment, first determines that such property or estate is subject to, or threatened with, uses which are or would be detrimental to the purposes and objectives of this Act: *And provided further*, That notwithstanding the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the Secretary (1) may evaluate and accept an offer by any landowner without an appraisal, and (2) with respect to any unimproved property of forty acres or less, need not afford the landowner the opportunity to accompany the Secretary's appraisal officer.

On page 3, beginning at line 12, after the words "Sec. 2." strike out the following language:

(a) Effective on the date that the State of Florida enters into a contract with the Secretary to expend $40,000,000 for the acquisition of land within the preserve and to donate the land so acquired to the United States and in addition thereto agrees to donate to the United States all or any portion of the $40,000,000 that is not used by the State for such purpose, there is hereby vested in the United States all right, title, and interest in, and the right to immediate possession of, all real property within the boundaries designated in section 1 of this Act, except as provided in subsection (c) of this section. The Secretary shall allow for the orderly termination of all operations on real property acquired by the United States under this subsection, and for the removal of equipment, facilities, and personal property therefrom.

And insert in lieu thereof:

In recognition of the efforts of the State of Florida in the preservation of the area, through the enactment of chapter 73–131 of the Florida statutes, "The Big Cypress Conservation Act of 1973", the Secretary is directed to proceed as expeditiously as possible to acquire the lands and interests in lands necessary to achieve the purposes of this Act. The Congress expects that the Secretary will complete his acquisition program within six years from the date of enactment of this Act.

On page 4, beginning at line 10, strike out the following language:

(b) The United States will pay just compensation to the owner of any real property taken by subsection (a) of this section and the full faith and credit of the United States is hereby pledged to the payment of any judgment entered against the United States pursuant to the provisions of this Act. Payment shall be made by the Secretary of the Treasury from moneys available and appropriated from the Land and Water Conservation Fund, subject to the appropriation limitation contained in section 8 of this Act, upon certification to him by the Secretary of the agreed negotiated value of such property, or the valuation of the property awarded by judgment, including interest at the rate of 6 per centum per annum from the date of taking to the date of payment therefor. Any action against the United States for just compensation for any lands or interests taken pursuant to this subsection shall be brought in the district court of the United States for the district in which such property is situated. In the absence of a negotiated agreement or an action by the owner within one year after the date of enactment of this Act, the Secretary may initiate proceedings seeking a determination of just compensation in the district court of the United States for the district in which the property is situated. In the event that the Secretary determines that fee title to any lands taken pursuant to this provision is not necessary for the purposes of this Act, he may, with the concurrence of the former owner, revest title in such lands to such owner subject to such terms and conditions as he deems appropriate to carry out the purposes of this Act and he may compensate the owner for no more than the fair market value of the rights so reserved: *Provided*, That the Secretary shall not revest title to any lands for which just and full compensation has been paid.

(b) This section shall not apply to any improved property as defined in subsection 3(b) of this Act: *Provided*, That the Secretary may, in his discretion, initiate eminent domain proceedings if, in his judgment, such lands are subject to, or threatened with, uses which are or would be detrimental to the purposes and objectives of this Act. The district court of the United States for the district in which such property is situated shall have jurisdiction to hear evidence and determine just compensation for any lands taken pursuant to the provisions of this subsection.

On page 6, in line 7, strike out the words "for noncommercial residential purposes".

On page 6, in line 18, after the word "Act," insert the words "which shall include the exercise of such right in violation of any applicable State or local laws and ordinances,".

On page 6, beginning at line 25, strike out the following language:

(b) As used in this Act, the term "improved property" means a detached, one-family dwelling, construction of which was begun before November 23, 1971, which is used for noncommercial residential purposes, together with not to exceed three acres of lands on which the dwelling is situated, such land being in the same ownership as the dwelling, together with any structures accessory to the dwelling which are situated on such land.

And insert in lieu thereof:

(b) As used in this Act, the term "improved property" means a building, construction of which was begun before November 23, 1971, which was constructed and is used, in accordance with all applicable State and local laws and ordinances, together with as much of the land on which the building is situated, such land being in the same ownership as the building, as the Secretary shall designate to be reasonably necessary for the continued enjoyment and use of the building in the same manner and to the same extent as existed on November 23, 1971, together with any structures accessory to the building which are situated on the lands so designated. In making such designation the Secretary shall take into account the manner of use in which the building, accessory structures, and land were customarily enjoyed prior to November 23, 1971, except that in the case of property used solely for residential purposes, the amount of land so designated shall not exceed three acres.

On page 10, in line 6, strike out the word "Federal".

On page 10, in line 7, strike out the word "reserve" and insert in lieu thereof "preserve".

On page 10, beginning in line 10, after the word "Sec. 6." strike out the following language:

Notwithstanding any other provision of law, before entering into any contract for the provision of revenue producing visitor services, the Secretary shall offer those members of the Miccosukee and Seminole Indian Tribes who, on January 1, 1972, were engaged in the provision of similar services, a right of first refusal to continue providing such services within the preserve subject to such terms and conditions as he may deem appropriate.

And insert in lieu thereof:

Notwithstanding any other provision of law, before entering into any contract or agreement to provide new revenue-producing visitor services within the preserve, the Secretary shall offer to the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida the right of first refusal to provide such services, the right to be open for a period of ninety days. Should both Tribes respond with proposals that satisfy the terms and conditions established by the Secretary, the Secretary shall allow the Tribes an additional period of ninety days in which to enter into an inter-Tribal cooperative agreement to provide such visitor services. If the Tribes have not entered into an inter-Tribal cooperative agreement by the end of the ninety-day period which satisfies the terms and conditions established by the Secretary, then the Secretary shall enter into a contract with the Tribe whose proposal best satisfies, in the judgment of the Secretary, the terms and conditions established by the Secretary. No such agreement may be assigned or otherwise transferred without the consent of the secretary.

On page 11, beginning at line 24, strike out the following language:

development: *Provided*, That no Federal funds may be appropriated unless the State of Florida and the Secretary conclude and execute the agreement referred to in subsection 2(a) no later than ninety days after the date of enactment of this Act.

And insert in lieu thereof the word "development."

On page 12, beginning in line 3, after the word "development.", strike out the following language:

Any funds donated to the United States pursuant to subsection 2(a) shall be added to the appropriations made pursuant to this section for the acquisitions of lands.

And insert in lieu thereof:

Any funds donated to the United States by the State of Florida pursuant to chapter 73–131 of the Florida statutes shall be used solely for the acquisition of lands and interests in land within the preserve.

RECESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 12 o'clock noon.

There being no objection, at 11:24 a.m. the Senate took a recess until the hour of 12 noon.

The Senate reassembled at 12 noon, when called to order by the Presiding Officer (Mr. Allen).

KIDNAPED MEXICAN SENATOR FREED

Mr. MANSFIELD. Mr. President, 3½ months ago, Senator Ruben Figueroa and four aides were kidnaped in the Republic of Mexico, specifically, in Guerrerro State. Since that time, the Mexican Government has been undertaking an expedition to see if it would be possible to bring about the release of this senator, who had become such a prominent figure in the political life of Mexico.

Happily, today's newspaper indicates that Senator Figueroa has been found, has been released, and is now back in the safe custody of the Government.

A day or so ago, the father of Mrs. Luis Echeverria, the wife of the President of Mexico, was also released, after 11 days in the hands of his abductors.

I wish to commend the government of President Echeverria for the attitude they have shown and for their success in achieving the release of the senator and the father of the President's wife. I believe this policy has paid off, and paid off well, and I congratulate the Mexican Government for its accomplishment in this respect.

Mr. President, I ask unanimous consent that the story which appeared in today's Washington Star-News be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Star-News, Sept. 9, 1974]

Mexican Senator Freed in Shootout

Mexico City, September 8.—The Mexican army fought a gunfight that left "numerous casualties" and freed Sen. Ruben Figueroa and four aides kidnaped 3½ months ago, Minister of Defense Hermenegildo Cuenca Diaz reported tonight.

Security officials had searched for weeks through the hills of south central Mexico for Figueroa and the guerrilla group that was believed to be holding him.

The Ministry of Defense said guerrilla leader Lucio Cabanas "either escaped or he was not there" during the gunfight. A communique said most of the casualties were among the guerrillas, but it said two of the freed men also were wounded. Many guerrillas were arrested, the communique said.

The guerrilla movement led by Cabanas, a former schoolteacher, has made him a folk hero in Guerrerro state, south of Mexico City. The government has estimated that he commanded about 40 heavily armed men.

Cabanas had demanded arms, $4 million in cash and freedom for every prisoner in Guerrerro as Figueroa's ransom. President Luis Echeverria, whose government refuses to deal with kidnapers, rejected the demands and sent in the army to look for the senator.

Last night, Echeverria's frail, 83-year-old father-in-law was freed by kidnapers. He was reported in good condition today.

Jose Guadalupe Zuno Hernandez was released on a street corner in downtown Guadalajara after being held for 10 days after he was abducted.

Zuno said, "From the very beginning my captors treated me well.

"They gave me everything I wanted. They gave me my medicines, and I talked with them about philosophy, humanism. They listened to me."

He said he had rebuked them, saying, "Boys, this is not the way to make your ideas known. Not by going around scaring families."

He added, "They are clean-living boys, they're good boys, but they're mixed up. They want to change the world but they don't know how to do it."

Zuno said he convinced his kidnapers their real enemy was the CIA and not the Mexican government. "These men are fighting against the CIA because the CIA and capitalism do not have respect for anything," Zuno said. "I back them in that struggle, because we have to fight these elements."

A family spokesman said Zuno returned home "unshaven and tired, but well."

His son Ruben told newsmen his father was "very hungry. The first thing he did was ask for something to eat. He is alive and well and in good condition."

He said no deals were made with the kidnapers. "He was just set free."

Zuno was kidnaped Aug. 28 by four gunmen near the downtown area of Guadalajara, Mexico's second-largest city, 300 miles west of Mexico City.

The People's Armed Revolutionary Front, a Marxist group, claimed responsibility for the kidnaping and demanded a $1.6 million ransom plus release of 10 political prisoners. The government rejected the demands, and a family spokesman said none of the ransom demands had been met.

Police said the People's Front is the same organization which kidnaped U.S. Consul General Terrance G. Leonhardy on May 4, 1973.

Guadalajara, with a population of 1.7 million, including an estimated 15,000 retired Americans, has been a hot bed of guerrilla activity for the past three years.

U.S. FOREIGN AID PROGRAMS

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an article concerning the Senator from California (Mr. CRANSTON), which appeared in Parade magazine on September 8, 1974.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNCLE MONEY BAGS

Although virtually every American is hard hit by inflation, most of us favor helping people in poorer nations, especially disaster victims.

But Sen. Alan Cranston (D., Calif.), who believes wasteful military spending abroad is one of the chief causes of inflation, thinks Americans would be keenly upset if they knew all the facts about U.S. multibillion-dollar foreign aid programs.

Cranston, who is a member of the powerful new Senate Committee on the Budget, has been analyzing the figures and here are some of the things he has learned:

The U.S. has sent nearly $200 billion in aid and credits to 138 foreign countries since the end of World War II—the equivalent of more than 40 percent of the entire U.S. national debt ($474 billion).

About one-third ($66 billion) has been in the form of military aid.

Among the governments we've been supporting are 56 military dictatorships and authoritarian regimes which to one degree or another, have used military aid money, intended for defense against outside aggression, to terrorize and subjugate their own people.

These repressive governments have obtained $81 billion in U.S. aid since 1945, they are scheduled to receive still another $5 billion this year. Forty-two percent of past money ($34 billion) and 50 percent of this year's money are for military aid.

Even the $47 billion sent to those countries in the form of so-called economic aid, according to Cranston, "included huge sums appropriated for military or diplomatic reasons rather than for humanitarian purposes. Much of this money has ended up in the banks of the bureaucrats and the affluent instead of in the hands of the poverty-stricken."

Senator Cranston has listed 56 repressive governments and the total amount of military and economic aid they have received from the U.S. Below are the 10 that received the most.

	Billion
S. Vietnam	$22.3
Greece	4.7
Taiwan	6.16
Pakistan	5.1
Brazil	4.7
Greece	4.3
Spain	3.14
Iran	3.1
Indonesia	2.9
Philippines	2.7

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

ANNUAL REPORT OF THE SECRETARY OF THE INTERIOR—ADMINISTRATION OF THE FEDERAL COAL MINE HEALTH AND SAFETY ACT, 1973—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I am pleased to transmit herewith to the Congress the annual report of the Secretary of the Interior on the Administration of the Federal Coal Mine Health and Safety Act.

This report for the calendar year 1973 is submitted to the Congress in accordance with the requirements of Public Law 91-173, the Federal Coal Mine Health and Safety Act of 1969.

GERALD R. FORD.

THE WHITE HOUSE, *September 6, 1974.*

PRESIDENTIAL APPROVAL

A message from the President of the United States stated that on September 7, 1974, he had approved and signed the following act:

S. 821. An act to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HATHAWAY). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ESTABLISHMENT OF BIG CYPRESS NATIONAL PRESERVE IN THE STATE OF FLORIDA

The Senate continued with the consideration of the bill (H.R. 10088) to establish the Big Cypress National Preserve in the State of Florida, and for other purposes.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. What is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 10088, to establish the Big Cypress National Preserve.

Mr. JACKSON. Mr. President, the Congress of the United States has long been active in the struggle to preserve south Florida's unique environment. In 1934, Congress authorized the establishment of the Everglades National Park. During the 91st Congress, the Interior Committee reported and the Congress passed legislation sponsored by that great friend of the Everglades, the late Senator Spessard Holland, which increased appropriations and authorized acquisition of additional land for the park. Again, in 1968, the committee approved legislation to create the Biscayne National Monument. In 1969, I chaired the first congressional hearings on the environmental impact of the Florida jet port. These hearings helped generate the national pressure which led to a halt in the jet port's construction and to a guarantee of a proper flow of water to the Everglades National Park from the conservation area.

The guiding concept in the committee's work has been that the unique environment of south Florida should be saved—but saved for, not from, the people.

This same concept is embodied in the legislation which we consider today. A Big Cypress National Preserve would, indeed, protect the region's physical environment, but it would also serve to meet the requirements of south Florida's economic and social environments.

As one of the two principal watersheds for the Florida Everglades, Big Cypress provides a great proportion of the surface water which supports the life systems of the national park.

This water is of crucial importance, as well, to the Florida economy. Among the life systems protected by Big Cypress water are the shrimp, shellfish, and other sea life so essential to the region's sport and commercial fishery enterprises. In turn, these enterprises are important to the retail, service, and tourist industries of southwest Florida and the Florida Keys.

Furthermore, in its natural state, Big Cypress could be the key to effective water management for the growing southwest coastal communities. Big Cypress serves as a natural water conservation area. Further development in the watershed may endanger the region's future water supply and foreclose the much greater opportunities for development along the coast.

The environment of the Big Cypress watershed is truly unique. Sheltered and supported among the great stands of cypress, wet prairies, and islands of pine is a fascinating diversity of plant and animal life, including 17 endangered wildlife species and numerous rare and endangered species of flora.

Of even greater importance, this same environment provides unmatched recreational opportunities within a few hours' drive of most population centers of south and central Florida. Big Cypress attracts hunters and fishermen, hikers and photographers, birdwatchers and botanists, and those who wish merely to experience the solitude of the area. Such an environment will become an even more valuable resource as Florida's population continues to grow.

Finally, Big Cypress is the ancestral home of the American Indians who have inhabited the region for thousands of years. Yet, today, many Miccosukee and Seminoles who live along the Tamiami Trail are without land of their own. The establishment of a recreation area would preserve an environment which plays an integral and vital part in the lives and culture of these citizens.

Land use has been one of the major concerns of this Congress, and the Everglades-Big Cypress represents a striking example of how ill-advised, single-purpose projects, and uncontrolled development can threaten not only the unique ecological resources and balance of an area, but also the economy and water supply for the area's population.

Extensive hearings have been held over the past three Congresses on this legislation culminating in the present legislation. The State of Florida has committed itself and its resources to preserve the area and I urge my colleagues to support this critically needed legislation.

Mr. President, the committee amended H.R. 10088 by deleting the legislative taking provision contained in the House-passed bill, and instead authorized the Secretary of the Interior to acquire the land under the normal acquisition procedures but stating that Congress expected the acquisition to be completed within 6 years.

The committee also modified the acquisition authority by prohibiting condemnation of all improved residential and commercial property, including mineral estate, but not including limestone, unless such property is threatened with or subject to a use detrimental to the preserve.

In addition, the committee adopted an amendment recommended by the Department of the Interior which would provide for two exceptions to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. These provisions would waive the need for appraisal and the opportunity for owners to accompany appraisers for unimproved property of 40 acres or less.

There are approximately 35,000 small landowners within the Big Cypress area which would be subject to acquisition under H.R. 10088. In addition to permitting the Secretary to accept property which the State of Florida has acquired prior to the effective date of the Act, this amendment would relieve the Secretary of certain duties required of him under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Among other things, that act requires that properties must be appraised and once the appraisal is reviewed and approved by the acquiring agency, the amount offered as just compensation for the lands being acquired may not be less than their appraised fair market value. In order to expedite the acquisition of the many properties in the Big Cypress area this amendment would permit the Secretary to accept an offer of the sale without the necessity of having the property appraised. The Relocation Act, in addition, requires that the landowners be afforded the opportunity to accompany the Government's appraiser during the appraiser's inspection of the property. Because of the tremendous number of small landowners in the area, many of whom do not reside even within the State of Florida, it would be extremely difficult to comply with this requirement and attempts at compliance could materially delay the completion of the land acquisition program. Accordingly, the amendment also absolves the Secretary from this requirement with respect to unimproved properties of 40 acres or less. Properties which are improved will generally involve landowners who reside in the area, and accordingly difficulties with this group are not anticipated.

The Department recommended two additional provisions to the proviso: that the Secretary, first, may accept donations of property acquired by the State of Florida prior to the effective date of this act, with respect to which all payments and assistance and assurances have not been provided in accordance with sections 210 and 305 of that act, second, may pay the State's share of payments and assistance and provide assistance and assurances otherwise required of the State under sections 210 and 305 of that act, with respect to properties acquired by the State of Florida prior to the effective date of this act.

The committee did not accept this part of the proposed amendment. The Uniform Relocation Assistance Act requires States to provide assistance in moving and replacement housing whenever Federal funds are used in the acquisition of land or the acquisition is in furtherance of a Federal purpose.

The State expenditures in the Big Cypress area are not contingent upon congressional enactment of this legislation, are pursuant to an approved State plan, and have been fully authorized. The committee believes that the State purchase and donation does not fall within the scope of the Relocation Act and that the addition of this language would not only expand the coverage of the Relocation Act but would inhibit future State actions related to conservation. The Cypress area has been declared to be an area of critical State concern and the $40 million will be spent whether or not this legislation is enacted.

The committee adopted an amendment to section 3 to guarantee that applicable State or local regulations should be complied with in connection with the authority of the Secretary to terminate right of occupancy when he determines that it is being exercised in a manner inconsistent with the purposes of the act.

The term "improved property" has been revised. The new definition has the effect not only of exempting all commercial and residential properties, as of November 23, 1971, from the taking, but it also permits owners of commercial as well as residential property and improved property used for agricultural and religious purposes to retain 25-year or life occupancy rights in the event of acquisition. House-passed bill only permits such rights to residential property owners.

The committee also strengthened the House language by granting the Miccosukee and Seminole Tribes a right of first refusal on any concession contract in the preserve. The amendment also provides a procedure to be followed should both tribes wish to assume the contract. Language was also included to clarify the fact that the traditional rights of these tribes are protected within the proposed preserve.

Mr. President, I ask unanimous consent that a section-by-section analysis of H.R. 10088 be printed in the Record.

There being no objection, the analysis was ordered to be printed in the Record, as follows:

Section-by-Section Analysis of H.R. 10088

Section 1 establishes the Big Cypress National Preserve and defines the area included therein by reference to a boundary map. (see p. 4). The bill requires a detailed boundary description to be prepared and published in the Federal Register. Altogether (including approximately 522,000 of privately owned lands and 48,000 acres of publicly held lands), the preserve would total 570,000 acres of land and water. The Secretary is authorized to acquire the lands within the preserve by purchase, donation, exchange, or transfer from another Federal agency, but lands owned by the State of Florida or any of its subdivisions may be acquired only by donation. However, condemnation of all improved residential and commercial property, including mineral estate, but not including limestone, is prohibited unless such property is threatened with or subject to a use detrimental to the Preserve.

This section also contains two exceptions to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which would waive the need for appraisal and the opportunity for owners to accompany appraisers for unimproved property of forty acres or less.

Section 2 recognizes the efforts of the State of Florida in the preservation of the Big

Cypress area, directs the Secretary to expedite acquisition of the land and contains a Congressional expectation that the acquisition should be completed within six years from the date of enactment.

Section 3 permits an owner of an improved property to retain a right of use and occupancy for a term of 25 years or lifetime, as the owner elects. Any owner retaining such a right would be entitled to receive the fair market value of his property at the time of acquisition less the value of the right retained. The section also requires the Secretary to consider applicable State or local regulations in connection with his authority to terminate right of occupancy when he determines that it is being exercised in a manner inconsistent with the purposes of the Act. Subsection (b) defines "improved property" and subsection (c) provides that owners who take advantage of this provision automatically waive any relocation assistance benefits.

Section 4 provides that the area shall be administered so as to preserve its natural values in accordance with the general authorities applicable to other units of the National Park System. As a designated unit of the National Park System, it is to be administered, managed and maintained in perpetuity by the Secretary through the National Park Service. In administering the area, the legislation directs the Secretary to develop and publish appropriate regulations to limit or control specified activities on Federal lands, but it requires him to consult and cooperate with the Secretary of Transportation with respect to rights-of-way within the preserve. If interstate 75 utilizes the Tamiami Trail right-of-way it is to be a limited access roadway designed and constructed in a manner which will enhance the values of the preserve and cause the least possible adverse environmental impact.

Section 5 requires the Secretary to permit hunting, fishing and trapping within the preserve in accordance with State and Federal laws, but it allows him to designate zones where, or periods when, no hunting, fishing, trapping or entry may be permitted for reasons of public safety, administration, floral and faunal protection and management, or public use and enjoyment. Insofar as hunting, fishing and trapping are concerned, he is required to consult with the State before promulgating such regulations, except in emergencies. The Miccosukee and Seminole Indians have traditionally used much of this area for hunting, fishing and ceremonial purposes. They are to be permitted to continue such usual and customary uses subject to such reasonable rules and regulations as the Secretary may promulgate. In addition they are to be permitted to continue their present residential occupancy of lands within the preserve along the Tamiami Trail which they have occupied for a number of years. The preserve boundaries were drawn so as not to include any reservation lands, but the Miccosukees hold a 50-year permit to a strip of land 5 miles long by 500 feet wide in the Everglades National Park and have customarily occupied certain lands along the Tamiami Trail.

Section 6 is designed to give members of the Miccosukee and Seminole Tribes a right of first refusal on any concession contract in the preserve.

Section 7 requires the Secretary to review the preserve under the terms of the Wilderness Act and to report his recommendations concerning the suitability of including any portion of it in the Wilderness System.

Section 8 authorizes the appropriation of $116,000,000 for land acquisition and $900,000 for development and stipulates that any funds donated by the State of Florida to the United States pursuant to chapter 73-131 of the Florida statutes must be used for the acquisition of lands and interests within the Preserve.

Mr. HANSEN. Mr. President, on behalf of the minority, let me say that I think the statements made by the Senator from Washington (Mr. JACKSON) conform with the facts. We now have no objection to the bill being passed as it has been presented.

It is our understanding that there was some confusion, but that with the further full disclosure of what all the facts are, the State of Florida will be helping out with the purchase of the privately owned properties in the Big Cypress area, a course with which I wholeheartedly concur. I think that is a much better and much fairer way of dealing with the issue than would have resulted, as was proposed by some, by zoning or restrictions of one kind or another being imposed upon the landowners in order to protect the water resource that is required for the preservation of the Everglades.

So I am in full accord with the Federal authorization which, as I understand, will be used with those moneys provided by the State of Florida to buy the necessary real estate in order to assure an adequate supply of fresh water.

Mr. GURNEY. Mr. President, I wish to express my appreciation to the distinguished chairman of the Committee on Interior and Insular Affairs, the Senator from Washington (Mr. JACKSON), as well as to the Republican floor manager of the bill, the Senator from Wyoming (Mr. HANSEN), for their farsighted action in reporting out this very important piece of legislation to the people of Florida, and, for that matter, to the people of the United States.

As the distinguished chairman of the committee has pointed out, the Everglades National Park is a very important part of the whole watershed area of south Florida. It was initiated, in the first instance, by the State of Florida. A very large portion of the park was given to the United States for a national park many years ago. The same thing is true in this case, but the State of Florida has also initiated the purchase of Big Cypress by putting up a very substantial amount of money in order to help themselves out in this very urgent matter of water preservation.

The importance of Big Cypress, of course, is that it is a vast basin holding water which, in turn, supplies water to the adjacent Everglades National Park. Without the Everglades National Park, and without acquisition of Big Cypress, in time, and probably in a relatively short time, the inhabitants of south Florida, both on the east and west coasts, would be in serious difficulty in obtaining enough water to satisfy their purposes, either for household use or industrial use.

This is the storage area for all of the water used in this whole area.

Big Cypress is being encroached upon by real estate development, by farming and, later, I think, even industrial use would probably come into this area, so that it would be destroyed if not being preserved by this legislation for the drainage area that it is, indeed, that part of Florida would run out of water in point of time.

This legislation is urgently needed. Both the administration and Congress are to be congratulated for going ahead with this very important acquisition for the benefit of Florida and the United States.

Mr. CHILES. Mr. President, I wish to add my voice to compliment the distinguished chairman of the Interior Committee, Mr. JACKSON, together with the ranking minority member for their statements.

I think there is no way this bill could be passed today without the sponsorship and the good work of the distinguished chairman of the committee.

Mr. President, H.R. 10088, as amended and reported last week by the Committee on Interior and Insular Affairs, would authorize the Federal acquisition of some 570 thousand acres of the Big Cypress watershed in southwest Florida.

South Florida, as deeply as any other part of our Nation, feels the pressures of increasing population, and the need for economic development to support those pressures. And that development, misdirected, can damage or even destroy the Everglades—one of the most complex, fragile, and important wild places in the world. The bill before us today is a product of the apparent conflict between economic growth and environmental protection.

Those seemingly contrasting goals have produced their share of conflict over the years. The Congress, since the establishment of Everglades National Park in 1934, has more than once had to help work out solutions to assure the survival of the Everglades. And the Congress has been equally interested, and generous, in support of pubic works and other programs to increase opportunities for economic development in Florida.

It was a conflict between those two interests that led directly to proposals for public ownership and protection of the Big Cypress. If this legislation was born in disagreement, we should note that now it enjoys the closest thing to a consensus that can be expected in our democracy. Its supporters include the local governments concerned, the State of Florida, the Department of Interior—the Republican Federal Administration and Democratic leaders of the Congress and in Florida—Florida's most ardent conservation organizations, and the Greater Miami Chamber of Commerce.

This agreement, among interests that often have so much to disagree about, did not come easily. In 1967, aviation officials in Miami, with Federal encouragement and Federal dollars, selected the Big Cypress Swamp for what was to have been the world's largest airport, only a few miles north of Everglades National Park. The controversy over that decision stimulated, for the first time, thorough scientific studies of the Big Cypress and its relationship to the Everglades.

As a result, local, State, and Federal agencies agreed to relocate the airport. And all concerned are now happy to report that moving the airport will not only protect Big Cypress and the Everglades, but will also provide Greater Miami with a better site for an airport—one that makes more sense from an overall transportation planning standpoint.

But relocation of the airport will not stop pressures for the development of Big Cypress. And preservation of the cypress, marsh, and pine lands within the boundaries of the proposed Big Cypress National Preserve is, without question, essential to the survival of Everglades National Park.

Just as we learned that moving the jetport to protect the Everglades also benefited Florida's transportation planning, we have learned in the Big Cypress a recurring lesson of the Everglades—that protection of our natural environment is not only consistent with a sound economy, it is one of the foundations of our prosperity.

The Southeastern Fisheries Association, representing the commercial fish and shrimp operators who add both food and dollars to the economy of south Florida, want to protect the Big Cypress because they know their catch depends on the natural flow of water through the cypress country into the Gulf of Mexico. The coastal communities of southwest Florida want to protect their water supplies from saltwater intrusion. Even those who might be concerned only with dollars would want to protect the Big Cypress—because 90 percent of the area to be acquired is flooded during south Florida's rainy season, and public works projects accompanying development would be more costly than the price of protection.

Simply withholding public works subsidies would not prevent a degree of development sure to damage the natural water regime of Big Cypress. In Florida, as in other States experiencing rapid growth, there are people anxious to make risky investments in lands poorly suited for development. They will buy and build on lands that are too dry, or too wet, or fireswept, or subject to erosion. Perhaps, in some, it's human nature to seek out and overcome such obstacles. In others, it's also human nature to promote the development of such lands, because those very obstacles make an initial investment in the raw land relatively inexpensive—and they can often expect that a sympathetic and generous public will, sooner or later, help defray development costs.

In the Big Cypress, only 300 families live in the more than half million acres of the proposed national preserve. But mail order and telephone sales have created more than 20,000 absentee owners of small parcels within the proposed boundaries. Demands for flood control are increasing, from investors who know that the money value of their property cannot grow unless the land is changed. Speculators are encouraged by promoters building private canals and roads.

That part of the Big Cypress that serves as watershed to Everglades National Park is still wild and natural. Deer and wild turkey prosper there, as hunters demonstrate each fall. Alligators and panthers live in the cypress country. Woodstorks and ibises and spoonbills, and the other birds that make the Everglades famous, range through the sloughs and ponds of the Big Cypress when the national park dries out each year. And, as it has for thousands of years, when the rainy season ends in the fall, water flows in a shallow, broad sheet through the Big Cypress and into Everglades National Park, coming in the right amount, and at the right time, to concentrate food for the fishes and birds and all the living things of the Everglades whose life cycles are tied to the annual rise and fall of the water.

More than half of the surface water flowing into Everglades National Park—all of it that flows into the park's western portion—comes from Big Cypress. This dependence of the Everglades on Big Cypress was, as noted earlier, not established until the Department of the Interior and State of Florida studied the area during the jetport controversy. When it became clear that life in the Everglades could not be sustained without the Big Cypress, the distinguished chairman of the Interior Committee, whose investigations of the jetport conflict prompted the resolution of that problem, joined me in introducing, in the 92d Congress, the first bill calling for acquisition of the land.

Like that first bill, the one before us today has been carefully drawn, to limit acquisition to only those lands that must be preserved in their natural state, undisturbed, to assure the traditional pattern of water flow to the Everglades. The boundaries coincide with that subarea of the watershed described by the U.S. Geological Survey as essential to the national park.

The people of Florida, who, through the State, made the generous donation of land and money that made possible the original establishment of Everglades National Park, are once more taking extraordinary steps to help the United States preserve the Everglades. Governor Askew, with the support and leadership of the State cabinet and legislature, has committed the State to a $40 million contribution toward the cost of purchasing lands needed for the national preserve. The State has already begun to purchase lands in the areas most threatened. Under the terms of the State program, on establishment of the national preserve, the lands already purchased, and the unspent balance of the $40 million, will be donated to the United States.

Because of this unprecedented gift from the people of Florida, ample funds will be available to the Department of the Interior, when the bill becomes law, to continue acquiring land as rapidly as the logistics of dealing with so many property owners will permit. The problems of handling so many acquisitions will slow the purchasing process, so that no substantial expenditure of the Federal moneys authorized could take place for another fiscal year.

These unavoidable delays in the mechanics of acquiring the land add merit, I believe, to the proposal for legislative taking of the property, as called for in H.R. 10088 as passed by the House. I share, with the distinguished chairman of the House Interior Committee Representative JAMES HALEY, whose love for the Everglades and dedication to this legislation have made it possible for us to have this opportunity to protect Big Cypress, the feeling that legislative taking appears to be the surest way to protect the public from speculative increases in the price of land authorized for parks acquisition.

However, the present availability of funds from the State of Florida to purchase lands most subject to speculative pressure, and the assurance from the Secretary of the Interior that purchase of the Big Cypress National Preserve can be completed in 6 years, give reason to believe that the more traditional method of acquisition, without legislative taking, will do the job. The bill before us does not include legislative taking. And I recognize the merit of the feeling of the distinguished chairman of the Subcommittee on National Parks, Senator BIBLE, that legislative taking of newly authorized parks would delay acquisition of other parks long authorized, but not fully purchased because of unwarranted administration impoundments of appropriated funds.

Senator BIBLE, and all the members of the Interior Committee who have devoted so much concern to protection of the Everglades, have at my request, further amended the House bill to cover two issues that have, in the past few months, been shown to deserve special consideration.

One amendment accomplishes the unusual, by both saving Federal money, and doing justice to those people presently living in Big Cypress. Those families, hardy and independent as they are, have not dispersed themselves throughout the proposed national preserve. And, unlike developments that have become troublesome inholdings in other units of the National Parks System, residents of the Big Cypress are not clustered in or next to the most scenic and sensitive areas. They are, for the most part, settled along the few roads and highways that go through or border the preserve.

H.R. 10088, as amended, would direct the Secretary to refrain from purchasing these peoples' homes, churches, and businesses, unless a change in their use should pose a threat to the area. This amendment will also preserve the ownership, subject to the same conditions, of the clubhouses of the hunting and recreation organizations whose members have worked so hard, along with other conservationists in Florida and across the Nation, to preserve the Big Cypress.

Another amendment reinforces provisions of the House-passed bill that safeguard the traditional rights of the Miccosukee and Seminole Indians in the Big Cypress, by assuring, as the House Interior Committee suggested is proper, that the tribes be given the first opportunity, should they submit proposals satisfying the standards of the Secretary, to provide profitmaking visitor services within the national preserve. This will mean the Miccosukee and Seminole Tribes will have a chance to benefit, economically, from the rest of our country's enjoyment of the tribes' traditional lands. No part of the national preserve lies within tribal lands, and establishment of the preserve will guarantee the tribes uses and benefits of lands that, through development, would ultimately have been lost to them.

It is largely because of the active use

of Big Cypress by the Miccosukee and Seminole Indians, and by hunters seeking the area's abundant game, that Big Cypress must be managed separately from Everglades National Park.

Though they are linked to each other, and each is a part of the same natural system, Big Cypress sustains hunting, recreation, and traditional Indian uses that are not compatible with the more stringent biological preservation management standards of Everglades National Park.

To preserve the recreational and Indian uses of Big Cypress, and to preserve the cypress country itself, lands and waters within the national preserve must be protected under one system of management, dedicated to maintaining their natural integrity. That is why this legislation calls for fee acquisition of the land.

No economic agricultural or other development uses of the Big Cypress can take place without drainage—and protection of the Big Cypress would, of necessity, prohibit drainage. So, any less-than-fee management system that adequately protected the land would, in reality, constitute a taking. And any attempt to regulate land use in the area, rather than buy the land, would place the National Park Service in a continuous management relationship with more property owners than the total of all inholdings in the entire National Parks System.

Last, it would be impossible to speak to this body about the Everglades without reference to that great man who honored Florida and the Nation by his service in the U.S. Senate, by his leadership as Governor of Florida, and by his proudest accomplishment—the years of work that earned him the deserved title, father of the Everglades. The late and beloved Senator Spessard Holland cared for the Everglades as one who truly knew its value—to any person lucky enough to know it, and to all the people of Florida, of our country, and of the world.

In this complicated and changing world, it probably is not wise to speak with certainty about final or complete answers and solutions. But protection of the Big Cypress watershed would, I believe, as much as reason and hope can predict, assure that all of us, and those who follow us, can live with a living Everglades.

I think that is a far-reaching piece of legislation. I think it is important certainly to the State of Florida. But I think it is also important to the Nation.

The committee has worked long and hard on this bill, and I am delighted to see that they have put two amendments on the bill that I was particularly interested in. One would accomplish the unusual by saving Federal money and doing justice to those people presently living in Big Cypress as I have previously noted. Through the amendment on this bill, they are going to be allowed to remain and continue to live the way they have lived as long as what they are doing is not endangering the preserve. I think that is an outstanding amendment to go on the bill.

Also another amendment that safeguards the traditional rights of the Miccosukee and Seminole Indians in the Big Cypress.

I think those are outstanding amendments, and with the work that the committee has done I think that we have an outstanding piece of legislation.

Mr. JACKSON. Mr. President, I want to take this opportunity of expressing my deep appreciation to the junior Senator from Florida (Mr. CHILES) for his long and continuing interest in the Big Cypress project. He was extremely helpful to me during the period when we did have a lot of controversy. I may say a lot of misunderstanding existed, and he provided outstanding leadership in our efforts to get this legislation finally worked out.

Likewise I want to thank the distinguished senior Senator from Florida (Mr. GURNEY) for his cooperation and support throughout the consideration in the Senate.

The Governor of Florida, Gov. Reubin Askew, led the battle at the State level which resulted in the appropriation by the State of Florida of $40 million to acquire lands in connection with the Big Cypress project.

I think this kind of cooperation, teamwork, has made this project possible.

I do not believe that there are any other speakers on the issue, and I would suggest that perhaps we go to a third reading.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments. Does the Senator wish the committee amendments to be considered en bloc?

Mr. JACKSON. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the committee amendments.

Without objection, the committee amendments are agreed to en bloc.

If there be no further amendments to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATION OF CERTAIN LANDS IN THE OKEFENOKEE NATIONAL WILDLIFE REFUGE, GA., AS WILDERNESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to consideration of Calendar No. 1067 (H.R. 6395), that it be laid down and made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6395) to designate certain lands in the Okefenokee National Wildlife Refuge, Georgia, as wilderness.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert the following:

That, in accordance with section 3(c) of the Wilderness Act (78 Stat. 890), certain lands in the Okefenokee National Wildlife Refuge, Georgia, which comprise about three hundred forty-three thousand eight hundred and fifty acres and which are depicted on a map entitled "Okefenokee Wilderness Proposal", dated October 1967, revised March 1971, are hereby designated as wilderness. The map shall be on file and available for public inspection in the office of the Director of the United States Fish and Wildlife Service, Department of the Interior.

SEC. 2. In accordance with section 4(d)(1) of the Wilderness Act and subject to such restrictions as the Secretary of the Interior deems necessary for public safety and to protect the flora and fauna of the wilderness, within the wilderness designated by this Act:

(1) watercraft trails, insofar as possible in conformance with those depicted on the map referred to in section 1, shall be maintained by appropriate means, including the use of motorized equipment: *Provided*, That neither the total mileage of the trail system designated for exclusive use by nonmotorized watercraft nor the total mileage of the trail system designated for use by motorized watercraft, as depicted on such map, shall be increased; and

(2) on the trails designated for use by motorized watercraft, watercraft propelled by motors of ten or less horsepower may be permitted.

SEC. 3. As soon as practicable after this Act takes effect, a map and a legal description of the wilderness area shall be filed with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such description and map shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such description and map may be made.

SEC. 4. The area designated by this Act as wilderness shall be known as the Okefenokee Wilderness and shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. **HASKELL.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The Senator from Colorado.

Mr. **MANSFIELD.** Will the Senator yield?

Mr. **HASKELL.** I yield to the Senator from Montana.

THE SUPPLY AND PRICE SITUATION IN THE FOOD AND AGRICULTURE INDUSTRIES

Mr. **MANSFIELD.** Mr. President, I ask unanimous consent that the pending business be laid aside temporarily, and that the Senate proceed to the consideration of Calendar 1085, Senate Resolution 391.

The **PRESIDING OFFICER.** The resolution will be stated by title:

The assistant legislative clerk read as follows:

A resolution (S. Res. 391) relating to the President's committee on food and the continuing serious nature of the supply, demand, and price situation of fertilizer, farm chemicals, and fuels and energy (especially natural gas) used by food and agriculture industries.

The **PRESIDING OFFICER.** Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution, which has been reported from the Committee on Agriculture and Forestry with an amendment on page 3, in line 13, to strike out "marterials" and insert in lieu thereof "materials".

The amendment was agreed to.

The resolution, as amended, was agreed to.

The preamble was amended and agreed to.

The resolution, as amended, with its preamble, as amended, is as follows:

Whereas the Congress has developed and adopted a body of legislation designed to assure the production of abundant supplies of food and fiber for the markets of this Nation at reasonable prices, and

Whereas agricultural producers are faced with rapidly increasing costs of production and shortages of fertilizer, fuels, farm chemicals, and other inputs essential to food and fiber production, and

Whereas numerous actions taken by the Cost of Living Council under the authority extended by the Economic Stabilization Act of 1970 have created dislocations within agriculture and between agriculture and the rest of the domestic economy, and

Whereas there has been created by Executive Order Number 11788 dated June 18, 1974, the President's Committee on Food which is charged with many of the duties formerly vested in the Cost of Living Council, and

Whereas any disruption or dislocation of the Nation's agriculture threatens the long-term interest and welfare of producer and consumer alike: Now, therefore, be it

Resolved, That it is hereby declared to be the sense of the Senate that the actions of the President's Committee on Food should in no way assume, displace, or otherwise interfere with responsibilities delegated by law to the Secretary of Agriculture or other officials of Government, and that in the conduct of its activities the President's Committee on Food shall:

(1) consult with and maintain close liaison with the Senate Committee on Agriculture and Forestry,

(2) take into consideration the increased costs of agricultural production and shortages or potential shortages of farm inputs in any actions it may take or recommendations it may make, and

(3) provide such information and reports as may be requested by the Committee on Agriculture and Forestry on behalf of the Senate; and, therefore, be it further

Resolved, That it is hereby declared to be the sense of the Senate that—

(1) all agencies of the Federal Government, which have any responsibility for establishing priorities for the allocation of materials, supplies or facilities utilized in the production or distribution of fertilizer, fuels and energy, farm chemicals, and other inputs essential to agricultural production, give the highest priority to the agricultural industry and related industries regarding the allocation of such materials, supplies, or facilities;

(2) the Federal Power Commission take immediate steps to provide the highest possible priority for the allocation of natural gas for the expansion of existing capacity for the production of synthetic anhydrous ammonia; feedstocks, intermediates, and solvents utilized in the production of farm chemicals; feed phosphates; and for all other agricultural uses of natural gas;

(3) the President expand the scope and responsibility of the Intergovernmental Agency Task Force on Fertilizer to include all essential farm inputs with respect to their supply availability, pricing (wholesale and retail), exports and imports and their equitable distribution among farm producers; and

(4) the Federal Energy Administration consult with and maintain close liaison with the Senate Committee on Agriculture and Forestry with respect to any plans or proposals that may affect the current priority status that agriculture and related industries now enjoy under Federal mandatory fuel and propane allocation regulations.

DESIGNATION OF CERTAIN LANDS IN THE OKEFENOKEE NATIONAL WILDLIFE REFUGE, GA., AS WILDERNESS

The Senate continued with the consideration of the bill (H.R. 6395) to designate certain lands in the Okefenokee National Wildlife Refuge, Ga., as wilderness.

Mr. **HASKELL.** Mr. President, very briefly, the pending matter before the Senate involves the Okefenokee National Wildlife Refuge in the State of Georgia. This comprises 343,850 acres, and the bill intends to declare this a wilderness area.

In this connection, Mr. President, I would like to place in the RECORD a letter addressed to the chairman of the full Committee on Interior and Insular Affairs, the disinguished Senator from Washington (Mr. JACKSON) from Mr. Dickerman, director of field services, eastern region, the Wilderness Society.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WILDERNESS SOCIETY,
September 6, 1974.

Senator HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: We are pleased to respond to your recent request for our views on the subject of wilderness designation for the Okefenokee National Wildlife Refuge as embodied in the House and Senate versions of H.R. 6395.

We note with pleasure that both bills would place the same boundary of 343,850 acres in the National Wilderness Preservation System. Thus there is identical agreement between the House-passed bill and the Senate Interior Committee version on the primary objective of this piece of legislation. The differences between the two versions are concerned with technical or secondary points.

We are highly appreciative of the precision and the economy with which the Senate Interior Committee's bill is drafted. In brief, clear language the essential provisions are stated. Material not relevant to the application of the Wilderness Act is omitted. We particularly appreciate the exclusion of provisions for management activities which are already provided for in the original Wilderness Act and of provisions dealing with unrelated situations lying outside the designated wilderness boundary.

As satisfied as we would be by passage of the Senate Interior Committee's excellent version of H.R. 6395, we would likewise welcome passage by the Senate of the House-passed H.R. 6395. It is true that the House Act includes what we are inclined to consider as extraneous material, meaning the provision in section 2 for certain access points and the provision in section 3 dealing with the authority of the Secretary of the Interior over fishing within the Okenfenokee Wilderness. In as much as all four named access points lie outside the boundaries of the designated wilderness, it is preferable, in our view, that they not be dealt with in a wilderness bill. And since the Secretary's authority over fishing in the Okefenokee Wilderness and elsewhere in the refuge is already fully provided for in other statutes and departmental regulations, it seems unnecessary here.

With respect to the use of motorboats in the wilderness, the provision of the House Act is similar to that of the Senate Interior Committee bill, except that the House Act places no limitation whatsoever on the number of miles of motorboat and of canoe trails which might be constructed and maintained. Our preference would be that motorboat trails be limited to those now recognized, with no limit on the mileage of canoe trails, these latter being compatible with wilderness.

While acknowledging the preferences expressed above, Senator Jackson, enactment by the Senate of the House-passed H.R. 6395 would be entirely acceptable. In our view, what is most important is that the protection of the Wilderness Act be extended now to the 343,850 acres of the Okefenokee Swamp. This matter has been under consideration by the Congress for some six years. There is full agreement on the basic objective of the legislation and the two versions currently before the Congress are identical in their language dealing with this primary objective. The Wilderness Society supports the passage of either version as the Congress may decide.

Thank you for this opportunity which you have provided to express our views on the Okenfenokee Wilderness bills.

Sincerely yours,

ERNEST M. DICKERMAN,
Director of Field Services, Eastern Region.

Mr. HASKELL. Mr. President, this is a unique area. It is a swamp. To my knowledge, there is no comparable area in the United States. Certainly, there is no even remotely comparable area that has been declared a wilderness.

I wish to state for the record that the committee unanimously endorsed this bill. I also wish to state that the distinguished Senator from Georgia has an amendment to the bill as reported out by the Interior Committee, and that this has been discussed with Senator JACKSON, the chairman of the full committee. It has also been discussed with the ranking minority member on the committee. Those two gentlemen and myself feel that the amendment of the Senator from Georgia is desirable.

At this time I yield to the Senator from Georgia.

Mr. TALMADGE. Mr. President, in behalf of my colleague, Senator NUNN, and myself, we desire to express our deep appreciation to the distinguished Senator from Colorado, his counterpart on the subcommittee, the distinguished Senator from Arizona, and also the distinguished chairman of the full committee (Mr. JACKSON). We appreciate their cooperation in expediting this bill. We think it is very important, not only for our Nation, but particularly for the people of Georgia and Florida, the area concerned.

On behalf of my distinguished colleague from Georgia, and myself, I offer an amendment in the nature of a substitute and ask that it be reported at this time.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. TALMADGE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted by the committee amendment insert the following:

That in accordance with section 3(c) of the Wilderness Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1132(c)), certain lands in the Okefenokee National Wildlife Refuge, Georgia, which comprise about three hundred forty-three thousand eight hundred and fifty acres and which are depicted on a map entitled "Okefenokee Wilderness Proposal" dated October 1967, revised March 1971, are hereby designated as wilderness. The map shall be on file and available for public inspection in the offices of the United States Fish and Wildlife Federation, Department of the Interior.

SEC. 2. Within the wilderness designated by this Act, subject to such restrictions as the Secretary of the Interior deems necessary for public safety and to protect flora and fauna of the wilderness, (1) the use of powered watercraft, propelled by motors of ten or less horsepower, will be permitted, (2) watercraft trails including approximately one hundred twenty miles as delineated on such map will be maintained. Access to watercraft trails in the wilderness area will be provided from the Suwannee River Sill, Stephen Foster State Park, Kings Landing, and Suwannee Recreation Area (Camp Cornelia).

SEC. 3. Fishing shall be permitted in the waters of the Okefenokee Wilderness, in accordance with applicable State and Federal regulations, except that the Secretary of the Interior may designate zones and establish periods when no fishing shall be permitted for reasons of public safety, administration, fish and wildlife management, or public use and enjoyment.

SEC. 4. As soon as practicable after the Act takes effect, a map and a legal description of the wilderness area shall be filed with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such description and map shall have the same force and effect as if included in this Act: Provided, however, That correction of clerical and typographical errors in such description and map may be made.

SEC. 5. The area designated by this Act as wilderness shall be known as the Okefenokee Wilderness and shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act.

Mr. TALMADGE. Mr. President, the amendment at the desk which I have proposed in behalf of Senator NUNN and myself in the nature of a substitute to the committee amendment is identical, except for certain technical changes, to the language of H.R. 6395 as passed by the House of Representatives.

Our proposal would modify the committee language in three ways. First, our amendment would permit the Secretary of the Interior to maintain at least approximately 120 miles of watercraft trails in the swamp, whereas the committee bill would prohibit the Secretary from increasing, by even 1 mile, the trail system that exists today.

This aspect of our amendment is vital because the Okefenokee is a water wilderness. One does not walk in the Okefenokee. The only access to the swamp is through the use of watercraft, either canoes or small craft with motors of 10 horsepower or less. The Okefenokee is an ever-changing wilderness and it may, at some time in the future, become necessary to modestly increase the trail system for motorized watercraft. The committee would preclude this. On the other hand, our amendment would permit the Secretary to increase the motorized watercraft system if the need arises, but in a manner consistent with the purposes of the Wilderness Act.

Second, our amendment specifically designates four points from which access to watercraft trails in the wilderness area will be provided. It is not our intent to preclude the Secretary of the Interior from designating other access points if the need arises, but it is our intent to preclude the Secretary from closing the four access points which exist today. The committee amendments do not contain this language.

Third, this amendment would permit fishing in the waters of the Okefenokee Wilderness in accordance with applicable State and Federal regulations. The committee amendments do not contain similar language. It is argued that this provision in the amendment is not necessary but, inasmuch as the people who live in close proximity to the swamp have been permitted to fish the waters of the swamp for generations, we want to be certain that nothing contained in or omitted from this bill interferes with their continued enjoyment of that right.

Mr. President, we believe that the amendment which we propose is consistent with the purposes of the Wilderness Act of 1964 and is consistent with everyone's desire to protect and preserve the Okefenokee Swamp. I am informed that interested conservation and environmental groups, including the Georgia Conservancy and the Wilderness Society, favor the language of our amendment which, as I pointed out earlier, is identical to the measure passed by the House of Representatives.

I deeply appreciate the distinguished floor manager of the bill accepting the amendment.

Mr. HASKELL. Mr. President, I appreciate the remarks of the Senator from Georgia.

I understand the unique quality, I say to both Senators from Georgia, of this particular wilderness. Unfortunately, in the State of Colorado we do not have this type of terrain.

Mr. TALMADGE. I invite the Senator from Colorado to return frequently and visit it.

Mr. HASKELL. I thank the Senator.

I understand and am sympathetic with the necessity of maintaining the trails and from time to time perhaps enlarging the size.

I should like to read to the Senators from Georgia from the House report, as a matter of legislative history, to see whether they agree that this is the basic intent. I read from page 3 to the House report on this bill:

> It was also the Committee's position that the "watercraft trails", including those now designated, should be maintained. However, by authorizing the maintenance of these existing trails and also recognizing that certain relocations or modest additions may be desirable and necessary, the Committee wants it clearly understood that it does not favor any major expansion of the trails system beyond the approximately 120 miles now in existence. This area is, first and foremost, a wilderness and must remain as such except for these minor accommodations that are necessary for the reasonable use and enjoyment of its primitive and wilderness values.

I merely ask the Senators from Georgia whether they concur that this is the intent of this legislation.

Mr. TALMADGE. I concur, and I tried to make that clear in my statement.

Mr. NUNN. I concur, also.

The purpose of this amendment is to provide the same degree of flexibility which is in the original House bill. I think the original House language points out very carefully and very particularly that the scope of the amendment is not to make any type of major changes in the existing trail. Perhaps the best way to describe it is that there are many areas of wilderness in the West which have never changed and which have never been touched. These areas were among the first included in the Wilderness Act. However, the Okefenokee Swamp is forever changing, and the trail that is there today may not be the exact trail that is visible tomorrow, because of growth, and because of many other changes which are unique to a swamp area. I believe our intent in this amendment is consistent with the House report, because this amendment returns to the original House version. I believe it is consistent with the overall concern of conservation groups and people in the West and other parts of the country who want to preserve and protect these vital areas for the enjoyment of future generations.

Mr. HASKELL. I thank the distinguished Senator from Georgia.

As the senior Senator from Georgia has said, I certainly accept the amendment. The Senator from Arizona (Mr. FANNIN), the ranking minority member of the committee, also agrees to accept the amendment.

Mr. NUNN. Mr. President, I should like to add my thanks to the Senator from Colorado, the Senator from Arizona, and the Senator from Washington for accepting this amendment and understanding the unique problems we have in this area.

Representative STUCKEY and the other Members of the Georgia House delegation for a long number of years have worked on this measure.

I appreciate the Senator from Colorado's taking the time to hold hearings on this measure, and allowing Senator TALMADGE and me to testify. I particularly appreciate his realizing that we have an unusual situation with the Okefenokee which requires that we deviate slightly from the precedent used in other areas.

I am pleased to join my colleague, the senior Senator from Georgia (Mr. TALMADGE), in proposing this amendment. I associate myself with the remarks that Senator TALMADGE has made regarding the amendment, and I express my gratitude to the Senator from Colorado for his support.

Mr. HASKELL. I thank the junior Senator and the senior Senator from Georgia. I think this is an excellent addition to the wilderness system of this country.

I have no objection to the amendment, and I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senators from Georgia as a substitute for the committee amendment.

The substitute amendment was agreed to.

The PRESIDING OFFICER. The question occurs on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 6395) was read the third time, and passed.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HASKELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:45 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1:45 p.m. today.

There being no objection, the Senate, at 1:08 p.m., recessed until 1:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HATHAWAY).

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. At the present time, there is nothing pending. At 2 o'clock, the Senate will be back on the copyright bill.

COPYRIGHT LAW REVISION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the copyright legislation be laid before the Senate and made the pending business at this time.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill (S. 1361) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the hour of 2 p.m. having arrived, the time between 2 p.m. and 3 p.m. shall be divided between and controlled by the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Rhode Island (Mr. PASTORE), on one hand, and the distinguished Senator from Arkansas (Mr. MCCLELLAN), on the other, on the debate on the Ervin amendment, No. 1846, to S. 1361, with the vote thereon to occur at 3 p.m.

Who yields time?

Mr. ERVIN. Mr. President, it is my understanding that the rule of germaneness does not apply and that I am at liberty to discuss another matter.

The PRESIDING OFFICER (Mr. HELMS). The Senator is correct.

PRESIDENT FORD'S PARDON OF FORMER PRESIDENT NIXON

Mr. ERVIN. Mr. President, candor compels me to answer the numerous inquiries I am receiving concerning President Ford's pardon of former President Nixon.

I do not question the constitutional authority of President Ford to grant an absolute pardon to former President Nixon prior to his indictment, trial or conviction.

I am reminded, however, of the statement of St. Paul which appears in Chapter 10, Verse 23 of First Corinthians:

> All things are lawful for me, but all things are not expedient; all things are lawful for me, but all things edify not.

President Ford's action was inexpedient, incompatible with good government, and sets a bad precedent for the future. In granting to former President Nixon an absolute pardon exempting him from all the legal consequences of all crimes which he may have committed against the Constitution, the laws, and the people of the United States while serving in the highest office in our land, President Ford did infinite injury to the indispensable principle of good government embodied in the phrase "Equal justice under law."

President Ford's action will not contribute to the restoration of the confidence of the people in the Federal Government for the reasons set forth below.

After the five burglars were caught in the Watergate complex with some of President Nixon's campaign funds in their possession, various governmental and political aides of Mr. Nixon undertook by lying, perjury, promises of executive clemency, the payment of "hush money," the perversion of governmental processes, and other methods to hide from the American people the identities and activities of the persons responsible for the series of tragedies known collectively as the Watergate affair, and especially the nature and extent of Mr. Nixon's personal involvement in those cover-up operations. As a consequence of these things and Mr. Nixon's failure to take forthright action in accordance with the obligation imposed upon him by his high office, this Nation has been compelled to endure the agony of Watergate for more than 2 years.

By granting an absolute pardon to Mr. Nixon, President Ford has deprived the only impartial and nonpartisan Department of the Federal Government—that is, the Judiciary Department—of the power to conduct judicial inquiries which would reveal to the American people the full nature and extent of Mr. Nixon's personal involvement in these unhappy tragedies.

As a consequence, the pardon aids and abets the efforts of those who have sought to hide the truth in respect to Mr. Nixon's personal involvement in the Watergate affair from the American people, and thus continues the coverup operations.

When Mr. Nixon delivered his last state of the Union message to the Congress, he asserted that "1 year of Watergate is enough." I agree. Indeed, I assert that 1 minute of the Watergate was too much.

President Ford obviously issued the pardon in the hope that such action would relegate the Watergate affair to the past. Believe me, this is a false hope.

Instead of relegating the Watergate affair to the past, the pardon makes it certain that the Watergate affair and President Ford's effort to exempt Mr. Nixon from legal responsibility for it will be injected into the next presidential campaign by those who believe that granting of the ill-timed pardon indicates President Ford's lack of capacity to exercise wisely the awesome power vested in the President by the Constitution.

Pardons are for the guilty—not for those who profess their innocence. A good case can be made for the proposition that the pardon power vested in the President by the Constitution exceeds that of the Almighty, who apparently cannot pardon a sinner unless the sinner first repents of his sins. The President, on the contrary, can grant a full pardon to one who protests his innocence and merely admits that he has made some errors in judgment.

Whether the acceptance of a pardon constitutes a confession of guilt is something which constitutional scholars may argue without satisfactory solution for generations.

President Ford's pardon raises some agonizing questions. What does it portend for those Nixon aides who have gone to jail for their part in the Watergate affair? What does it portend for those Nixon aides who are awaiting sentencing upon pleas of guilt for their part in the Watergate affair? What does it portend for those Nixon aides who are awaiting trial on charges growing out of the Watergate affair?

Does President Ford intend to grant general amnesty to all these Nixon aides, or is he accepting the theory that the legal responsibility of the occupant of the Office of President is insignificant when compared to that of his underlings?

Each day I utter this prayer:

> God, be merciful to me, a sinner.

As a consequence, my heart contains great compassion for my erring fellow travelers to the tomb, and I have no desire to see Mr. Nixon suffer. I do desire with all my heart, however, to have our legal and governmental system function wisely.

The writer of Ecclesiastes states in chapter 3, verse 1, that:

> To everything there is a season, and a time to every purpose under the heaven.

This is true in respect to the exercise of the pardon power. Historically, the pardon power came into being to enable the Executive to correct irretrievable mistakes committed by the courts in adjudging guilt or imposing punishment. It was not conceived to confer upon the Executive the arbitrary power to grant individuals exemption from responsibility which the law imposes upon all people.

These things being true, President Ford ought to have allowed the legal processes to take their course, and not issued any pardon to former President Nixon until he had been indicted, tried, and convicted. He ought to have allowed the presiding judge in those events to determine in the first instance whether or not Mr. Nixon has suffered enough, and I for one would not have quarreled with a decision of the presiding judge to that effect. But I do question most seriously the wisdom of President Ford thwarting the due processes of law by granting a pardon before Mr. Nixon was indicted, tried, and convicted.

Mr. HART. Mr. President, will the Senator yield me 30 seconds?

Mr. ERVIN. I am glad to yield.

Mr. HART. Mr. President, I am very grateful that the Senator from North Carolina has spoken as he has. He has spoken vastly more eloquently than I could the feelings that instinctively welled up in me.

I have a very personal regret that President Ford acted as he did. I think Gerry Ford was clean as a whistle at Watergate. The thing that the people of this country most hoped would be that we would have a President about whom we would never have an unease with respect to Watergate. That might have made it tougher for Democrats but vastly better for the people. In undertaking to act at this moment, he has gotten himself into that mess and, in that sense, limits his ability effectively to encourage us to look to the future.

On another personal note, I want to express admiration to another good friend, Jerry terHorst, for the action he took.

Mr. ERVIN. Mr. President, does any Senator in favor of this amendment desire time?

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. I yield the floor.

Mr. McCLELLAN. Mr. President, I do not care to take any time, particularly, on this amendment. Since the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Michigan (Mr. HART) have commented on another matter, I may say that earlier today, I placed in the RECORD a brief statement with respect to the action of the President in granting absolute pardon to former President Nixon. I regret the action. I think it is premature. I think we may have some consequences that were unanticipated and that will be adverse to the future administration of justice in this country. I hope I am mistaken about it, but I am concerned in that area.

COPYRIGHT LAW REVISION

The Senate continued with the consideration of the bill (S. 1361) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that Mr. Jonathan Fleming, of the staff of Senator CRANSTON, be accorded the privilege of the floor during the consideration of this bill, S. 1361.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. I understand that the Senator is expected to arrive before the debate, but he wanted his aide to be present in the Chamber.

Mr. President, as I said, I do not care to discuss particularly the pending amendment. This is an issue, a proposal, that is sponsored by the distinguished Senator from Pennsylvania (Mr. SCOTT). He is not present. I do not know who he has in mind to take care of it. No one has contacted me about it.

I supported the position of the Senator from Pennsylvania in committee and I shall vote accordingly. I shall vote against the pending amendment. It is a matter where there are differences of opinion about whether it is proper and appropriate for a copyright fee to be paid. I have no deep convictions about it either way.

I may say this again. I think I made comparable remarks in my opinion statement. That is that this bill contains many, many, very meritorious positions that should be enacted into law. There are a few areas, such as the one involved in the pending amendment, where there is sharp conflict of opinion and judgment as to the merits of the provision in the bill.

I have no personal interest in the outcome of any of these amendments and of any of these issues. My only interest in this legislation is, hopefully, that we can pass the bill in the Senate. We have worked hard. The committee worked hard to process this bill and get it on the floor of the Senate, and I hope that now, the Senate will be willing, after the committee has done its work, to weigh amendments that may be offered, vote upon them according to their conviction or judgment as to the wisdom of such amendments or lack of advisability of their being enacted—in other words, these controversial features or issues—and work the will of the Senate, vote them up or down, whichever way appears proper.

I would regret it very much if this bill should be recommitted after all these years of hard work. We never will get a bill on this subject, we will never get a bill on this floor without controversial provisions in it. If we get one without certain provisions in it, amendments will be offered on the floor.

The Senate and the Congress have to work their will on these provisions that are controversial, and there is no better time to begin doing that than now, since we have the bill here. I hope our colleagues will understand that, and, regardless of their feelings on any provision in the bill, will cooperate with us to the end that we may pass this bill according to the will of the Senate as to what its judgment is on its separate provisions, and let the bill go to the House.

I doubt that the House can act on it in this session. But we will have made that much progress, if we come in here next year with the same bill passed by the Senate, move it again to the House, hoping to get early action on it next year.

Mr. ERVIN. Will the Senator yield to me on a point in his discussion?

Mr. McCLELLAN. I am glad to yield.

Mr. ERVIN. When this bill was called up, I was inclined to make a motion to recommit it. I listened to the argument made by the very distinguished Senator from Arkansas, who pointed out that outside of the provisions which this amendment seeks to strike, there are many worthwhile provisions in the bill which ought to be made law. On reflection, I came to the conclusion that the position of the distinguished Senator from Arkansas was entirely sound, and I shall be opposed to any motion to recommit the bill. I favor the procedure that the Senator has outlined: to go ahead and vote on the amendments and let the bill, with what I think are the meritorious provisions, pass the Senate.

Mr. McCLELLAN. I thank the distinguished Senator, and I hope that all my colleagues will feel that way about it. They have the opportunity to amend the bill. Other than this one amendment, there is no time limit yet on amendments, I believe. It is wisely put, and the Senate has the opportunity now to process it here on the Senate floor as much as they will have anytime in the future.

Mr. PASTORE. Will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. PASTORE. I shall proceed on my own time.

Mr. ERVIN. I yield to the Senator from Rhode Island for any time he may require.

Mr. GURNEY. Will the Senator yield for a unnaimous-consent request?

Mr. PASTORE. I yield.

Mr. GURNEY. I ask unanimous consent that Mr. James Hinish of my staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. PASTORE. I yield.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Ray Sifley of my staff be allowed the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I make a similar request with regard to Shirley Johnson.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island is recognized.

Mr. PASTORE. Mr. President, the section that is involved in the amendment that is now pending has caused me no little concern. As a matter of fact, I think we are opening a Pandora's box, or to put it more dramatically, I think we are opening a can of worms. Never before in the history of entertainment have we allowed radio stations and television stations to pay to record companies and to performers a royalty every time they play a particular record. As a matter of fact, the performer is paid when he makes the record, and the record company, of course, makes a profit when it sells the record.

It was not too long ago that we were confronted with the scandal of payola, where representatives of record companies were actually giving gifts to jockeys and paying jockeys for playing certain records because they wanted them played. Now we are confronted with an amendment in the bill, or part of the bill, which actually gives anyone who has sung a song that is recorded, if that song is played on a radio station, a royalty which the station has to pay the singer. What we are actually doing is creating a new family of copyright entitlements, which has never existed before. In my opinion, that goes much, much too far.

First of all, I think it is unconstitutional. But the main thrust of my objection, Mr. President, is that it is absolutely unnecessary to tarnish the other good features of this bill—and there are many good features—with this innovation, which I think goes much, much too far.

The Commerce Committee has not had the proper hearings. The people who have to pay this royalty have not been heard. I think it would be rather undemocratic, of course, if we did it this way at this time. This is what it amounts to in a practical way: We are going to create a fund that has to be divvied up by certain performers and recording companies. We do not know who the performers are. We do not know whether one performer is entitled to more than another. I do not know how they are going to cut up this pie.

Nobody has solved that question yet.

What are they doing? They are creating a royalty tribunal that, in the event that they cannot agree, then we have to get some bureaucrat to decide how much each one should get. We are going to have the most monstrous bureaucracy that you can imagine by the time they get through.

Their argument is, "Well, he only gets a part of a penny every time he sings a song."

That is immaterial. How much is one performer worth as against another? The first thing you know, we will have these entertainers fighting among themselves as to who is entitled to what.

Here we are, the Congress of the United States; when everyone is talking about the cost of living, the scarcity of meat, the prices of food, unemployment in this country, here we are, going to pay a premium, a royalty, to all these $2,000-a-week singers out there in Las Vegas.

Mr. BIBLE. And Reno.

Mr. PASTORE. And Reno. I think we have other, more important, things to do, Mr. President, and that is why I think this section should be deleted. It should be deleted in the public interest, at a time when people are concerned about the real problems of our day, and let all these entertainers who are living on the plush of the world begin to pay their way.

The Senator from Pennsylvania said the other day that even singers get hungry. Well, I know they have to eat three times a day, and once in a while maybe they are hungry. But they are not as hungry as the people on social security and the poor people. I think they are being well paid. Any singer who can get a cut of record may be on his way. We know how they go around bragging about who has got this gold disk, and who has got that gold disk, and who sold 1 million of them. Look at the money they make.

Now we are being asked to go ahead and create a fund, this monstrous pie, that we are going to have a terrible job trying to divide up and tell who is going to get what part of it. I say we have better things to do, and I hope the amendment will be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, will the Senator from North Carolina yield me 3 minutes?

Mr. ERVIN. I yield the Senator from Nebraska whatever time he may require, from the time available.

Mr. HRUSKA. Mr. President, the reasons for adoption of the pending amendment have been gone over very thoroughly. In the Committee on the Judiciary, this proposition was put to a vote and lost as a result of a tie, 8 to 8. That indicates the divided opinion on it.

I believe this measure would be economically unwise and constitutionally unsound. If enacted, it would undoubtedly result in extreme hardship to the broadcasting and juke box industries. I have, therefore, joined several of my colleagues in sponsoring an amendment, No. 1553, to delete this royalty entirely from the copyright bill.

A copyright liability of this nature has never been recognized at law or in the commercial relationships among the parties involved. At the present time, broadcasters pay royalty fees to the composers and publishers of the music which is used in their broadcasts. Such payments amount to substantial sums of money totaling millions of dollars each year. The performance royalty would add considerably to the existing burden by requiring additional payments to many who already have made substantial profits. It would, in effect, give windfall profits to the record industry and to performers over and above that which the free enterprise system can give them—profits that can only be created if we act to grant them.

Over many years the broadcasters and the recording companies have developed a fair system of exchange of goods and services. Each has contributed to the well-being of the other. In my judgment, no acceptable argument has been made for changing this system. Certainly no overriding evidence has been brought forward to convince me that our copyright laws should be used as a vehicle to resolve any such grievances.

Contrary to the beliefs of some, radio profit margins have not been increasing at a rate even approaching that of recording companies or the payments to many top flight performers. For example, between 1968 and 1972, profit margins for radio stations fell slightly as an average. More than 20 percent of the radio stations across the country with net revenue greater than $200,000 lost money in 1972. It is fair to predict that additional royalties will turn many radio markets into unprofitable operations.

Many stations in my home State of Nebraska would be severely hit by a new yearly assessment. According to official FCC figures, Nebraska AM and FM stations had a total pre-tax profit of $1,083,004 in 1972. The copyright bill as reported, with the recording arts performance royalty provision, would have required that Nebraska station pay $127,-

230 in royalties that year, which would have reduced profits to $955,774.

Presently the profit margin of Nebraska stations is 8.5 percent, somewhat below the national average of 9 to 10 percent. The performers and recorders royalty would reduce the profit margin by an estimated 12 percent—to 7.5 percent from 8.5 percent.

The royalty rates established by the Judiciary Committee present many inequities which were not given sufficient attention. For example, the royalty rate—based upon gross receipts—does not recognize the difference which profit margin or market size could have upon the individual broadcaster's ability to pay a new yearly royalty. Other important economic indicators were not considered. In such circumstance, I can only regard the royalty schedule as arbitrary and without sufficient foundation.

In addition to the severe economic impact a performance royalty would have on broadcasters, it would impose an equally unjustified burden on jukebox operators. The jukebox industry is small in scale. Jukebox operators throughout the Nation have had to diversify their operations into vending machines and amusement games just in order to stay in business. In most places the jukebox has become merely a supporting activity for vending operators and amusement games.

S. 1361, as approved by the Judiciary Committee, would subject the jukebox industry to two royalties: A recording arts performance royalty to be paid to performers and record companies, and a performance royalty to be paid to songwriters and publishers, similar to the fees now paid by broadcasters to ASCAP, BMI and elsewhere.

Senator ERVIN's amendment which I cosponsored would delete the recording arts performance royalty as it pertains to jukeboxes. This will substantially reduce the economic burden to these small operators who are being subjected to performance royalties for the first time in history.

Beyond that, there are serious constitutional questions that arise if this section is included in the bill. We cannot accept the view held by some that record manufacturers and performers are "authors" or "inventors" as specified in article I, section 8, clause 8 of the U.S. Constitution. Although their efforts in producing records are very significant, such contributions do not, in my judgment, constitute original intellectual creations justifying protection under our copyright statutes. This would be an unwarranted stretching of the Constitution and a bad precedent in law.

I strongly urge that the amendment presently under consideration and now pending be adopted.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, will the distinguished Senator from North Carolina yield me 3 minutes?

Mr. ERVIN. Yes, I am glad to yield 3 minutes to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the Ervin amendment, of which I am a cosponsor. This amendment would strike section 114 from S. 1361.

I think it is significant that the majority of Senators who considered this proposed legislation in the Judiciary and Commerce Committees opposed section 114. In the Judiciary Committee, a motion to eliminate section 114 failed on a tie vote, as stated by the distinguished Senator from Nebraska. In the Commerce Committee, the vote was 7 to 4 against this provision.

Section 114 establishes a copyright in sound recordings and would provide a fee schedule by which broadcasters, who play these recordings, would pay royalties to the record companies and recording artists. It is important to note that this payment is in addition to the payments already being made by the broadcasting stations to the composers and publishers—through ASCAP, BMI, and SESAC. Moreover, it is important to note that the performers who are asking for this additional copyright fee, are already being compensated—often quite heavily.

You see, performers like Peggy Lee, Sonny and Cher, and Dean Martin receive a payment for making the recording in the first instance. Many of them receive a percentage of the record sales—that is the second payment. If, like Neil Diamond, they are also composers, they receive the copyright royalty—the third payment. Moreover, if like Herb Alpert and Frank Sinatra, they own the record company, they receive yet another payment as owners.

It really does not make sense to require radio and television stations to pay yet another time for playing these records, especially when you realize that the air play of these recordings is the single most important factor in whether or not they sell in the record stores. That is why the record companies offer them at no charge to radio and television stations.

I will stay with the majority of the members of the Judiciary and Commerce Committees and vote to eliminate section 114.

Mr. ERVIN. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. HELMS). Who yields time? Time is being charged equally to both sides.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. PASTORE. I ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GURNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GURNEY. May I have the attention of the Senator from North Carolina.

Mr. ERVIN. Yes, I yield to the distinguished Senator from Florida for such time as he may use.

Mr. GURNEY. I thank the distinguished Senator from North Carolina.

Mr. President, I am a cosponsor of this pending amendment of the Senator from North Carolina. I doubt if much could be added to the argument that has already been made. It was thoroughly aired, of course, last week when the bill was laid down and when this amendment was introduced. Again the arguments have been presented today by the Senator from North Carolina, the Senator from Rhode Island, the Senator from Nebraska, and also the Senator from South Carolina.

I do want to state my wholehearted support of this amendment. I think my support really can be summed up in two main reasons, both of which have already been mentioned. One, of course, is the reason that the recording companies and performing artists have been amply rewarded already not only by their individual efforts but when they cut their records they enjoy the protection of the copyright law in the first instance. Also there are payments made even now under the copyright law that inure to their benefit; and, it seems to me, that they do not need an added benefit as added by this bill.

One of the interesting things, too, that occurred in the Judiciary Committee when we were marking up the bill and when we had the tie vote on this very controversial matter, even though the proponents of the amendment to do away with these additional royalties, the amendment of the Senator from North Carolina, had it argued and submitted, and my own amendment, which was a little different but amounted to the same end result, was argued and submitted, an amendment denying these additional royalties, and even though we lost those amendments, the people in the committee who were so much in favor of the royalties bill on their own motion cut the royalties very substantially, in half with the high percentages and much more than that in the lower percentages of earnings by the various stations.

I think that is a very interesting tip-off. They never would have cut it in half unless they realized that the opportunity here on the floor of winning was very slim—and I think it is very slim indeed. I do not think it is going to win because I think the Senators will realize that these additional royalties are uncalled for and are probably too much.

The other reason is extremely cogent, too, and that is the reason why it required radio stations, broadcasters, to pay an additional amount when they are broadcasting since it really increases the sale of the record companies and the recording artists. It seems to me it would be a good deal like saying to an advertiser who is advertising in a newspaper that the newspaper ought to pay the advertiser for advertising in the newspaper rather than the advertiser paying the newspaper. It is really an analogy just like that because when disc jockeys play records every day on the many thousands of radio stations throughout this country to the millions of people who are listening in they are advertising not only the records but, of course, the wares of the performing artists. So, it seems an absurd folly to have the very people who are benefiting these people pay them for doing the benefiting.

I think the Senate ought to adopt this amendment overwhelmingly when the time to vote comes. Leave the situation where it is so far as the royalties go to recording companies and recording artists are concerned.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Who yields time?

Mr. GURNEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. PASTORE. Equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. I yield 5 minutes to the distinguished Senator from California.

Mr. CRANSTON. I thank the Senator very much for yielding time to me.

Mr. President, for the first time in 60 years we are considering a thoroughgoing revision of the copyright law of the United States.

Since 1909, when our present copyright law was enacted, there have been many technical advances made in the performing arts and related fields. These include sound recordings, films, radio, television, computers, and electronic music. Enormous advances have been made in marketing techniques and mass markets and audiences never envisioned in 1909 have been developed.

Section 114 recognizes for the first time performance rights in sound recordings. There is nothing new about the concept of performance rights. Every owner of a copyright owns an exclusive right to authorize the public performance of a musical work. It is a traditional copyright concept that one who uses another's creative work for profit must pay the creator of that work.

Under section 114, the recording performers—vocalists and musicians—and the record companies would be paid a performance royalty for the public performance of sound recordings—just as a performance royalty is now paid to the composers and publishers of the music.

Great creative efforts go into the production of sound recordings. The talents involved in the production of a sound recording performance are perhaps of equal, and on many instances are far greater, than the talent which created the musical composition in the first place.

The composer and the performer are a team. Many songs are composed specifically with a single performer in mind. To compensate only one part of the team is, by any standards, inequitable.

A song often becomes synonymous with the rendition of the performer. Joan Baez' version of "The Night They Drove Old Dixie Down," Nat "King" Cole's "Ramblin Rose," and Peggy Lee's "Tennesee Waltz," and Roberta Flack's "Killing Me Softly With His Song"—to name a few—are unique listening experiences because of the individual creative talents of the performers. And, I am sure the respective composers were extremely grateful to them for the many dollars in royalties their recordings produced.

Remunerating a great rendition is nothing new. Prior to the use of the airwaves, our opera houses and concert halls depended on the personal renditions and creative talents of the performers to fill the house. And, the performer was compensated accordingly.

Now, the talents of our performers fill the airwaves. But, under 65-year-old copyright laws—laws enacted some 11 years prior to the airing of the first scheduled radio program in the United States, I might add—only the composer is justly compensated. Mr. President, the time is long overdue to rectify this inequity.

The example of a few phenomenally wealthy performing artists have been held up as a reason why section 114 provides unnecessary compensation to performers and record companies.

But for every Frank Sinatra or Bing Crosby there are literally thousands of creative artists, musicians, singers, and others who never attain the rewards earned by a few superstars. But these anonymous thousands make possible the enjoyment of music by millions. These are the persons whose creative efforts need to be rewarded.

How many of us know who Jimmy Boyd is?

Jimmy is the singer in one of the most phenomenally popular recordings ever made, "All I Want for Christmas Is My Two Front Teeth." This song is played many times on virtually every radio station in the country at Christmas. Yet, sales of the record are not high. Without question, Jimmy's unique rendition of this song has given it the great popularity it presently enjoys. But performances of his rendition are not compensated.

Section 114 would remedy this injustice. It would provide encouragement for creative artists to labor for our enjoyment. It would establish the promise of reward to the backup performers so essential to the continued vitality of American music.

Regardless of other considerations, I intend to vote for the retention of section 114 in the final version of S. 1361. However, should this vote fail, I would urge the Senate to commence hearings on this important question at the earliest possible date.

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator has no further time at his disposal. The Senator from Arkansas has full control of the time now.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, soon after the Subcommittee on Patents, Trademarks, and Copyrights reported S. 1361 to the full Judiciary Committee, various interested parties expressed concern with several sections of the bill. At that time, as ranking member I wrote to Senator PASTORE, chairman of the Subcommittee on Communications, and requested that he seek referral of the bill to the Commerce Committee, in order to give our committee an opportunity to thoroughly consider the impact of this legislation on the communications industry.

On July 9, 1974, S. 1361 was referred by unanimous consent to the Commerce Committee for consideration of the sections of the bill within our committee's jurisdiction. This referral was with instructions to report back not later than Thursday, July 24, 1974, 15 days from the date of referral.

Mr. President, I can appreciate the desire of the chairman of the Subcommittee on Patents, Trademarks, and Copyrights to obtain final action on this legislation by the Senate as quickly as possible. However, the short referral time made hearings impossible, and precluded an indepth consideration of the possible consequences of the provisions within the jurisdiction of the Commerce Committee and particularly the effect of the passage of section 114 and related sections on the broadcasting industry.

While members of the Commerce Committee undoubtedly held differing views on the principle of a performance royalty, in my judgment, when a majority of the committee members voted to delete section 114 and related sections as these sections pertained to broadcasting, they did not pass on the merits of the performance royalty. Rather, they were concerned, as was I, that our committee had not been given sufficient time to consider the impact of section 114 and related sections on the broadcaster's ability to serve the public interest.

Mr. President, at this point I want to make it clear that I support the principle that users of copyrighted sound recordings for profit should pay a performance royalty to those who make a creative contribution to recorded music—performing artists, musicians, and record companies. Therefore, I will vote against amendment No. 1846, proposed by the senior Senator from North Carolina (Mr. ERVIN) with the understanding that the amendment will probably pass. I am hopeful that the questions raised by the establishment of a performance royalty will be considered by the Judiciary Committee next year when that committee takes up general copyright revision, or as separate legislation.

Mr. HUGH SCOTT. Mr. President, today the performance royalty—section 114—has been removed, unfortunately, from the general copyright revision bill, S. 1361.

I believe strongly in the principle of the performance royalty. Each individual who makes a creative contribution to a recording should be rewarded each time another uses his work product in a profitmaking enterprise.

I want to announce my intention to introduce early next Congress a separate piece of legislation which will establish the principle of the performance royalty. I have consulted with Senator JOHN MCCLELLAN, chairman of the Patents, Trademarks, and Copyrights Subcommittee, and received his permission to hold extensive hearings on this issue. I am convinced full public hearings will establish the value and correctness of the performance royalty.

I ask unanimous consent to make two insertions in the RECORD at the end of my remarks. The first is a portion of my individual views to the Senate Judiciary Committee report on the copyright revision bill, S. 1361. It outlines a number of the reasons why a performance royalty should be established. It is important to note that to date more than 40 other nations have created performing rights in recordings. The second insertion is a letter I received recently from Barbara Ringer, the Register of Copyrights. This letter puts to rest the argument that there is some constitutional problem with creating a performance royalty. Ms. Ringer's analysis of the legal precedents clearly establishes the lack of any constitutional problem.

The performance royalty is an excellent concept and I continue to support it as I have for the last 30 years. It is my hope that the next Congress after adequate hearings will approve it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PERFORMANCE ROYALTY (SEC. 114)

I would particularly like to comment on Section 114 of S. 1361. This section requires users of copyrighted sound recordings for profit to pay a performance royalty to those who make a creative contribution to recorded music—performing artists, musicians and record companies. Although a copyright was granted to sound recordings by Congress in 1971, the issue of a performance royalty was deferred until Congress' consideration of the Copyright Revision Bill. Under section 114, entities like broadcasters, juke box operators, and background music services that make use of the recorded music would have to pay a small royalty to the artists for the right to play it.

For many years I have felt very strongly that the musical artists deserve a reward for his creative efforts. Thirty years ago when I served in the House of Representatives, I introduced H.R. 1570 (78th Congress) which would have established a performance right in sound recordings. Later in the 80th and 82nd Congresses I introduced similar bills that would mandate a performance royalty for the musical artists.

I very strongly support the inclusion of the performance royalty in the present Copyright Revision Bill. Although I realize that the broadcasters, especially, have objections to paying any fee to artists, I believe the principle is important and should be supported. The argument has been made in opposition to the royalty that radio stations give free publicity to record companies and the artists who make the records. I think this argument misses the point. The real issue is whether or not a person who uses creative talents should receive compensation from someone else who takes them and profits from them. More than 75% of the air time during which advertising is sold is spent playing music. I believe if the artist's creative efforts are used in this way that he is entitled to some compensation. The performance royalty in Section 14 establishes a small payment for the right.

It should be noted that the concept of rewarding creative efforts is not at all unprecedented. Presently, the radio and television industries make yearly payments to organizations representing the individuals who compose music. The fees paid to ASCAP, SESAC, and BMI for the composers are far in excess of what the Copyright Bill sets out for a performance royalty. I find it indisputable that the creative efforts of the musical artist who performs are equally as valuable as those of the individual who writes the music. In fact, it is the special creative talents of the musical artist which really bring a particular musical composition to life. In light of this, it is an anomaly that the performers or record companies get nothing for their contributions to irreplaceable programming material.

I find it significant that almost forty countries have established performing rights in recordings. These nations have acknowledged the necessity to reward the creativity of their gifted musical artists. It should be no less important for us in the United States. It is particularly key to recognize performing rights because of the unique form of activity it entails. We all know by name the famous musical artists who remain popular year after year. Unfortunately, most musical performers have a very short productive life. It is an industry in which tastes and public attitudes toward a certain type of music can literally change overnight. Some artists have only one popular song and are never successful again. If the song is played again at a later time, the artist should be entitled to share in the benefits it bestows on the broadcasters. An example of a song which has endured over a long period is Bing Crosby's rendition of "White Christmas". There must be hundreds of versions of this song, but it is Mr. Crosby's special treatment which is continuingly popular at Christmas each year. He, like any other artist, should share in the fruits of his creative effort even after the actual sale of his records diminishes.

During numerous discussions prior to the Judiciary Committee meeting, there were many statements made to the effect that small radio stations, especially, could not afford to pay a performance royalty. I argued that most stations could easily pass on the 2% rate to their advertising sponsors. For example, if the rate for one hour of advertising was $100, then the rate would go to $102, This clearly would not be an exorbitant increase. However, I do realize that the very small radio station might be in a situation where it could not pass along the 2% rate. Therefore, in the Judiciary Committee I moved to lower the rate (2%) which the bill had originally set. The new formula which was approved gives a substantial measure of relief to over 60 percent of the radio stations in the country. The four percent of the nation's radio stations that have net advertising receipts of less than $25,000 a year would pay no performance royalty at all. Stations with between $25,000 and $100,000 a year from net advertising receipts would only pay a blanket $250 each year. It is significant to note that about 27 percent of all radio stations would fall under the $100,000 figure. For those stations with yearly net advertising receipts between $100,000 and $200,000, only a flat $750 fee a year would be due. In that $100,000–$200,000 range approximately 34 percent of the nation's radio stations are included. Finally, for all stations with above $200,000 a year in net advertising receipts, a royalty of 1% of those net receipts would be due each year. The total revenues under the formula as revised at my recommendation would be significantly less than one-half of what revenues would have been under the original 2% royalty rate.

In conclusion, I want to emphasize that the creation of a performance right for sound recordings is entirely consistent with the overall policy approach of the Copyright Bill to foster and protect the creative arts. In Section 116, the bill creates a new performance right for composers when juke boxes use compositions embodied in sound recordings, and Section 115 has been changed to increase the fees record companies must pay composers for use of their music in a recording. Most significantly, the bill establishes new rights in the case where a cable television station picks up broadcast material from the air and retransmits it. Under Section 111, the cable television station must pay a copyright fee under a compulsory license to the copyright owners. I would suggest on the same rationale which the broadcasters have been using to establish liability for the copyrighted materials taken by cable systems that broadcasters and others similarly should have to pay for copyrighted musical performances they use for their programing.

Senator Hart has indicated his desire to join me in my views on the performance royalty.

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THE LIBRARY OF CONGRESS,
Washington, D.C., July 31, 1974.

Hon. HUGH SCOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCOTT: You have requested in your letter of July 12, 1974 a brief note outlining my thoughts on the constitutionality of the performance royalty in S. 1361.

In my opinion sound recordings as a class are constitutionally capable of copyright protection. This position has been adopted by Congress in enacting separate sound recording legislation in the form of Public Law 92–140, 85 Stat. 391 (1971). The report on that legislation, Senate Report No. 72, 92nd Congress, First Session (1971), contains the following statement, with which I fully agree:

"The committee believes that, as a class of subject matter, sound recordings are clearly within the scope of the 'writings of an author' capable of protection under the Constitution and that the extension of limited statutory protection to them is overdue." *Id.* at 4.

The constitutionality of Public Law 92–140 has been upheld in the courts. In *Shaab v. Kleindienst,* 345 F.Supp. 589 (D.D.C. 1972) the court made the following remarks regarding sound recordings and the Copyright Clause:

"Technical advances, unknown and unanticipated in the time of our founding fathers, are the basis for the sound recording industry. The copyright clause of the Constitution must be interpreted broadly to provide protection for this method of fixing creative works in tangible form." *Id.* at 590.

As early as the 1930's the courts, in discoursing on the common law, recognized that recorded performances may embody originality and creativity of the kind protected under the Copyright Clause of the Constitution. Judge Stern, in *Waring* v. *WDAS Broadcasting Station, Inc.*, 35 U.S.P.Q. 272 (Pa. Sup. Ct. 1937), remarked:

"The law has never considered it necessary for the establishment of property rights in intellectual or artistic productions that the entire ultimate product should be the work of a single creator; such rights may be acquired by one who perfects the original work or substantially adds to it in some manner. . . . [The judge then cited examples such as a piano arrangement of an opera score, a journalist's account of a public address, the translation or dramatization of a novel, and a new dramatic version of public domain material.] A musical composition in itself is an incomplete work; the written page evidences only one of the creative acts which are necessary for its enjoyment; it is the performer who must consummate the work by transforming it into sound." *Id.* at 275.

A few years later, Judge Leibell in the case of *RCA Manufacturing Company, Inc. v. Whiteman*, 43 U.S.P.Q., 114, (S.D.N.Y. 1939), *reversed on other grounds*, 114 F.2d 86 (2d Cir. 1940), *cert. denied*, 61 S.Ct. 393, expressed these views:

"Prior to the advent of the phonograph, a musical selection once rendered by an artist was lost forever, as far as that particular rendition was concerned.

"It could not be captured and played back again by any mechanical contrivance then known. Thus, the property right of the artist, pertaining as it did to an intangible musical interpretation, was in no danger of being violated. During all this time the right was always present, yet because of the impossibility of violating it, it was not necessary to assert it." *Id.* at 116.

Perhaps the most perceptive judicial comments on the nature of original authorship in an artist's rendition of a musical composition were made by Judge Learned Hand, dissenting on other grounds, in *Capitol Records, Inc.* v. *Mercury Records Corp.*, 221 F.2d 657 (2d Cir. 1955). He addressed his remarks to the question of protectibility of recorded performances under the Copyright Clause:

"Musical notes are composed of a fundamental note with harmonics and overtones which do not appear on the score. There may indeed be instruments . . . which do not allow any latitude, though I doubt even that; but in the vast number of renditions the performer has a wide choice, depending upon his gifts, and this makes his rendition pro tanto quite as original a composition as an arrangement or adaptation of the score itself, which [Section] 1 (b) makes copyrightable. Now that it has become possible to capture these contributions of the individual performer upon a physical object that can be made to reproduce them, there should be no doubt that this is within the Copyright Clause of the Constitution." *Id.* at 664.

This forceful judicial view of the constitutionality of recorded performances was expressed in 1955. Sound recordings have been included explicitly as a class of copyrightable works in all of the bills introduced during the current program for general revision of the copyright law, from the earliest of these in 1964. In 1967 the House of Representatives passed a general revision bill recognizing sound recordings as copyrightable works; it granted them limited copyright protection against unauthorized duplication, but expressly stated that the exclusive rights in sound recordings "do not include any right of performance." In 1971, as a result of the emergency presented by widespread tape piracy, Congress acted to bring recordings under the Federal Coypright Code and to protect them against unauthorized duplication in advance of enactment of the general revision bill. Recognition of even this limited copyright in sound recordings means that Congress has already accepted the well-established judicial view that sound recordings as a class are copyrightable under the Constitution.

Perfoming artists contribute original, creative authorship to sound recordings in the same way that the translator of a book creates an independently copyrightable work of authorship. Record producers similarly create an independently copyrightable work of authorship. Record producers similarly picture producer creates a cinematographic version of a play or novel. In my opinion, the contributions of both performers and record producers are clearly the "writings of an author" in the constitutional sense, and are as fully worthy of protection as any of the many different kinds of "derivative works" accorded protection under the Federal copyright statute.

In direct response to your question, there is no odubt in my mind as to the constitutionality of the performance royalty in S. 1361.

If I can be of any further assistance, please do not hesitate to call on me.

Yours sincerely,

BARBARA RINGER,
Register of Copyrights.

Mr. PACKWOOD. Mr. President, I rise today to indicate my strong support for the Ervin amendment No. 1846 to delete section 114 of the copyright bill.

Simply stated, this section would require broadcasters to pay a yearly performance royalty, based on the station's gross receipts, which would eventually find its way back to the performers and record companies. Without due consideration this may indeed sound like a fair and just proposal—paying for talent obviously utilized for the benefit of broadcasters—but Mr. President, the simplicity of this statement belies the sinister consequences of the argument.

Why should the broadcaster, who often must buy the station's records, pay twice for the talent of a performer, once when the record is purchased and again when it is played over the airwaves? If anything, it would seem to me that Congress should rather yield to the idea that since it is the broadcasting industry which gives incalculable publicity to recordings, it is the performer and the record industry which should be paying a fee to the broadcaster. Instead we are considering a proposal which would legislate the exact opposite. Commonsense suggests the absurdity of this situation, and fair play demands the deletion of this section from an otherwise reputable and needed piece of legislation.

I am not the only Member of this body to doubt the wisdom of this section. When the entire copyright bill was considered by the full Judiciary Committee on June 11, a motion to delete section 114 failed by the slimmest of all possible margins—a tie vote—8 to 8. Subsequently, an amendment which would have eliminated the royalty payment for those stations least able to afford the cost also failed, again by the slim margin of a tie vote.

And so, Mr. President, we have a case of the Committee on the Judiciary, composed of capable members with expertise in this area, not being able to come to a majority consensus on the wisdom of section 114. As many members opposed it as favored it. So, teetering on the fence of stalemate, rules of procedure and not the merit of an argument toppled section 114 into our laps. Consequently, the entire Senate must now cast its vote to end the deadlock.

I for one cannot discount the pronounced disagreement over section 114 within the Judiciary Committee as evidenced by its votes of dubious sanction. The precarious nature of committee support for performance royalties reinforces the necessity for serious consideration of this issue on the floor of the Senate. Close examination of the matter yields only one conclusion: Section 114 must be deleted.

Those who contend that broadcasters, due to the profits obtained from record-playing, owe recording artists and companies even more dollars that the performers now receive for record sales are succumbing to the "chicken or the egg" argument. Where would the broadcasters be without songs to play, they maintain. But after all, how popular would the singers be without the play their songs receive from the broadcasters? The question, like the proverbial query regarding fowl beginnings, is irresolvable. Which came first, the chicken or the egg? Who popularizes a song, the singer or the broadcaster?

We must say no to this ill-conceived section. Accordingly, I urge the deletion of section 114, and I support the Senator from North Carolina's amendment.

Mr. WILLIAM L. SCOTT. Mr. President, I rise in support of amendment No. 1846 which would delete from S. 1361 the recording arts performance royalty. Section 106(4) of the bill establishes a performance right in copyrighted sound recordings and sections 114 and 116 require broadcasters, juke box operators, and background music services to pay royalties therefor.

To require a performance royalty to be paid by broadcasters, juke box operators, and background music services is unjustified as a matter of equity and economics. To argue that broadcasters should pay for the creative efforts of musicians, artists, and recording companies when they put their sound recordings on the airways overlooks the fact that in so doing the broadcasters are providing a benefit to these musicians, artists and recording companies by publicizing their products at no cost to them. Since broadcasters are not being compensated it does not seem equitable that the musicians, artists, and recording companies should be.

Should the broadcasters be required to pay a royalty fee, its national association advises me that many of them, especially the small operators, already faced with high operating costs, could face further financial difficulties. The association indicates that in Virginia this would mean that of the total number of 139 stations, 37 would have to pay $250 a year, 57 would have to pay $750 a year, and 42 stations would have to pay 1 percent of their advertising receipts. Conceivably, even the large stations grossing in excess of $200,000 in receipts could be adversely affected should their net income be at the break-even point. These amounts would be on top of the millions of dollars each year that are paid by the broadcasters to the composers and publishers for the right to use their music, which I am advised represent about 25 percent of all pretax profits of the entire industry. To offset this, the result could be either that the broadcasters would have to pass the added costs on to their advertisers and eventually to the public or cut back on their nonrevenue producing broadcast time.

According to testimony cited in Judiciary Committee report there are presently 5,000 juke box operators and 500,000 machines throughout the United States for which are purchased 75 million records. The report indicates that copyright law presently expressly exempts the coin-operated juke boxes from paying a royalty fee unless a fee is charged for admission to the place where the music occurs. However, I understand that the manufacturer of a record of a copyrighted piece of music is presently required to pay 2 cents royalty, which would be increased to 3 cents under the bill, on each record produced.

This royalty burden would be passed on to the juke box operators amounts to $4½ million on the 75 million records they buy each year. The bill proposes that additionally the juke box operator be required to pay an $8 royalty fee per year on each machine he operates. This would amount to a total of $4 million in direct royalties which the juke box operators would be required to pay each year. With the juke box business in a decline, as evidenced by the Wurlitzer Co.'s discontinuance this spring of the manufacturing of juke boxes, these royalty fees would impose a burden of at least $8½ million on this industry at the same time that the recording industry over the past 10 years has seen revenues increase 164 percent.

Mr. President, as a matter of equity and economics I oppose the recording arts performance royalty and urge the adoption of amendment No. 1846.

The PRESIDING OFFICER. Under the previous order, the hour of 3 p.m. having arrived, the question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. TAFT (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Wyoming (Mr. McGEE), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Illinois (Mr. STEVENSON), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Arkansas (Mr. FULBRIGHT) and the Senator from Minnesota (Mr. HUMPHREY) are absent on official business.

I also announce that the Senator from California (Mr. TUNNEY) is absent because of illness due to hospitalization and minor surgery.

I further announce that, if present and voting, the Senator from Wyoming (Mr. McGEE), and the Senator from Illinois (Mr. STEVENSON) would each vote "yea."

I further announce that if present and voting, the Senator from New Jersey (Mr. WILLIAMS) would have voted "nay."

Mr. HUGH SCOTT. I announce that the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. BUCKLEY), the Senator from Kentucky (Mr. COOK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are absent on official business.

I further announce that the Senator from Oklahoma (Mr. BELLMON) is absent due to illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from New York (Mr. JAVITS).

If present and voting, the Senator from Illinois would vote "yea" and the Senator from New York would vote "nay."

The result was announced—yeas 67, nays 8, as follows:

[No. 386 Leg.]

YEAS—67

Abourezk
Aiken
Allen
Bartlett
Beall
Bible
Biden
Brock
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Clark
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Gravel
Gurney
Hansen
Hart
Haskell
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Jackson
Johnston
Kennedy
Long
Magnuson
Mansfield
McClure
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Symington
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—8

Baker
Brooke
Case
Cranston
Hartke
Inouye
McClellan
Scott, Hugh

ANSWERED "PRESENT"—1

Taft

NOT VOTING—24

Bayh
Bellmon
Bennett
Bentsen
Buckley
Church
Cook
Eagleton
Fong
Fulbright
Goldwater
Griffin
Hatfield
Humphrey
Javits
Mathias
McGee
McGovern
McIntyre
Muskie
Percy
Stevenson
Tunney
Williams

So Mr. ERVIN's amendment (No. 1846) was agreed to.

Mr. ERVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HART. Mr. President, today I voted against the performance royalty in the copyright bill because the Commerce Committee has not had time to hold hearings on it. For many years I have viewed the measure as equitable, constitutional, and not burdensome. It seems to me that broadcasters should be required to pay for the material they use in programing. After the issue has been studied more carefully, I hope the Commerce Committee and the Senate will share my views.

The PRESIDING OFFICER. The bill is open to further amendment.

The Senator from Rhode Island is recognized.

Mr. PASTORE. Mr. President, I ask unanimous consent that the amendments of the Committee on Commerce—may we have order, please?

The PRESIDING OFFICER. The Senate will be in order.

The Senator will withhold until the Senate is in order.

The Senator may proceed.

Mr. PASTORE. Mr. President, I ask unanimous consent that the remaining amendment of the Committee on Commerce relative to the performance royalties be considered.

The PRESIDING OFFICER. Without objection amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. PASTORE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The amendment is as follows:

On page 97, beginning at line 31, insert the following new language:

(8) the public performance by a radio or television broadcasting station licensed by the Federal Communications Commission of a copyrighted sound recording by any means including a phonorecord.

Mr. PASTORE. Mr. President, this is a parliamentary motion. I move that the amendment be laid on the table so as to comply with the action taken on the Ervin amendment.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. PASTORE. Relating to performance royalties.

The PRESIDING OFFICER. That is understood.

(Putting the question.)

The motion was agreed to.

The PRESIDING OFFICER. The clerk will state the first amendment of the Committee on Commerce remaining.

The assistant legislative clerk proceeded to read the amendment.

Mr. PASTORE. May we have order, please, Mr. President?

Mr. McCLELLAN. Let us have order.

Mr. President, may the clerk state the amendment? I did not understand which one it is.

The PRESIDING OFFICER (Mr. NUNN). Let us have order.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

On page 98, in line 26, after the word "service" insert a semicolon and the word "or".

On page 98, beginning at line 27, insert the following new language:

"(5) the secondary transmission is made by a cable system serving a local community prior to March 31, 1972, and such local community is so situated as to be principally dependent upon such system for access to broadcast signals.

Mr. COTTON. Mr. President, I ask unanimous consent that two members of the minority staff of the Committee on Commerce be allowed the privilege of the floor throughout the remainder of the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I ask unanimous consent that Mr. Tom Cantrell of the staff of the Senator from Wyoming (Mr. HANSEN) be accorded the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER (Mr. DOMENICI). Without objection, it is so ordered.

The Senate will be in order.

The question is on agreeing to the first committee amendment appearing on page 98, beginning with line 27.

Mr. McCLELLAN. Mr. President, what is the question?

The PRESIDING OFFICER. The question is on agreeing to the Commerce Committee amendment appearing on page 98 of the bill, beginning with line 27. The question is on agreeing to the committee amendment.

Mr. PASTORE. Mr. President, this is the so-called Cotton amendment, and I understand that Mr. McCLELLAN is opposed to it. I understand it is very controversial. I think it will be explained by the Senator from New Hampshire. But it is being resisted.

Mr. McCLELLAN. Mr. President, I understood a vote was called for, and I had understood that this amendment would be presented and discussed. That was my only point. I presume the author of the amendment wishes to discuss it first.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. COTTON. Mr. President, the purpose of my amendment——

The PRESIDING OFFICER. Will the Senator suspend? The Senate will be in order. The Senator from New Hampshire has the floor.

Mr. COTTON. Mr. President, during the early days of the introduction of cable television, or CATV, it was installed in those sections of the country where the topography was such that certain communities could not get adequate television reception without a cable system. Local communities so situated could not receive over-the-air signals. They either had to have cable television or they had practically nothing. These were the so-called classic cable systems.

The years have gone on, and nowadays CATV systems are installed in cities, such as the suburbs around Boston and other cities, for a somewhat different purpose. In these situations, it is a luxury, providing a larger number of channels.

I tried to devise an amendment that would separate the sheep from the goats. Thus, I sought to relieve the old, or "classic," CATV systems of the charges proposed in the pending bill. These systems were there of necessity, since without them the communities, because of the mountainous terrain or other various reasons, could not receive and the people could not have the benefit of television.

Moreover, so as not to "grandfather" in the newer cable systems, I selected the date of March 31, 1972, which coincides with the effective date of the FCC's CATV regulations. Thus, my amendment was a "grandfather" clause, exempting from this charge those cable systems which were in being prior to that date.

Unfortunately, the FCC came back and told me that if this amendment remained in the bill in its present form, there was no knowing how many systems it would exempt. There were some estimates that it might exempt 65 or 70 percent of the CATV systems. That was not my purpose. It was then suggested that instead of that test, it be one where CATV is serving a community that, without it, could not get more than one or two signals.

That was not very satisfactory. I am familiar with communities in my State where, in the mountain regions or other parts, you might be able to get four signals, but none of them would be very good. The reception is just not adequate, and adequacy is the true test.

I still have the feeling that the equitable thing to do would be to go back, not to 1972 but to 1960—practically 15 years ago. At that time, most of the CATV systems were installed in communities where they were an absolute necessity. Communities would get no signal without it.

But, there is a great deal of opposition to my amendment from the motion picture people, and others. It has become a hotly contested subject. And, I know perfectly well that we are not going to be able to write anything on this floor that would satisfy anyone, to say nothing of satisfying everyone.

Furthermore, the Senator from Rhode Island has been for many years, as Senators know, chairman of the Subcommittee on Communications of the Committee on Commerce. I have served with him for 16 years. I think he knows more about the problems of the communications field than most. And, he has advised me that at this time it would not be possible to perfect my amendment so as to function properly and equitably. I respect his expertise in such matters.

I regret it very much. I feel that there should be some way of protecting those small communities in mountainous regions from this added charge. They cannot have television without cable system. I feel just as strongly as ever about this issue. Certainly my own constituents are keenly aware of the problem. But, because of the opposition it has aroused, the complexity of the problem, and the representation of the comparative insignificance of the charge to cable system subscribers, I am not going to oppose the motion to table this amendment.

Mr. PASTORE. Mr. President, I want to congratulate my colleague from New Hampshire. I hope there will be a voice vote, and I move to table the amendment.

Mr. McCLELLAN. Mr. President, in the remarks which I prepared for general debate, I stated that in the consideration of proposed amendments to the copyright bill the Senate "must be careful not to adopt provisions, whose intent is unclear, and which may cause difficulties for many years." The amendment proposed in the Commerce Committee by the Senator from New Hampshire, in my judgment, is likely to produce protracted litigation. Weeks after its adoption by the Commerce Committee, it still is impossible to ascertain how many cable systems would be exempt. The report of the Commerce Committee suggests that the Federal Communications Commission could establish the necessary criteria. However, in a letter to me on August 1, the Chairman of the Commission states that the Cotton amendment "concerns copyright liability, a subject about which this agency has no special expertise." The Copyright Office in its report on this amendment states that it "could be interpreted to exempt any cable system, irrespective of size."

This amendment is unnecessary. The cable fee schedule in S. 1361, particularly in view of the Gurney amendment, is quite reasonable. It will not impose a burden on the smaller systems. Small cable systems provide a necessary service in improving the reception of broadcasting signals in remote areas. They deserve special treatment, but this has been provided by the adoption of a graduated fee schedule.

The Judiciary Committee has considered various types of exemptions, based on such factors as the number of subscribers, or the types of signal transmitted. The committee decided that any such exemption necessarily resulted in arbitrary classifications and unequal treatment.

Mr. HRUSKA. Mr. President, I share the concern expressed by my distinguished colleague (Mr. COTTON) in the amendment he successfully proposed before the Commerce Committee.

The Cotton amendment, I understand, would exempt cable systems established before March 31, 1972, from copyright liability and payment of the royalty contained in section 111(d)(2)(B)—if the system is located in a community that is "principally dependent" upon such a system for broadcast signals.

Mr. President, a substantial portion of the cable TV systems in our country are small businesses. It is contended that many such systems would cause economic hardship if substantial royalties were assessed for use of the compulsory license granted in section 111.

With all due respect, however, I believe the Cotton amendment is too broad and vague to satisfy the purpose for which it was intended. I understand the Federal Communications Commission has expounded a similar view.

In considering this issue, the Judiciary Committee decided that no cable system should be exempt from the royalty. Rather, our committee reduced by 50 percent halved the original royalty fee schedule established in section 111(d)(2)(B) to reduce its impact upon all cable systems owners. As reported from the Judiciary Committee, S. 1361 would establish a royalty fee schedule ranging from one-half to 2½ percent of gross profits.

I am confident that this will provide equitable treatment and sufficient protection against economic hardship for smaller cable systems. Furthermore, I believe this will satisfy the concern expressed by Senator COTTON.

I urge my colleagues, therefore, to

support the action of the Judiciary Committee in this regard.

Mr. CRANSTON. Mr. President, I am delighted that the Senator from New Hampshire has decided not to push his amendment.

It seeks to "grandfather in" the so-called classic cable systems. These are TV cable systems serving isolated communities who traditionally by reason of geography have no other feasible access to television signals.

The amendment, however, may exempt up to 75 percent of existing cable systems. As of 1973, there were 3,032 cable television systems in the United States and about three-fourths have fewer than 3,500 subscribers.

Under the fee schedule proposed in section 111, a 3,500-subscriber system would pay a top rate of only $108 per month or about 3.7 cents per subscriber per month.

These fees cannot disrupt existing cable systems nor is any possible future increase likely to do so. In addition, the vast majority of cable television systems are regulated by municipalities which control the subscription fees which may be charged by the system.

It is unfair for a profitmaking enterprise like a cable system to pay nothing for the product it in turn sells to the public for a profit. Exempting cable systems from fees will have the effect of subsidizing them at the expense of copyright owners. If we wish to subsidize cable systems, we should do so directly.

The fee schedule worked out by the Judiciary Committee is modest. I ask unanimous consent that a schedule of fees which would be paid by cable systems of varying sizes be included in the Record at this point.

There being no objection, the schedule was ordered to be printed in the Record, as follows:

WHAT CABLE SYSTEMS OF VARYING SIZES WOULD PAY IN COPYRIGHT FEES AS REPORTED OUT OF THE JUDICIARY COMMITTEE

Number of subscribers per system	Annual revenues	Copyright fee (based on $5/monthly charge)
500	$30,000	$150/annual, or $12.50/month, or 3 cents/subscriber/month.
1,000	60,000	$300/annual, or $25/month, or 3 cents/subscriber/month.
1,500	90,000	$450/annual, or $37.50/month, or 3 cents/subscriber/month.
2,000	120,000	$600/annual, or $50/month, or 3 cents/subscriber/month.
2,500	150,000	$750/annual, or $62.50/month, or 3 cents/subscriber/month.
3,000	180,000	$1,000/annual, or $83.30/month, or 3.3 cents/subscriber/month.
3,500	210,000	$1,300/annual, or $108/month, or 3.7 cents/subscriber/month.
4,500	270,000	$1,900/annual, or $158/month, or 4.2 cents/subscriber/month.

Mr. CRANSTON. Mr. President, I would also like to say a word on behalf of my colleague from California, who is necessarily absent from the Chamber today because of previously scheduled surgery. I am happy that it is nothing serious. Senator Tunney has been closely involved in the development of this copyright bill, through his work on both the Judiciary and Commerce Committees. I know he is in full accord with the basic principle of the compulsory license in section III—namely, that all cable systems should make some payment for the use of copyrighted materials.

Mr. President, I ask unanimous consent to insert in the Record Senator Tunney's additional views from the report of the Committee on the Judiciary, and his minority views from the report of the Committee on Commerce. These statements are relevant to the question before us, the Cotton amendment. Senator Tunney voted against the Cotton amendment in the Commerce Committee. Senator Tunney's views from the Commerce committee report also touch on the Hart amendment, which will be taken up shortly.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Minority Views of Mr. Tunney

Section 111, the section of the Copyright Bill dealing with the cable television industry, continues to be one of the most troublesome of this omnibus legislation. It was disagreement over what Section 111 should contain which largely resulted in the long delay in achieving a copyright reform bill over the last decade. The Commerce Committee has recommended two substantial changes to Section 111 with which I disagree.

The first amendment deals with the thorny issue of sports programming on CATV. As the Commerce Committee's report recites, there was a provision in the Judiciary Subcommittee draft of S. 1361 which would have effectively "blacked out" almost all distant signals of sports programs for CATV systems operating within the viewing area of a broadcast T.V. station, unless the CATV system could get special permission—at additional cost—from the sports team. This provision, it is fair to say, was one of the two most strongly debated questions in the Judiciary Committee. The Commerce Committee report reflects the argument in favor of the "black-out" clause; CATV on the other side strongly asserted that this clause would cut off substantial programming now available to millions of cable subscribers in the country, and severely undercut CATV's ability to attract new subscribers and keep present ones.

The Judiciary Committee decided that such special treatment of sports—since all other programming on CATV would be subject to a compulsory license—was not appropriate to copyright legislation, and the provision was struck out in its entirety.

An amendment was thereafter urged to direct the Federal Communications Commission to enact rules governing sports carriage on CATV, taking into account enumerated factors, most of which would tend to restrict carriage of sports programs. The Judiciary Committee also rejected this amendment.

The F.C.C. has, for some two years, been considering a Docket concerning limitations on carriage of sports programs on CATV. It is my understanding that this Docket was ready for Commission action last winter, but action was deferred pending appointment and confirmation of additional Commissioners. The Docket therefore is still near final action.

The question of sports carriage on CATV is so complex, that I believe no action should be taken without a much broader hearing record. The type of proposal recommended by the Commerce Committee was never thoroughly explored in hearings. The Congress should await the FCC's rule-making action. Then, if those rules appear to reflect an improper balance between the concerns of sports of CATV, the Congress could investigate and hold full hearings for remedial legislation.

The other major Commerce Committee amendment to Section 111 provides a "grandfather" exemption from any copyright fees to CATV systems in existence on March 31, 1972, which serve "local communities" which are "primarily dependant" on such CATV system for reception of broadcast signals.

I believe this amendment will be impossible to fairly administer. There is no logical point at which to say that CATV systems should or should not be included within this exemption. To be sure, it is possible to identify the relatively small number of systems in the U.S. which are truly in the "classic" category: these are communities so isolated by distance or geography that no broadcast signal can be received, short perhaps of erecting a massive antenna. But from that "classic" situation upwards, there is a steady continuum of conditions in which any particular community may find itself. Factors such as the number of broadcast signals receivable, with what clarity, and requiring what kind of investment in an antenna are infinitely variable. Therefore, I believe any implementation of this provision by the F.C.C. or any other body will be of necessity quite arbitrary. I think it is unwise to enact such an ambiguous provision into law.

Secondly, this provision disrupts the basic policy of Section 111, which I believe to be valid, that all CATV systems should make some payment to copyright holders for the use of the product which is shown on the CATV—even if the payment is nominal. One of the very difficult problems in this bill was determining the proper level of fees for the various compulsory licenses established. In the case of cable television, the Judiciary Committee ultimately decided to establish a low schedule of fees, with the understanding that the Copyright Tribunal would very quickly examine and determine the fee schedule, without being affected by the Congress' initial decision. Implicit in this determination by the Judiciary Committee, and reflected in its report was approval for the overall scheme for the compulsory license system, including the principle that all cable systems should pay something.

This amendment, therefore, disrupts that principle. It is impossible to predict just how serious the disruption will be, since we do not know how many CATV systems ultimately could be brought within the ambit of this clause. I greatly fear that the number will be substantial, and that this will be yet a further erosion of the copyright compensation which Section 111 has so belatedly provided for the makers of television programs.

The low fee schedule established in Section 111, ranging from ½% to 2½% of gross subscriber revenues, was felt by the Judiciary Committee to assure that these new fees would not have too disruptive an economic impact on the CATV industry at the outset. For the most part, the "classic" CATV systems which are supposed to be the beneficiaries of this amendment are small, and would thereby have to pay no more than a nominal fee, amounting literally to only pennies per month for each subscriber. This is amply demonstrated by the chart on page 133 of the Judiciary Committee Report. In light of the minimal impact of the fee schedule on small CATV systems, the valid policy of universal liability for fees, and the virtual certitude that application of this provision would be arbitrary, I would urge the members of the Senate to disapprove the "grandfather" amendment.

Additional Views of Senator John V. Tunney

I regret that the royalty fee schedule for cable television systems established by Senator McClellan's subcommittee in section 111 (d) (2) (B) of this bill was cut in half by a two-vote margin during the full committee markup of the copyright bill. I opposed that action because in my judgment the original fees were quite modest in terms of the cost imposed upon the cable operators and reasonable with respect to the interests of the copyright owners.

Senator Burdick's compromise, which would have limited a cut in copyright fees to the smaller cable systems, was more justified, and I regret that the committee rejected it in favor of the complete reduction of fees.

The committee's report contains the following statements, with which I am in full accord:

"Very little relevant economic data was available to the subcommittee * * *. When it established the schedule of payments in S. 543. The subcommittee in 1973 held a hearing on the royalty schedule previously approved by the subcommittee and contained in S. 1361 at this hearing the program producers, broadcasters and music performing rights societies expressed opposition to the inclusion of a royalty schedule in the statute * * *. The committee believes that the economic data available at the present time is inconclusive but supports the Congress initially establishing royalty rates * * *. The committee does not intend that the rates in this legislation shall be regarded as precedents in future proceedings of the tribunal * * *."

I believe the subcommittee made a fair and reasonable attempt to match the burden which this new fee would place on cable systems against the need to compensate the producers of television program material, who had never been compensated before by the cable industry. These producers, of course, provide the bulk of the product which cable TV gives to its subscribers.

The fact is that copyright royalty income is essential to the continued creation of program products. The film production industry, which is the major source of the copyrighted program material used in both broadcast and cable television, is in serious economic straits. In New York, California, and smaller production centers, high levels of unemployment exist, reaching 60% and 70% of the membership of some craft unions, such as the Teamsters, carpenters, scene makers, and painters, and over 50% in the film extras Guild.

The ability to produce a television or theatrical film depends in no small part on the revenues derived from the copyright royalty on program material. The royalty fees to be derived from the cable television industry will be a significant factor in determining whether the levels of activity and employment will decline or expand.

The hardship on program producers of cutting the fee schedule is magnified by the other action taken by the committee, to eliminate the so-called "sports blackout" provision. In so doing, the committee allows cable T.V. systems to obtain virtually unlimited sports programing under the compulsory license. Sports owners (or in some cases the broadcasters) who have a copyright interest in sports events are entitled to be compensated under the Act, but their compensation must come from the same pool as the compensation for the prepared program copyright holders. With more parties entitled to share in the gross receipts of the copyright royalty fees, it seems somewhat unfair to cut the total pool in half.

Those of us who supported the original subcommittee royalty fee schedule believe that it called for a modest and equitable payment rate. It should be remembered that the program producers felt this original rate was inadequate and non-compensatory. Certainly it would not have imposed any undue fiscal burden on the average cable subscriber.

The rates were graduated, with successive 1% increases on each succeeding $40,000 of quarterly subscription revenues, up to a top rate of 5% for systems with quarterly revenues above $160,000.

It has been estimated that the overall effective rate of copyright royalties for the whole cable industry would have been 2.1% under the subcommittee schedule. Assuming an average $6 monthly subscription fee, this means that cable subscribers would, on the average, have been asked to pay only about 12 cents per month to the producers of the programs which fill their screens. Even subscribers in the largest systems would have had to pay less than 30 cents a month, and it should be noted that the majority of cable systems in the country are so small that the monthly payment for these subscribers would have been well under 10 cents.

Senator Burdick proposed a compromise which would have made the 50% cut in fees applicable only to the first two steps of the fee schedule. Systems wth less than $80,000 quarterly subscription revenues—approximately 440 subscribers—would have their fees halved. Since considerable concern has been raised about the plight of these smaller systems, I supported this compromise. The Burdick amendment would not have had a major effect on the overall revenues raised by the total fee schedule, quite in contrast with the committee's action to cut in half all the fees.

For all of these reasons I favored and supported the original royalty rate schedule proposed by Senator McClellan as modified by the Burdick amendment. I felt it was a fair starting point until the royalty tribunal would have had time and opportunity to assess all of the relevant economic facts. The royalty tribunal is not to be bound by the statutory schedule and would in due course make its own findings.

I hope, therefore, that the royalty tribunal may be able to act promptly in rectifying what I fear may be an upcoming critical situation for copyright owners and for those whose livelihoods depend on the welfare of copyright owners.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the first Commerce Committee amendment remaining. [Putting the question.]

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the next Commerce Committee amendment.

The assistant legislative clerk read as follows:

On page 99, in line 29, after the word "subsection (d)" insert a semicolon and the word "or".

On page 99, beginning at line 30, insert the following new language:

"(C) Where the carriage of signals comprising the secondary transmission of sports events is not permissible under rules which the Federal Communications Commission shall promulgate: *Provided*, That in adopting such rules the Commission may consider the effect upon broadcasting, cable television, and sports of the policy objectives contained in Public Law 87-331, and any other factors the Commission deems appropriate."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. GURNEY. Mr. President, I believe this is a controversial amendment, too, and I think we are going to have some discussion on it.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. HART. Mr. President, very briefly then, this amendment seeks to resolve what many regard as the most——

The PRESIDING OFFICER. Will the Senator suspend. The Senator from Michigan has the floor. The Senator may proceed.

Mr. HART. This amendment, Mr. President, seeks to respond to an issue which has generated as much heat and, perhaps, light as any of the several controverted aspects of the bill.

What do we do about professional team sport broadcasts and cable television, how do we handle it?

Well, the Judiciary Committee, the Subcommittee of the Judiciary Committee, had an approach which was in the minds of many unduly favorable to the interests of professional team sports. The full committee on the Judiciary determined to omit, deleted that section entirely. The Commerce Committee rejected that proposal that would, I think, be accurately claimed as favoring the team sports approach. I think it rejected the proposal that fairly could be described as permitting cable television a freedom which would have seriously jeopardized both the gate and the broadcast television contract revenues of team sports, and adopted the amendment now pending.

This is what I regard as being as close to a neutral position as one can find, given the intensity of feeling with respect to the issues.

The committee suggests or directs that the Federal Communications Commission itself establish rules with respect to the conditions under which professional team sports may be carried by cable television. In so doing, as the report of the committee indicates, we asked the Commission to consider the interests, both of sports and cable, and to come to a fair resolution. It is admittedly a most complex issue.

Additionally, it deals with a situation which can change from time to time. It was our feeling it should be dealt with, therefore, by a body that has the time to follow it as changing circumstances may require changes to be able promptly to respond and always have the capacity as an expertise body to be on top of it.

Finally, Mr. President, the amendment, I believe, is word for word—at any event, substantially exactly—what the FCC itself has requested of Congress. I would hope very much, Mr. President, that the amendment would be agreed to.

Mr. COTTON. Mr. President, will the Senator yield for a question? I would not presume to interrupt the Senator to question him, but I think that perhaps the Senator from New Hampshire has proven his good faith by having given up his own amendment.

This Senator does not have quite the implicit faith that some people have in these quasi-judicial commissions that we have around this Capital.

My people back home may be disappointed that my amendment on the matter of "classic" cable systems was not accepted. but if the FCC fails to give some special consideration to those sections and communities in this country that are dependent on cable television and cannot see these sports events otherwise, there really will be a rebellion. I do not have to tell the Senator that even in the more remote sections of our country they are just as anxious to see their favorite sporting events as anywhere else.

If the FCC simply makes a sweeping rule that applies equally to all communities served, including remote communities that depend upon cable television, I am going to be just as mad as hell about it, and so are a lot of other people.

I am very apprehensive about the Senator's amendment unless there is at least some suggestion of a guideline that shows the intent of Congress that the FCC protect those who depend upon cable television for sports events, so that the FCC will not just promulgate some sweeping order that may deprive the American people of one of their most cherished possessions.

I would like to ask the Senator in regard to his amendment, if it is adopted in its present form, if he thinks that the FCC is going to really protect some of us.

Mr. HART. Mr. President, it would be my hope—I know it was the feeling of the Committee on Commerce—that turning this issue over to the Federal Communications Commission would be, perhaps, the best assurance that there could be selective judgments built into any rule that might be developed.

That, indeed, was one of the things I had in mind when I made the comment that circumstances may change or circumstances in particular regions of the country may differ.

The Commission, we would urge, should respond by tailoring its rules so as to be sensitive to the remote area which relies solely upon cable for adequate reception, to the interests of the viewing community with respect to the kind of team sports events that might best fit them.

It would be my feeling, Mr. President, that we made an indication both in the committee report and in this exchange with Senator Cotton that would suggest to the Commission that that is exactly what we want to do.

I would hope, Mr. President, that the amendment will be agreed to.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GURNEY. Mr. President, I am opposed to this amendment and at the proper time I intend to make a motion to table this amendment.

The guts of what we are talking about is sports blackout and not FCC rulemaking.

In the original copyright bill that came out of the subcommittee there was a sports blackout provision as far as cable television is concerned and, the way the language of the bill was worded, it virtually would have cut out all sports programs on cable television.

When the bill was marked up in executive session, I offered an amendment in the Judiciary Committee to take out this section and it carried 12 to 2. That is how deeply the Judiciary Committee felt about this sports blackout. There were only two votes against it.

Then the bill went over to the Commerce Committee and my very good friend and able colleague, the distinguished senior Senator from Michigan who was one of the two who voted no in the Judiciary markup, managed to persuade the Commerce Committee to put this section in.

Now, on the surface, it sounds very harmless. We ought to let a commission that has expertise study this matter and really come to the conclusion that we do not have the time to do it here in the Senate. But I do not think it is nearly as harmless as that. What it does is focus the attention of the FCC on the business of whether cable television shall carry sports programs.

Now, we are not doing that in this bill as far as other broadcasters are concerned, whether they are regular television stations or whether they are radio stations, so why do we single out the cable television people?

This obviously is preference against one industry, one portion of the industry, and I do not think it has any business in the copyright bill at all.

As I said, what it really does is point the attention of the FCC toward sports carrying on cable television; and, reading this language over, if I were a member of the FCC, I would get the impression the U.S. Senate is telling me that the cable television is not good for sports and as a commission, look at it and do something about it.

The people who own and operate cable television as well as the viewers and listeners of cable television all over the country sent in more communications on this provision than on any other in this whole copyright bill, as far as my office is concerned.

Literally, cable television could not stay in business if they were not permitted to carry sports programs. That is how much of an issue we have here, and that being the issue, I do not see it is fair at all to direct this to the Federal Communications Commission and have the U.S. Senate do a copout on it.

Millions of viewers throughout the country rely solely upon cable television in order to receive their sports programs, and if we do not carry it on cable television, they are not going to see it.

Now one thing this copyright bill aimed to do and did, if we leave out this provision, is to make certain that the cable television people would pay a license fee to the broadcasters for picking off the air the programs that were being broadcast on regular broadcast stations. As I understand the bill, that means all of the programs carried on the broadcast stations and not all the programs except the sports programs.

We already favor sports by exempting them from the antitrust law. I do not see why we have to give them further protection under the copyright bill.

Moreover, it seems to me that if anything could be viewed as an anticonsumer issue in this bill, this business about singling out sports programs on cable television is certainly anticonsumer.

There is no question that if the FCC went ahead and did something about this that it would certainly hurt the struggling cable television stations and might even put them out of business.

They would have a real difficult time attracting new subscribers in building up their cable television systems.

There is no evidence at all that cable television has hurt the professional sports, or the amateur sports, as far as that is concerned, in this country and that really would be the only reason why we should give the FCC a signal and a red light to look at sports on cable television, because it may be hurting the people who own and operate the various teams.

All during the building up of cable television, professional sports flourished. There are more professional football teams today than there ever have been before, there is a brand new league, new teams all over the country.

The same is true of basketball, the same is true of hockey, the same is true of any sport. Tennis is one of the fastest growing sports in the country today, and one of the reasons why it is is because it is being carried on television, and part of that television, of course, is cable television.

So I think that this should be stricken out of this bill. What it really is is a subterfuge to overrule the 12-to-2 vote in the Judiciary Committee where we struck out this sports blackout provision.

I would hope that the Senate would vote for the motion to table when I make it at the end of this debate.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HRUSKA. Mr. President, I rise in opposition to the amendment that has been proposed by the Commerce Committee and which has now been brought as the pending amendment by the Senator from Michigan.

Mr. President, the Judiciary Committee and the Commerce Committee have differed in their treatment of the so-called "sports blackout" issue.

With due respect to my colleagues on the Commerce Committee, I remain in strong support of the Judiciary Committee action on this particular matter.

Mr. COTTON. The Senator does not mean all members of the Commerce Committee?

Mr. HRUSKA. I mean those who favor the Hart amendment which is now pending, and I thank the Senator for the opportunity to clarify my statement so it will be accurate and reflect the fact.

Under section 111 of S. 1361, the copyright bill, cable systems will be given a compulsory license for carriage of broadcast signals as authorized by the Federal Communications Commission. In return, the cable systems must pay an annual copyright royalty determined by a statutory fee schedule.

As originally drafted, S. 1361 would have exempted professional sports from the compulsory license and thereby prevent cable systems from retransmitting such programs from a long distance. An amendment was successfully offered in the Judiciary Committee to delete this provision. The effect of our action would be to place professional sports programing on the same basis as all other programing under the compulsory license.

I strongly supported this action. In my view, the blackout would have reduced the volume of sports programing now available to many Americans who depend upon cable systems for adequate television viewing.

The Commerce Committee has recommended that the matter be referred to the FCC—with suggested guidelines—for determination. I believe this approach to the problem is ill-advised. The Judiciary Committee, in its extensive consideration of this bill, rejected a similar proposal.

I might say, Mr. President, that the vote was very decisive, 12 to 2. Other related amendments were proposed, some of them similar to the one that we now have pending before us. They were likewise rejected.

The issue with which we are concerned is the possible elimination or reduction of sports programing available to the millions of persons who receive their television service via CATV systems. Under section 111 of the Copyright bill, CATV systems will, for the first time, be required to pay a copyright fee. For this fee they will receive a compulsory license entitling them to the use of copyrighted program materials which appear on the television stations carried by the CATV systems. This new payment scheme will not result in any additional programing becoming available to CATV systems since the Federal Communications Commission has comprehensive regulations circumscribing the television signals which CATV systems are permitted to carry.

The owners of professional sports teams have made a concerted effort to be given special treatment in section 111 beyond that provided to other owners of copyrighted material. They supported a provision in the draft of section 111 which would have blacked out the televised sports events from nearby cities on any CATV system located in any television market unless the CATV system obtained the express permission of the sports owner usually for an additional fee, if given at all. The practical effect of this provision would have been a massive blackout of out-of-town sports programing from the homes of millions of American CATV subscribers who now receive such programing. By an overwhelming vote—12 to 2—the Senate Judiciary Committee deleted this sports blackout provision from the draft bill, and restored the equitable compulsory licensing principle of section 111 to all programing.

Without holding any hearings or taking any testimony, the Commerce Committee has now recommended a route to restore a sports blackout. The Commerce Committee amendment directs the FCC to promulgate rules restricting sports programing on CATV, and allows the FCC to take into account several factors, including the alleged harm to sports teams and broadcasters with sports contracts, in making its rules. Needless to say, such a wide-ranging scope of review could result in the FCC making rules as onerous as the original sports "blackout" provision would have been.

More importantly, there is no reason for any legislative direction to the FCC at this time. As the Commerce Committee's report explains, the FCC presently has an active rulemaking proceeding pending—Docket 19417—which concerns the carriage of sports programing on CATV. Furthermore, the FCC has clearly expressed the view that it has the authority to proceed in this area.

The Commerce Committee proposal has never been explored in hearings. It would be far wiser to await the FCC's action in its pending rulemaking proceeding. The Congress can then assess the need for any corrective action on the basis of an adequate record. The Judiciary Committee voted decisively not to include any reference to a CATV sports blackout in the Copyright bill, including rejection of a provision similar to that advanced by the Commerce Committee. Finally, in view of the potentially disastrous and immediate effect of any sports blackout on the Nation's CATV subscribers, as well as the above reasons, I urge to reject the Commerce Committee sports blackout amendment to section 111(c)(2)(C).

I repeat, the FCC currently has on its agenda a rulemaking proceeding to determine the relationship that should exist between cable systems and sports programing. It would be wiser to await the FCC decision on this matter—expected by the year's end—and then assess by thorough hearings next year the need for further legislation or policy instructions to the FCC.

I do not believe, Mr. President, that the Senate should take any further action than that proposed by the Judiciary Committee on this issue.

Therefore, I urge my colleagues to reject the pending amendment and to undertake a more complete consideration of it following hearings after the FCC has rendered its judgment in the matter. That would be much the wiser course than the one which is proposed under the pending amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition of the amendment offered by the Commerce Committee which would give the Federal Communications Commission power to control CATV distant-sports carriage under section 111 of the Copyright Law Revision bill, S. 1361.

This sports provision, which was advocated by Senator HART of Michigan, is watered down somewhat from its original form; however, it does direct the FCC to come up with guidelines on sports carriage, but says the Commission "may consider" impact on broadcasting, cable, sports, "and any other factors it deems appropriate."

The Subcommittee on Patents, Trademarks, and Copyrights of the Judiciary Committee held lengthy hearings on this piece of legislation last summer.

This subcommittee marked up the bill early this spring, and it was then considered by the full Judiciary Committee.

During consideration by the Judiciary Committee, one of the amendments that was considered and overwhelmingly rejected would have directed the FCC to adopt a CATV sports blackout using six enumerated criteria, only one of which is favorable to cable television.

I believe this legislation, as reported by the Judiciary Committee, is a good bill because our committee took the time to hold lengthy hearings and to give all interested parties the opportunity to be heard.

The Commerce Committee review of this legislation was not as extensive as that of the Judiciary Committee. There were no open hearings. There was no testimony from interested parties. The Commerce Committee only had 15 days to consider this bill, and I do not believe that in this brief period of time the members of that committee could fully understand and appreciate the diversity of this legislation.

It is my firm conviction that the Copyright bill is not an appropriate piece of legislation to deal with a regulatory issue. If this is an appropriate subject of legislation at all, it should be handled in the context of an amendment to the communications act, and then only after hearings and a record is established.

The Federal Communications Commission presently has pending a CATV sports blackout rulemaking—Docket No. 19417. The FCC believes that it has the authority to adopt adequate rules, and has so stated in a letter to my colleague, Senator JOHN O. PASTORE, on July 15, 1974.

The Chairman of the Federal Communications Commission indicated that while the Commission had not made any determination as to what rules may be adopted, he believed the Commission had the authority to adopt the proposed rules. Thus, it is my belief, action by the Commerce Committee is unnecessary at this time.

Should the FCC fail to act in a timely fashion, or if their action is unsatisfactory, the Commerce Committee can then exercise its will by legislation—but not at this time and not by an amendment to the Copyright bill. It should be noted that the Judiciary Committee, on page 132 of its report on S. 1361, suggested that the FCC should be left to conclude its rulemaking proceeding. I strongly support this language.

As a matter of symmetry and logic, no other form of programing is given special treatment in the Copyright bill, nor is any other guidance provided to an agency in a regulatory area. Sports would be unique if this amendment prevailed.

After a lengthy meeting in my office with both the sports interests and the cable interests represented—I wanted to hear what both had to say—it was my conclusion that if this amendment were adopted, serious detriment to the cable television industry would result.

Mr. President, I will not support any attempt to stymie the growth of this and relatively new comunications media, and I hope the Senate will not do so.

Mr. ERVIN. Will the Senator from South Carolina yield for about 3 minutes?

Mr. THURMOND. I yield.

Mr. ERVIN. The provision which the amendment seeks to strike from the bill has absolutely no place whatsoever in a bill for general revision of the copyright law. The bill for the revision of the copyright law is offered under the provision of the Constitution which provides to promote the progress of science and useful arts by securing for limited times to authors the exclusive right to their respective writings.

This is a matter that has to do with communications and has nothing whatever to do with the copyright. This amendment has no place in this bill. It ought to be stricken from it.

For that reason, I am in favor of the amendment offered by the distinguished Senator from Florida and cosponsored, I understand, by the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Senator from Montana.

Mr. METCALF. Mr. President, I am opposed to this amendment. It has already been clearly demonstrated that this rather vague provision has received no serious study by the Senate or by a Senate committee. No data has been collected by the Senate. And, we have not really sought the views of the public on this matter—although I might point out that many of us here have heard expressions of concern from constituents who fear they will be denied access to popular sports programing, much of which they have been accustomed to viewing for years—if a sports blackout provision is enacted.

I personally am very concerned about this proliferation of regulations, and in some cases actual interference, by Government in the operations of our vital communications industries. Too often this interference—this layer upon layer of rules and regulations—comes as the result of an honest desire to help the broadcasters or the professional sports interests or the cable people. But are we not losing sight of our real responsibility—to protect the public's interest?

Mr. President, I firmly believe this great body is compelled to measure its actions by their impact on the American people. Is this sports blackout amendment what the public wants? No. There seems to me to be substantial evidence that this just is not the case; and, in the absence of any clear compelling public interest need for congressional action on this issue in a copyright statute, I urge that the amendment be rejected.

Mr. ALLEN. Mr. President, the copyright law revision which the Senate is now considering has been in the legislative mill for almost 20 years, and the basic law which it seeks to revise dates back to 1909.

There is no precedent on which to base decisions relating to cable television, and what we decide here now may be made out of date by technology within just a few years. I believe that we must keep in mind that the decisions we make today could also have an important bearing on future freedom of the American people to view programs broadcast over the airwaves, and decisions could have an important economic bearing on the broadcast industry, on cable television, and on athletic teams, whether they be professional, intercollegiate, or scholastic.

In reporting S. 1361, the Judiciary Committee pointed out that the Federal Communications Commission has a pending rulemaking proceeding on the subject of sports blackout. The committee's majority agrees that the proper approach would be to allow the FCC to complete its work, and then, if a legislative resolution is deemed necessary, the Commerce Committee could work its will.

In its report of its work on S. 1361, the Commerce Committee acknowledges that it had but 15 days in which to consider provisions relating to broadcasting and cable television. I quote directly from the Commerce Committee report:

> Your Committee believes that in view of the potential impact of certain provisions in S. 1361 on our Nation-wide communications service, ample opportunity should have been afforded it to consider those provisions in depth, and to have held hearings on the communications issues.
>
> Such was not the case, however. Your Committee received S. 1361 on a fifteen day referral after the Judiciary Committee had reported an amendment in the nature of a substitute.
>
> Such a short referral time made hearings impossible, and precluded in-depth consideration of many of the complexities of the legislation as they relate to radio, television, CATV and public broadcasting . . .

Mr. ALLEN. Despite this disclaimer of adequate time to consider the problems, the Commerce Committee has proposed five amendments to S. 1361—three of which were considered en bloc and tabled, and a fourth was tabled, and now I trust and hope that the fifth amendment will be tabled.

Mr. President, here on the one hand we have a bill which has been under consideration by the Judiciary Committee since 1955. That committee has made recommendations which I feel are sound.

On the other hand, the Commerce Committee amendments have been drawn up in only 15 days, without benefit of public hearings and without benefit of testimony from concerned parties.

Mr. President, experience tells us that legislation written in haste and passed in haste often turns out to be poor legislation.

I believe that the Judiciary Committee approach to the problem of sports programing and cable television is a sound one and should not be amended.

I understand that in a moment, the distinguished Senator from Florida will offer a motion to table the pending Commerce Committee amendment, and I hope that the motion to table will be agreed to.

Mr. GURNEY. Mr. President, I yield to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I may not be justified in making this observation. But, I have been serving on the Commerce Committee a great many years, and there was a time when there was a very strong sentiment on the part of many people who appeared before us—and a feeling on the part of some Senators—that they wanted to experiment with pay television.

I cannot help feeling that if we adopt something like the Hart amendment, which deals differently with cable television, especially now that cable television is being installed in many parts of the country in metropolitan areas, with a great many channels, that we may wake up and find that the seed we sow today will result in our being obliged to pay a quarter or 50 cents—if inflation keeps on, it will be 50 cents—in order to see a sporting event.

Mr. GURNEY. Mr. President, I am prepared to vote, if the Senator from Michigan is.

Mr. PASTORE. Mr. President, I have a letter from the Federal Communications Commission on this subject.

Frankly, I must admit that this is a rather controversial matter, and there is merit on both sides of the argument. I think it should be left to the will of the Senate.

I have nothing further to say, except that I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., July 17, 1974.

Hon. JOHN O. PASTORE,
Chairman, Subcommittee on Communications, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: You inquired yesterday as to the Commission's views concerning the inclusion in section 111(c)(2)(c) of S. 1361, the copyright bill, of language along the lines suggested in a July 11 letter from the Commissioner of Baseball, Bowie Kuhn. In substance, the question is, assuming some such language may be adopted, how does the Commission feel about this language or some alternative language. Without repeating the text of the six criteria here, it is noted they also appear in footnote 1 at page 221 of the Senate Judiciary Committee Report on S. 1361.

At page 2 of Chairman Wiley's July 15 letter to you, we discussed why the sports carriage question is clearly the most difficult problem the bill poses for the Commission. We would again invite your attention to that discussion. Now let us turn directly to your present question.

Should the Congress decide to include language in section 111(c)(2)(c) providing the Commission with additional guidance on the subject of sports carriage, the Commission would prefer that the statutory language give it maximum flexibility and that any additional details of Congressional intent be spelled out in the legislative history.

The Commission has not had sufficient time to consider this matter in detail. However, we feel that a permissive referral to the Commission, indicating that we may give consideration in our adoption of rules to certain factors which Congress may deem relevant and appropriate (for example, the effect on broadcasting, cable television, sports, the policy objectives of Public Law 87-311, etc.) would be preferable to the language suggested in Commissioner Kuhn's letter of July 11. Accordingly, something along the following lines might be more desirable:

"(c)

* * * * *

(2) Notwithstanding the [compulsory licensing] provisions of clause (1) of this subsection, the secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, in the following cases:

* * * * *

(C) Where the carriage of signals comprising the secondary transmission of sports events is not permissible under rules which the Federal Communications Commission shall promulgate, *Provided,* That in adopting such rules the Commission may consider the effect upon broadcasting, cable television, sports, the policy objectives of Public Law 87-331, and any other factors it deems appropriate."

Please let us know if we may be of further assistance.

This letter was adopted by the Commission on July 17, 1974; Commissioners Quello and Washburn not participating.

By direction of the Commission.

VINCENT J. MULLINS,
Secretary.

Mr. GURNEY. Mr. President, I move to table the Hart amendment, and I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Florida to table the amendment of the Senator from Michigan. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. METZENBAUM (when his name was called). Present.

Mr. TAFT (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Idaho (Mr. CHURCH), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Missouri (Mr. EAGLETON) are necessarily absent.

I further announce that the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Minnesota (Mr. HUMPHREY) are absent on official business.

I also announce that the Senator from California (Mr. TUNNEY) is absent because of illness due to hospitalization and minor surgery.

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON), and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "yea."

Mr. TOWER. I announce that the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. BUCKLEY), the Senator from Kentucky (Mr. COOK), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Pennsylvania (Mr. HUGH SCOTT) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. FONG) and the Senator from Illinois (Mr. PERCY) are absent on official business.

I further announce that the Senator from Oklahoma (Mr. BELLMON) is absent due to illness.

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Illinois (Mr. PERCY).

If present and voting, the Senator from Oregon would vote "yea" and the Senator from Illinois would vote "nay."

On this vote, the Senator from New York (Mr. JAVITS) is paired with the Senator from Pennsylvania (Mr. HUGH SCOTT).

If present and voting, the Senator from New York would vote "yea" and the Senator from Pennsylvania would vote "nay."

The result was announced—yeas 36, nays 34, as follows:

[No. 387 Leg.]

YEAS—36

Aiken
Allen
Brock
Brooke
Burdick
Byrd, Robert C.
Cotton
Cranston
Curtis
Eastland
Ervin
Gravel
Gurney
Hansen
Hartke
Hathaway
Helms
Hollings
Hruska
Huddleston
McClure
Montoya
Moss
Nunn
Packwood
Proxmire
Randolph
Schweiker
Scott, William L.
Sparkman
Stafford
Stennis
Talmadge
Thurmond
Tower
Young

NAYS—34

Abourezk
Baker
Bartlett
Beall
Bible
Biden
Cannon
Case
Chiles
Clark
Dole
Domenici
Fannin
Hart
Haskell
Hughes
Inouye
Jackson
Johnston
Kennedy
Long
Magnuson
Mansfield
McClellan
Metcalf
Mondale
Nelson
Pastore
Pearson
Pell
Roth
Stevens
Symington
Weicker

ANSWERED "PRESENT"—2

Metzenbaum
Taft

NOT VOTING—28

Bayh
Bellmon
Bennett
Bentsen
Buckley
Byrd, Harry F., Jr.
Church
Cook
Dominick
Eagleton
Fong
Fulbright
Goldwater
Griffin
Hatfield
Humphrey
Javits
Mathias
McGee
McGovern
McIntyre
Muskie
Percy
Ribicoff
Scott, Hugh
Stevenson
Tunney
Williams

So the motion was agreed to.

Mr. GURNEY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PASTORE. Mr. President, for the information of my colleagues, as far as I know there are two pending amendments. One would be accepted; as to the other I really do not know, but if we remain here I think we can finish this bill comfortably within an hour.

APPOINTMENT BY THE CHAIR

The PRESIDING OFFICER (Mr. DOMENICI). The Chair, on behalf of the President pro tempore of the Senate, in accordance with Public Law 85-474, appoints the Senator from Montana (Mr. METCALF) to attend the Interparliamentary Union Meeting, to be held in Tokyo, Japan, October 3-11, 1974.

COPYRIGHT LAW REVISION

The Senate continued with the consideration of the bill (S. 1361) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

On page 102, line 5, after the word "States," add "Hawaii, or Puerto Rico."

Mr. INOUYE. Mr. President, I ask for the immediate consideration of amendment No. 1847 as an amendment to the committee amendment.

The PRESIDING OFFICER. The Chair cannot hear the Senator from Hawaii.

Mr. INOUYE. I ask for the immediate consideration of amendment No. 1847, an amendment to the amendment proposed by the Committee on Commerce.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. INOUYE. I ask unanimous consent the further reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE's amendment (No. 1847) is as follows:

On page 102, line 5, strike out "Rico" and insert in lieu thereof the following: "Rico: *Provided, however,* That a nonsimultaneous further transmission by a cable system located in a television market in Hawaii of a primary transmission shall be deemed to be a secondary transmission if such further transmission is necessary to enable the cable system to carry the full complement of signals allowed it under the rules and regulations of the Federal Communications Commission".

Mr. INOUYE. Mr. President, as reported by the Commerce Committee, section 111 of S. 1361 would provide a compulsory license under the copyright law to cable systems operating in our noncontiguous State of Alaska, territories or possessions for the carriage of broadcast signals on a taped delayed basis if otherwise permissible under FCC rules.

Cable systems operating in Hawaii and Puerto Rico are not included, however. As a consequence, those cable systems must carry broadcast signals simultaneous with their transmission by the transmitting broadcast television station, if they are to receive a compulsory license under the copyright law. In this regard they are treated the same as their mainland counterparts.

The reasons for excepting Hawaii and Puerto Rico—and I offered the amendment in committee—was that the special factual situation which warranted treating tape delayed signals in noncontiguous areas as broadcast signals, and therefore eligible to come under the compulsory licensing scheme, does not exist in Hawaii and Puerto Rico.

The committee objective in treating Alaska and the noncontiguous areas other than Hawaii and Puerto Rico differently was to permit cable systems operating in them to obtain whatever distant broadcast signals allowed them under the FCC's rules on as nearly as possible the same basis as systems in the contiguous States.

The vast distances and ocean areas involved make it a practical impossibility for cable systems in these areas not contiguous to the mainland, to obtain off-the-air or by microwave, signals from the mainland on the same basis as systems within the contiguous States. They must, therefore, obtain broadcast signals on a tape delayed basis. The problem is further compounded when these noncontiguous areas themselves are vast and isolated and have few if any television stations. Alaska, of course, is a prime example.

Hawaii and Puerto Rico, however, do not lack broadcast service, and it was not, therefore, felt necessary to include them in the exception.

After S. 1361 was reported by the Commerce Committee, however, it was brought to my attention that perhaps cable systems operating in Hawaii were not on as equal a footing as possible with their counterparts on the mainland and Alaska. To the extent this is true the public suffers.

To illustrate—under present FCC rules, cable systems operating in any market in Hawaii are entitled to carry the broadcast signals of the three network affiliated stations located in Honolulu plus the signal of the independent television station also located there. Under FCC rules, because of the size of the television markets these cable systems serve, the systems are not entitled to carry any distant signals.

Thus, the compulsory license under S. 1361 these cable systems would receive is the license to carry the signals of those four television stations.

At this point, the cable systems would be treated equally with their mainland counterparts.

However, under FCC regulations, a cable system may through one procedure or another seek Commission approval to add distant signals which it would otherwise not be entitled to carry, if it could prove the public interest would be served thereby.

Should the FCC give its approval to a mainland cable system to add a distant signal that system would pick up the appropriate signal via microwave. Since it was allowed to do so by FCC rules, the added distant signal would be subject to the compulsory license under the copyright law.

Under the same circumstances, however, if the cable system were one serving an Hawaiian market, the only distant signal available to it would be one on a tape delayed basis.

Under the bill as reported by the Commerce Committee, however, a tape delayed signal carried by a cable system serving a market in Hawaii is not a broadcast signal subject to compulsory licensing under the copyright law.

Should the time come, therefore, when, for whatever reason, such a cable system could, under FCC rules, add distant signals from the mainland, it would have to negotiate with copyright holders on an individual basis. This would put a hardship on the cable operator which its mainland counterpart does not have to endure, and the public would suffer.

To correct this disparity, and to protect the public's interest, Mr. President, at this time, I wish to offer a perfecting amendment to S. 1361, as reported by the Commerce Committee.

My amendment would simply provide that if the FCC for whatever reason ever decides a cable system serving a market in Hawaii is entitled to carry distant signals, and if, in order to do so, the system must rely on tape delayed broadcast signals, then those tape delayed signals will be subject to compulsory licensing under S. 1361.

I wish to emphasize once again that it is my intention to do no more than put cable television systems operating in the State of Hawaii on as even a regulatory footing as possible with cable systems operating on the mainland.

It is not my purpose to preempt or modify the rules of the Federal Communications Commission governing television signals and programs which might be authorized for carriage on cable systems in Hawaii.

Moreover, I am not suggesting that Hawaiian cable systems should be authorized to carry additional broadcast signals from the mainland now or in the future. That is a matter for FCC determination.

It is my understanding that any broadcast signals these systems might someday be authorized to carry will not be without restriction. They will be subject to all of the FCC rules and processes including whatever provisions exist relating to "leapfrogging" and syndicated and network nonduplication exclusivity requirements.

To summarize, Mr. President, my amendment does not affect the regulatory authority of the FCC in any way. Nor does it upset the balance which the FCC rules have struck between the interests of CATV systems and broadcasters.

First. Hawaiian cable systems would be required—just as are mainland systems—to file an application for certificate of compliance with the FCC. In such application they would be required to specify the station whose program they would be carrying;

Second. Even if cable systems are given the right to import additional signals by the FCC, the scope of my amendment applies only to a cable system in Hawaii located in a television market;

Third. If a cable system in a television market in Hawaii is given permission by the FCC to import additional signals of independent television stations into Hawaii, I would assume the FCC provisions for syndicated program exclusivity would apply to such importations, unless to do so would frustrate the purpose of the amendment; that is, to put the system on a comparable basis with mainland systems.

Fourth. Inasmuch as my amendment would give a compulsory license to cable systems in Hawaii to carry taped programs if the FCC permits, and inasmuch as their mainland counterparts would only receive a compulsory license to retransmit them simultaneously, it may be necessary for the Commission to impose appropriate restrictions on the ability of Hawaiian cable systems to tape alternate programs so as to make the situation as nearly comparable as possible to the mainland situation.

Mr. President, I once again wish to emphasize that my amendment is not intended to favor the cable operators at the expense of the broadcasters or any other group.

The FCC is the expert agency Congress has created to determine how many broadcast signals a cable system may carry, and under what conditions they may be carried.

My amendment is not intended to interfere with FCC's authority, and it does not do so.

I merely wish to assure that the television viewers of Hawaii receive consideration similar to that received by their counterparts on the mainland.

Mr. President, this amendment has been seen by the distinguished chairman of the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary (Mr. McCLELLAN), and it has also been seen by the distinguished chairman of the Commerce Subcommittee on Communications (Mr. PASTORE). I have been told that this amendment is acceptable to those gentlemen.

Mr. McCLELLAN. Mr. President, I am willing to accept the amendment. I know of no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 1847) to the committee amendment.

Mr. McCLELLAN. Is it acceptable to the Commerce Committee?

Mr. PASTORE. It is acceptable, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

Mr. PASTORE. Mr. President, I ask unanimous consent that the Senator from Tennessee (Mr. BAKER) be allowed to call up his amendment out of order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1803

Mr. BAKER. Mr. President, I call up my amendment No. 1803, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 10, line 40, strike out the period.

On page 10, between lines 40 and 41, insert the following:

"(4) shall be construed to limit the reproduction and distribution of a limited number of copies and excerpts by a library or archives of an audiovisual news program subject to clauses (1), (2), and (3) of subsection (a).".

On page 11, line 16, immediately before the comma, insert "other than an audiovisual work dealing with news".

Mr. BAKER. Mr. President, I send to the desk a modification of the amendment necessitated by the reprinting of the bill as reported, and ask that the amendment be modified accordingly.

The PRESIDING OFFICER. That is the Senator's privilege.

The modification is as follows:

On page 1, line 1, strike "On page 10," and insert in lieu thereof "On page 94,".

On page 1, line 2, strike "On page 10," and insert in lieu thereof "On page 94,".

On page 1, line 9, strike "On page 11," and insert in lieu thereof "On page 95,".

The amendment as modified is as follows:

On page 94, line 40, strike out the period.

On page 94, between lines 40 and 41, insert the following:

"(4) shall be construed to limit the reproduction and distribution of a limited number of copies and excerpts by a library or archives of an audiovisual news program subject to clauses (1), (2), and (3) of subsection (a).".

On page 95, line 16, immediately before the comma, insert "other than an audiovisual work dealing with news".

The PRESIDING OFFICER. The Senate will be in order. The Senator from Tennessee has the floor.

Mr. BAKER. Mr. President, I ask unanimous consent that the names of the distinguished senior Senator from Florida (Mr. GURNEY), the distinguished Senator from Arizona (Mr. GOLDWATER), and my colleague from Tennessee (Mr. BROCK) be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, amendment 1803, as amended, will insure that if S. 1361 becomes law, the Vanderbilt University Television News Archive located in Nashville, Tenn., can continue operation.

For many years historians and other scholars have relied extensively on contemporary news accounts in their research into American past. Universities, libraries, and other institutions have long realized the value of preserving newspapers, periodicals, books, and other printed matter for this purpose. The advent of microfilm and computer techniques have made the reproduction and storage of printed material far more practical.

However, today radio and television are major news forces. Although the print media continue to exert great influence and are capable of providing the kind of indepth coverage often beyond the capacity of broadcast journalism, television is documenting the mainstream of the continuing evolution of civilization. Historic events of thousand-year importance are being recorded in a most professional and marvelous way. Because many Americans depend upon television for much of their information about national and international matters, their perception of these matters is undoubtedly affected by television news. Certainly a thorough understanding of the Vietnam war or the events of the Watergate period, would be incomplete without reviewing the television network news reports produced during those times in our history.

Despite the obvious importance of preserving network television news, we have no institution performing this function on a permanent and systematic basis.

At the present time, however, Vanderbilt University operates a television news archive—a depository that contains tapes of the evening news programs and special news events of the three television networks for that period. The television news archive makes off-the-air videotape recordings of the evening television news, prepares indexes of the contents and leases copies of complete broadcasts or compilations of coverage of specified subjects for specified periods upon request from scholars and researchers. Although a fee is charged those using the archive which is based upon the cost of production, the operation of Vanderbilt's archive has been financed solely by private contributions.

Vanderbilt is to be commended for the pioneering efforts it has made in this field. However, because we need the guarantee of a national commitment from the Federal Government, I introduced S. 2497 to require the Librarian of Congress to establish and maintain a library of television and radio programs, and for other purposes. Unfortunately, no action has been taken on this bill and therefore our only means of preservation of the nightly news on an organized basis which is accessible to all Americans is at the Vanderbilt Television News Archive.

I have been advised by the Register of Copyrights that under S. 1316 as reported by the Judiciary Committee, none of the special exemptions from exclusive rights would absolve Vanderbilt of copyright liability. Thus, if S. 1361 passes in its present form, Vanderbilt would have to negotiate with each of the networks for the right to continue their operation, with all of the uncertainties such negotiations involve.

The work that Vanderbilt is doing is too important to the Nation to risk it not being continued until we have made a national commitment to serve the nightly news and special news events produced by the three television networks.

Inasmuch as this activity is strongly impressed with the public interest, it seems to me that my amendment asks little of the three major networks who have been given use of a valuable public resource through their television licenses which are conditioned solely on their obligation to serve the public interest, convenience, and necessity.

I urge my colleagues to study this amendment as amended and consider the implications of failing to insure Vanderbilt's continued operation.

I ask unanimous consent that the name of the Senator from South Carolina (Mr. THURMOND) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. PASTORE. How far does this go? We talk about local news and we talk about national news. How far does the amendment go? I mean, I think the amendment has tremendous merit, but I wonder what the cost is going to be, and what the essentiality of it is.

Mr. BAKER. Mr. President, I appreciate the question of the distinguished chairman of the subcommittee.

This amendment will cost the Government nothing, because the cost of the service is borne by Vanderbilt University and by nonprofit trusts that are created on behalf of Vanderbilt University to carry this out. The amendment provides that it shall be fully lawful under this act for Vanderbilt University to continue to make these tape recordings at its own expense, and make available the tapes for scholars and researchers, and not for commercial use.

Mr. PASTORE. Mr. President, I believe it is a valuable amendment, and the Commerce Committee is willing to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Tennessee.

The amendment, as modified, was agreed to.

Mr. BAKER. I move to reconsider the vote by which the amendment was agreed to.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1839

Mr. MANSFIELD. Mr. President, I call up my amendment No. 1839, and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? Otherwise, the next committee amendment is the regular order of business.

Mr. PASTORE. Mr. President, I ask unanimous consent that the Senator from Montana be recognized for the consideration of his amendment out of order.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the amendment.

The legislative clerk read as follows:

On page 138, line 36, following the words "Section 106" insert the following: "or the copyright in a motion picture afforded by subsections (1), (3), and (4) in Section 106".

Mr. MANSFIELD. Mr. President, this amendment just provides for the inclusion of motion pictures with the other matters involved, and gives them the same treatment. The amendment has been cleared with the distinguished chairman of the Judiciary subcommittee, the Senator from Arkansas (Mr. MCCLELLAN), and the distinguished chairman of the Commerce subcommittee, the distinguished Senator from Rhode Island (Mr. PASTORE). I ask that it be accepted.

Mr. CRANSTON. Mr. President, I support amendment No. 1839, and I am most grateful to the Democratic majority leader for offering it. This amendment will impose the same penalty for willful infringement of the copyright in a motion picture as is provided in this bill in section 506 for the willful infringement of the copyright in a sound recording.

The purpose of the amendment is to apply the same level of deterrent penalties for record piracy to film piracy.

Pirating of motion picture films has become big business. Because it violates Federal law, the Federal Bureau of Investigation is directly involved in hunting down violators. The Bureau has recently set up a special unit working out of its Los Angeles office for this purpose. Unlawful duplication of films is largely done in the United States, and the resulting film prints are shipped throughout the world. The largest number are shipped to South Africa, the Caribbean countries, and Latin America.

As a result of this piracy the Federal Government is being cheated of substantial tax revenues as well as further impairment of its foreign dollar earnings. Those who pirate films do not pay taxes on their incomes and rarely are their dollar earnings abroad repatriated.

Unfortunately, existing criminal penalties are of such a nature as to make it worthwhile to continue pirating. The amendment offered today corrects this weakness in the criminal penalties now imposed for film piracy. This is a white collar crime. Its commission is not in the heat of moment or without full knowledge of the actions and consequences involved. As such, there is little to recommend in the way of treating this crime as a minor offense. Its cost to the Nation and to the film industry is great and it should be penalized accordingly and in a manner that will discourage its repeated commission.

Mr. PASTORE. We are ready to accept the amendment, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The legislative clerk read as follows:

> On page 147, line 30, strike out "and 116".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HOLLINGS. Mr. President, this amendment deletes from the royalty readjustment provisions, sections 801, 802, the reference to section 116—the jukebox royalty—as is done by the Ervin amendment No. 1553 with respect to the broadcasters royalty, section 114.

It is a natural corollary to the Ervin amendment and has the effect of making the jukebox royalty of $8 per machine per year under section 116 a fixed statutory rate. This is a matter of vital concern to this industry of small businessmen. It protects them by a fixed statutory ceiling against demands by powerful organizations of musical copyright owners for periodic increases in the royalty rate.

Under section 116 jukebox operators throughout the United States will be paying $4,000,000 each year in direct royalties on their estimated 500,000 machines. In addition, under section 115 they will be paying, indirectly, $4,500,000 in mechanical royalties—at 3 cents per song—that will be passed on to them by record manufacturers on the 75,000,000 records jukebox operators buy each year. This amendment retains these royalties.

S. 1361 imposes the performance royalty upon the jukebox operators for the first time in history. The fact is that $8 is the heaviest royalty burden that jukebox operators can reasonably be expected to pay. Jukebox operators are small businessmen who are suffering from the prevailing squeeze between rising costs and the practical limitations which prevent them from raising the price-per-play on their machines.

Since jukebox prices are necessarily tied to the available coin denominations of 5, 10, and 25 cents, it is not possible to increase prices-per-play in proportion to increasing operating costs. There are still areas where the 5-cent play continues in effect, and only in recent years have the rates of 10 cents per play or three plays for a quarter become widely accepted. Because of rising costs, operators in some urban areas have tried to move up to two plays for a quarter, but such efforts have met with strong buying resistance by the public. The results of these limiting factors are that jukebox operators will have to bear a substantial portion of the burden of the proposed new royalties. It is only fair that they be able to rely on the fact that these royalties will not be open-ended.

Because of declining business, jukebox operators throughout the Nation have had to diversify their operations into vending machines and amusement games just in order to stay in business. There is only one jukebox operator in the United States today who is purely a jukebox operator. In most places the jukebox has become merely a supporting activity for vending operations and amusement games. The situation was illustrated this year when one of the oldest, and largest of the manufacturers of jukeboxes, the Wurlitzer Co., terminated its manufacture of jukeboxes because of declining sales and losses from this business.

Any provision for readjustment of the $8 royalty would not only be unduly burdensome to the operators, it also would violate the agreement by way of compromise which was reached under the auspices of Emanuel Celler, then chairman of the House Judiciary Commitee when H.R. 2512, 90th Congress, was passed by the House of Representatives. Under this compromise the jukebox operators gave up their longstanding exemption from performance royalties in return for a fixed statutory royalty of $8 pre machine per year. Parties to that agreement, in addition to Chairman Celler, were the Register of Copyrights, the manufacturers of jukeboxes, the American Society of Composers, Authors, and Publishers—ASCAP—and others.

The jukebox operators should be permitted to rely upon the fixed liability of the royalty to which they have agreed, without being subjected to the open-ended, unpredictable liabilities that would be created by the readjustment provisions of sections 801, 802 and hence I urge the adoption of the committee amendments.

Mr. President, this committee amendment simply excludes the tribunal from consideration of the jukebox fee of $8 per jukebox which had been agreed to by the committee. They wanted that as a fixed fee rather than having it subjected periodically to this tribunal and having it up every 2 or 3 years.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. PASTORE. I understand this is acceptable to all the parties involved?

Mr. HOLLINGS. That is right. In fact, that amendment—they were going to take them up individually——

Mr. McCLELLAN. Mr. President, if this is the amendment I think it is, I do not think it was acceptable to strike that out as a feature of this bill; and this is a philosophy of the bill to have these rates reconsidered by this commission, and that is why it was established.

If we do not give this authority to the tribunal that is going to review these rates from time to time, we make an exception in this instance, and whatever we fix here, the $8 or whatever it is, becomes permanent and is not reviewed. I think the whole philosophy of the bill is to get Congress out of the ratemaking business and get these things where they can be reviewed, and I do not think there should be an exception. I would have to oppose this amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. McCLELLAN. I think it would be a mistake to do it.

The PRESIDING OFFICER. The Senator from South Carolina has the floor.

Mr. HOLLINGS. This really was thought to be a part of the Ervin amendment, but we did not want to confuse the feeling we already had about the Ervin amendment which was voted by the Senate. We would be perfectly willing to submit to a record vote the question of whether to submit or not to submit fixed fees to the tribunal's review.

The next amendment is on section 802 which also strikes "and 116", and section 803 which, by mistake, included 116, and should read 111 and 114.

We had three rollcalls on each amendment that my distinguished friend from Arkansas requested, but I would just hope that we would have a voice vote on this and not subject it to the tribunal, unless there are any questions.

Mr. McCLELLAN. Mr. President, I would merely like to make this observation. The amendment with respect to chapter 8 of the bill has nothing to do with communication matters. This is not dealing with something that is within the jurisdiction of the Commerce Committee.

They relate exclusively to the copyright royalty to be paid by jukebox operators. These amendments provide special treatment for the jukebox industry.

Mr. PASTORE. I concede that; I absolutely concede that. But it has nothing to do with communications.

Mr. McCLELLAN. S. 1361 provides that each of the statutory royalty rates shall be periodically reviewed by impartial arbitrators as established by this law. A principal objective of this procedure is to get the Congress out of the business of having to determine the amount of copyright royalties. Under the Commerce Committee amendment it would require an act of Congress to make any adjustment of the $8 per juke box royalties. These amendments give no protection to the consumer for a juke box operator can increase the fees charged to the public. But, for all practical purposes, the payment that he makes to the composers of the songs played on his machine are permanently frozen. I think it ought to be subject to review. That is all the issue there is in here.

Mr. HOLLINGS. Now, Mr. President, there are two stories, of course. The Senate has said otherwise, and the Senate has voted the Ervin amendment which did include juke boxes; and, second, of course, the matter of their operation is interstate commerce, and when this bill was submitted to the Commerce Committee, not being a part of communications it was considered in the overall; namely, the matter of interstate commerce.

I yield to my distinguished friend from North Carolina.

Mr. ERVIN. I would just like to ask this: Is it not true that juke box operators have never been brought under a provision of this bill?

Mr. HOLLINGS. Will the Senator repeat the question?

Mr. ERVIN. Is it not true that this is the first time a juke box operator has been brought under the provisions of this section?

Mr. HOLLINGS. That is exactly right.

Mr. ERVIN. Is it not true there was a terrific fight in the House committee between those who wanted this legislation and juke box operators, and that after a considerable controversy in the House committee there was an agreement, a compromise, made between those who wanted to bring the juke box operators in for the benefit of the proposers, and it was agreed, and the juke box operators agreed with them, they would pay $8 royalty for the benefit of the composers each year?

Mr. HOLLINGS. That was the compromise agreement. This has been going on for a long time. The Honorable Emanuel Cellar was then chairman of the Judiciary Committee, and took this up under the auspices of the Judiciary Committee on the House side.

Mr. ERVIN. Also there were changes in the Senate committees so that disagreement between the jukebox operators and their proponents were practically repudiated and, in addition to bringing in the compromise in the provisions of the bill which the Senator opposes, which his amendment is directed to eliminate, it provides that in addition to $8 this board or commission can increase the cost to the jukebox operators.

Mr. HOLLINGS. That is exactly right. As the Senator knows, the largest one has just gone out of business. They tried every way in the world to meet the economic demands of 5, 10 cents, and three songs for 25 cents. This has got to be collected and some $8 million paid back under the $8 agreement. But they should not be just subjected to to a tribunal coming in and further exacting taxation upon them.

Mr. ERVIN. Is it not true that virtually every one of these jukebox operators is an extremely small businessman who uses the jukebox in connection with such things as hot dog stands and businesses of that kind?

Mr. HOLLINGS. That is right; it is a small operation. It came under the purview of the Judiciary Committee.

I think my distinguished chairman's objection to it being how in the world did jukeboxes get into this particular measure when we were talking about cable TV and communications, it was brought in, however, on the House side and over a 3-year period in hammering out this $8 per jukebox.

Mr. ERVIN. And if this bill stands in its present shape, without the amendment, we would have the juke box operators not only paying this $8 per machine, but we would also have a situation where Congress delegates to a commission the power to increase the payments they would have to make in violation of the agreement that was made in the House committee.

Mr. HOLLINGS. This is exactly right.

Mr. PASTORE. Will the Senator yield to me?

Mr. HOLLINGS. Yes.

Mr. PASTORE. Is it not true they are going to get $8 now that they never got before?

Mr. HOLLINGS. That is exactly right, yes, sir, some $8 million being paid in. This was all worked out.

Mr. PASTORE. That is not hay.

Mr. HOLLINGS. It is not hay for the small operators. Nobody is trying to evade or avoid or get around it, but we are trying to argue a matter of long consideration and which was hammered out under Chairman Emanual Celler at one time and finally got the Senate to decide.

Mr. McCLELLAN. May I make this observation: I do not know anything about an agreement, but I may say that that agreement with one Member of this body or one chairman of this whole Congress does not bind the other House.

Mr. PASTORE. No, no, that is true.

Mr. McCLELLAN. The only thing in this is if we want to freeze $8 so that it cannot be further considered, and let the juke box people free to raise their rates or do whatever they want to, if we want to do that without any review, why, then, it is a matter that addresses itself to the Senate.

The philosophy of this thing is to get into a commission that can give it expertise and examination from time to time.

We can see how long it has been since we had a revision of a copyright law. It may be that long again after this bill is passed, if it is passed.

If the Senators wish to freeze it indefinitely, that is their will and, of course, that is what should be done, but I think it should come under the same consideration that we are placing on the copyright revisions with respect to cable systems.

The cable system has been pretty well cooperatve in this thing to try to work out something they could live with, work out something that would establish temporarily and set up some tribunal that would give the opportunity for review. They have agreed to that and I think they all should be treated alike.

If everyone does not think so, it makes no difference to me, but we should legislate equitably on these cable rates, and those things were not part of the issue. They were no part of the issue in 1967, whenever this was worked out in the House, and now we have worked out a system here, a formula, and established the initial rates and we are saying that hereafter there can be a proper review.

It is like a cable system, they have got to go to the muncipal authorities to get a permit and to get a franchise, and they control those. But a juke box is not. Whatever they want to charge they can charge, whatever the traffic will bear.

If everyone does not want it regulated, just a plain $8, adopt this amendment and that will do it. If everyone wants it subject to review, like the other rates, then this amendment should be defeated.

Mr. ERVIN. I will ask the Senator from South Carolina if under the provision about the payment of the $8 fee for each machine, the jukebox operators can pay the flat $8 per machine, but, if this commission retains its jurisdiction and they raise it above that rate, they not only have to pay $8 per machine but have to pay very substantial expenses in altering the machines so as to correct whatever the commission adds in addition and each time the record is plain?

Mr. HOLLINGS. That is exactly right.

Mr. McCLELLAN. Will the Senator yield?

Mr. HOLLINGS. Yes; I will yield.

Mr. McCLELLAN. This commission has a right to reduce the rates, if they are too high, it is not a one-way street.

It is trying to give a balance where, from time to time as the conditions may change, it equitably can be done.

Mr. ERVIN. Does the Senator from South Carolina have the faintest suspicion that those jukebox operators would be the characters which will request the reduction and compensation they receive?

Mr. HOLLINGS. I have not heard of any particular bureau or agency asking for a reduction.

Mr. PASTORE. Will the Senator yield?

Mr. HOLLINGS. I am happy to yield.

Mr. PASTORE. I want to ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, under section 116 jukebox operators throughout the United States will be paying $4 million each year in direct royalties on their estimated 500,000 machines. In addition, under section 115 they will be paying, indirectly, $4,500,000 in mechanical royalties—at 3 cents per song.

Now, this has been worked out, not as a freeze, but a reasonable rate, and then I believe tribunal review, they were asked to do the same thing for the juke box operators we have done already in the Ervin amendment for the broadcasters.

I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The legislative clerk read as follows:

Page 148, line 11, strike "and 116" and between 114 and 115 insert "and.".

Mr. HOLLINGS. Mr. President, the same argument applies to this, it could have been taken as one single amendment.

I move the adoption of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the last committee amendment.

The legislative clerk read as follows:

Page 148, line 25, strike "111, 114, and 116".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McCLELLAN. Mr. President——

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

Mr. McCLELLAN. Mr. President, Senator MATHIAS and Senator BAYH each had in mind to offer an amendment to this bill and neither of them are present or could be here this afternoon.

They have asked me to insert in the RECORD the amendment that was proposed to be offered by Senator BAYH and also the remarks of Senator MATHIAS on the amendment he intended to offer.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY MR. BAYH ON AMENDMENT 1831 TO S. 1361

I have an amendment to the Copyright Bill designed to correct what I regard as the unduly restrictive provisions contained in Section 112(b) of the bill relating to the number of copies of instructional telecourses permitted to be made by governmental or other non-profit organizations. One of the most imaginative new educational tools that has been developed in recent years has been the production of video tapes for use in the classroom. In some instances a number of state educational officials have pooled their resources to pay for the production of these programs which are then distributed to local school districts. Under the bill as now drafted, the groups producing these courses would be limited to no more than thirty copies which could be retained only for seven years. In my view these limitations would very seriously inhibit the development of these valuable classroom aides and would substantially undercut the general policy of the bill to exempt educational organizations from the payment of copyright fees.

It is clear that S. 1361 will not be enacted into law in this Congress and that the Committee on Judiciary will have a further opportunity to consider this problem in the future. The distinguished manager of the bill, Mr. McClellan, has indicated that he will re-examine the questions which I have raised and I will very much appreciate such reconsideration.

AMENDMENT NO. 1831

On page 102, line 23, strike lines 23 to 35 and insert in lieu the following:

(b) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance or display of a work under section 110(2) or 114(a) to make copies of a particular transmission program embodying the performance and display, and to distribute such copies for transmission by or through other governmental bodies or nonprofit organizations.

STATEMENT BY MR. MATHIAS ON AMENDMENT NO. 1815 TO S. 1361

The legislation that we are considering today has been the subject of much debate and study reaching back over a number of years. I wish to pay my respects to the distinguished Chairman of the Judiciary Subcommittee which has reported this legislation, the gentleman from Arkansas, and to the distinguished ranking minority member of the Subcommittee, the gentleman from Pennsylvania, as well as others who have labored so long and well over this copyright legislation.

I would offer my amendment today with the purpose of calling to the attention of the Senate and the House of Representatives, when that body considers the copyright bill, a particular problem that should be addressed in any final revision of the copyright laws. I do not offer my amendment for the purpose of solving that problem now, but to stimulate the type of debate that will lead to a timely solution. My amendment would add a form of compulsory licensing to the bill for public broadcasting. This proposal was not fully developed in time for it to have comprehensive hearing and consideration on the Senate side. But I hope the debate stimulated by this amendment will cause the House Committee to focus attention on the problems presented for public broadcasting by the copyright laws.

The amendment would add a new section 118 to S. 1361, designed to accord to noncommercial public television the same type of "compulsory license" already proposed in the Copyright Revision Bill for several commercial copyright users. Extensive experience in the past fifteen years has shown the need for such compulsory license clearance assistance for public television program production—especially if public broadcasting is to be deprived, as appears probable, of the existing "not-for-profit" exemption in the federal copyright law.

The aim of the public broadcasting compulsory-license proposal is to establish a viable mechanism for simplified copyright clearances and for appropriate royalties payments with a minimum of operational delays and administrative expenses. It is not intended in any way to avoid fair payment of copyright royalties to authors and publishers for use of their works.

Senate Bill No. 1361, as approved unanimously by the Senate Judiciary Committee, now grants compulsory license privileges to CATV systems for copyrighted television programs, to record manufacturers for copyrighted popular music, and to coin-operated juke-box operators—as well as commercial radio and television stations and even private background music services under recent Senate Commerce Committee amendments—for copyrighted phonograph records and tape cassettes.

If adopted, the public broadcasting compulsory-license would be available only for "educational television and radio programs" produced by or for "non-commercial educational broadcast stations" as those terms have been defined in the Federal Communications Act and applied by the Federal Communications Commission. As distinct from the commercial networks, all public television stations are potential suppliers of programs for national use; regional and state networks are also substantial program sources.

It should be emphasized that the amendment applies only to such non-dramatic copyrighted works as books and periodicals, music and records, photographs and drawings, paintings and sculptures. Expressly excluded are entertainment motion pictures and educational films, commercial television and radio programs, dramatic productions of plays, operas, ballets, etc., which are in the area of so-called "dramatic works."

In short, the amendment seeks to provide fee, not free, availability for public broadcasting of published literature, poetry, charts and diagrams, openly-distributed photos and maps, frequently-heard instrumental and vocal music, and similar protected works whose authors and publishers are undoubtedly more interested in payment than in prohibition. Unfortunately, those authors and publishers have for the most part not created their own clearance channels, or if they have—as the case of music—have instituted so many separate and disparate collection agencies and with such a complicated legal and ultra-legal rights structure, that public television and radio producers and broadcasters have so far found it almost impossible to reach voluntary agreements for reasonable and practical clearance of all the recording and performance rights necessary for extended program distribution and exposure.

Under the proposed Section 118, all nondramatic copyrighted works within its scope will be automatically available for inclusion in public television programs as and when desired. Each public broadcasting organization availing itself of that privilege, however, will be legally obligated to make royalty payments to the Register of Copyryights in trust for all copyright holders concerned.

Public broadcasting royalty rates will be prescribed by the Copyright Royalty Tribunal already established as the controlling royalty review agency for compulsory-licensing under the federal copyright law. Copyright owner royalty fees will be distributed by the Register of Copyright—with, as in other cases, ultimate determination of claimant controversies by the Copyright Royalty Tribunal.

The public broadcasting compulsory license will thus be administered exactly in the same manner as the commercial compulsory licenses in the Revision Bill. The only difference lies in original determination of public broadcasting raise by the Copyright Royalty Tribunal instead of an initial statutory schedule subject to later review and modification of the Copyright Royalty Tribunal. The reason for this difference is simply the difficulty in attempting at this time to determine appropriate public broadcasting copyright fees without considerable further investigation which can probably best be done by an expert agency in the absence of statutory direction.

Public broadcasting is basically a decentralized system. Each public television and radio station is locally owned and operated; each state network is administered and run by the state's own educational authority; the regional networks are all cooperative organizations of station members. The Public Broadcasting Service, the national television programming organization, is itself a station membership organization—in which every station determines its own local schedule, and most stations produce not only their own local programming but also provide their programs to other stations through interconnection or exchange.

Commercial television business patterns—where almost all prime programming is provided by the three national networks, each with large administrative, legal and business staffs and produced almost entirely in Hollywood and in New York City—simply do not fit public broadcasting needs or aspirations and cannot be serviced by its present or conceivable financial and personnel resources. But it is neither realistic nor reasonable to expect the major book publishing companies or the various music rights agencies (let alone individual authors, agencies, photographs, artists, performances, etc.) to devise and institute new clearance arrangements and payment procedures specially designed for public broadcasting, when they can expect but minimal monetary return and maximum anti-trust exposure.

Up to now, the "not-for-profit" exemptions in the Copyright Law have gone a long way towards ameliorating music and other clearance problems for public broadcasting. The Senate Judiciary Committee Report indicates unwillingness, however, to extend compulsory-licensing to public broadcasting in substitution, with the short explanation that public broadcasting stations "may deserve greater financial assistance, but they should not be subsidized by this country's inventive talent" and the mere recommendation that copyright proprietors "promptly undertake efforts to improve procedures whereby public television may secure copyright clearances" with possible assistance from the Copyright Office.

As indicated above, the issue here is not in any way related to financial subsidies for public broadcasting. And the committee request for clearance assistance from the copyright proprietors may not result in any real benefit to public broadcasting in the near future, without further legislative enforcement of some kind. That is exactly what proposed Section 118 is designed to provide—all the while in the realization that if better clearance arrangements can be arrived at voluntarily, the compulsory-license requirements need not be preclusive.

If Section 118 or some mechanism to deal with the problem is not adopted, the danger to public broadcasting is great. Economic experts have in the past estimated that the administrative costs of copyright clearance for public broadcasting will be so burdensome as to far exceed the possible royalty returns to copyright holders. Production delays due to clearance difficulties will inevitably lead to the undesirable alternatives of questionably illegal use or progressive elimination of copyrighted works—to the benefit of no one, and certainly to the detriment of the American viewing public.

At the administration's urging, Congress is presently moving toward providing substantial long-range federal financing for public broadcasting. It would be ironic indeed if at the same time the Senate were to withhold the reasonable clearance assistance needed by public television producers to ensure that this federal funding is wisely spent for informative and cultural programs, without the expensive administration or costly litigation that well might eventuate in its absence.

I hope that the House will give careful attention to this problem and that a resolution can be found which will insure that copyright fees are paid and maximized by the creation of suitable clearance mechanisms.

Mr. PASTORE. Will the Senator yield?

Mr. McCLELLAN. Yes, I am happy to yield.

Mr. PASTORE. Does this have to do with the public broadcasting?

Mr. McCLELLAN. Yes, it does.

Mr. PASTORE. Could we not adopt that amendment?

Mr. McCLELLAN. I do not know—which one was it?

Mr. PASTORE. This was the Mathias amendment. I have it here.

Mr. McCLELLAN. I believe that there is objection to it.

Mr. PASTORE. Third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the amendment of the committee on the Judiciary in the nature of a substitute, as amended.

The amendment of the Committee on the Judiciary in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. HARTKE. Mr. President, the current royalty payment by the recording industry to composers and publishers is 2 cents per composition.

The bill S. 1361 increases the royalty to 3 cents per composition, resulting in an anticipated increase of $50 million to composers and publishers.

The recording industry, in a spirit of compromise, and to the tune of 25 percent inflation, has agreed to an increase of one-half cent. The 50 percent inflationary increase included in the bill is unjustified during our current economic woes.

I ask unanimous consent to have printed in the RECORD following my remarks a letter I received from the president of the Recording Industry Association of America, Stanley M. Gortikov, for the consideration of my colleagues during the debate of the copyright bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

RECORDING INDUSTRY ASSOCIATION
OF AMERICA, INC.,
Los Angeles, Calif., September 3, 1974.

Re Section 115 of S. 1361.

Hon. VANCE HARTKE,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR HARTKE: The Recording Industry Association of America would like to express its opposition to the unjustified and unreasonable increase in the mechanical royalty rate that recording companies pay to composers and publishers. By increasing the statutory rate from 2 cents to 3 cents per composition as a last minute "technical adjustment," the Senate Judiciary Committee has imposed on the recording industry the burden of an additional $50 million in annual royalty fees. This represents a 50% increase over the present rate.

As you know, in hearings before the Subcommittee on Patents, Trademarks and Copyrights, the recording industry introduced extensive economic evidence which demonstrates that no increase in the mechanical royalty above the current 2 cent rate is justified. In a spirit of compromise, however, the industry agreed to a 2½ rate, which was reported in the Subcommittee's bill. This, of course, represented a 25% increase.

At the mark-up session on the bill, the full Committee ignored the Subcommittee's conclusion that "the proponents of an increase in the mechanical royalty rate have not justified an increase above a basic rate of 2½ cents," and approved the music publishers' assertion that the mechanical royalty should be increased to 3 cents per tune as an "inflation adjustment."

We feel that the Committee's actions may have been premised on inaccurate or misleading information provided by the music publishers and other advocates of such an increase. For example:

1. The economic studies prepared by the recording industry demonstrate that mechanical royalty payments to composers and publishers have increased substantially—at dustry much *more* significantly than a perments surged from $41 million to $78.2 million. Data furnished by the music publishers to the full Judiciary Committee, however, put the latter figure at $42 million. The discrepancy is crucial, as this key figure indicates just how well composers and publishers are already paid for their efforts, and how unnecessary and unjustified an additional payment of $50 million would be. Members of the Judiciary Committee may have based their vote in favor of an increase on the belief that the recording industry pays substantially less in royalties than it actually does.

2. It has been represented that total royalty revenues are being split among more composers of more songs today than a few years ago. But no data have been introduced to back up this claim. Nor have the publishers offered any evidence on their profitability, or indeed any other economic data, despite repeated attempts to obtain such information by the Subcommittee and the recording industry.

3. There is no justification for an "inflation adjustment" based exclusively on a change in the cost of living index. That index takes no account of the tremendous increase in the volume of records sold, and hence the tremendous increase in royalties to composers and publishers.

4. If anything, inflation impacts a capital intensive industry such as the recording industry much *more* significantly than a personal service business such as composing and music publishing.

5. The argument has continually been advanced that Section 115 would set only a "ceiling," not a "rate." But publishers at their own discretion as rights-holders can insist on this rate. Most licenses on first-line products are presently negotiated at the statutory rate. One can expect, therefore, that the entire range of rates will increase to the 3 cents level or shadings just below it.

Ironically, the Judiciary Committee saw fit to cut virtually in half the key rate schedules proposed in Sections 111 and 114 of S. 1361. Yet, the recording industry alone was singled out for a 50% rate increase in Section 115.

Part of the rationale of the Senate Judiciary Committee in approving a new 3 cents mechanical royalty rate was its concurrent enactment of § 114, which provided a new performance royalty for recording companies and performers. However, subsequent action by the Commerce Committee would eliminate this performance royalty. Thus, the recording industry could be deprived of a meaningful source of new income through the performance royalty, while suffering a $50 million increase in the mechanical fee.

Because of the serious economic impact of the Section 115 rate increase on the recording industry, it is our intention to pursue this matter vigorously when hearings are held next year in the House and in the Senate, since the Copyright Revision Bill appears unlikely to become law this year. We hope that the House and Senate will carefully weigh the evidence presented at these hearings.

Sincerely yours,

STANLEY M. GORTIKOV.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered and the clerk will call the roll.

Mr. HELMS (when his name was called). Present.

Mr. HUDDLESTON (when his name was called). Present.

Mr. TAFT (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Illinois (Mr. STEVENSON), and the Senator from New Jersey (Mr. WILLIAMS), are necessarily absent.

I further announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. HUMPHREY), are absent on official business.

I also announce that the Senator from California (Mr. TUNNEY) is absent because of illness due to hospitalization and minor surgery.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Illinois (Mr. STEVENSON), would each vote "yea."

Mr. TOWER. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Pennsylvania (Mr. HUGH SCOTT), are necessarily absent.

I also announce that the Senator from Hawaii (Mr. FONG) and the Senator from Illinois (Mr. PERCY) are absent on official business.

I further announce that the Senator from Oklahoma (Mr. BELLMON) is absent due to illness.

I further announce that, if present and voting, the Senator from Kentucky (Mr. COOK), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), and the Senator from Pennsylvania (Mr. HUGH SCOTT), would each vote "yea."

The result was announced—yeas 71, nays 1, as follows:

[No. 388 Leg.]

YEAS—71

Aiken
Allen
Baker
Bartlett
Beall
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Curtis
Dole
Domenici
Eastland
Ervin
Fannin
Gravel
Gurney
Hansen
Hart
Hartke
Haskell
Hathaway
Hollings
Hruska
Hughes
Inouye
Jackson
Johnston
Kennedy
Long
Magnuson
Mansfield
McClellan
McClure
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott,
William L.
Sparkman
Stafford
Stennis
Stevens
Symington
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—1

Abourezk

ANSWERED "PRESENT"—3

Helms
Huddleston
Taft

NOT VOTING—25

Bayh
Bellmon
Bennett
Bentsen
Church
Cook
Cotton
Dominick
Eagleton
Fong
Fulbright
Goldwater
Griffin
Hatfield
Humphrey
Javits
Mathias
McGee
McGovern
McIntyre
Percy
Scott, Hugh
Stevenson
Tunney
Williams

So the bill (S. 1361) was passed as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GENERAL REVISION OF COPYRIGHT LAW

SEC. 101. Title 17 of the United States Code, entitled "Copyrights," is hereby amended in its entirety to read as follows:

TITLE 17—COPYRIGHTS

CHAPTER	*Sec.*
1. SUBJECT MATTER AND SCOPE OF COPYRIGHT	101
2. COPYRIGHT OWNERSHIP AND TRANSFER	201
3. DURATION OF COPYRIGHT	301
4. COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION	401
5. COPYRIGHT INFRINGEMENT AND REMEDIES	501
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8. COPYRIGHT ROYALTY TRIBUNAL	801

Chapter 1.—SUBJECT MATTER AND SCOPE OF COPYRIGHT

Sec.
101. Definitions.
102. Subject matter of copyright: In general.
103. Subject matters of copyright: Compilations and derivative works.
104. Subject matter of copyright: National origin.
105. Subject matter of copyright: United States Government works.
106. Exclusive rights in copyrighted works.
107. Limitations on exclusive rights: Fair use.
108. Limitations on exclusive rights: Reproduction by libraries and archives.
109. Limitations on exclusive rights: Effect of transfer of particular copy or phonorecord.
110. Limitations on exclusive rights: Exemption of certain performances and displays.
111. Limitations on exclusive rights: Secondary transmissions.
112. Limitations on exclusive rights: Ephemeral recordings.
113. Scope of exclusive rights in pictorial, graphic, and sculptural works.
114. Scope of exclusive rights in sound recordings.
115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords.
116. Scope of exclusive rights in nondramatic musical works and sound recordings: Public performance by means of coinoperated phonorecord players.
117. Scope of exclusive rights: Use in conjunction with computers and similar information systems.

§ 101. Definitions

As used in this title, the following terms and their variant forms mean the following:

An "anonymous work" is a work on the copies or phonorecords of which no natural person is identified as author.

"Audiovisual works" are works that consist of a series of related images which are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the works are embodied.

The "best edition" of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes.

A person's "children" are his immediate offspring, whether legitimate or not, and any legally adopted by him.

A "collective work" is a work, such as a periodical issue, anthology, or encyclopedia, in which a number of contributions, constituting separate and independent works in themselves, are assembled into a collective whole.

A "compilation" is a work formed by the collection and assembling of pre-existing materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship. The term "compilation" includes collective works.

"Copies" are material objects, other than phonorecords, in which a work is fixed by any method now known or later developed, and from which the work can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "copies" includes the material object, other than a phonorecord, in which the work is first fixed.

"Copyright owner," with respect to any one of the exclusive rights comprised in a copyright, refers to the owner of that particular right.

A work is "created" when it is fixed in a copy or phonorecord for the first time; where a work is prepared over a period of time, the portion of it that has been fixed at any particular time constitutes the work as of that time, and where the work has been prepared in different versions, each version constitutes a separate work.

A "derivative work" is a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgement, condensation, or any other form in which a work may be recast, transformed, or adapted. A work consisting of editorial revisions, annotations, elaborations, or other modifications which, as a whole, represent an original work of authorship, is a "derivative work."

A "device," "machine," or "process" is one now known or later developed.

To "display" a work means to show a copy of it, either directly or by means of a film, slide, television image, or any other device or process or, in the case of a motion picture or other audiovisual work, to show individual images nonsequentially.

A work is "fixed" in a tangible medium of expression when its embodiment in a copy or phonorecord, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. A work consisting of sounds, images, or both, that are being transmitted, is "fixed" for purposes of this title if a fixation of the work is being made simultaneously with its transmission.

The terms "including" and "such as" are illustrative and not limitative.

A "joint work" is a work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.

"Literary works" are works other than audiovisual works, expressed in words, numbers, or other verbal or numerical symbols or indicia, regardless of the nature of the material objects, such as books, periodicals, manuscripts, phonorecords, or film, in which they are embodied.

"Motion pictures" are audiovisual works consisting of a series of related images which, when shown in succession, impact an impression of motion, together with accompanying sounds, if any.

To "perform" a work means to recite, render, play, dance, or act it, either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, to show its images in any sequence or to make the sounds accompanying it audible.

"Phonorecords" are material objects in which sounds other than those accompanying a motion picture or other audiovisual work, are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "phonorecords" includes the material object in which the sounds are first fixed.

"Pictorial, graphic, and sculptural works" include two-dimensional and three-dimensional works of fine, graphic, and applied art, photographs, prints and art reproductions, maps, globes, charts, plans, diagrams, and models.

A "pseudonymous work" is a work on the copies or phonorecords, of which the author is identified under a fictitious name.

"Publication" is the distribution of copies or photorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display, constitutes publication. A public performance or display of a work does not of itself constitute publication.

To perform or display a work "publicly" means:

(1) to perform or display it at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered;

(2) to transmit or otherwise communicate a performance or display of the work to a place specified by clause (1) or to the public, by means of any device or process, whether the members of the public capable of receiving the performance or display receive it in the same place or in separate places and at the same time or at different times.

"Sound recordings" are works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work, regardless of the nature of the material objects, such as disks, tapes, or other phonorecords, in which they are embodied.

"State" includes the District of Columbia and the Commonwealth of Puerto Rico, and any territories to which this title is made applicable by an act of Congress.

A "transfer of copyright ownership" is an assignment, mortgage, exclusive license, or any other conveyance, alienation, or hypothecation of a copyright or of any of the exclusive rights comprised in a copyright, whether or not it is limited in time or place of effect, but not including a nonexclusive license.

A "transmission program" is a body of material that, as an aggregate, has been produced for the sole purpose of transmission to the public in sequence and as a unit.

To "transmit" a performance or display is to communicate it by any device or process whereby images or sounds are received beyond the place from which they are sent.

The "United States," when used in a geographical sense, comprises the several States, the District of Columbia and the Commonwealth of Puerto Rico, and the organized territories under the jurisdiction of the United States Government.

A "useful article" is an article having an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article that is normally a part of a useful article is considered a "useful article."

The author's "widower" is the author's surviving spouse under the law of his domicile at the time of his death, whether or not the spouse has later remarried.

A "work of the United States Government" is a work prepared by an officer or employee of the United States Government as part of his official duties.

A "work made for hire" is:

(1) a work prepared by an employee within the scope of his employment; or

(2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, as a photographic or other portrait of one or more persons, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire. A "supplementary work" is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes. An "instructional text" is a literary, pictorial, or graphic work prepared for publication with the purpose of use in systematic instructional activities.

§ 102. Subject matter of copyright: In general

(a) Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

(1) literary works;

(2) musical works, including any accompanying words;

(3) dramatic works, including any accompanying music;

(4) pantomimes and choreographic works;

(5) pictorial, graphic, and sculptural works;

(6) motion pictures and other audiovisual works;

(7) sound recordings.

(b) In no case does copyright protection for an original work of authorship extend to any idea, plan, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

§ 103. Subject matter of copyright: Compilations and derivative works

(a) The subject matter of copyright as specified by section 102 includes compilations and derivative works, but protection for a work employing pre-existing material in which copyright subsists does not extend to any part of the work in which such material has been used unlawfully.

(b) The copyright in a compilation or derivative work extends only to the material contributed by the author of such work, as distinguished from the pre-existing material employed in the work, and does not imply any exclusive right in the pre-existing material. The copyright in such work is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection in the pre-existing material.

§ 104. Subject matter of copyright: National origin

(a) UNPUBLISHED WORKS.—The works specified by sections 102 and 103, while unpublished, are subject to protection under this title without regard to the nationality or domicile of the author.

(b) PUBLISHED WORKS.—The works specified by sections 102 and 103, when published, are subject to protection under this title if—

(1) on the date of first publication, one or more of the authors is a national or domiciliary of the United States, or is a national, domiciliary, or sovereign authority of a foreign nation that is a party to a copyright treaty to which the United States is also a party; or

(2) the works is first published in the United States or in a foreign nation that, on the date of first publication, is a party to the Universal Copyright Convention of 1952; or

(3) the work is first published by the United Nations or any of its specialized agencies, or by the Organization of American States; or

(4) the work comes within the scope of a Presidential proclamation. Whenever the President finds that particular foreign nation extends, to works by authors who are nationals or domiciliaries of the United States or to works that are first published in the United States, copyright protection on substantially the same basis as that on which the foreign nation extends protection to works of its own nationals and domiciliaries and works first published in that nation, he may by proclamation extend protection under this title to works of which one or more of the authors is, on the date of first publication, a national, domiciliary, or sovereign authority of that nation, or which was first published in that nation. The President may revise, suspend, or revoke any such proclamation or impose any conditions or limitations on protection under the proclamation.

(c) The expropriation, by a governmental organization of a foreign country, of a copyright, or the right to secure a copyright, or any right comprised in a copyright, or any right in a work for which copyright may be secured, or the transfer of a copyright or of any such right, or the power to authorize any use of the work thereunder, from the author or copyright owner to a governmental agency of a foreign country pursuant to any law, decree, regulation, order or other action of the government effecting or requiring such transfer, shall not be given effect for the purposes of this title.

§ 105. Subject matter of copyright: United States Government works

Copyright protection under this title is not available for any work of the United States Government, but the United States Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise.

§ 106. Exclusive rights in copyrighted works

Subject to sections 107 through 117, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

(1) to reproduce the copyrighted work in copies or phonorecords;

(2) to prepare derivative works based upon the copyrighted work;

(3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;

(4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, motion pictures and other audiovisual works, to perform the copyrighted work publicly;

(5) in the case of literary, musical, dramatic and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly.

§ 107. Limitations on exclusive rights: Fair use

Notwithstanding the provisions of section 106, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching, scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include:

(1) the purpose and character of the use;

(2) the nature of the copyrighted work;

(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

(4) the effect of the use upon the potential market for or value of the copyrighted work.

§ 108. Limitations on exclusive rights: Reproduction by libraries and archives

(a) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a library or archives, or any of its employees acting within the scope of their employment, to reproduce no more than one copy or phonorecord of a work, or distribute such copy or phonorecord, under the conditions specified by this section, if:

(1) The reproduction or distribution is made without any purpose of direct or indirect commercial advantage; and

(2) The collections of the library or archives are (i) open to the public, or (ii) available not only to resources affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field;

(3) The reproduction or distribution of the work includes a notice of copyright.

(b) The rights of reproduction and distribution under this section apply to a copy or phonorecord of an unpublished work duplicated in facsimile form solely for purposes of preservation and security or for deposit for research use in another library or archives of the type described by clause (2) of subsection (a), if the copy or photorecord reproduced is currently in the collection of the library or archives.

(c) The right of reproduction under this section applies to a copy or phonorecord of a published work duplicated in facsimile form solely for the purpose of replacement of a copy or phonorecord that is damaged, deteriorating, lost, or stolen, if the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price.

(d) The rights of reproduction and distribution under this section apply to a copy, made from the collection of a library or archives where the user makes his request or from that of another library or archives, of no more than one article or other contribution to a copyrighted collection or periodical issue, or to a copy or phonorecord of a small part of any other copyright work, if:

(1) The copy becomes the property of the user, and the library or archives has had no notice that the copy would be used for any purpose other than private study, scholarship, or research; and

(2) The library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(e) The rights of reproduction and distribution under this section apply to the entire work, or to a substantial part of it, made from the collection of a library or archives where the user makes his request or from that of another library or archives, if the library or archives has first determined, on the basis of a reasonable investigation that a copy or phonorecord of the copyrighted work cannot be obtained at a fair price, if:

(1) The copy becomes the property of the user, and the library or archives has had no notice that the copy would be used for any purpose other than private study, scholarship, or research; and

(2) The library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(f) Nothing in this section—

(1) shall be construed to impose liability for copyright infringement upon a library or archives or its employees for the unsupervised use of reproducing equipment located on its premises, provided that such equipment displays a notice that the making of a copy may be subject to the copyright law;

(2) excuses a person who uses such reproducing equipment or who requests a copy under subsection (d) from liability for copyright infringement for any such act, or for any later use of such copy, if it exceeds fair use as provided by section 107;

(3) in any way affects the right of fair use as provided by section 107, or any contractual obligations assumed at any time by the library or archives when it obtained a copy or phonorecord of a work in its collections;

(4) shall be construed to limit the reproduction and distribution of a limited number of copies and excerpts by a library or archives of an audiovisual news program subject to clauses (1), (2), and (3) of subsection (a).

(g) The rights of reproduction and distribution under this section extend to the isolated and unrelated reproduction or distribution of a single copy or phonorecord of the same material on separate occasions, but do not extend to cases where the library or archives, or its employee:

(1) is aware or has substantial reason to believe that it is engaging in the related or concerted reproduction or distribution of multiple copies or phonorecords of the same material, whether made on one occasion or over a period of time, and whether intended for aggregate use by one or more individuals or for separate use by the individual members of a group; or

(2) engages in the systematic reproduction or distribution of single or multiple copies or phonorecords of material described in subsection (d).

(h) The rights of reproduction and distribution under this section do not apply to a musical work, a pictorial, graphic or sculptural work or a motion picture or other audio-visual work other than an audiovisual work dealing with news, except that no such limitation shall apply with respect to rights granted by subsections (b) and (c).

§ 109. Limitations on exclusive rights: Effect of transfer of particular copy or phonerecord

(a) Notwithstanding the provisions of section 106(3), the owner of a particular copy or phonorecord lawfully made under this title, or any person authorized by him, is entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy or phonorecord.

(b) Notwithstanding the provisions of section 106(5), the owner of a particular copy lawfully made under this title, or any person authorized by him, is entitled, without the authority of the copyright owner, to display that copy publicly, either directly or by the projection of no more than one image at a time, to viewers present at the place where the copy is located.

(c) The privileges prescribed by subsections (a) and (b) do not, unless authorized by the copyright owner, extend to any person who has acquired possession of the copy or phonorecord from the copyright owner, by rental, lease, loan, or otherwise, without acquiring ownership of it.

§ 110. Limitations on exclusive rights: Exemption of certain performances and displays

Notwithstanding the provisions of section 106, the following are not infringements of copyright:

(1) performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title and that the person responsible for the performance knew or had reason to believe was not lawfully made;

(2) performance of a nondramatic literary or musical work or display of a work, by or in the course of a transmission, if:

(A) the performance or display is a regular part of the systematic instructional activities of a governmental body or a nonprofit educational institution; and

(B) the performance or display is directly related and of material assistance to the teaching content of the transmission; and

(C) the transmission is made primarily for:

(i) reception in classrooms or similar places normally devoted to instruction, or

(ii) reception by persons to whom the transmission is directed because their disabilities or other special circumstances prevent their attendance in classrooms or similar places normally devoted to instruction, or

(iii) reception by officers or employees of governmental bodies as a part of their official duties or employment;

(3) performance of a nondramatic literary or musical work or of a dramatico-musical work of a religious nature, or display of a work, in the course of services at a place of worship or other religious assembly;

(4) performance of a nondramatic literary or musical work otherwise than in a transmission to the public without any purpose of direct or indirect commercial advantage and without payment of any fee or other compensation for the performance to any of its performers, promoters, or organizers, if:

(A) there is no direct or indirect admission charge, or

(B) the proceeds, after deducting the reasonable costs of producing the performance, are used exclusively for educational, religious, or charitable purposes and not for private financial gain, except where the copyright owner has served notice of his objections to the performance under the following conditions:

(i) The notice shall be in writing and signed by the copyright owner or his duly authorized agent; and

(ii) The notice shall be served on the person responsible for the performance at least seven days before the date of the performance, and shall state the reasons for his objections; and

(iii) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall presrcibe by regulation;

(5) communication of a transmission embodying a performance or display of a work by the public reception of the transmission on a single receiving apparatus of a kind commonly used in private homes, unless:

(A) a direct charge is made to see or hear the transmission; or

(B) the transmission thus received is further transmitted to the public;

(6) performance of a nondramatic musical work in the course of an annual agricultural or horticultural fair or exhibition conducted by a governmental body or a nonprofit agricultural or horticultural organization;

(7) performance of a nondramatic musical work by a vending establishment open to the public at large without any direct or indirect admission charge, where the sole purpose of the performance is to promote the retail sale of copies or phonorecords of the work and the performance is not transmitted beyond the place where the establishment is located;

§ 111. Limitations on exclusive rights: Secondary transmissions

(a) CERTAIN SECONDARY TRANSMISSIONS EXEMPTED.—The secondary transmission of a primary transmission embodying a performance or display of a work is not an infringement of copyright if:

(1) the secondary transmission is not made by a cable system, and consists entirely of the relaying, by the management of a hotel, apartment house, or similar establishment, of signals transmitted by a broadcast station licensed by the Federal Communications Commission, within the local service area of such station, to the private lodgings of guests or residents of such establishment, and no direct charge is made to see or hear the secondary transmission; or

(2) the secondary transmission is made solely for the purpose and under the conditions specified by clause (2) of section 110; or

(3) the secondary transmission is made by a common, contract, or special carrier who has no direct or indirect control over the content or selection of the primary transmission or over the particular recipients of the secondary transmission, and whose activities with respect to the secondary transmission consist solely of providing wires, cables, or other communications channels for the use of others: *Provided*, That the provisions of this clause extend only to the activities of said carrier with respect to secondary transmissions and do not exempt from liability the activities of others with respect to their own primary or secondary transmission; or

(4) the secondary transmission is not made by a cable system but is made by a governmental body, or other nonprofit organization, without any purpose of direct or indirect commercial advantage, and without charge to the recipients of the secondary transmission other than assessments necessary to defray the actual and reasonable costs of maintaining and operating the secondary transmission service.

(b) SECONDARY TRANSMISSION OF PRIMARY TRANSMISSION TO CONTROLLED GROUP.—Notwithstanding the provisions of subsections (a) and (c), the secondary transmission to the public of a primary transmission embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, if the primary transmission is not made for reception by the public at large but is controlled and limited to reception by particular members of the public.

(c) SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—

(1) Subject to the provisions of clause (2) of this subsection, secondary transmissions to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission and embodying a performance or display of a work shall be subject to compulsory licensing upon compliance with the requirements of subsection (d) in the following cases:

(A) Where the signals comprising the primary transmission are exclusively aural and the secondary transmission is permissible under the rules, regulations or authorizations of the Federal Communications Commission; or

(B) Where the community of the cable system is in whole or in part within the local service area of the primary transmitter; or

(C) Where the carriage of the signals comprising the secondary transmission is permissible under the rules, regulations or authorizations of the Federal Communications Commission.

(2) Notwithstanding the provisions of clause (1) of this subsection, the secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, in the following cases:

(A) Where the carriage of the signals comprising the secondary transmission is not permissible under the rules, regulations or authorizations of the Federal Communications Commission; or

(B) Where the cable system, at least one month before the date of the secondary transmission, has not recorded the notice specified by subsection (d).

(d) COMPULSORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—

(1) For any secondary transmission to be subject to compulsory licensing under subsection (c), the cable system shall at least one month before the date of the secondary transmission or within 30 days after the enactment of this Act, whichever date is later, record in the Copyright Office, a notice including a statement of the identity and address of the person who owns or operates the secondary transmission service or has power to exercise primary control over it together with the name and location of the primary transmitter, or primary transmitters, and thereafter, from time to time, such further information as the Register of Copyrights shall prescribe by regulation to carry out the purposes of this clause.

(2) A cable system whose secondary transmissions have been subject to compulsory licensing under subsection (c) shall, during the months of January, April, July, and October, deposit with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation—

(A) A statement of account, covering the three months next preceding, specifying the number of channels on which the cable system made secondary transmissions to its subscribers, the names and locations of all primary transmitters whose transmissions were further transmitted by the cable system, the total number of subscribers to the cable system, and the gross amounts paid to the cable system irrespective of source and separate statements of the gross revenues paid to the cable system for advertising, leased channels, and cable-casting for which a per-program or per-channel charge is made and by subscribers for the basic service of providing secondary transmissions of primary broadcast transmitter; and

(B) A total royalty fee for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during said period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

(i) ½ percent of any gross receipt up to $40,000;

(ii) 1 percent of any gross receipts totaling more than $40,000 but not more than $80,000;

(iii) 1½ percent of any gross receipts totaling more than $80,000, but not more than $120,000;

(iv) 2 percent of any gross receipts totaling more than $120,000, but not more than $160,000; and

(v) 2½ percent of any gross receipts totaling more than $100,000.

(3) The royalty fees thus deposited shall be distributed in accordance with the following procedures:

(A) During the month of July in each year, every person claiming to be entitled to compulsory license fees for secondary transmissions made during the preceding twelve-month period shall file a claim with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation. Notwithstanding any provisions of the antitrust laws (as designated in section 1 of the Act of October 15, 1914, 38 Stat. 730, Title 15 U.S.C. section 12, and any amendments of such laws), for purposes of this clause any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(B) After the first day of August of each year, the Register of Copyrights shall determine whether there exists a controversy concerning the statement of account or the distribution of royalty fees. If he determines that no such controversy exists, he shall, after deducting his reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If he finds the existence of a controversy he shall certify to that fact and proceed to constitute a panel of the Copyright Royalty Tribunal in accordance with section 803. In such cases the reasonable administrative costs of the Register under this section shall be deducted prior to distribution of the royalty fee by the tribunal.

(C) During the pendency of any proceeding under this subsection, the Register of Copyrights or the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(e) DEFINITIONS.—

As used in this section, the following terms and their variant forms mean the following:

A "primary transmission" is a transmission made to the public by the transmitting facility whose signals are being received and further transmitted by the secondary transmission service, regardless of where or when the performance or display was first transmitted.

A "secondary transmission" is the further transmitting of a primary transmission simultaneously with the primary transmission or nonsimultaneously with the primary transmission if by a "cable system" not located in whole or in part within the boundary of the forty-eight contiguous States, Hawaii, or Puerto Rico. *Provided, however*, That a nonsimultaneous further transmission by a cable system located in a television market in Hawaii of a primary transmission shall be deemed to be a secondary transmission if such further transmission is necessary to enable the cable system to carry the full complement of signals allowed it under the rules and regulations of the Federal Communications Commission.

A "cable system" is a facility, located in any State, Territory, Trust Territory or Possession that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast stations licensed by the Federal Communications Commission and makes secondary transmissions of such signals or programs by wires, cables, or other communications channels to subscribing members of the public who pay for such service. For purposes of determining the royalty fee under subsection (d)(2)(B), two or more cable systems in contiguous communities under common ownership or control or operating from one headend shall be considered as one system.

The "local service area of a primary transmitter" comprises the area in which a television broadcast station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules and regulations of the Federal Communications Commission.

§ 112. Limitations on exclusive rights: Ephemeral recordings

(a) Notwithstanding the provisions of section 106, and except in the case of a motion picture or other audiovisual work, it is not an infringement of copyright for a transmitting organization entitled to transmit to the public a performance or display of a work, under a license or transfer of the copyright or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than one copy or phonorecord of a particular transmission program embodying the performance or display, if—

(1) the copy or phonorecord is retained and used solely by the transmitting organization that made it, and no further copies or phonorecords are reproduced from it; and

(2) the copy or phonorecord is used solely for the transmitting organization's own transmissions within its local service area, or for purposes of archival preservation or security; and

(3) unless preserved exclusively for archival purposes, the copy or phonorecord is destroyed within six months from the date the transmission program was first transmitted to the public.

(b) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance or display of a work, under section 110(2) or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than thirty copies or phonorecords of a particular transmission program embodying the performance or display, if—

(1) no further copies or phonorecords are reproduced from the copies or phonorecords made under this clause; and

(2) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are destroyed within seven years from the date the transmission program was first transmitted to the public.

(c) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization to make for distribution no more than one copy or phonorecord for each transmitting organization specified in clause (2) of this subsection of a particular transmission program embodying a performance of a nondramatic musical work of a religious nature, or of a sound recording of such a musical work, if—

(1) there is no direct or indirect charge for making or distributing any such copies or phonorecords; and

(2) none of such copies or phonorecords is used for any performance other than a single transmission to the public by a transmitting organization entitled to transmit to the public a performance of the work under a license or transfer of the copyright; and

(3) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are all destroyed within one year from the date the transmission program was first transmitted to the public.

(d) The transmission program embodied in a copy or phonorecord made under this section is not subject to protection as a derivative work under this title except with the express consent of the owners of copyright in the pre-existing works employed in the program.

§ 113. Scope of exclusive rights in pictorial, graphic, and sculptural works

(a) Subject to the provisions of clauses (1) and (2) of this subsection, the exclusive right to reproduce a copyrighted pictorial, graphic, or sculptural work in copies under section 106 includes the right to reproduce the work in or on any kind of article, whether useful or otherwise.

(1) this title does not afford, to the owner of a copyright in a work that portrays a useful article as such, any greater or lesser rights with respect to the making, distribution, or display of the useful article so portrayed than those afforded to such works under the law, whether title 17 of the common law or statutes of a State, in effect on December 31, 1974, as held applicable and construed by a court in an action brought under this title.

(2) In the case of a work lawfully reproduced in useful articles that have been offered for sale or other distribution to the public, copyright does not include any right to prevent the making, distribution, or display of pictures or photographs of such articles in connection with advertisements or commentaries related to the distribution or display of such articles, or in connection with news reports.

(b) When a pictorial, graphic, or sculptural work in which copyright subsists under this title is utilized in an original ornamental design of a useful article, by the copyright proprietor or under an express license from him, the design shall be eligible for protection under the provisions of title III of this Act.

(c) Protection under this title of a work in which copyright subsists shall terminate with respect to its utilization in useful articles whenever the copyright proprietor has obtained registration of an ornamental design of a useful article embodying said work under the provisions of title III of this Act. Unless and until the copyright proprietor has obtained such registration, the copyright pictorial, graphic, or sculptural work shall continue in all respects to be covered by and subject to the protection afforded by the copyright subsisting under this title. Nothing in this section shall be deemed to create any additional rights or protection under this title.

(d) Nothing in this section shall affect any right or remedy held by any person under this title in a work in which copyright was subsisting on the effective date of title III of this Act, or with respect to any utilization of a copyrighted work other than in the design of a useful article.

§ 114. Scope of exclusive rights in sound recordings

(a) The exclusive rights of the owner of copyright in a sound recording are limited to the rights specified by clauses (1) and (3) of section 106, and do not include any right of performance under section 106(4).

(b) The exclusive right of the owner of copyright in a sound recording to reproduce it under section 106(1) is limited to the right to duplicate the sound recording in the form of phonorecords that directly or indirectly recapture the actual sounds fixed in the recording. This right does not extend to the making or duplication of another sound recording that is an independent fixation of other sounds, even though such sounds imitate or simulate those in the copyrighted sound recording.

(c) This section does not limit or impair the exclusive right to perform publicly, by means of a phonorecord, any of the works specified by section 106(4).

§ 115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords

In the case of nondramatic musical works, the exclusive rights provided by clauses (1) and (3) of section 106, to make and to distribute phonorecords of such works, are subject to compulsory licensing under the conditions specified by this section.

(a) Availability and Scope of Compulsory License.—

(1) When phonorecords of a nondramatic musical work have been distributed to the public under the authority of the copyright owner, any other person may, by complying with the provisions of this section, obtain a compulsory license to make and distribute phonorecords of the work. A person may obtain a compulsory license only if his primary purpose in making phonorecords is to distribute them to the public for private use. A person may not obtain a compulsory license for use of the work in the duplication of a sound recording made by another.

(2) A compulsory license includes the privilege of making a musical arrangement of the work to the extent necessary to conform it to the style or manner of interpretation of the performance involved, but the arrangement shall not change the basic melody or fundamental character of the work, and shall not be subject to protection as a derivative work under this title, except with the express consent of the copyright owner.

(b) Notice of Intention To Obtain Compulsory License; Desegregation of Owner of Performance Right.—

(1) Any person who wishes to obtain a compulsory license under this section shall, before or within thirty days after making, and before distributing any phonorecords of the work, serve notice of his intention to do so on the copyright owner. If the registration or other public records of the Copyright Office do not identify the copyright owner and include an address at which notice can be served on him, it shall be sufficient to file the notice of intention in the Copyright Office. The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(2) If the copyright owner so requests in writing not later than ten days after services or filing of the notice required by clause (1), the person exercising the compulsory license shall designate, on a label or container accompanying each phonorecord of the work distributed by him, and in the form and manner that the Register of Copyrights shall prescribe by regulation, the name of the copyright owner or his agent to whom royalties for public performance of the work are to be paid.

(3) Failure to serve or file the notice required by clause (1), or to designate the name of the owner or agent as required by clause (2), forecloses the possibility of a compulsory license and, in the absence of a negotiated license, renders the making and

distribution of phonorecords actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506.

(c) Royalty Payable Under Compulsory License.—

(1) To be entitled to receive royalties under a compulsory license, the copyright owner must be identified in the registration or other public records of the Copyright Office. The owner is entitled to royalties for phonorecords manufactured and distributed after he is so identified but he is not entitled to recover for any phonorecords previously manufactured and distributed.

(2) Except as provided by clause (1), the royalty under a compulsory license shall be payable for every phonorecord manufactured and distributed in accordance with the license. With respect to each work embodied in the phonorecord, the royalty shall be either three cents, or three quarter cent per minute of playing time or fraction thereof, whichever amount is larger.

(3) Royalty payments shall be made on or before the twentieth day of each month and shall include all royalties for the month next preceding. Each monthly payment shall be accompanied by a detailed statement of account, which shall be certified by a Certified Public Accountant and comply in form, content, and manner of certification with requirements that the Register of Copyrights shall prescribe by regulation.

(4) If the copyright owner does not receive the monthly payment and statement of account when due, he may give written notice to the licensee that, unless the default is remedied within thirty days from the date of the notice, the compulsory license will be automatically terminated. Such termination renders the making and distribution of all phonorecords, for which the royalty had not been paid, actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506.

§ 116. Scope of exclusive rights in nondramatic musical works and sound recordings: Public performances by means of coin-operated phonorecord players

(a) Limitation on Exclusive Right.—In the case of a nondramatic musical work embodied in a phonorecord, the exclusive right under clause (4) of section 106 to perform the work publicly by means of a coin-operated phonorecord player is limited as follows:

(1) The proprietor of the establishment in which the public performance takes place is not liable for infringement with respect to such public performance unless:

(A) he is the operator of the phonorecord player; or

(B) he refuses or fails, within one month after receipt by registered or certified mail of a request, at a time during which the certificate required by subclause (1) (C) of subsection (b) is not affixed to the phonorecord player, by the copyright owner, to make full disclosure, by registered or certified mail, of the identity of the operator of the phonorecord player.

(2) The operator of the coin-operated phonorecord player may obtain a compulsory license to perform the work publicly on that phonorecord player by filing the application, affixing the certificate, and paying the royalties provided by subsection (b).

(b) Recordation of Coin-Operated Phonorecord Player, Affixation of Certificate, and Royalty Payable Under Compulsory License.—

(1) Any operator who wishes to obtain a compulsory license for the public performance of works on a coin-operated phonorecord player shall fulfill the following requirements:

(A) Before or within one month after such performances are made available on a particular phonorecord player, and during the month of January in each succeeding year that such performances are made available in that particular phonorecord player, he shall file in the Copyright Office, in accordance with requirements that the Register of Copyrights shall prescribe by regulation, an application containing the name and address of the operator of the phonorecord player and the manufacturer and serial number or other explicit identification of the phonorecord player, and in addition to the fee prescribed by clause (9) of section 708(a), he shall deposit with the Register of Copyrights a royalty fee for the current calendar year of $8 for that particular phonorecord player. If such performances are made available on a particular phonorecord player for the first time after July 1 of any year, the royalty fee to be deposited for the remainder of that year shall be $4.00.

(B) Within twenty days of receipt of an application and a royalty fee pursuant to subclause (A), the Register of Copyrights shall issue to the applicant a certificate for the phonorecord player.

(C) On or before March 1 of the year in which the certificate prescribed by subclause (B) of this clause is issued, or within ten days after the date of issue of the certificate the operator shall affix to the particular phonorecord player, in a position where it can be readily examined by the public, the certificate, issued by the Register of Copyrights under subclause (B), of the latest application made by him under subclause (A) of this clause with respect to that phonorecord player.

(2) Failure to file the application, to affix the certificate or to pay the royalty required by clause (1) of this subsection renders the public performance actionable as an act of infringement under section 501 and fully subject to the remedies provided by section 502 through 506.

(c) Distribution of Royalties.—

(1) During the month of January in each year, every person claiming to be entitled to compulsory license fees under this section for performances during the preceding twelve-month period shall file a claim with the Register shall prescribe by regulation. Such claim shall include an agreement to accept as final, except as provided in section 809 of this title, the determination of the Copyright Royalty Tribunal in any controversy concerning the distribution of royalty fees deposited under subclause (a) of subsection (b)(1) of this section to which the claimant is a party. Notwithstanding any provisions fo the antitrust laws (the Act of October 15, 1914, 38 Stat. 730, and any amendments of any such laws), for purposes of this subsection any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

After the first day of October of each year, the Register of Copyrights shall determine whether there exists a controversy concerning the distribution of royalty fees deposited under subclause (A) of subsection (b)(1). If he determines that no such controversy exists, he shall, after deducting his reasonable administrative costs under this section, distribute such fees to the copyright owners and performers entitled, or to their designated agents. If he finds that such a controversy exists he shall certify to that fact and proceed to constitute a panel of the Copyright Royalty Tribunal in accordance with section 803. In such cases the reasonable administrative costs of the Register under this section shall be deducted prior to distribution of the royalty fee by the tribunal.

(3) The fees to be distributed shall be divided as follows:

(A) To every copyright owner not affiliated with a performing rights society the pro rata share of the fees to be distributed to which such copyright owner proves his entitlement; and

(B) To the performing rights societies the remainder of the fees to be distributed in such pro rata shares as they shall by agreement stipulate among themselves, or, if they fail to agree, the pro rata share to which such performing rights societies prove their entitlement.

(C) During the pendency of any proceeding under this section, the Register of Copyrights or the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(4) The Register of Copyrights shall promulgate regulations under which persons who can reasonably be expected to have claims may, during the year in which performances take place, without expense to or harassment of operators or proprietors of establishments in which phonorecord players are located, have such access to such establishments and to the phonorecord players located therein and such opportunity to obtain information with respect thereto as may be reasonably necessary to determine, by sampling procedures or otherwise, the proportion of contribution of the musical works of each such person to the earnings of the phonorecord players for which fees shall have been deposited. Any person who alleges that he has been denied the access permitted under the regulations prescribed by the Register of Copyrights may bring on an action in the United States District Court for the District of Columbia for the cancellation of the compulsory license of the phonorecord player to which such access has been denied, and the court shall have the power to declare the compulsory license thereof invalid from the date of issue thereof.

(d) Criminal Penalties.—Any person who knowingly makes a false representation of a material fact in an application filed under clause (1)(A) of subsection (b), or who knowingly alters a certificate issued under clause (1)(B) of subsection (b) or knowingly affixes such a certificate to a phonorecord player other than the one it covers, shall be fined not more than $2,500.

(e) Definitions.—As used in this section, the following terms and their variant forms mean the following:

(1) A "coin-operated phonorecord player" is a machine or device that:

(A) is employed solely for the performance of nondramatic musical works by means of phonorecords upon being activated by insertion of a coin;

(B) is located in an establishment making no direct or indirect charge for admission;

(C) is accompanied by a list of the titles of all the musical works available for performance on it, which list is affixed to the phonorecord player or posted in the establishment in a prominent position where it can be readily examined by the public; and

(D) affords a choice of works available for performance and permits the choice to be made by the patrons of the establishment in which it is located.

(2) An "operator" is any person who, alone or jointly with others:

(A) owns a coin-operated phonorecord player; or

(B) has the power to make a coin-operated phonorecord player available for placement in an establishment for purposes of public performance; or

(C) has the power to exercise primary control over the selection of the musical works made available for public performance in a coin-operated phonorecord player.

(3) A "performing rights society" is an association or corporation that licenses the public performance of nondramatic musical works on behalf of the copyright owners, such as the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc.

§ 117. Scope of exclusive rights: Use in conjunction with computers and similar information systems

Notwithstanding the provisions of sections 106 through 116, this title does not afford to the owner of copyright in a work any greater or lesser rights with respect to the use of the work in conjunction with automatic systems capable of storing, processing, retrieving, or transferring information, or in conjunction with any similar device, machine, or process, than those afforded to works under the law, whether title 17 or the common law or statutes of a State, in effect on December 31, 1974, as held applicable and construed by a court in an action brought under this title.

Chapter 2.—COPYRIGHT OWNERSHIP AND TRANSFER

Sec.
201. Ownership of copyright.
202. Ownership of copyright as distinct from ownership of material object.
203. Termination of transfers and licenses granted by the author.
204. Execution of transfers of copyright ownership.
205. Recordation of transfers and other documents.

§ 201. Ownership of copyright

(a) Initial Ownership.—Copyright in work protected under this title vests initially in the author or authors of the work. The authors of a joint work are co-owners of copyright in the work.

(b) Works Made for Hire.—In the case of a work made for hire, the employer or other persons for whom the work was prepared is considered the author for purposes of this title, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.

(c) Contributions to Collective Works.—Copyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole, and vests initially in the author of the contribution. In the absence of an express transfer of the copyright or of any rights under it, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series.

(d) Transfer of Ownership.—

(1) The ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of interstate succession.

(2) Any of the exclusive rights comprised in a copyright, including any subdivision of any of the rights specified by section 106, may be transferred as provided by clause (1) and owned separately. The owner of any particular exclusive right is entitled, to the extent of that right, to all of the protection and remedies accorded to the copyright owner by this title.

§ 202. Ownership of copyright as distinct from ownership of material object

Ownership of a copyright, or of any of the exclusive rights under a copyright, is distinct from ownership of any material object in which the work is embodied. Transfer of ownership of any material object, including the copy or phonorecord in which the work is first fixed, does not of itself convey any rights in the copyrighted work embodied in the object; nor, in the absence of an agreement, does transfer of ownership of a copyright or of any exclusive rights under a copyright convey property rights in any material object.

§ 203. Termination of transfers and licenses granted by the author

(a) Conditions for Termination.—In the case of any work other than a work made for hire, the exclusive or nonexclusive grant of a transfer or license of copyright or of any right under a copyright, executed by the author on or after January 1, 1975, otherwise than by will, is subject to termination under the following conditions:

(1) In the case of a grant executed by one author, termination of the grant may be effected by that author or, if he is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one half of that author's termination interest. In the case of a grant executed by two or more authors of a joint work, termination of the grant may be effected by a majority of the authors who executed it; if any of such authors is dead, his termination interest may be exercised as a unit by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one half of his interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow (or her widower) and children or grandchildren as follows:

(A) The widow (or widower) owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow (or widower) owns one-half of the author's interest;

(B) The author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow (or widower), in which case the ownership of one-half of the author's interest is divided among them;

(C) The rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of his children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of thirty-five years from the date of execution of the grant; or, if the grant covers the right of publication of the work, the period begins at the end of thirty-five years from the date of publication of the work under the grant or at the end of forty years from the date of execution of the grant, whichever term ends earlier.

(4) The termination shall be effected by serving an advance notice in writing, signed by the number and proportion of owners of termination interests required under clauses (1) and (2) of this subsection, or by their duly authorized agents, upon the grantee or his successor in title.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(b) Effect of Termination.—Upon the effective date of termination, all rights under this title that were covered by the terminated grant revert to the author, authors, and other persons owning termination interests under clauses (1) and (2) of subsection (a), including those owners who did not join in signing the notice of termination under clause (4) of subsection (a), but with the following limitations:

(1) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(2) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of subsection (a). The rights vest in the author, authors, and other persons named in, and in the proportionate shares provided by, clauses (1) and (2) of subsection (a).

(3) Subject to the provisions of clause (4) of this subsection, a further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under clause (2) of this subsection, as are required to terminate the grant under clauses (1) and (2) of subsection (a). Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under clause (2) of this subsection, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him, his legal representatives, legatees, or heirs at law represent him for purposes of this clause.

(4) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the persons provided by clause (3) of this subsection and the original grantee or his successor in title, after the notice of termination has been served as provided by clause (4) of subsection (a).

(5) Termination of a grant under this section affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(6) Unless and until termination is effected under this section, the grant, if it does not provide otherwise, continues in effect for the term of copyright provided by this title.

§ 204. Execution of transfers of copyright ownership

(a) A transfer of copyright ownership, other than by operation of law, is not valid unless an instrument of conveyance, or a note or memorandum of the transfer, is in writing and signed by the owner of the rights conveyed or his duly authorized agent.

(b) A certificate of acknowledgement is not required for the validity of a transfer, but is prima facie evidence of the execution of the transfer if:

(1) in the case of a transfer executed in the United States, the certificate is issued by a person authorized to administer oaths within the United States; or

(2) in the case of a transfer executed in a foreign country, the certificate is issued by a diplomatic or consular officer of the United States, or by a person authorized to

administer oaths whose authority is proved by a certificate of such an officer.

§ 205. Recordation of transfers and other documents

(a) Conditions for Recordation.—Any transfer of copyright ownership or other document pertaining to a copyright may be recorded in the Copyright Office if the document filed for recordation bears the actual signature of the person who executed it, or if it is accompanied by a sworn or official certification that it is a true copy of the original signed, document.

(b) Certificate of Recordation.—The Register of Copyrights shall, upon receipt of a document as provided by subsection (a) and of the fee provided by section 708, record the document and return it with a certificate of recordation.

(c) Recordation as Constructive Notice.—Recordation of a document in the Copyright Office gives all persons constructive notice of the facts stated in the recorded document, but only if:

(1) the document, or material attached to it, specifically identifies the work to which it pertains so that, after the document is indexed by the Register of Copyrights, it would be revealed by a reasonable search under the title or registration number of the work; and

(2) registration has been made for the work.

(d) Recordation as Prerequisite to Infringement Suit.—No person claiming by virtue of a transfer to the owner of copyright or of any exclusive right under a copyright is entitled to institute an infringement action under this title until the instrument of transfer under which he claims has been recorded in the Copyright Office, but suit may be instituted after such recordation on a cause of action that arose before recordation.

(e) Priority Between Conflicting Transfers.—As between two conflicting transfers, the one executed first prevails if it is recorded, in the manner required to give constructive notice under subsection (c) within one month after its execution in the United States or within two months after its execution abroad, or at any time before recordation in such manner of the later transfer. Otherwise the later transfer prevails if recorded first in such manner, and if taken in good faith, for valuable consideration or on the basis of a binding promise to pay royalties, and without notice of the earlier transfer.

(f) Priority Between Conflicting Transfer of Ownership and Nonexclusive License.—A nonexclusive license, whether recorded or not, prevails over a conflicting transfer of copyright ownership if the license is evidenced by a written instrument signed by the owner of the rights licensed or his duly authorized agent, and if:

(1) the license was taken before execution of the transfer; or

(2) the license was taken in good faith before recordation of the transfer and without notice of it.

Chapter 3.—DURATION OF COPYRIGHT

Sec.
301. Pre-emption with respect to other laws.
302. Duration of copyright: Works created on or after January 1, 1975.
303. Duration of copyright: Works created but not published or copyrighted before January 1, 1975.
304. Duration of copyright: Subsisting copyrights.
305. Duration of copyright: Terminal date.

§ 301. Pre-emption with respect to other laws

(a) On and after January 1, 1975, all rights in the nature of copyright in works that come within the subject matter of copyright as specified by sections 102 and 103, whether created before or after that date and whether published or unpublished, are governed exclusively by this title. Thereafter, no person is entitled to copyright, literary property rights, or any equivalent legal or equitable right in any such work under the common law or statutes of any State.

(b) Nothing in this title annuls or limits any rights or remedies under the common law or statutes of any State with respect to:

(1) unpublished material that does not come within the subject matter of copyright as specified by sections 102 and 103, including works of authorship not fixed in any tangible medium of expression;

(2) any cause of action arising from undertakings commenced before January 1, 1975;

(3) activities violating rights that are not equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106, including breaches of trust, invasion of privacy, defamation, and deceptive trade practices such as passing off and false representation.

§ 302. Duration of copyright: Works created on or after January 1, 1975

(a) In General.—Copyright in a work created on or after January 1, 1975, subsists from its creation and, except as provided by the following subsections, endures for a term consisting of the life of the author and fifty years after his death.

(b) Joint Works.—In the case of a joint work prepared by two or more authors who did not work for hire, the copyright endures for a term consisting of the life of the last surviving author and fifty years after his death.

(c) Anonymous Works, Pseudonymous Works, and Works Made for Hire.—In the case of an anonymous work, a pseudonymous work or a work made for hire, the copyright endures for a term of seventy-five years from the year of its first publication, or a term of one hundred years from the year of its creation, whichever expires first. If, before the end of such term, the identity of one or more of the authors of an anonymous or pseudonymous work is revealed in the records of a registration made for that work under subsection (a) or (d) of section 407, or in the records provided by this subsection the copyright in the work endures for the term specified by subsections (a) or (b), based on the life of the author or authors whose identity has been revealed. Any person having an interest in the copyright in an anonymous or pseudonymous work may at any time record, in records to be maintained by the Copyright Office for that purpose, a statement identifying one or more authors of the work; the statement shall also identify the person filing it, the nature of his interest, the source of his information, and the particular work affected, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation.

(d) Records Relating to Death of Authors.—Any person having an interest in a copyright may at any time record in the Copyright Office a statement of the date of death of the author of the copyrighted work, or a statement that the author is still living on a particular date. The statement shall identify the person filing it, the nature of his interest, and the source of his information, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall maintain current records of information relating to the death of authors of copyrighted works, based on such recorded statements and, to the extent he considers practicable, on data contained in any of the records of the Copyright Office or in other reference sources.

(e) Presumption as to Author's Death.—After a period of seventy-five years from the year of first publication of a work, or a period of one hundred years from the year of its creation, whichever expires first, any person who obtains from the Copyright Office a certified report that the records provided by subsection (d) disclose nothing to indicate that the author of the work is living, or died less than fifty years before, is entitled to the benefit of a presumption that the author has been dead for at least fifty years. Reliance in good faith upon this presumption shall be complete defense to any action for infringement under this title.

§ 303. Duration of copyright: Works created but not published or copyrighted before January 1, 1975

Copyright in a work created before January 1, 1975, but not theretofore in the public domain or copyrighted, subsists from January 1, 1975, and endures for the term provided by section 302. In no case, however, shall the term of copyright in such a work expire before December 31, 1999, and, if the work is published on or before December 31, 1999, the term of copyright shall not expire before December 31, 2024.

§ 304. Duration of copyright: Subsisting copyrights

(a) Copyrights in Their First Term on January 1, 1975.—Any copyright, the first term of which is subsisting on January 1, 1975, shall endure for twenty-eight years from the date it was originally secured: *Provided*, That in the case of any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire, the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That in the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work, the author of such work, if still living, or the widow, widower, or children of the author, if the author be not living, or if such author, widow, widower, or children be not living, then the author's executors, or in the absence of a will, his next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That in default of the registration of such application for renewal and extension, the copyright in any work shall terminate at the expiration of twenty-eight years from the date copyright was originally secured.

(b) Copyrights in Their Renewal Term or Registered for Renewal Before January 1, 1975.—The duration of any copyright, the renewal term of which is subsisting at any time between December 31, 1973, and December 31, 1974, inclusive, or for which renewal registration is made between December 31, 1973, and December 31, 1974, inclusive, is extended to endure for a term of 75 years from the date copyright was originally secured.

(c) Termination of Transfers and Licenses Covering Extended Renewal Term.—In the case of any copyright subsisting in either its first or renewal term on January 1, 1975, other than a copyright in a work made for hire, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or of any right under it, executed before January 1, 1975, by any of the persons designated by the second proviso of subsection (a) of this section, otherwise than by will, is subject to termination under the following condition:

(1) In the case of a grant executed by a person or persons other than the author, termination of the grant may be effected by the surviving person or persons who executed it. In the case of a grant executed by one or more of the authors of the work, termination of the grant may be effected, to the extent of a particular author's share in the ownership of the renewal copyright, by the author who executed it or, if such author is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one half of that author's termination interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow (or her widower) and children or grandchildren as follows:

(A) The widow (or widower) owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow (or widower) owns one half of the author's interest;

(B) The author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow (or widower), in which case the ownership of one half of the author's interest is divided among them;

(C) The rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of his children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of fifty-six years from the date copyright was originally secured, or beginning on January 1, 1975, whichever is later.

(4) The termination shall be effected by serving an advance notice in writing upon the grantee or his successor in title. In the case of a grant executed by a person or persons other than the author, the notice shall be signed by all of those entitled to terminate the grant under clause (1) of this subsection, or by their duly authorized agents. In the case of a grant executed by one or more of the authors of the work, the notice as to any one author's share shall be signed by him or his duly authorized agent or, if he is dead, by the number and proportion of the owners of his termination interest required under clauses (1) and (2) of this subsection, or by their duly authorized agents.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(6) In the case of a grant executed by a person or persons other than the author, all rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to all of those entitled to terminate the grant under clause (1) of this subsection. In the case of a grant executed by one or more of the authors of the work, all of a particular author's rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to that author or, if he is dead, to the persons owning his termination interest under clause (2) of this subsection, including those owners who did not join in signing the notice of termination under clause (4) of this subsection. In all cases the reversion of rights is subject to the following limitations:

(A) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(B) The future rights that will revert upon termination of the grant become vetoed on the date the notice of termination has been served as provided by clause (4) of this subsection.

(C) Where an author's rights revert to two or more persons under clause (2) of this subsection, they shall vest in those persons in the proportionate shares provided by that clause. In such a case, and subject to the provisions of subclause (D) of this clause, a further grant, or agreement to make a further grant, of a particular author's share with respect to any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under this clause, as are required to terminate the grant under clause (2) of this subsection. Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under this subclause, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him, his legal representatives, legatees, or heirs at law represent him for purposes of this subclass.

(D) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid cnly if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the author or any of the persons provided by the first sentence of clause (6) of this [subsection, or between the persons provided by subclause (C)] of this clause, and the original grantee or his successor in title, after the notice of termination has been served as provided by clause (4) of this subsection.

(E) Termination of a grant under this subsection affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(F) Unless and until termination is effected under this section, the grant, if it does not provide otherwise, continues in effect for the remainder of the extended renewal term.

§ 305. Duration of copyright: Terminal date

All terms of copyright provided by sections 302 through 304 run to the end of the calendar year in which they would otherwise expire.

Chapter 4.—COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION

Sec.
401. Notice of copyright: Visually perceptible copies.
402. Notice of copyright: Phonorecords of sound recordings.
403. Notice of copyright: Publications incorporating United States Government works.
404. Notice of copyright: Contributions to collective works.
405. Notice of copyright: Omission of notice.
406. Notice of copyright: Error in name or date.
407. Deposit of copies or phonorecords for Library of Congress.
408. Copyright registration in general.
409. Application for registration.
410. Registration of claim and issuance of certificate.
411. Registration as prerequisite to infringement suit.
412. Registration as prerequisite to certain remedies for infringement.

§ 401. Notice of copyright: Visually perceptible copies

(a) GENERAL REQUIREMENT.—Whenever a work protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed copies from which the work can be visually perceived, either directly or with the aid of a machine or device.

(b) FORM OF NOTICE.—The notice appearing on the copies shall consist of the following three elements:

(1) the symbol © (the letter C in a circle), the word "Copyright," or the abbreviation "Copr.";

(2) the year of first publication of the work; in the case of compilations or derivative works incorporating previously published material, the year date of first publication of the compilation or derivative work is sufficient. The year date may be omitted where a pictorial, graphic, or sculptural work, with accompanying text matter, if any, is reproduced in or on greeting cards, postcards, stationery, jewelry, dolls, toys, or any useful article;

(3) the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner.

(c) POSITION OF NOTICE.—The notice shall be affixed to the copies in such manner and location as to give reasonable notice of the claim of copyright. The Register of Copyrights shall prescribe by regulation, as examples, specific methods of affixation and positions of the notice on various types of works that will satisfy this requirement, but these specifications shall not be considered exhaustive.

§ 402. Notice of copyright: Phonorecords of sound recordings

(a) GENERAL REQUIREMENT.—Whenever a sound recording protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed phonorecords of the sound recording.

(b) FORM OF NOTICE.—The notice appearing on the phonorecords shall consist of the following three elements:

(1) the symbol ℗ (the letter P in a circle);

(2) the year of first publication of the sound recording;

(3) the name of the owner of copyrights in the sound recording, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner; if the producer of the sound recording is named on the phonorecord labels or containers, and if no other name appears in conjunction with the notice, his name shall be considered a part of the notice.

(c) POSITION OF NOTICE.—The notice shall be placed on the surface of the phonorecord, or on the phonorecord label or container, in such manner and location as to give reasonable notice of the claim of copyright.

§ 403. Notice of copyright: Publications incorporating United States Government works

Whenever a work is published in copies or phonorecords consisting preponderantly of one or more works of the United States Government, the notice of copyright provided by section 401 or 402 shall also include a statement identifying, either affirmatively or negatively, those portions of the copies or phonorecords embodying any work or works protected under this title.

§ 404. Notice of copyright: Contributions to collective works

(a) A separate contribution to a collective work may bear its own notice of copyright, as provided by sections 401 through 403. However, a single notice applicable to the collective work as a whole is sufficient to satisfy the requirements of sections 401 through 403 with respect to the separate contributions it contains (not including advertisements inserted on behalf of persons other than the owner of copyright in the collective work), regardless of the ownership of copyright in the contributions and whether or not they have been previously published.

(b) Where the person named in a single notice applicable to a collective work as a whole is not the owner of copyright in a separate contribution that does not bear its own notice, the case is governed by the provisions of section 406(a).

§ 405. Notice of copyright: Omission of notice

(a) Effect of Omission on Copyright.—The omission of the copyright notice described by sections 401 through 403 from copies or phonorecords publicly distributed by authority of the copyright owner does not invalidate the copyright in a work if:

(1) the notice has been omitted from no more than a relatively small number of copies or phonorecords distributed to the public; or

(2) registration for the work has been made before or is made within five years after the publication without notice, and a reasonable effort is made to add notice to all copies or phonorecords that are distributed to the public in the United States after the omission has been discovered; or

(3) the notice has been omitted in violation of an express requirement in writing that, as a condition of the copyright owner's authorization of the public distribution of copies or phonorecords, they bear the prescribed notice.

(b) Effect of Omission on Innocent Infringers.—Any person who innocently infringes a copyright, in reliance upon an authorized copy or phonorecord from which the copyright notice has been omitted, incurs no liability for actual or statutory damages under section 504 for any infringing acts committed before receiving actual notice that registration for the work had been made under section 408, if he proves that he was misled by the omission of notice. In a suit for infringement in such a case the court may allow or disallow recovery of any of the infringer's profits attributable to the infringement, and may enjoin the continuation of the infringing undertaking or may require, as a condition for permitting the infringer to continue his undertaking, that he pay the copyright owner a reasonable license fee in an amount and on terms fixed by the court.

(c) Removal of Notice.—Protection under this title is not affected by the removal, destruction, or obliteration of the notice, without the authorization of the copyright owner, from any publicly distributed copies of phonorecords.

§ 406. Notice of copyright: Error in name or date

(a) Error in Name.—Where the person named in the copyright notice on copies or phonorecords publicly distributed by authority of the copyright owner is not the owner of copyright, the validity and ownership of the copyright are not affected. In such a case, however, any person who innocently begins an undertaking that infringes the copyright has a complete defense to any action for such infringement if he proves that he was misled by the notice and began the undertaking in good faith under a purported transfer or license from the person named therein, unless before the undertaking was begun:

(1) registration for the work had been made in the name of the owner of copyright; or

(2) a document executed by the person named in the notice and showing the ownership of the copyright had been recorded.

The person named in the notice is liable to account to the copyright owner for all receipts from purported transfers or licenses made by him under the copyright.

(b) Error in Date.—When the year date in the notice on copies or phonorecords distributed by authority of the copyright owner is earlier than the year in which publication first occurred, any period computed from the year of first publication under section 302 is to be computed from the year in the notice. Where the year date is more than one year later than the year in which publication first occurred, the work is considered to have been published without any notice and is governed by the provisions of section 405.

(c) Omission of Name or Date.—Where copies or phonorecords publicly distributed by authority of the copyright owner contain no name or no date that could reasonably be considered a part of the notice, the work is considered to have been published without any notice and is governed by the provisions of section 405.

§ 407. Deposit of copies or phonorecords for Library of Congress

(a) Except as provided by subsection (c), the owner of copyright or of the exclusive right of publication in a work published with notice of copyright in the United States shall deposit, within three months after the date of such publication:

(1) two complete copies of the best edition; or

(2) if the work is a sound recording, two complete phonorecords of the best edition, together with any printed or other visually perceptible material published with such phonorecords.

This deposit is not a condition of copyright protection.

(b) The required copies or phonorecords shall be deposited in the Copyright Office for the use or disposition of the Library of Congress. The Register of Copyrights shall, when requested by the depositor and upon payment of the fee prescribed by section 708, issue a receipt for the deposit.

(c) The Register of Copyrights may by regulation exempt any categories of material from the deposit requirements of this section, or require deposit of only one copy of phonorecord with respect to any categories.

(d) At any time after publication of a work as provided by subsection (a), the Register of Copyrights may make written demand for the required deposit on any of the persons obligated to make the deposit under subsection (a). Unless deposit is made within three months after the demand is received, the person or persons on whom the demand was made are liable:

(1) to a fine of not more than $250 for each work; and

(2) to pay to the Library of Congress the total retail price of the copies or phonorecords demanded, or, if no retail price has been fixed, the reasonable cost to the Library of Congress of acquiring them.

§ 408. Copyright registration in general

(a) Registration Permissive.—At any time during the subsistence of copyright in any published or unpublished work, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim by delivering to the Copyright Office the deposit specified by this section, together with the application and fee specified by sections 409 and 708. Subject to the provisions of section 405(a), such registration is not a condition of copyright protection.

(b) Deposit for Copyright Registration.—Except as provided by subsection (c), the material deposited for registration shall include:

(1) in the case of an unpublished work, one complete copy or phonorecord;

(2) in the case of a published work, two complete copies or phonorecords of the best edition;

(3) in the case of a work first published abroad, one complete copy or phonorecord as so published;

(4) in the case of a contribution to a collective work, one complete copy or phonorecord of the best edition of the collective work.

Copies or phonorecords deposited for the Library of Congress under section 407 may be used to satisfy the deposit provisions of this section, if they are accompanied by the prescribed application and fee, and by any additional identifying material that the Register may, by regulation, require.

(c) Administrative Classification and Optional Deposit.—The Register of Copyrights is authorized to specify by regulation the administrative classes into which works are to be placed for purposes of deposit and registration, and the nature of the copies or phonorecords to be deposited in the various classes specified. The regulations may require or permit, for particular classes the deposit of identifying material instead of copies or phonorecords, the deposit of only one copy or phonorecord where two would normally be required, or a single registration for a group of related works. This administrative classification of works has no significance wtih respect to the subject matter of copyright or the exclusive rights provided by this title.

(d) Corrections and Amplications.—The Register may also establish, by regulation, formal procedures for the filing of an application for supplementary registration, to correct an error in a copyright registration or to amplify the information given in a registration. Such application shall be accompanied by the fee provided by section 708, and shall clearly identify the registration to be corrected or amplified. The information contained in a supplementary registration augments but does not supersede that contained in the earlier registration.

(e) Published Edition of Previously Registered Work.—Registration for the first published edition of a work previously registered in unpublished form may be made even though the work as published is substantially the same as the unpublished version.

§ 409. Application for registration

The application for copyright registration shall be made on a form prescribed by the Register of Copyrights and shall include:

(1) the name and address of the copyright claimant;

(2) in the case of a work other than an anonymous or pseudonymous work, the name and nationality or domicile of the author or authors and, if one or more of the authors is dead, the dates of their deaths;

(3) if the work is anonymous or pseudonymous, the nationality or domicile of the author or authors;

(4) in the case of a work made for hire, a statement to this effect;

(5) if the copyright claimant is not the author, a brief statement of how the claimant obtained ownership of the copyright;

(6) the title of the work, together with any previous or alternative titles under which the work can be identified;

(7) the year in which creation of the work was completed;

(8) if the work has been published, the date and nation of its first publication;

(9) in the case of a compilation or derivative work, an identification of any pre-existing work or works that it is based on or incorporates, and a brief, general statement of the additional material covered by the copyright claim being registered;

(10) in the case of a published work containing material of which copies are required by section 601 to be manufactured in the United States, the names of the persons or organizations who performed the processes specified by subsection (c) of section 601 with respect to that material, and the places where those processes were performed; and

(11) any other information regarded by the Register of Copyrights as bearing upon the preparation or identification of the work or the existence, ownership, or duration of the copyright.

§ 410. Registration of claim and issuance of certificate

(a) When, after examination, the Register of Copyright determines that, in accordance with the provisions of this title, the material deposited constitutes copyrightable subject matter and that the other legal and formal requirements of this title have been met, he shall register the claim and issue to the applicant a certificate of registration under the seal of the Copyright Office. The certificate shall contain the information given in the application, together with the number and effective date of the registration.

(b) In any case in which the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited does not constitute copyrightable subject matter or that the claim is invalid for any other reason, he shall refuse registration and shall notify the applicant in writing of the reasons for his action.

(c) In any judicial proceedings the certificate of a registration made before or within five years after first publication of the work shall constitute prima facie evidence of the validity of the copyright and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration made thereafter shall be within the discretion of the court.

(d) The effective date of a copyright registration is the day on which an application, deposit, and fee, which are later determined by the Register of Copyrights or by a court of competent jurisdiction to be acceptable for registration, have all been received in the Copyright Office.

§ 411. Registration as prerequisite to infringement suit

(a) Subject to the provisions of subsection (b), no action for infringement of the copyright in any work shall be instituted until registration of the copyright claim has been made in accordance with this title. In any case, however, where the deposit, application, and fee required for registration have been delivered to the Copyright Office in proper form and registration has been refused, the applicant is entitled to institute an action for infringement if notice thereof, with a copy of the complaint, is served on the Register of Copyrights. The Register may, at his option, become a party to the action with respect to the issue of registrability of the copyright claim by entering his appearance within sixty days after such service, but his failure to do so shall not deprive the court of jurisdiction to determine that issue.

(b) In the case of a work consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, the copyright owner may either before or after such fixation takes place, institute an action for infringement under section 501, fully subject to the remedies provided by sections 502 through 506, if, in accordance with requirements that the Register of Copyrights shall prescribe by regulation, the copyright owner—

(1) serves notice upon the infringer, not less than ten or more than thirty days before such fixation, identifying the work and the specific time and source of its first transmission, and declaring an intention to secure copyright in the work; and

(2) makes registration for the work within three months after its first transmission.

§ 412. Registration as prerequisite to certain remedies for infringement

In any action under this title, other than an action instituted under section 411(b), no award of statutory damages or of attorney's fees, as provided by sections 504 and 505, shall be made for:

(1) any infringement of copyright in an unpublished work commenced before the effective date of its registration; or

(2) any infringement of copyright commenced after first publication of the work and before the effective date of its registration, unless such registration is made within three months after its first publication.

Chapter 5.—COPYRIGHT INFRINGEMENT AND REMEDIES

Sec.
501. Infringement of copyright.
502. Remedies for infringement: Injunctions.
503. Remedies for infringement: Impounding and disposition of infringing articles.
504. Remedies for infringement: Damages and profits.
505. Remedies for infringement: Costs and attorney's fees.
506. Criminal offenses.
507. Limitations on actions.
508. Notification of filing and determination of actions.

§ 501. Infringement of copyright

(a) Anyone who violates any of the exclusive rights of the copyright owner as provided by sections 106 through 117, or who imports copies or phonorecords into the United States in violation of section 602, is an infringer of the copyright.

(b) The legal or beneficial owner of an exclusive right under a copyright is entitled, subject to the requirements of sections 205 (d) and 411, to institute an action for any infringement of that particular right committed while he is the owner of it. The court may require him to serve written notice of the action with a copy of the complaint upon any person shown, by the records of the Copyright Office or otherwise, to have or claim an interest in the copyright, and shall require that such notice be served upon any person whose interest is likely to be affected by a decision in the case. The court may require the joinder, and shall permit the intervention, of any person having or claiming an interest in the copyright.

(c) For any secondary transmission by a cable system that embodies a performance or a display of a work which is actionable as an act of infringement under subsection (c) of section 111, a television broadcast station holding a copyright or other license to transmit or perform the same version of that work shall, for purposes of subsection (b) of this section, be treated as a legal or beneficial owner if such secondary transmission occurs within the local service area of that television station.

§ 502. Remedies for infringement: Injunctions

(a) Any court having jurisdiction of a civil action arising under this title may, subject to the provisions of section 1498 of title 28, grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain infringement of a copyright.

(b) Any such injunction may be served anywhere in the United States on the person enjoined; it shall be operative throughout the United States and shall be enforceable, by proceedings in a contempt or otherwise, by any United States court having jurisdiction of that person. The clerk of the court granting the injunction shall, when requested by any other court in which enforcement of the injunction is sought, transmit promptly to the other court a certified copy of all the papers in the case on file in his office.

§ 503. Remedies for infringement: Impounding and disposition of infringing articles

(a) At any time while an action under this title is pending, the court may order the impounding, on such terms as it may deem reasonable, of all copies or phonorecords claimed to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

(b) As part of a final judgment or decree, the court may order the destruction or other reasonable disposition of all copies or phonorecords found to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

§ 504. Remedies for infringement: Damages and profits

(a) IN GENERAL.—Except as otherwise provided by this title, an infringer of copyright is liable for either:

(1) the copyright owner's actual damages and any additional profits of the infringer, as provided by subsection (b); or

(2) statutory damages, as provided by subsection (c).

(b) ACTUAL DAMAGES AND PROFITS.—The copyright owner is entitled to recover the actual damages suffered by him as a result of the infringement and any profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages. In establishing the infringer's profits, the copyright owner is required to present proof only of the infringer's gross revenue, and the infringer is required to prove his deductible expenses and the elements of profit attributable to factors other than the copyrighted work.

(c) STATUTORY DAMAGES.—

(1) Except as provided by clause (2) of this subsection, the copyright owner may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for all infringements involved in the action, with respect to any one work, for which any one infringer is liable individually, or for which any two or more infringers are liable jointly and severally, in a sum of not less than $250 or more than $10,000 as the court considers just. For the purposes of this subsection, all the parts of a compilation or derivative work constitute one work.

(2) In a case where the copyright owner sustains the burden of providing, and the court finds, that infringement was committed willfully, the court in its discretion may increase the award of statutory damages to a sum of not more than $50,000. In a case where the infringer sustains the burden of proving, and the court finds, that he was not aware and had no reason to believe that his acts constituted an infringement of copyright, the court in its discretion may reduce the award of statutory damages to a sum of not less than $100. In a case where an instructor, librarian or archivist in a nonprofit educational institution, library, or ar-

chives, who infringed by reproducing a copyrighted work in copies or phonorecords, sustains the burden of proving that he believed and had reasonable grounds for believing that the reproduction was a fair use under section 107, the court in its discretion may remit statutory damages in whole or in part.

§ 505. Remedies for infringement: Costs and attorney's fees

In any civil action under this title, the court in its discretion may allow the recovery of full costs by or against any party other than the United States or an officer thereof. Except as otherwise provided by this title, the court may also award a reasonable attorney's fee to the prevailing party as part of the costs.

§ 506. Criminal offenses

(a) Criminal Infringement.—Any person who infringes a copyright willfully and for purposes of commercial advantage or private financial gain shall be fined not more than $2,500 or imprisoned not more than one year, or both, for the first such offense, and shall be fined not more than $10,000 or imprisoned not more than three years, or both, for any subsequent offense, provided however, that any person who infringes willfully and for purposes of commercial advantage or private financial gain the copyright in a sound recording afforded by subsections (1) and (3) in section 106 or the copyright in a motion picture afforded by subsections (1), (3), and (4) in section 106 shall be fined not more than $25,000 or imprisoned for not more than three years, or both, for the first such offense and shall be fined not more than $50,000 or imprisoned not more than seven years, or both, for any subsequent offense.

(b) Fraudulent Copyright Notice.—Any person who, with fraudulent intent, places on any article a notice of copyright or words of the same purport that he knows to be false, or who, with fraudulent intent, publicly distributes or imports for public distribution any article bearing such notice or words that he knows to be false, shall be fined not more than $2,500.

(c) Fraudulent Removal of Copyright Notice.—Any person who, with fraudulent intent, removes or alters any notice of copyright appearing on a copy of a copyrighted work shall be fined not more than $2,500.

(d) False Representation.—Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than $2,500.

§ 507. Limitations on actions

(a) Criminal Proceedings.—No criminal proceedings shall be maintained under the provisions of this title unless it is commenced within three years after the cause of action arose.

(b) Civil Actions.—No civil action shall be maintained under the provisions of this title unless it is commenced within three years after the claim accrued.

§ 508. Notification of filing and determination of actions

(a) Within one month after the filing of any action under this title, the clerks of the courts of the United States shall send written notification to the Register of Copyrights setting forth, as far as is shown by the papers filed in the court, the names and addresses of the parties and the title, author, and registration number of each work involved in the action. If any other copyrighted work is later included in the action by amendment, answer, or other pleading, the clerk shall also send a notification concerning it to the Register within one month after the pleading is filed.

(b) Within one month after any final order or judgment is issued in the case, the clerk of the court shall notify the Register of it, sending him a copy of the order or judgment together with the written opinion, if any, of the court.

(c) Upon receiving the notifications specified in this section, the Register shall make them a part of the public records of the Copyright Office.

Chapter 6.—MANUFACTURING REQUIREMENT AND IMPORTATION

Sec.

601. Manufacture, importation, and public distribution of certain copies.
602. Infringing importation of copies or phonorecords.
603. Importation prohibitions: Enforcement and disposition of excluded articles.

§ 601. Manufacture, importation, and public distribution of certain copies

(a) Except as provided by subsection (b), the importation into or public distribution in the United States of copies of a work consisting preponderantly of nondramatic literary material that is in the English language and is protected under this title is prohibited unless the portions consisting of such material have been manufactured in the United States or Canada.

(b) The provisions of subsection (a) do not apply:

(1) where, on the date when importation is sought or public distribution in the United States is made, the author of any substantial part of such material is neither a national nor a domiciliary of the United States or, if he is a national of the United States, has been domiciled outside of the United States for a continuous period of at least one year immediately preceding that date; in the case of work made for hire, the exemption provided by this clause does not apply unless a substantial part of the work was prepared for an employer or other person who is not a national or domiciliary of the United States or a domestic corporation or enterprise;

(2) where the Bureau of Customs is presented with an import statement issued under the seal of the Copyright Office, in which case a total of no more than two thousand copies of any one such work shall shall be issued upon request to the copyright owner or to a person designated by him at the time of registration for the work under section 408 or at any time thereafter;

(3) where importation is sought under the authority or for the use, other than in schools, of the government of the United States or of any State or political subdivision of a State;

(4) where importation, for use and not for sale, is sought:

(A) by any person with respect to no more than one copy of any one work at any one time;

(B) by any person arriving from abroad, with respect to copies forming part of his personal baggage; or

(C) by an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to copies intended to form a part of its library;

(5) where the copies are reproduced in raised characters for the use of the blind;

(6) where, in addition to copies imported under clauses (3) and (4) of this subsection, no more than two thousand copies of any one such work, which have not been manufactured in the United States or Canada, are publicly distributed in the United States.

(c) The requirement of this section that copies be manufactured in the United States or Canada is satisfied if:

(1) in the case where the copies are printed directly from type that has been set, or directly from plates made from such type, the setting of the type and the making of the plates have been performed in the United States or Canada; or

(2) in the case where the making of plates by a lithographic or photoengraving process is a final or intermediate step preceding the printing of the copies, the making of the plates has been performed in the United States or Canada; and

(3) in any case, the printing or other final process of producing multiple copies and any binding of the copies have been performed in the United States or Canada.

(d) Importation or public distribution of copies in violation of this section does not invalidate protection for a work under this title. However, in any civil action or criminal proceeding for infringement of the exclusive rights to reproduce and distribute copies of the work, the infringer has a complete defense with respect to all of the nondramatic literary material comprised in the work and any other parts of the work in which the exclusive rights to reproduce and distribute copies are owned by the same person who owns such exclusive rights in the nondramatic literary material, if he proves:

(1) that copies of the work have been imported into or publicly distributed in the United States in violation of this section by or with the authority of the owner of such exclusive rights; and

(2) that the infringing copies were manufactured in the United States or Canada in accordance with the provisions of subsection (c); and

(3) that the infringement was commenced before the effective date of registration for an authorized edition of the work, the copies of which have been manufactured in the United States or Canada in accordance with the provisions of subsection (c).

(e) In any action for infringement of the exclusive rights to reproduce and distribute copies of a work containing material required by this section to be manufactured in the United States or Canada, the copyright owner shall set forth in the complaint the names of the persons or organizations who performed the processes specified by subsection (c) with respect to that material, and the places where those processes were performed.

§602. Infringing importation of copies of phonorecords

(a) Importation into the United States, without the authority of the owner of copyright under this title, of copies or phonorecords of a work that have been acquired abroad is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under section 501. This subsection does not apply to:

(1) importation of copies or phonorecords under the authority or for the use of the Government of the United States or for any State or political subdivision of a State but not including copies or phonorecords for use in schools, or copies of any audiovisual work imported for purposes other than archival use;

(2) importation, for the private use of the importer and not for distribution, by any person with respect to no more than one copy or phonorecord of any one work at any one time, or by any person arriving from abroad with respect to copies or phonorecords forming part of his personal baggage; or

(3) importation by or for an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to no more than one copy of an audiovisual work solely for its archival purposes, and no more than five copies or phonorecords of any other work for its library lending or archival purposes.

(b) In a case where the making of the copies or phonorecords would have constituted an infringement of copyright if this title had been applicable, their importation is prohibited. In a case where the copies or phonorecords were lawfully made, the Bureau of Customs has no authority to prevent their importation unless the provisions of section 601 are applicable. In either case, the Secretary of the Treasury is authorized to prescribe, by regulation, a procedure under which any person claiming an interest in the copyright in a particular work may, upon payment of a specified fee, be entitled to notification by the Bureau of the importation of articles that appear to be copies or phonorecords of the work.

§ 603. Importation prohibitions: Enforcement and disposition of excluded articles

(a) The Secretary of the Treasury and the Postmaster General shall separately or jointly make regulations for the enforcement of the provisions of this title prohibiting importation.

(b) These regulations may require, as a condition for the exclusion of articles under section 602:

(1) that the person exclusion obtain a court order enjoining importation of the articles; or

(2) that he furnish proof, of a specified nature and in accordance with prescribed procedures, that the copyright in which he claims an interest is valid and that the importation would violate the prohibition in section 602; he may also be required to post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

(c) Articles imported in violation of the importation prohibitions of this title are subject to seizure and forfeiture in the same manner as property imported in violation of the customs revenue laws. Forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be; however, the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his acts constituted a violation of law.

Chapter 7.—COPYRIGHT OFFICE

Sec.
701. The Copyright Office: General responsibilities and organization.
702. Copyright Office regulations.
703. Effective date of actions in Copyright Office.
704. Retention and disposition of articles deposited in Copyright Office.
705. Copyright Office records: Preparation, maintenance, public inspection, and searching.
706. Copies of Copyright Office records.
707. Copyright Office forms and publications.
708. Copyright Office fees.
709. Delay in delivery caused by disruption of postal or other services.

§ 701. The Copyright Office: General responsibilities and organization

(a) All administrative functions and duties under this title, except as otherwise specified, are the responsibility of the Register of Copyrights as director of the Copyright Office in the Library of Congress. The Register of Copyrights, together with the subordinate officers and employees of the Copyright Office, shall be appointed by the Librarian of Congress, and shall act under his general direction and supervision.

(b) The Register of Copyrights shall adopt a seal to be used on and after January 1, 1975, to authenticate all certified documents issued by the Copyright Office.

(c) The Register of Copyrights shall make an annual report to the Librarian of Congress of the work and accomplishments of the Copyright Office during the previous fiscal year. The annual report of the Register of Copyrights shall be published separately and as a part of the annual report of the Librarian of Congress.

§ 702. Copyright Office regulations

The Register of Copyrights is authorized to establish regulations not inconsistent with law for the administration of the functions and duties made his responsibility under this title. All regulations established by the Register under this title are subject to the approval of the Librarian of Congress.

§ 703. Effective date of actions in Copyright Office

In any case in which time limits are prescribed under this title for the performance of an action in the Copyright Office, and in which the last day of the prescribed period falls on a Saturday, Sunday, holiday or other non-business day within the District of Columbia or the Federal Government, the action may be taken on the next succeeding business day, and is effective as of the date when the period expired.

§ 704. Retention and disposition of articles deposited in Copyright Office

(a) Upon their deposit in the Copyright Office under sections 407 and 408, all copies, phonorecords, and identifying material, including those deposited in connection with claims that have been refused registration, are the property of the United States Government.

(b) In the case of published works, all copies, phonorecords, and identifying material deposited are available to the Library of Congress for its collections, or for exchange or transfer to any other library. In the case of unpublished works, the Library is entitled to select any deposits for its collections.

(c) Deposits not selected by the Library under subsection (b), or identifying portions or reproductions of them, shall be retained under the control of the Copyright Office, including retention in Government storage facilities, for the longest period considered practicable and desirable by the Register of Copyrights and the Librarian of Congress. After that period it is within the joint discretion of the Register and the Librarian to order their destruction or other disposition; but, in the case of unpublished works, no deposit shall be destroyed or otherwise disposed of during its term of copyright.

(d) The depositor of copies, phonorecords, or identifying material under section 408, or the copyright owner of record, may request retention, under the control of the Copyright Office, of one or more of such articles for the full term of copyright in the work. The Register of Copyrights shall prescribe, by regulation, the conditions under which such requests are to be made and granted, and shall fix the fee to be charged under section 708 (a)(12) if the request is granted.

§ 705. Copyright Office records: Preparation, maintenance, public inspection, and searching

(a) The Register of Copyrights shall provide and keep in the Copyright Office, records of all deposits, registration, recordations, and other actions taken under this title, and shall prepare indexes of all such records.

(b) Such records and indexes, as well as the articles deposited in connection with completed copyright reigstrations and retained under the control of the Copyright Office, shall be open to public inspection.

(c) Upon request and payment of the fee specified by section 708, the Copyright Office shall make a search of its public records, indexes, and deposits, and shall furnish a report of the information they disclose with respect to any particular deposits, registrations, or recorded documents.

§ 706. Copies of Copyright Office records

(a) Copies may be made of any public records or indexes of the Copyright Office; additional certificates of copyright registration and copies of any public records or indexes may be furnished upon request and payment of the fees specified by section 708.

(b) Copies or reproductions of deposited articles retained under the control of the Copyright Office shall be authorized or furnished only under the conditions specified by the Copyright Office regulations.

§ 707. Copyright Office forms and publications

(a) CATALOG OF COPYRIGHT ENTRIES.—The Register of Copyrights shall compile and publish at periodic intervals catalogs of all copyright registrations. These catalogs shall be divided into parts in accordance with the various classes of works, and the Register has discretion to determine on the basis of practicability and usefulness, the form and frequency of publication of each particular part.

(b) OTHER PUBLICATIONS.—The Register shall furnish, free of charge upon request, application forms for copyright registration and general informational material in connection with the functions of the Copyright Office. He also has authority to publish compilations of information, bibliographies, and other material he considers to be of value to the public.

(c) DISTRIBUTION OF PUBLICATION.—All publications of the Copyright Office shall be furnished to depository libraries as specified under section 1905 of title 44, United States Code, and, aside from those furnished free of charge, shall be offered for sale to the public at prices based on the cost of reproduction and distribution.

§ 708. Copyright Office fees

(a) The following fees shall be paid to the Register of Copyrights:

(1) for the registration of a copyright claim or a supplementary registration under section 408, including the issuance of a certificate of registration, $6;

(2) for the registration of a claim to renewal of a subsisting copyright in its first term under section 304(a), including the issuance of a certificate of registration, $4;

(3) for the issuance of a receipt for a deposit under section 407, $2;

(4) for the recordation, as provided by section 205, of a transfer of copyright ownership or other document of six pages or less, covering no more than one title, $5; for each page over six and for each title over one, 50 cents additional;

(5) for the filing, under section 115(b), of a notice of intention to make phonorecords, $3;

(6) for the recordation, under section 302(c), of a statement revealing the identity of an author of an anonymous or pseudonymous work, or for the recordation, under section 302(d), of a statement relating to the death of an author, $5 for a document of six pages or less, covering no more than one title; for each page over six and for each title over one, 50 cents additional;

(7) for the issuance, under section 601, of an import statement, $3;

(8) for the issuance, under section 706, of an additional certificate of registration, $2;

(9) for the issuance of any other certification, $3; the Register of Copyrights has discretion, on the basis of their cost, to fix the fees for preparing copies of Copyright Office records, whether they are to be certified or not;

(10) for the making and reporting of a search as provided by section 705, and for any related services, $5 for each hour or fraction of an hour consumed;

(11) for any other special services requiring a substantial amount of time or expense, such fees as the Register of Copyrights may fix on the basis of the cost of providing the service.

(b) The fees prescribed by or under this section are applicable to the United States Government and any of its agencies, employees, or officers, but the Register of Copyrights has discretion to waive the requirement of this subsection in occasional or isolated cases involving relatively small amounts.

§ 709. Delay in delivery caused by disruption of postal or other services

In any case in which the Register of Copyrights determines, on the basis of such evidence as he may by regulation require, that a deposit, application, fee, or any other material to be delivered to the Copyright Office by a particular date, would have been received in the Copyright Office in due time except for a general disruption or suspension of postal or other transportation or communications services, the actual receipt of such material in the Copyright Office within one month after the date on which the Register determines that the disruption or suspension of such services has terminated, shall be considered timely.

Chapter 8.—COPYRIGHT ROYALTY TRIBUNAL

Sec.
801. Copyright Royalty Tribunal; Establishment and purpose.
802. Petitions for the adjustment of royalty rates.
803. Membership of the Tribunal.
804. Procedures of the Tribunal.
805. Compensation of members of the Tribunal; expenses of the Tribunal.
806. Reports to the Congress.
807. Effective date of royalty adjustment.
808. Effective date of royalty distribution.
809. Judicial review.

§ 801. Copyright Royalty Tribunal: Establishment and purpose

(a) There is hereby created in the Library of Congress a Copyright Royalty Tribunal.

(b) Subject to the provisions of this chapter, the purpose of the Tribunal shall be: (1) to make determinations concerning the adjustment of the copyright royalty rates specified by sections 111 and 115 so as to assure that such rates are reasonable and in the event that the Tribunal shall determine that the statutory royalty rate, or a rate previously established by the Tribunal, or the revenue basis in respect to section 111, does not provide a reasonable royalty fee for the basic service of providing secondary transmissions of the primary broadcast transmitter or is otherwise unreasonable, the Tribunal may change the royalty rate or the revenue bases on which the royalty fee shall be assessed or both so as to assure a reasonable royalty fee; and (2) to determine in certain circumstances the distribution of the royalty fees deposited with the Register of Copyrights under sections 111 and 116.

§ 802. Petitions for the adjustment of royalty rates

(a) On July 1, 1975, the Register of Copyrights shall cause to be published in the Federal Register notice of the commencement of proceedings for the review of the royalty rates specified by sections 111, 114, and 115.

(b) During the calendar year 1982, and in each subsequent fifth calendar year, any owner or user of a copyrighted work whose royalty rates are specified by this title, or by a rate established by the Tribunal, may file a petition with the Register of Copyrights declaring that the petitioner requests an adjustment of the rate. The Register shall make a determination as to whether the applicant has a significant interest in the royalty rate in which an adjustment is requested. If the Register determines that the petitioner has a significant interest, he shall cause notice of his decision to be published in the Federal Register.

§ 803. Membership of the Tribunal

(a) In accordance with Section 802, or upon certifying the existence of a controversy concerning the distribution of royalty fees deposited pursuant to section 111, the Register shall request the American Arbitration Association or any similar successor organization to furnish a list of three members of said Association. The Register shall communicate the names together with such information as may be appropriate to all parties of interest. Any such party within twenty days from the date said communication is sent may submit to the Register written objections to any or all of the proposed names. If no such objections are received, or if the Register determines that said objections are not well founded, he shall certify the appointment of the three designated individuals to constitute a panel of the Tribunal for the consideration of the specified rate or royalty distribution. Such panel shall function as the Tribunal established in section 801. If the Register determines that the objections to the designation of one or more of the proposed individuals are well founded, the Register shall request the American Arbitration Association or any similar successor organization to propose the necessary number of substitute individuals. Upon receiving such additional names the Register shall constitute the panel. The Register shall designate one member of the panel as Chairman.

(b) If any member of a panel becomes unable to perform his duties, the Register, after consultation with the parties, may provide for the selection of a successor in the manner prescribed in subsection (a).

§ 804. Procedures of the Tribunal

(a) The Tribunal shall fix a time and place for its proceedings and shall cause notice to be given to the parties.

(b) Any organization or person entitled to participate in the proceedings may appear directly or be represented by counsel.

(c) Except as otherwise provided by law, the Tribunal shall determine its own procedure. For the purpose of carrying out the provisions of this chapter, the Tribunal may hold hearings, administer oaths, and require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of documents.

(d) Every final decision of the Tribunal shall be in writing and shall state the reasons therefor.

(e) The Tribunal shall render a final decision in each proceeding within one year from the certification of the panel. Upon a showing of good cause, the Senate Committee on the Judiciary and House of Representatives Committee on the Judiciary may waive this requirement in a particular proceeding.

§ 805. Compensation of members of the Tribunal; expenses of the Tribunal

(a) In proceedings for the distribution of royalty fees, the compensation of members of the Tribunal and other expenses of the Tribunal shall be deducted prior to the distribution of the funds.

(b) In proceedings for the adjustment of royalty rates, there is hereby authorized to be appropriated such sums as may be necessary.

(c) The Library of Congress is authorized to furnish facilities and incidental service to the Tribunal

(d) The Tribunal is authorized to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

§ 806. Reports to the Congress

The Tribunal immediately upon making a final determination in any proceeding for adjustment of a statutory royalty shall transmit its decision, together with the reasons therefor, to the Secretary of the Senate and the Clerk of the House of Representatives for reference to the Judiciary Committees of the Senate and the House of Representatives.

§ 807. Effective date of royalty adjustment

(a) Prior to the expiration of the first period of ninety calendar days of continuous session of the Congress, following the transmittal of the report specified in section 806, either House of the Congress may adopt a resolution stating in substance that the House does not favor the recommended royalty adjustment, and such adjustment, therefore, shall not become effective.

(b) For the purposes of subsection (a) of this section.

(1) Continuity of session shall be considered as broken only by an adjournment of the Congress sine die, and

(2) In the computation of the ninety-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than three days to a day certain.

(c) In the absence of the passage of such a resolution by either House during said ninety-day period, the final determination by the Tribunal of a petition for adjustment shall take effect on the first day following ninety calendar days after the expiration of the period specified by subsection (a).

(d) The Register of Copyrights shall give notice of such effective date by publication in the Federal Register not less than sixty days before said date.

§ 808. Effective date of royalty distribution

A final determination of the Tribunal concerning the distribution of royalty fees deposited with the Register of Copyrights pursuant to sections 111 and 116 shall become effective thirty days following such determination unless prior to that time an application has been filed pursuant to section 809 to vacate, modify or correct the determination, and notice of such application has been served upon the Register of Copyrights. The Register upon the expiration of thirty days shall distribute such royalty fees not subject to any application filed pursuant to section 809.

§ 809. Judicial review

In any of the following cases the United States District Court for the District of Columbia may make an order vacating, modifying or correcting a final determination of the Tribunal concerning the distribution of royalty fees—

(a) Where the determination was procured by corruption, fraud, or undue means.

(b) Where there was evident partiality or corruption in any member of the panel.

(c) Where any member of the panel was guilty of any misconduct by which the rights of any party have been prejudiced.

TRANSITIONAL AND SUPPLEMENTARY PROVISIONS

SEC. 102. This title becomes effective on January 1, 1975, except as otherwise provided by section 304(b) of title 17 as amended by this title.

SEC. 103. This title does not provide copyright protection for any work that goes into the public domain before January 1, 1975. The exclusive rights, as provided by section 106 of title 17 as amended by this title, to reproduce a work in phonorecords and to distribute phonorecords of the work, do not extend to any nondramatic musical work copyrighted before July 1, 1909.

SEC. 104. All proclamations issued by the President under sections 1(e) or 9(b) of title 17 as it existed on December 31, 1974, or under previous copyright statutes of the United States shall continue in force until terminated, suspended, or revised by the President.

SEC. 105. (a)(1) Section 505 of title 44, United States Code, Supplement IV, is amended to read as follows:

"§ 505. Sale of duplicate plates

"The Public Printer shall sell, under regulations of the Joint Committee on Printing to persons who may apply, additional or duplicate stereotype or electrotype plates from which a Government publication is printed, at a price not to exceed the cost of composition, the metal, and making to the Government, plus 10 per centum, and the full amount of the price shall be paid when the order is filed."

(2) The item relating to section 505 in the sectional analysis at the beginning of chapter 5 of title 44, United States Code, is amended to read as follows:

"505. Sale of duplicate plates."

(b) Section 2113 of title 44, United States Code, is amended to read as follows:

"§ 2113. Limitation on liability

"When letters and other intellectual productions (exclusive of patented material, published works under copyright protection, and unpublished works for which copyright registration has been made) come into the custody or possession of the Administrator of General Services, the United States or its agents are not liable for infringement of copyright or analogous rights arising out of use of the materials for display, inspecton, research, reproduction, or other purposes."

(c) In section 1498(b) of title 28 of the United States Code, the phrase "section 101 (b) of title 17" is amended to read "section 504(c) of title 17".

(d) Section 543(a)(4) of the Internal Revenue Code of 1954, as amended, is amended by striking out "(other than by reason of section 2 or 6 thereof)".

(e) Section 3202(a) of title 39 of the United States Code is amended by striking out clause (5). Section 3206(c) of title 39 of the United States Code is amended by striking out clause (c). Section 3206(d) is renumbered (c).

(f) In section 6 of the Standard Reference Data Act (section 290(e) of title 15 of the United States Code, Supplement IV), subsection (a) is amended to delete the reference to "section 8" and to substitute therefor the phrase "section 105".

SEC. 106. In any case where, before January 1, 1975, a person has lawfully made parts of instruments serving to reproduce mechanically a copyrighted work under the compulsory license provisions of section 1(e) of title 17 as it existed on December 31, 1974, he may continue to make and distribute such parts embodying the same mechanical reproduction without obtaining a new compulsory license under the terms of section 115 of title 17 as amended by this title. However, such parts made on or after January 1, 1975, constitute phonorecords and are otherwise subject to the provisions of said section 115.

SEC. 107. In the case of any work in which an ad interim copyright is subsisting or is capable of being secured on December 31, 1974, under section 22 of title 17 as it existed on that date, copyright protection is hereby extended to endure for the term or terms provided by section 304 of title 17 as amended by this title.

SEC. 108. The notice provisions of section 401 through 403 of title 17 as amended by this title apply to all copies or phonorecords publicly distributed on or after January 1, 1975. However, in the case of a work published before January 1, 1975, compliance with the notice provisions of title 17 either as it existed on December 31, 1974, or as amended by this title, is adequate with respect to copies publicly distributed after December 31, 1974.

SEC. 109. The registration of claims to copyright for which the required deposit, application, and fee were received in the Copyright Office before January 1, 1975, and the recordation of assignments of copyright or other instruments received in the Copyright Office before January 1, 1975, shall be made in accordance with title 17 as it existed on December 31, 1974.

SEC. 110. The demand and penalty provisions of section 14 of title 17 as it existed on December 31, 1974, apply to any work in which copyright has been secured by publication with notice of copyright on or before that date, but any deposit and registration made after that date in response to a demand under that section shall be made in accordance with the provisions of title 17 as amended by this title.

SEC. 111. Section 2318 of title 18 of the United States Code is amended to read as follows:

"§ 2318. Transportation, sale or receipt of phonograph records bearing forged or counterfeit labels

"Whoever knowingly and with fraudulent intent transports, causes to be transported, receives, sells, or offers for sale in interstate or foreign commerce any phonograph record, disk, wire, tape, film, or other article on which sounds are recorded, to which or upon which is stamped, pasted, or affixed any forged or counterfeited label, knowing the label to have been falsely made, forged, or counterfeited shall be fined not more than $25,000 or imprisoned for not more than three years, or both, for the first such offense and shall be fined not more than $50,000 or imprisoned not more than seven years or both, for any subsequent offense."

SEC. 112. All causes of action that arose under title 17 before January 1, 1975, shall be governed by title 17 as it existed when the cause of action arose.

SEC. 113. If any provision of title 17, as amended by this title, is declared unconstitutional, the validity of the remainder of the title is not affected.

TITLE II—NATIONAL COMMISSION ON NEW TECHNOLOGICAL USES OF COPYRIGHTED WORKS

ESTABLISHMENT AND PURPOSE OF COMMISSION

SEC. 201. (a) There is hereby created in the Library of Congress a National Commission on New Technological Uses of Copyrighted Works (hereafter called the Commission).

(b) The purpose of the Commission is to study and compile data on:

(1) the reproduction and use of copyrighted works of authorship—

(A) in conjunction with automatic systems capable of storing, processing, retrieving, and transferring information, and

(B) by various forms of machine reproduction, not including reproduction by or at the request of instructors for use in face-to-face teaching activities; and

(2) the creation of new works by the application or intervention of such automatic systems or machine reproduction.

(c) The Commission shall make recommendations as to such changes in copyright law or procedures that may be necessary to assure for such purposes access to copyrighted works, and to provide recognition of the rights of copyright owners.

MEMBERSHIP OF THE COMMISSION

SEC. 202. (a) The Commission shall be composed of thirteen voting members, appointed as follows:

(1) Four members, to be appointed by the President, selected from authors and other copyright owners;

(2) Four members, to be appointed by the President, selected from users of copyright works;

(3) Four nongovernmental members to be appointed by the President, selected from the public generally;

(4) The Librarian of Congress.

(b) The President shall appoint a Chairman, and a Vice Chairman who shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office, from among the four members selected from the public generally, as provided by clause (3) of subsection (a). The Register of Copyrights shall serve ex officio as a nonvoting member of the Commission.

(c) Seven voting members of the Commission shall constitute a quorum.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner as the original appointment was made.

COMPENSATION OF MEMBERS OF COMMISSION

SEC. 203. (a) Members of the Commission, other than officers or employees of the Federal Government, shall receive compensation at the rate of $100 per day while engaged in the actual performance of Commission duties, plus reimbursement for travel, subsistence, and other necessary expenses in connection with such duties.

(b) Any members of the Commission who are officers or employees of the Federal Government shall serve on the Commission without compensation, but such members shall be reimbursed for travel, subsistence, and other necessary expenses in connection with the performance of their duties.

SEC. 204. (a) To assist in its studies, the Commission may appoint a staff which shall be an administrative part of the Library of Congress. The staff shall be headed by an Executive Director, who shall be responsible to the Commission for the administration of the duties entrusted to the staff.

(b) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, Unitied States Code, but at rates not to exceed $100 per day.

EXPENSES OF THE COMMISSION

Sec. 205. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

REPORTS

SEC. 206. (a) Within one year after the first meeting of the Commission it shall submit to the President and the Congress a preliminary report on its activities.

(b) Within three years after the enactment of this Act the Commission shall submit to the President and the Congress a final report on its study and investigation which shall include its recommendations and such proposals for legislation and administrative action as may be necessary to carry out its recommendations.

(c) In addition to the preliminary report and final report required by this section, the Commission may publish such interim reports as it may determine, including but not limited to consultant's reports, transcripts of testimony, seminar reports, and other Commission findings.

POWERS OF THE COMMISSION

SEC. 207. (a) The Commission or, with the authorization of the Commission, any three or more of its members, may, for the purpose of carrying out the provisions of this title, hold hearings, administer oaths, and require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of documentary material.

(b) With the consent of the Commission, any of its members may hold any meetings, seminars, or conferences considered appropriate to provide a forum for discussion of the problems with which it is dealing.

TERMINATION

SEC. 208. On the sixtieth day after the date of the submission of its final report, the Commission shall terminate and all offices and employment under it shall expire.

TITLE III—PROTECTION OF ORNAMENTAL DESIGNS OF USEFUL ARTICLES

DESIGNS PROTECTED

SEC. 301. (a) The author or other proprietor of an original ornamental design of a useful article may secure the protection provided by this title upon complying with and subject to the provisions hereof.

(b) For the purposes of this title—

(1) A "useful article" is an article which in normal use has an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article which normally is a

part of a useful article shall be deemed to be a useful article.

(2) The "design of a useful article", hereinafter referred to as a "design", consists of those aspects or elements of the article, including its two-dimensional or three-dimensional features of shape and surface, which make up the appearance of the article.

(3) A design is "ornamental" if it is intended to make the article attractive or distinct in appearance.

(4) A design is "original" if it is the independent creation of an author who did not copy it from another source.

DESIGNS NOT SUBJECT TO PROTECTION

SEC. 302. Protection under this title shall not be available for a design that is—

(a) not original;

(b) staple or commonplace, such as a standard geometric figure, familiar symbol, emblem, or motif, or other shape, pattern, or configuration which has become common, prevalent, or ordinary;

(c) different from a design excluded by subparagraph (b) above only in insignificant details or in elements which are variants commonly used in the relevant trades; or

(d) dictated solely by a utilitarian function of the article that embodies it;

(e) composed of three-dimensional features of shape and surface with respect to men's, women's, and children's apparel, including undergarments and outerwear.

REVISIONS, ADAPTATIONS, AND REARRANGEMENTS

SEC. 303. Protection for a design under this title shall be available notwithstanding the employment in the design of subject matter excluded from protection under section 302, if the design is a substantial revision, adaptation, or rearrangement of said subject matter: *Provided,* That such protection shall be available to a design employing subject matter protected under title I of this Act, or title 35 of the United States Code or this title, only if such protected subject matter is employed with the consent of the proprietor thereof. Such protection shall be independent of any subsisting protection in subject matter employed in the design, and shall not be construed as securing any right to subject matter excluded from protection or as extending any subsisting protection.

COMMENCEMENT OF PROTECTION

SEC. 304. (a) The protection provided for a design under this title shall commence upon the date when the design is first made public.

(b) A design is made public when, by the proprietor of the design or with his consent, an existing useful article embodying the design is anywhere publicly exhibited, publicly distributed, or offered for sale or sold to the public.

TERM OF PROTECTION

SEC. 305. (a) Subject to the provisions of this title, the protection herein provided for a design shall continue for a term of five years from the date of the commencement of protection as provided in section 304(a), but if a proper application for renewal is received by the Administrator during the year prior to the expiration of the five-year term, the protection herein provided shall be extended for an additional period of five years from the date of expiration of the first five years.

(b) If the design notice actually applied shows a date earlier than the date of the commencement of protection as provided in section 304(a), protection shall terminate as though the term had commenced at the earlier date.

(c) Where the distinguishing elements of a design are in substantially the same form in a number of different useful articles, the design shall be protected as to all such articles when protected as to one of them, but not more than one registration shall be required. Upon expiration or termination of protection in a particular design as provided in this title all rights under this title in said design shall terminate, regardless of the number of different articles in which the design may have been utilized during the term of its protection.

THE DESIGN NOTICE

SEC. 306. (a) Whenever any design for which protection is sought under this title is made public as provided in section 304(b), the proprietor shall, subject to the provisions of section 307, mark it or have it marked legibly with a design notice consisting of the following three elements:

(1) the words "Protected Design", the abbreviation "Prot'd Des." or the letter "D" within a circle thus Ⓓ;

(2) the year of the date on which the design was first made public; and

(3) the name of the proprietor, an abbreviation by which the name can be recognized, or a generally accepted alternative designation of the proprietor; any distinctive identification of the proprietor may be used if it has been approved and recorded by the Administrator before the design marked with such identification is made public.

After registration the registration number may be used instead of the elements specified in (2) and (3) hereof.

(b) The notice shall be so located and applied as to give reasonable notice of design protection while the useful article embodying the design is passing through its normal channels of commerce. This requirement may be fulfilled, in the case of sheetlike or strip materials bearing repetitive or continuous designs, by application of the notice to each repetition, or to the margin, selvage, or reverse side of the material at reasonably frequent intervals, or to tags or labels affixed to the material at such intervals.

(c) When the proprietor of a design has complied with the provisions of this section, protection under this title shall not be affected by the removal, destruction, or obliteration by others of the design notice on an article.

EFFECT OF OMISSION OF NOTICE

SEC. 307. The omission of the notice prescribed in section 306 shall not cause loss of the protection or prevent recovery for infringement against any person who, after written notice of the design protection, begins an undertaking leading to infringement: *Provided,* That such omission shall prevent any recovery under section 322 against a person who began an undertaking leading to infringement before receiving written notice of the design protection, and no injunction shall be had unless the proprietor of the design shall reimburse said person for any reasonable expenditure or contractual obligation in connection with such undertaking incurred before written notice of design protection, as the court in its discretion shall direct. The burden of proving written notice shall be on the proprietor.

INFRINGEMENT

SEC. 308. (a) It shall be infringement of a design protected under this title for any person, without the consent of the proprietor of the design, within the United States or its territories or possessions and during the term of such protection, to—

(1) make, have made, or import, for sale or for use in trade, any infringing article as defined in subsection (d) hereof; or

(2) sell or distribute for sale or for use in trade any such infringing article: *Provided, however,* That a seller or distributor of any such article who did not make or import the same shall be deemed to be an infringer only if—

(i) he induced or acted in collusion with a manufacturer to make, or an importer to import such article (merely purchasing or giving an order to purchase in the ordinary course of business shall not of itself constitute such inducement or collusion); or

(ii) he refuses or fails upon the request of the proprietor of the design to make a prompt and full disclosure of his source of such article, and he orders or reorders such article after having received notice by registered or certified mail of the protection subsisting in the design.

(b) It shall be not infringement to make, have made, import, sell, or distribute, any article embodying a design created without knowledge of, and copying from, a protected design.

(c) A person who incorporates into his own product of manufacture an infringing article acquired from others in the ordinary course of business, or who, without knowledge of the protected design, makes or processes an infringing article for the account of another person in the ordinary course of business, shall not be deemed an infringer except under the conditions of clauses (i) and (ii) of paragraph (a)(2) of this section. Accepting an order or reorder from the source of the infringing article shall be deemed ordering or reordering within the meaning of clause (ii) of paragraph (a)(2) of this section.

(d) An "infringing article" as used herein is any article, the design of which has been copied from the protected design, without the consent of the proprietor: *Provided, however,* That an illustration or picture of a protected design in an advertisement, book, periodical, newspaper, photograph, broadcast, motion picture, or similar medium shall not be deemed to be an infringing article. An article is not an infringing article if it embodies, in common with the protected design, only elements described in subsections (a) through (d) of section 302.

(e) The party alleging rights in a design in any action or proceeding shall have the burden of affirmatively establishing its originality whenever the opposing party introduces an earlier work which is identical to such design, or so similar as to make a prima facie showing that such design was copied from such work.

APPLICATION FOR REGISTRATION

SEC. 309. (a) Protection under this title shall be lost if application for registration of the design is not made within six months after the date on which the design was first made public as provided in section 304(b).

(b) Application for registration or renewal may be made by the proprietor of the design.

(c) The application for registration shall be made to the Administrator and shall state (1) the name and address of the author or authors of the design; (2) the name and address of the proprietor if different from the author; (3) the specific name of the article, indicating its utility; (4) the date when the design was first made public as provided in section 304(b); and (5) such other information as may be required by the Administrator. The application for registration may include a description setting forth the salient features of the design, but the absence of such a description shall not prevent registration under this title.

(d) The application for registration shall be accompanied by a statement under oath by the applicant or his duly authorized agent or representative, setting forth that, to the best of his knowledge and belief (1) the design is original and was created by the author or authors named in the application; (2) the design has not previously been registered on behalf of the applicant or his predecessor in title; (3) the design has been made public as provided in section 304(b); and (4) the applicant is the person entitled to protection and to registration under this title. If the design has been made public with the design notice prescribed in section 306, the statement shall also describe the exact form and position of the design notice.

(e) Error in any statement or assertion as to the utility of the article named in the application, the design of which is sought to be registered, shall not affect the protection secured under this title.

(f) Errors in omitting a joint author or in naming an alleged joint author shall not affect the validity of the registration, or the actual ownership or the protection of the design: *Provided,* That the name of one individual who was in fact an author is stated in the application. Where the design was made within the regular scope of the author's employment and individual authorship of the design is difficult or impossible to ascribe and the application so states, the name and address of the employer for whom the design was made may be stated instead of that of the individual author.

(g) The application for registration shall be accompanied by two copies of a drawing or other pictorial representation of the useful article having one or more views, adequate to show the design, in a form and style suitable for reproduction, which shall be deemed a part of the application.

(h) Related useful articles having common design features may be included in the same application under such conditions as may be prescribed by the Administrator.

BENEFIT OF EARLIER FILING DATE IN FOREIGN COUNTRY

Sec. 310. An application for registration of a design filed in this country by any person who has, or whose legal representative or predecessor or successor in title has previously regularly filed an application for registration of the same design in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States shall have the same effect as if filed in this country on the date on which the application was first filed in any such foreign country, if the application in this country is filed within six months from the earliest date on which any such foreign application was filed.

OATHS AND ACKNOWLEDGMENTS

Sec. 311. Oaths and acknowledgments by this title may be made before any person in the United States authorized by law to administer oaths, or, when made in a foreign country, before any diplomatic or consular officer of the United States authorized to administer oaths, or before any official authorized to administer oaths in the foreign country concerned, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States, and shall be valid if they comply with the laws of the state or country where made.

EXAMINATION OF APPLICATION AND ISSUE OR REFUSAL OF REGISTRATION

Sec. 312. (a) Upon the filing of an application for registration in proper form as provided in section 309, and upon payment of the fee provided in section 315, the Administrator shall determine whether or not the application relates to a design which on its face appears to be subject to protection under this title, and if so, he shall register the design. Registration under this subsection shall be announced by publication.

(b) If, in his judgment, the application for registration relates to a design which on its face is not subject to protection under this title, the Administrator shall send the applicant a notice of his refusal to register and the grounds therefor. Within three months from the date the notice of refusal is sent, the applicant may request, in writing, reconsideration of his application. After consideration of such a request, the Administrator shall either register the design or send the applicant a notice of his final refusal to register.

(c) Any person who believes he is or will be damaged by a registration under this title may, upon payment of the prescribed fee, apply to the Administrator at any time to cancel the registration on the ground that the design is not subject to protection under the provisions of this title, stating the reasons therefor. Upon receipt of an application for cancellation, the Administrator shall send the proprietor of the design, as shown in the records of the Office of the Administrator, a notice of said application, and the proprietor shall have a period of three months from the date such notice was mailed in which to present arguments in support of the validity of the registration. It shall also be within the authority of the Administrator to establish, by regulation, conditions under which the opposing parties may appear and be heard in support of their arguments. If, after the periods provided for the presentation of arguments have expired, the Administrator determines that the applicant for cancellation has established that the design is not subject to protection under the provisions of this title, he shall order the registration stricken from the record. Cancellation under this subsection shall be announced by publication, and notice of the Administrator's final determination with respect to any application for cancellation shall be sent to the applicant and to the proprietor of record.

(d) Remedy against a final adverse determination under subparagraphs (b) and (c) above may be had by means of a civil action against the Administrator pursuant to the provision of section 1361 of title 28, United States Code, if commenced within such time after such decision, not less than 60 days, as the Administrator appoints.

(e) When a design has been registered under this section, the lack of utility of any article in which it has been embodied shall be no defense to an infringement action under section 320, and no ground for cancellation under subsection (c) of this section or under section 323.

CERTIFICATION OF REGISTRATION

Sec. 313. Certificates of registration shall be issued in the name of the United States under the seal of the Office of the Administrator and shall be recorded in the official records of that Office. The certificate shall state the name of the useful article, the date of filing of the application, the date on which the design was first made public as provided in section 304(b) or any earlier date as set forth in section 305(b), and shall contain a reproduction of the drawing or other pictorial representation showing the design. Where a description of the salient features of the design appears in the application, this description shall also appear in the certificate. A renewal certificate shall contain the date of renewal registration in addition to the foregoing. A certificate of initial or renewal registration shall be admitted in any court as prima facie evidence of the facts stated therein.

PUBLICATION OF ANNOUNCEMENTS AND INDEXES

Sec. 314. (a) The Administrator shall publish lists and indexes of registered designs and cancellations thereof and may also publish the drawing or other pictorial representations of registered designs for sale or other distribution.

(b) The Administrator shall establish and maintain a file of the drawings or other pictorial representations of registered designs, which file shall be available for use by the public under such conditions as the Administrator may prescribe.

FEES

Sec. 315. (a) There shall be paid to the Administrator the following fees:

(1) On filing each application for registration or for renewal of registration of a design, $15.

(2) For each additional related article included in one application, $10.

(3) For recording assignment, $3 for the first six pages, and for each additional two pages or less, $1.

(4) For a certificate of correction of an error not the fault of the Office, $10.

(5) For certification of copies of records, $1.

(6) On filing each application for cancellation of a registration, $15.

(b) The Administrator may establish charges for materials or services furnished by the Office, not specified above, reasonably related to the cost thereof.

REGULATIONS

Sec. 316. The Administrator may establish regulations not inconsistent with law for the administration of this title.

COPIES OF RECORDS

Sec. 317. Upon payment of the prescribed fee, any person may obtain a certified copy of any official record of the Office of the Administrator, which copy shall be admissible in evidence with the same effect as the original.

CORRECTION OF ERRORS IN CERTIFICATES

Sec. 318. The Administrator may correct any error in a registration incurred through the fault of the Office, or, upon payment of the required fee, any error of a clerical or typographical nature not the fault of the Office occurring in good faith, by a certificate of correction under seal. Such registration, together with the certificate, shall thereafter have the same effect as if the same had been originally issued in such corrected form.

OWNERSHIP AND TRANSFER

Sec. 319. (a) The property right in a design subject to protection under this title shall vest in the author, the legal representatives of a deceased author or of one under legal incapacity, the employer for whom the author created the design in the case of a design made within the regular scope of the author's employment, or a person to whom the rights of the author or of such employer have been transferred. The person or persons in whom the property right is vested shall be considered the proprietor of the design.

(b) The property right in a registered design, or a design for which an application for registration has been or may be filed, may be assigned, granted, conveyed, or mortgaged by an instrument in writing, signed by the proprietor, or may be bequeathed by will.

(c) An acknowledgement as provided in section 311 shall be prima facie evidence of the execution of an assignment, grant, conveyance, or mortgage.

(d) An assignment, grant, conveyance, or mortgage shall be void as against any subsequent purchaser or mortgage for a valuable consideration, without notice, unless it is recorded in the Office of the Administrator within three months from its date of execution or prior to the date of such subsequent purchase or mortgage.

REMEDY FOR INFRINGEMENT

Sec. 320. (a) The proprietor of a design shall have remedy for infringement by civil action instituted after issuance of a certificate of registration of the design.

(b) The proprietor of a design may have judicial review of a final refusal of the Administrator to register the design, by a civil action brought as for infringement if commenced within the time specified in section 312(d), and shall have remedy for infringement by the same action if the court adjudges the design subject to protection under this title: *Provided,* That (1) he has previously duly filed and duly prosecuted to such final refusal an application in proper form for registration of the design, and (2) he causes a copy of the complaint in action to be delivered to the Administrator within ten days after the commencement of the action, and (3) the defendant has committed acts in respect to the design which would constitute infringement with respect to a design protected under this title.

INJUNCTION

SEC. 321. The several courts having jurisdiction of actions under this title may grant injunctions in accordance with the principles of equity to prevent infringement, including in their discretion, prompt relief by temporary restraining orders and preliminary injunctions.

RECOVERY FOR INFRINGEMENT, AND SO FORTH

SEC. 322. (a) Upon finding for the claimant the court shall award him damages adequate to compensate for the infringement, but in no event less than the reasonable value the court shall assess them. In either event the court may increase the damages to such amount, not exceeding $5,000 or $1 per copy, whichever is greater, as to the court shall appear to be just. The damages awarded in any of the above circumstances shall constitute compensation and not a penalty. The court may receive expert testimony as an aid to the determination of damages.

(b) No recovery under paragraph (a) shall be had for any infringement committed more than three years prior to the filing of the complaint.

(c) The court may award reasonable attorney's fees to the prevailing party. The court may also award other expenses of suit to a defendant prevailing in an action brought under section 320(b).

(d) The courts may order that all infringing articles, and any plates, molds, patterns, models, or other means specifically adapted for making the same be delivered up for destruction or other disposition as the court may direct.

POWER OF COURT OVER REGISTRATION

SEC. 323. In any action involving a design for which protection is sought under this title, the court when appropriate may order registration of a design or the cancellation of a registration. Any such order shall be certified by the court to the Administrator, who shall make appropriate entry upon the records of his Office.

LIABILITY FOR ACTION ON REGISTRATION FRAUDULENTLY OBTAINED

SEC. 324. Any person who shall bring an action for infringement knowing that registration of the design was obtained by a false or fraudulent representation materially affecting the rights under this title, shall be liable in the sum of $1,000, or such part thereof as the court may determine, as compensation to the defendant, to be charged against the plaintiff and paid to the defendant, in addition to such costs and attorney's fees of the defendant as may be assessed by the court.

PENALTY FOR FALSE MARKING

SEC. 325. (a) Whoever, for the purpose of deceiving the public, marks upon, or applies to, or uses in advertising in connection with any article made, used, distributed, or sold by him, the design of which is not protected under this title, a design notice as specified in section 306 or any other words or symbols importing that the design is protected under this title, knowing that the design is not so protected, shall be fined not more than $500 for every such offense.

(b) Any person may sue for the penalty, in which event, one-half shall go to the person suing and the other to the use of the United States.

PENALTY FOR FALSE REPRESENTATION

SEC. 326. Whoever knowingly makes a false representation materially affecting the rights obtainable under this title for the purpose of obtaining registration of a design under this title shall be fined not less than $500 and not more than $1,000, and any rights or privileges he may have in the design under this title shall be forfeited.

RELATION TO COPYRIGHT LAW

SEC. 327. (a) Nothing in this title shall affect any right or remedy now or hereafter held by any person under title I of this Act.

(b) When a pictorial, graphic, or sculptural work in which copyright subsists under title I of this Act is utilized in an original ornamental design of a useful article, by the copyright proprietor or under an express license from him, the design shall be eligible for protection under the provisions of this title.

RELATION TO PATENT LAW

SEC. 328. (a) Nothing in this title shall affect any right or remedy available to or held by any person under title 35 of the United States Code.

(b) The issuance of a design patent for an ornamental design for an article of manufacture under said title 35 shall terminate any protection of the design under this title.

COMMON LAW AND OTHER RIGHTS UNAFFECTED

SEC. 329. Nothing in this title shall annul or limit (1) common law or other rights or remedies, if any, available to or held by any person with respect to a design which has not been made public as provided in section 304(b), or (2) any trademark right or right to be protected against unfair competition.

ADMINISTRATOR

SEC. 330. The Administrator and Office of the Administrator referred to in this title shall be such officer and office as the President may designate.

SEVERABILITY CLAUSE

SEC. 331. If any provision of this title or the application of such provision to any person or circumstance is held invalid, the remainder of the title or the application to other persons or circumstances shall not be affected thereby.

AMENDMENT OF OTHER STATUTES

SEC. 332. (a) Subdivision a(2) of section 70 of the Bankruptcy Act of July 1, 1898, as amended (11 U.S.C. 110(a)), is amended by inserting "designs," after "patent rights," and "design registration," after "application for patent,".

(b) Title 28 of the United States Code is amended—

(1) by inserting "design," after "patents," in the first sentence of section 1338(a);

(2) by inserting ", design," after "patent" in the second sentence of section 1338(a);

(3) by inserting "design," after "copyright," in section 1338 (b);

(4) by inserting "and register designs" after "copyrights" in section 1440; and

(5) by revising section 1498(a) to read as follows:

"(a) Whenever a registered design or invention is used or manufactured by or for the United States without license of the owner thereof or lawful right to use or manufacture the same, the owner's remedy shall be by action against the United States in the Court of Claims for the recovery of his reasonable and entire compensation for such use and manufacture.

"For the purposes of this section, the use or manufacture of a registered design or an invention described in and covered by a patent of the United States by a contractor, a subcontractor, or any person, firm, or corporation for the Government and with the authorization or consent of the Government, shall be construed as use or manufacture for the United States.

"The court shall not award compensation under this section if the claim is based on the use or manufacture by or for the United States of any article owned, leased, used by, or in the possesion of the United States, prior to, in the case of an invention, July 1, 1918, and in the case of a registered design, July 1, 1976.

"A Government employee shall have the right to bring suit against the Government under this section except where he was in a position to order, influence, or induce use of the registered design or invention by the Government. This section shall not confer a right of action on any registrant or patentee or any assignee of such registrant or patentee with respect to any design created by or invention discovered or invented by a person while in the employment or service of the United States, where the design or invention was related to the official functions of the employee, in cases in which such functions included research and development, or in the making of which Government time, materials, or facilities were used."

TIME OF TAKING EFFECT

SEC. 333. This title shall take effect one year after enactment of this Act.

NO RETROACTIVE EFFECT

SEC. 334. Protection under this title shall not be available for any design that has been made public as provided in section 304(b) prior to the effective date of this title.

SHORT TITLE

SEC. 335. This title may be cited as "The Design Protection Act of 1973."

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized, in the engrossment of S. 1361, to make technical and clerical corrections.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, the measure upon which the Senate has just completed action was in large part handled expeditiously because of the joint cooperative efforts and expertise of the distinguished Senators from Arkansas (Mr. McCLELLAN) and Rhode Island (Mr. PASTORE). With their guidance and leadership and the combined efforts of the Commerce and Judiciary Committees many of the problems that might have been confronted on this bill were worked out thoroughly and thoughtfully, thus facilitating early disposition of a bill which will have great impact. We are indebted to Senators McCLELLAN and PASTORE for the way in which they aided the Senate leadership and the Senate as a whole in guiding a debate in which various strong and opposing views were expressed.

We are grateful as well to the Senator from North Carolina (Mr. ERVIN) for his eloquent presentation of his views regarding his amendment and the bill as a whole. As always, the Senate profits from having his sincerely held and succinctly stated notions regarding the protected legal rights of all our citizens on all issues.

Equally to be commended is the distinguished Senator from Tennessee (Mr. BAKER) for his efforts in solving problems which the copyright measure sought to deal with and the Senate is once again in his debt for his contribution.

Senators HART and HRUSKA also made

invaluable contributions regarding the copyright measure and as always their views were welcomed and appreciated. The same may be said for the splendid contributions of Senator INOUYE, Senator HOLLINGS, and of the able Republican leader, Senator HUGH SCOTT.

I wish to commend the entire Senate for a job well done.

REVISION OF THE COPYRIGHT LAW

Mr. McCLELLAN. Mr. President, on behalf of Senator HUGH SCOTT, Senator BAKER, and myself, I send to the desk a bill and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER (Mr. NUNN). The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3976) to amend title 17 of the United States Code to remove the expiration date for a limited copyright in sound recordings, to increase the criminal penalties for piracy and counterfeiting of sound recordings, to extend the duration of copyright protection in certain cases, to establish a National Commission on New Technological Uses of Copyright Works, and for other purposes, which was read the first time by title and the second time at length.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McCLELLAN. Mr. President, it is doubtful that the House of Representatives will have time in this Congress to complete action on the copyright revision bill which was just passed by the Senate. There are several provisions of the omnibus bill which require action before the adjournment of this Congress. I have cleared these provisions with the appropriate Senators on both sides of the aisle—and these provisions are contained in the bill I have just introduced.

The bill I have just introduced contains three principal provisions. The first would make permanent the grant of copyright protection of records and tapes. The existing statute authorizing such protection would expire on December 31, 1974. The bill includes the stronger criminal penalties for infringement of records which we have just approved in this bill. These provisions have nothing to do with the controversy over the performance royalty.

This bill also provides for a 2-year extension of all expiring copyrights in view of the provisions of the general bill which provides a longer term of protection for existing copyrights.

Finally, it is desirable to establish this year the national commission which is provided for in title 2 of S. 1361 to prepare for the resolution of the copyright issues which are arising from the rapid development of new technology.

Mr. President, all the provisions of this bill have been previously passed by the Senate on one or more occasions. I am not aware of any opposition in the Senate at this time to any of the provisions contained in this bill.

Unless there is some objection, Mr. President, I ask for third reading.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 3976) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Title I—Amend title 17 United States Code, and for other purposes.

SEC. 101. Section 3 of the Act of October 15, 1971 (85 Stat. 391), is amended by striking out "and before January 1, 1975".

SEC. 102. Section 104 of title 17, United State Code, is amended—

(1) by striking out "Any person" and inserting in lieu thereof "(a) Except as provided in subsection (b), any person"; and

(2) by adding at the end thereof the following new subsection:

"(b) Any person who willfully and for profit shall infringe any copyright provided by section 1(f) of this title, or who should knowingly and willfully aid or abet such infringement, shall be fined not more than $25,000 or imprisoned not more than three years, or both, for the first offense and shall be fined not more than $50,000 or imprisoned not more than seven years, or both, for any subsequent offense."

SEC. 103. Section 2318 of title 18, United States Code, is amended by striking out all after "fined" and inserting in lieu thereof "not more than $25,000 or imprisoned for not more than three years, or both, for the first offense and shall be fined not more than $50,000 or imprisoned not more than seven years, or both, for any subsequent offense.".

SEC. 104. In any case in which the renewal term of copyright subsisting in any work on the date of approval of this bill, or the term thereof as extended by Public Law 87-668, by Public Law 89-142, by Public Law 90-141, by Public Law 90-416, by Public Law 91-147, by Public Law 91-555, by Public Law 92-170, or by Public Law 92-566 (or by all or certain of said laws), would expire prior to December 31, 1976, such term is hereby continued until December 31, 1976.

TITLE II—NATIONAL COMMISSION ON NEW TECHNOLOGICAL USES OF COPYRIGHTED WORKS

ESTABLISHMENT AND PURPOSE OF COMMISSION

SEC. 201. (a) There is hereby created in the Library of Congress a National Commission on New Technological Uses of Copyrighted Works (hereafter called the Commission).

(b) The purpose of the Commission is to study and compile data on:

(1) the reproduction and use of copyrighted works of authorship—

(A) in conjunction with automatic systems capable of storing, processing, retrieving, and transferring information, and

(B) by various forms of machine reproduction, not including reproduction by or at the request of instructors for use in face-to-face teaching activities; and

(2) the creation of new works by the application or intervention of such automatic systems or machine reproduction.

(c) The Commission shall make recommendations as to such changes in copyright law or procedures that may be necessary to assure for such purposes access to copyrighted works, and to provide recognition of the rights of copyright owners.

MEMBERSHIP OF THE COMMISSION

SEC. 202. (a) The Commission shall be composed of thirteen voting members, appointed as follows:

(1) Four members, to be appointed by the President, selected from authors and other copyright owners;

(2) Four members, to be appointed by the President, selected from users of copyright works;

(3) Four nongovernmental members to be appointed by the President, selected from the public generally;

(4) The Librarian of Congress.

(b) The President shall appoint a Chairman, and a Vice Chairman who shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office, from among the four members selected from the public generally, as provided by clause (3) of subsection (a). The Register of Copyrights shall serve ex officio as a nonvoting member of the Commission.

(c) Seven voting members of the Commission shall constitute a quorum.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner as the original appointment was made.

COMPENSATION OF MEMBERS OF COMMISSIONS

SEC. 203. (a) Members of the Commission, other than officers or employees of the Federal Government, shall receive compensation at the rate of $100 per day while engaged in the actual performance of Commission duties, plus reimbursement for travel, subsistence, and other necessary expenses in connection with such duties.

(b) Any members of the Commission who are officers or employees of the Federal Government shall serve on the Commission without compensation, but such members shall be reimbursed for travel, subsistence, and other necessary expenses in connection with the performance of their duties.

STAFF

SEC. 204. (a) To assist in its studies, the Commission may appoint a staff which shall be an administrative part of the Library of Congress. The staff shall be headed by an Executive Director, who shall be responsible to the Commission for the administration of the duties entrusted to the staff.

(b) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 per day.

EXPENSES OF THE COMMISSION

SEC. 205. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

REPORTS

SEC. 206. (a) Within one year after the first meeting of the Commission it shall submit to the President and the Congress a preliminary report on its activities.

(b) Within three years after the enactment of this Act the Commission shall submit to the President and the Congress a final report on its study and investigation which shall include its recommendations and such proposals for legislation and administrative action as may be necessary to carry out its recommendations.

(c) In addition to the preliminary report and final report required by this section, the Commission may publish such interim reports as it may determine, including but not limited to consultants' reports, transcripts of testimony, seminar reports, and other Commission findings.

POWERS OF THE COMMISSION

SEC. 207. (a) The Commission or, with the authorization of the Commission, any three or more of its members, may, for the purpose of carrying out the provisions of this title, hold hearings, administer oaths, and require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of documentary material.

(b) With the consent of the Commission, any of its members may hold any meetings, seminars, or conferences considered appropriate to provide a forum for discussion of the problems with which it is dealing.

TERMINATION

SEC. 208. On the sixtieth day after the date of the submission of its final report, the Commission shall terminate and all offices and employment under it shall expire.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 o'clock noon tomorrow.

Mr. TOWER. Reserving the right to object, does the Senator mean instead of 11:30 a.m.?

Mr. ROBERT C. BYRD. Instead of 11:30 a.m.

ORDER FOR RECOGNITION OF SENATOR CHILES AND SENATOR ROBERT C. BYRD TOMORROW AND FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order, Mr. Chiles be recognized for not to exceed 15 minutes; after which the junior Senator from West Virginia be recognized for not to exceed 15 minutes; after which there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 3280 AND S. 3838 TOMORROW AND FOR UNFINISHED BUSINESS TO BE LAID ASIDE TEMPORARILY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the completion of routine morning business on tomorrow, the Senate proceed to the consideration of Calendar Order No. 1086, S. 3280, a bill to amend the Public Health Service Act to revise and extend programs of health delivery and health revenue sharing, and for other purposes; and that the unfinished business be temporarily laid aside and remain in a temporarily laid aside status until the close of business tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of S. 3280 tomorrow, the Senate proceed to the consideration of Calendar Order No. 1070, S. 3838, a bill to authorize the regulation of obligations issued by financial institution holding companies, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL 10 A.M. WEDNESDAY, SEPTEMBER 11, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in adjournment until the hour of 10 a.m. on Wednesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR MATHIAS AND SENATOR MANSFIELD ON WEDNESDAY, SEPTEMBER 11, 1974, AND FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on Wednesday, Senator Mathias be recognized for not to exceed 15 minutes, after which the distinguished majority leader have 15 minutes for whatever statement he wishes to make, at the conclusion of which there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF MILITARY CONSTRUCTION AUTHORIZATION BILL, H.R. 16136, ON WEDNESDAY, SEPTEMBER 11, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business on Wednesday, the Senate proceed to the consideration of H.R. 16136, the military construction authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 12 o'clock noon tomorrow. After the two leaders or their designees have been recognized under the standing order, Mr. Chiles will be recognized for not to exceed 15 minutes; after which there is not to exceed 15 minutes allotted to the junior Senator from West Virginia; after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes, each; after which the Senate will proceed to the consideration of S. 3280, a bill to amend the Public Health Service Act. There may be rollcall votes.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 o'clock noon tomorrow.

The motion was agreed to; and at 5:14 p.m., the Senate adjourned until tomorrow, Tuesday, September 10, 1974, at 12 noon.

EXTENSIONS OF REMARKS

EDITH MAXWELL: OUTSTANDING CITIZEN

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 22, 1974

Mr. CHARLES H. WILSON of California. Mr. Speaker, it is fitting that tribute be paid to Mrs. Edith Maxwell, of Paramount, Calif., on the celebration of her 80th birthday on September 11, 1974.

Mrs. Maxwell's credo in life is to "remember the happy things," and it is believed that the occasion of the celebration of her birthday will be thus remembered.

Many other events and civic efforts in which she gave of her tireless spirit and unflagging energies will long be remembered as well.

It was Mrs. Maxwell and her beloved husband, Burnett Kee Maxwell, Sr., who were active, public-spirited citizens in the city of Bloomington, Ill. They were coowners and publishers of the Bloomington Bulletin for 2 years.

In 1929 their move to California found them settling in the city of Fullerton, where they published the Fullerton News Tribune from 1929 to 1939.

A subsequent move to the city of Paramount in California led the way for their active interest in the city which was duly recorded in their newspaper, the Paramount Journal, from 1940 to 1968.

In addition to Mrs. Maxwell's vibrant participation in such activities as golfing for which she won numerous trophies, her avid pursuit of bridge playing, and her intense interest in the welfare of the feline population of the country—which in 1973 won her the recognition of the Humane Award from the National Cat Protection Society at their national conference, her dedication to civic affairs has been legion.

Edith Maxwell was an active servant on the City of Paramount Planning Commission and on the Board of Directors of the Paramount Chamber of Commerce.

Honors and recognition have been well deserved and bestowed upon her. In February 1957, the city of Paramount honored her with a tribute for her personal efforts which led to incorporation of the city. In October 1962, the Chamber of Commerce of Paramount presented an award for her outstanding community service. In 1964 she was voted Woman of the Year by the Paramount Chamber of Commerce. And an award for outstanding service to the Paramount Planning Commission was presented for her service during 1965 and 1966. In 1968 County Supervisor Burton Chace presented a lengthy citation for her outstanding achievements and accomplishments.

Edith Maxwell has had a full, warm, and dedicated life. She has been blessed with two sons, Burnett Kee Maxwell, Jr., and James G. "Petey" Maxwell; two grandsons, William Kee Maxwell and James Robert Maxwell; and one great grandson, Benjamin Kee Maxwell. She is known and loved for her vivacious attitude toward life, her active participation, and her genuine humane interest in animals. Her longevity has not slowed her vital interests as she plays bridge for relaxation every week and produces copy for the Paramount Journal each week with her "Bridge News" column and the column, "Time Flies" which traces a 45-year history of events in and around the city of Paramount.

The positive attitude and actions of this fine lady will always be remembered by her contemporaries as one of the happier things. It is hoped this sincere tribute to an outstanding citizen, a woman beloved by her family and those whose lives she has touched will always be counted as one of her own very happy things.

GAO REPORTS, AUGUST 1974

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Monday, September 9, 1974

Mr. METCALF. Mr. President, I have received a copy of the August 1974 edition of the monthly list of GAO Reports. Besides a listing of the studies made by the General Accounting Office, the list also includes reports made to individual Members of Congress. I ask unanimous consent that the complete listing be printed in the Extensions of Remarks.

There being no objection, the listing was ordered to be printed in the RECORD, as follows:

[From the Monthly List of GAO Reports, Vol. 8, No. 7, August 1974]

COMPTROLLER GENERAL OF THE UNITED STATES

EDUCATION AND MANPOWER

Award of a Contract and a Grant to the Federation of Experienced Americans, Inc., and Related Financial and Program Activities. (Department of Labor, Office of Economic Opportunity. May 13, released July 23 by the Chairman, Senate Special Committee on Aging, and Chairman, Subcommittee on Aging, Senate Committee on Labor and Public Welfare, P-74-MWD-158)

FEA administered a program for Labor amounting to $1,540,000 and another under an OEO grant amounting to $339,839. Grant and contract awards were processed outside normal procedures. Officials of Labor and OEO said both had substantial White House backing.

Appropriate controls had not been established to encourage compliance with requirements, to insure that contract and grant funds were used only for authorized purposes, or to check the accuracy or reliability of accounting records.

Inquiry into Charges of Mismanagement in Delaware's Vocational Rehabilitation, Employment, and Social Services Program. (Department of Health, Education, and Welfare. April 19, released July 18 by Senator William V. Roth, Jr. P-74-MWD-143.)

No evidence was found to generally substantiate specific charges of mismanagement.

During the program expansion, however, some administrative and financial controls were inadequate or were not adhered to.

Coordination between Federal and State officials and among State officials generally was lacking. HEW could not provide adequate technical assistance to the State because of confusion over interpretation of social service regulations which were being revised.

GENERAL GOVERNMENT

Federal Retirement Systems: Key Issues, Financial Data, Benefit Provisions. (July 30. P-74-FPCD-93.)

There is no overall Federal retirement policy to provide objectives and principles to guide the development and improvement of the Government's 10 retirement systems, covering some 5.9 million civilian and military personnel.

No uniform practices exist on financing Federal retirement systems. Some are financed on a contributory basis, some provide for fully funding benefits as they accrue, some provide for partial funding, some are unfunded.

GAO suggests that the appropriate Committees of the Congress hold hearings to consider in depth the issues raised in this report.

The principal purpose should be to develop legislation that would establish:

An overall Federal policy to guide development and improvement of Government retirement systems.

A centralized mechanism for monitoring development, interrelationship, and cost of Federal retirement systems, and to improve financial data reporting.

Improvements Needed in Examining and Selecting Applicants for Federal Employment. (Civil Service Commission. July 22. P-74-FPCD-57.)

The reliability of CSC's unassembled examinations needs improvement so that applicants' scores can be determined more consistently.

At GAO's request, CSC rerated several hundred applications selected at random from CSC files. Rerated scores varied an average of about 3.5 to 5.5 points from original scores.

CSC procedures should provide—

Applicants with a reasonable opportunity to be considered for employment,

Agency managements with greater opportunities to identify and select well-qualified applicants, and

Safeguards to insure compliance with merit principles.

Each agency should be permitted to choose the selection procedures best suited to its particular needs—as in TVA and AEC.

Implementation and Impact of Reductions in Civilian Employment, Fiscal Year 1972. (July 2. P-74-FPCD-46.)

On August 15, 1971, the President directed Federal agencies to reduce civilian employment by 5 percent to check the rise in the cost of Government. GAO sought to evaluate the impact of the reductions on activities of DOD, HUD, DOT, and GSA and found:

Actions to reduce employment to meet personnel ceiling tended to be disruptive to management;

Reductions in ceilings were imposed without corresponding reductions in workload.

Agencies substituted overtime labor, military personnel, or contracting for personal services.

Backlogs increased;

Work was deferred or not done; and

Services were reduced or terminated.

Arbitrary personnel ceilings hurriedly set by agency officials are not the most effective way to reduce civilian employment, GAO concluded.

When OMB has determined the size of the reductions in agencies, it should permit them to carry these out through attrition and selective eliminations rather than by trying to reach a specified level on a particular day.

More Specific Criteria Needed to Improve Real Property Surveys. (General Services Administration. (To the Administrator of General Services.) July 10. P-74-LCD-308.)

GAO found that criteria for identifying unneeded real property were not specific enough to support land-use evaluations. In addition, more specific guidelines were needed to determine when rights provided through restrictive covenants would be adequate to control land use.

Recommendations by GAO said GSA should establish more specific measures for using land effectively and economically and for determining when restrictive covenants would be adequate to control land use.

Joint Financial Management Improvement Program 1973 Annual Report. (July 16. P-74-JFMIP-11.)

This report on JFMIP activities for 1973 states that significant progress has been made in improving financial management in the Federal Government since initiation of the Joint Program. Agencies having responsibilities in this area include Treasury, OMB, GAO, and CSC.

The past year has been one of transition and revitalization for JFMIP. Two recent developments enabled it to increase its effectiveness. Several months ago GSA joined the other four agencies as a sponsor of JFMIP. In addition, it has established a new position of executive director for developing and directing financial management improvement programs and projects.

Audit of Financial Statements of St. Lawrence Seaway Development Corporation, Calendar Year 1973. (Department of Transportation. July 9, P-74-FOD-19.)

The financial statements of the Seaway present fairly its financial position at December 31, 1973, and the results of its operations and the source and application of its funds for the year then ended.

For 1973 the Seaway reported a net gain of $2.6 million with seaway toll revenues at $7.5 million in 1973. Cargo tonnage rose 7.3 percent over 1972.

During 1973 the Seaway redeemed $2.5 million in revenue bonds held by the U.S. Treasury. Through December 31, 1973, it redeemed $12.7 million in outstanding revenue bonds, reducing its bonded indebtedness to $12.1 million.

Executive Branch Action on Recommendations of the Commission on Government Procurement: Progress, Status, Responsiveness. ((To the Chairman, House Committee on Government Operations) July 31, P-75-PSAD-6.)

As of July 1, the executive branch had established positions on 40 of the 149 Commission recommendations; was considering proposed positions on 83; and was awaiting task group proposals on 26. Of the 40 positions established, the executive branch adopted 32 without change, modified 5, and rejected 3.

GAO evaluated final or near-final actions by the executive branch on 79 of the Commission recommendations. It found them partially responsive or nonresponsive to 32 recommendations because of insufficient rationale for modification, unsupported implementation claims; and inadequate implementation plans.

The report contains recommendations to OMB for implementation by the new Office of Federal Procurement Policy that

Sufficient staff support be provided to handle the implementation "bulge."

Relative priorities and completion dates be established for implementing actions.

The effectiveness of proposed implementing actions be evaluated.

The Congress has initiated legislation on 33 Commission recommendations. Legislation to create an Office of Federal Procurement Policy is nearing enactment. Much remains to be done on other legislation. GAO observed that a coordinated legislative approach in the House, like that established in the Senate, will help to expedite congressional action on needed Government-wide legislation.

HEALTH

Home Health Care Benefits under Medicare and Medicaid. (Department of Health, Education, and Welfare. July 9. P–74–MWD–179.)

From a peak of $115 million in FY 1970, Medicare benefits for home health dropped to $75 million by 1973. This report attributes the drop to a number of reasons, one being the administration of the program by HEW's Social Security Administration and its fiscal intermediaries.

SSA has issued a number of directives intended to clarify what can be reimbursed as "skilled nursing care."

Despite SSA's efforts, home health agencies continued to disagree with intermediaries; and claims for care which home health agencies considered skilled were denied as non-skilled.

Medicaid's home health program has the potential to serve as an alternative to hospital or nursing home care. However, this potential has been limited because some States have adopted Medicare eligibility criteria for skilled nursing care which are more restrictive than intended by Medicaid.

Salmonella In Raw Meat and Poultry: An Assessment of the Problem. (Food and Drug Administration, Department of Health, Education, and Welfare; Animal and Plant Health Inspection Service, Department of Agriculture. July 22. P–74–MWD–149.)

An estimated 2 million cases of salmonella, resulting from a bacteria often causing poisoning in raw meat and poultry products, occur annually. Costs in medical payments and lost working days total at least $300 million. Although the two agencies concerned (see above) view consumer education as an essential safeguard, their programs to inform the public about salmonellosis need to be improved.

GAO contracted with the Gallup Organization to determine what the nation's 73 million women know about salmonella. Results:

74 percent, or 54 million women, did not know salmonella is a bacteria which may cause food poisoning,

66 percent, or 48 million women, did not know how to minimize the spread of salmonella within the home, and

39 percent, or 28 million, were certain raw meat and poultry on the market were inspected by Federal or State inspectors for salmonella, when, in fact, they are not.

INCOME SECURITY

Administration and Effectiveness of Family Food Programs on Selected Indian Reservations in New Mexico and South Dakota. (Food and Nutrition Service, Department of Agriculture, May 30, released July 5, by the Chairman, Senate Select Committee on Nutrition and Human Needs. P–74–RED–237.)

Administration of the food stamp program by the States in the counties GAO visited generally was satisfactory, although some improvements were needed to increase South Dakota's efforts to make stamps available for purchase more frequently and at more locations.

GAO found no evidence that tribal government administration of the food stamp program, not now authorized by the enabling legislation, would be any more efficient or effective than State agency administration.

INTERNATIONAL AFFAIRS AND FINANCE

Excess Defense Articles Provision in Proposed Foreign Assistance Legislation. (Department of Defense. July 15, released July 18 by Senator James B. Pearson. P–74–ID–65.)

Legislation proposed is designed to replace section 8 of the Foreign Military Sales Act Amendments of 1971 (22 U.S.C. 2321b) with an essentially unrestricted provision. Amendments to this law in December 1973, although providing for nominal congressional oversight, have already removed most restrictions.

Senate bill 3394 repeals section 8 in its entirety—making congressional oversight more difficult—and further liberalizes the use of excess defense articles in the military assistance program. The proposed provision, in combination with the present law, is retrogressive in terms of resolving the issues identified in a previous GAO report of March 21, 1973.

Numerous Improvements Still Needed in Managing U.S. Participation in International Organizations. (Department of State and other agencies. July 18. P–74–ID–52.)

This review examines the extent to which recommendations in earlier GAO reports have been put into practice and again assesses how U.S. funds turned over to international organizations are managed.

The U.S. loses control over such funds and the State Department has not been able to assure the Congress that U.S. contributions were used efficiently or effectively.

Principal GAO recommendations centered on

Developing policy objectives and priorities to guide U.S. officials dealing with the organizations,

Acquiring and effectively using information from the organizations,

Arranging for adequate independent evaluations, and

Having the organizations employ more U.S. nationals.

NATIONAL DEFENSE

Military Retention Incentives: Effectiveness and Administration. (Department of Defense, July 5. P–74–FPCD–67.)

Among factors influencing reenlistment decisions, GAO found:

Variable reenlistment bonuses influenced reenlistment of only 8 percent of those having critical-skills who were eligible.

The bonus was the prime reason for reenlistment for only 13 percent of those with critical-skills who were interviewed. Job satisfaction, job security, and educational opportunities, ranked higher.

Factors most influencing first-term critical-skill personnel not to reenlist were (1) family separations, (2) lack of personal freedom, (3) poor supervision and leadership, (4) work details, and (5) living conditions.

Legislation to eliminate regular reenlistment bonuses and variable reenlistment bonuses and to combine their most effective features in a new selective reenlistment bonus was approved May 10, 1974. If this new bonus proves effective, DOD will phase out shortage specialty proficiency pay.

Opportunities to Reduce Costs and Improve Effectiveness of Payroll System Operations. (Defense Supply Agency, Depart- of Defense. (To the Secretary of Defense.) July 9. P–74–FPCD–30.)

This defense agency developed a standardized automated system for payroll operations at 19 computers processing activities to begin operations by June 30, 1975.

GAO found that processing the automated programs at a central point rather than at several computer sites would be more efficient for use of personnel and equipment

Centralization of payroll computer processing at a single site appears feasible and could result in net annual savings of nearly $1 million, as compared to costs of processing at 19 sites.

Navy's Actions to Acquire a Dependents School Building in Athens, Greece. (Department of Defense. July 3, released July 11 by the Chairman, General Subcommittee on Labor, House Committee on Education and Labor. P–47–LCD–327.)

After the Navy decided to lease a building for a school, it requested the U.S. Dependents of the negotiations before leasing the hotel; no records were available showing how the Navy determined the reasonableness of the lease terms; and no hotel appraisal was made to assist in setting the rental rate, as regulations required.

The Navy leased the hotel for $120,000 a year for 5 years. Navy officials considered the annual rate higher than desired and the lease period longer than desired.

The Navy should have better documented its actions in searching for and acquiring the hotel. Preparing adequate documentation is necessary for proper internal review and final assurance that sound procurement practices were adhered to and the Government obtained fair value.

Need to Consolidate Responsibility for Automatic Digital Network (AUTODIN) Terminals. (Department of Defense. July 17, P–74–LCD–112.)

DOD spends about $190 million annually on its AUTODIN records communications network, which serves about 1,500 subscribers, worldwide, including about 300 in the intelligence community.

No single organization in DOD has responsibility and authority for total planning and operation of the AUTODIN system. As a result, communications capabilities exceed requirements (existing or planned) in many areas.

With an effective consolidation program, DOD could save $2.6 million annually in communications center operating costs, including a net reduction of 232 jobs.

An Analysis of Air Force Rates of Aircraft Not Operationally Ready Due to Supply. (March 29, released July 23 by the Chairman, House Appropriations Committee. P–74–LCD–421.)

Lack of funds was not the primary cause of aircraft "not operationally ready due to supply," GAO found. This usually was caused by unexpected parts failures, late repair of parts, and modification or updating of parts.

GAO noted that aircraft not operationally ready due to maintenance represented a much larger percentage of total aircraft availability than aircraft affected by the parts supply factor.

Since supply, maintenance, and operational readiness make up the total available hours for aircraft, there may be greater opportunities for increasing aircraft optional readiness by reducing maintenance rather than parts supply time. The Air Force disagreed but said not trade-off studies had been made concerning these factors.

NATURAL RESOURCES AND ENVIRONMENT

Modernization of 1872 Mining Law Needed to Encourage Domestic Mineral Production, Protect the Environment, and Improve Public Land Management. (Department of the Interior, Department of Agriculture, July 25. P–74–RED–246.)

Contrary to its intended purpose the 1872 law is not effectively encouraging development of minerals on Federal land and has adversely affected management and use of land.

GAO's visit to a randomly selected sample of 240 mining claims and 93 mineral patents in 10 counties in Arizona, California, Colorado, and Wyoming produced evidence supporting the need for modernizing the mining law. GAO estimates no minerals had ever been extracted on 197,000 of the estimated 200,000 claims in the 10 counties during the 25-year period.

Administration of mineral development on Federal land needs improvement which could best be made by adopting mineral leasing legislation. GAO favors the leasing system to serve public needs and national interests. A major segment of the mineral industry—including the coal, oil, and gas producers—operates under a leasing system.

Information on Certain Oil and Gas Industry Oversight Responsibilities. (Department of the Interior, June 17, released July 23 by Representative John E. Moss. P-74-RED-247.)

This report provides data relating to the Interior Departments oversight responsibilities of oil and gas industries.

The data involves the—

Source of Geological Survey statistics on U.S. oil and gas reserves,

Exchange of Outer Continental Shelf (offshore) data between Survey and the Bureau of Land Management.

Justification for not releasing offshore geologic and seismic data to the public.

Basis for Survey testimony before the House Committee on Interior and Insular Affairs during December 1973, regarding capped wells on Federal lands, and

Prior employment by the oil industry of certain Department officials.

LETTER REPORTS

To Representative H. R. Gross, on the effect of absenteeism by Federal employees during the year-end holiday period on Government operations. July 1, released July 19. P-74-FPCD-86.

To the Vice-Chairman, Joint Economic Committee, on the use of military aides by the President and Vice President. June 6, released July 28. P-74-FPCD-89.

To the Chairman, Subcommittee on Defense, House Committee on Appropriations, on the Army's practice of excluding amounts for minor construction and alteration and other engineering support funds requested for maintenance and repair of real property in FY 1975, and excluding these amounts from the statutory floor for real property maintenance, June 18, released June 24. P-74-LCD-343.

To the Chairman, Subcommittee on Legal and Monetary Affairs, House Committee on Government Operations, on the effectiveness or the Cost of Living Council's actions to assure that cost increases for petroleum products were in accordance with petroleum pricing regulations. June 24, released July 1. P-74-OESP-4-14.

To Representative Les Aspin, concerning loan by the Overseas Private Investment Corporation used to finance Habitation LeClerc, a luxury resort in Haiti. April 17, released July 10. P-74-ID-40.

To the Chairman, Joint Economic Committee, evaluating comments by Computer Lessors Association, Inc. about Government computer acquisition practices. B-115369 of September 1, 1972, released July 10, 1974.

To the Chairman, Subcommitee on Manpower and Civil Service, House Committee on Post Office and Civil Service, on Air Force actions to solicit competition for operation and maintenance contract at Arnold Engineering Developument Center. B-174798 of October 27, 1972, released July 22, 1974.

To the Chairman, Subcommittee on Manpower and Civil Service, House Committee on Post Office and Civil Service, reporting the Navy's intent to terminate actions to change from in-house to contractor operation of some activities at Pacific Missile Range, Point Mugu, California. B-168700 of January 2[illegible] released July 22.

To Representative Ralph H. Metcalfe, on whether policies and practices of HEW's National Health Service Corps comply with congressional intent of the Emergency Health Personnel Act of 1970. B-164031(2) of November 17, 1972, released July 30, 1974.

To Representative Barry Goldwater, Jr., concerning HEW's authority to award contracts in support of health maintenance organizations. B-164031(4) of August 30, 1972, released July 30, 1974.

To the Secretary of Defense, pointing out major problems in the Army's Selected Item Management System (SIMS). July 3. P-74-LCD-432.

To the Postmaster General, pointing out opportunities to improve the routing of vehicles under star route contracts to reduce contract costs and use of fuel. July 3. P-74-GGD-105.

To the Secretary of Transportation, on the Coast Guard's procurement of a radio communications system for controlling vessel traffic in Puget Sound. July 10. P-74-RED-218.

To the Secretary of Defense, on Department of Defense programs for safekeeping savings bonds for discharged servicemen. July 11. P-74-FGMSD-32.

To the Director, Office of Management and Budget; and Chairman, Civil Service Commission, pointing out a need to strengthen the process of translating private enterprise salary into comparability adjustment for Federal salaries. July 12. P-74-FPCD-77.

To the Secretary of Defense, on possible savings if military hospitals use pajamas and robes made of ARAMID, an aromatic polyamide fabric, instead of cotton polyester sleepwear. July 12. P-74-MWD-178.

To the Secretary of Defense, on GAO's observations on the Army's rifle development programs. July 16. P-75-PSAD-1.

To the Chairman, Atomic Energy Commission, on activities of the AEC and other Federal agencies to meet manpower needs of the nuclear power industry. July 22. P-74-RED-257.

To the Administrator, General Services Administration, on increased transportation costs due to shipments between GSA regions made because regions were out of stock or because customer agencies ordered from the wrong region. July 23. P-74-LCD-222.

To the Chairman, Civil Service Commission, on protection of information in Federal personnel files. July 24. P-74-FPCD-97.

To the Secretary of Defense, pointing out problems in "code 5" shipments of household goods by the International Through Government Bill of Lading forwarders. July 29. P-75-TCD-7.

OFFICE OF FEDERAL ELECTIONS REPORTS

The first national survey and analysis of election boards having jurisdiction over Federal elections, showing how they are organized and how they function, is available to the public.

The survey was conducted by questionnaire to 6,223 elections boards by GAO's Clearinghouse on Election Administration, a unit in the Office of Federal Elections.

The report is in two parts, both of which are available through the Government Printing Office:

Survey of Election Boards Final Report. No. 721-032. $3.00.

Survey of Election Boards Data Base. No. 721-031. $4.00

Comptroller General Staats referred the following Office of Federal Elections reports of apparent violations of the Federal Election Campaign Act of 1971 to the Attorney General:

July 5—apparent disclosure, recordkeeping and reporting violations by the Americans for Agnew Committee, Los Angeles, California.

July 24—ten apparent violations of Federal law by the Kentucky State Democratic Central Executive Committee.

OFE also published a list of political committees whose audits disclosed no violations of Federal laws warranting referral to the Attorney General.

Copies of Office of Federal Elections reports are available free of charge from the U.S. General Accounting Office, Room 3850, 441 G Street, NW, Washington, D.C. 20548. Phone (202) 386-6411.

GAO'S ROLE IN 1974 BID PROTESTS

Any firm in the United States dissatisfied with treatment of its bid or proposal on a U.S. Government contract may protest the circumstances to GAO, which then will make an independent determination of the facts. In fiscal year 1974, GAO closed 1,059 such protests.

GAO rendered 578 formal decisions on these protests, sustaining the protester in 44 cases—usually leading to some change in the award made or proposed by the Government agency concerned.

In other words, 44 companies—nearly one each week—were correct in their reasons for protesting the award of the contract to another party and were able to compete again for the contract. GAO's box score for its services:

Protests handled, fiscal year 1974

Total closed	1,059
Decisions rendered	578
Denied	534
Sustained	44
Advertised	353
Negotiated	225
Withdrawn by protester before decision	320
Miscellaneous	161
Received and decided before award	153
Received before, decided after award	87
Received after award	338
Corrective action recommended	58
Reconsiderations	45
Cancellation/termination recommended	12

HOW TO OBTAIN GAO AUDIT REPORTS

Copies of these reports are available from the U.S. General Accounting Office, Room 4522, 441 G Street, NW., Washington, D.C. 20548. Phone (202) 386-6594.

Copies are provided without charge to Members of Congress, congressional committee staff members, Government officials, members of the press, college libraries, faculty members, and students. The price to the general public is $1.00 a copy, except as noted. There is no charge for copies of letter reports.

Those entitled to reports without charge should address mail requests to: U.S. General Accounting Office, Distribution Section, Room 4522, 441 G Street, NW, Washington, D.C. 20548.

Those required to pay for reports should send requests accompanied by check or money order payable to the General Accounting Office to: U.S. General Accounting Office, P.O. Box 1020, Washington, D.C. 20013.

When ordering a GAO report, please use the publication number indicated in bold face type after the title of each report.

Copies of Office of Federal Elections reports are available free of charge from the U.S. General Accounting Office, Room 3850, 441 G Street, NW, Washington, D.C. 20548. Phone (202) 386-6411.

VALIANT CHEROKEE INDIANS HONORED; GREAT SMOKY MOUNTAIN PEAKS NAMED FOR GEN. STAND WATIE AND ADM. JOSEPH J. CLARK

HON. JESSE A. HELMS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Monday, September 9, 1974

Mr. HELMS. Mr. President, I am pleased to report that two peaks of the Great Smoky Mountains will soon bear the names of valiant Cherokee Indians, with distinguished military records. Under the auspices of the North Carolina Historical Association, a dedication ceremony will be held on October 5, 1974, at Cherokee, N.C., to honor Gen. Stand Watie, 1806–71, and Adm. Joseph J. "Jocko" Clark, 1893–1971. This is a truly fitting tribute to these great Cherokee leaders who reached the pinnacles of gallantry through their skills and bravery.

Gen. Stand Watie is remembered for his unexcelled courage and mastery of the battlefield in the War Between the States. Raised and educated in north Georgia, he took up the life of a planter in Oklahoma. Stand Watie sought at first to remain neutral, but was drawn into the conflict as a result of his loyalty to the South and the Treaty of Alliance between the Cherokees and the Confederate States.

Early in 1861, Stand Watie raised a company of home guards in the Indian Territory. This unit was soon expanded to a regiment, which came to be known as the Cherokee Mounted Rifles. Gen. Stand Watie led his army of Cherokees in many engagements during the war. In the Battle of Wilson's Creek, he achieved his greatest victory; and in the Battle of Pea Ridge, where the Southern forces were defeated, he displayed exemplary valor and military genius. Not until June of 1865 did this bold and resourceful Cherokee Indian give up the fight. He was the last Confederate general to surrender his sword to the Federal Army.

Like Gen. Stand Watie, from whom he is said to have descended, Adm. Jocko Clark was intensely proud of his Cherokee heritage. He enjoys the distinction of being the highest ranking officer of American Indian lineage in U.S. military history. For his aggressiveness against the enemy in World War II, he earned the title, "The Patton of the Pacific."

Admiral Clark spent his youth in Oklahoma, although most of his ancestors were pioneer residents of North Carolina. In 1913, he became the first appointee with Indian blood ever to be enrolled at the Naval Academy in Annapolis. Immediately upon graduation, he was thrust into World War I and assigned to the *North Carolina* an armored cruiser escorting troop convoys across the Atlantic. After the war, he became a naval aviator and a recognized expert in carrier warfare.

At the outbreak of the Second World War, Jocko Clark was executive officer aboard the carrier *Yorktown*, and participated in the first Navy task force raid on the Marcus and Gilbert Islands on January 31, 1942. Later that year, he commanded the U.S.S. *Suwanee* through the invasion of North Africa. Then in 1943, he was given command of the new carrier, *Yorktown*, which he led into battle in the invasions of numerous Pacific islands. By 1944, he had risen to the rank of rear admiral and commander of carriers operating with the First and Second Carrier Task Groups of the Pacific Fleet. Admiral Clark led attacks on Iwo Jima and in the naval battle of the Philippines; his carrier fleet also played a prominent role in the capture of Okinawa. In recognition of his courage and achievements during the war, Jocko Clark was awarded the Silver Star for conspicuous gallantry, the Legion of Merit with Combat "V" and the Navy Cross. Twice he received the Navy Distinguished Service Medal.

From 1945 until his retirement in 1954, Admiral Clark assumed an increasingly important role in directing naval air operations. During the Korean war, he was promoted to vice admiral and given command of the 7th Fleet. From his flagship, the U.S.S. *Missouri*, he directed the pinpoint bombing of Communist supply depots, and his "Cherokee Strikes" were instrumental in destroying the enemy's capacity to wage war against American forces.

But Jocko Clark's service to his country did not end with his retirement. He devoted much of his time to patriotic causes, often as a spokesman for conservative realism in American diplomacy and military policy. Jocko Clark harbored no illusions about the aims of Communist dictators and the followers of Marxism-Leninism. He had no confidence in our newly styled "Summit Diplomacy," reminding his fellow countrymen of our diplomatic blunders at Yalta and Potsdam, which resulted in the death and enslavement of millions in the captive nations. Until his last days, he continued to insist that only a strong military presence can prevent the success of international aggression. Frequently citing General MacArthur's famous dictum that, "In warfare there is no substitute for victory," Admiral Clark maintained an abiding belief in the capacity of America to keep the peace with honor.

These are commendable views, Mr. President, which deserve our thoughtful consideration. Even more praiseworthy are the heroic deeds and the dedication of both Jocko Clark and Stand Watie. These proud Cherokees have passed along to posterity a standard of excellence that will always command our admiration. I am confident that we all share the pride of North Carolina in honoring these truly native sons of Amercia.

OLD-TIME MUSIC CAPITAL OF THE SOUTHWEST

HON. PAUL J. FANNIN

OF ARIZONA

IN THE SENATE OF THE UNITED STATES

Monday, September 9, 1974

Mr. FANNIN. Mr. President, as part of their contribution to the success of the Nation's Bicentennial observance, the 2,858 friendly people of Payson, Ariz., are sponsoring a series of musical events reflective of the heritage of America.

To demonstrate their enthusiasm and progressive attitude, the folks at Payson have already set the ball into motion to build up momentum, support, and excitement for 1976.

By the time the Bicentennial observance officially commences Payson will have some half dozen major musical events perfected and finely tuned.

The chamber of commerce has proclaimed Payson as the "Old-Time Music Capital of the Southwest," and earlier this summer held a highly successful country music festival.

Now the town is geared up for the next big event, the old-time fiddlers contest on the weekend of September 28–29.

It will be the official State contest, and the winner will represent Arizona in the national fiddling contest. Governor Williams has proclaimed the week of the event as "Old-Time Fiddlers Week."

The sponsoring chamber of commerce hopes to achieve two goals, these being simply to provide a festive and enjoyable weekend for residents and visitors, and to restore and encourage the growth and appreciation of old-time fiddling.

The hard-working and extremely capable chairman of the fiddling contest committee is Mrs. Vertielee Floyd, who, with her husband, J. W., owns the KOA Campground in Payson.

She is being assisted by cattle rancher, Bert Sprague; Ricky Fletcher, a student at Grand Canyon College and an accomplished musician himself; Mrs. Viola Goodnow, operator of the Flower Nook; Attorney Tom Wing; Mrs. Dorothy Donovan, manager of the chamber of commerce; and Richard Robertson, town councilman and assistant editor of the Payson Roundup.

The fiddling contest will be held in conjunction with Payson's annual fall festival, which draws thousands of visitors to the central Arizona mountain community.

In justification of its claim to being the old-time music capital of the Southwest, Payson will also present programs of old-time gospel singing during the fall festival.

This ambitious undertaking will be followed in November by a blue grass music festival.

EXIT SIKKIM

HON. CLAIBORNE PELL

OF RHODE ISLAND

IN THE SENATE OF THE UNITED STATES

Monday, September 9, 1974

Mr. PELL. Mr. President, last week I strongly protested the intention of India to swallow up its tiny protectorate, Sikkim—CONGRESSIONAL RECORD, Wednesday, September 4, 1974, page 30207. My dismay at the action the Government of India has now taken to accomplish this unilaterial extinction of Sikkim is shared even by the press in India itself.

A New York Times editorial entitled

"Exit Sikkim" decries the violation of the sanctity of states and quotes the Hindustan Times, of New Delhi, as saying:

> Only the most blind or cynical will derive any satisfaction over the sorry progress of Indian presence in Sikkim from that of friend to master.

On a very human plane, I have received a touching appeal from a Sikkim student in the United States, Kesang Chungyalpa; she writes:

> This is not a political letter but rather a cry of heart . . . Sikkim must survive. Its death will haunt not only our hearts but all those who care for and respect the rights of individuals and nations.

Her plea raises the dilemma of who protects the protected from the protector? Hopefully the answer will be the conscience of the Indian people.

Mr. President, I ask unanimous consent to have the letter of Kesang Chungyalpa and the New York Times editorial, "Exit Sikkim," of September 6, printed in the Extensions of Remarks.

There being no objection, the material were ordered to be printed in the RECORD, as follows:

CAMBRIDGE, MASS.,
September 3, 1974.

Hon. CLAIBORNE PELL,
Russell Building,
Washington, D.C.

DEAR SENATOR PELL: This is not a political letter but rather a cry of heart:

As students and guests in the United States we have long kept silence even when gravely concerned over news reports from our Sikkim. The recent report in the NEW YORK TIMES Monday, September 2, 1974, that our Country may be taken over by the Indian Government is so painful that we cannot silently endure it.

Our Country and population are small. We are not ambitious for anything but survival. Sikkim must survive. Its death will haunt not only our hearts but all those who care for and respect the rights of individuals and Nations.

Sincerely,

KESANG CHUNGYALPA,
(On behalf of students of Sikkim in the United States of America.)

[From the New York Times, Sept. 6, 1974]

EXIT SIKKIM

The principle of sanctity of states, large and small—a principle imbedded in the United Nations Charter and long championed by India among others—has been rudely violated by New Delhi's decision virtually to annex her tiny Himalayan protectorate, Sikkim.

Sitting astride a vital pass which links Chinese-dominated Tibet with India, Sikkim undoubtedly is of some legitimate strategic concern to the Indians. This cannot, however, justify India's latest move to absorb Sikkim as, in effect, a 22d state, a process that began last year when Indian troops intervened in an uprising against Sikkim's ruler, the Chogyal. Although that revolt may have stemmed from legitimate grievances, it now appears that the Chogyal's troubles were not unrelated to his efforts to obtain a more independent status for his kingdom akin to that enjoyed by neighboring Bhutan.

A proper reproach to the Indian Government's action has come from The Hindustan Times of New Delhi: "Only the most blind or cynical will derive any satisfaction over the sorry progression of the Indian presence in Sikkim from that of friend to master."

STRENGTHENING STATE CONSUMER PROTECTION

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Monday, September 9, 1974

Mr. METCALF. Mr. President, recently the electric companies public information program circulated an editorial relating in part to one of my proposed amendments to S. 707, the bill to establish an Agency for Consumer Advocacy. The editorial—from the Richmond News Leader—reflects a misunderstanding of both the present Federal role in utility regulation and my amendment No. 1561, which would permit the ACA to intervene in State proceedings if requested to do so by appropriate State officials.

My amendment has strong support among Governors. It is a State's rights amendment.

So that Members who may have received the editorial may also see my reply of August 15, I ask unanimous consent that both be printed in the Extensions of Remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BRINGING POWER TO THE PEOPLE

It was greatly encouraging to read yesterday of the Atomic Energy Commission's final decision to authorize the construction of Vepco's last two of four proposed nuclear reactors at North Anna. Construction of the generating plants has been delayed for a year, while the Commission has weighed the doomsday complaints of environmentalists who contended that a geologic fault under the reactors could mean death by radiation to residents of Louisa County. The complaint was largely frivolous, yet it will cost Virginians many millions of dollars: The delay has meant increased costs to Vepco that Vepco ultimately will have to pass along to consumers of electric power.

Among the nation's electric utilities, Vepco is in the nuclear vanguard. By about 1977, Vepco's generating capacity will be about 50 per cent nuclear; nationwide, nuclear generating capacity is not expected to reach the 50 per cent level until the mid-1990's. So Vepco is facing certain capital burdens now that other electric utilities are not facing: Compared with the construction of a conventional fossil-fuel generating plant the construction of a nuclear generating plant takes twice as long (five years vs. 10) and requires 65 per cent more capital. Given punishingly high interest rates and general investor wariness of utility issues, selling securities to raise capital is extremely costly for nearly all electric utilities—including Vepco; for some, it is simply impractical.

Indeed, good news is rare in the electric utility industry these days. This month Boston Edison and Consumers Power Company of Michigan have announced the cancellation of plans to build nuclear generating units; as reasons, both cited environmentalist opposition and difficulties in raising capital. Other utilities planning fossil-fuel generating plants have made similar decisions; more than $1 billion worth of cutbacks have been announced recently, and decisions to delay or drop plans totaling billions of dollars more are being contemplated.

Such decisions may mean a severe shortage of generating capacity throughout the nation during the '80s. The situation in the electric utility industry is so awful that it prompted Treasury Secretary William Simon to write a memorandum to the White House economic advisor, Kenneth Rush, on June 25. Portions of that memorandum appear below; we urge you to read them. They could portend far-reaching consequences for users of electric power—i.e., practically everybody.

Questions now are being raised as to whether the nation's capital investment system is adequate to meet future demand in the energy field. Many of those who suggest that the system is *not* adequate are infatuated with the notion that the government ought to run the nation's elecric utilities. And cerain influential individuals in the government are saying that government control would be just dandy. For example, as a first step in that direction Senator Lee Metcalf of Montana has introduced legislation that would empower the proposed Consumer Protection Agency to intervene in all rate cases involving utilities—cases heard by state regulatory agencies such as Virginia's State Corporation Commission.

Even in the nursery of simple solutions, it is particularly fatuous to argue that the government could provide the nation with sufficient electric power more economically and more efficiently than the private sector can. Yet that routine piety of the regulators—endearing as it may be to them, and as enduring—is nothing more than a crackpot suggestion. The difficulties facing the electric utility industry today are essentially inflation- and environmentalist-derived. In both inflation and environmentalism, the government is playing a major causative role. Only when the government claims to do less "good" will it do less harm. And only when it does less harm in the name of doing "good" will the electric utilities experience an investment climate conducive to providing the electric power the people need.

U.S. SENATE,
Washington, D.C., August 16, 1974.

Mr. ROSS MACKENZIE,
Editorial Page Editor,
Richmond News Leader,
Richmond, Va.

DEAR MR. MACKENZIE: My attention has just been called to your 24 July editorial, "Bringing Power to the People," which has been reprinted and circulated by electric utilities. In that editorial you say that many of those who suggest that the nation's capital investment system is not adequate to meet future demand in the energy field "are infatuated with the notion that the government ought to run the nation's electric utilities. And certain influential individuals in the government are saying that government control would be just dandy. For example, as a first step in that direction Senator Lee Metcalf of Montana has introduced legislation that would empower the proposed Consumer Protection Agency to intervene in all rate cases involving utilities—cases heard by state regulatory agencies such as Virginia's State Corporation Commission."

If, as you suggest, Federal intervention in utility rate cases at the State level leads to government control of utilities they would have been nationalized long ago. The Federal government has intervened in hundreds of cases before dozens of State regulatory commissions during the past quarter of a century. Surely you must know of the Defense Department's recent intervention before the Virginia State Corporation Commission—and that Commission's denial of Defense Department requests.

Under present law the Federal Government enters these cases as a large industrial customer, rather than representing the interests of small businessmen and individuals who—thanks in part to their lack of effective representation—usually pay proportionately more for utility services than industrial and Federal users do.

Have the blandishments of the utility lobby beguiled the News Leader into the belief that southern governors—such as Wallace of Alabama, Carter of Georgia and West of South Carolina—have entered into a cabal to socialize the nation's electric power industry? They and other governors support my amendment. After all, it is a state's right amendment. It conditions intervention by the Federal agency upon written request of a governor or his designees, a State regulatory commission or an official state consumer protection agency.

There is new urgency to strengthen State regulation. During the past few weeks the Federal Energy Administrator has urged that utility commissions institute automatic adjustment clauses for *all* utility operating costs, not just fuel costs. The effect of such a policy, if adopted, would be to divest regulatory officials of important responsibilities, deprive the public of participation in decision-making and invest even more power in the electric utilities which design the automatic clauses.

It is important to understand that there are limits to the Federal system's capacity to improve the investment climate for utilities. During the past 20 years the Federal income tax paid by electric utilities has declined from about 14 cents out of each revenue dollar to only 2.6 cents. According to data from electric utilities recently presented to one of my subcommittees by the chairman of the Federal Power Commission, almost one fourth of the major electric utilities paid no Federal income taxes at all last year, and actually accumulated tax credits instead.

Virginia Electric & Power, for example, accumulated a Federal tax credit of $735,232, even though its net, after tax profit amounted to 22.5 cents out of every revenue dollar, well above the healthy national average of 15 cents out of every dollar.

The responsibility for Federal tax policy is ours, here in the Congress. But as the figures above show we have become as lenient, taxwise, with electric utilities as we are with oil companies. So this is a good time to take a good look at utility operations, at the State regulatory level, and seeing what economies can be made. My amendment could help governors and State commissions in that effort.

Very truly yours,

LEE METCALF.

SENATE—*Tuesday, September 10, 1974*

The Senate met at 12 o'clock noon and was called to order by Hon. WILLIAM D. HATHAWAY, a Senator from the State of Maine.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, eternal, sure and strong, who in times past has watched over this Nation, be to us still "the pillar of a cloud by day and the pillar of fire by night" to guide us into the future. Amid all the surprises of passing events which vex the mind and trouble the soul, keep us steady and firm in our faith and in the pursuit of righteousness.

Teach us anew the truth of Thy Word that the judgments of the Lord are true and righteous altogether and that divine judgment transcends all lesser judgments.

We beseech Thee, O Lord, to redeem our failures. Overrule our mistakes. Strengthen our weakness. Forgive our sins. Calm our anxieties. In these times that try men's souls and that cry aloud for wisdom and character, make us worthy of the high trust we bear. Bring to our common life the healing Spirit of the Master, who came not to be ministered unto but to minister and give His life for others.

In His holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 10, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WILLIAM D. HATHAWAY, a Senator from the State of Maine, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. HATHAWAY thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, September 9, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. HATHAWAY) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE SAFEST COURSE

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. HUGH SCOTT. Mr. President, I can get into so much trouble by saying almost anything at this point, that I will say nothing. [Laughter.]

I yield back the remainder of my time.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Florida (Mr. CHILES) is recognized for not to exceed 15 minutes.

INTEGRATION—NORTH AND SOUTH

Mr. CHILES. Mr. President, I wish to comment today on an AP story out of Washington, that I recently read. The headline reads "United States Yields to North on Integration." The story quotes Mr. Weinberger, the Secretary of HEW, and begins as follows:

> The government is taking a conciliatory approach to Northern school desegregation because of "very strong, bitter opposition" north of the Mason-Dixon Line, Health, Education and Welfare Secretary Caspar Weinberger said Friday.
>
> The threat of Federal fund cutoffs, used to whip Southern schools into line, frequently would produce more rather than less desegregation in the North, he said in an interview.
>
> "I think we have to face the fact that we are dealing with a very fierce public opposition to desegregation in many northern cities," said Weinberger. He declined to name any specific trouble spots.
>
> "The bulk of segregated practices occurs in concentrated urban areas of the North, where the opposition to busing and various forms of desegregation appears to be far stronger than in the South," he said.

I wish to comment on the statement that it appears that the opposition to busing is stronger in places in the North than it is in the South. My State had a straw ballot on busing. Seventy-eight percent of the people who expressed themselves in that ballot said that they were opposed to busing. We have gone through a chaotic time of forced busing orders being invoked in my State, and I find it hard to believe that anyone could say that there was more opposition to busing somewhere else than there was in the South. Perhaps what Mr. Weinberger is saying is that the rest of the country did not mind when we were having forced busing in the South, but now that that busing has virtually been completed, there is some fierce opposition, as I see it, in Boston, in Detroit, and any other place where some kind of token busing is going on, while we in the South have long been completely under the forced busing orders.

I read further from the article:

> Weinberger conceded that HEW has made

> greater progress in desegregating Southern schools.
>
> "One of the reasons is, I think, that we had farther to go," he said. "But secondly, the public has been much more willing to accept desegregation in the South."

Again I think that when Mr. Weinberger says "the public," he means, perhaps, that the country as a whole has been more willing to accept desegregation in the South because we were supposed to be racists to start with. We did have segregated schools; there is no doubt about that. They were de facto segregated. There was not a lot of hanky-panky about their being segregated. They actually were, and that was wrong. The court found that it was wrong. I think the South has made great strides in trying to meet that situation.

In the same poll I referred to, 74 percent of the people who responded in the straw ballot said they did not wish to go back to the separate but equal school system. They did not want to step backward. At the same time, for the life of me, I cannot understand why we have one set of rules for the South, in which we can use the Federal courts, we use the Justice Department, we use HEW, we cut off funds, we invoke orders, and we bring about a total submission, without any kind of rational plans or any kind of time delays, but in the North we talk about the fact that there is this fierce opposition.

I read further from the article. Mr. Weinberger said:

> There are frequently many ways you can accomplish a great deal more by persuasion and discussion and negotiations to produce desegregation plans. There are many situations in which withdrawal of funds promotes more segregation.
>
> To conclude that we haven't done our job because we haven't withheld Federal funds is, I think, a totally unwarranted conclusion.

He is commenting on an independent study that had been done for HEW which very strongly criticized their particular endeavors because they had not carried out the kind of policies elsewhere in the country that they had carried out in the South. Now he is saying that while it was all right to carry those out in the South, it would be totally unwarranted to do that anywhere else.

The article continues:

> We are doing our job under very difficult circumstances where there is a very strong divergence of viewpoints between what the law says and what the public wants.

That is the point to which I really would like to call attention. Mr. Weinberger, as a servant of the U.S. Government, says that there is a strong difference between what the law says and what the public wants. So he is not going to enforce the law in the North, and he has not been enforcing the law up there. But we did not get this kind of comment when we were dealing with the treatment in the South.

This is a republic. We are 50 States. I cannot understand why the 50 States should not be governed by the same rules and the same procedures; why we can say that for one State we have to enforce the law because it is the law, but we say for another State, as Mr. Weinberger has said, that there is a difference in the viewpoints between what the law says and what the public wants.

In the North, Weinberger said, Federal civil rights enforcers often can achieve better results by convincing local school boards to design plans with the necessary public support than by going in with a blunderbuss and taking away Federal funds, to put them in a frame of mind and attitude in which they would make no effort to try to comply with the law. I wish we could have had some of that reasoning, Mr. President, in some of the instances in the South when we were attempting to come up with plans that would say let us move a grade at a time, let us move in some area where we have a particular problem that is thorny, that we think should take some time and consultation before we can do it.

But we were never given that kind of opportunity. We were told that the law is the law, that the percentages are the percentages; and "You either do this or you lose all of your Federal funds."

Mr. President, I am anxious to see now, in view of these statements made by Mr. Weinberger, whether the appropriate committees of the House and the Senate, the Committees on Education, will have Mr. Weinberger before the Congress to get his views, elicit them further to determine whether there are really two standards for this country. Is there one standard when applying desegregation plans to the South and another when applying them to the rest of the country?

We know from the figures that we have much more integration in the South than we do in other parts of the country. We have better integration not only of the pupils, but we have better integration of teachers. We think that has been healthy. We complain about the forced busing plans that have been placed on us, but if they are going to be placed on us in the South and if that is the law, then we think there should be equal treatment in regard to those busing plans with the rest of the Nation.

I am anxious to see whether the Senate now, in its zeal for determining that the laws that we pass and the laws that the Court has laid down are properly enforced, will call upon Mr. Weinberger to elicit his views and find out if he really believes that there is a very strong divergence of viewpoints between what the law provides and what the public wants.

Does he believe that in the North, it is all right if we deal with persuasion rather than coercion, and that it is better not to withhold Federal funds in the North, when that was done in many, many instances in the South? These are the things that I shall look forward to seeing.

Mr. President, I ask unanimous consent to have printed in the RECORD the Associated Press story which appeared in the Philadelphia Inquirer on Sunday, September 7, 1974.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES YIELDS TO NORTH ON INTEGRATION

WASHINGTON.—The government is taking a conciliatory approach to Northern school desegregation because of "very strong, bitter opposition" north of the Mason-Dixon Line, Health, Education and Welfare Secretary Caspar Weinberger said Friday.

The threat of Federal fund cutoffs, used to whip Southern schools into line, frequently would produce more rather than less desegregation in the North, he said in an interview.

"I think we have to face the fact that we are dealing with a very fierce public opposition to desegregation in many northern cities," said Weinberger. He declined to name any specific trouble spots.

"The bulk of segregated practices occurs in concentrated urban areas of the North, where the opposition to busing and various forms of desegregation appears to be far stronger than in the South," he said.

Weinberger conceded that HEW has made greater progress in desegregating Southern schools.

"One of the reasons is, I think, that we had farther to go," he said. "But secondly, the public has been much more willing to accept desegregation in the South."

Weinberger criticized a private civil rights study released Thursday that charged that HEW was dragging its feet on Northern school cases despite evidence in its own files of violations.

"There are frequently many ways you can accomplish a great deal more by persuasion and discussion and negotiations to produce desegregation plans," he said. "There are many situations in which withdrawal of funds promotes more segregation.

"To conclude that we haven't done our job because we haven't withheld Federal funds is, I think, a totally unwarranted conclusion.

"We are doing our job under very difficult circumstances where there is a very strong divergence of viewpoints between what the law says and what the public wants."

In the North, Weinberger said, Federal civil rights enforcers often can achieve better results by convincing local school boards to design plans, "with the necessary public support," than by "going in with a blunderbuss, taking away their Federal funds and put them in a frame of mind and attitude in which they would make no effort to try to comply with the law."

"We are enforcing the civil rights laws," Weinberger declared, "and the fact that you don't use an extreme or ultimate remedy doesn't mean not pursuing the problem actively."

Weinberger said HEW is "caught in the middle" between those pressing for faster action in the 32 Northern and Western states and others opposing change. "The more active we become in many areas," he said, "the stronger the public criticism."

If HEW "just stands up here and cracks the whip and takes away Federal funds," Weinberger said, "you would have a far greater pattern of desegregation and bitterness."

On another topic, Weinberger said skyrocketing medical bills are "giving ammunition to people who want nationalization of the health industry."

He made it clear that he opposes any further Federal controls on doctors and hospitals.

"There has got to be some voluntary restraint or, without it, there will have to be some sort of government cost controls," he said.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished majority leader such time from the order allotted to me as he may require.

Mr. MANSFIELD. I thank the distinguished Senator from West Virginia.

THE REHABILITATION ACT AMENDMENTS OF 1974

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to consideration of Calendar Order No. 1087, S. 3108.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 3108) to amend the Rehabilitation Act of 1973.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert the following:

TITLE I—AMENDMENTS TO THE REHABILITATION ACT OF 1973

SHORT TITLE

SEC. 100. This title shall be known as the "Rehabilitation Act Amendments of 1974".

REHABILITATION SERVICES ADMINISTRATION

SEC. 101. (a) Section 3(a) of the Rehabilitation Act of 1973 is amended to read as follows: "There is established in the Office of the Secretary a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this Act referred to as the 'Commissioner') appointed by the President by and with the advice and consent of the Senate. Except for titles **IV and V and as otherwise specifically pro**vided in this Act, such Administration shall **be the principal agency, and the Commis**sioner shall be the principal officer, of such **Department for carrying out this Act. In the performance of his functions, the Commissioner shall be directly responsible to the Secretary or to the Under Secretary or an** appropriate Assistant Secretary of such De**partment, as designated by the Secretary. The functions of the Commisisoner shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner.".**

(b) The amendment made by subsection (a) of this section shall be effective sixty days after the date of enactment of this Act, except that insofar as such amendment relates to appointments to the office of Commissioner of the Rehabilitation Services Administration (established by section 3(a) of the Rehabilitation Act of 1973), such amendment shall take effect immediately after the individual holding that office on the date of enactment of this Act ceases to hold that office.

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL REHABILITATION SERVICES

SEC. 102. (a) Section 100(b) of such Act is amended by—

(1) striking out "and" after "1974," in paragraph (1) and inserting before the period at the end of such paragraph a comma and "and $720,000,000 for the fiscal year ending June 30, 1976"; and

(2) striking out "and" after "1974," in the first sentence of paragraph (2) and inserting after "1975," in such sentence "$42,000,000 for the fiscal year ending June 30, 1976, and $45,000,000 for the fiscal year ending June 30, 1977;".

(b) Section 112(a) of such Act is amended by striking out "and" after "1974," and by inserting after "1975," the following: "and up to $3,000,000 but no less than $1,500,000 each for the fiscal years ending June 30, 1976, and June 30, 1977,".

(c) Section 121(b) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH AND TRAINING

SEC. 103. Section 201(a) of such Act is amended by—

(1) striking out "and" after "1974", in the first sentence of paragraph (1) and inserting after "1975" in such sentence a comma and "and $35,000,000 for the fiscal year ending June 30, 1976, and $37,500,000 for the fiscal year ending June 30, 1977";

(2) striking out the comma after "$20 per centum" in the second sentence of paragraph (1) and inserting after "respectively," in such sentence "and 25 per centum of the amounts appropriated in each succeeding fiscal year"; and

(3) striking out "there is authorized to be appropriated" in paragraph (2) and inserting after "1975" in such paragraph a comma and "$35,000,000 for the fiscal year ending June 30, 1976, and $37,500,000 for the fiscal year ending June 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 104. Section 301(a) of such Act is amended by—

(1) striking out "and" after "1974", in the first sentence and inserting before the period at the end of such sentence a comma and "June 30, 1976, and June 30, 1977"; and

(2) striking out "1977" in the last sentence and inserting in lieu thereof "1979".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

SEC. 105. Section 302(a) of such Act is amended by striking out "and" after "1974," and by inserting after "1975" a comma and "June 30, 1976, and June 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS AND DEMONSTRATIONS

SEC. 106. Section 304(a)(1) of such Act is amended by striking out "and" after "1974," and by inserting after "1975" a comma and "$20,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for the fiscal year ending June 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 107. Section 305(a) of such Act is amended by striking out "and" after "1974" and by inserting after "1975" a comma and "June 30, 1976, and June 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM AND PROJECT EVALUATION

SEC. 108. Section 403 of such Act is amended by sriking out "and" after "1974" and by inserting after "1975," the following: "June 30, 1976, and June 30, 1977,".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SECRETARIAL RESPONSIBILITIES

SEC. 109. Section 405(d) of such Act is amended by inserting before the period a comma and "$700,000 for the fiscal year ending June 30, 1976, and $1,000,000 for the fiscal year ending June 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 110. Section 502(h) of such Act is amended by inserting before the period at the end thereof a comma and "$1,500,000 for the fiscal year ending June 30, 1976, and $2,000,000 for the fiscal year ending June 30, 1977"

MISCELLANEOUS AMENDMENTS

SEC. 111. (a) Section 7(6) of such Act is amended by adding at the end thereof the following new sentence: "For the purposes of titles IV and V of this Act, such term means any person who (A) has a physical or mental impairment which substantially limits such person's functioning or one or more of such person's major life activities, (B) has a record of such an impairment, or (C) is regarded as having such an impairment.".

(b) Section 101(a)(6) of such Act is amended by adding at the end thereof before the semicolon "(including a requirement that the State agency and facilities in receipt of assistance under this title shall take affirmative action to employ and advance in employment qualified handicapped individuals covered under, and on the same terms and conditions as set forth in, section 503)".

(c) Section 101(a)(9)(C) of such Act is amended by adding at the end thereof before the semicolon "in such detail as required by the Secretary in order for him to analyze and evaluate annually the reasons for and numbers of such ineligibility determinations as part of his responsibilities under section 401, and that the State agency will semiannually categorize and analyze such reasons and numbers and report this information to the Secretary and will on an annual basis review each such ineligibility determination in accordance with the criteria set forth in section 102".

(d) Section 101(a)(15) of such Act is amended by inserting after "facilities" at the end of the parenthetical "and review of the efficacy of the criteria employed with respect to ineligibility determinations described in subclause (C) of clause (9) of this subsection".

(e) Section 102 of such Act is amended by—

(1) inserting in subsection (a) after "program" where it first appears in the first sentence a comma and "or the specification of reasons for a determination of ineligibility prior to initiation of such program based on preliminary diagnosis.", and inserting at the end of the second sentence of such subsection before the period a comma and "and, as appropriate, such specification of reasons for such an ineligibility determination shall set forth the rights and remedies, including recourse to the process set forth in subsection (b)(5) of this section, available to the individual in question";

(2) striking out in subsection (c) all of clause (1) from "in" the first time it appears through "primary" and inserting in lieu thereof "in making any determination of ineligibility referred to in subsection (a) of this section, or in developing and carrying out the individualized written rehabilitation program required by section 101 in the case of each handicapped individual,"; and

(3) striking out in clause (2) of subsection (c) "program, that the evaluation of rehabilitation potential" and inserting in lieu thereof "program, or as a part of the specification of reasons for an ineligibility determination, as appropriate, that the preliminary diagnosis or evaluation of rehabilitation potential, as appropriate,".

(f) Section 112(a) of such Act is amended by inserting after "June 30, 1974, and" a comma and "from funds appropriated under section 304 for special projects and demonstrations,".

(g) Section 130(b) of such Act is amended by striking out "February 1, 1975" and inserting in lieu thereof "September 30, 1975".

(h) Section 202(a) of such Act is amended by striking out "and analyses" in the penultimate clause and insert in lieu thereof a comma and "analyses, and demonstrations".

(i) Section 304(b) of such Act is amended by—

(1) striking out "and" before "(2)" in the first sentence, and inserting at the end of such sentence before the period a comma and "and (3) for operating programs (including renovation and construction of facilities, where appropriate) to demonstrate methods of making recreational activities fully accessible to handicapped individuals; and

(2) striking out "for" the third time it appears in the parenthetical in clause (2) in the first sentence and inserting in lieu thereof "or".

(j) Section 304(c) of such Act is amended by inserting after "Labor," in the first sentence "who".

(k) Section 304(e)(1) of such Act is amended by inserting after "(B)" the following: "with the concurrence of the Board established by section 502,".

(l)(1) Section 306(b) of such Act is amended by inserting after "project" a comma and "or for a project which involves construction,".

(2) Section 306(b)(4) of such Act is amended by inserting after "specifications" the following: "which have been approved by the Board established by section 502,".

(m) Section 405(a)(1) of such Act is amended by striking out "within eighteen months after the date of enactment of this Act," and inserting in lieu thereof "not later than July 1, 1975,".

(n) Section 405(c) of such Act is amended to read as follows:

"(c) The functions assigned to the Secretary by this section, including the establishment and operation of an Office for Handicapped Individuals to perform such functions, shall not be delegated to any persons not assigned to and operating in the immediate office of the Secretary or the Under Secretary of Health, Education, and Welfare."

(o)(1) Section 502(a) of such Act is amended by adding the following new clause after clause (5) and renumbering the succeeding clauses accordingly:

"(6) Department of Defense;".

(2) Section 502(a) of such Act is further amended by adding at the end thereof the following new sentence: "The Secretary of Health, Education, and Welfare shall be the Chairman of the Board, and the Board shall appoint, upon recommendation of the Secretary, a Consumer Advisory Panel, a majority of the members of which shall be handicapped individuals, to provide guidance, advice, and recommendations to the Board in carrying out its functions.".

(p)(1) Section 502(d) of such Act is amended by striking out "section, the Board" in the first sentence and inserting in lieu thereof "Act, the Board shall, directly or through grants to or contracts with public or private nonprofit organizations, carry out its functions under subsections (b) and (c) of this section, and".

(2) Section 502(d) of such Act is further amended by adding at the end thereof the following new sentence: "Any such order affecting any Federal department, agency, or instrumentality of the United States shall be final and binding on such department, agency, or instrumentality. An order of compliance may include the withholding or suspension of Federal funds with respect to any building found not to be in compliance with standards prescribed pursuant to the Acts cited in subsection (b) of this section.".

(q) Section 502(e) of such Act is amended by adding before the first sentence the following new first sentence: "There shall be appointed by the Board an executive director and such other professional and clerical personnel as are necessary to carry out its functions under this Act.".

(r) Section 502(g) of such Act is amended by striking out in the penultimate sentence "prior to January 1" and inserting in lieu thereof "not later than September 30".

TITLE II—RANDOLPH-SHEPPARD ACT AMENDMENTS

SHORT TITLE

SEC. 200. This title may be cited as the "Randolph-Sheppard Act Amendments of 1974".

FINDINGS

(1) after review of the operation of the blind vending stand program authorized under the Randolph-Sheppard Act of June 20, 1936, that the program has not developed, and has not been sustained, in the manner and spirit in which the Congress intended at the time of its enactment, and that, in fact, the growth of the program has been inhibited by a number of external forces;

(2) that the potential exists for doubling the number of blind operators on Federal and other property under the Randolph-Sheppard program within the next five years, provided the obstacles to growth are removed, that legislative and administrative means exist to remove such obstacles, and that Congress should adopt legislation to that end; and

(3) that at a minimum the following actions must be taken to insure the continued vitality and expansion of the Randolph-Sheppard program—

(A) establish uniformity of treatment of blind vendors by all Federal departments, agencies, and instrumentalities,

(B) establish guidelines for the operation of the program by State licensing agencies,

(C) require coordination among the several entities with responsibility for the program,

(D) establish a priority for vending facilities operated by blind vendors on Federal property,

(E) establish administrative and judicial procedures under which fair treatment of blind vendors, State licensing agencies, and the Federal Government is assured,

(F) require stronger administration and oversight functions in the Federal office carrying out the program, and

(G) accomplish other legislative and administrative objections which will permit the Randolph-Sheppard program to flourish.

OPERATION OF VENDING FACILITIES ON FEDERAL PROPERTY

SEC. 202. The first section of the Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes" (hereafter referred to in this title as the "Randolph-Sheppard Act"), approved June 20, 1936, as amended (20 U.S.C. 107), is amended by striking out all after the enacting clause and inserting in lieu thereof the following:

"That (a) for the purposes of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, blind persons licensed under the provisions of this Act shall be authorized to operate vending facilities on any Federal property.

"(b) In authorizing the operation of vending facilities on Federal property, priority shall be given to blind persons licensed by a State agency as provided in this Act; and the Secretary, through the Commissioner, shall, after consultation with the Administrator of General Services and other heads of departments, agencies, or instrumentalities of the United States in control of the maintenance, operation, and protection of Federal property, prescribe regulations designed to assure that—

"(1) the priority under this subsection is given to such licensed blind persons (including assignment of vending machine income pursuant to section 7 of this Act to achieve and protect such priority), and

"(2) wherever feasible, one or more vending facilities are established on all Federal property, including, to the maximum extent feasible, vending facilities in the areas where employees work, to the extent that any such facility or facilities would not adversely affect the interests of the United States.

Any limitation on the placement or operation of a vending facility based on a finding that such placement or operation would adversely affect the interests of the United States shall be fully justified in writing to the Secretary, who shall determine whether such limitation is justified. A determination made by the Secretary pursuant to this provision shall be binding on any department, agency, or instrumentality of the United States affected by such determination. The Secretary shall publish such determination, along with supporting documentation, in the Federal Register.".

FEDERAL AND STATE RESPONSIBILITIES

SEC. 203. (a)(1) Section 2(a) of the Randolph-Sheppard Act is amended by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively, and by inserting the following new paragraph (1):

"(1) Insure that the Rehabilitation Services Administration is the principal agency for carrying out this Act; and the Commissioner, shall within one hundred and eighty days after enactment of the Randolph-Sheppard Act Amendments of 1974, establish requirements for the uniform application of this Act by each State agency designated under paragraph (5) of this subsection, including appropriate accounting procedures, policies on the selection and establishment of new vending facilities, distribution of income to blind vendors, and the use and control of set-aside funds under section 3(3) of this Act;"

(2) Section 2(a)(2) of such Act, as redesignated by paragraph (1) of this subsection, is amended to read as follows:

"(2) Through the Commissioner, make annual surveys of concessions vending opportunities for blind persons on Federal and other property in the United States, particularly with respect to Federal property under the control of the General Services Administration, the Department of Defense, and the United States Postal Service;".

(3) Section 2(a)(5) of such Act, as redesignated by paragraph (1) of this subsection, is amended—

(A) by striking out "commission" each place it appears and inserting in lieu thereof "agency",

(B) by striking out "and at least twenty-one years of age",

(C) by striking out "articles dispensed automatically or in containers or wrapping in which they are placed before receipt by the vending stand, and such other articles as may be approved for each property by the department or agency in control of the maintenance, operation, and protection thereof and the State licensing agency in accordance with the regulations prescribed pursuant to the first section" and inserting in lieu thereof the following: "foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, as determined by the State licensing agency, and including the vending or exchange of chances for any lottery authorized by State law and conducted by an agency of a State",

(D) by striking out "stands" and "stand" and inserting in lieu thereof "facilities" and "facility", respectively, and

(E) by striking out the colon and all matter following the colon, and inserting in lieu thereof "; and".

(4) Section 2(a)(6) of such Act, as redesignated by paragraph (1) of this subsection, is amended to read as follows:

"(6) Through the Commission, (A) conduct periodic evaluations of the program authorized by this Act, including upward mobility and other training required by section 8, and annually submit to the appropriate committees of Congress a report based on such evaluations, and (B) take such other steps, including the issuance of such rules and regulations, as may be necessary or desirable in carrying out the provisions of this Act."

(b) Section 2(b) of such Act is amended—

(1) by striking out "stand" where it appears in the first and second sentences and inserting in lieu thereof "facility";

(2) by striking out "and have resided for at least one year in the State in which such stand is located"; and

(3) by striking out "but are able, in spite of such infirmity, to operate such stands.".

(c) Section 2(c) of such Act is amended by striking out "stand" in both places in which it appears and inserting in lieu thereof "facility".

(d) Section 2 of such Act is further amended by adding at the end thereof the following new subsections:

"(d) (1) After September 30, 1974, no department, agency, or instrumentality of the United States shall undertake to acquire by ownership, rent, lease, or to otherwise occupy, in whole or in part, any building unless, after consultation with the Secretary and the State licensing agency, it is determined by the Secretary that (A) such building includes a satisfactory site or sites for the location and operation of a vending facility by a blind person, or (B) if a building is to be constructed, substantially altered, or renovated, or in the case of a building that is already occupied on such date by such department, agency, or instrumentality, is to be substantially altered or renovated for use by such department, agency, or instrumentality, the design for such construction, substantial alteration, or renovation includes or satisfactory site or sites for the location and operation of a vending facility by a blind person. Each such department, agency, or instrumentality shall provide notice to the appropriate State licensing agency of its plans for occupation, acquisition, renovation, or relocation of a building adequate to permit such State agency to determine whether such building includes a satisfactory site or sites for a vending facility.

"(2) The provisions of paragraph (1) shall not apply (A) when the Secretary and the State licensing agency determine that the number of people using the property is or will be insufficient to support a vending facility, or (B) to any privately owned building, any part of which is leased by any department, agency, or instrumentality of the United States and in which (i) prior to the execution of such lease, the lessor or any of his tenants had in operation a restaurant or other food facility in a part of the building not included in such lease, and (ii) the operation of such a vending facility by a blind person would be in proximate and substantial direct competition with such resturant or other food facility, except that each such department, agency, and instrumentality shall make every effort to lease property in privately owned buildings capable of accommodating a vending facility.

"(3) For the purposes of this subsection, the term 'satisfactory site' means an area determined by the Secretary to have sufficient space, electrical and plumbing outlets, and such other facilities as the Secretary may by regulation prescribe, for the location and operation of a vending facility by a blind person.

"(e) In any State having an approved plan for vocational rehabilitation pursuant to the Vocational Rehabilitation Act or the Rehabilitation Act of 1973 (Public Law 93-112), the State licensing agency designated this section shall be the State agency designated under section 101(a)(1)(A) of such Rehabilitation Act of 1973.".

DUTIES OF STATE LICENSING AGENCIES AND ARBITRATION

SEC. 204. (a) Section 3 of the Randolph-Sheppard Act is amended—

(1) by striking out "commission" and inserting in lieu thereof "agency";

(2) by striking out in paragraphs (2) and (3) "stand" and "stands" and inserting in lieu thereof "facility" and "facilities", respectively; and

(3) by striking out in paragraph (6) the word "stand" and inserting in lieu thereof "facility", and, by inserting immediately before the period the following: ", and to agree to submit the grievances of any blind licensee not otherwise resolved by such hearing to arbitration as provided in section 5 of this Act".

(b) Section 3(3) of such Act is further amended by striking out "and" immediately before subparagraph (D) and by inserting immediately before the colon at the end of such subparagraph the following "; and (E) retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time, if it is determined by a majority vote of blind licensees licensed by such State agency, after such agency provides to each such licensee full information on all matters relevant to such proposed program, that funds under this paragraph shall be set aside for such purposes".

(c) Section 3(3) of such Act is further amended by inserting before the word "proceeds" in both places it appears, the word "net".

REPEALS

SEC. 205. Sections 4 and 7 of the Randolph-Sheppard Act are repealed.

ARBITRATION; VENDING MACHINE INCOME; PERSONNEL; TRAINING

SEC. 206. The Randolph-Sheppard Act is further amended by redesignating sections 5, 6, and 8, as sections 4, 9, and 10, respectively, and by inserting immediately after section 4, as redesignated, the following new sections:

"SEC. 5. (a) Any blind licensee who is dissatisfied with any action arising from the operation or administration of the vending facility program may submit to a State licensing agency a request for a full evidentiary hearing, which shall be provided by such agency in accordance with section 3(6) of this Act. If such blind licensee is dissatisfied with any action taken or decision rendered as a result of such hearing, he may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section 6 of this Act, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this Act.

"(b) Whenever any State licensing agency determines that any department, agency, or instrumentality of the United States that has control of the maintenance, operation, and protection of Federal property is failing to comply with the provisions of this Act or any regulations issued thereunder (including a limitation on the placement or operation of a vending facility as described in section 1(b) of this Act and the Secretary's determination thereon) such licensing agency may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section 6 of this Act, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this Act.

"SEC. 6. (a) Upon receipt of a complaint filed under section 5 of this Act, the Secretary shall convene an ad hoc arbitration panel as provided in subsection (b). Such panel shall, in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, give notice, conduct a hearing, and render its decision which shall be subject to appeal and review as a final agency action for purposes of chapter 7 of such title 5.

"(b) (1) The arbitration panel convened by the Secretary to hear grievances of blind licenses shall be composed of three members appointed as follows:

"(A) one individual designated by the State licensing agency;

"(B) one individual designated by the blind licensee; and

"(C) one individual, not employed by the State licensing agency or, where appropriate, its parent agency, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (A) and (B).

If any party fails to designate a member under subparagraph (1) (A), (B), or (C), the Secretary shall designate such member on behalf of such party.

"(2) The arbitration panel convened by the Secretary to hear complaints filed by a State licensing agency shall be composed of three members appointed as follows:

"(A) one individual, designated by the State licensing agency;

"(B) one individual, designated by the head of the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose; and

"(C) one individual, not employed by the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (A) and (B).

If any party fails to designate a member under subparagraph (2) (A), (B), or (C), the Secretary shall designate such member on behalf of such party. If the panel appointed pursuant to paragraph (2) finds that the acts or practices of any such department, agency, or instrumentality are in violation of this Act, or any regulation issued thereunder, the head of any such department, agency, or instrumentality shall cause such acts or practices to be terminated promptly and shall take such other action as may be necessary to carry out the decision of the panel.

"(c) The decisions of a panel convened by the Secretary pursuant to this section shall be matters of public record and shall be published in the Federal Register.

"(d) The Secretary shall pay all reasonable costs of arbitration under this section in accordance with a schedule of fees and expenses he shall publish in the Federal Register.

"SEC. 7. (a) In accordance with the provisions of subsection (b) of this section, vending machine income obtained from the operation of vending machines on Federal property shall accrue (1) to the blind licensee opearting a vending facility on such property, or (2) in the event there is no blind licensee operating such facility on such property, to the State agency in whose State the Federal property is located, for the uses designated in subsection (c) of this section, except that with respect to income which accrues under clause (1) of this subsection, the Commissioner may prescribe regulations imposing a ceiling on income from such vending machines for an individual blind licensee. In the event such a ceiling is imposed, no blind licensee shall receive less vending machine income under such ceiling than he was receiving on January 1, 1974. No limitation shall be imposed on income from vending machines, combined to create a vending facility, which are maintained, serviced, or operated by a blind licensee. Any amounts received by a blind licensee that are in excess of the amount permitted to accrue to him under any ceiling imposed by the Commissioner shall be disbursed to the appropriate State agency under clause (2) of this subsection and shall be used by such agency in accordance with subsection (c) of this section.

"(b)(1) After September 30, 1974, 100 per centum of all vending machine income from vending machines on Federal property which are in direct competition with a blind vending facility shall accrue as specified in subsection (a) of this section. 'Direct competition' as used in this section means the existence of any vending machines or facilities operated on the same premises as a blind vending facility except that vending machines or facilities operated in areas serving employees the majority of whom do not have access to the blind vending facility shall not be considered in direct competition with the blind vending facility. After September 30, 1974, 50 per centum of all vending machine income from vending machines on Federal property which are not in direct competition with a blind facility shall accrue as specified in subsection (a) of this section, except that with respect to Federal property at which at least 50 per centum of the total hours worked on the premises occurs during periods other than normal working hours, 25 per centum of such income shall so accrue.

"(2) Any vending machine income remaining after assignment pursuant to subsection (a) and (b)(1) of this section shall be used for such purposes as determined by regulations of the Secretary, who shall consider the views of the head of the department, agency, or instrumentality upon whose premises the machines are located, as well as those of any groups or organizations which may be affected by such regulations. No new vending machines or replacements for existing vending machines may be installed on Federal property unless all income from such machines shall accrue as specified in subsection (a) of this section. The head of each department, agency, and instrumentality of the United States shall insure compliance with this section with respect to buildings, installations, and facilities under his control, and shall be responsible for collection of, and accounting for, such vending machine income.

"(c) All vending machine income which accrues to a State licensing agency pursuant to subsection (a) of this section shall be used to establish retirement or pension plans, for health insurance contributions, and for provision of paid sick leave and vacation time for blind licensees in such State, subject to a vote of blind licensees as provided under section 3(3)(E) of this Act. Any vending machine income remaining after application of the first sentence of this subsection shall be used for the purposes specified in sections 3(3), (A), (B), (C), and (D) of this Act, and any assessment charged to blind licensees by a State licensing agency shall be reduced pro rata in an amount equal to the total of such remaining vending machine income.

"(d) Subsections (a) and (b)(1) of this section shall not apply to income from vending machines within retail sales outlets under the control of exchange or ships' stores systems authorized by title 10, United States Code, or to income from vending machines operated by the Veterans Canteen Service, or to income from vending machines not in direct competition with a blind vending facility at individual locations, installations, or facilities on Federal property the total of which at such individual locations, installations, or facilities does not exceed $3,000 annually.

"(e) In the event that a blind vending facility includes the operation of a cafeteria, the contract for the operation of such cafeteria shall specify that it shall be operated at a reasonable cost consistent with a fair return, high quality food, and reasonable prices.

"(f) This section shall not operate to preclude preexisting or future arrangements, or regulations of departments, agencies, or instrumentalities of the United States, under which blind licensees (1) receive a greater percentage or amount of vending machine income than that specified in subsection (b)(1) of this section, or (2) receive vending machine income from individual locations, installations, or facilities on Federal property the total of which at such individual locations, installations, or facilities does not exceed $3,000 annually.

"(g) The Secretary shall take such action and promulgate such regulations as he deems necessary to assure compliance with this section.

"SEC. 8. The Commissioner shall insure, through promulgation of appropriate regulations, that uniform and effective training programs, including on-the-job training, are provided for blind individuals, through services under the Rehabilitation Act of 1973 (Public Law 93-112). He shall further insure that State agencies provide programs for upward mobility (including further education and additional training or retraining for improved work opportunities) for all trainees under this Act, and that follow-along services are provided to such trainees to assure that their maximum vocational potential is achieved.".

DEFINITIONS

SEC. 207. Section 9 of the Randolph-Sheppard Act, as redesignated by section 206 of this title, is amended to read as follows:

"SEC. 9. As used in this Act—

"(1) 'blind person' means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees. In determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye, or by an optometrist, whichever the individual shall select;

"(2) 'Commissioner' means the Commissioner of the Rehabilitation Services Administration;

"(3) 'Federal property' means any building, land, or other real property owned, leased, or occupied by any department, agency, or instrumentality of the United States (including the Department of Defense and the United States Postal Service), or any other instrumentality wholly owned by the United States, or by any department or agency of the District of Columbia or any territory or possession of the United States;

"(4) 'Secretary' means the Secretary of Health, Education, and Welfare;

"(5) 'State' means a State, territory, possession, Puerto Rico, or the District of Columbia;

"(6) 'United States' includes the several States, territories, and possessions of the United States, Puerto Rico, and the District of Columbia;

"(7) 'vending facility' means automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment as the Secretary may by regulation prescribe as being necessary for the sale of the articles or services described in section 2(a)(5) of this Act and which may be operated by blind licensees; and

"(8) 'vending machine income' means receipts (other than those of a blind licensee) from vending machine operations on Federal property, after cost of goods sold, where the machines are operated, serviced, or maintained by, or with the approval of, a department, agency, or instrumentality of the United States, or commissions paid (other than to a blind licensee) by a commercial vending concern which operates, services, and maintains vending machines on Federal property for, or with the approval of, a department, agency, or instrumentality of the United States.".

PERSONNEL

SEC. 208. (a) The Secretary of Health, Education, and Welfare is directed to assign to the Office for the Blind and Visually Handicapped of the Rehabilitation Services Administration of the Department of Health, Education, and Welfare ten additional full-time personnel (or their equivalent), five of whom shall be supportive personnel, to carry out duties related to the administration of the Randolph-Sheppard Act.

(b) Section 5108(c) of title 5 United States Code, is amended—

(1) by striking out "and" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (11) the following new paragraph:

"(12) the Secretary of Health, Education, and Welfare, subject to the standards and procedures prescribed by this chapter, may place one additional position in the Office for the Blind and Visually Handicapped of the Rehabilitation Services Administration in GS-16, GS-17, or GS-18.".

(c) In selecting personnel to fill any position under this section the Secretary of Health, Education, and Welfare shall give preference to blind individuals.

(d) Section 4(b) of the Randolph-Sheppard Act, as redesignated by section 206 of this title, is amended by striking out ", and at least 50 per centum of such additional personnel shall be blind persons".

ADDITIONAL STAFF RESPONSIBILITIES

SEC. 209. In addition to other requirements imposed in this title and in the Randolph-Sheppard Act upon State licensing agencies, such agencies shall—

(1) provide to each blind licensee access to all relevant financial data, including quarterly and annual financial reports on the operation of the State vending facility program;

(2) conduct the biennial election of a Committee of Blind Vendors who shall be fully representative of all blind licensees in the State program, and

(3) insure that such committee's responsibilities include (A) participation, with the State agency, in major administrative decisions and policy and program development, (B) receiving grievances of blind licensees and serving as advocates for such licensees, (C) participation, with the State agency in the development and administration of a transfer and promotion system for blind licensees, (D) participation, with the State agency, in developing training and retraining programs, and (E) sponsorship, with the assistance of the State agency of meetings and instructional conferences for blind licensees.

STANDARDS, STUDIES, AND REPORTS

SEC. 210. (a) The Secretary, through the Commissioner, after a period of study not to exceed six months following the date of enactment of this title, and after full consultation with, and full consideration of the views of blind vendors and State licensing agencies, shall promulgate national standards for funds set aside pursuant to section 3(3) of the Randolph-Sheppard Act which include maximum and minimum amounts for such funds, and appropriate contributions, if any, to such funds by blind vendors.

(b)(1) The Secretary shall study the feasibility and desirability of establishing a nationally administered retirement, pension, and health insurance system for blind licensees, and such study shall include, but not be limited to, consideration of eligibility standards, amounts and sources of contributions, number of potential participants, total costs, and alternative forms of administration, including trust funds and revolving funds.

(2) The Secretary shall, within one year following the date of enactment of this title, complete the study required by paragraph (1) of this subsection and report his findings, together with any recommendations, to the President and the Congress.

(c) The Secretary shall, not later than September 30, 1975, complete an evaluation of the method of assigning vending machine income under section 7(b)(1) of the Randolph-Sheppard Act, including its effect on the growth of the program authorized by the Act, and on the operation of nonappropriated fund activities, and within thirty days thereafter he shall report his findings, together with any recommendations, to the appropriate committees of the Congress.

(d) Each State licensing agency shall, within one year following the date of enactment of this title, submit to the Secretary a report, with appropriate supporting documentation, which shows the actions taken by such agency to meet the requirements of section 2(a)(1) of the Randolph-Sheppard Act.

AUDIT

SEC. 211. The Comptroller General is authorized to conduct regular and periodic audits of all nonappropriated fund activities which receive income from vending machines on Federal property, under such rules and regulations as he may prescribe. In the conduct of such audits he and his duly authorized representatives shall have access to any relevant books, documents, papers, accounts, and records of such activities as he deems necessary.

TITLE III—WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

SHORT TITLE

SEC. 300. This title may be cited as the "White House Conference on Handicapped Individuals Act".

FINDINGS AND POLICY

SEC. 301. The Congress finds that—

(1) the United States has achieved great and satisfying success in making possible a better quality of life for a large and increasing percentage of our population;

(2) the benefits and fundamental rights of this society are often denied those individuals with mental and physical handicaps;

(3) there are seven million children and at least twenty-eight million adults with mental or physical handicaps;

(4) it is of critical importance to this Nation that equality of opportunity, equal access to all aspects of society and equal rights guaranteed by the Constitution of the United States be provided to all individuals with handicaps;

(5) the primary responsibility for meeting the challenge and problems of individuals with handicaps has often fallen on the individual or his family;

(6) it is essential that recommendations be made to assure that all individuals with handicaps are able to live their lives independently and with dignity, and that the complete integration of all individuals with handicaps into normal community living, working, and service patterns be held as the final objective; and

(7) all levels of Government must necessarily share responsibility for developing opportunities for individuals with handicaps;

and it is therefore the policy of the Congress that the Federal Government work jointly with the States and their citizens to develop recommendations and plans for action in solving the multifold problems facing individuals with handicaps.

AUTHORITY OF PRESIDENT, COUNCIL, AND SECRETARY

SEC. 302. (a) The President is authorized to call a White House Conference on Handicapped Individuals not later than two years after the date of enactment of this title in order to develop recommendations and stimulate a national assessment of problems, and solution to such problems, facing individuals with handicaps. Such a conference shall be planned and conducted under the direction of the National Planning and Advisory Council, established pursuant to subsection (b) of this section, and the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") and each Federal department and agency shall provide such cooperation and assistance, including the assignment of personnel, as may reasonably be required by the Secretary.

(b)(1) There is established a National Planning and Advisory Council (hereafter referred to as the "Council"), appointed by the Secretary, composed of twenty-eight members of whom not less than ten shall be individuals with handicaps appointed to represent all individuals with handicaps, and five shall be parents of individuals with handicaps appointed to represent all such parents and individuals. The Council shall provide guidance and planning for the Conference.

(2) Any member of the Council who is otherwise employed by the Federal Government shall serve without compensation in addition to that received in his regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by him in the performance of his duties.

(3) Members of the Council, other than those referred to in paragraph (1), shall receive compensation at rates not to exceed the daily rate prescribed for GS-18 under section 5332, title 5, United States Code, for each day they are engaged in the performance of their duties (including traveltime); and, while so serving away from their homes or regular places of business, they shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703, title 5, United States Code, for persons in Government service employed intermittently.

(4) Such Council shall cease to exist one hundred and twenty days after the submission of the final report required by section 302(e).

(c) For the purpose of ascertaining facts and making recommendations concerning the utilization of skills, experience, and energies, and the improvement of the conditions of individuals with handicaps, the Conference shall bring together individuals with handicaps and members of their families and representatives of Federal, State, and local governments, professional experts, and members of the general public recognized by individuals with handicaps as being knowledgeable about problems affecting their lives.

(d) Participants in the White House Conference, and in conferences and other activities leading up to the White House Conference at the local and State level are authorized to consider all matters related to the purposes of the Conference set forth in subsection (a), but shall give special consideration to recommendations for:

(1) providing education, health, and diagnostic services for all children early in life so that handicapping conditions may be discovered and treated;

(2) assuring that every individual with a handicap receives appropriately designed benefits of the educational system;

(3) assuring that individuals with handicaps have available to them all special services and assistance which will enable them to live their lives as fully and independently as possible;

(4) enabling individuals with handicaps to have access to usable communication services and devices at costs comparable to other members of the population;

(5) assuring that individuals with handicaps will have maximum mobility to participate in all aspects of society, including access to all publicly-assisted transportation services and, when necessary, alternative means of transportation at comparable cost;

(6) improving utilization and adaptation of modern engineering and other technology to ameliorate the impact of handicapping conditions on the lives of individuals and especially on their access to housing and other structures;

(7) assuring individuals with handicaps of equal opportunity with others to engage in gainful employment;

(8) enabling individuals with handicaps to have incomes sufficient for health and for participation in family and community life as self-respecting citizens;

(9) increasing research relating to all aspects of handicapping conditions, stressing the elimination of causes of handicapping conditions and the amelioration of the effects of such conditions;

(10) assuring close attention and assessment of all aspects of diagnosis and evaluation of individuals with handicaps;

(11) assuring review and evaluation of all governmental programs in areas affecting individuals with handicaps, and a close examination of the public role in order to plan for the future;

(12) resolving the special problems of veterans with handicaps;

(13) resolving the problems of public awareness and attitudes that restrict individuals with handicaps from participating in society to their fullest extent;

(14) resolving the special problems of individuals with handicaps who are homebound or institutionalized;

(15) resolving the special problems of individuals with handicaps who have limited English-speaking ability; and

(16) promoting other related matters for individuals with handicaps.

(e) A final report of the White House Conference on Handicapped Individuals shall be submitted by the Council to the President not later than one hundred and twenty days following the date on which the conference is called, and the findings and recommendations included therein shall be immediately made available to the public. The Council and the Secretary shall, within ninety days after the submission of such final report, transmit to the President and the Congress their recommendations for administrative action and legislation necessary to implement the recommendations contained in such report.

RESPONSIBILITIES OF COUNCIL AND SECRETARY

SEC. 303. (a) In carrying out the provisions of this title, the Council and the Secretary shall—

(1) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate, including Federal advisory bodies having responsibilities in areas affecting individuals with handicaps;

(2) render all reasonable assistance, including financial assistance, to the States in enabling them to organize and conduct conferences on handicapped individuals prior to the White House Conference on Handicapped Individuals;

(3) prepare and make available necessary background materials for the use of delegates to the White House Conference on Handicapped Individuals;

(4) prepare and distribute such interim reports of the White House Conference on Handicapped Individuals as may be appropriate; and

(5) engage such individuals with handicaps and additional personnel as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 57 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) In carrying out the provisions of this title, the Secretary shall employ individuals with handicaps.

DEFINITION

SEC. 304. For the purpose of this title, the term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

STATE PARTICIPATION

SEC. 305. (a) From the sums appropriated pursuant to section 306 the Secretary is authorized to make a grant to each State, upon application of the chief executive thereof, in order to assist in meeting the costs of that State's participation in the Conference program, including the conduct of at least one conference within each such State.

(b) Grants made pursuant to subsection (a) shall be made only with the approval of the Council.

(c) Funds appropriated for the purposes of this subsection shall be apportioned among the States by the Secretary in accordance with their respective needs for assistance under this subsection, except that no State shall be apportioned more than $75,000 nor less than $25,000.

AUTHORIZATION OF APPROPRIATIONS

SEC. 306. There are authorized to be appropriated, without fiscal year limitations, such sums as may be necessary to carry out the provisions of this title. Sums so appropriated shall remain available for expenditure until June 30, 1977.

Mr. CRANSTON. Mr. President, I am delighted to be bringing to the Senate on behalf of the Committee on Labor and Public Welfare the bill S. 3108, the Rehabilitation Act Amendments of 1974, which I reported from committee on September 6.

Mr. President, a year ago this month the U.S. Senate passed the Rehabilitation Act of 1973—Public Law 93-112—to provide a new design for the Nation's Federal/State vocational rehabilitation programs. That was the seventh attempt on the part of the Senate to enact such legislation, owing to the steadfast opposition of the Nixon administration to our legislative efforts to improve the provision of rehabilitation services to handicapped individuals.

As the principal author, along with the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Vermont (Mr. STAFFORD), of the Rehabilitation Act of 1973, and as floor manager of S. 3108, I would like to take this opportunity to express my appreciation for the distinguished efforts of my colleagues on the Subcommittee on the Handicapped—including the subcommittee chairman (Mr. RANDOLPH), the chairman of the Labor and Public Welfare Committee (Mr. WILLIAMS), and the ranking minority member of the subcommittee (Mr. STAFFORD)—in moving expeditiously to report the legislation pending before us today. And I am grateful to the majority and minority leadership for scheduling the bill so expeditiously today.

Mr. President, I would also like to thank the staffs of the Committee on Labor and Public Welfare and the House Committee on Education and Labor who worked closely with representatives of the Department of Health, Education, and Welfare—HEW—the Department of Labor, and the Civil Service Commission to insure that implementation of the provisions of the Rehabilitation Act of 1973 would be accomplished in accordance with the intent of Congress. Particularly, I would like to pay tribute to Bob Humphreys, Mike Francis, Lisa Walker, Nik Edis, Patria Forsythe, Anne Hocutt, Jack Andrews, Traer Sunley, and Jon Steinberg.

The byproducts of this close cooperation were the issuance on May 28 and July 2, 1974, by the Secretary of HEW of proposed regulations to implement the new act, which were in most respects reflective of underlying congressional intent, and the determination by the committee and staff that certain clarifying and perfecting changes in the act would be required in order to permit the full implementation of congressional intent.

As a consequence, I chaired hearings of the Subcommittee on the Handicapped on June 27, 1974, on S. 3108, Senator STAFFORD's bill to transfer the Rehabilitation Services Administration (RSA) to the Office of Assistant Secretary for Human Development in HEW; S. 3381, Senator BENTSEN's measure to extend authorizations of appropriations in the Rehabilitation Act of 1973; and H.R. 14225, the measure passed by the House on May 21, 1974, to amend and extend authorizations of appropriations in the Rehabilitation Act of 1973. Testimony was received from the Under Secretary of Health, Education, and Welfare, the RSA Commissioner, and other Administration witnesses, and extensive testimony was received from concerned groups and organizations.

The bills S. 3108 and H.R. 14225 were subsequently ordered discharged from the Subcommittee on the Handicapped to the full committee. On August 15, 1974, the full Committee on Labor and Public Welfare met in executive session and unanimously ordered favorably reported S. 3108 with an amendement in the nature of a substitute and a title amendment.

Mr. President, at this time I would like to summarize the major provisions of the committee substitute. The title I provisions fall into three general categories: transfer of the Rehabilitation Services Administration—RSA—extension of appropriations authorizations, and technical and clarifying changes. The title II provisions strengthen the Randolph-Sheppard Act for the blind, and the title III provisions direct the convening of a White House Conference on Handicapped Individuals. The latter two titles of the committee substitute incorporate provisions that have already passed the Senate earlier in this Congress.

TRANSFER OF RSA

Mr. President, the committee substitute establishes RSA in the Office of the Secretary of Health, Education, and Welfare, rather than in the Department generally, requires that the RSA Commissioner be confirmed by the Senate, requires that such Commissioner report directly to the Secretary, the Under Secretary or an appropriate Assistant Secretary, and prohibits the delegation of any functions of the Commissioner to any officer not directly responsible to him, both in terms of program responsibilities and any significant policy-formulation administrative responsibilities. Let me stress, Mr. President, that the distinguished minority floor manager of this bill (Mr. STAFFORD) and I have discussed this matter and as he explains in his remarks the committee bill does not require that RSA itself carry out routine administrative support functions, such as cutting appointment papers, technical budget regulation and form review, grant processing, formula grant allotments, accounting documentation, and certain personnel counseling.

EXTENSION OF APPROPRIATIONS AUTHORIZATIONS

Mr. President, the committee substitute extends for 1 year the authorization of appropriations for the basic vocational rehabilitation services program, authorizing $720,000,000 for fiscal year 1976; and extends for 2 years the authorizations of appropriations for the other sections of the act—increasing dollar amounts, where such amounts appear, by small increments.

Mr. President, at this time I ask unanimous consent to have printed in the RECORD the summary of the authorizations of appropriations as proposed in S. 3108 and as reported by the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

COST ESTIMATE PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (P.L. 91-510), the Committee estimates that if all funds authorized were appropriated during fiscal year 1976 and the succeeding fiscal year, the five-year costs occasioned by S. 3108, as reported, would be as follows:

TABLE 1.—SUMMARY OF AUTHORIZATIONS OF APPROPRIATIONS AS PROPOSED IN S. 3108 (AS REPORTED)

[In millions of dollars]

	Fiscal year—					
	1975	1976	1977	1978	1979	1980
TITLE I						
Vocational rehabilitation services, sec. 102(a)(1) (sec. 100(b)(1) of Public Law 93-112)		720.0				
Innovation and expansion grants and special needs study, sec. 102(a)(2) (sec. 100(b)(2) of Public Law 93-112)		[1] 42.0	[1] 45.0			
Client assistance, sec. 102(b) (sec. 112(a) of Public Law 93-112)		[2] 3.0	[2] 3.0			
Research, sec. 103(1) (sec. 201(a)(1) of Public Law 93-112)		[1 3] 35.0	[1 3] 37.5			
Training, sec. 103(3) (sec. 201(a)(2) of Public Law 93-112)		[1] 35.0	[1] 37.5			
Construction grants, sec. 104(1) (sec. 301(a) of Public Law 93-112)		(4)	(4)			
Vocational training services, sec. 105 (sec. 302(a) of Public Law 93-112)		(4)	(4)			
Special projects and demonstrations, sec. 106 (sec. 304(a)(1) of Public Law 93-112)		[1] 20.0	[1] 25.0			
National Center for Deaf-Blind Youths and Adults, sec. 107 (sec. 305(a) of Public Law 93-112)		(4)	(4)			
Program and project evaluation, sec. 108 (sec. 403 of Public Law 93-112)		(4 5)	(4 5)			
Secretarial responsibilities, sec. 109 (sec. 405(d) of Public Law 93-112)		0.7	1.0			
Architectural and Transportation Barriers Compliance Board, sec. 110 (sec. 502(h) of Public Law 93-112)		1.5	2.0			
Subtotal for Title I		857.2	151.0			
TITLE II						
Randolph-Sheppard Act Amendments [6]						
TITLE III						
White House Conference on Handicapped Individuals, sec. 306	[7] 2.0	[7] 3.0	[7] 1.0			
Grand total	2.0	860.2	152.0			

[1] Plus such sums.

[2] $1,500,000 earmark.

[3] 25 percent earmark for establishment of rehabilitation engineering research centers.

[4] Such sums.

[5] Not to exceed ½ of 1 percent of titles I, II, and III appropriations or $1,000,000, whichever is greater.

[6] No new authorizations of appropriations are provided in title II of the committee substitute; agencies affected by the provisions of this title are expected to bear the costs thereof out of general agency appropriations.

[7] Such sums as may be necessary are authorized to be appropriated, without fiscal year limitation, to remain available until June 30, 1977.

CLARIFYING AND TECHNICAL CHANGES

Mr. CRANSTON. Mr. President, there are a number of technical and clarifying changes in the committee substitute. Among them is a most important technical amendment providing for a new definition of "handicapped individual" as it applies to the antidiscrimination and affirmative action provisions in titles IV and V of the Rehabilitation Act of 1973. The 1973 act defines handicapped individual in terms of an individual's physical or mental disability as it constitutes or results in a substantial handicap to employment and in terms of whether an individual can reasonably be expected to benefit in terms of employability from vocation rehabilitation services provided pursuant to the act.

The new definition in section 7(6) of the act is meant to include a broader group of handicapped persons who suffer from discrimination practices in employment, and participation in certain services and programs even though their handicap may not effect job performance or may even no longer exist. The proposed definition basically is divided into two parts: Clause (A), which deals with persons who actually have physical or mental impairments; and clauses (B) and (C) dealing with persons who are the subject of discrimination because they are seen—and I stress seen—as having such impairments.

Mr. President, another important clarifying amendment in the committee substitute is the new requirement directing affirmative action—applying the new definition of "handicapped individual"—in the employment and advancement in employment of qualified handicapped individuals by State vocational rehabilitation agencies and facilities receiving assistance under title I of the act.

A third clarification in the law, of great significance to my mind, is the provision in the committee substitute providing for the authorization of special projects and demonstrations for recreational activities that are fully accessible to handicapped individuals.

I would also stress the provision in the committee substitute amends the act to add the Department of Defense as a member of the Architectural and Transportation Barriers Compliance Board, to make the Secretary of HEW the chairman of such Board, to require a Consumer Advisory Panel, composed of a majority of handicapped individuals, for the Board, to authorize the Board to carry out its functions directly or indirectly by grant or contract, to make an order of the Board binding on any Federal agency, to authorize the withholding or suspension of funds for buildings not in compliance, to require Board appointment of an executive director and staff and to change the final reporting date on the transportation and housing needs of handicapped individuals from January 1 to September 30, 1975.

Mr. President, I take not of a change by the committee substitute made in the Rehabilitation Act of 1973 which has had an important effect on special projects under the Rehabilitation Act for individuals with development disabilities. In reviewing the special project authority in 1973 (section 304), the committee reviewed the appropriateness of funding special projects for individuals with developmental disabilities who are not otherwise eligible under the Rehabilitation Act. The committee concluded that a special project authority should be created under the Development Disabilities Services and Facilities Construction Act. Such legislation containing that authority is pending before the full committee and is expeced to be reported to the Senate floor in the near future. At the same time, the committee intends to provide as smooth a transition as possible for current and continuation projects funded under the Rehabilitation Act for individuals with developmental disabilities in light of the fact that the major portion of appropriated special projects funds are spent on such projects. There has been difficulty in the continued operation of this authority as a result of Public Law 93-112, and because of this difficulty clarification of committee intent is necessary.

Mr. President, with respect to section 304, current and continuation projects which serve individuals with developmental disabilities funded under the Vocational Rehabilitation Act or the Rehabilitation Act of 1973 should be continued until such new authority under the developmental disabilities legislation is authorized; and individuals with developmental disabilities who are or were receiving services under such projects should continue to be eligible for such services and special projects delivering indirect services to such individuals or which have impact on their lives should continue to be funded. Furthermore, even after the enactment of new special project authority under developmental disabilities legislation, funding for projects serving individuals with developmental disabilities should continue consistent with the intent of Congress that no individual is to be refused service under the Rehabilitation Act unless it is demonstrated beyond any reasonable doubt that such individual is not then capable of achieving a vocational goal.

This should not be interpreted then to mean that after the enactment of special project authority under developmental disabilities legislation, all special projects which serve developmentally disabled persons can be funded only under the developmental disabilities legislation, or that developmentally disabled individuals are no longer to be eligible under the basic State grant program under the Rehabilitation Act. Individuals with developmental disabilities are still to continue to be eligible as all other handicapped individuals are eligible under the Rehabilitation Act, either under special projects or the basic State grant program, in accordance with the eligibility provisions of that act.

Mr. President, at this time I ask unanimous consent to have printed in the RECORD appropriate excerpts from the committee report, including the section-by-section analysis of the bill, and a copy of our letter to Secretary of Labor Peter J. Brennan on the implementation of section 503.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE COMMITTEE SUBSTITUTE

The Committee on Labor and Public Welfare considered the bill S. 3108 in executive session on August 15, 1974, and adopted a number of substantive amendments, including most of the provisions of S. 3381, H.R. 14225, S. 2581, and S.J. Res. 118, as follows:

1. Amended section 3(a) of the Rehabilitation Act of 1973 to establish the Rehabilitation Services Administration (RSA) in the Office of the Secretary of Health, Education, and Welfare, to require that the RSA Commissioner be confirmed by the Senate, to require that such Commissioner report directly to the Secretary, the Under Secretary, or an appropriate Assistant Secretary, and to prohibit the delegation of program and administration functions of the Commissioner to any officer not directly responsible to him, both in terms of program and administration responsibilities.
2. Amended section 100(b) of the Act to extend for one year the authorization of appropriations for the basic vocational rehabilitation services program, authorizing $720,000,000 for part B of title I for fiscal year 1976; and to extend for two years the authorization of appropriations for parts C (innovation and expansion grants) and D (comprehensive needs special study) of title I, authorizing $42,000,000 for fiscal year 1976 and $45,000,000 for fiscal year 1977, plus in each year such additional sums as the Congress may determine; and amends Section 121(b) to extend for two years the time during which part C grant funds are available for obligation.
3. Amended section 112(a) of the Act to extend for two years the authorization of appropriations for client assistance projects, authorizing up to $3,000,000 but earmarking no less than $1,500,000 each for fiscal years 1976 and 1977.
4. Amended section 201(a) of the Act to extend for two years the authorization of appropriations for research and training, authorizing $35,000,000 for fiscal year 1976 and $37,500,000 for fiscal year 1977 for research, and a like amount for training, plus in each year such additional sums as the Congress may determine.
5. Amended section 301(a) of the Act to extend for two years the "such sums" authorization of appropriations for construction grants, and the time during which such appropriations will remain available for expenditure.
6. Amended section 302(a) of the Act to extend for two years the "such sums" authorization of appropriations for vocational training services grants.
7. Amended section 304(a) of the Act to extend for two years the authorization of appropriations for special projects and demonstrations, authorizing $20,000,000 for fiscal year 1976 and $25,000,000 for fiscal year 1977, plus in each year such additional sums as the Congress may determine.
8. Amended section 305(a) of the Act to extend for two years the "such sums" authorization of appropriations for operations of a National Center for Deaf-Blind Youths and Adults.
9. Amended section 403 of the Act to extend for two years the "such sums" authorization of appropriations for program and project evaluations.
10. Amended section 405(d) of the Act to extend for two years the authorization of appropriations for secretarial responsibilities (Office for Handicapped Individuals), authorizing $700,000 for fiscal year 1976 and $1,000,000 for fiscal year 1977.
11. Amended section 502(h) of the Act to extend for two years the authorization of appropriations for the Architectural and Transportation Barriers Compliance Board, authorizing $1,500,000 for fiscal year 1976 and $2,000,000 for fiscal year 1977.
12. Amended section 7(6) of the Act to add a definition of "handicapped individual" for purposes of titles IV and V of the Act.
13. Amended section 101(a)(6) of the Act to require affirmative action to employ and advance qualified handicapped individuals by State agencies and facilities receiving assistance under title I.
14. Amended sections 101(a)(9)(C), 101(a)(15), 102(a), and 102(c) of the Act to require detailed records, analysis, and evaluation of determinations of ineligibility for services under title I.
15. Amended section 112(a) of the Act to eliminate as to FY 1976 and 1977 funding the restrictions on the earmarking of funds for client assistance projects—the level of special projects 1973 appropriations.
16. Amended section 130(b) of the Act to extend to September 30, 1975, the date for reporting by the Secretary on the comprehensive study of service needs for individuals with the most severe handicaps.
17. Amended section 202(a) of the Act to authorize grants for demonstrations of architectural and engineering designs for handicapped individuals.
18. Amended section 304(b) of the Act to authorize special projects and demonstrations for recreational activities that are fully accessible to handicapped individuals.
19. Amended sections 304(e)(1) and 306(b) of the Act to require concurrence by the Architectural and Transportation Barriers Compliance Board with respect to HEW technical assistance for the removal of architectural and transportation barriers and to design plans for a construction project and to make this new requirement and all other section 306(b) construction project requirements applicable to any project that includes construction.
20. Amended section 405(a)(1) of the Act to extend from March 26, 1975, to July 1, 1975, the date by which the long-range projection of comprehensive services, research, evaluation, and training programs for handicapped individuals.
21. Amended section 405(c) of the Act to require that the functions of the Office for the Handicapped (renamed the Office for Handicapped Individuals) be assigned to the immediate office of the Secretary or Under Secretary of H.E.W.
22. Amended section 502(a), (d), (e), and (g) of the Act to add the Department of Defense as a member of the Architectural and Transportation Barriers Compliance Board, to make the Secretary of HEW the chairman of such Board, to require a Consumer Advisory Panel, composed of a majority of handicapped individuals, for the Board, to authorize the Board to carry out its functions directly or indirectly by grant or contract, to make an order of the Board binding on any Federal agency, to authorize the withholding or suspension of funds for buildings not in compliance, to require Board appointment of an executive director and staff and to change the final reporting date on the transportation and housing needs of handicapped individuals from January 1 to September 30, 1975.
23. Added, as title II of the bill, the provisions of the Senate-passed Randolph-Sheppard Act Amendments of 1974 (S. 2581), with technical changes.
24. Added, as title III of the bill, the provisions of the Senate-passed resolution for a White House Conference on Handicapped Individuals (S.J. Res. 118), with technical changes.

SUMMARY OF MAJOR PROVISIONS

TITLE I—AMENDMENTS TO THE REHABILITATION ACT OF 1973

The provisions of title I of the Committee substitute fall into three general categories: transfer of the Rehabilitation Services Administration, extension of appropriations authorizations, and technical and clarifying changes.

Transfer of RSA

The Committee substitute, like the House-passed H.R. 14225, transfers the Rehabilitation Services Administration (RSA) out of the Social and Rehabilitation Services Administration (SRS). The House bill transfers RSA to the Office of the Secretary of Health, Education, and Welfare. The Committee substitute transfers RSA to the Secretary's office, but, in order to provide greater clarity, expressly permits the Secretary to require the Commissioner of RSA to report directly to the Secretary, or to the Under Secretary, or to an appropriate Assistant Secretary, of HEW.

A number of arguments, both for and against a transfer of RSA, have been made. The Administration, opposed to the transfer, argues that the new Rehabilitation Act has only recently become law, and that SRS should be permitted to work cooperatively with RSA in implementing the expanded and new programs established by that Act. Further, the Administration believes that any transfer would be disruptive of the vocational rehabilitation services program, would upset existing interagency and intra-agency lines of communication and cooperation, and would result in a lengthy delay in implementation of the Act.

Many of the so-called "consumer groups" of handicapped individuals, as well as many State rehabilitation agencies, have for some time expressed dissatisfaction with the current administrative arrangement within the Department of Health, Education, and Welfare (HEW). They believe that the rehabilitation program has been submerged within SRS and consequently has suffered in terms of time devoted to the program, personnel assigned to the program, and program operation. In this connection, the Committee takes note of the fact that the personnel strength of RSA has markedly diminished from its zenith attained during the administration of the late Mary Switzer.

The Committee has formulated its decision to transfer RSA out of SRS on the basis of policy and philosophy. The Committee views the vocational rehabilitation program as a human development program and not a welfare program. As such, it should not be subsumed within an administrative entity whose major program responsibilities relate to welfare. S. 3108 as introduced would have transferred RSA to the Office of the Assistant Secretary for Human Development. Though such a transfer might be appropriate, the Committee has provided the Secretary with sufficient flexibility to effectuate a transfer to an organizational arrangement within his office which, in his view, would be most appropriate and beneficial for RSA and the programs it administers.

The Committee substitute provides 60 days for the transfer to be effected, and the Committee fully expects all personnel (including full-time, part-time, and intermittent employees and experts and consultants) and all positions assigned to RSA to be transferred along with the organizational unit itself. Moreover, the Committee substitute requires that to the extent that the RSA Commissioner delegates responsibilities assigned to him for titles I, II, and III of the Act (vocational rehabilitation services, research and training, and special Federal responsibilities) the delegate must be responsible to the RSA Commissioner in terms of program decisionmaking and personnel matters such as hiring, promotion, adverse actions, transfer, termination and so forth.

Extension of appropriations authorizations

The Rehabilitation Act of 1973 provides authorizations of appropriations through June 30, 1975. The measure adopted by the House of Representatives to amend the Act, H.R. 14225, would extend these authorizations, with modest increases in most programs, for one year to June 30, 1976. The Committee substitute extends the authorizations of appropriations for the programs established by the Rehabilitation Act of 1973 for an additional year, that is, until June 30, 1977, except with respect to the basic program for vocational rehabilitation services (part B of title I). The Committee expects to scrutinize further the operation of the basic program—particularly the formula for allocation to States—to determine whether additional changes in the law may be necessary or desirable. By limiting the program's authorization to June 30, 1976, there will be sufficient impetus to require such review next year and to consider the final report of the State allocation study required by section 407 of the Act, which has been presented in draft form to the Committee.

Basic State Grant Program

The authorization of appropriations for the basic State grant program of vocational rehabilitation services authorized by section 100(b)(1) of the Rehabilitation Act of 1973 is extended to June 30, 1976, with an authorization of $720,000,000. The present authorization for fiscal year 1975 in the Act is $680,000,000. During consideration of the vetoed predecessors to the Rehabilitation Act of 1973 the Committee and the Congress had supported much higher authorization levels, which reflected the urgency of greatly expanding the highly successful and cost-beneficial rehabilitation program to permit that program to begin to cope with the vast unmet need for services to handicapped individuals. The authorization proposed in the Committee substitute represents only a six-percent increase. Scarcely enough to cover increased program costs resulting from inflation while maintaining the same level of services.

In the interest of curbing Federal expenditures to help reduce inflation, however, the Committee has agreed to this barely satisfactory level of funding for fiscal year 1976.

As the report of the House Committee on Education and Labor on H.R. 14225 indicates, "unless Congress acts now to extend the authorization, states will be unable to determine how much Federal money they can anticipate in Fiscal Year 1976 for their programs of vocational rehabilitation—and thus they will be unable to plan their State expenditures accordingly." The Committee endorses this view.

Innovation and Expansion Grants

Section 100(b)(2) of the Act authorizes appropriations for title I, part C (innovation and expansion grants for services to handicapped individuals) and part D (study of comprehensive service needs of individuals with the most severe handicaps). The authorization in present law for fiscal year 1976 is $39,000,000 plus such additional sums as may be necessary for these purposes. Because this amount is lower than what was actually appropriated in fiscal year 1972 ($41.8 million) and the Committee believes that further funds are necessary in light of priorities on service to individuals with severe handicaps, the Committee believes that modest increases during the subsequent two years are warranted. The Committee substitute therefore increases the authorization level to $42,000,000 for FY 1976, and to $45,000,000 for FY 1977 plus in each year such additional sums as may be necessary.

Client Assistance

The client assistance program established pursuant to section 112 of the Act is expected to provide a meaningful contribution to the effectiveness of vocational rehabilitation services and to the well-being of service recipients. Up to $2.5 million, but no less than $1 million, is presently set aside for FY 1975 out of section 304 special projects appropriations in excess of amounts appropriated for this purpose under the predecessor Vocational Rehabilitation Act. Section 112 provides for the establishment of 7 to 20 client assistance projects throughout the nation. The Committee believes that a slight increase in authorization will assist in the development of a better quality and more of such projects, and therefore provides for each of the two subsequent fiscal years, 1976 and 1977, an authorization of appropriations of up to $3 million but no less than $1.5 million as an earmark for this purpose. (In view of the impending transfer of funding authority for developmental disabilities special projects from the Rehabilitation Act of 1973 to Developmental Disabilities legislation, which is discussed under "Special projects", *infra*, the Committee substitute in section 111(f) provides that future client assistance earmarking will no longer be conditioned on the maintenance of special projects funding at at least the FY 1973 appropriation level.)

Research and Training

In developing the 1973 Rehabilitation Act, the Committee expressed its strong support for an accelerated research and training program in rehabilitation. The Committee thus fully supports the increased authorization of appropriations provided by the House for these purposes. The existing authorized level of appropriations for research is $25 million, and for training, $27.7 million, for FY 1975 plus such additional sums as may be necessary. The House increased each to $30 million for FY 1976. The Committee believes the entire program will benefit by somewhat higher appropriation levels in light of the fact that appropriations for FY 1972 were $35,260,000 for rehabiltation research. Therefore, the Committee substitute provides authorizations of $35 million for FY 1976, and $37.5 million for FY 1977 plus such additional sums as may be necessary for both research and training. The anticipated expenditures implicit in the considerable number of project authorities established by the 1973 Act provides a strong basis for the higher levels of appropriations authorized for research and training.

The Committee points out with respect to section 202(b)(1) regarding Rehabilitation Research and Training Centers that this type of program has existed for at least four or five years. It has supported university-based programs which combine research and related training fields. The kind of research done is clinical research, and therefore patient care is a related part of the research program. As a result, this kind of research activity also lends itself to related general rehabilitation training. Historically, training has been for physicians, nurses, therapists, counselors and social workers in connection with the clinical aspects of the related research activities. The added benefit to a research and training center program in involving these disciplines is that their training takes place in an environment where the state of the art in service delivery can be very advanced, and the Committee intends that this mix of research and related training of personnel should continue under section 202(b)(1) of the Act.

Special Federal Responsibilities

Title III of the Act provides authorizations of appropriations of such sums as may be necessary for several programs through fiscal year 1975. These include construction grants under section 301, vocational training services grants under section 302, and the National Center for Deaf-Blind Youths and Adults under section 305. The House-passed measure, H.R. 14225, extends these "such sums" authorizations for one year, through FY 1976. The Committee substitute, consistent wtih other provisions extends these authorizations for two years.

Special Projects

The only specific dollar appropriation authorized in title III is for special projects and demonstrations under section 304. The level of authorization for FY 1975 is $17 million plus such additional sums as may be necessary. Although the Committee substitute, like the House bill, increases the dollar authorization for FY 1976 to only $20 million, it is contemplated that the transfer of funds to developmental disabilities programs, presently carried out under this section and previously under the predecessor section of the Vocational Rehabilitation Act—which was repealed by the 1973 Act—will produce considerably greater availability of funding for the multitude of special projects and demonstrations contemplated in the 1973 Act. The Committee substitute also raises the authorization of appropriations to $25 million plus "such sums" for FY 1977.

The Committee further wishes to clarify the intent of the 1973 Act with respect to special projects for developmentally disabled persons. During consideration of the Rehabilitation Act of 1973, the appropriateness of funding special projects for developmentally disabled persons under the Rehabilitation Act authority was carefully evaluated and the Committee considered the question whether such individuals otherwise meet the requirements for eligibility for vocational rehabilitation services under the Act. In connection with legislation now pending in the Committee to extend and amend the Developmental Disabilities Services and Construction Act (P.L. 91–517), the Committee has decided to create a special project grant authority under that pending legislation.

As noted earlier under "Client assistance", *supra*, the Committee substitute removes, with respect to FY 1976 and 1977 funding, the conditional nature of the earmark for client assistance out of special projects appropriations, since the vast bulk of special projects expenditures have been for developmental disabilities projects.

The Committee's intent is to provide as smooth as possible a transition in transferring the authority for providing such funding, and therefore believes that (1) current and continuation projects funded under the authority of the Vocational Rehabilitation Act or the Rehabilitation Act of 1973 should be continued until such new authority under Developmental Disabilities legislation is authorized; (2) developmentally disabled individuals who are receiving services under such projects should continue to be eligible for them, and special projects serving such individuals should continue to be funded; and (3) funding for projects serving developmentally disabled individuals should be continued consistent with the intent of Congress that no individual is to be refused service under the Rehabilitation Act unless it is demonstrated beyond any reasonable doubt that such individual is not then capable of achieving a vocational goal.

Evaluation

The Committee substitute extends the "such sums" authorization for program and project evaluations under section 403 for two years, rather than the single year extension in the House bill.

Office for Handicapped Individuals

The Committee substitute authorizes an appropriation of $700,000 for FY 1976 and $1 million for FY 1977 for secretarial responsibilities under section 405 (Office for Handicapped Individuals). The existing authorization level for FY 1975 is $500,000. The Committee anticipates that a functioning Office for Handicapped Individuals will require in future, at a minimum, the level of funding authorized in the Committee substitute.

Architectural and Transportation Barriers Compliance Board

The Architectural and Transportation Barriers Compliance Board established pursuant to section 502 of the 1973 Act has only begun to function. The Committee believes strongly that the Board has the potential of becoming a major force for achieving the elimination of environmental barriers to handicapped individuals. It expects the Board to become increasingly active in accomplishing this objective in the months ahead. To this end, the Committee proposes to amend section 502 in several respects, the substantive provisions of which will be discussed later in this report. To aid the Board in becoming a force for change, considerably larger appropriations (and authorizations) will be required than the $300,000 appropriation for FY 1974, or even the $1 million authorized to be appropriated for FY 1975. Therefore, the Committee substitute authorizes the appropriation of a more realistic $1.5 million for FY 1976, and $2 million for FY 1977, for the operation of the Board.

Technical and Clarifying Changes

Definition of Handicapped Individual

Section 7(6) of the Rehabilitation Act of 1973 defines "handicapped individual." That definition has proven to be troublesome in its application to provisions of the Act such as sections 503 and 504 because of its orientation toward employment and its relation to vocational rehabilitation services. It was clearly the intent of the Committee and of Congress in adopting section 503 (affirmative action) and section 504 (nondiscrimination) that the term "handicapped individual" in those sections was not to be narrowly limited to employment (in the case of section 504), nor to the individual's potential benefit from vocational rehabilitation services under titles I and III (in the case of both sections 503 and 504) of the Act.

Thus, it was not intended that an employer-government contractor should condition its hiring of handicapped individuals under an affirmative action plan on such individuals' having benefited, or having a reasonable expectation of benefiting, from vocational rehabilitation services. Similarly, a test of discrimination against a handicapped individual under section 504 should not be couched either in terms of whether such individual's disability is a handicap to employment, or whether such individual can reasonably be expected to benefit, in terms of employment, from vocational rehabilitation services. Such a test is irrelevant to the many forms of potential discrimination covered by section 504.

The Committee substitute adds a new definition of "handicapped individual" for the purposes of titles IV and V of the Act in order to embody this underlying intent.

Section 504 was enacted to prevent discrimination against all handicapped individuals, regardless of their need for, or ability to benefit from, vocational rehabilitation services, in relation to Federal assistance in employment, housing, transportation, education, health services, or any other Federally-aided programs. Examples of handicapped individuals who may suffer discrimination in the receipt of Federally-assisted services but who may have been unintentionally excluded from the protection of section 504 by the references to enhanced employability in section 7(6) are as follows: physically or mentally handicapped children who may be denied admission to Federally-supported school systems on the basis of their handicap; handicapped persons who may be denied admission to Federally-assisted nursing homes on the basis of their handicap; those persons whose handicap is so severe that employment is not feasible but who may be denied the benefits of a wide range of Federal programs; and those persons whose vocational rehabilitation is complete but who may nevertheless be discriminated against in certain Federally-assisted activities.

The section was patterned after, and is almost identical to, the antidiscrimination language of section 601 of the Civil Rights Act of 1964, 42 U.S.C. 2000d-1 (relating to race, color, or national origin), and section 901 of the Education Amendments of 1972, 42 U.S.C. 1683 (relating to sex). The section therefore constitutes the establishment of a broad government policy that programs receiving Federal financial assistance shall be operated without discrimination on the basis of handicap. It does not specifically require the issuance of regulations or expressly provide for enforcement procedures, but it is clearly mandatory in form, and such regulations and enforcement were intended by this Committee and by Congress.

The language of section 504, in following the above-cited Acts, further envisions the implementation of a compliance program which is similar to those Acts, including promulgation of regulations providing for investigation and review of recipients of Federal financial assistance, attempts to bring non-complying recipients into voluntary compliance through informal efforts such as negotiation, and the imposition of sanctions against recipients who continue to discriminate against otherwise qualified handicapped persons on the basis of handicap. Such sanctions would include, where appropriate, the termination of Federal financial assistance to the recipient or other means otherwise authorized by law. Implementation of section 504 would also include pre-grant analysis of recipients to ensure that Federal funds are not initially provided to those who discriminate against handicapped individuals. Such analysis would include pre-grant review procedures and a requirement for assurances of compliance with section 504. This approach to implementation of section 504, which closely follows the models of the above-cited anti-discrimination provisions, would insure administrative due process (right to hearing, right to review), provide for administrative consistency within the Federal government as well as relative ease of implementation, and permit a judicial remedy through a private action.

The amended definitions of section 7(6) is also intended to make clearer than the coverage of sections 503 and 504 extends to persons who have recovered—in whole or in part—from a handicapping condition, such as a mental or neurological illness, but who may nevertheless be discriminated against on the basis of prior medical history and to persons who were inappropriately classified as handicapped (for example, mentally ill or mentally retarded) and where such inappropriate or incorrect classification has resulted in that person's inability to participate in all the activities covered by sections 503 and 504.

Further, the amended definition clarifies the intention to include those persons who are discriminated against on the basis of handicap, whether or not they are in fact handicapped, just as title VI of the Civil Rights Act of 1964 prohibits discrimination on the ground of race, whether or not the person discriminated against is in fact a member of a racial minority.

The amended definition applies to section 503 as well as to section 504 in order to avoid limiting the affirmative action obligation of a Federal contractor to the class of persons who are eligible for vocational rehabilitation services. It should be noted, however, that the contractor's obligation cannot be fulfilled by the expediency of hiring persons marginally or previously handicapped or persons "regarded as" handicapped. Rather, an acceptable affirmative action program must be aimed at the entire class of employable handicapped persons, with particular attention to those who are severely handicapped. This standard parallels the obligation of a Federal contractor under Executive Order No. 11246 to employ persons who might be discriminated against on the basis of national origin: the obligation extends to all ethnic groups within the available applicant pool and cannot be fulfilled selectively by hiring persons from only one ethnic group.

Congress intended that sections 503 and 504 be administered in such a manner that a consistent, uniform, and effective Federal approach to discrimination against handicapped persons would result. Thus, Federal agencies and departments should cooperate in developing standards and policies so that there is a uniform, consistent Federal approach to these sections. The Secretary of the Department of Health, Education, and Welfare, because of that Department's experience in dealing with handicapped persons and with the elimination of discrimination in other areas, should assume responsibility for coordinating the section 504 enforcement effort and for establishing a coordinating mechanism with the Secretary of the Department of Labor to ensure a consistent approach to the implementation of sections 503 and 504. The Committee understands that H.E.W.'s section 504 regulations should be completed by the close of this year.

With respect to section 503, in addition, the Committee notes its great disappointment with the Department of Labor's "interim" regulations issued on July 11, 1974, pursuant to that section. The views of the Committee were summed up in the August 21, 1974, letter to Secretary of Labor Peter J. Brennan from Chairman Williams and Senators Randolph, Cranston, and Stafford, set forth in the Appendix to this report, the essence of which states:

> In our view these regulations represent a step backward from the purposes of section 503. . . .

The Committee, therefore, hopes and expects that the Department will take the occasion to review and revise its regulations in light of the clarification of the section 7(6) definition in the Committee substitute and the points expressed in the August 21, 1974, letter to the Secretary.

Affirmative Action in State Plans

The Committee substitute (section 111(b)) imposes an additional requirement for State plans under section 101(a)(6) of the Rehabilitation Act of 1973. The new provision requires that each State agency and every other facility in receipt of assistance under title I of the Act must take affirmative action to employ and advance in employment qualified handicapped individuals who are covered under section 503 (thereby applying the new definition of "handicapped individual" which would be added by section 111(a) in the Committee substitute and on the same terms and conditions as set forth in section 503 (relating to the affirmative action requirement under Federal contracts and subcontracts).

The Committee notes with respect to the affirmative action program required of each Federal department, agency, and instrumentality by section 501 of the Rehabilitation Act of 1973, that those agencies which administer programs affecting handicapped individuals, including the Department of Health, Education, and Welfare, the Department of Labor, the Civil Service Commission, and the Architectural and Transportation Barriers Compliance Board, must bear a special responsibility to provide exemplary affirmative action programs to employ and advance in employment handicapped individuals, especially in those administrative units responsible for these programs. Their programs should set a high standard which can be emulated by agencies which are not so directly and intimately involved in the provision of services to, or the protection of, handicapped persons.

Similarly, those State agencies which administer programs for handicapped individuals, along with facilities and other public and nonprofit private agencies which provide services through funds under the Act, are expected to adopt strong affirmative action programs which are at least equivalent to those now being developed for Federal agencies. Moreover, these State agencies and facilities should be held to the same exemplary standard for affirmative action required of the Federal agencies with particular responsibilities for programs affecting handicapped individuals, in order to serve as a model for compliance with the affirmative action that is required of all Federal contractors and all Federal subcontractors under section 503 of the Act.

Records of ineligibility

In order to guard against potential abuses by any State agency or facility in the determination of eligibility of handicapped individuals for services, the Committee has proposed as subsections (c), (d), and (e) of section 111 of the Committee substitute the following requirements, amendments to the State plan provisions in section 101 of the Rehabilitation Act, and the individualized written rehabilitation program provisions in section 102 of the Act: (1) that each State agency must (in addition to keeping records of the characteristics of applicants who are determined not to be eligible for vocational rehabilitation services under title I, including the reasons for such determinations) keep such records in sufficient detail to enable the Secretary to analyze and evaluate annually the reasons for such determinations and the numbers of individuals determined to be ineligible; (2) that the State agency report semi-annually to the Secretary on these determinations, categorizing them and analyzing the reasons for them; (3) that the State agency annually review these ineligibility determinations on an individual basis in exactly the same manner as it would review an ineligibility determination of an individual after the process of evaluation or extended evaluation had begun and an individualized written rehabilitation program had been prepared (so that any change which had occurred in the individual's capacities and the degree of disability would be reevaluated periodically with a view toward giving that individual the benefit of the doubt with respect to the potential for a vocational goal, as required by present section 102(c); (4) that the State agency's continuing State-wide studies of the needs of handicapped individuals include a review of the efficacy of the criteria used with respect to such ineligibility determinations; (5) that such ineligibility determinations be made jointly by the vocational rehabilitation counsellor and the handicapped individual; (6) that an individual who has been so determined to be ineligible shall be advised of all rights and remedies, such as appeal rights and the availability of a client assistance project—where there is one—which are available to such individual; and (7) that any ineligibility determination made prior to the beginning of evaluation or extended evaluation be made (as with a later determination after the individualized written rehabilitation program has been developed) only after a full attempt has been made to develop a vocational goal for that individual and only upon certification by the counsellor (which certification would include a specification of reasons for the ineligibility determination) that the individual is not capable, beyond a reasonable doubt of achieving a vocational goal.

The Committee proposed these changes because it strongly believes full information is essential for effective evaluation and management of the vocational rehabilitation services program. The Committee had attempted in the Rehabilitation Act of 1973 to make this tie-in of data gathering and evaluation through the individualized written rehabilitation program provisions in section 102.

However, in view of an HEW General Counsel ruling that the individualized written rehabilitation program requirements do not apply to applicants found ineligible during preliminary diagnosis and the Departmental decision arising therefrom that, therefore, despite section 101(a)(9)(C)'s requirements, needed information would not be recorded and collected as to the reasons an applicant was rejected for services under the Act, the Committee amended the existing law to provide greater clarification of the record-keeping requirements under each State plan as to those individuals found ineligible for services under title I of the Rehabilitation Act of 1973.

The primary purpose of this record-keeping requirement is to provide information for the evaluators of the program and the Congress to ascertain the directions of the program and the quality and fairness of entrance level procedures.

The amendments also require an annual review on the part of the State rehabilitation agency of those individuals rejected so as to provide a mechanism for review of the reasons for rejection in order that those individuals who become eligible in the future because of changes in rehabilitation laws or changes in their conditions can be brought into the program.

Congress and RSA, in order to provide for constructive change and better administration of the program to serve the severely handicapped individual, need the information that will be collected pursuant to these amendments on those handicapped persons who are not being served by rehabilitation programs, just as they require detailed data on those persons who are served by them.

Architectural and Transportation Barriers Compliance Board

The Committee substitute makes a number of changes in the law which will affect the operation of the Architectural and Transportation Barriers Compliance Board established by section 502 of the 1973 Act.

As previously stated in this report, the Committee expects the Board to become a major force for positive change in the elimination of many categories of environmental barriers which now severely impede the mobility, the employment, and the recreation of handicapped people.

The Committee recognizes that a number of organizational and administrative difficulties have prevented the full development of Board activity. The Committee is concerned, however, that even with these difficulties the Board has not employed a single full-time executive director or professional staff member to begin its important functions.

The Committee understands that the Board has considered itself to be under severe limitations due to certain ambiguities it has found in section 502. Specifically, HEW, which has properly taken the lead in organizing the Board, has questioned whether there is authority for an enforcement of compliance mechanism in section 502, and has hesitated to issue grants or contracts to organizations outside the Federal Government to aid the Board in acquiring data and carrying out its functions.

The Committee substitute would resolve the problems enumerated above by requiring the Board to employ an executive director and other necessary professional and clerical staff, by specifying a compliance mechanism, and by specifically authorizing grant and contract authority for the Board.

In this connection, the Committee reemphasizes that the Board was created as a quasi-independent agency with the power to hire personnel notwithstanding individual department or agency limitations. The Committee expects the Board to take an independent aggressive posture toward its functions including application to the Office of Management and Budget and the Civil Service Commission for such professional and clerical positions and administrative law judges as it determines to be desirable and necessary to support its active role in the handicapped individuals. In this regard, the Committee expects the Board to report to the appropriate committees in Congress as to its efforts along these lines within six months after enactment of this legislation.

The Committee substitute also adds the Department of Defense as a Board member, specifies that the Secretary of Health, Education, and Welfare (in keeping with that Department's lead position in the matters of substantive concern to the Board) shall be chairman of the Board, and requires the Board to select, on the Secretary's recommendation, a Consumer Advisory Panel to advise the Board. A majority of the panel's members are to be handicapped individuals so that an increased awareness and sensitivity to problems and needs of persons who are handicapped may be imparted to the Board.

The Committee also believes it desirable for the Board to become involved in planning for the design of construction projects and other projects which involve construction, which are undertaken pursuant to the Rehabilitation Act of 1973. Thus, the Committee substitute imposes as a general grant and contract requirement (in section 306 of the Act) that the Board must concur in the plans and specifications for such projects. In addition, section 111(k) of the Committee substitute requires concurrence of the Board with respect to technical assistance to rehabilitation facilities in removing architectural and transportation barriers under section 304(e)(1) of the Act.

Office for Handicapped Individuals

The Committee substitute amends section 405(c) of the Act, which provides that the Secretarial functions under section 405 shall not be delegated to any person not assigned to or operating in the Office of the Secretary (except that the Secretary may establish an Office for the Handicapped in the office of an appropriate Assistant Secretary) by providing that the section 405 functions may be carried out only by individuals operating in the immediate office of the Secretary or the Under Secretary of Health, Education, and Welfare (and not in the office of an Assistant Secretary) and that such functions include the establishment and operation of an Office for Handicapped Individuals to carry out the section 405 responsibilities of the Secretary.

This amendment would serve two purposes: (1) it would place this agency-wide coordinative and planning responsibility of the Secretary under either the Secretary or the Under Secretary who have clear agency-wide responsibilities and powers; and (2) it would avoid the conflict of interest which might arise if, as is presently contemplated, the Secretary assigns the Rehabilitation Services Administration to the Office of Human Development where the Office for the Handicapped (which also would be renamed under the Committee substitute) is presently located.

Reporting Date Changes and Other Miscellaneous Amendments

The date for submitting a report to Congress on the study of comprehensive services needs of individuals with the most severe handicaps under section 130 of the Act, has been extended, at the request of the Administration, from February 1, 1975, to September 30, 1975. The Committee has been assured, and accordingly it expects, that this seven-month extension will permit the development and analysis of a more thorough, meaningful, and valuable study and report. In like manner, the Committee substitute has extended from March 26, 1975, to July 1, 1975, the date by which the Secretary must submit to Congress pursuant to section 405 (a)(1) of the Act the long-range projection of comprehensive services, research, evaluation, and training programs for handicapped individuals. Here, too, the Committee expects the production of a high quality report.

Section 502(g) of the Act contains an inconsistency in reporting dates on the study required to be made by the Architectural and Transportation Barriers Compliance Board. The subsection requires an interim report to be submitted to the President and Congress within 18 months after the date of enactment of the Act, which would be not later than March 26, 1975. Yet final reports must be submitted prior to January 1, 1975. This date was included in the measures which were vetoed prior to enactment of the Rehabilitation Act on September 26, 1973, and through inadvertence was not altered in the enacted law. The Committee substitute changes the final reporting date to September 30, 1975.

The Committee substitute also authorizes, under section 202(a) of the Act, demonstrations of architectural and engineering design adapted to meet the special needs of handicapped individuals, as well as studies and analyses of such design. Such demonstrations are expected to serve as models of excellence for the construction and remodeling of facilities which are not now available to handicapped individuals.

Moreover, the Committee substitute adds to the grant authority for special projects and demonstrations, under section 304(d), authority for the operation of programs designed to demonstrate recreational activities that are fully accessible to handicapped individuals. Since few recreational activities are at present fully accessible to such individuals, there is great need for the demonstration of models of excellence in the construction of recreation facilities that will aid the Federal government, States, and communities to stimulate the development of such facilities throughout the country. The programs authorized in this new provision are expected to result in valuable prototypes for barrier-free recreation opportunities for handicapped individuals.

TITLE II—RANDOLPH-SHEPPARD ACT AMENDMENTS

In order to facilitate the expedited consideration by the House of Representatives of S. 2581, the Randolph-Sheppard Act Amendments of 1974, which was passed by the Senate on June 20, 1974, and in order to make certain technical corrections to that measure, the Committee has included the provisions of S. 2581 as title II of the Committe substitute. Title II includes a further amendment to permit the vending or exchange of lottery tickets by blind vendors where authorized by State law and where such lotteries are conducted by a State agency. Regulations, orders, or directives of any Federal agency shall not be applied to limit the authority set forth in this provision.

The need for this legislation is well documented. Pursuant to a resolution of the Senate Subcommittee on the Handicapped, the Comptroller General of the United States submitted a report on September 27, 1973, concerning the sources and uses of vending machine income on Federal property. The report, which documents widespread abuses of the blind vendor program and the deficiencies in the existing law, is reproduced as an appendix to the 1973 hearings of the Subcommittee with respect to S. 2581. Virtually all the legislative recommendations included or implied in the report were incorporated in S. 2581 as adopted by the Senate.

Since 1969 when the first such amendments were introduced, the Senate has passed three amendatory measures—S. 2461 in 1970, S. 2506 as part of the subsequently vetoed Rehabilitation Act in 1972, and S. 2581 in 1974. The Committee believes that amendment of the Randolph-Sheppard Act is long overdue. A full explanation of S. 2581 and the need for this legislation may be found in Senate Report No. 98–937. Details are not, for that reason, reproduced in this report, except as included in the Section-by-Section Analysis of the Committee substitute.

TITLE III—WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

Title III of the Committee substitute authorizes the President to call a White House Conference on Handicapped Individuals within two years from the date of enactment of the title in order to stimulate a rational assessment of problems facing individuals with handicaps and develop recommendations to solve such problems.

Specifically, the title—

Directs the National Planning and Advisory Council to be established for the Conference and the Secretary of Health, Education, and Welfare, with the cooperation and assistance of other appropriate Federal departments and agencies, to plan and conduct the Conference.

Directs the Conference to bring together individuals with handicaps and their families; representatives of Federal, State, and local governments; and professional experts and members of the general public who are recognized by individuals with handicaps as being knowledgeable about problems affecting their lives.

Provides that a final report be submitted to the President by the Council and the Secretary not later than 120 days following the date on which the Conference is called; that the report shall be immediately available to the public; and that the Council and the Secretary shall transmit to the President and the Congress within 90 days after submission of the report, recommendations for administrative action and legislation necessary to implement the report.

Directs the Council and the Secretary to request the cooperation and assistance of other appropriate Federal departments and agencies, render financial and other assistance to the States to conduct conferences prior to the White House Conference, prepare and make available necessary materials to the White House Conference delegates, prepare and distribute interim reports, engage necessary individuals with handicaps and additional personnel, and employ individuals with handicaps in carrying out his functions under the provisions.

Establishes a National Planning and Advisory Council to the White House Conference on Handicapped Individuals, composed of twenty-eight persons, of whom ten shall be individuals with handicaps, appointed to be representative of all individuals with handicaps, appointed to be representative of all parents and individuals.

Provides that the National Planning and Advisory Council shall cease to exist 120 days after the submission of the final report of the White House Conference on Handicapped Individuals.

Authorizes to be appropriated not more than $75,000 nor less than $25,000 to assist the States in organizing and conducting at least one conference within each State prior to the White House Conference on Handicapped Individuals.

Authorizes the appropriation of such sums as may be necessary to carry out the provisions of this title.

Legislative history

This title, with certain changes, is identical in intent to S.J. Res. 118. S.J. Res. 118 (Senate Report No. 93–319) was unanimously ordered reported by the Committee on Labor and Public Welfare on June 27, 1973, and was passed by the Senate on July 18, 1973. The revisions are designed to bring about maximum participation by individuals with handicaps in the assessment, planning, and implementation of the Conference and in development of recommendations for administrative action and legislation to be presented to the President and the Congress.

Background

Estimates of Americans with handicaps range from a low of 28 million individuals to a high of over 50 million. These figures include at least 22 million individuals with physical handicaps and 6 million with mental handicaps. There is no more devastating comment on the nature of our public policy or the lives lived by these individuals than society's inability to provide accurate and current figures on how many individuals are handicapped, what forms of disability they have, and what kind of services they receive or need.

Individuals with handicaps are all too often excluded from schools and educational programs, barred from employment or are underemployed because of archaic attitudes and laws, denied access to transportation, buildings and housing because of architectural barriers and lack of planning, and are discriminated against by public laws which frequently exclude individuals with handicaps or fail to establish appropriate enforcement mechanisms.

Not the least of the problems is the fact that the American people are simply unfamiliar with and insensitive to difficulties confronted by individuals with handicaps. The failure to involve individuals with handicaps in the development of programs which affect their lives certainly fosters this problem. The public lacks adequate knowledge about the potential of these individuals to contribute significantly to society. Too often we automatically make the assumption that nothing can be done. With that assumption made, the best programming and the most advanced services cannot meet their goals. It is against the basic tenets of the scientific process to make assumption of no hope and no help. No less should be true of public policy. In the case of individuals with handicaps, making this assumption all too often has resulted in the violation of their basic rights as human beings, and has condemned them to live useless lives. Foresight and a strong commitment to the worth and dignity of the human life could have allowed them to live their lives with respect and dignity as first class citizens.

Since the original introduction of legislation calling for a White House Conference on the Handicapped, the Committee has held hearings in a variety of areas affecting individuals with handicaps, including hearings on the Vocational Rehabilitation Act; the Education of the Handicapped Act; S. 6, the proposed Education of All Handicapped Children Act; Developmental Disabilities Facilities and Construction Act; and S. 458 and title III of S. 3378, the proposed Bill of Rights for the Mentally Retarded. In each of these instances testimony presented to the Committee made a strong case for increasing the national commitment in this area, as well as the need to examine all public policy affecting individuals with handicaps. The Committee points out that in its Fiscal Year 1973 Annual Report, the National Advisory Committee on the Education of Handicapped Children called for the convening of a White House Conference on Handicapped Individuals before 1976 "so that no handicapped child shall remain forgotten or neglected as this Nation moves into its third century of progress and hope for people." This concern must also be registered for adults with handicaps. All too frequently the adults with handicaps are forgotten because they no longer seem as appealing and therefore elicit the same sympathy as when they were children.

The result has been institutional care or heavy dependency on family or friends because of a lack of services in the community to allow adults to function as independently as possible. The Committee recognizes that actions taken in the last few years in the courts, the State legislatures, at the local level, and in the Congress have laid the groundwork for substantial change in the lives of individuals with handicaps. Now more than ever a concerted and in-depth examination must be made of all aspects of law and public policy which affect individuals with handicaps.

For all of these reasons, it is of utmost necessity that a national forum be provided to focus attention on these problems and their solutions. That forum must be comprehensive in scope. It must be visible. It must be heard. And its recommendations must be acted upon.

The answers to many of the difficulties faced by individuals with handicaps are available or within our reach. The Committee expects that the White House Conference on Handicapped Individuals will serve as an important means of focusing greater public attention on the problems and needs of individuals with handicaps and will vitalize the commitment which the United States must have in overcoming these problems.

Planning and administration

This title authorizes the President of the United States to convene a White House Conference on Handicapped Individuals to develop recommendations for further action based on the assessment of national problems, and solutions to those problems, facing individuals with handicaps. This Conference must be well-planned and executed in order to yield the results which are needed in planning for individuals with handicaps. A two-year maximum lead-time has therefore been provided to ensure time for thorough planning which must involve extensive consultation and direction to assess problems adequately.

The title establishes a National Planning and Advisory Council, to be appointed by the Secretary, and to work jointly with him in carrying out all planning for the White House Conference and local and State Conferences to precede the White House Conference. The role of this Council has been strengthened over its role in the legislation passed previously by the Senate by providing the Council joint responsibilities with the Secretary for planning and conducting the conference and submitting the final reports. The Committee has provided that the Council be composed of twenty-eight members, of whom not less than ten shall be individuals with handicaps, appointed to represent all individuals with handicaps, and five shall be parents of individuals with handicaps, appointed to represent all such parents and individuals.

The Committee stresses that the representative nature of these individuals appointed to the Conference is a necessity to assure that the results of such Conference will be credible to all who are affected by public policy. The Committee further points out the increasing movement of individuals with handicaps to represent themselves in all areas which affect their lives, and stresses the need for the Council and the Conference to assure that organizations of individuals representing all individuals with handicaps are included at all stages of this Conference.

Special attention should be given to ensure that this Council is representative of individuals with handicaps who are elderly, who are economically disadvantaged and who are from minority groups.

The title directs the National Planning and Advisory Council and the Secretary of Health, Education, and Welfare, with the cooperation and assistance of other appropriate Federal departments and agencies, to plan and conduct the Conference. The Committee believes that placing this authority jointly with the Council and the Secretary of Health, Education, and Welfare is appropriate. The Department has over fifty programs which deal with the needs of individuals with handicaps and is the primary governmental agency charged with respectability for the health, welfare and well-being of these citizens.

In order to utilize the expertise and experience of individuals involved in programming for individuals with handicaps, the title provides that the Conference bring together individuals with handicaps and members of their families; representatives of Federal, State and local governments; and professional experts and members of the general public recognized by individuals with handicaps as being knowledgeable about problems affecting their lives. The Conference at all levels must be a Conference for, of, and about individuals with handicaps. The Committee fully expects that the process of selecting representatives, both for the White House Conference and the State and local conferences preceding the White House Conference, will be open and democratic, and will ensure that individuals of all ages, disabilities and professions will be represented.

The title directs this Planning Council to work jointly with the Secretary on all pre- and post-conference planning and reporting activities and to make recommendations to the Congress following the Conference. In view of the major responsibility given to the Planning Council, the Committee recommends that the Secretary appoint the members of the Planning Council within 90 days after enactment of the legislation.

The title directs the Council and the Secretary in the planning and administration of the Conference to request the cooperation and assistance of other appropriate government agencies. In this respect, the Committee believes that the Veterans Administration should be among those agencies which work closely in planning this Conference. It is the belief of this Committee that veterans with handicaps, especially veterans who became handicapped in Indochina, are confronted with problems which have not been adequately addressed by a coherent or consistent Federal policy. The problems of adjustment for veterans and civilians who are newly handicapped is of special concern to the Committee. The lives of these individuals and the lives of their families have been drastically changed. It is for this purpose that the Committee wishes to address the problems of these individuals and the ramifications this new condition has upon their families. The Committee expects the Veterans Administration to work with the Conference at all stages because of the expertise that agency should have in these areas.

The Council and the Secretary are directed to render all reasonable assistance and specifically required to provide financial assistance to the States to enable them to organize and conduct conferences on the need of individuals with handicaps prior to the White House Conference on Handicapped Individuals. The Committee believes that the local and State conferences and the National Conference must be widely publicized so as to ensure that these conferences are representative, and that the selection of delegates will be open, and that this process of selection will not bar any individual who wishes to participate. The Committee further directs the Council and the Secretary to address the problem of funding for individuals with handicaps who may need financial assistance to come to Washington to participate in the White House Conference and to work with the States to enable individuals with handicaps with financial need to participate in local and State conferences.

The Council and the Secretary are expected to ensure that the White House Conference is held in an accessible facility and that local and State conferences must likewise be held in accessible facilities. Modifications must comply with acceptable standards and should be permanent. Contractual agreements should stipulate that such modifications will not be removed unless the owner intends to make the modifications *more permanent*. Full provision must be made for the special needs of individuals with handicaps at all local and State conferences and the White House Conference. For example, materials should be available in braille or on tapes for individuals who are blind, and interpreters shall be provided throughout all conferences to ensure full participation by those individuals who are deaf.

The Committee expects the Secretary to make full use of recommendations made by existing and past advisory committees and task force panels on individuals with physical handicaps, mental handicaps, and on the education of children with handicaps, as well as others, in preparing background information and materials for delegates to the State conferences and the White House Conference. The Committee believes that many of the recommendations made by prior Task Force panels will be invaluable information for delegates to local and State conferences and the White House Conference. The title further directs that the expertise of existing advisory panels with responsibilities for Federal programs and services for handicapped individuals be fully utilized.

Furthermore, position papers drawn up by the staff of the White House Conference, by delegates, and other interested parties can be used effectively to generate discussion in particular areas and could serve as valuable starting points for delegates. Thus, the Committee directs the Council and the Secretary to make full use of this medium and to provide materials of this type for use during the Conference. The Committee strongly believes that an open, democratic, and informed Conference, with a focus for action, will produce a blueprint for action which can be implemented. It therefore expects the Council and the Secretary to ensure that this Conference fosters creativity and provides an open forum for all viewpoints.

In carrying out all responsibilities under this resolution, the title directs the Secretary to employ individuals with handicaps. The Committee wishes the intent of this language to be very clear. The Committee believes very strongly that this is a Conference for, of, and about individuals with handicaps and should be guided, planned, and participated in by individuals with handicaps and members of their families. It is, therefore, expected that the Secretary will hire individuals with handicaps specifically for this purpose, will provide them with the authority necessary for carrying out the purposes of this title, and will involve individuals with handicaps employed by the Department.

The Committee fully expects that individuals with handicaps, hired to plan and administer the White House Conference, will be retained by the Department of Health, Education and Welfare to implement the recommendations of the Conference.

The Committee, however, does not wish to limit hiring only to individuals with handicaps.

The Committee expects the White House Conference to provide thorough documentation and explicit directions for public policy. It therefore directs the Conference to consider strategies by which attitudes toward individuals with handicaps can be changed. The Committee further expects all of the recommendations to be fully considered by the Administration. The Committee has provided that a final report of such Conference be submitted to the President of the United States within one hundred and twenty days following the date the Conference is called and has directed the Council and the Secretary of Health, Education and Welfare to transmit to the Congress and the President their full recommendations for action within ninety days following the Conference report to the President. Such report and recommendation should be available and usable by all individuals, including the blind. The Committee will at that time provide a full hearing for the recommendations of the Conference and will take appropriate action for implementation.

Areas to be considered

The Committee believes that there are a number of areas which must be considered in depth by the Conference.

It is difficult to formulate comprehensive public policy without an adequate information base. The Committee has recommended the establishment of a data system as part of the Rehabilitation Act of 1973, and therefore directs the Conference to review progress of this system and further action necessary to provide the Federal, state, and local governments with information on which to base planning and to provide services and also provide full consumer information for services and assistance.

The Committee has been distressed to find that developmental services to individuals with severe and multiple handicaps are nonexistent or extremely costly. It has discovered in hearings on the Rehabilitation Act of 1973 that individuals with the most severe handicaps are most in need of services and are often the last to receive them. The Committee, therefore, directs the Conference to provide the Congress with recommendations for expanding the scope of services to individuals with severe and multiple handicaps. In so doing, the Conference should examine existing programs for individuals with handicaps, paying careful attention to the comprehensive needs study of individuals with the most severe handicaps being conducted by the Urban Institute for the Rehabilitation Services Administration. Recommendations should further be made by the Conference on how to change programs in health, education, housing, deinstitutionalization, transportation, rehabilitation, and all other areas of concern so as to ensure that individuals with severe and multiple handicaps will have their needs met.

The Committee believes that there are particular segments of the population of individuals with handicaps whose needs must be considered apart from the rest of the population. They include the very young, the old, veterans with handicaps, and individuals who are economically disadvantaged or are members of minority groups. These individuals have needs and problems which make handicapping conditions a more severe disability. The Committee therefore directs the Conference to examine the services available to these individuals, to define unique problems they face, and to make recommendations as to how their full needs may best be met. The Committee directs that these individuals be directly involved in planning this portion of the Conference.

The Committee strongly believes that the planning of all buildings, transportation systems, and communications systems, whether public or private, and of all public programs and services must make provision for the needs of individuals with handicaps. The Conference should consider the need for legislation on the local, state and national levels which relate to these areas of concern. Suggestions should be sought on all levels regarding the effectiveness of existing legislation, with specific attention given to enforcement mechanisms and their effectiveness.

The Committee recognizes that families of individuals with handicaps face acute problems of adjustment in responding to the needs of their family members with handicaps and to the needs of the family as a unit. Services that are needed such as counseling and attendant care are either not available in the community, are provided at a prohibitive expense, or are not staffed by qualified personnel. Stress placed on the family is a problem that will have to be dealt with even when we are able to provide all services necessary for individuals with handicaps. The Committee therefore urges the Conference to examine in depth the psychological and social pressures often felt by family members and to make recommendations for response to this critical problem.

More than any other minority group, individuals with handicaps have been affected by policy decisions made at every level of government which are developed all too frequently without their continued participation. Until this Nation has the foresight to include in all of its planning the need to make all areas of society accessible and usable to individuals with handicaps they will continue to be excluded and will have little or no opportunity to achieve their basic human right of full participation in life and society.

The Committee therefore directs the Conference to address itself directly to the problem posed by the denial of the basic rights of individuals with handicaps. In examining this area, the Committee expects that the Conference will identify those areas where civil rights have been denied and will make explicit recommendations for change. The Conference should examine such things as treatment of individuals with handicaps and their families by law, including tax policies, insurance, and credit and lending policies. Furthermore, the Committee directs the Conference to provide a series of recommendations designed to ensure that the needs and the requirements of individuals with handicaps will be considered at all levels of policy making and future planning and evaluation.

The Committee is well aware that technology exists which would enable many individuals with handicaps to take advantage of transportation, communications, and educational systems. The Committee has directed its attention to this area under the Rehabilitation Act of 1973. However, much more attention needs to be spent on these areas. While it is true that we need continued research in these areas, it is also true that we must begin to use existing knowledge to its fullest. The title, therefore, further directs the Conference to provide an evaluation of this technology and to make recommendations of how this technology might be better utilized and made available to individuals with handicaps.

The Committee wishes to emphasize that the following areas should be given thorough examination:

Prevention and research

The Committee is convinced that far too little emphasis in public policy is put on prevention of disabling conditions and adequate utilization of research. There are indications of increases in certain areas of disability (e.g. traumatic paraplegia, heart disease and cancer). It therefore urges the Conference to address itself to these important areas.

Early diagnosis, evaluation, and treatment

Diagnosis, evaluation, and treatment early in a child's life could enable many children with handicaps to blunt the effects of these disabilities. The Committee urges local governments, States and the White House Conference to review and explore new mechanisms to insure that these important early life measures are provided for all children.

Education

Without adequate education, individuals with handicaps are doomed to a continued life as second class citizens. Today our country is only educating 40% of those individuals with handicaps. Sixty percent of these individuals are receiving a substandard education.

Court cases in fourteen States and the District of Columbia, and as many as fourteen other cases at some point in the litigation process, illustrate growing impatience on the part of parents and other individuals with regard to implementation of laws to guarantee their children special education. Forty-one states have passed legislation making it mandatory that all children be provided public education. Despite litigation and reform of state legislation in this area, the right to education cannot be effective without appropriate remedies and without adequate funding.

A recently enacted amendment to Federal legislation, contained in section 614 of Public Law 93-380, the Education Amendments of 1974, adding a revised section 611 in title VI of the Elementary and Secondary Education Act (the Education for the Handicapped Act), provides a one-year entitlement of funds for the education of currently unserved children with handicaps within States. More permanent and comprehensive legislation is in the final stage of consideration in both the Senate and House Committees (S. 6 and H.R. 70). This legislation will provide for funding which is greatly needed for expansion of full services to school-age and pre-school children with handicaps. The Committee acknowledges that mechanisms within the States for monitoring and evaluation of services must be carefully reviewed in order to assure that the full benefits of such programs are achieved. Therefore, it believes that the Conference should give consideration to evaluation of the implementation of such programs.

Special attention must be paid to the needs of those individuals who through no fault of their own have not received adequate education. These individuals, young adults and adults alike, must be afforded equal opportunity and access to higher educational services. The Committee is aware that at the present time most of these avenues are not open to individuals with handicaps and would like to see this situation explored with suggestions regarding remedies to this problem.

It is generally more difficult for a person with a handicap to become fully employed. It is also true that an individual with a handicap cannot fall back on certain jobs when he finds himself out of work in his profession. It is essential that individuals with handicaps be given adequate counseling to help direct them into professions which will allow them to compete on the open market in the next five to ten years. Therefore, the Committee directs that special attention be given to this area and that recommendations be developed which can be utilized by the Congress and education and rehabilitation agencies across the country.

Presently, of the 22 million individuals with physical handicaps, only about 800,000 are employed. Of the 6 million individuals with mental retardation, nine of ten could work and live more independently if properly trained. Few receive this training. The Committee acknowledges that the problem of employment is not only unemployment, but underemployment. The Committee believes that the Conference should examine in depth all of these problems, and should review the factors which limit employment opportunities, such as insurance and health requirements and removal of architectural barriers, and make recommendations which will provide full employment opportunities. Special attention should be given to the enforcement of section 503 and section 504 of the Rehabilitation Act of 1973. Attention should also be given to legislation in the area of human rights, including evaluation of the various law enforcement mechanisms, the number of cases brought before Commissions on human rights and the results of such actions.

Residential Treatment

Following publicity of conditions at Willowbrook State School for the Retarded in New York City and recent suits involving the right to treatment, efforts have been made by several States to provide community-based care, and legislation is under active consideration in the Congress to improve such care and treatment. The Committee urges the Conference to reexamine residential treatment and alternative community-based programs.

Finally, the Committee does not wish to delimit only the areas discussed above for exploration by the Conference. In particular the Committee believes that the problems confronting individuals with handicaps in this Nation will not be solved by examining each problem and devising solutions in a piecemeal fashion. It urges the Conference to convene a forum which will make a comprehensive assessment of the problems, and suggest alternative solutions to the problems, concerning all areas of life for individuals with handicaps.

SECTION-BY-SECTION ANALYSIS

TITLE I—AMENDMENTS TO REHABILITATION ACT OF 1973

Section 100—Short title

This section provides that this title may be cited as the "Rehabilitation Act Amendments of 1974".

Section 100(b)(2), Innovation and Expansion Grants—$42 and $45 million for FYs 1976 and 1977, respectively, plus in each year such additional sums as the Congress may determine;

Section 112(a), Client Assistant Projects—$3 million each, with $1.5 million earmarked, for FYs 1976 and 1977;

Section 201(a)(1), Research—$35 and $37.5 million, with 25 percent earmarked for Rehabilitation Engineering Research Centers for FYs 1976 and 1977, respectively, plus in each year such additional sums as the Congress may determine;

Section 201(a)(2), Training—$35 and $37.5 million for FYs 1976 and 1977, respectively, plus in each year such additional sums as the Congress may determine;

Section 301(a), Construction of Rehabilitation Facilities—such sums as may be necessary for FYs 1976 and 1977;

Section 302(a), Vocational Training Services for Handicapped Individuals—such sums as may be necessary for FYs 1976 and 1977;

Section 304(a)(1), Special Projects and Demonstrations—$20 and $25 million for FYs 1976 and 1977, respectively, subject to Client Assistance earmark, plus in each year such additional sums as the Congress may determine;

Section 305(a), National Center for Deaf-Blind Youths and Adults—such sums as the Congress may determine for FYs 1976 and 1977;

Section 101—Rehabilitation Services Administration

Subsection (a) revises present section 3(a) of the Rehabilitation Act of 1973 (P.L. 93-112) which establishes the Rehabilitation Services Administration (RSA) as an agency in HEW headed by a Commissioner appointed by the President, makes RSA the principal agency for carrying out the Act (except for titles IV and V generally), and provides that functions of the RSA Commissioner shall not be delegated to any officer not directly responsible to him unless the Secretary shall first have submitted a plan (meeting certain requirements set forth in the subsection) to the Congress proposing such a delegation.

Revised section 3(a) makes the following changes: (1) establishes RSA in the Office of the Secretary rather than just in the Department, thereby permitting the Secretary to locate RSA in his immediate office, the office of the Under Secretary, or the office of an appropriate Assistant Secretary; (2) makes the RSA Commissioner subject to Senate confirmation (prospectively not retroactively) and the principal officer for carrying out the Act (except for titles IV and V generally); (3) adds a sentence, similar to language in section 201(a) of the Older Americans Act of 1965, as amended (added by P.L. 93-29), denoting the lines of direct responsibility between the RSA Commissioner and either the Secretary, Under Secretary, or an appropriate Assistant Secretary; (4) clarifies the provision limiting the delegation of any of the functions of the RSA Commissioner so that such delegation is permissible only if the proposed delegee is directly responsible, both with respect to program operation and administration, to the Commissioner; and (5) prohibits totally any other delegation by the elimination of the authority to provide for such delegations after submission of a delegation plan to the Congress (a comparable deletion was made by section 2(a) of Public Law 93-351 (July 12, 1974) in the virtually identical provision in section 201(a) of the Older Americans Act with respect to the Commissioner on Aging's responsibilities vis-a-vis the Administration on Aging).

Subsection (b) makes this amendment to the Act effective sixty days after enactment so as to provide a period for an orderly transfer of RSA out of the Social and Rehabilitation Services Administration (including all staff and positions—part-time, full-time, intermittent and consultant—assigned to RSA as of July 1, 1974).

Sections 102 through 110—Authorizations of appropriations

These sections extend the authorizations of appropriations for two years beyond fiscal year 1975 (except for the basic state grant vocational rehabilitation services program, which is extended for only one year in order to be consistent with the Committee's concern to bring about a more equitable distribution formula for that program) for the following programs at the following amounts:

Section 100(b)(1), Vocational Rehabilitation Services—$720 million for FY 1976;

Section 403, Program and Project Evaluation—such sums as the Congress may determine for FYs 1976 and 1977, with annual limitation of up to ½ of one percent of titles I, II, and III appropriations or $1,000,000, whichever is greater;

Section 405(d), Secretarial Responsibilities (Office for Handicapped Individuals)—$700,000 and $1,000,000 for FYs 1976 and 1977, respectively; and

Section 502(h), Architectural and Transportation Barriers Compliance Board—$1.5 and $2 million for FYs 1976 and 1977, respectively.

In addition, certain other conforming date changes would be made with respect to fund obligation periods. They are described below.

Section 102(c) amends section 121(b) of the Act to extend from June 30, 1976, to June 30, 1978, the date until which funds appropriated for innovation and expansion grant payments to States shall remain available for obligation.

Section 104(2) amends section 301(a) of the Act to extend from June 30, 1977, to June 30, 1979, the date until which funds appropriated (prior to July 1, 1979, changed from July 1, 1977, in existing law) for grants for construction and rehabilitation facilities shall remain available for expenditure.

The appropriation amounts authorized for FYs 1974 and 1975 and those contained in sections 102 through 110 of the Committee substitute, along with any proposed earmarkings, are indicated in the following table:

TABLE 2.—SUMMARY OF AUTHORIZATIONS OF APPROPRIATIONS IN REHABILITATION ACT OF 1973 (P.L. 93-112) AND AS PROPOSED IN S. 3108 AS REPORTED (FISCAL YEARS)

[In millions of dollars]

	Public Law 93-112		S. 3108 as reported	
	1974	1975	1976	1977
Vocational rehabilitation services: Sec. 100(b)(1)	650.0	680.0	720.0	
Innovation and expansion grants and special needs study: Sec. 100(b)(2)	[1] 37.0	[1] 39.0	[1] 42.0	[1] 45.0
Client assistance: Sec. 112(a)	[2] 1.5	[3] 2.5	[4] 3.0	[4] 3.0
Research: Sec. 201(a)(1)	[1,5] 25.0	[1,6] 25.0	[1,6] 35.0	[1,6] 37.5
Training: Sec. 201(a)(2)	[1] 27.7	[1] 27.7	[1] 35.0	[1] 37.5
Construction grants: Sec. 301(a)p	(7)	(7)	(7)	(7)
Vocational training services: Sec. 302(a)	(7)	(7)	(7)	(7)
Special projects and demonstrations: Sec. 304(a)(1)	[1] 15.0	[1] 17.0	[1] 20.0	[1] 25.0
National Center for Deaf-Blind Youths and Adults: Sec. 305(a)	(7)	(7)	(7)	(7)
Program and project evaluation: Sec. 403	(7 8)	(7 8)	(7 8)	(7 8)
Secretarial responsibilities: Sec. 405(d)	.5	.5	.7	1.0
Architectural and Transportation Barriers Compliance Board: Sec. 502(h)	1.0	1.0	1.5	2.0

[1] Plus such sums.
[2] Provisional $500,000 earmark.
[3] Provisional $1,000,000 earmark.
[4] $1,500,000 earmark.
[5] 20-percent earmark for establishment of rehabilitation engineering research centers.
[6] 25-percent earmark for establishment of rehabilitation engineering research centers.
[7] Such sums.
[8] Not to exceed ½ of 1 percent of titles I, II, and III appropriations, or $1,000,000, whichever is greater.

Section 111—miscellaneous amendments

Subsection (*a*) provides a new definition of "handicapped individual" for the purposes of titles IV and V of the Act. The principal application of this new definition would be to the responsibilities of the Secretary—the Office for Handicapped Individuals (renamed from the Office for the Handicapped)—as set forth in section 405; the affirmative action requirements for the employment of handicapped individuals, as set forth in section 501; the activities of the Architectural and Transportation Barriers Compliance Board, as set forth in section 502; the affirmative action program under Federal contracts, as set forth in section 503 (including the new state plan affirmative action requirements added to section 101(a)(6) by section 111(b) of the Committee substitute); and the prohibition against discrimination against qualified handicapped individuals under Federally-assisted programs or activities, as set forth in section 504.

The Act presently contains in section 7(6) one definition of "handicapped individual" to apply to all programs and provisions in the Act. Experience since enactment has indicated that the existing definition which was derived from the previous Vocational Rehabilitation Act with some modifications, is far too narrow and constricting when removed from the context of trying to focus on the needs of individuals for vocational rehabilitation services in connection with a vocational goal. Thus, a new definition has been developed which would provide sufficient latitude (but still not be totally open ended), particularly for the nondiscrimination programs carried out under sections 501, 503, and 504 with respect to the employment of handicapped individuals in the Federal Government, under Federal contracts and subcontracts, pursuant to the provision of Federal financial assistance, and in State rehabiiltation agencies and local facilities, and the participation of handicapped individuals in any program or activity receiving Federal financial assistance.

The proposed definition basically is divided into two parts: Clause (A), which deals with persons who actually have physical or mental impairments; and clauses (B) and (C) dealing with persons who are the subjects of discrimination because they are *seen* as having such impairments. The definition with respect to the first category of such individuals should be compared to the existing definition in section 7(6). That existing definition includes only an individual who has a physical or mental disability which for that individual constitutes or results in a *substantial handicap to employment* and only if that individual can reasonably be expected to benefit *in terms of employability* from vocational rehabilitation services under the Act. This definition makes little sense when applied to either the very broad scope of the Office for Handicapped Individuals or the Architectural and Transportation Barriers Compliance Board, or to the section 501, 503, and 504 nondiscrimination programs and provisions. In contrast, the definition proposed in the Committee substitute focuses on substantial limitations of an individual's functioning or of one or more of an individual's major life activities, rather than focusing on handicaps to employment, vocational goals, and prospective benefit from vocational rehabilitation services.

In addition, the proposed definition of "handicapped individual" would include individuals who have *a record* of that kind of impairment (this would include those who have a record that was in fact a false record; for example, a child who has been classified incorrectly as mentally retarded) and an individual who is *regarded* as having such a substantial limitation (such as a person with some kind of visible physical impairment which in fact does not substantially limit that person's functioning).

Subsection (*b*) adds to the State plan requirements in section 101(a)(6) of the Act, relating to methods of administration, a requirement that each State agency and every other facility in receipt of assistance under title I must take affirmative action to employ and advance in employment qualified handicapped individuals who are covered under section 503 (thereby applying the new definition of "handicapped individual" which would be added by section 111(a) in the Committee substitute) and on the same terms and conditions as set forth in section 503 (relating to the affirmative action requirement under Federal contracts and subcontracts).

Subsections (*c*), (*d*), *and* (*e*) together add to the State plan requirements in section 101 and the individualized written rehabilitation program requirements in section 102, requirements: (1) that each State agency must (in addition to keeping records of the characteristics of applicants who are determined not to be eligible for vocational rehabilitation services under title I, including the reasons for such determinations) keep such records in sufficient detail to enable the Secretary to analyze and evaluate annually the reasons for such determinations and the numbers of individuals determined to be ineligible; (2) that the State agency report semi-annually to the Secretary on these determinations, categorizing them and analyzing the reasons for them; (3) that the State agency annually review these ineligibility determinations on an individual basis in exactly the same manner as it would review an ineligibility determination of an individual after the process of evaluation or extended evaluation had begun and an individualized written rehabilitation program had been prepared (so that any change which had occurred in the individual's capacities and the degree of disability would be reevaluated periodically with a view toward giving that individual the benefit of the doubt with respect to the potential for a vocational goal, as required by section 102(c)); (4) that the State's agency continuing State-wide studies of the needs of handicapped individuals include a review of the efficacy of the criteria used with respect to such ineligibility determinations; (5) that such ineligibility determinations be made jointly by the vocational rehabilitation counsellor and the handicapped individual; (6) that an individual who has been so determined to be ineligible shall be advised of all rights and remedies, such as appeal rights and the availability of a client assistance project—where there is one—which are available to such individual; and (7) that any eligibility determination made prior to the beginning of evaluation or extended evaluation be made (as with a later determination after the individualized written rehabilitation program has been developed) only after a full attempt has been made to develop a vocational goal for that individual and only upon certification by the counsellor (which certification would include a specification of reasons for the ineligibility determination) that the individual is not capable, beyond a reasonable doubt, of achieving a vocational goal at that time.

Subsection (*f*) eliminates as to FY 1976 and 1977 funding the proviso on the earmarking of funds ($1,000,000 for FY 1975, and by virtue of section 102(b) of the Committee substitute, $1,500,000 for FYs 1976 and 1977) for client assistance projects that such earmarking takes effect only with respect to amounts appropriated in excess of an amount equal to obligations for carrying out such projects and demonstrations under the superseded Vocational Rehabilitation Act in FY 1973. This deletion is designed to ensure continuation of the client assistance earmark in the event of a decrease in actual special projects and demonstrations appropriations under section 304 which might arise with the projected transfer of appropriations (approximately $12 million for FY 1975) for developmental disabilities projects to the Developmental Disabilities Services and Construction Act (P.L. 91–517) as presently being contemplated by the Committee in the legislation under consideration to revise that Act.

Subsection (*g*) extends the date from February 1, 1975, to September 30, 1975, as requested by the Administration, by which the comprehensive service needs special study required by section 130 must be submitted to the Congress.

Subsection (*h*) adds to the list of those activities for which research grants and contracts are authorized in section 202(a) of the Act, demonstrations of architectural and engineering design adapted to meet the special needs of handicapped individuals, in addition to the studies and analyses of such design now authorized.

Subsection (*i*) adds to the special projects and demonstrations grant authority, in section 304(b) of the Act, a new authority to make such grants for operating programs (including renovation and construction of facilities where appropriate) to demonstrate methods of making recreational activities fully accessible to handicapped individuals; and would correct a technical word error (substituting "or" for "for").

Subsection (*j*) makes a technical correction in section 304(c) of the Act, relating to the provision of vocational rehabilitation services to handicapped migratory workers or seasonal farmworkers and the members of their families (inserting a missing "who").

Subsection (*k*) amends section 304(e)(1) relating to technical assistance (to rehabilitation faciilties and to others for the purpose of removal of architectural and transportation barriers), to require that such technical assistance be provided only with the concurrence of the Architectural and Transportation Barriers Compliance Board.

Subsection (*l*) adds to the general grant and contract requirements set forth in section 306(b) of the Act as they relate to an application for assistance for a construction project, the requirement that the plans and specifications with respect to such construction have the concurrence of the Architectural and Transportation Barriers Compliance Board, and extends this new requirement as well as all general construction project requirements in section 306(b) to an application for any project which *involves* construction.

Subsection (*m*) extends from March 26, 1975 (stated in present law as 18 months after the date of enactment of the Rehabilitation Act of 1973) to July 1, 1975, the date by which the Secretary must submit to the Congress the long-range projection for the provision of comprehensive services to handicapped individuals and for programs for research, evaluation, and training related to such services and individuals, as required by section 405(a)(1) of the Act.

Subsection (*n*) amends section 405(c) of the Act, prohibiting the delegation of Secretarial functions under section 405 to any person not assigned to or operating in the Office of the Secretary (except that the Secretary may establish an Office for the Handicapped in the office of an appropriate Assistant Secretary), by providing that the section 405 functions be carried out only by individuals operating in the immediate office of the Secretary or the Under Secretary of Health, Education, and Welfare (and not in the office of an Assistant Secretary) and that such functions include the establishment and operation of an Office for Handicapped Individuals to carry out the section 405 responsibilities of the Secretary.

Subsections (*o*), (*p*), (*q*), *and* (*r*), make a series of amendments to section 502 of the Act, relating to the Architectural and Transportation Barriers Compliance Board, to (1) add the Department of Defense as a statutory member of the Board; (2) provide that the Secretary of Health, Education, and Welfare shall be the Chairman of the Board and that the Board shall appoint, upon recommendation of the Secretary, a Consumer Advisory Panel, consisting of a majority of handicapped individuals, to provide guidance, advice, and recommendations to the Board in carrying out its functions; (3) clarify the authority of the Board to make grants and contracts to carry out its functions; (4) give the Board effective compliance authority with respect to its responsibility in subsection (b) to insure compliance with the standards prescribed under Public Laws 90-480 and 91-205, by providing that compliance orders of the Board shall be final and binding on the Department, agency, or instrumentality involved and may include the withholding or suspension of Federal funds with respect to any building found not to be in compliance with those standards; (5) specify that there shall be an executive director of the Board, appointed by the Board, and such other professional and clerical personnel, also appointed by the Board, as are necessary to carry out the Board's functions; and (6) change to September 30, 1975, the final reporting date on transportation and housing.

TITLE II—RANDOLPH-SHEPPARD ACT AMENDMENTS

Section 200—Short title

This section provides that this title may be cited as the "Randolph-Sheppard Act Amendments of 1974."

Section 201—Findings

This section sets forth a number of findings by Congress, including (1) that the program has not developed as it should due to a number of inhibiting forces; (2) that the potential exists to double the number of blind licensees in five years, provided the obstacles to growth are removed, and that Congress should legislate to remove them; and

(3) that certain specific actions must be taken to insure the program's vitality and expansion, including uniform treatment of blind vendors by all Federal agencies, establishment of guidelines for State program operation, coordination among responsible agencies, priority for blind vendors, administrative and judicial procedures to assure fair treatment for all involved in the program, stronger administration and oversight in the Federal government, and other legislative and administrative objectives.

Section 202—Vending facility operation

This section amends the first section of the Randolph-Sheppard Act to give priority (rather than preference) to blind vendors on Federal property. The Secretary, through the RSA Commissioner, after consultation with other agencies, is to prescribe regulations to protect this priority, including assignment of vending machine income pursuant to section 7, and to assure, where feasible, that one or more vending facilities, including, to the maximum extent feasible, facilities in employee work areas, are located on all Federal property if not adverse to U.S. interests. This latter standard is to be narrowly applied and fully justified in writing to the Secretary, who shall determine whether such an exception is justified. His determination shall be binding, and shall be published in the Federal Register.

Section 203—Federal and State responsibilities

Subsection (*a*) amends section 2(a) of the Act by (1) requiring the Secretary of Health, Education, and Welfare to insure that the Rehabilitation Services Administration is the principal agency for carrying out the Act, and the Commissioner of RSA is to establish within 180 days uniform regulations for each State licensing agency, including accounting procedures, new vending facilities, income distribution, and set-aside fund control; (2) requiring the Secretary, through the Commissioner, to make annual surveys of vending opportunities, focusing on the General Services Administration, the Defense Department, and the U.S. Postal Service; (3) eliminating the age requirement for vendors, expanding articles and services to be sold, substituting "facility" for "stand", and eliminating references to the Vocational Rehabilitation Act; and (4) requiring the Secretary to make periodic evaluations of the program and submit annual reports thereon to Congress.

Subsection (*b*) revises certain archaic language in section 2(b) by replacing the word "stand" with "facility", eliminating the one-year residence requirement for blind licensees, and eliminating a reference to infirmity.

Subsection (*c*) amends section 2(c) to change "stand" to "facility".

Subsection (*d*) creates new subsections 2(d) and (e).

Subsection (*d*). This new subsection would require that, after September 30, 1974, all buildings owned, leased or occupied or renovated by a Federal agency shall include satisfactory sites for blind vending facilities. An agency must notify a State licensing agency in advance of such ownership or renovation. Sites are not required if the building will not support a vending facility or if in a privately-owned building there is a preexisting food facility which would compete with a blind vending facility, but every effort shall be made to lease property which will accommodate a blind vendor.

Subsection (*e*). This new subsection would require that in States with approved vocational rehabilitation plans the State licensing agency to carry out the State program under this Act shall be the same agency designated for blind programs under section 101(a)(1)(A) of the Rehabilitation Act of 1973.

Section 204—State agencies and arbitration

Subsection (*a*) amends section 3 of the Act by changing "stand" to "facility" wherever it appears, and by requiring each State agency to agree to submit blind vendor grievances to arbitration.

Subsection (*b*) provides that set-aside funds under section 3(3) of the Act may be used for retirement, health insurance, paid sick leave, and vacation time upon majority vote of the vendors in the State, after the State agency provides each licensee full information on the proposal to use set-aside funds for such purposes.

Subsection (*c*) amends section 3(3) of the Act to insert "net" before "proceeds" for purposes of determining amounts set aside for the activities enumerated therein.

SECTION 205—REPEALS

This section repeals section 4 of the Act (authorizing the Secretary to cooperate with State Rehabilitation Boards) and section 7 (outlining State agency procedures in conjunction with the Vocational Rehabilitation Act).

Section 206—Arbitration; vending machine income; personnel; training

This section redesignates section 5, 6, and 8 of the Act as sections 4, 9, and 10, and creates four new sections (5, 6, 7, and 8). Each new section is explained below:

Section 5—This new section of the Act authorizes an aggrieved blind licensee to request a full evidentiary hearing by the State licensing agency. If he is dissatisfied with a decision or action under such hearing, he may file a complaint with the Secretary, who shall provide for arbitration under new section 6. A State licensing agency may file a complaint with the Secretary requesting arbitration where it determines that a Federal agency is failing to comply with the Act or regulations issued thereunder.

Section 6—This new section of the Act requires the Secretary to convene ad hoc arbitration panels to resolve complaints. In the case of arbitration panels for complaints of blind licensees, the panel shall consist of one person designated by the State agency, one designated by the licensee, and one designated jointly who shall serve as chairman and who shall not be employed by the State agency or its parent agency. In the case of State licensing agency complaints, one panel member shall be designated by the State agency, one by the head of the Federal agency controlling this property over which the dispute arose, and a third person jointly designated who shall be chairman and who shall not be employed by the Federal agency. In either type of arbitration, if the parties thereto cannot agree on a third member of the panel, the Secretary shall make the designation. If a Federal agency is found in violation of the Act or regulation, its head shall cause such violations to be terminated, and shall take such other action as is necessary to carry out the panel's decision. Such decisions shall be matters of public record and shall be published in the Federal Register. Decisions shall be final agency actions for purposes of the Administrative Procedure Act. The Secretary is to pay all reasonable costs of arbitration under a schedule of fees and expenses he shall publish in the Federal Register.

Section 7: Subsection (*a*)—This new subsection requires vending machine income to accrue to blind licensees, or, if there is no license on the property, the State licensing agency for use under subsection (e), except that the Commissioner may impose a ceiling on licensee vending machine income, but no licensee shall receive less such income than he was receiving on January 1, 1974. No ceiling may be imposed on income from machines operated by a licensee. Amounts in excess of any ceiling go to the State licensing agency for use pursuant to new subsection (c).

Subsection (*b*)—This new subsection specifies that after September 30, 1974, 100 per centum of vending machine income from machines in direct competition with a blind licensee shall accrue in accordance with subsection (a). Direct competition is defined as any vending machines operated on the same premises as a blind vending facility, but not those in areas in which the majority of employees have no access to such facility. After September 30, 1974, 50 per centum of income from machines not in direct competition accrues in accordance with subsection (a), except that with respect to property at which at least 50 percent of hours worked on the premises are outside normal working hours, 25 per centum of such income shall so accrue. No new vending machines or replacements for existing machines may be installed on Federal property unless all income accrues pursuant to subsection (a). Any remaining vending machine income after assignment under subsection (a) or (b)(1) shall be used as determined by regulations of the Secretary, who shall consider the views of the head of the particular agency and consult with any group or organization which may be affected by such regulations of the Secretary.

Subsection (*c*)—This new subsection requires that all vending machine income which accrues to a State agency under subsection (a) shall be used for retirement or pension plans, health insurance, and paid sick leave and vacation time for licensees. If income remains after use for such purposes, it shall be used for other set-aside purposes of section 3(3), and assessments of licensees shall be reduced pro rata.

Subsection (d)—This new subsection excludes from application of this section vending machine income from retail outlets of military exchanges, the Veterans Canteen Service, and income at individual Federal facilities which does not exceed $3,000 annually.

Subsection (e)—This new subsection requires contracts for the operation of cafeterias by blind licensees to specify operation at a reasonable cost consistent with a fair return, high quality food, and reasonable prices.

Subesction (f)—This new subsection permits existing or future arrangements or regulations on Federal property under which blind licensees receive more vending machine income than specified in new subsection (b)(1), or recieve income from location where the total annual vending machine income is less than $3,000.

Subsection (g)—This new subsection authorizes the Secretary to take action and make regulations necessary to assure compliance with the new section.

Section 8—This new section of the Act requires the Commissioner to insure that uniform and effective training programs are provided to blind individuals, and that State agencies provide programs of upward mobility training and follow-along services for all trainees under this Act.

Section 207—Definitions

This section revises the definition section of the Act by providing a more precise definition of "blind person", by adding "Commissioner" (of the Rehabilitation Services Administration), by specifically including property under control of the Department of Defense and the U.S. Postal Service as "Federal property", by adding Puerto Rico as a "State", by defining "vending facility" to expand the scope of blind vending operations authorized, and by adding "vending machine income" as a new definition, meaning receipts, after deducting the cost of goods sold or commissions, from vending machines operated by other than blind licensees on Federal property.

Section 208—Personnel

This section directs the Secretary of Health, Education, and Welfare to assign to the Office for the Blind and Visually Handicapped in the Rehabilitation Services Administration ten new full-time personnel, including five supportive personnel, to carry out the administration of the Act. The section also amends 5 U.S.C. 5108(c) to permit the assignment of one "supergrade" position in the Office, and requires preference be given to blind individuals in filling any position under the section. A conflicting provision in section 4(b) of the Act requiring at least 50 per centum of new personnel to be blind persons is struck.

Section 209—Additional State responsibilities

This section requires each State licensing agency to provide each blind licensee with access to all relevant financial data, including quarterly and annual reports; to conduct a biennial election of a statewide committee of blind vendors; and to insure that the responsibilities of such committee include participation in program and policy development, receiving grievances of licensees, participation in a transfer and promotion system, participation in training and retraining programs, and sponsorship of meetings and instructional conferences for blind licensees.

Section 210—Standards, studies, and reports

Subsection (a) requires the Secretary to study and promulgate within six months after enactment, national standards governing set-aside funds.

Subsection (b) directs the Secretary to study the feasibility of establishing a nationally administered retirement and health insurance system for blind licensees and report his findings and recommendations to Congress and the President within one year.

Subsection (c) requires the Secretary to complete an evaluation of the method of assigning machine income under new section 7(b)(1) added to the Act by section 206 of this title by September 30, 1975, including its effect on the blind vending program and on nonappropriated fund activities, and within 30 days thereafter report his findings and recommendations to the appropriate committees of Congress.

Subsection (d) directs each State licensing agency to report to the Secretary within a year on actions it has taken to implement section 2(a)(1) of the Act.

Section 211—Audit

This section authorizes the Comptroller General to conduct regular audits of any nonappropriated fund activity which receives vending machine income on Federal property, and gives him access to all relevant books, documents, and records as he deems necessary.

TITLE III—WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

Section 300—Short title

This section provides that this title may be cited as the "White House Conference on Handicapped Individuals Act.

Section 301—Findings and purpose

This section contains seven findings of the Congress which are as follows:

(1) The United States has achieved great and satisfying success in making possible a better quality of life for a large and increasing percentage of our population.

(2) The benefits and fundamental rights of this society are often denied those individuals with mental and physical handicaps.

(3) There are seven million children and at least 28 million adults with mental or physical handicaps.

(4)" It is of critical importance to this Nation that equality of opportunity, equal access to all aspects of society and equal rights guaranteed by the Constitution of the United States be provided to all individuals with handicaps.

(5) The primary responsibility for meeting the challenge and problems of individuals with handicaps has often fallen on the individual or his family.

(6) It is essential that recommendations be made to assure that all individuals with handicaps are able to live their lives independently and with dignity, and that the complete integration of all individuals with handicaps into normal community living, working, and service patterns be held as the final objective.

(7) All levels of government must necessarily share responsibility for developing opportunities for individuals with handicaps.

The section also contains a statement of policy that the Federal Government work jointly with the States and their citizens to develop recommendations and plans for action in solving the multifold problems facing individuals with handicaps.

Section 302—Authority of President, Council, and Secretary

This section contains five subsections which authorize the President to call a White House Conference on Handicapped Individuals; establish a National Planning and Advisory Council; provide for representation at the White House Conference; authorize the participants in the White House Conference to consider all related matters, but to give special consideration to 16 areas; and direct the Conference to submit a final report, and the Council and the Secretary of Health, Education and Welfare to transmit recommendations for administrative and legislative action necessary to implement the recommendations contained in the final report.

Subsection (a) authorizes the President to call a White House Conference on Handicapped Individuals within two years after the date of enactment of this title in order to stimulate a national assessment of the problems facing individuals with handicaps and to develop recommendations for solutions. It further directs the National Planning and Advisory Council and the Secretary of Health, Education, and Welfare to plan and conduct such Conference, and directs each Federal department and agency to provide such cooperation and assistance, including the assignment of personnel, as may be required to carry out such conference.

Subsection (b) establishes a National Planning and Advisory Council, to be appointed by the Secretary, composed of twenty-eight members (of whom not less than ten shall be individuals with handicaps appointed to represent all individuals with handicaps and not less than five shall be parents of individuals with handicaps, appointed to represent all parents of individuals with handicaps and individuals with handicaps) to provide guidance and planning for the White House Conference; provides that members of the Council who are otherwise employed by the Federal Government shall serve without compensation in addition to that received in regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in performance of duties as Council members; provides that members of the Council other than Federal employees shall receive compensation at rates not to exceed the daily rate prescribed for GS-18 under section 5332, title 5, United States Code, for each day they are engaged in performance of their duties including traveltime, and that while engaged away from their homes or regular places of business, such members may also be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703 of title 5 for persons in Government service employed intermittently; and stipulates that such Council shall cease to exist one hundred and twenty days after the submission of the final report as required by subsection 302(e).

Subsection (c) directs the Conference to bring together individuals with handicaps, members of their families, representatives of Federal, state and local governments, and professional experts and members of the general public recognized by individuals with handicaps as being knowledgeable about problems affecting their lives, in order to ascertain facts and make recommendations concerning the utilization of skills, experience, and energies of individuals with handicaps and concerning the improvement of conditions affecting the lives of individuals with handicaps.

Subsection (d) authorizes participants in the White House Conference to consider all matters related to providing a national assessment of problems facing individuals with handicaps and making recommendations for the solutions to such problems, but directs the participants to give special consideration to the following areas:

(1) providing education, health, and diagnostic services for all children early in life so that handicapping conditions may be discovered and treated;

(2) assuring that every individual with a handicap receives appropriately designed benefits of the educational system;

(3) assuring that individuals with handicaps have available to them all special services and assistance which will enable them to live their lives as fully and independently as possible;

(4) enabling individuals with handicaps to have access to useable communication services and devices at costs comparable to other members of the population;

(5) assuring that individuals with handicaps will have access to all publicly-assisted

transportation services and, when necessary, alternative means of transportation at comparable cost;

(6) improving utilization and adaptation of modern engineering and other technology to ameliorate the impact of handicapping conditions on the lives of individuals;

(7) assuring individuals with handicaps of equal opportunity with others to engage in gainful employment;

(8) enabling individuals with handicaps to have incomes sufficient for health and for participation in family and community life as self-respecting citizens;

(9) increasing research relating to all aspects of handicapping conditions, stressing the elimination of causes of handicapping conditions and the amelioration of the effects of such conditions;

(10) assuring close attention and assessment of all aspects of diagnosis and evaluation of individuals with handicaps;

(11) assuring review and evaluation of all governmental programs in areas affecting individuals with handicaps, and close examination of the public role in order to plan for the future;

(12) resolving the special problems of veterans with handicaps;

(13) resolving the problems of public awareness and attitudes that restrict individuals with handicaps from participating in society to their fullest extent;

(14) resolving the special problems of individuals with handicaps who are homebound or institutionalized;

(15) resolving the special problems of individuals with handicaps who have limited English-speaking ability; and

(16) promoting other related matters for individuals with handicaps.

Subsection (*e*) directs the Conference, through the Council, to submit a final report to the President of the United States no later than one hundred and twenty days following the date on which the conference is called. Such report shall be made available immediately to the public. This subsection also directs the Council and the Secretary of Health, Education, and Welfare to transmit to the President and to the Congress his recommendations for administrative action and legislation necessary to implement the recommendations of the final report within ninety days following the submission of the final report.

Section 303—Responsibilities of Council and Secretary

Subsection (*a*) sets forth the responsibilities of the Council and Secretary of the Department of Health, Education, and Welfare and contains five clauses. These clauses direct the Council and Secretary to:

(1) request the cooperation and assistance of other appropriate Federal departments and agencies, including Federal advisory bodies having responsibilities in areas affecting individuals with handicaps;

(2) render all reasonable assistance, including financial assistance to the States in enabling them to organize and conduct conferences on handicapped individuals prior to the White House Conference on Handicapped Individuals;

(3) prepare and make available background materials for the use of delegates to the White House Conference on Handicapped Individuals;

(4) prepare and distribute such interim reports of the White House Conference on Handicapped Individuals as may be appropriate; and

(5) engage such individuals with handicaps and additional personnel as may be necessary without regard to the provisions of title 5 governing appointments in the competitive civil service, and without regard to chapter 57 and subchapter 111 of such title relating to the classification and General Schedule pay rates.

Subsection (*b*) expressly directs the Secretary to employ individuals with handicaps in carrying out his functions under the title.

Section 304—Definition

This section provides that for the purpose of this title, the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

Section 305—State participation

This section contains three subsections which authorize the Secretary to make grants to States; provide that such grants shall be approved by the Council; and provide for the apportionment of funds among the States.

Subsection (*a*) authorizes the Secretary of Health, Education, and Welfare to make a grant to each State to assist in meeting the costs of the State's participation in the White House Conference, such grant to include funds to conduct at least one conference within the State prior to the national Conference.

Subsection (*b*) provides that grants to States may be made only with the approval of the Council.

Subsection (*c*) provides that funds appropriated to carry out the purposes of this section shall be apportioned among the States on the basis of respective need for assistance, except no State shall be apportioned more than $75,000 nor less than $25,000.

Section 306—Authorization of appropriations

This section authorizes to be appropriated for the purposes of carrying out the provisions of this title, such sums as may be necessary. The section further provides that such sums are authorized without fiscal year limitations, and that sums so appropriated shall remain available for expenditure until June 30, 1977.

TITLE AMENDMENT

The long title of the bill is amended to reflect the contents of the Committee substitute.

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U.S. SENATE, COMMITTEE
ON LABOR AND PUBLIC WELFARE,
Washington, D.C., August 21, 1974.

Hon. PETER J. BRENNAN,
Secretary of Labor, Department of Labor,
Washington, D.C.

DEAR MR. SECRETARY: The enactment of the Rehabilitation Act of 1973 (P.L. 93–112) was a major step in renewing our national commitment to providing for equal employment opportunity for handicapped individuals. Section 503 of that legislation was specifically designed to assure that the right to decent and fulfilling jobs for disabled individuals would be enforced with respect to all employers holding Federal contracts of $2,500 or more.

We are sure that you are aware that we have been deeply concerned about the delay in the implementation of section 503. In late 1973 and early 1974, at the request of Senator Cranston, several meetings were held between the staff of the Labor Department and the staff of the Senate Labor and Public Welfare Committee and House Education and Labor Committee for the purpose of clarifying the intent of Congress regarding section 503 and to offer suggestions and comments with respect to draft regulations which were then under consideration within the Department. While there were some disagreements about the substance of these draft regulations, it was our understanding that the Department considered these meetings to be highly constructive and that the final regulations would incorporate many of the Committee staff suggestions.

We note that on June 11, 1974, the Department issued final regulations implementing section 503. In our view these regulations represent a step backward from the purposes of section 503, and we would appreciate an immediate response to the following questions and comments regarding the section 503 regulations.

Section 741.2—Definitions

1. The definition of "certification" appears to mean that such a procedure can be performed only by a formally constituted vocational rehabilitation agency. It is unclear whether this means that only agencies receiving funds under the Rehabilitation Act will be recognized by the Department to perform this function or whether a certification (as the prior draft provided) could be made by a Veterans' Administration facility, private rehabilitation agencies, or even by a private physician.

In addition, we do not understand what is meant by the term "handicapped individual's disabilities" as used in this definition. Is this limited to a medical description, or, as implied by section 741.6 (and specified by the prior draft), does it require a broader set of criteria relating to the kinds of jobs such individual can perform?

2. The definition of "handicapped individual" is very troublesome, especially since it is more restrictive than the definition (albeit tautological in nature) in the law. Section 7(6)(B) of the Act states that a handicapped individual is one who *"can reasonably be expected* to benefit in terms of employability . . ." (emphasis added). However, under the definition in the regulations, such an individual is only one who "*has* reasonably benefited in terms of employability . . ." (emphasis added). Thus, it might appear that the only persons who would appear to be covered by section 503 pursuant to the regulations would be those who have actually received Title I and Title III services or their equivalent under the Act.

This would be a severe limitation on the scope of covered individuals. It was the purpose of section 503 to assure that all qualified handicapped individuals would have an equal opportunity to be hired and promoted by Federal contractors and subcontractors. An individual's qualifications do not necessarily depend upon whether he has formally received Title I or Title III rehabilitation services or their equivalent. And, if an individual can reasonably be *expected* to benefit from such services, it may well be that he may "reasonably be expected" to qualify for a job even if that job requires lower skills than a job he could perform if he received rehabilitation services which could upgrade his skills. The evidentiary question of what work an individual is qualified to perform can only be addressed meaningfully after job discrimination has allegedly occurred or in the context of specific affirmative action obligations.

In addition, this definition uses the term "(including certification)" in reference to the types of services required under Titles I and III of the Act. The Congress never contemplated that "certification" would be a required service to be performed by a rehabilitation agency and the regulations cannot thus require that rehabilitation agencies perform this service.

Section 741.3—Affirmative action clause

1. The regulations contain different affirmative action requirements for different types of contracts and subcontracts. While the language of the statute does give the President some flexibility in waiving these requirements with respect to particular contracts on a case-by-case basis, there was never any contemplation by the Congress that the terms of the affirmative action clause would vary depending upon the length or dollar value of contracts generally. Certainly, this is not the case with the affirmative action clause required pursuant to Executive Order No. 11246 (with regard to equal employment op-

portunity for minorities carried out through the Office of Federal Contract Compliance (OFCC), and we see no rationale for different contract requirements with respect to handicapped individuals. Specifically, it is our view that every contractor covered by the Act (those with contracts involving $2,500 or more) should be required to develop an affirmative action program whether or not such program must be filed directly with the Department.

2. It is also unclear from the language of the regulations whether the contractor's affirmative action obligations are limited to the obligations cited in the affirmative action clause or whether the requirements of section 741.4 also apply to the contractor in carrying out his responsibilities under the Act.

Section 741.4—Affirmative action policy

Although we are in overall agreement with the thrust of the provisions of this section of the regulations, we are concerned that there are too many qualifying phrases which imply that a contractor may not have to engage actively in activities required under this section. For example, how will the scope of a contractor's outreach and recruitment efforts be judged in terms of the adequacy of "existing employment practices" and the "contractor's size and resources"? What would be considered "reasonable" internal procedures to insure that the contractor's obligation to employ and promote qualified handicapped individuals is being fully implemented? What are the *business necessities, financial costs, and resulting personnel problems* which would mitigate an employer's responsibilities to make accommodations to the physical and mental limitations of an employee?

Section 741.6—Certification of handicap

We are deeply concerned about the implications of this section of the regulations.

1. We question whether the concept of certification runs contrary to the basic intent of section 503. The purpose of this provision is to assure that handicapped individuals are treated equally with all other applicants and employees and that affirmative steps are taken to remedy the effects of discrimination which has been prevalent in the job market. While we understand that these individuals must be *identified* in order to assure that employers are taking affirmative action to hire and promote handicapped individuals, we are strongly opposed to requiring that an individual be "certified" in order to enforce his rights under the law. Certainly we do not require other minority group individuals to have a "certification" in order to protect their rights under the law, and we question why there should be such a requirement for handicapped individuals.

While it is clear that in cases where complaints are filed there will be certain evidentiary requirements to be met, there should be no need to demand that an individual have a certification prior to the time he or she files a discrimination complaint.

2. We question whether the requirements of this reason are consistent with the definition of "certification" in section 714.2 of the regulations. Whereas the definition states that a "certification" must contain a description of an individual's disabilities, the certification contemplated in section 741.6 adds the additional requirement that this document also state that the individuals has "beneficial in employability from the type of services provided pursuant to Title I or III of the Act or their equivalent." Thus, not only may questions arise in terms of the accuracy of the description of an individual's disability, but the additional problem of the extent of an individual's employability (i.e. qualifications to perform a job) will be raised. This means that the individual may well be unfairly restricted in getting a job or receiving a promotion solely because his certification states that he has specific limitations. Not only may the rehabilitation facility be wrong in its determination, but an employer could use the certification in such a way as to reinforce limitations on job opportunities for handicapped individuals.

3. There are further questions raised by this section:

(a) If an individual has not participated in a formal rehabilitation program (whether or not funded under PL 93–112), is he precluded from obtaining a certification?

(b) What happens to a current employee who is handicapped but has no certification—is he required now to obtain one; must he obtain a certification in order to get a promotion?

(c) How long is it contemplated that this new certification procedure will take?

(d) Who is it contemplated will make these certifications? Who will pay for these certifications, since the Congress never intended that they be paid for out of rehabilitation agency program funds?

(e) What will happen if there is a disagreement between the rehabilitation facility and the employee or applicant as to the fairness or accuracy of the certification?

In summary, it seems to us that the certification requirements in the regulations raise more questions than they answer. They would seem to us to act as a deterrent to the effective operation of the program.

Section 741.26—Duties of contracting agencies

While this section does require the appointment of an individual in each agency to be responsible for "implementation of this [503] program," there are no guidelines nor is there any mandate for the contracting agencies to operate full-scale compliance reviews for contractors covered by the Act. Does this mean, then, that there will be no compliance procedures established in the implementation of section 503? If compliance procedures are to be established by the agencies, what standards must they meet and who will be responsible for reviewing these standards?

Subsection (d) of this section states that it shall not be effective until January 1, 1976, as to the award of new covered contracts. Not only does this refer to the requirement of the contractor's certification (specified in subsection (c) of this section), but it is written so that withholding of awards for non-compliance will not take place until January 1, 1976. It seems to us that this is contrary to the intent of the statute, in that the Congress made the entire Act effective 90 days after enactment, except where otherwise specified. Certainly, therefore, *all* aspects of the section 503 program should be effective at the same time, especially the enforcement mechanisms which are established by the Department.

Finally, with regard to this section, it seems to us unnecessary to state that withholding of a contract award will be based upon a failure of "good faith effort" to comply with an affirmative action program. The term "affirmative action" in and of itself embodies a "good faith effort" on the part of an employer. Criteria for "good faith effort" have been established only where there has been a requirement imposed upon employers to meet specific goals and timetables. Thus, in the absence of a mandate for goals and timetables in these regulations, it appears to us that the promulgation of criteria for "good faith effort" as it relates to affirmative action is a serious dilution of the affirmative action requirement. This is so because "good faith effort" criteria applied to affirmative action would implicitly mean that the Department is judging a good faith effort to implement a good faith effort and that will result in a much lower standard for defining affirmative action.

Section 741.27—Noncompliance with the affirmative action clause

We are pleased to see that the regulations state categorically that noncompliance with the affirmative action clause will constitute grounds for the imposition of sanctions by an agency or the Assistant Secretary. However, as stated in our comments on section 741.26 (above), we are disturbed that there is no compliance machinery established by the regulations.

Section 741.20—Complaints

We are pleased that the Department, pursuant to the law, is taking primary responsibility for enforcement of complaints. We are, however, concerned that there is too much emphasis given to the contracting agency's internal resolution of such complaints because there is no standard established in the regulations as to what is an effective or acceptable internal review procedure for contractors. The following questions need resolution:

(a) Who will review the adequacy of these internal mechanisms as to whether they provide for "fair expeditious, and effective" complaint processing?

(b) Will the "certification of handicapped individual" requirements result in a delay in prompt processing of complaints either internally or by the Department and other contracting agencies?

(c) Will any assistance be provided to individuals by the Department in securing the necessary information, etc. to assure expeditious handling of their complaints?

Section 741.32—Actions for nonperformance

It is not clear, in the absence of a specific compliance mechanism, how this section is designed to operate.

1. While we are pleased to see that there are a range of strong remedies contemplated by the regulations, we feel that it is left vague as to when these remedies will be utilized. Are these remedies permissible only in respect to the resolution of complaints, i.e., does the reference to complaints in subsection (a) mean that subsections (b), (c), (d), and (e) are only applicable in relation to remedial action taken with regard to complaints?

2. Is breach of affirmative action clause determined on the basis of a complaint investigation, or is it contemplated that such breach can be determined after some sort of overall compliance review?

3. Are these remedies limited only to those contractors who are required to develop an affirmative action program, or do they apply also to those contractors who have only a non-discrimination clause in their contracts?

Section 741.33—Disputed matters related to the affirmative action program

We do not understand the purpose of this section since it seems to imply that all matters in dispute which are not directly dealt with by the Assistant Secretary will be disposed of pursuant to the disputes clause of a contract.

1. Could you please describe to us how, in the absence of an established compliance mechanism, these provisions will actually work?

2. What matters will be covered by the disputes procedure?

3. Does this mean that complaints which are referred to an agency will be dealt with pursuant to the provisions of this section, or will they be resolved through the complaints procedure outlined in section 741.29?

4. Does this section mean that there will be no specifically designated compliance officers who are trained to handle EEO matters but instead that these matters will be handled by regular contracting officers?

5. Do you feel that contracting officers are adequately trained to conduct the kinds of

affirmative action program reviews which seem to be contemplated under this section?

In addition to our concerns about specific provisions of the regulations, we are distressed that there have been several deletions from the draft regulations which do not appear in the regulations as published. Most particularly, we are disturbed that the Department has chosen to delete the provisions of proposed section 741.24 respecting preaward compliance reviews for contracts in excess of $1 million. And we feel that the provisions of proposed section 741.26 respecting duties of the contracting agencies (while containing numerous problems in its own right) were much clearer in terms of specific responsibilities and procedures for purposes of compliance. The existing section 741.26, as we have noted, has been diluted to the point that we question whether it will have any effect whatsoever.

With regard to the actual operations of the program, we would like to know:

(a) Where in the Employment Standards Administration will the section 503 program be located?

(b) How much staff is being allocated by the Labor Department to the program both in Washington and in the regions and would you provide a functional breakdown of the staff to be employed, the grade levels contemplated, and a timetable as to when such staff will be in place?

(c) How much staff is being allocated by the agencies for implementation of the program both in Washington and the regions, and would you provide a functional breakdown of the staff to be employed, the grade levels contemplated, and a timetable as to when such staff will be in place?

(d) How many handicapped individuals will be employed on this staff and what are the grade levels contemplated for these persons?

(e) What steps is the Department taking to advise the general public, employers, and organizations of handicapped individuals of the existence of the program and their rights and remedies pursuant to section 503 and the regulations?

It is our hope that the Department shares our objective to assure equal employment opportunity for all handicapped individuals in the United States. We feel that the regulations issued pursuant to section 503 raise many serious questions whether this program will in fact result in meeting that objective or whether it will serve, albeit unintentionally, to perpetuate the serious problems encountered by handicapped individuals in securing decent employment opportunities.

In addition, we would strongly urge the Department to work closely and carefully with the Department of Health, Education, and Welfare in the further development of these regulations, particularly in view of the close interrelationship between section 503 and section 504 of the Act.

We would appreciate your response to the comments and questions raised in this letter by September 5, 1974, and, in addition to your written response, we would like an opportunity for Committee staff to meet with Mr. DeLury and his staff as soon as a mutually agreeable time can be arranged.

Thank you for your prompt attention to this important matter.

Sincerely,

HARRISON A. WILLIAMS,
Chairman.
JENNINGS RANDOLPH,
Chairman, Subcommittee on the Handicapped.
ALAN CRANSTON,
ROBERT T. STAFFORD.

Mr. CRANSTON. Mr. President, the distinguished chairman of the committee (Mr. WILLIAMS) has been involved in discussions of this legislation throughout, and has been a major supporter of the Rehabilitation Act and the author of one of the titles in the pending bill, to call a White House Conference on Handicapped Individuals. Because he is necessarily absent from the Senate today, his remarks on this legislation will be placed in the RECORD tomorrow on his return.

Mr. President, I urge my colleagues to support this bill unanimously, and hope that we can rapidly work out our differences with the other body.

S. 3108—A NECESSARY AND WORTHY BILL DESIGNED NOT TO BREAK THE BUDGET

Mr. RANDOLPH. Mr. President, I am gratified that the leadership has consented to bring up S. 3108, the Rehabilitation Act Amendments of 1974. As chairman of the Subcommittee on the Handicapped which developed this important measure, I was pleased to assign the task of reporting and managing the bill to Senator CRANSTON, ranking member of the subcommittee, who has developed considerable expertise in this field.

The Rehabilitation Act of 1973 was signed into law on September 26, 1973. Since that major legislation was enacted, a number of problem areas have emerged which, in the opinion of the subcommittee and the Committee on Labor and Public Welfare, should be rectified this year.

In addition, the House of Representatives has passed H.R. 14225, which extends the authorization of appropriations for programs under the 1973 act for 1 year. Those extensions, with the exception of the basic program of vocational rehabilitation services, are extended for an additional 1-year period in S. 3108, with minor increases in authorization levels.

The committee added two titles to the amended provisions of the House-passed bill: the Randolph-Sheppard Act Amendments of 1974 and the White House Conference on Handicapped Individuals. Both titles previously have been passed by the Senate.

Mr. President, at this point I want to review briefly the major provisions of title I of S. 3108 as reported.

EXTENSION OF AUTHORIZATIONS FOR APPROPRIATIONS

Each program for which appropriations are authorized under the Rehabilitation Act of 1973 is extended through June 30, 1977, with the exception, as I previously indicated, of the basic services program, which is extended through June 30, 1976. These programs include innovation and expansion, client assistance projects, research, training, construction of facilities, vocational training services, the National Center for Deaf-Blind Youths and Adults, special projects, secretarial evaluation, Office for Handicapped Individuals, and the Architectural and Transportation Barriers Compliance Board. Including the basic State grant program, the increases in authorization levels over the amounts authorized in the 1973 act are only $64.3 million for fiscal year 1976, and $37.8 million for fiscal year 1977, out of a total authorization for these programs of $857.2 million in fiscal year 1976 and $151 million in fiscal year 1977, which latter amount excludes the basic program which is not extended for that year, compared with an existing total authorization of $792.7 million.

The increases in appropriation levels authorized in S. 3108 are small, but they are necessary to meet the eroding effects of inflation. In some cases the increases will permit some minor expansions of priority programs such as research and training.

TRANSFER OF THE REHABILITATION SERVICES ADMINISTRATION

One of the major provisions of title I of the committee bill requires the transfer, within 60 days after enactment, of the Rehabilitation Services Administration from the Social and Rehabilitation Service to the Office of the Secretary of Health, Education, and Welfare, the Under Secretary, or an appropriate Assistant Secretary, whichever the Secretary believes is most advantageous to the rehabilitation program and the Department. The House bill, H.R. 14225, transfers RSA to the Office of the Secretary. I believe the flexibility afforded to the Secretary in the Senate version is an improvement to the House requirement.

As the ranking minority member of the Subcommittee on the Handicapped will indicate, Under Secretary Carlucci has expressed through a letter to Senator STAFFORD, his Department's concern about the restrictions expressed in certain phraseology in the committee bill, section 101(a). Mr. Carlucci is fearful that the bill requires a totally organic and self-supporting administrative staff within RSA which does not now exist. I believe the Department's concerns may be laid to rest by expressing my view—and it is my impression that this view is shared by the committee—that it is the intention of the bill to require that program and policy decisions must be made in, and carried out by, the Rehabilitation Services Administration, but that routine, day-to-day administrative functions now being carried out by RSA's parent agency, the Social and Rehabilitation Service, certainly may, under S. 3108, be performed on a centralized basis by staff personnel in the Department.

OTHER MAJOR AMENDMENTS

The committee proposes some additional substantive changes in the law, each of which if enacted would improve the 1973 act. The able floor manager of S. 3108, the Senator from California (Mr. CRANSTON), has described these amendments, and I particularly want to elaborate on some of those that I sponsored.

As chief sponsor of the provision of the 1973 act which established the Architectural and Transportation Barriers Compliance Board, I have observed the initial organization of that entity with a mixture of considerable concern and an expectation that the Board can become a major force for beneficial change in the lives of handicapped individuals across the Nation.

In order to breathe additional vitality into the Board, the committee has required the hiring of an executive director and sufficient staff to activate it and impel it to undertake those functions mandated by law. Shortly after the enactment of the Rehabilitation Act last September, I wrote to then White House Counselor Melvin Laird urging the expeditious hiring of a strong and dynamic executive director for the Board. Now, almost a year later, the Board still has no director or staff of its own. This is an inexcusable deficiency which I fully expect to be rectified forthwith.

Although it was contemplated in the 1973 act, doubts have been expressed that the Board could engage in grants and contracts to carry out its functions. The committee bill makes this authority explicit.

Section 502(b) of the Rehabilitation Act states that one function of the Board is to "insure compliance" with standards adopted pursuant to the Architectural Barriers Act of 1968. It has been stated that the Board was given no mechanism in the law with which to insure compliance. This the committee has provided through proposed new language in the law which requires each agency affected by an order of compliance issued by the Board to adhere to such order. The provision also authorizes the Board to withhold or suspend Federal funds with respect to any building not in compliance with standards prescribed under the Architectural Barriers Act.

A consumer advisory panel is to be established to provide recommendations and guidance to the Board, and a majority of the members of such panel are to be handicapped individuals. It is expected that this panel will be able to provide the Board a great deal of insight into the problems and needs of people with handicaps.

Finally, the committee bill injects the Board into two new areas—plans and specifications for any construction under the 1973 act must have the approval of the Board, and the concurrence of the Board is required with respect to technical assistance provided by the Secretary in the removal of architectural and transportation barriers.

Two other proposed amendments to the act warrant special mention at this point. First, the Secretary is authorized, in the conduct of research under section 202(a) of the act, to study and analyze architectural and engineering design. The committee bill adds demonstrations to this provision in order to permit assistance under the Secretary's research authority for models of excellence for the construction and remodeling of facilities which are not now available to handicapped individuals. Second, an amendment to section 304(d) adds authority for the operation of programs designed to demonstrate recreational activities which are fully accessible to handicapped individuals. Certainly, recreation enables most of us to have fuller, richer lives. Too few handicapped individuals are able to participate in much recreational activity. It is expected that this new provision will permit the construction and operation of facilities which are barrier free to, and tailor made for, citizens with handicaps. As the committee report states, such facilities should serve as valuable prototypes for recreation activities for handicapped people throughout the country.

TITLE II—THE RANDOLPH-SHEPPARD ACT AMENDMENTS

Title II of the reported bill incorporates, with minor changes, the Senate-passed provisions of S. 2581, the Randolph-Sheppard Act Amendments of 1974. Since I have gone into this measure at great length in the report on S. 2581 (S. Rept. No. 93-937), and during Senate consideration of the bill on June 20, 1974, I do not wish to reiterate in detail now.

I do, however, want to remind my colleagues that I have attempted for 5 years to secure amendments to the Randolph-Sheppard Act. The bill that passed the Senate on June 20, exactly 37 years to the day after the blind vendor bill which I authored, together with the late Morris Sheppard, of Texas, first became law, is eminently worthy of support by every legislator of compassion and humanity. The act and the program under which it operates is sorely needed by blind vendors and those thousands of blind individuals who would be blind vendors if the employment opportunities were available. Title II of S. 3108 will make those jobs available.

Mr. President, S. 3108 is important and necessary legislation. The House of Representatives has adopted its amendments to the Rehabilitation Act of 1973. I am convinced that, although there are differences between the House-passed H.R. 14225 and the measure recommended by your committee, those differences can be expeditiously resolved, and that the measure sent to the President will reflect credit on the Congress and be of great benefit to handicapped people throughout America.

I express my deep appreciation to the members of the Subcommittee on the Handicapped for their diligent effort in developing this legislation. In particular I thank the Senator from California (Mr. CRANSTON), the Senator from Vermont (Mr. STAFFORD), the able chairman of the committee (Mr. WILLIAMS), and the ranking minority member of the committee (Mr. JAVITS).

I urge adoption of S. 3108.

Mr. MANSFIELD. Mr. President, I have an amendment at the desk that I call up at this time.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The second assistant legislative clerk proceeded to read the amendment.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. . Title IV of the Rehabilitation Act of 1973 is amended by adding at the end thereof the following new section:

"WAGE SUPPLEMENTS FOR HANDICAPPED INDIVIDUALS

"SEC. 408. (a) In order to demonstrate the feasibility of the payment of wage supplements to handicapped individuals and severely handicapped individuals who are employed on a long-term basis in rehabilitation facilities which are sheltered workshops or work activity centers, there are authorized to be appropriated $2,200,000, for the fiscal year ending June 30, 1975, $4,800,000, for the fiscal year ending June 30, 1976, and $9,600,000, for the fiscal year ending June 30, 1977.

"(b)(1) The Secretary is authorized to conduct demonstration projects either directly or by way of grant, contract, or other arrangement with public or private nonprofit agencies or organizations under which wage supplements are paid to handicapped individuals or severely handicapped individuals who are employed in rehabilitation facilities which are sheltered workshops or work activity centers in accordance with the provisions of this section.

"(2) The Secretary shall carry out the program authorized by this section so as to determine the feasibility of the payment of wage supplements for such individuals on a nationwide basis and so as to assure that such payments are made in each region throughout the United States.

"(c) No wage supplement payment may be made under this section unless an application is made by the appropriate public or private nonprofit agency or organization. Each such application shall contain provisions to assure—

"(1) that the rehabilitation facility in which the handicapped or severely handicapped individual is employed is a sheltered workshop or work activity center or other similar facility which is eligible for obtaining certification for handicapped individuals under section 14(d) of the Fair Labor Standards Act of 1938;

"(2) that the wage supplement payable to any qualified handicapped worker be set aside and not included as a part of the income of the handicapped worker earned under provisions of section 14 of the Fair Labor Standards Act;

"(3) that when the earned income of the handicapped worker is 70 per centum or less of the hourly minimum wage, he shall receive a wage supplement of $1 per hour, and that for each additional 10 cents per hour of earned income, 7 cents per hour shall be subtracted from the handicapped worker's wage supplement, the wage supplement to be eliminated entirely when the earned income is in excess of 140 per centum of the minimum wage;

"(4) that wage supplement payments will be determined over a six-month period of sustained work effort in a rehabilitation facility meeting the requirements of paragraph (1) under which the handicapped individual or severely handicapped individual has engaged in a work program of at least thirty hours during each week, except that the payment of any wage supplement may be made on an estimated basis, on a weekly or monthly basis pursuant to an agreement between the applicant and the Secretary;

"(5) that each wage supplement payment to a handicapped individual or severely handicapped individual will be made separately from payment of the earned wages to that individual; and

"(6) that each applicant shall maintain such fiscal control and fund accounting procedures as the Secretary determines necessary to insure the proper disbursement of wage supplements payable under this section, and shall make such reasonable reports as the Secretary may require to carry out his functions under this section and shall keep records and afford such access thereto as the

Secretary may find necessary to assure the correctness and verification of such reports.

"(d) No handicapped individual or severely handicapped individual shall be eligible for a wage supplement payment under this section unless such individual—

"(1) is employed in a rehabilitation facility which is a sheltered workshop or a work activity center which meets the requirements of paragraph (1) of the preceding subsection;

"(2) has attained sixteen years of age; and

"(3) has an earning capacity which is sufficiently impaired that such an individual is unable to obtain and hold employment compensated at a rate at the minimum wage applicable under section 6 of the Fair Labor Standards Act of 1938 without regard to any exclusion in that Act: and is not otherwise engaged in a training or evaluation program under this Act, pursuant to regulations promulgated by the Secretary, which involves either activities or such a significant portion of the time of the individual as to be inconsistent with the provisions of this section.

"(e) In order to assist public agencies and private nonprofit organizations which are employing handicapped individuals and which meet the requirements of paragraph (1) of subsection (b) of this section, to participate in the program authorized by this section, the Secretary is authorized to make a grant to each such participating agency or organization in an amount not to exceed 10 per centum of all wage supplement payments in that fiscal year made to individuals of that agency or organization. For the fiscal years ending June 30, 1976, and June 30, 1977, the Secretary is authorized to enter into an agreement with any such agency or organization to make an increased payment under this section based upon the success which such agency or organization has in reducing reliance by handicapped individuals and severely handicapped individuals upon wage supplements by an increased reliance upon earned wages by such individuals.

"(f) In carrying out the provisions of this section, the Secretary is authorized, jointly by regulation with the Secretary of Labor, to provide further requirements for the certification of a rehabilitation facility pursuant to paragraph (1) of subsection (b) of this section. Any such regulations may contain provisions requiring—

"(1) that each such facility shall pay to individuals eligible for assistance under this section wages at a rate equal to wages paid to nonhandicapped workers in industry in the vicinity for essentially the same type, quality, and quantity of work performed, except as prescribed under paragraphs (2) and (3) of section 14(d) of the Fair Labor Standards Act of 1938;

"(2) that each such facility will not compete unfairly in obtaining work or in the sale of products or the furnishing of services; and

"(3) such other reasonable requirements for the maximum efficient operation of any such facility as the Secretary and the Secretary of Labor may require.

"(g) Notwithstanding any other provision of law, the payment of a wage supplement to a handicapped individual or a severely handicapped individual under this section shall not affect the eligibility of any such individual to receive payments under the Social Security Act or any other similar retirement or public assistance payments.

"(h) Not later than April 1, 1977, the Secretary is authorized to prepare and submit to the Congress a report on programs authorized by this section together with such recommendations for additional legislation as he determines desirable.".

SEC. 3. The table of contents of title IV of the Rehabilitation Act of 1973 is amended by adding at the end thereof the following new item:

"Sec. 408. Wage supplements for handicapped individuals.".

Mr. MANSFIELD. Mr. President, I am offering this amendment on behalf of the Senator from Minnesota (Mr. HUMPHREY), who is absent on official business with a congressional mission to the People's Republic of China.

This amendment would add a new section to S. 3108, to amend the Rehabilitation Act of 1973 to provide for a program of wage supplements for handicapped individuals. The amendment is identical to S. 3884, introduced by Senator HUMPHREY on August 7, 1974.

Mr. President, I ask unanimous consent that a statement by Senator HUMPHREY, upon introducing the original bill, and the text of the bill, be included at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD as follows:

STATEMENT BY SENATOR HUMPHREY

INCOME INCENTIVE FOR HANDICAPPED PERSONS IN SHELTERED WORK SITUATIONS

Mr. President, I am introducing an amendment to the Rehabilitation Act of 1973, the purpose of which will be to provide wage supplements to handicapped individuals working in sheltered workshops or work activity centers. This long-needed measure will provide the handicapped worker with a means of achieving a significant measure of independence and dignity. At the same time, the wage supplement would act as an incentive for self-improvement.

For a long time our country has done little to aid the handicapped to achieve that measure of self-fulfillment of which they are capable. There has been a hidden, or sometimes overt, assumption that the handicapped worker is a total invalid, that he cannot help himself, or even that he must be protected from society and society must be protected from him.

This is a costly conception, both in terms of the human toll it takes of the handicapped and their families, and in terms of the financial burdens which it unnecessarily imposes on society.

The human dimension is paramount. One of the great political principles of our national life is that every person shall have the opportunity to achieve whatever degree of self-reliance and self-fulfillment he is capable of. This is obvious in the negative sense—in the sense that the Government must not interfere with the rights of its citizens. But it should be equally clear that the Government has a positive obligation to assist those with a handicap—whether it be cultural, mental, or physical.

This principle has recently been recognized in a number of court decisions around the country dealing with the problem of education for the handicapped. The courts have held repeatedly over the last 2 years that the States have the responsibility of providing specialized education for the handicapped which meets their needs to the same degree that the ordinary processes of education meet the needs of those children who do not suffer from any handicap. They have declared that the meaning of equal education is not that everyone is offered the same thing, but that everyone has the same relative opportunity to learn in an environment which will enable him to learn most effectively.

The Congress has recognized the urgency of making equal education for the handicapped a reality by passing the amendment to the education bill (H.R. 69), sponsored by Senator MATHIAS and myself, which provides over $600 million for educational programs for the handicapped. And the Congress is carrying that work further with an effort to establish a permanent program of educational aid for the handicapped in a bill (S. 6) presently being considered by the Senate Labor and Public Welfare Committee.

Congress is also beginning to recognize the need to institutionalize the principles, procedures, and programs through which the rights of the handicapped are to be defended. A "bill of rights" for the handicapped (S. 3378) is also under consideration in the Senate Labor and Public Welfare Committee.

The other cost of failing to recognize the rights and opportunities for the handicapped is a social and financial cost. It can cost between $30 and $50 a day to care for the handicapped in an institutionalized setting. That is a cost of over $15,000 a year, for the full life of the person who is institutionalized. Most often, there is no need for such institutionalization. The handicapped person can usually achieve some degree of self-reliance.

In some cases he can become fully self-reliant, and serve as a fully productive member of society. It is certainly better to provide a small stipend on a program which enables a handicapped person to become fully self-reliant, or to provide a modest stipend on a permanent basis to a person who is thereby able to become partially independent and to be productive in at least a limited way, than it is to foot the bill for permanent, high cost incapacity and institutionalization. This, of course, is the whole idea behind sheltered workshops and work activity centers.

Sheltered workshops and work activity centers provide a productive work environment for the handicapped person who is not able on a regular and continuing basis, because of his handicap, to meet the demands of employment at which he could earn the minimum wage. But there are considerable problems in the present operations of such workshops, and it is quite often impossible for the handicapped worker in a workshop to support himself.

What my proposal provides for is a series of pilot programs to study the advantages of a system of wage supplements which simultaneously provide an incentive to the worker to increase his productivity—if feasible, to a level which would enable him to leave the workshop—and a means to become self-sustaining.

We need to examine the feasibility and effectiveness of such a program on a nationwide basis. The Department of Health, Education, and Welfare is presently beginning a study of such a program which they plan to complete in 2 years. But this study is going to have to be theoretical unless we provide some demonstration projects for the Department to examine. I think we need to see how these programs operate in the flesh.

Specifically, this measure would specify the following mechanisms for wage supplements:

Every handicapped worker in a sheltered workshop would be provided with a wage supplement of $1 per hour in addition to his wage, up to and including the point where his wage reaches 70 percent of the minimum wage. For wages above that point, the wage supplement will be reduced 7 cents for each additional 10-cent increment in wages, with the entire wage supplements to be eliminated for any wage in excess of 140 percent of the minimum wage.

The wage supplement is to be provided separately from payment for work produced, so that it will be clear that the supplement is not part of the wage. And wages are to be paid on a basis equivalent to what a nonhandicapped worker would be paid for producing the same volume of work per hour.

The payment of a wage supplement is not

to affect the payment of social security or retirement benefits.

The great advantage of this formula is that there is no sudden cutoff point for the wage supplement, so that there is continuous incentive for the handicapped worker to increase his productivity, and this incentive may well encourage him to achieve a level of productivity where he no longer requires the support of a sheltered workshop.

One further provision of this legislation is that the activities of the workshops themselves are monitored, and the workshops are encouraged to make a positive contribution to the self-improvement of the handicapped workers.

Because we live in a culture which is oriented to the nonhandicapped, it is necessary to provide certain special services to meet the needs of handicapped workers to enable them to earn a living wage and to lead a meaningful life. This proposal is aimed at assisting handicapped workers who are already employed and who need a further supplement to meet the economic needs of daily living.

Mr. President, I ask unanimous consent that the text of this bill be inserted at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3884

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Wage Supplements for Handicapped Individuals Act".

SEC. 2. Title IV of the Rehabilitation Act of 1973 is amended by adding at the end thereof the following new section:

"WAGE SUPPLEMENTS FOR HANDICAPPED INDIVIDUALS

"SEC. 408. (a) In order to demonstrate the feasibility of the payment of wage supplements to handicapped individuals and severely handicapped individuals who are employed on a long-term basis in rehabilitation facilities which are sheltered workshops or work activity centers, there are authorized to be appropriated $2,200,000, for the fiscal year ending June 30, 1975, $4,800,000, for the fiscal year ending June 30, 1976 and $9,600,000, for the fiscal year ending June 30, 1977.

"(b)(1) The Secretary is authorized to conduct demonstration projects either directly or by way of grant, contract, or other arrangement with public or private nonprofit agencies or organizations under which wage supplements are paid to handicapped individuals or severely handicapped individuals who are employed in rehabilitation facilities which are sheltered workshops or work activity centers in accordance with the provisions of this section.

"(2) The Secretary shall carry out the program authorized by this section so as to determine the feasibility of the payment of wage supplements for such individuals on a nationwide basis and so as to assure that such payments are made in each region throughout the United States.

"(c) No wage supplement payment may be made under this section unless an application is made by the appropriate public or private nonprofit agency or organization. Each such application shall contain provisions to assure—

"(1) that the rehabilitation facility in which the handicapped or severely handicapped individual is employed is a sheltered workshop or work activity center or other similar facility which is eligible for obtaining certification for handicapped individuals under section 14(d) of the Fair Labor Standards Act of 1938;

"(2) that the wage supplement payable to any qualified handicapped worker be set aside and not included as a part of the income of the handicapped worker earned under provisions of section 14 of the Fair Labor Standards Act;

"(3) that when the earned income of the handicapped worker is 70 percent or less of the hourly minimum wage, he shall receive a wage supplement of $1.00 per hour, and that for each additional ten cents per hour of earned income, seven cents per hour shall be subtracted from the handicapped worker's wage supplement, the wage supplement to be eliminated entirely when the earned income is in excess of 140 percent of the minimum wage;

"(4) that wage supplement payments will be determined over a six-month period of sustained work effort in a rehabilitation facility meeting the requirements of paragraph (1) under which the handicapped individual or severely handicapped individual has engaged in a work program of at least thirty hours during each week, except that the payment of any wage supplement may be made on an estimated basis, on a weekly or monthly basis pursuant to an agreement between the applicant and the Secretary;

"(5) that each wage supplement payment to a handicapped individual or severely handicapped individual will be made separately from payment of the earned wages to that individual; and

"(6) that each applicant shall maintain such fiscal control and fund accounting procedures as the Secretary determines necessary to insure the proper disbursement of wage supplements payable under this section, and shall make such reasonable reports as the Secretary may require to carry out his functions under this section and shall keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(d) No handicapped individual or severely handicapped individual shall be eligible for a wage supplement payment under this section unless such individual—

"(1) is employed in a rehabilitation facility which is a sheltered workshop or a work activity center which meets the requirements of paragraph (1) of the preceding subsection:

"(2) has attained sixteen years of age;

"(3) has an earning capacity which is sufficiently impaired that such an individual is unable to obtain and hold employment compensated at a rate at the minimum wage applicable under section 6 of the Fair Labor Standards Act of 1938 without regard to any exclusion in that Act; and is not otherwise engaged in a training or evaluation program under this Act, pursuant to regulations promulgated by the Secretary, which involves either activities or such a significant portion of the time of the individual as to be inconsistent with the provisions of this section.

"(e) In order to assist public agencies and private nonprofit organizations which are employing handicapped individuals and which meet the requirements of paragraph (1) of subsection (b) of this section, to participate in the program authorized by this section, the Secretary is authorized to make a grant to each such participating agency or organization in an amount not to exceed 10 per centum of all wage supplement payments in that fiscal year made to individuals of that agency or organization. For the fiscal years ending June 30, 1976, and June 30, 1977, the Secretary is authorized to enter into an agreement with any such agency or organization to make an increased payment under this section based upon the success which such agency or organization has in reducing reliance by handicapped individuals and severely handicapped individuals upon wage supplements by an increased reliance upon earned wages by such individuals.

"(f) In carrying out the provisions of this section, the Secretary is authorized, jointly by regulation with the Secretary of Labor, to provide further requirements for the certification of a rehabilitation facility pursuant to paragraph (1) of subsection (b) of this section. Any such regulations may contain provisions requiring—

"(1) that each such facility shall pay to individuals eligible for assistance under this section wages at a rate equal to wages paid to nonhandicapped workers in industry in the vicinity for essentially the same type, quality, and quantity of work performed, except as prescribed under paragraphs (2) and (3) of section 14(d) of the Fair Labor Standards Act of 1938;

"(2) that each such facility will not compete unfairly in obtaining work or in the sale of products or the furnishing of services; and

"(3) such other reasonable requirements for the maximum efficient operation of any such facility as the Secretary and the Secretary of Labor may require.

"(g) Notwithstanding any other provision of law, the payment of a wage supplement to a handicapped individual or a severely handicapped individual under this section shall not affect the eligibility of any such individual to receive payments under the Social Security Act or any other similar retirement or public assistance payments.

"(h) Not later than April 1, 1977, the Secretary is authorized to prepare and submit to the Congress a report on programs authorized by this section together with such recommendations for additional legislation as he determines desirable."

SEC. 3. The table of contents of title IV of the Rehabilitation Act of 1973 is amended by adding at the end thereof the following new item:

"SEC. 408. Wage supplements for handicapped individuals"

Mr. CRANSTON. Mr. President, I rise in opposition to this amendment offered in behalf of the Senator from Minnesota (Mr. HUMPHREY) to add to the bill the provisions of S. 3854 introduced on August 7, 1974, to provide for a demonstration program of wage supplements for handicapped individuals in sheltered workshops.

Mr. President, the Rehabilitation Act of 1973 specifically directs the Secretary of HEW to conduct a study on the role of sheltered workshops in the rehabilitation and employment of handicapped individuals, including a study of wage payments in sheltered workshops. This study and the recommendations with respect to such study are to be reported to the Congress within 24 months after the date of enactment of the act, by September 30, 1975.

Senator HUMPHREY's amendment would add a new provision to the authorization of the study to provide for the funding of specific pilot programs to study the feasibility and effectiveness of a system of wage supplements. Although the committee recognizes the need for examination of programs where such systems are actually operating, it did not feel it was necessary to authorize appropriations of up to $9.6 million to gain the necessary knowledge of the effectiveness of such programs, given the existence of several wage supplement programs currently being operated by private nonprofit sheltered workshops.

It was further recognized by the committee that the issue of wage supplements is extremely complex and is related to several other income maintenance programs that are available to assist disabled individuals. Among them is the recently instituted Federal assistance program known as SSI—supplemental security income—which provides cash assistance to low-income disabled persons, among others. While this SSI program is still in its formative stages, it was not felt by the committee that it was appropriate to authorize sizable sums for still another kind of income maintenance program.

Mr. President, the committee recognizes and appreciates the longstanding interest and support of the Senator from Minnesota in working for the betterment of sheltered workshop conditions and other programs serving handicapped individuals, and fully intends careful study of the Senator's amendment.

For these reasons, Mr. President, I urge my colleagues to reject the pending amendment.

Mr. RANDOLPH. Mr. President, I regret that I am unable to support the amendment to S. 3108 proposed by the distinguished majority leader (Mr. Mansfield) on behalf of the Senator from Minnesota (Mr. Humphrey).

The Subcommittee on the Handicapped has not gone into the question of wage supplement payments for handicapped individuals in sheltered workshops, in the depth that this complex issue would demand. Under the Rehabilitation Act of 1973, section 406 requires that the Secretary conduct a study of sheltered workshops. The study, which is to include a study of wage payments in such workshops, is to be completed no later than September 30 of next year, and is currently underway. It is anticipated that the study will be exhaustive and extremely valuable, to handicapped citizens, to the rehabilitation community, to the Department of Health, Education, and Welfare, and, of course, to the Congress.

I want to take a moment to express my deep appreciation for the abiding personal interest taken by the Senator from Minnesota (Mr. Humphrey) in all legislation affecting handicapped individuals, and for his passionate advocacy on their behalf. This understanding of the needs of people with handicaps has been, and continues to be, a source of great inspiration to, and considerable valued information for, this Senator and many other colleagues.

The Senator from Minnesota may be assured that I, as chairman of the Subcommittee on the Handicapped, will make an effort to have the sheltered workshop study required by section 406 of the Rehabilitation Act completed at the earliest possible time. I am not hopeful, frankly, that the study—which will be comprehensive and complex—can be completed earlier than the date mandated in the law. Nonetheless, I will closely monitor the study to insure that, at the least, the target date will be met.

Mr. MANSFIELD. Mr. President, I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes to the distinguished Senator from Vermont (Mr. Stafford).

Mr. STAFFORD. I thank the distinguished Senator for yielding.

Mr. President, as the author of the bill, and it has a number of cosponsors, including Senator Humphrey, I must reluctantly oppose the amendment which has been offered by the majority leader in Mr. Humphrey's behalf. It would not, in my opinion, be acceptable to the committee, which reported the bill as it exists unanimously.

Mr. President, I oppose the amendment proposed by the Senator from Minnesota, Mr. Humphrey, regarding a new section of the bill on wage supplements to individuals in sheltered workshop situations.

I am opposed to this amendment at this time because under the Rehabilitation Act, we have instituted a study of sheltered workshop situations based on the unsubstantiated information the committee was able to develop during its hearings on the Rehabilitation Act of 1973.

I feel it would be premature to accept the Humphrey amendment since this study, which is now being undertaken by HEW, should provide the information necessary to the committee to make whatever legitimate changes are needed in the workshops system.

At present there are several States conducting wage supplement programs, and these, I am sure, HEW will evaluate in the process of developing the information for the study. I feel Congress must have all the information we can get before we try to make any changes in this very delicately balanced system of sheltered workshops. Until we have such information, I find that I must oppose this well-intended amendment by the Senator from Minnesota.

I reserve the remainder of my time. I am prepared to vote when the majority leader is.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Montana on behalf of the Senator from Minnesota. [Putting the question.]

The amendment was rejected.

Mr. JAVITS. Mr. President, I urge my colleagues to support S. 3108, the Rehabilitation Act Amendments of 1974. There are two particular areas I would like to emhasize in my remarks this morning.

PROGRAM EXTENSION

This bill extends authorization of some of the most vital and cost-effective programs benefiting the Nation's handicapped. These programs include:

First. The basic State grant program of vocational rehabilitation services, authorizing a funding level for fiscal year 1976 of $720,000,000. This represents only a 6-percent increase of the funding level of $680,000,000 authorized for fiscal year 1975. It is my opinion that this figure is most fiscally responsible, particularly in view of the inflation rates we presently face, and is entirely consistent with the request of the President to hold down Government spending.

Second. Innovation and expansion grants for services to handicapped individuals.

Third. Client assistance projects.

Fourth. Research and training programs in the field of rehabilitation, for which funding authorization is placed at $35 million for fiscal year 1976, and $37.5 million for fiscal year 1977. These programs hold great potential both in the promise of increased effectiveness of rehabilitation, and the resulting return of taxpayers' investment in increased productivity and income of persons rehabilitated.

Fifth. The Architectural and Transportation Barriers Compliance Board, for which this bill authorizes $1.5 million for fiscal year 1976 and 2 million for fiscal year 1977, is vital to our effort to reduce the immobility which so greatly hampers the efforts of the handicapped to achieve productive and full lives. In the words of the Senate report on S. 3108:

> The Board has the potential of becoming a major force for achieving the elimination of environmental barriers to handicapped individuals.

Perhaps most important, however, is the overall nature of these programs. There is no question that they are vital to the well being of thousands of handicapped people. But it must be emphasized that these programs are effective, both in the rehabilitation of the persons they serve, and in the pragmatic sense of return of the taxpayer's dollar. The cost-effectiveness of the programs of the Rehabilitation Act Amendments of 1974 is extremely high. Persons rehabilitated under these programs return to work thus increasing the productivity of the Nation. Their wages strengthen the economy. Their taxes help pay their share of the cost of government. Their rehabilitation reduces their dependency upon government assistance, and in many cases allows them to remove themselves altogether from public assistance or welfare roles. The savings to government is considerable. The report of the House Committee on Education and Labor on H.R. 14225 states:

> Several cost-benefit analyses of the rehabilitation program have been completed. Although these analyses differ with respect to methods and assumptions, they all agree on one crucial fact—*the benefits of the rehabilitation program are many times its cost.* [Emphasis added.] Conservative estimates of the ratio of benefits to costs have ranged between 8 to 1 and 35 to 1. For instance, the total annual earnings of 326,138 individuals rehabilitated in fiscal year 1972 are estimated at $1 billion—or a net increase of $750 million over the earnings of the individuals at the time they entered the rehabilitation system.

I urge that these programs receive our fullest support both on the basis of need and of pragmatism.

BASIC STATE GRANT FORMULA

Mr. President, I would like to point out that the authorization of appropriations for the basic State grant program of vocational rehabilitation services is extended in S. 3108 for only 1 additional year, through fiscal year 1976. The reason that this program is extended only 1 year while all others are extended 2 years, is to insure that a thorough review of the present State grant formula is made. Section 407 of the Rehabilitation Act of 1973 required a study be made of the allocation formula. An early draft of this study already received by the Labor and Public Welfare Committee seems to support my firm conviction that the State allocation formula must be changed to more equitably distribute these Federal funds. The present formula overemphasizes per capita income at the expense of other factors such as density of population, differing cost of living, income differences within a State, and size of handicapped population. The allocation distortions which result manifest themselves in widely varying differences in the amounts various States receive to assist each handicapped individual residing there. The need to find a more equitable formula is obvious. One year extension of this program insures the formula will receive the close scrutiny and study which must be done, and improves the likelihood that a more equitable formula may be developed and enacted next year

Mr. STAFFORD. Mr. President, S. 3108, the Rehabilitation Act Amendments of 1974, was originally introduced by me on March 5 as a one-page bill to transfer the Rehabilitation Services Administration, now a division of Social and Rehabilitation Services Administration of HEW, to the Office of the Assistant Secretary for Human Development within the same Department.

Mr. President, I ask unanimous consent to insert an excerpt from the Congressional Record of March 5 containing a pamphlet on the mission of the Office of Human Development.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Office of Human Development

(Note.—The Office of Human Development increases Federal responsiveness to the needs of children and youth, the aged, mentally retarded people, rural Americans. American Indians and Alaskan Natives.)

MISSION

The Office of the Assistant Secretary for Human Development was established in April 1973 to focus the Department's planning and resources more effectively on certain groups of Americans with special needs: children and youth, the aged, mentally retarded persons, American Indians and Alaskan Natives, and people living in rural areas. Programs serving these groups, which had been scattered throughout the Department, have now been consolidated in the Office of Human Development.

In addition to his responsibilities for program management, the Assistant Secretary for Human Development is principal adviser to the Secretary for policy development in these areas, ensuring that the Department itself becomes more responsive to issues concerning OHD constituents, and he addresses them more effectively as part of the Department's overall planning.

Basically, OHD has been established to help these special groups of Americans develop their fullest human potential, to make the services they receive more effective and better coordinated, and to fulfill the Department's commitment to make the Federal government more responsive to their needs.

PROGRAMS

Prorgam management and policy development for a broad range of services to special populations have been consolidated in OHD. They include:

Administration on Aging (AoA)

AoA is the Federal focal point for the needs, concerns and interests of older persons, as the principal agency for carrying out the programs of the Older Americans Act. Through the Interdepartmental Working Group of the Domestic Council Committee on Aging, AoA is also the principal agency for promoting coordination of Federal resources available to meet the needs of older persons.

AoA administers three major grant programs: (1) a Federal-State-local program which provides support for State agencies and area agencies on aging to establish a comprehensive, coordinated service system for older persons; (2) the National Nutrition Program for the Elderly, designed to provide low-cost, nutritious meals to low-income persons age 60 and over; and (3) a research, demonstration and manpower development program which seeks to identify effective methods of helping older people, and to promote the preparation of teachers, researchers, and practitioners for the field of aging.

AoA is establishing a National Information and Resource Clearinghouse on Aging, and provides staff for the Federal Council on Aging.

Office of Child Development (OCD)

OCD consists of two major bureaus: Child Development Services and the Children's Bureau. The agency has four major functions: (1) to operate Federally-funded programs for children, such as *Head Start* and *Parent and Child Centers;* (2) to develop innovative programs for children and parents; (3) to serve as a coordination point for all Federal programs for children and their families; and (4) to act as an advocate for the children of the nation, by bringing their needs to the attention of the government and the American public. OCD also awards grants for research, demonstration, and other social services involving children and their families.

Office of Youth Development (OYD)

OYD's major mission is to assist in the removal of barriers to positive youth development, so that young people will be able to assume responsible, productive roles in society. Under the Juvenile Delinquency Prevention Act, OYD's Division of Youth Services Systems makes grants to assist local governments to strengthen services to young people, through coordinated, integrated programs.

The Division of Youth Activities works directly with youth-serving organizations and youth groups, as part of its effort to serve as the Federal government's spokesman for youth activities. The Division of Program Coordination is concerned with coordinating the wide range of Federal programs serving the needs of youth.

Native American Program (NAP)

NAP serves the special needs of American Indians and Alaskan Natives by providing funds to Tribal Councils to strengthen tribal government to assist tribes toward economic self-sufficiency, to establish additional programs as needed, to obtain other resources and benefits for which they are eligible, and to manage the institutions which affect their daily lives. NAP also funds American Indian urban centers, training and technical assistance projects, and education scholarship programs. The Native American Program emphasizes *self determination,* to encourage American Indians and Alaskan Natives to exercise fully their responsibility to utilize and manage their own resources.

Office of Mental Retardation Coordination (OMRC)

OMRC serves the Secretary in an advisory capacity and is the focal point for consideration of policies, programs, procedures, activities and related matters concerning mental retardation. *Programs for the Handicapped* and other OMRC publications are widely distributed to a specialized readership within the field of mental retardation.

President's Committee on Mental Retardation (PCMR)

PCMR advises the President on mental retardation matters and coordinates with all departments and agencies throughout the Federal government to further the goal of preventing retardation and reducing the institutionalization of mentally retarded people. The Committee publicizes means of preventing many of the specific causes of mental retardation, and works with professional groups, the private sector, and the general public to improve services for mentally retarded people and to change misconceptions and prejudicial attitudes about them.

Office of Rural Development (ORD)

ORD is the catalyst within the Department for finding ways to meet the human needs of rural Americans. Its four areas of activity are: (1) the identification of barriers to the delivery of services to people in rural areas; (2) the design and recommendation of human service delivery systems in rural areas; (3) the establishment of a rural network, coordinated with other Federal agencies, to deliver services to target areas; and (4) representation of the Department on the interdepartmental task forces concerned with rural development.

President's Council on Physical Fitness and Sports (PCPFS)

The Council conducts programs to inform the public about the nature and extent of the physical fitness problem in America.

It supplies technical services and information to State and local school systems, recreation agencies, sports organizations, youth-serving groups, employers and others. The Council also promotes private support for physical fitness and sports development programs, coordinates Federal physical fitness programs, and supervises a Federally-funded summer sports program for economically disadvantaged youth.

APPROACH

OHD's emphasis is on coordination—in program planning, delivery of services, legislative initiatives, budgeting, and evaluation of program effectiveness. OHD brings to its mission an understanding of the organization and operation of Federal programs throughout the Department of HEW, and their relationship to other sources of assistance from State, local and private agencies. Rooted firmly at the "delivery line" of services, OHD communicates to its special populations the government's concerns and proposed solutions to their problems and needs. At the same time, OHD is an effective channel of communication from the consumer to the very highest levels of the Department.

As part of the Administration's emphasis on decentralization, much of the program management and decision-making is the responsibility of the 10 HEW Regional Offices. As a result, programs find greater and more productive interaction at the local level with volunteer groups, State and local government units, and professional organizations. Regions are the testing grounds for innovative approaches to ways in which services are coordinated and delivered to the citizen who needs them.

REGIONAL OFFICES

For further information, write to the Assistant Regional Director for Human Development, U.S. Department of Health, Education, and Welfare.

Region I (Conn., Me., Mass., N.H., R.I., Vt.)
John F. Kennedy Federal Bldg., Boston, Mass.
02203 (617) 223-6831.

Region II (N.Y., N.J., P.R., Virgin Islands)

26 Federal Plaza, New York, N.Y. 10007 (212) 264–2975.

Region III (Del., Md., Penna., Va., W. Va., D.C.) P.O. Box 13716 Philadelphia, Pa. 19101 (214) 597–6561.

Region IV (Ala., Fla., Ga., Ky., Miss., N.C., S.C., Tenn.) 50 Seventh Street N.E., Atlanta, Ga. 30323 (404) 526–5478.

Region V (Minn., Wis., O., Mich., Ill., Ind.) 300 S. Wacker Drive, Chicago, Ill. 60606 (312) 353–4698.

Region VI (Ark., La., N.M., Okla., Tex.) 1114 Commerce St., Dallas, Tex., 75202 (214) 749–2491.

Region VII (Ia., Kan., Mo., Neb.) Federal Bldg., 601 E. 12th St., Kansas City, Mo. 64016 (816) 374–3436.

Region VIII (Colo, Mont., N.D., S.D., Utah, Wyo.) Federal Office Bldg., Rm. 10021, 1961 Stout St., Denver, Colo., 80202 (303) 837–2622.

Region IX (Ariz., Calif., Hawaii, Nev., Guam, Tr. Terr.) 50 Fulton St., San Francisco, Calif. 94102 (415) 556–2650.

Region X (Alaska, Ore., Idaho, Wash.) Arcade Plaza Bldg., 1321 Second Avenue, Seattle, Wash. 88101 (206) 442–0482.

Mr. STAFFORD. This bill is the result of hearings held in June of this year and also includes an extension of the vocational rehabilitation program for 2 years.

I shall not elaborate on the different technical amendments that are covered in the bill since my colleagues Senator CRANSTON and Senator RANDOLPH have very ably done so. I would like to go into a few areas that are of great concern to me.

RATIONALE

In doing research for my statements on the Rehabilitation Act of 1973, I acquired from the Library of Congress the CONGRESSIONAL RECORD of the 66th Congress so I could review the original debates on the Smith-Fess Act.

I was impressed by the fact that the authors and sponsors of the legislation viewed themselves as creating a human development program for those individuals injured in domestic industry.

I particularly noted that the idea of a welfare program was disdained by the authors and they stressed this program as a human development program for disabled individuals.

Thus, for over 50 years, the rehabilitation program has attempted to help disabled individuals develop new talents so that they may again participate in our society to the fullest extent.

One of the strongest arguments that has been used in support of the rehabilitation program is that it returns an estimated $3 to $5 in Federal taxes on each $1 that the Government invests in the handicapped individual by allowing that individual to become a participating wage earner in our society. If the individual becomes dependent upon our welfare system, it will cost the Government well over $250,000 in that individual's lifetime for support payments.

It is important that the rehabilitation program grow to help more disabled individuals. It is also important that the program maintain its focus on these individuals and not be caught up in the welfare system.

The mission of the Office of Human Development is to provide a focal point for special populations and it is my belief that the handicapped are a special population. It is, therefore, appropriate to transfer the rehabilitation program into this office.

RECORDKEEPING

A second item which I wish to address is the requirement of keeping records of those individuals found to be ineligible for service under the rehabilitation program.

During the committee's investigation for the Rehabilitation Act of 1973, there were many accusations about the program excluding those individuals with more severe disabilities.

The Senate attempted through a proposal which I offered, the individualized written rehabiltation program, to provide a remedy for those individuals applying for services to the rehabilitation program.

As in previous statements that I have made, the individualized written rehabilitation program was designed to protect the rights of the individual and provide the individual and the system with sufficient information developed concurrently so that choices could be made in full view of the handicapped individual.

However, because of an oversight on our part in the use of certain words in the law, the HEW General Counsel has ruled that the individualized written rehabilitation program requirements do not apply to applicants found to be ineligible during preliminary diagnosis and the Department has accepted this opinion. Therefore, the Department is not requiring that a program be instituted when an applicant walks in the door requesting services.

The committee has proposed the recordkeeping requirements addition because it strongly believes that full information is essential for effective evaluation and management of the rehabilitation program. Without such information, neither the administration nor the Congress will be able to make valid judgments as to the extent the rehabilitation program is carrying out the mandate to serve the handicapped individual.

The reason the individualized written program was not amended directly to overcome the HEW General Counsel's objections was that a case had been made that the written approach would have required an inordinate amount of administrative work which was not really the intent of the Congress in this regard. The committee adopted a simple approach which requires the keeping of records on those applicants found to be ineligible for service.

The reasons individuals were rejected for service are to be categorized to enable the Secretary and the State program administrators to analyze and evaluate annually the reasons for such determination. The recordkeeping requirement should prove to be an effective evaluation tool so that the program may progress.

SPECIAL PROJECTS

Under the technical amendments to the Rehabilitation Act of 1973, in S. 3108 is a provision to provide special project authority for the creation of recreation facilities and programs for handicapped individuals. As a result of recent requests from several individuals, I investigated the possibilities of Federal assistance in the development of recreation facilities for handicapped individuals.

I was saddened to learn that under the many existing laws, there are no provisions for the Federal Government to assist in the provision of recreation facilities and programs for the handicapped.

Thus, a provision to S. 3108 has been added to amend the Special Projects Section—section 304—of the Rehabilitation Act of 1973 to allow demonstration projects for recreation. It is hoped that the Commissioner of RSA will aggressively pursue some special projects to demonstrate the feasibility of recreation for handicapped individuals.

NONDISCRIMINATION

Another very important aspect of S. 3108 is the clarifying change in the definition of handicapped individuals as it relates to sections 503 and 504 of the bill.

I quote from the committee report as to the original intent of this Senator:

> It was clearly the intent of the Committee and of Congress in adopting Section 504 (non-discrimination) that the term "handicapped individual" in those sections was not to be narrowly limited to employment (in the case of Section 504), nor to the individual's potential benefit from vocational rehabilitation services under Titles I and III (in the case of both Sections 503 and 504) of the Act.
>
> Thus, it was not intended that an employer-government contractor should condition its hiring of handicapped individuals under an affirmative action plan on such individual's having benefited, or having a reasonable expectation of benefiting, from vocational rehabilitation services. Similarly, a test of discrimination against a handicapped individual under Section 504 should not be couched either in terms of whether such individual's disability is a handicap to employment or whether such individual can reasonably be expected to benefit, in terms of employment, from vocational rehabilitation services. Such a test is irrelevant to the many forms of potential discrimination covered by Section 504.

It is important to note that the Congress was cognizant of the parallel that existed between section 504 and the antidiscrimination language of section 601 of the Civil Rights Act of 1964, 42 U.S.C. 2000d–1—relating to race, color, or national origin—and section 901 of the Education Amendments of 1972, 42 U.S.C. 1683—relating to sex.

As the Senators are aware, the sections I have just cited establish Federal Government policies as they relate to programs receiving Federal financial assistance and the prohibition against discrimination on any basis. It was the committee's intent that the enforcement under sections 503 and 504 would be similar to that carried out under section 601 of the Civil Rights Act and 901 of the Education Amendments of 1972.

I cannot stress strongly enough the need for strong enforcement of sections 503 and 504 because the discrimination of those individuals with handicaps has been practiced in our society.

I should note that I am encouraged with the position taken by the Department of Health, Education, and Welfare in assigning the enforcement of section 504 to the Office of Civil Rights.

In the same respect, I must add my disappointment at the regulations published by the Department of Labor on enforcement of section 503, and it is on the basis of my disappointment that I signed a letter wtih Senators WILLIAMS, RANDOLPH, and CRANSTON setting forth our objections to the proposed section 503 regulations.

As I have said many times before, it will do this country little good to invest money in the training of handicapped individuals so that they may be employable if we cannot provide sufficient job opportunities and equal access to those job opportunities.

ARCHITECTURAL BARRIERS ADVISORY PANEL

The amendments contained in S. 3108 also include an amendment establishing an Advisory Panel to the Architectural and Transportation Barriers Compliance Board. This was an oversight which the committee had failed to do before. The establishment of a Consumer Advisory Panel to advise the board on its important functions will facilitate the mission of the board as it relates to the removal of architectural barriers.

It is anticipated that a majority of the panel members will be handicapped individuals themselves who are active in the field of architectural barrier removal and also have a keen awareness of and sensitivity to the problems that a nonhandicapped person does not have. It is hoped that the Secretary will begin immediately to appoint members to this advisory panel so that the work can begin.

ROUTINE ADMINISTRATIVE SERVICES

One last item that I would like to bring to my colleagues' attention is a letter of September 5 from Secretary Carlucci of Health, Education, and Welfare raising two additional problems with S. 3108 besides the administration's overall opposition to the bill.

I ask unanimous consent that the text of the letter be printed in my remarks at this point. Thank you, Mr. President.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE UNDER SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., September 5, 1974.

HON. ROBERT T. STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: Pursuant to our recent telephone conversation, I am writing to express my concern over certain provisions contained in the version of S. 3108 that was ordered reported on August 15 by the Committee on Labor and Public Welfare. As you know, our Department remains opposed to several provisions of this bill, as stated in my enclosed testimony of June 27, 1974. However, the purpose of this letter is to focus on two provisions of which we were not previously aware.

The first such provision, contained in Section 101(a) of the Committee bill, would prohibit the delegation of any authority, whether program or administrative, of the Commissioner of the Rehabilitation Services Administration (RSA) to anyone not directly responsible to him. The second, contained in Section 111(m) of the reported bill, would require that the Office for the Handicapped, now located organizationally in the Office of the Assistant Secretary for Human Development, be located in the immediate office of either the Secretary or the Under Secretary.

At the present time, RSA relies upon the centralized administrative services of the Social and Rehabilitation Service to perform such functions as budget formulation, grant administration, financial management and personnel management. The capacity to perform these basic administrative tasks simply do not exist within RSA. Yet, the provision in Section 101(a) would require the creation of an entirely new administrative unit within RSA to perform these functions. The establishment of such a separate unit would take a considerable amount of time—longer than the 60 days provided in the bill. Thus, a period of time almost surely would elapse during which RSA would not have the capability of performing its basic administrative functions. Such a situation would clearly have an adverse impact on the administration of the vocational rehabilitation program.

In addition, the requirement for a separate administrative structure within RSA would substantially increase the administrative costs of the vocational rehabilitation program at a time when the Congress itself is calling for a reduction of administrative costs in all programs. Moreover, the functions performed by such a unit would be duplicative of the centralized administrative functions performed elsewhere within the Department. The creation of such excessive and duplicative administrative costs cannot be considered beneficial to any program.

With regard to Section 111(m) of the Committee bill, any provision of law which mandates the organizational location of an administrative unit within this Department seriously infringes upon the Secretary's ability to marshal the Department's resources in the most efficient and effective manner possible. In addition, this particular provision would have a deleterious effect on the concept on which the Office of Assistant Secretary for Human Development, of which the Office for the Handicapped is a part, was founded.

It was our intention in establishing the Office of Human Development that it act as an advocate on behalf of special populations. The Office for the Handicapped clearly fits into this role. In its short existence (about one and a half years) the Office of Human Development has developed into a meaningful focal point for special populations and has significant impact within the Department. The removal of the Office for the Handicapped from the Office of Human Development would lessen the effectiveness of both Offices, and indeed, would destroy the very concept of a single advocacy component within the Department.

In summary, aside from the basic provisions of the bill to which we remain opposed, the two additional provisions which I have discussed in this letter would seriously hamper the ability of both RSA and the Office for the Handicapped to move forward under the Rehabilitation Act of 1973. I respectfully urge that all the objectionable provisions of the bill be deleted on the Senate Floor.

Sincerely,

FRANK CARLUCCI,
Under Secretary.

Mr. **STAFFORD**. In relation to the problem suggested by section (101)(a) of S. 3108 dealing with centralized administrative services which the Department of HEW is carrying out, it is not the committee's intent under section (101)(a) that the language disallows the centralization of routine administrative services as they relate to the routine administrative functions in the four categories stressed in the letter—budget formulation, grant administration, financial administration, and personnel administration. However, the committee's intent is that the Commissioner of RSA is responsible for the policy decisions in these four areas and this policymaking process cannot be delegated and in cases where the routine and policy are too intertwined, then the committee intends that to be an RSA function.

There is nothing in the legislation that says that the routine administrative work that goes into implementing policy designs cannot be centralized by HEW for more effective administration. The committee does not want, nor does it feel the need for duplicative routine administrative services to be established within RSA to accomplish these functions, and we agree with the observation of Mr. Carlucci that the creation of duplicative and time-consuming routine administrative operations would have an adverse impact on the operation of the rehabilitation program. Thus, the committee feels that the policy should be made by the RSA administrator or somebody directly responsible to him and that the routine administrative work necessary to implement the policy may be centralized at the direction of the Secretary.

Further, we have sought HEW clarification of the four categories in the September 5 letter and we are in agreement with the following clarifications in the four areas that they are what we consider to be routine administrative services that can be centralized.

In the area of budget formulation, the OHD Division of Budget provides technical assistance to the RSA budget officer to assure that budget documents conform to applicable OMB and Department instructions in matters of form and timing of submission.

OHD prepares for RSA approval testimony for presentation to the pertinent Appropriations subcommittees on the amounts sought for RSA.

In the area of grant administration, the OHD Division of Project Grants Administration is responsible for the processing of the necessary grant documents required to implement an RSA decision to award a project grant. This involves, among other things, assuring that the award complies with the Department's Grants Administration Manual and with opinions of legal counsel respecting grants administration.

The OHD Division of State Grants Administration prepares the documents required to obligate RSA formula grant allotments.

OHD monitors the application of Department regulations governing the determination of amounts chargeable to grant awards and the expenditure of obligated funds under Treasury warrants.

In the area of financial management, this involves assistance to RSA in the administration of accounting systems, and the preparation of documents required to obligate and expend S. & E. appropriations required for the operation of RSA.

In the area of personnel management, the OHD Division of Personnel provides general personnel management support services. Although RSA is responsible for the selection of persons for employment and promotion within RSA, the requisite appointment papers are prepared and approved centrally.

OHD is also responsible for maintaining RSA personnel records and advising RSA employees on personnel matters.

OHD also administers the equal employment opportunity program.

While these are not all the areas, we believe they cover the general area in which routine administrative services fall.

In regards to the second matter of concern raised by Mr. Carlucci's letter, that of section (111)(m) which requires that the Office of the Handicapped be transferred to the Office of the Secretary, since this office is not to have any program function as it was created in the Rehabilitation Act of 1973, the committee felt that it should remain some distance from the rehabilitation program because of the explicit congressional intent that the office for handicapped individuals not have any program function.

I urge my colleagues to vote in favor of this act since it will provide the necessary legislative language for the current and future improvement of the very successful rehabilitation program. Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Labor Committee be discharged from the consideration of H.R. 14225 and that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 14225) to amend and extend the Rehabilitation Act of 1973 for 1 additional year.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the bill.

Mr. MANSFIELD. Mr. President, I move to strike all after the enacting clause of H.R. 14225 and to substitute therefor the text of S. 3108 as reported.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 14225) was passed.

The title was amended so as to read:

A bill to extend the authorization of appropriations in the Rehabilitation Act of 1973 for one year for vocational rehabilitation services and two years otherwise, to transfer the Rehabilitation Services Administration to the Office of the Secretary of Health, Education, and Welfare, to make certain technical and clarifying amendments, and for other purposes; to amend the Randolph-Sheppard Act for the blind to strengthen the program authorized thereunder; and to provide for the convening of a White House Conference on Handicapped Individuals.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that S. 3108 be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. I thank the Senator from West Virginia for yielding the necessary time.

Mr. ROBERT C. BYRD. Mr. President, do I have any time remaining?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia has 10 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

Is there morning business?

The Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized.

INFLATION

Mr. HARRY F. BYRD, JR. Mr. President, during the Labor Day recess and previously during the Memorial Day recess, I visited a number of counties and towns in the southwestern part of Virginia. I was in Scott County, Lee County, Wise County, Washington County, Russell County, the city of Bristol, and the city of Norton.

I was also in many of the smaller communities and towns, including Pennington Gap and Jonesville in Lee County, Big Stone Gap and Appalachia in Wise County, and Clinchport and Gate City in Scott County.

Mr. President, wherever I went I found deep concern on the part of the people of southwest Virginia with the Nation's economic problems and inflation. People are being hard hit by this inflation, which is eating so heavily into every wage earner's paycheck and every housewife's grocery dollar.

I submit that Congress and the President, acting together, have an obligation to take steps to get this inflation under control. The place to start is right here in the Congress of the United States, by getting Government spending under control.

QUORUM CALL

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

At 12:03 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker has affixed his signature to the following enrolled bills:

H.R. 9456. An act to extend the Drug Abuse Education Act of 1970 for 3 years;

H.R. 13267. An act to authorize Federal agricultural assistance to Guam for certain purposes;

H.R. 15172. An act to authorize the Secretary of State to prescribe the fee for execution of an application for a passport and to continue to transfer to the U.S. Postal Service the execution fee for each application accepted by that Service; and

H.R. 15406. An act to amend title 37, United States Code, to refine the procedures for adjustments in military compensation, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. HATHAWAY).

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. HATHAWAY) laid before the Senate the following letters, which were referred as indicated:

AMENDMENT TO BUDGET REQUEST FOR APPROPRIATIONS TO THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—S. DOC. 93-108

A communication from the President of the United States transmitting an amendment to the request for appropriations transmitted in the budget for the fiscal year 1975 in the amount of $1,900,000 for the Department of Health, Education, and Welfare (with accompanying papers). Referred to the Committee on Appropriations and ordered to be printed.

PRESENTATION OF A PETITION

Mr. HOLLINGS. Mr. President, on August 8, 1974, the General Assembly of the State of South Carolina adopted a concurrent resolution memorializing the Congress of the United States and the National Park Service of the U.S. Department of the Interior to plan and construct an extension of the Blue Ridge Parkway into South Carolina; to request the State of North Carolina to cooperate in such efforts; and to request the State Highway Department and Department of Parks, Recreation and Tourism to study the project and cooperate in its implementation.

I am pleased to endorse this concurrent resolution and on behalf of myself and the senior Senator from South Carolina (Mr. THURMOND). I ask unanimous consent that the concurrent resolution adopted by the South Carolina General Assembly be printed in the RECORD at the conclusion of my remarks and it be referred to the appropriate committee for their prompt consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution, which was referred to the Committee on Interior and Insular Affairs, reads as follows:

CONCURRENT RESOLUTION

A concurrent resolution to memorialize the Congress of the United States and the National Park Service of the United States Department of the Interior to plan and construct an extension of the Blue Ridge Parkway into South Carolina; to request the State of North Carolina to Cooperate in such efforts; and to request the State Highway Department and Department of Parks, Recreation and Tourism to Study the Project and Cooperate in its Implementation.

Whereas, the Southern Highlands' Region of the Appalachia Mountain Range is one of the most beautiful, natural areas of our Nation; and

Whereas, the Blue Ridge Parkway which extends into the Southern Highlands' Region is one of the Nation's most scenic highways and opens the natural splendor of the area to the view of millions of persons each year; and

Whereas, the Blue Ridge Parkway does not extend into that section of the Southern Highlands lying in the State of South Carolina and the millions of highway users are denied the grandeur of South Carolina's great natural beauty; and

Whereas, it would be desirable and appropriate for the Blue Ridge Parkway to be extended into South Carolina. Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

That the General Assembly of South Carolina memorializes the Congress of the United States and the National Park Service of the United States Department of the Interior to plan, authorize and construct an extension of the Blue Ridge Parkway into the State of South Carolina so as to connect at some appropriate point with the South Carolina Andrew Pickets Scenic Highway.

Be it further resolved that the sovereign State of North Carolina is hereby respectfully requested to assist and cooperate with the Federal Government and the State of South Carolina in the planning and development of the proposed Blue Ridge Parkway extension insofar as it shall affect the lands of the State of North Carolina.

Be it further resolved that the South Carolina Highway Department and the South Carolina Department of Parks, Recreation and Tourism are hereby requested to assist and cooperate with the officials of the Federal Government and the State of North Carolina in the planning and development of an extension of the Blue Ridge Parkway into the State of South Carolina and these departments are also requested to file a written report with the General Assembly at the beginning of its 1975 Session which shall set forth the following: their efforts to implement the intent of this resolution during the intervening period; a proposed alignment for the Blue Ridge Parkway in South Carolina; an analysis of the cost and benefits to be derived from the construction of the proposed highway; and such further actions as may be necessary to implement this plan, including a timetable for implementation.

Be it further resolved that copies of this resolution be forwarded to each United States Senator from South Carolina, each member of the House of Representatives of Congress from South Carolina, the National Park Service of the United States Department of the Interior, the Senate and House of Representatives of the State of North Carolina, the Chief Highway Commissioner of the South Carolina Highway Department and the Executive Director of the South Carolina Department of Parks, Recreation and Tourism.

AUTHORIZATION FOR COMMITTEE ON COMMERCE TO SUBMIT A REPORT ON SEPTEMBER 12, 1974

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Commerce be authorized to submit its report on S. 3879, a bill to amend the Mineral Leasing Act of 1920, and for other purposes, on September 12, 1974.

The ACTING PRESIDENT pro tempore (Mr. HATHAWAY). Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. EASTLAND:

S. 3977. A bill for the relief of Patrick Andre Tasselin and his wife Fabienne Francoise Tasselin. Referred to the Committee on the Judiciary.

By Mr. STAFFORD (by request):

S. 3978. A bill to amend the Education of the Handicapped Act by consolidating the discretionary authorities for projects for handicapped children, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. CRANSTON (for himself and Mr. BROOKE):

S. 3979. A bill to increase the availability of reasonably priced mortgage credit for home purchases. Referred to the Committee on Banking, Housing and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STAFFORD (by request):

S. 3978. A bill to amend the Education of the Handicapped Act by consolidating the discretionary authorities for projects for handicapped children, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. STAFFORD. Mr. President, today I am introducing by request a bill to amend the Education of the Handicapped Act by consolidating the discretionary authorities for projects for handicapped children.

This bill is being introduced upon request of the Administration so that it may be considered by the Subcommittee on the Handicapped of the Labor and Public Welfare Committee in its deliberations on S. 6, the Education for All the Handicapped Children Act, of which I am a cosponsor.

The basic purpose of this proposed legislation is to strengthen Federal efforts in the area of education of handicapped children by simplifying the Federal grant process and providing greater encouragement of State and local initiatives in dealing with this group. Accordingly, the bill would consolidate the numerous discretionary authorities presently contained in the Education of the Handicapped Act into four new authorities. This would provide the grantees under the act with greater flexibility to react to new and differently perceived problems which arise in this rapidly evolving field of education, while not reducing the authority to continue those programs presently being funded.

Mr. President, let me say that I feel the subcommittee should review this proposed bill during consideration of S. 6, and Senator RANDOLPH, the chairman of the subcommittee, has so stated his feeling on the matter. I shall see to it that the administration's proposed bill is presented and explained to the subcommittee so an informed judgment can be made by the subcommittee on the approach to be taken toward the goal of the education of all children with handicaps.

Mr. President, I would like to briefly summarize and explain the administration's proposed legislation from information received from the Department of HEW on the bill.

Section 2 of the draft bill proposes a number of amendments to the general provisions in part A of the Education of the Handicapped Act. Subsection (a) would expand the definition of "handicapped children" to include children with specific learning disabilities so that programs for this group could be funded under all authorities in the act, rather than just under part G, as at present. A definition for the term "severely handicapped children" would be added by subsection (c). Subsection (d) would modify section 605 of the act to exclude costs for the construction of structures from those costs which are allowed under the act. However, the present authority with regard to equipment and minor remodeling and alterations would be unchanged by this proposal.

Section 3 of the draft bill would add a new section 606 to part A which would contain the authorization for appropriations for the new discretionary authorities in parts C, D, E, and F. The appropriations authorization for part B would remain in section 611(b) of that part and would be extended for 3 years by section 4 of the draft bill.

Section 5 of the bill would effect the consolidation of the discretionary authorities presently contained in parts C, D, E, F, and G of the act.

As outlined in former President Nixon's message on education of January 24, 1974, those authorities would be consolidated into four new authorities: First, resource demonstration; second, innovation and development; third, professional development; and fourth, centers and services for severely handicapped children.

The new part C entitled "Resource Demonstration" would authorize the Commissioner of Education to make grants or contracts to provide for the dissemination of materials and ideas based on existing techniques and technologies for providing educational and related services to handicapped children. This part would establish a special emphasis for programs aimed at the early childhood education of such children.

The present research and development

authorities in the act would be combined into a single authority in part D entitled "Innovation and Development."

Under this part research efforts relating to the education of the handicapped would continue to be administered in the Office of Education rather than the National Institute of Education because of the close relationship between the administrative and research components of those programs.

Training under the amended Act would be funded through a new authority in part E entitled "Professional Development." As that title implies, the emphasis of this part would be to upgrade the qualifications of personnel, including paraprofessionals, currently working with handicapped children and to encourage experienced regular teachers to acquire the additional skills necessary to work with handicapped children.

The new authority would also emphasize activities to provide professionals to serve handicapped children living in geographical areas or having particular disabilities with respect to which there exists a critical need for additional personnel. Financial assistance for undergraduate training would be authorized only if it would contribute to meeting those needs, and a service commitment would be required in return for long-term undergraduate training assistance.

Part F, which focuses on services for a particular population rather than on developing model programs, authorizes grants for "Centers and Services for Severely Handicapped Children."

Such children would be defined as those who are deaf-blind, multiply handicapped, severely retarded, or seriously emotionally disturbed. This new part would expand the present authority in section 622 of the act to serve not only deaf-blind children, but all severely handicapped children. We are recommending a special focus by the Federal Government for these groups due to the economies of scale which would be realized in developing programs to provide the extensive range of costly services required by this relatively small target population.

Mr. President, I ask unanimous consent that the administration's bill be printed at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3978

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Education of the Handicapped Amendments of 1974".

GENERAL PROVISIONS

SEC. 2. (a) Section 602(1) of the Education of the Handicapped Act is amended by inserting after "other health impaired children" the following: "including children with specific learning disabilities)".

(b) Section 602 of such Act is further amended by striking out paragraph (4) and redesignating paragraphs (5) through (15), and all references thereto, as paragraphs (4) through (14), respectively.

(c) Section 602 of such Act is further amended by adding at the end thereof the following:

"(15) The term 'severely handicapped children' means those children who are deaf-blind, multiply handicapped, severely mentally retarded, or seriously emotionally disturbed.".

(d) Section 605 of such Act is amended to read as follows:

"ACQUISITION OF EQUIPMENT, MINOR REMODELING, AND ALTERATION OF NECESSARY FACILITIES

"SEC. 605. In the case of any program authorized by this title, if the Secretary determines that such program will be improved by permitting the funds authorized for such program to be used for the acquisition, installation, modernization, or replacement of equipment and the minor remodeling or alteration of existing structures, he may authorize the use of such funds for such purposes.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. The Education of the Handicapped Act is amended by inserting after section 605 the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 606. There are hereby authorized to be appropriated for the purpose of carrying out the provisions of parts C, D, E, and F of this Act such sums as may be necessary for the fiscal year ending June 30, 1974, and for the two succeeding fiscal years.".

EXTENSION OF AUTHORITY FOR PART B—ASSISTANCE TO STATES

SEC. 4. (a) Part B of the Education of the Handicapped Act is amended by striking out the word "Commissioner" wherever it appears and inserting in lieu thereof the word "Secretary".

(b) Section 611(b) of the Education of the Handicapped Act is amended to read as follows: "For the purpose of making grants under this part there is hereby authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1974, and for the two succeeding fiscal years.".

(c) Clause (B) of section 612(a)(1) of the Education of the Handicapped Act is amended by striking out "July 1, 1973," and inserting in lieu thereof "July 1, 1976,".

(d) The provisions of this section shall be effective upon the enactment of this Act.

CONSOLIDATION OF AUTHORITIES

SEC. 5. The Education of the Handicapped Act is further amended by striking out parts C, D, E, F, and G, and by inserting after part B the following new parts:

"PART C—RESOURCE DEMONSTRATION

"DEMONSTRATION AND IMPROVED UTILIZATION OF EXISTING TECHNIQUES AND TECHNOLOGIES

"SEC. 621. (a) It is the purpose of this part to provide for the demonstration and improved utilization of existing techniques and technologies which have proven effective in meeting the special educational and related needs of handicapped children.

"(b) The Secretary is authorized to make grants to and contracts with State and local educational agencies, institutions of higher education, or other nonprofit agencies, organizations, and institutions, for the purpose of assisting in the demonstration, improved utilization, and dissemination of exemplary technologies and practices in the education of the handicapped. Such programs and projects may include, but are not limited to:

"(1) learning resource centers which will provide assistance to schools and other agencies, organizations, and institutions in providing specially designed educational programs for handicapped children, through services such as consultation (including consultation with parents or teachers of handicapped children); development and demonstration of identification, diagnostic and assessment techniques (including evaluation of educational programs and individual progress); development, identification, and dissemination of educational materials and methods, and other technical assistance and related activities;

"(2) programs to encourage students, teachers, and other professional personnel to work in various fields of education of handicapped children through the development and distribution of imaginative or innovative materials and information to assist in recruiting personnel for such careers;

"(3) the acquisition (either by lease or purchase), production, development, and distribution of educational media for the handicapped;

"(4) a loan service of educational media for the handicapped (including captioned films for the deaf) and persons (such as parents and employers or potential employers) involved in work for the advancement of the handicapped;

"(5) dissemination of information about the programs, services, and other resources (including educational media) available for the education of handicapped persons; and

"(6) training of persons in the use of educational media for the instruction of the handicapped.

"(c) In addition to the activities authorized by subsection (b), the Secretary is authorized to enter into an agreement with an appropriate public or nonprofit private agency, organization, or institution for the establishment and operation of a National Center on Educational Media and Materials for the Handicapped, which will provide a comprehensive program of activities to facilitate the use of new educational technology in education programs for handicapped persons, including designing, developing, and adapting instructional materials, and such other activities consistent with the purposes of this part as the Secretary may prescribe. Such agreement shall—

"(1) provide that Federal funds paid to the Center will be used solely for such purposes as set forth in the agreement;

"(2) authorize the Center, subject to the Secretary's prior approval, to contract with public and private agencies and organizations for demonstration projects; and

"(3) provide that the Center will serve the educational technology needs of the Model Secondary School for the Deaf (established under Public Law 89-694).

"EARLY EDUCATION FOR HANDICAPPED CHILDREN

"SEC. 622. The Secretary is authorized to arrange by contract, grant, or otherwise with appropriate public agencies and private nonprofit organizations, for the development and demonstration by such agencies and organizations of preschool and early education programs for handicapped children which the Secretary determines show promise of promoting a comprehensive and strengthened approach to the special problems of such children. Such programs shall be distributed to the greatest extent possible throughout the Nation, and shall be carried out both in urban and in rural areas. Such programs shall include demonstration activities designed to (1) facilitate the intellectual, emotional, physical, mental, social, and language development of such children; (2) encourage the participation of the parents of such children in the development and operation of any such programs; and (3) acquaint the community to be served by any such program with the problems and potentialities of such children.

"PART D—INNOVATION AND DEVELOPMENT

"GRANTS TO STATES, EDUCATIONAL AGENCIES, AND OTHER ORGANIZATIONS

"SEC. 631. The Secretary is authorized to make grants to States, State and local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations, and to make contracts with States, State and local educational agencies, institutions of higher education, and other public or private educational or research agencies and organizations, for research and related purposes relating to the education (including physical education and recreation) of handicapped children.

"PART E—PROFESSIONAL DEVELOPMENT

"GRANTS TO INSTITUTIONS OF HIGHER EDUCATION, EDUCATIONAL AGENCIES AND OTHER ORGANIZATIONS

"SEC. 641. The Secretary is authorized to make grants to institutions of higher education, State and local educational agencies, and other appropriate nonprofit institutions or agencies, for the professional development of personnel engaged, or preparing to engage, in employment in fields related to the education (including physical education and recreation) of handicapped children.

"CRITERIA AND PRIORITIES

"SEC. 642. The Secretary shall make grants under this part in accordance with criteria (established by regulation) which he determines will best carry out the purposes of this part, giving priority to at least the following types of activities:

"(1) programs or projects designed to upgrade the education and qualifications of personnel currently working with handicapped children;

"(2) programs or projects designed to provide currently qualified or experienced teachers with the additional skills needed to work in special educational programs for handicapped children or to work with handicapped children who can be served in the regular classroom;

"(3) programs or projects designed to train personnel to work with handicapped children living in geographical regions, or having particular disabilities, for which a shortage of currently qualified and adequately trained professionals exists.

"UNDERGRADUATE TRAINING

"SEC. 643. (a) No grant may be made under this part for any training leading to an undergraduate degree unless such training is designed to prepare the student for activities described in section 642(3).

"(b)(1) Any training provided to an undergraduate student pursuant to subsection (a) which provides such student with more than 50 per centum of the actual cost of attendance (as defined in section 411(a)(2)(B)(iv) of the Higher Education Act of 1965) at an institution of higher education for a period of one academic year or longer (as determined pursuant to regulations promulgated by the Secretary), shall be conditioned on such a student entering into an agreement, enforceable by the grantee agency or institution or by the Secretary, to serve as a teacher of handicapped children (A) living in a designated geographical region in which a shortage of adequately trained personnel exists or (B) having a particular handicapping condition for which such a shortage exists. The period of service required under any such agreement shall be one year for each academic year of training for which more than 50 per centum of the actual cost of attendance is provided under this Act.

"(2) Such agreement shall provide that in the event an individual fails (except for good and sufficient reason, as determined by the Secretary) to carry out such agreement, he shall be liable for payment of an amount equal to the amount provided under this section for his training, including any stipends or allowances. Any amount for which such an individual becomes liable under this paragraph shall be paid to the United States within the three year period beginning on the date that he becomes so liable.

"COST OF TRAINING AND STIPENDS

"SEC. 644. Grants under this part may be used to assist in covering the costs of training or study, and for establishing and maintaining such stipends and allowances as may be determined by the Secretary.

"PART F—CENTERS AND SERVICES FOR SEVERELY HANDICAPPED CHILDREN

"PURPOSE

"SEC. 651. It is the purpose of this part to provide, through a limited number of model centers for severely handicapped children, a program designed to develop and bring to bear upon such children, beginning as early as feasible in life, those specialized, intensive professional and allied services, methods, and aids that are found to be most effective to enable them to achieve their full potential for communication with, and adjustment to, the world around them, for useful and meaningful participation in society, and for self-fulfillment.

"GRANTS TO AGENCIES, ORGANIZATIONS, AND INSTITUTIONS

"SEC. 652. The Secretary is authorized upon such terms and conditions (subject to the provisions of section 654(a) of this part) as he deems appropriate to carry out the purposes of this part to make grants to or contracts with public or nonprofit private agencies, organizations, or institutions to pay all or part of the cost of establishment and operation of centers for severely handicapped children.

"CONSIDERATIONS OF NEED

"SEC. 653. In determining whether to make a grant or contract under section 652, the Secretary shall take into consideration the presence of severely handicapped children in particular regions of the country in numbers too small to be efficiently served through State or local programs and the need for a center for severely handicapped children in the light of the general availability and quality of existing services for such children in the part of the country involved.

"SERVICES TO BE PROVIDED

"SEC. 654. (a) A grant or contract pursuant to section 652 shall be made only if the Secretary determines that there is satisfactory assurance that the center will provide, either directly or by subcontract or other arrangement, such services as he has by regulation prescribed, including at least—

"(1) comprehensive diagnostic and evaluative services for severely handicapped children;

"(2) a program for the adjustment, orientation, and education of severely handicapped children which integrates all the professional and allied services necessary therefor; and

"(3) effective consultative services for parents, teachers, and others who play a direct role in the lives of severely handicapped children to enable them to understand the special problems of such children and to assist in the process of their adjustment, orientation, and education.

"(b) Any such services may be provided to severely handicapped children regardless of whether they reside in the center, may be provided at some place other than the center, and may include the provision of transportation for any such children (including an attendant) and for parents.".

EFFECTIVE DATE

SEC. 6. Unless otherwise specified, the amendments made by this Act shall be effective after June 30, 1974.

By Mr. CRANSTON (for himself and Mr. BROOKE):

S. 3979. A bill to increase the availability of reasonably priced mortgage credit for home purchases. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. CRANSTON. Mr. President, thousands of people are suffering from the housing industry's growing troubles. The combination of soaring inflation and record high interest rates have their greatest impact on the housing real estate and mortgage financing sector of the economy. Prospects for a long dry spell in housing loom forth by all economic indicators.

Builders, carpenters, bankers, title insurance executives and unions are all feeling a financial squeeze as interest rates on new mortgage loans climb into the 11 percent range and the supply of financing dries up. The pace of new homebuilding has "come to a screeching halt" for lack of credit, as one labor official put it. Layoffs have also begun spreading through many industries that depend on housing.

For homeowners seeking to sell, the result is a longer wait, longer haggling and having to settle for less. For those seeking to buy, cost are rising fast and finding a mortgage can involve often a fruitless search.

The drop in housing starts to a 1.3 million annual rate in July from 1.5 million in June is symptomatic of the problems in this sector of the economy. The July starts number is the lowest in more than 4 years. Housing permits for new construction slipped down to 1.043 million annual rate in July, also the lowest in more than 4 years.

Senator BROOKE and I have been working over the last several months on bills to provide below market rate mortgage loans through the Department of Housing and Urban Development. Hearings were held on these two bills, S. 3456 and S. 3436, and after study we have reached a compromise and are today introducing a bill which combines the best features of both of our bills.

The bill "The Home Purchase Assistance Act" will make available to GNMA in any one year $10 billion, in 8¾ percent mortgages, $5 billion to purchase existing homes and $5 to purchase new homes. Houses covered by the bill would have a ceiling price of $30,000 except in high construction areas like California and areas of the Northeast, where homes selling at prices up to $45,000 would be included.

It is our hope to spur the sale of 350,000 more homes over the next 12 months, half of which would be in new construction. In addition we anticipate the creation of 300,000 jobs in the depressed home building industry; both in the depressed home construction industry and the inadequately housed home-buying public must get some legitimate help from the Government to offset the hardships that Government policies are causing.

Senator BROOKE and I have written President Ford urging his support for this measure to offset the hardships that

Government monetary policy is having on the housing industry.

Mr. BROOKE. Mr. President, our housing industry is in a recession and heading for a depression. Housing starts have fallen off sharply as mortgage money has literally dried up in some areas.

Every day my mail and that of other Congressman and Senators contains dozens of letters appealing to us to do something about the mortgage credit crisis. These letters tell the story of families transferred from one city to another, but unable to sell their old homes or to buy new ones. They tell of young families having saved the downpayment for a house, but now unable to obtain a mortgage. They tell of realtors, and home builders, and lumber suppliers, and construction workers who are feeling the effects of the worst recession to hit the residential real estate industry in years.

The effect on the housing industry of the tight money policy adopted by the Federal Reserve Board has been much more severe than on other segments of the economy. The Board recognizes this, and Chairman Burns has publicly suggested that steps be taken to temper the effect of restrictive monetary policy on the housing industry.

With a view toward providing short-term relief to the home mortgage credit market, Senator CRANSTON and I both offered bills to provide below market rate mortgage loans through the Department of Housing and Urban Development. Hearings were held on those bills, on August 6 and 7 and, after studying testimony, we are today introducing a bill, the Home Purchase Assistance Act of 1964, which combines the best features of both our bills.

HOW THE HOME PURCHASE ASSISTANCE ACT WOULD WORK

The Home Purchase Assistance Act creates a source of mortgage credit which will be available to home buyers in times of tight money. It establishes a housing trust fund which could draw on the Treasury for loans of up to $10 billion per year. This money would be made available through GNMA—the Government National Mortgage Association—to purchase mortgages on homes with prices ranging up to $30,000 in most areas of the country and as high as $45,000 in high-cost areas.

Mortgages purchased by GNMA would bear interest rates comparable to the long-term Treasury borrowing rate, which is currently 8¾ percent. The market rate for mortgage money, where it is available at all, is currently in the range of 9½ to 10 percent.

Half of the $10 billion available to GNMA in any year would be used to finance purchase of new homes, while the other half could be used to finance the purchase and sale of existing properties.

The housing trust fund would operate without expense to the taxpayer. While the trust fund would be able to obtain loans from the Treasury at a rate comparable to that paid on long-term Treasury issues, all loans from the Treasury would be repayable with interest.

Funds loaned by the Treasury to the trust fund would not be included in the total budget of the U.S. Government and would be exempt from any limitation or annual expenditure or net lending as are funds borrowed by the Export-Import Bank under the provisions of the Export Expansion Finance Act of 1971.

The Home Purchase Assistance Act will help the home buyer, who in most cases is a moderate- to middle-income citizen. At the same time, we must not neglect the pressing needs of lower income families. The Housing and Community Development Act of 1974, which was signed by President Ford on August 22, provides $1.2 billion in housing assistance for lower income families in fiscal year 1975. I urge the President to see that these funds are committed as quickly as possible. There is no reason why we cannot produce 500,000 units of low-income housing over the next year, if we make the effort.

By encouraging additional housing production in the ways I have suggested, we can make use of unused capacity in the housing production sector of our economy without having any undue inflationary impact on the economy as a whole. Senator CRANSTON and I have sent a telegram to the President urging his support for the Home Purchase Assistance Act, and I shall discuss the best strategy for securing speedy passage of our bill with representatives of business and labor at the economic pre-summit meeting on housing in Atlanta on Thursday of this week. Senator CRANSTON and I both hope for prompt congressional action on this measure.

SENATE RESOLUTION 398—SUBMISSION OF A RESOLUTION RELATING TO HIGHWAY SAFETY STANDARDS

(Referred to the Committee on Commerce.)

Mr. MAGNUSON. Mr. President, I submit today, along with my colleagues Mr. HARTKE of Indiana, Mr. MOSS of Utah, Mr. HART of Michigan, and Mr. STEVENS of Alaska, a resolution to express the sense of the Senate on the issue of restraint systems. Several weeks ago in the House, Congressman WYMAN proposed on the floor an amendment to the Motor Vehicle Safety Act which would have the effect of limiting the options of the Department of Transportation with regard to motor vehicle safety standards relating to restraint systems.

I think it was unfortunate that the House chose to proceed in this manner without the benefit of hearings or committee consideration. Rather, the amendment surfaced on the floor of the House and it did not receive the studied deliberation to which matters of this magnitude are accustomed.

It is for this reason that I am cosponsoring this resolution. The Committee on Commerce has, for 5 years, monitored the progress of the development of various restraint systems. We have carefully consulted with officials of the Department of Transportation at our annual oversight hearings regarding the efficacy and acceptability of various restraint alternatives.

The Wyman proposal was tacked on to legislation which amends the National Traffic and Motor Vehicle Safety Act of 1966. The Senate passed similar legislation a year and a half ago. The Senate has requested a conference on the House amendment to the Senate legislation; the conferees have been appointed, and the staffs of the Senate and House Commerce Committees have been meeting in preparation for the conference committee.

I understand that there will be an effort by Senators BUCKLEY and EAGLETON to amend the Federal Aid Highway Amendments of 1974 with a provision similar to the Wyman amendment. I believe that such an effort is ill-advised in view of the fact that it would require the Public Works Committee to consider this issue which is already in conference with the committee of jurisdiction—the Commerce Committee. Accordingly, I plan to offer a motion to table the amendment on the grounds of improper jurisdiction. If the Senate finds it necessary to go on record with regard to the interlock system, I would propose that action be taken on the resolution that I have cosponsored today.

Mr. HARTKE. Mr. President, as chairman of the Surface Transportation Subcommittee, I have followed with great interest and in-depth scrutiny the development of various restraint systems. Back in the latter half of the sixties, we began with the inclusion of lap-belts. As the standards have developed, we now have a three-point integrated belt-system with a sequential ignition interlock.

With the advantage of 20-20 hindsight, I think we all are willing to admit that mistakes have been made. But the simple fact remains that the various restraint systems required by the Department of Transportation have saved and can continue to save many thousands of lives. The Department of Transportation estimates that the interlock system alone, would save 7,000 lives per year and prevent 340,000 injuries. The Department further estimates that a passive restraint system, such as an air cushion, in conjunction with a lap belt, would save 15,600 lives annually and prevent 1 million injuries.

Mr. President, several weeks ago, the House considered an amendment on the floor which, in my opinion, would wreak havoc with the Department's efforts to reduce this Nation's level of highway carnage. The House amendment would prohibit any motor vehicle safety standard from requiring the ignition interlock system or a buzzer-warning device. In addition, the Department would be prohibited from making passive restraint systems standard equipment on motor vehicles.

Similarly, Senators BUCKLEY and EAGLETON are circulating a draft of an amendment which in my opinion, would cost this Nation thousands of lives. Under their proposal, the interlock system could no longer be mandated and the only warning system that would be permissible would be one utilizing a light. It is estimated, based on previous belt usage statistics, that lap and shoulder belt usage would fall to less than 5 percent under such a scheme. As objectionable as the interlock system is, it has in fact, had the desired effect: To raise the level of usage of the lap and shoulder belt. Current Department of Transportation estimates are that between 50 and 60 percent of motorists in those vehicles equipped with the interlock system utilize the lap and shoulder belt combination.

Mr. President, I frankly have never been an enthusiastic advocate for the interlock. Despite the savings in terms of lives and injuries that the interlock has afforded, I understand why many Americans are opposed to the system. It is viewed as "coercive"; as "big brotherism". The idea of the Federal Government forcing the use of a seat belt system through the interlock is repugnant to many.

Further, the interlock was a system which was advocated by the automobile industry as interim measure until we could achieve adequate passive restraint technology. I firmly believe that we must focus on passive protection for the simple reason that no restraint system is any good unless it is used. I have concluded that no combination of buzzers, lights, whistles, interlocks, or any other gadgetry will achieve the same level of restraint protection as a passive system.

The Buckley-Eagleton amendment would require approval by the Senate and House Commerce Committees of any new motor vehicle safety standard relating to restraint systems before it could become effective. I frankly feel that such a requirement is ill-advised. The Department of Transportation is still in the process of revising the standard for passive restraints. I believe that a provision similar to that which is being proposed would place such a cloud of uncertainty over the regulatory process and inhibit the development of new technology and the procurement of the necessary hardware by industry.

Further, it seems to me that it creates a bad precedent for Congress to exercise a programed-in veto over the actions of regulatory agencies. If, after the Department acts, Congress is dissatisfied, the issue can be considered at that point. The Senate or House Commerce Committees should not be turned into a regulatory agency.

The resolution which I am cosponsoring addresses the issues which I have raised.

Our resolution is responsive to the complaint of "big brotherism." It would express the sense of the Senate that purchasers should be offered the option of ordering an interlock override device. Each time the driver wanted to start his car, he could push a button which would deactivate the interlock system.

Thus, for those who object to the "coerciveness" of the interlock, it could be bypassed by a conscious decision not to take advantage of the restraint protection. The decision not to use the belts, however, would not be out of force of habit.

There should be little or no added expense to the consumer for the override option. Manufacturers have already procured and designed into 1975 vehicles the interlock electronics. Vehicles with interlocks are already equipped with an override switch which is now located under the hood. Therefore, no additional hardware or technology would be needed to provide this option.

With regard to passive restraints, the resolution merely expresses the view that any type of interlock or warning system should be an interim measure and that the Department should make passive restraints standard equipment. This approach preserves the options of the Department of Transportation and will not inhibit the development of new technology.

Finally, the resolution urges the insurance industry in cooperation with State insurance regulators to establish auto insurance premium rates which reflect the relative injury reducing characteristics of various restraint systems. By so doing, we would be urging the use of free market forces to guide consumers in selecting between various optional systems offered by manufacturers.

Mr. President, I would urge my colleagues not to get into the business of setting standards by statute as the House has done without careful deliberation. We have created and funded the National Highway Traffic Safety Administration to develop expertise in this area. We must not strip that agency of the flexibility it needs to properly implement the 1966 Motor Vehicle Safety Act.

AUTHORIZATION OF CERTAIN CONSTRUCTION AT MILITARY INSTALLATIONS—AMENDMENT

AMENDMENT NO. 1854

(Ordered to be printed and to lie on the table.)

Mr. ROTH. Mr. President, I intend to offer an amendment to the Military Construction Act which will rescind the Defense Department's directive that air-conditioning be installed in all military family housing on the island of Hawaii. This directive is an egregious example of unnecessary Federal spending. According to estimates prepared by the General Accounting Office, the costs of such a program, excluding future maintenance and repair charges, could go as high as $100 million.

The Defense Department's requirements for across-the-board air-conditioning of all Hawaiian military family homes is unwarranted for several reasons. The military services themselves have indicated that such facilities are not needed at all bases. Furthermore, the general criterion used by the DOD in justifying installation of air-conditioning units ignores the prevalence of Hawaii's trade winds and moderate temperature and humidity conditions. The National Oceanic and Atmospheric Administration has reported that in Hawaii "summers are warm but not hot, so that air-conditioning is a luxury rather than a necessity."

Present DOD requirements would mean that taxpayers would be paying for mandatory air-conditioning in military homes, while in many instances, central air-conditioning in Hawaii is only offered by builders as options in their luxury homes costing $80,000 to $90,000. Besides the initial expense of providing such facilities, there is also the consideration of the increased energy consumption created by additional air-conditioning on such a widespread basis. Most of Hawaii's electric power is produced from imported oil. According to the GAO's report, the DOD's decision to air-condition all military housing on Hawaii would be "a luxury that Hawaii's energy sources, at this point in time, cannot afford."

At a time when we are trying to reduce Federal spending and waste in order to fight inflation, DOD's directive requiring air-conditioning is out of line and should be overturned.

NOTICE OF HEARINGS ON DRUGS

Mr. NELSON. Mr. President, I wish to announce that the Subcommittee on Monopoly of the Senate Small Business Committee has scheduled hearings on oral antidiabetic drugs for September 18, 19, and 20 in room 224 of the Russell Senate Office Building starting each day at 10 a.m. Medical experts as well as representatives of Government agencies will testify.

ADDITIONAL STATEMENTS

JOHNNY APPLESEED

Mr. HARRY F. BYRD, JR. Mr. President, in the cloakrooms Friday, my colleagues found for their enjoyment some fine Virginia apples, provided by the International Apple Institute's National Apple Month president, Mr. James F. Laise, of Winchester, Va. These apples are to serve as a reminder.

Probably the name John Chapman does not ring a bell for many of us, but the name Johnny Appleseed does, I believe, for most of us. Somewhere midway in his life's work in the early 1800's, John Chapman lost his family name and acquired the affectionate title of "Johnny Appleseed" precisely because of his life's work—planting apple seeds and apple trees.

Year 1974 marks the bicentennial of the birth of John Chapman. He was born just 2 years before the Declaration of Independence, in Leominster, Mass., September 26, 1774. Son of a captain in the Massachusetts Militia who fought with the Minutemen at Concord and throughout much of the Revolution, John Chapman, perhaps as much as any man in American history, typifies the finest among the diverse and varied building blocks of our heritage. Any honor roll of the "tall men" of the first 200 years of our Nation should certainly have John Chapman's name recorded thereon.

Johnny Appleseed spent his early years in western Massachusetts, then joined the westering pioneers just before the turn of the century and devoted all of his adult life to planting, tending and supplying apple trees to the frontier farmers as the Nation expanded across the Alleghenies into the Ohio River country. A blending of historical fact and legend have marked his travels throughout much of the Midwest; and appropriately enough, memory and story have extended his journeys even further west.

Today he is fondly adopted by all of the apple industry as a sort of "Patron Saint" and legendary hero.

John Chapman had two major professions in life—he was missionary of the Swedenborg Christian faith and he was an apple tree nurseryman. In the practice of both he traveled the width and depth of the American mid-continent frontier during the first half of the 19th century, helping the settlers in their work, often buffering quarrels between the settlers and the Indians, for he was a friend of both, warning of uprisings, and carrying news from settlement to settlement. He died near Fort Wayne, Ind., in the spring of 1845, while making his rounds to tend his many small plots of apple tree nurseries.

Of all the historical events and people associated with the apple industry in its 350 years of history in America, none has captured the love and admiration of our people more than that of Johnny Appleseed.

He was a frontiersman, an environmentalist, an ecologist, an agriculturist, and a practicing man of peace and good will, Yet too, in the view of some of the contemporaries of his time, and like other great Americans, he was considered an eccentric, a drifter, and a dreamer. But history has a way of alining perspectives, and this year we pay tribute to another of those great "misfits" who turned out to be an important building block in America's great heritage.

The man, the intriguing mixture of history and legend about him, and perhaps most of all the spirit of good will, selflessness, and practical frontier neighborliness which he contributed to westward expanding America during the first half of the 19th century deserve the tribute of all of us in this, the bicentennial year of his birth.

THE PARDON GRANTED FORMER PRESIDENT NIXON

Mr. HART. Mr. President, President Ford's pardon of Richard Nixon now is extremely unfortunate. However well-intentioned, it misreads badly the short- and long-term interests of America. Nor will it help President Ford establish the credible leadership, free from lingering clouds of Watergate, he so earnestly desires.

Our goal is justice with compassion, as President Ford suggests; but "justice," nevertheless, and not an insult to the rule of law.

Neither we nor President Ford yet know fully all the crimes which Richard Nixon may have committed, and for which he now stands pardoned.

Moreover, Watergate involved many persons, including some who confessed and cooperated with the Special Prosecutor but still were jailed. In that context, a pardon decision which precludes even a full presentation of criminal charges—let alone a guilty plea or trial—only serves to breed cynicism and to corrode our sense of justice.

It also may suggest to future Presidents that they can violate the law with impunity if only they are prepared to retire, on a handsome pension, should their crimes be discovered.

Mr. President, many of us have already registered our dismay at the premature decision of President Ford to grant Richard Nixon a full pardon at this time. But in view of the importance of this issue, the record requires a fuller explanation.

We all wish to put Watergate behind us as soon as possible and to concentrate on other urgent problems at home and abroad. The change of administrations brought a sigh of relief that the drift of survival politics and the divisive rancor would end.

But the initial euphoria of self-congratulation on the way "our system worked" has given way to more sober analysis. The nightmare of Watergate may be over; the reality of Watergate cannot be so quickly relegated to history. If we would be true to the system we now applaud, there is unfinished Watergate business on our national agenda.

One task is to fashion safeguards, within the limits of human frailty, against future abuses of the public trust. We must restore the executive-legislative balance, protect privacy and dissent, and insure the independent pursuit of justice in sensitive criminal investigations.

But the most immediate requirement for restoring full confidence in our system of justice is to complete the investigation and resolution of charges arising from Watergate or in other alleged offenses involving the President and his associates. The precipitous pardon of Richard Nixon immensely complicates this task.

Richard Nixon's defenders already have begun to suggest that the guilt of Watergate lies not only in the offenders but in ourselves—that we bear a collective responsibility for political institutions and processes gone awry. Ultimately, "political institutions" are simply people entrusted with power; the "governmental process" is people using that power for good or ill. Neither the Congress nor the American people committed the offenses charged in Watergate. Nor did they condone them. Whatever its larger lessons for institutional reform, Watergate remains a drama of personal tragedy and individual responsibility. And this interplay of tragedy and responsibility in the case of Richard Nixon posed the sharpest challenge for our commitment to equal justice under law.

Like many others, I have spent time during the past few weeks considering how the ends of justice could best be served in regard to Richard Nixon. It is not a question easily approached with detachment. The nagging doubt remains that one's efforts to strip away personal bias, to set aside outrage over the protracted coverup and the abuses gradually revealed, have not been fully successful.

Yet no American sought a pound of flesh, even when the need to remove the President from office grew increasingly compelling. Nor is there any bloodlust for vengeance in this Chamber now. In our quieter moments, all my colleagues know that. No one who witnessed Richard Nixon's last hours in office is unmindful of his anguish. And beyond the claims of compassion, there is some national interest in a merciful amnesia.

Nonetheless, equally important considerations have been clouded in the emotional rhetoric about a former President being hounded into jail. The likelihood of incarceration was always extremely slight for obvious reasons. Yet that disquieting image tended to divert the public in the initial aftermath of the resignation.

Now President Ford has offered a different reason for preempting the entire legal process. He stressed the personal strain on Mr. Nixon if the guarantee of fair trial required deferring any trial for many months. In effect, President Ford asked us:

> If I am inclined to pardon Richard Nixon eventually, why not do it now and remove this Sword of Damocles from his concern—and from ours?

Mr. President, the timing and circumstances of the pardon, and the circumstances of its acknowledgment by the recipient suggest many reasons why it should not have been given at this time.

President Ford said that Richard Nixon has suffered enough for whatever crimes he has committed. The fairness of that judgment will not be viewed by the American people in isolation from the entire context of Watergate. As I noted at the outset, young men have already gone to jail for their part in Watergate. They had families to support. They have no hope of a $60,000 pension and large expense allowances if they are disbarred or otherwise hindered in their professional livelihood.

Some of the defendants may have believed their actions were duly authorized on national security grounds. Such deception does not constitute a legal defense, but it bears on mitigation of the appropriate punishment.

Moreover, many of the defendants in Watergate and similar cases have made flat admissions of criminal responsibility. Their contrition was clear and complete. They cooperated fully with the Special Prosecutor.

Despite all of these considerations, these men have gone to prison. Contrast their situation with that of Richard Nixon.

He faces no long-range financial hardships, whatever short-run cash flow problems are contemplated. He will enjoy the extremely bountiful rewards granted ex-Presidents because, faced with the overwhelming likelihood of impeachment and Senate conviction, he resigned first to preserve such prerequisites. He also will possess Presidential tapes and papers worth a great deal and can expect large sums for his memoirs.

He has yet to show any meaningful

contrition by admitting criminal responsibility. Despite some observations yesterday that President Ford's task was eased by Richard Nixon's admissions, they have been hardly satisfying. What has Mr. Nixon admitted? Bad judgment? Indiscretion? Excessive loyalty; His statement acknowledged only that his actions could "seem" to some people to have been self-serving and criminal—the clear implication is that such perception is wrong. In plain language, he still maintains his innocence. That is certainly his right, but it contrasts poorly *with his* subordinates who confessed guilt and were jailed nonetheless.

He has cooperated with the Prosecutor only under legal compulsion or overriding political pressure.

Against these considerations, proponents of pardon urge that Richard Nixon's situation is unique, that his fall from the highest office in the land leaves a permanent stigma qualitatively different from anything suffered by his subordinates. At bottom, that is what the cry "he has suffered enough" is all about.

I reject that argument, Mr. President. The Founding Fathers clearly decided that a President's removal from office was not so harsh a punishment that he should face no further prosecution, regardless of his transgressions. The Constitution expressly provides for both removal and then prosecution.

As George Will has pointed out in a very thoughtful column, the argument also misconceives the office of the Presidency as belonging to the incumbent—his to trade, to give up in a magnificent gesture of contrition and concern for the country. If anything, the holder of that highest public trust bears a uniquely great responsibility to abide by the law; he is not thereby entrusted with a bargaining chip to save himself from prosecution.

It is ironic and unfortunate that so shortly after the Supreme Court affirmed that a President is subject to the law of the land, President Ford has placed Richard Nixon beyond the legal process. In that sense, the final sad lesson of Watergate seems to be that the man upon whom we bestowed the Presidency, if he is grieved by the loss of office, shall not even be brought before the bar of justice.

Finally, one must reflect not only upon the disparities between the situation of others involved in Watergate and Richard Nixon's, but also upon the stark contrast with the severe treatment of thousands of other criminal defendants in America.

If Mr. Nixon had been indicted and either plead guilty or been tried, then he might have received a very short symbolic sentence, or a suspended sentence, or only a fine. Mr. Agnew was never jailed despite the substantial charges of personal corruption to which he plead. But to avoid prosecution altogether is quite another matter. The implications of this pardon for any sense of equal justice under law are very disturbing.

My dismay at the President's announcement involves much more than the obvious problem of a double standard. It is not necessary to reach a final judgment on the appropriate punishment for Richard Nixon in order to conclude that the grant of pardon was terribly premature. For we have yet to learn the full facts of Watergate in regard to his role.

Even in cases where there can be no question of the actions involved and the circumstances under which they were committed, it is rarely wise to determine punishment before an adjudication of the alleged offenses. When the extent and nature of the possible offenses involved are unclear, it is impossible to justify.

True, Mr. Nixon was named as an unindicted coconspirator in the main Watergate coverup indictment, and the House Judiciary Committee premised the first article of impeachment on similar grounds. Nevertheless, the importance of a completed investigation and formal analysis of criminal liability involves more than some petty desire to reel off numerous counts under complicated criminal statutes.

President Ford should have refrained from exercising his power of clemency until he had a better idea of just what conduct he might be pardoning. President Ford's counsel assured him there were no new "bombshells," but Mr. Jaworski apparently indicated only areas of inquiry; he did not spell out the evidence now available.

In regard to the Watergate coverup, did President Ford decide to pardon a distracted national leader who misguidedly acquiesced in efforts to protect his associates? Or was he the systematic leader and instigator of sweeping felonious conduct? Who, for example, did erase 18 minutes of crucial taped conversation?

We must also remember that the Watergate coverup is but one of the charges being investigated by the Special Prosecutor, which involve Mr. Nixon. Several areas of inquiry can involve only the question of corrupt personal enrichment and not alleged zeal in pursuit of misperceived national interest.

Is he implicated in the criminal breakin to Dr. Fielding's office or in other criminal misuse of Government agencies or employees?

Is he guilty of improper solicitation or acceptance of bribes for public actions?

And what about the serious charges of willful tax fraud, or the misappropriation of Government funds for private benefit at San Clemente and Key Biscayne, or the acceptance of campaign funds for private use through close intermediaries?

Once again we have only Mr. Nixon's implied denial of any criminal guilt and his explicit denial that anyone in his White House was improperly enriched one cent as a result of his public position.

The sweeping nature of the pardon granted may have been designed with all of these charges in mind. But if President Ford reached his own conclusion as to Mr. Nixon's guilt or innocence of such charges as part of his decisionmaking process, he gave no hint of it in his brief explanation.

Apart from the difficulty of a President granting pardons on an incomplete understanding of the conduct he may be pardoning, there is a second danger posed by yesterday's announcement—the effort to rewrite history.

Mr. Nixon's suggestion to the Nation that he resigned because his "political base had eroded", as well as present suggestions that his experience be made available to the country through a political "comeback", underline the importance of a firm record being left for the American people and for history.

In the face of this ambiguous pardon and no detailed resolution of formal charges, Mr. Nixon and his supporters are left to explain how he was hounded out from office, because he made a few bad judgments short of criminal conduct.

It is strange that many now suggest the issue of guilt is settled, because of Mr. Nixon's resignation, the pardon, or both. If we are really serious about the presumption of innocence for the accused in America, can we seriously maintain that a resignation from office, or a pardon gratefully accepted with an accompanying denial of guilt, constitutes a formal record of conviction?

On a more practical level, the strenuous efforts already made to explain away Mr. Nixon's conduct—and the persistent refusal of his supporters finally to acknowledge his criminal guilt—counsels against overconfidence that this issue is settled.

In "Alice in Wonderland," the heroine is shocked to learn that trial before the Queen of Hearts involves determining the punishment first, and then the crime. President Ford's pardon of Richard Nixon, before the special prosecutor has even completed his investigation and presented a systematic explanation of the charges, will leave many Americans with the understandable feeling that they, too, are in a wonderland where unspecific pardons are given for unspecified conduct to persons who admit no wrongdoing.

By providing a pardon now, and on extremely vague grounds, President Ford has also denied the American people an opportunity to hold him politically accountable for his judgment. The President has full discretionary power to pardon, but his exercise of that function, as with all of his other actions, is ultimately subject to the judgment of the voters. Yet they have not been told what offenses President Ford balanced against considerations of clemency, whether he premised the pardon on criminal liability limited to the Watergate coverup, or whether he felt that Mr. Nixon had adequately admitted guilt.

President Ford's explanation that a fair trial would require waiting many months, perhaps a year, still does not account for his very sudden announcement, reportedly on the eve of a presentation to the grand jury by the Special Prosecutor in regard to Mr. Nixon. Nor is it clear whether we would have had to wait very long before the investigation of all charges against Mr. Nixon could have been completed and any appropriate grand jury action taken. Certainly this need not have involved another year's wait, and there would have been a full formal presentation of the charges which the special grand jury found supported by the evidence. At that point, if Mr. Nixon did not wish to wait for full trial on the merits, he could have agreed to cooperate with the Special Prosecutor and entered a plea to some of the counts pending against him.

These possible resolutions are now foreclosed.

I believe President Ford tried to make a conscientious determination on how best to proceed. But I am sure that millions of Americans will find it hard to believe that other considerations were not involved. There will be inevitable suspicion that political timing was a factor, or an understandable, but irrelevant sense of gratitude and concern for the man who picked President Ford to succeed him, or even a willingness to prevent all of the facts from coming out.

And, in the final analysis, that permanent cloud over President Ford's decision will add one more chapter to the tragedy of Watergate.

MRS. CELIA BLACK, NATION'S OLDEST NURSING HOME RESIDENT

Mr. TOWER. Mr. President, today I would like to ask my colleagues to join me in honoring the Nation's oldest nursing home resident on the occasion of her 115th birthday.

Mrs. Celia Black, who now resides at Colonial Manor Nursing Home in Tyler, Tex., was born a slave in 1859. She has experienced segments of our Nation's history which most of us have only read about. She recalled recently riding in an ox-drawn cart with her family to attend torch-lit tent meetings to learn of President Lincoln's Emancipation Proclamation which freed three generations of her family.

Married for the first time when she was only 13 years old, Mrs. Black worked in fields as a young girl, and later did handwork, made quilts and children's clothing. She has lived her entire life in Smith County, Tex. She bore nine children, endured a mother's pain when her first son died of typhoid fever, a disease practically nonexistent in America today. She has outlived several of her children but will be joined in celebration today in Tyler by three daughters, many friends, Mayor Baker Lucas, Tyler Chamber of Commerce representatives, Texas Nursing Home Association and American Nursing Home representatives, and Texas Secretary of State Mark White.

I would like to offer my congratulations and best wishes to Mrs. Black as we salute this distinguished lady.

ALEXANDER HAIG SHOULD REMAIN A CIVILIAN

Mr. PROXMIRE. Mr. President, the return of Alexander Haig to a high military post would be unwise politically and militarily.

What is involved is a matter of principle not personality. Alexander Haig has impressive credentials as a military leader. Some would say that his promotion from a colonel to a four-star general in 4 years compromised the military promotion system. Others would argue that he merited such an unprecedented acceleration of the promotion system.

The dispute will not be easily resolved since it involves subjective judgment and behind the scenes pressures the public is not permitted to observe.

The real point at issue is, Should the American military machine be encouraged to play politics? Should we allow high-ranking generals and admirals to move in and out of the political process?

Do we want generals, or ambitious colonels, to line up with the Democratic Party? Do we want them to closely associate themselves with the Republican Party? Do we want to politicize the command structure so that military decisions are clouded by political considerations?

The answer should be a clear and resounding "No."

The world is replete with examples of countries wherein military officers retire, go into politics, and reenter military life at a later stage. It is no coincidence that in the same countries the threat of a military coup is always present.

Now it may be a long road from where we are to that situation. But to break the barrier between military and political life is to take the first step down this unthinkable road.

We are not dealing with the question of a military officer resigning his commission to enter politics. That is fit and proper under our system of government. Alexander Haig, however, seemed reluctant to take even this elementary step in separating military and political careers. He resisted for 3 months the legal requirement that he resign his commission when he assumed the distinctly political duties as chief of staff in the White House. That should have been warning enough that the mixing process had already begun.

The real issue arises when a retired military officer has been involved in a political situation of the highest partisan nature and then returns to military status in a very high capacity.

Was Alexander Haig in an intensely political post? The Wall Street Journal of September 10 underscores that point. That article notes that—

> General Haig is the man who ordered William Ruckelshaus to follow an order from "your commander-in-chief" to fire Archibald Cox as Watergate prosecutor. It was Gen. Haig who later floated stories about Elliot Richardson's alleged drinking problem. It was he who suggested to Judge John J. Sirica that "some sinister force" had erased a crucial Watergate tape. It was Gen. Haig almost to the very end, who stood at the heart of the attempt to prove Mr. Nixon innocent.

Can there be any more intensely political post than that?

Mr. President, it has been suggested that General Haig was only following orders as every good military man does. And that therefore he bears no blame in these matters.

The following-of-orders arguments may be appropriate for a military man in a military capacity, although the Nuremberg trials reveal limitations to this. But it does not hold for a civilian where illegal activity is taking place. In such a case, the following-of-orders must be subjected to the law of the land. And in this situation there are relevant questions as yet unresolved about Alexander Haig's participation in the Nixon White House.

Let me carefully say that I make no charges. The point is there are unanswered questions that should be resolved before one of the highest military posts in the country is placed in the hands of a "political general."

Mr. President, I ask unanimous consent that the Wall Street Journal article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CAN GENERAL HAIG LEAVE WATERGATE BEHIND, RETURN TO MILITARY? PRESIDENT FORD SEEMS TO THINK SO, BUT CRITICS SAY THE MOVE WOULD BE A BAD PRECEDENT

(By Dennis Farney)

WASHINGTON.—Gen. Alexander M. Haig once explained why soldiers and politicians are brothers under the skin.

"It's only a soldier who can respect and admire a politican," he told a reporter later last year—at a time when Mr. Haig himself was inside the bunker as chief of staff of the embattled Nixon White House. Politics, he said, is "a field where a man lays everything on the line to win or lose. . . . When one doesn't win the results are fatal. . . ."

Alexander Haig laid it all on the line for Richard Nixon. But instead of suffering fatal consequences, Mr. Haig seems about to rise from the wreckage of the Nixon presidency into some new position of military prominence, thanks to President Ford. And that probability is stirring lots of controversy here.

In May 1973, President Nixon summoned Mr. Haig, a four-star general, from the Pentagon to replace the discredited H. R. Haldeman as White House staff chief. The general's friends say that it was against his better judgment, and with a growing sense of foreboding, that throughout the remaining days of the Watergate scandal he gave his complete loyalty to President Nixon.

THE "SINISTER FORCE"

Perhaps. But what is for sure is that Gen. Haig is the man who ordered William D. Ruckelshaus to follow an order from "your commander in chief" to fire Archibald Cox as Watergate prosecutor. It was Gen. Haig who later floated stories about Elliot Richardson's alleged drinking problem. It was he who suggested to Judge John J. Sirica that "some sinister force" had erased a crucial Watergate tape. It was Gen. Haig, almost to the very end, who stood at the heart of the attempt to prove Mr. Nixon innocent.

All that could have ruined Mr. Haig—in much the same way that other Nixon loyalists were brought down. But in the final week of the Nixon presidency, the lean, suntanned general executed a delicate maneuver that apparently persuaded his new commander-in-chief that the general deserves a promotion.

What Mr. Haig did, according to a widely held view in Washington, was to recognize finally that the Watergate battle was lost and to gently, deftly steer Mr. Nixon to the decision to resign the presidency. "It was a tightrope he was walking," says a close Haig associate, "and he was walking it with skill and grace." Furthermore, says this admirer, "the essential cog in the smooth transition to President Ford, as far as the staff is concerned, has been Al Haig."

Now President Ford seems genuinely to

want to take care of Mr. Haig. At the same time, some Ford aides have been urging him to get Gen. Haig out of the White House, contending that he is too great a link to the Watergate scandal. So it is that Mr. Ford and the general are reported by the White House to be "exploring many options." Published reports suggest that those options include a promotion to NATO commander or, less likely, Army chief of staff.

FURIOUS CONGRESSMEN

But the idea of returning to military service a man who was a top Watergate defense strategist is infuriating some members of Congress. They are searching for ways to block such a move, although the odds are against them. Meanwhile, the promotion talk has revived an old charge against Mr. Haig—that he is a "political general" whose career benefited dramatically from his involvement in partisan politics.

Yesterday, many here were wondering whether Mr. Haig, who still is White House chief of staff, had a part in President Ford's highly controversial decision Sunday to pardon Richard Nixon of any Watergate crimes. It isn't known yet whether the general played any role in that decision. But Mr. Haig reportedly has maintained contact with Mr. Nixon during the transition, and he is the only Nixon holdover to have been a frequent consultant of President Ford.

Not even Gen. Haig's harshest critics deny his superior talent and extraordinary capacity for hard work. What they question is the manner in which he rose from colonel to four-star general in only four years. In 1968, he was a colonel at West Point. In 1969 he became principal deputy to presidential adviser Henry Kissinger. In 1972, he gained four-star rank and his job of Army vice chief of staff—vaulting over 240 more senior officers.

When he returned to the White House as Mr. Nixon's right-hand man in 1973, Gen. Haig held onto his four-star ranking for three months, reluctantly resigning only because of congressional protests that the law expressly prohibits an active military man from holding such a civilian post. These congressional critics argue today that to promote Mr. Haig back across the civilian-military boundary would further compromise longstanding safeguards against military involvement in politics.

"Haig has already been responsible for setting a dangerous precedent—occupying an appointive political office while on active duty," argues Rep. John Moss, a California Democrat. "We should not allow, nor should this President assist him, in setting a second potentially deadly precedent; that partisan politics pays off enormously for the professional military."

SUCCESS IS LIKELY

Similarly, Democratic Sen. Proxmire of Wisconsin has vowed to "strenuously oppose" any Haig promotion. He calls the general "a fine officer, committed to his country and loyal to his obligations," and notes that other military men have, on occasion, crossed and recrossed the military-civilian line. Nevertheless, he argues, a Haig appointment would "send a clear signal throughout the military officer corps that politics pays off—and in a big way." The reason, he explains, is that "in no other case of recalling an officer has the officer been intimately involved in . . . (White House) service during the greatest scandal the nation has ever known."

It's questionable whether the critics are strong enough to block an appointment. At the moment, they aren't even sure that appointment to the NATO post would require Senate confirmation, although they're preparing to argue that it would. An appointment as Army-chief of staff would require Senate confirmation. But in either case, favorable treatment for the General by the pro-military Armed Services Committee would seem all but guaranteed, and critics would face an uphill battle on the Senate floor as well.

Republican Sen. Barry Goldwater of Arizona, for example, has dismissed the Proxmire views as "partisan politics." Gen. Haig, Sen. Goldwater says, did nothing more than take orders from the man who was then his commander-in-chief, Richard Nixon. For Sen. Proxmire to oppose a recall to duty "for a man he describes as a 'fine officer' merely because he followed orders strikes me as ridiculous," Mr. Goldwater argues.

The General also enjoys solid support among both Fordites and Nixonites on the White House staff. Inside the White House he is depicted as a man whose only fault, if it can be called a fault, is a self-sacrificing sense of duty.

"He didn't volunteer to come back" says a key Ford advisor. "Mr. Nixon asked him. Now what's a man supposed to do in that situation? What if he had said, speaking as Army vice chief of staff, 'No. Mr. President, I won't come.' What kind of shape would that have put him in and put the Army in?"

Mr. Haig couldn't be reached for comment. But White House staffers who speak up for him vigorously dispute the tag of "political general." He has had "a magnificent career as a combat officer," a Ford aide says. "He was highly decorated in Korea, wounded in Korea, had a distinguished career in Vietnam, was wounded again, won the Distinguished Service Cross. Yet you see very few people who talk about Al Haig in terms of a Distinguished Service Cross."

"What man is better qualified" for the NATO post? asks a close Haig associate. "Of course, he got involved in the Nixon White House, because there was a deterioration of government at the highest level. . . . If one wants to call that defending the President, I don't see how he could have done otherwise. But I think his commitment was, and always has been, to the best interests of the country."

This is also the assessment offered by Gen. Haig's good friend and early booster, Washington attorney Joseph Califano, who was a top man in Lyndon Johnson's White House. Mr. Califano recruited Mr. Haig to the Pentagon in 1963, when Robert McNamara, for whom Mr. Califano worked then, was looking for bright young officers. And it was Mr. Califano who worried publicly a decade later that Mr. Haig was making a tragic mistake in returning to the Watergate White House, that the general could be sucked down by Mr. Nixon's desperate efforts to stay in office.

Today Joe Califano is still worried. "I think it would be a tragedy to lose him to public service," he says. "I think he is a fine person. In my own judgment, I can't believe that everything he did wasn't straight. But people in this town often become symbols of issues, and it's often very difficult to get around that."

POLITICAL REPRESSION IN CUBA

Mr. BUCKLEY. Mr. President, there may not be merit in the proposition that the time has come for some sort of relationship with Castro Cuba. But in considering the merits, let us not delude ourselves with the nature of the regime with which we would be dealing. Whether or not Fidel Castro is still in the business of trying to export revolution to the rest of the Hemisphere, there is little doubt that he continues to conduct a strict police state at home in the finest tradition of the Gulag Archipelago.

Jack Anderson recently wrote a timely column on this aspect of life in Cuba that I would like to call to my colleagues' attention. I ask unanimous consent that Mr. Anderson's September 7, 1974, column, "Political Repression Savage in Cuba," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POLITICAL REPRESSION SAVAGE IN CUBA

(By Jack Anderson)

A less bombastic Fidel Castro is now in his best behavior, as he strives to bring Cuba into the society of Western Hemisphere nations. But hidden from the prominent visitors he has enticed to Cuba is an unspeakable world of political oppression.

We have written about the terror and torture in the prisons of Brazil's right-wing dictatorship. Now we have received evidence of similar tactics in the prisons of Cuba's left-wing dictatorship.

Just as Brazilian political prisoners smuggled their stark stories to us through priests, Castro's prisoners have managed to smuggle letters, affidavits and other evidence to the United States with directions that they be delivered to us.

We have checked out their charges, as best we could, with former prisoners who have been released from Castro's custody. We are willing to make a personal inspection of these prisons, if Castro will permit it, as we also offered to do in Brazil.

The letters and affidavits describe a horror which, for the unhappy souls who run afoul of Castro's political police, usually begins with a frightening, after-midnight arrest.

"You and your family are still fast asleep," states one affidavit, "when the tremendous knocking at your front and back door starts. About six or seven G–2 men, armed to the teeth with Russian machine guns, rush in your house, screaming, pushing your family, searching your home, not allowing your wife or children to go to the bedroom to put their clothes on.

"They insult you with every filthy name in the book. Finally they push you outside, with your family crying, and put you into a G–2 car."

The victim is hustled to G–2 headquarters where, according to the affidavit, "you are taken into a small room, have all your clothes taken away from you, searched even within your body, then given a pair of mechanic overalls without any sleeves."

The interrogation takes place in a small office. "The officers all put their guns on the table in front of you to scare you," recounts the affidavit. "Then the questioning begins, with insults, the threats, the false accusations, where everybody is accused of being the CIA."

If the prisoner doesn't give the answers they want, he is held alternately in overheated and frigid cells. "The heat is so bad, you faint. And then you are brought in a special cell that has air conditioning so cold you freeze. All this to make you talk."

The prisoners are permitted to see their families once a week. "You are shaved by a gorilla, without shaving cream, then taken to a small room, all bugged, with your investigator sitting next to you, and are given six or seven minutes with your family, after your family has been given a lecture to tell you to confess."

The letters and affidavits describe the food in Cuban prisons as scarely enough for survival. At LaCabana Fortress prison, 160 men were crowded into patterns without windows, nothing but an iron grille at the end. It was so hot in the summer that the prisoners couldn't bear to wear clothes. When it rained, the water washed into the living quarters.

"At one time," states an affidavit, "we were not allowed to have water to shower for 23 days." Another describes the hour in the sun which the prisoners were permitted once a month.

"But we had to run in double time. All the time we were running, we were being hit by the guards with clubs, bayonets and iron sticks. Then down again into the hole, again being hit by the guards."

Most of all, the prisoners dreaded the "riquisa," as the cell searchers were called. "The guards come into your gallery after midnight," according to one account, "and line you up outside or against the wall. They start to throw everything you own outside and douse water all over your bed, which normally is thrown from one end of the gallery to the other.

"You also get beat up. When you are taken outside, nude, the milicianas [women guards] stand in the patio and laugh at your nakedness."

At the Isle of Pines prison, the prisoners were welcomed off the ferry boat by "guards on both sides of the gangplank, hitting us as we passed by them, and I mean hitting with clubs and sticking us with their bayonets, just for fun I guess," states one letter.

The prisoners at the Isle of Pines got up at 5 a.m. and worked until 6 p.m. "cutting weeds, planting trees, picking fruit." "God forbid," reported one former prisoner, "if they should catch you eating a piece of fruit. The guards would make mincemeat out of you with their bayonets."

The prisoners were subjected to daily beatings, according to the smuggled documents. "There was seldom a month in the island when they did not kill one or two prisoners in the work camp, or cut them up, crippling them, or something," charges an affidavit.

The documents give detailed descriptions of the prisons, enclose typical menus and name some of the most brutal guards. One prisoner, risking almost certain retaliation, has asked us to tell his personal story. This will be published in a future column.

MAINE CONFERENCE ON BUSINESS OPPORTUNITIES IN FEDERAL PROCUREMENT AND FOREIGN TRADE

Mr. BIBLE. Mr. President, on August 14, Senator WILLIAM D. HATHAWAY, in cooperation with the Maine Department of Commerce and Industry, sponsored a Conference on Business Opportunities in Federal Procurement and Foreign Trade at Portland, Maine.

The purpose of the conference was to afford Maine businessmen with the opportunity to meet with Federal Government procurement specialists, Government contractors, and representatives from the Department of Commerce. The businessmen were counseled on Federal procurement and contracting processes, and were advised about the aids and services of Government to business, and the opportunity to sell to Federal agencies and prime contractors.

During the conference, time was also set aside for the businessmen to discuss their specific problems with specialists in the fields of contracts, management production, accounting, engineering, and transportation.

As the able chairman of the Procurement Subcommittee of the Senate Small Business Committee, Senator HATHAWAY has dealt effectively with the problems encountered by small businessmen in the area of Government procurement. He has developed a keen insight into the needs of small businessmen and has been a leader in sponsoring legislation to meet those needs.

Mr. President, I think the remarks Senator HATHAWAY delivered at the conference are timely and noteworthy, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR WILLIAM D. HATHAWAY

It is a privilege and a great pleasure for me to address this Conference on Business Opportunities in Federal Procurement and Foreign Trade.

In cooperation with the Maine Department of Commerce and Industry, I am pleased to sponsor this conference to bring together on a person-to-person basis the businessmen of Maine with procurement specialists, prime contractors, subcontractors, and other participants in the conference.

The principal purpose of this conference is to acquaint Maine businessmen with the opportunities available to them to sell their products to the world's largest buyer of goods and services, the Federal Government.

As Chairman of the Senate Subcommittee on Government Procurement, I have learned of many problems businessmen have encountered in selling their products to the Government because of lack of know-how about the procurement process. By meeting personally with a broad spectrum of procurement specialists, you Maine businessmen will have a splendid opportunity to avail yourselves of the benefits and advantages of supplying products and services to the Federal Government.

In fiscal year 1973 the Federal Government spent approximately $50 billion for goods and services. The question in the minds of many potential Government suppliers is "How do I get a piece of the action?"

There are gathered here today representatives of numerous Federal civilian agencies, military departments and prime contractors. These are the buyers of goods and services. They have come to Maine today to tell you what they need and want, and how you should go about doing business with them.

There is also a representative of the U.S. Department of Commerce who can counsel businessmen on export opportunities.

As businessmen you will be able to determine where there is a market for your products. You will be given information on how to sell your products, who to sell them to, and what steps must be taken to obtain a contract.

Representatives have with them millions of dollars of open contracts. They are looking for sellers of products and services, and I hope they will find them here in Maine today. By bringing together the buyers and sellers, both will benefit.

Small business is one of the major resources in our Nation's economy and basic to this country's free, independent enterprise system. New small businesses continue to take root and grow, increasing at a net rate of 100,000 units each year.

There are 8½ million small businesses in this country, or 95 percent of all business in the U.S. Small businesses furnish more than half of all the jobs in the American economy and roughly 43 percent of the gross national product. Last fiscal year small businesses contributed goods and services in the amount of $14 billion worth of business they did with the Federal Government. This is nearly one-third of total Government procurement.

This country's biggest and most important business is its small businesses.

Nation's Business magazine, in its March issue last year, noted that "revolutionary ideas most often originate with small firms or individuals outside the sphere of big business and big government.

More than half the items on one list of the major inventions in this century were conceived by individuals. These include air-conditioning, the automatic transmission, the ballpoint pen, cellophane, Cinerama, the helicopter, insulin, the jet engine, power steering, and, would you believe—zip fasteners?

Small businessmen come up with inventions, new techniques and new services because they are quick to realize the need and equally quick to seek a solution."

Through two centuries, American Presidents and Congresses have sought to aid and assist the most vital segment of its economic community—small business.

In the first two years of World War II, 16 percent of the small firms in this country closed their doors. The reasons for this were that most of the war contracts went to big business and thousands of small firms that were dependent on the flow of consumer goods found their supplies dried up by the war effort.

A major effort to utilize the facilities of small business in our war effort did not begin until mid-1942 with the creation of the Smaller War Plants Corporation which helped small firms to get Government contracts, loans, and essential materials. In 1946, this agency was abolished and its functions divided between the Reconstruction Finance Corporation and the Department of Commerce. It was not until 1953 that small business finally found a "home" in Washington, when the Small Business Administration, a temporary but independent agency of the Federal Government, was born. Its stated mission was to work exclusively in behalf of small businesses of all kinds and was empowered with authority to make loans, guide Federal procurement, provide management training, and be an advocate of small business.

The Small Business Act of 1953 describes the mission of the SBA in the field of Government procurement as follows:

"It is the declared policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise, to insure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the Government (including but not limited to contracts or subcontracts) be placed with small business enterprises."

This language is clearly based on the assumption that Government contracts are one of the best means of stimulating business growth and adding to our competitive economy.

The Small Business Act of 1958 made the SBA a permanent independent agency. It is in this second Small Business Act that the current Congressional policy toward small business is stated, as follows:

"The essence of the American economic system of private enterprise is free competition. Only through full and free competition can free markets, free entry into business, and opportunities for the expression and growth of personal initiative and individual judgment be assured. The preservation and expansion of such competition is basic not only to the economic well-being, but to the security of this Nation. Such security and well-being cannot be realized unless the actual and potential capacity of small business is encouraged and developed."

The Act then continues with those now famous words about a fair proportion of the Government contracts being placed with small business.

As the world's largest buyer of goods and services, the Federal Government spent approximately $50 billion in fiscal 1973. The total value of contracts to small businesses increased overall from 19 percent to 21 percent in fiscal year 1973. In terms of dollars this was an increase from $8,678 million in fiscal year 1972 to $9,397 million in fiscal year 1973.

The Department of Defense alone in fiscal 1973 spent approximately $32.5 billion for military procurement. Approximately $6.5 billion, or 20.5 percent, went to small businesses.

Prime Department of Defense contracts of $10,000 or over going to the State of Maine totaled $45.6 million in fiscal year 1973, with $9.3 million going to small business. I hope Maine gets a larger chunk of that melon in the future.

During the first six months of fiscal year 1974, $84.6 million in prime Department of Defense contracts of $10,000 or over went to Maine firms. There is no break-out on the total going to small business in Maine, but if the percentages remain constant, small businesses in Maine should have received more than $17 million in the first six months of fiscal year 1974.

Pursuant to the requirements of the Small Business Act that small businesses receive a "fair proportion of the total purchases and contracts," certain procurements are set-aside for small business. A set-aside is initiated usually from the routine review by the small business specialist or contracting officer of all procurements over $2,500. If it is determined that there would be small business interest as well as capability in handling the work, the contracting officer can restrict the procurement to small business only.

In addition to small business set-asides there are labor surplus area set-asides. Firms qualify for this assistance in terms of first or second preference. First preference is a firm located in or near a section of concentrated unemployment or underemployment which agrees to employ disadvantaged persons in a proportion of at least one-fourth of its total new hires and will perform or subcontract a substantial part of the contract work to similarly composed firms. A second preference firm can be located anywhere in the United States but employs the disadvantaged in at least 15 percent of its total new hires.

According to the latest U.S. Department of Labor statistics, Maine has 7 areas of substantial unemployment which is unemployment equal to 6 percent or more of its labor force and anticipated to remain above 6 percent during the next two months.

Maine has eight areas of persistent unemployment which category includes those areas where unemployment during the most recent calendar year has averaged 6 percent or more of the labor force and the rate of unemployment has been at least 50 percent above national average for three of the preceding 4 calendar years, or 75 percent above the national average for 2 of the 3 preceding calendar years, or 100 percent above national average for 1 of the preceding 2 calendar years.

From Department of Defense figures, we have learned that 73 percent of the dollars awarded on contracts which have been set-aside under the labor surplus area procurement program have gone to small business. With the increased use of this program the Government can achieve two goals—It can aid small business and reduce the level of unemployment at the same time.

Under this program only partial set-asides may be made to qualified labor surplus area firms because of a recurring restriction in the Defense Appropriation Acts commonly referred to as the Maybank amendment.

This so-called Maybank amendment prohibits the use of funds for the payment of price differentials on contracts made for the purpose of relieving economic dislocation. This restriction, in effect, limits the implementation of the program to only partial set-asides. Naturally fewer procurements can therefore be placed under the program.

On May 15 I appeared before the Senate Defense Appropriations Subcommittee and urged the committee to delete this provision from the Defense Appropriations Act this year in the interest of aiding small business and adding stimulus to a program combating the problem of unemployment. I am hopeful something will be done about this this year.

Another program which has been of particular aid to a segment of the small business community is the program popularly called "8(a)." The authority for this program is derived from section 8(a) of the Small Business Act. Under this program the SBA enters into contracts with other agencies of the Federal Government for furnishing materials. In turn, the SBA subcontracts the performance of the work to a small business. SBA has used this authority to subcontract to minority or socially or economically disadvantaged-owned firms.

The object of the program has become the seeking out of potential manufacturers, providing them with financial assistance, technical and managerial know-how, and by means of a suitable Government contract an initial or vital supplemental market.

In the past three years there have been 15 8(a) contracts totalling nearly $1.57 million awarded to disadvantaged firms in Maine.

There are some very real and troubling problems facing the small business contractor and subcontractor today. Most of them have to do with inflation, high interest rates, and material shortages.

Not to be overlooked in these difficulties has been the effect of the energy crisis on small business. We in New England have been acutely aware for some time of the problem of oil shortages. Now the whole nation has experienced this obstacle. Contractors have suffered from the uncertainties of the supply as well as the currently escalating prices of this essential commodity.

Early in March, as Chairman of the Government Procurement Subcommittee of the Senate Small Business Committee, I sent out questionnaires to small business contractors all over the country. Included in this survey were contractors in the manufacturing, research and development, services and construction fields.

The response to the poll was good, and the answers to the questions posed were interesting and enlightening.

The most serious problem faced by 90 percent of the small businessmen responding was the difficulty experienced in obtaining supplies because of delayed delivery.

The second major area of concern to these businesses (84%) was the difficulty in obtaining supplies because of higher than anticipated prices.

Seventy-one percent of the firms indicated they were having difficulties in establishing a bid or proposal price because of the galloping rate of inflation.

To look more closely at these problems, my Government Procurement Subcommittee held hearings on May 21 at which several of these small business contractors testified.

In case after case we heard of companies caught in a squeeze of rapidly rising costs during the past year while they are bound to fixed price contracts.

For instance a Government supplier of wax and cleaning supplies stated that his raw material costs had risen between the date of contract award last year and today's prices all the way from 16 percent to 387 percent of carnauba wax. The average percentage increase of nine different supplies was 52 percent.

A barbed wire supplier described how his cost for galvanized wire climbed from $10.615 per spool when he bid on the contract to $18.301 per spool effective May 1, 1974.

You can well see that a contractor who received a fixed-price contract just prior to his uncontrolled and inflationary spiral can be caught in desperate circumstances.

One of the most valuable witnesses at the hearing, who was a Maine businessman, pointed out the effects of inflation on his efforts to do business with the Government, and made some concrete suggestions as to steps that could be taken to aid small businesses such as his in their current dilemma.

In an effort to obtain relief for those contractors caught in the inflationary bind on fixed price contracts, I introduced on June 11, the "Small Business Emergency Relief Bill."

This bill would allow the Government agencies having contracts with small business to modify the fixed price terms of those contracts to permit additional compensation commensurate with the unanticipated recent enormous jump in the rate of inflation and give additional time in the performance of the contract where the energy crisis caused problems for the contractor.

In addition, this bill would require greater use of the economic price adjustment clause in contracts with small businesses to protect both the Government and the small business contractor in the future.

This bill is now before the Government Operations Committee, and I am hopeful it will be considered by the Committee in the near future.

There are many who believe the only good thing to come out of Washington is the road to Maine.

Other good things have come out of Washington, and we are continuing to work to see what can be done to turn around the situation of the small businessman. This is not to suggest that Congress is likely to act in howling haste and adopt some radical departures from the present course, but we see opportunities for many improvements. We are continuing to initiate programs to promote Government contracts as a means of assisting small business to grow.

The contribution small business makes to our continued prosperity is not small. Those of us who are small business advocates must continue to repeat our story of the importance of small business to our economy.

Last week the Congress passed and sent to the President the Small Business Amendments of 1974. Under this legislation the ceiling authority of the SBA was increased from $4.875 billion to $6 billion; the authorization and maximum for the surety bond and lease guarantee was increased; and authority was provided to assist small businesses seriously affected by shortages of fuel or materials resulting from energy shortages.

Another bill introduced is the Federal Paperwork Relief Act, which requires the study of reporting requirements and how they can be reduced. From our questionnaire survey of small business contractors, we have learned that paperwork is a continuing and substantial burden on the small business contractor as well as small businessmen generally.

Still another bill is one which would establish regional boards of contract claims concerning claims under Government contracts.

Some wiseacre once said—"Government is like a stomach—if it is doing its job right you will hardly realize you've got one."

Let me assure you your Government is interested in small business. It wants it to grow and prosper.

The horizons for small business are broad, and I think the course that has been set will take us into a bright future.

I am confident this conference will be rewarding to all those who participate in it, and I consider it a privilege to assist in making it possible.

I hope this conference will be a great success and fulfill the expectations of those who are participating. I welcome and I solicit your views and comments on the program which has been planned. Any suggestions you might have which should be implemented to improve future conferences would be appreciated.

DESEGREGATION IN THE NORTH AND IN THE SOUTH

Mr. THURMOND. Mr. President, this past weekend articles appeared in newspapers throughout our country quoting the Secretary of Health, Education, and Welfare to the effect that the Federal Government is taking a conciliatory approach to northern and western school desegregation, because of "very strong, bitter opposition north of the Mason-Dixon line." Mr. President, I am astounded by this statement and I take very strong exception to it.

It has always been my understanding that Federal laws are supposed to be enforced equally in every State of our country. Although I have felt for some time that it was "unwritten" Federal policy to apply desegregation laws less strictly in northern and western school systems, while at the same time demanding immediate desegregation of southern school systems, I am amazed to see this position publicly stated and publicly defended.

Federal funds for education are being withheld this very day from some school systems in South Carolina, because of their alleged failure to technically comply with complex percentage and quota regulations. I find it incredible that Secretary Weinberger would announce that Federal funds will not be similarly denied to northern school systems. All Americans pay taxes, Mr. President, and it is intolerable for one section of our country to be singled out and denied the benefit of Federal expenditures for education.

It is my feeling that every public school should be open to any student on a freedom-of-choice basis, regardless of race. Accordingly I can understand the feelings of the people in the North and in the West on the subject of forced racial quotas. However, we cannot have one set of rules for the South and another set of rules for the rest of the United States. If the Constitution means anything, it means that the laws are to be equally applied.

THE MANY SUPPORTERS OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the business of the Congress is to represent the people. The right and duty of the people is to make known their views on the critical issues of the day. In the case of the Genocide Convention, which has languished in the Senate for some 25 years, the people have made their will known. Throughout the land, resolutions have been passed in support of the convention by church and labor groups, by civil libertarians and ethnic organizations, by peace groups and veterans' associations, by professional organizations and town councils.

These groups include the American Baptist Convention; American Civil Liberties Union; American Ethical Union; National Women's Conference; American Ethical Union; American Federation of State, County and Municipal Employees, AFL–CIO; American Federation of Teachers, AFL–CIO; American Friends Service Committee; American Humanist Association; American Jewish Committee; American Jewish Congress; American Roumanian National Committee; American Veterans Committee; Americans for Democratic Action; Baha'i National Spiritual Assembly of the United States; B'nai B'rith; B'nai B'rith Women; Brotherhood of Sleeping Car Porters, AFL–CIO; Episcopal Church; Farband Labor Zionist Order; Friends Committee on National Legislation; Hadassah, the Women's Zionist Organization of America; Industrial Union Department, AFL–CIO; International Ladies' Garment Workers' Union, AFL–CIO; International Rescue Committee; International Union of Electrical Workers, AFL–CIO; Jewish Labor Committee; Jewish War Veterans; League for Industrial Democracy; National Association of Negro Business and Professional Women's Clubs; National Association for the Advancement of Colored People; National Board, YMCA; National Catholic Conference for Interracial Justice; National Jewish Community Relations Advisory Council; National Conference of Christians and Jews; National Council of Jewish Women; Methodist Church, General Board of Christian Social Concerns; Poale Zion, United Labor Zionist Organization of America; Quaker U.N. Office; Retail, Wholesale and Department Store Union, AFL–CIO; Textile Workers Union of America, AFL–CIO; Ukrainian Congress Committee of America; Ukrainian National Association; Union of American Hebrew Congregations; Unitarian-Universalist Association; United Automobile Workers of America; United Church of Christ; Women United for the United Nations; Women's International League for Peace and Freedom; Workers Defense League; Workmen's Circle; World Federalists, USA; and the World Jewish Congress, American Section.

Mr. President, the people must be heard. After 25 years of delay, the time has come to ratify the Genocide Convention.

GALLANT EFFORT SAVES WOMAN'S LIFE

Mr. HELMS. Mr. President, a recent article appearing in the Kinston, N.C., Daily Free Press, reports the actions of two North Carolinians which resulted in the saving of the life of another citizen of my State.

I wish to call to the attention of my colleagues the quick and heroic actions of Mrs. Vera Hill, a registered nurse at Lenoir Memorial Hospital, and Mr. Gene Turnage, an employee of the Caswell Center.

Mr. Turnage, who was visiting his wife at the hospital, and Mrs. Hill, who was conducting an inservice class, saw that an unidentified woman was having difficulties while sitting in the lobby of the hospital. Turnage, who had training in first aid, and Mrs. Hill gave the woman lifesaving mouth-to-mouth resuscitation and cardiac massage. Their prompt actions and their coolness under pressure have been credited with saving the woman's life.

Mr. President, I commend these fine people on their abilities and their thoughtfulness in this situation. Neither was willing to wait for someone else to do it; they joined together to do what needed to be done. As a consequence, they saved a life.

Mr. President, I ask unanimous consent that the article by Mr. Keith Mills, published in the Kinston Daily Free Press, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TWO ARE CREDITED WITH SAVING LIFE

(By Keith Mills)

A civilian trained in first aid and a registered nurse applied cardio-pulmonary resuscitation to a dying woman who collapsed in the lobby of Lenior Memorial Hospital Thursday and saved her life.

Here is the way it happened.

"We were having an inservice class when someone came in and told me a patient (whose name was not released by the hospital) was sick in the lobby," said Mrs. Vera Hill, an inservice teacher at the hospital.

"So I went to her. At first she was convulsing, so I went to the telephone and called the emergency room for medical staff. "She wasn't breathing."

"Gene Turnage, who was visiting his wife, said he'd been trained in this sort of thing. So I said let's go," she continued.

"We stretched her out and he started mouth to mouth resuscitation and I started giving her a cardiac massage. Dr. George Fleming, an anesthesiologist came and she was moved to the emergency room. Then her regular doctor came," she said.

Mrs. Hill said, "Turnage should be commended for the job he did. His technique was excellent. And it didn't take but just a few minutes before she was taken to the emergency room for care.

"I cannot say she was dead, but she was in need of circulation and air," she added. "But to say she was deceased. I can't. She had a color change and was out of breath."

The nurse said this type of thing goes on all the time at the hospital but Turnage recognized that he could help and "I was real lucky to have him standing there."

Gene Turnage, a 13-year employe at Caswell Center who has been trained in first aid at that institution, said "I've experienced heart attack patients before but not in public.

"I have patients at Caswell who have seizures and epilepsy. I looked at this woman for a moment and decided she was in trouble," Turnage said.

"She was sitting in a chair catching her breath, and I thought she had a seizure.

"I didn't think I could do it if it ever happened, but when the time came I didn't think about it. I just did it. And we brought her back.

"Her heart had stopped and she had stopped breathing," he added.

Turnage said, "I just want people to know that Caswell people are trained. There was a bunch of people around and nobody seemed to know what to do. Mrs. Hill said she needed help and I told her I was qualified."

Mrs. Hill said the cause of the woman's collapse had not been determined. It usually takes several days to diagnose heart problems.

The woman is in satisfactory condition.

THE LEGALITY AND CONSTITUTIONALITY OF THE BYRD AMENDMENT AND ITS NATIONAL DEFENSE IMPLICATIONS

Mr. HARRY F. BYRD, JR. Mr. President, critics of the Byrd amendment to the Strategic and Critical Materials *Stock Piling* Act—an amendment which provided that there could be no ban on the importation of a strategic material from a free world country if the same commodity were being imported from a Communist country—have argued that this amendment is illegal and unconstitutional.

Representative CHARLES DIGGS, Democrat of Michigan, has, for example, argued that—

> As long as the Byrd Amendment stands the United States is breaking international law and violating its solemn treaty obligations. I, therefore, urge my colleagues to support S. 1868, which will be coming up for a vote in the next few weeks, a bill to repeal the Byrd Amendment and restore the United States to the position of a law-abiding member of the international community.

Nothing could be more misleading or inaccurate. It is not the Byrd amendment which is illegal; nor is it the Byrd amendment which is unconstitutional.

Under the articles 39 and 41 of the Charter of the United Nations, an embargo can only be imposed against a country, that is judged to be a threat to world peace.

No one could seriously argue that Rhodesia is a threat to world peace. In fact, Secretary of State Kissinger has himself testified that he does not regard Rhodesia as a threat to world peace.

The United Nations' embargo against Rhodesia, has, then, no legal basis whatsoever. Indeed as the late Secretary of State Dean Acheson observed, the U.N. action against Rhodesia is "barefaced aggression, unprovoked, and unjustified by a single legal or moral principle."

Furthermore, so far as the United States is concerned, when President Johnson decided that the United States would support the U.N.-imposed embargo, he did so unilaterally. There was no consultation with Congress.

Lest anyone forget the history of events which resulted in the U.N. embargo of Rhodesia, let me briefly highlight them. The U.N. imposed its sanctions on Rhodesia after that nation declared its independence from Great Britain. The action was justified by labeling Rhodesia a "threat to international peace and security."

This charge was as ridiculous in 1966, when the first U.N. sanction was imposed, as it is today.

It is, therefore, the U.N. which has acted both illegally and unethically in terms of its own Charter.

The Byrd amendment does not redress this injustice. For it remains today a criminal offense for any American to engage in trade with Rhodesia, except in the few critical materials covered by the Byrd amendment. This is particularly ironic in view of the fact that the embargo has already been blatantly disregarded by nations around the world, including such allies as Japan and West Germany.

The Byrd amendment, wholly within the traditions of international law and compatible with the legal and moral conduct of nations, merely provides that the United States will not be dependent for strategic materials on the one country—Russia—which poses a potential threat to the security of the United States.

Now, Mr. President, on the question of the constitutionality of the Byrd amendment, critics of the amendment have argued that the provisions of the U.N. Charter irrevocably bind the United States to compliance with the United Nations' embargo of Rhodesia. The distinguished Senator from Minnesota (Mr. HUMPHREY), for example, has argued:

> The fact of the matter is that the United Nations Charter, as adopted by the Congress of the United States and ratified by the Senate, has the same standing as a provision of our Constitution. It is a supreme law of the land.

The distinguished Senator from Minnesota offers a unique proposition in that statement. It has been tested in our courts, and the courts have rejected that extremist position.

On June 19, 1972, in the U.S. District Court for the District of Columbia, and in the U.S. Court of Appeals for the District of Columbia on October 31, 1972, the proposition that the United States has somehow surrendered its sovereignty to the United Nations was soundly rejected. Upon appeal, on April 16, 1973, the lower court decisions were let stand by the Supreme Court.

In its dismissal of the suit which sought to declare the Byrd amendment illegal the district court wrote:

> Congress has the Constitutional authority to abrogate in whole or in part, the treaty obligations of the United States . . . This was a political, economic, and foreign policy determination. It is not for this Court to strike down . . . The voters of our country are the only ones in this case who may judge the actions of their representatives.

In upholding the district court's decision the U.S. court of appeals wrote:

> It is settled constitutional doctrine that Congress may nullify, in whole or in part, a treaty commitment.
>
> We think that there can be no blinking the purpose and effect of the Byrd Amendment. It was to detach this country from the UN Boycott of Southern Rhodesia . . .
>
> Under our constitutional scheme, Congress can denounce treaties if it sees fit to do so, and there is nothing the other branches of government can do about it.
>
> We consider that this is precisely what Congress has done in this case; and therefore the District Court was correct to the extent that it found the complaint to state no tenable claim in law.

On April 16, 1973, the Supreme Court denied certiorari, in effect upholding the previous court decisions.

Thus, Mr. President, even if we were to only consider the legal and moral principles involved in this matter, the Byrd amendment would stand on its own merit.

But there is more to this problem than legal and ethical questions; there are also strategic and economic implications.

The United States would be foolhardy to rely upon a potential adversary for materials that are required to sustain the Nation's defense efforts.

Chrome is a vital defense material of which the United States has none. We must import all of our needs, and the three major sources are Rhodesia, South Africa and Russia. Furthermore, when the embargo against Rhodesia went into effect, Russia doubled the price of chrome.

We must also bear in mind that Rhodesia has two-thirds of the world's reserves of metallurgical chrome ore.

Metallurgical grade chrome ore is the ore which is used in production of stainless steel. It is the need for stainless steel, vital for defense and essential industries, which make chrome a strategic commodity.

Therefore in reimposing the embargo on Rhodesian chrome, we would be taking a most serious step: cutting off the United States from two-thirds of the world's known metallurgical chrome ore reserves.

Mr. President, when the House of Representatives takes up the issue of Rhodesian chrome, there are two particular aspects to this problem which I believe must be considered.

Critics of the Byrd amendment have argued that the provisions of the U.N. Charter bind the United States to comply with the U.N. Security Council imposed embargo of Rhodesia.

This proposition, that Congress is subservient to the United Nations, has been soundly rejected at all levels of our judicial process—by the U.S. District Court for the District of Columbia, on June 19, 1972, by the Court of Appeals for the District of Columbia, on October 31, 1972, and by the U.S. Supreme Court on April 16, 1973.

In its decision the court(s) did not even take into consideration the fact that the United Nations' imposed embargo is both illegal and unethical in terms of its own Charter, nor did it take into consideration that President Johnson decreed unilaterally—without congressional consultation—that the United States would participate in the embargo.

The second major question which I believe must be asked is whether the United States will allow itself to become dependent upon the Soviet Union for a strategic material that is vital to our national defense? I believe that question can only be answered with a "no."

In looking at this critically important question of a strategic materials embargo on Rhodesia, we cannot allow emotional sophistry to confuse the facts; we must look at the problem objectively and in its entirety.

If this procedure is followed, I believe there can be only one course of action—to uphold the Byrd amendment, which was enacted by the votes of representatives from 46 of the 50 States.

It is a course of action dictated by the national interest.

GOVERNMENT OF THE UNITED STATES OF AMERICA

Mr. ERVIN. Mr. President, Mrs. John C. McClintock has written a brochure entitled "Government of the United States of America," which sets forth in succinct fashion information concerning the United States and its Government. Since I believe that the wide dissemination of this brochure would contribute much to the understanding of the average American in respect to our country and its Government, I ask unanimous consent that a copy of this brochure be printed in the body of the Record.

There being no objection, the brochure was ordered to be printed in the Record, as follows:

Government of the United States of America

(Edited by Frances Steidel McClintock)

How the people of the United States govern themselves with the powers of government divided into a partnership of the national government and the governments of the states; three "separate but equal" branches of government: legislative, executive, judicial.

Area: 3,615,122 square miles (9,363,129.8 square kilometers).

Population (1970 census): 204,839,000. 73.5% urban; 26.5% rural; 88% Caucasian; 11% Negroid; 1% other; 34% under 18 years of age; 66% 18 years and older.

Language: English but many other languages spoken: largest group—9,000,000 Spanish speaking.

Religion: No official religion. Religious preferences: 66% Protestant; 25% Roman Catholic; 3% Jewish; 6% Miscellaneous or none.

Flag.—Stars are for the 50 states of the United States. Stripes are for the 13 colonies (the first 13 states) which declared independence from Great Britain on July 4, 1776 to establish a government of the people, by the people, for the people.

People approve Constitution of the United States 1788. "We, The People of the United States in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America." Preamble.

People agree to government by the consent of the governed—based on rule by the majority with respect for minority.

People elect officials of government to make laws—legislative branch; to see laws are carried out—executive branch; to provide ways to decide arguments about the laws—judicial branch.

People influence government individually or by joining together in political groups or other organizations.

Three Independent But Interrelated Branches of the Federal Government

LEGISLATIVE—THE CONGRESS

[1789—First Congress met in New York City]

"All legislative powers . . . shall be vested in a Congress of the United States . . ." Constitution of the United States, Article I, Section 1.

The national legislature of two chambers meets in the Capitol in Washington, D.C. to make new laws; to change old laws; to investigate matters in the national interest.

House of Representatives

435 Representatives: Number from each state based on population in the state; must be at least 25 years old; U.S. citizen for 7 years; resident of state from which elected; elected every 2 years by voters in a district in state (average number to a district—465,000); may be re-elected; presiding officer: Speaker of the House elected by members; non-voting members: one delegate from District of Columbia, from Guam, from Puerto Rico and from the Virgin Islands.

Propose ways to raise money; elect a President if no candidate has majority of electoral votes; and accuse government officials of crimes in office (impeachment).

Senate

100 Senators:

2 from each state; must be at least 30 years old; U.S. citizen for 9 years; resident of state from which elected; elected for 6 years by voters in state; may be re-elected; presiding officer: Vice President of United States.

Approve treaties; elect a Vice President if no candidate receives a majority of electorial votes; hold trial of government officials accused of crimes by House of Representatives; and confirm or refuse to confirm officials appointed by the President.

Some duties of Congress:

Provides for defense and general welfare; declares war; orders currency made and borrows money; decides federal taxes; regulates inter-state commerce; establishes size of House of Representatives; decides number of federal judges and courts; determines who can become a citizen; admits new states; makes laws for Washington, D.C.; may propose amendments to the Constitution for approval by the states; and additional responsibilities include the General Accounting Office, Government Printing Office, Library of Congress.

How Congress works

A bill (proposed law) must be approved by both the Senate and the House and signed by the President before it becomes a law. If the President disapproves, the Senate and the House each by ⅔ vote may over-ride this veto.

Each of the two chambers divides its work into committees. There are 16 regular or standing committees in the Senate and 21 in the House. These committees meet to make new laws or to change old laws. Committee hearings are held in Washington, D.C., and in other parts of the United States. A committee then reports its recommendations to its chamber of Congress. If approved, the same process must take place in the other chamber of Congress.

Many changes are often made before a bill becomes a law. The money necessary to pay for programs and services is appropriated in the same way a law is enacted.

Senators and Representatives usually belong to one of the two major political parties, Republican or Democratic. In each chamber, the party with the most members selects the leaders: the Speaker of the House, the President pro tempore of the Senate and the heads of committees.

EXECUTIVE—THE PRESIDENT

[1789—George Washington elected first President; 1800—Capital moves to Washington, District of Columbia]

"The executive power shall be vested in a President . . ." Constitution of the United States, Article II, Section 1.

The White House where the President works and lives in Washington, D.C.

The President must be at least 35 years old; must be born a citizen of the United States; must have lived at least 14 years in the United States; is elected every four years (may be re-elected only once); and to preserve, protect and defend the Constitution and to administer the laws made by Congress.

Conducts relations with foreign governments, commands Army, Navy and Air Force and is responsible for the security and defense of the United States, suggests legislation to Congress, including a budget, reports to Congress and may call special sessions of Congress (but may not dismiss Congress), approves or vetoes laws proposed by Congress, pardons a person convicted under a federal law or orders a delay in a punishment, appoints personal assistants, counselors, advisors, commissions who report directly to the President and are responsible only to the President, issues executive orders (which do not need approval of Congress) in matters of administration.

The Vice President must have the same qualifications as President and is elected at the same time and with the President.

Is presiding officer (President) of the Senate but votes only if the Senators are equally divided, assists President in whatever way President asks, if President dies or cannot serve, the Vice President becomes President for the remainder of the term of office.

The President's Cabinet

The chief officials of the executive departments (in many other countries these would be ministries) are called Secretaries, except the Secretary of Justice who is the Attorney General. Appointed by the President with approval of the Senate, they may not hold any elected office, such as Senator or Governor. By custom, they are usually of the same political party as the President and serve as long as the President desires.

They do not act as a group but advise the President and supervise the approximately 3 million employees of the federal government departments. Listed in the order of when they were established, the executive departments are: State (foreign affairs), Treasury, Defense, Justice, Interior, Agriculture, Commerce, Labor, Health, Education, and Welfare, Housing and Urban Development, and Transportation.

Independent agencies

Independent of the 11 executive departments, some 77 separate agencies—boards, commissions, bureaus, administrations—administer special programs and services, regulate government activities and conduct research. A few examples are: Atomic Energy Commission, Environmental Protection Agency, Federal Communications Commission, NASA (National Aeronautics and Space Administration), Securities and Exchange Commission, Smithsonian Institution (museums, research, zoo), U.S. Postal Service.

[Equal Justice Under Law Guaranteed to All Individuals (Citizens and Non-Citizens) by the Constitution]

JUDICIAL—THE COURTS

"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain . . ." Constitution of the United States, Article III, Section 1.

In addition to the Supreme Court, Congress has established two other groups of federal courts: the U.S. District Courts and the U.S. Circuit Courts of Appeals. In the federal courts are approximately 500 judges, appointed for life by the President with approval of the Senate.

The Supreme Court meets in Washington,

D.C. to support the Constitution of the United States, to administer justice impartially and to *"do equal right to the poor and to the rich."*

The Chief Justice and 8 Associate Justices

Hear appeals on constitutional and other questions from courts of appeals, district courts or supreme courts of states.

Review, if the court is requested and agrees to do so, conflicts between U.S. laws, between U.S. laws and state laws, between laws of different states, and between rulings of courts of appeals.

Try cases affecting diplomats and those in which a state is a party.

Courts of Appeals: 3 or more judges in each of the 11 circuits (a geographic area in which there is a group of district courts) hear appeals from decisions of district courts on questions of law, not of fact, and from decisions of federal boards and commissions.

District Courts: At least one federal judge in each of the 94 federal judicial districts in the United States (each state has at least one district court; states with large populations have more than one) holds trials.

Criminal: violations of federal laws and thus crimes against the government. (A grand jury decides whether there is cause to hold a trial.)

Civil: disputes between individuals of different states and cases involving civil rights under federal law with the court providing a tribunal for the hearing and settlement of arguments.

In each court there is a U.S. district attorney, serving under the Attorney General, who prosecutes those accused of crime and represents the U.S. government in civil cases, and the U.S. marshal, who has custody of prisoners and carries out the orders of the court.

Additional U.S. Courts: Court of Claims, Customs Court, Court of Customs and Patent Appeals, Tax Court, and Court of Military Appeals.

In the federal courts, the government is represented by officials of the Department of Justice of the United States. The Attorney General, the chief law officer of the federal government, represents the United States in legal matters. The Solicitor General assists the Attorney General and acts for the United States in cases before the Supreme Court and the Courts of Appeals.

The individual is protected and effected by many types of laws:

U.S. Constitution and amendments; Acts of Congress and treaties; State constitutions and amendments; State laws and statutes;

County rules and regulations; and city and town rules (ordinances) and regulations.

The U.S. Constitution states that neither the federal government nor the governments of the states can deprive a person of life, liberty or property without due process of law. Legal procedures must be reasonable and not arbitrary. A person is presumed innocent until proven guilty. These guarantees also are the basis for the civil rights of each individual in the United States.

NATIONAL ELECTIONS

"1st Tuesday, following the 1st Monday in November in even-numbered years."

Every two years, voters in the states elect: 33 U.S. senators (⅓ of the 100 members of the U.S. Senate) and Senators to fill vacancies that occurred since the last election; and 435 members of the U.S. House of Representatives. Every state has at least 1 Representative (Congressman).

Depending on population established by census every 10 years, Congress decides the number of Representatives for each state. The state is then divided into Congressional Districts. Voters elect one Representative from the District where they live. Term of office begins January 3rd following the election.

Every four years, voters in the 50 states and the District of Columbia elect the President and Vice President of the United States. The candidate who wins the most votes in each state receives all the electoral votes of that state, the same number as the number of U.S. Senators and Representatives from that state. To win, a candidate must receive 270 electoral votes of the total 538, rather than the largest number of votes of all who voted. On January 6th, the President of the Senate (Vice President of the U.S.) reports to Congress the electoral vote of each state and formally announces the election of the President and Vice President, who will be inaugurated (take the oath of office) January 20th.

50 GOVERNMENTS OF THE 50 STATES

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States are reserved to the States respectively, or to the People." Constitution of the United States, Amendments, Article X.

The U.S. Constitution guarantees to all states a form of representative government with officials elected by the people.

Each state is different but every state has a constitution approved by the people of the state. (Those of the first 13 states pre-date the U.S. Constitution.); three separate branches of government; a capital city with a state-house; and a state flag.

State legislatures or assemblies have two chambers, except for Nebraska which has one. They are organized and operate in much the same manner as the U.S. Congress. In the 50 states, voters elect a total of 7,500 lawmakers to: provide for the protection of the lives and property of the people; decide programs and services needed by the people of that state; establish qualifications of voters and the laws and rules for elections; determine money needed and taxes to be collected; and authorize county, local and other types of district governments and approve any change in these governments.

State executive officials elected are governor and lieutenant governor. Others who may be elected are secretary of state, attorney general, treasurer, auditor, and superintendent of education. State executive officials perform a variety of functions, such as: administer state colleges, universities, parks, hospitals and prisons; grant licenses to doctors, lawyers, nurses, automobile drivers; regulate those utilities which are used by the public but are usually owned by private companies, such as gas, electricity, telephones; collect taxes from those in the state and distribute the money collected; build and maintain highways and recreation areas; and enforce standards for education and health.

State judiciary has courts and judges to interpret the laws of the state and to apply these laws in both criminal and civil cases. There may be municipal courts with a justice of the peace or magistrate in local communities. District courts, superior courts, circuit courts or common plea courts, special courts such as children's courts (juvenile courts), courts of appeals—are other types of state courts. The highest court of each state is the state supreme court. In the states, judges are often elected to serve for a specified number of years.

County and local governments vary in each state. As the state government permits, county officials (some 3,000 counties in the United States with a wide-range of authority) are elected to do such things as collect and distribute taxes; keep official records of births, marriages, deaths, property; build and maintain roads in the county; provide law courts, judicial officers, detention facilities; maintain a county capital (county seat) with a county court house; and supervise elections.

Local officials are elected to make laws (ordinances) and to administer the village, town or city government. 50% of some 40,000 local governments are in communities with populations of under 1,000. Officials are often elected to be responsible for only one service or program, such as schools or libraries. 500,000 officials—mayors, aldermen, councilmen, assessors, dog-catchers—are elected to some 80,000 units of local government, which are responsible for: protection of lives and property (firemen and police); safety of water, food, buildings; prevention of disease; necessary services for the sick and those in need; building and maintenance of schools, parks, libraries, hospitals, courts, jails, streets and sewers; removal of waste (garbage); and collection of taxes and payment for local services.

Metropolitan councils of government have developed as a way to solve problems of concern in large urban areas, such as water and air pollution. These cooperative councils are made up of representatives of the participating governments.

State, county, local or metropolitan governments administer many federal programs with the federal government paying all or part of the costs.

Elections

State laws (statutes) determine when state, county, local elections are held. About one half of state elections are held at the same time as national elections.

State, county and local officials usually serve two or four year terms. In states where a number of state executive officials are elected, the voters have a wider choice, but these officials can be of different political parties unlike the national government where the chief executive officials, the President and Vice President, are of the same party. County and many local elections can be non-partisan with candidates not identified by political party.

In some state, county and local elections, citizens may also vote on questions on the ballot, such as amending the state constitution, permitting a state lottery, approving money for a new school or hospital. Questions of national interest can be on local or state ballots.

VOTING NOMINATIONS POLITICAL PARTIES CAMPAIGNS

The right of the citizen to vote in all elections is protected by the Constitution of the United States and its amendments. Each of the 50 states decides the qualifications of voters and rules and regulations for all elections within the state. Most states deny the right to vote to criminals and the insane. Decisions of the Supreme Court of the United States and federal laws further define or expand the right to vote. States must then change their laws to agree.

To vote, a citizen must be at least 18 years old, conform to state laws and be a bona fide resident of a village, town, city or county.

Register in person (or by mail in some states) with election officials of local government.

Go to a polling place on election day and mark (in private by hand or by machine) the paper on which voter votes. In many states, if voter is to be absent, voting may be by absentee ballot.

There is no legal obligation to vote.

Political parties

Political parties are not mentioned in the Constitution but are the means by which contests between individual candidates (those seeking election as government officials) are decided and the ways in which different points of view can be debated. For more than 150 years, there have been two major parties. The donkey and the elephant as symbols for these parties were first used in cartoons in the 1870's. Today most elected officials belong to the Democratic or Republican party. Other parties are formed by those not satisfied with the two major parties.

State laws and state parties decide how voters affiliate with a party and determine the organization of the party in each state. Much of the strength of political parties is in the state organizations of the parties. National organizations of political parties may make regulations about the qualifications for those attending national conventions and for members of national committees. However, political parties do not control the actions of the party members.

Nominations

One of the main purposes of political parties is to select candidates for election to government office. Candidates may be nominated:

By party officials—who meet (caucus) to select a candidate and place the candidate's name on the ballot for the next election.

In a primary—a special election where members of a party vote for their choice of the party's candidates. Most states have primaries for members of Congress and state government officials. There is no national preferential primary for President and Vice President, but 23 states and the District of Columbia held some type of presidential primary in 1972.

At a convention—party members meet to choose candidates. These delegates to conventions are chosen by district, county, state caucuses or conventions, by the state committees or primaries of the political parties. National and state conventions also decide a program or platform stating the party's position on issues.

The first national convention of a political party was held in 1831.

A candidate is also nominated if a specified number (depending on the laws of the state) of registered voters sign a petition (written application) that the candidate's name be placed on the ballot of the next election.

Campaigns

Campaigns to win elections follow nominations. In addition to the political party organizations, other political groups form to support a particular candidate or group of candidates. Those not affiliated with political parties also work to elect candidates of their choice. Campaign costs are paid by contributions from individuals and groups; costs of elections (printing ballots, etc.) are paid by state and local governments.

Political parties work at the precinct, ward, city, county, state and national level to elect their slate of candidates (the ticket). A precinct is the smallest political geographic area within which a certain number of voters live. There are thousands of precincts in the United States. A group of precincts may form a ward or election district. A city or town has a number of wards. A county has cities and towns. A state has counties and cities and towns. The states form the nation, the United States.

THE LAW AS PROMISE AND CHALLENGE

Mr. TALMADGE. Mr. President, the Senator from Massachusetts, Mr. KENNEDY, was honored speaker last May at Law Day exercises at the University of Georgia, School of Law, and his address was published by the Georgia Law Review.

Senator KENNEDY delivered a very thoughtful message on the rule of law in our constitutional government. He called for a rekindling of the virtues, "courage and hope, work and duty, faith and sacrifice, truth and justice, and the worth of the common citizen," which helped build the American Nation, and asserted that these are the virtues which will keep our country strong, secure, and united in the future.

I commend Senator KENNEDY's address to the attention of the Senate, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

[From Georgia Law Review, Spring 1974]

THE LAW AS PROMISE AND CHALLENGE

(By Edward M. Kennedy)

It is a great pleasure to be here this morning at the University of Georgia School of Law. And I am honored to share this forum with your governor, Governor Carter, President Davison, Dean Beaird, my friend Professor Dean Rusk who served this country as Secretary of State and for whom President Kennedy had such high regard, and with so many members of the Georgia Bar and distinguished public officials. It is a special honor to be here on Law Day with so many friends, scholars and students who will carry the banner of the law in years to come, with its great power and awesome responsibility.

There are many famous ties between Georgia and Massachusetts. Harvard was the first private college in the nation, but Georgia was the first State University. Old Ironsides, the namesake of the Constitution and the most famous ship in American naval history, rests in permanent berth today in Boston Harbor, but it was built with live oak and yellow pine from Georgia. And in the early days of the Revolutionary War, the battle of Bunker Hill was fought in Massachusetts, but it was fought with powder captured from the British in Savannah and shipped to Massachusetts by the patriots of Georgia. But the tie I like the best is the story of the little band of Puritans who left Dorchester, Massachusetts in 1692 to seek a better life in America's early days. They travelled South, and eventually, crossing the Savannah River, they came to Georgia and founded the Midway Colony. The Puritan colony prospered here in Georgia, and played such a leading role in the War for Independence that their county was christened "Liberty". In the generations that followed, these descendants of Massachusetts gave Georgia some of its greatest leaders, including Senator Augustus Bacon, one of the earliest graduates of this law school, who had the distinction of being the first United States Senator elected by the people under the 17th Amendment of the Constitution.

Driving in from Atlanta this morning, seeing the famous red hills of Georgia and the beautiful Southern homes for which Athens is renowned, recalling the famous history of this great State and University, it is easy to understand the strength of Georgia and her people, and the role of leadership that Georgia has assumed in the South and throughout the nation. Over the years, this School of Law has been a source of excellence in legal education, a training ground of public servants for Georgia and for America as a whole. United States Senators like Augustus Bacon, Walter George, Richard Russell, and Herman Talmadge are among the finest gifts that any law school ever gave the nation. The Talmadge chair soon to be dedicated here is an immensely fitting tribute to his service to the people of Georgia and the nation. The law school can be proud of its record in the past. You can be proud of the expansion of recent years, the growing scholarship and endowment program, and your strong new senior faculty. You can be proud of the role that the school will be playing in the future in state, national and international affairs.

In 1961, a few weeks after he became Attorney General of the United States, Robert Kennedy came to Athens to address the Law Day exercises. It was his first formal address as Attorney General, and he emphasized America's historic debt to law as the source of freedom:

"Law is the link between man and freedom," he said. "We know that it is law which enables men to live together, that creates order out of chaos. And we know that law is the glue which holds civilization together." [1]

If that glue seems weaker now, we can take comfort from our common history. In our most challenging moments in the past, the rule of law in America has been a fighting faith.

Two centuries ago, the people of Massachusetts and Georgia and eleven other tiny colonies fought together to create this new experiment in democracy, and America became a testament of liberty and a beacon of freedom to all of the world. A century ago, in America's darkest night, sons of Georgia and Massachusetts fought against each other and died for their beliefs, but the Republic survived intact, stronger than before. A generation ago, men of Georgia and Massachusetts stood together once again, from the trenches of Western Europe to the jungles of the South Pacific, fighting to preserve our freedom against the world-wide threat of tyranny and foreign domination. Today we share a different kind of struggle. It is not a struggle with arms and bombs and tanks and planes against a threat without. Instead, we fight against a deeper threat within, where the only battleground is the procedure of the Constitution, where the only weapons are principles and ideas, and where the only injuries are self-inflicted wounds. It is a fight for the conscience of America, for the preservation of the rule of law, and for the foundation on which all other freedoms rest. That is the sort of challenge that has always summoned forth the best in us.

Too often in these days, it is the fashion to see America only as a troubled nation, searching for its soul. But that diagnosis is incomplete because it misses the most important truth about America and the rule of law in 1974. Yes, we are a troubled nation. We struggle under the first Presidential impeachment proceedings in a century. We struggle under the endless seige of inflation and unemployment in every section of the country. We struggle under the racial and social tensions that deny the blessings of our heritage to so many of our citizens. All that is true, but there is a brighter and more important side. Those who look at America and see only the troubled face do not see the real America, because they do not see our basic strength. They do not realize that Watergate is more of a challenge than a crisis.

The heart of our strength today—as it has always been before—is in our people and their deep and abiding faith in the rule of law, in the faith that our system of government is equal to any challenge. We believe in a government of laws, not of men. We believe in equal justice under law. We believe in robust and open debate on every issue and we believe in freedom of the press. Above all, we believe in our Constitution and Bill of Rights and the rule of law. They are the source of our greatness in the past and they are the source of our strength today. Finally, they are the source of our hope for tomorrow and the future.

That is why the process of impeachment is not a process to be feared. It is a process provided by the Constitution,[2] subject to all the rights and obligations familiar to the law. So long as the process is thorough, fair, and open, and guided by the law, the nation can have full confidence that through the

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process our democracy will not only heal itself, but emerge stronger than before. Jefferson said that the price of liberty is eternal vigilance. Years from now, the truly lasting effect of the impeachment process may well be its effect on our children and future generations, as an historical reminder of how easily liberty is lost when vigilance is weak. As Goya's famous etching notes, when reason sleeps, monsters take control. Because reason slept in recent years, we have passed through an era of profound abuse of freedom's basic principles. Although we see the facts still dimly, it is not too much to say of this period, that America is now emerging from the most dangerous attack on our liberties and free institutions in our history.

I do not say this lightly, nor do I say it necessarily as an indictment of any particular President or Administration. We know that all the evidence is not yet in. We also know that long before the current Administration came to power, the needs of Watergate had been planted in the excesses of the Cold War era and in the McCarthy period of the Fifties. The seeds of Government repression were nourished by the methods used to contain the controversy over America's deepening involvement in Vietnam and to halt the violence in our cities in the decade of the Sixties. But it was not until Watergate that the abuses threatened to swallow up the rule of law. As students and scholars of the law, you know the pattern as well as I. In recent years, dragnet grand jury investigations and conspiracy prosecutions were brought by an Administration bent on undermining freedom of the press and stifling dissent and free assembly. Wiretapping was aimed at journalists and others who opposed the actions of the Administration. Privacy became a forgotten basic right. Enemy lists were put together. Respected Federal agencies were subverted in the name of politics. Justice wept as unnecessary mass arrests were used to sweep the streets of the nation's capital, in the very shadow of the great monument to Washington and the memorial to Lincoln, made of Georgia marble. In each instance, men of conscience in and out of public life stood up in protest against these assaults on the Constitution and our basic liberties. But it was not until a lone night guard saw adhesive tape on an exit door in Washington's wealthiest office building—it was not until two young news reporters of almost unbelievable tenacity took up the trail—it was not until a Federal District Judge refused to allow the cover-up to stain his court—it was not until these events that the alarm was sounded and America's eyes were opened to what had been happening to our country.

Watergate has many heroes, but there are two public servants I would single out today. Rarely has the nation been better served, rarely has the rule of law had two more eloquent or more faithful and persuasive teachers than the two great lawyers from the South who led the Senate in its historic investigation of the crisis, Sam Ervin of North Carolina and Herman Talmadge of Georgia. Day after day, witness after witness, while the nation watched, their Senate Committee developed the facts of Watergate. They laid the foundation for the growing national awareness and understanding we have today. Sam Ervin and Herman Talmadge gave us all a living lesson in the rule of law. They helped to teach the world the way democracy works. Thanks to them we know that the Constitution is alive and well in 1974, and America is in their debt. Now the course of justice is in its channel once again and the current is flowing swiftly. But we cannot relax our guard or be distracted from our mission.

In the short run, a major test of the rule of law is yet to come—the way in which Congress deals with the future steps of the impeachment process. Impeachment is a strict procedure of the constitution, and we cannot bend the process. We can never allow impeachment to become a political weapon in the hands of a willful Congress, or a vote of no confidence in the President or his Administration. Instead, it must be the high responsibility of each member of the Senate and the House to carry out his duty with the fullest possible regard for the rights of the President and all the other individuals caught up in the investigation. In "A Man for All Seasons," Thomas More was urged by a well-meaning friend to bend the law to serve another end. Refusing, he asked:

"What would you do? Cut a great road through the law to get after the devil?"

And his friend replied: "I'd cut down every law to do that."

More answered:

"When the last law was down, and the devil turned round on you—where would you hide, the laws all being flat? This country's planted thick with laws from coast to coast, and if you cut them down do you really think you could stand upright in the winds that would blow then? Yes, I'd give the Devil the benefit of the law, for my own safety's sake." [3]

That is why, for the country's sake, the benefit of the laws must be applied at every step of the impeachment process. That is why impeachment can never be just a trial of the President by Congress. It is also a trial of Congress by the country, as we exercise the solemn responsibility entrusted by the Constitution to the Senate and the House of Representatives. At the present time, the House of Representatives is setting an excellent example of the dignity, impartiality, skill, caution and even-handed justice that the Constitution requires and the Congress owes the country as the investigation proceeds, and I am confident the Senate will do likewise, if and when the occasion should arise. In the long run, however, once the impeachment issue is resolved the even greater challenge of Watergate is whether America can muster the strength and skill to carry on the work of rebuilding the people's shattered confidence in the integrity of their government.

Ironically, it is the institutions most central to our security and most central to the rule of law that have been tarnished most by Watergate. It is the Justice Department, the Federal Bureau of Investigation, the Central Intelligence Agency, and the Internal Revenue Service that have been the primary victims of the lack of respect for institutions and the law. There are five important steps to take, if we are to insure that these and other Federal agencies play their proper future role.

(a) We should institutionalize the office of the special prosecutor on a continuing or at least a readily available basis. The outstanding role performed by Archibald Cox and Leon Jaworski can and should be carried into other areas, in a new office of federal special prosecutor, independent of the executive branch of government. While the principal responsibility for preventing and exposing wrongdoing in the executive branch rests with the President as chief executive, occasionally, as we have seen, the responsibility is ignored. That is when the danger to freedom and the rule of law is greatest. That is also when the need for an independent prosecutor is most deeply felt. Difficult questions arise in terms of jurisdiction, authority, accountability, and conflict and cooperation with other Federal agencies, but the need is too great for us to miss the opportunity.

A permanent special prosecutor would provide constant vigilance against the abuse of power within the government. Only in that way can we guarantee that those who rule will be subject to the rule of law. Only in that way can we convince America that our freedoms are safe and that we have taken the most effective step to guarantee that there will be no more Watergates.

(b) We must revitalize the FBI within the Department of Justice. We need greater safeguards to insure that the FBI is free of political influence. Its operations and activities should be opened to far more public scrutiny and Congressional oversight. Some have advocated that the FBI be taken out of the Department of Justice and made into an independent agency. I do not agree. The Bureau's basic investigative purpose is best served as part of the Department of Justice. The danger of independence is that it would breed isolation, and unresponsiveness, and greater secrecy. Just as in the Department of Defense we adhere to the basic principle of civilian control over the professional military establishment of the nation, so we must adhere in the Department of Justice to the basic principle of civilian control over professional law enforcement. The Houston plan, the Plumbers, and all the other evils of Watergate are too fresh in mind for America to take a step today that could lead to the creation of a national police force in the future.

(c) Unlike the FBI, there is strong justification for the Internal Revenue Service to be independent of the Administration. The IRS does not develop tax policy; it does not regulate; it does not prosecute. Those tasks are reserved to the Justice Department or the Department of the Treasury. Therefore, I advocate that consideration be given to establishing the IRS as an independent agency, with its Commissioner appointed for a limited term of years. In an area as sensitive and basic as taxation, there can be no special treatment for any taxpayer, rich or poor, individual or corporation. Republican or Democrat, friend or enemy, all must be treated alike and the public must have full confidence that this is so. To that end, the rulings, activities and statistics of the IRS should be disclosed more fully to the public. We must end the discriminatory and burdensome procedures by which too many citizens today are singled out for audit. In turn, the IRS should be subject to audit by Congress's own watchdog, the General Accounting Office. New procedures should be developed to insure that all tax returns remain closed to political prying. Only in this way can we guarantee the fair and even-handed application of the tax laws of the nation.

(d) As regards the CIA, there is no need whatever for that agency to involve itself in any way in America's internal affairs. Its mission must be renewed and confined by emphatic legislation. Never again can we allow the CIA to engage in domestic activities here at home or drag us into secret wars abroad. Never again can we allow it to gather information or prepare psychiatric profiles on American citizens. Nor can we allow it to provide materials and support for White House political operations. Congress and our legislative oversight committees sit today in Washington to guarantee that the CIA has put its house in order, and I am confident we are equal to the challenge.

(e) Finally, most difficult but also most important for the future role of law, we need a new approach to the concept of federal justice and the role of the Department of Justice. President Theodore Roosevelt wrote in 1904, "Of all the officers of the Government those the Department of Justice should be kept most free from any suspicion of improper action or partisan or factional grounds." [4] For the Office of the Attorney General, the answer does not lie in insulation, or separation, or creation of an independent agency. Instead, the answer lies in the quality and competence of the Attorney General. The President must set his sights high, reaching for honest men, learned in the law. The Senate must use its own power of advice and consent to insure that the qualifications for appointment are fully met. The Bar Associations too must play a greater role, suggesting candidates and advising

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Footnotes at end of article.

on the qualifications to be sought. A nominee for Attorney General should receive at least the same high scrutiny reserved today for Justices of the Supreme Court of the United States. That is the road of return to excellence in federal justice, and Congress should demand no less. The same return to excellence must also be our challenge in every other area, and the law will help us find the way. Oliver Wendell Holmes of Massachusetts, who stands tall in the pantheon of American jurisprudence, and who was the grandson of an early pastor of the Midway Colony in Georgia, put it best when he said:

> [A]s life is action and passion, it is required of a man that he should share the passion and action of his time, at peril of being judged not to have lived.[5]

In the life of the law, we do not pray for easy lives. We pray to be stronger men and women. There is no secret formula waiting to be discovered to guide us to the future or to make the law prevail. The ancient virtues that built this country and made it great before are the self-same virtues that will keep it great today—courage and hope, work and duty, faith and sacrifice, truth and justice, and the worth of the common citizen. Without these virtues, the rule of law is helpless. The Constitution becomes just another parchment under glass. But with these virtues, we can rekindle the true patriotic spirit of America, and the flame of liberty will burn as brightly as before. The Constitution will come alive again. The people will find leaders able to bring back the greatness in our nation's character. America will prosper, North and South together.

Long ago, in another Athens, the land where the idea of democracy was born, Pericles, the great statesman and military commander of the ancient world, paid tribute to the citizens of Athens who had fallen in the first year of the terrible war with Sparta. In the immortal words of the funeral oration honoring those fallen heroes, Pericles said:

> The secret of happiness is liberty,
> And the secret of liberty is courage.[6]

Across the centuries, across two thousand years, those words are as true for America today as they were for ancient Greece. That is the real message of the rule of law in 1974, and that is the message I leave with you on Law Day here in Georgia.

FOOTNOTES

[1] Law Day Address by Attorney General Robert Kennedy, University of Georgia School of Law, May 1, 1961.

[2] U.S. Const. art. I, §§ 2, 3.

[3] Bolt, "A Man For All Seasons," in Laurel British Drama: The Twentieth Century 395 (R. Corrigan ed. 1965).

[4] Letter from Theodore Roosevelt to Attornew General William H. Moody, Aug. 9, 1904, in H. Cummings, Federal Justice, Chapters in the History of Justice and the Federal Executive 500 (1937).

[5] Memorial Day Address by Oliver Wendell Holmes, Jr., John Sedgwick Post No. 4 of the Grand Army of the Republic, Keene, N.H., May 30, 1884, in The Occasional Speeches of Justice Oliver Wendell Holmes 6 (M. Howe ed. 1962).

[6] Pericles' Funeral Oration in The Ancient World: Justice, Heroism, and Responsibility 55 (Z. Stewart ed. 1966). *Cf.* Whitney v. California, 274 U.S. 357, 355 (1927) (Brandeis, J., concurring).

AEROSPACE INDUSTRIES ASSOCIATION OF AMERICA ENDORSES COUNCIL OF ADVISERS ON SCIENCE AND TECHNOLOGY

Mr. MOSS. Mr. President, "High Technology in World Affairs—And Ours" was the subject of a speech by the president of the Aerospace Industries Association, Karl G. Harr, Jr., today in an address before the World Affairs Council of Orange County, Calif. In this highly astute and provocative presentation, Mr. Harr considers the importance of high technology to this country and the means of increasing its benefits to us. A few of Mr. Harr's suggestions may be considered controversial, but I most heartily agree with a quotation in that article from Secretary Frederick B. Dent which stated:

> To downgrade scientific research and technological development is to decelerate the main engine that gives a dynamic, wealth-generating thrust to our society.

Of particular interest in Mr. Harr's speech is this statement:

> The scientific community and our aerospace industry are of the opinion that some within the Congress are on the right track in their sponsorship of bills which would establish a White House Council of Advisers on Science and Technology.

S. 2495, which establishes the Council of Advisers on Science and Technology, was first introduced by my colleague, Mr. Magnuson, for himself, myself and Senator Tunney, on September 27, 1973. Since that time, it has undergone several revisions and several days of hearings have been held.

Through both testimony and correspondence, we have received the views and suggestions of prominent scientists and engineers and the societies that represent them. We have heard from leaders in government and industry as well as from educators and economists.

S. 2495 has been through markup in the Commerce Committee and will soon be marked up by the Committee on Aeronautical and Space Sciences. It is my belief that this landmark legislation offers important ammunition in the fight against several major ills besetting this country.

Mr. President, the significance of Mr. Harr's remarks, I believe, will make them of value to my colleagues, and I ask unanimous consent that they be printed in full in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

High Technology in World Affairs—And Ours

(By Karl G. Harr, Jr.)

Obviously the aerospace industry is a high technology intensive industry. That is indeed what it is all about. One might even say that the term aerospace is merely a convenient shorthand label for that industry which has had to blend airframes, propulsion systems, guidance systems, electronic and any other high technology components needed to meet governmental and commercial requirements at the most advanced end of the technology spectrum. The cruel dictates of invading space; the standards required to produce totally reliable high speed aeronautical vehicles for mass transportation; and the fierce national pressure to insure superiority in increasingly complex weapon systems—among many other similar demands—shaped and determined the nature of this industry.

In fact, serious thought was given a few years back to changing the name of the Aerospace Industries Association to something like the High Technology Industries Association in order better to describe the industry's true nature. For many years now, after all, we have numbered in our ranks about one fifth of the nation's scientists and technicians.

All of the foregoing is merely by way of establishing that for the past two decades or so we have perforce become very sensitive to and necessarily somewhat knowledgeable about the roles, real and imagined, good and bad, appreciated and unappreciated, played by high technology in today's world.

In short, how advances in technology affect and are affected by major trends in world affairs has been a matter of prime concern to us.

And, of course, we see all this from the point of view of the United States, which for the last decades at least, has been the world's leader in high technology.

In my remarks to you today I would like to try to sort out some of the facts about the role technology, particularly high technology, plays and will play in our American lives. And then I would like to examine with you the degree to which we as a nation are giving due recognition to that role in the conduct of our affairs.

In some areas, the facts are simple and generally acknowledged. High technology clearly underpins our national security. The deterrent capability of the U.S., substantially since World War II, has depended upon advanced weapon systems based on technological superiority. To an increasing degree so has its ability to cope quickly and effectively with a wide range of other politico-military situations.

Most people understand and accept this fact.

It is also obvious to most that our national preeminence in space exploration rests squarely on a base of high technology superiority.

At the other end of the spectrum, when it comes to addressing multiple social ills the potential role of high technology may be generally appreciated but it is much less clearly perceived.

It is abundantly apparent today, however, that the immediate problems of primary concern throughout the world lie in the area of economics.

For the developing as well as the most highly developed nations, for those of East and West as well as among the unaligned, for both the haves and the have nots, such concerns are today paramount. With very few exceptions we're all in together, and it looks like we are all in for, together, a major economic crunch.

We all have inflation. We all are faced with the effects of shortages. We all feel sharply the consequences of trade balances and imbalances. We all depend to an increasing degree on the productivity of our respective economies. And virtually all of us suffer economic hostages beyond our own border and largely beyond our national control.

President Ford could well have been addressing the entire world in his first message to Congress when he said "We have a lot of work to do."

Of course, for the United States alone, each of the economic problems and concerns of the whole world takes on a specific form. In the first instance it must be *our* productivity we are concerned about, *our* trade balances, *our* balance of payments, *our* access to materials, and *our* battles against inflation. For it is upon the solution to such problems that *our* economic well-being depends.

I submit with deepest conviction that in addressing these problems we would do well to start by taking a new, closer and more penetrating look at the particular role high technology has played in our economy in the past two decades and what has evolved concerning this role over that period.

The case with respect to trade is most

easily made. The world market represents the one big arena where nations can compare many elements of their respective economic systems, particularly their relative positions in industrial technology. We know that trade balances are traditionally measured in four categories. In addition to agriculture and raw materials, there are low-technology, mass-produced goods and high technology or technology-intensive products such as aircraft and electronics.

The contribution of all high-technology products to a favorable U.S. balance of trade has, over recent years, been outstanding. The National Science Foundation, in its 1973 Report of the National Science Board, divided all manufactured export products into technology-intensive and non-technology intensive categories. The U.S. trade balance associated with these two categories shows that the favorable balance in technology-intensive industries doubled in the 1960–1971 period, with the favorable balance in 1971 totalling $12.4 billion. Whereas, by contrast, the U.S. has had a large and ever increasing deficit trade balance over the same period in the low-technology product area. The deficit there in 1971 totaled $1.6 billion.

Simply stated, our ability to compete internationally in recent years has depended almost entirely on two categories of export—high technology products and agricultural products. And, of course, one of the principal elements in our favorable agricultural position is the technological superiority of our agriculture.

Our high technology capabilities affect our trading position in another way as well. As the economies of the nations of the world are becoming drawn into constantly greater interdependence, technology is becoming an increasingly vital playing card in the trades nations make. One nation's oil for another's technology, a more stable detente in exchange for technological help, access to local markets in exchange for technology, and the like, are becoming the name of the game.

Looking beyond their trade significance, our high technological capabilities also affect our fortunes in world affairs and domestically as the key to finding solutions to our other most pressing economic problems.

Take for instance inflation, a shortage economy, and shortfalls in productivity. Bulking these three interrelated problems together, an obvious paramount need is to counter each problem with an appropriate corrective action. Meet the excessive demands that have created inflation by increasing supply. Meet the shortages with effective and enlightened import policies or embark upon intensive searches for substitutes. Meet the effects of poor productivity by finding better, more cost effective ways of doing things. None of these solutions hints that we should buy less or do without the things we would like or increase our unemployment or welfare programs because we can't compete with foreign imports. No, they strongly hint to the contrary, and most of us see clearly that technology is the primary tool whereby supply can better meet demand, whereby substitute materials or techniques can be found to solve shortages and whereby productivity can be enhanced.

Parenthetically let me digress here to answer the query some pose to the effect that if we could just deemphasize some of our high technological endeavors then we could better apply our resources to the other needs of society. This premise ignores the fact that, to an increasing degree, the latter depends on the former. They need not, in fact cannot, be mutually exclusive. Frederick B. Dent, Secretary of Commerce, recently made an incisive statement on this subject.

"The priority we give to science and technology will have a direct and corresponding impact on our supply of energy resources, on our economy, and on the quality of our lives. To downgrade scientific research and technological development is to decelerate the main engine that gives a dynamic, wealth-generating thrust to our society. This is to say that to be *for* social improvements and *against* technology is, to put it mildly, an illogical posture."

Yet, even in the face of evidence and experience of this kind, we as a nation have entered a period of considerable decline in national technological support.

For purposes of illustration, comparisons with foreign government activity in research and development cannot be ignored. World trends in growth rates for research and development highlight the story most emphatically. In the 1967 to 1971 period, while the U.S. realized only a 16 percent growth in government R&D expenditures, France, Germany, the United Kingdom, Japan and the U.S.S.R. experienced rates of 27, 82, 21, 147 and 61 percent respectively. In other words, while U.S. R&D has received smaller and smaller shares of Gross National Product in recent years, other industrialized nations have been initiating programs substantively increasing their R&D efforts.

Another telling reflection of the slimming of the business and government R&D dollar in the U.S. is that, in current dollars, total R&D spending grew at an average annual rate of 4.1 percent from 1967 to 1973. In terms of constant dollars, however, U.S. R&D spending has shown a net decrease—difficult to comprehend in a country so dependent on high technology.

Close examination of foreign technology enhancement programs demonstrates how far-reaching and substantial their programs are, as well as how committed their governments are to encouraging civilian technological advancement as a major means of insuring real economic gains at home and in world markets.

Approaches by industrialized nations take two major forms:

1. *Direct financial incentives* to private industry through loans and grants—by far the most important method used to stimulate research and development.

2. *Tax policies* that supplement direct financial aid for R&D projects, primarily through accelerated depreciation or tax credits.

Within these broad approaches, specific applications of policy vary in interesting ways. France, for example, has promoted the establishment of an independent computer industry. Through loans and grants manufacturers are assisted in a program that even insures a market by partially subsidizing software purchases by private companies. French tax laws have stimulated exports, encouraged pooling of R&D activity, enhanced investment risk-taking and supported research centers operated by industry associations. Japan's approach also includes liberal tax and depreciation allowances to encourage new technologies. And its assistance to industry includes interest-free government loans with no required paybacks on developments that fail. West Germany has a government agency whose major thrust is to provide support for innovation in key technologies. The United Kingdom and Canada have similarly aggressive approaches, obviously taken, in their view, in the total public interest.

Even a casual view of foreign incentive policies reveals a commonality among such countries' objectives:

1. There runs through them the need or challenge to improve their competitive ability in world markets.

2. There is the common desire for strong national technology through cooperative industry-government relationships.

3. There is the obvious effort to promote national prestige—national preeminence in some selected high technology field.

In the U.S., however, not only has support for research and development dramatically fallen off but there have been many other actions and non-actions positively detrimental to technological advances. For example, those who espouse the concept of investment must accept its corollary—incentive. Investment and risktaking respond to incentive. It therefore follows that a government that encourages technology must likewise encourage incentives. Now, in Washington and elsewhere, there is an impressive array of studies which explore in depth the various avenues that government might pursue in the way of incentives to reinvigorate innovation and research and development. There is no shortage of options as to incentives. There is a total shortage of action on them within government at the present time.

Also, we have long been awaiting passage of the Trade Reform Act so that negotiators and technical teams can proceed with the critically important GATT negotiations. In this context we have been agonizing without resolution over our posture with respect to the transfer of technology abroad and the pros and cons of the role of the multinational companies in our economic society. Meantime, fine mesh governmental screening mechanisms have evolved which threaten to choke off even those exports which are unquestionably in the national interest.

Additionally, controversial matters which have held up final authorization of and funding for the Export-Import Bank remain unresolved at a time when the cost of oil imports alone greatly jeopardizes our trade balance. Eximbank has a proven record as one of our most valuable tools for exporting high technology (and high value) U.S. products to developed and developing countries alike (and incidentally turns over to the U.S. Treasury some $50 million each year).

Lastly, there are those in government who deny to its contractors—particularly to suppliers to the Department of Defense—the right to recover in their pricing a fair share of the costs of company-initiated innovative effort—known as IR&D or Independent Research and Development. Yet volumes of data exist to document the remarkable benefits to the nation and to the government that evolve from the initiative of industrial managements and the inventiveness of their scientists, engineers and technicians. For defense contractors not to recover their valid costs for IR&D is, in effect, an industry subsidy of government as well as a deterrent to innovation in the most sophisticated areas of technology.

It would appear that it is time to dust off our inventory of ideas on incentives and, in the interest of shoring up our eroding technological base, give some of them a try as competing nations are doing. What are some of the ideas?

Taking the most controversial first, there is the proposition that the high costs and high risks of technological development might well be spread among a number of firms. Generally speaking, our antitrust rules now prohibit this type of joint venture and joint research. This proposition is controversial because no one—particularly not the industry itself—wants to diminish in any way the fierce domestic competition which has kept U.S. industry at the top of the heap. Yet, foreign consortiums threaten to make serious inroads in the international markets for high-technology products, while we lack here a legal mechanism for undertaking an effort beyond the capability of an individual corporation. Should we perhaps reassess our antitrust laws, designed to promote competition at home, to make sure they are not also restricting U.S. competition with other nations?

Another proposed stimulus is R&D tax incentives, already employed in selected industries. This is an investment which, properly managed and channeled, has the potential to provide direct revenues to the U.S. Treasury, presently lacking, by induced growth in the GNP and resultant increases in the national income and tax base.

A third incentive could be a National Technology Bank, similar to a number of financial aid institutions created in the past three or four decades for the purpose of promoting economic development and social progress in special areas. Organizations such as the Export-Import Bank, the Small Business Administration and the Farm Credit Administration establish precedents for a bank which would aid in financing the development of promising products and services for domestic and international consumption. The bank would supplement and encourage, but not compete with, private development programs that reasonably assure a return. It would also stimulate the development of technology in areas of public need that presently lack such stimulation.

A fourth area which would cater to the economic health of American enterprise, again tax related, is government incentive to revive public confidence and the will to invest in American industry. Technology, as with all endeavor, requires financing. A recent estimate that U.S. business will require more than three trillion dollars of capital in the next decade may well be on the mark. One viable way to fulfill this need is realistic tax reform in the capital gains area. The ability to retain an equitable share of potential gain is the incentive needed to bring investors back into the financial markets.

I previously mentioned the need for an equitable national policy as to cost allowability for the independent research and development conducted by defense contractors. A penny wise, dollar foolish IR&D policy in addition to limiting companies' future ability to compete also has the effect of depriving the nation of needed diversification efforts, limiting the rate of over-all technology advance and preventing the expansion of the national technology base. Continued constraints upon IR&D cannot help but drive contractors away from the high technology long associated with government programs.

Finally, we must make up our minds regarding technology transfer and the role of multinational corporations in domestic and world affairs. Of course there are recognizable dangers in the transfer of technology abroad. However, the dangers decrease to the extent that we simultaneously assure that tomorrow our technology will have advanced into a new generation of superior products.

Negative reaction to international technology transfer is usually part xenophobic, part economic fear. Such fear is justified only if one accepts the premise that the recent history of technology export consists of an unfettered outward flow of American invention and innovation of monumental proportions. That premise should be categorically rejected. Technology flow is invariably a two way street. Technology transfer, properly screened and controlled, is in fact a process through which the American economy has sustained its unparalleled growth, a process which has contributed greatly to America's competitive stance in world trade. Furthermore, it is a mechanism that gives realistic recognition to the economic interdependence of nations and which lends substance to efforts at maximizing international cooperation. In a word, our technological superiority is probably the best single thing we have, and will have, to trade with.

So much for the actions and inactions which tend to undercut this superiority.

What should we, in fact, do to remedy this present untenable state of affairs?

First, we must face up to and accept the new world situation in which maintenance of this nation's high technological superiority is essential to our position in world affairs.

Second, we must dispose of a number of myths such as:

That high technology is incompatible with sustaining the quality of our lives. In fact, the latter does now and will continue more and more to become dependent upon the former as we proceed into an ever more crowded world.

Or that protectionism is the answer. Nothing would more quickly close world markets to that which we must export in order to sustain our standard of living.

Or that through multinational corporations or otherwise, we are engaged in exporting our technology in any way detrimental to our security, our international competitive position, or the employment situation here at home. These allegations are simply untrue. Extensive compilation of data, exhaustive review by Congressional committees and others have proved them entirely specious. Yet such myths persist and inhibit effective action.

Third, we must immediately create within the Government an adequate locus and focus of authority. In addressing this question I should state that something has been troubling me, the members of the aerospace industry which my association represents and many who are highly cognizant of the merits of technology. Nearly two years ago, at a time when the decline of support for our technological progress was becoming evident, we proponents of technology were heartened by an historic event. On March 16, 1972, for the first time in history the President of the U.S. delivered a message to Congress on the burgeoning importance of science and technology to national progress. That message called for a national commitment to actions designed to stimulate support for research and development and technological innovations in the private sector; also for actions strengthening collaboration between federal agencies and state and local governments; and, lastly, for actions to promote cooperation between the United States and other nations in science and technology.

Sadly, one has the right to ask today "Where's the action?" Many of those who in 1972 looked forward to a new national policy and a new impetus to science and technology, view the years since that Presidential message as being no less than a disaster. By 1973, for example, the National Aeronautics and Space Council, the Office of Science and Technology, and the President's Science Advisory Committee were abolished by the White House. Studies by the Domestic Council and by White House task groups, drawing upon technology applications ideas from all major federal agencies and from industry, disappeared into the archives of the bureaucracy. In place of a central focal point for national policy and thrust in science and technology, accountability for programs along with generally inadequate funding has been spread among the National Science Foundation, the National Bureau of Standards, the Department of Commerce and the Department of State.

All of such agencies are highly regarded in their special areas of technology-oriented activity, but individually none of them can be responsive to a national technology policy which, in effect, does not exist. Moreover, burdening the eminently talented Dr. Guyford Stever with the dual duties of directing the National Science Foundation while serving as Science Advisor to the President is organizationally and operationally impractical and inadequate.

Fortunately, there is now a ray of hope that a central focus for science and technology will be reinstated within the federal government. The scientific community and our aerospace industry are of the opinion that some within the Congress are on the right track in their sponsorship of bills which would establish a White House Council of Advisers on Science and Technology.

Whether such an advisory body alone will be adequate, only time will tell. We find encouragement in the views of Senator Warren Magnuson who stated recently:

"It is so important that science and technology matters be integrated with economic, highest levels of government. The Council of Advisers on Science and Technology that is established will also engage in long range planning for science and technology. Thus, rather than continuing to react to unforseen crises, the country will be able to plan ahead to provide for the most effective utilization of science and technology to improve the quality of life and to resolve emerging national problems before they reach the crisis stage."

As far as economic well-being is concerned, such advance planning to integrate high technology into our national efforts is essential. Even leaving aside the vital contributions by technology to our national security and to our capability to address many social ills, the fact is that without a preeminent world position in high technology we just cannot sustain a standard of living even remotely comparable to our present one. In economic terms our technological superiority has already shown itself to be our most precious national asset. And that situation will be even more true in the future. I therefore believe that the time is more than ripe for national decisions concerning technology to be made on the basis of its true priority—in world affairs—and in our own. Thank you.

A SALUTE TO THE CASPER TROOPERS

Mr. McGEE. Mr. President, each year, a highly talented group of Wyoming youngsters launches on a tour of this Nation, thrilling literally thousands of our citizens. Known as the Casper Troopers, these young men and women have become synonymous with the word "champions" as they compete with drum and bugle corps units from all across the United States for national and regional honors.

In the August 22, 1974, Casper Star-Tribune, there appeared an article outlining the achievements of the Troopers during this summer's competition. Once again, an impressive record was compiled as the Troopers performed brilliantly.

While capturing many championships en route to the national finals in Ithaca, N.Y., the Troopers compiled an enviable record. In the national finals they finished fifth out of a contingent of nearly 60 corps—a proud achievement indeed.

Although the Troopers are headquartered at Casper, Wyo., they have brought a tremendous sense of pride to our entire State. Indeed, the Troopers continue to stir tremendous excitement each year they return to Wyoming from competition.

We take tremendous pride in the skills and talents of this group. We recognize them as our premier ambassadors of good will. Therefore, I ask that my colleagues join me in saluting the Casper Troopers and in commending them for another job well done.

I ask unanimous consent that the Casper Star-Tribune article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Corps Has Proud Record

(By Jack Russalesi)

Casper.—The Troopers began the 1974 competitive season with a solid show of strength.

Beginning in Great Bend, Kan., on June 23 the corps won the first show of the season. More than ten points separated the Troopers from their nearest competitors, the Argonne Rebels, who were playing in their home town.

Returning to Casper June 27 for the annual Drums Along the Rockies contest, the Troopers won again leaving the second place Kingsmen of Anaheim, Calif., more than three points behind.

Two days later, in Denver, Colo., the Troopers repeated their victory over the Kingsmen.

On July 2, in Boise, Ida., the corps met their perennial mentors, the Santa Clara Vanguard, for the first time in 1974. The contest was DCI West, the first meeting of all the big powers and the Troopers proudly marched off the field as winners.

Roles were reversed in California however, as the corps locked horns in the home stadium of the Vanguard. Santa Clara led the Troopers by more than three points.

In Long Beach on July 6, the Vanguard won again, but the Troopers managed to close the gap to less than a point.

After returning to Casper, the Troopers briefly rested and then intensified their efforts. The hard work and long hours paid off for the corps as they returned to Great Bend, Kan., and increased their score by more than seven points. For the first time in 1974, the Troopers broke 80 here and won the show by nearly three points. The second place Kingsmen tallied 77.45 while the Troopers scored 80.85.

Three days later in Milwaukeee, Wis., the Troopers won, but the Kingsmen again closed the spread to a scant two-tenths of a point.

Whitewater, Wis., was the scene of the first major setback for Wyoming's musical ambassadors. All of the drum corps powers fell before the superior hornline and exciting performance of the Madison Scouts. Madison scored an impressive 84 points while the Troopers slipped to fifth place with an even 70 points.

The August competitive tour began in Belle Fontaine, O., on July 7. The Troopers were second with 80.5 to the Racine Kilties who scored 83.3.

From Ohio, the corps moved to York, Canada for DCI North. Here the Troopers met and fell once again to the Vanguard. High scores continued to get higher, giving a clear sign that for the first time is many years the national finals would be near 90. Santa Clara scored 85.8 and the Troopers scored 83.35.

In Lowell, Mass., the Troopers fell to fourth place at the CYO Nationals. Madison carried that show with 85.8 and the Troopers scored 83.40.

DCI Nationals in Ithaca, N.Y., saw the Troopers finish the season with a proud fifth. A surprise last minute turnaround saw the Madison Scouts fall to the Vanguard, as the California Corps scored 89.50.

The following night, in Syracuse, N.Y., the Madison corps established its supremacy by defeating the Vanguard, although it was too late for the national title. The Troopers placed fifth in that, the final show of the season.

The Troopers remain one of the most popular corps in the nation and their record of finishing fifth in the national finals out of nearly sixty corps is indeed a proud one.

FEDERAL-AID HIGHWAY AMENDMENTS OF 1974

Mr. STAFFORD. Mr. President, the trucking industry of the Nation is understandably interested in passage of a provision of S. 3934, the Federal-Aid Highway Amendments of 1974, that would permit heavier trucks to use the Interstate Highway System.

As I have announced earlier, I am opposed to that provision and I will move to strike it from the bill when it comes up for action on this floor tomorrow afternoon. I think trucks driving our highways are big enough as they are, and I will propose to keep existing Federal truck weight limits in effect.

Because all the evidence reaching my desk suggests that the trucking industry's lobbying effort has been as big and fast-moving as its over-the-road tractor-trailer combinations, I think it might be helpful for my colleagues to have the opportunity to become acquainted with some contrary views that have been published in newspapers around the country, even if they have not received wide publicity here in Washington.

For that reason, I ask unanimous consent that some representative news articles and editorials be printed in the Record for the information of interested persons.

There being no objection, the articles and editorials were ordered to be printed in the Record, as follows:

[From the Manchester (N.H.) Sunday News, Mar. 31, 1974]

Union Drivers Oppose Truck Load Hike

Teamsters Local 633, representing 2,800 professional drivers throughout New Hampshire, is unalterably opposed to any increase in weight limits trucks may legally haul in New Hampshire.

Chelbert M. Hayes, president of Local 633, and Socrates Makris, the secretary-treasurer, told the Sunday News yesterday they will appear at the hearing on HB-5 Monday afternoon at 2 in Room 108 of the State House to fight the proposal.

The New Hampshire teamsters stand is in sharp contrast to the independent truck operators "gypsies" who insist they need the increase to make up for economic losses occasioned by the energy crunch.

The union truck drivers at their March meeting were unanimously opposed to trucks being permitted to carry heavier loads on several grounds.

SAFETY CITED

First and foremost of these is "safety"—personal and public.

The professional drivers of Teamsters Local 663 argued, if the state were to permit trucks to carry heavier loads this would be "inviting accidents." Heavily loaded rigs are more difficult to control—especially in an emergency situation. Overloads are dangerous not only for the truck driver but others who are on the highways and streets, union officials said.

They noted no truck manufacturer has advocated increased weight to help in the energy crunch. Manufacturers are conscious of the limitations of various type tractors and trailers and straight body trucks. They have safeguards which should not be exceeded. The braking power of a truck must not be overtaxed by too heavy a load.

Arguing some of the equipment now on the highways is not adequate to handle heavier loads, they noted there is a vast difference in trucks which may have the same number of wheels and axles but are built differently.

They questioned just how much fuel would actually be saved, noting engines have to work harder, gulping more fuel in lower gears trying to move excessive loads up grades.

As taxpayers, family men, and private automobile owners, they said they took the same stand as the American Automobile Association, opposing increased weights and bigger trucks because of the damage they do to highway surfaces and bridges.

"The pot-holes in highways and the bumps caused by heavily loaded trucks knock my car out of front-end alignment as they do everybody else's," Executive Officer Makris declared. "And I'm sick of shelling out for front-end jobs."

Both he and Hayes, the Union Local president, declared that many trucks—particularly sand trucks—exceed legal weight limits and damage highways which do not have strong bases. They recalled the damage done to the Mystic River Bridge in Boston by a truck which officials said was overloaded.

[From the San Francisco Chronicle, Aug. 20, 1974]

Stopping Behemoths

The American Automobile Association is duly alarmed over a covert recommendation by the Department of Transportation that the interstate highways be opened to even bigger trucks and heavier loads than are proposed in an already disquieting bill now before the House.

The bill would retain the curent 65-foot length limit for trucks, but would increase the existing maximum weight of 73,280 pounds to 90,000 pounds. The AAA reports that Claude Brinegar, Secretary of Transportation, has, in a letter to Representative Harsh of Ohio, suggested that the length limit be extended to 70 feet and that the 90,000-pound limitation be dropped.

Thus, the AAA estimates, 70-foot trucks bearing as much as 107,000 pounds would be rolling and fishtailing along the highways.

At 65 feet, trucks and trailers are already terrifying the nation's motorists and the addition of 25 feet to their awesome length would clearly present an added safety hazard. Their added weight, as the AAA notes, would wreak havoc on bridges and road surfaces, and stick the states with an estimated $50 million to $100 million annually in repair and maintenance bills.

The AAA is further concerned over the failure of Congress to discuss such matters in debating the "big truck" bill. Together with the lack of publicity surrounding the Brinegar proposal, it suggests a conspiracy of silence. At any rate, the AAA is quite correct in calling the proposal "an absurdity piled on an outrage."

Congress would do well to ignore the Brinegar recommendations by killing any and all provisions that would increase the length or pile more weight on the behemoths now rumbling over roadways. The motorists who drive an estimated 80 per cent of all the miles driven, will testify that trucking rigs of 65 feet and 73,280 pounds are more than enough.

[From the Detroit News, Aug. 18, 1974]

Trucking Lobby at It Again

The trucking lobby never gives up. Again the drive is on to get Congress to pass legislation permitting heavier trucks on interstate highways, even though many of the present trucks are too heavy, too long, too wide and to noisy.

Bills now under consideration in House and Senate would increase the maximum gross weight limit from the present 73,280 pounds to as much as 90,000 pounds. The House bill also revives the effort to allow wider buses (the opening wedge for still wider trucks) on the interstate highway system.

Repetition has not made such proposals any more acceptable.

The long, wide, heavy trucks and buses now thundering down the streets and highways tear up roadbeds, wear out bridges and make the roads unsafe and uncomfortable for motorists in passenger cars. Still larger trucks would compound all these problems.

According to the American Automobile Association, the chances of fatal injury in car-truck collisions increase with the size of the truck. Needless to say, the injured party is usually the occupant of the passenger car.

Perhaps there's something to the argument that larger trucks would increase the efficiency of the industry's use of fuel. That lone advantage looks rather puny alongside the numerous disadvantages. If the industry wants to save fuel, let it concentrate its efforts on changing federal regulations which often force trucks in interstate commerce to make costly detours and run empty on return trips after delivering their goods.

We're not against trucks. They're vital to the commerce of this nation. We are against making them greater nuisances and greater hazards than they already are. The big-truck bills should again be stopped in their tracks.

[From the Birmingham (Ala.) News,
Aug. 19, 1974]

Truckers At It Again

The trucking lobby is at it again in Congress, trying to increase the federal weight limits for trucks. No matter how frequently such proposals are defeated, they just keep popping back up again.

Separate measures in the House and Senate would increase the overall truck weight limit to 90,000 and 80,000 pounds respectively. In addition, the House bill would allow an increase in the maximum bus width from 92 inches to 102 inches. The House bill would also set a limit on truck length of 65 feet.

The increase in weight, and width and length of big vehicles has drawn opposition from the American Automobile Association. An AAA official, John de Lorenzi, warned congressmen in a letter that, "Available evidence indicates that large trucks pose a grave threat to the safety of all drivers."

The AAA also has pointed out that the larger vehicles cause added wear and tear on highways and bridges.

Whether in statehouse or the nation's Capitol, the trucking lobby never rests in its efforts to build bigger and bigger trucks. A line has to be drawn somewhere.

Certainly the trucking industry pays taxes. But so does the average motorist. And the total amount of highway taxes which motorists pay is a lot greater than the total amount of highway taxes which the trucking industry pays.

It costs a lot more to build a mile of highway to support a 90,000-pound truck than it does to build a mile of highway just for two-ton automobiles. Yet motorists have to pay, through their taxes, for the extra costs of engineering, concrete and reinforcing steel. To that extent, the average car owner helps subsidize the trucking industry.

Of course, that degree of subsidization already exists with the present federal weight limit of 73,280 pounds. Increasing the weight limit would simply increase the subsidization to a greater extent.

The railroad industry purchases its own right of way and builds its own tracks. And the only time the motorist is endangered by trains is at grade crossings.

But the motorist in the family car must drive alongside trucks, no matter how huge they are. The danger of being crushed in a car-truck collision is ever present.

Since there seems to be no limit to how far the trucking industry wants to go with weight and size, the time to draw the line is now. Let's hope that Congress feels the same way.

[From the Tribune-Democrat, Johnstown
(Pa), Aug. 28, 1974]

Good Luck, AAA

Just about everything responsible that can be written has been written in opposition to bigger trucks on the nation's highways.

We, and others, have talked about weights, lengths, widths, brake systems, jackknifing, triple-tandem rigs and infinitum—and, perhaps, ad nauseam.

So there's not much more than can be said as in the Congress the bigger-truck push continues.

Nonetheless, we have taken note of a campaign of the American Automobile Association, a campaign designed to fight against the enlarging of truck sizes and weight limits. In looking at the campaign, once again we can find nothing new; but that does not mean the arguments do not warrant repeating so that those in the Congress can hear them.

Therefore, in its campaign against bigger and heavier trucks, we wish the AAA well.

[From the Sacramento Bee, Aug. 24, 1974]

The Motorists Win One in the House

Anyone who has ever tried to pass a rumbling fishtailing 65-foot long truck and trailer going at 55 or 60 miles an hour will be thankful the House of Representatives has deleted a section of the mass transit bill which would have permitted heavier and larger trucks on the interstate highways.

The measure, described by the American Automobile Association as "an absurdity piled on an outrage," would have extended the truck limit from 65 to 70 feet in length. Also it would have increased the maximum load from 73,280 pounds to 90,000 pounds.

The specter of 70-foot-long trucks, rolling along at the maximum speed limit or over, carrying mammoth loads of 90,000 pounds, has been dispelled for the time being.

The added weight would have chewed up the road surfaces even more than the heavy trucks do now and would have put an extra strain on bridges.

The AAA estimated the 70-foot-long trucks carrying increased loads would have cost the states an additional $50 million annually in road maintenance and repair.

The House rejected the provision, sought by the trucking lobby, after an emotional speech by Rep. Wayne L. Hays, D-Ohio, who warned House members they would have to face the voters in November and not the truck drivers.

Motorists already have enough trouble staying clear of the big trucks with their huge loads which now travel the highways legally.

The House acted wisely and for the benefit of the individual motorists who drive an estimated 80 per cent of all the miles driven on interstate highways.

[From the Jackson (Mich.) Citizen Patriot,
Aug. 6, 1974]

Bigger Trucks Not Needed

Issue: Should Congress liberalize the restrictions on truck weight and size to allow larger loads on the Interstate highway system?

The public works committees of both House and Senate are now considering changes in the law to permit bigger, heavier trucks to speed along the federal highway system. The House committee has hooked its version onto the pending mass transit aid bill as a rider. The Senate has a separate bill.

In both bills, axle loads would increase, and the House version would also allow wider buses and set truck lengths for the first time.

While the per-axle weight restriction would only increase one ton, total weight would be greatly expanded under a formula that determines weight spread throughout the vehicles.

Maximum gross weight could rise from the present 73,280-pounds to as much as 90,000 pounds.

The old argument that bigger trucks mean fewer trucks on the highway was dutifully trotted out in defense of the House measure.

The problem is that it isn't true, although it's what proponents of "bigger and heavier" have been relying on for years.

The American Automobile Association opposes the idea on the grounds safety would be victimized. It also claims wear would be excessive on pavements and bridges designed for lower weights.

We agree with the AAA on both counts. The massive over-the-road behemoths now thundering along the highways already pose a traffic safety problem, particularly those whose drivers ignore the speed limits, tailgate and generally operate as though they had exclusive ownership of the right-of-way.

We recognize that truck owners pay taxes to help build and maintain the roadways, and that they constitute the lifeline of the nation, but that does not mean they have more rights than the owners of the smallest cars, who also pay taxes, and who buy the merchandise hauled by the truckers.

The proposals to increase the size and weights of trucks are bad ones, not in the best interest of all the people. They should be buried, if not in committee, then on the floor of either the House or Senate.

[From the Quincy (Ill.) Herald-Whig,
Aug. 11, 1974]

Bigger Trucks Issue Again

Perhaps hoping the proposals would be overlooked in the general confusion that has gripped Congress in recent weeks, what with the impeachment issue and all, new efforts are being made again to legislate for bigger and heavier trucks on Interstate highways, according to a warning from the Chicago Motor Club.

Gerald W. Cavanaugh, president of the motor club, has sent telegrams to U.S. senators and representatives serving the Illinois and Indiana territory the club serves to defeat such proposals. His telegrams read:

"In the interests of traffic safety and the preservation of our vital highway system, the Chicago Motor Club strongly urges you to oppose any provision for increased truck weights and sizes in the Mass Transportation Act of 1974 or any other such measure which may come before you. Recent member polls reveal overwhelming motorist opposition to larger or heavier trucks and truck-trailer combinations."

A news release from the club reports that the House is incorporating in the Mass Transportation Act of 1974 a proposed increase in permissible truck weights up to 90,000 pounds, and that the Senate Public Works Committee has approved a highway bill that would permit a maximum allowable total weight of 80,000 pounds on Interstate highways where the maximum gross weight now is 73,280 pounds.

It is argued, as it has been steadily for years—and so far successfully—that longer, heavier trucks would "jeopardize the safety and well-being of every motorist on the Interstate system and would hasten deterioration of highways and bridges." The motor club president also says that the best available statistics show involvement of combination trucks in fatal accidents is a frequency almost twice that of the automobile and said motorists are complaining about highway hazards posed by trucks they consider already too large.

Undoubtedly there will be arguments that with a maximum highway speed of 55 miles an hour in force, the hazards of larger trucks are reduced, but it has been complained that on many highways trucks have been the most flagrant violators of new speed limits.

Safety, of course, is the first factor to be considered. The new speed limits, although not zealously observed, have reduced traffic fatalities remarkably. But larger and heavier trucks would add a new element of highway hazard, and would add to already prohibitive costs of maintaining existing highways, or replacing them.

[From the Raleigh (N.C.) News and Observer, Aug. 17, 1974]

Big Rigs Moving Through Congress

North Carolina motorists who do not want to be crowded off highways by ever-larger trailer trucks and interstate buses should get that message to Congress. The trucking and bus industries have already delivered their opinions on the subject, and the industries' view is neatly tucked away into an otherwise laudable mass transit bill now in House debate.

If the bill is approved as it stands, trucks would be permitted to grow 10 feet in length to a total 65 feet. North Carolina's limit is 55 feet which gives one an idea of the size of increase being sought. The weight limits would also be raised, possibly by as much as 16,720 pounds over the present 73,280-pound maximum. Buses want to widen their already bulky frames by six inches, to 8½ feet. One can see that there are not modest increases.

The industry argues that larger trucks would be more economical and would reduce the number of rigs on the road, thus conserving fuel. Supposedly, the vehicles would be confined to interstate traffic, but there is no way that the huge tractor trailers and buses would be kept off city streets and connecting highways.

It is also likely that state lobbyists would soon be pressuring the General Assembly to make state limits conform with the federal guidelines.

Highway claustrophobia might be reason enough for many car drivers to protest the federal proposals. The American Automobile Association is adamantly opposed because its studies show bigger trucks and wider buses would be "a grave threat to the safety of all drivers."

Furthermore, taxpayers might wonder how much a savings they would receive from the large haulers if taxes must pay for new bridges and stronger roads to handle the heavier loads. The AAA in 1969, for example, estimated that 67 per cent of major highway bridges already were under too much stress.

Such arguments have apparently been ignored by Congress, and it is past time for concerned motorists to correct that imbalance in the debate for safe highways.

[From the Stuart (Fla.) News, August 1974]

Big Trucks Bill Needs Spike Through Its Heart

Other than driving a spike through its heart, there seems to be no way to dispose of the Big Truck Bill haunting Congress in recent months.

The bill keeps popping out of its legislative coffin despite the fact that it has little merit and very little popular support.

For some strange reason, language permitting bigger, heavier trucks on interstate highways now has been written into a Mass Transit Bill in the House Public Works Committee.

The connection between mass transit and fat trucks is difficult to comprehend.

Yet the bill would permit trucks as heavy as 90,000 pounds (the current limit is 73,280 pounds) on major highways. Turnpike buses could be 102 inches wide instead of 96 inches wide.

Trucks and buses already are so big that driving cross-country can be a nerve-wracking experience for a family in a car.

Excessive damage to roads and bridges is another reason why truck sizes should be kept under tight control.

No doubt the truck and bus companies see things differently, which is why their lobbyists are so active on Capitol Hill.

But the interstate highways were built to serve the interests of all Americans, not just those who have a stake in moving passengers and freight from one city to the next in the largest vehicles they can get built.

[From the Chicago Star/Tribune, Aug. 15, 1974]

Truck Bills Up Again

Move over, motorists. The "big truck" lobby is rolling again. The goal is an old favorite—permission to put bigger and heavier trucks and truck-trailer combinations on the nation's highways.

Among those opposing the move is the Chicago Motor club. In urging defeat of proposed legislation to increase truck weights and size on interstate highways, the club points out that many of its 360,000 members are constantly complaining about the highway hazards, posed by too large vehicles.

In telegrams to U.S. senators and representatives from Illinois and Indiana, the club warned that the proposed increases would "jeopardize the safety and well-being of every motorist on the Interstate system and would hasten deterioration of our highways and destruction of our bridges."

Current maximum gross weight for trucks is 73,280 pounds. A bill before the U.S. House of Representatives would increase the limit to 90,000. And the Senate public works committee has already approved a highway bill that includes provisions for increasing the maximum allowable weight to 80,000.

Recent studies, according to the club, show that the frequency of combination truck involvement in fatal accidents is almost twice that of the automobile. The club also warns that heavier trucks will not only reduce the useful life of present pavements, but also will require the expenditure of billions of dollars for reconstruction of older pavements and add substantially to the costs of highways still on the drawing boards.

Among the problems that motorists experience with large trucks, the club noted, are difficulty in passing them—especially on wet pavement—being followed too closely by them, and blocked vision.

The club's litany of truck difficulties is familiar to motorists everywhere. And the list grows longer as the trucks get longer.

Highways are not railroads. There is a limit to the size and weight of trucks that can be permitted to use highways with safety to others and to themselves. And many people believe that the present limits on size and weight are already too high.

Both the U.S. House and the Senate should reject this latest attempt to turn the nation's highways into private thoroughfares for "motorized boxcars."

[From the Columbus Citizen-Journal, Aug. 23, 1974]

Trucks' Comeuppance

There's reason for good cheer in the House votes this week on the Mass Transit Bill.

First, by an unexpectedly wide margin—252–159—the House knocked out an attempt to boost the maximum gross weight of trucks from the present figure of 72,280 pounds to 90,000 pounds.

This outrageous proposal had the backing of the powerful trucking industry lobby and the Department of Transportation, but of no organization dedicated to highway safety and maintenance or to the convenience of the motoring public.

Then, after disposing of the supermonster trucks, the House heeded President Ford's threat to veto as inflationary any overly expensive bill. It voted to slash the mass transit measure's total spending over a six-year period from $20 billion to $11 billion.

As it stands, the bill for the first time would provide needed federal operating subsidies for debt-ridden transit systems, plus expanded federal help in buying bus and rail equipment and building new facilities—but less of all this than some cities, especially the big ones, would have liked.

Certainly this country needs better mass transport, but not—in view of the urgent need to pare away at inflation wherever possible—all of it right now.

It was right that the House took the new President's first specific veto threat to heart.

The House bill now goes to the Senate, where an $18 billion, five-year transit measure has been stalled in committee. It's to be hoped that the forthright action by the House will nudge the Senate into motion so an acceptable bill will emerge before the end of the present session—a bill, needless to say, that keeps spending within bounds and that doesn't bend to the truckers' selfish instinct toward galloping giantism.

IOWA ENDORSES ERTS CONTINUATION

Mr. MOSS. Mr. President, as I announced to the Senate on August 8, I have written to the various States requesting their evaluation of the Earth resources technology satellite program.

I have heard from many Governors, but in several cases my reply has been from a State official who has been more actively engaged in the actual workings of the program.

One such letter of this type is the very thoughtful letter from the Honorable Samuel J. Tuthill, director and State geologist, Iowa Geological Survey. I hope that every Senator will take the time to read his letter, but let me give you an idea of how the users in the Midwest feel about ERTS:

> The ERTS System has proven its worth many times over in Iowa and we are concerned that no provisions have been made to insure that earth resources satellite data will continue to be made available to users at the state and federal level.

Mr. President, I ask unanimous consent that the letter of the director of the Iowa Geological Survey be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Iowa Geological Survey,
July 29, 1974.

Hon. Frank E. Moss,
Chairman, Committee on Aeronautics and Space Sciences, U.S. Senate, Washington, D.C.

Dear Senator Moss: Governor Ray has asked me to reply to your letter of 24 June 1974, concerning the ERTS System and Senate files 2350 and 3484.

The ERTS System has proven its worth many times over in Iowa and we are concerned that no provisions have been made to insure that earth resources satellite data will continue to be made available to users at the state and federal level.

Those agencies which apply natural resource data should define the scales, accuracies and formats of remotely sensed data that are most applicable to their programs. Our remote sensing program in Iowa was established on the principle that applications oriented knowledge of state user agency personnel is utilized in the research, design, and interpretation phases of remote sensing investigations. Development of remote sensing specialists within our state user agencies obviated the need for development of a large, stand-by, highly specialized, multidisciplinary remote sensing staff within any one agency. The Remote Sensing Laboratory, within Iowa Geological Survey, provides a nucleus of remote sensing expertise and specialized remote sensing equipment that gives impetus to the statewide applied remote sensing program.

An Earth Resources Observation Administration should be established and adequately funded within the U.S. Department of Interior. The U.S. Department of Interior, in close cooperation with the U.S. Department of Agriculture, should develop a program to define the optimum remotely sensed data requirements for the broadest community of users at the state and national level. The translation of operational requirements into optimal design characteristics, for platforms and payloads capable of delivering the desired remotely sensed data of natural resources, should be a responsibility of the National Aeronautics and Space Administration. Therefore an Office of Earth Resources Survey Systems should be established and adequately funded within the National Aeronautics and Space Administration.

The National Aeronautics and Space Administration should be responsible for the design, development, and operation of earth resources satellites, spacecraft, and aircraft. This responsibility should include operational command and control of earth resources sensing systems. The U.S. Department of Interior should operationally control data reception facilities, even though NASA may design and maintain them. Remotely sensed data analysis and interpretation should be coordinated by a joint U.S. Department of the Interior and U.S. Department of Agriculture team located at the EROS Data Center in Sioux Falls, South Dakota.

In summary, both Senate files 2350 and 3484 are, by themselves, inadequate. Legislation should be developed that would embrace some of the concepts expressed in both articles of legislation. This legislation should require that NASA, USDA, and USDI jointly develop a program to analyze our earth resources from satellites, spacecraft, or aircraft, as cost-effectiveness dictates.

The proposed establishment of an operational ERTS System must provide the organizational framework for inclusion of new technology as it evolves. Although the present ERTS–1 satellite is particularly useful because of its unique multispectral and cartographic characteristics, the spatial resolution of the system must be improved if ERTS data is to be used at the county and city level in Iowa. The establishment of an ERTS System should be viewed as the first step in a program that will provide us with timely earth resources information.

The proposed Earth Resources Observation Administration to be within the U.S. Department of Interior, and the proposed Office of Earth Resources Survey Systems to be within NASA, should provide the organizational framework for timely monitoring and inventory of our earth resources, provided these organizations are adequately funded and have clearly defined responsibilities.

Very truly yours,
SAMUEL J. TUTHILL,
Director and State Geologist.

THE REHABILITATION OF JOHN HVASTA

Mr. PELL. Mr. President, it is all too rare that one finds beams of sunlight bursting through the gray clouds that mar the relations between Eastern Europe and the United States. But I am glad to report one such beam is the recent rehabilitation of John Hvasta, an employee of the Consulate General in Bratislava, Czechoslovakia, in 1947 and 1948, when it was established by me, then a Foreign Service officer.

John was falsely accused of espionage, was physically abused, sentenced to Leopoldov Prison, and escaped from there to wend his way to freedom over a torturous path that took many months.

John has always maintained his strong affection and deep regard for the Slovak people and in having secured this rehabilitation, he can now freely visit them with no fears.

I commend the Czechoslovakian Government on this act of fairness, withal an act which took a quarter of a century to accomplish. In this regard, I ask unanimous consent that the attached translation of the statement of rehabilitation be printed in the RECORD.

There being no objection, the translation was ordered to be printed in the RECORD, as follows:

[Translation of Attached Letter From "Law Offices No. 1"]

ZAHRADNICKA NO. 6,
Bratislava, Czechoslovakia.

JOHN HVASTA,
Arlington, Va., USA:

Concerning the rehabilitation case of yours, I am informing you that on the basis of the Power of Attorney, which you gave me in 1969 yet, I sought a review of your case based on the Law for Rehabilitation.

During a public proceeding on March 30, 1974, the District Court at Bratislava reviewed your case and declared its verdict that according to par.-u 15, sec. 1/ letter c/law c 82/68 col. relating to law no. 70/70 col. the previously imposed sentence of the State Court of Bratislava, as well as the Supreme Court of Prague, is annulled. Also all points and decisions relating to the case have been void and cancelled.

At the same time, the District Court declared in its determination that according to the Law on Amnesty declared by the President of the Republic of May 9, 1968, to cease all criminal prosecution against you for alleged crimes against the Republic according to par.-u 17 al. 2 law no. 0/23 col.

According to the review and the cease and desist order of the District Court you have been found and are considered innocent, and according to the Law on Rehabilitation you have the legal right to file for compensation and losses incurred during the injust incarceration within one year of this date, i.e. until June 25, 1975, for the time you were unjustly held in prison.

Further, you can request compensation for the expenses you incurred during the criminal procedure against you such as those during the investigating period as well as legal fees, and any other expenses you incurred or paid. You can also request financial compensation for the fine imposed on you (with your sentence) of 10,000 crowns, if you had paid it, or if it was deducted from your pay during your imprisonment. Request for compensation should be directed to the Military of Justice SSR in Bratislava, Suvorova 16.

DR. VOJTECH RAMPASEK,
Attorney.

A TRIBUTE TO KARL MUNDT

Mr. McGEE. Mr. President, on August 21, 1974, South Dakotans paid their final respects to a former colleague who served his State and Nation with distinction and honor.

Karl Mundt, for those of us who served with him, was a particularly effective and active Senator until felled by a massive stroke some 5 years ago. We, in Wyoming, will long reap the benefits of Senator Mundt's able and effective congressional career, as he was the instrumental force behind the taming of the Missouri River Basin projects which have not only opened thousands of acres of vital land to irrigation and, hence, crop production, but has also spared thousands along the river's main body and tributaries the ravages of annual flooding.

Senator Mundt understood and appreciated our region of the Nation. He interpreted this understanding into effective action.

It is with sadness and regret that I view his passing. •

POLICE DATA BANK LEGISLATION AND THE GAO REPORT

Mr. ERVIN. Mr. President, since early this year the Subcommittee on Constitutional Rights has been studying legislation to regulate Federal, State, and local criminal justice databanks. In February, Senator HRUSKA and I introduced two pieces of legislation, S. 2963 and S. 2964 which represent our initial proposals on the regulation of interstate exchange of law enforcement records. S. 2964 was the result of over 1 year of work by the Department of Justice and S. 2963 was developed by the staff of the subcomtee over the same period of time. The subcommittee held hearings on this legislation in March at which time it heard from over 30 witnesses, mostly State and local law enforcement officials.

One of the most difficult questions facing the subcommittee is whether there should be any restrictions placed upon the exchange of information—particularly, raw arrest records, between criminal justice agencies. Society's interest in the enforcement of its laws weighs heavily in favor of police authorities being able to obtain all information which is relevant or could be relevant to the prevention and detection of crime. Even raw arrest records might be of value to police in judging an individual's inclination to crime or violence. So long as such information stays within official law enforcement channels, one may wonder what harm could result to the individuals identified.

There was considerable controversy on this question in the subcommittee's hearings. For example, witnesses disagreed over the propriety of a police officer using the record of an individual's prior arrest without any indication of court disposition as a basis for a subsequent arrest.

Some law enforcement representatives argued that the new police computers should be available to officers in squad cars to make decisions on whether to arrest an individual on the basis of the individual's past arrests. Opponents of this proposition contended that a prior arrest could not be the basis of probable cause for a subsequent arrest.

Although there is no Supreme Court case addressing precisely this issue, opponents often referred to Justice Black's famous dictim in the case of *Schware* v. *Board of Bar Examiners* 353 U.S. 232 (1957):

> The mere fact that a man has been arrested has little, if any, probative value in showing that he has engaged in misconduct. An arrest shows nothing more than that someone probably suspected the person apprehended of an offense. 353 U.S. 241.

Members of the subcommittee explored these questions during the seven days of hearings. We found that there was no meaningful data available on how police use raw arrest records or on what would happen if raw arrest records were computerized for police use. However, it was possible to draw a few tentative conclusions. First, it is clear that computer technology could for the first time provide police officers on patrol with rap sheets via computer terminals in squad cars. At the present time such information is rarely available to an officer in the arrest situation. Law enforcement witnesses explained that officers in the street can only get arrest records on suspects they encounter from local files, not from any national criminal justice data bank such as FBI files. Considering the problem of identifying a subject on the street, putting in a request to the police records center, and then getting a response—all taking a great deal of time and all presumably done while a suspect is under observation but not arrested—it is understandable why police do not use prior records in street crime situations. Even if the police had split-second ability to get rap sheets from a computer, there would still be a problem of getting the correct identity. Obtaining the suspect's fingerprints is not possible, and they could not be submitted through the squad car computer by any reasonably foreseeable technology. Getting the suspect's name is not much easier. He would have to be stopped and asked, and he might not give his real name. This no doubt explains why there are so few court cases involving the weight which should be given raw arrest records in establishing probable cause for a subsequent arrest and why no clear-cut prearrest use has been satisfactorily explained to the subcommittee.

Second, it is reasonable to conclude that computerization of rap sheets could mean that such information would become available for making arrests. This could enormously magnify the risk of false arrest because of instantaneous use of incomplete or inaccurate or irrelevant past arrest information.

The third conclusion we could draw was that no representative of State, Federal, or local law enforcement could tell us precisely how these records were used by police and what impact computerization might have on their practices. With so little information available on this phase of police work the only responsible conclusion is that computerization of raw arrest information should proceed with utmost caution. Therefore the legislation which the subcommittee is developing should not deprive the law enforcement community of any of the tools it presently has a confirmed need for but should counsel restraint in adding to law enforcement new and untried powers via the application of new technology.

With this general principle in mind the Subcommittee on Constitutional Rights requested the General Accounting Office to conduct a survey of the use by police of both manual and computerized criminal records. The General Accounting Office surveyed the requests made by Federal, State, and local governments to the national criminal justice data banks maintained by the FBI and statewide data banks of California, Florida, and Massachusetts. The survey followed requests for information all the way to the police officers who actually made the requests. Over 500 such requests were surveyed during April of this year.

The single most important finding of the GAO was the police officers rarely request or receive records on an individual until they have already arrested that individual. State and local police requests for information prior to arrest, in the investigative stage, is less than 7 percent of the total requests. Only 23 percent of the requests of Federal agencies are made in the course of investigations. The study also found that a very large proportion of records are requested by prosecutors, judges and correctional officials. Indeed, the study suggests that most inquiries are either made by law enforcement agencies on behalf of non-law-enforcement components of the criminal justice community or directly by the non-law-enforcement agencies.

This report confirms my suspicions at the time of the subcommitte's hearings in March. The millions of rap sheets which flow in interstate commerce are used for nonpolice purposes. Most of the records—almost half according to information made available to the subcommittee in March—are used for licensing and employment in State and local governments. Of the remaining half that are used by criminal justice agencies only a small portion—less than 7 percent in the case of State and local police—are used for purely police purposes, that is in the investigation of criminal activity.

This finding suggests to me that criminal records should be routinely available to law enforcement and other criminal justice agencies beginning with the subject's arrest. The use of fingerprints taken at arrest is the only reliable way of assuring accurate identification of the subject. This is the method usually required by present FBI practice. Only after an arrest are fingerprints available to law enforcement officials seeking the suspect's criminal history. The records should be used for the most part for the purpose of preparing a criminal case, plea bargaining, sentencing, and rehabilitation. Records should only be used prior to the subject's arrest for the purpose of developing investigative leads and then only with the utmost caution. The staff of the subcommittee is attempting to draft amendments to S. 2963 and S. 2964 which reflect the findings of the GAO study.

The GAO also confirmed my fears at the time of the hearings in several other important respects. First the study found that if these records are computerized police will begin to use them much more for the prearrest investigative purposes. It found that there are over three times as many requests by police for investigative purposes to the FBI computerized criminal history files than there are to the FBI's manual files. This is true even though the computerized file is still quite small. Only a few States are participating and only a small number of law enforcement agencies even know of NCIC's computerized history program. Therefore, as the NCIC program expands and more agencies begin to use the system, use of such information in the arrest context will inevitably increase.

Second, the study found that the inaccuracy of some of the crime records used by police, prosecutors and courts was appalling. For example, one random survey uncovered by GAO in California found that 100 percent of the rap sheets surveyed contained inaccurate dispositional information. It is disturbing to think that prosecutors conduct plea bargaining sessions with defendants or that judges sentence defendants based on these records. Earlier statistics made available to the subcommittee indicated that in some States approximately 70 percent of the records did not even contain dispositions. Obviously a suspect with his hands against the patrol car being patted down by an officer will not be able to convince that officer that an arrest record appearing on the patrol car minicomputer terminal is inaccurate or incomplete and that he was exonerated for the arrest and should not be arrested. I do not think the Federal Government should be in the business of supplying this kind of information to police officers on the street and indeed I think most officers would prefer to rely on their own instinct in such a circumstance and not a computer. The Federal legislation must reflect this concern. I hope that the subcommittee will be able to formulate such legislation.

Overall, this study raises a fundamental question which was also addressed in the preliminary GAO report of February 1973, which I commented on in the CONGRESSIONAL RECORD of February 5 and March 7, 1974. The question raised there was that insufficient study had gone into the real utility of creating this expensive multi-million-dollar computer system. That report called for study of the need, usefulness and cost benefits of a nationwide computerized criminal history system before more money was invested. The latest report informs us that the common assumption that CCH was primarily a benefit for police is not true. If that is the case, then some rethinking is in order. Is it worthwhile to create a system when we do not know who will use it or who needs it? Should we wait until we document the needs of the other parts of the criminal justice system, and tailor computerized criminal history systems to their requirements? Should the police operate and manage a computerized criminal history program that others rely on more than they? It may be, as some high officials in the Justice Department and others have suggested informally that CCH will be primarily a research tool. Should the Federal Government and the States continue to invest in what now probably amounts to a $300 million investment for criminology research statistics? In any case, the newest GAO report underlines the need for careful legislative action before we advance any further in the development of this nationwide data bank of criminal history information.

I ask unanimous consent that the GAO report be printed in the RECORD so that all Members of the Senate can read the report and ponder its implications.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[B-171019: Report to the Subcommittee on Constitutional Rights Committee on the Judiciary, U.S. Senate]

HOW CRIMINAL JUSTICE AGENCIES USE CRIMINAL HISTORY INFORMATION

(By the Comptroller General of the United States)

COMPTROLLER GENERAL OF
THE UNITED STATES,
Washington, D.C.

B-171019

Hon. SAM J. ERVIN, Jr.,
Chairman, Subcommittee on Constitutional Rights, Committee on the Judiciary, U.S. Senate.

DEAR MR. CHAIRMAN: This is our report on how criminal justice agencies use criminal history information that you requested as a result of certain issues being raised during the Subcommittee's March 1974 hearings on legislation (S. 2963 and S. 2964) to guarantee the security and privacy of criminal history information.

As agreed with the Subcommittee, we are providing copies of the report to the Attorney General, the Federal Bureau of Investigation, and to appropriate officials in California, Florida, and Massachusetts, where we made the review. As requested, we are also providing copies of the report to others who might be interested in the subject matter.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

DIGEST

Why the review was made

In March 1974 the Senate Subcommittee on Constitutional Rights held hearings on proposed legislation (S. 2963 and S. 2964) to guarantee the security and privacy of criminal history information.

Criminal history information is data developed on any individual between his arrest and final release from custody and can include a person's name, dates of arrests, nature of charges, disposition of the charges, and the name of each arresting agency, court, or correctional institution involved.

The proposed legislation would restrict law enforcement agencies' use of this information for prearrest purposes and would also prevent dissemination of certain information.

Information on use is vital in determining the composition of any group having a policymaking role regarding the use of criminal history data so the group would be representative of the extent to which the various criminal justice groups used the information.

The Subcommittee requested that GAO determine—

The extent to which criminal history information was used by Federal, State, and local criminal justice agencies for pre versus postarrest purposes; and

The extent to which the three components of the criminal justice system, law enforcement, judicial, and corrections agencies, used the information.

GAO's findings are based on an analysis of a random sample of requests made by agencies in California, Florida, Massachusetts, and by Federal agencies to the Federal Bureau of Investigation (FBI) and appropriate State agencies. See Chapter 6 for a detailed discussion of the review's scope.

Findings and conclusions

Criminal justice agencies can obtain criminal history information from local files, State identification or data bureaus, and from the FBI. When transmitted from one agency to another this information generally is recorded on a "rap sheet."

Most rap sheets are requested from agencies by submitting a fingerprint card on the individual in question, usually at the time of arrest. They also may be obtained by letter, telephone, teletype, computer terminal, or in person.

Most rap sheets distributed to criminal justice agencies result from the submission of fingerprint cards containing data on the arrested individual.

State and Local Uses of Criminal History Information

State and local agencies primarily used criminal history information after a person was arrested.

Regardless of how the information was requested, the percentage use of the information for pre versus postarrest purposes was as follows:

[In percent]

Prearrest	6.7
Postarrest	83.5
Miscellaneous	9.8

Although use of this data for prearrest purposes was relatively small, it is significant enough to indicate that criminal history information in FBI and State files is used by State and local agencies in prearrest situations but not on a routine basis at the time it is received.

State and local law enforcement agencies were the most frequent recipients of criminal history information, as shown below:

[In percent]

Law enforcement	58.6
Judicial	32.9
Corrections	2.2
Other and miscellaneous	6.3

The results are influenced by the fact that the greatest percentage of requests for information (51 percent) were by fingerprint cards submitted by law enforcement agencies, usually as a matter of routine at the time of arrest because State law required it.

State and local law enforcement officials said this information was usually not used by them when it was received but that it was placed in the arrested person's file and could be used for prearrest purposes in subsequent investigations of the person.

State and local judicial agencies (prosecutors, courts, probation and parole) were the major recipients of criminal history information requested by nonfingerprint means.

Since requests by this means are less routine than fingerprint card requests, it is probably more indicative of how criminal justice agencies use the information when they need to know an individual's criminal background.

Since State and local judicial agencies were primary users of information requested by nonfingerprint means, it seems that they should have a significant voice regarding policies and procedures that govern the use of criminal history information.

Certain questions arose during GAO's review regarding the dissemination practices of Florida and Massachusetts. Thirteen criminal justice agencies in Florida were not complying with the State's dissemination practices for criminal history information that they misinterpreted State policy and either allowed unauthorized access to the files or furnished criminal history data to agencies not authorized to receive it.

In Massachusetts GAO could not determine who initiated about 10 percent of the sample requests for criminal history information made to the Department of Probation's files. These requests were mostly made by telephone and indicated the Department's procedures for disseminating such information as a result of telephone requests were inadequate.

GAO advised appropriate officials in both States of the problems so they could take corrective action.

Various segments of the criminal justice system requested rap sheets on the same individual as his case was processed through the system. In California, there were instances where at least 10 rap sheets were requested on a single individual. In Florida, requests were normally made at eight different points as the individual moved through the system.

Federal uses of criminal history information

Analysis of requests for criminal history information made by domestic law enforcement agencies in the Departments of Justice (not including the FBI), Treasury, Interior, and Defense, and in the Postal Service and the Administrative Office of the U.S. Courts showed that, as was true for State and local agencies, most Federal requests were for postarrest purposes. However, Federal agencies were more likely to request the information for prearrest purposes as follows:

[In percent]

Prearrest	22.9
Postarrest	52.7
Miscellaneous	24.4

Federal postarrest use of criminal history information was significant although less than State and local postarrest use.

The extent to which Federal agencies received criminal history information follows

[In percent]

Law enforcement	69.8
Judicial	16.6
Corrections	8.4
Other and miscellaneous	5.2

Since State and local criminal justice agency representation on any board governing the policy and use of criminal history information should be fairly representative of both law enforcement and judicial agencies, it seems that Federal representation on such a board should be more weighted towards law enforcement agencies.

Agency comments and unresolved issues

The Department of Justice and the three States generally agreed with GAO's findings and conclusions.

The Department and California said prearrest use of criminal history information might be higher than shown in the report because local agencies make use of such information maintained in their own files for prearrest purposes. This information, usually on rap sheets, is received from State data bureaus and FBI and placed in the agency's files for possible future investigative use.

GAO agrees that local criminal justice agencies may use this information in their own files to assist in prearrest investgations. Local agencies, however, did not maintain data showing the extent of such use and the proposed legislation would not affect an agency's use of information contained in its own files for prearrest purposes.

If local agencies do not have information in their own files they would have to go to either State or FBI identification bureaus. Accordingly, GAO believes its findings as to how this State and FBI data is used accurately reflects the way local agencies use information not contained in their own files.

California said it believes response time should be reduced and that it is attempting to meet a State statutory requirement that by 1978 its data bureau respond to all requests for criminal history information within 72 hours. California also indicated that there was a need to improve accuracy and completeness of data maintained in criminal history records.

GAO agrees, on the basis of its findings and recommendations in an earlier report to the Congress on the need to determine cost and improve reporting in the development of a nationwide criminal data exchange system (B-171019, Jan. 16, 1973).

Florida and Massachusetts said they have taken action to correct dissemination problems GAO noted during its review.

CHAPTER 1—INTRODUCTION

The Subcommittee on Constitutional Rights of the Senate Judiciary Committee requested that we determine how the criminal justice system uses criminal history information to assist it in considering legislation (S. 2963 and S. 2964) to guarantee the security and privacy of such data. The Subcommittee made the request essentially because certain provisions in the proposed legislation would restrict law enforcement agencies' use of criminal history information for prearrest purposes and would prevent dissemination of certain information.

Since specific data on how criminal justice agencies used criminal history information was not available, the Subcommittee requested that we develop this information. The Subcommittee was also concerned about how policy and procedural decisions would be made regarding the use and dissemination of criminal history information. Historically, law enforcement agencies have made most of the decisions. The Subcommittee members and Administration witnesses at the March 1974 hearings generally agreed that any legislative decisions regarding the composition of a policymaking group would be enhanced if data was available showing the extent to which all segments of the criminal justice community (police, courts, and corrections) used this information. Therefore, the Subcommittee requested that we also provide information on the extent to which the various segments of the criminal justice community use criminal history information.

The purpose of this report, therefore, is to provide information. While we have drawn conclusions on the results of our findings as to how criminal history information is used and by whom, we are not commenting on the appropriateness of certain provisions of either S. 2963 or S. 2964.

To obtain the needed data we randomly sampled requests for criminal history information made to the Federal Bureau of Investigation (FBI) and to the appropriate State agencies in California, Florida, Massachusetts during a 1-week period. Information on each sampled request was then compiled either by interviewing the requestor or by analyzing completed questionnaires. Details on the sampling methodology and scope of the review are in chapter 6.

Without the complete and willing cooperation of the Department of Justice, particularly the FBI, and the appropriate State and local criminal justice agencies, we would not have been able to complete the work successfully. We believe this cooperation indicates the extent to which all interested parties believed the information we developed would be useful for providing an objective basis for making certain decisions regarding the proposed legislation.

Our work with criminal justice agencies in the three States indicated that their activities were similar to the way criminal justice agencies operate throughout the Nation. We also believe that our random sample of requests for criminal history information made to the FBI by Federal domestic law enforcement agencies provides an accurate picture of these agencies' use of this data.

CHAPTER 2—CRIMINAL HISTORY INFORMATION: WHAT IT IS AND HOW IT IS KEPT AND DISSEMINATED

Criminal history information can generally be defined as any information on an individual, collected or disseminated by criminal justice agencies, as a result of arrest, detention, initiation of criminal proceeding, probation, incarceration, parole, or release from custody.

All segments of the criminal justice system retain criminal history information files. The most widely used, however, are those maintained by the FBI, State, and large metropolitan law enforcement agencies.

FBI's criminal history system

The FBI's files contain about 21 million records of individuals for whom fingerprints were submitted to the FBI by Federal, State, and local criminal justice agencies. The FBI disseminates this information when Federal, State, or local criminal justice agencies request it. Arrests are reported to the FBI on fingerprint cards which are placed in a file maintained for each arrested individual. Information from the fingerprint card is transferred to an individual's "rap sheet," making it the master list of the individual's reported criminal activity.

Disposition data is also included on the rap sheet if the arresting agency or court of jurisdiction forwards this information to the FBI, although they are not required to do so. An FBI official said about 26 States require that disposition data be reported to their State criminal data bureaus. Some States require that the data be reported to the FBI. However, he said that such requirements generally are not enforced by the States.

Copies of the rap sheet are forwarded to criminal justice agencies in response to specific requests which can be made in several ways. The most common way used to obtain rap sheets is by sending an individual's fingerprint card to the FBI. Most of the time in these cases the individual has been arrested and fingerprinted. The arresting agency, usually as a matter of course, forwards an individual's fingerprint card to the FBI, which makes a positive identification and then sends the individual's rap sheet to the arresting agency. This positive identification insures that the recipient of the rap sheet receives the record of the individual whose fingerprints were submitted.

Requests for rap sheets can also be made by letter, telephone, or teletype. In these cases the FBI will forward the rap sheet to the requestor with the qualification that positive identification was not established, unless the requestor had submitted an FBI arrest number with the request. The FBI assigns this number to an individual when it first receives a fingerprint card showing he has been arrested. Usually the FBI does not request to know why a criminal justice agency wants an individual's rap sheet.

Most of the FBI's criminal history files are maintained in a manual system. In 1971 the FBI began operating, in conjunction with the States, a computerized criminal history (CCH) system. The CCH system can provide requestors either a detailed record of a person's criminal history, similar to the information contained on a rap sheet, or a summary record. The summary record essentially contains only the number of times a person has been arrested and convicted of certain offenses, and more detailed information on his last arrest. However, requests for CCH information are not accompanied by fingerprint cards so there is not positive assurance that the information transmitted to the requestor is, in fact, on the subject of the request.

As of February 1974, the CCH system had data on only about 2 percent of the approximately 21 million individuals on whom the FBI has criminal history information.[1] Two of the States we reviewed, California and Florida, had contributed about half of all records entered into the CCH file by participating States and the District of Columbia.

On March 1, 1974, we issued a report to the Subcommittee on the development and use of the CCH system. The report raised the question as to what the national policy should be regarding development of computerized criminal history information systems and to what extent the various segments of the criminal justice community and appropriate Federal agencies should participate in such policy development.

California

The Bureau of Identification, Identification and Information Branch, of the State Division of Law Enforcement is primarily responsible for maintaining and disseminating criminal history information maintained in the State's manual file. State and local law enforcement agencies are required by California law to submit fingerprint cards to the Bureau on all individuals arrested for felonies or other serious crimes. Fingerprint card data, information from arrest forms,[2] and disposition data is entered on the rap sheets maintained by the Bureau.

At the time of our review, the Bureau had fingerprints and/or rap sheets on 9.1 million people. The records on 5.3 million people dealt with criminal offenders. The records on the remaining 3.8 million people were kept because, under State law, they had to undergo a criminal history check to obtain a license or to obtain or retain employment.

Information maintained in the Bureau's files is generally released upon receipt of a fingerprint card or arrest form, or upon request by telephone, teletype, letter, or personal visit. The Bureau cannot be sure that information released in response to requests from other than fingerprint cards is in fact for the individual named because there is no way to insure positive identification. It advises the requestor that positive identification was not established.

In addition to its manual file, California also has a computerized criminal history system which became operational in April 1973. It is operated by the Law Enforcement Consolidated Data Center. The State is converting certain manual records into computer format. As of May 1974, about 1.4 million records of offenders charged with serious offenses were planned for conversion. About 488,000 had been converted, with about 240,000 of these entered into the computer. A copy of the records is also transmitted to the FBI for inclusion in its CCH system if the record has an FBI number. These records in the State's computer can be accessed by the Bureau to enable it to respond to requests for rap sheets. Also, California law enforcement agencies are linked directly to the State computer by about 975 terminals so they can request information directly.

California has not established a list of agencies authorized to access the State's criminal history files. California legislation states that information shall be furnished to all peace officers; district attorneys; probation officers; State courts; U.S. officers; officers of other States and countries authorized by the California Attorney General; and to any State agency, officer, or official when needed for performance of official functions. Information can be obtained for criminal justice purposes and for determining individuals' eligibility for licensing or suitability for employment.

Florida

The Division of Criminal Justice Services of the Florida Department of Law Enforcement manages the State's criminal history information system, which is entirely computerized. Two main files are kept—the identification file and the full history file. All fingerprint cards and duplicates of criminal histories are kept on microfilm. In addition, the State has entered records on Florida

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Footnotes at end of article.

criminals who are multi-State offenders into the FBI's CCH system.

As of May 1974 the State had records for about 775,000 persons in its identification and full history file. About 70,000 of these were multi-State offenders whose records had also been entered into the FBI's CCH system.

The identification file contains the name and certain other identifying characteristics of individuals on whom the State has rap sheets. The identification file is used as a quick reference primarily to determine if the individual has a criminal record. Inquiries can be made to the identification file with only the individual's name. Upon making an inquiry the requestor is furnished with certain information that indicates whether the State might have criminal history information on the individual and which file contains the information.

The requestor can then use this information to request a rap sheet from the full history file or from the FBI. If a rap sheet is available, the State mails it to the requestor.

As of June 1974, there were 367 telecommunication terminals in operation at various law enforcement agencies throughout the State. These terminals have direct access to the identification file, but only off-line access to the full history file. Requests for either identification or full history information can also be made by telephone, letter, teletype, fingerprint card submission, or by personal visit.

The Department of Law Enforcement's policy is to disseminate criminal history information to criminal justice agencies and any other agencies which have State statutory authority to do checks before licensing or employment. There is no restriction on what local criminal justice agencies can do with criminal history information they developed on their own.

Massachusetts

Whereas the California and Florida criminal history information systems are relatively similar to the FBI's system, the Massachusetts system is not.

Massachusetts maintains criminal history information in three separate departments:

The Department of Public Safety keeps identifications (e.g., fingerprint cards and photographs) and arrest data.

The Department of Probation keeps court arraignment through sentencing data.

The Department of Corrections keeps sentence imposition through sentence completion data.

The identification and arrest data file contains an individual's name, description, aliases, birthdate, parents' and spouse's names, names of other relatives and associates, arrest data, fingerprints, and photographs. Information regarding arrests and their disposition is entered on rap sheets. Records on about 800,000 individuals are on file.

Generally requests for identification and arrest data are made to verify the identity of individuals. Requests for arrest data can be made by letter, telephone, teletype, or by personal visit. Information disseminated as a result of requests other than fingerprint cards cannot be verified to insure positive identification because fingerprint comparisons are not made.

The file maintained by the Department of Probation on individuals contains a complete record of all court appearances and dispositions for every person arraigned before the Massachusetts courts. All information for this file is furnished by the courts. The records contain general identification data and note the date and disposition of all court appearances for each charge from the first appearance to the date of sentencing or release from custody. There are records on about 5 million people in this file.

The files maintained by the probation department are the basic records criminal justice agencies use to secure criminal history information on people. Requests for such records can be made by telephone, teletype, letter, or in person. Requests are usually by name and there is no system for insuring that the information released is truly the record of the correct person because verification is not made by checking fingerprints.

Files maintained by the Department of Corrections contain information on criminal offenders' progress from the time a sentence is imposed until their release from custody. The files contain various documents submitted by the court, probation, correction, or parole officers and include presentence narratives, psychological evaluations, and prison admission data. The files are used almost exclusively by corrections and parole board personnel and access to detailed information in them is generally restricted to corrections and parole board personnel. About 15,000 to 20,000 active records and 35,000 to 40,000 inactive records on microfilm are maintained in the Department of Corrections file.

Massachusetts is developing a Statewide computerized criminal history information system that will consolidate criminal offender records now held in the three departments. The Department of Probation receives court status slips for individuals who have committed felonies, major motor vehicle violations, or nonvehicular misdemeanors other than drunkenness. These slips are sent to the Department of Public Safety which searches for the individual's fingerprint card. If one is located, the fingerprint data, court data, and any existing correctional data is consolidated into a single record.

It is not clear how the State insures itself that the fingerprint, court, and correction data is actually on the same person because the court status slips and probation file record cards do not contain fingerprints or other identifiers, such as arrest numbers or FBI numbers. The State said it is trying to insure, as best it can, positive identification of such records, and if there is any question about the positive match of records, the subject's records are not being consolidated.

As of May 1974 about 15,000 of the 800,000 Department of Public Safety, 5 million probation, and 55,000 corrections records had been converted, with additional conversions taking place at a rate of about 60 a day. State officials were unable to estimate when the computerized system would become operational.

The State Criminal History Systems Board, established in 1972, is responsible for setting policy and regulations governing the collection, storage, dissemination, and use of criminal history information. A Security and Privacy Council, under the Board, has also been established to continually study and recommend ways to insure individual privacy and system security. The Board established a list of 74 types of agencies having access to the State's criminal history information for criminal justice purposes or for determining an individual's eligibility for licensing or suitability for employment.

In addition to criminal history information files maintained by the FBI and various State agencies, there were numerous such files also maintained by local criminal justice agencies in the States where we did our review, primarily law enforcement agencies. For example, Alameda County, California, keeps a multiagency criminal information system which serves the sheriff's office, the county police departments and other local law enforcement agencies. Ten California law enforcement agencies that we contacted during the review had local criminal history records on about 3 million people with the Los Angeles County sheriff's office having the largest file with records on about 1.2 million people.

Although we did not review the uses of criminal history information in these files, local criminal justice officials told us the information is used extensively by judicial agencies for setting of bail, sentencing, and probation decisions. In addition, law enforcement agencies use this information in prearrest situations and for postarrest followup investigations.

CHAPTER 3—HOW STATE AND LOCAL CRIMINAL JUSTICE AGENCIES USE CRIMINAL HISTORY INFORMATION

To determine how criminal justice agencies in the three States used criminal history data, we sampled requests they made from three sources:

The FBI's manual file.

The State's manual file.

The State's CCH file in California and Florida.

We did not sample State and local requests to the FBI's CCH file because they automatically go to the State file first and would be recorded and included in our sample there.

We classified the types of requests under three consolidated categories—fingerprint card requests,[3] nonfingerprint requests (telephone, teletype, letter, or personal visit), and CCH requests.

The agencies requesting information are discussed under three categories:

Law enforcement agencies, which include police and sheriff's departments and other State or local enforcement-type agencies.

Judicial agencies, which include prosecutors, courts, probation and parole offices.

Correction agencies.

Briefly, our work showed that:

Criminal history information was used primarily after an individual was arrested.

Judicial and correction agencies most often used the data.

Requests for criminal history information submitted by fingerprint cards were overwhelmingly made by law enforcement agencies, usually because of a State requirement to submit a fingerprint card when an individual is arrested.

Requests by nonfingerprint means were much more frequently from judicial agencies than were fingerprint card requests and were more frequently made, not as matter of routine, but to develop additional information on the arrested person.

Why criminal history information was requested

One of the basic questions the Subcommittee requested us to answer was the extent to which criminal history information was used for pre versus postarrest activities of criminal justice agencies. Our findings showed that the data was used primarily for postarrest purposes, as can be seen in the following table:

Footnotes at end of article.

PREARREST VERSUS POSTARREST USE

[In percent]

Activity	Type of request				
	Fingerprint card		Nonfingerprint		
	To FBI file	To State files	To FBI file	To State files	CCH
Prearrest	1.5	0	8.9	13.3	32.3
Postarrest	91.5	100	77.9	70.4	47.0
Miscellaneous [1]	7.0	0	13.2	16.3	20.7

[1] Includes requests for information used for such purposes as licensing, certifying, and testing of CCH. It also includes requestors who did not respond to our questionnaire, were not sure they made the request, or said they did not make the request.

SPECIFIC PURPOSES FOR WHICH THE DATA WAS TO BE USED AND BY WHICH TYPE OF CRIMINAL JUSTICE AGENCY [1]

[In percent]

Purpose by agency	Type of request				
	Fingerprint card		Nonfingerprint		
	To FBI file	To State files	To FBI file	To State files	CCH
Law enforcement:					
Suspicious circumstances arousing police interest	0.3	0	3.9	7.0	23.6
First police report of a crime	.3	0	0	3.3	2.9
Followup investigation before arrest	.9	0	2.6	3.7	2.9
Arrest (i.e., booking of suspect)	80.8	86.4	0	19.7	15.8
Followup investigation after arrest	9.0	10.2	6.5	5.4	14.1
Completion of case	3.9	0	4.8	1.5	5.3
Prosecuting agency:					
Prosecution of suspect	8.3	0	15.7	9.0	0
Plea bargaining	1.4	0	2.6	.4	0
Courts:					
Recommending or setting bail	4.1	0	1.3	9.5	0
Sentencing	7.6	0	10.5	12.1	0
Probation/parole:					
Presentence report preparation or recommendation	5.5	0	41.7	23.0	4.4
Supervision requirement after release of defendant on parole or probation	.7	.2	10.5	11.0	2.9
Corrections:					
Incarceration	4.3	0	1.3	.4	0
Establishing treatment program	3.1	3.2	1.3	1.1	0
Other [2]	3.6	0	32.8	15.6	19.2
Miscellaneous [3]	.9	0	2.6	16.3	20.6

[1] The data could be requested for more than one purpose. Thus, percentages total more than 100.

[2] Includes responses from such agencies as components of State identification bureaus, State real estate boards, and Federal agencies, which could not be classified as State criminal justice agencies.

[3] Includes requestors who said they did not make the request, were not sure they made the request, did not reply to our questionnaire, or were testing equipment or training operators.

GENERAL REASONS WHY THE INFORMATION WAS REQUESTED [1]

[In percent]

Reason	Type of request				
	Fingerprint card		Nonfingerprint		
	To FBI file	To State files	To FBI file	To State files	CCH
Routine agency policy	96.2	100.0	61.6	52.0	48.3
Obtain additional background data	30.3	17.4	51.3	40.6	48.3
Need to form an opinion:					
To continue or terminate case	4.6	0	20.9	10.4	6.0
Regarding subject's character or risk to society	18.1	3.6	53.1	27.2	22.1
Other [2]	4.1	6.4	6.5	24.0	36.6
Miscellaneous [3]	.2	0	2.8	01.9	20.6

[1] The data could be requested for more than one purpose. Thus, percentages total more than 100.

[2] Includes purposes which were not listed on our questionnaire, such as checking records of potential jurors; licensing, certifying, or employment checks; or updating files.

[3] Includes requestors who said they did not make the request, were not sure they made the request, did not reply to the questionnaire, or were testing equipment or training operators.

An analysis of the data by type of request—fingerprint card, nonfingerprint, or CCH—shows the following.

Fingerprint card requests

Generally requests submitted by fingerprint cards were done so by law enforcement agencies at the time of arrest, usually as a matter of routine. There were virtually no instances when State or local law enforcement agencies submitted fingerprint cards to obtain information for prearrest purposes. Generally information obtained by fingerprint request is used by law enforcement agencies to update files on an arrested person and to provide them a more complete history of the arrested person's criminal involvement. For example, most law enforcement fingerprint cards submitted during followup investigations after arrest were to insure that the arresting agency had complete criminal histories on the arrested people.

Relatively few fingerprint card requests were made specifically for judicial or correctional agencies' use. In almost no cases did these agencies request the information from State files partly because judicial agencies usually obtain rap sheets directly by nonfingerprint requests to the FBI, State, or local law enforcement agency. Judicial agencies' most frequent use of criminal history data obtained by fingerprint requests was in the prosecution and sentencing of individuals. This might be because generally these are the two points during the judicial process when it is important to have a complete and current criminal history of the individual, and the FBI's files contain the latest comprehensive information on an individual. Nevertheless, most use of such data obtained by fingerprint cards was by law enforcement agencies.

However, the fact that over 80 percent of these requests occurred at the time of arrest suggests that there was probably little actual use of the information by State and local law enforcement agencies in those cases. Local law enforcement officials told us that they believed their agencies rely almost exclusively on their own files for criminal history information to aid in prearrest investigations because:

Most crime is committed by local people with whom the investigating agency is familiar and on whom the agency has a current criminal history file, which usually contains previously requested FBI or State rap sheets.

It takes too long to receive information from State or FBI files.

Nonfingerprint Requests

An analysis of nonfingerprint requests for criminal history information provides a better indication of the extent to which criminal history data in FBI and the States' files was used for prearrest purposes. A relatively significant number of requests for criminal history information were used for prearrest purposes—8.9 percent of nonfingerprint requests made to the FBI and 13.3 percent of such requests made to the three States' files. This data is more meaningful than fingerprint card requests for determining the extent to which criminal history information is used for prearrest purposes because fingerprints generally are not taken before arrest.

The time factor might also have an important impact on the degree to which criminal history data is used in pre versus postarrest phases. Analysis of the CCH data indicates a much greater use of it in the States' CCH systems for prearrest purposes than the data requested by fingerprint or nonfingerprint means. This may be because the response time is usually quicker for CCH and could indicate that as more criminal history information is computerized, law enforcement agencies will use it more for prearrest purposes than they did during our review.

In summary, although the total weighted percentage State and local use of criminal history data for prearrest purposes is relatively small (see table below), it is significant enough to indicate that criminal history information in the FBI and State files is used by State and local agencies in prearrest investigations, but not on a routine basis at the time it is received.

State and local use of criminal history information for pre and postarrest purposes regardless of how requested

[In percent]

Prearrest	6.7
Postarrest	83.5
Miscellaneous	9.8

Nonfingerprint requests for criminal history information were overwhelmingly made for postarrest purposes—primarily by judicial agencies (prosecutors, courts, probation or parole officers). Use for these purposes was almost three times the use for law enforcement purposes. This information was often requested to secure data upon which to base an opinion regarding the individual's character or risk to society. Prosecutors wanted complete background data on individuals to help prepare cases against them. Courts wanted complete background data on which to base decisions regarding bail, probation, or sentencing. Probation officers needed information upon which to base opinions regarding the subjects' character or risk to society. In some cases these opinions regarded how the probation officer would handle a person placed on probation by the court; in other cases the opinions were transmitted to the courts in the form of preprobation or presentencing reports. Nearly half of the nonfingerprint requests submitted to the FBI and nearly one-fourth of those submitted to the States were for information to assist probation or parole agencies preparing presentence reports or recommendations.

CCH requests

The use of CCH information obtained by computer requests was almost exclusively for law enforcement functions. Only about 7 percent of all these requests were for non-law enforcement functions. This is primarily because most non-law enforcement agencies do not have access to CCH terminals. For example, in California, the 240,000 online criminal history records were directly accessible primarily through terminals located at police departments throughout the State. However, these agencies may have subsequently provided the information to judicial and corrections agencies.

The CCH system became operational in late 1971. There are currently very few criminal history records computerized. Very few non-law enforcement agencies have access to a CCH terminal, and in most States detailed records cannot be transmitted online to a requestor. Moreover, CCH accounted for only 773, or 1.3 percent, of the 58,465 requests made by State and local agencies in the three States during our 1-week sample period. Thus, it is too early in CCH's development to be able to draw any definitive conclusions about the uses made of the CCH system.

Who received criminal history information

To obtain a clearer picture of the extent to which all segments of the criminal justice system used criminal history information, we determined which type of agency received the information either directly from the FBI or State files or subsequently from another agency which had initially received the data. The following table shows, for each type of request, the percentage of criminal history information received by each segment of the criminal justice system.

RECIPIENTS OF CRIMINAL HISTORY INFORMATION

[In percent]

	Type of request				
	Fingerprint card		Nonfingerprint		
Agency	To FBI file	To State files	To FBI file	To State files	CCH
Law enforcement	77.2	85.7	17.3	32.9	67.7
Judicial	16.7	11.3	77.3	53.5	24.0
Corrections	2.6	2.8	2.1	1.7	.4
Other [1]	3.3	.2	1.0	3.2	1.2
Miscellaneous [2]	.2	0	2.3	8.7	6.7

[1] Includes responses from such agencies as components of State identification bureaus, State real estate boards, and Federal agencies, which could not be classified as State criminal justice agencies.

[2] Includes requestors who said they did not make the request, were not sure they made the request, did not reply to our questionnaire, or were testing equipment or training operators.

The percentages follow for receipt of the information by all criminal justice agencies regardless of the means of request.

[In percent]

Law enforcement	58.6
Judicial	32.9
Corrections	2.2
Other and miscellaneous	6.3

The data indicates that law enforcement agencies were the most frequent recipients of the information. The results, however, are influenced by the fact that the greatest percentage of requests (51 percent) for information were by fingerprint cards submitted by law enforcement agencies. As shown in the table on page 14, almost all of such requests were made routinely, and, as shown on page 13, were made at the time of arrest.

When law enforcement agencies received criminal history information in response to fingerprint card submissions, it was generally not used for specific purposes. It became part of the arrested person's file at that agency. The file is available to judicial and correctional officials as the arrested person moves through the criminal justice system. The law enforcement agency could also use the file to provide background data on the person if he were, subsequent to release, suspected of further criminal activity. However, law enforcement agencies made little immediate use of the information they received as a result of fingerprint card requests.

Officials of many police departments we contacted said that information received from routine fingerprint card submissions was filed and that no further immediate use was made of it. They said, however, that their files were open to criminal justice agencies and that they knew judicial agencies used the files but did not know the frequency of that use.

A more accurate picture of who actually receives and uses criminal history information is probably provided by recipients of the data as a result of nonfingerprint requests. As shown in the table on page 14, this information is requested on a much less routine basis than fingerprint card requests. Thus, it is probably more indicative of how criminal justice agencies use criminal history information when they need to know the criminal background of an individual. As shown in the table on page 13, judicial agencies were the major recipients and users of criminal history information requested by nonfingerprint means.

The information in the table on page 13, that discusses specific purpose of requests, shows the extent to which judicial agencies used the information. It is quite extensive in relation to law enforcement or correctional use.

In summary, our statistics showed that law enforcement agencies were the most frequent recipients of criminal history information. But, if the way the information was requested and used is taken into account, judicial agencies are its primary users. Accordingly, it seems that State and local judicial agencies should have a significant say regarding policies and procedures that govern the uses of criminal history information.

Questions regarding recipients of criminal history information

Certain questions arose during our review regarding some dissemination practices in Florida and Massachusetts. An analysis of sampled requests in California did not indicate any dissemination problems.

At least 13 criminal justice agencies in Florida misinterpreted State policy and were not fully complying with the State's dissemination policies. Our discussions with law enforcement agencies indicated that seven provided criminal history information to requestors who were not authorized by the State to receive it. These included city agencies and other local employers. One law enforcement official explained that he thought it was proper to disseminate information to a local employer who had Department of Defense contracts if it was for security checks on individuals. One police agency's criminal history files were open to the public. Additionally, officials in six local agencies said they had provided criminal history information to military recruiters and investigators. State officails said these practices are contrary to the State's dissemination policy. They noted, however, that the FBI provides criminal history information to the military services and consequently some law enforcement agencies apparently incorrectly interpreted the State's more restrictive policy.

In Massachusetts, we were unable to determine who initiated about 10 percent of the sampled requests for criminal history information made to the probation department. Most of these requests were made by phone. The probation department's policies allowed its employees to respond to the phone requests without calling the requestor back to insure that he was an employee of an agency authorized to receive criminal history information. We contacted the supposed requesting agencies for these cases. Either the heads of the agencies or their identification division officials contacted all persons authorized to request information from the probation department file. They told us that, to the best of their knowledge, no one in their agencies had requested the information. The probation department's procedures for disseminating criminal history information as a result of telephone requests apparently were inadequate.

We have advised appropriate officials in both States of the problems so they could determine the extent of the problems and take action to insure that their policies and procedures are adhered to or are adequate enough to keep unauthorized recipients from receiving criminal history information. The corrective action taken is discussed in chapter 5.

Additional matters regarding State and local uses of criminal history information

Several other findings from our work might also be useful to both the Subcommittee and Executive Branch in their consideration of the proposed legislation. These matters—the response time to requests for criminal history data, the extent to which the States use such data for licensing and employment checks, their purging and sealing provisions for criminal history data, and the number of times a rap sheet is requested—are discussed below.

Response time

The elapsed time between a request for criminal history information to the FBI or State files and the requesting agency's receipt of information was 1 week or more in most cases. Most requesting agencies considered that response time adequate. The following tables show, by percentage, (1) the response times for the requests and (2) whether the requestor considered the response times adequate and whether detrimental effects resulted from slow response times.

ELAPSED TIME BETWEEN THE REQUEST FOR AND RECEIPT OF INFORMATION

[In percent]

	Type of request				
	Fingerprint card		Nonfingerprint		
Elapsed time	To FBI file	To State files	To FBI file	To State files	CCH
Less than 1 hr	0	0	0	8.3	34.9
At least 1 hr, but less than 1 day	0	6.4	.9	12.7	1.5
At least 1 day, but less than 1 week	1.0	0.2	7.3	22.0	23.8
At least 1 week, but less than 2 weeks	12.1	4.3	32.2	16.7	2.9
2 weeks or more	52.9	61.4	34.8	21.5	0
Could not answer or did not know	34.0	27.7	24.8	18.8	36.9

ADEQUACY OF RESPONSE TIME

[In percent]

	Type of request				
	Fingerprint card		Nonfingerprint		
Adequacy	To FBI file	To State files	To FBI file	To State files	CCH
Considered response time adequate	63.2	65.7	74.1	76.1	66.1
Considered response time inadequate	9.2	16.2	14.4	8.1	0
Could not answer or did not know	27.6	18.1	11.5	15.8	33.9
Total	100.0	100.0	100.0	100.0	100.0
Had detrimental effects	2.1	3.2	2.6	1.5	0

Responses to fingerprint card requests took the longest time to receive. Responses to over 50 percent of these requests made to either the FBI or State files took 2 weeks or more. Excluding the could not answer or did not know column in the table on page 23, the percentage of such responses that took 2 or more weeks to complete goes to over 80 for both FBI and State file requests.

FBI Identification Division officials told us that their turnaround time is usually 3 days for fingerprint card requests. They believed that, in many cases, the information takes much longer to get back to the individual who initially requested it because the requesting individual's agency saves all the fingerprint cards completed over several days or even several weeks before submitting them to the FBI. In such cases a card could have been with the agency for a considerable time after being completed by the arresting officer or fingerprint technician before being sent to the FBI. Officials of some agencies we contacted stated that fingerprint cards are not always sent to the FBI on the day they are completed. Some agencies collected the cards for several days before submitting them.

The FBI said that the distance between California and Washington, D.C., requires a longer period of time between sending and receiving mail than in most States. Also, because most fingerprints submitted by Florida agencies are sent to the FBI through the State bureau, the FBI believed response time would be adversely affected.

Regardless of the reason for the slow response time, the time frame makes it difficult for the information to be useful to law enforcement agencies in postarrest followup investigations or to courts for setting bail.

Nonfingerprint card requests were responded to more quickly, primarily because fingerprint cards must be reviewed and verified for identification purposes. Responses to only about 35 percent of the requests made to the FBI and 20 percent of the requests made to the State files were received as long as 2 weeks or more after the request was made. Telephone and teletype requests were returned more quickly possibly because the request did not have to go through the mail. But, in most cases, the response to the request had to be mailed. The shorter response time also held true for letter requests even though they have to be submitted by mail, as do fingerprint cards.

Response times for CCH requests were less than for other kinds of requests. About 35 percent of the CCH responses were received in less than 1 hour, some of them in seconds. However, responses to about one-fourth of the requests were in the "at least 1 day but less than 1 week" category. The major reason is that in California and Florida detailed records could not be transmitted back to the requestor by computer but were printed out at the State bureau and mailed to the requestors.

A majority of requestors considered the response time for their requests adequate. The percentage of requests for which the response time was considered inadequate was between 0 and 17 for all of the various types of requests made. The highest frequency of response times considered inadequate (16.2 percent) was for fingerprint cards submitted to the State files, and the lowest was CCH with no requestors considering the response time inadequate. Very few requestors, 3.2 percent or less in all cases, felt that detrimental effects resulted from the time it required to receive the information.

This does not necessarily mean that the systems were adequate for meeting criminal justice agency needs. Rather it could imply that criminal justice agencies have merely adjusted their operations to the system and do not consider it necessary to have criminal history information sooner than they normally receive it. However, as more criminal justice agencies begin to receive this information by computer they may begin to realize that their operations can be improved if they receive the data sooner and would then consider that the current, relatively long response times would adversely affect their operations. Computerizing criminal history data could affect the way that criminal justice agencies view and use such data.

Licensing and employment checks

The three States require licensing or certifying of individuals before they can buy firearms or be employed at certain jobs or professions. The agencies responsible for licensing or certifying these individuals must find out whether they have criminal records. The FBI recognizes these State requirements and therefore sends criminal history information to these agencies in the same way it does to criminal justice agencies. According to the FBI, only about 10 States do not have specific legislation authorizing certain State and local agencies to provide fingerprints to, and obtain criminal history information from, the FBI for licensing and employment checks.

In addition, the three States we visited allow certain businesses and agencies access to the criminal history records of applicants for jobs which are considered sensitive or which would place the employee in a position where he could be a menace to the public. Any Massachusetts agency included in the list of 74 groups of authorized agencies may have access to State criminal history records for licensing, certifying, or employment checks. Some of the California agencies authorized access for licensing, certifying, and employment checks are county welfare departments, school districts, the Board of Accountancy, the Board of Cosmetology, the Board of Medical Examiners, and the Board of Funeral Directors and Embalmers. Some of the Florida agencies authorized access to criminal history information for such purposes are the Florida Beverage Department, the Board of Bar Examiners, the Pari-Mutuel Wagering Board, and the Police Standards Board.

The largest volume of requests for criminal history information related to licensing, certifying, and employment was in California. About 447,000 applicant fingerprint cards were processed during fiscal year 1973, compared to 880,000 criminal fingerprint cards. In Florida, during the week we took our sample, about 1,250 of the 5,318 fingerprint cards submitted, or about 24 percent, were for licensing, certification, or employment checks. About 10 percent of the requests we sampled in Massachusetts were for such purposes.

Thus, a significant amount of work done by identification bureaus is related to supplying criminal history information to allow persons to obtain licenses, certification, or employment.

PURGING AND SEALING OF CRIMINAL HISTORY INFORMATION

Purging of criminal history information is generally defined as the act of deleting or destroying all or part of the data on a criminal history record. Sealing is usually defined as removing from an active file all or part of a criminal history record and placing it in an inactive file where it is accessible only under certain specified conditions and/or to certain specified agencies. The FBI Identification Division generally does not seal records but purges the manual criminal history records of individuals over 80 years old. However, if a State has a sealing requirement, or if a court order requires the sealing or purging of a record, the FBI will return the record to the State, removing it from the FBI files. Many of the States have laws or have established policies regarding the sealing and purging of records.

When Florida automated its criminal history files, about 200,000 of 600,000 records were purged. These included records for persons with no criminal offenses for the previous 5 years and those not containing a State or FBI criminal identification number. The State's current policy provides for purging the files of records on minor traffic violations, public drunkenness, job applicants, and people over 80 years old. Also, all or part of a record is expunged if a court so orders, or if the contributing agency requests expungement due to a previous recording error.

The Florida Department of Law Enforcement has proposed to the legislature implementation of a new system, the Offender Based Transaction Statistics System, which would track an arrested person and report at various points his progress through the criminal justice system. One objective of the system is to obtain better and more timely disposition data. In preparation for the system, the Department is surveying its records to determine how many lack disposition data and is trying to obtain this data from the contributors.

A 1969 Florida Department of Law Enforcement survey showed that the Department was receiving disposition data for only about 18 percent of the arrests reported to it. Department officials estimate that the percent of disposition data received increased to about 65 percent by June 30, 1974. At that time, the Department had a backlog of about 54,000 dispositions that were to be entered onto records in its information system.

Massachusetts has no purging statutes for records maintained in its files. There is, however, a statute which permits the sealing of Department of Probation records after 10 years for misdemeanors and after 15 years for felonies. The record can be sealed only if the individual of record petitions to have it sealed. No State statutes require records in the Department of Public Safety and Department of Corrections files to be sealed.

Requests to the Department of Probation for information on an individual with a sealed record will, for certain agencies, result in a "sealed record" response rather than a "no record" response. When the State's computerized system becomes operational, requests for sealed records will be answered with a "no record" response.

Effective March 1, 1974, California adopted new policies relating to the submission and purging of records. Fingerprint cards are no longer posted to the files for public drunkenness, violations of local ordinances, minor traffic violations, and certain minor or nonspecific offenses such as investigation, suspicion, inquiry or disorderly. However, the State will search its criminal history records to see if any individuals arrested on the above-mentioned charges had previous criminal histories. If so, the State will send what information it has to the requesting agency. Except for those relating to peace officer applicants and applicants wanting to carry concealed weapons, fingerprint cards are no longer to be retained by the State unless it has a contract with the contributor to notify him in the event of a subsequent arrest of the applicant. However, a copy of any existing record would be returned, with the card, to the contributor in all cases. The following retention periods for criminal history records are in effect:

No retention period for nonserious offenses and applicant checks.

5 years for misdemeanor arrests not resulting in a conviction or arrests later termed "detention only."

7 years for misdemeanors resulting in conviction.

7 years for arrests not resulting in a conviction for an offense where a prior conviction would constitute a felony, for an offense which would be a felony depending upon a disposition, and for felonies.

After these periods the records are purged.

Policy also provides for the purging of records of felony convictions when the individual becomes 70 years old, provided he has had no contact with the criminal justice system since age 60. These policies were expected to become State regulations by August 1, 1974.

These criteria are not as restrictive as those provided for in legislation now being considered by the Subcommittee. However, the trend in the States is currently toward control of submissions and disseminations to decrease unauthorized access and to keep the files current and at a manageable size. Officials in all three States told us that lack of disposition data or the existence of inaccurate disposition data are serious problems. They believed they are more serious problems than access of information by unauthorized agencies. No matter how much dissemination is controlled, if the records disseminated are inaccurate, injustices can result for the individuals. The Bureau of Criminal Statistics, California Division of Law Enforcement, has conducted various studies comparing the State records with local court records and has found inaccuracies in disposition data in 100 percent of the sampled records of some of the courts. If this situation prevails in the majority of the courts, action to insure greater accuracy of records might be the first logical step in providing for individual rights and in improving criminal history record systems.

Numerous requests for rap sheets

We noted that often various segments of the criminal justice system request rap sheets on the same individual as he passes through the criminal justice system. This situation could be alleviated if there were better coordination among criminal justice agencies. In Florida, we were told requests are normally made at eight different points as the individual moves through the system. In California there were instances where at least 10 rap sheets were requested on a single individual as his case moved through the criminal justice system. An example follows.

Request for rap sheet and incident

Suspect arrested and booked at police department:

1. Teletype request to State data bureau for complaint purposes;
2. Fingerprint card to State data bureau;
3. Fingerprint card to FBI.

Felony complaint issued, defendant bound over to sheriff's office (jailer):

4. Fingerprint card to State data bureau;
5. Fingerprint card to FBI.

District Attorney assigned case:

6. Letter request to State data bureau;

Probation assigned to prepare presentence report:

7. Letter request to State data bureau.

Defendant receives sentence of prison/probation—remanded to prison:

8. Fingerprint card to State data bureau;
9. Fingerprint card to FBI.

Released to probation or parole:

10. Letter request to State data bureau.

Police agencies indicated that they usually submit rap sheets or rap sheet information with their arrest packages to the district attorney; however, the district attorney requests rap sheets routinely on all cases assigned to him for prosecution. The probation agencies also indicated that they request rap sheets on all individuals assigned to them. Probation officers we contacted stated that they usually obtain rap sheets from the arresting agency or the district attorney because the State data bureau's response to their requests takes too long.

Suggestion

We suggest that Federal, State, and local criminal justice agencies determine how to improve the way rap sheet information is provided to the various criminal justice agencies to minimize the frequency of requests for the information.

CHAPTER 4—HOW FEDERAL CRIMINAL JUSTICE AGENCIES USE CRIMINAL HISTORY INFORMATION

Our review of Federal uses of criminal history data was based on an analysis of a random sample of requests to the FBI by fingerprint card, nonfingerprint means, or by CCH made by the following domestic law enforcement agencies:

Department of Justice:
Drug Enforcement Administration
Immigration and Naturalization Service
Criminal Division
U.S. Marshals Service
Bureau of Prisons
U.S. Attorney's Office
Administrative Office of the U.S. Courts: Probation Office
Department of the Treasury:
Alcohol, Tobacco, and Firearms Division
Bureau of Customs
Internal Revenue Service
Secret Service
Postal Service: Postal Inspection Service
Department of the Interior: National Park Service
Department of Defense: All nonintelligence or analysis agencies

We did not sample requests made by FBI agents because FBI officials advised us that they considered criminal history information provided by one segment of the FBI to another segment as an internal operation which would not have a bearing on the legislation being considered by the Subcommittee. We agreed but encouraged the FBI to do their own study of the extent to which their field agents used criminal history information for pre versus postarrest purposes.

Why criminal history information was requested

As was true with State and local requests for criminal history data, most Federal requests were also for postarrest purposes. However, Federal agencies were more likely to request information for prearrest purposes than State or local agencies.

The following table shows the extent to which the information was used for pre or postarrest purposes by type of request.

PREARREST VERSUS POSTARREST USE

[In percent]

	Type of request		
	Fingerprint card	Nonfingerprint	CCH
Prearrest	1.9	30.3	27.3
Postarrest	94.2	53.1	36.2
Miscellaneous[1]	3.9	16.6	36.5

[1] Includes requests related to employment checks, identifying deceased persons, and testing of CCH equipment; as well as requestors who said they did not make the request, were not sure they made the request, or did not reply to the questionnaire.

THE SPECIFIC PURPOSES FOR WHICH THE DATA WAS TO BE USED AND BY WHICH TYPE OF AGENCY[1]

[In percent]

	Type of request		
	Fingerprint card	Nonfingerprint	CCH
Law enforcement:			
Suspicious circumstances arousing police interest	0	19.2	19.5
1st police report of a crime	0	0	0
Followup investigation before arrest	4.0	0	1.9
Arrest (i.e., booking of suspect)	66.0	4.0	11.9
Followup investigation after arrest	10.3	9.6	16.1
Completion of case	0	0	1.9
Prosecuting agency:			
Prosecution of suspect	16.2	4.0	1.9
Plea bargaining	0	0	0
Courts:			
Recommending or setting bail	8.3	5.6	0
Sentencing	16.2	0	
Probation/parole:			
Presentence report preparation or recommendation	14.3	21.7	0
Supervision requirement after release of defendant on parole or probation	8.3	5.6	0
Corrections:			
Incarceration	38.2	0	0
Establishing treatment program	23.9	0	0
Other[2]	0	41.4	36.9
Miscellaneous[3]	3.9	0	13.6

[1] The data could be requested for more than one purpose. Thus percentages total more than 100.

[2] Includes purposes not listed on our questionnaire, such as requests related to employment checks, identifying deceased individuals, or testing CCH equipment.

[3] Includes requestors who did not reply to the questionnaire, were not sure they made the request, or said they did not make the request.

GENERAL REASONS WHY THE INFORMATION WAS REQUESTED[1]

[In percent]

Reason	Type of request		
	Fingerprint card	Nonfingerprint	CCH
Routine agency policy	90.3	29.7	43.6
Obtain additional background data	23.9	61.3	25.7
Need to form an opinion:			
To continue or terminate case	10.3	9.7	11.6
Regarding subject's character or risk to society	70.6	32.6	12.3
Other[2]	3.9	19.0	21.1
Miscellaneous[3]	0	0	3.9

[1] The data could be requested for more than one purpose. Thus, percentages total more than 100.

[2] Includes purposes not listed on our questionnare, such as requests related to employment checks, identifying deceased individuals, or testing CCH equipment.

[3] Includes requestors who did not reply to the questionnaire, were not sure they made the request, or said they did not make the request.

As was the case with State and local agencies, generally Federal requests submitted by fingerprint cards were done so at the time of arrest, as a routine agency policy. Whereas there was relatively little State or local use of criminal history information received from fingerprint cards by judicial or corrections agencies, there was considerably more use of this information by Federal judicial and corrections agencies. This could have occurred for several reasons.

Rap sheets received by law enforcement agencies are forwarded about half the time to the judicial agencies responsible for prosecuting the subject.

Federal correctional institutions fingerprint all prisoners to verify their identity when they enter the prison.

There was a significant difference between State and local, and Federal agency uses of criminal history information for prearrest purposes. Federal agencies used the data much more for prearrest purposes, regardless of how the information was requested. As with the State and local agencies, however, the least used way by Federal agencies to obtain such data was by fingerprint cards. But unlike the State and local agencies, there was about as much use made of information received by nonfingerprint means for prearrest purposes as was received by CCH for the same purposes. This could suggest that a very quick response time is not vital to Federal agency uses of FBI information because the cases they are investigating are of a relatively long term nature or because their own agency's files are sufficient to provide most information they would need very quickly.

Regardless of the way criminal history data maintained by the FBI was requested, Federal agency use of it for prearrest purposes was very significant, as shown below.

Federal use of criminal history information for pre and postarrest purposes regardless of how requested

[In percent]

Prearrest	22.9
Postarrest	52.7
Miscellaneous	24.4

One reason why Federal use of the data for prearrest purposes was so much greater than State or local use (22.9 percent versus 6.7 percent) may be because the FBI serves as the Federal repository for criminal history data for all Federal agencies whereas local law enforcement agencies often use their own files for prearrest purposes. Local law enforcement agency requests to the FBI or State level for criminal history information for prearrest purposes often are made only when they believe the suspect may have committed crimes elsewhere since the last crime was entered on the suspect's locally maintained record. Another reason for the difference may be that, by nature, more Federal criminal justice agencies are more concerned with investigative matters than State or local agencies.

Nevertheless, even at the Federal level, most of the criminal history information was used for postarrest purposes. Often the data was used to help form opinions regarding the individual's character or risk to society. For example, law enforcement agencies may use the data in postarrest followup investigations to prepare more complete cases for the prosecutors. Correctional institutions used the data to help determine the best type of correctional programs and the type of security that is necessary for the person.

Although Federal postarrest use was significant it was less than State and local postarrest use.

State and local nonfingerprint requests to the FBI included 15.7 percent for prosecution of a suspect, 10.5 percent for sentencing, 41.7 percent for preparation of a presentence report, and 10.5 percent for probation or parole supervisory decisions. State and local nonfingerprint requests to the State files also showed heavy judicial use. For example, 9 percent were requested for prosecution of a suspect, 9.5 percent for recommending or setting bail, 12.1 percent for sentencing, 23 percent for presentence report preparation, and 11 percent for parole or probation supervision requirements.

Federal nonfingerprint requests for these purposes, although less frequent than non-Federal requests, also showed judicial segment need for information because 4 percent was used for prosecution of a suspect, 5.6 percent for recommending or setting bail, 21.7 percent for presentence report preparation, and 5.6 percent for probation and parole supervision decisions. Moreover, when combined with Federal use of fingerprint card requests for judicial purposes, it is apparent that use of Federal criminal history data for judicial purposes is significant.

Of additional significance in the Federal sample is the fact that the largest purposes for requesting criminal history data by both nonfingerprint means (41.4 percent) and CCH (36.9 percent) was not connected with any normal criminal justice agency function. Such requests were classified under "other" and included such things as investigating agency job applicants, verifying the identity of deceased persons, testing the system, and routine updating of files. This suggests that the FBI staff dealing with the manual fingerprint file may be spending a considerable amount of time responding to Federal agency requests for criminal history data that is not as significant in terms of the criminal justice community's needs as might be other requests, and probably should not be given the same priority. For CCH the data suggests that its primary use by Federal agencies has not been directly related to the primary purposes of criminal justice agencies. However, because the CCH system is fairly new, cannot yet be used extensively by Federal judicial or correctional agencies, and does not yet have records on most offenders, we believe it is too early to judge the system's usefulness.

WHO RECEIVED CRIMINAL HISTORY INFORMATION

Federal law enforcement agencies received more criminal history information than either judicial or correction agencies, which was also the case for State and local criminal justice agencies. The following table shows, for each type of request, the percentage of criminal history information received by each segment of the criminal justice system.

RECIPIENTS OF CRIMINAL HISTORY INFORMATION

[In percent]

Agency	Type of request		
	Fingerprint card	Nonfingerprint	CCH
Law enforcement	56.9	44.5	87.9
Judicial	28.1	37.1	1.5
Corrections	13.9	0	10.6
Miscellaneous[1]	1.1	18.4	0

[1] Includes responses from agencies, such as the Army Board for the Correction of Military Records, which could not be classified as Federal criminal justice agencies and requests made by agencies which did not respond to the questionnaire, were not sure they made the request, or said they did not make the request.

The percentages for receipt of information by all Federal criminal justice agencies regardless of the means by which the information was requested follow:

[In percent]

Law enforcement	69.8
Judicial	16.6
Corrections	8.4
Miscellaneous	5.2

As was the case with State and local requests, the Federal results were influenced by the fact that the greatest percentage of requests for information were by fingerprint cards submitted by Federal law enforcement agencies, usually as a routine matter, at the time of arrest. Federal law enforcement agencies pass the criminal history information on to judicial agencies almost 50 percent of the time so judicial agencies were also significant users of criminal history information obtained by fingerprint cards.

Interestingly, only about a third of the Federal agency nonfingerprint requests were made by the judicial segment, compared to about 77 percent of State and local requests to the FBI and about 54 percent of the requests to the States.

This indicates that State and local judicial agencies are more likely to make requests for criminal history information directly to identification agencies than are Federal judicial agencies.

One primary reason for this situation could be that there is more routine exchange of information among Federal criminal justice agencies than among State or local agencies. For example, in about 48 percent of the cases where Federal law enforcement agencies requested criminal history information by fingerprint card, the information was also received by the judicial segment. The FBI told us that Federal agencies usually stamp the fingerprint card with the name of the judicial agency which also should receive a copy of the criminal history record and the FBI forwards a copy to both in these cases.

State and local judicial agencies only received information requested by fingerprint card about 21 percent of the time from State or local law enforcement agencies which made fingerprint requests to the FBI and only about 13 percent of the time that these requests were made to State files. Thus, there would not be as much of a reason for Federal judicial agencies to directly request criminal history information.

Federal law enforcement agencies received almost 90 percent of all CCH information requested by Federal agencies. However, we do not believe the CCH system has operated long enough to make definitive judgments about its use by criminal justice agencies.

In summary, Federal law enforcement agencies proportionally received and used criminal history information more frequently than did State and local law enforcement agencies. Accordingly, there was correspondingly less proportional receipt and use of the data by Federal judicial agencies than State and local judicial agencies. Federal corrections agencies' receipt and use of the data was greater than for similar State and local agencies, but not by too significant a margin.

Therefore, whereas State and local criminal justice agency representation on any board governing the policy and use of criminal history information should be fairly representative of both law enforcement and judicial agencies, it seems that Federal representation on such a board should be more weighted towards law enforcement agencies.

Response time

The elapsed time between making a request for criminal history information to the FBI's files and receiving that information varied greatly by method of request with fingerprint card requests taking the longest time and CCH requests taking the shortest time. The response time was considered adequate for at least 75 percent of all requests. In a small percentage of the cases, requestors felt that detrimental effects, such as reporting available but incomplete data to another criminal justice agency, resulted from slow response times. The following tables indicate, by percentages, (1) the response times for the requests and (2) whether the Federal requestor considered the response time adequate and whether detrimental effects resulted from slow response times.

ELAPSED TIME BETWEEN THE REQUEST FOR AND THE RECEIPT OF INFORMATION

[In percent]

Elapsed time	Type of request		
	Fingerprint card	Nonfingerprint	CCH
Less than 1 hr	0	5.6	47.6
At least 1 hr, but less than 1 day	0	11.1	9.7
At least 1 day, but less than 1 week	1.9	33.2	12.2
At least 1 week, but less than 2 weeks	49.9	16.2	1.9
2 weeks or more	36.5	29.8	3.9
Miscellaneous	11.7	4.1	24.7

ADEQUACY OF RESPONSE TIME

[In percent]

Adequacy	Type of request		
	Fingerprint card	Nonfingerprint	CCH
Considered response time adequate	74.4	87.4	73.4
Could not answer or did not know	11.7	4.5	24.7
Total	100.0	100.0	100.0
Had detrimental effects	7.8	8.1	0

Only 2 percent of the information requested by fingerprint cards was received in less than 1 week. Fifty percent took at least 1 week, but less than 2 weeks, and 37 percent took 2 weeks or more. As with the local agencies, slow submission of fingerprint cards by requesting agencies or their practice of retaining all cards completed for a period of time and then submitting them together, may have been a factor in some cases.

Responses to nonfingerprint requests were quicker. About 17 percent were answered in less than 1 day. Most responses were received in at least 1 day, but less than 1 week (33 percent) and in 2 weeks or more (30 percent). The shorter response time for nonfingerprint requests may result partly because some of these requests (phone, teletype) did not have to be mailed to the FBI. Also, these requests do not have fingerprints with them so the FBI does not have to take time to verify the individual's identity.

Nearly half the CCH requests were answered in less than 1 hour. This seems to suggest that CCH is successful at the Federal level in supplying information to requestors quickly. Unlike the State level of the system, the FBI computer can furnish detailed printouts of records to some requestors online.

Overall, response time by the FBI to Federal agency requests appeared somewhat quicker than to State and local agencies. For example, about 53 percent of all State or local fingerprint requests to the FBI were received by the requestor in 2 weeks or more, whereas, only about 37 percent of such Federal requests took that long. In both cases, however, the number of requestors who considered the response time inadequate was fairly close—9 percent for the State and local agencies and 14 percent for Federal agencies.

Suggestion

We suggest that Federal, State, and local criminal justice agencies examine their information flow procedures to determine how quickly information is needed and, where necessary, try to reduce the amount of time between request and receipt of criminal history information.

CHAPTER 5—AGENCY COMMENTS

The Department of Justice, in a letter dated August 9, 1974, and the three States generally agreed with the report's findings and conclusions.

The Department offered specific comments on certain details contained in a draft of the report. These comments have been recognized and included in appropriate places in the report.

California said because our data showed only how the information was used when received, the data would tend to understate the use of rap sheets for prearrest purposes. California maintains that although local law enforcement agencies might not use the rap sheet when received, it becomes a part of the local agency file and could play a major role in providing future investigative data, thereby constituting a prearrest use.

We agree that local law enforcement agencies can subsequently use the rap sheets received from the FBI or States for prearrest purposes but local agencies did not have data showing the extent to which this happens. Further, pending legislation would not prohibit an agency's use of the information contained in its own file for prearrest purposes. We believe our data accurately reflects prearrest and postarrest use of criminal history information requested from the FBI and State data bureaus, the sources most likely to be queried for information if it is not already in the local agency's internal files.

California, contrary to what local agencies told us, did not believe that current response time to requests is adequate. It maintains that California criminal justice agencies are supporting State attempts to improve turnaround time and to meet legislation requiring that by 1978 the State data bureau respond to all requests for information within 72 hours of the receipt of the request.

California also believes there is a need for significant improvement in the accuracy and completeness of data maintained in criminal history records because the records must accurately reflect the complete story of factual events which actually took place.[4] The State data bureau is implementing a major effort to improve the accuracy and completeness of its records.

Florida said it had contacted each of the agencies we identified as not being in total compliance with State policy guidelines on dissemination of information and reviewed State policies with each. It believes that the agencies are now complying with policy guidelines and said it would continue to closely monitor and audit the use of criminal history information.

Massachusetts officials indicated they were working toward improving their methods for insuring the accuracy of records and were strengthening their dissemination policies and self-evaluation efforts.

The Massachusetts Department of Probation said they had contacted those requestors in our sample who told us they did not make the request. As a result, the Department has issued new policy guidelines to all requestors significantly limiting access to the files by telephone.

Regarding the accuracy of the consolidation of records from the three State files into one computerized file, the Massachusetts Committee on Criminal Justice advised us that only records they are certain are accurately matched are being consolidated and converted and, if there is any question regarding the authenticity of a positive match. the record is not converted.

CHAPTER 6—SCOPE OF REVIEW

Our findings and conclusions are based on (1) the results of random samples we took of criminal justice agency requests made to the FBI and to California, Florida, and Massachusetts State criminal record bureaus, and (2) discussions with Federal, State, and local criminal justice officials. Our samples were taken for a 1-week period—the week of April 8, 1974, for most requests to the FBI and the week of April 15, 1974, for requests to State agencies.

Our fieldwork was done during April and May 1974 and included (1) reviewing the operations of the FBI's and States' criminal record data bureaus, (2) selecting a random sample of requests for criminal history information, and (3) securing answers from requestors about their requests.

All percentages in the report are estimates of total Federal, State, and local uses of criminal history information on the basis of our sample findings. Sampling errors are at the 90-percent confidence level and did not significantly affect the findings in the report.

California, Florida, and Massachusetts were selected for our review because they were considered by criminal justice officials to be more advanced than many States in the collection and dissemination of criminal history information. Consequently, we believed the activities in those States would provide a fairly reliable indication of how criminal history information could be fully used by criminal justice agencies. Also, as noted on page 4 California and Florida have contributed about half of all State criminal history records entered into the CCH system by participating States and the District of Columbia. In addition, California agencies submit about 12 percent of all fingerprint cards received by the FBI.

We had to make two deviations from our general sampling plan to insure adequate universes from which to draw samples.

One deviation concerned the timeframe and type of requests made by Federal agencies to the FBI's CCH file. FBI officials, after discussing our proposal to sample all Federal agency requests to the CCH system for a 1-week period, advised us to change our approach for several reasons. They believed that it would be extremely difficult, or impossible, for many agencies to know why they had requested a record of an individual by computer if they did not receive a copy of the record. Accordingly, they suggested, and we agreed, to sample from the universe of positive responses to Federal agency requests made of the FBI's CCH file. FBI officials also believed that, because CCH was still relatively new, there would not be a sufficient universe to sample from if we used just 1 week. Accordingly, they suggested, and we agreed, that we sample the positive CCH responses for the period February 1, 1974, through March 31, 1974. They told us that during this period there were 24,132 CCH requests made by other Federal domestic law enforcement agencies and that 791 positive responses were made.

The second deviation from our general sampling plan involved the sample taken from the nonfingerprint requests made to the FBI's manual file. We had originally planned to sample such requests made only by criminal justice agencies in the three States. However, FBI officials advised us that there are relatively few nonfingerprint requests received during a week from any one State. It was agreed that we would sample from all nonfingerprint requests received by the FBI during that week. Accordingly, our sample of those requests was national in scope.

For logistical purposes our sample of requests for criminal history information made by Federal agencies by means of fingerprint cards was taken from the Federal agencies' offices located in the three States we reviewed. On the basis of discussions with officials of the Federal agencies involved, we do not believe activities of their offices in the three States were unlike those of their other offices.

The universes and sample sizes follow.

REQUESTS MADE TO THE FBI

	Total requests	Sample size
Federal agency requests:		
Fingerprint cards	310	50
Nonfingerprint	411	21
CCH	791	50
State and local agency requests:		
Fingerprint cards	18,855	300
Nonfingerprint	1,856	79

REQUESTS MADE TO STATES

State and local agency requests:		
Fingerprint cards	12,621	50
Nonfingerprint	24,360	295
CCH	773	55

After selecting our samples we delivered in person or mailed to the requestor our questionnaire to determine why the information was requested. We discussed most of the questionnaires in person.

We obtained replies to our questionnaires from all requestors in California and Florida and from about 90 percent in Massachusetts. All Federal agency requestors replied to our questionnaire. We received replies from about 99 percent of the nonfingerprint requests made to the FBI from our nationwide sample of the State and local requests.

FOOTNOTES

[1] In July 1974 FBI officials advised us that two of the six States contributing to the CCH system, New York and Pennsylvania, had dropped out, thus decreasing the number of records in the system. Nevertheless, the Department of Justice noted that the number of States using CCH file materials is significant and that CCH transactions have been increasing.

[2] Law enforcement agencies sometimes submit arrest forms instead of fingerprint cards on individuals who already have a fingerprint card on file at the local and State level and who already have State identification numbers.

[3] Fingerprint card submissions are not always made to request information for a specific use. We considered them requests because they usually result in a copy of the individual's rap sheet being forwarded to the submitting agency for its file and possible future use.

[4] A previous GAO report to the Congress, "Development of a Nationwide Criminal Data Exchange System—Need to Determine Cost and Improve Reporting" (B-171019, Jan. 16, 1973), also noted a need to improve the accuracy and completeness of criminal history records.

THE SIGNIFICANCE OF RICHARD NIXON'S RESIGNATION

Mr. PELL. Mr. President, Prof. Harold F. Gosnell, a longtime educator and scholar, sent me an interesting memorandum on the significance of President Nixon's resignation.

I thought his objective innovative views would be of interest to my colleagues and, therefore ask unanimous consent that this memorandum may be printed in the RECORD.

There being on objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM FOR SENATOR PELL

From Harold F. Gosnell.

Subject: The Significance of Richard Nixon's Resignation: Is the United States Moving Toward Responsible Parliamentary Government?

I began learning about the possibility of responsible parliamentary government in the United States, some fifty-four years ago when I took a course on Constitutional History of the United States given by the late Professor Andrew Cunningham McLaughin of the University of Chicago. As you may recall, his daughter Mrs. Constance Green, who lives behind the Supreme Court Building, won the Pulitzer Prize a few years ago. He pointed out then some of the fundamentals of the American constitutional system. While the Framers of the Constitution had in mind a presidential system of government, they left in the Constitution certain legislative powers which could be used to introduce responsible parliamentary government if Congress so desired.

1. The Power of the Purse. The President is dependent upon the Congress for the appropriation of funds. In the late Impeachment hearings it was pointed out that Congress could have stopped the illegal bombing of Cambodia if it had cut off the funds. Congress did not have the guts to do this. It could have made the President responsible.

2. Appointments are made to top positions by and with the consent of the Senate. The Senate could refuse to confirm top appointments and the President would not have his top officials. The Senate has never used this power in this fashion.

3. The power of impeachment. The House impeaches and the Senate has the power of trial and removal. A hundred years ago this power was invoked against President Andrew Johnson. The House impeached but the Senate failed to remove by one vote. It was this year that Congress succeeded in getting a President to resign because removal seemed inevitable in view of the evidence that he had committed an impeachable crime. In effect a President has been removed by the power of impeachment. No President in the future can behave in the fashion that Mr. Nixon did without facing the same consequences. Congress has the power of interpreting the impeachment provisions in a broader fashion. It can define what is an impeachable offense, not any smart attorney such as Mr. St. Clair. It is up to Congress to use this power in the future in a way to serve the interests of the people and bring about more responsible government.

4. Developed outside our formal Constitution has been the national nominating convention. In 1972, we witnessed what almost might be called a breakdown of the system. The Republican Convention nominated two crooks. Why didn't we know at the time about the unworthiness of these two candidates? Our investigation machinery was not used as it should have been. If Agnew's past had been investigated as thoroughly as Gerald Ford's was before he was confirmed as Vice President, Agnew probably would have been turned down. The New York Times was on his trail but did not persist and it did not have a Congressional committee to follow through. The reporters, especially Ted White, fell down in what they said about Nixon. White wanted to get the inside information about Nixon. Nixon took him in. Some of Nixon's illegal activities were going on during his first term. They should have been discovered and Nixon deprived of a second term nomination. Congress has the power to investigate. It should be used to clean up our national nominating conventions. The Democratic Convention was bad in another way. The so-called reforms undermined the democratic selection of delegates. It was a crime to deprive the legally elected delegates from Chicago of their seats. McGovern discovered that on election day.

These are a few of my reflections on the significance of Nixon's resignation. It is up to Congress to move us closer to a responsible government.

You can make whatever use you wish of this memorandum. I am sending it to you because of my admiration of the fine record you have been making.

SENATOR ROBERT C. BYRD ON THE "TODAY SHOW," SEPTEMBER 9, 1974

Mr. ROBERT C. BYRD. Mr. President, on yesterday, September 9, I appeared as a guest on NBC-TV's "Today Show." I ask unanimous consent that the transcript of questions and answers contained in that interview be inserted in the RECORD, as follows:

TRANSCRIPT OF THE "TODAY SHOW," NBC-TV

BILL MONROE. Senator, you have indicated that you don't agree with President Ford's action in pardoning former President Nixon. What are your chief reasons?

Senator BYRD. I think that the matter of leniency would have been better left to the trial judge. In the first place, there hasn't even been an indictment. And even if there had been an indictment, there has been no conviction. A trial jury may have acquitted Mr. Nixon. And even if a jury had convicted him, I think that this is a matter that more properly comes within the province of the trial judge. There is no question but that the President has authority to do this. But why the rush? Why the necessity for doing this now, especially in view of the fact that only a few days ago he told the American people that the judicial process would be allowed to work its will and he would not make a commitment until that time. I think the fact that he has done this now hurts his believability.

BILL MONROE. Senator, the polls have indicated that many people in the country have felt that 'Can't we get this Watergate business over with, get it behind us', and the President laid some stress on that yesterday. He said it could 'go on, and on, and on, unless somebody stops it; and 'I'm in a position to stop it.' Might not President Ford's action have the effect of putting the whole thing behind the country?

Senator BYRD. I don't think this stops it. It was off the front pages of the newspapers, and now it's back on the front pages. And Mr. Ford went into office in an atmosphere in which the American people all wanted him to succeed. And he had believability—that was his greatest asset. They were forgetting about Watergate, and leaving it to the judicial process. They were more interested in getting on with other issues like inflation. But his action puts Watergate back on the front page. It opens it all up again, and whereas the need for Mr. Ford, it seems to me, was, in the main, to restore faith in government—and he was well on his way—now this just goes in the opposite direction. This whole business—this lack of faith in government—has now been revived.

Mr. Monroe. But aren't there a lot of future news stories that have now been cut off—possible news stories to the effect that the former President has been indicted, maneuverings over a trial, legal maneuverings leading up to a trial of the former President himself, than a trial in which the President himself might have been a defendant? Wouldn't all those news stories be cut off by this action?

Senator Byrd. I don't think that is the important thing. The important thing is that the system—that the young people of this country, and all the people of this country, have faith in the system. We have been told since I was a child that no man is above the law. But now it has been demonstrated that, indeed, there is someone who is above the law. I think that goes to the core of the whole thing: the credibility of the system. And I think President Ford's action is injurious to the system.

Mr. Monroe. President Ford put great emphasis also on sympathy for Mr. Nixon. He talked about this matter hanging over the former President's head; it threatens his health; the fact that he and his family, as President Ford put it, have suffered long enough. Are these not legitimate factors?

Senator Byrd. There is no question but that the President has suffered. I don't want to see any President in jail. But he brought his troubles upon himself. He could have ended some of his suffering by resigning two years ago. His taped conversations with Mr. Haldeman show that he was in on the cover-up as early as six days after the burglary. Yet, he stonewalled the American people for two years and two months before this came to light—and, it came to light only then, under pressure from a court order that went against him. Now, it is true he gave up his job; but a public office is a public trust. He was entrusted to this job by the American people. He betrayed their trust; he misled them, and has admitted that he misled them. In so doing, he forfeited his office. So, what has he really given up? The President of a corporation, if he embezzles the funds of the stockholders, is going to have to give up his job. He suffers; his family suffers. But no one would suggest that the prosecution not go forward simply because he gave up his job. What about all these other people who gave up their jobs, and who are in jail or on their way to jail because they took orders from Mr. Nixon? Their families have also suffered. Their careers have also been destroyed. Yes, the President has suffered. But the American people have also suffered. Everyone who is viewing this program right this minute has suffered because of Mr. Nixon's stonewalling the American people, his misleading the American people, his concentrating on how to "cut the losses" and how to save himself, while the great problems like inflation, the energy shortage, and so on and so on, went to pot because of inattention by his Administration. We have all suffered. The system has suffered. I don't think that the fact he may have suffered is justification for this action.

Barbara Walters. Senator, I'd like to ask you not about the past, which can't be changed, but about the future. We saw at the time of the impeachment hearings Senator Brooke proposing that there be an act of Congress—and this was just after the President's resignation—to give the sense of Congress as to the future of Richard Nixon. Senator Javits talked yesterday about he was sorry that this wasn't handled in the courts, and that there would be some feeling as to the sense of Congress, to perhaps advise President Ford and to give him some idea as to how the country felt. I would like to ask, for the future, should, or perhaps, can Congress pass a new law so that this kind of confusion cannot happen again, and so that we would have some more distinctive policy on what happens during an impeachment process such as this?

Senator Byrd. I think the laws already on the books are probably ample, if they were adequately enforced. Moreover, Congress is well on its way to passing campaign reform, which would have some considerable impact on the election process, and help to prevent acts of this kind in the future. But I think the fact that the former President has been pardoned at this juncture sets a bad precedent, and certainly is not conducive for avoiding a repetition of Watergate in the future.

Jim Hartz. Senator, the pardoning power of the President does not include impeachment. Is the Congress inclined to take that matter up again?

Senator Byrd. The House could still impeach, even though the President has resigned. It did that in the case of Secretary of War Belknap in 1876, and the Senate even proceeded to try him—and acquitted him.

Mr. Monroe. After he had resigned.

Senator Byrd. Yes. It could do that in this case, but I don't think it is realistic to believe that it will.

Mr. Hartz. Let me ask you this: there was some talk in the *New York Times* among some of the former President supporters in California, one urging him to get involved in Republican politics out there and perhaps running against Senator Tunney. What would the reaction of the Senate be if the former President were re-elected and presented his credentials to the Senate?

Senator Byrd. If he were elected by the people of California to the Senate, I suppose there would be some question raised in the Senate. Any Senator could raise the question. The Senate is the judge of the qualifications of its own members, and the judge of the elections of its members. But that's a bridge we ought to wait to cross until we get to it, and I doubt that we'll ever have to.

Mr. Monroe. Do you anticipate any challenge at all to the right of the President to issue the pardon he has?

Senator Byrd. No. No. He clearly has the right to do this. But I can't see the necessity for his action at this point.

Mr. Monroe. What will be the effect of this pardon? Will it change prospects for the '74 elections, or the '76 election?

Senator Byrd. It seems to me that this action by President Ford identifies—even though in a tangential way—the Ford Administration with Watergate. He went into office clearly outside the purview of the taint of Watergate. But it seems to me that this relates, in a way, to Watergate. I think it has tarred him to some slight extent, at least.

Mr. Monroe. You think it hurts President Ford politically, and hurts the Republicans politically?

Senator Byrd. I think it hurts his credibility, his believability, and it must have an impact upon the Republicans. Here, they were in a situation where Mr. Ford was high in the polls, he was not associated with Watergate, and his great asset was believability; yet, now, he has done exactly the opposite of what he said he would do, less than two weeks ago. I think it revives this whole matter, exacerbates it, and, in the minds of the American people, it is going to identify Mr. Ford and his Administration with Watergate and Mr. Nixon all over again.

Ms. Walters. Do you feel that Mr. Nixon has no political future?

Senator Byrd. I can't see how he has any political future. One of the unfortunate things of this whole episode is that he hasn't been indicted; he hasn't been tried; he hasn't been convicted; yet, he has been pardoned. For what? For what offense? The record hasn't been laid open. He can go around the country and be a martyr. He can say he was driven out of office. I think that this is the unfortunate thing—that the whole record probably will never be laid open.

Mr. Hartz. The Congress now has the power to set that record straight, do you not?

Senator Byrd. The Congress has the power to impeach and to convict. But I think that you have to be realistic about things. I just don't think that Congress now will do this.

Mr. Hartz. Why not?

Senator Byrd. The momentum has to some extent been lost, and I just think that Congress will not regain that momentum. Hopefully, at the trials—if they now come to pass—of Ehrlichman and Haldeman and some of the others, the President will have to lay some of the remaining portions on the record. And in this way it may yet be brought out.

Mr. Monroe. Senator Byrd, thank you very much for being with us this morning.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, the morning business is closed.

UNFINISHED BUSINESS—TEMPORARILY LAID ASIDE

The ACTING PRESIDENT pro tempore. The unfinished business, S. 707, will be temporarily laid aside and will remain in a temporarily laid aside status until the close of business today under the previous order.

HEALTH SERVICES ACT OF 1974

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 3280, which the clerk will state.

The second assistant legislative clerk read as follows:

A bill to amend the Public Health Service Act to revise and extend programs of health delivery and health revenue sharing, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Public Welfare with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Health Services Act of 1974".

TITLE I—COMMUNITY HEALTH CENTERS

Sec. 101. The Congress finds that—

(1) the provision of high quality health services in all American communities is a national goal;

(2) no community should be deprived of such services because of lack of financial resources, location, the limited English-speaking ability of any part of its population, or any other factor;

(3) to the maximum extent possible without compromising this national goal, health services should be provided by providers which are financially independent of Federal support;

(4) to the extent that financial independence cannot be attained under existing public and private health services financing arrangements without compromising this national goal, Federal funds should be made available to support the development and provision of those services until such financing arrangements become adequate; and

(5) this national goal should be pursued on a wholly voluntary basis by providing funds in communities where requested and allowing maximum flexibility in organization and delivery of health care responsive to provider preference and community need.

Sec. 102. The Public Health Service Act is amended by adding after title XIII the following new title:

"TITLE XIV—COMMUNITY HEALTH CENTERS, MIGRANT HEALTH CENTERS, COMMUNITY MENTAL HEALTH CENTERS, AND OTHER HEALTH SERVICES

"Part A—Community Health Centers

"REQUIREMENTS OF COMMUNITY HEALTH CENTERS

"Sec. 1401. (a) For the purposes of this part the term 'community health center' mean a public or private, nonprofit agency, organization, or institution—

"(1) which provides—

"(A) essential health services,

"(B) as may be appropriate for particular centers, such supplemental health services as are necessary for the adequate support of essential health services,

"(C) referral to providers of supplemental health services and payment, as appropriate and feasible, for their provision of such services, and

"(D) as may be appropriate for particular centers, environmental health services, and

"(2) which provides such services and referrals—

"(A) principally to a medically underserved population,

"(B) within the limits of its capacity, to any individual in such population regardless of his ability to pay for such services, his current or past health condition, or any other factor, and

"(C) in the manner prescribed by subsection (d).

"(b) The essential health services which shall be provided by a community health center are—

"(1) physician services (including diagnostic, treatment, consultant, and referral services by a physician) and, where feasible, services of physician extenders and nurse practitioners;

"(2) emergency medical services;

"(3) diagnostic laboratory and radiologic services;

"(4) preventive health services (including prenatal and post partum services, periodic screening for well child care, consultation and education programs for mental health of children, immunization programs, voluntary family planning services, infertility services, preventive dental care for children, and children's eye and ear examinations conducted to determine the need for vision and hearing correction);

"(5) transportation services necessary to overcome special difficulty of access to services provided by the community health center; and

"(6) services which provide information on the availability of health services and which promote and facilitate optimal use of available health services (including, in those cases where a substantial number of individuals in the population served are of limited English-speaking ability, the services of outreach workers fluent in the language spoken by a predominant number of such individuals).

"(c) The term 'supplemental health services' means services which are not included as essential health services and which are—

"(1) inpatient and outpatient hospital services;

"(2) home health services;

"(3) extended care facility services;

"(4) dental services;

"(5) mental health services;

"(6) rehabilitative services (including physical therapy) and long-term physical medicine;

"(7) public health services (including nutrition education and social services);

"(8) the provision of prescription drugs;

"(9) specialized medical services for the treatment of alcohol abuse, alcoholism, and other drug abuse and drug dependence problems;

"(10) therapeutic radiologic services;

"(11) vision care services;

"(12) allied health services; and

"(13) health education services.

"(d)(1) A community health center shall provide services in the following manner:

"(A) directly through its own professional staff and supporting resources, or

"(B) indirectly under agreements with providers designed to assure to the patient maximum accessibility to economical, and high quality services.

"(2) A center's services (A) may be provided at the center or satellite centers and (B) shall be available and accessible to the individuals it serves promptly, as appropriate, and in a manner which preserves human dignity, assures continuity and high quality care and overcomes geographic, cultural, linguistic, and economic barriers to the receipt of services.

"(e) For the purposes of this section, the term 'medically underserved population' means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services.

"PLANNING AND DEVELOPMENT GRANTS

"Sec. 1402. (a) The Secretary is authorized to make grants, subject to the provisions of section 1405 (a) and (b), to any public or private nonprofit agency, organization, or institution to carry out any project to plan and develop community health center programs. In connection with a project for a community health center program for a population the grantee shall (1) assess the needs of the population for essential, supplemental, and environmental health services, (2) design a community health center program for the population based on such assessment, (3) obtain, within the area in which such center is to be located, financial and professional assistance and support for the program, and (4) initiate and encourage continuing community involvement in the development and operation of the program.

"(5) Each grant made under this section for a project shall be made for a period not to exceed one year and no more than one grant may be made under this section with respect to such project. The amount of any grant made under this section for any project shall be determined by the Secretary, but no such grant shall exceed 100 per centum of the costs of such project.

"START-UP GRANTS

"Sec. 1403. (a) The Secretary is authorized to make start-up grants subject to the provisions of section 1405 (a) and (b), to any (1) community health center, or (2) public or private nonprofit agency, organization, or institution, which has a plan satisfactory to the Secretary for providing health services through a community health center, and for complying with the conditions described in section 1405(c).

"(b) Grants under this section shall be made to assist in meeting the costs of—

"(1) development of essential, supplemental, and environmental health services, including the addition of new services to those already offered, to the extent that such costs are not ordinary costs of operation, as defined in regulations of the Secretary;

"(2) development of the resources and techniques to achieve compliance with the conditions described in section 1405(c); and

"(3) acquisition, expansion, and remodeling of existing facilities, including the costs of architect's fees and the acquisition of land associated with such facilities, and including the costs of amortizing the principal of, or paying the interest on, a loan for the acquisition, expansion, remodeling, or construction of such facilities; leasing of facilities; and initial equipment of facilities acquired, constructed, expanded, remodeled, or leased with financial assistance provided under grants under this section.

"(c) Each start-up grant made under this section with respect to a community health center shall be made for a period not to exceed one year and no more than three grants may be made under this section with respect to such community health center.

"(d) The amount of any grant made under this section shall be determined by the Secretary. No such grant shall exceed—

"(1) in the case of a grant made under paragraph (1) or (2) of subsection (b), 100 per centum of the costs described in such paragraph, or

"(2) in the case of a grant made under paragraph (3) of subsection (b), 75 per centum of the costs described in such paragraph that the Secretary may waive such limitation upon a findng that no other funds are available to the applicant to assist in meeting such costs.

"(e) Any grantee to whch one or more grants have been made under section 1404 may also receive a grant or grants under this section for the purposes described in subsection (b).

"(f)(1) The Secretary is authorized to require that any grantee return to the Secretary any funds awarded for any purpose described in paragraph (3) of subsection (b) under a grant but remaining unobligated by the grantee after a reasonable period of time, as determined by regulations of the Secretary: *Provided*, That the Secretary shall not require the return of any funds awarded within the preceding two years.

"(2) The Secretary shall use funds returned to him under paragraph (1) in making grants for any purpose described in paragraph (3) of subsection (b) during the fiscal year in which such funds are returned or the next fiscal year, in addition to the funds which would otherwise be granted during such fiscal years.

"INITIAL OPERATING GRANTS

"Sec. 1404. (a) The Secretary is authorized to make grants, subject to the provisions of section 1405, to any (1) community health center, or (2) public or private nonprofit agency, organization, or institution which—

"(A) is providing health services,

"(B) meets the definition of a community health center, except that it is not providing all of the required essential, supplemental, and environmental health servces, and

"(C) in the case of a grant under subsection (c) or (d), has a plan satisfactory to the Secretary for providing the required essential, supplemental, and environmental health services within the period during which grants are available.

"(b) Grants under this section shall be made for the purpose of assisting any grantee in meeting its reasonable costs of (1) operation and (2) providing training related to the provision of essential, supplemental, and environmental health services and program management. Each grant shall be made for a period not to exceed one year.

"(c) The Secretary may make up to three grants under this section to any grantee which does not provide all of the required essential, supplemental and environmental health servces.

"(d) Notwithstanding the provisions of subsection (c) above, the Secretary may, after consultation with the appropriate area health planning agency established under this Act, make up to three additional grants under this section to any grantee which does not provide all of the required essential, supplemental, and environmental health services, upon a finding by the Secretary that such grantee is making every reasonable effort to develop such health services.

"(e) Notwithstanding the provisions of subsections (c) and (d) above, the Secretary may, after consultation with the appropriate area health planning agency established under this Act, make grants under this section to any grantee which does not provide all of the required essential, supplemental, and environmental health services, upon a finding by the Secretary—

"(1) that due to the unavailability of health services resources or other factors the grantee has been unable, despite all reasonable efforts, to develop such health services, and

"(2) that the services which a grant would enable the grantee to provide are needed and such servces are not available from any other source.

The Secretary shall, on a periodic basis (but at least annually) submit to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a report specifying the applications for grants submitted pursuant to this subsection and subsection (d), the disposition of such applications, and the basis for the finding upon which such disposition was made.

"(f)(1) Each grant under this section to a grantee shall be made for the reasonable costs of operation and training of such grantee for the one year period beginning on the first day of the first month for which such grant is made.

"(2) The amount of a grant for any year made under this section shall be the difference between (A) the grantee's projected reasonable costs of operation (including the costs of providing essential, supplemental, and environmental services) and training for that year and (B) the total of State, local, and other funds and the fees, premiums, and third party reimbursement payments which the grantee may reasonably be expected to collect pursuant to section 1405(c) (1) and (3) during that year.

"CONDITIONS FOR APPROVAL OF APPLICATIONS

"SEC. 1405. (a)(1) A grant under section 1402, 1403, or 1404 shall be made only upon application, in such form and containing such information as the Secretary may, by regulation, require.

"(2) An application for a grant under section 1403(b)(3) for any project shall include, in addition to other information required by the Secretary, the following:

"(A) a description of the site for such project;

"(B) plans and specifications for such project;

"(C) except in the case of a leasing project, satisfactory assurance that title to such site is or will be vested in the agency, organization, or institution filing the application; and

"(D) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on the project will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"(b) An application for a grant under section 1402, 1403, or 1404 may be approved only if—

"(1) the proposed use of grant funds in any area under the jurisdiction of a State or area health planning agency established under this Act, has been reviewed to the extent provided by law by such agencies to determine whether such proposed use is consistent with any plans which such agencies have developed for such area and with respect to—

"(A) the need for a community health center;

"(B) the definition of the geographic area or the population group to be served;

"(C) the need for the services to be offered;

"(D) the applicant's plans (required under sections 1403(a) and 1404(a)(2)(C)) for developing the required essential, supplemental, and environmental health services;

"(E) the adequacy of resources for the direct provision of services and the adequacy of agreements for the indirect provision of services;

"(F) the adequacy of arrangements for the appropriate use of and integration with existing health delivery services and facilities (including community mental health centers which receive financial assistance under this title) to the end of assuring optimum utilization and non-duplication of such services and facilities, and in a manner which will assure continuity of patient care;

"(G) the adequacy of arrangements for the coordination of such center's services with those of other health and social service agencies including, where appropriate, exchange of staff resources; and

"(H) any other factor which the State or area health planning agency determines to be significant for purposes of planning and coordination of health services for the area within the jurisdiction of such planning agency;

"(2) the Secretary, in consultation with the appropriate State and area health planning agencies established under this Act, determines that there is satisfactory assurance that the services to be provided will constitute an addition to, or significant improvement in quality (as determined in accordance with criteria established by the Secretary) of, services that would otherwise be provided; and

"(3) the Secretary determines that there is satisfactory assurance that Federal funds made available under this part for any period will be used so as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds (including third-party health insurance payments) that, in the absence of such Federal funds made available under this part, would be made available for any purpose under this part, and will in no event supplant such State, local, and other non-Federal funds.

"(c) An application for a grant under section 1404 shall be approved only if the Secretary determines that the applicant has complied with the following conditions:

"(1) the applicant has made and will continue to make every reasonable effort to collect appropriate reimbursement for services to individuals who are entitled to insurance benefits under title XVIII of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance for medical expenses under any other public assistance program or private health insurance program;

"(2) the applicant (A) has or will have a contractual arrangement with the agency of the State in which it provides services which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act for the payment of all or a part of the applicant's costs in providing services to individuals who are eligible for medical assistance under such a State plan, or (B) has made every reasonable effort to enter into such an arrangement;

"(3) the applicant (A) has prepared a schedule of fees or payments for the provision of services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay, which have been approved by the Secretary; (B) has made and will continue to make every reasonable effort to secure from patients payment for services in accordance with such approved schedules: *Provided*, That in collecting reimbursement under paragraph (1) the applicant will collect reimbursement for the full amount of any fee or payment, without application of any discount; and (C) has submitted to the Secretary such reports as he may require to determine compliance with this paragraph;

"(4) the applicant has established a governing board which (A) is composed of individuals a majority of whom are being served by the applicant and who, as a group, represent the individuals being served by the applicant, and (B) meets at least once a month, establishes general policies for the applicant (including a schedule of hours during which services will be provided), approves the applicant's annual budget, and approves the selection of a director for the applicant;

"(5) the applicant has established a professional advisory board, which is composed of members of the applicant's professional staff, to advise the governing board in establishing policies governing medical and other services provided by such staff on behalf of the applicant;

"(6) the applicant (A) has established organizational arrangements for an ongoing quality assurance program, including utilization and peer review systems, in accordance with regulations prescribed by the Secretary, and (B) has made arrangements to utilize the services of the Professional Standards Review Organization (designated pursuant to section 1152 of the Social Security Act) for the area in which the applicant is located, to perform, with respect to the services described in section 1155(g) of that Act which are provided by the applicant, applicable review and other functions described in title XI of such Act;

"(7) the applicant has established an integrated medical record system (including a drug use profile) which is designed to provide access to all past and current information regarding the health status of each patient and which maintains safeguards to preserve confidentiality and protect the rights of the patient which safeguards shall conform to existing provisions of law, where applicable;

"(8) the applicant has (A) established a requirement that the health care of every patient must be under the supervision of a physician, (B) provided for having a physician available to furnish necessary medical care in case of emergency, and (C) make arrangements to assure that health services, when medically necessary, are available and accessible twenty-four hours a day and seven days a week;

"(9) the applicant has provided appropriate methods and procedures for the dispensing and administering of drugs and biologicals;

"(10) the applicant has developed, in accordance with regulations of the Secretary, (A) an overall plan and budget that meets the requirements of section 1861(z) of the Social Security Act, and (B) an effective procedure for compiling and reporting to the Secretary such statistics and other information as the Secretary may require relating to (i) the costs of its operations, (ii) the patterns of utilization of its services, (iii) the availability, accessibility, and acceptability of its services, and (iv) such other matters relating to operations of the applicant as the Secretary may, by regulation, require;

"(11) the applicant has used such accounting procedures as the Secretary may, by regulation, require;

"(12) the applicant has reviewed periodically the boundaries of the area which it serves to (A) insure that the size of such area is such that the services to be provided through the applicant (including its satellites) are available and accessible to the individuals it serves promptly, as appropriate, and (B) insure that the boundaries of such area eliminate, to the extent possible, barriers to access to the services of the applicant, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social groupings, and available transportation;

"(13) in the case of an applicant serving a population including a substantial proportion of individuals of limited English-speaking ability, the applicant has (A) made arrangements for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and (B) identified an individual on its staff who is bilingual and whose responsibilities shall include providing for training for members of the applicant's staff, and of the staff of any providers of services with whom arrangements are made, regarding the cultural sensitivities related to health of the population served and providing guidance to appropriate staff members and patients in bridging linguistic and cultural differences;

"(14) the applicant has, in each fiscal year for which it has received a grant under section 1404, expended for a program of continuing evaluation (in consultation with the individuals it serves) of the effectiveness of its program of services and for a review of the quality of the services provided by the applicant and of the data and statistics described in paragraph (10), not less than an amount equal to 2 per centum of the amount expended by the applicant in the preceding fiscal year for its operating costs; and

"(15) the applicant has met such other conditions as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such applicant.

"(d) Notwithstanding the provisions of subsection (c), the Secretary may make one grant for one fiscal year under section 1404 to any applicant which has not complied with the conditions described in subsection (c), if such applicant provides assurances satisfactory to the Secretary that during such fiscal year it will comply with such conditions.

"(e) No application may be disapproved or the amount of any grant reduced from the level of the preceding fiscal year on the ground that the applicant has not made all reasonable efforts to secure payments or reimbursements as required by paragraphs (1) and (3) of subsection (c) unless the Secretary first affords such applicant notice and opportunity for a hearing, makes specific findings of fact in support of his action, and refers such application, together with the record of the hearing and his findings of fact, to the National Advisory Council on Community Health Centers for its review and recommendations.

"NATIONAL ADVISORY COUNCIL ON COMMUNITY HEALTH CENTERS

"SEC. 1406. (a) Within one hundred and twenty days after the date of enactment of this part, the Secretary shall appoint and organize a National Advisory Council on Community Health Centers which shall advise, consult with, and make recommendations to the Secretary on matters concerning the organization, operation, and funding of community health centers and other grantees under this part.

"(b) The Council shall consist of fifteen members, at least ten of whom shall be members of the governing boards of community health centers or other grantees under this part. Of the members chosen from such governing boards, at least seven shall be individuals who represent the interests of the individuals being served by such centers or other grantees. The remaining eight Council members shall be persons qualified by training and experience in the sciences related to mental health, including, but not limited to, psychiatry, psychology, sociology, social work, and nursing and lay persons qualified by experience in the administration of mental health programs.

"(c) Each member of the Council shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and (2) the terms of the members first taking office after the date of enactment of this part shall expire as follows: Four shall expire four years after such date, four shall expire three years after such date, four shall expire two years after such date and three shall expire one year after such date, as designated by the Secretary at the time of appointment.

"(d) Section 14(a) of the Federal Advisory Committee Act shall not apply to the Council.

"TECHNICAL ASSISTANCE

"SEC. 1407. The Secretary is authorized to provide (either through the Department of Health, Education, and Welfare, or by grant or contract) all necessary technical and other nonfinancial assistance (including fiscal and program management and training in fiscal and program management) to any public or private, nonprofit agency, organization, or institution, which is eligible to receive a grant under section 1402, 1403, or 1404, to assist such agency, organization, or institution in developing plans for and in becoming a community health center and complying with the conditions described in section 1405(c).

"PRIORITIES IN AWARDING GRANTS

"SEC. 1408. The Secretary shall, in awarding grants under this part, accord priority to (a) applicants which have received financial assistance for the fiscal year ending June 30, 1974 under section 314(e) of this Act or the Community Mental Health Centers Act (as in effect in that year) or title V of the Social Security Act, and (b) new applicants which will serve areas with the greatest need for health services of the type offered by community health centers, without regard to the ability of any such applicant to become a solvent operation.

"PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

"SEC. 1409. (a) Any agreement entered into by the Secretary with a qualified organization designating it a Professional Standards Review Organization under section 1152 of the Social Security Act shall provide that such organization perform the applicable review and other functions described in title XI of such Act with respect to the services described in section 1155(g) of that Act provided by community health centers under this part.

"(b) In order to avoid duplication of functions and unnecessary review and control activities, the Secretary is authorized to waive any or all of the quality assurance activities required by section 1405(c)(6) where he finds, on the basis of substantial evidence of the effective performance of review activities by Professional Standards Review Organizations, that the quality assurance activities otherwise so required are not needed for the provision of adequate quality assurance review and control.

"(c) The Secretary shall make payments to Professional Standards Review Organizations equal to the amount of expenses reasonably and necessarily incurred, as determined by the Secretary, by such organizations in carrying out or preparing to carry out the duties and functions required to be performed under this part.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"REGULATIONS AND ADMINISTRATION

"SEC. 1410. (a) Within six months after the date of enactment of this part, the Secretary shall, after consultation with the National Advisory Council on Community Health Centers, prescribe regulations to implement this part, including regulations concerning conditions for approving applications under this part, eligibility for grants under this part, and determination of reasonable costs with respect to which grants may be made.

"(b) In reviewing schedules submitted by applicants under section 1405(c)(3) the Secretary shall consider factors which provide a reasonable basis for variations in such schedules. If the Secretary fails to approve a schedule, the schedule together with a statement of the Secretary's reasons for failure to approve such schedule shall be referred to the National Advisory Council on Community Health Centers for its review and recommendation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1411. (a) There are authorized to be appropriated $500,000 for the fiscal year ending June 30, 1975, $500,000, for the fiscal year ending June 30, 1976, $500,000 for the fiscal year ending June 30, 1977, and $500,000 for the fiscal year ending June 30, 1978, for planning and development grants under section 1402.

"(b)(1) There are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1975, $30,000,000 for the fiscal year ending June 30, 1976, $30,000,000 for the fiscal year ending June 30, 1977, and $30,000,000 for the fiscal year ending June 30, 1978, for start-up grants under section 1403.

"(2) Funds appropriated for grants for any purpose described in section 1403(b)(3) for any fiscal year and remaining unobligated at the end of such year shall remain available for obligation for such purpose for the next fiscal year (and for such year only) in addition to the funds appropriated for such next fiscal year.

"(c) There are authorized to be appropriated $270,000,000 for the fiscal year ending June 30, 1975, $290,000,000 for the fiscal year ending June 30, 1976, $310,000,000 for the fiscal year ending June 30, 1977, and $330,000,000 for the fiscal year ending June 30, 1978, for initial operating grants under section 1404.

"(d) Notwithstanding subsections (a), (b), and (c), of the amounts appropriated under each of those subsections, 1 per centum of such amount for any fiscal year shall be used by the Secretary to evaluate programs assisted under grants under this part, and 2 per centum of such amount for any fiscal year shall be used by the Secretary to provide, through the Department of Health, Education, and Welfare or by grant or contract, technical assistance to grantees.".

SEC. 103. Section 314(e) of the Public Health Service Act is repealed.

TITLE II—MIGRANT HEALTH CENTERS

SEC. 201. Title XIV of the Public Health Service Act, as added by this Act, is amended by adding at the end thereof the following new part:

"PART B—MIGRANT HEALTH CENTERS

"REQUIREMENTS OF MIGRANT HEALTH CENTERS

"SEC. 1421. (a) For the purposes of this part, the term 'migrant health center' means a public or private, nonprofit agency, organization, or institution—

"(1) which provides—

"(A) essential health services;

"(B) as may be appropriate for particular centers, such supplemental health services as are necessary for the adequate support of essential health services;

"(C) referral to providers of supplemental health services and payment, as appropriate and feasible, for their provision of such services; and

"(D) as may be appropriate for particular centers, environmental health services, including the detection and alleviation of unhealthful conditions associated with water supply, sewage treatment, solid waste disposal, rodent and parasitic infestation, field sanitation, housing, and other environmental factors related to health.

"(2) which provides such services and referrals—

"(A) to agricultural migratory and seasonal workers and their families, in an area which has not less than five thousand such workers and their families residing within its boundaries,

"(B) within the limits of its capacity, to any eligible individual regardless of his ability to pay for such services, his current or past health condition, or any other factor, and

"(C) in the manner prescribed by subsection (e).

"(b) The essential health services which shall be provided by a migrant health center are—

"(1) physician services (including diagnostic, treatment, consultant, and referral services by a physician and followup services) and, where feasible, services of physician extenders and nurse practitioners;

"(2) emergency medical services;

"(3) diagnostic laboratory and radiologic services;

"(4) preventive health services (including services for the prevention of malnutrition, prenatal and post partum services, periodic screening for well child care, screening and immunization programs which include infectious and parasitic disease screening and control, voluntary family planning services, infertility services, preventive dental care for children, and children's eye and ear examinations conducted to determine the need for vision and hearing correction);

"(5) transportation services necessary to overcome difficulty of access to services provided by the migrant health center; and

"(6) services which provide information on the availability of health services and which promote and facilitate optimal use of available health services (including in those cases where a substantial number of individuals in the population served are of limited English-speaking ability, the services of outreach workers fluent in the language spoken by a predominant number of those individuals).

"(c) The term 'supplemental health services' means services which are not included as essential health services and which are—

"(1) inpatient and outpatient hospital services: *Provided*, That any center which receives a grant under section 1431(c)(2) for any year shall provide payment for the provision of such services under section 1421 (a)(1)(C);

"(2) home health services;

"(3) extended care facility services;

"(4) dental services;

"(5) mental health services;

"(6) rehabilitative services (including physical therapy) and long-term physical medicine;

"(7) the provision of prescription drugs;

"(8) public health services (including social services);

"(9) specialized medical services for treatment of nutritional deficiencies and for the treatment of alcohol abuse, alcoholism, and other drug abuse and drug dependence problems;

"(10) therapeutic radiologic services;

"(11) vision care;

"(12) allied health services;

"(13) health education services; and

"(14) accident prevention services (including prevention of excessive pesticide exposure).

"(d) For the purposes of this part—

"(1) the term 'agricultural migratory and seasonal workers' means individuals whose principal occupation is in agriculture on a seasonal basis;

"(2) the term 'agriculture' means farming in all its branches including but not limited to cultivation and tillage of the soil, the production, cultivation, growing, and harvesting of any commodity grown on, in, or as an adjunct to or part of an item grown in or on the land, including any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation and processing for market, delivery to storage or to market or to carriers for transportation to market.

"(e)(1) A migrant health center shall provide services in the following manner:

"(A) directly through its own staff and supporting resources, or

"(B) indirectly under agreements with providers designed to assure to the patient maximum accessibility to economical, and high quality services.

"(2) A center's service (A) may be provided at the center or satellite centers and (B) shall be available and accessible to the individuals it serves promptly, as appropriate, and in a manner which preserves human dignity, assures continuity and high quality care and overcomes geographic, cultural, linguistic, or economic barriers to the receipt of services.

"(3) A center's services shall be provided for a miumum of six months in any calendar year.

"PLANNING AND DEVELOPMENT GRANTS

"SEC. 1442. (a) The Secretary is authorized to make grants, subject to the provisions of section 1425 (a) and (b), to any public or private nonprofit agency, organization or institution to carry out any project to plan and develop migrant health center programs. In connection with a project for a migrant health center program for a population the grantee shall (1) assess the needs of the population for essential, supplemental, and environmental health services, (2) design a migrant health center program for the population, based on such assessment, (3) obtain, within the area in which such center is to be located, financial and professional assistance and support, to the maximum extent practical, and (4) initiate and encourage continuing community involvement in the development and operation of the program.

"(b) Each grant made under this section for a project shall be made for a period not to exceed one year and no more than one grant may be made under this section with respect to such project. The amount of any grant made under this section for any project shall be determined by the Secretary, but no such grant shall exceed 100 per centum of the costs of such project.

"START-UP GRANTS

"SEC. 1423. (a) The Secretary is authorized to make start-up grants, subject to the provisions of section 1425 (a) and (b), to any (1) migrant health center, or (2) public or private nonprofit agency, organization, or institution, which has a plan satisfactory to the Secretary for providing health services through a migrant health center and for complying with the conditions described in section 1425(c).

"(b) Grants under this section shall be made to assist in meeting the costs of—

"(1) development of essential, supplemental, and environmental health services, including the addition of new services to those already offered, to the extent that such costs are not ordinary costs of operation, as determined by regulations of the Secretary;

"(2) development of the resources and techniques to achieve compliance with the conditions described in section 1425(c); and

"(3) acquisition, expansion, and remodeling of existing facilities, and acquisition and construction of new facilities, including the costs of architects' fees and the acquisition of land associated with such facilities, and including the costs of amortizing the principal of, or paying the interest on, a loan for the acquisition, expansion, remodeling, or construction of such facilities; leasing of facilities; and initial equipment of facilities acquired, constructed, expanded, remodeled, or leased with financial assistance provided under grants under this section.

"(c) Each start-up grant made under this section with respect to a migrant health center shall be made for a period not to exceed one year and no more than three grants may be made under this section with respect to such migrant health center.

"(d) The amount of any grant made under this section shall be determined by the Secretary. No such grant shall exceed—

"(1) in the case of a grant made under paragraph (1) or (2) of subsection (b), 100 per centum of the costs described in such paragraph, or

"(2) in the case of a grant made under paragraph (3) of subsection (b), 75 per centum of the costs described in such paragraph except that the Secretary may waive such limitation upon a finding that no other funds are available to the applicant to assist in meeting such costs.

"(e) Any grantee to which one or more grants have been made under section 1424 may also receive a grant or grants under this section for the purposes described in subsection (b).

"(f)(1) The Secretary is authorized to require that any grantee return to the Secretary any funds awarded for any purpose described in paragraph (3) of subsection (b) under a grant but remaining unobligated by the grantee after a reasonable period of time, as determined by regulations of the Secretary: *Provided*, That the Secretary shall not require the return of any funds awarded within the preceding two years.

"(2) The Secretary shall use funds returned to him under paragraph (1) in making grants for any purpose described in paragraph (3) of subsection (b) during the fiscal year in which such funds are returned and the next fiscal year, in addition to the funds which would otherwise be granted during such fiscal years.

"INITIAL OPERATING GRANTS

"SEC. 1424. (a) The Secretary is authorized to make grants, subject to the provisions of section 1425, to (1) any migrant health center, or (2) any public or private nonprofit agency, organization, or institution which—

"(A) is providing health services,

"(B) meets the definition of a migrant health center, except that it does not provide all of the required essential, supplemental, and environmental health services, and

"(C) in the case of a grant under subsection (c), has a plan satisfactory to the Secretary for providing all of the required essential, supplemental, and environmental health services within the period during which grants are available.

"(b) Grants under this section shall be made for the purpose of assisting any grantee in meeting its reasonable costs of (1) operation and (2) providing such training as may be necessary for the provision of essential, supplemental, and environmental health services and program management. Each grant shall be made for a period not to exceed one year. A grantee which receives an initial operating grant under this section shall expend not more than an amount equal to 5 per centum of such grant for the provision of training under clause (2).

"(c) The Secretary may make up to two grants under this section to any grantee which does not provide all of the required essential, supplemental, and environmental health services.

"(d) Notwithstanding the provisions of subsection (c) above, the Secretary may make one additional grant under this section to any grantee which does not provide all of the required essential, supplemental, and environmental health services, upon a finding by the Secretary—

"(1) that due to the unavailability of health services resources or other factors the grantee has been unable, despite all reasonable efforts, to develop such health services, and

"(2) that the services which a grant would enable the grantee to provide are needed and such services are not available from any other source.

The Secretary shall, on a periodic basis (but at least annually) submit to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a report specifying the applications for grants submitted pursuant to this subsection, the disposition of such applications, and the basis for the findings upon which such disposition was made.

"(e)(1) Each grant under this section to a grantee shall be made for the reasonable costs of operation and training of such grantee for the one year period beginning on the first day of the first month for which such grant is made.

"(2) The amount of a grant for any year made under this section shall be the difference between (A) the grantee's projected reasonable costs of operation (including the costs of providing essential, supplemental, and environmental health services) and training for that year and (B) the total of State, local, and other funds and the fees, premiums, and third party reimbursement payments which the grantee may reasonably be expected to collect pursuant to section 1425(c) (1) and (3) during that year.

"CONDITIONS FOR APPROVAL OF APPLICATIONS

"SEC. 1425. (a)(1) A grant under section 1422, 1423, or 1424 shall be made only upon application, in such form and containing such information as the Secretary may, by regulation, require.

"(2) An application for a grant under section 1423(b)(3) for any project shall include, in addition to other information required by the Secretary, the following:

"(A) a description of the site for such project;

"(B) plans and specifications for such project;

"(C) except in the case of a leasing project, satisfactory assurance that title to such site is or will be vested in the agency, organization, or institution filing the application; and

"(D) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on the project will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 132z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"(b) An application for a grant under section 1422, 1423, or 1424 may be approved only if:

"(1) The Secretary has reviewed the proposed uses of grant funds with respect to—

"(A) the need for a migrant health center;

"(B) the definition of the geographic area or the population to be served;

"(C) the need for the services to be offered;

"(D) the applicant's plans (required under sections 1423(a) and 1424(a)(2)(C)) for developing the required essential, supplemental, and environmental health services;

"(E) the adequacy of resources for the direct provision of services and the adequacy of agreements for the indirect provision of services; and

"(F) the adequacy of arrangements or effects to arrange for the coordination of such center's services with those of other health and social service agencies including, where appropriate, exchange of staff resources.

"(2) the Secretary determines that there is satisfactory assurance that the services to be provided will constitute an addition to, or significant improvement in quality of, services that would otherwise be provided; and

"(3) the Secretary determines that there is satisfactory assurance that Federal funds made available under this part for any period will be used so as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds (including third party health insurance payments) that in the absence of such Federal funds made available under this part will be made available for any purpose under this part, and will in no event supplant such State, local, and other non-Federal funds.

"(c) An application for a grant under section 1424 shall be approved only if the Secretary determines that the applicant has complied with the following conditions:

"(1) the applicant has made and will continue to make every reasonable effort to collect appropriate reimbursement for services to individuals who are entitled to insurance benefits under title XVIII of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance for medical expenses under any other public assistance program or private health insurance program;

"(2) the applicant (A) has or will have a contractual arrangement with the agency of the State in which it provides services which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act for the payment of all or a part of the applicant's costs in providing services to individuals who are eligible for medical assistance under such a State plan, or (B) has made every reasonable effort to enter into such an arrangement;

"(3) the applicant (A) has prepared a schedule of fees or payments for the provision of services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay, which have been approved by the Secretary; (B) has made and will continue to make every reasonable effort to secure from patients payment for services in accordance with such approved schedules: *Provided*, That in collecting reimbursement under paragraph (1) the applicant will collect reimbursement for the full amount of any fee or payment, without application of any discount; and (C) has submitted to the Secretary such reports as he may require to determine compliance with this paragraph;

"(4) the applicant has established a governing board which (A) is composed of individuals a majority of whom are being served by the applicant and who, as a group, represent the individuals being served by the applicant, (B) includes at least three members experienced in the delivery of health services of the type provided by the applicant and knowledgeable with respect to the health needs of the population served by the applicant, and (C) meets regularly, throughout the year, establishes general policies, for the applicant (including the selection of services to be provided by the applicant, and a schedule of hours during which services will be provided), approves the applicant's annual budget, and approves the selection of a director for the applicant;

"(5) the applicant has, in each fiscal year for which it receives a grant under section 1424, expended for the provision of environmental health services, not more than an amount equal to 10 per centum of the amount expended by the applicant in the preceding fiscal year as its costs of operation;

"(6) the applicant has established organizational arrangements for an ongoing quality assurance program, including utilization and peer review systems;

"(7) the applicant has established an integrated medical record system (including a drug use profile) which is designed to provide access to all past and current information regarding the health status of each patient and which maintains safeguards to preserve confidentiality and protect the rights of the patient which safeguards shall conform to existing provisions of law, where applicable;

"(8) the applicant has (A) established a requirement that the health care of every patient must be under the supervision of a physician, and (B) provided for having a physician available to furnish necessary medical care in case of emergency;

"(9) the applicant has provided appropriate methods and procedures for the dispensing and administering of drugs and biologicals;

"(10) the applicant has developed an effective procedure for compiling and reporting to the Secretary such statistics and other information as the Secretary may require relating to (A) the costs of its operations, (B) the patterns of utilization of its services, (C) the availability, accessibility, and acceptability of its services, and (D) such other matters relating to operations of the applicant as the Secretary may, by regulation, require;

"(11) the applicant has reviewed periodically the boundaries of the area which it serves to (A) insure that the size of such area is such that the services to be provided through the applicant (including its satellites) are available and accessible to the individuals it serves promptly, as appropriate and (B) insure that the boundaries of such area eliminate, to the extent possible, barriers to access to the services of the applicant, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social groupings, and available transportation;

"(12) in the case of an applicant serving a population including a substantial proportion of individuals of limited English-speaking ability, the applicant has (A) made arrangements for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and (B) identified an individual on its staff who is bilingual and whose responsibilities shall include providing for training for members of the applicants' staff, and of the staff of any providers of services with whom arrangements are made, regarding the cultural sensitivities related to health of the population served and providing guidance to appropriate staff members and patients in bridging linguistic and cultural differences;

"(13) the applicant has, in each fiscal year for which it has received a grant under section 1424, established a program of continuing education (in consultation with the individuals it serves) of the effectiveness of its program of services and for a review of the quality of the services provided by the applicant and of the data and statistics described in paragraph (10); and

"(14) the applicant has met such other conditions as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such applicant.

"(d) Notwithstanding the provisions of subsection (c), the Secretary may make one grant for one fiscal year under section 1424 to any applicant which has not complied with the conditions described in subsection (c), if such applicant provides assurances satisfactory to the Secretary that during such fiscal year it will comply with such conditions.

"(e) No application may be disapproved or the amount of any grant reduced from the level of the preceding fiscal year on the ground that the applicant has not complied with the conditions of subsection (c) unless the Secretary first affords such applicant notice and opportunity for a hearing, makes specific findings of fact in support of his action and refers such application, together with the record of the hearing and his findings of fact, to the National Advisory Council on Migrant Health Centers for its review and recommendations.

"GRANTS AND CONTRACTS IN AREAS NOT SERVED BY MIGRANT HEALTH CENTERS

"Sec. 1426. (a) The Secretary is authorized to make grants to any public or nonprofit private agency, organization, or institution and enter into contracts with any agency, organization, or institution which has demonstrated the capacity to prepare a plan satisfactory to the Secretary for providing the services described in subsection (b).

"(b) Grants and contracts under this section shall be made and entered into for the purpose of assisting such agencies, organizations, or institutions in meeting reasonable costs of (1) planning, developing, or providing any or all of the essential, supplemental, and environmental health services described in section 1421 to agricultural migratory and seasonal workers and their famlies, (2) development of arrangements with existing providers to provide any or all such services to agricultural migratory and seasonal workers and their families, and (3) other projects designed to improve the health conditions of agricultural migratory and seasonal workers and their families.

"(c) No grant may be made or contract entered into under this section unless an application therefor has been submitted to and approved by the Secretary. Such application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

"(d)(1) Each operating grant under this section to a grantee shall be made for the reasonable costs of operation of such grantee for the one year period beginning on the first day of the first month for which such grant is made.

"(2) The amount of an operating grant for any year made under this section shall be the difference between (A) the grantee's projected reasonable costs of operation for that year and (B) the total of the State, local, and other funds and the fees, premiums, and third party reimbursement payments which the grantee may reasonably be expected to collect during that year.

"(e) In the case of any agency, organization, or institution which has received a grant or entered into a contract under this section and which serves a population including a substantial proportion of individuals of limited English-speaking ability, such agency, organization, or institution shall (1) make arrangements for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and (2) identified an individual on its staff who is bilingual and whose responsibilities shall include providing for training for members of its staff, and of the staff of any providers of services with whom arrangements are made, regarding the cultural sensitivities related to health of the population served and providing guidance to appropriate staff members and patients in bridging linguistic and cultural differences.

"(f) Of the funds made available under a grant under this section to any grantee for any fiscal year, not more than 10 per centum of such funds shall be expended for the provision of environmental health services.

"NATIONAL ADVISORY COUNCIL ON MIGRANT HEALTH CENTERS

"Sec. 1427. (a) Within one hundred and twenty days after the date of enactment of this part the Secretary shall appoint and organize a National Advisory Council on Migrant Health Centers (hereinafter in this section referred to as the "Council") which shall advise, consult with, and make recommendations to the Secretary on matters concerning the organization, operation, selection and funding of migrant health centers and other grantees under this part.

"(b) The Council shall consist of fifteen members, at least twelve of whom shall be members of the governing boards of migrant health centers or other grantees under this part. Of such twelve members who are members of such governing boards, at least nine shall be chosen from among those members of such governing boards who are being served by such centers or grantees and who are familiar with the delivery of health care to agricultural migratory and seasonal workers. The remaining three Council members shall be chosen by the twelve members described in the preceding sentence from individuals qualified by training and experience in the medical sciences or in the administration of health programs.

"(c) Each member of the Council shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (2) the terms of the members first taking office after the date of enactment of this part shall expire as follows: four shall expire four years after such date, four shall expire three years after such date, four shall expire two years after such date and three shall expire one year after such date, as designated by the Secretary at the time of appointment.

"(d) Section 14(a) of the Federal Advisory Committee Act shall not apply to the Council.

"TECHNICAL ASSISTANCE

"Sec. 1428. The Secretary is authorized to provide (either through the Department of Health, Education, and Welfare or by grant or contract) all necessary technical and other nonfinancial assistance (including fiscal and program management and training in fiscal and program management) to any public or private, nonprofit agency, organization, or institution which is eligible to receive a grant under section 1422, 1423, or 1424 to assist such agency, organization, or institution in developing plans for and in becoming a migrant health center and complying with the conditions described in section 1425(c).

"PRIORITIES IN AWARDING GRANTS

"Sec. 1429. The Secretary shall, in awarding grants under sections 1422, 1423, 1424, and 1426 accord priority to those applicants which are community-based agencies, organizations, or institutions and (1) which have received financial assistance for the fiscal year ending June 30, 1974, under section 310 of this Act, as in effect in that year, or (2) which are new applicants which will serve areas with the greatest need for health services of the type offered by migrant health centers, without regard to the ability of any such applicant to become a solvent operation. For purposes of this section, the term 'community-based agencies, organizations, or institutions' means entities which are representative of the population to be served or of a significant segment of such population.

"REGULATIONS AND ADMINISTRATION

"Sec. 1430. (a) Within six months after the date of enactment of this part, the Secretary shall, after consultation with the National Advisory Council on Migrant Health Centers, prescribe regulations to implement this part, including regulations concerning conditions for approving applications under this part, eligibility for grants under this part, and determination of reasonable costs with respect to which grants may be made.

"(b) In reviewing schedules submitted by applicants under section 1425(c)(3), the Secretary shall consider factors which provide a reasonable basis for variations in such schedules. If the Secretary fails to approve a schedule, the schedule, together with a statement of the Secretary's reasons for failure to approve such schedule, shall be referred to the National Advisory Council on Migrant Health Centers for its review and recommendation.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 1431. (a) There are authorized to be appropriated $250,000 for the fiscal year ending June 30, 1975, $250,000 for the fiscal year ending June 30, 1976, $250,000 for the fiscal year ending June 30, 1977, and $250,000 for the fiscal year ending June 30, 1978, for planning and development grants under section 1422.

"(b)(1) There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1975, $15,000,000 for the fiscal year ending June 30, 1976, $15,000,000 for the fiscal year ending June 30, 1977, and $15,000,000 for the fiscal year ending June 30, 1978, for start-up grants under section 1423.

"(2) Funds appropriated for grants for any purpose described in section 1423(b)(3) for any fiscal year and remaining unobligated at the end of such year shall remain available for obligation for such purpose for the next fiscal year (and for such year only) in addition to the funds appropriated for such next fiscal year.

"(c)(1) There are authorized to be appropriated $120,000,000 for the fiscal year ending June 30, 1975, $135,000,000 for the fiscal year ending June 30, 1976, $150,000,000 for the fiscal year ending June 30, 1977, and $165,000,000 for the fiscal year ending June 30, 1978, for initial operating grants under section 1424 and for grants and contracts under section 1426.

"(2) There are authorized to be appropriated $35,000,000 for the fiscal year ending June 30, 1975, $40,000,000 for the fiscal year ending June 30, 1976, $45,000,000 for the fiscal year ending June 30, 1977, and $50,000,000 for the fiscal year ending June 30; 1978, for initial operating grants under section 1424 and for grants under section 1426 to cover the reasonable costs of paying for the provision of inpatient and outpatient hospital services.

"(3)(A) of the amounts described in subparagraph (B), the Secretary shall use not more than 20 per centum of such amounts to make grants under section 1426.

"(B) The provisions of subparagraph (A) shall apply to that portion of the amount appropriated under this subsection for any fiscal year which exceeds the amount appropriated for the fiscal year ending June 30, 1974 under section 310 of this Act, as in effect in that year.

"(d) Notwithstanding subsections (a), (b), and (c), of the amounts appropriated under each of those subsections, 1 per centum of such amount for any fiscal year shall be used by the Secretary to evaluate programs assisted under grants under this part, and 2 per centum of such amount for any fiscal year shall be used by the Secretary to provide, through the Department of Health, Education, and Welfare or by grant or contract, technical assistance to grantees.".

SEC. 202. Section 310 of the Public Health Service Act is repealed.

TITLE III—COMMUNITY MENTAL HEALTH CENTERS

SEC. 301. (a) The Congress finds that—

(1) community care is the most effective and humane form of care for the majority of mentally ill and mentally retarded individuals and individuals with developmental disabilities;

(2) there is currently a shortage and maldistribution of quality community mental health care resources in the United States;

(3) the federally funded community mental health centers have had a major impact on the improvement of care by: fostering coordination and cooperation between various agencies resulting in a decrease in overlapping services and more efficient utilization of available resources, bringing comprehensive community care to all in need within a specific geographic area regardless of ability to pay, and by developing a system of care which insures continuity of care for all patients.

(b) The Congress further declares that the obligation for insuring the expansion of the community mental health center concept in the United States and the provision of comprehensive community care to all in need rests with the Federal Government, and declares further that Federal funds should continue to be made available for the purposes of initiating new and continuing existing community mental health centers and initiating new services within existing centers, and for the monitoring of the performance of all federally funded centers to insure their responsiveness to community needs and national goals relating to community mental health care.

SEC. 302. Title XIV of the Public Health Service Act, as added and amended by this Act, is further amended by adding at the end thereof the following new part:

"PART C—COMMUNITY MENTAL HEALTH CENTERS

"REQUIREMENTS OF COMMUNITY MENTAL HEALTH CENTERS

"SEC. 1441. (a) For the purposes of this Act, the term 'community mental health center' means a public or private nonprofit agency, organization, or institution (1) which provides comprehensive mental health services, and (2) which provides such services—

"(A) principally to individuals residing in a defined geographic area (referred to in this part as a 'catchment area'),

"(B) within the limits of its capacity, to any individual residing or employed in such area regardless of his ability to pay for such services, his current or past health condition, or any other factor, and

"(C) in a manner prescribed by subsection (c).

"(b) The comprehensive mental health services which shall be provided by a community mental health center shall be—

"(1) inpatient services;

"(2) outpatient services, day care and other partial hospitalization services;

"(3) emergency services;

"(4) a program of comprehensive specialized services for the mental health of children, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

"(5) a program of comprehensive specialized services for the mental health of the elderly, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

"(6) followup services to individuals who are residents of its catchment area and who have been discharged from a mental health facility;

"(7) a program of community residence and half-way house services for individuals who are residents of its catchment area and who have been discharged from a mental health facility;

"(8) consultation and education services (including preventive services) for health professionals, law enforcement and correctional agencies, public welfare agencies, health services delivery agencies, educational institutions, and other appropriate public or nonprofit, private agencies;

"(9) assistance to courts and other public agencies in screening individuals who are residents of its catchment area and who are being considered for referral to a mental health facility for treatment to determine whether they should be referred and provision, where appropriate, of treatment for such individuals through the center as an alternative to treatment at such a facility; and

"(10) provision of each of the following service programs (other than a service program which the Secretary determines the center is unable to provide or for which there is not sufficient need (as determined by the Secretary) in the center's catchment area) or which the Secretary determines should be provided by another public or private nonprofit agency, organization, or institution:

"(A) a comprehensive program for the prevention and treatment of alcoholism and alcohol abuse and for the rehabilitation of alcoholics and alcohol abusers.

"(B) a comprehensive program for the prevention and treatment of drug addiction and abuse and for the rehabilitation of drug addicts, drug abusers, and other persons with drug dependency problems.

"(c) The provision of comprehensive mental health services through a center shall be coordinated with the provision of services by other health and social service agencies in the center's catchment area to insure that persons receiving services through the center have access to all such health and social services as they may require. The center's services (1) may be provided at the center or satellite centers through the staff of the center or through appropriate arrangements with health professionals and others in the center's catchment area, (2) shall be available and accessible to the residents of the area promptly, as appropriate, and in a manner which preserves human dignity, assures continuity and high quality care and which overcomes geographic cultural, linguistic, or economic barriers to the receipt of services.

"PLANNING AND DEVELOPMENT GRANTS"

"SEC. 1442. (a) The Secretary is authorized to make grants, subject to the provisions of section 1447 (a) and (b), to any public or private nonprofit agency, organization or institution to carry out any project to plan and develop community mental health center programs. In connection with a project for a community mental health center program for a catchment area the grantee shall (1) assess the needs of the area for mental health services, (2) design a community mental health center program for the area based on such assessment, (3) obtain within the area financial and professional assistance and support for the program, and (4) initiate and encourage continuing community involvement in the development and operation of the program.

"(b) Each grant made under this section for a project shall be made for a period not to exceed one year and no more than one grant may be made under this section with respect to such project. The amount of any grant made under this section shall be determined by the Secretary, but no such grant shall exceed the lessor (1) $75,000, or (2) 100 per centum of the costs of such project.

"(c) The Secretary shall give special consideration to applications submitted for grants under this section for projects to plan and develop community mental health center programs for areas designated by the Secretary as urban or rural poverty areas.

"START-UP GRANTS

"SEC. 1443. (a) The Secretary is authorized to make start-up grants, subject to the provisions of section 1447 (a) and (b), to any (1) community mental health center, or (2) public or private nonprofit agency, organization, or institution, which has a plan satisfactory to the Secretary for providing comprehensive mental health services through a community mental health center and for complying with the conditions described in section 1447(c).

"(b) Grants under this section shall be made to assist in meeting the costs of—

"(1) development of comprehensive mental health services, including the addition of new services to those already offered, to the extent that such costs are not ordinary costs of operation as determined by regulations of the Secretary;

"(2) development of the resources and techniques to achieve compliance with the conditions described in section 1447(c); and

"(3) acquisition, expansion, and remodeling of existing facilities, and acquisition and construction of new facilities, including the costs of architects' fees and the acquisition of land associated with such facilities, and including the costs of amortizing the principal of, or paying the interest on, a loan for the acquisition, expansion, remodeling, or construction of such facilities; leasing of facilities; and initial equipment of facilities acquired, constructed, expanded, remodeled, or leased with financial assistance provided under payments under this section.

"(c) Each start-up grant made under this section with respect to a community mental health center shall be made for a period not to exceed one year, and no more than three grants may be made under this section with respect to such community mental health center.

"(d) The amount of any grant made under this section shall be determined by the Secretary. No such grant shall exceed—

"(1) in the case of a grant made under paragraph (1) or (2) of subsection (b), 100 per centum of the costs described in such paragraph, or

"(2) in the case of a grant made under paragraph (3) of subsection (b), 75 per centum of the costs described in such paragraph, except that the Secretary may waive such limitation upon a finding that there are no other funds available to the applicant to assist in meeting such costs.

"(e) Any grantee to which one or more grants have been made under section 1444 may also receive a grant or grants under this section for the purposes described in subsection (b). No grant shall be made to any applicant to cover the costs described in paragraph (3) of subsection (b) unless such applicant has received grants under section 1444 for at least two years.

"(f) (1) The Secretary is authorized to require that any grantee return to the Secretary any funds awarded for any purpose described in paragraph (3) of subsection (b) under a grant but remaining unobligated by the grantee after a reasonable period of time, as determined by regulations of the Secretary: *Provided*, That the Secretary shall not require the return of any funds awarded within the preceding two years.

"(2) The Secretary shall use funds returned to him under paragraph (1) in making grants for any purpose described in paragraph (3) of subsection (b) during the fiscal year in which such funds are returned and the next fiscal year, in addition to the funds which would otherwise be granted during such fiscal years.

"INITIAL OPERATING GRANTS

"SEC. 1444. (a) The Secretary is authorized to make grants, subject to the provisions of section 1447, to (1) any community mental health center, or (2) any public or private nonprofit agency, organization, or institution which—

"(A) is providing mental health services,

"(B) meets the definition of a community mental health center, except that it is not providing all of the comprehensive mental health services described in section 1441(b), and

"(C) in the case of a grant under subsection (c) or (d), has a plan satisfactory to the Secretary for providing comprehensive mental health services within the period during which grants are available.

"(b) Grants under this section shall be made for the purpose of assisting grantee in meeting its reasonable costs of operation and shall be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of eight years after such first day.

"(c) The Secretary may make grants for not more than one year under this section to any grantee which does not provide all comprehensive mental health services described in section 1441(b).

"(d) Notwithstanding the provisions of subsection (c) above, the Secretary may, after consultation with the appropriate area health planning agency established under this Act, make grants for up to two additional years under this section to any grantee which does not provide all comprehensive mental health services described in section 1441(b), upon a finding by the Secretary that such grantee is making every reasonable effort to develop such comprehensive mental health services.

"(e) Notwithstanding the provisions of subsections (c) and (d) above, the Secretary may, after consultation with the appropriate area health planning agency established under this Act, make grants under this section to any grantee which does not provide all of the comprehensive mental health services described in section 1441(b), upon a finding by the Secretary—

"(1) that due to the unavailability of health services resources or other factors the grantee has been unable, despite all reasonable efforts, to develop such comprehensive mental health services, and

"(2) that the services which a grant would enable the grantee to provide are needed and such services are not available from any other source.

The Secretary shall, on a periodic basis (but at least annually) submit to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a report specifying the applications for grants submitted pursuant to this subsection and subsection (c), the disposition of such applications and the basis for the findings upon which such disposition was made.

"(f) (1) Each grant under this section to a grantee shall be made for the reasonable costs of operation (except the cost of providing the consultation and education services described in section 1441(b) (8)) of such grantee for the one-year period beginning on the first day of the first month for which such grant is made.

"(2) The amount of a grant for any year made under this section shall be the lesser of the amount computed under subparagraph (A) and the amount computed under subparagraph (B).

"(A) The amount of such grant shall be the difference between (i) the grantee's projected reasonable costs of operation for that year and (ii) the total of State, local, and other funds and the fees, premiums, and third-party reimbursement payments which the grantee may reasonably be expected to collect pursuant to section 1447(c) (1) and (3) during that year.

"(B) (i) In the case of any grantee to which division (ii) does not apply, the amount of such grant shall be 75 per centum of the grantee's costs of operation for each of the first two years of its operation, 60 per centum of such costs for the third such year, 45 per centum of such costs for the fourth such year, and 30 per centum of such costs for each of the next four such years, or

"(ii) In the case of any grantee providing services for individuals residing or employed in an area designated by the Secretary as an urban or rural poverty area, the amount of such grant shall be 90 per centum of the grantee's costs of operation for each of the first two years of its operation, 80 per centum of such costs for the third such year, 75 per centum of such costs for each of the fourth and fifth such years, and 70 per centum of such costs for each of the next three such years.

"(C) For the purposes of any determination by the Secretary under this part as to whether an urban or rural area is a poverty area, the Secretary may not determine that an area is an urban or rural poverty area unless—

"(i) such area contains one or more subareas which are characterized as subareas of poverty;

"(ii) the population of such subarea or subareas constitutes a substantial portion of the population of such urban or rural area; and

"(iii) the grant, in connection with which such determination is made will be used in a manner which will serve the needs of the individuals residing or employed in such subarea or subareas.

"(D) In making grants to any grantee under paragraph (2) (B) (ii), the Secretary shall require assurances that the additional funds provided because such grantee is providing services in an area designated by the Secretary as an urban or rural poverty area shall be used to serve the poor within such poverty area.

"(E) For the purpose of determining the year of operation of any grantee under this section or section 1445, a grantee which has received financial assistance under section 220, 242, 243, 246, 251, 252, 253, 256, 264, or 271 of the Community Mental Health Centers Act, as in effect prior to the enactment of this title, to assist in meeting its reasonable cost of operation with respect to any health service or services, such grantee shall be deemed to have been in operation with respect to such service for the number of years equal to the number of grants such grantee has received under such section for such service. Any such grantee which is required by this title to add additional services to those which it offers on the date of enactment of this title shall be considered to be in its first year of operation with respect to such services in the year it begins providing such services.

"FINANCIAL DISTRESS GRANTS

"SEC. 1445. (a) The Secretary is authorized to make grants, subject to provisions of section 1447, to—

"(1) any community health center or

"(2) any public or private nonprofit agency, organization, or institution described in section 1444(a) (2) which has received grants under section 1444 of this Act or section 220, 242, 243, 246, 251, 252, 253, 256, 264, or 271 of the Community Mental Health Centers Act, as in effect before the enactment of this title, because of limitations, prescribed by subsection (b) of such section, respecting the period for which grants under such section may be made, is not eligible for additional grants under such section. No agency, organization, or institution which is not eligible for a grant under section 1444 because it does not provide all of the comprehensive mental health services described in section 1441(b) shall receive a grant under this section.

"(b) Grants under this section shall be made for the purpose of assisting a grantee in meeting its reasonable costs of operation. Each grant under this section to a grantee shall be made for the reasonable costs of operation (except the costs of providing the consultation and education services described in section 1441(b) (8) of such grantee for the one-year period beginning on the first day of the first month for which such grant is made. Grants shall be made only for the period beginning with the first day of the first month for which a grant is made and ending with the close of five years after such first day.

"(c) The amount of a grant for any year made under this section shall be the lesser of the amount computed under subparagraph (A) and the amount computed under subparagraph (B).

"(A) The amount of such grant shall be the difference between (i) the grantee's projected reasonable costs of operation for that year and (ii) the total of State, local and other funds and the fees, premiums, and third-party reimbursement payments which the grantee may reasonably be expected to collect pursuant to section 1447(c) (1) and (3) during that year.

"(B) (i) In the case of any grantee to which clause (ii) does not apply, the amount of such grant shall be 30 per centum of the grantee's reasonable costs of operation, or

"(ii) In the case of any grantee providing services for individuals residing or employed in an area designated by the Secretary as an urban or rural poverty area, the amount of such grant shall be 70 per centum of the grantee's reasonable costs of operation.

"GRANTS FOR CONSULATION AND EDUCATION SERVICES

"SEC. 1446. (a) The Secretary shall make annual grants, subject to the provisions of section 1447, to community mental health centers and agencies, organizations, and institutions described in section 1444(a) (2) for the costs of providing the consultation and education services described in section 1441(b) (8).

"(b) The amount of any grant made under this section shall be determined by the Secretary but no such grant to a grantee may exceed the lesser of the amount computed under paragraph (1) and the amount computed under paragraph (2).

"(1) The amount of such grant shall be the difference between (A) the grantee's projected reasonable costs of providing such consultation and education services for the year for which the grant is made and (B) the total of State, local, and other funds and fees, premiums, and third-party payments which the grantee may reasonably be expected to collect pursuant to section 1447(c) (1) and (3) during such year which are attributable to the provision of such consultation and education services.

"(2)(A) in the case of any grantee to which subparagraph (B) does not apply, the amount of such grant shall be $2 per individual residing in the catchment area of such grantee, or

"(B) in the case of any grantee providing services in an area designated by the Secretary as an urban or rural poverty area, the amount of such grant shall be $3 per individual residing in the catchment area of such grantee.

"(c) The Secretary may make no more than one grant under this section to any grantee which does not provide all of the comprehensive mental health services described in section 1441(b), except additional grants may be made in accordance with subsections (d) and (e) of section 1444.

"CONDITIONS FOR APPROVAL OF APPLICATIONS

"SEC. 1447. (a)(1) A grant, under section 1442, 1443, 1444, 1445, or 1446 shall be made only upon application, in such form and containing such information as the Secretary may, by regulation, require. Grants made under such sections may be made only upon recommendation of the National Advisory Mental Health Council established by section 217(a).

"(2) An application for a grant under section 1443(b)(3) for any project shall include, in addition to other information required by the Secretary, the following:

"(A) a description of the site for such project;

"(B) plans and specifications for such project;

"(C) except in the case of a leasing project, satisfactory assurance that title to such site is or will be vested in the agency, organization or institution filing the application; and

"(D) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on the project will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"(b) An application for a grant under section 1442, 1443, 1444, 1445, or 1446 may be approved only if—

"(1) the proposed use of grant funds in any area under the jurisdiction of a State or area health planning agency established under this Act has been reviewed to the extent provided by law by such agencies to determine whether such use is consistent with any plans which such agencies have developed for such area, and with respect to—

"(A) the need for a community mental health center;

"(B) the definition of the catchment area to be served, which shall be determined after consideration of any such areas previously designated pursuant to the Community Mental Health Centers Act;

"(C) the need for the services to be offered;

"(D) the applicant's plans (required under sections 1443(a) and 1444(a)(2)(C)) for developing comprehensive mental health services;

"(E) the adequacy of resources for the direct provision of services and the adequacy of agreements for the indirect provision of services;

"(F) the adequacy of arrangements for the appropriate use of and integration with existing health delivery services and facilities to the end of assuring optimum utilization of and nonduplication of such services and facilities and in a manner which will assure continuity of patient care, including arrangements with health maintenance organizations and community health centers serving individuls who reside in or are employed in the area served by the applicant for the provision by the applicant of mental health services for the members and patients of such organizations and centers;

"(G) the adequacy of arrangements for the coordination of its services with those of other health and social service agencies including, where appropriate, exchange of staff resources; and

"(H) any other factor which the State or area health planning agency determines to be significant for purposes of planning and coordination of health services for the area within the jurisdiction of such planning agency.

"(2) The Secretary, in consultation with the appropriate State and area health planning agencies established under this Act, determines that there is satisfactory assurance that the services to be provided will constitute an addition to, or significant improvement in quality (as determined in accordance with criteria established by the Secretary) of, services that would otherwise be provided; and

"(3) The Secretary determines that there is satisfactory assurance that Federal funds made available under this part for any period will be used so as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds (including third party health insurance payments) that, in the absence of such Federal funds made available under this part, would be made available for any purpose under this part, and will in no event supplant such State, local, and other non-Federal funds.

"(c) An application for a grant under section 1444, 1445, or 1446 shall be approved only if the Secretary determines that the applicant has complied with the following conditions—

"(1) the applicant has made and will continue to make every reasonable effort to collect appropriate reimbursement for services to individuals who are entitled to insurance benefits under title XVIII of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance for medical expenses under any other public assistance program or private health insurance program;

"(2) the applicant (A) has or will have a contractual arrangement with the agency of the State in which it provides services which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act for the payment of all or a part of the applicant's costs in providing services to individuals who are eligible for medical assistance under such a State plan, or (B) has made every reasonable effort to enter into such an arrangement;

"(3) the applicant (A) has prepared a schedule of fees or payments for the provision of services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay, which has been approved by the Secretary; (B) has made and will continue to make every reasonable effort to secure from patients payment for services in accordance with such approved schedules: *Provided*, That in collecting reimbursement under paragraph (1) the applicant will collect reimbursement for the full amount of any fee or payment without application of any discount; and (C) has submitted to the Secretary such reports as he may require to determine compliance with this paragraph;

"(4) the applicant has established a governing board which (A) is composed of individuals who reside in the applicant's catchment area who, as a group, represent the residents of that area, taking into consideration the employment, age, sex, and place of residence of members of the governing board, and at least one-half of whom are individuals who are not providers of health care services; (B) meets at least once a month, establishes general policies for the applicant (including a schedule of hours during which services will be provided), approves the applicant's annual budget, and approves the selection of a director for the applicant; for purposes of this paragraph, the term 'provider of health care services,' means an individual who receives (either directly or through his spouse) more than one-tenth of his gross annual income from fees or other compensation for the provision of health care services or from financial interests in entities engaged in the provision of health care services or in producing or supplying drugs or other articles for individuals and entities engaged in the provision of such services, or from both such compensation and such interests;

"(5) the applicant has established a professional advisory board which is composed of members of the applicant's professional staff to advise the governing board in establishing policies governing medical and other services provided by such staff on behalf of the applicant;

"(6) the applicant (A) has established organizational arrangements for an ongoing quality assurance program, including ultilization and peer review systems, in accordance with regulations prescribed by the Secretary, and (B) has made arrangements to utilize the services of the Professional Standards Review Organization (designated pursuant to section 1152 of the Social Security Act) for the area in which the applicant is located to perform with respect to the services described in section 1155(g) of that Act which are provided by the applicant, applicable review and other functions described in title XI of such Act;

"(7) the applicant has established an integrated medical record system (including a drug use profile) which is designed to provide access to all past and current information regarding the health status of each patient and which maintains safeguards to preserve confidentiality and protect the rights of the patient which safeguards shall conform to existing provisions of law, where applicable;

"(8) the applicant has (A) established a requirement that the health care of every patient must be under the supervision of a member of the professional staff, (B) provided for having a member of the professional staff available to furnish necessary medical care in case of emergency, and (C) made arrangements to assure that services, when medically necessary, are available and accessible twenty-four hours a day and seven days a week;

"(9) the applicant has provided appropriate methods and procedures for the dispensing and administering of drugs and biologicals;

"(10) the applicant has developed, in accordance with regulations of the Secretary, (A) an overall plan and budget that meets the requirements of section 1861 (z) of the Social Security Act and (B) an effective procedure for developing, compiling, evaluating and reporting to the Secretary data (which the Secretary shall compile and publish in the Federal Register on a periodic basis, at least annually) related to (i) the costs of its operations, (ii) the patterns of utilization of its services, (iii) the impact of its services upon the health of those individuals which it serves, and (iv) such other data relating to operations of the applicant, as the Secretary may, by regulation, require, and (C) has disclosed the data described in subparagraph (B) to the general public, at least annually;

"(11) the applicant has reviewed periodically the boundaries of the area which it serves to (A) insure that the size of such area is such that the services to be provided through the applicant (including its satellites) are available and accessible to the individuals it serves promptly, as appropriate, and (B) insure that the boundaries of such area eliminate, to the extent possible, barriers to access to the services of the applicant, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social groupings, and available transportation;

"(12) in the case of an applicant serving a catchment area a substantial proportion of the residents of which are of limited English-speaking ability, the applicant has (A) made arrangements for providing services to the extent practicable in the language and cultural context most appropriate to such individuals and (B) identified an individual on its staff who is bilingual and whose responsibilities shall include providing for training for members of the applicant's staff, and of the staff of any providers of services with whom arrangements are made, regarding the cultural sensitivities related to health of the population served and providing guidance to appropriate staff members and patients in bridging linguistic and cultural differences;

"(13) the applicant has made its services available to any health maintenance organization serving residents within the applicant's catchment area;

"(14) the applicant has adopted and enforces a policy (A) under which fees for the provision of mental health services through the applicant will be paid to the applicant, and (B) which prohibits health professionals who provide such services to patients through the applicant from providing such services to such patients except through the applicant;

"(15) the applicant has, in each fiscal year for which it has received a grant under sections 1444 and 1445, expended for a program of continuing evaluation (in consultation with the individuals it serves) of the effectiveness of its program of services and for a review of the quality of the services provided by the applicant and of the data and statistics described in paragraph (10), not less than an amount equal to 2 per centum of the amount obligated by the applicant in the preceding fiscal year for its operating costs; and

"(16) the applicant has met such other conditions as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such applicant.

"(d) Notwithstanding the provisions of subsection (c), the Secretary may make not more than one grant for one fiscal year under section 1444, 1445, or 1446 to any applicant which has not complied with the conditions described in subsection (c), if such applicant provides assurances, satisfactory to the Secretary, that during such fiscal year it will comply with such conditions.

"(e) No application may be disapproved or the amount of any grant reduced from the level of the preceding fiscal year on the ground that the applicant has not made reasonable efforts to secure payments or reimbursements as required by paragraphs (1) and (3) of subsection (c) unless the Secretary first affords such applicant notice and opportunity for a hearing and makes specific findings of fact in support of his action and refers such application, together with the record of the hearing, and his findings of fact, to the National Advisory Mental Health Council for its review and recommendations.

"TECHNICAL ASSISTANCE

"SEC. 1448. The Secretary is authorized to provide (either through the Department of Health, Education, and Welfare or by grant or contract) all necessary technical and other nonfinancial assistance (including fiscal and program management and training in fiscal and program management) to any public or private, nonprofit agency, organization, or institution which is eligible to receive grants under section 1442, 1443, or 1444 to assist such agency, organization, or institution in developing plans for and in becoming a community health center and complying with the conditions described in section 1447(c).

"PRIORITIES IN AWARDING GRANTS

"SEC. 1449. The Secretary shall, in awarding grants under this part, accord priority to (1) applicants that will serve areas with the greatest need for mental health services of the type offered by community mental health centers, without regard to the ability of any such applicant to become a solvent operation and (2) applicants which received approval of but not the funding under applications for assistance under section 220 of the Community Mental Health Centers Act prior to June 30, 1974.

"PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

"SEC. 1450. (a) Any agreement entered into by the Secretary with a qualified organization designating it a Professional Standards Review Organization under section 1152 of the Social Security Act shall provide that such organization perform the applicable review and other functions described in title XI of such Act with respect to the services described in section 1155(g) of that Act provided by community mental health centers under this part.

"(b) In order to avoid duplication of functions and unnecessary review and control activities, the Secretary is authorized to waive any or all of the quality assurance activities required by section 1447(c)(6) where he finds, on the basis of substantial evidence of the effective performance of review activities by Professional Standards Review Organizations, that the quality assurance activities otherwise so required are not needed for the provision of adequate quality assurance review and control.

"(c) The Secretary shall make payments to Professional Standards Review Organizations equal to the amount of expenses reasonably and necessarily incurred, as determined by the Secretary, by such organizations in carrying out or preparing to carry out the duties and functions required to be performed under this part.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"REGULATIONS AND ADMINISTRATION

"SEC. 1451. (a) Within six months after the date of enactment of this part, the Secretary shall, after consultation with the National Advisory Mental Health Council, prescribe regulations to implement this part including regulations concerning conditions for approving applications under this part, eligibility for grants under this part, and determination of reasonable costs with respect to which grants may be made.

"(b) In reviewing schedules submitted by applicants under section 1447(c)(3) the Secretary shall consider factors which provide a reasonable basis for variations in such schedules. If the Secretary fails to approve a schedule, the schedule together with a statement of the Secretary's reasons for failure to approve such schedule shall be referred to the National Advisory Mental Health Council for its review and recommendations.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1452. (a) There are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1975, $5,000,000 for the fiscal year ending June 30, 1976, $5,000,000 for the fiscal year ending June 30, 1977, and $5,000,000 for the fiscal year ending June 30, 1978, for planning and development grants under section 1442.

"(b)(1) There are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1975, $50,000,000 for the fiscal year ending June 30, 1976, $50,000,000 for the fiscal year ending June 30, 1977, and $50,000,000 for the fiscal year ending June 30, 1978, for start-up grants under section 1443.

"(2) Funds appropriated for grants for any purpose described in section 1443(b)(3) for any fiscal year and remaining unobligated at the end of such year shall remain available for obligation for such purpose for the next fiscal year (and for such year only) in addition to the funds appropriated for such next fiscal year.".

"(3) Of the funds appropriated under this subsection for any year not less than 25 per centum shall be used to make grants to grantees who have not received a grant under section 1444, section 1445, or section 220 of the Community Mental Health Centers Act, as in effect prior to the date of enactment of this section.

"(c)(1) There are authorized to be appropriated $90,000,000 for the fiscal year ending June 30, 1975; $100,000,000 for the fiscal year ending June 30, 1976; $110,000,000 for the fiscal year ending June 30, 1977; and $120,000,000 for the fiscal year ending June 30, 1978, for initial operating grants under section 1444 to grantees for the first year of operation.

"(2) There are authorized to be appropriated for the fiscal year ending June 30, 1975, and for each of the ten succeeding fiscal years such sums as may be necessary to make initial operating grants under section 1444 to grantees for subsequent years of operation.

"(d) There are authorized to be appropriated for the fiscal year ending June 30, 1975, and for each of the fifteen succeeding fiscal years such sums as may be necessary to make financial distress grants under section 1445.

"(e)(1) There are authorized to be appropriated for the fiscal year ending June 30, 1975, and for each of the three succeeding fiscal years such sums as may be necessary to make grants under section 1446.

"(2) In no case shall funds appropriated under this subsection be used for the purposes of section 1444.

"(f) Notwithstanding subsections (a), (b), and (c), of the amounts appropriated under each of those subsections, 1 per centum for such amount for any fiscal year shall be used by the Secretary to evaluate programs assisted under grants under this part, and 2 per centum of such amount for any fiscal year shall be used by the Secretary to provide, through the Department of Health, Education, and Welfare or by grant or contract, technical assistance to grantees.".

SEC. 303. The Community Mental Health Centers Act is repealed.

TITLE IV—GENERAL PROVISIONS

SEC. 401. Title XIV of the Public Health Services Act, as added and amended by this Act, is further amended by adding at the end thereof, the following new part:

"PART D—GENERAL PROVISIONS

"RECORDS AND AUDIT

"SEC. 1461. (a) Each grantee of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such grantee of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the grantees that are pertinent to the grant received under this title.

"RECOVERY

"SEC. 1462. If any facility remodeled, constructed, or acquired with funds provided under this title is, at any time within twenty years after the completion of such remodeling or construction or after the date of its acquisition with such funds—

"(1) sold or transferred to any person or entity which is not qualified to file an application for a grant under this title; or

"(2) ceases to be used for the purposes described in this title and the Secretary has not determined that there is good cause for termination of such use,

the United States shall be entitled to recover from either the transferor or the transferee in the case of a sale or transfer or from the owner in the case of termination of use an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the center is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment.

"Sec. 1463. No grant under this title may be made to a grantee which is receiving a grant, loan, or loan guarantee under title XIII of this Act.

"Sec. 1464. The Secretary shall, to the extent permitted by law, work with States, private insurers, community health centers, migrant health centers, and community mental health centers, and other appropriate entities to assure that community health centers, migrant health centers, and community mental health centers shall be eligible for reimbursement for the services which they provide to the same extent as hospitals and other providers.".

Sec. 402. (a) No later than twelve months after the date of enactment of this Act the Secretary of Health, Education, and Welfare shall make a report to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate setting forth a plan, to be carried out in a period of five years, for the extension of comprehensive mental health services through community mental health centers to persons in all areas in which there is a demonstrated need for such services. Such plan shall, at a minimum, indicate on a phased basis the number of persons to be served by such services and an estimate of the cost and personnel requirements needed to provide such services.

(b) No later than eighteen months after the date of enactment of this Act the Secretary of Health, Education, and Welfare shall submit to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate a report setting forth (1) national standards for care provided by community mental health centers, and (2) criteria for evaluation of community mental health centers and the quality of the services provided by the centers.

TITLE V—HEALTH REVENUE SHARING

Sec. 501. Sec. 314(d)(1) of the Public Health Service Act (relating to grants to States for comprehensive public health resources) is amended by—

(a) inserting "(A)" immediately after "(1)",

(b) striking out "and" after "1973" and inserting immediately after "1974" the following: ", and $90,000,000 for the fiscal year ending June 30, 1975", and

(c) by adding at the end thereof the following new subparagraph:

"(B) There are authorized to be appropriated $70,000,000 for the fiscal year ending June 30, 1975, to enable the Secretary to make grants to State health authorities to assist the States in establishing and maintaining programs for the screening, detection, diagnosis, and treatment of hypertension.".

Sec. 502. (a) Section 317(h)(1) of the Public Health Service Act is amended by striking out "and RH disease" and inserting in lieu thereof ", RH disease, and diseases some by rodents".

(b) Section 317(d)(3) of such Act is amended by striking out "$23,000,000 for the fiscal year ending June 30, 1975" and inserting in lieu thereof "$38,000,000" for the fiscal year ending June 30, 1975".

TITLE VI—HOME HEALTH SERVICES

Sec. 601. This title may be cited as the "Home Health Services Act of 1974".

Sec. 602. Title XIV of the Public Health Service Act as added and amended by this Act is further amended by adding at the end thereof the following new part:

"Part E—Establishment and Operation of Home Health Agencies

"Sec. 1470. (a) For the purpose of assisting in the establishment and initial operation of public and nonprofit private agencies (as defined in section 1861(o) of the Social Security Act) which will provide home health services (as defined in section 1861 (m) of the Social Security Act) in areas in which such services are not otherwise available, the Secretary may in accordance with the provisions of this section, make grants to meet the initial costs of establishing and operating such agencies and expanding the services available in existing agencies, and to meet the costs of compensating professional and paraprofessional personnel during the initial operation of such agencies or the expansion of services in existing agencies.

"(b) No part of any grant made under this section shall be used for the construction of facilities, and no recipient of an initial grant under this section shall be eligible for further assistance under this section.

"(c) In making grants under this section, the Secretary shall consider the relative needs of the several States for home health services and preference shall be given to areas within the States in which a high percentage of the population proposed to be served is composed of individuals who are elderly, medically indigent, or both.

"(d) Applications for assistance under this section shall be in such form and contain such information as the Secretary shall prescribe by regulation.

"(e) Payment of grants under this section may be made in advance or by way of reimbursement, or in installments as the Secretary may determine.

"(f) There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1975, $18,000,0000 for the fiscal year ending June 30, 1976, $21,000,000 for the fiscal year ending June 30, 1977, and $24,000,000 for the fiscal year ending June 30, 1978, for the purpose of making grants under this section. Funds appropriated under this subsection for any fiscal year shall remain available until expended.".

Sec. 603. (a) Part D of title VII of the Public Health Service Act (42 U.S.C. 201) is amended by inserting after section 767 the following new section:

"GRANTS FOR TRAINING OF PERSONNEL TO PROVIDE HOME HEALTH SERVICES

"Sec. 767A. (a) From the funds appropriated to carry out this section, the Secretary is authorized to make grants to public and nonprofit private agencies and institutions to assist them in initiating, developing, and maintaining programs for the training of professional and paraprofessional personnel to provide home health services (as defined in section 1861(m) of the Social Security Act).

"(b) Applications for grants under this section shall be in such form and contain such information as the Secretary shall by regulations prescribe.

"(c) Payment of grants under this section may be made in advance or by way of reimbursement, or in installments, as the Secretary shall determine.

"(d) There are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1975, $6,000,000 for the fiscal year ending June 30, 1976, $7,000,000 for the fiscal year ending June 30, 1977, and $8,000,000 for the fiscal year ending June 30, 1978, for the purpose of making grants under this section. Funds appropriated under this section shall remain available until expended.".

(b) The caption for part D of title VII of such Act is amended by adding at the end thereof: "And Training of Personnel to Provide Home Health Services"."

TITLE VII—COMMISSION ON MENTAL HEALTH AND ILLNESS OF THE ELDERLY

Sec. 701. This title may be cited as the "Commission on Mental Health and Illness of the Elderly Act".

Sec. 702. There is hereby established a temporary commission to be known as the Commission on Mental Health and Illness of the Elderly (hereinafter referred to in this title as the "Commission"). Such Commission exist for a period not to exceed five years.

Sec. 703. It shall be the duty of the Commission to—

(1) develop a national policy for the proper maintenance of mental health for aged and aging persons and the care and treatment of mental illness for such persons;

(2) undertake studies to assess future needs for mental health facilities, manpower, research, and training to meet the mental health care needs of aged and aging persons;

(3) submit to the President for transmittal to Congress an annual report describing major developments concerning the treatment and care of elderly persons suffering from mental illness, identifying priority issues, and proposing recommendations for solving these problems;

(4) recognizing that proper physical health and proper mental health are inseparable, evaluate present mental health programs to determine whether such programs are responsive to the needs of aged and aging persons;

(5) develop priorities for programs designed to increase knowledge about various aspects of mental illness among aged and aging persons; and

(6) cooperate with the executive and legislative branches for the purpose of implementing the policy proposals recommended at the 1971 White House Conference on Aging.

Sec. 704. (a) The Commission shall be composed of nine members to be appointed by the President, by and with the advice and consent of the Senate. The Commission shall include at least one member from each of the fields of psychology, psychiatry, social science, social work, and nursing. Each person so appointed shall, as a result of his training, experience, and attainments, be exceptionally qualified to formulate and appraise programs and activities related to aging.

(b) The President shall designate one of the members of the Commission to serve as Chairman and one to serve as Vice Chairman. Vacancies shall be filled in the same manner in which the original appointments were made. Any vacancy in the Commission shall not affect its powers, and five members of the Commission shall constitute a quorum.

Sec. 705. To carry out the purposes of this title, the Commission shall have the authority to—

(1) prescribe such rules and regulations

as it deems necessary governing the manner of its operations and its organization and personnel;

(2) obtain from any department, agency, or instrumentality of the United States, with the consent of the head thereof, such facilities, services, supplies, advice, and information as the Commission may determine to be required by it to carry out its duties;

(3) acquire by lease, loan, or gift, and to hold and dispose of by sale, lease, or loan, real and personal property of all kinds necessary for, or resulting from, the exercise of authority under this title;

(4) enter into contracts or other arrangements, or modifications thereof, with State and local governments, and institutions and individuals in the United States, to conduct programs the Commission deems necessary to carry out the purposes of this title, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes;

(5) make advance, progress, and other payments which the Commission deems necessary under this title without regard to the provisions of section 3648 of the Revised Statutes;

(6) receive money and other property donated, bequeathed, or devised to the Commission, without condition or restriction other than that it be used for the purposes of the Commission;

(7) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(8) employ such officers and employees as may be necessary to carry out its functions under this title; and

(9) obtain services of consultants in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed $100 per day for each day they are engaged in the performance of their duties to the Commission.

SEC. 706. (a) Section 5313 and title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(22) Chairman, Commission on Mental Health and Illness of the Elderly.".

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(95) Members, Commission on Mental Health and Illness of the Elderly (8).".

SEC. 707. (a) There is hereby established an Advisory Council on Mental Health and Illness of the Elderly (hereinafter in this title referred to as the "Council") to be composed of nine members appointed by the President for terms of two years without regard to the provisions of title 5, United States Code.

(b) The Council shall select its own Chairman and Vice Chairman and shall meet at the call of the Chairman but not less than four times a year. Members shall be appointed for two-year terms, except that of the members first appointed, five shall be appointed for a term of one year and four shall be appointed for a term of two years as designated by the President at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office. A vacancy in the Council shall not affect its activities, and five members thereof shall constitute a quorum.

(c) The Commission shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities.

SEC. 708. The Council shall advise the Commissioner on policy matters relating to mental health and illness.

SEC. 709. Each member of the Council appointed pursuant to section 707 shall receive $50 a day, including traveltime, for each day he is engaged in the actual performance of his duties as a member of the Council. Each such member shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

SEC. 710. The Commission shall cease to exist sixty days after the submission of its final report.

SEC. 711. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE VIII—RAPE PREVENTION AND CONTROL

SEC. 801. This title may be cited as the "Rape Prevention and Control Act".

SEC. 802. Title XIV of the Public Health Service Act, as added and amended by this Act, is further amended by adding at the end thereof the following new part:

"PART F—RAPE PREVENTION AND CONTROL

"SEC. 1475. (a) The Secretary shall establish within the National Institute of Mental Health a center to be known as the National Center for the Control and Prevention of Rape (hereinafter in this title referred to as the 'Center').

(b) The Secretary, acting through the Center, shall conduct a continuing study and investigation of—

"(1) the effectiveness of existing Federal, State, and local laws dealing with rape;

"(2) the relationship, if any, between traditional legal and social attitude toward sexual roles, the act of rape, and the formulation of laws dealing with rape;

"(3) the treatment of the victims by rape by law enforcement agencies, hospitals, or other medical institutions, prosecutors, and the courts;

"(4) the causes of rape, identifying to the degree possible—

"(A) social conditions which encourage sexual attacks;

"(B) motivations of offenders, and

"(C) the impact of the offense on the victim and the family of the victim;

"(5) sexual assaults in correctional institutions;

"(6) the actual incidence of forcible rape as compared to the reported cases and the reasons therefor; and

"(7) the effectiveness of existing private, and local and State government education and counseling programs designed to prevent and control rape.

"(c) It shall be the duty of the Center to—

"(1) compile, analyze, and publish and annually submit, through the Secretary, to Congress a summary of the continuing study conducted under subsection (b) and the research and demonstration projects conducted under section 1476, with recommendations where appropriate;

"(2) develop and maintain an information clearinghouse with regard to—

"(A) the prevention and control of rape;

"(B) the treatment and counseling of the victims of rape and their families; and

"(C) the rehabilitation of offenders;

"(3) compile and publish training materials for personnel who are engaged or intend to engage in programs designed to prevent and control rape.

"(d) For the purposes of carrying out the provisions of subsections (b) and (c) of this section there are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1975 and for each of the three succeeding fiscal years.

"(e) Funds available to any department or agency of the Federal Government for research and development for the prevention and control of rape shall be available for transfer with the approval of the head of the department or agency involved, in whole or in part, to the Center for such use as is consistent with the purposes for which such funds were provided, and funds so transferred shall be expendable by the Center for the purposes for which the transfer was made.

"(f) For the purpose of this section and section 1476, the term 'rape' shall include forcible, statutory, and attempted rape, homosexual assaults, and other criminal sexual assaults.

"SEC. 1476. (a) The Secretary, through the Center, shall make grants to community mental health centers, nonprofit private organizations, and public agencies (determined by the Secretary to be qualified), for the purpose of conducting research and demonstration projects concerning the control and prevention of rape.

"(b) Projects funded under subsection (a) shall include but not be limited to—

"(1) alternative methods of planning, developing, implementing, and evaluating programs used in the prevention and control of rape, the treatment and counseling of victims of rape and their families, and the rehabilitation of offenders;

"(2) application of methods developed under paragraph (1).

"(c) There are authorized to be appropriated $9,000,000 for the fiscal year ending June 30, 1975, $10,000,000 for the fiscal year ending June 30, 1976, $11,000,000 for the fiscal year ending June 30, 1977, and $12,000,000 for the fiscal year ending June 30, 1978, for the purpose of making grants under this section.

"SEC. 1477. (a) The Secretary shall establish an advisory committee to advise, consult with, and make recommendations to him on matters relating to rape prevention and control.

"(b) The provisions relating to the composition, terms of office, and reappointment of members of the advisory councils under section 432(a) shall be applicable to the committee established under this section, except that the Secretary may include on such committee such additional ex officio members as he deems necessary and except that at least a majority of the appointed members of the committee shall be women.

SEC. 803. This Act shall become effective upon enactment.

TITLE IX—COMMISSION FOR CONTROL OF EPILEPSY

SEC. 901. This title may be cited as the "Commission for the Control of Epilepsy and Its Consequences Act".

SEC. 902. There is hereby established a temporary commission to be known as the Commission for the Control of Epilepsy and Its Consequences (hereinafter referred to in this title as the "Commission"). Such Commission shall exist for a period not to exceed one year.

SEC. 903. It shall be the duty of the Commission to—

(1) make a comprehensive study of the state of the art of medical and social management of the epilepsies in the United States;

(2) investigate and make recommendations concerning the proper roles of the Federal and State governments, and the national and local public and private agencies, in research, prevention, identification, treatment, and rehabilitation of persons with epilepsy;

(3) develop a comprehensive national plan for the control of epilepsy and its conse-

quences, based on the most thorough, complete, and accurate data and information available on the disorder; and

(4) transmit to the President and the Congress no later than one year after the date of enactment of this Act, a report detailing the findings and conclusions of the Commission, together with recommendations, including recommendations for legislation and appropriations, as it deems advisable.

SEC. 904. (a) The Commission shall be composed of nine members to be appointed by the Secretary of Health, Education, and Welfare. Such members shall be persons, including consumers of health services, who, by reason of experience or training in the medical, social, or educational aspects of the epilepsies, are specially qualified to serve on such Commission.

(b) The Secretary shall designate one of the members of the Commission to serve as Chairman and one to serve as Vice Chairman. Vacancies shall be filled in the same manner in which the original appointments were made. Any vacancy in the Commission shall not affect its powers.

SEC. 905. (a) Any member of the Commission who is otherwise employed by the Federal Government shall serve without compensation in addition to that received in his regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by him in the performance of his duties.

(b) Members of the Commission, other than those referred to in subsection (a), shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under section 5332, title 5, United States Code, for each day they are engaged in the performance of their duties including traveltime and, while so serving away from their homes or regular places of business, they shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expense authorized by section 5703, title 5, United States Code, for persons in Government service employed intermittently.

SEC. 906. The Commisison shall cease to exist thirty days after the submission of the final report required by section 903(4).

TITLE X—HEMOPHILIA PROGRAMS

SEC. 1001. This title may be cited as the "Hemophilia Act of 1974".

SEC. 1002. Title XIV of the Public Health Service Act, as added and amended by this Act, is further amended by adding at the end thereof the following new part:

"STATEMENT OF FINDINGS AND PURPOSE

"SEC. 1480. (a) Congress finds and declares—

"(1) that there are a significant number of individuals residing in the United States who suffer from hemophilia;

"(2) that there exists today the technology and the skills to enable such individuals to lead productive lives;

"(3) that the high cost of such technology and skills are in most cases denying the benefits of such advances to individuals suffering from hemophilia.

"(b) It is therefore the purpose of this Act to guarantee individuals suffering from hemophilia their entitlement to care commensurate with the technology and skills that are available.

"DEFINITIONS

"SEC. 1481. As used in this part the term—

"(1) 'hemophilia diagnostic and treatment center' means an entity which provides—

"(A) access for all individuals suffering from hemophilia who reside within the geographic area served by the center;

"(B) programs for the training of professional and paraprofessional personnel in hemophilia research, diagnosis, and treatment;

"(C) a program for the diagnosis and treatment of individuals suffering from hemophilia who are being treated on an outpatient basis;

"(D) a program for association with providers of health care who are treating individuals suffering from hemophilia in areas not conveniently served directly by such center but which is more convenient (as determined by the Secretary) than the next geographically closest center;

"(E) programs of social and vocational counseling for individuals suffering from hemophilia;

"(F) individualized written programs for each individual treated by or in association with such center; and

"(G) complies with guidelines for treatment established by the National Hemophilia Advisory Board, under this part.

"(2) 'blood components' means those constituents of whole blood used for therapy derived by physical separation processes, resulting in licensed products such as red blood cells, platelets, white blood cells, AHF-rich, fresh-frozen plasma, cryoprecipitate, and single unit plasma for infusion;

"(3) 'blood fractions' means those constituents of plasma used for therapy and derived by licensed fractionation processes presently used in manufacturing products such as normal serum albumin, plasma protein fraction, prothrombin complex, fibrinogen, AHF concentrate, immune serum globulin and hyperimmune globulins.

"TREATMENT CENTERS

"SEC. 1482. (a) The Secretary shall provide for the establishment of no less than fifteen new centers for the diagnosis and treatment of individuals suffering from hemophilia.

"(b)(1) In carrying out the purposes of subsection (a) the Secretary may make grants to public and nonprofit private entities, and may enter into competitive contracts with public and private entities for projects for the establishment of hemophilia diagnostic and treatment centers as defined in section 1461.

"(2) No grant or contract may be made under this part unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner and contain such information, as the Secretary shall by regulation prescribe.

"(3) An application for a grant or contract under this part shall contain assurances satisfactory to the Secretary that the applicant will serve the maximum number of individuals that its available and potential resources will enable it to effectively serve.

"(c) In establishing such centers the Secretary shall—

"(1) take into account the number of persons to be served by the program supported by such center and the extent to which rapid and effective use will be made of funds by such center; and

"(2) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs.

"(d) There are authorized to be appropriated to carry out the purposes of this section $5,000,000 for the fiscal year ending June 30, 1975, $10,000,000 for the fiscal year ending June 30, 1976, and $15,000,000 for the fiscal year ending June 30, 1977.

"BLOOD SEPARATION CENTERS

"SEC. 1483. (a) The Secretary in accordance with regulations promulgated by him, may make grants to public and private nonprofit entities, and may enter into competitive contracts with public and private entities to develop and/or expand blood-separation centers within existing facilities for the purpose of separating and making available for distribution, blood components to providers of blood services and manufacturers of blood fractions.

"(b) In the event the Secretary, after consultation with the Board established under this part, finds that there is an insufficient supply of blood fractions available to meet the medical treatment demands for hemophilia, and that public and other nonprofit centers already engaged in the production of blood fractions could alleviate such insufficiency with assistance under this section, he may make grants not to exceed $500,000 to each such center for the purpose of alleviating the insufficiency.

"(c) For the purpose of making payments pursuant to grants and contracts under this section there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1975, $10,000,000 for the fiscal year ending June 30, 1976, and $15,000,000 for the fiscal year ending June 30, 1977.

"ADVISORY BOARD

"SEC. 1484. (a) There is hereby established in the National Institutes of Health a National Hemophilia Advisory Board (hereinafter in this section referred to as the 'Board') to be composed of twenty members as follows:

"(1) the Secretary and the Director of the National Institutes of Health; and

"(2) eighteen members appointed by the President. The persons appointed to the Board shall be appointed from among persons who are among the leading scientific or medical authorities outstanding in the study, diagnosis, or treatment of hemophilia or in fields related thereto, and representatives from among producers of blood fractions.

"(b)(1) Appointed members shall be appointed for six-year terms, except that of the members first appointed, six shall be appointed for a term of two years, and six shall be appointed for a term of four years, as designated by the President at the time of appointment.

"(2) Any member appointed to fill a vacancy occurring prior to expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Appointed members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

"(3) A vacancy in the Board shall not affect its activities, and eleven members thereof shall constitute a quorum.

"(4) The President shall designate one of the appointed members to serve as Chairman for a term of two years. The Board shall meet at the call of the Chairman, but not less often than four times a year.

"(c) The Board may hold such hearings, take such testimony, and sit and act at such times and places as the Board deems advisable to investigate programs and activities conducted under this part.

"(d) Members of the Board who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the duties of the Board compensation at rates not to exceed the daily equivalent of the annual rate in effect for GS–18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"(e) The Secretary and the Director of the National Institutes of Health shall make available to the Board such staff, information, and other assistance as it may require to carry out its activities.

"FUNCTIONS OF THE BOARD

"SEC. 1485. It shall be the function of the Board to (1) establish guidelines for the diagnosis and treatment of persons suffering from hemophilia; (2) make recommendations to the Secretary with regard to the provision of treatments under section 1466; (3) make recommendations to the Secretary pursuant to section 1463(b); and (4) submit a report to the President for transmittal to the Congress not later than January 31 of each year on the scope of activities conducted under this part.

"ENTITLEMENT TO TREATMENTS

"Sec. 1486. (a) Any individual who is a resident of the United States and suffering from hemophilia shall be entitled to receive benefits under this section.

"(b) Eligibility of an individual for benefits under this section consists of entitlement to have payment made to or on behalf of such individual in accordance with the provisions of this section for the following items and services associated with the treatment and diagnosis of hemophilia:

"(1) inpatient and outpatient hospital services;

"(2) physician's and other professional services;

"(3) medical and other health services;

"(4) rehabilitative services;

"(5) home health services;

"(6) necessary drugs and biologicals (including blood and blood products); and

"(7) such other items and services determined by the Secretary in accordance with recommendations of the Board to be appropriate and necessary to assure that individuals suffering from hemophilia are properly diagnosed and treated so that they may lead productive lives.

"(c)(1) Except as provided otherwise in this subsection payments shall be made to or on behalf of individuals eligible for benefits under this section for the full cost of items and services described in subsection (b), minus—

"(A) items and services payable by third party payors (including governmental entities); and

"(B) 25 per centum of such costs or $500, whichever is less, provided however, that no family shall be required to pay more than $500 in any given year no matter how many individuals in a family receive benefits under this section.

"(2) The copayments required by paragraph (1)(B) shall not apply in a case where the income level of the individual or family for the most recent taxable year is less than—

"(A) $4,800 in the case of an individual;

"(B) $6,000 in the case of a family consisting of two members;

"(C) $6,800 in the case of a family consisting of three members;

"(D) $7,400 in the case of a family consisting of four members; and

"(E) $8,800, plus $400 for each member in excess of four, in the case of a family consisting of more than four members.

"(3) In the case of jurisdictions of the Commonwealth of Puerto Rico, the Virgin Islands, and Guam, the dollar amounts set forth in paragraph (2) shall each be deemed to be reduced to such amount as the Secretary determines to be appropriate to assure that the ratio of individuals and families in any such jurisdiction who are entitled to the benefits of this section to the total population of such jurisdiction is not greater than the ratio of individuals in that State of the United States which has the highest such ratio of individuals who are entitled to such benefits to the total population of such State.

"(d) The Secretary shall after reviewing the recommendations of the Board prescribe regulations with regard to items and services described in subsection (b). To the maximum extent feasible the Secretary in prescribing such regulations shall follow the guidelines established in similar regulations prescribed under the Social Security Act.

"(e)(1) For purposes of this section, the term 'income' means (subject to paragraph (2)) both earned income and unearned income as defined by the Secretary.

"(2)(A) In determining, for purposes of this section, the income of any individual or family, for any period of time, there shall be excluded—

"(i) subject to limitations (as to amount or otherwise) prescribed by the Secretary, if such individual is a child who is, as determined by the Secretary, a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment, the earned income of such individual;

"(ii)(I) the total unearned income of such individual (and such spouse, if any) in a calendar quarter which, as determined in accordance with criteria prescribed by the Secretary, is received too infrequently or irregularly to be included, if such income so received does not exceed $60 in such quarter, and (II) the total earned income of such individual (and such spouse, if any) in a calendar quarter which, as determined in accordance with such criteria, is received too infrequently or irregularly to be included, if such income so received does not exceed $30 in such quarter;

"(iii) any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased by such individual (or such spouse);

"(iv) any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational (including technical or vocational education) institution;

"(v) home produce of such individual (or spouse) utilized by the household for its own consumption;

"(vi) any amounts received for the foster care of a child who is not an eligible individual but who is living in the same home as such individual and was placed in such home by a public or nonprofit private child placement or child-care agency; and

"(vii) the aggregate value of any gifts which do not exceed $100, if such period of time is equal to twelve months, or if such period of time is less than twelve months, then an amount which bears the same ratio to $100 as such period bears to twelve months.

"(B) For purposes of subparagraph (A) and subsection (a)—

"(i) a loan of $100 or more (or aggregate thereof) shall be regarded as a gift if such loan—

"(I) is unsecured (or is without adequate security), or

"(II) has no maturity date; and

"(ii) in the case of a loan which—

"(I) bears no interest, or

"(II) bears interest at a rate which is not more than one-half of the prevailing rate of interest imposed with respect to similar loans, the recipient of such loan shall be regarded as having received, as a gift, an amount, with respect to any period of time, equal to the excess of—

"(III) the amount of interest which would have been payable to him, with respect to such period, on such loan if such loan bore a rate of interest equal to the prevailing rate of interest imposed (as of the time such loan was made) with respect to similar loans, over

"(IV) the amount of interest (if any) payable by him, with respect to such period, on such loan.

"(f) For purposes of subsection (a), the term 'individual' does not include any individual who is a member of a family; and the term 'family' means two or more individuals who are (1) related by blood, marriage, or adoption and (2) living in a place of residence maintained by one or more of them as his or their own home.

"(g) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

"INDIVIDUAL ACCOUNTS

"Sec. 1487. (a) In order to provide for the payment on behalf of eligible individuals of the amounts due under section 1466 for items and services furnished them, the Secretary shall establish for each such eligible individual an account against which such individual may charge the cost of obtaining any items and services furnished him under section 1466, without regard to any copayment requirement which may be applicable under this part.

"(b) Payment for any items and services furnished an individual under section 1466 (other than emergency services) shall be made only on the basis of charges against such individual's account.

"PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

"Sec. 1488. Items and services, and the costs of such items and services, described in section 1466 shall be reviewed by Professional Standards Review Organizations wherever such organizations have been established in accordance with part B of title XI of the Social Security Act, or where no PSRO is established by an appropriate peer review entity designated by the Secretary after consultation with the Board.".

Mr. KENNEDY. Mr. President, the Health Services Act of 1974 extends and modifies four major health programs: the community mental health center program, the migrant health program, the neighborhood health center program, and the State public health or revenue sharing program. The authority for all four of these programs expired on June 30 of this year, and the programs are currently operating under a continuing resolution, which will expire on September 30.

In addition, S. 3280 has been amended in the Committee on Labor and Public Welfare to include important new authorities for:

First, startup of home health care agencies and training of home health personnel, a program originally introduced by Senator Church as S. 2695.

Second, establishment of a center for the prevention and control of rape, a proposal originally introduced by Senator Mathias as S. 2422.

Third, establishment of a Commission on Mental Health and Illness of the Elderly, a proposal originally introduced by Senator Muskie as S. 1768.

Fourth, estabishment of a program of screening and treatment for hemophilia, a proposal originally introduced by Senator Williams, as S. 1326, the Hemophilia Act of 1973.

Fifth, establishment of a Commission on the Control of Epilepsy, a program proposed by Senator Dominick.

Mr. President, the extension of these four existing Federal health programs, and the addition of five new programs, constitute the entire health services legislative activity of the Subcommittee on Health of the Committee on Labor and Public Welfare for this 93d Congress. These measures reflect the committee's work with respect to health services over the entire period of this Congress, and are brought before the Senate in one bill.

One of the most distressing and difficult problems we face in our Nation is making good health care available in every American community. In hearing after hearing over the last 4 years, I have heard testimony to the grave shortages of physicians and services in many rural and urban communities, and to the specific shortage of certain types of services—such as mental health care. Our committee is considering manpower legislation to influence the distribution of health professionals, and also planning legislation, aimed at assuring a more coherent and rational distribution and use of health professionals and facilities. We already have in existence, however, several programs aimed at bringing health services to communities that need them.

The Community Mental Health Centers Act, originally passed in 1963, has funded over 500 mental health centers across our Nation. Since its inception, this program has aimed at making the services of a mental health center available in every community. Current estimates indicate that 1,500 centers will be required to attain this goal. S. 3280 extends the Mental Health Centers Act, and clarifies many of its provisions, to the end of moving as rapidly as possible toward this ultimate goal.

Neighborhood health centers, which are currently funded under section 314 (e) of the Public Health Service Act, originally passed in 1966, have brought a wide range of health services into scores of inner-city and rural communities across our Nation. It is urgent that this successful model of health care delivery be maintained, that existing centers be continued until we, as a Nation, have found a way to finance the costs of health care delivery, and that other communities who need the assistance of this program in order to obtain health care have this option available to them.

Migrant health services, first funded in 1962 under section 310 of the Public Health Service Act, are also extended continued support in S. 3280. The migrant health program has been continually reformed over recent years to reflect more adequately the special needs of migrant Americans, but has never been adequately funded. This legislation reasserts the dimensions of the real need among migrants, and we are hopeful that this legislation, in addition to providing greater flexibility to the migrant program, and a clearer in-depth definition of congressional intent, will enhance the level of Federal support for the program.

With respect to all three of these centers programs, the committee feels that to the greatest extent possible, centers should collect reasonable fees from their patients and from any public or private insurance coverages their patients may have. GAO studies of both neighborhood and mental health centers indicate that many centers could be more effective in these regards, and thereby relieve the Federal grant of the burden of some support for these centers. On the other hand, the committee strongly believes that under no circumstances should a center cut back on its services or discriminate among those seeking care in order to increase their collections. That is, they should not attempt to offer only those services that insurance in their area covers, nor should they attempt to treat only those individuals who have insurance coverage or can pay their bill out of their own pockets. The centers are intended to offer comprehensive services, as defined in S. 3280, to anyone in their area who needs those services.

In its zeal to stretch the Federal dollar, the administration during the past year, has proposed to force centers to greater and greater degrees of self-sufficiency. We agree with the basic intent of the administration, but insist that these efforts not result in a deterioration of services, or discrimination among those who receive them. Indeed, it would be tragic, in an era when improved health insurance coverage is very near, to lose or truncate these important models of health care. S. 3280 would make grants to centers based on the funds which they could not reasonably be expected to collect from individuals and third-party payors. Based on the GAO studies mentioned earlier, the committee is convinced that many, and indeed, most centers, will require some continued grant support until improved insurance coverage is available.

With respect to public health grants to States, or health revenue sharing as it is called in S. 3280, the bill would extend the program for only 1 year. During our hearings, the committee heard an interesting proposal from the Association of State and Territorial Health Officers for recasting this program. Unfortunately, time was not available to the committee to consider this radical new approach in sufficient detail. We have therefore extended the program with little change for only 1 year, as contrasted with the 4-year extension of the centers' programs. We intend to reexamine and review this revenue sharing area in detail next spring.

Mr. President, the new programs initiated by this bill have great appeal, and will add immeasurably to the breadth of health services programs authorized under the Public Health Services Act. I am not going to deal with them here, since they are dealt with in the committee report, and since I am sure their key sponsors will have further remarks on their behalf, I urge my colleagues to support this measure.

Hearings were held on this measure on May 30 and June 1. The Committee on Labor and Public Welfare voted unanimously to report the bill to the Senate. We have received the broadest possible support for the measure, and are confident we can return from conference with the House with a mutually agreeable bill by September 30.

Mr. President, the legislation before us today expands and reforms the Federal Migrant Health Act, providing new mechanisms to improve the health care of the Nation's migrant and seasonal farmworkers. It also responds to the need to assist persons of limiting English-speaking ability to obtain health services under all Federal programs.

The bill extends the authorizations for grants to operate migrant health centers for 4 years and provides a separate annual authorization for hospitalization. Our testimony once again demonstrated the basic need for hospital services as part of the comprehensive health program.

The legislation also provides assistance to groups to plan for the development and operation of migrant health centers in areas of greatest need across the country.

The current migrant health program still offers services to barely 10 percent of the population and, in many of those cases, the services provided are extremely limited.

Yet the record of need for adequate health services for migrants is unquestioned. The infant mortality rate for migrants is 25 percent higher than the national average. Mortality rates for tuberculosis and other infectious diseases are 2½ times the national average and for influenza and pneumonia, the rate is 20 times higher for migrants than for the general population.

Perhaps one of the most telling statistics of the level of care and general living conditions facing the Nation's migrants is that migrant births occur outside hospitals nine times the national average.

The migrants continue to be the Nation's most ignored citizens. They endure conditions that are both inhumane and unacceptable in America in 1974. Yet, migrants and seasonal farmworkers continue to play a vital role in the agriculture system of this Nation. Without them, the fruits and vegetables that we are accustomed to would never be planted and never be picked.

I believe this bill is a partial step toward meeting their health needs and to improving their opportunity to live in dignity.

In addition, the legislation also includes amendments to insure that the health services provided by community health centers, migrant health centers, and community mental health centers will reach the limited English-speaking population in their regions.

The provisions of the bill would require the development of programs to meet their language and cultural needs. Such programs would include bilingual services and the employment of persons sensitive both to the culture and language of the population being served.

Mr. President, I ask unanimous consent that the portion of the committee report on the migrant health program be printed in the Record to further detail the history of the migrant health program and the specific provisions of the legislation we have approved.

There being no objection, the portion of the committee report was ordered to be printed in the Record, as follows:

TITLE II. MIGRANT HEALTH CENTERS (MHC)

BACKGROUND

In 1962 Congress amended the Public Health Service Act by enacting P.L. 87–692. This first Migrant Health Act added a new section 310 to the PHS Act and provided for Federal grant support to health clinics which offered health services to domestic migratory farm workers and their families. The original legislation, sponsored by Senator Williams, authorized $3 million in grant support, of which only $750,000 was ultimately appropriated. At this limited level of support, funds were restricted primarily to preventive health service programs—e.g., immunization, health education, and environmental safety—which had already been initiated by State and local health agencies at the time of enactment.

In 1965 a Congressional re-evaluation of section 310 activities indicated that the program had not met the health care objectives of the original act. The Community Health Services Extension Amendments of 1965 (P.L. 89–109) addressed itself to several of the program's inadequacies and to that end included provisions for amending section 310 which would provide broader authority for program activities and would increase authorizations to support migrant health projects. In addition to authorizations during fiscal year 1966 which more than doubled those of the first year of the program and tripled them by fiscal 1968, the legislation also authorized the use of section 310 funds for the costs of the necessary hospitalization of migrants.

In 1968 Congress passed the Health Services Amendments of 1968 (P.L. 90–574). Among other things, these amendments extended section 310's authority through 1970 and increased the authorization level for project support. Between 1968 and 1970 the program was able to increase, as the result of this continued commitment, the number of migrants receiving Federally-supported personal health services from 85,000 to 102,000.

At the expiration of section 310's authority in 1970, Congress once again extended the program's authority and increased its authorizations with the enactment of P.L. 91–209. In addition, P.L. 91–209 included provisions which expanded program activities in two significant ways. First, this act authorized support to projects which would provide health services to resident seasonal farm workers and their families living in communities which experienced seasonal influxes of migrant farmworkers. This same enactment also required consumer involvement in migrant health projects receiving Federal support; specifically, the act mandated: "Persons broadly representative of all elements of the population to be served must be given an opportunity to participate in the development . . . (and) in the implementation of such programs." This provision was adopted following Migratory Labor Subcommittee hearings which determined that there existed little if any opportunity for migrants to influence the content of policies and programs intended to improve their lot.

With the expiration of the migrant health authority in June, 1973, Congress enacted P.L. 93–45, the Health Programs Extension Act of 1973, which provided a one year extension of the authority of the migrant health program, including an authorization of $26.75 million. A budget history of section 310 for recent years appears below:

TABLE 5.—FEDERAL FUNDING OF HEALTH SERVICES FOR DOMESTIC AGRICULTURAL WORKERS AND THEIR FAMILIES, PHS ACT, SEC. 310

[In thousands of dollars]

Fiscal year	Authorization	Budget— Request	Budget— Appropriation	Obligation	Outlays
1970	15,000	12,000	15,000	14,893	11,172
1971	20,000	14,000	14,000	13,997	14,581
1972	25,000	17,000	17,950	17,864	13,709
1973	30,000	23,750	23,750	23,750	19,060
1974	26,750	23,750	23,750	(25,750)	(23,151)
Total	116,750	90,500	94,450	(92,254)	(81,673)

[1] Parentheses indicate estimated amounts.

During fiscal 1974, the 103 migrant health projects receiving assistance under section 310 provided health services to an estimated 355,000 patients; patient visits amounted to approximately 630,000. Projects include both full-time centers offering a wide variety of comprehensive health services and specially scheduled clinics offering categorical services which are supplemented by referrals. Services provided at migrant health projects include diagnostic and therapeutic care, follow-up, certain dental services, health counseling, preventive care and outreach services. In addition, the program has begun experiments to provide more hospital coverage to migrants. One such demonstration project has been designed to provide hospital care to a selected migrant population in order to study patterns of hospital utilization and cost of hospital services for migrants and to compare the migrant hospitalization experience with that of other low-income groups. Six migrant health projects have initiated programs with hospitals in their areas to provide access for approximately 50,000 migrants to inpatient services at a fixed daily rate. Still other demonstration projects explore the feasibility of the delivery of care through prepaid capitation. An indication of the progress made by the program in the last few years—as measured by several key indicators—has been tabulated below:

TABLE 6.—KEY INDICATORS OF MIGRANT HEALTH SERVICES PROGRAM

Program indicator	1972	1973	1974
Program scope:			
Number of projects	101	102	103
Target population	3,000,000	3,000,000	3,000,000
Patient visits	460,000	600,000	630,000
Costs:			
Appropriation	$17,950,000	$23,750,000	$23,750,000
Average project costs	177,722	208,330	228,365
Cost per person per year (based on visits)	69	70	67

Despite this record of progress and accomplishment, the unmet health care needs of migrants remain profound and critical. The migrant health program reaches barely 10 percent of the population eligible for services. The infant mortality rate for migrants is 25 percent higher than the national average. Mortality rates for tuberculosis and other infectious diseases among migrants are 2½ times the national rate, and for influenza and pneumonia, the rate is 20 percent higher for migrants than it is for the general population. The rate of hospitalization for accidents is 50 percent higher for migrants than it is for the nation as a whole, while migrant births occur outside of hospitals at a rate nine times higher than the national rate. If there are to be real and major improvements in the health of migrants, continued Federal commitment and significantly higher levels of support are required. The Committee recognizes the inadequacy of prior levels of funding for migrant health projects and proposes in S. 3280 substantially higher authorizations for program activities. These levels are outlined below:

TABLE 7.—AUTHORIZATION OF APPROPRIATIONS FOR MIGRANT HEALTH PROJECTS

[In millions of dollars]

	1975	1976	1977	1978
Planning and development	0.25	0.25	0.25	0.25
Start-up	15.0	15.0	15.0	15.0
Initial operation	120.0	135.0	150.0	165.0
Initial operation—inpatient and outpatient hospitalization	35.0	40.0	45.0	50.0

In addition to inadequate levels of funding, the program has encountered a number of obstacles which complicate efforts to improve and maintain the health of migrants. These include problems in hospitalization for migrants, migrant camp sanitation, and Medicaid coverage. The problem of hospitalization has persisted in part because Federal support available for migrant health projects has been limited primarily to the development of ambulatory programs. Normally less than $500,000 is allocated each year for hospitalization of migrants, and at this level of support, hospitalization must necessarily be limited to emergency cases. The legislation proposes to correct this deficiency by establishing a separate authority for payment of hospitalization costs for migrants and to support this authority at adequate levels of funding.

Inadequacies in migrant camp sanitation—including housing, water supplies, sewage treatment, waste disposal—are well-known and documented. They compound the basic health care needs of the migrant and, in many cases, transcend them. In many communities the migrant health center is the only institution actively providing environmental health services to migrants. With other pressing health problems competing for its resources, these services provided by the center are frequently limited in scope and inadequate in response. As indicated below, the proposed legislation would require the center to undertake environmental health activities. It is recognized that problems as profound as these cannot be addressed with inadequate levels of funding and the legislation proposes to correct this deficiency. It is not intended, however, that migrant health centers duplicate in their environmental health services the functions of State or local agencies or establish standards relating to the environment where standards already exist. In such cases, the centers could better monitor the enforcement of existing standards in their communities.

Finally, mention should be made of those barriers which exclude migrant participation in Medicaid. It should be noted that these same barriers ultimately limit the portion of a center's operating expenses which can be met by third-party reimbursements for services provided. Migrants are frequently excluded from coverage under Medicaid as the result of their failure to meet State residency requirements and their inability to meet definitions of "categorically needy"' or "medically needy." In most States, State Medicaid policy requires a Medicaid applicant to demonstrate an intent to reside in the State before he can be certified as eligible. Since migrants are generally unable to demonstrate an intent to reside because they are required to move from State to State with changes in the harvest season, they are repeatedly ruled ineligible. In addition, some States, which serve as major home-base areas for migrants —Florida, for example—fail to recognize the legitimacy of the claim of large numbers of migrants that their home-base State is considered their residence. In such States, it is common practice to consider all migrants as non-residents and to automatically disqualify those potentially Medicaid-eligible migrants from entitlement.

Other problems in eligibility for assistance under Medicaid relate to migrants' failure to meet non-economic definitions of need. Medicaid eligibles must be blind, aged, disabled, or dependent children as defined in SSI and Title IV–A or in certain instances in State regulations for these groups. Because few migrants are aged, blind, or disabled, most of those who could qualify would be eligible only under the Aid to Families with Dependent Children. Because most migrant families are male-headed, however, they are ineligible for Medicaid unless they reside in a State with an Unemployed Fathers program. Of the 23 States with migrant populations over 10,000, only nine provide Medicaid coverage to families headed by unemployed fathers. In none of these States, however, does it appear that more than half of the migrants are home-based. Approximately 470,000 migrants reside in or travel through the nine States with Unemployed Fathers programs. It is estimated that approximately 70,000 migrants would be eligible for Medicaid because they would be unemployed during the off-season and at the same time home-based.

Proposals have been offered which would reduce or eliminate such barriers for migrants. While these are under consideration, the Committee considers it advisable that centers continue to upgrade their facilities and services in order that they meet those standards which would qualify them as institutional providers eligible for reimbursement under Medicare and Medicaid. To this end,the legislation proposes, as conditions for receiving grants, a number of requirements similar to those outlined above for CHCs and again consistent with those required of institutional providers under Title XVIII. If centers demonstrate a capacity to meet these requirements, the Committee might recommend amendment of Title XVIII to permit reimbursement of centers as institutional providers.

With only limited resources at its disposal, the migrant health program has proven that progress can be made in meeting the critical, unmet health care needs of the migrant through the center concept. Despite those barriers and obstacles to care discussed above—not to mention additional factors such as rural isolation—which might have severely limited the scope of services provided and activities undertaken, migrant health projects have been established which offer a comprehensive range of services. They have developed on-site laboratory capabilities, basic diagnostic services, family-oriented primary care centers rather than fragmented categorical clinics, bilingual personnel, on-site medical services, and referral services to specialty practices. As the subsequent summary of the proposed legislation indicates, the Committee has recommended that support be continued and that funding be increased to accommodate both an expansion of services offered at established centers as well as the initiation of new projects which will reach those migrants who presently are not served by a center.

INTENT OF LEGISLATION

S. 3280 proposes to repeal Section 310 of the Public Health Service Act and to replace this authority for the funding of Migrant Health Centers with a new authority under Part B of Title XIV.

REQUIREMENTS FOR MIGRANT HEALTH CENTERS

The legislation defines a Migrant Health Center as a public or private nonprofit agency, organization, or institution which provides certain essential health services; such supplemental health services as may be necessary for the adequate support of essential health services and as may be appropriate to the particular center; referral to providers of supplemental health services and payment therefor as appropriate and feasible for the Center; and, as may be appropriate to particular centers, environmental health services.

A Center could be established to provide these services and referrals in an area in which not less than five thousand agricultural migratory seasonal workers and their families reside. The bill defines agricultural migratory and seasonal workers as individuals whose principal occupation is in agriculture on a seasonal basis. Agriculture is also defined and indicates farming in all its branches.

The Center may provide services either directly through its own professional staff and supporting resources or indirectly through agreements and cooperative arrangements with other providers in the area. Such agreements should be entered into in order to assure the patient maximum accessibility to efficient, economical and high quality services.

Services are to be provided, within the limits of the Center's capacity, to any eligible individual regardless of his ability to pay for services, his current or past health condition, or any other factor. All services should be available to individuals the Center serves promptly, as appropriate, and in a manner which preserves human dignity, assures continuity, and high quality care and overcomes geographical, cultural, linguistic, or economic barriers to care.

The Center's services must be available for a minimum of six months in any calendar year but it is intended that most if not all will be operating throughout the year.

ESSENTIAL AND SUPPLEMENTAL HEALTH SERVICES

Essential and supplemental health services to be offered by the Migrant Health Center include all of those specified for the Community Health Center. However, because of several known and well-documented health deficiencies and health hazards unique to migrants, the legislation notes desirable additions to this spectrum of services. Essential preventive services to be offered by the MHC should include services for the prevention of malnutrition and screening and control of infectious and parasitic disease. Supplemental health services which a center should consider providing include, in addition to those mentioned above in the summary of CHC legislation, medical services for the treatment of nutritional deficiencies as well as services for the prevention of accidents, including prevention of excessive pesticide exposure. It is expected that the vast majority of a Center's funds will be expended in providing essential services.

REFERRAL AND ENVIRONMENTAL HEALTH SERVICES

Like the CHC, the Migrant Health Center can and should provide referral services for those supplemental health services not offered at the Center. The health needs of any one migrant community again are expected to vary and can be expected to account for differences in supplemental services provided at the Center itself or upon referral to other providers.

Centers would also be required to provide environmental health services. Because of the special needs of migrant communities for these services, the legislation makes specifications, which it does not for Community Health Centers, as to the range and scope it is considered desirable for these services to assume. They should include detection and alleviation of unhealthful conditions associated with water supply, sewage treatment, solid waste disposal, rodent and parasitic infestation, field sanitation, housing, and other environmental factors related to health. Expenditures for these purposes should not supplant other funds which otherwise would have been spent for these purposes.

PLANNING AND DEVELOPMENT, START-UP, AND INITIAL OPERATION GRANTS

The legislation would authorize grants for the planning and development, starting-up, and initial operation of Migrant Health Centers. The details of the procedures and purposes for awarding these grants are in most cases identical to those summarized above for Community Health Centers. However, several differences in specifications do exist and they include the following:

(1) For MHCs which do not provide all required essential, supplemental, and environmental health services, the Secretary may make only two initial operating grants.

(2) In the case of the Center which does not provide all required essential, supplemental health services, the Secretary may make one additional initial operating grant upon a finding (1) that due to the unavailability of health services resources or other factors the grantee has been unable, despite all reasonable efforts, to develop such health services, and (2) that the services which a grant would enable the grantee to provide are needed and such services are not available from any other source. The legislation does not require the Secretary to consult with local health planning agencies in this determination.

(3) For planning and development grants, the bill would authorize appropriations of $250,000 for fiscal year 1975 and $250,000 for each of the three subsequent fiscal years. For start-up grants, $15 million would be authorized to be appropriated for each of the four fiscal years. For initial operating grants there would be authorized $120 million for FY 1975, $135 million for FY 1976, $150 million for FY 1977, and $165 million for FY 1978. In addition, the bill includes a special authorization to cover the reasonable costs of inpatient and outpatient services provided to migrants as the result of the Center's referral. There would be authorized to be appropriated for such purposes $35 million for FY 1975, $40 million for FY 1976, $45 million for FY 1977, and $50 million for FY 1978.

GRANTS AND CONTRACTS IN AREAS NOT SERVED BY MIGRANT HEALTH CENTERS

The legislation would authorize grants and contracts to any public or nonprofit private agency, organization, or institution for the provision of health services to migrants in areas where migrant health centers cannot be funded because fewer than the required number of workers and their families (5,000) are residents therein. This authority would cover the "in-stream" projects currently funded under the program as well as new projects of this type. These grants and contracts would be awarded for the purpose of (1) planning, developing, or providing any or all of the essential, supplemental, and environmental health services described above to agricultural migratory and seasonal workers and their families, (2) the development of arrangements with existing providers of health care services, and (3) the development of other projects designed to improve the health conditions of migrants. As is the case for initial operating grants to Migrant Health Centers, these grants would be in an amount equal to the difference between the grantee's projected reasonable costs of operation for that year and the total of State, local, and other funds, and the fees, premiums, and third-party payments which the grantee may reasonably be expected to collect during that year.

The appropriations for initial grants and the costs of inpatient and outpatient hospital services specified above would include funding for these grants and contracts. Not more than 20 percent of the sums appropriated can be used for such purposes.

CONDITIONS FOR APPROVAL OF APPLICATIONS

Conditions for approval of applications for Migrant Health Center grants are very similar to those discussed above for CHCs. The following differences should be noted:

(1) The legislation does not require State or local health planning agencies to review the proposed use of funds to be awarded a Center to determine whether such funding is consistent with any plans it may have developed for its area of jurisdiction. Nor would the Secretary be required to consult with State or local health planning agencies to determine whether the services to be provided by the Center constitute an addition to or significant improvement in quality of services available in the area.

(2) The governing board of the Migrant Health Center should be composed of individuals a majority of whom are being served by the applicant and who, as a group, represent the individuals being served by the Center. The governing board should include at least three members who are experienced in

the delivery of health services of the kind provided by the applicant and knowledgeable about the health needs of the population served by the Center. The board should meet regularly throughout the year and should establish general policies for the Center (including the selection of services to be provided by the applicant, and a schedule of hours during which services will be provided), approve the Center's annual budget, and approve the selection of its director. The establishment of a professional advisory board is not required for the Migrant Health Center as it is for the Community Health Center.

(3) The MHC is required to establish an ongoing quality assurance program, including utilization and peer review systems. It is not required, however, to utilize the services of the PSRO responsible for review in the area.

(4) The Center should expend for the provision of environmental health services not more than 10 percent of its costs of operation during the preceding fiscal year.

NATIONAL ADVISORY COUNCIL ON MIGRANT HEALTH CENTERS

A National Advisory Council on Migrant Health Centers would be appointed and organized by the Secretary to advise, consult with, and make recommendations to the Department on matters concerning the organization, operation, and funding of Migrant Health Centers. The Council would consist of 15 members, at least 12 of whom should be members of the governing boards of Migrant Health Centers or other grantees under this Part. Of these twelve, nine should be chosen from among those members of governing boards who are being served by Centers or grantees and who are familiar with the delivery of health care to agricultural migratory and seasonal workers. The remaining three Council members would be chosen by the other twelve members from individuals qualified by training and experience in the medical sciences or in the administration of health programs.

TECHNICAL ASSISTANCE

The Secretary would be authorized to provide grantees technical assistance, either directly or through grant or contract. Two percent of MHC appropriations for any fiscal year should be used for such assistance.

PRIORITIES IN AWARDING GRANTS

In awarding grants, the Secretary would be required to accord priority to community-based agencies, organizations, and institutions (1) which received financial assistance during fiscal 1974 under Section 310 of the Public Health Service Act and (2) which are new applicants which will serve areas with the greatest need for health services of the type offered by Migrant Health Centers. Community-based agencies, organizations, or institutions are those which are representative of the population to be served or of a significant segment thereof.

EVALUATIONS OF MHC PROGRAMS BY DHEW

The legislation requires the Secretary to use one percent of the total of Migrant Health Centers grants appropriated for any fiscal year to evaluate MHC programs.

Mr. JAVITS. Mr. President, I urge my colleagues to support the Health Service Act of 1974 (S. 3280) which provides for:

First, continuation of three critically important programs—neighborhood health centers, now referred to by the bill as community health centers; migrant health; and community mental health centers;

Second, extension of the formula grant program to States for health problems of broad national scope, including my amendment authorizing $70 million for purposes of screening, detection, diagnosis, and treatment of hypertension. There is also provision to increase funding for communicable and other disease control by $15,000,000, to allow for inclusion of the current rat control program which has been funded heretofore under section 314(e) and which programs I strongly support;

Third, establishment of a program of startup grants to home health agencies and grants for training personnel to provide home health services, a less expensive and/or more effective alternative to continuing hospital and nursing home care. This title of the bill is based upon a bill, of which I am a cosponsor, authored by Senator CHURCH;

Fourth, a center within NIMH to study the causes, control and treatment of rape and to establish a clearinghouse of information on these subjects, with support for demonstration projects in the prevention and control of rape. This title of the bill is based upon a bill, of which I am a cosponsor, authored by Senator MATHIAS;

Fifth, an HEW Commission on Epilepsy, based upon a bill, of which I am a cosponsor, authored by Senator DOMINICK;

Sixth, the establishment of a comprehensive approach to the diagnosis and treatment of hemophilia, to assure better utilization of blood resources, and to provide adequate financial support for individuals who must now pay for the high costs of hemophilia treatment, through a general revenues entitlement program with certain copayment requirements above specified income levels for the costs of treatment. This title of the bill is based upon a bill I supported, authored by Senator WILLIAMS, chairman of the Committee on Labor and Public Welfare, of which I am ranking minority member.

When I introduced on request the administration bill—S. 1632—provisions of which responded in part to the legislative issues included in this bill, by a simple 3-year extension, I expressed concern about its proposed repeal of the 15 percent earmarking of a State's allotment for State mental health agencies for the provision of mental health services. I indicated at the time that my concern was due to the lack of data which would convince me that some States may not seek to escape their responsibilities to their mentally ill citizens.

I am pleased to note that the bill before us continues the mental mealth 15 percent set-aside because the information presented to the committee evidenced that, unfortunately, this is all too often the case.

I also stated when I introduced on request such bill that:

> My deepest concern, however, is the administration's view in support of the extension of the authority to make project grants for health services development, section 314(e) of the Public Health Service Act. The administration proposes to consolidate support for the other health service programs under this authority, rather than continuing other congressional health program authorizations.* * *
>
> In essence a determination to utilize section 314(e) of the Public Health Service Act for funding programs the Executive chooses to support, I am concerned that the Executive has failed to recognize what Congress has made crystal clear in regard to such proposed action. Only last year, the Congress passed and the President signed into law, Public Law 92–49. The legislative history of section 314(e) is enunciated in Senate report 92–825, where in discussing this section of the law, it cites the House Committee on Interstate and Foreign Commerce in its report on the Communicable Disease Control Amendments of 1970 * * *

The bill we are considering today confirms that view and authorizes, through congressional action, the categories of health programs for which project grants funds are to be made available.

The view I have expressed is further confirmed by the action taken in the House, in its passage of H.R. 14214, which is in great measure similar to the bill favorably reported by the committee and now under consideration.

With respect to continued Federal support for community mental health centers versus the demonstration program concept urged by the administration, I refer my colleagues to pages 31 through 36 of the report on the bill.

The congressional commitment to Federal support for the development of a nationwide network of community mental health centers as compared to the "demonstration program" administration concept is best summed up in the court's decision in National Council of Community Mental Health Centers against Weinberger, where it states in part:

> The Act was never viewed by Congress as a demonstration program to get communities to follow the examples of others and start their own centers, but rather a national effort to redress the present wholly inadequate measures being taken to meet increasing mental health treatment needs.

With respect to neighborhood health centers, defined by the bill as community health centers, as I previously noted the term "community health center" is used in lieu of neighborhood health center to make clear the intent to include in this legislation family health center, community health networks and other similar entities previously funded under section 314(e) of the PHS act, the OEO act, and other authorities. Such entities, defined by the legislation, will insure the provision of high quality health services in all American communities as a national goal and at the same time allow for maximum flexibility in the organization and delivery of health care and be responsive to provider preference and community need.

Mr. President, I believe this bill can make an important contribution to the building of a comprehensive and integrated health system to meet the health care needs of our people and I urge its passage.

Mr. KENNEDY. At this time I know there are some amendments by Members, and I would entertain those amendments at the present time.

Mr. RIBICOFF. Mr. President, I send an amendment to the desk and ask that it be read.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The second assistant legislative clerk proceeded to read the amendment.

Mr. RIBICOFF. Mr. President, I ask

unanimous consent that the further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 148 at the end of line nine insert the following:

"Except when a center is operated by a governmental agency, that agency shall for the purposes of this act be considered to be the governing body and the agency shall appoint an advisory committee composed of individuals who reside in the center's catchment area and are representative of the residents of the area as to employment, age and sex and at least one-half of whom shall not be providers of health care services."

Mr. RIBICOFF. Mr. President, I am pleased that we are about to pass S. 3280. I am pleased that we are extending and expanding the authority for community mental health centers which provide an important health service.

There are some 500 of these centers throughout the country. Local community involvement is an important part of the work of these centers and the bill we are considering rightfully requires that the center have a governing board made up of local representatives.

However, in 22 States plus Puerto Rico, including Connecticut, there are located some 75 centers which are operated by the State government. They are operated in this fashion because this was the only way these centers could be started up and operated. Under this legislation, while the 75 State-operated centers, including centers in Bridgeport, New Haven, and Meriden could continue to receive staffing grants, they could not receive new grant money under this bill because they are State-operated.

This means, for example, that they will be ineligible for startup grants and new financial distress grants which have been authorized in this bill to help centers which are in special need of help.

This amendment allows State-operated community mental health centers to receive startup and financial distress grants.

It also requires States to have local community advisory boards representative of the community.

My amendment simply allows the 75 State-operated centers to participate fully in the community mental health center program, allowing them to receive all the grants to which the other centers are entitled.

My amendment assures, however, that community involvement will be substantial since it requires the State agency to appoint an advisory committee of local residents representative of the community. Such a board shall be representative of the residents of areas as to the employment, age, and sex of the area and my amendment further provides that at least one-half of the board shall not be providers of services.

I hope my amendment, which will help centers in 22 States to receive their rightful access to the grant programs authorized in this bill, will be adopted.

I ask unanimous consent that a list of the States affected be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

1. Alabama, yes, 1 center.
2. Arkansas, yes, 2 centers.
3. Connecticut, yes, 3 centers.
4. Illinois, yes, 1 center.
5. Louisiana, yes, 15 centers.
6. Maryland, yes, 1 center.
7. Massachusetts, yes, 10 centers.
8. Missouri, yes, 3 centers.
9. Montana, yes, 3 centers.
10. New Jersey, yes, 2 centers.
11. Oklahoma, yes, 3 centers.
12. Puerto Rico, yes, 10 centers.
13. Texas, yes, 2 centers.
14. South Carolina, yes, (HEW says "1") (Combined state and local administration.)
15. Delaware, yes, 1 center.
16. Hawaii, yes, 4 centers.
17. Idaho, yes, 3 centers.
18. Michigan, yes, 1 center.
19. Nebraska, yes, 2 centers.
20. Nevada, yes, 1 center.
21. North Dakota, yes, 2 centers.
22. Ohio, yes, 2 centers.
23. Oregon, yes, 1 center.

Mr. KENNEDY. Mr. President, this amendment is a helpful addition to this legislation.

As the Senator from Connecticut has pointed out, there was at least some misunderstanding about the kind of responsibilities that would be incumbent upon the States in establishing governing boards, and it was never our intention to make that more complex or more difficult in carrying through the thrust and purpose of the legislation. The Senator's amendment clarifies this. Certainly it carries through the central purpose and intention of the legislation and is a sound contribution to the legislation.

We have had a chance to review the language in detail, and unless there is objection I would urge my colleagues to accept it.

Mr. JAVITS. Mr. President, Senator RIBICOFF has offered an amendment which, as the manager of the bill on the majority side said, is very helpful. It is important to many States, and represents his customary scrupulous care in legislation of this kind. It certainly is satisfactory to me.

Mr. President, I wish, while I have the floor, to urge my colleagues to support this measure which has a whole group of critically important aspects in it. I feel that it is very beneficial, in terms of community health.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Connecticut (Mr. RIBICOFF).

The amendment was agreed to.

Mr. RIBICOFF. Mr. President, I wish to express my gratitude to the distinguished manager of the bill, the Senator from Massachusetts (Mr. KENNEDY), and the Senator from New York (Mr. JAVITS).

Mr. CLARK. Mr. President, I call up an unprinted amendment.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The second assistant legislative clerk proceeded to read the amendment.

Mr. CLARK. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

To amend the Public Health Service Act to provide assistance for programs for the diagnosis, prevention, and treatment of, and research in, Huntington's disease.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Huntington's Disease Control Act".

FINDINGS AND DECLARATION OF PURPOSES

SEC. 2. (a) The Congress finds and declares—

(1) that Huntington's disease is a chronic, progressive, degenerative disorder of the nervous system. It is described in medical journals as a hereditary disease of the basal ganglia and cerebral cortex characterized by the onset in adult life of choreiform movements and mental deterioration. The age of onset of the symptoms may be at any time from infancy but in the vast majority of cases it is first discerned between the ages of thirty and fifty years;

(2) that this debilitating, inheritable disease which makes its first appearance in the very prime of life already affects great numbers of Americans and will begin to afflict an even greater number as our young adult population expands;

(3) that the exact cause of Huntington's disease is still unknown. Although severity of the choreiform movements may be reduced by the administration of certain medication or treatment that has been developed, there is no known treatment that will influence the course of the disease;

(4) that efforts to prevent Huntington's disease must be directed toward increased research in the cause and treatment of the disease, and the education, screening, and counseling of carriers of the trait;

(5) that programs to prevent Huntington's disease must be based entirely upon the voluntary cooperation of the individuals involved; and

(6) that the attainment of better methods of prevention, diagnosis, and treatment of Huntington's disease deserves the highest priority.

(b) In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act to establish a national program for the diagnosis, prevention, and treatment of, and research in Huntington's disease.

AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

SEC. 3. (a) Section 1 of the Public Health Service Act is amended by striking out "titles I to X" and inserting in lieu thereof "titles I to XI".

(b) The Act of July 1, 1944 (58 Stat. 682), as amended, is amended by renumbering title XI (as in effect prior to the enactment of this Act) as title XII, and by renumbering sections 1101 through 1114 (as in effect prior to the enactment of this Act) and references thereto, as sections 1201 through 1214, respectively.

"TITLE XI—HUNTINGTON'S DISEASE PROGRAM

"PROGRAMS RELATING TO HUNTINGTON'S DISEASE

"SEC. 1101. (a) (1) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities, for projects for the establishment and operation, primarily through other existing health programs, of Huntington's disease screening, treatment, and counseling programs.

"(2) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals, for projects for research in the diagnosis, treatment, and prevention of Huntington's disease including projects for the development of effective tests which will identify those who have the disease or carry the trait.

"(3) The Secretary shall carry out a program to develop information and educational materials relating to Huntington's disease and to disseminate such information and materials to persons providing health care and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

"(b)(1) For the purpose of making payments pursuant to grants and contracts under subsection (a)(1), there are authorized to be appropriated $500,000 for the fiscal year ending June 30, 1975, and for each of the next two fiscal years.

"(2) For the purpose of making payments pursuant to grants and contracts under subsection (a)(2), there are authorized to be appropriated $1,500,000 for the fiscal year ending June 30, 1975, and for each of the next two fiscal years.

"(3) For the purpose of carrying out subsection (a)(3), there are authorized to be appropriated $150,000 for the fiscal year ending June 30, 1975, and for each of the next two fiscal years.

"VOLUNTARY PARTICIPATION

"Sec. 1102. The participation by any individual in any program or portion thereof under this title shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

"APPLICATIONS; ADMINISTRATION OF GRANT AND CONTRACT PROGRAMS

"Sec. 1103. (a) A grant under this title may be made upon application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each applicant shall—

"(1) provide that the programs and activities for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(2) provide for strict confidentiality of all test results, medical records, and other information regarding screening, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) consents to be released; or (B) statistical data compiled without reference to the identity of any such patient;

"(3) provide for appropriate community representation in the development and operation of any program funded by a grant under this title;

"(4) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title; and

"(5) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

"(b) In making any grant or contract under this title, the Secretary shall (1) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (2) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs.

"(c) The Secretary may make a grant under section 1111(a)(1) for a screening, treatment, and counseling program when he determines that the screening provided by such program will be done through an effective Huntington's disease screening test.

"PUBLIC HEALTH SERVICE FACILITIES

"Sec. 1104. The Secretary shall establish a program within the Public Health Service to provide for voluntary Huntington's disease screening, counseling, and treatment. Such program shall utilize effective Huntington's disease screening tests and shall be made available through facilities of the Public Health Service to any person requesting screening, counseling, or treatment, and shall include appropriate publicity of the availability and voluntary nature of such programs.

"REPORTS

"Sec. 1105. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this title.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary.".

Mr. CLARK. Mr. President, I ask unanimous consent that Scott Ginsburg of my staff be permitted the privilege of the floor during consideration of S. 3280.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CLARK. I am presenting this amendment on behalf of myself and the Senator from Indiana (Mr. Bayh) to establish a special comprehensive program to combat Huntington's disease. The bill (S. 3305) provides Federal assistance for diagnosis, prevention, treatment, and research with this most serious terminal illness which affects thousands of families throughout the Nation.

This legislation was originally introduced April 5, and it now has 21 cosponsors. At this time, I ask unanimous consent that the names of those Senators who are cosponsors be listed in the Record.

There being no objection, the list of cosponsors was ordered to be printed in the Record, as follows:

Senators McGee, Bayh, Stevens, Beall, Biden, Williams, Humphrey, Taft, Chiles, Mondale, Ribicoff, Goldwater, Sparkman, Gravel, Allen, Kennedy, Dominick, Hart, Case, Jackson, and Abourezk.

Mr. CLARK. Huntington's chorea is a chronic, degenerative disorder of the nervous system. The disease is genetically inherited, and the children of an affected parent have a 50-percent chance of developing the disease.

The clinical symptoms or manifestations of Huntington's chorea usually do not appear before the age of 30 or 40, and because of this, many people who develop the disease have become parents subjecting their children to the possibility of Huntington's disease as well. If an effective means could be developed to detect the disease earlier, it would then be possible to offer genetic counseling to those people about the risks of Huntington's chorea. More importantly, through an ambitious research effort the victims of this disease could be treated and, hopefully, cured.

Presently, the National Institute of Neurological Diseases and Stroke and the Division of Research Resources of the National Institute of Health, the National Institute of Mental Health, the National Institute of Arthritis, Metabolism, and Digestive Diseases, and the National Institute of Child Health and Human Development each have some type of program to study Huntington's chorea. However, there is no overall, unified plan to combat this disease.

Specifically this amendment provides:

Grants for screening, treatment, and counseling in Huntington's disease for 3 years at $500,000 a year;

Grants for research in diagnosis, treatment, and care of Huntington's disease for $1.5 million for each of 3 years;

Funding of educational and informational programs up to $150,000 per year for 3 years; and

Establishment of a program within the Public Health Service to provide for screening, counseling, and treatment of Huntington's disease. There also is a provision for appropriately publicizing the availability and voluntary nature of these programs.

This legislation is in large part the result of months of long and hard work by the National Committee to Combat Huntington's Disease, as well as many State associations around the country.

Over the years, there has been a painful lack of research into this disease, and yet there is every reason to believe that a relatively small amount of money and a devoted, unified effort could overcome the tragic consequences of Huntington's disease.

Mr. President, the need for this legislation is overwhelming. I urge its adoption and I ask unanimous consent that I be permitted to place in the Record additional material relating to this amendment.

There being no objection, the additional material was ordered to be printed in the Record, as follows:

[From Today's Health, November 1971]

Must They Sacrifice Today Because of Threatened Tomorrows?

(By Aljean Harmetz)

Marjorie Guthrie, folk singer Arlo Guthrie's mother, is a cheerful woman whose energy defeats tragedy the way the sun burns through fog. Arlo's father was Woody Guthrie, the noted folk composer and singer of the Depression years who died in 1967, at the age of 56. He died of a disease called Huntington's chorea; before his death, he was bedridden and able to communicate only by opening and closing his eyes.

His death led Marjorie Guthrie to mount a nationwide campaign to help other victims of Huntington's chorea, one of the most fearsome of all genetic diseases. To help victims cut through the shame and secrecy in which many of them suffered, she created the Committee to Combat Huntington's Disease. The committee became Woody Guthrie's memorial: because of it, research into the causes of the disease has accelerated, and there is more hope that a cure may eventually be found.

Huntington's chorea is a fatal degenerative nerve disease that does not usually manifest itself until its victims are 30 or 40 years told and have already implanted the seeds in their own children. Its symptoms are terrifying. Muscle by muscle, the victim loses control of his body as the disease spreads in his brain from the caudate nucleus (a small part of the brain's grey matter affecting voluntary muscle movement). His body lurches awkwardly, giving the impression of a strange pagan dance. His face contorts, his speech slurs, his tongue refuses to obey the simple rules of swallowing learned in infancy. Brain cells die; mental agility and sharpness disappear. In some—but not all—cases, the victim loses all control of his mind. Some previously stable men and women become alcoholic, sexually promiscuous, insane. Many commit suicide, if they don't, death comes inexorably, five to fifteen years after the first symptoms.

"I happen to be a believer in life," Marjorie Guthrie says after a week's swing through the Midwest and South to open new chapters of CCHD in Oklahoma City, Houston, New Orleans and Cincinnati. "When I was pregnant with Arlo, our four-year-old daughter died in a fire. I asked Woody then, 'If someone had said you can only have this beautiful child for four years, would you have taken her.' And Woody said 'yes,' and I said 'yes.'"

She calls the death of her daughter "my rehearsal for everything that came afterwards," but sadness is too tangential to her personality for her to allow it to be visible for long.

She badgers each congressional committee that allots money for medical research. She brings a card table to every neurological convention and sits at the entrance, handing out copies of Dr. George Huntington's 1872 paper on the disease which bears his name, and trying to interest the doctors who pass in doing research into the disease. (Some physicians currently studying the disease—and the National Institutes of Health—urge that it be called Huntington's disease, instead of Huntington's chorea, a name that emphasizes the spasmodic, involuntary muscle movements that usually result from the disease; the Greek word *choreia* refers to a kind of dance. The newer, more general name is being used today because the muscular spasms are not always prominent.)

Mrs. Guthrie comforts the victims who come to see her. "It's a little like Alcoholics Anonymous," she says. She tells them, "It is the quality of life, not the quantity, that is important," and assures them that they need not go insane, and that there are even worse things than Huntington's disease. She hoards the dollars and dimes that are sent to her in the mail. Paying all her own expenses, she uses the money to set up workshops for doctors and researchers, to finance a bibliography of all papers written on the disease.

She keeps each heartbroken letter that comes into CCHD's tiny New York headquarters: "We were informed only two weeks ago that our son, Billy, has Huntington's chorea." "Today my sister was admitted to a hospital for treatment of Huntington's disease. Now I am the sole one of four children who has escaped." Do you know a nursing home that will take someone with this rotten disease? "HD is in my husband's family. I am just heartsick. I have three children, ages seven, nine and ten. If I had known this, I would not have brought my children into the world."

Fingering the stacks of letters, Marjorie Guthrie says, "Only if I can prove that the disease is more prevalent than anyone thought can we get large grants of money to fight it." Because of the victims she has brought out of hiding and the better diagnosis CCHD's publicity has facilitated, the estimate of HD victims in the United States has risen from 6,000 to 25,000. She expects that the final count will be closer to 100,000.

Three of those 100,000 victims may be Marjorie Guthrie's own children. Each child of an HD victim has a 50–50 chance of inheriting the defective gene and getting the disease. Of the hereditary nature of the disease, 22-year-old Dr. Huntington wrote in his original papers almost one hundred years ago:

"When either or both the parents have shown manifestations of the disease . . . one or more of the offspring almost invariably suffer from the disease if they live to adult age. But if by any chance these children go through life *without* it, the thread is broken and the grandchildren and great-grandchildren of the original shakers may rest assured that they are free from the disease. This you will perceive differs from the general law of so-called hereditary diseases . . . when *one* generation may enjoy immunity from their dread ravages and in another you find them cropping out in all their hideousness. Unstable and whimsical as the disease may be in *other* respects, in *this* it is firm: It never skips a generation to again manifest itself in another. Once having yielded its claims, it never regains them."

Although approximately 2 percent of HD victims get the disease in childhood and 5 percent get it after the age of 60, the onset is usually when the victim is between 30 and 45 years of age. Folk singer Arlo ("Alice's Restaurant") Guthrie is 24. His younger brother, Joady, is 22, his sister, Nora Lee, 21. Maddeningly capricious, the disease may affect all of them or none of them. Even if they do carry the gene, their children may all escape—or all die.

The most important decision to be made by a potential HD victim is whether or not to have children. Arlo Guthrie is married and has one child. "But I'm in the clear," he says, smiling distantly. "I'm not going to get HD, and if I don't, my kids can't." He is deeply involved in spiritualism and has been assured by a medium that he will not get HD. "Besides," Arlo adds, "I have the capacity to walk into a room and make doors where they don't exist." If his spiritualism is a defense, his mother says: "I am not the one to take that defense away from him." Sometimes, for a moment, he drops the defense himself. Should worse come to worst, he says, "then I'll live like my father."

Across the country, in a small apartment in East Los Angeles, Tony Navarro also wants to raise children, although the Navarros have no children yet. "Tony always wanted children," his quite blonde wife, Evon, whispers, "I didn't. But then I thought that 36 or 40 years is a long way off. They'll have a cure by then." She hesitates, searching for the right words as Tony watches. "It was . . . it was just the possibility of raising my children without a father," she says.

Tony Navarro is a 33-year-old schoolteacher, the youngest of eight children. He does not yet have Huntington's disease, but two of his five brothers and one of his two sisters do. Tony first learned that Huntington's disease existed in his family four years ago when a Veteran's Hospital in Southern California diagnosed it in his brother Eddie. Since that day, life for the Navarros has had the quality of a nightmare.

Of the three Navarros already affected by Huntington's disease, two are in its last stages. Eddie, 46, has been in a nursing home for the last three years. He cannot walk, talk or feed himself. He is strapped in bed so his wild involuntary movements don't cause him to fall, and he must wear diapers because he has lost control of his bowels. Eva, 42, has had the symptoms of Huntington's disease for nearly 10 years, but she has not been hospitalized. She lives with her husband, a sergeant in the Air Force, and with the youngest of her three daughters. Her speech is so slurred that her sister cannot understand her, but her attempts to speak still communicate to her daughters. She can feed herself only if her food is cut into small pieces so that she will not choke. Although she can no longer walk, she can stand and can be half-driven, half-dragged to the bathroom.

The third victim of Huntington's disease in the Navarro family is Rudy, the most intellectual member of the family. Rudy is 38 years old. He lives in the house he bought for his mother; now, he shares it with her. His brothers and sisters have suspected for over three years that he had Huntington's disease, but it was not officially diagnosed until last year. He still tries hard not to believe it.

Sprawled on the living room sofa, his blue-and-purple shirt stained by a breakfast eaten with shaking hands, Rudy flushes with embarrassment when he cannot make himself understood. He helplessly repeats the word "Coke" which his visitor has not been able to understand. He should be handsome, but his left eye squints and his face twists just a bit at the corners. The disease is present in little things rather than big ones—in the slowness with which he moves, in the lack of grace as he throws himself down on the couch, in the detached aimlessness of his eyes.

Rudy's apathy is the first faint sign of mental deterioration, of the disease spreading to the cerebral cortex. In Huntington's disease, as in the normal process of aging, brain cells are lost, but they are lost at a frighteningly rapid rate. Once an avid reader, Rudy is no longer interested in books. Formerly an enthusiastic talker, he now has little to say.

Most of the time Rudy watches television or visits his best friend, Mark. Sometimes he thinks about tutoring children at his house, but he doesn't act on the thought. A few months ago he went to Mexico with Mark for two weeks and for those few weeks he was almost free of the depression that clouds his waking hours.

"I'm still active," he announces. "I still drive." Most HD patients continue to drive as long as their licenses are valid. It is their way of retaining their independence and control, but Rudy has been picked up twice and charged with drunken driving. The first time he spent several hours in jail. Now he wears a Medic-Alert medallion and carries a letter from his doctor describing his disease.

The letter in his pocket forces him to face what he wants to escape. "I didn't want to believe it. I noticed the symptoms over a year ago, but I tried to cover them up." Until last December, Rudy was an elementary school teacher. He recalls, "When I was in the classroom, I kept dropping pencils, falling over the children. Because I was confined to a small space, I found I couldn't teach."

Rudy can still do everything for himself except button his shirt, but he is fully aware of the hopelessness of his future. Although he is, as his sister Bertha says, "the most Catholic of all of us," he now talks of suicide.

The guilt, the shame and the helplessness in the Navarro family have grown with Rudy's illness. "I look at Rudy and I wonder if there's really a God, and yet I still go to church every Sunday," says Bertha. A small, energetic, basically optimistic woman, Bertha tells her mother that "the law of averages says there should be four and so far there's only three of us with the sickness. That's something to be grateful for."

Mrs. Navarro does not listen. She lost her husband, sister-in-law and mother-in-law to Huntington's disease without knowing their sickness by that name. (Until the founding of Marjorie Guthrie's Committee to Combat Huntington's Disease, many doctors were unfamiliar with HD.) Mrs. Navarro remembers the doctor in the mining town of Bisbee, Arizona, who told her husband, "You have multiple sclerosis. It's not hereditary." "But, doctor," she had said hesitantly, "My mother-in-law and sister-in-law, they had the same sickness." "Don't worry, Mrs. Navarro," the doctor had said again, "Your children can't catch it." Now she knows the proper name for the sickness, but the proper name doesn't help. "It doesn't make any consolation to know what the sickness is," she says. "Until there's a cure, there's no consolation."

"Mom managed to accept Eddie and Eva, but when the sickness hit Rudy it was too much," says Tony. When Tony and his wife beg her to go to San Diego with them, she refuses, preferring to stay with Rudy. Her solicitude angers Rudy, and he lashes out at her. A moment later he stands in front of her and holds out his sleeves to be buttoned.

Still, the Navarros have found ways to survive. At a family picnic, Eva is fed champagne, Rudy is enticed into the games. Eddie is lost to the family now, strapped into his hospital bed, turning blank eyes on the mother who comes to sit with him every afternoon. But the family is fighting "to keep Eva and Rudy as active as possible as long as possible."

The Navarros who as yet show no symptoms of HD live from day to day, most of them rushing to live a lifetime in what may be only a few years. "I guess I'm just going to live every day as it comes and do my thing," says Tony. Says his 44-year-old sister, Bertha, "My husband and I have talked about it. I know that if I get the sickness, he'll take care of me. He says he'll keep me at home and take care of me and we'll face it together."

Psychologist Milton Wexler, president of the California chapter of CCHD, points out that "the response of people to HD is at least partially dictated by their characters. Passive people become more infantile, irritable people become more irritable. I've seen people who go downhill quickly, almost from the initial diagnosis, and yet there are a number of people in CCHD who are very harmed physically but who are still psychologically intact."

Ray Miller is one of the latter. In 1966, when he was 57 years old, he was diagnosed as having Huntington's disease. He had known of the possibility for over ten years—since the disease was diagnosed in his mother. But until 1966, yearly neurological examination had proved negative. He had been sure he was safe, since very few people get HD when they are over 55.

Ray Miller can still talk for himself, but he prefers not to. He is too proud to slur his words, and the effort to speak a few sentences clearly would leave him exhausted for the rest of the day. A few years ago he was an administrator for the Youth Opportunities Board in Los Angeles. Now it takes tremendous effort for him to get his meat on his fork. "He's using his spoon much more," says his wife, Kay, "and he spills and drips. It bothers him because he's so meticulous."

But Miller has not lost his dignity because he has lost control of his muscles, and there is no note of self-pity in the way he deals with his disease. When he was no longer able to hold down his high-pressure job, he looked around for a job he *could* handle—and found one as secretary to the bookkeeper of a workshop that retains the handicapped. He makes the morning coffee for his wife, does the breakfast dishes, and he still can waste some of his precious energy in a strained attempt to make a joke.

"I used to say, 'I swing and sway with Sammy Kaye.' Now I say, 'I rock and roll with Nat King Cole.' "

Until the 1960s, Huntington's disease was usually misdiagnosed as alcoholism, nervousness, psychosis or any one of a dozen neurological disorders. Like most victims, Ray Miller was unaware that the disease was in his family until after his son was born. It is the game of Russian roulette that they have unwittingly forced their son to play that most torments Ray and Kay Miller. "The worst thing," says Kay Miller, enunciating each word precisely so that she will not cry, was having to say to our one and only child, 'Look, this is what I have bequeathed you.' "

When the disease was diagnosed in Ray Miller, his son Michael, 23, was a helicopter pilot in the Marine Corps. Michael's wife was pregnant with their first child. "We couldn't tell Mike then," Kay Miller says. "Not then." Nor could they tell him a year later when he was on his way to Vietnam. "Not then." By the time they did tell him, a month after his return from Vietnam, Michael's wife was once again pregnant. "I've been living with a 99 percent chance of death for 13 months," Mike Miller told his parents, "so a 50–50 chance sometime in the future looks pretty good to me."

Part of Ray Miller's psychological survival lies in having volunteered himself as a guinea pig to Dr. John Menkes of UCLA. Dr. Menkes is experimenting with skin and blood tests, hoping to find a way to identify the disease in unborn children. "Ray has been accustomed all his life to contributing," says his wife. "He's always cared about people. I know he feels he can't do anything for himself, but if he can contribute to the little knowledge doctors have, then life is still worth living."

Help for Ray Miller's sons and Rudy Navarro's brothers, sisters, nieces and nephews may be imminent. One by one, diseases like HD are yielding to chemical treatment. Ten years ago Parkinson's disease was hopeless. Today it is controllable by a powerful synthetic chemical called L-Dopa. Tay-Sachs disease, which causes mental retardation, progressive loss of vision and death in young children, is not yet curable, but there is now a test to determine whether a fetus carries the defective gene that causes the disease. And the discovery that Wilson's disease—an affliction of the brain and liver which causes trembling and difficulty in speaking and walking—is caused by a hereditary defect in the body's metabolism of copper has at least made it remedial.

"We hope and expect to have a control drug for Huntington's disease," says Marjorie Guthrie firmly. "That's not wishful thinking. Today, when I speak of hope, I can give the examples of Tay-Sachs and Wilson's disease." She has joined Dr. Joshua Lederberg and others who are seeking a grant of $20 million from the federal government to support a genetic task force which will attack the more than 2,000 known genetic diseases. "I want to support all genetic research. Why should it only be my disease that is helped?" She is sure that her disease *can* be helped. When she speaks in public about that sureness, there is always a neurologist at her side. "I don't want people to think I'm just a kooky, optimistic lady. When I'm through, I challenge the doctor to disagree if anything I've said is wrong."

Researchers tend to agree with Marjorie Guthrie's optimism. "Anything is soluble but I think Huntington's disease can be solved in the near future," says UCLA's Dr. Menkes. "There are just too many clues around." Canadian neurologist Andre Barbeau has said publicly that he expects a control drug for Huntington's disease within seven or eight years. Dr. Louis Rosner, a Beverly Hills neurologist, adds, "The first clue to Parkinson's disease was the accidental discovery that reserpine caused the disease in some people. So researchers asked what reserpine did chemically. The answer was that it depleted the brain of dopa-mine. Right now there are several drugs, including L-Dopa (the drug that controls Parkinsonism, which is the mirror image of HD), that can produce chorea (the characteristic jerky movements of most forms of HD). So perhaps we can figure out an antidote for Huntington's disease too."

Until that antidote is found, HD families must survive as best they can. "Wouldn't it be terrible," Nora Lee Guthrie once said, "if you lived to be 40 or 60 waiting for Huntington's disease to strike—and it never came, and because you had been waiting you never lived?"

RESEARCH THE HOPE FOR HUNTINGTON'S DISEASE

BASIC RESEARCH WILL HELP HD

From its founding the National Institute of Neurological Diseases and Stroke (NINDS) has conducted and supported "basic" research on the brain and spinal cord. Medical research which seeks the answers to any question about the body where the answer is unknown is frequently called basic research. Some investigators prefer the term "fundamental" research.

By any name, these are some of the multiple fields in which NINDS conducts research studies: neuroanatomy, neurophysiology, neurochemistry, neurophysics, neuropharmacology (the drugs which affect the nervous system), epidemiology, biometry (statistical studies), and genetics (inheritance). Tissue culture of brain cells provides the basic research means for studying living brain cells outside the human.

To the layman who is sick, basic research may appear less promising than clinical research (with patients). But from basic research came the microscope, insulin, and penicillin. From basic research came the studies of the chemistry of the brain which led to the successful use of L-Dopa for treating selected Parkinson's disease patients. And L-Dopa now has been tried in research on diagnosis of Huntington's disease.

No one can predict which future breakthroughs in basic research will prove useful in clarifying the genetic defect in HD, finding a test for diagnosis of HD, and improving the treatment of HD patients.

NINDS GRANT MAY HELP

In an NINDS-supported project at a university medical center, investigators are testing the theory that adults with the Huntington's disease gene can be identified by a chemical test before symptoms appear.

ANIMAL MODELS AVAILABLE

As early as 1946, scientists in New York created by surgery "choreatic" movements in laboratory animals. Today, several small mammals can be given abnormal movements which resemble chorea. In 1968, two investigators, one of them formerly at NIH, published their research on their surgical method of creating these "choreatic" movements in small mammal.

An animal model enables investigators to screen many forms of treatment which either are not ready for treatment of humans, or would be incredibly slow in human tests, compared with animal tests.

BRAIN SURGERY AT NINDS TO CONTROL EXCESSIVE MOVEMENTS

An occasional patient with Huntington's disease has been accepted for a research program of the Surgical Neurology Branch of NINDS, although brain surgery probably will never become a standard treatment for HD, according to present views.

"In this research study, only those HD patients in the early stages with good mental condition, but several chorea movements, have been selected," explained an NINDS neurosurgeon. "These were patients who had such severely flinging arms or legs that they were hurting themselves or the bystander."

If the distressing movements are worse on one side, the brain surgery is performed on the opposite side of the brain because of the crossover of nerves from brain to body. If chorea movements are equally severe on both sides, the neurosurgeon may operate on both sides of the brain. As with other research, followup studies will observe how long this immediately successful control of chorea movement lasts.

REEARCH AT THE NATIONAL INSTITUTE OF MENTAL HEALTH

A small but exciting program of medical research admits two or three HD patients at a time at the Clinical Center of the National Institutes of Health (NIH). This research is conducted by investigators of the National Institute of Mental Health (NIMH). NIMH is a part of the Health Services and Mental Health Administration, Department of Health, Education, and Welfare. NIMH also shares a modern research laboratory building at NIH in Bethesda, Md., with NINDS.

Color motion pictures of each HD patient, taken by the NIMH scientists, show the chorea when untreated, and after treatment with various research medicines. A word description of the patterned or random chorea movements would be extremely lengthy if details were recorded; the color motion pictures accurately record changes or lack of changes after various research treatments.

Another research activity on HD by an NIMH neurologist is the development of a protocol for physicians to try with children from HD families. "We are trying to see whether we can distinguish HD before obvious symptoms appear," the researcher says, "using biochemical tests."

Psychological tests are being carried out at NIMH in an attempt to discover the exact nature of the defect in the thinking process in HD patients.

CEREBROSPINAL FLUID IN HD IS NOT NORMAL

The cerebrospinal fluid (CSF) is a separate fluid, not continuous with the bloodstream. As the name suggests, the CSF bathes both the brain and the spinal cord. By inserting a hollow needle between two spinal column bones, a physician can withdraw a little CSF for tests.

In the past, textbooks have described the CSF in HD as "normal." At NIMH, a scientist says, "Yes, the CSF is normal for the standard test typically made on this fluid. But in more detailed research tests on the CSF, we find amounts of chemicals which are not normal. In the future, such studies might lead to a CSF test for HD before obvious symptoms appear."

Hopefully, if a chemical change which is exclusive to HD is ever identified, the test might be possible using only a drop of blood, or even a few body cells. This would be quicker than withdrawing CSF.

The whole field of the biochemistry of HD fascinates research scientists. A patient who receives too much L-Dopa for treatment of Parkinson's disease may develop choreatic movements closely resembling HD. One of the research efforts at NIMH is an attempt to use potent chemicals having a specific effect opposite to that of L-Dopa as a medical treatment for HD. However, potentially dangerous side effects of such medicines makes them impractical for any but carefully monitored research use at the present time.

HUNTINGTON CENTENNIAL SYMPOSIUM AND BIBLIOGRAPHY

A scientific symposium, on the occasion of the 100th anniversary of Huntington's original description of the disease, was organized by the Research Group on Huntington's Chorea of the World Federation of Neurology in Columbus, Ohio, in March 1972. The symposium was attended by about 140 scientists from 14 countries who presented papers on and discussed practically every aspect of Huntington's chorea. A transcript in book form of this meeting is being published. In addition a Centennial Bibliography has been prepared and will be published shortly. The preparation of the bibliography was funded jointly by the CCHD and the Huntington's Chorea Foundation.

GREAT STRIDES IN RESEARCH ON HEREDITARY AILMENTS

Since 1959 when French and English scientists independently identified the extra chromosome which causes Down's syndrome (mongolism), several defective chromosomes have been identified as causes of hereditary ailments. The current discoveries in the cell biology field of DNA and RNA suggest a future means of altering a defective gene or chromosome.

In a related research field, missing or faulty enzymes are being pinpointed as the cause of some hereditary diseases. Four of the chemical defects were first identified by a neurochemist at NINDS. Discovery of an enzyme defect has led to a special diet to control a few such hereditary ailments and more successful treatments are anticipated.

In certain hereditary diseases, carriers already can be detected by tests. Furthermore, certain hereditary disorders now can be detected in the unborn baby.

All these recent research successes encourage the hope that in the not too distant future other hereditary disorders, including HD, may be conquered.

Mr. CLARK. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we have spoken to the sponsor of this proposal, the distinguished Senator from Iowa. This is a deplorable disease. It affects the nervous systems of individuals.

It is not the type of disease that has gotten the kind of attention and had the kind of research that is really warranted. I think the amendment of the Senator from Iowa would certainly provide this degree of attention and the priority which I think this disease should receive.

I cannot give assurance to my good friend the Senator from Iowa as to how far we can go with it, but I want him to know that I think this is a useful and helpful addition to the legislation.

It is a cause which all of us in the health area should be sensitive to, and those concerned with research should be devoting their energies to.

I will certainly be glad to accept this amendment, take it to the conference, and see what we can do. I would also like to give assurances to my good friend from Iowa that we will work with him in attempting to alert our research community, including those at the National Institutes of Health, to be concerned about this and give it the kind of priority which I know the Senator from Iowa thinks it should be given, which concern I share.

I will be glad to accept the amendment and take it to conference. We will do the best we can and, in the meantime, we will work with the Senator from Iowa to see if we cannot continue to do something about this cause, both in this legislation and also in the areas of research and general health support.

Mr. JAVITS. Mr. President, we have had no hearings on this particular matter and there is, naturally, a deep concern on the part of our committee and the authorities of the National Institutes of Health not to proliferate the special disease programs.

Nonetheless, we do have a number of them, and this may very well be entirely deserving, although we are dependent very heavily, as Senator CLARK understands, on the background research he has done, as we have had no hearings, no opportunity from the departments, et cetera.

Now, there is a modest amount of money, but still not an appreciable requirement. The authorizations are about, as I figure them quickly, $3.5 million in round figures, or that order of magnitude, for the different aspects of the bill.

So I think, because we may be shortcutting what would otherwise be a complication, it may be desirable to take this to conference. It may be so acceptable that hearings and the other steps are not necessary. The Government departments will have a chance to comment.

Although I am sympathetic to the purposes of this amendment I have only added my words to those of Senator KENNEDY, because I would not wish an impression to exist on the part of the sponsor of the amendment, or the Senate, for any commitment to be implied, by the fact that it is being taken to conference, that we are necessarily committed to it.

But I do think that if a Member is serious enough to have done the work Senator CLARK has obviously done, out of sheer respect we should see if it may be possible in this particular case to shortcut the governmental departments, the reports, the hearings, et cetera, as it is a matter of consequence, not as great as many others, and yet may be entirely desirable.

So for those reasons, Mr. President, I would concur with Senator KENNEDY to take this proposal to conference.

Mr. CLARK. Mr. President, I thank the distinguished Senator from New York and the distinguished Senator from Massachusetts for their consideration.

I am aware of the fact that it has not had hearings. We do have 21 cosponsors in a bipartisan effort to pass this legislation. The total cost would be $2.15 million per year.

I appreciate the consideration and the remarks of both Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

Mr. MUSKIE. Mr. President, I am pleased to add my cosponsorship to S. 3280, the Health Services Act of 1974. This bill will provide a sound basis for continuation and expansion of programs under the Public Health Services Act, including community health centers, migrant health programs, community mental health centers, health revenue sharing, home health services, and hemophiliac centers, and needed study of mental health and illness of the elderly, epilepsy, and rape prevention and control.

I am particularly pleased about two of the provisions of this legislation: the inclusion of authorization for a Commission on Mental Health and Illness of the Elderly, and the authorization of home health services startup funds. Support for both of these measures is based on the work of the Senate Special Committee on Aging's Subcommittee on Health of the Elderly, which I chair.

The authorization for the Commission on Mental Health of the Elderly incorporates the language of S. 1763, a bill which I introduced on May 9, 1973. This legislation, in turn, carries out one of the recommendations of the Senate Committee on Aging's 1971 report: "Mental Health Care and the Elderly: Shortcomings in Public Policy."

I testified in support of this legislation before the Health Subcommittee of the Labor and Public Welfare Committee on May 1, 1974. I pointed out in my testimony that there is great confusion with respect to mental illness and old age. Most people assume that "senility" is synonymous with old age" and yet many studies suggest that senility is not natural to old age and that it is not only preventable, but reversible.

The failure in public policy to reconcile these conflicting positions is apparent. Even more serious, an estimated 3 million older Americans require mental health services but only 20 percent of this number have their needs met in any way by existing programs.

To make matters worse, there is currently underway a widespread trend in the States to move individuals from State hospitals into nursing homes or, more often, into boarding homes or old hotels. Committee data indicates that the number of elderly in State hospitals has been reduced by 40 percent from 1969 through 1973. All too often, these patients have been discharged indiscriminately. There is virtually no screening to establish who are proper candidates for discharge and little followup to decide if patients are properly placed. There is little if any psychiatric or medical care available in these facilities. Many patients are subjected to unsafe conditions, poor food, and abuse.

The 1971 report by the Senate Aging Committee aptly summed up the situation:

> Public policy in the mental health care of the aged is confused, riddled with contradictions and shortsighted limitations; and is in need of intensive scrutiny geared to immediate and long term action.

As the committee report accompanying S. 3280 points out, these problems are all the more acute today.

It is the express purpose of the Commission on Mental Health and Illness of the Elderly to develop a national policy for proper maintenance of mental health for aged and aging people. The Commission will undertake studies to assess the future needs for mental health facilities, manpower, research, and training. It will cooperate with the executive and legislative branches for purposes of implementing policy proposals recommended by the White House Conference on Aging in 1971.

The Commission's progress toward meeting these responsibilities will be disclosed annually in a report to the President for transmittal to the Congress.

The nine members of the Commission will be appointed by the President, by and with the advice and consent of the Senate with at least one member from each of the fields of psychology, psychiatry, social science, social work, and nursing. In addition a nine-member Advisory Council is established, with members appointed by the President for purposes of aiding the Commission in its work.

I believe that this proposal constitutes a constructive step toward the creation of a national policy concerning mental illness and aging. I commend the members of the Senate Labor Committee for including this provision in S. 3280.

Similarly, the proposal for home health services startup funds, contained in S. 3280, is based on S. 2695, a bill introduced by Senator CHURCH on November 13, 1973, with my cosponsorship. The need for home health services, as an alternative to costly hospitalization or other institutionalization, has been well documented by hearings held in my Subcommittee on Health of the Elderly in July of 1973 and again this year, on July 9, 1974.

These hearings demonstrated the need not only for the direct aid to home health services now contained in S. 3280, but also liberalization of the standards for reimbursement of home health services under medicare. On November 13, 1973, I introduced S. 2690, with the cosponsorship of Senator CHURCH, to make those changes in the medicare law, and I hope that its provisions can be included in any future legislation affecting our program of health insurance for the aged.

Mr. President, Senate consideration of S. 3280 today marks real progress toward improving the delivery of health services to all Americans. I urge its passage.

Mr. SCHWEIKER. Mr. President, the Health Services Act of 1974, S. 3280, includes provisions dealing with community health centers, migrant health centers, community mental health centers, health revenue sharing, home health services, a commission on the mental health and the illness of the elderly, rape prevention and control, a commission on epilepsy, and a program to deal with the problem of hemophilia. However, I wish to emphasize for my colleagues the provisions of the bill relating to community mental health centers. The measure before us revises the Community Mental Health Centers Act to consolidate all the existing grant authorities in the programs of grants for planning and development, startup costs including costs of construction and renovation, and initial operating costs. Under the bill, all centers are required to move toward comprehensive services, which include the five essential services under the current program, as well as specialized services to children, the elderly, alcoholics, and drug dependent persons. In addition, centers which have come to the end of their 8-year operation support may be provided up to 5 additional years of financial distress grants, for the difference between costs and payments from non-Federal sources. Also, a very important special grant program for consultation and education is established.

This legislation extends the mental health centers program and reaffirms congressional intent that the community mental health centers program is not a demonstration program, but rather that such centers are to be started across the Nation. Currently, over 500 centers have been funded, leading us one-third of the way toward Congress' goal of approximately 1,500 centers.

Mr. President, the community mental health centers are a health services delivery system already serving 30 percent of the U.S. population. As of September 1973, 540 centers had received Federal financial assistance under the Community Mental Health Centers Act. Of the funded centers, 392 were operational. When fully operational the 540 centers will make mental health services available to 40 percent of the total U.S. population. It should be noted, that over half of the funded centers are designated poverty areas.

The Community Mental Health Center system stresses comprehensiveness by including within a single system all of the related services available to serve the population for which it is responsible. The services contained in the system are coordinated in a manner which enables a patient to move freely and easily from one service to another as needed, without the duplication of effort and the cost present when services are unrelated and uncoordinated. The program is designed to serve the total population of this designated geographical area. The funds allocated go into services for the persons in need. Very little is used for the support of a bureaucracy.

A noteworthy characteristic is the high degree of local responsibility with the controls and directions provided by local volunteer boards.

The Community Mental Health Centers program which was to be initiated in each population area with Federal funding on a diminishing basis, has moved steadily toward ultimate support by State and local governments and private sources. Only about 35 percent of the money invested annually in operating the community mental health center program now comes from Federal funds; 40 percent comes from local and State governments; 20 percent comes from patient fees and forms of insurance.

Community mental health centers encourage community care with a minimum of institutional confinement, which means to the extent possible, the patient is responsible for the fulfillment of his own treatment plan while continuing as a self-reliant, taxpaying member of the community. These centers have already played a major role in the reduction of State hospital census. From 1970 to 1973, the inpatient census of State and county mental hospitals has been reduced 26 percent.

The centers system places major attention on the development of a preventative approach with better and more efficient utilization of limited professional manpower. It has been suggested that the program was intended to be a demonstration and because it has been demonstrated to be successful and effective, it should, therefore, be picked up by funding from other sources. The problem lies in the definition of "demonstration." It is clear that those who wrote the original legislation did not intend that Federal support would continue undiminished and forever. Funding grants which would be for a term of 8 years and provisions were made for diminishing Federal participation during that 8-year period.

Thus, Federal funding was to serve a priming purpose. It was also to demonstrate to each community the merits of the program, and the capabilities of each community to pick up gradually the financing of its own center. Congress set as its goal that a mental health center should be established in as many catchment areas as necessary to serve the total population of the country. It was not the intent of Congress when the initial legislation was enacted to assist a few favored communities to have centers and then to leave to chance the spread of the program elsewhere.

The Labor and Public Welfare Committee carefully and thoroughly reviewed the legislative history of the community Mental Health Centers Act, as well as public statements of high officials of this and prior administrations and has come to the conclusion that there is no evidence in its initial enactment that either the Congress or the executive branch intended Federal participation in the Community Mental Health Centers program to be limited to a demonstration effort. There is very substantial evidence that the intent has always been for the Federal Government to assist in the initial support of the development of a nationwide network of Community Mental Health Centers.

The success of the program has led the committee to conclude that the original intent of the act, to provide funds with which to start centers throughout the Nation, must be reaffirmed. In addition, the committee affirms its strong belief that the existing mental health centers put in place under this act must be maintained, strengthened, and expanded at this time, to insure that until some form of national health insurance covers the cost of care provided by these centers, high quality and comprehensive mental health services continue to be offered in the communities.

Mr. President, one of the provisions of the legislation to which I would like to call attention is contained in section 1451(b) of the bill. This section authorizes appropriations for startup grants for the centers programs. It further provides that of the funds appropriated for startup grants, at least 25 percent shall be used to make grants to programs that have never been funded under the operating grant section or the staffing grant section of the existing act. The committee intends by the 25-percent minimum to assure the continued investment of program funds in the development of the new centers at an orderly pace until the goal of approximately 1,500 centers is reached.

Mr. President, title III of S. 3280, the pending bill, dealing with the Community Mental Health Centers program confirms the original intent of the Community Mental Health Centers Act of 1963: that the Federal role is one of providing construction and operational funds to newly starting centers to initiate a program of health services on a community basis through the Nation. The operational funding is to be for a limited period of time on a declining basis with the ultimate goal that the centers to the maximum extent feasible would become completely independent of Federal support.

Mr. KENNEDY. Mr. President, the distinguished chairman of the committee, Mr. Williams, is necessarily absent from the Senate today. As an original sponsor of this legislation, Senator Williams has been deeply involved in fashioning many of the major initiatives in S. 3280. Of special note are the provisions which expand the migrant health programs and to establish a new Federal program for the diagnosis and treatment of hemophilia. Senator Williams' remarks on this bill will appear in tomorrow's Record.

Mr. President, I ask unanimous consent that a statement by Senator Mathias on title VIII of the bill be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT BY SENATOR MATHIAS

TITLE VIII OF S. 3280, "RAPE PREVENTION AND CONTROL"

I rise to urge my colleagues to support the passage of S. 3280, The Health Services Act of 1974. The Senate owes a debt of gratitude to the entire Labor and Public Welfare Committee and to the Chairman of the Health Subcommittee, Senator Kennedy, and the Ranking Republican on the Subcommittee and the full Committee, Senator Javits, for bringing this bill before the Senate by a unanimous vote.

I am especially gratified that the Committee bill includes Title VIII, "Rape Prevention and Control." This title incorporates the provisions of S. 2422, The Rape Prevention and Control Act, which I introduced on September 17, 1973. Since S. 2422 was introduced, twenty-eight Senators added their names as cosponsors, including Senators Stevens, Moss, Stevenson, Abourezk, Kennedy, Humphrey, Beall, Hatfield, Chiles, Gravel, Hughes, Ribicoff, McIntyre, Randolph, Tunney, Cranston, Mondale, Case, Javits, Hart, Jackson, Clark, Mansfield, Metzenbaum, Dole, Cook, Brock, and McGovern. I am particularly proud to have the distinguished Chairman and the Ranking Republican member, Senator Javits, of the Health Subcommittee as early cosponsors of S. 2422.

The phenomenon of rape is rather unique. It is the only major violent offense targeted primarily against women. In 1972, 43 out of every 100,000 women were reported rape victims. However, law enforcement administrators point out that rape is probably one of the most underreported crimes. A recent report of victimization in five large urban centers published by the U.S. Department of Justice noted that only about 54% of rapes are reported to the police. Since many of these victims may never come to official attention, efforts to prevent and treat the problems of rape, especially those concerned with providing services to victims and offenders, necessitate close attention by the many perspectives and approaches taken by health, mental health, education, social service, and law enforcement and criminal justice personnel.

Not enough is known regarding the phenomenon of rape, especially within the framework of needs and services to women in our society; the variations of rape from other crimes of violence and deviant behaviors; the short-term and long-term effects of the criminal act on rape victims and society at large; tested and demonstrated efforts to prevent its occurrence; tested and demonstrated strategies to provide services to victims, their families and close ones as well as offenders; and tested and demonstrated efforts to train those charged with prevention and treatment of rape. Through coordination of these activities to achieve the stated objectives, this National Center will provide a major contribution to the well being of individuals in our society and address particular needs and concerns of women.

The intention of this Title is to provide a focal point and a broad context in which to support investigations, promote prevention, and offer mental health and related services for rape victims, their families and offenders.

I must stress that these efforts go beyond those of the immediate and direct concern of law enforcement and criminal justice. Behavioral and social sciences, education, health, mental health, and social service agencies, and the concerned community must also be involved in the study of rape and efforts to design, implement, and evaluate improved strategies to prevent the occurrence of rape and to provide the variety of services described earlier.

The purpose of this Title would be to establish a focal point within the National Institute of Mental Health in order to meet the following objectives: to promote better understanding of rape, its causes and effects, including the impact of the crime and the threat of the crime on victims and society at large through research and the dissemination of information; to develop and implement improved strategies to prevent the occurrence of rape; to test and evaluate the effectiveness of various mental health and related services to reduce the impact of rape on victims; and to train those charged with prevention and treatment of rape.

The National Center shall make grants to and enter into contracts with public and private non-profit agencies and institutions, including community mental health centers, and to individuals for investigations, experiments, demonstrations, research and training projects with respect to the development of improved methods to prevent rape and to treat victims and offenders involved in such crimes.

Projects funded shall include, but not be limited to:

1. Investigations of the causes and effects of rape, identifying to the degree possible—

(a) the social conditions which encourage sexual attacks,

(b) the social, psychological and other motivations of offenders,

(c) the impact of the offense on the victim and the families of the victim and of the social, psychological, and mental health needs of rape victims and their families.

2. Studies of the actual incidence of forcible rape as compared to the reported cases and the reasons therefor.

3. Assessments of existing private and public education, counseling and treatment programs designed to prevent rape and treat victims; and of existing intervention efforts used by law enforcement agencies, hospitals, and other medical and mental health facilities, prosecutors, and the courts in handling and treating rape victims and offenders.

4. Demonstrations of innovative educational, counseling, media and other programs designed to prevent rape and inform society at large of the nature, extent and impact of rape; and efforts to test and evaluate the effectiveness of such demonstrations.

5. Demonstrations of services to reduce the impact of rape on victims (including child victims), and families, and to treat rape offenders; and efforts to test and evaluate the effectiveness of such demonstrations.

6. Demonstrations of training efforts for

those charged with the prevention and treatment of rape, such as hospital, emergency room, and mental health practitioners and related personnel in order to facilitate the identification and effective provision of service needs of rape victims (including child victims) and their families, and offenders.

7. Studies to assess the effectiveness of existing Federal, State, and local laws dealing with rape; the relationship, if any, between traditional legal and social attitudes toward sexual roles and the act of rape; recommendations as to model laws to deal with rape.

During my testimony before the Health Subcommittee on May 1, 1974, when this bill was considered, I urged that the first year authorization be established at $10 million. I am gratified that the Committee has authorized a total of $50 million over the four fiscal years covered by this bill, FY 1975–78. I am particularly pleased to note that $46 million of this amount will be directed toward the establishment of research and demonstration service projects across this nation. Without question this legislation and the funding levels will provide a strong stimulus to the States and local public and private agencies to increase their efforts in behalf of victims, their families, and agencies attempting to prevent and control rape and sexual assaults.

At this time, I want to express my appreciation to the dozens of citizens and organizations who have written me and other Senators in support of the Rape Prevention and Control Center Act.

I would like to pay a special tribute to the National Organization for Women, and especially to the NOW Vice President for Legislation, Ms. Ann Scott, and Ms. Mary Ann Largen, NOW's National Rape Task Force Co-ordinator, for working with me and my staff during the planning and drafting of the Rape Prevention and Control Act.

I would like further to expres my appreciation to the various individuals and organizations who provided testimony in support of S. 2422 during consideration of the legislation by the Health Subcommittee of the Labor and Public Welfare Committee. These included Mrs. Helen Boldyreff Semler, Director of SHAPE YOUR FUTURE, Arlington YMCA; Ms. Bernice Sadler, Director of the ASSOCIATION OF AMERICAN COLLEGES' PROJECT ON THE STATUS OF WOMEN; Ms. Sandy Hill, FEDERALLY EMPLOYED WOMEN; WOMEN'S EQUITY ACTION LEAGUE; Ms. Kristina Bisset, UNIVERSITY OF MARYLAND'S WOMEN'S CRISIS HOTLINE; Mr. William Speaker and Mr. Gerald Lowe; Mr. John A. Buggs, Staff Director of the UNITED STATES COMMISSION ON CIVIL RIGHTS; and Ms. Deborah P. Wolfe, Legislative Program Chairman of the AMERICAN ASSOCIATION OF UNIVERSITY WOMEN.

By way of conclusion, it would seem appropriate at this time to have printed in the Record a four-part series on the subject of rape which was written by the Montgomery Journal.

The articles are as follows:

[From the Montgomery Journal, July 18, 1974]

THE FOUR-LETTER WORD THAT COSTS—RAPE—I

(By Peggy Eastman)

How would you—or someone close to you—like to be pulled off the street at knifepoint, forcibly raped, taken to a hospital for treatment of your battered body and nerves, and then presented with a hefty bill for your hospital examination?

Exactly that happens in Montgomery County routinely, according to groups like the county chapter of the National Organization for Women (NOW). Any way you look at it, rape is a raw deal, but some county NOW members feel it's rawer still in this Washington metropolitan area if you happen to live in Montgomery County.

In fact, if you're middle class and lack hospitalization insurance, some point out—you'd better not get raped here at all costs—literally. For, unlike victims of rape in Prince Georges County and the District (where special county and city funds, respectively, pay for a victim's medical examinations) victims of this crime in our county must foot the bills for their *own* hospital examinations—needed for *state's* evidence. Those facts are according to spokesmen from the State's Attorney's office in the county and the Montgomery County Police Department.

And, adding insult to degradation in victim's estimation (some of whom have refused to pay the bill), the tab for being a victim of forcible rape, a crime which the police department considers a Part I offense and lists with such other serious offenses as murder, manslaughter, robbery and assault, comes high.

At a hospital like Montgomery General in Olney, for instance, a rape victim whose nerves are already unstrung may find them further shattered by a departure present of an $80 to $90 bill. That figure, according to a hospital spokesman, is an approximate sum representing a combination of flat hospital fee, doctor's charge and series of laboratory tests (for sperm presence, syphilis and gonorrhea, for instance). The laboratory tests alone may run as high as $50 or $60, he said.

While the hospital accounting department "won't make a patient wash dishes to pay the bill," in the words of the spokesman, payment is generally required and certainly preferred on departure from the hospital.

A rape victim armed with a comprehensive health insurance plan "fares better"—at least in terms of her purse—than one who doesn't. A spokesman for Group Hospitalization, Inc., suppliers of Blue Cross/Blue Shield medical plans, said that for purposes of a claim rape is considered an "accidental injury," which he admitted is an "odd classification."

Thus, depending on her contract, a rape victim who happens to have a Group Hospitalization card may (depending on the hospital) have the insurance company billed directly for all or some of the charges she incurs.

Ironically, *The Journal* found, if you're poor in Montgomery County and are raped, you may get a somewhat "better" financial deal than if you're middle class and have hospitalization or than if you're middle class and don't.

If you've proved your eligibility for the Maryland Medical Assistance Program to the county's Department of Social Services, your hospital bill for the examination needed for state's evidence (rape is a crime against the state) will be paid by the state of Maryland, according to county Social Services Deputy Director Edward Bloom. (To qualify for the program, an applicant in a one-person household, for instance, must not net after taxes more than $150 monthly, must have a 30-minute personal interview with Social Services personnel, and supply written verification of monthly income and assets.)

But in contrast to Montgomery County, rape victims in Prince Georges County and in the District don't have to prove they are indigent or rely on health insurance, if they have it, to pay for their own hospital examinations, needed, respectively, for state's attorney's and U.S. attorney's evidence.

In Prince Georges county, a special county fund has been set up to pay for rape victims' hospital care, largely as the result of efforts by the two-year-old Prince Georges County Task Force on Sexual Assault. The task force was originated by Prince Georges County Council member Gladys Spellman, and is headed by attorney Fred Joseph. Bills for hospital examinations for rape victims are sent directly to the county, said Joseph.

And in the District, according to U.S. attorney's office and police department spokesmen, a rape victim does not have to pay her own hospital charges if she's taken to a public hospital like D.C. General. (The District has appropriated funds for this purpose.) "We always recommend that a victim go to a public hospital like D.C. General rather than a private hospital," said a member of the District's sex squad.

There are a number of people in Montgomery County who are trying to change what they feel is the unjust financial burden of rape to the victim but, far more important, also better her treatment here in the county. They include Dr. Bonnie Patton, president of the county's Commission for Women; Carolyn Feinglass, president of the county's chapter of NOW; and Alan G. Miller, M.D., a psychiatrist who, in addition to being on the Commission for Women heads up the Montgomery County Task Force to Study the Treatment of Victims of Sexual Assault.

The county's task force, composed of some 25 members including lawyers, doctors, people in the mental health field and some who are simply "interested citizens," in Ms. Feinglass' words, has been conducting its own research in the county for a report on the treatment of rape victims to be published this fall.

Among its research tools is a "confidential questionnaire for victims of sexual assault," which asks such questions as: "Was the assailant someone you knew?" and "Did you go to the hospital immediately after the attack?" and "Were you seen at the hospital by a person trained to give you emotional support, i.e. psychiatrist or social worker?"

But the financial aspect of the victim's treatment here, though it shocks many, is only one facet of the rape issue county groups are concerned with. Many also deplore:

Ignorance on the part of many county residents that "rape does happen here"—that it is *not* just an inner city crime. Quite simply, rape does happen here—in Silver Spring, Bethesda, Gaithersburg. In 1973, according to police department statistics, there were 76 reported forcible rapes (and only 50 arrests). In April, 1974, the last month for which the police department's computerized crime print-outs were available at publication time, there were nine.

But the above figures, taken at face value, are meaningless. According to Federal Bureau of Investigation statistics, 50 to 80 percent of rapes and sexual assaults are never often reported at all—most often through fear on the part of the victim. A county police department brochure notes that in the U.S. there are about 102 forcible rapes every 24 hours—or one every 14 minutes.

And Mary Ann Largen, coordinator of the National Rape Task Force, an adjunct committee of the National Organization for Women, estimates there are more than 100,000 rape and sexual assault victims annually. Applying national statistics to Montgomery County, there are actually more like 20 rapes a month, or more than one every two days.

The fact that Montgomery County has no actual rape crisis center as does the District. The District's Rape Crisis Center, which opened its doors and phone lines to rape victims in June, 1972, is a non-profit volunteer organization.

Ms. Feinglass said the county's sexual assault committee is working with the Passage Crisis Center in Silver Spring (589–8608) in the confidential counseling of victims of sexual offense. Passage, she said, is "an already existing 24-hour a day crisis center and we don't think we could staff [a rape crisis center] with volunteers."

She also noted that county NOW members have heard isolated reports that the District's rape crisis center "has not always been that satisfactory" in giving immediate help. "If we say we're going to provide it [immediate help], then we want to do it," she said.

At present, however, she said, Passage volunteers have not received specialized training in counseling rape victims beyond the counseling training which all Passage volunteers must take.

The fact that Montgomery County elementary school children receive no safety and self-protection instruction on how to handle themselves with potential assailants.

The county now has no program similar to the District's curriculum, "Pre-K-6," a self-protection program for children called "Concepts of Daily Living," which will be presented to District elementary school teachers in workshop form this fall. Pre-K-6 will become integrated into the District's school program sometime after that, according to Frank P. Bolden, director of the Department of Health, Physical Education and Safety Education for the District school system.

In Montgomery County, such a program of self-protection would have to vie for funding with mandated courses like state history, consumer education, economics, health, and programs for the handicapped and gifted children, said Harriet Bernstein, who heads the County Board of Education.

"Realistic and practical information concerning sexual assault and preventive techniques are not part of the current curriculum in Montgomery County," as Ms. Feinglass and Adrienne Goldstein, also of the county chapter of NOW, put it in a recent news release.

Misinformation, ignorance and a laissez-faire attitude lead to major mistakes a potential rape victim might be able to avoid—if, since elementary school, she were inculcated in self-preservation, contend reasoners like Ms. Feinglass. Nowhere is this more evident than in the area of hitchhiking.

Realistically, over coffee one morning in the relaxing ambience of her Bethesda dining room, Carolyn Feinglass said, "You're not going to stop all hitchhiking. Some women will still use it as a means of transportation." Earlier, she had told of a county case in which a female hitchhiker was forced to commit fellatio at knifepoint by her assailant. Hitchhiking may be foolhardy, but, as Ms. Feinglass put it, "a license to drive is not a license to rape."

And one recommendation of the Montgomery County Task Force to Study the Treatment of Victims of Sexual Assault is designed to eliminate the need for hitchhiking. The task force is recommending "more widespread and better public transportation which will help to eliminate the need for hitch-hiking." Noted Ms. Feinglass, "There's nothing going east and west in this county. You just can't get from Silver Spring to Bethesda. And there's not that much running north and south."

Other recommendations urged by the task force include:

That the fee paid a hospital for the medical examination of a rape victim needed for state's evidence be paid by the county;

That victims always be examined medically in a hospital immediately after the assault, rather than go through the police department questioning procedure first. "It's hard to sit answering questions when you're unclean and disheveled," as Ms. Feinglass put it.

That the hospital procedures outlined in the District of Columbia report of the Ad Hoc Committee on Sexual Assault Victims be incorporated in Montgomery County hospital protocol.

These hospital procedures, called "Medical Protocol for Alleged Rape Victims" and recommended through the Medical Society of the District of Columbia, include: 1) registering the victim immediately; 2) assigning a female nurse or attendant to accompany the victim through the hospital testing procedure; 3) taking the victim to a private room and allowing her to have with her a female friend or relative (preferably a parent if the victim is under 16).

The Ad Hoc Committee's medical protocol also calls for informing the victim fully that certain tests made on her are, in the words of the committee, "not medical but only procedures to collect evidence that can help to prove that she had sexual intercourse and which may help in apprehending and convicting the offender."

Rape is a four-letter word, one many of us would rather forget. But there is a purpose to running these articles now. In the summer months, rapists are out in full force, and the number of rapes escalates. "In the summer everything slows down but the rapists," as Carolyn Feinglass puts it, and county police Lt. Tom Skaife, who heads the Crimes Against Persons unit, added, "Warm weather brings more activity." We are in the middle of a long, hot summer.

[From the Montgomery County Journal, July 25, 1974]

SELF-PROTECTION FROM RAPE

(By Peggy Eastman)

As you pull your car into the driveway of your home you notice that your living room curtains are closed. You distinctly remember leaving them open. Your heart racing, you call the police from a neighbor's house.

After searching the house, police officers find a man armed with a knife hiding in the basement.

You're doing your wash in the laundry room of your high-rise apartment building around mid-day, mid-week. A man follows you up to your apartment and forces his way in. He stiff-arms you against the wall . . .

Incidents like these are becoming all too common across the country and in our county. A county police department brochure notes that there are 102 forcible rapes reported in the U.S. every 24 hours, or one every 14 minutes.

But that figure, shocking though it is, doesn't give true dimensions to the rape picture because the Federal Bureau of Investigation estimates that 50 to 80 percent of all rapes go unreported.

Coupling national statistics with Montgomery county police statistics, one could estimate that about 20 rapes occur in the county monthly. That estimate is probably low.

Most shocking of all is that nearly half of all rapes are thought to occur in the home. And in the summer, things get worse. "In the summer, everything slows down but the rapists," as Carolyn Feinglass, president of the Montgomery County chapter of the National Organization for Women (NOW) put it.

In an effort to stem the tide of rapes and sexual assaults, The Journal has compiled over a period of several months the following self-protection guidelines and safety prevention measures. They were provided by the Montgomery County Police Department, the Bethesda-Chevy Chase branch of the American Association of University Women, through its workshop on sexual assault held at Montgomery College, and the Rape Crisis Center in the District.

And a word to mothers of young sons: don't think young boys are immune to sexual assults. An increasing number of male juveniles are being sexually assaulted, notes Carolyn Feinglass. "My 10-year-old knows what rape is," she said. "You can't put your head in the sand. It has to be dealt with openly and rationally and not hysterically."

Herewith, some common sense guidelines:

WHILE AT HOME

Ask to see proper identification from anyone who presents himself at your house—a delivery or service man, for instance—before you let him in.

There should be adequate lighting around all outside entrances to your home.

There should be heavy dead-bolt security locks on all doors, and locks that secure windows.

If you are a single woman living alone in an apartment building, list only your last name and first initial on your mailbox and in the telephone directory.

Always have your key ready in your hand when you approach your front door. Don't dawdle at night on the stoop with armfuls of packages.

When leaving your house, if you're not going to return until after dark, devise a plan to determine if someone has entered your home in your absence. One method entails leaving front window curtains open or an obvious light on. Chances are an attacker would close the curtains and douse the light. Never enter the home under those circumstances. Call the police from a neighbor's home.

Never permit an unidentified stranger to enter your home for any reason. If a motorist in trouble must make a phone call, you make it for him.

While home alone, leave several lights on in different parts of the house to indicate the presence of more than one. Put the radio or TV on; a potential assailant might think a male TV voice is a man in the house.

Have at least one neighbor you can count on in an emergency situation.

WHILE WALKING

Don't wear tight clothing because it can prevent you from running from an assailant. Clogs and platform shoes can trip you; ponchos can be grabbed by an assailant.

Limit the amount of cash and valuables you carry in your purse.

Walk near the curb and avoid underbrush, alleys, dark doorways and all unlighted areas, including streets and parking lots.

On your routes to and from work, home or school, familiarize yourself with all stores open at night, the nearest police station(s), places where people congregate.

Always look in an elevator before entering it. If someone who appears threatening walks in too, press all the buttons and get out quickly at the next floor.

Never accept a ride from a stranger, and this means *never hitchhike.*

Always walk at a brisk pace when you're alone; never dawdle.

If you suspect you're being followed, head for the nearest lighted area. Walk faster—or break into a run.

WHILE MOTORING

Keep car windows up and all doors locked, even in the daytime.

Before entering a car, look around and in it, especially in the back seat.

Never pick up a hitchhiker.

Keep your car in gear when you stop for a traffic light or at an intersection, rather than putting it in neutral. This allows you to speed up if necessary.

Always lock your car when you leave it.

Travel on busy, lighted streets. Don't take chances on dark back roads, especially when driving alone.

Always keep your car in good running order to avoid a breakdown. If you have motor trouble, raise the hood, stay in your car with the doors locked and the windows up. When "help" arrives, if it's not a police officer and if it's someone who acts as if "helping" may not be his only motive, talk through a closed window before opening the window.

If a car follows you, drive to the nearest police station, open gasoline station, or open business. Get the car's license number if possible.

In the event of an assault, you should "scream, kick with your feet and run," in the words of a female police officer. If you can't run, resist to the best of your ability. There is one caveat to that; if the assailant has a gun, don't attempt to resist.

The county police department's leaflet on rape notes that, "Accepting the attack passively makes you a willing victim. Rejecting the attack makes you an unwilling victim, and the simple decision to be an unwilling victim may be the critical factor in thwarting the attack."

If attacked you sometimes can:

Blow on a police whistle which you've stashed in your purse.

If you're smoking, put the lit cigarette in the attacker's face and eyes.

Use any common objects found in a purse as weapons: rattail combs can stab; hair sprays can be squirted in the face; keys can be used as brass knuckles and scrapers.

Keep a long hatpin under a jacket lapel or in the hem of a skirt for an emergency jab.

Use an umbrella point to stab; go for the neck or stomach.

Yell "fire," not "rape" at the top of your lungs, advises the Rape Crisis Center, "fire" gets a better response.

Finally, the best defense, as a police officer noted, is still that commodity called "common sense." Common sense, it would seem, should be coupled with basic self-defense training for young girls and women. A number of groups, including the county chapter of NOW, and the Citizens Coordinating Committee for Safety on the Streets (SOS) in the District are urging just that.

But until all women are trained in the skill, fore-educated is forearmed.

[From the Montgomery Journal, Aug. 1, 1974
(Part III)]

AFTERMATH OF RAPE: A TEDIOUS ODYSSEY

(By Peggy Eastman)

"I know you won't report this. If you do, say it was 'robbery'."

That is a laundered version of what many rapists tell their victims, according to Corporal Ingrid Gibson, the only woman detective with the homicide/sex squad, Crimes Against Persons unit, Montgomery County Police Department.

While 60 percent of all reported assaults are against women, according to department spokesmen, the Federal Bureau of Investigation has estimated that only some 50 to 80 percent of rapes are ever reported to the police.

Although she feels the FBI estimate is impossible to substantiate ("I think someone just pulled that figure out of the air"), Corporal Gibson believes that if more victims of rape reported the crime, the fact of reporting would in itself act as a deterrent to potential sexual assailants.

"They [sexual assailants] count on the fact that their victims won't report the crime because of embarrassment," she said. "This is true for all intimate crimes."

Just as they decry the non-report percentage, whatever it is, so police department and state's attorney's office spokesmen deplore inflammatory media treatment of rape which they feel encourages non-reporting of the crime.

Television movies like "A Case of Rape" with Elizabeth Montgomery playing a rape victim are "the greatest thing for the rapist," in the words of Lt. Tom Skaife, who heads the county's Crimes Against Persons police unit.

"The literature and shows frighten people more than inform them," added Corporal Gibson. She pointed out that media depiction of rape is sometimes inaccurate as well as simply inflammatory. "A Case of Rape," she said, showed a police officer with the victim during her medical examination, which she says "just never happens."

A victim who does decide to report her rape—and if she doesn't want to, it isn't reported, said Corporal Gibson—will, however strong her desire to cooperate with the system, face a "tedious procedure," in the detective's words.

The procedure—a long process of questioning by the police, medical examinations and legal wheel-turning, is one which no police officer, hospital official or lawyer in the state's attorney's office would deny is rough.

But it is one which all believe becomes understandable to and bearable by the victim when officials take the time to explain to her exactly what is going to happen.

"I try to make it [the procedures following a report of rape] sound as difficult as possible," said Corporal Gibson. "Her preconceived expectations are that it's going to be really horrible. But she finds that it's not that horrible."

She said she has been told so herself by victims and (through relay) by members of the county chapter of the National Organization for Women, who frequently accompany rape victims to the police department for questioning.

Briefly, a rape victim in Montgomery County who reports the crime faces three levels of procedural bureaucracy: the police department; the hospital; the state's attorney's office. Two of these, the police procedure and the hospital procedure, will be discussed in this article (the legal ramifications of rape will be discussed next week).

Taken in order, the steps go something like this:

1) The initial police report of a sexual assault is taken by an officer on patrol. He isn't so much concerned with the intimate details of the crime as he is in getting a description of the alleged assailant and alerting other officers on patrol duty.

2) An investigator from the homicide/sex squad is summoned. Under his direction, the Identification Section will take bits of evidence such as a bedspread and hair from the scene for analysis, and dust for fingerprints.

He will recommend a hospital examination at one of four county hospitals (Washington Adventist; Montgomery General; Suburban and Holy Cross) designated by the state Department of Health and Mental Hygiene. Or, if she prefers, the victim can go to her private physician. The officer stresses that the exam should be done as rapidly as possible to gather state's evidence; also that the victim should not take a bath.

3) By this time, another investigator, who may or may not be Ingrid Gibson, has usually arrived on the scene. "Usually," she said, "If I'm working when it happens, I go to the hospital. We usually try to let the hospital know we're coming."

4) At one of the four hospital emergency rooms, the patient may or may not be taken to a private room. She generally will be at Montgomery General, said M. Keith Kaufher, director of public relations and development, and at Holy Cross, said Shirley Nastik, supervising nurse in the emergency room and a member of the Montgomery County Task Force to Study the Treatment of Victims of Sexual Assault.

"We try to take the patient from the police and get her treated as soon as possible," said Miss Nastik. At Suburban, said Kaufher, the patient is taken through the emergency ambulance entrance so she doesn't have to go through the waiting room. The police are asked to wait apart from her.

At Washington Adventist, although there are no private rooms, the staff tries to insure that the victim is seen immediately by the obstetrician/gynecologist (ob/gyn) staffer on duty, said hospital administrator John Ruffcorn. If she must wait, Ruffcorn said the emergency room staff tries to separate the patient off from others in the waiting room "if things aren't too busy."

Usually, a female nurse attendant tries to remain with the patient throughout the examining process, said spokespeople for the four county hospitals contacted.

A basic gynecological examination is usually done to determine whether penetration occurred and to determine injuries, if any. This test is important from a legal standpoint, because some rape crimes involve penetration without ejaculation. (At Suburban, said a spokesman, the parents' permission is required for a pelvic exam on a minor.)

Testing is given for venereal disease (syphilis and gonorrhea), but, the police department notes, the tests will tell only if the victim had contracted VD prior to the attack. VD testing should be done later, they urge, because gonorrhea cannot be detected until a week following infection, and syphilis not until six weeks after. A dosage of penicillin may or may not be given the victim to ward off VD infection, depending on the doctor.

Montgomery General Hospital provides psychological counseling to a rape victim if the staff deems it necessary. Initial psychological care may be given by the psychiatric emergency team (its cost will be covered under the emergency room fee billed to the victim).

If additional psychological counseling is necessary, the victim is offered it, and, if she wants it, charged, said Kaufher. Psychological counseling may be given by a "psych-tech"—a staffer who has studied psychology but does not have a medical degree, or a specially trained psychiatric nurse.

According to information given *The Journal*, some victims sometimes think this further psychological counseling is free and mandatory and are startled when they are billed.

But, said Kaufher, the service is not forced on anyone; it is an extra service Montgomery General can provide, he said, partly because this hospital has been designated the Upper Montgomery Community Health Center by the Community Mental Health Services Act.

Psychological counseling is not given as a matter of routine at Holy Cross or Washington Adventist hospitals unless patient or family specifically requests it. But at Adventist, said administrator Ruffcorn, the hospital is working on a revision of procedure for rape victims, in which psychological counseling is being considered.

At Suburban, said the spokesman contacted, a psychiatric nurse is being recruited to work both with rape victims and patients who have suffered drug over-doses.

There are several aspects of the hospital testing procedure to gather state's evidence that should be considered. Hospital examinations are not standardized; the test to determine blood type from the assailant's sperm is not always given. At Suburban Hospital, for instance, this test is only given when requested by the police department or FBI, said the hospital spokesman.

A woman who fears pregnancy (somewhere between one in 50 to one in 100 rape victims does become pregnant as a result of the attack) may request the "morning after" pregnancy preventive pill but may not always get it. Maryland state law provides that a physician does not have to provide birth control if it goes against his ethics or religious beliefs (this pill depends on speed for efficacy and must be taken 24–48 hours after intercourse). At Montgomery General, said Kaufher, the doctor discusses the possibility of taking this pill with the patient.

Darrel Longest, deputy state's attorney for Montgomery County, said his office has been working on a medical examination protocol to try to standardize testing procedures at county hospitals to make them more useful as a means of evidence.

Such a protocol would have to be approved by the emergency room committee, the emergency room nurses and doctors or the administration, depending on the hospital.

5) Next step for the rape victim, assuming she has survived the initial police questioning and hospital testing (and, despite the best efforts of emergency room staffs, waits are inevitable there) is the police interview. By now, two hours or more may have elapsed.

The in-depth police interview has been more critically depicted by the media than any *other* aspect of the crime of rape. The image of a male police officer salaciously insinuating that the victim "enticed" her assailant by dress, behavior, voice or all three, was born in those media portrayals of the police interview. It was nurtured by rape victims who accused the police of treating them like whores.

The Montgomery County Police Department is sensitive to this media-image. "Maybe there have been some abuses," said Lt. Skaife. "But the real crunch comes in the courtroom when the victim sweats out the verdict . . ." The police questioning, he said, "is peanuts compared to the ordeal in court."

Normally, the in-depth interview of a rape victim is conducted by both a male and female investigator (Corporal Gibson or a female police officer from the juvenile section). If the victim prefers, only a female officer asks the questions. The interview is held at the police station in a private room and is usually long—as long as two hours, said Corporal Gibson.

The police investigator, said Corporal Gibson, tries to determine such facts as how the victim and her assailant got together and whether they were known to each other. In some cases, she said, the act isn't "rape" at all (coitus against a woman's will) but "intercourse." "In most cases it's an honest error. The girl (usually young) honestly believes it was rape."

In one such case, she said, a 16-year-old girl went apparently voluntarily with the accused assailant to his car, "parked and made out. Then she left the car and walked with him into the woods. There was no sign of a struggle."

There are other cases, she said, in which a girl may find out she is pregnant, then come to the police and "cry rape." The officers look for signs of force (torn clothing, bruises) as evidence intercourse against the will occurred.

When asked if she is ever swayed by suggestive clothing of the victim in her thinking about whether an interviewee is "crying rape," Corporal Gibson said honestly, "Probably in some cases I've thought that." But, she said, one could say the same thing about a hitchhiker—that she invited rape.

6) Following the police interview, more police procedures may be done—or they may be done the following day, depending on a victim's "physical and psychological state," as the department puts it. While photos of any injuries are taken immediately following the interview, an explanation of court proceedings and look at mug shots in police files may be put off.

If the assailant is known to the victim, she may make an application for a warrant for his arrest (in the case of a juvenile, the parents may apply). If he is unknown, she may be asked to help a police artist draw a composite picture.

Corporal Gibson stressed that while it's important to be receptive, kind and tactful with a rape victim ("Of course I'm sympathetic") excess sympathy does her no good. "It isn't good to handle her with kid gloves. Most victims don't break down during the [police] interview. They usually don't break down until they see a member of their family.

"I don't want her to think her life is over now. It isn't. This encounter was not a relationship with someone."

[From the Montgomery Journal, Aug. 8, 1974
(Part IV)]

RAPE VICTIMS AND THE LEGAL PROCESS

(By Peggy Eastman)

A victim of rape in Montgomery County who has survived the tedious (if necessary) police questioning and hospital procedures following a report of her crime, still has a third hurdle ahead of her: law.

Just as many women don't report the crime to the police out of fear, so many don't press charges—because they are afraid of the criminal justice process itself.

In talking with Darrel Longest, Deputy State's Attorney for Montgomery County, and with members of the police department, these facts about rape and the law emerged:

Many rape cases in which there are arrests never make it to the courtroom, for a variety of reasons. County police statistics for 1973 reveal that of 50 arrests for rape and rape attempt (of the cases for which there have been dispositions), eight defendants were found guilty. One was convicted of a lesser offense, one was placed on probation, one case was dismissed, 14 were null prossed, one case was without verdict and one was placed in the department's miscellaneous "other" category.

Few rapists convicted in the state of Maryland receive the maximum penalty set by the state as punishment: life imprisonment. Most receive less than 20 years.

A rape victim stands to gain nothing monetarily from the criminal justice process, even if her alleged attacker is convicted. To recover damages for injuries sustained or for medical expenses, she must retain a lawyer and sue for civil damages independently of the criminal justice process.

Other than by lawsuit, a victim may only hope to recover damages by filing a claim with the state of Maryland's Criminal Injuries Compensaton Board, 1123 N. Eutaw St., Baltimore. However, to collect, the victim must suffer "serious financial hardship", such as "loss of earnings for at least two continuous weeks" or out of pocket expenses of more than $100.

If a rapist is known to his victim, the case rarely stands a chance of going to trial, although there are exceptions. "I think the public generally has the opinion that if you know somebody you can tell him 'no'," said Longest.

In a good percentage of cases, the medical examination used to gather state's evidence (such as the test for sperm presence) is of no value in helping to convict a rapist, for a variety of reasons. "I can tell you in all candor, that there are many, many rapes in which the medical examination is absolutely of no value whatsoever," as Longest put it.

Like the police interview, which has been dramatized by the media, so the courtroom scene has been similarly dramatized and popularized. We have the alleged rape victim breaking down and sobbing on the stand while the attorney for the alleged rapist twists her words and verbally turns her into a whore for all to gape at.

But—although it may be difficult to bring a rapist to trial—the media version of the courtroom drama never plays itself out once that trial begins—at least not here, according to Longest.

There are several reasons why it doesn't play like Perry Mason, he said. First, unlike the District, no "corroboration" (proof) of the crime must be shown by the state. The woman's statement that rape occurred may be sufficient to convict her alleged assailant.

Second, while a woman's reputation may be brought out in the trial, specific allegations about her prior sexual conduct may not, said Longest. "The defense attorney cannot raise acts of sexual misconduct—depending on the judge. I've never seen it."

Third, rarely is a courtroom overflowing with the public. "I can't honestly say that I've ever tried a case in which the courtroom has been just jam-packed with people . . . people just seem to have a little more taste than that."

Fourth, the victim rarely has to be present while other witnesses testify. Generally, said Longest, other witnesses are excluded from the courtroom while one is testifying.

And fifth, a defense attorney knows that if he verbally attacks the victim on the stand, he will gain sympathy for her among jury members, not for his client. The last thing an expert defense attorney wants to do is come off as a "big ogre," said Longest, because he knows "that I would use that in my closing argument. Most defense attorneys are more subtle than that."

In Maryland, which is a common law state, the crime of "rape" is defined not by statute but by common law decisions. A lawyer "must look at the old common law and at some of the decisions handed down by the courts 400 years ago to understand what rape actually is," in Longest's words.

In Maryland, rape has been defined by common law as: the act of a man having unlawful carnal knowledge of a female over 10 years by force, without consent and against her will.

The crime of "carnal knowledge," or statutory rape, breaks down into two areas:

(1) Carnal knowledge of any woman under 14 or who is an imbecile or insane, regardless of age.

(2) Carnal knowledge of a woman who is not the wife and who is between the ages of 14 and 16 (16 is the age of consent in Maryland).

The first definition of carnal knowledge is a felony; the second a misdemeanor. The second offense is a less serious crime, said Longest, because the victim is presumed to be "a little older and a little smarter."

The major difference between the crime of "carnal knowledge" and that of "rape," said the Deputy State's Attorney, is that in carnal knowledge (statutory rape) "the state need not prove that intercourse occurred without consent." For the crime of "rape," this must be proved.

Incest falls outside the area of rape, and is in itself a crime punishable under law. (The crime of incest with a juvenile is now covered by Maryland's child abuse statutes.)

Rape used to be a capital offense, punishable by death, until the Supreme Court ruling that put a stop to it. Now, it is punishable by: (1) either life imprisonment, or (2) confinement in prison for not less than 18 months or more than 21 years.

In Maryland, the jury itself can limit a convicted rapist's sentence. There is a provision (section 463) of the Maryland Criminal Code which states that a jury which finds a defendant guilty of rape or the felony of carnal knowledge (intercourse with a woman under 14, or an imbecile, or who is insane) may add to its verdict of guilty the words "without capital punishment."

In that case, the law provides that the judge's sentence shall not exceed 20 years in the penitentiary.

During four years in the State's Attorney's office, and some 15–20 rape cases, Longest has never seen a life imprisonment sentence given a convicted rapist. Such a sentence was not given even in the most "vicious attack" he has served as prosecutor for. In this case, removed to St. Mary's County, the victim was beaten "unmercifully," her jaw broken and her teeth knocked out. The defendant received a sentence of 21 years, not life.

Why?

Longest said there is a school of thought that says that "if you are going to rape somebody, if you will not harm them physically or kill them, then your penalty will not be the most severe that can be handed out, it will be something in between."

In other words, only maiming or rape-murder elicit a "life" term. And in cases of rape-murder, the crime is difficult to solve because, said Longest drily, "you're missing your principal witness."

The Deputy State's Attorney admitted that the penalties for rapists do not take into account psychological damages to the victim. "It doesn't measure that at all, not at all."

But prosecution and sentencing (or hospitalization on grounds of insanity) are obviously the only means to get rapists off the streets. Longest takes pains with the rape victim in cases he is prosecuting to make sure she understands exactly what the criminal process is and that it is necessary for her to go through it.

"In most cases, after I take the time to explain to them (victims) what the law defines rape to be and why it's necessary for them to say what occurred, there is a universal acceptance [of the criminal process]. . . . I've changed my approach. I try to make a home visit, meet the parents, meet the husband.

"They're not jumping up and down. But at least they understand and at least they show up for the trial of the case."

In only one case he has had, said Longest, has the victim expressed the fear that if she goes through with the trial her assailant will retaliate and harm her. They solved the problem, he said, by having the victim move from her rented temporary home and keeping her whereabouts a secret. The defense attorney could contact her only through the State's Attorney's office.

Victims' fears aside, from the State's Attorney's vantage point, one method to help in prosecution is the standardization of hospital tests given to those victims.

He pointed out tests such as the procedure for discovering in the vagina the presence of acid phosphatase, which is emitted by the male organ without the necessity of emission. (This test could be valuable in determining penetration if ejaculation did not occur.)

In a special bulletin, "Medical Procedures In Cases of Suspected Rape," the American College of Obstetricians and Gynecologists recommends that this test be done, along with a "wet mount" test for presence of sperm and test for blood group antigen of semen.

Longest said that a uniform testing procedure in each of the four county hospitals would help those in his office prosecuting rape cases. He has, he said, approached a couple of hospital administrators off the cuff about this possibility.

"They are receptive to the idea, but the problem is that we have to work out on this side of the fence what kinds of tests we think are helpful and devise a uniform procedure that can apply to all four of the hospitals."

Just as it will always be a four-letter word, with all the connotations that implies, so rape—the crime itself and its aftermath, will always be shockingly unacceptable to society. But until the rapist realizes that society will translate its shock into legal action, there will always be rapes.

Mathias and Others Offer Rape Laws

Several area legislators on the state and federal level have become concerned about what U.S. Sen. Charles McC. Mathias (R-Md.) of Chevy Chase terms "the countless ways in which a woman's life is shaped by the persistent threat of rape."

They have become concerned about the increasing numbers of rapes, and the low report rates of the crime and conviction rates of those who commit it. Recent legislation put together by some of these politicians includes:

S. 2422, a bill introduced by Mathias, which would establish a National Center for the Prevention and Control of Rape. The National Institute of Mental Health in Bethesda has been discussed as a possible site for the center.

The bill, which has 28 co-sponsors, was approved unanimously at the end of June by the Health Subcommittee of the Senate Labor and Public Welfare Committee. (It is still in committee, but Senate action was expected momentarily at press time.)

The center would be a place for research into the causes and effects of the crime; ways to prevent rape; and would "analyze laws on rape and develop a new model state law."

Maryland Senate Bill 243, introduced by state Sen. Newton Steers (R-Mont. Co.). This bill is now law and was signed by Governor Marvin Mandel on April 30, 1974.

It requires police officers to take a rape victim to the nearest hospital designated by the state's Department of Health and Mental Hygiene in cooperation with the state's Medical and Chirurgical Faculty (Medchi) without regard to place of alleged rape or where it is reported.

Steers' bill was prompted by a jurisdictional dispute between Montgomery and Prince Georges counties. In that dispute, the senator said, a 17-year-old girl who called the police to report her rape was not treated by a doctor until more than 24 hours after her attack. Officials could not decide in which county she should be treated. Eventually, the girl was *jailed* for two days and nights—for being a runaway, Steers said.

"She was kicked around like baggage," the senator said. "It would never have happened if she had been, say the daughter of Potomac residents."

In a telephone interview, Steers said he first introduced his bill in the 1972 General Assembly and again in 1973, but it did not pass until the 1974 session. Why?

"Because I had a hard time negotiating agreement out of these people [health department and Medchi officials]," said Steers. A part of his bill Steers considered important did not make it past the House of Delegates—because, he said "of an absolute incompetent fool from the health department who stood up there and objected."

This section would have required the hospital facility treating the rape victim to "make appropriate medical findings" through the physicians (or the victim's private doctor) "at the option of the rape victim." This portion did not make it despite the fact that Steers' bill did not even specify to whom those findings were to be made.

House Resolution 129 of the Maryland General Assembly, which requests the governor to appoint a "blue ribbon commission to study the inadequacies of present police, medical and legal treatment of rape," and directs the commission to report its findings and recommendation by January 15, 1975.

"No decision has been made" on this resolution yet, said a spokesman in Mandel's office. He said that since many appointments statutorily become vacant on July 1, "there has been a crush" of new ones to attend to. "As soon as the governor can get to it [the commission], it will be done," he said.

Locally, the Center for Women Policy Studies, a nonprofit, tax-exempt organization in the District, has been given a one-year $238,437 grant by the Law Enforcement Assistance Administration (LEAA) to research the treatment of rape victims, said Ellen Barnett of Silver Spring, a staffer. The project staff has contacted more than 40 police departments and identified more than 200 existing programs being carried out across the country to said rape victims.—Peggy Eastman.

Mr. BENNETT. Mr. President, I ask unanimous consent that a statement by the Senator from Kansas (Mr. Dole) be printed in the Record prior to the passage of S. 3280.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Senator Dole

The bill before us is of particular importance to the many fine Comprehensive Community Mental Health Centers in Kansas, and I am pleased to give it my unqualified support.

It is especially critical at the present time, I think, because it will provide a bridge between the services now being developed by these Centers and any future coverage under National Health Insurance legislation. Moreover, it will do this in a manner far superior to the companion House measure, or any similar bill, in that it includes funds for improving already-established Centers and insures that all those in need of continued assistance will be able to receive it.

FEDERALLY ASSISTED CCMHC'S IN KANSAS

There are eight of these Federally-assisted Centers already in operation in my State—seven of them in designated poverty areas—with yet another one scheduled for funding. One of the truly significant features of each of them is that they are situated in wide-ranging areas, making them accessible to nearly everyone—urban and rural residents alike—who might have a need for the services which they offer.

Among those services are the five very essential categories of emergency, inpatient, outpatient, partial hospitalization, and consultation and education. But it is the great efficiency in administering each of these that really stands out as the remarkable achievement of the centers in the few short years that they have been a part of the Federal grant mechanism.

LOCALIZED PROGRAMS

A major reason, I am sure, for the success of the Community Mental Health Center idea is that each one has been designed to meet the special needs of its "catchment" area. That is, they have been "localized" in their programming and generally shaped to the individual communities and rural areas which they serve.

Another basic factor contributing to the above-mentioned efficiency is the maximum utilization made of local care-giving personnel. Additionally, it is a great tribute to both the professional and nonprofessional staffs that more than eight percent are regularly-scheduled volunteers.

EXTENSION OF AUTHORITY

S. 3280—The Health Services Act of 1974—will preserve the gains made by Comprehensive Community Mental Health Centers by extending their Federal funding authority for another five years. And while giving them this well-deserved opportunity to continue their excellence in development, it will provide the flexibility necessary to make the intended transition to financing by resources other than Federal construction and staffing grants.

Although the capability of many Centers to offer a full range of mental health services without Federal assistance might be in question at this time, I have no doubt that by the end of this extension period, those in Kansas will have made substantial progress toward becoming self-sustaining. That is, through the appropriation of State funds, local financing, third party payments, patient fees, and Foundation support, they will be able to "go it alone."

HEALTH REVENUE SHARING

This is in keeping, I think, with the whole spirit and objective of revenue sharing, which philosophy I strongly endorse and am pleased to see being expanded to the health delivery field. Certain restrictions will, of course, still be placed on any Federal money involved, but generally funds may be spent entirely at local discretion for public health needs.

The revenue sharing approach represents only part of the overall refinements contained in this renewal legislation, however. For in addition to that conceptual scheme, the bill seeks to upgrade both existing and new programs by ensuring that services will be truly comprehensive; that standards of quality and cost control will be implemented; that there will be coordination between centers in developing systems of care; that both fiscal and program management will be strengthened; and that community responsiveness will be a primary element of the planning activity.

OTHER PROVISIONS

Other noteworthy provisions in the Health Services Act include authorizations for family Planning programs and assistance for Community Health Center treatment for the medically deprived. The former program has already demonstrated great success in Kansas through the establishment of nearly 50 clinics throughout the State, and the latter facilities will extend coverage to such special need groups as the elderly and children.

Three separate titles of S. 3280 expand provisions for migrant health centers; establish authority for rape prevention and control; and set up a Commission on Epilepsy. I have cosponsored or supported measures aimed at promoting all these worthwhile activities in the past, and certainly welcome their inclusion in this legislation.

Finally, the bill contains a provision, added in committee, to assure that every individual afflicted with the dread disease hemophilia will be entitled to the care he requires—regardless of ability to pay. This is an admirable initiative indeed, and will launch a great new hope for the 100,000 hemophiliacs and their families in our country today.

A BRIGHT FUTURE

Mr. President, the State of Kansas is regarded as having among the best facilities for treatment of mental illness of any comparable-size State in the Nation. Comprehensive community health centers have played a major role in maintaining this position by substantially reducing the number of State mental hospital resident patients over the past several years.

They have done this through conscientious endeavors to continually improve services, while concentrating on the conviction that preventive measures offer the best hope of achieving long-range results. I firmly believe that the Health Services Act will enable them to maintain the momentum which they have created, and at the same time enhance their expansion of services and high quality of care.

I see a bright future ahead for these institutions, and feel certain that the enthusiastic and affirmative action which we take on this bill today will be just the impetus they need to reach their desired goals.

Mr. KENNEDY. Mr. President, I ask for third reading.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment.

Mr. GRIFFIN. Mr. President, has there been third reading?

The ACTING PRESIDENT pro tempore. No.

The question now is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 14214, Calendar No. 1060.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 14214) to amend the Public Health Service Act and related laws, to revise and extend programs of health revenue sharing and health services, and for other purposes.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. KENNEDY. Mr. President, I move to strike all after the enacting clause of H.R. 14214 and to substitute therefor the text of S. 3280, as reported and as amended.

Mr. GRIFFIN. Mr. President, reserving the right to object, I wish to make a brief statement. Of course, I realize that it is a bit like opposing motherhood or sunshine to suggest any concern about a bill entitled, as this one is, Public Health Service Act. However, I believe it should at least be noted in the RECORD that there is objection to this measure by the administration.

No one would say that the programs included in this package do not have a great deal of appeal, on a humanitarian basis. Secretary Caspar Weinberger, of the Department of Health, Education, and Welfare, realizes that. But in a letter to the chairman of the committee, Senator WILLIAMS dated August 12, 1974, the Secretary calls attention to the comprehensive health care proposals now pending before the Congress. He expresses concern about this measure because it singles out certain health programs for special attention without reference to or coordination with the comprehensive health care legislation that we expect to enact.

The Secretary indicates concern that this bill would establish separate categorical authorities for some existing programs and adds new programs and categories that were not considered at the time of the hearings.

Furthermore, the Secretary believes the authorization for appropriations provided in this bill is excessive and unwarranted. I understand that the cost of this bill, if funded, would be something like $3 billion over a 4-year period.

Someone at some point in this debate should raise the difficult question of, Where is the money coming from? How does this measure relate to the concern that almost everyone professes today about holding down Federal spending in order to fight inflation?

I regret that it is necessary to raise such questions because I realize that this bill and its stated objectives have great appeal, and I ask that the letter from Secretary Weinberger to which reference was made be reprinted in full in the RECORD.

Thank you, Mr. President.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., August 12, 1974.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: It is our understanding that the Labor and Public Welfare Committee ordered reported S. 3280, a bill to amend the Public Health Service Act to revise and extend programs of health delivery and health revenue sharing, on August 7, 1974. I would like to take this opportunity again to state the Department's strong opposition to this bill.

Our comments should be viewed in the context of the Administration's overall strategy in health. The Department has submitted S. 2970, the "Comprehensive Health Insurance Act of 1974" which reflects a policy of assuring financial access to health insurance for all Americans on an equitable basis. Accordingly, we oppose the expansion of health programs that single out a few selected communities for special Federal subsidies. Once financing is available, the Federal role should be limited to the support of innovative research and development. These policies were reflected in testimony before the Health Subcommittee on April 30, 1974, by Dr. Charles Edwards, Assistant Secretary for Health. Dr. Edwards noted that the Administration's continuing support for several of the health programs which would be authorized by an earlier version of S. 3280, but recommended that these programs be continued under existing general authority in the Public Health Service Act. Instead of following this recommendation, however, S. 3280 would establish separate categorical authorities for existing programs, add new programs not considered at the time of the hearings, provide excessive authorizations for many of them, and write detailed requirements relative to the administration of these programs. In addition, the bill contains appropriation authorizations that are excessive and unwarranted. This approach runs directly counter to the Administration's policy of simplifying the already enormously complex grant structure of the Department and to providing very much needed flexibility to program managers.

Moreover, in providing separate categorical authorities for programs, S. 3280 would effectively remove the general authority presently existing in the Public Health Service Act to support health service demonstration and delivery activities, Section 314(e) of the Act.

We strongly object to the excessive authorizations, the further categorization of the Department's programs, and the elimination of Section 314(e). In addition, we have the following comments:

(1) The provisions of Title VIII, Rape Prevention and Control, can be achieved under existing authority and are unnecessary. Some of the studies contemplated in the proposed Title are more appropriately undertaken by the criminal justice system and are marginally related to our mission. We see no sound programmatic basis for singling out rape from among the many forms of deviant behavior. Moreover, it is unclear precisely what activities S. 3280 contemplates that the proposed National Center would undertake to demonstrate how to prevent and control rapes. We already have conducted extensive research into all kinds of aberrant behavior. Until we know more, a program for rape prevention and control cannot be successfully undertaken.

(2) The creation of a Presidentially-appointed Commission on Mental Health and Illness of the Elderly (Title VII) is totally unnecessary and duplicative of three already existing committees and/or entities concerned with the mental health and illness of

the elderly. These are the National Advisory Council on Mental Health, the Federal Council on the Aging, established by P.L. 93–29, and the recently established (P.L. 93–296) National Institute on Aging, with a related advisory committee, to perform biomedical, social and behavioral research on the problems of the elderly. In addition, the provisions for National Advisory Councils on Community Health Centers, Migrant Health Centers, Mental Health and Illness of the Elderly, and Rape Prevention and Control will only add to the maze of advisory councils that already exist within the Department. The creation of more councils will, in our judgment, serve no useful purpose. Moreover, establishing a National Commission on Epilepsy and a National Commission on Hemophilia will further complicate and duplicate the existing advisory and commission structure of the Department.

(3) As stated by Dr. Edwards, we strongly oppose the provisions of Title III, which would extend and expand the Community Mental Health Centers (CMHC) program, particularly by mandating an increase in services provided. The program has been a demonstration effort. We believe we should now concentrate on integrating mental health services with other health services. Congress recognized this in enacting health maintenance organization requirements for incorporating mental health and social services in the mandated benefit package. We see no sound justification for expanding the period of Federal subsidies for CMHC's beyond 8 years as is contemplated by the financial distress grant authority in S. 3280.

(4) We also oppose Title VI which would provide grants for initial start up of home health agencies and for the training of home health agency personnel. We note that there were 2,211 home health agencies—or over 40 per State—participating in Medicare in 1974. We are unaware of any shortage of either agencies or personnel to provide home health services that warrant new categorical grant programs. The Department is presently near completion of a report dealing with the entire issue of long-term care, including home health services. Clearly, it would be prudent to have the information from this report before establishing yet another categorical program.

(5) The provisions for planning, start-up and initial operating grants in Titles I and II (Migrant and Community Health Centers) are cumbersome and unnecessary and should be left to administrative decisions. Moreover, the required reports to Congress under Titles I and II are burdensome and call for unnecessary detail. We have serious reservations as to what useful purpose these reports would serve since Congress already reviews these programs through oversight and appropriations hearings.

(6) The requirements for grant approval in Titles I and II of an application are excessive. We believe that such requirements are better left to regulation.

(7) Title I and II in essence limit the dollar amount of the grants to the difference between projected receipts and operational expenses. This conflicts with the Department's existing policy and regulations on third party funding which allows fees collected to remain available (as itemized in the regulations) by the grantee. Under the provisions of S. 3280 there would be no incentive to pursue vigorously third party reimbursements.

(8) The bill would make health services for migrants dependent upon an arbitrary number of migrants, by defining a migrant health center as an entity serving 5,000 migratory and seasonal workers and their families. Such provision mandates a difficult and costly process of carefully counting agricultural workers at the expense of using limited resources for the delivery of services.

(9) The appropriations authorizations in S. 3280 are excessively high. S. 3280 would authorize $813 million in 1975. This specific amount is in addition to several new "such sums" authorizations and sums that could be required if the eight-year funding support were to be made available. The President requested $519 million for these programs in 1975. The levels in S. 3280 make it difficult to achieve a balanced budget and, if funded, will undeniably contribute to inflationary pressures.

In summary, we strongly opose S. 3280 because of its objectionable grammatic mandates, its excessive authorizations, and its overlapping and duplicative authorities.

Sincerely.

CASPAR WEINBERGER,
Secretary.

Mr. KENNEDY. Mr. President, I would just say in response to my good friend and colleague, the Senator from Michigan, the increase in the rate of spending is approximately 20 percent over a 4-year period.

That is somewhat higher than the general rate of inflation. This is the authorization, certainly not the appropriation. So it is a very, very modest kind of an increase in a number of areas which I think can have important effects in gaining control of the process of inflation, by increasing the areas of supply.

I will finally say, Mr. President, this has the support of the Council on the Community Mental Health Centers, the Association for Mental Health, the Association of the National Health Centers, the various organizations which have been most directly affected by these various organizations which have been most directly affected by these various programs all having endorsed the program.

I think it is well understood that the administration wanted to cut back on the neighborhood health centers, which are reaching out into the community and providing vitally needed health services for millions of Americans.

The administration felt strongly about cutting back on community mental health centers, in spite of the fact that we have only reached approximately 500 of them and the goal was set for 1,500 of them approximately 10 years ago.

These are concerns which have been expressed during the course of our consideration in the committee, and I know were also considered by the House of Representatives.

As a matter of fact, this measure passed the House of Representatives 357 to 12, which I think indicated the sound wisdom of our friends and colleagues in the House.

This is an important program and, for the reasons I have explained more fully in my statement, I hope it will pass.

Mr. JAVITS. Mr. President, I think we ought to include a statement made by the Secretary and a statement by the deputy minority leader. They are both very important. I ask unanimous consent that we include in the RECORD the table of authorizations which are contained in the committee report by aggregate headings and by programs.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 23.—AUTHORIZATIONS

[In millions of dollars]

	Fiscal year—				Appropriation (approximate) fiscal year 1978
	1975	1976	1977	1978	
Community health centers	300.5	320.5	340.5	360.5	[5] 237.0
Migrant health centers	170.25	190.25	210.25	230.25	24.0
Community mental health centers [1]	145.0	155.0	165.0	175.0	86.0
Health revenue sharing	160.0				90.0
Diseases borne by rodents	[2] 15.0				13.0
Home health care	20.0	24.0	28.0	32.0	
Commission on Mental Health of the Elderly	(3)	(3)	(3)	(3)	

	Fiscal year—				Appropriation (approximate) fiscal year 1974
	1975	1976	1977	1978	
Center for the Prevention and Control of Rape	10.0	11.0	12.0	13.0	
Commission for Control of Epilepsy					
Hemophilia Act of 1974 [4]	10.0	20.0	30.0		
Total	830.75	720.75	785.75	810.75	

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[1] Plus such sums as may be necessary for continuations of staffing grants, financial distress grants, and consultation and education grants.

[2] This authority is added to the $23,000,000 currently authorized under sec. 317 for communicable disease control for a new sec. 317 total of $38,000,000.

[3] Such sums as may be necessary.

[4] Plus such sums as may be necessary for payments for treatment and rehabilitation of hemophiliacs entitled to care under the act.

[5] Includes $50,000,000 in centers formerly funded through OEO Act.

TABLE 24.—AUTHORIZATIONS BY PROGRAM

[In millions of dollars]

	Fiscal year—			
	1975	1976	1977	1978
Community health centers:				
Planning and development	0.5	0.5	0.5	0.5
Startup	30.0	30.0	30.0	30.0
Initial operations	270.0	290.0	310.0	330.0
Total	300.5	320.5	340.5	360.5
Migrant health centers:				
Planning and development	.25	.25	.25	.25
Startup	15.0	15.0	15.0	15.0
Initial operations	120.0	135.0	150.0	165.0
Hospitalization	35.0	40.0	45.0	50.0
Total	170.25	190.25	210.25	230.25
Community mental health centers:				
Planning and development	5.0	5.0	5.0	5.0
Startup	50.0	50.0	50.0	50.0
Initial operations	90.0	100.0	110.0	120.0
Continuing operations	(1)	(1)	(1)	(1)
Financial distress	(1)	(1)	(1)	(1)
Construction and education	(1)	(1)	(1)	(1)
Total	145.0	155.0	165.0	175.0
Health revenue sharing:				
General funds (sec. 314(d)(1)(A))	90.0			
Hypertension control (sec. 314(d)(1)(B))	70.0			
Disease borne by rodents	15.0			
Total	175.0			
Home health care:				
Startup grants	15.0	18.0	21.0	24.0
Training grants	5.0	6.0	7.0	8.0
Total	20.0	24.0	28.0	32.0
Center for Prevention and Control of Rape:				
Center operation	1.0	1.0	1.0	1.0
Grants	9.0	10.0	11.0	12.0
Total	10.0	11.0	12.0	13.0
Hemophilia Act of 1974:				
Treatment centers	5.0	10.0	15.0	
Blood separation centers	5.0	10.0	15.0	
Treatment	(1)	(1)	(1)	(1)
Total	10.0	20.0	30.0	

[1] Such sums as may be necessary.

Mr. KENNEDY. Mr. President, I move to strike all after the enacting clause of H.R. 14214 and to substitute therefor the text of S. 3280, as reported and as amended.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Massachusetts.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 14214) was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The ACTING PRESIDENT pro tempore. The motion was agreed to; and the Acting President pro tempore appointed Mr. KENNEDY, Mr. WILLIAMS, Mr. NELSON, Mr. EAGLETON, Mr. CRANSTON, Mr. PELL, Mr. MONDALE, Mr. HATHAWAY, Mr. SCHWEIKER, Mr. JAVITS, Mr. DOMINICK, Mr. BEALL, Mr. TAFT, and Mr. STAFFORD conferees on the part of the Senate.

Mr. KENNEDY. Mr. President, I move to postpone indefinitely consideration of S. 3280.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make such clerical and technical corrections as may be necessary in the engrossment of the Senate amendments to H.R. 14214, which was passed by the Senate earlier today.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE REGULATION OF OBLIGATIONS ISSUED BY FINANCIAL INSTITUTION HOLDING COMPANIES

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 3838, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 3838) to authorize the regulation of obligations issued by financial institution holding companies, and for other purposes.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing and Urban Affairs with an amendment to strike out all after the enacting clause and insert the following:

TITLE I—REGULATION OF INTEREST RATES ON CERTAIN OBLIGATIONS

SEC. 101. Section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) is amended by inserting after the second sentence thereof the following new sentence: "For the purpose of the exercise of the authority conferred by this subsection, the Board shall have the authority, in the exercise of the Board's discretion, to define any debt obligation issued by an affiliate of a member bank as a deposit of such member bank, regardless of the use of the proceeds, except that the Board may not, under the additional authority conferred by this sentence, define as a deposit any debt obligation which is an exempted security under section 3(a)(3) of the Securities Act of 1933.".

SEC. 102. Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting after the fourth sentence thereof the following new sentence: "For the purpose of the exercise of the authority conferred by this subsection, the Board of Directors shall have the authority, in the service of its discretion, to define any debt obligation issued by an affiliate of an insured nonmember bank as a deposit of such insured nonmember bank, regardless of the use of the proceeds, except that the Board of Directors may not, under the additional authority conferred by this sentence, define as a deposit any debt obligation which is an exempted security under section 3(a)(3) of the Securities Act of 1933.".

SEC. 103. Section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) is amended by adding after the first sentence thereof the following new sentence: "For the purpose of the exercise of the authority conferred by this subsection, the Board shall have the authority, in the exercise of the Board's discretion, to define any debt obligation issued by an affiliate of any such institution, association, or bank, as a deposit of such institution, association, or bank, regardless of the use of the proceeds, except that the Board may not, under the additional authority conferred by this sentence, define as a deposit any debt obligation which is an exempted security under section 3(a)(3) of the Securities Act of 1933.".

TITLE II—BANK UNDERWRITING OF NONGENERAL OBLIGATION BONDS OF STATE AND LOCAL GOVERNMENTS

SEC. 201. Paragraph Seven of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by adding the following new sentences at the end of such paragraph: "The limitations and restrictions contained in this paragraph as to dealing in and underwriting investment securities shall not apply to all other nongeneral obligations issued or guaranteed by or on behalf of a State or any political subdivision thereof or agency of a State or any political subdivision thereof (except special assessment obligations and industrial revenue bonds) which are at the time eligible for purchase by a national bank for its own account, except that (1) no association shall hold such obligations of any one obligor or maker as a result of underwriting, dealing, or purchasing for its own account (and for this purpose obligations as to which it is under commitment shall be deemed to be held by it) in a total amount exceeding at any one time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund, (2) the purchase of such obligations by a national bank as fiduciary from such bank as an underwriter or dealer shall not be permitted unless lawfully directed by court order, (3) no association may purchase such obligations as fiduciary from a member of a syndicate in which such association is participating until the syndicate has closed as to underwriting, (4) any sales of such obligations by an association to any of its depositors or borrowers or to any correspondent bank (whether for such bank's own account or as trustee) must be accompanied by a disclosure in writing to the purchaser that the association is selling as an underwriter or dealer, and (5) the purchase, during the underwriting period, of any such obligations by an association for its own investment account, from such association's own account acting as underwriter, dealer, or trader, or from any entity affiliated with such association within the meaning of subsection (b)(1) of section 2 of the Banking Act of 1933, as amended (12 U.S.C. 221a(b)(1)), shall not be permitted: *Provided,* That this restriction shall not apply to any purchases by an association for its investment account or accounts of any such obligations (A) it alone has underwritten or (B) directly from the underwriting syndicate or member thereof in which it is a participant, or to associations not in the underwriting syndicate. For purposes of this paragraph, the term 'industrial revenue bond' shall mean an obligation, not secured by the full faith and credit of the issuer, payable solely from the rentals received by the issuer from private entities."

Sec. 202. The Secretary of the Treasury shall submit an annual report to the Congress showing the extent to which the business of underwriting and dealing in State and local obligations is being carried on by commercial banks as compared with other banking institutions with a view to determining the effect of the amendment made by section 201 on the institutional distribution of such business. As used herein, the term "State and local obligations" means obligations issued or guaranteed by or on behalf of a State, political subdivision of a State, or any agency of a State or political subdivision thereof.

Sec. 203. The amendment made by section 201 takes effect upon the expiration of eighteen months following the date of enactment of this Act.

TITLE III—INTEREST RATE AMENDMENTS REGARDING STATE USURY CEILINGS ON BUSINESS LOANS

Sec. 301. Section 5197 of the Revised Statutes, as amended (12 U.S.C. 85), is amended by inserting in the first and second sentences before the phrase "whichever may be the greater", the following: "or in the case of business or agricultural loans in the amount of $25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located,".

Sec. 302. The Federal Deposit Insurance Act (12 U.S.C. 1811–31) is amended by adding at the end thereof the following:

"Sec. 24. (a) In order to prevent discrimination against State-chartered insured banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate of such State bank would be permitted to charge in the absence of this subsection, a State bank may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill or exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on niney-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such State bank would be permitted to charge in the absence of this paragraph, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a), when kowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the State bank taking or receiving such interest.".

Sec. 303. Title IV of the National Housing Act (12 U.S.C. 1724–1730(d)) is amended by adding at the end thereof the following:

Sec. 412. (a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the institution is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt that has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than that prescribed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution asking or receiving such interest.".

Sec. 305. The amendments made by this the application of such provision to any person or circumstance shall be held invalid, the remainder of the title and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby.

Sec. 205. The amendments made by this title shall apply to any loan made in any State after the date of enactment of this title, but prior to the earlier of July 1, 1977, or the date (after the date of enactment of this title) on which the State enacts a provision of law which prohibits the charging of interest at the rates provided in the amendments made by this title.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until 2 p.m. today.

The motion was agreed to; and at 12:56 p.m., the Senate took a recess until 2 p.m., whereupon, the Senate reassembled when called to order by the Presiing Officer (Mr. Helms).

AUTHORIZATION FOR THE REGULATION OF OBLIGATIONS ISSUED BY FINANCIAL INSTITUTION HOLDING COMPANIES

The Senate continued with the consideration of the bill (S. 3838) to authorize the regulation of obligations issued by financial institution holding companies, and for other purposes.

Mr. SPARKMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the following staff members of the Senate Committee on Banking, Housing and Urban Affairs be allowed the privilege of the floor during the debate and votes on S. 3838: Dudley L. O'Neal, Jr., Howard Beasley, John Patten Abshire, Anthony Cluff, William Weber, Stephen Paradise, Kenneth McLean, Ellen Oberdorf, Reginald Barnes, Alton Harris, and H. Holton Wood.

The PRESIDING OFFICER. Without objection, it is so ordered.

What is the will of the Senate?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, I understand that the bill has been made the pending business.

The PRESIDING OFFICER. That is correct.

Mr. SPARKMAN. Mr. President, the bill now pending before the Senate, S. 3838, entitled the Financial Amendments Act of 1974, incorporates what originally were three separate pieces of legislation.

Title I provides for regulation of interest rates on certain debt obligations; title II provides for bank underwriting of nongeneral obligation bonds of State and local governments; and title III provides for an increase in permissible interest rates charged on business and agricultural loans by national banks and other federally insured financial institutions.

The Subcommittee on Financial Institutions, under the chairmanship of Senator McIntyre, the Subcommittee on

Securities, under the chairmanship of Senator WILLIAMS, and the full committee itself, have spent considerable time and effort, both in hearings and executive session, in developing this composite piece of legislation which we think represents a responsible approach to dealing with a number of difficult issues.

Basically, the bill before us today contains the following provisions:

Title I gives the Federal Reserve Board the discretionary authority under section 19(j) of the Federal Reserve Act to regulate interest rates on certain debt obligations issued by affiliates of member banks, primarliy bank holding companies, regardless of the intended use of the proceeds of the debt issue.

This legislation was prompted by a general concern over the Citicorp-type of floating rate notes, specifically designed to appeal to the individual saver and investor, and their potential adverse impact in terms of disintermediation from financial intermediaries, particularly thrift institutions, thus reducing the availability of funds for housing.

This discretionary regulatory authority extends to such debt obligations generally with the single exception of those exempted under section 3(a)(3) of the Securities Act of 1933 from SEC registration and prospectus requirements. This exception is for the purpose of precluding regulatory authority over traditional commercial paper.

In the final analysis, it was the considered judgment of the committee that the Federal Reserve Board should have the discretionary authority to regulate these types of bank holding company notes regardless of the use of the proceeds, taking into account the benefits which small savers could derive from such innovative market financing techniques and balancing them with the objective of promoting an adequate supply of mortgage money through financial intermediaries.

Similar discretionary regulatory authority was also granted to the Board of Directors of the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board over institutions presently under their respective jurisdiction.

Title II permits national banks and State banks which are members of the Federal Reserve System to underwrite and deal in nongeneral obligation bonds of State and local governments, particularly revenue bonds. In effect, this title extends the same privileges currently exercised by banks in the area of general obligations to the area of underwriting revenue bonds.

Under this legislation, only bank investment grade revenue bonds are included. In addition, the bill establishes clear safeguards to protect against potential conflicts of interest and unsound banking practices in connection with the underwriting of revenue bonds.

There was a consensus among members of the committee that permitting banks to enter the revenue bond market would promote competition, thus increasing the number of bids for such bonds and thus lowering the borrowing costs to State and local governments.

As the underwriting operations of banks in the general obligation market have not, to the committee's knowledge, exposed bank depositors to risks or led to other abuses, the committee concluded that in the light of insufficient evidence to the contrary, the existing prohibition against bank underwriting of revenue bonds could no longer be justified.

In the same vein, in considering the conflict of interest arguments raised by the opponents of this legislation, the committee concluded that any such problems associated with this legislation were accounted for not only by the express limitations in the bill but by the expectations of responsible regulatory oversight. Indeed, the committee expects the bank supervisory agencies to play an important role in monitoring this legislation.

To give the securities industry a reasonable period of time to adjust to the entry of commercial banks into the business of underwriting revenue bonds, the bill would delay implementation of this authority for a period of 18 months after date of enactment. During this period, the committee also anticipates that the municipal securities rulemaking board called for in S. 2474, which has been ordered reported by the Banking Committee, would analyze bank underwriting of revenue bonds in conjunction with its responsibility for promulgating rules governing the activities of both banks and securities firms dealing in municipal securities.

Title III is addressed to the problems encountered in States having usury ceilings on business loans. This title will permit national banks and federally insured savings and loan associations and savings banks to charge interest on business or agricultural loans of $25,000 or more at a rate of up to 5 percent over the Federal Reserve discount rate on 90-day commercial paper, notwithstanding any State constitutional or statutory pro vision to the contrary.

This title is limited in its duration, expiring on July 1, 1977. In addition, any State with usury ceilings affected by the statute may opt out of the provisions of this title. Home mortgage, consumer, and other interest rate ceilings established by any State will not be disturbed by this title.

The basic problem here is that most States exempt business borrowers from usury laws. In those few States which have not, commercial lending is coming to a virtual halt and hardest hit will be the construction, agricultural, and small business firms who are unable to borrow funds locally or to channel funds into their area through outside corporate affiliates.

Although the committee concluded that Federal action of an emergency nature as reflected here was justified for a limited period at this time, it was equally concerned that this action not be construed to reflect Federal policy of overriding State laws in this area, especially with regard to consumer and home mortgage loans; thus, the limited duration and the opportunity for State statutory exemption from these provisions.

A question has arisen as to whether the provision of title III, S. 3838 would have any effect on existing loans in the affected States.

Clearly there is no intention by this legislation to disturb existing loans on contractural relationships between the parties. The title simply permits the financial institutions, after the date of enactment of the legislation, to charge interest on certain business and agricultural loans at a rate up to 5 percent above the Federal discount rate, regardless of State law. This is fortified by section 205 which states that the "amendments made by this title shall apply to any loan made in any State after the date of enactment of this title."

Thus, existing State law would continue to apply where a loan has been made prior to the date of enactment. Loans with rates of interest made prior to the date of enactment of the title, for example, would not be affected by the legislation.

In closing, I wish to express my appreciation to my colleagues on the committee, and I urge the approval of this legislation by the Senate.

Mr. President, I ask unanimous consent that excerpts from the committee report (No. 93-1120) be printed in the RECORD at this point.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

HISTORY OF THE LEGISLATION

On July 24 and 25, 1974, the Subcommittee on Financial Institutions held the third in a series of hearings on S. 2591, the Financial Institutions Act of 1973.

These hearings focused on the ability of financial institutions to attract and retain deposits in periods of high interest rates and strong competition for funds in the capital markets.

In this broader context, the Subcommittee examined the impact on disintermediation of the variable rate securities being issued by bank holding companies, such as Citicorp, which were specially designed to appeal to the individual saver and investor.

On July 11, 1974, S. Con. Res. 103 was introduced to clarify existing authority of the Federal Reserve Board under Section 19 of the Federal Reserve Act to regulate such debt obligations issued by bank holding companies.

Subsequently, on July 30, 1974, S. 3838 was introduced expressly to grant such authority not only to the Federal Reserve Board but to the Board of Directors of the Federal Deposit Insurance Corporation and to the Federal Home Loan Bank Board.

On August 8, 1974, the Full Committee ordered reported S. 1933, providing for bank underwriting of non-general obligation bonds of State and local governments, and S. 3817, providing for an increase in permissible interest rates charged on business loans by national banks and other federally insured financial institutions.

On August 12, 1974, the Full Committee, after deliberation, ordered reported S. 3838, as amended, and agreed by a major to incorporate S. 1933 and S. 3817 as separate titles to the bill, S. 3838.

TITLE I—REGULATION OF INTEREST RATES ON CERTAIN DEBT OBLIGATIONS

BACKGROUND OF THE LEGISLATION

In June, 1974, Citicorp announced its intention to issue $250 million of variable rate securities. Citicorp is the parent holding company of First National City Bank, known as "Citibank," but according to the prospectus filed by Citicorp, none of the proceeds of

Citicorp's note offering were intended for the use or benefit of Citibank.

The notes were for a term of 15 years, with interest to be paid semiannually. For the first 6 months after the date of issue, the notes paid interest at the rate of 9.7 percent. For the following 6-month period, the interest rate would be the higher of 9.7 percent or 1 percent above the average coupon equivalent of the latest weekly rate of 3-month U.S. Treasury bills, 21 days prior to the offering. For the remainder of the 15-year term, the interest rate would be adjusted for each payment date to "float" 1 percent above the Treasury bill rate, similarly measured.

In addition, the holders of the notes could redeem them in full on any interest date, upon 30 days notice. The notes were to be issued in $1,000 denominations, with a minimum required purchase of $5,000.

The "floating" interest rate, the possibility of semiannual redemption and the small minimum purchase requirement were all features admittedly designed specifically to appeal to the small saver and individual investor. They also made for a highly innovative financing instrument.

Investor response was so enthusiastic that the original Citicorp offering of $250 million was increased to $850 million. In addition, certain other bank holding companies announced their intention to offer similar issues, although for somewhat smaller amounts.

At the same time, there was substantial concern expressed in different quarters about the potential adverse effect these notes would have in terms of disintermediation from financial intermediaries, particularly thrift institutions, where savings inflows had already declined, thereby reducing the availability of funds for housing.

In addition, it was felt by some that notwithstanding the statement in the Citicorp prospectus that the proceeds of the bank holding company issue were intended *solely* for the benefit of *non-bank* subsidiaries, the Federal Reserve Board nevertheless had the authority, under Section 19 of the Federal Reserve Act, to regulate such issues in the manner prescribed for regulating bank deposits. According to this view, financial transactions engaged in by banks and their parent holding companies are often so closely intertwined that it is difficult for a regulatory body to determine whether the proceeds of any individual borrowing by a bank holding company confer an indirect benefit on the subsidiary bank. This difficulty is heightened when the assets of the subsidiary bank constitute a substantial percentage of the total assets of the holding company.

However, in response to a request from SEC Chairman Ray Garrett to the Federal Reserve Board for comment on the Citicorp prospectus, Governor George Mitchell, in a letter dated July 3, 1974, stated that "The Board's present statutory powers do not authorize it either to prevent or to regulate the terms of the Citicorp issue."

Governor Mitchell went on to express the concern that—

"Given the present sensitive state of financial markets and the extent to which savings institutions are already under heavy pressure, however, the result of the present large offerings—and any other offerings like it, whether issued by bank holding companies or other corporations—can well be to divert the flow of savings from the residential mortgage market and to deprive homebuyers of needed mortgage financing. It is not clear, therefore, that an offering of this type is in the public interest at this time."

Subsequently, at the strong urging of Federal Reserve Board Chairman Arthur Burns, Citicorp agreed to amend its offering to defer the initial redemption date for the notes until June 1, 1976. As a consequence, Citicorp's $850 million offering was reduced to $650 million, presumably reflecting diminished investor interest. Other bank holding note offerings have, in turn, been similarly modified.

Despite the effect of diminishing the notes' attractiveness by deferring their initial redemption date, substantial concern remained over the impact of further offerings of this type in terms of disintermediation from savings institutions and, correspondingly, on the continued availability of mortgage money.

At the same time, however, there was considerable sentiment expressed both at the Subcommittee's hearings and at the Full Committee markup, against discouraging innovation and competition with the financial industry.

On balance, it was the considered judgment of the Committee that the Federal Reserve Board should have the discretionary authority to regulate the Citicorp type of bank holding company notes, regardless of the use of the proceeds, taking into account the benefits which smaller savers could derive from such an innovative approach, and balancing them with the objective of promoting an adequate supply of mortgage money through financial intermediaries.

At the same time, the Committee recognized that the need for this legislation was prompted, in large part, by the particular inability of thrift institutions, as presently structured, to compete adequately for funds in a climate of high interest rates. While protection against disintermediation may be reasonable grounds at the moment for the grant of authority contained in this act, the Committee believes that such protection will likely be unnecessary if appropriate comprehensive financial reform legislation is enacted.

EXPLANATION OF THE LEGISLATION

Section 101 gives the Federal Reserve Board the discretionary authority under Section 19(j) of the Federal Reserve Act to regulate interest rates on certain debt obligations issued by affiliates of member banks, primarily bank holding companies, regardless of the intended use of the proceeds of the debt issue.

This discretionary regulatory authority extends to such debt obligations, generally, with the single exception of those exempted under section 3(a)(3) of the Securities Act of 1933 from SEC registration and prospectus requirements. This exception is for the purpose of precluding any regulatory authority by the Board over securities such as commercial paper issued by bank holding companies and their nonbank subsidiaries, characteristically offered and sold only to institutional investors in large denominations.

In the interest of granting maximum flexibility to the Board, the Committee was unwilling to provide for any additional statutory exceptions to the grant of discretionary authority contained in this Act. At the same time, it was clearly the Committee's intent that the exercise of any such authority by the Board be limited in scope.

For example, there was no intention on the part of the Committee that the Board exercise its authority to regulate borrowing by bank holding companies or their affiliates when such borrowing clearly has no relationship to the banking affiliate. Nor did the Committee intend the Board to regulate standard unrelated business obligations such as management contracts or accounts payable. The authority conferred to the Board by this act should be exercised only after giving careful consideration to the impact which the debt obligations of bank holding companies and bank affiliates might have on disintermediation from financial institutions and the concomitant impact on the availability of funds for housing.

In this regard, the Committee fully expects that the Board, in considering the exercise of this authority, will focus on those characteristics of such future debt obligations, in addition to their interest rates, which most closely resemble the characteristics of bank deposits and which, therefore, are most likely to determine their attractiveness to persons with funds invested in depository institutions. Such characteristics include the ease and frequency of redemption, the size of denomination and the minimum purchase amount required.

For this purpose, the Board may, in the exercise of its discretion, define such debt obligations as deposits, in which case the Board's authority to regulate such debt obligations is limited to its authority to set interest rate ceilings pursuant to section 19(j) of the Federal Reserve Act. The section 3(a)(3) exemption contained in this Act relates specifically to the increased authority of the Board under Section 19(j) to define such debt obligations as deposits as provided by this act.

Section 102 amends section 18(g) of the Federal Deposit Insurance Act to grant to the Board of Directors of the Federal Deposit Insurance Corporation discretionary regulatory authority corresponding to that of Section 101.

Section 103 amends section 5B(a) of the Federal Home Loan Bank Act to grant to the Federal Home Loan Bank Board discretionary regulatory authority corresponding to that of Section 101.

TITLE II—BANK UNDERWRITING OF NONGENERAL OBLIGATION BONDS OF STATE AND LOCAL GOVERNMENTS

PURPOSE OF THE LEGISLATION

The purpose of this bill is to assist cities and states to obtain financing at the lowest possible cost by permitting national banks and state banks which are members of the Federal Reserve System to underwrite and deal in revenue bonds. The proposed legislation would modernize and augment the powers of national banks to participate in public financing and would provide for local governments a more competitive market in which to raise funds for badly needed public improvements. With banks competing for the underwriting of revenue bonds, the Committee believes the cost of borrowing to state and local governments will be reduced.

Although this bill would permit banks to underwrite revenue bonds, similar authority would not be extended to special assessment obligations and industrial revenue bonds or to revenue bonds which are not eligible for purchase by a bank as an investment. Under current bank regulatory procedures, bank investment grade bonds must have a quality rating of B-aa or higher.

The bill would establish clear limitations to guard against potential conflicts of interest and unsound banking practices in connection with the underwriting of revenue bonds. Briefly, these limitations would insure that:

1. Banks could underwrite and deal only in revenue bonds eligible for purchase by national banks. This will prevent banks from dealing in risky or speculative issues:

2. A bank's investment in the revenue bonds of any one obligor would be limited to 10% of its capital and 10% of its surplus;

3. A bank acting as an underwriter or dealer could not sell revenue bonds to any of its trust accounts unless lawfully directed by court order;

4. No member of an underwriting syndicate could sell bonds to the trust department of any other bank which is a member of the syndicate until the syndicate has closed. This prohibition would prevent reciprocal dealing in an attempt to circum-

vent the self-dealing prohibitions on a member of an underwriting syndicate;

5. Sale of revenue bonds by a bank to its depositors, borrowers, or correspondent banks would be required to be accompanied by a statement disclosing that the bank is acting as an underwriter or dealer;

6. A bank could not transfer revenue bonds which it purchased as underwriter to its investment account during the underwriting period, with certain exceptions; and

7. The Secretary of the Treasury would be required to submit an annual report to the Congress showing the distribution of underwriting business in the revenue bond market between commercial banks and investment banking firms.

HISTORY OF THE LEGISLATION

Prior to 1933, there was no clear line between investment banking and commercial banking. Numerous banks, engaged in the underwriting and distribution of securities during the 1920's, suffered severe financial difficulties when the stock market collapsed in 1929.

As a result, the Glass-Steagall Act of 1933 was designed to separate commercial banking from investment banking. Although commercial banks were prohibited from underwriting and dealing in "investment securities," an exception was made for U.S. Government bonds and general obligation bonds of State and local governments. This exception was designed to facilitate debt financing by Federal, State and local governments. Banks were not, however, authorized to underwrite nongeneral obligation bonds issued by states and municipalities, thus continuing a pattern established in the National Banking Act of 1927 (McFadden Act). In any event, nongeneral obligation or revenue bonds were not a common form of municipal finance at this time. It should be noted, however, that the Glass-Steagall Act did not preclude banks from buying revenue bonds for their own investment account and under the present regulations of the Comptroller many banks do so.

Since 1933, the authority of banks to underwrite Government bonds has been extended to include the bonds of the International Bank for Reconstruction and Development, the TVA, the Inter-American Development Bank, local public housing authorities, the Asian Development Bank, local public housing authorities, and bonds and participation certificates of the Federal National Mortgage Association. Thus, the Federal government over the past forty years has attempted to facilitate public financing by authorizing the use of the underwriting capabilities of commercial banks as well as securities firms.

Legislation to permit banks to underwrite State and local revenue bonds has been introduced in the House of Representatives since 1955, and the House Committee on Banking and Currency held hearings on such bills in 1963 and 1965. In 1967, Senator Proxmire introduced legislation (S. 1306) in the Senate substantially identical to the bill. This earlier legislation was approved by the then Committee on Banking and Currency of the Senate and passed by the full Senate. Unfortunately, no action was taken on the bill by the House Banking Committee, and the measure died. In 1968 the House of Representatives approved an amendment to the 1968 Housing Act authorizing commercial banks to underwrite and deal in investment quality housing, university, and dormitory revenue bonds. This amendment was accepted by the Senate and enacted into law on August 1, 1968.

This bill was introduced in the Senate on June 1, 1973 by Senator Proxmire as S. 1933, and referred to the Committee on Banking, Housing and Urban Affairs. Hearings were held before the Subcommittee on Securities on May 6, 7, and 8. The Subcommittee met on July 23 and reported the bill to the full Committee. The full Committee met on August 8 and agreed to report the bill, with an amendment, to the Senate.

NEED FOR LEGISLATION

The principle argument in favor of this bill is that permitting banks to enter the revenue bond market will promote competition, increase the number of bids for such bonds, and thus lower the cost of borrowing to state and local governments. According to James E. Smith, Comptroller of the Currency, "The number of bidders is extremely important to a hard-pressed municipality since the figures show the interest paid is inversely related to the number of bidders. In otherwords, the greater the number of bidders the lower the rate of interest which the city will have to pay on its bonds."

This view was supported by the Federal Reserve Board and the Department of the Treasury in testimony before the Committee. Furthermore, the report of the President's Commission on Financial Structure and Regulation (the Hunt Commission) recommends that "commercial banks and their subsidiaries, in addition to the authority granted by the Housing Act of 1968 and existing authority to underwrite revenue bonds classified by the Comptroller of the Currency as general obligations, be permitted to underwrite revenue bonds secured by revenues from essential public services with (1) an established record of annual earnings sufficient to cover prospective annual principal and interest charges with a satisfactory margin, or (2) rated "A" or better by established rating services."

The Committee was presented with studies by Professor Reuben A. Kessel of the University of Chicago tending to support the conclusion that the number of bids for a bond issue and the cost of borrowing are inversely related. Dr. Kessel's conclusions were, however, disputed by Professor Simon Whitney, Visiting Professor of Economics of Iona College, who testified in opposition to the bill.

All studies presented to the Committee show that State and local governments pay a higher rate of interest on revenue bonds than they do on general obligation bonds. Most of these studies suggest that additional competition in the revenue bond underwriting market would result in at least a small but in no event inconsequential, savings in borrowing costs to municipal and State governments. Dr. Kessel's study demonstrates that at present, revenue bonds receive, on average, two fewer bids than general obligation bonds. If indeed bank entry increased the average number of bids on revenue bonds by two, it appears that underwriting costs (spread) might be reduced by 50 cents per $1,000 bond and reoffering yields by 5 to 10 basis points.

While these are not monumental figures for any one sale, the total amount would be substantial. For example, a ten-million dollar issue with a 10-year average-life could enjoy a reduction in the original cost of issue of $5,000 and a $5 to $10 thousand reduction in the annual interest payments over the life of the bond. These figures are simplifications, but if bank entry actually increased competition for the underwriting of revenue bonds, the aggregate savings to municipalities could be $50 to $100 million in interest costs over the life of all revenue bonds sold in a given year.

Dr. Reuben Kessel attempted to estimate the dollar savings to State and local governments from bank entry into the revenue bond market. Using the most conservative of the three alternatives he identified, Dr. Kessel estimated that the overall savings would be $5.60 per bond. By that calculation, the absence of bank competition in revenue bond financing over the past 7 years has cost state and local government an extra $280 million over the lives of the bonds underwritten during this period.

The results of Dr. Kessel's study and similar studies by the Comptroller and the Federal Reserve Board tend to show there would be small but measurable savings to State and local governments as a result of bank competition. In addition to this statistical evidence, the committee believes it is reasonable to assume as a general rule that additional competition tends to reduce costs. Our antitrust laws and other policies promoting free and open competition are intended to produce the lowest possible price to the consumer. Although it is often difficult to measure precisely the effect of increased competition, in our free enterprise economy there must be a presumption that competition is to be preferred to the absence of competition. Thus, those who would restrict competition have the burden of demonstrating that competition will not in fact reduce costs or that the direct cost savings would be offset by socially undesirable externalities.

The Committee believes a reasonable case has been made that bank competition will lower interest charges to state and local governments. Although statistical data was presented by the Securities Industry Association which indicates that revenue bonds and general obligations receive almost an identical number of bids, no convincing evidence has been presented to show that bank competition would not lower the cost of borrowing to state and local governments. Further, the operation of banks in the general obligation market has not, to the Committee's knowledge, exposed bank depositors to serious risks or led to other abuses. There is no evidence to suggest that the experience with revenue bonds would be otherwise. In light of the available evidence, the Committee concluded that the existing prohibition against bank underwriting of revenue bonds could not be justified.

One natural consequence of permitting bank competition in underwriting revenue bonds would be a broadening of the distribution pattern. Commercial banks have many potential customers which are not reached by securities firms. The addition of these new potential customers should increase the overall demand for revenue bonds, thus resulting in a lower rate of interest. The argument has also been made that banks could help stabilize the revenue bond market in terms of tight money. The banks, according to this argument, have demonstrated their willingness and ability to commit capital to the general obligation market under adverse credit conditions, even to the extent of lending to communities at below market rates. It is to be hoped that this commitment will carry over to the revenue bond market.

Also, the very fact that commercial banks are prohibited from underwriting municipal revenue bonds casts some stigma on these bonds in the eyes of the investing public. By permitting banks to underwrite revenue bonds, any possible stigma associated with such bonds should be removed, leading to greater investor acceptance and a consequent reduction in the interest charged to the issuer.

Another advantage of permitting banks to underwrite and deal in revenue bonds would be to strengthen the secondary market for revenue bonds. To the extent additional dealers are prepared to make a strong secondary market, the liquidity of outstanding revenue bonds is enhanced. With increased liquidity, investors should be willing to accept a lower rate of return on the initial reoffering, thereby reducing the net interest cost of State and local governments.

The Committee is mindful of the conflict-of-interest arguments raised by those who have opposed this legislation. One possible conflict of interest lies in the role of a bank as an underwriter and in its role as investment adviser to its correspondent banks. The argument has been made that an underwriting bank, in order to rid itself of a slow issue, might pressure its correspondent banks to purchase such issues on unfavorable terms. A second problem is that a bank might buy and sell bonds for its trust accounts in an attempt to manipulate the price of the bonds in order to avoid a loss in its investment account.

The Committee is convinced that any conflict-of-interest problems associated with this legislation can be corrected by the express limitations in the bill and vigorous regulatory oversight. Banks have been underwriting general obligation bonds for the last 34 years without apparent abuses. In testifying before the Committee, James Smith stated: "... the experience of my office in regard to national banks which underwrite other government obligations is that conflict-of-interest does not seem to be a problem. I do not think the underwriting of revenue bonds will create a sudden dilemma in this respect." Similar judgments were expressed by the Federal Reserve Board, the General Counsel of the Treasury, and the President's Commission on Financial Structure and Regulation (the Hunt Commission). Moreover, none of the opponents of the bill could provide the Committee with documented evidence that banks have, in fact, abused their authority to underwrite general obligation bonds.

PROTECTIVE MEASURES

In view of the experience with general obligation bonds, the Committee believes that banks can safely be extended authority to underwrite revenue bonds. Nevertheless, the authority to underwrite revenue bonds should not be considered an inherent right of commercial banks, but rather a privilege which can be revoked if evidence of abuse develops. In this connection, the Committee expects the bank supervisory agencies to play an important role in monitoring this legislation. The Committee expects the bank supervisory agencies to be diligent in scrutinizing purchases of revenue bonds by correspondent banks from underwriting banks, to insure that such purchases are not being made upon terms unfavorable to the correspondent bank. The Committee also expects the supervisory agencies to examine closely the activities of the trust accounts of commercial banks to insure that such accounts are not used to influence the price of revenue bonds in order to further the banks underwriting or investment activities.

To guard against potential problems, the bill would require the Secretary of the Treasury to submit an annual report to the Congress showing the distribution of underwriting business in the revenue bond market between commercial banks and investment banking firms. Professor Simon Whitney, testifying in behalf of the Securities Industry Association, argued that commercial banks could force smaller investment banking firms out of business, thereby resulting in a reduction in competition. Although the Committee believes that the rapidly expanding market for state and local bonds will provide sufficient opportunity for both commercial banks and investment banks to engage in the underwriting business, the Committee is confident that the Secretary's annual report will provide the Congress with sufficient information to monitor developments in this area.

To prevent self-dealing between an underwriting bank and its own investment account, the bill would prohibit a member bank from transferring revenue bonds which is purchased as an underwriter to its investment account during the underwriting period. In addition, a bank acting as underwriter or dealer would not be permitted to sell revenue bonds to any of its trust account unless lawfully directed by court order. It is expected that bonds purchased by a bank as an underwriter will be made the subject of a genuine public offering. Furthermore, if a bank sells revenue bonds to its depositors, customers, or correspondent banks, the transaction must be accompanied by a statement disclosing the fact that the bank is acting as an underwriter or dealer.

Although the Hunt Commission recommended that bank underwriting privileges be limited to revenue bonds rated "A" or better, the Committee, after careful consideration of this recommendation, could find no reason to prohibit banks from underwriting revenue bonds which they are permitted to purchase for their investment portfolio. Under present procedures, the Comptroller of the Currency determines the quality of municipal bonds in which banks are permitted to invest. Under the bill, the Comptroller's determinations as to appropriate investment quality would control the revenue bonds eligible for bank underwriting.

COMMITTEE AMENDMENTS

In reporting the bill, the Committee recommends an amendment which is designed to give the securities industry a reasonable period of time to adjust to the entry of commercial banks into the business of underwriting nongeneral obligations of state and local governments. As so amended, the bill would delay the authorization of commercial banks to engage in the underwriting of revenue bonds for 18 months. During this period, the Committee expects both the securities and banking industries to prepare for the new and more competitive underwriting environment.

The Committee has favorably reported on S. 2474 which would establish a Municipal Securities Rulemaking Board with responsibility for promulgating rules governing the activities of both banks and securities firms dealing in municipal securities. During the 18-month grace period before banks would be permitted to enter the revenue bond business, the Committee expects the new Board to analyze the regulatory needs with respect to revenue bonds, and particularly the need for the affirmative prohibitions continued in this Title. If the Board determines that these provisions constitute unnecessary regulatory restrictions, the Committee assumes that the Board will make appropriate recommendations to the Congress. If the restrictions in this Title are desirable, the Committee, of course, assumes they will then be extended to bank dealing in general obligation bonds.

TITLE III—INTEREST RATE AMENDMENTS REGARDING STATE USURY CEILINGS ON BUSINESS LOANS

PURPOSE OF THE LEGISLATION

This Title would amend the National Banking Act, the Federal Deposit Insurance Act and the National Housing Act to permit national banks, and Federally-insured savings and loan associations and savings banks to charge interest on business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, at a rate of not more than 5 percent in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the institution is located. The amendments under this Title shall not apply to any loan made after July 1, 1977, the cut-off date for this legislation, on after the effective date of any law enacted by a state which prohibits the charging of interest at the rates provided in the amendments made by this Title. Home mortgage, consumer and other interest rate ceilings established by any state would not be disturbed. This Title will have a significant effect in only three states each having a 10 percent ceiling on business loans—Arkansas and Tennessee by state constitution and Montana by statute. For the most part, all other states exempt business loans from usury ceilings or have ceilings at a level which do not create a problem under current conditions.

The basic problem is that in Tennessee, Arkansas and Montana, the financial industry has been caught in a pinch because of the high price it must pay for money as opposed to the interest it can earn. In Tennessee and Arkansas by constitution and in Montana by statute, the maximum interest which may be charged business borrowers is 10 percent whereas the financial institutions must pay up to 13 percent for money bought through the Federal Reserve System in the so-called Federal funds market. Most other states exempt business borrowing from the usury statutes. Although many of the financial institutions in these states have continued to make business loans in anticipation that rates will go down or that the state would take necessary action, they will not be able to continue this practice over a period of time and remain solvent. Hardest hit will be the construction, agricultural and small business firms who can not channel funds into the state through outside corporate subsidiaries.

To give the state legislatures and constitutional conventions sufficient time to act and to avoid unemployment and severe economic, reprecussions during the interim, Senator Brock on his behalf and the behalf of the Senators from the affected states (Senators Baker, Mansfield, and Fulbright) introduced S. 3817 which will allow national banks and Federal-insured financial institutions to charge on corporate loans interest at a rate of 5 percent in excess of the Federal discount rate which is now about 8 percent, regardless of state usury laws. The bill has a duration of three years and will not affect consumer or home mortgage loans.

Hearings were held on S. 3817 on July 31, 1974, before the Subcommittee on Financial Institutions and all of the Federal financial regulatory agencies (the Comptroller of the Currency, the Federal Reserve Board, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation) supported the legislation. The Governor of Tennessee at well as the Tennessee State Banking Commissioner supported S. 3817. Both lenders and business borrowers from the respective states urged passage of the bill. The only opposition came from the Conference of State Bank Supervisors, which took the position that the legislation is an encroachment on the states' prerogative of setting usury rates.

The primary question which this legislation raises is whether the situation is sufficiently actue to justify Federal action at this time. Witnesses before the Subcommittee testified that, although banks and other financial institutions in these states (Tennessee, Arkansas, and Montana) have endeavored to the best of their ability to continue to serve commercial borrowers, its is unrealistic to assume that that can be done for any considerable period of time, both from the standpoint of the marginal costs of money which these institutions are having to pay to acquire funds and also in terms of opportunity costs for the application of their funds to alternative sources. For example, tax exempt municipals yield 7.70% and the Federal funds yield ranges from 11.5% to 14%.

Testimony received from the representatives of the Tennessee Bankers Association indicated that current loan policy by Tennessee bankers is restrictive in not making loans to new customers and reducing loans to present customers. The situation will become more severe in the fall with the heavy loan demands for the agricultural crop. It is estimated that $75 million of commercial construction projects could not be completed because funds have left the state since the first of the year. It is further estimated that there has been a loss of at least $200 million of capital investment due to the 10% usury law. The majority of these losses were by relatively small firms that do not have access to national money markets. This can be translated into a loss of about 14,000 jobs.

In Arkansas, Montana and West Tennessee it is anticipated that severe problems will be faced in meeting the need for agricultural lending. A witness from Arkansas testified that it is essential that the situation be corrected before the next agricultural crop is planted in the spring. This bill is designed to meet this emergency.

Although the Committee concluded that evidence before it justified Federal action of an emergency nature as envisioned here, it is concerned that this action not be construed as reflecting a Federal policy of overriding state law in this area, especially with respect to consumer and home mortgage loans. The Committee notes that the authors have characterized this as emergency legislation with a termination date of July 1, 1977. To reflect further a congressional policy of permitting a state the primary opportunity to determine its usury statutes, the Committee has amended the bill to allow a state, after passage of this Act, to override this Federal legislation by taking appropriate action at the state level to reassert or restate any state usury provision that might have been altered or affected by passage of this Title.

Testimony before the Subcommitte indicated that the cash customer could also benefit in the affected states from an increase in the interest rate structure. Dr. John Dominick of the University of Arkansas told the Subcommittee that prices of consumer durables in that state with its low usury rates are considerably higher than in surrounding states. Dr. Dominick interprets this as meaning that cash buyers are subsidizing the credit customers.

An important question concerns the effect that this bill might have on small business firms. As originally drafted, it was applicable only to corporate borrowers. There was a broad consensus among the witnesses that the benefits of the legislation should be extended to the unincorporated business firm. Savings and loan representatives pointed out that many construction loans are made to unincorporated borrowers. In addition, many unincorporated small business firms are competing with large national corporations which can go outside of the state for financing. So that small business and agricultural firms can fully enjoy the benefits, this legislation was amended by the Committee to extend to business and agricultural loans of $25,000 or more. Although it might be argued that small business firms are not able to pay in excess of 10% interest, the alternative which they face in the absence of this legislation is the unavailability of funds altogether. One small business witness who appeared before the Committee testified that he simply could not operate in competition with the large firms unless he was able to compete on an equal basis in bidding for credit.

In sum, the evidence before the Committee indicates that loans in the affected states are becoming unavailable, liquidity of financial institutions is adversely affected, small borrowers are disadvantaged with competing with national corporations and there is an outflow of funds from the states. Unless remedial action is taken in the very near future, these states could suffer from unemployment and business failures. Since it will take a considerable length of time to amend the constitution in at least one of the states to provide a complete remedy, the Committee has acted favorably upon this Title to meet the emergency by providing an interim solution.

ADDITIONAL VIEWS OF MESSRS. TOWER, BENNETT, AND WEICKER

In our opinion, the legislation adopted by the Committee in Tile I, to regulate the debt obligations of bank holding companies, is certainly premature and may well be unnecessary. It represents an overreaction to the concern that the amount of small-denomination, variable-rate notes, such as those issued by Citicorp, could total as much as $15 billion, with most of this coming out of savings deposits at thrift institutions.

The truth of the matter is, however, that the amount of notes being offered to the public by bank holding companies has fallen far short of earlier emotion-laden projections. Investor interest in these offerings has lagged in recent weeks, as indicated in the following article from the August 21, 1974 issue of The Wall Street Journal, and the amount of such offerings may now total only $1½ to $2 billion:

"SAVINGS BANK CUTS FLOATING-RATE NOTE ISSUE TO $40 MILLION

"The wobbly fortunes of floating-rate note issuers were underscored anew yesterday when the lack of investor demand forced one issuer to cut the size of its offering, another to announce an interest rate boost on a sale planned for tomorrow and a dramatic price break in an issue offered earlier this month.

"New York Bank for Savings, the nation's fourth-largest mutual thrift-organization, became the first savings bank to market floating-rate notes yesterday when it sold $40 million of seven-year notes, $10 million less than originally planned. The notes were offered at a price of 100 with 10% interest through May 31, 1975, and from June 1, 1975, through Feb. 29, 1976, the interest will be 10% or 1¼ percentage points above the interest-yield equivalent of an average three-month Treasury bill, whichever is higher. The notes provide an 8% interest floor, but aren't redeemable before maturity. The notes issued recently by bank holding companies are repayable by the issuer at their face amount after two years but don't carry a minimum interest guarantee.

"Underwriters managed by Morgan Stanley & Co. marketed the offering.

"Mellon National Corp. said it increased to 10%, from 9.7%, the interest rate initially payable on its $100 million of floating-rate notes, due 1989, scheduled for sale tomorrow.

"Chase Manhattan Corp.'s 9.7% floating rate notes, which were offered at a price of $100 in a $200 million sale Aug. 2, plunged $2.375 for every $100 face amount after syndicate price restrictions were removed yesterday. The notes closed at 97⅝, after trading as low as 97¼."

Accordingly, the adverse impact which debt obligations issued by bank holding companies may have on the inflow of funds to thrift institutions and housing appears to have been overstated. Furthermore, we believe that market forces will continue to limit the extent of investor demand for these same type of issues in the future, and the discipline of the marketplace will also limit the number and amount of such offerings being made to the public.

In summary, the broad grant of authority to the Federal Reserve under Title I of this bill is unwarranted at this time. It treats symptoms rather than causes, and represents a piecemeal approach to solving problems that have predictably emerged in the financial sector. This type of action will only need to be undone at a later date if a meaningful reform of the financial structure is to be undertaken. Any supposed benefit is now outweighed by the adverse consequences which it holds for small savers and the need to encourage innovative methods of financing.

JOHN TOWER.
WALLACE F. BENNETT.
LOWELL P. WEICKER, Jr.

Mr. TOWER. Mr. President, I am pleased to take this opportunity to comment on the provisions of S. 3838.

First of all, I would like to state that I do not feel equal approbation for all portions of this bill. It is untimely in its primary purpose of inhibiting an innovative effort to encourage the small investor. I refer specifically to title I, which gives the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board discretionary authority to regulate interest rates on debt obligations issued primarily by affiliates of bank holding companies.

The initial enthusiastic response to such issues stimulated the fear that they would aggravate disintermediation from financial intermediaries and deprive the economy of housing funds. This fear has subsequently been allayed by the diminished interest which met deferral of the offerings' initial redemption date.

This seems to me to be another case of approaching a problem backward. The saver, who has an understandably fluctuating will to conserve and invest his funds, is the key to the entire question. His thrift and farsightedness should be encouraged and rewarded in order to perpetuate the accompanying benefits to the economy. Is it fair to penalize him because financial institutions lack the flexibility to compete with offerings like the Citicorp issues? There is no need to mitigate further an already innocuous situation, and I would so much rather be rising in support of a substantial measure for financial reform.

I have no objection to title II of the bill, which would permit banks to underwrite revenue bonds. This provision offers a means whereby State and local governments may more easily raise funds for necessary improvements. It provides adequate safeguards against inappropriate and unwise investments, and will undoubtedly benefit many worthwhile projects.

Title III allows national banks and federally insured savings and loan associations and savings banks to raise the interest rates on business or agricultural loans to a maximum of 13 percent, notwithstanding State usury laws. This section merely corrects a financial aberration existing in Tennessee, Arkansas, and Montana due to State usury ceilings. When banks can only make commercial loans at a loss, the consequences are obvious. I am a strong supporter of State sovereignty, but it appears to me that this circumstance warrants emergency legislation of this type. There is a termination date of July 1, 1977, to this title, and any of these three States may override this provision by appropriate action.

In conclusion, I urge support for this legislation on the basis of the assistance it renders to certain areas of the economy. I also believe that the specialized need for this bill is another important indication of the necessity of a greater and more general effort for reform.

BANK UNDERWRITING OF REVENUE BONDS

Mr. PROXMIRE. Mr. President, title II of S. 3838 includes the provisions of a separate bill, S. 1933, which I introduced on July 1, 1973. The purpose of the legislation is to lower the cost of municipal borrowing by permitting commercial banks to underwrite municipal revenue bonds. Under present law, commercial banks are permitted to underwrite general obligation bonds issued by State and local governments. However, the same law prohibits banks from underwriting municipal revenue bonds. The legislation would correct this anomaly by permitting banks to underwrite both types of municipal bonds.

Hearings were held on S. 1933 in May of this year and on August 8, the full committee approved the bill with only a single dissenting vote. In order to expedite passage this year, the provisions of S. 1933 were incorporated as title II of S. 3838.

The legislation before the Senate is supported by the cities but is strongly opposed by investment banking firms. To understand the present controversy, it is necessary to review the history of legistion regulating the underwriting activities of commercial banks.

Prior to 1933, there was no clear-cut division between commerical banking and investment banking. Many commercial banks had investment banking affiliates or departments which engaged in a wide variety of activities including underwriting and dealing in investment securities. Following the financial collapse of 1929 and the wave of bank failures, Congress considered a number of proposals for reforming our financial system. One such proposal called for a strict separation of commercial banking and investment banking activities. Those who favored this proposal argued that it was inappropriate for depository financial institutions to be engaged in speculative activities in the securities field.

The prohibition against commercial banks engaging in the investment banking business was contained in the Glass-Steagall Act of 1933. However, general obligation bonds issued by State or local governments were exempted from this prohibition. The purpose of the exemption was to assist State and local borrowing by continuing to make available the underwriting facilities of commercial banks. Since municipal securities did not have the speculative character often associated with corporate or foreign bonds, the exemption was in keeping with the major purposes of the Glass-Steagall Act. The debate on the Glass-Steagall Act made it clear that Congress did not intend the Glass-Steagall prohibitions to impair the ability of State or local governments to secure favorable financing by using commercial banks to underwrite their securities.

In limiting the exemption to general obligation bonds, the Glass-Steagall Act effectively precludes commercial banks from underwriting municipal revenue bonds. Unlike a general obligation bond which is backed by the full faith and credit of the issuing government, a revenue bond is backed by the revenues accruing from a specific project such as a bridge or sewer system. When the Glass-Steagall Act was written, revenue bonds were a rarely used instrument of municipal finance. Since that time, they have grown to constitute 44 percent of the entire municipal bond market.

As the use of municipal revenue bonds has grown, the distinction between general obligation bonds and revenue bonds has largely evaporated. Today revenue bonds have roughly the same investment characteristics and low default record experienced by general obligation bonds. Given the increasing size of the revenue bond market, no municipal government can afford to permit a default on its revenue bonds without seriously jeopardizing the rating on its general obligation bonds. Hence the legal distinction between revenue bonds and general obligation bonds is illusory. As a practical matter, the full faith and credit of the issuing municipality stands behind a revenue bond as well as a general obligation bond.

Also, the Glass-Steagall Act does not prohibit commercial banks from investing in municipal bonds of all types including revenue bonds. Thus if revenue bonds constitute a legitimate form of bank investment, the underwriting of these securities would not seem to constitute an unacceptable risk to the bank. In fact, just the reverse appears to be true. When a bank buys a revenue bond for its own investment account, it can be carried on the books for as long as 30 years. However, when a bank underwrites a new revenue bond issue, it only carries the bonds for 30 days.

Investment banking firms compete vigorously with commercial banks in the business of underwriting general obligation bonds. However, in the revenue bond market, investment bankers are insulated from bank competition by the Glass-Steagall Act. Because of this statutory monopoly, the cost of borrowing in the revenue bond market is higher than it otherwise might be. This means that the hard pressed taxpayer must pay more for municipal services financed through revenue bonds.

All studies presented to the Senate Banking Committee confirm that the cities are paying more on revenue bond issues compared to general obligation bonds of comparable risk and maturity. I believe that most, if not all, of this difference could be eliminated if banks were permitted to compete in the revenue bond market as they now compete in the general obligation bond market. Bank competition would help reduce the cost of municipal borrowing in two ways. First, the presence of bank competition would reduce the underwriting spread between the price paid by investors and the net amount accruing to the issuer. It is a generally accepted principle of economics that the price of any good or service decreases when the number of firms supplying that good or services increases. In this respect, the business of underwriting bonds is no different from any other business. The more competing firms there are, the lower the price charged for underwriting services. This analysis is confirmed by a 1967 Treasury study which shows that revenue bond issues receive 1.64 fewer bids than general obligation issues. The study also showed that the net interest paid by a municipality declined as the number of bids increased.

Second, permitting commercial banks to underwrite revenue bonds will lower municipal borrowing costs by expanding the market for these issues. Commercial banks have access to potential investors who are not reached by investment banking firms. Moreover, the very fact that revenue bonds cannot be underwritten by commercial banks creates a doubt in the minds of some investors that revenue bonds are not a suitable investment. This unwarranted stigma would be removed if banks were permitted to underwrite revenue bonds just as they now underwrite general obligation bonds.

In short, all of the available evidence indicates that State and local governments will save money as a result of this legislation. According to one study by Dr. Reuben Kessel of the University of Chicago, the absence of bank competition in revenue bond underwriting has cost State and local governments an extra $280 million over the lives of the bonds underwritten during the past 7 years. Other studies indicate the savings may be somewhat higher or somewhat lower. But whatever the figure, it is a high price to pay to preserve the statutory monopoly enjoyed by investment banking firms.

One can often shed light on a complex legislative issue by examining who is for it and who is against it. Commercial banks are naturally for the legislation. Investment banking firms are naturally opposed. These views stem from the self interests of the parties concerned and can be expected. But what do the municipal bonds issuers say? They are the ones who have the most at stake. How do they view the legislation permitting banks to underwrite revenue bonds? The answer is that they support it. The legislation now before the Senate is strongly supported by the National League of Cities-Conference of Mayors, and by the Municipal Finance Officers Association. These are the most knowledgeable organizations on the subject of municipal finance. They say that would save money if bank competition in revenue bond financing were permitted and I believe they are right.

Mr. President, one of the principle arguments advanced to keep banks out of the revenue bond underwriting field is to prevent a conflict of interest from arising. Commercial banks act in a fiduciary capacity in a variety of ways with respect to their depositors, loan customers, trust department customers, and correspondent banks. It has been argued that commercial banks might somehow abuse this position of trust if they are permitted to act as a dealer and underwriter of municipal revenue bonds. According to this view, a bank eager to rid itself of a slow selling issue might palm off risky securities on its depositors or other customers.

These arguments were carefully weighed by the Senate Banking Committee and rejected. Commercial banks have underwritten general obligation bonds for over 40 years since the passage of the Glass-Steagall Act and no serious abuses have been documented. In fact, even the main witness for the investment banking industry acknowledged that he had no evidence of bank abuse and would not recommend that banks be prohibited from underwriting general obligation bonds.

Also, the legislation before the Senate contains numerous safeguards to prevent even the possibility of a conflict of interest or abusive practice from occurring. For example, banks cannot underwrite revenue bond issues which are not eligible for bank investment. This means the issue must be a Baa quality or better. In addition, banks acting as a dealer or underwriter are prohibited from selling revenue bonds to their trust department. Likewise, banks cannot sell revenue bonds to the trust department of another bank syndicate during the underwriting period.

All of these safeguards and restrictions can be further strengthened, if appropriate, through the rules and regulations promulgated by the Municipal Securities Regulation Board, with oversight by the Securities and Exchange Commission. This Board is created in separate legislation, S. 2474, which has been reported by the Senate Banking Committee and which stands an excellent chance of passage this year.

Mr. President, I can understand and sympathize with the opposition to this legislation on the part of investment bankers. Despite all the lipservice we give to free enterprise, no one really enjoys the prospect of more competition in his own business. Nonetheless, I really do not believe that this legislation will force investment banking firms out of business as some have claimed. The municipal bond market has grown at an annual rate of 8.3 percent since 1960 and every projection indicates that this high growth rate will continue. As a result, there should be enough business for both investment banking firms and commercial banks.

Also, I believe the Congress should give primary attention to what the bill does for municipalities. This legislation is not probank nor is it anti-investment bank. Instead, it is pro-city. If commercial banks were permitted to underwrite both general obligation and revenue bonds while investment bankers were prohibited from the revenue bond market, I would introduce similar legislation permitting investment banking firms to underwrite revenue bonds.

Mr. President, in these inflationary times we can ill afford to continue anticompetitive practices that cost the consumer and the taxpayer more money. The prohibition against banks underwriting revenue bonds is one of those antiquated statutory provisions that restricts competition and raises prices. The legislation before us does not in any real sense alter the underlying philosophy of the Glass-Steagall Act. It merely brings the act up to date by recognizing a new form of municipal finance. If, under the Glass-Steagall Act it is proper for banks to underwrite general obligation bonds, I do not see how Congress can continue to keep banks from underwriting revenue bonds, especially when the two types of bonds are practically identical and all the studies indicate that bank entry into this field would lower the cost of municipal borrowing. Mr. President, I strongly recommend the Senate approve the provisions of title II of S. 3838.

TITLE I: HOLDING COMPANY NOTES

Mr. President, title I of S. 3838 clarifies the authority of the Federal Reserve Board to regulate notes issued by bank holding companies when these notes are similar to deposits. The legislation also provides the FDIC with similar authority with respect to holding companies controlling nonmember banks and to the Federal Home Loan Bank Board with respect to savings and loan holding companies. The authority given these agencies is discretionary and does not mandate that interest rate ceilings be applied to any particular type of holding company borrowing.

This legislation is needed to correct an ambiguity in legislation passed by Congress in 1969 authorizing the Federal Reserve Board to regulate notes issued by bank holding companies. Congress was concerned during the 1969 credit crunch that commercial banks might attempt to circumvent the interest rate ceilings on deposits established under regulation Q by borrowing through their holding company affiliates. The 1969 legislation accordingly amended section 19(a) of the Federal Reserve Act by authorizing the Board to determine by regulation what types of obligations constitute a deposit, regardless of whether such obligations were issued directly by a member bank or indirectly by an affiliate of a member bank or by other means. Obligations defined as deposits could then become subect to the Board's authority to prescribe reserve requirements under section 19(b) or to prescribe interest rate ceilings under section 19(j).

Notwithstanding the 1969 legislation and the intent of Congress to prevent banks from circumventing regulation Q through their holding company affiliates, several large bank holding companies have recently issued variable rate notes substantially in excess of the regulation Q ceiling. These notes were first issued by Citicorp, the parent holding company of the First National City Bank.

From the saver's point of view, the recent bank holding company notes offer many advantages. Interest rates typically exceeded the ceiling on deposits of comparable maturity by nearly 4 percentage points. This differential gives large bank holding companies an enormous competitive advantage over the 10,000 nonholding company banks, the 4,000 savings and loan associations, and the several hundred mutual savings banks whose deposits are subject to the regulation Q ceiling.

Bank holding companies were able to evade the regulation Q ceiling by claiming that the proceeds from its notes would be used primarily to finance the activities of its nonbanking subsidiaries. The Federal Reserve Board has taken the position that unless it is clear that the proceeds are being channeled to the subsidiary bank, the Board does not have the authority to regulate borrowing by bank holding companies.

This overly narrow interpretation of the 1969 law substantially erodes its effectiveness. While it may be technically true that the proceeds of bank holding company notes are not channeled directly to the bank, there are so many intercorporate financial transactions within the holding company structure, that as a practical matter, it is impossible to trace the flow of money. For example, Citicorp purchases participations in loans made by Citibank and finances the purchase with funds borrowed in the commercial paper market. One of the purposes of the variable rate notes is to replace this commercial paper. It would thus seem that Citibank is at least indirectly benefiting from the issuance of the Citicorp notes.

Rather than force the Federal Reserve Board to examine all of the complicated financial transactions which may occur within bank holding companies, it seems more productive to enable the Board to regulate borrowing by bank holding companies regardless of the use of the proceeds. This is precisely what title I of S. 3838 would do.

If the authority of the Board to regulate holding company borrowing is not clarified, the entire system of interest rate ceilings under Regulation Q could be seriously undermined. Financial experts predict that anywhere from $4 billion to $10 billion of additional holding company borrowing could be forthcoming, although the market may have been temporarily saturated within the last few weeks. Borrowings of this magnitude would have a crippling effect on thrift institutions and on the supply of mortgage credit. Thrift institutions are already experiencing a severe bout of disintermediation. They can ill afford the additional strain which would result from unregulated holding company notes. For example, the net inflow of funds in S. & L.'s during the first 7 months of 1974 is 29 percent below the comparable rate of inflow last year. In July alone, it is estimated that S. & L.'s experienced a net reduction of more than $800 million in savings deposits. In the second quarter of this year, savings banks experienced a net outflow of $1.2 billion, the second worse drain in savings bank history.

Although the initial redemption period on the typical bank holding company note is 2 years, the original notes proposed by Citicorp would have been redeemable within 6 months. The Federal Reserve Board was concerned that these 6-month Citicorp notes could have severely impacted the residential mortgage market by draining funds away from thrift institutions. In a letter dated July 2, the Board said:

> Offerings of this type could well have an adverse effect on the supply of residential mortgage money by diverting deposit funds from banks and thrift institutions.

Pressure exerted by the Board plus the threat of congressional legislation induced Citicorp to modify its issue by increasing the first redemption period from 6 months to 2 years. The fact remains, however, that other holding companies are legally entitled to issue notes redeemable in 6 months or less according to the interpretations of the Board. Thus, if Congress fails to act on the legislation, it is entirely possible that the markets could be flooded with bank holding company notes with short redemption periods. All of the disastrous effects on the mortgage market which the Fed predicted can quickly come to pass before Congress has a chance to act. The time to act, therefore, is now. We must give the Federal Board the flexible authority to prevent the further collapse of the residential home mortgage market.

Mr. MAGNUSON. Mr. President, I am pleased to see the favorable action of the Banking Committee on title I of S. 3838. We propose that Congress resolve the serious gap that has recently developed in adequate Federal regulation of the banking industry. There is a crisis developing in the already depressed housing industry. Bank holding companies are proposing floating rate offerings to small investors which promise to greatly aggravate the scarcity of home financing funds. The Subcommittee on Financial Institutions of the Committee on Banking, Housing and Urban Affairs held hearings this summer. Representatives of the Federal Reserve Board, the large banks, the savings and loan institutions, and consumer groups appeared and discussed the impact of the new financial tactic which has become known as "the Citicorp problem." We are faced with the prospect of a proliferation of these variable rates investment issues. Some estimates to the committee ranged as high as $15 billion in new issues in the months ahead.

The impact of such a development is evident. Unless Congress takes appropriate action on these new bank holding company floating rate issues, the competitive result on mortgage oriented thrift institutions will be overwhelming. Potential mortgage funds would be siphoned off from thrift institutions in ever increasing volume, thereby destroying any foreseeable early prospect of a recovery in the already depressed housing industry. The effect would not be confined to thrift institutions such as savings and loan, but would extend to many small to medium sized commercial banks which do not enjoy the privileges and benefits of being owned by a holding company.

I have joined with Senator PROXMIRE in this legislation because I believe it poses a reasonable solution in the short run to the immediate problems of the Citicorp proposal.

The immediate issue is the problem of "disintermediation." The Citicorp offering represents a clear evasion of congressional policy reflected in the Interest Rate Control Act. It is an attempt to subvert deposit interest rate ceilings by having bank holding companies issue what is in effect a deposit type instrument. Such an issue would be clearly illegal if issued by the bank itself. Our amendment would clarify the status of bank holding companies in this regard. The amendment mandates that all banks and bank affiliates, including bank holding companies, are subject to discretionary Federal Reserve regulation in interest rates "regardless of the use of the proceeds" of the instruments they issue.

Citicorp has argued that their new instruments are not designed to provide funding for the City Bank in New York, one of several subsidiaries of Citicorp. But it is flagrantly clear that the money raised by the issue will free assets that would otherwise be consumed by the other subsidiaries for use by the bank and thereby raise money to support the banking business. Citicorp cannot effectively refute these facts.

Our proposal is simply designed to make clear that any issue of commercial paper by a bank or an affiliate of a bank is subject to the Federal Reserve Act and the discretionary regulatory authority of the Federal Reserve Board.

This solution is eminently reasonable. We do not mandate that regulation Q to apply to these instruments. The Federal Reserve Bank must study the problem to determine when it is appropriate to regulate the issues and when it is not. This is one of the approaches suggested by Robert C. Holland, member of the Board of Governors of the Federal Reserve System, before the Banking Committee's hearings. Mr. Holland pointed out that an amendment to section 19(a) of the Federal Reserve Act to specifically give the Federal Reserve Board discretionary authority to subject note issues of bank holding companies in their nonbank subsidiaries to deposit-type regulation would effectively control the Citicorp problem. The key is to insure that these bank holding companies are regulated regardless of the intended use of the proceeds.

Mr. President, I am deeply concerned about the problem of disintermediation presently being experienced by savings and thrift institutions. The Citicorp proposal was designed to be as attractive as possible to the individual investors. These are the bulk of investors who presently have financial resources in savings institutions. As it is presently structured, the Citicorp offering competes with a variety of investor alternatives. But it provides the stiffest competition with Treasury bills and small and medium sized certificates of deposit in the bank and thrift institutions. The Federal Reserve Board testified before the Banking Subcommittee that:

> The resulting disintermediation from nonbank thrift institutions (and also from commercial bank timed deposits) could be significant if the volume of offerings of this type were to become large.

Net inflows to the thrift institutions have already fallen off substantially in recent months. Any significant additional diversion of funds has got to be a matter of serious concern to all of us in the Federal Government. Unfortunately, the Federal Reserve Board does not believe that it currently has the authority to control this type of bank holding company behavior. Only legislation to clarify the intent of Congress in the Federal Reserve Act will do the job.

I believe we must give the Board of Governors of the Federal Reserve authority to determine whether proposed notes such as Citicorp's issue are in fact "deposits," no matter what the use of the proceeds, for purposes of regulation D and regulation Q. It is imperative that the will of Congress be clearly communicated to the regulatory agencies. It is imperative that bank holding companies once and for all be stopped from making end runs around congressional policy in the area of deposit interest rate controls.

The current inflation and high interest rate climate is hardly the time for an "experiment" in the issuance of depository-type bany holding company obligations. The announcement of the Citicorp note stimulated increased deposit outflows at thrift institutions. There is the eminent prospect of a flood of floating rate obligations which will seriously impede deposit rate controls and gravely weaken the money market for home loans.

Mr. BROCK. Mr. President, I rise in support of title III to S. 3838. This is basically emergency legislation to take care of a particular problem in the States of Tennessee, Arkansas, and Montana.

The basic problem which this title addresses is that in Tennessee, Arkansas, and Montana, the financial industry has been caught in a pinch because of the high price it must pay for money as opposed to the interest it can earn. In Tennessee and Arkansas by constitution and in Montana by statute, the maximum interest which may be charged business borrowers is 10 percent whereas the financial institutions must pay up to 13 percent for money bought through the Federal Reserve System in the so-called Federal funds market. Most other States exempt business borrowing from the usury statutes. Although many of the financial institutions in these States have continued to make business loans in anticipation that rates will go down or that the State would take necessary action, they will not be able to continue this practice over a period of time and remain solvent. Hardest hit will be the construction, agricultural and small business firms who cannot channel funds into the States through outside corporate subsidiaries.

To give the State legislatures and constitutional conventions sufficient time to act and to avoid unemployment and severe economic repercussions during the interim, on my behalf and the behalf of the Senators from the affected States—Senators BAKER, MANSFIELD, and FULBRIGHT—I introduced this legislation which will allow federally insured financial institutions to charge on certain business loans interest at a rate of 5 percent in excess of the Federal discount rate which is now about 8 percent, regardless of State usury laws. The title has a duration of 3 years and will not affect consumer or home mortgage loans.

COVERAGE OF THE BILL

The title is intended to cover business or agricultural loans in the amount of $25,000 or more. This would include construction loans for multiple-family dwellings but would not cover individual home mortgage loans.

It applies to national banks, FDIC insured State-chartered banks, including mutual savings banks, Federal savings and loan associations, and FSLIC insured State-chartered savings and loan associations.

The title is not intended to affect those States which currently have no usury limits on business or agricultural loans. It merely permits the covered institutions to exceed the State usury limits on the designated business and agricultural loans by the amounts specified in the title. The title should not be looked upon as establishing a national usury ceiling for federally insured financial institutions. The title would simply have no affect in those States where there are no usury limitations on business or agricultural loans.

NATIONAL POLICY

It is important to point out that there is no intention by this legislation to establish a national usury policy. Basically, it is an amendment to the National Bank Act which currently permits national banks to charge interest on any loan in the amount of 1 percent in excess of the discount rate, regardless of State law. The title simply brings this law up to date by allowing the national banks to charge up to 5 percent over the discount rate. To provide equity for all financial institutions and preserve the dual banking system, the reach of the legislation is extended to State-chartered federally insured institutions and savings and loans. The effect of this legislation is limited to business and agricultural loans in the amount of $25,000 or more. To reflect clearly a congressional policy of permitting a State primary opportunity to determine its usury statutes, the Banking Committee accepted my amendment to permit a State, after passage of the legislation, to override the provisions of the bill by taking appropriate action at the State level to reassert or restate any State usury provision that might have been altered or affected by the passage of the legislation.

The evidence before the Senate Banking, Housing and Urban Affairs Committee indicated that loans in the affected States are becoming unavailable, liquidity of financial institutions is adversely affected, small borrowers are disadvantaged in competing with national corporations, and there is an outflow of funds from the States. Unless remedial action is taken in the very near future, these States could suffer from unemployment and business failures. Since it will take a considerable length of time to amend the constitution in at least one of the States to provide a complete remedy, I strongly urge that this title be favorably acted upon by this body to meet the emergency by providing an interim solution.

Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HELMS). The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. BROCK. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

TITLE IV—DISPOSITION OF ABANDONED MONEY ORDERS AND TRAVELER'S CHECKS

FINDINGS

Sec. 401. The Congress finds and declares that—

(1) the books and records of banking and financial organizations and business associations engaged in issuing and selling money orders and traveler's checks do not, as a matter of business practice, show the last known addresses of purchasers of such instruments;

(2) a substantial majority of such purchasers reside in the States where such instruments are purchased;

(3) the States wherein the purchasers of money orders and traveler's checks reside should, as a matter of equity among the several States, be entitled to the proceeds of such instruments in the event of abandonment;

(4) it is a burden on interstate commerce that the proceeds of such instruments are not being distributed to the States entitled thereto; and

(5) the cost of maintaining and retrieving addresses of purchasers of money orders and traveler's checks is an additional burden on interstate commerce since it has been determined that most purchasers reside in the State of purchase of such instruments.

DEFINITIONS

SEC. 402. As used in this title—

(1) "banking organization" means any bank, trust company, savings bank, safe deposit company, or a private banker engaged in business in the United States;

(2) "business association" means any corporation (other than a public corporation), joint stock company, business trust, partnership, or any association for business purposes of two or more individuals; and

(3) "financial organization" means any savings and loan association, building and loan association, credit union, or investment company engaged in business in the United States.

STATE ENTITLED TO ESCHEAT OR TAKE CUSTODY

SEC. 403. Where any sum is payable on a money order, traveler's check, or other similar written instrument (other than a third party bank check) on which a banking or financial organization or a business association is directly liable—

(1) if the books and records of such banking or financial organization or business association show the State in which such money order, traveler's check, or similar written instrument was purchased, that State shall be entitled exclusively to escheat or take custody of the sum payable on such instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum;

(2) if the books and records of such banking or financial organization or business association do not show the State in which such money order, traveler's check, or similar written instrument was purchased, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler's check, or similar written instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum, until another State shall demonstrate by written evidence that it is the State of purchase; or

(3) if the books and records of such banking or financial organizations or business association show the State in which such money order, traveler's check, or similar written instrument was purchased and the laws of the State of purchase do not provide for the escheat or custodial taking of the sum payable on such instrument, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler's check, or similar written instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum, subject to the right of the State of purchase to recover such sum from the State of principal place of business if and when the law of the State of purchase makes provision for escheat or custodial taking of such sum.

APPLICABILITY

SEC. 404. This title shall be applicable to sums payable on money orders, traveler's checks, and similar written instruments deemed abandoned on or after February 1, 1965, except to the extent that such sums have been paid over to a State prior to January 1, 1974.

Mr. BROCK. Mr. President, I offer this amendment on request of the Senator from Texas (Mr. TOWER). It is a matter on which the Senate has favorably voted on two separate occasions by rather large margins—I think with two votes in dissent, or something of that magnitude.

The purpose of the amendment is to return abandoned money orders and traveler's checks to the State of origin. The Senate acted favorably on this proposal on February 28 of this year, but it has not been acted on by the full Congress. The House of Representatives has acted on its own bill, but the Senate version has not been acted on by the House.

We asked that this proposal be added to this bill simply to continue to press for a matter on which the Senate has acted with a clear voice, and I move the adoption of the amendment.

Mr. SPARKMAN. Mr. President, let me ask the Senator this question: The Senate has heretofore passed identical provisions; has it not?

Mr. BROCK. The Senator is correct.

Mr. SPARKMAN. Mr. President, I am willing to accept the amendment.

The PRESIDING OFFICER (Mr. HELMS). The question is on agreeing to the amendment offered by the Senator from Tennessee in behalf of the Senator from Texas (Mr. TOWER).

The amendment was agreed to.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BROCK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. CRANSTON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON'S amendment is as follows:

At the end of the bill, add the following:

TITLE IV—APPLICABILITY OF STATE USURY CEILINGS TO CERTAIN OBLIGATIONS ISSUED BY BANKS AND AFFILIATES

SEC. 401. Section 19 of the Federal Reserve

Act is amended by adding at the end thereof the following new subsection:

"(k) No member bank or affiliate thereof, or any successor or assignee of such member bank or affiliate or any endorser, guarantor, or surety of such member bank or affiliate may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member bank or affiliate or to any other person."

Sec. 402. Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end thereof the following new subsection:

"(k) No insured nonmember bank or affiliate thereof, or any successor or assignee of such bank or affiliate or any endorser, guarantor, or surety of such bank or affiliate may plead, raise, or claim directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such bank or affiliate or to any other person."

Sec. 403. Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is amended by adding at the end thereof the following new subsection:

"(e) No member or nonmember association, institution, or bank or affiliate thereof, or any successor or assignee, or any endorser, guarantor, or surety thereof may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member or nonmember association, institution, bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member or nonmember association, institution, bank, or affiliate or to any other person."

Sec. 404. The amendments made by this title shall apply to any deposit made or obligation issued in any State after the date of enactment of this title, but prior to the earlier of (1) July 1, 1977 or (2) the date (after such date of enactment) on which the State enacts a provision of law which limits the amount of interest which may be charged in connection with deposits or obligations referred to in the amendments made by this title.

Mr. CRANSTON. Mr. President, I have discussed this amendment with the floor manager of the bill, and I believe he is willing to accept it. Very briefly, the amendment has the effect of exempting borrowings of bank holding companies and bank deposits over $100,000 from the usury law for 3 years, except that if the State so chooses, it may pass a law that it does not desire to be covered under this amendment.

Mr. President, this amendment addresses itself to two issues regarding the adverse effect of the California usury law on California banks, bank holding companies, and savings and loan associations.

I. STATE USURY LAW AND VARIABLE RATES NOTES

The usury law of the State of California under article 20, section 22, of the California constitution limits the rate of interest to 10 percent that a lender may charge and receive and a borrower may pay in connection with a loan transaction. This has been interpreted as prohibiting all California corporations including bank holding companies—the borrower—from issuing variable rate notes which might yield more than 10 percent per annum, and prohibiting members of the public—the lender—from purchasing such notes to receive interest in excess of 10 percent. Thus California based bank holding companies would effectively be foreclosed from issuing variable rate notes to California residents on terms competitive with other issues recently placed by Citicorp of New York.

California is one of the few populous States where the usury law is contained in the constitution and it cannot be amended except by legislative action plus referendum on the ballot. The process to get this issue on the ballot will take until June 1976. For the most part, this amendment would have effect in four States, California, Arkansas, Oklahoma, and Montana. The usury laws of these States are in the constitutions and require sufficient time to be put on the local ballots to be changed. Most other States exempt corporate borrowings from the usury laws.

II. CALIFORNIA USURY LAW AND CERTIFICATES OF DEPOSITS OVER $100,000

Banks and savings and loans are exempt from the California usury law in regard to the interest rate they may charge on a loan. The question of whether they are exempt from the usury law when the bank or savings and loan is the borrower of money is not so clear.

Deposits in amounts less than $100,000 are regulated by the Federal Reserve Act and the interest rates are set well under 10 percent by regulation Q. However, rates for large deposits over $100,000—CD's—are not regulated and the interest rates are negotiated according to money market conditions. Rates on these large deposits in excess of 10 percent are currently not uncommon.

Whether the deposits in the CD situation is a borrowing by the bank and subject to the usury ceiling is an unsettled question under the California Constitution.

Thus, California banks and savings and loans desiring to attract these large deposits from corporations; employee benefit trust, et cetera—both in State and out of State—may have difficulty doing so because a depositor when faced with the possibility of being prosecuted for violating the California usury law will place his funds in other States to the detriment of California. Such is now the case as large CD's began to mature.

The California Legislature on August 29, 1974, passed Assembly Joint Resolution No. 126 asking the Congress—

To provide "temporary relief from the above stated apparent unforeseen and unintended effects of the California Constitution and thus provide the citizens of California with time to consider amending said Constitution at the first available opportunity;".

SUMMARY

This amendment to S. 3838 has the effect of exempting borrowings of bank holding companies and banks deposit over $100,000 from the usury law for 3 years except if the State so choses, it may pass a law that it does not desire to be covered under this amendment. The 3-year period will give the States involved sufficient time to change their constitution and laws. To reflect congressional policy of permitting a State the primary opportunity to determine its usury statutes, the amendment allows a State to override this exemption by taking appropriate action at the State level to reassert or restate any State usury provision that might have been altered or affected by passage of this amendment.

In each of these solutions, the consumer will benefit by being able to receive a higher interest rate for use of his funds by these institutions.

Mr. President I ask unanimous consent to have—in addition to the Cranston-Tower amendment—printed in the Record, the resolution from the State of California requesting that Congress take this action.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Assembly Joint Resolution No. 126—Relative to Interest Rates

Whereas, Economic conditions have resulted in depositors being able to obtain interest on large deposits from non-California institutions in excess of 10 percent; and

Whereas, The availability of high interest deposits in other states and not within California may have serious long-term effects on the economy of the State of California by resulting in withdrawals of large deposits from California with subsequent adverse effects on loan availability and employment; and

Whereas, California financial institutions could offer these same high-interest deposits but for the lack of clarity of the California Constitution; and

Whereas, It is impossible to place a clarifying amendment to the California Constitution before California voters before June 1976 at the next scheduled statewide general election; and

Whereas, The California Legislature is advised that legislation now pending in the Congress of the United States, S. 3838, could, if amended to do so, solve California's problem on a temporary basis pending resolution by the California electorate; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the California Legislature memorializes the Congress of the United States to provide the State of California with temporary relief from the above-stated apparent unforeseen and unintended effects of the California Constitution and thus provide the citizens of California with time to consider amending said Constitution at the first available opportunity; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Majority Leader of the Senate of the United States, to the Speaker of the House of Representatives, and to each Senator and

Representative from California in the Congress of the United States.

Mr. SPARKMAN. Mr. President, I have had the privilege of examining the amendment prior to its being called up by the Senator from California (Mr. CRANSTON). I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. CRANSTON. I thank the Senator very much.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BROCK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. SPARKMAN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 10, between lines 4 and 5, insert the following:

SEC. 304. Section 308 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661), is amended by adding at the end thereof the following:

"(h). (1) In order to facilitate the orderly and necessary flow of long-term loans and equity funds to small business concerns, as defined in the Small Business Act, if the maximum interest rate permitted by the Small Business Administration exceeds the rate a small business investment company would be permitted to charge in the absence of this subsection, such small business investment company may in the case of business loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any such loan, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the small business investment company is located.

"(2) If the rate prescribed in paragraph (1) exceeds the rate such small business investment company would be permitted to charge in the absence of this subsection, and such State fixed rate is thereby preempted by the rate described in paragraph (1), the taking, receiving, reserving or charging a greater rate than is allowed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carriers with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the small business investment company taking or receiving such interest."

Redesignate succeeding sections accordingly.

Mr. SPARKMAN. Mr. President, this amendment relates solely to small business investment companies. I think it is a good provision, and really belongs in the bill, and I hope it will be accepted.

As pointed out in the report of the Senate Committee on Banking, Housing and Urban Affairs (S. Rept. 93-1120), the current high interest rates impact hardest upon "construction, agricultural, and small business firms who cannot channel funds into the States through outside corporate subsidiaries." Small business investment companies—SBIC's—cannot provide financing for farms, but they do lend to all other types of small businesses, including builders and contractors, and firms which process agricultural commodities.

Under regulations promulgated by the Small Business Administration, SBIC's may charge a maximum effective interest rate of 15 percent annually, or the maximum under State law, whichever is lower.

For this reason, very few SBIC's have been formed in those States where the stautory definition of usury is low and where businesses, including corporations, are covered under the usury laws. As concrete examples, of the approximately 330 SBIC's in operation today, only 1 SBIC is located in Arkansas, 2 in Montana, and 3 in Tennessee.

It is apparent, therefore, that very few SBIC dollars are available to new and small businesses located in those three States. Data collated by the Small Business Administration show that SBIC's disbursed over $175 million to some 2,400 small businesses during the year ending March 31, 1973. Of this collective activity, not a single loan was made to an Arkansas firm; only 2 loans totaling about $83,000 were made to small businesses in Montana; and 30 loans for about $1 million went to Tennessee independent businesses.

Although industry sources are unable to predict with any certainty the impact of including SBIC's within title III of S. 3838, they believe that this moderate, and temporary, liberalization of the interest rate ceiling would encourage the flow of much-needed loan funds to small and independent businesses in the three States particularly covered by this legislation.

Mr. GRIFFIN. Mr. President, if the Senator will yield, I am authorized on behalf of the ranking Republican member, the Senator from Texas (Mr. TOWER) to join in accepting it.

Mr. SPARKMAN. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

Mr. SPARKMAN. I move to reconsider the vote by which the amendment was agreed to.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HART. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART's amendment is as follows:

On page 5, line 7, insert the following:

After the word "such" and before the word "obligations", add the words "general or other";

On page 5, line 10, after the word "such" and before the word "obligations", add the words "general or other";

On page 5, line 13, after the word "such" and before the word "obligations", add the words "general or other";

On page 5, line 18, after the word "dealer," and before the word "and", add the words "(5) no association, whether or not a member of an underwriting syndicate, shall directly or indirectly purchase for its own investment account from an underwriting syndicate or any member of an underwriting syndicate, before the syndicate is closed as to underwriting, any such general or other obligations underwritten by such syndicate on terms more favorable than those available at the time to all other purchasers of like amounts of such obligations,";

On page 5, line 18, after the word "and" and before the word "the", strike the word "(5)" and add the word "(6)";

On page 5, line 19, after the word "such" and before the word "obligations", add the words "general or other"; and

On page 6, line 2, after the word "such" and before the word "obligations", add the words "general or other".

Mr. HART. Mr. President, in 1971, a bill to authorize bank underwriting of revenue bonds was referred to the Judiciary Committee's Subcommittee on Antitrust and Monopoly by agreement of the leadership and relevant committee chairmen. The purpose of the referral was for the subcommittee to review basic antitrust issues stemming from increasing bank entry into underwriting. Particular concern was voiced with respect to the antitrust implications of banks combining the underwriting function with their commercial banking function.

The staff of the subcommittee conducted a study of municipal financing of general obligations, where both banks and broker-dealers compete. That study indicates that when banks underwrite general obligation bonds—about 65 percent of them—essentially 10 banks manage 80 percent of the underwritings: Chase Manhattan, Morgan Guaranty, First National City, Bankers Trust, Bank of America, Northern Trust, First National of Chicago, Harris Trust, Continental Illinois, United California. For the period 1969–71, those banks managed about one-half of the total general obligation bonds issued—$34 billion.

Classic vertical integration problems exist. Banks as underwriters are the largest sellers, and as portfolio investors also the largest purchasers of the commodities involved. They generally tend to buy from syndicates of which they are members and to boycott competitive syndicates against whom they have competed for an issue and lost. They can and do use their underwriting power to purchase bonds for their investment portfolios on terms more favorable than those allowed to the public, something the SEC and NASD prohibit in equity underwriting.

The study shows that for the top 10 banks, an average of 64.1 percent of bank investments in new issue general obligation bonds were purchased from the banks' own syndicates—$1.7 billion out of 2.7 billion. Only 28.3 percent of bank investment account purchases were made from competing syndicates which had outbid the banks. The bonds offered by such competing syndicates represented 63 percent of the dollar volume of bonds on which banks submitted a bid. These banks sold their own fiduciary accounts $79,800,000 of bonds. In these transactions, the banks acted in the dual capacity of fiduciary and underwriter. An average of 23.2 percent of new issue general obligation bonds purchased by such fiduciary accounts were purchased from the fiduciary bank.

The revenue bond provisions of this bill contain safeguards directed at most of the inherent conflicts of interest banks encounter in the simultaneous pursuit of their underwriting, investing, and general fiduciary functions. Those safeguards, however, apply only to revenue bond underwriting. That which would be precluded when banks underwrite revenue bonds would be permitted when banks underwrite general obligation bonds—even though those safeguards were established, because of bank activities in underwriting general obligation bonds.

Those activities, Mr. President, both undermine the basic banking function and represent unnecessary and unfair anticompetitive conduct which should be curbed.

Mr. President, I respectfully propose that the safeguards also be made applicable to general obligation bonds. It seems to me that if safeguards are necessary to prevent abuses when banks underwrite revenue bonds, these safeguards should also be present when banks underwrite general obligation bonds. Accordingly the first part of my amendment makes the revenue bond safeguards applicable to general obligation bonds.

The other part of my amendment is designed to prohibit banks from purchasing bonds for investment on terms more favorable than those available to the general public. Because banks both underwrite and invest in the same issue, they are in a preferential position to the public in general both as to priority and price. In fact, even nonunderwriting banks are accorded preferential prices. This practice places competing broker-dealers at an unnecessary and significant competitive disadvantage in terms of the number of customers available and because of bank ability to subsidize the underwriting function by the investment function. It also seems fundamentally fair and equitable to me that all should have the opportunity to buy bonds on equal terms and that is what the second part of the amendment accomplishes.

As I understand it, Mr. President, the SEC and NASD protect against preferential pricing by broker-dealers with respect to equity underwritings. But unless we add this language, there will be no means available to protect against preferential and discriminatory pricing practices by banks with respect to municipal bond underwriting.

Mr. President, even with these amendments, I am not convinced that it is wise public policy to expand the concentration of bank power.

But with these amendments a high degree of public interest is recognized and would be protected.

I would hope very much, Mr. President, that the amendment would be agreed to.

Mr. SPARKMAN. Mr. President, I am opposed to this amendment.

This amendment would do two things:

First. Extend the present limitations, placed in the bill to prevent potential conflicts of interest by banks in underwriting and dealing in revenue bonds, to cover bank trading of general obligation municipal bonds as well.

Second. Add an additional restriction to those already in title II of S. 3838 which would prohibit banks from making preoffering commitments to purchase either revenue or general obligation issues from a syndicate on terms more favorable than those available to other purchasers.

With respect to part 1, above:

First. No witness at the Securities Subcommittee hearings could cite demonstrable or widespread bank abuses involving underwriting or dealing in general obligation issues. Hence, there is no need to extend the bill's prohibitions to general obligation issues.

Second. If bank abuses are uncovered, S. 2474, the Municipal Securities Act of 1973, establishes a new regulatory structure involving both the SEC and the bank regulatory agencies, which is designed specifically to devise and enforce rules applying to all municipal securities activities of banks. S. 2474 is a more appropriate and flexible statute to deal with bank abuses in the general obligation market.

With respect to part 2, above:

First. The amendment adds a prohibition with a greater impact than any of the five already contained in the bill. It has been pointed out that syndicate bids are based at least to some degree on a syndicate member's ability to place—obtain a commitment to purchase—bonds in advance of the underwriting. Prohibition of such a practice would hamper bank competition for revenue and general obligation underwriting, thereby reducing potential underwriters for municipal issues and possibly increase their debt service costs. Nonbank dealers would not be affected.

Second. Once again, this section of the amendment would extend this prohibition to the general obligation market as well, where there is no showing of need for it and where it might do immeasurable damage to competition in that market.

Mr. PROXMIRE. Mr. President, I have great respect and admiration for the Senator from Michigan, especially on issues that affect competition, and this legislation would have a considerable effect on competition. In fact, I introduced this part of the bill, because of my desire for more competition in revenue bond financing.

Mr. President, I believe that the proposed amendment to S. 3838 is at best unnecessary and at worst harmful to the objective of sound securities regulation.

The amendment, in effect, would first extend the restrictions that S. 3838 imposes on bank dealings in revenue bonds to general obligation bonds. Second, it would impose an additional restriction on bank dealings in both revenue and general obligation bonds. This new restriction would prohibit a bank from purchasing a new issue of municipal securities on terms which, in the language of the amendment, are "more favorable than those available at the time to all other purchasers of like amounts of such obligations."

Let me discuss in turn my objections to the two parts of the proposed amendment.

S. 3838 would permit banks to underwrite revenue bonds subject to five specific conditions or restrictions. These restrictions were originally proposed when the committee considered this legislation in 1967—7 years ago. At that time there was no Federal regulation of the municipal bond market and we in the Senate were aware that a bank's underwriting activities could expose it to conflicts of interest. Accordingly, the Banking Committee decided as far back as 1967 that the prudent course would be to write provisions into the statute designed to deal with what then seemed to be important regulatory needs.

When our committee once again considered this legislation during this session of the Congress, we did not change these prohibitions. Nevertheless, our committee recognized, and so stated in its report, that the establishment of a Federal regulatory structure for the municipal securities industry as provided in S. 2474—a bill which has been ordered to be favorably reported to the Senate—might well obviate the need for such absolute statutory prohibitions. In light of this possibility, the committee amended the bill to delay commercial bank underwriting of revenue bonds for 18 months. During this period, the new Municipal Securities Rulemaking Board established by S. 2474 would be expected to study the need for these statutory prohibitions. If the Board determines the prohibitions to be unnecessary, it would recommend their repeal. On the other hand, if the Board determines that the restrictions are desirable, it would have the power to supplement them or to extend them to bank dealings in general obligation bonds, as would the Securities and Exchange Commission.

The proposed amendment, therefore, is unnecessary. If the prohibitions now in the bill are needed with respect to dealings in general obligation bonds, the new regulatory board would have the power to impose them. More importantly, however, the proposed amendment may actually be harmful in the sense of limiting competition and raising borrowing costs. There is no evidence that the prohibitions contained in this amendment are necessary or appropriate with respect to bank dealings in general obligation bonds.

Banks have been underwriting general

obligation bonds since 1864—the date of the first national banking act—for 110 years. As far as our committee is aware, there are no abuses in connection with their activities which would justify statutory prohibitions of the sort which the amendment contemplates. Indeed, in testifying before our committee, the Comptroller of the Currency stated:

> The experience of my office in regard to national banks which underwrite other government obligations is that conflict of interest does not seem to be a problem.

The Federal Reserve Board, the General Counsel of the Treasury, and the Hunt Commission reached similar conclusions.

The Banking Committee has proposed the establishment of a Municipal Securities Rulemaking Board precisely for the purpose of having an expert body study the entire area of municipal underwriting. This Board would develop such limitations and restrictions as are necessary to insure investor protection and fair competition. The amendment before us runs counter to this objective. Until we have firm evidence indicating that prohibitions of the nature proposed in this amendment are warranted, I believe it would be extremely unwise for us to enact them into law.

Let me turn now to the second part of the proposed amendment; namely, prohibiting banks from purchasing any new issue of municipal securities on terms "more favorable" than those available to other purchasers.

Let me now turn to the second part of the proposed amendment; namely, prohibiting banks from purchasing any new issues of municipal securities on terms more favorable than those available to other purchasers.

In the first place, this provision would be difficult, if not impossible, to administer. Why? Well, because municipal bonds are not sold by a syndicate at uniform prices. Prices may well vary from purchaser to purchaser, and no two purchasers may buy the same amount of bonds. To impose the proposed restrictions would hopelessly confuse syndicate practices and might seriously delay the distribution of municipal securities.

Of more fundamental importance, the proposed restriction would prevent banks from making preoffering commitments for a new issue of municipal securities. This would undoubtedly undermine present bidding procedures and increase the cost of borrowing for State and local governments. To tamper in such a way with the highly technical and extremely delicate mechanism of the municipal bond market, would be both dangerous and foolish.

This is particularly so because the amendment is unnecessary. S. 2474 expressly authorizes the Municipal Securities Rulemaking Board to establish the terms and conditions on which banks may purchase new issues of municipal securities for their own portfolios.

Mr. President, all of us wish to achieve the same objective: Fair competition among underwriters of municipal securities and fair treatment of all purchasers of municipal securities. The way to achieve this, however, is through carefully drawn rules enamating from an expert agency, not through rigid statutory prohibitions.

For this reason, Mr. President, I hope the Senate will not accept the amendment of the distinguished Senator from Michigan (Mr. HART). As I say, this is an amendment which, under the circumstances and in view of the fact we created this agency to regulate in this very area, is unnecessary. In the event that a history is developed to show the necessity of it, then we have an express directive to the agency to come back within 18 months and give us that finding so that we can then amend the law based on a record of experience.

Mr. HART. Mr. President, if we knew what was going to happen with S. 2474, I think there would be a stronger but not necessarily persuasive basis on which to argue that we can leave to this board the establishment of safeguards.

Mr. PROXMIRE. Would the Senator yield on that?

Mr. HART. Yes.

Mr. PROXMIRE. I understand that bill is expected to be reported out tomorrow. To the best of my knowledge, there is no opposition to it, so there should be no reason why the bill should not be passed within the next week or so, certainly well before the Senate would adjourn.

Mr. HART. But we know we are not a unicameral legislature yet. Over in the House, there is no movement at all on this regulatory proposal and it is now the 10th of September.

Mr. PROXMIRE. Since it is my understanding that the House is sending over an omnibus bill, we could act, if necessary, to put this bill on it.

Mr. HART. And then it would go back to what fate? We do not know if the board would ever come into existence.

Mr. PROXMIRE. It would go to conference. The Senate would have the opportunity in conference to insist on its position in conference and there is every reason to expect that the House would agree to the provisions of S. 2474 in conference. All the controversy has been removed. The bill is supported by the Comptroller of the Currency, by the SEC, by the American Bankers Association, and by the Securities Industry Association. So I believe there is an excellent chance the House conferees would agree to our bill.

Mr. HART. Well, I think our exchange has indicated why in the view of the Senator from Wisconsin it is prudent to await the fate of S. 2474 either in direct form or as an amendment to one of these omnibus securities bills, and why the Senator from Michigan, looking at the calendar, may reach a different conclusion on the desirability now of insuring that safeguards which were predicated on the need to protect the public interest with respect to revenue bonds should be added now with respect to general obligation bonds.

We just disagree as to the more effective way to insure that what we both agree can be abuses are protected against.

I believe by now nailing onto this bill these safeguards with respect to bank underwriting of general obligation bonds, that we are doing a better job in insuring against recurrence of these abuses—to the extent that passing laws can insure against abuses.

Mr. PROXMIRE. We disagree on whether it is better to make this a matter of inflexible law or leave it to the new regulatory agency.

Mr. HART. Well, it is inflexible law with respect to revenue bonds in the bill already. We have already established the proposition that we are going to be inflexible with respect to revenue bonds, and when, as and if this board comes into being and comes up with recommendations for or against these safeguards, we can measure them against the inflexible features we have in the bill and which I propose to attach by this amendment to general obligation bond underwriting by banks. Whatever changes may be made can be made respecting both revenue and general obligation bonds.

Mr. PROXMIRE. With respect to revenue bonds, let me say there are two possibilities. One is, of course, that after 18 months we may decide these restrictions are not necessary and repeal them on the basis of the recommendations made by the regulatory agency. Second, we may approve legislation later on the basis of our own independent experience to repeal those particular restrictions.

I see the Senator's point.

Mr. HART. I think the reader of the RECORD will see that we are seeking to approach the same objective, but happen to disagree as to the more effective course.

I take it with respect to the second of the stated objections voiced by the Senator from Wisconsin, that being to the safeguard of seeking to prevent banks from obtaining preferential prices on issues they both underwrite and invest in, I have been struck by the fact that the underlying argument is much the same as that which is directed against extending the safeguards provided in the bill for revenue bonds to general obligation bonds; namely, that a new regulatory body is being created to deal with this issue.

My reaction to that, again, is as I have already indicated, in response to the point when it was first made.

Also, I have been assured that broker-dealers do not invest in general obligation or revenue. In isolated cases where it can be argued that affiliated entities may take advantage of preferential pricing, I have been assured that SEC and NASD prohibit it as I would want them to.

Mr. PROXMIRE. If the Senator will yield at that point.

I am sure the agency would be very glad and we should certainly instruct them, and I hope this discussion we are having now would have that purpose, that they should use the facts and figures and data so painfully and so usefully developed by the subcommittee of the Senator from Michigan in connection with this, because I know the Senator has developed some very useful data in this committee.

Mr. HART. I appreciate the comment of the Senator from Wisconsin.

I was about to propose that we add that data to the Record. I am told it is voluminous so we will advise this new board of its existence and availability from the subcommittee.

Mr. President, I have offered the amendment in the belief that each of the basic proposals makes good sense.

I have no delusions with respect to the outcome of a vote on a somewhat narrow question when the position of the committee has been made so plain.

Nonetheless, Mr. President, just on the off chance somebody is asleep around here, I am going to ask for a voice vote on the amendment. If it fails to be adopted, I would then ask to be recorded against the bill.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment was rejected.

The **PRESIDING OFFICER**. The bill is open to further amendment.

Mr. **SPARKMAN**. Mr. President, so far as I know, that is all of the amendments. I ask for third reading.

The **PRESIDING OFFICER**. The bill is open to further amendment. If there be no further amendment to be proposed the question now is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The **PRESIDING OFFICER**. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3838

An act to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—REGULATION OF INTEREST RATES ON CERTAIN OBLIGATIONS

Sec. 101. Section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) is amended by inserting after the second sentence thereof the following new sentence: "For the purpose of the exercise of the authority conferred by this subsection, the Board shall have the authority, in the exercise of the Board's discretion, to define any debt obligation issued by an affiliate of a member bank as a deposit of such member bank, regardless of the use of the proceeds, except that the Board may not, under the additional authority conferred by this sentence, define as a deposit any debt obligation which is an exempted security under section 3(a)(3) of the Securities Act of 1933.".

Sec. 102. Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting after the fourth sentence thereof the following new sentence: "For the purpose of the exercise of the authority conferred by this subsection, the Board of Directors shall have the authority, in the exercise of its discretion, to define any debt obligation issued by an affiliate of an insured nonmember bank as a deposit of such insured nonmember bank, regardless of the use of the proceeds, except that the Board of Directors may not, under the additional authority conferred by this sentence, define as a deposit any debt obligation which is an exempted security under section 3(a)(3) of the Securities Act of 1933.".

Sec. 103. Section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) is amended by adding after the first sentence thereof the following new sentence: "For the purpose of the exercise of the authority conferred by this subsection, the Board shall have the authority, in the exercise of the Board's discretion, to define any debt obligation issued by an affiliate of any such institution, association, or bank, as a deposit of such institution, association, or bank, regardless of the use of the proceeds, except that the Board may not, under the additional authority conferred by this sentence, define as a deposit any debt obligation which is an exempted security under section 3(a)(3) of the Securities Act of 1933.".

TITLE II—BANK UNDERWRITING OF NON-GENERAL OBLIGATION BONDS OF STATE AND LOCAL GOVERNMENTS

Sec. 201. Paragraph Seventh of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by adding the following new sentences at the end of such paragraph: "The limitations and restrictions contained in this paragraph as to dealing in and underwriting investment securities shall not apply to all other non-general obligations issued or guaranteed by or on behalf of a State or any political subdivision thereof or agency of a State or any political subdivision thereof (except special assessment obligations and industrial revenue bonds) which are at the time eligible for purchase by a national bank for its own account, except that (1) no association shall hold such obligations of any one obligor or maker as a result of underwriting, dealing, or purchasing for its own account (and for this purpose obligations as to which it is under commitment shall be deemed to be held by it) in a total amount exceeding at any one time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund, (2) the purchase of such obligations by a national bank as fiduciary from such bank as an underwriter or dealer shall not be permitted unless lawfully directed by court order, (3) no association may purchase such obligations as fiduciary from a member of a syndicate in which such association is participating until the syndicate has closed as to underwriting, (4) any sales of such obligations by an association to any of its depositors or borrowers or to any correspondent bank (whether for such bank's own account or as trustee) must be accompanied by a disclosure in writing to the purchaser that the association is selling as an underwriter or dealer, and (5) the purchase, during the underwriting period, of any such obligations by an association for its own investment account, from such association's own account acting as underwriter, dealer, or trader, or from any entity affiliated with such association within the meaning of subsection (b)(1) of section 2 of the Banking Act of 1933, as amended (12 U.S.C. 221a(b)(1)), shall not be permitted: *Provided*, That this restriction shall not apply to any purchases by an association for its investment account or accounts of any such obligations (A) it alone has underwritten or (B) directly from the underwriting syndicate or member thereof in which it is a participant, or to associations not in the underwriting syndicate. For purposes of this paragraph, the term 'industrial revenue bond' shall mean an obligation, not secured by the full faith and credit of the issuer, payable solely from the rentals received by the issuer from private entities."

Sec. 202. The Secretary of the Treasury shall submit an annual report to the Congress showing the extent to which the business of underwriting and dealing in State and local obligations is being carried on by commercial banks as compared with other banking institutions with a view to determining the effect of the amendment made by section 201 on the institutional distribution of such business. As used herein, the term "State and local obligations" means obligations issued or guaranteed by or on behalf of a State, political subdivision of a State, or any agency of a State or political subdivision thereof.

Sec. 203. The amendment made by section 201 takes effect upon the expiration of eighteen months following the date of enactment of this Act.

TITLE III—INTEREST RATE AMENDMENTS REGARDING STATE USURY CEILINGS ON BUSINESS LOANS

Sec. 301. Section 5197 of the Revised Statutes, as amended (12 U.S.C. 85), is amended by inserting in the first and second sentences before the phrase "whichever may be the greater", the following: "or in the case of business or agricultural loans in the amount of $25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located,".

Sec. 302. The Federal Deposit Insurance Act (12 U.S.C. 1811–31) is amended by adding at the end thereof the following:

"Sec. 24. (a) In order to prevent discrimination against State-chartered insured banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank would be permitted to charge in the absence of this subsection, a State bank may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such State bank would be permitted to charge in the absence of this paragraph, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the State bank taking or receiving such interest.".

Sec. 303. Title IV of the National Housing Act (12 U.S.C. 1724–1730(d)) is amended by adding at the end thereof the following:

"Sec. 412. (a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the institution is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than that prescribed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution taking or receiving such interest.".

SEC. 304. Section 308 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661), is amended by adding at the end thereof the following:

"(h)(1) In order to facilitate the orderly and necessary flow of long-term loans and equity funds to small business concerns, as defined in the Small Business Act, if the maximum interest rate permitted by Small Business Administration exceeds the rate a small business investment company would be permitted to charge in the absence of this subsection, such small business investment company may in the case of business loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any such loan, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the small business investment company is located.

"(2) If the rate prescribed in paragraph (1) exceeds the rate such small business investment company would be permitted to charge in the absence of this subsection, and such State fixed rate is thereby preempted by the rate described in paragraph (1), the taking, receiving, reserving or charging a greater rate than is allowed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the small business investment company taking or receiving such interest."

SEC. 305. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of the title and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby.

SEC. 306. The amendments made by this title shall apply to any loan made in any State after the date of enactment of this title, but prior to the earlier of July 1, 1977, or the date (after the date of enactment of this title) on which the State enacts a provision of law which prohibits the charging of interest at the rates provided in the amendments made by this title.

TITLE IV—DISPOSITION OF ABANDONED MONEY ORDERS AND TRAVELER'S CHECKS

FINDINGS

SEC. 401. The Congress finds and declares that—

(1) the books and records of banking and financial organizations and business associations engaged in issuing and selling money orders and traveler's checks do not, as a matter of business practice, show the last known addresses of purchasers of such instruments;

(2) a substantial majority of such purchasers reside in the States where such instruments are purchased;

(3) the States wherein the purchasers of money orders and traveler's checks reside should, as a matter of equity among the several States, be entitled to the proceeds of such instruments in the event of abandonment;

(4) it is a burden on interstate commerce that the proceeds of such instruments are not being distributed to the States entitled thereto; and

(5) the cost of maintaining and retrieving addresses of purchasers of money orders and traveler's checks is an additional burden on interstate commerce since it has been determined that most purchasers reside in the State of purchase of such instruments.

DEFINITIONS

SEC. 402. As used in this title—

(1) "banking organization" means any bank, trust company, savings bank, safe deposit company, or a private banker engaged in business in the United States;

(2) "business association" means any corporation (other than a public corporation), joint stock company, business trust, partnership, or any association for business purposes of two or more individuals; and

(3) "financial organization" means any savings and loan association, building and loan association, credit union, or investment company engaged in business in the United States.

STATE ENTITLED TO ESCHEAT OR TAKE CUSTODY

SEC. 403. Where any sum is payable on a money order, traveler's check, or other similar written instrument (other than a third party bank check) on which a banking or financial organization or a business association is directly liable—

(1) if the books and records of such banking or financial organization or business association show the State in which such money order, traveler's check, or similar written instrument was purchased, that State shall be entitled exclusively to escheat or take custody of the sum payable on such instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum;

(2) if the books and records of such banking or financial organization or business association do not show the State in which such money order, traveler's check, or similar written instrument was purchased, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler's check, or similar written instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum, until another State shall demonstrate by written evidence that it is the State of purchase; or

(3) if the books and records of such banking or financial organizations or business association show the State in which such money order, traveler's check, or similar written instrument was purchased and the laws of the State of purchase do not provide for the escheat or custodial taking of the sum payable on such instrument, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler's check, or similar written instrument, to the extent of that State's power under its own laws to escheat or take cusody of such sum, subject to the right of the State of purchase to recover such sum from the State of principal place of business if and when the law of the State of purchase makes provision for escheat or custodial taking of such sum.

APPLICABILITY

SEC. 404. This title shall be applicable to sums payable on money orders, traveler's checks, and similar written instruments deemed abandoned on or after February 1, 1965, except to the extent that such sums have been paid over to a State prior to January 1, 1974.

TITLE V—APPLICABILITY OF STATE USURY CEILINGS TO CERTAIN OBLIGATIONS ISSUED BY BANKS AND AFFILIATES

SEC. 501. Section 19 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

"(k) No member bank or affiliate thereof, or any successor or assignee of such member bank or affiliate or any endorser, guarantor, or surety of such member bank or affiliate may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member bank or affiliate or to any other person."

SEC. 502. Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end thereof the following new subsection:

"(k) No insured nonmember bank or affiliate thereof, or any successor or assignee of such bank or affiliate or any endorser, guarantor, or surety of such bank or affiliate may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such bank or affiliate or to any other person."

SEC. 503. Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is amended by adding at the end thereof the following new subsection:

"(e) No member or nonmember association, institution, or bank or affiliate thereof, or any successor or assignee, or any endorser, guarantor, or surety thereof may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member or nonmember association, institution, bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member or nonmember association, institution, bank, or affiliate or to any other person."

SEC. 504. The amendments made by this title shall apply to any deposit made or obligation issued in any State after the date of enactment of this title, but prior to the earlier of (1) July 1, 1977 or (2) the date (after such date of enactment) on which the State enacts a provision of law which limits the amount of interest which may be charged in connection with deposits or obligations referred to in the amendments made by this title.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read: "A bill to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes."

The PRESIDING OFFICER. What is the will of the Senate?

Mr. SPARKMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR SENATOR MAGNUSON AND SENATOR HARTKE TO SUBMIT BILLS AND RESOLUTIONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Senator MAGNUSON and Senator HARTKE be authorized to submit bills and resolutions until midnight tonight, and that such measures be printed in the RECORD, together with any explanatory statements thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION TOMORROW OF S. 3934, FEDERAL-AID HIGHWAY AMENDMENTS OF 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, upon the disposition of Calendar No. 1084, authorization of construction at military installations, the Senate proceed to the consideration of Calendar No. 1063, S. 3934, Federal-Aid Highway Amendments of 1974.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR S. 707, CONSUMER PROTECTION—AGENCY FOR CONSUMER ADVOCACY, TO BE LAID ASIDE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business tomorrow, the unfinished business, S. 707, Consumer Protection—Agency for Consumer Advocacy, be temporarily laid aside and remain in a temporarily laid aside status until the close of business tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 10 a.m. After the two leaders or their designees have been recognized under the standing order, Mr. MATHIAS will be recognized for not to exceed 15 minutes, after which Mr. MANSFIELD will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

At the conclusion of the transaction of routine morning business, the Senate will proceed to the consideration of Calendar No. 1084, H.R. 16136, authorization of construction at military installations. Rollcall votes may occur thereon and on amendments thereto.

Upon the disposition of the military construction authorization bill, the Senate will proceed to the consideration of Calendar No. 1063, S. 3934, Federal-Aid Highway Amendments of 1974, on which there may be rollcall votes, either in regard to the passage thereof or in relation to amendments thereto, or both.

Mr. STAFFORD. Mr. President, will the distinguished Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. STAFFORD. Has there been any agreement on time for the highway bill and amendments thereto?

Mr. ROBERT C. BYRD. There is a time agreement on the highway bill. As I recall, the agreement provides for 2 hours for debate on the bill, 1 hour on any amendment thereto, and one half-hour on any amendment to an amendment, with, I believe, 20 minutes on any debatable motion or appeal; and the agreement is in the usual form.

Mr. STAFFORD. I thank the distinguished assistant majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished junior Senator from Vermont (Mr. STAFFORD).

ADJOURNMENT TO 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and at 3:06 p.m. the Senate adjourned until tomorrow, Wednesday, September 11, 1974, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 10, 1974:

UNITED NATIONS SESSION REPRESENTATIVES

The following-named persons to be Representatives of the United States of America to the 29th session of the General Assembly of the United Nations:

John A. Scali, of the District of Columbia.

W. Tapley Bennett, Jr., of Georgia.

Stuart Symington, U.S. Senator from the State of Missouri.

Charles H. Percy, U.S. Senator from the State of Illinois.

Thomas H. Kuchel, of California.

The following-named persons to be Alternate Representatives of the United States of America to the 29th session of the General Assembly of the United Nations:

Oliver C. Carmichael, Jr., of Indiana.

Joseph M. Segel, of Pennsylvania.

William E. Schaufele, Jr., of Ohio.

Clarence Clyde Ferguson, Jr., of New Jersey.

Barbara M. White, of Massachusetts.

INTERNATIONAL ATOMIC ENERGY AGENCY SESSION REPRESENTATIVES

The following-named persons to be the Representative and Alternate Representatives of the United States of America to the 18th session of the General Conference of the International Atomic Energy Agency:

Representative:

Dixy Lee Ray, of Washington.

Alternate Representatives:

John A. Erlewine, of Maryland.

Abraham S. Friedman, of New York.

Dwight J. Porter, of Nebraska.

Gerald F. Tape, of Maryland.

HOUSE OF REPRESENTATIVES—*Wednesday, September 11, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Two hundred years ago, September 7, 1774, the Reverend Jacob Duche offered this prayer before the First Continental Congress assembled in Philadelphia, Pa. It has been called the First Prayer in Congress. In spirit let us make it our prayer this morning:

O Lord, our Heavenly Father, High and Mighty, King of Kings, and Lord of Lords, who dost from Thy throne behold all the dwellers on Earth, and reignest with power supreme and uncontrolled over all the kingdoms, empires, and governments; look down in mercy, we beseech Thee, on these our American

States, who have fled to Thee from the rod of the oppressor, and thrown themselves on Thy gracious protection, desiring to be henceforth dependent only on Thee; to Thee have they appealed for the righteousness of their cause; to Thee do they now look up for that countenance and support, which Thou alone canst give; take them, therefore, Heavenly Father, under Thy nurturing care; give them wisdom in council and valor in the field; defeat the malicious designs of our cruel adversaries; convince them of the unrighteousness of their cause; and if they persist in their sanguinary purposes, O, let the voice of Thine own unerring justice, sounding in their hearts, constrain them to drop the weapons of war, from their unnerved hands in the day of battle! Be Thou present, O God of Wisdom, and direct the councils of this honorable assembly; enable them to settle things on the best and surest foundation. That the scene of blood may be speedily closed; that order, harmony, and peace may be effectually restored, and truth and justice, religion and piety, prevail and flourish amongst Thy people. Preserve the health of their bodies and vigor of their minds; shower down on them and the millions they here represent, such temporal blessings as Thou seest expedient for them in this world, and crown them with everlasting glory in the world to come. All this we ask in the name and through the merits of Jesus Christ, Thy Son and our Saviour. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested bills of the House of the following titles:

H.R. 6395. An act to designate certain lands in the Okefenokee National Wildlife Refuge, Ga., as wilderness;

H.R. 8193. An act to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels;

H.R. 10088. An act to establish the Big Cypress National Preserve in the State of Florida, and for other purposes;

H.R. 12000. An act to enable egg producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain, and develop markets for eggs, egg products, spent fowl, and products of spent fowl;

H.R. 13113. An act to amend the Commodity Exchange Act to strengthen the regulation of futures trading, to bring all agricultural and other commodities traded on exchanges under regulation, and for other purposes;

H.R. 14214. An act to amend the Public Health Service Act and related laws to revise and extend programs of health revenue sharing and health services, and for other purposes;

H.R. 14225. An act to amend and extend the Rehabilitation Act of 1973 for 1 additional year; and

H.R. 15404. An act making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1975, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 8193) entitled "An act to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Magnuson, Mr. Long, Mr. Hollings, Mr. Inouye, Mr. Cotton, Mr. Pearson, and Mr. Griffin to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 13113) entitled "An act to amend the Commodity Exchange Act, to strengthen the regulation of futures trading, to bring all agricultural and other commodities traded on exchanges under regulation, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Talmadge, Mr. McGovern, Mr. Humphrey, Mr. Clark, Mr. Curtis, Mr. Dole, and Mr. Bellmon to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 14214) entitled "An act to amend the Public Health Service Act and related laws, to revise and extend programs of health revenue sharing and health services, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Kennedy, Mr. Williams, Mr. Nelson, Mr. Eagleton, Mr. Cranston, Mr. Pell, Mr. Mondale, Mr. Hathaway, Mr. Schweiker, Mr. Javits, Mr. Dominick, Mr. Beall, Mr. Taft, and Mr. Stafford to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 15404) entitled "An act making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1975, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Pastore, Mr. McClellan, Mr. Mansfield, Mr. Hollings, Mr. Magnuson, Mr. Eagleton, Mr. Fulbright, Mr. Hruska, Mr. Fong, Mr. Brooke, Mr. Cotton, and Mr. Young to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3355) entitled "An act to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide appropriations to the Drug Enforcement Administration on a continuing basis," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Bayh, Mr. Eastland, Mr. McClellan, Mr. Ervin, Mr. Hruska, and Mr. Cook to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3473) entitled "An act to authorize appropriations for the Department of State and the U.S. Information Agency, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Fulbright, Mr. Sparkman, Mr. Mansfield, Mr. Aiken, and Mr. Case to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 1939. An act to prohibit pyramid sales transactions, and for other purposes;

S. 2888. An act to convey certain land of the United States to the Inter-Tribal Council, Inc., Miami, Okla.;

S. 3838. An act to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes;

S. 3942. An act to authorize appropriations to the Secretary of Commerce for the promotion of tourist travel in the United States;

S. 3976. An act to amend title 17 of the United States Code to remove the expiration date for a limited copyright in sound recordings, to increase the criminal penalties for piracy and counterfeiting of sound recordings, to extend the duration of copyright protection in certain cases, to establish a National Commission on New Technological Uses of Copyrighted Works, and for other purposes; and

S.J. Res. 238. Joint resolution to designate March 16–23, 1975, "DeMolay Week."

The message also announced that the President pro tempore, pursuant to Public Law 85–474, appointed Mr. Sparkman, Mr. Williams, Mr. Hartke, Mr. Cannon, Mr. McIntyre, Mr. Johnston, Mr. Griffin, Mr. Curtis, Mr. Thurmond, Mr. Fong, Mr. Pearson, and Mr. William L. Scott of Virginia to attend the Interparliamentary Union Meeting to be held in Tokyo, Japan, October 3 to 11, 1974.

The message also announced that the President pro tempore, pursuant to Public Law 85–474, appointed Mr. Stafford to attend the Interparliamentary Union Meeting to be held in Tokyo, Japan, October 3 to 11, 1974.

The message also announced that the President pro tempore, pursuant to Public Law 85–474, appointed Mr. Metcalf to attend the Interparliamentary Union Meeting to be held in Tokyo, Japan, October 3 to 11, 1974.

QUALITY OF MERCY IS VERY STRAINED

(Mr. HECHLER of West Virginia asked and was given permission to address the House for 1 minute.)

Mr. HECHLER of West Virginia. Mr. Speaker, the quality of mercy is getting very strained. It droppeth like nuggets of hail from the White House upon the heads of the just and the unjust. It is twice messed up: It messeth up those that give and those that take.

CONGRESS MUST NOW REOPEN IMPEACHMENT INQUIRY

(Mr. WALDIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALDIE. Mr. Speaker, I join with those who criticize the decision of President Ford to extend a pardon to former President Nixon prior to the opportunity for the judicial process to complete the record of the criminal conduct of Richard Nixon's Presidency.

I think, however, in order to correct the action of President Ford in denying the American people that record, the Congress of the United States must afford an alternative remedy. That remedy exists, Mr. Speaker: We can conclude the exposure of that record of criminal misconduct of the Nixon administration by reopening the impeachment proceeding.

The American people have an absolute necessity to understand the nature of the criminal conduct in which President Nixon engaged and in which he conceded his engagement when he accepted the pardon and which President Ford concurred had occurred when he extended that pardon.

Only the forum of the Congress now will present that opportunity, Mr. Speaker, and I trust we will now reopen the impeachment inquiry.

PRESIDENT FORD SHOULD RESTORE EQUAL JUSTICE UNDER LAW

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, it is widely reported that President Ford is considering the pardon of all Watergate criminals. With the crime rate at an all-time high and respect for the law at a record low, it is incumbent upon every public official to begin today to help restore the fundamental principle of equal justice under law.

Mr. Speaker, opening the prison gates to the Watergate criminals by President Ford will not be a step in that direction and will not repair the damage done to law and order by the Nixon administration.

SUDDEN PARDON OF FORMER PRESIDENT NIXON

(Mr. GUDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUDE. Mr. Speaker, I was shocked and greatly disappointed by President Ford's sudden pardon of former President Nixon. I believe this decision attacks the principle of equal justice under law on which our Nation was founded. Since it is, however, constitutionally doubtful that the pardon can be reversed and since the leadership has closed the door at least for now on a token impeachment vote, I have this noon introduced a measure which would require Watergate Special Prosecutor Jaworski to publish all information concerning any involvement of former President Nixon in any offense against the United States.

By acting on this measure, I believe the Congress can demonstrate its disagreement with the President's act and, at the same time, lay out the evidence for today's citizens and for history.

At the same time, we can indicate that we want no further pardons of those indicted for Watergate-related crimes.

COMPASSIONATE CHARACTER OF PRESIDENT FORD

(Mr. MINSHALL of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINSHALL of Ohio. Mr. Speaker, the actions taken by President Ford in pardoning former President Nixon are consistent with the noble character and philosophy of the colleague we grew to know so well in the House—compassionate, conciliatory, calmly judicial, and endowed with a conscience directed toward the long-range good of our Nation. He is not a man who plays for any short-term political or popular advantages when our national future is at stake.

We have suffered through 2 years of the Watergate tragedy. One shocking firestorm has followed another. We have almost become conditioned to expect new shockwaves. Many Americans have lost their sense of perspective, much as the British woman during World War II, who after surviving repeated heavy air raids and learning to almost enjoy disaster, one calm night shook her fist at the empty skies over London and said: "Herr Goering, if you do not pay us a visit tonight I will be very disappointed." That is the emotional state of mind, I fear, in which too many find themselves today. Emotions have run too high, too long. Nerves are raw. There is a strong tendency to overreact to any decision involving President Nixon or anyone involved in the great national tragedy of Watergate.

My confidence in Gerald R. Ford has never been higher. He has calmly exercised his constitutional powers in granting Nixon pardon. I know that he will give the most grave and thoughtful consideration to all ramifications of pardoning other Watergate participants before he makes any decision there. And when he makes that decision, it will be because he has determined it will be in the long-term best interests, not of former President Nixon or any others involved in Watergate, but of the United States.

That is the way the President—our old colleague, Jerry Ford—has always operated. We in the House have short memories if we forget that.

REPORT ON WORLD FOOTBALL LEAGUE

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUCHANAN. Mr. Speaker, I feel the time has come for me to give my colleagues a second report on the World Football League now that it is mid-season.

I am sure my colleagues will be interested to know that the Birmingham Americans now have a 10–0 record. This is only appropriate for an Alabama-based team, and one which represents the city which I must modestly admit is the finest in the United States.

We have put out the Chicago Fire. We have reduced the Florida Blaze to a dim glow. We have set the Southern California Sun. We have flattened the Detroit Wheels, and all those great achievements demonstrate that Americans can do anything when they try.

Mr. FREY. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Florida.

Mr. FREY. Mr. Speaker, I just wonder if the gentleman remembers the score of last year's Alabama-Notre Dame game.

Mr. BUCHANAN. I thank the gentleman very much for his contribution.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 3355, DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3355) to amend the Comprehensive Drug Abuse Prevention Control Act of 1970 to provide appropriations to the Drug Enforcement Administration on a continuing basis, with the House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, ROGERS, SATTERFIELD, KYROS, DEVINE, NELSEN, and CARTER.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
September 5, 1974.

Hon. CARL ALBERT,
The Speaker,
U.S. House of Representatives.

DEAR MR. SPEAKER:

Pursuant to the permission granted on August 22, 1974, the Clerk has received from the Secretary of the Senate the following messages:

That the Senate passed without amendment H.R. 15172 to authorize the Secretary of State to prescribe the fee for execution of an application for a passport and to continue to transfer to the United States Postal Service the execution fee for each application accepted by that Service; and

That the Senate agreed to the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R.

9456) entitled "An Act to extend the Drug Abuse Education Act of 1970 for three years."

With kind regards, I am

Sincerely,

W. Pat Jennings,
Clerk, U.S. House of Representatives.
By W. Raymond Colley.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C.,
September 9, 1974.

Hon. Carl Albert,
The Speaker,
U.S. House of Representatives.

Dear Mr. Speaker:

Pursuant to the permission granted on August 22, 1974, the Clerk has received from the Secretary of the Senate the following messages:

That the Senate passed without amendment H.R. 13267, an act to authorize Federal agricultural assistance to Guam for certain purposes.

That the Senate passed without amendment H.R. 15406, an Act to amend title 37, United States Code, to refine the procedures for adjustments in military compensation, and for other purposes.

That the Senate passed without amendment H. Con. Res. 564, a Concurrent Resolution to declare the sense of Congress that Smokey Bear shall be returned on his death to his place of birth, Capitan, New Mexico.

With kind regards, I am

Sincerely,

W. Pat Jennings,
Clerk, U.S. House of Representatives.
By W. Raymond Colley.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

August 23, 1974.

Hon. Carl Albert,
The Speaker,
House of Representatives.

Dear Mr. Speaker: Pursuant to the permission granted on August 22, 1974, the Clerk has received from the Secretary of the Senate the following messages:

That the Senate agreed to the House amendment to the Senate amendment to H.R. 14883, An Act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for a 2-year period, and for other purposes; and

That the Senate agreed to the conference report on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H.R. 15572, An Act making appropriations for the Department of Housing and Urban Development; for space, science, veterans, and certain other independent executive agencies, boards, commissions, corporations, and offices for the fiscal year ending June 30, 1975, and for other purposes; and that the Senate agreed to the House amendments to the Senate amendments numbered 2, 4, 28, and 32, to H.R. 15572.

With kind regards, I am

Sincerely,

W. Pat Jennings,
Clerk, House of Representatives.
By W. Raymond Colley.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to the authority granted him on Thursday, August 22, 1974, he did on Tuesday, August 27, 1974, sign enrolled bills of the House, and an enrolled bill of the Senate as follows:

H.R. 2. An act to provide pension reform;

H.R. 13871. An act to amend chapter 81 of subpart G of title 5, United States Code, relating to compensation for work injuries, and for other purposes;

H.R. 15572. An act making appropriations for the Department of Housing and Urban Development; for space, science, veterans, and certain other independent executive agencies, boards, commissions, corporations, and offices for the fiscal year ending June 30, 1975, and for other purposes; and

S. 821. An act to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes;

And on Tuesday, September 10, 1974, signed enrolled bills of the House as follows:

H.R. 9456. An act to extend the Drug Abuse Education Act of 1970 for 3 years;

H.R. 13267. An act to authorize Federal agricultural assistance to Guam for certain purposes;

H.R. 15172. An act to authorize the Secretary of State to prescribe the fee for execution of an application for a passport and to continue to transfer to the U.S. Postal Service the execution fee for each application accepted by that Service; and

H.R. 15406. An act to amend title 37, United States Code, to refine the procedures for adjustments in military compensation, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C.,
September 3, 1974.

Hon. Carl Albert,
The Speaker,
House of Representatives.

Dear Mr. Speaker: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 2:03 p.m. on Saturday, August 31, 1974, and said to contain a message from the President wherein he transmits a Federal Pay Comparability Alternative Plan.

With kind regards, I am

Sincerely,

W. Pat Jennings,
Clerk, House of Representatives.
By W. Raymond Colley.

DEFERRAL IN PENDING PAY ADJUSTMENT FOR FEDERAL EMPLOYEES AND REDUCTION IN FEDERAL CIVILIAN POSITIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-342)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Post Office and Civil Service and ordered to be printed:

To the Congress of the United States:

At a time when inflation is the main concern of every American, the Federal Government has a special obligation to take those actions which begin to stop inflation.

In this spirit and with the knowledge that the action I am taking will help to hold down the cost of living for all Americans, I now recommend a ninety-day deferral in the pending pay adjustment for Federal employees. At the same time, I am also ordering the Director of the Office of Management and Budget to proceed with a reduction of 40,000 Federal civilian positions from those planned for the current fiscal year.

Therefore, as required by law, I am transmitting to the Congress a plan to defer Federal pay raises for ninety days. This is intended to meet both the needs of those who serve the Government and the common interest of the general public, all of whom must bear the burden of increased inflation.

Under this plan, a pay increase for all Federal employees based upon an appropriate comparability adjustment would become effective on the first pay period beginning on or after January 1, 1975. The level of the comparability adjustment will be determined during the next few weeks.

I regret asking for this postponement of a Federal pay increase, but I am convinced of its necessity. Federal employees who I am asking to make a sacrifice are the foundation of sound, effective and efficient Government. I am more conscious than ever of their contributions to our country.

Nevertheless, at this critical time in the economic health of our Nation, I must call on all Americans without exception to make sacrifices in order to hold down wages and prices. Federal employees, as one of the largest groups of workers in the country, have a special role to play in the fight against inflation because we in Government set the example. As we seek a noninflationary budget, it is especially important this year that Federal spending be held to a minimum.

I urge the Congress to support this action, because it is in the best interest of all Americans.

The plan to defer Federal pay raises by ninety days is attached. As required by law, the plan represents an alternative to the October effective date which would otherwise occur.

In addition, the Office of Management and Budget has now determined the specific reductions in civilian positions from those budgeted for the current fiscal year. The agencies will shortly be informed of these reductions by letters from OMB. Wherever possible, these reductions will be accomplished through normal attrition.

It is extremely important that the Federal establishment hold employment to the absolute minimum needed to get the job done. Effective use of human talents is a wise use of the tax dollar.

The pay raise deferral and the reduction in civilian positions together will reduce the 1975 budget by about $1 billion. Thus, the Federal Government is taking an essential first step in holding down the Federal budget and showing the way for restraint by all Americans.

Gerald R. Ford.

The White House, *August 31, 1974.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Office of the Clerk,
U.S. House of Representatives,
Washington, D.C.
September 4, 1974.

Hon. Carl Albert,
The Speaker,
House of Representatives.

Dear Mr. Speaker: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 3:20 P.M. on Wednesday, September 4, 1974, and said to contain a message from the President wherein he transmits reports on Traffic Safety '73 as required by the Highway Safety and National Traffic and Motor Vehicle Safety Acts.

With kind regards, I am

Sincerely,

W. Pat Jennings, *Clerk,*
House of Representatives.
By W. Raymond Cooley.

REPORTS ON NATIONAL TRAFFIC SAFETY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-343)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee of the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

The 1950's and early 1960's were marked by enormous growth in the Nation's highway systems—the number of vehicles which used them and the miles which they traveled nearly doubled. We developed a modern, flexible form of transportation. It was also deadly. Deaths rose from 34,700 in 1950 to top 53,000 in 1966, when the Congress determined that a national effort was needed to contain the runaway slaughter and passed the Highway Safety and National Traffic and Motor Vehicle Safety Acts. The attached reports, which I am transmitting in accordance with the reporting requirements in those acts, describe the various traffic safety programs, with emphasis on activities during 1973.

Without question, the seven-year-old national traffic safety effort has proved beneficial. As will be seen by figure 1 in the motor vehicle safety report, annual deaths among passenger car occupants, which were rising throughout the early 60's, have since leveled off and remained fairly constant in face of a rise through 1972 in traffic deaths. This is in spite of large increases in mileage driven, number of vehicles, drivers, average speed, and alcohol consumption—to name some of the factors which we know contribute to highway accidents. The overall growth in traffic fatalities is attributable to motorcycle, pedestrian, and bicycle accidents. There is little doubt that our motor vehicle safety standards are saving lives and reducing the severity of injuries.

Improvements in the Nation's highways are also making a major contribution to progress in traffic safety. Since 1967 the death rate per 100 million miles traveled has declined steadily on our modernized roadways.

Although total traffic fatalities remain shockingly high, the fatality rate has declined from 5.5 per 100 million vehicle miles to 4.3—a significant decrease of 22 percent since 1967. Had the 1967 fatality rate continued, almost 72,000 Americans would have been killed in highway accidents in 1973, instead of the estimated total of just over 56,000. This estimated saving of 16,000 lives in a single year represents an enormous financial saving to society in terms of wages, medical costs, legal expenses, and property damage, not to mention human suffering. Such savings would not have come about without the combined efforts of Federal, State, and local officials involved in this national emphasis, as well as private citizens who have supported the program.

In 1973, the lowering of speed limits and other effects of the energy shortage situation had a dramatic impact on highway fatality statistics. During the last two months of the year, as States reduced their speed limits and motorists voluntarily limited their driving, the number of fatalities declined by as much as 25 percent below the November/December 1972 totals in some States. As a result, the Nation as a whole ended the year having lost 2,000 fewer lives than had been projected.

The saving in lives during the past year provides an added incentive for the Government and the Nation to persist in the endeavor to make our vehicles, our highways, and our drivers safer. I am confident that well-managed programs and well-managed use of our resources will continue to have a positive effect in improved highway safety.

Gerald R. Ford.

The White House, *September 4, 1974.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C., *September 6, 1974.*

Hon. Carl Albert,
The Speaker,
House of Representatives.

Dear Mr. Speaker: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 1:30 P.M. on Friday, September 6, 1974, and said to contain a message from the President wherein he transmits the annual report of the Secretary of the Interior on the Administration of the Federal Coal Mine Health and Safety Act.

With kind regards, I am

Sincerely,

W. Pat Jennings,
Clerk, U.S. House of Representatives.
By W. Raymond Colley.

ANNUAL REPORT OF THE SECRETARY OF THE INTERIOR—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor.

To the Congress of the United States:

I am pleased to transmit herewith to the Congress the annual report of the Secretary of the Interior on the Administration of the Federal Coal Mine Health and Safety Act.

This report for the calendar year 1973 is submitted to the Congress in accordance with the requirements of Public Law 91-173, the Federal Coal Mine Health Safety Act of 1969.

Gerald R. Ford.

The White House, *September 6, 1974.*

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON ARMED SERVICES—SUBPENA TO TESTIFY IN CASE OF UNITED STATES OF AMERICA v. JOHN N. MITCHELL, ET AL.

The SPEAKER laid before the House the following communication from the chairman of the Committee on Armed Services, which was read and ordered to be printed:

Committee on Armed Services,
Washington, D.C., September 11, 1974.

Hon. Carl Albert,
Speaker, House of Representatives,
Washington, D.C.

Dear Mr. Speaker: On August 26, 1974 a subpoena duces tecum issued by the United States District Court for the District of Columbia naming The Honorable Lucien N. Nedzi was served on Mr. William H. Hogan, Jr., an employee of the House Armed Services Committee, commanding that Mr. Nedzi appear in the United States District Court on September 9, 1974 at 10:00 a.m. to testify in the case of United States v. John N. Mitchell, et al. and bring all tapes and other electronic and/or mechanical recordings or reproductions, and any memoranda, papers, transcripts, and other writings, relating to all non-public statements and testimony of witnesses relating to the matters being investigated pursuant to hearings of the House Armed Services Subcommittee on Intelligence. I understand that the case was continued and trial will now commence on September 30, 1974. The subpoena was issued upon application of defendant H. R. Haldeman.

The material subpoenaed was taken in executive session during hearings of the Special Subcommittee on Intelligence of the Committee on Armed Services and remains executive session material.

The subpoena in question is forwarded herewith and the matter presented for such action as the House in its wisdom wishes to take.

Sincerely,

F. Edw. Hébert,
Chairman.

With the following subpena:

[U.S. District Court for the District of Columbia, No. 74-110]

United States of America *v.* John N. Mitchell, et al., Defendants, to Congressman Lucien N. Nedzi, House of Representatives, Washington, D.C.

You are hereby commanded to appear in the United States District Court for the District of Columbia at Constitution Avenue and John Marshall Place, NW. in the city of Washington on the 9th day of September 1974 at 10 o'clock a.m. to testify in the case of United States v. John N. Mitchell, et al. and bring with you all tapes and other electronic and/or mechanical recordings or reproductions, and any memoranda, papers, transcripts, and other writings, relating to: All non-public statements and testimony of witnesses relating to the matters being investigated pursuant to hearings of the House Armed Services Sub-Committee on Intelligence Operations.

This subpoena is issued upon application of the defendant, H. R. Haldeman.

Frank H. Stulch,
Attorney for Defendant, H. R. Haldeman,
Washington, D.C.

James F. Davey,
Clerk.
By Robert L. Line,
Deputy Clerk.

CALL OF THE HOUSE

Mr. WYDLER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 520]

Anderson, Calif.
Andrews, N.C.
Armstrong
Ashbrook
Badillo
Barrett
Bingham
Blackburn
Blatnik
Brasco
Broomfield
Burke, Calif.
Burke, Fla.
Butler
Camp
Carey, N.Y.
Chappell
Chisholm
Clark
Clausen, Don H.
Clawson, Del
Clay
Collier
Collins, Ill.
Conable
Conyers
Corman
Cotter
Culver
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Dellenback
Dellums
Dennis
Derwinski
Diggs
Donohue
Evans, Colo.
Evins, Tenn.
Fish
Ford
Fraser
Frelinghuysen
Froehlich
Gaydos
Gonzalez
Grasso
Gray
Gubser
Gunter
Hammerschmidt
Hanna
Hansen, Idaho
Harsha
Hays
Hicks
Huber
Hunt
Hutchinson
Ichord
Johnson, Colo.
Jones, N.C.
Jordan
Ketchum
King
Kluczynski
Lagomarsino
Landgrebe
Lehman
Lent
Lujan
McEwen
McKinney
McSpadden
Maraziti
Mathias, Calif.
Mayne
Mizell
Mosher
Moss
Murphy, N.Y.
Nelsen
Obey
O'Brien
Pepper
Podell
Powell, Ohio
Price, Tex.
Pritchard
Quie
Rarick
Rees
Reid
Rhodes
Roberts
Robison, N.Y.
Roe
Rooney, N.Y.
Rosenthal
Rousselot
Runnels
Ruth
Scherle
Sebelius
Shipley
Shoup
Snyder
Steele
Stratton
Symington
Talcott
Thompson, N.J.
Towell, Nev.
Treen
Ullman
Van Deerlin
Vander Veen
Veysey
Wampler
Widnall
Wiggins
Wilson, Bob
Wilson, Charles, Tex.
Wolff
Wright
Wylie
Young, Alaska
Young, Fla.
Young, S.C.
Zablocki
Zwach

The SPEAKER. On this rollcall 299 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ESTABLISHING A NATIONAL PROGRAM FOR RESEARCH AND DEVELOPMENT IN NONNUCLEAR ENERGY SOURCES

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 13565) to establish a national program for research and development in nonnuclear energy sources.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 13565, with Mr. Roush in the chair as Chairman pro tempore.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee rose on Thursday, August 22, 1974, there was pending an amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. Udall) for the substitute committee amendment now printed in the reported bill.

Are there further amendments to the amendment in the nature of a substitute offered by the gentleman from Arizona?

AMENDMENT OFFERED BY MR. UDALL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. UDALL. Mr. Chairman, I have a technical and typographical amendment. and ask unanimous consent that it be considered at this time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. HOSMER. Mr. Chairman, reserving the right to object, to what section is the amendment to go?

Mr. UDALL. The amendment is to page 22, line 22, and simply changes the language to read, "not be substantially to".

Mr. HOSMER. Is the amendment to section 7?

Mr. UDALL. Yes, it is.

Mr. HOSMER. Mr. Chairman, I think the reading is by sections, is it not?

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. Yes.

Mr. UDALL. It is my understanding that the Udall substitute in the nature of an amendment to the whole bill is open to amendment at any point. In August when we last considered the bill we had been going section by section, but it is my understanding that legally and parliamentarily we are not bound to proceed in that fashion.

The Clerk read as follows:

> Amendment offered by Mr. Udall to the amendment in the nature of a substitute offered by Mr. Udall: Page 22, line 23, strike the word "substantially" and insert in lieu thereof the phrase "not be substantially to".

Mr. HOSMER. Mr. Chairman, the minority regards this as a technical amendment and has no objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN pro tempore. The question is on the amendment to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. Udall).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENTS OFFERED BY MR. HOSMER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. HOSMER. Mr. Chairman, I offer my amendments Nos. 6 and 7 to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. Udall), and ask unanimous consent that they be considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read as follows:

> Amendments offered by Mr. Hosmer to the amendment in the nature of a substitute offered by Mr. Udall: Page 5, line 4, strike out the words "to the degree feasible" and insert "to the degree determined by the Administrator to be feasible and advisable,".
>
> Page 5, lines 7 through 23, strike out subsection 2.(c).

Mr. HOSMER. Mr. Chairman, my amendment at page 5, line 4, would appropriately restate this important feature of the Administrator's responsibilities. International exchanges of information in energy technology fields should be effected whenever and wherever advisable—and not simply to the extent feasible. Billions of taxpayer dollars will be invested in ERDA's programs. It will be of first-rank importance to assure that the resulting know-how so acquired by our talented scientists and engineers, at substantial cost, will not willy-nilly be sent abroad. International exchanges of information should be carefully worked out, and normally be predicated on the principle of reciprocity. This statutory provision should point to the need to exercise discretion, in addition to referring to the mundane test of possibility or feasibility.

Mr. Chairman, this bill does not really necessitate any revisions to the Freedom of Information Act. Subsection 2(c) would amend that act unnecessarily, by modifying, in a very ambiguous manner, the carefully carved out exceptions to detailed information that must be disclosed to the public. Trade secrets and proprietary data. for example, would also have to qualify for exemption under the obscurely worded provisions of section 7 of this bill—the patent provisions—before those details could be protected from disclosure under the Freedom of Information Act. Interagency memoranda, now exempt pursuant to the Freedom of Information Act, would no longer be withholdable by ERDA if this section remains. Medical and personal files, the disclosure of which—in the words of the Freedom of Information Act exception—"would constitute a clearly unwarranted invasion of personal privacy"—would have to be disclosed to the public.

The provision my amendment would remove is an outrageous intrusion in another area, unrelated to the legitimate sphere of interest of the bill before us.

The ERDA bill—in both the House- and Senate-passed versions—adequately provides for widespread dissemination of information resulting from ERDA's program. The present provision in the ERDA bill reads as follows:

> Subject to the provisions of chapter 12 of the Atomic Energy Act (42 U.S.C. 2161–2166) [Note: security information], and other applicable law, the Administrator shall disseminate scientific, technical, and practical information acquired pursuant to this title through information programs and other

appropriate means, and shall encourage the dissemination of scientific, technical, and practical information relating to energy so as to enlarge the fund of such information and to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding.

In addition, the Freedom of Information Act assures that all other information must be disclosed unless protectable under the few narrowly prescribed categories of excepted sensitive data.

Subsection (c) is unnecessary, dangerous, and ill-advised.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the first amendment is acceptable because it is simply a change in language, adding the word "advisable" to the existing language.

The second amendment is one to which I personally have no objection. We were most anxious to have in the bill provisions for the widest dissemination of energy research information which might be developed under this program, so we wrote a provision of this kind.

The point is now being made that we should cover this under the Freedom of Information Act, which is a general statutory enactment covering all cases. That is what the amendment will do, and I have no objection to it.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from California (Mr. HOSMER) to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The amendments to the amendment in the nature of a substitute were agreed to.

AMENDMENT OFFERED BY MR. HOSMER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. HOSMER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the amendment in the nature of a substitute offered by Mr. UDALL: Page 5, Line 24. Strike out "section 3." and insert a "section 3." to read as follows:

"NATIONAL ENERGY RESEARCH AND DEVELOPMENT PROGRAM

SEC. 3. (a) The Administrator of the Energy Research and Development Administration, hereafter referred to as the "Administrator", shall—

(1) formulate a proposed ten-year national energy research and development program, including a description of the principle features, objectives, planned approaches and projections pertaining to each energy source and category of utilization technology to be encompassed by the program; and, thereafter, develop annual addenda or revisions updating the adopted program in the light of progress or past results, contemplated changes, amended plans or projections, and extension of the initial ten-year time frame;

(2) conduct a study, in consultation with other executive agencies having general jurisdictions or knowledge in regard to manpower studies or data, to determine the numbers and types of scientific, technical and other personnel necessary to carry out effectively the overall, long-range energy research and development effort in this country, including recommendations of actions necessary for the training of such personnel; and, thereafter develop annual addenda or revisions updating such findings; and

(3) submit the proposed program and addenda or revisions thereto provided for in subdivision (1) of this subsection, and the results of the study and the addenda or revisions provided for in subdivision (2) of this subsection, to appropriate congressional committees. The material provided for in subdivision (1) shall be submitted at least forty-five days in advance of implementation thereof.

(b) In formulating the program and developing the addenda or revisions provided for in subdivision (1) of subsection (a) of this section, and in implementing the adopted program, as revised from time to time, the Administrator shall comply with the provisions of this Act, the Energy Reorganization Act, of 1974, and such other requirements as may be imposed by Congressional authorizations pursuant to section 8 or by other statutes.

(c) As used in this Act, the term "research and development" means (1) theoretical analyses, exploration, or experimentation, (2) the extension of investigative findings and theories of a scientific or technical nature, including the experimental production and testing of models, devices, equipment, materials and processes, and (3) demonstration of practical applications and of advances in commercial or industrial applications.

Mr. HOSMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HOSMER. Mr. Chairman, my amendment would correct several deficiencies in the present wording of section 3, and eliminate the necessity for the next four amendments I am planning to propose in order to correct some of the more significant weaknesses in this section. My amendment also contains an excellent definition of the term "research and development," modeled on the description utilized in the Atomic Energy Act. Section 3, as I propose to restate it, would be fully consistent with the provisions of the ERDA legislation, on which this bill seeks to build.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment would seek to strike out the central part of this bill, the part which gives policy direction to the administraton of this program. The amendment proposed by the gentleman from California, in effect, says to the administrator, "Here is $20 billion. Go out and spend it and come back and tell us about it sometime, what you might have done."

We think the policy directions now contained in section 3 of the bill are important. Amendments similar to the one which is before us were defeated in committee by substantial margins.

Mr. Chairman, I hope this amendment will be defeated.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. HOSMER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. HOSMER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the amendment in the nature of a substitute offered by Mr. UDALL: Page 5, line 25, strike the word "possible" and insert "reasonably practical".

(Mr. HOSMER asked and was given permission to revise and extend his remarks.)

Mr. HOSMER. Mr. Chairman, the so-called principles that follow are scarcely a blueprint for successful R. & D. breakthroughs by ERDA. Actually, some of them may well constitute legal and technological roadblocks to worthwhile R. & D. pursuits. There should be no strict demand that these principles be rigidly applied "to the fullest extent possible," as distinguished from wherever reasonably practical.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. HOSMER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. HOSMER. Mr. Chairman, I offer my amendment No. 10 to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the amendment in the nature of a substitute offered by Mr. UDALL: Page 6, line 3, strike the word "primary".

Mr. HOSMER. Mr. Chairman, energy conservation is a primary consideration for the Federal Energy Administration which is charged with the responsibility of furthering more efficient use of energy and reducing energy waste. ERDA will be an R. & D. agency. It is simply not sensible or practical to require that in the design and implementation of each and every R. & D. program that energy conservation must be a primary consideration. This will do nothing for ERDA and its missions, except lead to nuisance legal battles concerning the Administrator's judgmental process. Only issues that delay, not new Btu's, would be reaped from this requirement.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

A similar amendment was defeated in the committee. This question was debated at length, and a large majority of the committee felt that energy conservation should be a primary tool of any energy research and development program.

Mr. Chairman, I urge the defeat of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. HOSMER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. HOSMER. Mr. Chairman, I offer my amendment No. 11 to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the amendment in the nature of a substitute offered by Mr. UDALL: Page 6, Lines 8 through 15, strike out subsection (b) of Sec. 3. and redesignate the ensuing subsections accordingly.

Mr. HOSMER. Mr. Chairman, this subsection is a potential troublemaker. The first sentence is unnecessary because the National Environmental Policy Act now provides for such evaluations. However, the inclusion of the sentence will be construed as an intention by the Congress to amend NEPA to require still another evaluative process of some sort or degree.

The concluding sentence is even more troublesome. It would impose a statutory mandate that technologies which appear at some stage—even a very early stage in the R. & D. spectrum—to entail a relatively high environmental or social cost—for example, coal extraction or conversion, offshore oil drilling, shale oil—must, as a matter of law, not scientific judgment, be given a low priority as far as R. & D. efforts are concerned. And this low priority would have to be observed by ERDA irrespective of any scientific promise of a substantial yield of useful, environmentally acceptable energy from the source or technique affected. This provision is an antienergy, anticommonsense criterion in context of R. & D. missions.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

This amendment would seek to delete a very important part of the bill, concerning the environmental and social costs and consequences of energy development.

This is another amendment which was debated in the full committee, and it concerns an important subsection. It only directs that the Administrator shall try to minimize the aggregate environmental and social costs. I do not think that any reasonable individual could have any argument with that.

The provision which the gentleman seeks to amend was drafted in large part by the gentleman from North Carolina (Mr. MARTIN).

I urge the defeat of the pending amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. HOSMER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. HOSMER. Mr. Chairman, I offer my amendment No. 12 to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the amendment in the nature of a substitute offered by Mr. UDALL: Page 6, Line 16, through Line 3, Page 7, strike out subsection (c) of Sec. 3. and redesignate the ensuing subsection accordingly.

Mr. HOSMER. Mr. Chairman, this subsection would impose requirements that are impractical and unnecessary. In the early stages of an R. & D. project it is usually premature to judge whether, eventually, "significant consumptive use of water" may be required "after the technology has reached the stage of commercial application." As for the demonstration stage of a technology, referred to in the concluding sentence of this subsection, such projects will require special authorization by the Congress as well as the development of an environmental impact statement, and thereby full attention will be directed to water sufficiency and other environmental and technological aspects that may be importantly involved.

Mr. Chairman, I ask for the acceptance of the amendment.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this subsection which the gentleman's amendment would strike is of crucial importance to the country, and especially to those of us from the West. What this subsection says is that if we are going to develop new technologies involving oil shale and coal gasification and many other suggested methods, we must make sure that in the development of these technologies we have assessed our water supply, we must know the demands on our water supply, and we must take these crucial water matters into account.

Again, Mr. Chairman, this is an area which the committee debated and decided against the position of the gentleman from California by a substantial margin. It would be a serious mistake to adopt the gentleman's amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. HOSMER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. HOSMER. Mr. Chairman, I offer my Amendment No. 13 to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the amendment in the nature of a substitute by Mr. UDALL: Page 7, line 22, strike out "Section 4" and insert a new "section 4" to read as follows:

"SCOPE OF RESEARCH AND DEVELOPMENT

SEC. 4. (a) In carrying out his responsibilities under the Energy Reorganization Act of 1974, the Administrator shall, among other things—

(1) vigorously conduct research and development activities in a wide range of energy technologies in order to insure adequate, reliable, economical, and environmentally acceptable energy sources and systems to support the essential needs of modern society;

(2) develop the technology and information base necessary to support development of the widest possible range of options available for future energy policy decisions;

(3) investigate the capability for and, in general, the option of energy self-sufficiency for the United States through the development of socially and environmentally acceptable methods for the utilization of domestic energy sources;

(4) intensively pursue research and development directed toward improvement in efficiency and reliability of means of energy production, conversion, storage, transmission and use in the reduction of energy waste, and in other energy conservation technology areas;

(5) assure that the national research and development program includes appropriate attention to the high desirability of advancing technologies in such areas as—

(i) recycling and reuse, including productive use of agricultural and animal wastes, garbage, sewage, and industrial materials and processes;

(ii) magnetohydrodynamics, fuel cells, gas turbines, and other improved means of generating energy;

(iii) inertial and other types of energy storage systems;

(iv) systems approaches to energy use in residential, commercial, and industrial sectors;

(v) energy conservation through improvements in home design, insulation techniques, and electrical equipment and processes;

(vi) transportation vehicles and systems, including improvements of and alternatives to the internal combustion engine, and the development of efficient means of public transportation;

(vii) solar energy systems, including residential and commercial heating, cooling, and combined heating and cooling systems, central power stations, and photovoltaic cells;

(viii) geothermal energy resources, including improved means of assessing such resources, developing hot dry rock, developing geopressured hot water and extraction of useful materials;

(ix) coal resources, including improved means of extraction of surface and subsurface deposits, reclamation of mining sites, converting coal to gaseous, liquid, or other forms of clean energy sources, and utilizing coal and coal derivatives in an environmentally acceptable manner;

(x) oil and gas resources, including improved means of secondary and tertiary recovery, and of preventing and coping with marine oil spills;

(xi) extraction and utilization of hydrogen as a fuel source;

(xii) means of utilizing tidal and wind power;

(xiii) nuclear processes; and

(xiv) process heat and other energy-related processes.

(6) to the extent determined by the Administrator to be feasible and consistent with his responsibilities, provide for a program for the international exchange of energy-related technologies.

(b) Pursuant to the authority and directions of this Act, the Administrator shall transmit to the Congress—

(1) in the proposed program provided for in subdivision (1) of subsection (a) of section 3, the Administrator's recommendations for a vigorous Federal research and development strategy and priorities designed to achieve solutions to immediate and short-term (to the early 1980's) energy supply system and associated environmental problems, including specific anticipated actions and proposals for the most effective approach, through Federal assistance—

(i) to accelerate the demonstration of technologies for producing a low-sulfur fuel suitable for boiler use;

(ii) to accelerate the demonstration of technologies for producing substitutes for natural gas, including coal gasification; the Administrator shall particularly consider the desirability of inviting proposals from potential participants based upon Federal assistance and participation in the form of a joint Federal-industry corporation, and the Administrator's recommendations in this regard shall include a report on the desirability and viability of using this form of Federal assistance or participation;

(iii) to accelerate the demonstration of technologies for producing syncrude and liquid petroleum products from coal; the Administrator shall particularly consider the desirability of inviting proposals from potential participants based upon Federal assistance and participation through guaranteed prices or purchase of the products, and the Administrator's recommendations in this regard shall be accompanied by a report on the desirability and viability of using this form of Federal assistance or participation;

(iv) to accelerate the demonstration of advanced power cycles for the generation of electricity from coal, including technologies which employ the production of low British thermal unit gas from coal;

(v) to accelerate the demonstration of geothermal energy technologies;

(vi) (A) to accelerate the demonstration of the production of syncrude from oil shale, and (B) to assist the research and development of in situ methodologies for the production of syncrude from oil shale;

(vii) to demonstrate new and improved methods for the extraction of petroleum resources, including secondary and tertiary recovery of crude oil;

(viii) to demonstrate new and improved methods for the extraction of coal resources, including lignite, bituminous, and anthracite coal;

(ix) to demonstrate the economics and commercial viability of solar energy for residential and commercial energy supply applications;

(x) to accelerate the commercial demonstration of environmental control systems including particulate and sulfur oxides emission control systems, necessary for the timely implementation of air pollution standards and water pollution standards established pursuant to Federal or State law;

(xi) to investigate the use of tidal power for supplying electrical energy; and

(xii) to demonstrate new and innovative energy conservation technologies.

(2) In the proposed program provided for in subdivision (4) of subsection (a) of section 3, the Administrator's recommendations for a vigorous Federal research and development strategy and priorities designed to achieve solutions to middle-term (the early 1980's to 2000) energy supply system and associated actions and proposals for the most effective approach through Federal assistance—

(i) to improve the economics and cost-effectiveness of the technologies set forth in the research and development strategy recommended pursuant to subdivision (1);

(ii) to advance improvements in the methods and technologies for the transportation and storage of electric energy;

(iii) to demonstrate advanced power cycles for the generation of electricity which represent significant improvements in the efficiency of conversion of energy resources to electricity;

(iv) to demonstrate hot dry rock geothermal energy technologies;

(v) to demonstrate advanced solar energy technologies;

(vi) to determine the economics and commercial viability of the use of hydrogen as a primary energy source;

(vii) to demonstrate the use of fuel cells for central station electric power generation;

(viii) to determine the economics and commercial viability for producing synthetic energy supplies from agricultural products and wastes; and

(ix) to determine the economics and commercial viability of the production and use of methane gas as an energy source.

(3) Within one year following the submission of the proposed program provided for in subdivision (1) of subsection (a) of section 3, the Administrator's recommendations for a Federal research and development strategy and priorities designed to achieve solutions to long-term (beyond 2000) energy supply systems and associated environmental problems, including specific anticipated actions and proposals for the most effective approach, through Federal assistance—

(i) to further improve the economics and cost-effectiveness of the technologies set forth in the research and development strategy recommended pursuant to subdivisions (1) and (2); and

(ii) to advance the use of hydrogen as a primary energy source.

(4) In the proposed program provided for in subdivision (1) of subsection (a) of section 3, the Administrator's recommendations, for each of the time frames set forth in subdivisions (1), (2), and (3) of this subsection, respecting the research and development strategy for nuclear options pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974."

Mr. HOSMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HOSMER. Mr. Chairman, the amendment I offer is a perfecting restatement of the present text of section 4. It includes mention of all the technologies referred to in the present version, but incorporate a time frame pertaining to the probable development of various energy sources and technologies. Additionally, it includes mention of nuclear energy, which ERDA will also have to consider in its overall developmental program. Omitting all mention of nuclear development, as section 4 now does, could create the erroneous impression that Congress believes the Nation can succeed with Project Independence, or attain any reasonable degree of energy self-sufficiency in the coming decades, without nuclear power.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this proposed amendment is a total revision of section 4, on which the committee spent a great deal of time.

Section 4 gives directions to the Administrator. The committee has spent a great deal of effort in writing these program directions which we thought were sound, and I think it would be extremely unwise to, in this fashion, on the floor completely rewrite this section in the way which the gentleman's amendment would.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The amendment to the amendment in the nature of a substitute was rejected.

Mr. HOSMER. Mr. Chairman, I offer my amendment No. 14 to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the amendment in the nature of a substitute offered by Mr. UDALL: Page 12, line 20, strike out "section 5" and insert a new "section 5" to read as follows:

FORMS OF FEDERAL ASSISTANCE

SEC. 5. (a) In the conduct of research and development activities pursuant to the Energy Reorganization Act of 1974, the various forms of Federal assistance and participation may, among other things, include—

(1) joint Federal-industry corporations consistent with the provisions of subsection (b) of this section;

(2) Federal purchases or guaranteed price of the products of demonstration plants or activities under contractual arrangements for demonstration projects; and

(3) Federal loans under contractual arrangements for demonstration projects.

(b) MODEL CORPORATIONS.—Joint Federal-industry corporations proposed pursuant to this Act shall be subject to congressional authorization pursuant to section 12 and shall, except as otherwise so specifically authorized, conform to the following guidelines:

(1) each such corporation is authorized to design, construct, operate, conduct, and maintain one or more experimental demonstration facilities, or other operations which will ascertain the technical, environmental, and economic feasibility of a particular energy technology. In carrying out this function, the corporation shall be empowered, either directly or by contract, to utilize commercially available technologies, perform tests, or design, construct and operate pilot plants as may be necessary or incident to the design of a full-scale facility.

(2) Each corporation shall have—

(A) a Board of nine directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the Board to serve as Chairman. The Board shall be empowered to adopt and amend bylaws. Five members of the Board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and four members of the Board shall be appointed by the President on the basis of recommendations received by him from non-Federal entities including those proposing to enter into contractual arrangements to participate in the corporation's activities;

(B) a President and such other officers and employees as may be named and appointed by the Board (the rates of compensation of all officers and employees shall be fixed by the Board; and

(C) the usual power conferred upon corporations by the laws of the District of Columbia.

(3) An appropriate time interval shall be established for the term of Federal participation in the corporation at the expiration

of which the Board of Directors, shall take such action as may be necessary to dissolve the corporation or otherwise terminate Federal participation and financial interests. In carrying out such dissolution, the Board of Directors shall dispose of all physical facilities of the corporation in such manner and subject to such terms and conditions as the Board determines are in the public interest, and a share of the appraised value of the corporate assets proportional to the Federal participation in the corporation, including the proceeds from the disposition of such facilities, on the date of its dissolution, after satisfaction of all its legal obligations, shall be made available to the United States and deposited in the Treasury of the United States as miscellaneous receipts. All patent rights of the corporation shall, on such date of dissolution, be vested in the Administrator: *Provided*, That Federal participation may be terminated prior to the time established in the authorizing Act upon recommendation of the Board of Directors.

(4) Any commercially valuable product produced by demonstration facilities shall be disposed of in such manner and under such terms and conditions as the corporation shall prescribe. All revenues received by the corporation from the sale of such products shall be available to the corporation for use by it in defraying expenses incurred in connection with carrying out its functions under this Act.

(5) The estimated Federal share of the construction, operation, and maintenance cost over the life of each corporation shall be determined to facilitate the congressional authorization of the full amount at the time of establishment of the corporation.

(6) Each corporation shall comply with the specific patent and dissemination of information requirements provided for in the pertinent congressional authorization for the creation of the corporation.

(7) Prior to the establishment of any joint Federal-industry corporation pursuant to this Act, the Administrator shall submit to Congress a report setting forth in detail the consistency of the establishment of the corporation Act of 1974 and this Act, and the proposed purpose and planned activities of the corporation.

Mr. HOSMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HOSMER. Mr. Chairman, the amendment I offer improves on the wording and substance of section 5 so as to convey in a more accurate and practical manner the essential ideas and purposes of this portion of the bill.

Mr. Chairman, I ask for the acceptance of this amendment.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, again this is a preferred version offered by the gentleman from California (Mr. HOSMER) over an entire section.

In this section we give the Administrator a broad range of techniques under which he can make contracts and arrangements with private enterprise groups and other groups in connection with research programs. The Hosmer revision of this section would leave out three of these six techniques the tools that the committee bill would give him, and we think it would be unwise to accept the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. HOSMER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. HOSMER. Mr. Chairman, I offer my amendment No. 15 to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HOSMER to the amendment in the nature of a substitute: Page 13, Line 20. Strike out "guidelines:" and insert "guidelines except as otherwise authorized by Congress:"

Mr. HOSMER. Mr. Chairman, this is the last of the somewhat pro forma amendments I have offered to this bill in order to get the matter of record. I think that after the action on this particular amendment it will probably be time for those who are interested in section 7 to offer their amendments, but as to this particular amendment, I urge its passage.

The establishment of each corporation referred to this subsection will be subject to specific congressional authorization pursuant to subsection 12(c) of this bill. There is no reason why, if Congress so wished, in context of its approval of the formation of a particular corporation, that it could not append requirements that varied from the guidelines set forth in this subsection. This flexibility is important, not only for reasons that the guidelines in this subsection are not particularly well thought out, but because each project and accompanying circumstances normally require a specially tailored charter.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, in the spirit of cooperation, I will vote for and accept the amendment.

Mr. HOSMER. Mr. Chairman, I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOSMER) to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. KASTENMEIER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. KASTENMEIER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The Clerk read as follows:

Amendment offered by Mr. KASTENMEIER to the amendment in the nature of a substitute offered by Mr. UDALL: On page 29, after line 11, insert the following:

"(c) The Administrator, when he determines that the public interest will be served thereby, may waive all or any part of the rights of the United States in favor of a non-profit educational institution with respect to any resultant technology, developed by such institution pursuant to this Act, provided that such non-profit educational institution may not transfer exclusive rights to such resultant technology, without prior written approval of the Administrator. The Administrator may grant such approval only if, after an opportunity for an on the record adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act, he determines that:

"(1) The transfer of any such rights, is necessary for the expeditious development or commercial application of the resultant technology;

"(2) The public interest, and the purposes of this Act, will be served by such transfer in view of the transferee's intentions, plans, and ability to utilize the invention; and

"(3) There is a reasonable basis to believe that the effect of such transfer will not be substantially to lessen competition, or tend to create a monopoly in any line of commerce in any section of the country."

Mr. KASTENMEIER. Mr. Chairman, this is an amendment affecting section 7 of the bill. I do believe, Mr. Chairman, that this particular amendment is not objectionable per se. I do not know of opposition to it. I do concede, however, that others may have objections to section 7 and may address themselves to it or offer amendments to the section hereafter.

As a matter of fact, it is my understanding that the amendment is acceptable to the committee.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

The amendment is acceptable to me. We have been contacted by a large number of university groups who expect to play an important part in this overall research and development program.

While the general policy of the committee bill is that titles to patents developed with Federal money are going to be in the Federal Government unless there is good cause to the contrary, we ought to make an exception here because of the unique nature of the research performed by universities. Generally they are doing basic research which needs to go into further development before it has any value.

So I think we strengthen the hands of the university and maintain basic patent policy now contained in the bill by accepting the amendment offered by the gentleman from Wisconsin.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I notice in the case of waivers on behalf of any commercial interest, there are several waiver restrictions that do not apply in the case of universities. One of them is:

The applicant's participation is conditioned upon obtaining a waiver;

And another provision is:

The contract or grant is not in a field of technology in which the Government has been the principal developer . . .

I am very interested to know why my distinguished colleague has not placed those in the amendment he has initiated on behalf of the universities.

Mr. KASTENMEIER. Mr. Chairman, the first three sections apply to those most important questions. Second, I would say as far as the university is concerned, I thought the additional criteria to be somewhat more difficult and more restrictive than necessary and not really germane. In any event the Administrator would have to make the final judgment in any case.

PARLIAMENTARY INQUIRY

Mr. HOSMER. Mr. Chairman, will the gentleman yield for a parliamentary inquiry?

Mr. KASTENMEIER. I yield to the gentleman from California.

Mr. HOSMER. Mr. Chairman, if the amendment now pending should pass would it nevertheless still be in order for an amendment of this nature to be offered; namely, that the entire section 7 be stricken and that the matter be subject to a study?

The CHAIRMAN pro tempore (Mr. ROUSH). The amendment as suggested by the gentleman from California would be in order.

Mr. HOSMER. I thank the Chair and I thank the gentleman for yielding.

Mr. KASTENMEIER. It is my understanding that notwithstanding whatever action is taken on this amendment, that further amendments in the nature of a substitute or to strike would be in order.

Mr. Chairman, just to conclude, there are three criteria here the Administrator would be asked to apply in the event the university or college would care to transfer an exclusive license to any commercial enterprise. They are the three principal criteria of the six provided in the bill and as a result they would tend to inhibit the passing of exclusive rights which may or may not tend to create monopolies as far as commerce is concerned.

As the gentleman from Arizona suggested, this amendment is acceptable to the colleges and universities and to the Association of American Universities which expressed very grave reservations about the bill in its original form. The amendment is addressed to that point and I think does solve the question.

Mr. Chairman, I urge adoption of the amendment.

Mr. HOSMER. Mr. Chairman, I rise in opposition to the amendment.

I think we must understand that this amendment which is now pending is intended as a patch upon section 7 of the substitute bill offered by the gentleman from Arizona. Section 7 concerns the matter of patents and it is a very controversial subject.

Somehow or other the subject of patents whenever it comes up in this body always starts the adrenalin flowing and we get into a big hassle about the thing. The same is true with trademarks. As a consequence it has been very difficult to get anything sensible in the national interest into the law books with respect to patents particularly where research and development activities which are in part sponsored and paid for by the United States are involved.

Now, most of the Members were not in the House in 1952 when the bill creating the Office of Saline Water was passed and that agency established. Therefore, I call the attention of the Members to that particular bit of history. In that case the adrenalin was also flowing and a series of patent provisions were appended to the Office of Saline Water Research bill, much of a populous nature. Incidentally, those provisions which were so complicated and confusing introduced so many unknowns into the patenting picture that many, many companies, individuals and universities, who otherwise might have taken part in cooperative programs with OSW simply did not want to touch it then. Instead of touching it, they bought 10-foot poles not to touch it and it was over 5 years before the meaning of these patent provisions that had been put in as an emotional reaction to the OSW legislation were well enough known and defined so that the resources of industry could come in and start to work in the OSW program.

Now, if we take this section 7 as it is or as the pending amendment would change it we would go back and repeat this sorry history all over again, because no one except the nickel and dime type of cranberry merchant enterprisers will want to get in and touch this thing. This is because they will not know what their patent situation is and they cannot take the risk of making substantial investments for research and development when the patent situation may lose them the gain that they hoped to make from that investment.

Therefore, to patchwork this bill so that just the universities, because they put the heat on, would get out from under this atrocious section 7 is not going to help a thing. The only lesson at all to be learned from the pending amendment is that if it is important to the universities to get rid of this thing, certainly it is important to everybody else to get rid of the confusion that would be engendered by the enactment of this section 7.

Now, all of these things, all of these research and development patent areas, are now covered by law anyway, law that is on the books, law that is known, law that is understood and law that adequately protects the public, so we ought to leave well enough alone by getting rid of this section 7.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent Mr. HOSMER was allowed to proceed for an additional 1 minute.)

Mr. HOSMER. I would say to those who believe that the words and the ideas and the thoughts and the practices and the procedures that are incorporated in section 7 really should be part of the law of this land, that they not try to introduce them piecemeal in this particular legislation. They should attempt to get them on the law books by an amendment to the existing patent laws which would leave everybody on an even-steven basis and which, in the end, would permit R. & D. in the energy areas to go ahead unimpeded and if improvements are needed, to permit them to be made in a comprehensive and in an overall fashion to all legislation, not just legislation pertaining to research and development.

I ask that the amendment be defeated and that when the motion is made to strike section 7, that it be accepted.

Mr. McCORMACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I agree with the gentleman from California (Mr. HOSMER), insofar as the concern he has expressed, but I disagree with him on his strategy. I would prefer to vote for this amendment and then vote for the following amendment.

Just so that I am not misunderstood, my support for this amendment does not mean that I support section 7 of the bill as it now exists, but that I will support the Fuqua amendment which will move to strike the entire section and call for a study.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. Mr. Chairman, I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I appreciate the gentleman yielding to me. I certainly want to inform the members of the Committee that I will offer, as soon as I am recognized, an amendment which does provide for a study.

I might say this amendment offered by my friend from Wisconsin does not have the unanimous support of all the academic community. I have a telegram from Dr. J. B. Wiesner, president of Massachusetts Institute of Technology and former science adviser to President Kennedy.

He says:

> We strongly support your position on the deletion of section 7 from H.R. 13565. We recognize the attempt of the sponsors of the bill to improve section 7 by modification, but we feel your position is the better solution at this time. If the bill passes with section 7 as now written we feel that the transfer disincentives to the users would be greatly inhibited.

So, I might say that here is a very respected gentleman in the academic community, an authority on patent policy, who does feel that the amendment I will propose to be superior to the one offered by the gentleman from Wisconsin.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Chairman, I want to speak just for a few moments on this. I think the amendment offered by our colleague from Wisconsin (Mr. KASTENMEIER) is an attempt—a worthy attempt, as far as that is concerned—to solve part of the problem of section 7, the patent section.

I agree with the gentleman from Florida (Mr. FUQUA) that it does not cure section 7. This patent problem is a very complicated problem. There are a number of patent laws on the books. There is the President's Executive order which attempts to coordinate policy in regard to the patent laws that are on the books.

The Joint Committee on Atomic Energy put through a very good patent law in 1954 which is based on the 1946 law and has worked very well. It worked along the line of the objective of this patent act, but it had certain safeguards, precautions, and flexibility. I will speak on that later when the Fuqua amendment is presented.

But, to get into this without real

knowledge of the whole body of the patent law is getting into a dangerous position. While this may technically cure the problem of the universities—and there is some question that it does, but I know that is the intent of it—it still leaves a tremendously dangerous and bothersome section.

I do intend to support the amendment to eliminate section 7. I believe that the patent laws that are now on the books are working well. If the motion to strike does not obtain, I would seriously request the handlers of the bill to look into this matter, because I feel that section 7, even with the Kastenmeier amendment, will keep a great many qualified firms from entering into research and development contracts because it throws in jeopardy procedures, patents, and data which many corporations, as well as the university laboratories, have originated at their own expense, their own cost.

Actually, the provision requires them to waive their rights to some of their own proprietary data and devices which they now have as a matter of right under the Patent Law of the United States, in order to get contracts.

I frankly think that it would be a detriment to the research and development program which all of us want to see succeed.

Mr. McCORMACK. I thank the gentleman from California.

May I point out that the amendment applies only to university research, and the problems that we see with regard to the rest of the section are with respect to the nonuniversity communities.

Mr. HOLIFIELD. That is right. I think the language should follow the approach in the National Astronautic and Science Act which, in my opinion, would achieve the result desired.

Mr. McCORMACK. Mr. Chairman, I thank the gentleman.

Mr. RUPPE. Mr. Chairman, I have an amendment at the desk to the Kastenmeier amendment.

POINT OF ORDER

Mr. McCORMACK. Mr. Chairman, I make a point of order.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. McCORMACK. The Kastenmeier amendment is already in order as an amendment in the second degree, and this amendment would not be in order, would it? We have an amendment before us to a substitute.

The CHAIRMAN pro tempore. The Chair will advise the gentleman from Michigan that the amendment is not in order.

Mr. RUPPE. Mr. Chairman, the point of order is not to the whole Udall substitute, which, under the rule, is to the bill that is being debated. Actually, it is not an amendment in terms as we would ordinarily think of it, but rather, to the vehicle by which we are allowing the legislation on the floor.

My understanding is that this would not be an amendment of the second order.

The CHAIRMAN pro tempore. The Chair will advise the gentleman from Michigan that under the rule, the Udall amendment in the nature of a substitute is an amendment in the first degree. The amendment of the gentleman from Wisconsin (Mr. KASTENMEIER) to the Udall amendment is an amendment in the second degree, and therefore an amendment to the amendment by the gentleman from Wisconsin would be in the third degree and is not in order.

PARLIAMENTARY INQUIRY

Mr. RUPPE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. RUPPE. Would it be possible, then, for me to offer this as a substitute?

The CHAIRMAN pro tempore. In response to the gentleman's request, it would not be in order to offer the amendment as a substitute for the Kastenmeier amendment as it would still be an amendment in the third degree.

Mr. RAILSBACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the amendment of the gentleman from Wisconsin (Mr. KASTENMEIER). I have the pleasure of serving as the ranking Republican member of the Judiciary Committee's Patent Subcommittee of which he is chairman.

Nonprofit educational institutions traditionally have provided the environment within which many of our Nation's greatest technological advances have been conceived. Mr. KASTENMEIER'S amendment recognizes this fact and allows the Administrator of the Energy Research Development Administration to foster the advancement of educational institutions by allowing them to license inventions developed by their faculties pursuant to this legislation. The result will be that royalties will be plowed back into the basic public service functions of our colleges and universities, thereby lessening the financial burden on students, parents, taxpayers, and private donors.

Section 7 reflects a compromise and I believe a workable one. It will promote the development of the much needed energy technology and at the same time protect the public interest in our system of free enterprise. The Judiciary Committee's Patent Subcommittee expects to receive from the other body, legislation completely revising our patent laws. This will also provide an opportunity for considering any adjustment that may be necessary in the formulation of the Government's patent policy.

I urge my colleagues to support section 7 of H.R. 13565 as modified by this amendment.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. Yes, I will be happy to yield to the gentleman from New Jersey.

Mr. RODINO. Mr. Chairman, I rise in support of the amendment to the patent policy section of the Federal Nonnuclear Energy Research and Development Act, H.R. 13565, offered by my colleague, from Wisconsin (Mr. KASTENMEIER), who is also chairman of the Judiciary Committee's Subcommittee on Patents and Copyrights. The Kastenmeier amendment establishes important but reasonable legislative guidelines to the present section 7 of H.R. 13565 that I also support. As chairman of the Monopolies Subcommittee of the Judiciary Committee, I find added reasons directing me to voice my vigorous support for needed amplification and guidance in the area of congressional conferral of lawful monopolies through patent legislation.

As the report of the Interior Committee on H.R. 13565 clearly acknowledges, section 7 embodies a "middle course" between competing programs submitted by the Justice and Commerce Departments. The Kastenmeier amendment is a reasonable refinement of section 7 and eliminates some of the ambiguities that inevitably arise when a compromise is reached.

As a patent expert recently declaimed:

> How inventors invent remains one of the tantalizing subjects of study. There is no unified field theory, no Einsteinian equation, that encompasses the singular cosmos that inventors inhabit.

This contemporary statement a rephrasing of the wisdom of the Founding Fathers expressed already in the patent clause. Innovation is not simply a matter of funding and the grant of patent monopolies is part of the bargain that the Government strikes with inventors as an inducement to continuous contributions to increasing the public welfare.

Patent monopolies are a payoff to the investment of money and intellect—brainpower and creativity—in risky ventures. However, the patent policy section of H.R. 13565 does not deal with situations in which private investors have risked their intellect and financial resources for the possible reward of a patentable invention. Rather, H.R. 13565 envisions a far-reaching program of Government financed research. There will be no risk by private enterprises engaging in research under this act. All risks are borne by the taxpayers who will be putting up the capital to finance new energy technology.

However, I am opposed to the suggestion that we should give an anonymous Federal Administrator open-ended discretion to dispose of the fruits of billions of dollars of Federal research without proper guidelines from Congress. If Congress is going to appropriate money to purchase energy technology, then Congress should set the rules by which this technology should be disseminated. Absent this congressionally mandated policy, the fruits of all the Government's energy research funds may well end up in the exclusive control of a few dominant firms contrary to the interests of the taxpayers who paid for the research.

The Kastenmeier amendment does more than prevent either the Administrator's becoming a conduit for funneling payoffs of public expenditures to private establishments or the substitution of industry profit interest for the public interest. Recognizing that nonprofit institutions occasionally perform commercial functions that affect the marketplace and, thus, the public interest, the Kastenmeier amendments provide congressional guidelines that not only will assure the public that a fair return to the public will be made for public expenditures but also will provide to the public the very important appearances of fairness and integrity in these historic endeavors. I strongly urge enactment of section 7 and the Kastenmeier amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Wisconsin (Mr. KASTENMEIER) to the amendment in the gentleman from Arizona (Mr. UDALL).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. FUQUA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. FUQUA. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The Clerk read as follows:

> Amendment offered by Mr. FUQUA to the amendment in the nature of a substitute offered by Mr. UDALL: On page 20, line 4, delete all of section 7 and insert the following language: "Not later than six months after the effective date of this Act, the Administrator shall report to the President and the Congress concerning the applicability of existing patent policies affecting his programs and shall make recommendations concerning amendments or additions to statutory patent policy which he deems advisable for carrying out the purposes of this title."

Mr. FUQUA. Mr. Chairman, last month, when the Senate considered similar legislation, the energy reorganization bill of 1974, during the debate on this measure, the junior Senator from Washington successfully proposed an amendment which in effect added the provisions of S. 1283, the national research energy and development bill, as a new title V.

Mr. HOSMER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Chair recognizes the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, I might point out to the members of the committee, that there is a committee print that has been offered in the nature of a substitute by the gentleman from Arizona. It is to that substitute the amendment is addressed and not the printed copy of the bill that may be floating around somewhere.

In the Senate during the debate on the ERDA bill, Mr. Chairman, in proposing this amendment the Senator from Washington deleted stringent and inflexible patent policy provisions that had previously been placed in the energy reorganization bill that passed last year. This provides that there be a 6-months study by the Administrator of this new agency and that he report back to the Congress any proposed statutory changes or modifications that need to be made.

Mr. Chairman, I propose that we follow the lead of our colleagues in the Senate in handling this very complex and very much discussed policy issue. The new patent section states that the patent provisions in S. 283 have proven to be matters of controversy in both Houses. Indeed, Mr. Chairman, this has been the fact of the case in the House. Many members of the Committee on Science and Astronautics have received letters, telegrams, and contacts from all segments of the academic and industrial communities stating that the patent provisions in section 7, even now as they have been amended by the gentleman from Wisconsin, are not consistent with our attempts to solve the energy problems.

I might point out as I did in my dear colleague letter, that we have the Director of the National Science Foundation, the Administrator of the Federal Energy Administration, the National Association for Invention and Innovation, the Aerospace Industry Association, the National Patent Council, the National Small Business Association, who all support the amendment that I am proposing.

Dr. Betsy Ancker-Johnson, the Assistant Secretary of Commerce for Science and Technology, reported that the administration strongly opposed the provisions of the type set forth in section 7 of the committee substitute. There was serious concern expressed that the inflexible nature of the requirement that the Government take all patent rights in all situations would undermine the desires for cooperative work and cost-sharing of energy research and development in industry and also in the education community. If our attempt to solve the energy problems of this Nation is to succeed without 100 percent of Federal financing, then the Administrator of ERDA or any other government agency involved in this work must have the flexibility to deal with patents and proprietary data in a manner calculated to encourage—and I might repeat: encourage—full private participation.

Section 7 includes language which purportedly provides flexibility to grant waivers and to grant some type of exclusive rights for inventions for limited periods of time. We have been informed by the administration that stringent and unreasonable conditions imposed by section 7 would effectively preclude any such flexibility.

The Congress has never enacted such stringent patent data provisions as set forth in section 7.

The patent provisions of the Atomic Energy Act and the National Aeronautics and Science Administration Act although generally vesting title in the Government nevertheless give heads of those agencies sufficient flexibility to deviate in appropriate situations.

Mr. Chairman, we all agree that this country is in an energy crisis. We all agree that the energy reorganization bills and energy policy bills on which we have spent so much time are the mechanisms through which our country will eventually become self-supporting in the energy field. We all agree that to accomplish this task we must have access to the best available technology appropriate, both governmentally and privately owned, and the best scientific minds and the laboratories, so we have support from both government and private industry.

I would submit in view of the importance of these programs that now is not the time to experiment with new patent policies which the administration and spokesmen for industrial and academic communities have warned us would be counterproductive to the purposes and intent of the bill under consideration.

The CHAIRMAN pro tempore. The time of the gentleman from Florida has expired.

(By unanimous consent, Mr. FUQUA was allowed to proceed for 2 additional minutes.)

Mr. FUQUA. Mr. Chairman, the amendment which I propose in substitution for section 7 will give the Administrator of ERDA an opportunity to operate under patent policies as they now exist and to report the results of such operation and to suggest to appropriate committees of the Congress any changes or modifications to these policies which this experience would indicate as being appropriate.

For these reasons I ask for the support of my colleagues in this most important amendment.

I might point out I am associated in this amendment with my colleague and good friend, the gentleman from Missouri (Mr. SYMINGTON), and the gentleman from Ohio (Mr. MOSHER), and the gentleman from California (Mr. GOLDWATER).

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is perhaps the most important policy decision the committee will make this afternoon. I would like to express my strong opposition to the amendment offered by the gentleman from Florida. This is an important bill. It is one of the major bills before the Congress this year.

We have all gone home and talked about Project Independence and energy independence and things we are going to do about that. As of now we do not have really any Project Independence. This bill will set in motion a $20 billion program over a 10-year period for nonnuclear energy research and development. We are going to spend $20 billion. It is not going to be the money of Exxon and it is not going to be the money of General Electric. This is going to be the money of the taxpayers.

If the program is going to work we will have resulting from it a number of inventions. We simply are not going to be independent unless we learn about and patent some things we do not now have in the fields of nonnuclear energy.

The question posed by section 7 is: Who is going to own those inventions?

The committee came up with a middle ground solution. There are really two fairly easy ways out of this if we do not want to face up to this very serious problem.

One easy way is to do what the Senate did, and it has been criticized for being extreme. The Senate simply said that all inventions belong to the Federal Government, all inventions financed by Federal dollars belong to the Federal Government. The other extreme solution is to adopt the Fuqua amendment, which in football terms means to punt. We have a

6-month study and then we come back and have the Executive say what the policy ought to be and in the next Congress maybe we can solve the problem we ought to solve today. I reject that approach.

One of the central issues in the Fuqua amendment is simply are we going to have a congressional policy on patents? Or are we going to let some faceless bureaucrat fix patent policies, because that is what is going to happen if we cannot write the policy today. We are not going to write it later this month or this year or probably next year. When are most of the major contracts going to begin, when are we going to start these 10-year programs that we are going to negotiate with Exxon and these large contractors. These are going to start on the track in the next few months after we start spending this $20 billion? Then it will be too late to come back and change the patent policy. So the crucial time is now.

In his proposal the gentleman from Florida (Mr. FUQUA) mentioned a number of groups and individuals that support his amendment, and he does have support for it.

Let me indicate who is against the amendment and who favors the middle ground position the committee took. All of the Members should have a "Dear Colleague" letter circulated by the Senator from Michigan (Mr. HART) and the distinguished Senator from Louisiana (Mr. LONG), urging that the House at least take this middle step. They would far prefer we adopt the rather stringent ownership of patents in the Senate bill, but they urge we at least take this middle ground.

There is the General Electric Corp., which will probably be doing some of the research, who sent a letter in which they endorsed our section 7.

The Texas Gas Transmission Co. stated that the patent policy in section 7 is a "brilliantly conceived compromise between the rigid patent structure of the Hart-Long amendment and the more flexible standards of the present statement of Government patent policy, which has been criticized by the Justice Department." The Justice Department approves the position we have taken in this particular section 7 the way the committee wrote it.

Finally, I want to answer a point that has been made and will be made here by a number of those who support the Fuqua amendment. That is: "We already have patent policy. NASA has a patent policy. AEC has a patent policy. These are proven. Let us utilize them."

Let me make two points here. We take the best parts of the NASA policy and put them in section 7 and we take the best parts of the AEC and put them in section 7. The point is, are we simply going to let NASA or AEC determine patent policy for the country, or is Congress going to put them in? If we strike out section 7, we are striking out a very important part of the patent policy of this country.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. UDALL was allowed to proceed for an additional 3 minutes.)

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Florida.

Mr. FUQUA. I appreciate my good friend, the gentleman from Arizona, yielding. He is very dedicated in his field.

Is it not true that the Senate in December last year did adopt the Hart-Long amendment relating to patent policy?

Mr. UDALL. The gentleman is correct.

Mr. FUQUA. Most recently, just prior to the Labor Day recess, the Senate reversed their policy and adopted the policy I have taken. I think they realized they had made a mistake in going too far in December, because they did reverse themselves last month.

Mr. UDALL. The gentleman has stated the situation correctly. I think they were right the first time and wrong the second time.

The gentleman has stated the situation correctly. What I really feel is that if we have a study of this whole energy research and development program, I know what the study is going to say. The executive branch agencies, AEC or NASA or the Commerce Department, if we ask them to make a study, are going to tell us what they have told us in committee already: "Let us make the policy. Write a general law which says that we can waive it whenever we find it in the public interest to waive it."

That is an abdication of congressional responsibility, if we go that route.

I just want to repeat in closing, Mr. Chairman, what the chairman of our Judiciary Committee, the gentleman from New Jersey (Mr. RODINO) said just a moment ago in his extension of remarks in supporting the committee's position. This is the gentleman from New Jersey (Mr. RODINO), who has been involved in patent policy on the Judiciary Committee for all these years:

> If Congress is going to appropriate money to purchase energy technology, then Congress should set the rules by which this technology should be disseminated. Absent this congressionally mandated policy, the fruits of all the government's energy research funds may well end up in the exclusive control of a few dominant firms contrary to the interests of the taxpayers who paid for the research.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. For about 21 years I specialized in the practice of antitrust law, and got involved in a lot of litigation, much of it involving patents, because patents are often the core of antitrust cases.

About a year ago, I had a long discussion with the chief patent counsel for one of the top corporations in the rubber industry. He expressed strong support for the Hart-Long proposal, which, according to the Commerce Department, industry opposes.

Now, the provisions of this bill are much more flexible and much less far out than the Hart-Long proposal. The Members might wonder why on earth anyone in a major industry would be in favor of public ownership and wide dissemination on a reasonable royalty benefit basis of patents in any particular field.

Well, the rubber industry has had a unique experience that has a great bearing on this patent question. When the Japanese attacked Pearl Harbor, the thing that almost brought this country to its knees was the fact that we had nothing but about an 8-month rubber supply. On a crash basis, we created what is now one of the world's great industries, the synthetic rubber industry. It helped us win the war. Did we do it by saying that everybody could have an exclusive right to whatever patents they happened to work on? No, we did it by requiring that all the patents and technology relating to synthetic rubber, wherever they may have developed—the rubber industry, the oil industry, the chemical industry—should be pooled and that the Government—and subsequently all synthetic rubber manufacturers—have a license.

The result was the creation, in an unbelievably short time, of one of the great industries of this country and the solution of a problem which, until the energy problem descended upon us, was the most critical product supply problem that this country has ever experienced.

Now this bill does not go that far, but it does lay down some guidelines under which the administrator must find that the public interest will be served before he can waive rights of the Government or give exclusive rights to any contractor to patents and technology developed by Government-financed research.

The Assistant Attorney General in charge of the antitrust division testified before our committee in the course of drafting this bill. He said that there is a real question whether there is any worthwhile purpose served by giving a contractor a right to exclude competitors from patentable inventions that arise out of Government-financed research; that that seems to be in the nature of a windfall gift to the contractor.

But, he said that, in any event, as a general matter contractors do not need to be granted exclusive rights on Government-financed inventions to induce them to participate in Government research programs, because the very fact of that participation gives them an enormous leadtime over their competitors.

I submit to you that this is a reasonable bill. It gives great flexibility to the Administrator as to patent policy, but it lays down guidelines. It does not abdicate congressional responsibility.

It says that this is going to be the policy, and if specified findings are made by the Administrator, then he can give exclusive licenses or he can waive Government rights. But he must find that such action will not adversely affect competition and/or produce monopoly, that it will advance development in the field, and that it is the best way to advance energy research and development and solve our very serious national problem.

I submit to you that this is a sound bill, a sound patent provision, and it is one that ought to be supported.

Therefore, I oppose the amendment.

Mr. HEINZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to say a few words about this bill because I think it is an important bill.

It certainly goes without saying that

we are currently too dependent upon foreign sources of energy, and it is for this reason that, through research and development, we must insure that our domestic energy supplies are sufficient so that we can put an end to our present shortages and the risk of blackmail.

I also believe that if the Federal Government is going to spend substantial sums on the development of new energy technology, we have a duty to prevent private interests from creating new monopolies or even preserving old ones. That is why we should not spend taxpayers' money on research and then give exclusive rights to the results of that research to those who already dominate or control our primary sources of energy.

We have an obligation to protect the public and we should not allow the taxpayers' money to be used to perpetuate the position of any company, whether it is Exxon or Texaco or any other dominant company.

We do not do this, by the way, in atomic energy. We do not allow any private interests to exploit or, indeed, file patents in atomic energy without safeguards for the public. We do not do it in the space program, and we should not do it here. In this industry, I think to do so will be, if you will excuse the expression, carrying coals to Newcastle.

I would like, however, to ask the gentleman from Arizona a few questions about the provisions of section 7. I was wondering whether the gentleman from Arizona would be able to answer these questions.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, I will certainly try.

Mr. HEINZ. As I understand it, the act would allow the Administrator to waive the patent rights of the United States at the time of contracting when he finds, along with some other findings, that the contract applicant already has a privately financed commercial position and a substantial investment in research directly related to the work to be done.

My question is, Was this intended to limit waivers only to those already working in the field?

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HEINZ. Yes.

Mr. UDALL. The answer is "Yes." Only a company which has already committed its own resources would have to choose between continuing its own research, where it would retain all patent rights, or diverting its people and other resources to do Government financed research, where if waiver is not allowed, it would not get exclusive patent rights.

The gentleman is correct.

Mr. HEINZ. Mr. Chairman, if the gentleman would respond further, the bill also suggests that another finding the Administrator would have to make would be, essentially, that there is reasonable basis to believe that the effect of the waiver would not be to substantially lessen competition. Was this intended to prevent dominant companies, major oligopolists and monopolists, from obtaining exclusive rights even though they may qualify under the provision we just discussed?

Mr. UDALL. The gentleman is exactly correct. One of the great fears we had in this legislation was that Exxon and a few other companies were going to move in and get all this money. We have provisions in here to prevent the waiver from being used by already entrenched oligopolists and monopolists. We wanted to give the small business or the small inventor a shot at it, and we intend to prevent the waiver from being used by major oligopolists and monopolists.

It would not prevent waiver to a company which, although already established in the field, is not dominant or likely to become dominant as a result of the waiver.

Mr. HEINZ. Mr. Chairman, if the gentleman will respond further, I have one final query, which is as follows:

Under section 7 as now written, would the Administrator also have to consider the type of patents likely to evolve from the research?

Mr. UDALL. Mr. Chairman, the answer is yes.

If the patents might create an entirely new industry so that anyone having an exclusive right to them would become a monopolist, then waiver should not be granted, and the bill so provides.

On the other hand, if the patents would just improve upon existing technology so that their inclusion in a product would not create a new line of commerce, but the product would continue to compete with other products in an existing line of commerce, waiver might be appropriate. I would also add that this distinction on the type of patent would also be relevant to the considerations contained in the provisions on waiver after the invention is identified and the provision for termination of exclusive rights.

Mr. Chairman, if the gentleman will permit me, I would like to add this: The reason why our provision is superior to the study or superior to NASA or AEC patent policy is that here for the first time we laid down the kinds of principles to deal with the concerns which the gentleman has so very adequately expressed.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania (Mr. HEINZ) has expired.

(By unanimous consent, Mr. HEINZ was allowed to proceed for 1 additional minute.)

Mr. HEINZ. Mr. Chairman, If I may, I would like to conclude by saying this:

I would like to say that the gentleman from Arizona (Mr. UDALL) has been very helpful in his responses. It seems, at least in my opinion, that the committee has certainly tried to preserve competition as the basis for our free enterprise system.

I commend the committee on its work, and while there may be differences of opinion on different segments of the bill, I certainly commend the bill in its present form to the Members.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. HEINZ. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I appreciate the gentleman's yielding.

I think the concerns which the gentleman from Arizona, the gentleman from Pennsylvania, and the gentleman from Florida have expressed are all somewhat along the same line.

However, I think the restrictive and inflexible language included in the bill could open the gate up for the big companies and the monopolies we have been talking about to move in and the small people will not have an opportunity to take advantage of an incentive for patents.

Mr. Chairman, we certainly need this incentive to help leap forward in our "Project Independence."

Mr. HOLIFIELD. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Fuqua amendment.

This section is a dangerous prescription of new patent policy. If this bill is approved with these unfortunate new requirements that section 7 would put into effect, it will go to conference with its companion bill in the Senate, S. 1283, which contains still another ill-advised and dangerous specification of new patent policy. It is therefore imperative, in my judgment, that we eliminate section 7 from this bill before permitting its passage by this body.

There is scarcely a single provision in section 7 that would not create special problems for ERDA when it attempts to gain breakthroughs to new and improved sources of clean energy in the real world, through R. & D. projects with industry, with not-for-profit organizations, and others who may have something to contribute.

ERDA's hands would be shackled when it attempts to work out suitable arrangements for worthwhile R. & D. programs, unless section 7 is revised in a wholesale manner, a job that cannot be tackled on the floor. Section 7 is too rigidly drawn, giving ERDA very little elbow room to negotiate fair and reasonable patent and proprietary data provisions. It is ambiguous in its treatment of major features. In the area of licensing of Government-owned patents arising out of ERDA's programs, section 7 would make it difficult for U.S. industry to compete with foreign companies who acquire similar licenses on the same nondiscriminatory basis as American industry.

The patent approach in the Atomic Energy Act, since 1946, provides the best possible system for assuring that the interest of the taxpayers who pay for the research and development is protected, without squelching possible opportunities for new inventions and discoveries, or their widespread beneficial application. The patent provisions in the Atomic Energy Act are based on the general principle that the Government should possess and control all inventions and discoveries that are made or conceived in the course of or under Government contracts involving the expenditure of Government funds. However, the provisions permit the Commission to exercise reasonable discretion, and, under appropriate circumstances, to deviate somewhat from this general course. Flexibility to enable the exercise of good judgment will be indispensable if ERDA is to function effectively, as contemplated by the ERDA bill. Section 7 pretends to provide such flexibility but in actuality prevents it.

The AEC's programmatic efforts over

the years have produced approximately 7,500 patents. Of this number the AEC has acquired title to 6,200 or 83 percent. In many cases, the AEC has kept exclusive rights in the field of atomic energy while permitting various contractors to retain exclusive rights in other fields in which the contractors had invested large sums of their own in connection with their business affairs. The AEC's record in the patent area, for more than a quarter of a century, has been an excellent one. In those cases where the AEC utilized its authority to depart from the general rule of Government ownership, considerations such as the following were involved:

First, the inventions were either not related or only incidentally related to the field of atomic energy;

Second, only marginal patent protection could be obtained;

Third, little or no Government or commercial use was anticipated;

Fourth, it was determined that the Government had no interest in protecting the invention; and/or

Fifth, substantial non-Government financing would be necessary to market the invention.

Although the AEC has the authority to grant certain exclusive licenses on patents which it wholly owns on behalf of the Government, it has essentially had no occasion to grant such exclusive rights in regard to its U.S. patents, and has provided a limited form of exclusivity under a few AEC-owned foreign patents, giving preference to U.S. industry.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I want to say to the gentleman I appreciate his advice and depending on what happens here I will try to follow it. I think the gentleman and I are agreed.

Mr. HOLIFIELD. I think we are.

Mr. UDALL. We are agreed that there ought to be flexibility here.

The CHAIRMAN pro tempore (Mr. Reuss). The time of the gentleman from California has expired.

(On request of Mr. Udall, and by unanimous consent, Mr. Holifield was allowed to proceed for 2 additional minutes.)

Mr. UDALL. Mr. Chairman, what I am arguing is that the flexibility ought to be under the rules and laws provided by the Congress and we should not simply give a blank check to whoever will head this, and I do not know whether it will be the head of ERDA or some other agency, and say that we ought to give him flexibility, but I believe we ought to give him guidelines as to how that flexibility will be administered.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from California (Mr. Hosmer).

Mr. HOSMER. The guidelines the gentleman from Arizona will be offering are brand new ones to a brand new organizational structure, and until those things are defined and people know what they mean people are not going to come in.

If the gentleman is worried about a big give away, what he should do is to apply something that is known already, by applying the NASA patent policies to the nonnuclear side and the AEC policies to the nuclear side then the objectives would be achieved.

If after that they want to perfect those policies, that is all right. But to come in with a new set of patent rules here is to promote the same kind of difficulty we had when they came in with a whole new set of patent rules for OSW and it delayed the program for 5 years.

Mr. HOLIFIELD. Mr. Chairman, is it the gentleman's opinion that this section 7 will establish a later dominating policy in the field of patent law which will supersede and dominate laws already written for NASA and AEC?

Mr. UDALL. I would have to divide the question. AEC, no. We have made it very clear that the atomic side of R. & D. is going to be controlled by the Atomic Energy Act, but this would control the nonnuclear side of research and development.

The CHAIRMAN pro tempore (Mr. Roush). The time of the gentleman from California has expired.

(By unanimous consent, Mr. Holifield was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the gentleman in the well is most knowledgeable in this area because he has been involved of course in bills which create other research arms of government. The thing that troubles me about this suggestion that we adopt the Fuqua amendment is this: as I read the Fuqua amendment, which I have before me, it simply delays any determination of how newly discovered matters or techniques would be dealt with if they result from the expenditure of the $20 billion under this bill that the gentleman from Arizona has described.

Does the gentleman recall any case in the atomic energy field or in the NASA field in which we have simply provided that existing patent laws should be applicable without addressing the particular question of discoveries which result from our appropriations and from our programs?

Mr. HOLIFIELD. I think both the AEC and NASA patent language does take that into consideration.

Mr. ECKHARDT. I think it does too but if we adopt the Fuqua amendment, as I see it we simply leave the question under existing patent law without any guides.

The gentleman may be right that existing section 7 is not flexible enough but certainly that is preferable to no provision at all with respect to matters discovered as a result of the program.

Mr. HOSMER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from Florida (Mr. Fuqua). The section is defective and any changes in present policy should be the subject of separate legislation which the study provided for by the Fuqua amendment would lay groundwork for.

If the Fuqua amendment does not pass I will offer an amendment making the NASA patent provision applicable to nonnuclear energy R. & D. and conferring the patent provision of the Atomic Energy Act as remaining applicable to nuclear energy R. & D. The various provisions have proved satisfactory. Their meaning is known. Their will be no interregnum in R. & D. during the years while the provisions of some new and untested patent policy are getting clarified.

There are many errors and problems in the verbose prescription of patent policy set forth in section 7. ERDA and its programs would be seriously handicapped from the very outset if these provisions became law. I will mention several of the problems inherent in these provisions:

Subdivision (a)(1)A is erroneously worded in such a way as to impose the mandate of dissemination of information on the contractor, rather than on the agency. The agency, not the contractor, should disseminate the information—and the ERDA bill so provides. Second, privately-owned trade secrets or information should not be lost to the private owner because it is increased in "substantial part" by reason of a Federal contract; only the augmented portion arising out of the Federal contract should not be the property of the contractor, and the contractor should retain whatever private property right he had to begin with—unless as part of the negotiation of the contract, the parties mutually agree otherwise. Third, the term "widest practicable dissemination" must be tempered to permit the kind of withholding of information, for a sufficient period of time, necessary to enable the Administrator to obtain patent rights at home and abroad.

Subdivision (a)(1)(C), rigidly requiring that all resultant technology be made available to the general public, conflicts with subsequent provisions of the same section permitting exclusive licensing.

Subdivision (a)(2)(A)(i), requiring that the United States acquire "all rights throughout the world" to all resultant technology, raises difficult points in relation to nonpatentable and nonpatented technological information. First, the information may be such that "all rights" are not obtainable; for example, some of the information may, separately, have been developed by others. Second, it is impractical to insist on the concept of exclusive ownership if the technology must "promptly be made available" to everyone as required by subdivision (a)(1)(C). In relation to patentable technology, there is also a problem in rigidly requiring the United States to acquire all rights throughout the world unless it waives them pursuant to (a)(2)(A)(ii). This means that the Administrator will be forced to seek to acquire a patent position throughout the world—an expensive exercise—even though, in his judgment, the invention or discovery may not be sufficiently important to warrant such elaborate coverage.

Subdivision (2)(A)(i)(a), forcing every contractor to take a nonexclusive license whether it wants it or not, is not too practical. There may be some who will not want it anyway. Adding the provision that it can be yanked away later will, for all intents and purposes, ruin the possibility of any meaningful sublicensing, and generally, tend to increase the ranks of those who may not want to take such a license.

Subdivision 2(A)(i)(b) poses a number of problems. To begin with, it appears that the contractor must agree to file throughout the world, rather than just in one or more specific countries; I believe such rigidity would be impractical. Also, it is not clear what the scope of the requirement to "transfer title" in subdivision (2) amounts to; it should be crystal clear, but is not. If it is intended to cover bare title only, why is it important for the United States to have such title? If it is intended to recoup any significant rights from the contractor, over and above bare title, why would a contractor agree to accept the grant and attendant expense in the first place?

Subdivision (a)(2)(A)(ii), requiring a formal "on-the-record adjudicatory public hearing", imposes a too cumbersome, time-consuming process which, for practical purposes, will prevent essentially any waiver before a contract is awarded subdivision (a). Also, subdivision (a)(2) is probably an insurmountable hurdle; subdivision (4) would exclude universites and other noncommercial institutions; subdivision (5) is also excessively restrictive—for example, "nor for coordinating or directing the work of others" could be construed to bar a waiver if the contract entails any subcontracting which the contractor must coordinate or direct; subdivision (6) is too vaguely worded (is "field" to have a narrow or broad connotation?). These remarks have some applications also to (b) in view of the incorporation of the same restrictions.

In (a)(2)(B), the flat requirement that the Administrator license all "qualified applicants" on "nondiscriminatory terms" appears to make it obligatory that foreign applicants be treated on an absolutely equal basis with American industry—when exclusive licensing is not involved. This could lead to unfortunate situations, such as U.S. firms undersold by foreign companies, in this country as well as abroad, on breakthrough items invented at U.S. expense.

In (a)(2)(D), I believe the exception in (i) about States and local subdivisions is excessive. I think the 3-year period in (iii) is too short. The difference in language between "tended substantially" in line 21 on page 61 and "tend unduly" in line 10 on page 60 is inadvisable; both provisions are vague and will insure that the antitrust people at Justice call all the shots. The "burden of demonstrating compliance" in lines 5 and 6 on page 62, is a tough one in relation to lessen competition or increase concentration.

In subsection (b), the word "holds" and the words "will be employed" are too narrow. Often, the situation is such that it may not be sufficiently clear whether or not the participant holds background technology, depending on how the R. & D. work develops. Also, occasionally, the situation is such that the private information may be privately developed after the Government contract has been signed and the work is in progress. In the provisions on page 62, I am concerned that there is no indication that the Administrator may negotiate a governmental right to use background technology without payment of any compensation. I am also concerned that foreign companies will have to be treated on an equal basis with American firms.

Mr. Chairman, I think the following letter from the Secretary of Commerce to the chairman of the House Interior and Insular Affairs Committee dated August 20, 1974, just 3 weeks ago, adequately indicates executive department support for the Fuqua amendment.

THE SECRETARY OF COMMERCE,
Washington, D.C., August 20, 1974.

Hon. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In my letter to you of August 14, 1974, I noted our objection to the patent policy provision contained in Section 7 of H.R. 13565, a bill to establish a national program for research and development in nonnuclear sources. By way of overcoming the deficiencies identified with this Section, we proposed that the patent policy provisions contained in the National Aeronautics and Space Act of 1958 be substituted therefor, with appropriate editorial changes. In our opinion, such a revision of Section 7 would assure maximum private participation in the energy research and development called for by the bill.

Shortly after my letter was transmitted to you, I became aware of a compromise approach which originated with Senator Jackson. This approach, which has since been unanimously endorsed by the Senate, envisions the postponement of legislative action on ERDA patent policy until the Administrator has had an opportunity to report to the President and the Congress on his experiences with existing policy, and on his recommendations for changes.

While this Department continues to believe that the NASA patent policy provisions should be substituted for those contained in H.R. 13565, we nevertheless find Senator Jackson's proposal eminently acceptable as an interim arrangement. Accordingly, we are pleased to endorse his compromise approach.

We have been advised by the Office of Management and Budget that there will be no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

FREDERICK B. DENT,
Secretary of Commerce.

Mr. Chairman, I urge the passage of the Fuqua amendment.

Mr. MARTIN of North Carolina. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Fuqua amendment and endorse the remarks of the gentleman who immediately preceded me in the well, and also the action previously taken by the Members of the other body.

Mr. Chairman, last month the Senate wisely decided that our energy research and development effort was too important to be jeopardized by rash intrusions in the area of Government patent policy. If this course is followed by the House, the Administrator of the proposed Energy Research and Development Agency will have 6 months within which to make recommendations to the President and the Congress concerning amendments or additions to statutory patent policy which he deems advisable for carrying out the ERDA mission. In the meantime, the Administrator would be guided by existing statutes and executive policy in this area.

It is my hope that this course will indeed be followed by the House. It is a course which recognizes the value of experience and prudence in dealing with a problem as crucial to our national interest as energy. It is, in short, a course which I would recommend in the least controversial of circumstances.

The present circumstances, moreover, are highly controversial. The administration has taken a strong position in opposition to the patent policy provisions contained in section 7 of H.R. 13565, as now before the House for consideration. The administration claims that these provisions are inimical to the attainment of energy self-sufficiency. This judgment proceeds not from the administration alone, but from recognized scientists, research directors, educators, and even patent lawyers. I understand that as recently as last month, the ABA section on patent, trademark, and copyright law voted unanimously to recommend the complete excision of section 7 from H.R. 13565.

In the face of these outpourings of concern by individuals having recognized expertise in the patent policy area, I believe it totally unwise at best, and dangerous at worst, to embark on the patent policy adventure chartered by section 7 of H.R. 13565.

Mr. SYMINGTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my colleagues, it seems that we can boil down this question into understandable terms. One: This is an ERDA bill. At the moment, there is no ERDA.

Two: When there is one, it will have an Administrator whose job it will be to provide the country with the most energy bang he can for the least number of energy bucks.

Three: He is going to have to work with patent laws and policies in order to do that kind of a job. Four: There are patent laws and patent policies which may or may not be sufficient for that purpose. Five: The amendment offered by the gentleman from Florida (Mr. FUQUA) simply gives the Administrator a brief chance to look at and work with existing laws before he makes a recommendation to the Congress for any changes that he deems advisable.

It seems to me this is a better way to proceed than to start out with a grand, complicated, and possibly faulty assumption, which section 7 reflects. Therefore, I urge my colleagues to vote for the amendment.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. SYMINGTON. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I appreciate the gentleman's interest in adopting something along the lines of the NASA patent provisions because of his experience with NASA; of course, NASA has done an outstanding job.

But, I wonder if he would feel that there is not some difference between a program which deals with a rather far out subject such as space, and one that deals with the most urgent problem facing this country; namely, the energy situation.

Should not the Congress have the responsibility of laying down some guidelines for the guidance of the Administrator in the exercise of his discretion?

Mr. SYMINGTON. Mr. Chairman, I am sure, as the gentleman points out, that the Congress will have that opportunity. The question is, should it exercise it now with these particular assumptions, or should it wait until it has the guidance of the man it places in charge of the program?

Mr. McCORMACK. Mr. Chairman, I rise in support of the Fuqua amendment. I want to congratulate the gentleman from Florida (Mr. FUQUA) for having presented it so eloquently.

I think this section 7 of the bill, sincerely intended as it may have been by all those who have supported it, is unintentional mischiefmaking at best. I have been contacted by representatives from industries, large and small, from across the country; by nonprofit research laboratories; and by universities, all of them stating that if this section of the bill on patent policy is adopted, they believe they cannot operate in the field of energy research and development under ERDA.

I want to point out some of the confusion that exists in this amendment. On line 18, page 20 of the bill, we refer to federally assisted research authorized by this act. At this point, the bill is talking about energy research and development under ERDA. However, ERDA is made up of another group of existing Federal agencies which already have patent policies. The question immediately arises as to what patent policies will apply. For instance, will section 7 apply to all non-nuclear-energy research and development, or will it be just to non-nuclear research and development conducted under ERDA; or will it be just for non-nuclear-energy research and development that may be authorized under this bill. Remember there are other bills that also authorize research and development under ERDA with these same agencies. Such activity would not fall under this bill.

Thus, this bill is simply creating an extremely confusing and ambiguous situation where the agencies that are actually doing the work may be obligated under what might ultimately be three simultaneous patent policies, all for a single agency.

The gentleman from Arizona has stated that he thinks that the Congress should set patent policy, and I agree. I think we should set it, but I think we should set it when we know exactly what we are doing.

The Fuqua amendment simply says, "Let us have a study so we know what we're talking about." Clearly, we do not know today what we are talking about with respect this import subject. The wrong patent policy could block out industry from participating. We should not undertake any action on this floor at this time that would have this affect.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I thank the gentleman for yielding.

There is a lot of merit to the patent policy language in the legislation, but I am concerned; over its possible effects on energy research and development my attitude has changed somewhat since reading a letter written by Mr. H. Guyford Stever, the Science Adviser to the National Science Foundation.

This is what Mr. Stever says:

> There is a considerable and rapidly growing technology in the utilization of solar and geothermal energy. Further development of this technology should be encouraged rather than discouraged and the best performers of research and development in these areas should be utilized by government in its programs in order to achieve the most effective work for the cost involved. I believe section 7 would have a strongly inhibiting effect on participation by organizations both industral (and academic) who are the most advanced and the most capable in the non-nuclear energy fields. I urge, therefore, that section 7 be deleted from H. R. 13565 since the patent policy of ERDA would be governed by the President's Statement of Government Patent Policy.

Mr. Chairman, I would certainly appreciate the distinguished chairman's comment and response to such a statement.

Mr. McCORMACK. Mr. Chairman, I thank the gentleman for bringing to us this quotation from Dr. Stever, the President's science adviser and the Director of the National Science Foundation.

As the members of this committee recognize, we have just passed a solar and a geothermal energy bill. We will soon pass another solar energy bill. Dr. Stever and the NSF will have a deep involvement in the research and development under these new laws. They are working with hundreds of small industries and research laboratories across the country that need to have a stable patent policy.

What he is pointing out, I think, is completely correct; section 7 of this bill would muddy the water so much that it might seriously inhibit this research and development.

I want to point out that I agree with the chairman of the committee, the gentleman from Arizona, and the other people who have opposed this amendment, in that we all want to accomplish the same thing. We want a fair break for large and small industry. We want a fair break for individual inventors. We want to provide this without giving anyone an opportunity to take advantage of Federal funds for their own personal advantage.

The CHAIRMAN pro tempore. The time of the gentleman from Washington has expired.

(By unanimous consent, Mr. McCORMACK was allowed to proceed for 1 additional minute.)

Mr. McCORMACK. Mr. Chairman, I think there is clearly a sharp difference of opinion here as to what this bill would do and as to the advisability of going ahead.

I want to point out to the gentleman who said that we should not delay, that there are no funds authorized in fiscal year 1975 under this bill. No funds will apply to this patent policy until they are appropriated in fiscal year 1976. Therefore, there is no harm in taking time to do a study. There is no harm in delaying, and when we have adequate information, and know what we are talking about, the Congress itself, in this room, can make the final policies.

Mr. Chairman, this is why I support the Fuqua amendment.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words.

It seems to me that the choice here is whether or not Congress will write the rules with respect to patents in connection with a new program that involves research and development or whether Congress will simply hold off and let that determination be made, at least initially, by the administrative department.

I know of no case where massive amounts of money and large programs have been established for Government research in which there has not been some determination statutorily as to the result of the technological fallout and the application patent rights appertaining thereto.

Mr. Chairman, I cannot see for the life of me the validity of the argument that has been advanced here that we should first experiment with this particular agency before we make those provisions, in light of the fact that the U.S. Government has in many instances and over a great number of years dealt with technological research and development and has established techniques by which patents will be granted and licensing of those patents will be granted.

Langley Field has for many years developed innovative aircraft designs and equipment; NASA has been in existence for many years and has spawned a myriad of inventions and new applications; the atomic energy development has occurred under the dominant influence of governmental property. We have the experience to provide the means of protecting the public's right to technological discoveries made pursuant to governmental research and development, and I am willing to take the word of the committee that they have utilized the best techniques presented in all these fields.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Arizona.

Mr. Chairman, I appreciate the gentleman's yielding.

NASA and the AEC have done a lot of good. A lot of their patent policies have worked very well. But this is a different ball game. NASA had a single focus: put-a-man-on-the-moon. The AEC was a Government monopoly, one that owned the patents and all the licenses. We are dealing with a different type of program, encompassing coal, steam, oil, geothermal, and all the rest.

So what we are trying to do is to give some flexibility to the basic policy underlying all of this so that the taxpayers who are paying for this program are going to get the benefits of it. It is really a giveaway unless we set down that policy.

I think if we tell the Administrator to go ahead and do as the Administrator determines, it is not sufficient, because the main contracts are going to be entered into during the next 2 years, and now if we do not lay down a patent policy now, it will be too late to get all the fruits of it.

I am comforted by the fact that the gentleman from New Jersey, Chairman Rodino, who has been on the Antitrust Subcommittee and is chairman of the Committee on the Judiciary, and that other Members, such as my friend the gentleman from Wisconsin (Mr. Kastenmeier), who serves on the Patent Subcommittee and, in fact, on both committees, have done a good job. We have in this the flexibility which the gentleman talks about.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the interesting thing to me is that in all this debate I have not heard one single Member criticize the patent criteria set forth in the bill for the Administrator to follow in exercising his discretion. There is all this talk about how we had better wait and postpone deciding what the criteria ought to be.

I happen to be on the Judiciary Committee also, and I served on the Patent Subcommittee of the gentleman from Wisconsin (Mr. Kastenmeier). The Interior Committee went into great detail as to what the criteria ought to be, and heard all kinds of expert testitmony from the administration and others, and we put down some very reasonable and, I think, basically uncontroversial criteria.

But what the Members who are advocating the amendment are saying is that we do not want any criteria; we just want to do what we do in the NASA act and say that the Administrator need merely determine that his actions are in the public interest.

Mr. ECKHARDT. Mr. Chairman, I certainly share the gentleman's amazement at such arguments. If they should propose flexibility with respect to the specific criteria, they should state precisely how the criteria are not satisfactory for the purposes of the bill rather than simply striking the whole section and leaving the matter to existing patent law and leaving it to the determinations of the administrative agencies.

Mr. Chairman, many Members have spoken on this point, Members for whom I have the highest respect. The gentleman from Missouri, for instance, is generally in favor, as I understand it, of legislative standards rather than the delegation of those standards to an administrative agency.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. Eckhardt) has expired.

(On request of Mr. Hosmer and by unanimous consent, Mr. Eckhardt was allowed to proceed for 2 additional minutes.)

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I will yield to the gentleman, but I hope the gentleman will give me time to yield to the gentleman from Missouri, whom I have referred to.

Mr. HOSMER. Mr. Chairman, the points I have to make are these: That, No. 1, the purpose of this bill is to expedite energy research and development so that we can get on top of that problem;

No. 2, that, when brandnew patent provisions are enacted into law, the experience is that they impede the workings of a program for at least 5 years while their provisions are becoming known.

Three, therefore, if one is worried about a giveaway to private industry, and also one is worried about expediting R. & D. in this instance——

Mr. ECKHARDT. I am worried about that, too.

Mr. HOSMER. All right. We then should take some patent provisions that are known and apply here, which are the NASA and Atomic Energy provisions. If the Fuqua amendment fails to pass, I am going to offer an amendment which will do just that.

Mr. ECKHARDT. If the gentleman will yield my time back to me, I will say that I would hope then that the Fuqua amendment does fail so that the gentleman will have an opportunity to show how he would perfect the provisions.

Mr. HOSMER. If the gentleman will yield further, I think the Fuqua amendment is a better idea.

Mr. SYMINGTON. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Missouri.

Mr. SYMINGTON. I thank the gentleman for yielding.

I appreciate the gentleman's regard for my minority congressional mandate. I do think Congress should establish policies, but I guess I doubt our infallibility to do so at the outset. I think, in response, until we receive some guidance from the experience of the Administrator, to Mr. Seiberling, that there is a psychological problem here in section 7 whereby we encounter something in the nature of prior restraint.

I think a great many who otherwise might be integrated, who are participating in this program, may decide not to, and I should like to encourage them to do so.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from Florida (Mr. Fuqua) to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. Udall).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HOSMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 182, noes 142, not voting 110, as follows:

[Roll No. 521]

AYES—182

Anderson, Ill.
Andrews, N.C.
Annunzio
Archer
Arends
Ashbrook
Bafalis
Baker
Bauman
Beard
Bennett
Bevill
Boggs
Bowen
Bray
Breaux
Brinkley
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burgener
Burleson, Tex.
Byron
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Cleveland
Cochran
Collins, Tex.
Conlan
Crane
Daniel, Dan
Davis, Wis.
Devine
Dickinson
Dorn
Downing
Duncan
du Pont
Erlenborn
Esch
Eshleman
Findley
Fisher
Flynt
Forsythe
Frenzel
Frey
Froehlich
Fuqua
Gettys
Ginn
Goldwater
Gonzalez
Goodling
Gray
Gross
Guyer
Hanrahan
Hastings
Hays
Hébert
Henderson
Hillis
Hogan
Holifield
Holt
Horton
Hosmer
Hudnut
Hungate
Hunt
Jarman
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Kemp
King
Kuykendall
Landrum
Latta
Litton
Long, La.
Lott
McClory
McCloskey
McCollister
McCormack
Macdonald
Madigan
Mahon
Mallary
Maraziti
Martin, Nebr.
Martin, N.C.
Mathis, Ga.
Michel
Milford
Miller
Mills
Minshall, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moorhead, Calif.
Murphy, Ill.
Myers
Nichols
O'Brien
Parris
Passman
Patman
Patten
Pepper
Pettis
Pickle
Powell, Ohio
Preyer
Price, Ill.
Quillen
Randall
Regula
Rhodes
Robinson, Va.
Rogers
Roncallo, N.Y.
Roy
Ruppe
Sandman
Satterfield
Schneebeli
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Smith, N.Y.
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stubblefield
Stuckey
Sullivan
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Teague
Thomson, Wis.
Thornton
Tiernan
Vander Jagt
Waggonner
Walsh
Ware
Whalen
White
Whitehurst
Whitten
Williams
Wilson, Charles H., Calif.
Winn
Wydler
Wylie
Wyman
Young, S.C.
Young, Tex.
Zion

NOES—142

Abdnor
Abzug
Adams
Addabbo
Andrews, N. Dak.
Ashley
Aspin
Badillo
Bergland
Biaggi
Biester
Bingham
Boland
Bolling
Brademas
Breckinridge
Brotzman
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carney, Ohio
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cronin
Delaney
Dellums
Denholm
Dent
Dingell
Donohue
Drinan
Dulski
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Fascell
Fish
Flood
Flowers
Foley
Ford
Fraser
Fulton
Giaimo
Gibbons
Gilman
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gude
Haley
Hamilton
Hanley
Harrington
Harsha
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Holtzman
Howard
Johnson, Calif.
Karth
Kastenmeier
Kazen
Koch
Kyros
Leggett
Long, Md.
Luken
McDade
McKay
McKinney
Madden
Mann
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Moorhead, Pa.
Morgan
Murtha
Natcher
Nedzi
Nix
Obey
O'Hara
Owens
Perkins
Peyser
Pike
Poage
Railsback
Rangel
Reuss
Riegle
Rinaldo
Rodino
Roncalio, Wyo.
Rooney, Pa
Rostenkowski
Roush
Roybal
Ryan
St Germain
Sarasin
Sarbanes
Schroeder
Seiberling
Slack
Smith, Iowa

Stark
Steelman
Stokes
Studds
Thompson, N.J.
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waldie
Wyatt
Yates
Yatron
Young, Ga.
Young, Ill.

NOT VOTING—110

Alexander
Anderson, Calif.
Armstrong
Barrett
Bell
Blackburn
Blatnik
Brasco
Broomfield
Broyhill, Va.
Burke, Fla.
Camp
Carey, N.Y.
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Collier
Conable
Cotter
Coughlin
Culver
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Dellenback
Dennis
Derwinski
Diggs
Evans, Colo.
Evins, Tenn.
Fountain
Frelinghuysen
Gaydos
Grasso
Gubser
Gunter
Hammerschmidt
Hanna
Hansen, Idaho
Hansen, Wash.
Hawkins
Hicks
Hinshaw
Huber
Hutchinson
Ichord
Johnson, Colo.
Jones, N.C.
Jordan
Ketchum
Kluczynski
Lagomarsino
Landgrebe
Lehman
Lent
Lujan
McEwen
McFall
McSpadden
Mathias, Calif.
Mayne
Mizell
Mosher
Moss
Murphy, N.Y.
Nelsen
O'Neill
Podell
Price, Tex.
Pritchard
Quie
Rarick
Rees
Reid
Roberts
Robison, N.Y.
Roe
Rooney, N.Y.
Rose
Rosenthal
Rousselot
Runnels
Ruth
Scherle
Sebelius
Shoup
Snyder
Steele
Stratton
Talcott
Thone
Towell, Nev.
Treen
Vander Veen
Veysey
Wampler
Widnall
Wiggins
Wilson, Bob
Wilson, Charles, Tex.
Wolff
Wright
Young, Alaska
Young, Fla.
Zablocki
Zwach

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. COHEN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. COHEN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The Clerk read as follows:

Amendment offered by Mr. COHEN to the amendment in the nature of a substitute offered by Mr. UDALL: Section 4(d) of the bill H.R. 13565 is amended by inserting immediately after "wind power," in line 22 on page 43 the following: "wood power, tidal power,"

Section 4(e) of the bill H.R. 13565 is amended by inserting after line 11 on page 47 the following:

"(9) The use of wood as a direct source of energy or as a feedstock for methanol and other chemicals.

"(10) The utilization of the ocean tides as a source of energy."

Mr. COHEN. Mr. Chairman, in considering this important legislation to establish priorities and guidelines for the implementation of a national program of nonnuclear energy research and development, clearly we must give emphasis to sources of energy that are available, renewable and nonpolluting. I believe that wood power and tidal power are potentially important sources of energy that meet the aforementioned criteria, and my amendment would simply include these resources as areas where Federal research and development programs should be undertaken.

The utilization of wood as a source of energy could be especially important in regions blessed by an abundance of wood resources. Studies have shown that 32,000 acres of wooded land could permanently support a power plant of 100,000 kilowatts. Wood, unlike coal, is a clean burning fuel, and wooded areas used to supply energy, with proper management, could also be used for recreation and to support wildlife. The concept of burning wood to fire a steam driven turbine which, in turn, generates electrical energy, would require a minimal investment to test a prototype and deserves immediate consideration. Some research into this area, as well as using wood as a feedstock for methanol and other chemicals is already underway, and should be enthusiastically encouraged by the Federal Government.

With respect to tidal power, I have long felt that the potential utility of this energy resource deserves a thorough reexamination. In certain areas, tidal power could be a feasible solution to our ever escalating need for energy, while at the same time satisfying the crucial objective of preserving and protecting our environment. Other countries—France and the Soviet Union—have utilized tidal power with great success, and the previous technical problems attendant to its use have been largely overcome. As with wood, we would be remiss if we dismissed out of hand this potentially valuable source of energy without first fully examining its utility as an element in the total energy picture of this Nation.

I hope that my colleagues share my belief that wood power and tidal power represent potentially important energy options for this country, and will support my amendment.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I will be happy to yield to the gentleman from California.

Mr. HOSMER. During both the actions of the subcommittee and the full committee on this bill, searching inquiries were made for items to be put in this very portion of the bill. Unfortunately, the committees proved not imaginative enough to add the two that the gentleman wishes to have added to the bill.

I think that they contribute to the bill, and on this side we have no objection to them.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Arizona.

Mr. UDALL. I think the amendment is a sound amendment, and it is acceptable to me.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Maine (Mr. COHEN) to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. PICKLE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. PICKLE. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The Clerk read as follows:

Amendment offered by Mr. PICKLE to the amendment in the nature of a substitute offered by Mr. UDALL: Page 18, after line 11 of Udall substitute amendment, add a new subsection (d) to read as follows:

"(d) University-industry research.—Nothing in this section shall preclude Federal participation in, and support for, joint university-industry nonnuclear energy research efforts."

Mr. PICKLE. Mr. Chairman, section 5 of this bill sets out specific guidelines for Federal assistance, guidelines to be followed by the Administrator in the areas when Federal funds are used. The bill lists three or four different areas.

The amendment I have offered simply adds one additional guideline which says that nothing shall preclude Federal participation in and support for joint university-industry nonnuclear participation.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from California.

Mr. HOSMER. The minority has no objection to the gentleman's amendment.

Mr. PICKLE. I thank the gentleman.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Arizona.

Mr. UDALL. The purpose of the amendment, I think, is already covered in the bill. However, I think the gentleman does a service in nailing this down and making sure that this kind of research is also specifically authorized.

Therefore, I find the amendment acceptable.

Mr. PICKLE. I thank the gentleman very much, Mr. Chairman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. PICKLE) to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. HOLIFIELD TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. HOLIFIELD. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The Clerk read as follows:

Amendment offered by Mr. HOLIFIELD to the amendment in the nature of a substitute offered by Mr. UDALL: Section 12 is hereby redesignated Section 13, and the following Section 12 and the caption thereof are inserted between the end of the text of Section 11 and the caption of Section 13:

"JURISDICTION OF COMMITTEES OF THE CONGRESS

"SEC. 12. Nothing provided in this Act shall be deemed to change or interfere with, or otherwise affect in any way, the jurisdiction of any committees of the Congress in regard to authorization of programs or funds, appropriation of funds, oversight, or any other responsibility or authority of any committee of the Congress."

Mr. HOLIFIELD. Mr. Chairman, I have made the request to extend my remarks because I do not want to take the Committee's time.

I have presented this amendment to the gentleman from Arizona (Mr. UDALL) and to the gentleman from California. The purpose of it, to make it very plain, is that the present jurisdictions of all the committees of the House be respected as far as jurisdictional matters are concerned.

Mr. UDALL. Mr. Chairman, will the gentleman yield

Mr. HOLIFIELD. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, there are a number of committees of the House that have claims to jurisdiction in the energy research and development field, as well as the Joint Committee on Atomic Energy, on which the gentleman serves with such distinction.

The Speaker referred this bill and the companion Senate bill to our committee, and I made it clear throughout the proceedings that we are not attempting to steal anyone's jurisdiction, nor does the passage of this bill do that nor is it intended to change any jurisdiction.

Mr. Chairman, I think the gentleman's amendment simply says what we all understand.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from California.

Mr. HOSMER. Mr. Chairman, I concur in the gentleman's expressions and desires, and I concur also in the reasons therefor, as expressed by the gentleman from Arizona. I, too, am in favor of agreeing to this amendment.

Mr. HOLIFIELD. Mr. Chairman, I thank the gentleman.

I just wish to say that in handling many of the organization bills and reorganization plans I have dealt with before, I have brought them to this House, and in all instances I have protected the rights and the jurisdictions of the statutorily programmatic and authorization and funding committees of the House. I have never tried to encroach upon them, and I just want to be sure that will be the result in this bill (H.R. 13565).

There is no intent, I know, on the part of the authors of this bill to encroach upon these jurisdictions, and I just wanted to be sure this was spelled out.

I thank the gentleman.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, it has been some time since we discussed the cost of this bill, and I wonder if the gentleman from Arizona would refresh our memories as to the total cost.

Mr. UDALL. Mr. Chairman, if the gentleman will yield to me, in the original version of the bill we have authorized a total of $3.1 billion for the first 2 fiscal years.

As a part of the compromise that resulted in the offering of the Udall substitute, we eliminated any authorizations, any long-term R. & D. authorizations, and simply stated the policy of a $20 billion program. The goal would be a $20 billion program over 10 years.

Mr. GROSS. Mr. Chairman, did the gentleman say $20 billion?

Mr. UDALL. $20 billion. The only specific authorizations left in the bill are $500,000 on page 33 for the Council on Environmental Quality and the $1 million for the Water Resources Council. Those would then be the actual authorizations in the bill, totaling $1.5 million.

Mr. GROSS. So, even the sums of $1.3 billion for fiscal year 1975 and the $1.8 billion for fiscal year 1976 are out of the substitute?

Mr. UDALL. Mr. Chairman, if the gentleman will yield further, we took the authorizations out of the bill and merely substituted a goal that Congress was thinking in terms of a $20 billion program over 10 years, but we did not seek to authorize that appropriation. That was part of the compromise. Whatever committee has jurisdiction next year will come in with an authorization bill.

Mr. GROSS. Mr. Chairman, does the gentleman not think that this is giving the Committee on Appropriations a tremendous amount of authority and a tremendous amount of power?

Mr. UDALL. Not at this point, because we are taking out the specific authorization. I would remind the gentleman——

Mr. GROSS. Mr. Chairman, that will leave the door wide open to the Committee on Appropriations to appropriate much more than was authorized originally.

Mr. UDALL. It is no more open now and it will be no more open after the passage of this bill than it would be in the absence of the passage of the bill.

Mr. GROSS. But there were fixed amounts in the report accompanying the original bill. The substitute is completely open ended. The sky is the limit.

Mr. UDALL. That was my contemplation, and that was part of the settlement we made with the Committee on Science and Astronautics, that some committee, either their committee or ours, depending on what happens in the committee of the gentleman from Missouri (Mr. BOLLING), would in the next fiscal year come in with an authorization and a limitation.

But they did not want that contained in the bill now, so we agreed to take it out to insure that there was no prejudgment on the committee jurisdiction question.

Mr. GROSS. The gentleman is now saying that he anticipates an expenditure of $20 billion over the next 10 years. Does the gentleman have any information as to how much is being spent elsewhere in the Federal Government on the subject of energy?

Mr. UDALL. The appropriation bill this year has already been passed. I do not have any figures. The gentleman from Washington (Mr. MCCORMACK) tells me it is $2.23 billion for all energy or research and development this fiscal year.

Mr. GROSS. In all areas of the Government?

Mr. UDALL. Yes.

Mr. GROSS. I thank the gentleman. Mr. Chairman, I cannot support this bill and for the reason that it apparently anticipates the spending of $20 billion, all of which is unbudgeted and which may be spent in 10 years or less. This legislation is made too open ended to be acceptable.

Mr. HOSMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, way back a long time ago when we first started to consider this bill before the House recess intervened, during general debate I expressed approval for the objective of a bill which would properly afford policy for the forwarding of our energy research and development program. I also expressed the opinion at that time that the legislation as drafted is inartful, and that it is inadequate to achieve those objectives because of serious and substantial deficiencies in both form and substance.

I offered 15 amendments that were designed to cure these deficiencies for the most part. Five of such amendments were accepted. Ten of them were rejected, and in those 11 respects this bill, in my opinion, is still seriously defective. It should go back to the committee and be rewritten. For that purpose I am going to offer a motion to recommit.

Mr. MCCORMACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I should like to ask a question of the gentleman from Arizona (Mr. UDALL). The question is as follows: This bill is designed to supplement the organization of the Energy and Research Development Administration when it comes into being, and set policies to be carried out under that organization. At the present time there is no ERDA in existence. The legislation which would create ERDA is headed for conference committee.

I am curious to know what the gentleman's perspective is with respect to the enactment of this bill before us with regard to the enactment of the legislation creating ERDA, particularly with respect to their chronological sequence, and how he views this bill if the ERDA legislation is not passed at all, and we do not create any Energy Research and Development Administration this year.

Mr. UDALL. If the gentleman will yield, on his first point, I think it is clear that we have got to make the decision, first about ERDA, to settle its form and content. I should hope that preliminary work could be going on with regard to the conference on this bill so that there would not be any long delay after the ERDA legislation is completed before this is completed.

In regard to the second question, in the event that there is a failure somewhere down the line and we have no ERDA at all, I think we have to back off and regroup, because obviously this bill is directed toward giving ERDA policy guidance. If we are not going to have ERDA, we would have to consult with them and others to decide what, if anything, could be done with respect to this legislation at this late date.

Mr. MCCORMACK. I thank the gentleman.

I want to comment on the remarks made by the gentleman from California (Mr. HOSMER) and say that I appreciate what the gentleman has said. I think that all during this session of Congress we have, unfortunately been dealing with legislation that is not completely responsive to the total overall energy research and development needs of this country.

This is partially because of the administration has not provided the leadership needed. It is partially also because of the fractured administrative structure and partially because of the fractured committee structure in the House and in the Senate. We must provide a comprehensive energy policy for all energy research and development and the management and the administration of energy policies for this country.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Michigan.

Mr. RUPPE. I thank the gentleman for his comment, but I think in the administration's defense, whether we see the figure as sufficiently high or not, we would have to say that $2.3 or $2.4 billion research and development effort in the energy field of moneys appropriated by Congress, as a combination of administration and congressional effort, does give us a sizable effort in research and development in energy.

Mr. McCORMACK. I thank the gentleman and want to emphasize that I do not mean to criticize anyone in either the administration or the Congress. I do not criticize the ERDA for what it would or could do, but only to criticize it for what it cannot and will not do. We as a Congress and administration are not going far enough or organizing well enough if we are to have policies we must have to develop an adequate energy policy and administration.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOLIFIELD) to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. CORMAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. CORMAN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The Clerk read as follows:

Amendment offered by Mr. CORMAN to the amendment in the nature of a substitute offered by Mr. UDALL: Page 12, immediately after line 18, insert the following new section; and renumber the following sections accordingly:

SEC. 5A. (a) The Administrator, in addition to his other duties under this Act, shall take such steps as he deems necessary to insure the development, within four years of the date of enactment of this Act or of the date upon which the Energy Research and Development Administration (as provided for in the Energy Reorganization Act of 1974) is created, whichever is later, of at least one prototype automobile which—

(1) without further technological research or demonstration, could be adapted by the private sector for mass production and sale at retail in quantities exceeding 10,000 vehicles per year;

(2) would present the least practicable total amount of energy consumption and environmental degradation taking into account—

(A) the type and quantity of energy resources necessary to operate and maintain each such vehicle under typical conditions of operation; and

(B) the type and quantity of energy resources required for the commercial production and for the disposal of each such vehicle;

(C) its energy consumption requirements;

(D) its exhaust emissions;

(E) the noise characteristics associated with its operation;

(F) the environmental consequences associated with its production and disposal; and,

(G) such other environmental costs as the Administrator identifies;

(3) would represent a substantial improvement over automobiles having internal combustion engines with respect to the factors listed in paragraph (2);

(4) would have operating characteristics at least comparable to those of automobiles having internal combustion engines with respect to—

(A) acceleration;

(B) cold weather starting;

(C) cruising speed; and

(D) other performance factors;

(5) would not, because of the energy source or technology utilized, create any unusual or significant health or safety risks;

(6) could be produced and operated in compliance with all Federal requirements pertaining to—

(A) exhaust emissions;

(B) noise pollution;

(C) occupant safety;

(D) damage resistance; and

(E) any other federally-regulated matters; and

(7) could be mass produced, operated, and maintained at the lowest practicable economic cost given the other requirements of this subsection.

(b) On January 1 of each calendar year, the Administrator shall submit a report to the Congress on the progress made toward meeting the requirements described in subsection (a) of this section. In the event the Administrator determines that these requirements cannot be met, such report shall specify the reasons therefor and shall recommend a revised schedule for the attainment of such requirements.

Mr. CORMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

Mr. HOSMER. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk will read.

The Clerk concluded the reading of the amendment to the amendment in the nature of a substitute.

Mr. CORMAN. Mr. Chairman, the amendment is designed to stimulate the search for an advanced automobile which meets the needs of smog-choked cities and the needs of consumers and the Nation for fuel efficiency as well.

The amendment is based on my strong conviction that the major automakers have failed to keep in step with consumer's needs for energy efficient, low polluting automobiles. As we all know, the automakers have chosen to stick with the internal combustion engine with add-on devices to control air pollution. In making this decision, and consumers really had little influence over it, we have seen fuel economy averages plummet in recent years to the current average of around 13 miles per gallon.

At the same time, smog continues to choke our cities with little substantial relief in sight. As it is in many other areas of the country, the leading cause of air pollution in the Los Angeles basin, which compromises a good share of my district, is the automobile. While we obviously cannot live without the automobile, we do owe it to ourselves to make every practicable effort to insure that the automobiles we drive will neither choke us nor starve our pocketbooks.

It is really no surprise that the automobile industry has chosen to place virtually all of its efforts in engines which have been in widespread use for more than 60 years. The automobile industry is intimately familiar with the engine and obviously has made a large commitment to it. But other, less tangible forces are apparently at work as well. In testifying before the Senate Subcommittee on Science, Technology, and Commerce, Dr. John Steinbruner, assistant professor of government at Harvard University, testified that earlier experience in the automobile industry has quelled innovation and created an enormous inertia to overcome in developing new technolgy. To quote Dr. Steinbruner:

> The normal design development cycle, the technological capacities for production which exist in these product divisions, creates an enormous inertia. Disrupting that, stopping this natural flow, and putting it on to a new track is what the problem is. And it is a very serious problem.

In addition, it is a well-known fact, not only among business monopoly scholars, but with the consumer as well, that all of the major automakers perform virtually in lockstep with respect to the type of product offered. Innumerable treatises have been written on the effects on competition of oligopolistic industries and the results of those studies need not be repeated here. Suffice it to say that unsatisfactory market performance by the major automakers have resulted in the suppression of technological innovation as well as all of the other ills of restricted competition.

The research budget of the major automakers show vividly that research and development resources have shifted away from alternative technology and into improvements in the internal combustion engine. For example, the average amount of research and development dollars spent by the Ford Motor Co. in the years 1967 through 1969 on alternative power systems was approximately 25 percent. This figure dropped to 17 percent of its R. & D. dollars on alternative power systems from 1967 through 1969 and only 2.3 percent from 1970 through 1972. Unfortunately, information is unavailable from General Motors.

At the same time, alternative engines show great promise, even while lacking the 60-odd years of intensive R. & D. effort by the major automakers. For example, Stirling cycle engines apparently will be able to meet fully the emission standards set in the 1970 Clean Air Act for 1976 models while at the same time doubling fuel economy compared to existing internal combustion engines. The diesel engine can get up to double the mileage of internal combustion engines and might be promising alternatives if problems of oxides of nitrogen emissions, performance, noise, and odor can be licked.

Rankine cycle engines, using the principle of the steam engine, can easily achieve the emission standards contained in the 1970 Clean Air Act, and with further research could offer fuel economy far in excess of present internal combustion engines.

Due largely to a lack of support within the administration, the current program within the Environmental Protection Agency stumbles along at an annual funding rate of $7.2 million per year. At that level of funding the number of contractors must obviously be limited. At the present time only one contractor will be funded for work with Rankine engines. Additional small efforts will be made on gas turbines and paper studies. EPA will fund no work on Stirling cycle engines, diesels, or any of the other promising Rankine cycle alternatives.

And, while the Federal Government makes only token contributions to the effort, numerous private entrepreneurs are forced to drastically curtail their efforts due to a lack of funding. Given the importance of the automobile in society and its effect on air pollution and energy reserves, we cannot afford to let this valuable talent and innovation be wasted.

The amendment I offer today is designed to give direction to the efforts of the Energy Research and Development Administration to develop an advanced automobile which is needed so badly in this country.

The amendment would require the Administrator to insure development within 4 years of one or more automobiles capable of being put into production in quantities exceeding 10,000 automobiles per year. As it is necessary to put in a time period to adequately prod these efforts, the amendment further provides that such an automobile be developed in 4 years. If the 4-year time period cannot be met, the Administration is to report to the Congress on its reasons therefor and suggest a new timetable.

The automobile to be produced must present the least total amount of energy consumption and environmental degradation practicable and should be capable of mass production at the lowest possible cost consistent with the requirements of the amendment. The automobile should operate safely and with sufficient performance with respect to cold weather starting, cruising speed, and other performance factors.

Finally, the automobile must be capable of being produced, distributed, operated, and disposed of in compliance with any Federal law including emissions control, noise, safety, and damage resistance.

In my view, this kind of direction and commitment of the Federal Government is absolutely essential to cope not only with the energy crisis, but with the smog-choked cities of the Nation as well. I urge the amendment's acceptance.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman.

Mr. UDALL. This is a first-rate amendment and one that improves the bill. I think we would have included something like it in the bill had we not had certain jurisdictional conflicts and jealousies which we have worked out. I commend the gentleman for the amendment and I am happy to support it.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Michigan.

Mr. RUPPE. I would like to rise in opposition to the amendment. I might point out there are certain amounts of money directed to be spent in this particular legislation. If we direct the Administrator to come up with an automobile whose design and operational mechanisms have not even been considered, I would note first of all that we have no way of knowing, nor has testimony indicated that such a vehicle is possible to construct.

Second, if we did place this mandate upon the Administrator, certainly he could take every dollar available under this research bill and apply it to the construction and design of this automobile.

It just seems to me we are mandating the whole amount of money available to the Administrator by the Congress for the sole purpose and sole direction of making an automobile that is conceived solely on paper.

I think it is in total effect gutting all the possible technological efforts and technological advances that could be imagined in a bill brought before the Congress today.

Mr. CORMAN. I would assume that if the authorization bill is taken up, it would be specifically authorized to carry out the purpose of the amendment. This amendment is desperately needed by the people of the Nation, because the present policy of looking to Detroit to solve this problem is never going to work. I would assume those authorizations would be made by the committee and this is one of high priority. I would hope it receives favorable consideration.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman.

Mr. BROWN of California. I commend the gentleman for offering this amendment. I would like to point out that nothing better could be done to solve this Nation's energy problems than to eliminate the internal combustion engine, which I presume might be one of the objectives of this amendment, because the internal combustion engine uses about 25 percent of the total energy of this country, including a much larger share of the petroleum industry.

I might add, and I am sure the gentleman from California is aware of it, that bills to authorize a substantial measure of research in the direction of his amendment have been presented in the Senate by the junior Senator from California and has passed the Senate as an amendment to another bill and that a similar bill which I have authored has been heard for 7 days before the Committee on Science and Astronautics here.

I would say if this amendment could be passed, it would promote the goals of both pieces of legislation. I would welcome that and urge a favorable vote on the amendment.

Mr. CORMAN. I urge a "yes" vote by my colleagues.

Mr. HOSMER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am in complete sympathy with the objective of my colleague from California, who has offered this amendment. Certainly we should have that kind of a vehicle being researched and developed today; however, I want to call attention to what this bill is all about. This bill is not a bill for the establishment of specific R. & D. projects.

This is a bill to govern general policies regarding nonnuclear energy research and development. In that connection, section 2(a) states:

> It is the policy of the Congress to establish and vigorously conduct a centralized, comprehensive, national program of basic and applied research and development, including demonstrations of practical applications, of all potentially beneficial energy sources and utilization of technologies, within the Energy Research and Development Administration as provided for in the Energy Reorganization Act of 1974. In carrying out this program, the Administrator shall be governed by the terms of this Act with respect to all nonnuclear aspects of the research, development, and demonstration program, and the policies and the provisions of the Atomic Energy Act of 1954, as amended, shall continue to apply to nuclear research, development, and demonstration projects.

It says that these inquiries shall be made into such areas as residential and commercial heating and cooling, central power stations, low-cost photoelectric cells, production of synthetic fuels, use of wood and wood materials, and as the amendment of the gentleman from Maine added a moment ago, woodpower, tidalpower, and a number of things like that.

But, nowhere in this bill is there any specific direction to take up a specific kind of research and development project, to spend money to carry it through to meet some very precisely specified objectives. That is why I objected to the waiving of the reading of this amendment. I wanted to make the point of how long and detailed this specific project is.

If my colleague from California wants to legislate a vehicle R. & D. program, that is foreign to what we are doing here. That should be done by separate legislation. For, we are here trying to establish a general policy framework in which all energy research and development will proceed. The amendment does violence to that objective by seeking to add this totally extraneous specific project.

Therefore, Mr. Chairman, I sincerely hope that the integrity, such as it is and as low as it is, of this bill, at least be retained by rejecting this amendment.

Mr. RUPPE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as I indicated a few moments ago, to the best of my knowledge there are very few expenditure directives in this legislation; few directive mandates for the administrator to carry out.

Under the amendment which has been offered by my good colleague and friend from California, the administrator—I take these words from the amendment—"shall take such steps as he deems necessary to insure the development, within 4 years of the date of enactment of this act—" of at least one prototype automobile.

That automobile shall be capable of being produced at least in numbers of

10,000. It will automatically by law, by our fiat today, be a substantial improvement over automobiles having internal combustion engines.

Third, it will be an automobile, the prototype of which must be developed in 4 years and which can be produced and operated in compliance with Federal requirements pertaining to exhaust, noise pollution, occupancy, damage resistance and any other Federal regulations we might come up with.

I would suggest one very important point. There has been no technical discussion in the committee or on this floor as to how such an automobile can be designed or constructed or put into production. Second, only so much money is going to be authorized under this legislation, whether authorized by the Interior Committee or the Committee on Science and Astronautics, so I would suggest that the administrator, when we get all done, will have a given amount of money to spend.

It would seem to me that if he is directed to come up with this type of automobile within 4 years, he is likely, in effect, going to be directed to spend all his funds in that effort.

So, I think it is somewhat unlikely and unworkable, and I oppose the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. Corman) to the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. Udall).

The question was taken; and on a division (demanded by Mr. Udall) there were—ayes 19; noes 21.

Mr. CORMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the amendment in the nature of a substitute was rejected.

Mr. RANDALL. I rise in enthusiastic support of H.R. 13565, a measure which will establish a national program for research and development in nonnuclear energy sources.

There are still around some critics who say the Congress has not done enough yet to solve our energy problems. The passage of a bill of this kind should go a long way toward silencing some of those who would like to say that the Congress has done nothing. For those who may not be familiar with the provisions of the bill, I point directly to section 3 and section 4 which are the heart of the bill and a perusal of those sections will reveal that this bill is a necessary followup to what we call ERDA meaning the Energy Research and Development Administration which passed the House back in December of 1973. References throughout H.R. 13565 to the Administrator, of course, refer to the new Federal Agency of ERDA and its administration. I think it would be well to note that what is covered by this legislation is nonnuclear energy sources.

This bill comes out of our Interior Committee and was given a boost and assist by the energy subcommittee of the House Space Committee.

The question might properly be asked, what is so good about H.R. 13565? Well, the answer is the petroleum shortage of the past year has brought home to every American citizen that our country has a serious and apparently increasing energy shortage. On the other hand the domestic production of fossil fuel has slowed and the demand for fossil fuels is slowly widening.

The answer to the question as to what is so good about this bill is that it calls for research into such things as the efficiency of such things as drilling techniques, the reduction of energy wastes, and the reuse and recycling of these energy wastes.

But, perhaps one of the most important areas that this bill will focus upon is coal gasification and liquification. Someone has so appropriately observed that when the Arabs have used their last drop of oil, our country will have enough fuel from fossil and coal to last hundreds and hundreds of years. Of course, that is true if we find a way to use it and that means the combustion of coal by environmentally acceptable means and also by any form that can be most useful for an economy that is geared to wheels.

As one looks through this very excellent bill it can be readily ascertained that this measure provides for research on the recovering fuel from oil shale, solar power, wind power, ocean thermal gradients, geothermal power, and hydrogen gas systems. There are some very exciting authorizations to conduct research into such energy systems connected with solar energy photovoltaic cells and also such sophisticated techniques as utilization of geo-pressured hot water to obtain the possible extraction of methane gas.

This bill, while it has to do mainly with research and development of nonnuclear energy sources, also provides for a study to recommend action necessary for the training of qualified scientific, technical, and other personnel to do energy research. Certainly there can be very little research unless the manpower is there to conduct the research.

One source of nonnuclear energy that has not been given much attention is the utilization of wind power. This bill will provide for research in that area and, finally, research on hydrogen as a fuel as an energy storage system.

But, Mr. Chairman, as I suggested earlier, while this bill contains many meritorious provisions, I guess the most important of all is the research connected with our coal resources and that means, at the expense of repitition, the production of gas from coal, the improvement of coal liquification and solvent technology and the study of a wide range of options for making the use of coal and coal derivatives environmentally acceptable including a technology for precombustion coal cleaning and the gasification of coal in situ.

In these days of justified concern for Federal expenditures, one might dwell on the cost of this research or what does the passage of this bill mean in the terms of expenditures? The answer is there is no authorization set but that does not mean it will not cost money to conduct research and development. The authorizing committee has left this to the good judgment of the Appropriations Committee which in turn will be subject in the fiscal year 1975 to the Budget Committee of the House and Senate under the new congressional impoundment bill. I do not know whether the committee will appropriate $1 or $2 billion for this research and development but I am sure that whatever it will be, it will not be an expenditure but an investment.

Mr. STARK. Mr. Chairman, I will vote "present" on the bill now before us, because my part ownership in a known geothermal resource area—KGRA—would make my further participation in these proceedings inappropriate. This lease was acquired from a private party without Government assistance; however, I would like to state my support for the concept of this legislation. It addresses our national need for a strong and centralized nonnuclear energy program.

Mr. BIESTER. Mr. Chairman, the objective of this legislation, H.R. 13565, is to help assure that sufficient efforts will be made—with Federal backing—to develop promising energy sources which otherwise might not be pursued with the necessary determination. The emphasis here is on nonnuclear energy and those sources which are renewable and exist in virtually unlimited supply. Solar, geothermal, and wind energies are examples of some of the alternatives we need to research and develop to a greater extent than we have in the past. Furthermore, technologies would be encouraged which are efficient and economical and which have minimal negative societal and environmental consequences. Under the direction of the recently established Energy Research and Development Administration, H.R. 13565 will authorize the Federal Government to provide grants, loans, and other incentives for expanded activities in the field of nonnuclear technologies.

I am especially pleased that this measure stresses the desirability of reducing energy wastes and employing the use of recyclable materials. Section 4 of the bill specifies, among other things, that emphasis be given to the productive use of wastes through the application of various conversion technologies.

The potential value of organic solid wastes as an alternative energy resource and as a supplement to more conventional energy sources is most promising and deserves the increased attention recommended in this legislation.

Ironically, perhaps one of our Nation's greatest resources is the refuse, waste, and garbage we produce in monumental abundance each and every day. It has been customary to look upon such byproducts of our daily living and affluence as expendable materials either to burn or to bury. Even though we look upon garbage as a headache rather than an asset, solid organic wastes constitute one of our very few unlimited, replenishable resources.

Former Environmental Protection Agency Administrator William Ruckelshaus has stated:

> There is perhaps no greater symbol of our imbalance with nature than the fact we discard millions of tons of wastes every year which do, in fact, have value.

What is even more remarkable, we spend *x* dollars every year on waste disposal when in fact the waste is worth *x*-plus dollars in energy and recoverable residue value. If it is technically possible and economically feasible to utilize these solid wastes—and it is—there is little doubt in my mind that we should be expending considerable intellectual and financial energy in perfecting this capability.

The figures are impressive. It is possible to convert 1 ton of dry organic waste into more than 1.25 barrels of oil or over 6,000 standard cubic feet of pipeline gas. The net oil potential from solid wastes has been estimated to exceed 1.3 billion barrels annually by 1980. Urban and agricultural wastes, if transformed into oil, could have the energy equivalent of over 200 million tons of coal which represents about two-thirds of the amount of coal now being used to generate electricity. If it were converted into pipeline gas, it could equal 9 trillion cubic feet, a figure approaching 40 percent of the current annual natural gas production in the United States. In EPA testimony before the Senate Commerce Committee on the Resource Conservation and Recycling Incentives Act of 1973, it was stated:

> Approximately 1.5 percent of the Nation's annual energy requirements could be met from energy recovered from solid wastes generated in major urban areas. This quantity of energy is equivalent to:
>
> 1. the Nation's entire energy consumption for residential and commercial lighting; or
> 2. for 1972, more than half of the direct oil imports from the Middle East; or
> 3. almost one-third of the energy that will be delivered by the Alaskan pipeline.

While these projections are based on exploiting all available waste materials to their maximum, which is overly optimistic, the advantages of solid waste conversion into energy are, nevertheless, substantial and convincing. As I already mentioned, solid wastes—be they our common urban refuse variety, sewage solids, agricultural, industrial or wood-related—are continuously produced by society as a byproduct of virtually all aspects of consumer and economic activity. For years we have attempted to devise ways to get rid of wastes while we could more wisely and profitably have been formulating workable ways in which to use wastes to our own advantage. Dumping and incinerating our garbage is no longer—if it ever was—an ecologically acceptable practice. Landfill as a disposal option is becoming more unacceptable in view of the decreasing availability of accessible, inexpensive land.

Actual applications of technology on the conversion of solid organic wastes have demonstrated that the end product, if it is oil, has low sulphur content and high heating value. Moreover, it has an energy equivalent to that of shale oil without the many environmental problems associated with that process. As utilized in one powerplant boiler, for example, refuse used as a supplementary fuel has a heating equivalent of 5,000 Btu's per pound—about half that of bituminous coal.

It seems quite obvious to me that we have here an opportunity to effectively use our resources to their fullest extent and to their maximum efficiency through the use of organic waste conversion. Not only do we realize a valuable new energy source but we solve an equally troublesome problem of what to do with our refuse and wastes.

The sources of solid organic wastes are numerous.

Urban wastes—which include cellulosic materials as well as other carbohydrates, proteins and fats—are estimated at 260 million tons annually of which about half is organic solids.

Sewage solids, composed of human wastes, paper and food scraps, are about 50 percent carbohydrate and total approximately 12 million tons yearly.

At the agricultural level, 2.5 billion tons of waste are generated, the great majority of which is bovine manure with lesser amounts of crop wastes.

Industrially, 44 million tons of organic solids are produced annually as the result of processing, packaging, shipping, and other activities associated with industrial production. Focusing more specifically on one industry, one-third of the volume of all wood harvested in this country goes unused. Residues from logging and wood processing amount to over 50 million tons yearly.

All these sources have practical applications. The tremendous amounts of urban refuse and sewage solids generated daily in large metropolitan areas, especially, have a significant potential as a fuel source. As a city's wastes and discards increase with an expanding population, we are creating an ever-ready supply of potential fuel for use by municipal utilities. EPA has partially funded a $4.1 million project in operation in St. Louis in which processed refuse is used in conjunction with coal to generate steam in the production of electricity. Approximately 300 tons of residential solid wastes a day have replaced about one-fourth of the coal normally used. Eventually, 600 tons, representing 60 percent of the city's trash, will produce 20 percent of the total heat load. St. Louis has found this system of energy recovery an "economically attractive" option. The city utility estimates savings up to $10 million a year when the operation is fully underway.

In the agricultural sector, most crop wastes are not plentifully available or logistically convenient although there is economic potential for accumulating and utilizing milling wastes. Feedlots and dairies could be an excellent source of energy. Cattle manure is easily collectable and plentifully available in such locations and is high in energy content. Furthermore, feedlots generally are located in areas where natural gas is produced and transmission lines already exist.

Factories have found ways to use their own wastes for internal energy consumption. The Maxwell House Coffee Co. plant in Hoboken, N.J., daily produces 150,000 pounds of coffee grounds in the manufacture of instant coffee. The company has turned this from a disposal problem into an economic asset by using the grounds as fuel in a special boiler system. As a result, about one-third of the steam power needed for the plant comes from this waste source. A company in Pennsylvania produces 90 million pounds of sawdust in the process of making caskets. Dumping was unacceptable so a new boiler system was developed to generate half the steam needed to operate the plant.

We are not narrowly restricted in the methods which can be used to convert solid organic wastes into energy. Several options exist, any of which could be applied where most economical and feasible.

Hydrogenation involves treating refuse with carbon monoxide and water to produce oil. Hydrogasification combines hydrogen with waste to yield gas. Pyrolysis, which results in oil or low energy gas, is achieved through the shredding, drying, reshredding and heating of waste. Bioconversion is the anaerobic digestion of wastes to produce methane gas. Refuse processing and direct firing is simply the combination of prepared wastes with coal, gas or oil to generate power. Technologies and their practical implementation vary, with direct firing and pyrolysis receiving most attention. Studies have indicated that technology is not a significant obstacle in realizing energy recovery from wastes and that available alternatives are quite impressive.

EPA has a number of projects in operation or planned which utilize some of these technologies. Plants in Menlo Park, Calif., St. Louis, and Shelbyville, Ind., are applying the refuse processing-direct firing approach. The pyrolytic system is being used near Buffalo. Three full-scale pyrolysis demonstration projects utilizing varying techniques with varying end-products are in the planning stages in Baltimore, San Diego, and Wilmington, Del.

The Baltimore project, for example, will process 1,000 tons of the city's solid waste into gas which then will be used to boil water. The steam will generate electricity. Officials expect recoverable wastes such as ferrous metals and crushed glass to be sold with revenues exceeding $1.5 million yearly. The San Diego and Wilmington projects are similar and also expect to produce marketable residues of metals and glass.

Private industry and research is involved in solid waste conversion projects. Union Carbide has progressed from a 5-ton-a-day pilot plant in Tarrytown, N.Y., to the building of a 200-ton-a-day plant in Charleston, W. Va., which will provide power for its vast complex. The company has arranged to receive trash collected in the Charleston area for its conversion process.

One company has plans to build a resources recovery center which will process refuse from surrounding municipalities and then sell it as fuel along with the necessary equipment to enable any power-consuming industry to use it.

Scientists at the University of Illinois recently announced encouraging results on a bioconversion process which they believe could provide 5 to 10 percent of a city's gas needs. The process would produce methane and carbon dioxide, the latter being sold for making dry ice. Assuming the garbage was provided free of charge to the conversion plant, it is estimated the sale of gas could realize a profit of up to $1 per ton of garbage.

It is important, of course, to analyze the costs involved in waste conversion in order to determine whether it is economically competitive with other sources of energy and power generation, both those widely in use and those being considered as new sources.

Wastes in sufficient quantities are not always located where they are needed and can be used most effectively; unfortunately, trash and refuse tend to be widely dispersed. Steam, if it is eventually produced through waste conversion, has limited marketability since steam cannot be transported over long distances. It is, however, quite practical for utility systems in the generation of electricity. Pyrolysis, on the other hand, is a highly flexible and adaptable process able to produce either oil or gas, whichever is desired. Oil is an easily stored and transportable commodity.

Incineration of wastes can cost between $8 and $12 per ton and landfill may run in the neighborhood of $7 per ton. In comparison, the cost of pyrolysis in a large metropolitan area has been estimated at approximately $1.25 per ton. Refuse incineration in St. Louis costs about $5.17 per ton while refuse processing has brought the price down below $4. Natural gas from coal or petroleum runs about $1 per thousand cubic feet and liquified natural gas is in the range of $1.57 per thousand cubic feet while the hydrogasification of manure produces pipeline gas at 40 cents per thousand cubic feet.

Several factors, then, should be kept in mind when evaluating the pros and cons of solid waste conversion. At the present time, capital expenditures for large-scale systems are running high and serve, in part, to discourage the commercial applicability of these systems. However, an elementary system such as that in operation in St. Louis is not prohibitively expensive. Those associated with the system report:

> Almost all power plant boilers designed to burn pulverized coal should be adaptable to the firing of refuse as supplementary fuel, even if the boilers were subsequently converted to oil or gas firing.

It seems highly probable that further improvements in technology and their successful application would bring down costs within an economically feasible range. Once a system becomes commercially operative, costs could be reduced substantially. The economy of investment varies with different conversion systems but generally improves as the system increases in size.

Marketability also must be factored in, and this includes location, costs of other sources of power and the value of retrievable residues, if any. Some energy recovery systems utilize raw refuse and others require some prior separation and pretreatment, including shredding into extremely small particles. This, of course, has an impact on expense.

Some benefits are more indirect and may not be as easily perceived. The State of Connecticut, which has an extremely ambitious State solid waste management program underway, estimates that by 1985 a recovery of 406,000 tons of ferrous metals yearly would save the steel industry the equivalent of 1.2 million barrels of oil. The reason for this is that only 25 percent of the energy needed to convert raw ore into iron and steel is necessary for the conversion of ferrous scrap into the same end products. Therefore, not only could waste conversion into energy produce oil but the residues themselves could be used to save additional quantities of oil.

It must be remembered in analyzing the net cost of energy from wastes that solid waste conversion does serve a dual purpose. Not only does it provide energy, it simultaneously solves the expensive problem of refuse disposal. Thus, there are "environmental" savings as well.

For environmental reasons, energy recovery from solid wastes is a highly desirable energy producing alternative. Waste conversion processes produce little pollution of their own, emitting negligible sulfur pollutants into the air, and their waste residue byproducts have commercial uses and marketable value of their own. And, lest we forget, solid waste is a limitless resource which is continuously replenishable.

Increased Federal support for research, demonstration, and prototype systems is a critical key in spurring adaptation of energy conversion systems. To date, the Federal commitment in this field has not matched the prospects. If the Federal Government is unwilling to back up such ideas with financial support commensurate with the potential, it is unlikely that the nongovernmental sector will be motivated to do so.

Our recent experience with energy shortages has, I hope, brought about a renewed awareness of the human element in relation to nature and its resources. This "new consciousness" can provide us with a better appreciation of what our resources are and how we should most wisely use them. In the past, I feel, we have overly relied upon only a very few energy resources and options. Now, we see the need to explore more possible avenues of energy potential. While we must avoid the danger of spreading our as equally scarce financial resources too thin on dead ends, we may never discover the unexpected unless we investigate the questionable.

Energy from wastes is one idea that has received enough attention to qualify as a realistic option yet an idea which, it seems, has gotten lost in the energy shuffle. The time may come when there will actually be intense competition for the opportunity to utilize waste products for various purposes. Today, there is not. The Federal Government has the ability to turn a few heads in this direction by doing more to promote the concept and application of waste conversion technology. Congress can do its part in a very critical juncture of national policymaking by underscoring its support for efforts in this field. H.R. 13565 acknowledges the need to intensify activities in the area of waste conversion, and I hope with the enactment of this legislation we will benefit from increased adaptation of this process.

Mr. VANIK. Mr. Chairman, the legislation before us today is a late but vital step to a safe and secure energy future. The Nonnuclear Energy Research and Development Act is important because it represents the first time Congress has attempted to coordinate and direct all of the Government's energy research activities which lie outside the purview of the Atomic Energy Commission.

A little over a year ago the U.S. Court of Appeals, in a decision on the AEC's fast breeder reactor program, clearly noted the implications of the legislation we consider today. The court stated:

> The manner in which we divide our limited research and development dollars today among various promising technologies in effect determines which technologies will be available, and what type and what amount of environmental effects will have to be endured, in the future when we must apply some new technology to meet projected energy demands.

Until recently, we have proceeded—naively, I think—with the notion that nuclear energy will be our ultimate salvation. The energy shortage of last winter has, however, altered our prospective. We have become more sophisticated in energy matters. That we are today drawing together a substantial portion of the complex Federal energy research activities is testimony to the fact that we now understand a good deal more about the relationship of energy, the enviroment, and economics.

Unfortunately, the hour is late. By our past failures to fund adequately research into alternative technologies to nuclear power, we have run the risk of robbing ourselves of future choices. We will not be able to shift our economy to solar power, if we do not spend money to develop this technology now. In a very real sense, the legislation we consider today is an investment in the future. It does not settle the multitude of questions about our energy future—it does, however, insure that we will have the capability to choose when we must.

I have one serious reservation concerning today's legislation. It may be too timid. For years, we have neglected to support research into nonnuclear energy technologies. The reasons for this neglect are complex. There has been a general indifference to energy matters, an overconfidence in the promises of nuclear energy, and failure to consider seriously the potential of renewable solar power-type energy sources.

The time has come to begin to redress this imbalance, but the task will not be easy. The concept of many nonnuclear energy technologies as impractical, inefficient and absurdly futuristic will be difficult to destroy. More than anything else, these technologies must gain credibility as potential solutions to our future energy needs.

The recent publication of several Government reports has gone a long way to exploding some of the myths surrounding many future, nonnuclear energy technologies. Because of their importance, I would like to cite some of the findings of these reports during the consideration of this important legislation.

The first report has perhaps received the widest circulation. It is the subpanel IX report of the National Science Foundation, which was prepared for submission to AEC Chairman Dixy Lee Ray's report to the President on energy research and development. The report was entitled, "Solar Energy and Other Energy Resources."

The second report was submitted under contract to the National Science Foundation by the Mitre Corporation. This document, "Systems Analysis of Solar Energy Programs," was an attempt to analyze NSF's 5-year solar energy research program.

The third, and most recent report was compiled by the Solar Energy Task Force of the Federal Energy Administration. This report was submitted in connection with FEA's effort to draft a blueprint for Project Independence.

These reports are important, because they offer the first realistic assessment available to us on the impact "renewable" energy sources can have on our energy future. Each report deals with the potential contributions of six different technologies which all represent applications of solar energy. The technologies are:

First, the heating and cooling of buildings using solar energy;

Second, solar thermal conversion, or using the sun's heat energy as a direct heat source or to generate electricity;

Third, wind power;

Fourth, bioconversion or the conversion of organic material to a fuel;

Fifth, ocean thermal conversion, or using the differential temperatures in the oceans to generate electricity; and

Sixth, photovoltaics, or the direct conversion of sunlight to electricity.

The remarkable fact that emerges from a review of these three documents is the extent to which each enthusiastically endorses research into solar technology. According to these experts, large scale, efficient use of the sun's energy is no pipedream; the sun represents a major, if not the only, satisfactory alternative in our energy future. To demonstrate the extent of the enthusiasm demonstrated in these reports, I would like to insert each report's assessment of the six technologies I have outlined earlier.

HEATING AND COOLING OF BUILDINGS

The heating of buildings from the sun is a well-known technology. Solar air-conditioning is less well known but within the realm of commercialization in the near future. All three reports enthusiastically endorse an aggressive program to bring this technology from the laboratory to the marketplace.

Subpanel IX states:

> Ultimately, 30–60 percent of the national heating and cooling energy requirements could be furnished by solar energy with accompanying benefits of fuel savings, reduced pollution and independence from complex energy transmission and distribution systems.

The Mitre report forecasts that a solar heating and cooling system could be commercially available and competitive with conventional systems within 5 years. The FEA task force report buttresses this finding. According to the task force—

> Solar space heating and water heating applications are feasible throughout the United States.

WINDPOWER

Surprisingly, windpower is enthusiastically endorsed by the three reports as having the potential for early impacts on our energy supply. The FEA task force states that windpower alone could supply 5 to 23 percent of our estimated year 2000 energy demand—that is the equivalent of 10 to 50 percent of the current demand. The Mitre report is even more optimistic:

> It is estimated that wind energy systems could eventually provide up to 25 percent of the U.S. energy needs. Such systems might be initially implemented relatively quickly and might be able to produce one to five percent of U.S. energy needs by 1985.

Subpanel IX concurs in this enthusiastic assessment and recommends:

> Should early (test) data be favorable, then a crash program may well be in order to significantly advance the rate and level of impact on the national energy problem.

BIOCONVERSION TO FUELS

The reports are similarly enthusiastic about this technology which would convert organic material, including urban and agricultural waste to fuel. According to Subpanel IX—

> Estimates of the potential production capability (of bioconversion to fuel) range as high as 50 percent of the current gas or oil requirements.

OCEAN THERMAL GRADIENTS SYSTEMS

This technology uses the ocean as a huge solar collector. Although the systems proposed have not received the research attention of other solar alternatives, the potential impact of ocean based solar plants is signficant, particularly beyond the year 2000. Mitre estimates ocean thermal gradient systems could provide as much as 10 percent of our total energy needs by 2020. Subpanel IX concludes—

> Modern technology together with the nearly unlimited availability of ocean thermal energy makes this concept of interest.

PHOTOVOLTAIC CONVERSION

This is perhaps one of the most familiar solar technologies by virtue of its extensive use in the space program. But it is an extremely expensive way to generate electricity. If these costs can be reduced, all three reports are enthusiastic about the contribution of photovoltaic systems. Subpanel IX estimates that these systems could provide 10 to 20 percent of our electric power requirements.

It is not difficult to see, from these assessments, that solar energy can contribute significantly to our Nation's—and the world's—energy demands by the year 2000. According to the Mitre report, it is reasonable to expect that solar energy can supply as much as 35 percent of our total energy needs by 2000, and 70 percent by the year 2020. The FEA task force formulates very similar projections. In any case, these studies make clear in startling detail the extent to which we will be able to rely on solar energy in the next 20 and 30 years. Certainly the assertion that nuclear energy is the only fuel of the future is no longer supportable by fact.

My difficulty with today's legislation is that, as written, it does not reflect the tremendous potential that solar energy holds for our future. The mandate of the Administrator, as defined by section 4(b) is to—

> Formulate comprehensive non-nuclear energy research and development strategies for the Federal government designed to advance the policies set forth in this Act and other relevant legislation . . .

Unfortunately, behind the rhetoric of the legislation, the Administrator is given little direction—no clearly defined goals—from which to derive his research strategies. By my criticism, I do not mean to suggest what those goals should be. However, such goals can be formulated—the three studies I have cited demonstrate this fact. In raising this point, my intention is only to underline the vital importance of congressional vigilance in determining the direction and pace of the research strategies developed by the Administrator. Where possible, Congress can—and should—provide policy guidance by enumerating in greater detail the goals to which the Administrator should direct himself. The present legislation before us does not do a complete job in this regard. More can be done. It is my hope that both my colleague from Arizona (Mr. UDALL) and my colleague from Washington (Mr. MCCORMACK) will use their expertise to insure that solar energy research will be aggressively and thoroughly pursued.

The following chart, compiled by the Mitre Corp., summarizes the principal thrust of the findings of these three reports:

TOTAL U.S. ENERGY REQUIREMENTS AND POTENTIAL SOLAR ENERGY SUPPLIES

Total U.S. requirements	1980	1985	2000	2020	Beyond 2020	General assessment
In watts (× 10^{12})	3	4	6	6	6	
Or in Btu's/yr. (× 10^{16})	9	12	18	18	18	
Type of supply system (percent of total):						
Heating and cooling of buildings	.01	.2	2	5	10	Ready now, but application slowed by institutional constraints.
Process-heat	0	.1	1	10	15	Some applications may be suitable for near term. Needs R. & T.
Solar thermal	0	.1	2–5	10	100	Promising, but technically difficult and relatively expensive. Needs R. & T.
Ocean thermal	0	.01	1–5	10	100	Attractive, but may be difficult to operate and maintain. Needs R.& T.
Photovoltaic	0	.01	2–5	10	100	Real promise, but still relatively expensive. Needs R. & T.
Wind energy	.01	1–3	5–10	15	25	Ready for application after some R. & T.
Organic materials	.01	.7	7	10	40	Waste conversion ready now; Crops conversion needs R. & T.
Total	.03	2–4	20–35	70	>100	

Mr. ALEXANDER. Mr. Chairman, we consider legislation today that is long overdue. As is sadly often the case, we have had to endure a crisis before being jolted into action. The petroleum shortage of the past year has brought home to all Americans the fact that the United States is faced with a serious, and apparently increasing, energy shortage.

H.R. 13565, Nonnuclear Energy Sources Research and Development Act, commits this Nation, for the first time, to a vigorous program of research and development of nonnuclear sources of energy, including the uses of coal, oil shale, hydrogen, windpower, solar energy, geothermal energy, ocean thermal gradient, and others.

Of these potential sources of energy, ocean power seems to me to be one of the most promising. In fact, many experts believe that the vast resources of the ocean, and especially the Continental Shelf, are the most viable area for meeting U.S. energy needs in the next 5 to 10 years.

In addition to ocean power potential in our energy requirements for oil and gas, a harnessing of the currents appears to be an oasis for providing for our electrical needs as well. Dr. Betsy Ancker-Johnson, Assistant Secretary of Commerce for Science and Technology, at a recent sea-space symposium, postulated that if we dedicated 0.1 percent of the 30 million square miles of ocean having the appropriate thermal conditions to building 100 powerplants, we could, in principle, supply the United States with its entire electrical needs.

Oceans also provide a potential cure for the food crisis which threatens the world. It has been estimated, according to Senator J. WILLIAM FULBRIGHT, that the world's oceans could provide an annual yield of approximately 300 to 400 million tons of fish, which, if properly distributed, could meet most of the protein needs of 6 billion people.

I think it evident that our commitment to the scrutiny of potential energy sources will also have positive effects in other areas.

We responded to our energy needs with approval of construction of deepwater ports to facilitate our transporting of offshore oil and gas. Let us take one step further toward self-sufficiency by engaging in a far-reaching research and development effort to determine sources of energy to replace depleting ones.

I am optimistic that passage of this bill will stimulate and amplify the gains that have been made in evaluating our potential power source of the ocean.

Three-fourths of this planet is ocean. It is truly the last great frontier remaining to be explored. Our energy demands dictate that we must do so now. I urge my colleagues to support this legislation.

Mr. STARK. Mr. Chairman, when the House votes today on H.R. 13565, I will vote present on final passage. My part ownership in a known geothermal resource area—KGRA—would make my further participation inappropriate. This lease was acquired from a private party without government assistance. However, I would like to state my support for the concept and scope of this legislation. It will provide a tremendous boost to our nonnuclear research and development efforts.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in support of H.R. 13565 because with its passage will come the establishment of ERDA, a governmental superagency that his country must have now, and should have had long ago. You may recall that I supported with equal vigor the passage of the ERDA organization bill, H.R. 11510, to which the present bill will be amended. This package reflects much hard work and many hours of conference on the part of at least three House committees, Government Operations, Science and Astronautics, and Interior, for which work I want to congratulate the respective committee chairmen, their subcommittees and their staff.

I have been vitally interested in this legislation for several reasons, including not only the scientific and technological aspects of energy R. & D. but also the economic, environmental, social, and world political issues which are intertwined with the question of energy policy.

First, from a national security point of view, I believe that we must become energy independent from any foreign sources as soon as possible, and that for this we need the guidance of ERDA.

Second, I represent an area that occupies a very special position in energy research and development. Western Pennsylvania is the cradle of the coal industry, the oil industry, and the nuclear industry. In addition, this region has led the Nation in pollution control since the early days of the Pittsburgh Renaissance, and it has originated a mining policy that served as a model for the recently enacted Surface Mining Regulation Act of 1974, H.R. 11500.

Third, I am convinced that we must achieve conservation of scarce natural resources and find methods to replace the energy-capital intensive economy with an energy-income intensive one. Our most important domestic problem, inflation, cannot be solved without resolving our energy dilemma, as well as correcting our balance of payments, and adjusting our productivity in its relation to conservation.

Because of my membership on the JEC I am especially interested in and concerned with economic policy questions. Like energy policy, economic policy is all pervasive. Soon there will be an economic summit meeting at the White House which will attempt to resolve the knotty problem of inflation. It is my sincere hope that the prospects for the availability of domestic energy will play an important part in these deliberations.

On the world economic scene, it is already clear that energy and food will be the central problems of the final quarter of this century. In many respects these two subjects are not separate and distinct but one and the same. The Btu's we so dearly need to power our industry, drive our automobiles and generate our electricity are nothing else but the required calories for our social well-being. We cannot live without a certain caloric food content; neither can a nation live without a minimum of available energy.

But beyond these generalities there is the problem of how much food and how much energy is enough. How much is enough for the United States and is this compatible with the available national and world resources? And what about distribution, the social equity and fair shares of the world's nonrenewable resources?

Yet, we must realize that there is a major difference between food and energy. Food, in whatever limited amounts it is harvested, can be replenished from season to season by virtue of the free and inexhaustible supply of solar energy, with the help of soil, water, and technology. But energy is different. Energy cannot be recycled. What we use today, for whatever reason we think we are justified in doing so, will be gone forever. It will not be available to all the generations yet to be born; it will not grow back like the harvests or the trees. Energy, once used, is literally gone forever, like the time of day.

No genius in the new ERDA will ever change the physical principles of the second law of thermodynamics. What research, development and demnostration can do for us and the generations yet to come, is to provide the technology which will harness energy sources we have not yet tapped, and make them useful to society without endangering the quality of our environment. The harnessing of nuclear fission is a good example. We are now looking forward to the safe development of breeder and fusion reactors.

My colleagues, the seventies are ushering in a new age, a period of transition which will be marked by debate about growth versus equilibrium, about conservation versus productivity, about cooperation versus competition in world affairs. These are not new thoughts. Most of us are aware of these challenges ahead. What concerns me today, and the reason for this little speech of mine, is the absence of any forum, the absence of any practical means to bring these various subjects under one roof, so to speak.

Mr. Chairman, I would like to go on record not only to suggest, but to insist that ERDA interpret section 2, paragraph 2 "support development of the widest possible range of options available for future energy policy decisions," as the charter to provide for the above mentioned forum, or any other device, that will bring an interdisciplinary approach to bear on questions of how the various policies, such as economic, environmental, energy, science, foreign, and monetary, interact with each other.

Wherever we turn today, we read of the need for a new world monetary system, for a new political understanding among nations of the world, for a rational approach to resource allocations, and for pollution abatement across national borders. I believe that with the creation of ERDA, with clarification and cohesion of our own national policy, the United

States can once again be a world leader in the international effort to resolve these problems humanely. I believe that with the creation of ERDA, Congress will have established an important vehicle which can attack these problems on a broad front, without the interference of historic, geographic, or economic vested interests. The time is short; every day we delay will deprive untold millions of the benefit of a higher standard of living that only energy can provide, but energy that is used conservatively and productively, not wastefully and destructively. I urge the passage of H.R. 13565 to complete our work on the ERDA package, and to set the stage for a great new national effort toward the all important goal of self-sufficiency in energy.

Mr. REUSS. Mr. Chairman, it is high time we got on with the task of conserving energy. H.R. 13565, because of its concentration on conservation, deserves enthusiastic support.

The faddish, flighty fashion in which this country conducts its economic policy is often a wonder to behold. Oil policy is only one example of our erratic national behavior, but it is a surpassingly important example.

Prior to the oil embargo last fall, the vast majority of Americans regarded imported oil as a cheap, abundant, inexhaustible source of energy. Those few far-sighted individuals who foresaw the emerging energy shortage were indeed voices in the wilderness.

With the embargo, public, and official attitudes did a dramatic flip-flop. People doubted whether our economy could function without Mideast oil. Dire predictions were heard on every hand. In actual fact, the economy survived the immediate shock of the embargo fairly well. Efforts at energy conservation were at least partially succesful. Our industrial machinery continued to operate. Unemployment rose, but not as much as had been feared.

Today public and official attitudes on oil have very nearly turned full circle, back to the old delusion of abundance. The embargo has been lifted, petroleum supplies seem ample, all seems well.

As usual, only a few eccentrics among us are facing up to the fact that all is not so well. The world price of oil is far too high. This high price has present and future ramifications that are deadly serious. Both the balance-of-payments implications and the effects on the domestic economy of the United States and of every other importing country are staggering.

The bill for U.S. oil imports has risen more than threefold—from $8 billion last year to $28 billion for 1974 for approximately the same quantity of crude oil and products. The added drain on the balance of payments means that we must export more and more U.S. goods to pay for the same amount of crude oil. The explosion of oil prices will more than offset the expected gains in export earnings from higher agricultural prices. Soaring oil prices were mainly responsible for the widening trade deficit—$1.7 billion—in the second quarter of 1974.

The quadrupling of crude oil prices in the last year has contributed greatly to fueling inflation both in the United States and in the rest of the world. The adjustment to higher prices has been estimated to add as much as 2.5 percentage points to already soaring inflation rates. Furthermore, this higher price for an imported good represents an international transfer of purchasing power. Consumers in the United States and in other importing countries are left with less real purchasing power. This is an important factor in explaining the stagnant state of the U.S. economy today. It is an important factor in explaining the wage demands of workers who have seen their real incomes eroded.

A lower international oil price would be of enormous benefit to the U.S. economy. It would appear as economic salvation to the Italians and others who are even more severely affected than are we. And benefits of lower import costs to poor countries such as India are incalculable.

The international price of oil is an administered price, bearing no relation to actual costs of production. With world supplies temporarily abundant, the situation is ripe for a reduction in this price.

American consumers hold in their hands a powerful weapon to insure that this price reduction takes place and that the reduction is a significant one. That weapon is conservation.

Over time, domestic energy sources must be greatly expanded. That is what H.R. 13565 seeks to do. This is desirable, even urgent, so long as we do not compromise our environmental standards in the process.

In the short run, however, the answer lies in sharply reduced energy use, thus reducing world demand and placing downward pressure on the world price.

There are already reports of growing surpluses of oil—as much as 2 million barrels a day—on the world markets. But more is needed before the present negotiated prices will begin to drop. If we could further restrain world demand below current production, OPEC members would no longer find it so easy to extort present prices while maintaining current production levels. Lower world prices would lighten the payments burden for the United States and for other more seriously affected consuming countries. Lower prices would also reduce inflationary pressures.

The United States is in the best position today to promote a joint effort for energy conservation by the consuming nations. A working party of the Energy Coordinating Group established following the February Washington Energy Conference has already begun laying the groundwork for sharing conservation information. The United States should initiate now a major joint effort.

Last winter, during the Arab oil embargo, the American people responded overwhelmingly to requests for prudent energy use. A sound energy conservation effort must be a combination of immediate curtailment of energy waste through such methods as carpooling and less air-conditioning, and longer-term energy-saving innovations like more thermally efficient buildings, better fuel economy in cars, and expansion of mass transit systems. If need be, we should be prepared to consider a tax on energy use which will reflect for the consumer the real cost of his energy use to the economy.

At the moment our Federal conservation effort is a joke. If the Government will not act decisively to insure conservation, consumers must act on their own. Last year consumers boycotted high-priced meat. Why not a similar boycott of stores which keep their air-conditioners set too low in summer and their heat too high in winter? Why not an organized commuter effort to leave cars at home and overwhelm public transit with patrons, so that better transit service will have to be provided?

Consumers have the power to affect their own destiny. Let us begin to use it, so that we may make it through to the day when H.R. 13565 begins to produce substantially more domestic energy.

Mr. DRINAN. Mr. Chairman, I am happy to be among those who support the Non-Nuclear Research and Development Act today, an act which promises to balance the energy research and development priorities of this country. The energy crises and shortages which the United States has faced in this past year have pointed to the need for a redoubling of our energy efforts, and the present legislation seeks to insure that these efforts are properly balanced and coordinated. Rather than give disproportionate emphasis to nuclear research, H.R. 13565 provides for the initiation of a centralized national program of research and development in nonnuclear energy, including the uses of coal, oil and gas, oil shale, hydrogen, wind power, solar energy, geothermal energy, and others.

We have seen in the past, Mr. Chairman, that overall energy research and development funding has been woefully inadequate, but funding for nonnuclear energy has been even more inadequate. In the past 5 fiscal years, from 1970 through 1974, the average percentage of nuclear R. & D. funding has comprised 74 percent of the total energy R. & D. budget. Consequently, concern for nuclear power has dominated our energy thinking and slowed the development of promising alternative energy sources. I am hopeful that this legislation will remedy this inequity, and inspire a vigorous national energy program which is comprehensive and exhaustive, embracing such areas as energy conservation and solar and geothermal energy sources along with the more traditional research and development.

In its present form, the Non-Nuclear Research and Development Act directs the Administrator of the Energy Research and Development Administration to review the current status of nonnuclear energy R. & D. and formulate a comprehensive Federal research effort within 1 year after enactment. A study must also be conducted to determine the level of scientific and technical manpower required by the various energy approaches. In conducting the research program, the Administrator must consider all nonnuclear energy technologies, with special emphasis on areas of development such as energy conservation, coal gasification and liquefaction, wind power, solar and geothermal energy, improvements in home and transportation energy efficiency, and improved technology to reduce sulphur emissions.

Mr. Chairman, we have not seen the end of the energy shortages, as the demand for energy of all types is not abating. If we are to meet this demand, the Congress must develop comprehensive national programs which are all encompassing and farsighted. I believe that the Non-Nuclear Energy Research and Development Act provides a good beginning in this respect.

Mr. CLEVELAND. Mr. Chairman, as author of several single bills pending in the fields of energy research and conservation, I rise in support of H.R. 13565 as a long overdue reordering of our research and development priorities.

The shortages of the past, the continuing unacceptable level of energy costs, and the uncertainties concerning the future all argue strongly for enactment of this important legislation.

The principal sponsors of this legislation have amply outlined its chief provisions and elaborated on the types of assistance available, program guidelines, and administrative requirements

Therefore I wish at this time only to highlight particular aspects of this bill which strike me as having particular merit:

Conservation and environmental protection. There are environmental consequences in almost any aspect of energy, throughout the chain of production, transportation, conversion, use, and—in some cases—disposal. Therefore any well-conceived, long-range program must recognize the need for research in more environmentally acceptable processes. Conservation, by minimizing the use of energy, is an inherent element in the environmental protection effort and one which also offers great potential for dollar savings as well.

Thus these aspects of the bill are in accord with its stated objectives of minimizing social, economic, and environmental costs.

Another aspect meriting emphasis is the attention given small business and individual inventors. Too often Government tends to favor large, well-established firms with strong market positions at the expense of the innovative newcomer. Therefore the role spelled out for small business is welcome.

This brings me to one area of reservation about the bill before us. I refer to the requirement that all the fruits of federally sponsored research conducted under its provisions be vested in the Government.

I am persuaded that this would be unwise. I find merit in the argument that even after a product or process has been developed, great cost and high risk are involved in bringing them to the marketplace. Therefore, patent protection is necessary. It is particularly so in light of the fact that otherwise the new technology developed might go unexploited or be dominated by large industries with the market position and funding resources to preempt the market at the expense of smaller businesses.

Patent policy is a complex matter, and I think it unwise to attempt to legislate different rules of the game for each major research program as it is developed. Accordingly, I will favor pending amendments to remove this provision or defer action in this area until some operating experience under the program is developed.

While I support this bill, however, I wish to caution my colleagues against the notion that our efforts should rest here. We have neglected energy research, and particularly its nonnuclear aspects, too long.

Other action will be necessary, including my bill to foster greater efforts in the energy conservation field as related to public buildings, in which we have a special responsibility. This bill passed the House earlier in this Congress and has been amended by the other body. I hope it will be brought before us again in the near future.

Also pending is my bill to give additional impetus to research in nonpetroleum alternative fuels through funding from the highway trust fund, and another measure to reduce fuel consumption in truck transportation by reducing aerodynamic drag. These merit particular attention in view of the degree to which transportation is dependent on petroleum and our need to reduce consumption of this nonrenewable resource.

The CHAIRMAN pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL) as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the committee rises.

Accordingly the committee rose; and the Speaker having resumed the Chair, Mr. ROUSH, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 13565) to establish a national program for research and development in nonnuclear energy sources, pursuant to House Resolution 1325, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. HOSMER

Mr. HOSMER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. HOSMER. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. HOSMER moves to recommit the bill H.R. 13565 to the Committee on Interior and Insular Affairs.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. UDALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 327, nays 7, answered "present" 1, not voting 99, as follows:

[Roll No. 522]

YEAS—327

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Breckinridge
Brinkley
Brooks
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conlan
Conte
Conyers
Corman
Coughlin
Cronin
Daniel, Dan
Danielson
Davis, Wis.
Delaney
Dellums
Denholm
Dent
Devine
Dickinson
Donohue
Dorn
Downing
Drinan
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Fraser
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gude
Guyer
Haley
Hamilton
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.

Harrington
Harsha
Hastings
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Howard
Hudnut
Hungate
Hunt
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Kemp
King
Kluczynski
Koch
Kuykendall
Kyros
Landrum
Latta
Leggett
Litton
Long, La.
Long, Md.
Lott
Luken
McClory
McCloskey
McCollister
McCormack
McDade
McKay
McKinney
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Mills
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Murphy, Ill.
Murtha
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Quillen
Railsback
Randall
Rangel
Regula
Reid
Reuss
Rhodes
Riegle
Rinaldo
Robinson, Va.
Rodino
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Seiberling
Shipley
Shriver
Shuster
Sikes
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stubblefield
Stuckey
Studds
Sullivan
Symington
Taylor, Mo.
Taylor, N.C.
Teague
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Walsh
Whalen
White
Whitehurst
Whitten
Williams
Wilson, Charles H., Calif.
Winn
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zion
Skubitz
Snyder
Steele
Stratton
Talcott
Towell, Nev.
Treen
Vander Veen
Veysey
Wampler
Widnall
Wiggins
Wilson, Bob
Wilson, Charles, Tex.
Wolff
Wright
Young, Alaska
Young, Fla.
Zablocki
Zwach

NAYS—7

Collins, Tex.
Crane
Goodling
Gross
Hosmer
Symms
Ware

ANSWERED "PRESENT"—1

Stark

NOT VOTING—99

Anderson, Calif.
Armstrong
Barrett
Brasco
Broomfield
Broyhill, Va.
Burke, Fla.
Camp
Carey, N.Y.
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Collier
Cotter
Culver
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
de la Garza
Dellenback
Dennis
Derwinski
Diggs
Dingell
Dulski
Evans, Colo.
Evins, Tenn.
Frelinghuysen
Gaydos
Grasso
Gubser
Gunter
Hammerschmidt
Hanna
Hawkins
Hicks
Huber
Hutchinson
Ichord
Johnson, Colo.
Jones, N.C.
Jordan
Ketchum
Lagomarsino
Landgrebe
Lehman
Lent
Lujan
McEwen
McFall
McSpadden
Mathias, Calif.
Mathis, Ga.
Mayne
Mizell
Mosher
Moss
Murphy, N.Y.
Nelsen
Podell
Price, Tex.
Pritchard
Quie
Rarick
Rees
Roberts
Robison, N.Y.
Roe
Rooney, N.Y.
Rosenthal
Rousselot
Runnels
Ruth
Sandman
Scherle
Sebelius
Shoup

So the bill was passed.

The Clerk announced the following pairs:

Mr. Murphy of New York with Mr. Davis of Georgia.

Mr. Dominick V. Daniels with Mrs. Grasso.

Mr. Rooney of New York with Mr. Anderson of California.

Mr. Roe with Mr. Collier.

Mr. Hawkins with Mr. Podell.

Mr. Roberts with Mr. Frelinghuysen.

Mr. Dingell with Mr. Gubser.

Mr. Carey of New York with Mr. Price of Texas.

Mr. Evins of Tennessee with Mr. Mizell.

Mr. Barrett with Mr. Mosher.

Mrs. Chisholm with Mr. Stratton.

Mr. Rees with Mr. McEwen.

Mr. Clay with Mr. Culver.

Mr. Hanna with Mr. Mayne.

Mr. Diggs with Mr. Dulski.

Mr. Gaydos with Mr. Derwinski.

Mr. Hicks with Mr. Hammerschmidt.

Mr. Gunter with Mr. Del Clawson.

Mr. McFall with Mr. Huber.

Mr. Ichord with Mr. Broomfield.

Ms. Jordan with Mr. Snyder.

Mr. Mathis of Georgia with Mr. Robert W. Daniel, Jr.

Mr. Davis of South Carolina with Mr. Jones of North Carolina.

Mr. de la Garza with Mr. Broyhill of Virginia.

Mr. Evans of Colorado with Mr. Hutchinson.

Mr. Lehman with Mr. Don H. Clausen.

Mr. Moss with Mr. Landgrebe.

Mr. Rarick with Mr. Burke of Florida.

Mr. Runnels with Mr. Lagomarsino.

Mr. Vander Veen with Mr. Lent.

Mr. Wolfe with Mr. Camp.

Mr. Wright with Mr. Zwach.

Mr. Zablocki with Mr. Lujan.

Mr. McSpadden with Mr. Mathias of California.

Mr. Rosenthal with Mr. Pritchard.

Mr. Quie with Mr. Robison of New York.

Mr. Rousselot with Mr. Scherle.

Mr. Widnall with Mr. Ruth.

Mr. Young of Alaska with Mr. Talcott.

Mr. Dellenback with Mr. Wiggins.

Mr. Dennis with Mr. Sebelius.

Mr. Wampler with Mr. Treen.

Mr. Bob Wilson with Mr. Steele.

Mr. Shoup with Mr. Charles Wilson of Texas.

Mr. Sandman with Mr. Veysey.

Mr. Towell of Nevada with Mr. Skubitz.

Mr. Young of Florida with Mr. Nelsen.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 1325, the Committee on Interior and Insular Affairs is discharged from the further consideration of the Senate bill (S. 1283) to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. UDALL moves to strike out all after the enacting clause of the Senate bill S. 1283 and to insert in lieu thereof the provisions of H.R. 13565 as passed, as follows:

That this Act may be cited as the "Federal Nonnuclear Energy Research and Development Act of 1974".

FINDINGS

SECTION 1. The Congress hereby finds that—

(a) The Nation is suffering from a shortage of environmentally acceptable forms of energy.

(a) The problems which create and maintain this energy shortage are substantially technological in nature, and require for their solution a comprehensive program of energy research and development.

(c) A major reason for this energy shortage has been our failure to organize and formulate a vigorous, comprehensive research and development strategy designed to assure the wise planning and effective conduct of a cohesive, fully dimensioned national research and development program.

(d) The Nation's energy needs can be met if a national commitment is made now to dedicate the necessary financial resources, to enlist our scientific and technological capabilities, and to accord the proper priority to developing new nonnuclear energy options to serve national needs, conserve vital resources, and protect the environment.

(e) The Energy Reorganization Act of 1974 provides for a coalescence of national energy research and development functions in the executive branch, and for thorough, centrally directed exploration and development of all potentially beneficial energy sources and energy utilization techniques, including research and development for the conservation of energy.

(f) The urgency of the Nation's energy challenge will require commitments similar to those undertaken in the Manhattan and Apollo projects; it will require that the Nation undertake, at a minimum, a ten-year $20,000,000,000 research, development and demonstration program including a greatly expanded effort in nonnuclear energy technologies.

(g) In undertaking such program, full advantage must be taken of the existing technical and managerial expertise in the various energy fields within Federal agencies and in the private sector.

GENERAL POLICY

SEC. 2. (a) It is the policy of the Congress to establish and vigorously conduct a centralized, comprehensive, national program of basic and applied research and development, including demonstrations of practical applications, of all potentially beneficial energy sources and utilization of technologies, within the Energy Research and Development Administration as provided for in the Energy Reorganization Act of 1974. In carrying out this program, the Administrator shall be governed by the terms of this Act and other provisions of law with respect to all nonnuclear aspects of the research, development, and demonstration program. and the policies and provisions of the Atomic Energy Act of 1954, as amended, and other provisions of law shall continue to apply to nuclear research, development, and demonstration projects. The implementation and conduct of research, development, and demonstration programs in specific nonnuclear technologies shall be carried out through or in conjunction with existing or future programs (including those established by the Solar Heating and Cooling Act of 1974, and the Geothermal Energy Research, Development, and Demonstration Act of 1974 and similar legislation to be enacted).

(b) The Administrator (as defined in section 11) shall—

(1) aggressively pursue research and development programs in a wide range of non-

nuclear energy technologies in order to insure adequate, reliable, economical and environmentally acceptable energy sources and systems to support the essential needs of modern society;

(2) develop the technology and information base necessary to support development of the widest possible range of options available for future energy policy decisions;

(3) investigate the capability for and, in general, the option of energy self-sufficiency for the United States through the development of socially and environmentally acceptable methods for the utilization of domestic nonnuclear energy sources;

(4) pursue the development of new energy sources in such a way as to encourage the fullest possible private participation and to shift the burden of spending to the private sector as early in the development process as is possible;

(5) as he deems advisable, consult with representatives of science, industry, agriculture, labor, conservation organizations, State, and local governments, as well as with all appropriate Federal Government agencies;

(6) pursue research and development of nonnuclear energy sources in such a way as to facilitate the commercial availability of adequate supplies of energy to all regions of the United States;

(7) include, to the greatest extent practicable and consistent with other responsibilities of the Administrator pursuant to this Act, in Federal research and development programs authorized by this Act, small businesses and individual inventors;

(8) examine and if feasible implement methods by which Federal research and development expenditures authorized by this Act, are utilized to broaden the base of ownership of energy industry capital;

(9) to the degree determined by the Administrator to be feasible and advisable, provide for a program for the international exchange of energy and energy related technologies and information.

GOVERNING PRINCIPLES

SEC. 3. The Congress authorizes and directs that, to the fullest extent possible, the Federal program in research and development authorized by this Act shall be designed and executed according to the following principles:

(a) Energy conservation shall be a primary consideration in the design and implementation of the Federal non-nuclear energy program. For the purposes of this Act, energy conservation means both improvement in efficiency of energy production and use and reduction in energy waste.

(b) The environmental and social consequences of a proposed technological undertaking shall be analyzed and considered in evaluating its potential. Consistent with the requirements of this Act, the Administrator shall perform technology assessments where necessary and assign priority to those technologies which, while offering a substantial potential yield of useful energy, minimize the aggregate economic, environmental, and social costs.

(c) Any program for the development of a technology which may require significant consumptive use of water after the technology has reached the stage of commercial application shall include thorough consideration of the impacts of such technology on water resources pursuant to the provisions of section 10. For any energy technology requiring significant water use, the availability of an adequate water supply for a demonstration project shall be a precondition of Federal assistance to that project and the availability of an adequate water supply for commercial application shall be a precondition of Federal assistance in projects of commercial application.

(d) Federal involvement in energy research, development, and commercial application shall be limited, consistent with other responsibilities under this Act, to those areas where there is the least likelihood that the private sector will achieve the desired goal without Federal assistance. Factors to be considered in evaluating this likelihood include, but are not limited to—

(1) the degree of risk in the proposed undertaking;

(2) the magnitude of the capital investment involved;

(3) the potential for recapturing development costs in the open market; and

(4) the availability of risk capital to interested non-Federal entities.

(e) In determining the Federal energy research and development policy, a high priority and heavy emphasis shall be assigned to those energy sources which are renewable.

DUTIES OF THE ADMINISTRATOR

SEC. 4. The Administrator shall—

(a) review the current status of nonnuclear energy resources and current nonnuclear energy research and development activities, and give consideration to research and development being conducted by Federal and non-Federal entities;

(b) formulate comprehensive nonnuclear energy research and development strategies for the Federal Government designed to advance the policies set forth in this Act and other relevant legislation; and submit such strategies to the Speaker of the House of Representatives and the President pro tempore of the Senate, and to the appropriate committees of the House of Representatives and the Senate not later than 18 months after the enactment of this Act.

(c) conduct a study, the final results of which shall be submitted to the Congress within twelve months after the date of enactment of this Act, to determine the amount of scientific, technical, and other manpower necessary to adequately implement an effective national energy research and development program, including recommendations of action necessary for the training and locating of any needed qualified personnel;

(d) in allocating Federal moneys authorized by this Act, give consideration to all nonnuclear energy technologies, including but not limited to conservation measures, including increases in the efficiency of energy production, transmission, improved drilling techniques, and use as well as reduction of energy waste, opportunities for reuse and recycling, basic materials research, coal gasification and liquefaction, including solvent refining, means by which the combustion of coal may be made environmentally acceptable, oil and gas recovery, oil shale, solar power, wind power, wood power, tidal power, ocean thermal gradients; geothermal power, and hydrogen gas systems; and

(e) in conducting Federal research and development programs in the technologies set forth in subsection (d) above, give emphasis to—

(1) the full range of energy conservation technologies including but not limited to—

(A) productive use of waste through the reuse of agricultural wastes, garbage, and sewage through combustion and conversion. Conversion technologies to be investigated shall include pyrolysis, chemical reduction and bioconversion, and use of waste heat from industrial, residential, and commercial sources.

(B) electrical generation and transmission through (i) improvements in the efficiency of generation through advances in gas turbine technologies, combined cycles, magnetohydrodynamics, and commercial fuel cells; (ii) storage systems to allow more efficient load following, including the use of inertial energy storage system; and (iii) improvements in cryogenic methods.

(C) reuse and recycling: through a vigorous attempt to discover new opportunities and technologies for reuse and recycling of consumer products and in industrial processes or materials.

(D) advanced urban and architectural design: through total systems approaches to energy use in the residential and commercial sectors, improvements in home design and insulation technologies, small thermal storage units and increased efficiency in electrical appliances and in lighting fixtures.

(E) transportation through advanced urban design and traffic systems, improvements in automobile design for increased efficiency and lowered emissions, including investigation of the full range of alternatives to the internal combustion engine, and systems of efficient public transportation.

(2) solar energy systems, including but not limited to—

(A) residential and commercial heating, cooling, and in particular combined heating and cooling systems;

(B) central power stations;

(C) low cost, stable, photovoltaic cells;

(D) production of synthetic fuels; and

(E) the utilization of wind power.

(3) geothermal energy resources, including but not limited to—

(A) improved methods and techniques for resource assessment of geothermal energy; and

(B) methods for extracting energy from currently unexploited forms of geothermal energy resources.

(4) coal resources including but not limited to—

(A) the acceleration of the commercial demonstration of facilities to produce gas from coal;

(B) the improvement of coal liquefaction and solvent-refining technology;

(C) the development and application of magnetohydrodynamics; and

(D) the accumulation of a wide range of options for making the direct utilization of coal or coal derivatives environmentally acceptable, including stack gas cleanup, fluidized bed combustion and precombustion coal cleaning technologies, and in situ coal gasification.

(5) Oil and gas resources including but not limited to—

(A) the improvement of methods for secondary and tertiary recovery;

(B) the improvement of methods for the prevention of marine oilspills and methods for spill cleanup.

(6) The acceleration of the commercial demonstration of the production of oil from shale by all possible technologies including in situ technologies.

FORMS OF FEDERAL ASSISTANCE

SEC. 5. (a)

(1) In developing proposals pursuant to this Act, the Administrator may utilize various forms of Federal assistance and participation which may include but are not limited to—

(A) joint Federal-industry experimental, demonstration, or commercial corporations consistent with the provisions of subsection (b) of this section;

(B) contractual arrangements with, or grants to, non-Federal participants;

(C) contracts for the construction and operation of federally owned facilities;

(D) Federal purchases or guaranteed price of the products of demonstration plants or activities consistent with the provisions of subsection (c) of this section;

(E) Federal loans to conduct demonstrations of new technologies; and

(F) incentives, including financial awards, to individual inventors, such incentives to be designed to encourage the participation of a large number of such inventors.

(b) Joint Federal-industry corporations proposed pursuant to this Act shall conform to the following guidelines except as otherwise authorized by Congress:

(1) Each such corporation is authorized to design, construct, operate, and maintain one or more experimental, demonstration or commercial-size facilities or other operations

which will ascertain the technical, environmental, and economic feasibility of a particular energy technology. In carrying out this function, the corporation shall be empowered, either directly or by contract, to utilize commercially available technologies, perform tests, or design, construct, and operate pilot plants as may be necessary for the design of the full-scale facility.

(2) Each corporation shall have—

(A) a Board of nine directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the Board to serve as Chairman. The Board shall be empowered to adopt and amend bylaws. Five members of the Board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and four members of the Board shall be appointed by the President on the basis of recommendations received by him from any non-Federal entity entering into contractual arrangements to participate in the corporation;

(B) a President and such other officers and employees as may be named and appointed by the Board (the rates of compensation of all officers and employes shall be fixed by the Board); and

(C) the usual power conferred upon corporations by the laws of the District of Columbia.

(3) An appropriate time interval shall be established for the term of Federal participation at the expiration of which the Board of Directors shall take such action as may be necessary to dissolve the corporation or otherwise terminate Federal participation and financial interests. In carrying out such dissolution, the Board of Directors shall dispose of all physical facilities of the corporation in such manner and subject to such terms and conditions as the Board determines are in the public interest, and a share of the appraised value of the corporate assets proportional to the Federal participation in the corporation, including the proceeds from the disposition of such facilities, on the date of its dissolution, after satisfaction of all its legal obligations, shall be made available to the United States and deposited in the Treasury of the United States as miscellaneous receipts. All patent rights of the corporation shall, on such date of dissolution, be vested in the Administrator: *Provided*, That Federal participation may be terminated prior to the time established in the authorizing Act upon recommendation of the Board of Directors.

(4) Any commercially valuable product produced by demonstration facilities shall be disposed of in such manner and under such terms and conditions as the corporation shall prescribe. All revenues received by the corporation from the sale of such products shall be available to the corporation for use by it in defraying expenses incurred in connection with carrying out its functions under this title.

(5) The estimated Federal share of the construction, operation, and maintenance cost over the life of each corporation shall be determined to facilitate the congressional authorization of the full amount at the time of establishment of the corporation.

(6) The Federal share of the cost of each such corporation shall reflect (A) the technical and economic risk of the venture, (B) the probability of any financial return to the non-Federal participants arising from the venture, (C) the financial capability of the potential non-Federal participants, and (D) such other factors as the Administrator may set forth in proposing the corporation: *Provided*, That in no instance shall the Federal share exceed 90 per centum of the cost.

(7) (A) Prior to the establishment of any joint Federal-industry corporation pursuant to this Act, the Administrator shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, and to the appropriate committees of the House of Representatives and the Senate a report setting forth in detail the consistency of the establishment of the corporation with the principles and directives set forth in section 3 and this section, and the proposed purpose and planned activities of the corporation.

(B) No such corporation shall be established unless previously authorized by specific legislation enacted by the Congress.

(c) Competitive systems of price supports proposed pursuant to this Act shall conform to the following guidelines:

(1) The Administrator shall determine the types and capacities of the desired full scale, commercial size facility, or other operation which would demonstrate the technical, environmental, and economic feasibility of a particular nonnuclear energy technology.

(2) The Administrator may award planning grants for the purpose of financing a study of the full cycle economic and environmental costs associated with the demonstration facility selected pursuant to subsection (1) of this section. Such planning grant may be awarded to industrial entities, Federal agencies, government laboratories, universities, or nonprofit organizations.

(3) Following the completion of the studies pursuant to the planning grants awarded under subsection (2) of this section, the Administrator shall invite bids from all interested parties to determine the minimum amount of Federal price support needed to construct the demonstration facility. The Administrator may designate one or more competing entities, each to construct one commercial demonstration facility. Such designation shall be made on the basis of those entities' (A) commitment to construct the demonstration facility at the minimum level of Federal price supports, (B) detailed plan of environmental protection, and (C) proposed design and operation of the demonstration facility.

(4) The estimated amount of the Federal price supports of the demonstration facilities' product over the life of such facilities shall be determined by the Administrator to facilitate the congressional authorization of the full amount of such support amounts at the time of the designation of the successful bidders.

(d) UNIVERSITY-INDUSTRY RESEARCH.—Nothing in this section shall preclude Federal participation in, and support for, joint university-industry nonnuclear energy research efforts.

REPORTS TO CONGRESS

SEC. 6. (a) The Administrator shall submit to Congress, the Speaker of the House of Representatives and the President pro tempore of the Senate, and to the appropriate committees of the House of Representatives and the Senate, no later than sixty days from the end of each fiscal year a report detailing his organization's activities carried out pursuant to this Act during said fiscal year. The Administrator shall keep the appropriate committees of the Congress fully and currently informed of his activities, pursuant to this Act. Neither the Administrator nor any employee may refuse to testify or submit information to the Congress or any duly authorized committee thereof.

(b) The Administrator shall also submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, and to the appropriate committees of the House of Representatives and the Senate, an annual research and development program report in which short-term and long-range Federal nonnuclear energy research and development plans and individual expenditures of moneys authorized for Federal nonnuclear research and development are set forth in detail. The report shall be submitted to the Congress no later than ninety legislative days prior to each fiscal year. The report shall include a statement setting forth the following:

(1) the anticipated research, development, and application objectives to be achieved by the proposed program;

(2) the economic, environmental, and societal significance which the proposed program may have;

(3) the total estimated cost of individual program items;

(4) the estimated relative financial contributions of the Federal Government and non-Federal participants in the research and development program;

(5) the relationship of the proposed program to any Federal national energy or fuel policies; and

(6) the relationship of any short term plans and individual program expenditures to long-range programs and goals.

PATENT POLICY

SEC. 7. (a) Not later than six months after the effective date of this Act, the Administrator shall report to the President and the Congress concerning the applicability of existing patent policies affecting his programs and shall make recommendation concerning amendments or additions to statutory patent policy which he deems advisable for carrying out the purposes of this title.

RELATIONSHIP TO ANTITRUST LAWS

SEC. 8. (a) Nothing in this Act shall be deemed to convey to any individual, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust law" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

ENVIRONMENTAL EVALUATION

SEC. 9. (a) The Council on Environmental Quality is authorized and directed to carry out a continuing analysis of the effect of application of nonnuclear energy technologies to evaluate—

(1) the adequacy of attention to energy conservation methods, and

(2) the adequacy of attention to environmental consequences of the application of energy technologies.

(b) The Council on Environmental Quality, in carrying out the provisions of this section, may employ consultants or contractors and may by fund transfer employ the services of other Federal agencies for the conduct of studies and investigations.

(c) The Council on Environmental Quality shall hold annual public hearings on the conduct of energy research and development and the probable environmental consequences of trends in the development and application of energy technologies. The transcript of the hearings shall be published and made available to the public.

(d) The Council on Environmental Quality shall make such reports to the President, the Administrator, and the Congress as it deems appropriate concerning the conduct of energy research and development. The President as a part of the annual Environmental Policy Report required by section 201 of the National Environmental Policy Act (83 Stat. 854) shall set forth the findings of the Council on Environmental Quality concerning the probable environmental consequences of trends in the development and application of energy technologies.

WATER RESOURCE EVALUATION

SEC. 10. (a) The Water Resources Council shall undertake assessments of water resource requirements and water supply availability for any nonnuclear energy technology and any probable combinations of technologies which are the subject of Federal research and development efforts authorized by this Act, and the commercial development of which could have significant impacts on water resources. In the preparation of its assessment, the Council shall—

(1) utilize to the maximum extent practicable data on water supply and demand available in the files of member agencies of the Council;

(2) collect and compile any additional data it deems necessary for complete and accurate assessments;

(3) give full consideration to the constraints upon availability imposed by treaty, compact, court decree, and existing water rights previously granted pursuant to State law;

(4) assess the effects of development of such technology on water quality;

(5) include estimates of cost associated with production and management of the required water supply, and the cost of disposal of waste water generated by the proposed facility or process;

(6) assess the environmental, social, and economic impact of any change in use of currently utilized water resource that may be required by the proposed facility or process;

(7) consult with the Council on Environmental Quality; and

(8) provide an assessment to the Administrator as to the availability of an adequate water supply for such proposed undertakings.

(b) Upon completion of each assessment, and at least ninety days before submission of each report to the Administrator, notice of completion shall be printed in the Federal Register and the report shall be made freely available to the general public for comment and evaluation.

(c) The Council shall include a broad survey and analysis of regional and national water resource availability for energy development in the biennial assessment required by section 102(a) of the Water Resources Planning Act (Public Law 89-80).

THE ADMINISTRATOR

SEC. 11. For the purposes of this Act, the term "Administrator" means the Administrator of the Energy Research and Development Agency upon the creation of such agency by law.

JURISDICTION OF COMMITTEES OF THE CONGRESS

SEC. 12. Nothing provided in this Act shall be deemed to change or interfere with, or otherwise affect in any way, the jurisdiction of any committees of the Congress in regard to authorization of programs or funds, appropriation of funds, oversight, or any other responsibility or authority of any committee of the Congress.

APPROPRIATION AUTHORIZATION

SEC. 13. There are authorized to be appropriated to the Administrator—

(a) to carry out the purposes of this Act, in fiscal years 1976, 1977, 1978, 1979, and 1980 such sums as the Congress may hereafter authorize by law, no more than $500,000 of which shall be made available by fund transfer in each fiscal year to the Council on Environmental Quality for the purposes authorized and directed by section 9, and no more than $1,000,000 of which shall be made available by fund transfer in each fiscal year to the Water Resources Council for the purposes authorized and directed by section 10; and

(b) for expenses incurred in administering this Act, including such amounts as may be expended for consulting services and including funds transferred to other Federal agencies in compensation for personal services, such funds as may be necessary in each fiscal year.

(c) Notwithstanding subsection (a) of this section, no appropriation shall be made to the Administrator under this Act or the Energy Reorganization Act of 1974 in connection with any demonstration project entailing an estimated Federal cost in excess of $10 million, or in connection with a Federal loan in excess of $5 million, unless previously authorized by legislation enacted by the Congress; and no joint Federal-industry corporation shall be established unless previously authorized by legislation enacted by the Congress.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To establish a national program for research and development in nonnuclear energy sources."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 13565) was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

PERSONAL EXPLANATION

Mr. FOUNTAIN. Mr. Speaker, on rollcall No. 521, just before the passage of the bill we just acted on, I am advised that I am not recorded. I ask that the RECORD show that I would have voted "aye".

PROVIDING FOR REGULATION OF DEBT OBLIGATIONS

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1336 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1336

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15928) to amend the Federal Reserve Act, the Federal Deposit Insurance Act, and the Federal Home Loan Bank Act to provide for the regulation of the issuance and sale of debt obligations by parents of member banks, nonmember insured banks (including insured mutual savings banks), and savings and loan associations, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Banking and Currency now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Florida is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1336 provides for an open rule with one hour of general debate on H.R. 15928, a bill providing a procedure for the regulation of the issuance and sale of debt obligations by bank holding companies and their subsidiaries.

House Resolution 1336 provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Banking and Currency now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule.

H.R. 15928 allows the Federal Reserve Board and the Federal Deposit Insurance Corporation to regulate any notes, debentures or similar debt obligations of a bank holding company or a nonbank subsidiary regardless of the use of the proceeds within the holding company. The bill also allows the Federal Home Loan Bank Board to exercise its discretion to regulate obligations issued by an affiliate of an institution which is an insured institution as defined by the National Housing Act, or is a member or nonmember building and loan, savings and loan or homestead association or cooperative bank.

No funds are needed in order to carry out the provisions of the bill.

Mr. Speaker, I urge the adoption of House Resolution 1336 in order that we may discuss and debate H.R. 15928.

I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN).

Mr. QUILLEN. Mr. Speaker, the able gentleman from Florida (Mr. PEPPER) has explained the provisions of the resolution. I see no objection to debating the bill on the floor of the House. However, I would like to state to the membership that as a director of a national bank, I must vote "present" on the bill and vote "present" on the rule, if there is a recorded vote, so there could be no conflict of interest.

Mr. Speaker, I have no requests for time.

Mr. PEPPER. Mr. Speaker, I have no requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. PATMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15928) to amend the Federal Reserve Act, the Federal Deposit Insurance Act, and the Federal Home Loan Bank Act to provide for the regulation of the issuance and sale of debt obligations by parents of member banks, nonmember insured banks—including insured mutual savings banks—and savings and loan associations, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. Patman).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 15928, with Mr. Bennett in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. Patman) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. J. William Stanton) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. Patman).

Mr. PATMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the mortgage money market is in the grips of a crisis. As a result, homebuilding activity is currently only $1.3 billion annually—nearly half of last year's high of $2.1 billion. While home builders are hard pressed, the home buyer is desperate. Because of the state of financial markets, even the affluent find it nearly impossible to obtain mortgage funds for home purchases. The poor and moderate income people find the hope of homeownership absolutely impossible.

These conditions are the result of two closely related factors: First, the near absence of construction and long-term mortgage money, and second, the high interest rates for mortgage funds. These, in turn, flow from the general state of the Nation's economy, which is in a steadily climbing and unprecedented inflationary spiral and record high rates of interest, unparalleled in our history.

The result of these money cost factors is extremely acute on the 6,000 thrift institutions, savings and loans and the savings banks, as well as on the 12,000 small commercial banks all of whom have in the past provided mortgage funds, funds for home building and home buying.

The abrupt decrease and continued decline in available mortgage funds from these sources has severely affected a basic sector of the national economy, and is particularly acute at a time when there is a growing demand for housing.

These institutions have been limited on the dividends or interest they could pay on savings funds deposited in them, because the earnings on their existing assets—namely mortgages—is far below the present rate they have to pay for money. It is virtually impossible for them to compete for funds. They cannot pay the prevailing rate for large deposits because they could not invest those funds at a rate high enough to pay for such deposits.

These institutions have been forced to rely on the small savers, who do not have funds in an amount to allow them to go into the high rate market.

This, however, all changed this summer. In June 1974, the parent bank holding company of the Nation's second largest bank announced the intended issuance of a new debt instrument—a "floating interest rate note."

The rate of interest on these notes would be pegged to U.S. Treasury bills and could be purchased in increments of $1,000 with a minimum initial purchase of $5,000. Interest is to be paid semiannually and what further made them extremely attractive was that while they were supposedly issued for a term of 15 years, they could be redeemed in full on any interest date upon 30 days' notice.

This combination of factors made them available to and extremely attractive to the small saver or investor.

Needless to say the announcement of these notes precipitated an outcry from the institutions who provide mortgage funds, as well as those concerned with the availability of those funds including the home building industry, realtors and prospective home buyers.

There was fear that other similar institutions, bank holding companies, and other types of nonfinancial companies would follow suit. That fear has been substantiated. Similar notes have been issued by other bank holding companies and more are in the offing. This has resulted in further outflow of funds from thrift institutions and small commercial banks.

To compound matters, the Federal Reserve Board took the position that it has no statutory power to prevent or regulate the terms of such notes, nor can the other regulatory agencies of financial institutions, namely the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board, regulate similar instruments issued by those institutions under their jurisdiction.

The bill before you—H.R. 15928—as amended, is designed and intended to give these agencies the necessary statutory authority and the ability to exercise their discretion over note issues of this type.

This legislation, if enacted into law, is permissive in nature. It gives the various Federal financial regulatory agencies the authority to establish rate ceilings and maturity terms for such issues if they so desire. It does not direct the Federal financial regulatory agencies to impose any controls over such issues if they do not deem it advisable for whatever reason.

In conclusion, Mr. Chairman, no one supporting this legislation believes that it is a cure-all for the basic problem that exists, namely, the fantastically high interest rates now pervading the entire economy. It might, however, in a given instance have helped to alleviate an already impossible situation.

Mr. JAMES V. STANTON. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Ohio.

Mr. JAMES V. STANTON. Mr. Chairman, I appreciate the gentleman's yielding to me.

Under section 3 of the bill, would the bank board have authority over affiliates of noninsured institutions?

Mr. PATMAN. Mr. Chairman, I have not studied that particular question, but other members of the committee to whom I shall yield have studied it and should be able to answer the question.

I expect to yield to them for that purpose to answer that question, if propounded.

Does the gentleman have another question?

Mr. JAMES V. STANTON. I should also like to propound this question and have it on the record. Would the section confer regulatory authority by the bank board over business activities of individuals who could be classified as affiliates of savings and loans because of stock ownership, even though those activities are in no way involved in savings and loans?

Mr. PATMAN. I yield to one of the Members conversant with that.

Mr. J. WILLIAM STANTON. I thank the gentleman for yielding.

Mr. Chairman, I would have to say after having studied some material given to me by the Kilpatrick committee, by my colleague from Ohio, the answer was yes to both of the questions.

Mr. PATMAN. I thank the gentleman.

Mr. J. WILLIAM STANTON. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, for the third time since 1966, a credit shortage has weakened the ability of the Nation's thrift institutions to adequate meet the mortgage needs of the housing industry. Thrift institution deposits are simply not equal to the mortgage demands of home buyers. Compounding this problem is the shifting of small investor savings from the relatively low-interest accounts of the savings and loans, to the comparatively high-interest obligations of commercial and financial institutions.

This process is known to the pecuniary wizards of Wall Street, as disintermediation. For several years it has been offset by the actions of the Federal bank supervisory agencies, under regulations limiting the payment of interest on deposits in financial institutions.

Nonbanking affiliates of commercial institutions have never been regulated in this area, although they recently have become involved in the sale of notes which have increased the disintermediation effects. H.R. 15928 is aimed at responding to this problem.

In June, the bank holding company Citicorp, parent of the First National City Bank of New York, introduced the novel concept of floating interest rate notes. These corporate obligations were issued for a term of 15 years, and are nonredeemable for the first 2 years; but thereafter, will be redeemable at the option of the holder at par on any semiannual interest date upon 30 days notice. Their interest rate is set at a level 1-percent higher than that of U.S. Treasury bills. But these notes, unlike Treasury bills and savings accounts, are neither insured nor guaranteed by the Federal Government.

The advantages of the Citicorp issues are obvious. They give the small saver an opportunity for high interest rate investment, while increasing money market competition. In a time of double-digit inflation, any help to the average American in his fight against the decreasing value of money is welcome.

The disadvantages of the Citicorp notes are also evident. They compete in the same market with thrift institutions, but they do not operate under the same restrictions.

Moreover, there have followed a spate of similar offerings and proposals by Chase Manhattan Corp., parent of Chase Manhattan Bank, by the Savings Bank of New York, and by other similar institutions. In fairness, I should add that Standard Oil of Indiana, a completely nonfinancial company, has also entered the floating-rate note market.

However, the effects are still to be avoided if at all possible. Until the savings and loan associations are strengthened, any such encroachments on their ability to maintain an adequate supply of cash deposits will have a deleterious effect on the already hard-pressed construction industry.

"Let us have a government," George Washington once wrote, "by which our lives, liberties, and properties will be secured." This bill answers those ends, in that it attempts to protect the free enterprise system not in its particular parts, but as a whole.

There are undoubtedly drawbacks to the bill but we think that at this time it is the best we can come up with. For instance, the bill does not authorize the regulation of corporations only indirectly involved with financial institutions. Industrial and commercial firms will also not be regulated, and they will therefore, continue to compete for the short supply of cash with thrift associations. Institutions which indicate their intent with the Fed to divest themselves of their banks or banking interests shall not be subject to the regulation of this act.

The Banking and Currency Committee passed this legislation under the constraint of time and in the interest of housing production. Here is an instance in which the committee held hearings on a serious matter, and immediately acted on its findings. Ours is not intended to be a bill of permanent or rigid effect, given the discretionary power of the Fed to invoke the authority here provided. We do hope and believe that until the entire system of relationships between thrift and commercial financial institutions can be restructured no more and no less can or should be done.

For the present, I believe that this grant of authority to the supervisory agencies will meet the challenge before us. I urge my colleagues to support H.R. 15928.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. J. WILLIAM STANTON. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, would the objection of the Federal Reserve Board and the Federal Deposit Insurance Corporation made in drafting this legislation be met as the bill now stands?

Mr. J. WILLIAM STANTON. Mr. Chairman, of course the purpose of the legislation here today was because the Federal regulatory agencies felt we did not have the authority, so we came out with this proposed regulation hopefully to meet those objections. My answer to that would be yes, to my knowledge.

Mr. GROSS. I thank the gentleman.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. J. WILLIAM STANTON. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this bill. I will vote for it not because of any deep feeling that it will actually do a great deal of good, but rather, because it is an important "sense of the Congress" statement regarding the question of floating-rate debt obligations.

Most of the witnesses before our committee, including representatives of the Treasury Department, the Federal Reserve, the FDIC, and the Federal Home Loan Bank Board, testified that the authority granted in this bill was not really necessary. Those who testified in favor of the provisions, particularly the representatives of the thrift institutions and housing industry, hope the bill will prevent a worsening of the loss of bank and savings and loan deposits. But even the proponents understand that this bill is not going to solve permanently the problem of disintermediation and the inevitable lack of funds for home mortgages.

A vote for this bill might be seen as a vote for helping housing. In the sense that it will give the Federal Reserve and other regulatory agencies a clearer perception of congressional intent regarding floating-rate notes, this will be a vote to help curb a worsening disintermediation. But, this bill looks like very small help indeed, when one looks at the overwhelming problems of the housing industry and the financial system which nourishes it.

In recent weeks, the growing problems of the housing industry, and of the financial system that backs it up, have prompted renewed interest in tackling the thorny issue of financial system reform. For years, we have watched as the financial institutions engaged in mortgage activities have been spun around by the cyclical nature of the money markets. We have had plenty of suggestions on how to help insulate the housing industry from the wild gyrations of money markets, but we have yet to make any serious effort to sort these out and settle on a reform package.

Some people say that the only way to solve the housing industry's problems is to ease monetary policy. But to back off of tight monetary policy now could cause us to lose what little control over inflation we have left. In the end, it would be an economic disaster for housing, as well as for every segment of the economy.

Monetary policy will have to ease somewhat before housing makes a complete recovery, and there will have to be some interim programs to help them through the meager times. But we have had tight money many times before, and we will have it again. And unless some safeguards are built into the system which pools and distributes housing money, the problems of today will occur all over again.

Mr. Chairman, I understand the motivation behind this legislation before us today, and I shall support the bill. But, I believe that H.R. 15928 is an inadequate and temporary response to the comprehensive problems confronting the financial system, and the housing industry that depends upon it. I regret that we could not have risen above the traditional "band-aid" solutions of the past. The longer we wait on reform and restructuring of the financial system and its regulation, the harder it will be to grapple with the problems the next time around.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. J. WILLIAM STANTON. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think we should, since the question was raised during the course of these deliberations, point out that the regulatory authority granted by this legislation is not intended to apply to traditional commercial paper. In this regard I would refer to the attention of my colleagues page 4 of the committee report in which it is said:

> Traditional commercial paper offered and which is characteristically sold to institutional investors in large denominations is not the subject of the Committee's concern, and it is not expected that the agencies will impose interest rate ceilings or apply reserve requirements to commercial paper except where the proceeds may be used for banking purposes.

I think that should be pointed out to set at rest any fears we have in that regard.

Mr. J. WILLIAM STANTON. I thank the gentleman for his contribution.

Mr. PATMAN. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. KOCH).

Mr. KOCH. Mr. Chairman, I have previously obtained permission in the House to include extraneous matter with my remarks.

Mr. Chairman, first I would thank my chairman for yielding this time to me. This is a very bad bill. This is a bill that ought to be defeated. The reason it is a bad bill is that it is intended to hold the small saver captive.

People who have money and who are sophisticated can place their moneys on deposit in various forms and receive large rates of interest, such as 9 percent, 10 percent, and 12 percent, but the small saver cannot. He is required, because he is not sophisticated in too many cases, to put his money into a savings and loan institution or some other banking institution where he will receive 5¾ percent.

The proponents of the bill say that we need the small saver's money for mortgage money. Yes, we do have to have mortgage money but it should not be at the expense of the small saver. When a small saver puts his money into the savings and loan bank today he will get 5¾ percent interest, but he is subject to double-digit inflation of about 12 percent. So at the end of the year he pays income tax on the interest that he earned and at the end of the same year he has actually suffered a loss in capital.

What this bill will do is to prevent him from being able to afford what the wealthy people are able to afford today, what the sophisticated saver is able to do.

For those reasons—and I ask the Members if they will to read the dissenting report which is available to them in the report of the committee—this bill should be voted down.

Mr. Chairman, now I would like to provide our colleagues with detailed background on H.R. 15928 and why I believe it should be defeated.

This legislation, although well intentioned, constitutes an act of discrimination against small savers and perpetuates rather than solves the deposit withdrawal problems confronting residential mortgage lending thrift institutions.

The measure would broaden the Federal Reserve Board's authority to regulate deposit interest rates to include small denomination, long-term variable interest notes issued by bank holding companies, redeemable at short-term intervals, usually 6 months. The first such issue, that made by Citicorp, would be redeemable initially in June of 1976 and carry an initial interest rate of about 9.7 percent. Three other large bank holding companies, Chase Manhattan Corp. and Mellon and Crocker National Corp., intend to market similar instruments in the near future, as well as a New York City savings bank.

Those who support this bill warn that other bank holding companies will soon follow suit and the result will be massive withdrawals from lower yielding savings and loan association and mutual savings bank deposit accounts for investment in this new type of instrument. The interest paid on these variable rate notes will be pegged at 1 percent above the average rate on 3-month Treasury bills. The supporters of this legislation hope to solve this problem by giving the Federal bank regulatory agencies the authority to control the interest rate applied to these notes and thereby control the degree by which the notes can compete for small saver deposits. The purpose of this proposal is to help safeguard the pool of savings and loan association and mutual savings bank funds available for home loans.

No one wants to assure the availability of adequate funds on reasonable terms for residential mortgage loans more than I, but not at the expense of the small saver. In testimony before the Senate Banking Committee's Subcommittee on Financial Institutions, two consumer organizations, Consumer Federation of America and Consumers' Union of the United States, stressed that variable rate interest notes have particular appeal to relatively small savers. From its inception, regulation Q has been used to prevent commercial banks from outbidding residential mortgage lending thrift institutions for consumer deposits of under $100,000. Large depositors have had unrestricted opportuntites to invest in higher yielding, unregulated time deposits above the $100,000 level provided by all types of banking institutions and a variety of high yielding, large denomination Federal and corporate debt instruments sold in the open market.

The burden of supporting residential mortgage lending thrift institutions has been forced on small savers. In effect, we are being asked in this legislation not only to continue but to reinforce a policy which forces small savers to subsidize mortgage borrowers, big and small, by curtailing their investment opportunities, thereby blocking them from full participation in the free enterprise system. At the same time, large wealthy depositors are left unrestrained to maximize profits through investment in high-yielding Federal and corporate debt paper, sometimes yielding as much as 10 to 13 percent per annum.

The situation is made all the more ironic by the fact that thrift institutions, as well as commercial banks, have consistently, insistently, and successfully resisted proposals to impose interest rate ceilings on their loans as part of the economic stabilization program which placed temporary controls on virtually every other segment of the economy. Now these same lending institutions are crying out for what amounts to severely restrictive controls on the earning ability of small savers—in effect confining them to lower yielding consumer deposits.

The following schedules are designed to show the enormous differences between what small savers are earning on time deposits under current interest rate ceilings as compared to what would be earned under the initial Citicorp interest rate on its 15-year variable interest rate notes. The comparison applies to commercial and mutual savings banks, savings and loan associations, and credit unions. Data is based on the latest available deposit statistics.

Included in the projections is the assumption that at least 30 percent of passbook deposits in commercial and mutual savings banks, savings and loan associations and credit unions, and 10 percent of consumer demand deposits in commercial banks would be switched to time deposits if such deposits were paying the initial Citicorp rate of 9.7 percent. This assumption is regarded as a conservative one, since the earning power of Citicorp notes is almost twice the earning power of passbook deposits and much more as compared to demand deposits.

Calculations based on this data show that small savers would earn $33.4 billion per year at recent levels of personal savings under a Citicorp-type note as compared to $19.1 billion earned under current depository interest rate ceilings. This is a difference in earnings to small savers of $14.3 billion per year, or 75 percent more from Citicorp-type notes than under present interest rate ceilings applied to small savings under current Federal regulations. Do we really want to penalize the small saver by this vast amount?

Extending Regulation Q authority to cover bank holding company notes will ultimately prove to a meaningless exercise. Adoption of this bill will in no way prevent nonbanking corporations from issuing similar high-yielding notes which will compete for small saver funds. In fact, nonbanking corporations are expected to do just that, perhaps all the more so if Regulation Q authority is used to prevent bank holding companies from entering the market with debt instruments of this type.

TABLE 1.—SUMMARY OF DIFFERENCE IN INTEREST EARNED PER ANNUM BY SMALL SAVERS AT DEPOSITORY INSTITUTIONS, APPLYING CURRENT DEPOSIT YIELDS AND INITIAL CITICORP YIELD

Type of institution	Total paid per annum under regulated deposit ceilings	Total paid per annum at Citicorp rate of 9.7 percent
Commercial banks	$7.6	$14.4
Savings and loan associations	8.0	13.3
Mutual savings banks	3.1	5.0
Credit unions	.4	.7
Total	19.1	33.4

TABLE 2.—DIFFERENCE IN INTEREST EARNED PER ANNUM BY SMALL SAVER ON COMMERCIAL BANK DEPOSITS, APPLYING CURRENT DEPOSIT YIELDS AND INITIAL CITICORP YIELD—4TH QUARTER 1973

		Interest earnings (in billions)	
Type of deposit and total deposits (in billions)	Current bank interest rate (percent)	Total paid per annum at current bank interest rate	Total paid per annum at Citicorp rate of 9.7 percent
Time deposits under $100,000 ($104.6)	4–7.25	$5.0	$10.1
30 percent of passbook deposits ($37.1)	3.5–5	1.7	3.6
10 percent of consumer demand deposits ($7)	0	0	.7
Total		7.6	14.4

Source: Federal Reserve Board statistics.

TABLE 3.—DIFFERENCE IN INTEREST EARNED PER ANNUM BY SMALL SAVER ON FEDERALLY INSURED SAVINGS AND LOAN ASSOCIATIONS DEPOSITS, APPLYING CURRENT DEPOSIT YIELDS AND INITIAL CITICORP YIELD—SEPT. 30, 1973

		Interest earnings (in billions)	
Type of deposit and total deposits (in billions)	Current association interest rate (percent)[1]	Total paid per annum at current association interest rate	Total paid per annum at Citicorp rate of 9.7 percent
Time deposits under $100,000 ($105.7)	6.12	$6.4	$10.2
30 percent of passbook deposits ($32.3)	5.23	1.6	3.1
Total		8.0	13.3

[1] FHLBB weighted interest rate.

Source: Federal Home Loan Bank Board.

TABLE 4.—DIFFERENCE IN INTEREST EARNED PER ANNUM BY SMALL SAVER ON MUTUAL SAVINGS BANK[1] DEPOSITS, APPLYING CURRENT DEPOSIT YIELDS AND INITIAL CITICORP YIELD—APR. 30, 1974

Type of deposit and total deposits (in billions)	Current mutual savings bank interest rate (percent)	Interest earnings (in billions): Total paid per annum at current mutual savings bank interest rate	Total paid per annum at Citicorp rate of 9.7 percent
Time deposits under $100,000 ($83.1)	6.6-7.43	$2.1	$3.2
30 percent of passbook deposits ($19.0)	5.6	1.0	1.8
Total		3.1	5.0

[1] Includes Massachusetts Savings Banks.

Source: FDIC and Mutual Savings Central Fund of Massachusetts.

TABLE 5.—DIFFERENCE IN INTEREST EARNED PER ANNUM BY SMALL SAVER ON FEDERAL AND STATE CREDIT UNION DEPOSITS, APPLYING CURRENT DEPOSIT YIELDS AND INITIAL CITICORP YIELD—DEC. 31, 1973

	Current credit union interest rate (percent)	Interest earnings (in billions): Total paid per annum at current credit union interest rate	Total paid per annum at Citicorp rate of 9.7 percent
Savings deposits (in billions) ($24.6)	[1] 5.74	$0.4	$0.7
Total		.4	.7

[1] National Credit Union Administration weighted interest rate.

Source: National Credit Union Administration.

None of this is to deny the serious problem of deposit outflows confronting residential mortgage lending thrift institutions and the resulting curtailment of home loan funds. The problem is an old and predictable one, occurring every time tight money-high interest rate conditions prevail. Moreover, it occurs despite the exercise of Regulation Q authority over interest rates paid on consumer deposits by commercial banks, savings and loan associations, and mutual savings banks. Large depositors have unhesitatingly moved their money out of yielding market instruments, leaving the small depositors with a return which is less than the rate of inflation and nowhere else to go.

Long-standing national policy, in effect, dictates that savings and loan associations and mutual savings banks experience serious deposit outflows resulting in curtailment of housing credit during inflationary, tight money-high interest rate periods. Such lending institutions are required to have the bulk of their assets in long-term, relatively low-yielding residential mortgages. Thus, the amount of interest they can pay on deposits is limited; and they are disadvantaged in terms of being able to compete for funds.

A better approach to this problem is to enable all depository lending institutions to evenly compete for funds and reward savers, regardless of prevailing economic conditions. This can be accomplished by allowing savings and loan associations and mutual savings banks to expand their lending activities to include short-term consumer and business loans and provide checking account, trust and other services now reserved exclusively to commercial banks.

In short, thrift institutions—and I include credit unions under that label—should be allowed to offer all of the services now offered by commercial banks. They should, in effect, be allowed to convert themselves, over an appropriate transition period to minimize market disruption, into commercial banks. This does not mean that these institutions, as a matter of free choice, could not specialize in home mortgages or consumer loans, or trust management, or any other legitimate banking function that competition and public needs seem to demand. But the choice would be theirs, not dictated by the law. And, most important of all, the choices of the public for banking services of all kinds would be broadened, thus substantially improving competition, innovation and efficiency in banking, and thereby reducing costs and improving banking services for the public.

In addition, expansion of the thrift institutions' lending and banking service activities in this way will provide them with substantial new sources of income which will reflect current market interest rates. The ability to make short-term, high-yielding consumer and business loans will place them in a much better position to offer competitive interest rates for deposits.

Admittedly, a subsequent reduction in the volume of their residential mortgage lending may occur if savings and loan associations and mutual savings banks are allowed to move into the field of commercial banking. But it must also be acknowledged that present economic circumstances have hamstrung the thrift institutions' ability to make housing loans anway. Under their present structure, housing credit has dwindled to a trickle; and at the same time small savers are deprived of the opportunity to earn market rates for their savings. There may be some justification to continuation of the present structure of savings and loan associations and mutual savings banks if the sacrifice being made by small savers resulted in an adequate pool of housing credit. But it isn't an either-or situation. It is a nothing situation in which residential mortgage lending thrift institutions, their depositors, home buyers and home sellers are all losers.

However, if we are to permit residential mortgage lending thrift institutions to become commercial banks for the reasons cited, then a way must be devised to assure the availability of adequate housing loan funds.

The following approaches are among the suggestions that have been made:

Require all major types of financial institutions, including all depository institutions, private pension funds, foundations, and life insurance companies, to make prescribed investments in housing in a way which will assure that this responsibility is evenly and easily shared.

Establish a National Development Bank to provide loan funds for housing and for other priority areas of the economy when credit is not available from private lenders on reasonable terms.

Provide Federal interest rate subsidies for low- and moderate-income families who cannnot otherwise afford mortgage loans at market interest rates.

Lower required bank reserves to promote housing and other priority area loans and increase reserves to discourage nonpriority investments.

The above-noted proposals are, I am sure, only a few among many that should be developed and explored fully to see that adequate sources of credit are made available to provide decent housing for our people. At this point, the idea that most appeals to me is having free banking competition among all depository institutions and, as the "dues" for their charters, Federal deposit insurance, central bank services, tax exemptions, and other privileges given by the people through the Government, require these financial institutions, on an equal basis, to invest a certain minimum level of their assets in housing market.

In any event, all feasible approaches to providing adequate funds for housing should be explored.

The point is that continued reliance on Federal interest rate restrictions on small deposits, regardless of whether it is applied to Citicorp-type notes or not, perpetuates the unfair penalty imposed on small savers and tends to keep the Nation locked into periodic housing credit crunches. We would be better advised to address ourselves to serious fundamental solutions rather than adopting legislation that will only worsen the situation.

The least we can do right now is to help small savers by defeating this bill, thereby leaving the way open for them to purchase high-yielding debt instruments in denominations they can afford. I also believe the Treasury should return to its earlier practice, abandoned in 1969, of issuing short-term Treasury bills in denominations of $1,000, instead of the current $10,000 minimum. The recent Treasury move to allow $1,000 denominations for medium and longer term issues, though welcome, is no substitute for the small savers' need for higher yields and liquidity. If we do not want to stop the continued discrimination against the small saver by severely limiting his ability to earn market rates of interest, we should apply these government-imposed interest rate restrictions on all depositors regardless of the size of their deposits. In short, we should at least provide "equal protection of the law" for the rich and the poor.

The fact is that adoption of this bill will constitute nothing more in the long run than an exercise in futility and discrimination. This may also force the thrift institutions to finally realize how unrealistic their position is in terms of current and future economic conditions, and finally make them understand that they must support substantial reform of our financial system if they want to survive as viable institutions.

In sum, instead of indulging in this periodic ritual of plugging the dike again, we should be engaged in reforming our antiquated financial system to better serve the public at large.

Mr. BAUMAN. Mr. Chairman, I rise in support of H.R. 15928, which would authorize the Federal Reserve Board and the Federal Deposit Insurance Corporation to regulate the issuance and sale of debt obligations of a bank holding company or a nonbank subsidiary. This action is necessary to allow commercial banks and thrift institutions in this country to provide adequate funds for the housing and mortgage markets in this country.

As we all realize the housing market is severely depressed as a result of tight money and the impact of inflation on the cost of available homes. This legislation does provide the appropriate Federal agencies with the authority to prevent the further outflow of funds from thrift institutions.

The impetus for this legislation was the announcement by the parent bank holding company of First National City Bank of New York, Citibank, that it would issue "floating interest rate notes" on which the interest would be the higher of 9.7 percent or 1 percent above the interest rate on short term U.S. Treasury notes. Obviously, an issue of this type would further restrict growth in the housing industry.

This measure will provide the ability to control this type of issue but it does not, unfortunately, deal with the inability of the Federal Government to prevent periodic shortages of mortgage funds. The use of Federal regulations to place restrictions on the interest rates paid by banks and thrift institutions only serves to lure the small depositor to invest in more attractive short term issues. Consideration must be given to a reduction in the extent of Government control to enable thrift institutions to compete evenly with other markets for available funds.

Mr. J. WILLIAM STANTON. Mr. Chairman, we have no further request for time.

Mr. PATMAN. Mr. Chairman, we have no further request for time.

The CHAIRMAN. Pursuant to House Resolution 1336, the Clerk will now read the amendment in the nature of a substitute recommended by the Committee on Banking and Currency now printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 19(a) of the Federal Reserve Act (12 U.S.C. 461) is amended by inserting "and, regardless of the use of the proceeds," immediately before "shall be deemed a deposit".

(b) The amendment made by subsection (a) shall not apply to any bank holding company which has filed prior to the date of enactment of this Act an irrevocable declaration with the Board of Governors of the Federal Reserve System to divest itself of all of its banks under section 4 of the Bank Holding Company Act.

SEC. 2. (a) The sixth sentence of section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by striking out "for the purpose of obtaining funds to be used in the banking business".

(b) The amendment made by subsection (a) shall not apply to any bank holding company which has filed prior to the date of enactment of this Act an irrevocable declaration with the Board of Governors of the Federal Reserve System to divest itself of all of its banks under section 4 of the Bank Holding Company Act.

SEC. 3. Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is amended as follows:

(1) by adding at the end of subsection (a) thereof the following new sentences: "The provisions of this subsection shall apply, in the discretion of the Board, to an obligation issued by an affiliate of an institution which is an insured institution as defined in section 401(a) of the National Housing Act (12 U.S.C. 1724(a)) or is a member or nonmember building and loan, savings and loan, or homestead association, or cooperative bank. The Board is authorized to define by regulation the terms used in this section.";

(2) by striking out "institution subject to this section" in subsection (b) thereof and inserting in lieu thereof "person or organization"; and

(3) by striking out "nonmember institution" and "institution" in subsection (c) thereof and inserting in lieu thereof "person or organization" in both places.

Mr. J. WILLIAM STANTON (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I rise to ask the gentleman from Texas a question that I believe to be related to this bill. If I recall correctly, the gentleman from Texas remonstrated when the First National Bank of New York, otherwise known as Citicorp, offered notes—and I assume they are the notes to which the terms of this bill are directed—the gentleman from Texas protested vigorously and called upon the Chairman of the Federal Reserve Board to stop the issuance of these notes. Is that not correct?

Mr. PATMAN. That is correct, because they were just using them as a bypass to regulation Q. We did not think they should be allowed to do that.

Mr. GROSS. Was the gentleman aware that the Federal Reserve Board has no authority in the law to stop the issuance of these notes?

Mr. PATMAN. Well, they claim to have a lot of authority. They claim to run the monetary affairs of Government, which, of course, I agree with the gentleman, that they do not actually have. We know the President has the power over them and nobody else.

Mr. GROSS. The gentleman would not knowingly ask the Federal Reserve Board to commit an unlawful act, would he?

Mr. PATMAN. No, no. I was expecting the Federal Reserve to get the President of the United States, who has the power to execute all laws, to do it. I would not expect them to do it. They have no power to do it.

Mr. GROSS. How can the Federal Reserve Board compel the President of the United States to do anything?

Mr. PATMAN. They would not have to compel him. They could just invite his attention to it. He is the only one that has power over the Federal Reserve.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. ST GERMAIN. A suit was filed in the Federal courts of New York. There was a question whether or not the Federal Reserve Board does or does not have the authority, or did or did not have the authority, and because the Fed on the one hand claimed they did not feel they had the authority, other parties felt they did have the authority. It was in a gray area. This is why the committee has now proceeded with legislation to make it perfectly clear that the Fed will have discretionary authority to regulate these notes.

Mr. GROSS. Does the gentleman agree with me that in the absence of a court test and decision by the court, that the Federal Reserve Board would have no right to insert itself in the situation?

Mr. ST GERMAIN. In my opinion, the Federal Reserve Board could have gone either way. They could have said, "Yes, we do have the authority under existing law," and if that had been the court decision, the Citibank would have gone to court and asked for a ruling and would have contended that they did not have the authority.

The Fed, however, took the position that they did not feel they had the authority, number one.

Number two, they have also stated in hearings, even if we grant them this authority, they do not intend to use it at this time. They feel that some of these notes should be issued as a track record.

Mr. GROSS. I would think in the absence of a court determination the members of the Federal Reserve Board would do precisely what they did do and that was to take no action, even though the gentleman from Texas was vociferously urging them to move in.

Mr. ST GERMAIN. If the gentleman will yield further, I would again state that that the Federal Reserve Board could have stated, "Yes, we have the authority," or "No, we do not have the authority," because there is in reality a gray area. They could have gone either way.

Mr. PATMAN. Mr. Chairman, will the gentleman yield to me?

Mr. GROSS. Yes, I am glad to yield.

Mr. PATMAN. There is a great misunderstanding about the independence of the Federal Reserve. The Federal Reserve acts independently. I do not think they have the power to do many of the things that they are doing independently, but they have been getting by with it. The truth is that the Constitution of the United States prevails on this very question.

The Constitution of the United States says that the law shall be made by the Congress of the United States, composed of two Houses, and so forth. Then it says that the Executive shall enforce the law. So, the Constitution is plain on it. The Executive is the only one who can enforce the Federal Reserve Act, for instance, in case of a contest. He is the only one, because he enforces all the laws.

Mr. GROSS. The Board had no legal authority to intervene, and it did not do so.

Mr. McCLORY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to ask a couple questions, if I might. It seemed to me the regulations with respect to the payment of interest to small depositors in savings and loans and other types of financial institutions, and the restrictions they have on charging interest with respect to home loans and other types of moneys that are loaned, has limited the ability of these institutions to take care of the financial needs of those who want housing and other common needs which we have in our communities throughout the country.

I would gather that this legislation would adversely affect the parent holding companies of financial institutions with respect to flexible interest rates which enable them to get these funds, as was brought out, and to compete unfairly with the small investor.

The question that arises in my mind is this: Since this legislation is not going to affect any industrial concerns or nonbanking enterprises, is it not going to force the financial institutions out of part of the business which they now enjoy? In other words, it would be my understanding that a parent financial institution would receive the funds under this flexible interest rate program, and then be in a position to lend them to industrial or business concerns, which would be a normal financial operation.

So, what we are doing by this legislation as I view it, is to force the financial institution out of a legitimate type of business it would normally carry on. Could someone explain that to me?

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. The whole question here is the fact—let us take Citicorp notes, for instance. It has nothing to do with City Bank. It is not moneys going into City Bank. It is for Citicorp, the holding company, for its holding company operations.

They can use those moneys, if they so desire, to issue commercial paper, and as was pointed out earlier in the committee report, there are no restrictions on the issuance of commercial paper or rates to be paid therefor.

Mr. McCLORY. But it is not true that it would prevent Citicorp from issuing the same kind of paper it had been issuing before with respect to the flexible interest rate?

Mr. ST GERMAIN. No, this legislation merely gives to the Fed the authority to set a rate if they so desire. It is not mandatory.

In effect, in testimony before the Committee on Banking and Currency here and before the Senate, has been made very clear, they do not intend to exercise that power.

Mr. McCLORY. On the other hand, does the gentleman not think it is clearly intended, by making that authority permissible, that the authority will be exercised? It could be exercised, could it not?

Mr. ST GERMAIN. Well, the Fed has a reputation for independence. That is very well understood, and I doubt that we would force it to use it.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, I think we should keep in mind that this legislation basically gives the authority to the Fed, whereas that authority was somewhat uncertain without this legislation. The authority the Fed exercises is really what it has already done, maybe in part by persuasion.

For instance, the original Citicorp notes were to be 6 months issuance. Now, they have gone to 2 years because they could see the tremendous impact on thrift institutions.

What we are doing now is saying that the Federal Reserve Board will have the authority to do that by regulation.

Mr. McCLORY. Right; they will have additional authority.

Mr. BROWN of Michigan. Rather than by persuasion, as in the past.

Mr. McCLORY. They will have additional authority to fix and establish and limit interest rates, is that not true, in an area that they are not now authorized so to do?

Mr. BROWN of Michigan. If the gentleman will yield further, that is one of the questions, as to whether or not they have the authority presently. This legislation really gives them the authority.

Mr. McCLORY. Would that not be better for the economy to permit flexible interest rates, rather than to extend the Federal Reserve's authority to establish fixed interest rates? Would it not encourage savings? Would it not encourage the opportunity for the small savers if we did lift these restrictions and if we did lift some of these mandatory fixed requirements instead of extending that authority?

Mr. BROWN of Michigan. If the gentleman will yield again, I think the conflict which exists in this area will go on and on, and there is never a good explanation as to why from the savers' standpoint, the small savers should not be able to get the kind of return on their savings that big investors do.

AMENDMENT OFFERED BY MR. JAMES V. STANTON

Mr. JAMES V. STANTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. JAMES V. STANTON: Page 4, line 3, strike out section 3.

Mr. JAMES V. STANTON. Mr. Chairman and members of the committee, first of all, I would like to commend the Committee on Banking and Currency for its diligent action in this field.

I would like to indicate, though, that I believe that much of the authority that they wanted to confer by section 3 is already encumbered and written in under the National Housing Act, under holding company indebtedness; and I believe that the section as it is now constituted and written goes beyond what was intended at the time of the committee's deliberations.

From what I can understand and from a reading of the reports and from talking to the members of the committee, I believe that it would give the bank authority over affiliates of noninsured institutions, which themselves are not regulated by the Board. This goes to a concept of our dual banking system because the section does not give the Board authority to regulate the issuance of debt instruments by a variety of companies, but such business is inconsistent with their primary business and is presently exempt from control by the Holding Company Act.

This includes a number of major companies in the United States. It also affects a number of major companies in Ohio.

This section would also confer regulatory authority by the bank board over the business activity of individuals who could be classified as affiliates of saving and loan companies because of stock ownership, even though those activities are in no way involved with the saving and loan institutions.

It is for these reasons, Mr. Chairman, that I urge that section 3 be stricken from the bill.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. JAMES V. STANTON. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, the gentleman has brought up several points that I referred to in my remarks, whereby we had acted in haste on this particular bill. It was prompted by the Citicorp note issue and in its deliberations and after the bill came out, additional information came to our attention.

Mr. Chairman, I can see the point of the gentleman's amendment, and I am not going to be against it.

Mr. JAMES V. STANTON. Mr. Chairman, I thank the gentleman. I believe that in the best interests of this legislation, sections 1 and 2 can be preserved by striking out section 3 and preserving the merits of the bill.

Mr. ST GERMAIN. Mr. Chairman, I rise in opposition to the amendment.

The purpose of section 3 is to insure that we treat the savings and loan holding companies the same as we treat the bank holding companies.

The gentleman from Michigan (Mr. BROWN) read from the committee report, at page 4, as follows:

> Because of the broad scope of the agencies' authority which the bill would provide, the Committee believes it appropriate to note its intent that the expanded power should be applied by the agencies to securities offerings registered under the Securities Act of 1933 and to offerings which may be sold to members of the public in an intrastate offering. In other words, the agencies should exercise discretion in implementing their authority to focus on bank holding company note issues which are clearly offered with the in-

dividual saver-investor in mind. Traditional commercial paper offered and which is characteristically sold to institutional investors in large denominations is not the subject of the Committee's concern, and it is not expected that the agencies will impose interest rate ceilings or apply reserve requirements to commercial paper except where the proceeds may be used for banking purposes. As stated above, the agencies have this latter authority under existing law which they have not exercised.

Why should we discriminate and state that in one instance we are going to give this authority to the Federal Reserve Board and the FDIC to regulate bank holding companies and not do the same for S. & L. holding companies?

Who are we talking about here? We are talking about companies like Sears Roebuck, companies like AVCO, et cetera, that own savings and loan associations. The purpose of a S. & L. is to provide money for the mortgage market.

In this legislation we are trying to protect—I am not saying we are going to do that—we are at least trying to protect the thrift institutions. We are hopeful that this will be one, tiny, baby step that will keep some moneys in the thrift institutions to make them available to the prospective home purchaser.

Each and every Member here on the floor and each and every Member back in their offices or in committee meetings who cannot be with us is aware of the fact that while they have been home during this recess they were hounded to death by people, by realtors, by homebuilders, by prospective home purchasers, and by people who want to sell homes, because there is not any money available. We are in one of the worst periods of disintermediation in the history of this country.

Mr. Chairman, I say that each and every step we can take to keep whatever little moneys are left in our thrift institutions and to hopefully get more in there we should take with due deliberation. I see no reason for striking section 3.

The point is—and this is my last point—that the authority proposed by section 3 is discretionary, absolutely and entirely discretionary, and we make it very clear that we are not proposing the regulation of the sale of commercial paper.

Therefore, Mr. Chairman, I ask that the amendment not be agreed to.

Mr. PATMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to state my views on this. I think if the banks are allowed the same privileges over the banks that are under the jurisdiction of the regulatory agencies, it is certainly not only fair but absolutely necessary to give the Federal Home Loan Bank Board—and that is the agency that is involved here— jurisdiction over the ones that they charter and permit to do business.

Those banks that they charter and permit to do business are banks which they have jurisdiction over. This is giving the Federal Home Loan Bank Board the same power and authority over the savings and loans that they charter. Now, of course, the Federal Home Loan Bank Board has been a great agency.

Mr. JAMES V. STANTON. Mr. Chairman, will the gentleman yield on that point?

Mr. PATMAN. I yield to the gentleman from Ohio.

Mr. JAMES V. STANTON. Mr. Chairman, I will ask this: Do they not already have that authority under the Housing Act?

Mr. PATMAN. Well, not completely, not according to the questions that came up. We are not satisfied with that. So this is just treating them both alike.

Mr. Chairman, there is nothing wrong and there cannot be anything wrong with it. If it is fair to the banks, it is fair to the savings and loans.

This Regulation Q, of course, is worthy of consideration here, too, but it is not necessary to discuss it. I just wish to say that it would be a terrible mistake to cut out section 3.

Mr. Chairman, I hope that the amendment is defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. JAMES V. STANTON.)

The amendment was rejected.

The CHAIRMAN. Are there further amendments to the committee amendment in the nature of a substitute? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BENNETT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 15928), to amend the Federal Reserve Act, the Federal Deposit Insurance Act, and the Federal Home Loan Bank Act to provide for the regulation of the issuance and sale of debt obligations by parents of member banks, nonmember insured banks—including insured mutual savings banks—and savings and loan associations, and for other purposes, pursuant to House Resolution 1336, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 317, nays 5, answered "present" 8, not voting 104, as follows:

[Roll No. 523]

YEAS—317

Abdnor
Adams
Addabbo
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Ashbrook
Aspin
Badillo
Bafalis
Baker
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Breckinridge
Brinkley
Brooks
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conlan
Conte
Corman
Coughlin
Crane
Cronin
Daniel, Dan
Danielson
Davis, Ga.
Davis, Wis.
Delaney
Dellums
Denholm
Dent
Devine
Dickinson
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Fraser
Frenzel
Frey
Fulton
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gross
Gude
Guyer
Haley
Hamilton
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hinshaw
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Hudnut
Hungate
Hunt
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Kemp
King
Kluczynski
Kuykendall
Kyros
Landrum
Latta
Leggett
Litton
Long, La.
Long, Md.
Lott
Luken
McCloskey
McCollister
McCormack
McDade
McFall
McKay
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Mills
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Murphy, Ill.
Murtha
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Quie
Railsback
Randall
Rangel
Reuss
Rhodes
Riegle
Rinaldo
Robinson, Va.
Rodino
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rostenkowski
Roush
Roy
Roybal
Ruppe
St Germain
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Seiberling
Shipley
Shriver
Shuster
Sikes
Sisk

Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stubblefield
Stuckey
Studds
Sullivan
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Thomson, Wis.
Thone
Thornton
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Ware
Whalen
White
Whitten
Williams
Wilson, Charles H., Calif.
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zion

NAYS—5

Abzug
Conyers
Koch
McClory
Reid

ANSWERED "PRESENT"—8

Cleveland
Grover
Hillis
Quillen
Regula
Walsh
Whitehurst
Winn

NOT VOTING—104

Anderson, Calif.
Armstrong
Ashley
Barrett
Blackburn
Brasco
Broomfield
Burke, Fla.
Camp
Carey, N.Y.
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Collier
Conable
Cotter
Culver
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, S.C.
de la Garza
Dellenback
Dennis
Derwinski
Diggs
Evins, Tenn.
Frelinghuysen
Froehlich
Gaydos
Gettys
Grasso
Gubser
Gunter
Hammerschmidt
Hanna
Hawkins
Hicks
Hogan
Huber
Hutchinson
Ichord
Johnson, Colo.
Jones, N.C.
Jordan
Ketchum
Lagomarsino
Landgrebe
Lehman
Lent
Lujan
McEwen
McKinney
McSpadden
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Miller
Mizell
Mosher
Moss
Murphy, N.Y.
Nelsen
Podell
Price, Tex.
Pritchard
Rarick
Rees
Roberts
Robison, N.Y.
Roe
Rooney, N.Y.
Rosenthal
Rousselot
Runnels
Ruth
Ryan
Sandman
Scherle
Sebelius
Shoup
Snyder
Steele
Stratton
Talcott
Teague
Thompson, N.J.
Tiernan
Towell, Nev.
Treen
Vander Veen
Veysey
Wampler
Widnall
Wiggins
Wilson, Bob
Wilson, Charles, Tex.
Wolff
Wright
Young, Alaska
Young, Fla.
Zablocki
Zwach

So the bill was passed.

The Clerk announced the following pairs:

Mr. Murphy of New York with Mr. Anderson of California.

Mr. Dominick V. Daniels with Mr. Gubser.

Mr. Rooney of New York with Mr. Collier.

Mr. Roe with Mr. Brasco.

Mr. Hawkins with Mr. Derwinski.

Mr. Roberts with Mr. Hogan.

Mr. Carey of New York with Mr. Ryan.

Mr. Thompson of New Jersey with Mr. Mizell.

Mr. Evins of Tennessee with Mr. Miller.

Mr. Barrett with Mr. Frelinghuysen.

Mrs. Chisholm with Mr. Stratton.

Mr. Rees with Mr. Lent.

Mr. Clay with Mr. Culver.

Mr. Hanna with Robert W. Daniel, Jr.

Mr. Diggs with Mr. Podell.

Mr. Gaydos with Mr. Landgrebe.

Mr. Hicks with Mr. Dennis.

Mr. Gunter with Mr. Camp.

Mr. Ichord with Mr. Froehlich.

Ms. Jordan with Mr. Broomfield.

Mr. Davis of South Carolina with Mr. Blackburn.

Mr. de la Garza with Mr. Hammerschmidt.

Mr. Ashley with Mr. Conable.

Mr. Lehman with Mr. Huber.

Mr. Moss with Mr. Burke of Florida.

Mr. Rarick with Mr. Lagomarsino.

Mr. Runnels with Mr. Dellenback.

Mr. Vander Veen with Mr. Lujan.

Mr. Wolff with Mr. Don H. Clausen.

Mr. Wright with Mr. Mathias of California.

Mr. Zablocki with Mr. Hutchinson.

Mr. McSpadden with Mr. Mayne.

Mr. Rosenthal with Mr. Mosher.

Mrs. Grasso with Mr. Del Clawson.

Mr. Jones of North Carolina with Mr. McEwen.

Mr. Mathis of Georgia with Mr. McKinney.

Mr. Matsunaga with Mr. Price of Texas.

Mr. Teague with Mr. Robison of New York.

Mr. Cotter with Mr. Ruth.

Mr. Ryan with Mr. Pritchard.

Mr. Tiernan with Mr. Scherle.

Mr. Gettys with Mr. Rousselot.

Mr. Sandman with Mr. Zwach.

Mr. Wampler with Mr. Shoup.

Mr. Towell of Nevada with Mr. Sebelius.

Mr. Young of Florida with Mr. Wiggins.

Mr. Widnall with Mr. Snyder.

Mr. Treen with Mr. Steele.

Mr. Bob Wilson with Mr. Charles Wilson of Texas.

Mr. Young of Alaska with Mr. Veysey.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. PATMAN. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 3838) to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—REGULATION OF INTEREST RATES ON CERTAIN OBLIGATIONS

SEC. 101. Section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) is amended by inserting after the second sentence thereof the following new sentence: "For the purpose of the exercise of the authority conferred by this subsection, the Board shall have the authority, in the exercise of the Board shall have the authority, in the exercise of the Board's discretion, to define any debt obligation issued by an affiliate of a member bank as a deposit of such member bank, regardless of the use of the proceeds, except that the Board may not, under the additional authority conferred by this sentence, define as a deposit any debt obligation which is an exempted security under section 3(a)(3) of the Securities Act of 1933.".

SEC. 102. Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting after the fourth sentence thereof the following new sentence: "For the purpose of the exercise of the authority conferred by this subsection, the Board of Directors shall have the authority, in the service of its discretion, to define any debt obligation issued by an affiliate of an insured nonmember bank as a deposit of such insured nonmember bank, regardless of the use of the proceeds, except that the Board of Directors may not, under the additional authority conferred by this sentence, define as a deposit any debt obligation which is an exempted security under section 3(a)(3) of the Securities Act of 1933.".

SEC. 103. Section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) is amended by adding after the first sentence thereof the following new sentence: "For the purpose of the exercise of the authority conferred by this subsection, the Board shall have the authority, in the exercise of the Board's discretion, to define any debt obligation issued by an affiliate of any such institution, association, or bank, as a deposit of such institution, association, or bank, regardless of the use of the proceeds, except that the Board may not, under the additional authority conferred by this sentence, define as a deposit any debt obligation which is an exempted security under section 3(a)(3) of the Securities Act of 1933.".

TITLE II—BANK UNDERWRITING OF NONGENERAL OBLIGATION BONDS OF STATE AND LOCAL GOVERNMENTS

SEC. 201. Paragraph Seventh of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by adding the following new sentences at the end of such paragraph: "The limitations and restrictions contained in this paragraph as to dealing in and underwriting investment securities shall not apply to all other nongeneral obligations issued or guaranteed by or on behalf of a State or any political subdivision thereof or agency of a State or any political subdivision thereof (except special assessment obligations and industrial revenue bonds) which are at the time eligible for purchase by a national bank for its own account, except that (1) no association shall hold such obligations of any one obligor or maker as a result of underwriting, dealing, or purchasing for its own account (and for this purpose obligations as to which it is under commitment shall be deemed to be held by it) in a total amount exceeding at any one time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund, (2) the purchase of such obligations by a national bank as fiduciary from such bank as an underwriter or dealer shall not be permitted unless lawfully directed by court order, (3) no association may purchase such obligations as fiduciary from a member of a syndicate in which such association is participating until the syndicate has closed as to underwriting, (4) any sales of such obligations by an association to any of its depositors or borrowers or to any correspondent bank (whether for such bank's own account or as trustee) must be accompanied by a disclosure in writing to the purchaser that the association is selling as an underwriter or dealer, and (5) the purchase, during the underwriting period, of any such obligations by an association for its own investment account from such association's own account acting as underwriter, dealer, or trader, or from any entity affiliated with such association within the meaning of subsection (b)(1) of section 2 of the Banking Act of 1933, as amended (12 U.S.C. 221a(b)(1)), shall not be permitted; *Provided*, That this restriction shall not apply to any purchases by an association for its investment account or accounts of any such obligations (A) it alone has underwritten or (B) directly from the underwriting syndicate or member thereof in which it is a participant, or to associations not in the underwriting syndicate. For purposes of this paragraph, the term 'industrial revenue bond' shall mean an obligation, not secured by the full faith and credit of the issuer, payable solely from the rentals received by the issuer from private entities."

SEC. 202. The Secretary of the Treasury shall submit an annual report to the Congress showing the extent to which the business of underwriting and dealing in State and local obligations is being carried on by commercial banks as compared with other banking institutions with a view to determining the effect of the amendment made by section 201 on the institutional distribution of such business. As used herein, the term "State and local obligations" means obligations issued or guaranteed by or on behalf of a State, political subdivision of a State, or any agency of a State or political subdivision thereof.

SEC. 203. The amendment made by section 201 takes effect upon the expiration of eighteen months following the date of enactment of this Act.

TITLE III—INTEREST RATE AMENDMENTS REGARDING STATE USURY CEILINGS ON BUSINESS LOANS

SEC. 301. Section 5197 of the Revised Statutes, as amended (12 U.S.C. 85), is amended by inserting in the first and second sentences before the phrase "whichever may be the greater", the following: "or in the case of business or agricultural loans in the amount of $25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located,".

SEC. 302. The Federal Deposit Insurance Act (12 U.S.C. 1811–31) is amended by adding at the end thereof the following:

"SEC. 24. (a) In order to prevent discrimination against State-chartered insurance banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank would be permitted to charge in the absence of this subsection, a State bank may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill or exchange, or other evidence of debt interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such State bank would be permitted to charge in the absence of this paragraph, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the State bank taking or receiving such interest.".

SEC. 303. Title IV of the National Housing Act (12 U.S.C. 1724–1730(d)) is amended by adding at the end thereof the following:

"SEC. 412. (a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the institution is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than that prescribed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, and amount equal to twice the amount of the interest paid from the institution taking or receiving such interest.".

SEC. 304. Section 308 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661), is amended by adding at the end thereof the following:

"(h)(1) In order to facilitate the orderly and necessary flow of long-term loans and equity funds to small business concerns, as defined in the Small Business Act, if the maximum interest rate permitted by the Small Business Administration exceeds the rate a small business investment company would be permitted to charge in the absence of this subsection, such small business investment company may in the case of business loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge, on any such loan, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the small business investment company is located.

"(2) If the rate prescribed in paragraph (1) exceeds the rate such small business investment company would be permitted to charge in the absence of this subsection, and such State fixed rate is thereby preempted by the rate described in paragraph (1), the taking, receiving, reserving or charging a greater rate than is allowed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdition not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the small investment company taking or receiving such interest."

SEC. 305. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of the title and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby.

SEC. 306. The amendments made by this title shall apply to any loan made in any State after the date of enactment of this title, but prior to the earlier of July 1, 1977, or the date (after the date of enactment of this title) on which the State enacts a provision of law which prohibits the charging of interest at the rates provided in the amendments made by this title.

TITLE IV—DISPOSITION OF ABANDONED MONEY ORDERS AND TRAVELER'S CHECKS

FINDINGS

SEC. 401. The Congress finds and declares that—

(1) the books and records of banking and financial organizations and business associations engaged in issuing and selling money orders and traveler's checks do not, as a matter of business practice, show the last known addresses of purchasers of such instruments;

(2) a substantial majority of such purchasers reside in the States where such instruments are purchased;

(3) the States wherein the purchasers of money orders and traveler's checks reside should, as a matter of equity among the several States, be entitled to the proceeds of such instruments in the event of abandonment;

(4) it is a burden on interstate commerce that the proceeds of such instruments are not being distributed to the States entitled thereto; and

(5) the cost of maintaining and retrieving addresses of purchasers of money orders and traveler's checks is an additional burden on interstate commerce since it has been determined that most purchasers reside in the State of purchase of such instruments.

DEFINITIONS

SEC. 402. As used in this title—

(1) "banking organization" means any bank, trust company, savings bank, safe deposit company, or a private banker engaged in business in the United States;

(2) "business association" means any corporation (other than a public corporation), joint stock company, business trust, partnership, or any association for business purposes of two or more individuals; and

(3) "financial organization" means any savings and loan association, building and loan association, credit union, or investment company engaged in business in the United States.

STATE ENTITLED TO ESCHEAT OR TAKE CUSTODY

SEC. 403. Where any sum is payable on a money order, traveler's check, or other similar written instrument (other than a third party bank check) on which a banking or financial organization or a business association is directly liable—

(1) if the books and records of such banking or financial organization or business association show the State in which such money order, traveler's check, or similar written instrument was purchased, that State shall be entitled exclusively to escheat or take custody of the sum payable on such instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum;

(2) if the books and records of such banking or financial organization or business association do not show the State in which such money order, traveler's check, or similar instrument written was purchased, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler's check, cr similar written instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum, until another State shall demonstrate by written evidence that it is the State of purchase; or

(3) if the books and records of such banking or financial organization or business association show the State in which such money order, traveler's check, or similar written instrument was purchased and the laws of the State of purchase do not provide for the escheat or custodial taking of the sum

payable on such instrument, the State in which the banking or finance organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler's check, or similar written instrument to the extent of that State's power under its own laws to escheat or take custody of such sum, subject to the right of the State of purchase to recover such sum from the State of principal place of business if and when the law of the State of purchase makes provision for escheat or custodial taking of such sum.

APPLICABILITY

SEC. 404. This title shall be applicable to sums payable on money orders, traveler's checks, and similar written instruments deemed abandoned on or after February 1, 1965, except to the extent that such sums have been paid over to a State prior to January 1, 1974.

TITLE V—APPLICABILITY OF STATE USURY CEILINGS TO CERTAIN OBLIGATIONS ISSUED BY BANKS AND AFFILIATES

SEC. 501. Section 19 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

"(k) No member bank or affiliate thereof, or any successor or assignee of such member bank or affiliate or any endorser, guarantor, or surety of such member bank or affiliate may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member bank or affiliate or to any other person."

SEC. 502. Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end thereof the following new subsection:

"(k) No insured nonmember bank or affiliate thereof, or any successor or assignee of such bank or affiliate or any endorser, guarantor, or surety of such bank or affiliate may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such bank or affiliate or to any other person."

SEC. 503. Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is amended by adding at the end thereof the following new subsection:

"(e) No member or nonmember association, institution, or bank or affiliate thereof, or any successor or assignee, or any endorser, guarantor, or surety thereof may plead, raise or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member or nonmember association, institution, bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member or nonmember association, institution, bank, or affiliate or to any other person."

SEC. 504. The amendments made by this title shall apply to any deposit made or obligation issued in any State after the date of enactment of this title, but prior to the earlier of (1) July 1, 1977 or (2) the date (after such date of enactment) on which the State enacts a provision of law which limits the amount of interest which may be charged in connection with deposits or obligations referred to in the amendments made by this title.

MOTION OFFERED BY MR. PATMAN

Mr. PATMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PATMAN moves to strike out all after the enacting clause of the Senate bill S. 3838, and to insert in lieu thereof the provisions of H.R. 15928, as passed, as follows:

That (a) section 19(a) of the Federal Reserve Act (12 U.S.C. 461) is amended by inserting "and, regardless of the use of the proceeds," immediately before "shall be deemed a deposit".

(b) The amendment made by subsection (a) shall not apply to any bank holding company which has filed prior to the date of enactment of this Act an irrevocable declaration with the Board of Governors of the Federal Reserve System to divest itself of all of its banks under section 4 of the Bank Holding Company Act.

SEC. 2. (a) The sixth sentence of section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by striking out "for the purpose of obtaining funds to be used in the banking business".

(b) The amendment made by subsection (a) shall not apply to any bank holding company which has filed prior to the date of enactment of this Act an irrevocable declaration with the Board of Governors of the Federal Reserve System to divest itself of all of its banks under section 4 of the Bank Holding Company Act.

SEC. 3. Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is amended as follows:

(1) by adding at the end of subsection (a) thereof the following new sentences: "The provisions of this subsection shall apply, in the discretion of the Board, to an obligation issued by an affiliate of an institution which is an insured institution as defined in section 401(a) of the National Housing Act (12 U.S.C. 1724(a)) or is a member or nonmember building and loan, savings and loan, or homestead association, or cooperative bank. The Board is authorized to define by regulation the terms used in this section.";

(2) by striking out "institution subject to this section" in subsection (b) thereof and inserting in lieu thereof "person or organization"; and

(3) by striking out "nonmember institution" and "institution" in subsection (c) thereof and inserting in lieu thereof "person or organization" in both places.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: To amend the Federal Reserve Act, the Federal Deposit Insurance Act, and the Federal Home Loan Bank Act to provide for the regulation of the issuance and sale of debt obligations by parents of member banks, nonmember insured banks (including insured mutual savings banks), and savings and loan associations, and for other purposes.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 15928) was laid on the table.

GENERAL LEAVE

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CHANGES IN ENGROSSED HOUSE AMENDMENT TO THE SENATE AMENDMENT

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the House concurrent resolution (H. Con. Res. 628) authorizing that the Clerk of the House of Representatives be authorized and directed in the enrollment of the bill (H.R. 14883) to make certain changes in the engrossed House amendment to the Senate amendment.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from California (Mr. JOHNSON)?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 628

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House of Representatives be authorized and directed in the enrollment of the bill H.R. 14883 to make the following changes in the engrossed House amendment to the Senate amendment:

(1) Page 2, line 22, strike out "Sec. 5." and insert "Sec. 3.".

(2) Page 3, line 13, strike out "Sec. 3." and insert "Sec. 4.".

(3) Page 5, line 4, strike out "Sec. 4." and insert "Sec. 5.".

(4) Page 7, line 20, strike out the comma after "1976" and insert a period.

(5) Page 8, line 2, strike out "of".

(6) Page 13, line 12, strike out "Sec. 11." and insert "Sec. 10.".

(7) Page 13, line 18, strike out "Sec. 10." and insert "Sec. 11.".

Mr. JOHNSON of California. Mr. Speaker, the purpose of the resolution is merely to correct a few typographical and clerical errors in the amendment to the bill H.R. 14883 passed on August 22. It does not in any way affect the substantive provisions.

Through clerical error, section numbers do not appear in proper numerical order in two instances. The purpose of the resolution is to renumber the sections in numerical order and correct typographical errors.

The SPEAKER. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

STATEMENT BY CONGRESSMAN JOHN BRADEMAS ON PRESIDENT FORD'S PARDON OF RICHARD NIXON

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, in giving Richard Nixon a blanket advance pardon, President Ford has broken his word to Congress and the American people and has set a double standard of justice in this country.

Less than a year ago, during his Vice Presidential confirmation hearings, Mr. Ford told Congress he would not do what he has just done, and said:

> I do not think the public would stand for it.

In his August 28 news conference, President Ford, while reserving his final right to exercise clemency, promised to respect Special Prosecutor Jaworski's obligation to prosecute "any and all individuals." Mr. Ford added that

> Until any legal process has been undertaken, I think it is unwise and untimely for me to make any commitment.

No "legal process has been undertaken," and Mr. Ford has thus broken his word to the American people.

I believe few Americans want to see Mr. Nixon go to jail, but I believe most Americans want the full truth about Watergate. By throwing his protective blanket of pardon over the man who appointed him to the Vice Presidency, Mr. Ford has continued the coverup of the facts about the most lawless and corrupt administration in our Nation's history.

Mr. Nixon has made no confession of guilt for the grave crimes of which he has been accused. By pardoning him, Mr. Ford has in effect declared that there is one standard of justice for the many but a different, and lower, standard for ex-Presidents.

The resignation of Presidential Press Secretary J. F. terHorst in protest at Mr. Ford's action underscores this abuse of Presidential power.

Mr. Speaker, the news reports yesterday from Acting White House Press Secretary John W. Hushen that President Ford is actively considering a blanket pardon for all Watergate defendants raises further grave questions of both law and propriety.

Mr. Ford apparently has been impressed by the argument that since he has pardoned former President Nixon, equity requires that he extend the same clemency to Mr. Nixon's aides and associates. It would not be "fair," this argument runs, to punish Mr. Nixon's subordinates for crimes committed in Mr. Nixon's interest, and possibly at his behest, when Mr. Nixon himself has been excused from responsibility.

Mr. Speaker, this argument has a degree of surface plausibility in that it relies on equal treatment as an essential feature of our system of criminal justice.

On closer inspection, however, I believe the rationale for such a blanket pardon is ill-founded for it proceeds from a misconception of the idea of fairness on which the doctrine of equal treatment is based.

Equal treatment as a guiding principle of American justice assumes that lawbreakers will in fact be called to account for their misdeeds, a precept that in Mr. Nixon's case has been prematurely—and I believe wrongfully—cast aside.

Moreover, Mr. Speaker, the idea of fairness which runs through our entire system of criminal justice is concerned not with the relationship of codefendants to each other, but with the relationship between each defendant and the machinery of justice. If Mr. Nixon is excused from responsibility for his acts, his coconspirators can hardly claim that they too should enjoy immunity, for their debt to society exists independent of any related obligation which may be owed by Mr. Nixon. Uniform injustice does not make for justice, and that Richard Nixon has been set above the law does not mean that his associates are automatically entitled to the same privilege.

Mr. Speaker, by his actions, President Ford is making a mockery of the concept of "equal justice under law."

PRESIDENT FORD'S DECISION WAS IN BEST NATIONAL INTEREST

(Mr. McCLORY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLORY. Mr. Speaker, just a little over a month ago, following the report of our Judiciary Committee recommending the impeachment of former President Richard M. Nixon, I urged actively the prompt resignation of Mr. Nixon as President. The main reason for making this recommendation at that time was to spare this House of Representatives at least 2 weeks of debates on live television reiterating the sins of the former President, to be followed by an extended trial in the Senate with what seemed to me to be the inevitable result that the former President would be convicted of the commission of high crimes and misdemeanors and ordered removed from office. I did not feel then, and I do not feel now, that either this Congress or the American people could benefit from such a constitutional exercise even though the full recognition of Mr. Nixon's rights would have warranted the House debates and votes, as well as the Senate trial which might, indeed, be occurring at this very time if Mr. Nixon had not resigned.

Mr. Speaker, it does not require a very long memory to recall that while urging the former President to resign there were active discussions regarding the possible future criminal liability of Mr. Nixon following his removal or resignation from office. We can recall distinctly the efforts on the part of some to seek adoption of a resolution expressing a sense of the Congress that if Mr. Nixon should resign he likewise should be spared criminal prosecution. I opposed such a resolution as beyond the authority of this body.

However, I expressed myself at that time and I express myself today as opposing the criminal trial of the former President. If there was justification for foregoing the public debates in this body and the public Senate trial in the impeachment process there is even more justification for opposing a public criminal trial of a former President of the United States. In this respect I am thinking not only of Mr. Nixon's welfare and that of his family. I am thinking more specifically about our own national welfare, about the internal disruptions and dissensions which such a public criminal trial would engender and I am thinking, too, about the reaction overseas—among the people of friendly, as well as unfriendly nations who would witness not only the trial but the internal divisions which would accompany such an event.

Mr. Speaker, it may well be said that President Ford made his pardon announcement precipitately. It would have been far preferable, it now seems, if he had preceded his decision with active consultations with leaders of the Congress. Moreover, it would have seemed more appropriate that such a momentous and historic decision should be the result of joint recommendations of the Attorney General as well as the Special Prosecutor—and perhaps others. But in criticizing the timing or the lack of prior consultations let us reflect more soberly on the ultimate decision and on its wisdom.

Mr. Speaker, in my view, the President has acted not only with compassion and understanding but also with great wisdom in the light of our overall national interests.

NO WATERGATE PARDONS

(Mr. KOCH asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, President Gerald R. Ford's exercise of the constitutional power of pardon on behalf of Richard M. Nixon shows a contempt for the judicial process and the people of this country. Had the President pardoned a rapist in advance of his trial, he would have been the subject of a torrent of outrage. He has, in fact, committed a greater abuse by pardoning someone who assaulted and demeaned the Constitution. What is also significant is that President Ford did not demand from Richard Nixon an admission of guilt. While this would not have satisfied the demands of the law's strict application, it at least would have established for the record our former President's guilt and required an act of contrition.

Now there are reports that the President is considering pardoning the 48 persons indicted, convicted, or imprisoned in the Watergate and related scandals. There are those who say, using the argot of the Watergate oval room, that since the big enchilada has been pardoned, justice requires that all who served him and violated the law must likewise be pardoned. I disagree. It would be an offense against all the American people if those additional pardons were granted. The American public could accept the exercise of the pardon power in particular cases but it cannot accept a blanket pardon of all those in the coverup.

Under our Constitution certain powers

are given to the Executive and others given to the Congress. I believe President Ford has abused his pardoning power and while the Congress, so far as I know, cannot rescind the pardon, we can, in advance, advise him that we are opposed to any such further pardoning. And we can vote against, as I will, any authorization or appropriation for Mr. Nixon's pension and office and travel expenses. Richard Nixon demeaned his office and should have been brought to justice. Surely we do not need to support him while he writes his memoirs and plays golf at San Clemente.

Justice in his case may be delayed but it will not be denied. Mr. Speaker, I am introducing today a resolution expressing the sense of Congress "that the pardon of Richard M. Nixon was wrongful and premature, and that no further Watergate-related pardons should be granted prior to indictment, prosecution, and conviction, and then only on an individual basis where warranted by special circumstances."

VIETNAM EDUCATION BENEFITS

(Mr. DORN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous matter.)

Mr. DORN. Mr. Speaker, the November elections are not the most important consideration of veterans at this time. The most important thing in their career is to be able to attend the college or school of their choice.

In the last semester, veterans enrolled in programs under the Veterans' Education and Training Act lost millions of dollars in added benefits, as result of the fact that the House-passed increase in February did not receive final approval. Throughout a long summer they endured anxiety and concern about fall enrollment. Now the school year is well underway with no action by Congress.

Mr. Speaker, politics should be left out of the deliberations of the Congress in considering this long overdue cost of living increase to Vietnam and Korean veterans desiring to attend school.

In considering inflation and justice, the action of this House has kept faith with the veteran. The House passed an increase back in February. The House did not add to the original GI bill extraneous and nongermane matters. The interest of the House has been the interest of the veteran.

Any further delay would be a tragedy. Mr. Speaker, the time is now and the place is here. Once again we urge the other body to act promptly on the House-passed bill sent to them shortly before Labor Day recess.

I am urging an across-the-board 23 percent increase for all veterans enrolled and for those awaiting the outcome of this legislation before they can enroll. Nothing is more important to them in returning to American society than to have this assurance of opportunity to continue their education.

Since the original bill passed this House back in February, the cost of living has increased at an astounding rate, particularly hitting veterans faced with increased cost of books, tuition, and the costs of supporting a family. Again, Mr. Speaker, we urge the other body to act promptly so that this vital legislation can be enacted into law.

THE SECURITIES PORTFOLIO HELD BY THE FEDERAL RESERVE—IT SHOULD BE CANCELED NOW

The SPEAKER pro tempore (Mr. DANIELSON). Under a previous order of the House, the gentleman from Texas (Mr. PATMAN) is recognized for 30 minutes.

Mr. PATMAN. Mr. Speåker, after trying for many years to get the Federal Reserve to supply me with a detailed list of all the securities which they hold in their portfolio, I have finally succeeded. A statement which the Board recently provided reveals that Federal open market account holdings on August 7, 1974, were $82.3 billion in Government securities, Federal agency issues and bankers acceptances.

These securities, Mr. Speaker, were not acquired in the same manner in which you or I would acquire a government security, by withdrawing cash from our checking accounts or having the funds automatically deducted from salary. The Federal Reserve buys these securities on credit which they themselves create. The power to create money or credit is an awesome power which affects every nook and cranny of our economic life. It is a power which belongs to all the people and which they exercise jointly through government. This great power has been delegated by the people through their elected representatives—the Congress—to the Federal Reserve. The use of such power requires the exercise of the greatest responsibility on the part of both those to whom it has been delegated and those by whom it has been delegated.

The fact that it has taken over 40 years for a Member of Congress to obtain a detailed breakdown of the securities in the open market account is one indication of the fact that the Federal Reserve System fails to meet standards of accountability required of other Government agencies. Moreover, the statement itself must be taken on faith since there has never been an outside audit of the account. We must trust the integrity of the men who have provided the statement and while I personally have no reason not to trust them, I am—reasonably, I think—very reluctant to entrust the power to create money to buy $82 billion of securities without more adequate safeguards than the integrity of System officials.

The $82 billion of securities has been paid for by the people of the United States through the delegation of their power to create money. It is their power, Mr. Speaker, the people's power and not that of the men or institutions to whom they have delegated it. I have argued for many years that these securities in the Federal open market account have been paid for and should be canceled. The fact that they have been paid for with Government money has been admitted time after time by Federal Reserve officials in testimony before the House Banking and Currency Committee. Moreover, it was conceded by former Federal Reserve Board Chairman William McChesney Martin that to retire them would merely require a change in the System's balance sheet. It would also mean that the System would have to come to Congress for appropriations since they meet their expenses out of the interest on these securities which the Treasury pays them.

Perhaps it was an awareness of the fact that the system's income and thus its independence were threatened that prompted Dr. Arthur Burns to say in March 1972 that the securities belong to the Federal Reserve banks. There is no truth in such an assertion. It reflects self-interest rather than distinterest on the part of Federal Reserve officials and indicates the lengths to which they will go to protect the independence they acquired some 22 years ago with the help of the Eisenhower administration.

One of the most pleasant aspects of this independence is the fact that the system has at its disposal a great deal more money than it actually needs. In recent years, it has received some $4 billion of income, spent about $400 million and returned the rest to the Treasury. This year, with the rise in interest rates, the yield on the securities in the system account averages 7.25 percent and interest income will be nearly $6 billion. Such an extraordinary income permits the Federal Reserve Board and the Federal Reserve banks to incur expenditures more freely than even the most affluent private corporation which is responsible to its shareholders.

Mr. Speaker, the Congress is partly to blame for the fact that the Federal Reserve has failed to meet its responsibilities in accounting to the people. The Congress can pull the string whenever it wants. It can provide for a meaningful audit of the open market account. It can cancel all but the $5 to $10 billion of Government securities needed to conduct open market operations and require the System to come to Congress for appropriations. It can then determine the level of expenditures which are appropriate for such an agency.

I urge the Members to give these proposals serious consideration. As the representatives through whom they have delegated their monetary powers, we are responsible to the people for the conduct of the Federal Reserve System and its policies. In a period of economic turmoil such as we are now experiencing, there can be no excuse for evading these responsibilities.

Mr. Speaker, I insert the statement of Federal open market account holdings provided by the Federal Reserve Board at this point in the RECORD:

Summary holdings of U.S. Government and Federal agency securities and bankers' acceptance [1]—Holdings, August 7, 1974

[In thousands]

System open market account:	
Government securities:	
Treasury bills	$35,899,325
Treasury notes	39,781,637
Treasury bonds	2,857,692
Federal agency issues	3,582,006
Total System account	82,120,660

F.R.B. of New York: Bankers' acceptance	$214,756.3
Total Federal Reserve System	82,335,416.3

[1] The above statistics and all that follows were supplied by the Board of Governors of the Federal Reserve Board.

CLASSIFICATION OF U.S. TREASURY BILL HOLDINGS IN SYSTEM OPEN MARKET ACCOUNT

[In thousands]

Treasury bills, due—	Market yield Aug. 7	Holdings Aug. 7, 1974
Aug. 1, 1974		
Aug. 8, 1974		[1] $1,841,460
Aug. 15, 1974	10.72	1,288,880
Aug. 22, 1974	10.72	74,040
Aug. 27, 1974	9.72	432,365
Aug. 29, 1974	9.72	1,764,060
Sept. 5, 1974	9.20	1,686,430
Sept. 12, 1974	9.20	1,807,525
Sept. 19, 1974	9.20	1,792,440
Sept. 20, 1974[2]	10.11	
Sept. 24, 1974	9.19	672,585
Sept. 26, 1974	9.19	1,673,300
Oct. 3, 1974	9.10	1,553,985
Oct. 10, 1974	9.06	1,668,300
Oct. 17, 1974	9.06	1,560,525
Oct. 22, 1974	9.06	623,785
Oct. 24, 1974	9.06	1,723,295
Oct. 31, 1974	9.02	1,515,185
Nov. 7, 1974	8.84	456,000
Nov. 14, 1974	8.78	567,955
Nov. 19, 1974	8.73	637,600
Nov. 21, 1974	8.71	609,900
Nov. 29, 1974	8.69	514,200
Dec. 5, 1974	8.70	507,010
Dec. 12, 1974	8.68	584,640
Dec. 17, 1974	8.68	726,475
Dec. 19, 1974	8.65	440,605
Dec. 26, 1974	8.65	631,365
Jan. 2, 1975	8.68	653,700
Jan. 9, 1975	8.69	604,490
Jan. 14, 1975	8.71	707,690
Jan. 16, 1975	8.71	620,070
Jan. 23, 1975	8.75	651,300
Jan. 30, 1975	8.82	488,000
Feb. 11, 1975	8.61	780,985
Mar. 11, 1975	8.61	834,950
Apr. 8, 1975	8.47	731,680
May 6, 1975	8.52	559,825
June 3, 1975	8.55	640,015
July 1, 1975	8.57	739,820
July 29, 1975	8.52	532,890
Total		35,899,325

[1] Includes $1,241,460 to be exchanged for bills due Nov. 7, 1974, and $600,000 to be exchanged for bills due Feb. 6, 1975.

[2] Tax anticipation.

CLASSIFICATION OF U.S. GOVERNMENT AND FEDERAL AGENCY SECURITY HOLDINGS IN SYSTEM OPEN MARKET ACCOUNT

[In thousands]

	Holdings, Aug. 7, 1974	Market yield, Aug. 7
Treasury bills	$35,899,325	
Treasury notes:		
5⅝%; Aug. 15, 1974	[1] 5,336,082	12.83
6%; Sept. 30, 1974	240,405	9.37
5¾%; Nov. 15, 1974	1,891,850	9.11
5⅞%; Dec 31, 1974	66,301	9.46
5¾%; Feb. 15, 1975	1,119,500	9.42
5⅞%; Feb. 15, 1975	109,880	9.49
6%; May 15, 1975	3,789,887	9.31
5⅞%; May 15, 1975	121,779	9.23
5⅞%; Aug. 15, 1975	2,469,108	9.13
8⅜%; Sept. 30, 1975	4,000	8.96
7%; Nov. 15, 1975	467,175	8.80
7%; Dec. 31, 1975	199,550	8.87
6¼%; Feb. 15, 1976	2,507,000	8.63
5⅞%; Feb. 15, 1976	1,159,764	8.89
8%; Mar. 31, 1976	5,000	8.62
6½%; June 15, 1976	351,850	8.76
5¾%; May 15, 1976	467,040	8.73
8¾%; June 30, 1976	671,200	8.56
7½%; Aug. 15, 1976	720,300	8.53
6½%; Aug. 15, 1976	1,622,655	8.63
6¼%; Nov. 15, 1976	54,200	8.65
8%; Feb. 15, 1977	2,450,700	8.61
6⅞%; May 15, 1977	380,300	8.71
7¾%; Aug. 15, 1977	805,700	8.62
6¼%; Feb 15, 1978	2,574,600	8.62
8¾%; Aug. 15, 1978	611,570	8.62
6%; Nov. 15, 1978	$2,445,200	8.56
6¼%; Aug. 15, 1979	589,788	8.54
6⅝; Nov. 15, 1979	856,000	8.50
7%; Nov. 15, 1979	294.000	8.64
6⅞%; May 15, 1980	5,193,253	8.64
7%; Feb. 15, 1981	242,000	8.59
Subtotal	39,781,637	
Treasury bonds:		
3⅞%; November 15, 1974	67,500	9.44
4%; February 15, 1980	150,260	8.60
3½%; November 15, 1980	74,450	8.39
7%; August 15, 1981	121,425	8.14
6⅜%; February 15, 1982	348,420	8.43
3¼%; June 15, 1978–83	83,950	7.85
6⅜%; August 15, 1984	329,510	8.04
3¼%; May 15, 1985	46,800	7.16
4¼%; May 15, 1975–85	148,623	7.95
6⅛%; November 15, 1986	307,660	7.68
3½%; February 15, 1990	84,250	6.52
4¼%; August 15, 1987–92	503,600	7.06
4%; February 15, 1988–93	24,300	6.68
6¾%; February 15, 1993	43,550	8.42
7½%; August 15, 1988–93	187,909	8.44
4⅛%; May 15, 1989–94	76,625	6.82
3%; February 15, 1995	2,100	5.36
7%; May 15, 1993–98	85,975	8.40
3½%; November 15, 1998	30,750	5.74
8½%; May 15, 1994–99	140,035	8.53
Subtotal	2,857,692	
Total U.S. Government security holdings	78,538,654	
FEDERAL AGENCY ISSUES [2]		
Export-Import Bank:		
5.30%; Feb. 3, 1975	$25,965	9.31
5.70%; Dec. 1, 1976	23,540	9.05
6¼%; Aug. 2, 1977	5,695	8.97
6.45%; Feb. 1, 1978	21,700	9.05
7.30%; Nov. 27, 1978	1,500	9.04
7%; Mar. 7, 1979	4,000	9.07
6.60%; May 3, 1979	30,000	9.07
5.10%; Feb. 20, 1982	10,000	9.05
Total	122,400	
FHLB:		
5⅜; Aug. 26, 1974	11,500	12.05
9⅝; Aug. 26, 1974	500	8.65
7.05%; Nov. 25, 1974	49,070	9.83
5⅞%; Feb. 25, 1975	3,085	9.58
8.20%; Feb. 25, 1975	24,120	9.26
6.80%; May 27, 1975	19,550	9.42
7.15%; May 27, 1975	43,750	9.44
7.15%; Aug. 25, 1975	25,620	9.32
7⅞%; Aug. 25, 1975	3,350	9.34
7.95%; Aug 25, 1975	44,390	9.41
6½%; Nov. 25, 1975	12,400	9.47
7.05%; Nov. 25, 1975	25,000	9.44
9.10%; Nov. 25, 1975	9,890	9.34
7⅜%; Feb. 25, 1976	8,450	9.32
8.70%; Feb. 25, 1976	7,000	9.09
8¾%; Feb. 25, 1976	200	9.14
7.20%; May 25, 1976	25,000	9.27
7.45%; May 25, 1976	7,000	9.25
7.05%; Aug. 25, 1976	17,900	(3)
7.80%; Aug. 25, 1976	9,325	9.20
6.15%; Feb. 25, 1977	15,200	9.10
7.20%; Feb. 25, 1977	18,000	(3)
6.95%; May 25, 1977	2,000	9.00
8.70%; May 25, 1977	9,480	9.10
7.15%; Aug. 25, 1977	9,900	9.19
8.80%; Aug. 25, 1977	69,500	9.18
7.45%; Nov. 25, 1977	5,515	9.05
7.60%; May 25, 1978	24,400	9.10
8.65%; Feb. 26, 1979	68,695	9.23
8¾%; May 25, 1979	48,430	9.10
7.05%; Feb. 25, 1980	44,695	9.12
7¾%; Feb. 25, 1980	40,415	9.12
7.80%; Oct. 15, 1980	13,850	8.97
6.60%; Nov. 27, 1981	7,700	9.04
7.30%; May 25, 1983	13,185	8.94
8¾%; May 25, 1984	31,840	9.06
7⅜%; Nov. 26, 1993	46,100	8.81
Total	816,005	
FICB:		
7.95%; Aug. 1, 1974		
8.60%; Sept. 3, 1974	3,100	10.26
7.95%; Oct. 1, 1974	24,865	10.06
8%; Nov. 4, 1974	8,000	9.74
7.15%; Dec. 2, 1974	8,000	9.80
8.15%; Jan. 2, 1975	2,500	9.66
8.80%; Feb. 3, 1975	2,250	9.58
9%; Mar. 3, 1975	31,935	9.31
5.70%; July 1, 1975	11,500	9.25
7.10%; Jan. 3, 1978	37,525	9.14
Total	129,675	
FNMA:		
5.65%; Sept. 10, 1974	$14,790	10.38
6.45%; Dec. 10, 1974	59,850	9.78
6.35%; Mar. 10, 1975	64,380	9.46
7.55%; Mar. 10, 1975	46,000	9.42
8⅜%; June 2, 1975	2,650	(3)
5¼%; June 10, 1975	31,845	9.35
6.80%; Sept. 10, 1975	53,550	9.44
7½%; Sept. 10, 1975	29,590	9.40
5.70%; Dec. 10, 1975	13,450	9.45
8¼%; Dec. 10, 1975	11,000	9.30
5.65%; Mar. 10, 1976	44,245	9.41
7⅛%; Mar. 10, 1976	15,700	9.32
5.85%; June 10, 1976	33,150	9.32
5.85%; Sept. 10, 1976	36,195	9.20
6⅛%; Sept. 10, 1976	28,750	9.21
6¼%; Dec. 10, 1976	19,000	9.24
7.45%; Dec. 10, 1976	29,400	9.20
8.45%; Dec. 10, 1976	37,100	9.38
6.30%; Mar. 10, 1977	5,650	9.11
7.05%; Mar. 10, 1977	17,480	9.15
6⅜%; June 10, 1977	5,800	9.12
7.20%; June 10, 1977	37,100	9.08
6⅞%; Sept. 12, 1977	35,915	9.09
7.85%; Sept. 12, 1977	49,740	9.07
7¼%; Dec 12, 1977	13,300	9.10
7.55%; Dec. 12, 1977	27,400	9.14
8.45%; Mar. 10, 1978	103,960	9.20
7.15%; June 12, 1978	27,000	9.11
7.15%; Sept. 11, 1978	27,330	9.16
6¾%; Dec. 11, 1978	45,000	9.09
7¼%; Mar. 12, 1979	24,500	9.08
7.85%; June 11, 1979	60,000	9.11
6.40%; Sept. 10, 1979	15,515	9.15
6.55%; Dec. 10, 1979	33,300	9.14
6⅞%; Mar. 10, 1980	14,970	9.11
8½%; June 10, 1980	66,500	9.11
7½%; Sept. 10, 1980	43,810	9.07
6.60%; Dec. 10, 1980	39,770	9.07
7.05%; Mar. 10, 1981	6,800	9.07
7¼%; June 10, 1981	22,620	9.04
7¼%; Sept. 10, 1981	30,780	9.02
7.30%; Dec. 10, 1981	21,955	9.05
6.65%; June 10, 1982	14,510	8.99
6.80%; Sept. 10, 1982	13,500	8.96
7.35%; Dec. 10, 1982	54,370	8.97
6¾%; June 10, 1983	20,580	8.95
7.30%; June 10, 1983	50,705	8.94
6¾%; Sept. 12, 1983	49,925	8.95
6¼%; June 11, 1984	16,630	8.92
6.90%; Dec. 10, 1984	39,080	8.86
8⅝%; Oct. 1, 1990	33,800	(3)
7%; Mar. 10, 1992	33,160	8.85
7.05%; June 10, 1992	15,500	8.83
7.40%; Oct. 1, 1997	30,615	8.87
7.10%; Dec. 10, 1997	13,835	8.87
Total	89,050	
FLB:		
5.30%; Oct. 21, 1974	17,300	9.87
7.15%; Jan. 20, 1975	750	9.29
7.65%; Apr. 21, 1975	250	9.31
7.20%; Oct. 20, 1975	7,100	9.38
7.40%; Oct. 20, 1975	2,800	9.47
6¼%; Jan. 20, 1976	30,475	9.35
6¼%; Apr. 20, 1976	2,800	9.32
8¼%; Apr. 20, 1976	250	8.96
7.05%; July 20, 1976	5,600	9.23
7.15%; Oct. 20, 1976	32,150	9.29
8¼%; Apr. 20, 1977	42,000	8.98
7½%; July 20, 1977	1,670	8.87
6.35%; Oct. 20, 1977	28,900	9.10
6.40%; July 20, 1978	2,000	9.08
7.35%; Oct. 19, 1978	8,500	9.08
5%; Jan. 22, 1979	16,570	9.18
7.10%, Jan. 22, 1979	6,900	9.11
6.85%; Apr. 23, 1979	10,000	9.10
7.15%; July 23, 1979	34,216	9.13
6.80%; Oct. 23, 1979	43,318	9.13
6.70%; Jan. 21, 1980	2,000	9.13
7½%; July 21, 1980	3,150	9.07
6.70%; Apr. 20, 1981	4,800	9.08
6.90%; Apr. 20, 1982	7,000	9.00
7.30%; Oct. 20, 1982	47,450	8.96
7.30%; Oct. 20, 1983	29,935	8.93
Total	387,884	
FHA:		
6.35%; Mar. 31, 1977	11,509	9.16
6.45%; June 30, 1977	7,997	9.18
6⅞%; Aug. 31, 1977	9,496	9.17
6.55%; Dec. 29, 1977	3,924	9.17
7.20%; Mar. 21, 1978	1,106	9.20
7¼%; May 12, 1978	26,794	9.18
7%; Nov. 30, 1980	7,004	9.10
6.40%; Mar. 31, 1981	8,016	9.19
7⅞%; June 30, 1981	8,501	9.22
7.10%; Jan. 4, 1982	16,002	9.28
8⅝%; July 31, 1985	32,016	9.15
7⅞%; Dec. 29, 1987	2,508	9.10
7½%; Mar. 21, 1988	1,004	9.02
7½%; May 12, 1988	9,006	8.98
7¾%; Dec. 28, 1988	22,500	8.93
9%; April 23, 1989	19,400	8.90
Total	186,782	

Footnotes at end of table.

CLASSIFICATION OF U.S. GOVERNMENT AND FEDERAL AGENCY SECURITY HOLDINGS IN SYSTEM OPEN MARKET ACCOUNT—Continued

[In thousands]

	Holdings, Aug. 7, 1974	Market yield, Aug. 7
GNMA:		
5.20%; Jan. 19, 1977	$3,300	9.03
6⅛%; Aug. 14, 1978	1,400	8.99
5.20%; Jan. 19, 1982	10,000	8.93
5.10%; Apr. 6, 1987	4,950	8.73
6.40%; Dec. 11, 1987	8,060	8.74
6.05%; Feb. 1, 1988	13,500	8.75
6.45%; Apr. 8, 1988	10,100	8.71
6.20%; Aug. 12, 1988	8,250	8.71
Total	59,560	
Banks for Coops.:		
7.15%; Sept. 3, 1974	13,000	10.46
8.90%; Dec. 2, 1974	13,000	9.76
Total	26,000	
U.S. Postal Service:		
6⅞%; Feb. 1, 1997	25,000	9.27
Total	25,000	
Washington Metropolitan Area Transit Authority:		
7.30%; July 1, 2012	26,500	8.95
7.35%; July 1, 2012	23,890	8.94
8.15%; July 1, 2014	31,610	8.93
Total	82,000	
General Services Administration:		
7.15%; December 15, 2002	7,650	9.07
Total	7,650	
Total, Agency issues	3,582,006	
Total holdings U.S. Government and Agency securities	82,120,660	

[1] To be exchanged for 9% Treasury notes due May 15, 1977, 9% Treasury notes due Aug. 15, 1980, and 8½% Treasury bonds due May 15, 1994–99.

[2] Due to rounding, figures may not add to totals.

[3] Not available.

U.S. GOVERNMENT AND FEDERAL AGENCY SECURITIES HELD IN SYSTEM OPEN MARKET ACCOUNT—CLOSE OF STATEMENT WEEK ENDED AUG. 7. 1974

[In thousands]

By maturities	U.S. Government securities	Federal agency securities
Within 15 d	$8,540,462	0
16 to 90 d	18,678,185	$93,055
91 d to 1 yr	21,387,862	440,450
Over 1 yr to 5 yr	19,966,912	1,719,366
Over 5 yr to 10 yr	7,953,546	865,101
Over 10 yr	2,011,687	464,033
Subtotal	78,538,654	3,582,006
Grand total	82,120,660	

Note: Average rate of interest on above holdings: 7.25 percent. (Annual rate based on earnings booked on the day of Aug. 7 in relation to cost of securities held in portfolio on that date).

MATURITIES OF BANKERS' ACCEPTANCES HELD BY THE FEDERAL RESERVE BANK OF NEW YORK AS OF CLOSE OF BUSINESS AUG. 7, 1974

Statement week ending	Maturing in statement week
Aug. 14, 1974	$16,044,404.09
Aug. 21, 1974	11,762,589.78
Aug. 28, 1974, through Apr. 16, 1975	186,949,282.89
Total	214,756,276.76

RANGE OF DEALERS' POSTED RATES FOR PRIME UNENDORSED BANKERS' ACCEPTANCES AUG. 7, 1974

	Percent	
	Bid	Asked
1 d to 180 d	12¾–13	11¾–12
181 d to 9 mo	12⅝–13	11⅝–12

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from New York.

Mr. KEMP. Mr. Speaker, I appreciate the gentleman yielding.

Would the gentleman say or suggest that interest rates are a cause or a result of the inflation?

Mr. PATMAN. They are a cause, just like the question of the chicken and the egg. We do not know which came first, the chicken or the egg. But here we have to do something to stop inflation, and the reason that interest rates start it is because that affects everything in the American economy. Every family is paying interest and on every transaction that is made, interest is charged. That causes inflation very quickly and it causes prices to go up and as the prices go up everything else goes up and inflation is there.

The way to cure inflation is to stop it just as it started, and it started with high interest.

Mr. KEMP. Mr. Speaker, if the gentleman will yield further, and I appreciate the gentleman yielding, what relationship would the gentleman suggest exists in this equation of inflation? Does he believe the Government deficit spending causes it?

Mr. PATMAN. I am against Government deficit spending sometimes.

Mr. KEMP. What role would the gentleman suggest the Federal Reserve should play in this inflation spiral? Should they play a role by expanding or increasing the growth of the money supply above and beyond the increase in the rate of national productivity?

Mr. PATMAN. We are getting into something that human beings cannot handle and the Federal Reserve Board has demonstrated it cannot be handled.

Mr. KEMP. Mr. Speaker, all I am asking, and I hope I do not get the same answer as to which came first the chicken or the egg, but it seems to me the high interest rates are the result of Government deficits followed by money expansionary policies of the Federal Reserve.

Mr. PATMAN. I do not accept that and I do not know anyone else who has studied the question who has accepted it. It is not logical or reasonable and it is wholly unwise to suggest it. With all due respect to the gentleman I am not attacking his views and I certainly would not criticize him for putting forth his views. I do not criticize him for that.

Mr. KEMP. I appreciate that.

The way to deal with high interest rates is to reduce Government deficits and reduce Government spending and get the Federal Reserve, through the power of persuasion of the gentleman's high office to stop expanding the money supply in excess of the rate of increase in private productivity.

Mr. PATMAN. Let me tell the gentleman a better way. A better way is just to reduce the interest rates and with the help and cooperation of the Federal Reserve we can reduce them quickly and easily. Right now a person buying a $20,000 home, which is a low-priced home, must obligate himself today to pay so much over a period of 30 years.

That is the traditional time. The interest rate must be so much on that 30 years and then that means that when he signs that contract that he must pay $60,000 for that $20,000 home, including the interest, $20,000 for the home and $40,000 for the interest. He has paid the equivalent of three homes and he only gets one. Now, that is not a very fair and a very honest way for us to deal with poor people.

Mr. KEMP. Mr. Speaker, will the gentleman yield further?

Mr. PATMAN. I yield to the gentleman.

Mr. KEMP. It seems to me that a lender who is putting out money over a long term or a short term is going to build into his interest rate that inflationary sector. If a dollar paid back 10 years from now is going to be worth less than a dollar lent out today, that lender must, in fact, get a return on that dollar; so it seems to me that the answer to the chicken-or-the-egg question is pretty obvious here, that we have to reduce Government spending, reduce Government competition in the private credit market, and that will help bring the interest rates down better than Government regulation and control, as the gentleman says.

Mr. PATMAN. Let me say that the gentleman's argument leaves much to be desired.

THE ANSWER TO INFLATION IS FOR GOVERNMENT TO CONTROL SPENDING, NOT CONTROL THE ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, as difficult as these days are economically, there is an even worse and more foreboding cloud on the economic horizon of our country. I speak of the possibility—increasing daily—of the Federal Government reimposing mandatory wage and price controls upon the American people—upon wageearners, consumers, and producers. Whether these controls are in the form of regulations, backed by law, on the one hand, or so-called "guidelines," backed by intimidation, on the other, they will have the same ultimate effect—higher prices, more shortages, and less employment. Only the degree will differ. We must not listen to these voices counseling a return to "central planning." Have we learned nothing from the "beef freeze"?

As one who fought hard against the continuation of the oppressive Federal wage and price controls and for a return to the efficient and self-balancing laws of supply and demand, I had hoped we—as a Nation, Government, and people—had learned much from our wage and price control experiences between 1971 and the spring of this year.

When inflation rises from 3.3 to 8.8 percent—as it did during that period; when shortages occurred in over 600 commodities needed for home and industry—as they did during that period; when national productivity declined sharply—as it did during that period; and, when unemployment rose—as it did during that period—it must mean something. It means Government regulation—no matter how well-intentioned and no matter how effectively administered—can never duplicate the balancing diversity which arises from the economic choices of millions of people left free to make their own decisions for themselves as to what prices they will or will not pay, as to what goods and services they will or will not buy, as to what wage demands they will or will not ask for.

THE REAL CAUSES OF INFLATION

During the nearly 3 full years of mandatory Federal wage and price controls—during that entire period of higher prices and more shortages—the Cost of Living Council—whose assignment it was to hold down inflation—never once addressed itself to the two real causes of inflation: increased, excessive Federal spending and the increase in additional money supply issued by the Government in an attempt to cover the deficits which arise from such excessive spending. In other words, the economic realities of what really causes inflation were covered over by the apparent political expendiencies of fighting the results of that inflation—higher wages and profits and decreased goods.

When Government issues more money, the value of each dollar we hold is decreased. If there is a level of national productivity of, for example, 1,000 units, and there are $1,000 in circulation, then each has a value of $1. Now, if Government increases the money supply by 100 the next year—without any commensurate increase in national productivity—that means we have $1,100 in circulation, but productivity still stands at 1,000. Thus, the value of each unit of money is decreased to about $0.91. That simply means that it takes more of those units of money today to buy what you could have bought last year. What cost $1 last year, now costs about $1.09. That is inflation.

What this also means is that—just to stay abreast of the increases in the costs of living—a wage earner must seek wage increases to match the inflation and a businessman must seek higher returns on investment with which to pay increased labor costs, to buy higher priced inventory, and to replace outdated equipment.

GOVERNMENT WAGE AND PRICE CONTROLS DO NOT WORK

We are told by the advocates of mandatory wage and price controls that the reason they did not work between 1971 and their expiration in April of this year is that, "the administrators of the program did not really believe in them, and allowed too many exemptions." That assertion misses the mark altogether.

It is, of course, true that the administrators left, as they should have, that the market was a preferable wage and price regulating mechanism to a government agency but it is also true that controls have never, never worked in all the times they have been tried both in the United States and in foreign countries.

Surely, at least once in history, and most probably on almost all occasions, the administrators of those wage and price controls believed in them and allowed no exemptions. In other words, they were enforced as stringently as mandatory control advocates now want. More directly, the on-again, off-again character of any wage and price control structure results from an awareness of the changing character of a market economy, not to mention the need to aright previously unforeseen secondary and tertiary effects arising from prior agency decisions.

CUTTING THE BUDGET WILL CREATE MORE—NOT LESS—JOBS

We are also told that trimming the Federal budget, eliminating deficits, and curtailing new money supply will automatically produce higher unemployment. We are told that more unemployment is the logical consequence of coming to grips with the real causes of inflation—excessive government spending with deficits and increased money supply.

Again, nothing could be further from the truth. During the last five years, the annual Federal budget increased from $184 billion to $304 billion, and we added another $100 billion to the deficit. Money supply increased proportionally. Did it—as is suggested by the proponents of big spending—produce more employment? No; quite to the contrary, unemployment shot from 3.4 percent to 5.3 percent nationally, and in some areas, like western New York, shot to 8.8 percent. Arguments for keeping up the level of spending, deficits, and new money supply are destroyed by these inescapable facts.

In addition, look what an increase in employment—not unemployment—would result from cutting the Federal budget and deficits. Senator William Proxmire, the noted Wisconsin Democrat and vice chairman of the joint House-Senate Economic Committee, has analyzed that cutting $10 billion out of the budget this fiscal year and keeping it in the private sector's capital lending markets would result in as many as 500,000 more housing starts this year, producing an additional 1 million direct jobs and probably 2 million more in indirect, support jobs. Losses in Federal Government employment resulting from these budget cutbacks would be more than offset by these new jobs in the housing and construction trades industries.

We also hear proponents of increased Federal spending claim that the "multiplier effect" of Federal expenditures produces more jobs. This too is wrong.

Government has only one source for all its money—the taxpayer. That taxpayer either pays taxes directly in the form of individual income taxes or indirectly through higher prices for goods because of taxes on corporate earnings. A dollar spent by the Federal Government is one which was first taken out of the market.

Only a dollar spent which is not taken out of the market—a deficit dollar—could ever add to the Nation's work force in some kind of multiplier way. Yet, we could have a $10 billion deficit—for example's sake alone—from a $100 billion budget, instead of from a $300 billion budget, and still have the same effect, except that we would also be keeping the $200 billion difference in the private sector.

HAVE WE LEARNED NOTHING?

I am duty bound to offer this conclusion: The proposals we are hearing today for solving our economic ills are too often little more than a rehash—perhaps wrapped in slightly different rhetoric—of the misdirected economic policies of the past few years. There is little difference in the substance of what is being proposed. It still adds up to more interference by the Government in Washington in the economic affairs of our people. And, that not only produces higher prices and less goods, but also jeopardized our political and economic freedoms, for individual freedom of choice in the marketplace is the bedrock of all our freedoms.

PRESIDENT FORD'S OPPORTUNITY

President Ford came out strongly in his address to the joint session of Congress against the old economics and in his subsequent press conference against mandatory wage and price controls.

There could be no man or woman in this House who wants to support the President in a return to the laws of supply and demand more than I do, and I will work in every possible way to insure a return to the principles of supply and demand. I cannot, however, acquiesce in "more of the same," for when I hear the words of the new President in opposition to mandatory economic controls I cannot help but remember that the former President made similar statements—all the way up to the time he imposed them.

If there is one debate which is over, it ought to be the debate on the wisdom—the lack of wisdom—of relying on wage and price controls.

The editors of Fortune magazine made this point well in their September issue. I commend it to the attention of all my colleagues, for it is one of the most incisive comments yet made on this subject. It ought to be read and reread by every participant of the Economic Summit Conference:

Inflation: President Ford's Opportunity

> Gerald R. Ford, the thirty-eighth President of the United States, is the first ever to have come into office proclaiming that inflation was our country's principal problem. He was right. When Ford was sworn in as President, wholesale prices were 20 percent higher than they had been a year earlier, consumer prices 12 percent higher. Real wages and real per capita disposable income, depressed by inflation, were below the levels of a year earlier. Inflation was devastating the stock market. Richard Nixon was the first President since Herbert Hoover to leave office with stock prices lower than they'd been when he came in. In real terms, the Dow Jones industrial average actually sold for less in mid-August than it had twenty years earlier.
>
> Yet there is scant agreement on what must be done about the inflation. Just about any action proposed by President Ford will be greeted with rage or derision, or both, by some influential group of Americans. One maddening legacy of the Nixon years, in which everything seems to have been tried at least once, and nothing seems to have worked, is that any imaginable economic policy can now be assailed as "discredited."
>
> In the circumstances, extraordinary leadership is called for. Luckily, the circumstances also seem to offer some extraordinary opportunities for leadership, President Ford has a lot more going for him than a new President's traditional honeymoon with Con-

gress. The immense relief at Richard Nixon's departure and the vivid contrast between Ford and Nixon in style and tone strongly reinforce Ford's influence with Congress and with the public. The combination of Watergate and inflation, moreover, has left a lot of Americans with a sense of discontinuity—a sense that there has been a major "break" in the routines and accepted axioms of public life. And so, even though they are aching to get back to normalcy, they may be more receptive to new ideas than they have been in quite a while. They may even be receptive to some old ideas, including some long dismissed as "politically impossible."

But this receptivity may not last for very long. President Ford must grasp the opportunity to lead right now. We'd like to offer a few suggestions about the kind of ideas he might emphasize in the struggle against inflation.

ONE DEBATE IS OVER

There is one area in which the President should not be looking for new ideas. He should forcefully reaffirm our commitment to restrictive monetary and fiscal policies and make it clear that the debate about them is essentially over. Tight money and restraint on spending must be the heart of any program to reduce demand, which is still the only way we know of to reduce inflation rates.

A reasonable monetary posture would be one designed to reduce the growth rate in the money supply, gradually, to something like 3 or 4 percent from the present 6.5 or so; as Allan H. Meltzer suggests in our lead article, this deceleration should be spread over two years or more. Policies designed to solve the problem more rapidly than that would guarantee a severe recession. The course proposed by Professor Meltzer appears to be roughly consistent with recent Federal Reserve policy, and it might be a good idea for the President to endorse the efforts of Fed Chairman Arthur Burns—who has been taking a lot of flak for the pains the Fed is inflicting on business.

THE STOCK MARKET WOULD REVIVE

On the fiscal side, a serious effort to subdue inflation has to include strenuous cutting of the federal budget. That would not only moderate the demand that is always built into government spending, but would also fortify the Fed in its efforts to hold down the money supply. The easing in the government's demand for borrowed funds would bring interest rates down, and the evidence of government seriousness about beating back inflation would have some damping effect on inflationary expectations. Arthur Burns sounded impassioned the other day when he pleaded with the Senate Budget Committee for some heavy budget cutting. In his words, "if you were to vote a cut of $10 billion today or tomorrow, the stock market would revive promptly, the bond market would revive promptly, short-term interest rates would move down promptly . . . and forces would be released in the private sector to create more jobs."

A hard line on the fiscal and monetary fronts may not come naturally to a President who is obviously inclined to solicit many views, who wants to develop good working relationships with the Democrats in Congress, and who in general plans to maintain an "open" presidency. But a soft line could sabotage the Fed's efforts to hold down the money supply, and undermine the credibility of the Administration's own eager budget cutters.

There are still some influential economists, and many members of Congress, who talk as though restrictive fiscal and monetary policies are too much for the American people to take, and who usually turn out to be proposing control of some kind in their place. The so-called "summit meeting" on the economy was originally proposed by Senator Mike Mansfield, an advocate of price and wage controls. President Ford should continue to resist that kind of thinking.

There are some other things Ford must do to establish the credibility of his line on inflation. He must tell the American people the plain truth about the economic crunch now confronting them. On the most optimistic reckoning, it will take two years of subpar growth to squeeze inflationary expectations out of the economy. There is no conceivable way of running the economy below its potential for that long without an unpleasant rise in the unemployment rate and a substantial reduction in business profit levels.

So far, much of the public dialogue about this prospect has centered, quite properly, on the means that might be taken to ameliorate the suffering that would attend it. But there is no getting around the fact that years of subpar growth are going to affect the material well-being of millions of Americans, and it is essential that the President prepare them for this fact now. If he does, he will establish a framework in which each month's bad news can be digested and made understandable. If he does not, then the bad news will be perceived as evidence that the policies are failing.

It is not as though there were some agreeable way out. The country's living standard is being reduced right now, and has been for a year or more, in ways that offer no built-in corrective. The choice is between our present painful and possibly ruinous course and another painful course that could, however, lead us back to economic health.

One essential task of leadership in difficult times is to provide assurances that the sacrifices are being shared. There is a greater need than ever for equity in the tax system. It is hard to believe that the public will be very tolerant during the next few years of what look like special breaks for the privileged. There is probably a good case for some additional tax breaks at the low end of the income scale, where the effects of higher food and fuel bills have been especially devastating. And there is certainly a case for revising business taxes so as to encourage expansion of productive facilities. All in all, President Ford might find that he has an unprecedented opportunity to push some serious tax reform.

LOOKING AROUND FOR MONOPOLISTS

In addition, the new Administration could take the lead in preparing the American people for some serious institutional reform of our economy's price-setting mechanisms. There are a sizable number of areas in which prices have long been propped up by monopolistic arrangements of one kind or another. In recent months Hendrik Houthakker and Paul McCracken, both veterans of the Council of Economic Advisers, have weighed in with fairly long checklists of arrangements that should be broken up.

For example, the remaining import quotas on agricultural products could be ended. Some legal barriers to airline discount fares could be knocked down. Union hiring halls could be outlawed. Fair-trade laws could be outlawed too. Antitrust laws could be applied to many small businesses that are now free to operate as monopolies and that, in the aggregate, have a substantial effect on living costs. (The taxi fleet with no local competition is McCracken's example.)

Just naming a few of the areas in which reform is possible is enough to suggest the dimensions of the leadership task implied in any serious assault on inflation. But the problem goes beyond the special interests that legislators confront at every point on the checklist. The deeper difficulty about anti-inflation measures is that they take a lot of time to implement. As every practicing politician can immediately perceive, these measures are still apt to be hurting the voters when it is time to run for reelection this November. With all of the House and one-third of the Senate up for reelection in every even-numbered year, it is not easy to get broad congressional support for policies requiring several years to be effective. And, of course, the President himself has a rendezvous with the voters.

A VICTIM OF FIRESTORMS

There is a good deal of injustice built into the assumption that a President is responsible for the prosperity of the American people during his Administration; in fact, most Presidents' records are powerfully affected by what their predecessors did. It recently occurred to the Economist to rank the U.S. Presidents during the past quarter century by the growth rate of real gross national product during their Administrations. The ranking order: Truman (5.2 percent), Johnson (5.1 percent), Kennedy (4.1 percent), Nixon (2.8 percent), and Eisenhower (2.7 percent).

Almost anyone not affiliated with the Democratic National Committee would agree that these rankings tell us very little about the wisdom of economic policy during the five Administrations. Truman had the benefit of a demand explosion, much of it an aftereffect of World War II. Kennedy and Johnson were the beneficiaries of the Eisenhower Administration's determined campaign against inflation. Nixon was a victim of the inflationary fire storms ignited during the Johnson years. But still, the man in office when the good or bad things happen gets the credit or blame.

And so President Ford has an awesome and politically painful task as he sets about trying to deal with the economic crisis he inherited from the Nixon Administration. There is no doubt that his greatest asset, as he goes to work, is his believability. There is also no doubt about the manner in which that asset must now be invested. The President must tell the American people in plain terms of the difficult course before them and use every opportunity to argue that we must stay the course—that, in fact, our political and economic system may well depend on the willingness of the people to make some quite unprecedented sacrifices.

THE PEOPLE ARE THE BEST REGULATORS OF THEIR ECONOMIC LIVES

Surely, we must have learned something during recent years. If we have not, we are doomed to repeat our errors.

The stock market is already at its lowest point in 4 years. Unemployment is higher than at any period since 1958. Our economy will not—cannot—take the strain of another series of controls, producing distorted supplies and demands, higher prices, less goods, and more unemployment. We barely survived it between 1971 and this spring, and we have not yet recovered from it.

Only when the wageearner and the producer alike are assured of a return to a free market economy will we recover, and that day is prolonged when we continue to "jawbone" about wage and price controls.

If a serious recession—or worse—comes from this continued interference in the marketplace, never let it be said that it was caused principally by labor's demands for higher wages or business' demands for higher profits. As I have said, those are the results of our problems, not their causes.

Let's point the finger of blame—for losses in savings, for erosion of purchasing power, for inability to get goods and resources for production, for one's entire future being threatened—exactly where it belongs: At the door of Uncle Sam, within whose house of government this economic disruption was brought about. Government has caused these problems; government must take the blame.

I have more confidence in the first 1,000 names in the Buffalo telephone book to govern their economic lives than I do all the economic planners in this capital city. On them—the workers and producers of America—I would rather place my economic future.

VETERANS EDUCATION BENEFITS STALLED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. STEELMAN) is recognized for 5 minutes.

Mr. STEELMAN. Mr. Speaker, on August 22 the conference report on the veterans education bill was brought to the floor of the House for a vote. The report represented a great compromise between the House and Senate and it was a bill which would have permitted veterans to return to classes this fall with a little more money in their pockets as a buffer against rising inflation.

The bill, as it came to the floor, provided a 23-percent increase for all veterans in school, an increase in eligibility time from 36 to 45 months, and a $1,000 per year loan program. The Senate conferees gave up their separate tuition provision and the House conferees yielded to an overall increase in monetary benefits. The House also yielded to the Senate loan program, but cut it in half. It was a good compromise bill which would have started the ball rolling toward veterans education benefits which are equitable with today's living costs.

The bill which the House passed on August 22 now goes back to the Senate, minus the 45-month eligibility provision, the $1,000 per year loan program, and a 23-percent increase for those veterans in vocational rehabilitation and on-the-job training. This is an awfully discouraging and frustrating turn of events for those veterans who desperately need more money and more time.

Most importantly, we are now telling veterans to go to school, and after they get there, Washington will tell them what their budgets will be. What family can operate in this manner? This delay is a disgrace.

CONCERN FOR THE SAFETY AND FREEDOM OF VALENTYN MOROZ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 5 minutes.

Mr. HOGAN. Mr. Speaker, in the last 2 months several groups of young Americans of Ukrainian descent have given us an inspiring demonstration of concern for human rights and freedom of individual expression.

By their example and sacrifice, these young people have focused world attention on the case of Valentyn Moroz, Ukrainian historian and writer.

Mr. Moroz is a political prisoner in the Soviet Union.

Although our President and State Department are working diligently to improve relations with the U.S.S.R., we cannot afford to ignore innocent victims of the Russian police state—or the inhumane treatment inflicted on many whose only offense is speaking the truth and the defense of human dignity.

Mr. Moroz received 4 years in prison for daring to suggest that Soviet policies and programs seriously threatened the Ukrainian culture, traditions, and national heritage.

When he protested his sentence as illegal, as well as prison conditions, he was placed in solitary confinement.

Following his release in 1969, Mr. Moroz wrote a series of essays on human freedom and dignity, combined with an eloquent plea for preserving the cultural traditions of the Ukraine. He was quickly re-arrested as an enemy of the state.

In 1970, after a secret trial, he was sentenced to an additional 14 years of imprisonment and exile from his homeland.

Mr. Moroz has been confined in the dreaded "Gulag Archipelago"—Vladimir Prison No. 2 near Moscow. After he had been stabbed and beaten by other inmates, and confined in a section for the criminally insane, Mr. Moroz began a hunger strike on July 1 of this year.

Within a month, Ukrainian groups in the United States and Canada began sympathy hunger strikes outside the Soviet embassies in Washington and Ottawa. Other hunger strikes were conducted at the legislature in Winnipeg, Canada, and in front of the Soviet mission to the United Nations, New York City. Many of the young protesters fasted until they were taken to hospitals.

In Canada, as a result, Prime Minister Trudeau and the External Affairs Minister expressed the country's concern through a message to the Kremlin and through direct representations to the Soviet embassy in Ottawa.

Members of the Committee for the Defense of Valentyn Moroz have asked the Congress of the United States to voice equal concern for human freedom.

I ask my colleagues to join me in approving a resolution concerning the safety and freedom of Valentyn Moroz—as a sign of our alarm and concern for the freedom and safety of this sincere Ukrainian patriot, and in protest against the unfair and inhumane treatment accorded to many Soviet dissidents.

A similar resolution has been introduced in the U.S. Senate, Senate Resolution 392.

I trust that we will have the will and courage to speak out for freedom in this instance, as we have done so often before, and that President Ford will communicate our concern to the Russian leaders in unmistakable terms.

Mr. Speaker, I ask unanimous consent that the text of the resolution be printed at this point in the RECORD.

WATERGATE DATA MUST BE REVEALED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. McKINNEY) is recognized for 5 minutes.

Mr. McKINNEY. Mr. Speaker, while there is no doubt that President Ford has the power under the Constitution to grant pardon to former President Nixon for all offenses against the United States, I believe that this action may have an unfortunate consequence, one perhaps he did not intend. For now, the pardon abruptly halts the Special Prosecutor's investigation of the administration of the office of the Presidency, and the information gathered which would have been useful in avoiding future Watergates may never be made public.

I believe that the American people are entitled to know the findings of the investigation of the White House from 1969 through August 8, 1974, and that a written, factual record must remain.

In determining the impact of Watergate, its aftermath, and this controversial pardon, on the future of our system of justice, I do not think we should rely on the second-hand accounts, autobiographical materials or participants' interpretation of historical events for which there exists abundant, more reliable data.

Therefore, I have introduced legislation which would require the Special Prosecutor to deliver to Congress all materials and reports obtained by his office in the course of his investigation. These documents would be open for inspection by Members of Congress and, I hope, will eventually be printed, bound, and made available to the public.

Historians and commentators will have their say as to the long-range repercussions of the last 2 years. But, Mr. Speaker, as representatives of those who must make the informed choices which will guide the future of post-Watergate America, I strongly believe it is our responsibility to provide every possible opportunity for each citizen to confront the unscreened facts of the past to better prepare them for the future.

The bill provides safeguards for the rights of those directly involved by requiring a determination by the Attorney General that publication of the Special Prosecutor's data will not compromise their civil liberties.

With this, the bill provides the information to which the American people are entitled.

LANCASTER'S JAMES WAGONSELLER: NATIONAL LEGION COMMANDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLR. Mr. Speaker, it is with a great deal of pride that I call to the attention of my colleagues in the U.S. House of Representatives election of James Wagonseller as the national commander of the 2.7-million-member American Legion for 1974–75.

Jim Wagonseller was selected for this prestigious post on August 22 during the closing session of the American Legion's 56th Annual National Convention in Miami Beach, Fla. He becomes the fourth Ohio legionnaire to be named to the Legion's top elective post.

Because Jim Wagonseller is a longtime resident of my hometown, Lancaster, Ohio, and because he is a personal friend, I am fully aware of his Legion service which has benefited both his immediate community and his country. He is a completely capable man, and the faith and trust now invested in him as national commander of the largest veterans' organization in the Nation will be upheld in the finest fashion, I am sure.

Those who know Jim Wagonseller as I have, know that he will bring to the commander's post a sense of responsibility and leadership so important in these post-Vietnam times.

By every standard of measurement he is qualified to lead this great veterans' organization and I congratulate the Legion for recognizing in this fine citizen the qualities of character which are so urgently needed. With Jim Wagonseller as commander, the American Legion can look forward to a year of dedicated service and added accomplishment. He has already conferred with President Gerald Ford. He has met with Members of Congress. From the moment he became national commander, he buckled down to the monumental task of serving our country through the American Legion.

Born in Zanesville, Ohio, Jim received his early education in Lancaster before enlisting in the Army Air Corps almost a year before the start of World War II.

Commander Wagonseller served with the 98th Bomb Group, 15th Air Force during the European campaign. He flew 50 combat missions, as a ball turret gunner, over the Balkans, Germany, and France. His awards include the Distinguished Flying Cross, the Air Medal with three clusters, and the European Theater Medal with three battle stars.

After he returned to Lancaster following World War II, he joined Fairfield American Legion Post No. 11 in September 1945. No stranger to Legion activities, his family had long been active in the American Legion and the American Legion Auxiliary. His mother was a past department chaplain of the Department of Ohio Auxiliary and he participated in the Sons of the American Legion prior to becoming eligible for the parent organization.

While he was assuming increasing responsibility and leadership in the American Legion, he was also pursuing a career in the business community. He was advertising director of the Lancaster Eagle-Gazette and for the past 20 years has been an active and successful realtor.

Beginning with his post, where he held all elective offices including vice commander and commander, he has held various positions of leadership at the department—State—district, and national levels which have moved him steadily forward through the ranks of Legion membership, culminating in his election to the office of national commander.

In his Legion district, he held all elective positions and was appointed judge advocate on three separate occasions. He also served as district chairman of the legislative committee for 15 years.

He served the department of Ohio as department commander in 1954–55 and as major emeritus, auxiliary highway patrol. He also served as chairman of the convention legislative committee.

At the national level, he served as a member of the National Public Relations Commission, National Legislative Commission, and the National Americanism Commission. He also represented the Department of Ohio at the national level, first serving as Alternate National Executive Committeeman (1955–56), and as National Executive Committeeman (1957–58). He was elected national vice commander of the American Legion in 1960.

For many years, Jim served as the National Chairman of the Legion's Merchant Marine Committee. In this capacity, he spent considerable time in Washington, presenting the American Legion's mandated positions on the status of the merchant marine to appropriate congressional committees.

Just prior to his election to the Legion's top position of leadership, he served as a member of the national commander's advisory committee.

Long active in community affairs, he has served as president of the Community Service Council, president of the United Appeal, president of the Lancaster Board of Realtors, president of the Lancaster Kiwanis Club, and president of the Lancaster Area Chamber of Commerce. He is presently serving as a member of the City of Lancaster Zoning Appeals Board.

On behalf of my colleagues in the U.S. Congress, I want to publicly congratulate Jim Wagonseller and wish him the very best in his position as the new national commander of the American Legion. I know he will serve America well.

I would like to bring to the attention of the House two items concerning Commander Wagonseller and the American Legion: the first being an editorial saluting Jim which appeared in the August 23, 1974, edition of the Lancaster Eagle-Gazette, and the second being his thought-provoking acceptance message delivered upon his election as national commander.

The articles follow:

[From the Lancaster (Ohio) Eagle-Gazette Aug. 23, 1974]

Salute to Jim Wagonseller

Yesterday a prominent longtime Lancasterian, James M. "Genial Jim" Wagonseller, was elected National Commander of The American Legion for 1974–75.

The 56th annual national convention of the 2,700,000-member war veterans organization in Miami, Fla., brought not only a well-deserved and lofty honor to Mr. Wagonseller but also pride and distinction to Lancaster, Fairfield County and the state of Ohio.

The 54-year-old Realtor has been intensely active for 29 years in American Legion affairs. He is the 4th Ohio Legionnaire to hold the national commandership (the other 3 Buckeyes were Frederick W. Galbraith, Jr., 1920–21; John R. McQuigg, 1925–26 and Milo J. Warner, 1940–41.

Wagonseller's distinguished career in the American Legion began in September, 1945 when he joined Fairfield Post No. 11, Lancaster.

In the local post, he held all the elective offices, including vice commander and commander, and has through the years served effectively in a myriad of elective and appointive positions of leadership at the department (state), district and national levels.

Jim was elected state department commander for 1954–55, and elected national vice comander for 1960–61.

The new national commander, a World War II veteran, enlisted in the Army Air Corps almost a year before the war's start.

He was a ball turret gunner in a bomber group of the U.S. 15th Air Force operating in the European Theater. He holds numerous decorations including the Distinguished Flying Cross.

Wagonseller, a solid, aggressive, fair and wise citizen, possesses all the ingredients needed for another well-rounded productive experience as a leader of men.

More importantly, he will be piloting The American Legion during the time of a resurgence of the organization's growth in membership and expanding aura of influence in this free land nearing its bicentennial year.

The new national commander has as his program and theme "Be Counted Again for America," reminding all Legionnaires that their service not only counts for their organization but for our country as well.

He has pledged to carry out the great tradition of a fighting American Legion: "for God and Country," for the continued strength and preservation of a free and dynamic United States of Ameria.

We join with others in this community, the state and the nation in warmly saluting National Commander James M. Waggonseller.

We wish him the very best while at the helm of The American Legion, truly an American institution.

Acceptance Speech of James M. Wagonseller on Election as National Commander, the American Legion, August 22, 1974, Miami Beach, Fla.

Thank you very much.

National Commander Eaton, distinguished guests, delegates to the 56th Annual National Convention, ladies of the Auxiliary, my fellow Legionnaires, ladies and gentlemen—thanks to all of you for helping me to arrive at this, one of the proudest moments of my life.

It is with great pride that I accept the honor you have accorded me in electing me as your national commander for the 1974–75 American Legion year. I am proud of the vote of confidence this convention has given me.

At the same time, I am well aware of the great challenge of leadership now resting upon my shoulders. I shall be calling upon all of you for help in the year ahead as we work together to weave the mandates of this convention into the proud history of the American Legion and into the law of the land.

Before proceeding with these brief remarks of acceptance will all of you join me in a round of hearty applause as an expression of our appreciation to Commander Bob Eaton for the service he has given to the American Legion as our national commander this past year.

As for me personally Bob, thank you and congratulations on a job well done.

While I am thanking people let me take just a moment to say a very special "thank you" to my American Legion friends of my home department of Ohio who worked so hard, so long and so faithfully to bring this moment in my life to reality.

Thanks to my American Legion friends everywhere for the support and encouragement you gave to me throughout my campaign and in today's election.

To my own family, my wife Mary, my son Tom, who, incidentally, is a Vietnam veteran and a Legionnaire, thank you for the encouragement all along the way. I am grateful for that and I must ask their indulgence for yet another year as I pursue, with you, the goals this convention has established for the American Legion.

As most of you may know, I plan, during my term of office to stand with the basic theme "Be Counted Again," and simply add to those meaningful words. "For America." "Be Counted Again for America" is the banner under which the American Legion will operate in the coming year, and I plan to lay emphasis on two facets of service to our beloved land where, I believe, service at this time is most sorely needed.

I am concerned specifically with the maintenance of America's military strength in the face of demands for reduction in military spending, and with the rejuvenation of the American spirit which seems to be near an all-time low ebb.

You and I know from experience that the defense of our great heritage, founded upon freedom, never has been, and never will be perpetuated without sacrifice and struggle, or without individual and collective concern and effort.

The American Legion was born of war, but is dedicated to the cause of peace. American Legion members endured the spartan experience of military life under wartime conditions. Early in its organizational existence the American Legion established as one of its principal programs vigorous support for a strong system of national defense. Our view, of course, is that the best assurances of peace lie in preparedness. This is a lesson of history which all too many of our people ignore. It becomes, therefore, one of the obligations of the American Legion to keep this message before the American people.

In a period of our national life such as this, one in which we recently ended a long, costly and divisive war, it is more important than ever that we remind our countrymen of the need for a strong system of national defense.

Pressures are strong for reductions in military spending, but the timing could not be more inappropriate. For nearly a decade the great bulk of American military expenditures went for the day-to-day necessities of combat in Southeast Asia. Our research and development suffered badly. We now find ourselves in the unenviable position of making up for lost time.

Specific areas of defense needs have been spelled out by resolutions of this convention. We will undertake the implementation of these resolutions before the appropriate committees of the Congress and other government agencies at the earliest possible moment. The American Legion is going to urge and support decisions that will lead to the strongest possible United States system of national defense.

The tools of war alone will not do the job. Adequate manpower for the military also is a necessity. During the year just ending we waged a vigorous campaign in support of the total force concept, which visualizes the National Guard and Reserve forces becoming an integral part of our combat ready force in being. We will continue that struggle as well as the battle for a standby Selective Service System in the event the all-volunteer force and the total force policies are unable to maintain the authorized strength of our Armed Forces.

Possibly the most important element of national survival is the need to restore the national spirit of America. To do so, I believe it is essential that we put present day developments in the perspective of history.

It is important to note that if things are amiss in our national life, that our system has the built-in capabilities of managing such problems, and that those processes are at work this very moment.

This is not a time for cynicism, disillusionment and despair. Quite the contrary. The knowledge that our system is working is new reason to have faith in that system and hope for the future—not just the future of America, but the future of mankind.

Our total heritage is based on faith, hope and endeavor, and our Pledge of Allegiance contains the words: "One nation under God, indivisible, with liberty and justice for all." Let's live our lives in accordance with that pledge in this time of crisis for our country and its institutions.

Throughout history, men have despaired of things taking place about them and great men have been moved to express an abandonment of hope. Listen to some such expression from the first half of the Nineteenth Century. In 1806, William Pitt was moved to say: "There is scarcely anything around us but ruin and despair." In 1849, Disraeli said: "In industry, commerce and agriculture, there is no hope." In 1852, the Duke of Wellington remarked: "I thank God I shall be spared from seeing the consummation of ruin that is gathering about us."

As difficult as our situation today may seem, it could bring us some great benefits. It could, if properly handled, bring us to a new appreciation of our heritage, our freedom and our system of government.

In the area of veterans legislation and rehabilitation we will make every effort to guarantee that our Vietnam veterans will have educational benefits comparable with those of veterans of World War II.

We shall be constantly on the alert to insure that the Veterans Administration will be held inviolate "to care for him who shall have borne the burden of battle." Your American Legion will continue efforts, in line with our convention and NEC mandates, to keep military pension and compensation payments abreast of increases in the cost of living index. We must, and we will continue to serve the American veteran as effectively in the days ahead as we have in days gone by.

I want the American Legion to be in the strongest possible position to support our country in the coming year. To do that we must be strong from the standpoint of membership.

It is important that we establish new posts in new population areas and that the American Legion continue to grow as the Nation grows. I want to see our membership picture turned completely around this year with a return to the growth cycle, and I am positive we can do it.

A story in the March issue of the American Legion magazine showed a direct correlation between the States with the greatest percentage of eligibles signed to Legion membership and the States with the greatest number of posts for each 10,000 eligible veterans.

We are working on a plan to present to the Fall meetings which, if accepted, could greatly improve our growth potential. I have faith in this plan, I believe it will work and I hope we will adopt it.

I ask you to stand with me and "be counted again for America," as we seek to serve our beloved country in these and other ways in the year ahead.

Let us go forth from this convention, veterans of four wars united under the banner of the American Legion, pledged that together we shall have concern where there is a lack of concern. We shall be committed where there is no commitment. We shall lead where there is no leadership.

IN MEMORY OF WALTER M. BESTERMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, it was with a profound sense of loss that I learned of the recent passing of Walter M. Besterman, a former professional staff member of the House Committee on the Judiciary. I know my colleagues in the House are familiar with the invaluable assistance provided by Mr. Besterman in formulating our immigration and refugee policies during his service as legislative assistant to the House Committee on Immigration and later to the Judiciary Subcommittee on Immigration and Nationality.

Walter was born in Poland in 1903, served with the Polish Army during the Polish-Soviet war of 1920, and studied at the universities of Warsaw, Wilno, and Paris. From 1928 to 1939 Mr. Besterman was a foreign correspondent for the United Press in Warsaw and also was involved in political journalism and radio commentary in Europe.

His service to the House of Representatives commenced in 1946 and he remained with the House Judiciary Committee until 1964. From 1964 to 1970 he served as Deputy Director of the Intergovernmental Committee for European Migration (ICEM).

As a former member and chairman of the Subcommittee on Immigration and Nationality, I had the distinct pleasure to meet, from time to time, with Walter Besterman during the ICEM working sessions in Geneva. During this time we were able to discuss problems of international migration and refugee assistance, as well as the vitality of, and continued need for, ICEM.

After his tenure there, he became in 1971, the overseas director of the Tolstoy Foundation, Inc., a charitable organization active in refugee relief with its headquarters in New York and last November he was elected senior vice president of the foundation.

My colleagues on the committee and in the House, I am sure, will recall his legal background and expertise in the field of immigration and nationality. His diligent and untiring efforts as a professional staff member contributed significantly to the reform and liberalization of our immigration law.

The compassion and humanitarianism of Mr. Besterman contributed in no small way to our unceasing efforts to solve our immigration and refugee problems. His understanding and sincere desire for fairness contributed greatly to reuniting families and otherwise assisting those abroad who wished to make their home in the United States. He also helped to enlighten our own people as to the plight of refugees from all countries.

I am indeed saddened by the death of this dedicated public servant, and on behalf of my colleagues I wish to extend our deepest sympathy to his lovely wife and son. Mr. Besterman was truly a man of high ideals and his achievements and accomplishments will long be remembered.

MATSUNAGA OPPOSES DELAY ON FEDERAL EMPLOYEE COMPARABILITY PAY INCREASE; SUGGESTS NEW APPROACH TO FIGHT INFLATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 10 minutes.

Mr. **MATSUNAGA**. Mr. Speaker, President Ford's suggestion that the 5.5 percent Federal employee pay raise be delayed is a disappointing and shortsighted response to a problem of major proportion. This approach—asking Federal workers to bear the principal burden of fighting inflation—is ill advised and improper, and I am hopeful that after further consideration the President will rescind his order. However, I am introducing a resolution in the House at this time which will override the President's order, and I ask each of my colleagues to join with me in actively opposing this unneeded delay.

The President's suggestion comes at a time when many reasonable people are wrestling with a solution to the thorny problem of inflation. The very meaning of inflation is that working people are suffering a loss of real income, and a deprivation of goods to which they are accustomed. It is outrageous to ask Federal employees to defer their comparability increase when they are even now less able than their counterparts in the private sector to buy groceries for their family, clothes for their children, fuel for their automobile, and pay interest on their new mortgages.

It appears wholly inconsistent and patently unfair on the part of President Ford to request $400,000 in excess of authorized amounts for transition costs for Richard Nixon and at the same time suggest that Federal employees accept the personal burden of providing the leading edge in the fight against inflation. The President's suggestion that 40,000 needed Federal jobs be eliminated further heightens the undue sacrifice which Federal employees are being forced to bear in the fight against inflation.

Congress is prepared to act, and will continue to act, to fight inflation. It has reduced the budget from administration requests by billions, including more than $3¾ to $5 billion which the House and Senate have chopped from Defense Department appropriations. We will continue to fight excessive Federal spending on this large scale. However, a real anti-inflationary position requires that we guarantee that jobs will be available for people who want to work; that food and other necessities will be available for people at prices which they can afford; and that loans will be available at reasonable interest rates for people who wish to buy their own homes.

I support the President in his fight against inflation; but I think his whole approach is wrong. His administration must adopt economic policies which will help to protect jobs of workers and generate new jobs for the growing army of unemployed. The President must abandon the Nixonomic theory that we must create unemployment in order to halt inflation. He must launch new, bold programs to elevate American productivity, both from the point of view of increasing our gross national production and improving production per man-hour. This he can do, not by seeking new legislation from Congress, but by calling upon the leaders of industry and labor—inviting them to the White House to impress upon them the gravity and urgency of the situation—to join him in the two-pronged battle against unemployment and inflation.

He must use all of the influence of his office to obtain the voluntary cooperative effort of every segment of our economy. Unless he succeeds in this effort, history will record that he will have failed as miserably as his immediate predecessor in leading this country out of the economic morass in which it finds itself.

AMENDMENT TO H.R. 13022, SAFE DRINKING WATER ACT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

Mr. **VANIK**. Mr. Speaker, when H.R. 13002, the Safe Drinking Water Act, is brought before the House, I intend to offer an amendment to encourage safe drinking water supplies along our Canadian and Mexican borders It is an extremely short addition to the bill and will not increase the cost of the bill. I am hopeful that my colleagues understand the need for such an amendment and will vote to support it.

As noted in the Interstate Commerce Committee's report, much of the motivation for reporting a Federal safe drinking water measure was to assure uniform water quality standards nationwide. The committee, realizing that, "water in the hydrologic cycle does not respect State borders," found that some supra-State authority was needed to prevent contaminants from degrading American drinking waters.

Yet, just as water supplies do not respect State borders, neither do they respect international boundaries. They do not respect an imaginary line drawn through the center of Lake Erie or down the middle of the Rio Grande. It is for this reason that I offer the following amendment:

AMENDMENT TO H.R. 13002 AS REPORTED OFFERED BY MR. VANIK

Page 108 insert after line 15 the following new section:

"INTERNATIONAL AGREEMENTS

"SEC. 1440. For the purpose of protecting drinking water in the States from contamination by contaminants from sources outside the jurisdiction of the States and the United States, the President shall—

"(1) seek to negotiate multilateral treaties, conventions, resolutions, or other agreements and seek to formulate, present and support appropriate proposals at the United Nations and other appropriate international entities, and

"(2) seek to implement and enforce existing treaties and agreements to which the United States is a party or signatory and which may serve to provide such protection.

Mr. Speaker, both Canada and the United States rely heavily on the Great Lakes for drinking water. The International Joint Commission, charged with responsibilities in several aspects of the Lakes, informs my office that a total of almost 22 million people depend on the Great Lakes as a source of safe drinking water, with over 17 million Americans included in this number.

But, Mr. Speaker, while the Great Lakes represent drinking water supplies for millions of people, they are also one of the largest pollution dumping basins in the world. While considerable efforts have been made to limit and control this pollution, they are largely motivated by esthetic or ecological concerns, and while we have not yet reached the point where our own industrial and municipal wastes poison our drinking waters, the threat may be imminent.

Although H.R. 13002 primarily considers the problem of water quality at the tap end of the drinking water sequence, we cannot ignore the fact that polluted intake waters can only lead to diminished quality of tap outflow supplies.

The amendment very simply requires the President to seek to prevent or stop the degradation of international drinking water supplies through consultation and agreement with our neighboring countries. It is an amendment that extends the spirit of the no-boundary concept realized in H.R. 13002 one step further. It is an amendment designed to help protect the health of American citizens along our Canadian and Mexican borders.

SKYROCKETING FOOD PRICES IN BOSTON

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 10 minutes.

Mr. **MOAKLEY**. Mr. Speaker, since June, food prices in Boston have gone up 15.5 percent. Compared to the national annual increase of 12 percent, according to the Consumer Price Index, Boston is clearly in need of immediate relief from the crushing inflationary price spiral.

In June, the Federal Trade Commission announced that it would study food pricing at chain supermarkets in cities throughout the Nation. At that time, I requested that Boston be included among these cities.

Two months after I wrote to the FTC, requesting that Boston food prices come under this investigation, I received a reply that this would not be possible at the present time.

I am inserting into the RECORD at this time an article on food prices that appeared in today's Boston Globe, documenting the drastic increase in food prices during these 2 months alone.

I hope that in light of this additional and most disturbing information, the FTC study might still be expanded to include the city of Boston.

The article follows:

[From the Boston Globe, Sept. 11, 1974]

BOSTON FOOD PRICES UP 15.5 PERCENT SINCE JUNE

(By Gail Perrin)

The price of a sample market basket in Boston increased 15.5 percent in the last three months.

A survey last Friday of 34 foods in three different supermarket chains averaged out to a total of $32.14, or $4.31 more than the same items priced on June 6 when the total was $27.83.

The biggest hikes were at the meat counter. For instance a pound of beef loin shell sirloin steak cost $2.32 Friday compared to $1.59 in June.

And shopping for such items as sugar cost $1.80 for a five-pound bag—up 29.5 percent over June's $1.39.

Mayonnaise was another surprise with a quart jar selling for $1.42, or more than 23 percent higher than in June.

The biggest drop was in potatoes which cost $1.19 for five pounds in June and 74 cents Friday (down almost 38 percent—and other produce abundant—and lower priced—at this time of year).

A 10-ounce package of cheese cost us 3 cents less than in June, our two-pound package of rice dropped a penny and we paid 3 cents less per pound of chicken.

The only item that cost the same was milk (76 cents for a half gallon).

While the prices at the three supermarkets were remarkably similar in June, we were awed at the difference at some prices Friday.

For instance, that sirloin we mentioned cost $1.99 a pound in one market, $2.89 in another (the third cost $2.09).

And a pound of tomatoes in one went for 29 cents, 69 cents in another.

Two stores were selling lettuce for 49 cents a head, while the third offered it for 25 cents.

In other words, we found it definitely pays to "comparison shop." For, while the average market basket cost us $32.14 on Friday, we discovered we could have spent as much as $34.45 or as little as $29.77 for the same items.

BOSTON MARKET BASKET

	June 6	Sept. 6
Milk, homogenized, vitamin D added, ½ gallon	$0.76	$0.76
Ice cream, ½ gallon, store brand	.99	1.04
Eggs, 1 dozen, large, grade A	.67	.88
Cheese, 10 ounces, sharp, Cracker Barrel	1.05	1.02
Margarine, 1 pound, 4 sticks, Blue Bonnet, Parkay	.53	.57
Bread, enriched, white, sliced, 20-ounce loaf	.40	.50
Flour, 5 pounds, all-purpose, bleached, enriched, Gold Medal, Pillsbury	1.05	1.12
Special K, 11-ounce package	.73	.75
Sugar, 5 pounds, white, granulated	1.39	1.80
Instant coffee, 10 ounces, Maxwell House, Nescafe	2.21	2.45
Navy beans, 16-ounce package	.65	.73
Rice, Uncle Ben's converted, 2 pounds	1.15	1.14
Mayonnaise, 1 quart, Best Foods, Hellman's, Kraft	1.15	1.42
Tuna, 6½-ounce can, fancy, light meat, hunk style, in oil, Chicken of the Sea, Starkist	$0.57	$0.62
Evaporated milk, 13 fluid ounces, Carnation, Pet	.23	.27
Cling peach halves, 29-ounce can, heavy sirup, Del-Monte, F&P, Hunt, Libby, Stokely	.68	.59
Pineapple, 20-ounce can, sliced, heavy sirup, or own juice, Del Monte, Dole	.39	.47
Frozen orange juice concentrate, grade A or Fancy, 6-ounce can	.22	.28
Broccoli spears, frozen, 10-ounce package	.33	.37
Beef round tip roast, boneless, rolled, choice, 1 pound	1.65	1.86
Beef loin shell sirloin steak, bone-in, choice, well-trimmed, 1 pound	1.59	2.32
Ground beef, regular, preground, ready for sale, 72 percent lean, 1 pound	.99	1.09
Pork loin center cut chops, 1 pound, No. 1 grade (T-bone with tenderloin attached)	.99	1.59
Ham, whole, smoked, partially skinned, ready-to-eat, 1 pound	.79	1.36
Bacon, regular slice, packaged, rind off, 1 pound, Armour, Hormel, Oscar Mayer, Rath, Swift, Wilson	.99	1.48
Wieners, all meat, 1 pound (exclude cereal or nonfat dry milk added) Armour, Hormel, Oscar Mayer, Rath, Swift, Wilson	1.15	1.49
Chicken, fresh, whole, broiler-fryer, ice pack, 1 pound	.65	.62
Potatoes, 5 pounds, all purpose, US 1	1.19	.74
Carrots, 1 pound, whole, topped, US 1	.25	.23
Cabbage, 1 pound, US 1	.19	.12
Lettuce, 1 head, iceberg, US	.59	.41
Bananas, 1 pound	.25	.23
Tomatoes, firm, vine-ripened, 1 pound	.53	.46
Oranges, 5 pounds	.89	1.36
Total	27.83	32.14

INTRODUCING A PLAN FOR PAY ADJUSTMENTS FOR FEDERAL EMPLOYEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 5 minutes.

Mr. FORD. Mr. Speaker, I am today introducing a resolution to disapprove the Presidential alternative plan for pay adjustments for Federal employees. Under the President's alternative plan, the pay raise to which more than 1½ million Federal employees and over 2 million military employees are entitled to receive on October 1 would be delayed 3 months until January 1, 1975.

Mr. Speaker, we should recall that back in 1970 the Congress passed a law designed to assure that Federal employees would be given an equitable salary adjustment on an annual basis so that Federal salaries would keep up with the salaries in the private sector. Under this system, if the President indicates no opposition by September 1 to a plan which must be submitted to him by the heads of the Civil Service Commission and the Office of Management and Budget, then the new pay rate automatically goes into effect on October 1. If, however, the President indicates his timely opposition to the new plan, then it does not become effective unless either House of Congress adopts a resolution of disagreement.

On August 31, the President rejected the recommendation of a 5.52-percent pay increase to become effective October 1. My resolution expresses the disapproval of this body with the President's action.

In attempting to deny Federal workers—or more specifically just some Federal workers—the increase to which they are clearly entitled, what the President is doing is singling out a small segment of our Nation's work force and demanding that they, and they alone, bear the brunt of the disastrous economic policies of a Republican administration which has permitted the rate of inflation to soar to almost 12 percent.

The President indicates that he considers this a symbolic act. None of us, of course, seriously believe that a 3-month delay of this pay raise will have any impact on the country's inflation problem. But this act is not symbolic to over 3½ million Federal and military employees. It is very real. It means denial of badly needed dollars to pay higher rents and to buy food for these families at greatly inflated prices.

Further, this action is totally inconsistent with the President's own publicy stated opposition to wage and price controls. He says he is opposed to these controls. Yet he turns around and imposes wage controls on that segment of the labor force directly under his control as the Chief Executive.

It is not only inconsistent, it is illogical. Not only does he single out only Federal employees, but he singles out only some Federal employees. The President's action would deny the pay increase to some 1.5 million general schedule employees and approximately 2.2 military employees, but it has no effect whatsoever on the 706,000 employees of the U.S. Postal Service or the 547,000 Wage Board employees. Furthermore, within 24 hours after he announced his intent to deny this one segment of Federal employees their pay raise, the President signed into law an act which provides pay increases for several thousand other Federal employees who work for the District of Columbia government.

Mr. Speaker, I agree with the President when he refers to inflation as the Nation's No. 1 problem.

However, if cutting Government spending is the way to curb inflation, then let us cut back on things like wasteful defense contracts which have cost American taxpayers untold millions of hard-earned tax dollars over the years, rather than taking the food off the plates and the clothes off the backs of the families of just one small segment of our entire working force—the Federal and military employees.

STATEMENT OF DOMINICK V. DANIELS ON COMPREHENSIVE EMPLOYMENT AND TRAINING ACT OF 1973

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 15 minutes.

Mr. DENT. Mr. Speaker, I take this time to call to the attention of my colleagues in the House, the excellent statement of the gentleman from New Jersey (Mr. DANIELS) to accompany a bill to amend the Comprehensive Employment and Training Act of 1973 to provide additional jobs for unemployed persons through programs of public service employment.

The statement follows:

Mr. Speaker, the state of our Nation's economy is no longer the esoteric discussion subject of smart social gatherings and corporate board rooms. "Inflation" has become a serious issue that touches the lives of all

Americans. The banker on Wall Street, the steelworker in New Jersey and the farmer in the Midwest have mutually felt the impact of higher prices and material shortages. The Nation's working men and women now face an additional burden—the specter of rising unemployment. Economic projections have become more disturbing with every passing month. Optimistic predictions about upturns by the end of the year have faded, and the mood of the economic community has become somber.

Last Friday, October 6, 1974, the Department of Labor released its latest unemployment statistics—revealing a further increase in the jobless rate to 5.4%—an 8/10 of a percent increase over last October's low of 4.6%. Projections on unemployment for 1975 and 1976 are far from encouraging. The Wharton School announced a 6.9% projection for the second quarter of 1976 in its analysis released on August 30th. The First National City Bank has also predicted a disturbingly high rate of 6.7% for 1975. Other prominent forecasting organizations and economists have predicted rising rates of unemployment which hover around the 6% level for 1975. Since World War II, the nation's yearly unemployment rate has exceeded 6% only twice—in 1958 and 1961; so the rate that is being projected for 1975 and 1976 is not a common phenomenon. It implies a major problem in our social and economic system. This serious situation could be further compounded by such factors as energy shortages in the industrial sector, such as those projected for natural gas supplies for the 1974–75 heating season.

These are sobering realities with which we have to contend, but I am unwilling to accept the proposition that we must increase unemployment to cope with runaway inflation. I would find it most difficult to look into the eyes of an unemployed constituent and tell him that he was an expendable casualty in the war on inflation. I am not convinced that this is an "either—or" situation. Unemployment statistics are faceless entities to economists; they are a cold reality to an unemployed father struggling to keep his family together after he has been laid off his job or cannot find work through no fault of his own.

President Ford is correct in his view that the cure for the Nation's economic ills is increased productivity. Productivity implies work; it does not imply unemployment. Unemployment is costly, counterproductive and the crucible of social unrest.

The sheer weight of economic logic should militate against the advocacy of increased unemployment as a means to cure inflation. Initial estimates I have obtained from the Department of Labor indicate that national unemployment compensation for a 6% jobless rate could cost as much as $9.5 billion in benefits. This cost could rise over $12 billion at a 7% unemployment rate. We cannot afford this cost, either in dollars or in the loss of human dignity. This Nation needs active workers, not unemployed workers. Our Gross National Product is not expanded one iota when working hands are idle.

I have developed an alternative to rising unemployment that is cost effective; that would increase productivity; that would ultimately yield tax revenues and thus offset much of the cost of the program itself; and that would cut down on the cost of welfare programs for the unemployed.

This concept is embodied in the bill I am introducing today—the Emergency Job Act of 1974.

My bill would provide additional funding for public service employment jobs as the rate of unemployment rises, with $4 billion provided when the unemployment rate equals or exceeds 6%.

The merit of the public service employment concept has been advocated by no less a prestigious spokesman than Arthur F. Burns, Chairman of the Federal Reserve System during his August 6th testimony before the Joint Economic Committee. I am also encouraged by the recent announcement by Labor Secretary Brennan that the Department (Of Labor) is preparing plans for a large scale public employment program to come into effect when the rate of unemployment becomes excessive.

A public service employment program provides a workable and effective compromise between budget restraint and maximizing employment. In addition to contributing toward a permanent reduction in differential unemployment, this approach could also improve the unemployment-inflation tradeoff and finance badly needed expansion of local public services, without the necessity of an increase in state or local taxes which are already pressing against the ceiling of taxpayer toleration. Additionally, such an approach would be a positive step toward a real GNP increase which is essential to a solution of our current economic problems. Professor Robert Gordon of the University of California estimated in 1972 hearings before the Senate Labor Committee that the GNP is increased by $2 for every dollar spend on public service employment.

A public employment program is not a new venture. We have had the experience of the Emergency Employment Act and all evaluations of that program have shown not only that the program created jobs but also that those jobs provided needed and worthwhile public services. The jobs created were not "make work", but real, and this is borne out by evaluations made both by private investigators and by the General Accounting Office.

We do not need to create a new administrative mechanism to operate a public service program because such a mechanism is already in place under the Comprehensive Employment and Training Act which was enacted last year. That law, now called "CETA", a bi-partisan product which came out of my subcommittee, provides for a network of prime sponsors to plan and operate manpower programs throughout the United States. The programs authorized under this statute included skill training programs, work support programs, such as the Neighborhood Youth Corps, and public service employment programs. The mixture of these programs is left to local decision making with broad national guidelines.

While the Comprehensive Employment and Training Act provides authority to run public service employment programs there are a number of reasons why under current projections of economic conditions, it is not sufficient just to rely on increased appropriations under that act. It is important that these reasons be made clear.

First of all, my bill would establish congressionally approved funding levels directly related to the national rate of unemployment. The authorization levels under CETA were deliberately left open-ended so that the Act could be responsibly funded over the variety of economic conditions that could occur during its four year life. With the current potential of disastrous employment rate, I believe it is desirable, even necessary, that subsequent legislation indicate the appropriate level of response to national unemployment rates.

Second, CETA very appropriately leaves to the states and local governments the decision on how much of their funds are to be devoted to training of public service employment programs. That Act emphasizes local decision making to meet local problems. However, unemployment is a national, as well as a local issue, and when unemployment rates become excessive, national response is required. It is for this reason that my bill, unlike present law, requires that these funds be used for public employment programs. It is my opinion that under the unemployment conditions contemplated by the bill, training programs become a substitute for income maintenance programs rather than the preparation for the job market they were intended to be.

Third, new legislation is required because the fund distribution formula presently contained in Title I and Title II of CETA are not appropriated for the distribution of funds for a nationally-mandated response to high unemployment. The fund distribution formula of Title I of CETA contains what is, in effect, a rolling "hold-harmless" provision designed to prevent large fluctuations of the sums going into a community from one year to another. Such a "hold-harmless" factor has no place in the distribution of funds to launch a new program in response to changes in unemployment. Title II of CETA distributes funds only to areas with an unemployment rate in excess of 6.5%. Title II was designed to funnel additional funds into areas with substantial unemployment and that remains an appropriate objective for manpower programs.

Such narrow targeting is appropriate when it applies to a one-fourth or even one-half of all manpower funds, but it becomes inappropriate when we are talking about a program of the relative magnitude of that contemplated by this bill. When we are talking about doubling or even tripling the size of the overall manpower program, we cannot limit funds to just a few areas in that country. We must distribute it nationwide to meet a nationwide problem.

My bill distributes the additional funds in two ways: one-half is distributed on the basis of the number of unemployed in one area compared to the number of unemployed in all areas. The other one-half gives due weight to the severity of unemployment, as well as to the number of the unemployed by a distribution based on the number unemployed in excess of 4½%. This formula is the one that was established under the Emergency Employment Act.

Any proper appraisal of the cost of a public employment program should therefore take into account not only the direct expenditure made by the government for the program but also the saving to government in welfare and other payments that are not made. According to my best estimates, the true cost of a public service employment program is only between one-half and two-thirds of the budget expenditures.

The economic crisis facing this nation has been front page news for weeks and we have had plenty of discussion as to what should be done. But now the time to act has come. My bill has grown out of serious concern for the hardship that is going to face all too many American workers. I have scheduled hearings on this bill October 1, 2, 3, 9, 10, 15, 1974, and I hope that with the good will of all concerned that we can move toward a positive response to the impending unemployment crisis.

PROJECTIONS OF UNEMPLOYMENT

Radio Corporation of America: 1975 year average:

Most likely, 6.0%.

Optimistic, 5.7%.

Pessimistic, 6.3%.

A. G. Becker: 5.8%, 1975 year average.

Lionel Eddy: 5.7%, 1975 year average.

DRI: 6.0%, 1975 year average.

First National City, 6.7%, 1975 year average.

Manufacturers Hanover: 5.9%, 1975 year average.

Harris Trust: 5.6%, 1975 year average.

Chase Econometrics: 5.4%, 1975 year average.

Equitable Life: 5.7%, 1975 year average.

Argus: 6.0%, 1975 year average.

DuPont: 6.0%, 1975 year average.

American Statistical Association and National Bureau of Economic Research—Consensus of 48 Forecasters:

1974: 3rd, 5.6%; 4th, 5.8%.

1975: 1st, 5.7%; 2nd, 5.5%.

Data Resources, Inc. (Otto Eckstein):

1974: 3rd, 5.5%; 4th, 5.9%.

1975: 1st, 6.3%; 2nd, 6.4%; 3rd, 6.6%; 4th, 6.7%.

1976: 1st, 6.7%; 2nd, 6.6%; 3rd, 6.6%; 4th, 6.5%.

Townes & Greenspan, NYC: 2nd Quarter 1975, 6.5%, WSJ 9/4/74.

Gardner Ackley (former CEA Chairman): annual rate, 1975—6% possibly higher in 3rd quarter, 8/16/74 testimony Senate Budget Comm.

Wharton School of Business: 8/30/74 Computer printout Economic model.

1974: 3rd, 5.5F%; 4th, 5.91%.

1975: 1st, 5.84%; 2nd, 6.13%; 3rd, 6.49%; 4th, 6.72%.

1976: 1st, 6.86%; 2nd, 6.90%.

University of Michigan: 8/13/74 printout.

1974: 3rd, 5.38%; 4th, 5.56%.

1975: 1st, 5.82%; 2nd, 6.0%; 3rd, 6.25%; 4th. 6.37%.

EQUAL JUSTICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. METCALFE) is recognized for 25 minutes.

Mr. METCALFE. Mr. Speaker, the recent action of President Gerald Ford, in which he pardoned former President Nixon, is totally unacceptable. While I do not challenge the President's power to grant a pardon, I find that the exercise of the Presidential power in this instance has effectively negated the meaning of justice and has effectively short-circuited the judicial process.

One of the attributes of justice is its universality. Once the precedent is set that some men are not to be held accountable for their actions, then the way is open for a practice which will be inimical to the interest of the Republic.

The House Judiciary Committee Report "Impeachment of Richard M. Nixon President of the United States" set forth three articles of impeachment voted out by a bipartisan majority of the Committee on the Judiciary. Article I charges the former President with obstruction of justice. Article II charges the former President with a "disregard of his constitutional duty to take care that the laws be faithfully executed." The third article of impeachment charges the former President with failure—

> Without lawful cause or excuse to produce papers and things as directed by duly authorized subpoenas issued by the Committee on the Judiciary of the House of Representatives on April 11, 1974, May 15, 1974, May 30, 1974, and June 24, 1974, and willfully disobeyed such subpoenas. The subpoenaed papers and things were deemed necessary by the Committee in order to resolve by direct evidence fundamental, factual questions relating to Presidential direction, knowledge, or approval of actions demonstrated by other evidence to be substantial grounds for impeachment of the President.

To the charges contained in the articles of impeachment we have the following responses from the former President:

Speaking to the American people on August 8, 1974, the former President stated:

> I no longer have a strong enough political base in the Congress to justify continuing . . . my term of office.

He continues by saying, however, that—

> With the disappearance of that base, I now believe that the constitutional purpose has been served and there is no longer a need for the process to be prolonged.

Mr. Speaker, literally interpreted, this statement can be translated as follows: I had every intention of fighting the charges outlined in the articles of impeachment; however, when it appeared as though the votes were no longer there for my side, I decided to call it quits.

In the statement which he issued in San Clemente in response to President Ford's pardon, the former President stated that—

> I know many fair-minded people believe that my motivations and actions in the Watergate affair were intentionally self-serving and illegal. I now understand how my own mistakes and misjudgments have contributed to that belief and seemed to support it.

On August 20, 1974, Mr. Speaker, the House adopted House Resolution 1033. This resolution took notice of the fact that on February 6, 1974, the House, by adoption of House Resolution 803, authorized and directed the Judiciary Committee "to investigate fully and completely whether sufficient grounds existed for the House of Representatives to exercise its constitutional power to impeach Richard M. Nixon"; further, House Resolution 1033 noted that the Committee on the Judiciary recommended articles of impeachment; that Richard M. Nixon resigned the office of President of the United States; and, further, this resolution accepted the report submitted by the Committee on the Judiciary pursuant to House Resolution 803.

The articles of impeachment voted out by the full committee, Mr. Speaker, were never debated and voted upon by the full House. At that time there was the strong possibility that the former President would be indicted, and that the President would be held accountable for his actions in a court of law. President Ford's action on September 8, 1974, has effectively nullified that course of action.

I do not mean to be unsympathetic, Mr. Speaker, but the danger which the actions of this man posed to the continued existence of our democratic institutions cannot be minimized. The former President stands accused by a committee of the House of Representatives. Those charges must be answered. The only forum where the charges can be answered is within this Chamber. The responses of former President Nixon to the articles of impeachment are unacceptable. He ignores them. He neither refutes them nor admits guilt. Under these circumstances, the House is the proper forum in which to debate the articles of impeachment to establish whether there should be a trial in the Senate on the charges contained in these articles.

Mr. Speaker, I strongly urge my colleagues to proceed with the impeachment proceedings, to take up, fully debate, and then to vote on the articles of impeachment voted out by the Judiciary Committee pursuant to House Resolution 803. To do less, Mr. Speaker, is to say that the law is not to be applied to all men in the same manner. It is to say that some men are not to be held accountable for their actions because of their high office.

This is an unconscionable approach, Mr. Speaker. More, not less, must be demanded in such cases. The President in resigning his office, is said by some to have suffered enough. Not true. The office he held was a trust, and the moment the terms of the trust were violated, he forfeited his right to the office.

Is there a precedent for the impeachment of a civil officer after his resignation? I think there is.

In Federalist Paper 65, Hamilton states:

> The Model from which the idea of this institution (Impeachment) has been borrowed pointed out that course to the convention.

The model that Hamilton refers to is clearly that of Great Britain. The course of action that Hamilton refers to is impeachment by the House of Commons and trial before the Lords. And, consequently, it is to the English precedent that we must first turn. Contemporaneous with the drafting and adopting of our own Constitution was the impeachment trial of Warren Hastings in Great Britain. Hastings resigned the governor-generalship of India before he left India in February 1785, 2 years before articles of impeachment were voted by the House of Commons for his conduct in India. The impeachment of Hastings was certainly a fact known to the drafters of the Constitution.

George Mason, in discussing the impeachment provision on September 8, 1787, in the Constitutional Convention, makes a clear reference to the trial of Hastings.[1] Further, Prof. Arthur Bestor states that—

> American constitutional documents adopted prior to the Federal Convention of 1787 . . . refute the notion that officials no longer in office were supposed by the framers to be beyond the reach of impeachment.[2]

Bestor specifically cites the constitutions of two States—Virginia and Delaware—which were adopted in 1776.

Bestor also cites a statement of John Quincy Adams, made in 1846 after he left the White House, made on the Floor of the House:

> I hold myself, so long as I have the breath of life in my body, amenable to impeachment by this House for everything I did during the time I held any public office.[3]

Another historical precedent is that of William W. Belknap, Secretary of War in President Grant's cabinet. As Bestor summarizes it:

> Belknap resigned at 10:20 a.m. on the 2nd of March (1876), a few hours before the House of Representatives voted to impeach him, the latter decision being officially notified to the Senate at 12:55 p.m. on the 3rd . . . on May 27, 1876, in a roll-call vote of 37 to 29 (with seven not voting) the Senate ruled that Belknap was amenable to trial by impeachment for acts done as Secretary

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[1] 2 M. Farrand, *The Records of the Federal Convention of 1787*, at 550.

[2] Arthur Bestor, "Impeachment", 49 *Washington Law Review* 255, 278 (1973).

[3] *Congressional Globe*, 29th Congress, 1st Session 641 (1846).

> of War, notwithstanding his resignation of said office before he was impeached.[4]

Mr. Speaker, there is precedent for the impeachment of a civil officer after he has resigned.

Another point to make, Mr. Speaker, is that article I of section 3 of the Constitution states, inter alia:

> Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States.

There is a twofold penalty provided for in this article and removal from office is but one part of the penalty.

Mr. Speaker, the former President has not been held accountable for his actions. He has avoided accountability through the impeachment process by resigning; and he has avoided trial on charges of alleged criminal misconduct as contained in the first article of impeachment through the Presidential pardon of his successor.

Mr. Speaker, history can conclude that the Congress of the United States was confronted with a series of actions by the Chief Executive, actions which constituted a serious danger to our political processes and that we did nothing. The proper forum, and now the only forum, for a debate and a vote on these most serious charges is here in the House. We have no other recourse but to proceed if we are to assure that all future Presidents will be held accountable for their actions whether such future Chief Executives resign or not.

Mr. Speaker, I urge that the impeachment report of the House Judiciary Committee be debated and that we proceed to vote on the articles of impeachment.

Mr. Speaker, I yield back the balance of my time.

RODGER P. DAVIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 5 minutes.

Mr. HAMILTON. Mr. Speaker, on August 19, 1974, the U.S. Ambassador to Cyprus was killed in a senseless attack on the American Embassy by frustrated Greek Cypriots. Rodger P. Davies, better known to many of us in Congress as Mr. Eastern Mediterranean, was a capable and dedicated public servant who served with distinction and honor for well over two decades.

Ambassador Davies spent almost his entire professional career in the State Department grappling with intricacies of the problems of the eastern Mediterranean. For years, he was one of the leading experts, possibly the most prominent, on the Arab-Israeli conflict. In more recent years, his expertise on that enduring conflict was coupled with increasing involvement in Turkish and Greek affairs and the thorny Cyprus issue. In addition, throughout the last decade he was one of the few in the State Department who saw the Persian Gulf emerging as a crucial area for American foreign policy: he had no peer in the Department in his knowledge on that important region.

It was most heartening to all who knew him that he was able to maintain an impartiality and a true American perspective on the Cyprus and Middle East issues during a time when many of his colleagues were not so able to look at difficult foreign policy issues dispassionately. Mr. Davies remained fair and open to all throughout his career.

Ambassador Davies left Washington this past summer for what was meant to be a new and rewarding experience for him and his son and daughter. Years of toiling with the many problems which engulfed the Near East and South Asia Bureau did little to affect his determination to serve his country and to continue to protect and promote important U.S. interests throughout the eastern Mediterreanean region. The tragic death last year of Mrs. Davies only made him want to increase his efforts to work for those goals they had sought for so many years.

Mr. Speaker, those goals include a just and lasting peace throughout the eastern Mediterranean. No action would better serve the memory of this inspiring public servant than for our Government to redouble its efforts to help achieve compromise and reconciliation between Turkey and Greece on the issue of Cyprus and between Israel and the Arab states and the Palestinians on the issue of a Mideast settlement. Roger Davies would want it no other way.

THE 35TH ANNIVERSARY COMMEMORATION OF THE INVASION OF POLAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, September 1, 1939, was a day of infamy. It was a day of infamy because it was on this day 35 years ago that the military forces of the Nazis invaded Poland and set off a series of events that led to World War II.

Poland was the victim in September 1939; she was the sacrificial lamb; for it was the sacrifice of Poland that led all free nations of the world to make that final decision to stop Hitler from the conquest of all Europe.

Within a very short time, a matter of days, the Nazi war machine destroyed Poland. The heroic, courageous, patriotic Polish people fought desperately to turn back the mighty enemy, but the power of Hitler's army was too much for the Poles.

When victory became certain for the Nazis, the Soviet Union decided to seize its share of the war booty and its military forces, on September 17, crossed the Polish frontier and joined in the final destruction of the Polish State.

It is, of course, one of the tragedies of history that the victim too must pay the price of the enemy's miscalculation. For Poland and her people endured the worst of World War II only to find that a new enemy had taken control of the country's destiny once liberation became a reality. Communism quickly filled the void created by the destruction of Nazi power in Poland, and ever since the people of Poland have been subjected to a new and all-consuming tyranny.

A cruel fate had befallen the Polish people in the first few years after the end of the war. Once effective opposition was destroyed, the Communist regime leaders set out to create in Poland a Communist state modeled after that of the Soviet Union. Freedom of religion no longer existed. Political freedom was narrowly limited by the Communist Party. The economic sector, particularly industry, was organized along Communist lines. In the cultural realm Communist control was total. No longer could the Polish writer give full expression to his thoughts; no longer could the Polish artist, the playwright, the composer create his art freely as his inner soul demanded.

In this anniversary of the beginning of World War II, our hearts go out to the Polish people. Their lives have been too full of tragedy, misery, and suffering. These fearless, lovable, hard-working, courageous people deserve a far better fate than what has befallen them since September 1, 1939. And it is our hope that one day they shall have better times, and that they will be a part of the whole European community of nations enjoying fully the fruits of democracy and freedom.

As we again commemorate these sad events in the House of Representatives, I am proud to join the Polish-Americans in the 11th District of Illinois, whom I am honored to represent, and all over this Nation in their hopes and prayers for the reentry of Poland into the community of free nations. Freedom-loving people the world over are watching and the Communists must never be allowed to forget this or to ignore the yearning for liberty in the hearts of the Polish people.

A "PEARL HARBOR" ATTACK ON OUR SYSTEM OF JUSTICE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 10 minutes.

Ms. ABZUG. Mr. Speaker, Richard Nixon's "Saturday Night Massacre" has been outdone by Gerald Ford's pious Sunday morning pardon, which shattered a peaceful day of leisure with the shock of a "Pearl Harbor" sneak attack on our system of equal justice. Both acts have in common a total misreading of the American sense of fairplay and a determination to keep the truth from the public. Nixon fired Cox to keep the cover on the coverup. Ford has pardoned Nixon in an attempt to put the cover back on, and is considering pardoning all of the Watergate culprits. This is the worst coverup of all. If President Ford actually proceeds to let the Watergate gang get away, he should be forced out of office, like the predecessor who appointed him.

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[4] *Proceedings of the Senate Sitting for the Trial of William W. Belknap, Late Secretary of War on the Articles of Impeachment Exhibited by the House of Representatives,* 44th Cong., 1st Session 760–761 (1876) quoted in Bestor, p. 280.

The honeymoon is over. It was never much of a honeymoon anyway, but rather a shotgun marriage between a nonelected President appointed by a discredited culprit whose days were numbered and a public still hoping this was a government of law and justice for all.

Of course, we knew that equal justice was a goal to be sought rather than an accomplished fact. We knew that throughout our history poor men and women have gone to jail, even before conviction, while the rich and powerful have broken the law and gone free. We knew that Spiro Agnew and Richard Kleindienst had copped a plea. We knew Lieutenant Calley was allowed to take the rap for My Lai while the generals and politicians who sent him there were honored. We knew that more than 40 men, guards and prisoners alike, were slaughtered at Attica while the man who could have prevented their deaths has since been rewarded with the nomination to the Vice Presidency. We knew, but still we hoped that the Watergate revelations would change all that.

The editorial writers and TV commentators told us the lesson of Watergate was that no man, even a President, was above the law. Constitutional government had been restored. Once again, people could have faith in our system of justice.

That faith is gone. If there are riots in the jails, let no one ask who is to blame. The message is out to men and women in prison, to students on campuses, to privates in the Army, to draft resisters, to taxpayers, citizens, and ordinary Americans: if you have the right contacts, laws can be scrapped, justice evaded, and the system twisted in your favor. The evil spirit of Watergate has triumphed after all, and we will pay for it in an ugly harvest of cynicism and disgust that will shape our future in unforeseen and dangerous ways.

Richard Nixon had the right contacts. That was the story of his life and his climb to power. He threw in his lot with the rich and mighty, the leaders of big business, the rulers of the Pentagon, and they took care of him, from the "slush fund" of his early political career, to his cushy job in a Wall Street law firm, to the Presidency itself. And when he had outlived his usefulness through stupidity, greed, and bad luck, General Haig arranged his retirement, and Gerald Ford comforted him with assurances of an $850,000 payoff and a full pardon. Son-in-law David Eisenhower has even hinted that maybe Mr. Nixon should run for office again.

In a society that operates on the manipulation of public opinion and the creation of false images, never has the public been so contemptuously treated as in the charade of the first honeymoon weeks of the Ford regime. We were being softened up for the kill.

Who cares whether Gerald Ford toasts his own English muffins, wears a blue bathrobe, or jumps up and down on a trampoline? What we want to know, and must insist that Congress find out, is how this pardon deal was cooked up.

Was it part of the quid pro quo for Nixon's resignation? What role did General Haig play in getting his erstwhile Commander in Chief off the hook? Was Ford's wilting olive branch on amnesty for draft resisters just a coverup for the already decided upon Nixon pardon? Was Ford deceiving the people at his first press conference when he indicated that he would not interfere with the Jaworski prosecutions? What happened to his commitment made at Senate hearings on his confirmation as Vice President that he would not give Nixon an advance pardon? Who arranged the nomination of Nelson Rockefeller as Ford's successor? Have we been witnesses to a constitutional succession to the Presidency or to a coup d'etat in which nothing has changed but the leading characters and a man who is the symbol of finance capital and big business has been placed in line for the White House?

Most urgently, Congress must find out whether Gerald Ford has exceeded his powers under the Constitution by granting an unconditional pardon to Richard Nixon before indictment or conviction for crimes he committed or "may have" committed while President. There is no precedent for such total, general, and open-ended immunity from prosecution. No one who has studied the history of how our Constitution was written can believe that the founders of this Nation contemplated such a gross abuse of power and blank check for unpunishable criminal acts by a President.

There are grave constitutional questions as to the legality of President Ford's pardon of Richard Nixon, which seem to me to warrant a test in the courts.

I disagree with those who claim the pardon was a constitutional exercise of presidential power and cannot be overturned. President Ford himself asserted in his statement announcing the pardon that "there are no historic or legal precedents to which I can turn in this matter," and there is already serious debate within the legal community as to the constitutionality of Ford's granting a pardon before formal charges were filed and without a formal admission of guilt from Mr. Nixon.

Defenders of the pardon are on weak ground in citing as authority for it an 1867 case—Ex Parte Garland 71 U.S. 33—a 5-to-4 U.S. Supreme Court decision in which the written opinion explaining the ruling said—

> That a President's discretion to pardon is unlimited and extends to every offense known to the law, and may be exercised at any time after . . . commission (of the crime) either before legal proceedings are taken, or during their pendency or after conviction and judgment.

This language is dictum, was not crucial to the decision in the case, and does not constitute a precedent.

Moreover, the impact of the Garland case has been eroded for a number of reasons, principal among them being that Garland received a grant of amnesty rather than a pardon. As you will recall, Garland, who had been a Senator in the Confederate Government during the Civil War, was granted a blanket Presidential amnesty, which applied to all crimes that may have been committed during the war.

The courts have come to draw a distinction, not drawn by the Garland court, between amnesty and pardon, and this is a significant distinction as it relates to individual admission of guilt.

The phrase "reprieves and pardons" as used in article II, section 2 of the Constitution has been interpreted as a phrase of art including within its purview reprieves, commutations, pardons, both conditioned and unconditioned, and amnesties. (Lupo versus Zerbst, 92 F2d 362, 365 (CA 5th 1937).

The Supreme Court has recognized that "amnesty and pardon" are distinct and different. In an 8-to-0 ruling in Burdick versus United States, 236 U.S. 79, 94–95, it stated that they "are of different character and have different purposes. The one—amnesty—overlooks offense; the other—pardon—remits punishment. The first is usually addressed to crimes against the sovereignty of the State, to political offenses, forgiveness being deemed more expedient for the public welfare than prosecution and punishment. The second condones infraction of the peace of the State. Amnesty is usually general, addressed to classes or even communities, a legislative act—the act of the supreme magistrate.

When the Burdick case went to the Supreme Court, the justices were asked to rule on whether the President had the authority to pardon Burdick before he had been indicted. The court, however, ruled on another issue, whether Burdick could decline the pardon. Stating that a grant and acceptance of a pardon "carries an imputation of guilt; acceptance a confession of it," the court held that an individual does not have to accept a pardon.

The need for either a confession or judgment in a pardon case is evident from the language of the Constitution itself: the power to grant pardons only goes to "offenses." Without either a confession or at the very least an indictment, there is no offense. Richard Nixon has made no confession or admission of guilt. Instead, in collaboration with President Ford, he has made a statement of "contrition" which is a religious rather than a legal concept.

The first case examining the power of the President to pardon was *United States* v. *Wilson*, 32 U.S. 150 (1833). The question involved there was whether it was necessary for an individual to accept the pardon in order for it to become effective. The court held that it was, and that a pardon was without effect if the person refused it. Under this decision, it was also held that a court cannot take judicial notice of a pardon unless it is pleaded in court.

It would appear from this ruling that the Watergate grand jury is free to proceed with an indictment of Richard Nixon, as it had indicated earlier that it wished to do. The court does not have to take notice of President Ford's pardon of Richard Nixon unless Mr. Nixon pleads it in court. If he should plead that he has been pardoned, he would have to state for which offenses he has been pardoned.

I understand from press reports that Special Prosecutor Jaworski has stated that the Presidential pardon of Mr. Nixon preempts any Federal legal action against him for the period covered by the pardon. I would strongly urge that the grand jury proceed with an indictment, if the facts warrant it, and that Special Prosecutor Jaworski or Attorney General Saxbe sign it, so that the American people may be assured that the system of equal justice prevails and so that the groundwork may be laid for a court test of the constitutionality of President Ford's action. I have written to Special Prosecutor Jaworski and Attorney General Saxbe about these legal questions.

ADDRESS BY AMBASSADOR ARDESHIR ZAHEDI OF IRAN, KENT STATE UNIVERSITY COMMENCEMENT

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, one of the most highly regarded representatives of another country to the United States is the distinguished Ambassador of Iran, His Excellency, Ardeshir Zahedi.

I believe that Members of Congress will read with interest the address delivered by Ambassador Zahedi at the summer commencement exercises at Kent State University, Kent, Ohio, on August 31, 1974.

The text of Ambassador Zahedi's address follows:

It is an honor to be here today, on this beautiful campus of Kent State, with all of you, who go to make up a great university.

With due respect to my own generation, I find it stimulating to be with young people. I always encounter a mingling of idealism and optimism with a healthy skepticism which is reassuring of the future and necessary for a keen perspective of human events. Thank you for this privilege and for allowing me to share with you the fruits of this memorable occasion.

This generation gap reminds me of this fellow who, during an argument with his parents, cried "I want excitement, adventure, money and beautiful women. I'll never find it here at home, so I'm leaving. Don't try to stop me."

With that, he headed for the door. His father rose and followed close behind. The boy said "Didn't you hear what I said? Don't try to stop me." "Who's trying to stop you?" replied his father. "If you wait a minute, I'll go with you."

When I received the invitation to speak before you, I began to wonder why commencement speakers so often choose to talk of the problems which confront the world.

I have come to the conclusion that this is not done in any sense of pessimism. It is rather based on a feeling of realism. I say this because we are faced with real problems.

FOR CITIZENS OF THE WORLD: EDUCATION AND HEALTH

What are some of these problems and what role can you as the citizens of the world community play to resolve the difficulties confronting us?

Foremost among these are the questions of education and health. While you have the good fortune of benefiting from modern education and adequate health facilities, there are still millions in the world who continue to live in the darkness of ignorance and disease. The latest UNESCO study indicates that over 34 percent of the world's population is illiterate.

In Iran under the leadership of his Imperial Majesty the Shahanshah Aryamehr a concerted effort has been made to eradicate this problem.

THE IRANIAN YOUTH CORPS EXPERIENCE

A principal tool for carrying out our intensified education program is Iran's youth corps, made up of thousands of young people of military draft age.

These young people choose to serve their country through programs that are social and creative rather than military. Their program is composed of the educational and extension corps, the health corps, and the development corps.

In the educational corps, they carry modern education into the mountain villages, and remote areas.

I am sure that Dr. Olds recalls that while he was United States Ambassador to the United Nations Social and Economic Council, His Imperial Majesty proposed a universal welfare legion. Under this noble cause, the youth corps, through the United Nations, would enable individuals of any country, class, race, or religion, to devote a part of their lives to the service of mankind.

EDUCATION FOR SERVICE

Moreover, a few months ago, a national goal decreed the right of every Iranian to a free education, in keeping with his abilities, and without regard for his financial means. At the same time, a current principle was expressed: Those who study at public expense must repay their debt to the Iranian people.

Thus, we proposed a contract, between the Nation and the student, which will assure immense returns to both sides.

More recently, the Shahanshah issued a decree on education which formalized this principle and provided free education through all elementary levels and what you call junior high school. It also provides free lunch to every child attending school in the country.

To facilitate nation-wide education, a $2 billion program will use educational satellites, T.V. and other audio-visual teaching aids.

In the field of health, we have equally extended free health care to every man, woman and child in the country.

As educated and informed members of this great society, you too have an important mission to promote the cause of universal education and welfare.

The energy crisis is yet another problem which confronts the world today. It involves all forms of energy. By that I mean it includes the food necessary for human energy and survival, as well as industrial energy for the operation and survival of the world's technology.

FOOD CRISIS MORE SERIOUS THAN ENERGY

The food crisis is far more serious, and more fundamental, then the energy crisis. For we can live with less energy. We may be able to live with less heat, more cold. But the world can hardly manage with less food or allow a billion people to starve or perish. We owe it to our children to cope with this problem before it is too late.

A few years ago, Iran warned about the energy crisis and nobody paid much attention. Now once again we would like to emphasize the grave situation concerning food. I hope this time the world will take it more seriously.

The food crisis calls for a degree of international cooperation and effort that the world has not yet made up its mind to give.

In recognition of this fact, my beloved sovereign recently sent a message to the Secretary General of the United Nations calling attention to the rapid population growth on the one hand, and the state of world food production on the other. He urged increased cooperation between the developing and the developed nations to increase food production, establish population control, food programs, and make provision for sufficient food reserves to guard against famine.

IRAN LOOKS TO ALTERNATIVE ENERGY SOURCES

When we look at the problems of industrial energy, we tend to think too much of oil. We must equally turn our minds to the development of other forms of energy.

Iran has no intention of putting all her eggs in one basket. Already, His Majesty, the Shahanshah, has called for research and exploration into alternative sources of energy.

As long as oil was cheap, the world neglected the abundant supply of coal, shale, and natural gas that is still available to us. We did not seek the means of using them as a source of energy that was economical and met environmental standards.

Solar energy, at the other extreme, has not received the serious attention required for achieving its effective production, storage, and transmission.

Nuclear energy is in hand. But there are problems of production, and the disposal of nuclear waste, for which the world needs to find proper solutions.

Iran has contracted with a number of countries for construction of nuclear power stations.

We want to make clear that this is for peaceful purposes only. Here I must remind you that Iran has signed and ratified the non-proliferation treaty. Moreover, for six years my sovereign the Shahanshan has called for designation of the Middle East as a nuclear-free zone in terms of weapons. To prove this, His Majesty only recently suggested again to the U.N. Secretary General that the proposal be put on the agenda for the next session of the general assembly.

We hope that other nations will join us in pressing for this goal.

PUTTING OIL IN PERSPECTIVE

Meanwhile, we must put oil in proper perspective, with a realistic assessment of a fair price, assured supply, and the proper uses for oil.

Iran has said many times that we will adjust the price of oil to the price of other world commodities. It is up to the industrial nations to contain inflation of their prices and we will contain the price of oil. But we cannot hold down oil prices, when prices for almost everything we buy have been going up in the range of 300 to 400 percent or more in the past decade.

Oil, as a "noble commodity," should be reserved for use in the petrochemicals and medicine, where it has some 70,000 byproducts.

Iran's intentions, and her sense of responsibility, are best indicated by what we are doing with our increased oil revenues.

Domestically, 80 percent of this new income is committed to internal development.

At the same time, we are always eager to learn from the experience of other nations. Your great country is rich in experience and know-how. Here in this great institution, for example, I am hoping to look into some of the outstanding research which has been done by your liquid crystals institute.

Perhaps we can persuade some of these fine intellects to help us in our scientific development.

HELPING THE DEVELOPING NATIONS

With regard to other nations, Iran has embarked on an extensive program of investment and contracts with the industrial countries, and of direct financial aid to the less developed countries.

It is obvious that the third world countries which are not blessed with natural resources and raw materials are the chief victims of the energy crisis.

Iran looks with the gravest concern on the problems of these nations and already is moving to help them with billions in direct aid, as well as long-term loans which will help them to pay the increased price of oil. For example, we have advanced $1 billion to India. To Pakistan it is about the same. Egypt is to receive slightly more than $1 billion; and Syria some $150 million. Other countries such as Senegal and Morocco have already received financial aid from Iran.

Bilateral aid is now well over $8 billion. In proportion to Iran's 32 million inhabitants, I am sure you will agree that this is an enormous amount.

On the multilateral front, His Majesty has proposed the formation of a special international fund to be supported by 12 oil producing and 12 industrial nations. We have also set aside $1 billion for the International Monetary Fund and the World Bank.

In Europe, we are making investments in Germany, France, and Great Britain, and seeking advanced technology in Iran. These investments will give us participation and experience in the world economy, and will bring to Iran business managers, skilled administrators, and technicians.

AN INFLUENCE FOR MIDDLE-EAST PEACE

In the Middle East, we continue to exert our influence in behalf of peace, stability, and mutual trust. For this reason we are in favor of implementation of the Security Council Resolutions 242 and 338 which call for the withdrawal of Israeli forces from Arab territories—and the establishment of peace and stability in the Middle East.

But our desire for peace will not cause Iran to fail to assert her rights, or by the same token to work for greater understanding and harmony among all the nations in this area.

We are very much concerned about the Persian Gulf, and we hope that the atmosphere of peace and friendship which we genuinely seek with our neighbors can prevail for the mutual benefit of all the countries in the Persian Gulf.

AN INDEPENDENT FUTURE

Economic and diplomatic events demonstrate once again that interdependence among nations is increasing. At the same time, the gap between the rich and the poorer nations has grown wider.

Iran believes strongly that the nations of the world cannot work together effectively for peace while these disparities are growing. We believe also that the international policy and actions which I have described illustrate our sincere desire to reduce the disparities.

Iran's independent national policy enables us to deal with any country on a basis of respect for the rights of nations and of individuals. We believe this is the essential foundation of mutual trust and cooperation. We do not believe that what is mine is mine but whatever is yours is negotiable.

Thus, Iran extends her relations with the nations of Eastern Europe, China, and the Soviet Union, while we maintain our close community of interest with the western nations.

DEEP COMMITMENT TO HUMANIST TRADITION

We had a deep historical commitment to the humanist traditions of the West. And we are especially aware of our close friendship with the United States and the many ties which link us together. His Imperial Majesty, the Shahanshah, in his recent message to President Ford, stated as follows: And I quote:

"Our bonds have withstood the test of time and with the passage of years have gone from strength to strength culminating in an atmosphere of perfect mutual trust and good will."

Though quite different in our forms of government, Iran and the United States share many common goals and aspirations.

Iran was the first country to receive aid under the United States technical assistance program, and the first to terminate aid a few years later with mutual trust, friendship, and good will. I am happy to state that Iran is now in fact a donor nation.

We have not forgotten the aid you extended, with no strings attached, at a very critical time in our history. It was a time of internal chaos and turmoil. A time of external threat and danger. And Iran is grateful for your help in that hour.

This is a great example of partnership between two nations, which has expanded ever since.

Like the United States, Iran is dedicated to the building of peace, to the expansion of cooperation among nations of the world and the fulfillment of rising human needs. We attach the highest importance to the establishment of community of interests and promotion of world peace and security on the international scene.

These are deep-rooted convictions among the Iranian people and their sovereign, the Shahanshah. We live by them, and in our everyday actions, we strive to make them real. We seek to move forward, with the establishment of Iran as a progressive and hard-working society. We are determined to recapture the glories of Iran's past and lay the foundation once again for a great civilization.

PRAISE FOR AMERICA

In closing, let me take a moment to speak to you with candor, affection, and trust, as a friend who can speak from the thousands of years of Iranian history.

You, in this graduating class, this new generation, often tend to be critical of your society. It stems from a certain degree of modesty about your accomplishment. This is a healthy attitude—an outlook which deserves praise and admiration. But, you should also be proud of your achievements. You have the heritage of America, which within 200 years has moved from the frontier to the world's most powerful nation. You have been given an enormous responsibility in this short period to ensure continuing peace in the world. To this, you have made a lasting contribution. I would therefore ask you to look at your country and its role with pride and optimism.

On the eve of the two-hundredth birthday of your nation, you can look again to your national virtues of idealism, compassion, and generosity to other nations and other peoples.

Do not underestimate the resources of your people in their dedication, their loyalty, and their inner spirit. These are a greater source of strength than you perhaps realize. This was demonstrated so clearly in World War II in the sacrifices for your own country and for the world community.

Every nation has its periods of stress and trial. These are, in truth, only moments in the life of your nation,—go forward, I urge you, to meet its challenge.

To you, the members of this graduating class, one further word.

There is in the United States a commitment to hard work, self-discipline, and a respect for duty and morality, which you are too modest at times to admit.

You are afraid that this is too much on the square side of things.

Believe me, the eternal verities may sound a little corny, but they are eternal just the same. They have a way of rising up again and again in the course of history.

Do not be afraid to embrace them. You don't have to wear them on your coat sleeves. But you can carry them in your hearts.

CONTINUED U.S. AID TO TURKEY

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, on August 29, 1974, my distinguished colleagues, the gentleman from Maine, Mr. KYROS; the gentleman from Pennsylvania, Mr. YATRON; and the gentleman from Maryland, Mr. SARBANES; and I, joined in a letter to Secretary of State Henry A. Kissinger to urge that, in accordance with the applicable provisions of the Federal Assistance Act, he take action to halt immediately all U.S. military assistance to Turkey.

My colleagues and I, Mr. Speaker, advised Secretary Kissinger that action by him halting all U.S. assistance to the Government of Turkey was "not discretionary as a matter of policy, but is mandatory under the terms of the Foreign Assistance Act of 1961, as amended."

We made clear in our letter to Dr. Kissinger that:

> A substantial violation of the provisions of the Act has taken place in that materials furnished by the United States have been used by the Government of Turkey for purposes not authorized by the legislation—and, in fact, for purposes directly contrary to its objectives.

Of course, Mr. Speaker, we had reference to the continued provision by the U.S. Government of military aid to Turkey while Turkey continues its aggression in Cyprus.

Clearly, as we advised the Secretary of State:

> Turkey is no longer legally eligible for assistance, and proper application of the law requires the immediate halt of aid.

I was very gratified, Mr. Speaker, when the distinguished junior Senator from Missouri, the Honorable THOMAS F. EAGLETON, in remarks in the Senate on September 5, 1974, made precisely the same point that my colleagues and I made in our August 29 letter to Secretary Kissinger.

As Senator EAGLETON said, in reference to the Foreign Assistance Act and to the Foreign Military Sales Act,

> It seems apparent that law is either being ignored or openly abridged.

Further evidence of the validity of our charge that Federal law is presently being violated by the provision of aid to Turkey is a legal study prepared by the Library of Congress which also concludes that Congress has outlawed the supply of arms to other countries for purposes that are "not related to national self-defense or regular defense."

The study to which I refer, "Military Aid Cut-Off to Aggressor-Recipients," dated September 9, 1974, declares,

> That U.S. military aid is intended for the sole and exclusive purpose of permitting recipients to defend themselves against aggression, whether from internal or external sources, seems to permeate the laws governing this matter.

The study further declares,

> The principal purpose of U.S. military aid was intended for defensive, rather than aggressive purposes.

Mr. Speaker, I have just received a letter from the Honorable Linwood Holton, Assistant Secretary of State for Congressional Relations, in response to our letter of August 29, 1974, in which Mr. Holton advises me that, The Department has been giving this complex legal question its urgent attention.

Mr. Speaker, I must here note that in his press conference of August 19, 1974, Secretary Kissinger indicated that he would be getting a legal opinion on the question of U.S. assistance to Turkey. I must say that I am astonished that nearly a month after the Secretary's pledge, it has not proved possible for the Department of State on so serious a matter as an alleged violation of law in respect of so volatile a crisis as that in Cyprus to develop a legal opinion.

Perhaps the inclusion in the Congressional Record of the study of the Library of Congress to which I have referred, which took less than 2 weeks to prepare, will ease the burden on the Department of State. I very much hope so.

Mr. Speaker, I shall insert at this point in the Record the text of the letter to Secretary Kissinger to which I have already made reference:

August 29, 1974.

Dear Mr. Secretary:

We are shocked to learn from recent press reports that the United States Government is continuing to provide military assistance to Turkey. This letter is to urge once again in the strongest possible terms that you take immediate action to halt all United States assistance to the Government of Turkey. We would further emphasize that such action by you cutting off aid to Turkey is not discretionary as a matter of policy, but is mandatory under the terms of the Foreign Assistance Act of 1961, as amended. As you know, that Act states the purposes for which other governments may use the defense material furnished by the United States under the military assistance program. The Act further provides that any country which uses defense articles in substantial violation of the provisions of the Act shall be immediately ineligible for further assistance.

It is our firm view that a substantial violation of the provisions of the Act has taken place in that materials furnished by the United States have been used by the Government of Turkey for purposes not authorized by the legislation—and, in fact, for purposes directly contrary to its objectives. Consequently, Turkey is no longer legally eligible for assistance, and proper application of the law requires the immediate halt of aid.

Clearly, the Department cannot, and would not wish to, be in the position of pursuing a policy which directly violates applicable provisions of law. Since the terms of the Act call for immediate ineligibility, your prompt reply to this letter is urgently requested. In this regard, we note that in your press conference of August 19, 1974, you indicated you would be getting a legal opinion on this very subject. We assume that preparation of this opinion has been completed, and we, therefore, anticipate an immediate response to the critical legal questions raised herein.

Sincerely,

John Brademas,
M.C., Indiana.
Peter Kyros,
M.C., Maine.
Paul Sarbanes,
M.C., Maryland.
Gus Yatron,
M.C., Pennsylvania.

Mr. Speaker, I insert Mr. Holton's letter to me of September 10, 1974:

Department of State,
Washington, D.C., Sept. 10, 1974.

Hon. John Brademas,
House of Representatives,
Washington, D.C.

Dear Mr. Brademas: The Secretary has asked me to provide you with an interim reply to your letter of August 29 in which you and your colleagues urged an immediate halt to all US assistance to Turkey under the terms of the Foreign Assistance Act of 1961, as amended.

We regret the delay in resolving this matter, but I would like to assure you that the Department has been giving this complex legal question its urgent attention. Please rest assured that we will provide you with the results of our study on the political and legal aspects of US assistance to Turkey as soon as a final determination becomes available.

A similar interim reply has been sent to the other signers of your August 29 letter.

Please feel free to call on me whenever you believe I can be of assistance.

Cordially,

Linwood Holton,
Assistant Secretary for
Congressional Relations.

Mr. Speaker, I insert the Library of Congress study of September 9, 1974 to which I have earlier made reference:

Congressional Research Service,
Washington, D.C.

Military Aid Cut-Off to Aggressor-Recipients

Reference is made to your inquiry of August 30, 1974, requesting information on the above matter. Specifically, you ask whether statutes limit extending U.S. military aid to nations which employ same for aggressive purposes inimical to world peace and domestic interests.

That U.S. military aid is intended for the sole and exclusive purpose of permitting recipients to defend themselves against aggression, whether from internal or external sources, seems to permeate the laws governing this matter. Title II of the Foreign Assistance Act of 1961, as amended, relating to the extension of military assistance, rests on the congressional finding that "the efforts of the United States and other friendly countries to promote peace and security continue to require measures of support based upon the principle of effective self help and mutual aid." Accordingly, it is the purpose of this title "to authorize measures in the common defense against internal and external aggression, including the furnishing of military assistance, upon request, to friendly countries and international organizations." Taking note of the dangers to world peace and national security posed by international communism, and so-called wars of liberation, Congress declares that "in the administration of [title II] priority shall be given to the needs of those countries in danger of becoming victims of active Communist or Communist-supported aggression or those countries in which the internal security is threatened by Communist-inspired or Communist-supported internal subversion."

That the principal purpose of U.S. military aid was intended for defensive rather than aggressive purposes is clearly implied by various other statements contained in Title II's statement of policy. Thus, Congress states that the furnishing of military assistance notwithstanding, "it remains the policy of the United States to continue to exert maximum efforts to . . . control weapons of mass destruction and universal regulation and reduction of armaments, including armed forces, under adequate safeguards to protect complying countries against violation and evasion." Elsewhere, Congress declares that "[i]n enacting this legislation, it is" its "intention . . . to promote the peace of the world and the foreign policy, security, and general welfare of the United States by fostering an improved climate of political independence and individual liberty, improving the ability of friendly countries and international organizations to deter or, if necessary, defeat Communist or Communist-supported aggression, facilitating arrangements for individual and collective security, assisting friendly countries to maintain internal security, and creating an environment of security and stability in the developing friendly countries essential to their more rapid social, economic, and political progress." § 501; 22 U.S.C. 2301.

The operative provisions of the Act are if anything more explicit regarding the exclusively defensive purposes of the military aid authorized in title II. Thus, section 502 provides, in relevant part, that—"Defense articles and defense services to any country shall be furnished solely for internal security, for legitimate self-defense, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security, or for the purpose of assisting foreign military forces in less developed friendly countries (or the voluntary efforts of personnel of the Armed Forces of the United States in such countries) to construct public works and to engage in other activities helpful to the economic and social development of such friendly countries . . ." § 503, 22 U.S.C. § 2302.

In authorizing military assistance to friendly foreign countries and international organizations, Congress wrote into the Act the express requirement that the President has to find that the extension of such assistance will strengthen the security of the United States and promote world peace. § 503; U.S.C. § 2311.

In order to be eligible for defense articles on a grant basis, an applicant country, inter alia, must agree, "that . . . it will not, without the consent of the President . . . use or permit the use of such articles for purposes other than those for which furnished. . . ." § 505(a) (1) (c); 22 U.S.C. § 2314(a) (1) (c). Similarly, Congress enjoined the President from furnishing defense articles on a grant basis to any country at a cost in excess of $3,000,000 unless he determines "that such country conforms to the purposes and principles of the United Nations; that such defense articles will be utilized by such country for the maintenance of its own defensive strength, and the defensive strength of the free world; . . ." § 505(b) (1), (2); 22 U.S.C. 2314(b) (1), (2).

Any doubt regarding the mandatory (as distinguished from directory) nature of the aforementioned restrictions on foreign military assistance authorized by the 1961 Act should have been dispelled by a significant amendment which was added one year later. Public Law 87–565, Pt. II, § 201(a), 76 Stat. 259 (1962) 22 U.S.C. 2314(d). That amendment which added section 505(d) provides that use by any recipient nation of materials in violation of the terms and conditions contained in this and related laws, past and present, "shall [render it] . . . immediately ineligible for further assistance." Section 505(d) reads as follows:

"Any country which hereafter uses defense articles or defense services furnished such country under this chapter, the Mutual Security Act of 1954, as amended, or any predecessor foreign assistance Act, in substantial violation of the provisions of this chapter [§§ 2311–2320] of this title or any agreements entered into pursuant to any of such Acts shall be immediately ineligible for further assistance."

The substance of section 505(d) was proposed in the House version of the Foreign Assistance Act of 1962, H.R. 11921, § 201. The House Report that accompanied the bill (H. Rept. No. 1788, 8th Cong., 2d Sess. pp. 26–27) states, in relevant part, that—

"Section 201(a) amends Section 506 [Subsequently sections 505], relating to conditions of eligibility, by adding a new subsection (c) [subsequently redesignated (d)] providing that any country which hereafter uses defense articles or defense services furnished such country under this act, the Mutual Security Act of 1954, as amended, or any of the provisions of this chapter or any agreements entered into pursuant to any of these acts shall be immediately ineligible for further assistance under this chapter.

"The present act requires that military assistance furnished either through grants or sales shall be solely for the purposes of internal security, legitimate self-defense or the participation in collective arrangements or measures consistent with the United Nations Charter or as requested by the United Nations for maintaining or restoring international peace and security. It also provides for certain conditions or eligibility which include the reaching of agreements as to the use, observation, protection, and disposition of the assistance furnished.

"This amendment will provide the positive penalty not now contained in the law for the future violation of the requirements of this chapter or agreements under which the equipment or services are furnished.

"The committee believes that such a penalty is necessary and will serve notice or agreements as having little or no effect. It is not intended that every small disagreement between the United States and recipient countries on the deployment of units or uses of equipment would serve to make such country ineligible for further assistance. However, where a country actually undertakes an act of aggression or refuses to allow continuous observation of the equipment, diverts substantial quantities of the items furnished, or otherwise violates the terms of its agreements, further assistance under this chapter would be prohibited by this Amendment."

The conference appointed to iron out differences in the measure as passed by the Senate and the House, accepted the latter's recommendation relative to conditions of eligibility with the addition, of the qualification that the violation must be substantial in order for the prohibition to apply. The conference report (H. Rept. No. 2008, 87th Cong., 2d Sess., pp. 17–18) states, in relevant part, that—

"Section 201(a) of the House Amendment provided that any country which hereinafter used defense articles or defense services furnished such country under this act, the Mutual Security Act of 1954, as amended, or any predecessor foreign assistance act, where such use was in violation of the provision of the military assistance chapter or any agreements entered into pursuant to any of such acts, should be immediately ineligible for further assistance.

"The Senate bill contained no comparable provision.

"The committee of conference accepted the House provision with an amendment which provided that in order for the section to become operative there must be a 'substantial' violation of the provisions of the military assistance chapter or applicable agreements. The purpose of this amendment is to make clear that minor instances of diversion or improper uses would not work to make countries ineligible for further military assistance."

In keeping with traditional practice, the apparent absolute prohibition contained in section 505(d) is subject to the President's special waiver authority in section 614(a), 22 U.S.C. 2364(a), which reads, in relevant part, that—

"The President may authorize . . . the use of funds made available for use under this chapter and the furnishing of assistance . . . without regard to the requirements of this chapter or any other law, relating to receipts and credits accruing to the United States, any Act appropriating funds for use under this chapter, or the Mutual Defense Assistance Control Act of 1951, in furtherance of any of the purposes of such Acts, when the President determines that such authorization is important to the security of the United States . . ." See H. Rept. No. 1788, *supra*, at p. 18.

That military aid under title II is intented for defensive purposes exclusively seems beyond debate. As noted, such assistance was conceived as operating hand in glove with economic aid by enabling recipients to defend themselves sufficiently to allow improvement in economic circumstances which in turn would make communism a less appealing alternative. Use of articles and services for other than defensive purposes, i.e., for aggressive purposes, is barred by law. However, neither the Act nor its legislative history make clear what kinds of activities separate defensive from aggressive purposes. Similarly, aside from the noted statement that a substantial violation which makes section 505(d)'s prohibition applicable is not intended to apply to minor violations, Congress provided little or no guidance for clearly distinguishing between the two. It is not unlikely that Congress had common sense standards in mind, i.e., general notions of the differences between offense and defense.

RAYMOND GELADA,
Senior Specialist in American Public Law.

Mr. Speaker, I here insert the remarks of Senator EAGLETON in the Senate on September 5, 1974:

CONTINUED AID TO TURKEY VIOLATES LAW

Mr. EAGLETON. Mr. President, throughout our history Congress in fulfilling its constitutional responsibilities has sought to provide the Executive with maximum flexibility in the conduct of foreign affairs. It was, of course, the intention of the framers that the President be allowed to negotiate with foreign governments with as little statutory restriction as was deemed by Congress to be in the national interest. This scheme has served the United States well even in this era of foreign entanglements.

But one area where Congress felt that the national interest was best served by restrictive legislation—by keeping the Executive on a short leash—was the area of military assistance. Recognizing the inherent danger of providing arms to foreign governments by grants or sales, Congress passed legislation carefully circumscribing the use of those arms. And we carefully limited the President's discretion in continuing military assistance to a recipient nation when that nation is in violation of the applicable statutes.

For the past month the Government of Turkey has been in violation of the provisions of section 505 of the Foreign Assistance Act and chapter 1, section 4 of the Foreign Military Sales Act. Whether or not it suits the policy of the executive branch at this time, these laws state categorically that a violating nation "shall be immediately ineligible" for further assistance.

According to the Committee on Appropriations tables of transfers of U.S. resources to foreign nations, Turkey received an estimated $201,122,000 in fiscal year 1974, and received $80 million in military assistance.

It seems apparent that the law is either being ignored or openly abridged in order to accommodate an ill-perceived short-range gain—ill-perceived because we have gained nothing and lost much in our "tilt" toward Turkey.

Section 505, subsection (a)(1)(C) states in part:

"No defense articles shall be furnished to any country on a grant basis unless it shall have agreed that . . . it will not, without the consent of the President, use or permit the use of such articles for purposes other than those for which furnished . . ."

Mr. President, Turkey did consent to that carefully drawn condition in a bilateral agreement with the United States signed in July 1947. Article IV of that agreement requires Turkey to obtain U.S. approval for the use of American arms for purposes other than those for which such assistance was furnished.

In a June 1964 letter to the Prime Minister of Turkey, President Johnson warned of the consequences of using American arms for an invasion of Cyprus. The President referred to the 1947 military aid agreement and said:

"I must tell you in all candor that the United States cannot agree to the use of any United States supplied military equipment for a Turkish intervention in Cyprus."

Later in his letter, President Johnson said:

"You have your responsibilities as Chief of the Government of Turkey; I also have mine as President of the United States."

The President knew full well when he sent that letter that his statutory responsibility was to declare Turkey immediately ineligible for military assistance if Turkey went ahead with its plan to intervene in Cyprus. And that was back in 1974.

What are the purposes for which we furnish a nation with weapons under military assistance programs? Subsection (b) of section 505 of the Foreign Assistance Act addresses that question directly when it requires the President to determine that each of the four following conditions be met:

"(1) that such country conforms to the purposes and principles of the Charter of the United Nations;

"(2) that such defense articles will be utilized by such country for the maintenance of its own defensive strength, or the defensive strength of the free world;

"(3) that such country is taking all reasonable measures, consistent with its political and economic stability, which may be needed to develop its defense capacities; and

"(4) that the increased ability of such country to defend itself is important to the security of the United States."

Mr. President, the words "immediately ineligible" strongly imply that the President must make an expeditious determination that these four conditions have been met. Now, more than a month after the invasion of Cyprus, it is obvious that Turkey has clearly violated conditions one and two. It cannot, in my opinion, legitimately be argued that the administration has acted in good faith to expeditiously implement the provisions of this law.

The Foreign Military Sales Act is equally specific in defining the purposes for which military sales are authorized. Section 4 reads as follows:

"SEC. 4. Purposes for Which Military Sales by the United States Are Authorized.—Defense articles and defense services shall be sold by the United States Government under this Act to friendly countries solely for internal security, for legitimate self-defense, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security, or for the purpose of enabling foreign military forces in less developed friendly countries to construct public works and to engage in other activities helpful to the economic and social development of such friendly countries."

Mr. President, even the wildest imagination could not construe the Turkish invasion of Cyprus as conforming to the purposes and principles of the U.N. Charter. Turkish troops have actually engaged U.N. peacekeeping forces on Cyprus. Certainly the aggressive actions of Turkey cannot be interpreted as "legitimate self-defense"—or "internal security"—or "public works"—or "helpful to the economic and social development" of Cyprus. Those are quotations from the aforementioned statute.

It is clear, therefore, that the action of Turkey is in direct violation of the 1947 bilateral agreement and, consequently, in violation of the legal authority under which that country receives military aid. The President in this rare instance has virtually no discretion under the law—he must determine that Turkey is immediately ineligible for military grant assistance and military sales.

Mr. President, the legal provisions I have cited apply directly to the Cyprus situation. There is, however, another provision which would apply to the situation as well. Section 620(i) of the Foreign Assistance Act states in part that—

"No assistance shall be provided under this or any other Act . . . to any country which the President determines is engaging in or preparing for aggressive military efforts . . . directed against . . . any country receiving assistance under this or any other act."

Cyprus receives both Public Law 480 and regular foreign assistance grants. Therefore, when Turkey invaded that nation, it violated this provision as well.

In a press conference on August 19, Secretary of State Henry Kissinger stated that he would seek a legal opinion on the issues I have discussed today. He also strongly implied that it would not be in our interests to terminate military aid to Turkey at this time.

Mr. President, it is always in the interest of the United States to assure that our laws are faithfully executed. I would rather believe that the delay in receiving a legal opinion on military assistance to Turkey is unrelated to the State Department's perception of the best policy to follow in the Cyprus matter. Yet, the implication is inescapable. There is no excuse for the failure to implement what is a clear requirement of law.

It is my personal belief that a cutoff of military aid to Turkey would indeed serve to inspire accommodation among the warring factions on Cyprus. If such action is taken immediately, as is required, it will present a tangible expression of concern to Greece—an expression which might save U.S. bases in that country and hopefully stem the tide of anti-Americanism. And it may demonstrate to Turkey that, although it has won a military victory, that victory cannot be sustained over time unless it is transformed into political accommodation.

Mr. President, we have just emerged from a trying period of American history—a period when laws were winked at and rationalized to fit the concept of policymakers. By and large, we have learned that policies created in ignorance of or in spite of the law are doomed to failure.

I am sure that it is not President Ford's intention to ignore the law in this instance. I have greatly admired his efforts to restore confidence in the law during his brief tenure as President. But it is my belief that he is being ill-advised or being kept uninformed of the legal ramifications of his inaction in the Cyprus matter in order to protect erroneous policy judgments made by the foreign affairs bureaucracy.

I call upon the President to make the inescapable determination he is required to make under the statutes I have cited today. He has no choice but to declare Turkey ineligible to receive further military assistance. Such action will not only conform the administration's actions with the law; it will begin to correct the grievous errors our Government has made in sacrificing relations with Greece in favor of a nation which has committed aggression.

Mr. President, I yield back the remainder of my time.

Mr. Speaker, I also insert an article dated September 10, 1974 in the Washington Star-News by Oswald Johnston, entitled "Turkey Aid Poses Problem:"

TURKEY AID POSES PROBLEM

(By Oswald Johnston)

After weeks of temporizing, the Ford administration is nearing a moment of reckoning on the politically loaded question of continuing military aid to Turkey after the Turkish invasion of Cyprus nearly two months ago. The outcome may prove a deep embarrassment.

In Congress, a movement is gathering force to cut off all of the $209 million in military aid earmarked for Ankara this year. Opponents were bolstered today by a Library of Congress legal opinion maintaining that continuing aid after the July 20 invasion violates congressional limits on U.S. aid programs.

At the same time, according to informed sources, Secretary of State Henry A. Kissinger's own legal staff has come up with a still unpublished legal opinion which, if accepted within the administration, would sharply curtail the policy of continuing aid to Turkey.

A legal study has been underway at State ever since Kissinger, responding to a critical questioner at a news conference Aug. 19, conceded that the legality of continued military aid to Turkey would have to be studied. Up to that time, the decision to continue aid after the July 20 invasion had been based on other policy criteria, Kissinger explained.

Since the news conference, department officials have declined any public discussion of the issue, except to say it is a "complex, complicated matter" that is under study.

The study is being conducted under the aegis of Carlyle E. Maw, undersecretary of state for security assistance.

Maw declined yesterday to respond to questions relating to the study. But an authoritative official disclosed that Maw late last month rejected an early draft of the legal study as "incomplete . . . not adequate . . . too hasty a job."

According to a variety of sources close to the department, an early draft of the study and a later version which the legal staff is still working on concluded that continued U.S. aid to Turkey without a special presidential intervention violates both the letter and the spirit of the Foreign Assistance Act of 1961. Under that law, military aid is limited to purposes of self defense or to participation in regional defensive alliances such as NATO.

According to this inhouse reading, the only justification for continued aid to Turkey would be a narrowly circumscribed loophole in the law. This waiver clause would empower Ford to authorize up to $50 million a year in aid to a nation making aggressive war "when the President determines that such authorization is important to the security of the United States."

Congressional sources speculated privately that a presidential appeal to "national security" on this issue would aggravate still further the strained U.S. relationship with Greece, which has announced withdrawal from NATO over the Cyprus issue and is threatening to take over U.S. military bases.

State Department spokesman Robert Anderson acknowledged that Kissinger met Saturday with Maw and other top advisers to discuss the issue. Kissinger will raise the question with Ford in the next few days, Anderson said, and Ford himself would soon be conferring with congressional leaders.

Congress is definitely shaping up to be a problem for the administration. The seven-page Library of Congress opinion delivered today unequivocally comes down on the side of a rigid congressional prohibition against supplying arms for purposes unrelated to national self-defense or regional defense.

"That U.S. military aid is intended for the sole and exclusive purpose of permitting the recipients to defend themselves against aggression . . . seems to permeate the laws governing this matter," the opinion declares. "The principal purpose of U.S. military aid was intended for defensive, rather than aggressive purposes."

A GREAT YOUNG DOCTOR

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, in a recent conversation with my good friend, Ernest G. Tweel, of Huntington, I learned that his nephew, Dr. William R. Tweel, Jr., may be the youngest medical doctor in our country. Bill, who is just 24 years old, is the son of Mr. and Mrs. William Tweel, of Huntington. He is in his first year of residency at Grant Hospital in Columbus, Ohio.

Bill Tweel attended public schools in Huntington and his father is a teacher at Barboursville Elementary School. Bill graduated magna cum laude from Marshall University at the age of 19 and received his medical training at the Medical College of Virginia.

I am very proud of Bill Tweel's many accomplishments throughout his young life and I am eager to share with you two recent articles about this fine young man:

[From the Huntington (W. Va.) Advertiser, Sept. 3, 1974]

YOUNG DOCTOR TO RESTORE OLD-FASHIONED PRACTICE

(By Melinda Hamilton)

Dr. William T. Tweel, Jr., once tried growing a mustache so he would look older. Now 24, the former Huntingtonian is possibly the country's youngest medical doctor. In spite of his age, his ambition is a remarkably old-fashioned one.

"I want to go into family practice in some small, maybe semi-rural community," he said. "You know, like the old family doctor who went off the scene a long time ago."

Dr. Tweel, the son of Mr. and Mrs. William T. Tweel, Sr., of Huntington, graduated Magna Cum Laude from Marshall University in chemistry when he was 19. In the summer following his junior year at Huntington High School, he took courses at Marshall under a special program for talented high school students.

He continued the program during his senior year. By the time he entered Marshall as a freshman, he had already earned a full year's credit.

Only once, he recalled, did doubling up on courses get thorny.

"It turned out that a friend in one of my college classes was also the fiance of the student teacher in my high school English class," he said.

While in high school. Tweel was an avid science student and won a number of science fair prizes.

One of his projects involved submerging new-born mice in oxygen-free water to demonstrate the capability of infant mammals to survive under water without drowning.

"Not to be big headed about it," he said, "but a medical researcher at the University of Cincinnati is conducting similar experiments now as an offshoot of what I did."

With his prior credits, Tweel was able to get into medical school after only two years as a regular college student. Although he was the youngest among 129 to 130 incoming students, he was not plagued because of his age, he said.

Tweel set his goal on family practice during his second year at the Medical College of Virginia, which he entered when he was 20.

Now in his first year of residency at Grant Hospital in Columbus, Ohio, Tweel expects to hang out his shingle in another year or so. He said he was encouraged by his teachers to go into general practice.

"They seemed to be delighted when I mentioned going into family practice. I think the Marcus Welby type doctor may be coming back," he said.

A slender 5 foot 8 inches, Tweel has already learned to parry questions about his age.

"Patients frequently ask me "Aren't you awfully young to be a doctor?' I simply reply, 'Yes, I am,' and they usually don't say much more," he said.

Tweel met his wife, Virginia, while he was a student. She was a medical technician at a community hospital in Richmond, Va.

"It was a blind date," he recalled.

They were married during his final year of medical school and now have a son, William III. Tweel's demanding six-day work week often cramps his role as a father.

"I can't even tell you how old our son is," he said. "He's more than three months old. I know."

Not surprising for a person planning a traditional practice. Tweel's hobbies include collecting medical antiques and memorabilia.

"Several things I've collected belonged to my grandfather, who was also a doctor," he said. "I have his microscope, which is dated 1904, his dissecting instruments, and many old photographs."

His favorite among the photos shows his grandfather grouped with other medical students around a cadaver.

"Except for the equipment," Tweel said, "it could be a picture of today."

[From the Columbus Dispatch, Aug. 25, 1974]

Ambition: Family Practice—Doctor Only 24 Years Old

(By David Treadwell)

Dr. William R. Tweel Jr., who at 24 may be the country's youngest medical doctor, has a remarkably old-fashioned ambition.

"I want to go into family practice in some small, maybe semi-rural community," he said. "You know, like the old family doctor who went off the scene a long time ago."

Now in his first year of residency at Grant Hospital in Columbus, Tweel expects to hang out his shingle in another two years.

Tweel set his goal on family practice during his second year at the Medical College of Virginia, which he entered when he was 20.

"Up to then I didn't have any idea that this would be my specialty," he said. "I liked everything I'd been doing in med school."

He was encouraged to become a general practitioner by his teachers, he said.

"They would praise you and show delight when you mentioned you might go into family practice," he said. "I think the Marcus Welby type of doctor may be coming back."

A slender 5 foot 8 tall, Twell has already learned to parry the inevitable question about his age.

"Patients frequently ask me, "Aren't you awfully young to be a doctor?' I simply reply, 'Yes, I am,' and they usually don't say much more," he said.

He tried growing a mustache once so he would look older.

"But it didn't look good, so I shaved it off," he said. "Besides, most people don't know I may be a few years younger than the next doctor. At least they can see I'm out of diapers.

Back in his hometown of Huntington, W. Va., where his father is a school teacher and professional musician, Tweel was a busy youngster.

At 14, he started playing bass viol in his father's trio at wedding receptions, country club parties and bar mitzvahs.

"I might have stayed in music," he said, "but after five or six years of hauling around a bass fiddle to late night affairs, I had enough of it."

In the summer following his junior year at Huntington High School, he took courses at Marshall College under a special program for talented high school students.

He continued the program during his senior year. By the time he entered Marshall as a freshman, he had already earned a full year's credit.

Only once, he recalled, did doubling up on courses get thorny.

"It turned out that a friend in one of my college classes was also the fiance of the student teacher in my high school English class," he said.

While in high school, Tweel was an avid science student and won a number of science fair prizes.

One of his projects involved submerging new-born mice in oxygen-free water to demonstrate the capability of infant mammals to survive under water without drowning.

"Not to be big headed about it," he added, "but a medical researcher at the University of Cincinnati is conducting similar experiments now as an offshoot of what I did."

With his prior credits, Tweel was able to get into medical school after only two years as a regular college student.

Although the youngest among some 120-130 incoming students, he was not plagued because of his age, he said.

"I was treated as an adult like everyone else," he said, "If it had been any other way, I'd have felt bad about it." However, his early academic promise leveled off.

"I got an honor or two in medical school," he said. "But for the most part, I was in the middle of my class gradewise."

Tweel met his wife, Virginia, while a student. She was a medical technician at a community hospital in Richmond.

"It was a blind date," he recalled, "the first and last for either of us."

They were married during his final year of medical school and now have a son, William III. Tweel's demanding six-day work week often cramps his role as father.

"I can't even tell you how old our son is," he said with embarassment. "He's over three months, I know."

Not surprisingly for a person planning a traditional kind of practice, Tweel's hobbies include collecting medical antiques and memorabilia.

"Several things I've collected belonged to my grandfather, who was also a doctor," he said. "I have his microscope, which is dated 1904, his dissecting instruments, and many old photographs."

His favorite among the photos shows his grandfather grouped with other medical students around a cadaver.

"Except for the equipment," Tweel said, "it could be a picture out of today."

THE EMERGENCY PUBLIC EMPLOYMENT ASSISTANCE ACT OF 1974

(Mr. MOORHEAD of Pennsylvania asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I am introducing today the Emergency Public Employment Assistance Act of 1974. This bill is designed to provide unemployed persons with transitional employment in jobs that provide needed public services during periods of high national unemployment.

There is no doubt that the No. 1 problem confronting our country today is inflation. However, it is also clear that policies designed to control inflation, specifically tight monetary and fiscal policies, have high costs in terms of increased unemployment. This bill is designed to help to cushion the adverse impact on unemployment rates of anti-inflation policies.

The need for such a program was clearly demonstrated in the midyear hearings on the state of the economy conducted by the Joint Economic Committee, of which I am a member. Private economists, administration witnesses, labor representatives and the Chairman of the Federal Reserve Board unanimously agreed that national unemployment would be near 6 percent or above by the end of the year. One witness, Prof. Walter Heller of the University of Minnesota suggested that if present monetary and fiscal policies were continued, unemployment could go as high as 7 percent by the end of next year.

While all of the witnesses agreed that the battle against inflation could not be abandoned despite these high unemployment forecasts, several suggested that the impact of tight monetary and fiscal policies could be cushioned by a large-scale public service employment program. Mr. I. W. Abel, chairman of the AFL–CIO Economic Policy Committee and president of the United Steelworkers of America testified that:

> Substantial Federal grants to the states and local governments are required to create jobs for the unemployed and provide unmet public services.

Arthur F. Burns, Chairman of the Board of Governors of the Federal Reserve System added—

> An expanded public service employment program may also be needed if unemployment rises further.

Chairman Burns went on to suggest that $4 billion should be expended for public service employment if the national rate of unemployment should reach 6 percent.

In this complex period in economic history during which our country is experiencing both high inflation and excessive unemployment, we must be very careful to develop pinpointed economic policies. It is no longer satisfactory to alleviate inflation through only tight monetary and fiscal policies, for these policies will have an unacceptable impact on unemployment. Similarly, broad stimulative policies designed to combat unemployment would have an adverse inflationary impact. For this reason, it is absolutely essential that we develop pinpointed policies designed to reduce unemployment with minimal inflationary impact. The bill I am introducing today is just such a program.

The bill provides $4 billion to be expended in fiscal year 1975, or in subsequent fiscal years, to provide transitional employment in jobs providing needed public services during periods of high national unemployment. The bill is also designed to provide related training, where possible, to facilitate the movement of persons employed in this program into employment in the private economy. The funds authorized will be made available to those geographic areas in the country which have excessively high unemployment rates.

The full $4 billion would be made available for expenditure whenever the national rate of unemployment averages over 6 percent for 3 consecutive months. In addition, part of the funds could be made available if the President, with the agreement of Congress by concurrent resolution determines that forecasted unemployment levels are significantly high enough to merit the expenditure of all or part of the funds.

Finally, the bill requires that within 21 days of the enactment, that the President submit to Congress a special report with respect to the implementation of this act. This provision insures that the program will be ready for implementation should the need arise.

It must be pointed out that the Emergency Public Employment Assistance Act of 1974 is not designed to add $4 billion to the 1975 budget but rather should be financed through a reorientation of Federal priorities, cutting defense, highway space and other programs which create far fewer jobs per dollar spent than public service employment.

I would like to take this opportunity to urge all Members of Congress to support the Emergency Public Employment Assistance Act of 1974 because it is a pinpoint program designed to zero in and reduce unemployment while causing minimal inflationary pressures.

PETER MACLEARIE'S SERVICE

(Mr. HOWARD asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HOWARD. Mr. Speaker, the State of New Jersey has lost a fine, dedicated public servant with the passing of Peter Maclearie, who served as a member of the Belmar Board of Commissioners from 1947 until this year. During that time, he served as the borough's mayor from 1947 until 1967.

Mr. Maclearie had many friends throughout New Jersey, and I am privileged to have been one of them.

Mr. Maclearie loved public service; he was never too busy to help those in need, and he was an activist who helped revitalize the business district. His accomplishments are too numerous to mention.

The Daily Register of Red Bank, N.J., editorialized on the death of Mr. Maclearie, and the Asbury Park Press, of Asbury Park, N.J., also commented on the contributions and loss of this fine man. I would like to share those words, which are said so well, and which best summarize Pete Maclearie, with my colleagues:

[From the Red Bank (N.J.) Daily Register]

MR. MACLEARIE'S SERVICE

The effective and perceptive leadership that Peter Maclearie exerted for 27 years as mayor and commissioner in Belmar was a major force in the political stability that has contributed so much to the borough's progress.

During his long service in public office and as a businessman Mr. Maclearie recognized the necessity of balancing Belmar's seasonal resort requirements with stimulants to the all-year economy. These fostered new housing and through a successful urban renewal program enabled the borough's business district to keep pace with commercial growth in neighboring communities.

His passing saddens his associates and friends who recognize that his influence and public service will provide to the community long-lasting benefits.

[From the Asbury Park (N.J.) Press, July 1, 1974]

PETER MACLEARIE, 20 YEARS MAYOR OF BELMAR, DIES AT 68

BELMAR.—Peter Maclearie, 68, a member of the Belmar Board of Commissioners since 1947, died yesterday at Jersey Shore Medical Center, Neptune. He was the mayor of the borough from 1947 until 1967.

During his tenure, Mr. Maclearie took an active part in revitalizing the borough's district. While mayor in the early 1960s, an urban renewal project featuring construction of the Belmar Mall was completed, bringing new businesses to the community and increasing shopper parking. The project cost almost $1 million.

In addition, beachfront improvements were made, and many dilapidated, frame structures dating back to the turn of the century were razed and replaced with modern buildings.

While a commissioner in recent years, he was instrumental in bringing senior citizen housing to Belmar, and helped set policies for developing the borough by attracting a motel-apartment house complex on Route 35 near Borough Hall, and by encouraging the construction of year-round apartment buildings to replace beachfront business that had deteriorated.

Mr. Maclearie was one of the prime movers when the South Monmouth Regional Sewerage Authority was formed several years ago. He was its first chairman.

Mr. Maclearie and his oldest son, Mayor Peter H. Maclearie of Spring Lake Heights, formed one of the few father-son combinations in Monmouth County municipal government.

A member of the Belmar Republican Club, Mr. Maclearie also was a member of the powerful Monmouth County Republican Executive Committee, which played an important part in selecting candidates for state and county offices.

Several years ago, Mr. Maclearie recalled how his father (once a North Arlington councilman) summed up the family philosophy about politics.

"No matter where he lives, a person's duty is to take part—even a small one—in his community and make it a better place in which to live. So many people lack interest. If more took part, it could make the job of running a community a lot simpler."

As far as his own philosophy was concerned, Mr. Maclearie said:

"I don't care what type it is, a government is only as good as the men in office. If the people of Belmar ever wanted a change in government or the men in charge, I'd never stand in the way."

The Belmar Board of Commissioners adopted a resolution last Tuesday naming a borough park in honor of Mr. Maclearie. The park is between Route 35, and the Shark River and from L street to the west boundary of the borough.

Mr. Maclearie was widely known throughout the state as a result of his civic and governmental activities.

He was past president of both the N.J. State League of Municipalities and the Monmouth County Municipal Association.

He also was past chairman of the Mental Health Committee of the state Department of Institutions and Agencies, a member of the Board of Directors of the Gerald F. Thompson Home, and was vice president of the Monmouth County Tuberculosis Control Board. He was also a member of the New Jersey State Locksmith Association.

He was past president of the Volunteer Hook & Ladder Company of the Belmar Fire Department and the Belmar Republican Club, a director of the Monmouth Ocean Development Council, and an exempt member of the New Jersey Firemen's Association.

He was a member of the South Belmar Baptist Church, and the Baptist Tabernacle there.

He is survived by his widow, the former Ursula Eberhardt; two sons, Peter H., Spring Lake Heights, and Timothy, at home; two daughters, Mrs. Rex Boda, Regina, Sask.; and Mrs. Judy Ferruggiaro, here; and 14 grandchildren.

The Daniel A. Reilly Funeral Home, here, is in charge of arrangements.

IS EVERYTHING UNDER THE SUN "CLOSELY RELATED TO BANKING"?

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, in working for proper regulation of bank holding companies through the years, I have often cited the "boardinghouse reach" of these powerful business entities—their seemingly uncontrollable mania for moving into more and more different business activities. It is ironic that bank holding companies are on the prowl for new businesses to take over at a time when bank failures indicate that many financial institutions are unable to tend their own shops, much less take on unrelated business activities. And it is tragic that the Federal Reserve—which has the authority, and indeed, the legal duty to regulate bank holding companies—seems to have concluded that everything under the sun is "closely related to banking."

The recent Federal Reserve order permitting the Southern Bancorporation to engage in a wide range of insurance agency activities was a new low in Federal regulation and subsequent decisions of a similar nature demonstrate the urgent need for congressional action to strengthen our bank holding company laws. If the Fed will permit bank holding companies to take over insurance agency operations, other small businesses are in grave jeopardy. And the biggest loser of all will be the American consumer who is seeing his choice restricted by reduced competition. In addition, our stagnant economy will be further depressed by bank holding company activities which increase concentration of financial resources, create a maze of conflicts of interest and proliferate unsound banking practices.

A recent statement by one of the leading insurance men in east Texas, Josh Morriss, Jr., of Texarkana, puts the Southern Bancorporation case in its proper perspective, and since I totally endorse the views expressed, I include Mr. Morriss' statement at this point in the Record:

Statement of Josh Morriss, Jr.

On July 3, 1974, the Board of Governors of the Federal Reserve System issued an order and opinion in the Southern Bancorporation case which determined that a broad range of insurance agency activities were closely related to banking, and that it was in the public interest for the applicant to conduct these activities. This action by the Board represents a major step in a process which will decide the meaning of Section 4 (c) (8) of the Bank Holding Company Act, as revised by the 1970 Amendments to that Act. The process of interpreting this section of the Act is of extreme importance not only to the parties involved in this case, the bank holding company applicant and insurance agent opponents, but also to all bank holding companies, insurance agents and other small businessmen engaged in activities which might attract bank holding company interest, as well as the Board of Governors and the Congress which enacted the law.

The case specifically involves an interpretation of the statute's "closely related" test which defines what non-banking activities are permissible for bank holding companies. This important case concerns itself with whether sale of specific lines of insurance are or are not closely related to banking viewed generically. The case also involves a definition and analysis of the public benefits test specified in the statute. This test requires that before an application can be granted for a non-bank activity which is closely related, such activity must offer possible benefits to the public such as greater convenience, increased competition or gains in efficiency that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interest or unsound banking practices.

For the parties affected by the issue of whether bank holding companies can enter insurance agency activities, the path to an effective determination has been protracted, difficult and discouraging. On two occasions, the Board of Governors attempted without notice or hearing to make important determinations with respect to the public benefits likely to arise from bank holding companies selling insurance and as to which lines of insurance were closely related to banking. However, the Board remanded these questions which it first announced in a rule and interpretation respectively, for consideration in adjudicatory proceedings, such as the one resulting in the Board Order of July 3, 1974.

The Board's Southern Bancorporation decision is being appealed to the U.S. Court of Appeals. This is a normal and expected part of the administrative process specifically provided for in the Bank Holding Company Act. Indeed, the complex issues presented in the case, both factual and legal, mandate judicial review particularly in view of the long range and substantial impact which their resolution will have on the whole question of non-bank activities of bank holding companies.

From the standpoint of the Board of Governors of the Federal Reserve System, court review will set important guidelines concerning the meaning of the Act and the procedures that the Board must follow. For Congress, the court decision will give the judicial meaning placed upon the 1970 Amendments. Congress will then be in a position to know whether, or to what extent, further legislation is needed to assure that the well-accepted and long-held policy calling for a separation of banking and commerce is maintained.

Members of Congress should watch very carefully the outcome of this litigation, as well as the Board's other actions regarding insurance agency or other activities under the Bank Holding Company Act. Its members would assume that application approvals will not be routinely granted until the court has had an opportuuity to rule on a case or cases already litigated before the Board. Congress should be prepared to proceed promptly in the next session to thoroughly investigate this matter, with a view to enacting any needed further amendments in the Bank Holding Company Act of 1956.

How the Board of Governors handles the insurance agency question, one of the most bitterly contested and one affecting one of the largest groups of small businessmen in the United States, will be most instructive to the Congress and give clear indication as to how it should and must proceed.

DR. JOE A. RISSER—SAM RAYBURN'S DOCTOR

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, on Monday morning, August 19, 1974, the world lost a great physician, and I lost a truly good friend in the death of Dr. Joe A. Risser, a long-time practicing physician of Bonham, Tex., and a member of one of Fannin County's oldest and most prominent families.

Early on in life, Joe Risser received a number of attractive offers to practice medicine in a big city, but he decided that what he wanted most was to look after the health of the people of Bonham. For more than a quarter century, he dedicated all his energies and talents to that task, and there is hardly a man or woman in Fannin County who cannot testify to the painstaking and loving care which he gave to each of his patients.

Dr. Risser served for many years as the Rayburn family doctor, and he attended the late Speaker, Sam Rayburn, until his death in 1961. When it was determined that Mr. Rayburn could not be operated on, he asked to be brought back home to his native Bonham, to be cared for by his friend, Joe Risser, and it was in Joe's hospital where the Speaker died on the morning of November 16, 1961. On that sad day, Joe came away from Mr. Rayburn's bedside and announced to the world that it was a "very easy death for a very great man."

At this point, I would like to enter in the Record a tribute which appeared in the Bonham Herald on August 22, 1974, in memory of another truly great man, and a great healer, Dr. Joe A. Risser.

He Was Our Doctor

During the almost 20 years of our time in Bonham, Dr. Joe Risser has doctored our aches and pains, pulled us through bouts with colds and the flu, and looked after our health in general.

We always felt secure in his care. He was our family doctor. We felt he knew exactly what was wrong with us and what to do about it when we went complaining to him.

There have been times in the last few months of his practice that we felt our own complaints were rather petty when we went to see him. As uncomfortable as we thought we were, we must have felt better than he.

Yet, he was on the job as long as he could move about. That tenacity to live and to take care of his patients who were depending on him kept him going long after the ordinary of us would have given up.

Joe Risser was dedicated to the medical profession—as dedicated as we have ever seen in any person to a profession and a dedication that must have stemmed from his love for people. The people who were placing their care in his hands came first and foremost and he had a way of letting them know he cared.

He usually was there, too, when he was needed. If he ever took a vacation away from his patients for any extended period of time, we never knew it.

There must be hundreds of others who shared with us that feeling of despair as we watched Dr. Risser's health continue to grow worse and wished to be able to return to this man some of the help he had generously given us in times of our sickness.

While his death Monday was no surprise because he had been so critically ill for so long, it nevertheless was a shock when the word actually came.

Dr. Joe served his country in some vital and dangerous capacities during World War II. He was an epidemologist. He went into some dangerous places on intriguing assignments to determine if the enemy was using germ warfare and studying how to counteract it if they were.

In all he did, he did well. He is bound to rank among the great to those close to him, mainly for his dedication to the medical profession, his care and concern for those who placed their health and lives in his hands, and the capabilities he had of caring for them well.

There's bound to be a lot of us today, too, who can credit our good health and even our lives to the dedicated care of Joe Risser.

A Bonham community would have been thankful to keep him forever, but since it cannot, it is grateful to him and the Risser family that it had him as long as it did.

ANNOUNCEMENT OF HEARINGS ON FEDERAL EMPLOYMENT PROBLEMS OF THE SPANISH SPEAKING

(Mr. EDWARDS of California asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. EDWARDS of California. Mr. Speaker, I would like to announce that the Subcommittee on Civil Rights and Constitutional Rights of the House Committee on the Judiciary will continue its hearings on the Federal employment problems of the Spanish speaking on Tuesday, September 17, 1974.

The hearings will commence at 10 a.m. in room 2237 of the Rayburn House Office Building with witnesses from the Department of the Interior.

Persons wishing to submit statements for the hearing record should send their comments to the Judiciary Committee, room 2137, Rayburn House Office Building, Washington, D.C. 20515.

PRESIDENT FORD: COMMUNE WITH THE PEOPLE, PLEASE

(Mr. LEGGETT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. LEGGETT. Mr. Speaker, the President's recent action of granting a blanket pardon to former President Nixon comes at a most inappropriate time. The guiding principle of American jurisprudence is equal justice under law. This principle is long established in Anglo-American law, and is fundamental to our freedom. How can the people conduct themselves in their daily affairs, without confidence that the standards by which society regulates their conduct are fairly and justly applied? I do not call for the persecution of Richard Nixon. But I decry this absolution of the former President. The judicial process is designed to ascertain the facts of a given case and to justly apply the law to those facts. Mr. Nixon's resignation circumvented the impeachment process, by which the Senate, sitting as the Court of the Union, would have reviewed the facts. President Ford's pardon of Richard Nixon circumvents the judicial process, so that a jury of Mr. Nixon's peers will not have the opportunity to determine the facts that underlie this tragic episode in our history.

Another discouraging aspect of this decision is the impact that the President's decision will have on the Watergate conspiracy trial, scheduled for the end of this month. It is almost a foregone conclusion that the defense attorneys in that case, barring another Presidential pardon, will ask for a dismissal. These associates of Mr. Nixon have two legal arguments in their favor. First, by analogy to the law of agency, equity suggests that charges be dismissed. One of the fundamental principles in that field of the law is that release of the principal releases his agents; second, that pretrial publicity prejudices their right to a free trial. Presidential counsel Philip Buchen's statement that Mr. Nixon's acceptance of the pardon was tantamount to an admission of guilt certainly will be mentioned in this connection.

The defense counsel will assert that potential jurors will be drawn to the inference that Nixon's apparent guilt indicates that the top White House aides on trial also are guilty.

Clearly, the grant of pardon prior to the indictment and trial of Richard Nixon is untimely and ill advised.

Yet as unwise as this decision was, apparently Mr. Ford is considering pardons for the remainder of the Watergate defendants. The people need to know the entire story of Watergate. The people need to know the entire story of the machinations involved in the Ellsberg-Russo case. The people need to know about the milk fund. The people need to know about the relationship between ITT and the Justice Department, the Treasury Department, and the CIA, as well as the White House. I doubt that the framers intended the pardon power to cover up significant crimes against the Republic.

The framers originally proposed that pardons be granted by the President "after conviction." This language was withdrawn when it was pointed out that "pardon before conviction might be necessary in order to obtain the testimony of accomplices." Supreme Court decisions, however, have interpreted the Presidential pardon power so liberally that the President seems free to consider a possibility that would have horrified the framers. Even the aristocratic Alexander Hamilton interpreted the pardon power more narrowly. Hamilton saw the pardon as an instrument of law enforcement. In the Federalist, Hamilton wrote:

> In seasons of insurrection or rebellion there are critical moments when a well timed offer of pardon to the insurgents or rebels may restore the tranquility of the commonwealth.

He envisioned a case where lawlessness would be prevented and conciliation would be promoted. On the contrary, the pardon which the President has granted, and the pardons which he may yet grant, condone(s) lawlessness. Further, such action deprives the American people of the truth.

The notion that the pardon was granted to Mr. Nixon out of mercy, out of concern for his health and family greatly disturbs me. There are men in Canada and men in prison who are depressed. There are others who are separated from their families, and whose families need them. I am reluctantly drawn to question whether this pardon was granted out of mercy, or out of deference to status. The scales of justice have been tipped. Is she blind to status?

When President Ford took office, just 1 month ago, he promised to work with the Congress. He stressed cooperation between the two branches of government. President Ford plainly told us, "I do not want a good honeymoon with the Congress, I want a good marriage." Over the past month, the President has set a new tone on handling the problem of inflation. On another front, he has shown leadership and compassion in opening the door for amnesty for the young men who felt compelled to leave our country, rather than participate in another recent American tragedy. Mr. Ford has met with leaders in many sectors of American society and seems anxious to work in the spirit of cooperation and conciliation. Sadly, the President has not acted in accordance with that spirit in this matter. He has acted unilaterally, without warning or consultation. I fear that his action in granting Mr. Nixon a pardon cannot help but have a weakening effect on our traditional standards of fundamental justice.

In closing, I would like for the people of my district in California to have the last word. The people, whose sense of justice has been hurt, have been unanimous in their correspondence to my office. We act in their interest.

Some correspondence follows:

SUISUN, CALIF.

Who said crime does not pay? Do all politicians take care of their own?

JOHN SCONZA.

EL MACERO, CALIF.

Dear CONGRESSMAN LEGGETT: Now that the President has betrayed our trust we hope you move to reopen the issue of Mr. Nixon's impeachment. The country needs to know the facts about Watergate and must be assured of honest Government and equal justice for all. You are our only hope to act.

Best regards,

THE BORHANI FAMILY.

VACAVILLE, CALIF.

Congressman ROBERT LEGGETT,
Washington, D.C.:

Have sent the following telegram tonight. "Mr. Unelected President, communing with God is not a substitute for communing with the people. Your unmitigated gall in making this secret deal has closed my open mind about you. After wrapping the Constitution around yourself and setting this precedent your next communion should result in opening all prison doors. It is sinful to use the name of God to condone your conniving. How dare you."

MRS. ROSALIE HOPGOOD.

CITRUS HEIGHTS, CALIF., *September 6, 1974.*

DEAR SIR. I am a widow 72 years old, trying to live on $250 a month pension. I deplore the idea of ex president Richard Nixon for his role in the Watergate cover up, and feel that he should be tried in the courts the same as the rest of his Henchman. He has disgraced his country by his actions also would hope that my great grandchildren will read in the history books that he was not run out of office. For two years he stood in front of T.V. cameras and denied any involvement. Oh how he lied. I am a loyal American—but will lose faith in my own country if he is not punished.

Very truly yours.

MRS. FOREST PAGE.

INTENSIFIED PERSECUTION AGAINST SOVIET JEWS

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, a Soviet Jew is on trial in the Baumansky district of Moscow for allegedly running down the daughter of a Soviet official. The facts of this specific case are insignificant when we realize that this is just another act of constant harassment and persecution instituted by Soviet authorities upon Russian Jews and other "political dissidents." Such show trials demonstrate intensification of the persecution of Soviet Jews desiring to emigrate. The aim of these trials is to frighten and intimidate those persons applying or wishing to apply for emigration. And this they have done successfully. Through calculated efforts by the Soviet government, Jewish and other political dissidents have been criminally prosecuted, with at least 35 "examples" now anguishing in prison simply because they wanted to leave the country.

The Victor Polsky trial marks the first time that official documents have been available to prove the repressive tactics used by Soviet authorities upon its "dissident" citizens. I have here hospital documents that state that 19-year-old Tatyana Alexandrova Zhuhova had, in fact, attempted suicide by jumping into the street and deliberately under Polsky's car. Polsky, a 44-year-old engineer-physicist, has been charged with running down the girl. Prior to this arrest, he had been refused permission to emigrate to Israel because of his supposed access to secret information. The fact that he has presented evidence that his research did not involve security issues has been conveniently ignored by the Soviet authorities. They have blatantly distorted the facts in order to prosecute Polsky. The following text explains in detail the Soviet Government's trumped-up charges against Polsky:

On May 7th, Victor Polsky was informed by Police Major Volchkov of the fourth Division Interrogation Bureau with specific duties for road accidents that he had been charged under Article 211(1) of the Criminal Code of the RSFSR. This deals with the "violation of regulations relating to road safety."

At approximately midnight on the night March 25/26th, a nineteen year old girl, Tatiana Zhukova was walking with her parents as Victor Polsky passed by in his car. The girl suddenly jumped out and Polsky hit her. At the time, her parents and witnesses agreed that it was not Polsky's fault. The accident had been unavoidable. Polsky's driving was not considered dangerous by all those involved at the time of the incident. Indeed, the girl, herself, was said to have had a history of mental disturbance. Since then, the version of events has changed considerably.

Victor Polsky now finds himself in a position where he will be the next member of the Exodus movement to be placed on trial for a "criminal" offence in succession to Feldman, Pinchasov, and Berkovskys when in reality this is just another act of repression against a leading figure in the movement for emigration to Israel.

It is known, for example that the girl's father, Alexander Zhukov is a Lieutenant-Colonel in the police and the mother is an employee of the local district Communist Party. Tatiana Zhukova, herself, is at present in Number six municipal hospital of Moscow situated in Novaya Basmanskaya Street.

Last Friday, May 17th Polsky was told by Major Volchkov that the investigation had been completed. On Monday morning of this week, May 20th, Polsky presented himself at the court to be shown the papers pertaining to his case. The investigator told him to return on Wednesday of this week, May 22nd.

THE MEDICAL EVIDENCE

Polsky's lawyer went to the hospital and read the medical record of Zhukova. He copied the relevant parts of her medical history. This read as follows:—

"The victim of the accident was given first aid under case number 69034/V. She was brought in at 00.35 during the night of 25/26 March 1974. Age 19. Name Tatiana Alexandrovna Zhukova. Her address is Karl Marx Street, House number 26, Flat 15. Place of Employment is Baumansky District Committee of the Communist Party of the Soviet Union in Moscow, employed as a technical secretary.

Suicide attempt. Observation of the Doctor in Charge of the Casualty Receiving Department. Time of observation 00.45, 26th March 1974.

Analysis of the illness. Time of the accident 00.25 26th March 1974. She did not lose consciousness, there was no vomiting, she was in a state of trauma. Having had an argument with her parents she jumped into the road with the intention of throwing herself under a car. According to the statements of the parents the mother and the father after a serious quarrel the girl jumped into the street.

Diagnosis: closed cranial cerebral trauma together with brain concussion; broken left shoulder blade and several bones bruised, dislocation of the first phalange; suicide"

Signed: Dr. Tsibin."

REPORT IN THE DEPARTMENT (WRITTEN MARCH 26 AT 2:09 A.M.)

"According to the words of the Injured person who was brought in on the night of 25 March round about midnight, she was walking with her parents along the road, and went to cross the road and fell under a car. She does not remember if she banged her head, she did not lose consciousness, there was no vomiting."

Signed: Dr. Dirin."

JOINT REPORT BY HEAD OF THE DEPARTMENT (MARCH 26, 1974)

"According to the words of the injured person she went into a trauma with the intention of throwing herself under the car. Recommendation: immediate consultation and investigation by neuropathologist."

Signed: Dr. Tsibin (April 1, 1974)

REPORT FROM THE HOSPITAL DEPARTMENT DEALING WITH THE CASE

"Condition of the patient average discomfort. Since the earlier Report was written up the condition of the patient has improved somewhat, however the patient has now started to deny that she intended to throw herself under the car and now states that after the quarrel with her parents she jumped into the road where by chance accidentally she fell under the car. The parents have also changed the impression they first had regarding the mechanism of the trauma and now they are saying that their daughter went out to telephone and fell under a car."

Signed: Dr. Tsibin (April 3, 1974)

CONSULTANT PSYCHIATRIST

"The patient is in full clear consciousness, well orientated and in full contact. She states that she finished school and is now working and is studying at the Second Course of the Judicial Institute, and incidentally works with the Public Inspector of the Criminal Investigation Department of the Tenth Division of the Police. On the 26th March 1974, at 12 o'clock midnight she was returning home from this work. Her parents met her at the Metro Underground Railway station "Kursk" and from there were walking home. On the way home she suddenly remembered that she had forgotten to give some work to one of her colleagues at the office and decided to telephone from a call box and rushed towards the telephone in the opposite direction from which she had been walking. She claims that she heard the noise of a car motor and the klaxon hooting and when she opened her eyes the next thing she knew she was lying under a car. She definitely denies any intention to commit suicide."

Signature: Illegible

REPORT OF FIRST AID APPLIED AT THE TIME OF ACCIDENT

"Name of Victim: Tatiana Alexandrovna Zhukova

Address: Karl Marx Street.

When and What Happened: (Written quite clearly), Attempt at Suicide, 26th March 1974.

She was taken to hospital at midnight 25/26 March following a call received at .03 26 March. Doctor and first aid man."

Signature: Illegible—first aid attendant who was with an ambulance at the time of the accident.

POLSKY'S PROTEST AT THE LACK OF INFORMATION

On April 26th, Victor Polsky protested to Major Volchkov that he was not being informed of the investigation:—

"At the time of the conducting of the investigating experiment on the 12th April, reconstructing the traffic incident which occurred on the 26th March, you promised me that you would keep me acquainted with the decision, and result, of the Technical Examination of the car and of your questions, being put to the expert. On the 26th April you informed me during a telephone conversation that the examination of the car had already taken place some while back, and that in the near future you were expecting the result. In reply to my question why I had not been acquainted with the fact that the examination had already taken place or what was due to take place, you informed me that it was not necessary to keep me in touch with this as I was a witness in the given case. As I am a participant in the given road incident then I am naturally interested in the details of this case and especially in the results given to you of the technical examination of the car. As long as the examination had not yet taken place then I am within my rights to ask you for the facts that I have been given and to give me the opportunity to put questions to the expert."

POLSKY'S PROTEST AT THE DISTORTION OF THE INCIDENT

The day after he had been charged with dangerous driving under Article 211(1), May 8th, Polsky sent the following letter to Major Volchkov:—

"I was briefly informed by Senior Investigator Volchkov of the results of the technical examination of the car Number 666/10–6 of the 24th April, 1974 (number quoted is of the examination and not of the car) in connection with which the following appears:—

1. The Statement referred to regarding the expert examination of the car concerning the initial position of the pedestrian victim and the exact point of her rushing forward, this information is based on lying statements given by the parents of the victim. No other witnesses apart from the parents have been called by the Investigator to give statements about the said road accident in accordance with the given facts for examination or confirmation of the given facts. Therefore I insist that the other witnesses should be called to the place of the accident as the father of the victim states that she ran from the corner of house number six, these witnesses were only a few feet away from the corner of the house. The point of fact, the girl threw herself into the road at least six or seven metres away from the house and went to run across the road in front of the traffic in a direction perpendicular with the pavement.

2. In presenting the initial facts for the production of the expert's report the investigator decided quite arbitrarily the position from which the girl jumped and not the actual place from which the jump occurred. This was actually fixed at the actual examination by the protocol of the examination regarding the actual place of the occurrence of the incident which was actually decided by the inspector of Government Car Inspector Department named Mandrikov and presented by him.

3. The Investigator quite arbitrarily decided the speed of movement of the pedestrian. From the facts of the case it is known that the victim, a girl of 19 went very quickly across the road. This is confirmed not only by myself but the girl herself stated this to me and to my wife when we visited her in the hospital. In accordance with the table which appears on page 250 of the Book of Car Technical Expertise (published by the Government Juridical Literary Department Moscow—967) the average speed of quick running of pedestrians equals 14.9 kilometres per hour in spite of reality, the Expertise Statement states 'Crossed the road at an angle, and went very very quickly.'

Thus untrue facts have been put forward for the drawing up of the statement and for the summing up of his conclusions. In connection with the foregoing I would request a second statement be drawn up to examine the initial facts:

1. The fact that the car driven by me was travelling at 30 kilometers per hour.

2. The place of the jump shown in the Protocol and in the sketch map attached to it.

3. The pedestrian victim ran into the road at a very fast speed, perpendicularly to the movement of the traffic in the road about six or seven metres away from the corner of house number six.

In view of the above facts, I request you to answer the question submitted to the Car Expertise Examiner and his statement."

THE INVESTIGATOR'S REPLY

One week later, May 15th, the office of the Senior Investigator of Department Number four sent the following answer to Polsky:

"Police Major Volchkov having examined the papers and the details of the Criminal Charge Number 2704 against Citizen Polsky, accusing him of criminal action infringing Article Number 211 Part 1 of the Criminal Code of R.S.F.S.R. has declared:—

"On the 26th March 1974, at three minutes past midnight, Citizen V. G. Polsky driving private car which was in good condition (number G21 MOPT 483) was proceeding along Karl Marx Street. He was going past house number six and infringed the rules of road safety regulations and collided with Citizeness Zhukova T.A. who was crossing the road from his left side and who as a result has suffered a heave serious injury. On 7th May 1974 Polsky was presented with a charge of having committed a crime in accordance with Article Number 211 part 1 of the Criminal Code of RSFSR and on the same day he was acquainted with the decision of the Car Expertise which was produced before Polsky was considered as being an accused person in this respect. Being made acquainted with the Statement of the Expertise the accused Polsky presented a Petition requesting a second Expertise to take place on the basis of supposed facts submitted by him, but the said application does not merit being complied with. The conclusions of the Technical Expertise do not warrant any doubt as to its correctness. It is not therefore necessary to consider a second Technical Expertise in order to establish the exact place of the collision and the distance which was declared and defined by the victim from passing traffic. Evidence was given regarding the details of the incident by witness namely Zhukova V. K. and Zhukova A. and for definition as to the speed of movement of the victim an investigatory experiment was carried out in the presence of these witnesses. The basic facts that emerged were confirmed in the opinion of experts confirming the statements given. Other witnesses connected with the case did not see the direction of movement of the victim, the speed of her movement nor the place of the impact of collision by Polsky's car. Therefore it is not necessary to call them to give evidence in the case. After an examination of the place of the incident a sketch map was drawn immediately after the occurrence took place. On this sketch map the position of the victim was shown, together with the place of the collision according to Polsky's declaration but Polsky refused to sign this sketch map declaring that it did not show the correct place of the collision. According to the experts the correct place of the collision was correctly shown on the sketch map and this was confirmed by the witnesses. In his request, the accused Polsky arbitrarily declared that the speed of movement of the victim in accordance with what he considers to be the Second Expertise as 14.0 kilometers per hour, but the recreation of the incident shows that her speed was only eight kilometers per hour. The victim herself in this connection declared that she was going quickly along the road but in fact at the time of the incident she was wearing platform shoes and therefore she was quite unable to move very fast in them. Taking into consideration all the facts as presented in accordance with Article 131 of the procedural Criminal Code of the RSFSR, it has been decided to refuse the application of V. G. Polsky for a Second Expertise. A copy of the decision has been sent to him."

WHAT WILL HAPPEN?

It is possible that Victor Polsky may be brought to trial now that the investigation has been terminated. In addition to the distortion of what actually happened, Polsky was tailed by KGB agents for forty-one consecutive days from March 25th until May 4th. Polsky has sent numerous telegrams to KGB chief Yuri Andropov about this and has even sent him the car registration numbers.

For the past three years, forty-four-year-old Polsky has been threatened with imprisonment and this incident has presented the KGB with the opportunity of imprisoning him on a criminal charge. Under Article 211 (1), Polsky could be interned for a period of up to three years, or a period of up to one year's corrective labour or a fine of one hundred rubles coupled with a possible disqualification from driving for up to two years.

The Soviet government has continually demonstrated their concern toward Western reaction regarding the treatment of Soviet Jews and other political dissidents. This is apparent since the Russian authorities had skillfully postponed Polsky's trial until after ex-President Nixon's return from the U.S.S.R. Now with the U.S. concentration elsewhere, the trial farce has been resumed. Therefore I ask my colleagues to join with me and appeal to the Soviet government to adhere to the U.N. Declaration of Human Rights and end this cruel and brutal persecution of Soviet Jews.

PRESIDENT FORD'S PARDON OF RICHARD M. NIXON

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, as I said on Monday, September 9, President Ford's action in granting to Richard Nixon an absolute pardon for any offenses he may have committed while President is a calamity for this country.

Mr. Ford has taken this action without knowing what all the facts are, and apparently without even trying to find out.

This action will tend once again to destroy public confidence in our institutions and form of government. This confidence had been severely damaged by the deceptions and abuses of power by Richard Nixon and his administration but had been largely restored by the impeachment procedures instituted and carried out in the House of Representatives and the forced resignation which resulted. The impact on confidence in our Government will be especially great because not only does the pardon suggest that our laws are not the same for the powerful and the powerless, but because there will inevitably be widespread suspicion that Mr. Ford's action was taken pursuant to an understanding reached between the two men at the time of Mr. Ford's appointment to the Vice Presidency.

Even more appalling is the possibility that pardons may be granted to the 40-odd associates and employees of the former President whose cases have been or are being considered by the courts. The prospect of letting all Watergate defendants go free, suffering only the punishment of loss of high position and perhaps some attorney's fees, is so outrageous that I find it hard to believe the idea is not simply a strawman set up by President Ford so that we can all vent our anger in knocking it down. Can we really countenance the idea that there will be no judicial determination of guilt for the crimes and subversion of our constitutional system which the Nixon administration has committed? To paraphrase President Ford's own words when he spoke on this subject many months ago, the American people would not stand for it.

To provide the Congress with a vehicle for expressing its own strong opposition to any further pardons at this time, I am today introducing a resolution, a copy of which is appended at the end of this statement.

These massive assaults on the American concept of equal justice under the law are not the only outrages of the past few days, and we must not let them completely overshadow another crucial aspect of the Watergate affair. The American people still do not have all the facts about the Nixon administration's misconduct, and without those facts we cannot know their true magnitude and significance. The Congress was all too eager to let many questions about taxes, campaign funds, abuse of Government agencies, and more, go unanswered following the President's resignation. Many Members of Congress seemed content to leave the resolution of these questions to the Special Prosecutor and the courts. I protested at the time that this was a mistake, not in anticipation of the Presidential pardon which hit us all like a bombshell, but instead in the belief that Congress had a responsibility to tie up all the loose ends in the complex, far-reaching Watergate scandal. The object of the whole impeachment process has to be not simply the disciplining or removal of a single official, but the rejection of patterns of abuse of power which threaten the Constitution and our system of government. Without a clear understanding of all the offenses charged against the Nixon administration, that rejection is impossible, and the Watergate era will leave no clear standards for future Presidents to follow.

Now that Nixon has been pardoned and the other Watergate defendants may also be set free, how can the record be completed? First, by insisting that the Judiciary Committee's outstanding subpenas be complied with. The committee made the President's refusal to turn over the tapes and documents demanded in eight subpenas the basis for article III of the impeachment resolution. The materials requested related not only to the Watergate break-in and coverup, but also the alleged abuse of the IRS, illegal domestic surveillance, the milk industry's campaign contributions and the ITT affair. Since the startling tape of June 23, 1972, which revealed Richard Nixon's early involvement in the Watergate coverup, was one of those subpenaed by the committee, is it not reasonable to conclude that additional relevant evidence is contained in the other materials subpenaed by the Judiciary Committee?

In addition, immediate attention must be given to the question of the disposition of Richard Nixon's Presidential papers. The White House has recently announced an agreement to turn over all these papers to Mr. Nixon, giving him complete control over access, subject only to specific subpenas.

This is an immensely profitable agreement for Mr. Nixon, since these papers are raw material for his memoirs. But can we allow this historical material to be turned over entirely to this discredited official for his sole selective analysis and publication, despite the fact that they were produced at the taxpayers' expense in the conduct of official duty? This question is doubly important because of the distinct possibility that this material may contain evidence directly relevant to the charges of misconduct which forced Mr. Nixon's resignation. Senator Bayh has introduced legislation in the Senate, and I have introduced an identical bill in the House, which would require every Federal elected official to turn over to the General Services Administration within 180 days of leaving office all official papers, tapes, and documents. I think this legislation and the disposition of Nixon's papers requires the urgent attention of the Congress.

Mr. Ford's action also points to the necessity of a drastic revision of the 25th amendment. The situation must not be allowed to arise again where a President, in effect appointed by his predecessor, has the power to pardon that predecessor for all offenses committed during his term of office.

The resolution previously referred to follows:

H. Con. Res. 629

Concurrent resolution expressing the sense of the Congress that the President should defer granting any additional pardons until after all the facts about the Watergate affair have been revealed by the unfettered operation of the criminal justice system

Whereas, the unexpected Presidential pardon of Richard M. Nixon for any crime he may have committed while holding the Office of President has again thrust the Watergate scandal to the forefront of national attention; and

Whereas, the action of President Ford in granting a full and complete pardon to Richard Nixon has been a divisive force reopening the wounds of Watergate President Ford has pledged to heal; and

Whereas, the pardon of Richard Nixon will tend to restrict and hinder the full revelation of Richard Nixon's involvement in the Watergate affair; and

Whereas, the White House has indicated that wholesale pardons for all aides and assistants of former President Nixon, whether convicted, indicted or implicated in the Watergate affair, are under consideration; and

Whereas, the American people are entitled to have the full story of Watergate laid before them; and

Whereas, it is becoming increasingly clear that the President's action with respect to Richard Nixon and contemplated action with respect to other Watergate figures has caused the American people great consternation and concern about the integrity of this country's criminal justice system, and

Whereas, the courts have shown leniency and mercy when it is in the interest of justice; and

Whereas, the American concept of justice is predicated upon equality under the law; Therefore, be it,

Resolved, by the House of Representatives (the Senate concurring) that, recognizing the President's constitutional power to grant pardons, it is the sense of Congress that the President should defer consideration of any additional pardons until after the facts about Watergate have been revealed through the unfettered operation of the criminal justice system.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Broomfield (at the request of Mr. Rhodes), today and balance of week, on account of official business.

Mr. Conable (at the request of Mr. Arends), for September 11 and 12, on account of attendance as House delegate to the Presidential Presummit Economic Conference.

Mr. Dominick V. Daniels (at the request of Mr. O'Neill) for today through Monday, September 16, on account of official business.

Mr. Dellenback (at the request of Mr. Rhodes), today, on account of illness in family.

Mr. Frelinghuysen (at the request of Mr. Rhodes), September 11 and balance of week, on account of official business.

Miss Jordan (at the request of Mr. Eckhardt), from Wednesday, September 11, 1974 through Friday, September 13, 1974, on account of a state visit to the People's Republic of China.

Mr. Lagomarsino (at the request of Mr. Rhodes), for today and the balance of the week, on account of serious illness in the family.

Mr. Jones of North Carolina (at the request of Mr. O'Neill), for this week, on account of death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Fisher, on September 12, for 30 minutes and to revise and extend his remarks and include extraneous matter.

Mr. Patman, for 30 minutes, today; and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. Maraziti) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 15 minutes, today.
Mr. Steelman, for 5 minutes, today.
Mr. Railsback, for 5 minutes, today.
Mr. Hogan, for 5 minutes, today.
Mr. McKinney, for 5 minutes, today.
Mr. Symms, for 60 minutes, September 12, 1974.
Mr. Miller, for 5 minutes, today.

(The following Members (at the request of Mr. Murtha) to revise and extend their remarks and include extraneous material:)

Mr. Rodino, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Matsunaga, for 10 minutes, today.
Mr. Vanik, for 10 minutes, today.
Mr. Moakley, for 10 minutes, today.
Mr. Ford, for 5 minutes, today.
Mr. Dent, for 15 minutes, today.
Mr. Metcalfe, for 25 minutes, today.
Mr. Hamilton, for 5 minutes, today.
Mr. Owens, for 15 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Ms. Abzug, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Fisher in two instances.

Mr. Koch, to revise and extend his remarks and to include extraneous matter, during debate on H.R. 15298.

Mr. Hosmer to include extraneous matter on the remarks he made today on the bill H.R. 13565 in the Committee of the Whole.

(The following Members (at the request of Mr. Maraziti) and to include extraneous matter:)

Mr. McClory.
Mr. Kemp in four instances.
Mr. Findley in five instances.
Mr. Hosmer in three instances.
Mr. du Pont.
Mr. Young of Illinois in two instances.
Mr. Hanrahan in two instances.
Mr. Smith of New York.
Mr. Baker.
Mr. Young of Florida in five instances.
Mr. Conte in two instances.
Mr. Whitehurst.
Mr. Roncallo of New York in two instances.
Mr. Broyhill of Virginia.
Mr. Lott.
Mr. Gude.
Mr. Vander Jagt.
Mr. Frenzel in five instances.
Mrs. Holt.
Mr. Gilman.
Mr. Wyman in two instances.
Mr. Collins of Texas in three instances.
Mr. Ashbrook in three instances.

(The following Members (at the request of Mr. Murtha) and to include extraneous matter:)

Mr. Matsunaga.
Mr. Annunzio in six instances.
Mr. Rarick in three instances.
Mr. Sisk.
Mr. Gonzalez in three instances.
Mr. Anderson of California in two instances.
Mr. Stark in 10 instances.
Mr. Rooney of New York in two instances.
Mr. Sarbanes in five instances.
Mr. Edwards of California.
Mr. Hamilton in 10 instances.
Mr. Won Pat.
Mr. Long of Maryland in six instances.
Mr. Vanik in three instances.
Mr. Rosenthal in five instances.
Mr. Litton in three instances.
Mr. Fascell.

Mr. MOAKLEY in 10 instances.

Mr. ALEXANDER.

Mr. FRASER in five instances.

Mr. PATTEN.

Mr. BINGHAM in five instances.

Mr. BROWN of California in five instances.

Mr. RIEGLE.

Mr. ROSE in two instances.

Mr. DINGELL in two instances.

Mr. MURTHA in three instances.

Ms. ABZUG.

Mr. YATES.

SENATE BILLS AND A JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1939. An act to prohibit pyramid sales transactions, and for other purposes; to the Committee on the Judiciary.

S. 2888. An act to convey certain land of the United States to the Inter-Tribal Council, Incorporated, Miami, Oklahoma; to the Committee on Interior and Insular Affairs.

S. 3942. An act to authorize appropriations to the Secretary of Commerce for the promotion of tourist travel in the United States; to the Committee on Interstate and Foreign Commerce.

S. 3976. An act to amend title 17 of the United States Code to remove the expiration date for a limited copyright in sound recordings, to increase the criminal penalties for piracy and counterfeiting of sound recordings, to extend the duration of copyright protection in certain cases, to establish a National Commission on New Technological Uses of Copyrighted Works, and for other purposes; to the Committee on the Judiciary.

S.J. Res. 238. Joint resolution to designate March 16–23, 1975, "DeMolay Week"; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2. An act to provide for pension reform;

H.R. 9456. An act to extend the Drug Abuse Education Act of 1970 for 3 years;

H.R. 13267. An act to authorize Federal agricultural assistance to Guam for certain purposes;

H.R. 13871. An act to amend chapter 81 of subpart G of title 5, United States Code, relating to compensation for work injuries, and for other purposes;

H.R. 15172. An act to authorize the Secretary of State to prescribe the fee for execution of an application for a passport and to continue to transfer to the United States Postal Service the execution fee for each application accepted by that Service;

H.R. 15406. An act to amend title 37, United States Code, to refine the procedures for adjustments in military compensation, and for other purposes; and

H.R. 15572. An act making appropriations for the Department of Housing and Urban Development; for space, science, veterans, and certain other independent executive agencies, boards, commissions, corporations, and offices for the fiscal year ending June 30, 1975, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 821. An act to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On August 22, 1974:

H.R. 6485. An act to amend the tobacco marketing quota provisions of the Agricultural Adjustment Act of 1938;

H.R. 11864. An act to provide for the early development and commercial demonstration of the technology of solar heating and combined solar heating and cooling systems;

H.R. 14402. An act to amend section 8202 (a) of title 10, United States Code, to extend for 2 years the period during which the authorized number for the grades of lieutenant colonel and colonel in the Air Force are increased;

H.R. 14920. An act to further the conduct of research, development, and demonstrations, in geothermal energy technologies, to establish a Geothermal Energy Coordination and Management Project, to provide for the carrying out of research and development in geothermal energy technology, to carry out a program of demonstrations in technologies for the utilization of geothermal resources, to establish a loan guaranty program for the financing of geothermal energy development, and for other purposes;

H.R. 15205. An act to amend the Natural Gas Pipeline Safety Act of 1968, as amended, to authorize additional appropriations, and for other purposes; and

H.R. 15842. An act to increase compensation for District of Columbia policemen, firemen, and teachers; to increase annuities payable to retired teachers in the District of Columbia; to establish an equitable tax on real property in the District of Columbia; to provide for additional revenue for the District of Columbia; and for other purposes.

On August 23, 1974:

H.R. 13999. An act to authorize appropriations for activities of the National Science Foundation, and for other purposes.

On August 27, 1974:

H.R. 13871. An act to amend chapter 81 of subpart G of title 5, United States Code, relating to compensation for work injuries, and for other purposes; and

H.R. 15572. An act making appropriations for the Department of Housing and Urban Development; for space, science, veterans, and certain other independent executive agencies, boards, commissions, corporations, and offices for the fiscal year ending June 30, 1975, and for other purposes.

On August 29, 1974:

H.R. 2. An act to provide for pension reform.

On September 10, 1974:

H.R. 9456. An act to extend the Drug Abuse Education Act of 1970 for 3 years;

H.R. 13267. An act to authorize Federal agricultural assistance to Guam for certain purposes;

H.R. 15172. An act to authorize the Secretary of State to prescribe the fee for execution of an application for a passport and to continue to transfer to the U.S. Postal Service the execution fee for each application accepted by that Service; and

H.R. 15406. An act to amend title 37, United States Code, to refine the procedures for adjustments in military compensation, and for other purposes.

ADJOURNMENT

Mr. MURTHA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 25 minutes p.m.), the House adjourned until tomorrow, Thursday, September 12, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2683. A letter from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1975 for Presidential transition expenses and allowances for former Presidents (H. Doc. No. 93–344); to the Committee on Appropriations and ordered to be printed.

2684. A letter from the President of the United States transmitting a supplemental request for appropriations for fiscal year 1975 for the Architect of the Capitol (H. Doc. No. 93–345); to the Committee on Appropriations and ordered to be printed.

2685. A letter from the President of the United States, transmitting a proposed supplemental appropriation for fiscal year 1975 for the Council on Wage and Price Stability in the Executive Office of the President (H. Doc. 93–346); to the Committee on Appropriations and ordered to be printed.

2686. A letter from the President of the United States, transmitting a proposed change in appropriation language for fiscal year 1975 for the Department of Transportation, Urban Mass Transportation Administration (H. Doc. No. 93–347); to the Committee on Appropriations and ordered to be printed.

2687. A letter from the President of the United States, transmitting a proposed supplemental appropriation for fiscal year 1975 for the Office of Federal Procurement Policy (H. Doc. 93–348); to the Committee on Appropriations and ordered to be printed.

2688. A letter from the President of the United States, transmitting a proposed supplemental appropriation for fiscal year 1975 for the Civil Service Commission (H. Doc. No. 93–349); to the Committee on Appropriations and ordered to be printed.

2689. A letter from the President of the United States, transmitting a proposed supplemental appropriation to pay claims and judgments against the United States (H. Doc. 93–350); to the Committee on Appropriations and ordered to be printed.

2690. A letter from the President of the United States, transmitting a proposed supplemental appropriation for fiscal year 1975 for the Supreme Court (H. Doc. 93–351); to the Committee on Appropriations and ordered to be printed.

2691. A letter from the Secretary of the Army and the Secretary of Agriculture, transmitting notice of the intention of the Departments of the Army and Agriculture to interchange jurisdiction of civil works and National Forest lands at Libby Dam and Lake Koocanusa project in Montana, pursuant to 70 Stat. 656 [16 U.S.C. 505a, 505b]; to the Committee on Agriculture.

2692. A letter from the Secretary of Agriculture, transmitting the annual report on the location of new offices and other facilities in rural areas, pursuant to section 901(b) of the Agricultural Act of 1970, as amended; to the Committee on Agriculture.

2693. A letter from the Deputy Secretary of Defense, transmitting four reports of violation of section 3679, Revised Statutes, and of Department of Defense Directive 7200.1, "Administrative Control of Appropriations within the Department of Defense," pursuant to section 3679(i)(2), Revised Statutes; to the Committee on Appropriations.

2694. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report on transfers of amounts appropriated to the Department of Defense, pursuant to section 735 of the Department of Defense Appropriation Act, 1974; to the Committee on Appropriations.

2695. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report for the fourth quarter of fiscal year 1974 of the estimated value, by country, of support furnished from military functions appropriations for Vietnamese and other free world forces in Vietnam and local forces in Laos, pursuant to section 737(b) of Public Law 93-238; to the Committee on Appropriations.

2696. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the General Services Administration for "Allowances and office staff for former Presidents" for fiscal year 1975 has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation, pursuant to section 3679 of the Revised Statutes [31 U.S.C. 665]; to the Committee on Appropriations.

2697. A letter from the Architect of the Capitol, transmitting a report on expenditures during the 6 months ended June 30, 1974, from moneys appropriated to the Architect of the Capitol, pursuant to section 105 (b) of Public Law 88-454; to the Committee on Appropriations.

2698. A letter from the Deputy Secretary of Defense, transmitting the semiannual report on funds obligated in the chemical warfare and biological research programs during the second half of fiscal year 1974, pursuant to section 409 of Public Law 91-121; to the Committee on Armed Services.

2699. A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Commodity Credit Corporation Charter Act of 1948, as amended; to the Committee on Banking and Currency.

2700. A letter from the Associate General Counsel, Federal Home Loan Bank Board, transmitting a revised draft of proposed legislation to amend the Federal Home Loan Bank Act to provide for the continued duration of the Federal Savings and Loan Advisory Council; to the Committee on Banking and Currency.

2701. A letter from the First Vice President and Vice Chairman, Export-Import Bank of the United States, transmitting a report on the export expansion facility program during the quarter ended June 30, 1974, pursuant to Public Law 90-390; to the Committee on Banking and Currency.

2702. A letter from the Director, District of Columbia Bail Agency, transmitting an annual report of the Agency's activities during the year ended May 31, 1974, pursuant to Public Law 91-358; to the Committee on the District of Columbia.

2703. A letter from the Chairman, Equal Employment Opportunity Commission, transmitting a list of all persons employed by the Commission, by name, title, grade, and salary, as of the end of fiscal year 1974, pursuant to section 705(e) of Public Law 88-352, as amended; to the Committee on Education and Labor.

2704. A letter from the Assistant Secretary of State for Congressional Relations, transmitting the semiannual report on international narcotics control program activities for the period ended June 30, 1974, pursuant to section 481(b)(2) of the Foreign Assistance Act of 1961, as amended [22 U.S.C. 2291(b)(2)]; to the Committee on Foreign Affairs.

2705. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties entered into by the United States, pursuant to Public Law 92-403; to the Committee on Foreign Affairs.

2706. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties entered into by the United States, pursuant to Public Law 92-403; to the Committee on Foreign Affairs.

2707. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting a report on the programing and obligation of contingency funds for the quarter ended June 30, 1974, and a revised report for the quarter ended March 31, 1974, pursuant to section 451(b) of the Foreign Assistance Act of 1961, as amended [22 U.S.C. 2261(b)]; to the Committee on Foreign Affairs.

2708. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee and insurance transactions supported by Eximbank to Yugoslavia, Romania, the U.S.S.R., and Poland during June 1974; to the Committee on Foreign Affairs.

2709. A letter from the Administrator, Federal Energy Administration, transmitting a plan for the organizational structure of the Federal Energy Administration, pursuant to section 20(a)(1)(A) of Public Law 93-275; to the Committee on Government Operations.

2710. A letter from the Executive Director, Cabinet Committee on Opportunities for Spanish Speaking People, transmitting the annual report of the committee for fiscal year 1973, pursuant to section 11 of Public Law 91-181; to the Committee on Government Operations.

2711. A letter from the Secretary of the Interior, transmitting a proposed plan for the use and distribution of Tuscarora judgment funds awarded in docket 321 before the Indian Claims Commission, pursuant to 87 Stat. 466; to the Committee on Interior and Insular Affairs.

2712. A letter from the Assistant Secretary of the Interior, transmitting the annual report for fiscal year 1974 on the implementation of the Alaska Native Claims Settlement Act of 1971, pursuant to section 23 of Public Law 92-203; to the Committee on Interior and Insular Affairs.

2713. A letter from the Assistant Secretary of the Interior, transmitting descriptions of 26 projects selected for funding through grants, contracts, and matching or other arrangement with educational institutions, private foundations or other institutions, and with private firms, pursuant to section 200 (b) of Public Law 88-379, as amended [42 U.S.C. 1961b(b)]; to the Committee on Interior and Insular Affairs.

2714. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend section 2 of the act of June 30, 1954, as amended, providing for the continuance of civil government for the Trust Territory of the Pacific Islands; to the Committee on Interior and Insular Affairs.

2715. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed concession contract for the continued provision of sightseeing boat tours for the public visiting Mammoth Cave National Park for a term ending December 31, 1979, pursuant to 67 Stat. 271 and 70 Stat. 543; to the Committee on Interior and Insular Affairs.

2716. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed concession permit for the continued provision of food service facilities and a surf shop for the public at the Jacob Riis Park site within Gateway National Recreation Area for a term ending December 31, 1975, pursuant to 67 Stat. 271 and 70 Stat. 543; to the Committee on Interior and Insular Affairs.

2717. A letter from the Acting Chairman, Civil Aeronautics Board, transmitting a draft of proposed legislation to amend the Federal Aviation Act of 1958 so as to assure opportunity for the Board's participation and representation in certain court proceedings through its own counsel as a matter of right and to provide for all review of Board actions in the Court of Appeals; to the Committee on Interstate and Foreign Commerce.

2718. A letter from the Executive Director, Federal Communications Commission, transmitting a report on the backlog of pending applications and hearing cases in the Commission as of July 31, 1974, pursuant to section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

2719. A letter from the Administrator, Federal Energy Administration, transmitting a report on changes in market shares for petroleum products from January 1972, through May 1974, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committeee on Interstate and Foreign Commerce.

2720. A letter from the Chairman, Federal Power Commission, transmitting copies of publications entitled "The National Power Survey 'Energy Distribution Research Task Force Report'" and "Sales of Firm Electric Power for Resale, 1968-1972"; to the Committee on Interstate and Foreign Commerce.

2721. A letter from the Chairman, Federal Power Commission, transmitting a copy of the publication entitled "Steam-Electric Plant Air and Water Quality Control Data, 1971"; to the Committee on Interstate and Foreign Commerce.

2722. A letter from the President, National Rail Passenger Corporation, transmitting a 5-year financial program for operations and capital acquisitions by Amtrak, covering fiscal years 1975-1979, pursuant to section 601(b) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2723. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of May 1974, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2724. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report on the number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, for the month of July 1974, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended, to the Committee on Interstate and Foreign Commerce.

2725. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended [8 U.S.C. 1154(d)]; to the Committee on the Judiciary.

2726. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the case of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act [8 U.S.C. 1182

(a) (28) (I) (ii) (b)]; to the Committee on the Judiciary.

2727. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d) (3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, together with a list of the persons involved, pursuant to section 212(d) (6) of the act [8 U.S.C. 1182 (d) (6)]; to the Committee on the Judiciary.

2728. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation, together with a list of the persons involved, pursuant to section 244(a) (1) of the Immigration and Nationality Act, as amended [8 U.S.C. 1254 (c) (1)]; to the Committee on the Judiciary.

2729. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation, together with a list of the persons involved, pursuant to section 244(a) (2) of the Immigration and Nationality Act, as amended [8 U.S.C. 1254 (c) (1)]; to the Committee on the Judiciary.

2730. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens under the authority contained in section 13 (b) of the act of September 11, 1957, pursuant to section 13(c) of the act [8 U.S.C. 1255b(c)]; to the Committee on the Judiciary.

2731. A letter from the Adjutant General, Military Order of the Purple Heart, transmitting the audit of the organization for the year ended July 31, 1974, pursuant to section 14 of Public Law 85–761; to the Committee on the Judiciary.

2732. A letter from the National Executive Secretary, Navy Club of the United States of America, transmitting the proceedings of the organization's 36th National Convention and an audit of its accounts as of July 31, 1973, pursuant to section 3 of Public Law 88–504; to the Committee on the Judiciary.

2733. A letter from the Secretary of Commerce, transmitting the third annual report of the National Advisory Committee on Oceans and Atmosphere, pursuant to Public Law 92–125; to the Committee on Merchant Marine and Fisheries.

2734. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on scientific and engineering positions established in NASA as of June 30, 1974, pursuant to section 206(b) of Public Law 87–367 (42 U.S.C. 2473a); to the Committee on Post Office and Civil Service.

2735. A letter from the Administrator of General Services, transmitting a prospectus proposing the construction of a Federal office building and parking facility in Norfolk, Va.; to the Committee on Public Works.

2736. A letter from the Administrator of General Services, transmitting a prospectus proposing the construction of two Federal buildings to provide space for the Social Security Administration National Headquarters activities, Department of Health, Education, and Welfare, in the metropolitan area of Baltimore, Md.; to the Committee on Public Works.

2737. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a progress report on the study of water pollution control at Lake Tahoe, pursuant to section 114(c) of Public Law 92–500, as amended; to the Commitee on Public Works.

2738. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a preliminary report on the 1974 survey of the estimated cost of construction of needed publicly owned wastewater treatment works, pursuant to sections 516(b) (2) and 205(a) of the Federal Water Pollution Control Act Amendments of 1972, as further amended by Public Law 93–243; to the Committee on Public Works.

2739. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on the proposed disposal of NASA land at the Ames Research Center, Moffett Field, Calif., pursuant to section 207 of the National Aeronautics and Space Act of 1958, as amended [42 U.S.C. 2476a]; to the Committee on Science and Astronautics.

2740. A letter from the Director, National Science Foundation, transmitting a report on Federal support to universities, colleges, and selected nonprofit institutions during fiscal year 1972, pursuant to section 3(a) (7) of Public Law 81–507, as amended [42 U.S.C. 1862(a) (7)]; to the Committee on Science and Astronautics.

2741. A letter from the Acting Secretary of Health, Education, and Welfare, transmitting a report on grants approved by the Department of Health, Education, and Welfare during fiscal year 1974 which are financed wholly with Federal funds and subject to the reporting requirements of section 1120(b) of the Social Security Act; to the Committee on Ways and Means.

2742. A letter from the Chairman, U.S. Atomic Energy Commission transmitting a draft of proposed legislation to amend Public Law 93–276 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended; to the Joint Committee on Atomic Energy.

Received From the Comptroller General

2743. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during July 1974, pursuant to the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

2744. A letter from the Comptroller General of the United States, transmitting a report on the progress and problems in implementing the Federal Claims Collection Act of 1966; to the Committee on Government Operations.

2745. A letter from the Comptroller General of the United States, transmitting the first in a series of reports on increasing world food supplies; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Omitted from the Record of Aug. 22, 1974*]

[*Pursuant to the order of the House on Aug. 22, 1974, the following reports were filed on Aug. 23, 1974*]

Mr. **HOLIFIELD**: Committee on Government Operations. H.R. 1355. A bill to donate certain surplus railway equipment to the Hawaii Chapter of the National Railway Historical Society, Inc. (Rept. No. 93–1336). Referred to the Committee of the Whole House on the State of the Union.

Mr. **HOLIFIELD**: Committee on Government Operations. H.R. 5264. A bill to amend section 3(f) of the Federal Property and Administrative Services Act of 1949, with respect to Guam; with amendment (Rept. No. 93–1337). Referred to the Committee of the Whole House on the State of the Union.

Mr. **HOLIFIELD**: Committee on Government Operations. H.R. 7072. A bill to allow advance payment of subscription charges for publications for official use prepared for auditory as well as visual usage (Rept. No. 93–1338). Referred to the Committee of the Whole House on the State of the Union.

Mr. **HOLIFIELD**: Committee on Government Operations. H.R. 8958. A bill to amend the Federal Property and Administrative Services Act of 1949 to provide for the disposal of certain excess and surplus Federal property to the Secretary of the Interior for the benefit of any group, band, or tribe of Indians; with amendment (Rept. No. 93–1339). Referred to the Committee of the Whole House on the State of the Union.

Mr. **HOLIFIELD**: Committee on Government Operations. H.R. 15818. A bill to amend title 44, United States Code, to redesignate the National Historical Publications Commission as the National Historical Publications and Records Commission, to increase the membership of such Commission, and to increase the authorization of appropriations for such Commission; with amendment (Rept. 93–1340). Referred to the Committee of the Whole House on the State of the Union.

Mr. **HOLIFIELD**: Committee on Government Operations. H.R. 15903. A bill to revise certain provisions of title 5, United States Code, relating to per diem and mileage expenses of Government employees, and for other purposes; with amendment (Rept. No. 93–1341). Referred to the Committee of the Whole House on the State of the Union.

Mr. **HOLIFIELD**: Committee on Government Operations. S. 1794. An act to amend section 308 of title 44, United States Code, relating to the disbursing officer, deputy disbursing officer, and certifying officers and employees of the Government Printing Office (Rept. No. 93–1342). Referred to the Committee of the Whole House on the State of the Union.

Mr. **KASTENMEIER**: Committee on the Judiciary. H.R. 15173. A bill to extend for 1 year the authority of the National Commission for the Review of Federal and State Laws on Wiretapping and Electronic Surveillance, and for other purposes; with amendment (Rept. No. 93–1343). Referred to the Committee of the Whole House on the State of the Union.

Mr. **KASTENMEIER**: Committee on the Judiciary. S. 3052. An act to amend the act of October 13, 1972; with amendment (Rept. No. 93–1344). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on Aug. 22, 1974, the following report was filed on Aug. 29, 1974*]

Mr. **STAGGERS**: Committee on Interstate and Foreign Commerce. H.R. 15301. A bill to amend the Railroad Retirement Act of 1937 to revise the retirement system for employees of employers covered thereunder, and for other purposes; with amendment (Rept. No. 93–1345). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on Aug. 22, 1974, the following report was filed on Sept. 10, 1974*]

Mr. **TEAGUE**: Committee on Science and Astronautics. H.R. 16371. A bill to further the conduct of research, development, and demonstrations in solar energy technologies, to establish a solar energy coordination and management project, to provide for scientific and technical training in solar energy, to establish a Solar Energy Research Institute, to provide for the development of suitable incentives to assure the rapid commercial utilization of solar energy, and for other purposes (Rept. No. 93–1346). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted Sept. 11, 1974*]

Mr. **EILBERG**: Committee on the Judiciary. H.R. 778. A bill to repeal the "cooly trade" laws (Rept. No. 93–1347). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 13561. A bill to amend the Intercoastal Shipping Act, 1933; with amendment (Rept. No. 93-1348). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 15229. A bill to expand the authority of the Canal Zone Government to settle claims not cognizable under the Tort Claims Act (Rept. No. 93-1349). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. S. 2348. An act to amend the Canal Zone Code to transfer the functions of the Clerk of the U.S. District Court for the District of the Canal Zone with respect to the issuance and recording of marriage licenses, and related activities, to the civil affairs director of the Canal Zone Government, and for other purposes; with amendment (Rept. No. 93-1350). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 1362. Resolution providing for the consideration of H.R. 15301. A bill to amend the Railroad Retirement Act of 1937 to revise the retirement system for employees of employers covered thereunder, and for other purposes (Rept. No. 93-1351). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CLARK:

H.R. 16593. A bill to amend title 38, United States Code, so as to treat Nicaraguan campaign as a period of war for the purpose of such title; to the Committee on Veterans' Affairs.

By Mr. CRANE:

H.R. 16594. A bill to prohibit the sale, alienation, or commitment of gold by the Secretary of the Treasury without prior approval by act of Congress; to the Committee on Banking and Currency.

By Mr. CULVER:

H.R. 16595. A bill to extend the time for using funds appropriated to carry out the rural environmental assistance program (REAP) and the rural environmental conservation program (RECP) for the fiscal years ending June 30, 1973 and June 30, 1974; to the Committee on Agriculture.

By Mr. DOMINICK V. DANIELS:

H.R. 16596. A bill to amend the Comprehensive Employment and Training Act of 1973 to provide additional jobs for unemployed persons through programs of public service employment; to the Committee on Education and Labor.

By Mr. DORN:

H.R. 16597. A bill to provide for adjustments in the lands or interests therein acquired for the Clark Hill Reservoir, Ga., by the reconveyance of certain lands or interests therein to former owners thereof; to the Committee on Public Works.

By Mr. EDWARDS of Alabama:

H.R. 16598. A bill to provide for the development of a long-range plan to advance the national attack on arthritis and related musculoskeletal diseases and for arthritis training and demonstration centers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HOGAN:

H.R. 16599. A bill to further the purposes of the Wilderness Act by designating certain lands for inclusion in the National Wilderness Preservation System, to provide for study of certain additional lands for such inclusion, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HOWARD:

H.R. 16600. A bill to amend title 23, United States Code, relating to a national maximum speed limit; to the Committee on Public Works.

By Mr. KASTENMEIER:

H.R. 16601. A bill to amend title 17 of the United States Code with respect to registration for unpublished works and with respect to the fees of the Copyright Office, and for other purposes; to the Committee on the Judiciary.

By Mr. LITTON:

H.R. 16602. A bill to amend the Internal Revenue Code of 1954 to restrict the authority for inspection of tax returns and the disclosure of information contained therein, and for other purposes; to the Committee on Ways and Means.

By Mr. LITTON (for himself, Mr. Morgan, Mr. Boland, Mrs. Boggs, Mr. Lujan, Mr. Blackburn, and Mr. Broyhill of Virginia):

H.R. 16603. A bill to provide for protection of franchised dealers in petroleum products; to the Committee on Interstate and Foreign Commerce.

By Mr. LUKEN (for himself, Mr. Abdnor, Mr. Bell, Mr. Bingham, Mrs. Boggs, Mrs. Chisholm, Mr. Dent, Mr. Eshleman, Mr. Fascell, Mr. Anderson of California, Mr. Green of Pennsylvania, Mr. Hicks, Ms. Holtzman, Mr. Hungate, Miss Jordan, Mr. Matsunaga, Mr. Mayne, Mr. McKinney, Mr. Riegle, Mr. Seiberling, Mr. Stokes, Mr. Waldie, Mr. McSpadden, Mr. Edwards of California, and Mr. Charles H. Wilson of California):

H.R. 16604. A bill to amend title XVI of the Social Security Act to require that the value of maintenance and support furnished an individual by a nonprofit retirement home be excluded from income for the purpose of determining eligibility for supplemental security income benefits under such act; to the Committee on Ways and Means.

By Mr. McCORMACK (for himself, Mr. Teague, Mr. Mosher, Mr. Goldwater, Mr. Fraser, Mr. Ichord, Mr. Adams, and Mr. Roy):

H.R. 16605. A bill to further the conduct of research, development, and demonstrations in solar energy technologies, to establish a solar energy coordination land management project, to amend the National Science Foundation Act of 1950 and the National Aeronautics and Space Act of 1958, to provide for scientific and technical training in solar energy, to establish a Solar Energy Research Institute, to provide for the development of suitable incentives to assure the rapid commercial utilization of solar energy, and for other purposes; to the Committee on Science and Astronautics.

By Mr. MILLS:

H.R. 16606. A bill to direct the Secretary of the Army to release certain conditions with respect to certain property previously conveyed to the State of Arkansas by the United States; to the Committee on Armed Services.

By Mr. MOORHEAD of Pennsylvania:

H.R. 16607. A bill to amend the Comprehensive Employment and Training Act of 1973 to provide transitional public employment assistance in periods of high unemployment; to the Committee on Education and Labor.

By Mr. PARRIS:

H.R. 16608. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the amount of certain cancellations of indebtedness under student loan programs; to the Committee on Ways and Means.

By Mr. PRICE of Illinois (by request):

H.R. 16609. A bill to amend Public Law 93-276 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes; to the Joint Committee on Atomic Energy.

By Mr. QUILLEN:

H.R. 16610. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for amounts paid by an individual for dependent care services to enable him to perform volunteer services for certain organizations; to the Committee on Ways and Means.

By Mr. RODINO (for himself and Mr. Eilberg):

H.R. 16611. A bill to amend title 18 of the United States Code to permit the transportation, mailing, and broadcasting of advertising, information, and materials concerning lotteries authorized by law and conducted by a State, and for other purposes; to the Committee on the Judiciary.

By Mr. WON PAT:

H.R. 16612. A bill to amend title 38 of the United States Code in order to provide hospital and medical care to persons who served in the Local Security Patrol Force of Guam during World War II; to the Committee on Veterans' Affairs.

By Mr. COCHRAN:

H.R. 16613. A bill to promote the expedient completion of certain projects for the reconstruction of highways on the National System of Interstate and Defense Highways; to the Committee on Public Works.

By Mr. CRONIN:

H.R. 16614. A bill to amend title XVI of the Social Security Act to provide for an exclusion from resources of an amount deposited as prepayment of funeral and burial expenses; to the Committee on Ways and Means.

By Mr. GRAY:

H.R. 16615. A bill to amend the National Visitor Center Facilities Act of 1968; to the Committee on Public Works.

By Mrs. HECKLER of Massachusetts:

H.R. 16616. A bill to provide retirement annuities for certain widows of members of the uniformed services who died before the effective date of the survivor benefit plan; to the Committee on Armed Services.

By Mr. HELSTOSKI:

H.R. 16617. A bill to terminate age discrimination in employment; to the Committee on Education and Labor.

By Mr. HUDNUT:

H.R. 16618. A bill to grant a Federal charter to the Pearl Harbor Survivors Association, Inc.; to the Committee on the Judiciary.

By Mr. McKINNEY:

H.R. 16619. A bill to make available to Congress the information obtained by the Special Prosecutor; to the Committee on the Judiciary.

By Mr. MILLER:

H.R. 16620. A bill to provide for the development of a long-range plan to advance the national attack on arthritis and related musculoskeletal diseases and for arthritis training and demonstration centers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MILLS:

H.R. 16621. A bill to suspend until the close of June 30, 1977, the duty on certain hardwood veneer; to the Committee on Ways and Means.

By Mr. MOAKLEY (for himself, Mr. Brown of California, Mr. Rosenthal, Mr. White, Mr. Fraser, Mr. Charles Wilson of Texas, Mr. Forsythe, Mr. Leggett, Mr. Hanrahan, Mr. Mathis of Georgia, Mr. Corman, Ms. Holtzman, and Mr. Eilberg):

H.R. 16622. A bill to authorize the acquisition of certain property in the District of Columbia for the use of the Senate and the House of Representatives; and for other purposes; to the Committee on Public Works.

By Mr. MOAKLEY (for himself, Mr. Conte, Mr. Harrington, Mr. Waldie, Mr. Gunter, Mr Badillo, Mr. Stark, Mrs. Boggs, Mrs. Grasso, Mr. de Lugo, Mr. Helstoski, Ms. Abzug, Mr. Won Pat, and Mr. Edwards of California):

H.R. 16623. A bill to authorize the acquisition of certain property in the District of Columbia for the use of the Senate and the House of Representatives, and for other purposes; to the Committee on Public Works.

By Mr. ST GERMAIN:

H.R. 16624. A bill to exclude from gross income the first $1,000 of interest on deposits in savings institutions; to the Committee on Ways and Means.

By Mr. STAGGERS:

H.R. 16625. A bill to amend the Railroad Retirement Act of 1937 to provide that the program of financial interchange with the social security system shall be placed on a current basis; to the Committee on Interstate and Foreign Commerce.

By Mr. STUDDS:

H.R. 16626. A bill to amend title II of the Social Security Act to increase to $5,000 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. GUDE:

H.J. Res. 1118. Joint resolution to require the Watergate Special Prosecution Force to make available to the public a report on all information it has concerning Richard M. Nixon in offenses against the United States; to the Committee on the Judiciary.

By Mr. LOTT:

H.J. Res. 1119. Joint resolution to authorize the President to proclaim that the week of March 16–23, 1975, be designated as "Demolay Week"; to the Committee on the Judiciary.

By Mr. BINGHAM:

H. Con. Res. 629. Concurrent resolution expressing the sense of the Congress that the President should defer granting any additional pardons until after all the facts about the Watergate affair have been revealed by the unfettered operation of the criminal justice system; to the committee on the Judiciary.

By Mr. du PONT:

H. Con. Res. 630. Concurrent resolution expressing the sense of Congress that the President should grant no pardons with respect to Watergate related offenses or offenses being investigated by the Special Prosecutor; to the Committee on the Judiciary.

By Mr. KASTENMEIER:

H. Con. Res. 631. Concurrent resolution to create a Joint Committee on Central Intelligence; to the Committee on Rules.

By Mr. KOCH:

H. Con. Res. 632. Concurrent resolution expressing the sense of Congress with respect to certain pardons granted or which may be granted by the President; to the Committee on the Judiciary.

By Mr. PEYSER:

H. Con. Res. 633. Concurrent resolution expressing the sense of Congress regarding Presidential pardons in the Watergate affair; to the Committee on the Judiciary.

By Mr. SYMINGTON:

H. Con. Res. 634. Concurrent resolution expressing the sense of the House regarding the halt of U.S. economic and military assistance to Turkey until all Turkish armed forces have been withdrawn from Cyprus; to the Committee on Foreign Affairs.

By Mr. BROYHILL of Virginia:

H. Res. 1348. Resolution disapproving the alternative plan, dated August 31, 1974, for pay adjustments for Federal employees under statutory pay systems transmitted by the President to Congress; to the Committee on Post Office and Civil Service.

By Mr. FORD (for himself and Mr. Morgan):

H. Res. 1349. Resolution disapproving the alternative plan, dated August 31, 1974, for pay adjustments for Federal employees under statutory pay systems transmitted by the President to Congress; to the Committee on Post Office and Civil Service.

By Mr. GUDE:

H. Res. 1350. Resolution disapproving the alternative plan, dated August 31, 1974, for pay adjustments for Federal employees under statutory pay systems; to the Committee on Post Office and Civil Service.

By Mr. DULSKI (for himself, Mr. Nix, Mr. Hanley, Mr. Charles H. Wilson of California, Mr. Waldie, Mr. Clay, Mr. Moakley, and Mr. Rooney of Pennsylvania):

H. Res. 1351. Resolution to disapprove the President's alternative plan for pay adjustments for Federal employees; to the Committee on Post Office and Civil Service.

By Mr. HOGAN:

H. Res. 1352. Resolution concerning the safety and freedom of Valentyn Moroz, Ukrainian historian; to the Committee on Foreign Affairs.

By Mr. KUYKENDALL:

H. Res. 1353. Resolution creating a select committee to conduct an investigation and study of tourism in the United States; to the Committee on Rules.

By Mr. LITTON (for himself, Mrs. Chisholm, Mr. Cleveland, Mr. Riegle, Mr. Mazzoli, Mr. Stark, and Mr. Vander Jagt):

H. Res. 1354. Resolution expressing the sense of the House of Representatives concerning the need for immediate and substantial public investments in agriculture research and technology for the express purpose of increasing food production; to the Committee on Agriculture.

By Mr. PARRIS:

H. Res. 1355. Resolution to disapprove the President's alternative plan for pay adjustments for Federal employees; to the Committee on Post Office and Civil Service.

By Mr. RODINO:

H. Res. 1356. Resolution concerning the safety and freedom of Valentyn Moroz, Ukrainian historian; to the Committee on Foreign Affairs.

By Mr. WYDLER:

H. Res. 1357. Resolution expressing the sense of the House regarding the halt of U.S. economic and military assistance to Turkey until all Turkish Armed Forces have been withdrawn from Cyprus; to the Committee on Foreign Affairs.

By Mr. BRADEMAS (for himself, Mr. Kyros, Mr. Yatron, Mr. Sarbanes, Mr. Bafalis, Mr. Brown of California, Mr. Martin of North Carolina, Ms. Abzug, Ms. Heckler of Massachusetts, Mr. Long of Maryland, Mr. Mitchell of New York, Mr. Blackburn, and Mr. Powell of Ohio):

H. Res. 1358. Resolution expressing the sense of the House regarding the halt of U.S. economic and military assistance to Turkey until all Turkish Armed Forces have been withdrawn from Cyprus; to the Committee on Foreign Affairs.

By Mr. FRASER (for himself, Mr. Culver, Mr. Cotter, Mr. Coughlin, Mr. Esch, and Mr. Roush):

H. Res. 1359. Resolution expressing the sense of the House of Representatives with respect to the participation of the United States in an international effort to reduce the risk of famine and to lessen human suffering; to the Committee on Foreign Affairs.

By Mr. MATSUNAGA:

H. Res. 1360. Resolution disapproving the alternative plan for pay adjustments for Federal employees submitted by the President; to the Committee on Post Office and Civil Service.

By Mr. OWENS:

H. Res. 1361. Resolution expressing the sense of the House in favor of continued legal action against Richard M. Nixon and in opposition to further Presidential pardons in connection with the Watergate matter; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DICKINSON:

H.R. 16627. A bill for the relief of Angela J. Gingerich and Major Robert E. Bent; to the Committee on the Judiciary.

By Mr. GUDE:

H.R. 16628. A bill for the relief of Walter Laqueur and his wife Barbara; to the Committee on the Judiciary.

By Mrs. HECKLER of Massachusetts:

H.R. 16629. A bill for the relief of Sergeant Albin S. Chichlowski, United States Air Force; to the Committee on the Judiciary.

By Mr. MOAKLEY:

H.R. 16630. A bill for the relief of the Plymouth Rubber Co., Inc. of Canton, Mass.; to the Committee on the Judiciary.

By Mr. ROY:

H.R. 16631. A bill for the relief of Richard G. Noll; to the Committee on the Judiciary.

By Mr. SIKES:

H.R. 16632. A bill for the relief of Eugene T. Castleberry, Sr.; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

523. By the SPEAKER: Memorial of the Legislature of the State of California, relative to funding for Federal flood control and reclamation projects; to the Committee on Appropriations.

524. Also, memorial of the Legislature of the State of California, relative to a national urban homestead program; to the Committee on Banking and Currency.

525. Also, memorial of the Legislature of the State of California, relative to the continuation of community action agencies; to the Committee on Education and Labor.

526. Also, memorial of the Legislature of the State of California, relative to geothermal energy; to the Committee on Interior and Insular Affairs.

527. Also, memorial of the Legislature of the Territory of American Samoa, relative to the retirement of the Hon. Julia Butler Hansen; to the Committee on Interior and Insular Affairs.

528. Also, memorial of the Legislature of the Trust Territory of the Pacific Islands, relative to the retirement of the Hon. Julia Butler Hansen; to the Committee on Interior and Insular Affairs.

529. Also, memorial of the Legislature of the State of California, relative to cable television blackouts; to the Committee on Interstate and Foreign Commerce.

530. Also, memorial of the Legislature of the State of California, requesting the Congress to propose an amendment to the Constitution of the United States permitting the private ownership of gold; to the Committee on the Judiciary.

531. Also, memorial of the Legislature of the State of California, requesting the Congress to call a convention for the purpose of proposing an amendment to the Constitution of the United States permitting the private ownership of gold; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

476. By the SPEAKER: Petition of the Military Order of the World Wars, Washington, D.C., relative to retaining the current authorized strengths of the National Guard and Reserve, including Civil Affairs Army Reserve units; to the Committee on Armed Services.

477. Also, petition of the Military Order of the World Wars, Washington, D.C., relative to maintenance of the Selective Service System; to the Committee on Armed Services.

478. Also, petition of the Military Order of the World Wars, Washington, D.C., relative to the national defense and internal security of the United States; to the Committee on Foreign Affairs.

479. Also, petition of the Greek Teachers Association of New England, Boston, Mass., relative to Cyprus; to the Committee on Foreign Affairs.

480. Also, petition of the Military Order of the World Wars, Washington, D.C., relative to enforcement of laws against treason, sedition, espionage, and subversion; to the Committee on Internal Security.

481. Also, petition of the Military Order of the World Wars, Washington, D.C., relative to internal security; to the Committee on Internal Security.

482. Also, petition of the Board of Directors, Kiamichi Economic Development District and the Kiamichi Comprehensive Health Planning Council, Wilburton, Okla., relative to the National Health Policy, Planning, and Resources Development Act; to the Committee on Interstate and Foreign Commerce.

483. Also, petition of the American Bar Association, Chicago, Ill., relative to the use of joint hearings by the House and Senate on the nomination of Nelson A. Rockefeller to be Vice President of the United States; to the Committee on the Judiciary.

484. Also, petition of the Military Order of the World Wars, Washington, D.C., relative to the right to bear arms; to the Committee on the Judiciary.

485. Also, petition of the Military Order of the World Wars, Washington, D.C., relative to the celebration of Washington's birthday on February 22; to the Committee on the Judiciary.

486. Also, petition of the Military Order of the World Wars, Washington, D.C., relative to designating November 11 as Veterans Day; to the Committee on the Judiciary.

487. Also, petition of the Military Order of the World Wars, Washington, D.C., relative to restoration of the citizenship of Gen. Robert E. Lee; to the Committee on the Judiciary.

488. Also, petition of the Military Order of the World Wars, Washington, D.C., relative to prohibiting the operation of Marxist schools; to the Committee on the Judiciary.

489. Also, petition of the Student Senate, Florida Technological University, Orlando, Fla., relative to support for President Gerald Ford; to the Committee on the Judiciary.

490. Also, petition of George Nicholas, Miami, Fla., relative to arrest and conviction records of persons found innocent of crimes; to the Committee on the Judiciary.

491. Also, petition of the Tennessee Law Enforcement Officers' Association, Chattanooga, Tenn., relative to legislation dealing with security and privacy issues affecting the law enforcement community; to the Committee on the Judiciary.

492. Also, petition of the City Commission, Fulton, Ky., relative to continuation of general revenue sharing; to the Committee on Ways and Means.

SENATE—*Wednesday, September 11, 1974*

The Senate met at 10 a.m. and was called to order by Hon. WALLACE F. BENNETT, a Senator from the State of Utah.

PRAYER

President Spencer W. Kimball, Church of Jesus Christ of Latter-day Saints, offered the following prayer:

Our Father which art in heaven, hallowed be Thy name. We meet this day with the Members of the Senate of the United States of America. We are grateful for this assembly of men of influence and strength, and vision and understanding, who are the choice of Thy people, entrusted to speak for them. Our Father, please bless them richly.

We are grateful for this vast land—the land of promise—named by Thee the choicest of all lands under heaven. We delight in this promised land with its extensive forests, its rich valleys and plains, its lifegiving rivers, and its mountains of grandeur and beauty and, above all, the people, Thy sons and daughters. Please, Father, let these leaders never forget their relationship to the people and their responsibility to Thee. Please endow them as was ancient King Solomon, whose personal life was wholly above reproach and whose interests were geared to the needs of his people. Thou didst give Solomon a wise and understanding heart instead of long life or the praise of men. Father in Heaven, please give these men the wisdom of Solomon and the courage of Daniel.

We pray also for the President of our beloved Nation. Enlighten him, inspire him, and bless him. Millions of eyes are upon him; countless prayers are offered for him.

Let there come peace with righteous purpose, and let confidence be enthroned, and as this august body of Senators assembles for continued duty, let Thy rich blessings engulf them in their deliberations, and when they have been "weighed in the balance," as was Belshazzar of old, let them not be found wanting.

Accept of our love and pledges of worthiness, and our gratitude for all Thy blessings this day. In the name of Jesus Christ. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 11, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WALLACE F. BENNETT, a Senator from the State of Utah, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. BENNETT thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MOSS. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, September 10, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MOSS. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRESIDENT SPENCER W. KIMBALL, CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

Mr. MOSS. Mr. President, we were privileged this morning to have the invocation in the Senate delivered by President Spencer W. Kimball of the Church of Jesus Christ of Latter-day Saints. This is a very significant event. I pay to President Kimball my respects and, I am sure, the respects of all the Members of this body.

President Kimball is in Washington coincident with the opening of the new Mormon temple in this metropolitan area, and we are pleased that he could accept the invitation to deliver the invocation today.

President Kimball is a great leader of a great people whose history is intertwined with the history of this Republic in many, many ways and whose position has changed over the years from one of opposition by the Federal Government to one of close association. I think this event today is recognition of the close allegiance paid by the members of the Church of Jesus Christ of Latter-day Saints and its leadership and their unswerving support of the Republic in which they live.

So I pay my compliments to President Kimball today.

ORDER OF BUSINESS

Mr. MOSS. Mr. President, I do not know whether the minority has anyone who wishes to make any comments at this time. Apparently not. So I ask that we proceed, under the previous order that was entered, with the recognition of speakers at this time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Maryland (Mr. MATHIAS) is recognized for not to exceed 15 minutes.

Mr. MOSS. Mr. President, I suggest the absence of a quorum, with the time to be taken from my time, to ascertain whether the Senator from Maryland is prepared to speak at this time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. McGOVERN). Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Maryland (Mr. MATHIAS) is recognized for not to exceed 15 minutes.

PRIVILEGE OF THE FLOOR

Mr. MATHIAS. Mr. President, I ask unanimous consent that during the session of the Senate this morning, Mr. Quincy Rogers of my staff be permitted to be present on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEW CHALLENGE FOR SCIENCE AND TECHNOLOGY

Mr. MATHIAS. Mr. President, it is 17 years since sputnik shocked the Nation into an awareness of the challenges posed to our national security, to our role in outer space, and to our position of scientific leadership among the family of nations.

We responded with a mobilization of our technological resources unequaled since the Manhattan project in World War II and the world bore witness to the results through the miracle of global communications as man set foot for the first time on the Moon.

Today, we face new challenges that are no less formidable and indefinitely more complex and difficult to resolve. They relate to the future of our society and the quality of life we hope to obtain for our people. In a world grown almost totally interdependent they concern not only Americans but people everywhere.

These challenges include the specter of widespread famine, already extending across vast reaches of one continent.

They involve the deterioration of our environment—the land, the water, the air upon which our survival depends.

They deal with the growing scarcity of basic raw materials and the need to find new energy sources.

They relate to the national health, the decay of the cities, the modernization of transportation.

They affect the strength of our economy and the stability of our institutions.

In brief, they touch on every aspect of modern civilization, and our ability to overcome these challenges depends in great part on the vitality of our science and technology. This is the purpose to which I have asked permission to address the Senate today, and this is the purpose for which I am introducing legislation today.

We responded to the earlier challenge by bringing science and technology into the heart of Government policymaking and decisionmaking, making optimum use of the expertise and judgment available to the Nation. Under President Eisenhower, the Office of Special Assistant to the President for Science and Technology was created. Dr. James R. Killian, Jr., was the first man to occupy that post. The purpose was to make certain that the response would be carried forward with urgency and momentum. Shortly after, the President's Science Advisory Committee was formed, and several years later, under President Kennedy, the Office of Science and Technology was created, which was also a part of the Executive Office of the President.

During these years and the ones that followed we saw a remarkable series of actions which can be traced directly to the new science and technology mechanisms. To mention a few:

NASA was created as a civilian space effort.

Major advances were made in the long-range ballistic missile program, and the acceleration of ballistic missile early warning capabilities. Other feasibility studies subsequently led to the atmospheric test ban treaty.

The first comprehensive Government report was issued on the environment. It became the guide for later policy decisions and legislation.

A major study was made on the effective use of the sea's resources, and another on the world food crop. They helped trigger national and world planning in both areas.

In 1971, the OST drafted the first Presidential message to the Congress on energy, although I now confess, with some regret, there was no adequate followthrough.

These and other important developments were set in motion by a group which seldom exceeded 25 full-time professionals, plus part-time consultants, operating on a budget that never rose much beyond $2 million annually.

When we consider the magnitude of the present challenges, it is obvious we can do no less than was done during those dramatic years. We must, indeed, do far more—not only in evaluating problems but in developing action programs which lead to practical solutions.

Yet over the past few years, the national science and technology thrust has been critically weakened. The Nixon administration scrapped the machinery that supplied top-level advice to the White House for nearly 15 years. The Office of Scientific Adviser to the President was abolished, and with it the President's Scientific Advisory Committee and the Office of Science and Technology. A total Federal research and development effort involving approximately $20 billion in fiscal year 1975 is for all essential purposes without a central leadership or focus. This has been happening at a time when the Government should have been augmenting, not diminishing its research and development thrust, with an added emphasis on planning.

These, and a spate of related developments, have raised serious questions about our commitment—and our capacity—to meet the problems pressing in on us.

Last fall, a committee of 23 presidents of scientific societies issued a warning that "without more top-level coordination of Federal efforts in science and technology, solving problems such as energy and food shortages would be difficult."

Robert W. Sarnoff, chairman of the board of the RCA Corp., recently noted a major decline in Government support for science and technology in the last 9 years, from more than 12 percent of the budget in 1965 to less than 6 percent in 1974. He said:

> Action is more often motivated by crises than by anticipated needs. Projects are hastily undertaken in a quest for swift results rather than after studies to determine their feasibility . . . insufficient concern is shown for the future supply of scientists and engineers, although many more will be needed. . . .

I think it is only fair to add, Mr. President, that I was very much impressed by a speech that Dr. Sarnoff gave on this subject recently at the Johns Hopkins University in Baltimore.

William D. Carey, vice president of Arthur D. Little, Inc., the noted management consultant firm, told the Committee on Commerce of the Senate:

> We even lack meaningful information on what kinds of technology are stranded in the pipelines of industry and government, and what incentives are needed to move them along.

Dr. Philip Handler, president of the National Academy of Sciences, has pointed out:

> There is no capability within the White House for evaluating technical programs posed by the agencies . . . no place where individuals with technical expertise may be expected to integrate the multifaceted technical problems of our time and thus avoid fragmented and possibly counterproductive approaches. . . .

Dr. Robert C. Seamans, Jr., former Secretary of the Air Force, and president of the National Academy of Engineering has testified in Senate committee hearings that:

> The scientific and technical resources can and should be used more effectively and efficiently to solve critical domestic problems.

These observations—and they are only a sampling—would seem to bear out Mr. Sarnoff's observation that "matters affecting the organization, staffing, financing, and direction of the Nation's efforts in science and technology are still being treated piecemeal and by improvisation."

I hope the Congress will agree that in the light of the challenges, the effort we are making is not good enough. We are going to have to do more, and better, and with better planning.

The bill I am introducing would create a "United States Science and Technology Board" as an independent mechanism of the executive branch. The Chairman, appointed by the President with the advice and consent of the Senate together with 10 other Board members, would serve as science and technology advisor to the President, and also would be available to the Congress for advice and consultation.

The functions of the Board basically would be as follows:

First. To determine the major problems likely to confront the United States in the next 25 years, and to establish priorities for their solution.

Second. To determine whether and to what degree such problems can be resolved or ameliorated through science and technology.

Third. To ascertain what nontechnological factors could affect or be affected by any of the technological solutions.

Fourth. To review, coordinate, and authorize all federally-financed nondefense research and development programs in light of the priorities.

Fifth. To stimulate new research and development where they are needed and where no existing operation, Government or private, can undertake the task.

Sixth. To recommend to the Congress special incentives to private enterprise to undertake needed research and development, and to encourage private industry to put the results to swift practical use, and

Seventh. To help coordinate research and development in and out of Government, and to review the coordination of domestic and foreign programs where they are international in character.

There are several points to note about this bill.

Most importantly, it would bring strength, coherence, purpose, and effectiveness to the management of science and technology at the highest levels of Government.

It would undertake to bring planning and order to the many overlapping and duplicating research and development programs being conducted by separate agencies. There is no machinery that can do this now, and there must be selection and balancing within a budget that is not limited.

The bill would guarantee that no program would be undertaken without the most thorough consideration of the nontechnological factors—economic, social, psychological—and the effect the programs might have on people and their ways of life.

The presence on the Board of specialists in the social sciences would bring a broad perspective to bear on all these problems.

It would not hesitate to recommend the formation of new organizations, and new forms of government-industry cooperation if this was demonstrated to be the best way of getting the job done. We might see other NASA's and Comsats if they proved to be the best way of handling a problem.

The Science and Technology Board would not attempt to overwhelm or edge out the outstanding research and development efforts of private industry. On the contrary, it would seek realistic incentives to bring them into greater play, and to bring the new products and services onstream in the fastest possible time.

There are several further points to note about the Science and Technology Board.

This proposal grows out of an address by Dr. Robert Sarnoff, given at the Johns Hopkins University, on February 22, 1974. I was present when that speech was given and was persuaded by the arguments for better scientific planning which he advanced on that occasion. I have conferred with him about the means to achieve such planning and the bill I introduced today is the result of these discussions and discussions with other knowledgeable people.

I offer this bill today not in the belief that it provides the last word on the structure which should be established for coordination of our national science effort. Instead, I hope that it will provide a further basis for discussion, to add to that which is already taking place in the House and Senate.

I am also mindful that in offering this legislation, I am in effect making a recommendation to President Ford about the way in which his channels of advice on scientific matters should be established. I do so in the spirit of the openness that he has established as the policy of his administration. I do so in the belief that the opening of dialog at this time, in the Senate, in the House, in the administration, and in the scientific community, will yield the best solution to the problems of scientific planning.

I wish to note also my belief that inevitably the proposed Science and Technology Board should reassume the functions turned over to the National Science Foundation when the previous science and technology structure was dismantled by the administration. The NSF has given admirable service to the tasks it was originally created to carry out—namely, to encourage scientific excellence in the areas of basic and early applied research. It should not be placed in the untenable position of having to pass value judgments on other agencies with whom it may be competing in programs and funding, and when NSF itself is on a level with the others.

I have left open the question of the relationship of this Board to the Office of Management and Budget in determining the actual funding of all Government agency programs. On the basis of its expertise, and in the light of national priorities and needs, the Science and Technology Board would have the initial responsibility for authorizing the research and development programs submitted to it by the other agencies. It would then present its authorizations to OMB for budgetary approval, under the legislation I propose. But this system could change if President Ford develops new structures for budgetary control.

To mention OMB is, of course, to recall that science, like so many other elements of our society, will be competing in coming years for scarce Federal dollars. President Ford has announced his intention to balance the Federal budget by next year. It is inevitable that some national efforts will have to be postponed. This increases the importance of the careful planning that would be the task of the proposed Board.

Scientific research and development must and will go on. In an address to the American Philosophical Society in 1938, Karl Taylor Compton said:

> Science really creates wealth and opportunity which did not exist before.

Increased productivity, I submit, is the real answer to inflation and science must be a major contributor.

A wide-ranging study of science and technology in Presidential policymaking, published this summer by a distinguished group of physical and social scientists under the chairmanship of Dr. Killian, concluded with this thought:

> We live in a century of science and technology, driven by man's situation and his aspirations, and we are moving toward a future of more science and technology. What we have sought to promote . . . is one means, among many means that will be necessary, to make science, technology, and engineering more responsive to human needs.

I introduce this bill in the hope that it will help us become responsive to human needs and that it will move us closer to the Nation's goals in this regard.

Mr. President, I ask unanimous consent to have the full text of the bill printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3980

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Science and Technology Board Act."

STATEMENT OF PURPOSE

SEC. 2. (a) It is the purpose of this Act to establish a United States Science and Technology Board for the purpose of consolidating in one governmental unit responsibility for

(1) determining the most critical long-range problems facing the nation, including but not limited to, the social, economic, environmental and resources areas;

(2) evaluating the potential contributions of science and technology to the solution of such long-range problems;

(3) measuring the probable scope, intensity, and duration of such problems and establishing time scales and priorities for coping with them;

(4) establishing optimum levels of funding of all federally-financed nondefense research and development programs in the context of the time scales and priorities established;

(5) reviewing and authorizing all federally financed nondefense research and development programs; and

(6) insuring the coordination of scientific and technological efforts in the United States and with the scientific and technological efforts of other nations.

THE ESTABLISHMENT OF THE BOARD

SEC. 3. (a) There is established as an independent establishment of the executive branch of the Government the United States Science and Technology Board (hereinafter in this Act referred to as the "Board"), which shall be composed of eleven members who shall be appointed by the President, by and with the advice and consent of the Senate, from among distinguished individuals in government, industry, and the academic community who are experienced in the practice and management of basic science, applied research, the principal engineering disciplines, and such social sciences as economics and sociology. The membership of the Board should reflect the broadest possible balance of experience in these fields. Not more than six members of the Board shall be members of the same political party. The President shall select one of the members to serve as Chairman of the Board, and the member so selected shall serve as Chairman for the duration of his term of appointment as a member.

(b) The Chairman of the Board shall serve as Science and Technology Adviser to the President, shall be a member of the Domestic Council, and shall be available to Congress for advice and consultation.

(c) Members of the Board shall serve for terms of four years, except that—

(1) the members first taking office shall serve as designated by the President at the time of appointment, three for a term of four years, three for a term of three years, three for a term of two years, and two for a term of one year; and

(2) any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term.

(d) Each member of the Board shall be compensated at the rate provided for GS-18 under section 5332 of title 5 of the United States Code.

(e) Vacancies in membership of the Board as long as there are six members in office shall not impair the powers of the Board to execute the purposes, functions, and powers of the Board. Six members of the Board shall constitute a quorum for the transaction of business.

(f) Vacancies in membership of the Board shall be filled in the same manner in which the original appointment was made.

(g) Members of the Board shall have no other employment, public or private, during their tenure as members.

FUNCTIONS

SEC. 4. (a) It shall be the function of the Board—

(1) to determine by measurement and analysis the major problems likely to confront the United States, including, but not limited to, the social, economic, environmental, and resources areas, in the year of enactment of this Act and the 25 years thereafter, and to establish priorities for the solution of such problems;

(2) to review and update annually the analysis of each such problem;

(3) based on the analysis of such problems, to determine whether, and to what degree, such problems are susceptible to solution or amelioration through the application of science and technology;

(4) to ascertain which Federally funded programs already in existence contribute to the solution of such problems;

(5) to keep informed of research and development programs related to the national defense which are of potential value to the civilian sector and to encourage, consistent with national security, civilian application of any such developments;

(6) to initiate systems studies to determine the non-technical factors that may affect or would be affected by any proposed technological or scientific solution to any such problem;

(7) to review all Federally-financed non-defense research and development programs and to approve or disapprove the inclusion of each such program in the appropriate section authorization;

(8) to establish optimum levels of funding for research and development programs for the purpose of establishing a balanced approach to solving such problems based on the priorities established by the Board, and to advise the appropriate Government authorities on allocation of such funds;

(9) to stimulate, where appropriate, the initiation of research and development programs and, when the Board determines that no existing public or private research operation is capable of developing and operating a major research and development program, to recommend the establishment of a special organization for such purpose;

(10) to recommend to the Congress special incentives to encourage private industry to enter into needed research and development activities and to encourage private industry to put into use important technological developments as quickly and widely as possible;

(11) to determine the degree of coordination of the research and development efforts among the various departments and agencies of the Government, private industry, and academic institutions and to foster coordination of such efforts; and

(12) to foster and review the coordination of domestic and foreign research and development efforts relating to problems of an international character.

POWERS OF THE BOARD

SEC. 5. (a) The Board may delegate any of its functions to officers and employees of the Board as the Board may designate, may authorize such successive redelegations of such functions as it may deem desirable, and may make such rules and regulations as may be necessary to carry out its functions.

(b) Subject to such rules and regulations as may be adopted by the Board, the Board shall have the power—

(1) to appoint and fix the compensation of an executive director and such additional personnel as it deems necessary; and

(2) to procure temporary and intermittent services to the same extent as is authorized in section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

(c) The Board is authorized—

(1) to accept donations of services;

(2) to utilize on a reimbursable basis the services, equipment, personnel, and facilities of any other department or agency of the United States; and

(3) to take such other action as may be necessary to carry out the functions of the Board.

(d) The head of each department, agency, and independent instrumentality of the United States shall cooperate with the Board to the fullest extent consistent with the law in the carrying out of its functions under this Act.

REVIEW OF RESEARCH AND DEVELOPMENT PROGRAMS

SEC. 6. (a) Within 6 months after the designation of long-term problems facing the United States and the establishment of priorities for dealing with such problems by the Board under this Act, the head of each department, agency, and independent instrumentality of the United States having authority to support research and development activities shall submit to the Board for its review and approval all Federally-financed non-defense research and development programs. Notwithstanding any other provision of law, no such program shall be included by any such authority in its allocation of funds or its budget requests after such date unless the Board has reviewed each program and made a determination thereon.

REPORTS

SEC. 7. (a) In addition to any report required to be prepared by the Board, the Board shall prepare and submit to the President and the Congress not later than January 1, 1976, and annually thereafter, a report on the technological state of the Nation.

(b) The Board may issue such special and supplementary reports as it deems necessary to describe the nature and status of the long-range problems facing the Nation and recommend appropriate measures for Government and private action.

COMPENSATION OF EXECUTIVE DIRECTOR

SEC. 8. Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(132) Executive Director, United States Science and Technology Board."

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The PRESIDING OFFICER (Mr. McGOVERN). The bill will be received and appropriately referred.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Montana (Mr. MANSFIELD) is recognized for not to exceed 15 minutes.

Mr. MANSFIELD. Mr. President, I yield back my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEW APPROPRIATIONS—WAIVER OF RULE XXVI

Mr. HARRY F. BYRD, JR. Mr. President, I note that the Committee on Appropriations shortly will report to the Senate the appropriation for Health, Education, and Welfare. That will be a tremendous piece of legislation, involving some $35 billion.

As I understand the rules of the Senate, the normal procedure is for the report to be available to the Members of the Senate for 3 days before the legislation is called up. I understand also that under the rules the joint leadership could waive that 3-day requirement.

I hope that the leadership will not waive the 3-day requirement in this case. I realize the great difficulties that the leadership works under, and I think the leadership has done a tremendous job, an outstanding job, month in and month out and year in and year out, in handling the legislative work, and certainly I do not want to add in any way to the burdens of the already burdensome task that the leadership has.

I ask the distinguished majority leader if, at this time, he can indicate whether there might be a waiver of that 3-day rule. I think the legislation is so enormous, and so complex, and the amount of public funds involved is so great, that some of us, at least, need some time to study it before we would be in a position to vote on the measure.

Mr. MANSFIELD. Mr. President, if the Senator will yield, may I say in response to the distinguished Senator from Virginia that the joint leadership does have that authority, but the joint leadership has never exercised it.

It was hoped that, with the concurrence of the Senate, it would be possible to take the HEW appropriation bill up tomorrow, but the Senator has made the case very well. It is a big bill, and the Senate is entitled to a study of the hearings, the report, and the bill itself.

I ask the Senator, if it were made the pending business for Monday next, if that would be satisfactory.

Mr. HARRY F. BYRD, JR. Yes. May I say to the distinguished majority leader, I am assuming that the committee report would be available tomorrow, which then would give adequate time to study the report between now and Monday.

Mr. MANSFIELD. We will make every effort to have it ready tomorrow. The bill is being marked up this morning, and I will bring the Senator's suggestion to the attention of the committee, so that arrangements may be made for the Government Printing Office to expedite the work of its preparation.

Mr. HARRY F. BYRD, JR. I am grateful to the Senator from Montana.

MESSAGE FROM THE HOUSE

At 1:30 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House insists upon its amendments to the bill (S. 3355) to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide appropriations to the Drug Enforcement Administration on a continuing basis, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ROGERS, Mr. SATTERFIELD, Mr. KYROS, Mr. DEVINE, Mr. NELSEN, and Mr. CARTER were appointed managers of the conference on the part of the House.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. BENNETT) laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE DEPARTMENT OF AGRICULTURE

A letter from the Secretary of Agriculture transmitting, pursuant to law, a report entitled "The Location of New Federal Offices and Other Facilities" (with an accompanying report). Referred to the Committee on Agriculture and Forestry.

PROPOSED LEGISLATION BY THE DEPARTMENT OF AGRICULTURE

A letter from the Under Secretary of Agriculture transmitting a draft of proposed legislation to amend the Commodity Credit Corporation Charter Act of 1948, as amended (with accompanying papers). Referred to the Committee on Agriculture and Forestry.

REPORT OF THE SECRETARY OF DEFENSE

A letter from the Deputy Secretary of Defense transmitting, pursuant to law, four reports of violation of section 3679, Revised Statutes, and of Department of Defense Directive 7200.1, "Administrative Control of Appropriations within the Department of Defense" (with accompanying papers). Referred to the Committee on Appropriations.

REPORTS OF THE COMPTROLLER GENERAL

Four letters from the Comptroller General of the United States each transmitting, pursuant to law, reports of the following titles: "Fundamental Changes Needed to Achieve a Uniform Government-wide Overseas Benefits and Allowances System for U.S. Employees"; "Increasing World Food Supplies—Crisis and Challenge"; "Rescission of the Opium Poppy Growing Ban by Turkey"; and "Improved Government Assistance Can Increase United States Share of Foreign Engineering and Construction Projects," (with accompanying reports). Referred to the Committee on Government Operations.

PROPOSED FUNDING PROJECTS BY THE DEPARTMENT OF THE INTERIOR

A letter from the Assistant Secretary of the Interior transmitting, pursuant to law, descriptions of 26 projects tentatively selected for funding through grants (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

PROPOSED CONCESSION CONTRACT AT MAMMOTH CAVE NATIONAL PARK

A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed concession contract under which Miss Green River Boat-Concession, Inc., will be authorized to continue to provide sightseeing boat tours for the public visiting Mammoth Cave National Park (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

REPORT BY THE FEDERAL ENERGY ADMINISTRATION

A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, a report on the organizational structure of the Federal Energy Administration including a brief description covering the prime responsibilities of each office (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

REPORT OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

A letter from the Chairman of the Equal Employment Opportunity Commission transmitting, pursuant to law, a report covering all persons employed by the Equal Employment Opportunity Commission as of the end of fiscal year 1974 (with an accompanying report). Referred to the Committee on the Judiciary.

ORDERS OF THE IMMIGRATION AND NATURALIZATION SERVICE

Two letters from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, copies of orders suspending deportation, together with a list of the persons involved (with accompanying papers). Referred to the Committee on the Judiciary.

REPORT OF THE ENVIRONMENTAL PROTECTION AGENCY

A letter from the Administrator of the Environmental Protection Agency transmitting, pursuant to law, a report on the results of the 1974 survey conducted nation-wide to estimate the costs of construction of needed publicly owned wastewater treatment work (with an accompanying report). Referred to the Committee on Public Works.

PROPOSED CONSTRUCTION OF PUBLIC BUILDINGS IN BALTIMORE, MD.

A letter from the Administrator of General Services transmitting, pursuant to law, a prospectus proposing construction of two Federal buildings in the metropolitan area of Baltimore, Md. (with accompanying papers). Referred to the Committee on Public Works.

PROPOSED CONSTRUCTION OF A PUBLIC BUILDING IN NORFOLK, VA.

A letter from the Administrator of General Services transmitting, pursuant to law, a prospectus proposing construction of a Federal office building in Norfolk, Va. (with accompanying papers). Referred to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. BENNETT):

A joint resolution adopted by the Congress of Micronesia. Ordered to be laid on the table:

"HOUSE JOINT RESOLUTION OF THE FIFTH CONGRESS OF MICRONESIA

"(A House Joint Resolution commending the Honorable Senator Alan Bible for his work in behalf of the people of Micronesia, congratulating him upon his retirement, wishing him success in the future, and inviting him to visit Micronesia at any time in the future.)

"Whereas, under the administration of Micronesia by the United States of America one of the major sources of encouragement and assistance for the people of Micronesia has been the Congress of the United States; and

"Whereas, this support has been not only in terms of financial assistance, but also in terms of empathy, understanding, and concern by its members for the future of Micronesia and its people; and

"Whereas, the people of Micronesia have come to understand that many members of the House and Senate of the U.S. Congress have truly become "friends of Micronesia" through their visits to our islands and by virtue of their efforts and sympathies in helping to initiate and foster a better life for our people; and

"Whereas, the Honorable Alan Bible, Democrat of Reno, Nevada, by November 1, 1974, will have completed 20 years of distinguished service in the United States Senate, during which time he has served his constituents admirably; and

"Whereas, Senator Bible has also served as Chairman of the Senate Interior Subcommittee of the Committee on Appropriations since January, 1969, and during that time has also served his unofficial "constituency" in Micronesia well; and

"Whereas, Senator Bible has always shown a personal interest and concern in the affairs of the Trust Territory and particularly in the well-being and future of the islands and people of Micronesia; and

"Whereas, the Congress of Micronesia has learned the unfortunate news that Senator Bible intends to retire and will not seek reelection to the 94th Congress of the United States; and

"Whereas, it is the sense of the Congress of Micronesia that Senator Bible ought to be commended for the kindness, courtesy, and wisdom with which he has assisted the people of Micronesia during the past several years: now, therefore,

"Be it resolved by the House of Representatives, Fifth Congress of Micronesia, First Special Session, 1974, the Senate concurring, that the Honorable Senator Alan Bible be and he is hereby commended for his past work on behalf of the people of Micronesia; and

"Be it further resolved that he is congratulated upon his retirement from the United States Congress and extended the best wishes of the Congress of Micronesia for every success and happiness in his future endeavours, and also extended a standing invitation to visit Micronesia at any time in the future; and

"Be it further resolved that certified copies of this House Joint Resolution be transmitted to the Honorable Senator Alan Bible, to the Chairman of the Senate Committee on Appropriations, and to the President of the Senate of the United States Congress."

A resolution of the board of trustees of the Village of Bel-Ridge, Mo., in opposition to legalized abortion. Referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McGEE, from the Committee on Post Office and Civil Service, without amendment:

S. Res. 394. A resolution disapproving the alternative plan for pay adjustments for Federal employees (Rept. No. 93–1141).

By Mr METCALF, from the Committee on Government Operations with an amendment:

S. 3341. A bill to revise certain provisions of title 5, United States Code, relating to per diem and mileage expenses of employees and other individuals traveling on official business, and for other purposes (Rept. No. 93–1142).

By Mr. McGEE, from the Committee on Post Office and Civil Service, with amendments:

S. 2022. A bill to provide increased employment opportunity by executive agencies of the U.S. Government for persons unable to work standard working hours and for other purposes (Rept. No. 93–1143).

By Mr. METCALF, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 10626. An act to authorize the Secretary of the Interior to sell reserved phosphate interest of the United States in certain lands in Florida to John Carter and Martha B. Carter (Rept. No. 93–1144).

By Mr. WILLIAMS, from the Committee on Banking, Housing and Urban Affairs, with amendments:

S. 2474. A bill to amend the Securities Exchange Act of 1934 as amended, to provide for the regulation of brokers, dealers, and banks trading in municipal securities, and for other purposes (Rept. No. 93–1145).

By Mr. MAGNUSON, from the Committee on Appropriations, with amendments:

H.R. 15580. An act making appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1975, and for other purposes (Rept. No. 93–1146).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S. Con. Res. 87. A concurrent resolution recognizing the centennial anniversary of the University of Nevada (Rept. No. 9301147).

H.J. Res. 910. A joint resolution asking the President of the United States to declare the fourth Sunday of September 1974, "National Hunting and Fishing Day" (Rept. No. 93–1148).

H.J. Res. 1070. A joint resolution authorizing the President to proclaim the period of September 15, 1974, through October 15, 1974, as "Johnny Horizon '76 Clean Up America Month" (Rept. No. 93–1149).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Philip C. Habib, of California, to be an Assistant Secretary of State;

Shirley Temple Black, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ghana;

Kenneth Rush, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to France; and

John Sherman Cooper, of Kentucky, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the German Democratic Republic.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MATHIAS:

S. 3980. A bill to establish the U.S. Science and Technology Board. Referred to the Committee on Government Operations.

By Mr. HELMS (for himself, Mr. Eastland, Mr. Thurmond, Mr. Curtis, and Mr. Bennett):

S. 3981. A bill to limit the jurisdiction of the Supreme Court of the United States and of the district courts to enter any judgment, decree or order, denying or restricting, as unconstitutional, voluntary prayer in any public school. Referred to the Committee on the Judiciary.

By Mr. WEICKER:

S. 3982. A bill to amend the Internal Revenue Code of 1954 to restrict the authority for inspection of tax returns and the disclosure of information contained therein, and for other purposes. Referred to the Committee on Finance.

By Mr. McINTYRE (for himself and Mr. Javits):

S. 3983. A bill to establish a Federal Domestic Development Bank to provide loans, loan guarantees, and technical assistance for the support and expansion of public facilities and private business operations in economically depressed urban and rural areas of the United States, to promote competition and planned regional development, and to aid areas or businesses which are faced with technological obsolescence or which are otherwise in financial difficulties. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. ABOUREZK:

S. 3984. A bill to designate the birthday of "Susan B. Anthony" as a legal public holiday. Referred to the Committee on the Judiciary.

By Mr. WILLIAMS:

S. 3985. A bill to prohibit the shipment in interstate commerce of dogs intended to be used to fight other dogs for purposes of sport, wagering, or entertainment. Referred to the Committee on Commerce.

By Mr. BENTSEN:

S. 3986. A bill for the relief of Guadalupe Villegas. Referred to the Committee on the Judiciary

By Mr. CURTIS:

S. 3987. A bill to prevent importation of ectoparasites into the United States. Referred to the Committee on Agriculture and Forestry.

By Mr. BIDEN:

S. 3988. A bill to provide for the preparation of State energy conservation programs through Federal and State cooperation and shared responsibility, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. TAFT:

S. 3989. A bill to assist local areas in obtaining reimbursement for construction of public waste treatment works constructed prior to July 1, 1972. Referred to the Committee on Public Works.

By Mr. CHURCH:

S. 3990. A bill to amend title II of the Social Security Act to provide that the special minimum primary insurance amount thereunder shall be increased (in like manner as other benefits thereunder are increased) to take account of increases in the cost of living. Referred to the Committee on Finance.

By Mr. MONDALE:

S. 3991. A bill for the relief of Dr. Raul A. Cuestas-Gomez and wife Yolanda Cuestas. Referred to the Committee on the Judiciary.

By Mr. DOLE:

S. 3992. A bill to amend section 403 of the Congressional Budget Act of 1974 to require that all monetary bills reported for consideration by the House or Senate be accompanied by an inflationary impact statement, and for other purposes. Referred to the Committee on Government Operations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATHIAS:

S. 3980. A bill to establish the United States Science and Technology Board. Referred to the Committee on Government Operations.

(The remarks of Mr. Mathias on the introduction of the above bill are printed earlier in the Record.)

By Mr. HELMS (for himself, Mr. Eastland, Mr. Thurmond, Mr. Curtis, and Mr. Bennett):

S. 3981. A bill to limit the jurisdiction of the Supreme Court of the United States and of the district courts to enter any judgment, decree or order, denying or restricting, as unconstitutional, voluntary prayer in any public school. Referred to the Committee on the Judiciary.

Mr. HELMS. Mr. President, I send to the desk a bill which will allow the restoration of the right to voluntary, nondenominational prayer in public schools without resorting to a constitutional amendment.

The bill is cosponsored by the distinguished chairman of the Judiciary Committee, Mr. Eastland, the distinguished Senator from South Carolina (Mr. Thurmond) a member of the Judiciary Committee; the distinguished Senator from Nebraska (Mr. Curtis); the distinguished Senator from Utah (Mr. Bennett), and there will be other cosponsors later today and in the enusing day.

Mr. President, more than 10 years have passed since the Supreme Court outlawed prayers in the public schools. In 1962, in the case of Engel against Vitale, the Court ruled that the State of New York had violated the Constitution by allowing public school children to recite a nondenominational prayer at the beginning of each day. The decision was greeted by an outpouring of criticism from the vast majority of the American people, including Members of Congress and many constitutional lawyers.

In the years since then, many of us have sought to reverse the Court's decision through the adoption of a constitutional amendment. But our efforts have not been successful. At this very moment, Senate Joint Resolution 84 is before the Senate Judiciary Committee. This resolution proposes an amendment to the Constitution that would prohibit the States and the Federal Government from abridging the right of the American people to participate in voluntary prayer in public schools and public buildings. I am one of 22 cosponsors who favor this resolution, Mr. President, but I am also aware of the fact that this proposal has been before the committee for more than a year. The amendment process is time consuming and exceedingly difficult. The time has come to consider an alternative means of dealing with this problem.

Fortunately, the Constitution provides this alternative under the system of checks and balances. In anticipation of judicial usurpations of power, the framers of our Constitution wisely gave Congress the authority, by a simple majority of both Houses, to check the Supreme Court through regulation of its appellate jurisdiction. Section 2 of article III states in clear and precise language that the appellate jurisdiction of the Court is subject to "such exceptions, and under such regulations, as the Congress shall make."

Permit me to point out, Mr. President, that Congress has exercised this power on numerous occasions, since the earliest days of the Republic. In the well-known case of ex parte McCardle, decided in 1868, Congress even went so far as to repeal an act, which had authorized McCardle to appeal to the Supreme Court, after the Court had already heard argument in the case. The Court promptly dismissed the case for want of jurisdiction. Speaking for a unanimous Court, Mr. Justice Davis declared:

> We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words.

The principle laid down in the McCardle case has been reaffirmed many times by the Court in subsequent cases down to the present. As the Court observed in the Francis Wright case of 1882—

> While the appellate power of this Court extends to all cases within the judicial power of the United States, actual jurisdiction is confined within such limits as Congress sees fit to describe. What these powers shall be, and to what extent they shall be exercised, are, and always have been, proper subjects of legislative control.

In the words of the late Mr. Justice Frankfurter—

> Congress need not give this Court any appellate power; it may withdraw appellate jurisdiction once conferred and it may do so even while a case is *sub judice*. (*National Mutual Ins. Co.* against *Tidewater Transfer Co.*, 1948).

Not once in its history, Mr. President, has the Supreme Court departed from this principle or suggested that there are any limitations to Congress' control over the Court's jurisdiction. Indeed, the Constitution itself admits to no limitations.

For this reason, I am introducing today a bill which would limit the appellate jurisdiction of the Supreme Court, and the original jurisdiction of Federal district courts, in actions relating to the recitation of prayers in public schools. This bill states simply that the Federal courts shall not have jurisdiction to enter any judgment, decree, or order, denying or restricting, as unconstitutional, voluntary prayer in any public school.

The purpose of this bill is to restore to the American people the fundamental right of voluntary prayer in the public schools—and I stress the word voluntary, Mr. President. No individual should be forced to participate in a religious exercise that is contrary to his religious convictions, and the bill takes cognizance of this cherished freedom. At the same time, the bill seeks to promote the free exercise of religion by allowing those who wish to recite prayers—and they are the vast majority of our citizens—to do so, with or without the blessings of Government.

As many critics of the Engel decision have correctly observed, the free exercise of religion was actually denied in that case. As you will recall, no individual was compelled to recite the nondenominational prayer, and dissenters were allowed to execuse themselves from the classroom. But the remaining students were denied the freedom to participate in the recitation of the prayer. The conclusion is inescapable, Mr. President, that in Engel against Vitale, the Supreme Court, in effect, gave preference to the dissenters and at the same time violated the establishment clause of the first amendment by establishing a religion—the religion of secularism. Public school children are a captive audience. They are compelled to attend school. Their right to the free exercise of religion should not be suspended while they are in attendance. The language of the first amendment assumes that this basic freedom should be in force at all times and in all places. I respectfully urge my fellow colleagues in the Senate to join me in supporting this bill and restoring the free exercise of religion to its full constitutional status.

Mr. President, I ask unanimous consent that the text of the bill which I have introduced be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§1259. Appellate jurisdiction; limitations

"(a) Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of any Act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation, which relates to voluntary prayers in public schools and public buildings.".

(b) The section analysis at the beginning of chapter 81 of such title 28 is amended by adding at the end thereof the following new item:

"1259. Appellate jurisdiction; limitations.".

SEC. 2. (a) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1363. Limitations on jurisdiction

"Notwithstanding any other provision of law, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title.".

(b) The section analysis at the beginning of the chapter 85 of such title 28 is amended by adding at the end thereof the following new item:

"1363. Limitations on jurisdiction.".

SEC. 3. The amendments made by the first two sections of this Act shall take effect on the date of the enactment of this Act, except that such amendments shall not apply with respect to any case which, on such date of enactment, was pending in any court of the United States.

Mr. THURMOND. Will the Senator yield?

Mr. HELMS. I am delighted to yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I was pleased to join the able Senator from North Carolina in sponsoring this legislation.

In my judgment, the Federal Government has been into the field of education long enough in operating the schools. The schools of America should be run by the local people, the local trustees, the people in each State, and I think the time has come when we should remove the entire field of education from the Federal Government.

This will allow the States to set their own standards regarding prayers in public schools, as I construe it, is that correct?

Mr. HELMS. The Senator is absolutely correct.

Mr. THURMOND. In my judgment this would restore the right of public schoolchildren to engage in voluntary prayers in public school buildings, without forced participation.

In other words, the purpose of this legislation is to take the control of the schools back to the States of the Nation and back to the counties and the local communities where the schools are located.

Mr. President, there is nothing so close to the hearts of the people and the hearts of the parents as the schools that their children attend. The children of the parents are their greatest assets and certainly they are interested, more than anyone else, in the schools.

I think the time has come to end the

dictation and the control from Washington over the schools of this Nation and I sincerely hope the Senate will consider this legislation most carefully and enact it as promptly as possible.

I wish to commend the able Senator for his leadership and initiative in this important matter.

Mr. HELMS. I thank the able Senator from South Carolina, Mr. President, for his generous comments. He has always been at the forefront in the defense of the liberties of the people and in the defense of this great land.

Now, we have a very vital principle at stake here. Furthermore, Mr. President, if we are to save the system of public education in this country, we must do everything possible to create renewed support and interest in the schools of the land.

As it now stands, this is in a state of decline, thanks to the harassment of the Department of Health, Education, and Welfare and the Federal courts.

In my own State of North Carolina in the past 12 months Winston-Salem, Forsyth County school system has elected to reject Federal funds because of an impossible order handed down by HEW with regard to remedial and special education classes for children.

Facilities have been established for a great while for remedial education and simply because the arithmetic of the situation produces more black children with educational problems than white, the Department of Health, Education, and Welfare has taken the position that this statistical discrepancy is per se automatically discriminatory.

Well, what does HEW expect? To go out and find more children with problems—white children, or red children, or yellow children—when they do not exist?

It is such arbitrary, capricious meddling by Federal bureaucrats which is ruining the system of public education in America.

As for the prayer situation, this has caused distress throughout the land, not only in North Carolina, perhaps less in North Carolina than in some other States, though we have not had a court decision specifically directed at our State, so far as I know.

But I think it is time, once and for all, Mr. President, to set the record straight, to show that Congress means what it says when all of us go out on the campaign trail and say we believe in the liberties of the people.

If we really believe in the liberties of the people, then let us restore liberties of the people to the people.

By Mr. WEICKER:

S. 3982. A bill to amend the Internal Revenue Code of 1954 to restrict the authority for inspection of tax returns and the disclosure of information contained therein, and for other purposes. Referred to the Committee on Finance.

PROTECTION OF THE CONFIDENTIALITY OF TAX RETURNS

Mr. WEICKER. Mr. President, in his recent speech granting a pardon to his predecessor, President Ford described the Watergate tragedy as "bad dreams that continue to reopen a chapter that is closed." While we all would wish to have Watergate behind us, Congress would be negligent if it did not examine the gaps in our laws which enabled the most powerful men in our Government to abuse the sacred trust granted them by the American people and move to close them. Unfortunately, the assorted corrupt acts and misuse of power which fit under the Watergate umbrella were not bad dreams. Congressional and judicial investigations have shown that they did happen. Today I am introducing legislation with Congressman JERRY LITTON, Democrat of Missouri, to prevent one crucial area of abuse from happening again—abuse of confidential income tax information.

Of all abuses uncovered in the last 2 years, none poses a greater threat to the principles of privacy and due process than misuse of personal income tax returns. The documented use of the Internal Revenue Service as an intelligence body to derive information harmful to enemies of the Nixon administration and helpful to its friends flaunts the fundamental principles on which our Government was founded. Attempts were made by high White House officials, with the apparent knowledge of President Nixon, to receive information from the Internal Revenue Service on his administration's enemies, to harass foes with tax audits and protect friends from such investigation. The House Judiciary Committee in article II, subparagraph 2 of the Articles of Impeachment succinctly summarized the mass of information it had gathered against President Nixon in this area. It stated:

> He has, acting personally and through his subordinates and agents, endeavored to obtain from the Internal Revenue Service, in violation of the constitutional rights of citizens, confidential information contained in income tax returns for purposes not authorized by law, and to cause, in violation of the constitutional rights of citizens, income tax audits or other income tax investigations to be initiated or conducted in a discriminatory manner.

In outlining some dozen areas of Nixon's direct connection with possible criminal activity, Special Prosecutor Leon Jaworski included misuse of IRS information and trying to initiate IRS audits of White House "enemies" among the charges.

The Nixon administration not only sought tax information to use against enemies but also legally sought to open tax returns of whole occupational groups for its inspection. Two Executive orders, Executive Order 11697 and Executive Order 11709 required the Treasury Department to turn over farmers' income tax returns to the Department of Agriculture allegedly for statistical purposes. This directly threatened the privacy of 3 million citizens and provided the model for similar orders directed against other occupational groups.

After congressional hearings, the introduction of H.R. 10977 and other bills to prohibit such widespread invasions of taxpayers' privacy, and the recommendations for repeal of the orders by the then Vice President Ford and the Domestic Council on Privacy, President Nixon belatedly repealed his earlier controversial orders. These orders, which left Federal bureaucrats free to rummage through income tax returns for statistical data obtainable from other sources and the attempted corruption of the audit procedures to harm enemies and help friends, have made us aware of how fragile is the privacy of our tax returns.

At the heart of the problem is an antiquated section of the Internal Revenue Code, section 6103, which makes our tax returns public records. We ask our taxpayers to voluntarily and freely report the most confidential aspects of their financial status in the belief that such information will not be used in a manner violative of their right of privacy. In effect, each of us for taxation purposes is waiving our fifth amendment rights. But our law invites abuse and misuse of this information by stating that, unless otherwise limited, tax returns are public records. The Commissioner of Internal Revenue, Donald C. Alexander, was right when commenting on section 6103, he told the House Foreign Operations and Government Information Subcommittee on August 3, 1973:

> I suggest that a better approach is precisely the opposite: tax returns should be confidential and private, except as otherwise specified.

Justice Brandeis once stated:

> The most comprehensive of rights and the right most valued by civilized men is the right to be left alone.

It is this right that is in danger of extinction.

I am proud to introduce a bill to protect the confidentiality of personal income tax returns and limit the use of these returns for purposes other than those for which they were intended. This bill would enact a new section 6103 of the Internal Revenue Code to provide:

> All returns made with respect to taxes imposed under any provision in this title are confidential records and no such return or any information contained therein shall be disclosed except as provided in this title.

This bill is intended to limit use of income tax returns to the purpose for which the taxpayer intended them to be used—the reporting of his income for the purpose of assessing a tax against him. The only persons to whom this information can be divulged are the taxpayer himself, his authorized representative, officers and employees of the Internal Revenue Service and the Justice Department for enforcement of the Internal Revenue Code, State tax officials for the purpose of administering their tax system, the Joint Committee on Internal Revenue Taxation, and under the spotlight of public knowledge, the President.

The President and Attorney General can obtain tax returns only upon written request specifying the taxpayer whose return is to be inspected. The President must certify that he needs the return in the performance of his official duties. The Commissioner of Internal Revenue would be required by this bill to issue a quarterly report to the Joint Committee on Internal Taxation specifying the names of taxpayers whose returns are requested, the persons requesting them, and the dates requested so that Congress can provide an additional check against the unnecessary invasion of tax return confidentiality.

In the future, what a President does with a taxpayer's return will be known to the Nation. Thus, his constitutional powers are not restricted, but his ability to move in secret is.

Upon request of head of any Federal department or agency or of the principal tax official of a State, the IRS Commissioner may furnish certain statistical information derived from tax returns, so long as the tax information does not disclose the identity of any taxpayer or any return. This information so furnished must be compiled by the IRS itself for some reasonable fee.

This legislation tightens congressional access to confidential tax returns. Under present law, specifically section 6103(d), the Senate Finance Committee, House Ways and Means Committee and other select or joint congressional committees, as authorized by resolution, can obtain and inspect tax returns.

Under this proposal only the Joint Committee on Internal Taxation will have the right to obtain from the IRS individual tax returns. Any decision to request data or inspect any return must be made by the entire committee, by a majority vote with a quorum present. The Joint Committee on Internal Revenue Taxation may disclose statistical information, derived from tax returns, to other congressional committees in such a manner as to protect the identity of the taxpayer or any return.

The Weicker-Litton measure would further amend section 7213 of the Internal Revenue Code, making the unauthorized disclosure or receipt of tax information a felony, punishable by fines up to $10,000 and/or imprisionment up to 5 years. With this change, Government officials seeking to pry open confidential tax files for political or personal purposes would at least face stiff criminal penalties.

There will be those Government agencies and congressional committees who protest that this legislation will prevent them from obtaining the information necessary to administer or enact laws, that their need to know overrides any privacy interest that may be involved.

If an agency needs to know something that is contained in a tax return, why not ask the taxpayer directly? All information in tax returns can be obtained by other legal means. Because the tax return makes bureaucratic investigation easier is not sufficient reason to skirt standard judicial remedies or de facto amend the Constitution.

To rely on the surreptitious use of tax returns for nontax purposes may often result in an unknowing waiver by the taxpayer of his fifth amendment right against self-incrimination. That is abhorrent to our sense of justice. It is also illegal.

The bureaucratic insistence that tax returns must be public records so that agencies can know even more than the citizen intends them to know, threatens the stability of our tax system and thus the stability of government itself. The method in which taxpayers voluntarily comply with our tax laws and, in most cases, fully report their earnings is the envy of most other nations where dishonesty is often the rule rather than the exception.

If taxpayers become convinced that the confidential data they submit is being used for political purposes, how long will it be before taxpayers cheat? Widespread cheating would be beyond the capacity of our 13,000 revenue agents to control and our entire system of voluntary self-assessment could collapse.

I urge prompt consideration and enactment of this long overdue legislation. President Nixon's Executive order opening tax files of 3 million farmers was perfectly legal even though it shocked Congress and the public. Earlier Executive orders of other Presidents have legally made tax returns available to the Renegotiation Board, the Federal Trade Commission, the Department of Commerce and the Department of Health, Education, and Welfare. From the 72d Congress to the present, Congress has enacted no fewer than 47 resolutions authorizing regular and special committees to obtain tax returns.

There will be those who will say that Watergate-type abuses of the tax system could never occur again because no President would want to risk the resulting outrage. To say this is to ignore the lesson of the painful period through which we are passing. We are a Government of laws and not of men. Congress can enact laws to protect the rights of our citizens. Congress cannot legislate good or bad judgment by Presidents of the United States.

Mr. President, I ask unanimous consent that certain editorials stressing the need for enactment of this comprehensive legislation be printed at this point in the Record.

Furthermore, Mr. President, I ask unanimous consent that the section-by-section analysis of the Weicker-Litton bill, and the full text of the measure be printed following the printing of the editorials.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, Sept. 1, 1974]

Protecting Tax Returns

During the impeachment hearings in July, many members of the House Judiciary Committee exhibited particular dismay at evidence of White House abuse in the manipulation of Government agencies, especially the Internal Revenue Service. In the wake of those hearings, parallel consideration is being given on Capitol Hill and in the executive branch to ways of guarding against future misuse of I.R.S. and its files.

Congressional champions of individual privacy are pushing for stringent restraints against divulging the information taxpayers are required to furnish each year, but there are signs that the "need to know" syndrome is starting to infect the executive branch's thinking.

The current tax laws clearly provide insufficient safeguards for the data stored in Internal Revenue Service computers. Essentially, the law regards all this information as being public unless otherwise specified. Under the law as it now stands, it was perfectly lawful for former President Nixon to give the Department of Agriculture access to the tax returns of the country's three million farmers. The law also permits the Governor of any state access to the tax return of any corporation in or out of his own state.

Legislation now being developed by Repretative Jerry L. Litton of Missouri and Senator Lowell Weicker of Connecticut would place narrow limits on access to information held by I.R.S. It would preserve taxpayer anonymity in the turning over of data required by other agencies for legitimate statistical purposes. The aim of the Litton-Weicker proposal would be to make the information on tax returns private, unless otherwise specified—a wise and desirable reversal of the thrust of existing law.

To guard against excesses of the H. R. Haldeman-John Dean era at the White House, the proposed legislation would limit transmission of tax-return data to the White House to those instances where a person was being considered for an important Federal appointment. Even then the information would be confined to whether the individual had filed returns for the previous three years, whether there were tax delinquencies outstanding and whether investigations were in progress.

Current proposals circulating in the executive branch would exclude the White House from any legislative restrictions. On top of that, several agencies are reportedly reluctant to give up their present access to I.R.S. files. The White House is considering placing a limitation on its own access by executive order.

While there is room for argument that the projected Litton-Weicker restrictions on White House access are too stringent, their basic approach of including the President in an over-all program for curbing access is sound. The purpose of the tax return is to provide the I.R.S. with sufficient information to enforce the tax laws, not to open up an informational bonanza for any agency—including the White House—which can conceivably drum up some need to know intimate financial information about America's taxpayers.

One of the best ways for President Ford to assure the country that the Watergate era is behind us is to support strict limitations on the uses to which the Government puts the private information citizens are required to hand over to the I.R.S. every April.

[From the Washington Star-News, Aug. 17, 1974]

Access to Tax Returns

An early order of congressional business, in the aftermath of Watergate, certainly ought to be legislation to tighten access to income tax returns. Evidence collected by investigators showed clearly that the confidentiality of returns was violated and that the Nixon White House sought to use the Internal Revenue Service to harass political enemies.

A member of the Senate Watergate Committee, Lowell Weicker, and a freshman House member, Jerry Litton, deserve credit for taking the lead to get restrictive legislation on the books. Although their efforts have attracted many supporters, there seems to be an uncommon amount of footdragging.

Litton introduced a bill almost a year ago; it's still lying around. A Weicker-sponsored amendment attached July 18 to a White House expense authorization bill stirred a Capitol Hill tempest that still hasn't been resolved.

Weicker's amendment would have barred

the IRS from giving tax returns to any executive branch official "other than the President upon his written request." It was knocked out in a House-Senate conference because of House resistance but the Senate refused to accept the conference report and asked for a new conference.

In response to arguments that some executive branch operations would be hampered unduly by the amendment, particularly in the Census Bureau, Weicker agreed to narrow the restriction to the White House staff. even that apparently is unacceptable to House conferees and it is not clear yet how the matter will be resolved.

House Ways and Means Committee Chairman Wilbur Mills has taken the position that his committee ought to go into the matter more thoroughly and "develop comprehensive legislation." He said it is an issue that has concerned the committee for some time. If the committee is all that concerned, it is rather strange that it hasn't done anything up to now.

Both Weicker and Litton recognize the need for comprehensive legislation, for there is more to this than just protecting tax returns from prying eyes. There is need for a wide range of laws to prevent politicizing the IRS. But there doesn't seem to be anything wrong with passing the simple Weicker amendment as a starter. There's no good reason why White House aides should be poking around in individual tax returns. Passage of the amendment would serve notice that Congress does not intend to stand for this sort of thing, and that additional legislation of a broader nature can be expected.

And if the Weicker amendment does get lost in the legislative maneuvering, congressional leaders ought to see that Mills promptly makes good his promise to get busy on comprehensive legislation.

[From the Sacramento (Calif.) Bee, Sept. 2, 1974]

Confidentiality of Tax Returns

Something is very clearly awry when White House aides, or almost any official in the executive branch of the federal government, can go poking around individual income tax returns.

Evidence collected by Watergate investigators showed clearly the confidentiality of tax returns was violated again and again and that the Nixon White House sought to use the Internal Revenue Service to harass political enemies.

US Sen. Lowell Weicker, R-Conn., and Rep. Jerry Litton, D-Mo., have been trying to do something about this unfortunate situation for quite awhile.

Litton introduced a bill to tighten access to income tax returns almost a year ago. It is still kicking around the Ways and Means Committee.

In July Weicker introduced an amendment to the White House Expense Authorization bill which would deny White House access to tax returns except in cases of a written request by the president himself.

The amendment was deleted in a conference committee and the matter still has not been resolved. Both men have combined their efforts and have introduced legislation which would specify that an individual's tax return is private and confidential unless otherwise specified in the law. At the present time tax returns are public record unless otherwise specified in the law. The law does specify confidentiality in many cases, but it is not strict enough.

For example, White House aides were able to get newsman Daniel Schorr's tax returns on the basis he was being considered for federal employment.

The fact that under Richard Nixon those in the White House used the IRS to get at their enemies is enough to document the need for comprehensive legislation on the matter.

There is more to all this than just protecting tax returns from prying eyes.

There is a need for a wide range of laws to prevent politicizing the IRS.

The Weicker-Litton bill would be a good start.

[From the Norman (Okla.) Transcript, Aug. 30, 1974]

Watchdogging IRS

Most Americans have been dismayed by allegations that the Internal Revenue Service has been used as a powerful weapon against political enemies, so it seems natural enough that strong measures are emerging to curb White House access to these confidential data.

Citizens may never know the exact extent to which confidential data was handed over to the White House and/or for what purpose.

Congressman Jerry Litton, a freshman Democrat from Missouri, became interested in the operation of the IRS when a few days after being sworn into office he discovered a presidential executive order which sought to turn over quietly three million tax returns to the executive branch.

He introduced at once a bill co-sponsored by more than 100 members of Congress which called for the revocation of this order. It was changed by the President and later, after continued pressure by Mr. Litton and others, was revoked. In the meantime, Treasury officials and officials of the USDA admitted the order was a prototype of future such executive orders.

Not many, we think, will disagree with the intent of legislation proposed by Mr. Litton and Sen. Lowell Weicker. Both are active in separate efforts to eliminate political and bureaucratic access to private information contained in an individual's tax return.

Their joint proposal would seek to close all loopholes which currently make it possible for the White House or various Federal agencies to gain access to information on an individual's tax return. They hope to tie into the bill a demand that when such information is sought it must be accompanied by a written request by the president.

The Weicker-Litton bill will spell out that an individual's tax return is private and confidential unless otherwise specified in the law. At the present time the law says tax returns are public record unless otherwise specified in the law. Their bill also will provide for a quick-check of individuals being considered for appointment to high executive or judicial posts. This check will show if an individual has filed an income tax return, is delinquent, or is under investigation.

No other information on the individual will be provided the White House. This seeks to prevent the executive branch from getting an individual's tax return by saying the individual is under appointment consideration, as in the case of newsman Daniel Schorr who was subjected to comprehensive tax audits while allegedly being considered for federal employment, although no one ever offered him a job.

Sectional Analysis of Proposed Weicker/Litton Bill on Confidentiality of Tax Returns

SECTION 1

Section one of the bill strikes section 6103 of the Internal Revenue Code of 1954 as amended to date (hereafter, the Code), the current provision governing confidentiality of tax returns. It creates a new section 6103 with seven major subsections, identified as a, b, c, d, e, f, and g.

Subsection a of the new section 6103 would change the inherent character of the tax return. Under current law, tax returns are "public records." Further, the current law grants the President the right to determine by Executive Order who shall be permitted inspection of such returns, although some persons and groups are authorized by statute. Under the new section this authorization for the President to order inspections is removed, and only those persons and groups authorized by statute to inspect returns may do so. In addition, subsection a provides returns will not be inspected nor information from returns disclosed except as provided. An exception from this strict prohibition against release of tax return data is made for anonymous statistical material from such returns, which the Commissioner is permitted to publish.

Subsection b of new section 6103 adds a definition of "tax return" for the purposes of confidentiality. Under existing laws and regulations the term "return" is not defined. Under the new bill it will be defined to cover only those documents filed by the taxpayer "under compulsion law, containing information necessary to determine Federal Tax liability." This would appear to include any attachments to the basic tax return from which might be required, but exclude any information gathered on the taxpayer or submitted voluntarily and not "under compulsion of law."

Under subsection c of new section 6103 there is contained a list of those persons and organizations permitted to inspect tax returns. While this is essentially done by regulation and Executive Order under current law, the new section 6103 makes such delineation statutory. The first group of persons entitled to inspect a taxpayer's returns are the taxpayer and his authorized representative. Thereafter (in order of stautory listing, although implying no priority of entitlement) the Internal Revenue Service and the Department of Treasury's officers and agents are given free inspection of returns, as are personnel on the Department of Justice, but with reference only to cases referred to Justice by the Commissioner, with the condition that such inspection be for the purpose of enforcement or administration of the Federal tax laws. The officers and employees of the Department of Justice are also authorized to inspect returns for the purpose of enforcement or administration of the Federal tax laws, but the Attorney General must make a written request for such returns naming the person whose return is sought. This will act to prevent the random inspection of masses of tax returns. In addition to these Federal Departments, the proposed section provides that any State tax bodies may inspect tax returns for the enforcement or administration of State tax laws. Here, too, there is a requirement that the principal tax officer of the State request such returns in writing and declare who is to inspect them. While the returns are to be inspected only for the purpose of enforcement or administration of State tax laws, if the request so expresses in writing that such is the intent, the returns may be given to local officials of any subdivision of the State for administration or enforcement of local tax laws.

The President of the United States currently may receive any tax returns or data by Executive Order. Under the new section 6103. subsection (c) (5), he shall be able to receive personally such information as he requires only upon written request, specifically naming the taypayer whose return is sought.

Subsection c also requires the Commissioner to make a quarterly report to the Joint Committee on Internal Revenue Taxation concerning requests for tax returns. The report, to be made within 30 days after the close of each calendar quarter, must include a list of returns furnished the President, State tax authorities, and the Department of Justice for cases not referred to it by the Commissioner. The report must also include date of request and, in returns furnished States, name of the requesting official. The Joint Committee may make such contents public to the degree it deems proper.

Under the new section 6103 the Joint Committee on Internal Revenue Taxation assumes a new, broader role. Under existing law the Joint Committee, as well as the Ways and Means and Senate Finance Committees, are permitted access to all tax data and returns, subject only to the requirement of executive session reception of the data in certain cases. However, under the new bill, all tax returns must be received by the Joint Committee on Internal Revenue Taxation and data from those returns "in statistical form only without directly or indirectly identifying any particular taxpayer" may be thereafter sent to any other committee or the whole of the House or Senate. Such actions by the Joint Commission on Internal Revenue Taxation must be by a majority vote, a quorum being present.

Subsection e governs the furnishing of certain types of tax returns to certain specified Federal bodies. The subsection states that both the Social Security Administration and the Railroad Retirement Board may be furnished tax information with respect to income, Railroad Retirement and Social Security taxes. This does not materially alter existing law.

Also under subsection 3, a provision is added providing all Federal departments, agencies, commissions and any State tax authorities with tax statistical data, but preserving anonymity of the taxpayers concerned. Provision is also made for the charging of a reasonable fee for such information.

Subsection f of new section 6103 merely states that a certified copy of returns sought by authorized persons shall be furnished by the Commissioner at a reasonable fee.

Subsection g provides for the Commissioner to furnish any inquirer information as to whether another person has filed a tax return for a given year, but only as to that fact.

SECTION 2

Section two repeals 6106 of the Code, which provides for certain inspections of unemployment tax returns. Since such returns would appear to fall within the general definition of a "tax return" contained in subsection c of section 1, section 6106 would appear to be deadwood.

SECTION 3

Section three changes the laws regarding the crime of unauthorized disclosure of tax return information. The bill would amend section 7213 of the Code, which governs the crimes of unauthorized disclosure of tax return data, changing the penalty for such disclosure to a felony from a misdemeanor. Furthermore, the former penalty of up to a $1,000 fine and up to one year in prison is changed to up to a $10,000 fine and up to five years in prison. The bill would also make the knowing receipt of unauthorized tax data a felony punishable by up to a $10,000 fine and five years imprisonment.

SECTION 5

Section five states that the amendments of sections one and two shall be effective on the first day of the third month beginning after enactment, and the effective date of section three shall be the date of enactment of this Act.

S. 3982

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. LIMITATION ON INSPECTION OF RETURNS AND DISCLOSURE OF INFORMATION.

(a) Section 6103 of the Internal Revenue Code of 1954 (relating to publicity of returns, etc.) is amended to read as follows:

"Sec. 6103. Confidentially of Returns.

"(a) PROHIBITION ON INSPECTION AND DISCLOSURE.—All returns made with respect to the taxes imposed by this title are confidential records. Except as provided in this title—

"(1) no such return shall be open to inspection, and

"(2) no information contained in any such return shall be disclosed.

Paragraph (2) shall not preclude the publication by the Commissioner of statistics derived from such returns, except that no such publication shall disclose the identity of any taxpayer or of any return.

"(b) DEFINITION OF RETURN.—For purposes of this section, the term 'return' means any form or other document, prepared by or on behalf of a taxpayer and filed under compulsion of law, containing information necessary to determine tax liability under this title.

"(c) AUTHORIZED INPECTIONS.—Returns of the taxes imposed by this title shall be open to inspection, in such manner, at such times and places, and subject to such conditions consistent with the provisions of subsection (a) as the Commissioner shall prescribe by regulations, by the following persons:

"(1) The taxpayer by or for whom a return was made or his authorized representative.

"(2) Officers and employees of the Internal Revenue Service, the Department of the Treasury, and, with respect to matters referred to the Department of Justice by the Commissioner, the Department of Justice, in each case solely for purposes of the administration and enforcement of this title.

"(3) Officers and employees of Department of Justice, solely for purposes of the administration and enforcement of this title (other than matters referred to the Department of Justice by the Commissioner), and only upon the written request of the Attorney General of the United States specifically naming the taxpayer whose return is to be inspected.

"(4) Any official, body, or commission, lawfully charged with the administration of any State tax law, if the inspection is for the purpose of such administration or for the purpose of obtaining information to be furnished to local taxing authorities as provided in this paragraph. The inspection shall be permitted only upon written request of the principal tax official of such State, designating the representative of such official, body, or commission to make the inspection on behalf of such official, body, or commission. Any information thus secured by any official, body, or commission of any State may be used solely for the administration of the tax laws of such State, except that upon written request of the principal tax official of such State any such information may be furnished to any official, body, or commission of any political subdivision of such State, lawfully charged with the administration of the tax laws of such political subdivision, but may be furnished only for the sole purpose of, and may be used only for, the administration of such laws.

"(5) The President of the United States, upon his written request specifically naming the taxpayer whose return is to be inspected, provided that the inspection of such return is necessary in the performance of his official duties.

The Commissioner shall, within thirty days after the close of each calendar quarter, submit a report to the Joint Committee on Internal Revenue Taxation listing the returns furnished for inspection during that quarter under paragraphs (3), (4), and (5), the date on which the request for inspection of each such return was received, and, in the case of returns furnished under paragraph (4), the name and position of the individual making such request. The Joint Committee may make public such portions of such reports, or information derived therefrom, as it deems advisable.

"(d) JOINT COMMITTEE ON INTERNAL TAXATION.—The Joint Committee on Internal Revenue Taxation shall have the right to obtain data and to inspect returns and to submit any relevant or useful information thus obtained to the Senate, the House of Representatives, or any committee of the Senate or the House, except that information obtained from such returns may be disclosed in statistical form only without disclosing the identity of any taxpayer or of any return. Any decision of the Joint Committee to request any data or to inspect any return shall be determined by a majority vote of the members present and voting, a quorum being present.

"(e) DISCLOSURE OF CERTAIN INFORMATION.—

"(1) Social security and railroad retirement taxes.—The Commissioner shall furnish to the Social Security Administration and the Railroad Retirement Board information derived from returns of the taxes imposed by chapters 2, 21, and 22.

"(2) Federal agencies and State tax authorities.—Upon the request of the head of any department or agency of the Federal Government or of the principal tax official of a State, the Commissioner is authorized to furnish statistical information derived from returns to such department or agency or such State, except that no information so furnished shall disclose the identity of any taxpayer or of any return. Any information so furnished shall be compiled by employees of the IRS and the Commissioner may prescribe a reasonable fee for furnishing such information.

"(f) FURNISHING OF COPIES.—Whenever a return is open to the inspection of any person, a certified copy thereof shall, upon request, be furnished to such person under regulations prescribed by the Commissioner who may also prescribe a reasonable fee for furnishing such copy.

'(g) DISCLOSURE OF INFORMATION AS TO PERSONS FILING INCOME TAX RETURNS.—The Commissioner shall, upon inquiry as to whether any person has filed an income tax return in a designated internal revenue district for a particular taxable year, furnish to the inquirer, in such manner the Commissioner may determine, information showing that such person has, or has not, filed an income tax return in such district for such taxable year."

(b) The table of sections for subchapter B of chapter 61 of such Code is amended by striking out the item relating to section 6103 and inserting in lieu thereof the following:

"Sec. 6103. Confidentiality of returns."

SEC. 2. UNEMPLOYMENT TAX RETURNS.

(a) Section 6106 of the Internal Revenue Code of 1954 (relating to publicity of unemployment tax returns) is repealed.

(b) The table of sections for subchapter B of chapter 61 of such Code is amended by striking out the item relating to section 6106.

SEC. 3. UNAUTHORIZED DISCLOSURE OF INFORMATION.

(a) Section 7213 of the Internal Revenue Code of 1954 (relating to penalties for unauthorized disclosure of information) is amended—

(1) by striking out "misdemeanor" each place it appears in paragraphs (1), (2), and

(3) of subsection (a) and inserting in lieu thereof "felony";

(2) by striking out "$1,000" each place it appears in such paragraphs and inserting in lieu thereof "$10,000";

(3) by striking out "1 year" each place it appears in such paragraphs and inserting in lieu thereof "5 years"; and

(4) by redesignating subsection (e) as (f) and inserting after subsection (d) the following new subsection:

"(e) UNAUTHORIZED RECEIPT.—Any person who knowingly receives any information or material which is disclosed or furnished in violation of the provisions of subsection (a) shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned for not more than 5 years, or both, together with the costs of prosecution."

SEC. 4. EFFECTIVE DATES.

The amendments and repeal made by sections 1 and 2 shall take effect on the first day of the third month which begins after the date of the enactment of this Act. The amendments made by section 3 shall take effect on the date of the enactment of this Act.

By Mr. McINTYRE (for himself and Mr. JAVITS):

S. 3983. A bill to establish a Federal Domestic Development Bank to provide loans, loan guarantees, and technical assistance for the support and expansion of public facilities and private business operations in economically depressed urban and rural areas of the United States, to promote competition and planned regional development, and to aid areas or businesses which are faced with technological obsolescence or which are otherwise in financial difficulties. Referred to the Committee on Banking, Housing and Urban Affairs.

A DOMESTIC DEVELOPMENT BANK

Mr. McINTYRE. Mr. President, I introduce for myself and Senator JAVITS, who has worked extensively with me in developing this legislation, the Federal Domestic Development Bank Act. The need for this particular legislation is, I believe, clear.

The legislation we propose today is designed to address itself to this country's economic underdevelopment. Such a bank, while it would not be the first effort of its type, would raise the issue of whether America seriously wants to confront and deal with the failures of macroeconomic controls of monetary and fiscal policy. Such policies, although on an aggregate scale may achieve certain limited national goals, too often fail to meet many regional economic needs. A domestic development bank would be a natural supplement to the existing Government economic tools. Our wide international experience would seem to indicate that we have developed the expertise to make such institutions work.

Surely, if we were able to rejuvenate the economies of Japan and West Germany so that they have become our leading international competitors, if we were able to help bring Latin America, in part, out of its centuries of colonial underdevelopment, and if we were able to save the Tennessee Valley from years of depression, then we should be capable of breathing economic vitality into the economically depressed areas of Kentucky, the Indian reservations of the Southwest, the north country of New Hampshire, and the textile manufacturing belt of Massachusetts.

Mr. President, the domestic development bank proposal is predicated on a belief that local and regional financial and entrepreneurial institutions are not and cannot support economic growth to an extent that would lift depressed and underdeveloped regions from their economic stagnation. Furthermore, the venture capital necessary to support the existence and expansion of business enterprises in these depressed regions has been absent. This is principally due to the risk which in underdeveloped regions is comparatively greater.

In reality, there are four kinds of capital which are undersupplied and generally unavailable in hard core depressed areas. There is a shortage first, of private producer capital, for physical capital investment, working capital inventories, and venture capital for business expansion. There is second, a lack of what is called social overhead capital, the public facilities such as transportation networks, communications links, schools and hospitals which are necessary prerequisites to support commercial development. Third, underdeveloped regions generally lack technological capital, the technical knowledge and skills that can be used to increase the productivity of plant capital. These regions are largely underutilizing their natural resource capital, missing the flow of services that might come from a more rational assessment and exploitation of local raw materials. Finally, there is shortage of human capital, which basically amounts to underutilized people who are in that condition because of a lack of training, education, health and opportunities and who after years of economic deprivation are not effective in a position to contribute to the economic growth of their region.

The proposed bank legislation is versatile enough to confront each of these capital shortages by authorizing the bank "to extend credit and participate in extensions of credit" to business and commercial developments, though such requests for credit can only be undertaken after all other private or public credit has been exhausted.

Alleviating capital shortages for enterprises in this way in selected economically depressed regions is clearly a vital public service, since the economic health of a region is linked directly to the well-being of business in the area. This is especially important because the growth of business activity, oftentimes, depends on the availability of venture capital. Yet, less than 1 percent of businessmen seeking venture capital actually find it. Access to credit is largely determined by creditworthiness, prospects for growth, and so forth. Quick access to credit is a basic necessity for flexible business operation and the ability to respond to changes in market conditions. Without access to capital and credit, most businesses are unable to survive financial crises.

Nevertheless, credit is usually open on the most reasonable terms to conglomerates and other major business enterprises. Preference of this type is most evident in the establishment of the "prime interest rate," which is the interest rate applied to major loans to big business. The "prime interest rate" is usually 2 or 3 percentage points less than the rate applied to loans for smaller businesses.

In inflationary periods such as the one which we are presently experiencing, interest rates go up. The persons hardest hit by high interest rates are the small businessmen. Small businessmen remain at the bottom of the credit list and if credit is available at all, it is at the higher rates, regardless of the credit worthiness of the small business. The restricted money supply and interest rates of inflationary periods take a severe toll on small businessmen. The small business, for instance, is usually the first to have its credit cut off. It is little wonder then that the small business, in such a precarious credit position, often fails when faced by higher rates.

The cyclical credit difficulties facing small business survival are compounded by other factors. Mismanagement of the American economy has most recently produced a combination of declining economic growth and runaway price rises unsurpassed since the growth recession of 1956 to 1958. This new "stagflation" is likely to place further constraints on the economic viability of small and medium-sized businesses, as credit disappears, while capital cost requirements multiply.

In addition to this, the energy crisis promises to exacerbate these developments considerably. The incredibly high estimates of investments needed to increase oil refinery capacity and the availability of alternative energy sources, ranging as high as $1 trillion, will require large credit reservoirs for potential energy investors. It is, therefore, likely that the bulk of funding for energy industry expansion will be grabbed by the multinational energy companies, or related industries, who already dominate the field. The increasing concentration now evident in energy industries, combined with the precarious positions of all other small businesses in the credit market, show tendencies of making the American economy structurally less competitive and thus less able to effectively confront the restricted output and inflationary prices of an uncompetitive market environment.

The proposed development bank legislation will allocate credit to areas of the economy most in need—namely, small and medium sized businesses, local communities, and regional governmental units. The net result will be the prevention of the capital shortages causing artificial regional business depressions. It would also serve to modify and strengthen regional market structures as a future-oriented preventive measure.

Mr. President, while the United States in the aggregate is a wealthy country, it has regional areas of economic underdevelopment. How and why these regional disparities occurred is really a matter of relatively impersonal factors. Nevertheless, the result of regional economic underdevelopment has been to needlessly subject potentially productive individuals to lives of poverty and to stifle human development.

On a larger scale, regional economic

underdevelopment results in an overall less productive nation which, in terms of world trade, makes the United States less competitive. On a domestic level, these areas act as a drag on the economy taking in economic aid in an unsystematic fashion and achieving little on a dollar-for-dollar basis.

In part, our failure to deal with regional economic disparities in the country can be laid on the facts of political life. Political subdivisions such as States and countries are determinants of regional needs. But the size and design of these political divisions many times bear no resemblance to the real regional needs which is based on a mutuality of interests grounded on such factors as geographic factors, population demography, and the like. Consequently, there has been no perceived need to establish any mechanism to deal with regional needs on the long run. EDA, for instance, is tied to aiding political subdivisions like counties. The commissions, like ARC, which were later established were a first step in the right direction, but unfortunately ARC and others have not been able to achieve their potential. Other programs like the SBA were designed more to help individuals in need rather than regions, but if a region's economic base is not strong enough to support such businesses, SBA could end up pouring Government money into a losing game plan.

A good case, therefore, can be made to aid regional entities which are superordinant entities which have a mutuality of economic interests within a given geographic area. We can learn from the past failures of other domestic development programs in order to achieve this goal. The Federal Domestic Development Bank Act has tried to incorporate as much from the experiences of past development programs structurally as possible, so that the same mistakes will not repeat themselves. As a practical matter though, in order to achieve regional goals, it will probably be necessary to use existing political subdivisions to channel the bank's aid, but it can be done in a systematic manner to realize regional goals.

Hopefully, the purpose of the bank on a regional level will be to attempt to develop capital resources so the region may develop a stable and diversifide minimum regional economic base. Ultimately, the base line of the bank's real purpose and effect will be at the human level.

Can the bank help stop widely varying economic conditions within regions in order to promote the necessary confidence to undertake long term commitments of private capital and long range planning efforts for rational investment for the future? And can the bank help achieve a structurally more competitive economy? While the potential seems possible, the questions remain open.

I trust, though, the introduction of this legislation will spark lively discussion on the subject of regional development which should be a vital domestic concern to all. While this legislation surely is not the last word on the subject, it is a start and one which I hope will stimulate helpful comments and suggestions.

Mr. President, I ask unanimous consent to insert at this point in the RECORD a section-by-section analysis of the Federal Domestic Development Bank.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION SUMMARY

Section 1: Short Title: This act may be cited as the "Federal Domestic Development Bank Act."

Section 2: Purpose: The purposes of this act are principally to aid:

—Economically depressed urban and rural regions;

—Stimulate deconcentration and competition of industries within regions of the United States to foster balanced growth;

—Small and medium sized enterprises in economically depressed regions, to generate increased employment opportunities, viable local economies and planned regional development.

Section 3: Establishment of the Bank: The Bank shall be incorporated for a period of 40 years after which Congress may renew.

Section 4: General Powers: The Bank shall have general corporate powers which include, but are not limited to, the power to sue and be sued, make contracts, hold and dispose of property, and issue by-laws.

Section 5: Management of the Bank: The Bank shall be managed by a full-time 11 member Board of Directors, chosen by the President with the advice of the Senate. The term of each director shall be eight years and the terms shall be staggered.

Section 6: Administrative: The Bank shall have its principal place of business in Washington, D.C., with regional offices and advisory groups throughout the United States. The Board of Directors shall set policy which the officers of the Bank shall execute.

Section 7: Conflict of Interest: No director, officer, or employee shall make any decisions which shall relate to any question affecting personal interests. Any member so doing shall be required to divest himself of such interests as are necessary or resign. The Bank is further prevented from aiding any political party.

Section 8: Functions: Functions of the Bank shall include, but are not limited to, providing technical assistance to those receiving financial aid from the Bank. This section also provides for preferences and limitations on financial aid to ensure the Bank carries out its enumerated purposes. In most cases, the Bank shall act as a "bank of last resort" for political subdivisions, private enterprises and non-profit organizations when credit is not available at reasonable rates from private or other public institutions.

In addition, if for reasons of necessity the Bank determines that the purposes of the Act will be furthered by the initiation of certain projects under its own ownership, it may do so provided that the Bank divest itself within a reasonable period of time of such assets.

Section 9: Guarantees: As an alternative financing mechanism, the Bank may provide guarantees for loans in lieu of the loans themselves in order to further the purposes of this Act.

Section 10: General Fund, Capitalization: Four methods of capitalization are provided for the Bank. Initial capitalization shall take place by having the Treasury purchase up to 20% of the first stock issue of $10 billion, and the remainder as necessary, to meet demands on the bank. Thereafter, the Bank may sell Bank non-voting stock up to twenty times the paid in capital and relend this borrowed capital in order to meet the purposes of this Act. When the Bank turns a profit, the Act provides that the first 25 percent of all net profits shall be immediately paid to the Treasury Department in order to redeem the Bank's stock and thereby insure the Bank's independence as an agency.

Section 11: Intergovernmental Cooperation: Whenever possible, the Bank shall provide aid to projects only when such projects are consistent with over-all areawide development plans of a region, state or locality. When necessary the Bank may recommend that certain other programs be phased into the Bank in order to prevent overlapping jurisdiction.

Section 12: Criminal Penalties: Criminal penalties are similar to those provided in the Law Enforcement Assistance Act.

Section 13: Labor Standards: All projects funded must pay at least the minimum wage level set by the federal law.

Section 14: Tax Exemption: Only real and tangible personal property of the Bank may be taxed by the federal, state and local governments.

Section 15: Audit and Report: The General Services Administration shall audit the Bank yearly and report its finding to the Congress and President.

Section 16: Annual Report: The Bank shall report annually on its condition to Congress and the President.

Section 17: Authorization: The Act provides for $1.5 million for initial start-up personnel costs and thereafter such sums are appropriated as are necessary to carry out the purposes of this Act.

Mr. JAVITS. Mr. President, I am pleased to join with the Senator from New Hampshire in introducing the Federal Domestic Development Bank Act.

This bill will establish a for-profit corporation patterned after the concept of the World Bank and other successful international development banking concepts which will be authorized to extend credit and participate in extensions of credit to both government and private business, render technical and management assistance in connection with its activities and thereby aid economically depressed urban and rural regions which have suffered economic hardships, as shown by a variety of indices, in order to stimulate employment opportunity in those areas, promote the economic survival and preservation of jobs in those businesses whose markets are being threatened by increased import penetration, and contribute to a well-balanced national economy by facilitating business ownership by persons whose participation in the free enterprise system is and continues to be hampered by historic, ethnic, social and economic considerations.

Senator MCINTYRE has quite ably described the provisions of the bill, and has put the legislation in perspective relative to other Federal Government activities.

I do, however, wish to make some observations as to the need for this legislation, the basic operating scheme and why I believe its consideration is so important to our national economy as a whole and to small businessmen in particular.

I. THE NEED FOR A REVIVAL OF SMALL BUSINESS

Mr. President, if we are to continue to function as a great nation, then we must use our knowledge and ability to create, invent, and adapt in order to find new methods and approaches to encourage and nurture our small business enterprises and the economic stability of all our communities.

The longer we delay in restoring this balance and broadening the opportunities for all Americans the less likely it will be that we can accomplish it at all.

It is a well-known fact that small business accounts for over 98 percent of our total business units, providing jobs for 65 percent of the Nation's non-Government workforce and contributing more than 40 percent of the gross national product. But by any other measures, such as market share, assets and profits, small business is losing ground drastically.

The relative diminution of the small business share of the national economy is developing trends which tend to worsen the health and dynamism of the American socio-economic system. To avoid such consequences it is imperative that we take action to restore, expand and promote the viability of small business before current trends become irreversible.

For instance in 1960, small- and medium-size corporations in manufacturing had 50 percent of the assets and were responsible for 41 percent of the profits. By 1970 these corporations had only 33 percent of the assets and by 1972 they had only 30 percent of the assets and only 28 percent of the profits.

The energy crisis is but one example of the plight in which we now find ourselves. As a direct result of shortages of essential materials small companies throughout the country are closing and when combined with an inflationary spiral that has not been matched since World War II it all makes a very bleak picture for aspirant entrepreneurs.

However, there is a way in which we can begin to make steps to restore the competitive balance to our economy and to provide a mechanism which will enhance the probability of growth of our small business community and a revitalization of our blighted urban and rural areas. The Federal Domestic Development Bank is intended to address this need and should be one of our highest priorities in Government.

There is no shortage of would be entrepreneurs in our country. There is no shortage of talented people, willing to venture into the unknown with an entrepreneurial spirit of optimism. There is no shortage of employees or managers. There is, however, a shortage of mechanisms designed to attack these areas of our country in a broad, all-encompassing and properly financed manner.

We must begin to turn this Nation's attention to using its credit in a comprehensive way to build and rebuild small business—industries and entire communities which in the long run we must understand and appreciate are more important than building sidewalks and sewers in those communities.

Rest assured Mr. President, that I too believe the American people have the energy, the resourcefulness, the intelligence and the determination to make of our economy what we want it to be. I believe that we in the Congress must take the leadership role in being responsible and responsive and toward that end I believe the Federal Domestic Development Bank is one of the most important ways in which we can move this economy in the right direction.

As stated by the NSBA, in a presentation to Congress earlier this year:

> For almost two centuries now we have been building toward a society marked by vast and stable, if still mildly distributed, prosperity. We have been blessed with a heritage of commitment to increasing equality of access to skill, freedom, to opportunity, to wealth, and to influence. Although access to these values is not yet shared equally enough by all Americans, over the long pull we have moved steadily in the direction of the magnetic, egalitarian goal of the American Revolution. One tap root of our growth in freedom and opportunity has been economic diversity. It is not too much to say that continuation of the imbalances of growth in our economy will shrivel that tap root, that it will result in an unplanned, counterrevolution against the American dream.

Perhaps all freedom and all opportunity would not perish quickly in a nation dominated by public and corporate semimonopoly. But freedom and opportunity would surely be safer and more generally shared if they continue to be rooted in a diversely owned and diversely controlled American economy.

The Federal Domestic Development Bank could be the first and most important step in the revival and reinforcement of the American ideal where opportunity is open to every citizen to make something, to build something, to create something, to invent something; and, then having done so, to enjoy the fruits of his enterprise.

In their report to Washington last spring, the Small Business Association of New England stated the ideal to which proponents of the Federal Domestic Development Bank aspire:

> Indeed, the survival and the strengthening of American small business community is not primarily for the benefit of the small entrepreneur, although he will be one of the beneficiaries. The larger group of beneficiaries will be the American public which, because the small business has always been one of the cornerstones of the American economy, has tended to forget that the existence of the large, thriving small business community is one of the elements which adds strength to the warp of the American social fabric.

SBANE went on to set forth some of the vital functions that small businesses perform.

> The small, independently-owned business forms the backbone of many American towns and small cities. Civic contribution of a local businessman, rooted to his community, with no intention of the possibility of moving elsewhere is incalculable. It is the businessman who knows he is staying who contributes the most to the social welfare of his town. . . .
>
> The small business is still the place where inventiveness flourishes. According to one county, half of some sixty some major inventions in this century have been the work of either a single individual or have come out of a small business. These include: air-conditioning, automatic transmission, ball point pens, cellophane, cinerama, the helicopter, insulin, the jet engine, power steering and zipper fasteners.
>
> . . . the viability and prosperity of (millions) of small businesses in this country depends in part on awakening the federal government to the fact that here is an institution that deserves some special attention at this moment in this country's history. This is not to request that the inherently inefficient be kept alive in resuscitators or by artificial injections. It is not to prevent the orderly evolution of the business system, which is always undergoing some change . . . what it does mean is that the particular problems of small business in a society dominated by macro-institutions need to be appreciated and enough attention paid to them to restore the situation to the status quo ante.

The Federal Domestic Development Bank Act is designed to expand the Federal effort to promote domestic ownership and management; otherwise small business stands no chance of stemming the economic decay existing in our central cities or reversing the tide of rural poverty.

II. THE NEED FOR A NEW INITIATIVE

Urbanization has been the dominant domestic trend in this country—a trend far outrunning our ability to comprehend and deal with it. Urbanization has proliferated the big city slum, the slum which continues to give birth to crime, despair, and hopelessness.

The crisis of the core-city is also a crisis for rural America, whose people are taking flight to the cities as farm manpower needs diminish with mechanization.

No program or effort which seeks to resolve the unemployment problems of the cities' slums can stand alone—rural migration needs to be halted or at least slowed and the economy of rural America brought back into equilibrium.

This bill seeks to tap the resources of what can be our greatest ally in our efforts to curb the growing lists of unemployment—the private sector.

Government must take the lead in order to marshal the forces and talent to solve our unemployment problems and the problems of our distressed urban and rural communities which frequently encompass whole geographical regions. These Government funds must be used in a catalytic manner in order to stimulate private efforts.

In 1967, I introduced the Domestic Development Bank Act which is quite similar in purpose and overall design to the legislation we propose today. My efforts in that legislation came as a result of the growing recognition of a need eventually to establish an essentially private source of capital for economic development for our depressed urban and rural areas, and there has been an acceleration in the Federal effort to stimulate employment opportunities but they have yet to make available sufficient capital to meet the challenge which unemployment imposes and give a real boost to our own struggling enterprises. The efforts of the SBA, EDA, OMBE, and other Federal agencies may be laudable, but they are not enough.

This bill is the result of careful analysis of some dozen or so bills which have been introduced in the past few years. In addition we have received the important suggestions of a number of our colleagues, suggestions which have been incorporated in this bill. Moreover, the nucleus of the National Domestic Development Bank Act has had a great deal of study and analysis.

The problems of unemployment and lack of business opportunity, which I sought to address in 1967 and again in

1973 when I introduced the Domestic Enterprise Bank Act are still with us.

Small businessmen must continue to struggle against ever increasing competition at a time when both money and raw materials are in short supply. The small businessman finds it difficult to locate adequate capital on reasonable terms to update his manufacturing plant, to purchase new equipment, or conduct research and development activities to keep abreast of the technological flood of miniaturization and increased technical expertise.

I need not remind Members of the Congress that we have yet to solve the problems created by large-scale unemployment. The continuing staggering unemployment rate in our city slums and other underdeveloped and overpopulated areas bespeaks our failure successfully to wrestle with the problem.

We should constantly remind ourselves that the National Advisory Commission on Civil Disorders concluded in March 1968:

> Unemployment and underemployment are among the persistent serious grievances of the disadvantaged minorities.

In order to begin to approach a well-balanced national economy there is an urgent ueed for the involvement of the rural and urban poverty area residents, many of whose participation in the free enterprise system continues to be hampered by historic, ethnic, social, and economic considerations in the ownership and management of the business community which serves him. The Economic Opportunity Loan Program, which I authored, has evolved to a point where there is some tangible sign of success, but it is not enough.

The Department of Commerce's Office of Minority Business Enterprise which is charged with coordinating all Federal minority enterprise programs has a small budget of only $50 million which is hardly $1 million per State. It is just not enough.

But the cruel fact is that even if these new initiatives continue to be expanded and improved to meet their stated goals, they are minimal when one considers the extent to which the economically and socially deprived have been denied the opportunity to participate fully in the free enterprise system.

III. THE NEW INITIATIVE

Mr. President, the Bank would be established as a profitmaking corporation authorized to make long-term, low-interest loans and guarantees, to participate in loans with public or private lenders to sell participations in its loans, and to provide supportive managerial and technical assistance. In essence, it would be very much like the World Bank in its purpose, operations, and structure. The World Bank has demonstrated that the provision of attractive credit is a powerful development tool in underdeveloped areas and that such a venture can be economically sound. In fiscal year 1972, the World Bank earned $183 million in net income and has raised over $3.4 billion from private investors for its development activities.

Another example of a banking institution of this type is Pridco—the Puerto Rican Industrial Development Co. Pridco has grown from a modest beginning to an organization with a net income of $15.3 million in 1972 and has successfully sold several bond issues. It provides industrial facilities for sale or lease to industry, develops tourist facilities, grants short- and long-term loans to industry and engages in promotion and research activities. With the help of Pridco as the financial and real estate arm of its economic development program, Puerto Rico has attracted over 1,300 manufacturing enterprises to the island.

The Federal Domestic Development Bank would initially issue $10 billion in capital stock subscribed by the Federal Government. As was true of the World Bank, the Government would initially subscribe and pay in a portion of the initial subscription with the bank having a call on the remaining portion—as a reserve to meet the bank's liabilities on its own borrowings on the private market.

The economic incentive provided by this new source of credit would be enormous. On the one hand, it would allow rents in business and commercial facilities to be less than in areas where this financing was not available. Moreover, by providing a substantial percentage of project costs, the Bank would enable developers and industrialists to get their equity back within a very few years by use of the deductions presently available under the Internal Revenue Code.

The Bank's paper would be sold at competitive rates and should be particularly attractive investments for labor-management pension funds, foundations, insurance companies, and other investing organizations which would like to put their capital to work in a socially useful as well as profitmaking manner.

The Bank would finance private business and commercial projects where capital is not otherwise available on reasonable terms. Loans could go to businesses and projects of all sizes, and in some cases, as with a portion of its small business portfolio, the Bank could operate through guarantees to local banking and financial institutions or by using local banks as agents.

Loans could also be made to public agencies for essential public development projects such as transportation or power facilities which could not be financed through other sources.

The Bank would have authority to make mortgage loans for low and moderate income housing. The Bank would also be authorized to make mortgage loans for residential facilities where housing is integrated with business facilities, as on the upper floors over retail stores. The mortgage loan could cover the entire project.

One of the more important functions of the Bank would be to take the initiative in bringing management and capital together for projects and to act as developer or owner of a particular project until such time as a private purchaser could be found. Unlike a tax incentive economic development scheme, which is essentially passive, the Bank approach would provide an active entrepreneural agent.

The Bank would also come to the aid of business enterprises substantially harmed by increased import penetration of domestic markets. The financing necessary to purchase additional equipment, plant relocations, expansions, or renovations as well as various research and development projects could be supplied by the Bank.

The modernization of production and manufacturing techniques, in addition to the ever increasing need for experienced personnel, trained and qualified in technical, managerial, and scientific skills, could be part of the overall enterprise efforts financed by the Bank.

The Bank would be empowered, in connection with all such projects, to undertake insurance arrangements in connection with such facilities. These arrangements might take the form of self-insurance of a project by the Bank, co-insurance between the Bank and the borrower, or reinsurance arrangements concluded by the Bank with insurance companies to protect the facility against casualty loss.

IV. A PERMANENT CHANGE

Mr. President, one of the diseases that underlies all of the symptoms of unemployment and the economic problems faced by entire regions of our Nation is the lack of business opportunity, and the lack of capital in large enough amounts and for long enough time to make a permanent change in the area and in the lives of its residents. We cannot fool ourselves any longer thinking we can change the face of a Harlem, an Indian reservation, or East Los Angeles with $50,000 loans.

What is needed is a large, well capitalized vehicle capable of making large, substantial, long-term investments and at the same time providing capable management and technical expertise combined with a broad understanding of the economic realities of the Nation in which we live.

Clearly, capital alone is not the answer, nor was it the sole solution in Europe after World War II, in South America during the early 1960's or in Japan during the late 1950's. Capital must be accompanied by a willingness to share our management and technical expertise, our growing markets and a simple faith in the dignity and worthiness of our fellow man.

Mr. President, we may need more Federal Government money and programs, but more than that, we need a domestic development bank to stimulate the private sector to make capital available to small businessmen, local communities, and in some cases entire States in order to make permanent changes in the face of our Nation among those who lag behind in the economic progress which belongs to us all.

By Mr. ABOUREZK:

S. 3984. A bill to designate the birthday of Susan B. Anthony as a legal public holiday. Referred to the Committee on the Judiciary.

Mr. ABOUREZK. Mr. President, today I am introducing a bill making February 15, the anniversary of Susan B. Anthony's birth, a national holiday.

As Members of a Congress deeply troubled with the unfortunate moral and ethical issues with which we are now faced—not to mention such vital and ongoing issues as the economy, energy, and defense—it is easy to let seemingly less important matters slide into the background. By this, I am referirng to the as yet unchanged situation of nearly 53 percent of our country's population.

In reflecting upon this predicament, certain questions inevitably come to my mind. Why, for instance, have women been relegated to a second-class citizenship in the United States? The answer, I believe, lies in our doctrines and customs—in traditions that are so deeply ingrained that they are contested only minimally, if at all.

Why have so few women become attorneys, or physicians, or lawmakers, or engage in any of a host of male-dominated occupations?

I can find no acceptable answers.

I have always been perplexed by the fact that the valuable resources women have to offer are inevitably overlooked. I have wondered why, in a country as highly developed as ours, we take advantage of only half of our human resources, thereby disregarding the skills and abilities women have to offer.

In no way do I propose to believe that this legislation can atone for the centuries of discrimination that women have sustained because of the mere fact that they are women. Unfortunately, it will not raise their salaries, elect them to public office, provide them with equal benefits in our institutions of education, or assist them in furthering their position in the economic world.

But it will publicly commemorate the birth date of an admirable woman—and, in so doing, perhaps further the cause of women's equality just a little. This legislation gives us the opportunity to pay national tribute to a truly remarkable woman—a woman ahead of her time, who fought for the realization of a vision she had in which all people were equal in the eyes of their Government.

By Mr. WILLIAMS:

S. 3985. A bill to prohibit the shipment in interstate commerce of dogs intended to be used to fight other dogs for purposes of sport, wagering, or entertainment. Referred to the Committee on Commerce.

THE ANTI-DOG-FIGHTING ACT

Mr. WILLIAMS. Mr. President, today I am introducing a bill to end the deplorable and evidently growing practice of dog fighting. I have long been a sponsor and supporter of legislation to insure the humane treatment of animals. Rarely have I seen a more blatant case of cruelty to animals than the one I seek to remedy through passage of this bill.

An August 15 article in the New York Times has brought the illicit promotion of dog fighting to national attention, and has aroused the profound concern of many of my constitutents.

It is indeed shocking that in a civilized country such as ours, a spectacle so abhorrent to the vast majority of Americans can attract an increasing number of adherents. But this is the case, according to Mr. Duncan Wright, executive director of the American Dog Owners Association. Breeders in different parts of the country train dogs to kill smaller animals, then pit them against other fighting dogs in brutal matches which sometimes last for hours. Profit, as well as entertainment, is a motive of participants in these clandestine events, as substantial amounts of money are wagered on each fight.

Although all of our States have laws prohibiting dog fighting, the fact that the practice transcends State boundaries and is increasing, indicates that additional measures are warranted. I believe that regulation by the Federal Government would be an effective means of halting this inhumane activity.

Mr. President, I ask unanimous consent that the New York Times article of August 15, 1974, and the text of the bill be inserted at this point in the Record.

There being no objection, the article and bill were ordered to be printed in the Record, as follows:

DOG FIGHTING: ILLEGAL, BRUTAL, GROWING

(By Wayne King)

CHICAGO.—Pat Podzianowski is a construction worker by trade, a burly, ponderous man about 40 years old, with a great stomach. His bare upper body, across the chest and back and over the arms, is covered with tattoos.

There are two naked women spinning a spider web, a fiery serpent with a human torso in red, green and black, flaming fighting cocks and, on one shoulder, a pair of dogs, their jaws open, fighting with fangs and straining muscles.

They look very much like those in Mr. Podzianowski's back yard in the Chicago suburb of Tinley Park. Mr. Podzianowski is a breeder of fighting dogs, Staffordshire terriers, one of an estimated 40 to 50 such breeders around the country.

They are part of a collection of men—as many as 5,000 by the best-informed estimate—who regularly meet clandestinely at locations across the country to take part in an illegal and apparently growing activity: pitting one dog against another and betting on fights that last up to several hours and often leave one or both dogs dying or dead.

"There is no question that this has gotten bigger," says Duncan Wright, executive director of the American Dog Owners Association. "In the past few years it has quadrupled. Ten years ago, you wouldn't have organized rings, now you do. It's getting bigger and nobody is noticing.

1,000 MATCHES A YEAR

Mr. Wright said his investigators estimated that 1,000 matches a year were held in the United States.

The matches are held secretly not only because they are illegal under various state humane laws, but also because the fights are always accompanied by heavy betting.

There are enough practitioners to support two publications. The larger of the two is called "Pit Dogs," which has about 30 pages per issue. The magazine dedicates most of its space to accounts and pictures of fights. A subscription can be obtained only upon the recommendation of an existing subscriber. It is published in Starke, Fla.

The other publication, a newsletter, is published in New York.

For his own part, Mr. Podzianowski prefers to advertise his dogs in a regular dog fanciers publication, and a small ad simply offers American Staffordshires "for any purpose."

"People get the idea," he says. "You do get these people who call up and say, 'You fightin' them dogs?' I don't even answer. But if somebody comes out here and looks at the dogs, all them scars on 'em, they know."

LONGTIME BREEDER

Mr. Podzianowski says he has been breeding fighting dogs for 19 years. He has also raised fighting cocks. On a recent summer Saturday, however, the dogs commanded all his attention.

There are fights scheduled on this day, two of the dogs are out of his line of breeding, and he is to be the referee for the two fights.

About half of those who will attend the fights gather first at Mr. Podzianowski's home; others will join the group later.

Some are local men from around Chicago, others have come some distance. There is a strong contingent of Southerners, "some boys from Nashville," the only introduction that is made, all that is customary. A few are from Texas, one is a Canadian.

For the most part, they are in their 20's and 30's, although there are a few older men. One is a reporter, although the others do not know that.

Some matches are family affairs, men, women and children, but this meeting attracts only men. Beer is passed around, there is reminiscence about other fights, in Texas, Mississippi, Florida, in Chicago, Milwaukee, Cleveland and other places, talk of dogs with names like Raw Jaw, Tony the Tiger, Wild Woman, and Mr. Podzianowski's famous Cassius Clay, a 17-fight winner.

One lanky man recalls a recent fight in which one of the dogs was "messed up pretty bad; he passed his insides after the fight." The dog had to be killed.

This generates talk of the best way to dispose of a badly injured dog—Mr. Podzianowski says he favors an icepick thrust into the heart as the cleanest way—and some instructions from him to a novice on how to train a puppy for fighting, develop its blood instincts and teach it to parry.

"Now, you don't want to throw a kitten in there with the puppy right away for it to kill, it'll just go crazy for more. What you want to do is get yourself one of those cats and put it in an onion bag and string it up on a rope from the top of the garage. Use a spring, you know, like a front-door screen spring, and hang that cat up there so its paws are out through the onion bag. You want to get yourself some clippers and clip the claws off.

"LET THE DOG KILL IT"

"Then you let the puppy at it, the cat'll bob up and down and the dog'll go after it. Pretty soon, the dog gets tired and sweaty and you pull it off and drag it back to the corner and hold it against the wall. It'll be hell to hold, but you hold it and then turn it around and—hyaaaah—you let it go back at it.

"If the cat gets pretty mauled up in the bag, just take it down and keep it till the next day and then throw it in and let the dog kill it."

According to Mr. Wright of the Sacramento-based Dog Owners Association, a fighting dog in training might be "fed" a score or more of cats or younger dogs to hone its blood instincts before it is pitted against another dog. Mr. Wright has been conducting an investigation into dog fighting on behalf of his association for more than two years, during which time, he reports, he attended 18 fights on an undercover basis, compiling an extensive list of participants.

In some states, the pitting of any animal against another is specifically outlawed by statute. In others, it falls under general humane laws related to the mistreatment of animals. In no state is dog fighting legal, according to Mr. Wright.

Although there have been some arrests for dog fighting in the last 18 months—a total of five raids in California, Oklahoma, Massachusetts and North Carolina—most fights are known only to the participants.

Even when arrests are made, fines are not high—$875 and probation in a recent Massachusetts case—and only the organizers, not the spectators, are normally booked. Moreover, enforcement is difficult.

The men attending the Chicago match met first at Mr. Podzianowski's, then drove north some 25 miles to another meeting place at a skating rink in Brookfield, where they were joined by others, then south again a few miles to the little ex-urban community of Countryside, the site of the fight.

LOOKOUTS POSTED

The contingent by this time includes 52 men, who file into a construction supply warehouse and pay $10 each to a barrel-chested young man as an admission fee. Lookouts are posted at the door. Once inside, no one leaves until the fights are over.

Several men quickly erect the 15-foot-square "pit," laying down an old red carpet topped with a tarpaulin and enclosing this with blood-spattered plywood walls some three feet high.

All four doge to be pitted are Staffordshire terriers, medium-sized, quick dogs known for their staying power and strength of jaw—the most powerful of any breed.

According to Mr. Wright of the Dog Owners Association, most fighting dogs are specially bred "cur fighters," normally mixed breeds. He also reports use of purebreds such as Dobermans, German shepherds, St. Bernards, Siberian huskies and Alaskan malamutes.

For the most part, drugs are not given to dogs before fights. However, says Mr. Wright, "There is a highly organized ring operating in the six southwestern states and using drugs.

DRUGS AND CATTLE PRODS

"They fight every weekend night, each night in a different location. They fight only untrained purebred dogs they acquire from dog pounds, killing about 30 a weekend. Because the dogs are untrained, they use injected drugs and cattle prods.

"Admission is $9 and gambling is against the house. There is prostitution, illegal selling of liquor and probably other things as well."

Mr. Wright estimated that in a weekend of such activity, as much as $90,000 changed hands.

At the Chicago match, the first two dogs to be pitted were females, a red one called Lady and a somewhat larger black and white dog called Dolly, both were leashed and wearing studded collars.

They appear emaciated, ribs like washboards, but this is deceptive. The dogs are not starved, they are fed red meat, but are exercised on treadmills and the like, sweated down to fighting weight.

They are weighed—35 and 37 pounds—and placed in the pit, held by their owners in opposite corners.

A man in sandals holds up a fistful of bills and calls out, "I got a hundred and fifty on the black-and-white!" Someone shouts, "I'll take a hundred," another asks for 3-to-2 odds, still others mill about arranging what are called "side bets." There is almost always a prearranged bet between the dog owners, although the exact amount in this case was not learned. Bets of $500 or more are fairly common.

With the betting still going on, the dogs are released.

Without a sound, not the faintest growl, the dogs leap toward each other and rear, lips rolled back, clashing fangs in the center of the pit. Still there is no sound other than the scratch of claws on the tarp, crunching sounds as one dog or the other seizes a leg, choked gurgling as a dog grabs the throat.

TACTICS OF THE FIGHTERS

In dog-fighting parlance, dogs are said to "work the stifle" (favor throat holds), or to "work the legs," or "work the ears."

"A good ear dog," Mr. Podzianowski observes, "is hard to beat."

The fights normally last from about 30 minutes to 2½ hours and more, during which time the dogs inflict continual punishment on each other, slashing, choking, chewing on ears and legs, breaking bones and inflicting invisible internal injuries.

Some of the dogs die not in the pit, but after the fight, dehydrated from the exertion, suffering unseen injuries.

In this fight, the spotted dog gains an early advantage, throwing the smaller red dog to the canvas, chewing alternately at the throat, the ears, the legs.

The owners are both lithe, well-muscled men in their 30's, remarkably similar, although one is light, the other dark. One wears a black sleeveless T-shirt, the other an identical red one. Each wears a tattoo of fighting dogs on one shoulder. In the crowd, two or three other men sport the same tattoo.

Both owners are in the pit with their dogs, often down on their hands and knees, inches away from the working fangs, whispering encouragement with urgent intimacy. "Come on Red Lady, come on sweetheart." "That's right, girl, atta girl. . . ."

For 10 minutes, the larger dog holds the red to the mat, chewing ears and legs, although she has herself been cut several times on the head, on both eyelids and on the body.

Suddenly the red dog wrenches free and is on her feet. She is cut on the chest—"Get it, get it, there's blood." There is a crunching pop that sounds like breaking bone. "Is it a break," someone asks, "did she break it?"

No, instead the dogs have clashed fangs. The man in red picks up a broken tooth from the mat. Before the match is over, there will be two or three more to pick up.

BLANK AND PINK

There is new betting, new odds. Still the two dogs fight, soundlessly, never turning away. There is a strong odor of sweat, and of blood. Both dogs have flecked the mat with pink slaver. The black and white dog has become black and pink, smeared with blood from nose to haunches.

Suddenly the red dog whirls away, apparently in terror, and attempts to leap the side of the pit.

Mr. Podzianowski shouts, "It's a turn!" In a turn, one dog turns away, running, refusing to fight any longer, and it signals the key juncture in the match, called a "scratch."

The red dog, which has turned (or "scratched"), is taken to a corner; the black and white is held in its corner. The red is released and must within a few seconds redeem itself and show its courage by again attacking the other dog. The red does not, and the match is over.

The quality of ferocity is so highly prized that a losing owner is entitled to ask that the winning dog demonstrate its ferocity through a "courtesy scratch"—that is, that the winning dog demonstrate its willingness to go on by again attacking the loser (which might be dead).

THE STORY OF PEACHES

Mr. Podzianowski likes to tell of a dog of his named Peaches. After a fight in Mississippi, which Peaches won by killing the other dog, the loser asked for a courtesy scratch.

"Her front leg was broke and sticking through the skin at two places. It would jab holes in the canvas when she walked. The guy said, hell, she couldn't make it over the line again, so I let her go. That dog didn't know what was wrong, she tried to run at the other dog and that stub of a leg would hit the floor and she'd tumble. She finally turned almost a flip into the boards and landed under that dog and dug in. You tell me that dog didn't have heart?"

The second fight of the Chicago match continued for over a half-hour before it ended with one owner conceding. The owner, apparently genuinely concerned, feared his dog would die.

Not so the owner of Lady, the loser of the first fight. He would, he said, take her home and kill her. No use wasting food, he said.

S. 3985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 3 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 48. Protection of dogs.

"(a) As used in this section, the term 'commerce' means commerce between a point in any State or possession of the United States (including the District of Columbia and the Commonwealth of Puerto Rico) and any point outside thereof, or between points within the same State or possession of the United States (including the District of Columbia and the Commonwealth of Puerto Rico) but through any place outside thereof, or within the District of Columbia, or from any foreign country to any point within the United States.

"(b) The Congress hereby finds (1) that the practice of promoting, instigating, or otherwise conducting, for purposes of sport, wagering, or entertainment, any exhibition, show, or other program involving a fight between dogs, including dogs bred or trained for that purpose, is cruel and inhumane treatment of such animals; and (2) that the movement of such dogs in commerce adversely affects and burdens such commerce.

"(c) It shall be unlawful for any person to ship, transport, or otherwise move, or deliver or receive for movement, in commerce, any dog which such person knows or has reason to know has been bred or trained to fight other dogs for purposes of sport, wagering, or entertainment.

"(d) It shall be unlawful for any person to ship, transport, or otherwise move, or deliver or receive for movement, in commerce, any dog which such person knows or has reason to know is being so shipped, transported, moved, delivered, or received in order to utilize such dog, for purposes of sport, wagering, or entertainment, in any show, exhibition, program or activity featuring or otherwise involving a fight between that dog and another dog.

"(e) It shall be unlawful for any person to knowingly promote, conduct, carry on, or participate in, for purposes of sport, wagering, or entertainment, any show, exhibition, program or other activity involving a fight between one or more dogs, including a dog bred or trained for that purpose, if any one or more of such dogs was moved to such show, exhibition, program, or activity in commerce.

"(f) Any person who violates any provision of this section shall be punished by a fine of not more than $1,000, or imprisonment for not more than one year, or both."

Sec. 2. The analysis of chapter 3 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"48. Protection of dogs.".

By Mr. CURTIS:

S. 3987. A bill to prevent importation of ectoparasites into the United States. Referred to the Committee on Agriculture and Forestry.

Mr. CURTIS. Mr. President, section III of title 21 of the U.S. Code dealing with the importation of wild animals into the United States fails to provide protection from the introduction of ectoparasites—insects—which may result in the establishment of exotic insect pests in our domestic livestock industry. Such an event has already occurred with the fly Hippobasca longipennis introduced with cheetahs into Texas, California, Oregon, and Georgia. These ectoparasites may have more than one animal host—the wild animal and domestic animals—and may be capable of transmitting diseases including diseases not already present in the United States.

The bill I introduce today would give the Animal and Plant Health Inspection Service, USDA, the authority to treat imported animals for control of ectoparasites. I hope prompt action can be taken by the appropriate committee.

By Mr. BIDEN:

S. 3988. A bill to provide for the preparation of State Energy Conservation Programs through Federal and State cooperation and shared responsibility, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. BIDEN. Mr. President, I have become deeply concerned in recent months about the future of America's energy conservation efforts. I read reports of increased automobile traffic; I hear of more and more people violating the 55 mile per hour speed limit; I feel the blasts of cold air that greet you as you walk into shopping centers. I marvel that we can so quickly forget last winter. The only real enforcer of conservation at the moment seems to be the high price of energy—the most cruel conservation technique of all.

Have we already forgotten last winter? Then we were told often that energy consumption in the United States more than doubled from 1950 to 1973—from 37,000 trillion Btu's to 76,000 trillion Btu's, and that the current annual growth rate was five percent per year. We heard that U.S. energy consumption was far outstripping its domestic production, so that the Department of the Interior was predicting in the fall of 1973 that we would need to increase imports of 250,000 barrels per day just to make it through a normal winter. Crude oil stocks were 14 million barrels below normal levels. And then the Arab nations imposed their embargo on crude oil shipments to the United States. The country entered into a period that at times verged on panic. Is all of this now forgotten? The embargo is lifted and gasoline flows freely again. We seem not to remember that even before the embargo regional shortages were being predicted. May not these shortages reappear this winter?

One thing we have not forgotten, I daresay, is the cost of petroleum products. The price of imports and some domestic crude has quadrupled since the embargo. It is reflected in the price of gasoline at the pump and it is reflected in the fuel adjustment charge on every utility bill. But still, while we complain, we take no real, concerted action to conserve the use of energy.

The Congress has created a Federal Energy Administration and given it authority to carry out conservation programs. I do not believe that we have done enough. In the days of the energy emergency last year, it was often the State and local governments that proved willing and able to take decisive action. The Federal government seemed paralyzed. My staff has made a survey of what local governments did and are doing in this important area of energy conservation. Their research bears out the words of John Sawhill, the Administrator of the Federal Energy Administration, when he said:

> States can take major credit for the success of the petroleum allocation program during the severe shortages of this winter. Yet I think the public was not really aware of that. By quickly reacting to crises, and matching suppliers and buyers at all levels, the states were on the front lines while we at FEA coordinated the program at the national level.
>
> States also moved quickly to develop energy conservation programs that dampened demand during and since the embargo. Besides conserving energy in state facilities, they rallied industry and the public for voluntary conservation efforts on an unprecedented peacetime scale.

A strong conservation program can also assist our whole economic picture. An obvious factor is that decreased use of petroleum products may affect the world price. Strong conservation is an essential to energy independence, and unless we slow demand we will never achieve independence of expensive foreign supply. Our economy and those of many other nations of the world are still suffering from the shocks of the tremendous transfers of money from oil consuming nations to oil producing countries. These shocks may well continue unless we can manage to cut down on our need for imports.

As Dr. Arthur Burns of the Federal Reserve Board said at a recent hearing of the Senate Budget Committee:

> But there is one difficulty that I think is very real and it is a difficulty that applies more to countries than applies to banks. The quadrupling in the price of oil has resulted in enormous increases in the dollar value of imports of countries around the world, an enormous flow of funds to the oil exporting countries. The less-developed countries in the world are in very serious difficulty and some industrial countries are in difficulty as well. And I had felt from the beginning that the hike in the price of oil has released financial forces on a scale that is simply unimaginable and I believe that this is the most important threat that the world financial system faces at the present time.
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> We in this country will come through reasonably well. I have no doubt about that. But what happens elsewhere is bound to have an effect on our economy and also on our political position in the entire world.
>
> At the beginning of the oil crisis we reacted intelligently. We put through a conservation program. But we and other countries around the world have been getting back to our lazy ways of doing business as usual and our conservation program is very much weaker.
>
> Again, at the beginning of this crisis the Administration announced a new program, Project Independence. I think it was a proper response but so far at least as far as my limited knowledge goes, Project Independence has been more rhetoric than substance and I think that is a serious mistake.

Mr. President, I do not believe that the energy crisis, whatever its cause, has gone away. It still remains in tangible form through higher prices. Predictions are freely made that at least in some parts of the country, including my State of Delaware, we will be seriously short of natural gas, with the possibility of serious unemployment as a result. We may not have as much coal as we need. And considering our profligate use of crude oil in the form of gasoline, I worry for the coming winter about fuel to heat our homes, to power our electrical generating plants, and to make up for the natural gas shortages in industry.

For these reasons, Mr. President, I am introducing legislation today that could strengthen our conservation efforts. This proposal is not a substitute for anything but an additional piece of badly needed legislation to deal with our energy problems. In most simple terms, it would provide for Federal grants to be made by the Federal Energy Administration to State governments for the development of State energy conservation programs. These programs could encompass everything from mandatory rationing or allocation activities in time of emergency to continuing efforts to educate the consumer—whether individual or corporate—to the means and real necessity of conservation. The emphasis of the bill is to have continuous effort, not emergency action.

Congress has already given the Federal Energy Administration the authority to work with State governments and to provide technical assistance to them in implementing energy conservation measures. I believe this would strengthen the partnership that was envisioned by the earlier law.

Mr. President, this country faces many challenges today. In many of them, a solution to our energy problems is necessary. I believe that this bill can contribute to the solution.

Mr. President, I ask unanimous consent that the complete text of the bill be printed at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3988

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State Energy Conservation Programs Act of 1974".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that—

(1) it is necessary that there be available for essential uses adequate supplies of energy at a reasonable cost;

(2) the availability in the past of low cost energy has stimulated energy consumption and waste through inefficient or unnecessary use;

(3) the cost of energy has escalated rapidly in the past year;

(4) expanding uses of finite energy resources pose serious economic, social and national security problems;

(5) increasing dependence on energy supplies imported from foreign sources further aggravates these problems;

(6) shortages of fossil fuels of varying severity can be expected to recur over the next several years;

(7) the States have shown great flexibility and adaptability in dealing with energy problems; and

(8) many energy conservation activities can best be carried out at the local levels of government which are closer to the people concerned.

CONGRESSIONAL DECLARATION OF POLICY

Sec. 3. The Congress finds and declares that it is the national policy (a) to conserve fuels and energy resources; (b) to make energy conservation a major element in achieving energy self-sufficiency at reasonable costs; and (c) to enlist the talent and resources of the States and their subdivisions, in cooperation with the Federal Government, in planning for and carrying out energy conservation programs.

STATE ENERGY CONSERVATION PROGRAMS

Sec. 4. (a) The Administrator of the Federal Energy Administration shall encourage each State to prepare a State Energy Conservation Program which shall set forth the actions that can be taken by each State to encourage or require the conservation of energy resources both on a long-term basis and on an emergency basis. Such Programs shall be designed to supplement and coordinate with Federal energy conservation programs and to result in a reduction in the growth of energy consumption.

(b) The Administrator of the Federal Energy Administration shall make a determination of the levels of energy conservation consistent with national goals to achieve energy self-sufficiency to be used as a guide by the States in developing their State Energy Conservation Programs; but such determination shall not be binding on any State.

(c) In accordance with regulations promulgated by the Administrator of the Federal Energy Administration, the Administrator is authorized, upon application by the State, to make a grant to any State government for the preparation of a State Energy Conservation Program. Such grants may equal the cost of preparing the Program, but such grants shall not be used to carry out such a Program.

(d) State Energy Conservation Programs may include:

(1) actions by the State to manage the distribution of gasoline, home heating fuels and other energy sources;

(2) programs to reduce or encourage the reduction of the use of electric power, natural gas, fuel oil or other fuels in homes and in commercial and industrial establishments;

(3) transportation plans to promote a reduction in the use of motor vehicle fuels, including voluntary restraint in the use of motor vehicles, encouragement of alternate transportation means, setting highway speed limits, promotion of car-pooling arrangements, and use of mass transit;

(4) programs or facilities for recycling or reuse of materials, where feasible, or the use of solid wastes for energy production;

(5) the means of developing cooperative working relations between government and private groups, as well as among private groups, to plan and carry out energy saving programs, including the free exchange of information and techniques;

(6) the use of building and plumbing codes to encourage or require energy conserving construction techniques;

(7) an examination of energy pricing policies, to the extent that they are under any control by the State, to assure that they encourage energy conservation;

(8) plans for the development of public education programs to make clear the need for and means of energy conservation;

(9) organization and procedure for receiving consumer complaints and assuring consumer protection in carrying out energy conservation programs;

(10) actions that the State government and its local subdivisions can take in connection with its own operations to conserve energy;

(11) the evaluation of the needs of various groups within the State for energy resources to assure that a disproportionate burden is not placed on any one group through a conservation program and that the economic and social impacts of energy conservation are equitably borne;

(12) the role of local governments within the State in carrying out the Program;

(13) such other activities as may encourage energy conservation.

(e) Each State Energy Conservation Program shall provide for the designation of an existing State agency or the establishment of a new agency to represent the Governor in continuing efforts of energy conservation and to provide coordination of all State agencies that may be involved in energy conservation activities.

(f) To the extent appropriate and applicable, a State Energy Conservation Program may provide programs for encouraging responsible development and utilization of energy resources found within the State in coordination with Federal energy research and development programs.

COORDINATION WITH FEDERAL AID PROGRAMS

Sec. 5. A State Energy Conservation Program may detail the means by which existing Federal grant-in-aid programs could be better used to promote energy conservation while achieving the original Congressional intent for those programs. State energy Conservation Programs may include proposals for Federal financial incentives for the development and maintenance of public transportation systems.

REPORTS

Sec. 6. Within one year after the passage of this Act, the Administrator of the Federal Energy Administration shall report to the Congress concerning the State Energy Conservation Programs that have been prepared. In that report he shall recommend what Federal financial assistance, if any, should be made available to States to implement these Programs.

AUTHORIZATION

Sec. 7. There is authorized to be appropriated the sum of $10,000,000 for the 1975 Fiscal Year for the purpose of carrying out the provisions of this Act.

By Mr. TAFT:

S. 3989. A bill to assist local areas in obtaining reimbursement for construction of public waste treatment works constructed prior to July 1, 1972. Referred to the Committee on Public Works.

Mr. TAFT. Mr. President, today I am introducing a bill to assist local areas in obtaining reimbursement for construction of publicly owned waste treatment works which were constructed with Federal financial assistance granted prior to July 1, 1972.

Public Law 89–234, the Water Quality Act of 1965 required that States adopt water quality criteria applicable to interstate waters. The State of Ohio adopted water quality standards, including an implementation plan, in April 1967. The implementation plan required that Cuyahoga County install a secondary waste treatment facility at the Cuyahoga County Sewer District No. 6 plant at Rocky River, Ohio, by September 15, 1969.

Delays occurred in the awarding of construction contracts, caused by lawsuits and difficulty in adopting an activated carbon pile system for the secondary treatment facility.

Cuyahoga County had applied for and received a Federal R. & D. grant to finance a full-scale demonstration project in August 1968. The original grant of $741,000 was given a $250,000 supplement in 1970, to furnish a total grant of $991,000, of which $790,000 could be used for construction. The rest was to be used for research. This grant amounts to 25 percent of the total cost of the project, which is over $4 million. Other communities, which applied directly for construction grants, were given from 55 to 75 percent funding for their plants. However, because of an apparent gap in the law, the Cuyahoga County plant was ruled ineligible for construction funds.

First of all, the Environmental Protection Agency told the Cuyahoga County people that there was no longer any R. & D. money available for construction, only for research. When the county learned this, it applied for construction grants, but was told it was not eligible. The reason given for the ineligibility was complex.

The definition and interpretation of the term, "construction."

The Federal Water Pollution Control Act, Public Law 92–500, section 206(a), provides 50 percent reimbursement for any publicly owned treatment works on which construction was initiated after June 30, 1966, and before July 1, 1972. Section 212 of the act (Public Law 92–500) defines "construction" as preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigation or studied, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

Under this definition of "construction," Cuyahoga County's waste treatment facility would qualify for funding, because contracts for plumbing, ventilating, electrical work, and the activated carbon itself were awarded on January 27, 1972, and preliminary planning had been carried out with R. & D. money. The total amount of the contracts awarded was $411,000. The agreement with the general contractor also was executed on that date, but it was later voided as a result of a lawsuit, and the final contract was awarded on October 2, 1972.

Section 35.905–47 of the rules and regulations published in the February 11, 1974, Federal Register which apply to Public Law 92–500 defines construction differently than the law does itself. The regs define "initiation of construction" as the issuance to a construction contractor of a notice to proceed or, if no such notice is required, the execution of a construction contract. Because the January 27 agreement with the general contractor was voided by a lawsuit and the final contract was not awarded until October 2, 1972, Cuyahoga was ruled ineligible because of the delays incurred by the Cuyahoga County group in beginning construction, the Environmental Protection Agency placed them on 180-day notice to begin construction, prior to October 18, which was too early to receive construction grants under Public Law 92–500, and too late to receive reimbursement grants.

I do not believe that it was the intent of the Congress in passing the Federal Water Pollution Control Act to prohibit applicants from eligibility if they began preliminary construction planning and awarded some contracts for that construction prior to the date mentioned. This was expressly stated in the law, yet the regs do not take it into account at all. My office has been in touch with the EPA and has been told that their interpretation of "initiation of construction" is the "issuance to a contractor of a notice to proceed . . ." as stated in the regs, and the establishment of a specific date from which the actual, physical construction of a project can be measured.

I believe this is a unique case in which the congressional intent has been misinterpreted. I hope the Congress will act expeditiously to rectify this situation.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3989

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 206 of the Federal Water Pollution Control Act is amended by inserting "(1)" after "(a)" and by inserting at the end thereof the following:

"(2) Any publicly owned treatment works which was constructed with Federal financial assistance granted subsequent to June 30, 1956, and prior to July 1, 1972, under the provisions of this Act other than section 8 as in effect at the time of such grant, shall be reimbursed in an amount equal to the amount by which the total of such financial assistance received is exceeded by 50 per centum of the cost of construction of such works or 55 per centum where the Administrator determines that such treatment works was constructed in conformity with a comprehensive metropolitan treatment plan described in paragraph (1) of this subsection.".

By Mr. CHURCH:

S. 3990. A bill to amend title II of the Social Security Act to provide that the special minimum primary insurance amount thereunder shall be increased—in like manner as other benefits thereunder are increased—to take account of increases in the cost of living. Referred to the Committee on Finance.

IMPROVING SPECIAL MINIMUM BENEFITS

Mr. CHURCH. Mr. President, I introduce for appropriate reference, a bill to make improvements in the special minimum monthly benefit provision under the Social Security Act.

In 1972, the Congress enacted a new special minimum payment for persons with low lifetime earnings and a long-term attachment to the social security program.

It was the intent of Congress that this special benefit be at least equal to the basic Federal payment level under the supplemental security income program.

SSI, which also became law in 1972, was designed to build a Federal floor under the incomes of the aged, blind, and disabled. Today the monthly income standards are $146 for qualifying individuals and $219 for couples.

At present, the special minimum monthly payment is computed by multiplying $9 by an individual's covered employment above 10 years but not greater than 30 years.

Thus, a social security beneficiary, who became eligible at age 65 and with 30 years of covered employment, would be entitled to at least $180. In the case of a couple similarly situated, their minimum payment would be $270—one and one-half times the amount for an individual.

A few months before the enactment of the special minimum monthly payment, my cost-of-living adjustment mechanism was approved overwhelmingly.

This automatic escalator, which was designed to protect the elderly from inflation, was adopted as a part of my 20 percent social security increase.

However, the new special minimum payment was not subsequently included within the scope of coverage of the cost-of-living adjustment mechanism, essentially for two reasons.

It was believed that additional time was needed to obtain information about these beneficiaries to determine whether there was, in fact, a clearcut need to increase their benefits on a periodic basis; and

There was no cost-of-living adjustment mechanism for SSI.

Events since 1972, however, provide compelling reasons for perfecting the special minimum monthly benefit.

The bill that I introduce today is designed to implement this goal in two key respects:

First, it would make the automatic cost-of-living adjustment mechanism applicable to special minimum monthly payments.

Today the vast majority of beneficiaries of Federal income maintenance programs have some protection against the cruel impact of inflation. More than 30 million social security beneficiaries will receive a cost-of-living increase next July. Civil service annuities are raised when the inflationary rate is at least 3 percent. Recently, legislation was approved to provide automatic cost-of-living increases for SSI recipients Moreover, efforts are underway to extend similar protection to railroad retirees and veterans' pensions.

This coverage, I strongly believe, should now be extended to social security beneficiaries who receive special minimum payments.

Surely they are no less deserving than other social security beneficiaries or Federal annuitants.

Quite to the contrary, they may be in greater need of such protection because they are struggling on limited, fixed incomes. In many cases, their special payments constitute the primary source—and in some cases, almost the entire amount—of their income.

At present, approximately 110,000 persons receive special minimum monthly benefits. Average benefits for retired workers now amount to about $162 a month.

When the 1973 Social Security Amendments were considered in the Senate last November, a similar two-step, 11-percent raise was also provided for persons receiving special payments. Unfortunately, however, this measure was modified in conference committee. And the net impact is that special minimum beneficiaries received only a 6-percent increase.

This is the primary reason that I have adopted a two-pronged thrust for my bill. The second part would, in effect, pass on the second stage of last year's two-step, 11-percent increase for persons receiving special minimum payments. This would occur simultaneously with the provision to make the automatic cost-of-living adjustment mechanism applicable for special minimum beneficiaries, effective for June 1975.

The effect of this change is to assure that these individuals will receive a comparable increase in payments as other social security beneficiaries did under the recent two-stage raise.

Both of these provisions are urgently needed. And I am hopeful that the Congress will act promptly and favorably on these overdue improvements.

Mr. President, I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3990

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that (a) section 215(a)(3) of the Social Security Act is amended by striking out "$9.00" and inserting in lieu thereof "$9.50".

(b) The amendment made by this section shall apply with respect to monthly insurance benefits under title II of the Social Security Act for months after May 1975.

SEC. 2. (a) Section (i)(2)(A)(ii) of such Act is amended by striking out "(but not including a primary insurance amount determined under subsection (a)(3) of this section)" and inserting in lieu thereof the following "(with any increase in the special minimum primary insurance amount applied after the determination of such special minimum primary insurance amount under subsection (a)(3) of this section)".

(b) The amendment made by this section shall apply, after the application of section 1 of this Act, with respect to monthly insurance benefits under title II of the Social Security Act for months after May 1975 (without regard to when the insured individual became entitled to such benefits or when he died).

By Mr. DOLE:

S. 3992. A bill to amend section 403 of the Congressional Budget Act of 1974 to require that all monetary bills reported for consideration by the House or Senate be accompanied by an inflationary impact statement, and for other purposes. Referred to the Committee on Government Operations

Mr. DOLE. Mr. President, for many years it has been recognized that Government programs and expenditures directly and indirectly affect the economic health of our Nation. It is now apparent that these Government programs can affect the economy for better or worse.

The American people blame U.S. Government officials for our current double digit inflation. The American people are entirely justified in pointing their fingers in the direction of Washington, D.C., Government programs both currently and in the past for major contributions to inflation. If action is not taken now, Congress will continue to enact legislation and adopt programs which will give added support to inflation in the future.

It is sad but true, but until this moment Congress has never really known the future impact of its programs. Congress adopts new measures without ever analyzing and projecting the impact these programs will have. The requirement for an inflationary impact statement by the House and Senate budget offices will end this blind legislative process. Congress can now learn in advance what the inflationary impact of proposed programs and expenditures will be.

Government programs and expenditures can be inflationary in two ways. First of all, it is generally recognized that Government expenditures are, in many circumstances, inflationary. Government expenditures add to the demand for a good or service. If our economy is already producing a particular product at capacity, the added demand created by Government will not result in an increase in usability but merely in higher prices. With the inflationary impact statement, Members of Congress will be able to determine if a proposed expenditure will actually result in an increase in usability and hence an increase in the well-being of Americans or if the Government expenditure will only result in higher prices.

But Government expenditures are not the only Government area which causes prices to increase. In recent years a variety of programs have been enacted which have resulted in added costs for U.S. business. Inevitably these added costs have been passed on to the U.S. consumer.

In most cases, the objective and results of these programs have been laudable. Unfortunately, we have not considered what the cost of these programs are. They have frequently added to the prices of products purchased by American consumers. It is now time to consider whether or not the benefits of future programs will justify the higher prices paid by the U.S. consumer.

The inflationary impact statement will provide Members of Congress with the information needed to evaluate proposed Government programs and expenditures. In the past, Members of Congress have been voting from the darkness. The inflationary impact statement will shed light on the effect which programs have on the prices paid by Americans. Congress will now be in a position to better evaluate the cost of proposed programs and to represent the interests of the American people.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2022

At the request of Mr. Tunney, the Senator from Kentucky (Mr. Cook) was added as a cosponsor of S. 2022, the Flexible Hours Employment Act.

S. 2433

At the request of Mr. Cranston, the Senator from Kansas (Mr. Dole) was added as a cosponsor of S. 2433, a bill to improve education by increasing the freedom of the Nation's teachers to change employment across State lines without substantial loss of retirement benefits through establishment of a Federal-State program.

S. 3701

At the request of Mr. Mathias, the Senator from South Dakota (Mr. McGovern) was added as a cosponsor of S. 3701, a bill to provide that income from entertainment activities held in conjunction with a public fair conducted by an organization described in section 501(c), (3), and (5) shall not be unrelated trade or business income and shall not affect the tax exemption of the organization.

S. 3901

At the request of Mr. Mondale, the Senator from Connecticut (Mr. Ribicoff), the Senator from West Virginia (Mr. Randolph), and the Senator from New Jersey (Mr. Williams) were added as cosponsors of S. 3901, a bill to amend the Federal Reserve Act to permit the Federal Reserve Board to allocate credit to national priority needs.

S. 3952

At the request of Mr. Pell, the Senator from Minnesota (Mr. Mondale) was added as a cosponsor of S. 3952, the Social Security Recipients Fairness Act of 1974.

S. 3955

At the request of Mr. Metzenbaum, the Senator from Washington (Mr. Jackson), the Senator from Missouri (Mr. Eagleton), and the Senator from West Virginia (Mr. Randolph) were added as cosponsors of S. 3955, the Foreign Investment Review Act of 1974.

ADDITIONAL COSPONSORS OF CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION 104

At the request of Mr. Bible, the Senator from Arizona (Mr. Fannin) and the Senator from Nevada (Mr. Cannon) were added as cosponsors of Senate Concurrent Resolution 104, relating to the availability of unleaded gasoline and related equipment.

SENATE CONCURRENT RESOLUTION 110

At the request of Mr. Kennedy, the Senator from Alabama (Mr. Allen) was added as a cosponsor of Senate Concurrent Resolution 110, relating to the situation in Cyprus.

SENATE RESOLUTION 399—SUBMISSION OF A RESOLUTION URGING FULL PUBLIC ACCESS TO INFORMATION REGARDING THE WATERGATE INVESTIGATION

(Referred by unanimous consent to the Committee on Government Operations.)

Mr. MANSFIELD submitted the following resolution:

S. Res. 399

Whereas, It is paramount to the national interest that the American public be made fully aware of all facts connected with and relating to Watergate matters and the fruits of all investigations conducted pursuant thereto; and

Whereas, It is uncertain that there is now assured public access to all such facts as they are contained in papers, documents, memoranda, tapes and transcripts, Be It Therefore

Resolved, That President Ford take all steps necessary to assure full public access to all facts connected with and relating to Watergate matters and the fruits of all investigations conducted pursuant thereto, and Be It Further

Resolved, That except in cases clearly vital to the national security interests of the United States, President Ford afford the American public full access to all such papers, documents, memoranda, tapes and transcripts originating at anytime during the period January 20, 1969 through August 9, 1974 at the earliest practicable time and in an adequate and effective manner.

THE NATIONAL INTEREST REQUIRES FULL PUBLIC ACCESS TO ALL FACTS AND THE FRUITS OF ALL INVESTIGATIONS RELATING TO WATERGATE AND ALL PAPERS, DOCUMENTS, MEMORANDA, TAPES, AND TRANSCRIPTS BEARING THEREON

Mr. MANSFIELD. Mr. President, this resolution speaks for itself. It calls upon President Ford to assure the American people that in the national interest they will be provided all of the facts of Watergate and all of the facts relating to matters connected therewith.

That the American people are entitled to these facts is unquestioned in my judgment; that they are not now assured of that opportunity is equally clear, however.

As I have expressed before, I do not criticize President Ford for his actions in this matter to date. It is my fervent belief that he is a sincere man, who is sincerely motivated.

On the other hand, Watergate and all of its ramifications are not now behind us. They will not be behind us until the record is complete. To accomplish that objective in our free and open society will require full access by the American people to all relevant data and information. To justify this action I would refer to the words of Mr. Justice Story in a case cited by Attorney General Saxbe in his opinion issued by the White House on September 6:

> From the nature of the public service, or the character of the documents, embracing historical, military, or diplomatic information, it may be the right, and even the duty, of the government, to give them publicity, even against the will of the writers." (*Folsom* v. *Marsh*, 2 Story 100, 1841)

Such a duty and such a right have been clearly and amply demonstrated with respect to the nature of Watergate and to the character of all information relating thereto.

Mr. President, I ask unanimous consent that the resolution which I now submit be referred to the Committee on Government Operations.

The ACTING PRESIDENT pro tempore (Mr. BENNETT). Without objection, it is so ordered.

ADDITIONAL COSPONSORS OF RESOLUTIONS

SENATE RESOLUTION 392

At the request of Mr. TAFT, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of Senate Resolution 392, concerning the safety and freedom of Valentyn Moroz, Ukrainian historian.

SENATE RESOLUTION 394

At the request of Mr. STEVENS, the Senator from Montana (Mr. METCALF) was added as a cosponsor of Senate Resolution 394, a resolution disapproving the alternative plan for pay adjustments for Federal employees.

SENATE RESOLUTION 399

At the request of Mr. MANSFIELD, the Senator from West Virginia (Mr. ROBERT C. BYRD), and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of Senate Resolution 399, urging full public access to information regarding the Watergate investigation; and

At his own request, the Senator from New York (Mr. JAVITS) was added as a cosponsor of Senate Resolution 399, supra.

ENERGY SUPPLY ACT OF 1974 AMENDMENT

AMENDMENT NO. 1855

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT submitted an amendment intended to be proposed by him to the bill (S. 3221) to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act; and for other purposes.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 1850

At the request of Mr. ABOUREZK, the Senator from California (Mr. CRANSTON), the Senator from Alabama (Mr. ALLEN), and the Senator from Missouri (Mr. EAGLETON) were added as cosponsors of amendment No. 1850, intended to be proposed to the bill (S. 3394, to amend the Foreign Assistance Act of 1961, and for other purposes.

NOTICE OF HEARINGS BY THE COMMITTEE ON AERONAUTICAL AND SPACE SCIENCES

Mr. MOSS. Mr. President, the hearing on S. 2350 and S. 3484, which would assign responsibility for operation of the earth resources satellite system to a Federal agency, previously scheduled for 9:30 a.m. on September 18 is now scheduled for 10 a.m. on September 18.

The Committee on Aeronautical and Space Sciences will meet in executive session at 9:30 a.m. in room 231 of the Russell Office Building to mark up S. 2495, a bill to amend the National Aeronautics and Space Act of 1958 to apply the scientific and technological expertise of the National Aeronautics and Space Administration to the solution of domestic problems, and for other purposes.

ANNOUNCEMENT OF HEARINGS

Mr. JACKSON. Mr. President, I wish to anounce for the information of the Senate and the public that open public hearings have been scheduled by the Subcommittee on Parks and Recreation on September 13, 1974 at 11 a.m. in room 3110, Dirksen Senate Office Building, on the following bills:

H.R. 14217, to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, to authorize appropriations for additional costs of land acquisition for the National Park System, and for other purposes.

H.R. 13157, to provide for the establishment of the Clara Barton National Historic Site, Maryland; John Day Fossil Beds National Monument, Oregon; Knife River Indian Villages National Historic Site, North Dakota; Springfield Armory National Historic Site, Massachusetts; Tuskegee Institute National Historic Site, Alabama; and Martin Van Buren National Historic Site, New York; and for other purposes.

NOTICE OF HEARING ON DAIRY PRICE SUPPORTS

Mr. HUDDLESTON. Mr. President, the Subcommittee on Agricultural Production, Marketing and Stabilization of Prices of the Committee on Agriculture and Forestry will hold a hearing Monday, September 30, on dairy price supports. Dairy producers are caught in a serious cost-price squeeze and the subcommittee is anxious to hear testimony from average dairy farmers on their economic plight. We also want to hear witnesses representing consumer groups who can present the situation facing the average housewife purchasing milk and dairy products for her family. The hearing will begin at 10 a.m. in room 324, Russell Office Building, and witnesses will be limited to 10 minutes for their oral presentations. Anyone wishing to testify should contact the committee clerk as soon as possible.

ADDITIONAL STATEMENTS

HEROES, INC.

Mr. MATHIAS. Mr. President, each of us, individually and as members of society, owe a deep debt of gratitude to the policemen and firefighters who stand ready to come to our assistance when we call them. In many cases, they aid us at great risk to their own safety and health, and in many tragic cases, they are killed in the line of duty.

Society's response to this dedication must be to recognize their contribution and our obligation to the well-being of their families. Recently, I was privileged to be able to participate in the annual dinner of Heroes, Inc., an organization whose purpose is to provide for the families of firefighters and policemen who have given their lives. Over 700 persons attended the benefit this year. I want to call my colleagues' attention to this organization and the cause which it supports.

I ask unanimous consent that a list of those responsible for heroes this year be printed in the RECORD, together with the text of the prayer offered by the Reverend R. Joseph Dooley, chaplain, Catholic Police and Firemen's Society.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEROES, INC.

COMMITTEE

Detective Robert G. Denell, Chairman—M.P.D.

Nicholas Genua, Co-Chairman—Retired Det. Sgt., M.P.D.

Lieutenant Clayton G. Clark, Co-Chairman—M.P.D.

Captain James O. Blackston, Co-Chairman—U.S. Capitol Police.

Officer Albert J. Fenstomocher, Co-Chairman—M.P.D.

Captain Donald R. Randall, Co-Chairman—M.P.D.

John L. Marshall, Co-Chairman—Andrews-Bartlett & Assoc. Inc.

Florence "Timmy" Timko—Congressional Staff.

Sergeant William T. Thrower—M.P.D.

Walter L. Gold—Public Relations.

Detective Sergeant Marvin R. Gulick, Montgomery County Police Department.

Sergeant Herman E. Payne—D.C.F.D.

Jack Roberts—Security Officer, Suburban Trust Bank.

James Caulfield—Legal Advisor.

Thomas Lerch—D.C. National Bank.

Detective Corporal Vince Schachner, Prince Georges County Police Department.

Robert W. Mogel—Retired Lieutenant, D.C.F.D.

William "Bill" Mayhugh—WMAL Radio.

Lieutenant Ray Hill—U.S. Capitol Police Department.

Sergeant Robert Sharkey—M.P.D.

Inspector Michael Mague—U.S. Post Office.

Andrew J. Warhola—Bellamah, Neuhauser & Barrett, Inc.

Thomas F. Kalanevich—Detective Agency.

Lieutenant Buddy F. Jenkins—E.P.S.

Detective Sergeant Archie C. Hall—Alexandria Police Department.

Officer Lorraine Paradise—M.P.D.

Earl Goss—Montgomery County Law Firm.

Marty Sullivan—Bank of Bethesda.

Sorra-Lee Schwaitzberg—Travel Agency.

Mimi Meyerson—Hotel Association of Washington, D.C.

Captain William Humphrey—M.P.D.

Lieutenant Kenneth V. Moreland, Treasurer—M.P.D.

Morris "Moe" Bisker—American Sales Company.

Frederick H. Kruelle—Hendricks-Miller Typographic Co.

Jerald J. Booth—Formal Attire.

William "Bill" Gold—District Line, Washington Post.

Leonard "Bud" Doggett, President, Heroes, Inc.

M.P.D.—Metropolitan Police Department.

E.P.S.—Executive Protective Service.

D.C.F.D.—District of Columbia Fire Department.

PRAYER

Eternal Father, we, the members of Heroes, Incorporated, "Honor Every Responsible Officer's Eternal Sacrifice" through our generosity, advice, and help to those families of police officers and firefighters who have made the supreme sacrifice. In our own humble way, we strive to pay tribute to those who have died in the performance of duty, by giving their lives for our protection. These brave men and women guarded us by day and night and have answered their last roll call. But Heroes won't forget them, Lord, or their families and lovel ones; and we pledge these families the help and encouragement they need to carry on. We remember with pride and respect those who have died, honoring the departed, by helping the survivors. We will keep faith, Dear God, as long as we draw breath, with those who rest in Honored Glory. Amen.

By Reverend R. Joseph Dooley, Chaplain—Catholic Police and Firemen's Society.

S. 3512, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1974

Mr. MONDALE. Mr. President, on May 16, 1974, the distinguished Senator from Michigan (Mr. Hart) and I introduced S. 3512, the Unemployment Compensation Amendments of 1974. The bill provides for basic and comprehensive reform of the Federal-State unemployment insurance system.

While we must act forcefully to implement economic policies and programs to eliminate the high level of unemployment which our Nation is currently experiencing, we must also help those who are the victims of the current unemployment.

Unemployment insurance is a Federal-State system, designed to provide temporary wage-loss compensation to workers as protection against the economic hazards of unemployment. Funds accumulated from taxes on wages during periods of employment permit payments of benefits to covered workers during periods of unemployment. At the same time as the unemployed worker is assisted financially while he is looking for work, the benefit payments help maintain purchasing power throughout the economy and cushion the shock of unemployment on the economy. In addition to helping the worker, the program is designed to help the entire economy by maintaining spendable income. By maintaining purchasing power, it acts as a stabilizing force in the economy, helping to prevent an economic downturn from gathering momentum and forcing further declines in consumer purchasing power. The benefits are countercyclical in effect and help to prevent unemployment from spreading and lasting a longer period.

Unfortunately, our present system under which benefits were first payable in 1939, does not meet the criteria for an adequate design. The system has not kept pace with the dynamics of our economy and the growth in wage level. Too many people are still excluded from coverage. Of those who are covered, too many exhaust their right to benefits before they are able to find employment. Even when they are receiving benefits, too many workers receive benefit amounts which are inadequate when compared with rising wages.

Our unemployment compensation system came into effect as a result of congressional action in 1935. Just as Congress had a responsibility to develop a program and see that it was enacted into law, so too it has a responsibility for seeing that the program is modified to insure that its basic objectives continue to be met.

Specifically, this legislation makes six changes in present law.

First, the bill enables a uniform, Federal standard providing for a maximum duration of unemployment compensation benefits of 39 weeks. The additional 13 weeks—weeks 27–39—which will be added to the 26 weeks now provided by most States, are financed through Federal-State cost sharing. The "trigger" for extended benefits is eliminated for weeks 27–39.

Second, the bill would enact Federal standards for eligibility for unemployment insurance benefits. A State may not require an employee to have in his base period for eligibility more than 20 weeks work for 39 weeks of unemployment insurance benefits.

Third, the bill embodies Federal standards for amounts of compensation the weekly benefit amount of any eligible individual for a week of total unemployment must be an amount equal to a 66⅔ percent of such individual's average weekly wage or an amount equal to the maximum weekly benefit payable under State law, whichever is lesser. The State maximum weekly benefit amount must be no less than 100 percent of the statewide average weekly wage.

Fourth, the bill extends coverage to new categories of workers. Coverage is extended to agricultural workers, domestics, and State and local government employees.

Fifth, the waiting period, a noncompensable period of unemployment in which the worker must have been otherwise eligible for benefits, may be no longer than 1 week. If an eligible individual has received compensation for 3 or more weeks in his benefit year, compensation will be retroactively paid to such individual for the waiting period.

Sixth, the bill establishes a Special Advisory Commission on Unemployment Compensation.

I am pleased and proud to announce today that S. 3512 has received the endorsement of the AFL–CIO, the UAW, and the Teamsters Union.

These three important elements of organized labor recognize the need for reform and that S. 3512 promises meaningful reform. Their members have experienced the disastrous consequences of unemployment; their members have experienced the inadequacies of the current Federal-State system; their members want reform.

I am delighted with their support, and I know that their support means so very much to the prospects for successful passage of this important bill. Once again, organized labor has helped in an important way with the development of critical legislation and with support for its prompt passage.

I ask unanimous consent that letters from Mr. Andrew J. Biemiller, director of legislation, American Federation of Labor and Congress of Industrial Organizations; Mr. Jack Beidler, legislative director, International Union, United Automobile, Aerospace & Agricultural Implement Workers of America—UAW; and Mr. David Sweeney, political and legislative director, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

AFL–CIO,
Washington, D.C.

Hon. Walter F. Mondale,
U.S. Senate,
Washington, D.C.

Dear Senator: We have carefully studied S. 3512, a bill to extend and improve the Federal-State unemployment insurance system, which you introduced on May 16, 1974.

Recently, the AFL–CIO Executive Council said "Despite this danger, (sustained high unemployment) the nation is still saddled with an obsolete system of unemployment compensation incapable of meeting the needs of jobless workers."

The Council statement on "Unemployment Insurance" continued, "the glaring deficiencies of the entire unemployment compensation system merit the immediate attention of the Congress.

S. 3512 merits the consideration of Congress because it meets the present deficiencies in our Federal-State unemployment insurance system.

First, it includes the thousands of workers who after 39 years remain without the protection of unemployment insurance, namely, agricultural and domestic workers and public employees.

Second, it sets a minimum standard nationwide in the determination of eligibility.

Third, it fixes a minimum weekly benefit amount for each state that is related to the economy of the state.

Fourth, it approaches the problem of the "waiting period" in the same manner which has so long been accepted in the field of workmen's compensation. S. 3512 extends unemployment insurance to 39 weeks.

Fifth, without the use of "triggers," which have served the unemployed so badly that the Congress has had on six different occasions to remove temporarily one of the phases of the two part trigger.

We believe S. 3512 will underwrite the basic needs of the unemployed worker to weather his unemployment and provide as is often claimed the first bulwark against depression.

We commend you for introducing S. 3512. We will urge its support by the Congress.

Sincerely,
Andrew J. Biemiller,
Director, Department of Legislation.

UAW,
Washington, D.C.

Hon. Walter F. Mondale,
U.S. Senate,
Washington, D.C.

Dear Senator Mondale: For years, the UAW has sought realistic and meaningful reform of the unemployment insurance system to make it more responsive to the needs of America's working men and women. The legislation you are planning to introduce embodies the most important of the reforms we seek, and we hope the Congress will act favorably upon the proposals contained in your bill.

On behalf of the UAW, I wish to express to you our continued support for the kind of needed reforms proposed in your unemployment insurance legislation. Your concern about this vitally-important issue is appreciated.

Sincerely,

JACK BEIDLER, *Legislative Director.*

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA,

Washington, D.C.

Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: On behalf of the International Brotherhood of Teamsters, I endorse your proposed revision of our present unemployment compensation laws.

Of particular concern to our organization is the extension of unemployment insurance benefits to those who, because of the accident of occupation, have not been uniformly entitled to participate in a comprehensive insurance program. Thus, we encourage your inclusion of coverage for farm workers, domestics and state and local employees.

In addition, we believe that your proposal represents a fair and reasonable approach to worker eligibility for compensation and the amount of weekly benefits to which an individual is entitled.

With regard to a worker's eligibility we believe that special interests in the various States have, in many instances, combined to deny workers the opportunity to receive unemployment compensation, notwithstanding the fact that these people are as entitled to participate as any other working person. In or view, the only reasonable solution to such a matter is the establishment of Federal standards.

Again, in the spirit of reasonableness, your formula for compensation amounts recognizes that there are variations among individual States as to the amount a person should receive in unemployment compensation.

Senator, in summary, we believe your proposal for improvements in unemployment compensation will not only prove beneficial to those workers who should be affirmatively included with in the provisions of an unemployment compensation law, but will also improve the status of those who are currently eligible for these benefits.

Thank you for your consideration in this matter.

Sincerely,

DAVID A. SWEENEY,
Political and Legislative Director.

PROPOSED VA CEMETERY IN COLUMBIA, S.C.

Mr. THURMOND. Mr. President, on June 27, 1974, I introduced a bill to provide for the establishment of a national cemetery in or near the city of Columbia, S.C.

Since that time, several bills have been introduced in the House of Representatives to accomplish a similar purpose.

The Greater Columbia Chamber of Commerce has passed a resolution memorializing the Congress to consider actively a national cemetery in the Greater Columbia, S.C., area.

Mr. President, I am pleased to call this resolution to the attention of my colleagues and ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

A Greater Columbia Chamber of Commerce resolution memorializing Congress to actively consider locating a national cemetery in the Greater Columbia, S.C., area

Whereas there are only about 6,500 remaining grave sites in the two national cemeteries already in existence in South Carolina, those being in Beaufort and Florence;

And, whereas there are now over 300,000 veterans living in South Carolina;

And, whereas a great many veterans would wish to be interred in a national cemetery;

And, whereas there is a military establishment, Fort Jackson, in the Greater Columbia area to provide troops for appropriate honors;

And, whereas the Columbia area is centrally located and accessible to a large portion of this state;

Now, therefore, be it resolved that the Greater Columbia Chamber of Commerce urges the United States Congress to consider development of a national cemetery in the Greater Columbia area which could meet the burial needs of the many veterans of this state as well as of the southeast.

TRIBUTE TO JOHN FRANCIS SHELLEY

Mr. TUNNEY. Mr. President, John Francis Shelley was a big and vibrant man, full of compassion and hope and deep and great love for his native San Francisco. He served that city well in many capacities—in the California State Senate from 1938 to 1946 and then in Congress from 1949 to 1964 and then, crowningly, as mayor from 1964 to 1968.

Even after he left city hall, he continued to serve his city as her representative to the State legislature and administration.

Additionally, he helped build labor into a unified and potent force in California, serving as State president of the American Federation of Labor from 1947 to 1949.

He was a true son of San Francisco, loving each of her neighborhoods, her splendid vistas, hailed wherever he went in "The City," as he called her, as "Jack," as persons in all walks of life affectionately called him.

His heart was open to the suffering of the poor, and, as mayor, he pursued programs of renewal and rebuilding that reshaped crumbling neighborhoods and brought hope where there only had been despair.

When, in the mid-1960's, summer tensions ignited cities across our land, Mayor Shelley marched resolutely and calmly when riots threatened his city. A tall man well over 6 feet, he stood clearly silhouetted in the midnight glare that tense summer of 1966. He ignored police warnings to take cover. He simply talked with the persons he confronted in the street, and tensions began ebbing.

Brave, full of energy and drive for so many years of dedicated and impressive public service, Jack Shelley shall be missed.

He died in the city he loved, and all San Franciscans grieved.

THE WORLD POPULATION CONFERENCE

Mr. MATHIAS. Mr. President, this week the United Nations Conference on Population is being held in Bucharest, Romania. Many of the developed nations of the world are painfully aware of the need to control geometrically expanding population. We are beginning to recognize the interrelated nature of food supplies, natural resources, urban problems, pollution, and population. The most important result that can be gained through the Bucharest conference is to insure the developing areas of the world are aware of the mistakes that we in the already developed countries have made. There is no need to repeat those mistakes.

On August 18, both the Washington Post and the New York Times provided very thoughtful articles on world population. The Washington Post excerpted and adapted parts of Lester R. Brown's latest book "In the Human Interest: A Strategy To Stabilize World Population" for their purposes. Lester R. Brown, senior fellow of the Overseas Development Council, is one of the most thoughtful analysts of population problems. The New York Times article by Michael S. Teitelbaum, program officer in the population office of the Ford Foundation also provides a thoughtful and balanced view of the world population problem. I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 18, 1974]

HOW MANY MORE PEOPLE?

(By Lester R. Brown)

In an increasingly interdependent world each person added to the population, however poor and wherever born, exerts an additional claim on the earth's food, energy and other resources.

In an earlier age the addition of another person to the world population was of little consequence, since resources far exceeded man's wildest visions of potential needs. The supply of primary commodities exceeded effective demand, resulting in chronically depressed prices and markets highly favorable to buyers. Vast areas of fertile land awaited the plow. Petroleum reserves were greater than envisaged needs. Fresh water was in abundant supply, and the earth's capacity to absorb waste far exceeded man's discharge of it. Forests grew faster than trees were cut. There appeared to be more fish in the ocean than man could ever hope to catch.

Suddenly all this is changing. The assumption of boundless abundance of raw materials is being replaced by the prospect of chronic scarcity for many vital ones. World markets for energy and protein are being converted from buyers' to sellers' markets. These and other changes, which became abruptly apparent in the early Seventies, suggest that we may be on the verge of one of the great turning points in human history.

Present population projections assume that the final quarter of the century will be largely an extrapolation of the one just ending. United Nations projections, prepared for the World Population Conference starting Monday in Bucharest, foresee world population, now approaching 4 billion, reaching anywhere from 10 to 16 billion by 2100 or shortly after. The future path deemed "most likely" by U.N. experts involves a global population stabilized at just over 12 billion. But is such a prospect desirable, or even likely?

The assumptions underlying the U.N. projections are exclusively demographic in nature, dealing with such matters as fertility behavior and life expectancy. They do not examine the effects of these projected population increases on energy requirements, thermal pollution, waste generation, resource scarcity, ecological stress, unemployment levels or inflation. In short, population may be too big an issue and too complex to be left to demographers alone. Population projections which do not incorporate data from ecologists, agronomists, resource specialists, meteorologists and human toxicologists may not be either realistic or useful.

PRESSURES ON FOOD

From now on, population growth will aggravate virtually all the important problems facing mankind. In addition, new stresses resulting from population growth are beginning to appear.

The pressure of continuously rising demand for food is beginning to ecologically undermine major food-producing systems. In Africa, over the past 35 years, a doubling of human and livestock population along the southern fringe of the Sahara has resulted in overgrazing and deforestation, encouraging the southward movement of the desert at rates up to 30 miles per year. Initially, the expanding desert affected only six sparsely populated countries containing 22 million people, but now the drought has reached parts of more populous countries, such as Nigeria and Ethiopia. In effect, Africa is losing a sizable slice of its total food-producing capability while its population continues to multiply at a record rate.

The Indian subcontinent provides another dramatic example of severe ecological overstress. As population growth continues, the subcontinent is being progressively deforested. Deforestation in the Himalayas and the surrounding foothills is a serious matter, for this is where the subcontinent's major river systems—the Indus, Ganges and Brahmaputra—originate. The result of this trend is quite predictable: the frequency and severity of flooding must surely increase. Since the deforestation is continuing, it seems certain that flooding in Pakistan, India, Nepal and Bangladesh in the future will be even worse than in the past. In effect, deforestation is gradually undermining the subcontinent's food-producing capacity, casting a cloud over the future of its 750 million people.

Still another major food-producing system being adversely affected by the pressure of growing demand is oceanic fisheries. Only recently the ocean was viewed as an almost limitless source of protein, but the outlook has been sharply altered over the past few years. From 1950 to 1970 the world fish catch climbed steadily, more than tripling, from 21 to 70 million tons. Since then, the catch has declined for three consecutive years, even while investment in fishing fleets and processing facilities continues to expand. Over fishing, depleted stocks and declining catches are becoming commonplace in areas ranging from the haddock fishery in the northwest Atlantic to the anchovy runs off the western coast of Latin America.

FEELING THE PINCH

As global population pressure builds, it contributes to resource scarcity and inflation. Virtually every country is now threatened by two-digit inflation, including some, such as the United States, which have traditionally avoided it. Increasingly, economists are beginning to realize that monetary and fiscal policy cannot cope with the type of inflation now being experienced. Gradually it is being recognized that projected demand trends must be modified by slowing population and by simplifying lifestyles.

Continuing population growth is beginning to reduce individual options and impinge upon individual freedoms. For example, Americans are faced with the prospect of rationed visits to national parks because of overcrowding. Over the past several decades, growing population pressure has greatly reduced opportunities for international migration.

In the years ahead national governments almost certainly will impose restrictions on international travel. This is likely to occur first in those countries, such as Spain, Greece, Jamaica, or, eventually, Kenya, where the number of tourists per year may begin to exceed the local population, competing with them for local services and amenities. Until now, the principal constraint on international travel was the ability to purchase an airline ticket; soon, overpopulation may also be a constraint.

The costs of continuing population growth are many, and in different countries they may take different forms. Within the United States the costs of population growth are recognized much more clearly at the local level than at the national level. It is in local communities, where air and water pollution, traffic congestion and crowding are felt, that resistance to population growth is deep and growing deeper. Communities from Maine to California are seeking means to limit local population growth, not all of them constitutional.

OVERNIGHT CHANGES

Other countries are starting to respond to the costs of population growth. In Japan two years ago a government appointed commission recommended an increase in birth rates in order to help overcome the shortage of labor plaguing the Japanese economy. A few months ago a second commission reversed the earlier recommendation and suggested Japan reduce its birth rate and seek to stabilize its population. The reason for the reversal: a deteriorating environment, and continuing outbreaks of environmentally induced illnesses and deaths. Concern over environmental degradation among the Japanese has reached the point where it is capable of unseating a government not responsive to it.

Only two years ago the Mexican government was one of the most pro-natalist in the world. The policy changed almost overnight, with announcement of a program to establish several hundred family planning clinics. The Mexican government had been frightened by the analyses of its economic planners. Even though Mexico had achieved a highly respectable 7 per cent rate of economic growth, it simply was not creating jobs rapidly enough to accommodate the young people coming into the labor force. Rising unemployment among young people concentrated in urban areas is a sure formula for social and political unrest.

In some countries the lack of fresh water is generating deep concern. In Egypt the event that jolted the leadership into action on family planning was the realization that population growth during the construction of the vast Aswan dam would totally absorb the additional food production it made possible.

Even a country as rich in resources as Brazil must use extreme caution. Its cereal deficit has expanded steadily in recent years until by 1973 it had the largest cereal deficit in the Western hemisphere. This provides further evidence that a generous endowment of resources alone is not sufficient to overcome the arithmetic of exponential population growth.

A DIFFICULT GOAL

Sustained, rapid, population growth is so recent that there has not yet been time to grasp the arithmetic. Most of us understand the short-term effects of a 3 per cent population growth on the need for food, water, housing and education, but how many realize that such a seemingly innocuous rate of growth results in a 19-fold increase within a century?

As we better understand the arithmetic of exponential population growth, and the full costs of continuing on the current demographic path, it seems certain that the necessity of departing from this path will become broadly recognized. The ecological stresses and resource scarcities already evident make the task more urgent. Difficult as it may seem, I believe we should try to stabilize world population at 6 billion by the year 2015.

Many familiar with the built-in momentum of population growth will declare this target unrealistic and unattainable. And this is understandable, for it will not be easy. The only thing more difficult is trying to feed, clothe, educate and house the projected populations. The population with which many countries will be confronted, even if they meet this proposed global timetable for stabilizing at 6 billion, makes the prospect of not meeting it equally impossible to imagine. This timetable shows India going from 565 million to 968 million, Mexico going from 55 million to 103 million, and Egypt somehow supporting not 35 million but 61 million.

The strategy for stabilizing world population at 6 billion divides the world into two parts: developed and developing. The developed countries would be asked to stabilize their populations by 1985, much as East Germany, West Germany and Luxembourg have done in the past few years. In West Germany, population growth came to a halt in 1972 when the crude birth rate (annual births per thousand population) declined to 12, exactly balancing the crude death rate of 12. The United States crude birth rate, dropping from 26 to less than 15 over the past 15 years, must drop another five points to balance the death rate of slightly less than 10 in order to stabilize its population (excluding immigration).

For the developing countries, population stabilization could be approached in two phases. The first would involve reducing their crude birth rates, now ranging from 20 to nearly 50, to 25 by 1985, essentially the same as that of the United States in 1958. Several developing countries, including Barbados, Taiwan, Mauritius, Hong Kong, Chile and Singapore, have already done so. Several other countries, including Sri Lanka, South Korea, Cuba and China, have reduced their crude birth rate below 30. If these countries can then maintain their birth rate at this level or lower until the year 2005, then the sharply reduced age group born between 1975 and 1985 will be entering the reproductive years. The developing countries could then repeat what the developed countries are being asked to do between now and 1985—that is, bring births and deaths into balance, thereby stabilizing their populations.

BIRTH AND TAXES

Under this timetable, no country, developed or developing, would be asked to do anything which some countries have not already done. We do not yet know how rapidly births can be reduced if national governments make an all-out effort, simply because so few governments have done so. Of the 160 or so countries in the world probably no more than two—Singapore and China—have come close to making an all-out effort. These countries have systematically examined the entire range of social and economic policies, seeking to reshape them so as to reduce births.

Among the more important national economic and social policies influencing birth rates are tax policy, the minimum age of marriage, old age social security, both education and employment opportunities for women, and the availability of family planning services.

Tax policy can influence birth rates, particularly in the number of children for whom deductions can be claimed and as in differing tax rates for married and single individuals. The United States permits income tax deductions for an unlimited number of children. The Philippines now limits deductions to four.

Raising the minimum age of marriage, in effect the Irish solution to overpopulation during the late 19th Century, can contribute directly to reducing family size. In China today, the minimum recommended age of marriage for men is 28, for women 26. Other developing countries are also raising the age of marriage, though none have gone as far as China.

One of the strongest motivations for having large families is the desire by parents in developing countries to insure security in their old age. Thus social security programs can contribute to a reduction in family size. In Socialist countries such as China, the production team or commune increasingly assumes responsibility for the elderly, thus reducing the need to depend on children.

Equal employment and career opportunities for women can provide an alternative to child-bearing and child-rearing. In countries such as the Soviet Union, West Germany and the United States this appears to be contributing to a steady decline in birth rates. The notion that there are alternative means of self-fulfillment to childbearing is, for most traditional societies at least, a rather radical idea.

Trends in fertility are strongly influenced by the socio-economic environment in which people live. The historical record indicates that human fertility does not usually decline rapidly until certain basic social needs are satisfied. Birth rates do not normally drop voluntarily in the absence of an assured food supply, reduced infant mortality rates, literacy, and at least rudimentary health services.

The ready availability of a full range of family planning services, including contraceptives and advice, is essential. Investment in this activity probably pays a greater dividend than in any other area. In some developing countries fully 80 per cent of the population lacks ready access to family planning services. The estimated 40 million induced abortions each year around the world attests in part to the existence of this lack.

The United Nations fund for population activities estimates the annual cost for providing family planning services at about $1 per person in a developing country. Using this estimate, it would require about $2 billion to make available family planning services throughout the developing countries, excluding China. Even if this figure were doubled to allow a possible underestimate, it would still be a trivial sum compared with the scale of the problem and the costs of failing to respond to this new threat to the well being and security not only of ourselves but of our children.

[From the New York Times, Aug. 18, 1974]

NOT EVERYONE CAN HEAR A POPULATION EXPLOSION

(By Michael S. Teitelbaum)

It is hardly news that the explosive rates of world population growth threaten to overwhelm the development efforts of the "Third World" and lead to Malthusian famine, disease and despair. The alarms have been raised worldwide. Why, then, is there a need for the big United Nations conference on population, starting tomorrow in Bucharest?

The melancholy fact is that there is hardly any intellectual or political agreement as to the reality of, much less the solution to, the problem of overly rapid growth.

Some developing countries, including China and India, have recognized the problem and adopted policies designed to cope with it; the results range from major success to fundamental failure. But the leaders of a large number of countries either reject rapid population growth as a problem, or give it low priority and believe that little need be done to cope with it.

World population growth now is 2 per cent a year, implying a doubling of the population every 35 years. In some developing countries the growth rate is 3.5 per cent, i.e., a doubling time of only 20 years.

Such rates dwarf the rates of 19th-century Europe, which averaged about 0.7 per cent. These latter rates eventually declined "naturally" (i.e., in the absence of government policies) but this so-called European Demographic Transition took many decades.

In addition, the difficulties now of providing capital investment, housing and food for the rapidly expanding populations has negated much of the impact of economic progress in developing countries.

The countervailing arguments the predominant positions in some parts of the world, particularly Africa and much of Latin America, fall into five categories.

The Pro-natalist view has a long history. It is fair to say that strongly pro-natalist forces were characteristic of every society that survived up to the modern epoch, because throughout most of mankind's existence it was only through high fertility levels that societies could compensate for their devastating mortality. Since the substantial mortality declines of the 19th and 20th centuries, the Pro-natalist position has held variously that rapid population growth is a stimulus to economic growth by providing an increasing labor supply and demand for goods; it is crucial for the protection of currently underpopulated areas from covetous neighbors; or it is thought to increase a nation's military and political power.

The Problem Elsewhere theory sees "population problems" such as food scarcity and resource depletion as the results of wasteful productive activities of the rich countries rather than of the high fertility of the poor countries. Another argument is that the problems attributed to overly rapid population growth are actually results of inappropriate patterns of concentration. There is plenty of land and resources, goes this argument; the need is for policies to redistribute population more evenly.

The Anti-colonialism view is based on the belief that restraint is being urged on the developing nations by the developed nations to serve their own ends. Such efforts are seen as designed to maintain the status quo of unequal power. Alternatively, the importance attached to restraint of growth is really an effort to "buy development cheaply" instead of providing the massive investment required for true social and economic progress.

Naturalistic Optimism is perhaps the most common pattern of thought. Proponents point out that Malthus was wrong in 1798 when he predicted that population growth would soon outstrip available food and resources. Improvements in technology will show the "neo-Malthusian" predictions of today to be equally misguided.

But the best available scientific evidence supports a less simplistic view. In the long term, social and economic development may be a necessary condition for fertility declines to low levels, but it is clearly not sufficient to bring about needed declines in the near- and medium-term future.

There is extensive opposition to policies stemming from mere Mathematical Misperception. Many national leaders see little urgency in rapid population growth because they believe that such growth can be "turned off" when a "suitable" population is reached. Their assumption is that growth will stop when fertility levels are reduced to replacement level (an average fertility level of just over two children per woman, which is required to replace the present population of reproductive age). Fertility at present averages two to three times the replacement level in most developing countries.

GROWTH "MOMENTUM"

The mathematical realities are otherwise. Population growth has a "momentum" due to the "young" population resulting from recent growth. The more rapid the recent rate of growth, the greater the momentum for future growth. With modern developing, countries, even an immediate reduction of fertility to replacement level (obviously a near-impossibility) would lead certainly to a population increase of 75 percent to 125 per cent from 1970 levels. This momentum is long-term; populations would continue to grow for 60–70 years before growth would cease.

Some of these arguments reflect serious concerns and have limited evidence to support them. Patterns of consumption in the developed world do affect the availability and price of commodities required by developing countries (and vice versa). Very rapid urbanization does affect the quality of life. Poverty, illiteracy, maldistribution of wealth and the absence of old-fashioned security do affect fertility.

However, none of this justifies the conclusion that policies directed specifically to population concerns are therefore unnecessary. The problems will not be solved by such simplistic "either/or" arguments.

It is abundantly clear that the population growth and the resultant momentum for future growth severely restrict the ability of many nations to achieve their development goals. In no case is the objective an immediate cessation of population growth; this is hardly feasible in view of the momentum factor. Instead, the objective is to slow growth and reduce the force of momentum so that a new equilibrium is possible during the 21st century.

ECONOMIC FUNDAMENTALIST—RICHARD L. STROUT ON THE VIEWS OF ALAN GREENSPAN

Mr. PROXMIRE. Mr. President, Richard L. Strout of the Christian Science Monitor is without peer in the breadth of insight he shows in his journalistic coverage of the Government. He has just written an article for the September 14, 1974, issue of the New Republic, where he also doubles as TRB, on the nomination and confirmation of Alan Greenspan as Chairman of the Council of Economic Advisers.

ANTEDILUVIAN VIEWS

As those of us who have met Mr. Greenspan and have heard him know, he is a delightful, intelligent, and sophisticated human being. At the same time he holds economic views which can best be described as "antediluvian" which literally means "born before the flood."

In his confirmation hearing he said he opposed the antitrust laws and the progressive income tax. He looks upon consumer protection legislation as an interference in the free market.

Obviously in a free society one welcomes divergent and even radical or iconoclastic views. But ordinarily we do not place such persons in charge of our affairs, especially at a time of economic crisis.

ADMINISTERED PRICE INCREASES

One of the key points is that in a series of industries—steel, autos, chemicals, oil, and nonferrous metals—we are witnessing the brutal exercise of sheer economic power. At a time of roaring inflation prices rise as production is reduced. In a truly competitive economy or industry, an increase in price would bring forth an increase in production or a decrease in production would follow a fall in prices. But not so in these industries. They are concentrated industries which can deliberately reduce production to keep prices high—and they are doing it with a vengeance.

INFLATION CAUSED BY CONCENTRATED INDUSTRIES

This is the fundamental basis of our inflation. We do not have a demand inflation with too much money chasing too few goods. We do not have a wage-push inflation where wage increases outstrip productivity and hence unduly add to costs. But we do have an administered price inflation in the concentrated industries.

A major way to deal with this is through the vigorous enforcement of the antitrust laws—laws which the new Chairman of the Council of Economic Advisers eschews.

It is too sad even for irony. In the name of free competition and laissez faire Mr. Greenspan refuses to support actions which can bring competition.

It is like the football player who loves the game and competition so much he is unwilling to have any rules.

Mr. Greenspan, with all his intelligence, essentially supports the jungle and economic anarchy rather than competition.

I ask unanimous consent that Mr. Strout's excellent article be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New Republic, Sept. 14, 1974]

ECONOMIC FUNDAMENTALIST—CHAIRMAN GREENSPAN

(By Richard L. Strout)

I confess that Alan Greenspan startles me. He is President Ford's new top economic adviser. I heard Sen. Proxmire ask him questions in an otherwise all but deserted Banking Committee room recently and my astonishment grew. So, I think, did Proxmire's. Witness testified, without notes, with an earnestness and sincerity that left no doubt of his conviction. At a big financial loss he is leaving his Wall Street consulting firm of Townsend-Greenspan & Co. (where he has been on retainer for 100 corporations among the largest in the country, including almost all of the nation's 10 biggest banks) and he is willing to serve in Washington at a time of economic crisis.

What are his views? That is what is extraordinary.

He opposes the antitrust law.

He opposes the progressive income tax.

He opposes consumer legislation as an intererence with the free economy.

He subscribes to a form of laissez-faire capitalism that has been elevated into a cult called objectivism. Its leader is controversial author-philosopher Ayn Rand, with a dogma that she terms "rational selfishness" (and that sounds like economic Darwinism). Mr. Greenspan graduated summa cum laude from New York University's School of Commerce, with graduate work at the University of Chicago.

Miss Rand appears to have done more in shaping his views than did Dr. Arthur Burns, chairman of the Federal Reserve Board, a former teacher. Bespectacled Mr. Greenspan agrees that his 20-year association with Miss Rand helped to wean him from an earlier liberalism and other "mistaken policies."

"Alan is my disciple philosophically," Russian-born Miss Rand, 69, author of *The Fountainhead* and *Atlas Shrugged*, said recently.

To put the thing in context consider recent developments. The world economy and banking system are under great strain. Food is everywhere short, and the oil producers have quadrupled the price with the effect of imposing a kind of excise tax of $60 or $70 billion annually on the consumers, at the same time that the producers' extraordinary new income is sloshing about the hard-pressed international exchange system.

In this crisis the United States is theoretically a balance wheel, a stabilizing force; America's GNP is almost one-third of the free world's total GNP. But America is infected with plague too, and is running the highest inflation fever in peacetime history. The housing industry is prostrate from lack of capital (which has been dried up by the anti-inflationary restrictive policies of the Fed), and the industrial average of stocks has plunged from a high of 1050 in 20 months to below 700.

For anybody who went through the '30s it causes shivers. Inflation in Germany, for example, wiped out the middle class and brought Hitler. Times have changed. In those days on the American streets the threadbare poor sold apples for a nickel; they would charge a quarter today.

And so Alan Greenspan comes to President Ford. He will help to guide and direct his economic course. He has been confirmed as chairman of the three-man Council of Economic Advisers by the Senate without a record vote and with only three senators speaking. Of the 10 men who have been CEA chairman since the Employment Act of 1946 created the council "to promote maximum, employment, production and purchasing power," Greenspan is only the second without a Ph.D. (possibly a good thing) and he is far and away the most conservative. Perhaps conservative isn't the word. Under ideological relativity if you go far enough around the circle you emerge as a radical. How Mr. Greenspan squares his practical business counsel with his laissez-faire theories I don't know, but his writings and testimony make him sound like a fundamentalist mystic.

"The entire structure of antitrust statutes in this country is a jumble of economic irrationality and ignorance," he wrote in 1962. "It is the product: a) of a gross misinterpretation of history, and b) of rather naive, and certainly unrealistic, economic theories."

As an example he argued that "the control by Standard Oil at the turn of the century of more than 80 percent of refining capacity made economic sense. . . ."

Why not, he asked? Competition takes care of trusts if you leave them alone; this happens by a natural process for laissez-faire is the most efficient and productive of all possible economic systems."

Mr. Greenspan could have changed his views since then but showed no sign of it as he testified before the astonished Sen. Proxmire. I offer a few more samples of his early writing taken from the Ayn Rand periodical, *The Objectivist*.

"Stripped of its economic jargon," he wrote, July 1966, "the welfare state is nothing more than a mechanism by which governments confiscate the wealth of the productive members of a society to support a wide variety of welfare schemes."

He charged that "welfare statists" were trying to demonetize gold because it was a barrier to "confiscation through inflation": "This is the shabby secret of the welfare statists' tirades against gold . . . Deficit spending is simply a scheme for the 'hidden' confiscation of wealth. . . ."

Under the title "The Assault on Integrity," he attacked consumer protection laws, and agencies like the Securities and Exchange Commission: "Regulation—which is based on force and fear—undermines the moral base of business dealings," he said. He called it the "hallmark of collectivists": "They confess their inability to grasp the crucial importance of the moral values which are the motive power of capitalism. Capitalism is based on self-interest and self-esteem; it holds integrity and trustworthiness as cardinal virtues and makes them pay off in the market place, thus demanding that men survive by means of virtues, not of vices. It is this superlatively moral system that the welfare statists propose to improve upon by means of preventive law, snooping bureaucrats, and the chronic goad of fear."

Greenspan, at 48, is 11 years older than when he wrote the above, but he still seems to have the ardor of Horatio Alger. President Nixon picked him to succeed outgoing Chairman Herbert Stein in the last throes of his administration when the White House attention was on other matters and when it may have been difficult to get others to join the wreckage. The Stein resignation was effective August 31. President Ford inherited the appointee, sworn in last week and did not intervene to head him off in the Senate as he might have done gracefully enough. The inexperienced President is up against what will probably be the toughest domestic problem of his term, economic control, and he is charging right into the so-called summit conference of labor, industry, consumers and other groups, a conference where he promises to preside. It will be a TV spectacular with Vice President-designate Rockefeller perhaps helping out and the CEA chairman available.

Mr. Greenspan is now part of a monolithic group of business-oriented economic advisers that Mr. Ford inherited from his predecessor: economic counsellor Kenneth Rush, former head of Union Carbide; Treasury Secretary William Simon, former partner of Salomon Brothers; Budget Director Roy Ash, former president of Litton Industries; William Eberle, director of the Council on International Economic Policy, former president of American Standard, Inc. There is also shrewd, pipe-smoking Arthur Burns, whose mild conservatism seems almost radical in this group. Dr. Burns thinks that stiffer antitrust law enforcement would help stop inflation, for example, a view rejected by chairman Greenspan, his former pupil.

President Ford has shown admirable flexibility in some directions since taking office and many hope that he will shortly shake up his economic counsellors. Sen. Proxmire vainly tried to further this development.

On August 13 he sent a "Dear Colleague" letter to each member of the Senate outside of the Banking Committee, questioning the nomination. Greenspan, he reported, was a man of skill and probity—a man who also "made it emphatically clear" that he opposed vigorous enforcement of the antitrust laws; who "does not support consumer protection legislation"; who "has the almost incredible posture for an economic realist in these days—of opposing the progressive income tax," and who, when he leaves Washington, has a place waiting for him back home on Wall Street with his old firm and its business fees and loyalties.

The Senate confirmed Alan Greenspan August 19 without a roll call.

To find somebody in high office these days who oppose the graduated income tax has a quaint nostalgia that is rather charming.

Back in the Civil War there was a small income tax, but the Supreme Court called it unconstitutional, five to four, in 1894. Mr. Justice Field declared "The present assault upon capital is but the beginning. It will be but the steppingstone to others, largest and more sweeping, till our political contests will become a war of the poor against the rich."

The 16th Amendment in 1913 legalized the tax and seemed to settle the matter. But it left some unhappy. Mr. Greenspan, meet Justice Field.

THE MAINSTREAM MEETS McGOVERN

Mr. ABOUREZK. Mr. President, the Washington Post this past Sunday carried a superb article by William Greider of the Post's national news staff about my senior colleague from South Dakota, Senator McGOVERN.

A central warning Senator McGOVERN issued in his 1972 campaign was that our system was being corrupted. He spoke not only about Watergate and related scandals, but about the entire range of official deception, and about the sustained attempt to literally transform the presidency into an elective monarchy.

Senator McGOVERN's attempts to sound the alarm were largely dismissed as excessive campaign rhetoric. It was only later that we discovered that, if anything, he had understated the case.

There are other examples where Senator McGOVERN was right on specific issues, as Mr. Greider's article points out. But just as striking is the habit of integrity and the style of openness Senator McGOVERN conveyed, as compared to the standard President Ford is trying to set now. In 1972 Senator McGOVERN risked ridicule when he practiced those ideals, and so much admiration was reserved for the smooth, shrewd professionals in the White House. Now as Mr. Greider points out:

> If you compare the Nixon style of leadership with the example set by McGovern, it's obvious which legacy is more relevant at the Ford White House. Instead of McGovern slipping back into the mainstream, it is more the other way around.

Indeed, today essential honesty at the White House—which is something you should think we could expect—is celebrated as if it alone were the key to national salvation.

Mr. President, I think this article I have described, entitled "The Mainstream Meets McGovern," deserves both to be widely read and carefully contemplated. I, therefore, ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MAINSTREAM MEETS McGOVERN

(By William Greider)

After his great defeat, George McGovern swiftly became a non-person in national affairs. He was an embarrassment to his political party, an aberrational figure best forgotten.

In the nature of things, Washington shuns losers, especially big losers who threaten the status quo, much the way members of some religious sects turn their backs on those who have broken the faith. It happened to Barry Goldwater after his catastrophic loss of 1964 and to McGovern after 1972.

After many months of having every utterance transmitted instantly to the nation, the Senator suddenly had no voice. When McGovern chose to be out of the country at the moment of his rival's triumphant inaugural, the speech he gave at Oxford, England, was dismissed as the stale bile of a poor loser.

What McGovern said, among other things, in that speech on Jan. 21, 1973, was this:

"I am convinced that the United States is closer to one-man rule than at any time in our history—and this paradoxically by a President who is not popular. Fundamentally, we experienced an exhaustion of important institutions in America. Today only the presidency is activist and strong, while other traditional centers of power are timid and depleted. This is why one man in the White House was able for so long to continue a conflict of madness in Southeast Asia hated by so many of his countrymen."

An exercise in bad taste, people said, and the Oxford speech probably hastened McGovern's descent into obscurity. The press not only stopped seeking his pronouncements on issues and events, but it began turning collectively for Democratic Party opinion to some of the men he had defeated for the nomination, Humphrey and Muskie and Jackson. When McGovern called for President Nixon's impeachment on Oct. 23, 1973, the first senator of either party to declare himself so explicity, the speech was ignored, not even mentioned by the major newspapers.

McGovern's personal hurt was obvious enough. "The toughest thing to take in defeat," he said in a recent interview, "is to be defeated because you weren't understood. I was defeated for the Senate in 1960 and people clearly understood what their choices were and I accepted the verdict. I got over that race in a matter of days. The reason this one has been so hard to swallow is that I see the evidence all around me, in the press and elsewhere, that they have a great misunderstanding of me as a person. That's hard to take."

FAMILIAR GESTURE

This year, McGovern is running again in South Dakota, where his conservative opponent is trying to revive the radical image which scared voters so much in 1972. The outcome is important to McGovern, of course, and to his followers who are still faithful, but its import for national politics will be marginal.

Meanwhile, events have given the nation a new President whose opening gestures have created a sudden euphoria in the capital. As a Republican congressional leader, Gerald R. Ford joined in the campaign demagoguery which portrayed McGovern as a reckless radical. But as President, Mr. Ford acts as though he is reading McGovern's old campaign speeches for inspiration.

In these few short weeks, President Ford has convincingly declared himself for openness and candor in the White House, which was the overriding theme and style of McGovern's presidential campaign. Mr. Ford promptly abolished the propaganda office set up by his predecessor, the Office of Communications, a step which McGovern promised back in October 1972. Mr. Ford's easy manner at the economic "summit" session last week, his effort to convey the complexity of the problems rather than his own magic abilities to solve them, resembled McGovern's own style in '72 when he staged similar theatricals with voters.

It must provide wry consolation for the senator. In various ways, President Ford has reached out to address the same sensibilities which McGovern aroused in 1972—and which generated so much scorn for him from the "regulars" of both parties.

Gerald Ford extends a hand to the black voters represented by the Black Congressional Caucus (a cornerstone of McGovern's campaign). Gerald Ford appoints a woman as chairman of the Republican National Committee (which McGovern did for the Democrats in '72). Gerald Ford scraps the old hard-line rhetoric in favor of compassion toward Vietnam dissenters (McGovern's endorsement of amnesty was a political millstone). Even the President's wife alters the landscape with a frank statement on abortion (though her husband's press secretary immediately began modifying what she said, much the way McGovern was forced to do).

Indeed, if Gerald Ford makes any reasonable gesture toward rationalizing the nation's drug laws, particularly the harsh prison terms meted out to first-time marijuana users, then Sen. Hugh Scott and the others who painted the "triple-A" label on McGovern—for amnesty, abortion and acid—could use the same brush on their own President.

THE MAINSTREAM HAS MOVED

These are matters largely of style and sentiment. Gerald Ford is not George McGovern, rest assured. Still, so many of the perilous steps which McGovern took in '72 now seem to be conventional risks or even obligatory gestures. If you compare the Nixon style of leadership with the example set by McGovern, it's obvious which legacy is more relevant at the Ford White House. Instead of McGovern slipping back into the mainstream, it is more the other way around.

"I think the country now demands openness," McGovern reflects. "They didn't understand the importance of it in the pre-Watergate era, but they do now. I don't think he has any option other than to be available to the press and to be candid.

"That doesn't mean he can't be cautious and there may have been times when I should have been more cautious in what I said. But he's going to have to make himself available to the press and to the people in a way that his predecessor never did and I think he's doing that to his credit. But it's another bit of irony to see the high praise he's getting for doing something that I really think we did consistently all during 1971–1972."

McGovern has a hunch that the idea of amnesty for Vietnam draft evaders, conditional or something less, gained respectability because Republican politicians were confronted with the parallel question of amnesty for their ex-President, Richard Nixon.

"When prominent people began to say, 'I think he's suffered enough," other people said, 'Well, by God, my kid's suffered enough in Canada, up there in exile for the last five or six years.' The discussion of amnesty for Nixon or forgiveness for Agnew or Kleindienst, all of this created a climate in the country where people once saw it was impossible to temper justice with mercy now think it's a pretty good idea."

On a deeper level, the national government is still a long, long way from the basic ideas which George McGovern advanced as a candidate. Neither Congress nor the new President is anywhere close to embracing the full particulars of his controversial platform.

Meanwhile, McGovern's leaderless political party is still preoccupied with purging any trace of his brief tenure as its standard-bearer. Democrats have spent the intervening years gloating over Watergate and feuding intramurally. McGovern's own view is a grim warning: If the Democratic nominee in 1976 is not at least as progressive as he was in 1972, the party will lose and deserve to lose.

For it is clear that the political consensus is moving in his direction on some important issues, quite rapidly in several instances. McGovern assesses the progress this way:

"I think every one of the major recommendations we made in '72 on foreign policy, on defense policy, on tax reform, on open campaigning and an open presidency, the willingness to talk to the people and talk to the press, the effort to finance a campaign on small contributions and open disclosure, all of this is now almost the conventional wisdom. I can just see these things coming to pass."

When McGovern proposed his $50 billion defense budget, it alarmed the status quo. This summer, however, the Senate voted a military cut equivalent to $6.5 billion; in 1972 McGovern was proposing an annual reduction of $10 billion. The Senate cuts are far from becoming final, but they were induced by inflation pressures which are forcing even the pro-Pentagon conservatives to take a harder look at military spending.

"If the House goes along and the President accepts that," McGovern said, "it's a major victory, I think. I never was under any illusion that the figure I proposed was exactly right. I don't know whether it ought to be $10 billion or $9 or $11. But if you can get them to turn the corner and start scaling down the military outlays, it seems to me that opens the way for more critical examination of other aspects of the military budget."

When McGovern was campaigning, fiscal conservatives shrunk in horror from his proposal to guarantee a job for every working man and woman. His idea was a government program of job creation with an initial price tag of $10 billion. Now the Ford administration has under consideration a more modest version of the same idea—a $4 billion program to create jobs as a hedge against rising unemployment.

Tax reform still seems a long way off and certainly the fundamental surgery which McGovern proposed is not exactly imminent. Yet, as a political issue, tax reform now rates a salute from McGovern's colleagues in Congress, even while they hide from it by delay. Across the nation, tax reform has become a standard item in the typical baggage of campaign issues. As McGovern said, it has to happen.

The issue of welfare reform, which got McGovern in so much trouble with his celebrated $1,000 per family formula, is not advancing. After the 1972 election, Mr. Nixon's less doctrinaire advisers whispered around town that they would be preparing a new approach on a guaranteed income for the poor, but it never surfaced, a victim of impeachment politics. The issue, these Nixon men privately complained, had been "given a bad name" by McGovern's inept handling of it, which seems a gratuitous slur when it was their own campaign apparatus which demagogued the welfare issue so blatantly.

The one most painful wound for McGovern, when he reflects on his ill-fated issue of war and peace, the U.S. involvement in Vietnam and, more important, America's view toward the world. He can find some comforting developments, but U.S. foreign policy under Henry Kissinger is still rooted in games of power diplomacy, not the moral vision McGovern preached.

McGovern claimed—correctly, as it turned out—that the Nixon administration was not prepared to end the fighting in Vietnam, that peace was not at hand, despite Kissinger's famous promise a few days before the election. The war continues with American money and Vietnamese casualties. It was Congress which ordered a halt to the bombing over Kissinger's objections. It was the Senate which has attempted to scale down the U.S. arms shipments over administration protests.

For McGovern, it is the cruelest irony, even though his complaints were substantiated.

"When I said this was the most corrupt administration in American history," the senator says, "one of the major factors I had in mind was an administration that would deliberately continue a war for another four years for what I think were domestic political reasons. I'll always think that. I've seen no evidence to the contrary.

"They finally settled on terms that they could have had in 1969 and I guess one of the bitterest pills I ever had to swallow was to see this administration win the Nobel prize for settling the war in Vietnam when, in fact, they not only prolonged it for four years but they actually spread it into Cambodia and Laos and carried on that secret, unauthorized, unconstitutional bombing for a year and a half in Cambodia . . .

"The final irony about Vietnam is that it was always said that if my formula were accepted, which was to agree to withdraw with the understanding that the prisoners would be released, it would be running out on the people of Vietnam and our departure would be followed by bloodshed and a bloodbath, as I guess they called it.

"Well, the bloodbath is there. The one difference is that I proposed to terminate the flow of American military supplies, which is what's fueling the war. You couldn't have this kind of massive killing if it weren't for the continued flow of American arms and, furthermore, you would have more pressure toward a settlement if those arms weren't there. As long as we continue to bankroll that Thieu regime, we're sabotaging our own peace agreement."

On a broader perspective, McGovern does not see much hopeful change in U.S. foreign policy. Except for the opening to China, McGovern finds U.S. policy still based on adventurism and big-power manipulation, the ingredients which led to Indochina in the first place. His own preachment on human rights and moral purpose were dismissed alternately as naive mush or neo-isolationism. Yet McGovern asks today:

"I don't know, for example, why we're trying to make the United States a major naval power in the Indian Ocean at this stage in history. What we ought to be looking at is the massive food and population crisis that is gathering force in South Asia and all across Africa. Yet the administration still thinks in those old power terms rather than in the new global dimensions that we're going to have to concentrate on if we expect to keep the human race alive on this planet."

Kissinger's latest diplomatic miracle in Cyprus, somewhat tarnished by the subsequent anti-American riots and the slaying of our ambassador, strikes McGovern as another asbsurdity of a foreign policy dominated by military considerations, a vest-pocket war in which American taxpayers were involved because they provide the guns for both sides.

"It's a classic example," he says, "of American arms behind Greece and Turkey that were used not for our security but to go to war over a third country. One of the things that was a major thrust of my campaign was to get military spending scaled down, not just to save money, but to demilitarize our foreign policy."

OPENNESS WORTH RISKING

If McGovern's various ideas have continuing strength, then that makes his failure as a candidate all the more striking. He now accepts the principal blame for his campaign's failure to communicate those ideas in a way which could attract popular support, though perhaps there is enough blame to share with others—the press, which allowed Nixon to hide behind phony rhetoric; the other politicians who waved the bloody shirt on complex issues; the general mindset which perceived McGovern as "strident" when he warned about Nixon's corruption.

One of the elements which helped undo McGovern of course, was his open campaign style, his pious claims of candor and honesty. When the candid candidate was caught in a few dramatic lapses, he lost that claim of credibility forever. Popular distrust seemed deeper than if he had never promised openness in the first place.

In a way, Gerald Ford faces that same peril now. He is out on the same limb. His earnest promises to operate with openness and honesty have been convincing, his first gestures have been imaginative. Still, if events trip him up suddenly, Mr. Ford could likewise find himself doubly damaged by his own good intentions.

The image of a wholesome, straightforward man in the White House is so potent these days, the danger is that press and public and White House aides will somehow translate it into the old magic of an infallible President. George McGovern thinks that openness, despite its risks, is still the best antidote.

"I would have to admit," McGovern said, "that over the long haul, the politicians that seem to survive the longest are the ones that say the least, but that doesn't mean that that's right. I think, given the present state of the country, Ford has to take whatever risks are involved in being open with the country. The other way only holds up if you assume that your personal political survival is the most important thing in the world, and it's not. The survival of any given politician is of small consequence to the country, and that's what a President has to think about now."

FEDERAL SPENDING: WHERE DOES THE RESPONSIBILITY REST?

Mr. HARRY F. BYRD, JR. Mr. President, I believe that there is a growing awareness in our Nation of the impact which huge Government deficits have had and are continuing to have on the economy. Each day it becomes clearer that our Government's long string of unbalanced budgets is a major cause, if not the major cause, of inflation.

On August 29, the Eastern Shore News of Onancock, Va., edited by Mr. George N. McMath, published an excellent editorial on waste and excessive spending by the Federal Government.

The editorial cites a number of wasteful expenditure items in the Federal budget which had been pointed out by Congressman JOHN CONLAN of Arizona, and concludes that the administration and the Congress have a joint responsibility to eliminate such practices.

The editorial also points out the importance of restoring balance to the Federal budget as a "first step" toward curbing inflation.

I strongly agree with the points made in this editorial. We are not going to get the cost of living under control until we get the cost of Government under control.

I ask unanimous consent that the editorial from the Eastern Shore News be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WHERE DOES THE RESPONSIBILITY REST?

Recently we ran an editorial on federal spending and pointed out some of the ridiculous national expenditures which had been brought to light by Congressman John Conlan of Arizona. These included such items as $19,300 to study why children fall off tricycles, $46,089 for a dictionary of witchcraft, and $70,000 to study the Indo-Australian ants.

The question arose as to where the responsibility rests for these expenditures. The Administration recommends a budget and Congress reviews it and passes a budget bill. We wrote to Congressman Conlan for his views on which branch of government was to blame for unwarranted expense items and his administrative assistant answered by way of a telephone call. He placed the blame first on the "bureaucrats" and then on the liberal Congress. He explained that in the budget proposed by the Administration there are lump sums for the various agencies and departments. The items quoted above and in the previous editorial were not listed as part of the President's budget. The Congressman's assistant reported that when the "bureaucrats" come before the committees they do not justify their requests except in general terms and the committees do not require such disclosure or any assurance as to where the funds will be spent.

We feel under these circumstances the Administration is initially responsible for seeing that the lid is put on unnecessary spending and that it is up to the Administration (in this case it was the Nixon Administration) to see that controls are established over the bureaucrats which would prevent a waste of public funds. But if the bureaucrats fail to use good judgment in the expenditure of appropriated funds, then it is Congress that has the second level of responsibility and should demand an accurate accounting of proposed expenditures.

Today we are faced with one of the most perplexing problems ever to come before this country—and that problem is inflation. Economists and other experts cannot agree on a solution. Runaway inflation erodes the value of the dollar; over deflation could bring on a depression with the dollar having value, but with few dollars in circulation. On one point, however, most agree. The first step in solving the problem is to balance the budget. All too often this has not been the case.

Although the Nixon budgets too frequently were out of balance, we were encouraged by his veto of various bills passed by Congress which he thought were excessive and inflationary. We also are encouraged by President Ford's early plea for a balanced budget in fiscal '75. We are discouraged to find that a group of Democrats have advocated a decrease in taxes, which as pleasant as it sounds, would only increase demand and fuel the fire of inflation. On the other hand, we are encouraged that a Republican, an independent (Virginia's Senator Harry F. Byrd, Jr.) and a Democrat have introduced legislation in the Senate to limit spending this year to $295 billion—$5 billion less than recommended by President Ford, but $25 billion more than was spent in the last fiscal year.

Every age needs statesmen and this age is no exception. Certainly in the area of fiscal responsibility and fiscal restraint we need the full cooperation of the Executive and Legislative branches of government.

An editorial in Sunday's "Richmond Times-Dispatch" was concluded with this question: "Is it too much to hope that the spirit of thrift . . . is finally catching on at both ends of Pennsylvania Avenue?" For the good of all America, we hope it is not too much to hope. The spirit of thrift is needed today in Washington, in every state capitol, and in every home.

ENERGY CONSERVATION

Mr. MATHIAS. Mr. President, there is an increasing realization in the Congress and across the Nation that we can no longer continue to consume energy as we have in the past. Each year our per capita consumption of energy has risen. We cannot possibly satisfy America's great appetite for energy without doing irreparable damage to our environment. Clearly the answer is to control the appetite. This can be accomplished in two ways. On the one hand the Government can intervene in the marketplace and impose restrictions on the use of energy. At some point in the future this may be necessary. But on the other hand, Americans can come to appreciate the finite nature of our energy resources and learn to use those resources more efficiently.

The great opportunity to use energy more efficiently has not escaped the attention of experts in the energy field. Recent studies by the Council on Environmental Quality, the Special Energy Task Force of the Ford Foundation, and by the staff of the Joint Committee on Atomic Energy of the Congress, have all shown the great benefits to be derived from meaningful conservation efforts. Dr. Rustum Roy, director of the Materials Research Laboratory of the Pennsylvania State University, has written a most provocative article in the Science Education News of the American Association for the Advancement of Science on this subject. Dr. Roy calls for increased efforts to educate the public on the importance of energy conservation. I believe the points he makes are critical to the future well-being of this Nation.

Mr. President, I ask unanimous consent that Dr. Rustum Roy's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Science Education News of American Association for the Advancement of Science, May 1974]

ENERGY EDUCATION: THE CHEAPEST SOURCE OF ENERGY

EDUCATION—FOR WHOM?

In this article I will be concerned solely with education programs for the general U.S. public—what goals may be set for such programs and what vehicles utilized. But first one must focus on the nature of the audience since many education programs go astray by not keeping firmly fixed on the target audience. The level of the U.S. public's understanding of science and its impact on our national life is perfectly illustrated by the public's response to the energy crisis. Indeed, any energy-education program could well start with what we have long advocated—a national survey of public information and attitude on basic questions such as what the general public knows, and what its attitudes are, about every energy issue from radioactive waste to smaller automobiles. Contrary to writings by social critics such as Mumford or Roszak, and typified by a recent statement in *Science*,[1] the *attitude* of the general American public toward science, as measured by national surveys of the public, shows little sign of disaffection. Such recent surveys show that "medicine" and "science" are more believed in than any similar institution in the country. But that is the end of the good news. Unfortunately for us, these positive attitudes toward science and technology are not founded on information or understanding. The positive attitudes probably result from the emotional relocation of certain philosophical-religious values, principally hope and "salvation," away from abstract and distant interpretations of "God" into concrete and demonstratively effective (at first sight) cures and comforts which the "god" of science and technology provides.

Most American citizens can accurately be described as tourists in their own culture, diplomats living comfortably in a foreign land—the world dominated by science and technology.

What then can one realistically hope to achieve in energy education of such cultural tourists, ignorant of, but friendly toward "science"? What would one want to communicate? and what means are likely to have modest or limited success? It is simply absurd to attempt to provide the general public with cognitive, information material to help people make intelligent, informed choices on the relative merits of nuclear energy versus coal. Such efforts are likely to be, indeed have become, counter-productive. The public reaction to a surfeit of detail, claim and counterclaim, or the carefully hedged-about statements of responsible scientists, is merely to increase its distrust of "authority." Furthermore, the same discussions of alternative technical strategies, of mixes of new technologies to meet the nation's energy needs, also tends to reinforce the dangerous view that man has an infinity of "technofixes" available—which will sooner or later be applied to permit the individual to do exactly as he wishes, with minimum discomfort or change in ways, and with lower taxes to boot.

FREEDOM OF INFORMATION ACT GUIDE

Mr. TUNNEY. Mr. President, one of the most important tools of citizens in learning about their Government is the Freedom of Information Act. This act specifies that citizens are entitled to see any Government documents or papers, unless they fall into certain enumerated categories of exemptions. In the 8 years in which this act has been in existence, it has proven invaluable in numerous cases.

Many people are still unfamiliar with their rights under the act, and the procedures for obtaining information under it. A Washington-based organization, the Freedom of Information Clearinghouse, has produced a very valuable brief guide to the Freedom of Information Act. Knowing that it will be of interest to my constituents and to others around the country, I ask unanimous consent that the Freedom of Information Act guide be printed in the Record.

There being no objection, the guide was ordered to be printed in the Record, as follows:

THE FREEDOM OF INFORMATION ACT: WHAT IT IS AND HOW TO USE IT

The federal government is a vast storehouse of untapped information. This information is useful to citizens for two purposes. First are facts that can be personally helpful to individual citizens. The regulatory agencies, for instance, have a large amount of data (inspection reports, consumer complaints, product tests, etc.) on a broad spectrum of goods and services: interstate moving companies and bus lines, the efficacy of drugs, the nutritional content of processed foods, corporate marketing and merchandising practices, the on-time performance and safety records of airlines, and so forth.

So, too, do many of the executive departments. The Department of Health, Education and Welfare makes inspections of federally supported nursing homes. Agriculture has data on pesticides and the purity and quality of meat and poultry. HUD makes FHA mortgage appraisals and monitors the practices of many large housing developers. The National Highway Traffic Safety Administration has safety and efficiency information on all makes of cars. The General Services Administration tests a wide variety of consumer products that are used by government agencies.

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[1] "The past may give some hints on how to survive the most recent recurrence of public hostility to science." S. G. Brush, *Science* 183, 1164 (1974).

The second purpose is that open access to government information provides the electorate with information necessary to determine if the government is protecting the public interest. Such access to information is the lifeblood of a democracy, and if it does not flow to the citizenry democracy withers. In this area, the list of facts that are being withheld by government agencies is too long and too obvious to need specification: it runs from defense and foreign policy to the safety of nuclear generators and the management of our national forests and grazing lands. As Justice Brandeis once said, "Sunshine is the best disinfectant." An open government will probably be a better government.

In order to provide the public with a tool to pry both types of information out of the Government, the Federal Freedom of Information Act was paseed in 1966. The Act provides that any person has the right of access to and can receive copies of any document, file, or other record in the possession of the Federal Government subject to nine specific exemptions. The Act applies to all Federal administrative agencies and departments. While it does not apply to state governments, many states have their own freedom of information acts for information held on the state and local level.

What follows is a general description of the Act and some specific guidelines as to how it can be used most effectively.

HOW TO MAKE A REQUEST

The first step is to determine what it is that you want access to, since the law says you must specify "identifiable documents." This may not be an easy matter, because the very reason for your request may be that the specific identity of the documents has not been made public. But you do not need to specify a document name or title. What you must do is provide a reasonable enough description to make it impossible for the government to claim that the request is too vague. For example, if you want information on nursing homes in your area, it is enough to state that the government requires annual surveys to be conducted of nursing homes, and that you want to see the surveys. Or if you are interested in the broader scope and purposes of a particular government program, you can request access to all documents that relate to the particular program.

Your request need only state that it is being made pursuant to the Freedom of Information Act (5 U.S.C. Sec. 552). With one exception (as noted later), you do not have to explain the reasons for your demand, nor do government employees have any right to ask. By statute, the only ground an agency has for refusing your demand is proof that the documents are specifically exempt under one of the exemptions. The requester does not have to prove that he tried to obtain the documents and found them unavailable. The request should state merely that if no substantive response is received within 20 days, the request will be deemed to have been denied. The importance of including such a statement is that (a) it puts the official on notice that you know your rights under the Act, and (b) it establishes a record for possible later use in court.

An appeal within an agency or department is usually necessary after an initial denial is received. An appeal letter should be addressed to the head of the agency or department and should detail the request and the denial and state that an appeal is being made of the agency's initial denial. This may be only a two- to three-sentence letter. (We have included a sample request letter and appeal letter).

If the appeal is denied, the Act provides that the U.S. District Court has jurisdiction to review the denial and order the production of documents if such documents were wrongfully withheld. The court action, while fairly time-consuming (nine months to a year), is usually fairly simple, especially if your previous correspondence has established the fact that you made a proper request and appeal.

NINE EXEMPTIONS

The nine exemptions and the type of information exempt under each are as follows: the Freedom of Information Act does not apply to matters that are:

(1) specifically required by Executive order to be kept secret in the interest of the national defense of foreign policy.

The documents exempt under this section are those, like the Pentagon Papers, that are officially stamped Secret, Top Secret, etc. Courts are most reluctant to order the release of information if this exemption is at all relevant. However, the mere fact that the information you seek may be in the possession of the Department of State or the Department of Defense does not necessarily eliminate its availability. For instance, material such as results of drug-testing done on GI's returning from overseas is not exempt under this provision.

(2) related solely to the internal personnel rules and practices of an agency

This exemption covers things such as employee parking and cafeteria regulations, as well as certain manuals that relate to the internal management and organization of particular agencies. But staff manuals instructing inspectors or agents how to perform their jobs are not exempt.

(3) specifically exempted from disclosure by statute

This exempts documents and information that are exempt from disclosure by other laws. The main ones are income tax returns and applications submitted respectively to the Internal Revenue Service and the Social Security Administration. In those cases information that relates to individual taxpayers and recipients or applicants under Social Security is exempt.

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential

The agencies under this section may withhold information only if it is either a trade secret or commercial or financial information. Confidential information that is not one of these is disclosable. This exemption applies only to information submitted to the government; government-prepared documents can never be exempt under this section.

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with an agency

This exemption is the one most widely used by the government which will resort to it in almost every situation. In general, the dividing line between what may and may not be revealed under this exemption is the line between opinion and fact. Opinions and policy recommendations are the traditional types of information that can be legitimately withheld; for instance, a memo from a staff person to a supervisor recommending that a policy be formulated would be exempt. But factual reports or analyses of facts are not exempt. Thus a judge might or might not consider reports of inspectors or field personnel exempt; the material might contain opinions, but if it can be determined that it is more factual analysis than policy recommendation, it should be made available.

(6) Personal and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This exemption is self-explanatory. It should be pointed out, however, that this is the only exemption that encourages a balancing of interests between disclosure and non-disclosure—the one case, in other words, in which the reason behind your request may be material. If your request involves this exemption, a brief explanation of why you want the information should be made so that it can be determined whether the disclosure of information would be an unwarranted invasion of personal privacy.

(7) Investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency.

This is another over-used exemption, since a regulatory agency can claim that almost any information in its possession is an "investigatory file." However, the courts have stated that only where a law enforcement proceeding is presently active or contemplated can the exemption be used. While documents like annual surveys or inspections may be investigatory, they are not compiled for law enforcement purposes and, therefore, are not exempt under this section.

(8) and (9) These are special-interest exemptions that relate to banks and oil well information and are not relevant to most applications of the Act.

GUIDELINES

There are, of course, many ways in which agencies avoid disclosing information even when the information is not specifically exempt under one of the nine enumerated exemptions. Delay is generally used. While some delay may be due to normal red tape, the technique is frequently used for the specific purpose of avoiding disclosure. Remember that the less precise you make your request, the more room you provide an agency to delay while it seeks "clarification."

Identify as specifically as possible what it is you want. Describe what is requested in both specific and general terms. If the title of a report is known, request it by title. However, the same letter should also ask for "any other documents relating to the subject," or words to that effect. This is extremely important, since it helps to counter in advance the frequently used bureaucratic practice of providing only what you specifically ask for, even though other valuable information on the same subject may be in the agency's possession.

An important way to cut down on delay is to put a time limitation in your request—for example, "If a substantive reply is not received within 20 days of the date of this request letter, I will deem my request denied." At the end of the 20 days, file an appeal. The courts will uphold this procedure as long as the agencies are given a reasonable time to respond.

Another important tactic is to follow up written requests with phone calls. If the agencies are aware that you know your rights under the Freedom of Information Act, they will sometimes move more quickly. In fact, an approach that shows both knowledge and determination on your part may spare you the necessity of going to court.

Another barrier to access is cost. The law permits agencies to charge for copying and for some search time. However, charges must be cost-related and may not be used as a barrier to access. To save money, request access to documents instead of copies; and if you do ask for copies insist that any charges be related to the cost of providing them. Fifty cents per page for copying, or $4.00 for fifteen minutes of search time, is not cost-related.

If your only way to get the information is to take the government to court, here are a few facts to keep in mind:

The legal issues involved in a Freedom of Information Act suit are simple and do not require specialized counsel. Any lawyer can handle your case, and it will probably take relatively little of his time. (Many cities have public-interest law firms that might be willing to take such a case for a nominal fee.) If presently pending amendments to the law are passed, the government will pay your lawyer if you win the case.

All that your lawyer must prove is that the government refused to give you the requested information within a reasonable time. The government has the harder case, since it must prove that the information legitimately falls under one of the nine exemptions.

You will not have to go to Washington, D.C., to argue your case, even if you are suing a Cabinet secretary. The federal court in your area will handle the case.

In recent months there has been a distinct trend among federal judges to narrow the interpretation of the nine exemptions, thus making it increasingly difficult for the government to use the exemptions frivolously. Also, one of the amendments now before Congress will, if passed, further narrow the national-security exemption.

AMENDMENTS TO THE FEDERAL FREEDOM ON INFORMATION ACT

The House has passed and the Senate is considering amendments to the 1967 Federal Freedom of Information Act. If adopted, these amendments will provide that the government must respond within 15 days to all requests for information. They also allow greater access to classified information and will allow successful citizen requesters to recover legal costs including attorney fees incurred in bringing a Freedom of Information Act case to court.

STATE LAWS

As stated earlier, the Freedom of Information Act applies only to Federal administrative agencies and not to state agencies. However, many states (33) do have fairly effective laws. To find out about state laws, look them up in the state code or write the Attorney General of your state. Many of the more recent laws, like those of Texas, Oregon, New Mexico and Washington, are modeled after the Federal law; the guidelines presented in this pamphlet are also generally applicable to those states. The state laws have been used even less than the Federal law. Only through citizen use of these laws will they become effective tools for access to information on the state and local level.

SAMPLE REQUEST LETTER

(Name and address of agency)
(Washington, D.C. usually will do for address)

Dear Sir or Madam:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, I hereby request access to (or a copy of) (Identify document or describe the information that you want)

If this request is denied either in whole or in part please inform me as to your agency's appeal procedure. If any expenses in excess of $5.00 are incurred in connection with this request, please inform me of all such charges prior to their being incurred for my approval. If I do not receive a substantive reply within 20 days of the date of this letter, I will deem my request denied.

Thank you for your attention to this matter.

Very truly yours,

——— ———.

SAMPLE APPEAL LETTER

(Name or head of agency or Department and address)

Dear Secretary:

By letter dated (month), (day), (year) I requested access to (use same description in request letter). By letter dated (month), (day), (year), Mr./Ms. ——— of the Office of Public Information of your agency denied my request. Pursuant to the Freedom of Information Act, 5 U.S.C., § 552, I hereby appeal that denial. I have enclosed a copy of my request letter and the denial that I have received.

If I do not receive a substantive response to this within 20 days I will deem my request denied.

Very truly yours,

——— ———.

TYPE OF DOCUMENTS AVAILABLE

The following is a partial list of documents to which access was obtained by citizens claiming their rights under the Freedom of Information Act:

Nursing Home Reports.

Meat Inspection Reports.

Reports on the Fat Content of Hot Dogs.

Statements as to whether the Antitrust Division of the Department of Justice will stop a proposed merger.

Atomic Energy Commission reports on the safety of nuclear generators.

Civil Rights compliance documents.

Internal Revenue Service Agents' Manuals.

The 1972 Annual Report of the Office of Economic Opportunity.

Mr. TUNNEY. I would also like to mention, for those people who desire more detailed background and legal interpretations of the act, that the Senate Judiciary Subcommittee on Administrative Practice and Procedure has printed an extensive sourcebook on the act.

DEATH OF AUDLEY H. WARD

Mr. THURMOND. Mr. President, a distinguished South Carolinian and American, Audley H. Ward, of Aiken, S.C., passed away August 17.

Audley Ward was admired and respected by all who had the pleasure of knowing him. He was not only a warm human being, but he was possessed of a strong Christian faith and rendered many hours of public service to his community, State, and Nation.

Perhaps the high points of his public service came when he was elected commander of the South Carolina Department of the American Legion and national vice commander of the Legion. He also served as president of the Aiken Rotary Club and as a district governor of Rotary International.

A native of Florence County in South Carolina, he graduated from Clemson University in 1914. Most of his life was spent in Aiken, S.C., where he made his home and taught a Bible class at St. Johns Methodist Church for 43 years.

My deepest sympathy goes out to his lovely widow, Mrs. Ruth Walker Ward and other members of the family.

Mr. President, I ask unanimous consent that there be printed in the Record following my remarks an article in the August 19 issue of the Aiken Standard newspaper reporting on Mr. Ward's death; an editorial in the August 20, 1974, issue of the same newspaper titled "Audley H. Ward" and an editorial in the Augusta Chronicle of August 20 entitled "Audley H. Ward."

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Aiken (S.C.) Standard,
Aug. 19, 1974]

Funeral Is Held for A. H. Ward

Audley H. Ward, 83, of South Boundary Ave., S.E., died Saturday at an Augusta veterans hospital after an extended illness.

Funeral services were held Sunday at St. John United Methodist Church, with the Rev. Robert E. James and Dr. Feltham S. James officiating. Burial was in Bethany Cemetery.

A native of Florence County, Mr. Ward was a son of the late Joseph E. and Vermell G. Brockington Ward. He graduated from Clemson University in 1914 and received his Masters degree from the University of Wisconsin. He taught two years at Clemson and was one of the pioneer high school agriculture teachers at Orangeburg. He served overseas during WWI and upon his return was appointed County Agent for Darlington County. He was named District Agent for the Clemson Extension Service in 1924 with headquarters in Aiken and retired from that position in 1957.

He was a member of St. John United Methodist Church and had served as a steward and trustee. He taught the James Cannon Bible Class for 43 years.

Mr. Ward was a past president of the Aiken Rotary Club and past District Governor of Rotary International; past president of the Aiken Business Mens Club; twice commander of Aiken Post No. 26, American Legion; served as District Commander for two terms; and in 1946 was elected Commander of the S.C. Department, American Legion. He was elected one of the National Vice Commanders of the American Legion in 1951. He was also a member of the Aiken Shrine Club and was a 50 year member of Aiken Lodge No. 156, A.F.M.

He served as state and county director of the Tuberculosis Association, twice as Campaign director for the S.C. Cancer Society and three terms as president of the S.C. Cancer Society.

Following his retirement in 1957, Mr. Ward served several years as executive director of the Aiken Chamber of Commerce and in 1959 was named Aiken Man of the Year by the Chamber.

Surviving are: his widow, Mrs. Ruth Walker Ward; two step children, Mrs. Arliss Roberson Green, Columbia, David A. Roberson, Tullehoma, Tenn.; and a number of nieces and nephews.

[From the Aiken (S.C.) Standard,
Aug. 20, 1974]

Audley H. Ward

Audley Ward was two years old when Clemson University (college it was then) was founded in 1893 with the principal objective of promoting the betterment of agriculture in South Carolina. For most of his 83 years, Mr. Ward devoted his tremendous talents and abilities to the same cause.

He was born in a farming community of lower Florence County and after graduating from Clemson in 1914 earned a master's degree from the University of Wisconsin. He came back to South Carolina—Orangeburg—to become one of the first agriculture teachers in the state.

After overseas service in World War I, Mr. Ward went to Darlington as county agent and in 1924 was named district agent for the Clemson Extension Service with headquarters in Aiken.

In the 50 years since he arrived in Aiken, few men have contributed more to community life than Audley Ward. His career with the Extension Service, in which he supervised the work of farm agents in a number of counties, witnessed a real transformation in the status of farming and of farmers and Mr. Ward played a significant role in this movement.

His list of civic honors is lengthy. He taught the James Cannon Bible Class at St. John's United Methodist Church for 43 years, also serving terms as a steward and trustee of the church.

His leadership abilities were quickly recognized in all of his endeavors. After serving as president of the Aiken Rotary Club he moved upward to become district governor of Rotary International. He was twice commander of American Legion Post 26 and was also South Carolina's Legion commander, as well as a national vice commander.

He served at one time as president of the Aiken Business Men's Club and was a Mason and a Shriner.

In the field of health, he served three terms as president of the South Carolina Cancer Society and was twice campaign director for the state society. He was also a state and county director of the Tuberculosis Association.

After retiring from the Extension Service in 1957, Mr. Ward served for several years as executive director of the Aiken Chamber of Commerce. He was honored as Aiken's Man of the Year in 1959.

Mr. Ward was a man of exceptional qualities, but it was as an orator, humorist and after-dinner speaker that he is best remembered by his fellow citizens. Although in demand as a speaker in many parts of the nation, he was always available for worthy causes at home, and he was master of ceremonies for most of the important gatherings in the city until his health failed.

With his gifts as a speaker, Mr. Ward could hold his audiences spellbound or subject them to gales of laughter. His central theme through more than 50 years of public life was one of hope for South Carolina's farmers.

His death on Saturday is an occasion for sadness in our community and state, and we extend our sympathies to his family.

[From the Augusta (S.C.) Chronicle, Aug. 20, 1974]

AUDLEY H. WARD

Aiken and the state of South Carolina, both of which he loved so well and ably served, are ever so much diminished today for their loss to death over the weekend of Audley H. Ward.

Long known throughout the South as an able and effective speaker, the Florence County, S.C. native was one of the region's most knowledgeable agricultural experts. He served, from 1924 to 1957, as the district agent for the Clemson Extension service.

Always active in public affairs, Audley Ward was past president of the Aiken Rotary Club, past district governor of Rotary International, past president of the Aiken Businessmen's Club, as well as a member of several other civic groups. A long-time member of the American Legion, he was elected one of its national vice-commanders in 1951.

Even after retirement, Mr. Ward served for several years as the executive director of the Aiken Chamber of Commerce, and he was active in both the South Carolina Cancer Society and the Tuberculosis Association. For outstanding service to his community, he was the recipient of the Aiken Chamber of Commerce's Man of the Year Award in 1959.

Audley Ward was a man who lent his ability and the weight of his sound judgment to any enterprise to which duty called him. He will be missed, not only by his family, but by thousands of friends and associates who had long appreciated his contributions to the advancement of his city, state and Nation.

THE PRESIDENTIAL PARDON

Mr. MONDALE. Mr. President, President Ford's action on Sunday—pardoning former President Nixon—may have been an act of mercy toward Mr. Nixon. But I would like to suggest that it was an unfair, unfortunate, and unethical act toward the American people and toward our system of justice.

Over the past 2½ years, the American people have heard one allegation after another about the activities within the executive branch which have come to be known as the Watergate coverup.

They have heard admission after admission—from the lowliest "dirty trickster" to the President himself—of questionable, if not illegal, activity by high Government officials.

They have seen conviction after conviction of public servants. And they have listened as the integrity and independence of our law enforcement and regulatory agencies have been called into question.

These charges have struck at the very heart of our Government. They question our basic assumptions and tenets.

To believe that now—after all of this—the American people will settle for anything less than the full truth—complete disclosure of the entirety of Watergate—is a naive and ridiculous underestimation of the intelligence and integrity of the American people.

There is a passage in Richard Nixon's Watergate transcripts which I believe merits rereading. It comes from a conversation on March 13, 1973, between the President and John Dean. The President is discussing Watergate. He says:

> How much of a crisis will it be? . . . The point is, everything is a crisis. . . . It will remain a crisis among the upper intellectual types, the soft heads, our own Republicans too, and the Democrats, and the rest. Average people won't think it is much of a crisis unless it affects them.

Here we have one of the more obvious indications of Richard Nixon's underestimation of the intelligence of the American people.

In the telegrams, letters, telephone calls, and personal visits I got after the Saturday Night Massacre, after the Agnew plea, and after the tapes disclosures were any indication, the American people are a lot smarter than Richard Nixon ever thought.

On Sunday, we saw Gerald Ford make the very same mistake—perceiving what the American people want and what they deserve.

They will not tolerate the ultimate Watergate coverup. But that is exactly what Mr. Ford's pardon was. It will keep the truth about Watergate from the American people, possibly forever.

For months now the American people have demanded the truth and we have been seeking the truth. That is what the Senate Watergate Committee was all about; that is what the impeachment inquiry was all about; and that is what the grand juries are all about.

Now that the normal judicial processes have been short-circuited by Mr. Ford's action, our chance to get the truth have been largely eliminated.

Let me explain what I mean. We cannot now expect to get the truth about Watergate directly from the former President. We cannot expect a plea accompanied by a disclosure or confession; we cannot expect a trial of the former President for any illegal acts which may have been committed. We can hope only that, at best, some sketchy details may be disclosure at trials of former Nixon associates.

In fact, if Mr. Nixon's statement of Sunday is any indication, all we may ever learn, according to his $2 million biography some years hence, is that he is totally innocent.

In the meantime, the tapes and documents which contain the only real source of the truth remain in the possession of Mr. Nixon, protected by a contract, also announced Sunday, signed by a Government agency.

Not only is there no right of public access to the truth, there is, in fact, a realistic possibility that the truth will be destroyed, probably after the publication of Mr. Nixon's "truth telling" biography.

We will not know the truth in order to better legislate remedies to prevent future Watergates.

We will not know the truth in order to set the historical record straight on the worst political scandal in American history.

We will not even know what Mr. Ford has pardoned—be it misuse of the CIA and FBI, harassing tax audits, the sale of ambassadorships, the compromise of the antitrust laws, or whatever.

Contrary to what Mr. Ford must have thought, I do not believe the American people will stand for it. I believe the American people want the full truth. I believe the only real "national interest" is in full disclosure.

Accordingly, I have written to Senator SAM ERVIN, in his capacity as chairman of the Senate Government Operations Committee, asking that he immediately issue a subpena for all relevant Nixon tapes and documents to insure that they are preserved and to guarantee access to them by the Congress.

In the meantime, I suggested that the Government Operations Committee—which has oversight jurisdiction over the GSA—explore means to insure that the full Watergate truth be uncovered and provided to the American people.

When he was asked—during his confirmation hearings—about the prospects for a pardon of his predecessor, Mr. Ford said:

> I do not think the public would stand for it.

Mr. Ford was very right then and is very wrong now.

Not only, however, is Mr. Ford's act the ultimate coverup. It is also the ultimate injustice.

As I drive to the Capitol Building each morning, I see four words written over the portals of the Supreme Court Building across from the Capitol. Those words are "Equal Justice Under Law."

Among our most basic principles, equality before the law must rank at the very top. It is part of the due process clause of the fifth amendment binding the Federal Government. And, so there would be no mistake, was made part of the 14th amendment binding the States.

We are a nation of equality and legality.

Yet, what have the American people seen in this context over the past several months.

First, a former Attorney General enters a guilty plea to a minor offense and escapes jail entirely, after admitting lying at his own confirmation hearing about a significant matter of law enforcement.

Then, a Vice President of the United States enters a nolo contendere plea to a minor charge and escapes jail, while each of us reads 40 pages of accusations as to his illegal and immoral conduct while occupying the second highest office in the executive branch.

Now, a President of the United States resigns under pressure from his critics and his defenders after admitting lying to the American people and, possibly, being part of massive illegal activity. Yet, he too escapes significant punishment.

How do we explain to John Dean and all the others who have or will serve sentences for Watergate-related activity that Richard Nixon has a seaside view in San Clemente?

How do we explain to those who have public assistance denied to them for minor infractions that Richard Nixon is getting a $60,000 per year pension, an allowance for travel, $90,000 per year for staff salaries, and an allowance for offices?

How do we explain to the victims of burglaries, robberies, and other crimes that Richard Nixon is protected by the Secret Service?

How do we explain to the woman in Kentucky who received a lengthy jail term for stealing a pork chop to feed her family that Richard Nixon will never serve a day in jail?

How do we explain to the Vietnam deserter that Richard Nixon had unconditional amnesty—without any alternative service?

Most importantly of all, how do we explain to our children what equal justice means?

I surely do not mean to suggest that what these people did was right or that they should escape punishment. I do mean to suggest that everyone has the right to expect equal justice under our system of laws.

Theodore Roosevelt put it well when he said:

> No man is above the law; every man is below it; and we need ask no man's permission when we require him to obey it.

Our system of justice must, of course, be tempered with mercy. No one takes joy from another's suffering; no one takes pleasure in a family being tortured.

But, as Jerald terHorst said Sunday as he resigned:

> Mercy, like justice, should be even-handed.

I reject the notion that Mr. Nixon has suffered, in his worldview, any more than John Dean has suffered in his or than the woman in Kentucky has suffered in hers. They were destroyed—in their jobs, among their friends, and in their mental suffering—every bit as much as Mr. Nixon, if not more.

We must remember, I believe, that Mr. Nixon did not resign his Presidency; he resigned our Presidency. To the extent that he has suffered; we, too, have suffered.

Finally, I reject the notice that it would have been impossible for Richard Nixon to get a fair trial. That suggestion is an affront to the American jury system, to the American system of justice, and to the American people.

If we cannot expect equal justice in this case through the judicial system because of Mr. Ford's unfortunate act, I believe we must seriously consider whether the true national interest might not be best served by a continuation of the impeachment process.

I believe we should consider whether a House vote on impeachment followed by a Senate trial might not provide another much-needed means for fully ventilating the Watergate facts and Richard Nixon's role. At the very least, we can then prevent Richard Nixon from again holding office in this Nation.

One final measure must be given serious consideration in the wake of President Ford's action.

Although the pardon power has its rightful place in our constitutional system, it is one of the few powers that is unchecked. It is not subject to the normal process of checks and balances, found repeatedly throughout our Constitution.

In order to prevent abuse of that power—or use of that power in a questionable manner—I would propose a check on the pardon power. Specifically, I believe that we should consider a constitutional amendment which would allow an exercise of the Presidential pardon power to be overriden by a two-thirds vote of both Houses of Congress.

Sunday's events represent a sad chapter in American history. We saw the ultimate coverup and the ultimate injustice.

As we all consider now where we go from here; how we are to put Watergate behind us in an honorable way; and how we are to prevent the results that may well follow from Sunday's events from ever happening again, I believe we will do well to remember the words of former Watergate Prosecutor Archibald Cox. Although spoken in another context, they seem particularly relevant today:

> Regardless of the outcome, the value of the proceeding will depend on whether the process is so conducted that the country perceives it as a fair and legitimate measure for restoring the integrity to government.

Mr. President, the events of Sunday have provoked much critical commentary. I wish to share with my colleagues two of the most thoughtful. They are the editorials from the New York Times and the Minneapolis Tribune, and I believe that they well-express the outrage which many of us feel.

I ask unanimous consent that the editorial from the New York Times of September 9, 1974, entitled "The Failure of Mr. Ford" and the editorial of the same date from the Minneapolis Tribune entitled "The Nixon Pardon" be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 9, 1974]

THE FAILURE OF MR. FORD

In giving former President Nixon an inappropriate and premature grant of clemency, President Ford has affronted the Constitution and the American system of justice. It is profoundly unwise, divisive and unjust act.

Like many lesser public figures who have commented at various stages of the long Watergate controversy, President Ford has sadly confused his responsibilities to the Republic and his understandable sentiments toward one who has inflicted grave damage upon the body politic. Both are valid and compelling but they should be clearly distinguished.

The four reasons that President Ford cites for his decision lay bare this confusion. In summary, he asserts that Mr. Nixon has already suffered enough, an adjudication of his offense would be divisive; a fair trial would be difficult to achieve; and ultimately, in any event, he—Mr. Ford—would have to decide the matter in the light of his own conscience and sense of compassion.

The adjudication of Mr. Nixon's offenses and the character of the criminal trial in which those offenses would be weighed and argued are one set of concerns. Mr. Nixon's suffering and his claims on President Ford's conscience as a political sponsor, friend and fellow human being are another set of concerns.

President Ford's overriding duty was to his public responsibilities. It is essential that the crimes committed by several of Mr. Nixon's closest associates and apparently by Mr. Nixon himself be determined in a court of law by the same rules of evidence and the same procedures of due process that apply in the American system of justice to every citizen.

Nothing less would satisfy the natural sense of justice of the American people and of a Government founded upon principles of equality and legality. Given the historic significance of Mr. Nixon's offenses that led to his becoming the first President ever to resign, it was essential that the historical record be unmistakably clear.

After the exact nature of the wounds that Mr. Nixon and his associates had inflicted upon the body politic had been determined and after the exoneration or conviction of those accused, only then could those wounds begin to heal.

Once the processes of justice had run their course, it would be possible and timely for the President and the nation to take into account the personal merits of the offenders and try to mitigate the penalties of law by recourse to the enduring human values of mercy and charity. If clemency had followed conviction rather than preceded it, there would have been wide acceptance of President Ford's exercise of his power to pardon.

As it is, by recklessly pushing aside special prosecutor Leon Jaworkski and the grand jury and the trial jury as well, President Ford has fallen short in his duty to the Republic, made a mockery of the imperative claim of equal justice before the law, promoted renewed public discord, made possible the clouding of the historical record, and undermined the humane values he sought to invoke.

His duty was to see that the law was enforced and wrongdoers punished. His duty was to see to it that those who have already served in prison for their crimes such as E. Howard Hunt, Donald Segretti and Egil Krogh; those now serving their sentences such as Charles Colson and John W. Dean 3d; and those who stand accused of grave crimes such as H. R. Haldeman, John N. Mitchell and Mr. Nixon himself would all be treated the same.

Instead, he has laid American jurisprudence open to the severe and lingering accusation that there is one kind of justice for the agents and underlings and another for the ex-President in whose name and for whose supposed benefit the misdeeds were committed.

President Ford speaks of compassion. It is tragic that he had no compassion and concern for the Constitution and the Government of law that he has sworn to uphold and defend. He could probably have taken no single act of a non-criminal nature that would have more gravely damaged the credibility of this Government in the eyes of the world and of its own people than this unconscionable act of pardon.

Rather than calm public passions and restore a fundamental sense of national unity, Mr. Ford has ignited fresh controversy. How bitter that controversy is sure to become was shown by the immediate resignation in protest of the President's own press secretary, J. F. terHorst, acting as "a matter of conscience." It might have stirred less public outrage if the President, in what amounted to secret and discreditable plea bargaining with his predecessor, had insisted on a frank and forthright confession of guilt. Instead he settled for an unctuous, guileful statement from Mr. Nixon in which the former President admits nothing specific and skillfully blurs the issues. The Justice Department's deal with former Vice President Agnew last year was seriously questionable; yesterday's arrangement sinks below even that poor precedent.

Moreover, the arrangement avoids nothing in the way of publicity and public controversy. Presumably, the cover-up trial involving six of Mr. Nixon's former aides is still to be held and he is sure to be called as a witness. He will have to testify at length under oath to all the demeaning details of the cover-up.

Because his pardon has immunized him, he cannot avoid testifying by claiming the Fifth Amendment privilege against self-incrimination inasmuch as he cannot now be prosecuted. If he testifies falsely, he is still open to prosecution for perjury. In short, nothing has changed except that the defendants and the jurors are to be confronted with the savage irony that the man who ordered the cover-up, benefited from it and repeatedly lied to the American people and to his own Congressional defenders about it is now to be a principal witness in the trial of those who did his bidding. They face the possibility of terms in prison while he can look forward to well-paid retirement in his luxurious seaside villa.

Senator Mike Mansfield, the majority leader, and others who urged at the time of Mr. Nixon's resignation that the Congress go forward with the constitutional process of impeachment by the House and trial by the Senate have now been vindicated. Because of the House's refusal to follow through with impeachment and Mr. Ford's preemption of the courts by granting this pardon, neither the political nor the judicial institution of this country have had an opportunity to weigh all the evidence concerning Mr. Nixon's offenses and reach a clear, final judgment.

In a time when the nation has been repeatedly dismayed by so many acts or corruption, intrigue and deceit, President Ford has signally failed to provide courageous and impartial moral leadership. When asked less than a year ago whether he would do precisely what he has now done, Mr. Ford indicated to Congress that he would not, adding, "I do not think the public would stand for it."

At his first news conference on Aug. 28, President Ford again pledged himself to respect the special prosecutor's obligation to take necessary action against "any and all individuals." Although not ruling out the ultimate exercise of clemency, the President observed: "There have been no changes made. There has been no action by the courts, there has been no action by any jury, and until any legal process has been undertaken I think it's unwise and untimely for me to make any commitments."

Instead of adhering to those wise public pronouncements, Mr. Ford has now moved secretly and suddenly to block the normal workings of justice. It is an act of flagrant favoritism. It can only outrage and dishearten millions of his fellow citizens who thought that at last the laws of this nation would be enforced without fear or favor. This blundering intervention is a body blow to the President's own credibility and to the public's reviving confidence in the integrity of its Government.

[From the Minneapolis Tribune, Sept. 9, 1974]

THE NIXON PARDON

On August 28, responding to a question about a possible pardon for Richard Nixon, President Ford said: "Until any legal process has been undertaken, I think it is unwise and untimely for me to make any commitment." He went on to say that he would not make such a commitment "until the matter reaches me."

But yesterday, before any formal legal action had been started, let alone put before him, Mr. Ford issued a full and unconditional pardon to his predecessor.

We think Mr. Ford was right on August 28—and, on the basis of the words he used in announcing his pardon, wrong yesterday.

The issue is not whether a pardon should have been granted to Nixon at an appropriate stage of a criminal proceeding. That decision would quite properly have rested solely with the president; his authority to issue pardons is explicitly rooted in the Constitution, is clear, and is sweeping.

But, as Mr. Ford himself repeatedly stressed during his August 28 news conference, the question of a pardon should not have been decided until after at least the beginning of a legal process against Nixon. In the absence of some more complete explanation, many Americans must conclude that Mr. Ford has espoused a double standard of justice—one for ex-presidents and another for the rest of us. The most obvious example, of course, is that of the many Nixon aides who have been indicted, convicted or sentenced to prison for criminal acts done under the direction of the man who was pardoned yesterday.

Nixon yesterday issued a statement similar to many that he has made before. He admitted no guilt for his role in the Watergate cover-up, conceding only that he was "wrong in not acting more decisively and more forthrightly in dealing with Watergate." The presidential pardon gives Nixon a license to go on making misleading statements like that one—though not many Americans, we suspect, any longer believe them.

President Ford's demeanor as he announced his decision yesterday supported his statement that he had followed the dictates of his conscience. His off-the-cuff comment that Nixon's health was "threatened" by continuing uncertainty over his fate may be the best clue to the president's decision to act now rather than waiting, as he had previously said he would do, until formal legal proceedings had at least begun.

There may have been compelling reasons for Mr. Ford to short-circuit the judicial process. But if there were, he did not make them sufficiently clear yesterday. If he believes, as he said, that pardoning Richard Nixon was essential to healing the nation's political wounds, he owes the country some further explanation. Without it, his action may have precisely the opposite effect.

OKLAHOMA CITY POLICE OFFICERS

Mr. BARTLETT. Mr. President, occasionally we see news accounts of some unpleasant incident involving a law enforcement officer who has acted improperly in the performance of his job. I believe such incidents are rare and certainly not indicative of the type of men and women who serve the people so well.

Recently an article appeared in the Daily Oklahoman which described several acts of simple human kindness performed by Oklahoma City police officers in the performance of their duties. Such acts, which usually involve spending money out of their own pockets are, I believe, much more representative of the character of law enforcement officers and should not go unnoticed.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POLICE LIKE TO HELP BUT WALLETS SOMETIMES TOO THIN

(By Steve Trolinger)

Imagine the big, tough policeman tenderly—and clumsily—cleaning up an abandoned baby and pinning on a fresh diaper or shelling out money from his own wallet at 3 a.m. so an indigent mother and child can have lodging and food.

Such events happen almost daily at the Oklahoma City Police Department.

The only hangup in the nice tale is that it is costing officers hundreds of dollars of their own money each year, not to mention taking many off-duty hours trying to care for those that have no place to go.

To help ease the situation Sgt. Richard Mullins, who is president of the Central Oklahoma Peace Officers for Better Juvenile Justice, is hoping to establish a cash fund that will be available when these emergencies arise.

"The problem is really at its worst in the winter when we get calls late at night from women who have children in a house with no gas or electricity or food because the husband has just up and left," Mullins said.

"When the husband leaves, the wife is often too proud to call for help, so a neighbor calls us and the officers end up paying for them a place to stay and food for the night," he said.

Mullins said part of that problem has been alleviated with the cooperation of Oklahoma Gas and Electric Co. and Oklahoma Natural Gas Co., both of which have offered to go to a home any time day or night and turn on the gas and electricity at an officer's request.

The sergeant said officers still need money to put up deposits with the gas and electric companies the day following the request if it is to be left on until the persons can find another means of paying the bills.

Mullins said he also would like to see enough money in a fund to guarantee payment to one grocery store on the north side of Oklahoma City and one in the south where officers can get food for the needy during the night.

"There is no problem in the daytime getting some emergency cash and food for these people through the welfare department or a religious organization, but no one in town is available for all situations, 24 hours a day," he said.

The most recent example occurred about 9:30 p.m. Friday when Mullins said the department received a call from a woman with an 18-month-old baby and no place to go.

The officer said the woman had been living with another woman in Oklahoma City doing housework for room and board while drawing a small welfare check.

He said the woman had left town on business and when she returned the landlady would not let her back into the house and was holding the welfare check in lieu of payment of a telephone bill.

"So she came to the police department asking for help and we contacted the Salvation Army. But they told us because she listed a local address and was drawing a welfare check they could not help," Mullins said.

Mullins said a community service officer later took the mother and child back to where they had been staying and the woman again refused to take them in.

The detective said the CSO officer called him at home about 2:30 a.m., Saturday and asked what to do.

"We had no choice but to come up with the money and put her and the child up in a motel for the night and buy them some food," he said.

Mullins was reluctent to admit the $20 for the food and lodging came from his own pocket.

The detective said his organization has asked the Oklahoma County Bar Association to help establish the fund and he is waiting their action on the matter.

Mullins said he believes a minimum of $100 would be needed in the fund at all times to handle the situations as they arise.

He said the "middle of the night" cases are only part of the picture. Officers constantly have to purchase diapers while others shell out for everything for toys to food and soda pop for lost or abandoned children.

"Officers have a heart and will go buy those things every time there are children in here that need help," Mullins said.

THE WAR IN SOUTH VIETNAM AND U.S. AID POLICY

Mr. TUNNEY. Mr. President, the Congress this year exercised its policy responsibility with respect to American involvement in South Vietnam in a very forthright manner. It did so through its traditional role as keeper of the Federal purse strings.

Since American troops were removed from South Vietnam a year and a half ago, the administration and the Pentagon have insisted that massive levels of military aid to the Thieu regime were necessary to prevent collapse of the Government there. Many of us in the Congress and in the public felt that too-high levels of military aid were counterproductive and only encouraged aggressive military activity by the South Vietnamese forces. The cease-fire agreement never came close to being observed after its signing in Paris, and the constant jockeying of the two sides for control of remote outposts, and land areas, was a main factor in this continued warfare.

Despite the failure of the cease-fire; despite apparent American disregard for certain aspects of the cease-fire agreement in its resupply of South Vietnam; despite the urgent need to lower the Federal budget—the Pentagon asked for a major increase in military aid to South Vietnam for fiscal year 1975: $1.45 billion, up from a spending level in South Vietnam for fiscal year 1974 of around $750 to $800 million. Congress was told that without this level of funding dire reverses would occur, our policy in Vietnam could be undermined, the country could fall to the Communists.

Congress thought differently, however. We were convinced that much of the military aid was squandered or misused, some of it represented purchase of little-needed sophisticated weapons, and the overall rate of usage of military supplies should be lowered, so as to lower the level of violence. Therefore, Congress appropriated only $700 million, less than half the request, and a figure which I personally felt could have been lowered further.

I was very gratified, therefore, to read an article in the New York Times of September 3, 1974, describing the reaction and adjustment which the South Vietnamese forces were preparing to make in response to the American aid level. This article shows that changes in strategy are perfectly feasible to lessen the usage of military supplies, without sacrificing the military control of the major cities under Government control. The result, it appears, will be less fighting in remote outposts, and perhaps a clearer realization on both sides of the essentially stalemated position. This should encourage negotiations, and observance of the cease-fire agreement. Contrary to the Pentagon's predictions, there is apparently no sign that South Vietnam will crumble because the spigot of American arms aid has been tightened up.

Mr. President, I ask unanimous consent to have the Times article published in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 3, 1974]

CUT IN U.S. AID FORCES SAIGON TO SHIFT ITS STRATEGY AND YIELD SOME OUTPOSTS

(By David K. Shipler)

SAIGON, SOUTH VIETNAM, September 2.—Cuts in American military aid have begun to force shifts in strategy by the South Vietnamese Army.

In an effort to save fuel and ammunition, Government forces have abandoned some isolated outposts, have virtually ended the "harassment and interdiction" artillery and that once peppered Communist territory and have replaced some large-unit operations with small, long-range infantry patrols that penetrate and attack deep inside North Vietnamese and Vietcong strongholds.

Army officers, foreign military men and Government civilians who describe these changes differ on their military significance.

Some think the withdrawals from outposts will effectively cede contested land to the Communists, thereby sharpening territorial divisions between the two sides and perhaps facilitating any future effort to draw a map delineating areas of control. Such delineation was prescribed by the Paris truce agreement of Jan. 27, 1973, but has been resisted by both sides.

Other military men argue, however, that many of the outposts are important. They also believe that the spotty configuration of control will persist, especially in the Mekong Delta.

WASTE OF AMMUNITION SEEN

As for harassment and interdiction fire—in which an enemy's territory and supply routes are shelled almost at random—military men have long debated the value of the practice in Vietnam.

Some regard it as a waste of ammunition that causes suffering mostly among the civilian population of Communist-held areas. Others contend that the unpredictable shelling keeps opposing troops tense, denies them rest and damages their morale.

There is widespread agreement that the third element of the strategic chance—the increased use of long-range patrols—will work to the benefit of the South Vietnamese Army, which is normally restricted to a defensive posture around population centers and along major highways. The patrols involve 6 to 30 men who are sent for several days at a time to attack specific targets in Communist territory. They have been used mostly in the northern half of South Vietnam.

The abandonment of outposts has been the most dramatic and controversial change in strategy. It first emerged six to nine months ago as nothing more than an occasional exception to President Nguyen Van Thieu's directive that not one inch should be given to the Communists.

But the exceptions have become the rule in recent weeks as the Communists have stepped up their attacks and as Congress has voted cuts in American military aid to South Vietnam, trimming a $1.45-billion Administration request to $700-million for this fiscal year.

"We are not going to have much money," said one well-placed army officer, "so these outposts serve very little purpose since we cannot afford to do anything with them."

"Unless a position has some political value, like a big city," he continued, "no position—especially in a sparsely populated area—is considered important enough for us to stick and fight and die."

According to informed sources, about 500 of the 3,000 outposts in the Mekong Delta will be "consolidated" in an effort to conserve ammunition. Some are well within secure Government areas, but others, surrounded by Communist forces, have caused large drains on fuel supplies resupplied by air.

Elsewhere, abandonment has been related to Communist attacks. Without abundant artillery shells and bombs with which to support the small forces of local militiamen who often man the outposts, commanders have taken to making fast retreats in the early stages of an assault before casualties become high.

HEAVY COMMUNIST PRESSURE

Uncounted outposts have been given up along the central coast in Quang Ngai and Quang Nam Provinces under heavy pressure by North Vietnamese troops. Some of the Government positions reportedly had been established after the cease-fire as a way of asserting Government control over fertile riceland. "The Communists are just taking back what they consider to be theirs," a Western diplomat remarked.

In Tay Ninh Province 50 miles southwest of Saigon, the North Vietnamese overran two Government outposts on Aug. 20 in what one Western military officer called an attempt to open a logistical corridor along the western bank of the Vam Co River.

This would provide the Communists with an infiltration route from Cambodia into the western provinces of the Mekong Delta, where a Government offensive routed the North Vietnamese from an important base area called Tri Phap.

Some analysts believe the main military impact of the emerging Government attitude toward outposts will be logistical. "If you have an outpost on a canal, for example," one remarked, "it makes it more difficult for the enemy to get past by night, and it provides early warning of troop movements."

But a South Vietnamese officer disagreed. "When the North Vietnamese Army moves, it moves in big units," he said "so, the existence of a small outpost of maybe 10 people doesn't make any difference. And two or three Vietcong can go anywhere—they know their way around."

The usefulness of small outposts—which often serve as bases for patrols into the neighboring countryside—has declined also as a result of a transformation of the North Vietnamese logistics system into a modern network of roads, oil pipelines and supply routes. This has happened in the absence of

American bombing in the 19 months since the Paris cease-fire agreement.

Maj. Gen. John E. Murray, who recently left the post of United States defense attaché in Saigon, observed in an interview last month that while North Vietnamese Army units coming south used to spend a month or more "squirreling around" uncovering caches of supplies and getting their logistics in order, they could now go into battle immediately upon arrival because the supply system was already functioning for them.

"There's a logistics genius back there," General Murray declared.

FIREPOWER INCREASED

One result has been an increase in the volume of ammunition and firepower used by the North Vietnamese in the fighting of the last few months. One foreign military officer said that many outposts had been given up after heavy Communist artillery barrages with no ground attack.

He noted that while the Government once used about 10 times the amount of ammunition that the Communists used in battle, the ratio had recently shrunk to two to one. "And the Communists get cost effectiveness out of every round," he explained. "They're sitting up in the hills looking down on a town, while the Government shoots up in the bloody hills and hopes it hits something."

Few believe that the strategy changes will suddenly break the military stalemate between the two sides. However, as a South Vietnamese army officer put it, "We know we don't have enough troops to occupy the whole country. But we also know they don't have enough troops to occupy the whole country."

OUR POLLUTED AIR •

Mr. MATHIAS. Mr. President, for some time now the Environmental Protection Agency, the National Science Foundation, and the Congress have been evaluating the effectiveness of the Clean Air Act of 1970. As part of this evaluation process, the Environmental Protection Agency commissioned a study to determine the carbon monoxide level found in human blood.

I believe the results of tests taken in a number of different sites throughout the United States of people exposed to carbon monoxide from various sources, but who do not smoke cigarettes is profoundly disturbing. I ask that the article appearing in the Washington Post of August 27, by Victor Cohn, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 27, 1974]

STUDY SHOWS MONOXIDE SATURATES BLOOD IN UNITED STATES

(By Victor Cohn)

Carbon monoxide has so saturated Americans' blood that nearly half of nonsmokers have more of it in their systems than federal safety standards would permit.

Smokers have two to four times more—so much that in some cases they should not be allowed to give their polluted blood to heart patients.

These are among findings disclosed yesterday from a federally sponsored survey of 29,000 persons in 18 areas, including the nation's largest cities. Called "astounding" by the survey's scientific director the results give the Environmental Protection Agency one of the most serious pictures of the nation's air pollution it has yet received.

The carbon monoxide level in 45 per cent of nonsmokers, the study showed, was 1.5 per cent or more—a level so high that it could threaten the lives of a vulnerable 1 to 3 per cent of the population.

Carbon monoxide binds with red blood cells to displace oxygen. At high levels, this is fatal. At low ones, like those now in the average person's bloodstream, it causes no known results.

But in persons with advanced heart or blood vessel diseases or in the elderly or in some infants it may cause "untoward effects they cannot tolerate," said Dr. Richard D. Stewart, main author of the report in the Journal of the American Medical Association.

A professor of environmental medicine at the Medical College of Wisconsin, he called the study's results astounding in showing that a great percentage of the U.S. population is chronically exposed to excessive carbon monoxide.

"These carbon monoxide levels are higher than we would have expected from our previous studies, which merely measured carbon monoxide in the air at specific sites," agreed Dr. John Finklea, director of EPA health effects studies.

Made from 1969 to 1972, the study found the highest carbon monoxide levels in Denver and Los Angeles. In both cities, 76 per cent of nonsmokers showed levels above 1.5 per cent, with average of 2 per cent in Denver and 1.8 per cent in Los Angeles.

Other high cities were Chicago (with 74 per cent of nonsmokers above 1.5 per cent and a 1.7 per cent average), New Orleans (59 per cent above 1.5 per cent; 1.6 per cent average), Detroit (42 per cent above 1.5 per cent; 1.6 per cent average), San Francisco (61 per cent above 1.5 per cent; 1.5 per cent average) and Seattle (55 per cent above 1.5 per cent; 1.5 per cent average).

Washington and its Maryland suburbs average lower than most large cities, with 35 per cent of the population above 1.5 per cent, and a 1.2 per cent average. New York's figures were the same. Washington's Northern Virginia suburbs were not included in the study.

Results could be worse in specific parts of the cities studied and for specific groups, Dr. Stewart and colleagues pointed out. Study of 20 blood donors at the Sears and Roebuck northeast Washington warehouse, for example, showed an average concentration of 2.1 per cent in nonsmokers.

All "vehicle-related" workers had high levels. The highest of all was found in taxi dirvers, who take in carbon monoxide with almost every working breath.

Eight nonsmoking New York City cab drivers returning from work had carbon monoxide saturations of 1.3 to 5.8 per cent. Twelve cigarette-smoking cab drivers displayed an average of 6 per cent, with the highest at 13 per cent.

Other high groups were found among workers where carbon monoxide is part of industrial pollution—metal, chemical, stone and glass processors, printers and other graphic arts workers, welders and electrical assemblers and repairmen.

Others often exposed, Dr. Finklea said, are those who live where there are faulty furnaces—common in inner city areas—and those where there is a lot of cigarette smoking indoors. "However, autos are the largest contributor," he added. Here, too, crowded inner cities are particularly affected.

The Medical College of Wisconsin study was made for EPA and jointly financed by the Coordinating Research Council which includes EPA and the auto and oil industries.

The 1971 air quality act ordered a restraint on carbon monoxide. The limit set is 1.5 per cent saturation of non-smokers' blood by carboxyhemoglobin the chemical produced when the poisonous gas enters blood cells.

EPA orginally said 38 cities had to begin various transportation controls to meet all air quality standards by 1975. But it has changed the date for 24 cities (including Washington and New York) to 1977 because of technical and political snags.

"Our study," said Stewart, "shows that if we temporize we are going to affect some persons' health."

AMERICAN NATIONAL THEATER AND ACADEMY TO HONOR ROSALIND RUSSELL

Mr. TUNNEY. Mr. President, I am pleased to announce that Rosalind Russell will be honored by the American National Theater and Academy on October 6, 1974, at the Janss Estate in Holmby Hills, Calif. The climax of the evening will be the presentation of the coveted ANTA National Artist's Award to Miss Russell.

I would like to share with my colleagues some of the outstanding highlights and activities of Miss Russell's career. Roz, as she is affectionately called, came to Hollywood from Broadway. She became a star almost immediately and has remained at the top of her profession. Her triumphs and achievements are many and varied.

She has won four Academy Award nominations as the Best Actress of the Year. The pictures were: "My Sister Eileen," a comedy; "Sister Kenny," a biographical drama; "Mourning Becomes Electra," Eugene O'Neill's tragedy, and "Auntie Mame." She has also been awarded the Foreign Correspondents' Golden Award five times as best actress.

Her variety of roles constantly proves her amazing versatility. Miss Russell created "Auntie Mame" on stage and screen; in "Majority of One" she portrayed the lovable Bertha Jacoby; in "Picnic" she played a frustrated schoolmarm; and the relentless Rose in the film version of the musical "Gypsy."

She captured every award ever devised for the theater, including the 10th Anniversary Donaldson Award for best performance by an actress and outstanding achievement in theater, 1952–53; the Antoinette Perry Award for best actress, 1952; the Barter Theater Award for best actress, 1953, and Comoedia Award for Best Actress, 1957. She also garnered "The best feminine performance in a musical" by the Variety drama critics poll.

A trendsetter in the world of fashion, she has won many awards in this field, including the Hall of Fame of the New York Dress Institute's Ten Best Dressed Women in the World.

Beyond all this talent and creativity, Roz has a great compassion and understanding of people, including the Women's Guild of Cedars-Sinai Hospital, the Center Theatre Group, the Performing Arts Council of the Los Angeles Music Center, the Sister Kenny Foundation, St. John's Hospital, and the National Arthritis and Rheumatism Foundation.

Roz was awarded the City of Hope Award for outstanding humanitarian and the Los Angeles Times Woman of the Year Award, for outstanding achievement.

She is also a member of the Los Angeles League for Crippled Children Disabled

Vets Service Foundation, a member of the United Hospital Fund of New York City, and the American Cancer Society of Beverly Hills.

Rosalind Russell is truly a great lady. Her many performances on stage and screen have brought joy and laughter into our hearts. Through her various civic and philanthropic endeavors she has helped her fellow Americans lead better, richer lives. We owe her a great debt.

I am certain that my colleagues will join with me today in commending Rosalind Russell for her contributions and congratulate her as she is honored by the ANTA.

SENATOR BROCK ON PERFORMANCE ROYALTIES

Mr. BROCK. Mr. President, I am concerned that there may be some misunderstanding as to my vote on the Ervin amendment to the copyright bill yesterday. I wish to set the record straight. The Ervin amendment deleted the performance royalty section from the copyright bill. Although I support the principle of a performance royalty for recording artists, I did vote in favor of the Ervin amendment. I did so for two reasons.

First, it is imperative that the Senate demonstrate its support for copyright revision. There are many important sections in the new bill on which the distinguished Senator from Arkansas (Mr. McClellan) labored long and hard. One section reaffirms the right of a recording artist to copyright his performance of a particular song. I feared that controversy over the performance royalty section might endanger pasage of the entire bill.

Second, the distinguished Senator from Pensylvania (Mr. Scott) has announced his intention to introduce legislation early in the next Congress which would establish the principle of a performance royalty. The distinguished chairman of the Subcommittee on Patents, Trademarks, and Copyrights (Mr. McClellan) has agreed to hold hearings on the issue, and I am confident that these hearings will demonstrate the value and fairness of the performance royalty.

In sum, I support the concept of a performance royalty and I believe that, after the Senate gives due consideration to the matter, the majority of my colleagues will suport it as well.

SUPPORT EXPRESSED FOR THE HEALTH SERVICES ACT OF 1974

Mr. WILLIAMS. Mr. President, I am indeed pleased to express my enthusiastic support for the Health Services Act of 1974. This legislation was first introduced by Senator Kennedy, myself, and other Senators on April 1, 1974. It contains important revisions of three major programs which are due to expire and, in addition, adds several important new initiatives for the provision of health services in the United States. The original bill has been extensively revised by the Committee on Labor and Public Welfare Committee and was unanimously approved and ordered reported on August 7, 1974.

The first three important titles of the bill address themselves to the extension and improvement of the community health centers program, the migrant health centers program, and the community mental health centers program. During the last year and a half, the administration has proposed a variety of actions which would have the effect of stifling and slowing development of these health centers programs. The budget requests for 1974 and 1975 specifically proposed that no new mental health centers be funded and the administration also recommended that there be no extension of legislative authority for community mental health centers. With respect to migrant health centers the administration proposed the termination of the existing separate authority and that these vital initiatives be funded—at minimal levels—through the general authority contained in section 314(e) of the Public Health Services Act.

The administration pursued a philosophy for all health services programs which is intended to make these centers as self-sufficient as possible in order that Federal support may be reduced. Yet the commitee has heard from centers that the real effect of the administration's approach has been to risk cutbacks in services for those who are not covered by third parties and to substantially favor those whose income or insurance coverage permitted them to pay the entire bill.

It is the purpose of the legislation before the Senate today to respond to the criticisms about administrative inefficiency and lack of self-sufficiency while at the same time reaffirming the commitment of the Congress to stimulate and preserve comprehensive health services in every community where they are needed. This bill extends the community mental health centers program and reaffirms the legislative intent that the community mental health centers program is not a demonstration program. Rather, this effort is intended to assure that such centers be established nationwide and although 500 centers have been funded to date we must still work to achieve the original goal of approximately 1,500 centers throughout the United States. The bill also expands the migrant health program which I originally authored more than 10 years ago. This initiative remains a separate authority in order to give this sorely underserved population clear visibility within the statutes. It authorizes planning and development grants and startup and initial operation grants to migrant health centers and other entities which would offer a broad range of services—including ambulatory, medical, referral, and environmental health services—in an area in which not less than 5,000 migrants and their families reside. It would also provide assistance to entities without regard to the minimum migrant population requirement. And, it includes a separate authorization to cover the reasonable costs of inpatient and outpatient hospital services for migrants. Finally, with respect to the last of these community-based programs, the bill repeals section 314(e) of the PHS Act—under which neighborhood health centers have previously been funded—and replaces it with a new community health centers authority which more clearly spells out the type of centers envisioned by the Congress. This title would include planning and development, startup, and initial operation grants for the operation of community health centers which would offer a medically underserved population a broad range of ambulatory, medical care referral, and environmental health services.

In addition to these well established health services efforts, the committee has added certain other authorities to the bill to meet various specific problems which require Federal attention. Among these are:

First. Health revenue sharing—extends existing section 314(d) of the Public Health Service Act for 1 year with a total authorization of $160 million, $70 million of which would be for allocations to the States through the 314(d) formula for purposes of screening, detection, diagnosis and treatment of hypertension. Section 317 of the PHS Act is also extended for 1 year with increased authorization level and expanded to provide support for control of other diseases as well as communicable diseases.

Second. Home health services—establishes a program of startup grants to home health agencies and grants for training personnel to provide home health services.

Third. Establishment of a Presidential Commission on Mental Health and Illness of the Elderly for a 5-year period to review the mental health needs of the elderly and recommend a national policy for the care and treatment of mentally ill aged persons.

Fourth. Establishment of a new center within the National Institute of Mental Health to study the causes, control and treatment of rape and to establish a clearinghouse of information on these subjects. In addition, the bill provides support for demonstration projects in the prevention and control of rape.

Fifth. Establishment of a temporary commission appointed by the Secretary of the Department of Health, Education and Welfare to advise Congress and the President on a comprehensive national plan for the control of epilepsy and its consequences, and the roles of State and Federal Government in research on epilepsy and on the identification, treatment and rehabilitation of persons with epilepsy.

Mr. President, I am particularly gratified that this bill includes my proposal to establish a comprehensive program for the treatment and diagnosis of hemophilia. This legislation was first introduced as S. 1326 on March 22, 1973. Since that time, 24 of my Senate colleagues have joined me as cosponsors of the bill.

I find great hope in the fact that hemophiliacs are unique among chronic disease victims because they are not born crippled and they can be treated if they are able to take advantage of newly developed forms of therapy. Without this on-going care, severe and moderate hemophiliacs must suffer tragic consequences throughout their lifetime and become an unnecessary burden to themselves, their families, and to our whole society. For not only is there a severe physical crisis confronting such an individual, but he is constantly threatened with great uncertainty since a bleeding episode may strike without a warning. As a result, there is a tendency among family members and the hemophiliac himself to curb many otherwise routine day-to-day activities. This kind of toll is impossible to measure—and in many cases it is devastating.

So, I say once again, the hemophiliac has a right to care. But, how is the hemophiliac with an annual family income of $10,000 going to be able to secure adequate care?

Mr. President, we know that in the last two decades medical research has been successful in developing fractionated concentrates of factor VIII and factor IX. This development, together with new treatment techniques, have made it possible for most hemophiliacs to self-administer the appropriate clotting factor at home.

Unfortunately, despite these remarkable breakthroughs, this replacement therapy is out of reach for the average hemophiliac. And it is unavailable for several reasons; the same reasons which plague the whole of our health care system. It is unavailable because the minimum costs for replacement therapy for the severe and moderate hemophiliac run upward of $5,000 per year.

It is unavailable because this Nation has simply been wasting its precious blood resources. We have yet to develop a rational and efficient blood policy and are threatened with a major crisis in medical treatment which requires the use of blood and blood products.

It is unavailable because at the present time there are only a scattering of medical centers in the United States which provide any major emphasis on the treatment and diagnosis of this disease. Thus there are only a few areas in the country where there are adequate treatment and diagnosis facilities or where there is decent social and vocational counseling for hemophilia patients.

And, it is unavailable because we face a short supply of professional and paraprofessional personnel trained in hemophilia diagnosis, treatment, and research.

Nor do we have adequate mechanisms whereby physicians in outlying areas have ongoing contacts with those centers which run hemophilia diagnostic and treatment programs.

It is clear, therefore, that a comprehensive approach to treating hemophilia is vitally necessary. And it is because I see such great hope in fashioning a workable system that I introduced S. 1326.

As incorporated in the Health Services Act, this is a very straightforward provision.

It establishes a program to be administered by the Secretary of HEW whereby any hemophiliac in need of replacement therapy shall be entitled to payment for the actual cost of providing blood, blood products, and services associated with such treatment.

The only limitations are that most individuals are required to pay 25 percent of these costs up to a maximum of $500 per year.

But, because I firmly believe that we must do more than develop adequate financing mechanisms for health care, this provision also calls for the establishment of a minimum of 15 hemophilia diagnostic and treatment centers.

These centers would train professionals in diagnosis, treatment and research; would offer diagnosis and treatment programs together with programs of social and vocational counseling, and would provide individualized written programs for each person treated by or in association with such centers.

In addition, a provision is included authorizing grants and contracts for the establishment of blood separation centers to extract necessary blood components.

This is important for hemophilia replacement therapy and can have a significant impact on the development of a nationwide blood separation policy.

These last two provisions are vital initiatives since in my view reform of the health care delivery system must go hand in hand with universal access to that system through some sort of financing mechanism.

To attack the financing problem without assuring that the services and resources are equally available would only aggravate an already intolerable situation.

Since the time this bill was first introduced it has received a great deal of attention and support. Yet, some have said that we should wait before acting since national health insurance will solve the problem. Others have said that this is just another example of what has become the "disease of the month" club.

Well, I am not very sympathetic to those views. It does not seem possible to me that so rich a nation as the United States can say to an individual suffering from kidney disease, cancer, or hemophilia that we are not going to provide you with the resources to live a normal life.

Nor can we tell him that we have made enormous progress in finding new therapies but they are useless to you since you cannot afford them or find services and facilities to provide them.

As one Senator, I cannot and will not adhere to such a philosophy. If it will cost $150 million to save the lives of 25,000 Americans who suffer from hemophilia then I say let us act now to provide those funds. Man's humanity to his fellow man demands at least that much. And if we can at the same time find more effective and less expensive means of controlling hemophilia, let us vigorously pursue that course as well. But we must not delay any longer in either endeavor.

THE PRESIDENT'S PAY PROPOSAL

Mr. McGEE. Mr. President, the Committee on Post Office and Civil Service has acted favorably on Senate Resolution 394 to disapprove the President's alternative pay proposal affecting Federal white-collar workers and military personnel.

When this measure comes before us, I know all Senators will consider it on its merits, and those are considerable. The 5.52-percent pay raise recommended by the Chairman of the Civil Service Commission and the Office of Management and Budget is little enough, particularly since it is based on a survey of private enterprise rates of pay in March, prior to the end of wage and price controls. Considering the movement of wages and prices since that time, this raise is not even really comparability, not the catchup raise needed to bring these Government workers into parity with private industry counterparts.

Mr. President, the New York Times recently editorialized in favor of permitting this raise to take effect as scheduled, saying that there is no equity in decreeing that Federal employees alone be asked to make such a sacrifice. I ask unanimous consent that the Times' editorial, Skewed Sacrifice, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SKEWED SACRIFICE

Useful as it is to have the Federal Government try to set an example of belt-tightening in the war against inflation, we see little fairness in President Ford's decision to compel 3.6 million Federal employes to wait three extra months before receiving the 5.5 per cent pay raise they were scheduled to get Oct. 1.

Four years ago, in an effort to take politics out of the fixing of pay rates for military and Federal employes, Congress established a system under which Federal raises were to be geared to those that workers were getting for comparable jobs in private employment. A review by the Administration's own experts resulted in a determination that the 5.5 per cent increase was needed to maintain comparability now. Because living costs have gone up 11 per cent in the year since the last Federal pay increase, it could well be argued that even this proposal would leave Civil Service workers with a substantial cut in the purchasing power of their paychecks.

If President Ford believes that a three-month wage freeze is needed as part of a rounded national program calling for equality of sacrifice to stop inflation, he ought to propose it on an across-the-board basis for all workers, public and private, at his forthcoming economic "summit" conference. There is no equity in decreasing that such a sacrifice be limited to Federal employes, who are forbidden by law from exercising the right to strike. It would strengthen confidence in the President's sense of economic justice if he recognized that unfairness on his own, instead of leaving it up to Congress, in the thirty days it now has in which to block the Ford order.

PERFORMING ARTS ROYALTY

Mr. WILLIAMS. Mr. President, I was unable to be present for the vote on the Ervin amendment to S. 1361, revision of the Copyright Law. If I had been present, I would have voted against the Ervin amendment.

In the past, I have introduced legislation to provide for royalty payments for musicians, other artists, and recording companies when their talents are used for public performance. I have supported this principle for many years, and I am still convinced that the creation of a performance royalty is consistent with the overall policy approach of copyright legislation which is to encourage and protect the creative arts.

I do not believe that a performance royalty would be unconstitutional; nor do I believe that it would impose an undue burden on the Nation's broadcasters; and I certainly do not believe that performance royalties would be inequitable. On the contrary, the performance royalty is a just principle which would reward those whose creative product is being used for profit by others.

I am hopeful that after a complete exploration of the merits of the performing arts royalty in the 94th Congress, this principle will be incorporated into the final version of the Copyright Revision Law.

THE SATELLITE NAVIGATION SYSTEM

Mr. MATHIAS. Mr. President, this year is the 10th year of operation of a method of navigation that uses orbiting satellites—one of the first practical benefits to mankind from space technology. This system was developed for the Navy at the Applied Physics Laboratory of the Johns Hopkins University. The university is located in Baltimore and the work on this system was done at a laboratory installation in Howard County, Md. Thus, Marylanders share a particular pride in the development of this system and its use today.

Mr. President, an article on this system was published in the July 25 issue of the Johns Hopkins Gazette, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

APL's SATELLITE NAVIGATION SYSTEM NOW IN INTERNATIONAL USE

A method of navigation using orbiting satellites—developed for the U.S. Navy by Applied Physics Laboratory scientists early in the nation's space program—has now become an internationally deployed system.

One of the first advancements brought about by space research and development to see popular use, the navigation system has been utilized by the Navy since the summer of 1964. Three years later the system was released by the government for civilian and commercial use.

By the end of this year more than 500 ships from 15 countries—including the United Kingdom, Japan, Russia and the People's Republic of China—will be finding their positions at sea in any weather, day or night, anywhere in the world with an accuracy of better than a tenth of a mile.

The system is now in use on the ships of Liberia, Brazil, France, Belgium, Norway, Canada, Nationalist China, Australia and Spain, and civilian sets are being manufactured by four nations other than the United States. Sets are in use on the Queen Elizabeth II and helped guide the SS Manhattan on her trip through the Northwest Passage.

The unique system, developed at APL under the leadership of R. B. Kershner, assistant director of APL and head of its space program, represents the only operational use of satellites for navigation in the history of space development. It has been used in the recovery of all astronauts from Apollo to Skylab and has guided Navy ships in circumnavigating the globe.

The system was initiated in 1958 after two John Hopkins physicists, William Guier and George Weiffenbach, discovered that radio signals transmitted from the first Russian Sputnik and plotted geographically enabled them to determine the satellite's position.

While monitoring the signals, the scientists noted a change in the frequency of the radio waves—better known as the Doppler shift. (The Doppler shift can be observed in the change in pitch of an ambulance siren as the ambulance passes.) By measuring the shift, the satellite's orbit could be determined. Another Johns Hopkins physicist, Frank McClure, later determined that if the satellite could be located by listening to the shift as it passes a known station on earth, the inverse problem—that of locating an unknown ground station—should be solvable.

At least four satellites, each orbiting at an altitude of 600 miles, are employed in the system. About the size of a snare drum and weighing some 600 pounds, each satellite broadcasts its own position as well as a continuous signal from which the Doppler shift measurement is made. The position of the satellite throughout its orbit is computed in advance on the ground, injected into the satellite memory and stored for rebroadcasting continuously for 12 hours. The memory is then updated.

Aboard ship the continuous broadcast is picked up by a receiving unit and fed into a computer. The computer read-out gives the ship's position in longitude and latitude and the time. A similar unit has been developed and built for use in the Navy's antisubmarine warfare aircraft P–3 Orion. A receiving unit for use in commercial aircraft may be developed in the near future.

Other equipment developed for use in the system include a paired backpack set used for determining relative positions in any kind of terrain or over water and a Georeceiver for surveying—used recently to fix the position of the South Pole and measure the drift of ice.

A recent system improvement was the launching of an experimental disturbance compensation unit (DISCOS) within the navigation satellite TRIAD in 1972. DISCOS permitted the spacecraft to counter the external forces of solar radiation pressure and atmospheric drag on the orbiting satellite by means of thrusters, experimentally making it possible to predict orbits for 12 days. The orbits of the existing satellites are predicted for 12-hour periods.

Dr. Kershner sees the DISCOS unit as the promise of satellites with such predictable orbits that charts and almanacs of their positions could be printed. This would permit the elimination of shipboard computers for the receiving units, reducing the cost of satellite navigation equipment drastically.

VIETNAM VETERANS EDUCATION

Mr. MATHIAS. Mr. President, in the past month, the veterans of our most recent war have witnessed yet another chapter in the frustration of one of their most basic needs—the passage of an adequate program of GI bill benefits to allow them to pursue their education and training at a time of soaring educational costs.

In the time since the Senate unanimously passed a comprehensive program of such benefits on June 19, our Vietnam-era veterans have been waiting, and waiting, and waiting, for Congress to complete action on this crucial legislation and send it on to the President for his signature.

I do not believe they can or should be asked to wait any longer. Nor can we ask them to settle for an unacceptably low package of benefits simply because we in Congress were unable to reach timely agreement on a program which would more closely meet their needs.

The plain fact is, Mr. President, that young veterans who have communicated with me from throughout my own State of Maryland are becoming increasingly angry and frustrated. They watch, with reactions ranging from cynicism to disgust, the manner in which the Congress has treated a program that is essential to their readjustment back into civilian life after serving our Nation in time of war. And they ask, how much longer will this game of parliamentary brinksmanship be permitted to continue? It is a good question, Mr. President. I believe we have a moral obligation to answer it—promptly and fairly.

As my colleagues well know Senate passage of our comprehensive bill in June was followed by a long and difficult negotiating process in conference with the House of Representatives which consumed much of the summer. This did not come as a complete surprise, since the House had passed a considerably more modest bill 4 months earlier, and certain members of the House conferees were adamantly opposed to a key provision which the Senate strongly supported—a program of direct tuition grants to equalize the great variations in tuition costs at public institutions throughout the land. This is a program for which I have been personally fighting for more than 3 years, and I remain convinced that it is an essential component of any system of educational benefits which purports to do justice to our most recent generation of veterans.

Nevertheless, the House conferees held firm in their opposition to a tuition grant program, and in the face of the coming of the fall academic semester, agreement was reached—in what I hoped was good faith—whereby other key provisions of the Senate-passed bill would be accepted and the monthly subsistence rates would be increased by 23 percent in order to compensate for the continually soaring cost of living and the elimination of the proposed tuition grant program.

I firmly believe that the final conference agreement represented a responsible compromise, despite my strong regret that tuition was not ultimately included. For it did provide other much-needed improvements: a program of low-cost loans up to $1,000, the 23-percent increase in subsistence rates, an extension of the entitlement period from 36 to 45 months, and many other important features. I was, therefore, heartened that the Senate, again unanimously, passed the conference report on August 21.

The following day, August 22—on the very afternoon when I was at the White House to personally urge President Ford to sign the bill into law in spite of his misgivings as to its overall cost—the bill was blocked on the House floor by an unexpected point of order. As I understand it, objection was raised to the 23-percent increase in subsistence rates for disabled veterans under the vocational rehabilitation program, on the basis that it exceeded the increases provided by both the original House- and Senate-passed bills.

In its place, the House then quickly approved, with little debate or deliberation, a substitute bill which severely cut back the benefits and improvements agreed to in the conference report. The loan program and the 9-month extension of entitlement were both eliminated altogether; and the subsistence increase for disabled veterans was cut back from 23 to 18 percent. This action came as a cruel blow to the Vietnam veteran struggling to stay in school at this time of accelerating educational and general living costs, both because it guaranteed a further delay in final enactment and because it removed crucial provisions on which many veterans had justly relied in making their fall academic plans.

Mr. President, I believe that we would be critically shortsighted if we were to accept this revised bill from the House in its current form. I would be the first to agree that we must exercise budgetary restaint and eliminate low-priority Federal expenditures as part of an overall program to halt the now-chronic nemesis of inflation—and as a member of the Senate Appropriations Committee, I am pleased that we are already well on our way toward trimming up to $10 billion from former President Nixon's original budget.

But we cannot and must not make our Vietnam veterans sacrificial lambs. Their education and training must be among our highest priorities; furthermore, Federal expenditures to provide decent educational opportunity are clearly a sound investment which will more than repay itself by the increased productivity of the veterans who are able to take advantage of it. Most importantly, I believe we have a moral commitment which cannot be bargained away by routine political horsetrading, particularly at a time when the very integrity of governmental institutions is once again under anguished and concerned scrutiny by the citizens of our land.

For all these reasons, Mr. President, I believe it is essential that the Senate act quickly, decisively, and firmly to speed toward enactment a program of educational benefits for our Vietnam veterans which is at the very least as generous as the conference report we unanimously approved on August 21, and to implement this program retroactively to the start of the current academic year. The Federal Treasury has already been saved literally hundreds of millions of dollars as a result of the delays which have already prevented those increases from being enacted sooner.

To this end, I would propose that the Senate immediately repass the original Senate-passed bill, S. 2784, with one amendment: a change in the subsistence rate increase from 18 to 23 percent. Repassage of our original bill in this form would allow our Senate conferees to return to conference with the House and reach precisely the same agreement which was already approved in the last conference. This should be viewed as our minimum objective; if the House conferees were willing to hold to their original agreement, a minimum of time-consuming renegotiaton would be necessary, and the resulting bill would not be subject to a point of order of the House floor. It should be understood, of course, that this course of action is designed to meet only the immediate circumstances and would not in any sense inhibit any of us for continuing to press for restoration of the tuition policy at the earliest possible date.

I am confident that if this course were followed, the full House would enthusiastically support the conference report and that the President would sign it into law. If the House conferees declined to reach the same agreement, of course, thus making prompt enactment impossible, our Senate conferees should then press as firmly as possible for the entire range of Senate-passed provisions, including the much-needed tuition grant program.

Mr. President, the Vietnam veterans here already been asked to wait too long. The time to act is now.

THE REMARKABLE ACCOMPLISHMENTS OF MARGARET THOMPSON

Mr. MONDALE. Mr. President, there is a very special person living in Rochester, Minn. Her name is Margaret Thompson, and a recent article in the Mayo Clinic publication Mayovox about her prompts me to tell my colleagues something about her.

Margaret Thompson was appointed the first registrar of the Mayo Medical School in 1971. As you know, Mr. President, this is undoubtedly one of the finest medical schools in the Nation, affiliated as it is with one of the finest health care facilities in the Nation—the Mayo Clinic. Ms. Thompson serves an important function for the medical school, keeping its records, and she also coordinates the student affairs activities of the school.

But Margaret Thompson's contribution to the medical school and to the clinic extend far beyond her officially assigned duties. She is a member of the medical school's Ad Hoc Committee on Evaluation and Promotion, the EOC Committee, the Admissions Committee and the Public Affairs Committee. She has helped develop the school's policies on grading, and has made many more important contributions to the curriculum, administration, and activities of the institution.

Margaret Thompson's remarkable accomplishments extend beyond the walls of the Mayo facilities. She is an important, active, and dedicated member of the Rochester community. Her talents have been extended to the activities of the NAACP, the Rochester Foundation, and PORT.

Margaret Thompson has also, Mr. President, been an active participant in politics and the governmental process. She has made a significant contribution to the State of Minnesota through her service on the Governor's Fair Campaign Practices Committee and the Governor's Commission on the Status of Women.

She has long been a faithful and hardworking member of the Minnesota DFL and the National Democratic Party. Her career in politics probably began when she worked long and hard on Senator HUMPHREY's first Senate campaign in 1948. Since that time, she has held many positions in the Minnesota DFL, in the National Democratic Party, and in local political activities.

I am proud to count Margaret Thompson among my supporters. Her efforts on my behalf throughout the years are appreciated more than I can ever adequately express. Any of the many officeholders who have had the benefit and the honor of her support and her hard work will tell you how very much Margaret Thompson can mean to the success of a campaign.

Above all else, Mr. President, I am proud to call Margaret Thompson my friend. For she is a person with a rare gift. Over and over again people have returned from the Mayo Clinic—after having been there as a patient or with a friend or relative who was a patient—to tell me of Margaret Thompson and her rare gift. She has the ability to make a stranger feel at home, to make someone who is lonely feel they have a friend, and to make a person passing through a time of trouble feel that someone cares. Her compassion, her understanding, her friendliness toward those who have come to Mayo are remembered by many who will always be grateful to Margaret Thompson.

On behalf of all those, including myself, who have benefited from the efforts of this wonderful human being, I wish to extend my thanks to Margaret Thompson.

So that my colleagues may learn more about Margaret Thompson and her work, and particularly her thoughts on the status of women in our society, I ask unanimous consent that the article from Mayovox be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MARGARET THOMPSON

An articulate activist, Margaret Thompson has written speeches for Hubert Humphrey and helped procure vegetable gardens for medical students. It's all in a day's work.

Appointed Mayo Medical School's first registrar in 1971, she is responsible for its recordkeeping system, and student affairs which is defined by "what the students and administration want it to be." She was a member of the medical school's ad hoc committee on evaluation and promotion and helped develop policies on grading. Mrs. Thompson is a member of the EOC Committee, the Medical School Admissions Committee, and the Public Affairs Committee which she serves as assistant secretary.

Thompson's career at Mayo began 30 years ago. Divorced, with two children to support, "the Clinic gave me a chance," she says. "I needed a job badly. I was willing to work very hard and I could type," she recalls. She started in Registration, making note of patients' arrival and directing them to their doctors.

Three years later, with the help of Eleanor Clappier, she sought and won a position in the Section of Publications where she edited the *Clinic Bulletin*, was assistant managing editor of the *Mayo Clinic Proceedings* and later executive assistant of her section.

In 1948, when the Minnesota DFL party "went on the march to elect Hubert Humphrey to the Senate for the first time," she made a life-long commitment to politics. "I started working because so few people were willing to say they were DFL'ers then," she laughs. "I believe strongly in the political process. Everything that has happened lately strengthens my belief in citizens' participation."

Her political commitment has led her on the campaign trail many times. As a member of Sen. Humphrey's entourage the last week of his 1968 campaign for the presidency, she witnessed his defeat. "I cried along with everyone else. Typically, Humphrey came along and saw me crying and said, 'I know just how you feel.' He was comforting people who were mourning his defeat!"

By any measure, Margaret Thompson is an outstanding DFL'er and Minnesotan. She has served on numerous DFL committees including the Democratic National Committee as special assistant to the vice chairman, on the governor's Fair Campaign Practices Committee and the governor's Commission on the Status of Women.

Locally, Mrs. Thompson is an active member of the NAACP, the Rochester Foundation, and PORT.

She counts among her friends Geri Joseph, contributing editor of the *Minneapolis Tribune* and former vice chairman of United Democrats for Humphrey, and former Ambassador Eugenie Anderson, the DFL's first chairwoman. Knowing and working with both women has made a significant impact on her.

Has her sex been a liability in politics or at the Clinic? "Not at all. Women have never had to fight to be in the DFL. There's always been more equivalency in politics in Minnesota than in many other states," she has observed. "At the Clinic, I've been treated very fairly."

Referring to the early years of her career she says, "My sights weren't raised any higher in those days than anyone else's. But all of a sudden a breakthrough occurred nationwide. When I first read the *Feminine Mystique* (a book which ignited women's concern about their roles), I thought to myself I could have written that book if I had had the talent.

"Women don't think every day that society has been hard on them. But recently, women have begun to share their sense of hurt and isolation more bravely than before and even expressed it to men. Even the most aware and active women needed the new literature and the (women's liberation) movement to raise their expectations," Mrs. Thompson believes.

"The fear of being over-assertive keeps women from being assertive. An assertive woman shows, and that's the risk you have to take," she says. "I really worry about the woman at the Clinic whose good work is unobserved, a woman whose ideas are being used by a boss who never identifies her potential, or a woman who is doing such a great job her chief won't let her go."

How does that woman uncover her potential? "Society has come to the point where I'd probably go knock on a door. Talk to my supervisor and find out if there's anything more challenging for me to do in my section. And I'd take some ideas with me. If I got shut off there, I wouldn't hesitate to go to Personnel and say I think I have these talents and I know I have these interests. How can they be used?

"Much has happened to allow women to do this without getting or feeling put down," Thompson says. "You do find people who will lend a helping hand and who have all the right sensitivities. And you'll find others who would like to confirm their suspicion that no, women can't hold administrative jobs. But most people can be persuaded.

"Women have to work more effectively than men because they have more to prove in a man's world," she believes. "Men feel inadequate too, but they have more experience at hiding it."

REHABILITATION ACT AMENDMENTS OF 1974

Mr. BIDEN. Mr. President, I was pleased to cosponsor the Rehabilitation Act Amendments of 1974, and I commend my colleagues in the Senate for their favorable action on this legislation.

President Nixon's veto of the Rehabilitation Act of 1973, which I also cosponsored, was regrettable; more disconcerting was the inability of Congress to override the veto. I sincerely hope that it will not be necessary to put Congress to the test this year, and that President Ford will sign this important piece of legislation.

The Rehabilitation Act Amendments of 1974 should be a source of pride to Congress. The crucial programs assisted by this legislation provide funds for research, diagnosis, training, employment, and other services for handicapped individuals. Special emphasis is given to compliance with the Architectural Barriers Act of 1968 to eliminate the architectural and transportation barriers which confront handicapped persons. Further, it is the Rehabilitation Act of 1973 (Public Law 93–112) which requires employers under Federal contract to take affirmative action in hiring handicapped individuals, and prohibits discrimination against these individuals in any program assisted by Federal funds.

In short, the Rehabilitation Act of 1974, which extends these valuable programs, should be viewed as an investment which will result, and has resulted, in economic gain for the Federal Government and for the Nation. But even more important, through rehabilitation programs, handicapped individuals have received, and continue to receive, the necessary training to enable them to compete in the private enterprise system—to hold the jobs they would otherwise be denied.

However, this should not be construed as an indication that we have done all there is to do. I was particularly gratified that the Rehabilitation Act of 1973 mandated a study of sheltered workshops for handicapped individuals, and I will be interested in the findings and recommendations set forth in the study.

In this regard, there has been some question about whether some of the Nation's sheltered workshop are in compliance with the standards promulgated by the Occupational Safety and Health Administration—OSHA. There is also some question regarding OSHA's efforts to enforce these standards with respect to sheltered workshops. I should point out that OSHA regulations do apply to sheltered workshops as well as to all other businesses covered under the Fair Labor Standards Act, and these regulations should be enforced. Further, we should not exempt the States from acting to insure compliance with safety and health regulations. The quality of environment is of concern to all Americans, including handicapped individuals.

I would hope that the passage of the Rehabilitation Act Amendments of 1974 will be another step in the process of insuring that all handicapped Americans receive the assistance they require to lead productive and fulfilling lives.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I would like to report that, according to current U.S. Census Bureau approximations, the total population of the United States as of September 1, while we were in recess, was 212,576,810. In spite of widely publicized reductions in our fertility levels, this represents an increase of 1,432,272 since September 1 of last year. It also represents an increase of 120,618 since August 1 of this year, that is, in just the last month.

Over the year, therefore, we have added enough additional people to fill two cities the size of Washington, D.C. And in just 1 short month, we have added more than the equivalent of Savannah, Ga.

UTILITY CONSUMERS SIMONIZED

Mr. METCALF. Mr. President, I was greatly disappointed by the remarks of Treasury Secretary Simon during the recess in regard to what actions he feels the administration will take to relieve the current economic hardships encountered by electric utilities. The August 27 edition of the Washington Star-News reported that Mr. Simon believes inadequate military profits are at the root of the problem and that the administration may, therefore, press State regulatory commissions to move faster in raising utility rates. He also said that the investment tax credit, which subsidizes the purchase of plants and equipment, should be raised for utilities from 4 to 7 percent, the same rate allowed for nonregulated industries under the present law.

A repetition of this argument can be expected at the meeting scheduled for today, September 11, at the Federal Power Commission, where Secretary Simon and other administration officials are scheduled to talk to State utility commissioners.

The electric utility industry's own 1973 statistics—as reported to the FPC whose Chairman furnished them to my Subcommittee on Budgeting, Management, and Expenditures—show that last year about one-fourth of the major electric utilities did not pay a dime in Federal income taxes. Instead, they accumulated tax credits which they are not using. The electric utilities' utilization rate of investment tax credits generated has steadily decreased, from 91.7 percent in 1971 to 39.6 percent in 1973. Meanwhile, the value of unused investment tax credits increased by 523 percent, from $32,076,000 in 1971 to $167,822,000 in 1973.

Federal income taxes paid by electric utilities have decreased from almost 15 percent of revenue in the mid-1950's to but 2.6 percent last year. Nevertheless their profits averaged 15 percent of revenue. A number of electric utilities which netted 20 percent or more paid no Federal income taxes.

If tax advantages were the route to reliable electric service we would have it now. So that Members may know the Federal income tax payments and net profits of electric utilities and gas pipeline companies in their States, I ask unanimous consent to print in the Record the table provided to me by Chairman Nassikas of the FPC, along with his cover letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAIRMAN NASSIKAS' RESPONSE TO SENATOR METCALF REGARDING OPERATING REVENUES, FEDERAL INCOME TAXES, AND NET INCOME OF ELECTRIC UTILITY AND NATURAL GAS PIPELINE COMPANIES

FEDERAL POWER COMMISSION,
Washington, D.C., June 12, 1974.

Hon. LEE METCALF,
U.S. Senate,
Washington, D.C.

DEAR SENATOR METCALF: This is in further response to your letter of May 9, 1974, requesting data relating to operating revenues, Federal income tax charges, and net income of Class A electric utilities and gas pipelines from 1973 annual reports.

As discussed in our letter of May 15, 1974, enclosed are tabulations for all Classes A and B interstate natural gas pipeline companies and privately owned electric utilities showing total utility operating revenues, Federal income taxes charged and net income before and after extraordinary items. The Federal income taxes charged and net income before and after extraordinary items are also shown as a percent of total utility operating revenues for each company and national averages for the interstate natural gas companies and for the privately owned electric utilities reare included in the tabulations.

Following is a brief description of the con- and for the privately owned electric utilities are included in the tabulations.

1. TOTAL UTILITY OPERATING REVENUES

Revenues received from all utility operations such as gas, electric, steam and bus operations, including revenues from utility plant leased to others.

2. FEDERAL INCOME TAXES

Account 409.1.—Federal income taxes (both positive and negative) included in this Account relate to all utility operating income.

Account 409.1.—Federal income taxes (both positive and negative) in this account relate to Other Income and Deductions.

Accout 409.1.—Federal income taxes (both positive and negative) in this account relate to extraordinary items.

All Federal income taxes on income properly accruable during the period covered by the income statement to meet the actual liability for such taxes.

3. EXTRAORDINARY ITEMS

Includes income and deductions that are nontypical, noncustomary and infrequently recurring which would significantly distort the current year's income computed before extraordinary items, if reported other than extraordinary items.

Please let us know if we can be of further assistance.

Sincerely,

JOHN N. NASSIKAS, *Chairman.*

Enclosure No. 084617. (Data from 1973 annual reports.)

Name of company	Total utility operating revenues	Federal income taxes				Federal income taxes, account 409.1, percent of total utility operating revenues	Total Federal income taxes percent of total utility operating revenues [1]	Net income		Net income	
		Account 409.1	Account 409.2	Account 409.3	Total			Before extraordinary items	Percent of total utility operating revenues	After extraordinary items	Percent of total utility operating revenues
CLASSES A AND B PRIVATELY OWNED ELECTRIC UTILITIES											
Alabama Power Co	$397, 531, 876	$23, 318, 484	($6, 321, 033)		$16, 997, 451	5.9	4.3	$74, 885, 117	18.8	$74, 855, 117	18.8
Alaska Electric Light & Power Co	3, 038, 708	176, 000			176, 000	5.8	5.8	315, 320	10.4	315, 320	10.4
Alcoa Generating Corp	23, 173, 133	554, 762			554, 762	2.4	2.4	675, 684	2.9	675, 684	2.9
Alpena Power Co	5, 145, 547	352, 864	6, 078		358, 942	6.9	7.0	472, 549	9.2	472, 549	9.2
Appalachian Power Co	291, 525, 663	(1, 685, 513)	574, 537		(1, 110, 976)			64, 502, 606	22.1	64, 502, 606	22.1
Arizona Public Service Co	224, 965, 643	4, 262, 558	(1, 948, 659)		2, 313, 899	1.9	1.0	31, 267, 204	13.9	31, 267, 204	13.9
Arkansas-Missouri Power Co	28, 707, 817	202, 132	11, 009		213, 141	.7	.7	1, 633, 213	5.7	1, 633, 213	5.7
Arkansas Power & Light Co	209, 327, 158	7, 113, 959	477, 850		7, 591, 809	3.4	3.6	41, 946, 328	20.0	41, 946, 328	20.0
Arklahoma Corp., The	163, 911	4, 790			4, 790	3.0	3.0	25, 518	15.6	25, 518	15.6
Atlantic City Electric Co	132, 894, 051	1, 238	335, 500		336, 738		.3	22, 916, 869	17.2	22, 916, 869	17.2
Baltimore Gas & Electric Co	473, 621, 994	20, 806, 133	546, 471		21, 352, 604	4.4	4.5	85, 204, 929	18.0	85, 204, 929	18.0
Bangor Hydro-Electric Co	21, 162, 802	173, 119	11, 000		184, 119	.8	.9	1, 253, 918	5.9	1, 253, 918	5.9
Black Hills Power & Light Co	14, 969, 356	1, 229, 150	(7, 410)		1, 221, 740	8.2	8.2	2, 145, 222	14.3	2, 145, 222	14.3
Blackstone Valley Electric Co	28, 467, 152	(628, 171)	(10, 335)		(638, 506)			1, 193, 401	4.2	1, 193, 401	4.2
Boston Edison Co	318, 666, 800	3, 349, 358	(2, 813, 659)		535, 699	1.1	.2	30, 539, 303	9.6	30, 539, 303	9.6
Brockton Edison Co	32, 981, 677	(778, 439)	34, 008		(744, 431)			1, 506, 944	4.6	1, 506, 944	4.6
California-Pacific Utilities Co	35, 029, 229	1, 291, 877	27, 608		1, 319, 485	3.7	3.8	3, 599, 058	10.3	3, 599, 058	10.3
Cambridge Electric Light Co	24, 576, 376	(425, 264)	(124, 457)		(549, 721)			385, 875	1.6	385, 875	1.6
Canal Electric Co	40, 095, 010	(206, 085)	(10, 459)		(216, 544)			2, 338, 878	5.8	2, 338, 878	5.8
Carolina Power & Light Co	341, 206, 167	8, 951, 766	(9, 247, 207)		(295, 441)	2.6		65, 998, 934	19.3	65, 998, 984	19.3
Central Hudson Gas & Electric Corp	91, 363, 257	2, 716, 000	(4, 000)		2, 712, 000	3.0	3.0	13, 219, 799	14.5	13, 219, 799	14.5
Central Illinois Light Co	124, 162, 749	4, 105, 400	141, 300		4, 246, 700	3.3	3.4	14, 614, 350	11.8	14, 614, 350	11.8
Central Illinois Public Service Co	169, 477, 934	3, 783, 500	(287, 8C0)		3, 495, 700	2.2	2.1	18, 933, 073	11.2	18, 933, 073	11.2
Central Kansas Power Co., Inc	10, 054, 465	536, 128	4, 108		540, 146	5.3	5.4	857, 054	8.5	857, 054	8.5
Central Louisiana Electric Co., Inc	66, 437, 362	5, 109, 666	141, 857		5, 251, 523	7.7	7.9	12, 322, 862	18.5	12, 322, 862	18.5
Central Maine Power Co	107, 413, 947	5, 880, 969	14, 183		5, 895, 152	5.5	5.5	13, 269, 361	12.4	13, 269, 361	12.4
Central Power & Light Co	161, 300, 738	15, 306, 000	222, 000		15, 528, 000	9.5	9.6	27, 509, 574	17.1	27, 509, 574	17.1
Central Telephone & Utilities Corp	84, 820, 289	7, 044, 200	(1, 910, 000)		5, 134, 200	8.3	6.1	36, 313, 437	42.8	36, 313, 487	42.8
Central Vermont Public Services Corp	39, 254, 215	(221, 700)	(52, 000)		(273, 700)			431, 931	1.1	431, 931	1.1
Chestertown Electric Light & Power Co	1, 642, 806	37, 000			37, 000	2.3	2.3	73, 604	4.5	73, 604	4.5
Cheyenne Light, Fuel & Power Co	11, 209, 488	133, 720	35, 280		169, 000	1.2	1.5	481, 158	4.3	481, 158	4.3
Cincinnati Gas & Electric Co., the	321, 892, 989	19, 603, 662	313, 777		19, 917, 439	6.1	6.2	50, 168, 658	15.6	50, 168, 658	15.6
Citizens' Electric Co. of Lewisburg, Pa	1, 627, 360	107, 854			107, 854	6.6	6.6	144, 701	8.9	144, 704	8.9
Citizens Utilities Co	26, 006, 608	2, 120, 025	281, 256		2, 401, 281	8.2	9.2	12, 403, 590	47.7	12, 403, 590	17.7
Cleveland Electric Illuminating Co., the	328, 767, 655	10, 292, 327	989, 912		11, 282, 239	3.1	3.4	49, 414, 272	15.0	49, 414, 272	15.0
Cliffs Electric Service Co	13, 963, 067							668, 398	4.8	668, 398	4.8
Columbus & Southern Ohio Electric Co	158, 448, 731	1, 572, 078	379, 000		1, 951, 078	1.0	1.2	25, 860, 075	16.3	25, 860, 075	16.3
Commonwealth Edison Co	1, 257, 843, 202	34, 928, 000	(8, 907, 000)		26, 021, 000	2.8	2.1	184, 436, 659	14.7	184, 436, 659	14.7
Commonwealth Edison Co. of Indiana, Inc	55, 512, 850	4, 179, 264	88, 300		4, 267, 564	7.5	7.7	6, 122, 358	11.0	6, 122, 358	11.0
Community Public Service Co	47, 790, 928	2, 043, 806	44, 317		2, 088, 123	4.3	4.4	4, 869, 258	10.2	4, 869, 258	10.2
Concord Electric Co	5, 982, 002	7, 081	31, 987		39, 068	.1	.7	315, 980	5.3	315, 980	5.3
Connecticut Light & Power Co., the	286, 853, 082	(1, 960, 275)	228, 163		(1, 732, 112)			46, 700, 208	16.3	46, 700, 208	16.3
Connecticut Valley Electric Co., Inc	3, 048, 732	42, 700	(3, 800)		38, 900	1.4	1.3	110, 999	3.6	110, 999	3.6
Connecticut Yankee Atomic Power Co	22, 150, 370	(28, 245)	272, 940		244, 695		1.1	4, 129, 895	18.6	4, 129, 895	18.6
Conowingo Power Co	8, 629, 370	136, 844	(16, 472)		120, 370	1.6	1.4	702, 974	8.1	702, 974	8.1
Consolidated Edison Co. of New York, Inc	1, 744, 214, 839	(744, 000)			(744, 000)			181, 563, 008	10.4	207, 706, 754	11.9
Consolidated Water Power Co	3, 098, 712	286, 000	2, 063		288, 063	9.2	9.3	278, 714	9.0	278, 714	9.0
Consumers Power Co	834, 953, 686	2, 717, 766	916, 896		3, 634, 662	.3	4.4	80, 892, 987	9.7	80, 892, 987	9.7
Dallas Power & Light Co	157, 196, 468	9, 308, 000			9, 308, 000	5.9	5.9	25, 172, 282	16.0	28, 913, 232	18.4
Dayton Power & Light Co., the	229, 380, 160	896, 700	(320, 100)		576, 600	.4	.3	27, 014, 823	11.8	27, 014, 823	11.8
Delmarva Power & Light Co	147, 755, 028	60, 167	12, 078		72, 245			30, 662, 267	20.8	30, 662, 267	20.8
Delmarva Power & Light Co. of Maryland	34, 906, 696	935, 956	(19, 614)		916, 342	2.7	2.6	5, 025, 972	14.4	5, 025, 972	14.4
Delmarva Power & Light Co. of Virginia	5, 869, 809	362, 168	4, 762		366, 930	6.2	6.3	927, 532	15.8	927, 532	15.8
Detroit Edison Co., the	753, 135, 037	5, 113, 500	1, 016, 000	$658, 000	6, 787, 500	.7	.9	94, 547, 162	12.6	100, 132, 162	13.3
Duke Power Co	603, 116, 110	13, 102, 178	(12, 623, 752)		478, 426	2.2	.1	99, 561, 693	16.5	99, 561, 693	16.5
Duquesne Light Co	241, 841, 706	12, 592, 895	(3, 510, 000)		9, 082, 895	5.2	3.8	51, 844, 988	21.4	51, 844, 988	21.4
Edison Sault Electric Co	6, 564, 797	368, 876	(4, 900)	(99, 600)	264, 376	5.6	4.0	555, 502	8.5	463, 753	7.1
El Paso Electric Co	49, 482, 958	4, 188, 293			4, 188, 293	8.5	8.5	8, 003, 794	16.2	8, 003, 794	16.2
Electric Energy, Inc	53, 555, 970	598, 785			498, 785	1.1	1.1	576, 523	1.1	576, 523	1.1
Empire District Electric Co., the	32, 684, 446	1, 525, 000			1, 525, 000	4.7	4.7	3, 651, 740	11.2	3, 651, 740	11.2
Exeter & Hampton Electric Co	6, 625, 642	139, 028	(2, 437)		136, 591	2.1	2.1	381, 359	5.8	381, 359	5.8
Fall River Electric Light Co	18, 698, 077	(295, 551)	(4, 124)		(299, 675)			807, 106	4.3	807, 106	4.3
Fitchburg Gas & Electric Light Co	14, 544, 678	75, 166	17, 949		93, 115	.5	.6	927, 063	6.4	927, 063	6.4
Florida Power Corp	255, 044, 568	800, 000	(110, 000)		690, 000	.3	.3	44, 133, 381	17.3	44, 133, 381	17.3
Florida Power & Light Co	714, 012, 430	28, 712, 737	(6, 109, 419)		22, 603, 318	4.0	3.2	108, 558, 472	15.2	108, 558, 472	15.2
Florida Public Utilities Co	12, 037, 969	560, 554	19, 638		580, 192	4.7	4.8	1, 035, 668	8.6	1, 035, 668	8.6
Georgia Power Co	604, 815, 166	(2, 884, 132)	214, 185		(2, 669, 947)			88, 061, 254	14.6	88, 061, 254	14.6
Granite State Electric Co	8, 442, 316	(39, 652)			(39, 657)			364, 529	4.3	364, 529	4.3
Green Mountain Power Co	24, 934, 399	(220)			(220)			810, 148	3.2	810, 148	3.2

Name of company	Total utility operating revenues	Federal income taxes				Federal income taxes, account 409.1, percent of total utility operating revenues	Total Federal income taxes percent of total utility operating revenues[1]	Net income		Net income	
		Account 409.1	Account 409.2	Account 409.3	Total			Before extraordinary items	Percent of total utility operating revenues	After extraordinary items	Percent of total utility operating revenues
CLASSES A AND B PRIVATELY OWNED ELECTRIC UTILITIES—Continued											
Gulf Power Co	$82, 536, 978	$75, 974	$74, 468		$150, 442	.1	.2	$12, 649, 457	15.3	$12, 649, 457	15.3
Gulf States Utilities Co	296, 323, 348	21, 477, 821	502, 045		21, 979, 886	7.2	7.4	50, 177, 196	16.9	50, 177, 196	16.9
Hartford Electric Light Co., the	150, 991, 808	(1, 514, 587)	(249, 897)		(1, 764, 466			27, 085, 049	17.9	27, 085, 049	17.9
Hawaiian Electric Co., Inc	97, 230, 367	2, 856, 727			2, 856, 727	2.9	2.9	14, 569, 450	15.0	14, 549, 450	15.0
Hershey Electric Co	5, 161, 971	125, 770			125, 770	2.4	2.4	170, 924	3.3	170, 924	3.3
Hilo Electric Light Co., Ltd	12, 510, 395	125, 756			125, 756	1.0	1.0	1, 176, 828	9.4	1, 176, 388	9.4
Holyoke Power & Electric Co	11, 932, 641	(3, 800)			(3, 800)			33, 031	.3	33, 031	.3
Holyoke Water Power Co	19, 040, 333	203, 839	9, 245		213, 084	.11	1.1	192, 993	1.0	192, 993	1.0
Home Light & Power Co	7, 169, 129	347, 064			347, 064	4.8	4.8	669, 519	9.3	969, 519	9.3
Houston Lighting & Power Co	409, 059, 807	36, 444, 174			36, 444, 174	8.9	8.9	71, 865, 800	17.6	71, 865, 800	17.6
Idaho Power Co	90, 709, 675	5, 507, 500	146, 030		5, 653, 800	6.1	6.2	23, 498, 513	25.9	23, 498, 513	25.9
Illinois Power Co	294, 442, 305	14, 099, 000	(1, 009, 000)		13, 000, 000	4.8	4.4	47, 200, 988	16.0	47, 200, 898	16.0
Indiana-Kentucky Electric Corp	48, 846, 807										
Indiana & Michigan Electric Co	237, 692, 719	(2, 277, 631)	914, 462		(1, 363, 169			56, 465, 804	23.8	56, 465, 804	23.8
Indianapolis Power & Light Co	136, 265, 510	8, 170, 000	170, 000		8, 340, 000	6.0	6.1	22, 846, 269	16.8	22, 846, 269	16.8
Interstate Power Co	76, 803, 193	4, 989, 190	12, 000		5, 001, 190	6.5	6.5	7, 613, 739	9.9	7, 613, 739	9.9
Iowa Electric Light & Power Co	105, 438, 483	(704, 800)	(277, 000)		(981, 000)			11, 783, 513	11.2	11, 783, 513	11.2
Iowa-Illinois Gas & Electric Co	131, 090, 329	7, 002, 078	36, 257		7, 038, 335	5.3	5.4	12, 684, 519	9.7	12, 684, 519	9.7
Iowa Power & Light Co	115, 978, 626	6, 778, 200	49, 100		6, 827, 300	5.8	5.9	12, 249, 027	10.0	12, 249, 027	10.6
Iowa Public Services Co	98, 997, 026	4, 349, 043	52, 739		4, 401, 782	4.4	4.4	9, 060, 224	9.2	9, 060, 224	9.2
Iowa Southern Utilities Co	39, 647, 510	3, 197, 218	(73, 854)		3, 123, 634	8.1	7.9	5, 061, 104	14.1	5, 601, 104	14.1
Jersey Central Power & Light Co	261, 625, 980	1, 669, 753	178, 306		1, 848, 059	.6	.7	49, 688, 933	19.0	49, 688, 933	19.0
Kansas City Power & Light Co	157, 431, 945	2, 226, 585	43, 100		2, 269, 685	1.4	1.4	19, 958, 444	12.7	19, 958, 444	12.7
Kansas Gas & Electric Co	79, 704, 470	(1, 390, 000)	(772, 000)		(2, 162, 000)			11, 479, 864	14.4	11, 479, 864	14.4
Kansas Power & Light Co., the	125, 860, 872	10, 290, 227	3, 275		10, 293, 498	8.2	8.2	16, 333, 446	13.0	16, 333. 346	13.0
Kentucky Power Co	44, 170, 546	(163, 433)			(163, 433)			5, 642, 705	12.8	6, 197, 074	14.0
Kentucky Utilities Co	117, 926, 116	2, 912, 467	125, 853		3, 038, 320	2.5	2.6	19, 185, 106	16.3	19, 185, 106	16.3
Kingsport Power Co	12, 718, 725	(23, 274)			(23, 274)			519, 421	4.1	519, 421	4.1
Lake Superior District Power Co	18, 169, 268	107, 200	2, 800		110, 000	.6	.6	1, 659, 043	9.1	1, 659, 043	9.1
Lincoln Service Corp	1, 374, 862	88, 808			88, 808	6.5	6.5	121, 522	8.8	121, 522	8.8
Lockhart Power Co	3, 771, 388	285, 000			285, 000	7.6	7.6	330, 604	8.8	330, 604	8.8
Long Island Lighting Co	436, 977, 520	5, 502, 500	($214, 000)		5, 288, 500	1.3	1.2	55, 687, 071	12.7	55, 687, 071	12.7
Long Sault, Inc	2, 726, 033	208, 750			208, 750	7.7	7.7	226, 852	8.3	226, 852	8.3
Louisiana Power & Light Co	209, 395, 969	11, 370, 968	602, 971		11, 973, 939	5.4	5.7	36, 946, 097	17.6	36, 946. 097	17.6
Louisville Gas & Electric Co	159, 927, 639	11, 238, 000	172, 384		11, 410, 384	7.0	7.1	20, 332, 739	12.7	20, 332, 739	12.7
Madison Gas & Electric Co	53, 849, 489	443, 800	(4, 900)		438, 900	.8	.8	6, 076, 461	11.3	6, 076, 461	11.3
Maine Electric Power Co., Inc	17, 460, 640	37, 202			37, 202	.2	.2	213, 440	1.2	213, 440	1.2
Maine Public Service Co	10, 721, 999	641, 326	28, 534		669, 860	6.0	6.3	1, 434, 812	13.4	1, 434, 812	13.4
Maine Yankee Atomic Power Co	50, 444, 847							7, 768, 833	15.4	7, 768, 833	15.4
Massachusetts Electric Co	279, 025, 162	4, 104, 677	(312, 200)		3, 792, 477	1.5	1.4	15, 950, 405	5.7	15, 950, 405	5.7
Maui Electric Co., Ltd	10, 016, 474	228, 034			228, 034	2.3	2.3	1, 241, 977	12.4	1, 241, 977	12.4
Metropolitan Edison Co	182, 557, 438	546, 678	(46, 400)		500, 278	.3	.3	38, 211, 861	20.9	38, 211, 861	20.9
Michigan Power Co	27, 775, 800	139, 721	15, 143		154, 864	.5	.6	1, 692, 737	6.1	1, 692, 737	6.1
Millstone Point Co., the	14, 376, 192							1, 006, 260	7.0	1, 006, 260	7.0
Minnesota Power & Light Co	74, 500, 860	(2, 116, 100)	210, 000		(1, 906, 100)			10, 052, 928	13.5	10, 052, 928	13.5
Mississippi Power Co	86, 930, 420	776, 790	53, 540		830, 330	.9	1.0	11, 405, 563	13.1	11, 405, 563	13.1
Mississippi Power & Light Co	126, 641, 734	5, 952, 306	288, 190		6, 240, 496	4.7	4.9	17, 346, 408	13.7	17, 346, 408	13.7
Missouri Edison Co	13, 584, 329	(127, 000)	(5, 000)		(132, 000)			732, 453	5.4	732, 453	5.4
Missouri Power & Light Co	44, 825, 449	(38, 000)	(3, 000)		(41, 000)			3, 079, 401	6.9	3, 079, 401	6.9
Missouri Public Service Co	54, 963, 666	1, 470, 119	(107, 630)		1, 362, 489	2.7	2.5	5, 280, 422	9.6	5, 280, 422	9.6
Missouri Utilities Co	26, 155, 509	60, 436			60, 436	.2	.2	1, 131, 538	4.3	1, 131, 538	4.3
Monongahela Power Co	104, 426, 902	4, 104, 552	(87, 100)		4, 017, 452	3.9	3.9	21, 210, 292	20.3	21, 210, 292	20.3
Montana-Dakota Utilities Co	65, 810, 491	1, 803, 000	(3, 000)		1, 800, 000	2.7	2.7	8, 449, 509	12.8	8, 449, 509	12.8
Montana Power Co., the	108, 273, 117	12, 155, 400	709, 400		12, 864, 800	11.2	11.9	22, 819, 536	21.1	22, 819, 536	21.1
Montaup Electric Co	57, 810, 975	945, 457	3, 778		949, 235	1.6	1.6	3, 767, 710	6.5	3, 767, 710	6.5
Mt. Carmel Public Utility Co	3, 233, 628	159, 620			159, 620	4 9	4.9	188, 718	5.8	188, 718	5.8
Nantahala Power & Light Co	6, 863, 757	708, 067	2, 265		710, 332	10.3	10.4	797, 574	11.6	797, 574	11.6
Nantucket Gas & Electric Co	1, 688, 479	92, 562	18, 938		111, 500	5.5	6.6	170, 524	10.1	170, 524	10.1
Narragansett Electric Co., the	92, 044, 105	2, 627, 665	(134, 800)		2, 492, 865	2.9	2.7	7, 760, 960	8.4	7, 760, 960	8.4
Nevada Power Co	57, 357, 751	(40, 000)			(40, 000)			9, 407, 530	16.4	9, 407, 530	16.4
New Bedford Gas & Edison Light Co	75, 773, 063	892, 086	44, 192		936, 278	1.2	1.2	3, 282, 893	4.3	3, 282, 893	4.3
New England Power Co	219, 165, 045	1, 915, 657	163, 400		2, 079, 057	.9	1.0	24, 426, 265	11.2	24, 426, 265	11.2
New Mexico Electric Service Co	7, 396, 388	826, 962	75, 399		902, 361	11.2	12.2	1, 440, 333	19.5	1, 440, 333	19.5
New Orleans Public Service Inc	123, 929, 672	5, 182, 584	226, 400		5, 408, 984	4.2	4.4	9, 056, 522	7.3	9, 056, 522	7.3
New York State Electric & Gas Corp	253, 171, 711	3, 694, 600	557, 000		4, 251, 600	1.5	1.7	32, 437, 073	12.8	32, 437, 073	12.8
Newport Electric Corp	10, 223, 391	(42, 030)			(42, 030)			334, 182	3.3	334, 182	3.3
Niagara Mohawk Power Corp	665, 330, 331	(7, 700, 000)			(7, 700, 000)			63, 103, 456	9.5	63, 103, 456	9.5
Northern Indiana Public Service Co	391, 825, 741	20, 412, 682	(3, 196, 315)		17, 216, 367	5.2	4.4	51, 868, 628	13.2	58, 868, 628	13.2
Northern States Power Co. (Minnesota)	440, 144, 605	(6, 583, 000)	528, 000		(6, 055, 000)			67, 427, 784	17.3	67, 427, 784	15.3
Northern States Power Co. (Wisconsin)	68, 818, 117	1, 424, 900	(24, 900)		1, 400, 000	2.1	2.0	6, 148, 204	8.9	6, 148, 204	8.9
Northwestern Public Service Co	30, 258, 456	1, 287, 000	(318, 000)		969, 000	4.3	3.2	3, 465, 244	11.5	3, 465, 244	11.5
Northwestern Wisconsin Electric Co	1, 577, 414	76, 920			76, 920	4.9	4.9	110, 927	7.3	110, 927	7.3
Ohio Edison Co	335, 176, 478	17, 349, 588	992, 304		18, 341, 892	5.2	5.5	66, 134, 976	19.7	66, 134, 976	19.7
Ohio Power Co	381, 937, 268	(6, 078, 203)	(47, 347)		(6, 125, 550)			87, 803, 777	23.0	87, 803, 777	23.0
Ohio Valley Electric Corp	96, 657, 322	1, 151, 662			1, 151, 662	1.2	1.2	1, 003, 257	1.0	1, 003, 257	1.0
Oklahoma Gas & Electric Co	198, 731, 262	16, 980, 000	84, 000		17, 064, 000	8.5	8.6	36, 256, 921	18.2	36, 256, 921	18.2
Old Dominion Power Co	6, 569, 531	2, 169	(2, 169)					160, 093	2.4	160, 093	2.4
Orange & Rockland Utilities, Inc	109, 796, 371	188, 469			188, 469	.2	.2	14, 263, 309	13.0	14, 263, 309	13.0
Otter Tail Power Co	44, 519, 955	2, 610, 000	(67, 000)		2, 543, 000	5.9	5.7	5, 996, 096	13.5	5, 996, 096	13.5
Pacific Gas & Electric Co	1, 490, 155, 642	58, 606, 607	(6, 866, 980)		51, 739, 627	3.9	3.5	243, 606, 660	16.3	243, 606, 660	16.3
Pacific Power & Light Co	224, 030, 037	1, 997, 978	266, 253		2, 264, 331	1.0	1.0	53, 542, 524	23.9	53, 542, 524	23.9
Pennsylvania Electric Co	218, 174, 106	5, 482, 088	88, 000		5, 570, 088	2.5	2.6	42, 631, 857	19.5	42, 631, 857	19.5
Pennsylvania Power Co	53, 742, 123	1, 151, 757	172, 495		1, 324, 252	2.1	2.5	8, 646, 049	16.1	8, 646, 049	16.1
Pennsylvania Power & Light Co	384, 866, 726	16, 453, 993	(46, 010)		16, 407, 983	4.3	4.3	66, 912, 440	17.4	66, 912, 440	17.4
Philadelphia Electric Co	762, 882, 972	22, 935, 644	(2, 721, 403)		20, 214, 241	3.0	2.6	122, 867, 003	16.1	122, 867, 003	16.1
Philadelphia Electric Power Co	343, 712							1, 630, 778		1, 630, 778	
Portland General Electric Co	124, 832, 756	1, 121, 000	67, 000		1, 188, 000	1.0	1.0	26, 615, 858	21.3	26, 615, 858	21.3
Potomac Edison Co., The	78, 556, 899	(1, 318, 200)	121, 100		(1, 197, 100)			15, 718, 178	20.0	15, 718, 178	20.0
Potomac Edison Co. of Pennsylvania, the	13, 732, 269	613, 800	(6, 600)		607, 200	4.5	4.4	1, 513, 865	11.0	1, 513, 865	11.0
Potomac Edison Co. of Virginia, the	16, 528, 668	798, 900	10, 600		809, 500	4.8	4.9	2, 034, 449	12.3	2, 034, 449	12.3
Potomac Edison Co. of West Virginia, the	17, 743, 560	638, 700	9, 300		648, 000	3.6	3.7	2, 136, 310	12.0	2, 136, 310	12.0
Potomac Electric Power Co	320, 356, 474	12, 604, 000	526, 000		13, 130, 000	3.9	4.1	55, 988, 300	17.5	55, 988, 300	17.5
Public Service Co. of Colorado	289, 501, 721	4, 102, 590	(680, 590)		3, 422, 000	1.4	1.2	41, 951, 313	14.5	41, 951, 313	14.5
Public Service Co. of Indiana, Inc	243, 364, 983	28, 063, 741	(1, 115, 775)		26, 947, 966	11.5	11.1	47, 491, 476	19.5	47, 491, 476	19.5
Public Service Co. of New Hampshire	108, 595, 640	2, 282	(1, 947, 152)		(1, 944, 870)			12, 829, 099	11.8	12, 829, 099	11.8
Public Service Co. of New Mexico	58, 105, 583	3, 339, 323	(48, 948)		3, 290, 375	5.7	5.1	12, 754, 994	22.0	12, 754, 994	22.0
Public Service Co. of Oklahoma	145, 897, 770	12, 022, 710	85, 290		12, 108, 000	8.3	8.3	22, 632, 831	15.5	22, 632, 831	15.5
Public Service Electric & Gas Co	1, 076, 260, 094	(3, 781, 724)	(1, 027, 835)	($2, 800, 000)	(7, 609, 559)			131, 482, 669	12.2	150, 022, 669	13.9
Puget Sound Power & Lght Co	116, 901, 991	2, 958, 000	67, 747		3, 025, 747	2.5	2.6	15, 462, 589	13.2	15, 462, 589	13.2
Rochester Gas & Electric Corp	212, 270, 843	6, 279, 000	27, 000		6, 306, 000	3.0	3.0	24, 306, 083	11.5	24, 306, 083	11.5
Rockland Electric Co	25, 904, 277	1, 036, 668	6, 400		1, 043, 068	4.0	4.0	2, 576, 509	9.9	2, 576, 509	9.9
Rumford Falls Power Co	1, 767, 037	339, 000			339, 000	19.2	19.2	370, 908	21.0	370, 908	21.0

Footnote at end of article.

Name of company	Total utility operating revenues	Federal income taxes				Federal income taxes, account 409.1, percent of total utility operating revenues	Total Federal income taxes percent of total utility operating revenues [1]	Net income		Net income	
		Account 409.1	Account 409.2	Account 409.3	Total			Before extraordinary items	Percent of total utility operating revenues	After extraordinary items	Percent of total utility operating revenues
CLASSES A AND B PRIVATELY OWNED ELECTRIC UTILITIES—Continued											
Safe Harbor Water Power Corp	$3, 941, 372	$571, 516	$5, 866		$577, 382	14.5	14.6	$746, 860	18.9	$746, 860	18.9
St. Joseph Light & Power Co	20, 694, 978	829, 000	(58, 000)		771, 000	3.7	3.7	2, 228, 400	10.8	2, 228, 400	10.8
San Diego Gas & Electric Co	227, 762, 871	(185, 771)	(1, 592, 111)		(1, 777, 882)			27, 685, 841	12.2	27, 685, 841	12.2
Savannah Electric & Power Co	36, 417, 828	(96, 108)	(8, 500)		(104, 608)			3, 917, 969	10.8	3, 917, 969	10.8
Sherrard Power System	2, 862, 005	92, 195			92, 195	3.2	3.2	176, 720	6.2	176, 720	6.2
Sierra Pacific Power Co	58, 185, 650	1, 183, 240	(345, 504)		837, 736	2.0	1.4	9, 005, 446	15.5	9, 005, 446	15.5
South Beloit Water, Gas & Electric Co	3, 747, 019	108, 407	400		108, 807	2.9	2.9	127, 073	3.4	127, 073	3.4
South Carolina Electric & Gas Co	204, 240, 552	1, 645, 500	(1, 275, 600)		369, 900	.8	.2	26, 715, 143	13.1	26, 715, 143	13.1
Southern California Edison Co	1, 079, 715, 765	39, 533, 375	(2, 840, 100)		36, 693, 275	3.7	3.4	47, 730, 729	13.7	147, 730, 729	13.7
Southern Electric Generating Co	47, 704, 736	3, 356, 626	46, 888		3, 403, 514	7.0	7.1	3, 837, 374	8.0	3, 837, 374	8.0
Southern Indiana Gas & Electric Co	63, 651, 672	3, 308, 620	(171, 530)		3, 137, 090	5.2	4.9	11, 015, 917	17.3	11, 015, 917	17.3
Southwestern Electric Power Co	130, 076, 429	12, 756, 000	75, 400		12, 832, 000	9.8	9.9	23, 207, 236	17.8	23, 207, 236	17.8
Southwestern Electric Service Co	9, 859, 369	407, 774			407, 774	4.1	4.1	1, 033, 039	10.5	1, 033, 039	10.5
Southwestern Public Service Co	118, 646, 360	11, 937, 000	(25, 000)		11, 912, 000	10.1	10.0	23, 173, 436	19.5	23, 173, 436	19.5
Superior Water, Light & Power Co	10, 316, 610	254, 400	11, 300		265, 700	2.5	2.6	483, 082	4.7	883, 082	4.7
Susquehanna Electric Co., the	9, 052, 259										
Susquehanna Power Co., the	6, 317, 696	1, 262, 867	55, 479		1, 318, 346	20.0	21.0	2, 882, 542	45.6	2, 882, 542	45.6
Tampa Electric Co	151, 030, 785	4, 152, 135			4, 152, 135	2.7	2.7	23, 050, 784	15.3	23, 050, 784	15.3
Tapoco, Inc	5, 020, 229	535, 525			535, 525	10.7	10.7	628, 660	12.5	628, 660	12.5
Texas Electric Service Co	211, 435. 093	20, 581, 574			20, 581. 574	9.7	9.7	42, 641, 541	20.3	42, 641, 541	20.2
Texas Power & Light Co	255, 077, 365	27, 736, 863			27, 736, 863	10.9	10.9	56, 832, 458	22.3	56, 832, 458	22.3
Toledo Edison Co., the	129, 147, 270	5, 396, 579	(172, 000)		5, 224, 579	4.2	4.0	23, 568, 423	18.2	23, 568, 423	18.2
Tucson Gas & Electric Co	98, 082, 330	685, 000	(2, 135, 000)		(1, 450, 000)	.7		15, 030, 106	15.3	15, 030, 106	15.3
UGI Corp	89, 340, 474	4, 107, 112	388, 983		4, 496, 095	4.6	5.0	7, 256, 283	8.1	7, 256, 283	8.1
Union Electric Co	384, 493, 059	6, 216, 000	(394, 000)		5, 822, 000	1.6	1.5	67, 166, 900	17.5	67, 166, 900	17.5
Union Light, Heat & Power Co., the	43, 020, 933	756, 000	44, 867		800, 867	1.8	1.9	1, 603, 905	3.7	1, 603, 905	3.7
United Illuminating Co., the	116, 758, 980	759, 000	136, 800		895, 000	.7	.8	13, 109, 230	11.2	13, 109, 230	11.2
Upper Peninsula Generating Co	12, 153, 924										
Upper Peninsula Power Co	18, 821, 923	986, 468	(19, 693)		966, 775	5.2	5.1	2, 008, 460	11.3	2, 134, 565	11.3
Utah Power & Light Co	127, 454, 216	(283, 920)	188, 500		(95, 420)			27, 889, 253	12.9	27, 889, 243	21.9
Vermont Electric Power Co., Inc	52, 485, 479							298, 000	.6	298, 000	.6
Vermont Yankee Nuclear Power Corp	48, 080, 127							7, 345, 500	15.3	7, 345, 500	15.3
Virginia Electric & Power Co	550, 963, 151	(1, 010, 366)	275, 134		(735, 232)			124, 072, 145	22.5	124, 072, 145	22.5
Washington Water Power Co., the	92, 998, 565	4, 424, 159	(37. 623)		4, 386, 536	4.8	4.7	13, 103, 697	14.1	13, 103, 697	14.1
West Penn Power Co	190, 937, 053	8, 466, 000			8, 466, 000	4.4	4.4	35, 263, 912	18.5	35, 263, 912	18.5
West Texas Utilities Co	56, 313, 612	8, 645, 200	240, 100		8, 885, 300	15.4	15.8	11, 576. 263	20.6	11, 576, 263	20.6
Western Colorado Power Co., the	5, 355, 796	155, 423	74, 500		229, 923	2.9	4.3	798, 175	14.9	798, 175	14.9
Western Massachusetts Electric Co	90, 755, 647	(1, 692, 871)	(204, 307)		(1, 834, 178)			12, 075. 093	13.3	12, 075. 093	13.3
Wheeling Electric Co	22, 150, 063	(162, 600)	(6, 422)		(169, 022)			876, 856	4.0	876, 856	4.0
Wisconsin Electric Power Co	293, 952, 743	26, 266, 300	118, 000		26, 447, 400	8.9	9.0	50, 166, 954	17.1	50, 166. 954	17.1
Wisconsin Michigan Power Co	58, 889, 929	3, 805. 600	77, 200		3, 882. 800	6.5	6.6	7, 991, 969	13.6	7, 991, 969	13.6
Wisconsin Power & Light Co	135, 718, 219	(794, 382)	(23, 911)		(818, 293)			17, 033, 239	12.6	17, 033, 239	12.6
Wisconsin Public Service Corp	146, 465, 285	(356, 000)	57, 400		(298, 600)			18, 240, 516	12.5	18, 240, 516	12.5
Wisconsin River Power Co	2, 405, 582	452, 785	52, 014		504, 799	18.8	21.0	561, 600	23.3	561, 600	23.3
Yadkin, Inc	7, 355, 414	549, 240			549, 240	7.5	7.5	657, 390	8.9	657, 390	8.9
Yankee Atomic Electric Co	10, 279, 260	1, 035, 400	(2, 000)		1, 033, 400	10.1	10.1	846, 550	8.2	846, 500	8.2
Total (national average)	33, 166. 456, 126	881, 649. 694	(67, 315, 629)	($2, 241, 600)	812, 092, 465	2.7	2.6	4, 931, 195. 875	14.9	4, 992, 794, 296	15.0
NATURAL GAS PIPELINES											
Alabama-Tennessee Natural Gas Co	17, 516, 611	1, 008, 000	5, 200		1, 013, 200	5.8	5.8	1, 259, 962	7.2	1, 259, 962	7.2
Algonquin Gas Transmission Co	108, 429, 567	4, 500, 000			4, 500, 000	4.2	4.2	5, 967, 284	5.5	5, 967, 284	5.5
Arkansas Louisiana Gas Co	184, 043, 175	7, 758, 200	1, 291, 300		9, 049, 500	4.2	4.9	35, 530, 639	19.3	35, 530, 639	19.3
Arkansas-Missouri Power Co	28, 707, 817	202, 132	11, 009		213, 141	.7	.7	1, 633, 213	5.7	1, 633, 213	5.7
Arkansas Oklahoma Gas Corp	8, 899, 222	347, 198	105, 402		452, 600	3.9	5.1	662, 765	7.4	662, 765	7.4
Black Marlin Pipeline Co	940, 543	28, 589			28, 589	3.0	3.0	130, 049	13.8	130, 049	13.8
Blue Dolphin Pipe Line Co	862, 993	171, 374	15, 533		186, 907	19.9	21.7	65, 540	7.6	65, 540	7.6
Carnegie Natural Gas Co	16, 718, 342	600, 124	40, 342		640, 466	3.6	3.8	1, 141, 856	6.8	1, 141, 756	6.8
Cascade Natural Gas Corp	53, 545, 597	606, 228	6, 896		613, 124	1.1	1.1	2, 973, 521	5.6	2, 973, 521	5.6
Chandeleur Pipe Line Co	1, 373, 075							(672, 400)		(653, 893)	
Cimarron Transmission Co	2, 293, 092	24, 809	804		25, 613	1.1	1.1	41, 875	1.8	41, 875	1.8
Cities Service Gas Co	165, 859, 653	(988, 232)	2, 476, 516		1, 488, 284		.9	18, 857, 283	11.4	18, 857, 283	11.4
Colorado Interstate Corp	137, 425, 790	3, 454, 000	(928, 000)		2, 526, 000	2.5	1.8	20, 659, 797	15.0	20, 659, 797	15.0
Columbia Gas Transmission Corp	809, 779, 459	24, 019, 681	86, 969		24, 106, 650	3.0	3.0	56, 264, 293	6.9	56, 264, 293	6.9
Columbia Gulf Transmission Co	114, 004, 590	12, 972, 143	(2, 228, 130)		10, 744, 013	11.4	9.4	26, 627, 236	23.4	26, 627, 236	23.4
Consolidated Gas Supply Corp	441, 689, 940	5, 060, 358	485, 000		5, 545, 358	1.1	1.3	29, 291, 802	6.6	29, 291, 802	6.6
East Tennessee Natural Gas Co	47, 568, 156	1, 557, 940	(1, 240)		1, 556, 700	3.3	3.3	2, 983, 021	6.3	2, 983, 021	6.3
Eastern Shore Natural Gas Co	5, 731, 466	502, 684	10, 346		513, 030	8.8	9.0	613, 569	10.7	613, 56	10.7
El Paso Natural Gas Co	843, 620, 413	10, 321, 880	4, 742, 416		15, 064, 296	1.2	1.8	65, 622, 991	7.8	69, 243, 305	8.2
Equitable Gas Co	93, 315, 265	560, 600	(63, 000)		497, 600	.6	.5	11, 001, 781	11.8	11, 001, 781	11.8
Florida Gas Transmission Co	104, 174, 637	8, 961, 000			8, 961, 000	8.6	8.6	13, 985, 430	13.4	13, 985, 430	13.4
Gas Transport, Inc	1, 873, 450	9, 500			9, 500	.5	.5	97, 213	5.2	97, 213	5.2
Granite State Gas Transmission, Inc	3, 304, 619	21, 700			21, 700	.7	.7	72, 922	2.2	72, 922	2.2
Great Lakes Gas Transmission Co	103, 646, 405	3, 248, 000	128, 000		3, 376, 000	3.1	3.3	12, 047, 415	11.6	12, 047, 415	11.6
Great Plains Natural Gas Co	3, 730, 155	19, 000			19, 000	.5	.5	125, 197	3.4	125, 197	3.4
Hampshire Gas Co	1, 434, 731	(4, 440)	2, 058		(2, 382)			266, 872	18.6	266, 872	18.6
Inland Gas Co., Inc., the	7, 791, 808	287, 825	(751)		287, 074	3.7	3.7	497, 301	6.4	497, 301	6.4
Inter-City Minnesota Pipelines Ltd	5, 275, 694							58, 418	1.1	58, 418	1.1
Interstate Power Co	76, 803, 193	4, 989, 180	12, 000		5, 001, 190	6.5	6.5	7, 613, 739	9.9	7, 613, 739	9.9
Iowa-Illinois Gas & Electric Co	131, 090, 329	7, 002, 078	36, 257		7, 038, 335	5.3	5.4	12, 684, 519	9.7	12, 684, 519	9.7
Iowa Public Service Co	98, 977, 026	4, 349, 043	52, 739		4, 401, 782	4.4	4.4	9, 060, 224	9.2	9, 060, 224	9.2
Iroquois Gas Corp	146, 561, 676	(693, 905)	1(183, 742)		(877, 647)			7, 267, 116	5.0	7, 267, 116	5.0
Jupiter Corp., the	4, 525, 000							772, 000	17.1	772, 000	17.1
Kansas-Nebraska Natural Gas Co., Inc	71, 872, 357	5, 699, 379	251, 995		5, 951, 374	7.9	8.3	10, 158. 378	14.1	10, 158, 378	14.1
Kentucky West Virginia Gas Co	13, 246, 491	(296, 700)			(296, 700)			3, 865, 151	29.2	3, 865, 151	29.2
Lawrenceburg Gas Transmission Corp	2, 311, 169	1, 286	(12)		1, 274	.1	.1	6, 809	.3	6, 809	.3
Lone Star Gas Co	247, 514, 548	6, 836, 756	32, 368		6, 869, 124	2.8	2.8	41, 886, 243	16.9	41, 886, 243	16.9
Louisiana-Nevada Transit Co	1, 864, 465							(576, 660)		(576, 660)	
McCulloch Interstate Gas Corp	4, 922, 058	(195, 290)			(195, 290)			(211, 564)		(211, 564)	
Michigan Gas Storage Co	47, 748, 582	1, 717, 454			1, 717, 454	3.6	3.6	1, 818, 567	3.8	1, 818, 567	3.8
Michigan Wisconsin Pipe Line Co	468, 413, 909	22, 779, 000	1, 074, 300		23. 853, 300	4.9	5.1	43, 974, 689	9.4	43, 974, 689	9.4
Mid Louisiana Gas Co	10, 896, 599	(255, 203)			(255, 203)			902, 719	8.3	902, 719	8.3
Midwestern Gas Transmission Co	139, 300, 662	4, 239, 030	303, 270		4, 542, 300	3.0	3.3	5, 391, 246	3.9	5, 391, 246	3.9
Mississippi River Transmission Corp	113, 449, 885	5, 892, 000			5, 892, 000	5.2	5.2	10, 180, 130	9.0	10, 180, 130	9.0
Montana-Dakota Utilities Co	65, 810, 491	1, 803, 000	(3, 000)		1, 800, 000	2.7	2.7	8, 449, 509	12.8	8, 449, 509	12.8
Mountain Fuel Supply Co	72, 578, 245	(827, 589)	(829, 853)		(1, 657, 442)			10, 246, 980	14.1	10, 246, 980	14.1
Mountain Gas Co	556, 174							(64, 047)		(64, 047)	
Natural Gas Pipeline Co. of America	512, 413, 613	49, 499, 000	504, 000		50, 003, 000	9.7	9.8	57, 388, 564	11.2	57, 388. 564	11.2

Name of company	Total utility operating revenues	Federal income taxes				Federal income taxes, account 409.1, percent of total utility operating revenues	Total Federal income taxes percent of total utility operating revenues[1]	Net income		Net income	
		Account 409.1	Account 409.2	Account 409.3	Total			Before extraordinary items	Percent of total utility operating revenues	After extraordinary items	Percent of total utility operating revenues
NATURAL GAS PIPELINES—Continued											
North Penn Gas Co	$19, 508, 335	$552, 240	$8, 095		$560, 335	2.8	2.9	$1, 059, 731	5.4	$1, 059, 731	5.4
Northern Natural Gas Co	478, 672, 708	13, 189, 300	5, 287, 100		18, 476, 400	2.8	3.9	58, 128, 962	12.1	58, 128, 962	12.1
Northern Utilities, Inc	9, 486, 695	427, 933	17, 032		444, 965	4.5	4.7	866, 110	9.1	866, 110	9.1
Ohio River Pipeline Corp	5, 295, 396	13, 430			13, 430	.3	.3	14, 814	.3	14, 814	.3
Oklahoma Natural Gas Gathering Corp	3, 483, 450	84, 300			84, 300	2.4	2.4	95, 662	2.7	95, 662	2.7
Orange and Rockland Utilities, Inc	109, 796, 371	188, 469			188, 469	.2	.2	14, 263, 309	13.0	14 263, 309	13.0
Pacific Gas Transmission Co	165, 824, 161	1, 018, 082	119, 000		1, 137, 082	.6	.7	6, 301, 512	3.8	6, 301, 512	3.8
Panhandle Eastern Pipe Line Co	351, 588, 681	13, 654, 602	119, 421		13, 774, 023	3.9	3.9	62, 700, 986	17.8	62, 700, 986	7.18
Pennsylvania Gas Co	36, 027, 200	1, 423, 152	15, 301		1, 483, 453	4.0	4.0	3, 297, 114	9.2	3, 297, 114	9.2
Pennsylvania & Southern Gas Co	5, 886, 712	262, 858	33, 056		295, 914	4.5	5.0	447, 317	7.6	447, 317	7.6
Sabine Pipe Line Co	1, 844, 451							326, 561	17.7	326, 561	17.7
Sea Robin Pipelsne Co	81, 484, 672							11, 398, 298	14.0	11, 398, 298	14.0
Shenandoah Gas Co	4, 039, 500	(96, 991)	973		(596, 018)			(209, 763)		(209, 763)	
South Georgea Natural Gas Co	15, 188, 245	708, 552			708, 552	4.7	4.7	1, 421, 056	9.4	1, 421, 056	9.4
South Texas Natural Gas Gathering Co	16, 866, 423	240, 050			240, 050	1.4	1.4	915, 760	5.4	(2, 788, 305)	
Southern Natural Gas Co	323, 214, 218	22, 045, 000	2, 728, 000		24, 773, 000	6.8	7.7	46, 483, 393	14.4	46, 483, 393	14.4
Southwest Gas Corp	59, 864, 003	398, 125	106, 078		504, 203	.7	.8	3, 265, 287	5.5	3, 265, 287	5.5
Tenneco Inc	603, 459, 424	28, 895, 900	(6, 545, 472)		22, 350, 428	4.8	3.7	239, 105, 728	39.6	230, 211, 354	38.1
Tennesee Natural Gas Lines, Inc	15, 796, 563	(76, 800)	22, 300		(54, 500)			1, 594, 056	10.1	1, 594, 056	10.1
Texas Eastern Transmission Corp	484, 487, 927	18, 450, 024	(6, 015, 871)		12, 434, 153	3.8	2.6	88, 550, 836	18.3	88, 550, 836	18.3
Texas Gas Pipe Line Corp	857, 937	(70, 577)			(70, 577)			174, 442	20.3	174, 442	20.3
Texas Gas Transmission Corp	312, 752, 503	6, 404, 100	(68, 000)	$1, 491, 254	7, 827, 354	2.0	2.5	36, 733, 860	11.7	39, 721, 356	12.7
Tidal Transmission Co	1, 794, 629							86, 014	4.8	86, 014	4.8
Transcontinental Gas Pipe Line Corp	505, 534, 930	8, 723, 930	2, 469, 126		11, 193, 056	1.7	2.2	54, 044, 496	10.7	54, 044, 496	10.7
Transwestern Pipeline Co	149, 412, 993	6, 100, 000	(2, 369, 000)		3, 731, 000	4.1	2.5	15, 096, 320	10.1	15, 093, 320	10.1
Trunkline Gas Co	212, 950, 823	12, 571, 100	5, 900		12, 577, 000	5.9	5.9	19, 385, 093	9.1	19, 386, 093	9.1
Union Light, Heat & Power Co., the	$43, 020, 933	$756, 202	$44, 867		$801, 069	1.8	1.9	$1, 603, 905	3.7	$1, 603, 905	3.7
United Gas Pipe Line Co	393, 574, 589	10, 080, 000	1, 389, 000		11, 469, 000	2.6	2.9	23, 542, 156	6.0	23, 542, 156	6.0
United Natural Gas Co	69, 548, 756	1, 339, 511	168, 503		1, 508, 014	1.9	2.2	5, 598, 477	8.0	5, 598, 477	8.0
Valley Gas Transmission, Inc	3, 884, 634	(685, 000)			(685, 000)			86, 867	2.2	86, 862	2.2
Washington Gas Light Co	164, 533, 407	2, 502, 220	867, 326		3, 369, 546	1.5	2.0	11, 253, 991	6.8	11, 253, 991	6.8
West Texas Gathering Co	24, 847, 849	70, 291			70, 291	.3	.3	94, 097	.4	94, 097	.4
Total (national average)	10, 218, 869, 885	346, 958, 825	5, 839, 727	1, 491, 254	354, 289, 806	3.4	3.5	1, 246, 345, 499	12.2	1, 240, 373, 477	12.1

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[1] Revenues related to other income and extraordinary items are not included in total utility operating revenues.

Mr. METCALF. Mr. Simon's proposals on how to alleviate the problems faced by utilities are not new. The privately owned utility industry has for many years argued before Federal and State regulatory commissions, as well as the Congress, that the only way to insure a reliable supply of electricity is to maintain a high level of utility profits through a combination of periodic rate increases and tax breaks which inure to the benefit of utility investors, yet today some utilities are having difficulty attracting new capital and certain areas of the Nation are threatened with potential brownouts. The continual pursuit of higher profits for individual utilities, long advocated by the utility industry and now supported by Mr. Simon, has not only failed to provide the Nation with an efficient and dependable system for generating electricity, it has also proved to be an enormously expensive burden for the American consumer. The financial problems which utilities have encountered due to the existing high rate of inflation may be severe, but they are certainly no greater than the difficulties faced by the average consumer who has already suffered rate increases of 100 percent and more over the past few years due to nearly annual requests by the utilities for higher rates and fuel cost adjustments which rise monthly.

Persistent large increases in the cost of basic utility services and other necessities such as food, housing, and gasoline have placed the brunt of the current inflation directly upon those who can least afford it. Allowing further unnecessary increases in the cost of such necessities will only fuel inflation by leading to demands for higher wages. The time is, therefore, ripe for Mr. Simon and the administration to examine the defects and inequities of the present system of planning and financing utility operations, and to give serious consideration to alternative methods for solving the problem of providing reliable electric service throughout the Nation. It should not be forgotten that the problems of the utility industry are also the problems of the public since the public ultimately bears the burden of increased costs and deteriorating service, and so it is important that public interests be represented adequately at each step of the policy-making process in this vital area.

The detrimental effect of raising basic utility rates on the economy and the fight against inflation is well known after the experience of the past few years, but I believe it is necessary to note the present effect on consumers of the investment tax credit which Mr. Simon proposes to raise from 4 to 7 percent. When Congress first considered the investment tax credit in 1962 as an incentive for companies to increase capital spending, President Kennedy's Secretary of the Treasury, C. Douglas Dillon, recommended that utilities be excluded from taking the credit since they have a legal duty to make all prudently necessary investment, are guaranteed a fair return on such investment, and thus have no need for any incentive to invest. Nevertheless, Congress included a 3-percent tax credit for utilities when the general 7-percent investment tax credit was passed. In 1964, the law was amended to provide that Federal regulatory agencies could not require utilities under their jurisdiction to pass on to the customers the immediate savings permitted by the 3-percent credit without the unlikely consent of the utility itself.

Since the utility industry is capital intensive, the companies covered by the 1964 amendment were able to accrue large sums of money collected from the customers through their rates in the unamortized investment tax credit reserve. The Federal regulatory agencies were required by the tax law to force the customers to pay a rate of return on these accrued funds which they had previously contributed for the payment of a phantom tax expense. State regulatory commissions, which regulate the rates for 93 percent of the power industry, were not bound by the 1964 amendment, however, and nearly every commission considering the issue decided to reduce the base upon which a return is allowed by the amount of the unamortized investment tax credits for the obvious reason that it is inequitable to require customers to pay a return on funds which they have contributed to the utility.

The 1962 law was repealed in 1969 and the present law establishing a 4-percent investment tax credit for utilities was passed in 1971. The present law was written so that no regulatory commission, either State or Federal, can pass the immediate benefit of the tax savings on to the customers. So now customers in every jurisdiction are unjustly required to pay a return on their own money if the utility is to be allowed to qualify for the investment tax credit.

The use of Federal tax law to circumvent the sound judgment of the regulatory commissions empowered by law to set just and reasonable utility rates appears to violate the spirit of both Federal and State regulatory law while unnecessarily enriching investors. If Mr. Simon's proposal to raise the present 4-percent credit to 7 percent is followed, the detriment suffered by utility customers will increase by 75 percent. For example, based on Standard and Poor's projections of utility capital investment during 1974, my staff calculates that customers will be overcharged approximately $250 million this year alone under the present law. If the 7-percent investment tax credit proposed by Mr. Simon had been in effect this year, utility customers would have been overcharged almost $440 million.

There are alternatives to the seemingly endless cycle of rate increases by individual utilities. One of the most feasible alternatives would be the establishment of a national power grid under a bill I introduced last year and which was cosponsored by Senators Mansfield, McGovern, Abourezk, Humphrey, Moss, and Hathaway.

We need a reliable electric power system. We need to curb the unnecessary use of non-renewable resources and to protect the environment. We need to provide required generating capacity and move the electricity where it is needed. A national power grid would help to accomplish these goals in a way that no other concept can.

A national power grid system could slow down plant proliferation by as much as 25 percent. It would mean lower fuel consumption as well. There would be less demand for peak generating facilities. Bulk power could be moved from one section of the country to another to take care of load requirements peaking at different times of day in the various time zones of the country, and at different seasons of the year in the various regions of the country.

The national power grid would strengthen the Nation's varied electric system by benefiting all segments of the industry. A publicly financed bulk power supply system would help solve the power supply problems of the small consumer-owned utilities and the financing and siting problems of the large investor-owned utilities.

I regard introduction of a bill such as this as an initial pleading. We need to have all segments of the power industry and environmental and consumer groups examine it closely, criticize or applaud, and help the Congress develop through the hearing procedure an act that will provide an interstate highway system for electricity, a transmission system that will move power where it is needed and diminish the demand for construction of additional generation facilities.

Reducing the demand by utilities for investment capital will help to reduce interest rates and free capital for other areas of the economy such as housing. Although the plight of a few utilities has caused alarm concerning the status of the entire industry, statistics compiled by the Edison Electric Institute show that the capacity situation for all electric utilities in the Nation, excluding Alaska and Hawaii, has steadily improved over the past 5 years.

For instance, the margin of reserve capacity available on the peak day rose from 16.6 percent in 1969 to 20.8 percent in 1973; and the average load factor which measures the average use of existing plant facilities declined from 64.1 percent in 1969 to 62 percent in 1973. Thus, overall usable capacity has been rising while individual companies have had problems. A national power grid could make the benefits of the national situation available where it is needed. Obviously, much of the plant construction which has been delayed or canceled due to the inability of utilities to raise additional capital under existing rates would be unnecessary with the establishment of a national power grid.

Another alternative which would stretch the use of existing electric generating capacity while also apportioning the cost burden more equitably would be the development of rate structures which discourage ever increasing peak use by pricing such use at its proper economic cost. Encouraging the increased use of electricity through declining block rate structures must come to an end. The development of rate structures based on peak load pricing was recommended by several distinguished witnesses testifying before the Senate Committee on Interior and Insular Affairs earlier this month in regard to the current economic problems faced by the utility industry.*

My amendment No. 1561 to the consumer protection bill—allowing the intervention of the Federal consumer agency in State regulatory proceedings when requested by a State's Governor, consumer agency, or regulatory commission—would help to spread the cost of developing new rate structures and insure that the merits of adopting those rate structures would be properly represented to interested State commissions. This approach is necessary since the regulatory authority for setting consumer utility rates is held by the individual States and the Federal Government has no present means to encourage the use of rate structures based on peak load pricing.

The alternatives I have presented to the proposals of Mr. Simon are not only feasible, but relatively inexpensive when compared to the present system of regular large rate increases. Furthermore, they will reduce inflationary pressures by lowering significantly the demand for new capital by utilities which should, in turn, make utility securities more attractive to investors. Both our economy and our environment may be aided through more coordinated and efficient use of the existing electric power facilities the Nation has at its disposal. The average consumer can no longer bear the burden of the present system of ever higher profits and unfair tax breaks for individual utilities.

It is my hope that the administration will seriously consider my proposals as well as any others which might beat the inflationary push of present methods before adopting economic policies for the electric power industry which will only serve to further entrench the waste and inequities now existing in that industry.

CARL HAMPTON—ONE OF THE LAST OF A SPECIAL BREED

Mr. McGEE. Mr. President, in last Sunday's edition of the Denver Post's Empire magazine, there appeared an article about Carl Hampton, a sheep rancher in the Big Horn Basin of Wyoming.

Carl Hampton is nearly the last of a special breed in our State. A man, who started with virtually nothing but his own ingenuity, and appreciation for the land he knew so well in our State, and an intense dedication to building something tangible to enhance values we cherish so much in Wyoming.

He is 69; has had two pacemakers for his heart, but yet he continues going strong. He is being pressured by developers who want to cut up his 75,000-acre spread, but he resists the temptation to "cash in on the deal" so that he might continue to enjoy the independence and the fruits of the land he has grown to love so much.

Carl Hampton is a unique individual. His story gives anyone reading it a pause for reflection. It gives one a greater appreciation for individuals of Carl Hampton's stature and character. But most of all, a certain sadness comes with the realization that Carl Hampton is one of the last of a special breed of men who built our State from scratch and gave future generations much to be proud.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Empire magazine, Sept. 8, 1974]

Big Man in the Big Horn Basin

(By Olga Curtis)

Real Estate developers keep offering to buy parts of Carl Hampton's 75,000-acre spread in Wyoming's Big Horn Basin to cut up into "ranchettes" for city dudes.

Hampton refuses to sell, even though he would be a millionaire if he did.

"I don't give a damn what happens after I'm gone," he growls, "but I won't sell as long as I live."

That declaration might gladden some real estate men, because Hampton is 69 and on his second heart pacemaker. But he is also a sheepman—one of the last representatives of a tough frontier breed—who stands 6 feet 5¾ inches, weighs 225 pounds, and still rides a horse. It may be a long time before bulldozers destroy the lush green valleys and spectacular red buttes controlled by the Hampton Sheep Company.

Hampton loves this land, even the arid, rocky, perpendicular areas. That is one reason he has spent most of his life amassing acreage. Another, he says with a grin, is that he got tired of trailing his flocks miles out of the way because some cattlemen wouldn't let "damn grass-eating caterpillars" cross their land.

Hampton was born in Randolph, Iowa, in 1905, the oldest son in a family of 12 children. The clan migrated to the Big Horn Basin in 1911 after his father inherited a half interest in a saloon in Worland and a 160-acre homestead nearby.

Hampton's father, Cyrus (who later became a Wyoming state senator), soon sold the saloon and turned to farming. Young Carl, who topped 6 feet even as a teen-ager, dropped out of the eighth grade to help.

He tried both sheepherding and cowpunching, and it was a cold, rainy cattle drive that turned him into a confirmed sheepman.

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* Alfred E. Kahn, chairman, New York PSC; Murray L. Weidenbaum, professor, Washington University, St. Louis, Mo.; Irwin M. Stelzer, president, National Economic Research Associates.

"There I was wet and miserable, trailing cows through the badlands, when I passed an old sheepherder sitting in his wagon, warm and snug by his stove. Right then I said the hell with cows," he recalls.

As a 15-year-old herder, his salary was $50 a month. He used $48 of his first wages to buy 12 old ewes, which he kept on his father's farm. He gave their wool to his dad for rent, but kept their lambs. By the age of 20, he shipped about 400 sheep to Omaha, sold them for $3,600 and invested all of it in 1,800 young ewes.

When the Depression hit, Hampton was less broke than most. He had acquired his own homestead, a large flock and a very good friend named Charles Wells.

Wells was one of the first settlers and best known pioneers in the Big Horn Basin; he homesteaded on Box Elder Creek in 1883.

A lifelong bachelor, Wells was a successful sheep rancher in his 70s when he and young Hampton met; "I guess I was like a son to him," Hampton says.

In 1933 Wells allowed Hampton to buy a third interest in the herds of the Wells Sheep Co. for $3,000. Sheep were worth only $3 a head then, and Hampton had to sell his own flock to become Wells' partner.

Wells and Hampton were congenial partners in spite of an age difference of half a century. Hampton, young and strong, did the herding, sometimes weathering 50-below-zero winters in a sheep wagon. But, he says: "It went good, even though we had to sell lamb at 4 cents a pound. We made money."

In 1941 Wells showed his appreciation by selling Hampton everything he had: 2,400 sheep, 2,000 acres of deeded land and 2,500 acres of leased land. The price was $42,000 and the terms astonishingly low: Hampton was given 40 years to pay, at 2 per cent interest.

"Charley loved his place," Hampton explains. "He wanted to be sure the outfit he had built up would be kept together, and he trusted me."

Wells knew his trust was justified before he died in 1944, aged 89. Almost at once, Hampton began to expand the holdings.

Over and over, he borrowed on his land to buy more land. At one point, he owed half a million dollars in mortgages, but he kept buying until he achieved his present holdings. Hampton owns 12,000 deeded acres, plus the lease rights to 10,000 state acres and 53,000 acres of federal land.

Why so much land for one man?

"I wanted to be independent," Hampton says. "I wanted my sheep on my land, I never had to ask permission to trail across anybody else's property."

Also, he was founding a dynasty, although he prefers to phrase it this way:

"I've sure got a lot of relatives, so many it's confusing."

Hampton, who has been married twice, has 4 children, 14 grandchildren and 2 great-grandchildren, plus 4 living sisters, 16 nieces and nephews and 21 grand-nieces and grand-nephews.

Few of the kinfolk mention Hampton's first marriage, although it is an open secret in the Basin that Hampton has a deep hole in his left shoulder, where the first Mrs. Hampton shot him.

But Hampton tells the story with a sort of pride. He says:

"It beats understanding, but I've had two women crazy jealous about me. And I never was much to look at. When I was young I was skinny and had buck teeth like a horse."

His first wife, Wanda Hardwick, was a carnival performer who could shoot a cigarette out of a man's mouth with a .22 rifle, and split cards in half with one bullet.

They were married in 1929, and divorced in 1944, the year she shot him.

"She had cancer and was crazy with pain, I guess," Hampton says. "We got into an argument, she hit me with an iron kettle, I hit her, and she used the shotgun on me."

Hampton went to the hospital and Mrs. Hampton to jail, but not for long. He put up her bail and withdrew charges. She died a few years later.

In 1946 Hampton married Louise Ralston, a medical technician from Worland, who jokes that she "sampled his blood and like it so well I've been bleeding him ever since."

"She's extravagant," Hampton says of his gray-haired, blue-eyed wife. "She costs me a lot of money . . . but she's worth it."

Mrs. Hampton has certainly upgraded her husband's style of living, from sheep wagon to two luxurious homes. Winters, the Hamptons live in a six-bedroom house on their 320-acre farm northeast of Worland. Summers, they are in a spacious and modern A-frame on the edge of Nowood Creek, about 32 miles south of Ten Sleep. (Both houses have ultra-high ceilings and doorways to accommodate Hampton's huge frame; in hat and boots he towers 7 feet.)

On the other side of Nowood Creek is the big white house where Hampton's only son, Sam, 39, lives with his wife and four children.

The buildings are in a green meadow shadowed by Mahogany Butte, a split cliff formation which marks the headquarters of the Hampton Sheep Co. operation. The Corporation is a family affair: Hampton is president, Sam is vice president and Louise secretary-treasurer.

Hampton claims he has practically retired," but his wife sighs: "He's still going full blast," in spite of two heart attacks and two pacemakers.

He had his first attack in 1950, while working on the range. Hampton pulled himself into a pickup truck and drove to Worland before collapsing.

He suffered the second attack in 1970, while trying to dig a neighbor's car out of a snowbank. He was hospitalized in Casper and given a pacemaker—surgically-implanted device, about the size of a cigarette pack, which controls his heartbeat by electrical impulse.

Two years later, on Election Day 1972, the pacemaker became erratic. Hampton went to his polling place in Worland, voted his usual straight Republican ticket, and then drove to the hospital in Casper, where doctors put a new pacemaker under the skin of his chest.

Hampton usually gets up before dawn, drives his pickup to Box Elder Creek and shares breakfast biscuits with his herder, Arturo Medina of Denver. That provides Hampton with an excuse to check on his flocks, cuss out coyotes, examine the grass and note any strangers on his land. (Hampton allows hunters and fishermen on his property, providing they are polite enough to ask his permission first.) Hampton also does the docking, with the aid of squads of teen-aged relatives, and supervises the lambing and the shearing. At least once a week, he drives more than 300 miles to Casper and back to attend meetings of the Wyoming Production Credit Association. The Wyoming PCA, which provides credit for ranchers throughout the state, has assets of $70 million, and Hampton is one of its seven directors.

But the way he tells it, he is practically a-sitting and a-rocking.

"I'm running only 3,700 sheep right now," he says.

He sold more than 10,000 sheep after his 1970 heart attack. His wife says his retirement plans came to a halt when he got down to his best ewes, and was offered half a dollar less per head than he thought they were worth. Hampton indignantly refused to sell, bought more sheep, and was back in business. "Ten years from now there may not be a sheepman left in the Basin," he says. "Not a one of the ranchers' sons wants to be a sheepman, not even my son. Sam would rather run cows.

"Part of it is because no young man today could do what I did. I started in the homestead days, when there was no income tax and you could run a few head on free land, and get full-time help for $40 or $50 a month.

"Now, even if you can stand the high overhead and the taxes, and find a herder to stay a season, you have to mess with regulations from people who never made a waterhole or chopped their way through ice—the bureaucrats and the environmentalists who want to tell a man how to use his own land."

If Hampton ever does retire, or sell off some of his land for development, it will be because his wife thinks he should.

He says with a grin, fingering a scar on his left cheek:

"I've been able to fight snow and drought and debts, and any man who ever called me a goddam sheepman. But women? Well, I got this scar because some loudmouth cussed out sheepmen at a dance. I beat the hell out of him, but his wife got me with a highball glass."

DEALING WITH INFLATION

Mr. PACKWOOD. Mr. President, in the current issue of Fortune magazine, there is an article that outlines an incredibly simple, potentially quite effective means for dealing with the inflation that threatens our economic and social structure.

Dr. Allan H. Meltzer discusses his proposal in an interview with Fortune's editors. I ask unanimous consent that the full text of the article be printed at the conclusion of my remarks.

Of utmost importance is Dr. Meltzer's closing comment. He stresses the need for continuity in whatever program we develop. He points out, accurately I believe, that one of the major difficulties we have had in dealing with our economic problems to date is the inconsistency of our policy. He scores this on-again, off-again approach to economic policy in no uncertain terms:

> If I were running this policy, I would announce in advance what I intended to do. I would go a bit faster if things work out slightly better than I had hoped, and a little bit slower if things work out worse. But I would hold the direction .
>
> Constancy of direction is the really essential thing. The great danger is that one goal will be paramount for six months and the other goal for the following six months, so that we wobble between those two objectives [inflation control and full employment]—as we have in the past—and never solve the inflation problem.

I highly recommend that each of us take just a few moments to read Dr. Meltzer's remarks. They will be rewarding moments indeed.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A PLAN FOR SUBDUING INFLATION

(The difficulties of settling on a national policy for coping with inflation are compounded by a prolonged Battle of the Books among economists. Those who think of themselves as fiscalists (or Keynesians or New Economists) often underestimate the importance of changes in the rate of money-supply growth. And those who think of themselves as monetarists often overestimate the possibilities of using changes in the rate of money-supply growth as an instrument for controlling inflation. Actually, monetary tightness pushes interest rates and unemployment up before it has any discernible effect on inflation.

(In this dialogue, economist Allan H. Meltzer presents a specific plan for using a combination of monetary and fiscal restraint to subdue inflation. Meltzer is Maurice Falk Professor of Economics and Social Science at Carnegie-Mellon University in Pittsburgh. While unmistakably a monetarist, he recognizes that the federal budget (fiscal policy) heavily influences the decisions of the Fed (monetary policy).

(The dialogue is a shortened version of a conversation between Professor Meltzer and two members of the FORTUNE editorial staff. Meltzer's words are printed in regular type, and those of the FORTUNE staffers in italic.)

Let's start out with a question that some might find a bit shocking—a devil's advocate question. Why try to end inflation? Ending inflation entails some costs—a promise to end inflation without costs is not credible. Why incur those costs? Why not try to learn to live with inflation?

Well, it's certainly true that we can't stay where we are. Either we have to adjust to living with inflation or we have to get rid of inflation. The question is, which costs less. Is it less costly to move from where we are to a world in which there will be permanent inflation, or is it less costly to move back to a world in which there is no inflation?

I believe it is less costly to move back to the world of no inflation, if we choose a low-cost route. It is worth something—it is worth a lot—to avoid having to adjust to a world in which prices keep changing all the time and fixed values no longer have any meaning. Full adjustment to inflation means changing all bond contracts, all interest contracts, all labor contracts. Every interest rate, price, and wage in the society has to keep changing. That would be very hard for the public to get accustomed to. In countries that have partially made adjustments to inflation, people still find difficulty in thinking about prices and wages that always rise, and even in making simple shopping comparisons.

But adjustment to inflation, through some such method as indexation, would reduce the inequities that are now associated with inflation? Isn't that so?

Yes, that is so. It's important to distinguish between anticipated and unanticipated inflation. Unanticipated inflation has much greater costs, much greater social consequences. All economists agree that unanticipated inflation is costly. The costs of unanticipated inflation come when, as now, people try to protect themselves from an inflation they did not anticipate. Anticipated inflation—if everybody anticipates it correctly—has much smaller costs, much smaller social consequences. But people slide over the heart of the problem when they say that fully anticipated inflation involves only small costs. When we talk about fully anticipated inflation we are biting off a really big piece of bread.

To begin with, we know we can't make the adjustments completely. There's no way in which we can escalate every contract and adjust every asset and liability perfectly. Moreover, the costs of adjusting to inflation are very large. Permanent inflation means giving up a notion that we have lived with for several centuries: the notion that accounting values mean something. Learning to live with inflation means learning to live in a world in which the prices of all goods and services and all assets rise together, year after year.

Everyone would have to learn to think in a new way about capital investment and pension plans, for example. With 7 percent inflation, we would have prices doubling every ten years or so. Think what that would mean. Thirty years from now, prices would be something like eight times as high as now. And with 10 percent inflation, prices double in about seven years. Adjustment to that kind of change requires new ways of thinking about the present and the future. I believe it would take decades before people could fully adjust.

And what will we have when we get there? It's important to focus on that question. After decades of adjustment, assuming full adjustment, we would get to a system that at best is no better than a system of price stability. I believe it's much easier to get back to price stability.

A related point about learning to live with inflation. Even if we could achieve full adjustment so that there were no economic inequities at all resulting from inflation, there would still be psychological costs. Living with constant change in the economic arrangements of life would contribute to a sense of instability in other matters—contribute to the general sense of disorder that is one of the pervasive social problems of our times.

So it seems undeniable that price stability would be preferable to fully anticipated inflation if we could achieve price stability at moderate cost. But we run into the old trade-off problem. And effort to get back to price stability seems to involve unemployment costs that many people consider too high.

There are costs both ways. I would be misleading you and everyone else if I said there were no costs. But the costs of getting back to price stability depend very much upon what we do to get there. People who talk about the very large costs of returning to price stability generally talk about returning quickly. If we tried to end inflation quickly, we would have a major recession that would throw lots of people out of work and even so we would fail to get back to price stability, because we would refuse to pay the cost in unemployment and lost production.

Within the range of knowledge we now have, it's not possible to get to price stability quickly and at low cost. But if we take a longer view, it may be possible to return to price stability at a tolerable cost.

And you have a plan for doing that—for returning to price stability and doing so at a tolerable cost. What are the basic ingredients of your plan?

My proposal has three interrelated elements. First, we should reduce the growth rate of the money supply—gradually, over a span of years. Notice, I do not say reduce the money supply, but rather reduce the growth rate of the money supply. Second, we should move from deficit to surplus in the federal budget. The surplus should be used to retire debt. Third, we should keep the system of floating exchange rates. A main reason for this third element is to make sure that the effects of the other two elements on inflation are fully felt here at home, instead of being partly offset by the policies of other countries.

Those are the three parts of the program. How do I know that this is going to work? The honest answer is we can never be certain about the future. We do know that no inflation has been ended without reduction in the growth rate of money, and I don't believe we will keep the growth rate of money down if we continue to run deficits.

We cannot be certain about the timing of the response, so we want to have some flexibility. If we want to bring the inflation rate down with as little cost as possible, we have to keep both unemployment and inflation in mind throughout, not swing from overriding concern about one to overriding concern about the other.

Let's talk a little about that third element in your plans. It's somewhat different in kind from the other two. Basically, its purpose appears to be to provide a sort of insulation, so that you can proceed with your domestic inflation-stopping policies without disrupting external economic relations in an interdependent world.

Right, and other countries can do the same. Anti-inflation policies in Germany or Switzerland would not have succeeded this year if those countries had maintained a fixed exchange rate with the dollar, as they used to do.

How could your plan possibly be applied in the present economic circumstances in the U.S.? We are in a period of practically no real growth, with unemployment that many people consider much too high. Some economists argue that we need faster growth in the money supply to stimulate the economy. So how do you go about cutting back on the growth rate of the money supply?

In a word, gradually.

It's important to note that gradualism is not an incidental aspect of my proposal. It is central. During the postwar period, and particularly during the last ten years, we have accumulated a lot of evidence showing that change in the growth rate of money is the single most important weapon the government can use to control inflation. In general, efforts to control inflation failed because the authorities slammed down too hard on the money-supply growth rate and sent unemployment and interest rates moving up. Then, after overreacting against inflation, they proceeded to overreact against high interest rates and unemployment.

The reason people are pessimistic about the possibilities of halting inflation is that they think back to the experiences of the past ten years or so, and they recognize that efforts to halt inflation ended not with a lower but with a higher rate of inflation. That is not inevitable. It happened because we failed to keep both problems in mind.

When you talk about halting inflation gradually, what kind of time period are you thinking of?

We should be very happy indeed if we can get back to price stability in three years. I would want to take a three- to five-year horizon. Why three to five years? One reason is that we have some information about how long it has taken in the past. We've never experienced peacetime inflation as widespread, as large, and as pervasive as the current inflation. Still, the past may provide some useful guidance. It took roughly three years to get rid of the Eisenhower inflation. It took about two to three years to get rid of the early postwar inflation. So we have some general guides that make three to five years seem to be a reasonable time frame.

You speak of a gradual reduction in the rate of money-supply growth. Reduction toward what? How far do you propose to go?

For price stability, the optimum rate of money-supply growth would be a rate approximately equal to the basic growth rate of the economy, and that's in the neighborhood of 3 to 4 percent. That would change, of course, depending for one thing on how fast the labor force grows—but around 3 to 4 percent is consistent with past experience. Some flexibility is desirable, and in practice the Fed should keep the money-supply growth rate between 2 and 6 percent. Then we would avoid the excesses of the Thirties on the deflationary side and the excesses of the Sixties on the inflationary side. Prices would fluctuate within a narrow range.

The rate of money-supply growth is now around 6½ percent, and you want to reduce that to, say, 4 percent. Over what span of time?

I want to allow two to three years to bring down the growth rate of money. It will take a year or two beyond that for the full effects on prices to be realized.

While we're pinning down these figures, let's pin down what you mean by price stability. You've indicated that you certainly *do not mean stability in anything like an absolute sense.*

Right. As a practical matter, 1½ percent a year in the consumer price index might be considered price stability. In the early Sixties we had an increase approaching 1½ percent a year in the C.P.I. with roughly constant wholesale prices, so that's probably a sensible goal. During that period, wages rose, but so did productivity, and unit labor costs remained roughly constant. We were in a period of relatively stable prices with falling unemployment. The money stock grew at about 3 or 4 percent.

Measured against the kind of inflation we've experienced in the last several years, getting back to that kind of stability even over a span of three to five years seems a bold and ambitious goal. Do you feel pretty sure that your proposal could get us there?

There's no reason to doubt that holding the growth rate of the money supply to the growth rate of the economy—3 to 4 percent—would hold the rise in the consumer price index to less than 2 percent on average. But that is not my entire program for stopping inflation. My proposal is a package, not just a single element. Along with slowing the growth of money, I want to move from a deficit to a surplus in the federal budget. Without that, reducing the rate of money-supply growth would tend to bring increased unemployment and higher interest rates before we made much progress in slowing inflation.

Why would it help matters so much to go from deficit to surplus in the federal budget?

In reducing government spending, we shift resources from the government sector to the private economy—which means, generally, from lower-productivity uses to higher-productivity uses. We shift the use of resources in a desirable direction—that is, toward expanding output.

Using the budget surplus to retire debt, moreover, lowers interest rates. And that helps to expand economic activity and employment in housing and other industries where small changes in interest rates have large effects. And, by keeping interest rates from rising, we keep the federal government and particularly the Federal Reserve from undoing the anti-inflation program by increasing the growth rate of money in order to hold down interest rates.

Isn't it reasonable to say that some of the misadventures of governments in trying to subdue inflation have resulted from relying too much on fiscal or monetary restraint, rather than using both in the same direction? That is, failing to exert sufficient monetary restraint and therefore needing an excess of fiscal restraint, or, more commonly in recent years, being quite incontinent in fiscal matters and relying on monetary policy to do the job, with the result that the Fed has to lean too hard?

In the past ten years or so the government has financed social-expenditure programs by running budget deficits. The financing raised interest rates. To hold down interest rates, the Federal Reserve increased the growth rate of money. Inflation increased. Every now and then the Federal Reserve shifted to concern about inflation, but only for a time. They overresponded in one direction, then in the other.

You speak of holding down interest rates by using the budget surplus to retire debt. What does it mean to retire debt, in this particular context? What is the mechanism?

Basically, what it means is that as Treasury issues run off, they're not fully replaced. Government securities are continually maturing, and the Treasury has to roll over something like 100 billion dollars every year to stay in the same place. If there is a ten-billion budget surplus, they issue, say, 90 billion in securities instead of 100 billion, and some holders just get paid off with cashable government checks.

Let's see—the government takes in ten billion more than it spends, and it uses that extra ten billion to pay off bondholders. In other words, there is a transfer of ten billion from taxpayers to owners of bonds. What are the economic effects of this transfer?

Interest rates are lower. Output will be lower, too. As a result, the actual surplus will be smaller than the planned surplus. But that's a detail.

Why will output be lower?

It will be lower because government expenditures have some positive effect on output in the short run. My estimate is that with about 5 percent change in government expenditure we get 1 to 2 percent change in real output. There is a grain of truth to the Keynesian story which says that if the government spends more and runs a deficit, output increases for a time. I don't want to deny that grain of truth. If we cut federal spending, that's going to have some contractive effect. I would like to add, because I think it's important, that if we have a budget surplus and we run into trouble, we do not go back to a highly stimulative policy of expanding the money supply—back to inflation, in other words. We cut taxes and maintain the growth rate of money.

How big a budget surplus are you thinking of in your proposal? And over what period of time do you propose to swing from deficit to surplus?

I would like to replace the present deficit of about five to eight billion with a surplus of between eight and ten billion. In other words, I propose a reduction of about 15 billion in the federal budget. And I would like to see that happen as soon as possible. I do not advocate gradualism here.

What you're proposing would be very difficult in political terms. That doesn't mean it's wrong, of course, but the political difficulty is a consideration you can't just set aside.

It's true that every item in the budget has defenders. But it's hard to see why it isn't possible to cut federal spending by 5 percent. We have a 300-billion-dollar budget now. Not long ago Lyndon Johnson was talking about hoping to hold the line at 100 billion. Even with inflation, that's quite an increase. The defenders have to explain why an extra 15 billion a year in federal spending—300 billion instead of, say, 285 billion—is more important than reducing inflation. I don't think the public believes that, and I certainly don't believe it.

What are some particular areas of the federal budget where you think it's possible to make sizable cuts?

Well, let's go over the parts of the budget that have grown most rapidly. One of them, of course, has been aid to state and local governments. Total state expenditures have risen very dramatically over the entire postwar period, but the federal share of them has risen even more dramatically. In 1946–47 about 8 percent of state and local government expenditures was being paid by the federal government. We're now up to 22 percent. So federal aid to state and local governments is a candidate for cutting. Some programs are desirable, but it seems to me that we have to ask ourselves, do we need them all now, or would it be better to try to phase some of them out and transfer the resources to more productive uses?

There's the HUD budget—we're spending billions of dollars every year to build subsidized housing. It isn't at all clear that the programs meet the elementary test of a cost-benefit analysis, let alone the more stringent test of using resources most efficiently. So this is a very good place for cutting the budget and returning to the market system.

This is far from a complete list. The staffs of many regulatory commissions have expanded in recent years. I would certainly include the space program as a candidate for cutting, too. There are many places to cut. All of them have their proponents, of course. But let's ask the right question, namely, is maintaining expenditures at the present level more valuable to the citizenry than trying to reduce the rate of inflation by, say, five percentage points in the next three to five years? It seems to me that, for the public as a whole, there is no comparison. So I don't see that there's really a major issue here.

What do you reply to those who say—and some economists certainly would say—that if you tried to cut federal spending by 15 billion over the next year or so, especially while holding down or reducing the rate of money-supply growth, the result would be a drastic increase in unemployment?

They believe, and I do not, that the budget is the key element guiding the economy. I believe the budget is one element affecting the economy and the money supply. My own guess, as I indicated earlier, is that the effect on output would be no greater than 1 to 2 percent. That means we may have a mild recession. We can keep the recession mild by maintaining the growth rate of the money supply close to its current range, and only gradually lowering the rate. That way, we help to absorb resources released by the cut in government spending. Experience tends to support the view that large changes in the budget have small effects on real income.

But even a small contraction in output can bring some increase in unemployment. And in the society we live in, even a small increase in the unemployment rate is considered to be very important. There does seem to have been some weakening recently in devotion to the concept of full employment, but its hold on public opinion and on policy is still very strong.

That's true, but let's consider what an increase in the unemployment rate means. Suppose the rate increases from 5 percent to 6 percent. That means an average worker spends twelve to fifteen weeks finding a job instead of nine to twelve weeks. That's a big change, that's a big loss of real income. But is that too high a price to pay to reduce the rate of inflation? I don't think so. Another question is whether a period of increased unemployment imposes a higher cost than the cost of trying to insure ourselves against inflation by escalating all contracts. Again, it seems to me that the answer is no.

Still, with 6 percent unemployment there would be a lot of pressure on government to move back to inflationary policies. And some economists would maintain that with your proposal unemployment might go above 6 percent.

Try 7 percent. What would a 7 percent unemployment rate mean? It would mean fourteen to sixteen weeks between jobs. And that's what happened in 1961. One main reason the unemployment rate rises is that it takes workers longer to find jobs. Of course, the difference between ten weeks and fifteen weeks means a lot to the man who is unemployed. I don't want to deny the cost. But I also don't want to set it up as an absolute, to say that everything has to adjust to this cost. There are costs of adjusting to permanent inflation to set on the other side of the ledger.

It's important to keep in mind, though, that we are not dealing with a simple, linear relationship between the costs of unemployment and the average length of time between an average of ten weeks and an average of fifteen translates into much more than five weeks for some of the unemployed. Also, the effects of being out of work accumulate over time. People run out of savings. They become discouraged. Some give up. There may be lasting psychological damage to unemployed people and to their families.

Well, you also have to consider the gains that may be offsetting the losses. But I'm willing to concede the truth of what you say. It is a strong argument for gradualism, for being careful, for being willing to slow down the rate at which you attempt to end the inflation, for keeping a focus on two goals rather than just one. I do want to keep both goals in mind. I want to bring the inflation rate *and* the unemployment rate down. But I believe that you can't do both at the same time, so I want to put together a package. Let's try a package, keeping in mind that there are costs and benefits on both sides.

My proposal takes into account that very small changes in the money supply can have potentially large effects. Therefore, we want to make sure that the changes in the growth rate of the money supply are relatively small. But they must be consistent in direction. If I were running this policy, I would announce in advance what I intend to do. I would go a little bit faster if things work out slightly better than I had hoped, and a little bit slower if things work out worse. But I would hold the direction.

Constancy of direction is the really essential thing. The great danger is that one goal will be paramount for six months and the other goal for the following six months, so that we wobble between those two objectives—as we have in the past—and never solve the inflation problem.

REHABILITATION ACT AMENDMENTS OF 1974

Mr. WILLIAMS. Mr. President, I am pleased to join with my colleagues in bringing to the Senate floor the Rehabilitation Act Amendments of 1974 (S. 3108). Briefly, these amendments provide for the transfer of the Rehabilitation Services Administration from the Social and Rehabilitation Services Administration to the Office of the Secretary; extension of authorizations under the Rehabilitation Act for 2 years, except that the authorization of the basic State grant program is extended for 1 year; and includes certain clarifying and technical changes. S. 3108 also includes the Randolph-Sheppard Act Amendments of 1974, and incorporates my legislation to call a White House Conference on Handicapped Individuals.

This legislation continues the increasing concern on the part of the Congress to assure that the Rehabilitation Act and services delivered thereunder are strengthened and extended to all individuals with handicaps who can benefit from such services. The Rehabilitation Act of 1973 as enacted on September 26, 1973, culminated close to 2 years of work on the part of the Congress and represented a major revision of this legislation. Major provisions of this legislation included a priority in services to individuals with the most severe handicaps, major procedural protections to assure services to all individuals who could benefit from them, strengthening of the important programs for research and training, and major new provisions to prohibit discrimination against handicapped individuals, the creation of an Architectural and Transportation Barriers Compliance Board, and the creation of an Office for the Handicapped.

S. 3108 provides for extension of all authorizations for the Rehabilitation Act of 1973 for 2 years, with one exception. These authorizations have been increased minimally to keep up with inflation and needed growth in the program. The one exception is the basic State grant program for vocational rehabilitation services which has been extended for only 1 year, reflecting the agreement of the committee that the formula for this program must be reviewed separate from the act and following the submission of the formula study authorized in 1973. Although authority for this act does not expire until June 30, 1975, the committee has taken action to extend authorizations at this time in order to provide the States continuity and to assist planning.

The legislation further transfers the Rehabilitation Services Administration to the Office of the Secretary. Following a careful review of the history of this program as housed in the Social and Rehabilitation Services Administration, the committee has concluded that the association of this program with welfare programs is unnecessary, and that the intent of Congress in the 1973 act was to place increasing emphasis on the importance of rehabilitation services as basic human services needed by individuals with handicaps.

It is our belief that this program will strongly benefit from this move, and have therefore transferred RSA to the Office of the Secretary. Certain conforming changes have also been made as a result of this transfer. The committee has provided that the functions of the Office for the Handicapped—redesignated the Office for Handicapped Individuals—not be delegated to any persons not assigned to and operating in the immediate office of the Secretary or the Under Secretary in order to assure that this Office retain its agencywide scope.

Title III of S. 3108 incorporates legislation I authored to call a White House Conference on Handicapped Individuals, and is virtually identical to measures for this purpose which passed the Senate twice previously, with a notable revision. This revision is a strengthening of the role of the National Planning and Advisory Council to provide joint responsibilities, in all activities leading up to and following the conference, with the Secretary of Health, Education, and Welfare, and to assure maximum participation by individuals with handicaps in all such activities.

The title also calls for the convening of at least one conference within each State previous to the White House Conference. These changes have been made to assure that the National Conference is as representative as possible, and to recognize the increasingly important role that must be played by individuals with disabilities in forging policies which affect their lives. The title authorizes such sums as may be necessary to carry out State conferences and the national conference, and authorizes at least $25,0000 but no more than $75,000 in assistance to the States to run State conferences.

Furthermore, Mr. President, I take note of a change made in the Rehabilitation Act of 1973 which had had an important effect on special projects under the Rehabilitation Act for individuals with developmental disabilities. In reviewing the special project authority in 1973—section 304—the committee reviewed the appropriateness of funding special projects for individuals with developmental disabilities who are not otherwise eligible under the Rehabilitation Act. The committee concluded that a special project authority should be created under the Developmental Disabilities Services and Facilities Construction Act. Such legislation containing that authority is pending before the full committee and is expected to be reported to the Senate floor in the near future.

At the same time, the committee intends to provide as smooth a transition as possible for current and continuation projects funded under the Rehabilitation Act for individuals with developmental disabilities in light of the fact that the major portion of appropriated funds are spent on such projects. There has been difficulty in the continued operation of this authority as a result of Public Law 93-112, and because of this difficulty clarification of committee intent is necessary.

With respect to section 304, current and continuation projects which serve individuals with developmental disabilities funded under the Vocational Rehabilitation Act or the Rehabilitation Act of 1973 should be continued until such new authority under the developmental disabilities legislation is authorized; and individuals with development disabilities who are or were receiving services under such projects should continue to be eligible for such services, and special projects delivering indirect services to such individuals or which have impact on their lives should continue to be funded.

Furthermore, even after the enactment of new special project authority under developmental disabilities legislation, funding for projects serving individuals with developmental disabilities should continue consistent with the intent of Congress that no individual is to be refused service under the Rehabilitation Act unless it is demonstrated beyond any reasonable doubt that such individual is not then capable of achieving a vocational goal.

This should not be interpreted then to mean that after the enactment of special project authority under the developmental disabilities legislation that all special projects which serve the developmentally disabled have to be funded under the developmental disabilities legislation, or that developmentally disabled individuals are no longer to be eligible under the basic State grant program under the Rehabilitation Act. Individuals with developmental disabilities shall still continue to be eligible as all other handicapped individuals are eligible under the Rehabilitation Act, either under special projects or the basic State grant program.

S. 3108 also contains as title II, the Randolph-Sheppard Act Amendments of 1974 which passed the Senate in June and contain many important amendments to that law.

Finally, Mr. President, the bill contains a number of clarifying changes, among which include:

First. A change in the definition of handicapped individual to clarify the intent of the Congress in enacting section 503 and section 504 of Public Law 93-112;

Second. Changes made in the Architectural and Transportation Barriers Compliance Board authority to provide for an enforcement mechanism, adequate staff, and an advisory panel, a majority of whom shall be handicapped individuals;

Third. Provisions relating to recordkeeping on ineligible applicants under the basic program to provide for adequate accountability which is imperative; and

Fourth. The requirement of affirmative action on the part of all agencies and facilities in receipt of assistance under the Rehabilitation Act to employ and advance in employment handicapped individuals.

ENERGY CONSERVATION BY THE FEDERAL GOVERNMENT

Mr. ROTH. Mr. President, on December 10, 1973, the Senate agreed to an amendment expressing the sense of the Congress that the Federal Government should immediately take steps to reduce the amount of fuel it consumes by one-third. Prior to the introduction of this amendment, I had joined with Senators BROOKE, BUCKLEY, CASE, STAFFORD, and TAFT in a letter to the President urging a Federal Government energy conservation program along the lines advocated in the amendment.

When it passed the amendment, the Senate fully realized that the measures advocated to bring about a one-third reduction in Government fuel consumption called for initiative and sacrifices by all executive agencies. On the other hand, there existed a strong conviction that the Government could not ask the American people to make sacrifices unless the Government demonstrated positive leadership in the conservation of energy.

In May I called attention to the importance of continued leadership by the Federal Government in energy conservation to impress upon the Nation that the need for conservation was as great as ever despite the apparent availability of plentiful supplies of fuels. At that time I noted that the Federal Government had reduced its projected consumption of energy by 20.8 percent in the first quarter of fiscal year 1974—July to September 1973—and had increased this performance to 26 percent in the second quarter of the fiscal year for a 6 months' average of 23.4 percent.

While this performance was a tribute to the Federal agencies and their employees who had exceeded the President's goal of 7 percent by more than 300 percent, it was still short of the one-third goal called for by the Senate on December 10, 1973. I said then that even though this was a fine record, more could and should be done.

It is heartening to note that for the third quarter of fiscal year 1974, the Federal energy reduction program produced savings of 30 percent of anticipated energy use, thereby confirming my belief that additional savings could be made. In more tangible terms, the savings for the period January through March 1974 amounted to an equivalent of 30 million barrels of oil, or $240 million in reduced Federal energy costs. The Department of Defense, which is by far the largest consumer of energy in the Government, was again in the forefront with savings of 31 percent.

Conservation continues to be a key to our ability to satisfy our energy requirements, both in the short and long term. The leadership being provided in this area by Mr. John Sawhill through the Federal Energy Administration's Conservation and Environment Office is evident not only in the performance of the Federal Government, but also in the growing adoption of energy conservation programs by the States—three-fourths of them have implemented such programs—and by business and industry.

Because our ability to increase energy supplies to meet projected demands is not unlimited, we must continue to promote the development of an energy conservation ethic in all segments of our society. We must continue to impress upon the American people the need to limit driving speeds to 55 miles per hour, go easy on air-conditioning and heating, turn off lights that are wasting energy, and use public transportation and car pools whenever possible.

By example, the Federal Government must continue to lead in the conservation of energy. With the proper emphasis of renewed dedication to energy conservation by all Federal managers and employees, the Senate goal of a full one-third reduction in fuel consumption will become a reality. I look forward to the next report of the Federal Energy Administration on the results of the Federal energy reduction program in the fourth quarter of fiscal year 1974.

WORLD FERTILIZER SHORTAGES

Mr. McGEE. Mr. President, recently the New York Times published an article written for the Op-Ed page by James P. Grant, President of the Overseas Development Council.

The article addresses itself to the severe problem of world fertilizer shortages and the disastrous consequences it portends for the less-developed nations of the globe. Such a development has placed the lives of millions of people in the less developed nations in jeopardy. Massive starvation has been predicted by many experts.

I take note of Jim Grant's article not just because I consider him a friend; I take note of what Jim Grant is saying because of the wisdom and expertise he brings to the national dialog on the problems of developing nations in the world and how the fate of rich nations such as the United States are inextricably tied to the fate of the poor. Few can match his qualifications or expertise.

Jim noted that the United States is not insulated from the ramifications of the fertilizer shortage, just as this Nation is not insulated from any political or economic development anywhere in the world. While inadequate supplies of fertilizer can seriously limit food production in developing nations, these countries, in turn, are forced to rely upon food imports from the rich nations in order to make up for large shortfalls in their own production. As Jim so aptly pointed out, this circumstance further inflates already high world grain prices in the deadly competition for the world's food production. While the lives of millions of people hang in the balance, the American housewife pays for this accelerating demand for food everytime she walks into the supermarket.

As an original sponsor of S. 329—the world food resolution—introduced by my distinguished friend and colleague, Senator HUMPHREY, I am deeply concerned over this problem which is rapidly assuming disastrous proportions.

What is particularly agonizing about this situation is the fact that, according to Jim's article, "Americans are applying some 3 million tons of nutrients to lawns, gardens, cemeteries and golf courses—more than is used by all the farmers in India, and half again as much as the current shortage in developing countries."

In S. 329, we call upon the President to ask Americans to reduce such ornamental uses of fertilizer in order to free it for crops in nations where food is shortest. We are not asking Americans to make any sacrifices which would jeopardize our own national well-being, but only to enhance it. We are not asking that fertilizer needed for our own crop production be diverted to developing nations. What we are asking is that we reevaluate our habits of consumption. Whether it be a natural resource such as oil, or iron, or coal, we need to reexamine our habits of consuming resources just because they are there and we, as Americans, have the capability to outconsume any nation in the world.

Fertilizer is a resource vital to food production in the world. Since there is a direct correlation between availability of fertilizer and our food production capabilities as a planet, and hence, the price all of us pay for our food, it would seem only reasonable that the main priority for the use of fertilizer should be in the production of food.

The article is very thought-provoking. It addresses itself to the issue of our obligation as a nation to those less fortunate—an humanitarian concern—but it also focuses on the penalty we can pay if we continue to ignore what goes on beyond our national borders. I would urge my colleagues to study Jim Grant's article and ponder what he has to say.

I ask unanimous consent the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHILE WE FERTILIZE GOLF COURSES

(By James P. Gant)

WASHINGTON.—Over the 25 years since President Truman committed the United States to providing technical assistance overseas, developing countries have been urged to modernize their agriculture by use of more chemical fertilizers and the better seeds that need them.

But events of the last year, as a world

fertilizer scarcity has emerged, have given that advice the appearance of a cruel trick. Many developing countries, dependent on imports for a sizable share of their fertilizer needs, have seen supplies cut off by the industrial countries at a time of acute food scarcity, endangering the food supply of millions already at the survival line.

With food prices high everywhere, raising farmers' demands in the United States and other advanced countries for already tight fertilizer supplies, major exporting regions have reduced fertilizer exports by various means.

For example, the Japanese Government, faced with an energy crunch—energy is a principal raw material for fertilizer production—deliberately reduced production and sent missions to break contracts throughout Asia.

Through an agreement between the fertilizer industry and the Cost of Living Council to increase supplies in this country, the United States discouraged new export contracts during most of the 1974 crop year, which ended June 30, and used the threat of further price controls to keep supplies at home.

Shipments of fertilizer under the United States aid program also virtually dried up. The ensuing fertilizer shortage in many developing countries, which is now being felt, was the principal reason for the seven-million-ton shortfall in India's wheat harvest this spring.

The United Nations Food and Agriculture Organization recently estimated the fertilizer shortfall in the developing countries for the crop year beginning this summer to be two million tons. This will probably mean a loss in grain production of 20 million tons, enough to sustain 100 million Asians or Africans for a year.

Diminishing returns from increased applications of fertilizer are complicating the problem and spotlighting the irrationality of the current pattern of fertilizer distribution. Advanced farmers in the industrial countries, who already apply nutrients liberally, get only limited production gains from each additional pound of fertilizer used—often only five pounds or less of extra grain.

By contrast, most farmers in poor countries are using much less fertilizer and an extra pound of nutrient can easily yield 10 to 12 pounds more of grain.

The current global distribution pattern, then, is keeping the most fertilizer where it will produce the least amount of extra food. World food production this year will be millions of tons lower than it could have been if available fertilizer had been distributed more rationally and equitably among the poor countries.

For every dollar's worth of nutrient the poor countries are denied this year, they will likely have to import $5 worth of food next year. This is a losing proposition that these countries—many of which are already at the economic breaking-point—can ill-afford.

Nor does the pattern serve the interests of the United States and other grain exporters. We are caught in an absurd cycle in which a country is refused fertilizer, thus cutting its food production and raising its import needs (and quite likely famine-relief needs) by more food than the amount we produced with the withheld fertilizer in the first place, thereby further inflating already high world grain prices. This will hurt rich and poor alike.

Or is it possible we will deny the poor countries, where per-capita grain consumption is only one-fifth of ours, the food as well? Last year, when the United States earned $2 billion more on its food exports to developing countries through higher prices than it did in the previous year, we reduced our food aid to 40 per cent of the 1972 fiscal year level, and about one-half of this reduced amount went to Indochina.

Meanwhile, as the world is caught in a critical shortage of fertilizer for food production, and as we restrict our exports of fertilizer and food, Americans are applying some three million tons of nutrients to lawns, gardens, cemeteries and golf courses—more than used by all the farmers in India, and half again as much as the current shortage in developing countries.

A sense of priority and some active leadership is badly needed from the executive branch of our Government. It should follow the call by numerous Senators and Representatives early this year for a Presidential appeal to the American people to reduce nonessential uses of fertilizer, just as we were asked to turn down our thermostats and slow down our cars.

Such action could free enough fertilizer over the coming year to alleviate the more severe shortages, which, in any case, will beset us for most of this decade. The Government should also restore fertilizer aid shipments to sizable levels and encourage private business to sell more to the poor countries. The time is short and the stakes are high.

REGULATION OF OBLIGATIONS ISSUED BY FINANCIAL INSTITUTION HOLDING COMPANIES

Mr. TAFT. Mr. President, as a cosponsor of legislation similar to title I of S. 3838, I am pleased that title I was passed yesterday by the Senate.

Title I would provide the necessary authority for the Federal Reserve Board to regulate bank holding company securities that otherwise could pull funds inordinately out of home lending institutions, through circumvention of Federal interest rate ceilings. With housing in a depression largely because of record mortgage interest rates and net withdrawals from the pricipal mortgage lending institutions, savings and loan associations, at a rate of $1.2 billion last month, this legislation is extremely timely.

The Pioneer Citicorp issue and other floating rate issues which have followed are like savings reposits in the sense that they have low denominations and can be redeemed on frequent dates, at least after an initial waiting period which has been encouraged by the Federal Reserve Board. However, because these notes are technically securities rather than deposits, they are not subject to the same interest rate ceilings as savings deposits. Savings and loan associations, which have traditionally furnished about half of all residential mortgage funds, legally cannot compete in terms of interest rate with this type of issue.

Thus, the potential for floating rate notes to draw considerable money out of thrift institutions as savers divert funds to the new issues is certainly there. In view of the present mortgage market situation, this would be an extremely serious occurrence. The Federal Reserve Board should have the power to take necessary action.

I realize that the floating rate notes have not been received as well as anticipated. To some extent, the delay in the first permissible redemption of the notes which was encouraged by the Federal Reserve Board has undoubtedly been a partial cause of this development. In view of the uncertainty concerning the future impact of floating rate notes, some of which may be structured more attractively than the first few issues in the view of small investors, the provision of discretionary rather than mandatory regulatory authority for the Federal Reserve Board could be a sensible compromise if administered sensitively. However, the provisions' effectiveness depends crucially upon the Federal Reserve Board's willingness to use its new power to the extent necessary to prevent undue detriment to the mortgage market. I urge the Federal Reserve Board to administer these provisions accordingly.

It should be clear, however, that title I is a stopgap measure. Both the Citicorp note problem and Congress consideration last year of "wild card" certificates illustrate clearly the importance of early consideration of the legislation to revamp our entire financial institution's system, including interest rate regulation. The new methods of financing which we are limiting would help small investors, by paying them more for their short-term and medium-term money. Floating rate notes also constitute an innovative method of raising adequate capital, an essential task which will be extremely difficult in the foreseeable future. Therefore, Congress must consider fully and promptly the question of financial institutions reforms, in search of a better way to insure fair treatment of consumers, responsiveness to capital needs, an equitable basis for competition among financial institutions and adequate support of the crucial housing sector.

Furthermore, it is essential that Congress take positive action to increase the supply of mortgage funds and thus ease the pressure on interest rates, rather than simply defensive actions such as title I of this bill. In that connection, Congress should give full consideration to S. 321, my bill to exempt the first $500 of savings deposit interest from income taxation. This legislation would help thrift institutions attract and retain funds for mortgage lending, particularly by enabling them to compete more effectively against other possible investments on which the return is not artificially limited by Federal interest rate ceilings. In addition, the bill would encourage people to help fight inflation by saving rather than spending money. It would also remedy the present tax inequity which affords preferential treatment to dividend and capital gains income, but not to savings income.

In view of the serious nature of the problems which the legislation I have mentioned would address, I hope that the Congress will turn its attention to this legislation as soon as possible.

JUKEBOX INDUSTRY PROVISIONS OF S. 1361

Mr. McCLELLAN. Mr. President, on September 9 the Senate, by a voice vote, adopted an amendment to S. 1361, the copyright revision bill, to freeze the jukebox copyright royalty rate, and exempt the jukebox industry from the provisions of the bill providing for periodic review of royalty rates by impartial arbitrators.

The proponents of the amendment alleged economic hardship in the jukebox industry. In speaking against this amendment, I said it gave "no protection to the consumer, for a jukebox operator can increase the fees charged to the public. But, for all practical purposes, the payment that he makes to the composers of the songs played on his machine are permanently frozen."

My office received today the September 14, 1974, issue of Billboard, which contains an article reporting that a major jukebox manufacturer is recommending that jukebox operators charge the public 25 cents per play on certain machines.

Since the copyright legislation will come before the Senate again next year, I ask unanimous consent that the article from Billboard be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Twenty-Five Cents Play on 'Q' Jukes?

New York.—Seeburg Corp. unveiled its 4-channel jukebox system Thursday (5) to area operators and made a strong pitch for them to raise their price to 25 cents per play on stereo machines.

Jack Gordon, merchandising manager of Seeburg, keynoted a dinner held at the International Hotel in Queens to display the quad machine.

In urging that operators adopt the 25 cent policy, Gordon said that cost factors in equipment and in records were at all time highs and that operators would be hurt unless they raise their per play price on its existing units. The Seeburg quadrasonic units are equipped for 25 cent play.

Gordon also said that the quad/stereo units installed last year in some 600–700 locations were proving successful, and were now accounting for a large percentage of the location's income.

Gordon said that Seeburg distributorship would now be handled by Albert Simon for the New York area. It had previously been handled by Atlantic-Seeburg. Some 250 tradesmen attended.

REGULATORY OVERKILL, REVISITED

Mr. BUCKLEY. Mr. President, an editorial from the Wall Street Journal of September 9 was inadvertently omitted from the remarks of Senator Eagleton which followed the introduction of our amendment No. 85 on Monday. I ask that the editorial "Regulatory Overkill, Revisited" be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Regulatory Overkill, Revisited

A letter from Senator Eagleton, printed elsewhere on the page opposite, prompted us to a little more investigation of the seabelt interlock. It turns out that the matter is a bit more complicated than we had assumed, though in the end the complications buttress rather than detract from the point we were trying to make.

We couldn't believe that any driver is driving around with a seatbelt buzzer sounding in his ears, and thus couldn't see how any improvement in seatbelt usage could result from the additional requirement that the belt be fastened before the cars would start. We still think that's a logical view, but it turns out that the interlock system also incorporated changes that made it more difficult to defeat than the previous year's buzzer system.

The interlock is "sequenced," meaning that in the car is a little black box allowing it to start only after a certain sequence of events: the door opening, the seat being occupied, the belt being fastened. In other words, the system cannot be defeated by the simple expedient of keeping the belt permanently fastened and sitting on top of it. It must be unfastened and fastened each time the car starts.

Now of course, this proves nothing about the effectiveness of the interlock per se; it would be just as easy to sequence a buzzer. In any event, though, a friend in the industry reports that with the unsequenced buzzer only 15% to 20% of drivers use lap and shoulder belts. Early on, cars with sequenced interlocks showed 60% to 70% usage. Now that has dropped to about 30%.

Obviously drivers are learning how to defeat the new system as well, presumably considering it an insult and annoyance. We venture to predict that seat belt usage will level out not far from voluntary levels. Our friend in the auto industry wants a law with fines for drivers not wearing belts, which he says works in Australia. At least his approach has the virtue of treating drivers as adults.

Senator Eagleton, who merely wants to make buzzers and interlocks optional equipment, is quite right about the expense of this little exercise. The interlock system costs about $50 a car, so in a ten-million car year the public is spending half a billion dollars on devices some 70% of which will be disconnected anyway.

But our original point was about regulatory overkill, and is worth revisiting. This kind of overreaching regulation is not merely expensive, but dangerous to the cause it tries to serve. Policies that insult and annoy the public had at least better deliver the claimed benefits, or they will give even the cause of safety a bad name.

IRAN'S PROPOSAL FOR A NUCLEAR FREE ZONE IN THE MIDDLE EAST REGION

Mr. HARTKE. Mr. President, I would like to bring to the attention of my colleagues the proposal by the Government of Iran for the establishment by the United Nations of a nuclear free zone in the Middle East.

The proposal of His Imperial Majesty Mohammad Reza Pahlavi Aryamehr, Shahanshah of Iran, delivered to His Excellency Mr. Kurt Waldheim, the Secretary General of the United Nations, requests the United Nations General Assembly at its 29th session to commend the proposal to the attention of the states in that region, and to "make a recommendation to these states to take as soon as possible all necessary steps to achieve this objective and report back to the General Assembly."

The states to be within the zone were not set forth in the Shah's proposal, but all the countries in the Middle East must participate if the proposal is to be successful. It seems axiomatic that opposing governments of the region must participate for the proposal to be successful. A gerrymandered zone with opposing governments divided, some in and others out, would not serve the interest of peace within the area.

Thus far, military engagements in the Middle East have been confined to conventional warfare. However, various governments within the Middle East region have associations with nuclear powers, and are themselves gaining greater access to nuclear capability. Unless there is a nuclear free zone agreement for the Middle East, there is a danger that opposing forces may ultimately be armed with nuclear weapons.

In the interest of world peace, the balance of power in the Middle East must be maintained, and preserving that balance must remain a vital element of our foreign policy. The early encouragement of the Shah's proposal before the United Nations should be a priority task of the U.S. mission to the U.N.

I ask unanimous consent to have printed in the Record following my remarks a letter to my office from the Iranian Embassy and the proposal of the Iranian Government to the United Nations.

There being no objection, the letter and the proposal were ordered to be printed in the Record, as follows:

Iranian Embassy,
Washington, D.C., August 6, 1974.

Hon. Vance Hartke,
U.S. Senate,
Washington, D.C.

My Dear Senator Hartke: As you probably know, His Imperial Majesty, the Shahanshah Aryamehr of Iran, recently reiterated his proposal that a nuclear free zone be established in the Middle East.

My sovereign's views were reflected in an explanatory memorandum delivered to His Excellency Kurt Waldheim, the Secretary-General of the United Nations, by the Iranian Government on July 10, 1974. I though you would find it of interest.

With cordial regards.

Very sincerely yours,

Ardeshir Zahedi.

Explanatory Memorandum

(Delivered to H. E. Mr. Kurt Waldheim, the Secretary General of the United Nations, on July 10, 1974.)

1. Strengthening of international peace and security has always been the focal point of Iran's Foreign Policy. In pursuit of this policy, Iran has taken every opportunity to contribute to tie building of solid structures for peace both at regional and global levels. It was within this policy framework that as early as 1968, His Imperial Majesty the Shahanshah of Iran introduced the idea of the establishment of a nuclear free zone in the region of the Middle Eeast.

2. Developments since then have imparted a particular sense of urgency to this proposal. While prospects for implementation of an all-encompassing scheme in the region of the Middle East now appears to be more promising, greater access by states to nuclear technology has rendered the danger of nuclear weapon proliferation and a concomitant collapse of non-proliferation structure, a more acute problem.

3. The above considerations have prompted His Imperial Majesty to recently renew his proposal on the establishment of a nuclear free zone in the region of the Middle East.

4. The government of Iran has concluded that the General Assembly of the United Nations is the most appropriate organ in which a proposal of this nature could be brought up and has therefore requested the inclusion of an item in the agenda of the 29th Session of the General Assembly on the establishment of a nuclear free zone.

5. Decision on the precise limit of the denuclearized zone should, in the view of the Iranian government, be left to the General Assembly. Such delimitation by the Assembly is appropriate not only because of the ambiguity inherent in the geographical des-

ignation of the region but also because the security interests of the entire region must be taken into consideration. The government of Iran therefore believes that the zone should encompass as wide an area as possible.

6. It is the earnest hope of the Iranian government that the United Nations General Assembly at its 29th Session would commend this proposal to the attention of the states of the region and make a recommendation to these states to take as soon as possible all necessary steps to achieve this objective and report back to the General Assembly. It is the considered opinion of the Iranian government that the implementation of this proposal would constitute a major feat in the pursuit of security and lasting peace.

Note.—Iran has signed and ratified:

The Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water.

The Treaty on Non-Proliferation of Nuclear Weapons.

The Treaty on the Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in Subsoil thereof.

A PLAN FOR SUBDUING INFLATION

Mr. FANNIN. Mr. President, if we are to successfully win the economic battle and bring inflation under control it is essential that Congress support Federal Reserve Board Chairman Burns in his pursuit of a noninflationary growth target for money and credit.

The September issue of Fortune magazine contains an article by Prof. Allan Meltzer setting forth a policy for the gradual reduction of inflation and the role Congress must plan if the policy is successful.

Professor Meltzer recommends that we should gradually reduce the growth rate of money supply, we should move from deficit to surplus in the Federal budget, and we should keep the system of floating exchange rates.

I ask unanimous consent that the full text of the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Plan for Subduing Inflation

The difficulties of settling on a national policy for coping with inflation are compounded by a prolonged Battle of the Books among economists. Those who think of themselves as fiscalists (or Keynesians or New Economists) often underestimate the importance of changes in the rate of money-supply growth. And those who think of themselves as monetarists often overestimate the possibilities of using changes in the rate of money-supply growth as an instrument for controlling inflation. Actually, monetary tightness pushes interest rates and unemployment up before it has any discernible effect on inflation.

In this dialogue, economist Allan H. Meltzer presents a specific plan for using a combination of monetary and fiscal restraint to subdue inflation. Meltzer is Maurice Falk Professor of Economics and Social Science at Carnegie-Mellon University in Pittsburgh. While unmistakably a monetarist, he recognizes that the federal budget (fiscal policy) heavily influences the decisions of the Fed (monetary policy).

The dialogue is a shortened version of a conversation between Professor Meltzer and two members of the Fortune editorial staff.

Q—Let's start out with a question that some might find a bit shocking—a devil's advocate question. Why try to end inflation? Ending inflation entails some costs—a promise to end inflation without costs is not credible. Why incur those costs? Why not try to learn to live with inflation?

A—Well, it's certainly true that we can't stay where we are. Either we have to adjust to living with inflation or we have to get rid of inflation. The question is, which costs less. Is it less costly to move from where we are to a world in which there will be permanent inflation, or is it less costly to move back to a world where there is no inflation?

I believe it is less costly to move back to the world of no inflation, if we choose a low-cost route. It is worth something—it is worth a lot—to avoid having to adjust to a world in which prices keep changing all the time and fixed values no longer have any meaning. Full adjustment to inflation means changing all bond contracts, all interest contracts, all labor contracts. Every interest rate, price, and wage in the society has to keep changing. That would be very hard for the public to get accustomed to. In countries that have partially made adjustments to inflation, people still find difficulty in thinking about prices and wages that always rise, and even in making simple shopping comparisons.

Q—But adjustments to inflation, through some such method as indexation, would reduce the inequities that are now associated with inflation? Isn't that so?

A—Yes, that is so. It's important to distinguish between anticipated and unanticipated inflation. Unanticipated inflation has much greater costs, much greater social consequences. All economists agree that unanticipated inflation is costly. The costs of unanticipated inflation come when, as now, people try to protect themselves from an inflation they did not anticipate. Anticipated inflation—if everybody anticipates it correctly—has much smaller costs, much smaller social consequences. But people slide over the heart of the problem when they say that fully anticipated inflation involves only small costs. When we talk about fully anticipated inflation we are biting off a really big piece of bread.

To begin with, we know we can't make the adjustments completely. There's no way in which we can escalate every contract and adjust every asset and liability perfectly. Moreover, the costs of adjusting to inflation are very large. Permanent inflation means giving up a notion that we have lived with for several centuries: the notion that accounting values mean something. Learning to live with inflation means learning to live in a world in which the prices of all goods and services and all assets rise together, year after year.

Everyone would have to learn to think in a new way about capital investment and pension plans, for example. With 7 percent inflation, we would have prices doubling every ten years or so. Think what that would mean. Thirty years from now, prices would be something like eight times as high as now. And with 10 percent inflation, prices double in about seven years. Adjustment to that kind of change requires new ways of thinking about the present and the future. I believe it would take decades before people could fully adjust.

And what will we have when we get there? It's important to focus on that question. After decades of adjustment, assuming full adjustment, we would get to a system that at best is no better than a system of price stability. I believe it's much easier to get back to price stability.

Q—A related point about learning to live with inflation. Even if we could achieve full adjustment so that there were no economic inequities at all resulting from inflation, there would still be psychological costs. Living with constant change in the economic arrangements of life would contribute to a sense of instability in other matters—contribute to the general sense of disorder that is one of the pervasive social problems of our times.

So it seems undeniable that price stability would be preferable to fully anticipated inflation if we could achieve price stability at moderate cost. But we run into the old trade-off problem. Any effort to get back to price stability seems to involve unemployment costs that many people consider too high.

A—There are costs both ways. I would be misleading you and everyone else if I said there were no costs. But the costs of getting back to price stability depend very much upon what we do to get there. People who talk about the very large costs of returning to price stability generally talk about returning quickly. If we tried to end inflation quickly, we would have a major recession that would throw lots of people out of work, and even so we would fail to get back to price stability, because we would refuse to pay the cost in unemployment and lost production.

Within the range of knowledge we now have, it's not possible to get to price stability quickly and at low cost. But if we take a longer view, it may be possible to return to price stability at a tolerable cost.

Q—And you have a plan for doing that—for returning to price stability and doing so at a tolerable cost. What are the basic ingredients of your plan?

A—My proposal has three interrelated elements. First, we should reduce the growth rate of the money supply—gradually, over a span of years. Notice, I do not say reduce the money supply, but rather reduce the growth rate of the money supply. Second, we should move from deficit to surplus in the federal budget. The surplus should be used to retire debt. Third, we should keep the system of floating exchange rates. A main reason for this third element is to make sure that the effects of the other two elements on inflation are fully felt here at home, instead of being partly offset by the policies of other countries.

Those are the three parts of the program. How do I know that this is going to work? The honest answer is we can never be certain about the future. We do know that no inflation has been ended without reduction in the growth rate of money, and I don't believe we will keep the growth rate of money down if we continue to run deficits.

We cannot be certain about the timing of the response, so we want to have some flexibility. If we want to bring the inflation rate down with as little cost as possible, we have to keep both unemployment and inflation in mind throughout, not swing from overriding concern about one to overriding concern about the other.

Q—Let's talk a little about that third element in your plan. It's somewhat different in kind from the other two. Basically, its purpose appears to be to provide a sort of insulation, so that you can proceed with your domestic inflation-stopping policies without disrupting external economic relations in an interdependent world.

A—Right, and other countries can do the same. Anti-inflation policies in Germany or Switzerland would not have succeeded this year if those countries had maintained a fixed exchange rate with the dollar, as they used to do.

Q—How could your plan possibly be applied in the present economic circumstances in the U.S.? We are in a period of practically no real growth, with unemployment that many people consider much too high. Some economists argue that we need faster growth in the money supply to stimulate the economy. So how do you go about cutting back on the growth rate of the money supply?

A—In a word, gradually.

It's important to note that gradualism is not an incidental aspect of my proposal. It is central. During the postwar period, and particularly during the last ten years, we have accumulated a lot of evidence showing that change in the growth rate of money is the single most important weapon the government can use to control inflation. In general, efforts to control inflation failed because the authorities slammed down too hard on the money-supply growth rate and sent unemployment and interest rates moving up. Then, after overreacting against inflation, they proceeded to overreact against high interest rates and unemployment.

The reason people are pessimistic about the possibilities of halting inflation is that they think back to the experiences of the past ten years or so, and they recognize that efforts to halt inflation ended not with a lower but with a higher rate of inflation. That is not inevitable. It happened because we failed to keep both problems in mind.

Q. When you talk about halting inflation gradually, what kind of time period are you thinking of?

A. We should be very happy indeed if we can get back to price stability in three years. I would want to take a three- to five-year horizon. Why three to five years? One reason is that we have some information about how long it has taken in the past. We've never experienced peacetime inflation as widespread, as large, and as pervasive as the current inflation. Still, the past may provide some useful guidance. It took roughly three years to get rid of the Eisenhower inflation. It took about two to three years to get rid of the early postwar inflation. So we have some general guides that make three to five years seem to be a reasonable time frame.

Q. You speak of a gradual reduction in the rate of money-supply growth. Reduction toward what? How far do you propose to go?

A. For price stability, the optimum rate of money-supply growth would be a rate approximately equal to the basic growth rate of the economy, and that's in the neighborhood of 3 to 4 percent. That would change, of course, depending for one thing on how fast the labor force grows—but around 3 to 4 percent is consistent with past experience. Some flexibility is desirable, and in practice the Fed should keep the money-supply growth rate between 2 and 6 percent. Then we would avoid the excesses of the Thirties on the deflationary side and the excesses of the Sixties on the inflationary side. Prices would fluctuate within a narrow range.

Q. The rate of money-supply growth is now around 6½ percent, and you want to reduce that to, say, 4 percent. Over what span of time?

A—I want to allow two to three years to bring down the growth rate of money. It will take a year or two beyond that for the full effects on prices to be realized.

Q—While we're pinning down these figures, let's pin down what you mean by price stability. You've indicated that you certainly do not mean stability in anything like an absolute sense.

A—Right. As a practical matter, 1½ percent a year in the consumer price index might be considered price stability. In the early Sixties we had an increase approaching 1½ percent a year in the C.P.I. with roughly constant wholesale prices, so that's probably a sensible goal. During that period, wages rose, but so did productivity, and unit labor costs remained roughly constant. We were in a period of relatively stable prices with falling unemployment. The money stock grew at about 3 or 4 percent.

Q—Measured against the kind of inflation we've experienced in the last several years, getting back to that kind of stability even over a span of three to five years seems a bold and ambitious goal. Do you feel pretty sure that your proposal could get us there?

A—There's no reason to doubt that holding the growth rate of the money supply to the growth rate of the economy—3 to 4 percent—would hold the rise in the consumer price index to less than 2 percent on average. But that is not my entire program for stopping inflation. My proposal is a package, not just a single element. Along with slowing the growth of money, I want to move from a deficit to a surplus in the federal budget. Without that, reducing the rate of money-supply growth would tend to bring increased unemployment and higher interest rates before we made much progress in slowing inflation.

Q—Why would it help matters so much to go from deficit to surplus in the federal budget?

A—In reducing government spending, we shift resources from the government sector to the private economy—which means, generally, from lower-productivity uses to higher-productivity uses. We shift the use of resources in a desirable direction—that is, toward expanding output.

Using the budget surplus to retire debt, moreover, lowers interest rates. And that helps to expand economic activity and employment in housing and other industries where small changes in interest rates from rising, we keep the federal government and particularly the Federal Reserve from undoing the anti-inflation program by increasing the growth rate of money in order to hold down interest rates.

Q—Isn't it unreasonable to say that some of the misadventures of governments in trying to subdue inflation have resulted from relying too much on fiscal or monetary restraint, rather than using both in the same direction? That is, failing to exert sufficient monetary restraint and therefore needing an excess of fiscal restraint, or, more commonly in recent years, being quite incontinent in fiscal matters and relying on monetary policy to do the job, with the result that the Fed has to lean too hard?

A—In the past ten years or so the government has financed social-expenditure programs by running budget deficits. The financing raised interest rates. To hold down interest rates, the Federal Reserve increased the growth rate of money. Inflation increased. Every now and then the Federal Reserve shifted to concern about inflation, but only for a time. They overresponded in one direction, then in the other.

Q—You speak of holding down interest rates by using the budget surplus to retire debt. What does it mean to retire debt, in this particular context? What is the mechanism?

A—Basically, what it means is that as Treasury issues run off, they're not fully replaced. Government securities are continually maturing, and the Treasury has to roll over something like 100 billion dollars every year to stay in the same place. If there is a ten-billion budget surplus, they issue, say, 90 billion in securities instead of 100 billion, and some holders just get paid off with cashable government checks.

Q—Let's see—the government takes in ten billion more than it spends, and it uses that extra ten billion to pay off bondholders. In other words, there is a transfer of ten billion from taxpayers to owners of bonds. What are the economic effects of this transfer?

A—Interest rates are lower. Output will be lower, too. As a result, the actual surplus will be smaller than the planned surplus. But that's a detail.

Q—Why will output be lower?

A—It will be lower because government expenditures have some positive effect on output in the short run. My estimate is that with about 5 percent change in government expenditure we get 1 to 2 percent change in real output. There is a grain of truth to the Keynesian story which says that if the government spends more and runs a deficit, output increases for a time. I don't want to deny that grain of truth. If we cut federal spending, that's going to have some contractive effect. I would like to add, because I think it's important, that if we have a budget surplus and we run into trouble, we do not go back to a highly stimulative policy of expanding the money supply—back to inflation, in other words. We cut taxes and maintain the growth rate of money.

Q—How big a budget surplus are you thinking of in your proposal? And over what period of time do you propose to swing from deficit to surplus?

A—I would like to replace the present deficit of about five to eight billion with a surplus of between eight and ten billion. In other words, I propose a reduction of about 15 billion in the federal budget. And I would like to see that happen as soon as possible. I do not advocate gradualism here.

Q—What you're proposing would be very difficult in political terms. That doesn't mean it's wrong, of course, but the political difficulty is a consideration you can't just set aside.

A—It's true that every item in the budget has defenders. But it's hard to see why it isn't possible to cut federal spending by 5 percent. We have a 300-billion-dollar budget now. Not long ago Lyndon Johnson was talking about hoping to hold the line at 100 billion. Even with inflation, that's quite an increase. The defenders have to explain why an extra 15 billion a year in federal spending—300 billion instead of, say, 285 billion—is more important than reducing inflation. I don't think the public believes that, and I certainly don't believe it.

Q. What are some particular areas of the federal budget where you think it's possible to make sizable cuts?

A—Well, let's go over the parts of the budget that have grown most rapidly. One of them, of course, has been aid to state and local governments. Total state expenditures have risen very dramatically over the entire postwar period, but the federal share of them has risen even more dramatically. In 1946–47 about 8 percent of state and local government expenditures was being paid by the federal government. We're now up to 22 percent. So federal aid to state and local governments is a candidate for cutting. Some programs are desirable, but it seems to me that we have to ask ourselves, do we need them all now, or would it be better to try to phase some of them out and transfer the resources to more productive uses?

There's the HUD budget—we're spending billions of dollars every year to build subsidized housing. It isn't at all clear that the programs meet the elementary test of a cost-benefit analysis, let alone the more stringent test of using resources most efficiently. So this is a very good place for cutting the budget and returning to the market system.

This is far from a complete list. The staffs of many regulatory commissions have expanded in recent years. I would certainly include the space program as a candidate for cutting, too. There are many places to cut. All of them have their proponents, of course. But let's ask the right question, namely, is maintaining expenditures at the present level more valuable to the citizenry than trying to reduce the rate of inflation by, say, five percentage points in the next three to five years? It seems to me that, for the public as a whole, there is no comparison. So I don't see that there's really a major issue here.

Q. What do you reply to those who say—and some economists certainly would say—that if you tried to cut federal spending by 15 billion over the next year or so, especially while holding down or reducing the rate of money-supply growth, the result would be a drastic increase in unemployment?

A—They believe, and I do not, that the

budget is the key element guiding the economy. I believe the budget is one element affecting the economy and the money supply. My own guess, as I indicated earlier, is that the effect on output would be no greater than 1 to 2 percent. That means we may have a mild recession. We can keep the recession mild by maintaining the growth rate of the money supply close to its current range, and only gradually lowering the rate. That way, we help to absorb resources released by the cut in government spending. Experience tends to support the view that large changes in the budget have small effects on real income.

Q—But even a small contraction in output can bring some increase in unemployment. And in the society we live in, even a small increase in the unemployment rate is considered to be very important. There does seem to have been some weakening recently in devotion to the concept of full employment, but its hold on public opinion and on policy is still very strong.

A—That's true, but let's consider what an increase in the unemployment rate means. Suppose the rate increases from 5 percent to 6 percent. That means an average worker spends twelve to fifteen weeks finding a job instead of nine to twelve weeks. That's a big change, that's a big loss of real income. But is that too high a price to pay to reduce the rate of inflation? I don't think so. Another question is whether a period of increased unemployment imposes a higher cost than the cost of trying to insure ourselves against inflation by escalating all contracts. Again, it seems to me that the answer is no.

Q—Still, with 6 percent unemployment there would be a lot of pressure on government to move back to inflationary policies. And some economists would maintain that with your proposal unemployment might go above 6 percent.

A—Try 7 percent. What would a 7 percent unemployment rate mean? It would mean fourteen to sixteen weeks between jobs. And that's what happened in 1961. One main reason the unemployment rate rises is that it takes workers longer to find jobs. Of course, the difference between ten weeks and fifteen weeks means a lot to the man who is unemployed. I don't want to deny the cost. But I also don't want to set it up as an absolute, to say that everything has to adjust to this cost. There are costs of adjusting to permanent inflation to set on the other side of the ledger.

Q—It's important to keep in mind, though, that we are not dealing with a simple linear relationship between the costs of unemployment and the average length of time between jobs. For one thing, the difference between an average of ten weeks and an average of fifteen translates into much more than five weeks for some of the unemployed. Also, the effects of being out of work accumulate over time. People run out of savings. They become discouraged. Some give up. There may be lasting psychological damage to unemployed people and to their families.

A—Well, you also have to consider the gains that may be offsetting the losses. But I'm willing to concede the truth of what you say. It is a strong argument for gradualism, for being careful, for being willing to slow down the rate at which you attempt to end the inflation, for keeping a focus on two goals rather than just one. I do want to keep both goals in mind. I want to bring the inflation rate *and* the unemployment rate down. But I believe that you can't do both at the same time, so I want to put together a package. Let's try a package, keeping in mind that there are costs and benefits on both sides.

My proposal takes into account that very small changes in the money supply can have potentially large effects. Therefore, we want to make sure that the changes in the growth rate of the money supply are relatively small. But they must be consistent in direction. If I were running this policy, I would announce in advance what I intend to do. I would go a little bit faster if things work out slightly better than I had hoped, and a little bit slower if things work out worse. But I would hold the direction.

Constancy of direction is the really essential thing. The great danger is that one goal will be paramount for six months and the other goal for the following six months, so that we wobble between those two objectives—as we have in the past—and never solve the inflation problem.

THE CRISIS IN RAIL SAFETY

Mr. HARTKE. Mr. President, as chairman of the Subcommittee on Surface Transportation of the Senate Commerce Committee, I have become increasingly concerned with the rapidly deteriorating record of safety in the transportation of freight, especially hazardous materials, by rail. This worsening record is all the more dangerous, since shipment by rail has long been the safest method of transportation. It is in danger of losing that distinction in the face of a number of spectacular accidents; in fact, it is nothing short of a miracle that there has not been any disaster or loss of human life so far that is anywhere near the potential that exists every day.

One of the most perplexing aspects of the current crisis in rail safety is the fact that the most danger exists where the railroads have deteriorated the most—the Midwest and Northeast. Speaking for the State of Indiana, the danger is real, and it exists right now. The recent closure of some 450 miles of trackage in my State by the Federal Railroad Administration is indicative of the state of the condition of the roadbeds there. Closure of a line means that it cannot meet the minimum standards for safe operation at 10 miles per hour.

Mr. President, it is my firm belief that significant changes in public policy are needed in order to assure this Nation an adequate rail system for the safe and efficient transportation of freight and passengers. I have seen an increasing public awareness of the vital necessity of improvement in our rail system, and I believe that this change in public opinion will eventually result in the sort of institutional changes that are needed. One of the keys to this heightened public awareness is the positive and productive role that the media can play. In this connection, I would like to commend the series of articles that recently appeared in the Chicago Sun-Times on rail safety. This series, written by Bruce Ingersoll of the Sun-Times, has done an excellent job of helping make the public aware of the drastic need for improvement in our Nation's railroad system. It is absolutely vital that the electorate make their views on this subject known at the polls, and I wish to commend Mr. Ingersoll and the Sun-Times for the role they have played in bringing about these needed changes.

Mr. President, I ask unanimous consent that the Sun-Times editorial of August 4, 1974, on the need for improvement in our rail system be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Sun-Times, Aug. 4, 1974]

SAFEGUARDING THE RAILROADS

Blatant defects in the U.S. railroad system have been documented in a series of articles by Sun-Times reporter Bruce Ingersoll. It is a system that makes thousands of Americans unwilling and unknowing hostages to luck. And the luck has been bad. Furthermore, informed railroaders are forecasting that it is bound to get worse unless the Federal Railroad Administration, the Congress and the railroads take effective steps promptly.

Anthony Haswell, chairman of the National Assn. of Railroad Passengers, asserts, "We have the worst maintained railroads of any major industrial nation in the world." Adds Christopher Knapton, an FRA spokesman, "No question about it. The railroad industry is going to hell." The record amply supports that assessment. Last year, 152 trains derailed in Illinois alone, up from 107 in 1971; in the first half of 1974, 135 derailed. If trains keep derailing at that rate, the number will hit 270 by the end of the year. Yet this rickety system is part of a national rail network that carries not only passengers but also conveys some 175,000 tank cars equipped to carry explosive or poisonous chemicals. The potential for disaster was violently demonstrated in Decatur on July 19 when a tank-car explosion killed 7 persons and injured 142 others.

The bankrupt and demoralized Penn Central is particularly unsafe. It averages 20 derailments a day, and 6,901 miles of its track are too treacherous even for speeds under 10 miles an hour. The FRA took welcome, if belated, action Wednesday in barring the Penn Central from operating any trains over 67 miles of its Chicago-to-Louisville line because of unsafe track. But this kind of action cannot be the full or final answer to safely and effectively maintaining railroads, a vital national asset.

The nation depends on its railroads to move 40 per cent of its freight. FRA Administrator John W. Ingram pointed out in a Monday speech that if even the Penn Central were shut down, "the auto industry would start to shut down a week later. If that were to happen the steel industry would not be far behind."

Part of the responsibility for maintaining this lifeline falls on the shoulders of the railroads which, though financially strapped, must realize that safety measures are an indispenable part of the cost of doing business. The role of Congress was suggested in Ingram's address. He urged that ailing railroads be subsidized with federal loan guarantees which would help them invest more money in track safety. In addition, the nation ought to see whether it really needs all of its 328,000 miles of track or whether it might be wiser to rip out some of it and devote its resources to maintaining track that is the most vital. As shown in an article elsewhere in Sunday's Sun-Times, the Santa Fe and a few other railroads have proved that railroads can be safe and profitable if they have the money and the will.

Mr. MAGNUSON. Mr. President, as chairman of the Senate Commerce Committee, I would like to add to the remarks that have just been made by Senator HARTKE. I also am increasingly concerned over the deplorable state of rail safety in the United States. Senator HARTKE was, of course, correct when he pointed out that the worst trackage in the Nation exists in the Midwest and Northeast, but I would like to add that this by no means should be taken as an implication that rail transportation in other areas of the country is safe. The recent disastrous explosion of a railroad tank car at Wenatchee, in my own State of Washington, provides a good example of the need for improvement in rail safety on a nationwide basis.

The Surface Transportation Subcommittee of the Senate Commerce Committee, of which Senator Hartke is chairman, has recently held hearings on rail safety, and I am well aware of the work that has been done by the distinguished Senator from Indiana. As one indication that his labors have not been in vain, I can report that the Senate Commerce Committee will be reporting legislation to deal with this subject to the floor of the Senate in the near future. I have also noticed that his efforts on behalf of improvement in rail safety have not gone unnoticed in his own State of Indiana. Mr. President, I ask unanimous consent that the August 6, 1974, editorial from the Palladium-Item of Richmond, Ind., concerning rail safety be printed in the Record at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

On the Right Track

We have been critical of Sen. Vance Hartke, D-Ind., on occasions in the past but we feel that in demanding improved rail safety, the Hoosier senator is on the right track (no pun intended).

And it's quite obvious he is getting action. Within hours after the Federal Railroad Administration (FRA) ordered most of the Penn Central lines between Chicago and Louisville shut down because of dangerous sections, repairs were reported under way at least in some areas.

Most freight service now has been restored although at the bare minimum of track safety.

More than 20 small cities temporarily were left without rail service until adequate tracks were repaired. Rerouting of some passenger trains was ordered, bringing at least one through Richmond.

The disturbing increase in railroad accidents, in our own state as well as in others, has brought this serious problem into focus:

How safe is train travel?

Henry F. Rush, deputy administrator of the Federal Railroad Administration (FRA), has said that 37 per cent of rail accidents are track-related; 24 per cent are employe-related; 20 per cent are equipment-related; 3 per cent are grade-crossing accidents, and 16 per cent are caused by miscellaneous factors.

The chief culprit, according to these statistics, is the poor condition of railroad tracks which in many areas sometimes restricts trains to speeds as low as 10 miles per hour.

E. L. McCulloch, vice president of the Brotherhood of Locomotive Engineers, told a railroad-safety hearing at Indianapolis a few days ago that there are only 43 inspectors to check 27,000 locomotives and 2 million pieces of rolling stock. One can't help but wonder how thoroughly the tracks themselves are checked, and how often.

Governor Bowen is reported to have endorsed a $40,000 a year program to permit the state to join in a state-federal rail safety inspection effort. This appears a step in the right direction. But if inspections are made, defects or dangerous spots found, and still nothing permanent done, the effort will have been worthless.

Senator Hartke says if the FRA can't get the job done he will recommend another federal agency. We're not sure what that would mean for added rail safety, but something has to give.

Railroad passenger service is increasing but if it is to continue, it must be with the assurance that everything possible to make it safe is being done. As it stands now, there has been a 24.7 per cent increase over last year in rail accidents. Trains which are on time are much in the minority. Much of the delay is because they have to virtually crawl over certain portions of track. That's a situation which must not be permitted to continue.

HEALTH SERVICES PROGRAMS

Mr. TAFT. Mr. President, I support this legislation to revise and extend several important health services programs, including:

First. Community health centers—commonly known as neighborhood health centers—to provide family-oriented health care to medically underserved populations;

Second. Community mental health centers—to provide a full range of preventive and therapeutic mental health services to patients in their neighborhoods, thus increasing the accessibility, quantity, and range of mental health services available at the community level;

Third. Migrant health centers—designed to meet the problems of those citizens who have no continuity of care due to mobility; and

Fourth. Health revenue sharing to provide bloc grants to States for health and mental health services under public health departments and for vaccination programs and other disease control programs.

In addition, this legislation establishes the following new programs:

First. Home health services—to provide startup grants to home health agencies and grants for training personnel to provide home health services;

Second. Presidential Commission on Mental Health and Illness of the Elderly—to review the mental health needs of our older citizens and to recommend a national policy for their care and treatment;

Third. A National Center for the Control and Prevention of Rape—to conduct research into the legal, social, and medical aspects of rape, and in so doing, examine, among other things, the treatment of the victims of rape by law enforcement agencies, hospitals, prosecutors, and the courts;

Fourth. National Commission for the Control of Epilepsy and its consequences, which I cosponsored;

Although epilepsy is an ancient disease, it still remains one of the most misunderstood afflictions in the country today. Unfortunately, laws governing the activities of persons with epilepsy are too often based on an absolute conception of the disease, and one of the most challenging problems facing the national commission is to arrest these misconceptions;

Fifth. Hemophilia diagnostic and treatment centers and blood fractionation centers—which I cosponsored—to develop a comprehensive approach to the diagnosis and treatment of hemophilia, provide assistance for the development or expansion of facilities which will separate components from whole blood so that more efficient use can be made of this precious resource. In addition, the legislation provides for adequate financial support for individuals who must now pay for the high costs of hemophilia treatment; and

Sixth. National Huntington's Disease Control Act—which I cosponsored—to establish a comprehensive program to combat Huntington's disease. This legislation provides for much needed assistance to programs for the diagnosis, prevention, and treatment of, and research in Huntington's Disease.

UNDERMINING FAITH IN THE SYSTEM

Mr. McGOVERN. Mr. President, I deeply regret that President Ford has made what would appear to be his first serious mistake. The pardon of former President Nixon before the Special Prosecutor has even made his report and before the verdict of the court is known seems both painfully premature and unwise. When the Founding Fathers gave the President pardoning power they could not envision that it would be used by a President to pardon his immediate predecessor who had just placed him in the line of succession. With some of Mr. Nixon's subordinates in prison, others indicted, and still others faced with legal action, it seems incredible that their employer has been exonerated. If there is any one lesson we should have learned from the Watergate tragedy, it is that no man, regardless of his power, stands above our judicial process. Mr. Ford's action would seem to have turned the scales of justice upside down.

Mr. President, one of our most respected and thoughtful journalists is Mr. Anthony Lewis, of the New York Times. He has written a piece which appeared in the September 10 issue of the Minneapolis Tribune, entitled "Undermining Faith in the System." I ask unanimous consent that this important commentary be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Undermining Faith in the System

(By Anthony Lewis)

"(In cases of impeachment) the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law."—The Constitution of the United States, Article I, Section 3.

Boston.—On Aug. 9, after taking the oath of office of president, Gerald Ford said: "The Constitution works." One month later, in a sudden and ill-considered gesture, he has frustrated the process of law and the Constitution. The damage to his own hopes will be grave, perhaps irreparable.

He pardoned Richard Nixon for any and all crimes he committed while president—and did so without knowing in any detail the special prosecutor's evidence on the extent of those crimes, official and personal. He issued the pardon without requiring even the minimal plea of *nolo contendere* that was widely considered inadequate in the case of Spiro Agnew. He gave the pardon to a man who has spoken not a word of confession or contrition for acts that injured many human beings and wounded his country.

Mr. Ford acted in the name of mercy, speaking of his obligation to the laws of God. His motives were surely of the best, to show charity to a fallen friend and spare his country continued trauma. But his good intentions only make the occasion sadder, for the result must be the opposite of what he hoped for America: more rancor, more division, more cynicism about government and law.

The Nixon story was "an American tragedy," the president said. He gave emphasis to the suggestion that punishment for Nixon, or the threat of it hanging over him, might "threaten his health."

But punishment—a jail term, that sort of thing—has never been the issue. Judges and prosecutors have ample discretion to help those who are ill or who have suffered enough, and presidents can pardon them when the cause of justice has been served. Those I know who were most concerned about principle in the Nixon case in fact believed that, however the criminal process worked, the former president should not end up in prison.

The issue was the law. It was well put by the Times of London, a newspaper that showed much concern for fairness to Nixon throughout Watergate. The very purpose for the long struggle for the truth in Watergate, the Times said, was "to reassert the supremacy of law over executive power. Not the least of the principles to be reasserted is that no man is too great or too special to be exempt from the rule of law or the processes of justice."

Now the whole country will presumably see the spectacle of a former president's principal aides being tried for obstruction of justice, with his self-incriminating words as critical evidence, while he is untouched. That will be the image of equal justice for this generation of Americans.

The president relied, in his explanation for the pardon, on the advice that it would be difficult to find an unbiased jury to try Nixon for many months. It is true that the impeachment process has spread the evidence against him widely, and that care would have to be taken to assure a jury that would stick to the trial evidence. But that would hardly be an insuperable task.

The Supreme Court has said that jurors trying a notable case need not be "ignorant of the facts and issues involved." Indeed, the court said, to exclude jurors as prejudiced merely because they had "any preconceived notion as to guilt or innocence of an accused would be to establish an impossible standard. It is sufficient if the juror can lay aside his impression or opinion and render a verdict on the evidence."

In using his pardoning power on the basis of possible jury bias, Mr. Ford has effectively nullified the clause of the Constitution explicitly authorizing criminal prosecution as well as impeachment of any federal official. Of course there was no television in 1787 to publicize the impeachment process. But if John Adams, say, had been impeached and then prosecuted, the details would have been well known to most Americans—and certainly to the men of property who served on trial juries.

The effect of Mr. Ford's gesture on the system of criminal justice is the most appalling prospect. All along in Watergate, many ordinary Americans have said that the rich and powerful would escape justice in the end. Those who believed in the system told them they were wrong. On Aug. 9 it appeared that they were. Now they will know otherwise.

The United States has a terrible crime problem. Just the other day the attorney general, William Saxbe, called attention to its dimensions once again. In considerable part, the problem is one of a system of criminal justice in whose efficacy and integrity the citizen does not believe. The case of Richard Nixon was for most Americans by far the most important test in their lifetimes of that system's integrity. Who can argue against cynicism now?

"Someone must write 'the end' to the Nixon tragedy," Mr. Ford said, and "only I can do that." For the sake of "domestic tranquility," he said, he must "firmly shut and seal this book."

An ending is what America deeply desires, but it had to be a real ending—one reached by going through the whole process. We have to finish something for once, without compromises, without deals. We needed the tranquility that comes only by working a problem through. We needed to proceed, in the words of the Constitution, "according to law."

A SALUTE TO MISS L. PEARL MITCHELL, A GREAT CIVIL RIGHTS ACTIVIST

Mr. METZENBAUM. Mr. President, in recent years a popular subject has been the area of civil rights. Within the last several days a lady whom I knew for a period of many years, and who led the battle for civil rights when it was almost a radical term, left this Earth. Miss L. Pearl Mitchell, who passed away at the age of 91, was a soft-spoken, courageous, and gentle lady who devoted much of her life to improving the condition of minorities and the poor. When many did not know what the letters NAACP stood for, she was battling for the organization, as well as its objectives.

I had the privilege of working closely with Miss Mitchell when together, from 1943 to 1958, we fought for the enactment of a Fair Employment Practices Commission law in the Ohio General Assembly. It may be hard to believe that it took 15 years to secure enactment of that legislation, but it is true. And when she came to Columbus, Ohio, in those years and I sought a place in which we might meet for dinner, even in that Northern city, it was difficult to find a restaurant that was willing to seat blacks and whites together.

This Nation has lost a great community servant, a beautiful human being, and a lovely lady. Her absence will be felt by all of us.

HEALTH SERVICES FOR THE ELDERLY

Mr. CHURCH. Mr. President, the Senate yesterday passed S. 3280 which would extend and revise certain health services programs. As chairman of the Special Committee on Aging, I would like to call particular attention to several provisions which affect the elderly.

One of these is an amendment which incorporates my Home Health Services Act, S. 2695. This bill was part of a two-prong legislative package sponsored by Senator MUSKIE and by me as a result of testimony and reports received by the committee on the need for home health services legislation.

The consensus at the committee hearing was that care in the home is a much needed but underutilized form of health care. This is particularly true for the elderly. Many of these older people could remain in their own homes rather than be institutionalized if provided with therapeutic and supportive home health services.

Part of the reason for the underutilization of home care services is the limited availability of home health services, a problem which this bill would help remedy.

Today most existing home health agencies are found in large urban areas. Many rural areas have no home health agencies or agencies that can provide only very limited services. There is almost no way for new agencies to be established, or for existing agencies to expand their services. One agency wrote the committee that it was asked to expand into two neighboring counties without any home care services. It was reluctant to do so because the estimated costs would probably exceed the expected income.

A paper—prepared for the committee by consultant Brahna Trager—on the current status of home health services summarized conditions as follows:

> The situation remains one in which new home health services cannot be developed in communities or areas where they are not now available because no funding mechanism exists for their development. Agencies which have already been organized are unable to expand the area of services which would make them effective as "alternative" community care systems without funding assistance.

Statistics show that about half the agencies certified under the medicare program offer nursing plus one other service, usually physical therapy. These agencies may not be able to provide the range of services which will encourage physicians to utilize home care.

S. 3280 provides funds to establish or expand public and nonprofit agencies in areas where there are insufficient home health services. Special consideration would be given those areas where a high proportion of the population to be served are elderly, medically indigent, or both. This does not mean that the agencies would be limited to serving the elderly alone. But because of their particular need for home health care, it is expected that a large proportion of these services would be utilized by the elderly. The majority of patients served by most home health agencies are in the over 65 age category.

There are also measures pending or recently enacted which can be expected to increase the demand for home health services by all age groups. Home health services are included in the benefits which must be offered by HMO's under the Health Maintenance Organization and Resource Development Act, enacted into law last December. They are also included in the major national health insurance proposals being considered by the Congress.

S. 3280 would also provide grants for training professional and paraprofessional personnel to assure that the specialized abilities needed for working with home care patients are available and kept current. The need is for training programs of varying content and length. These include management training to assure quality control and cost effectiveness; training for professional personnel in the application of their skills to the homebound; and the training of less skilled persons to perform the duties required of a homemaker/home health aide.

The funds needed to start a program of expansion grants and training are estimated for the first year at $15 million for expansion and $5 million for training. This is not a bricks and mortar approach—in fact, the bill prohibits the use of grants for construction—but a way to provide the organizational capability and the human resources necessary for effective care in homes and communities throughout the Nation. And the funding is only about one-tenth as much as has been spent annually for hospital expansion over the last several years.

As the committee report on S. 3280 states, "Home health care has been increasingly recognized as providing, in many instances, a less expensive and/or more effective alternative to continuing hospital and nursing home care." I am very pleased that this legislation will provide the means to stimulate the growth and development of home health services through a special assistance program.

In addition to the home health services provision, S. 3280 also provides for the establishment of a Commission on the Mental Health and Illness of the Elderly. This Commission was recommended in 1971 in a report issued by the Committee on "Mental Health Care of the Elderly: Shortcomings in Public Policy." The report stated that:

> Public policy in the mental health care of the aged is confused, riddled with contradictions and shortsighted limitations, and in need of intensive scrutiny geared to immediate and long-term action.

The Commission would have 5 years to develop much needed national policy, assess existing mental health programs, and make recommendations concerning the treatment and care of elderly persons with mental illness. This would provide us with a much needed perspective and action program for an illness which too often goes untreated and creates untold suffering for the elderly and their families.

Mr. President, this legislation is a forward step toward the provision of more adequate health care services for the elderly.

LETTER FROM A LIVESTOCK PRODUCER

Mr. McGOVERN. Mr. President, of all the hundreds of letters which I have received from livestock producers from my State and throughout the Nation over the past year, one of the best was written on August 31 by George H. Wilken of Faith, S. Dak.

It is a letter to President Ford, a copy of which was sent to me, to the Secretary of Agriculture, and to other Members of Congress from South Dakota.

Because it is such an eloquent statement of the causes of the present financial position of livestock producers, and because it proposes to our new President a clean break with the mistakes of the past, I ask unanimous consent that it be printed in the RECORD in order that all may read it.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AUGUST 31, 1974.

MR. GERALD FORD,
President of the United States,
Washington, D.C.

DEAR PRESIDENT FORD: Today the livestockman is facing serious short-term problems which have built up during the Nixon-Butz Administration. These problems are most serious for us, the owner-operator, who is operating on borrowed capital and dependent on the operation for his livelihood.

We are in this position: The Nixon-Butz farm policy has been to sell our feed grains and import unlimited quantities of meat (This totally disregards the intent of the import quota system as set up in 1964 when we have an ample domestic supply). I am enclosing a clipping from the Rapid City Daily Journal which quotes the prediction from the Agriculture Department of the glut of grassfed cattle coming to market.

This glut of cattle to market is caused from the drought conditions shortening the ranges and the ranchers are trimming their cattle to the available feed supply. Also the feedlot operators are not buying replacements as they operated at such a loss last year and because of the high cost of feed. This will lead to severe shortages in the future. In the meantime feeder cattle and cows (which compete directly with imports for slaughter) are selling for aproximately one-half of what they did last year and a little over one-half of the average cost of production.

The Nixon-Butz administration advocated that the livestockman expand his unit to be able to produce more economically. Last year they advocated full production to feed a hungry world. Following these recommendations was very costly to the livestockman and I feel our Government has a responsibility to the people who follow their recommendations; not just to use us and set up conditions to take from us that for which we have worked long and hard.

This free trade for the United States as being practiced by the Nixon-Butz Administration in farm commodities with all other countries protecting their farmers appears to me as doing this: Any time, any country in the world has an over-production of any commodity the effect of this is: placing the American producer of this commodity in the same or a worse condition (due to production costs in the U.S.) as the farmer in the country with the oversupply. The American farmer cannot survive this unfair competition as the beef industry will show.

The last half of 1973 and the first half of 1974 wrecked much of our cattle feeding industry. Most of our producers of feeder cattle will be wrecked in 1974, and as soon as the foreign countries return to normal crops the feed grain producer will have no market as there will be very few livestock to consume the grain. The producers who will be eliminated in most cases will be the owner-operator who depends on the operation to provide his living.

We in American agriculture deserve a better chance than this. We hope that you will thoroughly look into this and for the interest of every American, you will immediately embargo the imports of meats into the United States. This will give cattle producers a chance to reduce their herds to the size which our present feed supply will allow. Also, if necessary, to store some of the meat by canning and freezing for the future shortage of meat.

These actions will allow the cattlemen a price that will not financially ruin them during this period so they can produce the meat for the future.

Sincerely,

GEORGE H. WILKEN.

DEVELOPING A NATIONAL HOME HEALTH POLICY

Mr. MUSKIE. Mr. President, yesterday the Senate passed S. 3280, the Health Services Act of 1974, which included authorization of home health services startup funds. Support for this provision was based on the work of the Senate Special Committee on Aging's Subcommittee on Health of the Elderly, which I chair.

I am pleased to announce that on the same day HEW's Health Insurance Benefits Advisory Council adopted a report from its Committee on Home Care which also drew upon the work of the Subcommittee.

The committee found:

> Properly utilized, in-home health services can provide a preferred means of restoring and maintaining the health of individuals and families, as well as reduce or prevent hospitalization or long-term institutional care.

Yet the committee concluded:

> Despite the demonstrated value of home health services, priority continues to be given by third party payers and current legislation to the present institutionally-oriented system of health care. Reversing this priority would make it possible for home health care to emerge as a major national health resource and to take its rightful place in any comprehensive health insurance program that may be enacted.

Mr. President, passage of the Health Services Act is a significant step forward in making home health care a major national health resource. However, improvements in medicare are still needed. The committee's recommendations are:

First, Change the requirement for "skilled nursing care" to nursing care or nursing services. As the committee noted:

> The "skilled" nursing requirement has been one of the main barriers to the provision of needed home care to the elderly since it has limited benefits to those who are acutely ill and need rehabilitation, while denying needed benefits to patients whose condition has stabilized or who require a somewhat lower level of care than that defined as "skilled".

Second, Need for any one of the covered services in the law should qualify the beneficiary for medicare home health benefits rather than the need for skilled nursing care or physical or speech therapy.

These two recommendations of the committee are included in S. 2690, my home health medicare amendments. I heartily concur with these recommendations as well as the administrative recommendations and urge the Secretary of Health, Education, and Welfare to give them serious consideration. Adoption of these proposals would certainly help to strengthen home health coverage for aged and disabled Americans.

Mr. President, I ask unanimous consent that the report of the committee be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT FROM COMMITTEE ON HOME HEALTH CARE TO HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

SEPTEMBER 10, 1974.

The recommendations in this report are made in the belief that home health care is

BACKGROUND

a basic component of any comprehensive health program. Properly utilized, in-home health services can provide a preferred means of restoring and maintaining the health of individuals and families, as well as reduce or prevent hospitalization or long-term institutional care. Furthermore, studies indicate that the majority of older persons prefer to remain in their own homes. The familiar intimacy of the home setting meets a unique and vital health need: convalescence is faster, more complete.

The home health care benefits currently available under the Medicare and Medicaid programs as well as from other third party payers are far from meeting the full range of patients' health care needs. Home health care currently accounts for less than 1% of Medicare expenditures and an estimated .4% of Federal/State expenditures under Medicaid. Increased utilization may follow the recent elimination of beneficiary coinsurance payment for home health care under the medical insurance portion of Medicare; however, further changes are needed before home health care can reach its full potential as an important contributor to the Nation's health care delivery system.

The present low utilization of home health care benefits can be attributed to a variety of factors. These include the Medicare statutory requirement for "skilled nursing care"; the absence of coverage under the Medicare law for homemaker services; the lack of recognition on the part of physicians, other providers and patients of the available benefits or of the services of local agencies; the reluctance of some physicians to prescribe home care; and the absence of home health care services in rural or remote areas. From the consumer standpoint, home health services of quality are not a valid resource in terms of availability and accessibility. About half of all the counties in the Nation had no home health agencies as of July 1973.

The Report of the Special Senate Committee on Aging, "Home Health Services in the United States" (April, 1972), identifies convincingly the problems which home health agencies are encountering in their endeavor to provide vitally needed services to home bound patients under Medicare or Medicaid programs. The Special Committee on Aging feels that the legislative instrument materially limits the delivery of home health care. In addition, participants in the hearings before the Special Senate Committee on Aging identified restrictive administrative policies, complex reimbursement procedures, narrow interpretation of the law, and limited coverage as serious roadblocks to the development of additional home health services.

This is reinforced by the GAO Report of July 9, 1974 Home Health Care Benefits Under Medicare and Medicaid, which emphasizes the same problems and makes specific recommendations to improve utilization and assure more effective and uniform interpretation of existing benefits.

While home care can normally be provided at a fraction of the cost of inpatient care, there are no definitive national cost figures. The GAO report cites the fact that several studies have pointed out that home health care can be considerably less expensive than care in a hospital or skilled nursing facility. The Committee believes that it will prove to be more cost effective to utilize home health care services instead of institutions for the long term care patient. It urges the Secretary to continue the special studies authorized by Section 222 of P.L. 92-603 in order to broaden the existing base of knowledge about home health care.

There is ample documentary evidence that home health services represent a logical, humane, and economical means of maintaining a quality of life and of forestalling or shortening institutional care. The restrictive laws now in effect do not recognize the value of preventive, supportive, and counseling services in health maintenance. The chronic diseases to which the aging are prone demand sustained attention to prevent health care crises requiring institutionalization.

Home health care is also preferred for those who require only part-time or intermittent health services. A home health aide can frequently make it possible for an ailing person who lives alone, or with a spouse too frail to provide care, to remain at home.

Despite the demonstrated value of home health services, priority continues to be given by third party payers and current legislation to the present institutionally oriented system of health care. Reversing this priority would make it possible for home health care to emerge as a major national health resource and to take its rightful place in any comprehensive health insurance program that may be enacted.

There is broad consensus and increasing activity regarding the need to expand the breadth, scope, and reimbursement of home health services, subject to appropriate utilization safeguards. Such expansion could be accomplished by revising or eliminating restrictive administrative and statutory requirements; embarking on a program to develop an affirmative attitude toward home health services by third-party payers, physicians and others in the health care community, and consumers; and providing strong Federal support for the development of comprehensive home health services throughout the Nation.

RECOMMENDATIONS RELATING TO MEDICARE

Although the Committee believes that a number of administrative and legislative changes would be desirable in the Medicare home health benefit, it has agreed that the recommendations below should be given highest priority. The administrative recommendations are considered by the Committee as having potential for immediate implementation. The legislative recommendations have longer range implications and should be considered essential to any development of new health legislation or modification of existing benefits defined by statute.

A. Administrative actions

1. The term "home health aide", should identify an individual who could render a broad range of services addressed to health and health-related needs. Under current interpretive practice, the services of a home health aide are narrowly defined as primarily personal care services, greatly limiting services such as cleaning or shopping which are needed to protect the health and safety of the patient. Without these supportive services, aged persons who live alone may be forced to remain in a hospital longer than necessary or forced from their own homes into an institution earlier than necessary. Since these supportive services are so often essential to the care and continued independence of the ailing elderly it is recommended that the guidelines clearly define these supportive services as an integral part of the overall services.

2. The adequate utilization of home health services requires knowledge and understanding by both the consumer and the health professional. It is recommended that the Department embark on a strong public information program to fully acquaint families, patients, physicians, hospitals, home health agencies and other health organizations with home health services currently available in the community.

B. Legislative actions

1. The words "skilled nursing care" in the physician certification requirements of the statute, and the words "skilled nursing services" in the conditions of participation for home health agencies, should be replaced by the words "nursing care", or "nursing services", omitting the word "skilled". The "skilled" nursing requirement has been one of the main barriers to the provision of needed home care to the elderly since it has limited benefits to those who are acutely ill and need rehabilitation, while denying needed benefits to patients whose condition has stabilized or who require a somewhat lower level of care than that defined as "skilled".

2. The physician certification requirement in the statute for home health services should be changed to provide that the need for *any one* of the covered services would qualify the person for home health benefits, provided the services are based on medical need and rendered as part of a written care plan approved by a physician. (At present, in order for a beneficiary to be eligible for any home health benefits, a physician must certify that the beneficiary needs either skilled nursing care or physical or speech therapy.)

RECOMMENDATIONS RELATING TO MEDICAID

With regard to the Medicaid program, the Home Health Committee endorses the GAO recommendations to improve the administration of the Medicaid home health care benefits program by:

1. Impressing upon the States that home health care is generally a less expensive alternative to institutional care and is therefore intended to be used when home health care would meet the patient's needs and reduce costs.

2. Clarifying for the States the specific home health services which are eligible for Federal financial participation and define these services.

3. Encouraging the States to establish payment rates for home health care at a level that will stimulate greater utilization of home health care.

4. Encouraging and assisting home health agencies in their efforts to increase the awareness and support of the health field regarding Medicaid home health care benefits as an alternative to institutional care.

CONCLUSION

The Home Health Care Committee urges that the Council approve the recommendations herein because of their contribution to sound patient care in the home and their potential for reducing unnecessary institutionalization.

FOREIGN AID TO DICTATORSHIPS

Mr. CRANSTON. Mr. President, I have had a number of requests for the testimony on foreign aid to authoritarian regimes which I presented to the Senate Foreign Relations Committee on July 24. I ask unanimous consent that my testimony, which includes a list of aid figures to some 57 countries governed by repressive dictatorships, be printed in the RECORD.

I should note that my testimony was presented before the military junta in Greece was replaced by the Caramanlis government.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT ON FOREIGN AID: TESTIMONY BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE BY SENATOR ALAN CRANSTON

JULY 24, 1974.

Mr. Chairman, the Nixon Administration has requested $7.5 billion in foreign military and economic aid for fiscal 1975. That includes $1.1 billion in regional and multilateral aid and $6.4 billion in direct, bilateral aid to 94 countries.

I strongly favor multilateral aid for humanitarian purposes. Multilateral development institutions are in a far better position to require conditions for aid than the United States. When we do so, our motives are automatically suspect and we are open to charges of interfering in the domestic affairs of the recipient nations. These agencies can insist upon political and social initiatives in the interest of sound loan management practices. And since their goals are concentrated on genuine development rather than on short-range U.S. political interests, they have more incentive to choose programs that will benefit the poorest majority instead of the government in power.

The same is true, it seems to me, for aid programs administered by voluntary agencies. Those who run the programs are not tempted to pull strings for political, diplomatic or military purposes. I am not sufficiently familiar with all the 92 voluntary agencies involved in foreign aid programs to evaluate the work of each. But I believe that many of these agencies are superbly qualified to see that aid ends up being used for genuinely humanitarian purposes.

But nearly 80 percent of the direct aid money—$5.1 billion—is slated for 57 authoritarian governments to underwrite repression and militarism abroad while we suffer from budget deficits and inflation here at home.

Besides unwittingly subverting the aspirations of the very people we're supposed to be trying to help, we are mindlessly undermining our own economy. The first step in fighting inflation and unbalanced budgets at home is for us to stop financing dictatorships abroad.

The fiscal '75 budget deficit is variously estimated by Administration officials at from $2 to $4 billion, depending on the extent to which inflation continues to boost tax revenues over expectations.

Congress could in a single stroke balance the federal budget and wipe out a projected deficit by wiping out all or most of that $5.1 billion expenditure.

There is a huge backlog of unspent military aid funds in the pipeline—$11.4 billion as of June 30—and it's due to rise to nearly $12 billion by the end of this fiscal year.

I have asked the General Accounting Office for a full accounting of this backlog.

I have also asked the General Accounting Office to undertake a comprehensive evaluation of the expenditure of the $81 billion that the U.S. has given these 57 authoritarian and dictatorial governments over the last 30 years. I realize this is a sweeping task.

Our foreign aid program has become so diffuse, so spread out over so many different functional areas, that we don't know enough about its various parts to evaluate it properly. There are at least 16 major categories in AID's budget request, each of which lists a number of recipient governments. They evaluate the foreign aid program, then, would mean multiplying the number of programs by the number of recipient governments, and then appraising the result of each individual project.

Clearly the Senate Foreign Relations Committee has neither the time nor the staff to conduct this case-by-case probe. All we have is AID's word—and AID is, after all, an interested party.

That is why I have asked the GAO to begin sifting through the masses of evidence.

There is also the question of AID's pipeline.

I join the Appropriations Committee in deploring the Administration's practice of alternately inflating and deflating pipeline funds to manipulate Congress for additional appropriations. But the billions in the pipeline do give Congress an opportunity to cut out new authorizations, leaving room for the Administration to continue aid this year where it deems necessary.

Finally, Mr. Chairman, foreign aid is one of the relatively few controllable items in the budget.

Only $84.4 billion—just 28 percent—of the Administration's $305 billion budget is controllable, according to Budget Director Roy Ash's own estimate. Foreign aid is part of that 28 percent.

Let's face it: If Congress is serious about making major cuts to balance the budget, foreign aid, especially to authoritarian governments, is an obvious place to start.

The 57 authoritarian governments on the foreign aid list exert various degrees of repression in restricting the liberties of their people.

They range from one man or one-party rule to out-and-out police states and 18 governments which the State Department itself classifies as "military dictatorships".

I have asked Secretary of State Henry Kissinger to justify in detail the Administration's request.

I have asked for a country-by-country analysis from A to Z—Afghanistan to Zaire.

The Administration is asking $2.6 billion in military aid to 34 of those countries. But it is hard to see how such an expenditure serves U.S. national interest as the State Department claims.

Take Greece, for example. Some $71 million in military aid was scheduled to go to Greece before the Administration suspended aid following the Cyprus coup. That's in addition to $2.3 billion in military aid—and $2 billion in economic aid—we have given the Greek government over the past 30 years.

What we, and the Greek people, seem to have gotten for our money was a cruel military dictatorship where once there was a flourishing democracy and a near-war between two of our allies.

Such governments, in my opinion, are an unreliable, unsteady foundation on which to base the security of our NATO alliance.

What happened in Greece was not unique. Of the $81 billion we have given those 57 countries around the world since 1945, $34 billion has been in the form of military aid.

This aid was intended to help them defend themselves against aggression. But many of these governments have used American money and American supplied weapons to terrorize and subjugate their own people.

This is a perversion of American wealth and goodwill. Billions of dollars in tax money from workers and businesses in the U.S.—a free society—are helping finance the suppression of democracy in various parts of the so-called non-Communist or Free World.

I have asked the GAO also to evaluate that $81 billion in foreign aid.

That's equivalent to nearly 20 percent of our entire $474 billion national debt and it's about time we found out what we've gotten for our money.

The Administration is also asking another $2.5 billion in economic aid to 53 of these authoritarian governments. But much of our so-called economic aid is appropriated for military or diplomatic reasons rather than for humanitarian purposes. For example, only one percent—$30 million is for a disaster relief contingency fund while $50 million in Agency for International Development funds is going just for administration.

Much of the $47 billion in economic aid we have sent these countries since 1945 has ended up in the banks of the bureaucrats and the affluent instead of in the hands of the poverty stricken.

In 1972 for instance, 99 percent of the economic aid program in Chile went for operating expenses. Operating expenses that year ate up 32 percent of the economic aid funds in Liberia, 33 percent in Nepal, 43 percent in Brazil, 63 percent in Zaire and 69 percent in Morocco.

I strongly urge that this Committee recommend substantial reductions in the Administration's proposed military and economic aid to the 57 authoritarian governments on the aid list. I believe such action would be fiscally feasible, defensively sound and economically advisable.

Mr. Chairman, in evaluating the nature of those 57 governments, I used data from the Library of Congress, Freedom House, the Center for Defense Information and the State Department. I request that an exhibit setting forth past and proposed aid to those governments be printed with my testimony in the hearing record.

Following are the 57 governments and the amount of economic (E) and military (M) aid in fiscal 1975 they would receive under the Nixon proposals, with total aid received from 1945–1974 shown in parenthesis:

Afghanistan, $17 mil.-E ($497 mil.-E); $200,000-M ($4.8 mil.-M).

Algeria, $1.4 mil.-E. ($413 mil.-E).

Bolivia, $29.5 mil.-E ($642 mil.-E); $6.5 mil.-M ($40.2 mil.-M).

Brazil, $8.5 mil.-E. ($4.3 bil.-E); $60.8 mil.-M ($431 mil.-M).

Burma, $5 mil.-E ($110.3 mil.-E); ($80.5 mil.-M).

Burundi, $400,000-E ($10 mil.-E).

Cambodia, $187 mil.-E ($576 mil.-E); $363.8 mil.-M ($751 mil.-M).

Central Africa Republic, $300,000-E ($8.3 mil.-E).

Chad, $400,000-E ($11.2 mil-E).

Chile, $63.7 mil.-E ($1.49 bil.-E); $21.3 mil.-M ($185.4 mil.-M).

Congo (Brazzaville), $400,000-E ($5.1 mil.-E).

Cyprus, $600,000-E ($32.5 mil.-E).

Dahomey, $500,000 E ($15 mil.-E).

Egypt, $253 mil.-E ($943.6 mil.-E).

Ethiopia, $29 mil.-E ($322 mil.-E); $18.9 mil.-M ($208.8 mil.-M).

Gabon, $500,000-E ($9.5 mil.-E).

Ghana, $15.6 mil.-E ($327.7 mil.-E); $70,000-M ($300,000-M).

Greece, $71 mil.-M ($2.3 bil.-M); ($1.99 bil.-E).

Guatemala, $19 mil.-E ($343 mil.-E); $2.4 mil.-M ($31 mil.-M).

Guinea, $300,000-E ($107.8 mil.-E); $900,000-M).

Haiti, $10.9 mil.-E ($135 mil.-E; $200,000-M ($4 mil.-M).

Honduras, $23.5 mil.-E ($161 mil.-E); $4.7 mil.-M ($11 mil.-M).

Indonesia, $192.5 mil.-E ($2.8 bil.-E); $28.9 mil.-M ($179.4 mil.-M).

Iran, $1.6 mil.-E ($1.7 bil.-E); ($1.4 bil.-M).

Ivory Coast, $1.2 mil.-E ($114 mil.-E); ($100,000-M).

Jordan, $88.5 mil.-E (080.5 mil.-E); $149.2 mil.-M ($277 mil.-M).

Korea, $182.1 mil.-E ($5.96 bil.-E); $234.3 mil.-M ($6.2 bil.-M).

Lesotho, $1.7 mil.-E ($15.5 mil.-E).

Liberia, $9 mil.-E ($236.7 mil.-E); $600,000-M ($11.7 mil.-M).

Malawi, $400,000-E ($10.4 mil.-E).

Mali, $1.2 mil.-E ($38.4 mil.-E); $50,000-M ($3.4 mil.-M).

Mauritania, $300,000-E ($7.9 mil.-E).

Morocco, $34.3 mil.-E (891.3 mil.-E); $14.9 mil.-M ($113.3 mil.-M).

Nepal, $7 mil.-E ($163.2 mil.-E); $40,000-M ($1.9 mil.-M).

Nicaragua, $29.1 mil.-E ($229.6 mil.-E); $4.5 mil.-M ($17.4 mil.-M).

Niger, $2 mil.-E ($26 mil.-E); ($100,000-M).

Nigeria, $6.1 mil.-E ($440 mil.-E); ($1.8 mil.-M).

Oman, $200,000-E.

Pakistan, $122.8 mil.-E ($4.4 bil.-E); $300,000-M ($696 mil.-M).

Panama, $21.7 mil.-E ($398 mil.-E); $600,000-M ($6.8 mil.-M).

Paraguay, $5.4 mil.-E ($175 mil.-E); $2.4 mil.-M ($17.8 mil.-M).

Peru, $17.3 mil.-E ($801.3 mil.-E); $21.3 mil.-M ($143.8 mil.-M).

Philippines, $78.3 mil.-E ($2 bil.-E); $25.4 mil.-M ($728.6 mil.-M).

Portugal, ($239.8 mil.-E); $900,000-M ($345.7 mil.-M).

Rwanda, $2.9 mil.-E ($84 mil.-E).

Saudi Arabia, ($70.4 mil.-E); $200,000-M ($295 mil.-M).

Senegal, $1.8 mil.-E (43.8 mil.-E); $30,000-M ($2.8 mil.-M).

South Vietnam, $911.6 mil.-E ($6.7 bil.-E); $1.5 bil.-M ($15.6 bil.-M).

Spain, $3 mil.-E ($2.3 bil.-E); $1.6 mil.-M ($844.3 mil.-M).

Sudan, $15.9 mil.-E ($140.6 mil.-E); $50,000-M ($2.2 mil.-M).

Taiwan, ($2.76 bil.-E); $80.4 mil.-M ($3.4 bil.-M).

Tanzania, $12.1 mil.-E ($88.7 mil.-E).

Togo, $2.1 mil.-E ($21.4 mil.-E).

Tunisia, $17.5 mil.-E ($773 mil.-E); $3.9 mil.-M (048 mil.-M).

Upper Volta, $2.2 mil.-E ($25.2 mil.-E); ($100,000-M).

Uruguay, $800,000-E ($157.3 mil.-E); $4.7 mil.-M ($60.6 mil.-M).

Zaire. $11.5 mil.-E ($50 mil.-E); $3.8 mil.-M ($50 mil.-M).

PRESIDENTIAL WAIVER OF REQUIREMENT TO CUT OFF AID TO TURKEY WOULD BE IMPROPER

Mr. EAGLETON. Mr. President, I have been hearing disturbing reports that the Secretary of State will recommend to the President that he waive the provisions of the Foreign Assistance Act which require him to stop any further military assistance to Turkey. It has been reported that President Ford will attempt to "sell" the waiver to the congressional leadership before arriving at a final decision.

I would like to make some observations with regard to the waiver authority vested in the President under section 614(a) of the Foreign Assistance Act. I would hope that my colleagues would consider these points before making any commitment to support such a waiver.

First, there can be no doubt that military assistance provided under the Foreign Assistance Act of 1961 and military sales authorized by the Foreign Military Sales Act are intended for the sole and exclusive purpose of permitting recipient nations to defend themselves against aggression. This interpretation is supported by a strongly worded legal opinion provided to me by the Library of Congress. The use of U.S. arms for aggressive purposes is strictly prohibited and would be in substantial violation of the provisions and purposes of the Foreign Assistance Act and any agreement entered into pursuant to that act.

While in some cases the application of statutes may be somewhat subjective due to inadequate precedents or legislative definitions, such is not the case in the application of the Foreign Assistance Act in the Cyprus situation. The specific case of a Turkish intervention in Cyprus was cited by the President of the United States as a substantial violation of our agreement with that country. This citation was, of course, made in the 1964 letter from President Johnson to the Prime Minister of Turkey when he warned that our arms could not be used for an intervention in Cyprus.

Mr. President, it is true that Congress has given the President the special authority under section 614(a) to furnish assistance to any nation "when the President determines that such authorization is important to the security of the United States." But that is not the only decision the President must make. He must also determine that the furnishing of such assistance must be "in furtherance of any of the purposes of such Acts."

Mr. President, what are the purposes of the acts which authorize military assistance? According to the Library of Congress—

> U.S. military aid is intended for the sole and exclusive purpose of permitting recipients to defend themselves against aggression . . .

The Library concluded its memorandum with the following statement:

> Use of articles and services for other than defensive purposes, i.e. for aggressive purposes, is barred by law.

It is also important to note that the statement of policy contained under title II of the Foreign Assistance Act states:

> It remains the policy of the United States to continue to exert maximum efforts to . . . control weapons of mass destruction . . . under adequate safeguards to protect complying countries against violation and evasion.

Mr. President, the President of the United States can waive the provisions of the Foreign Assistance Act which require him to cut off aid to a violating nation, but that waiver must also further the purposes for which the United States provides military assistance. It is clear that the military intervention by Turkey in Cyprus cannot legitimately fall in that category.

There were two articles in the New York Times this morning which I would recommend to my colleagues. One discussed the concern of the Pentagon and the State Department that if the United States were required by law to remove nuclear warheads from Greece, then Greece may be provoked to withdraw totally from the NATO alliance. The other story discussed the travels of Greek Foreign Minister George Mavros and his expected meeting with Secretary Kissinger later this month. That article indicated that Greek-American relations might be improving.

Mr. President, if the State Department's fear that a removal of nuclear warheads from Greece might provoke a total Greek withdrawal from NATO is accurate, what effect might a determination by the President that continued military aid to Turkey is "important to the security of the United States" have on our relations with Greece? I would hesitate to take a position on whether Turkey or Greece is more important to our security, but it seems obvious that risking the total withdrawal of Greece from NATO cannot be in our national interest.

If we are to continue improving our relations with Greece, we must demonstrate to that nation that the United States does not furnish arms to Turkey to assist that nation in aggression. And we must put Turkey on notice that the laws of the United States must be implemented even when they seem to conflict with our policy toward that nation.

Mr. President, I ask unanimous consent that the New York Times articles to which I referred, "U.S. Weighs Status of Nuclear Warheads in Greece" and "Greek Aide Plans to See Kissinger," and the Washington Star-News article by Oswald Johnson, "Turkey Aid Poses Legal Problem," be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 11, 1974]

UNITED STATES WEIGHS STATUS OF NUCLEAR WARHEADS IN GREECE

(By Leslie H. Gelb)

WASHINGTON, September 10.—Officials in both the Pentagon and the State Department are debating whether to leave American nuclear warheads in Greece. Officials agree that legally they should have been removed when the Greeks withdrew from the military command of the North Atlantic Treaty Organization.

There are no immediate plans, the officials said, to remove the weapons for fear of provoking a total Greek withdrawal from the alliance. On Aug. 30, Athens told the other members that it wanted to begin talks on the future of foreign military installations in Greece.

There is little disagreement within the United States Government that the Atomic Energy Act of 1954 and related secret bilateral arrangements now require the removal of the warheads from Greek territory.

LEGAL ASPECT SUBORDINATE

There is considerable disagreement, however, on whether to adhere to this, the legal question being subordinate to broader policy concerns.

The Joint Chiefs of Staff, backed by Secretary of State Kissinger's aide, Helmut Sonnenfeldt, contend that removal would drive Greece further from the North Atlantic fold. Pentagon civilian leaders, supported by other State Department officials, counter that the present situation is dangerous as well as illegal.

Officially the United States sees no basic change in its military relationships with Greece.

Privately, the policy is to take no action on the warheads and to search for a new legal basis to maintain the status quo.

On the related question of the legality of continued military aid to Turkey, a Congressional source said Mr. Kissinger had recommended to President Ford that he use his Presidential waiver authority to justify further aid.

CHARGE BY SENATORS

Senator Thomas F. Eagleton, Democrat of Missouri, and other Senators contend that aid to Turkey is illegal under the terms of the Foreign Assistance Act because of the use of American weapons in the Cyprus conflict.

The State Department has said no decision has been reached on this subject and Mr. Ford is expected to meet with Congressional leaders soon to review the matter.

Section 144(B) of the Atomic Energy Act provides for sharing nuclear information and weapons only "pursuant to an international arrangement by substantial and material contributions to the mutual defense and security." Another section defines these arrangements as formal agreements approved by Congress.

The provision of tactical nuclear warheads to allied nations for training purposes required additional bilateral agreements.

FRENCH PRECEDENT RECALLED

In the case of the Atlantic alliance, the bilateral arrangement stipulates that the forces of the recipient nation must be deployed in accordance with plans worked out by the integrated military command.

When President De Gaulle renounced French participation in the command in

1966, officials related, the Johnson Administration decided that there was no longer any legal basis for cooperating with France in a nuclear weapons program.

The same issue arose Aug. 14 when the Greek Government announced that its armed forces were to be withdrawn from the alliance.

Some State Department officials said "it could be argued" that the warheads could remain in Greece legally so long as they were in sole American custody.

Most other officials and lawyers, however, said the legal precedent was clear. One Pentagon official said, "if we did it with the French, how can we not and why should we not do it with the Greeks?"

A State Department official said "once Athens pulled out of the integrated military command, there can be no program." An official of the Atomic Energy Commission said that the Atomic Energy Act was "designed to provide for an effective cooperative arrangement, and having the weapons remain in sole United States control in Greece is not effective or cooperative."

Nuclear warheads have been removed from Greek and Turkish aircraft and placed in American custody, officials confirmed. Technical control always rests with the United States.

Mr. Sonnenfeldt and the American military want to ride along with the present situation. They maintain, according to officials, that to remove the warheads would be to read the Greeks out of the alliance. Their reasoning, the officials explained, is that removal would "rock the boat" politically in Athens and force Premier Constantine Caramanlis to back up his words with deeds by actually withdrawing Greek military personnel and facilities from the operations of the alliance.

As of now, the officials related, Greek officers continue to sit at their desks in NATO headquarters in Brussels and American aircraft are still being refueled in Greek bases.

The civilian leadership in the Pentagon and some State Department officials also want Greece to return formally to the alliance's military command. In their view, however, the military situation between the Greeks and the Turks is unstable, and the continued safety of the nuclear warheads cannot be guaranteed.

[From the New York Times, Sept. 11, 1974]

GREEK AIDE PLANS TO SEE KISSINGER

BONN, September 10.—George Mavros, the Greek Foreign Minister, said in an informal conversation here today that he expected to meet with Secretary of State Kissinger in the United States later this month to discuss a possible new American initiative in the Cyprus crisis.

Mr. Mavros, speaking after a news conference at the end of a two-day visit here, said he would be going to New York for the United Nations General Assembly, opening Sept. 17, and expected to see Mr. Kissinger either there or in Washington.

He gave no details of what initiative the Americans might have in mind. But the tone of his remarks indicated that relations between Greece and the United States, soured since the Greek military withdrawal from the North Atlantic Treaty Organization last month, might be improving.

OFFER REBUFFED

After the collapse of the three-power Geneva talks on Cyprus involving Mr. Mavros and the Foreign Ministers of Turkey and Britain last month, Mr. Kissinger offered to mediate, but was rebuffed by Greece. Premier Constantine Caramanlis refused an invitation to come to Washington at that time.

This morning, Mr. Mavros met with Chancellor Helmut Schmidt and with his predecessor, Willy Brandt, later. Mr. Brandt accepted an invitation to visit Greece. Mr. Mavros then went to Brussels, where he is understood to be seeking a two-year loan of $800-million from the European Economic community. Yesterday, West Germany, granted the equivalent of $70-million, to be spread over the next three years.

Mr. Mavros confirmed that he had also discussed the NATO issue with Mr. Schmidt. "The Germans have their own views, but a return to the NATO military alliance is out of the question for us,' he told reporters here.

He said he had called on Mr. Schmidt and on the French Prime Minister, Jacques Chirac, whom he saw last week, to play a greater European role in the Cyprus crisis. By this he apparently meant putting pressure on Turkey to withdraw her troops from the northern part of the island.

EUROPEAN INTERESTS CITED

"It is too bad that Europe isn't organized well enough to speak with one voice in foreign affairs," Mr. Mavros said at the news conference. "Cyprus is par excellence a European concern and coordinated pressure of the nine European powers for restoration of constitutional order in a region encompassing such important European interests could perhaps bring about a result."

The Foreign Minister spoke in German, French, English, Italian, and Greek.

When he was asked, after the news conference, whether Mr. Schmidt or Mr. Chirac had indicated willingness to plan a greater role, Mr. Mavros said: "Yes, it could be very useful to bring the pressure of united European public opinion to bear against Ankara. Mr. Schmidt said he'd be willing to offer his good offices in any way that would be useful, and Kissinger is also getting something new going in the next few weeks. I'm probably going to see him in New York, or in Washington, to talk about it in the next few weeks."

American Embassy officials here said they knew of no plans for a meeting or of any American initiative. "I suspect we've been working quietly to try to arrange something, but I'm not aware of anything definite," one spokesman said.

[From the Washington Star-News, Sept. 10, 1974]

TURKEY AID POSES LEGAL PROBLEM

(By Osward Johnston)

After weeks of temporizing, the Ford administration is nearing a moment of reckoning on the politically loaded question of continuing military aid to Turkey after the Turkish invasion of Cyprus nearly two month ago. The outcome may prove a deep embarrassment.

In Congress, a movement is gathering force to cut off all of the $209 million in military aid earmarked for Ankara this year. Opponents were bolstered today by a Library of Congress legal opinion maintaining that continuing aid after the July 20 invasion violates congressional limits on U.S. aid programs.

At the same time, according to informed sources, Secretary of State Henry A. Kissinger's own legal staff has come up with a still unpublished legal opinion which, if accepted within the administration, would sharply curtail the policy of continuing aid to Turkey.

A legal study has been underway at State ever since Kissinger, responding to a critical questioner at a news conference Aug. 19, conceded that the legality of continued military aid to Turkey would have to be studied. Up to that time, the decision to continue aid after the July 20 invasion had been based on other policy criteria, Kissinger explained.

Since the news conference, department officials have declined any public discussion of the issue, except to say it is a "complex, complicated matter" that is under study.

The study is being conducted under the aegis of Carlyle E. Maw, undersecretary of state for security assistance, who until a few months ago was legal adviser to the State Department and who, in private life, has served as Kissinger's private counsel.

Maw declined yesterday to respond to questions relating to the study. But an authoritative official disclosed that Maw late last month rejected an early draft of the legal study as "incomplete . . . not adequate . . . to hasty a job."

According to a variety of sources close to the department, an early draft of the study and a later version which the legal staff is still working on concluded that continued U.S. aid to Turkey without a special presidential intervention violates both the letter and the spirit of the Foreign Assistance Act of 1961. Under that law, military aid is limited to purposes of self-defense or to participation in regional defensive alliances such as NATO.

According to this in-house reading, the only justification for continued aid to Turkey would be a narrowly circumscribed loophole in the law. This waiver clause would empower Ford to authorize up to $50 million a year in aid to a nation making aggressive war "when the President determines that such authorization is important to the security of the United States."

Congressional sources speculated privately that a presidential appeal to "national security" on this issue would aggrevate still further the strained U.S. relationship with Greece, which has announced withdrawal from NATO over the Cyprus issue and is threatening to take over U.S. military bases.

State Department spokesman Robert Anderson acknowledged, however, that Kissinger met Saturday with Maw and other top advisers to discuss the issue. Kissinger will raise the question with Ford in the next few days, Anderson said, and Ford himself would soon be conferring with congressional leaders.

Congress is definitely shaping up to be a problem for the administration. The seven-page Library of Congress opinion delivered today unequivocally comes down on the side of a rigid congressional prohibition against supplying arms for purposes unrelated to national self-defense or regional defense.

"That U.S. military aid is intended for the sole and exclusive purpose of permitting the recipients to defend themselves against aggression . . . seems to permeate the laws governing this matter," the opinion declares. "The principal purpose of U.S. military aid was intended for defensive, rather than aggressive purposes."

Accordingly, the opinion concludes that it is "beyond debate" that U.S. military aid "is intended for defensive purposes exclusively . . ." Further, that use of U.S. military supplies "for other than defensive purposes . . . is barred by law."

The opinion was prepared at the request of Sen. Thomas F. Eagleton, D-Mo., who last week issued a statement denouncing continued aid to Turkey as a violation of the law. Eagleton has also proposed a Senate resolution against the aid policy, claiming that the U.S.-Turkish bilateral aid agreement of 1947 was directly violated by the Turkish invasion of Cyprus.

Amendments to the current Foreign Assistance Act which would summarily cut off aid to Turkey are now pending in both houses.

CONDOMINIUM DEVELOPMENT

Mr. BIDEN. Mr. President, the condominium development and conversion in some areas achieved a growth and impetus which has startled States and counties into action. Localities have begun to wrestle with the social and legal implications of the condominium type of ownership.

At first blush, the solutions seem relatively simple, but further readings and research bring a recognition that different kinds of issues are presented throughout the condominium process, especially in the process of converting rental apartments into condominiums. There are issues such as the rights of tenants who have rented in a complex for a number of years versus the property managers' rights to sell, manage, and develop his property freely. There are issues in deciding how comprehensive national legislation should be, and what route it should take in developing guidelines.

Since the issues involving condominiums have emerged, progress has been made in the nature of a disclosure bill which I have introduced, S. 3658, and recognition that action should be taken is evident. The Federal Trade Commission has begun a nationwide investigation of the development and management of residential condominiums. The whole condominium issue is ripe for study, and needed to establish guidelines for the public. David Wolfe, in an article which was printed in Potomac magazine, a feature of Sunday editions of the Washington Post, for July 28, 1974 pointed out that—

> The condominium concept also has a major value and attraction to the millions of families whose only present hope for ownership is within the range of the lower priced condominium apartments and townhouses.

The National Association of Home Builders says condominium starts will increase 4 percent from a year ago to 230,000 individual units, the condominium buyers require protection and regulation as they purchase this investment.

Mr. President, I ask unanimous consent that the text of two articles by Walter Rugaber of the New York Times explaining the legal ramifications of condominiums, and the article by David Wolfe, highlighting important aspects of condominium development, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, July 4, 1974]

FTC PLANS STUDY ON CONDOMINIUMS

(By Walter Rugaber)

WASHINGTON, July 4.—The Federal Trade Commission announced today that it would undertake a nationwide investigation of the development and management of residential condominiums.

In a statement, the commission said that it hoped to learn whether companies that build, sell or operate condominiums "have been or are engaging in unfair or deceptive practices in connection with those activities."

The industrywide investigation could lead not only to legal action against individual concerns but also to the imposition of broad Federal regulation in the form of commission guidelines for condominium operations.

FLORIDA ABUSES STUDIED

The inquiry itself is a significant step, for the Government has largely ignored consumer problems in the condominium field despite forecasts that within 20 years half the population will live in such housing.

General investigations by the commission are somewhat rare. There are probably no more than a dozen under way now, an official said, and they reflect the agency's priority interests.

The agency staff has been conducting an exploratory investigation of condominium abuses in Florida, and the announcement today indicates that it turned up enough to persuade the commission to authorize a study in depth.

While the investigators have examined advertisements for condominium offerings in other states, commission sources suggested that the investigation would concentrate, at least initially, on developments in Florida.

"It won't be confined to Florida," one official said, "but Florida does lead the nation in the number of condominium units, and I think it's logical to give it the primary share of our attention."

RENTAL REQUIREMENTS

Two problems, common in Florida, are known to have specifically attracted the commission's interest.

One involves agreements under which certain companies must be hired to manage buildings, sometimes at excessive fees.

Another involves long-term leases under which owners of condominium apartments must rent swimming pools and other recreational facilities, sometimes for substantial sums and sometimes for as long as 99 years.

Critics often complain that these practices enable developers to offer units at deceptively low prices. While the developers can later recover their costs by charging high fees, consumers can find it difficult to pay the fees.

Many builders avoid such practices. Others argue that they are justified, but an official of the commission suggested it was "a very major potential deception" when a buyer failed to acquire complete ownership.

CONVERSION UNDER INQUIRY

The announcement today specified that the commission would also investigate the conversion of rental apartments to condominiums, an accelerating trend highly unpopular among tenants who do not want to buy their homes.

It was unclear how extensively the agency would look into the practice of conversion. An official said that, while "it's within the scope of the investigation, how much effort we can make is uncertain."

It was not clear why the commission made the announcement today, a holiday, but it is not unusual for governmental agencies to delay announcement of decisions for a day or longer.

The owner of a condominium holds absolute title to his individual living unit and joint ownership of all the common areas of the development, such as hallways, elevators, and recreational facilities.

The commission investigation is the latest in a series of developments promising increased Federal interest in condominiums, which are almost entirely unregulated in all but a few states.

In an action late last month, the House of Representatives approved an amendment to the Housing and Urban Development Act that would authorize a Government study of consumer problems with condominiums.

BILLS BEFORE CONGRESS

The legislation, sponsored by Representative Benjamin S. Rosenthal, Democrat of Queens, would require the secretary of Housing and Urban Development to report findings and recommendations within a year.

Bills involving extensive Federal regulation have been introduced in both houses, by Representative Cardiss Collins, Democrat of Illinois, and by Senator Joseph R. Biden Jr., Democrat of Delaware.

Both proposals would require condominium developers to register their projects with the Department of Housing and Urban Development and to make full disclosure of the provisions of each sale.

The measure offered by Mrs. Collins would also require 50 per cent of the tenants to agree to buy their units or to move out before an owner could convert a building into a condominium.

[From the New York Times, Sept. 6, 1974]

STATE OF FLORIDA FILES CHARGES AGAINST CONDOMINIUM DEVELOPER

(By Walter Rugaber)

TALLAHASSEE, FLA., September 5.—The state of Florida filed charges today against one of its biggest condominium developers in an effort to break controversial recreation leases that cost consumers millions of dollars a year.

Robert L. Shevin, Florida's Attorney General, described the action as "very much a test case" aimed at ending the lease arrangements associated with most of the estimated 250,000 condominium units in the state.

The case is important nationally because of Florida's position as a condominium pioneer and because an investigation by the Federal Trade Commission is understood to center on the same issues raised today.

Mr. Shevin contended that developers who invest perhaps $2-million in recreation facilities would typically reap what he called an "unconscionable" windfall profit of between $3-million and $6-million annually for as long as 99 years.

Each condominium owner is required to pay the fees even if the facilities are not used. Many purchasers have asserted that the lease, which commonly includes an escalator clause tied to the cost of living, was not disclosed before their purchase.

These and other factors have made the recreation arrangements a highly charged issue here for several years. While the leases are most popular in Florida, they have turned up in other states as condominium housing spread.

Condominiums, in which a person holds title to his apartment and a joint interest in such common elements as elevators and greenswards, made up 84 per cent of the housing built in South Florida last year.

The state cited the developers of two huge complexes called Century Village. One, in West Palm Beach, contains more than 7,800 units. The other, under construction in Deerfield Beach, will have more than 8,000 apartments.

Buyers at both places are required to sign 99-year leases for such facilities as swimming pools, gymnasiums and billiard rooms. Failure to make payment on the lease is a ground for the developers to attempt to foreclose on the owner's apartment.

Mr. Shevin contends that when the more than 15,800 units in both Century Village complexes are sold, the developers will receive lease payments of more than $12-million a year, or more than $1.1-billion over the 99-year term.

H. Irwin Levy of Palm Beach, the president of the development concern, was reported to be out of town and could not be reached for comment on the state's charges. A spokesman said there would be no immediate comment.

Developers generally have defended the leases on the ground that it allows them to offer lower prices because they can fall back on the lease payments.

Mr. Shevin's charges were brought as an administrative proceeding under the state's "little F.T.C. act," a statute patterned after the Federal Trade Commission law. The case was prepared by Rod Tennyson, an assistant Attorney General.

The developers were accused of restraining trade "because they preclude condominium buyers from exercising their own free choice in selecting other recreational services" and bar competitors from offering such facilities.

The state also maintained that the leases were an unfair practice because they forced condominium owners to pay "fees which are higher and more restrictive than the same services that would be available in a free enterprise market."

[From the Washington Post Potomac Magazine, July 28, 1974]

Condominium Ownership Increases

For more than ten years the percentage of Americans living in their own homes has been stable at about 64 per cent, culminating a rise during the 1940s and 1950s when the advantages of FHA and VA financing, particularly the low down payments, made it possible for more medium and low-income families to buy their own houses with favorable mortgage terms.

But now new trend toward condominium ownership of individual dwellings in multifamily (mostly garden and high-rise apartments) has increased the prospect for an even greater segment of the American public to live in their own homes and have their own deeds, property tax bills, mortgages and right to occupancy.

This metropolitan Washington area is sharing that trend to condo ownership and, in fact, may be one of the nation's leaders in the major Condo Movement that is likely to make the 1970s known as the Decade of the Condo.

For instance, statistics already indicate that there will be more than 30,000 individual condominium units on the market in this area this year and that nearly 50 per cent of all residential construction will be sold as condominiums.

Only a few years ago relatively few realty professionals could define a condominium, which is basically a Latin word meaning joint ownership or control.

The Department of Housing and Urban Development uses this definition: "In a condominium, an individual owns separately one or more dwelling units in a multiunit project. He and the owners of the other units have an undivided interest in the common areas which include such elements as lands, roofs, floors, main walls, stairways, lobbies, halls, parking spaces and community and commercial facilities."

All of which means simply that the condominium buyer owns his own apartment or townhouse and that he and the other owners have a common ownership percentage (based on the price paid for the individual unit) of the common areas—and also the responsibility for maintenance thereof.

And, of course, the condominium, which is common in Europe and Central and South America, is basically different from the cooperative form of ownership (used at the famed Watergate and the older Westchester apartments in Northwest). In a co-operative, or co-op as they are known, individual members own stock or membership in the co-op and are thus entitled, according to terms and price, to occupancy in one of the units. But the co-operative association actually owns the apartment and has certain rights in resales and also has one total tax bill, one total mortgage and one deed. It's sort of similar to club ownership.

However, the condominium owner has the same tax benefits as a conventional homeowner, wherein income tax laws permit deductions for real estate taxes and mortgage interest paid during the taxable year. But IRS has recently placed most of the home owner associations, which handle maintenance of common areas, under its tax sway. And the condo owner who rents out his unit has to yield to other IRS rules governing that aspect.

From the point of view of the prospective purchaser of a dwelling, the Washington area condominium marketplace offers a broad range of choice. The variety of offerings include both new and converted high-rise apartment buildings with units ranging from one-room efficiencies to almost as many rooms as the pocketbook can handle. Some luxury buildings have units with four or five bedrooms, even separate rooms for live-in domestic help. And some of the prices for the poshest, best-located units with space comparable to those in a large single house range to about $200,000.

On the other hand, one of the best features of the growing condo marketplace is that it also has offerings of small apartments in garden (walk-up, low-rise) complexes—both new and converted—for less than $30,000. And a family can find a three-bedroom garden unit priced about $40,000, most likely in a project that has been converted from rental to condominium ownership.

This is an advantage for the low-medium-income couple or family or individual whose income and financial position does not make him, her or them likely candidates for a single family house in the now common $50,000-up range or even the two- or three-story townhouse (probably a condo) now mostly priced well over $40,000 and often offered in the area over $75,000.

Ten years ago, before the onset of many townhouse and quadraplexes (four units in one large house), the newly married couple anticipating a first or second child and a desire for a "place of their own" would have looked for a small rambler or Cape Cod in a major housing development 20 to 30 miles from the White House. Today that couple or two persons who have decided to live together might more likely be shopping for a two-bedroom converted condo.

Prospective condominium buyers, not unlike shoppers for new or resale single houses, must be prepared to ask meaningful questions and collect pertinent data from the offerings within their price range.

One major aspect in selecting a condo unit, according to Edmunch I. Flynn, a veteran in both coop and more recently condo sales, is for the prospective buyer to be certain that the ownership includes the land under the complex.

A few of the area condos and co-ops have been built on ground-lease land. It is generally regarded that ownership of the land under a project is a better, if slightly more expensive choice. Why: Simply because the land tends to increase in value more than the physical property built on it. For instance, the life expectancy of most residential units is about 50 years. But at the end of these 50 years, the buildings may be outmoded and worth less.

However, it is most likely that the land will be at least may be worth up to $150 a square foot if it is to be used for downtown office building or up to $25 to 50 a square foot if it is to be used for a new commercial or high-density residential project after the buildings on it are razed.

Additionally, attorney Benny L. Kass, who has been active in consumer movements, has urged prospective condo buyers to check the reputation of the developer of a new condo project and to get assurance on the projected delivery timetable and to be certain to get the facts on available parking and what it will cost.

If the condo purchase is to be made in a conversion buildings, which could be a few years old or 40 years old, the buyer is advised to inspect the condition certificates, reports made by independent engineering firms, and also to get in writing the seller or converter's assurance and liability for work done and condition of boilers, roofs, air conditioning and plumbing and electrical system.

Also strategically important to the condo buyer in a new or converted building, are the master deed or the "declaration," and the bylaws which will govern these operating procedures and management. Most professionals agree that management of a larger—more than 20 or 30 units—is best handled by a professional firm. But owners should keep tabs on the management and have the right to review or cancel the contract, depending on service and performance—and costs. The monthly fee for management usually ranges upward from about $40.

If you own a pet, you will want to know the pet policy or you may be interested in amenities such as the pool tennis courts and saunas. Will you have to pay extra—and does the developer turn all those facilities over to the owners. The sales contract is a key document and you should take several days to study it carefully or let your lawyer have a chance to give an opinion.

The budget covering maintenance and operation should be substantiated and there should be a cash reserve fun established for major replacement items or improvements. All buyers also should obtain a solid fix on closing costs and their breakdown and not be reluctant to question anything that seems to be excessive or unusual . . . before signing the sales contract.

During the recent condominium boom, particularly in Florida, there have been consumer complaints concerning both selling practices and the lack of regulation of the developers. However, Florida has tightened its laws and recently the State of Virginia adopted a new condo law. And, early in June, the Montgomery County Council passed what is regarded as a tough bill to protect condo buyers . . . beyond the Maryland law on condos.

Meanwhile, too, the Department of Housing and Urban Development has been studying "the rising number of condo developments and conversions, most of which are outside the FHA enabling regulations that were passed in 1961. That's simply because most of the condo financing has been done rather than FHA or VA.

In Virginia, where the condominium trend has been strongly evident in the landmark area of South Alexandria, the Virginia Condominium Act has been dubbed "the first of a new generation of condominium laws" by Stephen G. Johnakin, a legal staffer with Lawyers Title Insurance Corp.

He has pointed out that an attorney now can draft a set of legal documents under the new law and make them understandable to a prospective purchaser of a condominium. Because the basic condominium documents are in the new Virginia law, they do not have to be repeated in the documents used to set up procedures for each new condo community.

David B. Wolfe, who has been running a business of helping and handling the affairs of condo community owner associations, has also pointed out that the new Virginia law enables a builder to develop a condominium project in planned increments and thus not have to decide at the outset the total number of units and their exact dimensions.

Wolfe commented that the builder could not previously change his design plan if he had misjudged the market—as he could do when building regular subdivision communities of single houses and townhouses in small sections. And the consumer interest was also endangered because he and other new owners were forced into higher assessments to cover common maintenance costs if the project did not sell out on schedule.

The Virginia condo law protects the buyer in that any planned improvements "not yet begun or not yet completed" must be so stipulated before title can be transferred to a buyer. The buyer also must receive warranties for both his individual unit and for the common elements in which he holds an ownership share.

In regard to resale of condominium units, a factor that has had relatively little experience to date in the area marketplace, the

Virginia law states that the seller of a resale condo must make available to the new purchaser the same basic information that the original developer had to provide . . such as operating costs and capital position of the owner association to which the new buyer will belong. Another stipulation requires disclosure of whether the seller is up to date on the payment of his assessments before the sale.

The new Virginia legislation on condos has been placed under the jurisdiction of the Virginia Real Estate Commission, which is under the chairmanship of Albert G. Highsmith, of Alexandria, a realty professional who headed the study group that helped to initiate and produce the new statute passed by the Virginia General Assembly earlier this year.

Under terms of the new condo law in Montgomery County, Md., developers must provide to prospective buyers the names of the persons and firms involved in the transaction and also a list of all the financial factors of the project, including whatever risk the buyer may entail if the developer has financial problems. Additionally, there must be a full description of the property, plus a map showing the present and future roads.

The Montgomery County condo buyer also, by law, will get a statement of all warranties and disclaimers and a copy of a projected annual budget that spells out his likely liabilities in addition to his own mortgage payment and his individual tax.

Even more protective to the condo purchaser in Montgomery County is the requirement that he may cancel the purchase for any reason simply by notifying the seller within 15 days of the signing of a contract. Provisions of the Montgomery bill, which will become effective in late summer, will be enforceably by the county office of consumer affairs, which already has taken a hand in alerting condo buyers to possible pitfalls.

One of the reasons for the development of many new condominiums in this area and the purchase and conversion of existing rental apartments to condominium ownership is the fact that the rental market has become unattractive to builders and developers. Joseph Horning, whose firm has been in the rental market and who now is president of the area Home Builders Association, said recently that "nobody is building rental housing—if you do you have an economic lemon on your hands. The potential renter just isn't there at price you would have to charge.

The lack of a profit incentive has also affected the owners of rental apartments, who have insisted in recent years that rent controls, higher costs of operation and tenant militancy have made their positions untenable. Thus, because they can sell to a prospective condo converter for a higher price than to an investor in rental units, they have increasingly gone the route of selling or converting themselves.

It is a fact that it will cost a former tenant more to buy his apartment and live in it but it also provides him a number of benefits. For instance, besides his deductions on income taxes for property tax and mortgage interest (which is high when there is a low down payment), he also gets the assurance of knowing approximately what his cost of living in his unit will be over the year.

Additionally, he gets the assurance of not being asked to move or endure annual rent increases. But he does face likely increasing higher costs of operation—just as the landlord has had to face increasing taxes and cost of repairs and maintenance.

But the buyer also builds up equity, slowly year by year, in his ownership as he pays off his mortgage. And those mortgage terms now are often lower than the market. And when he wants to sell, he can hope that the property value will increase with any inflation and thus he will be able to sell for more than he has put into equity payments.

Another aspect for the general good of the community is that owners are likely to show more interest in their condominiums than they would as renters in the same project. And the local jurisdiction tend to benefit substantially because the total of taxes from individual condominium owners are generally considerably more than the landlord-owner was paying. That's due to the higher selling cost of the unit, which determines the realty valuation for tax purposes.

It is now evident that the condominium is here to stay and that it has broadened the perspective of home ownership for millions of Americans and will continue to bring in more owners. In fact, it has been estimated that half of all Americans may be living in condominiums by 1994.

What should be encouraging to those who see home ownership as a stabilizing factor in our society is that the condominium is not just for the wealthy.

True, many affluent persons and families are able to own an expensive condominium in town and another at a vacation resort—such as at one of the Atlantic beaches. Everyone in this area is aware of the heavy development on vacation condominium high-rise apartments and townhouses at the Atlantic beaches of Maryland and Delaware.

But the condominium concept also has a major value and attraction to the millions of families whose only present hope for ownership is within the range of the lower priced condominium apartments and townhouses.

One positive accomplishment of the trend to condominium living is that more tenants become landlords of their own properties. No longer will they be able to put down the landlord because they are landloards themselves. And they will also learn first hand the complexities and difficulties of property management as they become involved in their own home owner associations.

Management consultant David Wolfe has repeated many times that the members of a condominium home owners association are "participants in the purest form of grass roots democracy available in actual practice today in this country or anywhere."

PROBLEMS CONFRONTING THE HOUSING INDUSTRY

Mr. BROOKE. Mr. President, the housing industry is now experiencing its worst recession in years and new housing starts have plummeted to an annual rate of 1.5 million units. The situation is critical. Attention must be focused on the myriad number of problems facing the housing industry. Tomorrow I shall be participating in a pre-summit conference on housing and construction in Atlanta, Ga. I will be discussing these problems and recommending actions that I believe should be taken immediately, if we are to help move our country toward the goal of securing a decent home in a suitable living environment for every American family.

Mr. President, I ask unanimous consent that the remarks that I will make at the conference be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR EDWARD W. BROOKE

Our housing industry is in a recession and heading for a depression. The facts are alarming:

1. Housing starts dropped to an annual rate of 1.33 million in July, down from 2.06 million last year and 2.4 million in 1972.

2. About 495,000 construction workers were jobless as of August, up by 35,000 from July. The unemployment rate in the construction trades is 11.1 percent, more than double the rate in the labor force as a whole.

3. Mortgage interest rates have risen to 10% or more in some areas and no mortgage money is available in other parts of the country.

4. 120,000 new housing units stand vacant because potential buyers can not get mortgage financing.

Clearly, housing needs help, and it needs help *now*. Over the next few years, we as a nation will have to come to grips with some complex issues such as disintermediation, allocation of credit, land use policies, and industrialized housing. The sooner we address these issues the better. But today we face a more immediate challenge—finding a way to avert a depression in the housing industry over the next six months.

I believe that the federal government can and should act quickly to get the housing industry on its feet again. I believe that taking advantage of unused productive capacity in the housing sector is economically sound policy and not inflationary. I believe that the sooner we act the better it will be for the builder, the worker, the consumer, and for the economy as a whole.

The federal government should immediately increase housing production under federal low-income housing programs and also move to provide interim mortgage credit assistance to the home buyer.

SPUR LOW-INCOME HOUSING PROGRAMS

The Housing and Community Development Act of 1974, which was signed by President Ford on August 22, 1974, authorizes some $1.2 billion in annual contributions contract authority to provide housing assistance for lower income families in fiscal 1975. This money will support the construction of over 500,000 units of low-income housing over the next year.

The Housing Act offers a chance for the Department of Housing and Urban Development to end the moratorium on construction of housing units for low-income families. This moratorium, a mistake from its inception, has caused federally-assisted housing starts to tumble from an annual rate of approximately 427,000 per year in 1970 and 1971 to around 180,000 per year in 1973 with still lower production likely in 1974.

The MIT-Harvard Joint Center for Urban Studies estimates that 13 million American families, or 20% of all families in our country, are deprived of decent housing at a price which they can afford. It has been 25 years since the Housing Act of 1949 stated our national policy as the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family. For 20% of our families the promise of a decent home remains just that—a promise, not a reality.

By lifting the moratorium on construction of federally assisted low-income housing units and stimulating production we will not only be giving business to the home builder and work to the construction trades, but we will also be keeping our promise of a decent home for every family.

The President should set a goal getting federally assisted housing starts up to a level of 50,000 per month over the next six months and the Secretary of HUD should make a monthly report on progress made toward achieving that goal.

INTERIM MORTGAGE CREDIT ASSISTANCE

While the poor are hardest hit by the housing slump, they are not the only ones affected by federal policies. Every day my mail and that of other Congressmen and Senators contains dozens of letters appealing to us to do something about the mortgage credit crisis. These letters tell the story of families transferred from one city to another, but unable to sell their old homes or to buy new ones. They tell of young families having saved the downpayment for a house, but now unable to obtain a mortgage. They tell of realtors, and home builders, and lumber suppliers, and construction workers who are feeling the effects of the worst recession to hit the residential real estate industry in years.

The effect on the housing industry of the tight money policy adopted by the Federal Reserve Board has been much more severe than on other segments of the economy. The Board recognizes this, and Chairman Burns has publicly suggested that steps be taken to temper the effect of restrictive monetary policy on the housing industry.

With a view toward providing short term relief to the home mortgage credit market, Senator Alan Cranston (D., Calif.) and I both offered bills to provide below market rate mortgage loans through the Department of Housing and Urban Development. Representatives of the National Association of Homebuilders and the AFL–CIO testified in favor of our bills at hearings held on August 6 and 7.

On Tuesday of this week Senator Cranston and I jointly introduced S. 3979, the Home Purchase Assistance Act of 1974, which combines the best features of both of our bills. The Home Purchase Assistance Act will create a new source of mortgage credit which will be available to home buyers in times of tight money. It establishes a "Housing Trust Fund" which could draw on the Treasury for loans of up to $10 billion per year. This money would be made available through GNMA (the Government National Mortgage Association) to purchase mortgages on homes with prices ranging up to $30,000 in most areas of the country and as high as $45,000 in high-cost areas.

Mortgages purchased by GNMA would bear interest rates comparable to the long-term Treasury borrowing rate, which is currently 8¾ percent. The market rate for mortgage money, where it is available at all, is currently in the range of 9½ percent to 10 percent.

The Home Purchase Assistance Act, if enacted, would spur the sale of up to 350,000 more homes over the next twelve months. It could provide over 300,000 jobs for construction workers. I have urged the President to support this approach, and Senator Cranston and I shall ask for prompt consideration of this measure by the Senate Committee on Banking, Housing, and Urban Affairs on which we both serve.

To sum up, I have no doubt that the housing industry will be a sick industry so long as a high rate of inflation continues. I strongly support President Ford's efforts to find a cure for this economic disease. But so far as housing is concerned, I believe that we must be careful not to kill the patient with the cure.

ARKANSAS CONSIDERS ERTS VALUABLE

Mr. MOSS. Mr. President, the letter I received from Dale Bumpers, Governor of Arkansas, was short and sweet. He says flatly:

> We support the continuation of the system and consider the output as valuable to the State of Arkansas.

Mr. President, I ask unanimous consent that Governor Bumper's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF ARKANSAS,
Little Rock, Ark., July 12, 1974.

Hon. FRANK E. MOSS,
Chairman, Committee on Aeronautical and Space Science, U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: Numerous agencies of State government in Arkansas have found Earth Resources Technology Satellite data useful in their planning and operational roles. We support the continuation of the system and consider the output as valuable to the State of Arkansas.

Kindest personal regards.

Sincerely,

DALE BUMPERS.

TREATING INFLATION

Mr. BIDEN. Mr. President, inflation is a constant source of concern to all of us. We spend much time seeking effective solutions. For this reason I found most interesting an article in the Wall Street Journal on August 28, 1974. Written by Vermont Royster, it is called "Treating Inflation."

While I am not certain that I agree totally with the article, I think it makes an excellent point when it says:

> What they (economists) do *not* know is something else. They do not know how to stop inflation without other economic consequences. . . .

In recent hearings before the Senate Budget Committee our economy was compared to a person with two diseases, the treatment of either of which aggravates the other. So the solutions to inflation may run contrary to treating high interest rates, high unemployment, the failing housing industry, or our sluggish economy. So we come to the question asked in the article:

> Which is worse—the inflation or the cure?

It goes on to say:

> The difference is an important one for the American people to understand. For the question of what to do about inflation today is not merely a technical problem . . . but rather a question about value judgments affecting not only the economy but the whole social fabric.
>
> The issue of inflation is therefore, in the truest sense of that phrase, a political issue. What ultimately must be decided by the people through the political process is whether to bear the consequences of halting inflation or to suffer the consequences of letting it continue unchecked.

I think we must tackle all the problems of our economy. Each of them is too important and too serious for use not to address ourselves to it. In this prespective I find the article most useful, although I think it oversimplifies the causes and cures of inflation. Mr. President, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THINKING THINGS OVER

(By Vermont Royster)

TREATING INFLATION

One discouraging though keeps cropping up in the news from Washington these days, in congressional comments, journalistic reports and administration quotes. It's worded in different ways but the substance of it is that "nobody knows what to do about inflation."

This is discouraging because it seems to treat inflation as some sore of mysterious ailment which in unavoidable and incurable. If the economic experts do not know what remedies to apply, what hope is there for an end to it?

But this is not the state of affairs at all. Any competent economist—Paul Samuelson, Milton Friedman, Walter Heller, Arthur Burns, Alan Greenspan—knows what causes inflation and how to end it. On that score there is really no disagreement among the experts.

What they do not know is something else. They do not know how to stop inflation without other economic consequences, any more than a doctor knows how to cure a heroin addict without withdrawal pains. Where the experts differ is in their attitude toward paying the price of stopping inflation. That is, which is worse—the inflation or the cure?

The difference is an important one for the American people to understand. For the question of what to do about inflation today is not merely a technical problem, which any of the above economists could solve, but rather a question about value judgments affecting not only the economy but the whole social fabric.

The issue of inflation is therefore, in the truest sense of that phrase, a political issue. What ultimately must be decided by the people through the political process is whether to bear the consequences of halting inflation or to suffer the consequences of letting it continue unchecked.

How to decide? It ought to be recognized that those who argue for stopping inflation do a disservice to their cause if they dismiss as unreal, or inconsequential, the side effects of the necessary remedy. We cannot change government fiscal and monetary policies of long duration without dislocations, even though fears of them may be exaggerated.

But people must recognize also that those who protest the remedy, those who want the government to continue depreciating the money, do a disservice when they pretend no catastrophe can lie at the end of inflation's journey. This flies against both reason and the experience of history.

For many years now we have been in the grip of a doctrine that inflation is not merely good for us but the necessary ingredient of economic health. Inflation creates prosperity and wealth; only a steady fall in the purchasing power of money can fuel expansion and progress. So has run the doctrine and few have escaped its seduction. Until very recently, anyway, everybody has thought that a rise in his monetary income, all by itself, meant an improvement in his economic well-being.

To this there was a corollary. Inflation was a sure warranty against depression, that haunting ghost of the Thirties. How could there possibly be a depression when the nominal wages of the laborer, and the nominal profits of the businessman, are continually rising?

So we have for years had a deliberate and undisguised policy of inflation. Of course those who advocated this did not intend more than a "little" inflation; in that happy phrase of the new economics the economy was going to be "fine tuned." They did not expect what we have got, an inflation rate already of 10% to 12% a year and still increasing. Nor did they foresee the possibility, which now also confronts us, that we could have *both* inflation and a recession.

But the point is that there is nothing mysterious about how we got that inflation. The government intentionally ran continuous deficits, let those deficits be financed simply by creating money and credit through the banking system. The technique for inflation, if that's what you want, is aged-old and known to every economist.

By the same token there is no secret at all about how to stop it. The remedy is known to Walter Heller, former chairman of the Council of Economic Advisers, as well as to Arthur Burns present chairman of the Federal Reserve Board. The government stops running deficits and borrowing money, the central bank stops pumping out credit dollars, and the inflation will stop.

Where they fall out is over the desirability of doing this. Mr. Heller and those of his persuasion think halting inflation would depress business and increase unemployment. Mr. Heller's objection to a big budget cut is not that it would be ineffective in diminishing inflation but that it would be "cruel" to thus reduce the inflationary demand.

Mr. Burns, on the other hand, thinks that if firm action to cut the budget were taken now the stock market would revive, interest rates would promptly decline and "forces would be released in the private sector to create more jobs." He differs with Mr. Heller, that is, on the consequences of stopping inflation.

Even this is not the whole of the public argument. For continued inflation will also have its consequences, and they begin to look grim indeed. Not only does it erode savings, pensions, Social Security and welfare payments. Not only does it threaten the standard of living of both blue-collar and white-collar middle class. It distorts every economic decision of every enterprise, public and private. Already it has spread unemployment in housing and other industries. Inflation no longer appears the underpinning of prosperity but its greatest danger.

Anyway, it is between these two sets of consequences that the issue is joined. There is nothing mysterious about how we got inflation; it was neither unavoidable nor is it now incurable. The question for the country is not how but whether to put an end to it.

THE STATE OF OUR ECONOMY

Mr. BIDEN. Mr. President, surely the primary topic of concern in Washington today is the health of the Nation's economy. Inflation, which in the last year grew by 11.8 percent, is our No. 1 priority. However, as we have begun to work to conquer inflation we have come to realize how complex the problem is and how many disparate forces are at work in our economy today. We have also learned that the economy has gone untended for so long that it will take time to get it back in order again. The Wall Street Journal summarized these problems well in a story by James P. Gannon on August 26, 1974, which began:

> As President Ford plans his own economic policy, he faces one hard fact of life: no matter what he does, economic conditions are likely to get worse before they get much better. The economic situation in the rest of 1974 and early 1975 will be shaped by powerful forces already in motion, ranging from a deepening home-building slump to a crop-shriveling drought.

I found this article useful in putting all our economic problems in perspective and I ask unanimous consent that it be printed in the RECORD at this point, Mr. President.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REVIEW OF CURRENT TRENDS IN BUSINESS AND FINANCE

As President Ford plans his own economic policy, he faces one hard fact of life: no matter what he does, economic conditions are likely to get worse before they get much better. The economic situation in the rest of 1974 and early 1975 will be shaped by powerful forces already in motion, ranging from a deepening home-building slump to a crop-shriveling drought.

There is a momentum to these developments that will severely restrict Mr. Ford's ability to demonstrate, in the next six or nine months at least, that his take-over of the reins of government has made much difference to the nation's economic health. The consensus view of analysts here is that the early months of the Ford administration will be marked by a renewed food-price spiral that will severely limit progress in controlling inflation, a rise in unemployment stemming from sluggish economic growth or even recession and continued financial distress reflecting the Federal Reserve System's anti-inflationary squeeze on the money supply.

Administration economic officials are markedly less optimistic now than they were only a month or so ago. That may partly reflect a change from the refusal to face reality that permeated the waning weeks of the Nixon regime to the more candid atmosphere of the Ford administration. But, more important, it also reflects a real worsening of economic prospects.

The outlook for both inflation and recession is darker than only a few weeks ago, government officials admit.

On the inflation front, the farm-belt drought that seared crops also has shriveled earlier White House hopes for a significant easing of the price spiral any time soon. After assessing the crop damage and projecting the impact on food prices, top administration economists seem surprised and discouraged by the grimness of their own conclusions.

The White House had been counting on bumper harvest to save its optimistic official forecast that inflation would recede to a 7% annual rate by the end of the year, compared with a 12.3% rate in the first quarter. But in July, drought hit the crops in the Midwest. Now the Agriculture Department predicts this autumn's corn crop will fall 12% below last year's harvest, soybean output will fall 16% and other crops will suffer, too.

Result: While administration economists had thought the 11% annual rate of increase in retail food prices of the first half of 1974 would slacken to just a 4% rate of gain by year-end, now they forecast an 8%-to-10% rate of increase for the second half of the year. And they see food-price inflation continuing at an uncomfortable rate well into 1975. There's some disagreement among officials over a question of timing—whether the drought impact on prices will mostly hit soon or be delayed into next winter and spring—but there's agreement that it eventually will leave grocery prices at least 5%, and more likely 10%, higher a year from now.

Having scrapped their earlier forecast that inflation would recede to a 7% rate by year-end, administration economists now worry that even their 8% to 9% prediction may prove optimistic. And they're extremely cautious about projecting such improvement in 1975—unless a severe recession develops to collapse prices.

A severe recession isn't automatically ruled out by administration economists anymore. Though the consensus among them is that the economy's likely path is prolonged stagnation, or sub-par growth, they concede that the odds of a serious recession have increased in the past few weeks. They're particularly worried by signs that business inventories have swollen much more than they'd believed earlier and may be approaching a level where factories start cutting output while unwanted inventories are sold off.

"A combination of tight money and inventory liquidation would be a very powerful one," frets an economist close to President Ford. "It would produce a V-shaped trough," he explains—a very steep, though not prolonged, recession. Such a development, he figures, could push the unemployment rate, now at 5.3% of the work force, to "perhaps 7%" by early next year.

It should be stressed that most government economists aren't predicting such a recession, though it's significant they no longer rule it out. Even if the recession fears are unfounded, and the economy only drifts sideways through several months of stagnation, unemployment is expected to rise significantly—probably to 6% or more.

Thus, even as he designs new plans to fight inflation, Mr. Ford must keep one eye east in the opposite direction—toward the possible need to fight recession. In fact, it seems likely that Mr. Ford's economic policies will include a mix of measures: budget-cutting and tight money to fight inflation, coupled with new programs to aid the casualties of those restrictive policies, such as public service jobs for the unemployed and moves to aid distressed industries such as housing and electric utilities.

Whatever his policies, Mr. Ford is stuck with unfavorable economic prospects for the near term. "He's got to be careful about making any promises," says one adviser. "Jerry—I mean the President—is in the position of a new doctor called into a case. He should say the situation is serious, and the patient might not survive. Then if the patient dies, well, that's what he predicted. And if the patient survives, then he's a miracle worker."

If Mr. Ford takes that advice, we'll probably hear some ominous White House appraisals of the economic situation in weeks ahead. But this very ordinary man from Grand Rapids, Mich., whose ambition never reached as high as the presidency, by now probably believes in miracles.

DISCLOSURE OF TAX RULINGS BY THE INTERNAL REVENUE SERVICE

Mr. KENNEDY. Mr. President, last April the Subcommittee on Administrative Practice and Procedure, which I chair, opened hearings on Internal Revenue Service disclosure policies and procedures. A primary area of focus was IRS compliance with the Freedom of Information Act. In this regard we heard testimony at our first day of hearings that the Service withheld tax rulings in violation of that act. IRS rulings generally reflect the agency's interpretation of the Tax Code as applied to a particular taxpayer's proposed transaction.

The subject of disclosure of IRS rulings has been debated for a number of years, but until the passage of the Freedom of Information Act in 1966, no legal basis existed for requiring such disclosure. Former IRS Commissioner Mortimer Caplin, who as head of the Service saw first hand how the rulings process operated, summarized the policy reasons for disclosure thusly:

> First, these rulings are of considerable value to tax practitioners in learning how the service is interpreting various provisions of the Internal Revenue Code. Both taxpayers and practitioners have an obvious interest in (a) the Service's position on particular issues and (b) the availability of rulings on such issues, offering a ready means of obtaining comparable treatment. Next, analysis of rulings would permit an evaluation of the extent to which the Service is acting consistently in its ruling process as compared to its audit process, and thus may assist particular taxpayers in disposing of tax issues disputed on audit. Finally, there is general public interest in whether the rulings process itself is being fairly and equitably employed, with favoritism toward none.

A little over a month ago Commissioner Alexander appeared before our subcommittee to testify on IRS disclosure policies and practices. During our hearing he announced that the Service will in the future make rulings available to the public. He stated that taxpayers will have to waive confidentiality in order to obtain a ruling, that the disclosure policy would probably not apply where rulings were mandatory under the tax law, and that the new policy would be prospective in operation.

I commended the Commissioner for his decision to disclose tax rulings, and in a letter following our hearing I suggested that because of the public interest in this matter, any proposed procedures should be subject to full public notice and comment before they are finalized. Shortly thereafter the IRS issued a press release outlining further details about its plan to open tax rulings for public inspection. I think it would be useful to include this announcement in the Record at the end of my remarks.

Although the Service was opening its rulings in the future, it maintained during our hearings that it was prohibited by law from opening previously issued rulings to public purview. I stated my personal disagreement with this interpretation of the law, and I further observed that this precise question was in litigation in the Federal courts.

Mr. President, on August 19 the Court of Appeals for the District of Columbia ruled in the Tax Analysts case that tax rulings were required by the Freedom of Information Act to be made public. In so ruling, the court held that provisions of the Internal Revenue Code prohibiting disclosure of tax returns and informaion from returns were not applicable to rulings. Thus the rulings would not be exempt from mandatory disclosure under the public information law. The court's opinion is succinct and to the point, and will also be included in the Record after my statement.

While details will, of course, have to be worked out concerning protection of confidential commercial and financial information that may be contained in rulings, at least one chapter of the Freedom of Information story at the IRS seems to be drawing to a close, with the congressional policy of maximum disclosure reflected in the Freedom of Information Act prevailing. But there are a number of yet unresolved issues in this area at the IRS.

At our last hearing, Commissioner Alexander testified that the Service was nearing decision on questions relating to disclosure of certain statistics and parts of the Internal Revenue Manual, was revamping its policies on the tracking and handling of sensitive cases and on White House access to IRS information, and was reforming its procedures to facilitate faster release of public information from all offices. Clearly, some of these actions are years overdue. My subcommittee will continue close oversight to insure that they are not long in coming.

Mr. President, I ask unanimous consent that the IRS announcement and the Tax Analysts decision I referred to in my statement be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Washington, D.C.—The Internal Revenue Service today announced details about its plan to open for public inspection tax rulings it will issue to individuals, corporations and other taxpayers.

The IRS announcement expanded on testimony given by Commissioner Donald C. Alexander on July 31 before the Subcommittee on Administrative Practice and Procedure of the Senate Judiciary Committee.

In general, the IRS plan requires taxpayers requesting rulings to submit waivers of confidentiality with their requests.

The IRS issues approximately 15,000 advance rulings to taxpayers who request the Service position on the application of the tax laws to given situations. An additional 13,000 rulings are issued on required applications from taxpayers who wish to change their accounting periods or methods.

The IRS decision to open rulings to the public will be implemented as soon as it resolves various questions, such as the extent to which waivers of confidentiality should be required as to trade secrets in situations where the law requires a taxpayer to obtain a ruling before proceeding with a transaction.

The IRS said it is prohibited, by law and regulations, from opening previously issued rulings to public inspection.

Under present procedures, the Service publishes between six hundred and seven hundred of the advance rulings each year after deleting all information that would identify the taxpayers involved. These are published in the weekly Internal Revenue Bulletin which is available from the Government Printing Office. Rulings selected for publication are those which set precedents or which apply to a great number of taxpayers, and after publication in the Bulletin, they may be relied upon by other taxpayers. Prior to publication, however, only the taxpayer to whom a ruling is issued can rely on it, and this would continue to be true under the new IRS procedure.

The public will be kept advised by further announcements about progress in placing the new rulings plan into effect, the IRS said.

The IRS said that it would welcome comments from interested parties. Comments should be directed to the Assistant Commissioner (Technical), Internal Revenue Service, Washington, D.C. 20224.

[U.S. Court of Appeals for the District of Columbia Circuit—No. 73–1978]

Tax Analysts and Advocates, Thomas F. Field, et al. *v.* Internal Revenue Service, et al., Appellants

(Appeal From the United States District Court for the District of Columbia—Decided Aug. 19, 1974)

Ernest J. Brown, Attorney, Tax Division, Department of Justice, with whom *Scott P. Crampton*, Assistant Attorney General and *Bennett N. Hollander*, Attorney, Tax Division, were on the brief, for appellants.

William A. Dobrovir, with whom *Thomas F. Field*, was on the brief, for appellees.

Before: Wright and MacKinnon, *Circuit Judges* and Davies,* *United States Senior District Judge* for the District of North Dakota.

Opinion for the Court filed by *Senior District Judge* Davies.

Davies, *Senior United States District Judge*: In an action commenced pursuant to the Freedom of Information Act, 5 U.S.C. § 552, Tax Analysts and Advocates and its Executive Director sought to compel the Internal Revenue Service, its Commissioner and its Assistant Commissioner (Technical) to disclose letter rulings and technical advice memoranda, together with communications and indices relating thereto, issued to producers of minerals other than oil and gas between July 26, 1968, and October 1, 1971, in which determinations were made of the processes to be treated as "mining" under Section 613(c) of the Internal Revenue Code, 26 U.S.C. § 613(c), when computing gross income from property for percentage depletion purposes.

The District Court rejected the defendants' (appellants') contentions that the Freedom of Information Act (Act) did not apply to letter rulings or technical advice memoranda or that, if it did, specific exemptions precluded disclosure of the material sought. The District Court also refused appellants' request that it exercise the discretion inherent in its equitable powers and refuse to order disclosure. The Court ordered all materials sought, consisting of two unpublished letter rulings, eight technical advice memoranda, communications to and from the taxpayer or his representative relating thereto, and six index-digest cards, be made available:

"* * * intact and without delection, except for those items which, within said thirty (30) days period, Defendants submit to the Court, sealed and intact, without deletion but with any proposed deletions indicated, for in camera review as to whether proposed deletion of information is justified under the Freedom of Information Act, together with a detailed written explanation of the justification for each deletion, * * *"

And also:

"* * * within thirty (30) days of date all items in the Internal Revenue Service's index-digest reference card file sought by Plaintiffs herein, and all memoranda of conferences and telephone calls relating to the letter rulings and technical advice memoranda involved herein, unless within said thirty (30) day period those items are submitted to the Court for in camera review as to whether they may be properly withheld as internal memoranda within the meaning of exemption 5, 5 U.S.C. § 552(b)(5), of the Freedom of Information Act." *Tax Analysts and Advocates v. Internal Revenue Serv.*, 362 F. Supp. 1298 (D.D.C. 1973).

A stay was granted pending appeal in which appellants present only two issues: (1) whether the materials sought were, under § 552(b)(3) of the Act, "specifically exempted from disclosure by statute"; and (2) whether the District Court erred in holding that it did not have, under the Act, equitable powers to refuse to order disclosure.

As described by the District Court:

"A letter ruling is a written statement issued to a taxpayer by the Office of Assistant Commissioner (Technical) in which interpretations of the tax laws are made and applied to a specific set of facts. The function of a letter ruling, usually sought by the taxpayer in advance of contemplated transaction, is to advise the taxpayer regarding the tax treatment that he can expect from IRS in the circumstances specified in the ruling. The letter rulings are not publicly disclosed by the IRS and it is clearly specified that no taxpayer is entitled to rely upon an unpublished private ruling not issued specifically to him. The taxpayer who does receive such a ruling is advised to file it along with his tax return.

"A technical device (sic) memoranda (T.A. memo) is comparable to a letter ruling, except that it is not issued directly to a taxpayer, but to a District Director of the IRS in response to the director's request for instructions as to the treatment of a specific set of facts relating to a named taxpayer. The director's question may relate to audit examination of a taxpayer's return or consideration of a taxpayer's claim for refund or credit. The substantive portion of the memorandum if (sic) given to the taxpayer.

"All letter rulings and technical advice memoranda are divided into two categories by the IRS for filing purposes. Many rulings and memos are considered of no significant 'reference' value. These are placed in a historical file, alphabetically by taxpayer's name, and maintained for a period of four years. No separate index is prepared for materials in the historical file. The other letter rulings and t.a. memos are deemed to have a continuing 'reference' value for internal IRS purposes, and these are placed in the IRS' permanent reference file, along with Court decisions, published Revenue Rulings, and other materials deemed to have a continuing reference value. The reference file is organized by code section and an 'index-digest' card file is maintained, giving citations to the main 'reference' file and usually summarizing the contents of the reference file." (Footnotes omitted.) *Tax Analysts and Advocates v. Internal Revenue Serv., supra,* at 1301–1302.

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*Sitting by designation pursuant to 28 U.S.C. § 294(d).

First, it is to be noted that appellants do not contest the District Court's holding that letter rulings and technical advice memoranda are "statements of policy and interpretations which have been adopted by the agency and not published in the Federal Register", Section (a) (2) (B), and must be made available for public inspection and copying if not exempt under subsection (b) (3) of the Act.

"It is well established that information which either creates or provides a way of determining the extent of substantive rights and liabilities constitutes a form of law that cannot be withheld from the public. *See* Sterling Drug, Inc. v. FTC, 146 U.S.App. D.C. 237, 450 F.2d 698 (1971); American Mail Line, Ltd., v. Gulick, 133 U.S.App.D.C. 382, 411 F.2d 696 (1968). The FOIA by its explicit terms condemns 'secret law' and requires that it be made public:

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register . . ."

Cuneo v. Schlesinger, ——— U.S.App.D.C. ———, 484 F.2d 1086 (1973), footnote 13 at p. 1091.

Relying on 26 U.S.C. § 6103(a) (1), which provides

"Returns made with respect to taxes . . . upon which the tax has been determined by the Secretary or his delegate shall constitute public records; but, except as hereinafter provided . . . they shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary or his delegate and approved by the President"

And on 26 U.S.C. § 7213(a) (1) which makes it unlawful

". . . to divulge or to make known . . . to any person the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return, or any part thereof or source of income, profits, losses, or expenditures appearing in any income return; . . ."

Appellants contend that letter rulings and technical advice memoranda are "specifically exempted from disclosure by statute."

It was appellants' burden to sustain their claim that the materials sought came within the meaning of the statutes. Mere labeling of the letter rulings and tax advice memoranda as returns is not sufficient. It is the District Court's function to determine whether appellants' classification was proper.

"This court has continued to adhere to the position that exemptions of the Information Act are to be narrowly construed. Vaughn v. Rosen, 484 F.2d 820 (D.C.Cir. 1973), *cert. denied,* —— U.S. —— (1974); *Cuneo v. Schlesinger,* 484 F.2d 1086 (D.C.Cir. 1973), *cert. denied,* —— U.S. —— (1974). The ordinary meaning of the language of Exemption (3) is that the statute therein referred to must itself specify the documents or categories of documents it authorizes to be withheld from public scrutiny. * * *

"In *EPA v. Mink,* 410 U.S. 73 (1973), the Supreme Court considered a specific exemption by statute, Exemption (1) of the Information Act itself, which exempts matters 'specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy.' 5 U.S.C. § 552(b) (1). The documents sought to be disclosed had been classified as secret pursuant to Executive Order 10501. Exemption (1) was construed to be a specific reference by Congress itself to a definite class of documents which were not to be disclosed. 410 U.S. at 83. Their disclosure accordingly was not required." (Footnote omitted.) *Robertson v. Butterfield,* No. 72–2186 (D.C.Cir., May 9, 1974), 42 U.S.L.W. 2625.

The two statutes relied upon by appellants provide for protection of the privacy of taxpayers filing tax returns and are designed to prevent disclosure of information contained either in the returns or in documents filed in conjunction therewith which enable the Secretary or his delegates to determine tax due the United States.

It is not difficult, therefore, to conclude that letter rulings are not encompassed in either statute. Letter ruling are issued at the request of taxpayers seeking advice as to the tax consequences of specific transactions. This information provides guidance in planning and conducting their business affairs and, if the transaction is consumated, aids in preparation of their tax returns. The fact that taxpayers may elect to follow the Internal Revenue Service's recommendations that letter rulings be attached to returns containing information about the transactions referred to in the letter rulings does not *deprive a letter ruling of its separate status as a "final opinion" and "interpretation" nor does it make the attachment part of a return.*[1] Attachment is to alert the District Director of the Internal Revenue Service that a letter ruling had been issued. The appropriate District Director is always sent a copy at the time a letter ruling is issued to any taxpayer required to file a return in his district.

Conversely, technical advice memoranda are prepared in response to an inquiry by a District Director as to the treatment of a specific set of facts relating to a tax return filed by a named taxpayer involving either an audit or in connection with the taxpayer's claim for refund or credit of taxes. Technical advice memoranda deal directly with information contained in "returns made with respect to taxes" and are a part of the process by which tax determinations are made and, thus, "specifically exempted from disclosure by statute."

We emphasize that there is still available to appelants, through *in camera* production of all documents other than the technical advice memoranda relating thereto, exemption under § 552(b) (4) to prevent disclosure of "commercial or financial information obtained from a person and privileged or confidential."[2]

Lastly, appellants ask us to reconsider our previous holding that a District Court has no jurisdiction under the Act to deny disclosure, apart from the exemptions contained in the Act, on equitable grounds. *Soucie v. David,* 145 U.S.App.D.C. 144, 448 F.2d 1067 (1971); *Getman v. NLRB,* 146 U.S.App.D.C. 209, 450 F.2d 670 (1971); accord, *Wellford v. Hardin,* 444 F.2d 21 (4th Cir. 1971); *Robles v. Environmental Protection Agency,* 484 F.2d 843 (4th Cir. 1973); *Tennessean Newspapers, Inc. v. Federal Housing Admin.,* 464 F.2d 657 (6th Cir. 1972); *Hawkes v. Internal Revenue Service,* 467 F.2d 787, n. 6 at p. 792 (6th Cir. 1972). See also *Bannercraft Clothing Co. v. Renegotiation Board,* 151 U.S.App. D.C. 174, 466 F.2d 345, 353 (1972) (discussing equitable principles) reversed on other grounds, 42 U.S.L.W. 4204.

However, there is nothing in the "factors present in this case which were absent in the other Freedom of Information Act cases considered by the Court" which would compel us to change our previous opinion.

Modified in part and remanded to the District Court for further proceedings not inconsistent with this opinion.

THE DEFINITION OF GENOCIDE

Mr. PROXMIRE. Mr. President, many critics of the Genocide Convention express concern about its definition of genocide as certain acts "committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such." These opponents contend that the phrase "in whole or in part" significantly alters the traditional definition of genocide as the destruction of a whole group of people, and that this clause would legally allow a person to be tried for genocide even if he or she had killed only one person. It seems to me that these arguments ignore the legislative intent of the Convention and the reality of any situation in which prosecution for genocidal acts might be contemplated.

The first resolution of the General Assembly of the United Nations on the subject of genocide, adopted unanimously on December 11, 1946, spoke of the crime as "a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings." In the development of the treaty, however, the U.N. committee realized that genocide, when strictly defined as the destruction of an "entire group," historically never had occurred nor could occur. Hitler slaughtered 6 million Jews, but many others survived the holocaust. We certainly would not claim that Hitler was innocent of genocide because some Jews went free. For the Convention to be an effective legal document, it had to avoid such a narrow definition. Moreover, it is clear from the debate preceding the adoption of this provision that the delegates intended the words "in part" to denote a substantial portion of the group. In fact, the Assembly expressly rejected the French effort to include the persecution of an individual in the definition of genocide.

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[1] The IRS also urges that Treas. Reg. § 301.6103(a)–1(a) (3) (Feb. 8, 1972), specifically exempts letter rulings from disclosure under the Act:

(3) *Terms used*—(i) *Return.* For purposes of section 6103(a), the term "return" includes—

(a) Information returns, schedules, lists, and other written statements filed by or on behalf of the taxpayer with the Internal Revenue Service which are designed to be supplemental to or become a part of the return, and

(b) Other records, reports, information received orally or in writing, factual data, documents, papers, abstracts, memoranda, or evidence taken, or any portion thereof, relating to the items included under (a) of this subdivision.

Clearly, letter rulings are not encompassed by (a) since they are issued at the request of the taxpayer and their attachment as a matter of convenience to the return does not make them "supplemental to or . . . a part of the return." Where the transaction proposed in the letter ruling is not executed, the transaction proposed in the letter ruling is not executed, the letter ruling would not be comprehended by (b) since it would not "relate" to a filed return. However, letter rulings involving proposed transaction subsequently executed would fall within the literal terms of (b). Nonetheless, we think that letter rulings generated by the voluntary request of a taxpayer for tax advice from the IRS are beyond the scope of that which the Congress sought to protect under section 6103, that is, "returns" filed under compulsion of law which contain information necessary to determine federal tax liability. Accordingly, the regulation cannot immunize better rulings from disclosure under the Freedom of Information Act.

[2] Our recent decision in *National Parks and Conservation Assoc. v. Rogers C. B. Morton, Secretary, Department of the Interior, et al.,* No. 73–1033 (D.C.Cir., April 24, 1974), may be of aid to the District Court in this respect.

Mr. President, the arguments raised against the words "in whole or in part" have no basis whatsoever in the legislative history of the Genocide Convention. The wording is entirely proper and necessary for an effective legal document. I urge the Senate to ratify the Convention at once.

OUR SOCIAL SECURITY SYSTEM

Mr. BIDEN. Mr. President, the social security system has come to be such an accepted part of American life that most people have come to take its benefits for granted. Most people who pay into the system assume that when they retire, social security will be there with a monthly check. For this very reason I found an article in the Washington Post on September 1, 1974, to be particularly disturbing. The article, written by Robert J. Samuelson, is called "Social Security's Coming Crisis" and it presents some projections of the costs of maintaining benefits for the next 40 or 50 years. The article indicates that:

> A squeeze between promised Social Security benefits and the revenues from the existing tax rates (is) almost inevitable.
>
> It is inevitable because, contrary to what most Americans probably believe, Social Security is not "insurance" in the classic sense. What people pay today in Social Security taxes is not saved and invested to provide a steady stream of income for them during their retirement years.

At the same time I am receiving, and I suspect my colleagues are also, an increasing stream of complaints about the present size of the payroll tax that supports social security. I think it is clear from the article that, while any problem is still some time away, we should start studying both the financing and the stability of benefits of our social security system on which so many people have come to depend. Mr. President, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Sept. 1, 1974]

Social Security's Coming Crisis

(By Robert J. Samuelson)

You probably never have heard of Francisco Bayo and, in the normal course of events, you probably never would.

Bayo is acting chief actuary of the Old Age Survivors and Disability Insurance System—better known as Social Security. He spends his time fiddling with a lot of numbers: birth rates, death rates, unemployment rates, wage rates. Bayo feeds the numbers into computers, which turn out more numbers that usually don't interest anyone but other actuaries.

But the last time Bayo did his calculations he came up with some interesting results. The calculations showed that Social Security—under the current payroll tax rates and the existing benefits schedule—is hurtling toward a major crisis. The crisis is simple: Without a huge increase in the payroll tax rate, possibly as much as 50 to 75 per cent, the system won't be able to pay promised benefits.

Now, Bayo's calculations haven't exactly been screamed to the world in banner headlines. Actuarial computations being what they are, the crisis isn't about to occur tomorrow. Even under the worst conditions, the crisis really doesn't start for another 15 or 20 years. And the incubation period is probably much longer. The critical year appears to be 2010. It all seems comfortably abstract—so far removed from the present that Bayo's calculations can safely be forgotten as an academic exercise and nothing more.

They can't, though.

The key assumptions underlying the estimates—a sharp reduction in birth trends and the possibility of sharp economic deterioration—are so significant that they could shape Social Security from now until the end of this century.

These impersonal forces dwarf mere mortal politicians. Safeguarded by its size and popularity, Social Security has been virtually immune to political assault. Except for the federal income tax, no program affects more people.

Every month, the Social Security Administration mails out nearly $5 billion to 30 million Americans.

When Sen. Barry Goldwater (R-Ariz.) suggested making Social Security voluntary in 1964, most seasoned politicians sensed—correctly—that he had conceded the election before the campaign started.

PRESSURES ON BENEFITS

The changes in birth trends and the economic element, in the short run, may put a lid on the rapid rise in real Social Security benefits. Over the last five years, those benefits have grown spectacularly, increasing 68.5 per cent against about a 40 per cent increase in consumer prices. Future benefits are now tied directly to price rises, but, beyond this automatic annual adjustment, there will be much stronger pressures against further benefit increases.

To add new benefits on top of inflation would simply aggravate the system's future problems, increasing the gap between promised benefits and estimated revenue. Indeed, a number of experts—both supporters and critics of the program—now discuss possible steps to cut the long-range growth of benefits.

Moreover, as pressures on the system intentify, demands will probably grow to shift some of the financing of Social Security from the payroll tax to the income tax. Levied at a constant rate—now 5.85 per cent of a worker's salary (up to $13,200), with his employer paying an equal amount—the tax is usually considered regressive, because anyone with a salary above the cutoff point escapes taxation on part of his income.

Already, many congressmen report ever-louder grumbling about the big bite of Social Security taxes. The grumbling seems likely to increase. Although the tax rate isn't scheduled to rise for at least 5 or 10 years, the wage base—that is, the amount subject to the tax—will automatically be increased to reflect higher salary levels.

The Social Security Administration now estimates the cutoff will rise to $17,700 by 1978. And, ultimately, the rates will rise, too. By 2020, according to Bayo's calculations, the average worker's payroll tax could be 10 per cent of his earnings—and, quite possibly, more.

All this underlines the hidden power in Bayo's actuarial assumptions.

BIRTH RATE CHANGE

The most sweeping change is the dramatic drop in the birth rate. In the mid-1960s, demographers could reasonably assume that American women would have about three children each. That meant the population (now about 210 million) would grow to about 336 million by the turn of the century. Now, with the rapid reduction in births, a much more realistic assumption about family size may be two children—which produces a population of only 264 million in 2000.

This, of course, not only affects Social Security, but raises all sorts of cosmic questions about the future of society. It could obviously, ease pressures on the environment, limiting pollution and the demand for raw resources. (Unfortunately, the gain may not be as great as environmentalists hope. One of the presumed reasons that parents aren't having more children is that they want to spend more—and consume more—themselves.)

But, whatever the other effects, the declining birth rate clearly means big trouble for Social Security. Until last year, the Social Security Administration had figured that the average American woman would have 2.5 children during her lifetime. Now, that assumption has been revised downward to the magical 2.1 figure—the ZPG (zero population growth) level. (Actually, even at 2.1, the population would grow slightly unless Congress shuts off annual immigration of 400,000).

At this birth rate, the composition of the population would alter radically. The elderly (over 65) would represent a much larger proportion of the population. And that makes a squeeze between promised Social Security benefits and the revenues from the existing tax rates almost inevitable.

It is inevitable because, contrary to what most Americans probably believe. Social Security is not "insurance" in the classic sense. What people pay today in Social Security taxes is not saved and invested to provide a steady stream of income for them during their retirement years. Instead, today's workers pay taxes which are almost immediately paid to today's beneficiaries.

The system has basically been on a "pay-as-you-go" basis for decades. Thus, as the elderly population grows in relative size to the working population (those between ages 20 and 64), workers have to be taxed more heavily to pay a constant inflation-proof level of benefits.

FEW PROBLEMS NOW

In the short run, there doesn't seem to be any major problems. All the population dynamics are now working in the system's favor. The children of the postwar "baby boom"—beginning in 1946 and lasting until the early 1960s—are now beginning to flood the labor markets, providing an expanding base of new wage earners to pay Social Security taxes.

The 1930s Depression will help a bit, too. There was a big slump of births in the Depression, and when these children—now in their late 30s and mid-40s—begin to retire in a couple of decades, the need for more benefits will ease slightly. But then comes the crunch: the years 2010 and 2011, when the babies born in 1945 and 1946, the start of the "baby boom," begin to retire.

They will swell the ranks of the elderly, but there won't be a rapidly expanding base of new workers to support them. A year ago, using the 2.5 children per woman estimate, there would have been 173 million working Americans to support 31 million potential retirees, according to Social Security's projections. Now, under the new assumptions, there will still be 31 million elderly, but only 159 million working-age Americans. By 2045, Social Security now projects the elderly population will be equal to nearly 28 percent of the working population, against 18 percent today.

Behind these numbers is the little-understood phenomenon of the "baby bust." In 1960, American families were sufficiently prolific that the birth rate stood at 3.7 children per woman. But the decline in the rate, which actually began in 1957, continued almost uninterrupted in the 1960s and, after a slight recovery in 1970, accelerated downward.

No one really knows why, though a multitude of reasons have been suggested: easily available contraception; abortion; affluence (or, as one commentator puts it, "The second car is more attractive than the second kid."); environmentalism (which discourages population growth), or, simply a sheer aversion to children. The birth rate has now fallen so low that it's actually below ZPG, and it hasn't stopped dropping yet.

A BABY BONUS?

The unpredictability of population raises immense problems in forecasting Social Security's future.

"What we really don't know is whether people are lowering the sizes of their families or simply delaying the arrival of children," says Nancy Teeters, senior specialist in economics at the Library of Congress.

If the birth rate were suddenly to rebound sharply, the long-term squeeze on Social Security would lessen. On the other hand, if the birth rate stays where it is now—below 2.1—or goes even lower, Bayo's calculations will be unduly optimistic. "I just can't believe that in 75 years the U.S. won't have enough population to reproduce itself," he says. A lot of demographers probably would agree, but there's nothing preordained about the estimate.

"My guess is that the birth rate might even continue to decline and that it certainly won't stabilize at anything much above reproduction," says Richard M. Scammon, former director of the Census Bureau. "If people think of sending their kids to college—which most people didn't 25 years ago—at a bill of $20,000 or $25,000, this gets to be a real problem. My guess is that there's not going to be any sharp increase (in the birth rate) unless there's a very drastic change in state policy—like a baby bonus or free college education."

To make things even more complicated, Social Security's future also is acutely sensitive to economic conditions and, here, too, it's possible that the operating assumptions are far too optimistic. The vital variable is what's known as "real wages"—that is, workers' wage increases, minus price inflation, to show real increases in purchasing power.

The reason that this is important for Social Security is that the automatic increases in the wage base (now $13,200) is pegged to the increase in earnings, but the increase in benefits is tied to price inflation. Thus, if salaries rise significantly faster than prices, the automatic wage base increase can more easily provide the system's needed revenues. But if salaries don't rise much faster than prices, then there's more need to raise the tax rates—the bite into the taxable earnings—to supply the money for Social Security payments.

Under Bayo's assumptions, workers continue to achieve relatively hefty gains in "real earnings." He assumes the inflation will gradually subside to about 3 per cent annually after 1980 and that wages—after an initial spurt—will level off at about 5 per cent after 1980. Workers' real earnings therefore should increase 2 per cent annually.

QUESTIONED ASSUMPTIONS

But not everyone accepts these assumptions. One dissenter is Robert Myers, Social Security's former chief actuary and now professor of actuarial sciences at Temple University. "The gap between inflation and wage increases is too wide," he says. "I don't think it will be as much as 2 per cent."

Why not? Myers runs down a list of reasons: ecology ("We've gotten a lot of productivity by wasting the ecology," but now, industry will have to make steep investments in anti-pollution devices. Those investments cost money, but don't produce any additional consumer goods, putting additional pressure on prices); life styles ("I don't think people will want to work as hard"), and a growing dependence on imported raw materials ("We're going to have to pay more for those materials, raising prices but not productivity").

"I would have used only a 1 per cent gap (gain in "real" wages)," says Myers. (As a benchmark, real earnings in industry increased nearly 2.5 per cent in the 1950s and 1.4 per cent in the 1960s. In the last 18 months, they actually have declined.)

If you use only a 1 per cent real wage gain, Social Security gets into a lot more trouble—and a lot sooner, too. Suppose, for example, that wages rise 5 per cent, but inflation is 4 per cent. Under Bayo's assumptions, there's a relatively small increase in Social Security tax rates between now and the end of the century, about 10 per cent. But, under the assumption of this 1 per cent gain in real earnings, there's a 10 per cent increase by 1985 and a 40 per cent increase by 2000.

By 2020, under Bayo's assumptions, tax rates would have to rise more than 50 per cent. But under this 1 per cent assumption, the increase in tax rates would be more than 130 per cent. Social Security hasn't made any public projections at much higher rates of inflation—say 6 per cent annual inflation and 8 per cent wage increases—but the results tend to get worse as inflation goes higher.

What all this means is that, if you're inclined to worry about the future of the Republic or the soundness of the dollar, you can send to the Government Printing Office for the latest trustees' reports for Social Security and Medicare (House documents 93–313 and 93–314) and find enough gloomy numbers to develop ulcers and migraine headaches for the next several decades. Imagining the worst possible combinations of population and economic assumptions produces "truly horrifying results," as one Treasury official puts it. Most of them, of course, in the 21st century.

If, however, you are of more cheery disposition, you can easily find ground for being less grim about the future.

PRIVATE PENSIONS

Looking at Social Security in isolation induces a kind of tunnel vision and there's a tendency to forget that other things are happening too, and that they may make it easier to solve the real problem—which is not financing Social Security but providing for the aged.

The growth in private pension plans is one of the other things happening. Now, only about 25 per cent of new Social Security beneficiaries receive payments from private pension plans. That has put an enormous amount of pressure on Social Security to increase benefits to higher levels. But there's every reason to believe that proportion of elderly receiving private pension payments will increase.

About 50 per cent of all salaried workers are now covered by some plan and, in the higher age brackets—where workers have longer tenure on current jobs—it's higher. For example, nearly two-thirds of the men between 50 and 54 are covered. As some of the "baby boom" children, now in their teens or late twenties, settle down, the proportion could go up further.

Another often-overlooked fact is that in a stable population—which is what Social Security is now projecting—the proportion of elderly increases sharply, but the proportion of dependents (that is, children plus elderly) does not.

There is less need for schools, teachers, colleges, nurseries. In theory at least, that should free a lot of potential tax revenue to be spent on the elderly. It is, of course, only theory, because there is one formidable barrier blocking the free flow of funds: Social Security has its own segregated tax (the payroll tax) and most other programs are financed from a variety of general taxes—real estate taxes, income taxes and sales taxes.

In theory, too families with smaller numbers of children might find more money—if not more love—to support their aging parents.

"MANY YEARS TO ACT"

Considerations like these make it possible to imagine fundamental changes in both Social Security and national attitudes toward the elderly.

"You may find," says Scammon, "that Social Security becomes subject to a means test"—that is, benefits will be reduced in relation to a recipient's income from other outside sources (such as pensions); now, benefits are reduced only as a result of outside income earned at another job.

But tightness in the labor market—which, unlike today, would not be fed by increasing hordes of younger workers—could also ultimately reverse the trend toward earlier and earlier retirement. "You could get an anti-retirement doctrine," says Scammon.

Abstract and fuzzy as all this sounds, Social Security's future problems are almost certain to lead to pressure for some changes in the relatively near future.

An advisory council to the Social Security Administration is now investigating the system's long-term prospects and it may recommend one change that substantially reduces future benefits. According to a number of Social Security experts—including former actuary Myers and former Commissioner Robert M. Ball—the existing formula for determining benefits produces a benefit schedule that actually outstrips inflation in the long run. Both men believe the formula should be altered and, if it is, some of the future pressure on the system would be alleviated.

But, even if accepted by Congress, that change would remove only part of the problem. The fundamental forces of shifting birth rates and economic conditions remain. But, unlike most of today's problems, this is one that most people seem content to think about.

"The way I see it," says Bayo, "we have a problem with the program but there are many years in which to act."

OLD AGE: A NEW LOOK

Mr. KENNEDY. Mr. President, the Massachusetts Department of Elderly Affairs is holding a national conference on "Old Age: A New Look" this week in Boston.

The agency, one of the Nation's first cabinet-level departments of elderly affairs, has been a forceful spokesman of elderly concerns under the leadership of Jack Leff, its able director.

I ask unanimous consent that my message to the conference be printed in the RECORD.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

MESSAGE BY SENATOR EDWARD KENNEDY, A NATIONAL CONFERENCE ON "OLD AGE: A NEW LOOK," SEPTEMBER 9, 1974, STATLER-HILTON HOTEL, BOSTON, MASS.

The Massachusetts Department of Elderly Affairs has my congratulations for taking the lead, once again.

It is not enough only to work, at the Federal, State, and Local levels, for responsive governmental actions which will improve the economic security and well-being of older Americans.

We must also ask whether those actions are truly based upon accurate comprehension of the changing roles of the nation's elders during a time of swift change in the structure of communities and even of families.

Eleven years ago, in words which have been repeated often, President Kennedy's Message on Senior Citizens said:

"The increase in the life span and in the number of our senior citizens presents this Nation with increased opportunities: the opportunity to draw upon their skill and sagacity—and the opportunity to provide the respect and recognition they have earned. *It is not enough for a great nation merely to have added new years to life—our objective must also be to add new life to those years.*"

Our great nation, now beset with inflation and other problems which have special impact upon the elderly, must nevertheless continue to advance on many fronts related to aging.

Within the past few weeks we have seen enactment of a new housing bill which ends long years of stalemate on programs for the elderly. We have seen a new pension law come into being. We are at work on a national health protection program which will, when it comes into being as it must, *add* to the protection offered to the elderly, and not *diminish* it.

With all of that, and more to come, the Congress must occasionally ask where we are headed in fundamentals related to aging. Your conference this week helps us to examine that question, and we thank you for your initiative, your foresight, and your determination to build a better life for older Americans.

STRATEGY TO CURB INFLATION

Mr. BIDEN. Mr. President, I am most pleased to see that President Ford has moved ahead promptly to initiate arrangements for a domestic summit meeting. I am hopeful that this meeting, preceded by the "mini-summits" will have the beneficial effect of exploring the economic problems that face our country as well as the alternatives for treating those problems.

I am not optimistic that this summit will "solve" all our problems. First, such a large meeting is not a place to work out the kind of complex tuning that our economy needs. Second, there are no fast or easy solutions to the variety of economic ills that we are trying to cure.

The Senate Budget Committee has recently held hearings at which we heard from a number of eminent economists. Perhaps the most significant things about their testimony was the lack of agreement among them. After listening, I am inclined to paraphrase one of the witnesses who said that our economy is suffering from two diseases, and treating either makes the other worse. This is not uncommon in medicine, and I think it can be true in economics also.

The disease of inflation is obvious to everyone. Prices are soaring and we have had to add a new phrase to our language—"double-digit" inflation.

The other disease is not quite as apparent. It is the danger, if not the actual presence of a recession, with the unemployment and drop in business activity that this implies.

This has led to another new word—stagflation. However, I think we must reject the implication in such a word that we are dealing with one problem for which we seek one solution. I think it much more likely that they are separate problems, the existence of which at the same time makes our economic situation even more serious. Rising prices and rising interest and rates combined with rising unemployment and stagnant business conditions is the worst of all worlds.

The problem of inflation hardly needs documentation. It is documented almost every time we buy something. Where it all began is perhaps not so clear. It can probably be traced back to the time when the decision was made to run deficits in Federal expenditures to fight the war in Vietnam. Such deficits are a classic way to start inflation—that is, to pour money into nonproductive uses thus holding down available consumer supply while demand continues unchecked or even increases. The largely unsuccessful efforts to check this inflation ultimately resulted in a recession. Then followed efforts to pull the economy out of its recession and it now appears that these efforts contributed heavily to today's inflation.

Most significantly, new money supply was on the increase during the 1970–72 period. As far back as 1968 the Joint Economic Committee had noted that America usually suffered a depression when money grew at less than 2 percent and inflation when it grew more rapidly than 6 percent. This set the boundaries. But between 1970 and 1973 money supply grew at an annual rate of 6.9 percent. This represented the highest growth rate for any 3-year period since World War II. It was also well above the average 4.2 percent over the last decade. I think most economists would agree that some part of our current-day inflation can be charged to that excessively generous monetary policy.

At the same time, the Federal Government was incurring budget deficits. Leaving aside the borrowings of federally sponsored agencies, the unified Federal budget deficit was $23 billion in 1971; $23.2 billion in 1972; and $14.3 billion in 1973. Thus we had during this period a classic situation for increasing inflation, where Government spending and easy money policies were creating excessive demand, or a demand-pull inflation.

The classic answers to a demand-pull inflation are to restrict money supply and reduce Government spending. But then some other things happened that sent a series of financial shock waves through our economy—unrelated to monetary and fiscal policy and changed the type of inflation we have. Worldwide drought conditions placed a high value on food supplies. The dollar was devalued twice. And in the aftermath of the Arab oil embargo we found that foreign and some domestic prices for oil had increased fourfold.

Finally the unfortunately abrupt end to the badly administered wage-price controls brought on a series of fantastic price increases in some industries as well as large wage settlements. As a sample of these, first year wage settlements in major collective-bargaining agreements concluded in June came to 9.2 percent, lower than the rate of inflation, but not really helping to stabilize things.

On the price side things look even worse. In the last 3 months ending in July, the Wholesale Price Index jumped at an annual rate of 25.7 percent while the industrial items in that index rose at an annual rate of 34.2 percent. While consumer prices do not directly follow the wholesale price index, this growth represents an alarming trend.

All of these outside happenings seem to have changed the character of the inflation. We have gone beyond the demand-pull era, when excessive demand for scarce goods was raising prices. We are now in a wage-price spiral which feeds upon itself and does not respond so readily to a monetary and fiscal policy that basically restricts demand.

So where do we stand on inflation? As a result largely of inflationary monetary policies, Federal budget deficits and a series of outside shocks to the economy, the cost-of-living index stood 11.8 percent higher than last year—reported by the Wall Street Journal to be the biggest increase for any 1-year period since September 1947. Last month—July—it was growing at an annual rate of 9.6 percent. This is down from the previous month due to a slight decline in food prices. But the outlook is grim when we learn that July's Wholesale Price Index showed farm prices jumping 7.8 percent or an annual rate of 93.6 percent. So any slowdown in the consumer price index is likely to be short lived. Moreover, in July the worker's buying power had declined in 9 of the last 12 months and stood 5.3 percent below a year earlier.

How do we deal with this problem which is so clearly critical to the economic well-being of each of us? Certainly we must exercise prudent fiscal and monetary policy. The budget must be cut both because it needs to be cut and because it may help on inflation. I say "may" because the most optimistic witness, Dr. Burns, said the immediate effect of budget cuts on inflation would be primarily psychological.

In addition, the economy is very large and therefore very slow to respond. Any budget cuts made this year will have little impact on inflation. The most optimistic forecast I have heard is that a $10 billion cut would reduce inflation by about 0.3 percent. However, I think we must strive for a truly balanced budget in 1976 although I do not want to mislead anyone about its impact on inflation. However, at the very least we must not use the budget to fuel inflationary pressures.

Continuing with our treatment for inflation, we must certainly retain a reasonably tight monetary policy. However, it would seem reasonable that if the Congress manages to cut the budget, that the Federal Reserve Board should loosen its monetary restrictions somewhat.

I say this, because now we come to the other side of the economic problem, the so-called soft economy in which we operate. I was interested in a poll I saw the other day. Our constituents have clearly labeled inflation their No. 1 concern and there is no question but what it hits them every day. And yet when they look down the road apparently many of them see the other problem, recession or depression. It is not the No. 1 problem because it is not really hurting yet. But it troubles people.

The poll I saw was made by George Gallup and one question it asked was "Some economists think the United States is heading toward a depression such as the Nation experienced in the 1930's. Do you agree or disagree?" A disconcertingly large percentage, 46 percent, agreed. Interestingly the concern was higher among manual workers than among clerical and professional workers. It was also greater the lower the income. Thus we have, I think, an advance signal from the American people, that they are being hurt by inflation, but while we are worrying about that we should look out for that depression they see coming.

Another poll, conducted by Louis Harris indicates that 65 percent of the people believe we are in a recession now; 56 percent believe we will be next year; but only 28 percent believe we are heading for a recession.

I am not suggesting that we determine economic policy by poll. They seem to conflict as much as economists do. But there are many signs that we should be concerned. There are many signs that the so-called soft economy we are in is really a recession and that we may not be too far from depression. I notice in the August 30 Wall Street Journal that the National Bureau of Economic Research has said officially that we are not in a recession. But whatever you call it, it is bad.

Just as I said earlier that it takes a long time for a given policy to reflect itself in the economy, so a change in trend in the economy may begin before it is apparent on the surface. Thus, as one witness said, you need to begin to treat the disease before the symptoms appear. Indications are we may already be a little late for that.

One of the softest spots in the economy is housing. New housing starts in July were down 16 percent over June and were 38 percent below July 1973. Much of this is undoubtedly due to tight money policies that have raised the cost of money for builders and home buyers alike to astronomical levels—when they can get money at all. The chief economist of the National Home Builders Association has said "It isn't any longer a question of production, but a question of survival." This reduction in homebuilding, one of the sensitive areas that often registers advance warning of economic problems, will also increase unemployment. Growing unemployment can in turn trigger declines in other industries. And if you look ahead at the future of housing—which has a fairly long leadtime—the permits are just as discouraging. Building permits for the 14,000 localities that require them were down 6 percent over June and 43 percent from the same month a year earlier.

In the larger picture, Dr. Arthur Burns is reported to have said that economic growth in the last two quarters of the year will be between 0 to 2 percent. When combined with the decrease in growth of 7 percent in the first quarter and 1.2 percent in the second, this seems to a layman like myself to signal a recession.

In the meantime, while unemployment stands at about 5.3 percent, it is predicted to rise to between 6 and 7 percent before the end of the year.

So, in summary, we have a picture of runaway inflation, with both the Consumer Price Index and the Wholesale Price Index breaking through the ceiling. Output is sluggish, with housing starts leading the downward trend. Interest rates are astronomical, while the stock market continues down. Unemployment is up and threatens to go higher. And real purchasing power is down.

As much as I favor monetary and fiscal restraint I think we must explore other factors. I would like to do that briefly here.

Government spending: We must work to cut the budget this year. More important will be the success of the new budget process in controlling spending in future years and keeping us from getting into a new inflationary spiral. The new budget committees will be able to look at the tax policy picture as well as spending. In the long run tax policy may be the more important of the two. And if we are to reduce spending we must look at everything. Even our most favorite programs must be examined to see if they are really doing what we thought they were doing or intended them to do. And we must look at the uncontrollables. Most of the so-called uncontrollables are uncontrollable only because Congress has said so. And what Congress has done it can undo, if this is desirable.

Monetary policy: While the policy of the Federal Reserve Board is understandable in the light of inflation, it may be time to moderate that restraint. I was pleased to see it reported recently that this policy was being moderated a little. Interest rates are climbing to alarming levels. Their effect on housing and other industries helps neither the economy as a whole nor inflation specifically. In fact, interest costs are real costs and as such tend to push prices upward.

Wage and price policy: We must have a national wage and price policy. The lack of such a policy reminds me of our singular inability to get an energy policy and the price we have paid as a result. I have concern about whether the recently created Council on Wage and Price Stability has the funding or the muscle to establish such a policy. I would have preferred a stronger vehicle and I think this is something that will deserve more investigation in the not-too-distant future.

Unemployment: Most people seem to assume that if we are to fight inflation, we must suffer unemployment. Certainly when you combine inflation with a depressed economy, unemployment is a real worry. We must move quickly to develop a public service employment program that will relieve the burden on at least some of the people who will be hurt by potential rising unemployment. I would like to see Congress get to work on such a program now. It has been suggested that a 6 percent employment rate might trigger such a program. Although the national unemployment figure is currently 5.3 percent, the rate in Delaware is reported to be 6.6 percent. We are ready for that program now in my State.

Taxation: In a period when real income is down, inflation is climbing. Even the most ardent advocate of tight monetary and fiscal policy agrees that they will not quickly reduce inflation and may further soften the economy. Thus, in addition to unemployment assistance, we must be prepared to help those who are being hurt by inflation. The lower bracket taxpayers need relief. We might consider giving some relief from the payroll tax, the most regressive tax we have. Any change in payroll tax must be carefully designed by transferring to general funds programs currently financed through the tax that are least appropriate to the tax. If we can get relief for the wage earner, then we may wish to consider adjustments in inventory depreciation allowances to help businesses. Some of these tax costs can be balanced by eliminating oil depletion and foreign tax credits as well as long overdue tightening of the minimum tax.

Housing industry and thrift institutions: Mr. Simon has suggested that we need to encourage savings that can go into plant and equipment investment to strengthen our economy. He points out that since 1960 such spending was only 15 percent of our total output as compared to 18 percent for France, 20 percent for Germany, and 27 percent for Japan. We cannot expect the small saver to bear the brunt of this, particularly in the housing market where he has been doing so at considerably lower interest rates than are available to other investors. So we need to look at new means of financing our housing programs including perhaps some further extensions of Government participation to the total housing market in a broader setting. This will assure the housing industry of a more reasonably constant demand. We must also reexamine the role of savings and loan associations, in terms of whether their authority to lend funds should be broadened to strengthen them. In addition we must consider whether it is either fair or realistic to hold their dividend rates so far below general levels for money, this penalizing the small saver.

International economy: In the international area we must take several steps. We must move to get oil prices down and help our balance of payments. This includes stronger emphasis on energy conservation efforts and on our push for energy self-sufficiency. These, combined with cooperative efforts of oil consuming nations to deal with oil producers, should yield some benefits in oil pricing. In this regard it is disturbing to note that recent reports of oversupply on the international market seem to have been met by foreign reduction in production in order to hold prices up. We must also work with other nations to promote the stability of financial institutions rather than going it alone. The recent failures of foreign banks in which U.S. banks had an interest indicates the very real danger of a go-it-alone policy.

Productivity: One long range effort has to be to improve productivity to partially offset wage increases that are needed and inevitable. Productivity is a difficult thing to get at through Government programs, but perhaps better funding and more vigorous effort by the Productivity Council would be a good place to begin.

In summary, Mr. President, I see a need for several actions. We should work immediately to reduce Government spending. At the same time we must take action to reduce hardship created by current economic conditions—unemployment or the housing industry. Finally we must more carefully take other steps to slow inflation without prolonging unnecessarily our present soft economy or plunging it to further depths.

CZECHOSLOVAKIAN CONSULAR CONVENTION

Mr. PELL. Mr. President, I am delighted with the series of constructive developments recently in our relations with Czechoslovakia. They should contribute to the establishment of the realistic kind of détente we are seeking in the relations between the closed societies of the East and the open societies of the West.

Presently the Foreign Relations Committee is considering the new Consular Convention with Czechoslovakia as a step that I hope will bring the convention into early effect.

In a separate statement, I have praised the recent exoneration by the Czech courts of Mr. John Hvasta, accused of espionage in the cold war period. I cited this encouraging indicator as a bright spot in the lowering clouds of suspicion that still envelop East-West relations.

If both our countries implement the new convention with the objectivity and sense of justice exhibited by the Czech action in the Hvasta case, we can look forward to continuing improvement in the relations between the United States and Czechoslovakia.

Good consular relations foster increased business and cultural contacts between the citizens of the countries concerned. They provide mutual protection and reasonable freedom of movement for the tourist, the student, the ethnic visitor, the businessman. The multiplication of these contacts becomes the warp and woof of the fabric of genuine détente. That is why the Consular Convention can prove a real breakthrough in creating improved relations with Czechoslovakia and offsetting the crippling effects that the very nature of a closed society impose upon its external relations.

Good results of the successful negotiation of the convention are already discernable.

The growing trade between the United States and Czechoslovakia has received a new impetus, so that the United States is presently the largest Western exporter to Czechoslovakia after West Germany.

In July of this year, preliminary agreement was reached between our two countries on property compensation for American citizens, an issue that had plagued our relations with Czechoslovakia since the coup d'état in 1948. The implementation of this agreement will be greatly facilitated by the Convention and thus in finally eliminating a thorn in the side of cordial relations.

And finally, the Convention is resulting in the reopening of our consulate in Bratislava and the Czech consular office in Chicago. Our building in Bratislava is being readied for occupancy within a few months by the designated Consul General, Mr. John Dennis, an experienced career Foreign Service officer.

For me, these developments have an important personal meaning as well.

Over 25 years ago, as a young Foreign Service officer, I had the opportunity to open the American consulate at Bratislava just days before the 1948 Communist putsch. Throughout the years since, I have sought to visit Czechoslovakia as often as possible, and to remain abreast of conditions there. I happened to be there again immediately prior to and after the Soviet military intervention of 1968 which crushed the liberal dreams of the "Prague Spring."

In this regard, I was particularly struck by the fact that while no Soviet soldiers and scarcely any deaths resulted from the initial Communist putsch of 1948, 20 years of first-hand exposure to communism necessitated the use of more than half a million Warsaw Pact troops, and a good many deaths resulted from the effort to maintain communism.

Today, I can only say that I am encouraged by these announcements of improved economic and diplomatic relations between the Governments of the United States and Czechoslovakia. I hope that they are but the prelude to a time of increased contact between Americans and Czechs and Slovaks, a development which is certain to produce much more cordial ties and benefits to the two counties. Prompt Senate action in ratifying the Consular Convention will be most helpful in realizing this objective.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

UNFINISHED BUSINESS (S. 707) TEMPORARILY LAID ASIDE

The PRESIDING OFFICER. The unfinished business, S. 707, will be temporarily laid aside and remain in a temporarily laid aside status until the close of business today.

AUTHORIZATION OF CONSTRUCTION AT MILITARY INSTALLATIONS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 16136, which the clerk will state.

The second assistant legislative clerk read as follows:

Calendar 1084, H.R. 16136, an act to authorize certain construction at military installations, and for other purposes.

The Senate proceeded to consider the bill, H.R. 16136, which had been reported from the Committee on Armed Services with an amendment to strike out all after the enacting clause and insert:

TITLE I

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $26,170,000.

Fort Campbell, Kentucky, $9,742,000.

Fort Carson, Colorado, $34,993,000.

Fort Hood, Texas, $46,376,000.

Fort Sam Houston, Texas, $4,286,000.

Fort Lewis, Washington, $10,270,000.

Fort Riley, Kansas, $27,074,000.

Fort Stewart/Hunter Army Airfield, Georgia, $42,197,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Belvoir, Virginia, $9,625,000.

Fort Benning, Georgia, $36,827,000.

Fort Bliss, Texas, $12,293,000.

Fort Eustis, Virginia, $8,124,000.

Fort Gordon, Georgia, $9,858,000.

Hunter-Liggett Military Reservation, California, $1,108,000.

Fort Jackson, South Carolina, $19,078,000.

Fort Knox, Kentucky, $2,264,000.

Fort Leavenworth, Kansas, $9,911,000.

Fort Lee, Virginia, $11,936,000.

Fort McClellan, Alabama, $17,344,000.

Presidio of Monterey, California, $3,107,000.

Fort Ord, California, $3,660,000.

Fort Polk, Louisiana, $7,304,000.

Fort Rucker, Alabama, $3,906,000.

Fort Sill, Oklahoma, $16,265,000.

Fort Leonard Wood, Missouri, $3,360,000.

UNITED STATES ARMY MILITARY DISTRICT OF WASHINGTON

Fort Myer, Virginia, $2,497,000.

UNITED STATES ARMY MATERIEL COMMAND

Aberdeen Proving Ground, Maryland, $1,030,000.

Aeronautical Maintenance Center, Texas, $541,000.

Anniston Army Depot, Alabama, $5,388,000.

Army Materiel and Mechanics Research Center, Massachusetts, $558,000.

Letterkenny Army Depot, Pennsylvania, $4,726,000.

Lexington/Blue Grass Army Depot, Kentucky, $616,000.

Picatinny Arsenal, New Jersey, $2,820,000.

Red River Army Depot, Texas, $1,160,000.

Redstone Arsenal, Alabama, $10,322,000.

Rock Island Arsenal, Illinois, $2,731,000.

Sacramento Army Depot, California, $2,599,000.

Seneca Army Depot, New York, $815,000.

Sierra Army Depot, California, $717,000.

Watervliet Arensal, New York, $3,256,000.

White Sands Missile Range, New Mexico, $3,574,000.

Yuma Proving Ground, Arizona, $1,859,000.

UNITED STATES ARMY COMMUNICATION COMMAND

Fort Huachuca, Arizona, $7,507,000.

Fort Ritchie, Maryland, $2,023,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, West Point, New York, $8,862,000.

HEALTH SERVICES COMMAND

Fort Detrick, Maryland, $486,000.

Various Locations, $19,773,000.

CORPS OF ENGINEERS

Cold Regions Laboratories, New Hampshire, $2,515,000.

UNITED STATES ARMY, ALASKA

Fort Greely, Alaska, $251,000.

Fort Richardson, Alaska, $4,002,000.

Fort Wainwright, Alaska, $1,512,000.

UNITED STATES ARMY, HAWAII

Schofield Barracks, Hawaii, $15,324,000.

Tripler General Hospital, Hawaii, $1,205,000.

POLLUTION ABATEMENT

Various Locations, Air Pollution Abatement, $1,356,000.

Various Locations, Water Pollution Abatement, $16,358,000.

DINING FACILITIES MODERNIZATION

Various Locations, $10,723,000.

OUTSIDE THE UNITED STATES

UNITED STATES ARMY FORCES, SOUTHERN COMMAND

Canal Zone, Various Locations, $557,000.

UNITED STATES ARMY, PACIFIC

Korea, Various Locations, $5,139,000.

PUERTO RICO

Fort Buchanan, Puerto Rico, $1,862,000.

KWAJALEIN MISSILE RANGE

National Missile Range, $1,272,000.

UNITED STATES ARMY SECURITY AGENCY

Various Locations, $148,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Buckner, Okinawa, $532,000.

UNITED STATES ARMY, EUROPE

Germany, Various Locations, $32,355,000.

Camp Darby, Italy, $4,159,000.

Various Locations: For the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations, including international military headquarters, for the collective defense of the North Atlantic Treaty Area, $84,000,000: *Provided*, That within thirty days after the end of each quarter, the Secretary of the Army shall furnish to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a description of obligations incurred as the United States share of such multilateral programs.

SEC. 102. The Secretary of the Army may establish or develop Army installations and facilities by proceeding with construction made necessary by changes in Army missions and responsibilities which have been occasioned by: (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, or (4) improved production schedules if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security, and in connection therewith to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment; in the total amount of $10,000,000: *Provided*, That the Secretary of the Army, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon enactment of the fiscal year 1976 Military Construction Authorization Act except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to that date.

SEC. 103. (a) Public Law 93–166, is amended under the heading "OUTSIDE THE UNITED STATES—UNITED STATES ARMY, EUROPE", in section 101 as follows:

With respect to "Germany, Various Locations" strike out "$12,517,000" and insert in place thereof "$16,360,000".

(b) Public Law 93–166 is amended by striking out in clause (1) of section 602 "$107,257,000" and "$596,084,000" and inserting in place thereof "$111,100,000" and "$599,927,000", respectively.

SEC. 104. (a) Public Law 92–545, as amended, is amended under the heading "INSIDE THE UNITED STATES", in section 101 as follows:

With respect to "Fort Myer, Virginia," strike out "$1,815,000" and insert in place thereof "$3,615,000".

With respect to "Fort Sill, Oklahoma," strike out "$14,958,000" and insert in place thereof "$16,159,000".

(b) Public Law 92–545, as amended, is amended under the heading "OUTSIDE THE UNITED STATES—UNITED STATES ARMY FORCES, SOUTHERN COMMAND" in section 101 as follows:

With respect to "Canal Zone, Various Locations" strike out "$8,129,000" and insert in place thereof "$9,238,000".

(c) Public Law 92–545, as amended, is amended by striking out in clause (1) of section 702 "$444,767,000;" "$117,311,000;" and "$562,078,000" and inserting in place thereof "$447,768,000;" "$118,420,000;" and "$566,188,000", respectively.

SEC. 105. (a) Public Law 91–511, as amended, is amended under the heading "INSIDE THE UNITED STATES", in section 101 as follows:

With respect to "Rock Island Arsenal, Illinois," strike out "$2,750,000" and insert in place thereof "$3,650,000".

(b) Public Law 91–511, as amended, is amended by striking out in clause (1) of section 602 "$181,834,000" and "$267,031,000" and inserting in place thereof "$182,734,000" and "$267,931,000", respectively.

SEC. 106. Public Law 93–166 is amended in section 105 as follows:

Public Law 93–166, section 105(b), amending Public Law 92–145, section 702, clause (1) as amended, having inserted erroneous figures, is amended by striking out "$404,500,000" and "$405,107,000" and inserting in place thereof "$405,000,000" and "$405,607,000", respectively.

TITLE II

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities and equipment for the following acquisition and construction:

INSIDE THE UNITED STATES

FIRST NAVAL DISTRICT

Naval Air Station, Brunswick, Maine, $261,000.

Portsmouth Naval Shipyard, Kittery, Maine, $7,232,000.

Naval Security Group Activity, Winter Harbor, Maine, $255,000.

Naval Education and Training Center, Newport, Rhode Island, $4,153,000.

Naval Underwater Systems Center, Newport, Rhode Island, $10,274,000.

THIRD NAVAL DISTRICT

Naval Submarine Base, New London, Connecticut, $4,971,000.

FOURTH NAVAL DISTRICT

Naval Air Test Facility, Lakehurst, New Jersey, $7,350,000.

Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, $2,336,000.

Naval Hospital, Philadelphia, Pennsylvania, $296,000.

NAVAL DISTRICT, WASHINGTON

Naval District Commandant, Washington, District of Columbia, $2,883,000.

Naval Research Laboratory, Washington, District of Columbia, $3,377,000.

Naval Academy, Annapolis, Maryland, $7,706,000.

National Naval Medical Center, Bethesda, Maryland, $14,943,000.

Uniformed Services University of the Health Sciences, Bethesda, Maryland, $15,000,000.

FIFTH NAVAL DISTRICT

Naval Regional Medical Center, Camp Lejeune, North Carolina, $290,000.

Naval Air Rework Facility, Cherry Point, North Carolina, $252,000.

Fleet Combat Direction Systems Training Center, Atlantic, Dam Neck, Virginia, $2,034,000.

Naval Amphibious Base, Little Creek, Virginia, $896,000.

Atlantic Command Operations Control Center, Norfolk, Virginia, $633,000.

Naval Air Station, Norfolk, Virginia, $3,471,000.

Naval Station, Norfolk, Virginia, $5,080,000.

Naval Supply Center, Norfolk, Virginia, $4,990,000.

Naval Air Station, Oceana, Virginia, $1,047,000.

Norfolk Naval Regional Medical Center, Portsmouth, Virginia, $15,801,000.

Norfolk Naval Shipyard, Portsmouth, Virginia, $5,602,000.

Naval Weapons Station, Yorktown, Virginia, $1,595,000.

SIXTH NAVAL DISTRICT

Naval Air Station, Cecil Field, Florida, $1,534,000.

Naval Air Station, Jacksonville, Florida, $446,000.

Naval Regional Medical Center, Jacksonville, Florida, $7,417,000.

Naval Station, Mayport, Florida, $3,239,000.

Naval Training Center, Orlando, Florida, $8,709,000.

Naval Coastal Systems Laboratory, Panama City, Florida, $795,000.

Naval Air Station, Pensacola, Florida, $19,448,000.

Naval Technical Training Center, Pensacola, Florida, $4,478,000.

Naval Air Station, Whiting Field, Florida, $1,561,000.

Naval Air Station, Meridian, Mississippi, $1,485,000.

Naval Hospital, Beaufort, South Carolina, $7,112,000.

Charleston Naval Shipyard, Charleston, South Carolina, $200,000.

Naval Station, Charleston, South Carolina, $15,352,000.

Naval Supply Center, Charleston, South Carolina, $3,750,000.

Naval Weapons Station, Charleston, South Carolina, $2,564,000.

Naval Air Station, Memphis, Tennessee, $4,284,000.

Naval Hospital, Memphis, Tennessee, $1,888,000.

EIGHTH NAVAL DISTRICT

Naval Support Activity, New Orleans, Louisiana, $3,080,000.

Naval Air Station, Kingsville, Texas, $1,428,000.

NINTH NAVAL DISTRICT

Naval Training Center, Great Lakes, Illinois, $1,953,000.

ELEVENTH NAVAL DISTRICT

Naval Regional Medical Center, Camp Pendleton, California, $7,619,000.

Naval Weapons Center, China Lake, California, $8,371,000.

Long Beach Naval Shipyard, Long Beach, California, $6,011,000.

Naval Air Station, Miramar, California, $11,772,000.

Naval Air Station, North Island, California, $12,943,000.

Naval Construction Battalion Center, Port Hueneme, California, $1,048,000.

Naval Electronics Laboratory Center, San Diego, California, $3,238,000.

Naval Region Medical Center, San Diego, California, $13,493,000.

Naval Training Center, San Diego, California, $8,657,000.

Navy Submarine Support Facility, San Diego, California, $4,234,000.

Naval Weapons Station, Seal Beach, California, $2,147,000.

TWELFTH NAVAL DISTRICT

Naval Air Rework Facility, Alameda, California, $1,638,000.

Naval Hospital, Lemoore, California, $333,000.

Naval Air Station, Moffett Field, California, $77,000.

Naval Communications Station, Stockton, California, $1,102,000.

Mare Island Naval Shipyard, Vallejo, California, $2,301,000.

THIRTEENTH NAVAL DISTRICT

Naval Station, Adak, Alaska, $7,697,000.

Trident Support Site, Bangor, Washington, $103,808,000.

Puget Sound Naval Shipyard, Bremerton, Washington, $393,000.

Naval Air Station, Whidbey Island, Washington, $2,603,000.

FOURTEENTH NAVAL DISTRICT

Commander in Chief Pacific, Oahu, Hawaii, $2,700,000.

Naval Ammunition Depot, Oahu, Hawaii, $795,000.

Naval Station, Pearl Harbor, Hawaii, $1,505,000.

Pearl Harbor Naval Shipyard, Pearl Harbor, Hawaii, $3,356,000.

Naval Communication Station, Honolulu Wahiawa, Hawaii, $971,000.

MARINE CORPS

Marine Corps Development and Education Command, Quantico, Virginia, $2,803,000.

Marine Corps Base, Camp Lejeune, North Carolina, $13,864,000.

Marine Corps Air Station, Cherry Point, North Carolina, $1,260,000.

Marine Corps Air Station, New River, North Carolina, $499,000.

Marine Corps Air Station, Yuma, Arizona, $3,203,000.

Marine Corps Supply Center, Barstow, California, $1,463,000.

Marine Corps Base, Camp Pendleton, California, $7,271,000.

Marine Corps Base, Twenty-nine Palms, California, $397,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, $5,497,000.

POLLUTION ABATEMENT

Various Locations, Air Pollution Abatement, $9,849,000.

Various Locations, Water Pollution Abatement, $44,251,000.

OUTSIDE THE UNITED STATES

TENTH NAVAL DISTRICT

Naval Telecommunications Center, Roosevelt Roads, Puerto Rico, $3,186,000.

Naval Station, Roosevelt Roads, Puerto Rico, $947,000.

Naval Security Group Activity, Sabana Seca, Puerto Rico, $1,026,000.

FIFTEENTH NAVAL DISTRICT

Naval Support Activity, Canal Zone, $800,000.

ATLANTIC OCEAN AREA

Naval Air Station, Bermuda, $1,866,000.

Naval Station, Keflavik, Iceland, $4,193,000.

EUROPEAN AREA

Naval Air Facility, Sigonella, Sicily, Italy, $311,000.

Naval Security Group Activity, Edzell, Scotland, $571,000.

Naval Activities Detachment, Holy Loch, Scotland, $1,188,000.

INDIAN OCEAN AREA

Naval Communications Facility, Diego Garcia, Chagos Archipelago, $14,802,000.

PACIFIC OCEAN AREA

Naval Air Station, Agana, Guam, Mariana Islands, $728,000.

Naval Communications Station, Finegayan, Guam, Mariana Islands, $1,305,000.

Naval Ship Repair Facility, Guam, Mariana Islands, $1,782,000.

Navy Public Works Center, Guam, Mariana Islands, $907,000.

Naval Hospital, Yokosuka, Japan, $360,000.

Naval Air Station, Cubi Point, Republic of the Philippines, $1,624,000.

Naval Station, Subic Bay, Republic of the Philippines, $3,741,000.

POLLUTION ABATEMENT

Various Locations, Air Pollution Abatement, $1,059,000.

Various Locations, Water Pollution Abatement, $4,038,000.

Sec. 202. The Secretary of the Navy may establish or develop Navy installations and facilities by proceeding with construction made necessary by changes in Navy missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, or (4) improved production schedules, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security, and in connection therewith to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $10,000,000: *Provided*, That the Secretary of the Navy, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon enactment of the fiscal year 1976 Military Construction Authorization Act, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to that date.

Sec. 203. (a) Public Law 90–408, as amended, is amended under the heading "INSIDE THE UNITED STATES", in section 201 as follows:

With respect to "Naval Academy, Annapolis, Maryland," strike out "$2,000,000" and insert in place thereof "$4,391,000".

(b) Public Law 90–408, as amended, is amended by striking out in clause (2) of section 802 "$241,668,000" and "$248,533,000" and inserting in place thereof "$244,059,000" and "$250,924,000", respectively.

Sec. 204. (a) Public Law 91–511, as amended, is amended under the heading "INSIDE THE UNITED STATES", in section 201 as follows:

With respect to "Naval Air Rework Facility, Jacksonville, Florida, strike out "$3,869,000" and insert in place thereof "$4,534,000".

(b) Public Law 91–511, as amended, is amended by striking out in clause (2) of section 602 "$247,204,000" and "$274,342,000" and inserting in place thereof "$247,869,000" and "$275,007,000", respectively.

Sec. 205. (a) Public Law 92–545, as amended, is amended under the heading "INSIDE THE UNITED STATES", in section 201 as follows:

With respect to "Navy Public Works Center, Norfolk, Virginia," strike out "$3,319,000" and insert in place thereof "$7,019,000".

With respect to "Naval Ammunition Depot, Hawthorne, Nevada," strike out "$6,003,000" and insert in place thereof "$10,203,000".

(b) Public Law 92–545, as amended, is amended by striking out in clause (2) of section 702 "$477,664,000" and "$518,881,000" and inserting in place thereof "$485,564,000" and "$526,781,000", respectively.

Sec. 206. (a) Public Law 93–166 is amended under the heading "INSIDE THE UNITED STATES", in section 201 as follows:

With respect to "Naval Home, Gulfport, Mississippi," strike out "$9,444,000" and insert in place thereof "$11,802,000".

With respect to "Naval Air Station, Meridian, Mississippi," strike out "$4,532,000" and insert in place thereof "$5,466,000".

With respect to "Naval Air Station, Alameda, California," "strike out "$3,827,000" and insert in place thereof "$7,756,000".

With respect to "Marine Corps Supply Center, Barstow, California," strike out "$3,802,000" and insert in place thereof "$6,210,000".

(b) Public Law 93–166 is amended by striking out in clause (2) of section 602 "$511,606,000 and "$570,439,000" and inserting in place thereof "$521,235,000" and "$580,068,000", respectively.

TITLE III

Sec. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

AEROSPACE DEFENSE COMMAND

Peterson Field, Colorado Springs, Colorado, $6,885,000.

Tyndall Air Force Base, Panama City, Florida, $2,775,000.

AIR FORCE COMMUNICATIONS SERVICE

Richards-Gebaur Air Force Base Grandview, Missouri, $805,000.

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Ogden, Utah, $11,894,000.

Kelly Air Force Base, San Antonio, Texas, $11,588,000.

McClellan Air Force Base, Sacramento, California, $15,873,000.

Newark Air Force Station, Newark, Ohio, $1,977,000.

Robins Air Force Base, Warner Robins, Georgia, $792,000.

Tinker Air Force Base, Oklahoma City, Oklahoma, $9,839,000.

Wright-Patterson Air Force Base, Dayton, Ohio, $16,271,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tullahoma, Tennessee, $4,240,000.

Brooks Air Force Base, San Antonio, Texas, $3,100,000.

Edwards Air Force Base, Muroc, California, $1,647,000.

Eglin Air Force Base, Valparaiso, Florida, $13,512,000.

Kirtland Air Force Base, Albuquerque, New Mexico, $232,000.

Patrick Air Force Base, Cocoa, Florida, $642,000.

Satellite Tracking Facilities, $832,000.

AIR TRAINING COMMAND

Columbus Air Force Base, Columbus, Mississippi, $169,000.

Keesler Air Force Base, Biloxi, Mississippi, $7,297,000.

Laughlin Air Force Base, Del Rio, Texas, $298,000.

Lowry Air Force Base, Denver, Colorado, $7,885,000.

Mather Air Force Base, Sacramento, California, $2,143,000.

Randolph Air Force Base, San Antonio, Texas, $790,000.

Reese Air Force Base, Lubbock, Texas, $836,000.

Sheppard Air Force Base, Wichita Falls, Texas, $8,631,000.

Vance Air Force Base, Enid, Oklahoma, $6,798,000.

Webb Air Force Base, Big Spring, Texas, $776,000.

Williams Air Force Base, Chandler, Arizona, $5,849,000.

AIR UNIVERSITY

Maxwell Air Force Base, Montgomery, Alabama, $2,500,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Fairbanks, Alaska, $310,000.

Various Locations, $15,242,000.

HEADQUARTERS COMMAND

Andrews Air Force Base, Camp Springs, Maryland, $14,699,000.

Bolling Air Force Base, Washington, District of Columbia, $3,155,000.

MILITARY AIRLIFT COMMAND

Dover Air Force Base, Dover, Delaware, $1,373,000.

McGuire Air Force Base, Wrightstown, New Jersey, $408,000.

Scott Air Force Base, Belleville, Illinois, $341,000.

Travis Air Force Base, Fairchild, California, $8,800,000.

PACIFIC AIR FORCES

Hickam Air Force Base, Honolulu, Hawaii, $11,878,000.

STRATEGIC AIR COMMAND

Barksdale Air Force Base, Shreveport, Louisiana, $641,000.

Blytheville Air Force Base, Blytheville, Arkansas, $675,000.

Davis-Monthan Air Force Base, Tucson, Arizona, $3,009,000.

Ellsworth Air Force Base, Rapid City, South Dakota, $2,109,000.

Griffiss Air Force Base, Rome, New York, $1,774,000.

Grissom Air Force Base, Peru, Indiana, $323,000.

K. I. Sawyer Air Force Base, Marquette, Michigan, $7,050,000.

Kincheloe Air Force Base, Kinross, Michigan, $835,000.

Malmstrom Air Force Base, Great Falls, Montana, $3,740,000.

McConnell Air Force Base, Wichita, Kansas, $3,038,000.

Minot Air Force Base, Minot, North Dakota, $238,000.

Offutt Air Force Base, Omaha, Nebraska, $5,595,000.

Pease Air Force Base, Portsmouth, New Hampshire, $115,000.

Plattsburgh Air Force Base, Plattsburgh, New York, $882,000.

Whiteham Air Force Base, Knob Noster, Missouri, $6,692,000.

TACTICAL AIR COMMAND

Cannon Air Force Base, Clovis, New Mexico, $1,715,000.

George Air Force Base, Victorville, California, $4,794,000.

Holloman Air Force Base, Alamogordo, New Mexico, $1,565,000.

Langley Air Force Base, Hampton, Virginia, $3,056,000.

Little Rock Air Force Base, Little Rock, Arkansas, $5,141,000.

MacDill Air Force Base, Tampa, Florida, $265,000.

Myrtle Beach Air Force Base, Myrtle Beach, South Carolina, $300,000.

Nellis Air Force Base, Las Vegas, Nevada, $6,495,000.

Pope Air Force Base, Fayetteville, North Carolina, $730,000.

Seymour Johnson Air Force Base, Goldsboro, North Carolina, $3,948,000.

Various Locations, $5,194,000.

POLLUTION ABATEMENT

Various Locations, Air Pollution Abatement, $2,056,000.

Various Locations, Water Pollution Abatement, $13,700,000.

SPECIAL FACILITIES

Various Locations, $13,952,000.

OUTSIDE THE UNITED STATES

AEROSPACE DEFENSE COMMAND

Various Locations, $138,000.

PACIFIC AIR FORCES

Various Locations, $5,985,000.

UNITED STATES AIR FORCES IN EUROPE

Germany, $280,000.

United Kingdom, $884,000.

Various Locations, $63,081,000.

UNITED STATES AIR FORCE SECURITY SERVICE

Various Locations, $4,135,000.

POLLUTION ABATEMENT

Various Locations, Water Pollution Abatement, $595,000.

SPECIAL FACILITIES

Various Locations, $1,999,000.

SEC. 302. The Secretary of the Air Force may establish or develop classified military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities and equipment, in the total amount of $8,100,000.

SEC. 303. The Secretary of the Air Force may establish or develop Air Force installations and facilities by proceeding with construction made necessary by changes in Air Force missions and responsibilities which have been occasioned by: (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, or (4) improved production schedules, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security, and in connection therewith to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $10,000,000: *Provided*, That the Secretary of the Air Force, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon enactment of the fiscal year 1976 Military Construction Authorization Act, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to that date.

SEC. 304. Section 609 of Public Law 89–188, is amended by changing the period at the end thereof to a comma and adding the following: "or if no appropriated funds are involved, has first been reported by the Air Force to the Congress in the manner set forth in section 2662, title 10, United States Code.".

SEC. 305. (a) Section 301 of Public Law 93–166 is amended under the heading "INSIDE THE UNITED STATES" as follows:

(1) Under the subheading "AEROSPACE DEFENSE COMMAND" with respect to "Peterson Field, Colorado Springs, Colorado", strike out "$7,843,000" and insert in place thereof "$9,733,000".

(2) Under the subheading "AEROSPACE DEFENSE COMMAND" with respect to "Tyndall Air Force Base, Panama City, Florida", strike out "$1,020,000" and insert in place thereof "$1,284,000".

(3) Under the subheading "AIR FORCE COMMUNICATIONS SERVICE" with respect to "Richards-Gebaur Air Force Base, Grandview, Missouri", strike out "$3,963,000" and insert in place thereof "$6,130,000".

(4) Under the subheading "AIR FORCE LOGISTICS COMMAND" with respect to "Robins Air Force Base, Warner Robins, Georgia", strike out "$4,628,000" and insert in place thereof "$7,324,000".

(5) Under the subheading "AIR FORCE SYSTEMS COMMAND" with respect to "Eglin Air Force Base, Valparaiso, Florida", strike out "$7,039,000" in insert in place thereof "$8,882,000".

(6) Under the subheading "AIR TRAINING COMMAND" with respect to "Keesler Air Force Base, Biloxi, Mississippi", strike out "$8,786,000" and insert in place thereof "$10,733,000".

(7) Under the subheading "AIR TRAINING COMMAND" with respect to "Lackland Air Force Base, San Antonio, Texas", strike out "$6,509,000" and insert in place thereof "$9,186,000".

(8) Under the subheading "AIR TRAINING COMMAND" with respect to "Reese Air Force Base, Lubbock, Texas", strike out "$4,211,000" and insert in place thereof "$6,461,000".

(9) Under the subheading "AIR TRAINING COMMAND" with respect to "Vance Air Force Base, Enid, Oklahoma", strike out $371,000" and insert in place thereof "$895,000".

(10) Under the subheading "AIR TRAINING COMMAND" with respect to "Webb Air Force Base, Big Spring, Texas", strike out "$3,154,000" and insert in place thereof "$4,307,000".

(11) Under the subheading "MILITARY AIRLIFT COMMAND" with respect to "Altus Air Force Base, Altus, Oklahoma", strike out "$1,078,000" and insert in place thereof "$1,440,000".

(12) Under the subheading "STRATEGIC AIR COMMAND" with respect to "Francis E. Warren Air Force Base, Cheyenne, Wyoming", strike out "$5,834,000" and insert in place thereof "$8,265,000".

(13) Under the subheading "TACTICAL AIR COMMAND" with respect to "Little Rock Air Force Base, Little Rock, Arkansas", strike out "$1,165,000" and insert in place thereof "$2,200,000".

(14) Under the subheading "TACTICAL AIR COMMAND" with respect to "Nellis Air Force Base, Las Vegas, Nevada", strike out "$2,588,000" and insert in place thereof "$3,637,000".

(b) Public Law 93–166 is further amended by striking out in clause (3) of section 602 "$238,439,000" and "$260,741,000" and inserting in place thereof "$260,727,000" and "$283,029,000", respectively.

TITLE IV

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities and equipment, for defense agencies for the following acquisition and construction:

INSIDE THE UNITED STATES

DEFENSE MAPPING AGENCY

Defense Mapping Agency Aerospace Center (St. Louis AFS), St. Louis, Missouri, $2,573,000.

Fort Belvoir, Virginia, $670,000.

DEFENSE SUPPLY AGENCY

Defense Construction Supply Center, Columbus, Ohio, $1,862,000.

Defense Depot, Mechanicsburg, Pennsylvania, $394,000.

Defense Depot, Memphis, Tennessee, $1,399,000.

Defense Depot, Ogden, Utah, $527,000.

Defense Electronics Supply Center, Dayton, Ohio, $572,000.

Defense Industrial Plant Equipment Facility, Atchison, Kansas, $646,000.

Defense Personnel Support Center, Philadelphia, Pennsylvania, $936,000.

NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, $2,363,000.

OUTSIDE THE UNITED STATES

DEFENSE NUCLEAR AGENCY

Johnston Atoll, $1,458,000.

Eniwetok Auxiliary Airfield, $4,000,000.

SEC. 402. The Secretary of Defense may establish or develop installations and facilities which he determines to be vital to the security of the United States, and in connection therewith to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $15,000,000: *Provided*, That the Secretary of Defense or his designee shall notify the Committees on Armed Services of the Senate and House of Representatives immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including real estate actions pertaining thereto.

TITLE V—MILITARY FAMILY HOUSING AND HOMEOWNERS ASSISTANCE PROGRAM

SEC. 501. The Secretary of Defense, or his designee, is authorized to construct, at the locations hereinafter named, family housing units and mobile home facilities in the numbers hereinafter listed, but no family housing construction shall be commenced at any such locations in the United States, until the Secretary shall have consulted with the Secretary of the Department of Housing and Urban Development, as to the availability of adequate private housing at such locations. If agreement cannot be reached with respect to the availability of adequate private housing at any location, the Secretary of Defense shall immediately notify the Committee on Armed Services of the House of Representatives and the Senate, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of thirty days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise.

(a) Family Housing units—

(1) The Department of the Army, two thousand four hundred and sixty units, $82,396,600.

Fort Stewart/Hunter Army Airfield, Georgia, four hundred units.

United States Army Installations, Oahu, Hawaii, one thousand units.

Rock Island Arsenal, Illinois, sixty units.

Fort Riley, Kansas, five hundred units.

Fort Jackson, South Carolina, one hundred units.

Fort Eustis, Virginia, one hundred units.

United States Army Installations, Atlantic Side, Canal Zone, one hundred units.

United States Army Installations, Pacific Side, Canal Zone, two hundred units.

(2) The Department of the Navy, three thousand one hundred and fifty-eight units, $108,778,960.

Naval Complex, San Diego, California, five hundred units.

Naval Complex, Jacksonville, Florida, two hundred units.

Naval Complex, Oahu, Hawaii, seven hundred units.

Naval Complex, New Orleans, Louisiana, two hundred units.

Marine Corps Base, Camp Lejeune, North Carolina, two hundred units.

Marine Corps Air Station, Cherry Point, North Carolina, three hundred units.

Naval Complex, Charleston, South Carolina, five hundred and twenty-six units.

Naval Complex, Bremerton, Washington, three hundred and thirty-two units.

Naval Complex, Guantanamo Bay, Cuba, two hundred units.

(3) The Department of the Air Force, one thousand three hundred units, $40,143,500.

United States Air Force Installations, Oahu, Hawaii, two hundred units.

Malmstrom Air Force Base, Montana, one hundred and fifty units.

Pease Air Force Base, New Hampshire, two hundred units.

Grand Forks Air Force Base, North Dakota, one hundred units.

Altus Air Force Base, Oklahoma, two hundred units.

Misawa Air Base, Japan, two hundred units.

Clark Air Base, Philippines, two hundred and fifty units.

(b) Mobile Home Facilities—

(1) The Department of the Army, two hundred and forty spaces, $960,000.

(2) The Department of the Air Force, two hundred spaces, $888,000.

(c) Demolition of existing structures on proposed sites for family housing:

Naval Complex, Bremerton, Washington, $540,000.

SEC. 502. (a) Authorization for the construction of family housing provided in section 501 of this Act shall be subject, under such regulations as the Secretary of Defense may prescribe, to the following limitations on cost, which shall include shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family unit, and the proportionate costs of land acquisition, site preparation (excluding demolition authorized in section 501(c)), and installation of utilities.

(b) The average unit cost for all units of family housing constructed in the United States (other than Alaska and Hawaii) shall not exceed $29,500 and in no event shall the cost of any unit exceed $46,000.

(c) When family housing units are constructed in areas other than that specified in subsection (b) the average cost of all such units shall not exceed $40,000, and in no event shall the cost of any unit exceed $46,000.

SEC. 503. The Secretary of Defense, or his designee, is authorized to accomplish alterations, additions, expansions, or extensions not otherwise authorized by law, to existing public quarters at a cost not to exceed—

(1) for the Department of the Army, $20,000,000.

(2) for the Department of the Navy, $20,000,000.

(3) for the Department of the Air Force, $20,000,000.

SEC. 504. Notwithstanding the limitations contained in prior Military Construction Authorization Acts on cost of construction of family housing, the limitations on such cost contained in section 502 of this Act shall apply to all prior authorizations for construction of family housing not heretofore repealed and for which construction contracts have not been executed prior to the date of enactment of this Act.

SEC. 505. The Secretary of Defense, or his designee, is authorized to construct or otherwise acquire at the locations hereinafter named, family housing units not subject to the limitations on such cost contained in section 502 of this Act. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. Total costs shall include shades, screens, ranges, refrigerators, and other installed equipment and fixtures, the cost of the family unit, and the costs of land acquisition, site preparation, and installation of utilities.

(a) Naval Station, Keflavik, Iceland, two hundred units, at a total cost not to exceed $9,600,000.

(b) Two family housing units in Warsaw, Poland, at a total cost not to exceed $120,000. This authority shall be funded by use of excess foreign currency when so provided in Department of Defense Appropriation Acts.

SEC. 506. The Secretary of Defense, or his designee, is authorized to accomplish repairs and improvements to existing public quarters in amounts in excess of the $15,000 limitation prescribed in section 610(a) of Public Law 90–110, as amended (81 Stat. 279, 305), as follows:

Fort McNair, Washington, District of Columbia, five units, $175,500.

Fort Sam Houston, Texas, one hundred and forty units, $2,352,800.

Wright-Patterson Air Force Base, Ohio, one unit, $24,000.

SEC. 507. (a) Section 515 of Public Law 84–161 (69 Stat. 324, 352), as amended, is further amended by (1) striking out "1974 and 1975" and inserting in lieu thereof "1975 and 1976", and (2) revising the third sentence to read as follows: "Expenditures for the rental of such housing facilities, including the cost of utilities and maintenance and operation, may not exceed: For the United States (other than Alaska and Hawaii), Puerto Rico, and Guam an average of $235 per month for each military department or the amount of $310 per month for any one unit; and for Alaska and Hawaii, an average of $315 per month for each military department, or the amount of $375 per month for any one unit."

(b) Section 507(b) of Public Law 93–166 (87 Stat. 661, 676), is amended by striking out "$325" and "seven thousand five hundred" in the first sentence, and inserting in lieu thereof "$355", and "twelve thousand", respectively; and in the second sentence by striking out "three hundred units", and inserting in lieu thereof "one hundred fifty units".

SEC. 508. There is authorized to be appropriated for use by the Secretary of Defense, or his designee, for military family housing and homeowners assistance as authorized by law for the following purposes:

(1) for construction and acquisition of family housing, including demolition authorized, improvements to public quarters, minor construction, relocation of family housing, rental guarantee payments, construction and acquisition of mobile home facilities, and planning, an amount not to exceed $307,907,060.

(2) for support of military family housing, including operating expenses, leasing, maintenance of real property, payments of principal and interest on mortgage debts incurred, payment to the Commodity Credit Corporation, and mortgage insurance premiums authorized under section 222 of the National Housing Act, as amended (12 U.S.C. 1715m), an amount not to exceed $935,515,000; and

(3) for homeowners assistance under section 1013 of Public Law 89–754 (80 Stat. 1255, 1290), including acquisition of properties, an amount not to exceed $5,000,000.

TITLE VI

GENERAL PROVISIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 to title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land, and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

SEC. 602. There are authorized to be appropriated such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, IV, and V, shall not exceed—

(1) for title I: Inside the United States $514,187,000; outside the United States $130,024,000; or a total of $644,211,000.

(2) for title II: Inside the United States, $512,620,000; outside the United States, $44,434,000; or a total of $557,054,000.

(3) for title II: Inside the United States, $302,709,000; outside the United States, $77,097,000; section 302, $8,100,000; or a total of $387,906,000.

(4) for title IV: A total of $32,400,000.

(5) for title V: Military family housing and homeowners assistance, $1,248,422,060.

SEC. 603. (a) Except as provided in subsections (b) and (e), any of the amounts specified in titles I, II, III, and IV of this Act may, in the discretion of the Secretary concerned, be increased by 5 per centum when inside the United States (other than Hawaii and Alaska), and by 10 per centum when outside the United States or in Hawaii and Alaska, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress. However, the total cost of all construction and acquisition in each such title may not exceed the total amount authorized to be appropriated in that title.

(b) When the amount named for any construction or acquisition in title I, II, III, or IV of this Act involves only one project at any military installation and the Secretary of Defense, or his designee, determines that the amount authorized must be increased by more than the applicable percentage prescribed in subsection (a), the Secretary concerned may proceed with such construction or acquisition if the amount of the increase does not exceed by more than 25 per centum of the amount named for such project by the Congress.

(c) Subject to the limitations contained in subsection (a), no individual project authorized under title I, II, III, or IV of this Act for any specifically listed military installation may be placed under contract if—

(1) the estimated cost of such project is $250,000 or more, and

(2) the current working estimate of the Department of Defense, based upon bids received, for the construction of such project exceeds by more than 25 per centum the amount authorized for such project by the Congress, until after the expiration of thirty days from the date on which a written report of the facts relating to the increased cost of such project, including a statement of the reasons for such increase has been submitted to the Committees on Armed Services of the House of Representatives and the Senate.

(d) The Secretary of Defense shall submit an annual report to the Congress identifying each individual project which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense based upon bids received for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope was reduced in order to permit contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

(e) In addition to other cost variation limitations contained in this section or in similar sections of prior year military construction authorization Acts, any of the amounts specified in titles I, II, III, and IV of this and prior military construction authorization Acts may be varied upward by an additional 10 per centum when the Secretary of the military service concerned determines that such increase is required to meet unusual variations in cost directly attributable to difficulties arising out of the current energy crisis. However, the total cost of all construction and acquisition in each such title may not exceed the total mount authorized to be appropriated in that title.

SEC. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army, or the Naval Facilities Engineering Command, Department of the Navy, or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective accomplishment of the construction herein authorized. The Secretaries of the military departments shall report annually to the President of the Senate and the Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Further, such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and the Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder.

SEC. 605. As of October 1, 1975, authorizations for military public works including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefor, that are contained in titles I, II, III, IV, and V of the Act of November 29, 1973, Public Law 93–166 (87 Stat. 661), and all such authorizations contained in Acts approved before November 30, 1973, and not superseded or otherwise modified by a later authorization are repealed except—

(1) authorizations for public works and for appropriations therefor that are set forth in those Acts in the titles that contain the general provisions;

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part before October 1, 1975, and authorizations for appropriations therefor;

(3) notwithstanding the repeal provisions of section 605 of the Act of November 29, 1973, Public Law 93–166 (87 Stat. 661, 681), authorizations for the following items which shall remain in effect until October 1, 1976:

(a) Sanitary sewer connection in the amount of $2,200,000 at Fort Belvoir, Virginia, that is contained in title I, section 101 of the Act of October 26, 1970 (84 Stat. 1204), as amended and extended in section 705(a)(3)(A) of the Act of October 25, 1972 (86 Stat. 1153).

(b) Cold storage warehouse construction in the amount of $1,215,000 at Fort Dix, New Jersey, that is contained in title I, section 101 of the Act of October 25, 1972 (86 Stat. 1135), as amended.

(c) Enlisted men's barracks complex construction in the amount of $12,160,000 at Fort Knox, Kentucky, that is contained in title I, section 101 of the Act of October 25, 1972 (86 Stat. 1135), as amended.

(d) Enlisted women's barracks construction in the amount of $245,000 and bachelor officer's quarters construction in the amount of $803,000 at Fort Lee, Virginia, that is contained in title I, section 101 of the Act of October 25, 1972 (86 Stat. 1135), as amended.

(e) Chapel center construction in the amount of $1,088,000 at Fort Benjamin Harrison, Indiana, that is contained in title I, section 101, of the Act of October 25, 1972 (86 Stat. 1135), as amended.

(f) Enlisted men's barracks construction in the amount of $7,996,000 at Fort Ord, California, that is contained in title I, section 101 of the Act of October 25, 1972 (86 Stat. 1135), as amended.

(g) Enlisted men's barracks and mess construction in the amount of $699,000 at Sierra Army Depot, California, that is contained in title I, section 101 of the Act of October 25, 1972 (86 Stat. 1136), as amended.

(h) Test facilities Solid Radar in the amount of $7,600,000 at Kwajalein National Missile Range, Kwajalein, that is contained in title I, section 101 of the Act of October 25, 1972 (86 Stat. 1137), as amended.

(i) Land acquisition in the amount of $10,000,000 for the Naval Ammunition Depot, Oahu, Hawaii, that is contained in title II, section 201 of the Act of October 25, 1972 (86 Stat. 1140), as amended.

(j) Message Center Addition, Aircraft Five and Crash Station, Aircraft Maintenance Hangar Shops, Bachelor Enlisted Quarters, Mess Hall, Bachelor Officers' Quarters, Exchange and Recreation Building, and Utilities construction in the amount of $110,000; $199,000; $837,000; $1,745,000; $377,000; $829,000; $419,000; and $792,000, respectively, for the Naval Detachment, Souda Bay, Crete, Greece, that is contained in title II, section 21 of the Act of October 25, 1972 (86 Stat. 1141), as amended.

(k) Authorization for exchange of lands in support of the Air Installation Compatible Use Zones at Various Locations in the amount of $12,000,000 that is contained in title III, section 301 of the Act of October 25, 1972 (86 Stat. 1145), as amended.

(4) Notwithstanding the repeal provisions of section 705(b) of the Act of October 25, 1972, Public Law 92–545 (86 Stat. 1135, 1153), as modified by section 605(3) of the Act of November 29, 1973, Public Law 93–166 (87 Stat. 661, 681), the authorization to construct six hundred family housing units at Naval Complex, Norfolk, Virginia, contained in title V, section 501(a)(2) of the Act of October 25, 1972 (86 Stat. 1148), shall remain in effect until October 1, 1975.

SEC. 606. None of the authority contained in titles I, II, III, and IV of this Act shall be deemed to authorize any building construction projects inside the United States in excess of a unit cost to be determined in proportion to the appropriate area construction cost index, based on the following unit cost limitations where the area construction index is 1.0:

(1) $31 per square foot for permanent barracks;

(2) $33 per square foot for bachelor officer quarters;

unless the Secretary of Defense, or his designee, determines that because of special circumstances, application to such project of the limitations on unit costs contained in this section is impracticable: *Provided*, That, notwithstanding the limitations contained in prior military construction authorization Acts on unit costs, the limitations on such costs contained in this section shall apply to all prior authorizations for such construction not heretofore repealed and for which construction contracts have not been awarded by the date of enactment of this Act.

Sec. 607. Section 612 of Public Law 89–568 (80 Stat. 756, 757), is amended by deleting the figure "$150,000" wherever it appears and inserting in lieu thereof "$300,000".

Sec. 608. (a) The Secretary of Defense is authorized to assist communities located near the Trident Support Site Bangor, Washington, in meeting the costs of providing increased municipal services and facilities to the residents of such communities, if the Secretary determines that there is an immediate and substantial increase in the need for such services and facilities in such communities as a direct result of work being carried out in connection with the construction, installation, testing, and operation of the Trident Weapon System and that an unfair and excessive financial burden will be incurred by such communities as a result of the increased need for such services and facilities.

(b) The Secretary of Defense shall carry out the provisions of this section through existing Federal programs. The Secretary is authorized to supplement funds made available under such Federal programs to the extent necessary to carry out the provisions of this section, and is authorized to provide financial assistance to communities described in subsection (a) of this section to help such communities pay their share of the costs under such programs. The heads of all departments and agencies concerned shall cooperate fully with the Secretary of Defense in carrying out the provisions of this section on a priority basis.

(c) In determining the amount of financial assistance to be made available under this section to any local community for any community service or facility, the Secretary of Defense shall consult with the head of the department or agency of the Federal Government concerned with the type of service or facility for which financial assistance is being made available and shall take into consideration (1) the time lag between the initial impact of increased population in any such community and any increase in the local tax base which will result from such increased population, (2) the possible temporary nature of the increased population and the long-range cost impact on fhe permanent residents of any such community and (3) such other pertinent factors as the Secretary of Defense deems appropriate.

(d) Any funds appropriated to the Department of Defense for the fiscal year beginning July 1, 1974, for carrying out the Trident Weapon System shall be utilized by the Secretary of Defense in carrying out the provisions of this section to the extent that funds are unavailable under other Federal programs. Funds appropriated to the Department of Defense for any fiscal year beginning after June 30, 1975, for carrying out the Trident Weapon System may, to the extent specifically authorized in an annual Military Construction Authorization Act, be utilized by the Secretary of Defense in carrying out the provision of this section to the extent that funds are unavailable under other Federal programs.

(e) The Secretary shall transmit to the Committee on Armed Services of the Senate and the House of Representatives semiannual reports indicating the total amount expended in the case of each local community which was provided assistance under the authority of this section during the preceding six-month period, the specific projects for which assistance was provided during such period, and the total amount provided for each such project during such period.

Sec. 609. (a) Public Law 93–346 (88 Stat. 340), designating the premises occupied by the Chief of Naval Operations as the official resident of the Vice President, is amended to read as follows: "That effective July 1, 1974, the Government-owned house together with furnishings, associated grounds (consisting of twelve acres, more or less), and related facilities which have heretofore been used as the residence of the Chief of Naval Operations, Department of the Navy, shall, on and after such date be available for, and are hereby designated, as the temporary official residence of the Vice President of the United States.

"Sec. 2. The temporary official residence of the Vice President shall be adequately staffed and provided with such appropriate equipment, furnishings, dining facilities, services, and other provisions as may be required, under the supervision and direction of the Vice President, to enable him to perform and discharge appropriately the duties, functions, and obligations associated with his high office.

"Sec. 3. The Secretary of the Navy shall, subject to the supervision and control of the Vice President, provide for the military staffing and the care and maintenance of the grounds of the temporary official residence of the Vice President and, subject to reimbursement therefor out of funds appropriated for such purposes, provide for the civilian staffing, care, maintenance, repair, improvement, alteration, and furnishing of such residence.

"Sec. 4. There is hereby authorized to be appropriated such sums as may be necessary from time to time to carry out the foregoing provisions of this joint resolution. During any interim period until and before any such funds are so appropriated, the Secretary of the Navy shall make provision for staffing and other appropriate services in connection with the temporary official residence of the Vice President from funds available to the Department of the Navy, subject to reimbursement therefor from funds subsequently appropriated to carry out the purposes of this joint resolution.

"Sec. 5. After the date on which the Vice President moves into the temporary official residence provided for in this joint resolution no funds may be expended for the maintenance, care, repair, furnishing, or security of any residence for the Vice President other than the temporary official residence provided for in this joint resolution unless the expenditure of such funds is specifically authorized by law enacted after such date.

"Sec. 6. The Secretary of the Navy is authorized and directed, with the approval of the Vice President, to accept donations of money or property for the furnishing of or making improvements in or about the temporary official residence of the Vice President, all such donations to become the property of the United States and to be accounted for as such.

"Sec. 7. (a) Section 202 of title 3, United States Code, is amended by striking out 'and (5)' in the first sentence and inserting in lieu thereof the following: '(5) the temporary official residence of the Vice President and grounds in the District of Columbia; (6) the Vice President and members of his immediate family; and (7).

"Sec. 8. The first sentence of section 3056 of title 18, United States Code, is amended by—

"(1) inserting 'protect the members of the immediate family of the Vice President, unless such protection is declined;' immediately after 'Vice President-elect;', and

"(2) inserting 'pay expenses for unforeseen emergencies of a confidential nature under the direction of the Secretary of the Treasury and accounted for solely on his certificate;' immediately after 'apprehension of criminals;'.

"Sec. 9. It is the sense of Congress that living accommodations, generally equivalent to those available to the highest ranking officer on active duty in each of the other military services, should be provided for the Chief of Naval Operations.".

(b) Except as otherwise provided therein, the amendment made by subsection (a) of this section shall become effective July 12, 1974.

Sec. 610. Chapter 159 of title 10, United States Code, is amended by adding at the end thereof the following new section and a corresponding item in the analysis:

"§ 2685. Adjustment of or surcharge on selling prices in commissary stores to provide funds for construction and improvement of commissary store facilities

"(a) Notwithstanding any other law the Secretary of a military department, under regulations established by him and approved by the Secretary of Defense may, for the purposes of this section, provide for an adjustment of, or surcharge on, sales prices of goods and services sold in commissary store facilities.

"(b) The Secretary of a military department, under regulations established by him and approved by the Secretary of Defense, may use the proceeds from the adjustments or surcharges authorized by subsection (a) to acquire, construct, convert, expand, install, or otherwise improve commissary store facilities at defense installations within the United States and for related environmental evaluation and construction costs including surveys, administration, overhead, planning, and design.".

Sec. 611. (a) Notwithstanding the provisions of section 555 or 556 of title 37, United States Code, on and after the date of enactment of this section no change in the status of any member of the uniformed services who is in a missing status may be made unless and until the following two provisions have been complied with:

(1) the President of the United States has determined, and notified the Congress in writing, that all reasonable actions have been taken to account for such members and that all reasonable effort has been made to enforce the provisions of article 8(b) of the Paris Peace Accord of January 27, 1973; and

(2) the Secretary concerned notifies the next-of-kin of such person in writing of the proposed change in status, and the next-of-kin of such person has not filed with the Secretary concerned, within sixty days after receipt of notification of the proposed change in status, an objection to such proposed change.

(b) As used in subsection (a) of this section, the terms "uniformed services," "missing status," and "Secretary concerned" shall have the same meaning ascribed to such terms in chapter 10 of title 37, United States Code.

Sec. 612. None of the funds authorized to be appropriated by this Act with respect to any construction project at Diego Garcia may be obligated unless and until—

(1) the President has (A) advised the Congress in writing that all military and foreign policy implications regarding the need for United States facilities at Diego Garcia have been evaluated by him; and (B) certified to

the Congress in writing that the construction of any such project is essential to the national interest of the United States; and

(2) such certification as required by clause (1)(B) of this section is submitted to the Congress and approved by joint resolution of both Houses.

SEC. 613. (a) The Secretary of the Army is authorized to convey, without monetary consideration, to the Ozark Public Building Authority, an agency of the city of Ozark, Alabama, all right, title, and interest of the United States in and to the land described in subsection (b) for use as a permanent site for the museum referred to in subsection (c), and subject to the conditions described therein.

(b) The land authorized to be conveyed to the Ozark Public Building Authority as provided in subsection (a) is described as follows: All that tract or parcel of land lying and being in sections 13 and 24, range 23 east, township 5 north, Saint Stephens Meridian, Dale County, Alabama, more particularly described as follows:

Beginning at a point which is 216.0 feet north 89 degrees 57 minutes west of the northeast corner of the southwest quarter of the northeast quarter of said section 24, on the western right-of-way line of Alabama State Highway Numbered 249, and on the boundary of a tract of land owned by the United States of America at Fort Rucker Military Reservation;

thence north 25 degrees 07 minutes east along the western right-of-way line of said highway, which is along the boundary of said United States tract, 1,395 feet;

thence north 64 degrees 53 minutes west 700 feet;

thence south 25 degrees 07 minutes west 2,800 feet;

thence south 64 degrees 53 minutes east 700 feet, more or less, to a point which is on the western right-of-way line of said highway and on the boundary of said United States tract;

thence north 25 degrees 07 minutes east along the western right-of-way line of said highway, which is along the boundary of said United States tract, 1,405 feet, more or less, to the point of beginning, containing 45.00 acres, more or less.

(c) The conveyance provided for by the subsection (a) shall be subject to the condition that the real property so conveyed shall be used as a permanent site for a museum to display suitable public exhibits of the United States Army aviation equipment and allied subjects and aviation-oriented exhibits of other United States Government departments, agencies, and instrumentalities, and of foreign origin, and if such property is not used for such purpose, all right, title, and interest in and to such real property shall revert to the United States, which shall have the right of immediate entry thereon, and to such other conditions as the Secretary of the Army may prescribe to protect the interest of the United States.

SEC. 614. Titles I, II, III, IV, V, and VI of this Act may be cited as the "Military Construction Authorization Act, 1975".

TITLE VII

RESERVE FORCES FACILITIES

SEC. 707. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed—

(1) For the Department of the Army:

(a) Army National Guard of the United States, $53,800,000.

(b) Army Reserve, $38,600,000.

(2) For the Department of the Navy: Naval and Marine Corps Reserves, $18,532,000.

(3) For the Department of the Air Force:

(a) Air National Guard of the United States, $33,000,000.

(b) Air Force Reserve, $14,000,000.

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land, and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

SEC. 703. Chapter 133, title 10, United States Code, as amended, is further amended by striking out the figure "$50,000" in paragraph (1) of section 2233a, Limitation, and inserting the figure "$100,000" in place thereof.

SEC. 704. This title may be cited as the "Reserve Force Facilities Authorization Act, 1975."

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMINGTON. Mr. President, the bill before the Senate today provides construction and other related authority for the military departments and defense agencies within and outside the United States, including authority for all costs of military family housing and the construction of facilities for the Reserve components.

The total new authority granted by the bill is $3,027,925,060. In addition thereto, approval is granted for an increase in prior years authority of $51,726,000 for a total authority of approximately $3,080 million.

After careful consideration of some 601 individual construction projects at 263 major installations within the United States and overseas the committee approved an amount totaling approximately $226,668,000 below the budget request. This is a decrease of about 8 percent in new authority.

Considering the composition of the bill, the committee considers this to be a substantial reduction, but is of the opinion the amount granted is fully adequate to provide for the construction needs of the Department of Defense during fiscal year 1975.

Again, this year, the Department placed emphasis on providing new and upgrading existing personnel facilities which they consider highly important in achieving an all-volunteer force. For example, $392 million was requested for bachelor housing. It would provide 23,400 new spaces and the upgrading of many existing spaces; $210 million was designated for upgrading existing and providing for some new medical facilities. This included a first increment of $15 million for the Uniformed Services University of Health Sciences, to be located near the National Naval Medical Center at Bethesda, Md. An additional $15 million is included for the beginning of the reconstruction of this renowned medical center, which is long past due.

Substantial sums are also provided in the bill for construction for the Reserve components, NATO infrastructure, pollution abatement, and the Trident submarine support site at Bangor, Wash.

Now, Mr. President, I wish to call particular attention to certain matters that we believe to be of special interest.

First is the question of commissaries. The interested committees of Congress have long felt that some provision should be made to provide for the construction and maintenance of these facilities out of nonappropriated funds. Commissaries enjoy numerous advantages which allow them to reduce costs well below those of commercial counterparts. Furthermore, the patrons of commissaries pay no local sales taxes for the most part which further increases their benefits. At the insistence of Congress the Department has made a study of the matter and estimates that a small increase of 1 to 2 percent in the surcharge rate will be ample to provide for commissary needs.

With the increase in military salaries and other benefits the committee believes the time is at hand when the commissary system should become self-sustaining. Accordingly, section 610 has been included in the bill to authorize the service secretaries to adjust the surcharge rate accordingly. Three commissaries, at a cost of about $10 million, were deleted from the bill.

Now I should like to discuss briefly the military family housing program. Considerable emphasis has been given during the past several years to providing needed on-base housing for those eligible for the assignment of such quarters. The Congress has annually approved substantial increments of new construction to eliminate the existing deficit. I am pleased to state that the Department has now turned the corner and the deficit is at a manageable level for those in grade E–4 and above who have heretofore been considered eligible for housing. The programable deficit, prior to any new authority granted in this bill, was about 12,000 units.

Of the 10,462 units comprising the Department request for new construction in fiscal year 1975, 3,000 units are for junior enlisted personnel in grades E–1 through E–3, and E–4's with less than 2 years experience who have not heretofore been considered eligible for housing.

The committee is not in full accord with this program to construct housing units for use by these one-tour young married couples. Accordingly the committee reduced the number of such units to 1,458 distributed among installations the Department deems to have the highest priority. However, in approving a reduced effort in this regard the committee will expect the Department of Defense to clearly state its policy on assignment, that these units, or any others that might be available, will not be made available to junior enlisted personnel who are not career oriented and have not committed themselves to an active duty career of at least 3 years. Overall, the committee reduced the requested authority for the family housing program by about $98.9 million.

Now, finally, I want to discuss briefly the Navy's proposal to provide a support facility for a carrier task force on the island of Diego Garcia in the Indian Ocean.

Let me review the situation briefly.

For a number of years the Navy has been anxious to establish a support facility in the Indian Ocean—more particularly on the British-owned island of Diego Garcia.

In fiscal year 1970 the proposal was made to the Congress for authority and funding for the first increment for such a facility on Diego Garcia. It was to be a communications station and a support facility for a carrier task force.

This proposal was denied by the Congress. The following year the Navy came in with a greatly reduced program to provide only an austere communications facility, which was approved by the Congress, and through fiscal year 1973 $20,450,000 in military construction funds has been approved for this purpose. Construction work has been performed by the Seabees.

The last funding was in fiscal year 1973 when $6.1 million was granted for dredging an entrance channel and a small turning basin for supply ships within the lagoon.

In the fiscal year 1974 supplemental authorization bill the Navy attempted to pursue their original idea further and requested $29 million to expand the communications facility into a support facility for a carrier task force of six ships. This would require further dredging of the lagoon, the building of a general purpose and petroleum pier, additional POL storage, additional personnel facilities, and extending the runway from 8,000 to 12,000 feet. They would expect to request another $5 million in a subsequent year.

Logistically, Diego Garcia would serve as an outpost support facility where ships could perform limited inport upkeep, take on fuel and receive critical supplies by military airlift. In addition to the Navy construction, the Air Force included in its fiscal year 1975 budget request $3.3 million for additional airlift improvements and storage space for petroleum products and munitions. The Air Force requirements are contingency related; no permanent Air Force presence is planned on Diego Garcia.

The 1972 agreement between the United States and the United Kingdom specifically authorizes a limited communications station on Diego Garcia. Technical level negotiations for a new agreement between the United States and the United Kingdom relating to expanded use of Diego Garcia by the United States were held in London February 25–28, 1974, resulting in agreed ad referendum texts of an exchange of notes that would supersede the Diego Garcia agreement of 1972. However, shortly after the ad referendum agreement was reached the Labor Party formed a new government in the United Kingdom. As of this date the new government has not made a ministerial-level decision on the agreement.

The defense and foreign policy implications of the construction projects at Diego Garcia are, of course, broader than the $32.2 million request would suggest. It is true that the construction of support facilities at Diego Garcia does not necessarily mean an expanded U.S. military presence in the Indian Ocean. But by increasing logistic flexibility and capability, expansion of the Diego Garcia base is a distinct step in facilitating U.S. operations in the Indian Ocean, and thus is directly related to the broader policy questions associated with a U.S. military presence in the Indian Ocean.

It has been suggested that the Soviet presence in the Indian Ocean area will increase with the opening of the Suez Canal. This, of course, is conjecture and remains to be seen. The date of the reopening of the canal is of course not known, but clearance operations will be completed by January of the coming year.

After careful consideration of the many factors involved and thorough debate, the committee approved $14,802,000 as a first increment of the Navy's requirements, and the $3.3 million requested by the Air Force.

At the same time, the committee included section 612 in the bill to preclude the obligation of any of these funds until the President of the United States has advised the Congress in writing that he has evaluated all military and foreign policy implications regarding the need for these facilities, and has certified that this construction is essential to the national interest. However, such certification must be submitted to the Congress and approved by both Houses of the Congress. Thus, Congress will have an opportunity to focus on the expansion at Diego Garcia as a policy matter and in the light of the most recent circumstances.

Mr. President, this concludes my statement.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMINGTON. Mr. President, I yield to the able and distinguished senior Senator from South Carolina.

Mr. THURMOND. I thank the distinguished senior Senator from Missouri.

Mr. President, I rise in support of H.R. 16136, the fiscal year 1975 military construction authorization bill, as reported from the Senate Committee on Armed Services. This bill provides authorization for $3.079 billion for construction of facilities for active and Reserve military services.

This authorization includes work to be performed at 263 major bases and also 661 separate construction projects. The total amount approved is $226 million less than that requested by the Department of Defense.

Mr. President, one of the key items in the bill concerns Diego Garcia, a tiny island in the Indian Ocean, on which the Navy wishes to expand its support facilities.

The Navy originally requested $29 million in the fiscal year 1974 supplemental bill to expand the Diego Garcia base. This request was approved by the House but our committee rejected it, feeling a matter of such importance should be more fully considered during the regular authorization process.

As a result, the Diego Garcia request became a part of the military construction authorization for fiscal year 1975.

Once again the House approved the full amount but in the pending bill the Senate Armed Services Committee has reduced the request for $29 to $14.8 million for the Navy and $3.3 million for the Air Force. This sum of $18.1 million represents only a portion of the requirements to increase the support facilities at Diego Garcia.

In recommending authorization for the $18.1 million, the Senate Armed Services Committee has taken the unusual step of making these expenditures contingent upon subsequent action by the President of the United States, with the approval of the Congress. This has been done by precluding the obligation of the funds authorized until the President has advised Congress, in writing, that these projects are essential to the national interest. Further, the committee has provided that such certification by the President to the Congress must be approved by both Houses. This step will assure the opportunity for full debate on the expansion at Diego Garcia, as a foreign policy and defense matter.

Mr. President, the funds authorized in this bill for Diego Garcia represents a compromise position by the committee. While the Navy requested $29 million, the committee has approved this lesser sum of $18.1 million in order to avoid the impression of an escalation in the naval balance of power in the Indian Ocean. The committee is, in effect, merely providing for greater capability at Diego Garcia in the event the continued Soviet presence in that area requires greater U.S. naval activity there.

The Senate may recall that last year during the Arab-Israeli war and the accompanying oil crisis the President felt it necessary to place a small task force in the Indian Ocean. Because of our lack of facilities there, these forces had to be supplied by a logistic tail going all the way to Subic Bay in the Philippines.

In recent years the Soviets have been expanding their naval presence in the Indian Ocean. While we have limited support capabilities in this area, the Soviets have been active in a number of countries surrounding the Indian Ocean and they have naval facilities in Somali, Iraq, and southern Yeman.

Although Diego Garcia would not be a naval base as such, it would provide a means to support U.S. naval forces should it become necessary that they be deployed in the Indian Ocean at some future time.

Mr. President, I fully support the Navy's request and I believe that the compromise position taken by the

Senate Armed Services Committee by an almost unanimous vote will meet most of the objections heretofore raised about this facility. In any event, the Senate will have an opportunity to debate this issue if President Ford decides to go forward and meet the requirements laid down by the committee.

Mr. President, in closing, let me say that this is an important bill and deserves careful consideration by this body. The Military Construction Subcommittee, chaired by the distinguished senior Senator from Missouri (Mr. SYMINGTON), conducted extensive hearings on all elements of this bill. He was particularly thorough in placing on the public record as many facts as possible reference the Diego Garcia facility. In this committee effort, he was ably assisted by the distinguished senior Senator from Texas (Mr. TOWER), who is the ranking minority member of the Military Construction Subcommittee and who contributed so greatly to its work.

Also, I think we should recognize our able staff. Mr. Gordon Nease, majority counsel for the subcommittee, and his competent secretary, Ms. Joyce Topham-Campbell, have worked hard in bringing this bill in a proper form to the floor.

Mr. President, this is an excellent bill and while I would have preferred a more aggressive plan to meet the needs at Diego Garcia, I believe the proposal in this bill is a fair solution. Therefore, I would urge the Senate to give this legislation prompt attention and approval.

Mr. SYMINGTON. Mr. President, I yield to the able and distinguished senior Senator from Texas, who is the ranking member of the Subcommittee on Military Construction.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. I thank the distinguished Senator from Missouri (Mr. SYMINGTON).

Mr. President, this bill authorizes the appropriation of $3.1 billion for the construction of military facilities, a reduction of $200 million, in rough figures, from the administration request. It also authorizes 7,120 new units of family housing. There are obviously quite a few projects in the bill but I would like to highlight just a few.

Of considerable concern to us all is the progress being made on the all-volunteer force. This is going to be an expensive proposition, but I think most of us realized when we embarked on this course that this would happen. The administration requested $392 million for the addition and upgrading of about 23,400 spaces in the bachelor housing program. The budget request also contained $210 million for the improvement and addition of medical facilities. In most instances these projects were approved.

Beyond our immediate efforts to improve the medical care being received by our servicemen, the committee included $15 million for the construction at the new Uniformed Services University of the Health Sciences. Current plans are to utilize existing facilities for the university; however, this will seriously fragment the student and instructor population because of the spread-out nature of the existing facilities. Clearly, in order to have adequate space, the proper teaching facilities, and a cohesive student body, new construction must be authorized. This is the first step in that program.

In addition to the above items which should have an impact on retention of servicemen, the bill contains 7,120 new units of family housing, a reduction of 3,342 units from the administration request, and several other projects relating to recreation.

The committee does, however, feel that the Department of Defense should investigate the possibility of constructing future commissaries from nonappropriated funds. It is my understanding that the Department is sympathetic to this approach, for it would take only a small surcharge in the amount of 1 to 2 percent. Since this is considerably smaller than most local taxes, which are not paid by commissary customers, this should not prove to be a burden.

Of other interest to my colleagues is the provision of $14,802,000 to the Navy as the first increment for construction of expanded support facilities at Diego Garcia. This is a reduction to about half the original request. In addition, language was included making obligation of these funds contingent upon written notification of Congress by the President that this construction is essential to the national interest. Clearly, President Ford should have the opportunity to study this matter, but I believe from my review of the problem that such an expansion is well justified.

Some might argue that increasing American involvement in the Indian Ocean will only increase the tempo of Soviet activities in the area. But, the Soviets continue to increase their ship days anyway. Shall we sit by and do nothing? Shall we not even have the capability to respond to events in the area? Some have remarked that South Asia should remain free of the specter of nuclear arms. But, the testing of a nuclear device by India recently should have removed all doubt about whether nonuclear status of the area would continue.

A final project of considerable interest is the authorization of $62 million as the first increment of an airbase hardening program in Europe. On a recent trip to Europe it was made clear to me that this is an absolutely vital construction program. With the Soviet advantage in fighter aircraft in Europe—and I speak only in terms of numbers, not in terms of quality—it becomes even more essential that we protect those aircraft we have, from surprise attack. The Mideast wars provide a clear example of what can happen to aircraft caught unprotected on the ground.

Mr. President, I should like finally to extend my thanks to the chairman of our subcommittee, Mr. SYMINGTON, for the fine job he has done in getting out what I believe to be a reasonable bill. His statesmanship in the conduct of hearings and particularly the markup on the bill is deeply appreciated.

Mr. SYMINGTON. Mr. President, I appreciate the remarks of the able senior Senator from Texas. As always, it is a privilege to work with him and for him on problems of our national security.

Would the Senator like to bring up his amendment at this time?

Mr. TOWER. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The amendment is as follows:

On page 73, insert between lines 19 and 20 the following:

Under the heading "Outside the United States" with respect to "Naval Air Facility, Sigonella, Sicily, Italy," strike out "$8,932,000" and insert in place thereof "$12,632,000".

On page 73, line 21, after "$477,664,000" add ", $41,217,000" and in line 23, strike out "$526,781,000" and insert in place thereof "$44,917,000, and $530,481,000".

Mr. TOWER. Mr. President, I shall not detain the Senate on this matter.

I am offering an amendment today to title II, of H.R. 16136, the military construction authorization bill. The amendment would add $3.7 million to the Naval Air Facility, Sigonella, Sicily. This is in reality an amendment to the fiscal year 1973 Military Construction Authorization Act, Public Law 92–545. I recognize that it is unusual for a member of the committee that reported the act to be seeking an amendment to the act, but this is an unusual case. I learned of the need for this amendment on my trip to Europe over the Labor Day recess.

At the outset, I wish to emphasize that these fiscal year 1973 construction projects form the keystone of the Navy's program to upgrade the Sigonella base so that vital logistic support operations can be carried out in support of our Sixth Fleet. Sigonella is strategically located in the central Mediterranean—its upgrade is essential in view of the trends in recent years to a predominance of Sixth Fleet operations in the central and eastern Mediterranean. The installation at Sigonella will have the capability to rapidly airlift supplies and personnel to Sixth Fleet task forces. In addition, our ASW patrol aircraft will receive support for their vital missions over the wide expanse of the Mediterranean.

Fifteen projects at Sigonella were authorized for a total amount of $8,932,000 in the fiscal year 1973 Military Construction Authorization Act. Three of these projects in the amount of $684,000 are being built by Seabees and there will be no problem with their completion. One fixed priced contract for a tactical support center in the amount of $121,000 has already been completed. Of the remaining 11 projects, one was awarded by a fixed priced contract, and the other 10 were awarded to two contractors with cost escalation provisions. The inflation in Italy has been enormous—to the point that it is increasing by as much as 6 percent in a month. One course open to the

Navy and the Army Corps of Engineers, the Contracting Agency, was to terminate 8 to 10 projects in order to recoup sufficient funds to complete 1 or 2 high priority projects, and then to seek funding of the remaining projects at a significantly escalated cost in the fiscal year 1976 request.

However, there are problems with this course of action beyond those of just delaying some construction by a year. The contracts have been proceeding from 4 to 10 months and are at various stages of completion and with many items of equipment in various stages of fabrication in plants throughout Italy. It is a very undesirable situation to leave these projects in a partial state of completion on an Italian military base for a year until an amendment can be included in the fiscal year 1976 Military Construction Authorization Act.

Further should the contracts be terminated and restarted, the cost is expected to be increased by another $5 million over the amount in my amendment.

Therefore, because of the urgency of the projects and the increased cost should we delay them, I believe it is in our best interests to amend the fiscal year 1973 Military Construction Act this year. I urge my colleagues to join me in supporting this amendment.

Mr. SYMINGTON. Mr. President, as chairman of the Subcommittee on Military Construction, I have discussed this with the chairman of the full committee, and we shall be glad to accept the proposed amendment of the distinguished Senator from Texas and take it into conference.

Mr. TOWER. I thank the able and distinguished Senator from Missouri.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STENNIS. Will the Senator yield to me?

Mr. SYMINGTON. I am glad to yield to the distinguished chairman of the committee.

Mr. STENNIS. I have a more complete statement on the bill as a whole, focusing on one particular item, that I should like to use later. For the time being, I want especially to thank the Senator from Missouri (Mr. SYMINGTON) for the long, hard hours, days, and weeks of work that he did on this bill, and also to thank the Senator from Texas (Mr. TOWER) for the work that he did on it as the ranking minority member.

This is a working subcommittee, and I am sure that someone will mention or has mentioned already the very valuable services, to the full committee and this subcommittee of our staff member, Gordon Nease, a long-time, highly valued member of our staff. He happens to be ill right now, a situation which is temporary, but I should not like to let any chance pass without complimenting him on his fine work.

Mr. SYMINGTON. Will the Senator yield?

Mr. STENNIS. Yes, I yield to the Senator from Missouri.

I was not taking his sentiments away from him, but I did not know if I would get another chance.

Mr. SYMINGTON. I deeply appreciate the kind remarks made by the able and distinguished chairman of the full committee. I associate myself with the remarks he has made. I have already done so with those of the senior Senator from Texas, but I should like now to express my regret at the illness of Mr. Nease, who has been the authority in this field for many years. I, therefore, associate myself with the remarks of the able and distinguished Senator from Mississippi.

Mr. TOWER. Will the Senator yield?

Mr. STENNIS. Yes, I am glad to yield.

Mr. TOWER. Again, I should like to extend my thanks to the distinguished Senator from Mississippi for his kind remarks about me, and certainly about Gordon Nease. We certainly miss Mr. Nease's presence today. He has been helpful throughout the years, and we wish him a speedy recovery.

Mr. STENNIS. I thank the distinguished Senator. These are not pro forma remarks which I made about my two colleagues and about Mr. Nease. We believe he will be back soon.

Mr. President, I support this bill. I have been through it. We had it up before the full committee and had a real discussion of the major parts of it. I am glad that I can and I do actively support the entire bill.

Let me say just one word about the item concerning Diego Garcia. This concerns a naval installation represented by provisions in the bill for piers, storage facilities, and related facilities.

I support that item, Mr. President, on the basis of our Nation's need and not on the basis of being anti-Soviet Russia or anything of that kind. I was convinced, not by the Navy nor by anyone else, but just by the commonsense and logic of it, that we ought to do something about this naval fueling and docking facility, with places to use as piers.

We do have a policy question involved. So the bill provides that the money is authorized, but shall not be spent until relations are more formally established with Great Britain under terms that we approve of. I shall have something further to say about that part of the bill, especially should it come under attack.

I thank the Senator for yielding to me. He wants to get to these amendments, I know, and I think he is right about it. So I thank the Senator for yielding.

Mr. SYMINGTON. I thank my able chairman. Mr. President, I suggest the absence of the quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMINGTON. Mr. President, I yield to the distinguished Senator from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY. Mr. President, I send an amendment to the desk on behalf of myself, the distinguished Senator from Maine (Mr. HATHAWAY), and other Senators, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. KENNEDY. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY's amendment is as follows:

On page 113, between lines 10 and 11, insert a new section as follows:

SEC. 614. (a) Notwithstanding any other provision of law, any funds made available pursuant to this or any other Act for the construction or maintenance of facilities at the service academy of any military department may be expended by the Secretary of the military department concerned for the construction and maintenance of such facilities as may be necessary or appropriate to provide for the admission of females as cadets or midshipmen (midshipwomen), as appropriate, at such academy.

(b) As used in subsection (a), the term "service academy of any military department" means (1) the United States Military Academy in the case of the Army, (2) the United States Naval Academy in the case of the Navy, and (3) the United States Air Force Academy in the case of the Air Force.

On page 113, line 11, strike out "SEC. 614" and insert in lieu thereof "SEC. 615".

Mr. KENNEDY. Mr. President, this amendment tracks very closely an amendment offered by the distinguished Senator from Maine (Mr. HATHAWAY) and accepted by the Senate earlier this year. Of course, it has some important revisions in it, but it is an amendment which I think is justified and entirely appropriate for this particular legislation.

After it was accepted by the Senate earlier in the year, it was dropped in conference, because the House conferees did not feel at that time that it was relevant to the particular measure to which it was attached.

The amendment would permit the use of funds which are authorized for the various service academies in a way which would be consistent with establishing a policy permitting women to attend the service academies. Therefore, it is an entirely relevant amendment to the military construction program, which is concerned with authorizing and eventually appropriating money that will be used for military construction.

Mr. President, we know that women today are enrolled in a number of ROTC programs. That is so because the military forces recognize the importance of having women in the ROTC. Therefore, they take training which is similar and comparable to the training that young men take in being trained as officers. They also take such training in the OCS. They are also involved in taking courses in the service War College, which are the most important educational institutions within the Military Establishment; and there seems to be no real or convincing reason why women should not also be permitted to be enrolled in the service academies.

One point that has been raised over a period of time is, how can we expect to enroll women in the service academies when the service academies are to train people for combat forces?

The Armed Services Committee has recognized, through compilation of figures, that actually only a relatively small number of military officer positions are combat related. It varies in the different services from approximately 15 percent in the Army who are actually involved in combat-related training to approximately 30 or 35 percent in the other services, the Navy and the Air Force. There are a variety of different specialties at the service academies that women could be superbly trained and equipped for. This would also free men to serve in the combat area, particularly considering the shortfall in the combat arms area we have seen over a period of recent months. Women could be very well suited for such other responsibilities.

I am hopeful that the amendment will be accepted by the managers of the bill and taken to conference. It seems to me that during the period of recent years, we have been attempting to establish the basic and fundamental rights of women in our society. I think there are many who can play a vital role in the defense of this country and in the military forces of this Nation. This amendment would provide them the kind of excellence in training at the service academies which is being provided to the young men of this country, and I think our whole defense posture and establishment would be basically better served if that were the case.

This amendment does not mandate the admission of females to the academies. However, it does put the Department of Defense on notice that the Congress expects the Department of Defense to use its authority to make that decision. It does point out to the Department of Defense that the Congress would look favorably upon such a decision. And, most importantly, it does facilitate such a decision by authorizing the construction of whatever facilities may be necessary at the respective academies, in the view of the Services, in order to prepare for the admission of women.

Mr. President, last December the Senate passed the Hathaway amendment to the military pay bonus bill, an amendment which mandated the admission of women to the Service academies. That amendment was objected to by the House on two grounds: First, it was nongermane to the bill it was attached to; second, similar legislation in the House would receive prompt hearings.

There are in fact some six bills in the House related to the admission of women in the Service academies. However, hearings have not yet been concluded on them, nor will they apparently be concluded before an appeal has been heard in the U.S. District Court of Appeals concerning a suit that has been filed to allow two women into the Air Force and Naval academies. That appeal hearing could take several months.

In the meantime, wide bipartisan support has arisen in both the Senate and the House in favor of the admission of women to the Service academies. Some 25 Senators have publicly supported this, including the majority and minority leaders, and the chairman and ranking minority member of the Armed Services Committee.

The Department of Defense has recognized that the power to appoint is totally discretionary:

> The power to appoint persons to the academies of the Army, Navy and Air Force is a discretionary function of the President alone. Since it is entirely within the discretion of the President to determine who will be appointed to a service academy, women could be appointed by him without the need for any new legislation. None of the statutes relating to any of the three service academies requires a person to be male in order to be eligible for nomination or appointment to the academies. (May 1973 letter from Defense Department to House Armed Services Committee)

The U.S. District Court also held recently that nothing in the admission statutes indicates that males only must be considered.

The primary reason for the nonadmission of women to the Service academies at the present time is that it currently happens to be Department of Defense policy. It is also a tradition which is very reluctant to cede to modern realities.

There are two strings which academy traditionalists are holding on to in the hope of maintaining the all-male policy: First, that two laws prohibiting women from assignment to combat vessels and planes in the Navy and Air Force can somehow continue to be interpreted as also excluding women from the Service academies, since the academies train officers for combat. However, the Defense Department admits that those laws exclude women from only 30 percent of Navy officer positions, from only 38 percent of Air Force officer positions, and from no Army officer positions—since the laws apply only to Air Force and Navy combat positions, although only 15 percent of Army officer positions fall in the combat category. Thus, women Academy graduates could serve in 70 percent of Navy officer positions, 62 percent of Air Force officer positions, and all Army officer positions without any change whatsoever in current law.

The second hope of academy traditionalists is that the Congress may get so bottled up in its deliberative legislative processes that it may not be able to soon pass a law which will require the Services to admit women to the academies.

Mr. President, this amendment does not require the Department of Defense to admit women to our Nation's service academies. But it does provide the full authority to do so and it does strongly urge Department of Defense to change its policy.

For the Department of Defense has already done much to provide equal opportunities for American men and women in the services. The Air Force opened its Reserve Officers Training Corps program to women in 1968, and the Army and Navy did likewise in 1973. Since initiation of the Volunteer Army last year, the Defense Department has undertaken to bring more women into the services, in a concerted effort to improve the quality, numbers, and representativeness of the Volunteer Army. Experimental programs were begun this summer, and will be greatly expanded next year, to have men and women undergoing joint basic training. Of 430 job classifications in the Army, 400 are now open to women. Women are now being assigned to command mixed units, and women are making outstanding contributions as pilots, chaplains, technicians, mechanics, deck hands, truck drivers, and drill sergeants.

Yet, much more can be done so that our Nation can better benefit from the dedication and talent of qualified and willing women who wish to serve in our Armed Forces. A very small percentage of our Armed Forces are women, and only about 4 percent of officers are women. Women officers should not only be trained in ROTC, which provides a greater percentage of military officers than the academies, but also in the specialized academy environments which will give them superior job and career advancement opportunities. Service statistics show that academy graduates, as opposed to OCS and ROTC graduates, rise higher in the rank and pay scales.

If women officers attend all of the service war colleges, the highest level of service education, preparing officers for general and admiral rank, there is no legitimate reason why they cannot begin their careers at the military academies.

The situation becomes all the more regrettable when one recalls that a recent bill was passed in Congress allowing a Laotian general's son to attend West Point, along with other foreigners at all the academies, while American women are refused attendance. In the case of these foreigners, American taxpayers' money is being spent to train people who will not even serve in the American military, whether in a combat status or not.

Mr. President, it is time that Congress and the Department of Defense cooperated in doing the right thing for American women and our Armed Forces. After all, American women have as vital an interest in our national defense as American men do.

The military academies should be open to qualified women candidates. This can be done by a change in Department of Defense policy. The Merchant Marine Academy, under the Secretary of Commerce, has already set a precedent in receiving women applicants. This amendment will emphasize congressional intent in encouraging the Department of Defense to do likewise.

I hope my colleagues will support this modest but important amendment.

I ask unanimous consent that the following related items be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Norfolk Virginia-Pilot, July 23, 1974]

THE LADY IS A MIDSHIPMAN

It isn't attracting much notice, but the armed forces are fighting a bitter rear-guard action to keep women out of the service academies.

There are bills before Congress to authorize the admission of the women to the U.S. Military Academy at West Point, the Naval Academy at Annapolis, and the Air Force Academy at Colorado Springs, and a change in the men only policies of the services is just a matter of time. (The U.S. Merchant Marine Academy has dropped its prohibition of women.)

The military could have opened the academies to women "at any time in the last 10 years or any time this year, but they have never done it and will not do it," says Representative Otis G. Pike (D-N.Y.), a member of the House Armed Services Committee.

Since thousands of women are serving in the military, since the Air Force opened its Reserve Officers Training Corps program to women in 1968 and the Army and Navy did likewise in 1973, and since the Defense Department has undertaken "a concerted effort to bring more women into the services" (as its general counsel testified last month to the Military Personnel Subcommittee), it is impossible to justify the exclusion of women from the academies on any grounds other than tradition. (And even such traditionalists as Senators John Stennis and Strom Thurmond are among the cosponsors of measures to open the academies to women.)

The argument that the brass makes for keeping women out is that the academies are meant to train combat leaders and women are barred from combat by law. "The issue is not whether women should become cadets at West Point; the basic question is whether Americans are prepared to commit their daughters to combat," General Frederick C. Weyand, Army Vice Chief of Staff, testified on June 19. "I am not prepared to do that. And I believe that is the sentiment of the majority of Americans."

That is the sort of talk that causes people to say war is too important to be left to generals. No one proposes to send women into the trenches. But the United States is not at war and there are important noncombatant roles for women even in wartime. That much is obvious from the part women have taken in past wars. And, as Senator Marlow Cook (R-Ky.) observed when the question was debated earlier in the Senate, "combat today may be a lady sitting at a computer at a missile site in North Dakota."

There is no good reason why women ought not to be admitted to the service academies, which is not to say that Annapolis is suddenly to become a finishing school. The midshipmen and cadets would adjust to the change a lot more quickly than the old salts and old soldiers. The military ought to accede gracefully to the inevitable.

[From the Louisville (Ky.) Courier-Journal, July 23, 1974]

Army Training Program for Women Is Checked

(By John Filiatreau)

Ft. Knox, Ky.—Alongside more than 1,600 men taking ROTC basic training at Ft. Knox this summer are two WAC career officers.

The Women's Army Corps members, Maj. Nancy E. Bird, 33, and Capt. Marla J. Stripling, 31, hold desk jobs in the 2nd Region headquarters of the Army's Reserve Officer Training Corps (ROTC) at Ft. Knox. But at various times they're also marching with the men, throwing hand grenades, doing calisthenics and trying most other basic training staples.

How well they fare, and what they recommend when the training is over, will help determine what training is given next summer to the first women ROTC cadets attending boot camp with men at Ft. Knox.

The presence of Major Bird and Captain Stripling is a mark of the changing role of women in the U.S. Army—a role that is shifting from their traditional clerical and support function in the direction of a possible combat role.

Unlike many other nations, the U.S. is not well disposed toward the idea of women in combat. At the moment, the law says women may not be employed as fighting soldiers.

However, many Viet Cong guerrilla fighters were women, and American veterans will attest to the fact that they fought well. A recent Miss World titleholder served in the Israeli Army as a tank driver.

Women outside the military are objecting to the roles they've been forced to play in such male-dominated areas as business and politics. Few organizations have been as male-dominated as the military, and now the WACs have begun sending up smoke signals, too.

They say the new all-volunteer military is in need of qualified people and cannot afford to lose capable women by clinging to cherished stereotypes. As one WAC officer recently said, "They need the labor force . . . There's been a general awakening." Talented women just don't want to be Army career secretaries.

Major Bird, a 13-year Army veteran and Captain Stripling, who has nine years' service, may be the first women to take the U.S. Army's basic combat training with a group of men.

Women have been members of college ROTC units for several years, but the estimated 300 to 400 coming next year for boot camp along with thousands of men will be a new experience for the Army and for Ft. Knox.

"This is a far more strenuous course than ours would be," Major Bird said recently of the training which she and Captain Stripling are taking at times of their own arranging.

"It's weighted in the direction of endurance . . . and the hardest parts of the training are those that have to do with actual strength, in the arms and shoulders, like the horizontal bar exercise. The bars were made for a guy's hands, they were just too big . . .

"The biggest problem was simply being out of shape. And there are problems having to do with our physical stature. We're built differently, in the pelvic area and the bust, and that makes a difference in some of these physical exercises. And there are a couple of exercises that were actually easier for me."

Major Bird, a native of Rochester, N.Y., is more concerned about what women ought to do than what they can do.

"There's a fine line between what you can do and what you should do," she said. "For example, the grenade assault course looks like a lot of fun to me. I want to do it because it's fun and it's a challenge, but this kind of training is expensive and women are still prohibited by law from taking part in combat. There is a cost factor. So the parts of training directly related to combat are still a question mark . . . This training is still up for grabs."

Major Bird does see some value in training women in combat tactics.

"It does help you to understand what the military is all about," she said. "I think it might make a woman have a little more interest in the piece of paper she's processing . . . There's no way you can lose. Even if you stayed just 24 hours you'd learn something."

According to Capt. Charles Crowley, under whose supervision the women have been training they're getting "no particular special attention . . . We do talk to the WACs every day, and this has been an educational process for us . . . The cadets have a positive attitude about it. They've more or less left them alone."

Major Bird's most firm conviction is that the women ought to train together with the men, "with some modifications of the training process."

Captain Stripling, a native of Fort Valley, Ga., and an instructor at Eastern Kentucky University, feels differently about the matter.

"If you have the women training with the men, you're going to have them competing with the men," she said. "And I think some of the women would surpass the men, and that would be a demoralizing factor . . . I don't think they should train together.

"I think we need to develop a training program that takes in the best parts of both sides of the house . . . After all, basic training isn't all there is, combat isn't all there is. We've been training volunteers (in the WAC) for 30 years for supportive roles, and women are still not going into combat arms. Yet everything here is geared to the combat role . . . I don't even think this training here applies."

Captain Stripling, whose father was a 30-year Army career man, thinks the presence of women in training camps can have a beneficial effect.

"I think when women get on the job there won't be all this role playing," she said. "There's a real difference in the way a man approaches training women. In a training mission there just can't be any difference."

The WAC branch of the Army is on the move. Since July 1, the Army has been assigning WAC officers to other Army career officer branches. This has led to suggestions that the WAC branch may be merged soon with the Regular Army.

WAC Director Brig. Gen. Mildred C. Bailey, insists the WAC branch is alive and well and will continue to play an important role in WAC officer assignments and military school selection.

She recently said the WAC branch in the officer personnel directorate of the Military Personnel Center in Washington will continue to coordinate WAC assignments with the other officer branches "until we have concrete proof that women are being properly used." She added, "I can assure you the corps will be around for a good long time."

NEW UNIFORMS BEING PLANNED

One of the current questions facing the WAC's is what their new uniforms will look like. Several are now in the testing stage.

A summer pants suit which will be part of the training uniform is undergoing testing now.

General Bailey said she is "sorry to find my women required to wear fatigues unless performing a job that justifies them. Putting a woman into uniform shouldn't rob her of her identity as a woman. I hope commanders will come to realize that it is just as important for a woman to retain her identity as it is for a man."

She added that the Army is making good progress assigning women to instructor and headquarters staffs at male training centers; but she noted that more than half the trainer personnel at the WAC Center at Ft. McClellan, Ala. are men.

[From the Atlanta (Ga.) Constitution, August 25, 1974]

They Wouldn't Have Made It

(By Karen Peterson)

"It's fair to say that they wouldn't have made it without us," says Women's Army Corps Director Mildred Bailey.

The soft-spoken, white-haired WAC brigadier general freely acknowledges that in order to make the "all-volunteer" concept work, the Army has had to dramatically increase its number of female recruits.

In fact, if the WACs hadn't recruited 15,200 new women by June, 1974, the "new" Army itself wouldn't have met its first-year quota. The fledgling volunteer program technically would have flopped.

It has been a year since the draft expired in July, 1973. In spite of dire predictions of falling 20,000 short, the volunteer Army has just made its over-all goal of approximately 781,000. But that's in part because the WACs have steadily increased their recruitment goals to meet the need for more bodies.

"There's no doubt about it. We are helping to make the concept viable," says Gen. Bailey. At the end of 1972, total WAC strength was set at 15,500 women. By 1979, it is slotted to be 50,400. (Current WACs number 24,800 as of April.)

Here's another way to view the numbers game. At the end of 1971, WACs were less than one percent of the total Army's strength. At the end of '73, they were three percent. If things go as they're now projected, by 1979, they'll be six percent of the Army.

In addition, the WACs are getting a better educated recruit than the regular Army. To be a WAC, you have to be a high school graduate, or its equivalent in Army tests. The male Army recruits high school dropouts. It has lowered its standards to meet quotas, and in some months is taking more than 50 percent non-graduates.

Gen. Bailey comments, "Our goal now is to improve the quality of men to meet our WAC standards. If the regular Army could get high school graduates entirely, it would. Our market is different. We CAN get the graduates, and don't feel it would be in our national interest to drop our standards to meet theirs."

There are several reasons why the WACs are more than making their recruitment goals. (In June, they made 106 percent of their quota.) Gen. Bailey says, "Everything is coming together now. We have an increased need for Army personnel at the same time social attitudes are changing. . . .

"When the Women's Army Corps was founded in the World War II era, serving in the Armed Forces was the patriotic thing to do. No one worried whether it was 'feminine'. Then later we saw a complete change in viewpoint, and women withdrew from 'inappropriate' fields. If they didn't, their motivations and morals were suspect."

She continues, "Now we've seen another complete reversal, and women want total participation in public life . . . Now we WACs are seeing 30 years of our hard work pay off. We're getting our share of the advertising and recruiting dollar again. The Army is paying serious attention to recruiting women."

To get young women, the WACs are doing a lot of very practical things, such as offering them money and jobs on a par with men. For example, now 250 MPs are military policewomen, a number expected to double in a year. Says Gen. Bailey, "We've got women welders, plumbers, heavy equipment operators, and the like."

Of 430 job classifications, only 30 are still closed to women, and they are directly related to combat assignments, such as riflemen. Both men and women are being urged to sign up for exotic jobs bringing a $1,500 to $2,500 cash bonus when training is finished. An example is missile repairman—perhaps more properly called a missile repairperson.

Opening jobs to women is one thing. Filling them with women is another. Approximately 81 percent of today's WACs are still in some form of clerical or medical work. Comments Gen. Bailey, "If we're going to have 50,000 WACs in 1979, we've just got to move them out of traditional fields, the ones they already know. We're pushing these other fields fields heavily now."

There are other reasons today's Women's Army Corps is able to attract increasing numbers of women. Court and Congressional decisions have smashed past inequities, so that the women now get more of an equal break with men. Recent Supreme Court decisions prohibited discrimination in housing and medical benefits for the families of female Armed Forces personnel. And pregnant military women are no longer summarily discharged, regardless of whether or not they're married. In 1972 Congress brought a female veteran's educational benefits under the GI bill up to those of a man.

Finally, in 1973 the WACs decided you could be married before enlisting, as well as after. Gen Bailey says, "We're just trying harder now to adjust our regulations to a woman's family needs. Before, they weren't often considered.

But there are other inequities. The Army does not admit women to West Point, saying that doesn't jibe with the academy's primary mission of training combat leaders. And it still doesn't give combat assignments to women—or the $2,500 cash bonus that goes with accepting a combat slot.

[From the Christian Science Monitor, August 27, 1974]

WOMEN IN THE MILITARY: OPPORTUNITIES IMPROVE

(NOTE.—The progress of U.S. women toward true job equality is getting a close look during this National Women's Week, marking the 54th anniversary of the constitutional amendment giving women the right to vote. And nowhere are the paradoxical problems of the working woman clearer than in the military services. Uniformed women, about 3 percent of the armed forces now, have made great strides—and still face a formidable barrier in federal law. Why women join and what awaits them in the service is discussed below; at right, three senior women officers talk about their careers.)

(By John D. Moorhead)

More young U.S. women now are flicking a job-seeking glance at military service.

Perhaps their eyes are caught by the promotional campaigns telling of expanded opportunities for training and travel. Or they may want to pay off some bills when jobs are scarce, as did one woman marine interviewed recently.

In any case, the military services are looking for a few good women. Now that the draft no longer conscripts or pressures young men into the military, the volunteer Army—and the other services—need women so that they will not need so many men.

And they are getting them.

The number of women in the U.S. Army has doubled since 1972 and may double again by 1977. The Air Force has boosted its force of women 20 percent in a year, and the Navy's increase over 1973 is about 40 percent.

JOB SPECIALTIES OPEN

The Coast Guard has begun to enlist women in its regular ranks. Previously they had been confined to the reserves.

Most military job specialties now are open to women, except for duties that would expose them to combat, service spokesmen say.

There are some sticking points, however:

Women at present are barred from some advanced training schools directly related to combat jobs. (Federal law still bars women from combat.)

The possibility of a woman's commanding a mixed unit remains limited, although some women recently have been assigned to minor commands. Partially this is a carryover from the time when women clearly were second-class citizens in the military, officers say, because few women have had the opportunity to build the kinds of experience and diversity of training that would prepare them to hold a major command.

FURTHER LEGISLATION NEEDED

In the past, women in the military have specialized in fields such as personnel or public relations.

Ratification of the equal rights amendment would clear the way for full participation by women in all military duties, although further legislation would still be needed, officers say.

All the services say they are doing much to eliminate old restrictions. As late as 1967, there were statutory limits on the number of women in the armed services, and women could rise no higher than the rank of lieutenant colonel or Navy commander.

Now these curbs are gone. Privileges and benefits generally have been equalized for men and women.

And opportunities for women are opening up. Training is available in electronics, aircraft maintenance, avionics engineering, military police, as well as other fields which previously were male domains. Military women now serve as pilots (on a very limited basis), tugboat technicians, deck hands, truck drivers, and auto mechanics.

The pay equals that of military men: an enlisted woman will make $5,629 yearly when she enters the service but can expect to pull in over $8,000 yearly by the end of her first enlistment.

Officers start at $9,786 and after four years of service and normal promotion will be making around $16,000 yearly. (The figures for both officers and enlisted persons include basic pay, living allowances, and tax advantages.)

The security, amenities, and adventure of military life are quite attractive to many young women, but some discrimination remains.

"There are some lingering thought processes that have to be overcome, with women as well as with men," says Navy Capt. Alice Marshall. "Women have to adjust their own attitudes.

"Some of the men have never worked with women before, and if they tend to think not too highly of women in the military then it is harder," she continues.

RESTRICTIONS CHARGED

Says a spokesperson for the Massachusetts Governor's Commission on the Status of Women. "It is very difficult for women to get truly professional training in the military. For women going into the service as a career, most areas are a closed door."

Married women in the military face special problems. (The Army and Air Force estimate that about 30 percent of their women are married, whereas the Navy says 14.8 percent of its women officers and 12.8 percent of its enlisted women are. A very small percentage of these have children, the services say.)

If both husband and wife are in the armed forces, the military generally makes an effort to assign them to the same duty station. This is easiest if both belong to the same service.

"If you fall in love, try to make it an Army man," Brig. Gen. Mildred C. Bailey, director of the Women's Army Corps, tells her troops.

ON ACTIVE DUTY

"We guarantee that women will not be separated from the family any more than the man," General Bailey says.

Military women who become pregnant may in most cases remain on active duty, as long as their performance is good and remains so, military officers say. This includes unwed mothers.

The Marine Corps, however, reserves the right to discharge military mothers. But even here a woman can remain on active duty if her special petition is approved by Headquarters Marine Corps.

The lot of a woman in uniform is better than it has ever been, most observers agree, but she still does not stand toes-on-the-line equal with the man under arms.

[From the Christian Science Monitor, August 27, 1974]

THREE WHO CAME UP FROM PERSONNEL

A pioneering experience, a daily struggle to prove personal worth, and a deeply satisfying challenge.

This is the picture drawn by three senior women officers in the U.S. military about their careers, spanning a time when servicewomen have moved rapidly toward real equality with their male counterparts.

"During World War II women did anything that would free men for combat roles, but when the war ended, almost overnight a curtain was drawn before us," says Brig. Gen. Mildred C. Bailey, a 32-year Army veteran.

"Women who were willing out of patriotism to come into the armed forces became suspect. We've spent 30 years trying to reverse this," she said in a recent interview.

For Navy Capt. Alice Marshall, who entered the service in 1952, the struggle has not been so visible: "I have always felt my opportunities in the Navy were significantly greater than for most of my college counterparts in civilian occupations."

"You really didn't think in terms of discrimination," says Air Force Col. Billie M. Bobbitt of her 23-year career. "Most of us accepted it as a way of life."

General Bailey, trained as a teacher, came into the Army during World War II and stayed on. Though she has found her work satisfying, she speaks of the "humiliation, the constant proving of oneself, trying to be better than the man."

Most of her career was spent in public relations, she says, although she also did personnel work and served 13 years in intelligence.

General Bailey now is the director of the Women's Army Corps. She is the second WAC officer to reach the rank of brigadier general.

After working in radio and television as a civilian, Captain Marshall received a direct appointment as a Navy ensign in 1952. Her first duty station was as a communications watch officer in San Francisco during the Korean war.

"That was a busy time and I enjoyed it," she recalls.

Most of the rest of her career has been spent in the public relations or personnel fields.

In the late 1950's, she attended the general line officers' school then operated in Monterey, Calif.

"The men helped us with damage control, and we coached them on personnel procedures," she says of the experience.

In the middle 1960's, she served as flag secretary to the U.S. fleet air commander in the Mediterranean. "I also served as inspector general and traveled all over Europe and the Middle East," she says.

She now is head of the services and benefits branch at the Bureau of Naval Personnel in Washington.

In 1951, Colonel Bobbitt received a direct commission in the Air Force based on her civilian experience in education and school counseling.

Her work since has been primarily in personnel. "I've worked for good people and always had challenging jobs," she says.

"I came in at a time when a military career was really not an acceptable alternative for a woman. Now it offers a much more normal life for women," she says.

Two of the more unusual tasks she has been given during her career were the assignment to activate a maintenance and supply group in 1955–56 and a five-year stint as a special agent for the office of special investigations.

[From Time magazine, Aug. 26, 1974]

SKIRTS AND STRIPES

With her short hair, decisive manner, and well-pressed Army greens festooned with ribbons, Colonel Nancy Hopfenspirger, 43, is every inch an officer. As she strides across the U.S. Army base at Würzburg, West Germany, each day, G.I.'s snap to attention and the local employees murmur a respectful *"Guten Morgen."*

As the new deputy commander of Würzburg and of various support units in an area covering nearly one-third of southern West Germany, Hopfenspirger is one of a growing number of women to step into important command assignments. Colonel Frances Weir, 47, issues orders to a mostly male outfit at the support battalion in Fort Jackson, S.C. Colonel Georgia Hill, 49, is head of the sprawling supply depot at Cameron Station, Va.

Until a year ago, female officers could command only other members of the Women's Army Corps (the WAC). The Army, however, is now reassigning women permanently to previously all-male branches. Brigadier General Mildred C. Bailey, chief of the WAC, last month finished turning over all its personnel files to the women's new units. At the same time, the Army has reclassified 136,000 jobs, opening them to women. Thus there have recently been a myriad of female firsts on various bases: the first female parachute rigger, the first turbine-engine maintenance woman, the first female drill sergeant. Actual combat is still barred to women, though that too may change if the Equal Rights Amendment is passed.

Female integration into formerly male units is not easy. As a former battalion commander at Fort Carson, Colo., explains: "A soldier's day doesn't end at 5 p.m. There are assignments like guard duty with a rifle, charge of quarters, and special police handling of burly drunks." Women formerly rose through the ranks only within the WAC. Now they are competing directly with men for promotions. The seeding into various Army branches of senior WAC officers, some of whom have been lieutenant colonels for more than a decade, is especially difficult. Many fear a hostile reception in the regular Army; a few are even retiring rather than make the switch. Younger women, however, seem to welcome the new challenges.

This quiet revolution came about chiefly by necessity. With only volunteers to choose from, the Army needs all the recruits it can get, female as well as male. The response has been excellent: 14,000 women have joined the Army this year up from 5,200 in 1971. In the other armed services, too, women have been given a broader spectrum of jobs. The Air Force now has 17,800 women, compared wth 12,265 five years ago. There are 16,500 women in the Navy, up from 8,636 in 1969. Only in the Marines which needs fewer volunteers, has the number of women remained relatively constant (about 2,700).

Few of the new female recruits are signing on to become commanders. Military life is often the best deal they can get in a tight job market. A high school graduate who enlists as an Army private can get a salary of $326.10 a month, on-the-job training, free room and board and security. Re-enlistment rates are very high, partly because every servicewoman earns the same pay as a male of the same rank—an equality rare in the civilian world.

[From NBC Sunday Night News, Sept. 1, 6:30 p.m.]

U.S. ARMY COED BARRACKS

ROWAN. Women in the United States Army are nothing new as we all know. But women living in the same barracks as men in that same United States Army, well that is something new as we learn in this report from Pat Thompson.

PAT THOMPSON. The military life has always been thought of as the ultimate stronghold of the male. This is part of the new military which the Pentagon is trying to sell to volunteers.

This is D Company at Fort Benjamin Harrison. It's different not only because it's made up of personnel from all services attending the Defense Information School, but it also has both men and women. Even more unusual is the fact that both the men and women live in the same barracks. They're not the same kind of barracks most veterans remember, they're made up of individual rooms like those found in a college dormitory. Men share rooms right next to women.

PFC LANETTE FISCHER. Well my mother's first reaction to—when I told her we were going coed she was under the impression it was one floor has females, one floor has males and this sort of thing. And in a phone call a little while later I had said, well the sergeant next door, the male sergeant next door. And she said, the what, in the phone call and it really threw her for a loop.

THOMPSON. The men and women spend a lot of time together. They eat most of their meals close together, then classes together and they relax together. This togetherness has had some predictable results.

This couple Navy Seaman James REATHL and Army Private Lee LONG met in the barracks and now they're going to get married next week. Some old Army types don't like to see this, uniformed personnel holding hands while on duty. But it's all part of the new military.

Seaman REATHL. I think it's a much more realistic way to live. I think it's definitely a good step for the military to take, it shows that they're keeping up with changes, that are taking place in America, I think, today.

THOMPSON. Airman James LEWIS has mixed emotions about the coed life style. He likes it but it also presents a special problem for him.

MAN. Now you are married, how does your wife feel about it?

Airman JAMES LEWIS. Well my wife doesn't really know that this is a coed dorm.

THOMPSON. The Army feels that the experimental program at Fort Benjamin Harrison has worked so well that it will mix the sections in most of the units at the Indiana base in October.

One of the women who will be affected by this says she wants good substantial locks on her door. But she's definitely in the minority.

PAT THOMPSON. NBC News.

[From the Philadelphia Bulletin, Sept. 1, 1974]

ARMY APPLAUDS ITS WOMEN AS "DAMNED GOOD SOLDIERS"

(By Claude Lewis)

A couple of years ago it clearly would have been a matter for laughter. But no more. Today's Army—or at least a part of it—has gone soft.

Over at Ft. Dix in N.J. nearly two dozen women soldiers moved in with the men, last week, filling the air with an odd mixture of after-shaving lotion and hairspray.

Once Army barracks were filled with cheesecake pin-ups of Marilyn Monroe and Jane Russell. That was the real Army, man!

But now the pin-ups are liable to be centerfolds of actor Jim Brown or Burt Reynolds, as women begin fixing up their rooms in the same barracks with the male soldiers. Rules require that men and women stay on separate levels.

But if soldiers are trained to crack the iron curtain what's to stop them from infiltrating a back stairwell and doing what comes naturally?

"We're all adults and everyone knows right from wrong," a sergeant said at Ft. Dix the other day. He didn't even crack a smile.

"Yeah," beamed a GI, eyeing a pretty soldier. With girls as attractive as some of those joining the Army, it's no wonder the military reaches its quotas so often.

Actually, women in the Army are no joke. In many cases they are proving to be superior to men, in education, and in basic training.

Department of Defense policy dictates that all females in the military must be high school graduates. As for men, they merely have to be able to chew gum and walk at the same time.

If women still suffer from discrimination in civilian life, the all-voluntary army promises them equal opportunity.

They are joining the army in unprecedented numbers and, according to army officials, are proving to be "damned good soldiers."

In addition, said Maj. Gen. Charles Hixon, "women have had a tremendous effect on the male population." The men are said to be trying to keep up with their female counterparts.

"The women . . . in the first week of training, they're all in step," Maj. Gen. Hixon insists. "They're easier to train, oh yes. When we say jump, the question they ask is: 'Is that high enough?' "

There is even a bit of healthy rivalry and snobbishness between male and female recruits, especially since all females must hold high school diplomas and since tests given women are generally more stringent than those taken my men.

A female soldier explained recently:

"The women do better than the men, definitely. For one thing we have to be smarter. We have to be in better physical health . . . we're just more intelligent."

With the new all-volunteer army and no U.S. involvement in a hot engagement, today's war stories will probably read like something out of Romance Magazine. Now that the sergeant may be a female, who's going to bother about signing up for overseas duty?

Army Private Jill Whisker, 22 of Savanna, Ill., said she liked the coed living arrangements. "It's natural," she smiled. Pvt. Whisker, who attended Illinois State University, said the arrangement at the school was pretty much the same as the army's.

"It worked out fine," she said. "It's a brother and sister kind of thing. We look out for each other."

The whole thing sort of makes me yearn for the military life. I understand they've even raised the pay. What a way to go to war!

[From the Baltimore News American, Sept. 3, 1974]

SHE FLIES INTO HURRICANE

JACKSONVILLE, FLA.—Judy Neuffer looks at herself as a woman who has been in the right place at the right time, twice.

The first was when the Navy opened flight training to women.

The second came on Sunday when she was in the pilot's seat of a Navy P3 weather reconnaissance plane which penetrated the eye of Hurricane Carmen, with its winds of 175 miles per hour.

The 25-year-old lieutenant from Wooster, Ohio, thus became the first women pilot in naval history to fly into a hurricane's eye.

"I didn't know what to expect, but I think I can honestly say I didn't feel fear," she said. "I have lots of confidence in the aircraft and in the crew. They know their job and they know it well."

She also was helped by the commanding officer of the four-engine turboprop jet. Cmdr. Dick Sirch, an experienced hurricane hunter who supported her and briefed her on what to expect.

Sirch said she compares well with other new pilots.

"Basically, she did a super job," he said. "When I found out I was getting a woman pilot, I expected a tomboy or a woman's libber. This is just a young lady who seriously wants to be a pilot. She knows she's being observed as a new breed, so she makes an extra effort to do as well as she can."

Lt. Neuffer has been in the Navy for four years since graduation from Ohio State University. Her first assignment was at a computer center in San Diego.

When the Navy opened its flight program to women, Lt. Neuffer, the daughter of a World War II fighter pilot, rushed to apply.

"I had spent most of my life around airports because my father has worked at or managed airports since the war. Flying's in my blood," she said.

"I was surprised when I got this assignment. But I wanted weather work, so I took the chance, and I made it."

The Navy's five other female pilots are all in the cargo transport division.

She says she didn't begin her flight training "to prove a point, advance women or fight for my rights. I'm in it because I enjoy flying. I looked at myself as a pilot trying to do what I've been trained to do.

"I don't consider myself a women's libber, but I do believe in equal opportunity. I know many people are watching me to see how I do. I won't get up on a soap box and speak out, but I hope my performance as a pilot can speak out for me."

Mr. KENNEDY. Mr. President, I hope that this amendment, which was, as I say, initially submitted by the distinguished Senator from Maine and is now offered by myself and him, will be accepted by the managers of the bill.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. MANSFIELD. Will the Senator include my name as a cosponsor?

Mr. KENNEDY. Mr. President, I ask unanimous consent that the name of the Senator from Montana (Mr. Mansfield) be included as a cosponsor of the amendment, as well as the names of the Senator from Maine (Mr. Hathaway), the Senator from Ohio (Mr. Metzenbaum), the Senator from New Jersey (Mr. Williams), the Senator from Delaware (Mr. Biden), and the Senator from New York (Mr. Javits).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, today I am joining with Senator Kennedy in introducing an amendment to the military construction bill. This amendment would authorize the construction funds for the service academies to be used for whatever construction might be necessary to admit women to the academies.

I have already introduced a bill in the Senate that would allow women to be admitted to the service academies. This bill was introduced last summer, and passed the Senate without opposition in December as an amendment to S. 2771, the enlistment bonus bill. The other cosponsors of the amendment to S. 2771 were Senators Thurmond, Javits, and Mansfield, and the amendment had the active support of Senator John Stennis, the chairman of the Senate Armed Services Committee. Thus, the amendment had the support of both the chairman and the ranking Republican of that committee. That amendment was deleted from S. 2771 in the House Armed Services Committee by a margin of one vote under circumstances which gave rise to exasperation on the part of some of the members of that committee.

I have more recently introduced a substitute amendment to my original bill which contains some technical changes. This amendment has the support of a large number of Senators, including Senators Dominick, Jackson, Goldwater, Nunn, and Hughes, all of whom are on the Senate Armed Services Committee, as well as the original cosponsors of the amendment to S. 2771.

Mr. President, the best military training in the world takes place at the American Service Academies. This training is available for men, some of whom are not even American citizens. It is not available for American women, no matter how well qualified they may be.

The service academies have never satisfactorily explained the reason for this discriminatory policy. They say it is because the mission of the academies is combat training, but most of the training which takes place at the academies is not combat related, and no reason has ever been advanced as to why women are not allowed to receive academy training for the noncombat roles they have been filling in the services for many years. The Department of Defense made the following statement in its report on S. 2351, my bill in the Senate to allow women to be admitted to the academies:

> There are numerous officer billets in the armed services, other than in combat roles which are necessary to the effectiveness of the military services. Competence in these positions is no less important than in combat roles.

Surely the best training for these noncombat roles is also to be found at the service academies. For the good of morale of the services, as well as because of our own beliefs, that training should be equally available to all.

The second reason most often given for excluding women is the expense of remodeling the facilities to accommodate them, but women have been accommodated in the Regular Army without any particularly burdensome expense. Furthermore, any remodeling expense would be trifling compared to the overall cost of operating the academies.

The purpose of the amendment I am offering today with Senator Kennedy, however, is to make it clear that there is no longer any economic excuse whatsoever for excluding women from the service academies. We feel it is time to act. We have removed discrimination in many other areas. It is time to remove it in this area as well.

Mr. President, I ask unanimous consent to have printed in the Record an article which was published in Newsweek on September 9, 1974.

There being no objection, the article was ordered to be printed in the Record, as follows:

THE ARMY: FALL IN!

It's enough to make an old topkick tear his hair. The Army basic-training center at Fort Dix, N.J., has succumbed to the sexual revolution. Specifically, Building 5406, a three-story, cinderblock structure designed as a 160-man barracks, now houses fifteen men and eighteen women, making it the Army's first permanent coed barracks.

So successful has the experiment been, says the brass at Fort Dix, that by the end of October, all 326 WAC personnel will be reassigned to previously all-male barracks on the post. The cost of converting Building 5406 was "minimal," requiring only strong locks on the doors to the third floor, where the women are billeted, and a 24-hour guard at the stairway to the second-floor, where the men sleep. Mingling of the sexes is confined to the first-floor day room (pool tables, Ping Pong, TV).

So far, all personnel seem to be pleased with the arrangements. "You get more of a feeling of belonging to a unit," says Pvt. Betty Ruiz. The men, predictably, would like expanded visiting rights, but there seems to be little danger of their taking too many liberties. The eighteen tradition-shattering women in Building 5406 belong to the post's military-police battalion.

Mr. SYMINGTON. Mr. President, I have discussed the amendment of the distinguished senior Senator from Massachusetts and the distinguished junior Senator from Maine with the distinguished senior Senator from South Carolina, the ranking Republican member of the Armed Services Commitee, and we will be glad to take the amendment to conference.

May I say, speaking for myself, that I think it is a constructive amendment, and would look forward to being able to sustain it with the House of Representatives.

Mr. KENNEDY. Mr. President, I appreciate that sentiment. When we have a statement of support by the floor manager, we probably should remain quiet, but I wish to underline one point: that there is nothing compulsory in this amendment whatsoever. It is a reaffirmation by the Members of the Senate of our own belief in the importance of providing this kind of training for young women. There is absolutely nothing compulsory; it is completely discretionary to the military forces, but it is a clear indication of the sentiment and feeling of the Members of Congress on this particular issue.

I appreciate the expression of support on the part of the floor manager, and I yield the floor.

Mr. STENNIS. Mr. President, will the Senator yield to me merely for a question?

Mr. KENNEDY. Yes.

Mr. STENNIS. I have already gone on record as supporting an amendment of this type. But I do want to point out to him that the manager of the bill in the conference, who would be the Senator from Missouri (Mr. SYMINGTON) could well be up against a stone wall in the conference on this matter because the House has heretofore said that it violated their own rules, and maybe these rules of germaneness—I say maybe—and then maybe somebody someday will add up the number of Senate amendments adopted by conference and open a score against the whole committee.

I am not against the amendment of the Senator from Massachusetts. He has been very cooperative and understanding. He has had some good amendments, and we brought back all of them we could. I do think this presents a problem and I thought it just ought to be frankly mentioned here. These military bills that have to pass in one form or another—and this is one of them—are pretty handy things to hang an amendment on. It leads to delay and trouble.

So I thank the Senator for his remarks, and I would support his amendment on its merits.

Mr. KENNEDY. I appreciate the expression of the Senator from Mississippi. I do think there is a difference in this legislation from an amendment that went on the military pay bonus bill last year. Even though that was a clear expression of the Members of the Senate in support of the purposes of that amendment, we are now dealing with military construction, and I think this amendment is entirely appropriate to be attached to this particular proposal. Hopefully, with that distinction which, I think, is an extremely powerful one, and with the clear and persuasive voice of the Senator from Mississippi and the Senator from Missouri in defending the Senate's position, perhaps we will be able to achieve the purposes of this amendment. I appreciate the comments of the Senator from Mississippi.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that during the consideration of H.R. 16136 it be in order that a separate vote occur on section 612 of the committee substitute prior to the vote on the entire committee substitute.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. I do this, Mr. President, because I think this is a good bill, and I think the committee has been assiduous and exacting in its study of the needs of the Nation in the field of military construction, and I want to show my support—and I am sure the entire Senate will—in the way in which this committee has worked under the chairmanship of the distinguished Senator from Mississippi (Mr. STENNIS), the chairmanship of the distinguished Senator from Missouri (Mr. SYMINGTON) as well as the ranking Republican members, the distinguished Senator from South Carolina (Mr. THURMOND) and the distinguished senior Senator from Texas (Mr. TOWER).

It would be my intention at an appropriate time to ask for the yeas and the nays on this amendment, and also on final passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1854

Mr. ROTH. Mr. President, I would like to call up my amendment No. 1854.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ROTH. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The amendment is as follows:

On page 93, after line 24, insert a new section as follows:

SEC. 509. None of the funds authorized to be appropriated by this or any other Act may be used for the purpose of installing air-conditioning equipment in any new or existing military family housing unit in the State of Hawaii.

Mr. ROTH. Mr. President, my amendment to the Military Construction Act would prevent the Department of Defense from requiring that central air-conditioning be installed in military family housing in Hawaii. This requirement, which had been opposed by the three military services as unnecessary, is a horrible example of unnecessary Federal spending caused by excessively rigid regulations.

The Department of Defense claims that climatic conditions on Hawaii result in a large number of hours each year during which there are uncomfortable temperatures on the islands. The Department's criterion is based on the number of hours where the wet bulb temperature exceeds 67 degrees Fahrenheit during the 6 warmest months.

But the Navy advised its Washington headquarters that the DOD criterion ignores the prevalence of cooling trade winds on Hawaii which consistently moderate both temperature and humidity conditions. And the National Oceanic and Atmospheric Administration's findings are that in Hawaii "summers are warm but not hot, so that air-conditioning is a luxury rather than a necessity." The Hawaii Department of Planning and Economic Development describes the climate in its pamphlets as "ideal" and "generally warm and pleasant the year round." According to the General Accounting Office Report which recommends termination of the DOD requirement, air-conditioning is not common in Hawaii and is often only available as a luxury option on homes costing from $80,000 to $90,000.

In my judgment, there are two very sound reasons to prohibit the requiring of the installation of central air-conditioning in these military quarters in Hawaii. The first is cost in a tight budget situation. The GAO estimates that the air-conditioning program, excluding any future maintenance changes, could cost as much as $100 million. When we are seeking ways to cut the Federal budget to help control inflation, there can be no justification for spending $100 million on air-conditioning homes where climatic conditions are close to ideal.

The second sound reason is that the air-conditioning program is totally inconsistent with the very necessary effort to continue to conserve energy. Additional air-conditioning on such a widespread basis would create a significant increase in Hawaii's energy consumption. At the moment, most of Hawaii's electric power comes from imported oil. The GAO concluded that the DOD's policy of air-conditioning all military housing on Hawaii would be "a luxury that Hawaii's energy sources, at this point in time, cannot afford."

For these reasons, I urge my colleagues to support this amendment.

Mr. SYMINGTON. Mr. President, I discussed the amendment of the able Senator from Delaware with my colleagues and the ranking member of the full committee and the subcommittee on the other side of the aisle, and we would be glad to accept this amendment and to take it to conference.

If I get the figures straight, we believe it would affect 1,900 housing units at a cost of about $2 million. But we will accept the amendment.

Mr. ROTH. Mr. President, I am happy that the committee will accept this amendment. All I can say on the figures is that a study made by the Comptroller General of the United States put the cost at up to $100 million.

I think one also has to face the fact that there would be expensive maintenance costs, not only initial construction costs. Most American families today are paying for their own air-conditioning, and it would just be unconscionable, whatever the cost, to spend this money for this purpose at this time.

I am happy that the committee is accepting this amendment and I will say that I will be following this matter very carefully.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on a separate vote on section 612 of the committee substitute. That is what I mentioned before.

The yeas and nays were ordered.

Mr. MUSKIE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. MUSKIE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The amendment is as follows:

Insert at the appropriate place in the bill, the following new section to read as follows:

"SEC. —. None of the funds authorized to be appropriated by this or any other Act may be used for site acquisition or construction of the CONUS Over-The-Horizon radar system receiver antenna during the period after the date of enactment of this Act and prior to May 31, 1975."

Mr. MUSKIE. Mr. President, I have taken this amendment up with the distinguished manager of the bill.

The amendment which I have called up today has a simple and limited purpose: that of obtaining sufficient time to resolve a number of questions which have been raised concerning the proposed site of the receiver antenna for the Over-the-Horizon Backscatter radar system in Washington County, Maine.

For several years, the U.S. Air Force has been investigating possible sites in Maine for the radar system. However, it was not until June 25—after Senate passage of the Military Procurement Authorization bill—that the Air Force announced the selection of a "preferred" transmitter site in western Maine and a receiver site in eastern Maine.

The receiver site, including 1,000 acres of valuable farmland, has generated the most concern among Maine citizens. The land in question produced 6 percent of Maine's total blueberry crop, with an estimated annual cash value of $347,000.

As a result, Maine citizens and State officials seek adequate opportunity both to point out to the Air Force the adverse economic impact of the selected site and to solicit from the Air Force information as to the availability and cost of alternative sites which would still meet the technical requirements of the system.

Public hearings on the Draft Environmental Impact Statement are being held this week in Maine, and the Air Force has encouraged public comment. At the same time, however, there are indications that development of the proposed site is proceeding apace. Therefore, the hearings may not provide an adequate opportunity for Maine citizens to convince the Air Force of the importance of the land in question to our economy. The purchase of land options on some tracts involved in the system are scheduled to take place prior to the hearing. Also, potential contractors were requested on July 25 to submit detailed proposals and cost estimates on site development.

This amendment is intended simply to limit any further action on site acquisition and development for the prototype receiver until additional information on the matter of site selection is obtained. It is not intended to prevent the Air Force from proceeding with development of the radar technology and other research activities associated with the OTH system.

Mr. President, this amendment is very similar to an amendment which I introduced on August 20 to the Defense Procurement Appropriations bill that was accepted by the distinguished Senator from Arkansas (Mr. McCLELLAN) who floor-managed that bill. This amendment differs from my previous amendment only in that it provides that no moneys authorized in any earlier legislation—as well as in this legislation—shall be used for site acquisition or construction of the over-the-horizon radar system receiver antenna during the period from the date of enactment of this act until May 31, 1975. And the additional language is necessary, for I understand that the Air Force may use within the next few weeks money authorized in the fiscal year 1973 Military Construction Authorizations bill for site acquisition of the radar system receiver antenna.

Mr. President, let me emphasize again that I do not oppose the over-the-horizon radar system. However, I do favor a temporary delay in the funding for its site acquisition and construction in order to assure that Members of Congress and the citizens of Maine have ample opportunity to resolve the questions which have been raised.

Mr. President, I understand the distinguished floor manager has considered this amendment and is willing to accept it for the limited purposes I have described.

Mr. SYMINGTON. I have discussed this amendment with the ranking member of the Military Construction Subcommittee, the distinguished senior Senator from Texas, and we are glad to accept the amendment.

Mr. MUSKIE. I thank my good friend from Missouri.

The PRESIDING OFFICER (Mr. HATHAWAY). The question is on agreeing to the amendment of the Senator from Maine (Mr. MUSKIE).

The amendment was agreed to.

Mr. HOLLINGS. Mr. President, I call the attention of my colleagues to section 611 of the Military Construction Act. This section of the bill is directed toward the continuing problem of our men missing in action as a result of their performance of service in Southeast Asia.

In our obligations to these men, and in our treatment of their brave families, the Government of the United States has been insufficiently forthcoming. The problem is of course a difficult one, and the intransigence of the other side has been responsible for our inability to obtain an adequate accounting of our men. But it is also true that there have been continuing efforts in the executive branch since the signing of the Paris Accords to put the problem on the back burner, and to deprive the American people of a clear idea of what has been done on behalf of our missing men, what is being done, and what is contemplated for the future.

I have met with the families of many of these men, and I know the uncertainty and doubt which plague their every day. They want to know the fate of their loved ones. And they want to know the truth. They have no wish to precipitate world war III over the issue. What they want is honest, straightforward treatment. And, sad to report, they have not been getting it. When they heard the oft-repeated statements of the previous administration that our prisoners have been returned, they were understandably upset.

I cannot understand the unwillingness to level with these families. Their husbands and fathers fought, and many of them died, for their country. We have the most serious kind of obligation to these families, but all they get is a run-around. They deserve better, and it is a shame that they have not received better.

Every family is concerned about the question of status review changes and presumptive findings of death. There are many wives and parents and sons and daughters who feel these changes are unwarranted unless and until it is conclusively demonstrated that the United States has done everything reasonable to obtain an accounting of our missing men. I think the families are entitled to postpone status review changes and presumptive findings of death until such time as their Commander in Chief can assure them that all reasonable action has been taken, and until more satisfactory permanent legislation providing clear-cut procedures for status change reviews has been enacted.

This is just an interim amendment attached to the Military Construction bill—interim treatment to clear the air of all the confusion we have had with the various court decisions and administrative procedures, or lack of them, in the past months and years.

Accordingly, section 6 provides that, first, no status changes concerning our men missing in action as a result of their performance of service in Southeast Asia may be made until the President of the United States notifies the Congress, in writing, that all reasonable efforts have indeed been made to account for our missing men in Indochina and to enforce the provisions of article 8(b) of the Paris Peace Accord.

I would note at this particular point that President Ford while Vice President, met with these families just a couple of months ago. The former President did not. We have been trying to arrange a meeting for the families with Mr. Ford now that he is President, so these families can ascertain the policy as it will be followed by the new administration, and so they can be assured that this matter is on the front burner with our new President. I have talked to the White House about it, and I realize it is difficult given all the different concerns that confront the new administration. But the White House is trying to arrange such a conference. I think the requirement is that we get in black and white exactly what was done and what is and will be done, to clear our minds and consciences as the people's representatives that something is being done, and what it is.

Obtaining a full accounting of our men is admittedly difficult. Every action has a reaction, and the consequences have to be taken into consideration. Dr. Kissinger tells us that the Soviets are being pressured to use their influence in Hanoi. I hope the pressure is maximum, but I have no conclusive evidence that it is. It would seem to me, for instance, that the measure proposed by the distinguished Senator from Florida (Mr. GURNEY) to use our control over trade with the Communist countries to force pressure on Hanoi is eminently reasonable when we are talking about the possibility of American men still being held in prison in Southeast Asia.

Section 611, which has the support of 27 cosponsors, provides simple legal procedure for the next-of-kin to stop what they feel are unwarranted status changes. It provides a clear procedure, where there is only uncertainty and confusion now. I have yet to talk to one person, in government or out, who can tell me just what the policy is, in light of Defense Department regulations, past practice, judicial interpretations and orders, and all the rest. Small wonder that the distraught wives and families are confused about how the system works. To overcome this confusion section 611 substitutes the following procedures: The Service Secretary concerned would notify the next-of-kin, in writing, of the proposed status change. The next-of-kin would then have a period of 60 days to file an objection to such change. The objection being filed, no status change would be allowed.

There are, then, two integral parts to this measure. One would require the Presidential assurance that all reasonable efforts have been made. And the second would provide the families with the mechanism to block what they consider unwarranted changes in status.

Mr. President, section 611 of the bill is not intended to set policy for all time to come. Efforts are being made in the Congress to change the permanent legislation under which status reviews are conducted, specifically sections 555 and 556 of title 37 of the U.S. Code. This permanent legislation has proved inadequate to the current situation. Indeed it seems that sections 555 and 556 were initially enacted for the purpose of continuing pay and allowances—and not for the more serious purpose of making death determinations. A new law, addressed to the procedures of status review changes for the purpose of death findings, is long overdue. Such legislation should include specific guidelines and procedures. It should provide more access to the facts for the families of the missing men. It should include clear-cut determinations of such terms as "next of kin." It should protect more fully the rights of the servicemen and the rights of the families.

While efforts to formulate more adequate permanent legislation go forward, it is imperative that we have interim procedures which will protect the rights in question and which can be easily understood by all parties concerned. That is the purpose of section 611.

Once the Presidential determination has been made in accordance with section 611, the families have the option available to them. Those families who feel that more evidence is needed—who feel that a status change at that particular time is unwarranted—are given the legislative tool to prevent the change. Those who wish to proceed with the determination, satisfied with the available evidence, may do so.

This is the only equitable approach. I have studied this matter long and hard and tried to look at it from every possible perspective. I believe that section 611 provides the best method for carrying us through this difficult period until more satisfactory permanent methods are provided. It recognizes our continuing obligation to our missing men, and it provides their families with the flexibility they need, and deserve, in dealing with this all-important matter.

Mr. President, I thank the distinguished manager of the bill for his cooperation, and particularly his leadership on the Committee on Armed Services. The families of the missing in action are really indebted and grateful to him, for his leadership, and willingness on a military construction bill to try to include this as an interim measure. We know it is legislation. We know it could conceivably be questioned in the other body. But we hope the urgency of the matter will really outweigh the parliamentary problems. We are deeply indebted to the senior Senator from Missouri.

I ask unanimous consent that there be printed in the RECORD an editorial from the Buffalo Evening News on this particular point, which really clarifies the dilemma we are in on this score.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Buffalo Evening News, August 19, 1974]

MIA PROBLEM BLAMED ON HANOI

"Noteworthy among the foreign policy guideposts in President Ford's address to Congress was his avowed determination to see 'the observance of the Paris Agreement on Vietnam.'

"Though this general statement did not single out any specific evasion of Hanoi's commitments, the wives and families of the 1100 men still carried as missing in action must hope that it implies a presidential concern for the anguish they have suffered and a fresh resolution to bring to an end as promptly as possible the plaguing uncertainty about their fate.

"The bitterness felt by some relatives of the MIAs is tinged with suspicion that the government has not done all that it might or ought to have done to secure an accounting as provided for in the Paris cease-fire. . . .

"Yet the hard fact is that, short of some new diplomatic stroke gaining Hanoi's and Viet Cong compliance with their humanitarian obligations, the outlook for either recovering those who may still be alive or for finding proof of their deaths is tragically dim. Even under the best of Communist cooperation, the task of finding the remains of men missing as long as six years ago is exceedingly difficult. The U.S. never recovered the bodies of some 78,000 men who died in World War II. And now in the Vietnam aftermath, search operations, having been hampered by Communist refusal to permit teams access to disputed areas in the south as well as in the north, have had to be suspended since an ambush last December of an American search team.

"These obstacles pose dilemmas for responsible Defense Department officials as well as for MIA families. For families still clinging to a hope that husbands or fathers might still be alive, any haste to reclassify them as officially dead in the absence of fresh information can seem cruelly insensitive—if indeed not a yielding to temptation to dispose of a problem with expedient record changes in lieu of harder and persistent diplomatic pressures.

"A federal court panel ruled last February that the Pentagon can no longer declare dead those servicemen still listed as missing without notifying next-of-kin and giving them a chance to be heard. While upholding claimants' contentions that death findings without pursuing a diligent search would deny them due process, the court acknowledged that some families want a dead-or-alive determination so that they can get over their grief and start life anew.

"To all of this, to be sure, there is no easy answer unless a new administration can persuade the Communists to live up to their obligations. What possible diplomatic leverage Washington might exert to insure an accounting for the missing and repatriation of the dead, we cannot guess. But surely, so long as any hope still flickers that any of these missing may still be alive and captive, the government should withhold writing them off as dead unless either new evidence or the expressed wishes of their families so warrants."

Mr. SYMINGTON. Speaking for the committee, we are very grateful for the remarks made by the distinguished Senator from South Carolina. As we know, he is supporting the bill. We appreciate that.

Mr. ALLEN. Mr. President, I call up my amendment, which is at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 57, line 20, strike the figure $5,388,000 and insert in lieu thereof the figure $7,648,000.

Mr. ALLEN. Mr. President, I ask unanimous consent that the name of the Senator from Alabama (Mr. SPARKMAN) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, first I wish to commend the distinguished Senator from Missouri, the manager of the bill, the ranking member of the Committee on Armed Services, and the distinguished chairman (Mr. STENNIS). I also commend the distinguished Republican member (Mr. TOWER). I commend them for the fine work that they always do on the military procurement bill, the military construction bill, and the various military authorization bills that come before their committee.

I commend them for their determination that we shall always have a strong defense posture in this country. Certainly, providing for a strong national defense should be our No. 1 priority. If we do not provide for the defense of our country, it will not be long before we do not have any country to defend.

At the same time, Mr. President, I support their efforts to save funds in such areas as they are able to save, in areas where construction is not necessary, where armament is not necessary, where economies can be effected.

It is somewhat unusual for the Senator from Alabama to be suggesting an increase in an authorization or an appropriation. I am somewhat hesitant in making this request for this increase because I respect the dedication, the ability, and expertise of those leaders of the committee and the full membership of the committee that has these matters come before them.

The fact of the matter is that this amount suggested in the amendment, and I shall be more specific in a moment, was suggested by the Army. This comes under the appropriations for the Army Materiel Command.

The request was made in the House. The House committee approved the figure that is contained in the amendment. The House voted the amendment. But the Senate committee, in its wisdom, saw fit to make a reduction.

What is involved here is the construction of a headquarters building at the Anniston Army Depot near Anniston, Ala. The amount involved is $2,260,000.

What is the Anniston Army Depot? It is a tremendous installation we are proud to have in our State. I might say that this installation and the employees there have the full support of the community. It is an installation that is important to the economy of the entire area. As a matter of fact, some 4,200 persons are employed at this installation.

What does it do? Several hundred acres of this reservation contain literally thousands of concrete reinforced igloos where shells are stored. The other phase of its mission is that it is a tremendous factory or repair shop, you might say, for all manner of military armament, going from small weapons on up to 50-ton tanks. It is a busy installation.

They have no headquarters building there, even though they have a tremendous operation. For the last 30 years they have been in a renovated warehouse. That is what they have had for a headquarters building.

Since it is doing such an important service for the Army and for the Nation, and so many people are involved there—as I stated, some 4,200 people—various dignitaries come from all over the world to see the operation there at Anniston. High-ranking military officials, high-ranking officials in the Government, visit there, and they have no adequate headquarters building.

So the Army saw fit to request this building and the House approved it. Now it is before the Senate.

I have inquired of Senator SYMINGTON, Senator STENNIS, and Senator TOWER if they felt that the public interest would be served if this amendment be accepted here on the floor of the Senate, and that this installation would be allowed to go ahead.

Mr. SYMINGTON. Mr. President, the able and distinguished Senator from Alabama knows of our respect for him and our respect for his knowledge of military matters. We have discussed this question among ourselves. It is a fact that the money requested for this addition was considered a matter of lower priority by the Army. Nevertheless, because of the able presentation of the distinguished Senator from Alabama I would request that, rather than introduce the amendment at this time, he withdraw it and, inasmuch as it has already been passed in the House bill, that we take it to conference, with his thinking on the matter.

Mr. TOWER. Will the Senator from Missouri yield?

Mr. SYMINGTON. I yield.

Mr. TOWER. I would like to associate myself with the remarks of the Senator from Missouri. I am sympathetically inclined toward the proposal made by the Senator from Alabama. I feel that perhaps we should maintain the current integrity of the bill, so to speak, and look with some favor on this matter when we get to conference.

As the saying goes, we would like to have a little head room in the conference.

Mr. ALLEN. I thank the generosity of the distinguished Senators in their comments. I appreciate their attitude. I recognize that they would want to support the action of the committee.

As I have stated, I hate to go against their recommendations. But I do not believe that this is an unreasonable request.

I might state that my distinguished senior colleague, Mr. SPARKMAN, joins me in this effort. He is not able to be in the Chamber at this time because he is chairing an important hearing of his committee, but he thoroughly endorses the amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Mr. Ralph W. Callahan, dated September 3, 1974, and a letter from Mr. Harvey C. Norton, dated September 4, 1974.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE ANNISTON STAR,
Anniston, Ala., September 3, 1974.

Hon. JAMES B. ALLEN,
New Senate Office Building,
Washington, D.C.

DEAR JIM: We have been much distressed at the news that the Senate has deleted from the military construction bill the $2.6 million item for a headquarters at Anniston Army Depot at Bynum.

It is my understanding that this item was in House Bill No. 16136 and, of course, it very shortly will go to conference.

For over thirty years now the Depot has been using a converted warehouse for its headquarters and at present has approximately 180 people working in the headquarters building while it is forced to disperse some 75 other headquarters' personnel in seven outposts on the installation.

I'm sure you realize how much more efficient the operation could be if the Depot could centralize its operation with all its people in one modern headquarters building.

I do not have to tell you how important the Depot is to this area since it is the largest employer within the seven counties surrounding the installation, nor do I have to tell you what a top job they are doing for the Defense Department. Incidentally, some 3,000 visitors (including high-ranking U.S. military and civilian and foreign nationals) visit the Depot each year, and I sometimes wonder about their reaction when they are greeted in this old warehouse.

On behalf of the Military Affairs Committee and the Greater Anniston Area Chamber of Commerce I earnestly solicit your assistance in seeing that this item is restored in conference.

Sincerely yours,

RALPH W. CALLAHAN.

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES,
Bynum, Ala., September 4, 1974.

Hon. Senator JAMES ALLEN,
New Senate Building,
Washington, D.C.

DEAR SENATOR: I have been informed that a project passed in the House to provide the Anniston Army Depot with a much needed and desired Headquarters and Administration Building has been deleted in the Senate.

Senator, as you know, the Anniston Army Depot is one of the largest and most productive organizations in the defense of our country. Our great depot located in the great State of Alabama is being called on to produce more and more tanks, just one of the things we do so well and more efficiently than any other Department of Defense activity. The Depot has in some skill areas as much as three generations and we are extremely proud of this heritage in the rebuild of many items of defense from small weapons to 50 ton tanks.

For over thirty years now, a converted warehouse has been used as a Headquarters Building at the Depot. While some depots and other defense establishments have boasted of modern Headquarters Buildings, the proud people at Anniston have improvised with available facilities within the converted warehouse and hoped for better facilities in the future.

The Anniston Army Depot is a top depot and should have a top Headquarters Building. The Depot is the largest employer within the seven counties surrounding the installation and is known throughout the world for their responsiveness to produce, and supply our troops as well as our foreign allies.

Approximately 3,000 visitors including high ranking U.S. Military and Civilians and foreign nationals observe this great Department of Defense activity each year.

Our depot needs this Headquarters Building, which I understand will be an item for discussion in the Senate-House conference on Military Construction. Therefore I strongly urge you to use your support and influence in our plight for this project.

On behalf of some 42 hundred Depot Employees and union members, I earnestly request your assistance in this matter.

Sincerely,

HARVEY C. NORTON,
President.

Mr. ALLEN. I recognize that no commitment has been made by the distinguished Senators who will be conferees on the bill; but with the understanding that they will check into the matter and discuss the matter with the House conferees, and with the understanding that some consideration will be given by the conferees to the subject involved in the amendment, I do withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HASKELL. Mr. President, I should like to mention and make a record concerning an acquisition of real estate in the State of Colorado described in the committee report as the "Fort Carson land acquisition request," on page 5.

I realize why the distinguished floor manager of the bill could not accept an amendment to delete this authorization, particularly in view of the fact that the House bill does not have it, and it will be taken to conference.

I should like to mention that when the appropriation bill comes up, if this item is in it, I will seek to have it removed.

I merely take this occasion to state the background of the problem, and in the hope that the distinguished floor manager of the bill, the distinguished chairman of the committee, and the distinguished ranking minority member of the committee, will bear the facts in mind when they go to conference and possibly decide to accede to the position of the House.

Basically, they only wanted a three-phase acquisition of land near Fort Carson, which lies between the city of Colorado Springs and the city of Pueblo. Phase 1 was for 17,500 acres and was adjacent to the southern boundary of Fort Carson. In phase 2, they only would acquire 45,400 acres adjoining the southeastern corner of Fort Carson. Phase 3 would permit the acquisition of 11,200 acres on the eastern edge of Fort Carson.

The purpose of the acquisition—that is, the Army's purpose, and it was so stated—was to provide additional maneuver room for mechanized units and to "simulate" the NATO environment.

I should mention, Mr. President, that the last expansion of Fort Carson was in 1965. At that time, the Army told the people of my State that there would be no further expansion.

The subcommittee very graciously held special hearings on this Fort Carson matter, and I thank the distinguished chairman of the subcommittee for so doing. After those hearings, a so-called compromise was proposed. The compromise was to permit the acquisition of phase 3—in other words, skipping over phases 1 and 2—and the bill authorizes $7.2 million to purchase these 11,000 acres.

The compromise is not acceptable to the people who live immediately adjacent to the area, nor to the people of Pueblo, nor to a great many people in Colorado Springs, although those people do not feel quite as strongly about it.

One has to look at the problem of this entire acquisition as a totality; because, quite obviously, the acquisition of merely 11,000 acres is not going to be sufficient to do what the Army wants, which is to have a reservation big enough to deploy a division, as opposed to a brigade, in maneuvers. So the totality of the acquisition would effectively prohibit any expansion of the city of Pueblo, and the local citizens are vehemently opposed to the acquisition.

Furthermore, it seems to me that an authorization at this time is premature. The reason I say that is that the Army has published a draft environmental impact statement, as required by law. This was done in the middle of July of this year. But this impact statement has not been reviewed by the Environmental Protection Agency, it has not been reviewed by the Council on Environmental Quality, and—this is most important—it has not been opened and subject to public hearings.

Whether one is considering the environmental impact statement or is merely considering—I think this is of overriding importance—any expansion, I think the local people should be heard at hearings as to their feelings and opinions; because unless this is done, quite obviously, resentments build up that are not desirable.

Therefore, I stress that because of the absence of public hearings, either on the environmental segment or otherwise, and because we cannot look at phase 3 without looking at phases 1 and 2—because if you go into phase 3 to get the Army its purpose, you have to acquire phase 1 and phase 2—and because of the adverse effect that the total acquisition would have on the city of Pueblo, which has approximately 1,000 people, I hope that at the time of the conference the distinguished floor manager of the bill and the other Senate conferees would consider my position.

I point out that the committee report states this:

> The major portion of the Army's justification for the land acquisition at Fort Carson was to support the training requirement of a mechanized division; a division that trains to fight primarily in the NATO area. While the committee is authorizing the funds necessary to acquire the Phase III land, it believes a mechanized division might better simulate the NATO ground environment at some other location.

In other words, the committee, itself, realizes that this terrain in Colorado is not comparable to NATO terrain and would not really be suitable to simulate NATO environment.

Therefore, in summary, I hope that in conference this matter will be reconsidered. I will try to prevent the appropriation because, frankly, this partial land acquisition will not do what the Army wants, No. 1. No. 2, the total land acquisition, according to the committee's language, would not do what the Army wants. No. 3, the people in the immediate area affected by this are violently opposed.

I thank the distinguished floor manager of the bill.

Mr. SYMINGTON. Mr. President, I am interested in and impressed by what the able Senator from Colorado has stated. His position is clear. We have had correspondence in the committee on this matter.

This matter was not approved by the House, and the language of the committee report is as follows:

> The committee notes that the major portion of the Army's justification for the land acquisition at Fort Carson was to support the training requirement of a mechanized division; a division that trains to fight primarily in the NATO area. While the committee is authorizing the funds necessary to acquire the Phase III land, it believes a mechanized division might better simulate the NATO ground environment at some other location. Therefore, future fund requests, especially for the Phase I or II area, must be justified on the basis that other adequate training sites for mechanized units within the continental limits of the United States that simulate the NATO environment are not available.

I thought that the Senator from Colorado would be interested in that part of the committee report.

Mr. HASKELL. I appreciate the senior Senator from Missouri underscoring that, and under these circumstances, I hope that the distinguished Senator will at least consider whether it is right at this moment to authorize phase III if, really, the totality is not going to be desirable.

I thank the distinguished Senator.

I yield the floor.

Mr. SYMINGTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I shall not detain the Senate more than a few minutes. I want to make some additional remarks about the bill, particularly this Diego Garcia aspect.

Mr. President, the Director of the CIA, Mr. Colby, testified before our subcommittee on this matter, and I notice that certain segments of the press undertook to play up what they called a rift, or a dissension, or a great disagreement between the military part of the Government and Mr. Colby. That is unmistakably the meaning of what some of them said. But, Mr. President, that is a great disservice to the military segment of our Government and to Mr. Colby.

What he said and what happened just do not justify, I submit, any such conclusion. Even though as late as this morning and until an hour ago, they were calling me, wanting me to comment upon this alleged rift between the CIA's Mr. Colby and the military. There is just nothing to it, Mr. President. There is no such animal as that running around in Washington now. There are a lot of different things running around, but certainly that is not one of them.

I want to say with all the emphasis that I can that Mr. Colby was trying to testify and did testify truthfully. He gave some of his estimations, and maybe some of them verged on military matters. With all deference to him, and I am friendly to him, my estimation that some of them verged on military matters may not be worth a great deal. They are somewhat out of our field. But at the same time, he is not taking any licks at the military, and they were not taking any licks at him, so far as I know. I just wanted to comment on that, Mr. President.

I wish to say one other thing too, about this whole concept of the Indian Ocean. I think it is a broad policy question and it has some military aspects. I shall be glad when the Congress has fully disposed of the matter. I think we ought to proceed and dispose of it. But, Mr. President, there are important aspects of this Indian Ocean problem aside from any military concern about it. They are spelled out in one short, three-letter word, a very short word, o-i-l, oil.

Out of this area north of the Indian Ocean at the Persian Gulf comes more than 80 percent of the oil that supplies Japan, certainly an ally of ours. Through the same Indian Ocean comes about 50 percent of the oil that supplies Western Europe and England, certainly, overall, a major ally of ours. Through this same Indian Ocean is going to come, by 1985, according to the estimates, about 20 percent of our own oil supply. It is around 10 percent now from the Middle East.

So, entirely apart from any so-called military significance—immediate military significance—I am thoroughly convinced—and I did not let the Navy come and brief me on this matter until I had looked into it some myself—that we had better be alert to be sure that we not get caught short in the whole vast area of the world there. We have to have better facilities for the operation of our Navy, the Navy we already have in that vast area of the world, and will have as long as we continue to be internationalists, so-called, as is our policy.

I have never been a fanatic on it, but we cannot withdraw into a shell. Our economy is so dependent on exports and imports, we are not going to be withdrawing into a shell any time soon. We are not going to solve our own energy sources problem in a few years. I am on an appropriations subcommittee with the Senator from Nebraska (Mr. BIBLE), who is here in the Chamber and compliments me by listening to me. He and I know that we are not going to solve this energy sources matter in 3 or 4 or 5 or 6 years. We are going to have it with us, at the very best, for a good number of years.

We heard all of this on the Committee on Appropriations. I should not advocate that we use up all our oil just to be independent of the Middle East anyway, unless we have to.

So, I am vitally concerned that we have the facilities there—a pier and oil storage, fuel storage, and the things that have to go into operating a Navy—that might be needed to protect our oil supply lines.

This is the route that they will come, no mistake about that, these huge oil tankers. They will never be able to use the Suez Canal.

At present fuel and repairs and supplies and everything to this Indian Ocean area have to come all the way from the Philippines. It is over 3,000 miles, anyway, to keep supply ships going back and forth.

If a carrier over there has to be replaced, or go in for repairs or for rest of the crew, there is all this distance involved. Therefore, I am convinced that if we fix up the facility there on Diego Garcia, we can far better utilize the Navy we presently have.

We read a lot about that this is going to cause us to have to build more carriers, more supply ships for the carriers, and other carrier forces. I do not believe there is a word of truth in that. There may be other reasons that will cause us to have to do that, but I am sure we can better utilize the carriers, supply ships, and carrier forces that we already have—utilize and operate them better—by having something out there in the middle of the Indian Ocean.

The island is a thousand miles or more from any shoreline. I hope we can get some kind of reasonable agreement from Great Britain, and I believe we will, and proceed on with the elemental needs for this naval installation there. I believe that is the course that we will follow, and that we will obtain an agreement. I had thought we ought to have it by now, but matters came up that they could not do it. We will thus, as I say, be augmenting, reinforcing, and making more operative the Navy we already have.

I wish we could have this oil problem go away, but it is not going away. We will have to deal with it.

So far as the money is concerned, we have reduced this appropriation to $18.1 million, rather than the $32.3 million that was requested by the Defense Department, and I commend the Senator from Missouri on that figure. The Navy has assured me over and over that they are not planning and do not expect to make any further requests above the $29 million, except for about $5 million additional that will be necessary to properly round out this matter and provide something more in the nature of adequate quarters, and so forth.

We can go on to talk about what is going to happen with reference to the Soviet Navy, and all, but these are the fundamentals. I think that we are on the right track to get an agreement and then go on with financing these matters with reference to Diego Garcia.

I support the proposal on that basis, Mr. President.

The Defense Department has, from time to time, requested the construction of a support facility at Diego Garcia. During the past few years Congress has approved over $20 million in military construction funds for an austere communications facility at Diego Garcia.

Of this year's $29 million Navy request, $14.8 million was approved for construction of a new pier, extension of the existing runway from 8,000 feet to 12,000 feet, oil storage facilities, powerplant expansion, and substation and subsistence building addition. The full $3.3 million request was approved for the Air Force to provide additional ramp space, oil storage, and open munitions storage.

The committee approval of a total of $18.1 million represents a 44 percent reduction in the Defense request of $32.3 million. The authorization of these funds will allow the Navy to construct a modest support facility for a carrier task force and naval air reconnaissance operations. The facilities are strictly logistical in nature, permitting limited inport upkeep and resupply.

U.S. INTERESTS IN THE INDIAN OCEAN

The United States has long had substantial interests in the Indian Ocean. We have been dedicated to the economic growth and well-being of the countries in the area. For many years the presence of the U.S. Navy in the Indian Ocean has been a visible source of support to our friends there and represented a U.S. commitment to deter aggressive activities by outsiders.

The United States also has a substantial interest in the petroleum resources of the Middle East. The increasing importance of energy sources to the world's economies and the embargo of the recent Middle East war have highlighted the value of the Middle East petroleum reserves. These reserves constitute over 60 percent of the world's proven crude oil reserves. It has been estimated that Europe depends on the Middle East for 50 percent of its oil supply; Japan depends on the Middle East for over 80 percent of its oil supply. This severe reliance of our allies on uninhibited access to the Middle East petroleum resources makes the support facility of Diego Garcia particularly critical.

The Arab countries themselves should view the expansion at Diego Garcia as a friendly move which could help protect their product—oil. Iran and Saudi Arabia have not objected to the proposed expansion.

The demand on Middle East oil will continue to accelerate in the foreseeable future. The United States presently receives about 10 percent of its oil from the Middle East. If the present trend in U.S. energy demand continues and U.S. oil production continues to decline as it has since 1970, the United States may well have to depend on the Middle East for 20 percent of its oil supply by 1985, or approximately 129 million barrels per month.

The routes for transporting oil from the Middle East will remain through the Indian Ocean. The opening of the Suez Canal will not eliminate the necessity to transport oil through the Indian Ocean since the canal cannot accommodate some 70 percent of the tonnage of all modern oil tankers.

At the present time the U.S. Navy must depend on the Subic Bay as its supply station for Indian Ocean operations. The base is over 5,000 miles from the Persian Gulf. To operate from such a distance puts a severe load on our Navy which has already been spread very thinly.

The expansion of Diego Garcia will underline the U.S. interest in the peaceful development of the Indian Ocean area. At the same time the expansion at Diego Garcia will signal the U.S. determination to assure the access to and transporting of the crucial petroleum resources of the Middle East.

SOVIET ACTIVITY

A wealth of intelligence information on the Indian Ocean area was provided to the Armed Services Committee. As might be expected, intelligence estimates differed on the precise extent of Soviet military activity in the Indian Ocean area. There was unanimity among intelligence estimates, however, that the Soviet military presence has been steadily increasing in the Indian Ocean area and will probably continue to increase. Without going into the technicalities of how to define and measure military presence or military bases, it is clear that the Soviet Union has a significance entrée and capability for military activity in the Indian Ocean.

JUSTIFICATION FOR DIEGO GARCIA EXPANSION

In noting the steadily increasing Soviet presence in the Indian Ocean, Mr. President, I do not intend that this Soviet activity be the primary justification for expanding our support facility at Diego Garcia. An extended base at Diego Garcia is necessary to protect U.S. interests in the Indian Ocean. It is for our own needs and our own use.

The authorization of the $18.1 million for the proposed facilities at Diego Garcia does not imply a new or expanded role for U.S. forces in the Indian Ocean. Deployment of U.S. forces will depend on future developments. I, for one, hope that the United States never needs to deploy substantial military forces in the Indian Ocean.

The proposed facilities at Diego Garcia will be consistent with a low U.S. military profile in the Indian Ocean. These facilities will be located on a deserted island almost 1,000 miles from the nearest coastal country.

The Soviet Union has its own interests in the Indian Ocean area. They will continue to pursue these interests regardless of what the United States does in the Indian Ocean area. The United States can have no assurance as to Soviet intentions, and should not sacrifice its own interests in anticipation of Soviet behavior. I would like to emphasize Mr. President, that there is nothing in the proposed expansion at Diego Garcia which is provocative toward the Soviet Union. Diego Garcia will not in any way be a base for U.S. strategic operations. Rather it is a support facility which will give the United States a tentative connection to the Indian Ocean area.

In short, the United States has significant interests in the Indian Ocean—particularly since most of the oil of the industrialized free world must pass through this area. A small support station at Diego Garcia would facilitate efforts to protect U.S. interests in the Indian Ocean.

I thank the Senator from Missouri for yielding to me, and I yield the floor.

Mr. SYMINGTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. McGee). Without objection, it is so ordered.

Mr. PELL. Mr. President, in considering section 612 of H.R. 16136, let me say from the outset that I have been vigorously opposed, and remain so, to any increase in authorized expenditures for expanding our present so-called limited communications facility on Diego Garcia.

Earlier in the year, the Senate was asked in supplemental S. 2999 to authorize $29 million to expand this facility into a naval and air base. I immediately introduced an amendment to strike this item in its entirety from the bill.

Why? Because I was convinced that this comparatively modest request for funds adumbrated a major departure from our established policy of a low military profile in the Indian Ocean.

Because it was not justified by any proven threat from Soviet military forces in the area.

Because it could lead to a costly United States-Soviet arms race in the Indian Ocean at a time when hard-pressed humanity is already staggering under an annual world bill of some $230 billion for military purposes.

Because its raison d'etre appeared chiefly related to establishing a permanent U.S. military presence in the Indian Ocean at what I believe to be an eventual cost of multibillions of dollars to the U.S. taxpayer.

I believe these reasons are as valid now as they were then.

My amendment to S. 2999 never came to a vote because the Armed Services Committee wisely decided to eliminate the $29 million from that supplemental bill and reconsider the issue in connection with the 1975 military construction bill now before us as H.R. 16136.

Section 612 of the bill pertaining to Diego Garcia is represented as a compromise between the pro and con forces on the expansion issue. The original $29 million is essentially cut in half to $14-802,000 for naval construction, plus, however, $3.3 million for work requested by the Air Force.

Before these funds can be obligated, section 612 requires that the President certify that the construction is "essential to the national interest," with such certification subject to approval by both Houses of Congress in a joint resolution.

Since this legislation provides an opportunity "for full debate on the expansion of Diego Garcia as a policy matter, and in the light of the most recent circumstances," I am refraining at this time from introducing an amendment to strike the proposed $18 million for Diego Garcia in 16136.

However, let me state that if the President should certify that the expenditure of this sum for Diego Garcia is essential to the national interest, I will make every effort to persuade the Congress that this Presidential judgment is in error.

At this point, I call attention to a statement in the Armed Services Committee report—page 6, Diego Garcia-naval support facility—stating that the original $29 million "would allow the base at Diego Garcia to become a general support facilitiy for U.S. forces operating in the Indian Ocean and, in particular, would have the capability to support a carrier task force."

I would like to know if the $18 million S. 16136 calls for is considered as the initial step to obtain this same objective? That broad question embraces specific subsidiary questions such as:

Does the administration wish to establish a permanent U.S. carrier task force in the Indian Ocean?

If so, would not this action entail maintaining our aircraft carrier strength at 15 instead of reducing it to 12 as Congress was originally told was the Pentagon intention?

What would be the cost of three new carrier task forces to replace the three that would otherwise be eliminated if the carrier strength were reduced from 15 to 12 as originally planned?

Would not this cost be in the $10 billion range—some $3 billion for each carrier task force?

If this is not our costly intention, why are we pressing for even a limited expansion on Diego Garcia that is bound to arouse Soviet suspicions and antagonize our close friends in the general area—Iran, Pakistan, Australia, and New Zealand?

I raise these questions now since the replies are very pertinent to the ultimate decision made to expand or not to expand on Diego Garcia. Under section 612, the President can decide that the proposed construction is not in the national interest. I believe that the facts and circumstances of this question give him every justification for concluding that it is not. If he does not so decide, then the Congress should by disapproving of his certification under section 612.

Mr. CASE. Mr. President, the Committee on Armed Services has approved H.R. 16136, the military construction authorization bill for 1975 with an amendment providing for congressional approval, by joint resolution, of further expansion of the Diego Garcia naval and air base facility in the Indian Ocean.

As the committee correctly pointed out:

> By increasing logistic flexibility and capability, expansion of the Diego Garcia base is a distinct step in facilitating U.S. operations in the Indian Ocean and thus is directly related to the broader policy questions associated with a U.S. military presence in the Indian Ocean.

It has long been my own view that such policy questions must be resolved by Congress pursuant to its constitutional role in approving treaties. In this respect, there is no conflict in usage between treaties and other international agreements, as the American Society of International Law recently pointed out. The society went on to state that:

> No international agreement which itself assumes significant international obligations or otherwise determines important policy issues should be concluded without congressional participation.

Last year I introduced legislation to the State Department authorization bill requiring approval by Congress of all major military base agreements. The Senate approved this amendment, it was accepted in conference, but unfortunately it was deleted on the House floor on a point of order.

Again this year the Senate approved an amendment I introduced on this year's State Department authorization bill. It would prohibit spending to carry out any agreement between the United States and any foreign country: First, establishing a major military installation for U.S. troops; or second, renewing, extending, or significantly altering the terms of any such agreement, unless Congress approves the agreement by law, or, if a treaty, the Senate advises and consents.

The Senate also approved, on the same bill, an amendment I proposed requiring congressional approval of any expansion of facilities on Diego Garcia. Earlier that amendment was approved unanimously by the Senate Foreign Relations Committee.

The action taken by the Senate Armed Services Committee is, in all essential respects, identical to the language already approved by the Senate on the State Department authorization bill. It has my full support and, I know, it will have the support of the Foreign Relations Committee.

I urge approval by the full Senate of this most important matter. It is an important step in restoring the authority of Congress.

Mr. KENNEDY. Mr. President, this bill, H.R. 16136, authorizes $18,200,000 for the first increment in the construction of expanded Navy and Air Force facilities on the island of Diego Garcia. Before this money is spent, however, the bill also provides, in section 612, for the President to reevaluate all the military and foreign policy implications involved in establishing these facilities. He must certify in writing that this action is essential to the national interest, and he must submit this certification to the Congress for approval by both Houses. Although I remain firmly opposed to the establishment, at this time, of a logistic support base on Diego Garcia—without first exploring every avenue of possible negotiation with the Soviet Union—I recognize that the committee has taken note of the serious long-term foreign policy issues involved in this action, and deferred a final congressional decision.

For some time I have been deeply concerned by the possible emergence of yet another arms race with the Soviet Union, this time in the area of the Indian Ocean. In March, I introduced, with Senator PELL, Senate Concurrent Resolution 76, asking the President to seek direct negotiations with the Soviet Union, regarding an agreement on mutual limitation of forces in the Indian Ocean. I am pleased that the Armed Services Committee, in its report on H.R. 16136, has expressed its hope that the President will explore this possibility.

Traditionally, the position of the United States toward the Indian Ocean has been to maintain the sound policy of caution, restraint, and minimal military involvement. In authorizing these funds, we would be clearly committing ourselves to expanded deployments of our military forces in the Indian Ocean. We would be establishing the basis for a semipermanent U.S. presence in the area. And we would be signaling that the fledgling arms race with the Soviet Union in the Indian Ocean is about to become a serious affair.

Before committing ourselves to these actions, we should have absolute assurance that all possibilities had been exhausted of reaching a mutual agreement to exercise restraint, in the interests of both countries. At the same time, it is imperative that we carefully examine the facts to determine whether the threat from Soviet presence is serious enough to warrant the steps being taken. To do otherwise is to ignore the lessons which history teaches, concerning the endless cycle of regional power conflicts, and to give up any hope of preserving a relatively low military profile in that area, consistent with the desires of the littoral states as expressed in two U.N. resolutions declaring the region a "zone of peace."

If these reasons alone do not cast sufficient doubt on the wisdom of proceeding with this project at this time—and I believe they do—then the widespread disagreement within our own government about the need for this facility clearly does.

President Ford has already made his views on Diego Garcia clear, in his press conference 2 weeks ago. He stated then that he was in favor of the expansion of facilities on that island, and that he did not view this as any challenge to the Soviet Union because the Russians already had "three major operating bases in the Indian Ocean."

The Soviet news agency Tass suggested 2 days later that perhaps the President had been "misinformed by his staff." They maintained that "there are neither three nor even one Soviet naval base in the Indian Ocean." It was important, therefore, to determine the facts. When the White House was asked to name these "three major operating bases," inquiries were referred to the Pentagon. The Defense Department then disclosed that the Soviet bases the President had referred to were located at Berbera, Somalia, Umm Qasr, Iraq, and Aden in Southern Yemen.

It is apparent that there is some confusion within the executive branch over the extent of these installations and whether or not they should be called bases. In his testimony last July before the Senate Armed Services Committee, on the request for authorization of these funds, Mr. William Colby, Director of the CIA, gave a different interpretation of the significance of these Soviet facilities:

> Berbera: A small installation which will handle two or three ships . . . They have been building an airstrip there for about a year, but have not gotten very far.
>
> Umm Qasr, Iraq: The so-called port is about four, five or six buildings here—a place where you can anchor . . . The Iraqis appear to be a little bit restrictive as to the degree to which they will allow the Soviets free use of this particular port.
>
> Aden, Southern Yemen: The Soviets have not used it very much. They have not done much more than port visits there.

In his testimony before the House Foreign Affairs Committee, Rear Admiral Grojean, Deputy Chief of Naval Operations cautioned us that:

> We have to watch the word "bases" here because the Russians do not have bases per se.

Similarly, an enormous array of statistics have been presented to Congress by the Pentagon, to show that the increased Soviet presence is serious enough to warrant taking actions which have the effect of making our military presence in the area semipermanent. We have seen charts showing that the number of Soviet naval ship-days exceeds American ship-days in the Indian Ocean by more than 4 to 1. But a careful reading of the footnotes discloses that the large proportion of the Soviet ship-days were accumulated by auxiliaries, supply vessels, and minesweepers used for a harbor clearing operations in Bangladesh.

Despite the appearance, according to some observers, of a wide disparity in naval deployment, the Director of the Politico-Military Policy Division of the Navy Department testified in July that:

> The U.S. presence in the past several months has been greater than the Soviet.

At the same hearing, the Deputy Assistant Secretary of Defense for International Security Affairs disclosed that, at that time, both the Soviet Union and the United States had eight combatant vessels operating in the area. The Soviet Union was deploying destroyers, cruisers, and escorts, while the United States was deploying destroyers, escorts, and the aircraft carrier *Kitty Hawk*.

Seymour Weiss, Director of the Bureau of Politico-Military Affairs, Department of State, testified that in terms of port calls during 1973, the Soviet Union made 150 visits to 9 littoral nations, while the U.S. Navy made 184 visits to 17 nations.

As justification for expanding the Diego Garcia facility, we have also heard the Pentagon's judgment that the reopening of the Suez Canal will lead to sharply increased Soviet naval activity in the Indian Ocean, because of improved access for Mediterranean and Black Sea fleets. At the same time, however, Mr. Colby offered the judgment of the CIA that the opening of the canal will "increase the overall flexibility of the Soviet Navy in the Indian Ocean, but not in itself cause a significant increase in the Soviet presence."

Because of these differences of opinion within the administration concerning the Soviet role in the Indian Ocean—present and future—I trust that any Presidential determination pursuant to section 612 will clarify these issues, and bring the true facts before the Congress. We simply must not rush unthinking into another arms race with the Soviet Union.

Mr. President, over the years we have often seen the wisdom in many parts of the world of reaching back to the historical traditions of American military policy. This is a tradition of naval power, which has helped permit projections of power where essential to our security, but also has helped to keep us from becoming involved where that is not in our interests. Ships afloat can perform this dual role. If necessary, they can be involved. But by eschewing fixed bases in a far-flung zone of difficulty, they retain the flexibility of remaining aloof.

I believe that expanding the facility at Diego Garcia would violate the second part of that important dictum. It would permit greater flexibility of naval operations, but at the price of signalling, in advance, that the U.S. Navy is involved. It will increase the chances that we will be drawn into local crisis and conflict. And it will likely stimulate a reaction, both by littoral and outside naval powers. Far better, in my estimation, for us to continue operating whatever naval forces may be required by our national interest at any time, from the existing base at Subic Bay. In particular circumstances, this could cost more in the short term. But in the long term, the costs are likely to be far smaller, both in overall involvement, and in the risks of unwanted combat.

Mr. President, for all of these reasons, I have grave doubts that the United States should proceed with expanding the Diego Garcia facility at this time. Therefore, I support the qualification in section 612 of this bill, and trust that the administration will provide us with all the pertinent information we must have, before asking the Congress to give final approval to this venture.

The PRESIDING OFFICER. The question is on agreeing to section 612 of the committee amendment, on the issue of Diego Garcia. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Hawaii (Mr. INOUYE), and the Senator from Louisiana (Mr. LONG), are necessarily absent.

I further announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Georgia (Mr. TALMADGE), are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Kentucky (Mr. COOK), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), and the Senator from North Carolina (Mr. HELMS), are necessarily absent.

I also announce that the Senator from Hawaii (Mr. FONG), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), and the Senator from Pennsylvania (Mr. SCHWEIKER) are absent on official business.

I further announce that the Senator from Oklahoma (Mr. BELLMON), is absent due to illness.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER), and the Senator from Illinois (Mr. PERCY), would each vote "yea."

The result was announced—yeas 83, nays 0, as follows:

[No. 389 Leg.]

YEAS—83

Abourezk
Aiken
Allen
Bartlett
Beall
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Cotton
Cranston
Curtis
Dole
Domenici
Eagleton
Eastland
Ervin
Fannin
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Hughes
Jackson
Javits
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—17

Baker
Bayh
Bellmon
Chiles
Cook
Dominick
Fong
Fulbright
Goldwater
Helms
Humphrey
Inouye
Long
Packwood
Percy
Schweiker
Talmadge

So section 612 of the committee amendment was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which section 612 was agreed to.

Mr. SYMINGTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I rise today in support of H.R. 16136.

The main thrust of this bill is in the area of housing and other support facilities for military personnel. Also included are projects for upgrading existing medical facilities and for the construction of new facilities.

It is my firm belief that to maintain a strong defense posture and to achieve an all-volunteer force we must supply adequate support facilities for our military personnel.

I would also like to take this opportunity to congratulate the Senator from Mississippi (Mr. STENNIS) and his colleagues on the Armed Services Committee for reporting out a bill which is supportive of the continuation of our defense posture and which is at the same time acceptable in relation to our fight against excessive Government expenditures and inflation.

Accordingly, I intend to vote in the affirmative and I recommend that my colleagues do likewise.

Mr. SYMINGTON. Mr. President, I ask for third reading.

The PRESIDING OFFICER (Mr. HATHAWAY). The bill is open to further amendment to be proposed, the question is on agreeing to the remainder of the committee amendment in the nature of a substitute, as amended.

The remainder of the committee amendment in the nature of a substitute, as amended, were agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

I further announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Kentucky (Mr. COOK), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. FONG), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), and the Senator from Pennsylvania (Mr. SCHWEIKER) are absent on official business.

I further announce that the Senator from Oklahoma (Mr. BELLMON) is absent due to illness.

I further announce that, if present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Illinois (Mr. PERCY) would each vote "yea."

The result was announced—yeas 82, nays 3, as follows:

[No. 390 Leg.]

YEAS—82

Aiken
Allen
Bartlett
Beall
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cotton
Cranston
Curtis
Dole
Domenici
Eagleton
Eastland
Ervin
Fannin
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—3

Abourezk
Hughes
Metzenbaum

NOT VOTING—15

Baker
Bayh
Bellmon
Cook
Dominick
Fong
Fulbright
Goldwater
Helms
Humphrey
Inouye
Packwood
Percy
Schweiker
Talmadge

So the bill (H.R. 16136) was passed.

Mr. SYMINGTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SYMINGTON. Mr. President, I move that the Senate insist on its amendment to H.R. 16136 and request a conference with the House of Representatives, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the

Chair appointed Mr. SYMINGTON, Mr. STENNIS, Mr. JACKSON, Mr. ERVIN, Mr. CANNON, Mr. HARRY F. BYRD, JR., Mr. TOWER, Mr. THURMOND, and Mr. DOMINICK, conferees on the part of the Senate.

Mr. SYMINGTON. Mr. President, I should like to express the appreciation of the Military Construction Subcommittee and all its members for the fine work that has been done by Mr. Clark McFadden, who took the place of Mr. Nease, who unfortunately became ill a few days ago. It is only because of Mr. McFadden's hard work and that of other members of the staff that we have been able to present the bill today.

Mr. TOWER. Mr. President, I should like to associate myself with the remarks of the distinguished chairman of the subcommittee.

FEDERAL-AID HIGHWAY AMENDMENTS OF 1974

The PRESIDING OFFICER (Mr. HATHAWAY). Under the previous order, the Senate will now proceed to the consideration of S. 3934, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3934) to authorize appropriations for the construction of certain highways in accordance with Title 23 of the United States Code and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Time for debate on this bill is limited to 2 hours, to be equally divided between and controlled by the Senator from Texas (Mr. BENTSEN) and the Senator from Vermont (Mr. STAFFORD), with 1 hour on any amendment, 30 minutes on an amendment to an amendment, and 20 minutes on any debatable motion or appeal.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and I hope it will be with the approval of my distinguished senior colleague, Mr. RANDOLPH, and the distinguished Senator from Vermont (Mr. STAFFORD)—that there now be 15 minutes, not to be charged against the time on the bill, to be allotted as follows: 5 minutes to Mr. CRANSTON, 5 minutes to Mr. BROOKE, 5 minutes to myself. This allocation of time would be so that we could speak on a matter that is not germane to the pending measure.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

SENATE RESOLUTION 400—SUBMISSION OF A RESOLUTION RELATING TO THE GRANTING OF EXECUTIVE PARDONS

Mr. CRANSTON. Mr. President, I am going to submit a resolution together with Senator BROOKE, who is joining me in this matter, and I will ask that it be placed on the calendar. Failing in that, I will then ask for its immediate consideration. I want to make clear, however that we have no desire to bring the resolution to a vote until Senators have had an opportunity to familiarize themselves with it.

I hope, Mr. President, we can work out an agreement, when an agreement becomes possible, to vote on the resolution, say, Tuesday of next week.

The resolution reads as follows:

Whereas the United States of America is a nation of laws and all persons in the United States are subject equally to its laws and institutions;

Whereas a public fully informed about events, situations, or ideas of public concern or public interest or which affect the public welfare is essential to the principles as well as the effective operation of a democracy;

Whereas public confidence in and respect for our system of order and justice under law is vital to the maintenance of our free institutions;

Whereas that public confidence and respect depends upon the equal application of our laws to all persons;

Whereas the offenses and alleged offenses known as "Watergate" have constituted an enormous breach of public trust and confidence on the part of officials of Government;

Whereas a part of Watergate is its alleged coverup which has deprived and continues to deprive the American people of the full information they require and to which they are entitled in our democracy;

Whereas "Watergate" will thus continue to pose a grave crisis for the American people and the Government of the United States until there is a reasonable assurance that all of the facts related thereto have been publicly revealed;

Whereas the President of the United States has chosen to pardon Richard M. Nixon for all offenses against the United States which he has committed or may have committed or participated in as President of the United States without a full exposition of his involvement in Watergate and related offenses or prior to the opportunity for the judicial process to be initiated, let alone completed, with respect to the guilt or innocence of the former President of any such offenses against the United States;

Whereas various matters are currently under investigations or in various stages of prosecution by the Special Prosecutor pursuant to regulations of the Attorney General of the United States—including matters related to "Watergate", other alleged offenses arising out of the 1972 Presidential election, and other offenses alleged to have been committed by Presidential appointees or members of the White House staff;

Whereas public confidence in the integrity of the nation's system of order and justice under law will be seriously undermined if the investigation and prosecution of such allegations of illegal acts by officials of Government do not proceed in accordance with the orderly and normal course of the criminal justice system and judicial process; and

Whereas any further action by the President of the United States at this time to pardon any defendant or prospective defendant with respect to such matters could abort the normal and orderly course of the criminal justice system and the judicial process and thereby destroy that public confidence and deprive the American people of the full information they require and to which they are entitled: Now, therefore, be it

Resolved, That it is the sense of the Senate that the grant of a pardon under section 2 of Article II of the Constitution of the United States should not be considered until after the judicial process has been fully completed (including the exhaustion of all rights of appeal with respect to a criminal investigation and prosecution referred to or within the jurisdiction of the Special Prosecutor under Attorney General's Order 517–73 (May 25, 1973) and Attorney General's Order 551–73 (November 2, 1973), 28 C.F.R. 0.37, or with respect to other matters which have been or shall be assigned to him by the Attorney General of the United States.

Mr. CRANSTON. Mr. President, the resolution speaks for itself. The whereas clauses are based on considerations of equal justice under law, and the public's right and need to know, in our democratic society and its free institutions. The reason for our urgency stems from the unprecedented action by the President in regard to the pardon of Richard Nixon without any significant consultation with a broad spectrum of leadership in the Senate.

The resolution stems, furthermore, from the statement yesterday by the White House spokesmen that the President was considering granting a blanket pardon to all the Watergate defendants or people under the cloud of Watergate, and the further statement today that, instead, pardons are being considered on an individual basis. These statements indicate that something may happen rather hastily. For that reason, we feel it appropriate to seek action now.

Therefore, I send this resolution to the desk, and I ask unanimous consent that it be placed on the calendar.

Mr. STAFFORD. Mr. President, I object.

Mr. CRANSTON. Mr. President, I ask unanimous consent for its immediate consideration.

Mr. GRIFFIN. Mr. President, I did not hear the request.

Mr. CRANSTON. There was an objection to the resolution being placed on the calendar. Because of that, I asked unanimous consent for its immediate consideration.

Mr. GRIFFIN. Mr. President, the Senator from Vermont did not object. If it is agreeable with the Senator from California, he will withdraw any reservation.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. STAFFORD. That it be placed on the calendar?

Mr. CRANSTON. Yes.

The PRESIDING OFFICER. The Chair hears none, and the resolution will be placed on the calendar.

Mr. GRIFFIN. Mr. President, may I be recognized for a moment?

The PRESIDING OFFICER. There is a time limitation.

Mr. CRANSTON. I am delighted to yield, if I have time.

Mr. GRIFFIN. For the purpose of clarification, is it the fact that under the unanimous-consent request which was made by the Senator from California, the parliamentary situation is the same as though he had asked for immediate consideration and there had been objection?

The PRESIDING OFFICER. The Senator is essentially correct.

Mr. CRANSTON. Mr. President, I should like to explain again, in case the distinguished Senator from Michigan did not hear me, that I did not want immediate consideration. I think that would be totally unfair. I hope we can work out an agreement for action, perhaps next Tuesday.

The PRESIDING OFFICER. The time of the Senator from California has expired.

The Senator from Massachusetts is recognized for 5 minutes.

Mr. BROOKE. Mr. President, the resolution which the distinguished Senator from California (Mr. CRANSTON) and I have introduced is easy to understand. It has been read by the Senator from California. The reason for this resolution is that yesterday the White House informed us that the President was giving serious consideration to pardoning all the Watergate defendants.

We feel very strongly that the Congress has a responsibility to report to the President its feelings relative to a blanket pardon of all Watergate defendants. I personally feel, and I think it is implicit in one of the "whereas" clauses of this resolution, that the President made a serious mistake in granting a pardon to former President Richard Nixon without the full confession of Mr. Nixon of his involvement in Watergate and related incidents. But this particular resolution addresses itself to the other Watergate defendants.

This resolution would make it the sense of the Senate that each defendant could only be considered for a pardon on an individual basis, and only after the judicial process has been fully completed.

For example, in the case of John Dean, he has pleaded guilty, has been sentenced, and is presently serving a jail sentence. Under this resolution, or under the sense of this resolution, the President could pardon John Dean at this time.

But John Ehrlichman, who has been tried and convicted and is on appeal in one case and awaits another trial in a second case, could not be pardoned by the President at this time. He would have to wait until his case has been fully completed and all appeals have been fully exhausted.

We feel very strongly, Mr. President, that the American people are entitled to know the full facts of Watergate. There should be no coverup of the coverup. If there is a blanket pardon given to everyone involved in Watergate, in addition to the blanket pardon which has been given to former President Richard Nixon, the facts of Watergate might never come to light and without the facts Congress would be unable to enact laws which would prevent future Watergates.

I have discussed the basis for this resolution. It is only a sense-of-the-Senate resolution. It has no legal effect. But precedents indicate that the executive branch of the Government does give serious consideration to a sense-of-the-Senate, or a sense-of-the-Congress, resolution. We hope and pray that, by the introduction of this resolution and, hopefully, by the passage of this resolution, the President of the United States will be assisted in his deliberations and in his ultimate decision as to whether he should grant a pardon to the Watergate defendants.

Mr. ROBERT C. BYRD. Mr. President, I congratulate Mr. CRANSTON and Mr. BROOKE on having introduced the resolution to which they have just addressed their remarks. I ask unanimous consent that my name be added as a cosponsor of that resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I am delighted that the Senator from West Virginia has joined us.

Mr. HART. Will the Senator yield for the purpose of my asking unanimous consent that my name be added, also?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. CRANSTON. That is a pleasure, too.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the names of the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Connecticut (Mr. RIBICOFF) be added as cosponsors of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized for 5 minutes.

SENATE RESOLUTION 401—SUBMISSION OF A RESOLUTION RELATING TO THE GRANTS OF PRESIDENTIAL PARDONS OF IN CONNECTION WITH THE PRESIDENTIAL CAMPAIGN AND ELECTION OF 1972

Mr. ROBERT C. BYRD. Mr. President, I have a resolution which I am about to submit. Apparently, a situation arises here because I did not know until a few minutes ago that the two distinguished Senators were preparing a resolution of this kind, and they did not know until then that I was considering the matter.

My resolution reads as follows:

> Whereas the truth with respect to criminal offenses committed by individuals during the Presidential campaign and election of 1972 will best be made known to the American people through the trial of individuals accused of committing such offenses;
>
> Whereas criminal proceedings with respect to individuals accused of committing offenses during the Presidential campaign and election of 1972 are underway in the courts of the United States;
>
> Whereas material witnesses may be expected to testify with respect to such offenses during the course of the various criminal proceedings;
>
> Whereas a Presidential pardon to any or all those individuals who stand accused of such criminal offenses would thwart the judicial process; and
>
> Whereas a Presidential pardon for individuals accused of such criminal offenses would effectively conceal the whole truth of what happened during the Presidential campaign and election of 1972 from the American people: Now, therefore, be it

Mr. President, I ask unanimous consent that this resolution be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the resolution which I have just introduced speakes for itself. I have already indicated publicly that I regret the granting of a pardon to former President Nixon at this time. I recognize that President Ford has absolute authority to grant that pardon. I merely questioned the timing and the wisdom of it. I feel that the judicial process should have been permited to work its will and that, if, indeed, the former President had been indicted and if, indeed, following such an indictment, he had been convicted, the trial judge could have shown mercy based on the circumstances as he saw them.

It is as repulsive to me as it would be to anyone else to see a former President of the United States in jail. But I do feel that the judicial process should have been permitted to work its will, and then, at the end of the line, if the President were to see fit to grant a pardon, I do not think many people would have quarreled wtih that.

But that is beside the point, to a considerable extent, insofar as this particular resolution is concerned. On yesterday, through press reports, we were made to understand that consideration was being given at the White House—and I understand that such announcement had been authorized by President Ford—to the possible granting of a pardon to all of the persons who stand accused in connection with Watergate and related offenses. I believe that to grant a pardon to the former President and not grant it to all those who worked with him and who may have acted under his approval constitutes a double standard of justice. But in my judgment, even to extend a pardon to those persons does not remove the establishment of a double standard—such double standard being already a fait accompli by virtue of the pardoning of Mr. Nixon.

Where do we stop? Even if a pardon were to be granted to all who stand accused of crimes associated with Watergate, the jails of this country are full of people who have lost their jobs, whose careers have been destroyed, who have suffered and whose families have suffered because of white collar crimes and street crimes having been committed. It could go on and on ad infinitum. The double standard has now been established beyond recall. But I say this: I think it would be a compounding of what I personally consider to have been a mistake, to extend the Presidential pardon—to others who yet stand accused—prior to the time of their trials and convictions, if such convictions should eventually occur.

If, at the end of the judicial process, the President should want to extend the pardon to those persons, that would be a matter to be debated at a later time. But in this particular instance, I think it would absolutely foreclose the judicial process from working its complete will if pardons were now extended to any or all those who still stand accused.

Mr. BROOKE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask for 2 additional minutes.

Mr. GRIFFIN. Mr. President, reserving the right to object, I ask that the time be extended for 10 minutes, and that I may have 5 minutes.

Mr. ROBERT C. BYRD. Yes; I thank the Senator, and that the time not come out of the time allotted to the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Let me just complete my statement. Then I shall be glad to yield.

Mr. BROOKE. Yes.

Mr. ROBERT C. BYRD. I think it would compound, as I say, an error that has already been made, but the President has to answer for himself in that regard.

I think that what the American people expect and what posterity is entitled to is that the full facts be laid upon the record, if they can be so laid, regarding any and all crimes for which various persons stand accused.

The fact that the former President has been pardoned does not yet foreclose this judicial process. If the others who stand accused go forward yet to trial, witnesses will be called, and presumably in the course of the trials, the full facts would still be laid open on the record. This resolution does not constitute any interference with the Executive Branch; the President retains the constitutional power to grant pardons if he so wishes, and there is nothing that Congress can do about that whatsoever; his power is absolute, total, and complete, in this regard, and unless there is a constitutional amendment to modify the present pardon clause, I see nothing that Congress can do.

I do think, howeve, that as the elected representatives of the people in this branch of the Congress, we ought to at least go on record as expressing the sense of the Senate and the Senate's advice that the President not extend pardons to any of those who still stand accused, until the judicial process has at least been exhausted. I am not saying anything about those who have already been convicted, because the judicial process has worked its will in their regard. As to those who have not been acquitted or convicted, in my judgment, the judicial process should be allowed to work to its conclusion, and it is for that purpose that I submit this resolution today.

I now yield to the able Senator from Massachusetts.

Mr. BROOKE. I thank the distinguished Senator. First, I ask unanimous consent that I be added as a cosponsor of the Senator's resolution.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. CRANSTON. Mr. President, I make the same request.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I think it should be made clear, and I think the distinguished Senator from West Virginia has attempted to do this, that both the resolution offered by the Senator from California (Mr. CRANSTON) and myself, and the resolution offered by the Senator from West Virginia, do not urge that there be an effort to take away the President's pardoning power. Nor do they urge the President not to use his pardoning power. The resolutions only urge the President to use the pardoning power, if he deems it proper, after the judicial process has run its course.

We suggest this, and we do not do anything more than suggest this to the President, because we feel that it is of paramount importance that the American people finally learn all the facts about Watergate and related matters.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. ROBERT C. BYRD. I reserve that 1 minute.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, at the outset I ask unanimous consent that a statement by the President of the United States, which was released this morning at the White House be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
September 11, 1974.

STATEMENT BY THE PRESIDENT

The announcement yesterday by Mr. Hushen concerning study of the entire matter of Presidential clemency and pardons was prompted by inquiries to the White House Press Office concerning Mrs. John Dean's reported statement in reference to pardoning of her husband and similar public statements on behalf of others.

Such a study is, of course, made for any request concerning pardon of an individual.

However, no inference should be drawn as to the outcome of such study in any case. Nor is my pardon of the former President, under the unique circumstances stated by me in granting it, related to any other case which is or may be under study.

Mr. GRIFFIN. Mr. President, with all due respect and deference, I would suggest that the discussion I have listened to would have been more appropriate, perhaps, on yesterday afternoon, when the junior Senator from Michigan, along with others, was surprised and shocked by press reports that President Ford was considering the possibility of a blanket pardon for all the Watergate defendants.

However, today it is very clear to me, and to others who attended a meeting with the President this morning at the White House, that no consideration is or has been given to a blanket pardon for all Watergate defendants. That unfortunate interpretation, which emerged yesterday from a White House press briefing, is attributable—as I understand—to a reply given to questions prompted by Mrs. Dean's statement indicating she felt her husband, John Dean, should be pardoned.

I might say in passing that the judicial process in the case of John Dean had run its course. As the Senator from Pennsylvania (Mr. HUGH SCOTT) said when he talked with the press after the meeting with the President this morning—the response given was intended to indicate that a request which goes to the President of that nature would not be thrown in the wastebasket. I do not think anyone would expect him to do that; and, of course, such a request would be studied.

Now, to say that it would be studied does not indicate or justify an inference that, therefore, a pardon would be granted.

Mr. CRANSTON. Mr. President, will the Senator yield for a point of clarification?

Mr. GRIFFIN. And the statement released by the President this morning indicates that such a study, of course, would be made concerning any request of any individual.

If there were grounds yesterday for misunderstanding the intention, I would hope that the whole matter was cleared up this morning.

Mr. CRANSTON. Mr. President, will the Senator yield.

Mr. GRIFFIN. Yes.

Mr. CRANSTON. I think the matter is clearer. I am delighted that the President made the clarification that he made today.

However, the concern that Senator BROOKE, Senator BYRD, and I share is not really concerning a blanket pardon. We are concerned that no individual should be pardoned until that individual's case has run the full judicial course to whatever the end might be, so that the facts may be laid out and we will not have what might be called a prepardon.

Mr. GRIFFIN. Yes, I appreciate that. As long as this explanation is in the record, there is certainly nothing wrong or inappropriate about any Senator offering a sense-of-the-Senate resolution on this subject. Indeed, I may even end up voting for such a resolution. There may be a great deal of merit to such a move. But I believed it was important to put the developments of yesterday and this morning in perspective. I think events this morning do throw an entirely different light on the picture.

Mr. CRANSTON. If the Senator will again yield, I think it is very important that he did clarify that matter. I am delighted that he did so, and I hope very much that he will support the resolution. I am delighted that he thinks he might.

The PRESIDING OFFICER. The Senator from West Virginia has 1 minute remaining.

Mr. ROBERT C. BYRD. Mr. President, just for the record let me say that I was not present at the meeting this morning to which the able Senator from Michigan referred. I was not expected to be at that meeting, and I am not complaining about that, but for the record I was not there, so I do not know what clarification of yesterday's events was expressed there, but I do appreciate the statement that has now been made by the distinguished assistant Republican leader.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore of the Senate, appoints the

Senator from Iowa (Mr. CLARK) to attend the United Nations World Food Conference, to be held in Rome, Italy, November 5-16, 1974.

FEDERAL-AID HIGHWAY AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 3934) to authorize appropriations for the construction of certain highway in accordance with title 23 of the United States Code, and for other purposes.

Mr. BENTSEN. Mr. President, I ask unanimous consent that during consideration of and voting on S. 3934 the following staff members of the Committee on Public Works be granted the privilege of the floor:

M. Barry Meyer, Philip T. Cummings, Leon Billings, Ronald Katz, George N. Fenton, Jr., Richard M. Harris, Bailey Guard, Katherine Cudlipp, Harold Brayman, Richard Herod, Jacqueline Schafer, Richard Kait, Steve Swain, Vic Maerki of Senator Stafford's staff and for the Commerce Committee, Lynn Sutcliffe, Ed Cohen, and Ed Merlis.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I yield myself such time as I may need.

Last year, Congress passed a landmark Federal Aid Highway Act, a measure that, for the first time, allowed the highway trust fund to be used for transit purposes and substantially increased authorizations for various Federal aid highway programs.

Following the passage of last year's bill, the Subcommittee on Transportation did not anticipate action this year on another highway measure. However, some unfinished matters remained from last year and the energy crisis which hit us last winter gave new impetus to the need for highway, related legislation.

The measure which the committee has reported to the Senate is not a comprehensive one. The committee recognizes that new and broader legislation will have to be considered next year as authorizations for the Federal Highway Act of 1973 near the expiration period. Therefore there are no provisions in this act extending authorizations beyond fiscal 1976.

However, there are sections of the bill directed specifically at our energy problems and other provisions intended to fill in gaps in the 1973 act.

The committee decided to make permanent the 55-mile-per-hour speed limit which is due to expire on June 30 of next year. The Federal Energy Administration has estimated that despite the tendency of drivers to allow their speeds to rise above the national limit we are still experiencing a 200,000 barrel a day savings in crude oil and a considerable saving of lives on our highways. Indications are also that the 55-mile-per-hour limit is popular with the public with some 72 percent of the people in the June Gallup poll expressing a favorable view of it.

Another energy matter, the committee approved a modest increase in permissible truck weights on the Interstate System. Present law restricts single axle weights on interstates to 18,000 pounds, double axle weights to 32,000 pounds, and overall gross weight of 73,280 pounds. These allowable weights date back to the 1956 Highway Act, which established the weight limitations to protect the heavy Federal investment in the Interstate System. A study was ordered in the 1956 act which later resulted in a series of road tests and a recommendation by the Department of Commerce that axle weights be allowed to increase to the levels in the committee bill and that a bridge formula be included in law which would relate the weight of the vehicle to the distance between axles and the number of axles.

These suggestions were made in 1964, yet the old weights still remain in law. The committee debated this question at some length after hearing many witnesses and determined to allow modest permissive increases in truck weights, but to leave the question of truck lengths free of Federal regulation and to leave the allowable widths of trucks at 96 inches.

Questions of safety and economics were considered, as was the fact that the modest increases in the committee bill already exist in approximately half of the States of the Union, as a result of a grandfather clause in the 1956 bill which allowed States permitting heavier weights at that time to maintain those weights.

Other major provisions in the bill include an extension through fiscal 1976 of the Highway Beautification Act with several strengthening amendments designed to encourage alternatives to billboards along our major highways. The beautification program, after a shaky start, is now on firm ground, with all 50 States in compliance. Over 225,000 signs have been removed, and several States have taken advantage of provisions in the act to allow improved information services in the form of official State "logo" signs, better services at rest areas, and sign plazas. The committee bill increases the authorizations for the program and allows Federal participation, for the first time, in the establishment of information centers at safety rest areas and travel information systems within the rights of way of interstate and primary highways.

The committee bill also contains a provision allowing for a new administrative procedure by which highway construction contractors can apply to the Secretary of Transportation for the termination of Federal highway contracts. This could be accomplished only on contracts entered into before November 1, 1973 and only when the contractors anticipated supplier is incapable of delivering essential highway materials at any price.

Other provisions would increase authorizations for the rural bus demonstration program, approved by Congress last year and would allow the funds in the program to be used for operating subsidies. The committee regards this program, initiated by its distinguished chairman, Senator RANDOLPH, as the forerunner of a more ambitious program to meet the urgent needs of rural transportation.

Two sections relating to bridge replacement are included in the bill. One increases the authorization for the generic bridge replacement program. Testimony has revealed that the program, at its present level of funding, would take more than 160 years to replace the dangerous bridges that presently require their repair and replacement. The second provision authorizes some $116 million for the replacement of some severely deteriorating bridges on the overseas highway to Key West, Fla. This highway is a vital defense link, and the bridges deteriorated markedly during the period of the Cuban missile crisis, when large loads of heavy equipment were transported to the South.

The committee took action to allow all parkways, not just those on Federal aid systems, to be financed from the Highway Trust Fund. The committee believes that the national character of these roads make it logical to finance them from the trust fund, and it reiterates this provision, which the Senate approved last year.

An additional $25 million is authorized for the Indian reservation roads and trails program and the bill allows these funds to be used on Federal aid highways leading to Indian reservations.

To improve transportation facilities for the elderly and the handicapped, the committee adopted a provision requiring that in the future planning construction, and operation of transit systems, there must be assurances from grant recipients that the transit facilities can be effectively utilized by elderly and handicapped persons. This provision applies to the Federal Aid Highway Act of 1973 and is prospective only.

Other sections of the bill authorize the Alaska ferry to stop in Canada, provide some $20 million for bikeways in urbanized areas, allow some modifications in the rail highway grade crossing demonstration project in the Northeast Corridor, create a new program for access roads to Federal reservoirs, and extend the carpool demonstration program for 1 year with a $15 million authorization.

I want to express my personal appreciation to the members of the Transportation Subcommittee and the full Public Works Committee for their work on this important measure. Our chairman, Senator RANDOLPH, made significant contributions to this bill and diligently attended most of the hearings and the mark-up sessions, giving the committee the benefit of his extensive knowledge of highway legislation. Senator STAFFORD of Vermont, the ranking minority member of the subcommittee, chaired subcommittee sessions when I was unable to attend and gave the committee wise counsel during executive sessions. My thanks also go to other members of the Transportation Subcommittee for their contributions—Senators MUSKIE, MONTOYA, GRAVEL, BURDICK, WILLIAM L. SCOTT, and DOMENICI.

The staff of the Public Works Committee did their usual effective job counseling the members and assembling the necessary background information. I would like to pay tribute to Barry Meyer, Bailey Guard, Leon Billings, Phil Cummings, John Yago, Richard Harris, Hal Brayman, Kathy Cudlipp, Ron Katz, Clark Norton, Ric Fenton, and Jackie Schaefer.

Mr. President, I believe we have a realistic piece of legislation before us, which reflects the careful consideration of the Public Works Committee. I urge the Senate to act expeditiously and favorably on it.

I reserve the balance of my time.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. BENTSEN. I am delighted to yield to the Senator from Florida.

Mr. CHILES. I commend the distinguished chairman of the Subcommittee on Transportation and the ranking minority member (Mr. STAFFORD) for the work they have done on this bill. I also want to especially thank Senator RANDOLPH for his cooperation and assistance, and to the staff especially, in recognizing for Florida the problem of the Key Bridge, better known as the Overseas Highway.

If it were not for the leadership, my State would be faced at this time with an impossible replacement problem with no real resources, or not enough resources, to meet that need.

As the Senator from West Virginia (Mr. RANDOLPH) is painfully aware, the collapse of the Silver Bridge at Point Pleasant, W. Va., in December 1967 brought to the forefront this Nation's critical problem in the area of bridge inspection and repair. In an effort to eliminate any similar recurrences, the State of Florida has undertaken a major bridge inspection program which has brought to light the very severe problem which currently faces the State with the the Florida Keys bridges.

The Florida Department of Transportation, after several months of investigation, has found that rapid and accelerated rate of deterioration has created a need to replace 37 of the 44 bridges which make up U.S. Highway No. 1, the Overseas Highway, in the Florida Keys. As a result, this tremendous need which represents in excess of $155 million, and due to the shortage of funds which Congress currently authorizes in the Special Bridge Replacement program, a special authorization has been requested in section 119 to provide Federal share of 75 percent in replacing these 37 bridges.

The importance of these bridges can only be measured from the daily role they play providing access to the people who live in the Keys, and to the military installations which are found in the Key West area. U.S. Highway No. 1 provides the only land access, for the approximately 55,000 permanent residents and the 12,000 part-time residents or visitors from the continental United States to the Florida Keys chain.

While the naval air station at Boca Chica is not, of course, dependent solely on the highway for supply of goods. U.S. Highway No. 1 is the only source of local traffic movement. It provides ground access to the military and civilian personnel as they go from their jobs to the naval air station, which would be severely impaired if the bridges cannot be maintained. Recently the Commander in Chief of the U.S. Atlantic Fleet referred to these installations as "a vital interest in insuring that our Navy's ability to train personnel and to operate aircraft from the naval air station is preserved. Key West offers one of the very few areas within the continental United States which combine excellent weather, unencumbered airspace and base capacity. In these features, NAS Key West is unique on the east coast and preservation of unimpaired air operations from this station is considered essential to the readiness of Atlantic Fleet Aviation squadrons."

This lifetime is especially important during hurricane season for evacuation of people and to move in civil defense and emergency services and equipment. The stresses of either hurricane or evacuation would be extremely severe on the already hazardous bridges. Without replacement as soon as possible, a hurricane could turn the bridge conditions from severe economic problem to a human nightmare in a few hours.

Bridges of U.S. Highway No. 1 are most important indirectly in that they carry Florida Keys' only water supply between the mainland and the islands. Three-fourths of all fresh water in the Keys is carried from the mainland in a 18-inch diameter 140-mile-long aqueduct which is dependent at every water crossing on the bridges. Potable water in the Keys has always been both costly and in short supply. At a $2.50 per 1,000 gallon cost, water represents an unprecedented high portion of the cost of living in the Florida Keys.

The economy of the Keys is almost totally dependent on commercial fishing, the naval air station, and retirement and second home development. All of these activities are extremely transportation dependent and virtually all transportation in the Keys is dependent on U.S. Highway No. 1. The only major exceptions being bulk fuel, brought in by barge or tanker, and the two small commercial airlines.

The commercial fishing industry in Key West accounts for 25 percent of the value of all fish landed in Florida, and a significant portion of the Keys' economy is dependent on the highway for both the transportation of the catch to markets and processing plants all over the country, and for the transport of necessary supplies and parts. Small, but growing mariculture operations are similarly situated. While over water transport is available to these industries, speed is the most essential factor in seafood transportation, and U.S. Highway No. 1 is the only available route.

The present condition of the Florida Keys' bridges constitutes an increasing threat to lives and property of those who must use the Overseas Highway. Although severe measures have been taken by the State to avoid a tragedy, it may be only a matter of time before an incident, such as that which occurred in West Virginia, occurs to focus national attention on this urgent problem. Safety alone dictates that corrective measures be taken rather quickly. Commonsense suggests that there is no other alternative.

In an effort to insure the long life of the Florida Keys bridges, the State on April 18 sharply reduced weight limits for all 44 bridges from 72,000 pounds to 50,000 pounds. The Florida Highway Patrol officials have cooperated fully in enforcing the new weight limitations on a 24-hour daily, 7-day per week basis.

In adopting these strict weight reductions and enforcement measures, the Florida Department of Transportation Secretary Revell indicated "we realize the potential economic impact which this measure may have on Key West and other residential areas. It is unfortunate that such action must be taken when only one route provides access to an area; however, we must protect that one route."

Through the efforts of Governor Reubin Askew, the State has also made available from its general funds $10.8 million to assist in providing the necessary maintenance to shore up these facilities during the time which will be required prior to their being replaced.

While the State is taking every action that is currently available to it in responding to this severe problem, it is doing so without understanding that the severity of this situation is such that to effectively and efficiently meet the financial need of replacing the 37 bridges in the Florida Keys that special assistance will have to be forthcoming from the Federal Government. Under the existing special bridge replacement program which provides only $75 million for fiscal years 1974, 1975 and 1976, the State's share would be so minute that it could not in any way meet this huge financial burden.

I especially thank the Senator for his assistance.

Mr. BENTSEN. I thank the distinguished Senator from Florida for his articulation of the concern of the people of Florida.

That buttressed by my own personal visit to see some of these, carried a lot of weight and was most helpful in our arriving at a decision.

Mr. STAFFORD. Mr. President, the Committee on Public Works is reporting a highway bill which I believe, in large part, responsibly deals with issues which have arisen since passage of the landmark Federal-Aid Highway Act of 1973. The bill before us is not intended to be a comprehensive measure. Members of the committee recognize that there are major questions which must soon be addressed: The future of the highway trust fund, the structure of assistance programs for rural and urban transportation, the level of funding for fiscal 1977 and beyond, the means to expedite completion of the Interstate System. These are questions which we believe should be resolved next year, when we have had time to assess changes brought about by the 1973 act and are closer in time to the period for which new funds must be authorized.

I wish to call attention to and indicate my firm support for the committee's position against increasing Federal-aid authorizations for the period already covered by the 1973 act. Economic conditions at this time are such that restraint in authorizing new Government spending is a necessity. I believe the committee has acted responsibly in recognizing that the national interest in a stabilized economy must be put before the call to compensate for unusually large increases in highway construction costs.

My able colleague from Texas, the chairman of the Transportation Subcommittee (Mr. BENTSEN), has done an admirable job of summing up provisions in the bill. I do not propose to repeat his explanations. Rather, I would like to comment briefly on those measures which I believe merit special mention. A little later I shall move to strike one section of the committee bill dealing with vehicle weight increases and will address that issue at that time.

As a Senator from a predominantly rural State, I welcome the committee's action in modifying and adopting the administration's proposal for increased funding and flexibility in the use of funds for the rural transportation bus demonstration program. The chairman of the full committee, Senator RANDOLPH, has been the driving force behind the creation of this program and its expansion, and is to be applauded for his imaginative response to transportation needs in rural areas. The committee's amendment, by allowing the demonstration funds to be used for operating expenses, makes more likely the success of a program designed to find ways to provide adequate transportation to residents of rural areas.

Another provision in which the Senator from West Virginia and I have a special interest, as chairman and ranking minority members, respectively, of the Subcommittee on the Handicapped, is that section which requires that all mass transit facilities and equipment in which Federal-aid highway funds participate must be accessible to the elderly and handicapped, including persons in wheelchairs. The provision in the committee bill reiterates and clarifies a similar requirement included in the 1973 Highway Act.

I do want to point out, however, that this provision alone will not insure that the bulk of federally funded mass transportation projects will be accessible to the handicapped. By far, the great majority of such projects are funded under the Urban Mass Transportation Act of 1964, as amended, not under mass transit provision of title 23, United States Code.

The Public Works Committee in adopting this provision expressed its hope that the Committee on Banking and Urban Affairs, which has jurisdiction over the UMTA program, would take early action to include identical requirements for that program. Without such parity between the two programs, use of urban highway funds for mass transit may well be discouraged while the needs of the elderly and handicapped go unmet.

One of the major sections in this bill is that dealing with highway beautification. The Senator from Texas has already pointed out the accelerated rate of progress now being made in removing billboards and the need to insure that this momentum is not lost. The committee's bill extends control of billboards to those legible from the main traveled way, that is, to those the message of which—whether pictorial or written—is perceptible to a traveler on an interstate or primary highway.

There was some fear that language requiring removal of signs which are "visible" from the main traveled way could lead to control over billboards which were directed to travelers on a secondary road but the structures of which were incidentally visible to travelers on the primary or Interstate route. This was not the intent of the provision, so the word "legible" was substituted for "visible" to make clear that Federal control extends only to those signs the messages of which reach motorists on the controlled roadway. Any State, of course, may impose more stringent or extensive controls.

Also in regard to highway beautification, the committee wisely rejected a proposal to require that certain signs could not be required to come down until an alternative system of information had been provided. Such a provision, we were informed by the Department of Transportation, could effectively halt the billboard removal program in the States. The committee recognizes that travelers do have a need for certain types of information and has included an amendment to existing law, proposed by the junior Senator from New Mexico (Mr. DOMENICI), to permit Federal funds to participate in the cost of developing and providing alternative information systems such as information plazas or information centers at rest areas.

The committee has included a bill introduced by the senior Senator from Illinois (Mr. PERCY), and cosponsored by Senator RANDOLPH and myself to make permanent the 55 miles per hour limit. Total reduction in traffic fatalities for the first 6 months of 1974 measured against the same period in 1973, is estimated at 6,000, with lower speeds believed to be largely responsible for the decrease.

That is, there are 6,000 more people alive than we believed would be alive today and we kept the 1973 speed limits, with the lower speed limits believed to be largely responsible for the decrease in fatalities.

These figures alone would justify a permanent 55-mile-per-hour speed limit, but as others have pointed out, significant fuel savings are realized when a 55-mile-per-hour limit is observed. It is important to point out that the committee considered whether or not it should include some measure to encourage States to enforce the speed limit, particularly to enforce it uniformly with respect to all vehicles, trucks as well as automobiles. Members have heard from constituents and have ourselves observed that not all drivers observe the posted limits. At this time the committee felt it best to urge States, through report language only, to make every reasonable effort to enforce legal speed limits. Persistent disregard of such limits by drivers and lax State enforcement could, however, cause reconsideration of Federal action.

There are two sections of the bill which deal with bridge replacement: One authorizes $116,250,000, the 75 percent Federal share of an estimated $155,000,000 needed to replace or reconstruct 37 dangerously deteriorated bridges providing the only highway access to the Florida Keys; the other measure increases funds for the national bridge replacement program.

I will not repeat figures showing the extensive and immediate need for bridge replacements across the country; the committee report contains these figures. I do want to note, however, that the committee acted upon the Florida situation separately because of the unique character of the need there: Its magnitude and the geographical setting. The committee did not intend its authorization for the Florida project as a precedent for further specific authorizations for individual bridge projects.

The bridge replacement program created in 1970 was designed to permit the Secretary to review State bridge surveys and to allocate Federal funds on a national priority basis, replacing or reconstructing first those structures which pose the greatest potential hazard or disruption. The Secretary is not constrained by a statutory distributions formula because Congress recognized that priority bridge replacement needs are probably not evenly distributed among the States. Given this flexibility, there is no need for separate authorizations for specific projects.

Finally, I want to mention a provision which the committee hopes will expedite removal of railroad-highway grade crossings along the highspeed Northeast rail corridor. The provision modifies the cost-sharing formula for these projects, removing the required 10 percent contribution from the railroads and providing a uniform 90 percent Federal, 10 percent State share for all public road crossings. This change was recommended by the administration because the railroads' inability to provide their share of the required funds has caused extensive delays in the program. Because highway as well as rail travel will benefit from these projects and because States have the major responsibility for, and receive major benefits from their road systems, it was felt desirable that the States making up the Northeast corridor contribute toward enhancing road and rail safety and efficiency along this corridor.

Mr. President, I will close my remarks by repeating that I believe the bill before us is, in most respects, a modest and desirable package. Extensive hearings on all major issues provided a sound basis for the committee's deliberations and decisions. I wish particularly to pay tribute to the chairman of the Subcommittee on Transportation, Mr. BENTSEN, for his leadership, interest, and diligence in shaping this bill and laying a foundation for future legislation; to the chairman of the full committee, Mr. RANDOLPH, whose initiatives I have already mentioned and whose leadership is so constructive; to the ranking Republican, Mr. BAKER, whose creative ideas and reasoned judgments were vital to this bill's development; and to the junior Senator from New Mexico (Mr. DOMENICI) whose participation and perceptive questions during hearings and contributions in both the subcommittee and full committee helped produce what I believe is a bill responsive to current needs.

Of course, I am also grateful to the other Members of the subcommittee and the full committee and the staff of the committee on both sides of the aisle who participated in the work of preparing this bill.

At this time, Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I yield myself such time as I may desire.

Mr. President, it is important that the Federal Foreign Aid Highway Act Amendments of 1974 be enacted into law if we are to continue our constructive roadbuilding program. In the context of the further development of our highway programs, this measure brought here this afternoon, as Senator BENTSEN and Senator STAFFORD has indicated, involves certain unique approaches which are very worthwhile. This measure is being developed, and has been developed to this point, during a year in which major financial authorizations were not expiring and, therefore, it was not necessary to have congressional attention to that aspect of the program.

We have, instead, utilized this opportunity, Mr. President, to make adjustments in various features of our Federal aid program, a program including, of course, the very important concepts of beautification. The bill could, I think, be called a fine tuning effort for our major highway measure which became law in 1973. In the 94th Congress, after we have completed this measure built upon the comprehensive measure of last year, we are naturally going to turn our attention to examining the further needs of the full Federal aid program against the background of the 2 years of experience under the 1973 act.

Without the necessity to consider full financing in our highway program, we have been able, as the Senator from Vermont knows, to bring S. 3934 to this body so that we might properly focus on several problems that have arisen during the past year. The past 12 months have been unique in at least two respects: A rapidly accelerating inflation rate and a changing energy supply situation. These factors, very properly, have forced a reexamination of many facets not only of roadbuilding but also of every aspect and every sector of our national life. This bill, then, responds to situation that demand the immediate attention of the 93d Congress before this session closes.

I am very appreciative of the leadership of Senator LLOYD BENTSEN, the chairman of our Subcommittee on Transportation, in the drafting of this legislation. Early in the year he began a series of hearings that produced considerable information of value to the committee. Senator STAFFORD, the ranking minority member of the Subcommittee on Transportation, made important contributions, as did the other members, Senator MONTOYA, Senator GRAVEL, Senator MUSKIE, Senator BURDICK, Senator BUCKLEY, Senator WILLIAM L. SCOTT, and Senator DOMENICI.

When considered by the full committee, we benefited from the concerned involvement of Senator BAKER, the ranking Republican, and the active participation of Senator CLARK, Senator BIDEN, and Senator MCCLURE.

Mr. President, there are several important features of this bill. I believe, however, that there is none of greater long-term value than that establishing the uniform 55-mile-per-hour speed limit as a permanent feature.

When the national speed limit was enacted last winter it was viewed as an emergency measure brought on by the shortage of fuel in the wake of the Arab oil embargo. This act—Public Law 93-239—was one of the first responses to the energy crisis to be enacted by the Congress.

The results have been apparent and they have been substantial. After many years of often frustrating highway safety programs, the rate of death and injury have declined dramatically. It is important to realize that they have remained low despite a gradual return of vehicle usage to near levels of a year ago. For the first 7 months of this year, highway fatalities are 6,800 below those of 1973.

The same observation also is true of the savings in gasoline. The Federal Energy Administrator, John C. Sawhill, recently reported to the Committee on Public Works that the 55-mile-per-hour speed limit results in a savings of 5 million gallons of gasoline every day by cars alone. If applied to all vehicles—cars, trucks, and buses—the total potential savings amount to over 3 billion gallons a year. This is a significant contribution to the national goal of sustained energy conservation.

The committee felt the evidence was overwhelming after only 7 months that the uniform maximum speed limit should be made permanent.

Mr. President, I harbor no illusions that the new speed limit is uniformly popular. Neither am I unaware that it is violated with some regularity, particularly now that there are adequate gasoline supplies for the time being.

Last winter, when this matter was first under consideration, there were suggestions that a two-speed limit be enacted; one speed for cars and another higher speed for trucks. The committee rejected this approach and settled on a uniform 55-mile-per-hour limit for all vehicles. This is the only fair way.

In reviewing the experience of 7 months under the uniform speed limit, the committee became convinced that strict enforcement is essential. If we are truly committed to bringing energy consumption under control and if we are serious about reducing highway death and injury, the National maximum speed limit must apply to everyone equally. That is why the committee report on this bill emphasizes the necessity of effective enforcement.

Mr. President, there is one other point that I hope will be made by the enactment of the permanent speed limit of 55 miles per hour.

By this action we can send a strong and unmistakable signal to Detroit that the days of the big gas-guzzlers should be numbered. Simple economics as well as the need to reduce automobile pollution seem to me to mandate an emphasis on smaller cars. A 55-mile-per-hour speed limit underscores this need by making unnecessary machines that will cruise at 75, imposing a threat to life, the environment and stable energy supplies.

I have dealt with the statistics which prove the wisdom of continuing the uniform speed limit. There is another, less tangible reason of which every American who has slowed his driving should be aware.

Slower driving is less tense driving. By lifting the foot on the gas pedal we lift some of the tensions that fill our everyday lives. Americans have become obsessed with speed to the extent that we cannot fully enjoy this beautiful land in which we live. Lower speed limits return to us the opportunity to once again enjoy our country and to arrive at our destinations less exhausted from the strain of trying to survive in high-speed traffic. This alone, in my mind, would justify 55-mile-per-hour speed limits.

Mr. President, this bill also refines and extends the program to make our roadways more pleasant to see. The highway beautification program, since its inception in 1965, has been controversial, especially that portion which seeks to control outdoor advertising. It was, in fact, dispute over how to achieve this goal in an equitable manner that kept us from enacting beautification legislation last year.

It has now reached the point where legislation to continue the program must be passed. For more than a year there have been no new fiscal authorizations for highway beautification. The program has existed on unspent funds from previous years, but this is no proper way for an activity to function that has as its mission the visual enhancement of our highways.

The control of outdoor advertising is a key feature of the beautification program. One of our greatest difficulties has been devising a way to restrict the number of billboards along our roadways while assuring that the traveling public receives the information it needs. At the same time, we have not sought to work hardship on any portion of the economy. Outdoor advertising is a legitimate business, and those who depend on it for a livelihood should not be made to suffer because of the prohibition of certain kinds of signs.

As with anything else created by the mind of man, some types of advertising has considerable artistic merit. There are others that have been in use so long that they are virtually a permanent part of the American roadside scene. By longevity and acceptance, they have become a part of our country's folk heritage. I am thinking particularly of signs painted on the sides of barns and some of those that are particularly suited to be placed on rocks.

It has never been the intention of Congress to control outdoor advertising with a rigid everything-must-go approach. There are obviously some signs worthy of preservation. This bill, therefore, provides that signs of particular artistic or historic merit can be exempted by the Secretary of Transportation from removal. This provision applies to such signs erected before October 22, 1965, and includes those on farm structures and natural surfaces. Any sign so designated by the Secretary could remain in place and be maintained to serve its original purpose.

In the bill, the committee has adopted what I believe to be a realistic and workable approach to highway beautification. Some of the uncertainties and impediments that have become apparent in the existing statute are addressed with the aim of enabling highway beautification to proceed. In addition, the bill authorizes $105 milion a year for beautification programs, thus backing intent with the cash needed to be effective.

There was perhaps no more difficult issue to resolve in the writing of this bill than that dealing with truck weights. This, Mr. President, is another question induced by last winter's fuel shortage, but it has been before the Congress on prior occasions.

The hardship and inconvenience imposed on the trucking industry by fuel shortages and costs, as well as lower speed limits, all were convincing arguments for permitting heavier trucks to use our highways.

Balanced against them, however, were considerations of highway safety and the added maintenance expense heavier trucks would impose on State highway departments. There was, too, a strong and adverse public reaction to proposals for heavier trucks.

Nevertheless, the committee felt there was justification for a modest increase in the weight of trucks permitted to use interstate highways. The bill incorporates this belief in provisions permitting as increase in maximum allowable weights from 73,280 to 80,000 pounds.

It is important to emphasize that these are maximum weights and apply only to the Interstate System. The individual States may set lower limits if they desire and can impose any controls deemed necessary on noninterstate roads.

The committee also made its recommendations with the knowledge that new, stricter standards for truck tires and brakes will become effective by next spring. These plus the 55-mile-per-hour speed limit should offset any potential safety hazards imposed by the slightly heavier trucks.

Perhaps the major beneficiaries of increased truck weights will be the country's farmers. At a time when there is great concern about food supplies and prices, the increase of about 7,000 pounds per truck will have substantial impact in farm areas.

Under the new maximum weight, farmers would be able to transport 20 more hogs per truckload than now; 14 to 18 more feeder calves than at present. The wheat shippers could move an additional 116 bushels per load, and similar improvements would be achieved for other grains.

The fruit and vegetable industry is heavily dependent on motor transport with more than 75 percent of the produce of California and Arizona moving to market by truck. The percentage from Florida is even higher.

It is obvious, then, why most of the general farm organizations and farm commodity organizations throughout the country have gone on record as favoring this type of legislation. But farmers are not the only ones who will profit; consumers also will feel the impact through food availability and perhaps price stability.

Mr. President, I think it is worthwhile that I stress a fact which should be recognized as we debate this measure. Four years ago—and it is not improper to say this—I initiated legislation which is included in this measure dealing with the special bridge replacement program. This section certainly provides a long-overdue emphasis on rebuilding many of the thousands of obsolete and unsafe bridges which cannot accommodate the demands of our modern traffic.

While a total of $250 million was authorized for the program during its first 2 years, only $75 million was authorized for each of the 3 fiscal years 1974, 1975, and 1976. These lower authorizations were not indicative of any decreased congressional concern, but of a realistic reaction within our committee and the Congress, which is understandable, regarding the obligation of funds that, although desirable, may not be absolutely necessary to the continuity of our overall effort.

I do not believe, however, that in this program there should be a skimping from the standpoint of the authorization and the later actual appropriation of dollars. This, clearly, is an activity that was established on a separate basis because of the high cost, as we are aware, of bridge construction throughout the country. We recognize that bridge replacement needs are not evenly distributed from one State to another State or even within States. At the present level of funding—I am saddened to make this statement—it will take 40 years to replace the approximately 24,000 eligible bridges under our Federal-aid system. That is too long. This bill shortens that period of time and accelerates the pace by which we can move forward with a doubling of the effort through a substantial increase in the authorizations.

In a related matter, Mr. President, we are authorizing $116,250,000 as the Federal share of rebuilding bridges on the overseas highway linking Key West with mainland Florida. We have given our attention to it because we know that there has been a serious deterioration during the 64 years since it was brought into being. Originally, it was constructed, as we will recall, not for a highway but as a railroad link. That need for bridge repair has been recognized by both the subcommittee and the full committee.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. CHILES. Mr. President, the chairman of the committee was not in the Chamber earlier when I had a chance to comment and compliment the committee. At this time, I again want to add my words of thanks and compliments to the distinguished chairman for recognizing this need. We in Florida feel that we could not handle this problem completely by ourselves.

As the Senator knows, the naval base is a very important military installation there, and many people would have to depend on those bridges for safety if there were a hurricane or some other disaster. Over the years, no one realized just how bad that condition was.

I just want to add my thanks again to the distinguished chairman and to Barry Meyer of the staff for helping us to uncover the problem and helping us to find a solution for it.

Mr. RANDOLPH. Mr. President, I am appreciative of the further comment of the knowledgeable Senator from Florida. I only reemphasize what he has said, and that is that the financial capacity of the State of Florida could not take care of this problem.

Mr. CHILES. Our State is putting up $10 million this year for some temporary repairs, but it is beyond our capacity to try to do everything that is needed for the bridge.

Mr. RANDOLPH. That is right. Also the presence of the naval base means that the national interest is involved. We cannot separate the State, county, or local interest from the national interest in any substantial roadbuilding in this country. These roads exist, and they add to the mobility of our people and of the products of farm and factory. We must understand, however, that there will always be differences of opinion at the various government levels over how to proceed with our road system.

This understanding has been tremendously important in bringing about a coordinated effort in building a strong transportation system, thereby strengthening our economy through the years. I appreciate the fact that the Senator has addressed himself to this subject and has kept in touch with the committee and the committee staff. It is very important that I also recognize that the counsel and chief clerk of our committee, Mr Barry Meyer, has carefully studied this situation and has lent his expertise to devising a solution, not only for the Senator from Florida but for the members of our subcommittee and our committee.

Mr. CHILES. Very helpful.

Mr. RANDOLPH. I thank the Senator again for the opportunity not only to have shared his feelings but of having the chance to express my appreciation for them.

This is a separate item in the bill, as I believe I had earlier stated, because we felt that the Florida Keys Overseas Highway deserved the special attention which I have mentioned.

The bill also modifies the operation of the rural highway public transportation demonstration program. It permits the use of those funds provided from the general Treasury to be used for operating assistance, and it allows projects to provide transportation links between rural areas and larger communities. This aspect of the program is essential, for it is in the cities and towns that the shopping, educational, government, religious, entertainment and medical facilities are available.

What about the person who is elderly? What about the person who is poor? What about the person who lives up the hollow or over the hill or out on the plains? These are the people who need, in many cases, to go to the doctor, to attend the clinic. Frankly, we have believed that these persons, by the tens of millions, live not in the congested areas of our metropolitan cities, but in the less populated regions of the country as well.

Mr. President, without trying to pit the city against the rural area, I want to emphasize that we must have those people enjoying the same mobility as those who live in the cities. I recognize when I say this, that there are deficiencies in the urban transit system which demand correction. I have attempted at every opportunity, to recognize that transportation needs are multifaceted and we must recognize each aspect of them.

I have a special interest, although not provincial, in this program, dealing with rural areas. Only Vermont is more rural than the State of West Virginia. Although many people think of our State as industrially oriented and built around coal mining, manufacture of steel products, glass, and chemicals in tremendous volume, West Virginia is still essentially a rural State.

So our State, along with others rural in character, is interested in increasing funding provisions from $30 million to $75 million, incorporated as an added authorization in S. 3934.

Mr. President, the bill also modifies the operation of the rural highway public transportation demonstration program. We are permitting the use of those moneys provided from the general treasury to be used in operating a system. We are further permitting the projects to provide transportation links between the rural regions and the larger communities of the country. This aspect is essential, for it gives to the rural areas the shopping, the education, the government, the religious activity, the entertainment and the medical facilities that are available, in the cities and towns.

The bill also emphasizes once more, that public transportation services should be usable by the handicapped of the United States as well as by the elderly and the poor. Such a requirement was part of the agreement, as Senator STAFFORD knows, and Senator BENTSEN well knows, in our 1973 act. But we have had some problems of interpretation, some problems of implementation. That is the reason that we believe that we can through this message clarify those uncertainties so that the elderly and the handicapped are not considered in any wise as second-hand citizens of the Republic when it comes to adequate transportation which they need, which they have every right to expect Congress, in its judgment—not just in its compassion—to provide for them.

Under the bill, any public transportation project receiving highway funds must be—and we use this language—planned, designed, constructed and operated so as to allow effective utilization by elderly or handicapped persons. The Senator from Vermont (Mr. STAFFORD), working in our Subcommittee on the Handicapped of the Committee on Labor and Public Welfare is so very cognizant, as there are others who are cognizant, of the hope that a corresponding provision of the Urban Mass Transportation Act can also be amended so that there be no equivocation on this matter, that we will spell it out so that it will be clearly understood.

I do not believe making public transportation usable by the elderly and the handicapped would impose an unacceptable demand on our transport system. I think it is a cost that the people of the United States should willingly assume so as to end the discrimination against a particularly vulnerable segment, though a very important segment, of our American society.

So, Mr. President, there are, of course, additional provisions, many of them, in this bill which I have not discussed because they have been addressed by Senator BENTSEN and Senator STAFFORD. I think, however, that it is important that I reemphasize that this is not a hodgepodge measure, although it embodies a variety of items. It is a fully considered and a carefully-balanced program which we bring here in the bill we are now considering. It is a bill that comes to the Senate with the cost of its provisions examined in detail, because we know the relationship of this program, of course, to its impact on our American society.

I think we want to be very careful to explain the figures. The total cost is $716 million. I believe that is a reasonable figure, because while it does not buy enough, it buys a considerable amount of that which we need at the present time: bridge construction and reconstruction; highway beautification; the roads for Indian reservations; elimination of railway and highway grade crossings; development of the bikeways for the growing number of bicycles that are being used; the access to recreational areas of the country; and, yes, the encouragement of the organization of fuel-saving carpools. All of these are set forth and envisioned in the legislation.

There are, of course, as I have indicated before, diverse activities, but they will provide jobs for many people. They will improve our highway transportation as a whole. I reemphasize that this is an interim measure; it is, however, bringing to us items of immediate concern. I am confident that the Senate, trusting in part to the very careful attention that the Committee on Public Works and the Subcommittee on Transportation have given to this matter, will give its endorsement during this afternoon.

Mr. THURMOND. Mr. President, will the distinguished Senator yield?

Mr. RANDOLPH. I yield.

Mr. THURMOND. Mr. President, I commend the distinguished Senator from West Virginia for his work on this highway bill. For a number of years, I have advocated that we make provisions for bicycles throughout this country. In my opinion, if we will arrange for bicycle ways from coast to coast, we will have thousands of people riding bicycles from one part of the country to another. I do not know of anything that would improve the lives of the people more, and I do not know of anything that would bring more recreational pleasure to people, than to provide for bicycles. So I especially commend the Senator for the portion of this bill that would promote the use of bicycles by the population of this country.

Mr. RANDOLPH. I appreciate the words of our friend from South Carolina. He certainly is an example of a man who, if he does not use a bicycle, is using something in the way of a recreational machine which keeps him looking younger year by year.

I have heard that there are three phases of a person's life: youth, middle age, and "my but you're looking well." I can only say that the Senator from South Carolina, regardless of his age, is indeed looking well.

Development of bikeways for cyclists is an important provision in this bill, and I want to express the tribute which is due the Senator from New York (Mr. BUCKLEY), a member of our committee who is present in the Chamber, who provided leadership and impact in this matter, including the language as it appears in the proposed provision.

Mr. THURMOND. I thank the Senator very much. I would like to express my appreciation to the able Senator from New York (Mr. BUCKLEY) as well, for his assistance in the preparation of this bill.

Mr. BUCKLEY. Mr. President, I thank my colleague for——

The PRESIDING OFFICER. Who yields time?

Mr. STAFFORD. I yield 2 minutes to the Senator from New York.

Mr. BUCKLEY. Mr. President, I just want to thank my friend from South Carolina and my friend from West Virginia for their kind remarks on the bikeways. I believe it will open a new era, where we can get healthy exercise and also save a little fuel, which seems to be one of the objects of our deliberations these days.

I want to say what a fine experience it has been working on this committee, the Committee on Public Works, in connection with this and other legislation, where we see nonpartisanship and an attempt to meet needs in an effective and constructive manner.

Mr. STAFFORD. Mr. President, I ask unanimous consent that Andrew Carron and Jack Lewis, of the staff of Senator EAGLETON, and David Clanton of the staff of Senator GRIFFIN, be accorded the privilege of the floor during the debate and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that Michael Hathaway, of my staff, be accorded the same privilege.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, will the distinguished Senator yield for a question?

Mr. STAFFORD. I am glad to yield for a question.

Mr. CURTIS. What does this bill do about the speed limit?

Mr. STAFFORD. This bill would make the speed limit of 55 miles an hour permanent.

Mr. CURTIS. Does that mean that, as a permanent matter, the Federal Government is going to enter the field of determining what the speed limit shall be?

Mr. STAFFORD. I would say to the distinguished Senator that the Federal Government has already done that on a temporary basis. This would make it permanent.

Mr. CURTIS. I understand. But I believe that the control of speed on the highways is a part of the police powers, and that it belongs to the States. The States are the entities of government which have the highway patrols and the local police officers to enforce speed limits. The States also issue the drivers' licenses, and therefore, if someone violates the speed law too often, they can take his driver's license away.

It just seems to me as though we are extending the Federal Government into a new field when the Federal Government undertakes to legislate on this subject. I think we can trust the States.

Mr. STAFFORD. I would say to the distinguished Senator from Nebraska that, as I have pointed out, the Federal Government has already entered this field, and there will be an amendment offered by this Senator at the appropriate time which will not raise the 55-mile-an-hour maximum, but will permit the States to impose lower speed limits, below 55 miles per hour, if they wish to do so.

Mr. CURTIS. That would imply they could not raise it?

Mr. STAFFORD. That is right, they could only lower it, not raise it.

Mr. CURTIS. I think that is definitely invading what not only is a State function, but the States are equipped to enforce it, even including revoking drivers' licenses, and the Federal Government is not. Some day someone will be in here asking for means to enforce this law.

Several Senators addressed the Chair.

Mr. STAFFORD. I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I might say to the distinguished Senator from Nebraska that the Senator from Kansas will offer an amendment that speed limits could be raised to not to exceed 60 miles per hour, and this would be determined by the States. I plan to offer that amendment.

Mr. CURTIS. Does this apply to all highways in the States?

Mr. STAFFORD. I would say to the Senator from Nebraska, that it does.

Mr. CURTIS. Even though they are not Federal highways?

Mr. STAFFORD. That is correct.

Mr. President, at this time I yield 5 minutes on the bill to the Senator from Virginia (Mr. WILLIAM L. SCOTT).

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the Senator's yielding.

I rise in general support of this legislation. There are a number of provisions of the bill with which I am not in complete agreement. However, I believe it is a good bill and do urge that it be passed.

The minority views in the committee report are generally the same as my own. There will be an amendment offered by the Senator from Vermont (Mr. STAFFORD) that would strike the provision with regard to raising the weight limit on trucks. I intend to support this amendment. As indicated in the minority report we are not just talking about the weight of the trucks, we are talking about the size of the trucks, too, regardless of what the language in the bill is; if we have greater weight we will have greater size.

Mr. President, this is a time when people seem to be moving toward smaller passenger cars. It does not seem consistent with safety to have smaller passenger cars and larger trucks on the highways. I would hope the time would come when we can have separate truck lanes.

Certainly the trucking industry is one of our major industries in the country. I see the need to support trucking as one of our major methods of transporting goods throughout the country. I would not want to do anything that would be harmful to the trucking industry.

But I think we have to go further, and consider the general public interest. To me, larger and heavier trucks are not in the public interest. I am told that many bridges will have to be rebuilt if we have heavier trucks on our highways. The distinguished Senator from West Virginia, the chairman of our Public Works Committee (Mr. RANDOLPH), has mentioned that many of our bridges are not in good condition. I have seen material indicating that a high percentage of the bridges that we use are not safe. Certainly the heavier the trucks, the greater the wear on the highways, and the greater the cost of building and preserving our highways.

My mail is very heavy against having larger and heavier trucks on our interstate highways. We do have some mail that came in from a labor organization, and if Members would like to see it, I would be glad to put it in the RECORD. This correspondence indicates that two of our major truckers are giving information to the drivers as to how to avoid the weighing stations between Richmond, Virginia, and Washington, D.C., where to get off, and where to come back on the interstate system, because in Virginia we have one weight for the interstate system and another weight for the other Federal-aid highways.

To me this is teaching the drivers how to avoid the law. It is lawlessness. It seems to be legitimate criticism when two trucking companies see fit to issue instructions as to where to get on and off the highway to avoid the weighing-in system.

Mr. President, I am also going to support an amendment that I understand will be offered by my colleague, the Senator from New York (Mr. BUCKLEY), and I have asked to be a cosponsor of that amendment, which would do away with mandatory seat belt interlock system, the procedure under which we cannot start a new automobile without fastening our seatbelts. Seatbelts are very legitimate safety devices but, in my opinion, it should be left to the driver of the automobile to decide whether or not he should wear a seatbelt.

I expect to talk in, perhaps, some detail with regard to both the big truck and the seatbelt measures when they come before the Senate.

Mr. BENTSEN. Mr. President, before we have other amendments presented to the highway bill, I would like to present some amendments on behalf of the committee that have been discussed with other members of the committee.

I send the first amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The amendment is as follows:

On page 14, beginning on line 23, strike all through line 25, and insert in lieu thereof the following:

"Trust Fund, $65,000,000 for the fiscal year ending June 30, 1975 and $75,000,000 for the fiscal year ending June 30, 1976:"

On page 15, beginning on line 24, strike "$15,000,000 for the fiscal year ending June 30, 1974,".

On page 16, beginning on line 17, strike "$15,000,000 for the fiscal year ending June 30, 1974,".

On page 17, line 4, strike "$150,000,000" and insert in lieu thereof: "$125,000,000".

On page 17, line 5, strike "$150,000,000" and insert in lieu thereof: "$125,000,000".

On page 19, beginning on line 17, strike all through line 18, and insert in lieu thereof the following:

"$10,000,000 for the fiscal year ending June 30, 1975, and $10,000,000 for the fiscal year ending June 30, 1976, for".

On page 23, beginning on line 6, strike the period and insert in lieu thereof the following:

"*Provided,* That the funds authorized under this section only $10,000,000 for the fiscal year ending June 30, 1975, and $15,000,000 for the fiscal year ending June 30, 1976, can be obligated."

Mr. BENTSEN subsequently said: Mr. President, I ask unanimous consent that a typographical correction be made in the first amendment offered on behalf of the committee this afternoon. It was properly discussed on both sides during the debate.

In the amendment on page 14, beginning on line 23, where it reads "$75,000,000 for the fiscal year ending June 30, 1976," it should read "$65,000,000 for the fiscal year ending June 30, 1976."

The PRESIDING OFFICER. Without objection, the correction will be made.

Mr. BENTSEN. The administration, in commenting on this legislation, expressed general approval of it but indicated dissatisfaction with the total level of funds authorized. Therefore at my initiation and through discussion with the distinguished chairman, Senator RANDOLPH, the ranking minority member of my subcommittee, Senator STAFFORD, and the other members it has been decided that the committee, which is mindful of the need to control inflation and of our fiscal problems, will recommend to the Senate cuts in the total authorizations in S. 3934 of approximately 25 percent, or $185 million out of a total of $716 million through fiscal year 1976.

That is subsequent to the action we had in the committee. But, again, I think this is showing the President that we want to meet him more than half way. The Senate has already cut approximately $5.5 billion out of the budget bills that have been presented, 7 of the 12 we have received thus far, and it is my belief that we will cut substantially more; that we will go a long way in meeting the President's request on that.

We do this recognizing that as worthwhile as some of these projects are, our current economic situation demands that the Congress exercise prudence and restraint in funding matters and allow projects to be deferred which might, in other times, be funded expeditiously.

Therefore, I am offering this committee amendment for a cut of $185 million in the bill. It is not an across-the-board cut. We have attempted to defer projects which can be deferred and to scale down others.

The cut breaks down as follows: First, we have eliminated the fiscal 1974 funding for the highway beautification program and for junkyard screening and landscaping. We are now well into fiscal 1975 and there is little point in maintaining the 1974 authorization which was placed in the bill because Congress last year failed to agree on beautification language.

Second, we are asking that the $75 million a year for billboard removal and compensation to sign owners for 1975 and 1976 be scaled down to $65 million per year considering the severity of the economic problems.

I am a strong supporter of the highway beautification program; I have been a strong supporter of putting restraints on the construction of billboards. We believe this is a meritorious program, but we are attempting here to bring the authorizations closer to the administration's budget request.

Third, we are asking that the program of access roads to Federal lakes be reduced in authorizations from $15 million a year to $10 million a year.

Fourth, we are asking that the special bridge replacement program be held to an additional $50 million a year rather than the $75 million a year now in the bill.

Mr. President, we do that knowing that there are thousands and thousands of bridges in this country that need replacing. But, again, it is an order of priorities. When the country is in serious trouble from an economic standpoint we think some of these things just have to be deferred.

Finally we ask that the $116 million for repair of bridges leading to the Florida Keys remain in the bill but that only $10 million be available for fiscal 1975 and $15 million for fiscal 1976. As I indicated the full authorization will remain intact. It is the pace of spending that we are controlling. I might also mention that even if the full $116 million were to be made available immediately, it is doubtful that a substantial amount of that money could be spent in the next 2 fiscal years.

Mr. President, we believe these cuts are prudent and fair. They reflect the committee's concern with our economic problems and our desire to cooperate with the administration in meeting them.

I move the adoption of the committee amendment.

Mr. STAFFORD. Mr. President, so far as the minority are concerned, we have concurred in the committee amendments. We are prepared to accept them.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. BENTSEN. We are ready for a vote.

The PRESIDING OFFICER. Do the Senators yield back their time? Does the Senator from Texas yield back his time, as well as the Senator from Vermont?

Mr. STAFFORD. I yield back the remainder of my time.

Mr. BENTSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the first amendment offered on behalf of the committee.

The amendment was agreed to.

Mr. BENTSEN. Mr. President, I send to the desk the second amendment on behalf of the committee and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk proceeded to read the amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The amendment is as follows:

On page 5, beginning on line 13, strike all of section 105 through page 7, line 10 and renumber the subsequent sections accordingly.

Mr. BENTSEN. The thrust of this amendment is to strike section 105 from the committee bill and to renumber all subsequent sections accordingly.

We are asking that the section be struck because subsequent to the committee's inclusion of it in this bill, the President signed into law the housing bill, which has an identical provision. The section deals with charter buses and allows public carriers to engage in charter activities so long as they do not foreclose private carriers from such activities.

As I indicated, the language is no longer needed because it was signed into law. I move the adoption of the committee amendment.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. BENTSEN. Mr. President, I yield back my time.

Mr. STAFFORD. I yield back my time, Mr. President.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the second amendment offered on behalf of the committee. (Putting the question.)

The amendment was agreed to.

AMENDMENT NO. 1849

Mr. STAFFORD. Mr. President, I call up my amendment No. 1849 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 8, beginning with line 22, strike all through line 21 on page 9.

Renumber succeeding sections accordingly.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. STAFFORD. Mr. President, I oppose that section in S. 3934 that would permit an increase in the maximum weights of trucks using the Interstate Highway System. My amendment would delete section 107 of the bill, and would leave the existing Federal size and weight limitations in effect.

My good friends and colleagues on the Public Works Committee who support the weight increase have emphasized what they contend is the modest size of the increase. And, they argue that their amendment does not affect truck widths or lengths.

I agree that the language of the amendment does not speak of any increases in size, but I must stress that the effect of the proposed change could surely be to encourage an increase in the number of bigger trucks on our highways.

Mr. President, on this amendment I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. STAFFORD. There seems to be an inexorable push toward longer trucks. In 1958, only 13 percent of the truck trailers produced were more than 40 feet long. By 1972, 85 percent of the trailers produced were 40 feet or longer; and 35 percent were at least 45 feet long. Also in 1972, 27-foot trailers made up 10 percent of the year's production. Those models are often used in combinations of two, which results in a double-trailer with an overall length of more than 54 feet.

In 1963, eight States permitted trucks up to 65 feet long to use their highways. No State permitted trucks longer than 65 feet.

In 1973, 28 States allowed trucks up to 65 feet or longer on their roads, and five States had length limitations up to or greater than 70 feet.

The trucking industry has been experimenting with triple-trailer combinations reaching 105 feet long. In three States this length is already permitted.

Under the existing 55 miles per-hour speed limit, it would take an automobile 10 seconds to pass such a truck-trailer combination traveling at 45 miles-per-hour. In rainy weather, this means 10 dangerous seconds of virtually blind driving for the motorist trying to pass the truck.

States have been pressured to increase

length limitations in spite of the fact that approximately two-thirds of the volume of commodities carried by truck "weigh out" before they "cube out," that is, two-thirds of all truck shipments do not benefit from length increases because they reach State or Federal weight limits before filling a 35-foot trailer.

The portion of truck shipments able to take advantage of the longer trailers does not determine the number of longer trailers on the roads, however.

As we can see from the Truck Trailer Manufacturers' figures, the great bulk of trailers produced in 1972—85 percent of them—were 40 feet long or longer. The maximum length permissible becomes the norm.

Thus, while length increases benefit only a minority of trucking operations—those carrying lighter commodities—a major result of these increases is to put pressure on the Federal Government. The pressure is designed to get the Federal Government to raise its weight limits so that the trucking industry will be able to take advantage of the longer trailers it has purchased, unhampered by weight restrictions.

Once a Federal weight increase is granted, the argument can be turned around to pressure States to increase length limits, in order to permit the lighter commodities to benefit from the new, higher weight limits. In this manner, legislators at the State and Federal level can be whipsawed into permitting even bigger trucks.

Pressure for longer trucks, if we permit a weight increase, will arise from safety as well as economic considerations.

The Public Works Committee heard testimony from the International Brotherhood of Teamsters that, in many cases, a trailer is hitched so close to the truck cab that the front steering axle on the truck tractor is overloaded.

This forward placement of the trailer is made necessary because the overall length of the rig, with twin 27-foot trailers or a 45-foot single trailer would otherwise violate State length limits of 55 feet or 65 feet.

With heavier loads permitted, the argument for another 5 feet in length to decrease the front axle load becomes more compelling.

However, if history is any guide, a length increase in many cases would not be used to improve placement of the so-called "fifth wheel" coupling, but, rather, longer trailers would be produced to haul more payload and the "fifth wheel" would, I submit, remain dangerously far forward.

It was for this reason that the Teamsters argued for Federal safety requirements regarding placement of the "fifth wheel," as well as for Federal requirements regarding horsepower-weight ratios, braking standards and tires.

This brings me to another point which has led me to oppose the effort to permit heavier trucks to use our roads.

Within the next year, two major Federal regulations concerning truck equipment will go into effect. One to establish braking and antiskid standards, and another to set new tire standards.

These requirements will affect only new equipment, however. Drivers, truck manufacturers and the trucking industry generally agree that these standards represent a major safety improvement.

At a time when we know safer trucks will soon be running on our highways, it seems particularly inappropriate to consider weight increases before the required safety improvements have been phased in.

A stand against heavier trucks, unless tied to improvements in truck safety, is consistent with the recommendations of the National Transportation Safety Board; the Professional Drivers Council for Safety and Health, and with the 1964 recommendations growing out of the $27 million Federal-State Illinois road tests.

It is particularly important to note that the 1964 landmark study that provides the technical data for almost all subsequent analyses, and which is so often quoted in support of increases in sizes and weights, recommends those increases only after Federal standards have been prescribed for braking; for ratios of net horsepower to gross vehicle weight, and for linkages between combination components.

The argument for increasing truck weights has, historically, been based on their economic benefits. More recently, the fuel shortage has been invoked as a primary justification for permitting trucks to carry heavier loads, thus, presumably reducing fuel consumption by reducing the total number of truck trips.

A California teamsters official, in testimony before the State department of transportation, estimated that only 7 or 8 percent of the big trucks available could take advantage of fuel savings brought about by weight limit increases. He said that the heavier loads would require increased fuel consumption, cutting into fuel savings realized from reduced truck trips. Apparently, fuel savings resulting from weight increases would be minimal.

As for economic benefits, I must point out that increasing allowable weights will have economic penalties as well. The States, in a 1962 survey, estimated that the proposed increased axle weights would add $100 million per year to road resurfacing costs, and that figure is in 1962 dollars.

To rebuild all Federal-aid road systems currently designed for existing axle limits, to accommodate the higher limits, would cost an estimated $2.4 billion.

Mr. President, in short, I see no compelling reasons for increasing truck weight limits at this time, but I find several powerful arguments against such action.

The Federal weight limitations are the primary inhibition against a new generation of longer, heavier trucks.

Increases at this time—that is, in the period before trucks meeting new, tough safety requirements replace existing vehicles which vary widely in safety features—seem particularly ill-advised.

Fuel savings would be minimal, and the economic benefits to the public not so clear—when the costs are also considered—as to warrant immediate action.

Mr. President, on August 20 the other body decisively rejected a provision to permit heavier trucks to use the Interstate System. The vote against heavier trucks was 252 to 159. The provision of the other body was not defeated because of the specific numbers involved, however, but rather, I believe, because of opposition to any increase in truck weights.

A recent poll conducted at the Ohio State Fair asked citizens whether Congress should permit longer and heavier trucks on the Interstate System. The final tally showed 2,847 respondents opposed the proposition while only 689 were in favor—better than a 4-to-1 margin.

The issue of heavier trucks is an important and visible one to the American public. Because we must be responsible and responsive to that public I urge the adoption of my amendment to strike the weight increases proposed in the committee bill and to leave in effect existing Federal weight limitations on interstate highways.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I rise in opposition to the amendment of the distinguished Senator from Vermont, the ranking minority member of the Transportation Subcommittee. In doing so, I wish to stress two or three major issues.

The first point is that this is a modest increase in truck weights and it is permissive. It is not mandatory. It is to be decided by the States, whether they want to do it or not. What we are doing here is raising the ceiling now in the law for the weights of trucks using interstate systems, and we are raising them just a small percentage. But it is going to be up to the States to determine whether they want to adopt the increases. That is as it should be. The States, after all, are responsible for road maintenance. They have the primary responsibility for safety. They should have the final say.

In making a proposal for this increase, we rejected the advice of the administration to make it mandatory on the States. That has never been the case before, and the committee did not feel that it should be the case now. The Federal Government should not be compelling a State to allow heavier trucks on their Interstate System if it does not wish to do so.

The second point I wish to make is that what the committee is proposing is not new. It is less ambitious, in fact, than a measure which passed the Senate by a voice vote in 1968. We are increasing the allowable gross weight by approximately 7,000 pounds. We would allow increased single-axle weights of 20,000 pounds, up from the present 18,000 pounds.

I might say in regard to that, in the State of my distinguished friend, the State of Vermont, where we are talking about raising the weight on single-axles up to 20,000 pounds from 18,000 pounds, the weight in his State for single-axle is 22,400 pounds, or over 10 percent more than what we are proposing in this.

Mr. STAFFORD. Will the distinguished Senator yield for a brief comment?

Mr. BENTSEN. I would like to complete my remarks and then we will get into that, if I may.

This would increase the double-axle weights to 34,000 pounds, up from the present 32,000 pounds.

What are the weights in the State of the distinguished Senator from Vermont?

The weight for the double axle is 36,000 pounds. That is 2,000 pounds over what we are recommending here.

The measure that passed the Senate in 1968 would also have allowed an increase in the width of these trucks. We are not allowing that. We blocked that. That was requested. That measure would have increased the width of those trucks from 96 inches to 102 inches. We did not agree with that at all. That is not in this bill.

The 1968 bill would not have put a ceiling on gross weight. This bill does put a ceiling on gross weight.

This is not a revolutionary proposal. In fact, on the Interstate System, 26 States today have single-axle weights in excess of 18,000 pounds. Eighteen of those States exceeds the 20,000 pounds that this bill allows.

So we are talking about something that is substantially less than is already in effect in many States across this country.

What we are trying to do is to level out some of these economic advantages or disadvantages.

These States were able to exceed present Federal limits because they were grandfathered into the law when the 1956 bill was passed.

That is what happened to the State of the distinguished Senator from Vermont. I am not objecting to it, but I am calling it to mind as we are talking about the equity that we are trying to achieve for all the States.

That is fine for them to have that kind of economic advantage if that is what the people of that State want. But we ought to level these things out across the country if we can.

The result has been that a number of these States, almost half of the States, have been put at an economic disadvantage, and it means that the truck transportation system has a crazy quilt of regulations playing havoc with truck companies.

I ask unanimous consent to have printed in the Record the axle and gross weight limits of all of our States so that this can be made clear to those who are following this debate.

There being no objection, the figures were ordered to be printed in the Record, as follows:

STATE SINGLE AXLE LOAD LIMITS ON INTERSTATE SYSTEM (INCLUDING TOLERANCES) WITH EXCEPTIONS SHOWN FOR HIGHER LIMITS FOR NONINTERSTATE SYSTEM

State	Legal limit for interstate	Legal limit for noninterstate
Alabama	19, 800	18, 800
Alaska	(1)	20, 000
Arizona	18, 000	18, 000
Arkansas	18, 000	18, 000
California	18, 000	18, 000
Colorado	18, 000	18, 000
Connecticut	22, 848	22, 848
Delaware	20, 000	20, 000
District of Columbia	22, 000	22, 000
Florida	22, 000	22, 000
Georgia	20, 340	20, 340
Hawaii	24, 000	24, 000
Idaho	18, 000	20, 000
Illinois	18, 000	18, 000
Indiana	18, 000	18, 000
Iowa	18, 540	18, 540
Kansas	18, 000	20, 000
Kentucky	18, 900	18, 900
Louisiana	18, 000	18, 000
Maine	22, 000	22, 000
Maryland	22, 400	22, 400
Massachusetts	22, 400	22, 400
Michigan	18, 000	18, 000
Minnesota	18, 000	18, 000
Mississippi	18, 000	18, 000
Missouri	18, 000	18, 000
Montana	18, 000	[3] 20, 000
Nebraska	18, 900	20, 000
Nevada	18, 000	[3] 20, 000
New Hampshire	22, 400	22, 400
New Jersey	23, 520	23, 520
New Mexico	21, 600	21, 600
New York	22, 400	22, 400
North Carolina	19, 000	19, 000
North Dakota	18, 000	20, 000
Ohio	19, 000	19, 000
Oklahoma	18, 000	20, 000
Oregon	18, 000	[3] 20, 000
Pennsylvania	23, 072	23, 072
Rhode Island	22, 400	22, 400
South Carolina	20, 000	20, 000
South Dakota	18, 000	20, 000
Tennessee	18, 000	18, 000
Texas	18, 000	18, 000
Utah	18, 000	[3] 20, 000
Vermont	22, 400	23, 520
Virginia	18, 000	18, 000
Washington	18, 000	[3] 20, 000
West Virginia	18, 900	18, 900
Wisconsin	19, 500	19, 500
Wyoming	18, 000	20, 000

[1] No interstate.

[3] By Long Term Permit.

Note: See summary below:

Summary of interstate single axle weights:

Number of States at 18,000 lb	25
Over 18,000 lb. but less than 20,000 lb	8
20,000 lb. and over	17
Total	50

Summary of States permitting higher single axle weights on noninterstate roads:

Number of States at 20,000 lb	13
Over 20,000 lbs	1
Total	14

STATE TANDEM AXLE LOAD LIMITS FOR INTERSTATE SYSTEM (INCLUDING TOLERANCES) WITH EXCEPTIONS SHOWN FOR HIGHER LIMITS FOR NONINTERSTATE SYSTEM

State	Legal limit for interstate	Legal limit for noninterstate
Alabama	39, 600	39, 600
Alaska	(1)	34, 000
Arizona	32, 000	32, 000
Arkansas	32, 000	32, 000
California	32, 000	32, 000
Colorado	36, 000	36, 000
Connecticut	36, 720	36, 720
Delaware	36, 000	36, 000
District of Columbia	38, 000	38, 000
Florida	44, 000	44, 000
Georgia	40, 680	40, 680
Hawaii	32, 000	32, 000
Idaho	32, 000	34, 000
Illinois	32, 000	32, 000
Indiana	32, 000	32, 000
Iowa	32, 960	32, 960
Kansas	32, 000	34, 000
Kentucky	33, 600	33, 600
Louisiana	32, 000	32, 000
Maine	32, 000	36, 000
Maryland	40, 000	40, 000
Massachusetts	36, 000	36, 000
Michigan	[2] 26, 000	26, 000
Minnesota	32, 000	32, 000
Mississippi	32, 000	32, 000
Missouri	32, 000	32, 000
Montana	32, 000	[3] 34, 000
Nebraska	33, 600	34, 000
Nevada	32, 000	[3] 34, 000
New Hampshire	36, 000	36, 000
New Jersey	33, 600	33, 600
New Mexico	34, 320	34, 320
New York	36, 000	36, 000
North Carolina	38, 000	38, 000
North Dakota	32, 000	34, 000
Ohio	32, 000	32, 000
Oklahoma	32, 000	34, 000
Oregon	32, 000	[3] 34, 000
Pennsylvania	37, 080	37, 080
Rhode Island	36, 000	36, 000
South Carolina	32, 000	39, 600
South Dakota	32, 000	34, 000
Tennessee	32, 000	32, 000
Texas	32, 000	32, 000
Utah	33, 000	[3] 34, 000
Vermont	36, 000	36, 000
Virginia	32, 000	32, 000
Washington	32, 000	[3] 34, 000
West Virginia	33, 600	33, 600
Wisconsin	32, 000	32, 000
Wyoming	36, 000	36, 000

[1] No interstate.

On designated highways one pair of tandems permitted 32,000 lb.; however, 2 pairs of tandem axles permitted 32,000 lb. on each pair, provided maximum gross combination weight does not exceed 73,280 lb.

[3] By long term permit.

Note: See summary below:

Summary of interstate tandem axle weights:

Number of States at 32,000 lb	27
Over 32,000 lb. but less than 34,000 lb	6
34,000 lb. and over	17
Total	50

Summary of States permitting higher tandem axle weights on noninterstate system roads:

Number of States at 34,000 lb	12
Over 34,000 lb	2
Total	14

MAXIMUM STATE GROSS WEIGHT LIMITS

[In pounds]

State	Interstate system	Noninterstate system
Alabama	73, 280	73, 280
Alaska	(1)	117, 000
Arizona	76, 800	76, 800
Arkansas	73, 280	73, 280
California	76, 800	76, 800
Colorado	76, 000	85, 000
Connecticut	73, 000	73, 000
Delaware	73, 280	73, 280
Florida	73, 271	73, 271
Georgia	73, 280	73, 280
Hawaii	80, 800	80, 800
Idaho	76, 800	105, 500
Illinois	73, 280	73, 280
Indiana	73, 280	73, 280
Iowa	73, 280	73, 280
Kansas	73, 280	85, 500
Kentucky	73, 280	73, 280
Louisiana	73, 280	73, 280
Maine	73, 280	73, 280
Maryland	73, 280	73, 280
Massachusetts	73, 000	73, 000
Michigan	(2 3)	(2 3)
Minnesota	73, 280	73, 280
Mississippi	73, 280	73, 280
Missouri	73, 280	73, 280
Montana	76, 800	[4] 105, 500
Nebraska	73, 280	95, 000
Nevada	76, 800	[4] 128, 250
New Hampshire	73, 280	73, 280
New Jersey	73, 280	73, 280
New Mexico	86, 400	86, 400
New York	71, 000	[4] 80, 000
North Carolina	73, 280	73, 280
North Dakota	73. 280	82, 000
Ohio	78, 000	78, 000
Oklahoma	73, 280	90, 000
Oregon	76, 000	[4] 105, 500
Pennsylvania	73, 280	73, 280
Rhode Island	73, 280	73, 280
South Carolina	73, 280	73, 280
South Dakota	73, 280	95, 000
Tennessee	73, 280	73, 280
Texas	72, 000	72, 000
Utah	79, 900	[4] 125, 000
Vermont	73, 280	73, 280
Virginia	80, 000	80, 000
Washington	76, 000	[4] 105, 500
West Virginia	73, 280	73, 280
Wisconsin	73, 000	73, 000
Wyoming	73, 950	101, 000
District of Columbia	73, 280	73, 280

[1] No Interstate System in Alaska.

[2] Sum of axles.

[3] Michigan law has practical maximum of 73,280 lbs on typical 5 axle tractor semitrailer combination.

[4] Special permit operation.

Mr. BENTSEN. Mr. President, there is one final significant point I would like to make: This is not a bigger truck bill. The object of this bill, as the committee report states, is for trucks to make more efficient use of the space they have.

The minority report states that this is an invitation to larger trucks, but I must disagree because I, too, have strong reservations on that issue.

On that point I am very much in accord with the distinguished Senator from Vermont, my able friend, who represents his State so well.

The reason for the 80,000-pound limit that the committee placed on overall gross weight was to make negligible the chance that trucks would have to be longer. That is simply not enough of an increase to justify longer trucks. In addition, the committee has left untouched the States' absolute power to regulate truck lengths. Truck lengths have never been written into the Federal law, and the committee has no intention of changing that policy.

Once again let me reiterate the weight increases are permissive; they are not mandatory. They are modest. They do not call for bigger trucks.

Our trucking industry is suffering a decline in productivity. That is being passed on to the consumer in higher costs. We are trying to cut down the costs to the consumer today.

The Director of the Federal Highway Administration, Norbert Tiemann, told our committee that this loss of productivity is translated into an 8-percent loss for our highways. An increase of 10 percent in allowable gross weight, as this bill allows, would enable seven trucks to do the work of eight, assuming a high density commodity.

I believe that if we treat this matter realistically rather than emotionally, we will have to accept the logic of this course. I urge the defeat of the Stafford amendment, and I agree with the Senator on a great many subjects.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. STAFFORD. Mr. President, I think this is the first time that the distinguished chairman of this subcommittee and I have disagreed on a matter of any importance. I anticipated the fact that Vermont is one of those States having a higher axle loading limit than many other States was a subject which would be raised.

This Senator wishes to point out that that situation was created in Vermont without the consent or approval of the junior Senator from that State, and not at a time when he was in the executive chamber there.

Furthermore, in our attempt to preserve the present weight limits in the Federal legislation we were endeavoring, one could consider, to give the Nation the benefit of the experience we have had on our Interstate System with trucks that are heavier than the weight limit we are discussing today. So we are simply attempting to pass on the benefit of our experience with heavier trucks.

At this time, Mr. President, may I inquire how much time remains on this side?

The PRESIDING OFFICER. The Senator from Vermont has 17 minutes remaining, and the Senator from Texas has 22 minutes remaining.

Mr. STAFFORD. At this time I will yield 5 minutes to the distinguished Senator from New York (Mr. BUCKLEY).

Mr. BUCKLEY. Mr. President, I would like to thank the distinguished ranking minority subcommittee member.

I rise in support of his amendment.

I believe that, the assertions of the distinguished chairman of the subcommittee notwithstanding, we have to rely on the experience of the past, and understand that if these increases are authorized, there will be the inevitable followup pressures for extending the length of our trucks, adding to the problem of safety on our highways.

Also, although it is currently the responsibility of the States to attend to the repairs of their highways, it is nevertheless true that year by year we are seeing increasing responsibilities for the maintenance of highways—not necessarily the maintenance, but for various aspects of the highway system being transferred to the Federal Government.

So I suggest that it is inevitable that if we accede now to these demands, we will see pressures built in the future for moving toward mammoth cargo trucks that will inflict serious damage on the roads we have already built at great Federal expense and will exacerbate the problem of safety.

I need only remind our colleagues of the history of the dramatic increase in truck trailer length. Nearly all those that are on American roads today exceed 40 feet. Yet, 25 years ago, the majority were less than 26 feet in length. The increase in axle weights will reduce the remaining life of our existing highways by between 20 to 40 percent, according to estimates by State highway officials.

Again, I suggest that this will lead to pressures by State highway departments for further financial assistance from the Federal Government, not merely to build roads but also to maintain them, to repair this excessive damage to them.

I also point out at the National Transportation Safety Board, the National Association of Counties, the American Automobile Association, and the National Society of Professional Engineers oppose the increase.

I commend the Senator from Vermont for having offered the amendment, and I urge all our colleagues to support it.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I say to the distinguished Senator from New York that we would like to have some of the advantages with respect to weights. I look again at the State of New York, and I see that New York has, on single axle, 22,400 pounds, and on double axle it has 36,000 pounds. Again, that is more than we are asking for in this bill. We are just asking that the other half of these States have a little equity and be able to match some of the weights that we see in the State of New York and in the State of Vermont and some of the weights that have been granted under the old act.

I yield 5 minutes to the distinguished Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I rise in opposition to this amendment and in support of the position of the Senator from Texas. In addition to his excellent explanation of the need for this provision in the Federal-Aid Highway Amendments of 1974, I would like to specifically discuss the necessity for increased allowable truck weights in the Western States.

Truck transportation is very important to a number of our Western States that depend on long-haul road transportation far more than do more densely populated regions in the East. I recognize also that rail connections are more extensive in many Eastern States. In addition, the nature of industry in some Western States calls for heavy vehicles. The natural resources industries characteristic of Western States—such as mining and timber industries—produce bulky products that require heavier trucks for transport than many processed and manufactured products.

According to information supplied to me, while more than 40 States have adequate single and tandem axles weight limitations, the legislatures of nine Western States have demonstrated during the last several years their need for higher load limits by adopting higher standards for their noninterstate roads. None of these States have adopted noninterstate standards in excess of 20,000 pounds single axle, and 34,000 pounds tandem axle.

There are currently 18 States—mostly in the East—which have single-axle and tandem-axle weight limits on their interstate systems of at least 20,000 pounds and 34,000 pounds, respectively. These States were "grandfathered" in the Federal Highway Act of 1956.

Whereas section 107 of this act would allow an increase to 20,000 pounds on a single axle and 34,000 pounds on a tandem axle, it is interesting to compare these proposed new limits with existing "grandfathered" limits in the East.

For instance, the States of Maine, New York, Vermont, New Hampshire, Massachusetts, New Jersey, Pennsylvania, Maryland—plus others—presently allow single-axle weights above 20,000 pounds. The States of Vermont, New Hampshire, New York, Pennsylvania, Massachusetts, Connecticut, Maryland, Rhode Island—plus others—presently allow tandem-axle weights above 34,000 pounds. In fact, Maryland allows 40,000 pounds and Vermont allows 36,000 pounds.

In other words, the provisions of section 107—while allowing a modest increase in truck weights—would still leave the Western States behind the East. In all fairness, and based on the need for the increased weights, I urge support for section 107 and rejection of the amendment.

As a matter of fact, Mr. President, in the event that the amendment of the Senator from Vermont is agreed to and this modest increase under the bill is stricken, it is my intention to offer an amendment to change the grandfather date, which would have the effect of allowing nine Western States to catch up partly with his State of Vermont. In the event that that amendment should not be agreed to, it is my intention to do what he has indicated he would have done had he had the opportunity as Governor of his State, and that is to turn down the weight limits now imposed on Vermont. We will roll those limits back.

If it is good for Vermont to have higher limits, it is good for Idaho to have higher limits. If it is good for Idaho to have lower limits, it is good for Vermont to have lower limits.

I would assume that the Senator from Vermont and the junior Senator from New York would join me in that kind of fairness, in safety for the people of this country and for the drivers, in rolling back the limits in their own States to match the limits imposed upon us in some of the other States.

I would suggest, too, that the Senator from Vermont did, indeed, point to one very salient factor, and that is the question of what happens to the safety of the driver and of other drivers on the highway if we increase load limits. It is my understanding that Senator HART will offer an amendment to set a limit on the front axle weights. We have perhaps sketchy or inadequate information concerning the accuracy of the 10,000-pound limit which he proposes to suggest; but it is my intention to support that amendment and to seek further information between now and the time this measure gets to conference, because I think there is a problem which should be addressed, if not in this legislation, in the future.

Could the Senator from Texas indicate what his position might be with respect to the Hart amendment?

Mr. BENTSEN. I say to the distinguished Senator from Idaho that he is quite correct in that we did not have an opportunity to have hearings on that particular issue. What we have been able to find out from a very quick personal survey is that the chairman of the subcommitee, the Senator from Texas is going to support the amendment if it is adopted by the Senate and take it into the conference.

Mr. McCLURE. I thank the Senator from Texas. This does, indeed, if the amendment is adopted——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCLURE. Will the Senator yield me 1 more minute?

Mr. BENTSEN. I yield 1 more minute to the Senator from Idaho.

Mr. McCLURE. I think this amendment does go a long way toward adopting the very legitimate concerns by the Senator from Vermont with respect to the safety questions. I, therefore, support it.

I wish to read just a couple of paragraphs concerning what happens under a weight increase. The people who benefit from section 107 are the farmers of this country and, indirectly, the consumers. The modest 7,000-pound per truck increase would mean:

First, 116 bushels more of wheat—grain—load;

Second, faster distribution of fruits and vegetables, of which the trucking industry carries 75 percent of the total;

Third, approximately 7 more steers, 20 hogs, 14 to 18 feeder cows per load; plus

Fourth, better movement of chemical sprays, fertilizers, and farm machinery.

I urge the defeat of the amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. STAFFORD. I yield 5 minutes to the Senator from Virginia, Senator SCOTT.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 5 minutes.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the Senator yielding time to me.

I, too, serve on the committee and am very much concerned about the truck weight issue. Of course, the trucking industry is, of course, very important to our country; and we do not want to do anything that will be harmful to the trucking interests. Yet we have to think, at a broader level, about what is in the public interest. I believe that the adoption of this amendment by the distinguished Senator from Vermont is in the public interest. I urge that it be adopted.

I believe the people of the country would favor this amendment by the Senator from Vermont.

A few years ago, this matter was before us. As I recall, the Senate passed by a wide margin, perhaps unanimously, a measure to increase the size of trucks. It came over to the House and the committee favorably reported it. I believe that the Committee on Rules authorized the matter to be brought to the floor of the House, that the leadership in the House thought better of this and, because of the great public outcry against larger and heavier trucks, the leadership would not permit it to be brought up, and the measure died without coming to a vote in the House of Representatives.

In my opinion, the reason that the public is against this, and I want to share a few letters from constituents of mine on this, is they believe it will damage our highways and our bridges. The distinguished chairman of the Subcommittee on Transportation indicated that this was a matter for the States to decide and that this was permissive legislation only. And, of course, he is correct as to its being permissive legislation; but the Federal Government should have an interest in this, since they are providing 90 percent of the funds for the construction of interstate and other highways.

According to the findings contained in House Document 354 in the 88th Congress, the second session, increases from 18,000 pounds per single axle and 32,000 pounds tandem load limitations to 20,000 single axle and 35,000 tandem would decrease existing pavement life by 20 percent.

I am aware that the bill states 54 rather than 35 now, but it would decrease existing pavement life by 20 percent and in the 10-year period following enactment of these higher limits, increase resurfacing and maintenance costs by 30 percent.

Mr. President, I believe we need to think about highway safety, too. The safety ramifications of this proposal are increasingly called into question, especially in light of the recent highway legislation, the Highway Safety Act and the Traffic and Motor Vehicle Act. It would just seem to me to be undoing the effect of highway safety programs by adding to the peril of the roads.

According to the American Automobile Association, 48.3 percent of the fatal or injury-producing accidents involving carriers, trucks, and buses result from collision with an automobile. To every one truckdriver who is killed in such accidents, 38 motorists or passengers die.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WILLIAM L. SCOTT. May I have 2 more minutes, please?

Mr. STAFFORD. I yield 2 more minutes to the Senator from Virginia.

Mr. WILLIAM L. SCOTT. I thank the Senator from Vermont.

For every truck driver injured, 10 others are injured. More than two-thirds of all persons killed in motor vehicle accidents are involved in auto-truck collisions. According to AAA findings, passengers and car and light-truck drivers often experience acute anxiety, tension, discomfort, and even fear when passing, being passed by, or accompanying larger vehicles on the road.

Mr. President, I hope that the time will come when we can have separate highways for trucks, because once again, this is a vital industry, but we are living in a time when we are talking about compact, lighter automobiles. This is not the time to be talking about heavier trucks.

I should like to share, to the extent of the time available, some correspondence from constituents. A real estate agent in Roanoke writes:

> The situation is so dangerous now that I feel the passenger car is being forced from the highway . . . a classmate of mine who is one of the best highway engineers in the East recently told me that one large truck does more damage to the highways than several thousand passenger cars. Also the construction has to be far more costly to accommodate the heavy trucks.

The PRESIDING OFFICER. The Senator's additional 2 minutes have expired.

Mr. WILLIAM L. SCOTT. Mr. President, I do not know how much time we have, but will the Senator yield me 2 additional minutes?

The PRESIDING OFFICER. The Senator from Vermont has 7 minutes remaining.

Mr. STAFFORD. Mr. President, the Senator from Vermont yields 2 more minutes to the Senator from Virginia.

Mr. WILLIAM L. SCOTT. I appreciate that.

The chairman of the board of supervisors of Fluvanna County, Va., writes:

> A bill sponsored by the Department of Transportation to increase the size, length, etc. of trucks on interstate roads is before the Congress. Please vigorously oppose this bill.

The vast majority of these trucks pay no attention to the speed limit. I am a defensive and conservative driver for over 50 years and within the past several weeks I had occasion to go to Virginia Beach and Roanoke, driving 55 MPH and trucks often passed me going from 65–70 mph.

When it is raining these monsters with their 18 tires and arrogant drivers create such a fog that the driver of the car they pass cannot see.

They constantly "tail gate" ten to 20 feet behind the leading vehicle. Their weight is destroying our highways. See what has happener to I-81. I'm tired of subsidizing these vehicles.

Mr. President, I have an editorial from the Virginian-Pilot, dated Monday, August 26, of this year, that is opposed to increasing the truck and weight size. I would like to read a portion of it which states:

> The Department of Transportation has figured that it could cost States up to $100 million a year to repair highway wear and tear caused by heavier trucks. Virginia for one is already suffering from a shrinking highway dollar and ballooning construction costs; it doesn't need the doubtful benefits of heavier trucks pounding the roadways.

At this point, Mr. President, I ask unanimous consent that the editorial be included in full in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BIGGER TRUCKS

A little-noted casualty of the $11 billion Federal mass-transit bill approved by the House in the past week was a provision to raise by a ton the maximum allowable weight of trucks using Interstate highways.

Motorists will little mourn the loss. However, the issue wasn't killed, only wounded. It will come up again next month when the Senate tackles an omnibus highway bill containing a similar proposal.

The American Automobile Association tends to be jittery on the subject, especially as regards motorist safety. The AAA observes that while trucks are involved in few collisions with cars, motorist fatalities are high in such encounters. Emotion as well as statistics is involved: passing—or being passed by—one of the behemoths could be hard on the nerves.

The Department of Transportation has figured that it could cost states up to $100 million a year to repair highway wear and tear caused by heavier trucks. Virginia for one is already suffering from a shrinking highway dollar and ballooning construction costs; it doesn't need the doubtful benefits of heavier trucks pounding the roadways.

Congress has gotten off to a stumbling start trying to raise Northeastern railroads from the dead. The intent is noble; for long-haul freight-carrying, railroads are four times as fuel-efficient as trucks. The Senators ought to keep factors of safety and economy in mind when the highway bill comes up after their Labor Day vacation.

A Virginia Beach resident writes:

> By personal observation, some of our interstate highways are already deteriorating rather early in their life. It stands to reason that increasing the already heavy loads imposed by some trucks on the highways cannot help but increase road wear.

A constituent from Hampton says:

> As a voting citizen of the Virginia Tidewater area, I urge you to oppose the bill before Congress proposing the use of longer and heavier trucks on the highways. These larger trucks are dangerous, as shown by statistics of their involvement in fatal accidents. Furthermore, the American Trucking Association figures indicate that the larger trucks would offer very little lessening of the fuel crisis.
>
> The large trucks contribute to faster deterioration of roads and bridges. The problems they create for motorists include the difficulties of passing (especially in wet weather), being followed by them, approaching wide loads at highway speeds and blocked vision.

Mr. WILLIAM L. SCOTT. In conclusion, Mr. President, I urge adoption of this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WILLIAM L. SCOTT. I urge that the amendment be adopted.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, the distinguished Senator from Washington (Mr. MAGNUSON) has been seeking recognition. I yield to him.

Mr. MAGNUSON. Mr. President, I merely wanted to ask the manager of the bill a question which I think would clarify some portions of the legislation before us.

As the distinguished chairman knows, at the present time in full conformity with the Federal Highway Act of 1956, as interpreted by the Federal Highway Administration, many States, including my own, now authorize weight limits and dimensions of the Federal interstate highway system that in some respects exceed those provided in this bill.

In view of these facts, my question is as follows:

Is it the intent of the committee that the provisions of this act would in any way lower the gross weights or dimensions that the States presently may legally authorize by law or special permits on the Federal interstate system of highways?

Mr. BENTSEN. The Senator from Texas would say to the Senator from Washington that the bill in no way changes the grandfather clause of the 1956 act, and does not lower any of the limits.

To answer the question specifically, it is not the intent of the committee that this bill would in any way lower the gross weights or dimensions that the States now legally authorize or would legally authorize by statute or special permit in the Federal interstate system of highways.

I would call to the Senator's attention that the distinguished Senator from Idaho says he may propose an amendment.

Mr. MAGNUSON. I understand.

Mr. BENTSEN. If this amendment should carry, then he may propose an amendment to lower the limits in the States which now have them in excess of that.

Mr. STAFFORD. Mr. President, if the Senator will yield very briefly, the amendment offered by the Senator from Vermont would not affect States now grandfathered in. So neither the amendment nor the bill would have any effect.

Mr. MAGNUSON. I thank the Senator for that distinction.

I ask unanimous consent to have printed in the RECORD various material with respect to permissible truck weights on Interstate Highways.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 8, 1974.

To: W. A. Bulley, Deputy Director of Highways.

From: Thomas R. Garlington/Michael A. McKean.

Subject: Permissible truck weights on interstate highways.

During its December 18, 1973, regular meeting, the Washington State Highway Commission authorized the allowance of "Table B" weights on the interstate system by special permit. "Table B" weights are fully authorized in RCW 46.44.095. A copy of RCW 46.44.095 as amended by section 3, chapter 150, Laws of 1973 1st ex. sess. is attached to this opinion.

Prior to granting said permits, the Commission seeks to resolve whether such permits may be issued on interstate highways without violating Title 23, § 126 of the United States Code. If such permits may be granted, the Commission wishes to know the permissible time periods for which such permits may be issued.

After an examination of applicable state and federal statutes, we have concluded that the Commission may issue special permits for "Table B" weights on the interstate highway system. These permits may be granted on a single trip basis or for continuous operation including annual permits.

Title 23, § 127 of the United States Code established certain axle and tandem weight limits on interstate highways:

> *Vehicle weight and width limitations—Interstate System.* No funds authorized to be appropriated for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956 shall be apportioned to any State within the boundaries of which the Interstate System may lawfully be used by vehicles with weight in excess of eighteen thousand pounds carried on any one axle, or with a tandem-axle weight in excess of thirty-two thousand pounds, or with an overall gross weight of seventy-three thousand two hundred and eighty pounds, or with a width in excess of ninety-six inches, *or the corresponding maximum weights or maximum widths permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956, whichever is the greater.* Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse. This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof *that could be lawfully operated within such State on July 1, 1956.* With respect to the State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956. (Emphasis added).

The maximum allowable weight established by § 127 is the greater of 18,000 pounds on a single axle, 32,000 pounds on a tandem axle and 73,280 pounds gross weight *or* the corresponding state maximum weights permitted by state law on July 1, 1966.

A review of the weight laws in effect in Washington State on July 1, 1956 indicates that Washington had maximum weights exceeding those alternate weight maximums set by § 127.

The predecessor of our present RCW 46.44.040 (Maximum Gross Weights—Axle Factor) was section 4, chapter 384, Laws of 1955, which provided in part:

(1) It is unlawful to operate any vehicle upon the public highway with a gross weight including load upon any one axle thereof in excess of eighteen thousand pounds.

It is unlawful to operate any one axle semitrailer upon the public highways with a gross weight including load upon such one axle in excess of eighteen thousand pounds.

It is unlawful to operate any truck or truck tractor upon the public highways of this state supported upon two axles with a gross weight including load in excess of twenty-eight thousand pounds.

It is unlawful to operate any semitrailer or pole trailer upon the public highways supported upon two axles with a gross weight including load in excess of thirty-two thousand pounds. It is unlawful to operate any two axle trailer upon the public highways with a gross weight, including load, in excess of thirty-six thousand pounds.

That statute provided ordinary maximum gross axle weights.

The above language was followed by the predecessor of RCW 46.44.090. (Special permits for oversize or overweight movements) section 34, chapter 269, Laws of 1951, which read:

The director of highways with respect to primary and secondary state highways and local authorities with respect to public highways under their jurisdiction may, upon application in writing and good cause being shown therefore, issue a *special permit* in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size, weight of vehicle or load exceeding the maximum specified in this chapter or otherwise not in conformity with the provisions of this chapter upon any public highway under the jurisdiction of the authority granting such permit and for the maintenance of which such authority is responsible.

No overweight permit shall be issued to any vehicle or combination of vehicles unless such vehicle or combination of vehicles is licensed for the maximum gross weight allowed by law.

This language allowed the director of highways (later the Commission) to grant special permits for weight above those specified in RCW 46.44.040.

Next came the version of RCW 46.44.090 (Gross Weight Limit) in effect in 1956, section 12, chapter 254, Laws of 1953, which read:

No special permit shall be issued for movement on any primary or secondary state high way or route of state primary or secondary highway within the limits of any city or town *where the gross weight, including load, exceeds twenty-two thousand pounds on a single axle or forty-one thousand pounds on any group of axles having a wheelbase between the first and last axle thereof less than ten feet: Provided, That a tolerance of two thousand pounds may be allowed* on any group of axles having a wheelbase between the first and last axle thereof of less than ten feet when the permit is being issued for the maximum overload permitted under this section: *Provided further,* That the tolerance shall not be allowed unless secifically granted on the face of the permit: *Provided further,* The weight limitations pertaining to single axles may be exceeded to permit the movement of equipment operating upon single pneumatic tires and having a rim width of 20 inches or more and a rim diameter of 24 inches or more or dual pneumatic tires having a rim width of 20 inches or more and a rim diameter of 24 inches or more or dual pneumatic tires having a rim width of 16 inches or more and a rim diameter of 24 inches or more. Application shall be made in writing on special forms provided by the highway commission and shall be submitted at least 36 hours in advance of the proposed movement. (Emphasis added).

This language established maximum axle weight limits under special permits of 22,000 pounds on a single axle or 41,000 pounds on a tandem axle. Since a tolerance of 2000 pounds additional on a tandem axle could be granted on the special permit, the top end tandem axle weight limit in effect was 43,000 pounds, by special permit.

The 1956 version of RCW 46.44.092 (Special permits for oversize or overweight movements—overall width limits—Application for permit) was section 2, chapter 146, Laws of 1955:

No special permit shall be issued for movement on any two lane state highway outside the limits of any city or town where the overall width of load exceeds fourteen feet, on any three lane state highway where the overall width of load exceeds twenty-two feet, or on any four lane state highway where the overall width of load exceeds thirty-two feet: *Provided,* That (1) these width limitations may be exceeded on state highways where the latest available traffic figures show that the highway or section of highway carries less than one hundred vehicles per day; (2) permits may be issued for weights and widths in excess of the preceding limitations on highways, or sections of highways which have been designed and constructed for weights and widths in excess of such limitations; (3) these limitations may be rescinded when certification is made by military officials as to the necessity for such action and when in the opinion of the highway commission, the movement or action is a necessary emergency movement or action: *Provided further,* That the structures and highway surfaces on the routes involved are determined to be capable of sustaining weights in excess of such limitations; (4) these limitations shall not apply to farmers moving farm machinery between farms during daylight hours if the movement does not pass along and upon any primary or secondary state highway for a distance greater than thirty-five miles, if properly patrolled and flagged.

The applicant for any special permit shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular state highways for which permit to operate is requested and *whether such permit is requested for a single trip or for continuous operation.* (Emphasis added).

That statute provided that special permits for overweight and over-width could be granted on either a single trip basis or "for continuous operation." The special permit language of RCW 46.44.092 still provides for a continuous operation special permit.

Thus, on July 1, 1956, statutes in effect in Washington authorized the issuance of a special permit for a single trip or continuous operation to any truck carrying an axle load of up to 22,000 pounds for a single axle and up to 43,000 pounds for tandem axles.

Based upon the foregoing discussion, we conclude that permits authorizing Table B weights on interstate highways would not conflict with section 127 of Title 23 U.S. Code, since those weights fall within the legal weights permitted in this state on July 1, 1956. The annual permit provided for by chapter 150, Laws of 1973 1st ex. sess., is within the scope of the "continuous operation" special permit existing on July 1, 1956, and Table B special permits may therefore be granted on a single trip basis or by annual special permit.

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Sec. 3. Section 46.44.095, chapter 12, Laws of 1961 as last amended by section 55, chapter 281, Laws of 1969 ex. sess. and RCW 46.44.095 are each amended to read as follows:

When fully licensed to the maximum gross weight permitted under RCW 46.44.040, a two-axle truck or a three-axle truck operated as a solo unit and not in combination shall be eligible to carry gross weight in excess of that permitted for such a vehicle in RCW 46.44.040 upon the payment to the state highway commission of a fee of thirty dollars for each one thousand pounds of excess weight: *Provided,* That the axle loads of such vehicles shall not exceed the limits specified in RCW 46.44.040 and the tire limits specified in RCW 46.44.042 or the wheel base requirements specified in RCW 46.44.044.

When fully licensed to a minimum gross weight of seventy-two thousand pounds a three or more axle truck tractor and a three or more axle dromedary truck tractor, and a three or more axle truck, when operating in combination with another vehicle or vehicles (the licensed gross weight of which, if any, shall be included when computing the minimum gross weights set forth above), shall be eligible under special permits to be issued by the state highway commission to carry additional gross loads beyond the licensed capacity of the combination of vehicles upon the payment of a fee based upon thirty dollars per year for each one thousand pounds of such additional gross weight but not to exceed one hundred and twenty dollars for the total additional weight: *Provided,* That the axle loads of such vehicles shall not exceed the limits specified in RCW 46.44.040 and the tire limits specified in RCW 46.44.042: *And provided further,* That the gross weight of a three or more axle truck operated in combination with a two or three-axle trailer shall not exceed seventy-six thousand pounds, and the gross weight for a three or more axle truck tractor operated in combination with a semitrailer shall not exceed seventy-three thousand two hundred eighty pounds except where the semitrailer is eligible to carry a gross load of thirty-six thousand pounds pursuant to the provisions of RCW 46.44.040, in which even the maximum gross weight of the combination shall not exceed seventy-six thousand pounds. The minimum additional tonnage to be purchased pursuant to this paragraph for a three or more axle tractor to be operated in combination with a semitrailer shall not be less than one thousand two hundred and eighty pounds. The permits provided for in the two preceding paragraphs shall be known as class A additional tonnage permits.

In addition to the gross weight purchased pursuant to RCW 46.16.070, 46.16.115, 46.44.037, and the foregoing provisions of this section and where, in the case of combinations of vehicles, the maximum gross weight permitted by law, including the preceding provisions of this section, has been purchased, a special permit for additional gross weight may be issued by the state highway commission upon the payment of thirty-seven dollars and fifty cents per year for each one thousand pounds of such additional gross weight: *Provided,* The tire limits specified in RCW 46.44.042 shall apply, and the gross weight on any single axle shall not exceed twenty thousand pounds and the gross load on any group of axles shall not exceed the following table:

	Maximum load in pounds carried on any group of 2 or more consecutive axles—							
	2	3	4	5	6	7	8	9
Distance in feet between the extremes of any group of 2 or more consecutive axles:								
4	34,000							
5	34,000							
6	34,000							
7	34,000							
8	34,000	42,000						
9	39,000	42,500						
10	40,000	43,500						
11		44,000						
12		45,000	50,000					
13		45,500	50,500					
14		46,500	51,500					
15		47,000	52,000					
16		48,000	52,500	58,000				
17		48,500	53,500	58,500				
18		49,500	54,000	59,000				
19		50,000	54,500	60,000				
20		51,000	55,500	60,500	66,000			
21		51,500	56,000	61,000	66,500			
22		52,500	56,500	61,500	67,000			
23		53,000	57,500	62,500	68,000			
24		54,000	58,000	63,000	68,500	74,000		
25		54,500	58,500	64,500	69,000	74,500		
26		55,500	59,500	65,000	69,500	75,000		
27		56,000	60,000	65,000	70,000	75,500		
28		57,000	60,600	65,500	71,000	76,500	82,000	
29		57,500	61,500	66,000	71,500	77,000	82,500	
30		58,500	62,000	66,500	72,000	77,500	83,000	
31		59,000	62,500	67,500	72,500	78,000	83,500	
32		60,000	63,500	68,000	73,000	78,500	84,500	90,000
33			64,000	68,500	74,000	79,000	85,000	90,500
34			64,500	69,000	74,500	80,000	85,500	91,000
35			65,500	70,000	75,000	80,500	86,000	91,500
36			66,000	70,500	75,500	81,000	86,500	92,000
37			66,500	71,000	76,000	81,500	87,000	93,000
38			67,500	72,000	77,000	82,000	87,500	93,500
39			68,000	72,500	77,500	82,500	88,500	94,000
40			68,500	73,000	78,000	83,500	89,000	94,500
41			69,500	73,500	78,500	84,000	89,500	95,000
42			70,000	74,000	79,000	84,500	90,000	95,500
43			70,500	75,000	80,000	55,000	90,500	96,000
44			71,500	75,500	80,500	85,500	91,000	96,500
45			72,000	76,000	81,000	86,000	91,500	97,500
46			72,500	76,500	81,500	87,000	92,500	98,000
47			73,500	77,500	82,000	87,500	93,000	98,500
48			74,000	78,000	83,000	88,000	93,500	99,000
49			74,500	78,500	83,500	88,500	94,000	99,500
50			75,500	79,000	84,000	89,000	94,500	100,000
51			76,000	80,000	84,500	89,500	95,000	100,500
52			76,500	80,500	85,000	90,500	95,000	101,000
53			77,500	81,000	86,000	91,000	96,500	102,000
54			78,000	81,500	86,500	91,500	97,000	102,500
55			78,500	82,500	87,500	92,000	97,500	103,000
56			79,500	83,000	87,500	92,500	98,000	103,500
57			80,000	83,500	88,000	93,000	98,500	104,000
58				84,000	89,000	94,000	99,000	104,500
59				85,000	89,500	94,500	99,500	105,000
60				85,500	90,000	95,000	100,500	105,500

Permits issued pursuant to the foregoing paragraph shall be known as class B additional tonnage permits.

The special permits provided for in this section shall be issued under such rules and regulations and upon such terms and conditions as may be prescribed by the state highway commission. Such special permits shall entitle the permittee to carry such additional load in such an amount and upon such highways or sections of highways as may be determined by the state highway commission to be capable of withstanding such increased gross load without undue injury to the highway: *Provided*, That the permits shall not be valid on any highway where the use of such permits would deprive this state of federal funds for highway purposes.

The annual additional tonnage permits provided for in this section shall commence on the first of January of each year. The permits may be purchased at any time, and if they are purchased for less than a full year, the fee shall be one twelfth of the full fee multiplied by the number of months, including any fraction thereof covered by the permit. When the department issues a duplicate permit to replace a lost or destroyed permit and where the department transfers a permit from one vehicle to another a fee of five dollars shall be charged for each such duplicate issued or each such transfer. The state highway commission shall issue such special permits on a temporary basis for periods not less than ten days at a fee of one dollar per day in the case of class A permits and not less than five days at two dollars per day in the case of class B permits.

The fees levied in RCW 46.44.094 and this section shall not apply to any vehicles owned and operated by the State of Washington, any county within the State or any city or town within the State, or by the federal government.

In the case of fleets prorating license fees under the provisions of chapter 46.85 the fees provided for in RCW 46.44.037 and 46.44.095 shall be computed by the state highway commission by applying the proportion of the Washington mileage of the fleet in question to the total mileage of the fleet as reported pursuant to chapter 46.85 to the fees that would be required to purchase the additional weight allowance for all eligible vehicles or combinations of vehicles for which the extra weight allowance is requested.

The state highway commission shall prorate the fees provided in RCW 46.44.037 and 46.44.095 only if the name of the operator or owner is submitted on official listings of authorized fleet operators furnished by the department of motor vehicles. Listings furnished shall also include the percentage of mileage operated in Washington, which shall be the same percentage as determined by the department of motor vehicles, for purposes of prorating license fees.

PORTLAND, OREG.,
March 14, 1974.

Permissible Truck Weights on Interstate Highways—Washington.
Assistant Regional Counsel.
Mr. DAVID E. WELLS,
Chief Counsel, Washington, D.C.
Attention: Mr. Hugh T. O'Reilly, Motor Carrier and Highway Safety Law Division.

Attached is a legal opinion of the Chief Counsel, Washington Department of Highways, that the State may issue annual permits for weights above the basic limits set forth in 23 U.S.C. 127 under Washington law in effect on July 1, 1956.

We concur in the Chief Counsel's legal opinion. May we have your comments on the matter prior to our responding to Mr. Garlington's letter.

JAMES F. ZOTTER.

DEPARTMENT OF TRANSPORTATION,
March 20, 1974.

Subject: Special Permits—Washington.
From: Assistant Chief Counsel for Motor Carrier and Highway Safety Law.
To: Mr. Robert B. Rutledge, Regional Counsel.

Attention: Mr. James F. Zotter, Portland, Oreg.

In response to your memorandum of March 14, we have reviewed the opinion of the Attorney General of the State of Washington on the subject of limitations on special permit issuance in that State, in which you concur. The opinion is well reasoned, and we agree that special permits for continuous operation of vehicles within the gross weights specified in table B of RCW 46.44.095 may be issued without contravening 23 U.S.C. 127, as long as the axle weights of 22,000 pounds single and 43,000 pounds tandem mentioned in the opinion are not exceeded.

ISAAC D. BENKIN.

Mr. BENTSEN. I yield the Senator from Florida 5 minutes.

Mr. GURNEY. I thank the Senator from Texas.

Mr. President, I oppose the amendment offered by my good friend from Vermont, and I support the provision now in the bill, and support the position of the manager of the bill, the distinguished Senator from Texas (Mr. BENTSEN).

Section 107 of the bill would raise the Federal limits on axle weights from 18,000 to 20,000 pounds single and from 32,000 to 34,000 pounds tandem. In addition, it would replace the outdated current maximum gross weight limit of 73,280 pounds with bridge formula "B" and a top of 80,000 pounds.

I think perhaps what I may say about this section of the bill has perhaps some importance, because my State of Florida, long a leader in the development of commercial activities, and transportation of goods, presently has a single axle weight limit of 20,000 pounds plus a 10-percent tolerance, allowing a 22,000-pound limitation.

The tandem axle weight limitation is 40,000 pounds with the same 10-percent tolerance, for a total of 44,000 pounds.

In other words, we exceed what is proposed in the bill by a fairly considerable margin.

We are as careful of our highways as any other State, and yet we have not found that there has been an experience in the State of Florida that has shown excessive highway deterioration because of this weight limit that we use which, in the case of a single axle, equals what is proposed in the bill, and exceeds what is proposed in the bill as far as a tandem axle is concerned.

One of the things that I think we have to think about is that a great deal that has been said here about that we should not have heavier trucks, or trucks that are consuming more fuel. The point of the matter is that today we do have the big and heavy trucks. What is happening is that they are moving along the highways with a good portion of their space unused, because, while they might go out of the State of Florida with 20,000 pounds or even 22,000 pounds on a single axle, with a 10-percent tolerance, and up to 40,000 to 44,000 pounds with a tandem axle, if they move up to, say, New York—and that is where a great many of them go; a good many of our fruit and vegetable products move up to New York City—they have to conform to the lowest weight limits in the intervening States between Florida and New York, and much of the truck space that moves out of Florida is unused for that reason.

The Senator from Idaho (Mr. McClure) mentioned a short time ago how important this is to the farmers and consumers of the country. I could not agree more. Let me give an example of what happened last winter.

During the energy crisis that hit the country in January, February, and March, we had a particular problem in the State of Florida, which was getting citrus products out of the State to the markets in New York and the industrial East. They move in large part by truck, and some by train. Trucks, of course, were cut down because of the fact that they could not get the diesel fuel to move, and so the number of trucks going out of Florida was considerably less than normally.

If we could have filled the big trucks with the citrus products and vegetable products we wanted to move from Florida to the Northeast, the Northeast could have gotten a lot more vegetables and citrus products, which they needed, and our farmers could have moved a whole lot of our products which they were not able to move, and which actually deteriorated on the tree or in the ground, and they suffered great losses.

All this could have been avoided if we had had an axle weight limit which more nearly corresponded with what is in the bill.

So again I say, as far as the energy crisis is concerned—and it is still with us, as far as costs are concerned; we are able to get the diesel fuel we want today in the quantities, apparently, that we want it, and gasoline as well, but we have to pay greatly excessive prices for it, twice, perhaps, what we paid a year ago —that all of this is translated into the cost of farm produce that goes to market. If a truck has to move from the State of Florida, which is one of the great fruit- and vegetable-producing States in the Nation, to cities in the Midwest and the North half filled or two-thirds filled because of this axle limitation, of course what we are doing is burning up fuel excessively that we do not need to burn; it is adding to our energy costs and also adding to the price of our produce that moves to market, and is adding to the inflation and hurting a lot of people.

So I think this is a very sensible thing we are doing here, and I do say, as a Senator from a State which presently has these axle limits, and actually exceeds them in the case of the tandem axle, that it has worked out very well. I hope the Senate will reject the amendment, and hold the provision in the bill.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator's 5 minutes has just expired.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the name of the Senator from New Hampshire (Mr. Cotton) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I have listened with great interest to my distinguished friend the Senator from Florida (Mr. Gurney), and have noted that his State does permit higher axle loadings than many other States.

I do not necessarily draw any casual connection between that and the fact that this bill contains a $116-million authorization for repair of bridges from Florida down to Key West; but it is quite possible that that additional weight has been a factor in the request for repair of those bridges.

I would like to comment, Mr. President——

Mr. GURNEY. Mr. President, will the Senator yield at that point?

Mr. STAFFORD. Very briefly, because I have but little time remaining. I yield the Senator 1 minute.

Mr. GURNEY. I thank the Senator. I do want to say that as far as that bridge to Key West is concerned, it is about the oldest highway in the State, and is actually built over a railroad trestle. It was erected to go to Key West back in the 1920s, and really has nothing to do with the bill.

Mr. STAFFORD. All I am suggesting to the distinguished Senator is that it may have worn out faster because of the heavy weight of the trucks that use it.

I commend the distinguished Senator from Virginia (Mr. William L. Scott) for his excellent speech to the Senate this afternoon in connection with the safety considerations involved in increasing the weight of trucks, and I shall not dwell on that further in my closing remarks.

Mr. President, it seems to me that basically we are considering two things. First, safety, the safety of the traveling public. Most of the traveling public on the highways of this country are traveling in private cars.

Then we are talking about economics. Here I would like to say that axle loads of vehicles have a relationship to the useful life of road pavement. The $27 million AASHTO road test revealed that increasing single axle loads from 18,000 pounds to 20,000 pounds, as proposed in this legislation, brings about a 60 percent increase in the wear and tear on the pavement attributable to the movement of heavy loads.

A 2,000-pound increase in tandem axle loads from 32,000 to 34,000 as proposed in this legislation brings about a similar increase of 33 percent.

Testimony of American Association of State Highway and Transportation Officials regarding current proposals reveals that, if enacted, they can result in an average loss of the remaining life of a facility of between 25 and 40 percent.

Now, much has been made this afternoon of the argument that truckers will need greater uniformity among the States with regard to weights. It has to be said that the bill pending before the Senate this afternoon does not achieve uniformity. There would still be 20 States which vary from the national limits in either axle or gross weight requirements by virtue of the grandfather clause.

There has also been comment on the $27 million Illinois road test. Let me point out that the most important feature of that test or those tests, as I said earlier in my opening speech, is the fact that the recommended weight increases were only part of a package of recommendations. The rest of the package called for various safety regulations to be promulgated before weight increases were allowed. Some of those regulations have been issued but will not take effect until next year. Others have never even been proposed.

Finally, Mr. President, I wish to point out that the National Transportation Safety Board, the National Association of Counties, and the National Society of Professional Engineers oppose the increase provided in the committee bill for axle weights because of safety hazards, including damage to existing bridges, and because of accelerated deterioration of highways.

I reserve the remainder of my time.

Mr. BENTSEN. Mr. President, we have been discussing some of these people who have the responsibility for maintaining highways. Let me just say we had them before us in the committee hearings, and they testified at length. We felt that these were very reasonable limits that we were putting in, and substantially less than were asked for by many, many people who testified.

Section 107 of this bill—and that is the section we are referring to when we are talking about weights—has the support of the Department of Transportation, the American Association of State Highway and Transportation Officials.

Those are some of the people who are responsible for the maintenance that we are talking about; and then there are the National Governors' Conference and the National Legislative Conference.

We are not calling for larger trucks. We are talking about using the existing trucks more efficiently. We are talking about raising the weight per axle by 2,000 pounds to a limitation that at least half the States in this Nation already have. Trucks in those States can carry that kind of weight on their axles.

So what we are trying to do is bring about some equity in the transportation system of this country, trying to bring about some uniformity in it, trying to bring about some cost reductions in transportation that can be passed onto the consumers of this country. That is what the crux of this argument is, and that is what was considered by the committee as they were concerned with these weights that were proposed.

So I ask that this body vote against this amendment. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STAFFORD. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Vermont has 1 minute, and the Senator from Texas has 3 minutes.

Mr. STAFFORD. Mr. President, I conclude by saying that, in the view of the Senator from Vermont, who hopes the Senate will adopt this amendment, we are talking principally about the safety of the American traveling public on the highways of this Nation.

I believe that the experience of the American public with heavy trucks on our Interstate System is such that it would prefer, by the vast majority, that the size and weight of trucks do not grow, and that the present limits on axle weights be left as they are in the present law.

Mr. BENTSEN. The Western Highway Institute, in testifying before the committee, showed that trucks, as a group, have a better highway accident frequency ratio than all other motor vehicles combined.

Mr. President, let me further say if this amendment carries, and it is the majority viewpoint of this body that in the interests of safety these weights should be cut down, then I will look with a great deal of interest on the proposal of the Senator from Idaho because what is sauce for the goose is certainly sauce for the gander. If we are concerned with safety in the State of Texas and the State of Oklahoma, to that extent then we ought to be concerned with that safety in the State of Vermont and the State of New York. I look forward to the offering of that amendment.

Mr. RANDOLPH. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Texas has approximately 2 minutes.

Mr. BENTSEN. I yield the remainder of my time to the distinguished chairman of the committee.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 2 minutes.

Mr. RANDOLPH. Mr. President, what the Senator from Texas, the manager of this measure, has said is true in reference to the opposition of the committee to the amendment offered by the able Senator from Vermont.

I want to add that this was, perhaps, the most difficult issue to resolve as we fashioned the bill and brought it to the floor. We are attempting to cope with the problem of truck weights. But, Mr. President, I think it is very important that we indicate that this is another issue that has been injected by last winter's fuel shortage; but one which has confronted us before. There was hardship, and inconvenience imposed on the trucking industry by the energy crisis. This industry is a vital segment of our transportation network in the United States of America and, as we were convinced of their fuel shortages, costs, and mandated compulsory compliance with low speed limits Mr. President, we are also convinced by their arguments for modest increase in weights.

Balanced against this situation, of course, are the considerations of highway safety. We are conscious of these matters as they have been so ably stated by the Senator from Virginia (Mr. William L. Scott), a member of our committee. But, here we are attempting to cope with the utilization of a segment of our transportation industry which is vital to agriculture and we recognize that we are not doing something that is comprehensive, but incremental. We are attempting to reach an economic solution without upsetting the delicate balance of safety concerns.

The modest increases suggested in section 107 of S. 3934 are needed to offset some of the economic problems faced by the industry because of the recent energy crisis and the mandating of the 55 miles per hour speed limit.

Truckers are complaining that the cost of diesel fuel has doubled, and that these lower limits have cut productivity by 27 to 28 percent. This is reduction in total truck capacity of approximately 8 percent.

Agricultural producers have noted that due to removal of many railroad cars there are not enough trucks to go around. Since these products are not regulated, the price of carrying them from farm to market has increased considerably. This adds to the economic burden of rural America to which we must be sensitive.

It is an old story, but still factual that many of the States we have heard spoken of today were grandfathered in when the 1956 act was passed; the act has never been properly adjusted for other States which I feel was the intent of the legislation.

The reason for the 80,000-pounds limit the Commission placed on overall gross weight was to make negligible the chance that trucks would be have to be longer. This weight is simply not enough of an increase to justify larger truck sizes.

Again, section 107 has no intention of increasing truck sizes, but is submitted to augment the efficient use of existing equipment.

One final point is that the weight increases proposed will have a minimal effect on highway safety. The committee fully realized that after January 1, 1975, new brake standards will be required by NHTSA and was assured of such by Dr. Gregory, Administrator of that organization. With these points clarified I want to reaffirm the reasonable tone of this provision and lend it my complete support.

I trust that the amendment offered—I am sure in good conscience by our colleague from Vermont—will not be supported sufficiently. The committee gave to this matter very, very careful concern.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Vermont. The yeas and the nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. METZENBAUM (after having voted in the affirmative). I have a live pair with the Senator from Georgia (Mr. Talmadge). I have already voted "yea." If he were present and voting he would vote "nay." I, therefore, withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Colorado (Mr. Haskell), and the Senator from Hawaii (Mr. Inouye) are necessarily absent.

I further announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Minnesota (Mr. Humphrey), and the Senator from Georgia (Mr. Talmadge) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "nay."

On this vote, the Senator from Colorado (Mr. Haskell) is paired with the Senator from Indiana (Mr. Bayh). If present and voting, the Senator from Colorado would vote "yea" and the Senator from Indiana would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Utah (Mr. Bennett), the Senator from Kentucky (Mr. Cook), the Senator from Colorado (Mr. Dominick), the Senator from Arizona (Mr. Goldwater), and the Senator from North Carolina (Mr. Helms) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. Fong), the Senator from Illinois (Mr. Percy), and the Senator from Pennsylvania (Mr. Schweiker) are absent on official business.

I further announce that the Senator from Oklahoma (Mr. Bellmon) is absent due to illness.

On this vote, the Senator from Tennessee (Mr. Baker) is paired with the Senator from North Carolina (Mr. Helms). If present and voting, the Senator from Tennessee would vote "yea" and the Senator from North Carolina would vote "nay."

The result was announced—yeas 23, nays 60, as follows:

[No. 391 Leg.]

YEAS—23

Aiken
Brock
Brooke
Buckley
Case
Clark
Cotton
Cranston
Ervin
Jackson
Kennedy
Magnuson
McClellan
McIntyre
Nelson
Pearson
Proxmire
Ribicoff
Roth
Scott, William L.
Stafford
Taft
Weicker

NAYS—60

Abourezk
Allen
Bartlett
Beall
Bentsen
Bible
Biden
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Hughes
Javits
Johnston
Long
Mansfield
Mathias
McClure
McGee
McGovern
Metcalf
Mondale
Montoya
Moss
Muskie
Nunn
Packwood
Pastore
Pell
Randolph
Scott, Hugh
Sparkman
Stennis
Stevens
Stevenson
Symington
Thurmond
Tower
Tunney
Williams
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Metzenbaum, for.

NOT VOTING—16

Baker
Bayh
Bellmon
Bennett
Cook
Dominick
Fong
Fulbright
Goldwater
Haskell
Helms
Humphrey
Inouye
Percy
Schweiker
Talmadge

So Mr. STAFFORD's amendment was rejected.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. RANDOLPH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HART. Mr. President, I have an amendment at the desk, and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 9, line 5, after "tolerances;", add "ten thousand pounds on the steering axle, including all enforcement tolerances;".

Mr. HART. Mr. President, this amendment would make uniform the rationale of the proposed axle weights contained in the bill.

The reason is this: Generally when reference is made to axle weights, one usually thinks of the traditional four-tire axle supporting a load. Under section 107 of the bill, such an axle would be loaded to a maximum of 20,000 pounds.

Under this amendment, the two-tire axle, which is the front axle, could only be loaded to a maximum of 10,000 pounds, and like the bill this would include all enforcement tolerances.

Besides a "rounding out" of the limitations contained in the bill, this amendment would also resolve a major concern in the area of truck driver safety.

This concern deals with the placement of the coupling device on a tractor-trailer assemblage. This device, popularly known as the "fifth wheel," plays a crucial role in the distribution of weight on over-the-road trucking equipment.

If the fifth wheel is placed too far forward of the tractor axle, the front axle, with its two tires, becomes overloaded, resulting in reduced steering efficiency and an increased probability of front tire blowouts. The safety benefits of properly loaded front axle then becomes obvious.

The U.S. Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, recently found tire failures to be the second leading cause of mechanical-defect-related accidents—and front-tire-failure accidents account for two-thirds of these accidents.

The same report stated that overloading the front tires was a major factor in these accidents and that approximately 13 percent of the trucks sampled had front axle loads exceeding 10,000 pounds.

With the adoption of this amendment, the front axle cannot for all practical purposes be overloaded.

Although certain changes will be necessitated as a result of this amendment, I believe they will be far outweighed by the benefits to be derived.

First, some fifth wheels will have to be refitted, but the expense involved is relatively slight. According to testimony of the representative from the Teamsters Union, this refitting process would amount to only about 4 hours of labor.

Second, in some cases the fifth wheel's backward adjustment on the chassis will result in a lengthening of an overall unit, thus raising the possibility of increasing the overall length.

However, I am informed that in most instances this would only be a matter of 2 to 18 inches. With proper legislative history, however, this problem can be overcome. That is, in those States in which the refitting would be the sole cause of a length variation by our action here we would permit a variance.

In addition, there may be some concern raised regarding this amendment because the regulations of the Department of Transportation already cover this area.

The present regulation of the Department of Transportation, however, is too vague, as is witnessed by the concerns voiced by truck drivers.

Basically, all that is required under the present regulation, 49 Code of Federal Regulations Section 393.70(b)(3) is that the relation of the kingpin and the real axle—or axles—of the towing vehicle will "properly distribute" overall weight; not "unduly interfere" with the steering, braking or maneuvering of the tractor; and will not otherwise contribute to "unsafe operation" of the assemblage.

The adoption of this amendment will spell out the "proper" distribution of weight to the steering axle, which now has no specific guidelines as do all other axles.

Moreover, it may be maintained that the current DOT proposal to require proper inflating and loading of tires will satisfy any concern which may arise as a result of fifth wheel problems. Under the DOT proposal, however, the front axle could still be overloaded simply by placing heavy duty tires on it.

Why 10,000 pounds? This figure is derived directly from the 20,000 pound limit on the weight-bearing four tire axles called for in the bill itself.

These four-tire axles are not the axles which are used to steer the truck. Their purpose is to carry the payload. And if one of these tires blows out, there is another next to it to keep rolling in the emergency. Such is not the case with the front, steering tire. When it blows, control is lost and an accident may result.

The four-tire axles carry 5,000 pounds per tire. Does it not seem proper to limit the two front tires, whose job it is to keep the vehicle under control, to that same 5,000 pounds per tire? That is why the 10,000 pound limit of this amendment is not only wise, but necessary.

Mr. President, I urge my colleagues to support this very important proposal so that drivers will have some added measure of relief.

Mr. President, this amendment has been discussed with the able manager of the bill, the Senator from Texas. I believe that it has been reviewed by the minority manager, the Senator from Vermont. It simply rounds out the limitations contained in the bill and responds to a major concern in the area of safety.

I hope very much that the amendment will be agreed to and that it might survive the conference.

Mr. BENTSEN. Mr. President, I say to the Senator from Michigan that I share his deep concern with safety on the highways. If this makes the major contribution to safety that he believes it does, in putting the 10,000-pound limit on the front axle, I would be delighted to accept the amendment, as chairman of the subcommittee, and take it to conference, if it is the will of the majority of the Senate.

Mr. STAFFORD. Mr. President, on behalf of the minority side, we also have discussed this amendment with the distinguished Senator from Michigan, and we are prepared to join in the act of the chairman of the subcommittee in accepting it.

Mr. McCLURE. Mr. President, will the Senator from Michigan consider a language refinement or an addition to the amendment?

The amendment reads: "add 'ten thousand pounds on the steering axle.' "

I wonder, in order to avoid a possible ambiguity, whether we might add "of any truck tractor," so that we would avoid the possibility of interference with our over-the-highway buses and specialized trucks such as the cement mixers that are running around town.

Mr. HART. It seems to me that the addition of this language would be useful and would further clarify our purpose. I would be glad to accept it.

Mr. McCLURE. Mr. President will the Senator from Texas speak to that point?

Mr. BENTSEN. The Senator from Texas has no objection to the clarification of the amendment, if it is acceptable to the Senator from Michigan.

Mr. HART. It is.

Mr. McCLURE. Mr. President, is it understood that the Senator from Michigan asks for that change in the amendment? I think he has that right.

Mr. HART. I believe I have that right, and I now change the amendment to incorporate that language.

The PRESIDING OFFICER. The amendment is so modified.

The modified amendment reads as follows:

On page 9, line 5, after "tolerances;", add "ten thousand pounds on the steering axle of any truck tractor, including enforcement tolerances;".

Mr. BENTSEN. Mr. President, I yield back the remainder of my time.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. RANDOLPH. Mr. President, I wish to reaffirm what has been said by Senators BENTSEN and STAFFORD in reference to the approval of both the majority and the minority in our committee—the subcommittee, especially—in reference to the well-reasoned amendment offered by the able Senator from Michigan (Mr. HART), and further strengthened by the clarification offered by a member of the Committee on Public Works, the Senator from Idaho (Mr. McCLURE).

We had very much in mind, when we opposed the Stafford amendment, that we were not in any way lessening the impact of what, hopefully, is the concept of this bill. This, of course, is to give the highest priority to the safety measures involving all types of traffic. What the Senator has said is implicit and has been agreed to by others. I just add these words to indicate our complete agreement on these matters.

Mr. HART. I am grateful to the Senator from West Virginia for his concurrence and support of this amendment, which is consistent with his long record of safety-minded legislative work.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan, as modified.

The amendment, as modified, was agreed to.

Mr. ABOUREZK. Mr. President, I call up my amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 3 between lines 11 and 12, insert the following new subsection:

(d) no funds appropriated under the expanded definition of this Section shall be expended without the formal consent of the governing body of the tribe band or group of Indians or Alaskan Natives for whose use the Indian reservation roads and bridges are intended.

Mr. ABOUREZK. I yield myself 10 minutes.

Mr. President, section 102 of S. 3934 expands the use of funds appropriated for the construction of roads and bridges on Indian reservations to allow such funds to be used for the construction of Federal and State highways on reservation or providing access to reservations. The problem that we are attempting to solve is to prevent groups or interest, other than the interest of the tribe, of possibly manipulating funds to build roads which, although they are on the reservations, may not serve the needs and priorities of the Indian People. Our amendment will insure that Indian Tribes will have an opportunity to be heard on funds appropriated for their benefit. This is very much in keeping with the concept of self-determination. This amendment merely provides that the tribes provide their consent for the use of any such funds.

Mr. President, we have discussed this amendment with the majority and minority managers of the bill. So far as I know, it is agreeable to them.

Mr. BENTSEN. Mr. President, I have discussed the amendment with a number of members of the committee and the subcommittee, particularly those concerned with Indian affairs, and I have found no objection to the amendment.

Mr. ABOUREZK. Mr. President, I yield to the Senator from New Mexico (Mr. DOMENICI).

Mr. DOMENICI. Mr. President, the section of the bill to which the amendment is offered is adequately explained on pages 4 and 5 of the report. Its purposes are quite clear. It is not intended to take away from our Indian people their right to have a significant say as to how the funds provided in this section are used. In its original concept, as I sponsored it in committee, we had some very specific projects in which, if we did not create some flexibility as to how these funds could be used, some projects very beneficial to the Indian people in my State could not be the subject matter of this fund.

As I understand the amendment, what it really says is that the flexibility is there, but if you are going to use this source for funding, then you must have the formal consent and approval of the Indian tribe or the Indian people intended to be benefitted by it.

It is my understanding—and I ask the Senator whether this is correct—that basically, heretofore, we have relied upon the Bureau of Indian Affairs to have regulations or rules whereby they went to the Indian people and sought their consent or approval on some occasions. By this amendment the Senator is trying to make it statutory law that as to this fund, an affected Indian tribe will have to concur in the project, whether it be a single project or a composite project such as contemplated in the report for the Four Corners area of New Mexico. To the extent it does that, it is a good amendment. It will keep the Indian people in the decisionmaking process. If those projects are intended to benefit them, it seems to me that their consent should be sought. That is what I understand the Senator is asking in the amendment. On that basis, I think it is a good addition to the Indian roads and bridges provision of the bill we reported.

Mr. ABOUREZK. I thank the Senator. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Texas yield back the remainder of his time?

Mr. BENTSEN. The Senator from Texas yields back the remainder of his time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from South Dakota.

The amendment was agreed to.

Mr. STAFFORD. Mr. President, I call up amendment No. 1848 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 17, line 19, beginning with the word "or", strike everything through the semicolon in line 1, page 18.

On page 18, line 1, change "(3)" to "(2)".

On page 18, lines 9 and 10, strike "clauses (2) and (3)" and insert in lieu thereof "clause (2)".

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. STAFFORD. Mr. President, the purpose of this amendment is quite simple.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. STAFFORD. The amendment I offer is for a very simple purpose. It is to permit States which may wish, in their discretion, to have speed limits of less than 55 miles per hour on highways of four or more lanes. The committee, frankly, did not intend, in the bill which is before the Senate, to restrain States permanently from imposing speed limits lower than 55 miles per hour if that were the wish of any particular State.

All this amendment does is leave the State free to lower speed limits where it might find it desirable to do so. I am hopeful, Mr. President, that the chairman of the subcommittee, the manager of the bill, will accept this amendment.

Mr. BENTSEN. Mr. President, the manager of the bill is pleased to accept this clarification and supports the amendment. It gives the States some flexibility.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STAFFORD. I yield back my time.

Mr. BENTSEN. The chairman of the subcommittee yields back the remainder of his time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BUCKLEY. Mr. President, I call up amendment No. 1851 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

AUTOMOBILE SAFETY STANDARDS

SEC. 123. Section 103(a) of the National Traffic and Motor Vehicle Safety Act of 1966 is amended by inserting "(1)" after "SEC. 103. (a)" and by adding at the end thereof the following new paragraph:

"(2)(A) Effective with respect to motor vehicles manufactured after the date of enactment of this paragraph, Federal motor vehicle safety standards may not (except as otherwise provided in subparagraph (B)) require that any such vehicle be equipped (i) with a safety belt interlock system, (ii) with any warning device other than a warning light designed to indicate that safety belts should be fastened, or (iii) with any occupant restraint system other than integrated lap and shoulder safety belts for front outboard occupants and lapbelts for other occupants.

"(B) Effective with respect to motor vehicles manufactured after the date of enactment of this paragraph, the Secretary shall not promulgate any Federal motor vehicle safety standard requiring any occupant restraint system, or warning system in connection therewith, except as authorized in subparagraph (A), until after public hearings with respect thereto and approval of the proposed standard by resolution of the Committee on Commerce of the United States Senate and the Committee on Interstate and Foreign Commerce of the United States House of Representatives.

"(C) Notwithstanding any provision of Federal law to the contrary, any safety belt interlock system or audible warning device in connection with safety belts may be rendered inoperative to the extent such system or device was required by a Federal motor vehicle safety standard promulgated prior to enactment of this paragraph.".

Mr. BUCKLEY. Mr. President, I ask unanimous consent that Mr. Frank Maguire and Mr. Leonard Saffir of my staff be extended the privilege of the floor during debate on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Will the Senator from New York yield me 2 minutes?

Mr. BUCKLEY. Certainly, I yield.

Mr. BENTSEN. Mr. President, I have reviewed the amendment proposed by Senators Buckley and Eagleton.

I should make clear at the outset that this is not a matter before the Committee on Public Works. The subject matter of the amendment is within the province of the Committee on Commerce, and I want to give the members of that committee who may be on the floor the bulk of my time to discuss it.

Therefore, there is no Public Works position on the amendment, and I do not speak for the committee in this instance.

My personal view is that the Senator's amendment is a reasonable one. It retains the warning light which will signal when a seatbelt is not on. It does not preclude the air bag, but suggests congressional review of regulations affecting it. It makes optional the interlock and buzzer system now required on present automobiles.

The House has overwhelmingly supported a measure more stringent than this one, and the administration has indicated that it is rethinking the interlock question.

As I indicated, I will support the amendment, which puts the Senate on record on this issue, but I will yield to any member of the Committee on Commerce who wishes to speak in opposition to it.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. BUCKLEY. Mr. President, as the distinguished Senator from Texas has stated, the purpose of this amendment is to eliminate the mandatory ignition interlock and buzzer system, while leaving a warning light on the dashboard to indicate that safety belts should be fastened. Concerning the issue of air bags, the language of the amendment is such that prior to air bags being mandated by the Department of Transportation, it would be necessary for the Senate and House Commerce Committee to hold public hearings; and lastly the mandating of such safety standards would then be subject to approval by both committees.

Mr. President, I feel very strongly that as a rule, it is not in the public interest to place the Congress in a position of legislating specific automobile safety standards. In this particular instance, however, I feel that the public has clearly expressed its desire to have the mandate of an interlock and buzzer revoked.

Mr. President, I ask unanimous consent to add the names of the following cosponsors to this amendment: Mr. Dominick, Mr. Helms, Mr. Abourezk, Mr. Bennett, Mr. Gurney, Mr. Domenici, Mr. Hruska, and Mr. Thurmond.

Mr. EAGLETON. Will the Senator yield at that point?

Mr. BUCKLEY. I gladly yield.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors to the pending amendment: Mr. Stennis, Mr. Hollings, and Mr. Ervin.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, the manager of the bill yields the remainder of his time on this amendment to the Senator from Indiana (Mr. Hartke) of the Committee on Commerce.

Mr. BUCKLEY. Mr. President, so that this amendment may be clearly understood, I should like to summarize its salient provisions.

First. Upon enactment of the provision it would repeal the Department of Transportation standard requiring a safety belt interlock system and buzzer system as mandatory equipment on new automobiles.

Second. It would continue the standard which requires that seat belts be provided in every new car and would permit the Department to also require a warning light to indicate that seat belts should be fastened.

Third. It would require that any new standard would have to be approved by the House and Senate Commerce Committees after public hearings had been held.

Fourth. It would authorize owners of automobiles already equipped with interlock and buzzer systems to disconnect these systems.

Mr. President, it should be made clear that we are considering here today the merits of devices that compel the fastening of seat belts—ignition interlocks and buzzers—as well as those of occupant restraint systems; namely, passive restraints, air bags.

I do not mean to belabor my point but I do feel that for the sake of understanding what the amendment will and will not do, it is important to make the distinction between standards that have become mandates such as the interlock and buzzer and those standards that are still in draft form such as the passive restraint, air bag standards.

Mr. President, I will first present my criticism of the interlock and buzzer and then proceed to the question of air bags. In so doing, I would like to begin by briefly summarizing the role that the Federal Government has played in the area of motor vehicle safety.

The second session of the 89th Congress passed the National Traffic and Motor Vehicle Safety Act of 1966—Public Law 89-563—which authorized the establishment of Federal safety standards for motor vehicles and their component parts. This legislation greatly accelerated the Federal Government's activities concerning automotive safety resulting in the Department of Transportation administratively determining specific safety standards rather than Congress legislating such standards.

There is general agreement that such standards are appropriately matters for regulatory action by the Department of Transportation.

Federal Motor Vehicle Standard No. 208 currently requires motor vehicle manufacturers to provide a seat belt ignition interlock system in all cars manufactured after August 15, 1973—a device that prevents the engine from being started until both the driver's and front passenger's seatbelts and shoulder belts are fastened. I might add parenthetically that because of the inevitable mechanical failures in these systems, often the driver has strapped himself in and still cannot start his engine. I know of no single intervention by Government into the lives of its citizens that is more universally resented than this requirement for 1974 model cars, one that dictates that we shall not start our engines until we strap ourselves in.

While most Americans tend to agree that the Federal Government has an appropriate role in insuring the manufacture of automobiles that are safe, there is an equally strong consensus that the Federal role is pushed too far in both cases where the ignition interlock and the buzzer are mandated as standard equipment on a car. These safety standards are devised to force an individual to take certain precautions even though those precautions affect only that individual and not the safety or health of third parties.

I state emphatically that I have no intention of minimizing the importance of safety, nor the importance of seatbelts and torso restraints, but neither do I believe that we can promote automotive measures that would eliminate all freedom of choice in areas that do not effect the public safety.

I recommend the use of seatbelts but I strongly condemn the administrative mandate of an interlock which forces us to use them. I view such coercive measures as the interlock as an intolerable usurpation by Government of an individual's rights under the guise of self-protection. One should also be aware of the recent research performed by the Insurance Institute for Highway Safety which has confirmed that buzzer-light systems do not substantially increase belt use. The driver use rate was 25 percent in 1972 cars with warning systems and 23 percent in those without the system.

New Insurance Institute for Highway Safety research also found that even though belt use in ignition interlock equipped 1974 models increased significantly over usage in 1973 and earlier cars, roughly 47 percent of the drivers of ignition interlock equipped cars still did not use the available safety belts.

When one weighs the results of these studies along with the overwhelming and recently well publicized consumer criticism of the interlock and buzzer, it is clear that the Congress should act now to revoke the mandate of an interlock and buzzer system.

Mr. President, I should now like to address the rather controversial issue of airbags. I realize that many of my colleagues may wonder why we should be discussing the airbag question in the midst of an exercise that was originally undertaken for the stated purpose of ridding the consumer of the nuisance interlock and buzzer gadgetry. To provide an answer to that question, one must first indulge in Washington's favorite pastime—second guessing. If, through adoption of this amendment, the Congress eliminates the mandatory ignition interlock and buzzer systems, we will create pressures for the early adoption by the

Department of Transportation of mandatory airbags to satisfy their occupant restraint standards. Members of the Congress have already attempted to second-guess DOT by legislating standards in anticipation of the Department's mandating of airbags, as witness the House action last month. I am of the opinion, however that crash protection systems such as the airbag should be proven and must be accepted by the American consumer prior to forced installation whether by DOT or Congress.

I feel that the requirement of full public hearing and congressional review as is provided for by the language of our amendment will provide assurance that airbag advocates will not force their installation—at great cost to the consumer—until their effectiveness and desirability are fully and openly demonstrated.

I am far from satisfied that the case for the airbag has yet been proven. By the same token, I would not preclude further research and development.

Installation of air bags will cost the consumer anywhere from $200 to $300. Yet, there is still no evidence to show that air bags approach the known lifesaving capabilities of properly worn belt-harness systems.

I, therefore, do not want to see Congress placed in the position of forcing upon the consumer an air bag whose estimated cost runs from $200 to $300 per vehicle as a substitute for interlock and buzzer systems that cost between $50 and $100 per vehicle. Thus, I feel that there is a very real need to assure the holding of public hearings before air bags are mandated by regulatory fiat.

In short, I do not feel that the consumer should be left holding the bag.

Congress should not place itself in the position of writing safety standards with respect to air bags. I feel that it would be premature for Congress to go on record for or against air bags given the fact that four major U.S. manufacturers have already stated that at least 3 additional years will be needed to meet the specification's for passive restraints. I feel that the state of the arts with respect to air bags is such that it would be impractical, unreasonable, and inappropriate for Congress to assert itself at this time by legislating standards. Such technical problems as now exist with the air bag system should more appropriately be explored jointly by both DOT and the auto manufacturer.

Given that experts claim that the air bag system is expected to cost the consumer between $3 to $5 billion, and considering the fact that research and development are not far enough advanced realistically for DOT to mandate their installation in all size vehicles, I feel that in this instance final congressional review and approval of such regulations prior to enactment is not only warranted but extremely desirable.

I believe, Mr. President, that there is no single bureaucratic excess in recent years that has so aggravated the American people, and I believe that there is no reasonable and proper way for Congress to extend a proper concern for the safety of third parties to such an overweening concern for the safety of an adult entitled to drive a motor vehicle, as to force that adult to install the safety interlock as a condition to using his automobile.

I would also like to move onto another aspect of this legislation, namely, that of the air bag.

The air bag is still a controversial matter. It is still far from proven as to its effectiveness and as to whether it is a more desirable alternative than seatbelts, and I believe that under the circumstances, and also because if we succeed in the adoption of this amendment it would create pressure on the Department of Transportation to move quickly to the air bag, I believe for the same reasons already cited that we should provide a mechanism that will make sure that we do not precipitately move to an air bag system that would cost $300 or more per copy until the reasons justifying its installation are fully aired, and until Congress has had the opportunity to voice its approval or disapproval of the proposed measure.

Mr. President, I reserve the remainder of my time.

Mr. EAGLETON. Mr. President, will the Senator yield me 12 minutes?

Mr. BUCKLEY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New York has 23 minutes remaining. He has used 7 of his 30 minutes.

Mr. BUCKLEY. I yield.

Mr. EAGLETON. Mr. President, I am pleased to join the Senator from New York (Mr. Buckley) in the advocacy of this amendment No. 1851, which is similar to a bill (S. 3840) introduced by the distinguished Senator from New York and myself a month ago, with a host of cosponsors, and which has been expanded further today.

The other body of Congress already has passed by an overwhelming margin of 339 to 49 an amendment by Representative Wyman, which was intended to accomplish the same result as the Buckley-Eagleton amendment.

Briefly stated, the measure proposed by Senator Buckley and myself would revoke the existing requirement for seatbelt-ignition interlock and buzzer systems on new cars, and would provide the means whereby the public could ask the appropriate questions before future costly devices are foisted on the buying public.

Over the month since we introduced our bill, I have received an overwhelming and gratifying response from the citizens of my State, and from many other States as well. The comments have almost unanimously opposed the ignition interlock which has been required on all new cars beginning with the 1974 model year. This system prevents the car from being started until the occupants have strapped themselves into the car in a precise sequence. Interlocks and buzzers have shown themselves to be a gross nuisance, expensive, and ineffective. Moreover, they often encourage opposite behavior from that which is intended because many people put an end to the nuisance by disabling the system, seatbelts and all. Any one of these reasons should be sufficient for the Congress to repeal what the Department of Transportation has done by administrative decision. Taken together, they present a compelling case for immediate consideration and approval of this measure.

Mr. President, the nuisance factor of these devices is well documented. I would refer my colleagues to my comments in the Congressional Record of August 13, 1974, wherein are printed more than a dozen letters referring to problems with interlocks. Since that time, both Senator Buckley and I have received hundreds more like them.

I personally believe every driver should use seatbelts, and I believe they should be encouraged to do so. Their use clearly helps minimize injuries sustained in accidents and it is in the self-interest of every driver and passenger to wear them. Yet every driver of a new car must now contend with "big brother" sitting on the seat next to him—preventing the car from starting, sounding raucous buzzers, and flashing red lights.

From the area of completely voluntary use of safety belts we moved to lights and buzzers on January 1, 1972. It soon became clear that simple buzzer-light systems did not increase safety belt use very much, if at all.

The next step was the move to interlocks on the 1974 model cars.

These cars include what are called sequential logic systems. They require occupants first to sit down, completing the first half of the operation, and then buckle up to complete the sequence. These are less susceptible to circumvention, and more people are buckling up.

But DOD pushed the matter even further and added the "no-start" feature, which interferes with operation of the car and has aroused the anger and frustration of millions of people.

I am quite certain that most people are not against safety belts, but they vehemently object to the no-start feature and the buzzer.

Mr. President, these interlocks are not wanted. In addition to the mail that has been received, I would like to cite a recent survey by the Chicago Motor Club. Out of more than a thousand interviews, only 15.7 percent said they approved of seatbelt interlocks. I wonder how many of that small group would in fact purchase cars with interlocks as optional equipment, had they known the additional cost of these devices.

The cost is not inconsequential. The complete passenger restraint system—which includes belts, buckles, retractors, lights, and buzzers in addition to the interlock circuitry—is estimated by the major American manufacturers and the U.S. Department of Transportation to cost between $90 and $110 per vehicle. They further estimate that at least a third of this cost, probably around $35, represents the interlock while the rest is for the seatbelts and related hardware. Multiply that figure by the 10 million or so automobiles which are produced each year and you are soon talking about decisions involving billions of dollars.

Mr. President, the 1975 model cars are already on the street. A million of them have entered the production line since our bill was introduced. As the days go by, the manufacturers continue to produce the interlock systems for installation on new cars. I am told that interlocks could be disabled on the production line within 10 days of a decision to do so. Cars already produced could have the systems disconnected by dealers which cannot now be done. While these cars would continue to carry the useless electronics until the engineering changes are made down the line, at some point they would no longer be installed at all. The savings, which are substantial, could then be passed on to the car buyer. This would undoubtedly take time, since manufacturers have long-term contracts with their suppliers. So we must act quickly if we are to save consumer money as well as further aggravation.

The third issue is effectiveness. The very few letters I have received in opposition to my bill start with the assumption that buzzers and interlocks will lead to near-universal seatbelt usage, thus reducing auto accident deaths and injuries.

The fact is that considerable question has been raised about the effectiveness of these systems by several recent studies. In research conducted for the Insurance Institute for Highway Safety, Drs. Leon S. Robertson and William Haddon, Jr., found that seatbelt use had increased significantly in cars equipped with an interlock device. Fully 41 percent of the drivers, however, were not wearing seatbelts at the time of observation. Another 11 percent were wearing lap belts only.

Apparently, more than half of the drivers had found ways to disconnect or circumvent the system, leaving themselves unprotected or only partially protected in the event of an accident. It bears noting also that the interlock system was mandatory equipment was less than a year old when the study was performed. If half of the owners of such cars had already found a way around the system, one has cause to wonder what the studies will show a year hence.

On automobiles equipped with seatbelt buzzers and lights only, 18 percent of the drivers observed were found to be wearing seatbelts. That compares with 16 percent of the drivers operating vehicles without a buzzer system—a difference which the researchers found was not statistically significant. Thus, according to the authors:

> The buzzer-light system can only be described as a public health failure. It is unlikely that it will contribute to a reduction in overall frequency or severity of injuries associated with motor vehicle crashes, which was its purpose under the statute providing for motor vehicle standards.

Mr. President, I think these results are highly significant. Again, I would refer to my remarks of August 13, where the conclusions from these two institute studies are reprinted.

The Department of Transportation has estimated seatbelt usage at roughly the same rates as the Insurance Institute for Highway Safety. They estimate that belt usage would stabilize at about 50 percent for lap and shoulder belts together.

In a report to the National Highway Traffic Safety Administration of DOT, Opinion Research Corp. concluded that usage of belts in cars with interlock systems was statistically no more significant than usage in cars equipped with either sequential or simple buzzer and light warning devices. This study was conducted on rental cars in Canada last spring.

Experience to date with these various warning systems has been discouraging.

Mr. President, I would now like to discuss how our amendment will seek to remedy the problems already created and to avoid those which might occur in the future.

This amendment would do the following:

Eliminate the existing requirement for ignition interlock and buzzer systems;

Permit manufacturers, dealers, and others to disconnect such systems on cars which already have them;

Continue the existing requirement for safety belts alone in passenger vehicles; and

Require the Department of Transportation to submit any future regulations dealing with occupant restraint systems to public hearings before implementation.

This amendment is not intended to supersede either the judicial review procedure of the Safety Act nor is it intened in any way to dilute the rights of interested parties seeking judicial review of the Secretary's actions taken pursuant to section 103 on the criteria that such actions must be reasonable, practicable, and stated in objective terms. It is the intent of our amendment that the Congress and the public merely oversee the Secretary's actions and that the criteria for judicial review of the actions of DOT remain in full force.

The issue of what constitutes the ideal restraint system is far from settled. During the time that these bills have been under discussion, a number of questions have been raised regarding the effectiveness of the cost of various systems. We certainly have more data now about seat belts and ignition interlocks and buzzers than we had 2 years ago. The information we have today shows the errors made in previous decisions. So far those errors have cost a moderate amount of money—and I use the word "moderate" only in a relative sense—and they have caused a great deal of annoyance and probably some harm.

The last requirement in our amendment will, I hope, bring to light whatever questions people may have in the future before new devices are hung on cars. Their true costs and benefits should be known and discussed, before decisions are made that involve billions of dollars, not to mention the safety of individuals. I certainly expect the Department of Transportation to think long and hard about its next proposal for an occupant restraint system, and that they will consider all of the possibilities. The final part of our amendment would encourage them to seek out all of the facts.

Any discussion of occupant restraint systems today must touch on the air bag which is now mandated for the 1977 model year. While the air bag has many good features, and has shown its worth in many tests, a number of individuals have raised questions about its effectiveness and cost which should be answered before it is mandated.

A major factor is cost. Compared with $100 or so for current belt and interlock systems, a mandatory air bag would cost $210 to $225 per car in today's prices.

If air bags were to add up to $300—in 1977 prices—to the cost of cars, and if they burden the consumer with additional hidden costs—higher interest costs on auto loans, larger maintenance bills, increased Federal and State excise, sales, and personal property taxes—I think we would be imposing a very substantial financial burden on our constituents whose purposes already are under assault from all sides. It would be an unconscionable imposition, even greater than the interlock.

Another question that has been raised regards the applicability of the air bag to today's small cars. In a subcompact, a passenger might strike the dashboard before the bag had time to inflate. It is estimated that by 1977, the proposed date for implementation of the air bag, some 30 percent of the new-car market would consist of compact and smaller cars. Certainly this issue must be addressed.

Further complications that have been suggested regard drivers who smoke pipes or wear eyeglasses. I have been told that a rapidly inflating air bag might cause injury to these drivers, which would not be the case with a belt system. Finally, in rollover and side collisions, even the proponents of air bags state that they are no more effective than a properly worn safety belt, and in certain cases may be even less so.

I do not raise these points to cast judgment on the air bag. I believe that testing and development on this and other systems should continue. Personally, I will continue to wear my seatbelt while these studies go on, and until their results can be analyzed by the National Highway Traffic Safety Administration, translated into proposed standards by the Department of Transportation, and reviewed by the public.

I think it might make sense also to explore ways of improving safety belts and encouraging their use. We can look at the experience of Australia, where passage of laws requiring the use of seatbelts was dramatically effective, despite the admittedly impossibility of real enforcement. Without imposing any financial burden on the population seatbelt use has risen to between 80 and 85 percent, occupant deaths have been reduced 25 percent, and serious injuries are down 35 percent. And these results have been achieved without interlocks, or buzzers, or lights.

Safety belt use laws have spread to several other countries, and last year between 25 and 30 State legislatures were asked to entertain their passage.

Alternatively, the Department of Transportation may choose to propose a more sensible reminder device that would not interfere with the starting of the vehicle. For example, they should firmly resolve to attach any such a reminder device only to the driver and not the passenger. That would permit a bag of groceries or a favorite pet to ride unharnessed without annoyance on the right-hand seat.

I believe we can make a reasonable effort to induce greater use of safety belts without forcing them unduly on our people.

The proposed amendment would prohibit starter interlocks on cars, as well as other warning devices except an instrument panel light. I think this must be done, if we are to be responsible to the desires of our constituents.

It also provides that the Department of Transportation may propose new regulations for occupant restraints and warning devices, but only after public hearings. We want to avoid a similar situation in the future, particularly when much higher stakes are involved.

And third, it would make legal the disconnecting of any interlock or warning device currently in cars that are on the highways today.

This amendment would give the Department of Transportation substantial leeway in its efforts to improve motor vehicle occupant safety. And it would give the public an opportunity to review the Department's efforts before there is any chance of imposing ridiculous, irresponsible, or costly and inefficient systems on the American public.

In no way would this proposal interfere with the rulemaking or standards-writing authority of the Department of Transportation. If anything, it would enhance the Department's ability to achieve its mission, with the additional input of public concern and thinking on what ought to be offered them.

Mr. President, I think our mission is clear. We must grant relief to the motorists who cannot abide the interlocks.

We must assure that the public in the future will have some voice in what is imposed on the people.

And we must take steps to assure that progress in highway safety endeavors is not impeded.

This proposal will accomplish these objectives.

Mr. President, I think the case on the buzzer-interlock system has been abundantly made, both in previous discussions on this floor between the Senator from New York and myself, and by the correspondence that practically every Member of the U.S. Senate has received. This is a grotesque example of bureaucracy run amok. It is one of the most ludicrous concoctions ever devised by mortal man. To be buzzed to death as you get into your car, to be interlocked when it sometimes does not work, to have to unstrap yourself to open your garage door, to have to strap yourself up again to move the car into the garage once the door is open, and then unstrap yourself to close the door, is a veritable nightmare.

The cases are legion, Mr. President, of how nonsensical this system is. The distinguished Senator from Vermont (Mr. STAFFORD) and I exchanged some experiences on this subject on the Senate floor a few weeks ago. He told me of a personal experience in a rental car in his home State on a weekend visit. When he put his hand on the seat next to the driver's seat, the thing went berserk, and he had difficulty stopping it.

I responded by telling him about my hapless constituent who, on instructions of his wife, was sent to the supermarket to buy a turkey. He then had to strap in the turkey to drive home. As the poor constituent observed, it was the safest ride a turkey ever had on the way to the oven.

Then the distinguished Senator from Texas (Mr. TOWER) happened into the Chamber. He has a dachshund. He puts his dachshund on the seat. It is hard to strap in a human being, Mr. President, but a dachshund is damnably hard to strap into one of these seat belts.

It is just asinine. It is one of the things people resent most about offensive, stupid big brotherism.

I had thought that our vote on AM–FM radio was the most blatant example of big brotherism I had encountered, until we came to this seat belt interlock situation.

I do not know of anyone who defends it in terms of its safety. Some seem to defend it in terms of its inconvenience.

I ask the Senator from New York if he will yield for a question.

Mr. BUCKLEY. I am glad to yield.

Mr. EAGLETON. As the Senator from New York knows, the chairman of the Senate Commerce Committee (Mr. MAGNUSON) and others on the Commerce Committee object to certain provisions and procedures with regard to the Buckley-Eagleton amendment. While we do not agree with him, we are willing to make a few changes, which I shall suggest to the Senator from New York.

The first of these changes involves a change in language, as follows:

> On page 2, line 13 of the amendment, strike all after the word "thereto" through line 16, and insert in lieu thereof a period.

That is technical language which I might submit later, if I have the permission of the Senator from New York.

In essence, what that language would do would be to amend our provision requiring the approval of appropriate committees, and would maintain the requirement for public hearings in advance of setting final rules.

Second, we would make clear our intentions. The Senator from Washington (Mr. MAGNUSON) has raised the point that two different conference committees might be considering seat belt standards concurrently. I would suggest, if the Senator from New York were willing to accept it, that perhaps, after proper debate, we could have a rollcall vote on this amendment and hope that it would pass, hopefully resoundingly so. We then might reconsider the vote on the amendment.

The Senate thus having spoken, and spoken with clarity, the conference that is currently going on between the respective Commerce Committees of Congress could continue its work and, in a sense, by a record vote of this body, would be instructed as to the Senate position.

Mr. BUCKLEY. It would be the understanding of the Senator from New York that the purpose of the adjustments in the procedure that he describes is to eliminate possible objection by point of order of the distinguished chairman of the Commerce Committee so that we may, in fact, record positively the view of the Senate and that would, in effect, be the equivalent of instruction to the Senate conferees to consider the House position.

Mr. EAGLETON. That is basically correct, although it goes a shade beyond the parliamentary question.

The amendment I propose—and I would hope he accepts—would modify substantively the language with respect to the required review of the air bag situation by the Commerce Committees of both the Senate and the House.

Mr. BUCKLEY. I understand that, and I was about to address myself to that second part.

In all candor, I believe the Congress ought to maintain control over the situation so that the air bag is not mandated until the appropriate committees of Congress are made fully aware of that by being required to assume responsibility of exactly what is involved to protect the public.

On the other hand, understanding the parliamentary situation, I will accede to that request and, of course, we will be at liberty at a later date to reintroduce in appropriate legislation the same safeguards.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. BUCKLEY. I would be glad to yield. I believe that the Senator from Missouri has the floor.

Mr. EAGLETON. I am pleased to be able to yield to the distinguished Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. COTTON. Has my distinguished chairman of the Commerce Committee (Mr. MAGNUSON) on the floor or privately to either the Senator from Missouri or the Senator from New York interposed any objection to this amendment, or asked for any other action in order not trespass upon the Commerce Committee's jurisdiction?

Mr. EAGLETON. If I may respond to the Senator from New Hampshire, the discussion we are going through on procedure meets the approval of the chairman of the Commerce Committee (Mr. MAGNUSON) and, I understand, meets with the approval of his designee, the distinguished Senator from Indiana (Mr. HARTKE).

Mr. COTTON. Well, speaking as another member of the Commerce Committee, I just want to say most emphatically that I would hope that the Senator would not pull his punches one single bit. I hope he makes this amendment just as strong as possible.

Although I have the greatest respect for my friends on the Commerce Committee, if any one of them has attempted to manipulate a car with these devices, I cannot imagine that they would want to stand on ceremony or delay in any way the full force and effect of the amendment of the Senator from New York.

I think that the stronger this amendment is, the better. Never in my life have I seen a greater demonstration of what Government can do to individual liberties, and what Government can do to impose upon the public, not only costly, but asinine mechanisms which no one can operate without profound disgust.

I tried to get my car started——

The **PRESIDING OFFICER**. The time of the Senator from Missouri has expired.

Mr. **COTTON**. All right, I just want to say that I hope the Senator will not hold his punches.

Mr. **BUCKLEY**. I yield the Senator 2 more minutes.

The **PRESIDING OFFICER**. The Senator yields 2 more minutes.

Mr. **COTTON**. I thank the Senator for a few more minutes.

The other day, I spent a half hour trying to get my car started simply because I had laid a pound of cheese and a loaf of bread on the seat next to me. [Laughter.]

Then, showing how annoying it can be to those of us who do not happen to be auto mechanics, I finally walked about half a mile to get someone from the garage to come and tell me how to start my car.

He said, "That is your trouble. You have got a bundle there on the seat." [Laughter.]

Government regulation giving rise to this sort of thing is utterly absurd.

I do not know how the Senator from Indiana feels, I do not know what the attitude of the Senator from Indiana is. He is chairman of the subcommittee that handled this. But, speaking as one member of the Commerce Committee, for heaven's sake, do not change a word that would weaken or delay or in any way affect this very necessary amendment. Make it stronger, if possible.

Mr. **BUCKLEY**. Mr. President, I thank the Senator from New Hampshire for his typically well-intentioned and pertinent remarks.

There was nothing, no change, which has been proposed to this amendment that would weaken its effect vis-a-vis the interlock system and the buzzers, I assure him of that.

We will vote on a procedure for having a vote on this matter, but we will then rescind it so as not to have the same matter going through two separate conferences. This is merely a procedural way of accommodating the Commerce Committee.

Mr. President, I ask unanimous consent to add the name of the distinguished Senator from Virginia (Mr. William L. Scott) as a cosponsor. I yield to the Senator 2 minutes.

The **PRESIDING OFFICER**. Without objection, it is so ordered. The Senator from Virginia is recognized for 2 minutes.

Mr. **WILLIAM L. SCOTT**. I would ask if the ranking member of the committee might grant me an extra 4 minutes.

Mr. **STAFFORD**. Mr. President, I am very glad to yield an additional 4 minutes to the Senator from Virginia.

The **PRESIDING OFFICER**. The Senator from Virginia is yielded 6 minutes.

Mr. **WILLIAM L. SCOTT**. Mr. President, I appreciate the Senator's yielding me time. I rise in support of the amendment. I enjoyed the comment of the distinguished senior Senator from New Hampshire (Mr. Cotton) on the words he used in defining this action of doing away with regulations that do not permit a person to start his automobile without having his seatbelt fastened.

Certainly, we all believe in safety. I think seatbelts are very beneficial. But I, too, have had an experience with regard to fastening the seatbelt which I related to the Senate previously.

My wife and I were down in Danville. We stopped for gas, and, of course, turned the motor off and could not start the car again, a new car with 2,000 miles on it. It took us over 30 minutes to figure out how to get it started.

We read the manual, it said that we could move the gearshift lever back and forth a few times and that might correct it. It did, and we got home. Coming from Danville back to Fairfax, I did not turn the motor off, I was afraid if I did—and it was nighttime—that I would not be able to get it started again.

This, to me, is ridiculous.

It just seems that some of our public officials feel that citizens do not have the intelligence to decide for themselves whether or not they want to wear their seatbelts.

Mr. President, I would like to comment on a series of editorials and some constituent letters on this subject and ask at this point that they be included in full in the Record.

There being no objection, the editorials and letters were ordered to be printed in the Record, as follows:

[From the Washington Star-News, Aug. 15, 1974]

INSUFFERABLE HOOKUP

The federal regulators, with their uncanny knack for overdoing everything, still haven't gotten into our homes with enforceable rules for living the better life. But they surely are in our cars, with raucous buzzers that will not be quiet until we've buckled up for safety. This is all right—we are used to it, finally, and the lifesaving benefit of seat belts is undeniable. But the regulators have gone one step too far with their new "ignition interlock" system that prevents a car from being started until the belt is fastened.

This annoyance, from all indications, simply will not be tolerated by the driving public. There are, after all, occasions when a car must be started very quickly (to avoid a parking-lot mugging, for example), or when the family dog riding in the front seat refuses to be belted in so that the car can start. Other aggravations come readily to mind, but in any case the message has gotten through to Congress that the homefolks are fed up with this invention. So the House passed an amendment the other day to make the interlock optional rather than mandatory on new cars.

The Senate would do well to concur with that, we think, and also with a House provision revoking the mandatory installation of air bags ("passive restraint systems") on 1977-model cars. These, too, would be optional—at an estimated cost of some $700—under the House-approved plan. It seems apparent that few people, given a choice, would be in a buying mood as regards either the ignition interlock or the air bag, which would inflate voluminously to pin a driver to his seat upon collision impact.

What's needed is some passive restraint upon the regulators, who would convert the family car into something resembling a little jail on wheels.

[From the Washington Star-News, August 21, 1974]

FREEDOM FROM INTERLOCKS

(By James J. Kilpatrick)

The House of Representatives caught the bicentennial spirit last week. In a burst of overflowing resentment, the House turned upon the Department of Transportation just as the colonists turned on old King George. It was a new American Revolution, and it was wonderfully welcome.

Taken by itself, the House action may seem trivial. By a vote of 337 to 49, the House ordered an end to the DOT's maddening requirement that new automobiles come equipped with a seat belt-ignition interlock system. On any scale of values, seat belts rank somewhere down the line from the Magna Carta.

Yet the House vote has much symbolic value. The DOT's interlock decree is a classic manifestation of Big Brother government at work. Because some citizens may not yet have encountered the decree in action, perhaps it should be explained that the interlock was invented by the same devilish genius that in times past contrived thumbscrews, the iron maiden, and the rack. The infernal device prevents a motorist from starting his car until a precise sequence of actions has been completed. The device is expensive; it is subject to constant malfunction; it is universally despised.

Why has a benevolent government saddled this imposition upon the people? It is because a benevolent government believes it knows what is best for the people. The government will compel the people to be good. Big Brother is watching over us.

What the House said last week, in language Secretary Claude S. Brinegar cannot misunderstand, was: To hell with Big Brother! The House action, taken as an amendment to an omnibus motor vehicle bill, also would prohibit the airbag, or passive restraint device, now scheduled for mandatory installation in the 1977 model year.

Because of the parliamentary situation, the House amendment may not survive a conference committee. But the Senate, happily, is in a mood of similar rebellion. On July 31, New York's Conservative Senator James L. Buckley introduced a bill to accomplish substantially the same purpose. It is part of his continuing effort, he said, "to remove the grasping hand of Big Brother government from the lives of American citizens."

Buckley's principal cosponsor on the bill is Senator Tom Eagleton of Missouri, a practicing liberal who was briefly George McGovern's vice-presidential choice. The two sponsors have been joined by 13 other senators whose philosophies reach across the spectrum. Among those urging that the interlocks be made optional instead of compulsory are such liberal Democrats as Nelson of Wisconsin and Church of Idaho, and such conservative Republicans as Helms of North Carolina and Hruska of Nebraska.

Because of this strong bipartisan support, Buckley and Eagleton intend to offer their bill this month as a floor amendment to a pending public works bill. It will be a popular amendment, commanding the same overwhelming vote in the Senate that Congressman Louis Wyman's amendment commanded in the House last week. If all goes well, motorists may soon regain a measure of personal freedom. Hallelujah!

Both Buckley and Eagleton have made it clear that they do not oppose requirements having to do with product safety as distinguished from personal safety. In the manufacture and sale of automobiles, as in other fields of interstate commerce, the legislative power of Congress surely extends to the prevention of invisible hazards. Big Brotherism is something else.

"If freedom is to have any meaning in this country," Eagleton said, "it certainly must encompass the right of an individual to lead his life as he sees fit, so long as it does not interfere directly with the similar pursuit by others."

On that vital principle of a free society, conservatives and liberals alike can find many areas of agreement. Wiping out these infuriating interlocks as a compulsory requirement is only a first step. Plenty of other steps remain.

[WAVA editorial No. 37–74, for broadcast, May 8 1974]

The Bureaucrats Belt Us Again

(By Arthur W. Arundel)

In the interests of cutting air pollution, the Government has leveled a number of important new standards on the Auto Industry in recent years. But if you are among those who have bought a new car this year. you have run into something called the ignition interlock which Government Safety People require now to keep 1974 models from even starting unless the driver and front passenger have buckled their seat belts. Well, with this they have in the name of safety gone just one too much.

There is, of course, good evidence that seat belts reduce injuries, but I for one rebel at the Contraption, this idea of the Government forcing me to use a seat belt in order to start and drive my car. I want to make the decision, not some government technocrat, whether or not to put on a seat belt for my own safety. And I want to know that if my wife is threatened by some punk or if a child is desperately ill or hurt that she can get in the car and quickly drive way. We have already read and heard of enough horror stories of these situations and others of people with sensitive shoulders or skin conditions who cannot even drive their car.

While this system is designed to foil amateur tinkering, it can be canceled out by a skilled mechanic, and there will be a lot of canceling. But why should people have to go thru this if they can't or don't want to use it, particularly with the fuel situation drastically lowering travel speed everywhere.

It is all more evidence of something public opinion polls are finding in the resentment of a great many Americans feeling as pawns pushed around by forces outside their control. This interlock is just going to increase perceptions of the Government as an oppressor and antagonist. And it just will intensify an already growing disrespect for law.

These devices cost around $50 a car, and a great deal is being paid to mechanics to bypass the system and for repairing breakdowns of the complex apparatus.

If the Government wants to do some constructive things on auto safety, it should do something about dangerous, unclear and badly placed road signs or developing simulators for use in training and licensing drivers, and tougher penalities against drunk drivers.

But these devices to protect us from ourselves are simply government gone berserk with its power.

[From the Charlottesville (Va.) Daily Progress, Apr. 11, 1974]

The Right to Personal Risk

Owners of 1974 model automobiles have discovered, to their dismay, a novel and not altogether pleasing addition to their gleaming new land yachts.

This addition is a government mandated contraption called a seat-belt interlock. It has also been called a number of other things, very few of them complimentary.

The interlock is a switching mechanism that prevents the car from being started until the seat belts of front seat passengers are fastened. Any attempt to start automobiles equipped with these devices prior to 'buckling up' will activate just about everything in the vehicle except the motor. A buzzer buzzes indignantly, lights flash a dire warning while the engine remains silent.

Since on large models the system is controlled by three switches located under each section of the front seat, when there are only two passengers, these two must sit well within their own territory lest they activate the switch under the third seat, with nerve-jangling results.

All of this strikes us as being somehow un-American.

We are not opposed to seat belts. Statistics amply document the fact that their use does, indeed, reduce the risk of injury or death in case of an accident.

But the use of seat belts or the choice not to use them is a purely private matter. The choice affects no one except the person making it. Unlike many other safety features, such as adequate lighting and good brakes, the seat belt has no impact on the safety of others using the road. Indeed, there are cases where not being strapped into place saved the lives of accident victims.

In any event, no one except the individual involved is affected in the slightest by that person's decision to use or not to use the seat belt.

There is no objection to a buzzer or warning light passively reminding a driver that his belt has not been fastened. Some people want to be so reminded. If they do not want to be, they can 'defeat' the alarm system by fastening the belt behind them and sitting on it.

But the manufacturers of the interlocks have put their collective electronic genius to work to defeat the defeaters, and have been reasonably successful in doing so.

For the government to assert a right to impose a positive safety requirement on an individual in what amounts to an extension of his own home strikes us as extremely dangerous doctrine.

Will there next be a law requiring hard hats while changing a spare tire? Must insulated boots be worn while changing a light bulb? Will there be government mandated mats in all showers and bath-tubs?

Within the seat-belt interlock law is the seed of government paternalism gone mad, if indeed it has not already done so.

One of the basic American rights, which if not imbedded in the Constitution is certainly imbedded in the National psyche, is the Right To Personal Risk.

It was the unfettered exercise of this inherent, inalienable, and gloriously exciting right that made this Republic great. The propensity of a great people to take risks led to triumphs of technology, finance, industry, arts, politics, sports, learning and even the American Revolution itself.

The west would hardly have been won if our forefathers had been required to strap themselves into their saddles and Conestoga wagons in order to make a government installed buzzer shut up!

While we urge the voluntary use of seat belts, we recognize that the right to personal risk is an exalted right.

It should be honored by the repeal of the law requiring the installation of seat-belt interlocks, the buzzing and flashing of which is repugnant to every red-blooded American.

[From the Richmond News Leader, July 9, 1974]

Fighting the Interlock

The International Association of Chiefs of Police is complaining about the inefficiency that the interlock system, mandatory on all 1974 vehicles, imposes on policemen.

One policeman relates an instance in which he left his patrol car for a routine check on a bank. Returning to his car, he heard a shot and realized that someone in a passing car had shot at a pedestrian. The policeman ran to his car and turned on the ignition. The engine didn't respond; the policeman then remembered that he had to fasten his seatbelt to start his car. He reached for the belt and pulled. And pulled. Nothing happened; the belt jammed. The car wouldn't start, and the car carrying the assailant got away. This sort of problem may lead the National Highway Traffic Safety Administration to exempt police cars from the interlock system on the assembly line.

If policemen are gritting their teeth about interlock malfunction, the average motorist is blowing his stack. In recent years, possibly no other bureaucratic intervention in private life has caused more outrage and frustration. The interlock system requires that anything weighing 25 pounds—a bag of groceries, a person, a dog, or whatever—has to wear a seatbelt or the car won't start. Columnist George Will tells of the time he bought an oversized turkey for a holiday meal; his car wouldn't start until he buckled the turkey in. The accompanying shoulder harness is a distinct danger to anyone shorter than four feet, seven inches. Motorists can put their groceries in the trunk—but their children?

Interlock failure also can be dangerous. It is estimated that a 3 per cent rate of interlock failure exists in the system; this means that as many as 300,000 1974 cars can kill their drivers. The system is unyielding; if the "sit down, fasten seatbelt, start car" sequence is interrupted, the sequence has to be started all over again. This can mean a real challenge to a driver whose car stalls on a railroad track while a train approaches, or to a driver who suddenly stops on a busy interstate highway. It also can have awful consequences for a woman trying to escape a would-be attacker.

Several members of Congress have introduced legislation to repeal the mandatory requirement for an interlock system—but time marches on. Every day Detroit turns out more cars equipped with the interlock system, and motorists who buy them find that they have become slaves to their cars. Moreover, installation of the interlock system costs an average of $50 per car, so buyers of '74 models actually have to pay for their new misery. With the interlock system, as with other bureaucratic meddling the federal government proves itself not the servant of the taxpayer, but his tormentor.

The Interlock Sequence

(By the Seatbelt System Owner's Guide)

A safety system designed to reduce injuries and save lives. Mandatory on all 1974 cars. (Unless air bag equipped.)

(1) Get in your car.

(2) Fasten your lap/shoulder harness.

(A) If you have a front seat passenger, his seatbelts must be fastened also, or the car will not start.

(B) If you have a package, handbag, briefcase, etc., weighing 25 lbs. or more, and have space only in the front seat, place the object on the front seat, and then *buckle* the passenger-side belt.

(C) If you have a dog weighing 25 lbs. or more occupying the passenger seat, buckle the passenger-side belt *before* attempting to start car.

(D) If the passenger-side belt is already buckled when you add the package, dog, or passenger, unbuckle, then rebuckle the belt *before* attempting to start car.

(3) Start your car.

(A) If your car won't start, try unbuckling and rebuckling your belt (and your passenger's) to be sure the buckle was fully fastened.

(B) If that fails, turn the ignition key to "ON," then get out of your car and raise the hood. Press the bypass switch mounted on the fire wall to "START." Close the hood, get back in your car, buckle up, and turn your ignition all the way in normal starting.

(C) If your car stalls, *do not turn the ignition to* "OFF" position. That way you can keep trying to start your car as often as necessary without leaving the car.

(D) If you accidentally turn the ignition key to "OFF," turn it back to "ON," unbuckle, get out of the car, open the hood, press the bypass switch again for another "free" start. (Incidentally, if the bypass switch is taped down, the action will be detected in the switch and canceled.)

(4) Drive your car.

(A) If your dog is on the floor when you begin driving the car, and then jumps on the seat, and the passenger-side belt is unbuckled, a buzzer will sound. Stop the car and buckle the belt.

(B) In a somewhat rare situation when driving over a very rough road, you may be bounced about in your seat. Should your engine be stopped, remain buckled in your seat and restart your car. A "bounce-time" delay (designed primarily to allow you to straighten your clothing after buckling up) also allows a restart in this situation.

[From the Richmond News Leader August 19, 1974]

A SMALL VICTORY

The fight to regain some ground for individual rights made a strong advance last week when the House voted 337–49 to lift the federal requirement for the installation of the interlock system in 1974 and post-1974 automobiles. The House measure would require only the installation of seatbelts, accompanied by warning dashboard lights.

The House action would nullify one of the most pernicious acts of Big Brotherism that Washington has undertaken yet in its long crusade to protect everyone from himself. The arguments for the compulsory interlock system went something to this effect: Motorists were refusing to buckle up, despite the installation of dashboard warning lights on pre-1974 models. Some motorists may risk their lives by not buckling up. A bureaucracy that considers a citizen—and the citizen's taxes—as part of the nation's resources cannot permit such a situation. So, presto: The fiat goes out to Detroit. If the foolish motorist won't buckle his belt voluntarily, make it impossible for him to start his car until he does.

Thousands of motorists who bought 1974 automobile models have suffered grievous inconvenience as a result of the interlock system. Malfunction of the system, which added at least $50 to the cost of every car, was evident in some 300,000 models. No doubt some drivers have been robbed, and some women accosted, as they struggled to obey the "sit down, fasten seat belts, start car" procedure to flee to safety. A network television program recently focused on the problems of a salesman who travels across the country on his sales route. The salesman rents cars at airport rental units, and sometimes he has to struggle with the different interlock systems as long as a half hour before he finally can start his rented car.

The arguments in favor of a compulsory interlock system pale before the arguments against this gratuitous infringement on individual rights. There are times when individual rights must defer to the rights of society, but a free society has an obligation to give both equal weight. By extension of the pro-interlock system arguments, almost any individual right that might bring harm to the individual exercising it could be usurped by government regulation. Some Americans overeat—and risk heart attacks and high blood pressure. Others drink too much—and risk liver disease. Still others smoke in excess—and risk respiratory disorders. The exercise of the right to overindulge in food, liquor, and tobacco results in as great a risk to the individual as his refusal to buckle his seat belt.

The government already interferes too much in the personal lives of millions. It may be desirable for a motorist and his passengers to use seatbelts for their own good, but they should be spared a government decree interfering with their right to decide that issue for themselves. Whenever a docile populace permits its government to abrogate an individual right of choice without ample justification, it risks losing *all* rights of individual choice. But Americans have not accepted the interlock system docilely. Many an interlock system has undergone a crippling operation at the local garage, restoring the automobile to its owner as an instrument of transportation rather than a buzzing mechanical scold. And voters by the thousand have deluged congressional offices with complaints that the interlock system creates more dangers than it averts.

The weight of public opinion was responsible for the one-sided House action last week. The measure now goes to House-Senate conference for reconciliation with a Senate measure that contains no anti-interlock amendment. There are indications, however, that a number of Senators are willing to lead a fight against the interlock, and the happy result may be a final measure that would put Big Brother in his place. If so, the cause of personal freedom will have won one small victory in a war for individual rights that mostly has been marked by great defeats.

[From the Norfolk Ledger-Star, May 30, 1974]

AIR BAG APPREHENSIONS

The tricking out of automobiles with an assortment of devices designed to do this or that for the well being of the driver and others came in for another potent bit of criticism the other day.

The specific target was the same as it has been for other lay and expert worriers—the inflated air bag as a means of cushioning human impact in a collision. And the critic was a retired Air Force research scientist, Dr. John Paul Stapp, who has been involved in much study of how to protect humans from sudden stops in mechanical conveyances.

He cites several risk areas in the use of the air bags—the most crucial being the uncertainty as to when inflation will occur. It may not happen when needed, and it may happen when not needed and thus actually cause an accident.

This is precisely the point, and it's an encouraging thing to find a knowledgeable individual resisting the trend toward too easy acceptance of automatic safety devices.

Anything mechanical can malfunction, and when the potential malfunction poses serious dangers or problems in itself, it is time to go slow. Ignitions that won't work unless seatbelts are fastened, buzzer systems for the same purpose which create distractions or annoyance, air pollution controls which can impair drivability when things go wrong and which cannot be readily (and legally) removed, all this gadgetry can be building a mass of troubles, including some serious perils for the motoring public. The process calls for a whoa every once in a while.

DEAR BILL: I have just received your latest "Bill Scott Reports" newsletter, Let me lend my full encouragement to your efforts in preventing the Department of Transportation from imposing its insane seat belt-ignition system interlock on us. The limit of my irritation with this Nader-inspired mania was reached the other night when I had to refasten the seat belt on my 12 pound dachshund before I could start the car.

Please help save us from our government.

DEAR SENATOR SCOTT: In your March newsletter, you stated you were cosponsoring a legislative proposal to "prohibit the Department of Transportation from imposing mandatory seatbelt standards in vehicles requiring starter interlock systems."

I'm not exactly sure what that means, but it prompts me to give you my views on the matter of seatbelts and interlock systems in the current crop of late-model cars. Let me start by saying that few matters make me feel as strongly as I do about the ridiculous requirements imposed on citizens in their private automobiles.

As an airplane pilot, I realize the importance of seatbelts in most situations. But to install (or require manufacturers to install) buzzers, pressure sensitive devices and interlock systems so that I will wear seatbelts every time I sit down in the car is, I feel, an infringement on my private rights to choose to protect myself.

I hear stories about people not being able to drive because they have placed a bag of groceries on the car seat. It is this type of nuisance that will keep me from buying a new car for as long as I can. All those devices are cumbersome and along with air bags (which I don't feel have proven worth), add considerable cost to automobiles which are already far too expensive.

Legislate fines for not wearing seats belts—like those found in my 1969 Buick Skylark—but do not force me to wear them. I hope this is the position of your legislation.

DEAR SENATOR SCOTT: Thank you for your newsletter.

Many times I've wanted to write to express an opinion on a subject but like many people never got around to it.

So I must feel pretty strong to finally get to it which is to express very strongly a support of the prohibition from imposing mandatory seat belt standards in vehicles and hopefully do away with starter interlock systems.

This is without a doubt a big brother requirement and the next step would be to do away with cars so we would be even safer, followed with removing all bath tubs because many accidents happen there that injure people. Taking away the freedom of the people for their own good burns me up.

The seat belt arrangement on the present cars had a big factor in my not buying a new car and will be a negative factor until they are removed or I buy one with the intention of installing a jumper wire.

I was pleased that Virginia did not pass a state law requiring seat belts and I wished the Federal law would remove the opportunity of Virginia trying again.

Mr. WILLIAM L. SCOTT. Mr. President, the first of these articles is a Washington Star-News editorial entitled, "Insufferable Hookup." It is an editorial dated August 15, 1974.

We also have a column by James J. Kilpatrick that speaks about "Freedom from Interlocks."

Now, I believe that Mr. Kilpatrick has expressed well the sentiments and thoughts of most of our citizens. He concludes by saying:

> On that vital principle of a free society, conservatives and liberals alike can find many areas of agreement. Wiping out these infuriating interlocks as a compulsory requirement is only a first step. Plenty of other steps remain.

Then we have a commentary by a radio station, WAVA, over in Arlington County, appropriately titled, "The Bureaucrats Belt Us Again."

There is also an editorial by the Charlottesville Daily Progress, which is entitled, "The Right to Personal Risk."

Then we have one from the Richmond News Leader that is entitled, "Fighting the Interlock," and is also includes the Seatbelt System Owner's Guide, the Interlock Sequence, with sizable list of instructions on how to operate this device.

The first instruction is: Get in your car.

Now, I have found that if I do not get in my car, I can turn the ignition on by reaching over the seat, and I can start the car without fastening the seatbelt, if I do that then I can get in and operate the car without having the seatbelt fastened.

Then we have another editorial from the News Leader dated August 19, entitled, "A Small Victory," which urges the Senate to eliminate the interlock requirement.

In addition there is another editorial entitled, "Air Bag Apprehensions," from the Norfolk Ledger-Star that also objects to the interlock system being dictated by the Federal Government.

Mr. President, I did ask that these be included in the RECORD, and the Chair did so, because I wanted the Members to see if they do not already know just what the feeling of the editors of Virginia is.

Our office has received a considerable amount of correspondence from constituents with regard to this regulation.

I would like to read from just a few of them.

A Fairfax lawyer writes——

The PRESIDING OFFICER. The Senator's 6 minutes have expired.

Mr. WILLIAM L. SCOTT. Will the Senator yield 2 additional minutes?

Mr. STAFFORD. Mr. President, I yield the distinguished Senator 2 more minutes on the bill.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 2 additional minutes.

Mr. WILLIAM L. SCOTT. Reading:

> I have just received your latest "Bill Scott Reports" newsletter. Let me hand my full encouragement to your efforts in preventing the Department of Transportation from imposing its insane seatbelt-ignition system interlock on us. The limit of my irritation with this Nader-inspired mania was reached the other night when I had to refasten the seatbelt on my 12-pound dachshund before I could start the car.

Then there is an excerpt from a letter from an Annandale resident, and he says:

> As an airplane pilot, I realize the importance of seat belts in most situations. But to install (or require manufacturers to install) buzzers, pressure sensitive devices and interlock systems so that I will wear seat belts every time I sit down in the car is, I feel, an infringement on my private rights to choose to protect myself.

Then there is one from a real estate man from Norfolk which includes this statement:

> This is without a doubt a Big Brother requirement and the next step would be to do away with cars so we would be even safer, followed with removing all bathtubs because many accidents happen there that injure people. Taking away from the freedom of the people for their own good burns me up.

Mr. President, in concluding, let me say that we would like to believe that this is a government in which individuals have some rights, and it just seems reasonable to me that we ought to have the freedom to decide whether we want to wear a seatbelt or not.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WILLIAM L. SCOTT. I hope that the amendment will be adopted in conference between the two bodies.

Mr. EAGLETON. Will the Senator yield 1 minute?

I ask unanimous consent that the name of the distinguished Senator from Illinois (Mr. STEVENSON) be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. I address a question to the distinguished Senator from New York, pursuant to our previous exchange with respect to the modification.

I will ask if there would be objection from the distinguished Senator from New York that the following change be made in the Buckley-Eagleton amendment now at the desk, and I will send the changing language to the desk.

The PRESIDING OFFICER. The Senator from New York has a right to modify his amendment, I understand he is prepared to do so.

Mr. EAGLETON. I hope the Senator from New York will accept the modification.

Mr. BUCKLEY. I accept the modification.

The PRESIDING OFFICER. The amendment will be so modified and the clerk will state the modification.

The assistant legislative clerk read as follows:

> On page two, line 13 of the amendment, strike all after the word "thereto" through line 16 and insert in lieu thereof a period.

The PRESIDING OFFICER. Who yields time?

Mr. COTTON. Mr. President, I fasten my own seatbelt. But, it is just silly that I should have to fasten the other for a loaf of bread and some cheese.

It is probably not appropriate, so I will not make this as a serious suggestion, but I think this should be called the "Rube Goldberg" amendment for the idiotic system it seeks to eliminate.

The PRESIDING OFFICER. Who yields time?

Mr. BUCKLEY. We should consider that modification.

I ask unanimous consent to add the name of the Senator from New Hampshire (Mr. COTTON) as a cosponsor.

I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. HARTKE. Mr. President, I would like to address my questions on procedure and interpretation to the Senator from New York (Mr. BUCKLEY) and the Senator from Missouri (Mr. EAGLETON).

The PRESIDING OFFICER. Who yields time?

Mr. HARTKE. Mr. President, I yield myself as much time as I need here. My first question is on procedure and I would like to get a little clarification.

It is my understanding that by this amendment, the Senator is seeking to get the Senate on record with regard to restraint systems.

Is that correct?

Mr. EAGLETON. That is correct. That is, I think, the understanding of both the Senator from New York and myself.

Mr. HARTKE. As you are aware, if this amendment is adopted as part of S. 3934, we will be faced with a difficult procedural problem which would result in this matter being before two different conference committees simultaneously.

To remedy this problem, it is my understanding that if your amendment is adopted by the rollcall vote which now has been ordered, that at such time the Senator from New York or the Senator from Missouri will move to reconsider, and that both Senators in such case would support that motion to reconsider.

Is that correct?

Mr. EAGLETON. That is correct.

Mr. HARTKE. If the motion to reconsider is successful, I further understand that the Senator will then move to table the amendment and that he will also support that motion, or one to withdraw——

Mr. EAGLETON. I do not think it will be a tabling motion, but I understand after it is reconsidered, that the Senator from New York will withdraw his amendment.

Mr. HARTKE. As long as that is perfectly clear, that is all right.

Now, let me ask a question on interpretation of the amendment as it now reads.

The amendment prohibits the Department of Transportation from requiring systems unless public hearings are held.

Now, by the words, "any occupant restraint system," I understand you do not mean to include such things as steering columns, laminated windshields, and dashboard crash padding, is that correct?

Mr. EAGLETON. The Senator's understanding is correct.

Mr. BUCKLEY. That is correct.

Mr. HARTKE. All right, I want to clarify also the effect of the amendment.

Paragraph (2)(A) would prohibit the Secretary of Transportation from promulgating a motor vehicle safety standard requiring the inclusion of an interlock system, except as provided by paragraph (2)(B). Paragraph (2)(B) would require public hearings to be held before any new motor vehicle safety standard may be promulgated requiring any occupant restraint system or warning system in connection therewith.

Is it your understanding that paragraph (2)(B) would allow the Secretary, if he deemed it advisable, to promulgate a motor vehicle safety standard requiring an interlock system accompanied by an override feature if public hearings are held on that proposal?

Mr. EAGLETON. As the language stands, the answer to the Senator's question is a technical yes. I personally would not favor it, and I frankly do not believe that the Department of Transportation would favor it, either. But my answer to the Senator from Indiana is a technical "yes."

Mr. HARTKE. Do I have the same understanding from the Senator from New York?

Mr. BUCKLEY. I am not too sure that I understood the question. Is it that if this amendment is adopted, would the Secretary of the Department of Transportation be able to maintain the interlock system merely by putting an override system in?

Mr. HARTKE. He would be authorized to promulgate a whole new standard regarding the interlock with the override option and have a hearing on that standard.

Mr. BUCKLEY. That would be authorized.

Mr. HARTKE. I understand the Senator from Alaska wanted to be recognized.

How much time does the Senator wish?

Mr. STEVENS. Just a couple of minutes.

Mr. HARTKE. I yield 2 minutes.

Mr. STEVENS. I have a statement and a substitute for the Buckley amendment that I intended to offer.

Mr. President, most of us in the Senate are very concerned about the annoying and irritating buzzers and interlocks that have been forced on millions of people by the Department of Transportation.

I am very sympathetic with the people in Alaska and all around the country who have written and telephoned their displeasure with this imposition by the Federal bureaucracy.

If there is any way to influence the motoring public to take more care in its travels and to use the safety belt restraints that every shred of medical and scientific evidence in the safety community shows are extremely effective in preventing deaths and injuries, surely it is not by driving them to the wall with a loud and distasteful buzzer, and electronic gadgetry that interferes with the starting and operation of the cars.

I am in complete agreement with my colleagues that we should take immediate action to prohibit mandatory interlocks.

I am concerned, however, about the way we accomplish this, for not only do we want to protect our constituents from future arbitrary regulatory actions, but we also want to continue reaping the benefits from the increased safety belt use that has been observed in the 1974 cars.

I think we should be certain not to overlook what has happened in the last 2 years regarding seatbelts and their use by the motoring public.

In years past it has generally been recognized that only about 20 percent of Americans bother to buckle our lap belts, and fewer than 5 percent of us use both the lap and shoulder belts.

In an attempt to remedy this unfortunate situation, the Department of Transportation beginning in January of 1972 required that safety belts be equipped with buzzers and a light on the instrument panel to indicate when safety belts were not properly fastened.

Unfortunately, the system mandated by DOT was so easily circumvented that there was little effect on belt use. Some studies showed that it increased, others that it remained the same. But in any case, no study showed that seat belt usage rose in a significant manner.

As a recourse, manufacturers were required to install starter interlocks in addition to buzzers and the light—and to make the belt system operate sequentially in 1974 model cars.

Without doubt, something in that system was effective. For a current DOT study of use rates in 19 cities across the country shows tenfold increase in use of lap and shoulder belts in 1974 cars, compared with earlier model years, and a threefold increase in use of lap belts.

Whereas the average use of lap-shoulder belts has been 5 percent or less, it is about 50 percent in 1974 cars. And while only about 20 percent of all people bother with lap belts, the DOT study shows that 67 percent are using them in 1974 cars.

These high use rates can only be regarded as significant achievement in highway safety, because safety belts have been shown time and again to be very effective in preventing deaths and injuries.

Just recently, the highly respected Dr. B. J. Campbell, director of the Highway Safety Research Center at the University of North Carolina, read a paper at a DOT safety conference in San Francisco. His study, based on mass North Carolina accident data, shows a 70-percent overall reduction in death for belted drivers whose cars were involved in crashes. This was the average overall reduction in deaths for five car-size groups: full size, intermediate, compact, subcompact, and imports.

I am convinced that we must make every effort to maintain the use rates observed in 1974 cars. I am persuaded that the most effective element of the belt systems in 1974 cars is not the interlock and its no-start feature, but the sequential operation of the belts.

For this reason, I feel strongly that we should assure that the sequential feature is retained as a requirement when we eliminate interlocks and buzzers.

And I do not think the public will object to a light, prominently and strategically placed on the instrument panel, one not easily ignored by the driver, or another device, that will signal when the appropriate belts are not fastened properly by an occupant.

If we do not make this provision, and safety belt use declines to former low and unacceptable levels, I think there can be one consequence. There will be substantially more pressure brought to bear on DOT and the Congress for mandatory air bags.

I have voiced my concerns about the air bags for several years. In many areas of Alaska, and in many of the lower 48 States, there are temperature extremes for sustained periods of time. No testing of consequence, no real-world documentation of air bag operations in extremely low temperatures over long periods of time has been done. We cannot be assured that the bags will work properly when they are needed, nor can we be certain that they will not misfire or blow up when not required.

There is considerable controversy surrounding the airbags. Conflicting claims are made regarding their cost, with manufacturers stating that prices may be as high as $300. Likewise, claims for their effectiveness range all over the board with experts in the field seriously disagreeing.

For these reasons, I think we must take care to protect consumers against arbitrary imposition of airbags or any other device that cannot be shown conclusively to be better or cost effective.

My amendment gives this protection to the consumer by requiring that any regulation or safety standard for occupant restraints will guarantee that the automobile purchaser has a choice in restraint systems—either the time-tested and proved safety belt system that costs $90 or less, or the new and yet not adequately proved airbag with lap belts, that may cost upwards of $300 ultimately, or a passive belt system.

My proposal also would protect the automobile manufacturer from being forced to try and meet a standard for which the technology has not been developed or adequately tested and proved effective, both from safety and cost standpoints. The passive system must not only meet these criteria within the Department of Transportation, but either House of Congress may disapprove the plan within 30 calendar days.

Mr. President, I intended to urge the Senate to adopt this amendment. It is reasonable, it imposes no financial or other burden on the public, it will maintain high seat belt use rates, and will rid us once and for all of the irritating buzzer and interlock systems. I ask unanimous consent that my amendment be printed in the Record immediately following my remarks.

In view of the stated intent to rescind this amendment offered by the Senator from New York, if adopted, I shall not offer my substitute.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

On page , line , insert the following: Where appropriate.

That section 103(a) of the National Traffic and Motor Vehicle Safety Act of 1966 is amended by inserting "(1)" after "Sec. 103. (a)" and by adding at the end thereof the following new paragraph:

"(2) (A) Effective with respect to any motor vehicle manufactured on or after the date of passage of this section, no vehicle safety standards shall require anything other than such vehicle be equipped with an occupant restraint system consisting of integrated lap and shoulder safety belts for front outboard occupants and lap belts for other occupants combined with a sequential reminder system to indicate when belts for such front outboard occupants are not properly fastened.

"(B) Effective with respect to any motor vehicle manufactured on or after August 15, 1976, such standards shall require that the purchaser have the option of having such vehicle equipped with (i) The occupant restraint and reminder system described in subparagraph (A)(i) above, or (ii) a passive occupant restraint system such as one consisting of air bags and lap belts capable of operating under extreme climatic conditions, or a belt system provided said system is deemed feasible (both technologically feasible and cost effective) by the Department of Transportation. Passive restraint system is defined as one that requires no specific manual activity on the part of the occupant to make such system operative. Said system will go into effect unless, before the end of the first period of 30 calendar days of continuous session of Congress after the date on which the plan is transmitted, either House adopts a resolution disapproving the plan so recommended and submitted. The continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-day period.

(d) Subsections (e)–(k) of this section are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this section; and they supersede other rules to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(e) If the committee, to which has been referred a resolution disapproving the alternative plan of the President, has not reported the resolution at the end of 10 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same plan which has been referred to the committee.

(f) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereon is limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(g) If the motion to discharge is agreed to, or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same alternative plan.

(h) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an alternative plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(i) Debate on the resolution is limited to not more than 2 hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

Mr. STEVENS. Mr. President, as one of the conferees on the pending measure that has the seatbelt provision in it, I want to state that I think this is a rather strange procedure, and I hope that everyone will not be misled.

I would be happy to have the guidance of my colleagues in this matter. Since it is sort of a free vote, I do not, as a conferee, take it as an instruction from the Senate when everyone knows in advance it will be rescinded if passed. Therefore, I wanted to be certain that the record would show the substitute that I would have offered if the motion to table a Buckley amendment had not carried, in order to try to work out an accommodation with what I consider to be the views of those of us who believe that the sequential system should be maintained. The only real annoying feature in this system today is the interlock.

Mr. EAGLETON. And the buzzer.

Mr. STEVENS. The buzzer, if it is not too obtrusive a signal, does not bother me. I have a buzzer that goes off if I leave my lights on. I have a buzzer that goes off if I leave the keys in my car. It does not bother me. But, when you have the interlock and a noisy buzzer, that bothers people.

Mr. EAGLETON. Will the Senator yield for a question?

Mr. STEVENS. I am glad to yield.

Mr. EAGLETON. The Senator from Alaska has driven me home from the Senate, has he not?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARTKE. I yield 2 additional minutes.

Mr. EAGLETON. Did the Senator not express to me one night when he drives his car, he drives it in an absent-minded state of mind? If that be the case, the buzzer may not be offensive to the distinguished Senator from Alaska. But for one who drives his car in a total state of ready alert, I find it most obnoxious to me.

Mr. STEVENS. As one who does drive absent-mindedly at times, because I am trying to think of ways to answer my good friend, I would admit that the buzzer does not offend me as much as one who drives without his mind wandering.

But I still say it is the interlock that is offensive; the sequential system that brings about a reminder to people to buckle up, is the device we ought to try to preserve.

I have been a pilot for 30 years. I cannot remember getting into an airplane without buckling my belt. I think that was instilled in us when we learned how to fly. What we need to do is instill in future generations the concept of buckling up or having some type of passive restraint. We will reduce the deaths on the road. We will reduce the inflationary impact of this fantastic cost to the country of these injuries and deaths.

That would have been the objective of my substitute for the Buckley amendment had we decided to go the full course. I can accept the fact that the Senate, in effect, is saying to the conferees to work out something that meets the current mood of the country to do away with the interlocks and the annoyances, if there is annoyance, from the signal. But we are not going to abandon all of the safety measures that have been brought about by the Commerce Committee, under the direction of our chairman, the Senator from Indiana and others—safety measures that have accomplished much over these years, and have great promise for real success in the future.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. HARTKE. Mr. President, this amendment still leaves me very uncomfortable. I do not intend to support the amendment although I do not think that will make a major difference on the vote. I am fully cognizant of the great amount of anxiety that the Nation has about the interlock system. I think probably public opinion at this moment is overwhelmingly opposed to the continuation of the system. But that does not leave me without a great deal of personal feeling of responsibility in this field.

I have been concerned with automobile safety now since 1966. I have had more than my share of exposure to public discontent when we move forward with diligence with unpopular safety items.

The simple fact of it is is that while this debate is going on, six people will have lost their lives as a result of automobile accidents.

The fact of it is is that we could probably reduce that by at least one-third if we have effective restraint systems that the public would use.

The fact of it is is that the cost of putting in some type of passive restraint system is not prohibitive when you consider the total cost to the Nation of having some 57,000 lives snuffed out every year on the highway, and an additional 2,100,000 requiring hospitalization.

One company, Allstate Insurance, has been very active—and I pay tribute to them—in promoting the passive restraint system. The ability of the Department of Transportation to promulgate a passive restraint standard is preserved here. That company offers a 30-percent reduction in the cost of their insurance premium in a no-fault insurance State if there is an air bag in the car. That is a substantial saving.

The most important thing is not the dollar sign. That was the big argument we had in the Commerce Committee from the very beginning: Economics versus life and human suffering.

I frankly think it is annoying to have to be strapped into a seat. But it is despairing to see a little baby or person who is strapped to a bed, because they have been injured in an automobile accident. You can go and see the blood; you see the glass; and you see the metal. And that is not a pleasant sight.

All the gaiety that we have heard on this floor about people who have had annoyance disappears very rapidly when you consider what we are talking about. What we are talking about here is some way to try to reduce that death toll.

Truthfully, you can talk about "big brotherism." But "big brotherism" as it is called, is not unique to this situation. Look at any type of disease immunization programs. If we want to make an immunization program effective, whether we are right or wrong and whether human nature should be that way, we have to make it mandatory.

That is what we did about smallpox. That is what we did about the various childhood diseases, such as diphtheria. And that is also what we do in a manufacturing plant. We require a man to put both hands on a machine now, with a safety device, so he cannot operate the machine with only one hand.

In other words, on the whole field of safety, human nature seems to require something to force us to do what is safe.

What everyone is saying here is that seatbelts are a good idea, but we ought not have them.

It is a paradox. It is not unusual. This Senate floor is paradoxical on a lot of things.

Mr. EAGLETON. Will the Senator yield on that point?

Mr. HARTKE. I will be glad to yield.

Mr. EAGLETON. I do not want a protracted exchange with the Senator, because I do not want to get involved in the blood and gore that is about to spew forth.

May I address a question to the Senator from Indiana? There is nothing in this amendment that outlaws seatbelts. Seatbelts will still remain in the car. All this says is he cannot have the mandatory buzzer and the mandatory interlock. Even the Senator from Indiana was about to offer an amendment to put another button on the dashboard of the car. You would push the magical button and that would emasculate the system.

If the Senator from Indiana is so devout in his advocacy of the buzzer, of the interlock system, why would he even suggest to put a button on that can strip the system out of operation?

Mr. HARTKE. I explained that to the Senator at lunch. The button is trying to defeat the Buckley amendment.

Mr. EAGLETON. I assume the Senator from Indiana is very sincere about this.

Mr. HARTKE. I am very sincere. I told the Senator at lunch about that. I do not intend to vote for this amendment. I may not have voted for the amendment I have suggested, for the very simple reason that I believe we ought to keep the interlock until passive systems are standard equipment.

Australia has mandatory utilization of seatbelts, and it has reduced the death toll. What we are saying is we are not eliminating these seatbelts. The Senator is eliminating the use of them, however.

There are two ways to increase belt usage. One is by an interlock system. The other is to make a criminal penalty for failure to wear it. I would not even be opposed to that.

In other words, I think that we want to go ahead and reduce that death toll, reduce the agony in practically every family in America, because in fact, almost every family will ultimately feel the trauma of an accident. I have had my agony. A member of my family did not get to a hospital. My sister went to the grave. That is the difference. It is not your family that will be immune when you get that telephone call in the middle of the night saying that one of your own was involved in an accident, and the accident was fatal.

Then you ask yourself a question as to whether you put the stamp of fatality on: Did you press the button that killed one of your own?

I have seven childern, and I am concerned about all the other children of America.

I just say, quite honestly, that I think this is the biggest backward step in the field of automobile safety ever taken by the Federal Government. Yet, I know that evidently the public is determined to take it.

I hope and pray that we do not waste too much time moving toward passive restraint. That is why I want to thank the Senator from New York and the Senator from Missouri for modifying their amendment, because we have not closed that door. Ask the people who have seen the air bag work. Ask Mr. DeLorean, a former General Motors executive who is a genius in this field. He demonstrated to us 2 days ago how the air bag can be effective, and how little inconvenience they really are.

Yes, I would prefer the air bags to the interlock system; but I say, first, that the ultimate concern should not be upon the method. Make it as convenient as possible, so that the turkeys and the loaves of bread and the dachshunds can be placed on the seat. Fine. But in the meantime, make sure that your wife, your children, your mother, your relatives, and all the people in America are given an opportunity to live out their lifetimes as they should.

In my judgment, this amendment is costing us more than any single appropriation we make to the National Institutes of Health, and that is a pretty serious charge. I am fully cognizant of what is going to happen.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a description of the override option to which the Senator from Missouri made reference. That was an effort by some of us to try to provide some ameliorating conditions to the situation.

Mr. President, in connection with this override button concept, I ask unanimous consent to put the following statement of the Consumer Federation of America in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE OVERRIDE OPTION—BALANCING THE INTERESTS

The Resolution which I am co-sponsoring would require the consumer to be offered an optional interlock override button. I would like to explain the rationale of this approach.

The Department of Transportation estimates that the interlock system will save 7,000 lives annually and prevent injuries to 340,000 people. With the system, lap and shoulder belt usage has been increased to over 50%. Without the interlock, it will once again fall to below 10%. On the other hand, many find the interlock system to be coercive and annoying and argue that it smacks of "big brotherism."

Our Resolution attempts to strike a balance between individual freedom and public safety. By allowing the consumer to override the system, the coercive aspects of the interlock are bypassed; the consumer can choose not to be protected. But that choice must be made each time he rides in his car rather than by force of habit.

Further, the interlock now has a defeat rate of 41%. I believe many defeat the system permanently because of the annoyance of having to buckle up just to move the car in the driveway or to put it in the garage. If the individual has the opportunity with the override button to selectively defeat the system when use is inconvenient, then perhaps he will buckle up for highway driving. Thus, unlike the Buckley-Eagleton approach where there is no effective reminder to use belt systems, our approach would not have that detrimental effect on public safety.

In short, I cannot in good conscience support a provision which would kill 7,000 people per year and injure 340,000. Our Resolution would have the effect of trying to maintain high rate of belt usage, but would also allow a freedom of choice.

STATEMENT OF CONSUMER FEDERATION OF AMERICA

Consumer Federation of America which represents the interests of over 30 million consumers throughout the Nation, strongly endorses Chairman Magnuson's amendment to create a push-button bypass to seat belt interlock systems, and to require replacement of this system with air bags beginning in 1977.

The benefits of the interlock and air bag systems to the consumer have been amply demonstrated—lives would be saved and insurance rates would drop substantially. These facts remain undisputed. The issue in controversy is whether these safety systems should be required or simply "optional extras", added to the base price of the automobile. As standard equipment they would be produced and utilized on a larger scale, thus lowering the cost per unit and lowering universally for all owners of new cars. As "optional extras" consumers with low incomes would be tempted to reject this safety equipment thus endangering their lives, and the lives of their families and guests.

For years the FAA has required the wearing of seatbelts in airplanes during takeoff and landings. Mindful of the risks involved, consumers have not complained. However, deaths and injuries resulting from automobile accidents far outnumber those resulting from airplane mishaps. How can the Federal justify requiring seat belts in the former case and not in the latter?

One of the most awesome responsibilities of Government is to promote the "health, safety and welfare" of the citizens. Consumer Federation of America views any vote against this important amendment as a grave abdication of a legislator's responsibility.

Mr. HARTKE. If there is a nightmare, as the present interlock system and the seatbelt system have been described, that nightmare is not nearly as bad as a night in a hospital.

The PRESIDING OFFICER. Who yields time?

Mr. BUCKLEY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New York has 5 minutes.

Mr. BUCKLEY. I yield myself 3 minutes.

Mr. President, I am aware of the concern and the sincerity of the concern of the Senator from Indiana. But I believe that a free individual and a free society presuppose the fact that human beings are mature enough to look after their own interests. I believe that the role of Government should be to make sure that one individual does not harm another. If we are to have Government assume the role of protecting every individual against every risk, then perhaps we will see the Government—and I am not facetious about this—outlawing mountain climbing, outlawing pleasure flying, outlawing Evel Knievel in his idiotic stunt of the past weekend.

I believe that the way we meet the objectives of the Senator from Indiana is to require that those seatbelts be there, require the light which is a reminder, and then educate. I believe that the process of education has done more to get people to understand the need to protect themselves and protect their families with seatbelts than all the gadgetry that so irritates at least 50 percent of the consumers in this country that they find ways of circumventing it.

Mr. President, I ask unanimous consent to add the name of the Senator from Oklahoma (Mr. BARTLETT) as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, will the Senator yield 1 minute?

Mr. BUCKLEY. I yield.

Mr. DOMENICI. Mr. President, I should like to address these remarks to the Senator from Indiana.

Although I have not totally made up my mind with respect to the Senator from Alaska's concern about the buzzer system, let me suggest to the Senator from Indiana, for those of us who have large families and have a genuine concern for the well-being of those who travel in automobiles, that perhaps the Senator is forgetting that if onerous restrictions are imposed of the type we have had explained here today, which are so ridiculous that they become almost something one cannot live with, one might try to figure out what the American people are going to do about it. It appears to me that we are going to get less effective use of seatbelts by the attitude that the Senator from Indiana describes here than a realistic one.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. BUCKLEY. I yield 1 additional minute.

Mr. DOMENICI. Take the case of the farmer in my State who says, "I'm not going to use that system. I'm going to find a way to get rid of it. It's absurd. I'll find some mechanic who will disconnect it." That fellow is apt to use no seatbelt.

The point I make is that those who feel as does the Senator from Indiana have just as good an argument, that to have a ridiculous kind of safety device imposed on the American people is no assurance that they are going to use it. To the contrary, a reasonable device that gives them the incentive to do it themselves, rather than the incentive to find ways to avoid it, is probably, in the long run, far more calculated to have more people use seatbelts than the system that the Senator from New York, and the Senator from Missouri are trying to get out of our cars.

Mr. HARTKE. I understand the irritation. I understand that people are trying to beat the system. That does not make it right. That is all I can say.

In other words, we forced the manufacturers to give them a collapsible steering column. We instituted all these standards. We have forced tire standards to be changed. We have been working on all these things in the field of safety since 1966, and every step of the way there has been the same type of opposition which has been hammered out. But the fact is that if you want to have fewer people killed on the highways, you must have strong legislation of this kind.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. HARTKE. How much time does the Senator desire?

Mr. GRIFFIN. Two minutes.

Mr. HARTKE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Indiana has 10 minutes remaining.

Mr. HARTKE. I yield 2 minutes to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, the noted Supreme Court Justice Louis Brandeis once warned that we should be "most on our guard to protect liberty when the Government's purposes are beneficent."

This warning is particularly appropriate in connection with our principal form of transportation, the automobile, which, with the help of the Federal Government, is fast becoming a Rube Goldberg-like contraption available only to the rich.

The best, or perhaps worst, example of Government meddling is the seat-belt interlock system. The driving public is clearly turned off by this Government-mandated device for turning on their cars.

In my own State of Michigan, a survey conducted by Motor News magazine has revealed that an overwhelming 76 percent of the drivers polled are opposed to the interlock system.

Interestingly, during hearings before the Senate Commerce Committee earlier this year, Sydney Terry, a vice president of Chrysler Corp., indicated that consumer concern about the interlock system even exceeded concern about gasoline mileage.

The interlock is more than a nuisance. It adds at least $50 to the price of a new car, and poses a real safety hazard when a car must be started in emergency situations.

Since enactment of the National Motor Vehicle Traffic Safety Act in 1966, the cumulative cost of various Federal safety and emission standards and regulations is over $700, according to spokesmen for the industry. For the medium-priced car, that means that over 20 percent of the cost is now attributable to Government regulation.

I wonder, if you drive the price of an automobile up to the point where your youngster buys a motorcycle instead, whether you are really doing him a favor.

At a time when much attention is being given to the importance of protecting the consumer, it seems to me that the consumer first needs to be protected from the excesses of big government.

Safety, health and environmental protection are important and commendable goals. But in striving to achieve these goals we cannot repeal the fundamental laws of economics or completely ignore the liberties of people. As the Wall Street Journal recently suggested, editorially, the Government ought to treat "drivers as adults."

It is interesting to note that perhaps the greatest degree of driving safety has been achieved solely by lowering the speed limit to 55 miles per hour.

So far in 1974 there have been 6,000 fewer fatalities than for the corresponding period in 1973, or a reduction of about 20 percent. This should tell us something about the wisdom of ever more costly and complex Government regulation of the design and manufacture of automobiles.

Fortunately, the House of Representatives has already responded to commonsense by voting to repeal the interlock standard and by an overwhelming margin of 339 to 49. Hopefully, the Senate will follow suit by approving the pending Buckley-Eagleton amendment.

This amendment also provides for a further review of the proposed Federal standard to require passive restraints—or air bags. Although the Department of Transportation has concluded that air bags could save as many as 15,000 lives per year by 1985, they will also add at least $200 more to the price of new cars. And questions still exist about the protection they would afford small car drivers, not to mention their effectiveness in side and rollover accidents. In fact, the proposed DOT standard would require seat belts plus a sequential warning system—that is, if seat belts are not fastened, a buzzer will be activated if air bags do not provide sufficient protection in such accidents. This latter cost would probably negate any savings achieved from removal of the interlock system.

In a March 21 editorial, the New York Times concluded that—

> Between the law and a belt less chafing than the present cumbersome harness, we might well achieve a reasonable measure of highway safety without compulsory trial of the inadequately tested air bag—especially if the energy crisis continues to keep speeds down and traffic reduced.

At the very least, this matter needs to be investigated further as would be required by the Buckley-Eagleton amendment.

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. HARTKE. How much time does the Senator desire?

Mr. PASTORE. Two minutes.

Mr. HARTKE. I yield.

Mr. PASTORE. Mr. President, the question that occurs to me is not so much the irritation or the inconvenience, because, after all, all of us can learn to live with that. To me, it is a question of safety. Do we have any statistics as to whether or not these systems really have saved lives?

Mr. HARTKE. Yes.

Mr. PASTORE. Can we not put them in the RECORD?

Mr. HARTKE. Yes. I shall put them in the RECORD.

Mr. President, I ask unanimous consent to have printed in the RECORD not only these statistics but also other material which supports utilization of the interlock system and other passive restraint systems.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ABSTRACT TAKEN FROM A DEPARTMENT OF TRANSPORTATION REPORT ENTITLED "ANALYSIS OF EFFECTS OF PROPOSED CHANGES TO PASSENGER CAR REQUIREMENTS OF MVSS 208", AUGUST 1974

This report analyzes the impact of proposed changes to Motor Vehicle Safety Standard 208 "Occupant Crash Protection" as they apply to passenger cars (Figure 1). The proposal of March 19, 1974, would extend the present 3 options including interlock-belt systems to September 1, 1976, and thereafter would require passive protection supplemented by lap belts with sequential warning if needed for rollover protection in front seats. Lap belts would be required in rear seats.

Interlock-belt system effectiveness was compared with air cushion-lap belt system effectiveness in terms of reduced deaths and injuries (Figures 12 and 13). If the total passenger car population were equipped with the interlock-belt system we could expect 7,000 fewer fatalities and 340,000 fewer injuries annually (Figures 7 and 8). Comparable figures for the air cushion-lap belt system are 15,600 and 1,000,000, respectively (Figures 9 and 10). Using three different techniques for economic analysis, the benefit/cost ratios range from 2.9 to 5.2 for the interlock-belt system and from 3.6 to 6.0 for the air cushion-lap belt system.

In conclusion, results of this study show that the proposed rulemaking, represented by the air cushion-lap belt system, is clearly superior to the interlock-belt system in the reduction of fatalities and injuries. Furthermore, the air cushion-lap belt system is fully justified even from an economic point of view since its benefit/cost ratio and its incremental benefit/cost ratio (incremental benefits/incremental costs) are substantially in excess of 1.0.

STATEMENTS OF SENATOR HARTKE ON PASSIVE RESTRAINTS

WHY PASSIVE PROTECTION?

The Commerce Committee has heard many hours of debate on the relative merits of seat belts and airbags. Some people argue that belts provide better protection in a crash; others contend that the airbag is a superior system. I think that the most salient point that must be made, however, is that regardless of how effective a restraint system is, it will save no lives unless that system has been activated and is being used.

Since 1966, when seat belts were first installed in motor vehicles, we have been trying to get motorists to buckle up. We've tried ad campaigns; we've tried warning lights; we've tried buzzers; and now we've tried interlocks. The interlock has increased lap and shoulder belt usage to over 50%. Without the interlock, belt usage would fall probably to below 10%. Before interlock, the usage rate was 4%.

To increase the usage rate I believe that the Department of Transportation must move as quickly as possible towards passive restraint systems. A passive restraint requires no affirmative action by the vehicle occupant in order to be protected. The system is always "activated" and the occupant is always protected. The usage rate is 100%.

A passive restraint system such as the airbag is much less offensive when a belt system. Vehicle occupants do not become tangled in a spaghetti-type web of belts. The system is comfortable and will not obstruct vision.

The question of relative life-saving potential aside, by moving towards passive restraints we will achieve a much higher level of protection while providing a more comfortable system of protection.

THE AIRBAG: WHY NOT AN OPTION?

There are some who believe that the airbag system ought to be an optional rather than standard equipment. I believe a realistic examination of the economics of the problem will explain why this is not a feasible alternative.

During model year 1974, the General Motors Corporation offered the air cushion restraint system as an option on its luxury cars for the price of $225. GM has now announced that the option price will increase by 33% in 1975—to $300.

If it is one thing that Congress has learned about safety in the past decade, it is that consumers do not anticipate that they will be the object of a calamity. In making their purchasing decisions, consumers infrequently will be willing to pay extra for safety regardless of the probabilities of accident occurrence—it's human nature.

If the airbag system were to be made standard equipment, the economies of scale of the mass production process would decrease substantially the per unit cost of the airbag system. The auto companies estimate it to be $225. The Department of Transportation says $210. John Z. DeLorean, former GM Vice President in charge of car and truck production estimates that the price should be no more than $150.

As a $300 option, few would opt to buy the airbag and we would lose the potential of saving 15,600 lives and preventing 1,000,000 injuries each year. As $150 standard equipment, the benefits of the system would be realized at a reasonable cost to all.

TESTING AND DEVELOPMENT OF AIRBAGS

The airbag system has undergone the most extensive laboratory and field development program of any single safety device. The General Motors Corporation, whose efforts should be applauded in this area, has spent over $60 million in their research and development program. Eaton Corporation has spent over $45 million; Allied Corporation over $25 million; Rocket Research Corporation over $4 million. While we have no data on the expenditures by the other automobile manufacturers, it would be safe to estimate the total R&D budget for airbags to be well over $135 million.

The field testing program of the airbag system is equally impressive. Over 2500 airbag equipped vehicles are now on our nation's highways and they have accumulated over 100,000,000 miles in actual highway driving. There has never been a failure to fire upon demand and there have been 28 deployments to date. There was one inadvertent partial firing during the first months of the field testing program. The accidents to date have produced incredible results. For example, in one accident, a man driving at 67 miles per hour crashed into the rear of a parked police car. The driver walked away from the accident.

I have a summary of each of the airbag accidents for those who wish to examine the record. But I just want to say that the amount of technical development of the airbag system is unmatched by any other safety system.

WHAT IS THE COST OF THE AIRBAG

Some concern has been expressed about the cost of the airbag and I believe we ought to set the record straight on this matter.

Currently, the General Motors Corporation is offering an air cushion restraint option on a few of its luxury cars. In 1975, the cost of that option will be $300. The industry estimate of the cost of the airbag if the system becomes standard equipment is approximately $225, while the Department of Transportation estimates it to be $210.

Two days ago, the Commerce Committee sponsored a briefing conference on the status of airbag technology. Mr. John DeLorean, former GM vice president in charge of car and truck production, offered some insight as to the actual cost of the airbag system. He estimated that the cost of the hardware and labor for the airbag ssytem was under $90. With a reasonable dealer and manufacturer mark-up provision for amortizing research and tooling, the total cost of the system should be less than $150. As the production process becomes perfected, this cost will decrease further.

The cost of the interlock is estimated to be $100. The increase of $50 for the airbag—or even $100 if you accept the Department of Transportation estimates—is not an unreasonable amount. In fact, the Department has recently estimated that the benefits to be derived from an airbag system exceed the costs by 3 to 6 times.

By way of comparison in model year 1973, over 50% of the cars sold were equipped with vinyl roofs at an average cost of $125. The public interest of equipping vehicles with a life saving restraint system versus an attractive vinyl roof are self-evident.

THE SECRETARY OF TRANSPORTATION
Washington, D.C.

Hon. VANCE HARTKE,
Chairman, Subcommittee on Surface Transportation, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR SENATOR HARTKE: This is in response to your request of September 10, 1974, for departmental views concerning a resolution offered by you and Senators Magnuson, Moss, Hart and Stevens.

The resolution would express the sense of the Senate that all new vehicles with interlocks be equipped with a button for bypassing the interlock. The button would enable drivers to decide for themselves whether to use their safety belts. We have not yet had an opportunity to assess fully the merits of the button. We think, however, that the button might reduce the effectiveness of the interlock in inducing safety belt use, while possibly increasing its costs. But, of course, compared to complete elimination of the interlock in inducing safety belt use, while proach is clearly preferable on highway safety grounds.

The resolution also urged that, as soon as practicable, the interlock be eliminated entirely and replaced by passive restraint systems. We are pleased that this resolution, unlike other pending legislation, would neither prohibit us from promulgating a standard requiring the installation of passive restraints nor require us to obtain committee approval before doing so.

We note that a final decision has not yet been made either with respect to making passive restraints mandatory or as to an appropriate effective date if it becomes necessary to set one. We would, of course, appreciate and give weight to an expression of Congressional opinion, but we also believe that such issues should ultimately be left to the administrative rulemaking process.

With regard to the provision urging that passive restraints be required in all new cars as soon as practicable, we note that a final decision has not yet been made either with respect to making passive restraints mandatory or as to an appropriate effective date if it becomes necessary to set one. We believe that such issues should ultimately be left to the administrative rulemaking process.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report to you.

Sincerely,

CLAUDE S. BRINEGAR.

Mr. PASTORE. How many lives did we lose before these systems were installed, and how many lives are we losing today, with the system?

Mr. HARTKE. They save now an average of 7,000 lives a year.

Mr. PASTORE. Does the Senator mean that had we not had these systems, we would have had more than 7,000 people killed who would not have been killed?

Mr. HARTKE. Let me correct that.

I am informed that that statistic assumes 50 percent lap and shoulder belt usage and all cars are equipped with interlocks. The interlock system has not been on very long. It has been on about 1 year. Air bags are now in the field testing stage. Seatbelts, in and of themselves, have been on for a longer period of time.

The best estimates are still that 7,000 lives a year can be saved with the interlock system and with the seatbelts. That is from the Department of Transportation. That is if there is 50 percent utilization. Airbags could save 15,600 lives and 1 million injuries annually once they become standard equipment in all vehicles.

Mr. PASTORE. And these figures are official?

Mr. HARTKE. They are from the Department of Transportation. They will be put in the RECORD.

Mr. PASTORE. I am going to say to my colleagues, I do not think we ought to argue price; I do not think we ought to argue irritation or inconvenience. If we are saving 7,000 lives a year in America, there is some worth to it.

Mr. BUCKLEY. Will the Senator from Vermont yield?

Mr. EAGLETON. Will the Senator from Vermont yield to me 3 minutes on the bill so that I may respond to the Senator from Rhode Island?

Mr. STAFFORD. I yield to the Senator from Missouri 3 minutes.

Mr. EAGLETON. I do not want to prolong this debate, and I think the Senator from Rhode Island is asking what is the gut question: If we are saving lives, dollars become less relevant than lives, to be sure. But I can assure the Senator from Rhode Island that the statistics as quoted by the Senator from Indiana are not quite as applicable to the situation as the discussion might seem to warrant that interpretation. The 7,000 lives that the average Department of Transportation guesstimates is with full utilization of all kinds of safety equipment on every car in the land. There are 100 million cars in this country, plus. The buzzer interlock is on perhaps 10 million, 1 year's model.

These statistics as to the number of lives saved, No. 1, are grandiose guesswork and, No. 2, are tailored to the concept that when all these systems, bags and folding-away steering columns, when they are all on all the cars in existence in this country 10 years from now—because that is how long it takes the cars to turn over, about 10 years—then 7,000 lives might be saved. But there are no 7,000 lives being saved today.

Second, I have some statistics in my prepared speech that show how many people are dismantling this system and they are not being saved at all, and there is a grave dispute as to whether this system saves anything.

Mr. PASTORE. I wish to say to my friend from Missouri that I have two doctors in my family, a son and a son-in-law. I may get in the car and not put on my seat belt, but I have never seen my son or my son-in-law ever get in the car without putting on their seat belts. That has always impressed me, for the simple reason that they have seen these cases come into the emergency room. They have a very strong feeling that without these protections, we shall have a greater loss of lives. I think that is indisputable.

Now, if the statistics can be shown that we are not accomplishing anything, only charging the consumer more money, we ought to do away with it. But on the other hand, if we are arguing that we do not like the noise of the buzzer and we do not like the fact that we have to turn on a switch before we put on the safety apparatus, that is another question, too.

To me, it is a matter of whether these systems are working. If they are working, we have to have them. If they are not working, we ought to cut them out.

Mr. HARTKE. The Senator from Rhode Island raises a point. What I am reading from is "Analysis of Effects of Proposed Changes to Passenger Car Requirements of MVSS 208," prepared by the motor vehicle programs, the National Highway Traffic Safety Administration, and Transportation Systems Center, Department of Transportation, August 1974.

I read here from the section on belt usage, page 7:

> With the interlock-belt system, (Figures 7 and 8) it was estimated that, after belt usage habits ultimately stabilize, the lap and shoulder belts together will be used on the average by about 50% of the front outboard occupants in cars, with an additional 10% using the lap belt only, or a total of 60% lap belt usage.

They say that if the total passenger car population were equipped with interlock systems, we could expect 7,000 fewer fatalities and 340,000 fewer injuries annually.

I think it is only fair to say that they are estimates, but they are the best we have. They have been made by people who are not filled with anything except, in my opinion, devotion to trying to reduce the death toll on the highways. They are not coming from the Congress or from our staff; they are coming from the Department of Transportation.

Mr. BROCK. Mr. President, I very much regret having to oppose the amendment of the Senator from New York (Mr. BUCKLEY), for I do favor its intent. However, I am informed it is to be passed—in order to establish Senate intent—and then withdrawn. Certainly, it has no place in this bill, and under the circumstances I believe this procedure is unfortunate.

For these reasons, as well as some disagreement with the specific language proposed, I shall vote no.

Let the RECORD also show, however, that my commitment to eliminate limitations on personal freedom, such as this shoulder harness interlock, remains undiminished. On the first opportunity to cast an effective vote in this direction, I shall do so.

The PRESIDING OFFICER. Who yields time?

Mr. HARTKE. I am prepared to vote.

Mr. BUCKLEY. I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

All time having been yielded back, the question is on agreeing to the amendment of the Senator from New York (Mr. BUCKLEY), as modified.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Alaska (Mr. GRAVEL), and the Senator from Colorado (Mr. HASKELL) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Minnesota (Mr. HUMPHREY) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. BENNETT), the Senator from Kentucky (Mr. COOK), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. FONG) and the Senator from Illinois (Mr. PERCY) are absent on official business.

I further announce that the Senator from Oklahoma (Mr. BELLMON) is absent due to illness.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER) would vote "yea."

The result was announced—yeas 64, nays 21, as follows:

[No. 392 Leg.]

YEAS—64

Abourezk
Aiken
Allen
Bartlett
Bayh
Beall
Bentsen
Bible
Biden
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cotton
Cranston
Curtis
Dole
Domenici
Eagleton
Eastland
Ervin
Fannin
Griffin
Gurney
Hansen
Hart
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Hughes
Jackson
Johnston
Long
McClellan
McClure
McGovern
Metcalf
Montoya
Muskie
Nelson
Nunn
Packwood
Pearson
Randolph
Ribicoff
Roth
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevenson
Symington
Taft
Thurmond
Tower
Tunney
Weicker
Young

NAYS—21

Brock
Brooke
Case
Clark
Hartke
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metzenbaum
Mondale
Moss
Pastore
Pell
Proxmire
Schweiker
Stevens
Williams

NOT VOTING—15

Baker
Bellmon
Bennett
Cook
Dominick
Fong
Fulbright
Goldwater
Gravel
Haskell
Helms
Humphrey
Inouye
Percy
Talmadge

So Mr. Buckley's amendment (No. 1851), as modified, was agreed to.

Mr. EAGLETON. Mr. President, I am going to move to reconsider the vote. I do move to reconsider the vote, and I ask 30 seconds to explain that.

The PRESIDING OFFICER. Ten minutes to each side.

Mr. EAGLETON. I hope the Senate will reconsider.

Pursuant to the understanding that Senator Buckley, Senator Hartke, and I had worked out, this amendment, after it is reconsidered, will be withdrawn by the Senator from New York. But the Senate has gone on record and, in a sense, instructed the conferees in a bill now pending in conference with the conference committee as to our views with respect to the seatbelt interlock system. That matter is the subject of a conference and the bill pending thereat.

So, Mr. President, I am about to move to yield back my time on my motion to reconsider. Have I explained the position that we are in?

Mr. BUCKLEY. Mr. President, may I comment for a few minutes on this matter?

Mr. EAGLETON. I yield such time as the Senator may desire.

Mr. BUCKLEY. For the benefit of those who were not here during the exchange, we run into a procedural problem if we actually append this amendment to the bill. There was then one set of conferees discussing and talking about the Senate version and another set of conferees on the House version. Therefore, in order to solve the procedural problem, we had agreed, in effect, after registering this strong affirmative approval of principle to reconsider. In other words, it requires an affirmative voice vote to proceed with the agreement.

Mr. ERVIN. Mr. President, I just want to be recorded—I understand there will be no rollcall vote on this—against the motion to reconsider.

Mr. HARTKE. Mr. President, the understanding explained by the Senator from Missouri (Mr. Eagleton) and the Senator from New York (Mr. Buckley) is correct. I do consider it a great favor for them to work out this procedure because this has preserved the flexibility of the Department of Transportation with respect to passive restraints and has not locked the conferees into a situation which would have otherwise been intolerable.

I yield back the remainder of my time.

Mr. EAGLETON. Mr. President, I am prepared to yield back the remainder of my time. I will not request the yeas and nays. I move to reconsider the vote by which the amendment was agreed to.

The PRESIDING OFFICER. The question is on the motion to reconsider. (Putting the question.)

The motion to reconsider was agreed to.

The PRESIDING OFFICER. The Senator from New York.

Mr. BUCKLEY. Mr. President, I ask unanimous consent to withdraw the amendment because we have now, by virtue of the vote on the amendment, served our purpose, and that is to place the Senate clearly on record in opposition to the mandating of the systems and, therefore, in effect, we had instructed the Senate conferees to accede to the House position.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection and it is so ordered.

Mr. McCLURE. Mr. President, I have an amendment at the desk which I ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

Let there be order in the Senate.

The assistant legislative clerk read as follows:

On page 26, after line 14, add the following:

"Sec. 123. The first sentence of subsection (c) of section 405 of title 23, United States Code, is amended by striking the word 'and' after 'crossings,' and inserting in lieu thereof the following: 'the correction of high-hazard locations, and'."

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I have discussed this amendment with both the ranking minority member, the Senator from Vermont, and the chairman of the subcommittee, the Senator from Texas, and I have been advised by each that the amendment is acceptable to them.

Just for the benefit of the Senate, let me explain in one sentence what it does.

Mr. ROBERT C. BYRD. Mr. President, we cannot hear the Senator.

The PRESIDING OFFICER. Will the Senators please carry their conversations outside? The Senator is entitled to be heard.

The Senator from Idaho.

Mr. McCLURE. Inadvertently, under the present status of the law, the State may spend money to identify high-hazard locations, but the present law does not permit the use of Federal funds to eliminate these hazards. This amendment would add that as a permissible use of the funds. It does not mandate it.

Mr. President, my amendment is intended to permit the most beneficial use of highway safety funds apportioned to States for the Federal safer roads demonstration program. A problem with existing law was recently brought to my attention by the Idaho Traffic Safety Commission. Currently, States are required to survey potential safety problems on non-Federal-aid roads and establish priorities for their correction.

Federal funds under the safer roads program are available to assist in the correction of some of the problems identified but not others. Specifically, while the law calls for identification of high hazard locations, it does not permit use of Federal funds to eliminate these hazards.

This apparent inconsistency was purposely included in 1973 legislation by the Senate Public Works Committee to avoid what we feared would be the use of limited safety funds for major construction projects to correct high-hazard locations. Our fears have not been borne out. Those high-hazard locations which have been included in State surveys, would, for the most part, require relatively small expenditures to correct. For example, in my State of Idaho, 28 projects to correct high-hazard locations were identified, at a total estimated cost of $401,857. These projects include such work as installing guardrails and left turn bays, improving grades where visibility is poor, and improving intersections. Each of the proposed projects on the Idaho list is estimated to cost less than $100,000. Unless we amend existing law, Idaho and other States will not be able to spend their safer roads funds on those projects with the greatest payoff in safety benefits. My amendment simply permits the Federal funds to be used for these modest projects which have been determined to have a high priority. It is my understanding that the Federal Highway Administration has found that the high-hazard location projects with greatest cost-benefit ratios are those of modest, spot-improvement nature. I would expect that projects of this type would be the most likely candidates for funding as high-hazard location corrections under the safer roads demonstration program and thus would not preempt a disproportionate share of the program's funds.

Mr. President, I ask unanimous consent that the colloquy on my amendment and a letter I received from the Idaho Traffic Safety Commission be printed at this point in the Record.

There being no objection, the colloquy and the letter were ordered to be printed in the Record as follows:

Colloquy on McClure Amendment

Mr. Bentsen. Do I understand that you are not proposing to authorize any additional funds for the Safer Roads Demonstration Program but merely to expand the types of projects eligible for funds under this program?

Mr. McClure. That is correct.

Mr. Bentsen. And is it your intent in proposing this amendment that the types of high hazard corrections eligible for funds under this program should be those requiring relatively modest expenditure of funds?

Mr. McClure. That is my intent.

State of Idaho,
Traffic Safety Commission,
Boise, Idaho, June 14, 1974.

Senator James A. McClure,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

Dear Senator McClure: The Idaho Traffic Safety Commission was assigned the responsibility of establishing the priority programs for the Section 230 program of the Highway Safety Act of 1973. We have followed the guidelines provided to us to the best of our ability. We have been in close contact with the cities and counties by mail, telephone and through a series of meetings. During these meetings, which included personnel from our office, Department of Highways and Federal Highway Administration, a great deal of interest was expressed in projects to correct high hazard locations. Many of these hazardous locations have a higher accident experience or accident potential than other projects we discussed with the local officials.

The priority list has been developed in keeping with the financial and interest constraints we had to accept in working with local governments. We now face a major problem as we proceed from planning to implementation of the program. This problem evolves from the way the law is written.

Paragraph (b) of Section 405 of Title 23, U.S. Code, requires that "each state shall identify projects for the Federal-aid safer roads demonstration program for all public roads in such State not on the Federal-aid system, including projects to improve highway marking and signing, to eliminate roadside obstacles, to eliminate hazards at railroad-highway crossings and to correct high hazard locations ...". The paragraph further states that "Each State shall assign priorities for and undertake the systematic correction of identified hazards, to provide for the most effective improvement in highway safety." The provisions in subsection 405(b) are countered in subsection 405(c) which states "There is authorized to be appropriated for the Federal-aid safer roads demonstration program for projects ... for the removal of roadside obstacles, the elimination of hazards at railroad-highway grade crossings and the proper marking and signing of highways in accordance with subsection (b) of this section ..." varying amounts of money. Subsection 405(c) does not allow funds to be used for the correction of high hazard locations.

A memo from J. J. Crowley, Director of the Office of Traffic Operations to Regional Administrator Lacy further refers to this issue in substantiating that the Section 405 funds can not be used to correct high hazard locations. Research for this memo states that the Senate Public Works Committee staff has indicated this omission was not an oversight; it was deliberate. It is obviously concluded that high hazard projects are not eligible for assistance under the safe roads demonstration program.

It is our opinion that the inability to fund projects we reviewed for the safer roads demonstration program greatly inhibits the ability of this program to provide the most effective improvement in highway safety. As we have reviewed the accident experience of the hazardous locations on our priority list, we find that projects to eliminate or correct these hazards would have far more impact on reducing accidents than many of our projects for signing or railroad crossings. It is very disconcerting, for example, not to be able to fund a project location with seven accidents in one year because it is *only* a hazardous location when you can fund a railroad-highway grade crossing that has one accident in ten years. This is hardly the way to spend money to effectively improve highway safety. As will be discussed more fully, 32 percent of the valid projects we reviewed for the safe roads demonstration program were for correction of high hazard locations. The removal of this many projects from our priority list certainly does not enable us to improve highway safety.

The impact of the omission of high hazard locations from funding, is substantial to Idaho. We were able to develop interest and funding with local governments for 98 projects at a total cost of $1,883,915. During our initial review of these 98 projects, we placed 3 projects into other categorical programs of the 1973 Highway Safety Act because they are on the Federal-aid system. We eliminated 7 projects because they did not meet the purposes of the safer roads program. These were for new or replacement bridges, sidewalks or bridge railings for pedestrian protection. The value of these 10 eliminated projects was $566,686 leaving valid projects totaling $1,317,229. There were 28 projects to correct high hazard locations at a value of $401,857. The costs for funding for high hazard projects equaled 30.5% of the valid project costs under the safer roads demonstration program and as stated previously 32% of the projects that were valid under the program. The removal of this much of our priority program because of the deliberate omission of high hazards from funding is not the way to effectively improve highway safety.

Idaho's apportionment for the three years for the safer roads demonstration program totals $1,554,700. The federal funds that would be required for the high hazard projects in our priority list would be $361,671. This means we have projects for 23.3% of our federal funds which we can not activate. Our three year priority list has eligible projects for only 53% of the apportionment and leaves $730,465 unutilized. The need and the merit of this safety program is such that we can not let this happen. We will again contact the cities and counties of Idaho to determine if they have interest and financial capabilities to fund other projects that are eligible under this program. In making these additional contacts, however, we are being forced to ask the local governments to change their emphasis on what truly makes a road safer if they want to receive federal assistance in a project.

We ask your assistance in requesting the germane committees of Congress to immediately amend Section 405(c) Title 23, United States Code, to include funding for high hazard locations. We are certain the impact of this omission is as serious in other states as it is in Idaho. We believe there is validity to our request as outlined in this letter. We do not believe the law as written will be effective in improving highway safety as anticipated in the law. We do not believe it is rational to be required to identify problems and be asked to correct these systematically and not be able to use Federal-aid funds to do this correction. We cannot request city or county governments to eliminate or reduce these hazards if we do not provide assistance with Federal-aid funds. We must provide an incentive to local governments if we are to gain their cooperation in enhancing traffic safety. Our previous experience with the Section 402 Highway Safety Program indicates we receive many benefits beyond the Federal aid assistance program once we develop interest by local government.

We appreciate your assistance in obtaining modification of the current law as we have suggested.

Sincerely,

PAT EHRLICH,
Director.

Mr. BENTSEN. Mr. President, I would say to the distinguished Senator from the State of Idaho I see no objection at all to it. I would agree to it as far as the position of the manager of the bill is concerned.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STAFFORD. Mr. President, for the minority, we are willing to accept the amendment of the Senator from Idaho just now. I yield the remainder of my time.

Mr. BENTSEN. I yield the remainder of my time.

The PRESIDING OFFICER. All the time having been yielded back, the question is on agreeing to the amendment of the Senator from Idaho. [Putting the question.]

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I do not have an amendment and I do not intend to take a great deal of time reviewing three sections of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Will the Senator from Vermont yield me 5 minutes on the bill?

Mr. STAFFORD. I would be glad to yield to the Senator from New Mexico 5 minutes on the bill.

Mr. DOMENICI. I thank the Senator from Vermont.

First, I compliment the Senator from Texas and the Senator from Vermont for the excellent job that they have done on the bill, particularly with reference to a very difficult section. Highway beautification was a very difficult one, and I think they have done an excellent job.

I call to the attention of the Senate that there is a new provision in that beautification section that permits States to establish information centers. I proposed that, and I think it is very important that we emphasize that that is one of the things we want because this will be an exception. The House has not done this before.

I ask unanimous consent that the remarks found at page 15 of the committee report pertaining to that matter be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record as follows:

More significantly, the Committee, for the first time, provided for Federal financial assistance to the States in establishing information centers at safety rest areas and other travel information systems within the rights-of-way of Interstate and primary highways. The Federal share of the cost of establishing the information centers and other alternate information systems is 75 percent, and up to 20 percent of the funds provided for section 131 may be used for these purposes. The Committee regards this as a positive step, which will give the States new incentives to expand traveler's information services.

By including these provisions, the Committee has broadened the potential for disseminating information along major highways, and it has done so without stopping the billboard removal program in its tracks, just at the time it is beginning to be effective.

Mr. DOMENICI. Second, I think we have ignored once again talking about carpooling. Here again I thank the manager of the bill and the distinguished Senator from Vermont for accepting my proposals. They are very critical with some departments of Government, as they applied our last year's carpooling. On page 21 of the report there are three paragraphs that adequately reflect our concern as to why we extended it for a year, and what we expect. I ask unanimous consent that those three paragraphs be printed in the Record.

There being no objection, the remarks on carpooling were ordered to be printed in the Record, as follows:

CARPOOLING

This section modifies provisions of the Emergency Highway Energy Conservation Act (P.L. 93–239) relating to incentives for carpooling. That law established a carpool demonstration program in an effort to conserve fuel, decrease rush-hour traffic congestion, and improve air quality.

P.L. 93–239 projects may include measures to locate potential carpool riders, buy necessary traffic control devices, and designate existing highway lanes and parking areas for preferential carpool use. Under that law, project financing is to come from authorizations for Federal-aid urban and urban extension highway systems.

Testimony before the Committee, however, showed that some states have failed to allow some major cities to utilize their urban system funds for carpooling work, subverting the intent of Congress for a real national demonstration.

This section extends the date for application for such projects by one year to December 31, 1975, and authorizes $15,000,000 out of the Highway Trust Fund specifically for carpooling programs.

Mr. DOMENICI. Third, I thank the entire committee for their assistance with reference to the Indian reservation roads and bridges. We made a significant amendment there that was brought to our attention because of a complex problem in the State of New Mexico involving the State, counties, the Navajo irrigation problem, and the like. Here again I think we opted for some flexibility yet protection.

The report at page 4 and continuing on page 5 clearly reflects the legislative intent, the reasons why we came upon this amendment, and I ask unanimous consent that those statements be printed in the RECORD.

There being no objection, the remarks on Indian reservation roads and bridges were ordered to be printed in the RECORD, as follows:

INDIAN RESERVATION ROADS AND BRIDGES

To accommodate increasingly diversified transportation requirements, the Committee has in the past decade sought to provide flexibility in the use of Federal highway funds and to insure that representatives of various areas within each State have a voice in how highway funds are spent.

This amendment to those sections of title 23 which deal with roads and bridges on or leading to Indian reservations or lands would add flexibility to the type of projects for which Indian reservation road and bridge funds could be obligated. Under existing regulations, funds authorized for programing by the Bureau of Indian Affairs may not be used on roads which are part of a State's Federal-aid system. This limitation was imposed to encourage States to provide adequate funds for construction and maintenance of routes of statewide importance and to preserve limited Indian road funds for use on roads of more local significance.

The Committee amendment would permit Indian road funds to be used on Federal-aid routes within or providing access to Indian lands where the upgrading of such routes would provide particular benefits to the Indian communities and Indian economic development. To insure that a State does not decrease expenditure of its apportioned funds for Federal-aid roads within or giving access to Indian lands because this new source of funds is available, the Committee has included language requiring the Secretary to determine that use of Indian road monies is supplementary to and not in lieu of normal State expenditures for such routes.

The changes in existing law have equal application to Indian lands in all States. The particular situation which prompted the proposed change, however, is the urgent need to construct and upgrade portions of three New Mexico highways serving two major developments on Navajo lands in the Four Corners region of the State: the Navajo Indian Irrigation Project and seven planned coal gasification plants.

The only significant access to the area is by road. Two highways now provide north-south connections into the area: New Mexico route 666 between Gallup and Shiprock and New Mexico route 44 from Albuquerque to Bloomfield. Both routes are on the Federal-aid primary system and both urgently need upgrading. A third highway, New Mexico route 371, is presently being surveyed and designed; it will be part of the Federal-aid secondary system, connecting Farmington, the major population center in the Four Corners area, with Interstate 40 and the railroad to the south.

In order to maximize the economic and social benefits to the Navajo Nation of these two massive development projects the Committee propose to increase funds authorized for Indian reservation roads and bridges by a total of $25 million over the fiscal years 1974, 1975, and 1976. This is less than half the estimated amount needed to construct the aforementioned routes to the standards necessary to meet projected needs. The State has already approved as part of its five-year road construction plan expenditure of $12.6 million on these three routes and may very well commit more State funds to match Federal money. The Committee has been informed that State and local sources will be developed to meet the remaining need for approximately $25 million. These sources include the State of New Mexico; the counties of San Juan, Sandoval, McKinley and Rio Arriba; the city of Farmington; the Navajo Tribe; El Paso Natural Gas Company and Western Gasification Company. The Committee expects that funds from such sources will be secured at an early date in order to insure that Federal funds made available under this section, together with all other monies, are sufficient to provide the transportation facilities necessary to realize maximum benefits from the Irrigation Project and gasification plants.

Mr. DOMENICI. I thank the Senator from Vermont for yielding me the moments I have used.

I yield back the remainder of my time.

Mr. CURTIS. Mr. President, I send an amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

Beginning with line 11, page 17, strike everything through line 8, page 19.

The PRESIDING OFFICER. Who yields time?

Mr. CURTIS. I yield myself such time as I desire.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. Mr. President, the language that I strike removes from this pending proposal the provision that the Federal 55-mile-an-hour speed limit is to be permanent.

Were the Senate to adopt my amendment, it would still leave in effect the temporary law wherein Congress previously voted a 55-mile-an-hour speed limit as a temporary measure to conserve fuel.

The committee bill repeals that and the committee bill is a first venture on the part of the Federal Government to establish a Federal speed limit.

If we take this step and it becomes law, hereafter the Senate will have to divert attention away from the many national problems we have and legislate speed limits for all highways.

I would remind the Senate that the regulation of traffic is a local matter. I would remind the Senate that it is the States that issue the drivers' licenses. One way we can enforce traffic laws is by taking away the drivers' licenses. Some States have a system whereby a person gets so many demerits for certain offenses. The States have highway patrols to enforce State law. They have ample local courts to handle traffic matters.

Now, what we do here, the Federal Government makes the decision as to what the law is, and no machinery to enforce it. It is enforced by withholding the funds from the States.

What are we going to do when another Congress fixes a different limit?

How much time of Congress is going to be devoted to debating the limits?

It was enacted as a temporary measure to conserve fuel.

If the Senate adopts my amendment, that temporary law will still be in effect, and if we have not solved our fuel problem, and we will not have, Congress can in its wisdom extend that or change it, but I seriously object to the idea of a permanent Federal speed law.

I realize that those who have worked on this bill are very anxious to get it passed without amendment, and they have great influence, because they have worked on this a long time, but regardless of how others vote, I could not sit idly by and be a party to lessening the power of the States and localities and enhancing the power and burdens and responsibility of the Federal Government.

Mr. President, this amendment does not create a safety issue. If this bill becomes law, 30 days from now with my amendment in it we will still have the 55-mile-an-hour speed limit, but it will be a temporary measure to meet an emergency. We will not have made the decision to transfer to the Federal Government the jurisdiction and the power and authority to regulate speed limits.

Mr. President, the States are irritated now about all the requirements placed on them and if they do not comply, their Federal funds are in jeopardy.

This is not good government. That sort of coercion is not the right way to do it.

If I understand the committee language correctly, they are legislating a speed limit for all highways, whether or not there are Federal funds in it, as a permanent matter.

That is what is at issue here.

Mr. President, I would like to ask those in charge of the legislation a question about this proposal.

Has this proposal been presented to the States, or any number of them?

Mr. RANDOLPH. In response to the inquiry from my able colleague from Nebraska, it certainly has, and I shall read into the RECORD many of the letters from the Governors of the States.

I have written to the Governors on three occasions in reference to this matter and we have made a record over and over again in the Senate. We made it as recently as May 13 when we had a rollcall on this matter when the able Senator from Kansas (Mr. DOLE) presented his amendment to increase the speed limit from 55 to 60 miles an hour. The vote was then 52 against the amendment and 29 for.

Mr. CURTIS. May I inquire at that point, was the issue there a question of permanent speed limit to be established by the Federal Government?

Mr. RANDOLPH. Yes, I so feel that it was. It certainly is today. I had not felt that we would make the argument against the Senator's proposal and, apparently, against the proposal of the Senator from Kansas, I did not anticipate that we would do it twice, but I am prepared to do it, and I am prepared to read the letters from the Governors of many of the States of the Senators who are here.

Mr. CURTIS. Do those letters relate to the rate of speed or do they relate to the particular issue that I have raised as to the Federal Government writing permanent law fixing a speed limit?

Mr. RANDOLPH. As an indication, I will read from the letter of the Governor of Georgia. He replies to my letter under date of August 26. In that letter he states:

> I support the strong enforcement of the 55 miles per hour limit and legislation to extend this reduced limit indefinitely.

That letter is signed by Jimmy Carter.

Mr. CURTIS. What other Governors have urged its extension indefinitely?

Mr. RANDOLPH. Many, many. I will read into the Record at this time the names of the responding Governors:

Governor George Wallace of Alabama.
Governor Jack Williams of Arizona.
Governor Dale Bumpers of Arkansas.
Governor Ronald Reagan of California.
Governom Thomas Meskill of Connecticut.
Governor George Ariyoshi of Hawaii.
Governor Dan Walker of Illinois.
Governor Robert Docking of Kansas.
Governor Kenneth Curtis of Maine.
Governor Marvin Mandel of Maryland.
Governor Francis Sargent of Massachusetts.
Governor Brenden Byrne of New Jersey.
Governor Wendell Anderson of Minnesota.
Governor John Gilligan of Ohio.
Governor Tom McCall of Oregon.
Governor Milton Shapp of Pennsylvania.
Governor Mills Godwin of Virginia.
Governor Calvin Rampton of Utah.
Governor Arch Moore of West Virginia.

Mr. CURTIS. The majority of them?

Mr. RANDOLPH. We have received 20 letters since my letter of July 10, 1974. Most of these were received in the last 2 or 3 weeks.

Mr. CURTIS. Is this provision in the House bill?

Mr. RANDOLPH. I would have to say that I am not informed at this moment about the House measure on this matter.

Mr. CURTIS. Has it appeared in any legislative proposal before this one in the Senate?

Mr. RANDOLPH. Yes. We first had it in connection with the energy allocation bill, which was a temporary measure. We have addressed ourselves to it on at least one occasion since.

Mr. CURTIS. I understood the Senator to say on a temporary basis. What I am objecting to here is not a conservation measure, something based upon the necessity of meeting an emergency. What I am talking about is notice to the States that as a permanent matter we are going to regulate these speed limits.

Mr. RANDOLPH. Yes, we have so indicated to the States. Since the vote was taken, as I have indicated, on May 13, I addressed a further letter to all of the Governors.

Mr. CURTIS. And the Senator has had about 20 replies?

Mr. RANDOLPH. I am not sure of the exact number. Of course, I will make it a matter of documentation—20 letters received.

Mr. CURTIS. Mr. President, the hour is late. The issue is clear. There may be a majority of the Senators who prefer to transfer this power to the Federal Government. I think we ought to vote on it. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. Mr. President, I do want to refer specifically to the measure (S. 3556) that is pending, cosponsored by Senator Stafford, Senator Percy, and myself, which attempts to do exactly what is being done as a part of this bill. I will say to the Senator from Nebraska that since S. 3556 was introduced on June 10, 1974, we have not received any letters in opposition to the 55-mile-per-hour speed limit. And as previously indicated, 20 Governors have written letters supporting this reduction. We have also received support for the reduction from Secretary of Transportation Claude Brinegar and John Sawhill of the Federal Energy Administration.

A recent FEA survey—in conjunction with FHWA—shows a savings in fuel of approximately 5 million gallons per day or 600 million gallons in the first 4 months of 1974. This means an annual savings of 1,896 million gallons of fuel, with an annual total savings for all gasoline powered vehicles of approximately 3.1 billion gallons.

These figures are based on a composite car average for rural, primary, and interstate driving. Urban areas already less than 55 miles per hour were not considered in this data.

Based on a 14 State cross-section, the national barrels per day rate for June of 1974, of 6,722,000 was a decrease both from the June 1973, rate of 7,228,000 and June 1972, rate of 7,196,000. June 1974 compared to June 1973 shows a decrease in gasoline sales of approximately 7 percent.

Mr. STAFFORD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STAFFORD. Who controls the time on this particular amendment?

The PRESIDING OFFICER. The Senator from Nebraska and the Senator from Texas.

Mr. STAFFORD. Would the Senator yield me 2 minutes?

Mr. BENTSEN. I will be pleased to yield to the distinguished Senator from Vermont.

Mr. STAFFORD. I appreciate the Senator yielding.

This is only in reply to the distinguished Senator from Nebraska (Mr. Curtis). It is simply to point out to him that on July 25 in the Record beginning at page 25131, Senator Percy, one of the cosponsors of the speed limit bill, made a statement to the Senate and therein he said:

> I have now received responses from 27 Governors, and I am pleased to report that most of them share my conviction that the reduced speed limit is helping us save some 73 million barrels of fuel per year and, to a great extent, is responsible for the dramatic decline in traffic fatalities and disabling injuries we have witnessed since the 55-mile-an-hour speed limit became effective. Most of the Governors are therefore enthusiastic in their endorsement of S. 3556 which sets the national permanent speed limit.

I will not go on further, I would say to the distinguished Senator, except to say that the letters in question, at least 26 of them, are printed beginning on page 25131.

Mr. CURTIS. Do these letters specifically refer to proposals for a permanent law on the part of the Federal Government?

Mr. STAFFORD. I would have to say to the distinguished Senator that I have not had the chance to read them through myself.

I do not know specifically what each says, but they are endorsing a speed limit of 55 miles per hour for the two reasons I mentioned, the saving of fuel and the saving of lives.

Mr. CURTIS. We would still have a 55-mile-an-hour speed limit if my amendment is adopted.

Mr. STAFFORD. But, I would say to the distinguished Senator, only for a very short time.

Mr. President, at this point in time I ask unanimous consent that a statement by Senator Charles Percy be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Charles H. Percy

I wish to express my full support for that provision of S. 3934 which would extend indefinitely the nationwide 55 mph speed limit. This provision, which would become section 154 of the U.S. highway code, incorporates the substance of S. 3556, the bill I introduced in May along with the distinguished Chairman of the Public Works Committee, Senator Randolph, and the distinguished ranking minority member of the Subcommittee on Roads, Senator Stafford. My colleagues Senators Weicker, Ribicoff, Chiles, and Gravel have all cosponsored this legislation.

I am deeply indebted to the Chairman and members of the Public Works Committee for adopting the substance of S. 3556 during the Committee's consideration of the highway bill. Chairman Randolph is the father of the 55 mph speed limit, which was enacted last January, and his sustained support for the extension of the speed limit has been invaluable to the succes of this legislation.

I am also greatly appreciative of the tremendous support given to S. 3556 by the Administration and by many public-spirited citizen groups. Both the Secretary of Transportation, Claude S. Brinegar, and the Federal Energy Administrator, John C. Sawhill, have strongly endorsed the indefinite extension of the 55 mph speed limit on behalf of the Administration. Their letters of support are printed in the Committee's report on pages 23–28.

The benefits of the national uniform 55 mph speed limit are overwhelming both in terms of energy conserved and human lives preserved. These dramatic savings in fuel and lives have been reaffirmed every month since the lower speed limits began last November, and the savings have been greatest in those states which have had lower speed limits in effect the longest.

In July 1974, the latest month for which complete statistics are available, highway fatalities nationwide declined 17% from the level of July 1973, according to the National Safety Council. For the full seven-month period since the national uniform speed limit was enacted, highway deaths were down 22% from the same period in 1973.

In human terms, this means that the lives of some 7000 men, women, and children have already been saved this year and perhaps 5000 others will be spared a tragic death on the highways before the end of 1974. These 12,000 people whose lives will be saved this year owe their survival largely to the reduced highway speed limit.

In addition, according to National Safety Council statistics, some 230,000 fewer people have been injured in highway accidents during the first seven months of this year, compared with the same period in 1973. This is a 21% reduction in injuries from last year.

More dramatic evidence of the benefits of the 55 mph speed limit was provided over the recent Labor Day weekend. Despite the fact that traffic volume had nearly returned to 1973 levels, the fatality rate was sharply lower than last year. This year's Labor Day highway death toll was the lowest since 1962, according to the National Safety Council.

These safety statistics, which translate in very real terms into human lives saved, are all the more remarkable because they were an unexpected by-product of the energy crisis. The national uniform speed limit was enacted originally for the purpose of saving motor fuel, and significant conservation of fuel has indeed resulted from it. The Federal Energy Administration estimates that 5 million gallons of fuel are being saved every day because of the reduced speed limit.

This fuel saving alone might well be sufficient reason for continuing the present maximum speed limit beyond its expiration date next June 30, but the saving in human lives makes it imperative that we retain the 55 mph speed limit.

I strongly urge the Senate to pass this legislation today, so that Americans can continue to slow down and live.

Mr. JAVITS. Will the Senator yield for 2 minutes?

Mr. BENTSEN. I am delighted to yield to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I am opposed to this amendment, but it gives me an opportunity to make a statement to the Senate about a matter which I think is of the highest importance, which this typifies. That is the speed with which we have forgotten what we endured in the winter of 1973–74 on gasoline. Today the fact that we are continuing to transgress is even worse than it was then.

The United States is hemorrhaging to the extent of $25 billion a year, what it is paying to a small number of Arab states, and the rest of the world about $50 billion a year. We cannot stand it. It is simply impossible. You will break this world if you keep this up.

The only way you can talk turkey to the people who are holding us up in the biggest trust action this world has ever seen—that is what OPEC is, and nothing less—is if you cut your consumption and have to buy less. That they can understand.

Therefore, this and many other measures along the same line are indispensable as an element in the struggle against inflation and in the dreadful danger to the world which is being posed by the bleeding of the balance of payments which I have just described.

Mr. President, I do not want to delay the Senate, but this seemed such a striking example of where we are so deficient in our anti-inflation efforts, and in our efforts to deal with this holdup in terms of the oil price, that I felt I should call it to the attention of the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. If the Senator from Nebraska is ready to yield back the remainder of his time, I am ready to yield back the remainder of my time.

Mr. CURTIS. I ask unanimous consent that I be allowed to withdraw the request for the yeas and nays.

The request for the yeas and nays was withdrawn.

Mr. CURTIS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from Nebraska.

The amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment as follows:

> On page 17, line 19, insert the following after the phrase "in excess of" change the word "fifty-five" to "sixty". On page 18, lines 23 and 24, strike the phrase "reduction in speed limits to conserve fuel" and insert in lieu thereof the phrase "change in speed limits pursuant to this section."

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for one moment?

Mr. DOLE. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time on this amendment be limited to 10 minutes, to be equally divided between the sponsor thereof and the Senator from Texas.

The PRESIDING OFFICER. Is there objection?

Mr. RANDOLPH. Reserving the right to object——

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, very briefly, the amendment which I am proposing will supplement the one offered earlier by the distinguished Senator from Vermont (Mr. STAFFORD) and accepted by the committee.

My amendment expands upon and complements that of Senator STAFFORD, however, by permitting flexibility downward from 60 miles per hour instead of 55. In addition, it makes one essential change in language to ensure that States could use Federal-aid highway funds to pay the cost of any necessary road sign modification.

So the maximum speed limit under this amendment could be as high as 60 miles per hour, according to the determination of the respective States. It could also be set at any speed less than 60—for example, 55, 50, or 45. That is the sole difference between the intent of our two amendments.

CONSERVATION AND SAFETY

We have been over and over the topics of fuel conservation and highway safety with regard to the speed limit issue, and it is unnecessary at this point to go into a long debate over savings in fuel and savings in lives. Certainly, there is no one here who does not have the utmost concern for both those critically important factors.

But the point I want to make is that it does not take a permanent, uniform, maximum national speed limit to achieve the desired goals in each of these areas. What it does take is a reasonable, acceptable upper-limit guideline within which the States can operate to establish the speed requirements according to the conditions and needs of their own jurisdictions.

And I believe that that reasonable, acceptable standard ought to be 60 miles per hour—in consideration of the interests of all the States.

SPEED ONLY PART OF PROBLEM

To demonstrate what I mean by the premise that what is proper for a heavily populated State on the east coast is not necessarily right for a "wide-open space" State in the Great Plains, West or Southwest, I would call my colleagues' attention to some figures printed in the committee report of S. 3934. These refer specifically to the chart of estimated traffic fatalities in each respective State.

What these figures show is that in 1973—before the "emergency" measure to reduce speed limits to 55 miles per hour—the State of New Jersey, for example, had 423 fatalities with a maximum speed limit of 60. New York had 955 highway deaths with a 65 miles per hour maximum, and Illinois 622 fatalities at 70 miles per hour.

Kansas, Nebraska, North Dakota, South Dakota and Wyoming, on the other hand—all with the much higher limit of 75 miles per hour—had only 162, 122, 51, 63, and 39 highway deaths respectively. And what this signifies to me is that speed was not nearly so much a factor in these States as it was in the others.

FIGURES DRAMATIZE

The figures are dramatized even further when one considers the "percent change" column from 1973 to 1974, with the 55-mile-per-hour limit in effect. For the heavily populated States which lowered their speed limits by only 5, 10, or 15 miles per hour, almost uniformly had greater percentages of change than those like Kansas which dropped theirs a full 20 miles per hour.

I think it is a very valid observation, then, when comparing the 2.56-percent change in Wyoming and the —18.51-percent change in Kansas with the —33.3-percent change in New Jersey, and—26.5-percent change in New York, that a 55-mile-per-hour speed limit in those latter States is not one bit safer than a 60-mile-per-hour limit in the less-populated States further West, which are also less congested trafficwise.

SAVE MORE LIVES

The inescapable conclusion from all this is that we can save more lives in Kansas at 60 miles per hour than east coast States can at 55 miles per hour, simply because our highways are straighter, flatter, less heavily traveled, more open, and yes—safer. Why not, therefore, give us the opportunity to demonstrate it?

In fairness to my good friend from the State of West Virginia and sponsor of the permanent 55-mile-per-hour provision (Mr. Randolph), I have refrained from using that State as an example in these illustrations because their number of estimated fatalities will actually have risen from 1973 to 1974, despite the maximum limit being reduced on their Interstate System from 70 miles per hour for most of 1973 to 55 miles per hour for 1974.

However, it is significant, I believe, that according to extrapolated figures supplied by the Federal Highway Administration, West Virginia—with a speed of 55 miles per hour on its open highways before the energy crisis—had approximately 1 death per 15,000 population. During the same time period, the State of Kansas—although its speed limit was a full 20 miles per hour higher—had very nearly the same death toll of 1 for every 14,000 persons residing in the State. Moreover, the previously mentioned States of New York and New Jersey still had very high per capita death tolls in spite of their much more sophisticated public and mass transportation systems.

LETTERS FROM GOVERNORS

I believe it is significant to point out that while the authors of the permanent 55-miles-per-hour maximum speed limit sought to rally the support of the Nation's Governors on their proposal, even many of the letters they had printed in alleged "favor" of the concept expressed grave reservations about its propriety. I refer specifically to those from the Governors of Kansas and New Mexico, who in essence alluded to the varying conditions across the country by saying that:

> Legislation developed in the Congress for all 50 States does not necessarily fit the needs of all 50 States.

And:

> We in the western States confront a situation probably not encountered in your great State. Because many of the western States are sparsely populated and larger than their sister States to the East, the 55 MPH limit affects the population more dramatically.

This, to me, is sentiment which we cannot ignore and must consider before setting out on the dangerous course of establishing a permanent national limit of any speed.

SEVERE PROBLEM FOR TRUCKERS

A definite situation which must be addressed with regard to the 55 miles per hour speed limit is the extremely serious impact it is having on the American trucking industry. Time is money to this industry and the new speed limit has cost the Nation's truckers a great deal in lengthened trip times and reduced loads per month, while they have faced even higher fuel prices and reduced fuel mileage.

The detrimental impact on the trucking industry is something that affects the entire Nation, and the increased economic expenditure is an additional factor contributing to inflation. Keeping the industry operating at an efficient level is vital to the entire Nation.

INDIVIDUAL PREFERENCE

Having given full consideration to the elements of fuel conservation and highway safety, another important factor to confront before legislating a certain national maximum limit is the individual preference of each American highway driver to be affected by the decision. The reason this "acceptability" factor is so relevant is that it will ultimately determine whether the limit that is set will be adhered to—and very realistically, whether it is one that can and will be enforced.

In a recent survey I conducted in the State of Kansas, over 53 percent of the 20,000 persons polled said that, with all regard for saving both energy and lives, they believed that 60 miles per hour was a fair, acceptable, realistic, and preferable speed to travel. By comparison, a high of only 27 percent favored any other figure—55, 65 or whatever.

I strongly believe that essentially the same result would be true in most Midwestern, Southwestern, and far Western States, and feel that we have an obligation to respond to these views.

ENFORCEMENT OF REASONABLE LIMIT

In expanding on the "enforceability" aspect of the speed limit situation, it is quite clear, I think, that 55 miles per hour is neither being followed nor "followed up." In Kansas, for example a survey by the highway patrol indicated that an average speed of approximately 60 miles per hour has been the practice since the first of this year.

In a similar private study conducted in 14 States during the same period, the general response was the same: That a very low compliance level now exists and that 60–62 miles per hour is the average speed. These 14 States included Arkansas, Florida, Iowa, Kansas, Massachusetts, Michigan, New York, Ohio, Virginia, Mississippi, Oregon, Rhode Island, South Carolina and Pennsylvania.

The Wall Street Journal of August 2, 1974, further emphasized this fact with an article which listed the noncompliance rate in the State of California as 80 percent. And every Senator who has been on a public highway recently is undoubtedly aware of the same thing—that people just do not find 55 miles per hour to be an acceptable limit.

OPTIONAL AND FLEXIBLE LIMIT

Therefore, unless we are going to make a mockery out of the whole speed limit process, I suggest that we act to establish a reasonable level with enough flexibility to suit the needs of all the States. By adopting my amendment, we would give them the option of keeping their limits at 55 if they so choose.

But we would also be allowing them to set their maximums for highway travel at 60 miles per hour if they determine that such a speed better corresponds with the particular needs and conditions of their own jurisdictions—without sacrificing any savings in fuel or lives. I think we owe them that discretionary authority, and hope that my colleagues will agree by supporting this amendment.

MATTER FOR STATES

Mr. President, let me reemphasize one final point before yielding. We are all concerned with safety. We have heard it discussed earlier with respect to the ignition-interlock seatbelt systems. We are going to have it discussed again and again by some who advocate still lower speed limits.

I am just suggesting that in certain parts of this country—in the wide open spaces and in the flatlands of the Midwest and in other similar areas around our Nation—60 is unquestionably a reasonable and safe speed.

I still believe, as the Governor of my State believes, that what is good for New York or Massachusetts or West Virginia is not necessarily good for Nevada, Nebraska, or Kansas. Therefore, speed limits are a matter which should be left, within at least a reasonable range of discretion, to the State legislatures.

Mr. President, I ask unanimous consent that the letter to Senator Percy from Governor Docking of Kansas be included in the Record at this point, and with that I reserve the remainder of my time.

There being no objection, the letter was ordered to be printed in the Record, as follows:

State of Kansas,
Office of the Governor,
Topeka, Kans., July 2, 1974.

Hon. Charles H. Percy,
U.S. Senator of Illinois,
Senate Office Building,
Washington, D.C.

Dear Senator Percy: Thank you for your recent letter alerting me to legislation you are sponsoring to extend indefinitely the 55 mph speed limit on United States Highways.

I certainly agree with the need for safety measures on our highways to reduce accidents, and the need for energy conservation measures. In Kansas, we have taken steps to achieve both objectives. I know that your proposal to extend indefinitely the highway maximum speed has been developed with the best of intentions. However, I oppose the federal government dictating to the states.

Too many times, it seems to me, the federal government resorts to blackmail in attempting to coerce the states into accepting legislation. I am opposed to the "gun to the head" approach used by the federal government to force the states to pass certain legislation developed in the Congress for all 50 states does not necessarily fit the needs of all 50 states; what is good legislation for New York or Massachusetts is not necessarily good legislation for Nevada or Kansas.

In my state, our problem is distance. Many persons oppose the 55 mph speed limit here because of the hardship it works on many persons and businesses.

Conservation and safety measures are needed. My request is that the federal government and the Congress allow the states to develop legislation that will achieve these goals with the best interests of their citizens foremost in mind.

Thank you for allowing me this opportunity to comment on your proposal for extending indefinitely the 55 mph speed limit.

With every good wish.

Yours sincerely,

ROBERT DOCKING,
Governor of Kansas.

Mr. BENTSEN. Mr. President, I yield 4 minutes to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I am sure that the Senator from Kansas, who is effective in most matters, will not think that today we would reverse the vote which took place on May 13, a rollcall vote in this Chamber on exactly the same amendment that he offers for our consideration at this time.

Mr. DOLE. Mr. President, if the Senator will yield, this amendment is somewhat different from that because here the 60-miles-per-hour limit is permissive—to be determined by the States—and in the other it was not.

Mr. RANDOLPH. The rollcall vote at that time was 52 to 29 against the essence of the amendment.

I will place in the RECORD the letters from the Governors. I have a letter from Mr. John C. McKay, director of the Energy Agency of Minnesota, containing a very important endorsement of the 55-miles-an-hour speed limit. I have a letter from Governor McCall of Oregon, who says:

> We are now equipping Oregon State Police with "moving radar," which allows an officer to "clock" the speed of an on-coming car while his patrol car is in motion. This is part of our commitment to enforce the 55 m.p.h. limit rigorously. I am concerned that if widespread disregard of the limit developed, a larger-than-normal disparity in speeds might develop which could make the limit counterproductive for safety.

I have a letter from Governor Carter, of Georgia, and I have a letter from Gov. Malcolm Wilson, of New York, who states:

> The data concerning savings in gas and lives resulting from this speed restriction are encouraging and you may be assured that New York State will continue to enforce it.

I invite the attention of my able colleague to the letter from the Governor of Kansas. This is his expression, in part:

> There is no doubt that there is a wide acceptance of the 55 mph speed limit and our Economic Development Department, as well as our State Highway Commission, relates to me that there has been a dramatic rise in in-state driving. Thus, our home folks are really, in a sense, rediscovering the merits of their own countryside and recreational areas.

The Board of the Epilepsy Foundation said something that perhaps is very moving. Action taken by that organization is stated in this language:

> This lower speed limit is probably the most important thing to happen in epilepsy prevention for a very long time. This reduction has substantially reduced the number of serious head injuries which is perhaps the most significant reduction in injuries received in traffic accidents.

That was contained in a resolution urging the adoption of the permanent 55-mile-an-hour speed limit.

We have had, of course, the endorsement of the Department of Transportation, through Secretary Brinegar. We have had the endorsement of a very large number of governors by vigorous letters of support. No governor has written us in opposition to the continuance of the 55-mile-an-hour speed limit. We have had no word from the Governors' Conference, which is familiar with the provision to be offered and which has been pending in the Senate for almost a month before being brought here today.

This increase to 60 miles per hour would defeat much of that national speed limit's purpose.

During our December 11, 1973, hearings, Secretary Brinegar indicated that a speed of 60 miles per hour would use 6 percent more fuel than 50 miles per hour would. The Senate has already compromised by agreeing to a 55-mile-per-hour speed limit which conserves only two-thirds the amount of fuel as the 50 miles per hour would. A 60-mile-per-hour limit would save even less. At 60, 886 million gallons would be saved per year by cars and only 1.2 million gallons for all vehicles.

Everyone also tends to push the limit a little bit. Thus, 50 miles per hour is actually around 54–55; our 55-mile-per-hour limit is usually pushed close to 60 even with strict enforcement at present; setting the actual limit at 60 miles per hour would effectively kill significant fuel savings.

It is also Secretary Brinegar's position, "that between 50 and 55 miles per hour fuel efficiencies of trucks and buses are unchanged. But as you push to 60 miles per hour—with increased wind resistance overall efficiencies again decline."

Vehicle miles traveled, according to FHWA, reached 1973 levels starting in April, and still there has been both a reduction in fatalities and declines in gasoline sales.

Mr. President, I ask unanimous consent to have the letters to which I have referred printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF MINNESOTA ENERGY AGENCY,
Saint Paul, Minn., August 29, 1974.

Hon. JENNINGS RANDOLPH,
Chairman, Senate Public Works Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR RANDOLPH: As director of the Minnesota Energy Agency, I am expressing the satisfaction our staff feels to read of the 55 mph national speed limit that would become a permanent feature of the American highway if your committee's recommendations are approved. I join FEA Administrator John Sawhill in endorsing your action and assure you of the Minnesota state government's support of the proposed legislation.

With the thought that it might be of interest to you, I am enclosing a copy of Minnesota H. F. 2862, now law, a bill authorizing the Governor of our state and the state highway commission to take similar action. Minnesota is operating under the 55 mph law and has had the dual successful record of lowered energy consumption and lowered accident rates recorded generally across the nation. It is also state policy under Chapter 307 to encourage car pooling, as in your legislation.

We urge your continued efforts on behalf of this bill and assure you of our cooperation if and when it becomes law.

Very truly yours,

JOHN C. MCKAY,
Director.

OFFICE OF THE GOVERNOR,
Salem, August 28, 1974.

Hon. JENNINGS RANDOLPH,
U.S. Senate, Committee on Public Works, Washington, D.C.

DEAR SENATOR RANDOLPH: We in Oregon established a 55 m.p.h. speed limit during the energy crisis last year before Congress acted. While our primary motivation was to conserve energy, the limit also has saved lives in Oregon. Motorists are obeying the limit fairly well based on a June survey. Checks at 13 stations around the state showed speed increases only a fraction of a mile per hour above May, and about three miles per hour above results last December (the month following the imposition of the limit).

The energy crisis has resulted in fewer miles traveled, as well as lower speeds. Miles traveled for the first five months of 1974 were down 8.59 percent from the year before. On the state highway system, the reduction in travel was 11.9 percent. Compare how closely ties parallels the 12.6 percent drop in fatalities between January and May, 1974, on the roads where the speed limit has not been lowered. On the other hand, deaths were down 60.5 percent during this period on the freeways and highways where the speed limit had previously been higher.

Therefore, for the first five months of 1974, traffic deaths on roads where the speed limits were unchanged were reduced about the same percentage as the reduction in travel. However, on those roads where the speed limit was reduced, fatalities are down substantially more than the reduction in miles traveled.

We are now equipping Oregon State Police with "moving radar," which allows an officer to "clock" the speed of an on-coming car while his patrol car is in motion. This is part of our commitment to enforce the 55 m.p.h. limit rigorously. I am concerned that if widespread disregard of the limit developed, a larger-than-normal disparity in speeds might develop which could make the limit counterproductive for safety.

I commend your interest in traffic safety. The time is right for the Federal government to concern itself more intensively with domestic problems and develop a true Federal-State partnership for traffic safety.

In this regard, the 1975 Highway Safety Appropriations Bill is now before the Senate after passing the House with the funds for the incentive grants deleted. We have been notified that Oregon is eligible for such a bonus for 1973. Please do all you can to support incentive grants in the 1975 bill. I would appreciate your efforts toward a long-term goal of replacing existing penalty provisions with such grants.

Enclosed for your information is a publication of the Oregon Traffic Safety Commission, some of which deals with the 55 m.p.h. limit.

Sincerely,

TOM MCCALL,
Governor.

EXECUTIVE DEPARTMENT,
Atlanta, August 26, 1974.

Hon. JENNINGS RANDOLPH,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR RANDOLPH: Thank you for your letter urging continued strong enforcement of the nationwide 55 miles per hour speed limit. The results of the reduced speed limit indicate the tremendous savings that can be made through conservation programs in terms of petroleum products, consumer dollars, and most importantly human lives. Thus far, Georgia's highway death rate has dropped almost thirty percent below that for the same period in 1973.

Even though there are competing economic considerations which require further study, I believe at this time they are outweighed by the savings and benefits of the reduced speed limit. Therefore, I support the strong enforcement of the 55 miles per hour limit and legislation to extend this reduced limit indefinitely.

Sincerely,

JIMMY CARTER.

STATE OF NEW YORK,
EXECUTIVE CHAMBER,
Albany, August 7, 1974.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works, U.S. Senate, Washington, D.C.

DEAR SENATOR RANDOLPH: This is in reply to your letter of July 10th concerning the uniform nationwide speed limit of 55 miles per hour.

The data concerning savings in gas and lives resulting from this speed restriction are encouraging and you may be assured that New York State will continue to enforce it.

Sincerely,

MALCOLM WILSON.

OFFICE OF THE GOVERNOR,
Topeka, Kans., July 25, 1974.

Hon. JENNINGS RANDOLPH,
Senior Senator from West Virginia, Chairman, Committee on Public Works, New Senate Office Building, Washington, D.C.

DEAR JENNINGS: Thank you for your letter of July 10, in which you so substantively expressed your concern about the 55 mile per hour speed limit and its beneficial effects on energy saving as well as the reduction of traffic fatalities and accidents.

Kansas records reflect that as of July 15, 258 fatalities were reported, a reduction of 125 lives from the 383 of comparable 1973 period. It is a logical assumption that lower speeds do reduce deaths on the highways and we certainly have proof of it in the records.

I assure you of our continuing efforts to maintain the slower speed limits. In fact, a recent survey indicated that the average speed on the Interstate highways was only slightly above the 55 mph limit. There is, admittedly, a tendency by some motorists to stretch these limits, possibly because they are not as rigidly enforced as in Kansas.

There is no doubt that there is a wide acceptance of the 55 mph speed limit and our Economic Development Department, as well as our State Highway Commission, relates to me that there has been a dramatic rise in in-state driving. Thus, our home folks are really, in a sense, rediscovering the merits of their own countryside and recreational areas.

Your sharing with me your views is much appreciated and I assure you of our cooperation and understanding.

With every good wish.

Yours sincerely,

ROBERT DOCKING,
Governor of Kansas.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Who yields time?

Mr. DOLE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. DOLE. I want to make still another point in that case; that I am not advocating any maximum Federal speed limit which would be uniformly implemented in every State. What I am suggesting by my amendment is that the Governor of Nevada, the Governor of West Virginia, the Governor of my State, and the Governor of Nebraska, if they wish—acting with their State legislatures—can make the speed limit on the highway systems of their own States 60 miles per hour if they deem it appropriate.

I have letters from governors, too. I have one from the Governor of my State which has just been printed, and another from the Governor of New Mexico, Mr. King, both of whom print out that we have to consider the wide-open spaces—the different parts of the country in which everyone lives.

I have already mentioned, but I call attention again to the survey conducted in 14 States where it was found that there was a very low rate of compliance with the 55-mile-per-hour speed limit. Most people were driving 60 miles per hour and more. And in one State—the State of West Virginia—when the speed limit was lowered from 70 to 55 miles per hour, the death rate actually went up nearly 10 percent.

Again I state that we should give the Governors of the States and the State legislatures the right to determine at what speed the drivers in their jurisdictions should drive, so long as it does not exceed what I consider to be a very fair, reasonable and safe maximum speed in many States, including Kansas. And even if our State is the only one out of 50 that wishes to establish a 60-miles-per-hour maximum—even if all 49 others want to remain at 55, we should have the opportunity to make that determination.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. CURTIS. Is it not true that a speed of 55 miles an hour in some types of terrain and conditions of traffic is more hazardous than perhaps 60 miles per hour would be in level country, where the roads are straight and the visibility is unimpaired?

Mr. DOLE. I am certain that studies would bear that observation out, just as they would also show a substantially greater savings in fuel driving at an uninterrupted sustained speed of 60 miles per hour, as opposed to stop and go, acceleration and deceleration driving at basically 55 miles per hour on a congested highway regardless of terrain.

Mr. BENTSEN. Mr. President, I yield my remaining minute to the Senator from Vermont.

Mr. STAFFORD. I thank the distinguished Senator from Texas for yielding.

Mr. President, there is no need for any extended statement in defense of the proposal to set a national 55-mile-per-hour speed limit. The Senate has previously rejected efforts to set aside or to increase that maximum, and I trust this latest effort will also be rejected.

The basic argument in favor of the 55-mile-per-hour speed limit is that it saves lives and it saves gasoline.

By now the record is absolutely clear. The reduced speed limit of 55 miles per hour has been saving about 1,000 lives a month on our Nation's highways. In effect, that means a return to higher speeds will mean the death of more motorists on our highways.

How can we consider any increase above the 55-mile-per-hour limit when we know such an increase means more people will be killed?

Now, about saving gasoline. The Highway Users Federation has told us that holding the maximum highway speed limit to 55 miles per hour will save 5.3 million gallons of gasoline each day, compared to a national speed limit of 60 miles per hour. Of course, the savings in gasoline would be even greater if we compare 55 miles per hour to a speed limit higher than 60 mile per hour.

Our energy shortage has eased, but it is still with us. We cannot afford to ignore every opportunity to save gasoline at this time in history. And, of course, there is no time in our history when we can afford to ignore the opportunity to save lives.

I urge the Senate to support the committee recommendation.

Mr. BENTSEN. Mr. President, I yield 3 minutes to the distinguished chairman of the full committee on the bill.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 3 minutes.

Mr. RANDOLPH. Mr. President, I appreciate the manager of the bill giving me this opportunity to come back to the question raised in reference to what you have indicated as the wide open spaces of certain parts of our country. I am certain that would be applicable to Kansas.

I should like the RECORD to reflect that in the period January through April of 1973, there were 162 traffic fatalities. For the same months in 1974, the figure is 132. That is a decrease in fatalities of more than 18.5 percent.

Mr. President, I ask unanimous consent that the record of estimated traffic fatalities of all the States be printed in the RECORD so that we may read it.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

ESTIMATED TRAFFIC FATALITIES JANUARY-APRIL

State	1974	1973	Percent change
Alabama	315	387	−18.60
Alaska	19	13	+46.15
Arizona	184	293	−37.2
Arkansas	147	193	−23.83
California	1,040	1,434	−27.4
Colorado	147	166	−11.44
Connecticut	100	147	−31.97
Delaware	20	42	−52.38
Florida	752	963	−21.9
Georgia	456	561	−18.7
Hawaii	42	40	+5.0
Idaho	71	93	−23.65
Illinois	511	622	−17.8
Indiana	309	509	−39.2
Iowa	174	224	−22.32
Kansas	132	162	−18.51
Kentucky	228	322	−29.19
Louisiana	218	310	−29.67
Maine	42	53	−20.75
Maryland	170	264	−35.60
Massachusetts	256	304	−15.78
Michigan	447	572	−21.8
Minnesota	217	261	−16.23
Mississippi	211	271	−22.14
Missouri	232	364	−36.2
Montana	55	83	−33.73
Nebraska	95	122	−22.13
Nevada	55	77	−28.57
New Hampshire	31	28	+10.78
New Jersey	282	423	−33.3
New Mexico	123	172	−28.48
New York	701	955	−26.5
North Carolina	462	526	−12.16
North Dakota	28	51	−41.07
Ohio	565	666	−15.1
Oklahoma	189	205	−7.80
Oregon	139	196	−30.61
Pennsylvania	597	728	−17.0
Rhode Island	19	51	−62.74
South Carolina	256	293	−12.62
South Dakota	51	63	−19.04
Tennessee	406	438	−7.30
Texas	811	1,144	−28.8
Utah	40	100	−60.0
Vermont	23	39	−41.02
Virginia	270	355	−23.94

ESTIMATED TRAFFIC FATALITIES JAN.-APR.—Continued

State	1974	1973	Percent change
Washington	180	224	−19.64
West Virginia	126	115	+9.56
Wisconsin	126	308	−59.0
Wyoming	38	39	−2.56
Total	12,129	16,030	−23.77

Mr. RANDOLPH. In January, February, March, April, May, and June—that is not last year, that is this year—we had a saving of 6,000 lives, lives that would have been lost in traffic fatalities. The percentage of change was 23 plus, 24 plus, 22 plus, 22.5 plus. The record is there.

It is very clear that there is not only a saving of fuel but of lives.

We have a program of across the board support that not only saves fuel, but saves lives and gives the people of this country some joy in riding through the countryside of Kansas and some other States, without the tension we have had in the past.

Mr. DOLE. Will the Senator yield to me for just one moment?

Mr. RANDOLPH. Yes, indeed.

Mr. DOLE. I wish to explain that there was a drop of over 18 percent in fatalities in Kansas when the speed limit was reduced a full 20 miles per hour, from 75 to 55. However, in the Senator's State of West Virginia, according to his committee report, the fatalities went up 10 percent—in spite of the fact that the interstate highway speed limit was reduced from 70 to 55. And I wonder how he might explain that?

Also, I am not suggesting that safety is not a factor, I am just submitting that the States should have the right to set their own speed limit as long as it does not go above 60 miles per hour.

I have faith in my State legislators and in my governor. If they feel that it is an appropriate speed and want to set the limit at 60, they should have that right. That is the only argument here.

Mr. RANDOLPH. Mr. President, I can only say that the Senator from Kansas is wrong.

I said that to him in May and I say it, respectfully, to him now. I am confident that the Senate will defeat this proposed amendment more soundly than on May 13. The Senate can vote on this matter, and certainly then we shall have the feeling of the body.

The PRESIDING OFFICER (Mr. MOSS). The time of the Senator from West Virginia has expired.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

I further announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are absent on official business.

I further announce that the Senator from Oklahoma (Mr. BELLMON) is absent due to illness.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "nay."

The result was announced—yeas 22, nays 63, as follows:

[No. 393 Leg.]

YEAS—22

Abourezk
Bayh
Curtis
Dole
Eagleton
Fannin
Griffin
Gurney
Hansen
Hruska
Johnston
Kennedy
Long
McGovern
Pearson
Scott, William L.
Stevens
Stevenson
Taft
Thurmond
Tower
Young

NAYS—63

Aiken
Allen
Baker
Bartlett
Beall
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Domenici
Eastland
Ervin
Hart
Hartke
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Jackson
Javits
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Symington
Tunney
Weicker
Williams

NOT VOTING—15

Bellmon
Bennett
Cook
Cotton
Dominick
Fong
Fulbright
Goldwater
Gravel
Haskell
Helms
Humphrey
Inouye
Percy
Talmadge

So. Mr. DOLE's amendment was rejected.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MUSKIE. Mr. President, I am supporting the revised truck weight limits contained in S. 3934, the Federal-Aid Highway Amendments of 1974, proposed by the Public Works Committee.

I do so for several reasons. First, the increases in the maximum allowable weight per axle and in the gross weight allowable—from 73,280 to 80,000—are reasonable, particularly since there have been no increases since 1956.

Second, the legislation contains another weight limit control, known as the "bridge formula," which establishes specific limits according to a combination of factors—that is, the number of axles, axle spacing, and gross weights. This formula will be particularly useful to professional highway administrators, since it would provide them with a flexible tool for applying strict limits to a wide variety of vehicles.

Third, the legislation is important to my home State of Maine in that it will establish similar limits on weight per axle currently applicable to interstate highways in Maine to interstate highways throughout the country. Also, it will establish the same gross weight limits to interstate highways everywhere which are now applicable to the Maine Turnpike and other noninterstate highways in Maine for our State's most important products.

In other words, Maine commercial truck transportation will be able to travel as freely throughout the country as is now generally possible in Maine.

Transportation — particularly truck transportation—is basic to Maine's economic livelihood. We are far from the principal markets for many of the products we produce. Trucks provide a vital link betwen producer and buyer.

The equalization of truck weight limits which will result from this legislation would have a beneficial effect on an important segment of Maine industry and on the economy as a whole. I urge its adoption.

Mr. PACKWOOD. Mr. President, I have become increasingly concerned in past weeks over the directions highway beautification legislation is taking in the House. It seems that the House Public Works Committee is supporting a bill which would prove highly detrimental to Oregon's billboard removal program. The Senate bill, fortunately, is a decent bill and will allow Oregon's program to move forward on schedule. I am pleased to lend my support to the Senate bill and can only hope that the House will see the folly in any efforts to weaken the Highway Beautification Act.

My own State of Oregon is out ahead in its billboard removal program and, in fact, had its own program long before the Federal act was passed. Oregon's provisions are far more stringent than those contained in the Federal act. Now with its program more than two-thirds complete, at an expenditure of around $4 million, it would be disastrous indeed from Oregon's standpoint should Federal funds for the program be curtailed or provisions adopted which would in effect stymie programs such as Oregon's.

The Federal-Aid Highway Amendments of 1974 which we are considering today contain a sound highway beautification section. As pointed out in the Senate Public Works Committee report:

> At the end of calendar year 1973, approximately 200,000 nonconforming, illegal, and abandoned signs have been removed. Thus far this year, more than 25,000 additional signs have been removed by the States. Clearly, now is not the time, after many

years of effort, to slow the program or vitiate its intent to eliminate the visual pollution along our major highways . . . it is imperative that this legislation be enacted, in order that the program be allowed to proceed in an orderly manner.

And, further, as cautioned by the American Association of State Highway and Transportation Officials:

> Any curtailment in the program can have an adverse effect within the individual States in their ability to move forward expeditiously on this program. It not only causes difficulty in the administration of a program with start and stop features, it causes problems for the administrators with their State legislatures in requesting matching funds to carry on a program, as well as changes in State law to make them compatible with Federal laws when the Federal program is then delayed for one reason or another.

Mr. President, I have written each member of the House Public Works Committee advising of my State's concerns over legislation pending in that committee. I hope that Congress will heed these concerns and will take note of the Senate action to provide a strong billboard removal program with the funding necessary to allow it to move ahead at a steady pace.

I ask unanimous consent that there be printed at this point in the RECORD a letter received from Oregon's Governor McCall concerning problems with the House legislation, as well as a copy of a background statement prepared by the Oregon Travel Information Council and an article which appeared in the August 22, 1974, issue of Time magazine.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
Salem, Oreg., August 23, 1974.

Hon. GERALD FORD,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am deeply concerned about certain provisions in H.R. 16093, a measure which proposes amendments to the Federal Highway Beautification Act controlling outdoor advertising, Section 131, Title 23, U.S.C.

Oregon enacted legislation controlling outdoor advertising many years before the Federal Act was passed, and its provisions are far more stringent than those contained in the Federal Act.

Oregon is actively pursuing the removal of outdoor advertising signs and its program is more than two-thirds complete, at an expenditure of some $4,000,000. We anticipate having the program finished by January 1, 1975, at a total expenditure in excess of $6,000,000. Seventy-five percent of this sum represents federal funds.

Oregon long ago recognized the need to provide information to the traveling public to compensate for removal of the information contained on outdoor advertising signs. As a result of the federal legislation, Oregon enacted statutes authorizing the Logo Board Program, which is being actively developed. I understand we are one of two states in the United States that have progressed this far.

In addition to the Logo Board Program, the state has contracted through its Travel Information Council with a private concern to provide information plazas in all rest areas on the Interstate and primary system. These plazas will be attractive structures containing commercial advertising for travel-oriented businesses. Forty percent of the display area will be used for public service information supplied by the state, and sixty percent will be available for commercial advertising.

There are provisions in H.R. 16093 that will, in my opinion, severely affect the sign removal program in Oregon; and, in some respects, negate the effect of the Highway Beautification Act which was primarily designed to reduce the visible pollution of our countryside by an array of outdoor advertising signs. Some of the specific objections I have are as follows:

On page 8 of the bill, under "Control of Outdoor Advertising," the amendment to subsection (c) of section 131 of Title 23, U.S.C., disturbs me. It expands the definition of "directional signs" to include, but not be limited to, signs relating to rest stops, camping grounds, food services, gas, automotive services and lodging. These directional signs are signs which would be owned by outdoor advertising companies and would be installed outside of the highway right-of-way in any zones throughout the state. Oregon law now prohibits outdoor advertising signs in any zones other than those that are commercial and industrial. The language of the bill section does not make it clear whether this provision would be mandatory or optional.

The amendment to subsection (f) of section 131 of Title 23, U.S.C., appears to put a damper on the Logo Board Program. It restricts the use of Logo Boards in suburban or urban areas and also provides that they cannot be erected where adequate definition of "directional signs." I do not understand how this particular section would be interpreted, since Oregon does not allow directional signs except those that relate to publicly or privately owned natural phenomena, and to historical, cultural, scientific, educational and religious sights. If we do not allow directional signs that relate to other subject matter, are we penalized in the development of our Logo Board Program?

The additional provisions of H.R. 16093 that would add new language to section 131 of Title 23, U.S.C., disturb me even more. New subparagraph (o) of section 131, when read in conjunction with the amendments to subparagraph (f), appears to curtail the Logo Board Program in Oregon and allow signs to stay up that would come down under existing state law. The part of subsection (o) that bothers me is the reference to whether a sign had specific information in interest of the traveling public on June 1, 1972. Copy on advertising signs can change on a monthly or yearly basis, and this reference to what a certain sign contained at a certain date seems an ambiguous basis upon which to determine whether it could stay up or must come down.

The provisions of new subsection (q) are unclear. They refer to the implementation of state laws enacted to comply with section 131. Oregon long ago enacted state legislation to comply with section 131, and we have an existing contract with the Federal Government relating to this very subject. A copy of this agreement is enclosed.

The provisions contained in new paragraph (q) seem vague. They relate to a state that already has laws stricter than existing federal laws or the proposed federal laws. I believe a provision should be put in this section to provide that if state laws are more strict than federal laws, state law would control.

While many states throughout this country have been reluctant to enter into the Highway Beautification Program, Oregon has done so in a forthright and energetic manner—but it appears this legislation would be detrimental to Oregon. We are leading the nation in removal of outdoor advertising signs, and in providing the information to the traveling public they need to replace what they might see on outdoor advertising signs.

I solicit your support in changing this bill, to provide that states have the option of adopting legislation stricter than the federal legislation; or, if they have legislation in effect that is stricter than the federal legislation, the federal law will not supersede the state legislation.

The proposed legislation would penalize a state that has actively undertaken the removal of outdoor advertising signs. The proposed legislation would require the adoption of national standards which would take a considerable length of time to be formulated. In the meantime, the status of our program in Oregon would be in confusion. The inequities that would come about are real. Those advertisers who have had their signs taken down are being penalized and those advertisers whose signs still remain are gaining an advantage.

Another inequity involves cases where the state has contracted with a private contractor to provide information plazas. The contract was entered into on the assumption that all non-conforming outdoor advertising signs would come down. If we are not allowed to continue our sign removal program, the basis upon which the contract was made is gone, and the possibility of the program's failing is real.

Oregon has proceeded with the removal of outdoor advertising signs on the assumption that federal law would remain reasonably constant. It appears now that Congress wants to change the rules of the game in the fourth quarter.

Sincerely,

TOM MCCALL,
Governor.

HIGHWAY BEAUTIFICATION BACKGROUND

On July 24, 1974, Representative John Kluczynski introduced H.R. 16093, the Federal Aid Highway Act of 1974 which is currently under consideration by the House Public Works Committee. There is much concern that the provisions of the Outdoor Advertising Section of the Act would be very detrimental to the Oregon Beautification effort, as well as highway beautification efforts throughout the country.

Current highway beautification law calls for the orderly removal of outdoor advertising signs outside of zoned commercial and industrial areas and provides three alternative means to communicate information to the traveling public; logo signs, information plazas and directional signs. A state may install motorist information "logo" signs within the right of way to display the trademark or logo of several businesses on a large backboard located in advance of an interchange. Under current regulations, separate backboards are provided for gas, food, lodging and campground facilities. A state may also inform travelers through the use of information plazas that display advertisements for businesses as well as public service information. These information plazas are to be located in rest areas and scenic overlooks. Finally, directional signs located outside of the highway right of way may be installed by outdoor advertising companies to provide information for places of scientific, educational, historic or cultural interest. These directional signs are limited to 150 square feet and are to be erected by private individuals, not the state.

Oregon has chosen to utilize all three of the available methods to convey information to the traveling public. Logo signs have been installed at six interchanges on the interstate system and a contract has been let for the installation of these signs at an additional 75 interchanges prior to the end of the year. A concession has been granted for the installation of information plazas in rest areas and three prototype units will be installed, legislation has been enacted and regulations provided for the installation of the limited number of directional signs allowed outside of the right of way.

The bill pending before the House Public Works Committee would have a drastic impact upon these alternatives. Under H.R. 16093, those businesses permitted to use directional signs outside of the right of way would be expanded to include "rest stops, camping grounds, food services, gas and automotive services and lodging." Further, the bill would allow the installation of three of these directional signs per mile in each direction of travel outside of zoned commercial and industrial areas.

The effect of this provision would be to enable outdoor advertising companies to install six signs per mile in the same areas in which the State of Oregon and Federal government are spending seven million dollars to remove all outdoor advertising signs. The potential impact of this measure would be to allow approximately 15,000 additional signs on Oregon's highways. That is more signs than would have been permitted under Oregon law before the initial beautification act of 1965. Nationally the estimated impact has been stated as allowing an additional one million billboards.

Tied in to this opening of the directional sign language would be the curtailment of the logo sign program. The bill provides that specific motorist information "logo" signs on interstate and primary highways may not be installed in lieu of outdoor advertising signs in zoned commercial and industrial areas or directional signs located outside of the right of way. Although logos would cost less, it is anticipated that businesses would prefer larger single purpose signs to advertise their services. By removing a large number of potential advertisers, the development of a comprehensive logo program would be impossible.

Further, the bill prevents the removal of outdoor advertising signs containing directional information that were in existence on June 1, 1972 until December 31, 1975 or until the state certifies that directional information is reasonably available by other methods. Enactment of this language would prevent any orderly takedown of billboards by Oregon's Highway Division.

Finally, the bill provides the *right* to an owner or operator to continue to have one non-conforming sign in each direction of travel on *each highway* within 75 miles of the business on which they had directional information as of June 1, 1972. These outdoor advertising signs are to remain until directional information can be provided by legally-installed outdoor advertising signs or on-premise signs or by other means as the state deems to be adequate. Again, an orderly outdoor advertising sign removal program would be impossible under this provision.

The Public Works Committee of the Senate has reported out S. 3934, a bill that is consistent with the initial intent of the Highway Beautification legislation established in 1965. However, it remains to be seen as to how the Senate version will fare in conference committee with the House.

[From Time, Aug. 22, 1974]

BEAUTY AND THE BILLBOARD

I think that I shall never see
A billboard lovely as a tree.
Perhaps, unless the billboards fall,
I'll never see a tree at all.

—Ogden Nash, "Song of the Open Road"

The Highway Beautification Act of 1965 was one of Lady Bird Johnson's pet projects. Inspired by visions of landscaped and uncluttered thoroughfares, she spearheaded the drive that resulted in a law banning billboards along major rural highways. Skimpy funding slowed down the billboard purge until 1971, but since then some 265,000 have been taken down and another half million slated for removal. Now Lady Bird's accomplishments may well be undermined by legislation expected to emerge from the House Public Works Committee sometime this week.

Ironically, the sponsor of that controversial bill is Lyndon Johnson's former friend and fellow Texan, Representative Jim Wright. Sympathetic to the billboard lobby, Wright has proposed several "beautification" amendments to the 1974 Highway Construction Act that take the teeth out of earlier legislation. The 1965 law prohibited signs within 660 feet of the right of way. Advertisers responded nimbly by placing jumbo signs just beyond the 660-ft. limit; they were even more unsightly than the smaller signs adjacent to the road. To counter this violation of the spirit of the law, the Senate Public Works Committee recently reported out a bill extending the ban to the limits of legibility. The amended House version, however, provides for control of signs beyond the 660-ft. limit only if they are "erected with the purpose of their message being read from the main traveled way." As critics of the amendment have pointed out, advertisers could easily slip a billboard between the lines of this vaguely phrased loophole. For example, they could ostensibly erect it for the benefit of motorists on a secondary road, but place it so that it was easily visible from the nearby interstate route.

The House bill would also permit six "directional" signs per mile—three facing each side of the highway. As the amendment is worded, "directional" is an umbrella term covering "rest stops, camping grounds, food, gas and automotive services, lodgings, natural wonders, scenic and historic attractions." The American Institute of Architects contends that by defining directional so loosely, the bill legitimizes 80% of the signs outlawed by the 1965 Act. John Francis, highway beautification coordinator for the Department of Transportation and the bill's most vociferous critic, estimates that it could result in the proliferation of more than a million billboards along interstate highways.

Mr. MONTOYA. Mr. President, today, the Senate is considering S. 3934, the Federal-Aid Highway Amendments of 1974. These amendments are not designed to effect a major revision of our Federal highway program, but rather their purpose is to make necessary adjustments in the Federal-aid program and to extend highway beautification activities. The Senate is fortunate to have the opportunity afforded by this bill to focus on individual aspects of the highway program which require immediate attention without having to consider the full Federal-aid highway program.

Mr. President, I am sure every Member of the Senate will agree that as a result of using inflation and the uncertain energy supply situation which confronts us today, certain adjustments in our Federal-aid highway program are timely.

Mr. President, I am pleased to be able to support this bill which takes important steps toward the improvement of our national highway construction system. I also want to express my appreciation to Senator LLOYD BENTSEN, the chairman of our Subcommittee on Transportation for the distinguished leadership he has provided during our consideration of this. Also, I commend my colleagues on the subcommittee and the full committee for their efforts in behalf of this bill.

Mr. President, all the provisions of this bill confront matters of importance which demand our full attention. At this time I would like to address myself to several important features which are contained in the bill.

Mr. President, of special interest is section 102 of the bill which allows funds for Indian reservation roads and trails to be used on Federal-aid highways on or leading to Indian lands and increasing the authorization for the program by $25 million. This section would permit Indian road funds to be used on Federal-aid routes within or leading to Indian lands where the upgrading of such routes would provide particular benefits to the Indian communities and Indian economic development. This section of the bill was prompted by the urgent need to construct and upgrade portions of three New Mexico highways serving two major developments on Navajo lands in the Four Corners region of the State. The Navajo Indian irrigation project and several planned coal gassification plants. This section, I believe, provides a greater degree of flexibility in the Indian roads program so that needed highway repairs and improvements will not be delayed merely because a road of vital importance to an Indian community happens to be a Federal-aid system road.

Mr. President, in order to assure that local Indian communities retain full control over Indian road funds I am cosponsoring an amendment, with Senator ABOUREZK, to assure that roads and bridges which are provided for Indian people in this bill meet with the approval of those same Indian communities in our national road building program, it is important that we remember the needs and the desires of all our citizens.

The amendment will not interfere with the intended provisions of the act, rather it will insure that Indian people have the opportunity to fully participate in this expanded Indian road program.

Mr. President, the permanent national speed limit of 55 miles per hour is an important element of this bill. The National Academy of Sciences reported to the Public Works Committee just last week that an estimated 4,000 deaths occur each year as a result of exhaust pollutants from automobiles. There is a major and continuing effort by all sectors of our society to reduce that figure. In this respect, it is important to note that during the first 6 months of the 55-mile-per-hour limit deaths were reduced on all highways by almost 6,000. We cannot, in good faith, spend billions to save lives from exhaust emissions without taking the vital step afforded by this bill to save even more lives.

Mr. President, of all the energy conservation measures available to us, the reduced speed limit has proved the most certain and the least difficult to secure for ourselves. At the height of the energy crisis during the oil embargo, this oil economy measure was critical. Now that that oil crisis has eased, it is important to remember that continued conservation remains important to energy self-sufficiency. Conservation is also vital to the continuing balance of payments problem as we struggle with inflation and the long-term economic ills of the Nation.

The Federal Energy Administrator, Mr. John Sawhill, reported to the Committee on Public Works that the reduced speed limit saves 5 million gallons of gasoline each day in automobiles alone. When that savings is applied to all vehicles, including trucks and buses, the fuel savings would amount to almost 100 million barrels of crude oil each year. With the increased and uncertain price of foreign oil, the enormous impact of that national savings to our economy is obvious.

Mr. President, the highway beautification program must be examined at this time. We have wrestled with the problem of controlling the number of billboards along our highways without imposing a total ban. The motoring public needs some information, and in many cases roadside signs are the most reasonable means to furnish that information. Other signs are painted on the sides of barns, and have come to be accepted through the years. Still others are painted on rocks and natural surfaces.

It is not the intent of Congress to attack the outdoor advertising industry. There must be some healthy balance between beautiful highways and certain types of advertising. This bill takes a constructive position to revitalize the highway beautification program, and provides for the exemption of signs of particular artistic or historic merit from removal by the Secretary of Transportation.

Mr. President, the bill authorizes $105 million a year for beautification programs. There have been no new authorizations for funds for more than a year leaving the program to survive on unobligated funds from past years. I am pleased to see that the Congress is taking the responsible step of supporting this program with increased funding to assure its effective operation.

Mr. President, the bill also contains provisions: First, allowing the termination of highway contracts under conditions where the materials necessary are not available from the expected supplier because of Federal actions; second, providing additional authorizations for the rural bus demonstration program approved last year; third, allowing the Alaska ferry to stop in Canada; fourth, providing $20 million, half from the highway trust fund, for bikeway facilities in urbanized areas; fifth, allowing an increase in the allowable weights of trucks on interstate highways; sixth, providing $20 million for bikeway facilities in urban areas; seventh, amending section 322 of title 23, which deals with eliminating rail-highway grade crossings in the Northeast corridor; eighth, increasing the authorization for the special bridge replacement program; ninth, setting up a separate authorization of approximately $116 million for the repair of bridges on the Overseas Highway leading to Key West, Fla.; tenth, authorizing $360,000 for an engineering study of a railroad relocation demonstration project; eleventh, authorizing all parkways, not just those on a Federal-aid system, to be financed out of the Highway Trust Fund; twelfth, creating a new program authorizing $15 million for each of 2 fiscal years for access roads to Federal reservoirs; thirteenth, assuring that public transportation facilities assisted with Federal-aid funds are accessible to the handicapped; and fourteenth, extending a carpool demonstration program for 1 year to be separately funded at a level of $15 million.

Mr. President, this bill provides the Senate with an opportunity to enact a carefully considered, and responsive highway program.

This bill is presented for passage only after a careful analysis of its economic impact. A total of $716 million is authorized in this bill for a variety of programs which will benefit millions of Americans, the young, the elderly, the handicapped, the Indian peoples of our Nation, and all those millions who travel our highways daily for business and pleasure. I believe that the Senate will agree that a comparison of costs with the benefits, demonstrates the reasonableness of this bill's cost.

I would stress again, that this bill is not intended to provide a final answer to all our transportation problems, but it is only an interim measure which addresses problems requiring immediate attention. Therefore, at this time I would urge my colleagues in the Senate to approve this bill as reported by the Public Works Committee.

NEW LONDON RAIL-HIGHWAY CROSSING

Mr. RIBICOFF. Mr. President, I thank the Senator from Texas (Mr. BENTSEN) and the other members of the committee for including S. 2869 in the Federal Aid Highway Amendments of 1974.

This bill, now section 118 of S. 3934, would allow the Department of Transportation to permit, under certain narrowly defined circumstances, selected public railroad-highway crossings along the highspeed Northeast rail corridor to remain at ground level and to be provided with appropriate warning and protection devices. Under the present law all public ground-level rail-highway crossings had to be eliminated and DOT had no power of exemption.

This provision is specifically designed to accommodate a situation in New London, Conn., where severe track curvature restricts trains to speeds no greater than 25 to 30 miles per hour.

At an October 2, 1973, meeting in my Senate office, DOT representatives agreed with me and New London city officials that the five crossings along this route—Spar Yard Street, Coast Guard Dock, Sail Loft, State Street, and Hallam Street—presented minimal hazards and could be protected without eliminating the crossings completely. This would mean a savings to the city of as much as $2 million.

While the legislation is broadly drawn, the Department of Transportation has stated that it is committed to applying it only to the New London situation, unless other situations develop which meet their safety criteria.

On behalf of the city and Senator WEICKER, who cosponsored this legislation, I would like to again thank the committee.

CLINTON PARKWAY

Mr. DOLE. Mr. President, it is gratifying to see that after a long, hard struggle, funding has been provided in the highway construction authorization bill for the Clinton Parkway in Lawrence, Kans. This authorization culminates the efforts of myself and many people in the State of Kansas.

In recent months, much attention has been focused on the traffic needs that will develop with the completion in 2 years of Clinton Lake in Douglas County, Kans. Because of the lake's proximity to the Kansas City metropolitan area, the Corps of Engineers estimates that more than 1 million persons per year will be driving to the lake's recreational facilities by the end of this decade. The existing route to the lake is a two-lane highway through the southern portion of Lawrence.

Continued reliance on this access route represents a clear danger to traffic safety. An improvement in the road is obviously needed. A great deal of work has already gone forward on this measure but the greatest difficulty has been the lack of funds. Federal assistance is greatly needed and this measure, if enacted, would help resolve that need.

Another important aspect of this legislation is that the cost-sharing provision insures that no project will be accomplished without the approval of local officials. In this manner, the officials of Lawrence and the surrounding community will have influence on the way these funds are spent, as they properly should. It is my hope that this legislation can be enacted soon so that the 50 percent cost-sharing for Clinton Parkway and similar projects can take effect as soon as possible.

Mr. CHURCH. Mr. President, I support the enactment of S. 3934, the Federal-Aid Highway Amendments of 1974.

As the chairman of the Senate Committee on Aging, I shall limit my remarks to proposed changes which have a direct impact upon aged and handicapped Americans.

The commitee bill has two key provisions to make mass transit projects financed with Federal-aid highway funds more accessible to the elderly and disabled.

First, S. 3934 provides that any project receiving Federal assistance under the urban mass transit, interstate transfer, or rural bus demonstration sections of the Federal-Aid Highway Act must be planned, designed, constructed, and operated to allow effective utilization by aged and handicapped persons.

The importance of this measure, it seems to me, cannot be overstated.

Today about one out of every seven Americans has a permanent disability. However, numerous studies show that these individuals can be productive citizens if given an opportunity to participate in our society.

To achieve this goal, it is absolutely essential that mass transit facilities be accessible to the physically handicapped, as well as older Americans.

Unfortunately, today many elderly and handicapped persons live under a form of house arrest, cut off from services, employment opportunities, and friends simply because mass transit services are inaccessible.

But these individuals deserve the same right to participate fully and effectively in our society as other Americans.

In this regard, S. 3934 makes it national policy that elderly and handicapped persons have the same right as other persons to utilize mass transportation systems funded under the Federal-Aid Highway Act.

This policy statement is similar to that found in the Urban Mass Transportation Assistance Act. However, it goes further in permitting the Secretary of Transportation to approve only those programs or projects which comply with the provisions of the Federal-Aid Highway Act.

Mr. President, our society should not become "off limits" to infirm older Americans or disabled persons.

And the provisions in S. 3934 represent a positive step forward in removing transportation barriers for these individuals.

For these reasons, I urge the adoption of the Federal-Aid Highway Amendments of 1974.

Mr. CHILES. Mr. President, I would like to go on record as supporting the provisions in S. 3934 to permit heavier trucks to use the Interstate Highway System. In my own State of Florida, I have been contacted by Governor Askew who is in support of this measure, and the Florida Department of Transportation which has read and considered this legislation, and, in fact, supports its enactment.

In the past I have normally voted against proposals which would increase the length, weight, or size of trucks on the highways. However, because of several changed conditions in our country, I feel that this measure is now needed. These conditions center around inflation, the need to increase productivity, and the problem of energy.

In my State of Florida the weight limits already exceed those proposed in the bill by 2,000 pounds for State single-axle loads, and 10,000 pounds for State tandem axle load limits. I would like for truckers in my State to be able to haul their produce across State lines into other parts of the country. I add, however, that these weight provisions are entirely permissive and must be enacted individually by States if they are to go into effect. Also, we are only talking about the Interstate Highway System which is considered by most highway transportation experts to be superior in construction and safety to most other systems in the country.

With continuing shortages in our energy supply and ever-increasing fuel prices, it is important that we allow trucks to utilize weight limits that are more reasonable in terms of capability and capacity. We are not speaking of flooding the highways with more trucks; we are speaking of more efficiently utilizing those already on the highways, and enhancing productivity. Energy shortages and inflation compel us to be as pragmatic as possible in our use of available resources. Not to do so would be wasteful.

Mr. President, I want to commend the distinguished chairman of the Public Works Committee, Senator RANDOLPH, and the chairman of the Subcommittee on Highways, Senator BENTSEN, and the committee membership for its fine work in developing this legislation.

I especially thank Senator RANDOLPH and Senator BENTSEN for their cooperation and assistance in assisting my State with a very pressing and serious problem —that is the problem of the Keys bridges, better known as the Overseas Highway.

If it were not for their leadership, my State would be faced with a replacement program which its resources would be unable to meet.

ACCESS TO FEDERAL LAKES

Mr. PEARSON. Mr. President, I rise today to express my appreciation to my colleagues on the Senate Public Works Committee for including an "access to Federal lakes" provision in the Federal-Aid Highway Amendments of 1974.

Two years ago the Senate unanimously adopted an amendment I offered to the Federal-Aid Highway Act of 1972 providing Federal aid for access roads to Federal lakes. The amendment was cosponsored by my colleague from Kansas (Mr. DOLE) and supported by the distinguished chairman (Mr. RANDOLPH) and by our former colleague from Kentucky (Mr. COOPER).

This provision in the 1974 bill is quite similar to the 1972 amendment. It establishes a national policy of Federal aid to assist hard-pressed local areas in developing adequate access roads to Federal lakes. It recognizes the need for a program to deal with the problems of traffic congestion, highway safety, and environmental conditions along access routes.

In 1972 the Army Corps of Engineers estimated that 300 million 1-day visits were made to recreation areas adjoining these lakes during 1971. The corps latest report estimates that in 1973 the total climbed to 344 million 1-day visits. The need for this program is greater now than it was 2 years ago.

I am also pleased to note that the committee report spells out the congressional intent that the Clinton Parkway access road in Douglas County, Kans., should be given priority consideration under this provision. This 4.1-mile stretch of road is badly needed to help the local authorities deal with the expected heavy increase in traffic after completion of the Clinton Reservoir. I believe the authorization provided in this bill will be instrumental in moving ahead with this parkway.

Mr. President, I want to again thank the Public Works Committee for its inclusion of this access roads provision in the bill.

The PRESIDING OFFICER (Mr. MOSS). The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for third reading, and was read the third time.

Mr. BENTSEN. Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

Several Senators addressed the Chair.

Mr. BENTSEN. Mr. President, before the final vote on passage, I yield myself 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Before we vote on final passage, I want to commend the participants in this debate for their effective presentation of arguments, on all sides. I believe we have had a productive discussion of the major issues in the bill.

Once again, let me thank our chairman, Senator RANDOLPH, for his fairness, his patience, and his deep concern with highway matters. He has been the model of an effective committee chairman.

To Senator STAFFORD, the ranking minority member, my renewed thanks for his diligence and his cooperation with me and my staff. The Senator from Vermont has been an effective partner with me on this and other legislation, and even when we have differed, he has been courteous and fair.

My thanks also to the ranking minority member of the full committee, Senator BAKER and to the other members of the Transportation Subcommittee and to the staff, whose names are listed in my opening statement.

I believe we have acted responsibly here today. We have voluntarily cut back our own bill by over 25 percent in authorizations and have come out with a modest bill, which fills in some of the gaps in last year's highway bill and adds some other provisions directly to energy conservation.

If we have some cooperation from the other body, I believe we can enact this bill this year.

I yield back the balance of my time.

Mr. STAFFORD. Mr. President, I yield 2 minutes of my time on the bill to Senator BAKER.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 2 minutes.

Mr. BAKER. Mr. President, I commend the distinguished manager of the bill (Mr. BENTSEN), the distinguished ranking minority member (Mr. STAFFORD), and the distinguished chairman of the full committee (Mr. RANDOLPH).

I express my regret that it was not possible for me to be here as most of the amendments were disposed of. The bill was brought up today by unanimous consent, with my full foreknowledge and agreement, notwithstanding that it was necessary for me to be out of the city to keep a speaking engagement of long standing.

Mr. President, the Federal-Aid Highway Amendments of 1974, S. 3934, supplements and clarifies the major highway legislation enacted in 1973. My colleagues on the Public Works Committee, the able chairman of the Transportation Subcommittee (Mr. BENTSEN) and the distinguished ranking Republican member of the subcommittee (Mr. STAFFORD), have summarized and explained the major provisions of the bill. I wish only to express my general support for the bill, to comment on a few specific provisions I believe to be important, and to state my opposition to the section that permits heavier trucks to use the Interstate System.

I am extremely pleased with the responsible decision not to authorize new funds for the ongoing Federal-aid highway programs at this time. Those of us on the Public Works Committee were aware, as I am sure are all my colleagues in the Senate, that inflation has had a particularly severe impact on highway construction costs.

Every month there are significant increases in the cost of building any given stretch of road. Funds authorized in 1973 will not finance as many miles of highway today as they would have in 1973. The committee considered increasing Federal-aid authorizations for fiscal 1975 and 1976 in order to maintain the programs at the level foreseen in 1973 and to expedite work on the Interstate System.

No member of the committee doubted the value of these objectives, but because of the overriding need to control Federal spending as one means of arresting inflation, and because of uncertainty as to the impact of the Impoundment Control Act of 1974 in the release of highway construction funds withheld in prior years, the committee believed it best to refrain from adding new authorizations for the Federal-aid highway systems.

The bill as reported contains authorizations for $716,610,000. This amount has now been reduced to less than $550,000,000. It includes funds for the highway beautification program, which needs funds if the program is to proceed, for emergency replacement of bridges providing the only access to the Florida Keys, for increasing the general bridge replacement authorizations, and for miscellaneous smaller programs where needs have been identified since enactment of the 1973 legislation.

Mr. President, at this point I would like to call attention to two sections of S. 3934 which, while not major provisions, are important. In 1973 the Senate included a provision in its highway legislation to fund all parkways out of the Highway Trust Fund. This change was intended to increase the amount of authorized funds actually being used to construct parkways, some of which have been authorized for decades and are still only partially completed.

In my own State, construction of portions of the Natchez Tract Parkway, a road which ultimately will stretch 443 miles through three States, and of the Foothills Parkway, is dependent upon the availability of funds already authorized for parkway construction.

The 1973 Senate provision was changed in conference so that only certain parkways would receive Highway Trust Fund moneys. The resulting scheme has made administration of the parkway program difficult and has delayed, rather than expedited, the program.

For this reason, S. 3934 includes the Senate language from 1973, providing once again that all parkways be financed from the trust fund. The committee expects that this change will make more readily available adequate funds with which to carry out parkway projects already authorized by Congress.

I would also like to call attention to section 108 of S. 3934, which conditions approval of State highway programs by the Secretary of Transportation on an annual certification by the State that the State's own vehicle size and weight laws are being enforced.

Oversized and overweight trucks pose safety and highway maintenance problems of substantial magnitude. Once a State has determined a reasonable size and weight limitation, based on conditions in that State, the Federal Government, which now contributes 70 percent of the cost of constructing any noninterstate Federal-aid highway, has an ininterest in seeing that its investment is protected by adequate enforcement of State laws.

A State which cannnot demonstrate to the Secretary's satisfaction that its size and weight laws are being enforced, either by the State itself or a political subdivision, will not receive approval of the highway program for that Federal-aid system where enforcement is lax.

I believe this is an important measure which will encourage States to undertake more effective measures to protect its own, and the Federal Government's, substantial investment in good roads.

Mr. President, this brings me to the issue of the increase in weights of vehicles permitted to use the Interstate System. I know that the increases contained in the committee's bill are labeled by their proponents as modest. I also know that the axle weight increases proposed are estimated to reduce the remaining life of existing highways by anywhere from 20 to 40 percent, according to testimony from the Association of State Highway and Transportation officials. This to me is not a modest price to pay for the weight increase.

I agree with the Senator from Vermont (Mr. STAFFORD) that the proposed increase will not be the last we hear from those promoting increased efficiency and economy in the trucking industry. If the higher axle weight limits, now adopted by the Senate, become law, the pressure will increase to raise the gross weight limits above the 80,000 pounds in the bill. Heavier trucks will eventually, if not immediately, mean bigger trucks. And if history is any guide, we know that the new Federal maximums will become the effective maximum in every State currently below the proposed new limits. For those of us who are concerned about the presence of bigger, heavier trucks on our highways, the amendment by the ranking member of the Transportation Subcommittee would have offered the surest way to limit further vehicle weight and size increases.

Finally, Mr. President, I want to state my personal support for the amendment that was offered by the junior Senator from New York (Mr. BUCKLEY) prohibiting Federal regulations requiring seatbelt ignition interlock or buzzer devices in automobiles.

We are all aware of the numerous complaints of malfunctioning systems which, in themselves, pose safety hazards. It is certainly true, also, that the interlock and buzzer systems have been perceived by a substantial portion of the American public as an unacceptable violation by Government of a personal freedom, albeit a freedom to foolishly disregard personal safety.

I believe the amendment offered by the Senator from New York and the Senator from Missouri (Mr. EAGLETON) was a reasonable approach which would not prejudice further research into and development of technology which could produce great savings in terms of lives and injuries. The amendment did, however, respond to the concerns of the American consumer that the Federal Government is intervening in decisions more appropriately left to personal choice.

Mr. President, this bill is the product of extensive hearings and deliberations by members of the Public Works Committee. The leadership of the chairman of the Transportation Subcommittee (Mr. BENTSEN) was outstanding. He has shown initiative in identifying needs and problem areas, and persistence in finding solutions. The ranking Republican on the subcommittee (Mr. STAFFORD) has contributed to the development of this bill by his creativity and diligence in dealing with the issues before us. The chairman of the full committee, the distinguished Senator from West Virginia (Mr. RANDOLPH), provided the sensitive leadership which continues to make working on the Public Works Committee rewarding, and produces legislation which bears the imprint of all the members of the committee.

The bill, S. 3934, is a responsible and modest one which meets the needs of the highway program in this interim period between major highway legislation, and I urge its adoption by the Senate.

Mr. MANSFIELD. Will the Senator yield me 15 minutes? [Laughter.]

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. METCALF. Mr. President, I ask for the regular order on the vote.

The PRESIDING OFFICER. The regular order has been called for.

All time has been yielded back.

Mr. STAFFORD. Mr. President, I yield back all my time.

The PRESIDING OFFICER. All time has been yielded back, and the question is, shall the bill pass? The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

I further announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Illinois (Mr. PERCY), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN: I announce that the Senator from Utah (Mr. BENNETT), the

Senator from Kentucky (Mr. Cook), the Senator from New Hampshire (Mr. Cotton), the Senator from Colorado (Mr. Dominick), the Senator from Arizona (Mr. Goldwater), and the Senator from North Carolina (Mr. Helms) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. Fong) and the Senator from Illinois (Mr. Percy) are absent on official business.

I further announce that the Senator from Oklahoma (Mr. Bellmon) is absent due to illness.

The result was announced—yeas 85, nays 0, as follows:

[No. 394 Leg.]

YEAS—85

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Curtis
Dole
Domenici
Eagleton
Eastland
Ervin
Fannin
Griffin
Gurney
Hansen
Hart
Hartke
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Hughes
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—15

Bellmon
Bennett
Cook
Cotton
Dominick
Fong
Fulbright
Goldwater
Gravel
Haskell
Helms
Humphrey
Inouye
Percy
Talmadge

So the bill (S. 3934) was passed, as follows:

S. 3934

An act to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal-Aid Highway Amendments of 1974".

PARKWAYS

Sec. 101. Paragraph (8) of subsection (a) of section 104 of the Federal-Aid Highway Act of 1973 is amended to read as follows:

"(8) For parkways, out of the Highway Trust Fund, $60,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $75,000,000 for the fiscal year ending June 30, 1976.".

INDIAN RESERVATION ROADS AND BRIDGES

Sec. 102. (a) Paragraph (9) of subsection (a) of section 104 of the Federal-Aid Highway Act of 1973 is amended to read as follows:

"(9) For Indian reservation roads and bridges, $83,000,000 for the fiscal year ending June 30, 1974, $84,000,000 for the fiscal year ending June 30, 1975, and $83,000,000 for the fiscal year ending June 30, 1976.".

(b) The definition of the term "Indian reservation roads and bridges" in subsection (a) of section 101 of title 23, United States Code, is amended to read as follows:

"The term 'Indian reservation roads and bridges' means roads and bridges, including roads and bridges on the Federal-aid systems, that are located within or provide access to an Indian reservation or Indian trust land or restricted Indian land which is not subject to fee title alienation without the approval of the Federal Government, or Indian and Alaska Native villages, groups, or communities in which Indians and Alaskan Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.".

(c) Section 208 of title 23, United States Code, is amended by relettering subsections (c) and (d) as (d) and (e), respectively, and adding a new subsection (c) as follows:

"(c) Before approving as a project on an Indian reservation road or bridge any project on a Federal-aid system in a State, the Secretary must determine that obligation of funds for such project is supplementary to and not in lieu of the obligation, for projects on Indian reservation roads and bridges, of a fair and equitable share of funds apportioned to such State under section 104 of this title."

(d) No funds appropriated under the expanded definition of this section shall be expended without the formal consent of the governing body of the tribe band or group of Indians or Alaskan Natives for whose use the Indian reservation roads and bridges are intended.

RURAL HIGHWAY PUBLIC TRANSPORTATION DEMONSTRATION PROGRAM

Sec. 103. Section 147 of the Federal-Aid Highway Act of 1973 is amended to read as follows:

"(a) To encourage the development, improvement, and use of public mass transportation systems operating vehicles on highways for transportation of passengers within rural areas and small urban areas, and between such areas and urbanized areas, in order to enhance access of rural populations to employment, health care, retail centers, education, and public services, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1975, and $60,000,000 for the fiscal year ending June 30, 1976, of which $50,000,000 shall be out of the Highway Trust Fund, to the Secretary of Transportation to carry out demonstration projects for public mass transportation on highways in rural areas and small urban areas. Projects eligible for Federal funds under this section shall include highway traffic control devices, the construction of passenger loading areas and facilities, including shelters, fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers, the purchase of passenger equipment other than rolling stock for fixed rail, and the payment from the General Fund for operating expenses incurred as a result of providing such service. To the extent intercity bus service is provided under the program, preference shall be given to private bus operators who lawfully have provided rural highway passenger transportation over the routes or within the general area of the demonstration project.

"(b) Prior to the obligation of any funds for a demonstration project under this section, the Secretary shall provide for public notice of any application for funds under this section which notice shall include the name of the applicant and the area to be served. Within sixty days thereafter, a public hearing on the project shall be held within the proposed service area."

DEMONSTRATION PROJECT—RAILROAD-HIGHWAY CROSSING

Sec. 104. Section 163 of the Federal-Aid Highway Act of 1973 is amended by relettering subsection (a) as paragraph (a)(1) and adding the following new paragraph:

"(2) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out an engineering and feasibility study for a demonstration project in Lafayette, Indiana, for relocation of railroad lines from the central area of the city. There are authorized to be appropriated to carry out this paragraph $360,000 fo the fiscal year ending June 30, 1975."

TRANSPORTATION FOR ELDERLY AND HANDICAPPED PERSONS

Sec. 105. (a) It is hereby declared to be the national policy that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services; that special efforts shall be made in the planning, design, construction, and operation of mass transportation facilities and services so that the availability to elderly and handicapped persons of mass transportation which they can effectively utilize will be assured; and that all Federal programs offering assistance for mass transportation (including the programs under title 23, United States Code, the Federal Aid Highway Act of 1973, and this Act) effectively implement this policy.

(b) Subsection (b) of section 165 of the Federal Aid Highway Act of 1973 (87 Stat. 282) is amended to read as follows:

"(b) The Secretary of Transportation shall require that projects receiving Federal financial assistance under (1) subsection (a) or (c) of section 142 of title 23, United States Code, (2) paragraph (4) of subsection (e) of section 103, title 23, United States Code, or (3) section 147 of the Federal-Aid Highway Act of 1973 shall be planned, designed, constructed, and operated to allow effective utilization by elderly or handicapped persons who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including those who are nonambulatory wheelchair-bound and those with semiambulatory capabilities, are unable without special facilities or special planning or design to utilize such facilities and services effectively. The Secretary shall not approve any program or project to which this section applies which does not comply with the provisions of this subsection requiring access to public mass transportation facilities, equipment, and services for elderly or handicapped persons."

VEHICLE SIZES AND WEIGHTS

Sec. 106. Section 127 of title 23, United States Code, is amended by striking out "eighteen thousand pounds carried on any one axle, or with a tandem-axle weight in excess of thirty-two thousand pounds, or with an overall gross weight in excess of seventy-three thousand two hundred and eighty pounds," and inserting in lieu thereof the following: "twenty thousand pounds carried on any one axle, including all enforcement tolerances; ten thousand pounds on the steering axle of any truck tractor, including all enforcement tolerances; or with a tandem-axle weight in excess of thirty-four thousand pounds, including all enforcement tolerances; or with an overall gross weight on a group of two or more consecutive axles produced by application of the following formula:

$$W=500\left(\frac{LN}{N-1}+12N+36\right)$$

where W=overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L=distance in feet between the extreme of any group of two or more consecutive axles, and N=number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more: *Provided*, That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances,".

STATE ENFORCEMENT

Sec. 107. Section 127 of title 23, United States Code, is amended by adding an (a) before the first paragraph and a new subsection (b) as follows:

"(b) The Secretary shall require each State to certify annually that existing State law respecting maximum vehicle sizes and weights permitted on the Federal-aid primary, the Federal-aid urban system, and the Federal-aid secondary system in each State is being enforced by such State. The Secretary shall not approve programs for projects on any such system in any State until he has received certification satisfactory to him that such laws are being enforced on such system.".

ALASKA FERRY OPERATIONS

Sec. 108. Paragraph (5) of subsection (g) of section 129 of title 23, United States Code, is amended to read as follows:

"(5) Such ferry may be operated only within the State (including the islands which comprise the State of Hawaii) or between adjoining States. Except with respect to operations between the islands which comprise the State of Hawaii and operations between any two points in Alaska and between Alaska and Washington, including stops at appropriate points in the Dominion of Canada, no part of such ferry operation shall be in any foreign or international waters.".

CONTROL OF OUTDOOR ADVERTISING

Sec. 109. (a) The first sentence of subsection (b) of section 131 of title 23, United States Code, is amended by inserting after "main traveled way of the system," the following: "and Federal-aid highway funds apportioned on or after January 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of those additional outdoor advertising signs, displays, and devices which are more than six hundred and sixty feet off the nearest edge of the right-of-way, and legible from the main traveled way of the system,".

(b) Subsection (c) of section 131 of title 23, United States Code, is amended to read as follows:

"(c) Effective control means that such signs, displays, or devices after January 1, 1968, if located within six hundred and sixty feet of the right-of-way and, on or after July 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right-of-way, and legible from the main traveled way of the system, shall, pursuant to this section, be limited to (1) directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, which shall conform to national standards hereby authorized to be promulgated by the Secretary hereunder, which standards shall contain provisions concerning lighting, size, number, and spacing of signs, and such other requirements as may be appropriate to implement this section, (2) signs, displays, and devices advertising the sale or lease of property upon which they are located, (3) signs, displays, and devices advertising activities conducted on the property on which they are located, and (4) signs lawfully in existence on October 22, 1965, determined by the State, subject to the approval of the Secretary, to be landmark signs, including signs on farm structures or natural surfaces, of historic or artistic significance the preservation of which would be consistent with the purposes of this section."

(c) Subsection (d) of section 131 of title 23, United States Code, is amended by striking out the first sentence thereof and inserting the following in lieu thereof:

"In order to promote the reasonable, orderly, and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting, and spacing, consistent with customary use is to be determined by agreement between the several States and the Secretary, may be erected and maintained within areas adjacent to the Interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary."

(d) Subsection (e) of section 131 of title 23, United States Code, is amended to read as follows:

"(e) Any nonconforming sign under State law enacted to comply with this section shall be removed no later than the end of the fifth year after it becomes nonconforming, except as determined by the Secretary."

(e) Subsection (f) of section 131 of title 23, United States Code, is amended by inserting the following after the first sentence: "The Secretary may also, in consultation with the States, provide within the rights-of-way of the primary system for areas in which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained."

(f) Subsection (g) of section 131 of title 23, United States Code, is amended by striking out the first sentence and inserting the following in lieu thereof:

"Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State law prior to the date of enactment of the Federal-Aid Highway Amendments of 1974."

(g) Subsection (i) of section 131 of title 23, United States Code, is amended to read as follows:

"(i) In order to provide information in the specific interest of the traveling public, the State highway departments are authorized to maintain maps and to permit information directories and advertising pamphlets to be made available at safety rest areas. Subject to the approval of the Secretary, a State may also establish information centers at safety rest areas and other travel information systems within the rights-of-way for the purpose of informing the public of places of interest within the State and providing such other information as a State may consider desirable. The Federal share of the cost of establishing such information centers and travel information systems shall be 75 per centum."

(h) Subsection (m) of section 131 of title 23, United States Code, is amended to read as follows:

"(m) There is authorized to be apportioned to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for each of the fiscal years 1966 and 1967, not to exceed $2,000,000 for the fiscal year 1970, not to exceed $27,000,000 for the fiscal year 1971, not to exceed $20,500,000 for the fiscal year 1972, and not to exceed $50,000,000 for the fiscal year ending June 30, 1973, and, out of the Highway Trust Fund, $65,000,000 for the fiscal year ending June 30, 1975, and $65,000,000 for the fiscal year ending June 30, 1976: *Provided*, That beginning July 1, 1974, no more than 20 per centum of funds obligated in any fiscal year shall be obligated for projects under subsection (i) of this section. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967."

CONTROL OF JUNKYARDS

Sec. 110. (a) Subsection (j) of section 136 of title 23, United States Code, is amended by striking out the first sentence and inserting in lieu thereof the following:

"(j) Just compensation shall be paid the owner for the relocation, removal, or disposal of junkyards lawfully in existence at the effective date of State legislation enacted to comply with this section."

(b) Subsection (m) of section 136 of title 23, United States Code, is amended to read as follows:

"(m) There is authorized to be appropriated to carry out this section of any money in the Treasury not otherwise appropriated not to exceed $20,000,000 for each of the fiscal years 1966 and 1967, not to exceed $3,000,000 for each of fiscal years 1970, 1971, and 1972, not to exceed $5,000,000 for the fiscal year ending June 30, 1973, and, out of Highway Trust Funds, not to exceed $15,000,000 for the fiscal year ending June 30, 1975, and $15,000,000 for the fiscal year ending June 30, 1976. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 3, 1967."

RESEARCH AND PLANNING

Sec. 111. Subsection (a) of section 307 of title 23, United States Code, is amended by striking out "and traffic conditions," and inserting in lieu thereof the following: "traffic conditions, beautification, roadside development, and scenic enhancement,".

LANDSCAPING AND SCENIC ENHANCEMENT

Sec. 112. There are authorized to be appropriated for the purpose of carrying out section 319(b) of title 23, United States Code (relating to landscaping and scenic enhancement), out of the Highway Trust Fund, $15,000,000 for the fiscal year ending June 30, 1975, and $15,000,000 for the fiscal year ending June 3, 1976.

SPECIAL BRIDGE REPLACEMENT PROGRAM

Sec. 113. Subsection (e) of section 144 of title 23, United States Code, is amended to read as follows:

"(e) For the purpose of carrying out the provisions of this section, there are hereby authorized to be appropriated out of the Highway Trust Fund $100,000,000 for the fiscal year ending June 30, 1972, $150,000,000 for the fiscal year ending June 30, 1973, $125,000,000 for the fiscal year ending June 30, 1974, $125,000,000 for the fiscal year ending June 30, 1975, and $125,000,000 for the fiscal year ending June 3, 1976, to be available until expended. Such funds shall be available for obligation at the beginning of the fiscal year for which authorized in the same manner and to the same extent as if such funds were apportioned under this chapter.".

UNIFORM NATIONAL SPEED LIMIT

Sec. 114. (a) Chapter 1 of title 23 of the United States Code, relating to highways, is amended by inserting at the end thereof a new section as follows:

"§ 154. National maximum speed limit

"(a) The Secretary of Transportation shall not approve any project under section 106 in any State which has (1) a maximum speed limit on any public highway within its jurisdiction in excess of fifty-five miles per hour, or (2) a speed limit on any other portion of a public highway within its jurisdiction which is not uniformly applicable to all types of motor vehicles using such portion of highway, if on November 1, 1973, such portion of highway had a speed limit which was uniformly applicable to all types of motor vehicles using it. A lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of such vehicle, including any load thereon. Clause (2) of this subsection shall not apply to any portion of a highway during such time that the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of a highway.

"(b) As used in this section the term 'motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.

"(c) Notwithstanding the provisions of section 120 sums apportioned to any State under section 104 shall be available to pay the entire cost of any modification of the signing of the Federal-aid highways for which such sums are apportioned within such State due to a reduction in speed limits to conserve fuel if such change in signing occurs or has occurred after November 1, 1973.

"(d) The requirements of this section shall be deemed complied with by administrative action lawfully taken by the Governor or other appropriate State official that complies with this section."

(b) The analysis of such chapter 1 is amended by inserting at the end thereof the following:

"154. National maximum speed limit.".

(c) Section 2 of the Emergency Highway Energy Conservation Act is repealed.

ACCESS ROADS TO FEDERAL LAKES

SEC. 115. (a) Chapter 1 of title 23 of the United States Code is further amended by adding at the end thereof the following new section:

"§ 155. Access highways to public recreation

"(a) There is hereby authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated $10,000,000 for the fiscal year ending June 30, 1975, and $10,000,000 for the fiscal year ending June 30, 1976, for the construction or reconstruction of access highways to public recreation areas on Federal lakes in order to accommodate present and future high traffic density. The Secretary shall develop guidelines and standards for the designation of routes and the allocation of funds for the purpose of this section which shall include the following criteria:

"(1) Routes designated by the Secretary shall not extend beyond 20 miles from the recreation area.

"(2) The designation of routes under this section shall comply with section 138 of this title.

"(3) Routes shall be designated by the Secretary on the recommendation of the State and responsible local officials.

"(b) The Federal share payable on account of any project authorized pursuant to this section shall not exceed 50 per centum of the cost of construction or reconstruction of such project.

"(c) Any highway not part of the Federal-aid system when constructed or reconstructed pursuant to this section shall thereafter be part of the Federal-aid secondary system except as otherwise provided pursuant to this section.

"(d) For the purpose of this section the term 'Federal lake' means a lake constructed by the Corps of Engineers, Department of the Army, or the Tennessee Valley Authority, or the Bureau of Reclamation, Department of the Interior, or a multipurpose lake constructed with the assistance of the Soil Conservation Service, Department of Agriculture."

(b) The analysis of chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following:

"155. Access highways to public recreation areas on Federal Lakes."

SEC. 116. Section 207 of title 23, United States Code, is amended by adding the following new subsection:

"(e) Parkways and all associated lands and rights-of-way funded in whole or part from the Highway Trust Fund shall be managed solely for scenic and recreational use and passenger car travel.".

NORTHEAST CORRIDOR DEMONSTRATION-RAIL CROSSINGS

SEC. 117. (a) Subsection (a) of section 322 of title 23, United States Code, is amended by inserting at the end thereof the following:

"The Secretary may permit selected individual public crossings of unusually low-potential hazard to remain at ground level, if they are provided with the best available protection."

(b) Subsections (b) through (f) of section 322 of title 23, United States Code, are redesignated as subsections (c) through (g), respectively, and a new subsection (b) is inserted as follows:

"(b) The Federal share of the cost of work, either off or on any Federal-aid system, under subsection (a) of this section shall be 90 per centum and the remaining 10 per centum of such cost shall be paid by the State in which the crossing is located."

(c) Subsection (d) (as redesignated herein) of section 322 of title 23, United States Code, is amended by deleting the words "such work" wherever they appear and by substituting therefor the words "work under subsection (c) of this section.".

(d) Subsection (g) (as redesignated herein) of section 322 of title 23, United States Code, is amended to read as follows:

"(g) There are authorized to be appropriated from the general fund not to exceed $22,000,000, and out of the Highway Trust Fund such additional sums as are necessary, to carry out the provisions of this section (exclusive of subsection (f))."

(e) Section 322 of title 23, United States Code, is amended by adding the following new subsection at the end thereof:

"(h) In any case where, under an agreement made before the date of enactment of this subsection, a State pays or has paid the railroad's share of the cost of work under subsection (a) of this section, the Secretary shall pay that State 100 per centum of the amount of such costs paid by the State, if the highway involved is not on any Federal-aid system."

OVERSEAS HIGHWAY

SEC. 118. (a) The Secretary is authorized to undertake projects for the reconstruction or replacement of bridge structures of a two-lane nature on the Overseas Highway to Key West, Florida. The Federal share payable on account of such projects shall not exceed 75 perecntum of the costs of such reconstruction or replacement.

(b) There are authorized to be appropriated, out of the Highway Trust Fund, not to exceed $116,250,000, to carry out such projects. Such sums shall be available until expended: *Provided*, That of the funds authorized under this section only $10,000,000 for the fiscal year ending June 30, 1975, and $15,000,000 for the fiscal year ending June 30, 1976, can be obligated.

BIKEWAY DEMONSTRATION PROJECT

SEC. 119. (a) For the purpose of this section the term—

(1) "bikeway" means a bicycle lane or path, or support facility, a bicycle traffic control device, a shelter, or a parking facility to serve bicycles and persons using bicycles;

(2) "State" means any one of the fifty States, the District of Columbia, or Puerto Rico.

(b) (1) The Secretary is authorized to make grants to States for demonstration projects for the construction of bikeways. Such bikeways shall be for commuting and for recreational purposes and shall be located in urbanized areas and such other urban areas as are designated by the State highway department under subsection 103(d) of title 23, United States Code.

(2) The Federal share of any demonstration project for the construction of a bikeway shall be 80 per centum of the total cost of such project. The remaining 20 per centum of such cost shall be paid by the grantee.

(3) No grant shall be made under authority of this Act unless such bikeway project is in accordance with continuing comprehensive transportation planning process carried on cooperatively by States and local communities in accordance with section 134 of title 23, United States Code.

(4) The Secretary shall establish, by regulation, construction standards for bikeway projects for which grants are authorized by this Act, and shall establish, by regulation, such other requirements as may be necessary to carry out this Act.

(c) Grants made under this Act shall be in addition to, and not in lieu of, any sums available for bicycle projects under section 217 of title 23, United States Code.

(d) There are authorized to be appropriated to the Secretary to carry out this section, $10,000,000 out of the Highway Trust Fund, and $10,000,000 out of any other money in the Treasury not otherwise appropriated, to remain available until expended.

TERMINATION OF FEDERAL HIGHWAY CONSTRUCTION CONTRACTS

SEC. 120. (a) In addition to any procedures or remedies established pursuant to any other provision of law, the Secretary upon application of the contractor may terminate, in whole or part, a highway construction contract, awarded prior to November 1, 1973, by a Federal agency under title 23, United States Code, when the Secretary determines that by reason of an unforeseeable, specific Federal action a material necessary to the completion of such contract has become and remains unavailable at any price during construction from a supplier from whom the contractor reasonably expected to obtain the material at the time of bid opening.

(b) For the purposes of this section—

"termination" occurs when the Secretary, pursuant to the power created by the provisions of subsection (a), puts an end to the contract otherwise than for its breach. Upon termination all obligations which are executory are discharged without penalty and without prejudice against the contractor at subsequent rebidding of such contract;

"material" means materials used in the construction of highways, including but not limited to asphalt, steel, and cement; and

"Federal action" means any Federal decision, directive, or other regulatory or judicial action which directly affects the supply, availability, or distribution of highway construction materials.

CARPOOLING

SEC. 121. Subsection (d) of section 3 of the Emergency Highway Energy Conservation Act is amended to read as follows:

"(d) A project authorized by this section shall be subject to, and carried out in accordance with all of the provisions of chapter 1 of title 23, United States Code, applicable to highway projects, except that the Federal share of such project shall be 90 per centum and shall not exceed $1,000,000 for any single project. There are authorized to be appropriated out of the Highway Trust Fund $15,000,000 for such projects. The Secretary shall not approve any project under this section after December 31, 1975.".

Sec. 122. The first sentence of subsection (c) of section 405 of title 23, United States Code, is amended by striking the word "and" after "crossings," and inserting in lieu thereof the following: "the correction of high-hazard locations, and".

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the bill was passed.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The junior Senator from West Virginia is recognized.

ORDER FOR ADJOURNMENT UNTIL 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BARTLETT AND SENATOR ROBERT C. BYRD TOMORROW, TRANSACTION OF ROUTINE MORNING BUSINESS, CONSIDERATION OF S. 3221, AND TEMPORARILY LAYING ASIDE S. 707

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on tomorrow, Mr. Bartlett be recognized for not to exceed 15 minutes; after which the junior Senator from West Virginia be recognized for not to exceed 15 minutes; after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each; at the conclusion of which the Senate proceed to the consideration of Calendar Order 1088, S. 3221, a bill to increase the supply of energy in the United States from the Outer Continental Shelf; and to amend the Outer Continental Shelf Lands Act; and that the unfinished business, S. 707, be temporarily laid aside and remain in a temporarily laid aside status until the close of business tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM FOR MONDAY, SEPTEMBER 16, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate convenes on Monday next it meet at the hour of 12 o'clock noon; that after the two leaders or their designees have been recognized under the standing order, the distinguished assistant Republican leader be recognized for not to exceed 15 minutes; after which the junior Senator from West Virginia be recognized for not to exceed 15 minutes; after which there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each; at the conclusion of which the Senate proceed to the consideration of the HEW appropriation bill, which was reported today.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, tomorrow the Senate will convene at the hour of 11 a.m. After the two leaders or their designees have been recognized under the standing order, Mr. Bartlett and Mr. Robert C. Byrd will be each recognized for not to exceed 15 minutes, and in that order, after which there will be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to 5 minutes each, at the conclusion of which period the Senate will take up the bill S. 3221, a bill to increase the supply of energy in the United States from the Outer Continental Shelf.

There may be rollcall votes on amendments thereto.

ADJOURNMENT TO 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 a.m. tomorrow.

The motion was agreed to; and at 6:50 p.m. the Senate adjourned until tomorrow, Thursday, September 12, 1974, at 11 a.m.

EXTENSIONS OF REMARKS

ELMER CARTWRIGHT, ARIZONA PIONEER

HON. PAUL J. FANNIN

OF ARIZONA

IN THE SENATE OF THE UNITED STATES

Wednesday, September 11, 1974

Mr. FANNIN. Mr. President, a fine American and a true Arizona pioneer was the subject of a recent feature article in the Arizona Republic.

The story of Elmer Cartwright is a capsule history of the spirit and determination which made Arizona the fine State that is it.

I ask unanimous consent that this tribute by Reporter Thelma Heatwole be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

STATE PIONEER HAS "SEEN IT ALL"

(By Thelma Heatwole)

Ask Elmer Cartwright if he has seen many changes in his lifetime and he'll tell you he's seen them all.

"I've seen the ox wagons and I've seen the man walk on the moon," he summarizes.

After all, Cartwright is 96. He was born in Phoenix and as far as he knows he is the oldest native in the state.

His parents, the R. J. Cartwrights, came to the Valley in 1876, homesteading in the area that is now 51st Avenue and Thomas When Cartwright's birth was imminent they made a concession. So that there would be water available, they moved to a one-room adobe house on a ditch bank near the present location of West Phoenix High School.

The elder Cartwright later brought the ditch water from the Grand Canal at Alhambra to the homestead and the family moved back.

Cartwright, a former cowboy and rancher, has lived at his ranch home, 5801 W. McDowell, since 1908. He got into the cattle business when his mother gave him a $5 gold piece for winning spelling matches at the Cartwright School. He used the money to buy a steer calf, which he later traded for two heifers, taking one to the huge Cartwright ranch at Seven Springs on Cave Creek. He worked at the ranch for 40 years, and at one time was part owner with his brothers of the vast spread.

Talking about the old days is a favorite pastime, especially when longtime old friends drop in.

"I can remember when I was about two years old," he said. "I went with my mother to visit a family at Seventh Avenue and Roosevelt. Long in the evening I missed my mother and was told by older children that she had gone off without me. I was whooping it up in good shape when I saw her in the pasture looking at cows. That settled my trouble.

"I wonder how many people know that there was an adobe fence built from Five Points north on Seventh Avenue and west to Grand Avenue. The adobe was made in huge blocks in wood forms at the site."

Few people can remember when there was a pasture at Seventh Avenue and Roosevelt, but Cartwright's first-hand recollections about the old days are legion.

He attended school in 1884 on the first day Cartwright School was in operation. His father was a leader in starting the school. Today there is a fourth generation member of the Cartwright family in the Cartwright School.

Cartwright was instrumental in starting the Church of Christ in Glendale at 60th Avenue and LaMar. He drove the first nail and helped construct the church, which he still attends three times a week. He reads the Bible from his new "giant print" version.

In his retirement years Cartwright spends much of his time in wood carving. Two years ago at the Arizona State Fair he was awarded a first for his peach seed carvings and a special blue-ribbon award for a chair he carved out of wood from a tree in his yard.

He still carves candlestick holders, canes and rolling pins, although his eysight is failing. Hearing is also a problem, he said.

Cartwright eats a big breakfast—two eggs, two pieces of toast, a cowboy-size bowl of cereal and two strips of bacon. "That's my old cowboy breakfast," he said.

Cartwright, whose daughter Irene Holmes lives with him, sometimes prepares his own breakfast. He eats little the rest of the day.

The pioneer doesn't live in the past, however. He keeps up with current events, usually reading only the front page of the paper because of eyesight problems. News is the only thing he watches on television.

A lifelong Republican, Cartwright said he thought President Nixon did a lot for world peace.

"I don't know who could have done better or whether anyone will do as well for world peace," he said. "I feel sorry for Nixon now and for the bunch that got into the Watergate trouble. But I notice that Ted Kennedy doesn't have much to say about it."

Cartwright said he is not pessimistic about the world today but wonders what is going to happen next.

"I think the Watergate trouble in the long run will come out as a blessing," he said. "It's going to teach people that have been running the country the way of the transgressor is hard."

CHAMPION BASEBALL TEAM

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mrs. HOLT. Mr. Speaker, a baseball team from Maryland recently brought great honor to my State by winning the mid-Atlantic championship and reaching the semifinals of the national American Legion baseball tournament.

I refer to the Maryland State champions from Cheverly, Md., American Legion Post 108.

This team managed by William "Bumps" Vaughn and coached by Ray Ruffing and Tom Lind distinguished itself not only on the field of play, but also in its splendid example of sportsmanship throughout the tournament competition.

The team consists of young men from 16 to 19 years old, most of them residents of the Bowie area in Prince Georges County, and it was only the second Maryland team to reach the American Legion World Series in 34 years.

Mr. Speaker, the American Legion has done much for the youth of this country and for baseball, our national sport, by its sponsorship of teams for many years.

The Cheverly team won the Maryland State championship in a tournament at Easton, Md., then went to Lyndhurst, N.J., and won the mid-Atlantic regional title in competition with teams from West Virginia, Virginia, New Jersey, and New York.

Then our Maryland team was off to the World Series in Oregon, where the competition included teams from Puerto Rico, Iowa, Indiana, Louisiana, California, Oregon, and Connecticut.

After their final game in which they were defeated by a fine Oregon team, the Maryland boys received a standing ovation from the crowd of 4,000 for their spirit and their sportsmanship.

Mr. Speaker, these young men and their parents are to be congratulated. They have distinguished themselves, the State of Maryland, and the American Legion. Prince Georges County should be tremendously proud of these young men and their coaches.

The Nation owes a debt of gratitude to all coaches of amateur sports who devote so much time and energy to guiding our youth.

Following is the list of team members who have brought such great honor and credit to the State of Maryland:

Jeff Serra, catcher; Tom Emsweller, outfielder; Chuck Johnson, outfielder; Brett Terrill, infielder; Tom Sullivan, infielder; Steve Pasztor, infielder; Ken Johnson, outfielder; Don Hounchen, outfielder; Steve Massengale, pitcher; David Terrill, pitcher; Dan Glover, pitcher; Tim Manley, pitcher; Gary Colten, infielder; Bill Foley, infielder; Ray Allebach, pitcher, Mike Darrell, infielder; Sam Mulhollen, infielder; Larry Colein, catcher.

NATE GRISWOLD RESCUE HEROISM

HON. RICHARD S. SCHWEIKER

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Wednesday, September 11, 1974

Mr. SCHWEIKER. Mr. President, during the recent congressional recess I had an opportunity to visit 19 counties in Pennsylvania. In Beaver County I had the pleasure of meeting and speaking with Nate Griswold, who took the time and trouble to come out to meet me in downtown Beaver Falls.

After my meeting with Nate Griswold, it came to my attention that he recently rescued a woman from a burning house. His heroic actions were detailed in a letter to the Beaver Falls News Tribune from the Beaver Falls Fire Department, and I ask unanimous consent that a copy of that letter be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LETTER

DEAR SIR: The Beaver Falls Fire Department would like to commend the efforts of one of our citizens for his exemplary action at a fire in the south end of the city.

Nathan Griswold was passing the home and noticed a large amount of smoke coming out the doors and windows. Being familiar with the neighborhood, he knew that a lady was in the second floor apartment. Without hesitation, Griswold broke the door window with his fist, rushed into the apartment and searched through the dense smoke for the tenant. Finding her laying on a couch, he quickly carried her outside where it was determined that she was only slightly overcome by smoke. The smoke was a result of a skillet full of pork chops that was inattended and burned.

Griswold was taken to Beaver Falls Hospital Unit where it required eight stitches to close the cut in his hand.

Beaver Falls Fire Department greatly appreciates the assistance of Griswold for his unselfish act and wish him a speedy recovery of his wound.

IRS IS FOR GATHERING TAXES AND NOT INFORMATION ON CITIZENS FOR WHOEVER IS IN THE WHITE HOUSE

HON. JERRY LITTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. LITTON. Mr. Speaker, in his recent speech granting a pardon to his predecessor, President Ford described the Watergate tragedy as "bad dreams that continue to reopen a chapter that is closed." While we all would like to have Watergate behind us and wish that the nightmare had never occurred, Congress would be negligent if it did not examine the flaws in our laws which enabled the most powerful men in our Government to abuse the sacred trust granted them by the American people. Unfortunately, the assorted corrupt acts and misuse of power which fit under the Watergate umbrella were not a bad dream. Congressional and judicial investigations have shown that they did happen. I join today with the distinguished Senator from Connectcut, LOWELL P. WEICKER, JR., to introduce legislation to prevent such abuse from happening again in one crucial area, abuse of confidential tax information.

Of all the abuses uncovered in the last months, none has disturbed me more or posed a greater threat to the financial stability of our Government than misuse of personal income tax returns and the attempted use of the Internal Revenue Service as an intelligence body to derive information harmful to enemies of the Nixon administration and helpful to its friends. John Dean's testimony to the Watergate Committee revealed that attempts were made by high White House officials, with the apparent knowledge and encouragement of President Nixon to receive information from the Internal Revenue Service on that administration's enemies to harass foes with tax audits and protect friends from such investigations. The House Judiciary Committee in article II, subparagraph 2 of the Articles of Impeachment succinctly summarized the mass of information it had gathered against President Nixon in this area.

It stated:

> He has, acting personally and through his subordinates and agents, endeavored to obtain from the Internal Revenue Service, in violation of the constitutional rights of citizens, confidential information contained in income tax returns for purposes not authorized by law, and to cause, in violation of the constitutional rights of citizens, income tax audits or other income tax investigations to be initiated or conducted in a discriminatory manner.

The Nixon administration not only sought tax information to use against enemies but also legally sought to open tax returns of whole occupational groups for its inspection. Two Executive orders, Executive Order 11697 and Executive Order 11709 required the Treasury Department to turn over farmers' income tax returns to the Department of Agriculture allegedly for statistical purposes, thus, directly threatening the privacy of

3 million citizens and providing a model for similar orders directed against other occupational groups. After congressional hearings by two House committees, my introduction of a bill cosponsored by more than 100 Members of this body which would stop the Executive order, my introduction of H.R. 10977, the introduction of other bills to prohibit such widespread invasions of taxpayers' privacy, and the recommendations for repeal of the orders by the then Vice President Ford, President Nixon repealed his earlier controversial orders. These orders, which left Federal bureaucrats free to rummage through citizens' tax returns for statistical data available from other sources such as the agricultural census, which the administration was then seeking to discontinue, and the attempted corruption of the audit procedures to harm enemies and help friends have made us aware of how fragile is the privacy of our tax returns.

At the heart of the problem is an antiquated section of the Internal Revenue Code, section 6103, which makes our tax returns public records. We ask our taxpayers to voluntarily and freely report the most confidential aspects of their financial status and such information as their medical expenditures or past political contributions in the belief that such information will not be used in a manner violative of their right of privacy. But our law invites abuse and misuse of this information by stating that, unless otherwise limited, tax returns are public records. The Commissioner of Internal Revenue, Donald C. Alexander, was right in commenting on section 6103, when he told the House Foreign Operation and Government Information Subcommittee on August 3, 1973:

> I suggest that a better approach is precisely the opposite; tax returns should be confidential and private, except as otherwise specified.

Section 6103 is a relic of an earlier age when barriers of distance protected anonymity and permitted persons to protect themselves against unwarranted intrusions into their privacy. Before the Civil War, tax information was even published in newspapers in the hope that neighbors would help the tax collector root out persons who were not complying with the law. This need does not exist in an age when our taxpayer identification numbers provide the Internal Revenue Service with a wealth of information on a person's earnings, dividends, investments, family life and other personal data. In an age of which, what Justice Brandeis once described as "the most comprehensive of rights and the right most valued by civilized men—the right to be left alone," is in danger of extinction, we need to reverse this section and, as Commissioner Alexander has suggested, make tax returns confidential information unless otherwise specified.

This bill that I am introducing with Senator WEICKER will protect the confidentiality of personal income tax returns and limit the use of these returns for purposes other than those for which they were intended. This bill would enact a new section 610 of the Internal Revenue Code to provide.

> All returns made with respect to the taxes imposed by this title are confidential records.

This bill is intended to limit use of income tax returns to the purpose for which the taxpayer intended them to be used—the reporting of his income for the purpose of assessing a tax against him. The only persons to whom this information can be divulged are the taxpayer himself, his authorized representative, officers and employees of the Internal Revenue Service, and the Justice Department for enforcement of the Internal Revenue Code, State tax officials for the purpose of administering their tax systems, the Joint Committee on Internal Revenue Taxation of the Congress, and under certain limited circumstances, the President. Tax information, in the form of statistical data only, maintaining taxpayer anonymity, may be disclosed to the Senate or the House of Representatives, or any committee of the Senate or the House, or other Federal departments and agencies. Any decision of the Joint Committee to request any data or to inspect any return shall be determined by a majority vote of the members present and voting, a quorum being present. The President and Attorney General may obtain tax returns only upon written request specifying the taxpayer whose return is to be inspected. The President must certify that he needs the return in the performance of his official duties. The Commissioner of Internal Revenue would be required by this bill to issue an annual report to the Joint Committee on Internal Revenue Taxation specifying the names of taxpayers whose returns are requested, the persons requesting them, and the dates requested, so that Congress can provide an additional check against the unnecessary invasion of tax return confidentiality. In the future, a President requesting taxpayer returns will have to be prepared to justify his requests to a Congress which is now sensitive to the threat to privacy posed by unwarranted disclosure of tax information.

Under terms of the Weicker/Litton bill, unauthorized disclosure of tax information will now be considered a felony and punishable by not more than a $10,000 fine and/or more than 5 years imprisonment. Any person who knowingly receives any information or material which is disclosed or furnished in violation of the provisions of this section shall be guilty of a felony and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than 5 years, or both, together with the costs of prosecution.

There will be those Government agencies and congressional committees who protest that this legislation will prevent them from obtaining the information necessary to administer or enact laws, that their need to know overrides any privacy interest that may be involved.

If an agency needs to know something that is contained in a tax return, why not ask the taxpayer directly? All information in tax returns may be obtained by other means and if the citizen will not voluntarily provide the data, a judicial or congressional subpena may be sought to obtain it. To rely on the surreptitious use of tax returns for nontax purposes may often result in an unknowing waiver by the taxpayer of his fifth amendment right against self-incrimination, which is surely abhorrent to our system of justice.

The bureaucratic insistence that tax returns must be public records so that agencies may know even more than the citizens intend him to know can threaten the stability of our tax system and thus the stability of our Government itself. The method in which taxpayers voluntarily comply with our tax laws and, in most cases, fully report their earnings is the envy of most other nations where dishonesty on tax returns is often the rule rather than the exception. If taxpayers become convinced that the confidential data they submit each year, for the purposes of determining their income tax, is being used for political purposes, possibly to their detriment, how long will it be before we have a taxpayers' revolt in which many of the taxpayers begin to cheat? Widespread cheating would be beyond the capacity of our 13,000 revenue agents to control and our entire system of voluntary self-assessment could collapse.

It is probably with this thought in mind that Commissioner Alexander suggested that Congress help maintain the confidentiality of tax returns. He began his statement to a Government Operations Subcommittee Hearing last year with the following observation:

> As I see it, today we should consider the basic problem of balancing two competing interests. The right of the taxpayer to privacy against the need of the requesting person or agency to information necessary to the fulfillment of its function. In striking this balance, Congress might wish to impose a heavy burden upon the entity seeking tax information . . .
>
> Information should be furnished only under such safeguards as will give strong assurance that those reviewing our tax data protect and safeguard taxpayer privacy to the same extent as it is now protected and safeguarded by the Internal Revenue Service . . . There must be assurance that the requesting entities not use the information in such a way as to compromise the taxpayer's right to have his affairs remain private.
>
> I urge this distinguished Committee to give the Internal Revenue Service and the taxpayer what they so badly need—protection against misuse of what should be the most confidential of records—tax returns.

I urge prompt consideration and enactment of the Weicker/Litton bill, as this legislation is long overdue. President Nixon's Executive order opening tax files of over three million farmers was perfectly legal even though it shocked Congress and the public. Earlier Executive orders of other Presidents have legally made tax returns available to the Renegotiation Board, the Federal Trade Commission, the Department of Commerce, and the Department of Health, Education, and Welfare. From the 72d Congress to the present, Congress has enacted no fewer than 47 resolutions authorizing regular and special committees to obtain tax returns. The failure to speedily enact this bill will invite continuation of attempts to use tax returns for purposes never intended by the taxpayer, many of which might be contrary to his interests.

There will be those who will say that Watergate-type abuses of the tax system could never occur again because no President would want to resist the resulting outrage. To say this is to ignore the lesson of the painful period through which we have passed. We are a government of laws and not of men. Congress must enact the laws to protect the rights of our citizens and make this more a government of laws and less a government of men.

THE "THUNDERBIRDS," U.S. AIR FORCE

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Wednesday, September 11, 1974

Mr. THURMOND. Mr. President, it was my privilege recently to witness an aerial demonstration of the "Thunderbirds" of the U.S. Air Force at Myrtle Beach Air Force Base in South Carolina. The professional skills and precision flying demonstrated by the "Thunderbirds" was one of the most impressive aerial performances I have ever witnessed.

It was also my pleasure to visit, inspect, and lunch with the outstanding personnel who are assigned to the "Thunderbirds." There are 75 assigned to the "Thunderbirds," 65 of whom are noncommissioned officers specializing in 24 different Air Force career fields. These officers and noncommissioned officers are some of the finest of our Armed Forces. It is truly an inspiration to see these Americans in action and to observe their dedication and esprit de corps.

Mr. President, this U.S. Air Force Demonstration Squadron, commanded by Lt. Col. Roger Parrish, a veteran combat pilot, performed for more than 110,966,050 spectators in all 50 States and 49 foreign countries during 1973. They have been properly named "America's Ambassadors in Blue."

It is a pleasure for me to advise my distinguished colleagues that the members of this outstanding squadron are fulfilling their mission which requires them to—

Reinforce public confidence in the Air Force and enhance morale and esprit among Air Force personnel;

Demonstrate selected capabilities of airpower and the professional competence of Air Force personnel; and

Support United States Air Force Community Relations and "People-to-People" programs.

When I was at the Myrtle Beach Air Force Base in August for this demonstration and "Open House," I noted the fine tribute given to the "Thunderbirds" by the Strand Sentry newspaper at Myrtle Beach, S.C. The August 23, 1974, issue of Strand Sentry, an unofficial newspaper published weekly in the interests of personnel at Myrtle Beach AFB of the Tactical Air Command, devoted a major portion of the issue to the "Thunderbirds" and their achievements. This publication and the official Air Force brochure present a complete and interesting story of the "Thunderbirds" and the amazing accomplishments of this great squadron.

Mr. President, I ask unanimous consent that the articles on the "Thunderbirds" which were published in the Strand Sentry, and in the official brochure of the Thunderbirds be printed in the Extensions of Remarks at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AIR SHOW: U.S. AIR FORCE THUNDERBIRDS—MYRTLE BEACH AFB OPENS GATES FOR PUBLIC INSPECTION

[From the Myrtle Beach (S.C.) Strand Sentry, Aug. 23, 1974]

One of the largest open houses ever is planned at Myrtle Beach Air Force Base tomorrow, as the base opens its gates to the public from 1 to 5 p.m.

Highlight of the open house, which is being held in conjunction with the Horry County Tobacco Festival, will be a performance by the U.S. Air Force Thunderbirds. As the Air Force's official aerial demonstration team, the Thunderbirds will fly some 13 precision maneuvers in their Northrop T–38 Talons.

The Thunderbird performance will begin at 2:30 p.m. with a pre-show "inspection" by local dignitaries and base officials. Following their performance the Thunderbird pilots will sign autographs and pose for photos.

One of the Air Force's top marching units will also be performing at the open house. The Air University Rifle and Drill Team, composed of men and women stationed at Maxwell Air Force Base, Ala., will begin their drill performance at 1:10 p.m.

"Cloud Nine," the TAC Band's 12-member rock combo, will perform a special 30-minute rock concert on the flightline following the rifle and drill team presentation. The band is highly acclaimed as one of the top bands of its type in the military.

The Headquarters Tactical Air Command Briefing Team will tell TAC's story beginning at 2 p.m. The TAC briefing will take place in the Base Theater and will depict the history, accomplishments, and future plans of TAC. Transportation from the flightline to the theater will be provided.

Men of Detachment 15, 48th Aerospace Rescue and Recovery Squadron will give a helicopter demonstration at 2 p.m. This rescue demonstration will be immediately followed by the Thunderbird performance.

In addition to the many demonstrations there will also be static displays of fighter aircraft, helicopters, trainers, and cargo airplanes. The major attraction of the static display aircraft will be the giant C–5 Galaxy, the world's largest airplane. The Military Airlift Command flight crew will open up the cargo doors and allow visitors to board the Galaxy.

Crew members of all display aircraft will be on hand to answer questions concerning their aircraft and its capabilities.

The complete schedule of events for the open house are as follows:

TIME AND EVENT

1 p.m.—Open House Begins.

1–5 p.m.—Static displays.

1:10–1:30 p.m.—Drill Team demo.

1:30–2 p.m.—TAC Rock Band.

2–2:30 p.m.—TAC Briefing.

2–2:30 p.m.—Rescue demonstration.

2–2:30 p.m.—Thunderbird inspection ceremony.

2:45 p.m.—Thunderbirds man aircraft.

3 p.m.—Thunderbirds take off.

3:30 p.m.—Thunderbirds land and park.

3:45 p.m.—Thunderbird autographs and photographs.

5 p.m.—Open house closes.

THE THUNDERBIRDS TODAY

The United States Air Force Thunderbirds, assigned to the Tactical Air Command, have the vital mission of demonstrating the professionalism, versatility, and flexibility of American land-based airpower.

Commanded by Lt. Col. Roger Parrish of Carbondale, Ill., a veteran combat pilot, the Thunderbirds have been credited with creating a greater understanding of and appreciation for U.S. Air Force tactical air operations throughout the world.

Recognized by their distinctive red, white and blue aircraft, the Thunderbirds are noted for their precision aerial maneuvers, which are designed to demonstrate professional airmanship.

Currently, the Thunderbirds fly the Northrop T–38 Talon, a supersonic trainer, which at one time held 12 world records, establishing it as one of the world's best performing aircraft.

In addition to commanding the USAF Air Demonstration Squadron, official name of the team, Colonel Parrish is the leader of the five-ship demonstration team. Following his lead are Captains Gil Mook, left wing, Charlestown, Rhode Island; Doug Roach, right wing, of Romulus, Michigan; Tom Roels, slot, Crystal Lake, Illinois; and Kirk Brimmer, solo, of Marshalltown, Iowa. Captain Ray White of Dallas, Texas, is the team logistics officer, and Captain Steve Mish of Fisherville, Virginia is narrator. Captains White and Mish fly the spare number six and seven aircraft.

The Thunderbird team is comprised of 75 men and women working together in over 25 different career fields. In addition to the pilots, Colonel Parrish commands three support officers and 65 enlisted people in the fields of operations, information, administration, personnel, photography, supply, training, and personal equipment as well as people in over a dozen maintenance specialties.

Although famous for their flight displays, the Thunderbirds are a highly diversified, flexible Air Force squadron. Each man and woman represents the best the U.S. Air Force has to offer in operational and support aspects as well as people-to-people contacts. Each must do his job to the highest standard as well as present the U.S. Air Force to the American public, and the United States to the people of the free world . . . truly "America's Ambassadors in Blue."

THE STORY OF AMERICA'S AERIAL AMBASSADORS

Roaring jets echoed along the desert floor not far from Luke Air Force Base, Arizona, and a diamond formation of four jets filled the sky with the most breathtaking aerial maneuvers ever witnessed by man. The four F–84 aircraft were painted red, white and blue and they looped over an audience below, always keeping their wingtips overlapped three feet.

It happened 21 yeers ago and was the first show of the United States Air Force Air Demonstration Squadron, the Thunderbirds. Based at Luke AFB near Phoenix, the Thunderbirds had been created to demonstrate to people in the United States and overseas the capabilities of the men and aircraft in the United States Air Force.

Needless to say, the Thunderbirds were

representing in 1953, a very different Air Force from today's. As a separate service, the United States Air Force was only six years old. The hottest jet fighter in action was still not capable of breaking the sound barrier in level flight.

In the intervening years the Thunderbirds have kept pace with the technological advances in aviation, while averaging more than 100 air shows per year, making them the world's busiest precision flying team. To reach show sites located from coast-to-coast and overseas, the Thunderbirds have covered up to 100,000 air miles in 250 days of travel. To date, the team has appeared before 110,966,050 aviation enthusiasts from all of the 50 states and 49 countries of the Free World. The largest single Thunderbird audience gathered in Chicago, Illinois, when on July 5, 1959, two million people jammed the waterfront of Lake Michigan.

In five deployments overseas, the Thunderbirds have demonstrated American friendship by meeting millions of people on a person-to-person basis. During a 1959 trip to the Far East, the team performed 27 shows during one 30-day period.

After returning to the United States, they received the 1959 MacKay Trophy, an annual award given for the most meritorious flight of the year and highly prized in the aerospace industry.

During 1973, the Thunderbirds performed 78 air shows in 31 states and 19 in 10 Latin American countries. Over six million people attended the shows in South America. By the end of 1973, over 12,020,800 spectators had seen the Thunderbirds perform, setting a new yearly Thunderbird attendance record.

The Thunderbirds have flown seven different aircraft. They began in the straight-wing F-84G Thunderjet and in 1955 switched to the swept-wing F-84F Thunder streak. Both aircraft were built by Republic Aviation Company. The F-84s, however, were subsonic planes, and it was not until 1956 that the Thunderbirds moved to a supersonic aircraft, the North American F-100C Super Sabre. The team retained the C-model F-100 until 1964 when they spent part of a season in the Republic F-105B Thunderchief. Returning to the F-100 later that year, the Thunderbirds flew Super Sabres until November 1968. In 1969, they transitioned to the McDonnell Douglas F-4E Phantom II. This year, with the advent of the Northrop T-38 Talon, the Thunderbirds will be exhibiting an aircraft that has been flown in the Air Force by some 25,000 pilots.

The most important part of the Thunderbirds, however, is the people in the squadron. All are volunteers, chosen in competition with other specialists throughout the Air Force.

In 1953, there were four demonstration pilots, three other officers and 15 enlisted maintenance specialists. Today, there are some 75 Thunderbirds: seven pilots, and their support team numbering three officers and 65 other noncommissioned officers.

THUNDERBIRDS LOG MORE THAN 20 YEARS AS GREATEST FLIERS

1953—The Thunderbirds became a reality at Luke AFB, Arizona; performing before almost two million people by the end of the first year.

1954—The team leaped off on the first overseas goodwill deployment. Flying the Republic F-84G Thunderjet, the team visited 10 Latin American countries, where more than three million watched the Thunderbirds perform.

1955—The Thunderbirds changed aircraft from the F-84G to the Republic F-84F Thunderstreaks. The latter had more speed and greater maneuverability.

1956—The "Ambassadors in Blue" flew their last show in the Thunderstreaks, at Bolling AFB, Washington, D.C., where 400,000 people witnessed the demonstration. The Thunderbirds ended a proud era, having appeared before nine million people in 222 shows.

1957—The Thunderbirds went supersonic in North American F-100 Super Sabres and moved from Luke AFB to Nellis AFB, Nevada, where they were named the USAF Air Demonstration Squadron. The presidents of Argentina and Brazil broke the sound barrier while flying with the Thunderbirds.

1958—The Thunderbirds received their first Outstanding Unit Award, the highest noncombatant unit decoration. Three more were earned in later years.

1959—This was another record making year for the Thunderbirds. An all-time record attendance for one year (10 million people) was set. The largest single audience ever to watch a Thunderbird air show turned out at Chicago, Illinois. Estimates placed the crowd at two million. The Thunderbirds received aviation's highest honor—the MacKay Trophy following their return from their first deployment to the Far East.

1960—The Thunderbirds became the first aerial demonstration team to perform above the Article Circle.

1962—The nation's "Ambassadors in Blue" performed in a special show at Eglin AFB, Florida, attended by the late President John F. Kennedy.

1963—The Thunderbirds toured Europe for the first time where the total attendance for the first 10 years of Thunderbird demonstrations reached 50 million.

1965—This year proved to be the busiest in Thunderbird history. Altogether, 23 different countries were visited in a 121 show schedule. Almost seven million watched the Super Sabres. Another milestone was set when the Thuderbirds performed at Waukegan, Illinois. It was their 1,000th performance.

1966—Thunderbirds confirm their popularity at small show sites. They drew 17,000 spectators from the Coffeyvill, Kansas, area, although it was a city with a population of only 17,000.

1967—The USAF Air Demonstration Squadron performed their 1,000th demonstration in the Super Saber.

1968—Approximately 1,792,000 people turned out to see the Thunderbirds during a four-day show at Toronto, Canada. The team concluded the season at Nellis AFB, ending the Super Sabre era.

1969—The Thunderbirds transitioned to the McDonnell Douglas F-4E Phantom II. The year goes down in history as the most successful for nationwide television exposure as the Thunderbirds were viewed by an audience estimated at 30 million viewers.

1970—The team performed 106 air shows, travelling 96,784 miles, and completed a highly successful deployment to Venezuela where 1,400,000 spectators came to Caracas and Maracay show sites. In addition, the team added a new maneuver to the show—the missing man formation, a salute to the Vietnam prisoners of war and missing in action.

1971—The Thunderbirds European tour smashed all previous attendance records on the continent.

1972—The mass media responded most favorably to Thunderbirds. The team logged over 75 radio and television interviews while the printed media used hundreds of articles and pictures promoting and covering the Thunderbird performances.

1973—Thunderbirds perform 78 air shows in 31 states and 19 in 10 Latin American countries. Over six million spectators attended the shows in South America. The team set an all-time yearly record when 12,020,800 spectators attended air shows in 1973, ending an era in the F-4E Phantom II.

1974—The Thunderbirds converted from the F-4E Phantom II to the Northrop T-38 Talon supersonic jet trainer.

THE LEGEND OF THE THUNDERBIRD

Hundreds of years ago when thunder cracked in the skies over North America, Indians would raise their heads in search for the Thunderbird.

Whether on still summer evenings or during violent storms, arms would spread to speak of the width of his wings; voices could be heard speaking of his greatness. From the long houses of the Northwest to the tepees of Middle America and pueolos of the Southwest, stories were told and retold of this god.

For each time lightning twisted into the ground, the red man believed the Thunderbird was flashing his eyes or shooting flaming arrows from his powerful talons. The booming thunder was attributed to the flapping of his wings.

The Thunderbird was credited with many powers. He could decide wars, grant long life and represented an overwhelming force for good overcoming evil—his bolts of light overcoming darkness.

Depicted in many ways, the Thunderbird was portrayed on the walls of caves or on animal hides. To some he was an eagle or a hawk. One Southwest tribe painted the Thunderbird in red, white, and blue.

A jet fighter cracks the sky much like our legendary Thunderbird; so thought a newly formed aerial demonstration team at Luke Air Force Base, Arizona, in 1953, and what is more American than an Indian legend. Thus the United States Air Force "Thunderbirds" were born. The roar and fire from their jets, much like the thunder and lightning in the legend, represents peace and goodwill.

[From the Official Brochure of the Thunderbirds, U.S. Air Force]

MISSION AND HISTORY

The mission of the United States Air Force Air Demonstration Sqaudron, the Thunderbirds, is to:

"Plan and present precision aerial maneuvers to exhibit airpower and the flexibilities of modern aircraft, as well as the high degree of professional skills required to operate high performance aircraft."

Each Thunderbird dedicates himself to support Air Force recruiting and retention programs; to reinforce public confidence in the Air Force and enhance morale and esprit among Air Force personnel; to demonstrate selected capabilities of airpower and the professional competence of Air Force personnel; and to support U.S. Air Force Community Relations and "People-to-People" programs.

The U.S. Air Force's "Ambassadors in Blue" became a reality in May of 1953, at Luke Air Force Base, located near Phoenix, Arizona. While at Luke the team flew the Republic F-84G Thunderjet as its first demonstration aircraft, followed by the F-84F Thunderstreak.

Since 1956 the team has been located at Nellis Air Force Base outside of Las Vegas, Nevada, and has flown the North American F-100C and F-100D Super Sabres, the Republic F-105B Thunderchief, and the McDonnell Douglas F-4E Phantom. The 1974 team will fly the Northrop T-38 Talon.

The Thunderbirds flew 97 air shows in 1973, including 19 flown before more than six million spectators, and seven heads of state, in 10 Latin American countries. Overall, for the year, the team performed before 12,020,800 spectators, setting a new Thunderbird attendance record.

Now in their twenty-second season, the team has flown more than 1,858 air shows in all 50 states and 49 foreign countries. More than 110,966,050 spectators have awarded the Thunderbirds the title, America's "Ambassadors in Blue."

ABOUT THE THUNDERBIRD NONCOMMISSIONED OFFICER—NCO

There are 75 Thunderbirds, 65 of whom are noncommissioned officers specializing in 24 different Air Force career fields.

In the maintenance realm enlisted technicians are in the following fields: crew chief, radio, electronic navigation, aircraft electronics, ground radio communication, pneudraulics, instruments, aerospace ground equipment, mechanical accessories repairmen, plus protective coating, jet engine, supply inventory management, materiel facilities, airframe repair, fuel systems, egress systems, weapons and personal equipment specialists.

Through their efforts there has never been an air show cancelled due to maintenance difficulties.

Publicity and air show coordination are handled by information technicians, an illustrator and a photographer, while the operations, training and administrative offices employ technicians in those respective fields.

The Thunderbird NCO will tell you that his two years on the team are the most rewarding of his Air Force career.

Like the officers, each enlisted man is a volunteer who has competed with others in his field for the right to be a Thunderbird. As a Thunderbird he represents the Air Force's finest. The pride he has from being on the "first team" will carry over throughout the rest of his military career, and the rest of his life, for . . . "Once a Thunderbird, Always a Thunderbird."

If the challenge of an Air Force career interests you, see your Air Force recruiter or mail the coupon enclosed in this brochure.

Current leaders of the Thunderbirds include the following officers:

LT. COL. ROGER PARRISH, COMMANDER/LEADER

From Carbondale, Illinois, Colonel Parrish graduated with a B.S. degree from the University of Illinois and an M.S. degree from the University of Southern California. He flew 137 combat missions in Southeast Asia, logging 267 combat hours, and has accrued more than 4,300 flying hours in jet aircraft. His decorations include the Distinguished Flying Cross, the Air Medal with nine Oak Leaf Clusters, the Air Force Commendation Medal, the Combat Readiness Medal with one Oak Leaf Cluster, the Republic of Vietnam Campaign Medal and Vietnam Service Medal.

CAPT. DOUG ROACH, RIGHT WING

From Romulus, Michigan, Captain Roach is a 1964 graduate of the University of Michigan. While serving a 26-month tour in Southeast Asia, he flew a total of 516 missions, accruing more than 1,200 hours of combat flying time. He has a total of more than 3,200 hours of jet aircraft flying time. His decorations include the Distinguished Flying Cross with three Oak Leaf Clusters, the Air Medal with 38 Oak Leaf Clusters, the Combat Readiness Medal, the Republic of Vietnam Campaign Medal and Vietnam Service Medal.

CAPT. KIRK BRIMMER, SOLO

From Marshalltown, Iowa, Captain Brimmer graduated in 1965 with a B.A. degree from the State University of Iowa. He flew 282 combat missions over Southeast Asia, accruing 367 hours of combat flying time. He has a total of more than 2,500 hours of jet fighter time. His decorations include the Distinguished Flying Cross, the Air Medal with 13 Oak Leaf Clusters, the Air Force Commendation Medal, the Combat Readiness Medal, the Republic of Vietnam Cross of Gallantry with Palm, the Republic of Vietnam Campaign Medal and Vietnam Service Medal.

CAPT. STEVE MISH, NARRATOR

From Fishersville, Virginia, Captain Mish is a 1968 graduate of the United States Air Force Academy with a B.S. degree in Aeronautical Engineering. He flew 243 combat missions in Southeast Asia, accruing 316 combat flying hours. He has accrued more than 1,700 hours of flying time. His decorations include the Distinguished Flying Cross, the Air Medal with 10 Oak Leaf Clusters, the Republic of Vietnam Cross of Gallantry with Palm, the Republic of Vietnam Campaign Medal and Vietnam Service Medal.

CAPT. GIL MOOK, LEFT WING

From Charlestown, Rhode Island, Captain Mook is a 1967 graduate of the United States Air Force Academy. During two Southeast Asia combat tours, he logged 320 combat missions and 547 hours of combat flying time. He has accrued more than 2,000 hours of jet flying time. His decorations include the Distinguished Flying Cross with two Oak Leaf Cluster, the Air Medal with 18 Oak Leaf Clusters, the Air Force Commendation Medal, the Combat Readiness Medal, the Republic of Vietnam Cross of Gallantry with Palm, the Republic of Vietnam Campaign Medal and Vietnam Service Medal.

CAPT. TIM ROELS, SLOT

From Crystal Lake, Illinois, Captain Roels received his B.S. degree from Drake University in 1964. He flew 136 combat missions in Southeast Asia, including 101 missions over North Vietnam, and accrued 259 hours of combat flying time. He has a total of more than 2,700 hours of jet flying time. His decorations include the Distinguished Flying Cross, the Air Medal with 12 Oak Leaf Clusters, the Combat Readiness Medal, the Republic of Vietnam Campaign Medal and Vietnam Service Medal.

CAPT. RAY WHITE, LOGISTICS OFFICER

From Dallas, Texas, Captain White is a graduate of Southern Methodist University with a B.S. degree in Business. During a tour of duty in Southeast Asia he flew 132 combat missions, accruing over 200 combat flying hours. He has more than 2,845 hours of flying time, with more than 2,450 of those hours in jet aircraft. His decorations include the Distinguished Flying Cross with three Oak Leaf Clusters, the Air Force Commendation Medal, the Armed Forces Expeditionary Medal, the Republic of Vietnam Campaign Medal and Vietnam Service Medal.

CAPT. JORGE REINOSO, ADMINISTRATION

From Quito, Ecuador, Captain Reinoso is a 1968 graduate of the University of Miami.

CAPT. BOB GORE, INFORMATION

From Fairmont, West Virginia, Captain Gore is a 1967 graduate of West Virginia University.

CAPT. JIM BASH, MAINTENANCE

From Dallas, Texas, Captain Bash is a 1965 graduate of North Texas State University.

ODE TO THE AMERICAN FARMER

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. ALEXANDER. Mr. Speaker, the American farmer has long been shortchanged by Government policies and attitudes. I would like to share with my colleagues a verse written by ballad composer, Will Carleton, 1853–1912, that I believe typifies the farmer's plight:

> Worm or beetle—drought or tempest
> On a farmer's land may fall.
> Each is loaded full o' ruin but a
> Mortgage beats 'em all.

EDUCATION LEGISLATION IN THE 93D CONGRESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. HAMILTON. Mr. Speaker, education is the largest enterprise in the United States and the major occupation of over 62 million people, more than any other industry. There are 59 million students at all levels, nearly 3 million teachers, and about 300,000 superintendents, principals, and other employees. In a Nation of 210 million, 3 out of every 10 persons are directly involved in the educational process. Our society depends on education in many important ways, and Congress must continue its support to education.

The current expenditure per pupil in public elementary and secondary schools has more than doubled in the past decade, rising from $460 in 1963–64 to $1,100 in 1973–74. Federal grants to education have increased from $2.4 billion in 1964 to over $12 billion in 1974. This country now spends more on education than even on the national defense.

Despite its successes, education still faces many challenges and problems. The Congress in 1974 has taken several steps to improve the quality of American education:

First. The Elementary and Secondary Education Act extension is a 3-year extension of the major programs of aid to grade and high schools, including aid to local educational agencies for educationally deprived children. A new formula for these grants greatly increases funding to many southeastern Indiana counties. The law provides support for school libraries and instructional resources, educational resources and innovation, and state departments of education. It also extends programs of impact aid, adult education, bilingual education, and education of the handicapped. The law contains strong antibusing language, but allows busing beyond the next nearest school in certain circumstances in order to assure the constitutional rights of black children. There are also several new initiatives—Women's Educational Equity, Community Schools, Gifted Children, and a program to improve reading skills of elementary pupils;

Second. The drug abuse education extension would authorize $90 million during the next 3 years to continue support of school and community programs that teach the dangers of drug abuse, including alcohol abuse. The bill would allot specific amounts for Federal programs, State and local education agencies, and community projects. The bill has passed both Houses and differences are expected to be resolved in conference committees.

Third. Environmental education extension authorizes $30 million through June 1977 for programs to develop teaching materials for environmental studies, to train teachers, and to support ecology courses in schools, and community conferences on the environment for business, labor, and government leaders;

Fourth. Arts and humanities extension substantially increases the authorization for the National Foundation for the Arts and Humanities—nearly $600 million through June 1976 compared with $80 million in 1973;

Fifth. Basic opportunity grants program will provide an estimated 1 million first- and second-year college students in need of financial aid with grants averaging $475, up to a maximum of $900. Last year's maximum was $600, and only first-year students were eligible; and

Sixth. Student loans will be easier to obtain this fall for students whose family incomes do not exceed $15,000. These students will automatically qualify for Federal interest payments on insured student loans of less than $2,000. In addition, the new law extends through June 1975 authority for interest subsidies in excess of the 7-percent maximum.

A House committee is holding hearings on all forms of financial assistance to postsecondary students, and intends to propose comprehensive reforms in these programs. Possibilities it is considering are programs to assist colleges in lowering their tuitions, and liberalized grant programs. We should see the results of these hearings later this year.

Hardships have been caused to students by a recent Internal Revenue Service ruling that federally insured student loans taken out in the last 3 years are taxable income. In some cases the IRS has demanded payment in full of the taxes, plus interest, within 15 days. I have introduced legislation to nullify the retroactive aspect of this ruling, so that students will know of their responsibilities to pay these taxes before they apply for loans.

OTHER LEGISLATION

Awaiting action in the Congress are a number of other education-related bills, including legislation to—

First, establish a council on women's educational programs within the Office of Education;

Second, seek to improve the utilization of education technology;

Third, authorize the Chairman of the National Endowment of the Arts to make unused railroad passenger depots available to communities for such cultural activities as libraries, exhibitions, musical and dramatic exhibitions, and others; and

Fourth, authorize grants to museums to assist in renovation of museum facilities, construction of displays and exhibitions, and specialized programs open to the public.

I look forward to working with members of the educational community to pass legislation which improves the quality of education.

VIVA LAMA!

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. STARK. Mr. Speaker, the Latin American Manufacturers Association means opportunity and affirms achievement. Headquartered in San Leandro, Calif., this aggressive young concern meets the growing needs of over 200 Spanish-American businesses in pursuing contracts and assuring that minorities receive their rightful spot in the marketplace. Under the energetic guidance of its president, José Aceves, LAMA has interjected its competitive character into the mainstream of the economy. No longer can the Latin American community be ignored. On the contrary, a recent article in Business Week magazine underscores its recent successes and its promising future. I commend that article to my colleagues' attention:

[From Business Week, Aug. 10, 1974]

A HARD SELL FOR SPANISH-AMERICAN BUSINESS

A former wetback and a former poverty program worker met in Washington late last month with officials of the Interior Dept. and Alyeska Pipeline Services Co., builder of the $5-billion trans-Alaska pipeline, to make sure that companies run by Spanish-speaking businessmen get their share of Alyeska subcontracts. The pipeline is a private project, but the law permitting construction on federal land directs the contractor to seek minority subcontractors—a point unlikely to escape the notice of ex-wetback José Aceves and ex-poverty program worker Stephen Denlinger, president and executive vice-president of the Latin American Manufacturers Assn.

The outfit they represent is a feisty young organization of 200 businesses run by Spanish-speaking Americans, an ethnic group that came relatively late to both business enterprise and militancy. Through LAMA, which has concentrated on government subcontract work as part of a broader effort to promote Spanish-American businesses, they are making up for lost time.

Since mid-January, when the California-based organization got its first big chunk of government funding, member companies have won contracts totaling $8-million, including three steel fabrication contracts worth $400,000 from Rockwell International to Artlo Industries of Orange, Calif. As the company's first aerospace work, the contracts will enable Artlo to tool up for further aerospace projects, says Artlo's Art Lopez. Other members have signed contracts or opened negotiations with Rockwell and Grumman Aerospace Corp.; 11 companies (including Kaiser Industries and Bank of America) have contributed to LAMA's war chest; and the National Aeronautics & Space Administration is considering a grant to expedite LAMA's work with NASA contractors.

AGGRESSIVE ORGANIZATION

All this is a far cry from the day in 1972 when Aceves, 41, president of Aceco Tool Corp. of San Leandro, Calif., decided that Latin America businessmen would never get anywhere without an aggressive organization. He had just been interviewed by several big corporations at a trade show held by a government-funded economic development group. "But all I got was conversation," he recalls. "I thought, 'The Latinos have been here for 200 years, but our businessmen have been systematically kept out of the marketplace.' " Spanish-speaking Americans—8-million Chicanos and 4-million Puerto Ricans, Cubans, and other Latin Americans—needed a tough group of their own to get into the marketplace, Aceves concluded.

Contributions of $50,000 from a friendly businessman and $127,000 from the Office of Minority Business Enterprise got LAMA off the ground after a year of frustration. "They came to us quietly a year ago," says Kenneth Kier, a NASA small business specialist. "Then suddenly, bang! PR people, legal counsel, Congressional inquiries."

The new group had chosen NASA as its first target on the basis of an analysis that identified the space shuttle program as the government project with the most needs that matched members' capabilities. "And NASA was one of the few agencies that had articulated a procurement policy in line with Executive Order 11625," adds Derlinger.

Executive Order 11625, issued in 1971, requires government contractors to enable minority companies to become subcontractors, but the process is far from automatic. "We've had a lot of promises," says Junius Hayes, executive director of the National Assn. of Black Manufacturers, "but we're still getting crumbs off the table." Rather than wait for crumbs, LAMA decided to reach for its piece of the pie by going directly into the kitchen.

ROCKWELL'S PART

In the case of the Rockwell contracts, for instance, Aceves began operations by making the rounds of friendly congressmen. That led to a meeting with NASA Administrator James Fletcher. A letter from Fletcher led to a meeting with Rockwell President Robert Anderson. That meeting led to the creation of a Rockwell-LAMA task force, formed to analyze the company's minority business program and provide technical assistance to LAMA members. Rockwell also recently announced plans to double its minority subcontracting to $10-million a year. "And we will try to get our majority subcontractors to look aggressively for minority companies," says Sy Gottlieb, Rockwell's manager for small and minority business administration.

"We learned at Rockwell," says Aceves, "that the higher up we go in a corporation, the better reception we get." They also learned that the road to the executive suite often leads through government offices. "They use every technique known to man," says a Washington official of NASA, "and believe me, they are being listened to."

CONFLICTS

LAMA's aggressive tactics sometimes create conflicts. Last spring, for example, the Maritime Administration arranged a meeting between minority businessmen and San Diego-based National Steel & Shipbuilding Co. (NASSCO). "The idea," says Oliver T. Henry, the Maritime Administration's area representative in San Francisco, "was to give NASSCO's purchasing people an opportunity to get acquainted with some minority companies and to acquaint minority companies with the shipbuilding business."

LAMA representatives, however, insisted that the meeting should produce contracts. When none was forthcoming, they denounced NASSCO for wasting their time and resources. Henry suggests that LAMA may have overreacted, because companies owned by blacks and Orientals have subsequently received NASSCO orders. Aceves maintains that the meeting was a failure and, typically, he plans to take up the matter with Maritime Administration officials in Washington. "We can't deal with procurement people," he says. Only top executives have the necessary authority to shape contract requirements in forms that enable minority companies to compete, he believes.

NO STEREOTYPE

Like LAMA itself, Aceves' personality contrasts sharply with the stereotype of the easy-going, *mañana* Mexican-American. A runaway from a fatherless family in Guadalajara, Mexico, Aceves swam the Rio Grande at 14 to become an illegal immigrant. He became a legal resident in 1951 and will become a naturalized citizen next month. After a brief career as a boxer (17 bouts won, 2 lost), Aceves began working in tool and die shops around San Francisco. In 1966, he started his own shop with $3,000 and help from two brothers.

"At first we were happy if we got a broken bicycle that needed repair," Aceves says. Now Aceco Tool employs 13 workers, owns $350,000 worth of machine tools, and makes precision metal parts for such customers as IBM, Caterpillar, and the U.S. Navy.

"The answer to the Latino's problem is not in the fields," Aceves says. "Even at top wages, there is no way to feed and clothe and educate your family as a farm worker. We need to get these people off the farm and into industry."

In that sense, Aceves says, "LAMA is as much a strategy for economic development as it is a strategy for business development."

GREATER MIAMI HONORS HADASSAH

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. FASCELL. Mr. Speaker, September 15 through October 14, 1974, has been declared Hadassah Month by the city of Miami and Metropolitan Dade County, Fla. Civic groups and local businesses will be cooperating to tell the Hadassah story to the community through radio and television spots, film strips, and shopping center and storefront displays.

This recognition is very well deserved as the Hadassah organization is the largest of its kind in the world and its record of achievement is truly impressive. It numbers 325,000 Jewish women in the United States and Puerto Rico and its primary—although certainly not its only—activity involves support for medical facilities in Israel.

Probably, Hadassah's best-known work is the organization's involvement with the Hadassah-Hebrew University Medical Center in Jerusalem—one of the most modern and scientifically advanced medical facilities in the world. The medical center includes a number of facilities within it, including teaching, research, special equipment, and specific medical specialty clinics.

Hadassah also sponsors a number of youth programs in Israel, assisting with youth immigration, vocational training, and educational services. It also works with the Jewish National Fund for land reclamation and afforestation.

In this country, Hadassah is actively involved in Jewish education and in seeking a just and lasting peace in the Middle East.

The efforts of these dedicated women have achieved tremendous success and I know our colleagues will join me in offering congratulations to them during Hadassah Month.

TRIBUTE TO THE LATE SENATOR KARL E. MUNDT, OF SOUTH DAKOTA

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. ROONEY of New York. Mr. Speaker, the recent passing of my good and longtime friend and colleague, Senator Karl E. Mundt, of South Dakota, came as a great loss to all of us here in this body who knew him, respected him, and counted him among our friends. Karl's public service, experience, courage, and character will be greatly missed by all those who knew him.

It was my great honor and pleasure to have served in this Chamber with Karl Mundt when I first was elected in June 1944 and until he was elected to the other body in 1948. During that time and from my service with him on the House Committee on Appropriations, I found Karl to be a man completely dedicated to working diligently for legislation he considered proper and beneficial while keeping as his prime interest what was best for our country.

Karl Mundt was from the heartland of America. His upbringing, education, and early life inbred in him many of the same virtues that have made America a great, free and independent country. I always felt a kindred spirit with Karl Mundt, Mr. Speaker, because we both shared the American virtue of disliking all forms of authoritarian governments, particularly those based on the atheistic, warped communistic teachings of Marx. Karl fully recognized the serious threat to America and the free world from the godless Red Communist conspiracy and spent most of his public life fighting the Soviet attempt to communize the world.

In 1960 Mr. Fred Christopherson, editor of the Sioux Falls Argus-Leader in South Dakota, wrote to the late J. Edgar Hoover of the FBI inquiring for the names of those legislators on Capitol Hill who have "knowledge of the communistic threat and (the) legislative know-how to handle the situation in our National Legislature today." Such was the reputation of Senator Mundt that his name was one of only four that Director Hoover sent Mr. Christopherson. As a personal note, Mr. Speaker, I was highly honored at the time and pleased that along with the names of the late Senator Styles Bridges, of New Hampshire, and our former distinguished Speaker John McCormack, of Massachusetts, my name was included as one of the four.

Karl Mundt was always very interested in the captive nations of Eastern Europe and gave his full support to those people around the world who were relentlessly attempting to throw off the oppressive yoke of godless communism.

In November 1965, Mr. Speaker, I was invited by my respected friend, the late Reverend Father Longinas Jankus, to be one of the two primary speakers at the United Lithuanian Relief Fund of America rally at Madison Square Garden in New York City. It was a great honor to address those 20,000 in attendance and it was made even more so by the fact that the other primary speaker was Senator Karl Mundt. The solace and encouragement his presence gave those victims and descendants of victims of Red Soviet communism cannot be measured except by their renewed spirit to carry on the fight until the forces of truth and freedom prevail.

Mr. Speaker, we shall all miss Karl Mundt and his basic American instinct of right and justice and freedom. He will long be remembered by those around the world who are as dedicated to the freedom and independence of mankind as he was.

Mrs. Rooney joins me in extending to Mrs. Mundt our deepest sympathy and prayers.

WATERGATE PARDONS

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. DU PONT. Mr. Speaker, last Sunday, many Members of Congress were surprised and dismayed by the sudden news that former President Nixon had been granted a pardon by President Ford. My personal reaction was one of disagreement. I believe that our system of justice should have been permitted to function in this case.

But yesterday, we were further stunned by the news that blanket pardons were being considered for all Watergate defendants. I cannot believe that such an action would be in the best interests of the country, nor does it further our basic judicial precept of equal justice under law.

I immediately sent a telegram to the White House, stating my opposition to such pardons, and urging the President not to grant blanket pardons to the Watergate defendants.

Since I believe most strongly that such pardons would be wrong, and since my constituents also feel strongly, I believe further action is necessary. Under our Constitution, only the President has the power of pardon; Congress has no constitutional role in the granting of pardons. However, I believe that the Congress should not sit silent—that we should express the sense of Congress and the sense of our constituents that no pardons be issued at this time.

I am, therefore, introducing today, on the first day of session following our Labor Day recess, a resolution, stating very simply that it is the sense of Congress that blanket pardons not be granted to Watergate defendants. I hope my colleagues will join me in supporting this resolution.

LABOR LEGISLATION IN THE 93D CONGRESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. HAMILTON. Mr. Speaker, the well-being of our 89 million workers is of great concern to all Americans. The 93d Congress has acted on several pieces of legislation of interest to the working man and woman.

First. A private pension reform bill has been signed by the resident. The bill will protect the pension rights of 30 million Americans who pay in to private pension funds. Workers will be permitted to join a plan at a reasonable age. They will achieve a vested interest after a limited period of service. Minimum funding standards will go a long way to assure that pension money will be there when the worker retires. There will be insurance for unfunded pension rights, portability of rights when a worker changes jobs, disclosure of financial information, standards of conduct for financial custodians of the plans, and criminal and civil sanctions.

Second. Minimum wage increases, the first since 1966, meant immediate pay raises for 4 million workers when the law took effect last May. The basic industrial minimum rose 40 cents to $2 an hour: workers newly covered by this act went to $1.90, and agricultural workers to $1.60. The law extended coverage to an additional 8 million workers, and overtime coverage was extended to 9 million additional workers. It includes a subminimum wage for fulltime student workers, who may be hired for part-time work at 85 percent of the applicable minimum or $1.60-$1.30 in agriculture—whichever is higher. The increased minimum wage will help our lowest-paid workers to maintain their standard of living by helping them to catch up with inflation.

Third. The Comprehensive Manpower Act is a recent law providing for financial assistance to State and local entities for manpower and training services. It also establishes a new public service employment program.

Fourth. Extended unemployment benefits were continued to April 30, 1975, for areas with unemployment higher than 4 percent. About 155,000 persons in nine States now benefit from the law.

Fifth. Nonprofit hospital employees were granted the protection of the National Labor Relations Act. The law grants employees of these hospitals the right to engage in collective bargaining and go on strike, with safeguards to insure that patient care continues. Legislation still being considered would improve management relations for agricultural workers and Federal employees; give employees of the U.S. Postal Service the right to strike, and provide for labor-management relations at the State and local level.

Sixth. Joint trust funds for legal services were authorized. These union-management trust funds provide prepaid legal services to employee members for debt, family relations, and other matters.

Seventh. A social security benefit increase. This includes a 7-percent increase effective March 1974, and an additional 4 percent effective in June. The law also increased the social security tax base to $13,200.

LEGISLATION NOT YET ENACTED INTO LAW

First. National health insurance. Spiraling increases in health care costs and lack of availability of adequate medical services have put quality health care beyond the reach of many Americans. Clearly new legislation is needed in the area of health care, and several bills have been introduced. The House has begun to study the various health insurance proposals, and has completed public hearings. I hope that we will soon have a bill which will put high quality medical care within the reach of all Americans.

Second. Workmen's compensation. The evolution of the workmen's compensation system in this country has resulted in many State laws which give inadequate protection to the victims of work injuries, disease, or death, and their families. The Congress is now considering legislation to improve workmen's compensation laws.

Speedy action on this legislation is needed to insure that workers will be protected in the event of occupational injury or disease.

These have been some of the more important of the many bills of interest to working men and women being considered in the Congress. The record of the Congress is significant, but much more still remains to be done.

THE LATE HONORABLE KARL E. MUNDT

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. FISHER. Mr. Speaker, the death on August 17 of Senator Karl E. Mundt marked a severe loss for the entire Nation. Many of us served with Karl when he was a Member of the House of Representatives, and we learned to admire and respect him during that period. He distinguished himself as a responsible authority on foreign affairs, was a pillar of strength in the battle against communism in this country, and was at the same time one of the leading voices in the House in behalf of sound agricultural policies.

As a Member of the Senate, Mr. Mundt continued his record of statesmanship and support for those ideals and programs which were pro-American and always in the public interest. His record of outstanding achievements in the Congress is part of history, and memory of this great American will linger in the minds of those who knew him personally.

It happens that Karl Mundt was a personal friend of mine. I was with him on a Saturday night in 1969, just prior to the time he suffered a stroke. That incapacitated him until his death on August 17, although during that period he was able to walk, watch television, and communicate with his family and friends. I always held Karl Mundt in the highest respect. I knew him to be a great patriot, who was intensely devoted to the preservation of our American system of government.

I extend to his wife, Mary, my profound sympathy in her bereavement.

A WAY TO GET MORE REPRESENTATIVE GOVERNMENT

HON. JERRY LITTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. LITTON. Mr. Speaker, there is a growing concern on the part of our Nation's citizens that their elected Representatives in Washington have lost touch with them. Many feel that Members of Congress are not as accessible as they should rightly be. Upon my election, I was urged by many of my constituents not to forget them when I came here and not to become "like the rest of those guys in Washington."

I was determined not to lose the character and personality of my district, not to become so "Washingtonized" that I forget the feelings and priorities of those in my Sixth District of Missouri. Last year, in my first year in Congress, I found myself spending half my time in an airplane rushing back and forth between my district, my office, and my family, who have been here with me since I was elected.

It seemed next to impossible to spend enough time at any of the three locations—office, home, and district. One of the reasons was because I was spending so much time traveling between the three points. Frequently, I spent 8 hours in the air just to be able to spend 3 hours in my district.

I am not complaining—I like my work. But, like many other Members of Congress, I have the feeling there must be a better way to stay in touch with those I represent, maintain some semblance of family life and do the job I was elected to do in Washington.

I recall those difficult days and hours when I first gave consideration to leaving my business and running for the U.S. Congress. Continually crossing my wife's mind were the many stories she had heard of divorce and broken homes caused by Congressmen trying to maintain two homes and serve many masters. How many good homes are severely damaged, because Congressmen attempt to spread themselves too thin?

To be a good family man and an effective Member of Congress, one needs to spend time with both family and constituents. Members of Congress with children of school age are often required to make a choice between family and job. This need not and should not be the case.

Originally, schools let out for the summer months so children could help with the harvests. In later years, our country gradually became more urbanized and there was less need to recess schools for the harvest. I assume the summer vacation was retained, because of hot classrooms. Now with air-conditioning it would appear that once again children could be permitted to attend school year-round.

For the last 3 months—June, July, and August—my two children—ages 10 and 11—were out of school for the summer vacation. However, during these same 2 months, Congress was in session. I assume that Congress will not be in session for the last 3 months of this year. However, at that time our children will be in the midst of their school year.

In the final 3 months of this year, I will have to choose between being with my wife and children whom I love here in Washington or being with my constituents whom I represent back in my district. My family had to make a similar choice this summer between being here in Washington with me when Congress was in session or back home in Missouri. I am sure that a great many of my colleagues on the Hill experience the same distressing problem.

Throughout the year, I continually find that when Congress takes a vacation break, my children are in school; and likewise, when the children have a vacation, we are here in session.

What I am about to propose I am sure will be both criticized and misunderstood. But, in the interest of a better representative government where we are able to spend more time with both the people we represent and those we love, I hereby propose that this Congress consider the establishment of a "Congressional School."

It is my suggestion that this school be open for sons and daughters of Members of Congress as well as children of all employees of the House and Senate. By this I do not mean only the children of staff members, but also children of elevator operators, kitchen employees, custodial employees, et cetera. It is in this way that we could achieve a well-balanced, healthy environment for all children. I would also propose that the cost of operating the school not exceed the per-pupil cost of operation of public schools in the District of Columbia.

The basic difference between this school and any other public school is that instead of having the customary vacation in the summer months, it would break at the same time Congress recesses. Of course, the students would be required to attend the same number of days as they would at any public school.

The result is that Members of Congress would not have to decide between family and those he or she represents. They and their families could spend both school and congressional breaks in their home districts with the people they represent.

On the surface, my proposal would be a practical solution to one of the main problems of being a good family person and an effective Member of the U.S. Congress concurrently. But with closer introspection of our system of government leadership and the problems concerning it which the recent Watergate tragedy has brought to light, I think my idea carries with it still more importance and plausibility. Plainly speaking, our past administration was dangerously out of touch with the American citizens. Our President was sheltered and protected to the point that he lost that all-important philosophical and grassroots contact with Mr. Average Citizen. Certainly, there are many reasons why this happened and I am sure that many of my colleagues in the House and Senate will go to all ends to make sure that they remain in touch with their district. But I think my proposal would help make this job easier and healthier.

As to the mechanics of the school, the children of staff members as well as those of Hill employees would be an essential part of the entire design. Just as it is easy for Congressmen to lose touch with the people they represent, so it is easy for staff members working in congressional offices to lose touch with the people in their home States. They find it equally difficult to maintain any ties with people "back home" for the same reasons mentioned earlier. Those who are employed in the House and Senate, whether they be Members of Congress, secretaries, elevator operators, or legislative researchers represent a cross-section of political philosophies, geography, and background. The differences in lifestyles, experiences, and personalities of these people naturally are carried over to the children. All of these factors would make this school a very exciting and stimulating place for our children to grow and learn.

The school I have in mind would allow us to take advantage, in new and exciting ways of unique educational resources in our Nation's Capital. Lectures or programs by Representatives and Senators could be arranged often, as lawmakers would be in close proximity to the school. In a study of current events and government, there would be an endless supply of firsthand information available. Students would have an opportunity to sit in on congressional hearings when the subject matter covered topics of interest.

It is possible that consideration might be given to permitting students who are children of Ambassadors or employees of foreign embassies to attend this school. This would permit the children to learn firsthand about the cultures of other nations, and to develop friendships across ideological, racial, and national boundaries. Perhaps friendships and better understandings created between the children might be conveyed to their parents who too often operate in an atmosphere of international distrust.

Of course, there are many practical problems connected with the establishment of such a school. One of these is location. The future of the proposed page school and dormitory on the old Providence Hospital site—purchased by the Congress in 1973—seems in doubt, because the Senate has passed a bill providing for college-age pages and rescinding authority to construct the page school. However, should the plans for the page school and dormitory go forward, we might consider combining the page school and my proposal for a congressional school. Another possibility would be to rent or lease existing facilities. And, of course, another would be to build a new facility.

So as to create a better understanding of our Government and to encourage interest in government on the part of our youth, I would further propose that selected high school students from districts around the country be brought to Washington to attend a semester of school at our congressional school and possibly to serve in some way in a congressional office similar to the present page system.

I would propose that these students be freshmen or sophomores so that they would have ample time following their semester at this congressional school to relate to their classmates some of those things they learned while going to school in their Nation's Capital.

Mr. Speaker, I recognize such an idea is not without its shortcomings and problems. I also recognize that by expressing my thoughts on this subject, I might encourage others to do likewise.

After spending less than 30 days in Congress, I realized the need in this area. But, I must admit that while it did not take long to see the need, it has taken a long time to get my thoughts on paper. Frankly, I have hit a roadblock. I do not know where to go from here. That is why I am taking this occasion to call upon my colleagues in the House and Senate as well as my learned friends who study the CONGRESSIONAL RECORD to give me their thoughts as to whether or not they think this proposal has merit and if so where we might proceed from here.

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. MAZZOLI. Mr. Speaker, on August 21, 1974, I attended the ceremonies at which President Ford signed into law, H.R. 69, the Elementary and Secondary Education Act Amendments of 1974. As a result, I was absent for rollcall No. 513, the final passage of H.R. 16168, authorizing appropriations for the Department of State.

Had I been present, I would have voted "aye" on rollcall No. 513.

THE 26TH CONVENTION—NATIONAL SLOVAK SOCIETY OF THE UNITED STATES OF AMERICA

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. HANRAHAN. Mr. Speaker, the eyes of Slovaks in America and all over the world will turn toward Pittsburgh, Pa., when the 20,000-member National Slovak Society of the United States of America assembles for its 26th national convention at the William Penn Hotel. The society, which has its headquarters office in Pittsburgh, through its membership, national officers and convention delegates from all parts of the United States will pay tribute to its founders, discuss its operations, make necessary bylaw changes, and elect officers for the next 4 years.

Following are excerpts from an article written by Dr. S. J. Hletko, national director of activities for the National Slovak Society:

The 26th national convention of the National Slovak Society, U.S.A., is scheduled for September 9–14 in Pittsburgh, Pa.

In its 84th year of existence, NSS is the oldest American-Slovak fraternal organization, is recognized as the parent society of Slovak-American fraternals, and with more than 20,000 adult and juvenile members on its rolls, it still is a vibrant force in the life of American Slovaks.

Founded by the peerless Peter V. Rovnianek, a native of Dolne Hricov, Slovakia, Anton S. Ambrose, Re. Ludvik Novomesky, John Rybar, Stephen Oravec, and John Rybar on February 16, 1890, in Allegheny, Pa.—now a part of Pittsburgh—present-day fraternalism can be thankful to the spirit and foresight of the aforementioned pioneers for their organizational efforts which was obviously years ahead of its time. The society and the fraternalistic system is a living monument to Rovnianek and his coworkers.

Fraternalism is a system of love, faith, brotherhood, and charity. The story of the National Slovak Society is a noteworthy saga of courage, thrift, family happiness, promotion of social and sports promotions, support of ethnic culture and heritage, recognizance of ethnic history, and above good will and fellowship.

NSS has proven its loyalty to the United States, and has given it hundreds of its sons and daughters who have served in the military service, some of whom laid down their lives in the defense of their country.

The society encourages American Slovak writers and journalists through the publication of its almanac yearbook—Almanac. It publishes a biweekly news organ which serves as a platform for the expression of ideas and opinions.

National Slovak Society today is in sound condition, and with the help of God hopefully looks forward to a bright future and long life.

Mr. Speaker, Dr. Hletko is a resident of Oak Lawn, Ill., which is in my Third District, and it is appropriate that we make mention of the great contributions to American life that fraternal organizations such as the National Slovak Society provide.

MARYLAND SCHOOL TO GO METRIC

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. TEAGUE. Mr. Speaker, a very interesting article about the instruction of the metric system in our public schools appeared in the August 5, 1974, Washington Post. Washington Post Staff Writer Bart Barnes reported on the instruction program at Cresthaven Elementary School in Silver Spring, Md., and in a companion article gave a brief sketch of the history of the metric system.

The children in the program had their first taste of the metric system last week. The importance of the program for these elementary children is readily realized when we realize their use of the system as adults.

They will have a definite need to know the metric system. It will be vital for their everyday use.

The House recently refused a metric bill, but the changeover will come with or without the help of congressional legislation. The task would be a lot easier for everyone if we did pass such legislation.

The two articles follow:

MARYLAND SCHOOL IS FIRST TO GO METRIC

(By Bart Barnes)

It sounds deceptively simple. But a program to begin next month at Cresthaven Elementary School in a quiet suburban neighborhood of Silver Spring could be part of a movement with lasting implications on American education and life.

When Cresthaven's approximately 150 first, second and third graders report for classes Sept. 3, they will no longer be taught feet and inches, ounces and pounds, gallons and quarts as the basic units of measurements.

Instead they will learn to measure distance in meters, centimeters and kilometers, weight in grams and kilograms, and volume in liters, deciliters, and decaliters. Yardsticks will be replaced by metersticks and rulers will measure centimeters instead of inches.

Cresthaven, in a solidly middle class American neighborhood of single family bungalows, tall trees, pruned shrubbery and manicured lawns off New Hampshire Avenue, is going metric this fall in a deliberate way.

What happens there will be watched with a keen interest by Montgomery County school administration officials in Rockville, for in one respect Cresthaven is serving as a pilot for a conversion to metrics in schools countywide that is set for either next year or the year after.

Cresthaven is also one of a few schools in this area and across the nation that are in the vanguard of what many educators believe will be a universal conversion to metrics in American public schools during the next decade.

"Conversion is no longer an issue. It's only a question of how," says Joseph R. Caravella, director of professional services for the National Council of Teachers of Mathematics, one of the more vocal of the organizations supporting a changeover to the metric system.

Already, he notes, at least 200 companies, including most of the major textbook publishers, have jumped into the educational metric market with metric workbooks, textbooks, films and tape cassettes on the metric system, conversion slide rules and so forth.

At its annual meeting in Atlantic City this year, the Math Teachers Council backed a changeover to the metric system in the nation's public schools within the next decade. Caravella now sports a "Think Metric" bumper sticker on his car as do thousands of other supporters of the metric conversion.

At Cresthaven School the decision to go metric this year was endorsed by both the teaching staff and the parent-teacher organization, according to Cresthaven's principal Kelly Guido.

"We think that the metric system is coming in. With very young children instead of talking about feet and inches we're going to use metric measures," said Lou Smith, a mathematics supervisor for Cresthaven.

"We're going to concentrate on metrics and bring in the old system only incidentally because the children will need to know some of that to survive."

There will be virtually no emphasis, Mrs. Guido said, in teaching the children to convert metrics into the old English system. The idea, she said, is that they learn metrics as the basic language of measurement and learn to think in metric terms.

Throughout the school year, teachers and students at Cresthaven will be trying to evaluate a plethora of metric materials for use in other schools in the county. At the same time, she said, there will be workshops scheduled for parents so that they can learn the basics of the metric system and be able to help their children.

For the last 100 years, there has been periodic talk of converting the United States over to the metric system of measurement, but the movement began in earnest in 1971 when then Secretary of Commerce Maurice H. Stans submitted the results of a three-year study to Congress.

Among the major recommendations were that Congress legislate a 10-year target date by which the United States would become predominantly metric and that early priorities be given to teaching school children and the public at large to "think in metric terms." (The legislation is still pending on Capitol Hill.)

The single overriding reason for the push towards metric was simply that the United States, by sticking to the old English system, was sadly out of step with the rest of the world. Even England where the old system originated—began a conversion to metrics in 1965.

A year ago, the Maryland State Board of Education approved a changeover to the metric system in schools throughout the state. A special committee is due to report to the board next month on a time table for a conversion to metrics in all phases of public school operation by 1980.

In Maryland, as well as in the District of Columbia and Virginia, school administrations have begun to schedule workshops in the metric system for teachers.

William Robertson, an area mathematics specialist in Fairfax County, said his system has been told by the State Board of Education to make sure any new textbooks reflect the metric system.

Schools in Fairfax, Robertson said, are beginning to emphasize the metric system but will continue also to teach the old English system. However, he added that the thrust will be to make children equally familiar with either system but not to emphasize conversion of one to the other.

Elsewhere in the United States, public schools in California are planning a complete changeover to metrics by 1976. After that year, the English system will no longer be taught at the elementary level.

Many road signs in Ohio now state distances between cities in terms of kilometers as well as miles. Manufacturers in a number of areas, including some automobile manufacturers, are beginning to produce machines and equipment measured in metric scales rather than the old system.

"I think all the states are beginning to get on the bandwagon," says Dr. Ann Wilderman, an associate professor of mathematics education at Temple University and an author of a new textbook on teaching the metric system.

"But that doesn't mean children aren't going to learn the other system," she said. "It will be 10 years, or maybe 15 or 20 years before we see a complete change."

HOW WORLD MEASURES UP

(By Bart Barnes)

The Old English system of measurement, an evolution of Biblical and Roman eras and of medieval Britain, is currently in use by only 13 nations throughout the world. In addition to the United States, they are Barbados, Burma, Gambia, Jamaica, Liberia, Muscat, Oman, Nauru, Sierra Leone, Southern Yemen, Tonga and Trinidad.

In the most primitive of societies, measurements were usually associated with the form of the human anatomy and that custom continued on into medieval England. A foot was the average length of the feet of 12 men of the village, an inch the distance from the tip of King Henry I's forefinger to his first knuckle. Another version put the inch as the length of three round barleycorns laid end to end.

The distance from the tip of King Henry's nose to his extended forefinger was generally considered to be a yard and an acre was the area of land that a man with a yoke of oxen could plow in one day.

Eventually, that system became more standardized, but in 1670 the French Abbe Gabriel Mouton proposed a new system that would be based on a standard unit of length to be derived from a measurement of the earth's surface. The system would be decimalized—that is all measurements would be in units of 10, 100 or 1,000.

(Thus, a kilometer is 1,000 meters, a centimeter is one one-hundredth of a meter.)

It was more than a century later that the French Academy agreed on the basic unit of measurement. It would be one 10-millionth of the distance of the arc representing the distance between the North Pole and the equator. This standard unit of length would be called metre (in English meter) from the Greek word metron, meaning a measure.

All fundamental measurement systems became interrelated. A gram—the unit for measuring weight—was set at the weight of a cubic centimeter of distilled water at sea level at a temperature of 4 degrees centigrade. That amount of water would be called a milliliter. One thousand such units would be a liter.

With the Napoleonic Wars the metric system spread throughout Europe and over the next 1½ centuries throughout the world. In 1866, Congress legalized use of metric measures in the United States but the old English system remained the basic language of measurement.

As measurement science has developed more precise ways of defining measurement units, measurements are periodically redefined by the General Conference of Weights and Measures, an organization of nations adhering to the metric system.

The meter, for example, is now no longer defined in terms of an arc from the North Pole to the equator but instead in terms of wavelengths of the gas krypton-86.

MONTHLY CALENDAR OF THE SMITHSONIAN INSTITUTION

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. SMITH of New York. Mr. Speaker, it is my privilege to insert in the RECORD each month the monthly calendar of the Smithsonian Institution. The September calendar of events follows:

SEPTEMBER AT THE SMITHSONIAN

TUESDAY, SEPTEMBER 3

MUSEUM TALK: *Women Astronomers in America*. Speaker: Deborah J. Warner, Associate Curator, Physical Sciences. 12:30 p.m. Hall of Musical Instruments, History and Technology Building. FREE.

FRIDAY, SEPTEMBER 6

REHABILITATION MEDICINE FILMS: *Can you Avoid a Heart Attack*, distributed by the Washington Heart Association; *Harlem Hospital Center*, Columbia University; *Home for Supper*, Berke Rehabilitation Center, 12:30 p.m. Carmichael Auditorium, History and Technology Building. Similar films are scheduled each Friday in conjunction with the current exhibition, *Triumph Over Disability*. FREE.

SUNDAY, SEPTEMBER 8

JIRI TRNKA RETROSPECTIVE. Film Festival of the works of the late Czechoslovakian filmmaker, highlighting his use of puppetry and animation. Program consists of *To Frost; The Little Sunshade; The Fox and the Jug; The Hand; The Puppets of Jiri Trnka;* and *The Song of the Prairie*. 4 p.m. or 7:30 p.m. Carmichael Auditorium, History and Technology Building. The evening program will be introduced by Arnost Lustig, Czechoslovakian novelist and screenwriter $2.

TUESDAY, SEPTEMBER 10

MUSEUM TALK: *The Making of the Hall of News Reporting*. Speaker: Peter C. Marzio, Associate Curator, Graphic Arts, 12:30 p.m. Carmichael Auditorium, History and Technology Building. FREE.

WEDNESDAY, SEPTEMBER 11

POETRY READING: Nikki Giovanni, whose work expresses a great sensitivity to the black and human situation, will read selections from her own works, including *My House, Spin a Soft Black Song* and *Ego Tripping*. 8 p.m. Baird Auditorium, Natural History Building $3.50.

THURSDAY, SEPTEMBER 12

CREATIVE SCREEN: *Anansi the Spider*—animated adventures of the African folk hero Anansi, a spider with human qualities; *Art and Archaeology in Nigeria*, the culture of Nigeria expressed with dancers in colorful masquerades, craftsmen making jewelry, pottery, and cloth, and scenes of the Nigerian landscape; *New Images*—The skills of craftsmen and other artists—dancers, actors, musicians, and designers—of Oshogbo, a western Nigeria trading city and the focal point for art in the African society. Complete showings begin 11 a.m. and 12:30 p.m. The Renwick Gallery. FREE.

FRIDAY, SEPTEMBER 13

ICE AGE MAMMALS AND THE EMERGENCE OF MAN. A new hall that blends objects from the Natural History collections of paelontology, mineral science and anthropology to depict the great events of the Ice Age, including the development of the ice sheets, evolution and extinction of giant mammals and the emergence of man. The exhibit includes skeletons of the Ice Age animals and a slide show explains the effect of glaciers on the geography Four anthropological dig sites are reconstructed, including the Olduvai Gorge in Africa and Dolni-Ventonice in Czechoslovakia. A Neanderthal burial scene has been reconstructed based on evidence uncovered by archaeologists on one site. Permanent Installation, Museum of Natural History.

REHABILITATION MEDICINE FILMS: *Within Our Grasp*, distributed by the Veterans Administration; *Eat to Your Hearts Content, Coronary Heart Disease*, and *High Blood Pressure*, Washington Heart Association, 12:30 p.m. Carmichael Auditorium, History and Technology Building. FREE.

EXHIBITION: *Chaim Gross: Sculpture and Drawings*. Fourteen sculptures and 58 drawings, spanning Gross' career from 1928 to 1970 as sculptor and draughtsman, Wood, lithium stone and cast bronze sculptures are included and the ebony and lignum vitae wood pieces exemplify the artist's importance in a renaissance of 20th century American wood sculpture. The drawings are in ink, pencil and watercolor and were used not only as studies for sculpture but as an expression of a remarkable imagination. National Collection of Fine Arts, through November 24.

SUNDAY, SEPTEMBER 15

SCI-FI FESTIVAL, *Destination Moon by* George Powell and *Trip to the Moon* by Melles, 4 p.m. or 8 p.m. Carmichael Auditorium, History and Technology Building. First program in a science fiction film series marking the World Science Fiction Convention in Washington. Remaining programs are scheduled for September 22, 29 and October 6, $1.50 individual programs, $9 seven-program series. Tickets will also be sold at the door.*

MONDAY, SEPTEMBER 16

ILLUSTRATED LECTURE: *The Outdoor Sculpture of Washington, D.C.* James Goode, Curator, Smithsonian Institution Building, discusses the origin and development of Washington's sculpture and the problems and discoveries involved in studying them. He will also discuss the wide range of styles represented in the monuments, fountains, friezes, cemetery works and architecture. A sherry reception will follow and copies of his newly published book will be sold. p.m. Carmichael Auditorium, History and Technology Building. $3.*

TUESDAY, SEPTEMBER 17

MUSEUM TALK: *This Glass Belonged to My Grandmother*. Speaker, Paul V. Gardner, Carmichael Auditorium, History and Technology Building.

WEDNESDAY, SEPTEMBER 18

LUNCHBOX FORUM: Subject to be announced. 12 noon. Room 449, Smithsonian Institution Building.

FRIDAY, SEPTEMBER 20

REHABILITATION MEDICINE FILMS: *Run Dick, Run Jane*, distributed by the Washington Heart Association; *The Person Within*, Clarke School for the Deaf; *Lights Out No Sound*, Schmidler, 12:30 p.m. Carmichel Auditorium, History and Technology Building FREE.

SATURDAY, SEPTEMBER 21

EXHIBITION SUITING EVERYONE. The two hundred year history of American clothing and its manufacture. The exhibit begins with stark contrasts in the colonial dress of the elegant, tailored garments and the simpler homemade items and with mannequins and graphics continues to the ready-to-wear clothing available to 20th century Americans. History and Technology Building.

SUNDAY, SEPTEMBER 22

SCI-FI FESTIVAL: 4 p.m.—*Metropolis* by Fritz Lang. 8 p.m.—*Things To Come* by Fritz Lang. See September 15 for details.

TUESDAY, SEPTEMBER 24

MUSEUM TALK: *Tokens and Counters Man Has Used Throughout History*. Speaker: Carl H. Jaeschke, Museum Specialist. Numismatics. 12:30 p.m. Carmichael Auditorium, History and Technology Building. FREE.

THURSDAY, SEPTEMBER 26

CREATIVE SCREEN: Ananst *the Spider; Art and Archaeology in Nigeria; New Images.* Repeat program. See September 12 for details. 11 a.m. and 12:30 p.m. The Renwick Gallery FREE.

FRIDAY, SEPTEMBER 27

THE WASHINGTON CONSORT. A program of Spanish, Flemish, German and English music of the 16th and 17th centuries, performed on original instruments or authentic reproductions. 8 p.m. Baird Auditorium, Natural History Building. $4.50.*

REHABILITATION MEDICINE FILMS: *Breath of Life and Congestive Heart Failure,* distributed by the Washington Heart Association; *Everything But Hear,* Clarke School for the Deaf; *Toward Tomorrow, Good Will Industries,* 12:30 p.m. Carmichael Auditorium, History and Technology Building.

SATURDAY, SEPTEMBER 28

SING OUT! Jackie Stein introduces children to music as a form of human expression in an adventure in folk music that includes American ballads and international folklore. 10 a.m. (ages 4–6) or 11:30 a.m. (ages 7–9). Carmichael Auditorium, History and Technology Building. $3.*

SUNDAY, SEPTEMBER 29

SCI-FI FESTIVAL: 4 p.m.—*The Day the Earth Stood Still* by Robert Wise. 8 p.m.—*Forbidden Planet* by Fred Wilcox. See September 22 for details.*

MONDAY, SEPTEMBER 30

AUDUBON LECTURE: *The Ugly and The Beautiful.* Speaker Carleton Ray discusses the impact of the environmental changes on the white whale. This program begins the second annual series of monthly lectures cosponsored by the Audubon Naturalist Society and the Resident Associate Program. All programs include color slides or films. 5:30 or 8:30. Baird Auditorium, Natural History Building. $3 individual lecture; $18 nine-lecture series. Tickets will also be sold at the door if available.*

RECENTLY OPENED

WOMEN'S WEEK COMMEMORATIVE. Historical 19th and 20th century women are featured in this five case exhibit marking; National Women's Week. Silver and art pottery by American craftswomen are also included. History and Technology Building, through September.

George Washington Portraits. Two full length portraits by Gilbert Stuart, painted for Senator William Bingham of Pennsylvania and the Marquis of Lansdowne. The former work has recently been lent by the Pennsylvania Academy of Fine Arts and the latter has been exhibited at the NPG on extended loan from Lord Rosebery. The two are displayed together for the first time since they were painted in 1796. National Portrait Gallery.

INFORMATION VOLUNTEERS NEEDED

The fall recruitment is curently under way for Smithsonian Information Volunteers to staff desks in all of the museums on the Mall, including the new Hirshhorn Museum and Sculpture Garden. The program operates seven days a week and requires a minimum of three hours of service weekly. For information, call 381-6264 by September 4.

DEMONSTRATIONS

Museum of History and Technology

Spinning and Weaving—Tuesday through Thursday, 10 a.m.–2 p.m. 1st floor.

Printing and Typefounding: Monday, Tuesday, Thursday, Friday, 2–4 p.m. 3rd floor.

Musical Instruments. A selection of 18th and 19th century instruments, and American folk instruments. Hall of Musical Instruments, 3rd floor, 11 a.m. Mondays and Fridays—18th century keyboard; Wednesdays—lutes and guitars; Thursdays—Folk.

PUPPET THEATRE

Begins September 25

THE BOOK OF THREE, by Lloyd Alexander, performed by Allan Stevens and Company. The story follows a 13-year-old boy, eager to become an heroic adult but unable to find the key, and the cast includes enchantresses, an enchanter and bard with harp. Performances are scheduled Wednesdays through Sundays at 10:30 and 11:30 a.m., with an added performance on Saturdays and Sundays (time to be announced). $1.25 per person with discounts available for groups of 25. For information or reservations call 381-5395. Presented by the Smithsonian Institution Division of Performing Arts.

HOURS

Open 7 days a week

Freer Gallery of Art National Collection of Fine Arts, National Portrait Gallery, The Renwick Gallery, Smithsonian Institution Building—10 a.m.–5:30 p.m.

Anacostia Neighborhood Museum—10 a.m.-6 p.m. Monday through Friday; 1–6 p.m. weekends.

National Zoo Buildings—9 a.m. to 6 p.m.

Extended Hours through Labor Day

Arts and Industries Building, National Air and Space Museum, National Museum of History and Technology and the National Museum of Natural History—10 a.m. to 9 p.m. Beginning September 3—10 a.m. to 5:30 p.m.

Deadline for October calendar entries: September 9. The Smithsonian Monthly Calendar of Events is prepared by the Office of Public Affairs. Editor: Lilas Wiltshire.

EXPERIMENTARIUM

Aid and Space Building

TO SEE THE EARTH AS IT TRULY IS. A new show that begins in Washington, D.C. travels past the moon, the solar system, the Milky Way galaxy to a hypothetical distant cluster of galaxies, and looks back at each point to see the earth and its place in the universe. Beginning September 17: Tuesdays through Fridays—1:30, 2:30, 3:30, 4:30 p.m. Saturdays and Sundays 11 a.m., 12, 1, 2:30, 3:30, 4:30 p.m. Please note: Shows start promptly, and doors cannot be opened for late arrivals. The show lasts 33 minutes.

CALENDAR REQUESTS: Mail to Central Information Desk, Great Hall, Smithsonian Institution Building, Washington, D.C. 20560. For changes of address, please include mailing label.

OTHER EVENTS

Sponsored by the Smithsonian Resident Associate Program. For complete information, call 381-5157.

Tours

Insiders Art Tour to Philadelphia, October 17.

Air Traffic Control Center, September 8 or 15.

Washington Temple, September 16, 23, or October 7.

Winterthur, September 21, 28 or November 2.

Reston, Oatlands, Morven Park, September 28.

Washington Walking Tours. Throughout September, October and November.

Commercial Georgetown, September 29.

Classes

The Movie Musical. Conducted by Joel E. Siegel, film critic, Washingtonian Lectures, screenings and guest appearances by major film directors and actors. 9 p.m. Wednesdays beginning September 18. $45.

Classes in the Arts, Humanities, Science and Studio Classes and Workshops will begin in October. For a complete schedule, call 381-5157.

DIAL-A-PHENOMENON.—737-8855 for weekly announcements on stars, planets and worldwide occurrences of short-lived natural phenomina.

DIAL-A-MUSEUM.—737-8811 for daily announcements on new exhibits and special events.

RADIO SMITHSONIAN

Radio Smithsonian, a program of music and conversation growing out of the Institution's many activities, is broadcast every Sunday on WGMS-AM (570) and FM (103.5) from 9–9:30 p.m. The program schedule for September:

The 1974 Festival of American Folklife, Part III. Highlights of the people and music that make the Festival one of the Smithsonian's most popular events.—Sept. 1.

No broadcast.—Sept. 8.

Catching Fallen Stars. Smithsonian curator emeritus Edward Henderson looks back on his lively career of hunting and exploring meteorites. *Chautauqua: Culture for the Millions.* Dr. Keith Melder describes the Chautauqua movement, which, in the early 20th century, brought entertainment and education to 30 million Americans.—Sept. 15.

Population: Where Will It Go? A discussion featuring Philander Claxton, coordinator of U.S. participation in the World Population Conference, held recently in Rumania, and Moses Shelesnyak, a population specialist at the Smithsonian.—Sept. 22.

To be announced.—Sept. 29.

MUSEUM TOURS

Walk-In Tours

National Portrait Gallery. Permanent collections or special exhibition *In the Minds and Hearts of the People: Prologue to Revolution:* 1760–1774. Daily between 10 a.m. and 3 p.m.

Pre-Scheduled Group Tours

National Portrait Gallery. Call 381-6347.

Tours in other Smithsonian museums will resume in October.

DOMESTIC STUDY TOURS

For information on the following tours, contact Mrs. Howe, Room 106–S1, Smithsonian Institution, Washington, D.C. 20650, or call 381-5910.

"All About Antiques": Oct. 12–19, 1974

Everglades: Nov. 10–15, 1974.

Weekend at Sturbridge: Jan. 17–19, 1975.

Baja Whale Watch: Feb. 6–15, 1975.

Suiting Everyone, *Museum of History and Technology,* See September 21.

DOCENT TOUR GUIDES

Docent tour guides are needed at the Museum of History and Technology, Museum of Natural History, and the Air and Space Building. Training will begin on September 10. Applications are currently being accepted. Call Magda Schremp, 381-6471, for further information.

Use of funds for printing this publication approved by the Director of the Office of Management and Budget, June 3, 1971.

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*Indicates programs sponsored by the Smithsonian Resident Associate Program. Discounts are available for members and students. For attendance or other information call 381-5157. Unless otherwise indicated tickets should be purchased in advance.

H.R. 11864

HON. JOHN B. CONLAN

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. CONLAN. Mr. Speaker, on Wednesday, August 21, 1974, the House overwhelmingly approved the conference report on the bill H.R. 11864, the Solar Heating and Cooling Demonstration Act of 1974. As a cosponsor of this timely legislation, I congratulate my colleagues on the swift and definitive action taken to encourage research to tap the great natural potential of solar energy.

Mr. Speaker, upon review of the CONGRESSIONAL RECORD for August 21, 1974, I was surprised to see that I am recorded as not voting on adoption of the Solar Energy Conference report. I was present in the House Chamber and did vote in favor of the report. Apparently my coded card did not register in the electronic voting system. I would like the record to reflect that I did vote "yea" on rollcall No. 512.

QUESTIONNAIRE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. STARK. Mr. Speaker, I have recently polled the residents of my district on a number of questions, and I would like to make the results part of this RECORD for the interest of my colleagues.

The questionnaire covered issues ranging from the impact of inflation to the question of amnesty for draft dodgers. I was able to learn the feelings of my constituents on national health insurance, gun control, abortion, and other issues of tremendous regional interest.

Nearly 94 percent of those responding find that inflation has resulted in serious changes in their lifestyles. A slightly larger number still feel that Congress must take on a more active role in managing the economy.

Many people felt they could not adequately state their opinions by simply answering "yes" or "no" and wrote lengthy, thoughtful opinions in addition. I would like to include here a letter sent by Mrs. Steven H. Jones of Livermore that pleads eloquently for assistance from Congress. It is a moving call to action.

The letter follows:

LIVERMORE, CALIF.,
September 30, 1974.

DEAR CONGRESSMAN STARK: I had intended to just fill out your questionnaire and in some small way voice my opinion.

Now, I have never written to my Congressman before, but your questionnaire prompted me to think it just might do some good, especially if every "little person" like me would speak out.

I am 28 years and a mother of two children, ages 5½ years and 1 year. My husband is 29 years and works a good 10 hour per day as an Industrial Laundry driver. We spent our first two years of marriage in the Army, one of which my husband spent in Viet Nam as a helicopter repairman. In those days, we were frightfully poor, but had high hopes for a better future and denied ourselves much to get where we are today. My husband has worked long and hard hours so that we may live in a comfortable home, eat good food, dress accordingly and be able to have some "extras" like vacations, eating out, etc. etc.

At this point, we feel very uncertain that we may be able to excell in life, as well as our uncertainties that we will even be able to keep our heads above water.

We don't ask a lot out of life. I guess we're lower-middle class people who get a kick out of a refrigerator full of good food, good friends and family coming to visit and most important providing a good environment for our children. Do I think we're special? Certainly not! I am well aware that we fall into a category of millions. Help!

We are honest, hard working, patriotic Americans. The late President Kennedy said "ask not what your country can do for you, but what you can do for your country." What more does our country want from us?

We pay our taxes (no questions asked), support our government and local community, do our share toward ecology, the energy crisis and even the population explosion.

I am not educated in politics and I would never pretend to be able to do your job, just as I'm sure you wouldn't want to take mine on. I'm an average housewife trying to balance a budget and check book that looks frightfully hopeless after a trip to the grocery store. I would hate to see "the last of the red-hot Americans" adopt an oh! what's the use attitude." Please, if anything else, go to Washington and fight for decent food prices—tell them all the "Mrs. Joneses" of America sent you!

I appreciate the time you've given to this rather lengthy letter. It may not be as "business like" as some of your letters, but it's certainly honest and from the heart.

If you answer, I'll know you're really there.

Sincerely,

MRS. STEVEN H. JONES.

For the interest of my colleagues, below appear the results of my questionnaire:

QUESTIONNAIRE

Inflation—Is your lifestyle being hurt by inflation?

Yes, 93.5%.

No, 6.5%.

Would you fight inflation with a tax cut?

Yes, 49.5%.

No, 50.5%.

Tax increase?

Yes, 16.3%.

No, 83.7%.

Wage and price controls?

Yes, 71.2%.

No, 28.8%.

Cut in government spending?

Yes, 92.4%.

No, 7.6%.

Gun control—Should we outlaw the sale of so-called "Saturday night specials," cheap handguns frequently used in crime?

Yes, 82.2%.

No, 17.8%.

Ridgelands Park—Do you favor creation of an urban national park—stretching from Richmond to San Jose to preserve the East Bay hills for public use?

Yes, 79.9%.

No, 20.1%.

Highways—Should Highway 580 between Castro Valley and Dublin be widened to freeway standards?

Yes, 74.3%.

No, 25.7%.

Should any widening include a median for future mass transit?

Yes, 83.8%.

No, 16.2%.

Health—Do you support the concept of national health insurance?

Yes, 73.8%.

No, 26.2%.

Environment—Are we doing enough to save the environment?

Yes, 32%.

No, 68%.

People's mood—Do you think most people have lost confidence in government officials?

Yes, 82.2%.

No, 17.8%.

Campaign financing—Should tax dollars be used to finance campaigns for election to federal office?

Yes, 44.2%.

No, 55.8%.

Abortion—Do you favor an amendment to the U.S. Constitution to outlaw all abortions?

Yes, 15.3%.

No, 84.7%.

Impeachment—Do you think President Nixon should:

Be impeached by the House, 62.7%.

Not be impeached, 32.8%.

Taxes—Do you feel that low and moderate income people pay taxes that are:

Too high, 85.3%.

Too low, 2.9%.

About the right amount, 11.8%.

Economy—Who do you feel is most responsible for the current economic situation?

Congress, 57.3%.

The President, 31.4%.

Chairman of the Federal Reserve, 11.2%.

Should Congress play a more active part?

Yes, 94.6%.

No, 5.4%.

Amnesty—Should draft evaders be:

Pardoned with a period of required alternative service, 51.4%.

Required to face trial, 31.1%.

Granted unconditional amnesty, 17.5%.

What about deserters? They should be:

Pardoned with a period of required alternative service, 33.4%.

Required to face trial, 55.1%.

Granted unconditional amnesty, 11.6%.

SOME HOPES FOR THE SUMMIT

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. HANRAHAN. Mr. Speaker, President Ford will conduct an economic "summit meeting" later this month. Inflation is the most critical problem of our country today; however, it is uncertain what the outcome of the meeting will be. Inflation is extremely complex, and it is going to take a great deal of time to curtail it. For the interest of my colleagues, I wish to insert the following article from the Chicago Tribune:

SOME HOPES FOR THE SUMMIT

For those who expect a miracle from President Ford's economic "summit meeting" on Sept. 27 and 28, we have two words of advice: forget it! There is no economic St. George to lay low the inflationary dragon. There are no panaceas, nostrums, incantations, or snake oil remedies that will work overnight to restore price stability and vigor to the economy. Curing inflation will take time—a lot of it—and will require, in Mr. Ford's words, "belt tightening and watching every penny."

These caveats aside, the economic summit can be of immense value if for no other reason than talking thru the problem of inflation before the country as a whole. The President is soliciting the views of all sectors of the economy—business, labor, consumers, agriculture, and state and local government. To be effective, it should be conducted like an old "town meeting," where townspeople could express themselves freely and perhaps reach a consensus on the direction of policy.

It is to Mr. Ford's credit and in keeping with his philosophy of open government that the two-day meeting will be open and televised. This is a welcome decision because if a consensus or new approaches to the problem of inflation can be developed, it will be in full view of the American people, whose understanding and cooperation is essential in the war against inflation.

Inflation is confusing enough even to economists. But the best way to achieve public understanding is to give the participants the freedom of give and take, the right to propose and refute. The meeting should not be simply a platform for speeches by special interests. All too often, our national economic debates have been limited to a few proposals based on partisan political or ideological grounds, with no direct public rebuttal. More often than not, these proposals would aggravate inflation rather than cooling it.

There have been demagogic demands for tax relief for low-income individuals and higher taxes on business. Some demand a return to wage and price controls even tho today's double digit inflation is a direct result of yesterday's controls. [President Ford has wisely ruled out mandatory or standby controls, saying he can foresee no circumstances that would require the imposition of controls.] Still others blame high interest rates for causing inflation instead of recognizing that high rates are a reflection of inflation, not a cause.

The summit meeting can be a stage for rational debate on the most effective means for slowing inflation at the least cost to the nation in terms of unemployment and national output. If a consensus is reached calling for general sacrifices thruout the economy, then we must have contingency programs to soften the blow so that one sector of society does not carry a disproportionate share of the burden.

One such program—public service employment in areas of high unemployment for those workers who have exhausted their jobless benefits—already is on the books. Now there are proposals in Washington to increase the funding for this program to $4 billion to cover as many as 800,000 workers. They, too, must be debated.

National belt tightening should start at the top, and Mr. Ford says he intends to hold spending in the current fiscal year below $300 billion. Nothing in the budget, he says, is sacrosanct. This is a challenge to Congress to comb thru the myriad programs of the federal government and eliminate those "sacred cows" that have long outlived their usefulness. The national interest should be put above the interest of any special group.

In every step that is taken the national interest must be kept ahead of the interests of special groups, and sound economic reasoning must have priority over demagogic or simplistic insistence that there are easy ways out. If the summit meeting can teach even a fraction of the people to distinguish the one from the other, it will be well worthwhile.

THE DEATH OF CREIGHTON W. ABRAMS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. CONTE. Mr. Speaker, while this body was in recess, the Nation lost one of its foremost military strategists and my congressional district lost one of its most distinguished and dedicated sons. I refer, of course, to the untimely death of Army Chief of Staff Creighton W. Abrams.

A dedicated man in a difficult job, General Abrams will be remembered as the man who, succeeding General William Westmoreland as the top field commander, directed all U.S. forces in the last 4 years of the Vietnam war. But it must also be recalled that he served his country and the U.S. Army with skill and intelligence during the period of transition from a draft Army, to an all-volunteer force.

An outstanding leader of men, General Abrams was also a scholar and an athlete, talents that first emerged at Agawam High School in Agawam, Mass., where he captioned a championship football team and served as graduating class president. A graduate of the U.S. Military Academy, General Abrams served heroically during World War II as commander of the 37th Tank Battalion.

At this time, I express my sincere condolences to Mrs. Abrams, the Abrams children, and the entire Abrams family.

VALENTYN MOROZ—ONE OF MANY UKRAINIAN POLITICAL CAPTIVES TORTURED BY THE SOVIETS

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. ANNUNZIO. Mr. Speaker, recently the Committee for the Defense of Valentyn Moroz brought crucially necessary national attention to the plight of this Ukrainian historian who has been imprisoned, poisoned, and tortured for many years by brutal Kremlin leaders for "anti-Soviet agitation and propaganda" and who may by now have died from this mistreatment. Many Members of the House and the Senate also expressed their concern by urging his release.

I welcome these recent efforts, because as I said in my remarks of January 22, 1974, in commemoration of Ukrainian Independence Day:

> Arrests of Ukrainian intellectuals, writers, literary critics, professors, students, scientists, and representatives of every strata of society have been made in recent years for "anti-Soviet agitation and propaganda," and the arrests, torture, and internment continue.
>
> In reality, this propaganda consists of petitions, appeals, and letters submitted from concentration camps by prominent political prisoners and prominent Ukrainians at home to the Communist party and government officials of Ukraine and USSR, bringing to their attention the questions of terror, Russification, and violations of constitutional and human rights.

Efforts by these courageous individuals to assert Ukrainian consciousness and to resist the decades-old campaign to destroy Ukrainian self-identity and Ukrainian culture must be encouraged by all freedom-loving peoples everywhere.

This is the reason I introduced a bill in 1970, and again in the current 93d Congress regarding human rights violations in the Soviet-occupied Ukraine. I urge my colleagues to introduce a resolution similar to my own House Concurrent Resolution 46, which resolves:

> That it is the sense of Congress that the President, acting through the United States Ambassador to the United Nations Organization, take such steps as may be necessary to place the question of human rights violations in the Soviet-occupied Ukraine on the agenda of the United Nations Organization.

Mr. Speaker, we must continue our efforts to secure the release not only of Valentyn Moroz, but also of many, many other heroic Ukrainian patriots now languishing under barbariac conditions in Soviet prisons and concentration camps. In tribute to their courage and dedication, a few of the names of these heroes follow:

Vyacheslav Chornovil, writer and author who protested to the Presidium of the Supreme Soviet of Ukraine against the barbarous desecration of cemeteries in Ukraine and, in the City of Lviv (Western Ukraine) the demolition of military graves with a bulldozer (tried in February, 1973, sentenced to 7 years at hard labor, 5 years of exile).

Ivan Dziuba, who wrote "Internationalism or Russification" (tried in March, 1973, sentenced to 5 years imprisonment).

Wasyl Stus, poet (tried September, 1972, sentenced to 5 years hard regime labor camp and 3 years exile).

Ihor Kalynec, poet (tried behind closed doors in November, 1972, sentenced to 9 years imprisonment and 3 years exile).

Irene Stasiv-Kalynec, poetess (tried July, 1972, sentenced to 6 years imprisonment, 3 years exile).

Stephany Shabatura, artist and designer (tried in July, 1972, sentenced to 5 years general regime labor camp and 3 years exile).

Stephanie Hulyk, mother of an eight-month-old infant and member of the association to preserve historical monuments.

Mrs. Nina A. Strokata-Karavanskyj, arrested December 8, 1971, in Odessa for refusing to divorce her husband, Sviatoslav Karavanskyj, and for supporting him and refusing to condemn him (tried May, 1972, and sentenced to 4 years hard regime labor camp).

Yuriy Shukhevych, the son of the former Commander-in-Chief of the Ukrainian Insurgent Army, Roman Shukhevych-Taras Chuprynka. For not condemning his father in 1948, he was sentenced to 20 years of imprisonment at the age of 15. He was released and arrested again on January 11, 1972, tried September, 1972, and sentenced to 5 years in prison, 5 years strict regime labor camp, 5 years in exile.

Dr. Leonid Pliushch, Ukrainian mathematician and cyberneticist, arrested and sentenced to a psychiatric asylum in Dnipropetrovske.

Ivan Switlychayj, literary critic (tried in camera in April, 1973, sentenced to 7 years of imprisonment and 5 years in exile).

THE WHITE HOUSE CONFERENCE ON INFLATION

HON. WRIGHT PATMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. PATMAN. Mr. Speaker, last week I had the opportunity to attend a White House Conference on Inflation—part of the summit meetings convened by President Ford.

While summit meetings by themselves will accomplish little, I am happy that the President is using his office to help throw the spotlight on economic problems, particularly those relating to the Federal Reserve System and the mismanagement of monetary policy.

During the meeting, I submitted to

the President and to the group of economists a 12-point plan which I hope will be helpful in the search for solutions to our economic trouble. As I pointed out, this is not an all-encompassing list, but these are areas I feel must be dealt with if we are to stabilize the economy.

Mr. Speaker, I want to place in the RECORD at this point a copy of my remarks at the White House on September 5:

THE WHITE HOUSE CONFERENCE ON INFLATION

The following steps should be undertaken to combat the nation's current economic problems:

1. An immediate strengthening of the Antitrust Division of the Justice Department. This should be accompanied by a specific Presidential directive calling for full and vigorous enforcement of all aspects of laws designed to improve competition. The Congress should immediately consider supplemental appropriations for both the Justice Department and the Federal Trade Commission to carry out these functions to improve the competitive situation in the economy.

2. The establishment of a task force on competition. This should be accomplished by legislation to provide subpoena powers and the task force should be empowered to investigate all aspects of the competitive relationship of banking and business corporations within the United States. The effort should be designed to determine areas where more vigorous enforcement of antitrust laws should be carried out and the identification of areas where new statutes may be needed. The study should be designed to explore fully the pricing practices of United States corporations and the degree to which anti-competitive forces artificially increase the cost of goods and services.

3. The establishment of a direct loan program for housing. This could be accomplished through the establishment of a development bank capitalized initially by appropriated funds with the ability to lend up to twenty times its capitalization. The bank would be empowered to attract savings through the sale of debt paper. The loans would be at low interest—not to exceed the discount rate established by the Federal Reserve. The emphasis would be on direct lending to community and non-profit organizations which would undertake housing programs rather than guarantees through savings and loans and banking institutions.

4. Consideration of tax incentives for savings to help finance low and moderate income housing, and to prevent the Federal Reserve from destroying the thrift industry.

5. The immediate implementation of Public Law 91–151 by the President. The implementation should be accompanied by a directive to the Federal Reserve System to use the statute to allocate credit to areas of greatest need and away from inflationary activity. Such an allocation would allow the Federal Reserve to carry out a moderate monetary policy without starving essential areas of the economy.

6. The immediate removal of economic advisors at all levels who have participated in policies which have led to our current problems. This is not suggested as any personal attack on these advisors, but a simple recognition that the people expect and want change. Many of our problems are associated with a prolonged period of diminished confidence in the Federal Government and this confidence can be restored only if there are new advisors.

7. The establishment of a Public Service Administration designed to provide jobs in a volume sufficient to keep national unemployment rates below 5%. Such a program could be partially financed through an excess profits tax designed to take the biggest bite from those corporations whose profits have greatly exceeded the rate of inflation over the past four years. Additional funds could be provided by shifting monies from nonessential Federal programs.

8. The establishment of a program to supervise monetary policy to prevent the mistakes which have contributed to much of the current inflation. The President supervises all other executive agencies and if he is to be assigned the prime role in establishing new economic policy, he must maintain and strengthen his power to supervise monetary policy—the single most important element in economic policymaking. The decisions of the Federal Reserve Board must be more open to the public and the Congress if rational economic decisions are to be possible.

9. A review of all Federal credit programs with a particular emphasis on determining the validity and effectiveness of guaranteeing loans through private financial institutions. At the present time, the Federal Government is using its Number One credit rating to guarantee the highest interest rates in the history of the United States and this is doing nothing to provide incentives for reductions in such rates. The re-establishment of direct lending by Federal agencies for needed programs would help provide a yardstick for interest rates and allow these programs to go forward at a lesser cost.

10. Tax reform with the primary emphasis on providing relief for low and moderate income families who have borne the brunt of inflation. By closing loopholes and providing greater equity, such a tax reform package could be provided without reducing Federal revenues.

11. Utilization of the new Council on Wage and Price Stability and the Commission on Productivity to conduct an intensive survey to determine ways in which productivity could be increased and capital better utilized nationwide. Such a study should be launched immediately with the results to be reported at the beginning of the 94th Congress.

12. Re-examination of export and import policies to determine how such activity may be utilized to hold down prices and make better use of U.S. resources. Included in this should be an examination of policies toward foreign corporations and investments in the U.S. and toward U.S. corporations and banks with extensive foreign holdings and operations.

Next, may I add in conclusion, that I am thoroughly convinced over a period of years and for many decades that high interest rates cause high prices and oftentimes the prices of the goods on the shelves are raised when interest rates are raised.

High prices cause inflation. It is just as unwise to try to stop inflation by raising interest rates even higher as it would be unwise to try to put out a fire by using gasoline instead of water.

I also want to call attention to the huge portfolio of bonds held by the Federal Reserve Open Market Committee. The Federal Reserve, as you know, doesn't come to the Congress for appropriations like other Government agencies. Instead it draws down $5 billion annually from the Treasury Department in the form of "interest" on paid-up bonds being held in the portfolio of the Federal Reserve's Open Market Committee.

These are bonds that have been paid for once with the money and credit of the U.S. Government—the taxpayers' money—yet the Federal Reserve continues to hold them and draw interest. And out of this massive interest—$5 billion annually—the Federal Reserve finances its far-flung operations including those directed against the small banks.

These bonds are in the vaults of the New York Federal Reserve Bank and today total more than $80 billion—about 20 per cent of our entire national debt. These bonds have been paid for and they should be cancelled, retired, and subtracted from the national debt. It would be a most wholesome development for the economy.

MADAM CHIANG KAI-SHEK'S WARNING REGARDING COMMUNIST CHINA

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. FISHER. Mr. Speaker, many Americans are concerned about our relationship with Red China. Many of us feel that leopards do not change their spots overnight. What is needed in this relationship is deeds, not words.

One of the world's most respected and reliable authorities on the present internal conditions of Communist China is Madam Chiang Kai-shek. She is equally as well informed about the present regime in Peking, its repressive policies, and its disregard for human rights.

It is imperative that our Government proceed with great caution in pursuing any closer relations with the Peking regime. In this regard would we not be well advised to coordinate our policies with our best friend in the Pacific area, the Republic of China? In any event that would be our most dependable source of information upon which to base future policies.

Under leave to extend my remarks, I include a news release from Madam Chiang Kai-shek. It follows:

MADAM CHIANG ON NIXON RESIGNATION

TAIPEI, Aug. 11.—Madame Chiang Kai-shek when asked by a Central News Agency correspondent yesterday to comment on the resignation of President Richard Nixon, said it is evident that Mr. Nixon made a difficult and agonizing decision. However, it was a decision contingent upon the best interest of the United States.

She agreed with President-to-be Gerald R. Ford that it is the "finest personal decision for America as well as for the free world."

Further asked to comment on Mr. Nixon's statement of having "unlocked the doors that for a quarter of a century stood between the United States and the People's Republic of China, we must now ensure that the one quarter of the world's people who live in the People's Republic of China will be and remain not our enemies but our friends," Madame Chiang had this to say:

"The 'unlocking' of the doors of the mainland would indeed be a very good thing were it true. Unlocking the doors means free egress and ingress. First, let us talk about egress. The pity of it all is that it is only a theoretical 'unlocking' for we all know that in egress no compatriots of ours are permitted to leave the country and their enforced serfdom. The only ones that leave the mainland escape by swimming to Hongkong, or Communist functionaries who are sent out as so-called diplomats, trade officials, or those on special tasks or missions and even they move about in threes or more to prevent their decamping and asking for asylum from the 'decadent' countries wherever they are stationed or to the 'decadent West'.

"As to ingress I can quote from extremely impartial sources. We all have heard of and about the well-known sinologist Lord Michael Lindsay. We also know over the years where his sympathy lies, yet he has become so disenchanted with the Maoist regime after his visit together with his wife to the mainland last summer."

Madame Chiang further enumerated the facts as given by Lord Lindsay to the effect (1) All diplomatic missions in Peiping are completely isolated, incapable of obtaining information other than that printed in the "People's Daily"; (2) Only Australians certified by the Australian Communist Party as loyal to the Communist cause would be given visas by the Chinese Communist "embassy" in Canberra.

Lady Lindsay, herself a Chinese, came to the conclusion that the present-day Peiping regime is "more threatening and ferocious than a tiger." Lord Lindsay further charged that all Chinese people on the mainland are poverty-stricken, except Mao and his cohorts and cadres. And the people do not even have the freedom not to speak, Lady Lindsay added.

Madame Chiang pointed out another example from another source based upon a speech given by former deputy director of the U.S. liaison office in Peiping, China expert Mr. Alfred Jenkins, who said he thought that the Maoist regime has great difficulties in power succession, lacks stable systems, and is opposed to systems, intellectualism, professionalism, urbanization and the elite of society. Mr. Jenkins' assessment is that such a regime cannot bring true well-being to the Chinese people and cannot open a glorious vista for the country, she said, adding:

"Could anyone with a modicum of intelligence ever honestly think that establishing formal relations with a repressive regime can mean that the Chinese people on the mainland will turn instantly from being 'enemies' of the United States into 'friends' of the United States? I say categorically that there is no such thing as instant friendship as instant coffee. On the contrary, the Chinese people are friends of the American people of long standing despite the Communist regime. In fact, reason and factual reports from refugees fleeing the Maoist tyranny tell us that the Chinese people resent and are bitter towards the U.S. détente and the establishment of closer liaison between the two governments because the people feel that the U.S. is putting the stamp of approval on their enslavement.

"In point of fact they feel that the United States by so doing is helping the Maoist cabal to enchain them with redemption set further away from achievement. They also feel that the United States is dealing a psychologically lethal blow to their emancipation from servitude. This I know is not the purpose nor the wish of the American people but this is how millions upon millions of my compatriots feel. The millions upon millions of refugees who were fortunate enough to flee to safety and are in Hong Kong and elsewhere are each and every one a living testament of that cruel tyrannical rule. I can do nothing but report the facts as they are.

"Now at last we have the literary investigation of a giant of a man, the Gulag Archipelago. I recall that once upon a time the intellectuals of the West, aided by the liberals of the day, hailed the re-establishment of friendly relations between the American people with the great Russian people. Furthermore it was said that the Russian people (not Stalin's regime) will soon embrace democracy and all the ideals of democracy, some added, cautiously with gradualness. Even the fact that Maxim Litvinov had an English wife was trotted out to help perpetrate the great political hoax and swindle of the age. Yet unless Solzhenitzyn's testimony is an out-and-out fabrication of the grossest genre it portrays the Russian people, instead of enjoying the blessing of democracy as we understand it, are being systematically emasculated of their spiritual, intellectual and personal freedoms to a degree that literally affected tens of millions according to the Gulag. U.S. recognition of Stalin only exacerbated their status of antediluvian slavery. What more cynical and farcical reasoning can there be? Clearly contemporary history has shown that the U.S. government did a great disservice to the Russian people as well as to the American people. For what Americans were and are going through today globally are the results of decisions made during and after World War II by some of her leaders.

"The evidence is all there for us to see. Need I say more?"

MINE TAILINGS THREAT TO WATER QUALITY AND HUMAN HEALTH CONTINUES

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. VANDER JAGT. Mr. Speaker, for many months Americans who have become deeply concerned with preserving the quality of our natural environment have looked forward to a final decision in the Reserve Mining Co. case. Through this litigation the States of Minnesota, Michigan, and Wisconsin, the Federal Government, and interested citizens' groups are seeking to terminate that company's disposal of mining wastes in Lake Superior.

Disclosure in June 1973 that asbestos fibers had been found in the drinking water supply of Duluth, Minn., lent further urgency to cessation of this daily discharge of 67,000 long tons of these taconite mine tailings in the lake. Scientists have expressed fear that microscopic asbestos fibers associated with the discharge, when consumed by people through drinking water, may pass through body membranes to reach blood and lymphatic systems, causing cancer in various places in the body. Similar concern has been raised from the discovery of concentrations of airborne asbestos particles.

Upon disclosure of this serious threat to human health I wired the Justice Department urging that an injunction be sought to terminate this practice. But this menace to a precious water resource and to public health has proceeded virtually unabated. Except for a 2-day period following the April 20 decision of Federal Judge Miles Lord, which the Eighth Circuit Court of Appeals then stayed, the company has continued its lake disposal throughout the district court trial and subsequent appellate proceedings. More than 25 million tons of taconite tailings have entered Lake Superior waters since the health disclosure, further jeopardizing public welfare and despoiling this extraordinarily valuable freshwater resource.

A three-judge appeals panel in June 1974 ruled that Judge Lord had made a legislative policy decision in resolving in the favor of health safety any doubts as to the effects of the discharge. Now, while some progress has been made in identifying a site for land disposal, the company is continuing to dispose in the lake pending the outcome of additional appeals proceedings in December on the merits of the case. With tailings flowing into Lake Superior at an approximate rate of 1 ton per second, the potential for serious harm can be readily appreciated.

The need for prompt implementation of Judge Lord's order halting this lake disposal remains great. Each day that the stay is in effect poses greater risk to the public and to the quality of the lake. I urge the Justice Department to push forward in this case in association with the other parties, pursuing termination of lake disposal at the earliest possible date. A July 16, 1974, letter from Chairman Russell W. Peterson of the Council on Environmental Quality to Assistant Attorney General Wallace H. Johnson offers persuasive testimony on the weaknesses of the three-judge appellate ruling and the need for timely cessation of lake disposal. I commend this letter to the attention of my colleagues, and applaud Chairman Peterson and the Council for a determined, dedicated stance on behalf of the Great Lakes and the area's residents.

EXECUTIVE OFFICE
OF THE PRESIDENT,
COUNCIL ON ENVIRONMENTAL QUALITY,
Washington, D.C., July 16, 1974.

Hon. WALLACE H. JOHNSON,
Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C.

DEAR MR. JOHNSON: The Council on Environmental Quality has been concerned about the asbestos contamination of Lake Superior, which is the subject of litigation in the case of *United States* v. *Reserve Mining Co.*, since June 22, 1973, when the Chairman was designated coordinator for Federal activities related to this matter. In this capacity I have become convinced of the potential public health risk caused by Reserve's discharge of asbestos into the air and water. I therefore believe that the merits of this case and the Eighth Circuit's opinion filed June 4, 1974 should be reviewed as quickly as the Court system permits.

Because of the latent effects of carcinogens it will be more than 10 years before the magnitude of the health risk to the people of Duluth and Silver Bay will be fully realized, and unfortunately it will be based upon the fate of over 200,000 people. Even a few more days of additional exposure pose an unnecessary and unacceptable risk to the residents of the area. As long as the plant continues to operate without efficient air pollution controls, residents of Silver Bay will continue to inhale excessive amounts of asbestos. Although the Corps of Engineers is proceeding with an emergency relief effort to provide interim filtration of the water supplies affected by the discharge, this effort will not be completed for some time. Unless the discharge is halted, all those drinking water from Lake Superior will continue to ingest millions of fibers in each quart of their water. The higher levels which occur in the fall due to changing hydrologic conditions of the Lake make immediate action especially important. Therefore, as expressed earlier, I urge the Justice Department to aggressively pursue all means to eliminate this unwarranted potential public health menace as soon as possible.

This opinion is based, both on my experience as coordinator of Federal activities involving asbestos in the Reserve Mining matter, and from a concern that the language of the opinion of the Eighth Circuit might be cited as precedent with serious adverse effects in the future. The judicial policy that translates scientific information into legal restraints on hazardous activities will directly affect the health of large segments of the public in the years ahead.

This case presents an archetype legal problem that will frequently arise in the future. The problem stems in part from the differing functions of scientific reports and the information offered in courts. The physical and biological sciences are struggling to explain the unknown relationships in the physical world. Some of those secrets are easily discovered, but most are not.

And it is that perspective on scientific knowledge that must be understood. We must realize that our present knowledge (about human health in general, and about the health effects of asbestos in particular) is minuscule in relation to the principles that must be hypothesized, screened and tested before we can claim understanding of these problems. But that small bit of information may be the only tool available to those responsible for protecting the public's health. When information on the nature of the hazard is uncertain or unknown, courts and agencies should encourage the use of the safest, most conservative course of action. They should not misread lack of knowledge about a potential hazard as proof that the hazard is slight or does not exist.

The Eighth Circuit Court accurately summarized the problem on p. 23 of the opinion.

"The discharges may or may not result in detrimental health effects, but, for the present, that is simply unknown. The relevant legal question is thus, what manner of judicial cognizance may be taken of the unknown."

But the problem is the legal principle which the Court then announced.

"We do not think that a bare risk of the unknown can amount to proof in this case. Plaintiffs have failed to prove that a demonstrable health hazard exists. This failure, we hasten to add, is not reflective of any weakness which it is within their power to cure, but, rather, given the current state of medical and scientific knowledge, plaintiffs' case is based only on medical hypothesis and is simply beyond proof."

The major part of the opinion explains why, in its view, the evidence was inconclusive. (We suggest that a careful review of the evidence supports the trial court's finding that a health hazard does exist.) But for purposes of comment on the Court's view of the law, the important assumption was that the evidence did not prove (in a scientific sense) that ingestion of asbestos was safe or harmful. It reflected only lack of documentation for either theory. That is, while there are certain underlying reasons to *suspect* that asbestos in water is a serious health hazard, the Circuit Court found insufficient information to "prove" that water-borne asbestos causes cancer. The Court has in essence abandoned the traditional legal test applicable in a civil case, i.e., more probable than not, and has imposed a test requiring scientific certainty. Counting dead bodies through an after-the-fact epidemiology study then becomes virtually the only way the Government could "prove" its case.

If the courts had required "proof" of a full cause-and-effect relation between source and illness, then 19th century courts could not have acted as they did to prevent discharge of sewage into drinking water streams before the discovery that "germs" or microbes" carried disease.

The problems here are admittedly one step more complex in that the Court assumes there is no clear correlation between the ingestion of asbestos and the incidence of cancer. This is partly due to the long lapse between exposure and diagnosis that is expected here. That is, the symptoms of the disease would not show up until 15–40 years after exposure. But to wait for that incident to develop (and thereby provide the proof demanded by the Court's ruling), could mean that the public had been exposed to cancer-causing materials for well over 15 years before the first restrictive steps could be taken under the theories of this opinion. Considering the magnitude of the potential disaster, it is not unreasonable to enjoin the discharge even if probabilities of harm are low. It is even more justifiable to enjoin, where the probabilities of harm are unknown (as here).

I, therefore, suggest that three general proposals be pursued.

1. The traditional judicial balancing cases involving injunctions against health hazards should consider these factors: A) the probabilities of occurrence of harm, B) the certainty or lack of certainty about the probabilities of the harm, or its cause, C) the magnitude of the harm that could occur, and D) the length of exposure time during which little evidence of harm would be expected. A case where the harm threatened was something less than exposure of broad segments of the public to cancer may well require more certain proof than cases where widespread harm could occur. But so long as there is some rational basis for believing that a large scale health hazard exists, it would be short-sighted public policy to require that plaintiffs "*prove* that a demonstrable health hazard exists" as that phrase was construed in this case. (Op., p. 23)

2. The second principle that should be considered in the law governing these cases would be an important scientific principle that emerged from recent decades of ecological study. That is, when there is uncertainty about the effects of any alteration of the natural system (particularly where there is alteration of human food or water supply) it is best to prefer that alternative which least alters the natural system. We would be happy to provide further documentation supporting a legal argument along these lines.

3. The third principle concerns the way that the common resource, Lake Superior, was used by the public and by Reserve. The Lake's waters originally were so pure that they could be used without filtration as water supplies for cities around the Lake. Knowing that the Lake was used as a water supply, Reserve undertook to dump wastes into the water, that created risk of a health hazard. It now seems equitable to ask that when an enterprise, such as Reserve, undertakes an activity that creates profit for itself and risk of harm to others, and when facts later suggest the possible existence of a health hazard, that it undertake the burden of proving its activities are *safe*, rather than force others to prove its activities unsafe.

A different problem is presented by the Circuit Court's reading of the "protocol" tests, which it interpreted as affirmative proof that the asbestos was not hazardous. But the uncertainty surrounding the use of those novel test procedures suggests the Court's reliance was misplaced.

My own staff viewed the tissue analysis protocols as follows:

Air and water analyses for asbestos according to testimony cited by the circuit court are reliable only to plus or minus an order of magnitude. Tissue analysis, on the other hand, is even more difficult.

No level of asbestos fibers in tissues are regarded as safe—a single fiber may initiate a response. The concentration of fibers in tissues from humans consuming asbestos laden water would be expected to be quite small as are found in non-lung tissues from occupationally exposed individuals. Thus, with the level of detection available from current analytical techniques, it is not at all surprising that measurable levels of fibers were not found. Had such fibers been found, however, the health implications would have been ominous.

Similarly, the Court's reliance on the epidemiological studies appears misplaced. The Circuit Court should not have concluded from the findings of epidemiological studies from the Duluth area that asbestos is not a hazard. Even if the tailings are extremely carcinogenic when inhaled or ingested, the maximum length of exposure has not been as long as the typical latency period for carcinogens from first exposure to first signs of cancer.

Finally, the Court may not have appreciated the difficulties of "proving" anything about cancer, when the full "causes" of the disease remain unknown after the most intensive research campaign in medical history. That lack of knowledge should increase our caution in exposing the population to carcinogens, not decrease it.

There is, however a dose—response relationship between the level of exposure of humans to any carcinogen and the risk of their developing cancer, a relationship recognized by the Circuit Court. But no one has established any scientifically or medically accepted threshold levels of exposure for any carcinogen below which there is no risk of cancer. Thus, if asbestos is carcinogenic, there will be some health risk from any exposure to such fibers. This knowledge dictates extra caution when dealing with carcinogens that could find their way into a public water supply.

Since the Supreme Court has decided not to further consider the case at this time, we believe it is critically important that the Circuit Court of Appeals promptly reconsider its earlier ruling. We strongly support all steps by the Justice Department to expedite the hearings and present the above stated positions to the Circuit Court.

Sincerely,

RUSSELL W. PETERSON,
Chairman.

OAKLAND'S JOHN WILLIAMS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. STARK. Mr. Speaker, September 8 marked an anniversary of significance in Oakland—the 10th year of service by John B. Williams as executive director of the Oakland Redevelopment Agency.

Since redevelopment got underway on a large scale in the 1960's the Oakland agency has been not only successful in its own efforts, but a leader in advancing the cause of urban rehabilitation throughout the country. John Williams is the present chairman of the National Association of Housing and Redevelopment Officials—NAHRO—an agency symbolic of the thousands of people who have worked to make our housing programs viable.

We have seen a nearly complete metamorphosis of our housing policies over the last few years, and the new Housing and Community Development Act confirms this reformation. Some programs have endured, however, and John Williams and his agency will help insure the necessary sense of continuity to the new concept of block grants. He will play a major role in developing the housing plan for the city of Oakland. The Redevelopment Agency will surely be responsible for carrying out many of the projects now that funding levels had not permitted previously.

Oakland is fortunate to have had the leadership of John Williams for the past 10 years, and can only profit by his continued service. Congratulations on this noteworthy occasion

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U.N. SECRETARY-GENERAL ADDRESSES NATIONAL PRESS CLUB

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. FRASER. Mr. Speaker, yesterday U.N. Secretary-General Kurt Waldheim addressed the National Press Club, the first time a U.N. Secretary-General has appeared before the Press Club. During his 2-day visit to Washington, the Secretary-General met with President Ford and Secretary of State Kissinger to discuss issues involving the United States and the United Nations.

Secretary-General Waldheim's speech made a realistic appraisal of the role and potential of the United Nations in today's world, avoiding empty slogans of wishful thinking. Indeed, if the United Nations is to be effective it must deal with the real world as it is. In this regard, he said:

> The United Nations reflects the present and future realities of our planet. To condemn it is to turn aside from these realities. . . . Our physical interdependence is a hard and often painful—reality, but a reality nonetheless. But it also provides us with great opportunities for collective action through the United Nations, if we seize them.

Mr. Waldheim also emphasized the obligation of member nations to comply with the decisions of the United Nations:

> The respect of Member States for the decisions of the principal organs (of the United Nations), and especially those of the Security Council, is the lifeblood of the system of international peace and security envisaged by the Charter. Without that respect the Organization can do very little, especially in conflict situations.

This admonition should have special meaning for Americans in view of the fact that under the so-called "Byrd amendment," the United States has been openly flaunting the U.N.'s legally binding sanctions against the racist regime in Southern Rhodesia, for the past 3 years.

The Secretary-General also made favorable mention of the fact that President Ford, on the first day of his Presidency, contacted him to make assurances that the United States would continue to give strong support to the United Nations. Mr. Waldheim also welcomed President Ford's decision to go to New York to address the U.N. General Assembly next week.

Mr. Speaker, I insert two items in the RECORD at this point: The text of Secretary-General Waldheim's address to the Nationl Press Club, September 10, 1974; and President Ford's letter to Secretary-General Waldheim, dated August 9, 1974:

TEXT OF SPEECH BY SECRETARY-GENERAL KURT WALDHEIM TO NATIONAL PRESS CLUB, WASHINGTON, D.C., SEPTEMBER 10

President Scheibal, Ambassador Scali, Ambassador Buffum, ladies and gentlemen.

I am very pleased to have this opportunity to address this distinguished Club, to respond to your questions, and to share some thought with you on current international topics. I was particularly glad to accept your invitation, as I have always had a profound respect for the demanding, responsible, and honourable profession of journalism. Ever since I assumed the office of Secretary-General of the United Nations it has been one of my major objectives to attempt to ensure that the public should have a better understanding of what the world organization is, and what it is not; what it can do, and what it cannot. I am very grateful to those editors and commentators who devote so much time and thought to the world organization, and who keep their readers and audiences informed of its activities and problems. Constructive criticism, when it is merited, is as essential for us as it is for your readers.

On ths point, I should like to say that my colleagues and I see very little evidence of the so-called massive disillusionment with the United Nations which we are told exists in the United States. We receive a very substantial and ever-increasing number of requests for speakers and information, and the response of the American people to our appeals is invariably remarkable. For example, the annual "trick or treat" event raises millions of dollars every year for UNICEF. The public response to the Bangladesh appeal was overwhelming. The Model United Nations movement remains large, vital, and enthusiastic. We see throughout the United States—and particularly among young people—a real interest in the work of the United Nations.

I know that there are Americans who recall the excessive hopes of 1945 and are disappointed by the achievements of the United Nations. But although it is true that this great and unique human experiment has had its setbacks and failures, and it would be foolish to deny it, I would suggest to you that its achievements have been very considerable. Much of the disillusionment about the world organization that exists in the United States is based upon a misunderstanding of the limits and possibilities of the United Nations. It does not constitute a world government; its strength can only derive from the collective contributions of sovereign independent States. But that strength can be of unique value in facing global problems. I would also suggest to you that the greatest perils which confront us are indifference and ignorance. And in a world of competing forces, in which peace is so fragile and the disparities in wealth and opportunities are so great, these are perils indeed. Your responsibility is, therefore, a considerable one, and I am impressed by the manner in which you discharge it.

Probably the most difficult task which faces the statesman is that of determining between immediate and long-term questions. It is almost a cliche that although great quarrels often arise from small events they never arise from small causes, but this particular saying contains a profound truth. Wherever one looks at the main areas of tension and conflict, one sees the fundamental validity of this maxim. The serious situations that exist in the Middle East, in Cyprus, in southern Africa, and in Indo-China, have deep historical roots. The world-wide tidal wave of inflation, which affects virtually every nation, is not a sudden phenomenon, but is a symptom of a profound malfunctioning of the world economic system.

In these, and in many other problems, we are now paying the price of past failures to look ahead. Thus, while we endeavour to deal with immediate questions with urgency, we must also remind ourselves that other tensions, animosities, and movements are silently gathering strength for future crises—unless we look ahead and endeavour to prevent them.

The United Nations' most crucial function is that of collective preventive diplomacy. As I have written in the Introduction to my Annual Report, which was published last week: "We now face a series of global problems from which no nation, however rich and powerful, can remain immune, and which no nation can hope to confront and endure successfully on its own . . . The question now is whether sufficient progress can be made in the practical pursuit of both short-term and long-term goals before the common problems which we face become completely unmanageable."

Our task may be simply described. It is this. How are we to meet existing needs and ambitions in a world of competitive independent sovereign States, and how can we reconcile these needs with the legitimate requirements of future generations? For example, when one looks at the present disparity between world food supplies and the world's population, and when one looks ahead to a situation in which the world's population is increasing by 80 million a year—the increase principally in the poorest countries—the scale of the problem becomes apparent.

But this is only one part of the whole complex of global problems which we must face collectively if we are to hope to resolve them. Because, what has been called "the rhetoric of interdependence" is rhetoric no longer. Our political and physical interdependence is a hard—and often painful—reality, but a reality nonetheless. But it also provides us with great opportunities for collective action through the United Nations, if we seize them.

The central problem before us is that of recognizing the fact of the independent sovereign State as the executive instrument, while establishing agreed international strategies which are essential if we are to meet the immediate and long-term challenges facing mankind. This was the real significance of the 1972 Conference on the Human Environment, the Special General Assembly in April this year on Raw Materials and Development, the Law of the Sea Conference in Caracas and the World Population Conference in Bucharest which have just concluded, and the forthcoming World Food Conference to be held in Rome in November. There is a tendency to consider such meetings in isolation, and to describe them in terms of "success", "limited success", or even "failure". But they should be seen not in these terms, nor as isolated events, but as essential component parts of the very difficult process of developing a coherent international strategy to meet present and future needs which is based upon voluntary agreement and which will endure. This process is bound to be a difficult and lengthy one. But I am convinced that it is the only method by which we can collectively create and put into practical effect real solutions to these real global problems.

It is here that the unique nature of the United Nations is so crucial. It is not a weakness, but a notable strength of the world organization that it has changed so dramatically since 1945, because it now reflects a dramatically changed world situation. And it is because it has become a long-term organization with almost global membership that its role and its potential are more important than ever. The United Nations reflects the present and future realities of our planet. To condemn or ignore it is to turn aside from these realities.

Of course, to believe in the United Nations requires idealism, in the sense that one must have a firm belief that mankind can be master of its destiny and of its future. But idealism must now be married with realism, faith with real politik. The question which lies before us is whether mankind can realize this, or whether it will drift back into a narrow nationalism and an indifference to its fellow-citizens, which would be literally fatal to our aspirations of progress and even survival.

Mr. President, over the past year we have seen several remarkable developments in the role of the United Nations, and none have been more striking than those in its peacekeeping functions. There is so much misunderstanding about these functions that I wish to emphasize to you certain basic points about United Nations peacekeeping operations which have a general relevance, but which have particular significance in the situations which we confront today in the Middle East and in Cyprus.

United Nations peacekeeping forces fulfill a vital role in keeping conflict situations under control, in reducing tensions, and in creating the opportunity for negotiation. Their record is, in the main, one of very considerable success. But they are not a substitute for political negotiation. Thus, although they constitute a unique international instrument which can play a vital role in the process of working towards a final settlement, there is unhappily a tendency—and this has been particularly true in the Cyprus situation over the past 10 years—for the parties to a dispute and other concerned parties to relax their efforts to reach a political settlement when a United Nations peacekeeping operation is functioning effectively.

The Cyprus experience emphasizes again the lessons of the United Nations Emergency Force in the Middle East between 1956 and 1967—namely, that the presence of a United Nations peacekeeping force is not a solution in itself, and that it must not be allowed to be a pretext for slackening the momentum of the search for a political settlement. These problems do not disappear simply because a United Nations force its established. For the past 10 years in Cyprus all the instrumentalities for a peaceful solution were there—except for the political will and sense of urgency. The result of the absence of that will and that sense of urgency has been a tragedy for the people of Cyprus, and has created acute and grave new tensions in international relations in a most volatile and sensitive part of the world.

UNFICYP, the United Nations Peace-Keeping Force in Cyprus—which at the outset of the recent fighting consisted of only 2,300 men—was suddenly placed in a position of real physical danger and was confronted by a situation which was not envisaged when it was created. The most important of the assumptions on which United Nations peacekeeping forces are established is that the parties concerned are prepared to give their co-operation and to respect the conditions under which the forces were established. When that assumption breaks down, as in the Middle East in 1967 and in Cyprus recently, United Nations peacekeeping forces are placed in an impossible position. In Cyprus, the task of UNFICYP was to prevent intercommunal strife and to help to create conditions for a peaceful settlement. It was not equipped or intended to intervene in a conflict between the Turkish army and the Cyprus National Guard. Faced with this situation, the UNFICYP officers and men have displayed a courage and a devotion to duty which is beyond all praise and, as you know, they suffered many casualties in the fulfillment of their duties.

This tragic episode follows the Middle East war of last October, and its aftermath. Here one saw a classic example of the effective combination of multilateral and bilateral diplomacy to bring a dangerous war to a cease-fire, and to create the climate for longer-term negotiations between the parties. It reminded us of how effective the United Nations machinery can be *if*—and only if—Governments are prepared to use it. But a cease-fire is not a peace. UNEF and the United Nations Disengagement Observer Force (UNDOF) have bought time for negotiation. It is now urgently important that that time be used effectively to create an enduring peace in this most dangerous and explosive situation. In the Sinai Desert and on the Golan Heights, the United Nations peacekeeping force fulfill a crucial role in the reduction of tensions and in the creation of the possibility of real negotiations. But they, by themselves, cannot achieve the lasting peace which is essential if we are to avoid a repetition of the critical confrontation of last October—a confrontation which was a severe test of the spirit of *détente* between the United States and the Soviet Union. They are peace*keepers;* the parties concerned, whether negotiating bilaterally or through the good offices of the United Nations which are always available, are the peace*makers*.

In this context I should like to repeat what I have said on previous occasions. The respect of Member States for the decisions of the principal organs (of the United Nations), and especially those of the Security Council, is the lifeblood of the system of international peace and security envisaged by the Charter. Without that respect the Organization can do every little, especially in conflict situations.

Finally, on this topic, I wish to say this. The men of the United Nations peacekeeping and observer forces risk their lives in their service to the international community. Since last November they have suffered 97 casualties, 36 of them fatal. They come from many nations, and they work together with enthusiasm and comradeship in always difficult and often dangerous circumstances. Yet they receive little publicity or recognition, except when situations, as occurred in 1967 in the Middle East and in Cyprus recently, arise. Then, they and the United Nations are criticized for not taking actions which they are not empowered to take. I wish to take this opportunity to express my unbounded admiration for these men, and I ask that their achievements, dangers, and difficulties to be more adequately appreciated. They stand, literally, in the front lines. It is essential that their dedication to peace be equalled by the political leaders of all the parties concerned in these disputes.

For peace is indivisible. Conflict anywhere affects us all. sometimes immediately, in others more gradually. Thus, although the United Nations has changed much since 1945, this dominant priority remains—"to save succeeding generations from the scourge of war" in the words of the Charter, and to which I would add the words "anywhere in the world".

President Scheibal, ladies and gentlemen. One of the first acts of President Ford upon assuming his high office was to send me a personal message expressing his strong support for the work and ideals of the United Nations. I was profoundly grateful for this message. It is my hope that all Americans, realizing that we do indeed inhabit an interdependent planet whose resources are not unlimited, which lives under the dark shadow of nuclear destruction, and in which the majority of its citizens live in poverty and without hope, will dedicate themselves anew to vigorous support for the work of the United Nations. In this process, *your* contribution is invaluable, and I am sure that I do not appeal to you in vain for your active support, interest, and understanding.

I thank you very much.

AUGUST 9, 1974.

Hon. KURT WALDHEIM,
Secretary General of the United Nations,
New York, N.Y.

DEAR MR. SECRETARY GENERAL: On assuming the office of the President of the United States, I wanted as one of my very first official acts, to get in touch with you.

You are so familiar with the United States that I hardly need tell you our basic foreign policy rests on a broad bipartisan foundation and that there will be full continuity in the conduct of our international affairs. This general proposition applies, in particular, to continued American support for the United Nations. In this area of policy, as in others, I will be supported by Secretary Kissinger, in whom I have the greatest confidence.

Let me reaffirm to you the conviction I expressed at the United Nations Association dinner in New York in June, that the world would be a far more fearful and fearsome place without the United Nations and that the UN is not only desirable but necessary.

In this connection I want you to know that over recent months I have been impressed by the role played by the United Nations in bringing about a ceasefire and disengagement in the Middle East and the important contribution being made by the United Nations Force in Cyprus to protecting lives and restoring stability on that troubled island. I am most grateful for your own distinguished role. The U.S. supports the UN's efforts in these and other fields.

I look forward to seeing you and to having a chance to discuss these matters personally.

Sincerely,

GERALD R. FORD.

A SALUTE TO THOMAS DAVIS, JR. AND CONSTANTINE ZARKOS

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. PATTEN. Mr. Speaker, recently one of my constituents visited Greece and while he was there faced a serious legal problem.

He was unable to resolve his problem because of its nature and complexity and was about to return to the United States when he thought of the U.S. Embassy in Athens.

My constituent first contacted Constantine Zarkos, legal adviser at the embassy, who helped him with sound and realistic advice. Later, Mr. Zarkos and my constituent met with Thomas W. Davis, Jr., Consul General of the American Embassy in Athens. Because of the strong interest, competence and concern of Mr. Davis and Mr. Zarkos, a solution was found to the problem.

Mr. Speaker, America has many embassies throughout the world. They are staffed and managed by thousands of capable and dedicated workers and officials, and I am afraid that we often take them for granted.

They do important work—and most of it is unheralded. However, in behalf of a grateful constituent, I salute Consul General Davis and Legal Advisor Zarkos for their fine and effective assistance when an American citizen visiting Greece faced a problem.

As my constituent told me:

> They (Mr. Davis and Mr. Zarkos) were wonderful. They were efficient and courteous, with a real feeling for people. I'm proud of them . . .

Mr. Speaker, I am also proud of Mr. Davis and Mr. Zarkos and want to thank them through the CONGRESSIONAL RECORD for helping a constituent with his problem at a time when he had almost given up hope.

"They were wonderful," are the most gratifying words a public official can hear, and although I have never had the honor of meeting Mr. Davis and Mr. Zarkos, like my constituent, I know that they are "wonderful."

PROPOSED NEW FIGHTER-ATTACK AIRCRAFT FOR NAVY

HON. ANGELO D. RONCALLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. RONCALLO of New York. Mr. Speaker, I would like to share the following article from the Aviation Week and Space Technology issue of September 9 with my colleagues to better acquaint them with the proposed Navy VFAX. This aircraft is being designed to provide a lower-cost fighter to supplement the Navy F-14A and to provide attack capability, too.

The article follows:

VFAX STUDIES FOCUSED ON LATE 1975 PICK

(By Clarence A. Robinson, Jr.)

WASHINGTON.—Navy expects to select a single contractor and begin engineering development of its VFAX strike fighter by September, 1975. The aircraft is being designed to provide a lower-cost fighter to supplement the Grumman F-14A, and to provide attack capability, too.

The Navy also would like to have an aircraft that can later be developed into a vertical takeoff fighter for use on board the sea control ship and other vessels smaller than a standard aircraft carrier.

Future of the multi-mission VFAX depends now on a Senate-House conference on the Fiscal 1975 Defense appropriations bill, scheduled after the present congressional recess ends Sept. 11.

The House earlier eliminated the Navy's $34-million request for initial VFAX development. The Senate Appropriations Committee kept the funding in the bill but reduced it to $20 million. The Senate committee also is asking for a report detailing advantages and disadvantages of a joint USAF/Navy program (AW&ST Aug. 26, p. 19).

With congressional funding approval and Pentagon development authorization, the Navy expects to issue requests for contract definition studies in September. Industry responses are anticipated by November for evaluation. This will be followed shortly by issuance of a request for engineering proposals. Three to six companies may be funded for this work.

In June, the Navy issued to industry a pre-solicitation notice for VFAX development, asking for unfunded company assistance in developing a conventional take-off and landing aircraft designed to replace Navy and Marine Corps/McDonnell Douglas F-4s, and eventually, LTV Aerospace Corp. A-7s.

In what Pentagon officials call a "common sense approach," the Navy offered industry a chance to review its operational requirements and add to technical data with the goal of a realistic design-to-cost VFAX development.

Seven major aerospace companies responded to the Navy's request by July 15. All agreed a strike fighter designed within Navy operational and monetary constraints is feasible.

The service asked the companies to base designs on a procurement of 400 aircraft at a production baseline rate of six aircraft per month. The unit flyaway cost is not to exceed $6 million in constant 1975 dollars.

The firms that responded to the presolicitation notice offered more than a single aircraft in their early conceptual designs, in which they attempted to balance cost and performance tradeoffs.

Companies responding are:

General Dynamics, with separate designs from both the Convair and Ft. Worth divisions.

Grumman Aerospace Corp.

LTV Aerospace Corp.

Rockwell International.

Northrop Corp.

McDonnell Douglas Corp.

The Navy identified for industry what it considers the more important characteristics in a VFAX aircraft—performance capability, survivability, and maintainability and reliability. The VFAX is intended by the service to be a state-of-the-art aircraft that will remain in the inventory for the next 20 years.

Minimum accuracy the Navy wants in weapons delivery is at least that now available from the A-7 weapons control system. The service believes the attack capability in the VFAX can be accomplished by a single pilot using avionics and digital processing systems now available for improved accuracy when combined with a new family of precision-guided weapons.

But the Navy is not limited to a single-place aircraft, and that is one of the areas studied by industry in tradeoffs.

The accuracy desired for the attack mission is at least 10 miles for ordnance delivery. This has been demonstrated in combat by the A-7.

The VFAX aircraft, if a single-seat version is selected, also would be produced in a two-seat version for training and special missions. Responding companies believe it would be more economical to develop a single-seat baseline aircraft, then stretch it to have a two-seat version even if a sacrifice in range and payload is necessary, than to develop only a two-seat version. Commonality in flying quality and handling characteristics of both single- and two-seat versions would be a design requirement.

The aircraft, as envisioned by the Navy based on the industry feasibility studies, would weigh 28,000–30,000 lb. Acceleration is a factor that would determine both the selected engine and aerodynamic design. The maximum speed required would be in the Mach 1.6 region, but acceleration is more important, the studies show. Low carrier landing speed and structural strength for carrier operations are key design points also.

To add flexibility to the VFAX design, the Navy provided a range of values instead of single values for the aircraft design. Relative importance of the characteristics was weighted from high to low in the presolicitation. In rating values, the Navy told industry that survivability, maintainability/reliability and cost will control the VFAX design in nearly equal weight to performance capability. Designs are limited to the cost constraints, and industry may not go above them to provide other desired values in the aircraft.

Cost versus system characteristics were accomplished in tradeoff analysis, and the conceptual designs ranged $4.5–6 million. Major tradeoffs included:

One or two-crew aircraft.

One or two engines.

Baseline configuration adaptable to a follow-on V/STOL derivative versus only a conventional aircraft.

Weapons systems capability and associated costs for using precision-guided weapons.

Maximum versus minimum ordnance load.

Management techniques in areas of design reliability, cost and life-cycle costing.

The Navy emphasized to industry that performance characteristics the service believes it requires in the VFAX need not dampen innovation.

In addition to providing VFAX information to airframe manufacturers, the Navy provided its design objectives to engine manufacturers.

Engines included for VFAX use in the aircraft concepts are:

General Electric F101-GE-F100 used in the USAF/Rockwell International B-1 bomber.

General Electric YJ101-GE-100 used in the Northrop YF-17 lightweight fighter prototype.

Pratt & Whitney F401-PW-400 used in the Grumman F-14B and Rockwell International XFV-12A V/STOL aircraft. The F401 shares common components with the F100-PW-100 engine in the USAF/McDonnell Douglas F-15.

Most of the concepts envisioned by the seven companies show the aircraft with the F401 engine. That propulsion system has run into problems in the Senate, and the $27.5 million requested for Fiscal 1975 has been deleted. But the Senate Appropriations Committee has said it does not intend to terminate development of the engine and will support funding when the Navy better justifies its request for development.

Most company V/STOL variants of the VFAX will be based on a lift-lift/cruise design and be dependent on later development of a satisfactory lift engine. The Navy has not evaluated the cost or performance of the V/STOL VFAX. That will be done later in development. Rockwell International is proposing thrust-augmented-wing technology.

In asking industry's help in the VFAX tradeoffs, the Navy asked that responses not exceed 100 written pages, with an additional 25 pages devoted to V/STOL derivatives.

The Navy made it plain to industry that the companies participating in the pre-solicitation would not receive an advantage and that further participation in the contract definition phase would not be limited to those doing the initial tradeoff studies.

The Navy's goal in developing a lower-cost aircraft to supplement the F-14 is to reduce the number of aircraft types now in the inventory. The VFAX, and possibly later the V/STOL VFAX, could replace the A-4s and the Hawker Siddeley AV-8 Harriers in the inventory, as well as other attack aircraft, thus substituting a single aircraft for a variety of types.

Emphasis has been placed on an aircraft development program designed to avoid false starts that are expensive and embarrassing, a Defense official said.

"Since it appears that Congress just will not fund for the capability embodied in the F-14A, it becomes practical to develop an aircraft that can augment it and do other missions as well. Developments in modern-day tactical aircraft have brought us to a point where that is now feasible," he said.

He pointed out that, if the F-14A were produced in large quantities at the six-per-month production rate originally set, costs would have been low enough to justify its use instead of a new strike fighter.

"But it [VFAX] could also do the attack role which makes it highly competitive."

If it gets the 334 F-14s planned and perhaps another 50–100 it is asking for, the Navy may have enough two-place aircraft to perform the fighter mission in fleet air defense when augmented by the VFAX.

The House Appropriations Committee, in cutting VFAX money from the budget, criticized the Navy for not developing a common lightweight fighter that could meet Navy and USAF needs and offer export potential envisioned in the General Dynamics YF-16 or Northrop YF-17. Both companies responded to the Navy's pre-solicitation notice on VFAX with slightly larger designs resembling the lightweight fighters.

Both the Navy and USAF have been working toward commonality in tactical aircraft systems and components. Benefits from increased component production rates and logistical support will result if the VFAX selected is common with the lightweight fighter USAF will select, the Pentagon believes.

Navy officials admit that USAF could suffer penalties because of Navy requirements built into aircraft designs but cite the Navy F-4 and A-7 designs as examples where this has been overcome.

The VFAX aircraft will have a gun system, and the Navy believes that a 20-mm. size is optimum for both the fighter and attack roles.

FLEXIBILITY SEEN VFAX ADVANTAGES

WASHINGTON.—Navy studies show that development of a VFAX strike fighter will allow carriers to operate with fewer types of aircraft through the capability of the aircraft to double in both the fighter and attack missions.

The studies reveal that a single carrier assigned to a seaborne task group would require 24–28 Grumman F-14s on board to supply enough aircraft to man four combat air patrol stations continuously. The service believes that number is required when warning of pending enemy attack is limited. In addition, four deck-launch interceptors would be required. This would mean operating the crew and equipment 24 hr. per day and thus would limit such operations to a few days.

If the task group at sea is exposed to possible attack for more than three days a second carrier with 24 to 28 F-14s must be added.

With commitment of two fleets operating independently in widely separated geographical areas, carriers must enter the area under combat air patrols for protection and retire after several days to a more secure area.

Attack aircraft now assigned to the carriers are designed to provide offensive damage and must face fighters when penetrating the enemy's air defenses, so escort by fighters is required.

The VFAX can serve as both an escort fighter and attack aircraft depending upon its weapons configuration. The F-14 can be used to provide its long-range weapons delivery system when needed, but the VFAX can be used to augment the F-14 in defense of the fleet as deck-launched interceptors.

With the Navy now limited by Congress to 334 F-14s, with procurement of only 50 per year, extensive modifications to extend service life of the McDonnell Douglas F-4 are being undertaken. Modifications, including major structural fatigue relief, rewiring and new avionics and weapons systems, are limited to 60 aircraft per year. This number is dictated by the need to limit the number of aircraft out of service for rework so that deployment commitments can be met.

Modifications to F-4s are designed to extend inventory life a maximum of seven years under peacetime conditions. If 500 F-4s are modified to extend service life, a procurement rate of at least 60 fighters per year will be required over the next decade to maintain the 12-carrier, three-Marine-wing force Defense Dept. plans. Because no backup aircraft will be in storage, the Navy must rely on four Navy and two Marine reserve F-4 squadrons to provide attrition aircraft in the event of combat.

The F-14 is planned for all-weather operations, with VFAX development to handle the every day sea control and similar missions.

RICE ACT OF 1974

HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. BAKER. Mr. Speaker, with the passage of the 11-cent amendment to H.R. 15263, the Rice Act of 1974, by the House Committee on Agriculture, I feel it is necessary to make additional comments on its potential effect. This amendment will supposedly provide protection for the American rice farmer by raising the proposed target price from 7 cents per pound to 11 cents. Actually this drastically affects the advantages and benefits of this bill. This 11-cent target price could be a big problem when this bill is brought to the floor for consideration.

Below is a table summarizing the estimated costs of rice production in the five principal rice-producing areas of the United States:

Estimated total national cost and national average cost per acre for rice produced by owner-operators in the United States, 1974

Item	National Average Cost Per Acre
Variable cost—preharvest:	
1. Seed and Application	$38.27
2. Fertilizer and application	33.62
3. Insecticides and herbicides and application	17.17
4. Labor—tractor, machinery, irrigation, and other	21.03
5. Machinery and tractors (maintenance, fuel)	16.71
6. Irrigation and irrigation machinery	16.46
7. Interest—preharvest operating capital	3.59
Subtotal—preharvest	146.85
Variable cost—harvest:	
8. Custom hauling, drying, machinery, move machinery, tractors, market commission, labor—tractor and machinery	49.85
Total variable costs	196.70
Depreciation—overhead and taxes:	
9. Machinery, tractors, irrigation machinery, general overhead land taxes and depreciation on imports	50.38
Total costs excluding interest charges on capital investments	247.08
Opportunity interest charges for capital investments:	
10. Land and allotments [1]	61.01
11. Other capital investments	11.87
Total interest charges for capital investment	72.88
Total cost	319.96

[1] Allotment percent of item: California 36%, Texas 32%.

Let us assume a national average yield of 4,700 pounds of rice per acre, which was the production in 1971. The cost of production per pound of rice then is 6.81 cents. We can see 11 cents is substantially above this average. The loan level in this bill is established at 60 percent of the target price. In the bill I originally cosponsored, the original loan level would be 4.2 cents per pound instead of the 6.6 cents under the Bergland amendment. While the Department of Agriculture estimates only a small amount of rice would go into Government storage, the direct payments would approximate 2.5 and 3.0 cents per pound under the Bergland amendment. This would certainly cause production not for market demand but rather for Government storage bins.

The Federal Treasury expenditures are expected to be zero for the first 2 years of the 3-year life of this bill in direct payments to farmers provided the target price is set at 7 cents per pound for the 1975 crop of rice. If the target price is restored to 7 cents per pound, the new program will operate at maximum efficiency. Production will increase to meet market demand and contract if the demand slackens. Surplus and especially Government-owned surplus will only develop in times of market failure or severely depressed markets. If the price of rice should drop below the target price, rice will still move into commercial export markets without the need for export subsidies. The program will operate smoothly allowing the set-aside provisions to take effect in controlling surplus production.

However, if the target price is established at 11 cents per pound, we can expect to see surplus production in the first year. The high loan level accompanying this above cost target price will cause a buildup of Government-owned surplus, and this high loan will permit rice to move into commercial export markets only with the aid of export subsidies. Government outlays of public funds will reach unnecessarily high amounts.

The purpose of this bill is to encourage an increase in the production of rice. It is a production increase for the market which will benefit the American farmer, industry, and the consumer. However, the 11-cent target price will prohibit American rice from becoming competitive in both foreign and domestic markets. And once again the American taxpayer will foot the bill. This bill can be a good bill and one that will really provide American rice at competitive prices if we get the target price down to a reasonable figure.

ROOTING FOR THE HOME TEAM

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. CONTE. Mr. Speaker, it is no secret that I am an avid baseball fan. Not only do I enjoy playing, coaching, and managing our GOP congressional team, I enjoy rooting for my own "home" teams.

I would like to tell my colleagues, with considerable pride, of the achievements of one of my "home" teams, the Pittsfield, Mass., West Little League All Stars.

These youngsters, ages 9 to 12, recently captured the State crown and went on to the regional competition. This is the first time since the league was organized in the city in 1950 that a Pittsfield team has won the State championship.

Although they were defeated in the regional play, they are all champs in my book. On October 18, these youngsters will be tendered an awards banquet by the Pittsfield Little League board of directors. I intend to be on hand to personally congratulate the team and their coaches and would like, at this point, to include, for the RECORD, the names of the league president, coaches, and the West All Star roster: West Little League president, Robert Casella; head coach, Michael Messina; assistant coach, Wayne Goodrich; team members: Dave Bednarczyk, Marcel Blouin, Jay Casella, Rocky Dailey, Theron Goodrich, Mike Hennessy, Steve Messina, Paul Penna, Mark Ringie, Bob Sokolowski, Mike Sweener, Randy Taikowski, Scott Tobler, and Chris Tremblay.

CONGRESSIONAL RECORD STATEMENT—FINANCIAL DISCLOSURE

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. MURTHA. Mr. Speaker, I believe a top priority in the mind of every Government official must be working to restore public confidence to the American political system. I find this particularly true of Congress which I believe can take the lead in restoring confidence, as well as restoring a strong congressional role in national affairs.

There can also be no doubt, Mr. Speaker, that those feelings of mistrust have been heightened in the past year. Many commentators have spoken in the last few months of a "crisis of confidence." Any existence of such a confidence gap is too great for our democratic system. America depends on communication, confidence, and understanding between the people and their representatives, and we must make certain that confidence exists.

I echo the thoughts of Senator Robert F. Kennedy that "politics is an honorable profession." Unfortunately, much of the public disagrees. I believe the task rests with each of us to help restore politics as an honorable profession in the minds of the people we represent.

It is in that spirit, Mr. Speaker, that I am today making a full public disclosure of my personal finances, and the use of taxpayer money in running the 12th District's congressional office. Finances are viewed suspiciously by many individuals. I make this statement in the spirit of open government and the hope that the suspicion will eventually be overcome by the openness of public officials.

PART I—PERSONAL FINANCES

Public servants must make clear to the voters that they are not involved in any actual or potential financial conflicts, and that they are not profiting personally from their positions of public trust.

It is with that purpose in mind that I submit for the RECORD the following personal financial statement for the 6-month period of February 5, 1974, to August 5, 1974. [Note: I will make a similar disclosure for the remaining months of the year.]

FINANCIAL DISCLOSURE

A. TAXES

1. 1974 Federal income tax paid to August 5, 1974, $5,358.

2. 1974 Pennsylvania State income tax paid to August 5, 1974, $381.

3. 1974 Cambria County, Pennsylvania real estate tax on personal residence (jointly owned) paid to August 5, 1974, $162. (partial payment)

B. SOURCE OF ALL INCOME

1. Salary of U.S. Congressman, February 5, 1974, to August 5, 1974, $20,778.

2. Wages from Ace Car Wash of Johnstown, Inc., of which I am secretary, January 1, 1974, to July 31, 1974, $2,200.

3. Interest earned on joint savings account, $97.

4. Interest earned on certificate of deposit, $172.

5. Honorariums received, $1,550.

National Education Association, $1,000.
Bethlehem Steel Corporation, $250.
National Cable T.V. Association, $300.

All of the above $1,550 put into the stationery fund and used as needed for the operation of my Washington office.

Total income February 5, 1974, to August 5, 1974, $24,797.

C. STATEMENT OF FINANCIAL CONDITION JOHN P., JR., AND JOYCE MURTHA AS OF AUGUST 5, 1974

Assets

Cash in bank:	
Checking account	$1,000
Savings account	6,315
Savings certificates	3,000
Total cash in bank	10,315
Investments:	
United States savings bonds	1,900
Common stock—Ace Car Wash, Inc., Johnstown, Pa. (book value)	5,000
Total investments	7,000
Residence:	
House, lot and furnishings Johnstown, Pa. (estimated market value)	31,000
Other assets:	
Automobiles—two 1973 Fords (Estimated Value) (Note 1)	6,600
Cash value life insurance	8,000
Total other assets	14,600
Total assets	62,915

Liabilities and net worth

Liabilities:	
Notes payable—bank (Note 1)	12,744
Net worth	50,171
Total liabilities and net worth	62,915

PART II—OFFICE REPORT

Each Congressman is allotted a set amount of funds in a number of specific categories to run the congressional office. These expenditures constitute the office budget. Any expenditures over the amount in each category must be borne by the Congressman, or some other financial avenue. No taxpayer money may be spent above these limits.

Since the office really belongs to the residents of the 12th Congressional District, and since it is taxpayer money funding these accounts, I find it only proper that the public be given a full accounting of the use of these funds.

I would note, at the outset, that in every category, I was allotted 11/12ths of the regular annual amount, because I did not take office until February.

First. Office supply account—I received $4,812.50 for the purchase of office supplies including typewriters, paper, duplicating machines, and daily office supply needs. In February, we had to establish an office from scratch. This resulted in many additional costs we will not have in future years. Thus, we expended the full amount. At the end of July, I had added $494 in personal funds to meet our supply needs. The costs for office supply for the remainder of the year will be paid at my own expense.

There is one exception to this: American flags flown over the U.S. Capitol are purchased through this account. I deposited into this account three honorariums I received totaling $1,550—sources in part I—and this money was used to purchase flags for civic and nonprofit groups within the district. While usually we ask persons making flag requests to bear the cost themselves, I believe these purchases are proper for charitable groups.

In the interests of completeness, I would also note that it is from this account that money can be spent for use of the special House Recording Studio to make TV and radio tapes. Since I have been in office, I have expended no funds for this purpose.

Second. Postage—Each Congressman receives a postage allowance of $910; my 11/12ths share was $834.13. This is for official business postage only. It covers air mail, special delivery, and other nonfrankable mail. No political or personal mail is paid from this category. Given present projections, the entire amount will likely be spent by the end of the year.

Third. Transportation—Actual transporation expense—auto mileage or air fare—is reimbursed on an air cost or per mile basis. The limit per Congressman is 16.5 round trips, or—counting mileage or air costs—a total of $1,031.25. I have returned home at least once every week with two exceptions—one weekend I was guest speaker at a national education conference; another weekend I visited my family vacationing in North Carolina. I have counted a minimum of 24 round trips, or 50 percent more than the allotment. Since I travel by car, this was figured on trips and miles traveled. Using congressional transportation figures, the cost I have expended for travel over the limit represents $499.20 of my personal income, and I would estimate I will have at least 15 additional round trips before the end of the year.

I have and will continue to make these trips back to the district, because I believe that personal contact with Government officials and constituents contributes a great deal to the quality of service and representation. When I return, I hold regular office hours throughout the district and have held a series of "Congressional Workshops" throughout the district on Saturday mornings, as well as many public appearances where I can talk with the people.

Two further travel notes should be mentioned. Two of my Washington staff assistants are eligible for reimbursement on travel to the district. Each person receives three trip reimbursements. This covers just actual driving miles, not food, lodging, gas, or any additional items. At the end of July, these funds had not been requested. My aides, though, have made many trips to the district on official business and I expect these funds will be used. Also, no reimbursement is made for any travel within the district.

Fourth. Staff—Each Congressman is permitted a maximum of 16 staff positions and an annual staff salary of $193,052. For the first 6 months, I returned $14,197.93 to the Treasury in unused funds. I have seven people in Washington and six in district offices to help the people.

I have been extremely fortunate in attracting talented staff people. I am proud that a majority of my staff are now or at one time were residents of the 12th Congressional District. We have held over several individuals from the staff of the late Congressman John P. Saylor because they are dedicated, talented, public servants. My Washington staff has accumulated over 30 years in working with the Federal Government. My district staff participates in the Saturday morning workshops and during the first 6 months, my Washington office was also staffed on Saturdays. These people have, both in Washington and in the district offices, labored with enthusiasm and effectiveness to provide necessary service to the constituents of the 12th Congressional District.

Fifth. Telephone and telegraph—My 11-month allowance for telephone and telegraph usage was 91,633 message units—a term equivalent to phone minutes—of telephone time. At the end of 6 months, I had 42,000 units left which should be enough for the rest of the year without exceeding the allowed limit. All these minutes are used for official business calls.

Sixth. District offices—We have been able to locate an office in each county of the 12th Congressional District except Calrion, whose residents we ask to use the Jefferson County office. All of these offices are in Federal buildings except in Indiana where we lease office space. I was provided with $1,200 to cover rental of three offices. Since Federal building space is free, my total rental cost through July was $718. Thus, we were able to return nearly $500 to the Treasury.

District Office expenses cover supplies and other essential daily items. Again, we ran into extra costs in establishing the office. I have spent the $833.30 we were allotted through July 31. We hit this figure practically right on the nose.

District telephone costs are considered separately. We received $788.76 for this cost and expended all of it. We incur extra costs, because our district is so spread out that we are in two different area codes. It is also necessary to make many calls between our district offices and Washington to find answers to constituent problems and give them a quick reply. As a result, I have spent $423.21 of my own money for the district phone bill.

Seventh. Special projects—As you will note in looking closely at such items as the newsletters and congressional questionnaire I have sent to constituents, these are not printed at Government expense. Through August, I expended $5,267.50 of my personal funds in printing these materials. I believe they are essential to the two-way communication I have tried to establish in this office, and I am glad to use part of my salary for this purpose.

For the record, since my salary of $42,000—or really eleven-twelfths of that for 1974—is paid by the taxpayers, they should know I spent $6,683.91 of that salary on official office business.

These official expenses met with personal funds will be properly deducted under the law from my Federal and Pennsylvania State taxable income. As with this year, I will continue to make a full financial disclosure yearly so the people of the district know what I pay in taxes.

I hope, Mr. Speaker, that this statement will represent one small step toward restoring public confidence to our system. I know that each of us in our way will continue to work for that goal.

CASTRO VALLEY'S BASEBALL HEROES

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. STARK. Mr. Speaker, I would like to share with my colleagues the pride I have for the recent champions of the World Congress of Baseball World Series—the Marmont Connie Mack Baseball Team of Castro Valley, Calif.

Dating back to 1915, this world series is the oldest amateur baseball tournament in the United States. In the 1974 contest, teams representing 16 States and cities competed for 4 days of play with the final game being held on August 18. The Marmont's Castro Valley team won seven straight games in the double elimination series to win the coveted title. The potential for the series' competitors is great—27 players from the 1973 tournament signed professional baseball contracts.

This group of young men from Alameda County junior colleges and high schools, represented the cities of Castro Valley, San Lorenzo, Hayward, San Leandro, Piedmont, Alameda, Dublin, and Livermore. The talent of this fine, outstanding team is reflective of the long hours of dedicated service of the team's sponsors, Augie Marra and Ray Montalvo, in building quality baseball in Alameda County.

I am very proud of these young people. It is my hope that their great achievement in baseball will only be the beginning of their contributions to their community.

HUMANE TREATMENT OF ANIMALS

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. GUDE. Mr. Speaker, earlier this month, two distinguished women from the American Horse Protection Association, Ms. Pearl Twyne, president, and Mrs. William L. Blue, vice president, testified before the House and Senate Agricultural Committees in support of legislation to help insure the humane treatment of animals, particularly in transportation.

These two women have given selflessly of their time and energies for many years to help further the cause of humane animals treatment, particularly the treatment of horses. The members of the American Horse Protection Association continue their dedicated efforts to the causes of protection and preservation of both wild and domestic horses.

The testimony which they gave was indeed important and spoke directly and forcefully to the need for action in this important area. I would like at this point to include in the RECORD, for the benefit of all of my colleagues, the testimony of both Ms. Twyne and Mrs. Blue. I trust that every one of us will take the opportunity to read and learn from their experiences.

The statements follow:

TESTIMONY OF PEARL TWYNE

I am Pearl Twyne, President of the American Horse Protection Association, on whose behalf I speak today.

We wish to express our sincere appreciation to Congressman Thomas S. Foley for introducing the much needed humanitarian bill, H.R. 15843, an amendment to the Federal Laboratory Animal Act, which, among other important provisions, would assure the humane handling and transportation of livestock by railroad, motor carriers and airlines.

My comments on H.R. 15843 are limited to Section 15, which provides for the regulation of shipments of livestock, since there are knowledgeable representatives here to speak for smaller animals. Also, my primary experience in humane transportation work is with livestock, both at State and Federal levels.

There has been no Federal legislation on humane shipment of livestock since 1906 and that only covered rail shipments. This legislation is desperately needed because of the phenomenal growth in the use of motor carriers for transporting animals. Even with the most careful drivers, animals on motor carriers can suffer severe pain and injury because of road hazards and traffic congestion through which they must pass. If animals in trucks fall and cannot regain their footing, they can be trampled, crippled or killed by the other animals in the load. Careful drivers who stop now and then to check their precious cargo can help, but appropriate safeguards over and above a driver's concern must be enacted into law.

Let me illustrate. Back in April, I received a call from Front Royal, Virginia, where the driver of a large horse van with New York tags had stopped for a coffee break. It was reported to me that some of the horses in his truck had fallen and were being trampled. After the driver was told of this condition, he only shrugged and continued to finish his coffee, get in his truck in his own good time, and drive off. This is not an isolated incident. I am submitting for the record several news items covering such similar inhumane incidents.

I once was driving behind a truck of animals ranging in size from pigs, young cattle, to older cattle with horns. They were mixed together and not separated by partitions as they should have been. The driver, having to stop at each traffic light, was causing the truck to sway and the horned animals to gorge the smaller animals. I pulled over and called the District of Columbia police to stop this truck. Perhaps some of you on this committee will be as surprised as Senator Hughes was to learn that there are no federal standards pertaining to the transportation of large animals—or for that matter, for any animals at all. In a letter to one of our members, Senator Hughes noted that perhaps the various states should set the appropriate standards. This Committee should know that although all states have laws prohibiting inhumane and cruel transportation of animals, there is very little, if any, enforcement of these state laws.

Local humane societies who are desperately trying to see that these state and local laws are enforced neither have the funds nor enough knowledgeable humane officers to take the needed action. The state police complain that they are already over-burdened with matters relating to people, and in most cases, they have no more training than the average citizen as to what constitutes inhumane transportation of animals.

Federal legislation is desperately needed to authorize the Department of Agriculture with the power to issue regulations to assure the humane handling of livestock in transportation—whether by rail, motor carrier or airline. Since much of this transportation is in interstate commerce, it is too much to ask that the states accept this responsibility. The problem is national in scope and must be dealt with by the Congress. Consequently, some of the basic, common sense standards which need to be enacted into Federal law are:

1. To outlaw overcrowding in vehicles which can cause suffocation, injury and death;

2. To limit a standard 10 foot by 40 foot van to no more than 20 horses;

3. To set out standards of padding and bedding appropriate for the season and the vehicle;

4. To adopt standards making it necessary that mixed loads should be separated by partitions to prevent bruising, suffering, crippling or death;

5. To provide that horse vans be partitioned from each other allowing 2 feet across per horse to protect from trampling any horse who might fall;

6. To make it mandatory for livestock to be watered and rested at least every 12 hours Vans can easily be opened from the outside to allow fresh air in and for watering.

I want to note at this point that it has been proven that horses and other livestock cannot relax while they are in motion inside a plane or a vehicle. This inability to relax is because they must constantly and continuously keep themselves braced. Consequently, after a few hours, the animals become exhausted. Therefore, the above standards—especially those as to resting, watering, etc., are imperative.

This needed federal law would not only correct the national shame of the inhumane treatment of our animals, but it would save the millions of dollars lost to producers, packers and eventually passed on to consumers due to the end product of animal abuses in transit—crippling, mangling, bruising, and death. This is not a matter to be taken lightly in a time when our overpopulated world is crying for beef, pork, and lamb as sources of protein at low prices. It is imperative that we quit wasting our protein resources in this inhumane fashion.

Federal legislation stopping the inhumane abuses of livestock transit is imperative.

The American Horse Protection Association strongly urges this Committee to act favorably on this bill.

Testimony of Joan R. Blue

Mr. Chairman, and members of this distinguished Subcommittee, my name is Joan R. Blue. I am the vice president of the American Horse Protection Association which is the only national non-profit organization dedicated to the welfare of horses, both wild and domestic. The American Horse Protection Association has no paid staff; all working members are volunteers.

Members of our Association were instrumental in promoting the passage of two bills of great significance to the welfare of horses. The first, the Horse Protection Act of 1970, prohibited the brutal soring of the Tennessee Walking Horse, and outlawed cruelty to all domestic show horses. Members of the American Horse Protection Asociation also spearheaded the drive for passage of a second important piece of legislation—the Wild Free Roaming Horses and Burros Act of 1971—which directs the Departments of the Interior and Agriculture to preserve and protech a part of our American Heritage.

We greatly appreciate the Committee's invittaion to give our views concerning Congressman Robert McEwen's excellent bill, H.R. 16070, which would authorize the Secretary of Agriculture to regulate the transportation of horses in commerce, and for other purposes.

The American Horse Protection Association congratulates Chairman Foley and the members of this Subcommittee for their work on legislation in the area of humane care and treatment of horses in commerce. It is a shocking fact that there are no Federal humane laws in this Country to regulate the transportation of horses by truck, and over 90% of our Nation's horses, most on their way to slaughter, must travel by truck, usually under the most barbaric conditions. Therefore, the American Horse Protection Association wholeheartedly supports H.R. 16070.

The cruel traffic in horsemeat for pet food and human consumption, and the brutality to horses, many already diseased and dying, on their way to slaughter, has outraged members of AHPA. State laws throughout the country are usually miserably inadequate to regulate trucking of animals going to market, or to provide for their humane handling while held in transit or in sale barns. Horses transported in quantity are subject to severe suffering imposed by overcrowding, poor ventilation, lack of food and water, trampling, and exposure to the extremes of heat and cold.

"Quick-buck" trucking firms drive from one horse auction to another gathering their loads, and holding the animals without rest, food or water until their rigs are crammed and overloaded. Several tragic illustrations of this type of profiteering have been reported by A.H.P.A. members in upper New York State, near the Canadian border.

A well-known "killer-buyer" from Quebec, Canada, was arrested by the local S.P.C.A. and State Police in Champlain, New York for inhumane treatment of 400 to 500 horses being readied for shipment to Canada, where they were to be slaughtered for human consumption and their carcases shipped to Europe. These animals were found to be confined without food or water; many were both diseased and injured. The "killer-buyer" was later released on $100 bail.

Eleven other horses were killed when a truck carrying a total of 23 overturned on the Adirondack Northway near Wilton, New York after the driver lost control of his tractor-trailer. State Police said that the 23 horses were jammed into the back of the truck where they had stood for several days since leaving North Carolina.

New York State Police, while conducting a routine road check on the same interstate highway, found two trucks overloaded with 77 horses, some injured and diseased, packed so tightly together "that some of them would fall, and, unable to regain their footing, were cruelly trampled to death."

Barnett Fowler, of the Albany, New York *Times-Union*, described a typical incident: "The story was simple; the carnage sickening . . . The floor of a tractor-trailer loaded with horses destined (for slaughter in Canada) gave way and legs of horses were scraping the highway pavement. Broken legs were numerous and one horse was trampled to death in the panic." State Police were forced to shoot others too badly injured to survive the journey. New York State police estimate that as many as 10,000 such horses are transported across the New York-Canadian border every month.

Although some states specifically prohibit the conveyance of any animal in a cruel and inhumane manner, thee lasws are difficult to enforce because of inept local officials, ridiculously low fines, and the weakness of humane organizations in rural areas where abuse is most prevalent. Thus, Federal laws and regulations are desperately needed to reduce the torture of these helpless creatures. Because the problem is national in scope and via interstate commerce over highways built by Federal funds, it must be dealt with by the Congress.

As the American Horse Protection Association's president, Mrs. Paul M. Twyne, recommended in her testimony last week before this same subcommittee, our membership hopes that a strong bill will be enacted. We respectfully submit that such a bill should contain at a minimum the following provisions:

1. To outlaw overcrowding which can cause suffocation, injury and death;

2. To limit a standard 10 foot by 40 foot van to no more than 20 horses;

3. To set out standards of padding and bedding appropriate for the season and the vehicle;

4. To adopt standards making it necessary that mixed loads (horses and cattle) should be separated by partitions to prevent bruising, suffering, goring, crippling or death;

5. To provide that horse vans be partitioned, allowing 2 feet across per horse so as to protect any fallen animal from trampling;

6. To make it mandatory for livestock to be watered and rested at least every 8 hours. Vans can easily be opened from the outside to allow for ventilation and water.

It has been proven that horses and other livestock are unable to relax while they are in motion inside a vehicle because they must constantly keep themselves braced. Consequently, after a few hours, the animals become exhausted. Therefore, the above standards, especially those pertaining to resting and watering, are absolutely imperative.

We believe that the cost of enforcing this type of Federal legislation could be minimized by using those State Police who already man the weighing stations where interstate trucks must stop for inspection.

On a recent trip by car from North Platte, Nebraska to Idaho Falls, Idaho, a journey of over seventeen hundred miles, and across three state borders, I had occasion to observe inspections of horse vans at various State weighing stations. As the Chairman of this

Committee knows so well, members of the American Horse Protection Association have been intimately associated with the battle to preserve and protect the wild horses of the West. The Chairman played an extremely important role in the House of Representatives to secure passage of the law designed to safeguard these hideously abused animals. And as the Chairman knows so well, without P.L. 92-195, most of the wild herds would have perished in the slaughter house long ago.

One group of wild horses was transported on that long, long road from Nebraska to Idaho; these were the 18 pathetic survivors of one of the bloodiest massacres ever recorded. They had narrowly escaped being ground up into pet food, and were being returned to their home state of Idaho. The van, and the manifest presented by the driver, were carefully inspected by the State Police at every port of entry. But no one counted or even looked at the animals inside the van; it was obvious that their welfare was of no interest except to the representatives of the humane organizations following this particular rig. But these horses were special indeed because they are the subject of a rather famous Federal court case. In contrast, the majority of the Nation's horses in interstate transportation, those considered less historic, are manhandled like ordinary freight, left to suffer dehydration, insufficient food, neglect, injury and slow and agonizing death, all of which seems fantastic in a Nation which prides itself on its superior civilization, compassion, religious ethic and fair play. This ugly situation must be stopped, and stopped quickly.

The American Horse Protection Association, the most dedicated and concerned horse humane organization in America, urges therefore your prompt action on H.R. 16070. We need your help. The horses need this legislation.

Thank you.

AMNESTY VERSUS PARDON

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Ms. ABZUG. Mr. Speaker, one of the most shocking aspects of the Presidential pardon is the cynical attempt to manipulate public opinion by promising to consider amnesty for draft resisters, and then condoning criminal acts by the former President and his staff.

The offenses were very different. Amnesty and pardon are very different. Attempting to tie the two together in the public mind is cruelly deceptive. Amnesty is usually general, addressed to classes or even communities, whereas a pardon remits specific punishment. The acceptance of a pardon constitutes an admission of guilt. This is why many draft resisters feel that they can accept nothing less than an unconditional amnesty.

Those who resisted participation in an illegal war, who refused induction or left the forces after induction, believed that the war was wrong and that killing other human beings was a violation of conscience. They reaffirmed the principles established in the Nurenburg trials, by refusing to follow illegal orders and to kill on instructions.

On the other hand, Richard Nixon and those who served him violated the law for immoral purposes in behalf of the political and personal interests of the President and the economic benefits of big corporations and special interests.

The draft resisters, who have committed no crime, have nonetheless paid a heavy penalty already. Thousands have been in jail; thousands more in self-imposed exile, or living perilously in the underground. They and their families have suffered enough.

Mr. Ford talks of Mr. Nixon's suffering. But what of the suffering that Mr. Nixon and his lieutenants caused to the citizens of this country? To those who lost sons and husbands in a war repudiated by the vast majority of the public? To all who watched their cherished ideals debased in sickening ways by the spreading Watergate scandal? What of the young people whose faith in the judicial process may be forever destroyed by the lying and corruption of the last administration? Apparently there is to be no penalty for these crimes.

Grave constitutional questions are raised as to the legality of President Ford's pardon of Richard Nixon. Mr. Ford himself noted that there are no legal or historical precedents for such action.

On the other hand, there is ample precedent for a grant of amnesty for war resisters. Since our earliest history, this Government has granted amnesty after wars and rebellions at home and abroad. From the Shays and Whiskey Rebellions, through the War of 1812, the Civil War and the First and Second World Wars, the cessation of hostilities has generally been followed by one or another form of amnesty.

If President Ford persists in pardoning high-level crimes while withholding unconditional amnesty for acts of conscience, he will establish for all time the principle that the United States has one set of laws for the average citizen and another set for those who make it big.

RUSSELL TRAIN DISCUSSES THE QUALITY OF GROWTH

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. BROWN of California. Mr. Speaker, the economic problems that beset the world are, quite obviously, inextricably related to population growth, resource shortages, industrial development patterns, and environmental restraints. Everyone's life is being affected. Meanwhile governments, including our own, still concentrate on the rate of growth of the gross national product and rather obscure monetary policies. I do not pretend to have the solution to all of our economic ills, but I doubt that we will begin to solve them until we consider other more pervasive problems. The quality of life is not determined solely by the rise and fall of the GNP, industrial output, or new building starts. Our national and international policy for the past few decades has been to grow without regard to direction or recognition of any limits to that growth. Presumably the energy crisis has caused us to recognize that limits to growth do exist.

This recognition should allow us to focus on the quality of growth. Last month I introduced H.R. 16585, the Balanced National Growth and Development Act, which I think is a valuable legislative focus to the enormity of the growth question as it relates to the Federal Government. Still I do not think the current discussions about economic or energy policy recognize the significance of the existence of limits to growth. Those limits are ones of a physical nature, which are not based on the laws of people and other limits of a social nature which people may be able to change.

A short but excellent discussion of this issue was written by the Administrator of the Environmental Protection Agency and published in the June 7, 1974, issue of Science magazine. Mr. Russell Train made several important points that relate to national policy, among them the need to curb the growth rate in energy demand, establish strict planning of urban growth in order to enhance the quality of life and minimize energy and capital waste as well as reduce pollution, and the need to make the hard political choices to effectively deal with growth related problems.

While I do not always agree with the particular legislative or administrative actions by the EPA, especially when I perceive that they are avoiding those same hard, political choices, I do commend this fine article to my colleagues to enhance their understanding of these complex issues.

The article follows:

THE QUALITY OF GROWTH

(By Russell E. Train)

The United States has become the most powerful and prosperous nation in the world. But we have learned, over the past decade, that both our power and our prosperity are subject to increasingly stringent constraints. We have discovered that there are rather severe limits to our ability to employ our military might to further our ends abroad. We have witnessed the steady erosion of our economic position in world markets. At home, where once we imagined we had uncovered the secrets to endless economic growth, we have found ourselves continuously beset by both inflationary and recessionary pressures at one and the same time. We have seen our first serious efforts at "social engineering" fall far short of their aims. Our standard of living has continued to rise at the same time that we have become increasingly less satisfied with the quality and character of our lives. We find that, as we become increasingly able to afford the "good life," it becomes increasingly impossible to buy.

Once we would have shrugged these things off as mere "growing pains." We are just beginning to understand the degree to which many of our pains really do stem from levels and kinds of growth that simply cannot be sustained.

We are beginning to understand, as well, that we can no longer continue to act on the basis of some of our oldest and most ingrained assumptions. I think, in particular, of the assumption that we would never run out of room or of resources and that, as a result, we could forever be free and easy with both; and of the assumption that if, for a time, we found ourselves in a tight squeeze, then we could—in the nick of time and out of nowhere—count on the *deus ex machina* of our unrivaled scientific and technological capability, not to speak of our unexampled ingenuity, to extricate us from our difficulties and set us off once more on our predestined path to the promised land of progress and prosperity.

The space effort was, I suspect, the last hurrah of what seems in retrospect our incredibly uncritical faith in the virtue and value of anything that bore the label of "science and technology"—a faith that we backed not only with billions of public dollars in the space program, but also with billions upon billions of private dollars in the stock market.

I am aware, I must hasten to add, that the words "science" and "technology" cannot be so indissolubly lumped together that we somehow come to regard them simply as different versions or stages of the same thing. There are, for example, those who say that the genuinely scientific purposes of the space program were very early sacrificed and subordinated to what became, in fact, largely an engineering and arobatic extravaganza. What I am saying, simply, is that the technological offspring of science must now survive far sterner tests before they can command the acceptance and investment that once was theirs almost without asking. The supersonic transport is an excellent instance of a technological option that we might well have ardently and automatically embraced had it presented itself to us a decade or so ago. In my judgment, while the SST was a potential economic and environmental albatross when considered 3 years ago, the new priority which we must accord to energy efficiency should finally put to rest any plans to squander further private or public funds upon the SST.

Our growing environmental concerns and most recently the energy crisis have combined with gathering force to make us understand that we do not have unlimited room or resources. We are starting to see that our energy and environmental ills stem, essentially, from the same source: from patterns of growth and development that waste our energy resources just as liberally as they lay waste our natural environment. We no longer live in a time when we were few and the land was wide and waiting for us. We have reached the point where we can no longer insulate ourselves from the punishment and polution we visit upon the earth and the atmosphere, and where the natural resources we once regarded as so endlessly available and expendable are becoming increasingly hard to get.

The energy crisis is part and parcel of our overall, environmental problems—a classic symptom of the strains that occur when an organism begins to exceed the carrying capacity of its habitat. It warns us that we had better begin to face up to the fact that modern man everywhere is pressing the limits of the resources and resilience of the earth. Shortages of metals and other critical raw materials lie ahead. Despite the marvelous productivity of American agriculture—increasingly dependent, I might add, upon abundant energy—and the miracles of the Green Revolution, food shortages and famine are becoming all too common around the world. In the oceans, fishery stocks have been rapidly declining.

We are, it is clear, moving from an age of resource abundance to an age of resource shortages. By choice or by necessity, we are going to have to learn to live within our limits. We are going to have to come to grips with the problems of growth.

I am not one of those who would overwhelm you with the apocalyptic visions of the Club of Rome and exhort you to repent before the catastrophe comes. I do not believe the end of the world is at hand, or even on the horizon. But I do think that we need to begin now to change the ways we grow before change is forced upon us by crises of even greater severity.

REDUCING THE GROWTH RATE IN ENERGY DEMAND

We can begin by setting ourselves the goal of cutting in half by 1985 our recent growth rate in energy demand of about 5 percent. There are any number of ways of achieving that goal that will have no appreciable effact upon overall levels of economic activity or employment and that will measurably improve our quality of life.

If, for example, the average vehicle weight of automobiles could be cut from the current 3500 pounds to 2900 pounds, if the Congress approved legislation setting appropriate standards for space heating in new buildings and restrictions on commercial lighting, and if population growth rates remain at their present low levels, then we could achieve a 2.5 percent energy growth rate by 1985. If we combined these measures with increased use of mass transit, recycling, energy conversion from wastes, and other energy-efficient and energy-conserving measures in the residential, industrial, and transportation sectors of our economy, we could bring the demand growth rate down to 2 percent or less by 1985.

There are, in addition, possibilities for significant energy savings in U.S. agriculture, which consumes huge amounts of energy not only in the growing of the raw product itself but also in the transportation processing of that product. As world population continues to explode, the world's fossil fuel supplies are rapidly diminishing. Yet it is those fuel supplies that have enabled American agriculture to perform such prodigies of production, and that are the vital ingredient in both American food production technology and the Green Revolution. If we are to produce enough food to meet the rapidly growing demand abroad as well as our needs at home, we must begin to explore such energy-saving measures in agriculture as the substitution of labor for energy and of animal and green manure for chemical fertilizer, the more efficient use of machinery, the greater of use of mechnical cultivation rather than herbicides, the breeding of disease, insect and bird resistant seeds, and the transport of materials by train rather than truck.

We can also begin to take advantage of the fact that the United States is the major producer of one of the world's most important and energy-efficient crops—the soybean. Last year, soybeans accounted for about 5 percent of all U.S. income from exports and was the largest single item among our agricultural exports. The increasing production and use of soybeans as a meat substitute would both ease agriculture pressures on energy and environment, and serve as a growing source of strength for our world trade position. Vegetable protein requires susbtantially less energy to produce than does meat protein.

CHANGING PATTERNS OF URBAN GROWTH

Perhaps our most enduring changes must come in our patterns of urban growth, in the way we organize our activities in our urban areas. We hear it said, often, that most of our urban ills are the result of overcrowding and congestion. There are just too many people, we are told, jammed together in much too small a space. Yet what creates the sense of overcrowding and congestion is not simply the number of people who live and work in our urban areas, but rather the fact that their jobs, homes, shopping centers, and recreation areas are strewn like debris across the length and breadth of the landscape. It seems quite clear, for example, that we could take the city of Los Angeles—with the precise number of people, schools, airports, and power stations that it now contains—and by arranging these differently achieve a hundred-fold improvement in the quality of life and save, in the process, considerable amounts of energy, money, and time. The streets would be less congested; open spaces and recreation areas more open and easily accessible; the air would be cleaner; far more of the services people need and the activities they seek to enjoy would be only a few minutes away by foot, by bicycle, by bus, or by train; and life would be far brighter and for more bearable.

The spread patterns of settlement and development that characterize our urban areas are the unfortunate legacy of our old illusion that we had endless acres of land to build on and unlimited energy to burn. Unlike the cities of Europe, where land was scarce and areas were small, our cities did not grow up—they grew out. They became what Wilfred Owen[1] has called "accidental cities," which put "a premium on moving" because they "offer so little in the way of living." We have, as a result, become a country in which licensed drivers outnumber registered voters, in which for every baby born more than two cars roll off Detroit's assembly lines, in which—according to one estimate—the average commuter spends a month of daylight hours every year driving to and from work.

We need to bring our cities back together and reduce all the unnecessary travel and travail that, in Wilfred Owen's words, result "from the inconvenience of having things located in the wrong places." More compact forms of urban settlement and growth would be far more conservative of both energy and environment, and far more conducive to the "good life" that we so ardently seek.

In general, all of these changes that I have suggested would reduce our demands upon our resources and our environment while, in many respects, improving the quality of our life. If we use a little imagination and innovation in making these changes, they would not require reductions in the level of economic activity, but it should be emphasized that such changes would be far easier to accomplish, and the benefits of these changes secured, if we move more rapidly toward population stability. In my view, we should, as a matter of explicit national policy, do whatever is possible and practicable to hasten the achievement of population stability, and we should take all appropriate steps to provide leadership in achieving global population stability. But we should not deceive ourselves into believing that population stability, even if it were to occur tomorrow would free us from the necessity of making the kinds of changes I have described.

For the energy and environmental ills that afflict us, along with a great many other aggravations that seem so inseparable a part of modern life, are in large measure the result, not simply of how much and how fast we grow, but of how we grow, of the character and composition and quality of growth.

We can and should seize upon the energy crisis as a good excuse and a great opportunity for making some very fundamental changes that we ought to be making anyway for other reasons. I see disturbing signs, however, that we are responding to the energy crisis on the basis of the same old ideas and attitudes that brought us to our present pass in the first place. All we have to do, we are told, is suspend pollution controls and environmental standards and then pull out all the stops in an orgy of exploration, extraction, and production that will give us enough energy to let us resume once more our wasteful ways of growing and living. (I have, I might add, often been struck by the fact that those who show little reluctance at pointing out the energy costs of certain pollution controls and environmental protection measures are extremely reluctant to acknowledge the large energy

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Footnotes at end of article.

savings that many environmental measures would bring and to draw attention to the often sizable energy costs involved in the very extraction and production of energy.) All we have to do, we are told, is invest vast billions of dollars in a mammoth Manhattan-type project that will once more enable our technological genius to come to the rescue.

Our first priority, in any national strategy that seeks to get at the roots of our energy crisis, must be to move gradually toward a deep and enduring reduction in the growth rate of energy demand. We need, at the same time, to move carefully and cautiously in the extraction and use of our current fossil fuel supplies making certain that we apply the most effective and advanced techniques available for keeping environmental damage to the barest minimum. We need, finally, to undertake an intensive R & D effort to develop economically and technologically feasible ways of living off our energy income rather than our energy capital, off our renewable rather than our nonrenewable energy supplies, off the sun, wind, tides and geothermal heat rather than off our finite and rapidly falling reserves of fossil fuel.

When I testified at the Senate hearing on my confirmation as administrator of the Environmental Protection Agency (EPA), I emphasized two things:

First, my commitment to the fullest possible participation by citizens in the decisions of their government, particularly in the environmental field.

And second my conviction that EPA's enforcement policy can only be as sound as the standards on which it is based, and that those standards can only be as sound as the scientific data on which they are based. I emphasized my intention to strengthen the agency's ties to the scientific community.

My experience at EPA thus far has strengthened my conviction that public participation and scientific expertise are absolutely essential to our success.

Indeed, not simply the ability of EPA to set sound standards, but the ability of citizens to take part intelligently as well as fully in the decisions of their government, must depend very much on the extent to which the results of scientific research are readily understandable and available.

At precisely the point when the institutions and processes of government and politics are becoming absolutely essential if we are to resolve the intricate and interrelated issues before us, the citizens of this country are becoming more and more alienated and indifferent to those institutions and processes, which seem as ineffective as they are unresponsive. At precisely the point when the discoveries and achievements of our various sciences seem to bear most directly upon so many of our most pressing public problems, the gap between what the scientist knows and what the citizen understands has grown increasingly wider.

More than 15 years ago, Hannah Arendt[2] warned that "the 'truths' of the modern scientific world view, though they can be demonstrated in mathematical formulas and proved technologically, will no longer lend themselves to normal expression in speech and thought." To that degree, she went on to point out, these "truths" cannot enter into the political marketplace and serve as a basis for public decision-making, for, in her words,"speech is what makes man a political being" and "men in the plural . . . men insofar as they live and move and act in this world, can experience meaningfulness only because they can talk with and make sense to each other and to themselves."

If we are to come to grips with the issues that I have touched upon, with what might be called the problems of growth, we are going to have to find ways of diminishing the distance between scientific knowledge and public understanding, and between the public and the processes of public decisionmaking.

To begin with, we are going to have to find new kinds of political leaders, leaders who understand that the fundamental issues before us are not always the isolated and immediate ones, but the interrelated and the long-range ones; leaders who understand that, in an age of growing scarcities, the ancient and honored practice of promising more of everything, of guaranteeing two chickens in every pot and two cars in every garage, is neither relevant nor responsible; leaders, in short, who understand that less is often better.

At all levels of government, we need first, to strengthen our ability to assess problems and programs not simply in isolation, but in their interrelationships; not simply over the short-term, but over the longer span of 10 or 20 or 30 years; and second, to devise ways of keeping citizens abreast and involved in these longer-range analyses and, on the basis of these, in developing and deciding upon basic plans and priorities as well as strategies for achieving them.

TAKING CARE OF THE THINGS WE OWN IN COMMON

Long ago, Aristotle observed that "that which is common to the greatest number has the least care bestowed upon it."

Americans, more than most people, have failed to take good care of the things that belong to all of us together: air, water, land, cities, regions, neighborhoods. Yet unless we start taking care of these things that belong to nobody in particular and everybody in general, we are going to find ourselves faced not only with a narrower range of individual choices than before, but with individual choices that are less worth making.

These common choices must be made through political processes and institutions that are both democratic and effective, that are large enough to encompass the problems and small enough to reflect and respond to the needs and desires of the citizens concerned. Most of these common choices involve problems that simply cannot be contained within any single local jurisdiction. Local governments are too feeble and too fragmented to cope with an increasing range of problems such as transportation, air and water quality, and, above all, the problems of growth—of the patterns and pace of development, of the way in which housing, jobs, schools, recreation, and similar activities are distributed within a given area. Citizens within each separate jurisdicton are deeply and directly affected by decisions made within other jurisdictions; yet they have no say in those decisions. Each jurisdiction pushes and pulls against the other. And the citizens of each watch helplessly as their region assumes shapes and directions that are determined by forces they do not understand and cannot influence.

If the citizens of this country are going to have the chance to make intelligent, effective decisions about the patterns and problems of growth, and if they are to exercise any real control over those patterns that so deeply affect and influence their lives, then we are going to have to develop, as rapidly as possible, effective democratic governmental institutions on the state and regional level to direct and regulate growth. As long as we fail to do so, then communities like Petaluma and others across the country that are engaged in what appear to be thoughtful efforts to manage their growth will find themselves increasingly thwarted.

Earlier I mentioned Aristotle. I think we would do well to rediscover two old Aristotelian ideas. The first is the idea of politics as the process by which the citizens of a common area come together to make decisions about the problems and prospects they share in common. The second is the idea of nature as an unfinished creation which man, by his intellect and imagination, can bring to various kinds of completion within the broad boundaries of the laws and limits inherent in nature itself.

If we really understand these ideas, if we accept them and act upon them, then we will I think not only extend our range of individual choices, but discover that our choices are increasingly worth making.

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STACKHOUSE PARK

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. MURTHA. Mr. Speaker, we are very fortunate in Johnstown, Pa., in having Stackhouse Park, an open-space area that has provided 40 years of enjoyment for area residents.

We have also been very fortunate in having Andrea Hauer work in the park for the past several years as a volunteer. She has taken the time to write a very fine article for the Johnstown Tribune-Democrat discussing present and future uses of this wonderful park.

As we all feel the press of urban tensions and the rapid pace of life in the 1970's, it becomes more and more essential that we protect and preserve areas like Stackhouse Park where citizens can unwind and enjoy the fulfillment of nature. Andrea Hauer has caught the significance of the park, and the need to work to preserve the park in excellent condition.

I am very pleased to present this article for insertion into the CONGRESSIONAL RECORD. The article shows the excellent contribution this park has made to the Johnstown area, and also shows the sensitivity and concern of Andrea Hauer of which we can be equally proud:

KEEPING STACKHOUSE A NATURAL SPOT

Stackhouse Park, when deeded to the city of Johnstown in 1931, was given with the stipulation that it remain "a natural public park." It has remained essentially that for the past 40 years. Today I ask for another 40.

The park's 254 acres lie within Westmont, Southmont and Brownstown boroughs and Lower Yoder Township. The area, characterized by small streams in valleys between steep hillsides, supports a tremendous variety of flora and fauna.

I have worked in the park for several years as a volunteer. This summer, as a supervisor in the Neighborhood Youth Corps, I helped oversee trail construction and maintenance, dump clean-up and shelter repair.

Many Johnstowners find it unbelievable that such a large piece of parkland exists nearby and that the price of admission is only the possession of a pair of shoes for walking. It is important to everybody in Greater Johnstown that Stackhouse Park be preserved and protected as a prime natural resource of our area.

To preserve and protect is indeed the governing philosophy of those now rebuilding Stackhouse Park. The park's rehabilitation is a project shared by organizations, municipalities, businesses and individuals.

Nobody, however, wants to preserve and protect just for the sake of preserving and protecting. The work is aimed at re-creating a park for the use and enjoyment of Johnstowners and their families.

Some uses may have to be barred to preserve the joys of the park for the majority of users. The banning of motor vehicles beyond designated parking areas at the Westmont and Norton Road-D Street shelters is an excellent example of protecting the park in order to have something to preserve.

Minibikers and motorcyclists were destroying park trails at an alarming rate, creating a mud freeway of ruts and ditches. Many people complained about the noise, and cases of harassment by cyclists were reported. Motor vehicles ruining the woods do not conform to the natural park provision of the deed and do not add to the pleasure of most park users.

High-use mass recreational developments do not belong in this park. The terrain is not suited for them and the vast parking lots they require. The biological unusualness of several areas argues that these sections remain untouched in their natural form.

Accordingly, construction in the park has been limited to the two shelter areas to try to concentrate heavy usage at these points. Outlying sections have been kept "wild" with foot trails as the sole development.

The shelters were reconstructed from the Civilian Conservation Corps plans of the 1930s. Picnic tables and, hopefully, fire rings are gradually being installed at these areas. Sanitary facilities and potable water are the two major needs at the shelters.

There is now no safe water in Stackhouse Park. Water from the springs has high coliform and bacteria counts and is unfit for drinking. Elk Run, especially in the Westmont end, resembles a sewer. It would benefit many people, especially the children who play in this stream, to clear up this health hazard immediately. Saw Mill Run in the Lower Yoder section has been gradually improving since the open sewer pipe has been closed.

However, the park is far, far from being a mess. The trails are in good shape and lead to all corners of the park, each displaying a different variety of flora and fauna. Their diversity will please everyone from the stroller who wants an easy 15-minute walk to the hiker looking for a strenuous tour.

Shelters near the Norton Road-D Street and Westmont entrances are open for picnickers who bring their own water. There is also an inviting and pleasant grassy picnic area at the Norton Road-D Street entrance.

Today, one can find little garbage outside the dump areas. The annual park cleanups held each April have been quite successful. The Neighborhood Youth Corps work this summer netted six tons of garbage and debris from a hillside dump in the Lower Yoder section. (One worker remarked that you could trace a lifetime in the dump, from baby food jars to beer bottles, with washing machines, cars, and television sets in between.)

Action against future dumping has been taken. The city has notified business owners around the park limits that dumping will no longer be tolerated. In one case, boundary lines will be resurveyed because of a disputed park-business property line.

Most park visitors are remembering to pack out what they pack in, and others are using the garbage cans provided at the shelters.

In my four years of working in the park I have seen many changes for the better. More walkers use the trails, and more families and groups are having picnics in Stackhouse. More organizations are taking an interest and are lending a hand with time, effort and materials.

All of these—time, effort, materials and money—will be required to maintain Stackhouse Park's trails and shelters. Certain necessities are still lacking: sanitary facilities and safe water for drinking and wading. Other amenities are highly desirable: entrance signs and maps, plantings around shelter areas, installation of a nature trail.

Vandalism remains a major problem, especially at the Westmont shelter. Cooperation from the various police departments can help curb this, but increased use and care by local residents are the best preventive.

I believe Stackhouse Park will be more extensively used now that people are realizing what a jewel of nature they have right here at home. Schools will conduct biology classes in it. Hikers and walkers will rediscover the beauties of the many trails. Families and organizations will find it a great place for an old-fashioned picnic.

Citizen input and action are crucial to the proper protection, preservation and use of Stackhouse Park in its natural state. They have sparked a renaissance of the park in the last few years, and they can do even more in the future.

I am hopeful that Stackhouse Park will enjoy another 40 years as Johnstown's own superb natural park and one of our area's major assets.

EXECUTIVE CLEMENCY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. DINGELL. Mr. Speaker, since the pardon of Richard Nixon, as afforded by President Ford, for crimes against the United States, I have received requests for information as to how a citizen might receive a pardon from the President for crimes against the United States.

Although the pardon regulations were not conformed to in the case of Richard Nixon, my inquiries to the executive branch indicate that the pardon regulations are still in effect.

In order to properly inform the people of the United States as to how an ordinary citizen might procure a pardon, I insert the pardon regulations into the appendix of the RECORD at this time pursuant to permission granted.

PART 1—EXECUTIVE CLEMENCY

Sec.
1.1 Submission of petition: form to be used.
1.2 Contents of petition.
1.3 Eligibility for filing petition for pardon.
1.4 Eligibility for filing petition for commutation of sentence.
1.5 Offenses against the laws of possessions or territories of the United States.
1.6 Disclosure of files.
1.7 Consideration of petition by the Attorney General; recommendations to the President.
1.8. Notification of grant of clemency.
1.9 Notification of denial of clemency.

AUTHORITY: The provisions of this Part 1 issued under U.S. Const., Art. II, sec. 2 and authority of the President as Chief Executive.

SOURCE: The provisions of this Part 1 contained in Order No. 288–62, 27 F.R. 11002, Nov. 10, 1962, unless otherwise noted.

CROSS REFERENCE: For Organization Statement, office of the Pardon Attorney, see Subpart G of Part 0 of this Chapter.

§ 1.1 Submission of petition; form to be used.

Persons seeking Executive clemency, by pardon or by commutation of sentence, including remission of fine, shall execute formal petitions therefor which shall be addressed to the President of the United States and which, except those relating to military or naval offenses, shall be submitted to the Attorney General of the United States. Appropriate forms for such petitions will be furnished by the Department of Justice, Washington, D.C., upon application therefor. Forms for petition for commutation of sentence may also be obtained from the warden of Federal penal institutions. Forms furnished by the Department of Justice for use in pardon cases may be used by petitioners in cases relating to the forfeiture of veterans' benefits, with appropriate modifications. A petitioner applying for Executive clemency with respect to military or naval offenses should submit his petition directly to the Secretary of the military department which had original jurisdiction over the court-martial trial and conviction of the petitioner. In such instance, a form furnished by the Department of Justice may be used but should be modified to meet the needs of the particular case.

§ 1.2 Contents of petition.

Each petition for Executive clemency should include: The name and age of the petitioner; the court, district, and State in which he was convicted; the date of sentence; the crime of which he was convicted; the sentence imposed; the date he commenced service of sentence; and the place of confinement. In the case of a petition for pardon, the petitioner should also state his age at the time of commission of the offence; the date of release from confinement, whether he is a citizen of the United States or an alien; his marital status; his prior and subsequent crimnial record, if any; his employment since conviction; and his place of residence. A petition may be accompanied by endorsements. It is desirable that all applications for pardon be accompanied by at least three character affidavits.

§ 1.3 Eligibility for filing petition for pardon.

No petition for pardon should be filed until the expiration of a waiting period of at least three years subsequent to the date of the release of the petitioner from confinement, or, in case no prison sentence was imposed, until the expiration of a period of at least three years subsequent to the date of the conviction of the petitioner. In some cases, such as those involving violation of narcotic laws, income tax laws, perjury, violation of public trust involving personnel dishonesty, or other crimes of a serious nature a waiting period of five years is usually required. In cases of aliens seeking a pardon to avert deportation, the waiting period may be waived. Generally, no petition should be submitted by a person who is on probation or parole.

§ 1.4 Eligibility for filing petition for commutation of sentences.

A petition for commutation of sentence, including remission of fine, should be filed only if no other form of relief is available, such as from the court or the United States Board of Parole, or if unusual circumstances exist, such as critical illness, severity of sentence, ineligibility for parole, or meritorious service rendered by the petitioner.

§ 1.5 Offenses against the laws of possessions or territories of the United States.

Petitions for Executive clemency shall relate only to violations of laws of the United States. Petitions relating to violations of laws of the possessions of the United States or territories subject to the jurisdiction thereof should be submitted to the appropriate official or agency of the possession or territory concerned.

§ 1.6 Disclosure of files.

Reports, memoranda, and communications submitted or furnished in connection with the consideration of a petition for Executive clemency shall be available only to officials concerned with the consideration of the petition: *Provided*, That they may be open to inspection by the petitioner or by his attorney or other representative if, in the opinion of the Attorney General or his representative, the disclosure sought is required by the ends of justice.

§ 1.7 Consideration of petitions by the Attorney General; recommendations to the President.

(a) Upon receipt of a petition for Executive clemency, the Attorney General shall consider that petition and cause such investigation to be made with respect thereto as he may deem appropriate and necessary, using the services of, or obtaining reports from appropriate officials and agencies of the Government, including the Federal Bureau of Investigation, to the extent deemed necessary or desirable.

(b) The Attorney General shall review each petition and all pertinent information developed by his investigation thereof and shall advise the President whether, in his judgment, the request for clemency is of sufficient merit to warrant favorable action by the President.

(c) If he determines that the request merits favorable action by the President, he shall submit the petition to the President together with a warrant prepared for the signature of the President granting the clemency recommended by the Attorney General.

(d) If he determines that the petition and information developed by his investigation do not, in his judgment, merit favorable action by the President, he shall provide the President with a concise statement enumerating the essential facts concerning the petitioner, the petition, and his reasons for recommending denial of clemency.

§ 1.8 Notification of grant of clemency.

When a petition for pardon is granted, the petitioner or his attorney shall be notified of such action, and the warrant of pardon shall be mailed to the petitioner. When commutation of sentence is granted, the petitioner shall be notified of such action, and the warrant of commutation shall be sent to the petitioner through the officer in charge of his place of confinement, or directly to the petitioner if he is on parole.

§ 1.9 Notification of denial of clemency.

(a) Whenever the President notifies the Attorney General that he is denying a request for clemency, the Attorney General, or at his direction the Pardon Attorney, shall so advise the petitioner and close the case.

(b) Whenever the Attorney General recommends that the President deny a request for clemency and the President does not disapprove or take other action with respect to that adverse recommendation within thirty days after the date of its submission to him, it shall be presumed that the President concurs in that adverse recommendation of the Attorney General, and the Attorney General, or at his direction the Pardon Attorney, shall so advise the petitioner and close the case.

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

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2.57 Confidentiality of parole records.

AUTHORITY: 18 U.S.C. 42101–4210, 5001–5037; 28 CFR Part O, Subpart v.

Source: 39 FR 20028, June 5, 1974, unless otherwise noted.

§ 2.1 DEFINITIONS.

(a) For the purpose of this part, the term "Board" means the United States Board of Parole; and the terms "Youth Correction Division" and "Division" each mean the Youth Correction Division of the Board.

(b) As used in this part, the term "National Appellate Board" means the Chairman, Vice Chairman, and at least one member of the Board, all of whom also serve as National Appellate Board members in the headquarters office, i.e., Washington, D.C.

(c) All other terms used in this part shall be deemed to have the same meaning as identical or comparable terms have when those terms are used in Chapter 311 of Part IV of Title 18 of the United States Code or Chapter I, Part O, Subpart V of Title 28 of the Code of Federal Regulations.

REMARKS AT THE COMMISSIONING CEREMONIES FOR U.S.S. "PARCHE"

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. LOTT. Mr. Speaker, the people of Mississippi have long taken great pride in the shipbuilding abilities of the work force at Ingalls Shipbuilding Division of Litton Industries at Pascagoula, Miss. Time and again, these dedicated men and women have demonstrated those abilities by turning out some of the finest seagoing vessels in the world today.

I take particular pride in the fact that a fellow colleague here in the House of Representatives, the Honorable ROBERT C. MCEWEN of New York, took part in the recent commissioning ceremonies for the U.S.S. *Parche*, the 12th nuclear submarine to join the Navy fleet since Ingalls established its nuclear capability in 1956. The gentleman was both kind and convincing in his remarks, which I would like to call to the attention of colleagues in the House.

Also submitted for inclusion in today's RECORD is a speech delivered that same day by Ned Marandino, president of Ingalls. Mr. Marandino notes that a host of Ingalls-built submarines have won Navy awards of excellence. Four have been cited for battle efficiency while four more have won Navy unit commendations.

In short, the remarks by Congressman MCEWEN and Mr. Marandino point to the continuing success of Ingalls. Their remarks follow:

REMARKS OF HONORABLE ROBERT C. MCEWEN

It is a great honor to be here today at the commissioning of the second "U.S.S. Parche".

The first submarine of this name, commissioned in 1943, left Pearl Harbor in early 1944 with the mission of seeking out and destroying Japanese shipping. That "Parche" received a Presidential Unit Citation for her actions, and her Captain a Congressional Medal of Honor for his, during a violent 46-minute Naval battle in mid-1944 in which the "Parche" sank four Japanese ships and damaged another, all the while sailing through fierce enemy shellfire and evading an attempt by a Japanese warship to ram her.

In 1946 the "Parche" was put on the shelf, so to speak, as far as the active Navy was concerned, and assigned to Naval Reserve training duty. I am happy to note that her Captain was not. He continued his active and distinguished Naval career for another quarter century.

Just as the people of Pascagoula take pride in this community's long and fine tradition of ship building and association with our Navy, so also does this Congressman, and the people of Northern New York, take pride in our contributions to our Navy. Thus, you may detect just a note of pride when I say that it was a midshipman who entered the Naval Academy from one of our communities, Beaver Falls, New York, that was the Captain of the first "Parche" and who received the Congressional Medal of Honor. I am happy to be able to note that Vice Admiral Lawson P. Ramage, U.S.N. Retired, and Mrs. Ramage, are here with us today.

The new "Parche", of course, has capabilities vastly exceeding those of its predecessor—as do its potential adversaries. Atomic-powered, capable of speeds three and four times greater than those of World War II submarines, as a nuclear attack submarine the "Parche" will have the mission of seeking out and destroying enemy submarines, surface warships, and merchant vessels. Nuclear warheads, sophisticated electronic warfare devices, and missiles with ranges far exceeding those of World War II torpedoes and Naval guns make the task for both the hunter and hunted at sea infinitely more complex than it was thirty years ago.

To construct such a superb fighting submarine demanded the highest possible levels of workmanship and training on the part of those skilled employees of the Ingalls Shipyards. Pioneering new methods of ship building, the yards here at Pascagoula have made significant strides in advancing the art of warship construction not only in submarines but in destroyers as well. Litton Industries is to be commended for its efforts.

Also deserving commendation are the officers and men of not only the "Parche" but the entire nuclear submarine fleet. Nuclear power duty is the most demanding service, in terms of education, training, and psychological stress, in the U.S. Navy. Those men who crew our nuclear submarines are carefully selected for their special qualifications. No less essential to insuring the "Parche's" accomplishing its missions will be the maintenance and dockyard personnel who service and overhaul the vessel. The days have long since passed when ship's repairs consisted of patching sails and caulking seams. One of the major reasons our submarines are able to spend more time at sea than those of our major adversary, the Soviet Union, is the skill of not only our crews but of our maintenance personnel. Let us strive to keep this technological and organizational superiority.

In recent testimony before a committee of Congress, a senior Admiral once again pointed out another facet of Navy life which has not changed over the centuries, let alone decades. That is separation from wives and families. Between 1968 and 1972, most major vessels of the Navy spent at least 60% of the time away from their home port, and another 10% of their time, while spent in their home port, was spent on board ship. Thus, seven out of every ten days, over a four-year period, saw Navy officers and enlisted men assigned to ships away from their loved ones. The kind of dedication on the part of both sailors and their families which leads so many thousands of people to opt for a Naval career and to endure these separations has not been, and cannot be, bought. Nor should it be. The nuclear submarine crews, isolated and submerged as they are, face this problem to an even greater degree. They are all volunteers. They have not been forced to serve their country. That the United States has such men who are willing to serve, and that they have families that take pride in their service, is a tribute to the fiber of our countrymen.

Some individuals, however, notwithstanding the record of patriotism displayed by Admiral Ramage and the other Naval personnel here, might question the need for all this. Why spend several hundred million dollars each year to construct nuclear attack submarines? For answers—coldly convincing answers concerning national interest and national survival—let us look back to the first "U.S.S. Parche". The "Parche's" and then Commander Ramage's mission, and those of the hundreds of other U.S. submarines and submarine captains who carried out unrestricted submarine warfare against Imperial Japan, was to strangle the commerce and lifelines of the island empire, and cut off Japanese industry from the raw materials necessary to sustain the Japanese war machine. This was accomplished, in large part, and at high cost, by the submarines of the U.S. Navy.

Today, though we, of course, maintain no conquests by force of arms, we find ourselves a large island in the world. As the oil embargo of last winter so acutely demonstrated, we are richly dependent on imports of raw materials from overseas to fuel our industries and our economy. Oil is only one of many critical items we must import. Indispensable to maintaining our economy in time of crisis is an assured flow of imported raw materials. And the only way, should hostilities commence, to insure that flow is to have a Naval force strong enough to keep the sea lanes open. This means not only surface warships to act as convoy escorts, but nuclear attack submarines such as the "Parche", able to operate at sea for months without replenishing and years without refueling, with a primary mission of seeking out and destroying enemy submarines that would prey on American seaborne commerce or launch missiles at American targets.

Our chief adversary, the Soviet Union, has an attack submarine fleet of 320 submarines, of which 120 are nuclear. We have 61 nuclear attack submarines and 12 diesel-powered boats. It is imperative, therefore, that we outclass our competitors in qualitative terms. This demands the highest-caliber personnel and equipment possible.

Today we have here before us just such personnel and equipment. They have our confidence, but the question we must answer is "do we deserve theirs?" If we stint in our national defense efforts, if we heed the mindless cries of those who would blindly slash our defense expenditures then their mission would fail. It would not fail for lack of their skills and devotion to duty, but fail they would if we fail to support them.

In this context, we should recall a quote from a distinguished British airman, Sir John Slessor. He said this:

"It is customary in democratic countries to deplore expenditures on armaments as conflicting with the requirements of the social services. There is a tendency to forget that the most important social service that a government can do for its people is to keep them alive and free."

To the officers and men of the "U.S.S. Parche", I say keep America alive and free, and we all say—Godspeed and smooth sailing.

REMARKS BY NED MARADINO

Thank you, Captain Davis!

Congressman McEwen, Congressman Martin, Admiral Kelln, Admiral Ramage, Commander Charles, other distinguished Naval officers, and our good friend and dedicated supporter of this shipyard and American seapower, former Congressman Bill Colmer:

I am pleased to have the opportunity to represent the men and women of Ingalls whose hard work and dedication have made the production of this fine submarine possible.

We have rather mixed feelings about today's event.

First, we feel a great sense of pride in what has been accomplished in Ingalls submarine construction program. The Parche is the 12th nuclear submarine to join the Navy Fleet since Ingalls established its nuclear capability in 1956, and we have no doubt that this ship will become as well known for quality as have the submarines that have preceded her to sea from this shipyard.

Performance at sea is the ultimate measurement of quality, and while I realize that today is *Parche's* day, I want to share with you a few facts from the pages of the Navy's history files which emphasize the record of quality for which Ingalls-built submarines have become known. These facts are a credit both to the crews who have sailed these ships and to the workers in this shipyard who build them so well.

Four Ingalls-built submarines, the Blueback, Haddock, Dace, and Aspro have earned awards of excellence for battle efficiency. The Sculpin, Snook, Dace and Tautog have won Navy Unit Commendations, and the Barb and Aspro have been awarded Meritorious Unit Commendations.

From the very beginning of our submarine operations, Ingalls has maintained a standard of excellence in the installation and testing of shipboard electronic systems. The Navy has recognized and complimented Ingalls' accomplishments in these fields, and the Ingalls-built Dace continues to demonstrate this quality to the Fleet by winning awards in weapons fire control competition.

Other examples of Ingalls workmanship can be found in the latest nuclear submarines delivered to the Fleet—the Tunny, delieverd this past January, and the USS William H. Bates, delivered 15 months ago.

Last month, with less than six months' service, the Tunny was awarded the Navy's Red "E" for excellence in engineering. The award is a measurement not only of the ability of the crew, but equally important, a measurement of the reliability and operational readiness of the ship and its electronic and propulsion systems. Tunny has also earned the reputation of being one of the fastest ships in her class and, along with the Bates, has been acclaimed as one of the quietest ships in the submarine fleet—achievements that can be traced to the performance of Ingalls workers in the area of ship silencing and sound testing.

As most of you probably know, the submarine we are commissioning today, the Parche, is the last submarine in our current new construction contracts. For this reason, our feeling of pride today is shared somewhat by a sense of concern over the future utilization of these people and facilities for submarine new construction.

Despite large investments, and despite a record of quality in our work, the submarine new construction business has not been financially rewarding for our company. While we are here today delivering this submarine to the Navy, we are simultaneously in litigation in the courts for payment due us for this and other submarines long since delivered. This paradox firmly points to the need for improvements in ship procurement procedures and policies so that the Navy and Ingalls can get on with building ships.

Today, though, is Parche's day. There is no question that she has been built well and her performance during trials are indication enough that she will follow the example of outstanding quality instilled in all of the submarines that have sailed from this shipyard.

We know, too, that the Parche is well manned. All of us at Ingalls have a special warmth in our hearts for the officers and men of Parche and to Commander Charles and his entire crew I express the wishes from the men and women of Ingalls for constant smooth sailing and God Speed!

WORLD FOOD: THE AGE OF SCARCITY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. BROWN of California. Mr. Speaker, the stark reality of massive starvation is now with us. The future will apparently bring us more starvation, in more locations, with even less capability among the world food producers to aid the hungry. The very real economic crisis in the United States is almost insignificant when compared to the face of death that other people on this small planet now confront. While Americans complain about higher fuel prices, they are witnessing the rise of food prices.

This is not coincidental. American food is literally produced with fossil fuels, through our energy intensive fields to our fossil fuel-based fertilizer. The fuel price increases will always increase food prices, as long as our agriculture is energy intensive. Our tremendous crop yields are based on an oil subsidy.

Another area of concern is the American food diet, which is based on meat, primarily beef, which is one of the most extravagant uses of protein. If the United States was really serious about feeding the world's hungry, we would stop our tremendous consumption of beef and consume grain instead. We would have 9 pounds of high protein grain for every 1 pound of high protein beef that we now consume.

The United Nations World Food Conference, which is to be held in Rome this November, should provide an opportunity to formulate an effective course of action to save lives. We may not implement such a course of action, however, unless the public supports it. Several committees of Congress are considering this overall question. Yet there is no substitute for real concern and positive leadership from the President. I would hope that he and his advisers recognize this.

There has been an increasing amount of publicity on these issues, which is very hopeful. The Los Angeles Times printed three short, but interesting articles on the world food situation on September 8, that I would like to insert into the Record for the benefit of others.

The articles follow:

[From the Los Angeles Times, Sept. 8, 1974]

World Food: The Age of Scarcity

Americans complain about prices and occasional shortages but overeat while much of mankind grows hungrier. As next month's world food conference in Rome prepares to tackle the serious problems intensified by weather and crop failures. The Times presents a view of global prospects, a call for reserves and a critique of our eating habits.

Ignorance, Greed, Neglect Could Starve Millions

(By Anne H. Ehrlich and Paul R. Ehrlich)

In the winter of 1973–74, Americans seemed most worried about the state of their future fuel supply. But we probably should have been more concerned about the quality, quantity, and price of our future food supplies. People in other parts of the world may face food problems that are more immediate and severe than those we will confront, but Americans will soon be forced to make drastic changes in their eating habits.

The age of scarcity has been all too real for hundreds of millions of people in the underdeveloped countries for decades. Reductions in the supply of gasoline and electric power would be unnoticed by many of them, since they have never had access to either. The most serious shortage they have faced has been a food shortage—a shortage so severe that in the decade of the 1960s, between 10 and 20 million people were dying prematurely each year because they had inadequate diets.

This vast tragedy, however, is nothing compared to the nutritional disaster that seems likely to overtake humanity in the 1970s (or, at the latest, the 1980s). Due to a combination of ignorance, greed and callousness, a situation has been created that could lead to a billion or more people starving to death.

Food scientist Georg Borgstrom has stated that if every human being received his or her precise "share" of the world's food supplies, everyone would have enough calories and everyone would be slightly protein-deficient. There are, of course, many uncertainties involved in making such a statement, but it is related to two assertions that can be made with confidence. First, total world food production clearly is not significantly greater than that required to provide an adequate diet for the present four billion people, and may be somewhat less; second, most of today's hunger can be traced to problems of distribution.

The most obvious distributional problem with food is what Borgstrom has called the "protein swindle", the trade system by which large amounts of protein are moved from the malnourished poor nations to the rich. In the late 1960s, for instance, fish exported by Peru alone to developed countries would have been enough to make up the protein deficit of all Latin Americans. Poor nations all too often export food that is needed at home in a world where money, not need, determines international flow of goods. For example, a recent 40% rise in meat production in Guatemala was accompanied by a 6% decline in Guatamalan per capita meat consumption.

The argument is sometimes heard, however, that mankind has not caused escalating food shortages, that they must be blamed on "bad weather." This is a preposterous evasion. "Bad" weather is a characteristic and well-known feature of the planet Earth. Climatic change occurred naturally throughout the past, caused by such things as solar cycles, changing positions of continents, and cycles of volcanic activity. Today these natural changes are continuing and interacting with other changes induced by human activities. Industrial societies produce air pollution, cut down forests, and build heat-producing cities. Over-populated farming societies not only cut down forests, but also inject large amounts of dust into the atmosphere, forming agricultural hazes.

It now seems that all these human activities may be contributing to recent unfavorable shifts in the climate—especially the monsoon failures that are responsible for the sub-Saharan droughts and that have intensified already severe food problems in southern Asia.

The factors that control the climate are still not thoroughly understood. Small changes in such things as the dustiness of the atmosphere may cause shifts in the colossal interacting forces that create planetary weather patterns. One of the scientists most knowledgeable about these weather patterns and their relationship to food supply is Professor Reid Bryson of the Department of Meteorology at the University of Wisconsin.

According to Bryson, carbon dioxide and dust pollution from human activities and the injection of fine dust into the atmosphere by renewed volcanic activity are combining to block the northern movement of the monsoons. He doubts that the monsoons will return to India regularly in this century.

If Bryson is correct about the monsoons, then a large increase in the human death rate, with hundreds of millions of additional people perishing, will occur in the near future.

What is the future likely to hold as far as food supply is concerned? In the global situation, the major factor will be the weather. If monsoon failures continue in the sub-Saharan region, that area will require massive imports of food to prevent the deaths of perhaps 6 million people. Although the region involved is large, it is relatively sparsely populated. Only about 25 million people live in the six countries most hard hit in the sub-Saharan region, and just slightly more than that in Ethiopia. Assuming the food situation doesn't deteriorate badly elsewhere, emergency supplies could probably be provided for a long time.

If, however, the climatic change and its effects are semipermanent (as seems probable), something will have to give, since the populations in these nations are doubling in size every 25–35 years. They face in microcosm the major dilemma of humanity: either birthrates must decline or death rates will rise.

Should monsoon failures persist in south Asia, however, no solution is possible. Well over one billion people live in countries affected by the Asian monsoon, and no conceivable transfer of food could make up the inevitable deficits. A soaring death rate in this area alone could bring the world population explosion to a halt.

Moreover, the energy crisis, which only inconvenienced Americans, has already guaranteed substantially reduced crops in the Indian subcontinent this year simply by tripling the cost of fertilizer and hampering the already marginal transport system. Even without monsoon failure, India and Bangladesh are on the brink of famine this year.

The midwestern regions of North America are the last granary of mankind with the capacity to produce substantial and dependable surpluses (food for which there is no domestic economic demand). But unhappily this area is subject to a 20-year drought cycle, and dry periods occurred in both the 1930s and 1950s. Should the cycle recur in the 1970s, this ultimate resource would be threatened and the food situation in the United States would move from marginal to critical.

If the international distribution of food continues to be governed purely by short-term economic considerations—if, for example, wheat goes to the highest bidder regardless of need—the poor in the United States will be very hungry, and even the middle class will be in for some bad times.

Even if the subtropical monsoons regain the dependability of the last few decades (none too great at that, with an average of two failures in each decade in the Indian subcontinent) and if the next drought of the 20-year cycle in North America fails to materialize, the inexorable 2% annual growth of the population will continue to strain mankind's food-producing abilities. Furthermore, even if production manages to keep pace with population growth for awhile, the energy subsidy and environmental costs of agriculture will continue to mount, and food with become dearer to the rich and poor.

On the other hand, if, as seems likely, the weather situation deteriorates, chronic shortages of various foodstuffs will become commonplace in overdeveloped countries, while famines will spread in underdeveloped countries. If the international community organized itself intelligently, fairly, and promptly, the famines in underdeveloped countries could be ameliorated with relatively minor sacrifices by people in affluent countries. And if governments planned and regulated their agricultural policies, sudden domestic shortages could be avoided. These positive statements, of course, refer only to the short term, perhaps the next decade. Without both planning and organization on the food front and a rapid decline in world fertility to below replacement level, the prognosis for 1990 and beyond is completely negative. A massive die-off from starvation will be unavoidable.

At Table and Trough—A Big Waste of Protein

(By Frances Moore Lappe)

Our planet has become too small to contain both widespread hunger and wanton waste. Television brings the faces of the starving into our homes, and uncomfortable facts about our own consumption in light of world need have a way of getting through too. By defining the world's food problem as "too many people" or simply "not enough to go around," it has been easy to take refuge in the notion that it is the poor nations fate to be hungry.

But if one begins to see how American protein production deals with the problem of lopsided world distribution, it becomes harder to miss the reality that scarcity is not fated but is the product of human invention. Our protein production is a virtual disposal system for an overabundant supply.

While a typical person eats about 3,000 calories a day directly, our agricultural system has made it possible for Americans to consume, directly and indirectly, 10,000 calories a day. Americans have long known that we eat more than we need. That is hardly new. What is pertinent to our collective stress on the world's food supply is that we have placed at the center of our diet a protein source uniquely able to reduce agricultural oversupply—the steer.

Beef (whose consumption has doubled in the last 20 years) is the least efficient converter of plant protein to animal protein. A presidential study conducted during the late 1960s concluded that in America it takes 21 pounds of protein to put one pound of protein on our plate. I have calculated that in a single year in the U.S. the amount of protein which is lost by being eaten by livestock approaches the whole world's protein deficit.

Georg Borgstrom, an internationally recognized nutritionist and geographer, has stated it another way: American livestock eats enough protein annually to fill the need of one-third of the human population of the world.

And what happens to all this protein fed the livestock? Enough is lost in the manure alone to equal all the protein produced in our annual protein-rich soybean crop!

Historically, cows have served human beings as "protein factories," converting nonedible substances into highly usable protein. But our livestock have been turned into "protein factories in reverse"—taking nearly one-half of our total crop output and shrinking its protein return to one-eighth its original value.

So, here we sit. We have tied our unique agricultural wealth to the steer, the least efficient protein converter. On top of this we lead the world in the importation of beef. The irony is that the American diet is so rich that we could completely eliminate meat from our diet and still take enough protein daily (53 grams) to almost fill our entire protein allowance.

It is not only in livestock but in our own bodies that protein is lost in this country. Since most Americans eat nearly twice the protein their bodies can use and since protein cannot be stored in the body, the excess we eat is literally wasted.

A recent front page headline read: "Grain Exports a Threat to Consumers"—and we do feel very threatened by world events that might alter our diet. But to what are we clinging so tenaciously? Contrasted to a typical Indian diet, the big difference is an excess of fat and sugar consumption. We eat seven times the fat and four times the amount of sugar that an Indian does (in overall calories and protein we eat only 50% more). Over consumption of sugar and fat add nothing to our physical well being and, in fact, is associated with two major chronic health problems of our population, heart disease and diabetes.

So you and I can "do something" in face of the overwhelming reality of world hunger. We can begin by bringing our own consumption into reality with our true biological needs. Maybe Secretary of Agriculture Earl Butz will argue that our eating less meat won't put grain in the mouths of the hungry, but neither he nor anyone else can deny that continuing our current level of consumption pushes the price of food up out of the reach of those with real food needs. It is a place to start.

But it is only that. Can we be the first generation of world citizens who can see that a system that turns protein into manure and generates unnecessary death both from overconsumption and underconsumption must be reconstructed? On our small planet, where we are now meeting each other face to face, the right to survival can no longer depend on a distribution of world wealth passed on from an era of colonialism.

This will mean changing trade, monetary aid and military policy—changing the way in which the rich relate to the poor. Why continue to punish everyone for the mistakes of our forebears? Why not take our future into our own hands?

GRAIN RESERVES WOULD EASE DECLINES

(By Lester H. Brown)

Growing global insecurity on the food front is directly related to the precipitous decline in world food reserves.

Since World War II, the world has relied on two major food reserves: carryover stocks of grain in the principal exporting countries and cropland held idle in the United States under government fund programs. Together they provided a substantial buffer against fluctuating weather and market conditions. In 1961 these combined reserves amounted to 222 million tons of grain, or 95 days worth of world consumption. By 1974 they had declined to 26 days, mere pipeline supplies.

Thus at mid-1974 the world food supply-demand equation is precariously balanced. A poor harvest in any major producing country—the United States, the Soviet Union, India, or China—can send economic shockwaves not only throughout the food sector of the world economy but, as it fuels the fires of inflation, throughout its other sectors as well. Indeed, the global food supply is so delicately balanced that the climate may be replacing pollution as the leading international environmental concern.

This disappearance of U.S. government-held food reserves is no accident; it was the result of a conscious effort by the Nixon Administration to liquidate government stocks. This policy has contributed to a degree of instability and uncertainty in the world food economy unmatched by any since the latter years of World War II.

This policy has benefitted the grain speculators and a handful of giant grain trading firms, but it has served neither producers nor consumers well. President Ford has inherited a bankrupt food policy. He will act quickly to correct the situation, it is hoped, for a food reserve policy is a needed tool in the difficult struggle to control two digit inflation.

Human welfare and survival should not be determined by the vagaries of weather and the marketplace. The prospect of frequently tight food supplies and low reserves calls for the creation of a new internationally managed system of food reserves, to be built up in times of relative abundance and drawn down in time of acute scarcity.

In effect, the stability that surplus American agricultural capacity has provided for a generation can be restored at least partially by a world food reserve system. Clearly such a system is in the best interest of all nations. Clearly also the world community has a basic humanitarian interest in seeing to it that famine does not occur in the poor countries.

In 1973, A. H. Boerma, director general of the U.N. Food and Agricultural Organization (FAO), proposed the creation of a new system of internationally coordinated national food reserve policies. Under the FAO plan, all nations—both exporters and importers—would hold agreed minimum levels of food stocks. Governments would consult regularly to review the food situation, evaluate the adequacy of existing stocks and recommend necessary action.

The plan received preliminary international approval at the FAO's conference in November, 1973. If it is to be implemented effectively, the United States must give it strong political and economic support at the world food conference to be held in Rome in October. In the past, the United States has provided the world with safe reserve levels largely as a side benefit of its domestic farm income program. But in the current sellers' market for foodstuffs, these reserves—both large grain stocks and idle cropland—have been sharply reduced. In these conditions, it would be highly unrealistic to expect the United States alone to bear the considerable expense of building grain reserves large enough to insure world security. The FAO plan spreads responsibility.

Spreading responsibility for reserve stock management more widely among nations does not absolve the United States and other leading exporters from the responsibility of maintaining reserve stocks. There has been considerable resistance in some quarters of the U.S. government to public involvement in reserve management. Citing the problems of farm programs in previous decades, when the government found itself saddled with massive surpluses that helped to depress farm prices and were very costly to store, Secretary of Agriculture Earl Butz argued that all U.S. reserves should be held in private hands.

The events of the last two years, however, have demonstrated the dangerous and destructive consequences, in the domestic as well as the world economy, of this policy.

Clearly, U.S. dominance of world grain trade must be matched by its leadership in establishing a national and global reserve policy. So far Secretary of State Henry Kissinger's recognition of the world's precarious food situation—while a welcome exception to Department of Agriculture views—has remained unlinked with actual governmental policies and action.

In the absence of meaningful grain reserves there is a fallback reserve, namely the expanding herds of livestock in the industrial countries—the United States, Canada, Europe and the Soviet Union. These can be tapped, providing the political will to do so exists. Large additional amounts of grain would be freed for shipment to famine-threatened countries if consumers and affluent countries would reduce consumption of livestock products.

This will not be easy. The political decision to ask people to tighten belts is far more difficult than merely tapping existing reserves of grain as we have done in the past. Food is a scarce commodity today, and unfortunately leadership is an even scarcer one.

"FRENCHIE" HAUSSLER

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. MICHEL. Mr. Speaker, in the closing days of the recess my home community was deeply saddened by the passing of one of our legendary figures, Dr. A. G. "Frenchie" Haussler. He was a great athlete during his high school and college careers, was captain of several of his teams and received all-State recognition in high school and then in college won 12 letters in all 4 major sports of football, basketball, baseball and track.

"Frenchie" Haussler was one of the best known sports figures in our home State of Illinois. He was, as a matter of fact, one of the founders of the Illinois Coaches Association and served as chairman of the Olympic Canoeing Committee for 9 years.

In more recent years he served as vice president of my alma mater, Bradley University, and even though being semiretired at 75 years of age, he was working right up until the last as head of the deferred giving program to the university.

There are so many, many nice things we could say about the life and character of Frenchie Haussler and I think they are all pretty much summed up in the three separate editorial comments appearing in the Sunday, September 8, issue of the Peoria Journal Star.

Frenchie Haussler was a dear personal friend of mine and while I consider his passing a deep personal loss it obviously is shared by Bradley University, central Illinois and the entire sports world.

FRENCHY WAS A GIANT

(By Paul King)

They carried A. G. "Frenchy" Haussler to his final resting place yesterday—and a little bit of Peoria and Pekin and Bradley University and a flock of other places went with him.

A massive heart attack took Frenchy away from the school and the people he loved, and who loved him in return, during the early morning hours Thursday and certainly a great void has been left in our town.

It is a sad part of human nature that so often you don't really appreciate the stature of a man until he is gone and then suddenly comes the pause to take stock.

It is kind of like that with Frenchy.

Ever since I was a very small boy and learned there was a thing called high school basketball I knew of French Haussler.

At that time he was the highly successful basketball coach at Pekin high and maybe it's because he was one of the very first coaching names I became familiar with but whenever I'd see him at Bradley, so many years later, I'd still think of him as one of my first boyhood sport heroes rather than as one of the foremost college administrators in the nation.

Frenchy did so much for Bradley, so much for the world of athletics, that you read over his accomplishments with true amazement.

He was really something else. A giant among men. And he's going to be missed very badly.

HAUSSLER EARNED PLACE IN HISTORY

(By Kenneth Jones)

Had Arthur Glenn "Frenchie" Haussler, who died Thursday, rested his laurels on athletic achievements alone he would have enjoyed a memorable place in the state's history.

Superiority in athletics merely provided the base, however, for his notable accomplishments in the educational field later.

As an athlete, he was superlative from his freshman days at Peoria High School to his graduation from Illinois Wesleyan University with 12 letters in football, basketball, baseball and track.

When he and the fleet-footed Johnny Zinser toted the football for Peoria High in the late teen years the school was nigh unbeatable. It was the downstate powerhouse.

Award and honors accumulated. In 1919 he was named allstate forward at the state basketball tournament. At Wesleyan, in his junior year he was both all-conference in football and basketball and again, a captain of the teams, he was again all-state in both.

In track he was a 10-flat sprinter in the 100-yard dash.

Having watched him flash his talents in both high school and college I could never firmly decide in which activity he excelled.

In basketball his speed clearly evidenced, but his effectiveness was enhanced by a remarkable agility. This made him a top scorer. On the gridiron this same speed and footwork sprung him loose for many a long touchdown romp.

Later as coach, official, principal and superintendant his boundless energy and capacity for getting things done brought him to Bradley as vice-president.

There some who have said that his contributions to the school that once was his bitterest adversary on the athletic field have been exceeded by no other individual.

Retirement for this go-getter at 65 was never considered and so, until a few weeks before his 75th birthday, he was busy directing a Deferred Giving Program which he originated.

But he never abandoned his interest in sports, and when athletic men got together Frenchie was in his element.

A few weeks ago it was my pleasure to be in his company at the annual Big Ten Kickoff luncheon in Chicago. It seemed everybody there hailed him with a hearty "Hi, Frenchie."

As one of the founders of the Illinois Coaches Assn.; as chairman of the Olympic Canoeing Committee for nine years; as chief scorer at the state basketball tournament for three years; as a prominent educator in both high school and college, Frenchie was certainly one of the best-known persons among the 800 present.

FRENCHY HAUSSLER

(By C. L. Dancey)

A. G. Haussler was a man like few others.

There are many who know and can attest to his brilliance as an all-around athlete in his youth, and many more who cite him as the best example they know that might support the familiar claim that athletics can be a great builder of character.

One suspects that Frenchy brought his strength of character to the games in the first place, but there is no question that he felt this was a serious role for athletics and he did not let much of anything stand in the way of that primary task.

As an administrator, such continued to be his prime concern for the institutions he directed and the youth being educated in them, both.

Time and time, again, Frenchy Haussler refused to take the easy way out of a problem or a crisis, would not compromise on principle, and faced a tough problem head on. He expected others to do the same—and helped teach a lot of people to do so.

There is no way to measure his effect on several major institutions in our area or the impact he had by his very example, as well, on the lives of many younger people. There are those who will reminisce on occasion how Coach Haussler or Principal Haussler or Superintendent Haussler or Vice President Haussler played a part in the turning point of their lives as they see it—that he set them on the right track when it counted most.

There are those who give such testimony from events as students, and those who give it from events as teachers, as well.

He made many direct contributions to the careers of many individuals, and such stories are legion.

But, perhaps the greatest contribution that Frenchy made to Peoria and to uncounted young people and to Bradley University will never be fully known or appreciated except by a few.

It is the measure of this man that while he was never one of the list of distinguished presidential figures at that institution, he is the man whose contributions have been the most important in the history of Bradley since its founding.

Many of those most vital and difficult contributions were done quietly—taking the heat—because that method was the one that would do the job most effectively. Many know that it was Frenchy Haussler who all turned to in the time of "the scandal" as the rock, and it is no exaggeration to say that as interim president during the crisis period he, literally, saved the institution.

How difficult that was and how important, both, are less widely and fully known but they required the utmost in courage, judgment and personal sacrifice.

Ten years later, in a second serious crisis, Bradley turned again to Frenchy Haussler, and again it is no exaggeration to say that he saved the situation—although only on one occasion of the two can one say with confident knowledge that he literally saved the institution, itself.

Both times, serving as an interim president, Frenchy never dreamed of passing the buck or shirking the "interim" but grabbed the problem with both hands, accepted the personal consequences of direct urgent action, and turned over to the "new president" each time a viable situation in which the new man was spared some of the tough decisions that make the role a harder one to normalize.

The very fact that Frenchy acted and then stepped aside made "normalcy" more quickly attainable. Somewhere along the way, he found time to work with the Olympics each time in recent years, to be a sort of Godfather or advisor to a university in Baghdad, and to raise sizable sums of badly needed money for Bradley all along the way.

Semi-retired and in his 70's, right up to the time of his death, Frenchy was still going out and bringing back to Bradley hundreds of thousands of dollars a year!

In his service; in his response to times of great crisis, Frenchy was a towering figure in the life of this community.

But "towering" was not his personal style. Dr. Haussler never stopped being "Frenchy", and did not have any airs.

What he did with absolute integrity and total dedication was get the job done—and step up to bat when the going was tough . . . and then hit the ball squarely.

That makes him what he always was from start to end—some kind of man. We're lucky to have known him and all are lucky to have had his services happen in our area.

THIRTY-FIVE YEARS LATER—THE WORLD CANNOT FORGET SEPTEMBER 1, 1939

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. ROONEY of New York. Mr. Speaker, during the recess September 1 marked the 35th anniversary of the Nazi invasion of Poland. It is only fitting that we carefully remember the events that took place in the early fall of 1939 for they are the finest monuments that I can think of to the efforts of a heroic, gallant, but overpowered freedom-loving people.

Poland's fate then was the same as it has been so many times in the past—conquest by more powerful and ruthless neighbors, treachery from supposed allies and finally partition and occupation

Poland, perhaps more than any other country in Europe, suffered the most during World War II.

The gallant armed resistance of Poland's Army and her daring air force are well known throughout the world. But regardless of how heroic the men and women of Poland were, they were no match for the crushing blow that was delivered on the morning of the 1st of September 1939 by the Nazi hordes. While the official battle of Poland lasted only 3 weeks and was marked by new heights of treachery when the atheistic Communist Soviet Union invaded Poland from the rear on the false pretense that the Polish nation no longer existed, the real battle of Poland lasted until World War II was over and the threat to world peace that the Nazis represented was finally and overwhelmingly crushed.

The proud Poles refused to knuckle under to the invading Germans. Bands of partisans worked behind German lines to disrupt communications and troop movements. Those who did escape from Poland joined free units gathering in London for the long fight against the Nazis and that madman Hitler. These free Polish units fought with distinction and bravery in countless engagements and major battles from North Africa in the south to Norway in the north. There is a record of their unmatched heroism in the Battle of Britain, in France, at Narvik, in Africa, in the Netherlands, in Italy, and particularly at Monte Cassino.

Mr. Speaker, even as World War II was drawing to a close, Poland, though fully expecting peace and freedom was soon to fall under the influence of atheistic Communist Russia. Once again the proud and brave people of Poland had been cheated of their hard-fought-for freedom and justice. Though there was ample cause to be, the liberty-loving people of Poland were not discouraged. Even today the brave people of Poland fight on for a freedom and peace that they have earned many times over and that by right should already be theirs.

Mr. Speaker, I am proud today to salute our very close friends, Poles everywhere, for their valiant and heroic stands over the years against the forces of evil and despotism. My admiration and respect go out to Poland and her long suffering people and to those millions of Americans who proudly acknowledged their Polish heritage on the 35th anniversary of one of the darkest of days in the long history of Western man. As we continue to play a major role in the most pressing political and economic affairs of the world and as we urge peace and security for mankind, we must not relent in our quest for justice for the people of Poland and other enslaved countries of Europe.

CONSTITUENT VIEWS ON AMNESTY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. MURTHA. Mr. Speaker, as I travel throughout my 12th Congressional District of Pennsylvania and talk with the people relative to what is on their minds, I have found that the main subject on everyone's mind is inflation and just behind that subject is the question of amnesty.

I have the privilege of presenting my views on this vital subject in the July issue of the American Legion magazine in which I stated that the granting of general amnesty is out of the question.

I would like to share with my colleagues an article from the editorial page of one of the papers in my congressional district which seems to reflect the views of many citizens, especially in Jefferson County, Pa.

The editor of the paper, the Spirit, published in Punxsutawney, Pa., has the following to say regarding amnesty:

AMNESTY—THE AMERICAN MUDDLE

Along with such knotty problems as inflation, the high cost of welfare, the energy crunch, the trouble in the Middle East and our posture vis a vis China and Russia, there is still another perplexing matter which we must face in this nation—the eventual solution of amnesty which grew out of the war in Vietnam.

Using the military's own figures, there are 32,557 deserters at large. Amnesty supporters insist these figures are wrong, however, and put the number closer to 134,500.

About 100,000 men deserted each year during the war, but most were returned to duty.

It should be pointed out that few of these men legally were deserters. The military used the term for men who were AWOL for more than 30 days. A court martial is required to label a man a deserter.

According to the Canadian Department of Manpower and Immigration, there were over 20,000 draft-age American men admitted to Canada during the war as "landed immigrants."

It is widely believed that for every "legal" exile there was one who entered as a "tourist" and stayed illegally.

An estimated 500,000 Vietnam-era veterans received less than honorable discharges. Amnesty proponents want them included because; they claim most bad discharges were related to anti-war actions by servicemen, or to pressures generated by the war—widespread drug abuse among GI's was the best example.

No one really knows how many persons are in need of amnesty.

With these figures however, the total needing amnesty is 604,700 or 706,643, depending on which desertion figures are used.

President Gerald Ford, who must be classified as a gutsy fellow for his feat, called for amnesty at a meeting of the American Legion, a time and place which appeared to be poorly chosen for such a forum.

It has been said that since that Ford was opening the way for amnesty for Richard Nixon when he made the speech before the Legionnaires.

In short, if there is to be amnesty, it should include the former president.

This viewpoint could easily lose points for the new President.

In any case, there are nearly as many views on amnesty as there are people talking about it.

Perhaps the most pragmatic approach to the question is the fact that the people plugging for amnesty must realize that the shirkers have broken a law of the land and, like any other offender, should be punished.

Here again, the matter should be made to cover all lawbreakers up to and including the former president.

How, one might ask, can Nixon's henchmen be punished while the leader of the pack gets off scot free?

This is a serious and appropriate question.

And it is one we at The Spirit are asking.

Whatever the solution, it must be one which deals with every case equally.

Failure to enforce the law has been a way to judicial life over the last decade, and it is just beginning to turn around in these times after an experiment in soft pedaling crime.

Crime by any other name is still crime.

Crime, our Constitution says, will be punished.

Why the equivocating?

THE WAGES OF INFLATION

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. FRENZEL. Mr. Speaker, attached is a thoughtful statement on one of the worst aspects of inflation written by Roger G. Kennedy, vice president of finance for the Ford Foundation, which appeared in the September 1974 "Atlantic."

Mr. Kennedy makes, in a persuasive manner, the point that many of us have made again and again on this floor: that is, that the consistent congressional policy of spending far more than we are willing to extract in taxes forces upon our citizens the most unfair tax of all; that of inflation. The article follows:

THE WAGES OF INFLATION

(By Roger G. Kennedy)

It has to be said: a large chunk of the savings of many Americans has been taxed away while they weren't looking, and it isn't coming back. Taxing savings through inflation has, in effect, become a part of our public policy, and without much discussion. The consequences of this kind of taxation are severe; among them, if the process continues far enough, will be the balance and vitality of our society.

Everybody knows that prices are higher, and that individual savings have lost value, but not everybody has been watching while, since the early 1960s, this country has suffered a serious erosion of the vigor of its independent institutions. This has happened not because of any seditious conspiracy, but from the unadmitted addition of taxation upon savings to taxation upon earnings.

During the 1960s the Johnson Administration chose to try to fund a war in Southeast Asia along with huge domestic programs without taxing earnings or income enough to pay for them both. President Johnson feared that his Great Society programs would be lost if they were put in pawn to higher taxes, and he believed that the Vietnam War would soon end—and that with its conclusion, its drain upon tax revenues would end too.

The government printed money to pay its debt; the economy continued to overheat, and inflation increased. Inflation became a "tax" levied upon those who saved. This was the first stage of the capital levy. It struck all savers: for instance, pension funds which owned bonds to secure their obligation to tend the needs of the old, or colleges which owned bonds to meet the educational needs of the young, found the value of those bonds cut in half in less than a decade.

Then, despite much rhetoric to the contrary, the next Administration, and a Congress insensitive to, or incapable of, dealing with inflation, administered more of the same mode of surreptitious taxation. Once again it fell directly upon savings while squeezing income. Since 1970, the Nixon Administration and the Congress have forced another capital levy. This time, continued inflation has "paid" for budget deficits not only to sustain vast defense expenditures and domestic programs but also, in part, to redress an imbalance of payments. Inflation rates were at peacetime highs well before the oil crisis—or even before crop failures.

Then came dollar devaluations—two of them—and in their wake, American buyers paid higher prices for foreign goods. The dependence of the American economy upon costly imports, oil the most conspicuous among them, has grown, so a result of dollar devaluation was the relative increase in the cost of foreign products.

DAMAGE

Neither the Administration nor the Congress had adequately weighed the cost of taxing savings as distinguished from the kinds of income taxes we have become used to.

While everybody paid part of the bill for continuing deficits, we are just beginning to recognize how much was paid by the endowed institutions of the country. First, like all of us, they were hurt by rising costs. If they were bond investors in the early 1960s, by 1968 they had paid the first stage of the capital levy. Next, after 1968, many switched from bonds to stocks, and they were struck again: national economic policy laid a second stage of the capital levy upon those whose savings were in stocks. The price of the average stock on the New York Stock Exchange is less than half what it was in 1968. Was inflation the only cause of this loss of capital? Not entirely, but it is hard to see how stock prices could stay high and still face the competition from bonds which had become, in 1968, relatively "cheap." Inflation, growing in virulence, not only had forced bonds yields to levels which were fiercely competitive with stocks, but also had shaken that confidence in the economy which is the necessary condition to buying a share of stock.

A small college, for example, which had its $20 million endowment in long-term corporate bonds in 1960 had lost $10 million in market value by 1970. Bonds bought in 1960 yielded 4 percent annually; over the decade inflation pushed interest rates up to more than 8 percent, so nobody would purchase the old bonds in 1970 at more than half their old price. The trustees of such a college, watching their assets decline, and hearing tales of triumph in the great speculative stock market of the late 1960s, might well have moved half or more of the remaining endowment into stocks. If they did so in 1968, and since that time have fared no better than a fund which had a dollar invested in every stock on the New York Stock Exchange, they would have lost half the money they put into stocks. That would be another $2.5 million. They would now have an endowment worth about a third of what they had in 1960. Meanwhile, their operating costs have increased at the rate of about 7 percent a year (this is close to the average for educational institutions).

Pensioners cannot compute the damage so readily as college trustees, but it is there. Young people seeking education in institutions which are caught in the squeeze between falling endowments and rising prices can feel the damage. The old and the young, therefore, will suffer. Museums and hospitals and libraries will cut services. These institutions can do their jobs less well because much of their capital has been taxed away. It has gone to support action for which recent governments have been unwilling to levy additional income taxes. Taxing current income is politically unpleasant; taxing savings is not felt so fast.

THE TAXMAN COMMETH BY NIGHT

There is no need here to debate the importance of the programs which have been funded by these capital levies. I, for one, think we have had ample resources to pay for what we wanted. The issue is one of candor. If government comes in the night to take away our savings, we can at least insist that it come by day.

It is not right to remain silent when so much that has been painfully built, so much that is precious to our tradition and our present values, is being eroded by a continuing, unadmitted capital levy. Our independent institutions are being taxed away, slowly it is true, but surely. Does it matter? I think it does.

The strongest argument for independent institutions is that they provide sanctuary, support, and stimulus to independent persons. Some solecists are alone, some saints chose to stand alone, but most men need a community to form a horizontal dimension in their lives. We require the sustenance of ideas shared with contemporaries. We don't need universal agreement, just enough of it to reassure us that we are not insane.

Endowed institutions help provide community. But even in the company of the like-minded, there is a sort of temporal loneliness; though we may have the agreement of contemporaries, most of us require some solace of tradition. Each of us can serve better our special truth if we find a few others enough like us to be relevant, and better still, if we can locate ourselves in time through discovering that we stand in some continuity. Churches, colleges, libraries provide continuity, and their savings—endowments—provide for continuity.

A community of shared values within diversity and a continuity of values over time sustain vigorous individuals and a heterogeneous society.

Without institutions to provide community and continuity few men could stand alone against bullying despots or bullying crowds. Institutions can harbor ideas which, if left unsheltered, would be lost in the crush and dust. Though our Bill of Rights, for example, does provide protection against the tempests of mass opinion, and against knavery in office, it presupposes that the law does not exist in isolation. It assumes the existence of institutions in society serving the same purposes. Furthermore, it assumes, because its framers lived in a context of endowed institutions, that savings will flow into the maintenance of such sanctuaries.

These sanctuaries do not protect themselves. They are very easily lost. Liberty, expressing itself through diverse institutions, dies unless it is in the interest of powerful groups to maintain it. In the eighteenth century its death was feared most from despotism, a blunt instrument. In the twentieth century, in this country, inflation is a more subtle but a deadly peril. Inflation takes money from individuals who save, of course; it also alters the balance between the government and independent institutions. It transfers money from the latter to the former, and with money goes the power to make a fact out of an opinion. That is a perilous transfer, and it is being made every day by taxation through inflation.

TRIBUTE TO LES GRUBER

HON. CHARLES ROSE III

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. ROSE. Mr. Speaker, I would like to pay tribute to a member of the news media in my district who has devoted his life to working on the side of the farmer and who is extremely knowledgeable about the human as well as the scientific aspects of farming. I am referring to Leslie Gruber, a transplanted Midwesterner who has labored for the Wilmington (N.C.) Star since 1958 both as farm editor and as regional editor.

An August Farm Beat column by Mr. Gruber touches on something that should be required reading by every consumer in the country.

I insert his column into the RECORD:

[From the Wilmington (N.C.) Star-News, August 8, 1974]

FARM BEAT: CURRENT ECONOMIC TRENDS BODE ILL FOR AGRICULTURE

(By Leslie Gruber)

Numerous farmers and farm leaders take a rather despairing view of economic conditions, especially as pertaining to survival of the individual family farmer.

"When farmers total up this year they're going to find it difficult to stay in business," Clyde Wayne of Brunswick commented in Whiteville this week.

Wayne said supplies are costing farmers so much now the cash drain will force rapid and severe economic changes in agriculture.

"We're the only people who stand there and ask 'what'll you give me for my hogs or tobacco or whatever?'" Wayne said.

"When I go in to buy a tractor or a shirt or a pork chop I pay the man the price marked on the product. He won't sell it to me if I don't," Wayne added.

Wayne was expressing the plaint of farmers over a long period of time with a few exceptional breaks, such as the short period of abnormally high prices a year ago.

He also emphasized the spread between the farmer's price for such things as hogs and the price the retail buyer pays in stores. Farmers have complained bitterly about taking losses on their livestock, in particular, while the retail buyer paid ever-higher prices for meat.

"When our price goes up a cent, theirs goes up too, but when our price drops a cent, theirs stays the same or still goes up," is a commonly heard statement by farmers and farm leaders.

Out of this has come an ever-widening spread, a spread that has reached such proportions that American food buyers can no longer afford to expand or even maintain their meat consumption level, even though prices at the farmer's gate are depressingly low.

The present marketing system appears irresponsible and unresponsive, dominated by a few giant organizations, while on the producing side, little bargaining power is exercised by producers.

A mighty problem is looming—a problem of scarcity in the midst of plenty as the would-be consumer pays such a high price the producer can't receive his just reward and the consumer can't buy at anticipated levels.

Wayne fears the "catch-up" game will be impossible, due to the price levels involved.

He fears many more farmers will go out of business and their places will be taken by a few very large corporate operators. The end result of the present situation, Wayne and numerous other farm leaders feel, will be an agriculture dominated by a few large corporations—much as the motor industry is today.

This step, if it occurred, would be the exact opposite of what the nation has always attempted to maintain—a family-based agriculture to keep rural areas and communities strong and vital.

Enough indications exist that beyond a certain point, usually the management point of a family-based operation, agricultural operations lose efficiency. Numerous large-sale attempts have failed for that reason, especially in animal agriculture, although there are some startling exceptions such as the giant cattle feeding lots of the West and Southwest.

The reduction of rural America to emptiness and the emptying out of small towns and rural states would be sharply increased under such conditions, rather than diminished.

Even the mechanization of family farmers and the consequent increase in the scope of the family farm size has created social turmoil, as rural populations moved to urbanized areas. The urban population glut resulted.

The increasing price spread between producer and consumer, if continued to its ultimate, would change the face of America, reduce its mass of people to the living levels their ancestors came here to escape—and fatally weaken the ideals of the republic's founding.

Farmers on the one hand do not get the cost of production, let alone profit, out of most livestock operations at present. Yet sky-high retail prices force consumers to curtail consumption at a time when farm depression due to weakened demand, whether real or artificial calls for increased consumption.

And looming to make the situation more critical is the drought situation in the major feed grain producing area of the nation, for a cut-back in feed grain output would increase grain prices (which have already started rising sharply), putting an even greater squeeze on the livestock producers.

HOUSE RESOLUTION DISAPPROVING THE ALTERNATE PLAN, DATED AUGUST 31, 1974, FOR PAY ADJUSTMENTS FOR FEDERAL EMPLOYEES UNDER STATUTORY PAY SYSTEMS TRANSMITTED BY THE PRESIDENT TO CONGRESS

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. BROYHILL of Virginia. Mr. Speaker, I am today introducing a House resolution which disapproves the alternate plan, dated August 31, 1974, for pay adjustments for Federal employees under statutory pay system, prepared by the President and transmitted to Congress which would defer the scheduled pay raise of Federal employees and military personnel.

Mr. Speaker, last Thursday, September 5, 1974, I sent a telegram to the President which said, in part, "This is to urge you to reexamine your August 31 message to the Congress to defer a scheduled "comparability" increase in the pay of Federal employees and military personnel from October 1974 to January 1975.

I cannot support your request unless you broaden the burden of the anti-inflation fight to include a freeze on all prices and wages in private industry and business and in local and State government across the board until January 1, 1975."

It is unfair in my opinion to ask one relatively small segment of the American population to shoulder the greatest share of the burden of inflation. Federal and military employees have long been the scapegoats for politicians when the need to reduce spending reaches crisis proportions as it has in recent weeks. These men and women have long served at less than competitive wages and have been in the forefront of discovering new ways that the Government can operate more efficiently at less cost. And now, in what I view as an effort that appeals more to the public relations interest of the executive branch than to the national interest, Federal employees have been called upon again to make sacrifice. I do not think it is fair, Mr. Speaker, and I cannot in all good conscience support such a proposal.

As a member of the new House Budget Committee and the Ways and Means Committee I will work diligently to cut Federal spending. I will support the President in any positive broadbased approach to reduce Federal expenditures but I reiterate I cannot support this piecemeal method that unfairly penalizes those who have been the vanguard for so long in the battle against inflation.

The country is well aware of the seriousness of our economic conditions and I feel it will support the President in any request for cooperation in this long uphill fight. I also believe, through, that this fight should be made by every American; everyone pulling together; everyone tightening the belt. It should not be placed on the shoulders of our dedicated Federal and military employees.

Mr. Speaker, I strongly urge favorable consideration by my colleagues of this resolution which I have proposed today.

NELSON ROCKEFELLER, A WISE CHOICE FOR VICE PRESIDENT

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. McCLORY. Mr. Speaker, there have been many favorable editorial comments regarding the President's nomination of Nelson A. Rockefeller to be Vice President of the United States pursuant to the provisions of the 25th amendment to the Constitution.

I am calling my colleagues' attention today to the editorials which appeared in the Wednesday, August 21, issue of Chicago Today and the Chicago Daily News.

These significant editorial comments reflect the widespread views of my constituents in the 13th Congressional District, and of the citizens of Illinois. I am attaching these editorials:

[From Chicago Today, August 21, 1974]

THE FORD-ROCKEFELLER TEAM

President Ford has strengthened the forward momentum he had been building up with his choice of Nelson Rockefeller for Vice President. Rockefeller had been the expected nominee, but his qualifications seem better the longer we look at them.

As a top-echelon team, Ford and Rockefeller have a kind of balance that goes far beyond the usual meaning of the word. They complement each other not just in a geographical or political sense but in their respective skills and backgrounds. This is a functional balance—one designed to work and get maximum results, rather than look good and attract votes.

Ford's background is legislative, Rockefeller's is executive, and each is a proven master in his own field. [The fields overlap in one important respect: Getting opposed factions to work together.]

Each is strong where the other is relatively weak. Rockefeller, for example, has an intimate knowledge of the problems of densely populated, highly industrial states and the needs of megalopolitan cities, having dealt with them for 15 years [successfully, on the whole] as governor of New York state. Ford represented a much smaller constituency for 25 years, but ably enough and conscientiously enough to win the lasting respect of his former fellow-congressmen.

Rockefeller is well versed in foreign affairs and particularly in Latin American problems. [His appointment, in fact, may be the best chance our southern neighbors have ever had for a knowledgeable, pragmatic champion in the top ranks of this government.] He is a long-time associate and friend of Secretary of State Kissinger; the two can be expected to work in tandem to strengthen the United States' influence abroad.

Finally, his appointment pretty well neutralizes whatever suspicion was left that the Ford administration would have a strong ideological slant. Both men are doers, not doctrinarians; they are likely to form policies on the basis of what will work, not what will be most pleasing to the Republican right wing.

As our political editor Michael Coakley has pointed out, the choice was politically astute as well. If Mr. Ford is to win back voters for the G. O. P. in November and in 1976, he'll have to broaden its political appeal in just this way. But if so, Ford is strengthening his party in a way that strengthens our whole political system: Not by sabotaging the opposition, but by forcing it to improve itself. What a long way we've come in 12 days!

[From the Chicago Daily News, Aug. 21, 1974]

AN OUTSTANDING CHOICE

President Ford has made a superb choice in picking Nelson Rockefeller for vice president. The selection fortifies our conviction—as it must strengthen the conviction of the nation—that Gerald Ford has what it takes to lead this country.

Rockefeller's credentials for the post are impeccable.

In his 15 years as governor of New York, he proved himself to be a top-notch administrator and an astute politician as well as a man of high principle. He took a state in weak financial condition, did the hard things necessary to repair it, and sold his programs to the legislature and the people.

Rockefeller's years as governor have overshadowed his long and effective career in the federal government. For 20 years preceding his long stint in Albany, he served almost continuously in one important post after the other—co-ordinator of Inter-American Affairs; assistant secretary of state; undersecretary of Health, Education, and Welfare, and special assistant to the President, to name a few. His interest in and knowledge of foreign and national affairs exceeds that of many in Congress; he has made it a point throughout his adult life to keep himself informed.

The political sagacity of choosing a vice president whose views are regarded as more liberal than Mr. Ford's own will be challenged, particularly by those on the right who had hoped he would select someone with strong appeal to conservative forces of the Midwest and South.

If Mr. Ford is playing a political game at all it strikes us as a very wise and longheaded game. For the kind of political strength that wins elections is found in the broad center, where Rockefeller stands and toward which Mr. Ford is evidently moving. It's a lesson the party learned the hard way in 1964, when it jeered a protesting Nelson Rockefeller and nominated an inevitable loser, Barry Goldwater.

But at the moment we doubt that politics is uppermost in the President's mind. On the basis of what we have seen we are ready to believe that Mr. Ford is trying to figure what's best for the country and do it, and we believe tnat the selection of Nelson Rockefeller was in that spirit.

Vice presidents can amount to much or little in the administration's scheme of things, and we suspect that Rockefeller will find himself being used to the limits of his strength as an extension of the President's own authority.

But first and foremost he will be on hand to take over the President's duties if any ill should befall Mr. Ford. We pray that the President will be spared to perform the jobs that so desperately need doing, but it comforts the nation to know that he has had the wisdom, the grace and the humility to choose the best available person to take over if need be.

PRECEDENTS INDICATE PRESIDENT FORD'S ACT OF PARDON EXCEEDS PROPER LIMITS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. VANIK. Mr. Speaker, I believe that President Ford has exceeded his authority under the Constitution and the common law in granting Richard Nixon an anticipatory pardon. The President's action in this case is an unconstitutional usurpation of power—a violation of the pardoning power as understood in the English common law and as understood by those who wrote our Constitution.

THE ORIGIN OF THE PARDONING POWER

In defining the powers and duties of the President, the Constitution states that the President shall—

> Have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

The idea of pardon is based on English common law and constitutional history. As Chief Justice John Marshall said in the first case to be decided on the issue of the pardoning power:

> As this power had been exercised from time immemorial by the executive of that nation whose language is our language, and to whose judicial institutions ours bear a close resemblance; we adopt their principles respecting the operation and effect of a pardon, and look into their books for the rules prescribing the manner in which it is to be used by the person who would avail himself of it. A pardon is an act of grace, proceeding from the power entrusted with the execution of the laws, which exempts the individual, on whom it is bestowed, from the punishment the law inflicts for a crime he has committed. *United States* v. *Wilson,* 7 Pet. (32 U.S.) 150, 160–161 (1833).

According to the 1972 edition of "The Constitution of the United States of America, Analysis and Interpretation," prepared by the Library of Congress:

> The President cannot pardon by anticipation, otherwise he would be invested with the power to dispense with the laws, his claim to which was the principal cause of James II's forced abdication.

The citation for this statement is a reference to English constitutional history and an opinion of Attorney General William Wirt (1 Ops. Atty. Gen. 342) to President Monroe in 1820.

Attorney General Wirt's opinion appears to be one of the few guiding statements on the issue of the pardon power. Frankly, I do not believe that his opinion alone supports the statement in the Annotated Constitution. In fact, it is clear from the Attorney General's opinion that a pardon may be granted prior to trial, verdict, or sentence. The opinion, however, does not appear to address itself to the question of pardon before indictment, or pardon for unspecified crimes. It is interesting to note, however, that in his written opinion, Wirt said:

> A pardon pre-supposes an offence, and nothing more.
>
> And it is proper to suggest further, that it would be much safer, as a general rule, to require a previous trial and condemnation; because all previous must be granted on ex parte representation, by which the President may be deceived.

Since there appears to be little precedent or guidance in questions involving pardon for undetermined crimes, we must turn to the English common law and history. In this case, the source is Frederic Maitland's, "Constitutional History of England"—London, 1920, pages 302 through 306.

Basically, Maitland discusses two powers claimed by the Stuart kings: First, the power of suspending the laws in general and for all classes of people, and second, the power of dispensing the laws for certain individuals—

> The two powers are in theory distinct. Our law might give to the kind power to dispense with statutes in favour of individuals specially named by him, and yet might well deny him the power of suspending a law so that persons in general might treat it as being nonexistent. The claim to the greater power seems to have grown out of the claim to the lesser power, and the theory established at the Revolution by the Bill of Rights is that, while the suspending power had never had any legal existence, the king had lawfully enjoyed a certain, or rather, an uncertain power of dispensation.
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> This power then of dispensing with statutes, seems to have provoked but little protest before the seventeenth century. In that century no lawyer, so far as I am aware, doubted its existence, and the Bill of Rights admitted that in some instances the exercise of it had been lawful. Certain lines had been drawn. It was, for example, a very general doctrine, that while the power extended to what were called *mala quia prohibita,* it did not extend to *mala in se.* The king might permit a man to do what would not have been unlawful but for the statute; he could not permit him to do what apart from any prohibition would be wicked; might dispense with such a statute as those which forbad the holding of land in mortmain, but not with a statute which fixed a punishment for larceny or murder.
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> It is only under James II that we hear much against dispensations, though the sale of them had long been a grievance. James seems to have used them with a settled purpose of practically annulling the statutes which excluded Papists from office. In this the court maintained him, and doubtless his success with dispensations set him on the project of suspending laws in a direct fashion. The line between the two powers that he claimed can be theoretically marked—the dispensation applies to this or that individual, a suspending of the statute would free all men, and yet, of course, the dispensing power might be so lavishly used that it would practically operate to suspend the laws. The Bill of Rights condemned absolutely the suspending power; its condemnation of the dispensing power was qualified. 'The pretended power of dispensing with laws, or the execution of laws by regal authority, as it hath been assumed and exercised of late, is illegal.' It would have been going too far to declare that every exercise of the dispensing power had been illegal—many private rights and titles must have been acquired on the faith of dispensations. No attempt, however, was made to settle what dispensations had been legal: the words used were those which I have just read. As to the future, it was declared that no dispensation by *non obstante* of any statute shall be allowed, "except a dispensation be allowed of in such statute, and except in such cases as shall be specially provided for by one or more bill or bills, to be passed during this present session of parliament." There was some intention, at least among the lords, of passing an act defining in what cases dispensations should be valid; but the project fell to the ground—and so the words about a bill to be passed in the then session of parliament, never took effect. This is the last of the dispensing power.

Elsewhere in the discussion, however, Maitland states—

> Pardon relates to something that has already been done, dispensation to something that is to be done in the future.

Thus, the attempt to determine the historic meaning of these old legal terms—pardon, suspending, and dispension—is confusing.

There is no doubt in my mind, however, that the pardoning and dispensing power history is clear an several points. First, the pardoning power relates to an offense and a person who accepts a pardon is, in essence, offering a nolo contendere or guilty plea. Second, President Ford's action in dispensing the laws for Richard Nixon—and possibly others—prior to the due process leveling of charges against these individuals is exceeding the pardon and dispensing authority.

In short, if President Ford's action is allowed to stand unquestioned, we will have retreated to an era of royal prerogative which was struck down nearly 300 years ago in the English Glorious Revolution of 1688. I find it shocking that as we approach the 200th anniversary of our Nation's independence, we appear to be regressing to the age of divine right of kings and absolute despotism.

As Professor Maitland indicates, nearly 300 years ago the English Parliament was planning to debate the question of limits on the pardoning and dispensing power. Unfortunately, they did not provide definitions which would have helped our Founding Fathers in the construction of our own Constitution. Therefore, I would urge the House Judiciary Committee to hold hearings on this little known and little discussed portion of the Constitution. We must define what is meant by this provision so that the type of "devine right" action taken by President Ford on Sunday may be prevented in the future.

OUTRAGE OVER TURKISH AGGRESSION EXPRESSED

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. WHITEHURST. Mr. Speaker, on Sunday, August 25, 1974, I had the honor of being present at a luncheon sponsored by concerned members of the Greek-American community in Tidewater at the Hellenic Center in Norfolk, Va.

I was presented with a resolution which I wish to bring to the attention of my colleagues, which expresses the outrage over the Turkish aggression on the island of Cyprus.

Mr. Speaker, I share the feelings of these concerned citizens, and I hope that the United States will use all of its influence to bring about the withdrawal of Turkish military forces from Cyprus and assist in the restoration of peace there.

The resolution follows:

RESOLUTION

Whereas, Turkey has, without cause or justification, invaded the Republic of Cyprus contrary to all rules of international law in complete violation of U.N. resolutions and conducts an atrocious war on the Cypriot people, has violated the independence of Cyprus and its territorial integrity, has brought to the brink of war NATO allies, dramatically weakened the NATO alliance and has placed in peril the posture of the eastern Mediterranean; all of the above acts constituting highest crimes against the peace and dignity of the international community; and

Whereas, Cyprus and Greece have been devoted allies of the United States and Great Britain for over ten decades, fighting and aiding the western civilization and its principles, and continue to be the buffer in the Mediterranean and Middle East; and

Whereas, though Turkey did not see fit to join the allies in the two past world wars, she has accepted over Twelve Billion Dollars of U.S. aid to protect NATO; she used these weapons against a friendly, helpless people NATO was created to protect; and

Whereas, Turkey, under the guise of diplomatic negotiations, unlawfully attacked Cyprus;

We now, hereby resolve that:

1. We unconditionally condemn the illegal invasion of Cyprus by Turkey, the horrible atrocities committed by her armed forces on the Cypriot people, and her arrogant use of arms to achieve her illegal ends while ignoring the mandates of the United Nations for a peaceful solution;

2. Turkey must begin a rapid withdrawal of all her armed forces from Cyprus leaving only the United Nations forces and the National Guard of Cyprus to maintain the status of Cyprus;

3. All military aid of every character and description, as well as all economic aid to Turkey including credits, grants, loans or other means, shall be suspended forthwith not to be restored until the Cyprus question is resolved and a reassessment by the United States of the aid program to Turkey is made;

4. We condemn and deplore demonstrations, statements, acts of violence, and all actions of those who would by word or deed attempt to divide the love, loyalty and friendship that exists between the peoples of America, Cyprus and Greece; we call upon Greeks and Cypriots worldwide to continue the granite tradition of Greek-American friendship.

5. We call upon the government of the United States to assert its leadership and strength for peace, to act in a positive manner in support of freedom for Cyprus, to repair the serious damage Turkey has caused our nation in the Mediterranean, and to remove the hurt to the dignity and pride of Greece and its people so that once again the flag of Greece will proudly fly in the NATO military alliance, and do all that is necessary to aid Greece in significant ways;

6. We ask people of all nationalities and faith who cherish freedom and who are hurt by the suffering of the innocent people of Cyprus to help in every way to provide a financial means to provide food, shelter, clothing, medical aid and the necessities of life to the Greek-Cypriot refugees whose number total 150,000;

7. We ask that the lawfully constituted government of Cyprus be restored over the entire island, full scale economic aid be given to Cyprus, and the resumption of the negotiations between the three power guarantors—Great Britain, Greece and Turkey—continue until a fair, moral, and just settlement is reached.

This resolution was unanimously adopted by the Cyprus Relief Committee for the State of Virginia and the Annunciation Greek Orthodox Church, Norfolk, Va., Cyprus Relief Committee.

CHINESE POOR EXAMPLE

HON. CHARLES ROSE III

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 11, 1974

Mr. ROSE. Mr. Speaker, in an address to the graduating class at Ohio State on August 30, President Ford singled out the Chinese as a prime example of "energy and discipline" for the OSU graduates and, I would presume, for all other young people entering into the world from the halls of academe.

The President said, as part of his commencement address, and I quote the Associated Press story of that speech:

> With the Vietnam War and draft now ended, your duty now to your country is to enlist in the campaign currently being waged against our urgent domestic threat—especially inflation which is Public Enemy No. 1. Americans must make extraordinary efforts to apply our know-how, our capital, our technology and our human resources to increase productivity at a faster rate.
>
> Inflation is creating a national state of anxiety, and productivity must improve to overcome it.

He cited the example of Communist China, a vast nation four times the population of the United States, that "is making very significant technological progress."

President Ford also said:

> Chinese productivity is gaining momentum and the majority of Chinese on the mainland are young people highly motivated and extremely well disciplined.
>
> With the Chinese example, Americans motivated by free competition see a distant challenge. And I believe that all Americans welcome that challenge.

He suggested that peaceful competition should animate the last quarter of this century and that "America's youth will make the difference. You are America's greatest untapped source of energy. But energy unused is energy wasted."

Mr. Speaker, I could hardly believe my eyes when I read the above. The President, if I interpret him correctly, was advocating that young Americans follow in the footsteps of a nation that has developed "highly motivated" young people and extremely "well disciplined" young people by the simple expedient of imprisoning or killing those who would favor individualistic thought or action.

Am I to assume the administration and the President have forgotten—in their quest for détente—that the Chinese and their Russian counterparts have a form of government that was based on bloodbaths and the stifling of every form of action that has made this country great? Was Mr. Ford saying to the graduating class of OSU that he favored regimentation of the youth of America in order to solve inflation? I know this sounds ridiculous and I know that is probably not what Mr. Ford meant. But it does seem strange that he found it necessary to use Communist youth as an example for our young people.

I have not visited the People's Republic of China, but I do recall the extreme television coverage that was present when ex-President Nixon made his visit. And I recall that one thing that was impressed upon me by the television cameras. I do not recall seeing a single Chinese worker or young person that smiled. The leaders smiled, the people did not.

I will take this country, with all its faults, over China, or Russia. I have noted that even those who espouse the causes of these two nations among our own people are inclined to do so from the safety of this country and with a physical gulf of some proportions between them and the attitudes they profess to find so attractive.

It is true that commencement addresses are inclined to be filled with platitudes. And that there is a lot of references to the virtues that played a large part in making this a great nation and the most enduring democracy in the history of mankind. And I know that these things are out of style in some circles, but I think we should move carefully in singling out such as the Chinese as examples of what our youth should be like.

Just as I think we should not let our guard down while pursuing world peace with such as the Chinese and the Russians. A great American once advised this country to "walk softly and carry a big stick"—I think we should follow that advice even today.

HOUSE OF REPRESENTATIVES—*Thursday, September 12, 1974*

The House met at 12 o'clock noon.

Elder Gordon B. Hinckley, member of the Council of Twelve Apostles of the Church of Jesus Christ of Latter-day Saints, offered the following prayer:

Our beloved Father in heaven, we praise Thy holy name.

We thank Thee for the bounties of this good land, for the inspired Constitution under which we are governed, for the servants of the people, these Representatives, who here meet to consider and legislate.

Please, Father, give them understanding. Give them inspiration that they may be prompted in all they do by principles of mercy, equity, and justice. May they have in mind always the preservation and the enhancement of the freedom and the prosperity of the people. May they look to Thee as the source of all true wisdom, that through them all of the Nation, and even the entire world, may be blessed, we humbly pray in the name of Jesus Christ. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

ELDER GORDON B. HINCKLEY—SPECIAL INVITATION TO MEMBERS TO INSPECT THE WASHINGTON TEMPLE OF THE MORMON CHURCH

(Mr. OWENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS. Mr. Speaker, the Washington Temple of the Church of Jesus Christ of Latter-day Saints is open and available for inspection, and this evening the Mormon Church has invited Members of the House of Representatives to a special viewing.

The prayer this morning was offered by Elder Gordon B. Hinckley, a member of the Council of Twelve Apostles of the Church of Jesus Christ of Latter-day Saints. Elder Hinckley is one of the presiding officers of our church, one of the great theologians and speakers of our church, and one of the great religious authorities in this country.

It is with great pride that the eight Members of the House of Representatives who are members of the Church of Jesus Christ of Latter-day Saints requested Elder Hinckley's appearance this morning to open this session with prayer. Together we invite all Members of the House to participate this evening and to inspect with us the new Washington temple, which is the 16th in the church. It is a house of special importance to the people of the Mormon Church, and before it is closed to the public and dedicated to the performance of sacred ordinance work, we invite all our friends to visit this beautiful and majestic edifice.

EXCELLENT STEWARDSHIP OF GOVERNOR ASKEW

(Mr. SIKES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SIKES. Mr. Speaker, the Nation is well aware of the excellent stewardship given to the State of Florida by Gov. Reubin Askew. At a time when political turmoil is the order of the day and people generally are disturbed and uneasy about the way in which government is conducted, it is refreshing to see the example for sound, effective, and progressive leadership which is provided by Governor Askew's administration in Florida.

We, in Florida, now take additional pride in the fact that in his bid for reelection for a second term as Governor, Mr. Askew received a record 75 percent of the vote in a primary race with three opponents. This is, in itself, an outstanding testimonial to the confidence he has established in the minds and hearts of the people of Florida.

Here is a man whose leadership undoubtedly will be recognized more and more nationwide as America continues its search for strong new leaders who can provide competent guidance for our Nation in the years ahead.

PETITION TO DISCHARGE H.R. 15375 TO COMBAT INFLATION

(Mr. WYLIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, I have just filed a discharge petition to discharge the Committee on Ways and Means from further consideration of H.R. 15375, a bill which I patterned after a bill introduced by my good friend, the gentleman from Iowa (Mr. GROSS) who was the second signator on the discharge petition. This particular bill would suggest that we reduce Government spending to bring it within our income and reduce the Federal debt by an amount equal to 2 percent of the net revenue for fiscal year 1975.

I know that we all want to fight inflation and your constituents want you to do something now. In my case the constituents in my district indicated 4 to 1 on a recent questionnaire that this is the No, 1 issue facing the Nation. We must specify where we stand on this issue. If you believe in effective action against inflation, then I suggest to the Members that each of you can sign my discharge petition today.

ELDER GORDON B. HINCKLEY

(Mr. McKAY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. McKAY. Mr. Speaker, we were privileged this morning to have the invocation in the House delivered by Elder Gordon B. Hinckley of the Church of Jesus Christ of Latter-day Saints. Elder Hinckley is a member of the Quorum of the Twelve Apostles of the Mormon Church and I wish to pay him my respect.

Mr. Hinckley, along with other church leaders, is here to take part in the opening of the new Mormon Temple in this area. This beautiful structure will be open for public tours for 2 months before dedication and I wish to cordially invite my colleagues to attend the public viewing. Special tours may be arranged through my office.

Temples are an important part of Mormonism. They are not ordinary chapels for regular church services, but are reserved for special ordinances and teachings. One important teaching emphasizes the eternal nature of the family. Marriages performed in the temple are for "time and all eternity," in the belief that something so fundamentally important as families are devine entities meant to have eternal ties.

RAILROAD RETIREMENT ACT RESTRUCTURING

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1362 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1362

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15301) to amend the Railroad Retirement Act of 1937 to revise the retirement system for employees of employers covered thereunder, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, all points of order against the provisions contained on page 245, line 5, through page 246, line 19, for failure to comply with the provisions of clause 4, rule XXI, are hereby waived, and said substitute shall be read for amendment by titles instead of by sections. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. MURPHY of Illinois. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Tennessee (Mr. QUILLEN). Pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1362 provides for an open rule with 1 hour of general debate on H.R. 15301, a bill providing for the restructuring of the Railroad Retirement Act.

House Resolution 1362 provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment.

House Resolution 1362 also provides that all points of order against the provisions contained on page 245, line 5 through page 246, line 19 of the substitute for failure to comply with the provisions of clause 4, rule XXI of the Rules of the House of Representatives, are waived.

House Resolution 1362 also provides that the substitute shall be read for amendment by titles instead of by sections.

H.R. 15301 provides for a complete restructuring of the Railroad Retirement Act of 1937. Railroad retirement benefits will, under the bill, consist of two tiers—tier 1 will be a benefit computed under the Social Security Act, counting all railroad employment as social security covered employment and combining that service with all social security covered employment; and tier 2 will be based on railroad service alone computed under the Railroad Retirement Act.

Mr. Speaker, I urge the adoption of House Resolution 1362 in order that we may discuss, debate and pass H.R. 15301.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Unless the existing system is corrected, the railroad retirement system will be bankrupt by 1981. The bill before us today will effectively solve current financial problems in the system and set it on a sound basis.

The measure also provides improved coverage for railroad retirees.

The Railroad Retirement Act restructuring bill completely reworks the railroad retirement system. The measure established a two-tiered structure—the first composed of benefits for both railroad and nonrailroad employment under the Social Security Act, and the second composed of supplemental benefits based on railroad service alone.

This measure lowers the minimum retirement age from 65 to 60 for receiving the supplemental annuity based on 30 years of service. It also liberalizes eligibility standards for spouse benefits so that the spouse of an employee with 30 years of service may receive an unreduced annuity when both the spouse and the employee reach age 60 .

According to regulations in this bill, the spouse of an employee with less than 30 years of service can either receive an unreduced annuity when the employee reaches age 62 and the spouse reached age 65 or has a child of the employee in her care, or she is entitled to a reduced annuity when both the spouse and the employee become 63 years old.

In addition, H.R. 15301 provides cost-of-living increases for both the regular social security and staff components of the new system.

The measure also increases survivor benefits under the railroad retirement system from 110 to 130 percent of the survivor benefits payable under social security.

Mr. Speaker, I have no further requests for time but I reserve the balance of my time.

Mr. MURPHY of Illinois. Mr. Speaker, I have no further requests for time.

I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15301) to amend the Railroad Retirement Act of 1937 to revise the retirement system for employees of employers covered thereunder, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 15301, with Mr. FLOWERS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. DEVINE) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I rise in support of this bill. It is a far-reaching bill. The Railroad Retirement Act was first enacted in 1937. It took in at that time over 1½ million workers. In 1951 a bill was brought before the Committee on Interstate and Foreign Commerce to provide for financial interchange between the social security and the railroad retirement section bill.

In this process Congress inadvertently made provisions for allowing dual payments of social security and railroad retirement. In 1970 the Committee on Interstate and Foreign Commerce asked for a study to be made of the railroad retirement fund and for a report back in 1971 on the findings as to what should be done. The Commission asked for additional time, so we gave them an additional year. At this time there were increases coming in social security benefits to workers all across America. There had been an understanding that when social security received additional benefits, we would do the same thing for the Railroad Retirement people; so there were three additional raises made in railroad retirement benefits at that time to the retirees. The Commission came back with their recommendation and after they had done that, the House asked management and labor to get together and study the problem and to come up with recommendations that would make the fund whole and make it financially sound.

After they got into a study of the situation, they found out that the whole trouble with the fund arose out of the dual payments that were being paid to railroad retirees under the railroad retirement and social security systems.

It is a peculiarity of the railroad retirement system that it is the only retirement system in America in which an individual could get, in effect, two weighted social security payments.

Now, we have many other retirement programs in the land in which the beneficiaries do get social security benefits in addition to retirement, but they are not both weighted.

The problem comes up with the provision that the ones who are now receiving dual payments will continue to do this as long as they live, starting with the year January 1, 1975.

The problem is how to pay for these dual benefits. Railroad management and labor got together and said that they were willing and able to take care of the present situation and from this time on they would consider that the 3.42 deficit in taxable payroll to finance dual benefits was not their responsibility. Dual benefits had been a mistake of the Congress in 1951 and that there should be some other means of taking care of it.

The committee in its wisdom has tried to attack this in every way they could to bring the fund to a sound financial basis. It was suggested in the original bill that we take the money out of the social security fund. Of course, we do not have the authority to do this. The social security people did not think it was an equitable way for it to be done and they objected to it.

Then it was suggested that we raise taxes on freight and so forth and the railroads would be able to pay the additional revenue. This would be passed on to the general public, anyway; so the committee in its wisdom thought the most simple and equitable way and the way of justice was to just say that this money should be drawn out of the Treasury until these benefits were paid.

There have been suggestions that we do away with dual benefits now, and those who are retired and on the retirement list who are aged past 65, 70, 75 or what have you, all men and women, we just cut out their dual benefits. We did not think this was fair, because the Congress had set up a law in 1951, along with subsequent amendments, saying that this could be done, and we did not think that the Congress should go back on its word, because we represent the people.

In order to cover these costs, as I said, we came to the conclusion that the only sensible way we could do it was by taking it out of the General Treasury. So, that is what this bill does.

Then last year, the members of the

committee will remember that we passed a law saying that men and women who worked for the railroad could retire at age 60 if they had 30 years of service. That is in effect now. Now, what will happen in the interchange now if this bill passes is that, if a man works for a railroad, and assuming he is furloughed and goes out and works on social security, or if he retires at age 60 and works on social security, the money he earns will be placed in the first tier, but it would be an extension of his social security and will not be double social security payments, which has been in effect since 1951. This will keep the fund in sound financial condition.

I might say that railroad workers paid almost twice the amount of money into the fund as social security workers did up until the last 2 or 3 years, and then by negotiation the railroads and labor agreed that if management would take over these payments, they would forego some of the pay raises they were seeking. The railroad management agreed to pay 17.15 percent of the railroad retirement requirement to the fund, and the worker would only pay 5.85 percent into the fund, the same as social security workers do, so it is placed on the same footing.

There are more railroad retirees now than railroad workers, and it was placing a great burden on those who were young and just coming into the service. Management and labor worked out the situation which has put them on the same footing as other workers in America, so that they do not have to pay an exorbitant sum, especially the younger ones.

We have wresteld with the bill for a considerable period of time. It was not unanimous, but almost unanimous that this was the equitable and most justifiable way to present the bill in the way it has been brought to the House floor today. I present to the House the recommendation and urge its passage.

Mr. Chairman, H.R. 15301 is a complete revision of the Railroad Retirement Act of 1937. If this bill becomes law in its present form, the railroad retirement system will, for the first time in many years, be in sound financial shape.

With a relatively few exceptions, involving modifications by the committee in order to meet certain specific objections the bill represents the results of an agreement reached between management and labor, both of whom enthusiastically support the measure now under consideration.

In 1970 the Congress enacted a 15-percent increase in railroad retirement benefits, and provided for the establishment of a commission to study the railroad retirement system and make recommendations with respect thereto. The commission submitted its report in September of 1972 calling attention to the serious problems involving the railroad retirement system, and recommending, as a solution to those problems, more adequate coordination between the Railroad Retirement Act and the Social Security Act.

Last year, as a result of collective bargaining, labor and management agreed that they would seek legislation amending the Railroad Retirement Act to provide that the tax paid by railroad employees to support their retirement system would be reduced to the same rate as social security, with the railroads assuming responsibility for paying the remainder. Legislation carrying out this agreement was enacted last year as Public Law 93–69. That legislation also called upon labor and management to establish a joint committee to work out the details of restructuring the Railroad Retirement Act, taking into account the recommendations of the commission, to place the system on a sound financial basis.

H.R. 15301 will accomplish this purpose.

The bill establishes a new method of computing railroad retirement benefits.

Except for persons with vested rights, who are to be permitted to receive both railroad retirement and social security benefits, railroad retirement benefits will hereafter be computed on a "two-tier system." Tier I will be a social security benefit, computed under the Social Security Act, combining all railroad employment with social security employment. Through the operation of a program known as financial interchange, this portion of an employee's benefit will be paid by the social security system.

Tier II will be computed on the basis of railroad service, and will be paid entirely out of the railroad retirement account.

Persons currently receiving both railroad retirement benefits and social security benefits will be permitted to continue to receive both, without reduction. Certain persons who have already vested rights under the railroad retirement and social security systems will also be permitted to receive both railroad retirement and social security benefits. It is estimated that the future costs of retaining these persons on both the social security and railroad retirement rolls will amount to approximately $4½ billion, present value.

Both the railroads' and the unions' witnesses before the committee submitted their case to the effect that these costs were properly a Federal responsibility.

With respect to all other costs involved in the bill the railroads will hereafter have full responsibility for all benefit costs in excess of tier I social security benefits. This is discussed on page 14 of our committee report.

The committee was convinced that neither the railroads nor the unions created the situation of dual beneficiaries—that is persons receiving both railroad retirement and social security benefits. Yet it is the losses to the railroad retirement system under the financial interchange program arising out of dual beneficiaries that will bankrupt the system by 1981 unless corrective action is taken.

The committee, therefore, concluded that the fairest method of handling this problem is to provide that general revenues will be used for paying the costs associated with these dual beneficiaries.

Current estimates are that these costs can be fully met by the appropriation of $285 million a year each year beginning with the fiscal year 1976, and ending with the fiscal year 2000.

I realize that this is not likely to be a popular solution; however, those who may choose to oppose it, in my opinion, should supply some alternative method which will be fairer than the method selected by the committee.

Under the bill no one presently on the rolls will suffer any reduction in the present level of benefits he is receiving. Where a man age 60 with 30 or more years of service has retired on or after July 1, 1974, his spouse may receive a unreduced spouse's annuity at age 60. In addition, men age 60 with 30 or more years of service and a current connection with the railroad industry may receive a supplemental pension, which under existing law is only payable when such individuals attain the age of 65. In addition, the bill provides that survivors who presently receive benefits at the level of 110 percent of the social security benefit that would have been payable had the deceased employee worked under social security covered employment will in the future receive benefits at the level of 130 percent of that amount.

Mr. Chairman, the bill is a complete rewrite of the Railroad Retirement Act. If this bill is passed, I anticipate that all future amendments to the Railroad Retirement Act will be the result of collective bargaining between labor and management. In essence, Public Law 93–69, and the bill presently under consideration, transformed the railroad retirement system into what is in essence a company pension program, administered for historical reasons by the United States. The program will be placed on a sound financial basis, and will remain that way for the foreseeable future. I think labor and management both are to be commended for the excellent job they have done in recommending to the Congress the legislation reported by the committee, and I urge its passage.

Mr. McCOLLISTER. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Nebraska.

Mr. McCOLLISTER. Mr. Chairman, I thank the chairman of the Committee on Interstate and Foreign Commerce for yielding to me.

Mr. Chairman, it is not easy to hit the Treasury of the United States for the amounts of money we are talking about here. Yet, I think that if the Members would review the alternatives, none of them would seem to be a possibility.

I support the committee bill wholeheartedly, and will resist any effort to amend it to change the basis of funding of railroad retirement.

Mr. Chairman, I commend the Chairman for his leadership in bringing the bill to the floor.

Mr. STAGGERS. Mr. Chairman, I want to thank the gentleman from Nebraska for that very forthright statement, because he sat in on all the hearings and all the markup, and knows the alternatives we had.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I am glad to yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman from West Virginia for yielding to me.

I rise in support of these long-needed amendments to the Railroad Retirement Act of 1974, and I compliment the distinguished gentleman from West Virginia (Mr. STAGGERS) for bringing this matter to the House floor before the end of this session.

Mr. GILMAN. Mr. Chairman, I urge my colleagues to lend their support to H.R. 15301, the Railroad Retirement Act of 1974, one of the most significant pieces of legislation to be considered by this Congress.

As you know, the report of the Commission on Railroad Retirement, appointed by the Congress in 1970, and the Railroad Retirement Board, state that unless drastic action is taken by the Congress, the railroad retirement fund will be exhausted by 1981. Accordingly, it is imperative that the measure before us today be enacted into law in order to restore fiscal solvency to the system.

H.R. 15301 restructures the railroad retirement program according to the recommendations submitted to Congress in June of this year by the Railway Labor-Management Committee created under Public Law 93-69.

The labor-management committee's recommendations, adopted by the House Interstate and Foreign Commerce Committee, guarantee that all existing beneficiaries would be granted the benefits presently provided under the current law with future increases related to the cost of living. Current railroad employees would be provided with a guarantee of "vested" railroad retirement annuities and social security benefits, which means that existing retirees or active employees holding vested rights will continue to receive payments of accrued benefits. Because these benefits require some means of funding until all such payments have been exhausted, this measure authorizes annual appropriations of $285 million through the year 2000 to meet these costs. This authorization is justified because existing deficits in the system are directly attributable to previous congressional action.

In the future, however, benefits would be computed on a two-tier basis with the first tier being computed under the social security law on the basis of combined earnings covered under the social security program and under railroad retirement and a second tier would be based on railroad employment alone.

The bill further retains existing eligibility standards for regular employee age, survivor and disability benefits and lowers the minimum retirement age from 65 to 60 for receiving the supplemental annuity based on 30 years of service.

The bill significantly liberalizes the eligibility standards for spouse benefits in that: First, the spouse of an employee with 30 years of service may receive an unreduced annuity when both the spouse and the employee reach age 60; and second, the spouse of an employee with less than 30 years of service can receive either an unreduced annuity when the employee reaches age 62 and the spouse has reached age 65 or has a child of the employee in her care, or a reduced annuity when both the spouse and the employee become 62 years old. Curernt law grants an unreduced annuity to the spouse only if the employee or spouse is at least 65, and allows a reduced annuity to a spouse 62 or older.

This bill also establishes a maximum benefit level for combined employee and spouse annuities, at $1,200 per month or 90 percent of the employee's taxable earnings, whichever is greater. Also, widows' benefits will be increased from 110 percent to 130 percent of the survivor benefits payable under social security. In addition, the bill increases a lump sum refund or payments over railroad retirement for those retired employees who have had some social security employment prior to January 1, 1975, but do not qualify for benefits under the Social Security Act.

On the basis of all current data we have received, the enactment of this legislation will eliminate the threat to the solvency of our present Railroad Retirement System which is currently operating at an actuarial deficit of approximately $530 million per year. This long overdue restructuring of the Railroad Retirement System places it on a sounder financial basis.

Accordingly, Mr. Chairman, I urge my colleagues to join in taking positive, favorable action on the measure now before us.

Mr. STAGGERS. Mr. Chairman, I thank the gentleman for his comments, and wish to say that the Senate is now working on the same problem. We hope to get this out.

I wish to thank the gentleman from New York and say that we hope to expedite this just as soon as we possibly can.

Mr. KUYKENDALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. ADAMS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred and four Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Chair recognizes the gentleman from Tennessee (Mr. KUYKENDALL).

Mr. KUYKENDALL. Mr. Chairman, about a year ago our committee brought to this House a simple 1-year extension to the Railroad Retirement Act. At that time this Member and others pledged to this body that we would not again ask for a simple extension without some kind of solution to the problem of the railroad retirement system.

We never said that this solution would be easy; we never said it would be painless, because we happen to have in the railroad industry and in the field of railroad labor some problems that are unique in the labor-management situation in the United States.

The industry we are speaking of today that has a vastly disproportionate number of retirees as compared to those paying into retirement. Ours happens to be an industry where many, many years ago a decision was made, which I am sure at that time appeared to be a wise one, that instead of the railroad indstry handling its retirement, as other private industry handled theirs, the railroad industry would handle the private part of their retirement through the Government.

When we look at the money-making railroads around the country, particularly in the southern and western parts of the Nation, and see how well retirement plans could have been handled by the companies themselves in those areas, then that decision back in the 1930's appears to have been an unwise one. But when we look at the condition of the bankrupt railroads in the Northeast, we realize that in that area it would have been a disastrous one. So we reached the point where we are today, not able to go back and start over again, not able to undo decisions which do not look so good today but which at that time looked wise, but only able to pick up the pieces as they are today and try to do something about them.

The only real problem which has been brought to this body to solve—and it is a massive one, is the master of money. All of the Members of this body should understand what the meaning of the so-called dual benefits is and what the meaning of the term "windfall benefits" really is—and I have discouraged the use of that term "windfall benefits."

A great many people that worked for the railroads under railroad retirement have also worked with other employment, either concurrently or consecutively, under social security. Obviously, they have paid into the social security system based on their income on that particular job and they have paid into railroad retirement based on that particular part of their job, just as literally thousands of people do every day under civil service and under our military system.

When this Congress, at the request of industry, both management and labor, chose to merge the railroad retirement system with social security several years ago, at that time the question of whether or not the social security should be treated as an entirely separate thing, as it is under civil service and it is under the military, or whether it could be combined and called two jobs under social security, was considered. For a while these dual benefits were paid.

In this bill it is my opinion that railroad management and railroad labor are showing their good faith by agreeing to phase out the dual benefits, meaning that the money that had been paid into social security through the years, drawing benefits under social security, will be phased out under this bill. The opponents of this bill cannot answer the question, "What about justice in this case?" Yes, the amount of money is great. Since the money that they are drawing under dual benefits is social security money and was paid in under the social security plan, it probably should have come out of social security. But to prevent a struggle between the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means, an amendment was accepted to take this money from general revenues.

So what have we here? Are we questioning the right of a person under civil service to get dual benefits? Certainly not. Are we questioning the right of certain retiring people under the military to get military and civil service and social security benefits? Certainly not. And for this reason I do not think we can afford to question the justice of the Railroad Retirement System which actually is withdrawing from the dual benefits system.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. KUYKENDALL. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, would it not be correct to say that labor is not responsible for this situation? The workers paid into the fund as they were required to. The railroads did the same. This condition has been brought on by the Congress itself and the only thing left is that Congress must find the solution in order to take care of these payments.

Mr. KUYKENDALL. I could not agree more with the gentleman from Kansas.

With my record of fiscal responsibility and being tight with the taxpayers' dollar I could not in good conscience sponsor this bill on this floor if I did not feel that the total responsibility for this plan being in the condition that it is in today is the result of action by this Congress.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield further?

Mr. KUYKENDALL. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I find myself in the same position. Whether the money comes from the social security fund or out of the general revenue or some other source, Congress has no alternative if it wants to do justice then to pass this bill and to provide the funds to take care of these payments to the fellows who are entitled to them.

Mr. KUYKENDALL. I think it should be a matter of record, Mr. Chairman, that the amount of money paid into the railroad retirement by the employees and by the railroad companies themselves throughout the history of this plan is comparable to or greater than that paid by any other private industry into its retirement plan. There has been no withholding of funds. There is no free loading here.

There is just simply the fact that the moneys of the railroad retirement fund have not been drawing satisfactory rates of income. The committee bill instructs the trustees of the railroad retirement fund to seek out other Government-guaranteed securities that will draw a better income.

Mr. McCOLLISTER. Mr. Chairman, will the gentleman yield?

Mr. KUYKENDALL. I yield to the gentleman from Nebraska.

Mr. McCOLLISTER. Mr. Chairman, is it not true that indeed one of the reasons why the problem was created in the first place is the investment of the railroad funds which was not done to benefit the railroad retirement fund but all the other activities of the Government so the Treasury could borrow the funds at the lowest rates? Is that not an argument added to the other arguments that the present proposal of financing is the only equitable way, and that is to take it out of the Treasury?

Mr. KUYKENDALL. The gentleman from Nebraska could not be more correct.

There is also the fact that if the railroad funds had been invested in top yield Government-guaranteed securities during the past 20 years instead of being invested at the convenience of the Treasury at the lowest rate at which the Treasury could borrow the money, this fund would not be in the problem it is in today.

Yes, it is going to be difficult moneywise to solve the problem but, Mr. Chairman, it is our problem, it is the problem of this Government and this Congress, which we caused, and there is no easy way out. Now is the time to bite the bullet.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington (Mr. ADAMS), a member of our committee.

Mr. ADAMS. Mr. Chairman, I thank the chairman of the committee for yielding to me.

Mr. Chairman, I take this time to concur in the remarks of the chairman and the gentleman from Tennessee that the committee has tried to carry out the promise that members of this committee made to the House starting in 1970 and then again in 1972 that we would deal with the railroad retirement problem.

As the Members know, first this House appointed a commission and the commission reported and we have taken their recommendations into account. The House next passed a bill telling the parties involved to meet and make recommendations, that has been done, and those recommendations have been taken into account. A great deal of work has gone into solving this problem.

None of us think it is the perfect solution, but we know that unless something is done about this fund prior to 1981, it will go broke.

We had only five alternatives. The first was to let it collapse, and we rejected that.

The second was to break the contract with the employees by cutting their benefits and saying, "Although you paid in, you will not be paid." We felt the Government could not do that. We rejected that approach.

The third alternative was to take money from the social security fund. This was recommended. The committee did not have jurisdiction over the social security system. We received opposition to this solution. Therefore, we were unable to carry out that solution.

The fourth alternative was to make the railroad industry pay the bill and then raise prices to pay for it. The industry could pay out of present revenues. We rejected that. The fifth alternative was to pay "the phaseout benefits" from the general revenues.

Mr. Chairman, I hope that the bill will be passed. I think the chairman of the full committee has explained it very well, and I want the committee to know that in my opinion this was the only alternative we could use. I indicated 2 years ago that this system should be folded into the social security system. This has been done by the bill.

The slow destruction of the system has been caused by the payment of certain dual benefits is cut off as of January 1 under the bill. This is very important. It will prevent a future accrual of deficits from this source.

I regret the system has been allowed to go along in this fashion for such a long time. I want to warn the Members that in the future we will have to look not only at this fund, but at all the Government-sponsored retirement funds and be certain we have funded them on a basis that will carry these funds into the future so they can pay the benefits that we in the Congress have voted.

I think the problems we have faced today will be repeated under social security and other funds as we have now seen happen in the railroad retirement system.

Mr. KUYKENDALL. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Chairman, I rise in support of this legislation and urge my colleagues to support it. Every member of our committee with the exception of one concedes the Federal responsibility to act. The only question is when do we get the money. Regardless of the source, social security, general fund, increased freight rates, in the end the taxpayer will foot the bill.

Mr. Chairman, Congress has struggled with the railroad retirement system many times through the years since 1935. Getting the system established in the first place took several attempts, interspersed with a finding of unconstitutionality by the Supreme Court.

Once underway the system operated reasonably well until after World War II when railroad employment began to fall off. From a high point of well over 1 million workers on the Nation's railroads there has been a steady decline until somewhat over one-half million employees remain. This trend made it clear that the actuarial balance of the fund would eventually be jeopardized.

At various times labor and management, in recognition of the problem, would agree upon adjustments in the rates of taxation to be borne by each. Along the way, however, benefits were also expanded, prompted in some cases by changes which came about in the social security system.

By the time we arrived at 1970 the bite on the railroad worker had reached 10 percent of his pay. This was far more than workers outside the railroad industry were paying for social security. Of course, the railroad retiree was also receiving better benefits than social security. But about that time social security began a series of benefit escalations which, in all equity, called for corresponding increases for railroad retirees. To have jumped the tax on employees accordingly would have been excessive.

It was then clear that the time had come for a complete overhaul of the railroad retirement system. It was provided for, to be ready within 2 years. The study did go forward and while it proceeded social security benefits increased by almost 50 percent. Congress, in anticipation of the study, gave temporary increases in railroad retirement in comparable amounts, increasing the fund deficit thereby.

In due time the study was completed. Labor and management offered to work out a draft bill generally following the recommendations of the study. H.R. 15301 is the result of their efforts. With the exception of substituting the General Treasury for the social security system as the source of funding to phase out dual benefits, the bill before us now is that bill.

No one party is responsible for the financial difficulties of the railroad retirement system. All of the changes made over the years whether rightly or wrongly were considered and passed by the Congress. We cannot now decide to jump ship and leave the system to work out its own salvation. The dual benefits must, in fairness, be gradually phased out.

It is unfortunate that the need to solve this problem coincides with the great need to fight national inflation. That cannot be helped. This bill presents the only logical solution and I, therefore, recommend the passage of H.R. 15301.

Mr. KUYKENDALL. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL of North Carolina. Mr. Chairman, at the outset I want to point out that no one is opposed to the railroad retirement program. No one is opposed to providing adequate benefits for those who are covered under this program; however, Members can have honest differences on how we are going to provide for the financing of the unfunded liability that is created here under this program, as well as other amendments that have been voted on by this Congress in prior years.

The most important and the only issue, as I see it in this bill, is how we are going to finance the unfunded liability of the railroad retirement fund. The cost of this bill—and it is reported in the committee report and I urge that Members read it—the cost is estimated at $4.5 billion—not millions, but billions of dollars.

Now, the gentleman from Washington has pointed out the several alternatives that could be used to finance this unfunded liability. We could use the social security revenues. In fact, this was recommended to us by the representatives of management and labor.

We could use general revenues, which are recommended in this bill.

We could provide for a tax on the employees and the employers and provide that this be recouped through freight increases.

We could have a combination of those three alternatives, or we could lower the benefits. The gentleman from Washington has correctly pointed out that no one wants to lower the benefits. No one is advocating that at this time.

But, the problem is that we have no other alternatives before us, or combination of alternatives, that would finance these unfunded liabilities other than by the general taxpayer. That is the only alternative that is before us, and that means we are tapping the pocketbook of the general taxpayer. I say it is unacceptable.

The taxpayer has never before been called upon to finance retirement benefits of a pension program of a private industry, and I do not think that now is the time to start. I am concerned about it. These retirement benefits and the recommendations that have been enacted in the past, those that are in this bill, are the result of an agreement between labor and management in a private industry.

Public moneys have never been involved before. The public was not a part of the negotiations. Labor and management in a private industry arrived at agreement and came to the Congress with their proposal. They are saying, in effect, "Let the general public pay for it." I do not think this is fair when the public was not a part of the negotiations. It is a bad precedent to set, particularly at a time when we are being called upon to reduce Government expenditure.

In order to assure that railroad retirement benefits will not lapse, in order to provide some time in order to study this issue and to come up with the proper long-range solution, I intend at the proper time to offer an amendment that would provide for 1 year financing of the benefits that have been enacted in the past, as well as those benefits which are included in this bill, and call for the creation of a special committee which would study this issue and report back to the Congress on May 1 of next year.

This will give us adequate time, ample time not only to study the problem, to come up with long-range solutions, but in addition to give the time to the appropriate committee to come up with legislation and to report to this House in an expeditious way.

It seems to me that we are embarking here today on a solution that is long range—a quarter of a century it will take to finance the unfunded liability under this bill today. I think that we should have some more time, some thinking from others and other committees, in order to make sure that we are embarking upon the right course.

Mr. KUYKENDALL. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, this is the most financially irresponsible piece of legislation to come before Congress. We are giving, in this bill, special retirement to one group—railroaders—and we do this for no other group in America.

This bill's financial revisions in the Railroad Retirement Act will place a tremendous burden on the General Treasury of the United States. With the country trying to curtail Government spending, this involves another large outlay of cash. Even more, it starts a precedent of having the Government enter in directly with money out of the general revenue to fund deficient retirement reserves.

There is no justification for the U.S. Government providing special retirement fund benefits for the sole benefit of railroad employees. Congress does not do the same thing for a retired employee who was a carpenter, an electrician, a plumber, dress factory workers, a lumberjack, or a painter.

The general retirement system that is provided by the Government is our broad social security plan. Social security is providing an equitable base of retirement for all employees and it does it across the board. Basic retirement through social security is planned at age 65, but the railroad retirement has the extra burden of beginning at age 60 with full benefits.

A part of this railroad retirement financial deficiency has been caused by the special raises that have been given by Congress to the pensioners in the past 5 years. During the past 5 years the compound raises total 68.5 percent. Here was a deficient pension plan and we have increased the outlay by two-thirds over what they were receiving before. During this period we have had no increases in payments into the fund.

Discussions in committee of this railroad plan outlined the complicating features of the plan. Some men have worked for longer periods in the railroad. Some employees have also worked in outside employment and have been covered under social security. In some cases, the wife is covered by social security in her own right. Some are single, some are married.

In the course of the hearings in committee, I offered a substitute amendment; I proposed that each annuitant be given credit for all of the money that had been paid into his account. This would include all, that he had paid in, all the railroad had paid in, all that social security board had paid in, and all that he had paid social security: It would include everything his wife paid. I would take all of this and add 5 percent compound interest to it. Then this would establish a base on which his retirement would be paid. What this is saying is that we would compound all of the money that had accumulated plus interest and would establish this as a base on which to pay his annuity. This amendment lost.

Let us review what he receives in the way of an annuity. It differs with individuals but I took a 35-year service man, age 60. It showed a man got $604 a month plus $70 supplement plus $258 for his wife or he gets a total of $932 a month. This totals $10,184 a year. We could find other men getting smaller pensions totaling $600 a month or a total of $7,200 a year.

Keep this in mind and let us look at the life expectancy. A man at retirement age 60 has a life expectancy of 16.01 years while a female has a life expectancy of 19.69 years. Looking later at age 65, if we had deferred and begun his annuity at this later date, a male would have had a life expectancy of 12.97 while a female would have had a life expectancy of 15.88. This indicates that the plan would be on a sounder actuarial basis if it had deferred entry date to age 65. If a man began his pension at age 65, it would mean the life expectancy would be 3 years less or there would be 3 years less to pay. And by the same token he would have paid in and there would have been 5 years more income paid into the plan.

But as the plan now exists we review the present accumulation available for pension payment. Back during the thirties and forties low payments were contributed to the plan. During the fifties payments were larger and during the sixties still more. But if you take all of this money and add it together, the sum will equal about 2½ times an annual pensioner's annuity. Take the man who received $10,184 as his annual retirement annuity. The total contributions over his entire lifetime probably would total around $25,000. We have seen that his life expectancy is 16 years. It might be that he will live 25 years or it might be that he will live 11. But we know that on the average he will live 16 years. The financial deficiency with this plan is the fact that he has paid in less than 3 years of money to provide for 16 years of receiving it. Simple arithmetic shows that we have 5 times the outgo that we have in funds available to pay it.

The railroad pension fund is further complicated by the fact that more people are drawing pension than there are workers in the railroad industry that are paying into it. The current figures show that for every one person working for the railroads, there are 1.7 people that are drawing pensions. A healthy retirement fund would find four people working for only one person drawing pension and it would be even more desirable if we had five people working for one person drawing pension. Go back and think about this reverse situation where 1.7 people are drawing retirement for every 1 person who is at present contributing to the retirement fund.

In prior years, railroad employees contributed about twice as much as the average American worker did in his social security. But at this time the railroad employee is back on the same level of contribution as the regular social security contribution.

The Government is in no position to take on the funding of pension plans which have been accelerated in benefits beyond their reserve commitments. If this bill passes and we establish a percent of paying out five times as much as the reserve would justify, we are going to be moving into a complete across-the-board financial catastrophe for the U.S. Treasury.

I summarize the way I began. How can you do this for railroadmen when you have not done it for every other neighbor and every other good citizen in your community? How can you pick this one group of people and give them a special pension plan? From a logical actuarial basis we could do several things to improve the situation. We could move retirement age up from age 60 to age 65. We could go back to the original basis that we had 5 years ago and remove these temporary advances of 68½ percent that have been provided in the past 5 years. We have the pressures of responding to the railroaders in November. But we must all remember that we will have the pressures in future years of explaining to the rest of America why they should not receive an equal pension as these railroadmen. Today with inflation the major issue in America, how can you justify this new burden on an already overspent Treasury?

Mr. KUYKENDALL. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman like many Members of this body, I have the privilege of representing a sizable number of working and retired railroad employees. These working men and women form the backbone of the surface transportation system which keeps our Nation's economy strong and growing.

Because rail workers have historically occupied such a critical role in the expansion and development of our country, and because today they continue to render a difficult but important service to all America, it is appropriate that we in Congress make every effort to provide them a secure and fair retirement. The Interstate and Foreign Commerce Committee, in reporting to the floor H.R. 15301, has attempted to achieve this goal. As a member of that committee and a supporter of the bill I am pleased to speak on its behalf and to urge my colleagues' support of its final passage.

My wholehearted support for the objectives of the bill are nevertheless tempered by a deep concern which I and three of my colleagues expressed in minority views appended to the committee report on H.R. 15301.

The question we raise goes not to the benefits which the bill provides, but rather to the means by which they are financed. As we stated in the minority views:

> We want to make it clear that we consider it essential that the Railroad Retirement benefits not be permitted to lapse on December 31, 1974, and that all eligible recipients continue to receive their full benefits without any interruption." House Report 93-1345, p. 209.

Rather, our concerns center on the method which the committee chose to employ in funding the benefits provided by the bill.

This matter becomes important because in the reorganization of the railroad retirement program the committee bill proposes to phase-out the so-called dual benefit under which certain individuals were qualified for both railroad retirement and social security. The cost of accomplishing this phase-out is estimated to be approximately $4.5 billion over the next 25 years or more. Unfortunately, the committee decided to draw this tremendous sum from the general revenue funds of the Treasury—thereby charging the taxpayer with the burden of supporting the Railroad Retirement System. I believe that this is unfair because the benefits of the program were the product of labor-management negotiations in which the interests of the taxpayer were neither represented nor considered. Further, the result of this drain on the Treasury can only serve to aggravate our already serious national economic situation.

During the committee's consideration of this measure a much more equitable alternative was declared out of order. That was to pass on the bulk of the cost for the 25-year phase-out to rail users. While I realize that the current precarious economic condition of the Nation's railroads probably could not bear this entire burden, it seems only just that the users of the system assume a greater portion of the full system cost.

Because of this weakness in the bill, I plan to support the amendment offered by my colleague from North Carolina, which will in no way affect the benefit provisions of H.R. 15301 but will pay such benefits only for an interim period of 1 year, thus reducing the economic impact of the bill and give us time to study a more sound long-range funding approach which could be implemented in the 94th Congress. Furthermore, I had intended to offer an amendment of my own which would provide a study of all federally run and supported retirement programs as Mr. BROYHILL's amendment would do for the Railroad Retirement System.

I am concerned that we really do not know the actuarial soundness and the economic impact of the 10 different retirement systems which the Federal Government operates.

We need to be aware of the railroad retirement economic demands which these systems will place on the American taxpayer, particularly at times of economic strains such as those we face currently.

In a report issued by the GAO on June 30, 1974, the following statements were made:

> The U.S. Government operates 10 retirement systems which provide coverage to approximately 5.9 million Federal civilian and military personnel. During fiscal year 1973 the total outlay for these systems was $9.1 billion. The unfunded liability of Federal retirement systems was an estimated $201 billion at the end of fiscal year 1973.
>
> Of this amount, approximately two-thirds was attributable to the unfunded military re-

tirement system and one-third to the funded Civil Service Retirement System.

This bill presents a particular problem for the U.S. Government and the American economy at some future date. The proposal was originally made to the members of our committee by the Railroad Retirement Board that the problems of the Railroad Retirement System be put in the Social Security System.

All of us, however, know that the Social Security System as it is currently set up and with current age projections will have actuarial problems in the years that lie ahead of us.

Therefore, Mr. Chairman, I think we need to study all of these retirement systems over the next year and see if we cannot find a method by which they can be made actuarially sound and by which we can come to some understanding of the economic impact which they are likely to have on the American taxpayer in the future, either because of their increased burden to him through taxes or the increased burden which he must bear because of inflation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KUYKENDALL. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska (Mr. McCOLLISTER).

Mr. McCOLLISTER. Mr. Chairman, the controversy about the bill centers mainly about how the deficit in the railroad retirement system will be provided. Objection is made on the basis of taking it out of the general fund of the United States, from the Treasury of the United States. I think that those who object to that should know that the investment of railroad retirement funds in low-yield Government bonds has denied to the railroad retirement fund in the order of $2.4 billion worth of income that it otherwise would have had if the funds had been invested as they might have been and had yields to provide for the railroad retirement fund income, rather than for the Treasury's benefit. That $2.4 billion has been to the benefit of the general taxpayer of the United States, and I think it offers us every reason to take the deficit from the Treasury rather than trying other ways of doing it. I think the fact that the fund was short $2.4 billion because of that investment policy is reason enough to take it from the Treasury of the United States, as I have said. To pass it on to users would merely accelerate the transfer of business from railroads to other modes, make railroads less competitive, reduce employment in the railroad industry and worsen the problem, the problem being caused, in the first place, by there being too few employees compared to the number who are on retirement.

Further, to transfer the burden of the deficit to social security would only increase the problems that we have had with social security, attention to which we must pay in short order.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KUYKENDALL. Mr. Chairman, I have no further requests for time.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. I thank the distinguished chairman for yielding.

Mr. Chairman, I take this time in order that I might clarify some points in my mind regarding this bill. Do I understand it correctly that a man or woman who has become entitled to railroad retirement, and also in addition to that may have performed work under the social security system, and may presently be drawing two checks, will continue to draw the total of both of those checks to which he or she now is entitled?

Mr. STAGGERS. The answer to that is yes, they will. Those who are now on retirement will continue to draw, and that is the reason why we are requesting appropriations, because the Congress has said that they could receive these dual benefits.

Mr. WRIGHT. In other words, nobody is going to be deprived of that to which he himself has felt he was entitled through his work?

Mr. STAGGERS. No, sir, because by law we have said that they will have that, and we are allowing them to do it. That is the reason why we are now saying and making provisions to see that they will be paid that for so long as they live.

Mr. WRIGHT. I thank the gentleman. One more question. With regard to an individual who may have earned railroad retirement and left the railroad profession and may now be engaged in work under which that individual would qualify for social security payments in the future, would the total of the check which that individual might draw in the future be the sum total of both amounts to which he would be entitled?

Mr. STAGGERS. We have to set the record straight. Tier 1 is social security and tier 2 is the railroad retirement. Tier 1 would be recomputed with the additional earnings the man might earn under social security and it will be recomputed in tier 1 alone, and that will be raised as to whatever the amount might be, in conformity with the Social Security Act.

Mr. WRIGHT. In other words, instead of drawing two checks he would draw one check? So that, to be absolutely clear, rather than drawing two checks he would draw one check but the one check would encompass that to which he would otherwise have been entitled under the two checks?

Mr. STAGGERS. The gentleman is entirely correct.

Mr. WRIGHT. One more question and I believe I understand it. Nobody is going to lose anything to which he has already entitled himself under this bill and in fact there are additional benefits to which presently employed people will be entitled. Is that correct?

Mr. STAGGERS. I will say in answer to the first part that no one is going to lose anything. I can say that.

Mr. WRIGHT. I thank the gentleman very much for his kindness.

My time is up but I just want to say that with those understandings I support this bill.

Mr. KUYKENDALL. Mr. Chairman, I will appreciate it if the gentleman will remain on his feet and I yield to the gentleman 1 minute and ask him if he will yield to me.

Mr. WRIGHT. I thank the gentleman from Tennessee and I yield to the gentleman.

Mr. KUYKENDALL. Mr. Chairman, this bill is a direct result of collective bargaining and both management and labor are to be commended for it. This is one thing which, of course, the people in railroad labor are giving up in the bargain. They can no longer qualify for dual benefits as they can at present. They are giving up something. This is part of the bargain.

Mr. WRIGHT. Is the gentleman in favor of the bill?

Mr. KUYKENDALL. Yes; I am in favor of the bill.

Mr. WRIGHT. Is the gentleman saying to me that the members of the railroad brotherhoods, having looked at the entire package, believe that it is a good package?

Mr. KUYKENDALL. That is right.

Mr. BIAGGI. Mr. Chairman, I rise in strong support of H.R. 15301, legislation which amends the Railroad Retirement Act of 1937. Passage of this legislation will have two important consequences; it will better equip the retired railroad worker for the fight against inflation, and will finally put the Railroad Retirement Act back on sound financial ground.

The bill provides for a complete restructuring of the act. The key provision in the bill is the establishment of a new benefit determination formula for those workers who retired after June 30, 1974. This new formula, modeled after many private pension formulas, will consist of two components. The first will allow railroad retirement benefits to be computed under the Social Security Act, thus counting all railroad employment as Social Security covered employment. The second component will provide for benefits to be paid on railroad service alone. For those retirees currently receiving benefits under both programs, they will continue to be paid under the terms of the existing law.

The second important provision of this legislation deals with new liberalized benefit eligibility standards. In the past, it was necessary for an employee to reach the age of 65 before he or his spouse would be entitled to receive certain benefits. No longer will this be a prerequisite for, similar to the Pension Reform Act, years of service will count toward the accrument of pension rights. Specifically, under this bill when an employee reaches the age of 60 and has accumulated 30 years of service, an annuity can be paid to his spouse when she similarly reaches the age of 60. Further, where an employee retires at age 60 with 30 years service, and maintains a current connection with the railroad industry, he will be entitled to receive a supplemental annuity.

The final important provision allows

for survivors of deceased railroad employees to receive a 20-percent increase in benefits that are payable under the Social Security Act.

This legislation represents the culmination of a year-long study of the entire Railroad Retirement Act conducted by representatives of Congress and the railroad industry. The fundamental problem which the industry faced was the threat of having the resources of the act be exhausted by the year 1981. Therefore it was incumbent that a plan be devised whereby fiscal soundness could return to the act. This is accomplished in the bill with the call for a $285 million appropriation to be paid annually from the general tax fund until the year 2000 to meet existing and new costs of the act.

Equally important is the need to provide retired railroad employees with better means with which to battle the menace of inflation. Thousands of railroad retirees in this Nation depend almost exclusively on their pensions for survival. Yet the severe inflation of the recent year had eaten away at the value of the pension, thus driving many of these individuals tc the brink of poverty. The items which these individuals, as well as most other senior citizens spend their moneys on, namely, food, shelter, and clothing, registered the highest level of increases, with food prices alone increasing by almost 10 percent in 1973.

This legislation seeks to assist these hard-working Americans and prevent them from having their retirement years be turned into an economic nightmare. This bill represents still another legislative accomplishment which the 93d Congress will make on behalf of America's working men and women. We must continue to make a commitment toward both finding the means to control inflation and to help those who suffer the most from it. I commend the distinguished gentleman from West Virginia (Mr. STAGGERS) for his long hours of efforts on behalf of this legislation, and urge my colleagues to support H.R. 15301 as reported.

Mr. PRICE of Illinois. Mr. Chairman, I join my colleagues in support of H.R. 15301, the railroad retirement system amendments. As you know, I have always supported measures which would improve benefits to the Nation's railroad retirees and bring more equity into their retirement system.

It is estimated that the railroad retirement fund will collapse financially in 10 years, because of the current system of dual benefit payments under which some retiring railroad employees who have worked in other jobs have become eligible for benefits from both the railroad retirement and social security systems. Under current law, considerable financial strain has been put on the railroad retirement fund: over $4 billion to date.

H.R. 15301 would completely restructure the system established under the Railroad Retirement Act of 1937, correct its inequities, and put the retirement system on a sound financial basis. Under this bill, persons with vested rights in, or now receiving, both railroad retirement and social security benefits will receive or continue to receive these dual benefits. Persons not yet retired and who do not have vested rights will have their benefits computed under a new "two-tier" system in which an employee retiring under railroad retirement will receive a benefit containing one component based upon railroad service and a social security component based upon total employment.

Furthermore, H.R. 15301 provides that if an employee retires after June 30, 1974, with 30 or more years of service at age 60, an annuity can be paid to his spouse when she attains the age of 60. Current law requires both the employee and spouse to be age 65. This bill also provides that an employee retiring with a current connection with the railroad industry at age 60 after 30 years of service is eligible for a supplemental benefit. He need not wait until age 65 to retire.

The bill raises benefits for survivors of deceased employees from 100 to 130 percent of the amount that would have been payable under the Social Security Act counting railroad service as social security-covered service.

Mr. Chairman, adoption of this legislation is absolutely essential to the future soundness of the railroad retirement system, and I urge my colleagues in the House to support it.

Mr. HUDNUT. Mr. Chairman, I rise in support of H.R. 15301, the Railroad Retirement Act of 1974 and urge that it be passed. The railroad retirement system was created in 1935 as a special benefit system for railroad workers. For a long time, it worked pretty well, but times have changed, the system is beset by serious problems, and as a result of excessive costs for overlapping benefits which have resulted from the dual benefit-system under railroad retirement and social security, the railroad retirement fund is on the verge of bankruptcy. It is losing money at the rate of $30 million a month because of the current dual benefit system.

Consequently, some corrective action must be taken to stop this cash-flow deficit or the system will go broke within the next 16 years. H.R. 15301 is designed to accomplish this goal.

The major recommendations of the Commission on Railroad Retirement which are included in this legislation are as follows:

First. The railroad retirement system would be restructured into two separate tiers of benefits. Tier 1 should provide regular social security benefits, financed and paid under the social security laws, and represented by a separate social security check. In relation to tier 1, the Railroad Retirement Board should function as a social security claims agent and payment center for claims-taking, and adjudication, and certification for payment of social security benefits for railroad beneficiaries in accordance with policies set by the Social Security Administration. Tier 2 should be a completely separate supplementary retirement plan administered by the Railroad Retirement Board under Federal law, structured to fit with and augment social security and float on top of tier 1;

Second. Legally vested rights of railroad workers and railroad retirement beneficiaries to benefits based on social security covered nonrailroad service should be guaranteed, but future accrual of these dual benefits should be stopped.

Third. A firm plan should be adopted forthwith to finance the second tier of supplementary benefits through the railroad retirement account on assured, fully self-supporting basis by contributions from the railroad community through the crisis period of the next 20 to 30 years and then beyond.

Fourth. The benefit formulas and provisions of the system should be restructured and revised to assure that the overall benefits in the future continue to bear a reasonable relationship to wages in a dynamic economy and to make benefits more equitable among the various groups of beneficiaries.

Both management and labor are in agreement on this bill and I feel it is one of the most important of this session. It will help many many railroad retirees in my district, who gave years and years of service to our country by keeping the railroads running. Consequently, it is my hope that final action will be taken by both the House and Senate and it will be enacted into law without delay.

Mr. PETTIS. Mr. Chairman, after 2 years of debate, discussion, and deliberation, I am happy today to vote for this legislation to restructure the railroad retirement system. As the representative of numerous retired railroad personnel, I wholeheartedly support this bill which will insure my constituents, and retired railroad employees all over the country, who are enrolled in this program, of a financially secure retirement system, and one which guarantees stability without interruption to their retirement payments. The coordination of benefits provided by this bill will greatly benefit the railroad retirement system in that it will no longer be assuming the losses incurred through the dual payments which has existed between the railroad retirement system and the Social Security Act, to this time.

Mr. MADDEN. Mr. Chairman, the passage by the House today of the Railroad Retirement Restructuring Act is a great step forward in guaranteeing railroad retirees a well-deserved retirement payment.

The bill provides for a complete restructuring of the present railroad retirement system. It allocates railroad retirement benefits under a two-tier system—tier 1 will be a benefit computed under the Social Security Act, counting all railroad employment as social security covered employment and combining that service with all social security covered employment; and tier 2 will be based on railroad service alone computed under the Railroad Retirement Act.

Under the terms of the bill, persons currently receiving both railroad retirement benefits and social security benefits will be permitted to continue to receive both without reduction. Certain persons who already have vested rights under the retirement system and the social security system will also be permitted to receive both benefits.

With the passage of this restructuring bill, the railroad retirement system will be placed on a sound financial basis and will remain that way in the future. The Congress must guarantee railroad workers a fair retirement payment in return for their years of service. I urge the Members of the House to support H.R. 15301, the Railroad Retirement Restructuring Act of 1974.

Mr. GROSS. Mr. Chairman, I agree with the minority views of members of the House Interstate and Foreign Commerce Committee that this bill provides the worst answer of all the alternatives proposed for the phase-out and restructuring of the troubled railroad retirement system.

The alternative here proposed will throw the burden directly on all the taxpayers through funds taken from the Federal Treasury, and the cost will be some $4.5 billion. This is also a bad precedent for no one will be able to argue successfully in the future that other pension funds operated in the private sector, and which are in financial trouble, should not be supported with funds out of general revenues. Moreover, we are now in a situation wherein the Federal Treasury should not be compelled to shoulder such an added and heavy burden.

I realize that the railroad retirement system is in a precarious financial situation and I would like to help provide some measure of relief, but I cannot support this bill in its present form.

Mr. CONLAN. Mr. Chairman, I rise in support of the 1974 railroad retirement amendments.

Congress has been warned from many sources that the railroad retirement fund, if required to continue on its present track, will be bankrupted within less than 10 years.

The Railroad Retirement System was created in 1937 as a special benefit system for railroad workers. The system functioned well and has provided benefits to many retired railroad men. However, by legislation passed in 1951, the fund was saddled with a dual benefits system under railroad retirement and social security which has, as a result of excessive costs, placed the retirement fund on the verge of financial collapse.

The legislation before us today, Mr. Chairman, would completely restructure the retirement system to correct the inequities of the dual-benefit system and restore financial stability to this essential retirement fund.

Under this bill—H.R. 15301—persons with vested rights in, or now receiving both railroad retirement and social security benefits will receive or continue to receive dual benefits. Persons not yet retired and who do not have vested rights will have their benefits computed under a new "two-tier" system. This new system provides that an employee retiring under railroad retirement will receive a benefit containing one component based upon railroad service and a component under social security based upon total employment.

If an employee retires after June 30, 1974, with 30 or more years of service at age 60, an annuity can be paid to the employee's spouse when she attains the age of 60. The law presently requires that both the employee and spouse be age 65. The bill also provides that an employee retiring with a current connection with the railroad industry at age 60 after 30 years of service is eligible for a supplemental benefit without waiting until age 65.

Benefits to survivors of deceased railroad employees are also to be raised from 100 to 130 percent of the amount that would have been payable under the Social Security Act because railroad services for these people will be counted as social security-covered service.

After 2 years of debate, study, and discussion, the House is finally to face the issue head on. As a representative of numerous retired railroad people, I wholeheartedly support this bill. Final passage will guarantee to my constituents and retired railroad people in this and future generations a financially secure retirement system.

Mr. STAGGERS. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule (H. Res. 1362), the Clerk will now read by title the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 15301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—THE RAILROAD RETIREMENT ACT OF 1974

That the Railroad Retirement Act of 1937 is amended to read as follows:

"DEFINITIONS

"SECTION 1. For the purpose of this Act—

"(a)(1) The term 'employer' shall include—

"(i) any express company, sleeping-car company, and carrier by railroad, subject to part I of the Interstate Commerce Act;

"(ii) any company which is directly or indirectly owned or controlled by, or under common control with, one or more employers as defined in paragraph (i) of this subdivision, and which operates any equipment or facility or performs any service (except trucking service, casual service. and the casual operations of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad;

"(iii) any receiver, trustee, or other individual or body, judicial, or otherwise, when in the possession of the property or operating all or any part of the business of any employer as defined in paragraph (i) or (ii) of this subdivision;

"(iv) any railroad association, traffic association, tariff bureau, demurrage bureau, weighing and inspection bureau, collection agency, and any other association, bureau, agency, or organization, which is controlled and maintained wholly or principally by two or more employers as defined in paragraph (i), (ii), or (iii) of this subdivision and which is engaged in the performance of services in connection with or incidental to railroad transportation; and

"(v) any railway labor organization, national in scope, which has been or may be organized in accordance with the provisions of the Railway Labor Act, as amended, and its State and National legislative committees, general committees, insurance departments, and local lodges and divisions, established pursuant to the constitution or bylaws of such organization.

"(2) Notwithstanding the provisions of subdivision (1) of this subsection, the term 'employer' shall not include—

"(i) any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities; and

"(ii) any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general diesel-railroad system of transportation, but shall not exclude any part of the general diesel-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Board, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this paragraph.

"(b)(1) The term 'employee' means (i) any individual in the service of one or more employers for compensation, (ii) any individual who is in the employment relation to one or more employers, and (iii) an employee representative: *Provided*, however, That the term 'employee' shall include an employee of a local lodge or division defined as an employer in subsection (a) only if he was in the service of or in the employment relation to an employer as defined in paragraph (i) of subsection (a)(1) on or after August 29, 1935.

"(2) The term 'employee' shall not include any individual while such individual is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tipple, or the loading of coal at the tipple.

"(c) The term 'employee representative' means any officer or official representative of a railway labor organization other than a labor oragnization included in the term 'employer' as defined in subsection (a) who before or after August 29, 1935, was in the service of an employer as defined in subsection (a) and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, as amended, and any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office.

"(d)(1) An individual is in the service of an employer whether his service is rendered within or without the United States if—

"(i)(A) he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, or (B) he is rendering professional or technical services and is integrated into the staff of the employer, or (C) he is rendering, on the property used in the employer's operations, personal services the rendition of which is integrated into the employer's operations; and

"(ii) he renders such service for compensation, or a method of computing the monthly compensation for such service is provided in section 3(j).

"(2) Notwithstanding the provisions of subdivision (1) of this subsection—

"(i) an individual shall be deemed to be in the service of an employer, other than a local lodge or division or a general committee of a railway-labor-organization employer, not conducting the principal part of its business in the United States only when he is rendering service to it in the United States;

"(ii) an individual shall be deemed to be in the service of a local lodge or division of a railway-labor-organization employer not conducting the principal part of its business in the United States only if (A) all, or substantially all, the individuals constituting the membership of such local lodge or division are employees of an employer conducting the principal part of its business in the United States; or (B) the headquarters of such local lodge or division is located in the United States; and

"(iii) an individual shall be deemed to be in the service of a general committee of a railway-labor-organization employer not conducting the principal part of its business in the United States only if (A) he is representing a local lodge or division described in clause (A) or (B) of paragraph (ii); or (B) all, or substantially all, the individuals represented by such general committee are employees of an employer conducting the principal part of its business in the United States; or (C) he acts in the capacity of a general chairman or an assistant general chairman of a general committee which represents individuals rendering service in the United States to an employer, but in such case if his office or headquarters is not located in the United States and the individuals represented by such general committee are employees of an employer not conducting the principal part of its business in the United States, only such proportion of the remuneration for such service shall be regarded as compensation as the proportion which the mileage in the United States under the jurisdiction of such general committee bears to the total mileage under its jurisdiction, unless such mileage formula is inapplicable, in which case the Board may prescribe such other formula as it finds to be equitable, and if the application of such mileage formula, or such other formula as the Board may prescribe, would result in the compensation of the individual being less than 10 per centum of his remuneration for such service no part of such remuneration shall be regarded as compensation.

"(3) Notwithstanding the provisions of subdivisions (1) and (2) of this subsection, an individual not a citizen or resident of the United States shall not be deemed to be in the service of an employer when rendering service outside the United States to an employer who is required under the laws applicable in the place where the service is rendered to employ therein, in whole or in part, citizens or residents thereof. For purposes of this subdivision, the laws applicable on August 29, 1935, in the place where the service is rendered shall be deemed to have been applicable there at all times prior to that date.

"(e)(1) An individual shall be deemed to have been in the employment relation to an employer on August 29, 1935, if—

"(i) he was on that date on leave of absence from his employment, expressly granted to him by a duly authorized representative of such employer, and the grant of such leave of absence will have been established to the satisfaction of the Board before July 1947;

"(ii) he was in the service of an employer after August 29, 1935, and before January 1946 in each of six calendar months, whether or not consecutive;

"(iii) before August 29, 1935, he did not retire and was not retired or discharged from the service of the last employer by whom he was employed or its corporate or operating successor, but (A) solely by reason of his physical or mental disability he ceased before August 29, 1935, to be in the service of such employer and thereafter remained continuously disabled until he attained age sixty-five or until August 1945, or (B) solely for such last stated reason an employer by whom he was employed before August 29, 1935, or an employer who is its successor did not on or after August 29, 1935, and before August 1945 call him to return to service, or (C) if he was so called he was solely for such reason unable to render service in six calendar months as provided in paragraph (ii); or

"(iv) he was on August 29, 1935, absent from the service of an employer by reason of a discharge which, within one year after the effective date thereof, was protested, to an appropriate labor representative or to the employer, as wrongful, and which was followed within ten years of the effective date thereof by his reinstatement in good faith to his former service with all his seniority rights.

"(2) Notwithstanding the provisions of subdivision (1) of this subsection, an individual shall not be deemed to have been in the employment relation to an employer on August 29, 1935, if before that date he was granted a pension or gratuity on the basis of which a pension was awarded to him pursuant to section 6 of the Railroad Retirement Act of 1937, or if during the last payroll period before August 29, 1935, in which he rendered service to an employer he was not in the service of an employer, in accordance with subsection (d), with respect to any service in such payroll period, or if he could have been in the employment relation to an employer only by reason of his having been, either before or after August 29, 1935, in the service of a local lodge or division defined as an employer in subsection (a).

"(f)(1) The term 'years of service' shall mean the number of years an individual as an employee shall have rendered service to one or more employers for compensation or received remuneration for time lost, and shall be computed in accordance with the provisions of section 3(i). Twelve calendar months, consecutive or otherwise, in each of which an employee has rendered such service or received such wages for time lost, shall constitute a year of service. Ultimate fractions shall be taken at their actual value, except that if the individual will have had not less than one hundred twenty-six months of service, an ultimate fraction of six months or more shall be taken as one year.

"(2) Where service prior to August 29, 1935, may be included in the computation of years of service as provided in subdivision (3) of section 3(i), it may be included as to—

"(i) service rendered to a person which was an employer on August 29, 1935, irrespective of whether such person was an employer at the time such service was rendered;

"(ii) service rendered to any express company, sleeping-car company, or carrier by railroad which was a predecessor of a company which, on August 29, 1935, was an employer as defined in paragraph (i) of subsection (a)(1), irrespective of whether such predecessor was an employer at the time such service was rendered; and

"(iii) service rendered to a person not an employer in the performance of operations involving the use of standard railroad equipment if such operations were performed by an employer on August 29, 1935.

"(g)(1) For purposes of section 3(i)(2) of this Act, an individual shall be deemed to have been in 'military service' when commissioned or enrolled in the active service of the land or naval forces of the United States and until resignation or discharge therefrom; and the service of any individual in any reserve component of the land or naval forces of the United States, while serving in the land or naval forces of the United States for any period, even though less than thirty days, shall be deemed to have been active service in such force during such period.

"(2) For purposes of section 3(i)(2) of this Act, a 'war service period' shall mean (A) any war period, or (B) with respect to any particular individual, any period during which such individual (i) having been in military service at the end of a war period, was required to continue in military service, or (ii) was required by call of the President, or by any Act of Congress or regulation, order, or proclamation pursuant thereto, to enter and continue in military service, or (C) any period after September 7, 1939, with respect to which a state of national emergency was duly declared to exist which requires a strengthening of the national defense.

"(3) For purposes of section 3(i)(2) of this Act, a 'war period' shall be deemed to have begun on whichever of the following dates is the earliest: (A) the date on which the Congress of the United States declared war; or (B) the date as of which the Congress of the United States declared that a state of war has existed; or (C) the date on which war was declared by one or more foreign states against the United States; or (D) the date on which any part of the United States or any territory under its jurisdiction was invaded or attacked by any armed force of one or more foreign states; or (E) the date on which the United States engaged in armed hostilities for the purpose of preserving the Union or of maintaining in any State of the Union a republican form of government.

"(4) For purposes of section 3(i)(2) of this Act, a 'war period' shall be deemed to have ended on the date on which hostilities ceased.

"(h)(1) The term 'compensation' means any form of money remuneration paid to an individual for services rendered as an employee to one or more employers, or as an employee representative, including remuneration paid for time lost as an employee, but remuneration paid for time lost shall be deemed earned in the month in which such time is lost. A payment made by an employer to an individual through the employer's payroll shall be presumed, in the absence of evidence to the contrary, to be compensation for service rendered by such individual as an employee of the employer in the period with respect to which the payment is made. Compensation earned in any calendar month before 1947 shall be deemed paid in such month regardless of whether or when payment will have been in fact made, and compensation earned in any calendar year after 1946 but paid after the end of such calendar year shall be deemed to be compensation paid in the calendar year in which it will have been earned if it is so reported by the employer before February 1 of the next succeeding calendar year or if the employee established subject to the provisions of section 9, the period during which such compensation will have been earned.

"(2) An employee shall be deemed to be paid 'for time lost' the amount he is paid by an employer with respect to an identifiable period of absence from the active service of the employer, including absence on account of personal injury, and the amount he is paid by the employer for loss of earnings resulting from his displacement to a less remunerative position or occupation. If a payment is made by an employer with respect to a personal injury and includes pay for time lost, the total payment shall be deemed to be paid for time lost unless, at the time of payment, a part of such payment is specifically apportioned to factors other than time lost, in which event only such part of the payment as is not so apportioned shall be deemed to be paid for time lost.

"(3) Solely for purposes of determining amounts to be included in the compensation of an employee, the term 'compensation' shall also include cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is less than $20.

"(4) Tips included as compensation by reason of the provisions of subdivision (3) shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code of 1954 or, if no statement including such tips is so furnished, at the time received. Tips so deemed to be paid in any month shall be deemed paid for services rendered in such month.

"(5) In determining compensation, there shall be attributable as compensation paid to an employee in calendar months in which he is in military service creditable under section 3(i)(2), in addition to any other compensation paid to him with respect to such months.

"(i) for each such calendar month prior to 1968, $160;

"(ii) for each such calendar month after 1967 and prior to 1975; $260; and

"(iii) for each such calendar month after 1974, the amount which is creditable as such individual's 'wages' under the third paragraph of section 209 of the Social Securtiy Act.

"(6) Notwithstanding the provisions of the preceding subdivisions of this subsection, the term 'compensation' shall not include—

"(i) tips, except as is provided under subdivision (3) of this subsection;

"(ii) the voluntary payment by an employer, without deduction from the remuneration of the employee, of any tax now or hereafter imposed with respect to the compensation of such employee;

"(iii) remuneration for service which is performed by a nonresident alien individual for the period he is temporarily present in the Untied States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended, and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be;

"(iv) remuneration earned in the service of a local lodge or division of a railway-labor-organization employer with respect to any calendar month in which the amount of such remuneration is less than $25; and

"(v) remuneration for service as a delegate to a national or international convention of a railway-labor-organization employer if the individual rendering such service has not previously rendered service, other than as such a delegate, which may be included in his 'years of service'.

"(i) The term 'Board' means the Railroad Retirement Board.

"(j) The term 'company' includes corporations, associations, and joint-stock companies.

"(k) The term 'employee' includes an officer of an employer.

"(l) The term 'person' means an individual, a partnership, an association, a joint-stock company, a corporation, or the United States or any other governmental body.

"(m) The term 'United States,' when used in a geographical sense, means the States and the District of Columbia.

"(n) The term 'Social Security Act' means the Social Security Act as amended from time to time.

"(o) An individual shall be deemed to have 'a current connection with the railroad industry' at the time an annuity begins to accrue to him and at death if, in any thirty consecutive calendar months before the month in which an annuity under this Act begins to accrue to him, or the month in which he dies if that first occurs, he will have been in service as an employee in not less than twelve calendar months and, if such thirty calendar months do not immediately precede such month, he will not have been engaged in any regular employment other than employment for an employer or employment with the Department of Transportation, the Interstate Commerce Commission, the National Mediation Board, or the Railroad Retirement Board in the period before such month and after the end of such thirty months. For the purposes of section 2(d) only, an individual shall be deemed also to have a 'current connection with the railroad industry' if he will have completed ten years of service and (A) he would be neither fully nor currently insured under the Social Security Act if his service as an employee after December 31, 1936, were included in the term 'employment' as defined in that Act, or (B) he has no quarters of coverage under the Social Security Act.

"(p) The term 'annuity' means a monthly sum which is payable on the first day of each calendar month for the accrual during the preceding calendar month.

"(q) The terms 'quarter' and 'calendar quarter' shall mean a period of three calendar months ending on March 31, June 30, September 30, or December 31.

"(r) For purposes of this Act, a person shall be considered to be permanently insured under the Social Security Act on December 31, 1974, if he or she would be fully insured within the meaning of section 214(a) of that Act when he or she attains age 62 solely on the basis of his or her quarters of coverage under that Act acquired prior to January 1, 1975.

"ANNUITY ELIGIBILITY REQUIREMENTS

"SEC. 2. (a)(1) The following-described individuals, if they shall have completed ten years of service and shall have filed application for annuities, shall, subject to the conditions set forth in subsection (e), (f), and (h), be entitled to annuities in the amounts provided under section 3 of this Act—

"(i) individuals who have attained the age of sixty-five;

"(ii) individuals who have attained the age of sixty and have completed thirty years of service;

"(iii) individuals who have attained the age of sixty-two and have completed less than thirty years of service, but the annuity of such individuals shall be reduced by 1/180 for each calendar month that he or she is under age sixty-five when the annuity begins to accrue;

"(iv) individuals who have a current connection with the railroad industry, whose permanent physical or mental condition is such as to be disabling for work in their regular occupation, and who (A) have completed twenty years of service or (B) have attained the age of sixty; and

"(v) individuals whose permanent physical or mental condition is such that they are unable to engage in any regular employment.

"(2) For the purposes of paragraph (iv) of subdivision (1), the Board, with the cooperation of employers and employees, shall secure the establishment of standards determining the physical and mental conditions which permanently disqualify employees for work in the several occupations in the railroad industry, and the Board, employers, and employees shall cooperate in the promotion of the greatest practicable degree of uniformity in the standards applied by the several employers. An individual's condition shall be deemed to be disabling for work in his regular occupation if he will have been disqualified by his employer for service in his regular occupation in accordance with the applicable standards so established; if the employee will not have been so disqualified by his employer, the Board shall determine whether his condition is disabling for work in his regular occupation in accordance with the standards generally established; and, if the employee's regular occupation is not one with respect to which standards will have been established, the standards relating to a reasonably comparable occupation shall be used. If there is no such comparable occupation, the Board shall determine whether the employee's condition is disabling for work in his regular occupation by determining whether under the practices generally prevailing in industries in which such occupation exists such condition is a permanent disqualification for work in such occupation. For purposes of this subdivision and paragraph (iv) of subdivision (1), an employee's 'regular occupation' shall be deemed to be the occupation in which he will have been engaged in more calendar months than the calendar months in which he will have been engaged in any other occupation during the last preceding five calendar years, whether or not consecutive, in each of which years he will have earned wages or salary, except that, if an employee establishes that during the last fifteen consecutive calendar years he will have been engaged in another occupation in one-half or more of all the months in which he will have earned wages or salary, he may claim such other occupation as his regular occupation.

"(3) Such satisfactory proof shall be made from time to time as prescribed by the Board, of the disability provided for in paragraph (iv) or (v) of subdivision (1) and of the continuance of such disability (according to the standards applied in the establishment of such disability) until the employee attains the age of sixty-five. If the individual fails to comply with the requirements prescribed by the Board as to proof of the continuance of the disability until he attains the age of sixty-five years, his right to an annuity by reason of such disability shall, except for good cause shown to the Board, cease, but without prejudice to his rights to any subsequent annuity to which he may be entitled.

"(b)(1) An individual who—

"(i) has attained age 60 and completed thirty years of service or attained age 65;

"(ii) has completed twenty-five years of service;

"(iii) is entitled to the payment of an annuity under subsection (a)(1); and

"(iv) had a current connection with the railroad industry at the time such annuity began to accrue.

shall, subject to the conditions set forth in subdivision (2) of this subsection and in subsections (e) and (h), be entitled to a supplemental annuity in the amount provided under section 3 of this Act: *Provided, however,* That in cases where an individual's annuity under subsection (a)(1) begins to accrue on other than the first day of the month, the amount of any supplemental annuity to which he is entitled for that month shall be reduced by one-thirtieth for each day with respect to which he is not entitled to an annuity under subsection (a)(1).

"(2) No individual shall be entitled to a supplemental annuity provided by this subsection for any period after he renders any service as an employee for compensation after his supplemental annuity closing date, which is the last day of the month following the month in which the attains age 65: *Provided, however,* That the supplemental annuity closing date of an individual who attained age 65 prior to January 1, 1975, shall be determined under section 3(j)(4) of the Railroad Retirement Act of 1937: *Provided further,* That for an employee whose supplemental annuity closing date occurs after he has completed at least 23 years of service but before he has completed 25 years of service and before he would have been entitled (upon filing an application therefor) to monthly insurance benefits under section 202(a) of the Social Security Act if he had no service as an employee under this Act, such closing date shall be extended to the earlier of (A) the day before the first day of the first month for which he would (on application) be entitled to monthly insurance benefits under section 202(a) of the Social Security Act if he had no service as an employee under this Act, or (B) the last day of the first month for which he qualifies for a supplemental annuity under this subsection.

"(3) The provisions of subdivision (2) shall not supersede the provisions of any agreement reached through collective bargaining which provides for mandatory retirement at an age less than the applicable supplemental annuity closing date determined under such subdivision.

"(c)(1) The spouse of an individual, if—

"(i) such individual (A) is entitled to an annuity under subsection (a)(1) and (B) has attained the age of 60 and has completed thirty years of service or has attained the age of 62, and

"(ii) such spouse (A) has attained the age of 65, or (B) has attained the age of 60 and such individual has completed thirty years of service, or (C), in the case of a wife, has in her care (individually or jointly with her husband) a child who meets the qualifications prescribed in paragraph (iii) of subsection (d)(1) (without regard to the provisions of clause (B) of such paragraph),

shall, subject to the conditions set forth in subsections (e), (f), and (h), be entitled to a spouse's annuity, if he or she has filed application therefor, in the amount provided under section 4 of this Act.

"(2) A spouse who would be entitled to an annuity under subdivision (1) if he or she had attained the age of 65 may elect upon or after attaining the age of 62 to receive such annuity, but the annuity in any such case shall be reduced by 1/180 for each calendar month that the spouse is under age 65 when the annuity begins to accrue.

"(3) For the purposes of this Act, the term 'spouse' shall mean the wife or husband of an annuitant under subsection (a)(1) who (i) was married to such annuitant for a period of not less than one year immediately preceding the day on which the application for a spouse's annuity is filed, or in the month prior to his or her marriage to such annuitant was eligible for an annuity under paragraph (i) or (iv) of subsection (d)(1) or, on the basis of disability, under paragraph (iii) thereof, or is the parent of such annuitant's son or daughter, if, as of the day on which the application for a spouse's annuity is filed, such wife or husband and such annuitant were members of the same household, or such wife or husband was receiving regular contributions from such annuitant toward her or his support, or such annuitant has been ordered by any court to contribute to the support of such wife or husband; and (ii) in the case of a husband, was receiving at least one-half of his support from his wife at the time his wife's annuity under subsection (a)(1) began.

"(d)(1) The following described survivors of a deceased employee who will have completed ten years of service and will have had a current connection with the railroad industry at the time of his death shall, subject to the conditions set forth in subsections (g) and (h), be entitled to annuities, if they have filed application therefor, in the amounts provided under section 4 of this Act—

"(i) a widow (as defined in section 216 (c) and (k) of the Social Security Act) or widower (as defined in section 216 (g) and (k) of the Social Security Act) of such a deceased employee who has not remarried and who (A) will have attained the age of sixty or (B) will have attained the age of fifty but will not have attained age sixty and is under a disability which began before the end of the period prescribed in subdivision (2), and who, in the case of a widower, was receiving at least one-half of his support from the deceased employee at the time of her death or at the time her annuity under subsection (a)(1) began;

"(ii) a widow (as defined in section 216 (c) and (k) of the Social Security Act) of such a deceased employee who has not remarried and who (A) is not entitled to an annuity under paragraph (i), and (B) at the time of filing an application for an annuity under this paragraph, will have in her care a child of such deceased employee, which child is entitled to an annuity under paragraph (iii) (other than an annuity payable to a child who has attained age 18 and is not under a disability);

"(iii) a child (as defined in section 216 (e) and (k) of the Social Security Act) of such a deceased employee who (A) will be less than eighteen years of age, or (B) will be less than twenty-two years of age and a full-time student at an educational institution, or (C) will, without regard to his age, be under a disability which began before he attained age twenty-two or before the close of the eighty-fourth month following the month in which his most recent entitlement to an annuity under this paragraph terminated because he ceased to be under a disability, and who is unmarried and was dependent upon the employee at the time of the employee's death; and

"(iv) a parent (as defined in section 202 (h)(3) of the Social Security Act) of such a deceased employee who (A) will have attained the age of sixty and (B) will have received at least one-half of his or her support from such deceased employee at the time of the employee's death and (C) will not have remarried after the employee's death: Provided, however, That no parent will be entitled to an annuity under this paragraph on the basis of the deceased employee's compensation and years of service in any case where such employee died leaving a widow or widower or a child who is, or who might in the future become, entitled to an annuity under this subsection.

"(2) The period referred to in clause (B) of subdivision (1)(i) is the period (i) beginning with the latest of (A) the month of the employee's death, (B) in the case of a widow, the last month for which she was entitled to an annuity under paragraph (ii) of subdivision (1) as the widow of the deceased employee, or (C) the month in which the widow's or widower's previous entitlement to an annuity as the widow or widower of the deceased employee terminated because her or his disability had ceased and (ii) ending with the month before the month in which she or he attains age sixty, or, if earlier, with the close of the eighty-fourth month following the month with which such period began.

"(3) For purposes of paragraph (i) or (iii) of subdivision (1), a widow, widower, or child shall be under a disability if her or his permanent physical or mental condition is such that she or he is unable to engage in any regular employment. The provisions of subsection (a)(3) of this section as to the proof of disability shall apply with regard to determinations with respect to disability under subdivision (1).

"(4) In determining for purposes of this subsection and subdivision (3) of subsection (c) whether an applicant is the wife, husband, widow, widower, child, or parent of a deceased employee as claimed, the rules set forth in section 216(h) of the Social Security Act shall be applied deeming, for this purpose, individuals entitled to an annuity under subsection (c) to be entitled to benefits under subsection (b) or (c) of section 202 of the Social Security Act and individuals entitled to an annuity under paragraph (i) or (ii) of subsection (d)(1) to be entitled to a benefit under subsection (e), (f), or (g) of section 202 of the Social Security Act. For purposes of paragraph (iii) of subdivision (1), a child shall be deemed to have been dependent upon his parent employee if the conditions set forth in section 202(d), (3), (4), or (9) of the Social Security Act are fulfilled. The provisions of paragraph (7) of section 202(d) of the Social Security Act (defining the terms 'full-time student' and 'educational institution') shall be applied by the Board in the administration of this subsection as if the references therein to the Secretary were references to the Board. A child who attains age twenty-two at a time when he is a full-time student (as defined in subparagraph (A) of paragraph (7) of section 202(d) of the Social Security Act and without the application of subparagraph (B) of such paragraph) but has not (at such time) completed the requirements for, or received, a degree from a four-year college or university shall be deemed (for purposes of determining his continuing or initial entitlement to an annuity under this subsection) not to have attained such age until the first day of the first month following the end of the quarter or semester in which he is enrolled at such time (or, if the educational institution in which he is enrolled is not operated on a quarter or semester system, until the first day of the first month following the completion of the course in which he is enrolled or until the first day of the third month beginning after such time, whichever first occurs).

"(e)(1) No individual shall be entitled to an annuity under subsection (a)(1) until he shall have ceased to render compensated service to any person, whether or not an employer as defined in section 1(a) (but with the right to engage in other employment to the extent not prohibited by subdivision (3) or (4) of this subsection or by subsection (f)). As used in this subsection, the term 'compensated service' shall not include any service as an elected public official of the United States, a State, or any political subdivision of a State.

"(2) An annuity under subsection (a)(1) shall be paid only if the applicant shall have relinquished such rights as he may have to return to the service of an employer and of the person, or persons, by whom he was last employed: *Provided, however,* That this requirement shall not apply to individuals mentioned in paragraph (iv) and (v) of subsection (a)(1) prior to attaining age sixty-five: *Provided further,* That, notwithstanding the provisions of the preceding proviso and of clause (i) of subsection (c)(1) of this section, an annuity shall be paid to the spouse of an individual only if such individual shall have satisfied the requirements of this subdivision without regard to the preceding proviso: *And provided further,* That, notwithstanding the provisions of the first proviso of this subdivision and of clause (iii) of subsection (b)(1) of this section, a supplemental annuity shall be paid to an individual only if such individual shall have satisfied the requirements of this subdivision without regard to the first proviso thereof.

"(3) No annuity under subsection (a)(1) or supplemental annuity under subsection (b)(1) shall be paid with respect to any month in which an individual in receipt of an annuity or supplemental annuity thereunder shall render compensated service to an employer or to the last person, or persons, by whom he was employed prior to the date on which the annuity under subsection (a)(1) began to accrue. Individuals receiving annuities under subsection (a)(1) shall report to the Board immediately all such compensated service.

"(4) No annuity under paragraph (iv) or (v) of subsection (a) (1) shall be paid to an individual with respect to any month in which the individual is under age sixty-five and is paid more than $200 in earnings from employment or self-employment of any form: *Provided, however,* That for purposes of this subdivision, if a payment in any one calendar month is for accruals in more than one calendar month, such payment shall be deemed to have been paid in each of the months in which accrued to the extent accrued in such month. Any such individual under the age of sixty-five shall report to the Board any such payment of earnings for such employment or self-employment before receipt and acceptance of an annuity for the second month following the month of such payment. A deduction shall be imposed, with respect to any such individual who fails to make such report, in the annuity or annuities otherwise due the individual, in an amount equal to the amount of the annuity for each month in which he is paid such earnings in such employment or self-employment, except that the first deduction imposed pursuant to this sentence shall in no case exceed an amount equal to the amount of the annuity otherwise due for the first month with respect to which the deduction is imposed. If pursuant to the first sentence of this subdivision an annuity was not paid to an individual with respect to one or more months in any calendar year, and it is subsequently established that the total amount of such individual's earnings during such year as determined in accordance with that sentence (but exclusive of earnings for services described in subdivision (3)) did not exceed $2,400, the annuity with respect to such month or months, and any deduction imposed by reason of the failure to report earnings for such month or months under the third sentence of this subdivision, shall then be payable. If the total amount of such individual's earnings during such year (exclusive of earnings for services described in subdivision (3)) is in excess of $2,400, the number of months in such year with respect to which an annuity is not payable by reason of such first and third sentences shall not exceed one month for each $200 of such excess, treating the last $100 or more of such excess as $200; and if the amount of the annuity has changed during such year, any payments of annuities which become payable solely by reason of the limitations contained in this sentence shall be made first with respect to the month or months for which the annuity is larger.

"(5) The annuity of a spouse under subsection (c) shall, with respect to any month, be subject to the same provisions of this subsection as the individual's annuity. In addition, the annuity of a spouse under subsection (c) shall not be payable for any month if the individual's annuity under subsection (a) (1) is not payable for such month by reason of the provisions of this subsection.

"(f) (1) That portion of the individual's annuity as is computed under section 3 (a) of this Act on the basis of (A) his compensation and years of service subsequent to December 31, 1974, and (B) his wages and self-employment income derived from employment and self-employment under the Social Security Act and that portion of the individual's annuity as is computed under section 3(h) of this Act shall be subject to deductions on account of work pursuant to the provisions of section 203 of the Social Security Act in the same manner as if such portion of such annuity were a monthly insurance benefit under that Act: *Provided, however,* That the provisions of this subdivision shall be applicable to the annuity of an individual only if such individual would be fully insured under the Social Security Act on the basis of wages and self-employment income derived from employment and self-employment under that Act and on the basis of compensation derived from service as an employee after December 31, 1974, if such service as an employee had been included in the term 'employment' as defined in that Act. Any person in receipt of an annuity subject to deduction under this subsection shall report to the Board the receipt of excess earnings as defined in paragraph (3) of section 203(f) of the Social Security Act.

"(2) That portion of the spouse's annuity under subsection (c) which is derived from the portion of the individual's annuity subject to deductions under subdivision (1) and that portion of the spouse's annuity as is computed under section 4(e) of this Act shall be subject to deductions on account of work pursuant to the provisions of section 203 of the Social Security Act in the same manner as if such portion of such spouse's annuity were a monthly insurance benefit under that Act. In addition, such portion of the spouse's annuity shall be subject to deductions if the individual's annuity is subject to deductions under subdivision (1) in the same manner as if such portion of such spouse's annuity were a monthly insurance benefit under the Social Security Act.

"(g) (1) No annuity shall be paid to a survivor under subsection (d) with respect to any month in which such survivor renders service for compensation as an employee of an employer. Survivors receiving annuities under subsection (d) shall report to the Board immediately all such service for compensation.

"(2) Deductions, in amounts and at such time or times as the Board shall determine, shall be made from any payments to which a survivor is entitled under subsection (d) until the total of such deductions equals such survivor's annuity under that subsection for any month, if for such month such survivor is under the age of seventy-two and is charged with excess earnings under section 203(f) of the Social Security Act or, having engaged in any activity outside the United States, would be charged under such section 203(f) with any excess earnings derived from such activity if it had been an activity within the United States. For purposes of this subdivision the Board shall have the authority to take such actions and to make such determinations and such suspensions of payment of benefits in the manner and to the extent that the Secretary of Health, Education, and Welfare would be authorized to take or to make under section 203(h) (3) of the Social Security Act if the survivors were receiving the annuities to which this subdivision applies under section 202 of such Act: *Provided, however,* That in determining a survivor's excess earnings for a year for the purposes of this subdivision there shall not be included his income from employment or self-employment during months beginning with the month with respect to which he ceases to be qualified for an annuity. Survivors receiving annuities under subsection (d) shall report to the Board the receipt of excess earning described in this subdivision.

"(h) (1) In the event military service credited under section 3(i) (2) of this Act is or has been used as the basis or as a partial basis for a pension, disability compensation, or any other gratuitous benefits payable on a periodic basis under any other Act of Congress, any annuity of an individual under subsection (a) (1) which is based in part on such military service shall be reduced, with respect to a calendar month for all or part of which such other benefit is also payable, by (i) the proportion which the number of years of service by which such military service increases the years of service bears to the total years of service, or (ii) the aggregate amount of such pension or other benefit with respect to that month, whichever would result in the smaller reduction: *Provided, however,* That in no case shall the reduction under this subdivision operate to reduce the annuity of an individual under subsection (a) (1) below the amount it would have been if military service had not been included in the individual's years of service. If the annuity of an individual under subsection (a) (1) is reduced for any month by reason of this subdivision, any annuity payable to the spouse of such individual for such month under subsection (c) shall be reduced proportionately.

"(2) The supplemental annuity provided an individual by subsection (b) shall, with respect to any month, be reduced by the amount of the supplemental pension, attributable to the employer's contribution, that such individual is entitled to receive for that month under any other supplemental pension plan: *Provided, however,* That the maximum of such reduction shall be equal to the amount of the supplemental annuity less any amount by which the supplemental pension is reduced by reason of the supplemental annuity.

"(3) If a spouse entitled to an annuity under subsection (c) or a survivor entitled to an annuity under subsection (d) for any month is also entitled to annuity under subsection (a) (1) for such month, the annuity under subsection (c) or (d) shall be reduced, but not below zero, by an amount equal to the annuity under subsection (a) (1): *Provided, however,* That the provisions of this subdivision shall not apply if either the spouse or survivor or the individual upon whose earnings record the spouse's or survivor's annuity under subsection (c) or (d) is based rendered service as an employee to an employer, or as an employee representative, prior to January 1, 1975.

"(4) If an annuitant is entitled to more than one annuity under subsections (c) and (d) for a month, such annuitant shall be entitled to only the larger of such annuities for such month, except that, if such annuitant so elects, he shall instead be entitled to only the smaller of such annuities for such month.

"COMPUTATION OF EMPLOYEE ANNUITIES

"SEC. 3. (a) (1) The annuity of an individual under section 2(a) (1) of this Act shall be in an amount equal to the amount (before any reduction on account of age and before any deductions on account of work) of the old-age insurance benefit or disability insurance benefit to which such individual would have been entitled under the Social Security Act if all of his or her service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act.

"(2) For purposes of this subsection, individuals entitled to an annuity under paragraph (ii) of section 2(a) (1) of this Act shall, except for purposes of recomputations in accordance with the provisions of section 215(f) of the Social Security Act, be deemed to have attained age 65, and individuals entitled to an annuity under paragraph (iv) or (v) of such section 2(a) (1) shall be deemed to be entitled to a disability insurance benefit under section 223 of the Social Security Act.

"(b) (1) The amount of the annuity of an individual provided under subsection (a) of this section shall be increased by an amount equal to (A) the amount of the annuity to which such individual would have been entitled (without regard to the requirement that an individual's years of service be ten or more) under section 2(a) (1) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974, on the basis of his compensation and years of service prior to January 1, 1975, deeming such individual (i) to be eligible for such an annuity and (ii) to be entitled to no other benefit under either that Act or the Social Security Act except a benefit under the Social Security Act in the amount computed in accordance with the provisions of subclause (ii) of clause (C) of subsection (h)(1) or (h)(2) of this section, minus (B) the amount of the old-age insurance benefit to which such individual would have been entitled (before any deductions on account of work and subject to the last sentence of this subdivision) under the Social Security Act as in effect on December 31, 1974, if all his service as an employee after December 31, 1936, and before January 1, 1975, were included in the term 'employment' as defined in that Act, and if such individual (i) were age 65 and otherwise eligible for such a benefit and (ii) had no wages or self-employment income under that Act other than wages derived from service as an employee after December 31, 1936, and before January 1, 1975. For purposes of computing amounts under clause (A) of this subdivision, the Board shall have the authority to approximate the effect of the reductions prescribed by sections 3(a)(2) and 3(a)(3) of the Railroad Retirement Act of 1937 in cases where the individual is entitled to a benefit under subsection (h)(1) or (h)(2) of this section. For purposes of this subdivision, 18 'benefit computation years' shall be used in calculating an individual's 'average monthly wage', except in computing increases in amounts determined under clause (A) of this subdivision pursuant to section 3(a)(6) of the Railroad Retirement Act of 1937

"(2) The amount computed under subdivision (1) of this subsection shall be increased by 65 per centum of the percentage increase obtained by comparing the unadjusted Consumer Price Index for the month of September 1976 with the unadjusted Consumer Price Index for the September immediately preceding the earlier of (A) the calendar year in which the individual's annuity under section 2(a)(1) of this Act begins to accrue or (B) the calendar year 1981.

"(c) If an individual entitled to an annuity under section 2(a)(1) of this Act will have rendered service as an employee to an employer, or as an employee representative, subsequent to December 31, 1974, the amount of the annuity of such individual provided under the preceding subsections of this section shall be increased by $1.50 for each of the first ten years of service that the individual has prior to January 1, 1975, and by $1.00 for each year of service prior to January 1, 1975, that the individual has in excess of ten years.

"(d)(1) The amount of the annuity of an individual provided under the preceding subsections of this section shall be increased according to the following formula:

$$I=Y(.005A \div 4)$$

"(2) The amount computed under subdivision (1) of this subsection shall be increased according to the following formula:

$$I=2.6YC$$

"(3) The amount computed under subdivisions (1) and (2) of this subsection shall be further increased according to the following formula:

$$I=.005Y[.65BC-(B-D)]$$

In no event shall this subdivision result in a decrease in the amounts computed under subdivisions (1) and (2).

"(4) For purposes of the formulae set forth in this subsection:

"'I' represents the amount of increase in dollars;

"'A' represents the employee's average monthly compensation for service after 1974;

"'Y' represents the number of years of service of the employee after 1974;

"'C' represents the percentage increase obtained by comparing the unadjusted Consumer Price Index for the month of September 1976 with the unadjusted Consumer Price Index for the September immediately preceding the earlier of the calendar year in which the individual's annuity under section 2(a)(1) of this Act begins to accrue, or the calendar year 1981;

"'B' represents the employee's average monthly compensation for his years of service after 1974 (disregarding, for this purpose, compensation for any month after 1980 in excess of one-twelfth of the maximum taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954 for the calendar year 1980);

"'D' represents the employee's average monthly compensation for his years of service after 1974 (disregarding, for this purpose, compensation for any month after 1976 in excess of one-twelfth of the maximum taxable 'wages' as defined in section 3121 of the Internal Revenue Code for the calendar year 1976).

"(e) The supplemental annuity of an individual under section 2(b) of this Act shall be $23 plus an additional amount of $4 for each year of service that the individual has in excess of 25 years, but in no case shall the supplemental annuity exceed $43.

"(f)(1) If the total amount of an individual's annuity and supplemental annuity computed under the preceding subsections of this section would, before any reductions on account of age, before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act, and disregarding any increases in such total amount which become effective after the date on which such begins to accrue, exceed an amount equal to the sum of individual's annuity under section 2(a)(1) of this Act (A) 100 per centum of his 'final average monthly compensation' up to an amount equal to 50 per centum of one-twelfth of the maximum annual taxable 'wages' (as defined in section 3121 of the Internal Revenue Code of 1954) for the calendar year in which such individual's annuity under section 2(a)(1) of this Act begins to accrue, plus (B) 80 per centum of so much of his 'final average monthly compensation' as exceeds 50 per centum of one-twelfth of the maximum annual taxable 'wages' (as defined in section 3121 of the Internal Revenue Code of 1954) for the calendar year in which such individual's annuity under section 2(a)(1) of this Act begins to accrue, the supplemental annuity of such individual first, and then, if necessary, the annuity amount of such individual as computed under subsections (b), (c), and (d) of this section, shall be reduced until such total amount of such individual's annuity and supplemental annuity equals such sum or until such supplemental annuity and such annuity amount computed under subsections (b), (c) and (d) of this section are reduced to zero, whichever occurs first: *Provided, however,* That the provisions of this subdivision shall not operate to reduce the total amount of an individual's annuity and supplemental annuity computed under the preceding subsections of this section below $1,200. For purposes of this subdivision, the 'final average monthly compensation' of an individual shall be determined by dividing the total compensation received by such individual in the two calendar years, consecutive or otherwise, in which he was credited with the highest total compensation during the ten-year period ending with December 31 of the year in which such individual's annuity under section 2(a)(1) of this Act begins to accrue by 24. For purposes of this subdivision, the term 'compensation' shall include 'compensation' as defined in section 1(h) of this Act, 'wages' as defined in section 209 of the Social Security Act, 'self-employment income' as defined in section 211(b) of the Social Security Act, and wages deemed to have been paid under section 217 or 229 of the Social Security Act on account of military service: *Provided, however,* That in no case shall the compensation with respect to any calendar month exceed the limitation on the compensation for such month prescribed in subsection (j) of this section. Wages and self-employment income included as compensation for purposes of this subdivision shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the calendar quarter in which credited, in the case of wages, or in equal proportions with respect to all months in the calendar year in which credited, in the case of self-employment income.

"(2) If, in the case of an individual whose annuity under section 2(a)(1) of this Act began to accrue prior to January 1, 1983, the annuity (before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act and disregarding any amount provided by subsection (h) of this section) plus the supplemental annuity to which such individual is entitled for any month under this Act, together with the annuity, if any, of the spouse of such individual (before any reduction due to such spouse's entitlement to a wife's or husband's insurance benefit under the Social Security Act and disregarding any amount provided by section 4(e) of this Act), before any reductions under the provisions of section 2(f) of this Act, is less than the total amount which would have been payable to such individual and his spouse for such month, on the basis of the individual's compensation and years of service, under the provisions of the Railroad Retirement Act of 1937 as in effect on December 31, 1974, disregarding, for purposes of the computations under such Railroad Retirement Act of 1937, compensation for any month after December 31, 1974, in excess of one-twelfth of the maximum annual taxable 'wages' (as defined in section 3212 of the Internal Revenue Code of 1954) for the calendar year 1974, the annuity of such individual and the annuity of such spouse, if any, shall be increased, without regard to the provisions of subdivision (1) of this subsection, proportionately so as to equal such total amount. For the purpose of computing amounts under this subdivision, the Board shall have the authority to approximate the effect of the reductions prescribed by sections 3(a)(2) and 3(a)(3) of the Railroad Retirement Act of 1937. For purposes of computing amounts payable under the Railroad Retirement Act of 1937, any increases in the amounts determined under the first proviso of section 3(e) of such Act which would have become effective after December 31, 1974, shall be disregarded.

"(3) If for any month in which an annuity accrues and is payable under this Act the annuity to which an individual is entitled under this Act (or would have been entitled except for a reduction pursuant to a joint and survivor election), together with the annuity, if any, of the spouse of such individual, is less than the total amount, or the additional amount, which would have been payable to all persons for such month under the Social Security Act if such individual's service as an employee after December 31, 1936, were included in the term 'employment' as defined in that Act, such annuity or annuities shall be increased proportionately to such total amount, or such additional amount: *Provided, however,* That if an annuity accrues to an individual or a spouse for a part of a month, the amount payable for such part of a month under this subdivision shall be one-thirtieth of the amount payable under this subdivision for an entire month, multipled by the number of days in such part of a month. For purposes of this subdivision, (i) persons not entitled to an annuity under section 2 of this Act shall not be included in the computation under this subdivision except a spouse who could qualify for an annuity under section

2(c) of this Act if the individual from whom the spouse's annuity under this Act would derive had attained age 60 or 62, as the case may be, and such individual's children who meet the definition as such contained in section 216(e) of the Social Security Act; (ii) after an annuity has been certified for payment and this subdivision was inapplicable after allowing for any waiting period under section 223(c)(2) of the Social Security Act, and after having considered the inclusion of all persons who were then eligible for inclusion in the computation under this subdivision, or was then applicable but later became inapplicable, any recertification in such annuity under this subdivision shall not take into account persons not entitled to an annuity under section 2 of this Act except a spouse who could qualify for an annuity under section 2(c) of this Act when she attains age 60 or 62, as the case may be, if the individual from whom the spouse's annuity would derive had attained age 60 or 62, as the case may be, and who was married to such individual at the time he applied for his annuity; and (iii) in computing the amount to be paid under this subdivision the only benefits under title II of the Social Security Act which shall be considered shall be those to which the persons included in the computation are entitled.

"(g) Those portions of the annuity of an individual as are computed under subsections (b) and (d) of this section shall, if such individual's annuity under section 2(a)(1) of this Act began to accrue on or before the date on which the applicable increase under this subsection becomes effective, be increased by 32.5 per centum of the percentage increase, if any (rounded to the nearest one-tenth of 1 percent), obtained by comparing (A) the unadjusted Consumer Price Index for the calendar quarter ending March 31, 1977, with such index for the calendar quarter ending March 31, 1976, (B) the unadjusted Consumer Price Index for the calendar quarter ending March 31, 1978, with the higher of (i) such index for the calendar quarter ending March 31, 1977, or (ii) such index for the calendar quarter ending March 31, 1976, (C) the unadjusted Consumer Price Index for the calendar quarter ending March 31, 1979, with the highest of (i) such index for the calendar quarter ending March 31, 1978, (ii) such index for the calendar quarter ending March 31, 1977, or (iii) such index for the calendar quarter ending March 31, 1976, and (D) the unadjusted Consumer Price Index for the calendar quarter ending March 31, 1980, with the highest of (i) such index for the calendar quarter ending March 31, 1979, (ii) such index for the calendar quarter ending March 31, 1978, (iii) such index for the calendar quarter ending March 31, 1977, or (iv) such index for the calendar quarter ending March 31, 1976. The unadjusted Consumer Price Index for any calendar quarter shall be the arithmetical mean of such index for the three months in such quarter. The increase provided under clauses (A), (B), (C), and (D) of this subsection shall be effective on June 1, 1977, June 1, 1978, June 1, 1979, and June 1 1980, respectively.

"(h)(1) The amount of the annuity provided under subsections (a) through (d) of this section of an individual who (A) will have (i) rendered service as an employee to an employer, or as an employee representative, during the calendar year 1974, or (ii) had a current connection with the railroad industry on December 31, 1974, or at the time his annuity under section 2(a)(1) of this Act began to accrue, or (iii) completed twenty-five years of service prior to January 1, 1975, and (B) will have (i) completed ten years of service prior to January 1, 1975, and (ii) been permanently insured under the Social Security Act on December 31, 1974, shall be increased by an amount equal to the amount by which (C) the sum of (i) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, if his service as an employee after December 31, 1936, and prior to January 1, 1975, were included in the term 'employment' as defined in that Act and if he had no wages or self-employment income under that Act other than wages derived from such service as an employee, and (ii) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of his wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, exceeds (D) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of his wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, and on the basis of compensation derived from service as an employee after December 31, 1936, and prior to January 1, 1975, and (ii) been permanently ployee had been included in the term 'employment' as defined in that Act.

"(2) The amount of the annuity provided under subsections (a) through (d) of this section to an individual who (A) will not have met the conditions set forth in subclause (i), (ii), or (iii) of clause (A) of subdivision (1) of this subsection, but (B) will have (i) completed ten years of service prior to January 1, 1975, and (ii) been permanently insured under the Social Security Act as of December 31 of the calendar year prior to 1975 in which he last rendered service as an employee to an employer, or as an employee representative, shall be increased by an amount equal to the amount by which (C) the sum of (i) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, if his service as an employee after December 31, 1936, and prior to January 1, 1975, were included in the term 'employment' as defined in that Act and if he had no wages or self-employment income under that Act other than wages derived from such service as an employee, and (ii) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of his wages and self-employment income derived from employment and self-employment under that Act as of December 31 of the calendar year prior to 1975 in which he last performed service as an employee under this Act, exceeds (D) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of his wages and self-employment income derived from employment and self-employment under that Act as of December 31 of the calendar year on the basis of compensation derived from prior to 1975 in which he last performed service as an employee under this Act and service as an employee after December 31, 1936, and prior to January 1, 1975, if such service as an employee had been included in the term 'employment' as defined in that Act.

"(3) The amount of the annuity provided under subsections (a) through (d) of this section of an individual who (A) will have (i) rendered service as an employee to an employer, or as an employee representative, during the calendar year 1974, or (ii) had a current connection with the railroad industry on December 31, 1974, or at the time his annuity under section 2(a)(1) of this Act began to accrue, or (iii) completed twenty-five years of service prior to January 1, 1975, and (B) will have completed ten years of service prior to January 1, 1975, and is the wife, husband, widow, or widower of a person who will have been permanently insured under the Social Security Act of December 31, 1974, shall be increased by an amount equal to the smaller or (C) the wife's, husband's, widow's, or widower's insurance benefit to which such individual would have been entitled, upon attaining age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of such person's wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, or (D) the primary insurance amount to which such individual would have been entitled upon attaining age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974. on the basis of such individual's wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, and on the basis of compensation derived from service as an employee after December 31, 1936, and prior to January 1, 1975, if such service as an employee had been included in the term 'employment' as defined in that Act.

"(4) The amount of the annuity provided under subsections (a) through (d) of this section of an individual who (A) will not have met the conditions set forth in subclause (i), (ii), or (iii) of clause (A) of subdivision (3) of this subsection, but (B) will have completed ten years of service prior to January 1, 1975, and is the wife, husband, widow, or widower of a person who will have been permanently insured under the Social Security Act as of December 31 of the calendar year prior to 1975 in which such individual last rendered service as an employee to an employer, or as an employee representative, shall be increased by an amount equal to the smaller of (C) the wife's, husband's, widow's, or widower's insurance benefit to which such individual would have been entitled, upon attaining age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of such person's wages and self-employment income derived from employment and self-employment under that Act as of December 31 of the calendar year prior to 1975 in which such individual last performed service as an employee under this Act or (D) the primary insurance amount to which such individual would have been entitled upon attaining age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of such individual's wages and self-employment income derived from employment and self-employment under that Act as of December 31 of the calendar year prior to 1975 in which such individual last performed service as an employee under this Act and on the basis of compensation derived from service as an employee after December 31, 1936, and prior to January 1, 1975, if such service as an employee had been included in the term 'employment' as defined in that Act.

"(5) The amount computed under subdivision (1), (2), (3), or (4) of this subsection shall be increased by the same percentage, or percentages, as benefits under the Social Security Act are increased, or would have been increased had there been no general benefit increases under the Social Security Act, pursuant to the automatic cost-of-living provisions of section 215(i) of that

Act, during the period from January 1, 1975, to the date on which the individual's annuity under section 2(a)(1) of this Act began to accrue.

"(i)(1) The 'years of service' of an individual shall include all his service subsequent to December 31, 1936.

"(2) The 'years of service' of an individual shall also include his voluntary or involuntary military service, within or without the United States, during any war service period: *Provided, however,* That such military service shall be included only if, prior to the beginning of his military service and in the same calendar year in which such military service began, or in the next preceding calendar year, the individual rendered service for compensation to an employer or to a person service to which is otherwise creditable under this Act, or lost time as an employee for which he received remuneration, or was serving as an employee representative: *Provided further,* That such military service shall be included only subject to and in accordance with the provisions of subdivisions (1) and (3) of this subsection in the same manner as though military service were service rendered as an employee: *And provided further,* That such military service rendered after December 1956 shall not be included with respect to any month if (A) any benefits are payable for that month under the Social Security Act on the basis of such individual's wages and self-employment income, (B) such military service was included in the computation of such benefits, and (C) the inclusion of such military service in the computation of such benefits resulted (for that month) in benefits not otherwise payable or in an increase in the benefits otherwise payable: *And provided further,* That an individual who entered military service prior to a war service period shall not be regarded as having been in military service in a war service period with respect to any part of the period for which he entered such military service.

"(3) The 'years of service' of an individual who was an employee on August 29, 1935, shall, if the total number of his 'years of service' as determined under subdivisions (1) and (2) is less than thirty, also include his service prior to January 1, 1937, but not so as to make his total years of service exceed thirty: *Provided, however,* That with respect to any such individual who rendered service to any employer subsequent to December 31, 1936, and who on August 29, 1935, was not an employee of an employer conducting the principal part of its business in the United States, no greater proportion of his service rendered prior to January 1, 1937, shall be included in his 'years of service' than the proportion which his total compensation (without regard to any limitation on the amount of compensation otherwise provided in this Act) for service subsequent to December 31, 1936, rendered anywhere to an employer conducting the principal part of its business in the United States or rendered in the United States to any other employer bears to his total compensation (without regard to any limitation on the amount of compensation otherwise provided in this Act) for service rendered anywhere to an employer subsequent to December 31, 1936. Where the 'years of service' include only part of the service prior to January 1, 1937, the part included shall be taken in reverse order beginning with the last calendar month of such service.

"(j) The 'average monthly compensation' shall be the average compensation paid to an employee with respect to calendar months included in his 'years of service', except (1) that with respect to service prior to January 1, 1937, the monthly compensation shall be the average compensation paid to an employee with respect to calendar months included in his years of service in the years 1924–1931, and (2) the amount of compensation paid or attributable as paid to him with respect to each month of service before September 1941 as a station employee whose duties consisted of or included the carrying of passengers' hand baggage and otherwise assisting passengers at passenger stations and whose remuneration for service to the employer was, in whole or in substantial part, in the form of tips, shall be the monthly average of the compensation paid to him as a station employee in his months of service in the period September 1940 through August 1941: *Provided, however,* That where service in the period 1924 through 1931 in the one case, or in the period September 1940 through August 1941 in the other case, is, in the judgment of the Board, insufficient to constitute a fair and equitable basis for determining the amount of compensation paid or attributable as paid to him in each month of service before 1937, or September 1941, respectively, the Board shall determine the amount of such compensation for each such month in such manner as in its judgment shall be fair and equitable. In computing the monthly compensation, no part of any month's compensation in excess of $300 for any month before July 1, 1954, or in excess of $350 for any month after June 30, 1954, and before June 1, 1959, or in excess of $400 for any month after May 31, 1959, and before November 1, 1963, or in excess of $450 for any month after October 31, 1963, and before October 1, 1965, or in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965, shall be recognized. If the employee earned compensation in service after June 30, 1937, and after the last day of the calendar year in which he attained age sixty-five, such compensation and service shall be disregarded in computing the average monthly compensation if the result of taking such compensation into account in such computation would be to diminish his annuity. If the 'average monthly compensation' computed under this subsection is not a multiple of $1, it shall be rounded to the next lower multiple of $1. Where an employee claims credit for months of service rendered within two years prior to his retirement from the service of an employer, with respect to which the employer's return pursuant to section 9 of this Act has not been entered on the records of the Board before the employee's annuity could otherwise be certified for payment, the Board may, in its discretion (subject to subsequent adjustment at the request of the employee) include such months in the computation of the annuity without further verification and may consider the compensation for such months to be the average of the compensation for months in the last period for which the employer has filed a return of the compensation of such employee and such return has been entered on the records of the Board.

"(k) The annuity of an individual who shall have been an employee representative shall be determined in the same manner and with the same effect as if the employee organization by which he shall have been employed were an employer.

"(l) In cases where an annuity awarded under paragraph (iii) of section 2(a)(1) or under section 2(c)(2) of this Act is increased either by a change in the law or by a recomputation, the reduction for the increase in the annuity shall be determined separately and the period with respect to which the reduction applies shall be determined as if such increase were a separate annuity payable for and after the first month for which such increase is effective.

"(m) The annuity of any individual under subsection (a) of this section for any month shall be reduced, but not below zero, by the amount of any monthly benefit payable to that individual for that month under title II of the Social Security Act.

"COMPENSATION OF SPOUSE AND SURVIVOR ANNUITIES

"SEC. 4. (a)(1) The annuity of a spouse of an individual under section 2(c) of this Act shall be in an amount equal to the amount (before any reduction on account of age and before any deductions on account of work) of the wife's insurance benefit or the husband's insurance benefit to which such spouse would have been entitled under the Social Security Act if such individual's service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act.

"(2) For purposes of this subsection, spouses entitled to an annuity under clause (B) of paragraph (ii) of section 2(c)(1) of this Act shall be deemed to have attained age 65.

"(b) The amount of the annuity of a spouse of an individual provided under subsection (a) of this section shall be increased by an amount equal to 50 per centum of that portion of the individual's annuity as is computed under subsections (b), (c), and (d) of section 3 of this Act: *Provided, however,* That if the spouse is entitled to an annuity amount provided by subsection (e)(1) or (e)(2) of this section, the amount of such spouse's annuity provided by the preceding provisions of this subsection shall be reduced by the amount by which the amount computed in accordance with the provisions of clause (C) of subsection (e)(1) or (e)(2) of this section was increased by the Social Security Amendments of 1965, 1967, and 1969, disregarding (A) the amount of any such increase resulting from the Social Security Amendments of 1967 equal to, or less than the excess of $5 over 5.8 per centum of the lesser of (i) the amount computed under clause (C) of subsection (e)(1) or (e)(2) of this section before any increases derived from legislation enacted after the Social Security Amendments of 1967 or (ii) the amount of the spouse's annuity to which such spouse would have been entitled under section 2(e) of the Railroad Retirement Act of 1937, without regard to section 3(a)(2) of that Act or to increases derived from legislation enacted after 1968 and before any reduction on account of age, on the basis of the individual's compensation and years of service prior to January 1, 1975, and (B) the amount of any such increase resulting from the Social Security Amendments of 1969 equal to, or less than, $5: *Provided further,* That if the spouse is entitled to an annuity under section 2(a)(1) of this Act, the amount of the annuity of such spouse under this subsection shall, subject to the third proviso of this subsection, be increased by an amount equal to the amount by which the amount of the annuity of such spouse provided under subsection (a) of this section was reduced by reason of the provisions of subsection (i)(2) of this section: *And provided further,* That if the total of (A) the amount of the spouse's annuity provided under subsection (a) of this section (before any reduction due to such spouse's entitlement to a wife's or husband's insurance benefit under the Social Security Act), or, in the case of a spouse entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under section 202 or 223 of the Social Security Act, the amount to which such spouse would be entitled under subsection (a) if she or he were not entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under section 202 or 223 of the Social Security Act, plus (B) the amount of her or his annuity under this subsection would, with respect to any month, before any reductions on account of age, exceed 110 per centum of an amount equal to the maximum amount which could be paid to anyone, with respect to such month, as a wife's insurance benefit under section 208(b) of the Social Security Act, the amount of the annuity of such spouse under this subsection shall be reduced until the total of such annuity amounts equals 110 per centum of such amount. The Board shall have the authority to approximate the amount of any reduction prescribed by the first proviso of this subsection.

"(c) If (A) the total amount of the annuity of a spouse of an individual as computed under the preceding subsections of this section as of the date on which the annuity of such individual under section 2(a)(1) of this Act began to accrue (before any reduction due to such spouse's entitlement to a wife's or husband's insurance benefit under the Social Security Act) plus (B) the total amount of the annuity and supplemental annuity of the individual (before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act) subject to the provisions of section 3(f)(1) of this Act would, before any reductions the amounts specified in clauses (A) and (B) on account of age and disregarding any increases in such amounts which become effective after the date on which the individual's annuity under section 2(a)(1) of this Act began to accrue, exceed the amount determined under clauses (A) and (B) of section 3(f)(1) of this Act, the portion of the annuity of such spouse determined under subsection (b) of this section as of the date on which the individual's annuity under section 2(a)(1) began to accrue shall be reduced until the sum of the amounts specified in clauses (A) and (B) of this subsection equals the amount determined under clauses (A) and (B) of section 3(f)(1) or until such amount under subsection (b) is reduced to zero, whichever occurs first. If, after such amount under subsection (b) is reduced to zero, the sum of the remaining amounts specified in clauses (A) and (B) of this subsection still exceeds the amount determined under clauses (A) and (B) of section 3(f)(1), the supplemental annuity of the individual first, and then, if necessary, the annuity amount of the individual computed under subsection (b), (c), an (d) of section 3 as of the date on which the individual's annuity under section 2(a)(1) began to accrue, shall be reduced until the amounts specified in clauses (A) and (B) of this subsection equals the amount determined under clauses (A) and (B) of section 3(f)(1) or until such supplemental annuity and such annuity amount are reduced to zero, whichever occurs first. Notwithstanding the preceding provisions of this subsection, the provisions of this subsection shall not operate to reduce the total of the amounts specified in clauses (A) and (B) of this subsection below $1,200.

"(d) That portion of the annuity of the spouse of an individual as is determined under subsections (b) and (c) of this section shall be increased by the same percentage, or percentages, as the individual's annuity is, or has been, increased pursuant to the provisions of section 3(g) of this Act.

"(e)(1) The amount of the annuity of the spouse of an individual determined under subsections (a) and (b) of this section, if (A) such individual will have (i) rendered service as an employee to an employer, or as an employee representative, during the calendar year 1974, or (ii) had a current connection with the railroad industry on December 31, 1974, or at the time his annuity under section 2(a)(1) of this Act began to accrue, or (iii) completed twenty-five years of service prior to January 1, 1975, and (B) such individual will have completed ten years of service prior to January 1, 1975, and such spouse will have been permanently insured under the Social Security Act on December 31, 1974, shall be increased by an amount equal to the smaller of (C) the primary insurance amount to which such spouse would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of her or his wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, or (D) the wife's or husband's insurance benefit to which such spouse would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, if such individual's service as an employee after December 31, 1936, and prior to January 1, 1975, were included in the term 'employment' as defined in that Act, if such individual had no wages or self-employment income under the Act other than wages derived from such service as an employee, and if such spouse were entitled to no other benefit under that Act: *Provided, however,* That the increase under the provisions of this subdivision shall not be less than 50 per centum of the portion of the annuity, if any, of such individual determined under the provisions of section 3(h)(1) of this Act prior to any increases under the provisions of section 3(h)(5) of this Act.

"(2) The amount of the annuity of the spouse of an individual determined under subsections (a) and (b) of this section, if (A) such individual will not have met the conditions set forth in subclause (i), (ii), or (iii) of clause (A) of subdivision (1) of this subsection, but (B) such individual will have completed ten years of service prior to January 1, 1975, and such spouse will have been permanently insured under the Social Security Act as of December 31 of the calendar year prior to 1975 in which such individual last rendered service as an employee, shall be increased by an amount equal to the smaller of (C) the primary insurance amount to which such spouse would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of his or her wages and self-employment income derived from employment and self-employment under that Act as of December 31 of the calendar year prior to 1975 in which such individual last rendered service as an employee or (D) the wife's or husband's insurance benefit to which such spouse would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, if such individual's service as an employee after December 31, 1936, and prior to January 1, 1975, were included in the term 'employment' as defined in that Act, if such individual had no wages or self-employment income under that Act other than wages derived from such service as an employee, and if such spouse were entitled to no other benefit under that Act: *Provided, however,* That the increase under the provisions of this subdivision shall not be less than 50 per centum of the portion of the annuity, if any, of such individual determined under the provisions of section 3(h)(2) of this Act prior to any increases under the provisions of section 3(h)(5) of this Act.

"(3) The amount of the annuity of the spouse of an individual determined under subsections (a) and (b) of this section, if (A) such individual is entitled to an amount determined under the provisions of section 3(h)(1) or 3(h)(2) of this Act and (B) such spouse is not entitled to an amount determined under the provisions of subdivisions (1) or (2) of this subsection, shall be increased by an amount equal to 50 per centum of the portion of the annuity of such individual determined under the provisions of section 3(h)(1) or 3(h)(2) of this Act prior to any increases under the provisions of section 3(h)(5) of this Act.

"(4) The amount determined under the provisions of subdivision (1), (2), or (3) of this subsection shall be increased by the same percentage or percentages, as wife's and husband's insurance benefits under section 202 of the Social Security Act are increased, or would have been increased had there been no general benefit increases under the Social Security Act, pursuant to the automatic cost-of-living provisions of section 215(i) of that Act, during the period from January 1, 1975, to the date on which the individual's annuity under section 2(a)(1) of this Act began to accrue.

"(f)(1) The annuity of a survivor of a deceased employee under section 2(d) of this Act shall be in an amount equal to the amount (before any deductions on account of work) of the widow's insurance benefit, widower's insurance benefit, mother's insurance benefit, parent's insurance benefit, or child's insurance benefit, whichever is applicable, to which he or she would have been entitled under the Social Security Act if such deceased employee's service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act.

"(2) For purposes of this subsection—

"(i) a widow or widower or a parent who is entitled to an annuity based on age under section 2(d)(1) of this Act and who has not attained age 62 shall be deemed to be age 62: *Provided, however,* That the provisions of this paragraph shall not apply in the case of a widow or widower who was entitled to an annuity under section 2(d)(1) on the basis of disability for the month before the month in which he or she attained age 60, and

"(ii) a widow or widower or a child who is entitled to an annuity under section 2(d)(1) of this Act on the basis of disability shall be deemed to be entitled to a widow's insurance benefit, a widower's insurance benefit, or a child's insurance benefit under the Social Security Act on the basis of disability.

"(g) The annuity of a survivor of a deceased employee determined under subsection (f) of this section shall, with respect to any month, be increased by an amount equal to 30 per centum of the amount of the annuity (before any deductions on account of work) to which such survivor is entitled for such month under the provisions of subsection (f) of this section, or to which such survivor would have been entitled for such month under such subsection if such survivor were entitled to no other monthly benefit under section 2 of this Act or under the Social Security Act: *Provided, however,* That, if a widow or widower of a deceased employee is not entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under the Social Security Act, the amount of the annuity to which such widow or widower is entitled under this subsection shall not be less than an amount which would cause the total of the annuity amounts to which such widow or widower is entitled (before any deductions on account of work) under this subsection and subsection (f) of this section to equal the total of the annuity amounts to which such widow or widower was entitled (or would have been entitled except for the provisions of sections 2(e) and 2(f) of this Act) as a spouse under subsections (a) and (b) of this section (after any reduction on account of age) in the month preceding the employee's death: *Provided further,* That, if a widow or widower of a deceased employee is entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under the Social Security Act, the amount of the annuity to which such widow or widower is entitled under this subsection shall not be less than an amount which would cause (A) the total of the annuity amounts to which such widow or widower is entitled (after any reductions pursuant to section 202(k) or 202(q) of the

Social Security Act or subsection (i)(2) of this section but before any deductions on account of work) under this subsection and subsection (f) of this section to equal (B) (i) the total of the annuity amounts, if any, to which such widow or widower was entitled (or would have been entitled except for the provisions of sections 2(e) and 2(f) of this Act) as a spouse under subsections (a) and (b) of this section (after any reduction on account of age) in the month preceding the employee's death less (ii), if such widow or widower is entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act but was not entitled to such a benefit in the month preceding the employee's death, the amount by which the annuity amount payable under subsection (a) of this section to such widow or widower as a spouse in the month preceding the employee's death would have been reduced by reason of section 202(k) or 202(q) of the Social Security Act if such widow or widower had been entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act in the month preceding the employee's death in an amount equal to the amount of such benefit at the time such benefit first began to accrue to such widow or widower.

"(h)(1) The amount of the annuity of the widow or widower of a deceased employee determined under subsections (f) and (g) of this section, if such deceased employee will have completed ten years of service prior to January 1, 1975, and such widow or widower will have been permanently insured under the Social Security Act on December 31, 1974, shall be increased by an amount equal to the amount, if any, by which (A) the sum of (i) the widow's or widower's insurance annuity to which such widow or widower would have been entitled, upon attaining age 65, under section 5(a) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974 (without regard to the proviso of that section or the first proviso of section 3(e) of that Act), on the basis of the deceased employee's remuneration and service prior to January 1, 1975, and (ii) the primary insurance amount to which such widow or widower would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of her or his wages and self-employment income derived from employment and self-employment income under that Act prior to January 1, 1975, exceeds (B) 130 per centum of the amount of the widow's or widower's insurance benefit to which such widow or widower would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of the deceased employee's wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, and on the basis of compensation derived from service as an employee after December 31, 1936, and before January 1, 1975, if the deceased employees' service as an employee after December 31, 1936, and before January 1, 1975, had been included in such employment and if such widow or widower were entitled to no other monthly benefit under section 2 of this Act or under the Social Security Act.

"(2) The amount determined under the provisions of subdivision (1) of this subsection shall be increased by the same percentage, or percentages, as widow's and widower's insurance benefits under section 202 of the Social Security Act are increased, or would have been increased had there been no general benefit increase under the Social Security Act, pursuant to the automatic cost-of-living provisions of section 215(i) of that Act, during the period from January 1, 1975, to the earlier date of the deceased employee's death or the date on which the deceased employee's annuity under section 2(a)(1) of this Act began to accrue.

"(i)(1) The annuity of any spouse under subsection (a) of this section for any month shall be reduced, but not below zero, by the amount of any wife's or husband's insurance benefit payable to such spouse for that month under title II of the Social Security Act.

"(2) If a spouse entitled to an annuity under section 2(c) of this Act or a survivor entitled to an annuity under section 2(d) of this Act for any month is also entitled to an annuity under section 2(a)(1) of this Act for such months, the annuity amount of such spouse determined under subsection (a) of this section or of such survivor under subsection (f) of this section shall, after any reduction pursuant to subdivision (1) of this subsection, be reduced by the amount of the annuity of such spouse or such survivor determined under section 3(a) of this Act.

"ANNUITY BEGINNING AND ENDING DATES

"SEC. 5. (a) An annuity under section 2 of this Act shall begin with the month in which eligibility therefor was otherwise acquired, but—

"(i) not earlier than the date specified in the application therefor;

"(ii) not earlier than the first day of the twelfth month before the month in which the application therefor was filed; and

"(iii) in the case of an applicant otherwise eligible for an annuity under section 2 (a)(1) or 2(c) not earlier than the date following the last day of compensated service of the applicant.

"(b) An application for any payment under this Act shall be made and filed in such manner and form as the Board may prescribe. An application filed with the Board for an annuity under this Act shall, unless the applicant specifies otherwise, be deemed to be an application for any benefit to which such applicant may be entitled under this Act or the Social Security Act. An individual who was entitled to an annuity under paragraph (iv) or (v) of section 2(a)(1) of this Act for the month preceding the month in which he attained the age of 65, shall be deemed to have filed an application for an annuity under paragraph (i) of section 2(a)(1) on the date on which he attained age 65, and a widow or widower who was entitled to an annuity under section 2(d)(1) of this Action the basis of disability for the month preceding the month in which she or he attained age 60, shall be deemed to have filed an application for an annuity under such section 2(d)(1) on the basis of age on the date on which she or he attained age 60.

"(c)(1) An individual's entitlement to an annuity under paragraph (i), (ii), or (iii) of section 2(a)(1) or to a supplemental annuity under section 2(b) shall end with the month preceding the month in which he dies.

"(2) An individual's entitlement to an annuity under paragraph (iv) or (v) of section 2(a)(1) shall end on (A) the last day of the second month following the month in which he ceases to be disabled as provided for purposes of such paragraph, (B) the last day of the month preceding the month in which he attains age 65, or (C) the last day of the month preceding the month in which he dies, whichever first occurs.

"(3) The entitlement of a spouse of an individual to an annuity under section 2(c) shall end on the last day of the month preceding the month in which (A) the spouse or the individual dies, (B) the spouse and the individual are absolutely divorced, or (C) in the case of a wife who does not satisfy the requirements of clause (ii)(A) or (ii)(B) of section 2(c)(1) (other than a wife who is receiving such annuity by reason of an election under section 2(c) (2)), such wife no longer has in her care a child described in clause (ii)(C) of section 2(c)(1), whichever first occurs.

"(4) The entitlement of a widow or widower of a deceased employee to an annuity under paragraph (i) of section 2(d)(1) on the basis of age shall end on (A) the last day of the month preceding the month in which she or he dies or (B) the last day of the month preceding the month in which she or he remarries after the employee's death, whichever first occurs.

"(5) The entitlement of a widow or widower of a deceased employee to an annuity under paragraph (i) of section 2(d)(1) on the basis of disability shall end on (A) the last day of the month preceding the month in which she or he dies, (B) the last day of the month preceding the month in which she or he remarries after the employee's death, (C) the last day of the second month following the month in which she or he ceases to be disabled as provided for purposes of such paragraph, or (D) the last day of the month preceding the month in which she or he attains age 60, whichever first occurs.

"(6) The entitlement of a widow of a deceased employee to an annuity under paragraph (ii) of section 2(d)(1) shall end on (A) the last day of the month preceding the month in which she dies, (B) the last day of the month preceding the month in which she remarries after the employee's death, or (C) the last day of the month preceding the month in which she no longer has in her care a child described in clause (B) of such paragraph (ii), whichever first occurs.

"(7) The entitlement of a child of a deceased employee to an annuity under paragraph (iii) of section 2(d)(1) shall end on (A) the last day of the month preceding the month in which he or she dies, (B) the last day of the month preceding the month in which he or she marries, (C) the last day of the month preceding the month in which he or she attains age 18 and does not meet the qualifications set forth in clause (B) or (C) of such paragraph (iii), (D) the last day of the month preceding (i) the month during no part of which he or she is a full-time student or (ii) the month in which he or she attains age 22, and does not meet the qualifications set forth in clause (A) or (C) of such paragraph (iii) or (E) the last day of the second month following the month in which he or she ceases to be disabled for purposes of such paragraph (iii) and does not met the qualifications set forth in clause (A) or (B) of such paragraph (iii), whichever first occurs. A child whose entitlement to an annuity under paragraph (iii) of section 2(d)(1) terminated by reason of clause (E) of this subdivision because he or she ceased to be disabled and who again becomes disabled as provided in clause (C) of such paragraph (iii), may become reentitled to an annuity on the basis of such disability upon his or her application for such reentitlement. A child whose entitlement to an annuity under paragraph (iii) of section 2(d)(1) terminated with the month preceding the month in which he or she attained age 18. or with a subsequent month, may again become entitled to such an annuity (providing no event to disqualify the child has occurred) beginning with the first month thereafter in which he or she meets the qualifications set forth in clause (B) or (C) of such paragraph (iii), if he or she has filed an application for such reentitlement.

"(8) The entitlement of a parent of a deceased employee to an annuity under paragraph (iv) of section 2(d)(1) shall end on the last day of the month preceding the month in which (A) such parent dies or (B) such parent remarries after the employee's death, whichever first occurs.

"LUMP-SUM PAYMENTS

"SEC. 6. (a)(1) Annuities under section 2(a)(1) and supplemental annuities under section 2(b) which will have become due an individual but will not have been paid at the time of such individual's death shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and to have been living with such individual at the time of such individual's death and who will not have died before receiving payments of such annuities. If there be no such widow or widower, such annuities shall be payable to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such individual, and to the extent that he or they will not have been reimbursed under subsection (b) of this section for having paid such expenses. If there be no person or persons so entitled, or if the total of such annuities exceeds the amount payable under this subdivision to such person or persons, such total, or the remainder thereof, as the case may be, shall be paid to the children, grandchildren, parents, or brothers and sisters of the deceased individual in the same manner as if such annuities were a lump sum payable under subsection (c)(1) of this section.

"(2) Annuities under section 2(d) which will have become due a survivor of an employee but will not have been paid at the time of such survivor's death shall be payable to the person, if any, who is determined by the Board to be such employee's widow or widower and to have been living with such employee at the time of the employee's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to the children, grandchildren, parents, or brothers and sisters of the deceased employe in the same manner as if such unpaid annuites were a lump sum payable under subsection (c)(1) of this section.

"(3) Annuities under section 2(c) which will have become due a spouse of an individual but which will not have been paid at the time of such spouse's death shall be payable to the individual from whose employment such annuities derived and who will not have died before receiving payment of such annuities. If there be no such individual, such annuities shall be paid as provided in the last two sentences of subdivision (1) of this subsection as if such annuities were annuities due to an individual but unpaid at the time of such individual's death.

"(4) Applications for accrued and unpaid annuities provided for in the preceding subdivisions of this subsection shall be filed prior to the expiration of two years after the death of the person to whom such annuities were originally due.

"(5) If there is no person to whom all or any part of the payments described in subdivision (1), (2), or (3) can be made, such payment or part thereof shall escheat to the credit of the Railroad Retirement Account.

"(6) For the purposes of this subsection and subsection (c) of this section, a widow or widower of an individual shall be deemed to have been living with the individual at the time of the individual's death if the applicable conditions set forth in section 216 (h) (2) or (3) of the Social Security Act, as in effect before 1957, are fulfilled.

"(7) In determining for purposes of this subsection and subsections (c) and (d) of this section whether an applicant is the widow, widower, child, or parent of an employee as claimed, the rules set forth in section 216(h) of the Social Security Act shall be applied. In determining for purposes of this subsection and subsections (c) and (d) of this section whether an applicant is the grandchild, brother, or sister of an employee as claimed, the Board shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such employee was domiciled at the time of his death, or if such employee was not so domiciled in any State, by the courts of the District of Columbia. Applicants who according to such law would have the same status relative to taking personal property as a grandchild, brother, or sister shall be deemed such.

"(b)(1) Upon the death of an individual who will have completed ten years of service prior to January 1, 1975, and will have had a current connection with the railroad industry at the time of his death, a lump-sum payment shall be made in accordance with the provisions of section 5(f)(1) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974, in an amount, if any, which would have been payable under such section 5(f)(1) on the basis of (A) the individual's compensation after December 31, 1936, and prior to January 1, 1975, and (B) the individual's wages (as defined in section 209 of the Social Security Act) prior to January 1, 1975. Any lump sum payable under this subdivision shall be in an amount computed as if the individual had died on January 1, 1975.

"(2) Upon the death of an individual who will not have completed ten years of service prior to January 1, 1975, but who (i) will have completed ten years of service at the time of his death, (ii) will have had a current connection with the railroad industry at the time of his death, and (iii) will have died leaving no widow, widower, child, or parent who would on proper application therefor be entitled to receive an annuity under section 2(d) of this Act for the month in which such death occurred, a lump-sum death payment shall be made in accordance with the provisions of section 202(i) of the Social Security Act in an amount equal to the amount which would have been payable under such section 202(i) if such individual's service as an employee after December 31, 1936, were included in the term 'employment' as defined in that Act. If a lump sum would be payable to a widow or widower under this subdivision except for the fact that a survivor will have been entitled to receive an annuity for the month in which the individual will have died, but within one year after the individual's death there will not have accrued to survivors of the individual, by reason of his death, annuities which, after all deductions pursuant to section 2(g) and 2(h) of this Act, are equal to such lump sum, a payment equal to the amount by which such lump sum exceeds such annuities so accrued after such deductions shall then nevertheless be made under this subdivision to the widow or widower to whom a lump sum would have been payable under this subdivision except for the fact that a monthly benefit under section 2(d) of this Act was payable for the month in which the individual died, if such widow or widower will not have died before receiving payment of such lump sum.

"(c)(1) Whenever it shall appear, with respect to the death of an employee, that no benefits, or no further benefits (other than benefits payable to a widow, widower, or parent under either this Act or the Social Security Act upon attaining the age of eligibility therefor at a future date) will be payable under this Act or under the Social Security Act, a lump sum in an amount computed under subdivision (2) of this subsection shall be paid to such person or persons as the deceased employee may have designated by a writing filed with the Board prior to his or her death, or if there be no designation, to the following person (or, if more than one, in equal shares to the persons) whose relationship to the deceased employee will have been determined by the Board and who will not have died before receiving payment of the lump sum provided for in this subdivision—

"(i) the widow or widower of the deceased employee who was living with such employee at the time of such employee's death; or

"(ii) if there be no such widow or widower, to any child or children of such employee; or

"(iii) if there be no such widow, widower, or child, to any grandchild or grandchildren of such employee; or

"(iv) if there be no such widow, widower, child, or grandchild, to any parent or parents of such employee; or

"(v) if there be no such widow, widower, child, grandchild, or parent, to any brother or sister of such employee; or

"(vi) if there be no such widow, widower, child, grandchild, parent, brother, or sister, to the estate of such employee:

Provided, however, That if the employee is survived by a widow, widower, or parent who may upon attaining the age of eligibility be entitled to benefits under this Act or under the Social Security Act, such lump sum shall not be paid unless such widow, widower, or parent makes and files with the Board an irrevocable election, in such form as the Board may prescribe, to have such lump sum be paid in lieu of all benefits to which such widow, widower, or parent might otherwise become entitled under this Act on the basis of the deceased employee's compensation and years of service or under the Social Security Act on the basis of the deceased employee's wages from (A) employment with an employer as defined in section 1(a) of this Act or (B) service as an employee representative as defined in section 1(c) of this Act. Any election made and filed by a widow, widower, or parent pursuant to this subdivision shall be legally effective according to its terms.

"(2) The lump sum provided under subdivision (1) of this subsection shall be in an amount equal to (A) the sum of 4 per centum of the deceased employee's compensation paid after December 31, 1936, and prior to January 1, 1947, plus 7 per centum of such employee's compensation paid after December 31, 1946, and before January 1, 1959, plus 7½ per centum of such employee's compensation paid after December 31, 1958, and before January 1, 1962, plus 8 per centum of such employee's compensation paid after December 31, 1961, and before January 1, 1966, plus an amount equal to the total of all employee taxes payable by such employee after December 31, 1965, and before January 1, 1975, under the provisions of section 3201 of the Railroad Retirement Tax Act (excluding, for this purpose, the amount of the employee tax attributable to that portion of the tax rate derived from section 3101(b) of the Internal Revenue Code of 1954), plus one-half of 1 per centum of the compensation on which such taxes were payable, deeming the compensation attributable to creditable military service after June 30, 1963, and before Jaunary 1, 1975, to be taxable compensation, and one-half of the taxes payable by an employee representative under section 3211 of the Railroad Retirement Tax Act to be employee taxes under section 3201 of such Act, minus (B) the sum of all benefits paid to such employee, and to others deriving from such employee, during his or her life, or to others by reason of his or her death, under this Act, the Railroad Retirement Act of 1937, or the Social Security Act (excluding, for this purpose, payments to providers of services under section 7(d) of this Act or section 21 of the Railroad Retirement Act of 1937, any amounts by which that portion of the annuities provided the employer under section 3(a) of this Act or his spouse under section 4(a) of this Act were increased by reason of the employee's wages and self-employment income derived from employment and self-employment under the Social

Security Act, that portion of the annuities provided the employee under section 3(h) of this Act or his spouse under section 4(e) of this Act, and so much of the benefits paid to the employee and to others deriving from him or her under the Social Security Act during his or her lifetime as would have been payable under that Act if such employee had not rendered service as an employee as defined in section 1(b) of this Act). In computing compensation for purposes of this subdivision there shall be excluded compensation in excess of $300 for any month before July 1, 1954; compensation in excess of $350 for any month after June 30, 1954, and before June 1, 1959; compensation in excess of $400 for any month after May 31, 1959, and before November 1, 1963; compensation in excess of $450 for any month after October 31, 1963, and before October 1, 1965; and compensation in excess of (i) $450 or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, which ever is greater, for any month after September 30, 1965.

"(d) (1) Every individual who will have completed ten years of service at the time of his retirement or death, but does not meet the qualifications for an annuity amount determined under the provisions of section 3(h) (1) or 3(h) (2) of this Act, shall, at the time his annuity under section 2(a) (1) begins to accrue, be entitled to a lump sum in the amount provided under subdivision (2) of this subsection. If an individual otherwise eligible for a lump sum under this section dies before he becomes entitled to an annuity under section 2(a) (1) of this Act, or before he receives payment of such lump sum, such lump sum shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be payable to the children, grandchildren, parents, brothers and sisters, or the estate of the deceased individual in the same manner as if such lump sum were a lump sum payable under subsection (c) (1) of this section.

"(2) The lump sum provided under subdivision (1) of this subsection shall be in an amount equal to the sum of (A) 1.5 per centum of so much of such individual's combined earnings for any calendar year after 1950 and before 1954 as is in excess of $3,600, plus (B) 2 per centum of so much of such individual's combined earnings for any calender year after 1953 and before 1957 as is in excess of $4,200, plus (C) 2.25 per centum of so much of such individual's combined earnings for any calendar year after 1956 and before 1959 as is in excess of $4,200, plus (D) 2.5 per centum of so much of such individual's combined earnings for the calendar year 1959 as is in excess of $4,800, plus (E) 3 per centum of so much of such individual's combined earnings for each of the calender years 1960 and 1961 as is in excess of $4,800, plus (F) 3.125 per centum of so much of such individual's combined earnings for the calendar year 1962 as is in excess of $4.800, plus (G) 3.625 per centum of so much of such individual's combined earnings for any calendar year after 1962 and before 1966 as is in excess of $5,400, plus (H) 4.2 per centum of so much of such individual's combined earnings for the calendar year 1966 as is in excess of $6,600, plus (I) 4.4 per centum of so much of such individual's combined earnings for the calendar year 1967 as is in excess of $6,600, plus (J) 3.8 per centum of so much of such individual's combined earnings for the calendar year 1968 as is in excess of $7,800, plus (K) 4.2 per centum of so much of such individual's combined earnings for each of the calendar years 1969 and 1970 as is in excess of $7,800, plus (L) 4.6 per centum of so much of such individual's combined earnings for the calendar year 1971 as is in excess of $7,800, plus (M) 4.6 per centum of so much of such individual's combined earnings for the calendar year 1972 as is in excess of $9,000, plus (N) 4.85 per centum of so much of such individual's combined earnings for the calendar year 1973 as is in excess of $10,800, plus (O) 4.95 per centum of so much of such individual's combined earnings for the calendar year 1974 as is in excess of $13,200. For purposes of this subsection, the term 'combined earnings' shall include 'compensation' as defined in section 1(h) of the Railroad Retirement Act of 1937, 'wages' as defined in section 205 of the Social Security Act, and 'self-employment' income as defined in section 211 (b) of the Social Security Act.

"POWERS AND DUTIES OF THE BOARD

"SEC. 7. (a) This Act shall be administered by the Railroad Retirement Board established by the Railroad Retirement Act of 1937 as an independent agency in the executive branch of the Government and composed of three members appointed by the President, by and with the advice and consent of the Senate. Each member shall hold office for a term of five years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of the term and any member holding office pursuant to appointment under the Railroad Retirement Act of 1937 when this Act becomes effective shall hold office until the term for which he was appointed under such Railroad Retirement Act of 1937 expires. One member shall be appointed from recommendations made by represenatives of the employees and one member shall be appointed from recommendations made by representatives of employers as defined in paragraph (i) of section 1(a) (1) of this Act, in both cases as the President shall direct, so as to provide representation on the Board satisfactory to the largest number, respectively, of employees and employers concerned. One member, who shall be the chairman of the Board, shall be appointed without recommendation by either employers or employees and shall not be in the employment of or be pecuniarily or otherwise interested in any employer or organization of employees. Vacancies in the Board shall not impair the powers or affect the duties of the Board or of the remaining members of the Board, of whom a majority of those in office shall constitute a quorum for the transaction of business. Upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified.

"(b) (1) The Board shall have an exercise all the duties and powers necessary to administer this Act. The Board shall take such steps as may be necessary to enforce such Act and make awards and certify payments. Decisions by the Board upon issues of law and fact relating to annuities or death benefits shall not be subject to review by any other administrative or accounting officer, agent, or employee of the United States.

"(2) In the case of—

"(A) an individual who will have completed ten years of service creditable under this Act,

"(B) the wife or husband of such an individual,

"(C) any survivor of such an individual if such survivor is entitled, or could upon application become entitled, to an annuity under section 2 of this Act, and

"(D) any other person entitled to benefits under title II of the Social Security Act on the basis of the wages and self-employment income of such an individual (except a survivor of such an individual where such individual did not have a current connection with the railroad industry at the time of his death).

the Board shall provide for the payment on behalf of the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Trust Fund of monthly benefits payable under title II of the Social Security Act which are certified by the Secretary to it for payment under the provisions of title II, of the Social Security Act.

"(3) If the Board finds that an applicant is entitled to an annuity or death benefit under the provisions of this Act then the Board shall make an award fixing the amount of the annuity or benefit, as the case may be, and shall certify the payment thereof as hereinafter provided; otherwise the application shall be denied. For purposes of this section, the Board shall have and exercise such of the powers, duties and remedies provided in subsections (a), (b), (d), and (n) of section 12 of the Railroad Unemployment Insurance Act as are not inconsistent with the express provisions of this Act. The Board is authorized to delegate to any member, officer, or employee of the Board any of the powers conferred upon the Board by this Act, excluding only the power to prescribe rules and regulations, including the power to make decisions on applications for annuities or other benefits: *Provided, however,* That any person aggrieved by a decision on his application for an annuity or other benefit shall have the right to appeal to the Board. Notice of a deciison of the Board, or of an employee thereof, shall be communicated to the applicant in writing within thirty days after such decision shall have been made.

"(4) The Board shall from time to time certify to the Secretary of the Treasury the name and address of each individual entitled to receive a payment, the amount of such payment, and the time at which it should be made, and the Secretary of the Treasury through the Division of Disbursements of the Treasury Department, and prior to audit by the General Accounting Office, shall make payment in accordance with the certification by the Board.

"(5) The Board shall establish and promulgate rules and regulations to provide for the adjustment of all controversial matters arising in the administration of this Act. All rules, regulations, or decisions of the Board shall require the approval of at least two members, and they shall be entered upon the records of the Board, which shall be a public record.

"(6) The Board shall gather, keep, compile, and publish in convenient form such records and data as may be necessary to assure proper administration of this Act, including subdivision (2) of this subsection. The Board shall have power to require all employers and employees and any officer, board, commission, or other agency of the United States to furnish such information and records as shall be necessary for the administration of this Act, including subdivision (2) of this subsection. The several district courts of the United States and the District Court of the United States for the District of Columbia shall have jurisdiction upon suit by the Board to compel obedience to any order of the Board issued pursuant to this section. The orders, writs, and processes of the District Court of the United States for the District of Columbia in such suits may run and be served anywhere in the United States. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. The Board shall make an annual report to the President of the United States to be submitted to Congress.

"(7) The Secretary of Health, Education, and Welfare shall furnish the Board certified reports of wages, self-employment income, and periods of service and of other records in his possession, or which he may secure, pertinent to the administration of this Act. The Board shall furnish the Secretary of Health, Education, and Welfare certified reports of records of compensation and periods of service reported to it pursuant to section 9 of this Act, of determinations under section 2 of this Act, and of other records in its possession, or which it may secure, pertinent to subsection (c) of this section or to the administration of the Social Security Act as affected by section 18 of this Act. Such certified reports shall be conclusive in adjudication as to the matters covered therein: *Provided, however,* That if the Board or the Secretary of Health, Education, and Welfare receives evidence inconsistent with a certified report and the application involved is still in course of adjudication or otherwise open for such evidence such recertification of such report shall be made as, in the judgment of the Board or the Secretary of Health, Education, and Welfare, whichever made the original certification, the evidence warrants. Such recertification and any subsequent recertification shall be treated in the same manner and be subject to the same conditions as an original certification.

"(8) Any department or agency of the United States maintaining records of military service, at the request of the Board, shall certify to the Board, with respect to any individual, the number of months of military service which such department or agency finds the individual to have had during any period or periods with respect to which the Board's request is made, the date and manner of entry into such military service, and the conditions under which such service was continued. Any department or agency of the United States which is authorized to make awards of pensions, disability compensation, or any other gratuitous benefits or allowances payable, on a periodic basis or otherwise, under any other Act of Congress on the basis of military service, at the request of the Board, shall certify to the Board, with respect to any individual, the calendar months for all or part of which any such pension, compensation, benefit, or allowance is payable to, or with respect to, the individual, the amounts of any such pension, compensation, benefit, or allowance, and the military service on which such pension, compensation, benefit, or allowance is based. Any certification made pursuant to the provisions of this subdivision shall be conclusive on the Board: *Provided, however,* That if evidence inconsistent with any such certification is submitted, and the claim is in the course of adjudication or is otherwise open for such evidence, the Board shall refer such evidence to the department or agency which made the original certification and such department or agency shall make such recertification as in its judgment the evidence warrants. Such recertification, and any subsequent recertification, shall be conclusive, made in the same manner, and subject to the same conditions as an original certification.

"(9) The Board shall maintain such offices, provide such equipment, furnishings, supplies, services, and facilities, and employ such individuals and provide for their compensation and expenses as may be necessary for the proper discharge of its functions. All positions to which such individuals are appointed, except one administrative assistant to each member of the Board, shall be in and under the competitive civil service and shall not be removed or excepted therefrom. In the employment of such individuals under the civil service laws and rules the Board shall give preference over all others to individuals who have had experience in railroad service, if, in the judgment of the Board, they possess the qualifications necessary for the proper discharge of the duties of the positions to which they are to be appointed. For purposes of its administration of this Act or the Railroad Unemployment Insurance Act, or both, the Board may place, without regard to the numerical limitations contained in section 505 of the Classification Act of 1949, as amended, four positions in grade GS–16 of the General Schedule established by that Act, four positions in grade GS–17 of such schedule, and one position in grade GS–18 of such schedule.

"(c)(1) Benefit payments determined by the Board to be payable under this Act shall be made from the Railroad Retirement Account, except that payments of supplemental annuities under section 2(b) of this Act shall be made from the Railroad Retirement Supplemental Account.

"(2) At the close of the fiscal year ending June 30, 1975, and each fiscal year thereafter, the Board and the Secretary of Health, Education, and Welfare shall determine the amounts, if any, which if added to or subtracted from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund would place each such Trust Fund in the same position in which it would have been if (A) service as an employee after December 31, 1936, had been included in the term 'employment' as defined in the Social Security Act and in the Federal Insurance Contributions Act and (B) this Act had not been enacted. Such determination with respect to each such Trust Fund shall be made no later than June 15 following the close of the fiscal year. If, pursuant to any such determination, any amount is to be added to any such Trust Fund, the Board shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Railroad Retirement Account to such Trust Fund. If, pursuant to any such determination, any amount is to be subtracted from any such Trust Fund, the Secretary of Health, Education, and Welfare shall, within ten days after the determination, certify such amount to the Secretary of Health, Education, and Welfare for transfer from any such Trust Fund to the Railroad Retirement Account. Any amount so certified shall further include interest (at the rate determined in subdivision (3) for the fiscal year under consideration) payable from the close of such fiscal year until the date of certification. The Secretary of the Treasury is authorized and directed to transfer to the Railroad Retirement Account from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, or the Federal Hospital Insurance Trust Fund or to any such Trust Fund from the Railroad Retirement Account, as the case may be, such amounts as, from time to time, may be determined by the Board and the Secretary of Health, Education, and Welfare pursuant to the provisions of this subdivision and certified by the Board or the Secretary of Health, Education, and Welfare for transfer from any such Trust Fund or from the Railroad Retirement Account.

"(3) For purposes of subdivision (2), for any fiscal year, the rate of interest to be used shall be equal to the average rate of interest, computed as of May 31 preceding the close of such fiscal year, borne by all interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest shall be the multiple of one-eighth of 1 per centum next lower than such average rate.

"(d)(1) The Board shall, for purposes of this subsection, have the same authority to determine the rights of individuals described in subdivision (2) to have payment made on their behalf for hospital insurance benefits consisting of inpatient hospital services, posthospital extended care services, posthospital home health services, and outpatient hospital diagnostic services (all hereinafter referred to as 'services') under section 226, and parts A and C of title XVIII, of the Social Security Act as the Secretary of Health, Education, and Welfare has under such section and such parts with respect to individuals to whom such sections and such parts apply. For purposes of section 8, a determination with respect to the rights of an individual under this subsection shall, except in the case of a provider of services, be considered to be a decision with respect to an annuity.

"(2) Except as otherwise provided in this subsection, every person who—

"(i) has attained age 65 and (A) is entitled to an annuity under this Act or (B) would be entitled to such an annuity had he ceased compensated service, and in the case of a spouse, had such spouse's husband or wife ceased compensated service; or

"(ii) has not attained age 65 and (A) has been entitled to an annuity under section 2 of this Act, or under the Railroad Retirement Act of 1937 and section 2 of this Act, or could have been includible in the computation of an annuity under section 3(f)(3) of this Act, for not less than 24 consecutive months and (B) could have been entitled for 24 consecutive calendar months, and could currently be entitled, to monthly insurance benefits under section 223 of the Social Security Act or under section 202 of that Act on the basis of disability if service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act and if an application for disability benefits had been filed,

shall be certified to the Secretary of Health, Education, and Welfare as a qualified railroad retirement beneficiary under section 226 of the Social Security Act.

"(3 If an individual entitled to an annuity under paragraph (iv) or (v) of section 2(a)(1) of this Act would have been insured for disability insurance benefits as determined under section 223(c)(1) of the Social Security Act at the time such annuity began, he shall be deemed, solely for purposes of paragraph (ii) of subdivision (2), to be entitled to a disability insurance benefit under section 223 of the Social Security Act for each month, and beginning with the first month, in which he would meet the requirements for entitlement to such a benefit, other than the requirement of being insured for disability insurance benefits, if service as an employee after December 31, 1936, had been included in the term 'employment' as defined in the Social Security Act and if an application for disability benefits had been filed.

"(4) The rights of in individuals described in subdivision (2) of this subsection to have payment made on their behalf for the services referred to in subsection (1) but provided in Canada shall be the same as those individuals to whom section 226 and part A of title XVIII of the Social Security Act apply, and this subdivision shall be administered by the Board as if the provisions of section 226 and part A of title XVIII of the Social Security Act were applicable, as if references to the Secretary of Health, Education, and Welfare were to the Board, as if references to the Federal Hospital Insurance Trust Fund were to the Railroad Retirement Account, as if references to the United States or a State included Canada or a subdivision thereof, and as if the provisions of sections 1862(a)(4), 1863, 1864, 1867, 1868, 1869, 1874(b), and 1875 were not included in such title. The payments for services herein provided for in Canada shall be made from the Railroad Retirement Account (in accordance with, and subject to, the conditions applicable under section 7(b), in making payment of other benefits) to the hospital, extended care facility, or home health agency providing such services in Canada to individuals to whom subdivision (2) of this subsection applies, but only to the extent that the amount of payments for services otherwise hereunder provided for an individual exceeds the amount payable for like services provided pursuant to the law in effect in the place in Canada where such services are furnished. For the purposes of section 10 of this Act, any overpayment under this subdivision shall be treated as if it were an overpayment of an annuity.

"(5) The Board and the Secretary of Health, Education, and Welfare shall furnish each other with such information, records, and documents as may be considered necessary to the administration of this subsection or section 226, and part A of title XVIII, of the Social Security Act.

"(e) The Board is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Railroad Retirement Account, to the Railroad Retirement Supplemental Account, or to the Railroad Unemployment Insurance Account, or to the Board, or any member, officer, or employee thereof, for the benefit of such accounts or any activity financed through such accounts. Any such gift accepted pursuant to the authority granted in this subsection shall be deposited in the specific account designated by the donor or, if the donor has made no such specific designation, in the Railroad Retirement Account.

"COURT JURISDICTION

"SEC. 8. Decisions of the Board determining the rights or liabilities of any person under this Act shall be subject to judicial review in the same manner, subject to the same limitations, and all provisions of law shall apply in the same manner as though the decision were a determination of corresponding rights or liabilities under the Railroad Unemployment Insurance Act except that the time within which proceedings for the review of a decision with respect to an annuity, supplemental annuity, or lump-sum benefit may be commenced shall be one year after the decision will have been entered upon the records of the Board and communicated to the claimant.

"RETURNS OF COMPENSATION

"SEC. 9. Employers shall file with the Board, in such manner and form and at such times as the Board by rules and regulations may prescribe, returns of compensation of employees, and, if the Board shall so require, shall furnish employees with statements of their compensation as reported to the Board. The Board's record of the compensation so returned shall be conclusive as to the amount of compensation paid to an employee during each period covered by the return, and the fact that the Board's records show that no return was made of the compensation claimed to have been paid to an employee during a particular period shall be taken as conclusive that no compensation was paid to such employee during that period, unless the error in the amount of compensation returned in the one case, or the failure to make return of the compensation in the other case, is called to the attention of the Board within four years after the day on which return of the compensation was required to be made.

"ERRONEOUS PAYMENTS

"SEC. 10. (a) If the Board finds that at any time more than the correct amount of annuities or other benefits has been paid to any individual under this Act, or payment has been made to an individual not entitled thereto, recovery by adjustment in subsequent payments to which such individual, or any other individual on the basis of the same compensation, wages, or self-employment income, is entitled under this Act, or the Railroad Unemployment Insurance Act may, except as otherwise provided in this section, be made under regulations prescribed by the Board. If the individual to whom more than the correct amount has been paid dies before recovery is completed, recovery may be made by setoff or adjustments, under regulations prescribed by the Board, in subsequent payments due, under this Act, or the Railroad Unemployment Insurance Act, to the estate of such individual or to any person on the basis of the compensation, wages, or self-employment income of such individual.

"(b) Adjustments under this section may be made either by deductions from subsequent payments or, with respect to payments which are to be made during a lifetime or lifetimes, by subtracting the total amount of annuities or other benefits paid in excess of the proper amount from the actuarial value, as determined by the Board, of such payments to be made during a lifetime or lifetimes and recertifying such payments on this basis of the reduced actuarial value. In the latter case, recovery shall be deemed to have been completed upon such recertification.

"(c) There shall be no recovery in any case in which more than the correct amount of annuities or other benefits has been paid under this Act to an individual or payment has been made to an individual not entitled thereto who, in the judgment of the Board, is without fault when, in the judgment of the Board, recovery would be contrary to the purpose of the Acts or would be against equity or good conscience.

"(d) No certifying or disbursing officer shall be held liable for any amount certified or paid by him in good faith to any person where the recovery of such amount is waived under subsection (c) of this section or has been begun but cannot be completed under subsection (a) of this section.

"WAIVER OF ANNUITIES

"SEC. 11. Any person awarded an annuity under this Act may decline to accept all or any part of such annuity by a waiver signed and filed with the Board. Such a waiver may be revoked in writing at any time, but no payment of the annuity waived shall be made covering the period during which such waiver was in effect. Such a waiver will have no effect on entitlement to, or the amount of, any other annuity or benefit.

"INCOMPETENCE

"SEC. 12. (a) Every individual receiving or claiming benefits, or to whom any right or privilege is extended, under this Act or any other Act of Congress now or hereafter administered, in whole or in part, by the Board shall be conclusively presumed to have been competent until the date on which the Board receives written notice, in a form and manner acceptable to the Board, that he is an incompetent, or a minor, for whom a guardian or other person legally vested with the care of his person or estate has been appointed: *Provided however*, That, regardless of the legal competency or incompetency of an individual entitled to a benefit administered by the Board, the Board may, if it finds the interest of such individual to be served thereby, recognize actions by, and conduct transactions with, and make payments to, such individual, or recognize actions by, and conduct transactions with, and make payments to, a relative or some other person for such individual's use and benefit.

"(b) Every guardian or other person legally vested with the care of the person or estate of an incompetent or minor who is receiving or claiming benefits, or to whom any right or privilege is extended, under this Act or any other Act of Congress now or hereafter administered, in whole or in part, by the Board shall have power everywhere, in the manner and to the extent prescribed by the Board, but subject to the provisions of the preceding subsection, to take any action necessary or appropriate to perfect any right or exercise any privilege of the incompetent or minor and to conduct all transactions on his behalf under this or any other Act of Congress now or hereafter administered, in whole or in part, by the Board. Any payment made pursuant to the provisions of this section shall be a complete settlement and satisfaction of any claim, right, or interest in and to such payment.

"PENALTIES

"SEC. 13. (a) Any person who shall knowingly fail or refuse to make any report or furnish any information required by the Board in the administration of this Act, including the provisions of section 7(b)(2) thereof, or who shall knowingly make or cause to be made any false or fraudulent statement or report when a statement or report is required to be made for the purpose of this Act, or who shall knowingly make or aid in making any false or fraudulent statement or claim for the purpose of causing an award or payment to be made, shall be punished by a fine of not more than $10,000 or by imprisonment not exceeding one year, or both.

"(b) All fines and penalties imposed by a court pursuant to this Act shall be paid to the court and be remitted from time to time by order of the judge to the Treasury of the United States to be credited to the Railroad Retirement Account.

"EXEMPTION FROM LEGAL PROCESS

"SEC. 14. Notwithstanding any other law of the United States, or of any State, territory, or the District of Columbia, no annuity or supplemental annuity shall be assignable or be subject to any tax or to garnishment, attachment, or other legal process under any circumstances whatsoever, nor shall the payment thereof be anticipated: *Provided, however*, That the provisions of this section shall not operate to exclude the amount of any supplemental annuity paid to an individual under section 2(b) of this Act from income taxable pursuant to the Federal income tax provisions of the Internal Revenue Code of 1954.

"RAILROAD RETIREMENT ACCOUNT

"SEC. 15. (a) The Railroad Retirement Account established by section 15(a) of the Railroad Retirement Act of 1937 shall continue to be maintained in the Treasury of the United States. There is hereby authorized to be appropriated to such Account for each fiscal year, beginning with the fiscal year ending June 30, 1975, to provide for the payment of benefits to be made from such Account in accordance with the provisions of section 7(c)(1) of this Act, and to provide for expenses necessary for the Board in the administration of all provisions of this Act, an amount equal to amounts covered into the Treasury (minus refunds) during each fiscal year under the Railroad Retirement Tax Act, except those portions of the amounts covered into the Treasury under sections 3211(b), 3221(c), and 3221(d) of such Tax Act as are necessary to provide sufficient funds to meet the obligation to pay supplemental annuities at the level provided under section 3(e) of this Act and, with respect to those entitled to supplemental annuities under section 205(a) of title II of this Act, at the level provided under section 205(a). The Board is directed to determine what portion of the taxes collected under sections 3211(b), 3221(c). and 3221(d) of the Railroad Retirement Tax Act is to be credited to the Railroad Retirement Account pursuant to the preceding provisions of this subsection and what portion of such taxes is to be credited to the Railroad Retirement Supplemental Account pursuant to the provision of subsection (c) of this section. The Board shall make such a determination with respect to each calendar quarter commencing with the quarter beginning January 1, 1975, shall make each such determination not later than fifteen days before each calendar quarter, and shall, as soon as practicable after each such determination, advise the Secretary of the Treasury of the determination made. The Secretary of the Treasury shall credit the amounts covered into the Treasury under sections 3211(b), 3221(c), and 3221(d) of the Railroad Retirement Tax Act to the Railroad Retirement Account and the Railroad Retirement Supplemental Account in such proportions as is determined by the Board pursuant to the provisions of this subsection.

"(b) In addition to the amount authorized to be appropriated in subsection (a) of this section, there is hereby authorized to be appropriated to the Railroad Retirement Account for each fiscal year, beginning with the fiscal year ending June 30, 1975, such amount as the Board determines to be necessary to meet (A) the additional costs, resulting from the crediting of military service under this Act, of benefits payable under section 2 of this Act, but only to the extent that such Account is not reimbursed for such costs under section 7(c)(2), (B) the additional administrative expenses resulting from the crediting of military service under this Act, and (C) any loss in interest to such Account resulting from the payment of additional benefits based on military service credited under this Act: *Provided, however*, That, in determining the amount to be appropriated to the Railroad Retirement Account for any fiscal year pursuant to the provisions of this subsection, there shall not be considered any costs resulting from the crediting of military service under this Act for which appropriations to such Account have already been made pursuant to section 4(1) of the Railroad Retirement Act of 1937. Any determination as to loss in interest to the Railroad Retirement Account pursuant to clause (C) of the first sentence of this subsection shall take into account interest from the date each annuity based, in part, on military service began to accrue or was increased to the date or dates on which the amount appropriated is credited to the Account. The cost resulting from the payment of additional benefits under this Act based on military service determined pursuant to the preceding provisions of this subsection shall be adjusted by applying thereto the ratio of the total net level cost of all benefits under this Act to the portion of such net level cost remaining after the exclusion of administrative expenses and interest charges on the unfunded accrued liability as determined under the last completed actuarial valuation pursuant to the provisions of subsection (f) of this section. At the close of the fiscal year ending June 30, 1975, and each fiscal year thereafter, the Board shall, as promptly as practicable, determine the amount to be appropriated to the Account pursuant to the provisions of this subsection, and shall certify such amount to the Secretary of the Treasury for transfer from the general fund in the Treasury to the Railroad Retirement Account. When authorized by an appropriation Act, the Secretary of the Treasury shall transfer to the Railroad Retirement Account from the general fund in the Treasury such amounts as, from time to time, may be determined by the Board pursuant to the provisions of this subsection and certified by the Board for transfer to such Account. In any determination made pursuant to section 7(c)(2) of this Act, no further charges shall be made against the Trust Funds established by title II of the Social Security Act for military service rendered before January 1, 1957, and with respect to which appropriations authorized by clause (2) of the first sentence of section 4(1) of the Railroad Retirement Act of 1937 shall have been credited to the Railroad Retirement Account, but the additional benefit payments incurred by such Trust Funds by reason of such military service shall be taken in account in making any such determination.

"(c) The Railroad Retirement Supplemental Account established by section 15(b) of the Railroad Retirement Act of 1937 shall continue to be maintained in the Treasury of the United States. There is hereby authorized to be appropriated to such account for each fiscal year, beginning with the fiscal year ending June 30, 1975, to provide for the payment of supplemental annuities under section 2(b) of this Act, and to provide for the expenses necessary for the Board in the administration of the payment of such supplemental annuities, an amount equal to such portions of the amounts covered into the Treasury (minus refunds) during each fiscal year under sections 3211(b), 3221(c), and 3221(d) of the Railroad Retirement Tax Act as are not appropriated to the Railroad Retirement Account pursuant to the provisions of subsection (a) of this section.

"(d) There is hereby authorized to be appropriated to the Railroad Retirement Account for each fiscal year, beginning with the fiscal year ending June 30, 1976, such sums as the Board determines to be necessary on a level basis to pay before the end of fiscal year 2000 the total of (A) the amounts of the annuities paid and to be paid after 1974 pursuant to the provisions of sections 3(h), 4(e), and 4(h) of this Act and pursuant to the provisions of sections 204(a)(3), 204(a)(4), 206(a)(3), and 207(3) of title II of this Act, plus (B) any loss in interest to such Account resulting from the payment of such amounts. The Board shall, during fiscal years 1979, 1984, 1989, 1994, and 1999 re-evaluate the amount determined under the preceding sentence for the purpose of determining the amounts to be appropriated thereunder.

"(e) At the request and direction of the Board, it shall be the duty of the Secretary of the Treasury (hereinafter referred to as the 'Secretary') to invest such portion of the amounts credited to the Railroad Retirement Account and the Railroad Retirement Supplemental Account as, in the judgment of the Board, is not immediately required for the payment of annuities, supplemental annuities, and death benefits. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (A) on original issue at the issue price; or (B) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the accounts. Such obligations issued for purchase by the accounts shall have maturities fixed with due regard for the needs of the accounts, and shall bear interest at a rate equal to the average market yield, computed as of the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing notes of the United States then forming a part of the public debt that are not due or callable until after the expiration of three years from the end of such calendar month, except that where such rate is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such rate: *Provided*, That the rate of interest on such obligations shall in no case be less than 3 per centum per annum. At the request of the Board the Secretary shall purchase other interest-bearing obligations of the United States, or obligations guaranteed as to both principal and interest by the United States, or other obligations which are lawful investments for trust funds of the United States, on original issue or at the market price: *Provided*, That the interest yield of such obligations shall not be less than the interest rate determined in accordance with the preceding sentence. At the request of the Board, the Secretary shall sell at the market price such obligations in the accounts (other than special obligations issued exclusively to the accounts) as the Board designates. The Board shall from time to time request the Secretary to redeem such special obligations issued exclusively to the accounts as the Board designates and upon such request the Secretary shall redeem such obligations at par plus accrued interest. All requests of the Board to the Secretary, provided for in this subsection, shall be mandatory upon the Secretary. It shall be the duty of the Board to determine at all times what proportion of the accounts shall be invested in other than special obligations issued to the accounts and further to determine which of such obligations available to the accounts consistent with the foregoing requirements will provide the greatest rate of return on the funds invested.

"(f) The Board is hereby authorized and directed to select two actuaries, one from recommendations made by representatives of employees and the other from recommendations made by representatives of employers as defined in paragraph (i) of section 1(a)(1) of this Act. These actuaries, along with a third who shall be designated by the Secretary of the Treasury, shall be known as the Actuarial Advisory Committee with respect to the Railroad Retirement Account. The actuaries so selected shall hold membership in the American Academy of Actuaries and shall be qualified in the evaluation of pension plans: *Provided, however*, That these requirements shall not apply to any actuary who served as a member of the Committee prior to January 1, 1975. The Committee shall examine the actuarial reports and estimates made by the Board and shall have authority to recommend to the Board such changes in actuarial methods as they may deem necessary. The compensation of the members of the Committee, exclusive of the member designated by the Secretary, shall be fixed by the Board on a per diem basis.

"(g) The Board shall include in its annual report a statement of the status and the operations of the Railroad Retirement and Railroad Retirement Supplemental Accounts. At intervals not longer than three years the Board shall make an estimate of the liabilities created by this Act and shall include such estimate in its annual report.

"PRIVATE PENSIONS

"SEC. 16. Nothing in this Act shall be taken as restricting or discouraging payment by employers to retired employees of pensions or gratuities in addition to the annuities paid to such employees under this Act, nor shall this Act be taken as terminating any trust heretofore created for the payment of such pensions or gratuities. The annuity, except a supplemental annuity under section 2(b), of an individual shall not be reduced on account of any pension or gratuity paid by an employer to such individual.

"FREE TRANSPORTATION

"SEC. 17. It shall not be unlawful for carriers by railroad subject to this Act to furnish free transportation to individuals receiving annuities under this Act in the same manner as such transportation is furnished to employees in their service.

"CREDITING SERVICE UNDER THE SOCIAL SECURITY ACT

"SEC. 18. (1) Except as provided in subdivision (2), the term 'employment' as defined in section 210 of the Social Security Act shall not include service performed by an individual as an employee as defined in section 1(b) of this Act.

"(2) For the purpose of determining (i) monthly insurance benefits under the Social Security Act to an employee who will have completed less than ten years of service and to others deriving from him or her during his or her life and (ii) monthly insurance benefits and lump-sum death benefits under such Act with respect to the death of an employee who (A) will have completed less than ten years of service or (B) will have completed ten or more years of service but will not have had a current connection with the railroad industry at the time of his death, and for the purposes of section 203 of that Act, section 210(a)(9) of the Social Security Act and subdivision (1) of this subsection shall not operate to exclude from 'employment' under the Social Security Act service which would otherwise be included in such 'employment' but for such sections. For such purpose, compensation paid in a calendar year shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee will have been in service as an employee. In the application of the Social Security Act pursuant to this subdivision to service as an employee, all service as defined in section 1(d) of this Act shall be deemed to have been performed within the United States.

"AUTOMATIC BENEFIT ELIGIBILITY REQUIREMENT ADJUSTMENTS

"Sec. 19. (a) If title II of the Social Security Act is amended at any time after December 31, 1974, to reduce the eligibility requirements for old-age insurance benefits, disability insurance benefits, wife's insurance benefits payable to a wife, husband's insurance benefits, child's insurance benefits payable to a child of a deceased individual, widow's insurance benefits payable to a widow, widower's insurance benefits, mother's insurance benefits payable to a widow, or parent's insurance benefits, such reduced eligibility requirements shall be applicable, in accordance with regulations prescribed by the Board, to individuals, spouses, or survivors, as the case may be, under section 2 of this Act to the extent that such reduced eligibility requirements would provide such individuals, spouses, or survivors with entitlement to annuities under such section 2 to which they would not be entitled except for such reduced eligibility requirements: *Provided, however,* That no annuity shall be paid to any person pursuant to the provisions of this subsection if that person does not satisfy an eligibility requirement imposed by section 2 of this Act of a kind not imposed by the Social Security Act on December 31, 1974, or an eligibility requirement imposed by section 2 of this Act of a kind which was imposed by the Social Security Act on December 31, 1974, but which was not reduced by the amendment to that Act: *Provided further,* That the annuity amounts to which such individuals, spouses, or survivors will be entitled under this Act by reason of the provisions of this subsection shall be only such amounts as are determined under the provisions of section 3(a), 4(a), or 4(f), respectively, of this Act.

"(b) If title II of the Social Security Act is amended at any time after December 31, 1974, to provide monthly insurance benefits under that Act to a class of beneficiaries not entitled to such benefits thereunder prior to January 1, 1975, every person who is a member of such class of beneficiaries shall be entitled to annuities under section 2 of this Act, in accordance with regulations prescribed by the Board, in an amount equal to the amount of the monthly insurance benefit to which such person would have been entitled under the Social Security Act if service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act.

"(c) If section 226 or title XVIII of the Social Security Act is amended at any time after December 31, 1974, to reduce the conditions of entitlement to, or to expand the nature of, the benefits thereunder, or if health care benefits in addition to, or in lieu of, the benefits payable under such section 226 or such titme XVIII are provided at any time after December 31, 1974, such reductions in the conditions of entitlement to benefits, or such additional, or substituted, health care benefits shall be available to every employee (as defined in this Act), and those deriving from him, in the same manner, and to the same extent, as if his service as an employee after December 31, 1936, had been included in the term 'employment' as defined in the Social Security Act. The Board shall have the same authority, in accordance with regulations prescribed by it, to determine the rights of employees who will have completed ten years of service, and of those deriving from such employees, to benefits provided by reason of the provisions of this subsection as the Secretary of Health, Education, and Welfare has with respect to individuals insured under the Social Security Act.

"(d) Notwithstanding the provisions of subsections (a), (b), and (c) of this section—

"(1) No annuity or other benefit shall be payable to any person on the basis of the compensation and years of service of an individual by reason of the provisions of subsection (a), (b), or (c) of this section if, and to the extent that, such annuity or other benefit would duplicate a benefit payable to such person on the basis of such compensation and years of service under a provision of the Social Security Act, or any other Act of Congress, which becomes effective after December 31, 1974.

"(2) No annuity shall be payable to a person by reason of subsection (a) or (b) of this section unless the individual upon whose compensation and years of service such annuity would be based will have (A) completed ten years of service, and (B) in the case of a survivor, had a current connection with the railroad industry at the time of his death.

"(3) If the Social Security Act is amended after December 31, 1974, to remove any, or all, restriction on the receipt of more than one monthly insurance benefit thereunder, annuity amounts provided a person under section 3(h), 4(e), or 4(h) of this Act, or under section 204(a)(3), 204(a)(4), 206(a)(3), or 207(3) of title II of this Act, shall be reduced (but not below zero) by the amount of any annuity provided such person under this Act by reason of such amendment.

"(4) If and to the extent that an annuity or other benefit payable to a person by reason of the provision of subsection (a), (b), or (c) of this section duplicates an annuity or other benefit then payable to such person under other provisions of this Act, such annuity or other benefit then payable under other provisions of this Act shall be reduced (but not below zero) by the amount of the annuity or other benefit payable by reason of subsection (a), (b), or (c).

"SEPARABILITY

"Sec. 20. If any provision of this Act, or the application thereof to any person or circumstance, should be held invalid, the remainder of such Act, or the application of such provision to other persons or circumstances, shall not be affected thereby.

"SHORT TITLE

"Sec. 21. This Act may be cited as the 'Railroad Retirement Act of 1974'."

TITLE II—TRANSITIONAL PROVISIONS

Sec. 201. The claims of individuals who, prior to the effective date of title I of this Act, became eligible for annuities, supplemental annuities, or death benefits under section 2, 3(j), or 5 of the Railroad Retirement Act of 1937 shall be adjudicated by the Board under that Act in the same manner and with the same effect as if title I of this Act had not been enacted: *Provided, however,* That no annuity, supplemental annuity, or death benefit shall be awarded under the Railroad Retirement Act of 1937 on the basis of an application therefor filed with the Board on or after the effective date of title I of this Act: *Provided further,* That no annuity under the Railroad Retirement Act of 1935, no annuity or supplemental annuity under the Railroad Retirement Act of 1937, and no pension under section 6 of the Railroad Retirement Act of 1937 shall be payable for any month after December 31, 1974.

Sec. 202. (a) Every individual who would have been entitled to an annuity under the Railroad Retirement Act of 1935 for the month of January 1975, if this Act had not been enacted, shall be entitled to an annuity under paragraph (i) of section 2(a)(1) of the Railroad Retirement Act of 1974, beginning January 1, 1975, in an amount determined under the provisions of section 3(a) of such Act, which amount shall initially be equal to the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in such individual's annuity under the Railroad Retirement Act of 1935 pursuant to the provisions of section 105 of Public Law 93-69, less the amount of any monthly insurance benefit to which such individual is actually entitled (before any deductions on account of work) under the Social Security Act.

(b) The amount of the annuity of an individual under subsection (a) of this section shall be increased by an amount, if any, equal to the amount by which (i) his annuity under the Railroad Retirement Act of 1935 for the month of December 1974 exceeds (ii) his annuity under subsection (a) of this section for the month of January 1975.

Sec. 203. (a) Every individual who would have been entitled to a pension under section 6 of the Railroad Retirement Act of 1937 for the month of January 1975, if this Act had not been enacted, shall be entitled to an annuity under paragraph (i) of section 2(a)(1) of the Railroad Retirement Act of 1974 in an amount determined under the provisions of section 3(a) of such Act, which amount shall initially be equal to the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in such individual's pension under section 6 of the Railroad Retirement Act of 1937 pursuant to the provisions of section 105 of Public Law 93-69, less the amount of any monthly insurance benefit to which such individual is actually entitled (before any deductions on account of work) under the Social Security Act.

(b) The amount of the annuity of an individual under subsection (a) of this section shall be increased by an amount, if any, equal to the amount by which (i) his pension under section 6 of the Railroad Retirement Act of 1937 for the month of December 1974 exceeds (ii) his annuity under subsection (a) of this section for the month of January 1975.

(c) The annuities of each individual under the preceding subsections of this section shall be paid on January 1, 1975, and on the first day of each calendar month thereafter during his life.

Sec. 204. (a) Every individual who was entitled to an annuity under section 2(a)1, 2(a)2, 2(a)3, 2(a)4, or 2(a)5 of the Railroad Retirement Act of 1937 for the month of December 1974, or who would have been entitled to such an annuity for each month except for the provisions of section 2(d) of such Act, and who would have been entitled to such an annuity for the month of January 1975, if this Act had not been enacted, shall be entitled to an annuity under paragraph (i), (ii), (iii), (iv), or (v), respectively, of section 2(a)(1) of the Railroad Retirement Act of 1974, beginning January 1, 1975: *Provided, however,* That if an individual who was entitled to an annuity under section 2(a)4 or 2(a)5 of the Railroad Retirement Act of 1974 is age 65 or older, on January 1, 1975, such individual shall be entitled to an annuity under paragraph (i) of section 2(a)

(1) of the Railroad Retirement Act of 1974. For purposes of this subsection—

(1) that portion of the individual's annuity as is provided under section 3(a) of the Railroad Retirement Act of 1974 shall initially be in an amount equal to the amount determined under clause (i) of section 3(a) (6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in the amount of such individual's annuity as computed under the provisions of section 3(a), and that part of section 3(e) which preceded the first proviso, of the Railroad Retirement Act of 1937, less the amount of any monthly insurance benefit to which such individual is actually entitled (before any deductions on account of work) under the Social Security Act;

(2) that portion of the individual's annuity as is provided under section 3(b) (1) of the Railroad Retirement Act of 1974 shall be in an amount, if any, equal to the amount by which (A) his annuity under section 2(a) of the Railroad Retirement Act of 1937 for the month of December 1974 (before any reduction on account of age and without regard to section 2(d) of such Act) exceeds (B) (i), if such individual is entitled to an annuity amount provided under paragraph (3) of this subsection, the amount of the annuity which would have been provided such individual under paragraph (1) of this subsection (before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act) for the month of January 1975 if he had no wages as self-employment income under the Social Security Act other than wages derived from service as an employee under the Railroad Retirement Act of 1974 after December 31, 1936, and before January 1, 1975, or (ii), if such individual is not entitled to an annuity amount provided under paragraph (3) of this subsection, the amount of his annuity provided under paragraph (1) of this subsection (before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act) for the month of January 1975: *Provided, however,* That if the annuity of any individual under the Railroad Retirement Act of 1937 for the month of December 1974 was computed under the first proviso of section 3(e) of such Act, the annuity of such individual for purposes of clause (A) of this paragraph shall be the annuity which such individual would have received under such Act for the month of December 1974, if no other person had been included in the computation of the annuity of such individual; and

(3) if the individual was entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act on December 31, 1974, or was fully insured under that Act on that date, the annuity amounts provided under paragraphs (1) and (2) of this subsection shall be increased by an amount determined under the provisions of section 3(h) (1) of the Railroad Retirement Act of 1974: *Provided, however,* That, if the individual was entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act on December 31, 1974, such amount shall not be less nor more than an amount which would cause the total of the annuity amounts provided the individual by the provisions of this subsection for the month of January 1975 to equal the total of the annuity under the Railroad Retirement Act of 1937 (prior to any reduction on account of age and without regard to section 2(d) of that Act) plus the old-age or disability insurance benefit under the Social Security Act (before any reduction on account of age and deductions on account of work) which such individual would have received for such month if this Act had not been enacted.

(4) if the individual was entitled to a wife's, husband's, widow's, or widower's insurance benefit under the Social Security Act on December 31, 1974, or is the wife, husband, widow, or widower of a person who was fully insured under that Act on that date, the annuity amounts provided under paragraphs (1) and (2) of this subsection shall be increased by an amount determined under the provisions of section 3(h) (3) of the Railroad Retirement Act of 1974.

(b) An individual who was awarded an annuity under section 2(a) of the Railroad Retirement Act of 1937, but who could not have become eligible for an annuity under paragraph 2 of such section, shall not be eligible for an annuity under paragraph (ii) of section 2(a) (1) of the Railroad Retirement Act of 1974.

SEC. 205. (a) Every individual who was entitled to a supplemental annuity under section 3(j) of the Railroad Retirement Act of 1937 for the month of December 1974, or who would have been entitled to such a supplemental annuity for such month except for the provisions of section 2(d) of such Act, and who would have been entitled to such a supplemental annuity for the month of January 1975, if this Act had not been enacted, shall be entitled to a supplemental annuity under section 2(b) (1) of the Railroad Retirement Act of 1974, beginning January 1, 1975, in an amount, the provisions of section 3(e) of such Act notwithstanding, equal to the amount of the supplemental annuity to which such individual was entitled under section 3(j) of the Railroad Retirement Act of 1937 for the month of December 1974, or to which such individual would have been entitled for such month under such section 3(j) except for the provisions of section 2(d) of such Act.

(b) An individual who was awarded an annuity under section 2(a) of the Railroad Retirement Act of 1937, but who could not have become eligible for a supplemental annuity under section 3(j) of such Act if this Act had not been enacted, shall not be eligible for a supplemental annuity under section 2(b) of the Railroad Retirement Act of 1974.

SEC. 206. (a) Every spouse who was entitled to an annuity under section 2(e) and 2(h) of the Railroad Retirement Act of 1937 for the month of December 1974, or who would have been entitled to such an annuity for such month except for the provisions of section 2(d) of such Act, and who would have been entitled to such an annuity for the month of January 1975, if this Act had not been enacted, shall be entitled to an annuity under section 2(c) of the Railroad Retirement Act of 1974, beginning January 1, 1975. For purposes of this subsection—

(1) that portion of the spouse's annuity as is provided under section 4(a) of the Railroad Retirement Act of 1974 shall initially be in an amount equal to the amount determined under clause (i) of section 3(a) (6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in the amount of such spouse's annuity as computed under the provisions of section 2 of the Railroad Retirement Act of 1937, less the amount of any wife's insurance benefit or husband's insurance benefit to which such spouse is actually entitled (before any deductions on account of work) under the Social Security Act on the basis of such individual's wages and self-employment income: *Provided, however,* That the amount of such annuity shall be subject to reduction in accordance with the provisions of section 202(k) or 202(q) of the Social Security Act, other than a reduction on account of age, in the same manner as any wife's insurance benefit or husband's insurance benefit payable under section 202 of the Social Security Act and shall also be subject to reduction in accordance with the provisions of section 4(1) (2) of the Railroad Retirement Act of 1974;

(2) that portion of the spouse's annuity as is provided under section 4(b) of the Railroad Retirement Act of 1974 shall be in an amount, if any, equal to 50 per centum of the individual's annuity as computed in accordance with the provisions of paragraph (2) of section 204(a) of this title: *Provided, however,* That, in case of a spouse who is not entitled to an annuity amount provided under paragraph (3) of this subsection, if (A) the amounts of the annuity provided a spouse for the month of January 1975 by the provisions of paragraph (1) (before any reduction due to such spouse's entitlement to a wife's or husband's insurance benefit under the Social Security Act) and the preceding provisions of this paragraph exceed (B) the amount of the annuity to which such spouse was entitled (before any reduction on account of age) for the month of December 1974 under section 2(e) or 2(h) of the Railroad Retirement Act of 1937 (deeming, for this purpose, any increase in the amount of such annuity which, had this Act not been enacted, would have become effective January 1, 1975, by reason of an increase in the maximum amount payable as a wife's insurance benefit under the Social Security Act to have been effective for the month of December 1974), or to which such spouse would have been entitled for such month under such section 2(e) or 2(h) except for the provisions of section 2(d) of such Act, the amount of the annuity provided such spouse for the month of January 1975 by the preceding provisions of this paragraph shall be reduced until the total of the amounts described in clause (A) of this proviso equals the amount described in clause (B): *Provided further,* That, if the amount of the annuity of the spouse provided by paragraph (1) of this subsection is reduced by reason of the provisions of section 4(1) (2) of the Railroad Retirement Act of 1974, the amount of the annuity provided such spouse by the preceding provisions of this paragraph shall not be less than an amount which would cause the total of the annuity amounts provided such spouse under paragraph (1) (before any reduction pursuant to the provisions of section 202(k) or 202(q) of the Social Security Act and before any reduction due to such spouse's entitlement to a wife's or husband's insurance benefit under the Social Security Act) and paragraph (2) of this subsection for the month of January 1975 to equal the amount of the annuity (before any reduction on account of age) which such spouse would have received for such month under section 2(e) or 2(h) of the Railroad Retirement Act of 1937 (without regard to the provisions of section 2(d) of that Act) if this Act had not been enacted; and

(3) if the spouse was entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act of December 31, 1974, or was fully insured under that Act on that date, or was entitled to a wife's or a husband's insurance benefit under that Act on that date, the annuity amounts provided under paragraphs (1) and (2) of this subsection shall be increased by an amount determined under the provisions of section 4(e) (1), or, if the spouse was entitled only to a wife's or husband's insurance benefit, 4(e) (3) of the Railroad Retirement Act of 1974: *Provided, however,* That, if the spouse was entitled to a monthly insurance benefit under the Social Security Act on December 31, 1974, such amount shall not be less nor more than an amount which would cause (A) the total of (i) the annuity amounts provided the spouse by the provisions of this subsection for the month of January 1975 plus (ii) the monthly insurance benefit to which such spouse is entitled for that month under the Social Security Act (before any reductions on account of age and deductions on account of work) to equal (B) the total of (i) the spouse's annuity under the Railroad Retirement Act of 1937 (prior to any reduction on account of age

and without regard to section 2(d) of that Act) plus (ii) the monthly insurance benefit under the Social Security Act (before any reduction on account of age and deductions on account of work) which such spouse would have received for such month if this Act had not been enacted.

SEC. 207. Every survivor who was entitled to an annuity under section 5 of the Railroad Retirement Act of 1937 for the month of December 1974, or who would have been entitled to such an annuity for such month except for the provisions of section 5(i) of such Act, and who would have been entitled to such an annuity for the month of January 1975, if this Act had not been enacted, shall be entitled to an annuity under section 2(d) of the Railroad Retirement Act of 1974 beginning January 1, 1975. For purposes of this section—

(1) that portion of the survivor's annuity as is provided under section 4(f) of the Railroad Retirement Act of 1974 shall initially be in an amount equal to the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in the amount of such survivor's annuity as computed under the provisions of section 5(q) of the Railroad Retirement Act of 1937: *Provided, however,* That the amount of such annuity shall be subject to reduction in accordance with the provisions of section 202(k) or 202(q) of the Social Security Act in the same manner as any widow's insurance benefit, mother's insurance benefit, widower's insurance benefit, parent's insurance benefit, or child's insurance benefit payable under section 202 of the Social Security Act and shall also be subject to reduction in accordance with the provisions of section 4(i)(2) of the Railroad Retirement Act of 1974;

(2) that portion of the survivor's annuity as is provided under section 4(g) of the Railroad Retirement Act of 1974 shall initially be in an amount equal to 30 per centum of the amount computed in accordance with the provisions of paragraph (1) of this section prior to any reductions, other than reductions on account of age, in accordance with the provisions of section 202(k) or 202(q) of the Social Security Act and prior to any reductions in accordance with the provisions of section 4(i)(2) of the Railroad Retirement Act of 1974: *Provided, however,* That, if such survivor is not entitled to an annuity amount provided under paragraph (3) of this section, such amount shall not be less than an amount which would cause (A) the total of the annuity amounts provided the survivor by the provisions of this section for the month of January 1975 to equal (B) the amount of the annuity which the survivor would have received for such month under section 5 of the Railroad Retirement Act of 1937 (without regard to section 5(i) of that Act) if this Act had not been enacted; and

(3) if the survivor is a widow or widower who was entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act on December 31, 1974, or was fully insured under that Act on that date, the annuity amounts provided under paragraphs (1) and (2) of this section shall be increased by an amount determined under the provisions of 4(h)(1) of the Railroad Retirement Act of 1974: *Provided, however,* That, if the widow or widower was entitled to a monthly insurance benefit under the Social Security Act on December 31, 1974, such amount shall not be less nor more than an amount which would cause (A) the total of (i) the annuity amounts provided the widow or widower by the provisions of this section for the month of January 1975 plus (ii) the monthly insurance benefit to which such widow or widower is entitled for that month under the Social Security Act (before any deductions on account of work) to equal (B) the total of (i) the widow's or widower's annuity under the Railroad Retirement Act of 1937 (without regard to section 5(i) of that Act) plus (ii) the monthly insurance benefit under the Social Security Act (before any deductions on account of work) which such widow or widower would have received for such month if this Act had not been enacted.

SEC. 208. For purposes of paragraph (1) of section 204(a), paragraph (1) of section 206(a), and paragraph (1) of section 207, the fact that the amount of the annuity payable to an individual, spouse, or survivor under the Railroad Retirement Act of 1937 for the month of December 1974 may not (i) in the case of an individual have been computed under the provisions of section 3(a) of such Act or that part of section 3(e) of such Act which precedes the first proviso; (ii) in the case of a spouse, have been computed under the provisions of section 2 of such Act; or (iii) in the case of a survivor, have been computed under the provisions of section 5 of such Act, shall be disregarded, and the amount determined under clause (i) of section 3(a)(6) of such Act with respect to such individual, spouse, or survivor shall, for purposes of such paragraphs, be the amount which would have been determined under such clause (i) if the annuity of such individual had been computed under the provisions of section 3(a), and that part of section 3(e) which preceded the first proviso, of such Act; the annuity of such spouse had been computed under the provisions of section 2 of such Act; or the annuity of such survivor had been computed under the provisions of section 5 of such Act.

SEC. 209. (a) Whenever monthly insurance benefits under section 202 of the Social Security Act are increased, the amount of each annuity provided by section 202(a), section 203(a), paragraph (1) of section 204(a), paragraph (1) of section 206(a), and paragraphs (1) and (2) of section 207 shall be increased in the same manner, and effective the same date as other annuities of the same type payable under section 2 of the Railroad Retirement Act of 1974 are increased.

(b) The annuity amounts provided by section 202(b), section 203(b), paragraph (2) of section 204(a), and paragraph (2) of section 206(a) shall be increased by the same percentage, or percentages, and effective the same date, or dates, as other annuity amounts of the same type are increased pursuant to the provisions of section 3(g) of the Railroad Retirement Act of 1974.

SEC. 210. The election of a joint and survivor annuity made before July 31, 1946, by an individual to whom an annuity accrues under the Railroad Retirement Act of 1937 before January 1, 1975, shall be given effect as though the provisions of law under which the election was made had continued to be operative unless such election had been revoked prior to the time the annuity of such individual began to accrue.

TITLE III—AMENDMENTS TO THE SOCIAL SECURITY ACT

SEC. 301. Section 202(1) of the Social Security Act is amended—

(1) by striking out "section 5 of the Railroad Retirement Act of 1937" and inserting in lieu thereof "section 2 of the Railroad Retirement Act of 1974"; and

(2) by striking out "subsection (f)(1) of such section" and inserting in lieu thereof "section 6(b) of such Act".

SEC. 302. (a) Section 205(1) of the Social Security Act is amended by inserting immediately before the colon preceding the proviso therein the following: "(except that in the case of (A) an individual who will have completed ten years of service creditable under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1974, (B) the wife or husband of such an individual, (C) any survivor of such an individual if such survivor is entitled, or could upon application become entitled, to an annuity under section 2 of the Railroad Retirement Act of 1974, and (D) any other person entitled to benefits under section 202 of this Act on the basis of the wages and self-employment income of such an individual (except a survivor of such an individual where such individual did not have a current connection with the railroad industry, as defined in the Railroad Retirement Act of 1974, at the time of his death), such certification shall be made to the Railroad Retirement Board which shall provide for such payment or payments to such person on behalf of the Managing Trustee in accordance with the provisions of the Railroad Retirement Act of 1974)".

(b) The amendment made by this section shall apply only with respect to benefits payable to individuals who first become entitled to benefits under title II of the Social Security Act after 1974.

SEC. 303. Section 205(o) of the Social Security Act is amended—

(1) by striking out "(o)" at the beginning thereof and inserting in lieu thereof "(o)(1)";

(2) by striking out "section 5 of the Railroad Retirement Act of 1937" and inserting in lieu thereof "section 2 of the Railroad Retirement Act of 1974";

(3) by striking out "subsection (f)(1) of such section" and inserting in lieu thereof "section 6(b) of such Act"; and

(4) by striking out "section 4 of such Act" and inserting in lieu thereof "section 3(i) of such Act".

SEC. 304. Sections 216(b), 216(c), 216(f), and 216(g) of the Social Security Act are each amended by striking out "section 5 of the Railroad Retirement Act of 1937" and inserting in lieu thereof "section 2 of the Railroad Retirement Act of 1974".

SEC. 305. (a) Section 226(b) of the Social Security Act is amended by striking out "section 22 of the Railroad Retirement Act of 1937" from paragraph (2) and inserting in lieu thereof "section 7(d) of the Railroad Retirement Act of 1974".

(b) Section 226(d) of such Act is amended by striking out "section 21 or section 22 of the Railroad Retirement Act of 1937" each time it appears therein and inserting in lieu thereof "section 7(d) of the Railroad Retirement Act of 1974".

(c) Section 226(e) of such Act is amended by striking out "Railroad Retirement Act of 1937" each time it appears therein and inserting in lieu thereof "Railroad Retirement Act of 1974".

SEC. 306. Section 1840(b) of the Social Security Act is amended by striking out "or pension under the Railroad Retirement Act of 1937" from paragraph (1) and inserting in lieu thereof "under the Railroad Retirement Act of 1974".

SEC. 307. Section 1842(g) of the Social Security Act is amended by striking out "section 21(b) of the Railroad Retirement Act of 1937" and inserting in lieu thereof "section 7(d) of the Railroad Retirement Act of 1974".

SEC. 308. Section 1843(b) of the Social Security Act is amended by striking out "or pension under the Railroad Retirement Act of 1937" and inserting in lieu thereof "under the Railroad Retirement Act of 1974".

SEC. 309. Section 1870(b) of the Social Security Act is amended by striking out "Railroad Retirement Act of 1937" each time it appears therein and inserting in lieu thereof "Railroad Retirement Act of 1974".

SEC. 310. Section 1874(a) of the Social Security Act is amended by striking out "Railroad Retirement Act of 1937" and inserting in lieu thereof "Railroad Retirement Act of 1974".

SEC. 311. Section 210(1) of the Social Security Act is amended—

(1) by striking out "section 4 of the Railroad Retirement Act of 1937" from paragraph 4(A) and inserting in lieu thereof "section 3(i) of the Railroad Retirement Act of 1974"; and

(2) by striking out ", as provided in section 4(p)(2) of that Act", from paragraph (4)(A) thereof.

and inserting in lieu thereof "Railroad Retirement Act of 1974".

TITLE IV—AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

SEC. 401. (a) Section 2(c) of the Railroad Unemployment Insurance Act is amended by striking out "Railroad Retirement Act of 1937" and inserting in lieu thereof "Railroad Retirement Act of 1974" and by striking out "and section 10(h)".

(b) Section 2(g) of such Act is amended by striking out "section 3(f)(1) of the Railroad Retirement Act of 1937" each time it appears therein and inserting in lieu thereof "section 6(a)(1) of the Railroad Retirement Act of 1974".

SEC. 402. Section 4(a–1) of the Railroad Unemployment Insurance Act is amended by striking out "or pensions under the Railroad Retirement Act of 1935 or the Railroad Retirement Act of 1937" from paragraph (ii) and inserting in lieu thereof "under the Railroad Retirement Act of 1974".

SEC. 403. Section 10 of the Railroad Unemployment Insurance Act is amended by striking out subsection (h) and all that appears therein.

SEC. 404. Section 11(c) of the Railroad Unemployment Insurance Act is amended—

(a) by striking out "Railroad Retirement Act of 1937 and the Railroad Retirement Act of 1935" and inserting in lieu thereof "Railroad Retirement Act of 1974"; and

(b) by striking out "such Acts" and inserting in lieu thereof "such Act".

SEC. 405. Section 12(1) of the Railroad Unemployment Insurance Act is amended by striking out "section 10(b)(4) of the Railroad Retirement Act of 1937" and inserting in lieu thereof "subdivisions (5), (6), and (9) of section 7(b) of the Railroad Retirement Act of 1974".

TITLE V—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

SEC. 501. (a) Section 3221(c) of the Internal Revenue Code of 1954 is amended—

(1) by striking out "for appropriation to the Railroad Retirement Supplemental Account provided for in section 15(b) of the Railroad Retirement Act of 1937";

(2) by striking out "under section 3(j) of such Act" and inserting in lieu thereof "at the level provided under section 3(j) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974"; and

(3) by inserting after "section 3(j)(2) of the Railroad Retirement Act of 1937" "or section 2(h)(2) of the Railroad Retirement Act of 1974".

(b) Section 3221(d) of such Code is amended—

(1) by striking out "section 3(j) of the Railroad Retirement Act of 1937" and inserting in lieu thereof "section 2(b) of the Railroad Retirement Act of 1974"; and

(2) by striking out "section 3(j) of such Act" and inserting in lieu thereof "section 2(b) of such Act".

SEC. 502. Section 6413(c) of the Internal Revenue Code of 1954 is amended—

(a) by inserting "or section 3201, or by both such sections," after "section 3101" in paragraph (1) thereof; and

(b) by adding at the end of paragraph (1) the following new sentence: "The term 'wages' as used in this paragraph shall, for purposes of this paragraph, include 'compensation' as defined in section 3231(e)."

TITLE VI—MISCELLANEOUS PROVISIONS AND EFFECTIVE DATES

SEC. 601. Section 3(a)(6) of the Railroad Retirement Act of 1937 is amended by adding at the end thereof the following new sentences: "If the individual entitled to an increase determined under the preceding provisions of this paragraph is also entitled to a benefit for the same month under title II of the Social Security Act, there shall, any provisions to the contrary notwithstanding, be offset against the total of the increase, or increases, of such individual determined under the preceding provisions of this paragraph, any amount by which such individual's social security benefit was increased during the period July 1, 1974, through December 31, 1974. For purposes of approximating any such offsets, the Railroad Retirement Board is authorized to determine the percentage figure which, when applied against current social security benefits, will produce approximately the amount of the increase, or increases, in social security benefits during the period July 1, 1974, through December 31, 1974. The amount produced by applying such percentage figure to the current social security benefit of an individual shall be the amount utilized in making the offset prescribed by the provisions of this paragraph."

SEC. 602. (a) The provisions of title I of this Act shall become effective on January 1, 1975, except as otherwise provided herein: *Provided, however,* That annuities awarded under section 2 of the Railroad Retirement Act of 1974 on the basis of an application therefor filed with the Board on or after such date may, subject to the limitations prescribed in section 5(a) of such Act, begin prior to such date, except that no annuity under paragraph (ii) of section 2(a)(1) of such Act shall begin to accrue to a man prior to July 1, 1974.

(b) The provision of section 1(o) of the Railroad Retirement Act of 1974 which provides that a "current connection with the railroad industry" will not be broken by "employment with the Department of Transportation, the Interstate Commerce Commission, the National Mediation Board, or the Railroad Retirement Board" shall not be applicable (A) for purposes of paragraph (iv) of section 2(a)(1) of such Act, to an individual who became disabled, as provided for purposes of such paragraph, prior to January 1, 1975, (B) for purposes of section 2(b)(1) of such Act, to an individual whose annuity under section 2(a) of the Railroad Retirement Act of 1937 or section 2(a)(1) of the Railroad Retirement Act of 1974 first began to accrue prior to January 1, 1975, and (C) for purposes of section 2(d)(1) of such Act, to a survivor of a deceased employee if such employee died prior to January 1, 1975.

(c) The provisions of clause (i)(B) and clause (ii)(B) of section 2(c)(1) of the Railroad Retirement Act of 1974 shall not be applicable to the spouse of an individual if (A) such individual will have completed thirty years of service and will have been awarded an annuity under section 2(a) of the Railroad Retirement Act of 1937 or section 2(a)(1) of the Railroad Retirement Act of 1974 which first began to accrue prior to July 1, 1974, or (B) such individual will have completed less than thirty years of service and will have been awarded an annuity under section 2(a) of the Railroad Retirement Act of 1937 of section 2(a)(1) of the Railroad Retirement Act of 1974 which first began to accrue prior to January 1, 1975. For purposes of the entitlement of the spouse of an individual described in clause (A) or (B) of the preceding sentence to an annuity under such section 2(c)(1), the provisions of clause (i)(B) of such section 2(c)(1) shall be deemed to read: "(B) has attained the age of 65".

(d) The provisions of section 2(b)(1) of the Railroad Retirement Act of 1974 which permit an individual to become entitled to a supplemental annuity thereunder if he "has attained age 60 and completed thirty years of service" shall not be applicable to an individual who was awarded an annuity under section 2(a) of the Railroad Retirement Act of 1937 or section 2(a)(1) of the Railroad Retirement Act of 1974 which first began to accrue prior to July 1, 1974.

(e) The provisions of section 7(e) of the Railroad Retirement Act of 1974 shall be effective on the enactment date of this Act and shall apply with respect to all gifts and bequests covered thereunder, regardless of the date on which such gifts or bequests were made.

SEC. 603. The provisions of title II of this Act and the amendments made by title III and title IV of this Act shall become effective on January 1, 1975.

SEC. 604. The amendments made by the provisions of title V of this Act shall become effective on January 1, 1975, and shall apply only with respect to compensation paid for services rendered on or after that date.

SEC. 605. The amendment made by section 601 of this Act shall be effective on the enactment date of this Act and shall apply with respect to any increase in annuities under the Railroad Retirement Act of 1937 which becomes effective after June 30, 1974.

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent to dispense with further reading of the bill and that it be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

AMENDMENT OFFERED BY MR. BROYHILL OF NORTH CAROLINA

Mr. BROYHILL of North Carolina. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROYHILL of North Carolina: Page 247, line 4, insert the following new paragraph:

"(4) During the fiscal year ending June 30, 1976, the amounts of the annuities provided any person under the provisions of section 3(h), 4(e), or 4(h) of this Act or under the provisions of section 204(a)(3), 204(a)(4), 206(a)(3), or 207(3) of Title II of this Act shall be deemed to be monthly insurance benefits which would have been payable to such person under the Social Security Act if (A) service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act and in the Federal Insurance Contributions Act and (B) this Act had not been enacted. The provisions of this subdivision shall be effective notwithstanding clause (B) of subdivision (2) of this subsection except that the amounts transferred to the Railroad Retirement Account by this paragraph shall be reduced by $200 million."

Page 261, strike out line 14 and all that follows through page 262, line 3 and insert in lieu thereof the following:

"(d)(1) There is hereby authorized to be appropriated to the Railroad Retirement Account $200 million, reduced by the difference in interest income to the Account from investments made during that fiscal year and the prior fiscal year over the interest income which would have been derived had such investments been made at the average market yield described in subsection (e), for the fiscal year ending June 30, 1976 to pay the total of (A) the amounts of the annuities paid and to be paid after 1974 pursuant to the provisions of sections 3(h), 4(e), and 4(h) of this Act and pursuant to the provisions of sections 204(a)(3), 204(a)(4), 206(a)(3) and 207(3), of Title II of this Act, plus (B) any loss in interest to such Account resulting from the payment of such amounts.

(2) There is hereby created a Select Committee on Railroad Retirement composed of 10 members of the House of Representatives

appointed by the Speaker and 10 members of the Senate appointed by the President of the Senate. Five members of such Select Committee shall be from the Committee on Interstate and Foreign Commerce of the House of Representatives, of which no more than three shall be of the same political party. Five members of such Select Committee shall be from the Committee on Ways and Means of the House of Representatives, of which no more than three shall be from the same political party. Five members of such Select Committee shall be from the Committee on Labor and Public Welfare of the Senate, of which no more than three shall be of the same political party. Five members of such Select Committees shall be from the Committee on Finance of the Senate, of which no more than three shall be of the same political party. The Select Committee shall conduct a full and complete investigation of the costs to the Railroad Retirement Account of the total of (A) the amounts of annuities paid and to be paid after 1974 pursuant to the provisions of section 3(h), 4(e), or 4(h) of this Act or under the provisions of section 204(a)(3), 204(a)(4), 206(a)(3), or 207(3) of Title II of this Act, plus (B) any loss in interest to such account resulting from the payment of such amounts and of the means of funding such costs. The Select Committee shall, no later than May 1, 1975, report to Congress on the result of such investigations, together with recommendations for legislative action."

Mr. BROYHILL of North Carolina. Mr. Chairman, the bill that was presented to the committee was the result of a labor-management agreement which would have completely relied upon social security to cover the unfunded liability that exists in the fund and would have continued to exist with the amendments that are added to the program under this bill.

Under the proposal that was presented to us by this labor-management agreement, social security revenue, the social security fund, would have been relied upon as long as necessary to eliminate this deficit.

More than 4 years ago the Congress recognized that there was a serious financial condition in this retirement program, and that for years, the industry itself had been doing nothing to correct this serious financial condition. So in 1970 the Congress provided for an independent study of the financial condition of the railroad retirement system. Recommendations were made as a result of this study for changes to provide for adequate benefits, and to provide for them on a very sound financial basis.

Well, what was the result of this? The Congress directed the railroad industry, directed both labor and management to take the results of this study and to develop changes in the railroad retirement system that would take into account these recommendations.

But, the industry came back with a plan and said to the Congress, "We are going to recommend certain changes, changes that are needed. We are also going to recommend certain increased benefits, but we are asking that the people of the United States, the general taxpayer, subsidize the railroad retirement system."

No one is opposed to the railroad retirement program. No one is saying that they are opposed to adequate benefits that are provided, either under past law or the proposals under this bill. The only issue is how we are going to finance the unfunded liability in the railroad retirement fund.

One fact I pointed out in general debate, a fact very clearly outlined in the committee report accompanying the bill, is the cost of this program. The cost of eliminating the unfunded liability is $4½ billion. Who is going to pay it? The general taxpayer is going to pay it.

It is our belief that other alternatives should be explored. Very frankly, there were no other alternatives explored in the committee consideration because of the parliamentary situation. One alternative that was offered was ruled out of order because it dealt with another act which was not under consideration at that time.

There are other alternatives. They should be explored, and so that is exactly what my amendment does. It provides for 1-year funding—1 year only funding of the benefits that have been provided for the retirees under this program under past law and the provisions that are included in this bill; not to provide for 25 years or more of funding, a permanent solution. The amendment is for 1-year funding only, and the creation of a special committee, a select study committee composed of members of the Ways and Means Committee in the House, the Committee on Interstate and Foreign Commerce, the Finance Committee and the Labor and Public Welfare Committee of the other body.

This special select committee would have a mandate to study this whole question and to make a final report recommending long range funding solutions on May 1 of next year.

Mr. Chairman, I would urge adoption of this amendment as the most viable solution at this time.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we explored everything we could in the committee, and I might say that to set up another committee has already been done. We set up a committee in 1970 to study this situation. They were to report back to us in 1971. They said it was such a large task that they asked us for another year. The Congress gave them another year. They reported back in 1972. Now, the gentleman proposes to set up another committee, which we did in 1973.

We said, "We want labor and management to get together and study this along with railroad retirement and others, and have recommendations for legislation," which they did.

Now, to set up another committee does not solve this thing. That is what this Congress does too many times. Instead of solving a problem and attacking it when we have done the very best we can, we set up a committee. We have always done that. We have set up two of them, and now the gentleman proposes to set up another one. I just do not believe it is right.

I notice the chairman of the Ways and Means Committee is on the floor. I would like to say that I talked to him about taking this out of the social security fund. We could not come to any agreement. He could not have hearings and he has not had hearings.

I think it would be very unfair for we of the Interstate and Foreign Commerce Committee to go over and say to another committee, "We are going to take a part of the funds, which are your responsibility, and we are going to take them away from you to pay our people."

I just do not think that is right—I do not think it is equitable. I do not think it is fair. This is no way to attack the thing at all, as far as I can see.

Congress passed this law in 1951. It made a mistake on the dual benefits. That is where it all lies, in this dual benefit problem, where we pay men and women, in effect, two social security payments. All we say we are doing is abolishing that now, but somebody has to pay for those who are already on the record.

We say that since Congress made this mistake, we must take the responsibility, and the only way we can do it is by taking the needed funds from appropriations.

As the gentleman from Nebraska said a few minutes ago, if the funds had been invested as they should have been, such as in bonds, the fund would have drawn $2.5 billion more than it has in the way the money has been invested. Some of it is invested at 3, 4, 5, 6, and 7 percent, although the going rate today is 8 or 9. Therefore, we see that they have not been acting right with the funds.

For these reasons, I think that these are reasons enough for the amendment to be turned down.

I think this is not an equitable way to do it, and I would suggest that the gentleman from Arkansas, the chairman of the full committee, take 5 minutes and talk on it.

Mr. MILLS. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I will be happy to yield to the gentleman from Arkansas.

Mr. MILLS. Mr. Chairman, I do not understand the reasoning that would prompt an effort here to take money from one trust fund, which is paid in by a group of workers and their employers and the self-employed, and use it for the benefit of people who are involved in and eligible for benefits under another program.

The money is there, but make no mistake about it: The money that is there is needed. It is needed to pay for the benefits that are in existing law applicable to those who retire or become disabled or those who are dependents of persons under social security.

A report was made recently that would lead one to believe that really we are not taking in enough now to finance the social security program.

I question the validity of that suggestion so far as the short-range financing of the program is concerned. However, I would still call the attention of the House to the fact that with respect to the long-range financing of the social security prgorams we are operating in a deficit position right now. On the basis of assumptions that I would be willing to accept, we are not collecting enough money, really, to make the funds, over a 75-year period, actuarially sound.

Therefore, we just do not have the money in the fund to support this purpose that the amendment has in mind, even though it would be for just 1 year.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I will be happy to yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I ask the gentleman from West Virginia to yield so that I might ask a question of the gentleman from Arkansas.

Mr. MILLS. Yes.

Mr. BROWN of Ohio. Is there anything being done in the Committee on Ways and Means to study this question of the actuarial soundness of the social security system, based on the concern many people have expressed about the diminishing numbers of new workers who will eventually come into the system because of the evolution of zero population which reduces the number of babies being born, and the increasing medical advances, which mean that an increasing number of older people have to be supported by a decreasing number of young people coming into the system?

The CHAIRMAN. The time of the gentleman from West Virginia has expired.

(By unanimous consent, Mr. STAGGERS was allowed to proceed for 3 additional minutes.)

Mr. MILLS. Mr. Chairman, will the gentleman yield to me?

Mr. STAGGERS. I will be happy to yield to the gentleman from Arkansas.

Mr. MILLS. Yes. I would be glad to respond to my friend, the gentleman from Ohio.

This is the matter that I was referring to a moment ago, and it is being very actively studied at the present time by our committee staff.

How anybody could predict how many pregnancies may occur and how many new births may occur 10 or 15 years from now, I do not know.

So I say if we take them literally and assume they are right, we would have to increase social security taxes sometime over this period of 75 years. I am not willing yet to accept their statement as being factual, and I have had the committee staff looking into the matter. If they are right, I want to know it; if our staff people disagree, I want to know that.

But to say the least, there will be enough money in the fund for the next two or three decades to carry out the payment of the social security benefits which are now established in the law.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman from West Virginia will yield further, I might just say to the gentleman from Arkansas and the gentleman from West Virginia that I hope to offer an amendment to the amendment which has been offered by the gentleman from North Carolina which would include a study of some of the other federally mandated and supported retirement systems, including the social security system, so that we can attempt to rationalize those systems at the Federal level and predict what our problems may be, if not resolve those problems.

Mr. STAGGERS. Mr. Chairman, I would like to say this: We have proceeded with our study of the fund, and after all the study has been made and all the plans are carried out, we feel they are on an actuarially sound basis now and will be on into history. We have a statement in the report from the representatives of the railroads which says that if any deficiency occurs in the future in the funds, they will be responsible for it and will make it up.

So this is the last go-around on the railroad retirement fund, and this will once and for all put it on an actuarially sound basis, and we will not be coming back from year to year. I think this is the only way to solve the problem.

So, Mr. Chairman, I urge the defeat of the Broyhill amendment and the passage of the bill.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

I want to thank the chairman of the Committee on Ways and Means for coming in and expressing the situation as regards social security, because it is true that social security is in no position to take care of any additional responsibilities. We all know of its very strained reserve situation.

But I did want to say something on the point that was just raised, and that is on the question of actuarial soundness. It is true that they do plan to make this plan actuarially sound, but the way they are going to make it actuarially sound is by reaching down in the till of the U.S. Treasury and put this one pension fund on an actuarially sound basis, not any other fund to be given such treatment, in order to pay for it.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, we have reached down in the fund and have gotten $2½ billion out of it, and it probably would have been actuarially sound if they had not done this all during the years. If they invested in the bonds at the current date when they expired, I would say the Treasury would have to put it back and put that amount in the fund.

Mr. COLLINS of Texas. If we took all the money that had been paid in over the years we would have 2½ years as a total reserve, but this is inadequate to meet the schedule of payments for 16 years. There is no way railroaders can accumulate 2½ years' reserve and pay out for 16 years.

Mr. STAGGERS. On that point, Mr. Chairman, the railroad segment has been paying in twice as much as any other pension plan in America up until the last year.

Mr. COLLINS of Texas. Mr. Chairman, if I could remind the gentleman of this, they have been drawing a very high pension. The railroad pensioners are among the top 10 percent highest pensions paid out in this country.

Of course, many objections were made during the past 5 years where we have passed bill after bill, but each year we voted to make this a larger pension. We have increased railroad pensions 68½ percent, but yet we have not increased the reserves one single nickel. That has been the problem. We have increased payouts tremendously for this one industry, and another problem is that we dropped retirement age from 65 to age 60.

The plan is totally unsound, and the only way to make it sound is to have the Government come in and make special funds available only for railroaders—not for painters, not for carpenters, not for people who work in the dress factories, but only for railroaders. We are going to make this pension plan actuarially sound for one special group.

Mr. STAGGERS. Mr. Chairman, let me ask the gentleman this question:

Did the Treasury take advantage of any bonds for any of these funds?

Mr. COLLINS of Texas. No.

Mr. STAGGERS. No, because they did not have them. But they did in the railroad retirement, and we are correcting that and saying the Railroad Retirement Board will invest these funds and make them at the highest rates they can. It would have been actuarially sound if they had invested them.

The gentleman would have to agree that the railroad pensioners are paying in twice as much as anyone is in any other fund in America.

Mr. COLLINS of Texas. Mr. Chairman, let me summarize it one more time. Let us take all railroaders' payments, and assume they have got 5 percent interest which is the rate earned by the best private pension funds. Add all payments for 30 years plus interest and it will only provide for 2½ to 3 years and their life expectancy is 16 years. This pension is so generous that it is in the top 10 percent of pensions of the Nation. This is in the upper executive group of pension plans. Congress asks the Federal Government to put the railroaders up in the top flight pension plan, in spite of the fact that the rest of the workers who also have inflation burdens are ignored. Other retired people over 65 are needing larger pensions but only the railroaders get this special privilege payment direct from general revenues.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DEVINE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, everyone is in favor of the railroad workers receiving their retirement. The only issue involved here is how it should be funded. It is very unfortunate that railroad labor and railroad management cannot get their heads together and come to an agreement that the taxpayers are going to pick up their check. That is the whole issue. Naturally, none of us have any argument that railroad pensioners should receive their pension. The question of funding leads us to one other key thing that I think is the main issue in the election this fall. Inflation. The fact that this bill hit the floor of this House less than 60 days before an election is not exactly accidental. The issue has to do with inflation.

The gentleman from North Carolina (Mr. BROYHILL) pointed out that this legislation will cost the taxpayers $4.5 billion between now and the phaseout in a period of about 25 years. It is going to cost about $285 million each year, unbudgeted, and that brings me to the crux of the issue, the question of inflation. We are trying to combat inflation, and so long as we, the Congress, not just on this railroad retirement bill but on bill after bill after bill, violate the budget, we are going to continue to fan the flames of inflation, and we are not going to meet the problems of inflation.

There is another issue facing this Congress right now having to do with the possible suspension of the proposed raise for Federal employees for a period of 3 months, for 90 days. Of course, all of the Federal employees rightfully claim that they want and they need the increase. What would it mean? It would save this Nation $700 million in cash outlays if we defer this for 3 months. But the Federal employees logically, at least justifiably, say: "Do not pick on us. It is discriminatory."

Everybody is for economy if we take the "me" out of it. The same thing applies on this particular program.

I would urge that we give favorable support to the amendment offered by the gentleman from North Carolina which in effect amounts to a simple 1-year extension. I would advise the House that in the event this amendment does fail, I will be compelled to offer a motion to recommit with instructions, practically the same as are included in the amendment, for simply a 1-year extension primarily because of the inflationary aspect of the legislation that would require an outlay from the Treasury of $285 million a year.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

The gentleman does not mean that this is a simple 1-year extension; does he? I mean this amendment provides the same provisions as are contained in the bill except that it limits the effect of the amendment to 1 year and draws approximately $200 million from general revenue and approximately $100 million from the social security fund. Is that not the effect of it?

Mr. DEVINE. That may be the effect of the amendment offered by the gentleman from North Carolina. It would be, unless I stand corrected, more than just a simple extension, because it does contain that.

Of course, as the gentleman from Texas knows, as he is on the committee and a very studious member of the committee, we have explored many areas. The first was to take it all from social security. There was one three-headed approach where we take one-third from the social security trust fund, one-third by an increase in the freight rate, and one-third from the Treasury.

In kicking this around again the whole question is a question of financing, and not whether or not these people are entitled to the benefits.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, I also want to pick up on that one point. One of the important parts of this bill and one of the reasons why I support it is that we are trying to freeze these benefits and stop the movement out of dual benefits as of January 1, 1975, which will be in effect helping the inflationary crisis in this country. If we did not do this, does not the gentleman agree if we just extended the present situation we would have benefits flowing out to an even greater degree than we will if we adopt this bill?

Mr. DEVINE. The gentleman is correct.

Mr. McCOLLISTER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want to comment about what seems to be our tendency when faced with a difficult situation and a tough vote to postpone that decision and call for a study. I think now is the time for us to resolve this.

I think there are many people in the Railroad Retirement System who have had their confidence eroded and who are worried about this, and there being in this Member's view at least no alternatives I would hope the amendment would be defeated and the question resolved so that it might not continue to hang over the heads of our railroad retirees.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. McCOLLISTER. I yield to the gentleman from Texas.

Mr. ECKHARDT. I appreciate the gentleman's statement. I agree with him.

I also shall vote against the amendment because I think the solution we have adopted, although not altogether satisfactory, is nevertheless a workable one.

I would like to say though, and I think the gentleman might join me in this, that there is some logic to the proposition that somebody or some committee ought to have sufficient reach to make the very best choices with respect to the source of revenues and I believe our committee did not have that reach. In that respect I think the amendment offered by the gentleman from North Carolina (Mr. BROYHILL) is well devised as a matter of general principle but it seems to me impractical to support at this time since a solution is afforded by the bill as written.

Mr. McCOLLISTER. I agree with the comments of the gentleman. I thank him for his contribution.

Mr. STAGGERS. Mr. Chairman, I rise in order to establish a time limit on this amendment. I see just one speaker on his feet. I wonder if in 5 minutes we could close debate?

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. Yes.

Mr. PICKLE. I was seeking recognition. Is the gentleman asking after that recognition that we close in 5 minutes?

Mr. STAGGERS. Yes.

Mr. PICKLE. Mr. Chairman, I support the amendment offered by the gentleman from North Carolina. I think, however, we must take positive action on the whole bill. We must pass a retirement adjustment program. I am going to support the measure, however we come out on this pending amendment.

But, I do not think that it is basically fair for us to take all the money from the General Treasury. I take the position that we ought to broaden our approach. It is an easier way to go to the general revenue and take it from there. That is not the right thing to do.

The recommendation to the committee from both management and labor was that we take it all from social security. That ran into a lot of flak, and the committee thought it would be easier to take it from general revenue. That may be easier; it is not the fiscally sound approach.

I am for passing the bill. I think, though, we ought to look for a broad level of funding. I think the amendment offered by the gentleman from North Carolina takes some from social security and some from other sources, and is thus a reasonable approach, certainly, when we compare that with the recommendation of management and labor to take it all out of social security.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. Mr. Chairman, is it not true that in the committee an amendment was offered that would have permitted these benefits to be financed by the marketplace, by the industry itself?

Mr. PICKLE. Yes.

Mr. BROYHILL of North Carolina. That was ruled out of order. Is that an alternative that should also be considered?

Mr. PICKLE. That amendment was offered and was not considered germane because it would have affected the jurisdiction of another act not under consideration. Since it was not germane, we cannot grant an industry-free or freight-rate approach.

Therefore, the only way to get to that is to have a study that would or could make that recommendation. So, I say that taking some from social security is a reasonable approach; $200 million or approximately that from general revenue, with the hope that investments might also bring in some additional funds. And there ought to be some sums earmarked from increased freight rates.

I think the emergency of the times are such that the temptation will be strong just to finance this from the general revenue. If that is the only solution, I think we should do that. The trouble is, our committee should never agree on the exact approach.

There is general agreement, and I do not think it will be denied by either side of the aisle, that we ought to have a broad based payment on this matter. But, the trouble is that we could not come up with the right solution. I really think that if we had this thing for 1 year funded, as the gentleman from North Carolina suggests, with the understanding and direct recommendation made within a year's time by a committee composed of members not only from this committee, but from the Committee on Ways and Means, Industry and Labor and other sources—we come up with a more equitable solution.

This is not one of the finest hours of the committee when we take all this money from the general revenue. I think the fair approach would be to spread it out.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, the President's recent statement regarding his determination to stop any effort to add new deficits bothers me. I am hopeful that he will not veto this bill since the moneys come from the general fund. I do not want to see that happen. I think perhaps this is what bothers the gentleman from North Carolina. It might well be that presidential action may require that we go to the drawing board and study the proposal. It was I who submitted the amendment calling for an increase in freight rates which was ruled out of order. That amendment would have raised $270 million. I also suggested the possibility of raising the funds by permitting the railroads the right to request and receive a freight increase to cover their costs. This approach would have also made it unnecessary to take funds from the general fund. Either suggestion would have given us a plan that would be more equitable and fair. However, I was in the minority. Regardless of the approach—we have a responsibility and we must live up to it.

Mr. PICKLE. Mr. Chairman, I thank the gentleman for his remarks.

AMENDMENT OFFERED BY MR. BROWN OF OHIO TO THE AMENDMENT OFFERED BY MR. BROYHILL OF NORTH CAROLINA

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Brown of Ohio to the amendment offered by Mr. Broyhill of North Carolina: At the end of the amendment offered by Mr. Broyhill add the following:

"(3) There is hereby created a Select Committee on Civil Service Retirement composed of 7 members of the Committee on Post Office and Civil Service of the House of Representatives appointed by the Speaker and 7 members of the Commission on Post Office and Civil Service of the Senate appointed by the President of the Senate. Not more than 4 members from either house shall be from the same political party. The Select Committee shall conduct a full and complete investigation of the Civil Service Retirement System and shall report to the Congress not later than May 1, 1975 on the result of its investigations, together with recommendations for legislative action to restructure the System in such a manner as will insure its long-term acturarial soundness.

"(4) There is hereby created a Select Committee on Pensions or Compensation for Veterans composed of 7 members of the Committee on Veterans Affairs of the House of Representatives appointed by the Speaker and 7 members of the Committee on Veterans Affairs of the Senate appointed by the President of the Senate. Not more than 4 members from either house shall be from the same political party. The Select Committee shall conduct a full and complete investigation of the pensions or compensation for veterans and shall report to the Congress not later than May 1, 1975 on the results of its investigations, together with recommendations for legislative action to restructure the system in such a manner as will insure its long-term acturarial soundness.

"(5) There is hereby created a Select Committee on the Uniformed Services Retirement System composed of 7 members of the Committee on Armed Services of the House of Representatives appointed by the Speaker and 7 members of the Committee on Armed Services of the Senate appointed by the President of the Senate. Not more than 4 members from either house shall be from the same political party. The Select Committee shall conduct a full and complete investigation on the Uniformed Services Retirement System and shall report to the Congress not later than May 1, 1975 on the result of its investigations, together with recommendations for legislative action to restructure the system in such a manner as will insure its long-term actuarial soundness.

"(6) There is hereby created a Select Committee on Federal Old Age, Survivors and Disability Insurance Benefits composed of 7 members of the Committee on Ways and Means of the House of Representatives appointed by the Speaker and 7 members of the Committee on Finance of the Senate appointed by the President of the Senate. Not more than 4 members from either house shall be from the same political party. The Select Committee shall conduct a full and complete investigation of the Federal Old Age, Survivors and Disability Benefits and shall report to the Congress not later than May 1, 1975 on the result of its investigations, together with recommendations for legislative action to restructure the system in such a manner as will insure its long-term actuarial soundness.

"(7) There is hereby created a Select Committee on Foreign Service Retirement and Disability System composed of 7 members of the Committee on Foreign Affairs of the House of Representatives appointed by the Speaker and 7 members of the Committee on Foreign Relations of the Senate appointed by the President of the Senate. Not more than 4 members from either house shall be from the same political party. The Select Committee shall conduct a full and complete investigation of the Foreign Service Retirement and Disability System and shall report to the Congress not later than May 1, 1975 on the result of its investigations, together with recommendations for legislative action to restructure the System in such a manner as will insure its long-term actuarial soundness.

Mr. BROWN of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that my amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. STAGGERS. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from West Virginia reserves a point of order.

Mr. ADAMS. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The gentleman from Washington reserves the right to object.

Mr. ADAMS. We were just about to hear what he was going to do. I assume the gentleman in his remarks is going to explain it in detail.

Mr. BROWN of Ohio. Mr. Chairman, I will, if I may have unanimous consent to revise and extend and proceed for 2 additional minutes.

Mr. ADAMS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio to revise and extend and have 2 additional minutes?

There was no objection.

The CHAIRMAN. Without objection, the further reading of the amendment will be dispensed with, and without objection, the gentleman is recognized for 7 minutes in support of his amendment.

There was no objection.

The CHAIRMAN. The gentleman from West Virginia has reserved a point of order.

Mr. BROWN of Ohio. Mr. Chairman, my amendment adds five new sections to Mr. Broyhill's amendment, each creating an additional select committee to study the actuarial soundness and economic impact of the following retirement systems maintained by the Federal Government:

The civil service retirement system;

The pensions and compensation of veterans;

The uniformed services retirement system;

The Federal old-age, survivors, and disability insurance;

Benefits, otherwise known as the social security system, and the foreign service retirement system.

In each case the select committee would have 14 members, 7 from each of the committees of jurisdiction in the House and the Senate, and in each body to be appointed by the presiding officer of that body and to have no more than 4 members of any one political party in that body.

Because of the economic weakness in this bill, I plan to support the amendment offered by my colleague from North Carolina, which will in no way affect the benefit provisions of H.R. 15301, but will pay such benefits only for an interim period of 1 year, thus reducing the economic impact of the bill and give us time to study a more sound long-range funding approach which could be implemented in the 94th Congress. Furthermore, I offer an amendment of my own which would provide a study of all federally run and supported retirement programs as Mr. Broyhill's amendment would do for the railroad retirement system.

I am concerned that we really do not know the actuarial soundness or the economic impact of the 10 different retirement systems which the Federal Government operates. We need to be aware of the long-term economic demands which these systems will place on the American taxpayer, particularly at times of economic strain such as those we face currently.

In a report by the General Accounting Office dated July 30, 1974, entitled "Federal Retirement Systems: Key Issues, Financial Data, and Benefit Provisions," the Comptroller General makes the following observations:

> The U.S. Government operates 10 retirement systems which provide coverage to approximately 5.9 million Federal civilian and military personnel. During fiscal year 1973 the total outlay by these systems was $9.1 billion.
>
> No uniform practices or principles exist on financing Federal retirement systems. Some systems are financed on a contributory basis and some on a noncontributory basis, some provide for fully funding benefits as they accrue, some provide for partial funding, and others are completely unfunded.
>
> The unfunded liability of Federal retirement systems was an estimated $201 billion at the end of fiscal year 1973. Of this amount approximately two-thirds was attributable to the unfunded military retirement system and one-third to the funded civil service system.
>
> The unfunded liability of the civil service retirement system continues to increase, even though it operates on a fully funded basis, primarily because of unfinanced cost-of-living annuity adjustments.
>
> The Civil Service Commission has estimated that each cost-of-living adjustment adds a minimum of $2.1 billion to the system's unfunded liability.
>
> The Congress does not receive complete or consistently developed current and projected financial information on Federal retirement systems.
>
> Although the Department of the Treasury does prepare an annual report for the Congress on the contingent liabilities of Government retirement systems, the report is not complete and the data is not developed on a consistent basis but by differing actuarial methods.
>
> There is no overall Federal retirement policy to provide objectives and principles to guide the development and improvement of Government retirement systems. Lacking such a coherent, coordinated policy, the benefit structures of Federal retirement programs have evolved and developed in a piecemeal fashion. One consequence of this type of development has been the creation of duplicate and inconsistent benefits.
>
> There is no centralized mechanism for monitoring development of Federal retirement systems' benefit structures, interrelation of benefit systems, or the cost of these systems.
>
> We are making no recommendations for action by the executive branch because the issues involved require overall policy determination by the Congress.
>
> If Government retirement systems are to develop, collectively, on some consistent and financially sound basis, it is essential that the Congress assume a major role in establishing and controlling an overall retirement policy. Therefore, GAO suggests that the appropriate Committees of the Congress hold hearings to consider indepth the issues raised in this report.
>
> The principal purpose of these hearings should be to develop legislation that would establish:
>
> An overall Federal retirement policy which provides objectives and principles to guide future development and improvement of Government retirement systems.
>
> A centralized mechanism for monitoring the development, interrelationship, and cost of Federal retirement systems, and to improve the system for reporting financial data.

What this boils down to is that we have a hodgepodge of Federal programs which are currently lurching along with no direction and with no congressional understanding of what the extended impact of these programs will be.

For this reason my amendment would propose a series of studies to be performed by the House and Senate committees of jurisdiction over several of these programs in order to determine just where we are and the most responsible method by which to proceed. Unless we are willing to assume this intellectual burden now, the U.S. taxpayer may be required—and unhappily so—to assume a much greater economic burden down the road, one of which we do not really know the dimensions.

POINT OF ORDER

Mr. STAGGERS. Mr. Chairman, I intend to make a point of order that the amendment is not germane.

The only reason I say it is not germane to the bill is that as far as the essence of this bill is concerned, it does not mention any of these other funds. No other funds are mentioned.

Mr. BROWN of Ohio. Mr. Chairman, I concede the point of order as to this being nongermane, and I would be happy to withdraw the amendment. I am pleased that I have had the opportunity to raise the issue for the consideration of the Members at this time.

Mr. Chairman, I ask unanimous consent that I may be permitted to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. GOLDWATER. Mr. Chairman, I move to strike the requisite number of words.

Mr. STAGGERS. Mr. Chairman, if the gentleman will yield, if the gentleman wishes to speak at this time, I would like to make this request:

I ask unanimous consent that all time on this amendment expire within 5 minutes after the conclusion of the remarks by the gentleman from California (Mr. GOLDWATER).

The CHAIRMAN. The gentleman from West Virginia (Mr. STAGGERS) has asked unanimous consent that after 5 minutes to be consumed by the gentleman from California (Mr. GOLDWATER), all time expire on this amendment and all amendments thereto.

Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. GOLDWATER. Mr. Chairman, I only want to speak briefly in support of the amendment offered by the gentleman from North Carolina (Mr. BROYHILL). I also would favor the intent of the amendment offered by the gentleman from Ohio (Mr. BROWN).

It appears to me from those I have talked to in my district and around the country that there is growing concern for these retirement programs which are enacted or run by the Federal Government. The lack of credibility of these funds is growing, and the intent of the amendment offered by the gentleman from Ohio (Mr. BROWN), I think is well taken. I would suggest that the Members of Congress address themselves to these programs to see if in fact they are sound, and what they can do to make those programs better.

With regard to the amendment that was offered by the gentleman from North Carolina (Mr. BROYHILL) now pending, serving on the Committee on Interstate and Foreign Commerce, I attended the hearings, the markup sessions, quite regularly. Even though I attended and listened, obviously I still am quite puzzled by the entire railroad retirement program. I think this is quite typical of not only the members of that committee, but also Members of the House. This is a very complicated area that we are legislating; it is involved. There are no really easy answers. They are hard answers. It makes sense to me that we take a little more time to further evaluate our approach to solving this problem which the railroad retirement program has run into, a problem to the extent of some $4.5 billion which we are being asked to take out of the hides of the American taxpayer.

It appears to me that if we are prudent, if we are legislating with a degree of intelligence, a little more time would perhaps give us better answers. I, therefore, support this amendment and ask that it pass.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. I thank the gentleman for yielding.

The gentleman, of course, is a member of the full committee, and is familiar with the problems as we discussed them in committee. Would he not agree that any long-range solution for the financing of this unfunded liability is, No. 1, going to have to involve other alternatives?

Mr. GOLDWATER. Absolutely.

Mr. BROYHILL of North Carolina. Second, if we are going to have any long-range solution, it is going to take the best thinking not only of the members of the Committee on Interstate and Foreign Commerce, but other committees of this House and other committees of the other body?

Mr. GOLDWATER. This is absolutely true. If we are going to come up with a sound program, we are going to have to do some very careful and hard deliberating.

Mr. BROYHILL of North Carolina. For the reason that any long-range solution we might come up with would cut across committee jurisdictional lines, the study committee I have proposed here is the soundest way to go back to the drawing board and come up with a sound, long-range solution.

Mr. GOLDWATER. This is a very good proposal that the gentleman has suggested, and I hope that it will pass.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. BROYHILL).

The question was taken; and the

Chairman announced that the noes appeared to have it.

Mr. BROYHILL of North Carolina. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. Are there any further amendments?

AMENDMENT OFFERED BY MR. MOSS

Mr. MOSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moss: On page 261, line 24, immediately after "amounts" insert the following: "reduced by (C) one-half of one percent of taxable payroll for each such fiscal year".

Mr. MOSS. Mr. Chairman, this is more in the nature of a technical amendment. The committee adopted on page 262 of the bill, beginning on line 1 of that page, language which leaves to the Railroad Retirement Board the right to direct the investment of the portfolio held by the retirement system and it is anticipated that it will produce somewhere between $40 million to $80 million additional. This amendment commits one-half of 1 percent of the taxable payroll or about $30 million of that increased earning to the retirement of the deficit. It cannot be used for any other purpose.

Mr. KUYKENDALL. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Tennessee.

Mr. KUYKENDALL. Mr. Chairman, I appreciate the gentleman from California yielding.

I think that directing that these moneys be placed in a specific credit is commendable. I think in this way we can demonstrate that the intent of the bill is in seeing that this fund gets greater income and it can be more easily pointed to by the Congress. I commend the gentleman for his amendment.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I would favor the amendment. I think it is perfectly all right and acceptable on this side of the aisle.

Mr. MOSS. Mr. Chairman, I thank the gentleman. I urge that the amendment be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss).

The amendment was agreed to.

The CHAIRMAN. There being no further amendments, the question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. FLOWERS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 15301) to amend the Railroad Retirement Act of 1937 to revise the retirement system for employees of employers covered thereunder, and for other purposes, pursuant to House Resolution 1362, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. DEVINE

Mr. DEVINE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. DEVINE. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DEVINE moves to recommit the bill H.R. 15301 to the Committee on Interstate and Foreign Commerce with instructions to report the same back forthwith with the following amendment: Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) section 3(a)(6) of the Railroad Retirement Act of 1937 is amended—

(1) by striking out "December 31, 1974" and inserting in lieu thereof "December 31, 1975"; and

(2) by adding at the end thereof the following new sentences: "If the individual entitled to an increase determined under the preceding provisions of this paragraph is also entitled to a benefit for the same month under title II of the Social Security Act, there shall, any provision to the contrary notwithstanding, be offset against the total of the increase, or increases, of such individual determined under the preceding provisions of this paragraph, any amount by which such individual's social security benefit was increased during the period July 1, 1974, through December 31, 1975. For purposes of approximating any such offsets, the Railroad Retirement Board is authorized to determine the percentage figure which, when applied against current social security benefits, will produce approximately the amount of the increase, or increases, in social security benefits during the period July 1, 1974, through December 31, 1975. The amount produced by applying such percentage figure to the current social security benefit of an individual shall be the amount utilized in making the offset prescribed by the provisions of this paragraph."

(b) Section 105 of Public Law 93-69 is amended by striking out "December 31, 1974" and inserting in lieu thereof "December 31, 1975".

SEC. 2. (a) Section 6 of Public Law 91-377, as amended by section 8(c) of Public Law 92-46 and by section 103(a) of Public Law 93-69, is further amended by striking out "December 31, 1974" each time that date appears and inserting in lieu thereof "December 31, 1975".

(b) Section 8(b) of Public Law 92-46, as amended by section 103(b) of Public Law 93-69, is further amended by striking out "December 31, 1974" each time that date appears and inserting in lieu thereof "December 31, 1975".

(c) Section 5(b) of Public Law 92-460, as amended by section 103(c) of Public Law 93-69, is further amended by striking out "December 31, 1974" each time that date appears and inserting in lieu thereof "December 31, 1975".

SEC. 3. The amendments made by sections 1 and 2 of this Act shall be effective on the enactment date of this Act, and the amendment made by paragraph (2) of section 1(a) of this Act shall apply with respect to any increase in annuities under the Railroad Retirement Act of 1937 which becomes effective after June 30, 1974.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. COLLINS of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 26, nays 329, not voting 79, as follows:

[Roll No. 524]

YEAS—26

Archer
Arends
Bennett
Chamberlain
Collier
Collins, Tex.
Crane
Davis, Wis.
Devine
Erlenborn
Fisher
Frey
Goldwater
Goodling
Gross
Hosmer
Hutchinson
Jarman
Landgrebe
Martin, Nebr.
Robison, N.Y.
Symms
Ware
Williams
Wilson, Bob
Wyatt

NAYS—329

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Aspin
Badillo
Bafalis
Baker
Bauman
Beard
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Breckinridge
Brinkley
Brooks
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chappell
Clancy
Clark
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Danielson
Delaney
Dellenback
Dellums
Denholm
Dent
Dickinson
Diggs
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Eshleman
Evans, Colo.
Fascell
Findley
Fish
Flood
Flowers
Flynt
Foley
Forsythe
Fountain
Fraser
Frenzel
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Gray
Green, Pa.
Griffiths
Grover
Gude
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Howard
Huber
Hudnut
Hunt
Johnson, Calif.

Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Karth
Kastenmeier
Kazen
King
Kluczynski
Koch
Kuykendall
Kyros
Landrum
Latta
Leggett
Litton
Long, La.
Long, Md.
Lott
Luken
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin. N.C.
Mathis. Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Mills
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Moss
Murphy, Ill.
Murtha
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Brien
O'Neill
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reid
Reuss
Rhodes
Riegle
Rinaldo
Robinson, Va.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncalio, N.Y.
Rooney, Pa.
Rose
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Seiberling
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Taylor, Mo.
Taylor, N.C.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Traxler
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zion

NOT VOTING—79

Anderson, Calif.
Armstrong
Ashbrook
Ashley
Barrett
Blackburn
Blatnik
Brasco
Broomfield
Burke, Fla.
Camp
Carey, N.Y.
Chisholm
Clausen, Don H.
Clawson, Del
Conable
Conlan
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
de la Garza
Dennis
Derwinski
Dorn
Evins, Tenn.
Ford
Frelinghuysen
Grasso
Green, Oreg.
Gubser
Gunter
Hanna
Hawkins
Hungate
Ichord
Johnson, Colo.
Jones, N.C.
Jordan
Kemp
Ketchum
Lagomarsino
Lehman
Lent
Lujan
McEwen
McSpadden
Mathias, Calif.
Morgan
Mosher
Murphy, N.Y.
Nelsen
O'Hara
Podell
Powell, Ohio
Price, Tex.
Rarick
Rees
Roberts
Rooney, N.Y.
Rosenthal
Rousselot
Runnels
Scherle
Sebelius
Shoup
Smith, N.Y.
Snyder
Spence
Talcott
Teague
Towell, Nev.
Vander Veen
Veysey
Widnall
Wiggins
Wydler
Young, Alaska
Zablocki
Zwach

So the motion to recommit was rejected.

The Clerk announced the following pairs:

Mr. Murphy of New York with Mr. Blatnik.

Mr. Dominick V. Daniels with Mrs. Grasso.

Mr. Rooney of New York with Mr. Dorn.

Mr. Barrett with Mrs. Green of Oregon.

Mr. Hawkins with Mr. Podell.

Mr. Rosenthal with Mr. Sebelius.

Mr. Morgan with Mr. Scherle.

Mr. Carey of New York with Mr. Derwinski.

Mr. Hanna with Mr. Burke of Florida.

Mr. Gunter with Mr. Mosher.

Mr. Hungate with Mr. Camp.

Mrs. Chisholm with Mr. Davis of Georgia.

Mr. Ford with Mr. McEwen.

Miss Jordan with Mr. Brasco.

Mr. Jones of North Carolina with Mr. Powell of Ohio.

Mr. Runnels with Mr. Don H. Clausen.

Mr. Rees with Mr. Frelinghuysen.

Mr. Roberts with Mr. Ashbrook.

Mr. Zablocki with Mr. Kemp.

Mr. O'Hara with Mr. Dennis.

Mr. Davis of South Carolina with Mr. Del Clawson.

Mr. Ashley with Mr. Gubser.

Mr. de la Garza with Mr. Blackburn.

Mr. Evins of Tennessee with Mr. Lent.

Mr. Ichord with Mr. Lujan.

Mr. Lehman with Mr. Conable.

Mr. Rarick with Mr. Broomfield.

Mr. Teague with Mr. Mathias of California.

Mr. Vander Veen with Mr. Price of Texas.

Mr. Anderson of California with Mr. Conlan.

Mr. Shoup with Mr. Smith of New York.

Mr. Wydler with Mr. Zwach.

Mr. Spence with Mr. Snyder.

Mr. Talcott with Mr. Veysey.

Mr. Towell of Nevada with Mr. Wiggins.

Mr. Widnall with Mr. Nelsen.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

RECORDED VOTE

Mr. STAGGERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 343, noes 10, not voting 81, as follows:

[Roll No. 525]

AYES—343

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Aspin
Badillo
Bafalis
Baker
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Breckinridge
Brinkley
Brooks
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Conte
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Danielson
Delaney
Dellenback
Dellums
Denholm
Dent
Dickinson
Diggs
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Eshleman
Evans, Colo.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Forsythe
Fountain
Fraser
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gude
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hunt
Hutchinson
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Karth
Kastenmeier
Kazen
King
Kluczynski
Koch
Kuykendall
Kyros
Landrum
Latta
Leggett
Litton
Long, La.
Long, Md.
Lott
Luken
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Mills
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Moss
Murphy, Ill.
Murtha
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Brien
O'Neill
Owens
Parris
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reid
Reuss
Rhodes
Riegle
Rinaldo
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Seiberling
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Traxler
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zion

NOES—10

Archer
Collins, Tex.
Crane
Davis, Wis.
Devine
Erlenborn
Goodling
Gross
Jarman
Landgrebe

NOT VOTING—81

Anderson, Calif.
Armstrong
Ashbrook
Ashley
Barrett
Blackburn
Blatnik
Brasco
Broomfield
Burke, Fla.
Camp
Carey, N.Y.
Chisholm
Clausen, Don H.
Clawson, Del
Conable
Conlan
Conyers
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
de la Garza
Dennis
Derwinski
Dorn
Evins, Tenn.
Ford
Frelinghuysen
Grasso
Gubser
Gunter
Hanna
Hawkins
Hungate
Ichord
Johnson, Colo.
Jones, N.C.
Jordan
Kemp
Ketchum
Lagomarsino
Lehman
Lent
Lujan
McEwen
McSpadden
Mathias, Calif.
Morgan
Mosher
Murphy, N.Y.
Nelsen
O'Hara
Passman
Podell
Powell, Ohio
Price, Tex.
Rarick
Rees
Roberts
Roncalio, N.Y.
Rooney, N.Y.
Rosenthal
Rousselot
Runnels
Scherle
Sebelius
Shoup
Snyder
Spence
Talcott
Teague
Thornton
Towell, Nev.
Vander Veen
Veysey
Widnall
Wiggins
Wydler
Young, Alaska
Zablocki
Zwach

So the bill was passed.

The Clerk announced the following pairs:

Mr. Murphy of New York with Mr. Thornton.
Mr. Dominick V. Daniels with Mr. Dorn.
Mr. Rooney of New York with Mr. Snyder.
Mr. Morgan with Mrs. Grasso.
Mr. Carey of New York with Mr. Scherle.
Mr. Teague with Mr. Rousselot.
Mr. Zablocki with Mr. Frelinghuysen.
Mr. Hanna with Mr. Roncallo of New York.
Mr. Hungate with Mr. Derwinski.
Mr. Gunter with Mr. Conable.
Mr. Roberts with Mr. Camp.
Mr. Rees with Mr. Kemp.
Mr. Rosenthal with Mr. Gubser.
Mr. Hawkins with Mr. Podell.
Mrs. Chisholm with Mr. Davis of Georgia.
Mr. Davis of South Carolina with Mr. Lagomarsino.
Mr. Evins of Tennessee with Mr. Broomfield.
Mr. Ford with Mr. Don H. Clausen.
Mr. O'Hara with Mr. Dennis.
Mr. Conyers with Mr. Blatnik.
Mr. de la Garza with Mr. Del Clawson.
Mr. Passman with Mr. Blackburn.
Mr. Barrett with Mr. Lent.
Ms. Jordan with Mr. Brasco.
Mr. Jones of North Carolina with Mr. Lujan.
Mr. Ichord with Mr. Mathias of California.
Mr. Rarick with Mr. Ashbrook.
Mr. Ashley with Mr. Price of Texas.
Mr. Lehman with Mr. McEwen.
Mr. McSpadden with Mr. Burke of Florida.
Mr. Runnels with Mr. Mosher.
Mr. Vander Veen with Mr. Powell of Ohio.
Mr. Anderson of California with Mr. Sebelius.
Mr. Talcott with Mr. Shoup.
Mr. Towell of Nevada with Mr. Veysey.
Mr. Widnall with Mr. Wiggins.
Mr. Wydler with Mr. Zwach.
Mr. Young of Alaska with Mr. Nelsen.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

APPOINTMENT OF CONFEREES ON H.R. 15404, DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1975

Mr. SLACK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 15404) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1975, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. ROONEY of New York, SLACK, SMITH of Iowa, FLYNT, SIKES, MAHON, CEDERBERG, ANDREWS of North Dakota, and WYATT.

THE SUBCOMMITTEE ON PUBLIC HEALTH ENVIRONMENTAL HEARINGS

(Mr. ROGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS. Mr. Speaker, after consulting with the chairman of the full Committee on Interstate and Foreign Commerce, I want to advise the Members that the Subcommittee on Public Health Environment will begin hearings on the Clean Air Act on September 23. Of course, we will be glad to have any suggestions from Members.

LEGISLATIVE PROPOSALS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-352)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee of the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

In my first address before a Joint Session of Congress, I spoke of "communication, conciliation, compromise and cooperation." The Congress responded. We have communicated, conciliated, compromised, and cooperated.

I thank the bipartisan leaders and all Members for this working partnership. So far, despite some spats, we have had a good marriage.

Landmark bills in the fields of *Education, Housing-Community Development,* and *Pension Reform* were passed. For these examples of cooperation of real benefit to so many Americans, I am grateful.

I had serious objections to the *SBA loan legislation, Public Works Appropriations,* and *D.C. Medical School bill.* Recognizing congressional interest in particular elements of each measure, I signed them.

No effort was made to override measures that I had to veto. Congress responded promptly to my request for a *Council on Wage and Price Stability.*

Of the specific proposals I am singling out today, some are in the conference stage. Others have passed only one body. A few have passed neither. But virtually all have been the subject of hearings and are in the mark-up phase.

NOMINATIONS

Of utmost importance for Congress in its fall term is the consideration of *Nelson Rockefeller* as my nominee for Vice President of the United States. The Administration will assist the Congress in all appropriate ways to expedite this nomination. The precedent for this procedure under the 25th Amendment to the Constitution has been established. I am sure there will be no inordinate delay in moving forward Governor Rockefeller's nomination.

There are other nominations before the Senate, some pending since last January. There are other candidates for Federal office in varying stages of clearance. I expect to be able to submit them to the Senate within a few days. I would hope Congress could expedite action on all these nominees so that none will have to be held over to 1975.

REDUCING 1975 SPENDING

Responding to the initiative of the distinguished majority leader of the Senate and other members of the Congress, I have convened bi-partisan summit meetings on the issue of inflation. Many of you are participating. The legislative and executive branches are working together.

We are seeking short-term answers to short-term problems and long-term answers to long-term problems.

A concerted effort must be undertaken to bring spending down to manageable proportions. An important first step in this effort is to bring Federal outlays under control in 1975, making possible a balanced budget in 1976.

I need the help of the Congress in reducing 1975 spending below $300 billion. Several important cooperative steps by the Congress will be required to achieve this difficult target.

First, the Congress must resist temptations to add to spending totals on legislation now being considered. Responsible actions calls for agreements on cuts, not increases. I solicit suggestions on any programs that might be curtailed or stopped. Let me know about any spending that seems unnecessary or inflationary.

In the same vein, I would hope the Congress could pass specific legislation proposed in the February Budget submission that would reduce 1975 spending by almost $700 million.

Immediate action should be taken on the rescissions that I am proposing in my first message to the Congress under the newly-enacted *Budget and Impoundment Control Act.* Moreover, the deferrals transmitted to Congress under the same Act should be supported. Overturning these actions could increase spending by as much as $600 million in 1975 and by far more in 1976 and future years.

As a matter of highest priority, I need your support of my recommendation to defer the next *Federal pay raise* from October to January. It will be my intention to deal fairly with the just concerns of Federal workers. But I am asking them to join in the sacrifice I want all Americans to share. This action will reduce 1975 outlays by $700 million. It will also set an example of wage restraint for the private sector. Let us practice what we preach.

These efforts are essential if our cooperation is to keep spending under $300 billion. We simply cannot afford to fail.

APPROPRIATIONS

Eight of fourteen regular appropriations bills have been enacted. These measures in total represent a reduction of $532 million from the Administration's

Budget in spending authority and $144 million in outlays for the current fiscal year. These are helpful moves in the right direction. I urge that this momentum be maintained.

There are seven money bills that require action during the balance of the session.

The *Agriculture* money bill was vetoed on the basis of excessive funding; the *Defense* appropriation is in conference with very sharp reductions. Levels below the House bill would be extremely unwise. *State-Justice-Commerce* is also in conference and undoubtedly will show a reduction in the Budget; *Labor-HEW* appropriations, however, appear to be moving in the direction of exceeding the Budget substantially.

Appropriations for *Military Construction* and *Foreign Assistance* have not yet passed the House of Representatives.

There is ample time to consider the remaining appropriations bills before adjournment. In addition, I will be sending essential but carefully limited *Supplemental Requests* for fiscal year 1975. I trust they will be considered an urgent priority.

LEGISLATION

It is unnecessary to submit a complete list of Administration legislative initiatives to this Congress. Leaders and Members know them as well as I do. I recognize that the inevitable consequence of any legislative Message in the twilight of the 93rd Congress is to suggest deferment of some desirable legislation in favor of imperatives that are realistic in the time we have left.

The *Trade Reform bill* has passed the House of Representatives but remains pending before the Senate Finance Committee. Efforts are underway to find a reasonable and mutually acceptable compromise to restrictive language that would deny Most Favored Nation status and Export-Import credits to the Soviet Union. I want to emphasize the importance I attach to the granting of Most Favored Nation status to the USSR. Careful attention should also be given to the importance of Title V concerning tariff preferences for developing countries and providing appropriate limits for Trade Adjustment Assistance. This legislation is close to enactment. It would be a tragedy not to pass it.

In the area of foreign policy, Congress should enact the *Export-Import Bank Authorization, Asian and African Development Bank Authorizations,* and the *Foreign Assistance Act.*

I know that a troublesome piece of legislation for me—and perhaps one of the most important for the Nation—is the Foreign Assistance Act. I am disturbed over the deep cuts in many essential and worthwhile programs which contribute to our overall efforts to attain peace and stability in the world. In addition, the bill contains several restrictions on the Executive which would reduce my ability to meet obligations to American security and that of our friends abroad. I respect and strongly support the role of Congress in the area of foreign policy. But under the Constitution, the Executive is the spokesman for the Nation and must have adequate freedom of action. I may recommend changes in our approach to foreign aid in the coming year and will propose realistic programs in the national interest. I strongly urge this Congress to continue the current programs unencumbered by amendments which prevent the effective implementation of policy.

There are several significant problems in the *State Department Authorization.* I have requested Secretary of State Kissinger to work with appropriate leaders in an effort to resolve these differences.

The *USIA Authorization* has been passed by both bodies and should be finally considered by a conference committee. The House version is preferred.

Both bodies have passed an extension of the *Defense Production Act.* I hope the differing versions will be reconciled and sent to me for signature.

To promote more effective management of the Government's approach to our national energy resources, the Administration recommended creation of an *Energy Research and Development Administration.* This key legislation has now passed both Houses and hopefully will soon be considered by a conference committee. In its consideration of this legislation, I recommend to the conference committee that the provision calling for an Energy Policy Council be deleted and several other undesirable provisions be revised in accordance with current discussions.

To increase the availability of clean natural gas through competitive pricing of newly developed gas supplies, I urge this Congress to enact the *Natural Gas Supply bill.* As we enter the winter months, our energy resources must be effectively utilized for the benefit of all Americans. Gas deregulation which would increase supply is a vital part of the Administration's response to the energy shortage.

Of major importance to our ability to provide sufficient energy in the years ahead is a proposal for the Federal Government to grant permits for construction, licensing and operation of *Deepwater Ports* beyond the three-mile limit. The House has passed a bill. Hopefully, the Senate will also move forward on this key measure.

Among the many energy-related bills before Congress, is the important *Energy Tax Package.* This measure imposes a windfall profits tax on the selling price of domestic crude oil, eliminates the percentage depletion deduction for U.S. taxes on foreign production of oil and gas, and limits foreign tax credits available to U.S. oil and gas companies operating in foreign lands.

We learned from the recent oil embargo that we must be better prepared to reduce the impact of any future supply interruptions. At the time of the embargo our Naval petroleum reserves, set aside through the foresight of the Congress for the specific purpose of assuring adequate supplies of essential fuels, could not be used in time to contribute to our national defense requirements.

In a moment of need, oil in the ground is useless. We must have authority to produce and deliver our emergency petroleum reserves to the user. Presently, the *Navy Petroleum Reserves at Elk Hills,* California, have proven reserves of approximately one billion barrels. The *Navy Petroleum Reserves in Alaska,* although unexplored, have estimated reserves of up to 33 billion barrels. I intend to consult with the Congress on the best way to assure that the reserve capacities of these fields are in a state where they can contribute effectively to our national security in any future energy crisis.

The House and Senate conferees are now addressing the difficult issues involved in striking a balance between the environmental effects of surface coal mining under the proposed *Surface Mining Act* and the nation's need for coal as an essential source of energy. This issue has been under consideration throughout this Congress. It would greatly reduce the problem of opening new coal mines and increasing production if acceptable mined area legislation can be enacted. I am asking Secretary of the Interior Morton to continue discussions with legislative leaders in an effort to reach an agreement over troublesome provisions in this measure.

The *Illegal Aliens* legislation is necessary to establish clear guidelines regarding the law for employment of aliens who work in this country. The House has already passed a bill. I would hope the Senate could consider this measure during the fall term.

Real progress was made on the House floor when the Conference report on the *Veterans Education Bill* was substantially reduced in terms of Federal expenditures. I hope the Senate will now act in the same spirit. This can be done by reducing the benefit limit to the original Senate Bill. It provided a substantial increase—18.2 percent. But cost-of-living increases for our veterans in school are necessary. I urge the Senate to reaffirm its original rate increase and send the bill to me so benefits can begin.

In May of 1973, the Administration proposed the *Job Security Assistance Act.* This measure is an important part of our policy to assist in a period of rising unemployment. It would modernize the unemployment compensation system without violating the relationship between the States and the Federal government.

I recognize the concern of many that unemployment might rise because of the policies we must follow to fight inflation.

I am watching the unemployment rate very closely. This Administration will act with compassion. We will not permit the burden of necessary economic restraint to fall on those members of society least able to bear the costs.

The unemployment rate in August, announced last Friday, was 5.4 percent. While we certainly cannot be complacent about any American lacking work we are thankful that the number is not larger.

The present situation calls for full use of available tools and dollars.

I have asked Secretary of Labor Brennan to accelerate the obligation of currently available funds under the *Comprehensive Employment and Training Act.*

The Secretary will immediately disperse $65 million to those communities in which unemployment is highest. By the end of the month he will make available another $350 million under CETA Title II. This $415 million will finance some 85,000 public sector jobs in State and local governments. Added to the almost $550 million obligated for public service employment in June from the FY 1974 appropriation, and about $50 million in other funds, currently available resources will provide 170,000 public service jobs this coming winter. The effect of these actions will be to double the number of federally funded public service jobs. In addition, $1.3 billion will be available to State and local governments for manpower programs.

Beyond this, I have requested the Secretary of Labor, in consultation with my economic advisors, and drawing on the outcome of the Conference on Inflation, to develop contingency plans against the possibility of substantially increased unemployment. If future unemployment statistics demonstrate the need, we will be ready to present plans to the Congress and to work together to assure a mutually satisfactory course of action.

There are several health authorizations that require extension this year. They are the *Health Manpower Act*, *Health Services Act* and the *Health Resources Planning Act*. All are necessary but, unfortunately, each currently has objectionable features in program provisions and excessive authorizations. I have requested Secretary of Health, Education, and Welfare Weinberger to cooperate fully with appropriate committees in an effort to enact reasonable legislation. I will continue to seek a sound compromise on the *Comprehensive Health Insurance Plan*.

The House recently passed the *Federal Mass Transportation Act*. While the funding was kept to a level which I can support, certain structural changes in that bill are necessary. I am asking Secretary of Transportation Brinegar to work closely with the Senate in an effort to develop an acceptable bill.

The Administration's proposal to improve the *regulatory climate in the surface transportation industry* is presently before the Congress. This bill, with certain modifications to ensure greater reliance on competitive market forces, would contribute substantially to the efficiency and vitality of this Nation's private sector transportation system. I urge the Congress to act promptly to complete its work on this important legislation.

The *Amtrak Authorization* legislation is now ready for Conference. Since major problems exist with the Senate version, I hope the Conference will adhere as closely as possible to the House measure and soon present it for my signature.

I assume the Congress will pass the *Military Construction Authorization bill*, including expansion of the support facility at Diego Carcia.

The *Export Administration Act* is ready for conference action and should be reported soon.

Legislation to restore financial integrity to the *Railroad Retirement system* has not been enacted by either House. I urge legislation be adopted to accomplish this objective without resorting to a subsidy from either the Social Security System or the general taxpayers.

Court congestion impairs fair and speedy trials. The Administration supports legislation to create new *Federal District Court Judgeships*. While this measure has been slow to move, I would hope Congress could expedite consideration in order to alleviate overcrowded court calendars.

A bill to renew my authority to submit *Executive Reorganization Plans* has been sent to the Congress. During the past 25 years all Presidents have used this authority to improve management in the executive branch. I would like my Administration also to be able to utilize this effective tool of good government. I urge prompt bipartisan consideration of this bill.

It is apparent that I have referred to some legislative matters and omitted reference to others. This is not an inventory of my total legislative concerns. I will send the traditional message to the Congress in January covering the broad spectrum of legislative programs. This will afford me an interim opportunity for detailed study and review.

The 93rd Congress, in which I am proud to have served, has an opportunity to join with the Executive Branch at this turning point of history. We can respond together in the constructive harmony that ought to exist between Republicans and Democrats, between Federal and local governments, between the Executive and Legislative branches, and between America and other nations. A momentous challenge confronts me as well as the 93rd Congress. Together, we can summon forth the reserves of energy, imagination, and devotion necessary to generate a new and proud era of American achievement. We cannot and will not fail the American people.

GERALD R. FORD.

THE WHITE HOUSE, *September 12, 1974*.

ACTION NEEDED TO INCREASE DEPOSIT INSURANCE

(Mr. FROEHLICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROEHLICH. Mr. Speaker, tight money is a serious problem in this country and one of the many unfortunate byproducts of inflation. It is felt in many sectors, one of which is the housing market, as a result of the insufficient availability of mortgage money. In some areas this situation has become acute. In Green Bay and in parts of Appleton, Wis., for example, there is just no mortgage money at all.

Legislation has passed the House of Representatives which was intended to help correct this situation, by increasing deposit insurance from $20,000 to $50,000. This bill, while not a panacea for all of today's ills relating to the shortage of available home mortgage funds, represents an attempt to assure consumers that Congress is aware of the problem and is taking steps to assure that money is available to ease the housing crunch.

This bill was passed on February 5 of this year. The Senate version, which passed on June 13, provides only an increase to $25,000 and also contains amendments which are controversial in nature and nongermane by House rules. Consideration of other legislation has delayed conference action and, even when the conferees do meet, it is unlikely that the substantial differences in the two versions of the bill can be resolved prior to our anticipated adjournment.

Mr. Speaker, the housing crisis will not wait. We cannot postpone an increase in the amount of deposit insurance much longer, unless we want to face a situation where there is no mortgage money at all.

I urge the conferees to address themselves to this serious situation first, and, if necessary, to postpone action on other sections of the Senate bill. We must establish sensible priorities with respect to this legislation or we face the prospect of having no bill at all. At a time when mortgage money is nearing extinction, inaction would be detrimental and disastrous to all.

THE CYPRUS TRAGEDY

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, while the press is not reporting to the same extent as heretofore, the tragedy which is occurring in Cyprus, the fact is that tragedy continues unabated. Our national policy is in part responsible for what occurred in Cyprus. We supported the Greek junta and it was that junta that executed the coup d'etat in Cyprus, removing President Archbishop Makarios from office. And it was our refusal to cut off economic and military aid to Turkey that encouraged the Turkish Government to invade Cyprus.

Upwards of 200,000 Cypriots are now refugees on their island home. The island is in part occupied by Turkish military forces that have expended their enclave so that it now occupies near 40 percent of the island. The Turkish Government refers to the military perimeter as the "Attila" line. How ghoulish. Yet, in a way, the Turkish Government, with that infamous name, properly labeled its occupation as barbaric.

On Friday, August 16, I visited in New York City with His Eminence Archbishop Iakovos of the Greek Orthodox Archdiocese of North and South America. For me it was a very moving experience. He was to leave that night for Greece. The depths of his agony were expressed when he said to me and I shall always remember those words:

> What have our people, yours and mine, done that we should have suffered so through the ages.

And he lamented the fact that the administration and Secretary of State Henry Kissinger had apparently turned their backs on the Greek Cypriots and were failing to respond even to the modest requests for consultation with representatives of the Greek-American community. I was overwhelmed with the sadness and goodness that flowed from His Eminence.

Last Friday I was present at a church meeting held at the Greek Archdiocese Cathedral of the Holy Trinity where hundreds of Greek-Americans were present to demonstrate their upset and indeed anger at the heartless U.S. policy which by its continuation of support of Turkey economically and militarily implicates us in the Turkish military occupation of Cyprus.

The failure of the U.N. to stop the aggression gives every future aggressor license. The involvement of the United States in that aggression, by failing to cut off military and economic aid to Turkey, makes every American in part responsible for the Cyprus calamity.

Mr. Speaker, I have joined with the five American Helenes—JOHN BRADEMAS, PETER KYROS, L. A. BAFALIS, GUS YATRON, and PAUL SARBANES—in sponsoring House Resolution 1319 which would forthwith end all American aid to Turkey so long as the Turkish military forces remain in Cyprus. That resolution must not languish in committee. It must be heard. It must be passed. Only when it is passed will we in the United States have our honor returned to us.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 16136. An act to authorize certain construction at military installations, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 16136) entitled "An act to authorize certain construction at military installations, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SYMINGTON, Mr. STENNIS, Mr. JACKSON, Mr. ERVIN, Mr. CANNON, Mr. HARRY F. BYRD, JR., Mr. TOWER, Mr. THURMOND, and Mr. DOMINICK to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1361. An act for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes, and

S. 3934. An act to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

PROGRAM FOR WEEK OF SEPTEMBER 16, 1974

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to ask the distinguished majority leader to inform the House, if he is in a position to do so, as to the program for the balance of this week and the program for next week.

Mr. O'NEILL. Mr. Speaker, will the distinguished minority leader yield?

Mr. RHODES. I am happy to yield to the distinguished majority leader.

Mr. O'NEILL. Mr. Speaker, I shall be happy to respond to the distinguished minority leader.

The program for the House of Representatives for the week of September 16, 1974, is as follows:

Monday, Consent Calendar. Under suspension we have two bills, H.R. 15173, National Commission for the Review of Federal and State Laws relating to Wiretapping and Electronic Surveillance and S. 3052, Commission on Revision of the Federal Court Appellate System.

On Tuesday, Private Calendar. Following that we will have H.R. 11666, Asian Development Bank, open rule, with 1 hour of debate. The rule has been previously adopted and we will have general debate only.

Then, H.R. 7917, consumer product warranties, open rule, with 1 hour of debate. We will have general debate only.

On Wednesday, we will take up H.R. 13320, civil defense emergency authorities extension, subject to a rule being granted, with general debate only.

Then, H.R. 16371, Solar Energy Research Development and Demonstration Act, subject to a rule being granted, with general debate only.

On Thursday and the balance of the week we will have:

H.R. 11666, Asian Development Bank, votes on amendments and bill;

H.R. 7917, consumer product warranties, votes on amendments and bill;

H.R. 13320, civil defense emergency authorities extension, votes on amendments and bill;

H.R. 16371, Solar Energy Research, Development and Demonstration Act, votes on amendments and bill; and

H.R. 16032, changing the composition of the penny and authorizing grants to Eisenhower College and Rayburn Library, open rule, with 1 hour of debate.

Conference reports may be brought up at any time and any further program will be announced later.

May I say to the gentleman that it is our intent, as the gentleman knows, to work every Friday through October 11. In the event that we have finished our schedule on Thursday evening or during the afternoon of Thursday, we will not meet on a Friday. However, I am saying now that we are scheduling legislation for Thursday and Friday of next week. If, by chance we were to complete the schedule on Thursday night, we would not work Friday, but we are scheduling work for every Friday now until we recess.

Mr. Speaker, as Members will note from the legislative schedule for next week, we are not scheduling any votes on amendments and passage of any bills on Tuesday and Wednesday because of the Jewish holidays. This does not preclude votes on adoption of rules however. We will also follow this procedure on Yom Kippur which falls on Thursday, September 26.

Members are also advised that the leadership met with the leadership of the other body and discussed the upcoming schedule. We have decided to set a tentative recess for mid-October.

We have reviewed the legislation that we must pass before final adjournment and believe that we cannot complete the necessary bills prior to the election in November.

We will try to adjourn by Friday, October 11, and we anticipate coming back for business on Tuesday, November 12.

Mr. RHODES. Mr. Speaker, could the distinguished majority leader inform us as to the probable plans for the confirmation of the Vice-President-designate?

My understanding is that the other body is proceeding with hearings, but I have heard no announcements as to what this body's plans are.

Mr. O'NEILL. I have had a conversation with the chairman of the Committee on the Judiciary (Mr. RODINO). As long as he is here, I will be happy if the distinguished minority leader will yield to the chairman of the Committee on the Judiciary so that the gentleman may clarify the situation and answer the question of the distinguished minority leader.

Mr. RODINO. If the gentleman from Arizona will yield, I will respond to the minority leader in this way: Presently a subcommittee is considering rules of procedure which will serve as guidelines for our confirmation hearings.

That is a subcommittee which is chaired by the gentleman from California (Mr. EDWARDS). It was to have met this morning to consider tentatively drafted rules of procedure. However, one of the members, the ranking Republican on that committee, was not able to be present this morning, and they postponed action until sometime next week. We will then be getting a report.

There is a question to be taken up, No. 1, as to the full field FBI report. We are presently attempting to work out procedures whereby members of the committee will have access to the full field investigation by the FBI.

Mr. Speaker, I would like to advise the minority leader that the committee members feel very strongly that because this will be the first time that there will be two men in office, both the President and the Vice President, who will not have been elected by the people, that we have a special responsibility to insure that we as surrogates of the people do this job with great care, with great scrutiny, and very deliberately.

So we are going to await the reports, and we are going to have to work out with the FBI the procedure whereby there is going to be full access on the part of every member of the committee, should he or she so desire it, to those reports, and this, I hope, is not going to be a stumbling block. I hope we can work this out.

Together with this, according to the latest report I have received from my staff, we have a number of auditors out in the field. We divided the investigation between the private sector and the public sector. In the private sector, there is, of course, the question of the financial complex of Mr. Rockefeller.

This is not an easy matter to inquire into. We have a good many auditors who are presently out in the field, auditors who come from the Joint Committee on Taxation, the Internal Revenue Service, and the GAO.

Mr. Speaker, it is my estimate, from what they have reported to me, that they will not be able to complete their investigation and report back fully to us until approximately a month from now, or a month from September 9, which was the date that I received this report. Very frankly, I believe that we will not schedule hearings until those reports are made, until those findings are complete.

I feel very strongly that we will not be in a position to conduct the kind of hearings that I think are essential under these circumstances until we do have those reports available to us.

Mr. **RHODES**. Mr. Speaker, may I ask, is the distinguished chairman of the Committee on the Judiciary telling the House that he sees no chance for the confirmation of the Vice-President-designate to be voted on before the House adjourns prior to the election?

Mr. **RODINO**. Mr. Speaker, if the gentleman will yield further, I cannot say that.

I can only say that our committee is going to be compelled, because of the circumstances, to await the investigative reports that comes from the field, both from the FBI and from those who are presently looking into the financial complex. We will then hold hearings, and as soon as those hearings are completed, we will, as we have done in the past, not delay and we will move forward.

Mr. **RHODES**. Mr. Speaker, the gentleman from New Jersey, the distinguished chairman of the Committee on the Judiciary, certainly has my confidence, as he always has had. I have no doubt but what he will proceed as expeditiously as possible.

However, I would certainly like to say to my good friend that in my opinion it would be unconscionable for the House to recess for the election without final action on the confirmation of the Vice-President-designate. This Vice-President-designate certainly is no stranger to any of us. He is a man who has been in public life for many, many years.

While I have every sympathy with and I concur with the expressed desire of the distinguished chairman of the Committee on the Judiciary to do a careful job, I cannot believe that the overriding importance of this confirmation can be sacrificed for the convenience of an early adjournment.

I certainly feel that it is necessary to hasten these proceedings. I will say to my friend that I will do everything I can to get all the cooperation that he needs from the executive department, if I can help, I certainly will do so.

Mr. **RODINO**. If the gentleman will yield further, I will suggest to the gentleman that possibly one way that he might be helpful is in helping us avoid the stumbling blocks that we did run into the last time, when the present President was the Vice-President-designate, when we had to wait for a period of time before we were able to reach an accord with the FBI regarding access to their report.

I think we have a responsibility to insure that every Member who is going to vote his conscience and going to vote in accordance with the matters that are presented, has a full opportunity to be able to make his judgment based on all information available to him.

Mr. **RHODES**. The gentleman from New Jersey and I can get together and discuss the matter further. I will be very happy to do whatever seems proper to help him.

Mr. **RODINO**. I thank the gentleman from Arizona.

Mr. **HAYS**. Mr. Speaker, will the gentleman yield?

Mr. **RHODES**. I yield to the gentleman from Ohio.

Mr. **HAYS**. I thank the gentleman for yielding.

I hope it will be possible for me—and I have heard others express the same opinion—to vote to confirm Mr. Rockefeller as I did vote to confirm the present President; but I think somebody is going to have to lay down the ground rules about his either putting his oil stocks—and I understand he owns 450,000 shares of Exxon—in a blind trust or divest himself of those, because I think if we voted to confirm him otherwise, it would leave an aura around here and in the minds of the American people that would be unhealthy and unwholesome, because the American people believe—and I cannot argue too much with them—that the oil companies have been engaged in the last year and a half in the biggest ripoff since the James brothers were holding up trains out in Missouri.

I am not impugning that the Vice-President-designate would do anything wrong or use any undue or bad influence, but the very fact that he holds this many shares in an oil company I think would be unhealthy from the standpoint of public opinion. I think that if the gentleman would let him know that there is strong feeling like that, that it would be extremely helpful. I sincerely want to be able to vote to confirm him, but until he does something with those stocks, especially those oil stocks, I would not feel it possible to so vote.

Mr. **RHODES**. I appreciate the remarks of the gentleman from Ohio, and the message which he gives will certainly be delivered.

The gentleman from Ohio made a very good point to which I should like to address myself for just a minute. I think that there is no doubt but what a person with the personal fortune of the Vice-President-designate is bound to have some conflict of interest. I assume that that is part of the matter which the gentleman from New Jersey and his committee will address themselves to, and properly so; but I should hope that the House would not put itself in the position of stating that a person with possible conflicts of interest is automatically foreclosed from holding the office of President or Vice President, or any other office which is subject to confirmation. I do not believe the gentleman from Ohio intended that result, and I now yield to him for clarification.

Mr. **HAYS**. I do not really think the fact that he owns nearly a half million shares of EXXON would necessarily be a conflict of interest, but I do say that the public knows this, and unless he puts those shares in a blind trust or divests himself of them—and if he does it himself without affecting the market, it might take until a long time after the adjournment date—he ought to do something to clarify in the minds of the public that he has no connection with the oil companies. I impute no dishonesty or no dishonorable intention on the gentleman's part. I just think it would be unfortunate if we had to proceed to vote on him with that situation still existing.

Mr. **RODINO**. Mr. Speaker, I would like to say in fairness to the Vice President designate that Mr. Rockefeller has called upon me, and he has designated people acting on his behalf and has been cooperating in every way possible, and he has assured us he will cooperate and he has instructed his staff to cooperate.

I would like to make the point clear that we certainly do not anticipate any problems in that area. He has certainly suggested that when he comes before the committee that anything the committee might suggest he would be agreeable to consider, and that is the only way the committee would responsibly think of discharging its obligations. But I would hope we can proceed as soon as we can have these reports before the committee. We can proceed expeditiously and I can assure the gentleman that as past proceedings, we will do that expeditiously and carefully as well.

Mr. **RHODES**. Without belaboring the point further I am pleased to hear the assurances of the gentleman from New Jersey, and I hope working together he and I and the others involved, with the cooperation of the Vice-President-designate, will find it will be possible to proceed to confirm the Vice-President-designate in the House prior to the time we adjourn.

Mr. **O'NEILL**. Mr. Speaker, if the gentleman will yield further, I would just want to comment to the minority leader that my mail tells me the American public feels when the wheels of Government move slowly they move faster.

Mr. **RHODES**. Mr. Speaker, I yield back the balance of my time, having no answer to the gentleman.

ADJOURNMENT TO MONDAY, SEPTEMBER 16, 1974

Mr. **O'NEILL**. Mr. Speaker I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The **SPEAKER**. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. **O'NEILL**. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE—SUBPENA IN CONNECTION WITH POSSIBLE VIOLATION OF 18 U.S.C. 608

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *September 6, 1974.*

Hon. CARL ALBERT,
The Speaker,
House of Representatives.

DEAR SIR: On this date, I received a subpena duces tecum from the U.S. Department of Justice, that was issued and signed by the Chief Judge for the U.S. District Court for the Southern District of New York. This subpena is in connection with a *possible violation of 98 U.S.C. 608.*

The subpena commands me or my authorized representative to appear in the said U.S. District Court for the Southern District of New York on the 16th day of September, 1974, and requests certain House records of a candidate for the 26th Congressional District of New York, that are outlined in the subpena itself, which are in the possession of the Clerk of the House and the former Special Committee to Investigate Campaign Expenditures established pursuant to House Resolution 279.

House Resolution 12 of January 3, 1973, and the rules and practices of the House of Representatives indicate that no official of the House may, either voluntarily or in obedience to a subpena duces tecum, produce such papers without the consent of the House being first obtained. It is further indicated that he may not supply copies of certain of the documents and papers requested without such consent.

The subpena in question is herewith attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

Sincerely,

W. PAT JENNINGS,
Clerk,
U.S. House of Representatives.

The SPEAKER. The Clerk will read the subpena.

The Clerk read as follows:

[U.S. District Court, Southern District of New York]

NEW YORK, N.Y., *September 3, 1974.*

To: W. Pat Jennings, Clerk, U.S. House of Representatives or any duly authorized Representative.

GREETING: We command you that all business and excuses being laid aside, you appear and attend before the GRAND INQUEST of the body of the people of the United States of America for the Southern District of New York, at a District Court to be held at Room 1401 in the United States Courthouse, Foley Square, in the Borough of Manhattan, City of New York, on the 16th day of September, 1974, at 10:00 o'clock in the forenoon, to testify and give evidence in regard to an alleged violation of Title 18, United States Code, Section 608, and not to depart the Court without leave thereof, or of the United States Attorney, and that you produce at the time and place aforesaid the following:

"All reports, records, affidavits, memoranda, correspondence or other documents filed with the House of Representatives or in your custody in any way relating to receipts or expenditures by Yale Rapkin, and all committees supporting his candidacy, in connection with the Republican primary election held on June 20, 1972 and the general election held on November 7, 1972 for the seat from the 26th Congressional District."

And for failure to attend and produce the said documents you will be deemed guilty of contempt of Court and liable to penalties of the law.

PAUL J. CURRAN,
U.S. Attorney for the Southern District of New York.
RAYMOND F. BURGHARDT,
Clerk, U.S. District Court, Southern District of New York.
DAVID N. EDELSTEIN,
Chief Judge, U.S. District Court, Southern District of New York.

NOTE.—Report at Room 450. In order to secure your witness fees and mileage, it is necessary that you retain this subpoena and present the same at the United States Attorney's Office, Room 450, upon each day on which you attend Court as a witness.

Jeffrey Glekel, Assistant U.S. Attorney, Room 432, U.S. Courthouse, Foley Square, New York, N.Y. 1007, Tel: (212) 264–6432.

WATERGATE IN PERSPECTIVE

The SPEAKER pro tempore (Mr. RYAN). Under a previous order of the House, the gentleman from Texas (Mr. FISHER) is recognized for 30 minutes.

Mr. FISHER. Mr. Speaker, I recently received a letter from a constituent which contains the following:

> I'm still confused about Watergate. . . . Just what do they mean by "obstruction of justice?" If my employee speeds and I know about it but don't report it, am I guilty of obstructing justice?

I have received other inquiries along this line, some asking about ITT, tax fraud, and so forth. In an attempt to be responsive to these queries I promised to prepare a general factual review of what has taken place during the past year, relating to Watergate.

All agree the air has been charged with emotionalism, and there has been a wide variety of views, both pro and con, concerning all aspects of impeachment charges. Out of all of this there appears to be much confusion and little consensus. For example, Yale Prof. Charles L. Black, Jr., a highly respected authority, on July 28 said on "Meet the Press" that based upon all he had learned about the case against Mr. Nixon he was unable to determine whether there was ample evidence to support any of the charges.

In pursuance of its inquiry the House Judiciary Committee collected from the Senate hearings and elsewhere a total of 38 volumes of material, much of it repetitious, relating to the Watergate investigations. Only a small portion of it constituted evidence.

In my examination of the subject I have familiarized myself with the evidence presented to the Senate Watergate Committee. I have read the 525-page Judiciary Committee impeachment report and I have scanned the 1,200-page transcript of taped recordings provided by President Nixon.

OBSTRUCTION OF JUSTICE—ARTICLE I

From reading the three articles of impeachment reported by the Judiciary Committee, it would appear that "obstruction of justice" is the nearest thing to alleging an impeachable offense that the committee could come up with. That is true because obstruction of justice is ordinarily treated as a major criminal offense, allowing for various degrees of criminality.

The most damaging evidence to support the charge is found in a taped recording of a private conversation Mr. Nixon had with his aide, H. R. Haldeman, on June 23, 1972, 6 days after the Watergate burglary.

At the time of that conversation the FBI was engaged in an investigation of the break-in, and Haldeman expressed to Mr. Nixon the belief that the FBI should be directed to limit the scope of its inquiries, which intervention by the White House could have been for the purpose of preventing exposure of others indirectly involved. The suggested curtailment was initiated by Haldeman.

It appears Mr. Nixon agreed with Haldeman that the FBI should restrict the scope of its ongoing investigation, at which time the President cited the fact FBI inquiries might extend into Mexico and interfere with CIA covert activities there, unrelated to Watergate, involving national security matters.

On the face of it this proposal to direct curtailment of the scope of the FBI probing could be treated as a circumstance pointing to an obstruction of justice. But in a court proceeding, under rules relating to circumstantial evidence, to justify a conviction a circumstance must be consistent with guilt and inconsistent with any reasonable hypothesis of innocence.

PAT GRAY TESTIMONY

Thus, whether the CIA aspect was a reason or an excuse for attempts to meddle in the FBI inquiries is open to some question, particularly in view of followup sworn testimony of Pat Gray, Acting Director of the FBI at the time, before the Senate committee.

Gray told the Senators that at the request of White House aides he did contact the Director of the CIA to see whether any of its covert activities might be compromised by a full investigation of Watergate. He said the finding was negative.

Pat Gray also testified that on July 6, 1972, some 2 weeks following the burglary, the President telephoned him, at which time Gray expressed concern about attempts by White House aides to limit the scope of the investigation, and said he warned Mr. Nixon that members of his staff were about to "mortally wound the President."

The witness further swore that the President's answer was:

> Pat, you just continue your aggressive and thorough investigation.

Thus, we have incriminating evidence on the one hand and exculpatory evidence on the other.

DISCLOSURE OF EVIDENCE WITHHELD

The June 23, 1972 conversation between Nixon and Haldeman, as contained in the tapes, was not disclosed by the President prior to August 5, 1974, although at times he had assured the public he had revealed everything that was pertinent to the Watergate inquiry.

The timing of the August 5 disclosure proved to be something of a bombshell, coming as it did after the Judiciary Committee had already approved the three articles of impeachment but before that committee made its impeachment report to the House. It caused minority members of the committee to reverse their position against impeachment based upon article I, obstruction of justice.

It would appear that had the President made the disclosure at an earlier time the impact might have been different, and might have been overshadowed by exculpatory aspects such as the testimony of Pat Gray.

FAULTY MEMORY?

If we want to give Mr. Nixon the benefit of the doubt, there appears to be some basis for believing he may have forgotten the details of the June 23, 1972, conversation until his memory was refreshed by listening to the tape a few days before his bombshell announcement on August 5, 1974. During the 2-year interval, and before, the President had engaged in hundreds of conversations with Mr. Haldeman and others.

In his August 5 announcement Mr. Nixon reiterated his thought that, as he saw it on June 23, 1972, the FBI should have coordinated with the CIA to insure that the FBI investigation would not expose certain national security matters. In any event, nothing came of Haldeman's proposed curtailment and a full investigation by the FBI proceeded, with expressed approval of the President.

ARTICLE II

In all deference to the committee article II and article III in the impeachment report must be discarded as redundant because neither of them attempts to plead and prove an impeachable offense. Article II is a "Mother Hubbard" pleading. As related to an impeachable charge, it covers everything but touches nothing. It is used as a catchall, a dumping ground for an assortment of grievances, featuring hearsay, duplicity, adverse inferences, charges against the President for misdeeds of others for which he had no responsibility; for "abuse of power," "violating the constitutional rights of citizens," and other nebulous and nonimpeachable generalities.

The same identical charges as contained in article II could, with equal validity, have been directed at practically every President who have ever served. The Constitution does not allow impeachment of any civil officer because of errors in the administration of his office. To engage in this dubious passtime is to play games with the high office of the Presidency.

In reality article II reflects an assortment of political disagreements with the President, as viewed by the committee's legal staff which drafted the article. It also reflects the staff's unfortunate lack of understanding of what, under the Constitution, constitutes an impeachable offense.

ARTICLE III

Article III, adopted by a very narrow margin in the committee, assumes Mr. Nixon committed an impeachable offense by exercising executive privilege in refusing to respond to the committee's subpena of some of the President's privately owned taped recordings, and certain documents.

The doctrine of executive privilege is as old as the Republic. It is based on the principle of separation of powers between the three coequal branches.

As an example of the independence of each branch, the Clerk of the House occasionally is served with a subpena directing him to deliver certain House records to a court which issued the subpena. Unless a resolution of approval is voted by Members of the House, the Clerk is not allowed to honor that subpena. That is an exercise of legislative privilege.

In keeping with this principle, every President has refused requests from the legislative and from the judicial branch, by exercising executive privilege. A recent Supreme Court ruling, however, directed the delivery of subpenaed White House tapes but only such as would relate directly to a pending criminal investigation.

William Roscoe Thayer, Washington's biographer, recalled a bitter struggle with Congress over the Jay Treaty with Great Britain. Congress demanded that Washington turn over the correspondence and exchanges that led up to the signing of that treaty. The President resolutely refused, aware of the precedent that would be set for the future, and his decision prevailed.

With respect to the committee's subpena, only the courts could adjudicate the impasse between the committee and the President. The committee voted 32 to 6 not to seek court action. There was not even the semblence of a criminal offense involved, and hence no constitutional basis for article III.

EXCULPATORY EVIDENCE

Since the charge of obstructing justice is based upon circumstantial evidence, various exculpatory comments by the President become relevant. Among them was a taped comment by Mr. Nixon in a conversation with White House counsel John Dean on March 21, 1972, in which the President said:

> The absurdity of the whole damned thing . . . bugging and so on. Well, let me say I am keenly aware of the fact that . . . Colson, et al., and so on, were doing their best to get information and so forth and so on. *But they all knew very well they were supposed to comply with the law.*

With further reference to Mr. Nixon's knowledge and attitude regarding the Watergate melee, the Judiciary Committee called as a witness Charles Colson, a former White House aide, who described a telephone conversation he had with the President on June 18, next day after the burglary, in which Mr. Nixon "thought it was the dumbest thing he had ever heard of and was just outraged over the fact that anybody even remotely connected with the campaign organization would have anything to do with something like Watergate."

It will be recalled that impeachment protagonists have repeatedly cited a taped conversation between the President and John Mitchell on March 22, 1972, during which Mr. Nixon said:

> I want you all to stonewall it, let them plead the 5th amendment, cover-up or anything else. *On the other hand, I would prefer as I said to you, that you do it the other way . . .*"

On the July 28 "Meet the Press" program, Professor Black, when asked about Mr. Nixon's use of words like "cut the losses," "stonewall it," and so forth, answered:

> I think the question of whether a slang phrase of that kind really constitutes an authorization to do a certain unlawful act, is something that will have to be assessed on the basis of the evidence, *a very close and rigorous assessment of the evidence.*

It is of interest to note that during the Judiciary Committee hearings it was revealed that invariably the pro-impeachment advocates quoted the President's "stonewall it" comment repeatedly but left out the second sentence which stated—"On the other hand, I would prefer, as I said to you, that you do it the other way."

It is also worthy of notice that Newsweek carried the "stonewall it" statement on a magazine cover, but mysteriously omitted the "on the other hand" addition. And on Monday evening of this week I listened to Howard K. Smith, an ABC commentator, who quoted the "stonewall it" comment, but carefully omitted quoting the "on the other hand" portion the same statement, contained in the sentence that followed.

These obvious distortions of a single statement are cited as an illustration of a rather undisguised exposure of a prejudiced attitude.

Another incriminating contention, the validity of which the record completely refutes, was that Mr. Nixon had been a party to an arrangement whereby $75,000 was paid to E. Howard Hunt as an inducement for cooperation and silence. Taped recordings, along with sworn testimony before the Judiciary Committee by John Dean, Frederick LaRue, and John Mitchell, makes it quite clear that at the time the matter was discussed with the President the payment was already arranged. Had there been no such meeting, the payment would have been made. The payment, whether for attorney's fee or for the family, was not Mr. Nixon's decision.

This was another instance of an unwarranted charge against the President being overblown and exploited by the news media.

IN THE DARK

As evidence the President was in the dark concerning the involvement of some of his aides, the taped conversation between Mr. Nixon and John Dean on March 21, 1972, throws light on Mr. Nixon's ignorance of what had been going on. On that occasion Dean gave a somewhat detailed account, based upon the assumption that as of that time, March 21, 1972, the President was uninformed.

> DEAN. I have the impression that you don't know everything I know.
>
> NIXON. *That's right.*

Thus, in the hundreds of taped recordings we find words that sound incriminating on the one hand, and words that are equally as exculpatory on the other.

In fact, throughout the tapes we find the President asking scores of questions which indicate ignorance of any coverup conspiracy that may have been in progress. Indeed there is much evidence which indicates a conspiracy among his aides to keep Mr. Nixon from knowing about possible involvement of certain White House employees and others prior to the March 21 detailed report and confession to him by John Dean.

At other points in the taped conversations we find Mr. Nixon admonishing John Dean to "tell the truth, John, tell the truth." He is recorded as urging aides to go before the grand jury, plead no immunity, and to tell everything they knew.

It should be kept in mind, too, that most, if not all, of the incriminating remarks were made during the heat of a Presidential campaign when the President appears to have been prompted in what he said and did more by concern for possible political repercussions than he was in a conspiracy to obstruct justice. Repeatedly during the taped recordings he reveals a lack of knowledge of what "obstruction of justice" was all about.

In perspective, when you boil it down, about all the evidence to sustain the impeachment charge of obstruction of justice is confined to John Dean and to the tapes. And we all know that John Dean stands today as the most discredited witness in any way connected with the Watergate hearings. Just why the Special Prosecutor has not had him indicted for perjury remains a mystery.

HOW SHOULD TAPED CONVERSATIONS BE TREATED?

Mr. Speaker, I am made to wonder just how unedited taped private conversations, not made or intended for publication, should be treated. In this instance we are left with tapes as the sole source of incriminating evidence to sustain impeachment charges. In terms of credible, firm evidence in a criminal case, where proof beyond a reasonable doubt is the American concept, how should tapes be evaluated?

Let us keep in mind that we are talking about private, informal, confidential, off-the-record, in-house, unedited conversations between the President and his aides—tapes Mr. Nixon was not required to make and was foolish to preserve, prior to their involvement in litigation. Certainly we must assume nothing the President said under those circumstances was intended as a policy position on any subject.

We should remember we are dealing with random chit-chat where many things may be said which are not necessarily meant as they may sound. Should they be treated with the exactitude of the Holy Writ? Mr. Nixon has said he acted as "the devil's advocate" at times to bring out different viewpoints.

I ask you, Mr. Speaker, how many among us are there who have not carefully and studiously edited releases we have put out in order to avoid possible misunderstanding or misinterpretation of what we really wanted to convey? How many have revised such releases once, twice, or three times in order to protect against lack of clarity?

You know and I know we do it all the time, particularly when sensitive or controversial matters are involved. I am thinking of such subjects as busing, chemical warfare, abortion, land use, Watergate, and any number of other matters.

Indeed, Members of Congress always reserve the right to extend and revise all remarks we make during a debate. Hardly an argument is made for the RECORD that is not revised in order to clarify our meaning and avoid misinterpretation. That is as it should be.

Would you accord to the President of the United States a similar privilege? If not, why not?

The point I am making is that it is manifestly improper, if not immoral, to hold any person strictly and literally accountable for every word uttered in a casual, unedited conversation. While one who makes statements under such circumstances must be held responsible for what he says, should we not treat them with more care and tolerance than we would if made under more deliberate circumstances?

WHAT CONSTITUTES AN IMPEACHABLE OFFENSE?

This brings us to a discussion of what constitutes an impeachable offense, obviously a matter of confusion and misunderstanding on the part of the committee's legal advisers.

The Constitution is very explicit on impeachment. It says we are allowed to impeach only for "treason, bribery, and other high crimes and misdeameanors." Whether indictable or not, it clearly contemplates a major criminal offense. That is true because the Constitution says so. The entire thrust of the Constitution relates to crime, not to poor judgment, mistakes or errors.

Now, it is true that the Congress does not have to follow the Constitution. It did not follow it in the Andrew Johnson impeachment case. We have it within our power, at the risk of judicial review, to impeach for conduct not covered by the Constitution, if we are so disposed. We all know that. But I like to think that in this enlightened age we will see less of that.

There is an old saying that a river is a river so long as it has banks. But when it no longer has banks its becomes a marsh.

"MALADMINISTRATION" IS NOT IMPEACHABLE

One of the grave dangers growing out the recent impeachment proceedings in the Judiciary Committee is the possibility, remote though it may be, that misinterpretation of the Constitution by the committee's legal staff may be thought of in the future as constituting a responsible precedent.

As Stewart Alsop, the late renowned columnist, said when he agreed with White House counsel James St. Clair—

> The words Treason, Bribery, and other High Crimes and Misdemeanors mean what they clearly connote—criminal offenses.

Mr. Alsop added:

> The American system should not be twisted all out of shape by any other interpretation.

It will be recalled that the framers of the Constitution ruled out impeachment based on "maladministration," which was proposed, and in lieu of that word they inserted "or other high crimes and misdemeanors." George Mason, who proposed the latter, made it crystal clear at the time that those words were taken from English law, and he there emphasized that by using that term he was in no wise dealing with ordinary crimes.

Despite the clear intention that a major crime, or certainly its equivalent, had to be committed in order to justify impeachment, particularly as applied to an elected official, many impeachments have been proposed on lesser grounds. Although maladministration was discarded as a ground for impeachment nearly 200 years ago, charges of that description keep cropping up from time to time—perhaps akin to that modern school of thought which would twist the Constitution in any manner in order to maintain a given purpose. Both article II and article III in the current controversy are, at best, based upon charges which Webster would define as maladministration.

The simple truth is that a President or any other civil officer may not constitutionally be impeached for errors in the administration of his office the contention of the committee's legal staff to the contrary notwithstanding.

UNPROVED CHARGES

In view of the reliance by the committee on nonimpeachable maladministration, one is made to wonder about the pressures that have developed which are quite apart from the articles of impeachment. Let us now explore the syndrome of the buildup in the context of charges which have been alleged and exploited, but not proven.

Take, for example, the ITT matter which involved a claim that ITT was favored in antitrust cases, due to the offer by that corporation to help underwrite the cost of holding the 1972 Republican National Convention in San Diego. The truth is the antitrust settlement was to the Government's advantage. Yet, day after day and month after month, that subject was exploited by the news media, often implying corruption and coverups at the White House.

But the pro-impeachment Judiciary Committee, after considering all evidence collected by the Special Prosecutor, the Senate Watergate Committee, and its own investigations, dropped the ITT charges. ITT is not included as an impeachment article. The President was thereby absolved of any wrongdoing in that respect. Obviously he had been falsely accused. But in the meantime his image had suffered.

MILK SUPPORT, TAX FRAUD?

The same was true of repeated headlined charges the President had ordered support price increase for milk in exchange for promise of a substantial political contribution. Actually, the amount contributed by milk producers was far, far less than the $2 million figure the media had used.

But it was revealed that the increase was urged by such distinguished legislators as Senator Hubert Humphrey and House Agriculture Committee Chairman Bob Poage. And there were scores of others. As I recall, I was one of them.

The press reported the milk producers had also contributed rather liberally to political campaigns in behalf of most of the Democratic members of the Judiciary Committee, and that some of those members had introduced bills to require higher support payments than the amount agreed to by the administration.

When the chips were down, the facts known, the committee had no option but to clear the President of any wrongdoing in that respect. But not until the issue had been milked dry and he had been excoriated and held up to public ridicule by some segments of the news media.

The allegation of fraudulent tax return by Mr. Nixon fizzled out. The congressional joint committee which audited all of the President's at Mr. Nixon's request, found no evidence of fraud. Mr. Nixon agreed in advance to abide by the committee's findings of any amount of back taxes he might owe. In keeping with his agreement he has conformed, although some tax experts insist that had he chosen to go to court with the issue, his payment would have been vastly reduced.

The President was cleared of any fraud, but not until torrents of prejudicial publicity against him had taken its toll by broadcasting seeds of distrust.

Even the Judiciary Committee, during its final meetings, held a night session in order to have prime TV time, for what purpose? To allow for repetition of what was already recognized as unwarranted and unfounded charges of tax fraud.

SAN CLEMENTE, CAMBODIA

Another phony charge which was bandied around for a year claimed Mr. Nixon was guilty of wrongdoing in improvements at Government expense for his property at San Clemente. Perhaps there was too much spent, and perhaps Mr. Nixon will reap some indirect personal benefits from what was done—as Presidents before him have benefited.

In that connection, it will be recalled that following the Kennedy assassination the Congress enacted a law which required additional improvements where needed to provide adequate security, and most of the additions at San Clemente were in pursuance of that directive.

The committee, of course, exonerated Mr. Nixon of any impeachable wrongdoing, although the pro-impeachment crowd thought he should be thrown out of office due to the San Clemente improvements. But naturally the President's reputation was not helped by attendant implications of corruption relating to a charge which proved to be unfounded.

Another charge was that during the war, when many Americans were being killed, Mr. Nixon had ordered bombing of Communist invading troops and supply lines across the nearby line in Cambodia. Critics insisted the President as Commander in Chief should have publicized what he was doing. The absurdity of such a contention is astounding, and the committee proceeded to absolve Mr. Nixon of any wrongdoing in that respect.

Still another phony allegation, totally unproven in the record, contended the President had offered clemency to some of the Watergate burglars in exchange for silence and false testimony. This issue, too, had been paraded in the press for months, but though mentioned in one of the articles, it was thoroughly refuted in the record. The falsity of it was confirmed beyond any doubt.

WASHINGTON POST EXPOSED FALSITY OF CHARGES

Even the anti-Nixon Washington Post recognized the unfairness and cumulative damage wrought by these unwarranted charges, for which the President had been tried and convicted by the news media, but in most instances exonerated by the Judiciary Committee.

In the July 27, 1974, issue of the Post a front page article referred to these unwarranted claims of wrongdoing, and mentioned specifically ITT, Cambodia, San Clemente, taxes, and milk money, with this comment:

> Month after month, the various charges made big black headlines and added an atmosphere of gravity to the case against the President. Now, suddenly, poof, they are gone, like burst balloons.

The Post reporter who wrote that article asked the gentleman from California (Mr. Waldie), the chief proponent of impeachment, for his comment about it, to which Mr. Waldie, a member of the Judiciary Committee, frankly replied in these words:

> I think all of these things make an ultimate pattern which influences this vote, even though a member cites another issue. *My guess is it took this entire pattern of conduct to bring many members to vote for impeachment. Certainly it provides a symphony in the background.*

Mr. Waldie was referring to votes in the Judiciary Committee where some impeachment votes had already been taken before the interview, and others were to follow.

The gentleman from California, one of the chief advocates of impeachment, there tells us that, as he saw it, it took those five identified charges, now recognized as unwarranted and not supporting impeachment articles, to induce "many members" on that committee to vote for impeachment.

ATTACKING PRESIDENTS IS NOT NEW

Mr. Speaker, practically every President, from George Washington on down, has been tormented by massive attacks and impeachment threats. But unlike people in some countries, Americans have in the past been resilient enough to take these things in their stride, and have managed to prevent damage to the separation of powers doctrine and injury to the body politic.

The American trait of absorbing such knocks, which has helped preserve our Nation, was referred to by Louis Brownlow in his "The President and the Presidency" when he recalled—

> Every President has been denounced as a despot, a dictator, as one who was using power of government to achieve his personal ambitions. The only President who was not so denounced was William Henry Harrison, who lived only one month after he was inaugurated.

Those baser instincts of man erupted against President Andrew Johnson, Lincoln's successor, who was determined to carry out Lincoln's policies of compassion toward the prostrate Confederate States. Radical Republicans who had control of Congress were determined to get rid of Johnson. Because Johnson fired his disloyal Secretary of War Edwin Stanton, Johnson was impeached, on clearly unimpeachable charges, but was acquitted in the Senate.

That impeachment was clearly an exercise in mobocracy, described by historian Samuel E. Morison as "the most disgraceful episode in our history." Former Supreme Court Justice Goldberg was prompted to observe that had Johnson been convicted the conviction would surely have been reversed by the Supreme Court.

POLITICS AND IMPEACHMENT

Mr. Speaker, during the constitutional convention there was much fear expressed that impeachments might degenerate into political hassles. There was fear that reason might be replaced by emotionalism and partisanship. It was Alexander Hamilton who forecast 185 years ago in the "Federalist" that the collision of political factions would be such as to arouse danger that the decision on impeachment "will be regulated by the comparative strength of parties rather than by the real demonstrations of innocence or guilt."

We are all aware that our process of impeachment is a cumbersome operation, the results of which may very well be dominated by emotionalism and partisanship. Indeed, an accused official may find himself being tried by "jurors" composed largely of political enemies.

The impeachment process was abandoned in Britain nearly 200 years ago. In that country it is sometimes referred to as barbaric or primitive. In any event, there must be an effective way for dealing with civil officials who commit impeachable offenses while holding public office.

The question arises: is it not time the Congress address the problem of seeking a more responsible way to remove such officials, but through a procedure that would better insure the application of fairness and justice?

EXPENSIVE INVESTIGATIONS

By way of a roundup, we are reminded that more than 100 special prosecutors have been employed by the Office of Special Prosecutor, the Senate Watergate Committee, and the House Judiciary Committee, along with an equal number of special investigators, in a massive effort to make out impeachable charges against Mr. Nixon. At least that was the main thrust of these various probings.

A total of more than $8 million have been expended in this mammoth drive.

We are made to wonder if similar manpower and resources had been marshalled against prior administrations, what the results would have been. One thing is certain: if maladministration had been used as a basis for impeachment, probably all prior Presidents would have been subject to removal from office.

NIXON BOWS OUT

Mr. Speaker, it is significant that out of all this expenditure of talent and tax money only one charge that has any semblance of validity has survived—the allegation of obstruction of justice, based upon the privately owned unedited taped recordings of conversations, which I have discussed.

President Nixon has resigned and a new President has been installed. The Watergate debacle has clouded, at least for the time being, an otherwise exceptionally fine record made by President Nixon. That fact was recognized by the American people when in 1972 he was reelected by one of the biggest landslides in modern history.

Historians will record that it was Richard Nixon who in a display of courage and statesmanship ordered Haiphong harbor mined and the enemy supply dumps bombed, which brought that terrible war to a halt and the return of our prisoners of war.

It was during that period that riots were stopped, unlawful demonstrators were silenced, and tranquility restored on our college campuses. Others, of course, besides Mr. Nixon are entitled to much of that credit. But he did help to create a favorable climate, with much Federal support provided.

It remains to be seen what his breakthroughs in dealing with Communist countries will eventually lead to. But whether on the right track or not, he moved with the grace and stature of the leader of a great Nation.

Those who write the history books will undoubtedly give Mr. Nixon some high marks for stopping the Arab-Israel war, which brought the two adversaries to the peace table for the first time.

On the domestic front Mr. Nixon kept a campaign promise and succeeded in changing the complexion of the discredited Warren Court by appointing four wise and judicial-minded men to fill vacancies on the Supreme Court. That alone was an historic achievement.

The only purpose to be served by a discussion of the Watergate melee at this point is hopefully to throw some additional light, in perspective, on the nightmarish developments of the past 2 years.

Historians of the future will study the record and then draw their own conclusions. It is hoped they will recognize that in such controversies all Americans are in the same boat—and you just cannot sink one end of it.

JOINT TRIBUTE TO JOHNNY "APPLESEED" CHAPMAN 1774–1974

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. SYMMS) is recognized for 60 minutes.

Mr. SYMMS. Mr. Speaker, although the name John Chapman does not ring a bell for many of us, the name Johnny Appleseed in all likelihood does. Midway in his life's work in the early 1800's, John Chapman lost his family name and acquired the affectionate title of "Johnny Appleseed" precisely because of his life's work—planting appleseeds and apple trees.

The year 1974 marks the bicentennial of the birth of John Chapman. He was born just 2 years before the Declaration of Independence, in Leominster, Mass., on September 26, 1774. He was the son of a captain in the Massachusetts militia who fought with the minutemen at Concord and throughout much of the Revolution. John Chapman, perhaps as much as any man in American history, typifies the finest among the diverse and varied honor roll of the "tall men" of the first 200 years of our Nation should certainly have John Chapman's name recorded thereon.

Johnny Appleseed spent his early years in western Massachusetts and then joined the Western-journeying pioneers just before the turn of the century. He devoted all of his adult life to planting, tending, and supplying apple trees to the frontier farmers as the Nation expanded across the Alleghenies into the Ohio River country of what is now western Pennsylvania, West Virginia, Ohio, Indiana, and Illinois. A blending of historical fact and legend have marked his travels throughout much of the Midwest; and, as is typical of legends, the journeys of Johnny Appleseed have been extended by some stories even further West.

John Chapman had two major professions in life—he was a missionary of the Swedenborg Christian faith and he was an apple tree nurseryman. In the practice of both he traveled the width and depth of the American mid-continent frontier during the first half of the 19th century, helping the settlers in their work, and often acting as a buffer in quarrels between the settlers and the Indians. He was a friend of both, warning of uprisings, and carrying news from settlement to settlement. He died near Fort Wayne, Ind., in the spring of 1845, while making his rounds to tend his many small plots of apple tree nurseries.

Today, John Chapman is fondly adopted by all of the apple industry as a sort of "Patron Saint" and legendary hero. It cannot be said that he was the father of the apple industry—apples were first brought to America from England and Holland in the early 1600's and were frequently used as "coin of the realm" in bartering goods and services in the 17th and 18th centuries. Yet of all the historical events and people associated with the apple industry in its 350 years of history in America, none has captured the love and admiration of our people more than Johnny Appleseed.

He was a frontiersman, an environmentalist, an ecologist, an agriculturist, and a practicing man of peace and good will. Yet, too, in the view of some of his contemporaries, and like other great Americans, he was considered an eccentric, a drifter, and a dreamer. But history has a way of aligning perspectives, and this year we pay tribute to another of those great "misfits" who turned out to be an important building block in America's heritage.

Certainly John Chapman, the man, and the intriguing mixture of history and legend about him, deserve the tribute of all of us during this bicentennial year of his birth.

Mr. ROBINSON of Virginia. Mr. Speaker, I am both honored and pleased to join with my esteemed colleague from Idaho in commemorating the bicentennial birthday of Johnny Appleseed.

Although I happen to be a Member of Congress at this time, my lifelong professional association has been that of horticulture, and the apple-producing industry in particular. I worked in my father's orchards as a youngster, and my children have worked—and played—in mine. And I sincerely hope that my children's children will see fit to continue my family's association with the outstanding heritage fostered by this country's apple-producing industry.

The "King of Fruits," as the apple has aptly been named, remains one of the prominent sources of natural food energy and nutrients. As artificially fortified foods proliferate on the supermarket shelf, I am heartened by the fact that apples provide the nutrient-conscious shopper with a satisfying alternative—and one that is naturally produced. Compared with mechanically produced and packaged food, apples are still one of the best buys the consumer can find today. And with the inflationary cost of food, this is important to remember.

Although the apple-producing industry is prominent in this country, the industry also plays a substantial role in the agricultural economies of other countries, particularly in Western Europe. In England, for example, the apple comprises a good part of the common diet. Eaten fresh, apples are peeled and served after meals. The custom of fresh fruit with almost every meal was transmitted to this country by England's emigrant settlers.

Johnny Appleseed helped spread this custom westward with the expansion movement.

As a Representative of an apple-producing district, I am proud to associate with the commemoration of a legendary figure like Johnny Appleseed. And I am grateful, Mr. Speaker, that Congress has taken time out today to recognize and honor such a remarkable person.

GENERAL LEAVE

Mr. SYMMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks at this point in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

INCENTIVES FOR SAVINGS AND INVESTMENT MUST BE RECREATED IN OUR TAX LAWS TO STIMULATE JOB-PRODUCING CAPITAL INVESTMENT AND PRODUCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, I have today introduced a bill, H.R. 16648, to amend the Internal Revenue Code to increase incentives for savings and investments.

The enactment of this bill is badly needed. Only when we recreate incentives for savings and investments—incentives not now adequately a part of our tax laws—will banks, savings and loan associations, and other commercial savings and lending institutions have enough funds to make crucially needed loans to businesses and individuals to finance plant expansions, equipment purchases, and home construction.

Inadequate funds for capital investment is one of the principal causes of our present economic problems.

When there are not enough funds available—after meeting expenses and paying taxes—with which to expand—or even maintain present levels of—production, jobs are jeopardized.

When families cannot borrow funds with which to build and purchase new homes—or have to pay too high an interest rate because the money market is too tight—then jobs in the building trades are jeopardized.

And, there is a multiplier effect which jeopardizes additional jobs, for when industrial production is down, there is less for shippers to transport and less for merchants to sell. When home construction is down, there is, for example, less work in related public utility and service industries—road and sewer construction, for example.

WHY ADDITIONAL CAPITAL INVESTMENT IS NEEDED

Prosperity rests—more than on any other determinant—on the amount of capital invested per person within an economy. In other words, the more capital invested per person, the greater the economic growth and the better the standard of living—in real, not inflated, dollars. Our laws have ignored this cardinal rule of economics during recent years, favoring instead those policies which have led to a decline in the rate of capital investment.

Our country is now making a thorough reexamination of what is needed to get the economy moving again. Much of this discussion has focused, thus far, on controlling inflation, stabilizing wages and prices, and providing more jobs—as it should. But, there is a common denominator—a root cause—of all these concerns and that is inadequate capital investment and production.

I suggest, that in addition to dealing with the results—the manifestations—of our economic problem, we deal also—and more importantly—with its cause. And, I speak of this inadequate capital investment and production, for when increases in national productivity stay abreast of increases in money supply, inflation is arrested, and when there is enough capital investment occurring, jobs are created, wages stabilized, and shortages eliminated.

The bill which I introduced today is designed to deal with this root cause of our Nation's economic ills. It ought, therefore, in my opinion, to be incorporated into the pending Tax Reform Act now being readied for action by the House this session. It should not wait until next year, for postponement of reestablishing these incentives will result in postponement of our economic recovery.

TAX POLICIES OUGHT TO ENCOURAGE INVESTMENT AND PRODUCTION

Our present Federal tax structure encourages over consumption and discourages investment, because the tax laws place a significantly heavier burden on savings and investment than on consumption. Taxwise, it is now preferable for the taxpayer to consume and spend instead of producing and saving. The tax policy which underlies this present tax structure has resulted in laws which have stifled needed capital formation and economic growth. It should be reversed.

We should adopt a tax policy—and enact legislation reflecting it—that will assist the economy in providing the goods necessary to meet domestic needs and, in so doing, combat inflation; in providing the additional jobs and equipment needed for an expanding work force; in providing wage increases based on increased productivity without inducing price increases; and, in meeting the competition for world markets so that we may resolve our balance-of-payments problem, a problem which contributes also to inflation through excessive liquidity in the world's money markets.

That the economy of the United States needs vast increases in capital outlays is demonstrable.

In a recent editorial, entitled "Productivity: The Rest of the World Is Catching Up," The Washington Post depicted our situation this way:

> America's position in the world has changed radically in the past several years: We are no longer the only extremely productive, extremely rich country. As a result, neither the nation's economy nor the world's is working the way it used to or the way that we expect it to.
>
> Productivity is rising everywhere. But it is rising much more slowly in North America than in Europe or Japan. Economists used to brush these disparities aside by observing that, after all, wages in North America were still vastly higher than anywhere else. But, that too is less true today than several years ago.
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> * * * * *
>
> Since 1960 productivity increases in this country have been the lowest of any of the major industrial countries, and our rate has hardly been better than the average for all the other industrial countries together.

The editorial concluded with a dim observation:

> Sometimes profound changes come over countries silently, without making any news. Eventually it begins to dawn on people that something basic has changed, but only by slow gradations that nobody noticed at the time. There were no shots fired, no alarms run, no documents signed. News is made mainly by governments, but there are large areas of nation's lives that their governments don't pay much attention to. The long waves of history often pass without much public notice. Accustomed to great and unique national wealth, most Americans still have no idea how fast the rest of the world is drawing even with us in the accumulation of economic power.

This principal measure of prosperity—capital investment—gives much credence to the editorial. According to an extensive study of the Joint Economic Committee, gross private domestic investment in the United States last year was only 15.7 percent of gross national product. By contrast, Germany invested 26 percent, France 28 percent, and Japan 37 percent.

Minimally—to curb inflation and to maintain a "socially acceptable level of unemployment"—the United States should raise its investment rate to 18 to 20 percent. To stop inflation and to send unemployment back down to the lowest rate in the past 10 years, a much greater investment rate would be required.

Yet, even to maintain the 15.7, 1973 rate, the United States will have to invest over $4.5 trillion—$4,500 billions—in capital over the next 12 years. Under our present tax policy and laws, it will be difficult for this amount to be raised. To the degree that it is not raised, our prosperity will be further threatened.

Why does this huge capital need far exceed those of any previous decade?

Our industrial plants are relatively old while those of our overseas competitors are modern—with almost all the plants in western Europe and Japan dating from the period after the Second World War. If industry in the United States is to be competitive with foreign industry, it is important that outmoded, inefficient plants and equipments be replaced with the latest in design technology.

The inflated costs of construction and equipment purchases means American industry will have to pay more for that construction and equipment. Its ordinary operating expenses—purchases of inventory, labor costs, et cetera—have risen too. The funds needed for construction and equipment will have to come from additional capital investment.

And, unless there is an adequate expansion of capital investment, we will not have the new plants—creating new jobs—with which to absorb the estimated 1.6 million people coming into the workforce each and every year. That's how many new jobs we have to create, and it cannot be done without expansion of the businesses which provide those jobs.

THE PRINCIPAL SOURCES OF CAPITAL

There are four principal sources of capital available to the American corporation—depreciation, retained earnings, borrowing, and new equity security issues. We are having problems in all four of these areas. Let's take them one at a time.

It has been estimated that corporations have understated depreciation—as a result of the levels of depreciation now mandated in our tax laws—by $29 billion in the period from 1970 through 1973.

The current level of depreciation now allowed in our tax laws is not adequate to recoup the funds needed to replace plant and equipment during this period of high inflation. Depreciation is based on the original costs of plants and equipment, past costs not accurately reflected by current, inflated dollars. Unfortunately, these levels of depreciation contribute to higher profits—in an inflated dollars sense—resulting in higher taxes on those artificially induced profits, leaving less real cash for investment.

Although current depreciation does allow a cash flow for some capital expenditures, it is not new capital—but a recovery of capital already committed to productive resources—which constitutes that flow.

While retained earnings have been a major source of capital, with shareholders receiving about 40 percent in the form of dividends on stock owned and with companies keeping the remaining 60 percent for capital reinvestment, there is now a growing pressure from shareholders, as the value of stocks decline, for a greater percentage for themselves. When share values decline, stockholders want a larger percentage of the retained earnings in order to at least maintain the same prior dollar level of dividends. Thus, if share values continue to be depressed, dividend payouts will be a substantially higher percentage of profits, thereby reducing the amount available for reinvestment. Plant expansion and equipment replacement will suffer.

Although some of our capital requirements come from borrowing, many companies have already reached their maximum debt capacity. The debt-to-equity ratio for industrial companies has increased from 25 to over 40 percent in the last decade—a dangerous overextension of credit. High interest rates—combined with a high level of debt—create fixed charges that cannot be easily absorbed, especially in an economic turndown. Additionally, there is growing reluctance on the part of buyers of industrial bonds to make long-term commitments during these inflationary times, even at the current record high interest rates.

Lastly, the balance of needed capital funds has customarily been raised through the issue of new equity securities—principally, issuing more stock. Yet, there has been a substantial decline in the amount of new equity capital raised during the past few years. It is difficult today to float large issues of equity, except at levels that are not acceptable either to management or to the existing shareholders of the company. Again, capital investment suffers.

Let us examine the capital supply side for a moment. We find that the rate of savings in the United States has dropped to the lowest rate of savings of any developed country in the free world. Billions have flowed from savings institutions and banks, and the number of individual shareholders has decreased by some 1.6 million in the last 2 years alone. The purchases and sales of individual investors now represent less than 30 percent of the daily trading on the New York Stock Exchange, with a disturbing concentration of shareholder power in institutions—university endowments, charities, mutual funds, and so forth.

THE PROVISIONS OF THE BILL

Public and private action is now needed to reward individuals willing to save and invest and shift resources into construction of new productive capacity. Our tax policy must be redirected to remove onerous burdens from the producer, which in the long run is the most effective way to benefit consumers—and we are all consumers. We must recognize that a major surge of capital investment in new and more productive capacity is absolutely essential if we are to bring demand-pull inflation under control.

The proposed Saving and Investment Act is designed to do this.

What are its principal provisions?

Section 2 increases the current investment tax credit from 7 to 15 percent. The 7 percent investment credit has spurred capital investment over the last decade despite its on-again off-again history. An incentive to increase investment in new plants and equipment will encourage productivity and dampen the inflationary spiral by encouraging increases in supplies of scarce commodities. It is estimated that increasing the investment tax credit to 15 percent would increase capital outlays above current estimates by $30 billion.

Section 3 increases the allowable range of useful lives of the asset depreciation range—ADR—from 20 to 40 percent.

Each dollar of today's capital recovery allowances based on the original cost of the existing stock of production facilities is worth only 83 cents in terms of the current cost of these facilities. This underdepreciation has led to an overstatement of profits and an overpayment of taxes based on those profits. When replacement is necessary, the cost of replacement has greatly increased due to inflation. This increased cost of replacement must be paid for primarily from earnings. The class life system—ADR—has helped to overcome the repressive nature of our depreciation policy. In order to lessen the effects of inflation on replacement costs, a shorter period for computing depreciation should be permitted.

It is estimated that if the ADR is increased to 40 percent, the increase in capital outlays might well total $76 billion in additional saving and investment over 3 years.

Section 4 permits taxpayers to write off the cost of pollution control facilities in the year in which the outlays are made. Stringent environmental standards requiring new abatement equipment have cut into capital investment. Abatement equipment generally does not directly increase productivity or efficiency of operations nor can the cost of such facilities be partially recovered by business from higher sales revenues.

Spending for pollution control equipment increased by almost 200 percent from $1.1 billion in 1968 to over $3 billion in 1971. It has been estimated that as much as $300 billion may be needed for pollution control facilities alone in the next decade.

A special tax allowance for these costs is essential if we are to meet the new demands to clean up the environment.

Section 5 would permit the exclusion from capital gain taxes the first $1,000 of gain each from the sale of securities. Investment capital traditionally has come from the savings that individuals invest in American business by buying securities. However, because of low stock prices, unstable economic conditions, and a Federal tax policy of bias against saving, investors are staying out of the stock market.

It is estimated that over the last 2 years 1.6 million individual shareholders have left the securities market, taking with them some $12 billion in potential growth capital. Unless our tax laws are liberalized to encourage investments, the Nation could fall short of its capital requirements. An annual capital gain exclusion would increase the demand for equities resulting in a larger volume of transactions in stocks by individuals and a larger volume of capital gain realization.

Section 6 allows individual taxpayers a tax credit of 10 percent of up to $2,000 of increases in their savings held in specified assets with a limit of $200 per return—$100 for married taxpayers filing separate returns. The credit is limited to saving in the form of savings accounts in commercial banks, mutual savings banks, savings and loan institutions, credit unions, corporate equities, and Federal Government debt instruments.

The credit for savings has many advantages:

It would, for a great many individuals, reduce the cost of maintaining or increasing their savings, while increasing the cost—by the amount of the foregone tax credit—of reducing their savings to finance consumption outlays.

It would certainly increase the total amount of personal saving compared to the amount which would otherwise be undertaken.

It would clearly provide some buffer for individuals against the erosion of their savings by inflation.

It would funnel additional funds into financial intermediaries and reduce pressures on yields in the capital markets. It would bolster the stock market and provide support to the bond market. It would significantly ease the situation of mortgage lenders.

It would serve as a first step toward placing saving on a more nearly equal footing with consumption under the income tax and contribute to reducing the cost of capital, hence to increasing the rate of private capital formation, productivity, and real wage rates.

THE BILL SHOULD BECOME LAW

It is clear that our future needs for savings and investment represent an enormous challenge far beyond what is normal for the American economy.

But, this additional savings and investment is requisite to needed, additional capital formation. It will help solve a great share of our economic problems, for it deals with their root causes. I suggest it is far better than trying makeshift policies and laws which address themselves only to the ever-changing results of our basic economic problems.

FEDERAL EMPLOYEES SHOULD HAVE PAY INCREASE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 5 minutes.

Mr. WHALEN. Mr. Speaker, the Director of the Office of Management and Budget and the Chairman of the Civil Service Commission have recommended that Federal workers receive a 5.5-percent pay increase, effective October 1.

President Ford has announced his opposition to such an increase until January 1, 1975. Under existing congressional procedures, the proposed raise will not go into effect on October 1 unless the House or the Senate passes a resolution supporting the recommended increase.

I intend to vote for a resolution in the House of Representatives to insure that Federal employees receive the recommended increase on October 1, 1974.

Prior to 1970, Congress alone weighed the merits of Federal pay rates each year. The new system, based on the recommendations of the Director of OMB and Chairman of the Civil Service Commission, was designed to provide a reasoned analysis and criteria for any salary increases. This year, after considerable study, the recommendation was made to increase pay by 5.5 percent as of October 1.

In my view, that recommendation is sound.

The last Federal pay increase, of 4.77 percent, was instituted in October 1973. Since that time, the cost of living has increased approximately 11 percent. Thus, the recommended salary boost only makes up for about half of the dollars eaten up by inflation. In my opinion, a 5.5-percent pay raise is neither unjustified nor exorbitant.

While many workers in the private sector have received pay advances of varying sizes during the past year, Federal employees have not received such a needed increase. Pay scales for Federal employment are not comparable with those in many areas of the private sector. It is not wise public policy to allow that disparity to widen.

The proposed pay increase is moderate, reasonable, and merited. For me to vote to defer it would be unfair to Federal employees who, even with this recommended raise, will be unable to retrieve the buying power lost during the past 12 months.

Thus, I will support a House resolution to reject any deferment and to provide the recommended increase in pay for Federal workers as of October 1.

IN SUPPORT OF THE 1974 RAILROAD RETIREMENT AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, for some time now the need to make major changes in the railroad retirement program has been recognized. Congress took official notice of this need when it created a Commission on Railroad Retirement under Public Law 91-377. The Commission was directed to recommend changes in the railroad retirement program that would provide adequate benefits on an actuarially sound basis. The problem was that the level of benefits was more than the financing provided could support. The report of the Commission was filed on June 30, 1972, and recommended a major restructuring of the program. Briefly, the Commission recommended that the railroad program be restructured into a two-tier program with one tier being social security benefits and the other a staff retirement program similar to the private pensions provided by employers in other industries.

Last year, Congress took a first step in this direction when it changed the railroad retirement tax structure so that railroad workers would pay the same tax that other workers pay for social security with the difference—4.75 percent—in the taxes they had been paying being added to the employer tax. At the same time railroad employers and railroad employees were instructed to get together and work out in a practical way implementation of the Commission's recommendations.

The bill before us this afternoon is the result of negotiations between railway labor and railway management. Following the directions of the Congress, representatives of both groups came to an agreement as to how the railroad retirement program might be restructured along the lines recommended by the Commission on Railroad Retirement. They sent their recommendations to Congress in the form of a draft bill, and with some modification, that is the bill we are now discussing.

The legislation, involving as it does a rewriting of the Railroad Retirement Act, is very complicated in its details. The concept, however, is somewhat less complicated. Under the bill, the railroad retirement program would be restructured so that all people entering railway employment in the future would receive a railroad annuity computed in two major parts or tiers. The first part will be a social security benefit, and the second part will be a railroad staff benefit; both, however, will be paid in one check issued by the Railroad Retirement Board.

For people now getting railroad benefits, there will be no visible change in the annuities they get although there will be some change in the way the Board does its bookkeeping and other paperwork.

The major change in the program will come for people who are now working in the railroad industry and who have also worked under the social security program long enough to qualify for social security benefits. These people will have their current rights to social security benefits frozen at the level earned by their prior earnings and when they retire they will receive an additional payment above the two tiers mentioned earlier.

As a result of this change, the cost of the railroad program will be greatly reduced over the long run. The reasons for this reduction came about because of the unique relationship between the railroad program and social security. Under the law, funds are transferred between the railroad program and social security in a way that places the social security fund in the same position it would have been in had railroad employment been covered under social security. In practical terms this means that each year the social security program transfers a significant amount of money—about $1 billion a year—to the railroad program. There is, however, a flaw in the provision that comes into play when a person works under both social security and the railroad program. When this happens the payments to the railroad program are cut by the amount of the social security benefits paid to the railroad employee. Thus, from the railroad point of view, the railroad program is in effect paying the social security benefit.

When this situation was considered by the Commission on Railroad Retirement, it was the Commission's belief that railroad employees were in effect being paid a windfall benefit which should not have been provided and which was a major cause of the financial unsoundness of the program. The Commission recognized that, although Congress had provided this benefit without providing any financing, it would be unfair to take promised benefits away from people who had already earned them. Devising a way of preserving these benefit rights for people who had already earned them, of financing the cost of this preservation, and of placing the railroad program on a sound financial basis was perhaps the major problem facing railway management and labor when they were trying to decide how the Commission's recommendations might be put into operation. The solution they arrived at is not the perfect solution that exists in theory. It is a practical and workable solution, perhaps the best under the circumstances. Unfortunately, the cost of the solution has to be provided, and the bill H.R. 15301 would authorize an appropriation from the general revenues to meet these costs. Given the current condition of our economy, I wish it could be otherwise. But, if the railroad industry were to be asked to pay this cost—which came about because Congress provided underfinanced benefits—railway shipping costs would have to be increased, and these costs would in turn be passed on to the consumer. Therefore, because this legislation has the less inflationary effect, I will vote for it.

Mr. Speaker, if we do not pass H.R. 15301, the situation of the program will worsen. We must protect the rights of present workers and annuitants. Enactment of the bill would finance the program in a sound way, and, without further delay, I urge that enactment.

REPORT OF THE REPUBLICAN TASK FORCE ON PRIVACY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 30 minutes.

Mr. GOLDWATER. Mr. Speaker, it is with a good deal of pride and optimism that I take this time to announce to my colleagues that on August 21, 1974, the Republican Task Force on Privacy, of the Republican Research Committee, issued its report. It was a day of note for the people of the United States, the Congress, and the Republican Party. This report is the first and most comprehensive statement on the general subject of privacy issued by either party, or by any congressional committee.

Serving on the task force with me—and, I might add, making this task force far more than just another study group—were TENNYSON GUYER and ALAN STEELMAN, who served as cochairmen; JOHN CONLAN, MARGARET HECKLER, ANDREW HINSHAW, FRANK HORTON, JACK KEMP, ROBERT LAGOMARSINO, JOHN ROUSSELOT, KEITH SEBELIUS, and CHARLES THONE.

Each Member contributed fully and directly to the preparation of a specific section of the report, and had a hand in the report's total preparation. My fellow Republican colleagues and the entire House can be proud of their efforts and of their product. They have made a valuable contribution to our legislative process, and if the recommendations are implemented, to our quality of life.

I commend the report to my colleagues, and include its covering letter from Congressman LOU FREY, chairman of the Republican Research Committee, for your attention and consideration.

REPUBLICAN RESEARCH COMMITTEE,
Republican Conference, U.S. House of Representatives, Washington, D.C., August 21, 1974.

DEAR REPUBLICAN COLLEAGUE: Attached are the recommendations of the Task Force on Privacy, chaired by Barry M. Goldwater, Jr., and Vice-chaired by Alan Steelman and Tennyson Guyer. Other Members of the Task Force are John Conlan, Charles Thone, Jack Kemp, Peggy Heckler, Andrew Hinshaw, Frank Horton, Charles Mosher, Bob Lagomarsino, John Rousselot, and Keith Sebelius.

These recommendations are a landmark in the area of individual rights. Nowhere has the total question of privacy been so well or thoughtfully covered. Nowhere has the human equation in our technological society been so strongly expressed.

The Research Committee is proud to have approved this report. These recommendations and the follow-up legislative efforts will ensure that the 1984 envisioned by George Orwell will remain only fictional.

The Task Force and its staff, especially Joe Overton, are to be commended for the time, effort and excellence of the product.

Most sincerely,

LOU FREY, Jr.

HOUSE REPUBLICAN RESEARCH COMMITTEE: RECOMMENDATIONS OF PRIVACY TASK FORCE, AUGUST 21, 1974

The House Republican Research Committee has approved the following recommendations of the Task Force on Privacy which deal with the following areas:

Government surveillance, Federal information collection, social security numbers/standard universal identifiers, census information, financial information, consumer reporting, school records, juvenile records, arrest records, medical records, computer data banks, and code of ethics.

The House Republican Task Force on Privacy believes that the right to privacy is an issue of paramount concern to the nation, the public and the Congress. Recently publicized incidents of abuses have begun to focus attention on this long neglected area. Public awareness must be heightened and the legislative process geared up to address the full range of problems posed by the issue.

Modern technology has greatly increased the quantity and detail of personal information collection, maintenance, storage, utilization and dissemination. The individual has been physically by-passed in the modern information process. An atmosphere exists in which the individual, in exchange for the benefit or service he obtained, is assumed to waive any and all interest and control over the information collected about him. On the technical and managerial levels, the basic criteria in many decisions relating to personal information practices are considerations of technological feasibility, cost-benefit and conveniences. The right to privacy has been made subservient to concerns for expediency, utility and pragmatism.

The trend in personal information practices shows no signs of abating. Twice as many computer systems and seven times as many terminals—particularly remote terminals—will be in use by 1984 as are in use today. And, with each federal service program that is initiated or expanded, there is a geometrically proportionate increase in the quantity and detail of personal information sought by the bureaucracy. The theory is that the broader the information base, the more efficient and successful the administration of the program.

Such a situation demands the attention of Congress and of the American public. The computer does not by definition mean injury to individuals. Its presence has greatly contributed to the American economy and the ability of government to serve the people. Under present procedures, however, the American citizen does not have a clearly defined right to find out what information is being collected, to see such information, to correct errors contained in it, or to seek legal redress for its misuse. Simply put, the citizen must continue to give out large quantities of information but cannot protect himself or herself from its misappropriation, misapplication or misuse. Both government and private enterprise need direction, because many of their practices and policies have developed on an isolated, ad hoc basis.

The House Republican Task Force on Privacy has investigated the following general areas involving the investigation and recording of personal activities and information: government surveillance, federal information collection, social security numbers and universal identifiers, census information, bank secrecy, consumer reporting, school records, juvenile records, arrest records, medical records, and computer data banks. These inquiries have resulted in the development of general suggestions for legislative remedies. Each statement is accompanied by a set of findings.

All findings and recommendations are presented with the intent of being consistent with these general principles:

1. there should be no personal information system whose existence is secret;

2. information should not be collected unless the need for it has been clearly established in advance;

3. information should be appropriate and relevant to the purpose for which it has been collected;

4. information should not be obtained by illegal, fraudulent, or unfair means;

5. information should not be used unless it is accurate and current;

6. procedures should be established so that an individual knows what information is stored, the purpose for which it has been recorded, particulars about its use and dissemination, and has the right to examine that information;

7. there should be a clearly prescribed procedure for an individual to correct, erase or amend inaccurate, obsolete, or irrelevant information;

8. any organization collecting, maintaining, using, or disseminating personal information should assure its reliability and take precautions to prevent its misuse;

9. there should be a clearly prescribed procedure for an individual to prevent personal information collected for one purpose from being used for another purpose without his consent;

10. the Federal Government should not collect personal information except as expressly authorized by law; and

11. that these basic principles apply to both governmental and non-governmental activities.

Each recommendation of the Task Force seeks to contribute to a broader, more intelligent, viable understanding of the need for a renewed concern for personal privacy. An awareness of personal privacy must be merged with the traditional activities of the free marketplace, the role of government as a public servant, and the need for national security, national defense, and foreign affairs.

SURVEILLANCE

The Task Force is deeply disturbed by the increasing incidence of unregulated, clandestine government surveillance based solely on administrative or executive authority. Examples of such abuses include wiretapping, bugging, photographing, opening mail, examining confidential records and otherwise intercepting private communications and monitoring private activities. Surveillance at the federal level receives the most publicity. However, state and local government, military intelligence and police activities also must be regulated.

The Fourth Amendment of the Constitution clearly specifies "the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures." The First Amendment guards against abridgement of the rights of free speech, free press, and assembly for political purposes. The Fourteenth Amendment states that none of a citizen's rights may be taken from him by governmental action without the due process of law.

The direct threat to individual civil liberties is obvious in those cases in which a person is actually being monitored, but even more alarming is the "chilling effect" such activities have on all citizens. A person who fears that he will be monitored may, either subconsciously or consciously, fail to fully exercise his constitutionally guaranteed liberties. The mere existence of such fear erodes basic freedoms and cannot be accepted in a democratic society.

The various abuses of discretionary authority in the conduct of surveillance provide ample evidence that current safeguard mechanisms do not work. Procedures allowing the executive branch to determine whether a surveillance activity is proper or not pose certain conflict of interest questions.

A degree of controversy surrounds the question of the authority of the President to initiate electronic surveillance without the safeguards afforded by court review. Present law is clear on this point: the Omnibus Crime Control and Safe Streets Act of 1968 lists those specific crimes in connection with which electronic monitoring may be instituted and requires that court approval be obtained in these cases. However, dispute has arisen over Executive claims of Constitutional prerogatives to implement wiretaps for national security purposes. The Supreme Court has ruled that, if such prerogative exists, it does not apply to cases of domestic surveillance unrelated to national security. The Court has not yet ruled on the constitutionality of national security wiretaps unauthorized by a court. Cases are pending before the courts at this time which raise this issue. The Task Force agrees with the movement of the Judiciary to circumscribe unauthorized wiretaps and hopes it will proceed in this direction.

The Task Force feels that surveillance is so repugnant to the right to individual privacy and due process that its use should be confined to exceptional circumstances. The Task Force further feels that no agent of federal, state, or local government should be permitted to conduct any form of surveillance, including wiretapping of U.S. citizens in national security cases, without having demonstrated probable cause and without having obtained the approval of a court of competent jurisdiction. The Task Force recommends enactment of new legislation to prohibit the unauthorized surveillance by any means, and further recommends that existing laws be clarified to the extent this may be necessary to ensure that no agent of the government, for any reason, shall have the authority to conduct any surveillance on any American citizen for any reason without first obtaining a court order.

The Task Force believes that this proposal would not lessen the capability of the government to protect and defend the American people, but would go a long way toward assuring the individual citizen that his constitutional rights will not be abridged by government without due process of law.

FEDERAL INFORMATION COLLECTION

Recently, there has been a pronounced increase in federal data and information collection. Over 11.5 million cubic feet of records were stored in Federal Records Centers at the beginning of FY 1973. Accompanying this increase has been a rise in the potential for abuse of federal information collection systems.

The Federal Reports Act of 1942 was enacted to protect individuals from overly burdensome and repetitive reporting requirements. The agency entrusted with the responsibility for implementing the Act has ignored the legislative mandate and failed to hold a single hearing or conduct any investigations. With the exception of the Bureau of the Census and the Internal Revenue Service, there are few restrictions on the collection or dissemination of confidential information compiled by federal agencies.

The Task Force recommends that the Office of Management and Budget immediately begin a thorough review and examination of all approved government forms and eliminate all repetitive and unnecessary information requirements.

Legislation setting down clear guidelines and spelling out restrictions is needed to protect the individual from unrestricted and uncontrolled information collection. Individuals asked to provide information must be apprised of its intended uses. Individuals supplying information which will be made public must be notified of that fact at the time the information is collected or requested. Public disclosure (including dissemination on an intra- or inter-agency basis) of financial or other personal information must be prohibited to protect the privacy of respondents.

SSN/SUI

Returning the use of the Social Security Number (SSN) to its intended purpose (i.e. operation of old-age, survivors, and disability insurance programs) is a necessary corollary to safeguarding the right of privacy and curtailing illegal or excessive information collection.

The use of the Social Security Number has proliferated to many general items including state driver licenses, Congressional, school and employment identification cards, credit cards and credit investigation reports, taxpayer identification, military service numbers, welfare and social services program recipients, state voter registration, insurance policies and records and group health records.

There are serious problems associated with the use of the SSN as a standard universal number to identify individuals. A standard universal identifier (SUI) will relegate individuals to a number; thereby increasing feelings of alienation. The SSN's growing use as an identifier and filing number is already having a negative, dehumanizing effect upon many citizens. In addition, the use of a SUI by all types of organizations enables the linking of records and the tracking of an individual from cradle to grave. This possibility would negate the right to make a "fresh start", the right of anonymity, and the right to be left alone, with no compensating benefit.

A well-developed SUI system would require a huge, complex bureaucratic apparatus to control it and demand a strict system of professional ethics for information technicians. The technology needed to protect against unauthorized use has not yet been adequately researched and developed. A loss, leak or theft would seriously compromise a system and official misappropriation could become a political threat. The following Congressional action is needed:

1. legislation should be enacted that sets guidelines for use of the SSN by limiting it to the operation of old-age, survivors, and disability insurance programs or as required by federal law;

2. any Executive Orders authorizing federal agencies to use SSN's should be repealed, or alternatively, reevaluated and modified;

3. legislation should be enacted restricting the use of the SSN to well-defined uses, and prohibiting the development and use of any type of SUI until the technical state of the computer can ensure the security of such a system. At that time, a SUI system should have limited applicability and should be developed only after a full congressional investigation and mandate; and

4. new government programs should be prohibited from incorporating the use of the SSN or other possible SUI. Existing programs using the SSN without specific authorization by law must be required to phase out their use of the SSN. State and local governmental agencies, as well as the private sector, should follow this same course of action.

A review should be conducted of the Internal Revenue Service in both its collection and dissemination policies. Leaks must be ended. The need for stricter penalties for unauthorized activities should be reviewed.

CENSUS BUREAU

The greatest personal data collection agency is the Bureau of Census. Created to count the people in order to determine congressional districts, this agency has mushroomed into a vast information center which generates about 500,000 pages of numbers and charts each year.

Under penalty of law, the citizen is forced to divulge intimate, personal facts surrounding his public and private life and that of the entire family. These answers provide a substantial personal dossier on each American citizen. The strictest care must be taken to protect the confidentiality of these records and ensure that the * * *.

The Census Bureau sells parts of its collected data to anyone who wishes to purchase such information. Included are all types of statistical data that are available on population and housing characteristics. As the questions become more detailed and extensive, broad-scale dissemination becomes more threatening, and frightening. When used in combination with phone directories, drivers' licenses and street directories, census data may enable anyone interested to identify an individual. Therefore, it is vitally important that rules and regulations governing the access to and dissemination of this collected data be reviewed, clarified and strengthened.

Legislation is needed to guarantee the confidentiality of individual information by expanding the scope of confidentiality under existing law and by increasing the severity of punishment for divulging confidential information. These provisions should be specifically directed at the officers and employees of the Bureau of Census, all officers and employees of the Federal government and private citizens who wrongfully acquire such information. In addition, the Bureau of the Census must use all available technological sophistication to assure that individuals cannot be inductively identified.

FINANCIAL INFORMATION

On October 26, 1970, sweeping legislation known as the Bank Secrecy Act became law. The Act's intention was to reduce white collar crime by making records more accessible to law enforcement officials. However, in accomplishing its purpose, it allowed federal agencies to seize and secure certain financial papers and effects of bank customers without serving a warrant or showing probable cause. The Act's compulsory recordkeeping requirements, by allowing the recording of almost all significant transactions, convert private financial dealings into the personal property of the banks. The banks become the collectors and custodians of financial records which, when improperly used, enable an individual's entire life style to be tracked down.

The general language of the Act allowed bureaucrats to ignore the intent of the law and neglect to institute adequate privacy safeguards. The Supreme Court affirmed this approach by upholding the constitutionality of both the law and the bureaucratic misinterpretation of it.

Congress must now take action to prevent the unwarranted invasion of privacy by prescribing specific procedures and standards governing the disclosure of financial information by financial institutions to Federal officials or agencies. Congress must enact legislation to assure that the disclosure of a customer's records will occur only if the customer specifically authorizes a disclosure or if the financial institution is served with a court order directing it to comply. Legislation must specify that legal safeguards be provided requiring that the customer be properly notified and be provided legal means of challenging the subpoena or summons.

Passage of such legislation would be an important step forward in reaffirming the individual's right to privacy

CONSUMER REPORTING

The consumer reporting industry, through its network of credit bureaus, investigative agencies, and other reporting entities is in growing conflict with individual privacy. Most Americans eventually will be the subject of a consumer report as a result of applying for credit, insurance, or employment. The problem is one of balancing the legitimate needs of business with the basic rights of the individual.

Consumer reports fall into two categories. First, there are the familiar which contain "factual" information on an individual's credit record such as where accounts are held and how promptly bills are paid. 100 million consumer reports are produced each year by some 2600 credit bureaus.

The second ones go beyond factual information to include subjective opinions of the individual's character, general reputation, personal characteristics, and mode of living. These are often obtained through interviews with neighbors, friends, ex-spouses and former employers or employees. An estimated 30 to 40 million such reports are produced annually.

The first Federal attempt at regulating the collection and reporting of information on consumers by third-party agencies came in 1970 with the enactment of the Fair Credit Reporting Act (FCRA). In theory, the Act had three main objectives: to enable consumers to correct inaccurate and misleading reports; to preserve the confidentiality of the information; and to protect the individual's right to privacy.

The specific safeguards provided by the FCRA are: A consumer adversely affected because of information contained in a consumer report must be so notified and given the identity of the reporting agency. The consumer is entitled to an oral disclosure of the information contained in his file and the identity of its recipients. Items disputed by the consumer must be deleted if the information cannot be reconfirmed. The consumer may have his version of any disputed item entered in his file and included in subsequent reports.

The FCRA needs to be strengthened in two major areas: disclosure requirements and investigative reports. The individual should be entitled to actually see and inspect his file, rather than rely on an oral presentation. Further, he should be allowed to obtain a copy of it by mail (the consumer is often geographically distant from the source of the file). Users of consumer reports should be required to specifically identify the information which triggered any adverse action.

The FCRA protects the sources used in investigative reports. The Task Force believes that this is contrary to the basic tenets of our system of justice and that the information source must be revealed upon the subject's request. Furthermore, the Task Force recommends that advance written authorization be required from any individual who is the subject of an investigative report for any purpose.

SCHOOL RECORDS

The recent increase in popular awareness of the seriousness of the privacy issue has been accompanied by an increase in the general concern over loose, unstructured and unsupervised school recordkeeping systems and associated administrative practices. There has also been general discussion about what information should be kept on a child and considered part of his or her "record". Parents are frequently denied access to their own child's record, or are prohibited from challenging incorrect or misleading information contained in his file. At the same time, incidents of highly personal data being indiscriminately disseminated to inquirers unconnected with the school system are not uncommon.

Remedial measures are available to the Congress in the form of legislative actions. The sanctions under which such provisions would operate, however, are the key to their effectiveness. The Task Force proposes the Congress adopts as a general policy the rule that federal funds be withheld from any state or local educational agency or institution which has the policy of preventing parents from inspecting, reviewing, and challenging the content of his or her child's school record. Outside access to these school records must be limited so that protection of the student's right to privacy is ensured. It is recommended that the release of such identifiable personal data outside the school system be contingent upon the written consent of the parents or court order.

All persons, agencies, or organizations desiring access to the records of a student must complete a written form indicating the specific educational need for the information. This information shall be kept permanently with the file of the student for inspection by parents of students only and transferred to a third party only with written consent of the parents. Personal data should be made available for basic or applied research only when adequate safeguards have been established to protect the students' and families' rights of privacy.

Whenever a student has attained eighteen years of age, the permission or consent required of and the rights accorded to the parents should be conferred and passed to the student.

Finally, the Secretary of HEW should establish or designate an office and review board within HEW for the purpose of investigating, processing, reviewing, and adjudicating violations of the provisions set forth by the Congress.

JUVENILE RECORDS

The Task Force supports the basic philosophy underlying the existence of a separate court system for juvenile offenders, which is to avoid the stigmatizing effect of a criminal procedure. The lack of confidentiality of such proceedings and accompanying records subverts this intent and violates the individual's basic right of privacy.

Most states have enacted laws to provide confidentiality. Yet the Task Force finds that due to a lack of specific legislation, and contrary to the intent of the juvenile justice system, the individual's right of privacy is often routinely violated. Juvenile records are routinely released to the military, civil service, and often to private employers as well. This occurs in cases in which the hearing involves non-criminal charges, in cases of arrest but no court action, in cases in which the individual is no longer under the jurisdiction of the juvenile court, and in cases where his file has been administratively closed.

Legislation governing the confidentiality of juvenile court and police records varies widely from state to state. Only 24 states control and limit access to police records, therefore enabling a potential employer who is refused access to court records to obtain the information from the police. Only 16 states have expungement laws providing for the destruction of such records after a specified period of good behavior. Only 6 states make it a crime to improperly disclose juvenile record information. And, one state, Iowa, in fact provides that juvenile records must be open to the public for inspection. The Task Force finds that even in those states whose laws provide adequate protection, actual practices are often inconsistent with legislation.

Many new questions about confidentiality, privacy and juvenile rights are being raised, and the Task Force finds that the establishment of safeguards has lagged significantly behind technological developments. For example, presently no state has enacted legislation regulating the use of computers in juvenile court; as a rule, each system establishes its own guidelines for data collection, retention, and distribution.

The Task Force finds that with the use of computers, the juvenile's right to privacy is additionally threatened by the increased accessibility to his record and therefore increased possibility of misuse. Staff carelessness, less than strict adherence to rules of limited access, and electronic sabotage must now be added to the existing threats to the juvenile's right to privacy.

The Task Force recommends the establishment of minimum federal standards for state laws to include the following provisions:

1. all records of the juvenile court and all police records concerning a juvenile shall be considered confidential and shall not be made public. Access to these records shall be limited to those officials directly connected with the child's treatment, welfare, and rehabilitation;

2. dissemination of juvenile records, or divulgence of that information for employment, licensing, or any other purpose in violation of statutory provisions shall be subject to a criminal penalty;

3. to protect the reformed delinquent from stigma continuing into his adult life, provisions should specify a procedure for either the total destruction or the sealing of all juvenile court and police investigative and offender records at the time the youth reaches his majority, or when two years have elapsed since he has been discharged from the custody or supervision of the court. Subsequent to this expungement, all proceedings and records should be treated as though they had never occurred and the youth should reply as such to any inquiry concerning his juvenile record; and

4. all police records on juveniles arrested but where no court action was taken should be systematically destroyed when the incident is no longer under active investigation.

The Task Force recommends the enactment of legislation specifically prohibiting federal agencies from requesting information relating to juvenile record expungement from employment applicants or from requesting such information from the courts or the police.

The Task Force further recommends the cessation of all federal funding for computerized systems which contain juvenile records unless it can be demonstrated that these systems provide adequate safeguards for the protection of the juvenile's right of privacy. These standards must fulfill all the requirements of the minimum standards for state legislation previously enumerated, including special provisions to strictly limit data accessibility.

ARREST RECORDS

A large percentage of arrests never result in conviction. Yet, in over half the states, individuals' arrest records are open to public inspection, subjecting innocent parties to undue stigma, harassment, and discrimination.

Persons with arrest records often find it difficult, if not impossible to secure employment or licenses. A study of employment agencies in the New York City area found that seventy-five percent would not make a referral for any applicant with an arrest record. This was true even in cases in which the arrest was not followed by a trial and conviction. This is just one example of the widespread practice of "presumption of guilt" based on the existence of an arrest record.

The Task Force holds that release of information about arrests not followed by conviction is a direct violation of the individual's right of privacy. It therefore recommends that legislative efforts be directed toward:

1. establishing minimum standards for state laws calling for the automatic sealing of all individual arrest records which were not followed by conviction and which are no longer under active investigation;

2. requiring the FBI to seal arrest records not followed by conviction; and

3. prohibiting inclusion of arrest records not followed by conviction on computerized systems involving more than one state or using federal funds.

MEDICAL RECORDS

Medical records, which contain sensitive and personal information, are especially in need of privacy safeguards to maintain basic trust in the doctor-patient relationship. Yet, development of automated data processing systems has enhanced the ability of government and private organizations to store, analyze and transfer medical records. Increasingly, this occurs without the individual's knowledge or consent. Abuse of such information systems can have a deleterious effect on doctor-patient relations.

To guarantee the privacy of medical records, the Task Force recommends that:

1. the Federal government provide dollar grants and incentives to States for the voluntary adoption and execution of State plans to insure the right to privacy for computerized medical information systems. Such a plan would place principal responsibility on the States, giving the federal government the right to set minimum standards;

2. Congress review the recently enacted Professional Standards Reviews Organizations (PSRO) legislation. There are increasing numbers of reports and complaints regarding Review Board uses of medical files and the threat this poses to privileged, confidential doctor-patient relationships; and

3. provisions be included in national health insurance legislation which specifically ensure the individual's privacy. The institution of a national health insurance plan will create a vast medical information network which will require stringent safeguards to prevent abuses of the patient's right to privacy.

COMPUTER DATA BANKS

The use of the computer has brought great commercial and social benefits to modern America. Greater reliance on the computer, however, increases its integration into all aspects of daily life. The result is increased vulnerability to abuse or misuse of computerized information.

The Task Force finds that the individual possesses inadequate remedies for the correction of such abuses. In fact, the Task Force considers it probable that many abuses have gone unreported simply because the individual involved did not know of the data being collected about him.

Even if the individual is aware that data is being collected about him, he faces several obstacles if he wishes to expunge purely private information or to correct erroneous information. Among his obstacles are the following: the lack of statutory support for legal action (except in the credit reporting area), the cost of litigation, and even fear of retaliation by the company or agency being challenged.

Despite their potential for abuse, data banks remain an inescapable fact of life in a society growing more complex and more technological. The Task Force does not oppose data banks as such, but favors strong safeguards against their misuse, and recommends that:

1. Rights under the Fair Credit Reporting Act of 1970 be extended to all data collection. The individual must have and be informed of his right to review information contained in any collection of data about himself (excluding national security and criminal justice files);

2. Congress establish categories (i.e. in-depth biographical, financial, medical, etc.) of information which may not be included in reports on an individual unless the individual knowingly gives his uncoerced consent;

3. limited exceptions be granted for national security and criminal justice investigations;

4. criminal and civil penalties be established for any use of statistical data (collected for collective analysis) to wrongfully acquire information on individuals;

5. transfer of personal information between governmental agencies be strictly limited;

6. the creation of a centralized Federal data bank (except for national security and criminal justice purposes) be prohibited; and

7. a federal "privacy protection agency" be established to enforce the proposed legislation.

CODE OF ETHICS AND STANDARD OF CONDUCT

The Republican Task Force on Privacy believes there to be a definite need for the development of a universal code of ethics and standard of conduct for the technical, managerial and academic personnel involved in the development and use of personal information systems. The Task Force regards this to be essential for the automated and computerized information systems. Personal information systems are becoming an integral aspect of the daily life of every individual in our society. This sensitive relationship demands and merits the development of an attitude of professionalism. It is recognized that some efforts have been made to develop and foster such attitudes. But, the information industry as a whole has not supported such efforts as a matter of policy. The Task Force declares its commitment to the development of a professional standard of conduct and code of ethics for the persons involved in the development, maintenance, management and use of personal information systems.

CONCLUSION

The Task Force is aware that this is a relatively new area of concern. Some recommendations may go too far and some not far enough. Some areas may have been overlooked. But there is no question that now is the time to address ourselves to this important and far reaching issue. If we fail—George Orwell's *1984* may become a reality by 1976.

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PANAMA CANAL: AMERICAN LEGION 1974 CONVENTION ACTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, the stoning attack on the U.S. Embassy in Panama City, Republic of Panama, on August 14, 1974, by a mob of rioting students displaying signs of the National Institution Student Revolutionary Front, followed by the decision of the present Revolutionary Government of Panama to renew its diplomatic relations with Soviet Cuba, has again attracted world attention to the danger zone of the Caribbean, particularly the Panama Canal. In the

Congressional Record of August 20, 1974, page 29401. I addressed the House of Representatives concerning the August 14 assault on our Embassy and urged the recall of the U.S. Ambassador to Panama and the termination of the present canal treaty negotiations.

As is well known among those who have closely followed Isthmian developments, the U.S. owned Canal Zone and Panama Canal have been subjected to persistent diplomatic attacks aimed at wresting their sovereign control from the United States. These were not accidental occurrences but well planned parts of a global struggle for world power. Nor should it be overlooked that in this struggle World War I placed the vast Russian Empire under communist domination and World War II placed Soviet Russia in control of East Europe. The latter was followed by the takeover of the masses of Asia. It was then planned to ring the United States, in which the establishment of Red Cuba was only the first major step in the final stages toward establishing a "New World Order" dominated by Moscow.

These catastrophic historical changes have been aided and abetted by elements in the United States and in our Government, particularly in the Department of State. At this time, Red Cubans and Soviet nationals are on the Isthmus, some of them in the Panamanian Government, and used to make addresses to Panamanians in various parts of Panama. Such facts invite the question as to whether its purpose is not to condition the people of that country for a Red takeover as occurred in Cuba?

Fortunately, important organizations in the United States, notably the American Legion, are alert to the situation and are not beguiled by specious propaganda. At the 1974 Annual Convention of the American Legion during August 20–22 in Miami Beach, Fla., one of the most vital subjects considered and acted upon was the Panama Canal.

Its examination included hearings in Miami Beach before the Legion's Commission on Foreign Relations when distinguished authorities and a representative of the Department of State were witnesses. Among them was Arthur L. Denchfield, Jr., of Coral Gables, Fla., who, as a long time resident of Latin America and student of Panama Canal history and problems, has a deep understanding of interoceanic canal functions and their significance to world commerce and hemispheric security.

In a carefully prepared statement before the indicated American Legion Commission on August 16 in Miami Beach, Mr. Denchfield admirably summarized crucial points in the canal equation, emphasizing the importance of action on pending legislation for the major modernization of the existing canal.

In commenting upon the 8-point Kissinger-Tack "agreement on principles" of February 7, 1974, to govern the negotiation of a new Panama Canal Treaty, he described it as "one of the most diabolical, stupid, and embarrassing documents ever to appear on any diplomatic front." As a result of the extensive publicity in the mass news media of the United States on that unauthorized "agreement on principles" advocated by Secretary of State Kissinger, my correspondence between February 7 and July 4, 1974, in the form of letters and petitions, totaled 4,604 citizens from 48 States strongly opposing the projected giveway and 9 accepting it. This, I repeat was a tabulation of mail addressed to me personally.

Mr. Speaker, legislation for the major modernization of the existing Panama Canal is authorized under current treaty provisions and, regardless of what State Department officials have said or may say, such project does not require the negotiation of a new canal treaty. As an act of U.S. sovereignty it would quickly clear up present contrived confusions and uncertainties over the status of the Canal Zone, revitalize the isthmus with enormous benefits to Panama, provide the best canal for the transit of vessels practicable of achievement at least cost and, as a constructive undertaking of geopolitical significance, bring great distinction to those responsible for its success.

Because the indicated address by Mr. Denchfield should be of high interest to the Congress, other agencies of Government and various interest concerned with canal policy questions, I quote a major portion of it as part of my remarks:

Address Before the Foreign Relations Commission of the American Legion, August 16, 1974, Miami Beach, Fla.

(By Arthur L. Denchfield, Jr.)

Mr. Chairman, Members of the Commission on Foreign Relations and guests: The Miami Herald of August 13, 1974, reports that Secretary Kissinger has informed Panama "that the change in the U.S. Presidency will not affect the negotiations for a new Panama Canal treaty."

The matter we are discussing here, my compatriots, is precisely the negotiations with regard to a proposed new canal treaty, agreed upon in principle, February 7, this year, in Panama on behalf of the United States by Secretary Kissinger despite, I repeat, despite his prior knowledge that the Senate of the U.S. had already voiced its disapproval, confirmed on March 29, a few weeks later, by a vote of 35 Senators; despite previous sense of the House resolutions, warning the State Department of such a foolish move; despite the consensus throughout our land against such a foolhardy and unstatesmanlike stupidity. Why is it "that none dare call it treason" when in this case that is precisely the name of the game? Let us pause and ask ourselves a few questions.

On January 16, 1964, candidate Nixon stated in Philadelphia that "Washington's policy in the Canal Zone should be one of "no give" where basic rights are concerned." Yet in February of this year, only ten years later, Secretary Kissinger is sent to Panama to negotiate the eventual giveaway of our canal which has cost the American taxpayers to date over $6 billion in acquisition, maintenance, improvements, and financing. Whose policy is this, anyway? Is it part of the so-called Nixon policy or is it the Kissinger policy?

Let us ask ourselves another important question: In the wake of President Nixon's resignation Secretary Kissinger is quoted as follows: "The point I want to make on behalf of cabinet members involved with foreign policy is: that the foreign policy of the United States has been always conducted and will continue to be conducted on a bipartisan basis, in the national interest, and in the interest of world peace."

Where in the record, my compatriots, is it that both parties have agreed to give away our Panama Canal, a property which we own and over which we have undeniable sovereignty? Is it the desire of both parties, representing the American people, taxpayers if you will, to keep on paying Panama a so-called "annuity" for the use of the land and water in which we built our canal and which we already own? Is it the will of both parties to increase this fictitious "annuity" from $2,095,000.00 to $25 million yearly until kingdom come and until we just might someday have a stupid pro-Communist Congress in Washington to agree to a "giveaway treaty" such as we are discussing—God forbid!

Now I ask you in all fairness: Is this the Nixon or the Kissinger policy, conducted on a bi-partisan basis, that President Ford will be asked to follow?

What we are seeing here, my compatriots, is Captain Ford taking over the helm of our ship of state which previous captains, mates, and sundry pilots have already steered on a collision course. Why? President Ford, more than most recent Presidents, has a real sense of what both parties in the Congress feel and his first confrontation with the Congress will be, mark my words, whether he will confirm the disastrous commitments made in Panama by Secretary Kissinger without prior consent or approval of Congress or whether he will uphold the constitutional oath of office he has just taken to protect, preserve, and defend the Constitution and the best interests of our Nation as Commander in Chief of the Armed Forces of this country!

Before examining the disastrous commitments made in Panama on February 7th, permit me to give praise and credit where it is due: To many great Americans throughout our land who believe just as I do on this matter: that great defender of our canal, the Hon. Daniel J. Flood of the 11th District of Penna.; Senators Strom Thurmond of S.C.; Jesse Helms of N.C.; and John L. McClellan of Arkansas; citizens Harold Lord Varney, William B. Collier, Don Thomas, and countless others too numerous to mention. There are dozens of books, manuscripts, and documents on this important subject and on this point I wish to pause for a suggestion to you all: even though 60 years ago yesterday, on August 15th, when the old cement carrier S.S. *Ancon* sailed from the Atlantic south-southeast thru the canal on its inaugural voyage and 9 hours later reached the Pacific; even though some 450,000 ships have since made transit thru the canal, accomodating the maritime interests of nearly every nation in the world; even though 60 years later until July 7th of this year canal tolls have never been raised; even tho' the 60 years of efficient and orderly operation has brought continuing financial benefits to the adjacent Republic of Panama—there is still the prevalent and mistaken notion that we do not own our own canal but that we rent or lease the land and waters in which we spent hundreds of millions of American taxpayers' funds to build perhaps the greatest engineering feat of all time! When you return home after this convention I ask you to go into your library, any library, and pick up any dictionary, encyclopedia, or reference book and you will find something like this: "Canal Zone—"A strip of land and water ten miles wide and fifty miles long, leased in perpetuity to the U.S. by the Republic of Panama". Where did this false information, which has poisoned the minds of millions of Americans, and foreign students as well, come from? It is only logical that the writers of such articles for our reference books consult our State Department in the course of their research. If you want to know what our own State Department has told them, all you have to do is to ask your congressman to send you a copy of the House document of February 20, 1973, entitled "Hearing Before the Subcommittee of Foreign Affairs, in the House of Representatives, Subtitle "U.S. Relations With Panama" and you will suddenly get the sickening feeling that our own State Department does not believe that we own our own Panama Canal at all! "That we have no sovereignty over our canal", "That the 1903 treaty is antiquated", "That we maintain a foreign enclave within another country", that "for the U.S. to have a 10-mile wide swath of land thru the middle of another country, where our laws reign, where people in that country have to submit themselves to our laws and our courts and our police . . . Is an anachronism". "That the 1903 treaty should be abolished". . . . ad nauseum! This, my compatriots, is the stated position and opinion of our State Department.

So right here we come to the real heart of the matter: the sovereignty and ownership of the Canal Zone: Is it really ours or does it belong to Panama? * * * There are dozens of documents and books containing more than ample evidence that beyond a shadow of a doubt we are the rightful owners and sovereigns of our Canal Zone and all that's in it, all comments to the contrary to the wastebasket notwithstanding. However, I have read the treaty of 1903 some thirty times, line by line, word for word, and I can tell you this: There are some 3,078 words in the English version of that treaty between Panama and the U.S.A. and whereas the word "grant" or "granted" is used 18 times, the word "lease" is used only once and then only in the penultimate article number XXV where the Republic of Panama states that "It would sell or lease to the U.S. such additional lands adequate and necessary for coaling stations in other parts of Panama as might be required". Therefore, we know that back in 1903 the word "lease" was known and used and if the treaty intended a lease relationship between Panama and the U.S.A., it would have clearly said so! As a matter of fact, in the very same year, 1903, additional arrangements were made to defend the northern approaches to the Canal Zone by making a lease agreement for the coaling and naval station areas of Guantanamo with the Republic of Cuba and the word "lease" was used many times but never the word "grant," as in the treaty with Panama.

Then, there is the practical and logical consideration which should be obvious to us all: In the Western world most members of the legislature are lawyers, in democratic and semi-democratic bodies of government and this was equally so back in 1902–1903. The careful Senator from Wisconsin, a lawyer named Spooner, author of the Spooner amendment, took pains to make it very clear to the President at that time, Teddy Roosevelt, that the U.S. Senate gave him the necessary authorization to take the required steps to build an interoceanic canal provided he could secure the proper title, rights, and ownership of all the land and water needed for the construction of such a momentous and expensive undertaking. Is there anyone, anywhere, in any nation, friend or foe, who would think that we Americans were so stupid as to engage in the construction of such a colossal engineering enterprise, costing hundreds of millions of dollars, such as an interoceanic canal, without having the proper titles to the land and water required for such a venture? Furthermore, fresh in their minds was the disastrous French attempt under Delesseps to build a canal in the same isthmus and at the same time in history, where hundreds of millions of dollars went down the drain. Is it not natural to presume that the U.S. Congress was not about to give President Roosevelt, or any other President, a blank check to build an expensive canal on land and water which was only leased? To think otherwise is, indeed, naive and an evidence of abysmal ignorance.

As if the considerations I have just mentioned were not enough, we have the learned opinion of the U.S. Supreme Court which in the case of Wilson vs. Shaw in 1907, recognized the validity of the title of the U.S. to the Canal Zone. Ten years later, 1914, the Thomson-Urrutia Treaty between Colombia and U.S.A. was signed by which Colombia, in exchange for $25 million and certain transit rights in the Canal, recognized the title to both the Canal and the Panama Railroad, with its valuable monopoly-franchise, as vested "entirely and absolutely" in the U.S. It will be recalled that Panama was a province of Colombia prior to November, 1903, the date of her independence, at this juncture we wish to dispell some vicious rumours which our Communist friends insist on propagating throughout the world to the effect that the U.S. arranged, financed, and promoted the Panama revolt from Colombia in order to force a unilateral and one-sided treaty upon Panama; nothing could be further from the truth which is that at that time the U.S. had the option to build a canal through Nicaragua, where plans and surveys had already begun. It was the inducement to provide the U.S. with clear title and ownership to the land and waters needed for the building of the canal which was in effect granted to the U.S. in perpetuity which caused the U.S. to choose the Panama site rather than that of Nicaragua.

It is indeed quite true that the U.S. acted as a sort of foster parent to the newly-born Republic of Panama and it is equally true this foster-child has been pampered and spoiled throughout the years to the extent that if it sees it will not be given something it wants, it will start up another series of tantrums.

* * * * *

Now when we say that we and not the good people of Panama are to blame for the sorry mess we find ourselves in, it is because this situation has been created solely by ourselves with assists by our Soviet friends who have always taken advantage of our weaknesses. This mess is the product of the executive branch of our government including particularly the State Department, by the continual use of unilateral action without the prior consent of Congress. Let us always remember that ever since that November day in 1917 when Vladimir Lenin, past master strategist of Marxian communism, planned on how to eventually bring the whole wide world into the communist net, the Soviets have had their eyes on the principal waterways of the world, including our Panama Canal. Our troubles began when F. D. R. recognized Soviet Russia "in order to help our foreign trade and bring about peace in the world".

Where have we heard that song before?

In 1939 the secretly-arranged Hull-Alfaro Treaty under F. D. R. started the erosion of our treaty rights: Then came his appointment of Alger Hiss as chief of the State Department's Office of Political Affairs, when this doubtful patriot in his report, by-passing his chief, Assistant Secretary Braden, designated to the newly-founded United Nations that our canal zone was an "occupied territory", thus lending credence to the false theory that our canal really belonged to Panama; then came more and more erosion of our treaty rights, always by the State Department and/or President who listened to the State Department. In 1958 Ike's brother Milton, accompanied to Panama by one Roy Rubottom (who later with William Wieland helped Castro achieve power in Cuba) performed one of the worst precedents imaginable in arranging for the flying of the Panamanian flag on U.S. territory: this in the minds of most Latin-Americans is tantamount to our recognizing Panama's sovereignty and is just one of the many dangerous unilateral acts promoted by our State Department in an effort to preserve what is called "good relations with Panama". Then came Kennedy, Johnson, and Nixon, each contributing his share of further erosion of our treaty rights by unilateral action without the prior consent of Congress. In the interest of time I shall not cite the long, long list of State Department representatives—who some call diplomats and skillful negotiators—who have in one way or another diluted our sovereignty over our canal zone by their un-called-for, unauthorized, and inept handling of our foreign affairs.

If you will now fasten your seatbelts and pay close attention, I shall read to you one of the most diabolical, stupid, and embarrassing documents ever to appear on any diplomatic front. Some call these eight articles signed in Panama the "kiss of death" to our so-called influential leadership in Latin America; some see nothing wrong with our throwing away our sovereignty of such a strategic asset which, of course, will be picked up by our Soviet friends: After all, it only cost the U.S. taxpayers a little more than $6 billion dollars and what is that? In Foggy Bottom the difference between a million and a billion is only a few zeros after all, so why get alarmed?

I call your particular attention to the clever manner in which the word "grant" is used in this State Department document: In 1903 the word "grant" meant to give, to cede, disown, deliver and convey ownership but in 1974 the text prepared by our State Department it is given the connotation of "to loan", "to lend", or "cede temporarily" without transfer of ownership!

Let us now quote from the news release from Foggy Bottom dated February 7th, 1974, entitled: "U.S.-Panama agree on Principles for Canal Negotiations", the eight articles as agreed upon by Secretary Kissinger and Foreign Minister Juan Tack in Panama: (1) The treaty of 1903 and its amendments will be abrogated by the conclusion of an entirely new interoceanic canal treaty. (2) the concept of perpetuity will be eliminated. The new treaty concerning the lock canal shall have a fixed termination date. (3) Termination of U.S. jurisdiction over Panama territory shall take place promptly in accordance with the terms specified in the treaty. (4) The Panamanian territory in which the Canal is situated shall be returned to the jurisdiction of the R. of Panama. The R. of Panama, in its capacity as territorial sovereign, shall grant to the United States of America, for the duration of the new Interoceanic Canal Treaty and in accordance with what the treaty states, the right of the use of the lands, waters, and airspace which may be necessary for the operation, maintenance, protection, and defense of the Canal and the transit of ships. (5) The R. of Panama shall have a just and equitable share of the benefits derived from the operation of the Canal in its territory. It is recognized that the geographic position of its territory constitutes the principal resource of the R. of Panama. (6) The R. of Panama shall participate in the administration of the Canal, in accordance with a procedure to be agreed upon in the treaty. The treaty shall also provide that Panama will assume total responsibility for the operation of the Canal upon termination of the treaty. The R. of Panama shall grant to the U.S.A. the rights necessary to regulate the transit of ships thru the Canal, to operate, maintain, protect, and defend the Canal, and to undertake any other specific activity related to those ends. (7) The R. of Panama shall participate with the U.S.A. in the protection and defense of the Canal in accordance with what is agreed in the new treaty. (8) The U.S.A. and the R. of Panama, recognizing the important service rendered by the interoceanic Panama Canal to international maritime traffic, and bearing in mind the possibility that the present Canal could become inadequate for said traffic, shall bilaterally agree on provisions for the new projects which will enlarge Canal capacity. Such provisions will be incorporated in the new treaty in accord with the concepts established in Article No. 2 (the cancellation of the concept of perpetuity).

What are we to do to defend our country in this sordid diplomatic mess? Well, there are many ideas and we take the liberty of giving you herewith eight other articles for your consideration: (1) Besides the various resolutions sponsored by the legion, we should step up the number of similar resolutions to be sponsored by the various States, such as Virginia, Maryland, and South Carolina have already done. (2) Each Legionaire present must take it upon himself to bombard his Congressmen with urgent petitions to defend not only continued and undiluted U.S. sovereignty over our Canal Zone but to reactivate the legislation already provided to proceed with the terminal lakes third lock modernization plan. (3) Initiate an educational campaign in each of the States to teach our school children the truth about our canal. I shall myself dedicate three hours each week this coming fall speaking to the school children of Dade County on this subject. (4) Oppose any further payments of "annuity" to Panama until the question of our sovereignty is clearly understood by that country. (5) Kick out of Congress any American politician who would "sell his country down the river" by accepting such a "giveaway treaty" as the Kissinger-Tack Agreements. (6) Strongly suggest that the Canal Zone take on a more business-like type of organization such as the 30-year old T.V.A. which successfully operates a no-nonsense agency covering 41,000 square miles of U.S. territory in seven States with over 25 dams and many lakes and rivers. * * * The State Department told to keep its inept, clumsy, inefficient, spendthrift, bungling, and stupid hands out of the Canal Zone Authority's affairs * * * forever. (7) Replace immediately the forces recently transferred from the Southern Command to Fort McPherson in Georgia. * * * Finally (8) insist on the immediate removal of all flags except the Stars and Stripes over the U.S. Canal Zone, our Canal Zone.

Mr. FLOOD. Mr. Speaker, as a result of its inquiry into the Canal Zone situation, which included a visitation by certain of its officials to the Zone earlier in 1974, the American Legion adopted a notable Panama Canal resolution. Its terms are valid because they are based upon experience and knowledge. Moreover, it should serve as a guide in the formulation of U.S. Isthmian Canal policy. The 1974 American Legion resolution on the Panama Canal follows:

[56th National Convention of the American Legion, Miami Beach, Fla., Aug. 20, 21, 22, 1974]

RESOLUTION NO. 85—"THE PANAMA CANAL"

Whereas, Under the 1903 Treaty with Panama, the United States obtained the grant in perpetuity of the use, occupation and control of the Canal Zone territory with all sovereign rights, power and authority to the entire exclusion of the exercise by Panama of any such sovereign rights, power, or authority as well as the ownership of all privately held land and property in the Zone by purchase from individual owners; and

Whereas, The United States has an overriding national security interest in maintaining undiluted control over the Canal Zone and its treaties with Great Britain and Colombia for the efficient operation of the Canal; and

Whereas, The United States Government is currently engaged in negotiations with the Government of Panama both in the Canal Zone and with respect to the Canal itself without authorization of the Congress, which will diminish, if not absolutely abrogate, the present United States treaty-based sovereignty and ownership of the Zone; and

Whereas, These negotiations are being utilized by the United States Government in an effort to persuade Panama to grant an option for the construction of a "sea-level" canal eventually to replace the present canal, and by the Panamanian government in an attempt to gain sovereign control and jurisdiction over the Canal Zone and effective control over the operation of the Canal itself; and

Whereas, Similar concessional negotiations by the United States in 1967 resulted in three draft treaties that were frustrated by the will of the Congress of the United States because they would have gravely weakened United States control over the Canal and the Canal Zone; and

Whereas, The American people have consistently opposed further concessions to any Panamanian government that would further weaken United States control over either the Canal Zone or Canal; and

Whereas, Many scientists have demonstrated the probability that the removal of natural ecological barriers between the Pacific and Atlantic oceans entailed in the opening of a sea-level canal could lead to ecological hazards which the advocates of the sea-level canal have ignored in their plans; and

Whereas, The American Legion believes that treaties are solemn obligations binding on the parties and has consistently opposed the abrogation, modification, or weakening of the Treaty of 1903: now, therefore, be it

Resolved by The American Legion in National Convention assembled in Miami Beach, Florida, August 20, 21, 22, 1974, that the United States must be vigilant against all efforts to surrender or erode any of the U.S. sovereignty or jurisdiction in the Panama Canal Zone or over the Panama Canal obtained under the 1903 Treaty with the Republic of Panama, as amended and revised in 1936, and 1955; and be it further

Resolved that The American Legion reaffirm and reiterate its traditional opposition to any new treaties or executive agreements with Panama that would in any way reduce our indispensable control over the U.S.-owned Canal or Canal Zone.

CORRECTION OF ABA RECOMMENDATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 10 minutes.

Mr. DRINAN. Mr. Speaker, I wish to correct a statement which was recently made by the chairman of the House Committee on Internal Security before the recess of the Congress. Speaking before the House on August 19, 1974, the gentleman from Missouri called this body's attention to a recent vote of the American Bar Association's House of Delegates. At that time, the gentleman informed his colleagues that the ABA delegates had just rejected a resolution calling for the abolition of the House Committee on Internal Security and its subsequent transfer to the Judiciary Committee.

I would like to call the attention of the House, Mr. Speaker, to the actual vote of the ABA House of Delegates. On August 15, 1974, the ABA delegates voted 137 to 90 not to approve or disapprove the recommendation that the ABA endorse abolition of the House Committee on Internal Security, as requested by the Section of Individual Rights and Responsibilities. Rather than rejecting the resolution as the gentleman from Missouri suggested, the House of Delegates only recommended that its consideration be postponed until the ABA's 1975 meeting.

Mr. Speaker, for the benefit of my colleagues, I would like to insert the actual ABA resolutions and the report of the Section of Individual Rights and Responsibilities, which is ably chaired by Albert E. Jenner. Mr. Jenner submitted the following report for the American Bar Association's consideration:

AMERICAN BAR ASSOCIATION REPORT TO THE HOUSE OF DELEGATES

SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES

Recommendation

The Section of Individual Rights and Responsibilities recommends adoption of the following:

Be it resolved, That the American Bar Association supports abolition of the U.S. House of Representatives' Committee on Internal Security

Be it further resolved, That the President or his designee be authorized to present the foregoing resolution to the House of Representatives.

REPORT

Introduction

In 1969, in response to growing criticism, the House of Representatives abolished the House Un-American Activities Committee (HUAC) and replaced it with the House Committee on Internal Security (HCIS). While the name was changed, the Committee membership, staff and records were unaffected by the transition. Neither have the major purposes, characteristics or activities of the new committee been significantly different from those of its predecessor, HUAC. Consequently, the case for abolishing the House Committee on Internal Security is substantially the same as the reasons previously advanced for abolishing HUAC.

The similarity between HUAC and HCIS was noted by Representative Drinan, a member of the Committee, in his Supplemental View attached to the 1971 Annual Report of HCIS, in which he urged the abolition of the Committee. Among other things, he wrote:

"The House Committee on Internal Security, however, lives on, unchanged. There have been a few—very few—cosmetic modifications, including a more modern name, and more funds with which to operate, but the Internal Security Committee of 1971, whose activities are here described, is in fact substantially identical to the HUAC of 1949, 1950 and 1951. In no respect is this committee any less dangerous or wasteful today than it was 20 years ago."

The strength of the case for abolition is further evidenced by the growing number of Congresssmen who have voted against appropriations for the Committee; in the present session of Congress, 101 Congressmen voted to eliminate such funding completely. Resolutions have also been introduced in the 92d and 93d Congresses by several Congressmen, including Representative Yates of Illinois, to abolish the Committee. The reasons for abolition of the Committee are set forth in the following discussion.

LEGISLATIVE PURPOSE VS. EXPOSURE FOR EXPOSURE'S SAKE

Instead of using the key terms "subversive and un-American propaganda" to describe the Committee's charter, as did the Resolution establishing HUAC, the Resolution establishing the House Committee on Internal Security gave HCIS jurisdiction over bills concerning "Communist and other subversive activities affecting the Internal Security of the United States." HCIS's investigatory powers are also expressed in terms textually different from those of its predecessor. House Rule XI, Section 11, authorizes HCIS to engage in:

"Investigations of (1) the extent, character, objectives, and activities within the United States of organizations or groups, whether of foreign or domestic origin, their members, agents, and affiliates, which seek to establish, or assist in the establishment of, a totalitarian dictatorship within the United States, or to overthrow or alter, or assist in the overthrow or alteration of, the form of government of the United States or of any state thereof, by force, violence, treachery, espionage, sabotage, insurrection, or any unlawful means, (2) the extent, character, objectives, and activities within the United States of organizations or groups, their members, agents and affiliates, which incite or employ acts of force, violence, terrorism, or any unlawful means to obstruct or oppose the lawful authority of the Government of the United States in the execution of any law or policy affecting the internal security of the United States, and (3) all other questions, including the administration and execution of any law of the United States, or any portion of law, relating to the foregoing that would aid the Congress or any committee of the House in any necessary remedial legislation."

The Committee is one of the very few House standing committees that have explicity been given investigatory mandates with respect to a particular subject matter, coupled with compulsory subpoena powers, which are not phrased in such a way as to limit the investigations to those designed as useful adjuncts to consideration of legislation. The result is that HCIS, entirely apart from its function of examining and proposing legislation, is authorized, in addition, to investigate solely for the purpose of exposing the character, objectives and activities of private individuals and private organizations. This type of investigation should also be distinguished from investigations designed to examine suspected malfeasance of government officials or the abuse of governmental power, such as the Teapot Dome and Watergate investigations.

The 1971 and 1972 Annual Reports of HCIS reveal that many of its recent hearings have been devoted to examination of origins, organization, and leadership of various groups, especially the Progressive Labor Party, the National Peace Action Coalition, and the People's Coalition for Peace and Justice. Additionally, in order to investigate "subversive influences affecting the military," the Committee found it necessary to look into the activities and associations of numerous other individuals and groups. This investigative activity for 1971 and 1972 would appear to be in line with a history of activity that has neither served nor been intended to serve as a foundation for corrective legislation. For the most part the results of the Committee's investigations or hearings comprise only a record of the names and activities of individuals and groups given by witnesses cooperating with the Committee.

Even if the Committee's findings with respect to individuals and organizations are assumed to be reasonably accurate—a doubtful assumption, to say the least—continuation of the Committee's activities would be objectionable. The emphasis of its activity has been and still is fundamentally inconsistent with the constitutional basis for legislative investigations. The extent to which a committee or Congress may investigate is not without limits. In *Watkins v. United States*, a case involving an investigation by HUAC, Chief Justice Warren, writing for the majority, said:

"We have no doubt that there is no congressional power to expose for the sake of exposure. The public is, of course, entitled to be informed concerning the workings of its government. That cannot be inflated into a general power to expose where the predominant result can only be an invasion of private rights of individuals. But a solution to our problem is not to be found in testing the motives of committee members for this purpose. Such is not our function. Their motives alone would not vitiate an investigation which had been instituted by a House of Congress if that assembly's legislative purpose is being served."

In the actual decision of the *Watkins* case, the Chief Justice was able to avoid the problem of determining legislative motives by holding that neither in the resolution creating HUAC itself nor in any explanatory statement by the presiding officer at the hearing was there an adequate statement of the legislative purpose of the inquiry. Under such circumstances, a conviction for refusing to answer "any question pertinent to the question under inquiry" could not stand.

In a later decision, also involving HUAC, *Barenblatt v. United States*, the Court again faced the question whether a particular investigation was related to a valid legislative purpose. Mr. Justice Harlan, speaking for the Court, concluded that, unlike *Watkins*, it had been clearly indicated by the Committee that the objectives of the particular inquiry was alleged "Communist infiltration into the field of education," and that it was "hardly debatable" that "Congress has wide power to legislate in the field of Communist activity in this Country, and to conduct appropriate investigations in aid thereof." Again, like the Chief Justice in *Watkins*, Mr. Justice Harlan eschewed any inquiry into legislative "motive" as beyond the scope of judicial inquiry. Nevertheless, four members of the Court dissented on the ground that the interrogation of *Barenblatt* with respect to Communist membership and association violated First Amendment rights because its real purpose was either "punishment by humiliation and public shame" or "exposure purely for the sake of exposure."

In applying the principles of *Watkins* and *Barenblatt*, it must be remembered that the appropriate limitations upon the scope of judicial inquiry into legislative motives are not necessarily the same as the appropriate limits of congressional supervision over its own committees. The judiciary may well be effectively limited, as Mr. Justice Harlan believed, by the presumption that the stated objectives of the congressional inquiry are indeed the real objectives of the inquisitors. The Congress itself should not be inhibited by any such presumption. It should make a realistic inquiry into the dominant objectives of its committees as demonstrated both by the conduct of the investigators and the fruits of their labors. Judged by that test, it is a fair conclusion that the dominant purpose of both HUAC and HCIS has been "exposure for the sake of exposure."

CONFLICTS OF JURISDICTION

Another reason for abolishing the House Internal Security Committee is that its legislative functions have long been the province of other responsible committees. This was forcefully pointed out both at the time of the establishment of HCIS as a successor to HUAC, and more recently during the debate on its latest appropriation. For example, Emmanual Celler, the then chairman of the House Judiciary Committee, disapproved of the creation of HCIS because its investigatory powers over espionage and criminal subversion generally infringed upon areas delegated to the Judiciary Committee by the rule and custom. This thought was developed further by Congressman Yates, who said:

"On a strictly procedural basis, the Judiciary Committee is the proper place for inquiries relevant to our internal security. Moreover, the Judiciary Committee is made up of men with the legal expertise necessary to conduct investigations with the proper regard for procedural due process. We could, therefore, achieve some additional assurance that its investigations would be germane to our internal security and not merely showcases for ideological polemics which breed discord. Moreover, there would be the combined wisdom and proud supervision of the full committee to oversee the actions of the subcommittee to protect against the kind of noxious investigations that marked its predecessor.

The overlapping jurisdiction of the HCIS with the Judiciary Committee and other committees was elaborated upon by Congressman Drinan in the debate on the 1973 supplemental appropriation. He pointed out that the Committee in February 1973 had resolved to investigate the activities of subversive organizations "conducted within, or directed towards, the prisons and other penal institutions and systems of the United States or of any state." In March, 1973, it decided to hold hearings with respect to Attica. These decisions were taken despite the fact that Subcommittee No. 3 of the Judiciary Committee during the 92d Congress had developed seven volumes of hearings covering "every aspect of problems related to prisons all over the United States" without finding any support for the theory that "subversive influence in the prisons was a source of inmate agitation." In addition, the Select Committee on Crime of the House of Representatives had conducted extensive hearings about Attica, which had developed "at most only one or two references to any alleged subversive influence in that institution." Consequently, he predicted that the proposed hearings by HCIS would be "another expensive adventure by this committee which can only result in adding more false issues to the difficult question of penal reform."

In replying to such criticism Representative Ichord, Chairman of HCIS, referred to the Committee's "most comprehensive legislative report on a two-year inquiry into the Subversive Activities Control Board and the federal civilian employee security program." Yet a quick scanning of the SCAB's annual reports would have revealed that it has been moribund for the past several years on account of the Supreme Court decisions, while the Standing Committee on Post Office and Civil Service would have been a more appropriate vehicle for conducting any needed examination of the loyalty-security programs in government service. In fact the hearing on the loyalty-security program consisted primarily of a recitation by departmental representatives of employment and removal procedures presumably well-known to the Civil Service Commission and easily available to the supervising Post Office and Civil Service Committee. The only tangible result of the hearing was a bill introduced by Congressman Ichord and Congressman Preyer, vice-chairman of the Committee, to abolish the Subversive Activities Control Board and to establish a new mechanism to administer the personnel security system of the Executive Branch. The need for such a new mechanism remains to be established.

THE REAL BUSINESS OF THE COMMITTEE—THE INDIVIDUAL FILES

Another indication of how little need there really is for a committee like the Internal Security Committee is the extremely small number of bills referred to it as compared with the total number of bills introduced in Congress. During the 92d Congress, of 17,230 bills that were referred to the 21 standing committees of the House, eight different bills and five duplicates were referred to the HCIS. Although the Committee's budget was reduced by $100,000 to $725,000 this year, the Committee's staff consisted of 46 individuals, the second largest of any standing House committee. In this regard, HCIS's situation should be compared with some other House committees. At the beginning of the current session of Congress, HCIS had nine members and a staff of 46, the Judiciary Committee had 38 members and 41 staff members, the Armed Services Committee had less than 30 staff members for a committee membership of 38, and the 55 member Appropriations Committee had a staff of 51.

Given the small productivity of the Committee in terms of amount of legislation considered relative to the other committees of the House, we must look elsewhere for a possible explanation for HCIS's inordinately large staff. According to its Annual Report for 1971, the Committee is the guardian and compiler of an extensive file of "data found in public sources." The file is accessible to members of Congress and 25 agencies of the federal government, 790 visits to the files were made by such agencies between June 1972 and June 1973. The extent and nature of this file are not fully known. According to Congressman Drinan "as of April 1971, HCIS maintained 754,000 such data cards on individuals."

The majority of the Internal Security Committee has made no direct response to Congressman Drinan's charge that "only in minor respects has the Committee files operation—perhaps its most destructive activity—changed at all." But, in the course of the debate on the 1973 appropriation, Congressman Edwards referred to a letter from Congressman Ichord to his colleagues assuring them that since he had become Chairman of the Committee files were no longer kept on the members of Congress. Mr. Ichord confirmed this statement and added: "There are a few files kept on individuals who definitely are not members of Congress but they are few in number." Mr. Ichord did not explain how his "few in number" squared with Mr. Drinan's reference to "754,000 such data cards on individuals". Neither did he respond to Congressman Edward's suggestion that "I do not think, if we are going to keep them on other American citizens, than we as Members of Congress should necessarily be excluded from this practice." Mr. Ichord did, however, ask Mr. Edwards why if he was opposed to the files, he did not introduce a resolution prohibiting the Chairman from making information from the files available to members of Congress. The larger question remains unanswered: Why is it appropriate for the committee to maintain files on private individuals if it is inappropriate to maintain them on members of Congress?

FIRST AMENDMENT CONSIDERATIONS

Underlying most of the other objections to continuation of the House Internal Security Committee is the concern that its normal investigatory activities constitute a threat to the uninhibited exercise of First Amendment rights, especially freedom of speech and freedom of association. This basis for concern was well-expressed by Congressman Drinan in his Supplemental View, when he said:

"The problem is that congressional committees—legislative committees in general—do not make good or trustworthy courts. Trials by legislatures, by and large, were out in the Eighteeneth Century. Anyone who doubts that legislative trial is alive and well in the United States need only cursorily review this report which contains the names of hundreds of individuals and groups who are specifically identified and deemed to be subversive, with all of the consequences which that official characterization entails."

In other words, it is the governmental characterization of individuals or groups as subversive based primarily on their expressions of opinion or their associations, which constitutes the invasion of First Amendment rights. This was explicitly recognized by Chief Justice Warren, speaking for the Court in the *Watkins* case when he said:

"Abuses of the investigative process may imperceptibly lead to abridgment of protected freedoms. The mere summoning of a witness and compelling him to testify, against his will, about his beliefs, expressions or associations is a measure of governmental interference. And when those forced revelations concern matters that are unorthodox, unpopular, or even hateful to the general public, the reaction in the life of the witness may be disastrous. This effect is even more harsh when it is past beliefs, expressions or associations that are disclosed and judged by current standards rather than those comtemporary with the matters exposed."

Congressman Ichord undertook to answer this First Amendment argument, as well as other criticisms of the Committee, both in a congressional speech in commenting on a petition signed by 365 law professors urging abolition of HCIS and during the debate on the 1973 appropriation. He pointed out that the investigatory powers of the Committee, by the words of the authorizing resolution, are focused, not on unpopular ideas or opinions, but "upon subversive organizational activities clearly involving illegal conduct or the use of force or violence, or such other means as may be made punishable under federal law." The lack of reality in this formal limitation, is however, demonstrated by the general tenor of Chairman Ichord's remarks and the Committee Reports themselves. In the same speech the Chairman said, for example:

"The Committee on Internal Security would be guilty of negligence if it did not maintain its reference files of relevant organizations and the individuals connected with them. Without these references the Committee would not be in a position to make sound and reasoned judgments about the present nature and aims of numerous organizations coming within its mandate."

Similarly in the appropriations debate the Chairman indicated that he regarded HCIS as a substitute for the Subversive Activities Control Board in the investigation activities or purposes saying "If the SACB indeed becomes defunct there will be even a greater need for the work of the Committee on Internal Security." The Chairman indicated that emphasis on this particular function of the Committee was not his personal preference, but that in the absence of such an active agency or commission, HCIS would have to continue to do this job. In taking this position, Congressman Ichord ignored the fundamental First Amendment objection to both the HCIS and the SACB—namely that it is not the appropriate business of the government to warn the American public against association with organizations or groups which the government deems "subversive". Apart from a genuine interest in new legislation, the scope of the government's interest should be limited to investigating through grand jury proceedings individuals or organizations which it suspects of being guilty of illegal activities; if their activities do not warrant prosecution, their continued survival should be left to the free market place of ideas, without further governmental intervention.

CONCLUSION

For all of the foregoing reasons—(1) because the primary emphasis of the Committee does not serve a legitimate legislative purposes; (2) because its legitimate functions are more appropriately served by other more responsible committees; (3) because its collection of private individual and organizational files constitutes a distortion of the congressional investigative functions and an activities inhibit the free exercise of First Amendment freedoms—we suggest that the time has come for the abolition of the House Internal Security Committee, and the explicit addition to the jurisdiction of the Judiciary Committee of the phrase "other overt acts affecting internal security." This would have the effect of transferring to the Judiciary Committee that part of the jurisdiction of HCIS legitimately concerned with the administration of existing laws and the need for new legislation, while abolishing its roving commission to investigate the affairs of private individuals and organizations for the purpose of exposing them to public shame, obliquy, and discriminatory treatment.

In conformance with Association Policy, copies of this report and recommendation have been sent to the following Association entities for their review and comment: Standing Committee on Education About Communism, Administrative Law Section, Criminal Justice Section, General Practice Section, Young Lawyers Section and the Law Student Division.

This report and recommendation was submitted to the Council of the Section of Individual Rights and Responsiblilities at its May 3–4, 1974 Council meeting. The matter was first brought to the attention of the Council by the Civil Rights Committee of the Chicago Bar Association. The Council, recognizing the potentially dangerous nature of the Internal Security Committee's activities and files to the rights of privacy and due process, voted unanimously to submit the recommendation and report to the Association's House of Delegates for adoption.

Respectfully submitted,

ALBERT E. JENNER, JR.,
Chairman.

RESOLUTION OF INQUIRY INTRODUCED: ASKS 12 QUESTIONS OF PRESIDENT FORD REGARDING DETAILS OF NIXON PARDON: QUESTIONS TROUBLE EVERYONE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York, (Ms. ABZUG) is recognized for 5 minutes.

Ms. ABZUG. Mr. Speaker, today I, and 10 other Members of Congress, are introducing a resolution of inquiry directed to President Ford asking 12 questions about the details and events leading up to the Presidential pardon of Richard Nixon.

The questions are intended to find out, in part, whether former President Nixon's resignation was related to a promise of a pardon, and whether President Ford or his representatives attempted to get a confession of guilt from Mr. Nixon in exchange for the pardon; and what role Alexander Haig and others played in arranging the pardon.

Today's newspapers carry two columns by Evans and Novack and Jack Anderson that give some background into the men and events that led to the pardon. I would like to call the two columns to the attention of my colleagues and I insert them at this point in the Record:

WITH AN "EXPECTED" PARDON

(By Rowland Evans and Robert Novak)

Hours before resigning the presidency in the face of hard obstruction-of-justice evidence against him, Richard Nixon was convinced that his successor, President Ford, would issue him a full and complete pardon.

But outgoing President Nixon never received assurances from Gerald Ford himself that a pardon could be counted on.

Indeed, even though President Ford secretly informed intimates that a presidential pardon for Nixon—eventually—was an absolute certainty, he did not undertake direct negotiations with Nixon on the pardon question.

The bridge between Nixon and Mr. Ford was Nixon's White House chief of staff, Gen. Alexander Haig, and Secretary of State Henry Kissinger, the senior member of the Cabinet and Nixon's closest collaborator outside the White House itself during Nixon's 5½ years in office.

In addition, one key Republican member of the House who supported impeachment against Nixon was authorized to inform Nixon just before his resignation that powerful House Democrats were totally opposed to his criminal prosecution. That strengthened Nixon's confidence about a pardon.

Against that background, Mr. Ford inexplicably succumbed to pressure last week from Nixon intimates and agents and secretly decided, without consulting a single politician, to pardon Nixon months before anyone expected it—except possibly Nixon himself.

It was Haig and Kissinger who carried on their shoulders the awful burden of convincing Nixon he must resign. Although neither one committed incoming President Ford to a Nixon pardon. Nixon left the White House convinced that President Ford was, indeed, committed.

"Nixon had one thought and only one on his mind during those last days and that was his pardon," one highly qualified Ford insider told us. "If he hadn't believed he had the pardon in his pocket he might have put the country through the torture of full impeachment proceedings."

It was precisely the prospect of that calamity which propelled Haig, Kissinger and every other major figure in the transition drama five weeks ago to get Nixon out of the White House. If the prospect of a full pardon was held out to Nixon in exaggerated form, that was the reason. All else gave way to the single objective—get Nixon out.

Nixon had been judged mentally aberrant for fully two years by observant officials who had worked with him closely and known him well. Their judgment was ruthless—but, in the circumstances, inevitable. Nixon must be removed from the presidency to safeguard the nation.

With Nixon back in San Clemente, convinced his pardon was only a matter of time, and with Mr. Ford having revealed to close aides his hard intention to grant the pardon—presumably months in the future—the stage was set for the course of events that led to last Sunday's shocking decision.

Thus, President Ford several times wondered out loud why he saw no pictures of Nixon walking the beach at San Clemente—or riding the freeways, as he used to do. Heightening this presidential concern about Nixon were alarming reports flowing into the Oval Office—reinforced by Haig and Kissinger—that the former President was on the edge of a mental breakdown. At one point, Kissinger expressed a private fear that Nixon's life might be in danger by his own hand.

Adding to the pressure on Mr. Ford was a crescendo of warnings from Casa Pacifica that the allegedly promised pardon must be delivered soon or Nixon's health might be fatally undermined. So, acting with uncharacteristic and politically damaging stealth, Mr. Ford made his decision to pardon.

In retrospect, some Ford intimates now deeply regret that the President did not embark on a major campaign in Congress for a resolution looking toward pardon the minute he took office. They feel that if Mr. Ford had spelled out immediately and publicly his own intention to issue a complete pardon, and used his full power to lobby a sense-of-Congress pardon resolution, he could have had it.

At least two powerful Democrats had given private assurances to the Ford White House that such a resolution was quite feasible.

Even without such a resolution, one leading House Democrat said that if Mr. Ford had given advance notice to allies in Congress, a powerful backfire could have been built, partially offsetting the devastating political reaction of last Sunday's shocker.

As for the true mental state of the former President, some Ford advisers doubt that he is any worse off than he has been the past two years. If so, those who propelled President Ford into his sudden decision—and his stunning political decline—made a delicate and complex political problem infinitely worse.

[From the Washington Post, Sept. 12, 1974]

JAWORSKI WANTED TO INDICT NIXON

(By Jack Anderson)

Watergate Special Prosecutor Leon Jaworski would have sought an indictment against former President Nixon "in a matter of weeks," according to sources familiar with the plans, if President Ford hadn't intervened with a pardon.

These sources say the special prosecutor intended to indict Mr. Nixon solely for obstruction of justice. Jaworski believed he had "an ironclad case" against the former President and would get an "almost certain conviction," our sources report.

The case would have been based heavily upon Mr. Nixon's own tapes, which provide prima facie evidence that he participated in the Watergate cover-up. Jaworski's deputy, James Neal, had already arranged for Secret Service technicians to testify about the taping system.

Our sources describe Jaworski as a man with a deep faith in the judicial processes. They say he simply could not ignore the verdict of the House Judiciary Committee, which voted unanimously to impeach Mr. Nixon for obstruction of justice, nor the will of the Watergate grand jury, which voted 19 to 0 to name him as an unindicted coconspirator.

The grand jury would have indicted him last March if Jaworski had not counseled that a sitting President couldn't be legally indicted.

The threat of indictment hung over the former President like Damocles' sword. Sources who have had access to him in his seclusion at San Clemente, Calif., describe him as "totally weary, terribly depressed and completely despondent."

One source has been struck by the "stark loneliness" of Mr. Nixon. He is "absolutely alone within himself," the sources explains.

All sources agree that he has complete control of his faculties, although his conversation sometimes wanders and his nerves seem frayed.

Mr. Nixon's psyche is so "delicate," our sources report, that his loyal aide Ronald L. Ziegler and attorney Herbert J. Miller took President Ford's representative, attorney Benton L. Becker, aside before putting him together with Mr. Nixon at San Clemente. They asked the judicious Becker to keep the meeting informal.

Becker refused to comment on the meeting, except to say he found Mr. Nixon "alert" and "cordial."

The main cause of Mr. Nixon's anguish, according to our sources, was the expectation that Jaworski would ask the grand jury to indict him. The distraught Mr. Nixon even developed a strange inability to repeat Jaworski's name.

In a phone conversation with Rep. Dan H. Kuykendall (R-Tenn.), for example, the former President mumbled: "We've got problems with that fellow . . . uh . . . uh . . ."

"Jaworski?" suggested Kuykendall.

"Yes," said Mr. Nixon.

Others have also reported that he seems to have trouble with the special prosecutor's name.

We have established that President Ford learned of Mr. Nixon's mental state and imminent indictment. White House sources say the President feared the indictment could cause his predecessor a nervous breakdown.

Here are the other reasons, which finally persuaded the President to move quickly to grant Mr. Nixon a "full, free and absolute" pardon:

Mr. Ford's legal advisers, Philip W. Buchen and Becker, determined that a pardon was the President's prerogative and had nothing to do with equal justice. President Johnson granted fewer than 200 pardons during his five years in the White House, for example, while President Truman issued about 200 pardons a year. People have been pardoned for crimes that kept others in prison. Buchen and Becker advised Ford, therefore, that the Nixon pardon would not affect the criminal cases against H. R. Haldeman, John D. Ehrlichman, John N. Mitchell and the other alleged conspirators.

The President's lawyers came up with a quote from Alexander Hamilton who, writing in The Federalist, declared: "There are critical moments when a well-timed offer of pardon to the insurgents or rebels may restore the tranquility of the commonwealth." Under the preamble to the Constitution, the lawyers noted, the President is required to "insure the domestic tranquility." Mr. Ford agreed that a pardon, in Mr. Nixon's case, would promote tranquility.

Buchen and Becker also contended there was no evidence Mr. Nixon had advance knowledge of the Watergate break-in. He was guilty merely of covering it up in order to avoid political embarrassment in the middle of the 1972 presidential campaign. What started out to be a political move wound up as a criminal conspiracy. The lawyers quoted from Sir Walter Scott's famous line, "Oh, what a tangled web we weave when first we practice to deceive!" Mr. Ford agreed that his predecessor hadn't started out to commit a crime but merely had become entangled in one.

The President and his advisers also took into account Mr. Nixon's 28 years of political service, the last 24 under a national microscope. As one aide mused, "This is a terrible way to go after such long service."

Joining me in introducing this resolution of inquiry are Representatives Eilberg, Holtzman, Dellums, Hechler of West Virginia, Rosenthal, Stokes, Symington, Helstoski, Koch, and Badillo.

The text of the resolution follows:

H. Res. 1363

Resolved, That the President of the United States is hereby requested to furnish the House, within ten days, with the following information:

1. What are the specific offenses against the United States for which a pardon was granted to Richard M. Nixon on September 8, 1974?

2. What are the certain acts or omissions occurring before his resignation from the office of President for which Richard Nixon had become liable to possible indictment and trial for offenses against the United States, as stated in your Proclamation of Pardon?

3. Did you or your representatives have specific knowledge of any formal criminal charges pending against Richard M. Nixon prior to issuance of the pardon? If so, what were these charges?

4. Did Alexander Haig refer to or discuss a pardon with Richard M. Nixon or representatives of Mr. Nixon at any time during the week of August 4, 1974 or at any subsequent time? If so, what promises were made or conditions set for a pardon, if any? If so, were tapes or transcriptions of any kind made of these conversations or were any notes taken? If so, please provide such tapes, transcrptions or notes.

5. When was a pardon for Richard M. Nixon first referred to or discussed with Mr. Nixon, or representatives of Mr. Nixon, by you or your representatives or aides, including the period when you were a member of Congress or Vice President?

6. Who participated in these and subsequent discussions or negotiations with Richard M. Nixon or his representatives regarding a pardon, and at what specific times and locations?

7. Did you consult with Attorney General William Saxbe or Special Prosecutor Leon Jaworski before making the decision to pardon Richard M. Nixon and, if so, what facts and legal authorities did they give to you?

8. Did you consult with the Vice Presidential nominee, Nelson Rockefeller, before making the decision to pardon Richard M. Nixon and, if so, what facts and legal authorities did he give to you?

9. Did you consult with any other attorneys or professors of law before making the decision to pardon Richard M. Nixon, and, if so, what facts or legal authorities did they give to you?

10. Did you or your representatives ask Richard M. Nixon to make a confession or statement of criminal guilt, and, if so, what language was suggested or requested by you, your representatives, Mr. Nixon, or his representatives? Was any statement of any kind requested from Mr. Nixon in exchange for the pardon, and, if so, please provide the suggested or requested language.

11. Was the statement issued by Richard M. Nixon immediately subsequent to announcement of the pardon made known to you or your representatives prior to its announcement, and was it approved by you or your representatives?

12. Did you receive any report from a psychiatrist or other physician stating that Richard M. Nixon was in other than good health? If so, please provide such reports.

THE IMPORTANT BUSINESS OF THE LAST WEEKS OF CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. RANDALL) is recognized for 15 minutes.

Mr. RANDALL. Mr. Speaker, it is time all of us must face the facts. We have a very limited time left to finish our important legislative business. It is my understanding that, at a leadership meeting this morning, a tentative date of adjournment was set for the 12th of October with a final backup date of the 19th of October. I know my voice is not going to cause our leadership to change its mind but perhaps if enough Members speak up more can be accomplished in our very limited time.

I asked for this time because of the content of an editorial which appeared in the Kansas City Times which is the morning edition of the metropolitan paper of the area I am privileged to represent.

As this editorial so well describes the present situation, there are some matters other than ordinary housekeeping matters which are vitally in need of action. The point I am trying to make as I take these few moments is to say that it is my hope that we may work longer hours in the days that are left. We are facing some religious holidays next week when votes will have to be put off. Let us not forget we have such a little time left in September, and under leadership proposals only 2 weeks or 3 weeks in October.

Let us take an inventory of our unfinished business. Of course we have some appropriation bills, or money bills, which are all troublesome. But we have the very important trade bill that we have not been able to jar out of conference. Certainly, for the good of our country, there should be some action taken on this measure.

We have to face te matter of the confirmation of the Vice President, which may or may not be able to be agreed upon before we recess. Even if we have to come back in November for confirmation, there are other matters I am going to allude to in a moment which should and must be acted upon by the Congress before we become a lameduck Congress.

One matter of transcending importance, is veterans' education. We have bounced the ball back and forth across the net, first in this body and then in the other body. We have never faced up to the problem of fees and tuition costs for veterans educational benefits. I am talking about our own Vietnam veterans.

Then there is the consumer bill.

We have passed a bill here in this body that nearly everyone thought was a reasonable bill. It was not tilted toward either business or the consumer. It was a middle of the road bill. It has been floundering in the other body for a long while. In the event the other body finally decides to act, we should quickly conclude the conference report before we adjourn.

We did pretty well yesterday on an energy, research and development bill. Let us not forget however we have a conference report that must be concluded on strip mining. I am sure that all of us felt that the handiwork of this body on strip mining was a reasonable approach that was not extreme in any particular. When it was finally concluded, we all felt it was a good effort.

Then there are two other items for which the American people will accept no less that some action be taken because of the lessons of Watergate. One is the demand of the people that Congress enact a workable, effective campaign-expenditure law. The House passed a measure that was quite at variance with that of the other body. We the Congress must remain here until a conference agreement is reached.

As to the other matter on which there must be some action is the item of committee reorganization. Some will say it is asking too much to hope that the Bolling proposal or that of the select committee could be acted upon, before we adjourn. Notwithstanding it would leave us all in better status to go home to face the voters if we could say that the House was permitted to work its will. We should be able to tell our voters we brought the proposal out on the floor, then considered all the facets, debated it, instead of leaving town with the reorganization proposal somewhere in limbo. The worst of it all is no one can say exactly what is the present status of the Bolling proposal after it was referred to the Hansen committee.

Now, Mr. Speaker, let me say as one who does face an election contest, as does the great majority of the membership of this House, we would all be better off if we remained here until only a week or 10 days before the election. We should stay here on the job. We must work longer hours to try to accomplish more per day in the very few days we have left.

Most of the matters regarded as unfinished business should not be considered by a lame duck Congress.

These things I firmly believe; I hope some heed may be taken of my suggestions.

Mr. MARAZITI. Mr. Speaker, will the gentleman yield?

The worst of it all is no one can say ex-

Mr. RANDALL. I will be glad to yield to the gentleman from New Jersey.

Mr. MARAZITI. I think the gentleman for yielding.

I wish to compliment the gentlemen in the well. I concur with his obesrvations. I think that these bills he has talked about are very essential and very important.

I think we should work longer hours and stay in session until we do the job before we leave.

In addition to the legislation that we should act upon before the recess, it is incumbent that we must make every effort possible to move on the confirmation of Nelson Rockefeller as Vice President of the United States.

It does not seem to me, in the event of some contingency, that the awesome responsibility of the Presidency should fall upon the Speaker of the House.

Mr. RANDALL. Mr. Speaker, I thank the gentleman for his contribution. Now Mr. Speaker I read into the RECORD the content of an editorial which appeared in the Kansas City Times for Wednesday September 4, 1974, entitled "The Very Important Business of the Last Weeks of Congress:"

THE VERY IMPORTANT BUSINESS OF THE LAST WEEKS OF CONGRESS

> The days of the 93d Congress are numbered but its September song is long and replete with reminders of critical business still on the agenda. It is fortunate that the lawmakers and the Nation have been spared the long and paralyzing ordeal of an impeachment trial this fall. There is, however, no way to erase the other shadow that hangs over Capitol Hill; the shadow of the November elections. A likely adjournment in mid-October leaves only six or seven weeks for action, and the "must" legislation hanging fire indicates that those weeks should be busy indeed.
>
> As usual, there is a difference of opinion as to what constitutes "must" legislation. The necessities of the Federal process place

the five as-yet incompleted appropriations bills high on the list. They are essential simply to keep the Government running, unless Congress is willing to return after the election—which seems quite unlikely, and we can't blame the legislators, it has been a long year.

The largest of the appropriations bills is for the Department of Defense, and the House and Senate have to work out their differences in conferences. In addition, final votes have not been taken on the budgets for five other departments: State, Commerce, Labor, Justice and Health, Education and Welfare.

Action on money bills is never routine. It is likely to be even less routine this year in view of President Ford's announced tight-budget policy. The problem centers on an establishment of priorities—where to cut, where not to cut—and there will be some hard sessions. Yet there seems to be a consensus in favor of holding spending within reason. Final action on the appropriations bills should provide an accurate reading on the sincerity of the congressional willingness to join the President in holding the line.

As important as the money bills are, however, they by no means end the challenge facing Congress in its last weeks. The major task is the consideration of the nomination of Nelson A. Rockefeller for the vice-presidency, under the 25th amendment, both Houses must approve. There will and should be a thorough investigation. But we see no reasonable excuse for delaying approval beyond the election. Should Congress fail to act, it would be an open dereliction of duty. It would also mean an unnecessary lame-duck session later this year.

As to other proposed legislation, certain bills clearly belong on the "must" list and others, as important as they are, might better await another year. In the latter group we would include health care legislation and tax reform. On both Congress will need more time than the election deadline permits.

But there is clearly no excuse for further delay on the trade reform bill that has been held up in the Senate since last December. President Ford seems to have ended the impasse by working out a compromise over amendments tying trade concessions for the Soviet Union to an easing of Soviet emigration restrictions. If the compromise is valid, and it seems to be, there is no reason for further delay on this critical piece of legislation.

In some ways, campaign reform legislation is just as important. It, too, has been the victim of long delay, but conferees will be meeting in the next few days to begin ironing out the differences between the Senate and House versions. Action—or the failure to act—on this bill will also provide a reading on the 93rd Congress: Did it take the lesson of Watergate to heart or were all the words of concern over the American electoral process merely words and nothing more?

Congress, in all fairness, should act quickly on a new GI education program, to correct some of the present injustices in a program that has in many ways failed the veterans of Vietnam.

Similarly, there should be a decision on consumer affairs legislation that has been filibustered by conservatives in the Senate since mid-July.

For two years Congress has wrestled with the problem of strip-mining legislation. Here, again, the matter rests in conference. Although President Ford's position on the two bills—one passed by the Senate last year, the other approved by the House in July—is still unclear, this is an issue that should not drag on until January when a new Congress would have to start all over again, which would be a clear victory for the mining lobby.

Whether the lawmakers can or will complete action on all these measures is uncertain. The Rockefeller hearings will, we know, be time-consuming. The Ford compromise on trade legislation could fall apart. The strip-mining controversy unleashes all sorts of pressures on the lawmakers. The GI Bill is full of emotion and its final form could conceivably be affected by the administration's recommendation on amnesty. Consumer legislation always raises the old question of the role of government in protecting society.

But final action on each measure seems within the realm of the possible, providing Congress does not permit itself to get bogged down on other legislation which, needed though it may be, could be held until 1975. In six or seven weeks the lawmakers cannot do everything. They can, however, do many things, if the national interest and not the politics of 1974 sets the tone for the days ahead.

CHICAGO AGRICULTURE AND FOOD CONFERENCE ON INFLATION

The SPEAKER pro tempore (Mr. Ryan). Under a previous order of the House, the gentleman from Ohio (Mr. Vanik) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, today and tomorrow an Agriculture and Food Conference on Inflation will be held in Chicago. Secretary of Agriculture Earl L. Butz is scheduled to serve as chairman.

It is indeed strange that Secretary Butz should have been selected to chair such a gathering. When the history of this decade is written, I believe that it will show that the policies of Secretary Earl L. Butz started off this era of crushing inflation by promoting the export of agricultural products to a point of domestic shortage and high prices. His administration will always be remembered by the colossal errors of the Soviet wheat sale which was financed through American taxpayer subsidies.

Thirty-five years of partnership between the farmer and the urban consumer was shattered by agriculture policies which were designed to create short-term farm profits and long-term consumer anger.

Agriculture policies can be made profitable—but they must also be provident. The American consumer, who contributed billions of dollars to help develop a viable agriculture industry, has a first claim to the productivity to which he has made a contribution.

The American consumer will always be the best customer for the food and fiber of our farms. If the American consumer is alienated by contrived shortages and resulting high prices he will refuse to further subsidize or protect in any way the farm productivity which serves others.

Secretary Earl Butz is one of the prime architects of the first wave of killing inflation. His policies ignited the conflagration over which he now presides. One of the most valuable contributions he can make would be to quit so that someone else can extinguish the fire of inflation which he started.

THE FUTURE OF THE FORESTRY INCENTIVES PROGRAM

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, solid endorsement of the forestry incentives program by all elements of the forestry community, government, industry, and landowner attests to the timeliness of this far-reaching legislation.

The initial appropriation of $10 million was oversubscribed within 8 months of its release. In fact, several States have applied for and received additional allotments from a national reserve held in Washington for just such a contingency.

At the present rate of progress about 35,000 owners of private, nonindustrial forests will participate in the program this year. Their applications indicate they will prepare about 175,000 acres for planting and treat about 120,000 acres for stand improvement.

This is a remarkable achievement in the face of two-digit inflation. How has it been accomplished? By everyone pitching in and doing his or her bit. For example:

The action agencies of the U.S. Department of Agriculture promptly developed criteria and guidelines in keeping with the congressional mandate. It required that funds be distributed among and within States according to "the number and acreage of commercial forest lands; the potential productivity of such lands; and the need for reforestation, timber stand improvement, or other forestry investments in such land."

State foresters advised eligible landowners and assisted them with management plans or arranged for private consulting foresters to do the work under contract.

Forest industries extended their expertise and equipment to neighboring landowners. One company pledged to assist small owners in preparing for planting 100,000 acres each year for the next decade, a wonderful goal.

Conservation associations publicized the program. The Upper Sabine Conservation Association and the Louisiana Forestry Association gave each eligible landowner in a two-county area an estimate of his forestry needs, what it would cost and how much assistance he could obtain.

Can the present rate of progress, good as it is, be considered adequate?

No. Our best estimates indicate that upward of 40,000,000 acres of private land need planting and that a much larger acreage, perhaps three times as much, needs cultural treatment such as the removal of misshapen or inferior trees. All these lands must become more productive if our Nation is to meet its goal of twice as much wood by the year 2000. The job has to be done now in order to have the timber then.

What needs to be done?

Extend the program. The feasibility of stimulating production through forestry incentives has been proven. Now appropriations need to be raised to a level commensurate with the magnitude of the task at hand. Accordingly, I have introduced legislation to raise the authorization from $25 million to $50 million annually.

Expand the program. Presently cost-sharing is limited to ownerships of 500 acres or less. But we have found since enactment of the law that this restriction prohibits some much-needed work in States where there are few small ownerships. Accordingly, I have asked the Congress in H.R. 15025 to increase the ownership ceiling to 1,000 acres.

Assure private contractors that the Government means to support forestry incentives until such time as the backlog of work is completed. At present shortages of equipment and labor are restricting planting and TSI activities. Contractors hesitate to make $100,000 investments in equipment without such assurance.

Strengthen the cooperative forest management program and bring more private consulting foresters into active participation. These are the professionals who aid landowners in preparing plans for scientific management of their woodlands. There are not enough of these foresters—about 1,100 at present—to advise forest owners under a full scale incentives program.

Develop adequate nursery facilities and establish seed orchards of superior quality trees. The existing nurseries are being strained to capacity to meet current demands. Seedbeds need to be rested and used in rotation in order to meet long-range goals.

With these adjustments, forestry incentives will join fire protection, insect and disease control, forest management and urban environmental forestry in providing a well-rounded procedure for assistance in private forestry to both rural and urban residents.

OPERATION CLEAN SWEEP

(Mr. HOLIFIELD asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HOLIFIELD. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to insert extraneous matter in the body of the Record.

Mr. Speaker, the Attorney General of the United States, the Honorable William B. Saxbe, in an address on August 22, 1974, to the Regional Directors' Staff Conference of the Immigration and Naturalization Service, stated that quick and vigorous action was being taken in the Department of Justice to review and pursue Operation Clean Sweep. This refers to a departmental investigation begun in 1972 into allegations of illegal actions by personnel of the Immigration Service, the Customs Service, and possibly others.

There has been some criticism that Operation Clean Sweep was not being pursued with enough diligence and vigor. I am pleased to note that the Attorney General has given specific directions to appropriate authorities within the Department to make Operation Clean Sweep a complete, thorough, and high priority investigation.

The Attorney General, in the course of his remarks, notes the interest of the Committee on Government Operations in this matter. Our Subcommittee on Legal and Monetary Affairs chaired by Congressman William Randall, is studying the operations of the Immigration and Naturalization Service from the standpoint of economy and efficiency; and the Subcommittee on Legislation and Military Operations, which I chair, is examining border operations and relationships between the Immigration and Naturalization Service of the Department of Justice and the Customs Service of the Department of the Treasury. Attorney General Saxbe will keep our committee informed of the progress of Operation Clean Sweep.

The text of the Attorney General's address follows:

Address by the Honorable William B. Saxbe

I appreciate the opportunity to be with you tonight.

Since becoming Attorney General nearly eight months ago, I have tried to meet with as many Department of Justice officials as possible.

One purpose of these meetings has been to let our key personnel know my views on a number of matters of urgent concern to all of us.

I also have been anxious to impress upon our officials that it is our career employees who are the key to achieving the high levels of efficiency that I know represent our common goal.

In the past few years, the reputation of the Department of Justice has been battered by some highly publicized events. I know that the vast majority of the Department's employees—including employees of the Immigration and Naturalization Service—are able, honest and dedicated. They deserve the public's confidence.

Whatever else I may do as Attorney General, I believe it is vital that full public confidence be restored in the Department of Justice.

The public must know beyond a shadow of a doubt that we are carrying out our manifold responsibilities—and doing so with justice and fairness.

But beyond that, the public perceptions of the Department must be based on fact. We must also know—by every reliable yardstick—that we are upholding the law and carrying out the trust placed in us by the people and the Congress.

Honesty and efficiency cannot be a hobby or an avocation. Both must permeate everything that the Department of Justice undertakes—to say nothing of the conduct of each employee.

I believe that the vast bulk of the Department's employees have high professional standards. It is one of my responsibilities to help foster an atmosphere that will raise those standards even more. But I have another obligation that goes much deeper, and that is to make certain that any allegations of wrongdoing by Department personnel are relentlessly pursued.

In that context, I would like to discuss with you this evening my deep concern over the continuing allegations of misconduct or illegal activities within the ranks of officials charged with enforcing federal laws along our borders.

As all of you know, a number of allegations of illegal acts by Immigration Service personnel, Customs Service personnel, and civilians led the Department to begin Operation Clean Sweep in 1972.

I recently directed the Deputy Attorney General to review and pursue Operation Clean Sweep quickly and vigorously. He is now doing so.

The Department of Justice has an abiding obligation to examine all possible violations of federal law, and we must be scrupulous in making certain that any and all suspicions about the Department itself are investigated meticulously.

In intensifying Operation Clean Sweep, I pledge that no resources and no manpower will be spared. In addition to the Deputy Attorney General's authority, I have directed that the Criminal Division of the Department and each United States Attorney in the relevant areas give these matters top level and continuing priority. Also I have instructed Director Kelley to personally oversee the Federal Bureau of Investigation's inquiry. In addition, the investigative resources of INS will be available.

Every possible violation of Federal law will be investigated thoroughly.

I wish to stress at this point that I have discussed this matter fully with General Chapman. He shares my concern and sense of urgency, and is in complete accord with my decision to track down every allegation—once and for all.

I should add that this is also a matter of great interest to the House of Representatives and its Committee on Government Operations chaired by Congressman Chet Holifield and its Subcommittee on Legal and Monetary Affairs, chaired by his colleague, Congressman William Randall. We have cooperated in this effort with Congress in the past and will continue to work with Congress in the future. We will be reporting to Congressman Randall's Subcommittee next month on our progress in pursuing Operation Clean Sweep.

No one should underestimate the intensity of our concern or our determination to follow every conceivable twist of the investigative trails—no matter where they may lead.

And to make my concern clear, I want to stress the following points.

All Immigration Service personnel are expected to cooperate fully in this investigation—and all other Department of Justice personnel as well.

Any Department employee who fails to cooperate fully will be suspended immediately from his position, consistent with all of the safeguards and procedures to which any such employee is entitled.

There have been allegations of pressure being brought against potential witnesses to silence their testimony. We are not going to stand for any such effort to obstruct justice or thwart our new investigation.

Let me emphasize that any attempt to obstruct any aspect of the course of this investigation will be promptly and vigorously prosecuted.

No one can predict with any accuracy at this point what the results of the investigation may be. The facts will eventually speak for themselves. But every allegation and every suspicion will be fairly but vigorously investigated.

As I told you earlier, it is the obligation of the Department of Justice to fairly uphold the laws. And that obligation extends to all aspects of the Department itself.

I am convinced that the vast bulk of the Immigration Service's employees are honest and dedicated. But as I hope you will agree, the morale and the efficiency of the Service cannot be rebuilt until all allegations of possible corruption are investigated and the stain removed.

I am making this announcement to you tonight because I believe you have the greatest stake in the integrity of the INS and in the honor and dignity of federal law enforcement.

When you travel the long hard road of a professional law enforcement officer for the better part of your life, you deserve to hold your head up high on your retirement date and be proud of both your individual accomplishments and achievements and the record and reputation of the Immigration and Naturalization Service.

In addition to what you and the Service

deserve, the American people have the right to expect the highest caliber individual to carry out the sacred trust of enforcing federal law. Only if the man at the duty station carries out the law in a fair and honest manner will American citizens respect and trust the guardian of federal law. Our authority is a public trust and we have to earn that trust on a daily basis—working as individuals.

No matter what the investigation may uncover, this step alone will not resolve all of the difficulties facing the Service.

Additional steps are needed to increase its ability to stop the large numbers of persons entering the country illegally—and to remove those who already are here illegally.

While it is necessary to practice fiscal prudence, I believe that additional personnel for the Immigration Service are an absolute priority.

And I have said repeatedly—and re-emphasize it tonight—that new legislation is urgently needed which would make it a crime for an employer to knowingly hire an illegal alien.

In the short time he has been Commissioner, General Chapman already has launched a number of new and long-overdue improvement programs.

He does not believe—and rightly so—that a nationwide program can be operated solely from behind a desk in Washington.

During the past eight months, General Chapman has traveled more than 30,000 miles has personally inspected a large number of facilities and procedures. In addition, he has met and talked with large numbers of personnel—to get his views across to them and to receive theirs in return.

And he has coupled all of those things with new programs. One involves streamlined procedures to eliminate carelessness or misconduct in the handling of documents. Another has increased personnel for the Internal Investigations Unit of the Service. And above all, he is stressing the need for complete honesty and dedication.

I am convinced that the leadership of the Service is in very good hands, and we owe General Chapman genuine appreciation for his tireless work.

Among other things, he has stressed the rebuilding of morale. And that is very important—for the Service can be rightly proud of its traditions.

From its small beginnings some 83 years ago, it has carried out difficult and often dangerous responsibilities. And today it has some 8,000 employees who strive—often against great odds—to perform work which has a significant impact upon the nation.

I know of your dedication to improve the Service. And I want to assure you that I also will do everything within my power to help strengthen it.

However, it seems to me that none of our progressive efforts stand much chance of lasting success until we eliminate once and for all the allegations of corruption.

I am certain this investigation will be successful—and I am equally confident of your support and cooperation.

Thank you.

JOSEPH FRIEDMAN ON THE ECONOMY

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, one of the most astute observers on the American economy, Mr. Joseph Friedman, board chairman of Chromalloy American, recently offered some very telling comments on the critical problem of adequate capital "for the growth and survival" of American business.

In Mr. Friedman's view the equity capital squeeze is a roadblock to prosperity and the creation of jobs. A native of Madison, Ill., Joseph Friedman has risen to the top of one of the major business concerns in the world. With sales of $750 million and a work force of 20,000 people, Joseph Friedman's company now ranks as one of the largest worldwide diversified corporations. Starting with a small metal coating plant with less than $500,000 in sales, Joseph Friedman has built an important economic entity.

Because of his experience and expertise, I am including the interview with Mr. Friedman by Ted Schafers and carried in the August 22 St. Louis Globe Democrat:

Equity Capital Squeeze Called Critical

(By Ted Schafers)

Rising inflation is a matter of serious concern for every American but another problem even more serious, if not resolved soon, "is the growing inability of American business to raise the capital needed for its growth and survival."

This is the opinion of Joseph Friedman, board chairman of Chromalloy American Corp., worldwide diversified company here which employs about 20,000 persons.

"So long as people are working, they can gradually cope with most of the problems of inflation. But, if the equilty markets dry up because there is no coordinated economic policy to preserve this country's ability to raise capital at reasonable costs, you will see chaos here within two years," he declared.

"Adequate capital is the lifeblood of business and the only real job-generator," he added.

Returning here after putting in 50,000 miles of travel in less than two months, including a trip to Russia where Chromalloy opened a business office, Friedman said.

The No. 1 concern expressed by businessmen is a lack of intelligent direction of U.S. economic policy, and the impact of plunging stock market prices on the capability of American industry to raise new funds through equity financing.

100 of America's finest companies today are selling at 80 per cent true value. These companies cannot sell new stock to raise capital. So they are forced into bonds at 10 to 12 per cent interest, or into banks at 12 to 15 per cent. And those interest costs are passed on to the consumer—thus further aggravating inflation," said Friedman.

"I found very few businessmen of any prominence who subscribe to the high-interest rate policy of the Federal Reserve Board directed by its chairman, Arthur Burns. Show me one period in our history where Americans have had prosperity during a period of tight money," he said.

Reminded that even the top-ranked economists disagree over how to solve inflation and have been proven wrong the past two years on their predictions, Friedman replied:

"I have my own opinion of economists and financial analysts. But that's not important. What we need to do is get advice from more practical men, and settle on a definite economic policy that will encourage business to expand and thus provide more jobs, rather than run for cover as so many are doing now."

Friedman said "it is time for the press, too, to take a more constructive look at the needs of American business, yes, what the very survival of a free enterprise system, means to everyone in this country. I use the term 'constructive' not in the sense that all the faults of business be overlooked, but that its accomplishments and needs gain better recognition," he declared.

On Aug. 1, a committee of a dozen officers of New York banks and investment firms wrote a letter to President Nixon asking that a White House Office be established "to assure the effectiveness of this nation's capital raising processes."

This office would have authortiy to recommend legislation where needed and would also initiate and coordinate policy with the Federal Reserve Board, the Securities & Exchange Commission, the Treasury Department and the Justice Department as well as other agencies.

Said Friedman: "What concerned this committee is that no one person or office in this country now has specific authority or responsibility to tackle this country's capital needs. And in the words of this distinguished group, it is now time to give this matter, 'highest priority.'

"So far as I have been able to determine that plea got lost in the turmoil of Watergate. But I say, if the warning goes unheeded, the repercussions to the nation's economic and social structure will make Watergate pale by comparison."

Friedman feels that there are still too many people in academic and government fields of influence who still do not understand that "business without profit cannot raise capital and without adequate capital, it cannot survive."

He also feels that too many business writers "emphasize total dollar profits, rather than what those profits represent as a return on invested capital."

Business has been at fault too, "we have not done an effective job of communication. I still feel that Americans, given the facts, will find the right answers."

What should Congress be doing to encourage equity investment? Said Friedman:

One: Support rather than attack measures to increase investment tax credits where used to open up new job opportunities.

Two: End the double taxation of profits. Corporations now pay 50 per cent tax on profits. Then stockholders are taxed on the profit that remains and is disbursed as dividends. "No other country has such a double taxation," he said.

AEC OMNIBUS LEGISLATION

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, the AEC omnibus legislation for 1974, enacted into law on August 17, 1974—Public Law 93-377—contains an inadvertent error which, though of no substantive effect, nevertheless should be noted in the legislative history for clarification. I include the following letter from the Chairman, Atomic Energy Commission in the Congressional Record:

U.S. Atomic Energy Commission,
Washington, D.C., August 23, 1974.

Hon. Melvin Price,
Chairman,
Joint Committee on Atomic Energy.

Dear Mr. Price: In reviewing the provisions of P.L. 93-977 (the Atomic Energy Commission's 1974 "omnibus bill"), we note that section 2. of that Act would make a number of substantive changes in and additions to section 54. of the Atomic Energy Act of 1954, as amended. Among other things, the Act would change the date appearing therein from "July 1, 1960" to "June 1, 1960." This change was apparently inadvertent, and was not requested by the Atomic Energy Commission.

The date July 1, 1960, was inserted in the original section 54. in order to limit the "matching amounts" of special nuclear material which the U.S. could distribute to the International Atomic Energy Agency. Thus, the U.S. was authorized to distribute to the Agency 5,000 kgs. of U-235, 500 grams of U-233, 3 kgs. of plutonium, together with the amounts of special nuclear material which matched in amount the sum of all special nuclear materials made available by all other members of the Agency to July 1, 1960. The Commission's records indicate that no special nuclear material was "made available" by other IAEA members during the period June 1, 1960, to July 1, 1960. The total of 70 kgs. of U-235 which the U. K. and the USSR made available to IAEA was committed under agreements effective in May 1959.

Accordingly, the Commission does not consider this change of date in section 54.a. to have any practical significance, or to affect its authority to distribute special nuclear material as set forth in section 54. prior to this amendment, or as set forth in Article II.A. of the Agreement for Cooperation Between the United States and the International Atomic Energy Agency of May 11, 1959, as amended.

Sincerely,

Dixy Lee Ray,
Chairman.

REPRESENTATIVE ABDNOR WRITES PRESIDENT FORD URGING STATUTORY MEAT IMPORT QUOTAS BE REINSTATED BELOW THE "TRIGGER POINT"

(Mr. ABDNOR asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ABDNOR. Mr. Speaker, today I have written President Ford urging that the statutory meat import quotas be reinstated below the "trigger point." Having just returned from a 2-week tour of my district it is abundantly apparent to me that drastic action is required if our meat producers are to be saved from financial ruin. As many of us have feared, the unbearable cost-price squeeze which has plagued our livestock feeders for many months also is destroying the producing segment.

Those who have opposed reinstatement of the quotas from the point of view of the consumer have argued that despite the depressed livestock prices received by feeders, the meat was still being produced by the producers and would therefore come to the market one way or another and insure adequate supplies for consumers. As faulty as this argument has always been, the present market conditions all too clearly point out the folly of continuing present import policies to the detriment of not only the producers and feeders but also to the detriment of consumers. The simple fact of the matter is that the current cost-price relationships can only spell financial ruin for the industry and a curtailment of the production which consumers want and need.

The problem for producers of having to market the normal yearly production below a break-even price is further aggravated by the forced sale of their breeding stock because of drought conditions and the resulting shortage and high cost of hay and feed grains. The forced sale of production stock means that the capacity to produce meat for the future will be reduced, but it also means that the current glut of meat animals on the market will be worsened and prolonged. In the case of beef, USDA's contention that imports do not compete with domestically produced beef because it is of lower quality is no longer valid, if it ever was, because imported beef competes directly with the cow beef which is being forced on the market by the drought and the economics of keeping a cow to produce a calf which must be sold for less than it cost to keep the cow alive.

According to figures compiled by USDA, imports of meat subject to the Meat Imports Law of 1964 were 44 percent lower in July of 1974 than they had been in July of 1973. Furthermore, projected total meat imports for the year appear to be very close to the trigger point established by the law. Contrary to supporting the contention that no further restriction of imports is needed, however, these figures demonstrate that the quotas must be reimposed below the "trigger point" established in the 1964 law. The alternative is to permit the financial destruction of the industry to continue and to subject consumers to meat shortages and sharply higher prices in the near future.

ESTABLISHING UNIFORM LAW ON BANKRUPTCIES

(Mr. EDWARDS of California asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. EDWARDS of California. Mr. Speaker, on October 9, 1973, I introduced for myself and my colleague, Mr. Wiggins, a bill to establish a uniform law on the subject of bankruptcies which was essentially the work product of the Commission on the Bankruptcy Laws of the United States. That bill is now H.R. 10792. That bill, which has been disseminated to interested groups and individuals, has been receiving a considerable amount of study and was to be the basis for our intended revision of the Bankruptcy Act.

Today, along with my colleague, Mr. Wiggins, I am again introducing a bill to establish a uniform law on the subject of bankruptcies. This bill is the work product of the National Conference of Bankruptcy Judges. It too contemplates a complete revision of the existing Bankruptcy Act. Its approach, however, differs in substantial part from that of H.R. 10792. It is our feeling, however, that this bill should be equally considered in our efforts to revise the existing Bankruptcy Act and that it would be most valuable for us to have both of these major proposals in this field pending before us; and we are most pleased to introduce it today to assist us in our undertaking.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Morgan (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Ketchum (at the request of Mr. Rhodes), for September 11 and 12, on account of official business.

Mr. Widnall (at the request of Mr. Rhodes), for September 11 and 12, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Randall, for 15 minutes, on September 12.

Mr. Vanik, for 5 minutes, on September 12.

(The following Members (at the request of Mr. Mallary) and to revise and extend their remarks and include extraneous matter:)

Mr. Kemp, for 15 minutes, on September 12.

Mr. Whalen, for 5 minutes, on September 12.

Mr. Railsback, for 5 minutes, on September 12.

Mr. Goldwater, for 30 minutes, today.

(The following Members (at the request of Mr. Moakley) to revise and extend their remarks and include extraneous matter:)

Mr. Flood, for 10 minutes, today.

Mr. Drinan, for 10 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Ms. Abzug, for 5 minutes, today.

Mr. Montgomery, for 60 minutes, September 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Fisher, to revise and extend his remarks and include an address from Mr. Poage.

Mr. Maraziti to revise and extend his remarks made today during the special order taken by Mr. Randall.

(The following Members (at the request of Mr. Mallary) and to include extraneous matter:)

Mr. Hogan.

Mr. Rhodes.

Mr. Gross in two instances.

Mr. Kemp in three instances.

Mr. Hudnut.

Mr. Crane in five instances.

Mr. Hanrahan.

Mr. Veysey.

Mr. McDade.

Mr. Anderson of Illinois in two instances.

Mr. Gilman in two instances.

Mr. Froehlich.

Mr. Mizell in five instances.

(The following Members (at the request of Mr. Moakley) and to include extraneous matter:)

Mr. Hungate.

Mr. Won Pat in two instances.

Mr. Drinan in 10 instances.

Mr. Corman in five instances.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Anderson of California in three instances.

Mr. Roy.

Mr. Jones of Oklahoma.

Mr. Obey in six instances.

Mr. Bowen.

Mr. Leggett.
Mr. Badillo in three instances.
Mr. Fraser.
Mr. Roe in two instances.
Mr. Koch.
Mr. Madden.
Mr. Kyros in two instances.
Mr. Seiberling in 10 instances.
Mr. Roberts.
Mr. Hicks.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 3934. An act to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes; to the Committee on Public Works.

S. 1361. An act for the general revisions of the Copyright Law, title 17 of the United States Code, and for other purposes; to the Committee on the Judiciary.

ADJOURNMENT

Mr. MOAKLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 32 minutes p.m.), under its previous order, the House adjourned until Monday, September 16, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

2746. Under clause 2 of rule XXIV, a letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend the Internal Revenue Code of 1954 to restrict the authority for inspection of returns and the disclosure of information with respect thereto, and for other purposes; to the Committee on Ways and Means.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DELLENBACK (for himself, Mr. Dickinson, Mr. Frenzel, Mr. Gubser, Mr. Hays, Mr. McCloskey, Mr. O'Neill, and Mr. Rhodes):

H.R. 16633. A bill to support the construction of a memorial building at the Hoover Institution on War, Revolution, and Peace as a memorial to Herbert Hoover; to the Committee on House Administration.

By Mr. ANDREWS of North Carolina (for himself and Mr. Ford):

H.R. 16634. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the amount of certain cancellations of indebtedness under student loan programs; to the Committee on Ways and Means.

By Mr. BAKER:

H.R. 16635. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. BROTZMAN:

H.R. 16636. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $750 of interest on savings in the case of an individual taxpayer; to the Committee on Ways and Means.

By Mr. BROYHILL of Virginia:

H.R. 16637. A bill to establish a Commission on Federal Paperwork; to the Committee on Government Operations.

By Mr. COCHRAN (for himself, Mr. Lott, Mr. Montgomery, and Mr. Whitten):

H.R. 16638. A bill to prohibit the Federal Power Commission from abrogating natural gas supply contracts between natural gas suppliers and electric utilities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 16639. A bill to prevent discrimination against electric customers for costs of electric service in those cases where electric power generation must be provided through use of more expensive fuels as a result of natural gas curtailments under authorization of the Federal Power Commission, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CORMAN (for himself and Mr. Rees):

H.R. 16640. A bill to amend the Interstate Commerce Act to require that certain emergency equipment be carried in any motor vehicle operated by a motor carrier to transport a charter party of passengers, a majority of whom are at least 60 years of age; to the Committee on Interstate and Foreign Commerce.

By Mr. DANIELSON:

H.R. 16641. A bill to amend the definition of "former President" under the act of August 25, 1958 (Public Law 85–745), and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. DELLENBACK:

H.R. 16642. A bill to amend the Fish and Wildlife Act of 1956 in order to authorize the Secretary of Commerce to make loans to U.S. fishermen to cover the costs of damages to their vessels and gear by foreign vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. EDWARDS of California (for himself and Mr. Wiggins):

H.R. 16643. A bill to establish a uniform law on the subject of bankruptcies; to the Committee on the Judiciary.

By Mr. FAUNTROY:

H.R. 16644. A bill to provide for access by holders of a health benefit program to psychologists and optometrists in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. HENDERSON:

H.R. 16645. A bill to amend title 39, United States Code, to prohibit the payment of retirement benefits to officers and employees of the U.S. Postal Service, other than retirement benefits payable under title 5, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. JONES of Oklahoma:

H.R. 16646. A bill to amend the Internal Revenue Code of 1954 to provide a limited exclusion from gross income for interest on deposits in banks and certain other savings institutions; to the Committee on Ways and Means.

By Mr. KARTH (for himself and Mr. Dellums):

H.R. 16647. A bill to terminate the Airlines Mutual Aid Agreement; to the Committee on Interstate and Foreign Commerce.

By Mr. KEMP:

H.R. 16648. A bill to amend the Internal Revenue Code of 1954 to increase incentives for savings and investment; to the Committee on Ways and Means.

By Mr. KYROS:

H..R. 16649. A bill to prohibit the shipment in interstate commerce of dogs intended to be used to fight other dogs for purposes of sport, wagering, or entertainment; to the Committee on the Judiciary.

By Mr. MARAZITI:

H.R. 16650. A bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. NIX:

H.R. 16651. A bill to provide for protection of franchised dealers in petroleum products; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. Fascell, and Mr. Lehman):

H.R. 16652. A bill to terminate the Airlines Mutual Aid Agreement; to the Committee on Interstate and Foreign Commerce.

By Mr. PEYSER:

H.R. 16653. A bill to provide an immediate adjustment in the value of food stamp coupon allotments to be made during the period beginning November 1, 1974, and ending January 1, 1975, so that the value of such allotments will more accurately reflect the current rise in the cost of food; to the Committee on Agriculture.

By Mr. THONE:

H.R. 16654. A bill to amend the Consolidated Farm and Rural Development Act, as amended, to provide for improved emergency loan procedures; to the Committee on Agriculture.

By Mr. WHITE (for himself, Mr. Johnson of California, Mr. Derwinski, Mr. Murtha, Mr. Long of Maryland, Mr. Owens, Mr. Stark, Mr. Mann, Mr. Kemp, Mr. Rodino, Mr. Jarman, Mr. Murphy of New York, Mr. Gude, Mr. Abdnor, Mr. Horton, Mr. Breckinridge, Mrs. Schroeder, and Mr. Lagomarsino):

H.R. 16655. A bill to amend title 44, United States Code, to strengthen the authority of the Administrator of General Services with respect to records management by Federal agencies, and for other purposes; to the Committee on Government Operations.

By Mr. WHITE (for himself, Mr. Treen, and Ms. Holtzman):

H.R. 16656. A bill to amend title XVIII of the Social Security Act to provide payment under part A (the hospital insurance program (for care and treatment furnished at a central radiation therapy treatment facility, and to provide full payment under part B (the supplementary medical insurance program) for radiation therapy services furnished by physicians to inpatients or outpatients of any hospital or any such facility; and for other purposes; to the Committee on Ways and Means.

By Mr. WRIGHT:

H.R. 16657. A bill to amend title 44, United States Code, to strengthen the authority of the Administrator of General Services with respect to records management by Federal agencies, and for other purposes; to the Committee on Government Operations.

By Mr. CONTE:

H.J. Res. 1120. Joint resolution proposing an amendment to the Constitution of the United States to vest the Congress with the power to disapprove reprieves and pardons by the President; to the Committee on the Judiciary.

By Mr. FRENZEL:

H.J. Res. 1121. Joint resolution to require the Watergate Special Prosecution Force to make available to the public a report on all information it has concerning Richard M. Nixon in offenses against the United States; to the Committee on the Judiciary.

By Mr. LUKEN:

H.J. Res. 1122. Joint resolution proposing an amendment to the Constitution to permit the President to grant pardons only after conviction, unless a majority of both Houses of Congress shall concur in such action, and to permit a two-thirds vote of both Houses of Congress to overrule a Presidential pardon following conviction; to the Committee on the Judiciary.

By Mr. MAYNE:

H.J. Res. 1123. Joint resolution to designate March 16 through 23, 1975, "DeMolay Week"; to the Committee on the Judiciary.

By Mr. ROE:

H. Con. Res. 635. Concurrent resolution expressing the sense of the Congress that the President, acting through the U.S. Ambassador to the United Nations Organization, take such steps as may be necessary to place the question of human rights violation in the Soviet-occupied Ukraine on the agenda of the United Nations Organization; to the Committee on Foreign Affairs.

By Ms. ABZUG (for herself, Mr. Badillo, Mr. Eilberg, Mr. Helstoski, Mr. Hechler of West Virginia, Mr. Dellums, Mr. Rosenthal, Ms. Holtzman, Mr. Koch, Mr. Stokes, and Mr. Symington):

H. Res. 1363. Resolution of inquiry relating to President Ford's proclamation of pardon of Richard M. Nixon; to the Committee on the Judiciary.

By Mr. EILBERG:

H. Res. 1364. Resolution to disapprove the President's alernative plan for pay adjustments for Federal employees; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CRONIN:

H.R. 16658. A bill for the relief of Mr. and Mrs. Gaston Major; to the Committee on the Judiciary.

By Mr. EDWARDS of California:

H.R. 16659. A bill for the relief of Gordon Hopper; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

493. The SPEAKER presented a petition of Richard Wyman, Seattle, Wash., relative to redress of grievances, which are referred to the Committee on the Judiciary.

SENATE—*Thursday, September 12, 1974*

The Senate met at 11 a.m. and was called to order by Hon. Howard M. Metzenbaum, a Senator from the State of Ohio.

PRAYER

Rabbi Arthur J. Lelyveld, Fairmount Temple, Cleveland, Ohio, offered the following prayer:

Thou who art the source of our values and the fount of our hopes, Thou whom our forebears saw as the creator of our inalienable rights, renew in us the pristine ideals of our Nation. Under Thy guidance, two centuries ago, our country's fathers built on the foundation of two strong piers of Biblical conviction: the affirmation of the supreme worth of the individual; the vision of the perfected society. We know, O Father, that the glorious structure of which they dreamed is still incomplete. Too many of our countrymen even now suffer penury and contempt; too often even today justice is denied and redress is delayed. Fill all of us—the people of these United States and those whom we have set in authority—with energy and devotion equal to our unfinished tasks; may we continue to struggle to perfect our Nation in the image of Thy kingship and Thy kingdom. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The second assistant legislative clerk read the following letter:

> U.S. Senate,
> President pro tempore,
> *Washington, D.C., September 12, 1974.*
>
> *To the Senate:*
>
> Being temporarily absent from the Senate on official duties, I appoint Hon. Howard M. Metzenbaum, a Senator from the State of Ohio, to perform the duties of the Chair during my absence.
>
> James O. Eastland,
> *President pro tempore.*

Mr. METZENBAUM thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of yesterday, Wednesday, September 11, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDITIONAL COSPONSOR OF SENATE RESOLUTION 401—PRESIDENTIAL PARDONS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Cranston, Mr. Brooke, and myself, I ask unanimous consent that the name of the very distinguished Republican leader (Mr. Hugh Scott) be added as a cosponsor of the resolution which I submitted yesterday, Senate Resolution 401; relating to the grants of Presidential pardons or in connection with the Presidential campaign and election of 1972.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

At 12:12 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the following bills, each with amendments, and agreed to the following concurrent resolution in which it requests the concurrence of the Senate:

S. 1283. An act to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; and for other purposes;

S. 3838. An act to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes; and

H. Con. Res. 628. A concurrent resolution authorizing the Clerk of the House to make certain corrections in the enrollment of the bill (H.R. 14883).

At 4:45 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 15404) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1975, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Rooney of New York, Mr. Slack, Mr. Smith of Iowa, Mr. Flynt, Mr. Sikes, Mr. Mahon, Mr. Cederberg, Mr. Andrews of North Dakota, and Mr. Wyatt were appointed managers of the conference on the part of the House.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER (Mr. Nunn). The nominations on the Executive Calendar will be stated.

DEPARTMENT OF STATE

The legislative clerk proceeded to read sundry nominations in the Department of State.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. HUGH SCOTT. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

NOMINATIONS IN THE DEPARTMENT OF STATE

Mr. HUGH SCOTT. Mr. President, I welcome the knowledge, as I am sure it will be generally welcome, that four eminent persons have been designated to serve in the Department of State.

Mr. Philip C. Habib, who has been named as an Assistant Secretary of State, is a skilled and experienced Foreign Service officer of long and able and distinguished tenure.

I am also pleased that Mrs. Shirley Temple Black, of California, has been named as our Ambassador to the Republic of Ghana. She is an old friend in person. She is also a friend of everybody in America who has seen her movies in their original form or who has seen them on the late shows more recently. She was a partner of former Senator George Murphy, of California, and the skill they displayed in their performances on the stage of entertainment has been carried to the arena of public service.

Shirley Temple Black is a lady who has devoted a great deal of time and study to public service in the United Nations. Her concern about the problems of food and population is well-known. She has steeped herself in information about the problems of Africa, particularly the problems of Ghana, and especially the problem of their major industry, cocoa. So I am sure she will do very well, indeed.

Our new Ambassador to the German Democratic Republic is our former colleague John Sherman Cooper, of Kentucky, who is universally respected and beloved by all of us, who has had prior service as Ambassador to India, and who will bring luster and distinction and expertise and most attractive persuasive powers to this difficult post in the recently recognized Republic.

Mr. Kenneth Rush, who has been named Ambassador to France, is a distinguished economist, a well-known public servant, a former Ambassador to the Federal Republic of West Germany, and Chairman of the Economic Council He is regarded as a professional diplomat and will effect the same continuation of favorable relations as already exists in our relationship with France.

So I applaud these nominations. I am very pleased that the President has sent them to the Senate and that they have been confirmed.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Republican leader yield to me, on his time?

Mr. HUGH SCOTT. I yield.

SENATE RESOLUTION 401

Mr. ROBERT C. BYRD. Mr. President, yesterday I submitted a resolution, Senate Resolution 401, which appears on page 30816 of the Record of yesterday, September 11, 1974. In the middle column is a statement wherein I proceeded to submit the resolution and then made some comments thereafter.

The resolution as it appears in the Record is incomplete. The resolving clause was omitted in the printing of the Record.

Without the resolving clause, of course, the resolution is meaningless. The resolving clause was on the second page of my resolution as I submitted it to the desk. The first page appears in the Record today, but the second page, which contains the resolving clause, has been omitted.

Mr. President, I ask unanimous consent that today's Record show in its entirety my comments as they were made yesterday, together with the resolution in its entirety; that the entire record of the comments made by myself yesterday, completely through my comments as they appear on page 30817 of yesterday's Record, appear in today's Record as though stated ab initio today and in the same type, so that the remarks of other Senators who participated in that same discussion will also appear again in their completeness and in the context of yesterday's colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUGH SCOTT. Mr. President, the times are out of tune. This is a good resolution, and the only time when we expect good resolutions to go awry is right after they are made on New Year's Day. [Laughter.]

Mr. President, I yield back the remainder of my time.

[The proceedings of yesterday, September 11, 1974, with the resolution in its entirety, ordered to be printed in today's Record, are as follows:]

SENATE RESOLUTION 401—SUBMISSION OF A RESOLUTION RELATING TO THE GRANTS OF PRESIDENTIAL PARDONS IN CONNECTION WITH THE PRESIDENTIAL CAMPAIGN AND ELECTION OF 1972

Mr. ROBERT C. BYRD. Mr. President, I have a resolution which I am about to submit. Apparently, a situation arises here because I did not know until a few minutes ago that the two distinguished Senators were preparing a resolution of this kind, and they did not know until then that I was considering the matter.

My resolution reads as follows:

Whereas the truth with respect to criminal offenses committed by individuals during the Presidential campaign and election of 1972 will best be made known to the American people through the trial of individuals accused of committing such offenses;

Whereas criminal proceedings with respect to individuals accused of committing offenses during the Presidential campaign and election of 1972 are underway in the courts of the United States;

Whereas material witnesses may be expected to testify with respect to such offenses during the course of the various criminal proceedings;

Whereas a Presidential pardon to any or all those individuals who stand accused of such criminal offenses would thwart the judicial process; and

Whereas a Presidential pardon for individuals accused of such criminal offenses would effectively conceal the whole truth of what happened during the Presidential campaign and election of 1972 from the American people: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President not grant a pardon to any individual accused of any criminal offense arising out of the Presidential campaign and election of 1972 prior to the indictment and trial of such individual.

Sec. 2. The Secretary of the Senate shall transmit copies of this resolution to the President.

Mr. President, I ask unanimous consent that this resolution be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the resolution which I have just introduced speaks for itself. I have already indicated publicly that I regret the granting of a pardon to former President Nixon at this time. I recognize that President Ford has absolute authority to grant that pardon. I merely questioned the timing and the wisdom of it. I feel that the judicial process should have been permitted to work its will and that, if, indeed, the former President had been indicted and if, indeed, following such an indictment, he had been convicted, the trial judge could have shown mercy based on the circumstances as he saw them.

It is as repulsive to me as it would be to anyone else to see a former President of the United States in jail. But I do feel that the judicial process should have been permitted to work its will, and then, at the end of the line, if the President were to see fit to grant a pardon, I do not think many people would have quarreled with that.

But that is beside the point to a considerable extent, insofar as this particular resolution is concerned. On yesterday, through press reports, we were made to understand that consideration was being given at the White House—and I understand that such announcement had been authorized by President Ford—to the possible granting of a pardon to all of the persons who stand accused in connection with Watergate and related offenses. I believe that to grant a pardon to the former President and not grant it to all those who worked with him and who may have acted under his approval constitutes a double standard of justice. But in my judgment, even to extend a pardon to those persons does not remove the establishment of a double standard—such double standard being already a fait accompli by virtue of the pardoning of Mr. Nixon.

Where do we stop? Even if a pardon were to be granted to all who stand accused of crimes associated with Watergate, the jails of this country are full of people who have lost their jobs, whose careers have been destroyed, who have suffered and whose families have suffered because of white collar crimes and street crimes having been committed. It could go on and on ad infinitum. The double standard has now been established beyond recall. But I say this: I think it would be a compounding of what I personally consider to have been a mistake, to extend the Presidential pardon—to others who yet stand accused—prior to the time of their trials and convictions, if such convictions should eventually occur.

If, at the end of the judicial process, the President should want to extend the pardon to those persons, that would be a matter to be debated at a later time. But in this particular instance, I think it would absolutely foreclose the judicial process from working its complete will if pardons were now extended to any or all those who still stand accused.

Mr. BROOKE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask for 2 additional minutes.

Mr. GRIFFIN. Mr. President, reserving the right to object, I ask that the time be extended for 10 minutes, and that I may have 5 minutes.

Mr. ROBERT C. BYRD. Yes; I thank the Senator, and that the time not come out of the time allotted to the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Let me just complete my statement. Then I shall be glad to yield.

Mr. BROOKE. Yes.

Mr. ROBERT C. BYRD. I think it would compound, as I say, an error that has already been made, but the President has to answer for himself in that regard.

I think that what the American people expect and what posterity is entitled to is that the full facts be laid upon the record, if they can be so laid, regarding any and all crimes for which various persons stand accused.

The fact that the former President has been pardoned does not yet foreclose this judicial process. If the others who stand accused go forward yet to trial, witnesses will be called, and presumably in the course of the trials, the full facts would still be laid open on the record. This resolution does not constitute any interference with the executive branch; the President retains the constitutional power to grant pardons if he so wishes, and there is nothing that Congress can do about that whatsoever; his power is absolute, total, and complete, in this regard, and unless there is a constitutional amendment to modify the present pardon clause, I see nothing that Congress can do.

I do think, however, that as the elected representatives of the people in this branch of the Congress, we ought to at least go on record as expressing the sense of the Senate and the Senate's advice that the President not extend pardons to any of those who still stand accused, until the judicial process has at least been exhausted. I am not saying anything about those who have already been convicted, because the judicial process has worked its will in their regard. As to those who have not been acquitted or convicted, in my judgment, the judicial process should be allowed to work to its conclusion, and it is for that purpose that I submit this resolution today.

I now yield to the able Senator from Massachusetts.

Mr. BROOKE. I thank the distinguished Senator. First, I ask unanimous consent that I be added as a cosponsor of the Senator's resolution.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. CRANSTON. Mr. President, I make the same request.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I think it should be made clear, and I think the distinguished Senator from West Virginia has attempted to do this, that both the resolution offered by the Senator from California (Mr. CRANSTON) and myself, and the resolution offered by the Senator from West Virginia, do not urge that there be an effort to take away the President's pardoning power. Nor do they urge the President not to use his pardoning power. The resolutions only urge the President to use the pardoning power, if he deems it proper, after the judicial process has run its course.

We suggest this, and we do not do anything more than suggest this to the President, because we feel that it is of paramount importance that the American people finally learn all the facts about Watergate and related matters.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. ROBERT C. BYRD. I reserve that 1 minute.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, at the outset I ask unanimous consent that a statement by the President of the United States, which was released this morning at the White House be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
September 11, 1974.

STATEMENT BY THE PRESIDENT

The announcement yesterday by Mr. Hushen concerning study of the entire matter of Presidential clemency and pardons was prompted by inquiries to the White House Press Office concerning Mrs. John Dean's reported statement in reference to pardoning of her husband and similar public statements on behalf of others.

Such a study is, of course, made for any request concerning pardon of an individual.

However, no inference should be drawn as to the outcome of such study in any case. Nor is my pardon of the former President, under the unique circumstances stated by me in granting it, related to any other case which is or may be under study.

Mr. GRIFFIN. Mr. President, with all due respect and deference, I would suggest that the discussion I have listened to would have been more appropriate, perhaps, on yesterday afternoon, when the junior Senator from Michigan, along with others, was surprised and shocked by press reports that President Ford was considering the possibility of a blanket pardon for all the Watergate defendants.

However, today it is very clear to me, and to others who attended a meeting with the President this morning at the White House, that no consideration is or has been given to a blanket pardon for all Watergate defendants. That unfortunate interpretation, which emerged yesterday from a White House press briefing, is attributable—as I understand—to a reply given to questions prompted by Mrs. Dean's statement indicating she felt her husband, John Dean, should be pardoned.

I might say in passing that the judicial process in the case of John Dean had run its course. As the Senator from Pennsylvania (Mr. HUGH SCOTT) said when he talked with the press after the meeting with the President this morning—the response given was intended to indicate that a request which goes to the President of that nature would not be thrown in the wastebasket. I do not think anyone would expect him to do that; and, of course, such a request would be studied.

Now, to say that it would be studied does not indicate or justify an inference that, therefore, a pardon would be granted.

Mr. CRANSTON. Mr. President, will the Senator yield for a point of clarification?

Mr. GRIFFIN. And the statement released by the President this morning indicates that such a study, of course, would be made concerning any request of any individual.

If there were grounds yesterday for misunderstanding the intention, I would hope that the whole matter was cleared up this morning.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. GRIFFIN. Yes.

Mr. CRANSTON. I think the matter is clearer. I am delighted that the President made the clarification that he made today.

However, the concern that Senator BROOKE, Senator BYRD, and I share is not really concerning a blanket pardon. We are concerned that no individual should be pardoned until that individual's case has run the full judicial course to whatever the end might be, so that the facts may be laid out and we will not have what might be called a prepardon.

Mr. GRIFFIN. Yes, I appreciate that. As long as this explanation is in the record, there is certainly nothing wrong or inappropriate about any Senator offering a sense-of-the-Senate resolution on this subject. Indeed, I may even end up voting for such a resolution. There may be a great deal of merit to such a move. But I believed it was important to put the developments of yesterday and this morning in perspective. I think events this morning do throw an entirely different light on the picture.

Mr. CRANSTON. If the Senator will again yield, I think it is very important that he did clarify that matter. I am delighted that he did so, and I hope very much that he will support the resolution. I am delighted that he thinks he might.

The PRESIDING OFFICER. The Senator from West Virginia has 1 minute remaining.

Mr. ROBERT C. BYRD. Mr. President, just for the record let me say that I was not present at the meeting this morning to which the able Senator from Michigan referred. I was not expected to be at that meeting, and I am not complaining about that, but for the record I was not there, so I do not know what clarification of yesterday's events was expressed there, but I do appreciate the statement that has now been made by the distinguished assistant Republican leader.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma (Mr. BARTLETT) is recognized for not to exceed 15 minutes.

EXEMPT SECONDARY OIL PRODUCTION

Mr. BARTLETT. Mr. President, the Federal Energy Administration should immediately exempt from price controls secondary oil and other oil produced by advanced recovery techniques to encourage the expansion of the domestic production of petroleum and the efficient production and conservation of our known domestic oil reserves.

The existing two-tier pricing system is holding back the effort of this country to become substantially independent of foreign sources for crude oil.

Undoubtedly, the fastest way to increase our supplies of domestic crude oil would be to apply all the force of a free market by removing all price controls on crude oil. I favor the free market place for petroleum and petroleum products.

However, if the Federal Energy Administration does not immediately free all crude oil from price controls for whatever reason, political or otherwise, it should set up a plan to phase out price controls on petroleum and petroleum products by the time the Emergency Petroleum Allocation Act expires probably in mid-1975. Exempting secondary oil production from price controls should be the immediate first step of this plan.

Congress recognized the importance of extending the economic life of stripper wells—wells that produce 10 barrels of oil per day or less—when it passed the stripper well amendment to the Emergency Petroleum Allocation Act. Congress made certain that existing production would be maintained for a longer period, making crude oil that otherwise would not have been produced available to American consumers.

Much of the same reasoning behind the stripper well amendment applies to exempting secondary, et cetera, oil from price controls.

First, exemption of secondary recovery projects from price controls would extend the life of these projects. The high costs of a water supply, surface pumping equipment, injection wells, and chemicals necessary to push additional crude oil from the reservoir after the natural pressure mechanism of the producing formation has been depleted, could be offset with higher prices for crude oil.

The operating costs are high. Operating injection wells, which are approximately equal in number to the number of oil wells, a water supply, high pressure pumps, and noncorrosive lines are extremely expensive to operate—particularly when wells and equipment are old.

The economic incentive of higher prices would encourage many new advanced recovery projects to be initiated. Many of these projects are currently shelved because of insufficient economic incentive.

Second, the more favorable economics of secondary, tertiary, and so forth, recovery operations would stimulate additional research and development effort in these and other advanced recovery methods by private enterprise. New techniques might be developed that would allow even greater recovery of our existing oil reserves.

Most people do not realize that currently less than one-third of the oil in the average petroleum reservoir is recovered by the primary methods of flowing and pumping wells.

Secondary operations—injection of fluids, generally salt water, to enhance recovery—have increased this amount of oil that can be recovered from existing reservoirs up to two-thirds of the original oil in place. But these projects are expensive to initiate and expensive to operate, and yet still leave in the ground one-third or more of the original oil in the reservoir. At the current prices for "old" oil, much additional domestic crude oil that could and would be produced by secondary methods is left or will be left unproduced. If the wells are plugged and abandoned the additional production is usually lost forever.

Mr. President, many people who are unfamiliar with the complexities of producing oil perhaps are unfamiliar with exactly what the term "advanced recovery" encompasses. Let me explain briefly.

Advanced recovery projects are those projects initiated to provide production of oil in addition to primary oil production. Advanced recovery projects produce oil that has already been found, but is just waiting to be recovered. Primary production is the oil that can be produced by flowing wells, pumping wells, and other artificial lift methods without injecting fluids into the reservoir.

Crude oil does not exist in underground caverns as a pool or lake. Instead crude oil, water, and natural gas saturate an underground rock like the sand of a sandbox holds water. Oil is trapped in the tiny pores of the rock. Capillaries between the rock allow oil to flow between the pores into the wellbore and then up the wellbore to the surface.

However, as oil is produced from the sand or limestone body—reservoir—the pressure in the reservoir depletes and as the pressure depletes the rate of production declines. It is like letting the air out of a tire.

Eventually the rate of production, even with artificial lifting techniques, becomes so low that it is unprofitable to continue operations. Then the decision must be made to either plug the well or to try some method to enhance the production such as fracturing, acidizing, reperforating, or initiating advanced recovery operations. All are expensive.

The most conventional method of advanced recovery is waterflooding. In a waterflood, high pressure surface pumps force water—usually salt water—through injection wells—usually converted producing wells—but sometimes new wells—into the oil reservoir to push the oil toward the remaining producing wells.

However, after waterflooding much oil still remains in the reservoir. Many of the capillaries that allowed the oil to flow into the producing well become full of water that cuts off the flow of oil. The producing wells end up producing a small amount of oil with great quantities of water—an expensive operation.

The reason the oil will not flow is that the surface tension of the fluids makes the oil tend to stay in the pores and not move through the capillaries. The surface tension can be reduced and more oil produced by injecting certain chemicals into the reservoir—they, too, are expensive, but they can increase the amount of oil recovered.

There is a tremendous potential for additional oil recovery from existing reservoirs with current technology and improved economics. With greater economic incentives and an expanded interest in advanced recovery techniques and expanded efforts in research and development of advanced recovery, there should be even greater progress toward recovering the very last possible drop of oil from our existing and potential oil reserves.

An important aspect of exempting advanced recovery projects from price controls is that a petroleum reservoir can be produced more efficiently with greater ultimate recovery of oil and at a faster rate of recovery the sooner the project is initiated in the life of the reservoir. Waiting until the production reaches the stripper stage is much less efficient.

These projects are expensive to initiate. Usually there is a considerable time lag between the initial investment and a response in increased production, therefore, an additional economic incentive is needed. Also, a waterflood cannot be undertaken one well at a time, but rather large and expensive groups of wells must be drilled and equipped before water is injected.

These projects are also much more expensive to operate than primary production by flowing or pumping wells. Continued injection of fluids to keep up the pressure to sweep out the oil is expensive and, therefore, the economic limit or the rate of oil production which would justify continued operations is much higher than flowing or pumping wells.

Many secondary recovery projects become unprofitable and must be abandoned before its producing wells become stripper wells—10 barrels of oil per day or less per well—exempt from price controls.

If a secondary project woud not be justified economically with "old" oil prices, the producing wells would be plugged. Generally, it is not feasible after a well is plugged to go back into that well to initiate a secondary recovery project at a later date. Redrilling the lease would also be out of the question. Again, I emphasize that more than two-thirds of the original oil in place is now left in the ground—never to be produced.

This is important in light of the current shortage of drilling rigs and oil country tubular goods. Most of the wells that would be involved in secondary projects have already been drilled and cased—old producing wells can be used for the purpose of injecting fluids. Therefore, the amount of additional casing and tubing and the number of new wells to be drilled is at a minimum in the average secondary recovery project.

Exempting secondary recovery projects from price controls would yield a relatively fast production response when compared to the longer lead times involved for geophysical work, lease acquisition, exploratory drilling, developmental drilling and pipeline construction required to bring "new" oil to the refineries.

It makes no sense to leave oil in the ground that can be profitably produced at the same price or less than the price that we must pay for foreign oil imports.

Aramco's average well in Saudi Arabia produces 14,000 barrels of crude oil per day—the average production rate in the United States is 18 barrels per well per day. The lifting cost per barrel of crude oil of Aramco's production is approximately 10 cents per barrel—in the United States the lifting cost is many times as high.

Does it make sense to subsidize low-lifting cost foreign oil by artificial price controls on high-lifting cost domestic crude oil? Certainly not!

It makes no sense to continue price controls which inhibit the initiation and continued operation of waterflood projects; the use of chemicals to increase recovery; fire floods, steam floods and other innovative technology to produce oil from our domestic reservoirs more efficiently and prevent waste of our natural resources.

Yesterday, I sent a letter cosigned by several of my colleagues to Mr. John Sawhill, Administrator of the Federal Energy Administration, recommending that the Federal Energy Administration exercise its current price control authority to exempt bona fide secondary and tertiary projects from price controls to encourage the full utilization of advanced recovery techniques which will assure maximum recovery from existing producible reservoirs in this country. I am preparing legislation to achieve this goal and will introduce it in a few days.

Also, we are recommending that the Federal Energy Administration revise its regulations to allow an operator the option of selecting the previous calendar year as his base period when determining his volume of "new" and "released" crude oil. The present 1972 base period acts as a disincentive to perform remedial workovers on wells whose production has declined substantially since the 1972 base period.

If these recommendations are followed, this country will be much better off.

A free market price for advanced recovery operations and permitting a more recent base period for determining the amount of the free market production from workover wells would conserve our petroleum resources by increasing production efficiency.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order the Senator from West Virginia (Mr. Robert C. Byrd) is to be recognized for not to exceed 15 minutes.

RECESS UNTIL 12 NOON

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 12 noon.

There being no objection, at 11:34 a.m., the Senate took a recess until 12 noon; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. Hathaway).

ORDER OF BUSINESS

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. What is the pending business?

The PRESIDING OFFICER. The two previous orders that were on the calendar prior to the consideration of S. 3221, the first one is the recognition of Senator Byrd, of West Virginia, and then for a period of 15 minutes to transact morning business.

Mr. GRIFFIN. Will the Senator yield to me for a moment, Mr. President?

Mr. JACKSON. Yes.

Mr. GRIFFIN. I was holding things sort of in a holding pattern until this meeting broke up.

Senator Mansfield and Senator Robert C. Byrd, I understand, are meeting with the press and have not yet come back.

There is an order for a period for the transaction of morning business. I do not know of any morning business that will be taken up. If the Senator wants to go ahead and lay down the bill, it is all right with me. I have not cleared it with the majority leader.

Mr. JACKSON. There is no time limit on this so there will be ample time. I would say that I think both sides will cooperate and recognize Senator Byrd or anyone else for the conduct of morning business.

ORDER TO VACATE REMAINING SPECIAL ORDERS

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the special orders be vacated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER TO VACATE ORDER FOR MORNING BUSINESS

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for morning business be vacated at this point.

The PRESIDING OFFICER. Is there objection? The Chair hears none; and it is so ordered.

ORDER OF BUSINESS TODAY

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. GRIFFIN. Yes.

Mr. JOHNSTON. I understand there will be no votes today by mutual agreement, and I was of the understanding that the minority managers of this bill will be absent on Monday. I was wondering whether, as among us here, and it will have to be cleared with the majority leadership, would it be agreeable to take the bill up Tuesday, the first thing on Tuesday?

Mr. FANNIN. Mr. President, I know of no objection from our side of the aisle.

Mr. JACKSON. Mr. President, I would suggest that as soon as the majority leadership——

Mr. GRIFFIN. I have no answer to that question.

Mr. JOHNSTON. I am not asking for a unanimous consent but merely asking a question.

Mr. GRIFFIN. I am also not aware of any agreement that there would be no votes today.

Mr. FANNIN. Mr. President, I certainly am not taking over the leadership here—he being on the floor—just speaking as far as the committee members are concerned, but I naturally would reserve any prerogative to the minority leader who is on the floor at the present time.

Mr. JACKSON. Mr. President, I suggest that we proceed and the majority leader, who will be in later, or the assistant majority leader, after that time, will be able to work this out, I think, with the assistant minority leader.

UNFINISHED BUSINESS (S. 707) TEMPORARILY LAID ASIDE

The PRESIDING OFFICER. The unfinished business, S. 707, will be temporarily laid aside and will remain in a temporarily laid aside status until the close of business today.

ORDER FOR VOTE ON SENATE RESOLUTION 401 AT 2 P.M. TODAY AND TIME LIMITATION ON DEBATE

Mr. ROBERT C. BYRD. Mr. President, the following request has been cleared with Mr. Hugh Scott, Mr. Griffin, Mr. Mansfield, and other Senators. I ask unanimous consent that a vote occur today on Senate Resolution 401 at the hour of 2 p.m. and that there be a time limitation for debate thereon of 20 minutes, with the time to be equally divided and controlled by myself on the one hand and the distinguished Republican leader or his designee on the other.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY SUPPLY ACT OF 1974

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 3221. The bill will be stated by title.

The legislative clerk read as follows:

> A bill S. 3221, to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act; and for other purposes.

The Senate proceeded to consider the bill (S. 3221) which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Energy Supply Act of 1974".

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TITLE I—FINDINGS AND PURPOSES

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years, so that currently available supplies are less than demand;

(6) technology is or can be made available which will allow sufficient production and consumption of domestic energy supply to meet demands consistent with national environmental policies;

(7) the Outer Continental Shelf contains significant quantities of petroleum and natural gas, which are a vital national reserve that must be carefully managed in the public interest; and

(8) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas resources of the Outer Continental Shelf.

PURPOSES

SEC. 102. The purposes of this Act are to—

(1) increase domestic production of oil and natural gas in order to assure material prosperity and national security, reduce dependence on unreliable foreign sources, and assist in maintaining a favorable balance of payments;

(2) make oil and natural gas resources in the Outer Continental Shelf available as rapidly as possible consistent with the need for orderly resource development, and protection of the environment, in a manner consistent with the Mining and Mineral Policy Act of 1970 and designed to insure the public a fair market return on disposition of public resources; and

(3) encourage development of new and improved technology for energy resource production that will increase human safety and eliminate or reduce risk of damage to the environment.

TITLE II—INCREASED PRODUCTION OF OUTER CONTINENTAL SHELF ENERGY RESOURCES

NATIONAL POLICY FOR OUTER CONTINENTAL SHELF

SEC. 201. Section 3 of the Outer Continental Shelf Lands Act is revised by adding the following new subsection (c):

"(c) It is hereby declared that the Outer Continental Shelf is a vital national resource reserve held by the Federal Government for all the people, which should be made available for orderly development, subject to environmental safeguards, consistent with and when necessary to meet national needs.".

NEW SECTIONS OF OUTER CONTINENTAL SHELF LANDS ACT

SEC. 202. The Outer Continental Shelf Lands Act is hereby amended by adding the following new sections:

"DEVELOPMENT OF OUTER CONTINENTAL SHELF LEASING PROGRAM

"SEC. 18. (a) Congress declares that it is the policy of the United States that Outer Continental Shelf lands determined to be both geologically favorable for the accumulation of oil and gas and capable of supporting oil and gas development without undue environmental hazard or damage should be made available for leasing as soon as practicable in accordance with subsection (b) of this section.

"(b) The Secretary is authorized and directed to prepare and maintain a leasing program to implement the policy set forth in subsection (a). The leasing program shall indicate as precisely as possible the size, timing, and location of leasing activity that will best meet national energy needs for the ten-year period following its approval or reapproval in a manner consistent with subsection (a) above and with the following principles:

"(1) management of the Outer Continental Shelf in a manner which considers all its resource values and the potential impact of oil and gas exploration and development on other resource values of the Outer Continental Shelf and the marine environment;

"(2) timing and location of leasing so as more evenly to distribute exploration, development, and production of oil and gas among various areas of the Outer Continental Shelf, considering:

"(A) existing information concerning their geographical, geological, and ecological characteristics;

"(B) their location with respect to, and relative needs of, regional energy markets;

"(C) interest by potential oil and gas producers in exploration and development as indicated by tract nominations and other representations;

"(D) an equitable sharing of developmental benefits and environmental risks among various regions of the United States; and

"(3) receipt of fair market return for public resources.

"(c) The program shall include estimates of the appropriations and staffing required to prepare the necessary environmental impact statements, obtain resource data and any other information needed to decide the order in which areas are to be scheduled for lease, to make the analyses required prior to offering tracts for lease, and to supervise operations under every lease in the manner necessary to assure compliance with the requirements of the law, the regulations, and the lease.

"(d) The environmental impact statement on the leasing program prepared in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, shall include, but shall not be limited to, an assessment by the Secretary of the relative significance of the probable oil and gas resources of each area proposed to be offered for lease in meeting national demands, the most likely rate of exploration and development that is expected to occur if the areas are leased, and the relative environmental hazard of each area. Such environmental impact statement shall be based on consideration of the following factors, without being limited thereto: geological and geophysical conditions, biological data on existing animal, marine, and plant life, and commercial and recreational uses of nearby land and water areas.

"(e) The Secretary shall, by regulation, establish procedures for receipt and consideration of nominations for areas to be offered for lease or to be excluded from leasing, for public notice of and participation in development of the leasing program, for review by State and local governments which may be impacted by the proposed leasing, and for coordination of the program with management programs established pursuant to the Coastal Zone Management Act of 1972. These procedures will be applicable to any revision or reapproval of the leasing program.

"(f) The Secretary shall publish a proposed leasing program in the Federal Register and submit it to the Congress within two years after enactment of this section.

"(g) After the leasing program has been approved by the Secretary or after January 1, 1978, whichever comes first, no leases under this Act may be issued unless they are for areas included in the approved leasing program.

"(h) The Secretary may revise and reapprove the leasing program at any time and he must review and reapprove the leasing program at least once each year.

"(i) The Secretary is authorized to obtain from public sources, or to purchase from private sources, any surveys, data reports, or other information (excluding interpretations of such data, surveys, reports, or other information) which may be necessary to assist him in preparing environmental impact statements and making other evaluations required by this Act. The Secretary shall maintain the confidentiality of all proprietary data or information for such period of time as is agreed to by the parties.

"(j) The heads of all Federal departments or agencies are authorized and directed to provide the Secretary with any nonproprietary information he requests to assist him in preparing the leasing program.

"FEDERAL OUTER CONTINENTAL SHELF OIL AND GAS SURVEY PROGRAM

"SEC. 19. (a) The Secretary is authorized and directed to conduct a survey program regarding oil and gas resources of the Outer Continental Shelf. This program shall be designed to provide information about the probable location, extent, and characteristics of such resources in order to provide a basis for (1) development and revision of the leasing program required by section 18 of this Act, (2) greater and better informed competitive interest by potential producers in the oil and gas resources of the Outer Continental Shelf, (3) more informed decisions regarding the value of public resources and revenues to be expected from leasing them, and (4) the mapping program required by subsection (c) of this section.

"(b) The Secretary is authorized to contract for, or purchase the results of, or, where the required information is not available from commercial sources, conduct seismic, geomagnetic, gravitational, geophysical, or geochemical investigations, and to contract for or purchase the results of stratigraphic drilling, needed to implement the provisions of this section.

"(c) The Secretary is directed to prepare and publish and keep current a series of detailed topographic, geological, and geophysical maps of and reports about the Outer Continental Shelf, based on nonproprietary

data, which shall include, but not necessarily be limited to, the results of seismic, gravitational, and magnetic surveys on an appropriate grid spacing to define the general topography, geology, and geophysical characteristics of the area. Such maps shall be prepared and published no later than six months prior to the last day for submission of bids for any areas of the Outer Continental Shelf scheduled for lease on or after January 1, 1978.

"(d) Within six months after enactment of this section, the Secretary shall develop and submit to Congress a plan for conducting the survey and mapping programs required by this section. This plan shall include an identification of the areas to be surveyed and mapped during the first five years of the programs and estimates of the appropriations and staffing required to implement them.

"(e) The Secretary shall include in the annual report required by section 15 of this Act, information concerning the carrying out of his duties under this section, and shall include as a part of each such report a summary of the current data for the period covered by the report.

"(f) No action taken to implement this section shall be considered a major Federal action for the purposes of section 102(2)(C) of the National Environmental Policy Act of 1969.

"(g) There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section during fiscal years 1975 and 1976.

"(h) The Secretary shall, by regulation, require that any person holding a lease issued pursuant to this Act for oil or gas exploration or development on the Outer Continental Shelf shall provide the Secretary with any existing data (excluding interpretation of such data) about the oil or gas resources in the area subject to the lease. The Secretary shall maintain the confidentiality of all proprietary data or information until such time as he determines that public availability of such proprietary data or information would not damage the competitive position of the lessee.

"RESEARCH AND DEVELOPMENT

"SEC. 20. (a) The Secretary is authorized and directed to carry out a research and development program designed to improve technology related to development of the oil and gas resources of the Outer Continental Shelf where he determines that such research and development is not being adequately conducted by any other public or private entity including but not limited to—

"(1) downhole safety devices,

"(2) methods for reestablishing control of blowing out or burning wells,

"(3) methods for containing and cleaning up oil spills,

"(4) improved drilling bits,

"(5) improved flaw detection systems for undersea pipelines,

"(6) new or improved methods of development in water depths over six hundred meters, and

"(7) subsea production systems.

"(b) The Secretary shall, after review and comment by the Administrator of the Environmental Protection Agency, establish safety and environmental performance standards for all pieces of equipment, that are pertinent to public health, safety, or environmental protection, used in exploration, development, and production of oil and gas from the Outer Continental Shelf. To achieve the purposes of this subsection, such standards shall require the use of best available technology when the potential effect on public health, safety, or the environment would be substantial.

"(c) The Secretary, with the concurrence of the Secretary of the department in which the Coast Guard is operating, shall establish equipment and performance standards for oil spill cleanup plans and operations. Such standards shall be coordinated with the National Oil and Hazardous Substances Pollution Contingency Plan, and reviewed by the Administrator of the Environmental Protection Agency, and the Administrator of the National Oceanic and Atmospheric Administration.

"(d) The Secretary, in cooperation with the Secretary of the Navy and the Director of the National Institutes of Health, shall conduct studies of underwater diving techniques and equipment suitable for protection of human safety at depths greater than those where such diving now takes place.

"ENFORCEMENT OF SAFETY REGULATIONS; INSPECTIONS

"SEC. 21. (a)(1) The Secretary shall regularly inspect all operations authorized pursuant to this Act and strictly enforce safety regulations promulgated pursuant to this Act and other applicable laws and regulations relating to public health, safety, or environmental protection. All holders of leases under this Act shall allow promptly access at the site of any operations subject to safety regulations to any inspector, and provide such documents and records that are pertinent to public health, safety, or environmental protection, as the Secretary or his designee may request.

"(2) The Secretary shall promulgate regulations within ninety days of the enactment of this section to provide for—

"(A) physical observation at least once each year by an inspector of the installation or testing of all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

"(B) periodic onsite inspection without advance notice to the lessee to assure compliance with public health, safety, or environmental protection regulations.

"(3) The Secretary shall make an investigation and public report on all major fires and major oil spillage occurring as a result of operations pursuant to this Act. For the purposes of this subsection, a major oil spillage is any spillage in one instance of more than two hundred barrels of oil over a period of thirty days: Provided, That the Secretary may, in his discretion, make an investigation and report of lesser oil spillages. All holders of leases under this Act shall cooperate with the Secretary in the course of such investigations.

"(4) For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize with or without reimbursement the services, personnel, or facilities of any Federal agency.

"(b) The Secretary shall include in his annual report to Congress required by section 15 of this Act the number of violations of safety regulations found, the names of the violators, and the action taken thereon.

"(c) The Secretary shall consider any allegation from any person of the existence of a violation of any safety regulations issued under this Act. The Secretary shall answer such allegation no later than ninety days after receipt thereof, stating whether or not such alleged violations exist and, if so, what action has been taken.

"LIABILITY FOR OIL SPILLS

"SEC. 22. (a) Any person in charge of any operations in the Outer Continental Shelf, as soon as he has knowledge of a discharge or spillage of oil from an operation, shall immediately notify the appropriate agency of the United States Government of such discharge.

"(b)(1) Notwithstanding the provisions of any other law, the holder of a lease or right-of-way issued or maintained under this Act and the Offshore Oil Pollution Settlements Fund (hereinafter referred to as "the fund") established by this subsection shall be strictly liable without regard to fault and without regard to ownership of any adversely affected lands, structures, fish, wildlife, or biotic or other natural resources relied upon by any damaged party for subsistence or economic purposes, in accordance with the provisions of this subsection for all damages, sustained by any person as a result of discharges of oil or gas from any operation authorized under this Act if such damages occurred (A) within the territory of the United States, Canada, or Mexico or (B) in or on waters within two hundred nautical miles of the baseline of the United States, Canada, or Mexico from which the territorial sea of the United States, Canada, or Mexico is measured, or (C) within one hundred nautical miles of any operation authorized under this Act. Claims for such injury or damages may be determined by arbitration or judicial proceedings.

"(2) Strict liability shall not be imposed under this subsection on the holder or the fund if the holder or the fund proves that the damage was caused by an act of war. Strict liability shall not be imposed under this subsection on the holder if the holder proves that the damage was caused by the negligence of the United States or other governmental agency. Strict liability shall not be imposed under this subsection with respect to the claim of a damaged person if the holder or the fund proves that the damage was caused by the negligence or intentional act of such person.

"(3) Strict liability for all claims arising out of any one incident shall not exceed $100,000,000. The holder shall be liable for the first $7,000,000 of such claims that are allowed. The fund shall be liable for the balance of the claims that are allowed up to $100,000,000. If the total claims allowed exceed $100,000,000, they shall be reduced proportionately. The unpaid portion of any claim may be asserted and adjudicated under other applicable Federal or State law.

"(4) In any case where liability without regard to fault is imposed pursuant to this subsection, the rules of subrogation shall apply in accordance with the laws of the State in which such damages occurred: *Provided, however*, That in the event such damages occurred outside the jurisdiction of any State, the rules of subrogation shall apply in accordance with the laws applicable pursuant to section 4 of this Act.

"(5) The Offshore Oil Pollution Settlements Fund is hereby established as a nonprofit corporate entity that may sue and be sued in its own name. The fund shall be administered by the holders of leases issued under this Act under regulations prescribed by the Secretary. The fund shall be subject to an annual audit by the Comptroller General, and a copy of the audit shall be submitted to the Congress. Claims allowed against the fund shall be paid only from moneys deposited in the fund.

"(6) There is hereby imposed on each barrel of oil produced pursuant to any lease issued or maintained under this Act a fee of 2½ cents per barrel. The fund shall collect the fee from the lessees or their assignees. Costs of administration shall be paid from the money collected by the fund, and all sums not needed for administration and the satisfaction of claims shall be invested prudently in income producing securities approved by the Secretary. Income from such securities shall be added to the principal of the fund.

"(7) Subject to the limitation contained in subparagraph (3) of this subsection, if the fund is unable to satisfy a claim asserted and finally determined under this subsection, the fund may borrow the money needed to satisfy the claim from any commercial credit source, at the lowest available rate of interest, subject to the approval of the Secretary.

"(8) No compensation shall be paid under this subsection unless notice of the damage is given to the Secretary within three years following the date on which the damage occurred.

"(9) Payment of compensation for any damage pursuant to this subsection shall be subject to the holder or the fund acquiring by subrogation all rights of the claimant to recover for such damages from any other person.

"(10) The collection of amounts for the fund shall cease when $100,000,000 has been accumulated, but shall be renewed when the accumulation in the fund falls below $85,000,000. The fund shall insure that collections are equitable to all holders of a lease or right-of-way.

"(11) The several district courts of the United States shall have jurisdiction over claims against the fund.

"(c) If any area within or without a lease granted or maintained under this Act is polluted by any discharge or spillage of oil from operations conducted by or on behalf of the holder of such lease, and such pollution damages or threatens to damage aquatic life, wildlife, or public or private property, the control and removal of the pollutant shall be at the expense of such holder, including administrative and other costs incurred by the Secretary or any other Federal or State officer or agency. Upon failure of such holder to adequately control and remove such pollutant, the Secretary in cooperation with other Federal, State, or local agencies, or in cooperation with such holder, or both, shall have the right to accomplish the control and removal at the expense of the holder.

"(d) The Secretary shall establish requirements that all holders of leases issued or maintained under this Act shall establish and maintain evidence of financial responsibility of not less than $7 million. Financial responsibility may be established by any one of, or a combination of, the following methods acceptable to the Secretary: (A) evidence of insurance, (B) surety bonds, (C) qualification as a self-insurer, or (D) other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States.

"(e) The provisions of this section shall not be interpreted to supersede section 311 of the Federal Water Pollution Control Act Amendments of 1972 or preempt the field of strict liability or to enlarge or diminish the authority of any State to impose additional requirements.

"NEGOTIATIONS WITH STATES

"SEC. 23. The Secretary is authorized and directed to negotiate with those coastal States which are asserting jurisdiction over the Outer Continental Shelf with a view to developing interim agreements which will allow energy resource development prior to final judicial resolution of the dispute.

"DETERMINATION OF BOUNDARIES

"SEC. 24. Withon one year following the date of enactment of this section, the President may establish procedures for settling any outstanding boundary disputes, including international boundaries between the United States and Canada and between the United States and Mexico, and establish boundaries between adjacent States, as directed in section 4 of this Act.

"COASTAL STATE FUND

"SEC. 25. (a) There is hereby established in the Treasury of the United States the Coastal States Fund (hereinafter referred to as the 'fund'). The Secretary shall make grants from the fund to the coastal States impacted by anticipated or actual oil and gas production to assist them to ameliorate adverse environmental effects and control secondary social and economic impacts associated with the development of Federal energy resources in, or on the Outer Continental Shelf adjacent to the submerged lands of such States. Such grants may be used for planning, construction of public facilities, and provision of public services, and such other activities as the Secretary may prescribe by regulations. Such regulations shall, at a minimum, (1) provide that such activities be directly related to such environmental effects and social and economic impacts; and (2) require each coastal State, as a requirement of eligibility for grants from the fund, to establish pollution containment and cleanup systems for pollution from oil and gas development activities on the submerged lands of each such State.

"(b) The Secretary, in accordance with the provisions of subsection (a), shall, by regulation, establish requirements for grant eligibility: *Provided*, That it is the intent of this section that grants shall be made to impacted coastal States to the maximum extent permitted by subsection (c) of this section and that grants shall be made to impacted coastal States in proportion to the effects and impacts of offshore oil and gas exploration, development and production on such States. Such grants shall not be on a matching basis but shall be adequate to compensate impacted coastal States for the full costs of any environmental effects and social and economic impacts of offshore oil and gas exploration, development, and production. The Secretary shall coordinate all grants with management programs established pursuant to the Coastal Zone Management Act of 1972.

"(c) Notwithstanding any other provision of law, 10 per centum of the Federal revenues from the Outer Continental Shelf Lands Act, as amended by this Act, shall be paid into the fund: *Provided*, That the total amount paid into the fund shall not exceed $200,000,000 per year.

"(d) There is hereby authorized to be appropriated to the fund $100,000,000.

"(e) For the purpose of this section, 'coastal State' means a State or territory of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, or Long Island Sound.

"CITIZENS SUITS

"SEC. 26. (a) Except as provided in subsection (b) of this section, any person having an interest which is or may be adversely affected may commence a civil action on his own behalf—

"(1) against any person including—

"(A) the United States, and

"(B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution who is alleged to be in violation of the provisions of this Act or the regulation promulgated thereunder, or any permit or lease issued by the Secretary; or

"(2) against the Secretary where there, is alleged a failure of the Secretary to perform any act or duty under this Act which is not discretionary with the Secretary.

"(b) No action may be commenced—

"(1) under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice in writing under oath of the violation (i) to the Secretary, and (ii) to any alleged violator of the provisions of this Act or any regulations promulgated thereunder, or any permit or lease issued thereunder;

"(B) if the Secretary has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the provisions of this Act or the regulations thereunder, or the lease, but in any such action in a court of the United States any person may intervene as a matter of right; or

"(2) Under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice in writing under oath of such action to the Secretary, in such manner as the Secretary shall by regulation prescribe, except that such action may be brought immediately after such notification in the case where the violation complained of, constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

"(c) In any action under this section, the Secretary, if not a party, may intervene as a matter of right.

"(d) The court, in issuing any final order in any action, brought pursuant to subsection (a) of this section, may award costs of litigation including reasonable attorneys fees to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(e) Nothing in this section shall restrict any right which any person or class of persons may have under this or any statute or common law to seek enforcement of any of the provisions of this Act and the regulations thereunder, or to seek other relief, including relief against the Secretary.

"PROMOTION OF COMPETITION

"SEC. 27. Within one year after the date of enactment of this section, the Secretary shall prepare and publish a report with recommendations for promoting competition and maximizing production and revenues from the leasing of Outer Continental Shelf lands, and shall include a plan for implementing recommended administrative changes and drafts of any proposed legislation. Such report shall include consideration of the following—

"(1) other competitive bidding systems permitted under present law as compared to the bonus bidding system;

"(2) evaluation of alternative bidding systems not permitted under present law;

"(3) measures to ease entry of new competitors; and

"(4) measures to increase supply to independent refiners and distributors.

"ENFORCEMENT AND PENALTIES

"SEC. 28. (a) At the request of the Secretary, the Attorney General may institute a civil action in the district court of the United States for the district in which the affected operation is located for a restraining order or injunction or other appropriate remedy to enforce any provision of this Act or any regulation or order issued under the authority of this Act.

"(b) If any person shall fail to comply with any provision of this Act, or any regulation or order issued under the authority of this Act, after notice of such failure and expiration of any period allowed for corrective action, such person shall be liable for a civil penalty of not more than $5,000 for each and every day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation shall have been given an opportunity for a hearing on such charge.

"(c) Any person who knowingly and willfully violates any provision of this Act, or any regulation or order issued under the authority of this Act designed to protect public health, safety, or the environment or conserve natural resources or knowingly and willfully makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act, or who knowingly and willfully falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act or knowingly and willfully reveals any data or information required to be kept confidential by this Act, shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than one year, or both. Each day that a violation continues shall constitute a separate offense.

"(d) Whenever a corporation or other entity violates any provision of this Act, or any regulation or order issued under the authority of this Act, any officer, or agent of such corporation or entity who authorized, ordered, or carried out such violation shall be subject to the same fines or imprisonment as provided for under subsection (c) of this section.

"(e) The remedies prescribed in this section shall be concurrent and cumulative and the exercise of one does not preclude the exercise of the others. Further, the remedies prescribed in this section shall be in addition to any other remedies afforded by any other law or regulation.

"ENVIRONMENTAL BASELINE AND MONITORING STUDIES

"SEC. 29. (a) Prior to permitting oil and gas drilling on any area of the Outer Continental Shelf not previously leased under this Act, the Secretary, in consultation with the Administrator of the National Oceanic and Atmospheric Administration of the Department of Commerce, shall make a study of the area involved to establish a baseline of those critical parameters of the Outer Continental Shelf environment which may be affected by oil and gas development. The study shall include, but need not be limited to, background levels of hydrocarbons in water, sediment, and organisms; background levels of trace metals in water, sediments, and organisms; characterization of benthic and planktonic communities; description of sediments and relationships between organisms and abiotic parameters; and standard oceanographic measurements such as salinity, temperature, micronutrients, dissolved oxygen.

"(b) Subsequent to development of any area studied pursuant to subsection (a) of this section, the Secretary shall monitor the areas involved in a manner designed to provide time-series data which can be compared with previously collected data for the purpose of identifying any significant changes.

"(c) In carrying out the provisions of this section, the Secretary is directed to give preference to the use of Government owned and Government operated vessels, to the maximum extent practicable, in contracting for work in connection with such environmental baseline and monitoring studies. In order to avoid needless duplications, the Secretary shall coordinate all such activities with the Administrator of the National Oceanic and Atmospheric Administration and shall, whenever possible, utilize existing Government owned and Government operated marine research laboratories in conducting research authorized by this section.".

REVISION OF LEASE TERMS

SEC. 203. Section 8 of the Outer Continental Shelf Lands Act is amended by revising subsections (a) and (b) to read as follows:

"(a) The Secretary is authorized to grant to the highest responsible qualified bidder by competitive bidding under regulations promulgated in advance, oil and gas leases on submerged lands of the Outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be by sealed bids and, at the discretion of the Secretary, shall be either (1) on the basis of a cash bonus bid with a royalty fixed by the Secretary at not less than 12½ per centum in amount or value of the production saved, removed, or sold, (2) on the basis of a cash bonus bid with a fixed share of the net profits derived from operation of the tract of no less than 30 per centum reserved to the United States, or (3) on the basis of a fixed cash bonus with the net profit share reserved to the United States as the bid variable. The United States net profit share shall be calculated on the basis of the value of the production saved, removed, or sold, less those capital and operating costs directly assignable to the development and operation (but not acquisition) of all oil and gas leases issued under this Act to the lessee under a net profit sharing arrangement. No capital or operating charges for materials or labor services not actually used on an area leased for oil or gas under this Act under a net profit-sharing arrangement; allocation of income taxes; or expenditure for materials or labor services used prior to lease acquisition shall be permitted as a deduction in the calculation of net income. The Secretary shall by regulation establish accounting procedures and standards to govern the calculation of net profits. In the event of any dispute between the United States and a lessee concerning the calculation of the net profits, the burden of proof shall be on the lessee. That part of the net profit share due the United States which is attributable to oil production may be taken in kind in the form of oil and disposed of as provided in subsection (k) of this section. That part of the net profit share due the United States attributable to the product or products taken in kind by the fair market value at the wellhead of the oil and/or gas (as the case may be) saved, removed or sold. In determining the attribution of profits as between oil and gas, costs shall be allocated proportionately to the value of their respective shares of production.

"(b) An oil and gas lease issued by the Secretary pursuant to this section shall (1) cover a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, (2) be for a period of (i) in five years or (ii) for up to ten years where the Secretary deems such longer period is necessary to encourage exploration and development in areas of unusually deep water or adverse weather conditions, and as long thereafter as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon, and (3) contain such rental provisions and such other terms and provisions as the Secretary may prescribe at the time of offering the area for lease.".

DISPOSITION OF FEDERAL ROYALTY OIL

SEC. 204. Section 8 of the Outer Continental Shelf Lands Act as amended by this Act is further amended by adding a new subsection (k) to read as follows:

"(k) Upon commencement of production of oil from any lease, issued after the effective date of this subsection, the Secretary shall offer to the public and sell by competitive bidding for not less than its fair market value, in such amounts and for such terms as he determines, that proportion of the oil produced from said lease which is due to the United States as royalty or net profit share oil. The Secretary shall limit participation in such sales where he finds such limitation necessary to assure adequate supplies of oil at equitable prices to independent refiners. In the event that the Secretary limits participation in such sales, he shall sell such oil at an equitable price. The lessee shall take any such royalty oil for which no acceptable bids are received and shall pay to the United States a cash royalty equal to its fair market value, but in no event shall such royalty be less than the highest bid.".

ANNUAL REPORT

SEC. 205. Section 15 of the Outer Continental Shelf Lands Act is amended to read as follows:

"ANNUAL REPORT BY SECRETARY TO CONGRESS

"SEC. 15. Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a report on the leasing and production program in the Outer Continental Shelf during such fiscal year, including a detailing of all moneys received and expended, and of all leasing, development, and production activities; a summary of management, supervision, and enforcement activities; a summary of grants made from the Coastal State Fund; and recommendations to the Congress for improvements in management, safety and amount of production in leasing and operations in the Outer Continental Shelf and for resolution of jurisdictional conflicts or ambiguities.".

INSURING MAXIMUM PRODUCTION FROM OIL AND GAS LEASES

SEC. 206. Section 5 of the Outer Continental Shelf Lands Act is amended by adding the following new subsections:

"Insuring Maximum Production From Oil and Gas Leases

"(d) (1) After enactment of this section no oil and gas lease may be issued pursuant to this Act unless the lease requires that development be carried out in accordance with a development plan which has been approved by the Secretary, and provides that failure to comply with such development plan will terminate the lease.

"(2) The development plan will set forth, in the degree of detail established in regulations issued by the Secretary, specific work to be performed, environmental protection and health and safety standards to be met, and a time schedule for performance. The development plan may apply to all leases included within a production unit.

"(3) With respect to permits and leases outstanding on the date of enactment of this section, a proposed development plan must be submitted to the Secretary within six months after the date of enactment of this section. Failure to submit a development plan or to comply with an approved development plan shall terminate the permit or lease.

"(4) The Secretary may approve revisions of development plans if he determines that revision will lead to greater recovery of the oil and gas, improve the efficiency of the recovery operation, or is the only means available to avoid substantial economic hardship on the lessee or permittee.

"(e) After the date of enactment of this section, holders of oil and gas leases issued pursuant to this Act shall not be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to obtain production or to conduct testing or workover operations without flaring.".

GEOLOGICAL AND GEOPHYSICAL EXPLORATION

SEC. 207. Section 11 of the Outer Continental Shelf Lands Act is hereby amended to read as follows:

"SEC. 11. No person shall conduct any type of geological or geophysical explorations in the Outer Continental Shelf without a permit issued by the Secretary. Each such permit shall contain terms and conditions designed to (1) prevent interference with actual operations under any lease maintained or granted pursuant to this Act; (2) prevent or minimize environmental damage; and (3) require the permittee to furnish the Secretary with copies of all data (including geological, geophysical, and geochemical data, well logs, and drill core analyses) obtained during such exploration. The Secretary shall maintain the confidentiality of all data so obtained until after the areas involved have been leased under this Act or until such time as he determines that making the data available to the public would not damage the competitive position of the permittee, whichever comes later.".

ENFORCEMENT

SEC. 208. Subsection 5(a)(2) of the Outer Continental Shelf Lands Act is hereby amended by deleting the first sentence.

LAWS APPLICABLE TO OUTER CONTINENTAL SHELF

SEC. 209. Paragraph (2) of subsection (a) of section 4 of the Outer Continental Shelf Lands Act is amended by deleting the following words: "as of the effective date of this Act".

TITLE III—MISCELLANEOUS PROVISIONS

PIPLELINE SAFETY AND OPERATION

SEC. 301. (a) The Secretary of Transportation, in cooperation with the Secretary of the Interior, is authorized and directed to report to the Congress within sixty days after enactment of this Act on appropriations and staffing needed to monitor pipelines on Federal lands and the Outer Continental Shelf so as to assure that they meet all applicable standards for construction, operation, and maintenance.

(b) The Secretary of Transportation, in cooperation with the Secretary of the Interior, is authorized and directed to review all laws and regulations relating to the construction, operation, and maintenance of pipelines on Federal lands and the Outer Continental Shelf and report to Congress within one year after enactment of this Act on administrative changes needed and recommendations for new legislation.

(c) One year after the date of the enactment of this Act, the Interstate Commerce Commission and the Secretary of Transportation shall submit to the President and the Congress a report on the adequacy of existing transport facilities and regulations to facilitate distribution of oil and gas resources of the Outer Continental Shelf. The report shall include recommendations for changes in existing legislation or regulations to facilitate such distribution.

REVIEW OF SHUT-IN OR FLARING WELLS

SEC. 302. (a) Within six months after enactment of this Act the Secretary shall submit a report to Comptroller General and the Congress listing all shut-in oil and gas wells and wells flaring natural gas on leases issued under the Outer Continental Shelf Lands Act. The report shall indicate why each well is shut-in or flaring natural gas, and whether the Secretary intends to require production or order cessation of flaring.

(b) Within six months after receipt of the Secretary's report, the Comptroller General shall review and evaluate the reasons for allowing the wells to be shut-in or to flare natural gas and submit his findings and recommendations to the Congress.

OIL SPILL LIABILITY STUDY

SEC. 303. (a) The Attorney General, in consultation with the Administrative Conference of the United States and the Office of Technology Assessment, is authorized and directed to study methods and procedures for implementing a uniform law providing liability for damage from oil spills from Outer Continental Shelf operations, tankers, deepwater ports, and other sources. The study shall give particular attention to methods of adjudicating and settling claims as rapidly, economically, and equitably as possible.

(b) The Attorney General shall report the results of his study to the Congress within six months after the date of enactment of this Act.

SEVERABILITY

SEC. 304. If any provision of this Act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Mr. JACKSON. Mr. President, during the next decade, development of conventional oil and gas from the U.S. Outer Continental Shelf can be expected: First, to provide the largest single source of increased domestic energy; second, to supply this energy at a lower average cost to the U.S. economy than any alternative and, third, to supply it with substantially less harm to the environment than almost any other source.

Despite the intense and justified concern of many people over the potential damage to the environment from oil and gas development on the Outer Continental Shelf, there is an increasing feeling that Outer Continental Shelf development may well be more acceptable environmentally than other potential domestic energy resources such as massive strip mining for coal and oil shale.

Because the Outer Continental Shelf represents such a large and promising area for oil and gas exploration, Congress must update the Outer Continental Shelf Lands Act of 1953, which has never been amended to provide adequate authority and guidelines for the kind of development activity that probably will take place in the next few years. The law should be revised before any expansion of Outer Continental Shelf leasing.

The major policy issues concerning the Outer Continental Shelf are the rate and location of leasing, environmental safeguards, impacts on coastal States, the lease allocation system and the extent to which industry information about the nature and extent of the resources should be divulged to the Government and to the public.

There are other obstacles to Outer Continental Shelf oil and gas development today. These include technological economic, environmental, legal and administrative problems.

The Energy Supply Act would provide modern policy guidelines and remove these obstacles in order to facilitate rapid and responsible—as opposed to quick and dirty—development of the oil and gas resources of the Outer Continental Shelf.

There are two basic thrusts to the bill. First, it reasserts Congress special constitutional responsibility to make all needful rules and regulations respecting the territory or other property belonging to the United States. The 1953 Outer Continental Shelf Lands Act is essentially a carte blanche delegation of authority to the Secretary of the Interior. The increased importance of OCS resources, the increased consideration of environmental impacts and emphasis on comprehensive planning, require Congress to put some flesh on the bones in the form of standards and criteria for the Secretary to follow in the exercise of his authority.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. JACKSON. Second, the bill gives the Secretary new authority needed to manage the programs anticipated in the last third of the 20th century.

MAJOR PROVISIONS OF S. 3221

POLICY

The act declares that the Outer Continental Shelf is a vital national resource reserve held by the Federal Government for all the people, which should be made available for orderly development, subject to environmental safeguards, when necessary to meet national needs.

LEASING PROGRAM

The Secretary is directed to prepare a comprehensive leasing program designed to carry out the objective of making available for leasing as soon as practicable all Outer Continental Shelf lands both geologically favorable for oil and gas development and capable of supporting development without undue environmental damage. This program would indicate the size, timing, and location of leasing activity which the Secretary believes would meet national energy needs over the next 10 years. The leasing program must be consistent with the following principles:

First, management of the Outer Continental Shelf in a manner which considers all its resource values and the potential impact of oil and gas development on other resource values and the marine environment;

Second, timing and location of leasing so as to distribute exploration, development and production of oil and gas among various areas of the Outer Continental Shelf; and

Third, receipt of fair market value for public resources.

There are provisions for public participation in the development of the program and coordination with the States which may be impacted by leasing and with management programs established pursuant to the Coastal Zone Management Act of 1972.

The leasing program would have to be reviewed and reapproved annually. Once the program has been approved, and no later than January 1, 1978, no leases would be issued unless they are for areas included in the program.

FEDERAL OIL AND GAS SURVEY PROGRAM

The Secretary would be directed to conduct a survey of oil and gas resources of the Outer Continental Shelf. This program would be designed to provide information about the probable location, extent, and characteristics of these resources. It would provide a basis for development and revision of the leasing program and more informed decisions about fair market value of resources.

The Secretary would prepare and publish maps and reports on the Outer Continental Shelf. This information should help potential oil and gas developers to participate in and the general public to understand, Outer Continental Shelf programs.

RESEARCH AND DEVELOPMENT

To improve technology used in Outer Continental Shelf development, the Secretary would be directed to carry out a research and development program where such research was not being done adequately by others.

OIL SPILL LIABILITY

The bill puts into law the existing rule, established by department regulation, that an Outer Continental Shelf lessee is liable for the total cost of control and removal of spilled oil. It also creates a new strict liability rule for damages from Outer Continental Shelf oil spills. The provisions are patterned after the Trans-Alaska Pipeline Authorization Act of 1973.

The damage liability is imposed without regard to fault and without regard to ownership of the land or resource damaged if the land or resource is relied on for subsistence or economic purposes. Thus, there can be recovery for damage to fisheries despite the fact that the fisherman has no property right in the uncaught fish. Resort owners could also recover for loss of business caused by an oil spill on the beach even though they do not own the beach. On the other hand, sport fishermen or vacationers could not recover for any inconvenience caused by a spill.

The provision puts a limit of $100 million for damages from any one incident. The lessee is liable for the first $7 million and the offshore oil pollution settlement fund, created by the act, is liable for balance.

The money in this fund will come from a fee of 2½ cents on each barrel of oil produced from the Outer Continental Shelf.

ASSISTANCE TO THE COASTAL STATES

The coastal States are impacted by Outer Continental Shelf development in a variety of ways. The secondary impacts onshore are far greater than the direct impact from oil spills and the activity on the Outer Continental Shelf lease site itself. These impacts stem from the development of onshore support facilities for Outer Continental Shelf development and the location of petroleum refining and transportation facilities near production sites.

Coastal State opposition to Outer Continental Shelf leasing can lead to significant delays in oil and gas development. A major reason for such opposition in "frontier" leasing areas such as the Atlantic and Alaska coasts as well as in California is concern about the ability of State and local governments to cope with the onshore economic and social problems caused by Outer Continental Shelf development.

These legitimate concerns of these States must be balanced against the national need to develop the Federal energy resources of the Outer Continental Shelf. The Federal Government should assist the States in ameliorating adverse environmental impacts and controlling secondary economic and social impacts associated with Outer Continental Shelf oil and gas development. For this reason, S. 3221 provides that 10 percent of the Federal Outer Continental Shelf revenues but not to exceed $200 million per year will be available for grants to impacted coastal States for this purpose. The bill does not provide for automatic sharing of Outer Continental Shelf revenues, a concept which the committee expressly rejected.

The bill provides that these grants will be made by the Secretary of the Interior. The Secretary must coordinate the grants with management programs established under the coastal zone management programs established under the Coastal Zone Management Act of 1972. In many instances, the grants would be used to supplement management programs established under the Coastal Zone Management Act.

INFORMATION SUBMISSIONS BY INDUSTRY

The bill requires any person holding a geological or geophysical exploration permit to submit to the Government the data and information obtained during exploration. All oil and gas lessees would have to submit data about the oil and gas resources in the area covered by the lease. The Secretary would keep all proprietary data confidential until he determines that public availability of the data would not damage the competitive position of the permittee or lessee.

Private parties using public resources for private profit should be required to make information they obtain about the resources available to the representatives of the public. At the same time, the bill recognizes the value of this information to the individual explorer or producer. The provisions of S. 3221 are designed to balance the public's interest in maintaining an active and competitive oil and gas industry.

SAFETY AND PERFORMANCE STANDARDS

S. 3221 directs the Secretary to establish safety and performance standards for all pieces of equipment pertinent to public health, safety or environmental protection. These standards must require use of the best available technology where failure or malfunction of the equipment would have a substantial impact on public health, saftey or the environment.

ENFORCEMENT OF SAFETY REGULATIONS

To assure that increased Outer Continental Shelf development proceeds in as safe a manner as possible, the Secretary would be directed to conduct regular inspections and strictly enforce safety regulations. The inspections must take place at every stage of operations which means that Congress must provide funding and manpower needed. Penalties for violation of the regulations would be increased and lessees would be required to give the Secretary any information he needs to assure a safe operation.

DEVELOPMENT AND PRODUCTION REQUIREMENTS

The Secretary would be directed to include a development plan in each lease which would spell out the work to be performed and a time schedule for performance. These plans could, of course, be revised in light of changed circumstances.

REVISED BIDDING SYSTEMS

There has been considerable public discussion and debate about the need for revised bidding systems for Outer Continental Shelf leases. The existing law authorizes two methods. The first is awarding the leases to the highest bidder of a cash bonus with a royalty rate fixed in advance of the sale. This is the method used in all Outer Continental Shelf lease sales to date.

The second method would award the lease to the person bidding the highest royalty rate with a cash bonus fixed in advance.

S. 3221 would eliminate the royalty bidding alternative. The committee believes that royalty bidding frequently will result in very high bids because an operator risks little with such a bid. At high royalty rates only the lowest cost oil and gas will be developed and produced.

Cash bonus bidding is a good system of, first, placing acreage in the hands of responsible, capable and diligent operators; second, encouraging early exploration and development of Outer Continental Shelf leases; third, maximizing ultimate recovery; fourth, assuring fair market value for the Government. However, the high initial investment required by cash bonus bidding tends to limit participation in Outer Continental Shelf development.

The committee believes that alternatives lease allocation systems should be considered. S. 3221 calls for a study of alternative systems with a report and recommendations to Congress within 1 year.

In the interim, S. 3221 would also authorize two approaches to net profit sharing. One would allow leases to be issued to the highest cash bonus bidder, with the United States taking a share of the net profits of not less than 30 percent. The other would permit bidding based on the net profit share with a fixed cash bonus. The committee recognizes that these alternatives may not be the "perfect solution." However, they should facilitate entry into the Outer Continental Shelf development business of more independent producers and are certainly worth trying on an experimental basis.

Mr. President, S. 3221 is based on a long study of Outer Continental Shelf policy issues by the Interior Committee. This began in the 91st Congress when the distinguished Senator from Montana (Mr. METCALF) chaired the Special Subcommittee on the Outer Continental Shelf.

During the 92d Congress, the committee conducted several hearings on Outer Continental Shelf matters as part of the National Fuels and Energy Policy Study. These have been printed as Outer Continental Shelf Policy Issues—92–27, parts I–III; Federal Leasing and Disposal Issues—92–32; and Trends in Oil and Gas Exploration—92–33, parts I and II.

Hearings were held on S. 3221 and six other Outer Continental Shelf bills, by the Interior Committee on May 6 ,7, 8, and 10. The other bills are: S. 2672, introduced by Senator CHILES; S. 2858, introduced by Senator TUNNEY; S. 2922, introduced by Senator HATHAWAY; S. 2389, introduced by Senator STEVENS; S. 3185, introduced by Senator BENTSEN; and S. 3346, introduced by Senator ROTH. In addition the committee participated in the hearings conducted by the National Ocean Policy Study on the economic, environmental, and social impacts of development of the oil and gas resources of the Outer Continental Shelf. These took place on April 23, 24, 25, and May 2 and 22.

Mr. President, I hope that the Senate will approve S. 3221. I feel that it is legislation that is of extreme importance in light of the potential catastrophic situation facing the Western World.

We are in a situation where the OPEC

oil cartel is now in the process of charging prices that will transfer the wealth and the resources of the Western industrialized nations almost in toto over the next many years.

Last year, they took in $17 billion. This year it will be $70 to $80 billion. It has been estimated that in 4 to 5 years they will accumulate a total of $600 billion which could have, of course, a catastrophic impact on the financial balance sheet and the economic balance sheet of the Western industrialized countries, including the United States, Europe, and Japan.

Mr. President, I ask unanimous consent that the following staff members be given floor privileges during the consideration of and voting on S. 3221:

William J. Van Ness, D. Michael Harvey, Greg Erickson and Jerry T. Verkler of the Interior Committee staff, and John Hussey, James P. Walsh, and Robert Lane of the Commerce Committee staff.

The **PRESIDING OFFICER** (Mr. HATHAWAY). Without objection, it is so ordered.

Mr. **FANNIN**. Mr. President, I ask unanimous consent that during the discussion and voting on S. 3221 floor privileges be given to the following staff members: Harrison Loesch, Roma Skeen, Mary Adelle Shute, Dave Stang, Margaret Lane, Nolan McKean, Steve Hickock, Jackie Shaeffer, Mike Hathaway, and Ron Frank.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **FANNIN**. Mr. President, five minority members of the Senate Interior Committee voted against reporting this bill, for six significant substantive reasons which I will address in a moment. There is, however, another very important reason why we voted against reporting this bill, and that is that a highly unorthodox and unfair procedure was adopted by the chairman for consideration of the bill within the committee. That procedure made a mockery of the parliamentary system. The chairman waited until a quorum was present, at which time the bill was ordered reported before it was even amended. The committee then considered amendments to the bill after it had been reported subject to amendments. Whenever there were more minority members than majority members present and a minority member's amendment was being considered, the chairman usually stated that the question was too important to be voted upon at that time, and instead members of the committee not present at the markup were polled on the amendment. There usually was not a quorum present during such occasions.

And second, if there were more majority members than minority members present and a minority member's amendment was then up for consideration, the chairman then called for a vote on the amendment by the members present, usually without a quorum.

These procedures hardly epitomize democracy. These procedures hardly represent a bipartisan approach to a subject so important as the development of the resources of the Outer Continental Shelf. The energy resources of the continental shelf are not used by Republicans for Republicans, or by Democrats for Democrats—they are used by all the people. Thus a matter as important as the vast energy resources of the Outer Continental Shelf to the attainment of self-sufficiency in energy for this Nation should not be treated in such a highly partisan manner. Such partisan treatment has been a disappointment to all of the minority members of the committee, if not to some of the majority members.

Turning now to the substantive reasons for our opposition to this bill, we strongly oppose S. 3221 and voted against reporting it for the following reasons:

First. The bill, while purporting to increase oil and gas production on the Outer Continental Shelf, would in fact decrease production.

Second. The bill is totally undesirable and unnecessary according to the testimony of a majority of the witnesses and continued reiteration of these and other repudiations of the bill by correspondence received from the administration which was ignored by the committee.

I will address myself to the first two points at some length in a moment or two.

Third. The geological data disclosure authority granted by the bill is confiscatory, anticompetitive, would discourage Outer Continental Shelf exploratory efforts and in combination with the mapping program required by the bill could encourage "fly by night" speculators to seek Outer Continental Shelf leasing rights.

My distinguished colleague from New York will speak at length on this issue.

Fourth. The first essential steps toward the formulation of a Federal Oil and Gas Corporation would be taken under the broad authority and punitive provisions created by the bill. My distinguished colleague, the Senator from Idaho will address this issue.

Fifth. Many problems posed by various provisions of the bill, while troublesome individually, taken in the aggregate would cause serious delays and inequities in expanding Outer Continental Shelf leasing, exploration, and production programs thereby frustrating, rather than expediting, the achievement of domestic energy self-sufficiency. My distinguished colleague from Wyoming will have some remarks about this dimension of the problem.

Sixth. The coastal State fund created by the bill would implement an unconscionable bribery of coastal States not to resist Outer Continental Shelf leasing programs on Federal lands adjacent to their coasts at the expense of all U.S. taxpayers and particularly to the detriment of the citizens of inland States.

My good friend from Oklahoma will have several remarks on this undesirable feature of the bill, and has already introduced an amendment to delete this section in its entirety.

Turning now to the first argument:

First. The bill, while purporting to increase oil and gas production on the Outer Continental Shelf, would in fact decrease production.

The findings section of the bill recognizes the need for increased domestic production of oil and gas and the purposes section states that the bill is intended to "increase domestic production of oil and natural gas in order to assure material security, reduce dependence on unreliable foreign sources, and assist in maintaining a favorable balance of payments." The substantive contents of the bill, however, would have the effect of achieving just the opposite. The manifold disincentives created by the bill, hereinafter discussed at length would impair rather than increase domestic production on the Outer Continental Shelf thereby frustrating material prosperity and national security, increasing dependence on unreliable foreign sources, and contributing to an increasingly unfavorable balance of payments.

I urge my colleagues carefully to examine the gross inconsistencies between the stated purposes of the bill and its actual substantive contents.

The second argument is as follows:

Second. The bill is totally undesirable and unnecessary according to the testimony of a majority of the witnesses and continued reiteration of these and other repudiations of the bill by correspondence received from the administration which was ignored by the committee.

The following is a representative sample of the testimony presented to the committee and the correspondence received supplementing the testimony, all of which underscores the lack of necessity of the bill, its manifold undesirable features, and the plethora of serious problems it would create, if enacted, as related to the efficient management of the Outer Continental Shelf leasing program.

John C. Whitaker, Undersecretary, Department of the Interior, in testimony before the Subcommittee on Minerals, Materials and Fuels, Monday, May 6, 1974, stated:

> The existing Outer Continental Shelf Lands Act permits a substantial degree of latitude for adjustment to changing circumstances, conditions, and technology.
>
> We believe that our program for the development of the OCS can be fully carried out under the present law and that a significant change in that law could create serious delays in achieving the degree of energy self-sufficiency for the Nation which is so necessary.

Duke R. Ligon, Assistant, Administrator, Federal Energy Office on Monday, May 6, 1974, emphasized:

> In summary, we have significant problems with the proposed legislation. While the stated objectives of the proposed legislation are laudable, the overall effect of the bills before your Committee would be to seriously delay the leasing and development of this major source of domestic energy.
>
> Furthermore, many of the proposed amendments to the OCS Lands Act duplicate already existing programs and authorities, and we feel there is no need for additional amendments at this time. For these reasons, we are opposed to the bills pending before this Committee.
>
> Finally, we believe that the OCS Lands Act provides sufficient flexibility to allow the Secretary of Interior to make needed adjustments affecting OCS development.

Several representatives of the private sector also expressed opposition to the bill. D. G. Gouvillon, Western Operations, Inc., Standard Oil of California, representing Western Oil and Gas Association, on Tuesday, May 7, 1974, remarked:

> We believe that the present Outer Continental Shelf Lands Act is satisfactory and adequate, therefore we propose the proposed bill is not necessary.
>
> In other words, the objectives of Senate 3221 can be obtained through and under the present Act.

Eugene H. Luntey, executive-president, Brooklyn Union Gas Co., representing the American Gas Association in a statement on Friday, May 10, 1974, contended:

> We have serious reservations as to whether amendments to the OCS Act are either necessary or desirable at this time.
>
> On balance, it is our opinion that no legislative change is necessary to expedite OCS exploration—but Congress should express a sense of urgency for the Administration to proceed under the present act.

The following testimony by witnesses regards proposals to amend the Outer Continental Shelf Act with respect to specific objectives or proposals:

Melvin Hill, vice-president for exploration, Gulf Oil Corp., on Friday, May 10, 1974, stated:

> We see as a laudable objective the Department of the Interior's stated purpose to expand development of the OCS. However, we believe that legislation already enacted will accomplish this purpose in an expeditious, orderly, and safe manner, with resultant advantage to the American people.

Duke R. Ligon, on Monday, May 6, 1974, testified:

> In terms of amendments to the Outer Continental Shelf Lands Act, however, we strongly believe that amendments now would not only create instability and disincentives to increased production, but are also unnecessary.

Eugene H. Luntey, on Friday, May 10, 1974 said:

> We would note it does not appear that additional legislation is necessary to expedite this kind of rapid development because if we observe the results of the Outer Continental Shelf Lands Act of 1953 we find in administering that act the various administrations in the United States have uniformly attempted to maintain a continuous and rational program of development of the Outer Continental Shelf.

Former Governor Russell Petersen, Chairman, Council on Environmental Quality in testimony on Friday, May 10, 1974 indicated:

> The Council agrees with many of the objectives of the bills, recognizing as they do the need for environmental protection of our marine, coastal, and onshore resources.
>
> It does not appear necessary or desirable, however, to enact these bills in order to ensure that the environmental risks of Outer Continental Shelf oil and gas operations be made acceptable.

John R. Quarles, Deputy Administrator of the Environmental Protection Agency, May 6, 1974 remarked:

> EPA was given the primary Federal responsibility for coming to grips with the complex problems of protecting our natural environment. Our Agency experience, motivation, and competence in handling this duty are not further encumbered by other responsibilities. With respect to the OCS, we see no reason for a departure from the present system.

John C. Whitaker, on Monday, May 6, 1974, stated:

> In conclusion, Mr. Chairman, we are expanding, our OCS leasing and we are convinced that this expanded program will be conducted under terms and conditions that protect our environment and our land based communities from unacceptable adverse impacts.
>
> We believe that the flexibility provided by the current legislation is extremely desirable and that legislative changes are unnecessary at this time.

Robert B. Kruger, attorney-at-law, on Tuesday, May 7, 1974 testified:

> In 1968, I was the project director for the Study of the Outer Continental Shelf Lands of the United States, prepared by my law firm for the Public Land Law Review Commission.
>
> We made a comprehensive study of the operation of the leasing system created under the Outer Continental Shelf Lands Act.
>
> Our basic conclusion at that time was that the leasing system, itself, was a viable and competitive one which contained no major structural defects.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. FANNIN. I am pleased to yield.

Mr. BUCKLEY. Mr. President, I asked the Senator to yield because I have to be elsewhere very soon. I did want to express some concerns about one section of the bill that is before us. I refer to the area in the measure requiring, in effect, that proprietary information be delivered to the Secretary of the Interior and then, in effect, finds its way into the public domain.

Certain raw information is appropriate and is reasonably to be required of people given the privilege of doing exploration. What concerns me about asking for interpretive information is that it goes across the grain of the realities of the oil industry. It loses sight of the special nature of the industry and of the incentives that result in the risk of large sums of money to seek geological clues that can then be capitalized upon.

If it is the purpose of this legislation—which incidentally I do not believe is required, given the adequacy of existing legislation—to encourage the exploration of our Outer Continental Shelves in a manner that is environmentally responsible, I believe we are going at it the wrong way. As is generally known, oil exploration is both expensive and a very high-risk pursuit. Especially, getting information from under the seas is expensive. One of the competitive ingredients is the geological imagination of an exploratory team of an experienced group.

Exploratory companies invest huge resources in developing a strategy and in the hope that they will have a particular insight as to how to unlock the geological puzzle leading to the delineation and discovery of new resources. To require this information to be made public before a company has the opportunity to secure exploration contracts is to create a disincentive to risk that money in the first instance.

In other words, it is my fear that the enactment of this legislation would result in a slowing down of an exploratory effort and certainly would squeeze out smaller groups who are willing to put together resources and take large gambles, which they cannot afford as well as large companies, in the belief that they will then have that particular insight that will enable them to bid in on a lease sale with a greater hope for success.

So I hope, Mr. President, that before Congress acts on the proposed legislation merely because it is labeled an energy bill and because we must produce so many bills between now and the end of the session or we are not doing our job, we would compare the actual impact of the proposed legislation in stimulating and expanding exploration versus the experience we have with existing law, when we find that there is no lack of people willing to invest their money, willing to risk those funds, in order to have a crack at bidding in on lease sales.

I have been quite faithful in attending all the hearings, and I tried to get to every energy hearing I could, but I missed some. I ask the distinguished Senator from Arizona whether he recalls at any time a body of testimony at those hearings that suggests that the kind of information requested here was recommended by anybody knowledgeable about the industry.

Mr. FANNIN. No.

First of all, I commend the distinguished Senator from New York for bringing to the attention of the Senate the hazards involved in some of the stipulations in the proposed legislation. The particular one to which he is referring is very dangerous.

Just the opposite occurred so far as the recommendations that were made to the committee are concerned. It was emphasized time and time again, by knowledgeable people who testified as to the detrimental effects that this requirement would have on exploratory activities. It would not only delay Outer Continental Shelf production, but also, it is doubtful that we would have as much offshore activity as we do now if these provisions were to become law. As the Senator from New York has stated, the amount of money involved in Outer Continental Shelf investments runs into the millions. Consequently, the risk capital would not be available for this purpose under the provisions of this bill because there would not be a chance of recovery of that investment.

Certainly, if the information that was obtained was to be divulged—as it could be, and there always would be a legitimate fear of that. Thus, I would think that the date provisions would be very derogatory to achieving the objectives we have in getting exploration accomplished.

Among the arguments we experienced in voting against the bill, one substantial argument was that disclosure granted by the bill would be confiscatory, anticompetitive, and, as the distinguished Senator has said, would discourage Outer Continental Shelf exploratory efforts, and, in combination with the mapping program required in the bill, could encourage fly-by-night speculators to seek Outer Continental Shelf leasing rights. The operators who have made tremendous offshore investments in the past would be reluctant to do so unless they had some security and knowledge that they would be protected.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. FANNIN. I yield.

Mr. JOHNSTON. Mr. President, I certainly share the sentiment of the Senator from New York that proprietary data and the work product of skilled people in the oil business should not be revealed to the Government, and certainly not to competitors. But is the Senator aware that the map required—the provisions requiring the keeping of a map by the Secretary—must be based on nonproprietary data? That is specific in the bill.

Is the Senator also aware that the requirement of the bill giving the Secretary the power by regulation to secure information that relates to any existing data, excluding interpretation of such data, so that no interpretive data can be obtained by the Secretary—no interpretive data at all.

Second, the Secretary shall maintain the confidentiality of all proprietary data so long as that confidentiality is necessary to protect the competitive position of the lessee. Is the Senator aware of that?

Mr. BUCKLEY. The Senator from New York is aware of that. But I think that in the past 2 years we have understood how great a safeguard a legal requirement of confidentiality is—namely, zero.

I recall being in this Chamber about 2 or 3 years ago, when we were called into executive session to discuss a matter of great sensitivity. At the outset of that session, a provision from the Senate rules was read which stated that if any Member violated that confidence, described in any way that which went on, that Member was subject to expulsion from the U.S. Senate. That is a rather grave responsibility. Yet, one knowledgeable Member of this body stated that within 3 hours, we would find a rather accurate summary in the Washington Post. Sure enough, he was right.

I suggest that if people are going to be willing to spend millions of dollars—and this is what we are talking about—in order to secure information that will create leads that will enable them to bid intelligently for leases that cost hundreds of millions of dollars, the potential for a leak would be sufficient to cause them to think twice before taking those risks.

We know that this kind of information has value. That means that anyone who has access to that information, irrespective of what we write into the law as to confidentiality, could be placed under very severe temptation to sell that information for enough money to retire for life.

These are the practical aspects of this legislation which we have to keep in mind in order to make sure that it will not prove counterproductive.

Mr. JOHNSTON. I think the Senator is aware that in the oil business, it is not the raw data that involve the real proprietary interest. It is not the electric log; it is not the chute. It is the interpretation of that data, the putting together of the various logs, the putting together of the various seismic information, and the use of that information to come up with the opinion as to whether or not there is oil or gas in a certain area; and if so, how much.

So, with an awareness of the interest which the Senator points out, we have very carefully excluded from the bill any interpretative data whatsoever and required, further, that the information that must be furnished will be kept confidential. The Federal Government—the Oil and Gas Division in Interior—has kept confidential information for years and decades without violation of its trust.

My response is not based mainly on the ability or the guarantee that people will keep the information confidential but, rather, the fact that we have built into the bill the fact that none of the interpretive data—which, after all, is the most important—will be required to be submitted in the first place.

What we have to keep in mind is that the U.S. Government has a very great interest in knowing how much oil and gas, how much in reserves, are under its leases. This is public property which is being leased. The information is not required until the lease is taken, not before; not during the competitive part, but after the lease is taken. Then the Government is entitled to know the facts—not the interpretation, but the simple facts—so that, as a government, we can determine how much oil and gas is in the ground under that lease.

In turn, that will assist the Government in knowing how much other property to lease, how quickly to lease it, what bids to turn down, how, in effect, to protect the public property and to keep the officials of the Government who are in charge of energy aware of how much energy we have. I thank the Senator for yielding.

Mr. BUCKLEY. With all due respect to my very knowledgeable friend from Louisiana, I shall say several things by way of comment.

No. 1. Yes, indeed, the interpretations would not be subject to jeopardy but, nevertheless, that raw data which he speaks of is often secured at only very large expense and once that is available for interpretation by anyone, that is a deprivation of a significant part of the value of that data, and to that extent, creates the contrary motivation that would frustrate what I understand to be the purpose of this legislation.

Also, even if this information is made available after a particular date, I believe an understanding of how the industry works would indicate that a particular program of exploration may fail to find some resources that are there because, perhaps, they did not go deep enough, or something of that sort. In other words, this information has a value continuing far on.

Third, this data does not tell you how much you have; it tells you what the potential is if the explorer should be so lucky as to find something on drilling an exploratory well. Therefore, I do not believe that it will really add certainty to the body of knowledge, or permit a more refined and sophisticated evaluation of our energy resources.

I believe that the way one gets that information is by making sure that there are not procedural roadblocks in the way of the normal incentives to risk money and to go and do the necessary exploration. Once there is a discovery, then it is possible, through petroleum engineering techniques, to determine what the extent of that discovery might be. Once we have a discovery, that problem solves itself.

I want to say quite frankly that there are a number of other aspects about this legislation that give me great concern. As I said earlier, I do not see where this legislation will yield positive benefits sufficient to overcome some of the great doubts that have been expressed by numerous witnesses before the committee and by members of the committee itself. I do not see that the present situation is so inadequate as to justify measures that might interrupt the pace and impetus of exploration.

I thank my friend for yielding.

Mr. FANNIN. I express my appreciation to the distinguished Senator from New York. I know he has judiciously studied this legislation. He has gone to a great deal of time and effort to determine whether or not this legislation would be beneficial.

I know he has a great desire to assist his own State and Nation with their additional fuel needs. I commend him for the great efforts he has put forth. He has continually worked for that objective, and I know that in opposing this legislation, he has that same desire.

I am very pleased that he has added to this debate by very forcefully bringing out the arguments against certain provisions of this legislation which relate to data disclosure.

Mr. President, despite the administration's continuous and patient efforts to offer written comments on a timely basis during the hearing and markup stages of the committee's consideration of the bill, nearly all such communications were largely ignored.

I have six examples, Mr. President, of correspondence relative to this particular legislation. Today I received a letter from the Secretary of the Interior again emphasizing the administration's opposition to the bill. I should like to refer to this letter. I think it is very important for the Members of the Senate to consider the request that is being made by Secretary Morton on behalf of the administration in this particular letter in regard to this OCS legislation, S. 3221.

The Secretary addressed it to me. I understand it was also addressed to the minority and majority leaders. The Secretary states:

U.S. Department of the Interior,
Washington, D.C., September 12, 1974.
Hon. Paul Fannin,
U.S. Senate,
Washington, D.C.

Dear Senator Fannin: We understand that S. 3221 relating to the energy resources of the Outer Continental Shelf is scheduled for floor action shortly. As we have previously stated on several occasions, the Administration is firmly opposed to passage of this bill at this time and we urge your strongest efforts to see that it is not favorably considered.

Enactment of S. 3221 would seriously disrupt current efforts to achieve full utilization of vitally needed OCS energy resources. Many of its provisions are unclear or redundant of existing law. Taken as a whole, the measure will inevitably result in reassessment and interruption of our present program, which includes a proposed leasing of 10 million acres of OCS lands in calendar year 1975 and will involve extensive environmental, safety and information-developing efforts.

Equally as significant as the harm which the bill will do to our present energy program are the inordinate expense and inappropriate financial provisions of the bill. For example, the OCS mapping and survey program would require extremely large expenditures of money without producing commensurate benefits. Similarly, establishment of a Coastal States Fund is wholly unwarranted either from the standpoint of best use of the Federal budget or fair allocation of resources among States.

The objectionable features of S. 3221 have been set forth in detail in two previous letters to the Senate Interior and Insular Affairs Committee dated May 4 and July 26, 1974. While the Committee reported bill was modified to deal with some of the objections, these are relatively minor and most of our previously expressed objections continue to apply to the reported bill.

In summary, reasons we have given for opposing enactment of S. 3221 continue to be valid and the Administration therefore recommends that S. 3221 not be enacted. Your efforts on support of this position will serve the public's interest in a sound energy program which properly balances economic, environmental and other pertinent considerations.

Sincerely yours,

Rogers C. B. Morton,
Secretary of the Interior.

Mr. President, a letter was written to Chairman Jackson from the Under Secretary of the Interior, John C. Whitaker, dated May 4 of this year. I think it is also significant. It is addressed to Mr. Jackson and I will read its most pertinent provisions:

Dear Mr. Chairman: This responds to your request for the views of this Department concerning several bills which deal with the energy resources of the Outer Continental Shelf, S. 3221, S. 2762, S. 2858, S. 2922, S. 2389 and S. 3185.

We recommend that none of these bills be enacted, since appropriate action with respect to OCS energy resources can be taken under existing law. . . .

Discussion.—We agree generally with many of the essential objectives of these bills, but recommend against their enactment at this time. The existing Outer Continental Shelf Lands Act permits substantial latitude for adjustment to changing circumstances and our program for development of the OCS can be fully carried out under the present law. Significant changes in that law could seriously delay achievement of the degree of national energy independence which we believe is vital.

Discussed more specifically below are some of the more important respects in which we believe provisions of these bills are either unnecessary or undesirable.

He then covers the scope of the leasing program, stating:

Provisions limiting or otherwise modifying the scope of the OCS leasing program are undesirable. For example, the goal stated in S. 3221 of leasing all available prospectively productive OCS lands by 1985 is unrealistic and implies a rapid rate of development which may involve undesirable environmental or other effects and which is far in excess of that presently planned. Our best estimate of the next appropriate change in the scope of the OCS program is to lease some 10 million acres in calendar year 1975. We believe that the rate of leasing implicit in S. 3221 would dispose of vast OCS acreages without increasing petroleum exploration and production beyond that achievable under the current program. The current leasing program is sufficiently large that availability of drilling rigs will be the main limiting constraint rather than availability of unexplored leases. * * *

Furthermore, the CEQ study has concluded that leasing can be carried out in the areas included in that study if appropriate safety and environmental requirements are adhered to in each area. We intend to require of the industry whatever design criteria and practices are necessary to meet the CEQ concerns.

In contrast, the present law provides sufficient flexibility for an appropriate balancing of energy and environmental factors. Our concern is to improve the leasing system within the present framework and in this connection the Department recently has adopted a two-tier system for designating tracts to be leased. Under it industry nominates promising areas and the public at large is invited to comment on environmental and other considerations bearing on tract selection. Based on this and its own independent review, the Department then specifies areas to be leased. A related consideration is the specific study or other requirements found in several of the bills which are prerequisites to leasing. * * *

Then he continues:

We concur in the need for adequate study of areas to be leased. Present law adequately provides for this through the National Environmental Policy Act and the Outer Continental Shelf Lands Act, and our policy is to expand our capability rapidly for determining all the facts necessary to a balanced leasing program. We also agree that consultation with coastal States is appropriate but requiring consent of their governors is unwise in view of the broader national aspects of the OCS program.

He refers to lease offering and conditions, competition, and other economic considerations, about which he has this to say in his letter:

The OCS Lands Act provides that leasing of OCS lands shall be by competitive sealed bidding on the basis of a cash bonus bid with a fixed royalty on a bid royalty with a fixed bonus, but in no instance can the royalty be less than 12.5 percent. The leases are for a five year term. These provisions are sufficiently flexible for institution of the most desirable alternative leasing systems to promote competition while serving the public's interest in receiving a fair return for its resources and using those resources in the most responsible manner.

Different methods of bidding for OCS leases are under constant consideration. Bonus bidding has historically been used for Federal OCS leasing, but the Department is committed to a test royalty bid offering not later than the September 1974 OCS lease sale. Although this experiment is a royalty bid experiment, we believe that the information developed will tell us enough about both bonus and royalty bidding to indicate whether further consideration of other possible bidding methods is justified. We are also examining the feasibility of a number of other systems such as profit sharing installment or contingency bonus payments.

We are opposed to mandating any single system which would result in a loss of the flexibility which the present Act provides.

He then refers to safety and environmental programs, as follows:

The need for constantly improving our environmental protection and safety programs is clear and we concur in the broad objective of several of the bills to achieve this end.

The Interior Department is, however, implementing the present OCS Lands Act in accordance with the National Environmental Policy Act to insure that these considerations are adequately taken into account. Provisions such as those contained in * * * S. 3221 are unnecessary as the actions are authorized under existing laws. Also such provisions might be detrimental if transitional problems of complying with their provisions delay current studies or other actions we are currently undertaking to improve environmental protection and other requirements * * *

The Department is undertaking preparation of a full environmental impact statement on the new 10 million acre leasing program pursuant to the National Environmental Policy Act. The Council on Environmental Quality has recently completed a study of OCS leasing, which includes a number of recommendations which we believe will improve our administration of the OCS program. These and other actions will, we submit, appropriately serve the objective of insuring safety and environmental protection.

Under the heading "Research and Development" he says:

"A strong research and development program is essential both with respect to energy and environmental aspects of OCS mineral development. It is, however, being accompanied under existing law and several provisions in the bills under consideration might, if enacted, actually adversely affect the R&D effort. Mandating a wide range of studies by different agencies, as does S. 3221, may preclude desirable coordination and executive flexibility.

With regard to public information and participation in OCS decisions, the Secretary had this to say:

Assuring that the public has access to information needed to make intelligent decisions with respect to OCS energy resources and an adequate opportunity to participate in OCS program decisions is essential. Equally important is the desirability of developing a more extensive resource information base.

The Interior Department presently has the necessary authority to pursue these objectives. Consultations with industry representatives, environmentalists and others are presently underway concerning the advisability of an exploratory program. The present OCS Lands Act permits the Department to require that permittee furnish us with data obtained during exploration and we expect to reach conclusions about what should be done in this regard shortly.

It would not be appropriate to amend the OCS Lands Act at this time to require the development of specific informational programs. To illustrate, the survey and mapping program required by section 202 of S. 3221 would impact quite heavily and perhaps undesirably on our OCS program. If enacted, this provision would require that a survey of OCS oil and gas resources be conducted and that the Secretary maintain a current series of detailed topographic, geological, and geophysical maps of and reports about the OCS. Maps for all areas under lease or proposed for leasing prior to July 1, 1977, would have to be prepared and published prior to July 1, 1976; maps of areas proposed for leasing after July 1, 1977, would have to be prepared and published not later than six months prior to the last day for submitting bids for the areas offered for lease; the maps of all prospective areas must be prepared and published not later than ten years after the date of enactment.

Under these provisions a plan for conducting the prescribed survey and mapping programs would have to be submitted to Congress within six months after enactment. A progress report to Congress, including a summary of initial data compiled, would be due within 20 months after enactment, and progress reports would be required on an annual basis thereafter. Conducting such an extensive mapping and survey effort would be extremely difficult, especially within the time frame set forth, and would not likely produce results justifying the effort. Again, our present program undertaken pursuant to existing authority and modified as needs change, should be satisfactory.

Moreover, since the bill's provisions would exempt all actions other than the drilling of exploratory wells from classification as a major Federal action for the purposes of Section 102(2)(C) of NEPA, it would seem that exploratory wells must therefore be considered major Federal actions. Requiring an EIS could significantly delay the drilling of exploratory wells that are important to the conduct and completion of the survey and mapping programs prescribed under S. 3221 and could result in unnecessary delays in the preparation and publication of the prescribed maps and in the development of information important to an effective and expeditious leasing program for OCS lands.

Then the Secretary covered the distribution of the OCS revenues, and he had this to say:

S. 3221, * * * would divert revenues from the U.S. Treasury to adjacent coastal and other states and we oppose such provisions. Receipts under the Outer Continental Shelf Lands Act from OCS oil and gas leases belong to the Federal Government and currently make a substantial contribution to Federal income. If such revenues were diverted to coastal and other States, as the bills provide, the Federal Government would need to increase its income from other sources. Also the bills adopt inflexible allocations of funds to such States without regard to need or resources.

To summarize, the bills before the Committee deal with the major issues relating to use of the energy resources of the Outer Continental Shelf. To meet our present energy needs, however, we believe that the present OCS Lands Act provides a satisfactory framework and that further legislation such as that before the Committee is undesirable or unnecessary.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JOHN C. WHITAKER,
Under Secretary of the Interior.

A letter was mailed to the subcommittee chairman, the distinguished Senator from Montana (Mr. METCALF), from the Legislative Counsel of the Interior Department, Ken M. Brown, on July 1 of this year, and it reads:

Hon. LEE METCALF,
Chairman, Subcommittee on Minerals, Materials, and Fuels, U.S. Senate, Washington, D.C.

DEAR SENATOR METCALF: In response to your letter regarding Under Secretary Whitaker's May 6 testimony on S. 3221 and other legislation dealing with S. 3221, please find enclosed our comments on specific provisions of S. 3221 which could create serious delays in achieving the degrees of energy self-sufficiency for the nation which is so necessary.

Generally, while many features of the bill are apparently directed at improving OCS leasing procedures, there is little to encourage early exploration and optimum production from OCS leases. Much of the authority proposed concentrates heavily on geological and geophysical investigation and reporting. The bill requires minerals fact finding studies with obligations to report to Congress, without reference to authority to implement findings and recommendations.

Responses are also provided to the five specific questions you asked.

We will be glad to provide any further information you desire.

Sincerely yours,

KEN M. BROWN,
Legislative Counsel.

Mr. President, I yield to the distinguished assistant majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator for yielding.

SENATE RESOLUTION 401—PRESIDENTIAL PARDONS IN CONNECTION WITH THE PRESIDENTIAL CAMPAIGN AND ELECTION OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the resolution the distinguished Senator from Arizona be again recognized and given his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the resolution is Senate Resolution 401 which is to be called up under the unanimous consent agreement within 3 minutes from now, and I ask unanimous consent that the resolution now be——

Mr. CURTIS. Reserving the right to object, may I ask, Mr. President, what this resolution does?

Mr. ROBERT C. BYRD. That was the purpose of my request.

Mr. CURTIS. But I want it identified. What resolution is the Senator talking about?

Mr. ROBERT C. BYRD. I was going to ask that the clerk read it so that everyone would understand clearly what it does.

Mr. CURTIS. May I inquire what the subject matter is?

Mr. ROBERT C. BYRD. Yes. The subject matter is to express the sense of the Senate that there be no Presidential pardons granted to any persons who are accused of crimes that evolved out of the Watergate and related offenses, prior to the indictment and the exhaustion of the trial and the appeals processes.

Mr. CURTIS. When was this introduced?

Mr. ROBERT C. BYRD. It was introduced yesterday.

Mr. CURTIS. Just yesterday?

Mr. ROBERT C. BYRD. Yes.

Mr. CURTIS. Is it printed?

Mr. ROBERT C. BYRD. It is.

Mr. CURTIS. How long a debate is it proposed that we have?

Mr. ROBERT C. BYRD. An agreement has already been entered into allowing 20 minutes for debate.

Mr. CURTIS. Has the matter been referred to the Committee on the Judiciary?

Mr. ROBERT C. BYRD. It has not. It was referred to the calendar by unanimous consent yesterday.

Mr. CURTIS. Was there a notice to all Members that such unanimous-consent request would be sought?

Mr. ROBERT C. BYRD. There was not, and there is no such customary notice.

Mr. CURTIS. But, after all, we are dealing with something of a very serious nature that was not even printed.

Mr. ROBERT C. BYRD. Well, the rules were followed, may I say to the distinguished Senator, and there was no objection to placing the resolution on the calendar.

Mr. CURTIS. I have no objection to having it read.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Calendar No. 1095, Senate Resolution 401, expressing the sense of the Senate that Presidential pardons not be granted to individuals accused of committing criminal offenses in connection with the Presidential campaign and election of 1972.

Mr. ROBERT C. BYRD. I ask for the reading of the resolution in its entirety.

The assistant legislative clerk read as follows:

Expressing the sense of the Senate that Presidential pardons not be granted to individuals accused of committing criminal offenses in connection with the Presidential campaign and election of 1972.

Whereas the truth with respect to criminal offenses committed by individuals during the Presidential campaign and election of 1972 will best be made known to the American people through the trial of individuals accused of committing such offenses;

Whereas criminal proceedings with respect to individuals accused of committing offenses during the Presidential campaign and election of 1972 are underway in the courts of the United States;

Whereas material witnesses may be expected to testify with respect to such offenses during the course of the various criminal proceedings;

Whereas a Presidential pardon to any or all those individuals who stand accused of such criminal offenses would thwart the judicial process;

Whereas a Presidential pardon for individuals accused of such criminal offenses would effectively conceal the whole truth—

Whereas a Presidential pardon to any or all those individuals who stand accused of such criminal offenses would thwart the judicial process;

Whereas a Presidential pardon for individuals accused of such criminal offenses would effectively conceal the whole truth of what happened during the Presidential campaign and election of 1972 from the American people, and would serve to thwart the judicial process: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President not grant a pardon to any individual accused of any criminal offense arising out of the Presidential campaign and election of 1972 prior to the indictment and trial of such individual.

SEC. 2. The Secretary of the Senate shall transmit copies of this resolution to the President.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to modify the printed language in accordance with the resolution which I sent to the desk yesterday, by striking out the words in the second paragraph, page 2, on the seventh line, "and would serve to thwart the judicial process."

That is merely repetitious of the words in the first paragraph on page 2. I would modify my resolution accordingly, and substitute for the comma after the word "people", on the seventh line, a colon.

The PRESIDING OFFICER (Mr. BURDICK). Without objection, it is so ordered.

Mr. GRIFFIN. Will the Senator from West Virginia yield?

I wonder if the Senator will consider two other minor modifications?

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Is there time on this side, Mr. President?

The PRESIDING OFFICER. Yes.

Mr. GRIFFIN. I yield myself 3 minutes.

I think these are essentially technical amendments and will be in keeping with what is the purpose of the resolution.

In the first whereas paragraph:

> Whereas the truth with respect to criminal offenses committed by individuals . . .

Would the Senator from West Virginia agree that perhaps the words "allegedly committed" or "committed" could read "criminal offenses committed" or "allegedly committed"?

Mr. ROBERT C. BYRD. Yes, I would accept that amendment as a worthwhile modification, and I ask unanimous consent to so modify the text.

Mr. GRIFFIN. Mr. President, if there is——

Mr. CURTIS. Will the Senator yield to me?

Mr. GRIFFIN. Yes.

The PRESIDING OFFICER. Is there objection to the modification? The Chair hears none.

The modification was agreed to.

Mr. GRIFFIN. Mr. President, in the resolved clause, line 2, after the word "pardon," if that is the appropriate place to put the word, put the word "hereafter," to make it clear, at least as I understand it, that this resolution is prospective and not intended to be retroactive in any way.

Mr. ROBERT C. BYRD. Mr. President, that is the intent of the resolution. I think addition of the word "prospective" would strengthen the resolution and make it preeminently clear on that point and I accept the proposed amendment.

Mr. GRIFFIN. I yield to the Senator.

The PRESIDING OFFICER. Without objection, the change will be made.

The modification was agreed to.

Mr. GRIFFIN. I yield 2 minutes to the Senator from Nebraska.

Mr. CURTIS. I thank the distinguished Senator.

Mr. President, I would like to ask the authors of the resolution a question. I think it has been covered already, but for the RECORD, the introduction and presentation of this resolution, Senate Resolution 401, has no retroactive intent, is that correct?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. CURTIS. It is entirely prospective?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. CURTIS. And has no reference whatever to any pardon heretofore granted?

Mr. ROBERT C. BYRD. It has none whatsoever.

Mr. CURTIS. I thank the Senator.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. I yield such time out of the time allotted to me as the distinguished senior Senator from California, a cosponsor, may require.

Mr. CRANSTON. I thank the Senator very much.

I am very pleased by the opportunity to work with him in this matter, upon which we have had a very common objective starting yesterday in the Senate with the introduction of our separate resolutions, Nos. 400 and 401, in which we each have joined the other as a cosponsor.

I would like also to suggest an amendment that would, I believe, be acceptable to the Senator from West Virginia in the resolved clause on page 2, line 4.

Strike out the words "indictment and trial" and insert in lieu thereof "indictment and the completion of the trial and any appeal".

This will make plain that our intent is that a trial be completed and that a person have a right of appeal and that the full judicial process be fully completed before any pardons would be in order.

Mr. ROBERT C. BYRD. Mr. President, I think that is a fair and meritorious proposal.

The whole intent is to address itself to the completion of the judicial process, and as the resolution was originally worded it does leave out any reference to the possibility of appeal and I would accept the able Senator's amendment.

Mr. CRANSTON. I thank the Senator.

The PRESIDING OFFICER. Will the Senator from California send the language to the desk?

Mr. CRANSTON. Yes, and I want to state that I am offering this amendment on behalf of Senator BROOKE and myself to carry out the same scope as the resolved clause in our Resolution 400.

The PRESIDING OFFICER. Is there objection to this change in the resolution? The Chair hears none, and it is as ordered.

The modification was agreed to.

Mr. CRANSTON. Will the Senator yield further to me?

Mr. ROBERT C. BYRD. Yes.

Mr. CRANSTON. Mr. President, there are a few matters as to the scope and intent of the resolution as amended which I would like to discuss briefly with the distinguished Senator from West Virginia that do not relate to any amendments, just points of clarification.

First, I ask generally if his intent and underlying assumptions in preparing this were as expressed in some of the whereas clauses in Senate Resolution 400; for example, I would like to read a few of those which I think are particularly relevant to our common purposes:

> Whereas the United States of America is a nation of laws and all persons in the United States are subject equally to its laws and institutions;
>
> Whereas a public fully informed about events, situations, or ideas of public concern or public interest or which affect the public welfare is essential to the principles as well as the effective operation of a democracy;
>
> Whereas public confidence in and respect for our system of order and justice under law is vital to the maintenance of our free institutions;
>
> Whereas that public confidence and respect depends upon the equal application of our laws to all persons;
>
> Whereas a part of Watergate is its alleged coverup which has deprived and continues to deprive the American people of the full information they require and to which they are entitled in our democracy;

I simply ask if the general assumption in these principles is in accord with the Senator's purpose in this resolution?

Mr. ROBERT C. BYRD. They are, and I subscribe to the principles enunicated in the various whereas clauses.

Mr. CRANSTON. I thank the Senator very much.

Mr. President, I would also like to ask the Senator if he would agree with the proposition that nothing in the resolution should be construed as the sense of the Senate on the question of the eventual advisability of the granting or denying of any particular pardon after the judicial process has run its course?

Mr. ROBERT C. BYRD. Would the Senator repeat that?

Mr. CRANSTON. Yes. I ask the Senator if he would agree that nothing in the resolution should be construed as the sense of the Senate as to the eventual advisability of the granting or denying any particular pardon for any particular person?

Mr. ROBERT C. BYRD. The Senator is correct. As far as I am concerned, I would not intend that the resolution be construed in such a fashion.

Mr. CRANSTON. I have one other point. In the resolved clause, is it the intention of the Senator from West Virginia to cover all those matters covered by the resolved clause of Senate Resolution 400; namely, those matters referred to or within the jurisdiction of the Special Prosecutor under orders of the Attorney General? I assume he intends to cover all those matters by the phrase he uses, "arising out of the Presidential campaign and election of 1972."

Mr. ROBERT C. BYRD. I would interpret the phraseology contained in the resolved clause in Senate Resolution 400, to wit, that it is "the sense of the Senate that the President not grant a pardon to any individual accused of any criminal offense arising out of the Presidential campaign and election of 1972" to embrace such matters. That was the genesis of the appointment of the Special Prosecutor. It was the genesis of the guidelines formulated by the Senate Judiciary Committee, working with representatives of the then national administration.

Mr. CRANSTON. I thank the Senator very much. It is obvious, then, that the resolved clauses of the two different resolutions really have the same scope.

I want to thank the Senator for his great cooperation and for the way he has expedited consideration of this important issue by the Senate. I think it is very important to have us come to a decision on this matter right now. I am very grateful to the Senator and have enjoyed very much collaborating with him and Senator BROOKE on this vital matter.

Mr. President, the Senator from Massachusetts (Mr. BROOKE) is necessarily absent today at a minisummit in Atlanta. As the principal sponsor of Senate Resolution 400, he has asked me to place in the RECORD the remarks he would have made had he been present, and I ask unanimous consent that his statement appear at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR EDWARD W. BROOKE

Mr. President, I am pleased to support Senate Resolution 401. This resolution will accomplish the same objectives that Senator Cranston and I sought to accomplish when we introduced Senate Resolution 400 yesterday.

This resolution would make it the sense of the Senate that the President not grant a pardon to any individual accused of any criminal offense arising out of the Presidential campaign and election of 1972, prior to the indictment and the completion of the trial and any appeal of such individual.

Mr. President, it is absolutely essential that the American people learn the full truth about Watergate. If pardons are given to individuals involved in Watergate or related events prior to the completion of the judicial process, in addition to the blanket pardon which has already been given to former President Richard Nixon, I fear that we may never discover all the facts of Watergate, or any other matter within the jurisdiction of the special prosecution.

We must continue to pursue the truth. The American people must have, indeed are entitled to have, all the facts. Only a complete disclosure can prevent future Watergates and place accountability for this Watergate where it belongs. We must protest and resist any possible action that would inhibit the fact-finding process. To accept anything less would be, in effect, a perpetuation of the cover-up.

As I stated yesterday a Senate resolution has no legal effect. It is simply an expression of the sense of the Senate, an advisory opinion. And all that this resolution attempts to do is suggest to the President what would be the best course of action regarding this extremely complex issue.

And I am hopeful that this sense of the Senate resolution will be helpful to President Ford in his deliberations.

Mr. ROBERT C. BYRD. I thank the Senator for his cooperation, assistance, and leadership in this matter.

Would the Senator have names of other Senators who have asked to be added as cosponsors?

Mr. CRANSTON. Yes.

Mr. ROBERT C. BYRD. Please include the name of Senator MANSFIELD.

Mr. CRANSTON. Senator MANSFIELD is added to the Senator's version. Did the Senator also name the distinguished minority leader (Mr. HUGH SCOTT)?

Mr. ROBERT C. BYRD. I did earlier.

Mr. CRANSTON. I would like to name these people who joined with Senator BROOKE and myself initially yesterday in Senate Resolution 400: Senator HART, Senator SCHWEIKER, Senator JAVITS, Senator MATHIAS, and Senator RIBICOFF. Since then we have added Senator TUNNEY, Senator HATFIELD, Senator PACKWOOD, Senator CLARK, and Senator STAFFORD as cosponsors.

I ask unanimous consent that their names appear as cosponsors of Senate Resolution 400. I know they will be supporting Senate Resolution 401 as well, and we are checking with them as to their joining as cosponsors of the pending measure.

Mr. ROBERT C. BYRD. I ask unanimous consent that the names of Mr. BIDEN and Mr. MONTOYA also be included.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, have I any time remaining?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRIFFIN. How much time remains on this side?

The PRESIDING OFFICER. Seven minutes.

Mr. HUGH SCOTT. Mr. President, may I be recognized for 1 minute?

The PRESIDING OFFICER. Does the Senator yield himself 1 minute?

Mr. HUGH SCOTT. I yield myself 1 minute.

Mr. President, I read from a wire service report which has just come in on the teletype. I think it helps to clarify some matters.

WASHINGTON.—President Ford does not intend to pardon the defendants in the Watergate coverup case before their trial, a White House spokesman said today.

John Hushen, Deputy White House News Secretary, also told reporters that Ford has denied as "absolutely not true" any reports that he indicated to former President Nixon before his resignation that he would be pardoned.

"There was no communication regarding a pardon for Mr. Nixon," Hushen said.

Hushen was asked whether Ford agreed with Senate Republican Leader Hugh Scott that the Watergate defendants should not be pardoned prior to a trial.

"I believe he does," Hushen replied. "The President feels that way."

"There was never any intention on our part that the Watergate defendants were about to be pardoned and especially not prior to the trial," Hushen said.

He told reporters that no requests for pardon had been received at the White House from those charged with Watergate-related crimes.

"If we got one I believe he (Ford) wouldn't act on it," Hushen said.

Scott, after a morning meeting with Ford, said there appears to be a "unanimous feeling" in Congress that there should be no interference with impending Watergate cases.

Mr. President, I yield myself 1 additional minute.

Mr. President, I support the resolution. So far as I could learn the feeling, if not unanimous, is very nearly unanimous in Congress that we should not interfere with the judicial process. The American people's best chance of learning what has not come out about Watergate can come out, may well come out, in these forthcoming trials. Therefore, it seems to me there should be no interference with those trials whatsoever, in the interest of full disclosure, which I have advocated from the time of the Watergate burglary.

Mr. President, I now yield 2 minutes to the Senator from Iowa (Mr. HUGHES).

Mr. HUGHES. Mr. President, it is my intention to vote against this resolution. I rise just to state the reason for my vote. I do not question the wisdom of the Senate, either in introducing or in passing the resolution, nor basically the contents in it.

I personally believe that President Ford exercised a right that was his in relationship to former President Nixon, and if there was any mistake involved in it, it was a mistake of the heart.

It is my personal belief that those men already serving prison sentences for crimes involved in related events should, at the very minimum, have those sentences suspended and should, through the regular judicial process, be considered for any further clemency the President might deem proper.

It is also my agreement that those men or women still awaiting trial for indictment should not be interfered with and the judicial process should continue in a routine manner until at least a decision has been handed down one way or the other respecting those individuals.

In spite of my agreement with the general tendencies in this, I am not willing nor ready to vote for a resolution that in any way implies to the Chief Executive of this land that he does not have, in his own wisdom and conscience, the final decisionmaking process rightfully guaranteed to him by the Constitution, and actually, going back in history coming from divine inspiration, of granting mercy to those he may deem proper to receive that mercy. So I shall vote against the resolution for those reasons.

Mr. CRANSTON. Will the Senator yield?

Mr. HUGHES. I thank the distinguished Senator for yielding time.

Mr. CRANSTON. I would like to make very plain that the resolution does not have any effect on those who have been tried, convicted, and are now in prison, or have served time and are out, if they do not have any appeals pending. This relates to those for whom due process has not yet run.

Mr. HUGH SCOTT. Mr. President, I do not contemplate in this resolution that the President's powers are in any way diminished. They are absolute and beyond appeal.

I think all we are saying is a sense of the Senate view, that the President should not exercise his powers pending the disposition of these cases. As to those where persons have been convicted, and the testimony is still needed in these cases, it may well be that there should be deferment as to those persons also until we have had the full benefit of their testimony.

There is another point of view which is that by extension of a pardon, the fifth amendment rights of the person are waived, and, therefore, there could be no grant of immunity. With some of these people the grant of immunity has already occurred, total or partial and, therefore, perhaps they fall for the time being in the same category. But I make no judgment.

Mr. ROBERT C. BYRD. Mr. President, I need not reiterate what has been already so ably stated. I think the statement by the distinguished Senator from California and the statement by the distinguished Republican leader very clearly express the intent and purpose of this resolution.

The PRESIDING OFFICER. There is 1 minute remaining.

Mr. HATHAWAY. Mr. President, will the Senator yield?

Mr. HUGH SCOTT. I first ask unanimous consent that the Senator from Connecticut (Mr. Ribicoff) be added as a co-sponsor of Senate Resolution 401.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. I thank the Senator for yielding. I shall jointly, with the Senator from Iowa, vote against the resolution. It is probably not for the same reason, but for the reason that I do not think this matter has been given sufficient time to be debated. There are questions as to whether or not this exhortation to the President with regard to his pardoning power should be extended to all respondents in Federal criminal cases, and there is a question as to whether or not we should have this provision in here that the person has to be both indicted and stand trial before such a pardon can be given.

It seems to me that the purpose of our exhortation is simply to request the President to make the facts open to the public before granting the pardon.

Mr. President, I am voting against this resolution because I do not feel it is an appropriate way to deal with the President's constitutional pardoning power. If the purpose of this resolution is to expose the full involvement of former President Nixon in the so-called Watergate coverup, this is not the appropriate way to bring about that exposure. It may prove injurious to the other defendants involved in the Watergate matter, most of whom will presumably have to stand trial. If the object is to expose the former President, it should be done by calling on the Watergate prosecutor to publish the evidence he has uncovered, as was done in the Agnew case.

If the object of this resolution is to narrow the scope of the President's constitutional pardoning power, I do not feel it should be done in this way. The resolution calls for the judicial process to be fully completed, including all rights of appeal, before there can be any further pardons in this case. And although this resolution does not have any constitutional impact, it would establish a precedent. Do we want to establish a precedent that it is the sense of the Senate that no pardon can be offered to an individual or a group of individuals unless each of them has been tried, convicted, and had his or her conviction upheld? And do we want to approach this constitutional issue on the basis of 20 minutes of Senate floor debate? What would the harm have been, both to the Nation and to the individuals involved, if President Lincoln had been unable to issue a blanket pardon after the Civil War to all those who had taken up arms against the Union?

I do not want to be a party to the establishment of a precedent of disapproval for that sort of exercise of Presidential power.

Oliver Wendall Holmes, dissenting in Northern Securities Co. against United States, made the following observation:

> Great cases like hard cases make bad law. For great cases are called great, not by reason of their real importance in shaping the law of the future, but because of some accident of immediate overwhelming interest which appeals to the feelings and distorts the judgment.

Mr. President, the Watergate matter is a case of overwhelming significance. It is not, however, a case on which to base a hasty revision of the President's constitutional pardoning power.

Mr. SCHWEIKER. Mr. President, I am pleased to support Senate Resolution 401, which I am cosponsoring expressing the grave concern of the Senate with respect to any further pardons of Watergate defendants.

Yesterday, I was also privileged to cosponsor a similar resolution, Senate Resolution 400, expressing the sense of the Senate that no Watergate pardons should be granted until the full judicial process, including rights of appeal, had been completed.

Last Sunday, when I first learned of the President's decision to grant a full pardon to former President Nixon for all Federal offenses connected with Watergate, I said publicly that this was a bad mistake, and that I disagreed with that decision. I said at that time, and I strongly hold this view, that all aspects of Watergate should be a matter of judicial record for our courts to decide, and that I regretted that our judicial system did not have a chance to operate.

I feel strongly that any further Watergate pardons would be a distortion of our judicial process, and are in no ways justified. Many defendants have been tried, convicted, and have paid their punishment. Other trials have been planned, and it would be contrary to the need for full accountability in the Watergate mess to interrupt this judicial process.

I strongly urge that there be no Presidential interference with the judicial process in the Watergate matter, and am pleased to lend my strong support to adoption of this important resolution today.

REASON FOR VOTING ON SENATE RESOLUTION 401

Mr. HOLLINGS. Mr. President, I believe that the task now is to establish confidence in the process. The Supreme Court and the House Funding Committee have brought us a long way. But if we in the Congress presume a power vested under the Constitution in the Executive, then we only confuse. We destabilize. We set a bad precedent for resolving approval or disapproval of each pardon, and disagree with President Ford's pardon of President Nixon. It was untimely. But it was constitutional. We criticize the President for acting too quickly and that is exactly what we are doing.

Mr. BUCKLEY. Mr. President, the day before yesterday I advocated a policy toward pardons in the Watergate cases that was virtually identical to that stated in Senate Resolution 401. I stand by that position, but I will not vote for Senate Resolution 401 because of its puritan nature, and because I question the advisability of further inflaming the Watergate controversy through formal Senate action.

Mr. RANDOLPH. Mr. President, it is with reluctance that I vote on the pending resolution. I will support it because I believe that voting in the negative could be misunderstood as an endorsement for President Ford's possible pardoning of those persons involved in Watergate. I have expressed my feelings of grave concern over the pardon of former President Nixon. That statement in the Record of September 9 was based in part on the belief that President Ford's action was too hastily taken. My position on the pardon also reflects the necessity of protecting the integrity of our judicial process. Mr. President, I ask unanimous consent that the statement to which I have referred be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

PRESIDENTIAL PARDON RAISES CRITICAL QUESTIONS

Mr. Randolph. Mr. President, President Ford's pardon of former President Nixon raises several critical questions.

What disposition will there be, predicated on the action of the Chief Executive, as to those persons who participated in the Watergate tragedy? Some of these have already been judged to be guilty. They have served or are serving sentences in varying degrees of imprisonment and fines. There are other individuals who are awaiting proceedings in the courts.

I share the concern of those Americans who have a desire that justice be done in all cases and ask how this can be accomplished. I also share the concern of those Americans who expect a further explanation by the President of his intention not only as to the pardon but his recommendations for other persons involved in this case.

It seems to me that our system of justice demands that the former President be treated in a manner consistent with fairness and tempered with judicial responsibility. I question President Ford's decision because it does not permit the judicial system to run its course.

Former President Nixon has not been indicted by a Federal grand jury for the acts he is alleged to have committed as President nor has he been found guilty.

In all that is being done there must be understanding so that the cleansing process reflects both compassion and justice. Citizens generally recognize that there must be a balance between the two.

I am concerned that the President's action will be especially divisive at a time when national unity is essential to solving our severe economic problems.

Mr. RANDOLPH. Mr. President, I do recognize that the Constitution vests in the Chief Executive sole authority and responsibility for the granting of pardons. Support of the pending Sense of the Senate resolution should not be misunderstood as an indication that the Senate or the Congress has the authority to affect the exercise of the President's prerogative under the Constitution.

The PRESIDING OFFICER. All time has expired.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the resolution. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce

that the Senator from Texas (Mr. BENTSEN), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), and the Senator from Utah (Mr. MOSS), are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Georgia (Mr. TALMADGE), are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Delaware (Mr. BIDEN), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. COOK), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), the Senator from Kansas (Mr. PEARSON), and the Senator from Alaska (Mr. STEVENS), are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY), are absent on official business.

I further announce that the Senator from Oklahoma (Mr. BELLMON), is absent due to illness.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. BROOKE), the Senator from Kentucky (Mr. COOK), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), the Senator from Alaska (Mr. STEVENS), and the Senator from Kansas (Mr. DOLE), would each vote "yea."

The result was announced—yeas 55, nays 24, as follows:

[No. 395 Leg.]

YEAS—55

Abourezk
Baker
Bartlett
Bayh
Beall
Bible
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Clark
Cranston
Domenici
Eagleton
Ervin
Gravel
Griffin
Hart
Haskell
Hatfield
Huddleston
Jackson
Kennedy
Magnuson
Mansfield
McClellan
McClure
McGee
McGovern
Metcalf
Metzenbaum
Mondale
Montoya
Muskie
Nelson
Packwood
Pastore
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Stafford
Stevenson
Symington
Taft
Tunney
Weicker
Williams
Young

NAYS—24

Aiken
Allen
Bennett
Buckley
Case
Cotton
Curtis
Eastland
Fannin
Gurney
Hansen
Hathaway
Helms
Hollings
Hruska
Hughes
Johnston
Long
McIntyre
Nunn
Sparkman
Stennis
Thurmond
Tower

NOT VOTING—21

Bellmon
Bentsen
Biden
Brock
Brooke
Cook
Dole
Dominick
Fong
Fulbright
Goldwater
Hartke
Humphrey
Inouye
Javits
Mathias
Moss
Pearson
Percy
Stevens
Talmadge

So the resolution (S. Res. 401), as modified, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution, as modified, was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the names of the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from New York (Mr. JAVITS) be added as cosponsors of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that the resolution, as amended, be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that the resolution with its preamble, as modified, be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. RES. 401

Resolution expressing the sense of the Senate that Presidential pardons not be granted to individuals accused of committing criminal offenses in connection with the Presidential campaign and election of 1972

Whereas the truth with respect to criminal offenses committed or allegedly committed by individuals during the Presidential campaign and election of 1972 will best be made known to the American people through the trial of individuals accused of committing such offenses;

Whereas criminal proceedings with respect to individuals accused of committing offenses during the Presidential campaign and election of 1972 are underway in the courts of the United States;

Whereas material witnesses may be expected to testify with respect to such offenses during the course of the various criminal proceedings;

Whereas a Presidential pardon to any or all those individuals who stand accused of such criminal offenses would thwart the judicial process;

Whereas a Presidential pardon for individuals accused of such criminal offenses would effectively conceal the whole truth of what happened during the Presidential campaign and election of 1972 from the American people: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President not grant a pardon hereafter to any individual accused of any criminal offense arising out of the Presidential campaign and election of 1972 prior to the indictment and the completion of the trial and any appeal of such individual.

SEC. 2. The Secretary of the Senate shall transmit copies of this resolution to the President.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

FEDERAL NONNUCLEAR ENERGY RESEARCH AND DEVELOPMENT ACT OF 1974

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1283.

The PRESIDING OFFICER (Mr. McCLURE) laid before the Senate the amendments of the House of Representatives to S. 1283 to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; and for other purposes as follows:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Federal Nonnuclear Energy Research and Development Act of 1974".

FINDINGS

SEC. 1. The Congress hereby finds that—

(a) The Nation is suffering from a shortage of environmentally acceptable forms of energy.

(b) The problems which create and maintain this energy shortage are substantially technological in nature, and require for their solution a comprehensive program of energy research and development.

(c) A major reason for this energy shortage has been our failure to organize and formulate a vigorous, comprehensive research and development strategy designed to assure the wise planning and effective conduct of a cohesive, fully dimensioned national research and development program.

(d) The Nation's energy needs can be met if a national commitment is made now to dedicate the necessary financial resources, to enlist our scientific and technological capabilities, and to accord the proper priority to developing new nonnuclear energy options to serve national needs, conserve vital resources, and protect the environment.

(e) The Energy Reorganization Act of 1974 provides for a coalescence of national energy research and development functions in the executive branch, and for thorough, centrally directed exploration and development of all potentially beneficial energy sources and energy utilization techniques, including research and development for the conservation of energy.

(f) The urgency of the Nation's energy challenge will require commitments similar to those undertaken in the Manhattan and Apollo projects; it will require that the Nation undertake, at a minimum, a ten-year $20,000,000,000 research development and demonstration program including a greatly expanded effort in nonuclear energy technologies.

(g) In undertaking such program, full advantage must be taken of the existing technical and managerial expertise in the various energy fields within Federal agencies and in the private sector.

GENERAL POLICY

SEC. 2. (a) It is the policy of the Congress to establish and vigorously conduct a centralized, comprehensive, national program of basic and applied research and development, including demonstrations of practical applications, of all potentially beneficial energy sources and utilization of technologies, within the Energy Research and Development Administration as provided for in the Energy Reorganization Act of 1974. In carrying out this program, the Administrator shall be governed by the terms of this Act and other provisions of law with respect to all nonnuclear aspects of the research, development, and demonstration program, and the policies and provisions of the Atomic Energy Act of 1954, as amended, and other provisions of law shall continue to apply to nuclear research, development, and demonstration projects. The implementation and conduct of research, development, and demonstration programs in specific nonnuclear technologies shall be carried out through or in conjunction with existing or future programs (including those established by the Solar Heating and Cooling Act of 1974, and the Geothermal Energy Research, Development, and Demonstration Act of 1974 and similar legislation to be enacted).

(b) The Administrator (as defined in section 11) shall—

(1) aggressively pursue research and development programs in a wide range of nonnuclear energy technologies in order to insure adequate, reliable, economical, and environmentally acceptable energy sources and systems to support the essential needs of modern society;

(2) develop the technology and information base necessary to support development of the widest possible range of options available for future energy policy decisions;

(3) investigate the capability for and, in general, the option of energy self-sufficiency for the United States through the development of socially and environmentally acceptable methods for the utilization of domestic nonnuclear energy sources;

(4) pursue the development of new energy sources in such a way as to encourage the fullest possible private participation and to shift the burden of spending to the private sector as early in the development process as is possible;

(5) as he deems advisable, consult with representatives of science, industry, agriculture, labor, conservation organizations, State, and local governments, as well as with all appropriate Federal Government agencies;

(6) pursue research and development of nonnuclear energy sources in such a way as to facilitate the commercial availability of adequate supplies of energy to all regions of the United States;

(7) include, to the greatest extent practicable and consistent with other responsibilities of the Administrator pursuant to this Act, in Federal research and development programs authorized by this Act, small businesses and individual inventors;

(8) examine and if feasible implement methods by which Federal research and development expenditures authorized by this Act, are utilized to broaden the base of ownership of energy industry capital;

(9) to the degree determined by the Administrator to be feasible and advisable, to provide for a program for the international exchange of energy and energy related technologies and information.

GOVERNING PRINCIPLES

SEC. 3. The Congress authorizes and directs that, to the fullest extent possible, the Federal program in research and development authorized by this Act shall be designed and executed according to the following principles:

(a) Energy conservation shall be a primary consideration in the design and implementation of the Federal nonnuclear energy program. For the purposes of this Act, energy conservation means both improvement in efficiency of energy production and use and reduction in energy waste.

(b) The environmental and social consequences of a proposed technological undertaking shall be analyzed and considered in evaluating its potential. Consistent with the requirements of this Act, the Administrator shall perform technology assessment where necessary and assign priority to those technologies which, while offering a substantial potential yield of useful energy, minimize the aggregate economic, environmental, and social costs.

(c) Any program for the development of a technology which may require significant consumptive use of water after the technology has reached the stage of commercial application shall include thorough consideration of the impacts of such technology on water resources pursuant to the provisions of section 10. For any energy technology requiring significant water use, the availability of an adequate water supply for a demonstration project shall be a precondition of Federal assistance to that project and the availability of an adequate water supply for commercial application shall be a precondition of Federal assistance in projects of commercial application.

(d) Federal involvement in energy research, development, and commercial application shall be limited, consistent with other responsibilities under this Act, to those areas where there is the least likelihood that the private sector will achieve the desired goal without Federal assistance. Factors to be considered in evaluating this likelihood include, but are not limited to—

(1) the degree of risk in the proposed undertaking;

(2) the magnitude of the capital investment involved;

(3) the potential for recapturing development costs in the open market; and

(4) the availability of risk capital to interested non-Federal entities.

(e) In determining the Federal energy research and development policy, a high priority and heavy emphasis shall be assigned to those energy sources which are renewable.

DUTIES OF THE ADMINISTRATOR

SEC. 4. The Administrator shall—

(a) review the current status of nonnuclear energy resources and current nonnuclear energy research and development activities, and give consideration to research and development being conducted by Federal and non-Federal entities;

(b) formulate comprehensive nonnuclear energy research and development strategies for the Federal Government designed to advance the policies set forth in this Act and other relevant legislation; and submit such strategies to the Speaker of the House of Representatives and the President pro tempore of the Senate, and to the appropriate committees of the House of Representatives and the Senate not later than 18 months after the enactment of this Act.

(c) conduct a study, the final results of which shall be submitted to the Congress within twelve months after the date of enactment of this Act, to determine the amount of scientific, technical, and other manpower necessary to adequately implement an effective national energy research and development program, including recommendations of action necessary for the training and locating of any needed qualified personnel;

(d) in allocating Federal moneys authorized by this Act, give consideration to all nonnuclear energy technologies, including but not limited to conservation measures, including increases in the efficiency of energy production, transmission, improved drilling techniques, and use as well as reduction of energy waste, opportunities for reuse and recycling, basic materials research, coal gasification and liquefaction, including solvent refining, means by which the combustion of coal may be made environmentally acceptable, oil and gas recovery, oil shale, solar power, wind power, wood power, tidal power, ocean thermal gradients; geothermal power, and hydrogen gas systems; and

(e) in conducting Federal research and development programs in the technologies set forth in subsection (d) above, give emphasis to—

(1) the full range of energy conservation technologies including but not limited to—

(A) productive use of waste through the reuse of agricultural wastes, garbage, and sewage through combustion and conversion. Conversion technologies to be investigated shall include pyrolysis, chemical reduction and bioconversion, and use of waste heat from industrial, residential, and commercial sources.

(B) electrical generation and transmission through (i) improvements in the efficiency of generation through advances in gas turbine technologies, combined cycles, magnetohydrodynamics, and commercial fuel cells; (ii) storage systems to allow more efficient load following, including the use of inertial energy storage system; and (iii) improvements in cryogenic methods.

(C) reuse and recycling: through a vigorous attempt to discover new opportunities and technologies for reuse and recycling of consumer products and in industrial processes or materials.

(D) advanced urban and architectural design: through total system approaches to energy use in the residential and commercial sectors, improvements in home design and insulation technologies, small thermal storage units and increased efficiency in electrical appliances and in lighting fixtures.

(E) transportation through advanced urban design and traffic systems, improvements in automobile design for increased efficiency and lowered emissions, including investigation of the full range of alternatives to the internal combustion engine, and systems of efficient public transportation.

(2) solar energy systems, including but not limited to—

(A) residential and commercial heating, cooling, and in particular combined heating and cooling systems;

(B) central power stations;

(C) low cost, stable, photovoltaic cells;

(D) production of synthetic fuels; and

(E) the utilization of wind power.

(3) geothermal energy resources, including but not limited to—

(A) improved methods and techniques for resource assessment of geothermal energy; and

(B) methods for extracting energy from currently unexploited forms of geothermal energy resources.

(4) coal resources including but not limited to—

(A) the acceleration of the commercial demonstration of facilities to produce gas from coal;

(B) the improvement of coal liquefaction and solvent-refining technology;

(C) the development and application of magnetohydrodynamics; and

(D) the accumulation of a wide range of options for making the direct utilization of coal or coal derivatives environmentally acceptable, including stack gas cleanup, fluidized bed combustion and precombustion coal cleaning technologies, and in situ coal gasification.

(5) oil and gas resources including but not limited to—

(A) the improvement of methods for secondary and tertiary recovery;

(B) the improvement of methods for the prevention of marine oilspills, and methods for spill cleanup.

(6) the acceleration of the commercial demonstration of the production of oil from shale by all possible technologies including in situ technologies.

FORMS OF FEDERAL ASSISTANCE

SEC. 5. (a)

(1) In developing proposals pursuant to

this Act, the Administrator may utilize various forms of Federal assistance and participation which may include but are not limited to—

(A) joint Federal-industry experimental, demonstration, or commercial corporations consistent with the provisions of subsection (b) of this section;

(B) contractual arrangements with, or grants to, non-Federal participants;

(C) contracts for the construction and operation of federally owned facilities;

(D) Federal purchases or guaranteed price of the products of demonstration plants or activities consistent with the provisions of subsection (c) of this section;

(E) Federal loans to conduct demonstrations of new technologies; and

(F) incentives, including financial awards, to individual inventors, such incentives to be designed to encourage the participation of a large number of such inventors.

(b) Joint Federal-industry corporations proposed pursuant to this Act shall conform to the following guidelines except as otherwise authorized by Congress:

(1) Each such corporation is authorized to design, construct, operate, and maintain one or more experimental, demonstration or commercial-size facilities, or other operations which will ascertain the technical, environmental, and economic feasibility of a particular energy technology. In carrying out this function, the corporation shall be empowered, either directly or by contract, to utilize commercially available technologies, perform tests, or design, construct, and operate pilot plants as may be necessary for the design of the full-scale facility.

(2) Each corporation shall have—

(A) a Board of nine directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the Board to serve as Chairman. The Board shall be empowered to adopt and amend bylaws. Five members of the Board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and four members of the Board shall be appointed by the President on the basis of recommendations received by him from any non-Federal entity or entities entering into contractual arrangements to participate in the corporation;

(B) a President and such other officers and employees as may be named and appointed by the Board (the rates of compensation of all officers and employees shall be fixed by the Board); and

(C) the usual power conferred upon corporations by the laws of the District of Columbia.

(3) An appropriate time interval shall be established for the term of Federal participation in the corporation at the expiration of which the Board of Directors shall take such action as may be necessary to dissolve the corporation or otherwise terminate Federal participation and financial interests. In carrying out such dissolution, the Board of Directors shall dispose of all physical facilities of the corporation in such manner and such terms and conditions as the Board determines are in the public interest, and a share of the appraised value of the corporate assets proportional to the Federal participation in the corporation, including the proceeds from the disposition of such facilities, on the date of its dissolution, after satisfaction of all its legal obligations, shall be made available to the United States and deposited in the Treasury of the United States as miscellaneous receipts. All patent rights of the corporation shall, on such date of dissolution, be vested in the Administrator: Provided, That Federal participation may be terminated prior to the time established in the authorizing Act upon recommendation of the Board of Directors.

(4) Any commercially valuable product produced by demonstration facilities shall be disposed of in such manner and under such terms and conditions as the corporation shall prescribe. All revenues received by the corporation from the sale of such products shall be available to the corporation for use by it in defraying expenses incurred in connection with carrying out its functions under this title.

(5) The estimated Federal share of the construction, operation, and maintenance cost over the life of each corporation shall be determined to facilitate the congressional authorization of the full amount at the time of establishment of the corporation.

(6) The Federal share of the cost of each such corporation shall reflect (A) the technical and economic risk of the venture, (B) the probability of any financial return to the non-Federal participants arising from the venture, (C) the financial capability of the potential non-Federal participants, and (D) such other factors as the Administrator may set forth in proposing the corporation: *Provided*, That in no instance shall the Federal share exceed 90 per centum of the cost.

(7)(A) Prior to the establishment of any joint Federal-industry corporation pursuant to this Act, the Administrator shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, and to the appropriate committees of the House of Representatives and the Senate a report setting forth in detail the consistency of the establishment of the corporation with the principles and directives set forth in section 3 and this section, and the proposed purpose and planned activities of the corporation.

(B) No such corporation shall be established unless previously authorized by specific legislation enacted by the Congress.

(c) Competitive systems of price supports proposed pursuant to this Act shall conform to the following guidelines:

(1) The Administrator shall determine the types and capacities of the desired full scale, commercial size facility, or other operation which would demonstrate the technical, environmental, and economic feasibility of a particular non-nuclear energy technology.

(2) The Administrator may award planning grants for the purpose of financing a study of the full cycle economic and environmental costs associated with the demonstration facility selected pursuant to subsection (1) of this section. Such planning grants may be awarded to industrial entities, Federal agencies, government laboratories, universities, or nonprofit organizations.

(3) Following the completion of the studies pursuant to the planning grants awarded under subsection (2) of this section, the Administrator shall invite bids from all interested parties to determine the minimum amount of Federal price support needed to construct the demonstration facility. The Administrator may designate one or more competing entities, each to construct one commercial demonstration facility. Such designation shall be made on the basis of those entities' (A) commitment to construct the demonstration facility at the minimum level of Federal price supports, (B) detailed plan of environmental protection, and (C) proposed design and operation of the demonstration facility.

(4) The estimated amount of the Federal price supports of the demonstration facilities' product over the life of such facilities shall be determined by the Administrator to facilitate the congressional authorization of the full amount of such support amounts at the time of the designation of the successful bidders.

(d) UNIVERSITY-INDUSTRY RESEARCH.—Nothing in this section shall preclude Federal participation in, and support for, joint university-industry nonnuclear energy research efforts.

REPORTS TO CONGRESS

SEC. 6. (a) The Administrator shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, and to the appropriate committees of the House of Representatives and the Senate, no later than sixty days from the end of each fiscal year a report detailing his organization's activities carried out pursuant to this Act during said fiscal year. The Administrator shall keep the appropriate committees of the Congress fully and currently informed of his activities pursuant to this Act. Neither the Administrator nor any employee may refuse to testify or submit information to the Congress or any duly authorized committee thereof.

(b) The Administrator shall also submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, and to the appropriate committees of the House of Representatives and the Senate, an annual research and development program report in which short-term and long-range Federal nonnuclear energy research and development plans and individual expenditures of money authorized for Federal nonnuclear research and development are set forth in detail. The report shall be submitted to the Congress no later than ninety legislative days prior to each fiscal year. The report shall include a statement setting forth the following:

(1) the anticipated research, development, and application objectives to be achieved by the proposed program;

(2) the economic, environmental, and societal significance which the proposed program may have;

(3) the total estimated cost of individual program items;

(4) the estimated relative financial contributions of the Federal Government and non-Federal participants in the research and development program;

(5) the relationship of the proposed program to any Federal national energy or fuel policies; and

(6) the relationship of any short term plans and individual program expenditures to long-range programs and goals.

PATENT POLICY

SEC. 7. Not later than six months after the effective date of this Act, the Administrator shall report to the President and the Congress concerning the applicability of existing patent policies affecting his programs and shall make recommendations concerning amendments or additions to statutory patent policy which he deems advisable for carrying out the purposes of this title.

RELATIONSHIP TO ANTITRUST LAWS

SEC. 8. (a) Nothing in this Act shall be deemed to convey to any individual, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust law" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

ENVIRONMENTAL EVALUATION

SEC. 9. (a) The Council on Environmental Quality is authorized and directed to carry out a continuing analysis of the effect of application of nonnuclear energy technologies to evaluate—

(1) the adequacy of attention to energy conservation methods, and

(2) the adequacy of attention to environmental protection and the environmental consequences of the application of energy technologies.

(b) The Council on Environmental Quality, in carrying out the provisions of this section, may employ consultants or contractors and may by fund transfer employ the services of other Federal agencies for the conduct of studies and investigations.

(c) The Council on Environmental Quality shall hold annual public hearings on the conduct of energy research and development and the probable environmental consequences of trends in the development and application of energy technologies. The transcript of the hearings shall be published and made available to the public.

(d) The Council on Environmental Quality shall make such reports to the President, the Administrator, and the Congress as it deems appropriate concerning the conduct of energy research and development. The President as a part of the annual Evironmental Policy Report required by section 201 of the National Environmental Policy Act (83 Stat. 854) shall set forth the findings of the Council on Environmental Quality concerning the probable environmental consequences of trends in the development and application of energy technologies.

WATER RESOURCE EVALUATION

SEC. 10. (a) The Water Resources Council shall undertake assessments of water resource requirements and water supply availability for any nonnuclear energy technology and any probable combinations of technologies which are the subject of Federal research and development efforts authorized by this Act, and the commercial development of which could have significant impacts on water resources. In the preparation of its assessment, the Council shall—

(1) utilize to the maximum extent practicable data on water supply and demand available in the files of member agencies of the Council;

(2) collect and compile any additional data it deems necessary for complete and accurate assessments;

(3) give full consideration to the constraints upon availability imposed by treaty, compact, court decree, and existing water rights previously granted pursuant to State law;

(4) assess the effects of development of such technology on water quality;

(5) include estimates of cost associated with production and management of the required water supply, and the cost of disposal of waste water generated by the proposed facility or process;

(6) assess the environmental, social, and economic impact of any change in use of currently utilized water resource that may be required by the proposed facility or process;

(7) consult with the Council on Environmental Quality; and

(8) provide an assessment to the Administrator as to the availability of an adequate water supply for such proposed undertakings.

(b) Upon completion of each assessment, and at least ninety days before submission of each report to the Administrator, notice of completion shall be printed in the Federal Register and the report shall be made freely available to the general public for comment and evaluation.

(c) The Council shall include a broad survey and analysis of regional and national water resource availability for energy development in the biennial assessment required by section 102(a) of the Water Resources Planning Act (Public Law 89-80).

THE ADMINISTRATOR

SEC. 11. For the purposes of this Act, the term "Administrator" means the Administrator of the Energy Research and Development Agency upon the creation of such agency by law.

JURISDICTION OF COMMITTEES OF THE CONGRESS

SEC. 12. Nothing provided in this Act shall be deemed to change or interfere with, or otherwise affect in any way, the jurisdiction of any committees of the Congress in regard to authorization of programs or funds, appropriation of funds, oversight, or any other responsibility or authority of any committee of the Congress.

APPROPRIATION AUTHORIZATION

SEC. 13. There are authorized to be appropriated to the Administrator—

(a) to carry out the purposes of this Act, in fiscal years 1976, 1977, 1978, 1979, and 1980 such sums as the Congress may hereafter authorize by law, no more than $500,000 of which shall be made available by fund transfer in each fiscal year to the Council on Environmental Quality for the purposes authorized and directed by section 9, and no more than $1,000,000 of which shall be made available by fund transfer in each fiscal year to the Water Resources Council for the purposes authorized and directed by section 10; and

(b) for expenses incurred in administering this Act, including such amounts as may be expended for consulting services and including funds transferred to other Federal agencies in compensation for personal services, such funds as may be necessary in each fiscal year.

(c) Notwithstanding subsection (a) of this section, no appropriation shall be made to the Administrator under this Act or the Energy Reorganization Act of 1974 in connection with any demonstration project entailing an estimated Federal cost in excess of $10 million, or in connection with a Federal loan in excess of $5 million, unless previously authorized by legislation enacted by the Congress; and no joint Federal industry corporation shall be established unless previously authorized by legislation enacted by the Congress.

Amend the title so as to read: "An Act to establish a national program for research and development in nonnuclear energy sources."

Mr. JACKSON. Mr. President, I move that the Senate disagree to the amendment of the House of Representatives to S. 1283 and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. METCALF, Mr. JOHNSTON, Mr. HASKELL, Mr. NELSON, Mr. HATFIELD, Mr. BUCKLEY, and Mr. MCCLURE conferees on the part of the Senate.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 1097, 1098, and 1099.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNIVERSITY OF NEVADA CENTENNIAL ANNIVERSARY

The concurrent resolution (S. Con. Res. 87) recognizing the centennial anniversary of the University of Nevada was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States extends its congratulations and wholehearted best wishes to the students, faculty, administration, board of regents, and all the benefactors of the University of Nevada upon the occasion of its centennial anniversary.

The preamble was agreed to, as follows:

Whereas one hundred years ago, on October 12, 1874, the University of Nevada began as the University Preparatory School in Elko, Nevada, serving seven students and has since become one of the Nation's outstanding land-grant universities now serving more than twenty thousand students;

Whereas from a modest beginning as an educational pioneer in the West, the University of Nevada has become one of the foremost universities in the Nation and has made outstanding contributions in the fields of mineral sciences and technology, engineering, agriculture, health sciences, education, environmental and energy research, and the arts and sciences generally;

Whereas the first century of the University of Nevada has been marked by outstanding achievements in higher education and is an unparalleled demonstration of constructive cooperation in education between the Federal Government, the State of Nevada, and many private individuals who have given of their energies and resources to enhance educational opportunities in the State of Nevada and the Nation: Now, therefore, be it

Mr. BIBLE. Mr. President, as an alumnus of the class of 1930 of the University of Nevada, I take special pleasure in the action of the Senate today on Senate Concurrent Resolution 87, recognizing the centennial anniversary of the University of Nevada. In a very real sense the university represents the fulfillments of the vision expressed by the Congress more than 100 years ago when it enacted and President Abraham Lincoln approved the first Morrill Land Grant Act to endow public universities for the enlargement and dissemination of knowledge in the agricultural and mechanical arts.

It was just 12 years after the approval of the first Morrill Act, on what was then a distant frontier of our Nation, that the people of Nevada availed themselves of the Land Grant Act and launched what has now become one of the outstanding State university systems in the Nation.

The University of Nevada was established in 1874. Now 100 years later the people of Nevada are celebrating the centenary of higher education in that State.

In this anniversary year, it is appropriate for the Congress to pause and for the people of the Nation to reflect on the growth of higher learning in America. Our citizens have been partners in this splendid experiment, and we Nevadans would like to take this centennial occasion to make a report to the Congress and the Nation on what has been achieved in our State in the past century.

The oldest university building in Nevada is named Morrill Hall; it is located on the Reno campus and is nearly 90 years old. It is a tangible reminder that one of the important inspirations for our State university system came from these Halls of Congress and from the mind of Senator Justin Morrill of Vermont.

Senator Morrill was one of the few people who recognized as early as the 1850's that American education needed a new impetus and a new direction. The small colleges that dotted the map of the East, Midwest, and South were poor in money and poorly prepared to meet the needs of a challenging society. Most of them were church-supported schools, concerned about the moral training of their students but unable to offer much significant instruction in the sciences, agriculture, or other practical skills so important to a developing society.

At first Senator Morrill met overwhelming resistance to his plan for creating and supporting State universities and colleges that would serve a broad range of educational needs. He wanted to create a Federal endowment program to provide money for instruction in agriculture and the mechanic arts. The first time he got his legislation passed, it was vetoed by President James Buchanan. Finally, in 1862, Congress approved his concept again, and this time President Abraham Lincoln signed it.

The pioneers of Nevada began almost immediately to try to put this imaginative legislation into service. When the State's founding fathers drafted a constitution in 1864, they used much of the language of the Morrill Act to provide for higher education in Nevada.

The makers of the State's constitution did their work well, making provision for a legally independent institution with permanent financial support from the land grant money.

Almost immediately, Nevada obtained Federal land under the law, sold it to pioneers, and invested the money in a fund to provide a perpetual university endowment. The constitution affirmed, as the Morrill Act has done, that the University of Nevada must offer instruction in agriculture, the mechanic arts, and—because the Civil War was uppermost in many minds—military science. Nevadans also insisted upon instruction in mining, because of the State's primary economic orientation.

In spite of noble efforts, Nevada could not create its university immediately. It required several years for the land-grant money to accumulate and for the necessary combination of legislative support and academic talent to be arranged. But in the fall of 1874, the Silver State was ready to bring its first modest instruction leading to university work. D. R. Sessions, a Princeton graduate in the classics, opened the doors of the first university building in Elko to seven students on October 12, 1874.

The institution was called a university preparatory school in the beginning, and was hardly a fulfillment of Justin Morrill's dream. For 11 years, the university preparatory school struggled to survive without being able to offer much instruction in agriculture or the mechanic arts. Elko County is almost twice as large as Senator Morrill's home State, but it had only 3,000 or 4,000 people in the 1870's and it was far removed from all population centers.

In 1886 and 1887 two developments—one in Nevada and another in the Congress—gave the little university preparatory school greater opportunity to fulfill the aspirations of its founders. The university was moved from Elko to Reno, effective in 1886, and the following year Congress approved the Hatch Act, which provided for the funding of agricultural experiment stations in every State. The fact that the university was moved to a larger population center and the combination of the Nevada Agriculture Experiment Station with the university gave the institution resources it needed for college-level work.

The history of the University of Nevada since that time has involved a partnership between the Federal Government and the people of the State of Nevada, acting through their legislature and the Board of Regents. Of crucial importance also has been the generosity of innumerable private contributors who have recognized the importance of higher education to the progress of the Nation.

The assembling of faculties and the development of programs to educate and train students and to expand the fields of knowledge to be served in Nevada has been a gradual process. "To create a State university, to build up its various departments, and fill it with professors, is a work of time," one of Nevada's constitution makers had said in 1864. There were years of privation and struggle, but in the best tradition of the American frontier, the University of Nevada became stronger in the face of challenge. Its Mackay School of Mines became one of the best of its kind in the Nation.

Its agricultural researchers made outstanding contributions to America's farmers and ranchers. The Reno campus has become the headquarters of the National College of the State Judiciary and the National College of Juvenile Justice. It is pioneering in the field of health science education.

The University of Nevada system in 1974 is serving approximately 20,000 students. It has campuses in Reno and Las Vegas; it has three community colleges with headquarters in Carson City, Elko, and Las Vegas and instruction centers in a dozen other communities. It has a network of experimental farms across the State, a forest laboratory in the Sierra Nevada, and a Desert Research Center which has made great strides in weather modification and is now pioneering in the use of solar energy. Its faculties have books in print with some of the outstanding academic and commercial publishers in the world. Research done in geology, physics, languages and literature, psychology, history, and other fields has received international attention.

Nevada, in the centennial years of its university experiment, has good reason to celebrate. The university campus at Reno will be the scene of the main events to commemorate the centennial. Its administration, faculty, and students are eager to invite residents from other States to visit their attractive grounds, their old and new classroom buildings, and the special events being planned for the fall semester.

I am indebted to Dr. James Hulse, professor of history at the University of Nevada at Reno, for providing me this résumé of the history, growth, and development of the University of Nevada. Not only as a U.S. Senator privileged to represent the people of Nevada but as a grateful and proud alumnus of a truly great university, I want to join Dr. Hulse, the students, the administration, and the faculty of the University of Nevada in inviting the Members of Congress and people from all the States to visit our campuses this year and to share our pleasure in commemorating the past and in launching another century of educational achievement in Nevada.

NATIONAL HUNTING AND FISHING DAY

The joint resolution (H.J. Res. 910) asking the President of the United States to declare the fourth Saturday of September 1974, "National Hunting and Fishing Day" was considered, ordered to a third reading, read the third time, and passed.

JOHNNY HORIZON '76 CLEAN UP AMERICA MONTH

The joint resolution (H.J. Res. 1070) authorizing the President to proclaim the period of September 15, 1974, through October 15, 1974, as "Johnny Horizon '76 Clean Up America Month" was considered, ordered to a third reading, read the third time, and passed.

EXECUTIVE PARDONS WITH RESPECT TO WATERGATE—SENATE RESOLUTION 400 INDEFINITELY POSTPONED

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 1094, Senate Resolution 400, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY SUPPLY ACT OF 1974

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 3221, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 3221) to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act; and for other purposes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that S. 3221 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1975

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No.

1096, H.R. 15580, so that it may become the pending business for Monday next.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 15580) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1975, and for other purposes.

The PRESIDING OFFICER. Is there objection, to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

ORDER OF BUSINESS

Mr. HUGH SCOTT. Mr. President, will the distinguished Senator from Arizona yield to me?

Mr. FANNIN. Mr. President, if I have the time under my control, I yield the distinguished minority leader such time as he may require.

Mr. ROBERT. C. BYRD. Mr. President, will the Senator yield?

Mr. HUGH SCOTT. I yield to the distinguished Assistant minority leader.

ENERGY SUPPLY ACT OF 1974

Mr. ROBERT C. BYRD. Mr. President, at the direction of the distinguished majority leader, I ask unanimous consent that the measure now pending before the Senate (S. 3221), if not completed prior thereto, be called up and action resumed thereon upon the disposition of H.R. 15580, the HEW appropriation bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

SENATE RESOLUTION 401—PRESIDENTIAL PARDONS IN CONNECTION WITH THE PRESIDENTIAL CAMPAIGN AND ELECTION OF 1972

Mr. CHILES. Mr. President, reserving the right to object, and I shall not object, because this is a unanimous-consent request, I wonder if the distinguished majority whip or the majority leader would answer some questions that I might have in regard to the vote that we just had in regard to displacement of the pending business and the time for debate.

Many of us were surprised to find we were walking over here to vote on that resolution without any notice, and we did not have any chance to participate in the debate at all. We would just like to try to have a little discussion as to how that came about.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HUGH SCOTT. I yield.

Mr. ROBERT C. BYRD. I will be glad to respond to the distinguished Senator.

I discussed the possibility of a time limitation on this resolution with the distinguished Republican leader and the assistant Republican leader, the able senior Senator from California (Mr. CRANSTON), and a representative of the able junior Senator from Massachusetts (Mr. BROOKE), both Senators being cosponsors, and it was agreed that there could be a time limitation of 20 minutes thereon, and a vote at 2 o'clock was agreeable to all those who were contacted.

Mr. CHILES. The junior Senator from Florida was surprised, first, to find we were having a vote and, second, that we were faced with a vote on that resolution. I think I changed my vote three times during the 15 minutes time we had, based upon the opinions of whomever I talked to during that time to try to learn something about the resolution.

While, as an individual, I support the resolution as the sense of the Senate, I am deeply concerned that we are trying to tell the President what his constitutional authority is, what his Presidential authority is, how he should exercise that authority, and whether we should be stepping into that area. That deeply concerns me. For that reason, I did vote "no."

Then I would get around to the question of what it would look like if we turned down the proposition, how that would look, with our feelings on impeachment.

It seems to me these are things that ought to be aired in debate that could run some period of time, and give us some opportunity to explore them. If I had another 15 minutes, I might change my vote a couple more times.

Mr. ROBERT C. BYRD. The Senator can still change his vote by unanimous consent.

Mr. CHILES. I understand that; but I am concerned that when we take up a matter like that—I was on the floor and listened to some of the preliminary discussions at the time the resolutions were introduced yesterday. Then it was taken up today, I understand there was a 20-minute limitation on debate, most of us did not know the debate was going on, then we come over here when the voting is in process, and it is hard to get any deliberative action out of what is supposed to be a deliberative body in that kind of time, on what I think should be a national issue and a question of some seriousness.

So my concern is the scheduling of votes in that way. When we go at great lengths to put out whip notices to say what is going to be on those notices, schedule votes days ahead of time so that people will be here and able to vote.

It seems like when we are dealing with this kind of subject we could have had a little more time, thus the ability to have a little better debate on the subject.

Mr. HUGH SCOTT. Mr. President, I would rather not yield further because I am pressed for time myself. I have another program at 3:30. I do not object at all, if the Senator from Arizona does not object to coming on later, but I would like to get on. I am only going to be a few minutes.

Mr. ROBERT C. BYRD. I shall take only a few minutes.

I recognize the validity of the argument that the distinguished Senator from Florida has just stated. It was originally thought that a vote might be scheduled for next Tuesday, and in view of the fact that it became more and more apparent that the Senate was not going to be in session tomorrow, and that it was agreeable on both sides of the aisle and among the chief sponsors of the resolution that a vote occur today, it was thought that it would have more effect, more persuasive effect, on the President of the United States if the vote were had sooner rather than had it been delayed. That was the sole reason as far as I am concerned for having the vote today on the resolution.

Mr. CHILES. Well, my concern is that we just did not have a chance. I am not trying to delay the minority leader at all but I would like to ask the distinguished majority whip, as a constitutional authority which I know he is, whether he thinks we should try to express ourselves in a sense of Senate resolution on most actions that the President is going to take or has taken; whether that should be our function in this body.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, it is not my belief that the Senate should express a sense of the Senate to the President on "most actions," as the Senator has indicated, that the President has the responsibility for taking.

The power of the President to grant reprieves and pardons to any or all persons who commit offenses against the United States is an absolute power. Congress cannot place any limitations on that power whatsoever. It is absolute, it is full, it is complete and, as far as I am concerned, it is unrecallable. That is my judgment. The Senator has asked me, so that is my opinion.

But the elected representatives of the people here in this body certainly have a responsibility and a right to express the sense of the Senate on any measure or matter.

This resolution could perhaps be interpreted as a method of expressing the displeasure of the Senate with respect to a pardon that has already been granted under the constitutional authority of the President of the United States.

More accurately, however, it expresses to the President the feeling of the Senate that there should be no pardons granted to any persons who stand accused of crimes arising out of Watergate and related offenses until such time as the indictments, the trials, the convictions, or acquittals—of course, in the case of an acquittal, they would not need to be pardoned—but until such time as the wheels of the judicial process would have completed turning, and then if the President wishes to grant a pardon, of course, that is his authority. He can also wholly disregard the view of the Senate as expressed in this resolution.

My only interest in this matter is to see that the judicial process not be foreclosed with respect to those individuals who are now or yet to be accused of crimes in connection with Watergate. Only in this way can the full record ultimately be laid before the people.

If those persons are pardoned before indictment or pardoned after indictment and before conviction, or after conviction but before appeal has been exhausted, then the judicial process is foreclosed. That is the intent of the resolution, as expressed by one of the authors of that resolution.

Mr. ALLEN. Mr. President, will the Senator yield for a few minutes?

Mr. HUGH SCOTT. I will yield with sort of modified gladness, if I may, because I do hope to get out of here at 3 o'clock to attend another meeting.

I have to note that our assistant majority leader has stated that we were expressing our displeasure at what has been done in the past with regard to the pardon already granted. The resolution is that it is the sense of the Senate that the President not hereafter grant a pardon.

Mr. ROBERT C. BYRD. The Senator is correct. The resolution is not retroactive and is directed solely to future possible pardons in Watergate cases.

Mr. HUGH SCOTT. I could not have supported it had it had that in it.

Mr. ROBERT C. BYRD. Each of us can state his own personal feeling. But the Senator is correct. The resolution itself does not carry that import.

Mr. HUGH SCOTT. I would like to add further that during the debate the whole question became moot anyway. Before we voted we heard here the statement that the President does not have any such intention to do that which we got around to saying we did not think he should do. So he was actually ahead of the vote in that respect.

Mr. ROBERT C. BYRD. He was ahead of the vote. But I have some feeling that the expression of Senators as individuals within the last day or so, in addition to the introduction of the resolution on yesterday, may have had, hopefully, some influence.

Mr. HUGH SCOTT. I have no doubt of that.

I yield, Mr. President, to the distinguished Senator from Alabama.

Mr. ALLEN. I believe the distinguished Senator raised the very point I intended raising.

Mr. CHILES. If I might, I withdraw my possible objection to the unanimous-consent request that the majority whip has offered I would just say that I am delighted with his explanation. I ended up voting "aye." I feel a little bit better in ending up with that during the course of the debate than I started off with, and I would vote "aye" again.

Like the distinguished Senator from West Virginia, the junior Senator from Florida is very jealous of the prerogatives of the legislature, and is upset any and every time when I feel that the Executive transgresses on our constitutional prerogatives.

At the same time, I believe and feel myself that we must be careful not to play President, and that we do not get ourselves involved in the prerogatives that are reserved by the Constitution to him.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield to me.

Mr. HUGH SCOTT. I am yielding with less and less gladness each moment, but I will do it again. [Laughter.]

Mr. ROBERT C. BYRD. I am very grateful to the distinguished Republican leader for his usual courtesy in yielding, and I will only take 30 seconds.

This Senator would be as unwilling as would the Senator from Florida to attempt to exercise any infringement upon the constitutional rights of the President of the United States, if it could be done. Congress cannot limit his pardon authority. The only thing Congress can do is to adopt a constitutional amendment which, in the final analysis, would have to still be ratified by the people through their legislatures.

Mr. CHILES. I withdraw my objection.

Mr. HUGH SCOTT. Mr. President, I hope I can conclude this unexpected colloquy by assuring the distinguished Senator from Florida, if he is in doubt on this or any other occasion as to whether he voted or not, he is in excellent company. I can assure him that 99 other Senators agree.

REDUCTION OF FEDERAL EXPENDITURES

Mr. HUGH SCOTT. Mr. President, yesterday the joint majority leadership indicated in a statement that Congress has cut the 1975 budget by $6 billion. While the Congress has been successful in reducing some of the spending authority requested by the administration, the report of the Congress' own scorekeeping unit presents a far different picture of our actions to date. Specifically the August 22 report of the Joint Committee on Reduction of Federal Expenditures shows that the Congress has enacted:

A $393 million net cut in the requests made for the nine appropriation bills passed by the Congress. We will have an opportunity to better this record, since the agriculture bill, vetoed because of the increases it contained, is still before us for action. I am hopeful that we can make substantial reductions to the appropriations contained in our first version of the bill.

A $2,991 million increase for completed actions on mandatory spending authorizations outside the appropriations bills.

So we have increased mandatory spending by $3 billion in this regard. Let me emphasize the word mandatory. These are bills which will require added appropriations or added spending. Included are increases for veterans benefits, for small business direct loans, and for the Housing and Community Development Act.

Thus, these completed actions have to date had the effect of adding $2.6 billion to the requests for 1975 budget authority, rather than a $6 billion cut.

If we translate these actions on adding this $2.6 billion into spending which will increase the administration's 1975 budget figure of $305 billion, this $2.6 billion would add—according to the scorekeeping report—$1.5 billion in outlays.

Since the joint majority leadership could not have been discussing enacted bills, apparently they were including pending bills as well. The picture for pending bills shows a situation similar to that for enacted bills:

Appropriation bills show decreases ranging between $4.3 billion in the House and $5.7 billion in the Senate for the remaining appropriations bills.

I may add that these decreases are referred to elsewhere by the joint majority leadership as being in addition to the $6 billion cut and representing an anticipated cut in subsequent legislation, I believe, of $7 to $8 billion.

But, actually, the figure is $4.3 billion in the House and $5.7 billion in the Senate for the remaining appropriation bill.

The cuts to the Defense bill are the major component in both of these decreases. I personally believe that cuts in this bill beyond those made by the House are unwarranted.

Mandatory spending bills show increases between $.9 billion in the House and $2.9 billion in the Senate. Of the pending Senate increases, $2 billion is for a temporary increase in standby borrowing authority for the Federal Home Loan Bank System.

These pending actions on budget authority would add 1975 outlays of $377 million as a result of House actions and $176 million for Senate action.

In summary, the congressional scorekeeping report hardly shows a $6-billion decrease. Here is a short table which puts all of the scorekeeping changes together:

ENACTED BILLS

[In millions]

	Budget authority	1975 Outlays
Appropriations	−393	−422
Mandatory spending bills	+2,991	+1,896
Total	+2,598	+1,474

Now, on pending bills, if we assume that they are not subsequently increased, as they so often are on the floor of the House and Senate:

PENDING BILLS

	House	Senate	House	Senate
Appropriations	−4,251	−5,664	−2,294	−2,812
Mandatory spending bills	+859	+2,914	+377	+176
Total	−3,402	−2,750	−1,917	−2,636

Now, that is the report of Congress on authority in which it is shown that enacted bills represent substantial increases, that pending bills represent current decreases, but nowhere near the $708 billion amount predicted by the joint majority leadership and, of course, do not include whatever may be added in the form of Christmas tree amendments or otherwise, as those bills take their courses through the legislative process.

On a further subject——

Mr. MANSFIELD. Will the Senator yield?

Mr. HUGH SCOTT. Yes, I am happy to yield to the Senator.

Mr. MANSFIELD. Mr. President, I would have to challenge the figures just made by the distinguished Republican leader in his polite offensive because I would point out, and the RECORD will prove this, that on the basis of budget requests made by the President up to this time the Senate has cut $5,931,000,000.

Furthermore, in the bill we will take up Monday, the appropriation bill of the Departments of Labor, Health, Education, and Welfare, and related agencies, a further cut of $629,953,000 is envisaged. That will bring the total cut by the Senate this year so far to $6,560,000,000.

Furthermore, we have the foreign aid bill to still come before us. It will be cut, I am quite sure.

We have the military construction bill, of which I happen to be chairman of the Subcommittee on Appropriations. It will be cut, the Senator may be sure.

I think we have not done too badly, and I am somewhat surprised at the statement made by the distinguished Republican leader, and I quote him, I think almost exactly, he says:

> I personally believe that the cuts made by the Senate beyond the House were unwarranted.

I do not think we have cut the House figures enough and I would anticipate without doubt that before we get through the Senate will have cut the President's budget request by somewhere between $7 and $8 billion, conservatively speaking.

Mr. HUGH SCOTT. Well, now, I am glad we have had this contradiction from my friend, the distinguished majority leader.

It has in no degree changed my mind nor moved me from reality toward fantasy because I have an answer, and the answer comes from the Senator's own committee.

Mr. MANSFIELD. Figures?

Mr. HUGH SCOTT. We have the figures, and there is a well-known statement about facts as the distinguished majority leader knows.

I point out to him that my quotation is from the August 22 report of the Joint Committee on Reduction of Federal Expenditures which says it has not been reduced that much.

Mr. MANSFIELD. I am talking about what the Senate has done, what the Senator from Pennsylvania has done, what all of us have done, certainly——

Mr. HUGH SCOTT. I am talking of not only the Senate, but the House, and much as I appreciate the Senator's skill, I will not be diverted.

Mr. MANSFIELD. Nothing skilled, facts.

Mr. HUGH SCOTT. The Senator's facts are in a sense accumulated to serve his arguments; we all do that.

The Senator's facts ignore, by sticking to the so-called budget request, the mandatory spending—which is outside of that—and it is $3 billion. The Senator's reference to budget requests ignores the built-in expenditures for the future. Only about $80 billion of the $305 billion is in the controllable items.

If the distinguished majority leader were right, then we would be led to believe that the present budget figure of $305 billion is going to come down to $299 billion. I am not one who is at all convinced that the majority here have reduced the budget from $305 billion to $299 billion.

Mr. MANSFIELD. The budget request of the President.

Mr. HUGH SCOTT. Well, request. But the budget is $305 billion. It is not coming down to $295 billion.

Mr. MUSKIE. Will the Senator yield?

Mr. HUGH SCOTT. In a moment.

It is not coming down to $299 billion, in spite of this preelection gimmick, because it will not hold water.

What the Senator is saying is he is going to offer us some remedies after election day. Meanwhile he is going to deplore.

Mr. MANSFIELD. If the Senator will yield, the Senator is the one who is deploring because he says he is sorry, in effect, that we cut beyond what the House did. I think he ought to be proud that the Senate showed so much responsibility.

Mr. HUGH SCOTT. On the contrary, the distinguished majority leader is confining himself to foreign assistance and defense. The easiest thing we can do in Congress is to cut defense and cut foreign assistance, because it does not have any votes. It does not have any constituency.

All it has is the security of the American people to live without fear and to survive.

Mr. MANSFIELD. Does the Senator mean defense has no votes? That is one bill that does have votes.

Mr. HUGH SCOTT. It has very few votes compared to veterans, let us say, or education, or all of the more sacred cows.

I will yield to the distinguished Senator in a moment.

I want to point out, and the distinguished majority leader knows as well as I do that this is a fact, that in mandated expenditures we have not cut at all. We have increased. In bills yet to be enacted we propose cuts. Those cuts, however, even if adhered to all the way through, are only about half of what his majority leadership have proposed.

I now yield to the distinguished chairman of the new Budget Committee who is going to end inflation by his own personal skill and legerdemain. Let the magician proceed to operate.

Mr. MUSKIE. I thank the distinguished minority leader. I will not promise to end the inflationary rhetoric on this floor.

Mr. HUGH SCOTT. You have had 38 years to do it. I do not see how you will do it in 3 months, but I am willing to have you try.

Mr. MUSKIE. I do not believe so.

Let me say this: the distinguished minority leader has charged the majority leader with switching rather freely from budget authority to appropriations, from appropriations to spending.

The distinguished minority leader is guilty of that in his statement. He speaks, for example, of a $2.8 billion increase in mandatory spending as though that will increase the budget from $305 billion to $308 billion. That is not the case on the evidence of the Senator's own statement.

If I may finish——

Mr. HUGH SCOTT. May I correct the Senator?

Mr. MUSKIE. Later on, the Senator decides for himself that that $2.5 billion will add only $1.5 billion in spending this fiscal year.

Mr. HUGH SCOTT. That is right.

Mr. MUSKIE. Yet he refers to this as mandatory spending on page 1 of his statement.

Mr. HUGH SCOTT. It is, but not all in 1 year.

Mr. MUSKIE. That is the point I want to get to. I know what the distinguished majority leader said because he consulted with me in advance. He asked me what evidence could he use to indicate a congressional will to exercise budgetary restraint. I said, "MIKE, if you try to use the $305 billion, you are on loose ground because the $305 billion is simply an estimate of the rate at which the Federal Government will spend."

I said, "You can use budget authority, but the figure represented there is $325 billion, which is not very visible in the rhetoric because that is the total of budget authority."

The third point I said to him was, "MIKE, only about 42 percent of this budget is subject to appropriations. So if you try to talk about the whole, you are going to get confused."

I said, "If all you are looking for is evidence of congressional will to exercise restraint, then use the action of the appropriations committees in cutting budget authority."

On that point the RECORD supports the majority leader. When the Senator raises the question that he is raising, what will be the effect on spending, that is, on outlays, what will be the effect on the $305 billion, that is a difficult answer to get from Mr. Ash, I may say to the distinguished minority leader. We have asked Mr. Ash to testify on this point.

First of all, for every dollar that you cut in appropriations, in other words, budget authority, you may save half in actual spending in the current fiscal year. If you want to cut $7 billion in actual spending, you would have to cut about $14 billion or $15 billion in appropriations. That is a very rough rule of thumb.

I would like to suggest to the minority leader there is, understandably, political competition over this issue, and there should be; it is healthy. But I pledge to the distinguished minority leader and to the Senate as a whole that although our authority as a budget committee will not really begin to bite until after the first of the year, we are undertaking to make a contribution to at least public understanding of what we actually do, and the spending consequences that will flow from it.

It is a complicated and technical subject. I do not know to what extent we can cut the $305 billion. I think $300 billion is a legitimate objective. It will mean cutting upwards of $10 billion in appropriations. I think if we lay down those two objectives or those two targets clearly, without mixing the two, we may have a fair chance of accomplishment.

Mr. HUGH SCOTT. I thank the distinguished Senator, because he has clarified some things along the way. I think he did not grasp what I said at one point about the nearly $3 billion. I did not make the argument to point out that the budget would thereby go from $305 billion to $308 billion. I made the argument to point out that he was not reducing the budget from $305 billion to $299 billion. I think the Senator would agree with me.

Mr. MUSKIE. But the majority leader was not making that argument either.

Mr. HUGH SCOTT. But the joint leadership was, and let me read it to you. I enjoy reading things which support my position.

Mr. MUSKIE. I will listen carefully.

Mr. HUGH SCOTT. I am doing my best to ignore those things which do not.

Mr. MUSKIE. I seek to apply the same test.

Mr. HUGH SCOTT. Yesterday the joint leadership indicated in their statement that the Congress has cut the 1975 budget by $6 billion. But the 1975 budget is the $305 billion to which I addressed myself. Can the Senator sustain this statement?

Mr. MUSKIE. All I know is, I heard Senator MANSFIELD make the statement yesterday that the Senate had cut the President's budget request, or would cut the President's budget request, by $7 billion to $8 billion, and that the Senate had voted $6 billion in cuts on the President's budget request. That is an accurate statement. I think it is a reasonable projection. I do not know the source of the language the Senator uses.

Mr. HUGH SCOTT. The source of my statement is the statement yesterday of the distinguished majority leader to which the distinguished Senator from Maine just referred, and that is not what he said. Here it is:

> It was noted that the Congress has already made a cut of $6 billion in the budget, and will cut more. In return the Administration should act to reduce high-interest rates.

What has the Congress done in the last 38 years of overspending itself to cut the present burden on the economy? The Senator has had 38 years to accomplish this. He is not telling the American people he is going to recess for a month, rest up and do it in 2 months. He cannot do it.

We will help him, if he has any kind of an economic nostrum. We will look at it.

Mr. MUSKIE. If the Senator will yield, I am not undertaking any such ambitious project this afternoon. What I am undertaking to do this afternoon is a very simple point. I can get engaged in the rhetoric of budget cutting as well as anybody else on either side of this aisle. But I have heard the majority leader three times in 2 days. I do not know what the Federal budget is. I know what the President's budget requests are as a word of art.

If the Senator is talking about the Federal budget, he could be talking about the request for budget authority; he could be talking about the estimates of budget outlays. But when he is talking about the budget and trying to stick the majority leader with an interpretation of it that differs from what I heard the majority leader say three times in 2 days, I think it is my responsibility to try to make the record clear.

With respect to budget authority—that is, appropriations—the Senate has cut, as the majority leader has pointed out, $6 billion from the President's requests. What that will mean in terms of reduction in outlays, I think, is the subject of estimates and not final fixes.

Mr. HUGH SCOTT. Mr. President, I should like to yield to the Senator from Arizona.

Mr. MUSKIE. That $6 billion is a description of what the Senate has done to date. It is not an accurate description of what Congress has done to date. It is not a final definition of what Congress will do in this session.

Mr. HUGH SCOTT. May I ask the Senator from Arizona's permission to leave the Chamber? I have a program downstairs.

I yield back all time to the distinguished Senator from Arizona, and I ask him to continue to support me, as I know he will.

Mr. FANNIN. I say to the distinguished Senator from Maine, my chairman on the Budget Committee—and I appreciate the privilege of serving with the distinguished Senator on that committee—that in support of what Senator SCOTT has said, he has related that $305 billion is the correct figure. In our hearings, I think the Senator will agree that $305 billion has been the budget figure to which we have adhered.

Mr. MUSKIE. No, it is not.

Mr. FANNIN. I have been there and listened time and time again to the reference to $305 billion.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. FANNIN. First, I should like to——

Mr. MUSKIE. If the Senator is going to put words in my mouth, I should like to make sure that they are accurate.

The original figure was $304.5 billion. Since that time, that figure has risen to $305.6 billion, and that is from the administration. This is from the record of our hearings. That is a difference of $1.1 billion on the President's own estimates.

I repeat that it is simply an estimate of what will be spent under the budget authority that was created previous to this year and that will be created this year. It is an estimate of spending.

May I say to the Senator that the $305.6 billion is conservative—nothing more than the ground of increased interest payments by the Federal Government as a result of the tight money policy.

The Senator knows as well as I that the $305.6 billion is a floating figure that rises and falls with the case load in social security, that rises and falls with the case load in the food stamp program, that rises and falls with interest rates, that rises and falls with the state of the economy. It is not fixed in concrete.

The implication of the distinguished Senator and the distinguished minority leader that that $305 billion represents a final figure of what the administration will spend is misleading. That is a floating figure. If the Senator wants a fixed figure, start with the $325 billion.

Mr. FANNIN. The figure we have consistently utilized and the witnesses have utilized—I realize that there is a variance—has been $305 billion. The Senator brought it down to $600 million on one side and added $600 million.

Mr. MUSKIE. I have not changed the figures at all.

Mr. FANNIN. In the Senator's discussions he has stated that. But we do not have the budget committee in operation the way it was expected. We do not have the operational procedures as yet or the reports or any basis for obtaining those reports. So we are depending on the Joint Committee on Reduction of Federal Expenditures for our figures. Is that not true?

Mr. MUSKIE. I understand. But the Senator is far from the mark I am trying to make.

Senator MANSFIELD was not undertaking to report on the results that it is the responsibility of that committee to report. What Senator MANSFIELD was undertaking to indicate yesterday was the determination of the Senate to exercise budgetary restraint, by reason of the fact that the Senate has voted $6 billion in reductions in the President's budget requests, in the appropriation bills that have come before the Senate.

The other information to which the Senator refers is also significant and important, but to use that as a rebuttal to the distinguished majority leader is simply playing with words.

Mr. FANNIN. I think the Senator can understand simple language. Cutting the budget by $6 billion is the language that was utilized.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. FANNIN. I yield.

Mr. MANSFIELD. No, that is not the language being utilized.

Mr. FANNIN. I do not have a copy of the statement.

Mr. MANSFIELD. I do not have it, either.

I point out that when the distinguished Senator from Arkansas (Mr. MCCLELLAN) brought in the defense appropriation bill, he had cut the request of the President by $6 billion or $5.1 billion, there and there alone. Here is a bill coming on the calendar now.

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. FANNIN. Does the Senator say that we have cut the budget by $6 billion?

Mr. MANSFIELD. The budget request of the President by $6.560 billion—if we pass the HEW appropriation bill.

Mr. FANNIN. "If." There were no "ifs" put in this statement.

Mr. MANSFIELD. The exact figure is $5.931 billion. It is not quite $6 billion, but it is pretty close.

Mr. FANNIN. I appreciate that we have all this interest in cutting the budget. The distinguished Senator from Virginia has worked on this for years and years.

Mr. MANSFIELD. We cut it every year in this body.

Mr. FANNIN. We think we do.

Mr. MANSFIELD. And the Senator from Arizona participates in the cutting.

Mr. FANNIN. I wish I could say that I am proud of what we have done, but I am not, because we have not cut it the way we should. The distinguished Senator from Virginia has brought it out time and time again. How can we cut it when we bring out this tremendous accumulated deficit. We have not been able to do anything about it over a great number of years?

Mr. MANSFIELD. It is the administration.

Mr. FANNIN. No. They do not spend the money unless Congress permits them to do so. We have these uncontrollables over which I hope we can get control.

Mr. MANSFIELD. I will bet the Senator that the President will send down at least one supplemental budget request for $3, $4, $5, or $6 billion more.

Mr. FANNIN. I appreciate very much the increased interest that has been generated, and I commend the chairman of the Budget Committee, but I get back to the point: The August 22 report of the Joint Committee on Reduction of Federal Expenditures shows—the distinguished Senator from Pennsylvania brought that figure to us, and it is illustrated very forcefully—that Congress has not cut the budget by $6 billion.

Mr. MANSFIELD. We have passed on appropriation bills in this body, and in one bill alone we chopped off $5.1 billion, in the defense appropriation bill—$5.1 billion less than the President requested. I do not know what more the Senator wants.

Mr. FANNIN. I did not want it in the defense bill.

Mr. MANSFIELD. Naturally, Someplace else.

Mr. FANNIN. Absolutely; that is true.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. FANNIN. I yield.

Mr. JOHNSTON. As someone who is not an expert in the esoterica about budget requests and floating appropriations and all that, I should like to ask one question, and perhaps we can find a ground upon which we can all agree.

Is it a fact that, already this year, the President wanted to spend or wanted authority to spend some $5.9 billion more than the Senate was willing to give him authority to spend?

Mr. FANNIN. I say to the distinguished Senator from Louisiana that the Members of Congress have desired to increase that by much more than he is talking about, and he has witnessed that on the floor of the Senate. So, with respect to answering as to that specific figure, I cannot answer. I know what happens here, because I stood by and watched bills being increased by a few billion dollars in a few minutes. It is very difficult. Until we get the Budget Committee operating and functioning, we are not going to be able to answer many of these questions. That is why we were willing to go forward with this.

I commend the distinguished majority leader and the distinguished minority leader for being willing to push that bill through and to work on it.

So I say to the distinguished Senator from Louisiana that it is very difficult. In fact, we do not have figures. We have had no control in applying our expenditures against our revenues, and that is what has been wrong.

Mr. JOHNSTON. The question is so simple, though, and it does not call for all these great definitions. Did not the President request almost $6 million more than the Senate was willing to authorize?

Mr. FANNIN. But that has not been determined. The year is not over yet.

Mr. JOHNSTON. So far this year.

Mr. FANNIN. The year is not over with, so that cannot be answered. According to the Joint Committee on Reduction of Federal Expenditures, my answer is no. This is the committee that we depend upon for that type of information.

Mr. MANSFIELD. We depend on our own information in the Senate.

Mr. FANNIN. Then why do we have the Joint Committee on Reductions of Federal Expenditures?

Mr. MANSFIELD. I do not know.

Mr. FANNIN. That is my question.

Mr. JOHNSTON. I respectfully suggest to the Senator from Arizona that if the American people are trying to find out who is the big spender as between the Executive and the Congress, it is very simple. We do not have to go into all the great definitions. We can look at the requests. We have already cut $5.9 billion from the requests, and I hope that we shall do some more cutting before we are finished.

Mr. FANNIN. Unfortunately, we vote the so-called uncontrollables. That is why I think the Committee on the Budget is going to be of great assistance so that we can go into those figures. We can bring back information. We have not been able to do that previously.

I feel that by having the Committee on the Budget functioning, we shall be able to discuss this in a much more rational manner and, I think, a much more beneficial manner.

Mr. MUSKIE. If the Senator from Arizona will yield, may I say to him that a big beginning is that we understand and define the word that he uses. The distinguished minority leader used the word "budget" to try to nail the majority leader on some statement that he made. I do not know of any definition for just the single word "budget" that applies to what we do about spending decisions on the floor of the Senate.

Budget what? It can be budget authority. That is a word of art that has some meaning.

Mr. FANNIN. That is right.

Mr. MUSKIE. If we increase or reduce budget authority, we can find a record of that in the deliberations of the Senate, and in the results. If we are talking about budget outlays, we can find it. But to use a single word "budget?"

The only budget we get is the President's budget at the beginning of the year, which is his order of priorities, but it has nothing to do with the actions taken.

With respect to the Defense appropriations bill, we voted that $5.1 billion cut in budget authority. That is $5.1 billion in appropriations, that is what that is. We cut it by that much.

The best estimate is—the best estimate; there is no fixed or final estimate—the best estimate is that that will represent a $2.7 billion reduction in actual spending, actual outlays, in fiscal 1975. That is roughly in the order of 2 to 1, I suggested earlier this afternoon.

When the Senator comes in here and says that the majority leader is wrong because he is quoted as saying—I do not know whether he is quoted accurately—that the Congress had cut the budget by whatever the dollars are, it means nothing to me and it should mean nothing to the distinguished Senator from Arizona, as a member of the Committee on the Budget. He should ask the next question: Budget what? What was he talking about?

Mr. FANNIN. That is what I should like to know. That is what we have been asking, time and again. We can argue this——

Mr. MUSKIE. May I finish?

Mr. FANNIN. Yes, fine.

Mr. MUSKIE. If the Senator from Arizona had been watching what the Senate did this year, he would know what the distinguished majority leader was talking about. He would know without having to guess. He would know that he was talking about roughly a $6 billion cut in appropriations, and on that, the record is eminently clear.

Mr. FANNIN. If the Senator will yield, I happen to be a member of the Committee on Finance. I follow very closely our revenues and our expenditures.

Mr. MUSKIE. Why is the record confused?

Mr. FANNIN. The record is not confused. If we have a committee that is not doing a job, we should do away with the committee. The Joint Committee on Reduction of Federal Expenditures verifies the figures.

Mr. MUSKIE. That committee's report does not touch the point made by the distinguished majority leader, and that record cannot be made, no matter how much——

Mr. FANNIN. No, it is completed. It cannot be made by the Joint Committee on Reduction of Federal Expenditures. They are not constructed to give credence to the majority leader.

I am not challenging him. I hope that he is right.

Mr. MUSKIE. What Senator MANSFIELD said yesterday was 100 percent correct, and the committee to which the Senator from Arizona refers has made no comment on that point.

Mr. FANNIN. They cannot make any comment on that point.

Mr. MUSKIE. Then why is the Senator from Arizona using the committee's report to refute the majority leader?

Mr. FANNIN. The figures are not available; that is why they cannot make any comment. The distinguished Senator from Maine knows that the figures are not available.

Mr. MUSKIE. I know that the Senator from Arizona is so far off the mark with respect to the point made by the distinguished majority leader, who never tries to deceive——

Mr. FANNIN. I have never stated that.

Mr. MUSKIE. He is so far off the mark, and he refuses to listen——

Mr. FANNIN. If the Senator from Maine would start listening to what was said, I think he could respond better to what was said about him.

Mr. MUSKIE. I am listening.

Mr. FANNIN. The Senator from Maine is certainly not responding on the basis of listening.

Mr. MUSKIE. The Senator from Arizona keeps throwing at me a totally irrelevant figure from the Joint Committee on Reduction of Federal Expenditures.

Mr. FANNIN. That is not the point.

Mr. MUSKIE. The Senator will not even let me finish a sentence. I guess that I am guilty of the same fault.

Let me say before we interrupt each other again what the distinguished majority leader's point is. It is so simple that it should not be the subject of debate. It had to do with the total of the actions taken by the Senate on appropriations bills this year. It was not an evaluation of what the Congress as a whole has done. It was not an evaluation of the laws that we passed dealing with the subject. It was very simply, what has the Senate done to date?

On that point, the Joint Committee on Reduction of Federal Expenditures to which the Senator refers has made no comment. That is not its obligation. It is the responsibility of the distinguished majority leader to account to the public from time to time for what the Senate has done. That is what the Senator from Montana did. What he said was wholly accurate.

Now, the information that the distinguished Senator from Arizona offers is additional evidence, it is pertinent evidence on what may ultimately result from the work of the Congress as a whole. But it is not a refutation of the point of the Senator from Montana.

Mr. FANNIN. I am not challenging that in my respect. I have the highest respect for the distinguished Senator from Montana, the majority leader. I have never questioned his veracity.

Mr. MUSKIE. I was not raising that issue.

Mr. FANNIN. I resent that the Senator would indicate that.

Mr. MUSKIE. I was not raising that issue.

Mr. FANNIN. I am glad that he was not, because I have the greatest respect for the distinguished majority leader and I have certainly showed that at every time that I have had occasion to speak with the distinguished Senator from Montana.

I say that all I am doing is referring to a committee we depend upon, and I shall end it on that basis. The Joint Committee on Reduction of Federal Expenditures verifies what the distinguished Senator from Pennsylvania said. This is not saying that what the distinguished majority leader has said is wrong, if certain things come to pass.

That is the way it has to be put, because if they do not come to pass, his figure will not mean anything at all.

Mr. MUSKIE. May I say to the distinguished Senator from Arizona that in the distinguished minority leader's own statement, he is talking about things that have not passed. He talks about pending bills as though they indicated that we are going to spend more than the President.

Mr. FANNIN. That is correct.

Mr. MUSKIE. Yet when we talk about actions that have not come to pass about cutting expenditures, the Senator from Arizona resists.

When the Senator from Arizona is talking about bills that might or might not increase expenditures, why cannot we talk about actions by the Senate that would, if enacted, cut expenditures? If the Senator from Arizona can talk about what is not yet, we can talk about what is not yet.

But let us, for heaven's sake, if we are going to serve a useful purpose as a budget committee, deal with facts that are relevant to each other.

Mr. FANNIN. That is what we are trying to do. The joint majority leadership indicated a statement that the Congress has cut the 1975 budget by $6 billion. That is my statement in that regard.

Mr. MANSFIELD. Mr. President.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. MANSFIELD. I thought he was through.

Mr. FANNIN. No; I said "in this regard."

Mr. MANSFIELD. Let me say again that the statement I made—and I do not have it before me, unfortunately—was that the Senate has reduced the President's budget by approximately $6 billion and that the Senate intends, before the year is out, to reduce the budget request further so that the cuts will reach a total of $7.5 to $8 billion.

I was rather surprised when the distinguished minority leader said in his statement:

> The cuts to the Defense bill are the major components in both of these decreases.

That is true.

That is true. Five billion one hundred million dollars was reported out of the committee and sustained by the Senate. I believe the distinguished Senator from Arizona and the distinguished minority leader both voted for the defense appropriation bill, which contained a cut of $5.1 billion below the President's request.

Continuing, the minority leader speaking—

> I personally believe that cuts in this bill beyond those made by the Houses are unwarranted.

Does he believe in reducing the budget, or does he not? Does he not believe in what the Senate does in its wisdom to reduce the President's budget request?

He voted for this bill. Furthermore, here on the desk today is the pending business, appropriations for HEW. And what did the Senate Committee on Appropriations do? They reduced the President's budget request by $629,953,000—well over half a billion dollars.

Add that to the $5.931 billion already reduced—saved by the Senate—and you have a figure of $6.560 billion. Add to that the foreign aid appropriation bill—and you can bet your last bottom dollar that that is going to be cut considerably—add to that the military construction appropriation bill, of which I happen to be chairman, and that will be cut substantially; and, insofar as the statement I made, getting away from the wherefores and why-nots, we will end up with somewhere between $7 and $8 billion below the budget request made by the President.

I do not care what the Joint Economic Committee says. What I am talking about is what our own Appropriations Committee has done. Our own committee. The facts are there in the figures. There is no difference; they coincide. The fact is that up to this time the Senate has reduced the President's budget request by $5.931 billion. And if we pass the HEW appropriation bill, now the pending business, we will add $629 million more, and if that comes to pass, the total reduction made by the Senate Appropriations Committee will amount to $6.56 billion. Not a bad piece of change, if you ask me; and I think that insofar as this is concerned, the Senate, Democrats and Republicans alike, ought to be very, very proud of the fiscal integrity and prudence that we are showing.

Mr. FANNIN. Mr. President, let me just say to the distinguished Senator from Montana, I did not challenge his statement if he placed the complete statement into consideration, but I still say that we do not have information that would justify our saying, to my way of thinking, that we have had a $6 billion cut. I hope we will have a $10 billion cut.

Mr. MANSFIELD. So do I.

Mr. FANNIN. But I want the cuts done on a priority basis, by cutting what can be cut without harming the defense of the country or the welfare of the people.

Mr. MANSFIELD. I understand the Senator is speaking from a separate set of figures compiled by a joint committee with which the Senate has very little connection. Our main committee is the Committee on Appropriations, and that is what we have to depend on.

I did not say the democratically controlled Senate achieved this. I said the Senate had achieved it, and that includes the Republicans as well as the Democrats. That is the way it should be. It is not to our credit; it is to the Senate's credit.

Mr. FANNIN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 15580.

Mr. FANNIN. It was my understanding that we would go back on S. 3221 after——

The PRESIDING OFFICER. Under the prior agreement, the Senator from Arizona has the floor.

Mr. FANNIN. Mr. President, I yield to the distinguished Senator from Oklahoma (Mr. BARTLETT) for a statement on S. 3221.

Mr. BARTLETT. Mr. President, as I have been waiting to speak on S. 3221, I naturally have been listening to the discussion on economy. It is rather interesting, since I think most Senators have been interested in reducing the appropriation bills and trying to have them be significantly under the budget request of the President, and hopefully to add up to a balanced budget, or a so-called balanced budget—at least this has been my goal. I think we have a situation where, perhaps, with the interruptions on both sides, both sides certainly had a point to make.

I think the majority leader's point that the Senate has made reductions of five-plus billions of dollars in appropriations requested by the President's budget is correct. As to the statement of the minority leader that the mandatory spending bills have increased nearly $3 billion, I accept his figures and the attribution that these represent the August 22 report of the Joint Committee on Reduction of Federal Expenditures. I think that is also an interesting figure, because it points to one of the challenges that Congress faces, and that is that the uncontrollables, those figures which are out of the control of Congress, which Congress has written into the law in such a way as to increase their effect in the future, in a sense appropriating unknown amounts of growth revenue, are handicapping Congress, the Appropriations Committees, and the President in having control of spending to the extent of balancing the budget.

So I hope the interruptions that took place in the debate are successful in arousing even a stronger desire to reduce expenditures by this body, and to bring the spending into a balance with the revenues coming in.

I think if Congress and the administration will work together, which certainly the whole idea of the summit conference stressed, which was supported by this body about 85 to 5, that then we will be having a real psychological impact on the economy of this country and those entities which make it up and affect it.

So I am very much interested and pleased that there is this much interest in cutting the expenditures, and I hope there will be interest in analyzing the policies expressed in our various authorization bills in order to increase the controllables, so that we will have an opportunity of fine tuning our expenditures that we do not now have.

There are those people who have been saying that Congress cannot balance the fiscal 1975 budget. I do not agree with them. I think we can. I do not think it will be easy. But I do not think those who have been saying that are totally in error. It is quite difficult, and I think that in fiscal 1976 it could very well be impossible, to balance the budget unless there are some very substantive changes made in legislation affecting the authorizations.

So I have sat here with growing appreciation of the interest that has been shown by the leadership in this body, and I certainly hope that we will be balancing the budget, and by that I mean coming close to a $295 billion, or a $298 billion, or a $299 billion appropriation figure, which would presumably be in balance, depending on what definition of the budget we use.

ENERGY SUPPLY ACT OF 1974

Mr. BARTLETT. Mr. President, I ask unanimous consent that Mr. Tom Thornbrugh, Mr. David Russell, and Mr. Ron Frank be accorded the privilege of the floor during the debate on this measure and during the votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I would like to direct one aspect of the bill to debate; namely, the coastal State fund.

I introduced yesterday an amendment which has been printed. I have already amended the amendment because it stated that the purpose of it was to delete section 26. This was done in error so it has been amended to delete section 25.

I wanted the floor manager to be aware that I did make an error in designating the section.

The interest that I have is with the coastal State fund. The creation of a program for granting Outer Continental Shelf revenues to adjacent coastal States under section 25 is, in my opinion, an unwarranted diversion of revenues from the U.S. Treasury. Such a diversion of funds would be inflationary, inequitable, and constitute a poor budgetary practice.

In addition, OCS receipts belong to all the people of the country who currently receive benefits through congressional appropriations from the Treasury. And, of course, the oil that now exists in the Outer Continental Shelf that presumably will be produced belongs to all the people of the country and not to the coastal States involved, and I am referring to the Outer Continental Shelf.

Diverting these revenues for coastal States only without requirement for need would give coastal States windfalls, and would require increased taxation to make up for diverted revenues.

I wrote the Office of Management and Budget on August 14 to solicit the administration's views specifically on this section. My letter and the letter I received back I would like to read. The letter to Mr. Zarb was as follows:

U.S. SENATE, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., Aug. 14, 1974.

Mr. FRANK ZARB,
Deputy Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR FRANK: As you know, the Senate Interior & Insular Affairs Committee has reported S. 3221, the so-called Energy Supply Act which deals with Outer Continental Shelf (OCS).

Section 25 (Committee Print 2 attached) calls for a creation of a Coastal State Fund which would provide for 200 million dollars per year for payment to coastal states which are adjacent to the Federal OCS on which oil and gas exploration and production activities are to be conducted.

This fund is little more than another form of the OCS revenue sharing concept. It is my understanding that the current administration, and for that matter, every administration since the Outer Continental Shelf Lands Act of 1953 was passed, has been opposed to a revenue sharing measure. The false premise for a Coastal State Fund is that activities of oil and gas companies conducted on the outer continental shelf constitutes an adverse economic or social impact on the adjacent coastal state. It does not appear to me that such activities are in fact detrimental to the economy of the adjacent coastal state.

Furthermore, I question if as a matter of public policy the U.S. Government should "buy" the acceptance of leasing activities to be implemented in the federal offshore areas. It is unfair for land-locked states to subsidize the coastal states, especially since coastal states have already been allowed jurisdiction over and revenue of adjacent coastal water inside the Federal OCS.

To my regret, the Committee chose to ignore the position expressed by the Department of Interior on behalf of the Administration. As quoted on Page 24, Committee Print 2, the Department of Interior wrote:

"Coastal State Fund. We are opposed to provisions of the bill which would create a new program of grants to adjacent coastal States and thereby divert revenues from the U.S. Treasury. Receipts under the OCS Lands Act from OCS oil and gas leases belong to the Federal Government and currently make a substantial contribution to Federal income. If such revenues were diverted to coastal States, as new section 25 of the Act would provide, the Federal Government would need to increase its income from other sources. In effect, the bill increases Federal expenditures outside the normal budget and appropriation process, which is both bad management and inflationary. It results in an inflexible allocation of funds to such States without regard to need or resources and also fractionates efforts to address the environmental, social and economic problems of OCS energy development."

It is sort of interesting, Mr. President, that this point that I just made, which is bringing out that legislation of this kind violates the spirit of the just-passed Congressional Budget and Impoundment Control Act of 1974, was part of the matter discussed just before my remarks started, by the leaders of this body, and the difference of opinion expressed about the budgetary process because it had to do with earmarked revenues.

On the one hand, it was stated that the cuts in the budget requests of the President were $5 billion plus; on the other hand, it was said that these do not amount to that much because of earmarking spending which has increased.

But what this proposal would do is fly right in the face of the Congressional Budget and Impoundment Control Act of 1974 because it would reduce the ability in future years of the Executive and Congress in allocating funds to the highest needs.

I think one of the real problems that is very apparent to some of us, such as myself, Mr. President, who are new in this body and just learning about the budgetary process, is that the amount of controllables or those funds which reach the Appropriations Committee and reach Congress that can be controlled, that can be reduced, is just a small part of the entire budget. Different figures are used, but many people use 25 percent or 20 percent of the total are controllable.

This part of the bill, section 25, creating the coastal fund would reduce further the controllables, would increase the earmarked revenues, and it flies right in the face of the new budgetary process created by the bill enacted this year providing for the Congressional Budget and Impoundment Control Act of 1974.

Mr. President, in offering the amendment to delete this section 25, I believe that I am offering the opportunity to the Senate to be consistent with the actions that they took in the passage of a new budget bill.

I would now like to read the final paragraph in the letter to Mr. Zarb. I said:

I propose to offer an amendment on the Senate floor which would delete Section 25. The bill is likely to be called up for the floor action early next week. If you agree with my position on this issue, could you furnish me with additional information to be circulated to my colleagues in an effort to obtain their support of this amendment?

Sincerely,
DEWEY F. BARTLETT,
U.S. Senator, Oklahoma.

In answer from Mr. Ash, the Director of the Office of Management and Budget, I received an answer as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., August 16, 1974.

Hon. DEWEY F. BARTLETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BARTLETT: I certainly appreciate your proposal to offer an amendment to delete section 25 of S. 3221. We agree with your position on this issue and are happy to provide you with additional information on why we strongly oppose earmarking OCS receipts. The Office of Management and Budget also agrees with the viewpoint of the Department of the Interior as quoted in your letter.

We are providing you with two papers. The first, which should be useful for your general circulation, gives in abbreviated form the reasons for opposing payments to coastal States from OCS receipts. The second is a copy of part of a paper prepared by a work group studying OCS problems, chaired by Dr. William A. Vogely and prepared in 1972. This paper presents the counter arguments to the reasons usually presented by those who propose sharing OCS receipts with coastal States.

We have not had an opportunity to examine the bill as reported by the Committee, but will do so as soon as it is available. If we can be of further help, please feel free to call on Frank Zarb or myself.

Sincerely,
ROY L. ASH, *Director.*

REASONS FOR OPPOSING SHARING OCS RECEIPTS WITH COASTAL STATES

The OCS receipts are from Federal lands and therefore belong to all the American people, not just those living in the coastal States.

Payments to coastal States would be inflationary by adding to Government outlays or would force the Government to either raise taxes and other revenue or reduce expenditures of priority programs.

Legislation of this kind violates the spirit of the just passed Congressional Budget and Impoundment Control Act of 1974. In doing so it reduces the ability in future years of the Executive and the Congress in allocating funds to the highest needs.

It is doubtful that there are serious adverse economic impacts on the States from OCS leasing activities. Employees working on energy development are highly paid and thus bring a larger than average share of revenue through State income and other taxes. In addition, the OCS related businesses with high values will be subject to State and local taxes and will provide a large contribution to the tax base.

Should any Federal assistance be needed, the existing programs for community development provided by Commerce, HEW, HUD, Agriculture, Labor and EPA should be used rather than establishing overlapping and conflicting new programs.

Regarding environmental damage from potential oil spills, it does not appear equitable for the Federal Government to provide compensation when spills do not occur. When accidents do occur, the companies are liable for proven environmental damages. Only companies that can bear this liability are permitted to lease. In addition, the possibility of spills is reduced by providing strict regulations and then enforcing them.

Of course, by requiring the companies to be liable for pollution, this is a great deterrent in reducing pollution.

Also, the other enclosure was chapter 6. Sharing OCS Revenues with Adjacent States.

The introduction is reproduced from a paper of the Economic Working Group Outer Continental Shelf Task Force, May 1972, by Dr. William A. Vogley, Chairman, OSC Economic Work Group.

It reads as follows:

This paper examines the possibility of sharing Federal collection from Outer Continental Shelf (OCS) mineral production with adjacent states. It considers various justifications which have been advanced for such sharing, examining the evidence in support of each, the type(s) of sharing each suggests, and the adjacent states for which a rationale seems to be particularly appropriate. The paper also considers the effect of different means on Federal revenues.

JUSTIFICATIONS FOR SHARING OCS REVENUES WITH ADJACENT STATES

Sharing OCS revenues with adjacent states has been supported for the following three reasons: (1) to compensate adjacent states for the adverse fiscal impact of OCS activity; (2) to compensate adjacent states for the adverse environmental impact of OCS activity; and (3) to mitigate state opposition to OCS activity. Each of these rationales is considered below.

(1) The argument has been made that OCS activity has an adverse fiscal impact on the adjacent state(s). Mineral production from the OCS does not yield any royalties or severance taxes to state governments. Yet the governments of adjacent states and localities must provide public services to OCS workers and their families. To help pay for these services, OCS revenues should be shared with adjacent states.

This argument, while making the accurate point that OCS mineral production does not yield any royalties or severance taxes to adjacent states, ignores the fact that OCS activity currently provides considerable revenues to adjacent states at present. Employees engaged in the various aspects of OCS activity are subject to state income tax, state general and selective sales taxes, state license fees, and state and local property taxes. Businesses located onshore serving offshore facilities are subject to state corporate income taxes, state sales taxes, and state and local property taxes.

The question thus becomes one of determining whether the additional state and local revenues attributable to OCS activity exceed or are equal to additional state and local expenditures because of OCS activity, and, if not, whether this provides a rationale for sharing OCS revenues to make up the difference. For the average state, it is likely that revenues will exceed or equal expenditures for the following reasons. Offshore workers and onshore workers in support of offshore facilities have incomes at average to above-average levels compared to average per capita and family income in the adjacent states off which OCS activity has occurred. Subsequently, they, on average, pay more per capita in state sales and income taxes than the average resident of the state (these taxes accounted for 84% of all state tax collections in 1970). They will, also on average, pay more personal property tax to local governments. Onshore facilities serving OSC activity are major components of the property tax base of the communities where they are located. Hence, OCS activity provides, in most cases, greater than average shares of state and local revenues.

The expenditure picture on the whole is more cloudy since the impact of OCS activity on various state and local function varies widely. Additional expenditures per capita for education for OCS-associated employees and their families are likely to be slightly greater than the statewide average, given a preponderance of OCS-associated employees with children of school age. Additional expenditures per capita for transportation for OCS activities could be more or less depending on location. With the exception of most of the Alaskan OCS areas, the OCS areas of the nation having a high potential for oil and gas production have well-developed transportation networks in the coastal regions of the adjacent states. Additional expenditure per capita for welfare programs attributable to OCS activity is likely to be substantially less than the statewide average. Additional total expenditures per capita attributable to OCS acivity is therefore not likely to be significantly greater than average state expenditure per capita.

On average, OCS activity would therefore not be likely to impose a net fiscal burden upon adjacent states. The likely single exception to this would come in those states which depend upon royalties and severance taxes for substantial proportions of state revenue. States adjacent to current or potential OCS activity in this category are Louisiana, Texas, and Alaska (once North Slope production begins). Since tax collections attributable to OCS activities would not include royalties and severance taxes, the additional revenues may be less than additional expenditures. If this situation occurs and is attributable to state dependence upon royalties and severance taxes, it does not seem to be a strong argument for sharing OCS revenues. Those states which by the good fortune of natural endowment have substantial mineral production on which they can levy royalties and severance taxes have a source of revenue not available to most states. This enables them to have either greater expenditures with identical sales, income, and property taxes per $1,000 of personal income (a typical measure of revenue effort) or the same amount of expenditures with lower sales, income, and property taxes per $1,000 of personal income than those states which by reason of natural endowment cannot levy a severance tax. On the basis of equal revenue efforts on those tax sources available to all states for similar levels of expenditure, there would be little empirical evidence for a net fiscal burden resulting from OCS activity.

In particular circumstances, states may be able to prove a net burden. If so, payments corresponding to the net burden could be paid to affected states and localities. This, however, does not provide any argument to sharing a fixed percentage of OCS revenues with adjacent states.

(2) The argument has been made that OCS production poses the threat of potential environmental damage to adjacent states. OCS revenues should therefore be shared with adjacent states to provide compensation for these damages.

This argument only supports impact payments as needed. It does not provide a rationale for regular sharing of a fixed percentage of OCS revenues. OCS production poses only a threat, not a certainty, of environmental damage. Compensation for damages is made only after damages have occurred, not whether they occur or not occur.

However, it is doubtful whether compensatory impact payments for environmental damage to adjacent states from OCS revenues is the appropriate means to handle potential problems here. Payments to states only are not likely to compensate all parties

> suffering damages. Moreover, if the liability for damages is borne by the Federal government, the incentives to operating companies to minimize the probability of occurrence of damage-causing accidents would be reduced.
>
> An alternative approach to the problem would be to concentrate on minimizing the possibility of damage-causing accidents occurring by maintaining strict, adequately enforced Federal regulation of OCS exploration and production and by permitting only companies which can demonstrate an adequate technical and financial capability to explore and operate OCS leases. When accidents do occur, the company responsible should be liable for proven damages. Only those companies which have the capability to bear such liabilities should be permitted to lease OCS lands.
>
> (3) The argument has been made that sharing of OCS revenue with adjacent states is necessary to overcome political objections to OCS exploration and production. Current or proposed OCS activity has occasioned state suits for a variety of reasons. Sharing is seen as a way of overcoming these.
>
> The impact of sharing here depends on the sources and direction of state objections. States have gone into court with the Federal government claiming rights to OCS production. But, this has not been a source of opposition to OCS exploration and production, only to the sharing of revenues from it. This question is amenable to settlement, in the courts with OCS revenues held in escrow while exploration and production continue.
>
> Several adjacent states (particularly Alaska, Louisiana, and Texas) have feared that offshore exploration and production will draw capital away from onshore exploration and production, thus having a long-term negative impact on state severance tax income. From the point of view of the nation as a whole, it is desirable that investment in exploration goes where it is likely to be most profitable (which, in the petroleum industry, generally means where production is likely to be most prolific). Moreover, given the substantial revenues which these states still receive from onshore activity, this is not likely to provide a substantial sources of opposition.
>
> State and groups within states have objected to OCS activity for fear of environmental damage. This has been the major reason for opposition to OCS exploration and production, particularly off the Atlantic Coast and off the California coast. It may also prove to be a source of opposition for Gulf of Alaska exploration as well. It is unknown whether the sharing of OCS revenues with adjacent states could overcome this opposition. Essentially, it depends on the characteristics of the political coalition opposing OCS leasing. Such a measure is not likely to sway conservationist groups. It may produce some changes in position among state and local office-holders, probably in inverse proportion to the size of the opposing coalition. Alternative measures, such as those suggested under the discussion of the second argument, plus the establishment of a record of several years of exploration and production free from major accidents is likely to be more effective in overcoming opposition from this quarter.
>
> In short, revenue sharing for this purpose may not be effective or may be less effective than other means. Moreover, unlike criteria based on need, this purpose offers no guidelines for selecting the appropriate percentage of OCS revenues to be shared with the adjacent states.
>
> The preceding discussion has indicated two basic means of sharing OCS revenues: compensatory impact payments and sharing a fixed proportion of OCS revenues. If compensatory impact payments were to be made, their overall impact on Federal revenues is likely to be relatively insignificant. Since compensatory payments would be only for net fiscal burdens and for damages not covered by company liability, they would not likely be more than 5% on average of Federal revenues from OCS activity.
>
> Any program to share a fixed proportion (ranging from 5% to 50%) of OCS revenues with the adjacent states would have proportionally greater effects on Federal revenues. Such methods of sharing with adjacent states would encounter some problems in defining what constitutes the adjacent state. For OCS areas off Alaska, the Pacific Coast states, and the states bordering the Gulf of Mexico (with the possible exception of Louisiana-Mississippi-Alabama), this presents no problem. For the states on the Atlantic Coast north of Chesapeake Bay, the whole matter is highly problematical. The extension of state boundaries seaward results in many intersections in potentail OCS areas (such as the Georges Bank and the Baltimore Canyon Trough). In some cases, three states could legitimately make a claim to be the adjacent state. Unless some distributive formula were developed which was acceptable to all parties (such as equal shares where multiple claims can be established), sharing programs based on the premise of automatic sharing with the adjacent state are likely to occasion considerable litigation.

For the reasons set forth in this correspondence and supporting documentation, I question the wisdom, practicality, and equity of section 26 of S. 3221.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. FANNIN. I yield to the Senator from Louisiana.

Mr. JOHNSTON. I will be very brief, Mr. President. I cannot escape the opportunity to correct very wrong impressions created by my good friend, the Senator from Oklahoma.

At the outset, I hope that the opposition of the Senator from Oklahoma to some form of recompense for the coastal States is not a Republican position on this bill. I sincerely hope that, because I believe that position is totally wrong, totally unjust, totally inequitable, and the wrong position for my friends on the other side of the aisle to take.

Mr. President, the distinguished Senator from Oklahoma was reading from the report in this matter. The report and the attachments relate to some four, five, or six bills that pertain to various forms of offshore revenue sharing. Most of those bills contain automatic percentage sharing of revenues from the offshore. Frankly, I would support such a concept, because I believe that the $200 million fund as provided in this bill is too little. It is not going to do nearly enough.

Be that as it may, the objections voiced in the report read by the Senator from Oklahoma did not have anything to do with the bill as finally perfected and approved by the Committee on Interior and Insular Affairs.

For example, one of the statements read indicated that, in effect, what we would do is to have a fund that would take care of actual impacts on the coastal States; and if that were the case, the act would not exceed 5 percent of offshore revenues.

The fact is that the $200 million fund in this bill is about 2.5 percent of offshore revenues. Current offshore revenues are approximately $8 billion per year. So the present bill only goes half as far as the report from which the Senator from Oklahoma quoted.

For example, the report, part of which was read, shows without any question—the evidence shows without any question—that the impact on coastal States is significant and in many instances measurable and goes without recompense under the law.

Chairman Russell Peterson of the President's Council on Environmental Quality—a Republican—testified at some length about the offshore effects of OCS development. The CEQ report, which is an exhibit to the report on S. 3221, states:

> Oil spills are highly likely during the life of an oil field. For example, if a medium-sized field (two billion barrels in place) is discovered and produced, it is likely that one large platform spill (over 1,000 barrels) and either one large pipeline spill if pipeline transportation is used or nearly two large tanker spills if tanker transportation is used will occur during the life of the field.

That is by Mr. Peterson. He goes on and points out the offshore impacts:

> The Council found that significant adverse ecological impacts can result from accidental oil spills, continuous discharges of oil from platforms and ships, and construction activities.

He goes on to talk about the onshore impacts:

> The study indicates that impacts on the social infrastructure of the sample areas may be significant. The demand for services—hospitals, schools, housing, transportation, sewage treatment, and public utilities—may be difficult to meet.

That is the Republican head of the CEQ speaking.

The Senator from Oklahoma says that the oil belongs to all the people and that the coastal States should not receive any part of it. It is easy to say that, as an inland State which gets 37.5 percent of all production from federally owned lands within that State. Yes, I say to the Senator, federally owned lands belong to all the people; but federally owned lands within the State of Oklahoma belong to all the people, also, and Oklahoma is getting 37.5 percent as its share of the revenue for that production. We are asking, in effect, for 2.5 percent to take care of measurable impacts.

No evidence has been put in the record to support the proposition that there are no onshore effects. There have been a number of letters and assertions and that sort of thing. But if we look at the evidence in the record—those witnesses who testified—it is very clear beyond any question that having offshore activity beyond the 3-mile limit is a net drain on a State.

We introduced the evidence and the report. The Gulf South Research Institute made a study of the effects of Outer Continental Shelf development off Louisiana. That study found that the net deficit to the State in 1972 was $37.7 million.

Prof. Walter Mead of the University of California made a similar study. He did not quantify it in dollar terms but he did in very specific terms. Professor Mead stated that there are very few benefits from offshore drilling but great expenses and that it was no wonder that the State of California was opposing and will continue to oppose this kind of drilling. So the evidence goes on and on.

The fact is that States which do not now have drilling—and that includes most of them on the Atlantic coast—do not want it. They do not want it because they can look at those which do and say, "We don't want that."

If someone wishes to ask me whether Louisiana wants to stop all drilling off its coast, the answer is no. It has already started. Jobs have been created there. Those people cannot be fired. I suppose if there is a glue factory in the middle of a town that employs half the population, you do not want to stop the glue factory. But that does not mean it is good for you, that it is not a net drain on your economy.

Mr. President, I hope that the position adopted by the Senator from Oklahoma is not the position of the minority party, the Republican Party, on this bill, because it would be an egregious position, and an unjust and inequitable position. I hope the Republican Party will not support it, and I hope that the Senator from Oklahoma will see the light before the vote comes about.

Mr. FANNIN. Mr. President, I yield to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I thank the distinguished Senator from Arizona for yielding.

I certainly am aware of the great contribution that those in Louisiana have made to providing energy in this country, and I know that the people of that State do not want to export the possibility of pollution and depend on other States to suffer from pollution, but yet reap the benefits from the energy that is produced.

I should like to voice the same concern. I certainly hope and trust that it is not the Democratic position to support this coastal State fund. I would hazard a guess, from talking to some leaders around the country in the Democratic Party, that it is not; that there is real concern as to whether justice is involved in this fund; because, first, there is ample evidence to show that there is a real question about the negative impact economically that the Senator stressed.

The Senator certainly is correct that the information I read was prepared prior to the preparation of this bill. But he did not relate that it mentions several examples of why the impact actually could be beneficial to a State.

I should like to read for the benefit of the distinguished Senator from Louisiana what Mr. Robert Krueger, an OSC consultant to the Public Land Law Review Commission, said:

> It is very difficult to see what impact outer continental shelf leasing does have on a coastal State. Some of the data we have indicated, for example, in Louisiana that the coastal State benefited economically from outer continental shelf leasing

What I think is important is that if there is a negative economic impact on the State of Louisiana or any other coastal State, and that cannot be taken care of by the urban development and other programs that are involved in the myriad programs available from the Federal Government, such negative impact could be ascertained later on and dealt with on an individual basis.

Mr. FANNIN. Will the Senator yield?

Mr. BARTLETT. What bothers me is that I think with this bill, we are buying a pig in a poke, that there is a negative impact economically. But if there is, later on, it can be outlined and ascertained more accurately and can be then dealt with on a permanent basis.

Yes, I yield to the distinguished Senator from Arizona.

Mr. FANNIN. I thank the distinguished Senator from Oklahoma.

I wish to bring out one point, and I think it is only fair that we discuss this when the bill is considered again next week. I should like to make one reference to clarify the point that the Senator from Louisiana made. I know he is very learned in this field of activity.

In the committee report on S. 3221 at page 3, there is the following paragraph:

> In 1947 and 1950, the Supreme Court ruled on the controversy between the United States and various coastal states over ownership and control of the Shelf. The Supreme Court decided that the entire Shelf was under Federal control. *United States* v. *California*, 332 U.S. 19 (1947); *United States* v. *Louisiana*, 339 U.S. 699 (1950); *United States* v. *Texas*, 339 U.S. 707 (1950).

When the Senator makes a comparison between an inland State and a coastal State, I think it is unfair to make the assumption that coastal States have been deprived.

> Because in 1953 Congress passed the Submerged Lands Act which "released and relinquished" to the coastal states that portion of the Shelf extending out from the mean high tide line for 3 miles or to their historic boundaries. Congress followed this with the OCS Lands Act which was primarily designed to be an affirmation of the 1945 assertion of jurisdiction by President Truman.

Thus, instead of failing to benefit from Continental Shelf resources the coastal States were each given a 3-mile bond of the Continental Shelf adjacent to their coasts. The property interest of the coastal States, in the natural resources of this area is 100 percent. So let us not suggest that the coastal States have been forgotten.

I think this is a subject that can be debated at length, and I trust that the Senator, the next time that we have consideration of this bill, which I understand will be on Tuesday, that we can discuss it accordingly.

This is not a Democrat bill or a Democrat position or a Republican bill or a Republican position.

Mr. JOHNSTON. I am very pleased to hear that this is not the Republican position.

Mr. FANNIN. I am not saying that. I am saying that the bill is not taking a Republican position or taking a Democrat position. This is a bill that is a Senate bill at the present time.

Mr. JOHNSTON. I hope that that is so.

I notice in the report that all of the Republicans opposed the bill, and that all the Democrats supported it.

Mr. FANNIN. But not all of the Republicans are on the Committee on Interior and Insular Affairs, and not all of the Republicans have——

Mr. JOHNSTON. To answer your one question——

Mr. FANNIN. If the Senator will yield, just to be sure that he understands, all the Republicans did not sign the minority report. I want the Senator to realize that.

Mr. JOHNSTON. I am pleased about that, and I hope that the Senator from Arizona will oppose the amendment of the Senator from Oklahoma.

Mr. FANNIN. I wish to say that I will support his amendment.

Mr. JOHNSTON. I was afraid that was so, and I am afraid that will be the majority Republican position.

To answer your question of a moment ago, the Supreme Court ruled in 1950 in United States against Louisiana that the Federal Government has paramount rights to the shelf; that is true. In effect, they held that, for the purpose of taxation, this is Federal land. What I was referring to in Oklahoma is also Federal land, federally-owned land, and on federally-owned land in which the State has no interest, the Federal Government has seen fit to give the State of Oklahoma, the State of Arizona, Colorado, what have you, 37.5 percent of the revenues produced from Federal lands within those States.

That is all that I am saying—that when one compares one kind of Federal land to another, it is inequitable for some impacted States to get 37.5 percent of Federal revenues and other States, which suffer similar impacts, to get nothing. All section 25 proposes is something that amounts to about 2.5 percent of total OCS revenues to recompense impacts.

Mr. FANNIN. Not to prolong this debate, but the Coastal States have the 3 miles, and I think the Senator realizes that that is quite a concession.

Mr. JOHNSTON. It is not a concession compared to what we thought we were entitled to.

Mr. FANNIN. I understand.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

I certainly do not want to interrupt a debate, but the distinguished Senator from Maine (Mr. HATHAWAY) has been waiting for quite some time, and it was my understanding, from talking to the distinguished Senator from Oklahoma half an hour ago, that the debate would go on for another 10 minutes. It is perfectly all right with me if it continues, but I should like to show some consideration to the Senator from Maine, who wishes to ask some questions of me.

Will the Senators indicate how long they expect to continue?

Mr. JOHNSTON. I have nothing further to say, Mr. President.

Mr. FANNIN. I should like to have one clarification from the distinguished acting majority leader.

It is my understanding that if the HEW bill clears on Monday, then we shall take this legislation up on Tuesday. Is that a correct assumption?

Mr. ROBERT C. BYRD. It is correct, but it may not be complete.

An order has been entered under which, upon the disposition of the HEW appropriation bill, the Senate will return to further consideration of this measure.

Mr. FANNIN. The Senator from Arizona misunderstood the prior unanimous-consent order. Several of the Senators involved in this legislation will be on a special mission on Monday out of the city that will make it impossible for them to be here. I should therefore like to ask unanimous consent that the bill not be considered until Tuesday.

Mr. ROBERT C. BYRD. The Senator from Arizona, I think, need not have any concern, because the Senate will not be coming in until 12 noon on Monday. If it completes action on the HEW appropriation bill that day, maybe I shall not be surprised, but I shall be greatly pleased.

I think the Senator can be sure that under the order previously entered, the Senate will not be returning to this measure on Monday.

Mr. FANNIN. I thank the distinguished acting majority leader.

Mr. ROBERT C. BYRD. It may be that it will be ready on Tuesday if the HEW appropriation bill has been completed on Monday. We shall then proceed to this bill on Tuesday. But if the Senate has not completed its consideration of the HEW appropriation bill on Monday, that will carry over until Tuesday. I am hopeful at least that on that day, if not before, the Senate will complete its work on the HEW bill and, upon its completion, we shall then proceed again to the pending measure.

Mr. FANNIN. I thank the distinguished acting majority leader.

Mr. President, I yield the floor.

SENATE RESOLUTION 401—PRESIDENTIAL PARDONS IN CONNECTION WITH THE PRESIDENTIAL CAMPAIGN AND ELECTION OF 1972

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. HATHAWAY. Mr. President, I take this opportunity to ask the distinguished acting majority leader a couple of questions with regard to the resolution which was passed earlier today concerning the pardoning power of the President.

I understand that the unanimous-consent agreement to debate this matter for only 20 minutes was entered into at 1:15 today and that the vote occurred at 2 o'clock. Although I realize each Senator, from looking at the calendar this morning, should have realized that the matter could be brought up at any time and could have placed a hold on this matter, it seems, in view of the importance of the resolution, that greater notice should have been given and that a minimum of at least an hour's debate on a matter so important should have been allocated.

I should like the comments of the acting majority leader on this matter. I yield for that purpose.

Mr. ROBERT C. BYRD. I am glad to respond.

Was the distinguished Senator from Maine on the floor at the time the distinguished Senator from Florida raised the same question?

Mr. HATHAWAY. Yes, the Senator from Maine was on the floor at that time, but I do not recall the acting majority leader answering specifically the question with regard to the timing. I know that the Senator said at that time that he consulted with the minority leader and with the Senator from California (Mr. CRANSTON) and that as far as the Senator from West Virginia knew at that time, there was no objection to the matter. But I do not recall the Senator explaining why there was such a short period of time for debate, and why a little more notice was not given, so that Senators could be prepared to participate in, or at least listen to the debate on the floor.

Mr. ROBERT C. BYRD. Mr. President, I think that the shortness of the time, the order being for 20 minutes, was simply based on the feeling of those with whom I established contact, and certainly on my own feeling, that no additional time would be necessary. I knew of no opposition whatsoever to the resolution. I submitted it on yesterday. I made a statement as to its purpose on yesterday. I felt that the vote on it would be virtually unanimous, and when I discussed the time with the distinguished Republican leader and others, it was suggested that 15 minutes, equally divided, would be sufficient.

I made it 20 minutes, and made it a 2 o'clock vote because some Senators had to leave for other assignments during the afternoon. Senator CRANSTON, who was a cosponsor of the resolution, as I understood would have to depart the city sometime after 4 o'clock, and it was just a matter of getting the resolution up and getting it adopted with a minimum of time being expended thereon.

There was another matter before the Senate today, and it was only with the sufferance of those who had an interest in the pending measure that we were allowed even to take the resolution up this afternoon.

It was not a matter heretofore unheard of. Heretofore in the history of the Senate, from time to time, measures have been called up on short notice, with a short time for debate thereon or with no time for debate thereon, and voted on by unanimous consent.

Unless there is a hold on a measure, or unless there are indications that a Senator or Senators wish to be heard, or that there is opposition, the leadership is in no position to know that it is required to act otherwise than it did in this instance.

Senator MANSFIELD had no knowledge of any Senator wishing to express opposition to the measure. I had no such knowledge. The Republican leadership indicated that as far it knew, 15 minutes would be sufficient for discussion, and I am sorry if the distinguished Senator feels that he was deprived of an opportunity to express his opposition or to express concern about the resolution, or to ask questions, but I can assure him that at any time the leadership knows of his desire to have some time on any measure, certainly, the leadership will bend over backwards in an effort to accommodate him, as it always has.

The resolution speaks for itself. The power of the President to grant reprieves and pardons is a complete, full, and absolute power, in my judgment, and cannot be limited by Congress prospectively or in retrospect. The only thing that Congress can do, if it wishes to bring about an alteration of that power, is adopt a constitutional amendment and submit it for ratification by three-fourths of the States.

This resolution cannot, even in the slightest degree, impinge upon the President's power, that he has already exercised, to pardon Mr. Nixon, nor can it place any limitation upon his power to pardon any person in the future. It is simply an expression of concern by those Senators who feel that the judicial process ought to be allowed to work its complete will in connection with persons who are accused of having committed criminal offenses in connection with, if I may use the generic term, Watergate, so that the judicial process will not be foreclosed in any remaining cases. It has already been foreclosed with respect to Mr. Nixon.

We may question President Ford's judgment; we may question his wisdom; we may question the timing of his action; we may disagree with him; but he exercised a constitutional power that was absolutely and solely his under the Constitution, and there is nothing we can do about it.

It was hoped by me and those others who had cosponsored the resolution, and by those who have voted for it, certainly, that the President would at least be advised as of now, prior to the pardoning of any additional persons if such was being considered, that it is the sense of the Senate that that not be done prematurely. The resolution is without any legal or binding effect, but it is an expression of the sense of the Senate that in the other cases that are pending, any accused persons not be pardoned until such time as the judicial process has worked to its completion.

In the first place, I cannot understand the concern, although any Senator certainly has a right to express his viewpoint with respect to the resolution, and to disagree with it. But I cannot understand such concern with respect to the resolution itself. It certainly has no binding effect as I have said. It does have a moral, persuasive and influential effect, hopefully, and based on the news story that was reported at the time of the vote on the resolution, it has already had its desired effect.

I am glad to answer this question a second time, and will be glad to answer it a third time; but the leadership attempts, and has a duty, to expedite the legislative process. Sometimes we get agreements on measures, and then find after we have done so that there is a Senator who would like first to have been contacted. But there was no indication in this instance that the resolution would run into any opposition. If there had been such indication, there would not have been any desire on my part to proceed with it until such time as such Senators had been contacted.

There was something to be gained by acting on the resolution today, in my judgment and in the judgment of those who were cosponsoring the resolution, rather than waiting until next week, because with the passage of time, whatever influential impact the resolution may have originally had, I should think, would dissipate, and therefore the full beneficial effect would best be gained by acting as soon as the Senate did.

Mr. HATHAWAY. The problem that arose in my mind is this: We were expressing our opinions on the pardoning power, the constitutional pardoning power of the President, after only 20 minutes of debate, most of which was not heard by most of the Members, because I do not believe that any of the Members were notified that the matter was going to come up at 20 minutes to 2, be debated for 20 minutes, and then be voted on at 2 o'clock.

On a matter as important as this, because it will have some precedent-setting effect on a constitutional provision, that amount of time seems to me to be grossly inadequate for that purpose.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HATHAWAY. I am glad to yield.

Mr. ROBERT C. BYRD. Mr. President, I respectfully disagree with the Senator's interpretation of the resolution. The resolution was not expressing an opinion of the Senate on the "pardoning power" of the President. This resolution had nothing to do whatsoever by way of expressing an opinion on his pardoning power. It does not question his pardon power at all. It merely expresses the wish and the desire, by way of advice, perhaps, that he not exercise that pardoning power prematurely. We do not attempt to define the parameters of that power. We simply express the hope, the wish, and the desire that the President not exercise that pardoning power on any persons who are accused of crimes related to Watergate until the judicial process has been allowed to run its course.

He can still pardon such parties finally, if he wishes. But in the hope that witnesses would be called who would be in a position to place on the record all of the facts in connection with alleged crimes, it was the desire of the Senate that the pardoning power of the President not be exercised until such time as the trials had been completed and the appeals had been exhausted.

Otherwise, the witnesses would be foreclosed from appearing and the facts would never become fully known to the American people.

Mr. HATHAWAY. Well, I disagree with the Senator's last point because the facts could become known to the American people if the prosecutor chose to reveal to the American people what evidence there was against the former President. And, furthermore, I assume that this trial could be avoided by the parties involved simply changing their pleas—or, if they have not yet pleaded to indictments, by pleading guilty or nolo contendere— and that such pleas would preclude the possibility of a trial and the evidence being adduced, and the American people never would know what all the facts were.

That was one of the issues in the resolution that I wanted to address myself to, but, at the time the matter was brought up, I think I had a total of about 30 seconds to state my position.

Even though the Senator says this has no precedent value——

Mr. ROBERT C. BYRD. I did not say it did not have precedent value. The Senator said that, but I did not.

Mr. HATHAWAY. I say that this does set a precedent and, for that reason, we should have devoted a great deal more time to it because we are going to get, we may get, other cases in which we may want to exhort the President not to curb his use of the pardoning power.

For example, in the cases of amnesty, are we going to say that each and every one of those who avoided the draft and left the country has to come back and stand trial before the President can decide whether or not to pardon him for his offenses, or when that situation comes up, are we going to say that it is all right to grant blanket pardons without having a trial?

I am not saying here on the floor now that each and every one of them should not be tried. I am not passing judgment on that now. But I think that was an issue that we should have considered and which would take more time than just the 20 minutes of debate we had today to consider. Our actions today will set a precedent as to what the Senate feels the procedures for issuing pardons ought to be. Should we now say that President Lincoln was wrong in granting blanket pardons to many of those involved in the war between the States?

Mr. ROBERT C. BYRD. That is not quite correct. He required their swearing an oath. They would be pardoned if they would swear an oath of allegiance.

Mr. HATHAWAY. But the facts in each individual case were not revealed to the American public——

Mr. ROBERT C. BYRD. He just did not grant a blanket pardon.

Mr. HATHAWAY (continuing). As this resolution would have those facts revealed to the American public in the case of trials involving the Presidential campaign of 1972.

Mr. ROBERT C. BYRD. If the Senator will yield, I do not relate the question of amnesty for draft evaders and deserters to the granting of pardons to persons who stand accused of having committed crimes in connection with Watergate. I do not equate the one with the other at all.

But I can understand how the public may relate the two, and individuals may wish to do that. I do not see the two as related at all.

Mr. HATHAWAY. One could easily say that now since the Senate has gone on record as saying the President should not issue any pardons to any individuals involved in crimes about the Presidential election of 1972 until after the trial has been completed, if the situation of amnesty or any other situation where the President might offer a pardon were to come up, we are bound by this.

At least, those of us who supported the resolution are—and I was not one of them—but, nevertheless, it was by a majority vote of the Senate, so the Senate is bound somewhat. It would be difficult for it to argue that the procedure in granting a pardon should be different in one case than in the next.

Mr. ROBERT C. BYRD. In regard to what feature now?

Mr. HATHAWAY. Well, let us say in the case of the pardons that may be granted to as many as 50,000 young men who avoided the draft.

Mr. ROBERT C. BYRD. I have no trouble whatsoever with that, no trouble whatsoever. I do not relate the two at all.

The sole purpose of this resolution is to assure the American people that they are going to get the full facts as completely as they can be laid upon the record by virtue of the judicial process having run its course.

Of course, if the accused individuals plead guilty that, to an extent, forecloses the laying of the facts on the record. But the judicial process itself would have worked its will even if they plead guilty.

Mr. HATHAWAY. Is the point to get the information to the American people or to make the person plead guilty?

Mr. ROBERT C. BYRD. The point is to get the information to the American people.

Mr. HATHAWAY. Well could not that be covered in another way? We want to avoid saying that a person has to stand trial in every instance.

Mr. ROBERT C. BYRD. The facts will, to a degree, come to light by virtue of the fact that the guidelines which were formulated by the Senate Judiciary Committee—with the assistance of former Attorney General Richardson, and which were made to govern the investigations by Mr. Cox and by Mr. Jaworski, and which appeared in the Federal Register, and which had the effect of law, and which were so recognized by the courts as having the effect of law—would require Mr. Jaworski at the completion of his assignment to submit a report to any appropriate parties or entities of Congress.

So there is no question in my mind but that eventually, at such time as he has completed his assignment, he will report to the Senate Judiciary Committee, because if any entity is appropriate that committee would certainly comport with that definition. He will report to that committee and will be subject, I should think, to questions by the members of the committee, so there is that alternative by which we may yet hope to lay upon the record whatever facts the Special Prosecutor has at hand.

The Senator knows as well as I do that the pardon for President Nixon to some extent closes the record. But as long as other persons stand accused, if he is required to appear as a witness, one would have some reason to hope and expect that additional light will be shed and facts laid upon the record. I should think that the American people would want this to be done.

Now, if the President, prior to their trials, were to pardon Mr. Ehrlichman, Mr. Haldeman, et al.—which we had some reason to think was being considered by virtue of the garbled announcements that have come to us from the White House first, that a study was being conducted of blanket pardons for such individuals, and then later it was not going to be a blanket pardon but it would be on an individual basis, all of which gave rise to the concern on my part and on the part of others here that indeed this was being considered—the door to a more complete record would be closed.

We have to take at full value what we hear when a study was said to have been authorized by the President, according to news reports.

The President did not consult with us when he pardoned Mr. Nixon. I know of no Member of the Senate with whom he consulted. He, of course, was not required to consult with us. The authority is his to grant the pardon—prematurely or otherwise—which he granted. But he did not consult with us on that occasion. It took us all by surprise. I was shocked and stunned and surprised and completely disappointed and thoroughly disgusted, as I am sure the Senator was. But that did not help any. What was done was done.

So what was the next best thing that we could do? We could individually state our disappointment and our chagrin, and our opinions that he should not proceed prematurely with any further pardons. But what would be a little more effective, hopefully, would be to enact a resolution expressing the sense of the Senate that the judicial process be allowed to work its will, and that no further pardons be granted to persons who were accused until such time as their cases had been fully disposed of.

That was our intent and our purpose and if I had thought for a moment that the Senator from Maine, or any other Senator, would like to have been here and been heard, I would certainly have done everything I could to have accommodated that Senator.

Mr. HATHAWAY. Well, let me say to the Senator that I was working on a substitute for this resolution this morning when I received the letter from those supporting the resolution asking me to support it.

Mr. ROBERT C. BYRD. My name was not on that "dear colleague letter."

Mr. HATHAWAY. This was a "dear colleague letter" sent out by Senator CRANSTON.

It was a resolution similar to that made by the Senator from California (Mr. CRANSTON).

I was assuming the matter would not come up this week, but if it did come up today or tomorrow, that we would have more than just 20 minutes to debate it.

I was wrong in that assumption and should from now on place holds on anything I think is going to be questionable at all. But I do not want to have to resort to that practice. I would prefer to assume that on matters that are as important as this we have at least some notice when the debate is going to start; certainly no less than an hour should be allowed to debate a matter as important as this.

In fact, in my estimation, this ought to have been referred to a committee and been thoroughly aired because of the implications involved.

The Senator says that there is no relationship between this and the amnesty cases. I think there is a relation between this and the amnesty cases and if we are going to say these defendants should not receive a pardon until their trial has been completed, I think we are going to have to say the same thing with respect to those who might get a pardon for evading the draft during the war in Vietnam.

Maybe we want to say that. I am not saying we do not; maybe each and every one of them should stand trial. I think that is a matter over which we should have hearings, and short of hearings, certainly we should have a thorough debate before entering into a vote on this matter.

Mr. ROBERT C. BYRD. Well, if I may say, I think we were dealing in this situation with a matter that was presumed imminent, at least in the minds of some of us it was imminent.

In the matter of amnesty, draft evaders and draft dodgers, there are already procedures whereby their cases can be handled on an individual basis. The President has already indicated he does not support unconditional amnesty for them. So he is already on record.

If he had said he would also not support blanket amnesty for Ehrlichman, Haldeman, et al, I would not have been so concerned.

He has indicated that the draft evaders should be allowed to work their way back. I do not know what that means, but the cases are wholly different, it seems to me.

On the one hand, the President says he is against unconditional amnesty for draft evaders and deserters. On the other hand, we were told that a form of unconditional amnesty was being considered for persons accused of Watergate crimes. The two positions were not only inconsistent but also unrelated.

Mr. HATHAWAY. I agree with the Senator from West Virginia that the President's exercise of his pardon powers with reference to former President Nixon was not exercised, I would say, in a very judicious manner. Certainly the public was entitled to know the facts involved in each and every offense for which the former President was being pardoned.

But my whole point in this matter is that the incident of President Ford granting this pardon shocked me to the point where I thought we should do something about the curbing of the President's pardoning power.

Realizing that the circumstances of getting through a constitutional amendment before the entire Watergate matter could be disposed of was impractical, the least we should have done in our sense-of-the-Senate resolution is have a resolution comprehensive enough to cover all cases regarding the President's pardoning power.

What that would be, I do not know.

We might come back and decide upon the exact same wording of the resolution we passed this afternoon, but at least we should have had more time to discuss that.

My offhand reaction would be that the resolution would simply say that the President should adequately inform the public of the nature of the offense and the reasons for granting the pardon. That certainly should satisfy what I think his obligation to the American public.

Understandably, he has no obligation under the Constitution, but then we should probably follow that up with a more lengthy discussion as to just what, if anything, should be done to amend the Constitution for cases that may arise in the future.

Mr. ROBERT C. BYRD. Well, I appreciate the Senator's viewpoint, but I think the Senator would agree that realism would dictate that if we got into that kind of discussion, an hour would not be sufficient, but it could go on for days because we would be talking about a constitutional amendment, whereas we were confronted here with a necessity for expressing the will of the Senate in time to possibly have some influence against pardons of the persons to whom it was addressed—one or two of whose names I have stated specifically.

Personally, I think that if the trials of Mr. Ehrlichman and Mr. Haldeman go to their conclusion, Mr. Nixon will be called as a witness, and he will be given an opportunity to state the truth, and he will be under an obligation to state the truth. He cannot incriminate himself, he cannot invoke the Fifth Amendment, because he has already been pardoned. As long as those trials go forward, I think the American people stand a good chance of getting more truth than they have from Mr. Nixon and the others heard thus far.

Mr. HATHAWAY. Well, to accomplish that purpose, we could call upon the Watergate prosecutor to publish the evidence he has uncovered against former President Nixon with regard to his involvement in Watergate, as we did in the Agnew case.

Mr. ROBERT C. BYRD. Does not the Senator feel that such action at this time could prejudice the trials now docketed?

Mr. HATHAWAY. Yes; it may very well prejudice trials, but if our objective is simply to make sure that the general public is going to have whatever evidence the Special Prosecutor had against a former President, I do not see why we have to do that immediately.

Mr. ROBERT C. BYRD. We do not have to do anything.

Mr. HATHAWAY. At some time. Pardon is already granted, so it is too late to recall that.

As long as the American public is assured that as soon as these other trials are over this evidence against the former President is going to be made public, I think the public will be satisfied as much as it can be at this time.

Mr. ROBERT C. BYRD. We seem to be going around in circles. The trials would be aborted if further pardons were granted prematurely.

We do not have to do anything as far as the Special Prosecutor is concerned. The guidelines have already mandated that he will report to the Judiciary Committee of the Senate—if I may inject the name of that committee specifically—on all the evidence that he has. Eventually we will get that.

But why foreclose the possibility, if the judicial process is allowed to work its will, of getting additional facts which probably are not yet in the possession of the Special Prosecutor, and of letting justice be done and guilt or innocence be established through the trial process.

Persons who are indicted may be acquitted. If they are acquitted, fine. The process will have been allowed to run its course.

But witnesses will be called and witnesses will be asked questions under the danger of perjuring themselves if they do not answer truthfully.

I have repeatedly stated the purpose of the resolution and its intent. I need not say more.

Mr. HATHAWAY. No. The purpose of my colloquy is simply to say that I thought it was hasty a way to handle a matter of this importance. I think, to answer the Senator's argument that we have to do this expeditiously, the least we could have done is to incorporate into the resolution language to the effect that this was not intended in any way to be binding upon the Senate as to its views on the pardoning power in general, and that this was being done——

Mr. ROBERT C. BYRD. Why incorporate that?

Mr. HATHAWAY. Because I think it will have a binding effect on future actions, at least as a precedent.

Mr. ROBERT C. BYRD. It is not binding on the Senate as a precedent. The Senate sometimes overrules its own precedents. If the Senator wants to offer a resolution to grant all draft evaders and deserters blanket amnesty, he has that right. This resolution will not be a binding precedent on any future matter. I will simply vote against his resolution.

Mr. HATHAWAY. The Senator is already on record as being against amnesty.

Mr. ROBERT C. BYRD. No, not against amnesty, per se. I said against blanket amnesty.

Mr. HATHAWAY The chances of the Senator granting blanket amnesty are not great. In this resolution we have geared ourselves not only toward the Watergate situation, but I think we have expressed ourselves with respect to the President's pardoning power. That is the only point I am trying to make. I understand the Senator does not agree with that.

Mr. ROBERT C. BYRD. I recognize the Senator's right to his viewpoint. I could not disagree with him more. I do not believe this resolution addresses itself to the President's pardoning power, even in the slightest degree. It does not question his power. It does not define or seek to limit his power to pardon—and it could not do so. It just says, "Mr. President, please do not use your power until such time——"

Mr. HATHAWAY. We are expressing ourselves as to the procedure he should exercise with respect to pardoning Watergate defendants. To that extent I think we have committed ourselves as to what the procedure should be. Now we will have the difficult job of distinguishing in future cases why we do not think he has to follow that procedure in every case. I do not see a distinction why he should not follow the same procedure in any case that might come up.

Mr. ROBERT C. BYRD. What does the Senator mean by that?

Mr. HATHAWAY. Any other Federal crime for which he can pardon someone, whether it is a draft-dodger case or any other case in the future.

Mr. ROBERT C. BYRD. The resolution does not address itself to draft-dodger cases.

Mr. HATHAWAY. No, but we have expressed ourselves as to the procedure the President should follow with respect to pardoning defendants in Federal cases.

Mr. ROBERT C. BYRD. One special category.

Mr. HATHAWAY. When another category comes up, it is going to be difficult for us to distinguish why that category should be treated any differently from this category.

Mr. ROBERT C. BYRD. We will take that case and let it rest on its own bottom. I am sorry that the Senator is so concerned. I know he has expressed a conscientious concern. It seems to me that his point of criticism in the main, and I know it is not meant to be unfair, is with respect to the time allotted for debate on this resolution. I have already addressed myself to that concern. I explained that Senator CRANSTON had to leave. I explained that we had another bill pending on the floor. I explained that the Senate would not be in session tomorrow. I explained that to wait until next week the resolution might lose whatever beneficial impact it might have had, with every passing day. I explained that no one knew of any opposition to the resolution. If the resolution was to have value, it would be gained by acting expeditiously.

I cannot explain beyond that. I can understand, in hindsight, why it might have been well if we had scheduled an hour for debate. I can appreciate that. But this is just something that happens around here from time to time.

I will be very glad to relinquish my position here for a week and let the Senator work out the agreements. As a matter of fact, I think it would be a good idea.

I think he would find that it is pretty difficult to work with 99 other prima donnas and work to everybody's satisfaction all the time. I am sure I would be complaining to him if the shoe were on the other foot, and if he were working out the agreements.

Mr. HATHAWAY. I would be glad to take the Senator's place and try to work out time agreements for 5 days, or whatever length of time the Senator wanted me to do it. I just say it is a matter of judgment in this particular case——

Mr. ROBERT C. BYRD. Let us do it next week.

Mr. HATHAWAY (continuing). And I do not think those who were involved exercised what I would consider to be good judgment on something that I thought was fairly important. I know that the procedure here is that, by custom at least, any Senator can put a hold on a resolution. I think that is going to force those of us who have objected to this to some such course of action. I am not the only one. I know many of the 24 who voted against the resolution did so solely on the ground that they did not have time enough to consider it, and not on the merits of the resolution. They will probably exercise this privilege of putting a hold on resolutions and other matters more so than they have in the past.

Mr. ROBERT C. BYRD. The Senator certainly has a right to put a hold on a measure. The leadership will also hope to be allowed to retain its right to honor a hold for whatever time appears to be reasonable and desirable under the circumstances.

There is nothing I can do now about what happened. It is not the first time I have used bad judgment around here. I have used it before and probably will again. But I did so in good faith. I am sorry if the Senator feels as he does.

Mr. HATHAWAY. I do not question the good faith of the Senator at all.

Mr. ROBERT C. BYRD. I understand. I am just sorry that it happened as it did.

Mr. HATHAWAY. I am sorry that the Senator did not seem to see the same implications in the resolution that I see, or he would have granted more time, and more notice ahead of time about when the debate was going to occur.

Mr. ROBERT C. BYRD. I regret that the Senator did not have the time he would like to have had.

I still do not see the implications, may I say, that the Senator sees. But maybe he is right and I am wrong again.

Mr. HATHAWAY. I hope the Senator is right in his last statement.

I thank the Senator.

Mr. ROBERT C. BYRD. I yield to the distinguished assistant Republican leader.

Mr. GRIFFIN. I thought it might be worth observing that if the Senator from West Virginia had pursued his intended course on yesterday, of asking for immediate consideration of his resolution—which he did not pursue upon request from this side—as I understand the rules following the completion of morning business this morning the resolution would automatically have come before the Senate.

That does not mean necessarily we would have voted on it, depending on how long the debate might have lasted.

I say this because I am sure that everyone on my side was not happy with the arrangement that the leadership worked out, but it did involve some accommodation on both sides.

I do not know if that adds anything, but I think that the resolution introduced yesterday was widely known. It could have been brought up this morning if immediate consideration had been pursued yesterday, and there had been objection, as there would have been. I do not know that the Senate is in a much different position in terms of notice than would have been the case if the Senator from West Virginia had pursued his original intention.

I do not know if that adds anything to this or not.

Mr. ROBERT C. BYRD. Yes, it does, and I thank the Senator.

I again say that I was wholly unaware of any opposition at all. I had intentionally left out of my resolution any reference whatsoever to the action that has already been taken by the President in pardoning Mr. Nixon. I made no reference to the former President. I made no reference to the White House. I tried to make the resolution entirely prospective in its nature.

I just could not see how this would offend anyone. But, after all, I only see through my own eyes, and I do not always anticipate the feelings of my colleagues. I can see now that there should have been more time for debate. For whatever worth an apology may be, I state that for the RECORD.

Anytime the Senator has any concern about any measure, if he will indicate it, that wish will be honored, and some effort will be made to work out a time agreement which will accommodate his wishes.

Mr. HATHAWAY. I say to the Senator that in every other case in which I have been involved, and I have been involved in many, in which I have asked the acting majority leader to protect my rights, he has protected me very well. I reiterate that I know the distinguished Senator from West Virginia acted conscientiously in this regard and did not try to railroad this matter through; and from his point of view, he did not know of any objection to it.

I was just raising the point so that we would have something on the record to indicate that from time to time we do not necessarily agree with the judgment of the majority leader and the minority leader with respect to timing and notice of debate.

So much is done here by unanimous consent that it is difficult for one Senator to sit in the Chamber and continually object to all the unanimous-consent requests that he might wish to that are brought up.

The main thrust of my remarks is to caution both sides to perhaps have a second time for debate on certain matters so that someone will not be sitting in here every day objecting to every unanimous-consent request. We would still be back on the business we started last January, if we had a situation such as that.

Mr. ROBERT C. BYRD. Mr. President, the leadership is so cautioned.

But may I say, also, that I am constrained to state that any Senator who sat here all the time and objected to everything would find himself even more unpopular with his colleagues than do the leaders. He might want to consider that.

Mr. HATHAWAY. Yes, I suppose he might want to. But his votes are in his State and not here, so he may not care whether or not he is popular in this Chamber.

Mr. ROBERT C. BYRD. So are my votes in my State.

I thank the Senator.

Mr. HATHAWAY. I thank the Senator.

ORDER FOR RECOGNITION OF SENATOR ALLEN ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, Mr. ALLEN be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. DOMENICI. Mr. President, I rise not to enter the discussion with reference to the resolution, although I state to the distinguished Senator from Michigan and the distinguished Senator from West Virginia that I had many thoughts about it today; and because I was so deeply concerned I have been away from the floor considering the matter for the last several hours.

ORDER FOR ADJOURNMENT TO MONDAY

Mr. ROBERT C. BYRD. Mr. President, I know that the order has been entered for the convening of the Senate at 12 o'clock noon on Monday next, but has that been attached to a motion to adjourn at the close of business today?

The PRESIDING OFFICER. The Chair advises the Senator that it has not.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has an order been entered for the transaction of routine morning business on Monday next?

The PRESIDING OFFICER. It has.

Mr. ROBERT C. BYRD. And are there other orders for the recognition of Senators?

The PRESIDING OFFICER. Orders for the recognition of three Senators.

Mr. ROBERT C. BYRD. Mr. ALLEN, Mr. GRIFFIN——

The PRESIDING OFFICER. And Mr. ROBERT C. BYRD.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. METZENBAUM) laid before the Senate the following letters, which were referred as indicated:

PROPOSED LEGISLATION BY THE SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury transmitting a draft of proposed legislation to restrict the authority for inspection of returns and the disclosure of information with respect thereto (with accompanying papers). Referred to the Committee on Finance.

REPORT ON DISPOSAL OF FOREIGN EXCESS PROPERTY

A letter from the Director of the Office of Administrative Services and Property of the Department of Commerce, transmitting, pursuant to law, a report on the disposal of foreign excess property for the fiscal year ending June 30, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

REPORT OF THE MILITARY ORDER OF THE PURPLE HEART

A letter from the Adjutant General of the Military Order of the Purple Heart, transmitting, pursuant to law, its annual report for the fiscal year ending July 31, 1974 (with an accompanying report). Referred to the Committee on the Judiciary.

PROPOSED LEGISLATION BY THE ATOMIC ENERGY COMMISSION

A letter from the Chairman of the Atomic Energy Commission transmitting a draft of proposed legislation to increase the authorization for appropriations for Operating Expenses and Plant and Capitol Equipment (with accompanying papers). Referred to the Joint Committee on Atomic Energy.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

A petition from a citizen of Seattle, Wash., seeking a redress of grievances. Referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 2423. A bill for the relief of Angela Garza (Rept. No. 93–1150).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with amendments:

S. 3234. A bill to authorize a vigorous Federal program of research and development to assure the utilization of solar energy as a major source for our national energy needs, to provide for the development of suitable incentives for rapid commercial use of solar technology and to establish an Office of Solar Energy Research in the United States Government (Rept. No. 93–1151).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. JACKSON (for Mr. Pastore) from the Joint Committee on Atomic Energy:

Dixy Lee Ray, of Washington, to be a representative of the United States of America to the Eighteenth Session of the General Conference of the International Atomic Energy Agency.

John A. Erlewine, of Maryland, Abraham S. Friedman, of New York, Dwight J. Porter, of Nebraska, and Gerald F. Tape, of Maryland, to be alternate representatives of the United States of America to the Eighteenth Session of the General Conference of the International Atomic Energy Agency.

Mr. GRIFFIN. Mr. President, as in executive session, from the Committee on Commerce I report favorably sundry nominations in the Coast Guard which have previously appeared in the Congressional Record and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed at the end of the Senate proceedings of August 19 and September 4, 1974.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JAVITS:

S. 3993. A bill to provide for the establishment of regional and industry productivity councils. Referred to the Committee on Labor and Public Welfare.

By Mr. JAVITS (for himself, Mr. Williams, Mr. Nelson, Mr. Buckley, and Mr. Clark):

S. 3994. A bill to amend section 401 of the Small Business Investment Act of 1958 to authorize guarantees of leases of commercial and industrial personal property. Referred to the Committee on Banking, Housing, and Urban Affairs.

By Mr. JAVITS (for himself and Mr. Weicker):

S. 3995. A bill to amend the Immigration and Nationality Act to provide for the immigration of children of individuals suffering from Hansen's disease. Referred to the Committee on the Judiciary.

By Mr. JACKSON (for himself and Mr. Fannin) (by request):

S. 3996. A bill to amend section 2 of the Act of June 30, 1954, as amended, providing for the continuance of civil government for the Trust Territory of the Pacific Islands. Referred to the Committee on Interior and Insular Affairs.

By Mr. STEVENSON (for himself, Mr. Biden, and Mr. Haskell):

S. 3997. A bill to amend the Agricultural Act of 1949, as amended by the Agriculture and Consumer Protection Act of 1973, to modify the provisions of the wheat and feed grain programs relating to farmers prevented from planting any portion of their acreage allotments because of drought, flood, or other natural disaster or condition beyond their control. Referred to the Committee on Agriculture and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS:

S. 3993. A bill to provide for the establishment of regional and industry productivity councils. Referred to the Committee on Labor and Public Welfare.

NATIONAL PRODUCTIVITY COUNCILS ACT OF 1974

Mr. JAVITS. Mr. President, I introduce a bill today of such general interest that I think my colleagues ought to look at it carefully. It provides for the establishment of regional industry productivity councils. It follows the experience we had in World War II when some 5,000 of such councils were established with a material effect on American productivity, even in such elementary matters as absenteeism and alcoholism.

I strongly urge upon the President, in connection with his summit considerations and upon my colleagues, the high desirability of this particular effort.

The most recent wholesale price index figures show that inflation in this country is still barreling along at truly shocking rates. Wholesale prices are now almost 18 percent higher than a year ago, and price hikes have even speeded up in the past 2 months. Double-digit inflation is now firmly entrenched in our economy.

The statistics, while shocking and scandalous, are all too believable to the person shopping for food, to the pensioner, to those on low and even middle incomes.

The figures demonstrate that we cannot wait for summits and presummits to take action on the price front. Legislation I have proposed would give the Persident's Council on Wage and Price Stability additional clout to subpena company records and to delay price increases until we can determine whether the increases are justified.

Americans can justifiably feel helpless in the face of rampant inflation, on the one hand, and congressional inaction on the other.

The other crucial element in the fight against inflation is the necessity for increased productivity. I have long urged the establishment of regional and industry productivity councils, along the lines of the councils that worked so well during World War II. To that end I am introducing legislation to create such councils.

Mr. President, I ask unanimous consent that an article by James Tobin, published in the New York Times of Friday, September 6, 1974, entitled "There Are Three Types of Inflation: We Have Two," and a news release from the U.S. Department of Labor, Bureau of Labor Statistics, be printed in the Record.

There being no objection, the article and release were ordered to be printed in the Record, as follows:

THERE ARE THREE TYPES OF INFLATION; WE HAVE TWO

(By James Tobin)

New Haven, Conn.—Three decades of experience tell us that inflation is endemic to modern democratic industrial societies. Fortunately the same record indicates that these economies are nonetheless capable of yielding their citizens substantial gains in well-being decade after decade. But hysteria about inflation may lead to policies that keep economic progress well below its potential.

The United States inflation of 1973–74 is a complex and difficult case, unique in our history. In general we may distinguish three types of inflation: (a) excess demand inflation, popularly summarized as "too much money chasing too few goods," (b) the wage-price-wage spiral, and (c) shortages and price increases in important commodities. Our current inflation is a combination of (b) and (c). But public discussion generally ignores these distinctions and identifies every inflation, including the present case, as the classical type (a). From this diagnosis, mistaken in my opinion, follows the classical remedy, the "old-time religion" of restricting aggregate demand by tight monetary policy and by fiscal austerity.

With some oversimplification, we can say that the U.S. suffered a severe case of excess-demand inflation (a) in 1966, when President Johnson and Secretary of Defense Robert McNamara piled war demands onto an economy already operating close to its capacity, and ignored their economists' pleas to raise taxes. Re-enforced by a lesser dose of excess demand in 1968, the 1966 outburst left in its wake a surprisingly stubborn case of inflation type (b), the wage-price-wage spiral. Attaining a momentum of its own, this inflation first accelerated and then abated somewhat under the deliberately recessionary policy of 1969–71, assisted by Phases I and II of the controls introduced in August 1971.

At the end of 1972 the ongoing wage-price dynamic was producing over-all inflation of 3½ per cent per year, down from 5 per cent in 1969 and 1970. However, it was obvious, as events confirmed, that some of the improvement was transient window dressing which would not survive relaxation of controls and completion of the recovery from recession.

Some observers view the 1973 expansion of the American economy as another case of excess demand and blame the Federal Reserve and the Nixon budget for overheating the economy once again. But unemployment never fell below 4.6 per cent, and the Government cooled off the boom pretty quickly after midyear. In any case, the underlying wage-price-wage dynamic was proceeding at year-end with wage increases of 7 to 8 per cent, which with normal productivity gains would mean price inflation in the neighborhood of 5 per cent per year.

But meanwhile the United States was hit by a severe type (c) inflation, a spectacular increase in commodity prices. For the first time since the Korean war, external events sharply increased the prices facing American producers and consumers. Everyone knows about the world shortages of food and energy, and about the aggressive new policies of the oil-producing nations, who have in effect imposed an excise tax of $10 to $15-billion a year on American consumers of their products. What may be less well understood is the role of the 16 per cent depreciation of the dollar in foreign exchange since 1970. Working precisely as the architects of the policy hoped, dollar depreciation made imports about $10 billion a year more expensive to Americans. Combined with booms in Europe and Japan, depreciation also increased foreign demand for U.S. products, notably basic agricultural and industrial commodities.

Foreign demands for our exports created shortages and price increases for American buyers.

Now there are two important differences between types (b) and (c) inflation. First, the wage-price-wage spiral keeps going of its own momentum. Wage increases are covered by price boosts, and subsequent wage settlements respond both to past wage patterns and to price inflation. The type (c) commodity price increases, however, are once-for-all adjustments to new supply-demand situations: those prices won't necessarily fall, but all that is needed to improve the rate of inflation is that they stop rising.

Second, the wage-price-wage spiral does not of itself impose any collective loss on the nation or on the urban nonagricultural sector of the economy in which it occurs. One man's price is another's income; when buyers pay more, sellers receive more. The inflation may proceed unevenly, so that some workers, consumers, and property owners lose while others gain; such relative distributional changes are always occurring, inflation or no inflation. But it is simply vulgar nonsense—no less for constant repetition by economists, politicians, bankers, and journalists—to say that an internal self-contained inflation causes a loss of economic welfare in aggregate.

The commodity price increases are a different matter. They are symptoms of a real national economic loss, and in particular a loss to urban wage-earners and consumers. In current circumstances, we are paying more for oil and other imports. We're not just paying more dollars but more work and resources; under our new foreign exchange rate policy we can no longer buy foreign goods with paper dollar i.o.u.'s. We are also paying more, about $25 billion a year gross, to our own farmers. Recorded declines of real wages are the painful and unavoidable consequences. To attribute them indiscriminately to "inflation" is superficial and misleading.

The economy is currently in recession, and the prospects are for abnormally slow growth in output and for rising unemployment. The Federal Reserve is administering the classical medicine for excess demand inflation (a), because that is the only medicine it has. Some of its spokesmen, supporters and critics regard every inflation, almost by definition, as the excess demand type—on the ground that, whatever the proximate origins of inflation, it could be avoided by sufficiently resolute restriction of demand. The idea is that the wage-price-wage spiral will unwind if enough slack—idle capacity and unemployment—is created. Extreme advocates of the oldtime religion even argue that determined disinflation of demand could have yielded big enough reductions in prices of other goods and services to offset or average out the recent price increases of food, fuel and basic materials.

The trouble with this prescription is that it will not succeed without years of economic stagnation, high unemployment, and lost production, with much more severe consequences for real economic welfare than the inflation itself. Experience shows that the wage-price-wage spiral is extremely resistant to unemployment, recession, and economic slack. The unpleasant fact of life is that the wage and price-setting institutions of our economy, and of every other non-Communist economy, are biased toward inflation. Wages and prices rise when and where demand is strong much more readily than they decline when and where demand is weak. While the classical medicine would have prevented the Vietnam burst of inflation, it will take much more time and pain than its advocates admit to overcome the wage-price-wage inflation now built into our economy.

The main inflationary threat this year is that the temporary inflation of type (c) will be permanently built into the ongoing wage-price-wage spiral. The setbacks to real wages reflected in higher prices of food, fuel, and other commodities cannot really be reversed. General attempts to "catch up" by escalated wage settlements will simply be defeated by accelerated price inflation. So Washington is right to be alarmed by this year's wage settlements.

But there is very little the Federal Reserve can do about them, even if the Fed provokes a full-blown recession. The settlements are already in the works, and they depend much more on the recent history of wages and prices than on the current strength or weaknesses of demand. The budgetmakers of the Executive and the Congress are in much the same position. They too can be nobly and resolutely austere, pretending they are fighting a classical type (a) inflation. But the results of budget cutting will be measured more in lower unemployment and production statistics than in wages and prices. Present anti-inflation hysteria may well yield policies that bring us the worst of several worlds.

Is there a more promising and less costly way to confront the unique inflationary problem of 1974? If ever there was a time for what the Europeans call "incomes policy," the time is now. It may be that the Nixon experiment with wage and price controls was never a good idea, and the stop-and-go alternation of phases certainly didn't help. But the total abandonment, in April of this year, of every legal or informal restraint was incredibly untimely.

What was needed was Presidential leadership—in open, candid understanding with business, labor, argiculture, and consumers—to establish realistic moderate guideposts for wages and prices. We still need what some of us have called a new social contract for the economy, along the following lines: (1) Monetary and fiscal policy would be geared, not to increase unemployment, but to keep it from rising, and to achieve, not to thwart, the 4 per cent a year growth in production of which our economy is capable. (2) Workers' take-home pay would be increased by cutting Social Security payroll taxes and by making the structure of those taxes more equitable and progressive. This tax cut would provide part of the demand stimulus needed under (1). (3) Labor, for its part, would consent to a general wage guidepost of 8 or 9 per cent, and Washington would expect and exact comparable moderation in business and agricultural price-setting.

The hour is late. But the long national nightmare is over. Our new President has the trust and goodwill of the American people. If the economic problem he confronts is unique, he also enjoys a unique opportunity to seek a new direction.

[U.S. Department of Labor News Release, Sept. 12, 1974]

WHOLESALE PRICE INDEX—AUGUST 1974

The Wholesale Price Index for All Commodities rose 3.5 percent from July to August before seasonal adjustment, it was announced today by the Bureau of Labor Statistics of the U.S. Department of Labor. Substantial increases for both industrial commodities and farm products and processed foods and feeds contributed about equally to the rise.

The index for industrial commodities rose 2.4 percent with the metals, chemicals, machinery, and pulp and paper groups accounting for about 80 percent of the upward movement.

The index for farm products increased 4.6 percent, chiefly because of higher prices for grains, livestock, and oilseeds; processed foods and feeds rose 7.2 percent, largely as a result of increases for animal feeds, fats and oils, and sugar.

On a stage of processing basis, consumer finished goods, a selection of food and nonfood commodities similar to those in the commodity component of the Consumer Price Index, moved up 1.5 percent. Producer finished goods rose 2.6 percent.

Of the 15 major commodity groups measured by the Wholesale Price Index, 13 increased from July to August, and two were lower.

In August, the All Commodities WPI was 167.4 (1967=100), 17.8 percent above a year earlier. The industrial commodities index was 27.5 percent higher than in August 1973; the index for farm products was down 11.3 percent over the same period, but that for processed foods and feeds rose 8.1 percent.

SEASONALLY ADJUSTED CHANGES

On a seasonally adjusted basis, the All Commodities Wholesale Price Index moved up 3.9 percent in August, following an increase of 3.7 percent in July. The August increase was the largest since August 1973 when there was an unusually sharp rise in farm and food prices. The industrial commodities index continued to rise rapidly—2.5 percent, a rate which compares with a 2.7 percent rise in July and an average monthly increase of 2.7 percent in March, April, May, and June.

TABLE A.—PERCENT CHANGES IN WPI AND COMPONENTS, SELECTED PERIODS

	Changes from preceding month						Changes in all commodities	
	All commodities		Farm products and processed foods and feeds		Industrial commodities			
Month	Unadjusted	Seasonally adjusted	Unadjusted	Seasonally adjusted	Unadjusted	Seasonally adjusted	Compound annual rate from 3 mo ago (Seasonally adjusted)	From 12 mo ago (Unadjusted)
August 1973	5.8	6.2	17.6	19.1	0.5	0.6	30.7	18.5
September 1973	−1.7	−1.5	−6.0	−5.6	.6	.8	13.2	16.2
October 1973	−.7	−.1	−3.9	−2.2	.9	.8	19.3	15.6
November 1973	.4	.6	−1.4	−1.0	1.2	1.5	−3.9	15.3
December 1973	1.9	1.6	2.2	1.0	1.6	1.4	8.7	15.4
January 1974	3.4	2.9	5.8	4.6	2.3	2.0	22.1	17.8
February 1974	2.0	1.5	1.6	.4	2.1	2.1	26.6	17.8
March 1974	1.3	1.2	−2.4	−2.4	3.0	2.9	24.5	16.6
April 1974	.9	1.1	−3.7	−2.4	2.9	2.8	16.3	17.0
May 1974	1.5	1.3	−1.3	−2.2	2.7	2.7	15.4	16.4
June 1974	.5	.5	−3.4	−4.0	2.1	2.2	12.2	14.5
July 1974	3.9	3.7	6.8	6.4	2.7	2.7	24.1	20.4
August 1974	3.5	3.9	6.2	7.6	2.4	2.5	37.3	17.8

By Mr. JAVITS (for himself, Mr. WILLIAMS, Mr. NELSON, Mr. BUCKLEY, and Mr. CLARK):

S. 3994. A bill to amend section 401 of the Small Business Investment Act of 1958 to authorize guarantees of leases of commercial and industrial personal property. Referred to the Committee on Banking, Housing and Urban Affairs.

SMALL BUSINESS ADMINISTRATION PERSONNEL PROPERTY LEASE GUARANTEE PROGRAM

Mr. JAVITS. Mr. President, I introduce today, for myself and Senators WILLIAMS and CLARK, a bill designed to address a very serious shortcoming in the current lease guarantee program as authorized by the Small Business Act.

Though section 401(a) of the Small Business Investment Act of 1958 authorizes the Small Business Administration to "guarantee the payment of rentals under leases of commercial and industrial property entered into by small business concerns to enable such firms to obtain such leases," and the Small Business Administration section 106.3(f) of the SBA rules and regulations has defined "commercial and industrial property" to mean "any property personal or real to be leased and used, occupied or possessed by small business concern in the conduct of this business," the Controller General of the United States, in a letter dated December 20, 1973, addressed to the Administrator of the SBA, gave the opinion that the legislative history of the lease guarantee statute refers to and describes "real," rather than "personal" property. Based upon this opinion the SBA needs new legislative authority to guarantee leases of personal property to small businessmen.

Mr. President, I feel it essential to set forth some of the background that has led to the conclusion as to the absolute necessity for such legislation and that it be acted upon expeditiously.

Since 1963 the equipment leasing industry has virtually exploded in the United States. Initially, company and manufacturers used equipment leasing as a financing device for firms with limited credit. In the beginning it was considered a "second class" method of financing. In 1963, the Comptroller of the Currency ruled banks could lease personal property. Some 1,800 financial institutions and subsidiaries of industrial companies are now engaged in general equipment leasing and leasing is used by many major firms.

Fortune magazine has estimated that the original cost of capital equipment presently on lease is in excess of $60 billion, with 1972 leasing accounting for $11 billion. Types of equipment range over the entire spectrum from aircraft, to railroad cars, to knitting machines, to aluminum potlines, and pollution abatement equipment. This fantastic growth in the leasing industry continues to range between 10 and 30 percent per annum.

The major reasons for the growth of leasing are:

First, conservation of cash—frequently no downpayment or balances are required as would be in the case of a bank loan;

Second, flexibility;

Third, tax benefits—a tax-oriented lease may be beneficial to the lessee if its effective tax rate is less than 35 percent; and

Fourth, the investment tax credit.

Though there are many types of leases, it is anticipated that this legislation would authorize the SBA, using its expertise and experience in the guarantee lease area, to develop guidelines which would be consistent with the general criteria used in ascertaining whether or not a lease is, in fact, a "true lease" for Internal Revenue Service purposes. Such criteria would probably include: First, the economic life of the leased property; second, the anticipated fair market value at the end of the term of the lease; third, the specific criteria regarding options to purchase; and fourth, the interest the lessor retains in the property.

Mr. President, though growth of the leasing industry has been dramatic, it has been limited to large firms with prime credit. This is true even though the majority of equipment leases are for amounts of less than $50,000. We continue to find that a great number of small businessmen are excluded from these very attractive and frequently indispensible leases.

Discussions with bank leasing departments, equipment leasing companies, and manufacturers of capital equipment indicate the need for a personal property lease guarantee program for small business. Either the small business firms have been excluded entirely or the cost of the financing has been excessive. Instances of a financing cost in excess of 20 percent have been noted.

These discussions with the industry indicate that 40 percent or more of the applications for leases are declined. It is contemplated that a guarantee program would make perhaps 25 percent of the declines acceptable. The following projections have been developed by the Small Business Administration. It is assumed that the average equipment costs would be $50,000, which may be a conservative estimate. The information is presented in dollars of equipment, cost and number of small businessmen for the first 2 years of the program:

[Dollar amounts in millions]

	Pessimistic	Most probable	Optimistic
YEAR 1			
Amount of financing	$25	$125	$250
Number of small businesses	500	2,500	5,000
YEAR 2			
Amount of financing	125	200	375
Number of small businesses	2,500	4,000	7,500

It is expected that this activity would grow in subsequent years.

Mr. President, while considering the legislation which I introduce today, I have been in constant contact with the National Federation of Independent Businessmen, which as you know, is perhaps the largest association of small independent businessmen in the Nation with a membership of over 385,000 firms. The National Federation of Independent Businessmen clearly believes that such authority is needed and that its member firms would favor the enactment of this legislation. In response to an inquiry by my office, NFIB stated that:

> The leasing of commercial and industrial equipment is an area where small firms have always been at a distinct disadvantage vis-a-vis their larger competitors. Some of this inequity is a result of governmental practices while the remainder is due to the obvious differences in size and credit worthiness.

But, no matter what their source, NFIB believes that your legislation will go a long way toward eliminating most of these programs:

> The Federation believes that your proposal is a long overdue step in the right direction. We will do all in our power to further its enactment.

In addition to meeting the normal commercial needs of capital equipment by way of a lease guarantee, the legislation I introduce today would also enable the SBA to guarantee leases on pollution control equipment and go a long way toward meeting financial requirements needed to address the environmental problems of the small businessman.

Mr. President, section 401(b) of the Small Business Investment Act of 1958, provides that for lease guarantees, "the Administration shall fix a uniform fee for its share of any guarantee * * * the amount of such fee shall be determined in accordance with sound actuarial practices and procedures, to the extent practicable, but in no case shall such amount exceed * * * 2½ per centum of the minimum annual guaranteed rental payable * * *"

In addition, section 403(a) of the act requires that the moneys provided for initial capital for the fund shall be repaid "whenever the level of the fund * * * is sufficiently high to permit * * * without danger to the solvency of the program * * *"

These two elements of the statute require that any premium or fee charged be sufficient to pay administrative, processing and claims expenses and to cover all losses sustained.

Mr. President, this legislation I introduce today will establish a self-sustaining program which is designed so that its implementation will not require annual appropriations from Congress.

In order to administer such a program the SBA should establish a premium sufficient to cover all losses and expenses. SBA has conducted a number of actuarial studies concerning personal property lease guarantees. A study dated July 2, 1971, while not conclusive, would generally support a 4-percent rate as being adequate.

As in the case of the current SBA "real property" lease guarantee program in order to reasonably assure that the program will operate on a sound basis, certain parameters and limitations would be necessary. I envision the following general criteria as the basis for SBA regulations:

First. The guarantee would be extended to leases of new personal property which contribute directly to increased productivity, efficiency as to costs, safety and environmental improvement.

Second. Personal property which loses a major portion of its value at the inception of the lease would be excluded. Examples are furniture and fixtures, display cases, motel chattels, and restaurant equipment.

Third. Personal property readily available to all businesses for lease would not require a guarantee and would be excluded. Particular examples are automobile and light trucks.

Fourth. Guarantee term would not exceed 10 years.

Fifth. Lessors would be qualified by SBA based on business, financial strength, and other factors.

Sixth. Lessors would retain a minimum of 10 percent of the value of the equipment for its risk.

Seventh. A 3-month escrow deposit or 3-month deductible clause as authorized by section 401c(1) would be required.

Furthermore, in order to perfect a claim against the guarantee upon default, the following provisions would have to be satisfied:

First. The lessor would give simultaneous and immediate notice of delinquency in the payment of rental or violation of other default circumstances of the lease to the lessee and to SBA.

Second. If the default is not cured within the prescribed time in the lease, the lessor must take prompt legal action to secure possession of the property, unless advised in writing by SBA to forego such action.

Third. The lessor must make continuous attempts to rerent the property, or upon written notice by SBA to sell the property at the best possible price.

Fourth. The lessor must take prompt legal action to secure possession of any collateral provided by the lessee, or against any other guarantors of the lease.

Fifth. Claims for delinquent rent falling due after the 3-month escrow fund are exhausted or the 3-month deductible period has expired will be paid provided the lessor has complied with the above provisions.

Sixth. SBA will have the option to pay a settlement amount based on the unamortized portion of the cost of the equipment less a stipulated salvage value.

Seventh. If SBA determines that loss mitigation will be best served by continuing the lessee in possession, SBA may advise the lessor to forego any legal action and pay the rental due.

Eighth. Upon the payment of rental claims, the lessor will agree to provide possession of the leased property to SBA, accept any successor lessee obtained by SBA, and provide documents giving SBA the legal right to pursue the defaulted tenant for any claims paid.

Mr. President, this lease guarantee program should be made available to any small business concern meeting the size requirements now used in the real estate lease guarantee program. In addition, I would envision that a guarantee to any one small business concern would be limited to equipment with a net invoice not exceeding $500,000, which is consistent with the maximum loan guarantee as recently passed by the Senate.

Furthermore, Mr. President, I envision that the SBA would require, as it does in the present real property lease program, an application fee in the neighborhood of 5 percent of the premium to be paid at the time the application is filed. This amount should be credited to the premium at the time the guarantee was issued.

Mr. President, contacts have been made with major leasing companies and the leasing departments of major banks. Initially, these firms will be solicited to submit applications and to participate in this program.

After analyzing applications from these sources, I believe that other leasing companies will be interested in submitting applications regarding the program extended to the small business community.

I believe also, that private sureties and insurance companies will be interested in participating with SBA in operating this program.

Mr. President, I ask unanimous consent that the proposed bill be printed following these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3994

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 401 of the Small Business Investment Act of 1958 is amended—

(1) by inserting "or lessee" after "tenant" in subsection (c)(2); and

(2) by adding at the end thereof the following:

"(d) As used in this section, the term 'commercial and industrial property' means real or personal property used or to be used for commercial or industrial purposes."

By Mr. JAVITS (for himself and Mr. WEICKER):

S. 3995. A bill to amend the Immigration and Nationality Act to provide for the immigration of children of individuals suffering from Hansen's disease. Referred to the Committee on the Judiciary.

OPERATION OUTREACH

Mr. JAVITS. Mr. President, a sad situation in the Republic of Korea has been brought to the attention of a group of New Yorkers who have taken steps to provide new opportunities for a group of children. Specifically, they are the children of persons who are suffering from Hansen's disease—although they do not have the disease themselves—and as such are required to live in "leprosy villages" in Korea. While the Public Health Service assures us that these children do not themselves suffer from Hansen's disease, all opportunity for a normal life for the children is cut off as soon as their parent's affliction becomes known.

New Yorkers associated with Operation Outreach, working with the American-Korean Foundation and International Social Service have arranged for some of the children to be adopted by American families, and the Korean parents have given their consent to the adoptions, knowing that life in this country will provide a better life for their children. But, there is a roadblock in the form of the immigration laws of the United States which prohibit the entry of these children into this country for adoption by American citizens if the parents of the children are themselves living. My bill seeks to remove the impediment in this one particular case.

Mr. President, I ask unanimous consent that material explaining this program be printed at this point in the RECORD, and I send the bill to the desk, in behalf of Senator WEICKER and myself, for appropriate reference.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OUTREACH: STATEMENT OF PURPOSE

INTRODUCTION

It has been said that "prejudice is the child of ignorance." The truth of that statement has been demonstrated for centuries in the case of leprosy, a mildly contagious and easily arrested disease which nevertheless sentences its victims and their children to the severest kind of human suffering, degradation and discrimination. The prejudice against those who have leprosy has survived since Biblical times, and the fear of leprosy persists even though modern medical science now understands and can arrest and control the disease. (So strong is this prejudice that the dictionary defines the word leper as: "a person shunned for moral and social reasons.")

Today we know that a germ—and not a curse or a demon—causes leprosy. (The leprosy bacteria was first described by Dr. Gerhard A. Hansen in 1874 and leprosy is medically known as Hansen's Disease.) Leprosy is a disease which attacks the nerves and eventually robs its victims of the important warning signal of pain. In its late stages leprosy can sometimes so deaden sensation that people who have the disease wear down their fingers and toes through use. Leprosy can also produce severe deformities and cause such complications as blindness. These affects have given rise to the myth that leprosy eats away tissues and causes toes and fingers to "drop off." The truth is that all of the major complications of leprosy are preventable, and the disease can be arrested through prompt treatment.

Leprosy is one of the world's least contagious diseases—much less virulent than tuberculosis for instance. Nurses and doctors who work with leprosy patients rarely contract the disease. In fact, in the 75 years of its existence, not a single staff member of the United States Public Health Service Hospital in Carville, Louisiana, which handles leprosy patients, has contracted leprosy. Research has shown that only five percent of the world's population is susceptible to leprosy bacillus and even that five percent will only contract the disease after prolonged and close contact with an infected person. No evidence has ever been found that the disease is inherited.

But the stigma that is attached to leprosy causes many of its victims to hide their affliction until it is too late since treatment in many countries—including the Republic of Korea—means isolation for them and for their families in squalid leprosoria or resettlement villages. Those with leprosy and those whose parents have leprosy are considered second class citizens and are cut off forever from equal opportunities in all areas of their lives: employment, education and even marriage. Segregation in resettlement villages makes prolonged contact with leprosy patients unavoidable for uninfected family members forced to live there, and a number of them may contract the disease needlessly because of being coerced into this isolation.

It can truly be said that the fear and loathing which society maintains towards those with leprosy is more dangerous and damaging and disfiguring than the leprosy bacillus itself.

The program described in the following pages aims at doing something about the intolerable conditions in which people with leprosy and their families are forced to live.

OUTREACH, a program of The American-Korean Foundation, seeks to bring children of leprosy patients to the United States for adoption. Every one of these children will be screened in Korea and will be medically followed here in the United States to assure that there is not the slightest chance that they have leprosy. By removing them from a society which discriminates against them, the individual child will benefit. In addition, the health and well-being of these children and their accomplishments in an atmosphere free of prejudice will demonstrate that the stigma against leprosy can be erased.

This is a radical, efficient and humane solution to a centuries-old problem which is causing thousands of children to suffer and denies them the realization of their full potential.

BACKGROUND

Leprosy affects in excess of 15 million of the world's people. While it is not limited to any race or geographic distribution, the greatest number of cases occur in the tropical or semi-tropical climates of Africa, Southeast Asia, South America, and the Indian continent.

In the United States the incidence is limited to approximately 3,000 cases, the majority of which receive outpatient treatment. Leprosy is not native to the United States, and health officials say there is no documentation of a second generation of the disease in this country.

We do not know how many Koreans have leprosy which they are hiding, but some 90 resettlement villages house 35,000 known leprosy and ex-leprosy patients and thousands who are socially branded because a relative was found to have the disease.

Children of leprosy victims are able to leave the village at maturity, so long as they are free of the disease. However, the name of the leprosy village is permanently imprinted on their papers so that potential employers and the police will be able to identify them. They are forced to take the most menial of jobs and are prevented from attending Korean schools. The stigma of leprosy often extends even to marriage and restricts the possibilities of choosing a mate.

THE NEED

The Korean Ministry of Health and Social Affairs places the number of uninfected children living in leprosy villages at about 7,000. Unless a way is found to erode the leprosy barrier and free these healthy children from these villages, they will grow up bearing the stigma of leprosy and will live out their lives as second class citizens. The fear and prejudice in Korea has created a climate in which they not only have virtually no hope for a normal life.

* * * * *

We are gratified that so many Americans have volunteered to open their homes to a child who desperately needs help. Already more than 100 families on the Eastern Seaboard have made commitments to OUTREACH and hundreds more have inquired about the program.

The Republic of Korea's Ministry of Health and Social Affairs has demonstrated its complete cooperation by cutting the bureaucratic red tape to shorten the time required to get passports and exit visas for inter-country adoption. The Korean government's rule against single parent adoption will not apply nor will the annual quota on adoptable children.

As has been stated, the adoptive children will be examined in Korea and they will undergo semi-annual medical checkups in the United States for a period of five years in a cooperative project with the Sloan-Kettering Institute to assure their continuing good health. The United States Center for Disease Control has also enthusiastically approved the program.

The medical field will significantly benefit from the unique opportunity of studying these youngsters over a long period of time in their new environment. Commenting on the OUTREACH program, Dr. Howard A. Rusk, Chairman Emeritus of The American-Korean Foundation, stated, "The medical and social dividends of this project, many of which we do not know about at this time, will undoubtedly far exceed the principle involved."

It is hoped that during the next two years, approximately 2,000 adoptable children in the 1–14 age group will be placed with adoptive families. Medical processing has already begun in Korea and medical follow-up will begin in the fall of 1974 in the United States. The case studies of the first group of children are currently being processed by Traveler's Aid International Social Service of America (TAISSA) on both sides of the Pacific.

The importance of this project has been acknowledged by governments, private agencies and many dedicated individuals, all of whom are diligently working together to assure its success for the sake of the children involved and of leprosy victims in general.

LEADERSHIP

For over 20 years The American-Korean Foundation, a non-profit, non-political, non-sectarian agency, has had an abiding interest in rebuilding South Korea. The organization was founded in 1953 after two missions headed by Dr. Howard A. Rusk went to Korea to establish a United States-Korean people-to-people self-help program at the urging of President Eisenhower. Since then, The American-Korean Foundation, with the help of millions of generous Americans, has responded to the needs of the valiant Korean people with a massive outpouring of support that has amounted to $40 million in donations and gifts in kind during two decades.

OUTREACH has become a program of The American-Korean Foundation because they were the logical people to turn to for help when OUTREACH's founder, Bernice Gottlieb, decided she could no longer manage the operation of her project alone. Mrs. Gottlieb became interested in Korea when she adopted a Korean orphan in 1969. Two years later when she learned from a Korean Roman Catholic priest about the plight of the children of Korean leprosy patients, she determined to do something for these children. She spent months checking the laws, learning about the disease and visiting (at her own expense) the Korean resettlement leprosy villages. Out of her concern and her knowledge OUTREACH was born.

She received official approval for her plan from the government of the Republic of Korea and went to Carville, Louisiana to take the missionary training course in leprosy. As the only person in her group who was neither doctor, nurse nor clergyman, she was as unique as the program she was proposing.

For some time Mrs. Gottlieb gave all her spare time to running the OUTREACH program, traveling frequently to Korea and sometimes working seven days a week to get the program going. During this time she enlisted the help and support of many distinguished experts and leaders in the field of leprosy and medicine in general. Finally, she decided she could no longer manage the work alone, and so she came to The American-Korean Foundation for assistance. Mrs. Gottlieb will continue to run the OUTREACH program under The American-Korean Foundation's auspices. She will serve as Volunteer Director for Children's Services.

For its part, The American-Korean Foundation will utilize its expertise and experience in Korea to facilitate the processing of the children. It will assist in making travel arrangements for the children, it will help administratively in the adoption procedure working with TAISSA and all other agencies who become involved in the project. The American-Korean Foundation will also solicit funds for OUTREACH as it does for its many other Korean projects.

By Mr. JACKSON (for himself and Mr. Fannin) (by request):

S. 3996. A bill to amend section 2 of the act of June 30, 1954, as amended, providing for the continuance of civil government for the Trust Territory of the Pacific Islands. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by request, I send to the desk on behalf of myself and the Senator from Arizona (Mr. Fannin) a bill to amend section 2 of the act of June 30, 1954, as amended, providing for the continuance of civil government for the Trust Territory of the Pacific Islands.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication accompanying the proposal from the Secretary of the Interior be printed in the Record at this point in my remarks.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., August 26, 1974.

President of the Senate,
Washington, D.C.

Dear Mr. President: Enclosed is a proposed bill "To amend section 2 of the Act of June 30, 1954, as amended, providing for the continuance of civil government for the Trust Territory of the Pacific Islands."

We recommend that the bill be referred to the appropriate committee for consideration and strongly urge that it be enacted.

Public Law 93–111 currently authorizes the appropriation of $60 million for fiscal years 1974 and 1975. Our proposed bill would authorize a total annual appropriation of $75 million for fiscal year 1975 and the 1975 constant dollar equivalent of $80 million for 1976 plus a separate authorization of $1.5 million for a special program to aid transition of the Mariana Islands District to a new commonwealth status as a territory of the United States.

The Trust Territory of the Pacific Islands is administered by the United States pursuant to a strategic trusteeship agreement concluded in 1947 with the Security Council of the United Nations. Governmental responsibilities are carried out through a territorial government which has executive and judicial branches, and a bicameral legislative body composed entirely of Micronesians.

Under the trusteeship agreement, the United States is charged with the promotion of political, social, educational and economic development. Beginning in 1964, with the establishment of the Congress of Micronesia, political development in the Trust Territory has been rapid and, by most accounts, effective. Indeed, the United States is presently engaged in negotiations with the Micronesians to determine new political relationships for the area. A topic of the negotiations is the future financial assistance by the United States to Micronesia.

While tourism is on the rise, overall economic development has lagged until recently. This deficiency is due in large part to a lack of the capital improvements upon which economic development is based. Despite a great expansion of Micronesia's capital plant over the past five years, much remains to be done.

The bulk of the increased annual authorization would be devoted to the Department's accelerated capital improvement program which the Secretary of the Interior announced in a January speech to the people of Micronesia. The accelerated program is designed to build the physical infrastructure necessary for a sound and self-sufficient economy. As much as possible, we would like to have this physical infrastructure in place within the next few years before the trusteeship gives way to a new political status for Micronesia in order to make economic self-sufficiency a more feasible goal when the trusteeship ends.

This policy dovetails with concern over the economy expressed by members of the Congress of Micronesia who cite roads, airports, ships and shipping facilities as high priority items. Construction or improvement of such facilities is vital to education, health, commerce, and even the most simple operations of government and private enterprise in the Trust Territory. Their importance is underlined by the fact that Micronesia's 115,000 population is scattered across 3,000,000 square miles of ocean. The proposed program will reflect a policy of holding down the cost of governmental operations in order that maximum funding may be devoted to important capital improvement projects. The on-going Trust Territory Government program of replacing U.S. personnel with qualified Micronesians will remain an integral part of policy in Micronesia. Future requests for appropriations will also seek to continue the fledgling program for education in self-government and on-going programs in the fields of health and education. In addition, we look for improvements in communications and transportation among the 2,100 islands of Micronesia.

The bill provides an authorization for 1976 of $80,000,000 plus or minus such amounts as the Secretary determines are necessary to offset estimated changes between fiscal year 1975 and fiscal year 1976 in average costs of construction and average prices of goods and services. This provision is necessary for implementing an agreement reached in the negotiations.

Our proposal for an expanded authorization would not affect the existing authorization of $10,000,000 for terminated categorical grant programs. We note, however, that the House and Senate recently approved Interior appropriations conference reports calling for only $700,000 to cover such terminated grants.

Section 2 of the proposed legislation relates to the negotiations between the United States and the Marianas Political Status Commission which will lead to a new Commonwealth status as a territory of the United States for the Marianas Islands District. The U.S. Congress has final approval authority over these negotiations. Section 2 would authorize the appropriation of $1,500,000.00 for a special program of transition in the Marianas which will include, among other things, a constitutional convention and referendum, a political status plebiscite, political education programs and economic, fiscal and physical planning studies. The funds which Section 2 would authorize could be appropriated but would not be obligated prior to signature of the final agreement by the United States Executive Branch and the Marianas Political Status Commission.

The proposed increases in authorization are endorsed by Ambassador Franklin Haydn Williams, the President's Personal Representative for Micronesian Status Negotiations, The proposal in Section 1 is deemed vital to our negotiating efforts since it reflects the tentative agreements reached with the Congress of Micronesia's Joint Committee on Future Status at Carmel, California, in March 1974. Section 2 supports the agreement on a Marianas transition program reached in Saipan in May 1974 during the Fourth round of Marianas political status negotiations.

The Office of Management and Budget has advised that the presentation of this proposed legislation is in accord with the program of the President.

Sincerely yours,

JOHN H. KYL,
Assistant Secretary of the Interior.

By Mr. STEVENSON (for himself, Mr. BIDEN, and Mr. HASKELL):

S. 3997. A bill to amend the Agricultural Act of 1949, as amended by the Agriculture and Consumer Protection Act of 1973, to modify the provisions of the wheat and feed grain programs relating to farmers prevented from planting any portion of their acreage allotments because of drought, flood, or other natural disaster or condition beyond their control. Referred to the Committee on Agriculture and Forestry.

AGRICULTURE DISASTER ASSISTANCE AMENDMENT

Mr. STEVENSON. Mr. President, this has not been an easy year for America's farmers. Hurt first by floods and then by drought, many crops were washed out this spring, and many others will have reduced yields.

The Agriculture and Consumer Protection Act of 1973 is designed to provide financial relief to farmers who suffer losses from such natural disasters. As currently written, however, the actual application of this legislation's disaster assistance provisions discriminates unfairly against wheat and grain farmers in the Middle West and particularly Illinois. I am introducing legislation to correct that inequity.

As the legislation now reads, the cotton farmer who suffers crop losses due to a natural disaster is entitled to recover reimbursement for a portion of those losses from the Department of Agriculture. He is eligible for such assistance whether or not he subsequently uses the acreage originally designated for the lost cotton crop to grow a substitute crop like soybeans.

The grain farmer, on the other hand, is penalized in terms of his disaster assistance eligibility if he attempts to grow a substitute crop. An Illinois farmer who grows soybeans on land originally planted in corn and then flooded, must deduct the proceeds of his soybean crop from any disaster assistance he would have otherwise received for his corn losses. No such limitation applies to cotton farmers. When a cotton crop is lost, cotton farmers are assured of collecting disaster relief without regard to any substitute crop they may or may not plant on the same acreage.

This inequity is caused by the statutory language defining eligibility for disaster assistance. On the one hand, Illinois corn farmers are eligible if they fail to plant "wheat or feed grain or other nonconserving crop," while cotton farmers are eligible if they simply fail to plant "cotton." The words "other nonconserving crop", in effect, put any substitute planting on a par with the original planting, thus penalizing Illinois' disaster stricken corn farmers for replanting their fields in soybeans.

This difference in the treatment of grain and cotton farmers is unjustified. The amendment which I offer today to the Agriculture and Consumer Protection Act of 1973 would strike the words "other nonconserving crop" as they apply to grain farmers, thus putting the disaster assistance benefits avaliable to Midwest grain farmers on a par with those available to Southern cotton farmers. Coverage under this amendment would be available beginning with last spring's crops.

With tight credit, rising costs, falling prices, floods and drought, this has been a tough enough year on the Nation's farmers without making it more difficult for grain farmers already stricken by natural disaster to collect disaster assistance.

I urge the Committee on Agriculture to consider this legislation as soon as possible and my colleagues to support this effort to correct an inequity to America's wheat and feed grain farmers.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3305

At the request of Mr. CLARK, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 3305, the National Huntington's Disease Control Act.

S. 3776

At the request of Mr. SCHWEIKER, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 3776, a bill to provide individuals serving as grand or petit jurors certain employment rights.

SENATE JOINT RESOLUTION 224

At the request of Mr. MONTOYA, the Senator from Idaho (Mr. CHURCH) and the Senator from New York (Mr. JAVITS) were added as cosponsors of Senate Joint Resolution 224, designating the month of January as "March of Dimes Birth Defects Prevention Month."

ADDITIONAL COSPONSORS OF RESOLUTIONS

SENATE RESOLUTION 400

At the request of Mr. CRANSTON, the Senator from Michigan (Mr. HART), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), the Senator from Connecticut (Mr. RIBICOFF), the Senator from California (Mr. TUNNEY), the Senator from Oregon (Mr. HATFIELD), and the Senator from Oregon (Mr. PACKWOOD) were added as cosponsors of Senate Resolution 400, relating to executive pardons with respect to Watergate and related offenses.

SENATE RESOLUTION 401

At the request of Mr. ROBERT C. BYRD, the Senator from Pennsylvania (Mr. HUGH SCOTT), the Senator from Maryland (Mr. MATHIAS), the Senator from Delaware (Mr. BIDEN), and the Senator from New Mexico (Mr. MONTOYA) were added as cosponsors of Senate Resolution 401, relating to Presidential pardons in connection with the Presidential campaign and election of 1972.

At the request of Mr. Hugh Scott, the Senator from Vermont (Mr. Stafford) was added as a cosponsor of Senate Resolution 401, supra.

At the request of Mr. Cranston, the Senator from Michigan (Mr. Hart), the Senator from Pennsylvania (Mr. Schweiker), the Senator from New York (Mr. Javits), the Senator from Connecticut (Mr. Ribicoff), the Senator from California (Mr. Tunney), the Senator from Oregon (Mr. Hatfield), and the Senator from Iowa (Mr. Clark) were added as cosponsors of Senate Resolution 401, supra.

ENERGY SUPPLY ACT OF 1974—AMENDMENTS

AMENDMENT NO. 1856

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS (for himself, Mr. Magnuson, Mr. Cranston, Mr. Tunney, and Mr. Kennedy) submitted an amendment intended to be proposed by them jointly to the bill (S. 3221) to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act; and for other purposes.

AMENDMENT NO. 1857

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL submitted an amendment intended to be proposed by him to the bill (S. 3221), supra.

AMENDMENT NO. 1858

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL (for himself and Mr. Hathaway) submitted an amendment to be proposed by them jointly to the bill (S. 3221), supra.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1974—AMENDMENT

AMENDMENT NO. 1859

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT (for himself, Mr. Bennett, Mr. Buckley, and Mr. Curtis) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 15580) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1975, and for other purposes.

EXPORT-IMPORT BANK AMENDMENTS OF 1974—AMENDMENT

AMENDMENT NO. 1860

(Ordered to be printed and to lie on the table.)

Mr. PROXMIRE. Mr. President, I am introducing today an amendment to S. 3917, the Export-Import Bank Amendments of 1974. This amendment would put the Eximbank back in the Federal budget and subject it once more to annual expenditure and net lending—budget outlays—limitations. It would do this by repealing section 2(a)(2) of the act, passed by Congress in 1971, which took the Bank out of the unified Federal budget.

I opposed this action at the time it was taken, and I find even stronger grounds for opposing it now.

Congress is presently engaged in a vital effort to control Federal spending and combat rising inflation. We have cut several billion dollars out of the fiscal year 1975 appropriations bills and have passed the Budget Control Act giving Congress greater control over the Federal budget.

Continued exclusion of the Export-Import Bank from the budget flies in the face of these efforts to assert Congress' authority to control inflationary Federal spending.

Keeping the Bank out of the budget totals does not, of course, in any way change its actual effect on the budget, and on the economy as a whole. It does not alter the fact that the Bank's operations impact our Nation's credit markets, that increased borrowings by the Bank from the Treasury and on the private market help drive up interest rates, or that the steady expansion of the Bank's lending activities adds to the Federal budget deficit. It simply camouflages these facts and hamstrings congressional control of the Bank.

During fiscal year 1974, excluding the Bank's receipts and disbursements from the budget understated the deficit by over a billion dollars. The deficit impact of the Bank has increased sharply since it was taken out of the budget—rising from $145 million in fiscal year 1972 to $498 million in fiscal year 1973 to the fiscal year 1974 figure of $1.18 billion. Officials of the General Accounting Office, which audits the Bank's financial statements, have testified that with addition expansion planned—expansion made possible in large degree by the release from budget constraints—the deficit impact of Eximbank lending could easily mount to billions of dollars.

How can we fight inflation, how can we hope to achieve congressional control of the budget, if we continue to leave open this great loophole in the law?

Leaving the Export-Import Bank out of the budget does more than just understate the amount of the deficit. It frustrates the basic purpose of the budget process—placing all programs in competition with each other for a limited supply of Federal funds, so that national priorities can be established and resources allocated in the most efficient and beneficial way.

Taking a program out of the budget removes it from the discipline of the budgetary process and thus in effect gives it a higher priority than all the other programs which remain in the budget. I see no reason for assigning any loan program an automatic high priority, and in particular I see no reason for singling out Eximbank for such favorable treatment when other Federal loan programs for desirable purposes such as housing low- and moderate-income people or aiding small businesses are included in the Federal budget, and are subject to the restrictions thereby imposed.

Mr. President, I must emphasize this point. By promising to put the Export-Import Bank back in the budget, I am not advocating an extraordinary action; I am not seeking to penalize our export loan program. Rather, I am trying to restore equity and rationality to the budget process. I am saying that export loans should be handled the same way as other Federal loan programs which meet other important needs.

It is a matter of restoring the integrity of our budget process. It is a matter of regaining our sense of national priorities. Ultimately, it is a question of simple justice.

ASSERTING CONGRESSIONAL CONTROL OF THE BUDGET

More particularly, I must point out that including the Eximbank in the budget is essential to establishing the integrity of the new congressional budget process. One of the most important accomplishments of this Congress is the passage of the Budget Control Act. I strongly supported this legislation, as a means of asserting Congress's constitutional power of the purse and of controlling Federal spending and runaway inflation.

Continued exclusion of the Export-Import Bank from the budget will thwart the intent of the Budget Control Act. The intent is to assert congressional control over all budgetary outlays, including net lending, carryover budget authority, and tax expenditures. This intent cannot be realized while an agency which impacts the Federal deficit by over $1 billion is left out altogether.

The Senate recognized this problem in its budget legislation and voted to put Eximbank and five other agencies similarly exempted back in the budget. For various reasons, largely political, the conference report did not contain the Senate provision but rather, in the spirit of compromise, called for a continuing study of the statutory budget exemptions and recommendations for any changes.

The newly formed Budget Committees do have the option of including the Eximbank's net lending in the congressional budget resolution. Indeed, the act's rigorous definition of total budget outlays to include both expenditures and net lending would appear to require that this be done. However, so long as the Bank's outlays are not reflected in the Federal budget totals, inclusion of them in the congressional budget resolution would place Congress in the difficult political position of appearing to advocate higher spending than the President, even though in fact this would not be the case.

The conference committee dealt with this potential dilemma by stating that—

> Any item which is excluded by law from the executive budget may be excluded from any specification of budget outlays or budget authority in the congressional budget process.

In other words, Congress is allowed to distort its budget process to compensate for distortion in the Federal budget.

If we permit this to happen, then we are compromising the new congressional budget control procedures from the very start. I think that the best move Congress could take at this point—to show that we are serious about budget control, to show that we are serious about fighting inflation—would be to vote to put the Export-Import Bank, the largest of all agencies now exempt in terms of present outlays, back in the budget.

One final point needs to be made with regard to the Budget Control Act. Eximbank Chairman Casey has contended that in passing the conference report on the budget bill, Congress acted affirmatively to maintain the Bank's exemption from the budget and, furthermore, delegated jurisdiction over this question to the budget committees and thus preempted the relevant authorizing committees from taking any action to change the budget status of exempt agencies.

In the course of Senate debate on the conference report, I asked for and received assurances from Senators ERVIN and PERCY, ranking majority and minority members of the conference on the Senate side, that this was not in fact the intent of the conference committee. I quote Senator PERCY:

> In none of the discussions we have had or in none of the language of the report or the language of the law as I read it, did we attempt in any way to assign to the budget committees exclusive responsibility for decisions on this issue. The budget committees are merely asked to keep the issue under study. They cannot report legislation to change the law, nor was it ever our intention that they do so.

I have no desire to impede the operations of the new Budget Committees, and I know that they intend to give serious consideration to their question of the status of off-budget agencies. Nonetheless, I feel that the merit of this particular case is so clear, and the need to act so pressing, that we should act now to put the Export-Import Bank back in the budget. Why take up the valuable time which the budget committees need to devote to their other responsibilities, especially since the Banking Committee will have to take the final action on this question? In this legislation, we are renewing the Export-Import Bank Act for another 4 years. The time to act and put the Bank back in the budget is now.

I should like to respond to some of the arguments which have been advanced by Eximbank officials for maintaining the Bank's present off-budget status.

One argument that has been made is that the Bank should not be in the budget because it does not receive any appropriated funds. Leaving aside for the moment the question of back-door subsidies which the Bank receives, and which are a matter of some concern to me, I will simply point out that all loan programs operated by Federal agencies in which the capital stock is owned by the Government are included in the budget on a net lending basis as a matter of course.

The President's Commission on Budget Concepts, whose 1967 report forms the basis of the unified budget, explored the question of the status of loan programs and recommended unanimously that these be included in the budget along with direct expenditures out of appropriated funds. The only exceptions to this policy come as the result of specific exemptions granted by Congress to particular agencies, the first of which was the one given to the Export-Import Bank.

Claims have also been made that the Bank's loans should not be treated as budget outlays because they are paid back and "have proven 99.98 percent collectible over the years." Eximbank is to be commended for its excellent repayment record, although this is achieved in part by refinancing of delinquent loans on very favorable terms. Nonetheless, this does not make its loans any different in kind from other Federal Government direct loans which are also paid back over time with interest and which are included in the budget. The Farmers Home Administration, for instance, gives mortgage loans for housing in rural areas and has a foreclosure rate of less than 3 percent; FHA is in the budget. There is no logical reason for treating Eximbank loans any differently.

Chairman Casey also contends that putting the Bank back in the budget would change it from an agency capable of financing a rising level of American exports to one which would burden the annual budget to the tune of $1.5 billion and up. This is the crux of the argument—whether the deficit is to be revealed or concealed. The fact is that it is the Bank's outlays net of its receipts for any one fiscal year which determine its immediate impact on the economy, on fiscal policy and on the money markets, and not its long-term prospects for expansion and repayment. These latter factors are important, too, and must be considered in the formulation of budget policy, but it is essential as well to consider the immediate budget impact on an annual basis.

This leads into a further argument made by Bank officials, which is that Congress has adequate control over the Bank's activities and its impact on the economy by dint of the limitation placed on the amount of loans the Bank can make in any fiscal year by the Congress. However, as this procedure is presently set up, it is just a technical bookkeeping exercise for the Appropriations Committees. As former chairman of the Foreign Operations Subcommittee, which handles Eximbank matters, I know that the Appropriations Committees do not have adequate authority at the present time to oversee and control the Bank's lending activities.

The only way to achieve real congressional control of Eximbank operations is set out fully in the budget its net lending on a year by year basis and its impact on the budget deficit. Congress needs to have the full picture, in order to decide what priority to give to export loans and what resources to allocate for this purpose, in both the short and long term.

In conclusion, I repeat that I feel Congress acted unwisely in taking the Export-Import Bank out of the budget in 1971, and I feel we should take action now to repeal that exemption. The concern in 1971 was over the balance-of-payments deficit and the supposed need to increase exports to overcome that deficit. I questioned then whether the balance-of-payments arguments was really valid. Now I find it still more questionable, in the wake of two devaluations and the institution of floating exchange rates.

The concern now is that this country is experiencing double-digit inflation, which threatens the fabric of our economy and our society. We all recognize the need to tighten our belts and cut Federal spending. How can any of us, how indeed can the administration, say that we want to control inflation and yet acquiesce in the exemption from the budget process of an agency which is now piling up a billion dollar-plus deficit?

Mr. President, I propose therefore, that we vote to put the Export-Import Bank back in the budget, as an important step toward fighting inflation and restoring the integrity of both the Federal and congressional budget processes.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 1852

At the request of Mr. SCHWEIKER, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of amendment No. 1852, intended to be proposed to the bill (S. 3917) to amend and extend the Export-Import Bank Act of 1945, as amended.

ADDITIONAL STATEMENTS

JOBS PROGRAM

Mr. JAVITS. Mr. President, one of the most exciting elements of our manpower training efforts has been the activities undertaken by the National Alliance of Businessmen through the JOBS program, which was established in 1968 by President Johnson and renewed and expanded by subsequent administrations; it is now funded under the Comprehensive Employment and Training Act of 1973—CETA.

On Wednesday, August 28, chairman of the board of the Rockwell International Corp., Williard F. Rockwell, Jr., who serves as chairman of the board of the National Alliance of Businessmen, presented personally to the Secretary of Labor, Peter J. Brennan, and Secretary of Commerce, Frederick B. Dent, an interim progress report of the NAB.

Among the recent accomplishments of the NAB cited in the report are the following:

In fiscal year 1974, against a goal of 255,000 hires, 381,000 disadvantaged adults were placed in private sector jobs for a goal attainment figure of 149 percent; importantly, 62.1 percent of trainees stayed on the job for 6 months or more.

The training costs of five out of every six hires in fiscal year 1974 were voluntarily absorbed by participating private sector employers.

Almost 7,000 ex-offenders were hired during fiscal year 1974 in response to a mandate from the President established early last year.

In fiscal year 1974, participating companies hired more than 195,000 Vietnam-era veterans, of which 4,800 were disabled; total veteran hires since 1971 exceed 600,000.

All goals for fiscal year 1974 for youth programs were exceeded.

Mr. President, most crucially, Chairman Rockwell's report indicates that the goal of 485,000 placements during fiscal year 1975 will result in over $73.5 million in taxes paid, over $81.5 million reduction in welfare benefits, and almost $300 million reduction in unemployment benefits. These benefits, taken together, represent a $454 million total in the direction of curbed inflation through the reduction of Federal spending.

Thus, Chairman Rockwell notes that for a government investment of about $92 million in the Alliance effort, the return is in excess of 400 percent.

Chairman Rockwell's report concludes:

> The Alliance needs your help to further broaden the active participation of business leadership at national, regional and local levels. We believe it is one way to help achieve President Ford's announced priority objective of putting the brakes on inflation. It represents an approach to curbing government spending through employment rather than by taking economic measures which can inevitably result in greater unemployment.

Mr. President, in response to the presentation of this report, Secretary of Labor Brennan stated:

> Any Secretary of Labor would be proud of his association with a group that shares such concern for American workers.

He expressed gratitude on behalf of the many who have received assistance as a result of the efforts of the National Alliance of Businessmen.

I join with Secretary Brennan in his expression of gratitude and concern and pledge every continued effort in support of the National Alliance of Businessmen, its goals, and its programs, which notwithstanding the great contributions of the public sector has made and should continue to make, represents the most dramatically successful application to date of American business to a chief social concern.

I ask unanimous consent that there be printed in the Record a copy of Chairman Rockwell's interim report, together with a statement by Secretary of Labor Peter Brennan, in accepting the report, and a speech I made to the seventh annual conference of the National Alliance of Businessmen on June 16, 1974.

There being no objection, the material was ordered to be printed in the Record, as follows:

An Interim Progress Report of the National Alliance of Businessmen

(By Willard F. Rockwell, Jr).

August 28, 1974.

INTRODUCTION

Secretary Brennan, gentlemen:

We are approaching the mid-point of my one year tenure as Chairman of the National Alliance of Businessmen, having taken over from Dick Gerstenberg early in April. I thought it would be appropriate to give you an interim report at this time, not just because we are at the half-way mark but also because of our general environment of change in recent weeks. Priorities are being set within the economy, the Comprehensive Employment and Training Act is well into its first quarter of operation, and other factors affecting employment in general are under close scrutiny. Before getting into the actual report, however, I would like to present a few personal observations about the Alliance that have bearing on the program status reports to follow.

My view of the assignment as Alliance Chairman was somewhat analogous to the sound business approaches employed in corporate operations. I sent a balanced Rockwell team to do the job for the year, balanced in terms of Alliance experience, executive ability, and promotional support. In our preliminary discussions, I asked our team to use its analytical and organizational capabilities toward keeping Alliance performance on a positive slope, regardless of the challenges faced in the year of our tenure. I wanted to know what actual results the government was getting for its investment in the Alliance, and what return the partnership was bringing to societal progress in our country. I think our Rockwell team has done and is continuing to do just what I directed almost a year ago. We are facing new challenges with innovation, preparation and adaptability, and I personally cannot ask for more than that.

Almost simultaneously with my assumption of the chairmanship, there seemed to occur a general recognition that a new plateau of maturity and institutionality had been reached by the Alliance. This development was very well articulated by both President Ford and by Senator Javits at the national conference last month.

The continuing need of the Alliance as a manpower tool for the future was clearly expressed by the President, and expanded missions and client categories were suggested as very much a part of the future. These amounted to comments which were both inspirational and sustaining to the voluntary side of our basic concept. The strong support of these assessments by Assistant Secretary Kolberg in his depiction of the Alliance as the corporate social responsibility voice of American business, was indeed no less heartening. As a partnership, I find we are facing that new order of maturity and responsibility in a positive spirit of coordination and mutual drive to do a job. I believe this to be a most vital factor in keeping the Alliance on a firm positive curve of progress.

PROGRAM REPORT

In its analysis of Alliance performance, our team dealt with then current data as it was accumulating in GFY 1974. I would thus like to give you now brief program status reports for each of our efforts. They will show '74 results through June 30, as bases for our GFY 1975 goals. I will also include some mention of additional planning factors affecting our objectives for '75.

I will cover the disadvantaged adult program, the ex-offender effort, the preventive youth programs, and the veterans program. Following the program reports, I will summarize what I consider to be some highly significant economic factors.

DISADVANTAGED PROGRAM

The Alliance JOBS program for disadvantaged adults, the hardcore unemployed, remains the backbone of NAB activity. It was the first program mandated to us in 1968. Today, with the vast majority of the nation's unemployed officially classified as poor, Alliance responsibility in this client area continues to be significant.

In GFY 1974, against a goal of 255,000 hires, 381,000 disadvantaged adults were placed in private sector jobs for a goal attainment figure of 149%. There are two important corollaries to this program performance: first, the percentage of trainees who stayed on the job for six months or more was 62.1%; and second, of the total placements, only 15% involved reimbursement of employers with Department of Labor contract funds. Stated another way, the training costs of five out of every six hires were voluntarily absorbed by participating private sector employers.

For GFY 1975, reflecting '74 performance but recognizing the newness of CETA and current concerns over economic projections we have increased the goal about 8% to 275,000 hires. We believe it is realistic, accurate and attainable.

EX-OFFENDER PROGRAM

In January 1973, a mandate from the President established a separate program of the Alliance to work the problem of placing individuals released from prison in private sector jobs. Because this mandate brought the Alliance into new and sensitive areas, program design and coordination proceeded slowly. By the opening of GFY 74, only a few Metros were involved in placing ex-offenders, but as the year ended, a total of 104 field offices reported an overall total of almost 7,000 hires.

For GFY 75, the program has increasingly gained momentum and we have set an objective of 10,000 placements by June 30, 1975. Close coordination with the National Council on Crime and Delinquency has resulted in an effective new partnership for the program. Through the medium of conferences sponsored by state Governors, arranged jointly by NAB and NCCD, businessmen and government agencies at the local levels are being made much more closely aware of all factors associated with the effort. The coordination between the Alliance and NCCD is now being effectively augmented by closer relationships with the Department of Justice. While hard data needed to analyze the potential cost benefits of the program were difficult to acquire at first, we are now finding necessary essentials easier to obtain as our coordinative effort broadens. I can safely say at this point that the ex-offender area has extraordinary potential toward reduced government outlays through the private sector jobs concept.

VETERANS PROGRAM

Although America's involvement in the Vietnam war has long since ended, our involvement in developing job opportunities for those who served cannot end as long as hundreds of thousands of Vietnam-era veterans remain unemployed. In FY 74, participating companies hired more than 195,000 Vietnam-era veterans, of which 4,800 were disabled. Total veteran hires since the program began in 1971 exceed 600,000.

By now, most of the recently authorized 50 Jobs for Veterans Managers, who through Department of Labor funding will be placed in the 45 cities where veteran unemployment is greatest, have been hired. All will be on the job by mid-September.

Our goal for FY 75 is 200,000 hires—the highest target for veterans in Alliance history. Of that number, we expect to find and place 7,500 disabled veterans in meaningful jobs. There are some 380,000 Vietnam-era veterans on the VA's disabled roll, but so far we have found that locating disabled veterans who could use our help can be more difficult than actually placing them in jobs. We are actively working with the VA and national veterans' groups to identify these men. We expect our 50 JFV managers to make a substantial dent in the problem.

The increased Alliance responsibility in the Veterans area resulting from the phaseover of the JFV program last spring, has brought us two important new partners in the Department of Defense and the Veterans Administration. Under Bill Kolberg's able chairmanship, the Inter-Agency Advisory Committee has been structuring highly effective guidelines for pursuit of the Veterans program from pre-separation to actual placement. Coordinating responsibilities have been clearly delineated and all five participants, Labor, Commerce, Defense, VA and NAB, are working the whole spectrum from overseas information fairs to split jobs for on-campus veterans.

YOUTH PROGRAMS

The Alliance's Youth Department operates five inter-related, coordinated youth programs designed to encourage youngsters to remain in school and prepare themselves for decent jobs and productive careers. The young people who benefit from the Alliance's efforts include the children of low-income families and the potential student dropout from all economic levels. The aim of the youth programs is to prevent today's youngsters from becoming tomorrow's chronically unemployed poor.

The five preventive program areas are summer jobs, special year-round employment, career guidance, youth motivation and college cluster. All goals set for GFY 74 were exceeded and each has been increased for GFY 75, following the same principles applying to the adult corrective programs. Since the youth programs, important as they are, do not figure in the economic summary to follow, I will not go into any further detail at this time.

ECONOMIC SUMMARY

Gentlemen, what these program reports show makes for some very interesting economics. We have set goals carefully, and we believe accurately, for a total of 485,000 placements during GFY 75. We have assessed this total in detail for job accession and separation factors, and for statistical histories of trainee welfare receipts and unemployment benefits. I believe the results are a significant contribution to the curbing of inflation through reduction of government outlays. Let me give you a few details to support that belief.

The analysis shows that these '75 goals achieved represent the following:

a. Over $73.5 million in taxes paid.

b. Over $81.8 million reduction in welfare benefits.

c. Almost $300.0 million reduction in unemployment benefits.

This, of course, means a $381 million reduction in the draw on federal revenues and, of course, a $73 million increase in generated taxes. Taken together it represents a $454 million total in the direction of curbed inflation through reduction in federal spending.

For a government investment of about $92 million in the Alliance effort, the return on that investment is in excess of 400%.

We recognize immediately, of course, that our inflationary problem is much, much larger than what is in this analysis. But we do feel that it is a significant indication and one which could well be exploited by encouraging wider participation of American business along these lines.

The Alliance needs your help to further broaden the active participation of business leadership at national, regional and local levels. We believe it is one way to help achieve President Ford's announced priority objective of putting the brakes on inflation. It represents an approach to curbing government spending through employment rather than by taking economic measures which can inevitably result in greater unemployment.

[U.S. Department of Labor News Release, Aug. 28, 1974]

STATEMENT BY LABOR SECRETARY BRENNAN

It's a great honor to accept this report from the National Alliance of Businessmen. Any Secretary of Labor would be proud of his association with a group that shares such concern for American workers.

The NAB's record in opening new jobs to the nation's disadvantaged workers is an outstanding one.

I know I express the gratitude of every one whether that person be a welfare recipient, veteran, ex-offender, youth or adult—who has gained a new foothold in life because of your help.

May I also express thanks from President Ford for the positive contributions of your membership in helping to bolster the economy and curb inflation.

As this nation gears up its efforts to deal with its severe economic problems, the President has asked every American for support.

The members of NAB are doing their share by voluntarily hiring thousands of this nation's unemployed. As a result, millions of dollars in welfare and unemployment compensation have been saved. New tax dollars are flowing into the Treasury. And government spending has been reduced.

For President Ford, Secretary of Commerce Dent and myself, I pledge continued support for the government-NAB partnership that does so much good for workers, and for the nation as a whole.

JAVITS CALLS FOR NATIONAL "FULL EMPLOYMENT POLICY," PLEDGES LEGISLATIVE ACTION ON EX-OFFENDER, EMPLOYMENT

Following is the text of an address by Senator Jacob K. Javits (R–NY) delivered before the Seventh Annual Conference of the National Alliance of Businessmen in Washington, D.C. on Tuesday evening June 16, 1974.

FULL EMPLOYMENT—BUSINESS' OBLIGATION

It is indeed a very welcome opportunity for me to address this Seventh Annual Conference of the National Alliance of Businessmen.

I say this because your efforts fall within an area of particular legislative concern to me—the provision of adequate job training opportunities for the poor, the unemployed and the underemployed. Also, because in the larger sense, NAB's activities, more than any other private effort, demonstrate what the private sector can do in grappling with the social problems that continue to afflict the nation. So, both as the ranking minority member of the Senate Committee on Labor and Public Welfare, which has jurisdiction over job training and employment programs, and as a Republican philosophically disposed toward an effective mission for the private sector in the public interest, your efforts are gratifying and encouraging.

You will recall—for it marks the time of emergence of your organization—that following the riots in the mid and late 1960's in Watts, Detroit, Newark and other areas, dramatic attention was called to the plight of the poor in our inner cities, and the National Advisory Commission on Civil Disorders recommended as a key part of its strategy a balanced, public-private effort; the provision of one million jobs in the public sector and an equal number in the private sector over a three year period for the so-called "hard-core" unemployed.

Neither the National Alliance of Businessmen through the "JOBS" program, nor the public scetor met that goal in the prescribed three year period. But, in fact, the National Alliance of Businessmen had, as of June 30, 1973, been the catalyst in the hiring of 1,300,000 economically disadvantaged persons since 1968; in contrast, the public sector, basically through the Emergency Employment Act of 1971, has provided 666,000 persons with public service jobs to date.

Interestingly, in each of the three areas to which the National Alliance has given particular attention, the public sector, too, has concentrated its attention.

With respect to veterans, the National Alliance of Businessmen has provided jobs to 563,529 persons to date; under the Emergency Employment Act of 1971, preference was given to Vietnam-era veterans, and so far, 89,880 jobs for such veterans have been provided out of the total of 666,000 to which I referred.

With respect to disadvantaged youth, I am advised that the Alliance has provided 960,080 summer jobs since 1968, with a goal of 200,000 for this summer; since 1968, 4.1 million summer jobs have been provided with public funds through the Neighborhood Youth Corps and public service job efforts. This includes 700,000 New York City jobs under the new Comprehensive Employment and Training Act of 1973 for this summer, which we are happy to have, since the Administration originally requested no funds specifically for that purpose, but finally "turned around" and is now making available funds which I and others were able to get through the Congress by supplemental appropriations.

With respect to ex-offenders, both the private sector; and the public sectors are now waking up and getting underway. Pursuant to the request by President Nixon of last year that the Alliance focus on that group, I am advised that to date, NAB has provided 4,620 jobs; on the public side, under the Emergency Employment Act of 1971, the Department of Labor advises that the number provided is so small as to be "nominal". $23 million was expended by the Department of Labor in fiscal year 1973 for job training for ex-offenders; projections for fiscal years 1974 and 1975, while undetermined, do not indicate any meaningful increase. I am seeking greater attention to this subject.

NAB's national office advises that a national goal has not yet been established for the coming year, although one will be.

To encourage the establishment and meeting of such a goal, and to supplement NAB's efforts, I reaffirm the pledge I made to the New York Chapter of the National Alliance of Businessmen last month: I shall introduce legislation to amend the Comprehensive Employment and Training Act of 1973, to provide specific authority for the provision of 33,000 public service jobs for ex-offenders and persons charged with crime, with an authorization of no less than $300.0 million for fiscal year 1975 and increasing amounts for subsequent years to fund each of these jobs and to provide the administrative and support services necessary with respect to the individuals covered.

Now, before we pat ourselves on the backs for past and projected efforts, let's take a hard look at where we are—not in terms of where we started, but where we have to go:

There are still over 300,000 Vietnam-era veterans who are unemployed—really nothing less than a national disgrace.

Poor youth in our inner cities still face unemployment levels ranging between 30–40 percent or seven or eight times the national unemployment level. This summer, as I indicated, a combined total of approximately 900,000 jobs will be provided by the NAB and the New York City summer youth job program—in contrast to the target group of those who need jobs—who total 3.4 million.

100,000 offenders leave prisons every year in the nation and two thirds of them return; estimates are difficult to come by, but most agree that there are over a million ex-offenders on the streets now. 400,000 adults and 350,000 juveniles are under the correctional process at this very moment.

Overall in the nation we have still 24 million poor, 10.9 million persons on welfare, and nearly five million persons unemployed, not to mention the so-called "hidden" unemployed who are not even counted because they have given up even seeking jobs.

We are still just whittling away at segments of the "unemployment problem"; our private and public activities are helpful and needed, but they constitute more a national activity than they reflect a national policy.

We are never going to deal adequately with these segments of any other segments without a national policy and by a national policy, I mean a national "full employment policy" with real resources in it.

And so I come before you this evening, not just to praise past deserving efforts, but to call upon business—and the National Alliance of Businessmen as a key representative of concerned business—to join with labor and the public sector in the formulation of a true national "full employment policy."

There is nothing more implicit in the very fabric of our free enterprise society than the promise of full employment.

The pledge of the Employment Act of 1946 "to promote maximum employment, production and purchasing power has been honored more in the breach than in the observance."

We have not even defined what full employment is or could be, and there are many differing views on that; we only know when it does not exist, and we scream when "it hurts" by saying that unemployment is at "unacceptable" or "intolerable" levels.

There is now a growing recognition—paralleling in a sense the evolution toward recognition of the need for comprehensive health insurance—that legislation is needed over the long term to accomplish the objective of full employment in very real terms.

As a beginning, I have introduced two measures. First, as a vehicle for consideration of the issues of full employment, I have sponsored S. 1693, the "Full Employment and Job Development Act of 1973", which I introduced on May 3, 1973, with twelve Senate co-sponsors. The legislation would establish a "Full Employment Board", consisting of five full-time members appointed by the President, subject to Senate confirmation, including one representative each of labor, the general public, and management plus a distinguished economist and a manpower training expert.

The Board would be charged with recommending to the President and the Congress on an annual basis a program to achieve full employment, undertaking manpower planning and reviewing implementation of existing programs and services.

Also, I have introduced S. 2993, the "Emergency Energy Employment Act of 1974" with nine of my colleagues on February 8, 1974, a bill to provide authority for the provision of 500,000 public service jobs if national unemployment exceeds 6 percent for three consecutive months.

We expect hearings on both of these measures shortly.

Moreover, a number of us in the Congress have joined in sponsoring the establishment of a "Committee for Full Employment without Inflation", suggested by Leonard Woodcock, President of the United Auto Workers, and Mrs. Martin Luther King, Jr.; the first meeting of the Committee was held in New York City just last month.

The Committee will, like the "Committee of One Hundred" for health insurance, research the means of attaining full employment and encouraging national policies to that end.

So efforts are underway and it is absolutely essential that business play a key role and not leave it solely to the economists, labor leaders, or even the politicians, although each of them must be involved.

Business itself will gain much from a carefully honed full employment policy—that is one which relies in large part on a "fine tuning" of the private sector, and does not look solely to large scale "public service job programs" to meet the goals; in short, in seeking our new goal—full employment—we will need the kind of joint public-private effort that has characterized our employment efforts to date.

Indeed, business already bears the cost of our lack of full employment policy or anything approaching it. For example, in the key area of offenders, government spends more than $8.5 billion annually in fighting and punishing crime; over $16.0 billion—or twice as much—is lost by business as a result of crime.

Now, what can business do in the evolution toward a real "full employment" policy.

First, I hope that the leadership of the National Alliance of Businessmen and other representatives of the private sector will join in the formulation of the policy through the new Committee which I mentioned and other groups which are working to that end.

Second, I urge business on the local level to take an active role in the implementation of the Comprehensive Employment and Training Act of 1973. This Act, under which the National Alliance of Businessmen's program is funded, basically turns over to State and local government "prime sponsors" the major responsibility for manpower training and public service employment programs.

Each prime sponsor will have a planning council and business representation on this council is specified; it is essential that you participate not only to ensure that programs are "cost-effective", but particularly that training relates to a real job at the end of the process.

Third, I hope that you will not only be receptive to, but supportive of the provision of public service job opportunities, in keeping with a balanced public-private full employment strategy.

You will recall that many, including the President, voiced the fear initially that public service employment programs might be "make-work" or "dead-end". Fortunately this has not been the case under the Emergency Employment Act of 1971; a national survey showed that one month after they left the program, 71% of the participants had other jobs. And while employed under the EEA, their activities have been worthwhile; for example, 20% of the jobs provided were in education, 12% in law enforcement, 9% in health, and only 22% have been created in public works.

You can assure that this record is kept and improved by establishing a referral relationship with the public agencies providing public service employment, that is, if you can "dip into" the public sector for personnel who have had the benefit of the public service job experience.

Fourth, you can demonstrate what "full employment" can mean, by seeking it with respect to a particular segment of the unemployed.

If you think that's an impossible goal, consider this:

There are in the nation, according to statistics prepared for me by the Library of Congress from Bureau of Census figures, 3,540,846 business establishments that is, corporations, or major branches of corporations, partnerships, or sole proprietorships.

As I stated earlier, approximately 100,000 persons are released from prison each year with a million on the streets, now.

Thus, if every third business establishment in the Nation hired one exoffender, "full-employment" could be achieved as to that group—a group of individuals who are beset with the heaviest handicaps in terms of education and previous experience, as well as language and discrimination difficulties in many cases. That is what "breaking the back" of that problem would do in terms of our hope of tackling the larger problem of unemployment.

In conclusion, I look forward to continuing to work with your organization both in the expansion of the efforts which began in the 1960's and in the new "full employment" policy which appears over the horizon in the 1970's and 1980's.

These are times of cynicism on the part of many of our citizens, about the "establishment"—both "governmental" establishment and the "business" establishment.

We can help greatly to bridge that gap with a full employment policy.

SEMIANNUAL REPORT BY THE DEPARTMENT ON CHEMICAL AND BIOLOGICAL WARFARE ACTIVITIES

Mr. McINTYRE. Mr. President, in keeping with the past practice of the Armed Services Committee to advise the Senate and the public of the activities of the Department of Defense in chemical and biological warfare—CBW, I request unanimous consent to have printed in the RECORD at the conclusion of my remarks the report cover letter and the semiannual report on funds obligated for CBW research during the second half of fiscal year 1974.

This report is submitted semiannually pursuant to section 409, Public Law 91-121.

The report also includes explanatory comments on the purposes for which the funds provided have been used.

There being no objection, the letter and the report were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, D.C., August 27, 1974.

Hon. JAMES O. EASTLAND,
President pro tempore of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT:

In accordance with the requirements of Section 409, Public Law 91-121, the semiannual report on funds obligated in the chemical warfare and biological research programs during the second half of fiscal year 1974 is attached.

The report provides actual obligations through 31 May 1974 and estimated obligations for the month of June 1974. The report for the first half of fiscal year 1975 will include an adjustment summary to adjust estimated obligations to actual for the month of June 1974.

The attached report has also been sent to the Speaker of the House of Representatives.

Sincerely,

W. P. CLEMENTS, Jr.,
Deputy.

DEPARTMENT OF DEFENSE—SEMIANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAM OBLIGATIONS FOR THE PERIOD JAN. 1, 1974–JUNE 30, 1974—RC SDD-D.R.&E.(SA) 1065 (ACTUAL DOLLARS)

	Army	Navy and Marine Corps	Air Force	Total
Chemical warfare program	$14, 594, 000	$234, 000	$415, 000	$15, 243, 000
R.D.T. & E	(4, 465, 000)	(0)	(415, 000)	(4, 880, 000)
Procurement	(10, 129, 000)	(234, 000)	(0)	(10, 363, 000)
Biological research program	4, 753, 000	0	0	4, 753, 000
R.D.T. & E	(4, 753, 000)	(0)	(0)	(4, 753, 000)
Procurement	(0)	(0)	(0)	(0)
Other ordnance program	22, 708, 000	97, 000	2, 320, 000	25, 125, 000
R.D.T. & E	(2, 265, 000)	(0)	(0)	(2, 265, 000)
Procurement	(20, 443, 000)	(97, 000)	(2, 320, 000)	(22, 860, 000)
Total program	42, 055, 000	331, 000	2, 735, 000	45, 121, 000
R.D.T. & E	(11, 483, 000)	(0)	(415, 000)	(11, 898, 000)
Procurement	(30, 572, 000)	(331, 000)	(2, 320, 000)	(33, 223, 000)

In conducting the research described in this report, the investigators adhered to the "Guide for Laboratory Animal Facilities and Care" as promulgated by the Committee on the Guide for Laboratory Animal Resources, National Academy of Sciences-National Research Council.

SECTION 1.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE SEMIANNUAL PERIOD JAN. 1, 1974 THROUGH JUNE 30, 1974—DEPARTMENT OF THE ARMY RCS DD-D.R. & E. (SA)1065

SECTION 1.—OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE SEMI-ANNUAL PERIOD JAN. 1, 1974 THROUGH JUNE 30, 1974

REPORTING SERVICE: DEPARTMENT OF THE ARMY, DATE OF REPORT: JUNE 30, 1974 RCS DD-D.R.&E.(SA)1065

Description of RDTE effort	Funds obligated (millions of dollars) PY CFY	In-house Contract	Explanation of obligation
Chemical warfare program	−0. 005 4. 470	4. 830 −. 365	During the second half Fiscal Year 1974, the Department of the Army obligated $4,465,000 for general research investigations, development and test of chemical warfare agents, weapons, systems and defensive equipment. Program areas of effort concerned with these obligations were as follows:

Chemical research:	
Basic Research in Life Sciences	−$80, 000
Exploratory Development	−166, 000
Total Chemical Research	−246, 000
Lethal Chemical Program:	
Exploratory Development	15, 000
Advanced Development	350, 000
Engineering Development	1, 125, 000
Testing	2, 608, 000
Total Lethal Chemical	4, 098, 000
Incapacitating Chemical Program:	
Exploratory Development	65, 000
Advanced Development	−364, 000
Engineering Development	000
Testing	100, 000
Total Incapacitating Chemical	−199, 000
Defensive Equipment Program:	
Exploratory Development	210, 000
Advanced Development	−43, 000
Engineering Development	−392, 000
Testing	343, 000
Total Defensive Equipment	118, 000
Simulant Test Support	694, 000

Description of RDTE effort	PY CFY	In-house Contract	Explanation of obligation
1. Chemical Research	. 000 −. 246	−. 171 −. 075	
a. Basic Research in Life Sciences	(. 000) (−. 080)	(. 000) (−. 080)	Life Sciences basic research in support of chemical materiel was conducted during the second half of FY74.

1. FY74 contract deobligation of $80,000 represents an adjustment to the 1 July–31 December 1973 report. This amount should have deen identified with paragraph 1a, Section 2, Biological Research Program.

2. Basic research has continued on the detection and identification of metabolites, hydrolysates, and degradation products of chemical agents so that total quantities of agent initially present in a suspected contaminated area can be determined. An infrared spectrophotometer is being used as the detector in high-speed, high-pressure liquid chromatography and new absorbent and solvent systems have deen developed.

3. Preliminary studies of the binary VX (an organophosphorus lethal agent) reaction at reduced temperatures have been completed. A Plexiglas chamber has been designed and built for the experimental determination of droplet evaporation behavior. These studies will aid in understanding how liquid agents perform. Work will continue to determine the limitations imposed by temperature ranges and reactant quantities in binary munitions as well as the way gas and liquid phases of these agents interact with other materials. The study of thermal characteristics of selected compounds will provide data on the stability of agents, the mechanism of decomposition, and the effects of moisture, solvents, and stabilizers.

4. Individual basic research studies in various biological disciplines and related sciences were performed as follows:

a. Techniques here have been developed for radioactive labelling of cholinergic ligands as a tool for the isolation of the cholinergic receptor from the electric tissue of eels; several approaches have been investigated. Studies on the isolation and characterization of the cholinergic receptor protein will continue in FY75.

b. Preliminary analyses of the effects of varying doses of scopolamino on memory processes indicate that memory deficits may not be of the retrieval nature; rather, new learning while drugged is impaired as is subsequent recall of that material. Work is planned to further explore these findings.

SECTION 1.—OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE SEMI-ANNUAL PERIOD JAN. 1, 1974 THROUGH JUNE 30, 1974 REPORTING SERVICE: DEPARTMENT OF THE ARMY, DATE OF REPORT: JUNE 30, 1974 RCS DD–D.R.&E.(SA)1065—Continued

Description of RDTE effort	Funds obligated (millions of dollars)		Explanation of obligation
	PY CFY	In-house Contract	
			c. In anticholinsterase poisoning add various types of venom poisoning, a halt in respiration is evident; both of these exert their effect on the function of the neurotransmitter. Sea snake venom apparently blocks the receptor from the effects of the neurotransmitter inducing a paralysis of the end organ, in contrast to GD (an organophosphrus lethal agent) which forces a great excess of transmitter onto the surface of the receptor ultimately resulting in a similar form of paralysis. The neuromusculature block induced by the sea snake venom appears to be very similar to that induced by curare except for a marked increase in duration of action. It is often reported to be irreversible; however, it was shown that if the respiration could be supported for 24 hours after the onset of the respiratory block, recovery would be complete within 3 days. d. Procedures are being developed for the identification of neuroblastoma variants whose acetylcholinesterase (AChE) is either resistant to GD or reactivates rapidly. The current approach depends on production of acid upon hydrolysis of acetylcholine by resistant or reactivated AChE in neuroblastoma cones. When perfected, such techniques will permit production of mutant AChE molecules in sufficient quantities for extensive biochemical characterization. e. An incapacitating compound which possesses analgesic properties in primates has no effect on pain threshold of rodents. In attempts to localize these analgesic effects in the primate drain, microinjections (10 μg) into sites (previously been found to be responsive to morphine) produced no analgesia. Work will continue on the determination of the central sites of action of this compound. f. The labeled analogue of paraoxon decreases the intensity of the electron spin resonance signal in the presence of its antibody, however, the GD analogue in the presence of its antibody does not exhibit this same decrease. These results are the reverse of those reported by equilibrium dialysis or radioimmuassay.
b. General chemical investigations	(0.000) (−.166)	(−.171) (.005)	During this period, $166,000 of FY74 In-House funds were withdrawn due to Congressional funding reduction, and $5,000 was reprogrammed from In-House to Contract. Exploratory development investigations were conducted in search for potential chemical agents, techniques of evaluating effects of chemicals, medical effects of chemical agents, chemical dissemination and dispersion technology, process technology, test and assessment technology, systems analysis, evaluation of foreign chemical warfare (CW) potential, training agents and equipment, and chemical safety. 1.Search for potential agents. Routine screening of new compounds continued on a limited scale for systemic incapacitants and lethal chemicals. Special catalepsy studies of phenothiazine derivatives were pursued to optimize the effectiveness of these materials, Several solid samples from the treatment of GB with caustic were analyzed to determine the effectiveness of decontamination procedures. Nuclear Magnetic Resonance (NMR) analysis of compounds from many sources has increased significantly. The screening for possible new systemic incapacitant materials will continue with an effort to make the initial studies more predictive. Compounds with high safety ratios will be tested for their protective ability against nerve agents that are resistant to oxime prophylaxis. Both instrumental and chemical methods will be employed to determine the properties of agents and the sampling and identification of these materials. 2. Evaluating effects of chemicals. a. It has been confirmed that the memory deficits produced by the glycolates and other anticholinergic compounds are the results of two processes operating simultaneously; (1) the effect of these drugs on registration of information; and (2) the change in stimulus state between learning and recall. Preliminary experiments indicate that the locus of action of glycolates and other anticholinergic compounds in determining behavioral disinhibition is the hippocampal region of the brain. b. Automated systems have been devised for measuring hemoglobin-methemoglobin levels in blood as a part of the study of cyanide poisoning, and a similar automated method has been applied to measure cyanide in blood. As little as 0.1 ug/ml. can be detected. Another application of the automated assay permits measurement of physostimine in aqueous solutions when used as an inhibitor of AChE. A long-term study of AChE levels in man is underway to bring out deviations, if any occur, from the hormal value which are assumed to constant. Seasonal fluctuations and changes following use of drugs for any reason will be evaluated in terms of the reliability of the standard methods. 3. Medical effects of chemical agents. a. Incapacitating glycolate compounds take effect in a short time after application to the skin. Inhibition of local sweating at the site of application provides a method of measuring penetration of the skin at doses smaller than those required to incapacitate. Glycolates and other anticholinergic compounds have been found to have potent analgesic properties but only at relatively high doses at which they conceivably produce a hyperpolarization blockade of cholinergic neurons. It was also found that both anticholinergic and anticholinesterase compounds potentiate and prolong and analgesic actions of morphine. The analgesic properties of cholinergic compounds should be considered when evaluating their behavioral effects or when predicting their effects in man. Attempts have been made to localize the analgesic effects of these compounds; preliminary results indicate that cholinergic drugs produce analgesia by their actions on the classical somatosensory systems in the brain. Anticholinergics disrupt thirst mechanisms. It has also been demonstrated that the probable site of action of anticholinergics in disrupting thirst lies in two areas in the hypothalamus. b. In order to test the possibility of sensitization to an incapacitating agent occurring from successive doses, volunteer subjects have been given the agent by injection while a second group received only a saline control dose. Two weeks later both groups received the agent percutaneously. Comparisons of number facility (NF) and operant test scores before and after the experiments were made to ascertain whether any differences could be detected. Performance changes were apparent, but the conclusion was reached that if sensitization did occur it was masked by development of behavioral tolerance to the agent. Guidelines have been formulated for the study of drug effects on the visual system of human and laboratory animal subjects. Factors to be considered include: selection of subjects, use of electrophysiological and other techniques, use of anesthesia, motivation of subjects, and drug dose ranges. 4. Chemical dissemination and dispersion technology. a. New and conventional munition shapes were subjected to aerodynamic studies for the design of extended range projectiles. Modifications to the lift, drag, and mass properties will optimize the range and trajectory. Closed chamber experiments continued with simulant filled models of binary agent projectiles and sub-munitions with a larger agent to burster ratio for improved cloud formation. Simulant filled projectiles for chemical delivery will be tested in additional aerodynamic studies. Submunition shapes for binary and incapacitant munitions will be examined for their trajectory dispersion characteristics. Testing of a rocket motor dissemination for improved agent coverage will be done with simulants and various propellant charge designs. b. A NASA Lewis Research Center computer program for determining propellant combustion products and their thermodynamic properties was modified to provide similar information for pyrotechnic thermal generators. This modified program will be a valuable engineering tool in the design of pyrotechnic formulations because it will provide predictions of the combustion products and their thermodynamic properties. In the first half of FY75, the major thermal dissemination effort will be the modification of the two compartment generator computer program to include thermal effects. Testing will be initiated to evaluate the degree that the modified program simulates the actual functioning mechanism of the two compartment generator. c. Safety type chamber tests of a device for binary (G) intermediates were continued to determine if agent was produced by the exposure of binary munitions to (storage operational) accidental fires. The test devices were exposed to open flame and heating type environments and the effect on the intermediates was determined. A variety of open flame exposures were attempted but the explosive detonation extinguished the flame. Other tests included heating the device and spray discharging the intermediates through a flame. No G-agent was detected as a result of these tests.

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	Funds obligated (millions of dollars)		
	PY	In-house	
Description of RDTE effort	CFY	Contract	Explanation of obligation

d. Studies will be conducted to improve aerosol test chamber technology. Methods and techniques to reliably, accurately, and safely determine aerosol/vapor mixture concentrations, aerosol particle size and number distribution, and aerosol fallout quantity and size distribution will be studied and tested.

5. Process technology.

a. Binary V-agent intermediates were prepared to obtain process data on the synthesis and to supply samples for an investigation of the solids formed during low temperature storage. Several compounds were prepared for testing the M3 alarm.

b. An improved analytical capability is being developed for process and pilot studies. Techniques have been evaluated for the analysis of a binary intermediate since the current method is not precise enough for the current specification limits. A new gas chromatograph-mass spectrometer has been ordered to provide important data rapidly for process studies. Analytical support has been supplied for process studies on incineration of binary V-agent intermediates, phosgene demilitarization by hydrolysis, and detoxification of VX with caustic and ethylene glycol. Laboratory studies have progressed on the synthesis of a binary V-agent intermediate and process criteria established for the design of a process laboratory scale plant. Pollution problems associated with the plant will be investigated.

6. Test and assessment technology.

A test system has been developed to examine simulant particle transport, diffusion, and fallout. An innovative detection system was analyzed for its ability to achieve greater fluorescent particle detection and count capability. A spinning bowl particle disseminator has been developed to permit accurate studies of dispersion and dissemination. Numerous agent simulants are being examined. A technique to generate particles 100–200 microns in diameter will be studied for its usefulness in investigating liquid particle dissemination. The potential of agent simulants to flash will be compared to known materials in Chamber studies using an explosive device capable of controlled adjustments to flashing propensity. Work will continue on a hot wire sensor for liquid particles.

7. Systems analysis.

a. Risk analysis and cost effectiveness studies are continuing on the 155mm Howitzer binary GB projectile, XM687. Estimates of the system's effectiveness are based on use of simulants and simulation. The effectiveness of the XM687 when various firing procedures are employed will be assessed, considering ballistic similitude of the XM687 and M483.

b. Recent public disclosures relating to the high state of chemical warfare preparedness by Soviet supported countries participating in the Mid-East war reveal a need for increased emphasis on defense equipment developments:

(1) An operational effectiveness study was begun and completed on area scanning chemical agent detectors. The LOPAIR system has now been selected to enter advanced development (AD).

(2) As part of the continuing program to support the development of new protective masks, a study was performed to examine the sensitivity of mask effectiveness to donning time. Concerted efforts are being made to reduce donning time and characterize its effect on the system as part of the design studies under the new mask program. From preliminary exploratory development studies the design of the new mask-open molded facepiece, quick don head harness, and quick opening carrier suggest that the donning time may be significantly reduced from the time requirement for the current protective mask.

(3) Special techniques of modifying existing models for improved risk analysis of new offensive and defensive materials will be applied, and effectiveness studies, cost effectiveness studies, and hazard analysis will be conducted. For example, generalized transport and diffusion models originally developed for use in offensive system evaluation have been modified for applicability to defensive systems such as Passive Lopair. The nature of the modification is usually unique to each system in question.

8. Evaluation of Foreign Chemical Warfare Potential.

a. Studies were continued on evaluation of chemical agent release from aircraft and rockets. A series of evaluations including shock tube testing, static fire fall testing, and simulant studies are being conducted. A grid test to assess overall liquid simulant breakup in free fall has been initiated with preparation of the sampling grid at Dugway Proving Ground. Sled tests were conducted at Eglin Air Force Base using similar collection devices to obtain baseline performance data. Additional field tests are scheduled for FY 75.

b. The program to determine enemy rocket/missile capabilities was continued. For this program two available rocket systems were chosen for flight testing to parametrically describe velocity and predictable event altitudes. The warhead fuzing for bulk agent release was designed by Harry Diamond Laboratories and modified to eliminate certain characteristics which interfered with determining precise event points vital to this program. Fuze validation tests will be conducted and evaluated at White Sands Missile Range. Prior to actual warhead assessment tests, preliminary rocket sled tests will be conducted at Eglin Air Force Base to determine the effect of forward velocity on the breakup of simulant agents. Free fall breakup characteristics tests will also be run at Edgewood Arsenal to determine the breakup effect on particle size. These data will be used to formulate a mathematical model which will be used to predict results of previously mentioned warhead tests and the model will be verified by these tests to predict potential enemy rocket/missile capabilities.

9. Chemical training agents and equipment investigations.

Evaluation of candidate training agents and equipment is continuing. Volatile sensory irritants are being considered for use as training agents since they can simulate non-persistent materials and can be modified with materials now under study to resemble different types of chemical agents. A draft Training Device Requirement (TDR) is being reviewed and program cost estimates are being prepared. Definition of training device requirements will be finalized and guidelines defined for synthetic, analytical, and physical investigations of candidate compounds. Work will continue on the use of a volatile sensory irritant as a training agent. A plan was developed for providing a data base for a number of tentatively medically acceptable compounds as marking and total intake simulants. The sodium salt of fluorescein (a medically acceptable dye) and a number of its esters showed a good concept feasibility for further study. New TDR's will be prepared which will govern the development of the devices required for training troops. Preliminary effort was expended to establish the basic parameters controlling the design characteristics of these devices. Prototype concepts were fabricated and subjected to limited tests. Final decisions on their adequacy will be based on the training agents selected.

10. Chemical safety investigations.

a. A gas chromatographic method has been developed as a highly sensitive, rapid, and accurate detection system which will be needed during the disposal of phosgene. Specific detection and identification procedures and analyses have been completed. Analytical work will continue on established programs. The data will be expanded to include spectra of environmental decomposition products and, with a computer aided analysis, provide identification of chemical agents from the properties of the residues. The scope of this work will depend on future requirements for demilitarization of chemical agents.

b. Long-term ecological studies at Carroll Island have been completed. Data will be collated analyzed, and interpreted, and final reports will be prepared. Tests with chemical simulants are being conducted on some portions of Edgewood Arsenal and research emphasis has been gradually shifted to investigate environmental effects of these disseminations.

c. A new control console was installed in the control room of the Explosion Test Chamber at Edgewood Arsenal. This will permit control of all operations from one central location, including operation of the decontaminating spray boom used for washing down the interior of the test chamber. Work was initiated to repair chamber inner walls and re-treat the surface to prevent absorption of chemical agents. Explosive proof electrical receptacles were installed in the Toxic Dissemination Chamber, and a new agent dispersing generator was developed for use during life

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	Funds obligated (millions of dollars)		
Description of RDTE effort	PY CFY	In-house Contract	Explanation of obligation
			cycle tests of gas filters. The improvement eliminates any risk of an explosion caused by electric sparks. Work was initiated to install a blast measuring system to determine maximum detonation levels permissible without subjecting the chambers to instantaneous over-pressures. Besides fulfilling this chamber safety function, the equipment can also define the blast hazards of various test vehicles. An alarm and monitoring system will be installed on the effluent side of the exhaust filtering system to warn of agent leaking through the gas filters. Efforts will be directed towards designing a blending-mixing system for mixing the decontaminating solutions used in tests. A second blending system will be installed on the effluent side of the waste water holding tank to assure 100 to 1 ratio of fresh water to treated waste water during disposal operations. Efforts will be continued to design a suitable replacement for the temporary decontamination facilities now being utilized at the Explosion Test Chamber.
2. Lethal Chemical Program	0.015 4.083	4.106 —.008	
a. Agent Investigations and Weapons Concepts	(.015) (.000)	(.000) (.015)	Exploratory development effort was expended as follows: 1. New methods for synthesizing binary agent intermediates are being developed; several new reactions have been investigated. Extended term surveillance on stored binary intermediates showed no significant change to the chemicals. A continuation of chemical investigations will seek new binary systems of potential use in a deterrent/retaliatory role. An indepth follow-up will be performed on significant leads to discover higher effectiveness by inhalation and clothing penetration. For each agent system proposed, analytical studies will characterize the components and define the required purity of constituents. 2. Evaluation of the influence of particle size on the toxicological effectiveness of a lethal organophosphorus compound through a 4-layer cloth assembly at a temperature of 75° F and a wind speed less than 1 mph was completed. Results show that 200 micron sized drops of this agent are equally as effective as larger millimeter sized drops in penetrating cloth. The amounts of the agent required to achieve 50% lethality (LD50's) for both drop-sizes are similar. Speed of action of this agent is slightly faster when delivered in 200 micron sized drops as compared to millimeter sized drops. 3. Advancements in GB binary simulants/simulation techniques for munition performance evaluation included the development of an inexpensive pH- sensitive dye technique for the qualitative indication of in-flight mixing and the selection of a dissemination simulant for the binary GB projectile based on the results of a comprehensive test program. Effort was continued to optimize a liquid-to-liquid binary VX system. Effort will continue in the development of binary procedures for new agents; exploitation and/or optimization of techniques for existing binary processes; and developing and/or improving binary simulants and simulation techniques. 4. Exploratory development of 155mm binary employing an intermediate volatility agent (IVA) projectile was continued. Prototype designs were completed and projectiles fabricated for studying techniques for explusive dissemination of agent. Different internal configurations were evaluated in theoretical design studies, and various components were tested in laboratory experimentation. Promising results were later confirmed in a series of dynamic firing trials. Compatability studies were also performed to identify materials of construction suitable for proposed binary reactants. Effort will continue with the development of design information which will be applicable regardless of the agent selected. Upon the develpoment of binary process(es) suitable for weaponization, efforts will become specific for the agent/munition system(s) of choice. 5. Parametric studies were continued to determine the relative effectiveness of binary missile warheads with massive, segmented and bomblet configurations. Prototype segmented binary submunitions were designed and fabricated for clustering and filling investigations which will lead to conceptual designs for the in-flight mixing and reaction of ingredients. Exploratory development of the air-to-ground rocket warhead was continued and a technique for accomplishing effective in-flight mixing of binary ingredients was demonstrated in the laboratory. In addition, comprehensive feasibility and design studies were performed to comparatively evaluate various candidate ground-launched rocket systems for which lethal binary agent capabilities have been proposed. Studies will continue to establish the feasibility of potential agent/missile-warhead and agent/rocket-warhead configurations. Prototype/component designs will be tested and evaluated as part of the design optimization studies.
b. Agent Pilot Plant Investigations	(.000)	(.000)	No additional funds were obligated during the report period. AD effort was expended as follows: 1. Samples of binary intermediate distillation residues were taken at various intervals from a laboratory apparatus. These samples were subjected to partition in an equilibrium still and equilibbria fractions analyzed by chromatography, NMR and mass spectrometry. Due to the complex and changing nature of the lower purity fractions, the analytical data were inconclusive. It was concluded that further effort to refine the definition of the system would be impractical in comparison to the relatively low cost of overdesign based on pilot column performance. 2. Unit operational subpilot/pilot studies will be continued on manufacturing processes for intermediates for VX systems and will be initiated on those advanced binary intermediates for which laboratory study has provided process and safety parameters. Materials compatibility, demilitarization, and waste disposal operations will be included. The feasibility of incineration of the intermediates of the binary VX agent was deomnstrated in a small propane fueled combustion chamber. 3. The decision was made to use an inertia welded closure as the prime closure for the XM736 binary round. The screw plug "O" ring will be the backup. Filling line design concepts were developed and evaluated. Fabrication drawings for the filling line were started. Canisters were filled using the experimental filling system, to support test requirements. A prototype machine for filling and closing the XM736 projectile canisters for the Development Test (DT) II program will be designed, fabricated, and tested during this period. 4. A fill, close and packout facility was established at Edgewood Arsenal. A quantity of intermediate canisters for the 155mm binary GB–2 projectiles, XM687, were simulant filled, tested, and packaged during this period. This action was in support of the DT II phase. A self-centering, spin weld closure plug was developed and procured. Direct leakage detection and spin welded steel closure equipment will be developed which will provide basic design data for projected production usage.
c. Tactical Weapons Systems:			
(1) Advanced Development	(.000) (.350)	(.406) (—.056)	During this period advanced development on the XM736, 8-inch binary projectile was completed. Of the competitive prototypes, a bulk explosive liquid-liquid system with a mechanical time fuze was selected as the configuration for full-scale development. Deobligation of $56,000 resulted from cancellation of contract studies on test programs for the projectile.
(2) Engineering Development	(.000) (1.125)	(1.092) (.033)	1. During this period obligations incurred were primarily for Engineering Development (ED) effort on the XM736. A comprehensive test plan was prepared and hardware fabricated for the engineer design test (EDT) initiated in May 1974 and requiring about one year for completion. ED effort on the XM736 will continue in FY75, including implementation of phases of the EDT program. 2. DT II effort to establish the suitability of the XM687 for type classification was initiated in February 1974 and will require one year for completion. In addition to supporting this effort, supplementary development activities related to storage life and effectiveness requirements were pursued.
d. Material Tests in Support of Joint Operational Plans and/or Service Requirements.	(.000) (.282)	(.282) (.000)	Obligations were incurred in the planning, conduct and/or reporting of four joint operational tests and two operations research studies in response to CINC and Service Requirements. The following tests and studies have been actively pursued during this report period: 1. Test 69-31 Phase II: This test was designed to provide the U.S. Air Force with data on the effectiveness of the MC–1 Bomb under current delivery modes. Project completed. During this report period, coordination of the final reports with Air Force personnel was accomplished. Comments received were incorporated and the final reports were published.

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	PY	In-house	
	CFY	Contract	
			2. 69–14 Phase III: This test will consist of 9 trials to evaluate the hazards resulting from disposal of a potentially damaged or leaking MC–1 bomb using current USAF EOD procedures. Laboratory investigations for the purpose of candidate simulant selection, oxidation-pyrolysis product determination and sampling method development is required prior to tests. Work was suspended during this period due to higher priority programs. Laboratory investigations will be initiated in FY75 with completion scheduled in FY76. 3. Test 73–11: This effort is designed to determine potential methods for the destruction of USAF chemical munitions in a tactical environment. Laboratory investigations to determine the feasibility of thermally decomposing GB in a closed system, simulant selection, and development of analytical and sampling techniques must be accomplished before testing can be initiated Laboratory investigations were deferred during his report period. Investigations will be initiated in FY75 with completion scheduled for FY76. 4. Test 71–14 Phase III: This effort is designed to reevaluate the safety procedures associated with the MK4 MOD filling van and to determine if deficiencies noted in earlier tests have been corrected. During this report period testing was completed and deficiencies noted in earlier testing were demonstrated to have been corrected. Data has been transmitted to the US Marine Corps. Project completed. 5. Study 73–111: This study was in response to a request by the US Army, CINCLANT, and CINCPAC for a computer assessment of downwind travel and hazard of herve agents and to compare these estimates with predictions based on current manuals. Study report was finalized and published. 6. Study 74–112: This study is in response to a USMC request which will evaluate the effects of chemical agents and decontaminants on the continued integrity of spray tansk and estimates of hazards associated with recycling or decontaminating the tanks. During this period, background information about the system by its manufacturer and service directives were reviewed. Operational test reports were reviewed for pertinent data. A literature search is in progress for data on the corrosive effects of chemical agents and decontaminants on spray tank component materials. Study is scheduled for completion in the 1st half of FY75.
e. Army Material Development Tests	(0.000) (2.326)	(2.326) (.000)	Obligations were incurred in the testing of binary weapon systems. Purpose of the testing was to: (1) Evaluate ballistics stability and accuracy of candidate projectiles; (2) explore simulant material that will duplicate characteristics of agent fills; and (3) determine technical performance of the XM687 projectile including estimates of reliability, safety, suitability for service tests under intermediate and extreme environment conditions, and dissemination efficiency and area coverage. During this period, 12 test series were in some phase of either testing and/or reporting. Major emphasis was on the 155mm projectile DT II phase. Physical testing in the areas of rough handling, safety, transportation, and storage are in progress. Research and development acceptance tests were also conducted. Dissemination testing with simulant has been initiated in order to obtain efficiency and area coverage data. Ballistic firings were conducted with various configurations of the 8 inch projectile, and projectiles were fired to evaluate simulant cloud characteristics. Engineering tests on the 155mm projectile and development testing on the 8 inch projectile will continue in FY75.
3. Incapacitating Chemical Program	.000 −.199	.156 −.355	
a. Agent Investigations and Weapons Concepts	(.000) (.065)	(.065) (.000)	Explanatory development effort was expended as follows: 1. Several new intermediate chemicals have been prepared which will be useful in the synthesis of incapacitating materials Sufficient quantities of several new phenothiazine derivatives have been prepared to permit biological investigations of these tranquilizers. Synthesis of additional materials will contrinue with emphasis on discovering incapacitants with percutaneous activity, reduced onset time, and increased effectiveness. Investigations of possible binary systems will be undertaken. 2. In the second half of FY74, 155mm projectile tests, fired at maximum charge showed that set back forces were crumbling the simulant payload, when the payload was loaded at less than 10,000 pounds per square inch. To assess the magnitude of the payload crumbling problem, a chamber test, where unconsolidated incapacitating pyrotechnic mixture was burned, was conducted Results of the chamber test showed the unconsolidated mixture had a higher reaction rate and a lower efficiency: however, the overall results were acceptable and the payload crumbling problem was classified as minor. Two compartment generator studies indicated a need for more efficient propellant inhibitors to improve the repeatability of the dissemination mechanism. During the first half of FY75, two compartment generator studies will be conducted to provide design data; polymer based-pyrotechnic mixtures will be investigated as a method of disseminating incapacitating agent. A program was initiated to determine the amount of incapacitating agent that would be released to the atmosphere if incapacitating munitions were involved in a fire. Dissemination studies including the two-compartment concept will be conducted to improve agent dissemination effectiveness.
b. Agent Pilot Plant Investigations	(.000) (−.075)	(−.075) (.000)	1. Laboratory studies were conducted to develop a process for manufacturing an incapacitating agent. Effects of solvent/reactant ratios and catalyst were studied. An acceptable method for decontamination of waste streams; was obtained. Recycle studies on the useable reactants and clean up of waste streams were begun in the laboratory. Pilot plant manufacturing and agent drying studies were conducted which indicated that there were no major scale-up problems. A product was obtained in high yields (85%) and purity (95%). Alternate methods of agent separation were screened and a Tolhurst centrifuge selected for further tests. 2. Initial effort during the report period was directed to preparations for loading and assembling AD hardware for the XM723, 155mm incapacitating projectile. As a result of suspension of effort on this program, $75,000 was deobligated.
c. Tactical Weapons Systems	(.000) (−.289)	(.066) (−.355)	The advanced development program for the XM723 projectile continued through proof testing and documentation of ignition delay designs. In March 1974, advanced development was suspended pending decision to enter engineering development. Indicated funds were deobligated as a result of this suspension.
d. Army Materiel Development Tests	(.000) (.100)	(.100) (.000)	Obligations were incurred in conducting two tasks associated with incapacitating systems. Objectives were to evaluate ballistics and to perform laboratory investigations to determine the fate of the agent in soil, water and vegetation and provide hazard distance analyses required for the preparation of environmental impact statements. Thirteen simulant filled projectiles were fired by Dugway and reports submitted to the developer. Environmental impact statements were prepared and forwarded to the requestor.
4. Defense Equipment Program	−.020 .138	.045 .073	
a. Physical Protection Investigations	(.000) (.140)	(−.197) (.337)	Exploratory development effort during this report period was expended as follows: 1. Chemical agent alarm technology. a. Studies for Army field applications of the Ionization Detector (ID) resulted in significant technological breakthroughs to reduce the flow rate without significant effect on sensitivity, thus greatly reducing power requirements, and modify the data processing to eliminate the apparent "saturation effect" of high concentrations of certain agents. Efforts on the Automatic Liquid Agent Detector (ALAD) resulted in improved formulations and more detailed knowledge of the mechanism of detection. An analysis of applications indicates a capability for significant casualty reducing potential. Reference electrode design studies were carried out in an effort to improve the Enzyme Alarm's performance in the presence of certain airborne contaminants. Studies to improve the immobilized enzyme pad used in the Enzyme Alarm were initiated. A two-year

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complete concept feasibility program will be initiated for an advanced point sampling alarm concentrating on the Ionization Detector and Enzyme principles. Studies will include a detailed parametric and trade-off analysis of all relevant factors. Studies will continue on the Enzyme Alarm with emphasis on interference rejection and improving the immobilized enzyme product Formulation studies on the ALAD will be conducted. Techniques for reproducible fabrication of detector elements and optimum configuration studies will also be investigated.

b. Computer programs designed to select optimized spectral approaches to reliably detect chemical agents by Passive LOPAIR techniques were completed. Simulation programs for the entire system were also completed and initial experimental results appear to confirm the validity of the programs. The methods are deemed applicable to a wide range of applications. A breadboard CO_2 laser system for the detection of chemical agents was completed. The Remote Raman system was significantly modified, greatly improving stability and permitting operation under a wide range of field conditions. Detection of vapor and liquid aerosol clouds of agent simulants was successfully demonstrated. An aerosol test chamber for use in field testing is being completed. Field measurements with the CO_2 laser system will be continued. Studies will be made of aerosol and vapor cloud detection by differential absorption of back-scattered laser radiation Remote Raman studies will continue. Additional experiments will be conducted to assess the capability of the technique for terrain surveillance for agent contamination. A data processing technique will be incorporated into the present system to upgrade performance.

c. Results of studies with an ID modified with a stronger radioactive source and employing a charcoal filter in the air inlet system, indicated that the ID principle would probably be the best system (because of its simplicity) for use in alarms for incapacitating agents. Concept feasibility of a Real Time Monitor program was completed. The objective of this program was to improve and apply chemical alarm principles to the high sensitivity requirements of chemical agent demilitarization operations to assure adequate environmental pollution control. Air sampling studies, with an emphasis on the use of concentrators, will be carried out in an effort to achieve the sensitivity required for the detection of chemical agents at plants and storage sites.

2. Pollution Abatement.

a. Several projects have been established to address the environmental aspects of chemical activities. The demilitarization project discussed in another section is the most obvious because of its magnitude. Other projects include developing instrumentation for pollutants unique to any Army Materiel Command (AMC) installations, preparing environmental assessments for R&D projects and developing technology for analyzing and decontaminating surfaces and land areas.

b. The instrumentation development project has progressed in several areas. First, an Environmental Protection Agency—Edgewood Arsenal (EPA–EA) agreement has been completed for work by City University of New York in studying a laser technique for detecting airborne aerosols. This work would be applicable to the real time detection of acid mist which has been identified as a major problem in many production operations. Second, EA, EPA, and NASA participated in a two-day meeting on the remote sensing of atmospheric pollutants. The meeting covered all technical aspects of the three programs and most importantly, established liaison for achieving remote sensing objectives. Edgewood Arsenal's in-house instrumentation effort has been devoted to utilization of this technique for monitoring AMC's installation pollutants. Third, instrumentation data are being prepared for the 1108 computer. This computerized system will aid all AMC project managers in determining what instrumentation is available or under development to monitor wastes generated by their projects. Delays have been encountered due to changes in computer format and these have not yet been completely resolved.

c. With regard to the environmental assessment program, assistance has been provided to managers of AMC RDTE projects in preparing the assessments and insuring that they comply with applicable laws and directives. Also, a standard format has been established which contains sufficient detail so that a judgment can be made regarding environmental effects of the project. Personnel working on this task have also promulgated detailed guidelines for preparing assessments and have prepared an annual list for AMC of those projects that require detailed, written assessments. Correspondence has been sent periodically to AMC Environmental Coordinators apprising them of new requirements, and generally coordinating the timely submission of the environmental assessments.

d. An overall AMC Environmental Restoration and Recovery Plan has been initiated and Pine Bluff Arsenal has been selected as a pilot facility for Environmental Restoration. Land surface and core samples, following a statistical model, have been taken at Pine Bluff Arsenal, catalogued and analyzed. Analytical procedures for determining pollutants in soil have been determined for DDT and its isomers to include the most abundant metabolites of these compounds. Various gas chromatographic detection methods have been evaluated for analysis of trace quantities of sulfur mustard. Several methods are now being developed for chemical products produced at the Arsenal. Methodology studies will be continued to determine the types, amounts and decontamination procedures applicable to Pine Bluff and Rocky Mountain Arsenals.

3. Chemical detection and identification technology.

a. During this report period, $127,000 was reprogrammed from in-house to contract. Of this amount, $87,000 was for instrument studies on an Ionization Detector (see paragraph 1, Chemical Agent Alarm Technology), and $40,000 was for studies on reactivity of micellar-oximes with organophosphorous esters. These higher priority requirements could only be covered by reprogramming action as additional funds were not available.

d. Some promising leads have been discovered which are potentially useful for direct detection and identification or chemical agents. New reagents are being prepared which directly yield color, fluorescence of detectable physical change. More quantitative response data at various relative humidities have been odtained for several organic compounds, and this data used to determine the mechanism of detection. Fundamental chemistry of agents will continue in order to find direct detection and identification mechanisms. New materials will be synthesized and studied for replacement of current alarm reagents and to widen the scope of the presently limited capability of the alarm. Studies will de conducted on new sources of thermostable enzymes possibly useful in detection and identification of agents.

c. Studies continued on the enzyme system and techniques to improve the stability of the enzyme in solution. Eel cholinesterase enzyme will be studied for use in detection devices. Work will continue in FY75 on the enzyme system. A contract for studies on eel cholinesterase enzyme will be negotiated to confirm the higher sensitivity of this approach. Sensitivity with various types of nerve agents will be determined.

d. The contract on the incapacitating agent detector kit was completed and the concept feasibility prototype was delivered to Edgewood Arsenal. Long term storage of incapacitating kits reagents was begun. Work was initiated on sampling procedures for use in the field. Studies will be conducted on field sampling techniques for extraction and isolation of agents, and agent decomposition products from soil and other media.

4. Chemical decontamination investigations.

a. Reaction rates have been determined for decontamination studies of cyanogen chloride with various materials. The kinetics and mechanism of the reaction with metallic ions and oxidation reactions with halide ions have been elucidated. The use of ethanolamine to decontaminate mustard agents has been studied and the reaction products separated and identified. Contract studies will seek optimum properties for aqueous decontamination of toxic agents on field equipment and vehicles, and find methods for agent destruction using oxygen and moisture in the air. This would permit large scale decontamination with the lowest possible logistical requirement.

b. Based on techniques previously developed for determining lethal area and time for a 50% mortality rate (LAT 50'2) on bare skin, studies to determine LAT 50's of high viscosity agent were initiated. Data were also generated on the effectiveness of the sorbent skin decontaminant against high viscosity nerve agent. A specification covering the agent resistant urethane paint was issued. A limited amount of this agent resistant paint has been procured for evaluation on large pieces of equipment. Studies will be conducted on chemical agent insoluble paints, sorbent skin decontamination systems, agent impermeable supplemental coatings, and improvised materials and

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Description of RDTE effort	Funds obligated (millions of dollars) PY / CFY	In-house / Contract	Explanation of obligation
			methods for decontaminating in the field. Studies will be conducted to evaluate the ease of field application of the agent resistant urethane paint. Studies will continue on determining the effectiveness of decontamination of nerve agents on the skin with the sorbent skin decontaminant, on optimizing the formulation for the sorbent skin decontaminant, and on developing an agent impermeable material to be applied to agent permeable surfaces so that the agent will not penetrate and can be easily removed. Investigations will be initiated to develop and provide to the field improvised materials and methods for accomplishing decontamination. 5. Physical protection against chemical agents. a. Dynamic gas adsorption studies on activated charcoal as used in protective filter elements has nearly met its total of a fully predictive equation for the useful protective life of the filter. Solvent studies have shown that the kinetic adsorption capacity can be predicted from equilibrium relationships, and adsorption rate constants determined for any linear velocity, temperature, an granular mesh size. Further experiments will continue to validate the predictive equations for equilibrium vapor adsorption by activate charcoal using the vapors of different toxic compounds. b. A nerve gas simulant, dimethyl methylphosphonate (DMMP), test has been developed for collective protection gas filters. Wet-chemical analysis sensitivity for phosphorous has been increased approximately 10 fold to 0.003 micrograms per liter. This permits wet-chemical verification of hydrogen flame emission detector measurements at high levels of sensitivity. More realistic test criteria have been developed for collective protection shelters in which dosage inside the protection shelter is used in assessing protective performance rather than the concentration reduction criteria used heretofore. The improved chemical agent simulant test technique for collective protection shelter systems, using dimethyl hydrogen phosphite (DMMP) and the hydrogen flame emission detector, was successfully used to evaluate both the M51 Shelter System and the Modular collective Protection Equipment servicing the S–280 Shelter. A mathematical model for predicting cyanogen chloride (CK) life of specifically treated sealed carbon beds under pre-determined conditions of moisture, temperature and time of storage has been developed, and recently extended, to include life prediction when the items are stored sealed in various actual climatic environments. Promising results have been obtained through modification of the base charcoal and impregnating techniques. Mercury intrusion data on raw charcoal appears correlatable to the final activity of the impregnated charcoal. A simplified mathematical model for multi-component adsorption has been devised to assess effects of moisture on agent adsorption by impregnated charcoal. A study of the effects of drying characteristics (temperature, humidity and time) of gas filters has been made. Findings provide a rationale for optimizing the drying of these filters. Work on the correlation of CO to CO_2 conversion data with residual CK life of partially spent and aged Whetlerite show a correlation which is complex, but appears to be quantifiable. Work was continued on mathematical modelling and experimentation on open storage of Whetlerite to augment the study previously accomplished on sealed storage. Approximately one half of the necessary test plan has been completed. Efforts will continue to improve the capacity activity and stability of Whetlerized charcoal. Work will continue to develop methods of measurement of residual gas life of sorbents Open storage aging of charcoal will be continued with the incremental data provided from the present test plan. Work will continue to improve collective protection shelter simulant tests and protective shelter operating methodology. Efforts to improve gas testing methods for gas sorbents will be continued. c. During this report period, $70,000 of in-house funds were reprogrammed for contractual support of Exploratory Development studies on a new protective mask to replace the M17A1 field mask, the M24 Aircrew mask, and the M25A1 Tank mask. Experimental effort continued on development of improved sorbents. Capacity, activity, and stability studies have been made on an in-house basis. Design of new concept protective masks to meet the characteristics of the new mask was continued. The development of improved elastomers for faceblank applications continued. The conduct of exploratory development tests on three concept modes of new protective masks was accomplished. An informal in-process review was conducted for program review prior to entering AD in FY75 Work accomplished on respiratory stress studies included characterization of the stress limits in terms of a minimum exhalation time and development of an air-flow perturbation device for measurement of airway resistance during exercise. Hood cooling devices were developed and submitted to limited testing. Results indicated some improvement in performance but this was largely loss due to the increased metabilic work required in carrying the devices. The conduct of studies to improve Whetlerization (metal ion impregnation of charcoal to improve high vapor pressure agent retention) will continue. Work in the respiratory and thermal stress area will continue. Design and human factors studies on totally integrated respiratory, head gear and clothing protection against CB agents will continue. d. Studies were conducted on techniques for utilizing the physical properties of chemical agents to design a protective system which contains no chemical or sorbing impregnite. This work consisted of testing a concept whereby a highly permeable fabric was spaced approximately 1 cm from the skin on environmental clothing. Data showed that this concept gave greater protection than the currently used systems. Army Research Institute of Environmental Medicine was asked to conduct heat burden studies of the system and the results of these tests are yet to be reported. Testing of various resins, waxes, and other materials to prevent sweat poisoning of charcoal was continued. Work was continued to determine the mechanism of the thermal decomposition of the XXCCs (a material used to impregnate clothing). Studies will be continued to determine if the spaced highly permeable protective clothing system will result in a substantial reduction of the heat burden imposed over that imposed by the current chemical protective clothing systems. Efforts to develop a non-sweat poisoning charcoal for use in a single layer protective clothing system will continue Studies will be made to determine the mechanisms of reaction which result in degradation of XXCC3 under various conditions of storage and prove the feasibility of an impregnite for the current Clothing Outfit, Chemical Protective (Liner System), which will not degrade in storage.
b. Advanced Development of Defensive Systems	(−0.008) (−.035)	(.033) (−.076)	Advanced development effort during this report period was expended as follows: 1. Advanced development of Passive LOPAIR was initiated. Effort was concentrated on completing and verifying the computer techniques for optimizing spectral techniques for reliably detecting chemical agents. Early experimental results confirm the validity of the approach. Contractual efforts will be initiated in FY75 to design and fabricate prototypes to meet proposed requirements. These contractual efforts were programmed for FY74 and included in estimated obligations in the previous report. This accounts for the $76,000 contract deobligation in this report. In-House efforts will continue to update spectral details which may then be incorporated into the prototypes for evaluation. A detailed instrument design study, including all relevant trade-off factors, will be essentially completed during the next report period. 2. Variables in the paper formulation were studied for the Liquid Agent Detector (LAD). A sample run of paper for use in developmental testing was prepared in Canada. Developmental tests were initiated, and aggravated storage studies were continued to obtain reliability data for determination of item storage shelf life. Developmental testing on advanced development models will be completed in October FY75 and the engineering development phase initiated.
c. Collective Protection Systems	(−.012) (−.350)	(−.046) (−.316)	During this report period, $185,000 was reprogrammed to the Biological Research Program for increased contract effort on the XM19 Biological Alarm, (Section 2, page 4 of this report). Additional funds were deobligated to satisfy high priority requirements in the Army Materiel Command RDT&E Program. Fabrication of DT II hardware and Research and Development Acceptance Tests (RDAT have been completed on the Modular Collective Protection Equipment (MCPE). The Research and Development Acceptance Review (RDAR) for MCPE has been performed. The first year Producibility Engineering and Planning (PEP) effort on Descriptions of Manufacture (DOMs), design and fabrication methods, and reduction of sole source items has been completed. MCPE compatibility testing with TACFIRE will be conducted in August 1974. DT II testing under the intermediate temperature range will be initiated in September 1974, with a scheduled completion in 4QFY75, and Type Classification (TC) in 1QFY76. Hardware fixes and Technical Data Package (TDP) upgrading will be provided in response to any problems revealed during testing. A ten year surveillance program will be initiated to verify effectiveness of the gas filter packaging in minimizing deterioration of the gas filter while in packaged storage.

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Description of RDTE effort	Funds obligated (millions of dollars) PY CFY	Funds obligated (millions of dollars) In-house Contract	Explanation of obligation
d. Warning and Detection Equipment	(0.000) (—.030)	(—0.030) (.000)	During this report period, $30,000 was deobligated and reprogrammed to high priority requirements in the Army Materiel Command RDT&E Program. Preliminary drawings and specifications for the early engineering development design were established for the Chemical Agent Detector Kit, XM256. In-house studies were continued with the nerve agent and mustard agent tests to improve their design and increase agent sensitivity. The development contractor will complete the final design studies. An assembly line will be established and the engineering design test hardware will be fabricated. The contractor will also initiate studies on an improved device for use as inspection acceptance equipment. Also a Value Engineering Program Clause will be executed by the contractor in which he will study alternate materials and processes to reduce unit cost.
e. Medical Defense Against Chemical Agents	(.000) (.070)	(—.058) (.128)	Exploratory development effort was expended as follows: 1. Without heat stress the protective mask in itself does not impede the performance of certain grades of exhaustive work; that is, the respiratory burden of this mask is no impediment under these conditions. However, when heat load is applied, such as when using two-layer protective clothing with hood and gloves along with the protective mask, respiratory burden becomes evident. By removing the voicemitter of the M17A1 mask, the respiratory burden can be reduced but the heat load of the assembly still remains. Sixteen tests were conducted comparing time to exhaustion of five volunteers at 65°, 105°, and 115°F in the standard mask and a modified mask, excluding the voicemitter. There was a 9% decrease in ability to perform exhausting work in the standard mask compared to the modified mask. This variation indicates that there is a respiratory burden when heat load is applied. 2. In volunteers wearing the protective assembly, the ability of evaporative cooling to retard the rise in body temperature in a warm environment is impaired when atropine is injected. A recently completed series of tests in the hot chamber has led to the conclusion that in a hot-humid environment there would be enough sweat retained in the clothing at the time of injection to prolong evaporative cooling during the period of inhibitioln of sweat by atropine, whereas in a hot-dry environment it would be necessary to wet the cothing by artificial means immediately after injection. 3. Work has begun on a new and promising approach to chemoprophylaxis against poisoning by anticholinesterase agents. A commercial carbamate compound (MOBAM) inhibits AChE but forms only a loose bond with the enzyme. When given at a nonintoxicating dose level before the injection of GD into primates it protects temporarily a certain percentage of blood AChE. The GD combines with the remaining free enzyme and any excess GD is quickly destroyed or combined with less vital elements. The MOBAM enzyme complex soon breaks down, releasing useful AChE to carry on the vital processes. Preliminary experiments have shown that primates will survive 10 LD50's of GD when pretreated with MOBAM. 4. Significant progress has been made in elucidating both the lethal and mutagenic mechanisms resulting from alkylation of DNA (deoxyribonucleic acid) by the monofunctional and bifunctional sulfur mustards, 2-chloroethyl ethyl sulfide and distilled mustard (HD), respectively. While DNA crosslinking and depurination reactions were the primary causes of lethality, they played only a relatively minor role in mutagenesis. Both of these potentially lethal DNA lesions were readily repairable by excision-repair enzymes present in bacterial as well as mammalian cells. Two distinctly different enzymes are involved in recognizing these two lesions and initiating their excision. Latter steps of the repair are carried out by the same enzymes in a common pathway. The major mutagenic lesion produced by sulfur mustards appears to be due to a minor alkylation product(s) which has a high propensity for mispairing during replication This permutational lesion is also subject to excision repair. The capacity of the repair system to significantly reduce the mutagenicity of these alkylating agents has important implications for eventual efforts to achieve successful therapy. 5. The toxicity of nine potential antagonists to glycolate agents has been measured. Twelve others proved to be unsuitable either because of insolubility or the extremely high doses needed to produce any effect. One compound has low toxicity and shows enough activity to warrant further examination.
f. Materiel Tests in Support of Joint Operational Plans and/or Service Requirements.	(.000) (.056)	(.056) (.000)	Obligations were incurred for the testing of the Service defensive equipment. Two tests are currently in progress and are as follows: 1. AN/GAQ-1: This test, in response to a US Air Force requirement, is designed to evaluate the detection capabilities of the AN/GAQ-1 Alarm Set, Nerve Agent System under realistic employment situations. Test plan has been coordinated and published. Testing with stimulants will be initiated July 1974 and is scheduled for completion in December 1974. 2. Forward Looking Infra-red Detector: This test, in response to a US Navy requirement, is designed to evaluate the detection capabilities of the Forward Looking Infra-red (FLIR) thermal imaging system against chemical agent simulants. Tests were conducted. Data obtained on the detection capabilities of the Navy FLIR system have been forwarded to the developer.
g. Army Materiel Development Tests	(.000) (.287)	(.287) (.000)	Obligations were incurred for the testing of the US Army's defensive equipment and materiel and for the long range environmental storage and environmental effects testing. Four engineering tests are currently in progress: 1. AN/TSQ-73 Missile Minder: This test is designed to assess the effects of decontamination/contamination on components of the system. During this period, the ability of materiel samples to withstand contamination and decontamination was assessed and reported. Planning is in progress for a DT III test of the AN/TSQ 73. 2. 200 QPM Modular Collective Protection Equipment (MCPE): This test is designed to perform a DT II test (engineering and service phase) and to determine the capability of the MCPE to meet system specification requirements. Testing will be initiated in the last quarter FY75. 3. M51 CB Shelter Test: This test of initial production items is designed to evaluate the effects of cold climatic conditions on systems reliability, durability, and suitability for Army use. During this period the test plan was coordinated and approved. Testing to be initiated 1st quarter FY75. 4. CB Protective Clothing for EOD Personnel: This test is designed to determine if the suit meets the approved small development requirements. Problems associated with high temperature wearing trials resulted in testing being suspended. Currently the EOD suit problems are under study. Until approval is received to conduct high temperature wearing trials, protect completion will be delayed. 5. Environmental Surveillance: The environmental surveillance and long term storage program had a total of 9 items undergoing some phase of testing at one or more of the test sites. Three items were completed and reported and one cancelled during this period. Items include protective masks, chemical detector kits and chemical alarm units.
5. Simulant Test Support	.000 .694	.694 .000	
a. Materiel Tests in Support of Joint Operational Plans and/or Service Requirements.	(.000) (.694)	(.694) (.000)	Obligations were incurred in planning, conducting, and/or reporting of five joint operational tests in response to CINC and Service requirements, and are as follows: 1. Test 70-11 Phase I: This test, consisting of four subtests, is in response to Army, Navy, and Air Force requirements and is concerned with evaluation of delivery and assessment techniques for simulant spray system. During this period testing under subtest III (TMU 28/B spray tank trials) was completed. Data analysis is in progress. A test plan for subtest IV has been prepared to obtain data required to evaluate a simulant delivery system in order to determine hazards associated with large particle size aerosols, simulating massive chemical attack. Field trials were conducted and data analysis initiated. Final report on 70-11 Phase I scheduled for completion 2nd quarter FY75. 2. Test 70-11, Phase II: This test is a research effort with the aim of duplicating the contamination pattern of a liquid agent attack with the use of simulants and correlating simulant/agent data to permit hazard and vulnerability analyses. Laboratory work has been completed. Data is being analyzed. Report is scheduled for completion in the 1st quarter FY75.

Description of RDTE effort	Funds obligated (millions of dollars)		Explanation of obligation
	PY CFY	In-house Contract	
			3. Test 74-010, Phase I: The US Marine Corps requested a test to evaluate the effectiveness of the LVTP-7 landing vehicle when subjected to a simulated massive chemical attack. Testing has been completed. Final publication of the report is being delayed pending receipt of simulant/agent correlation data from the laboratory. Final report scheduled for publication July 1974. 4. Test 74-010 Phase II: This test, in response to a US Marine Corps requirement, involves a Marine Wing Weapons Unit performing mission tasks with a nuclear trainer in a simulated toxic environment. The test is designed to evaluate mission performance degradation caused by a massive chemical attack. During this period, a test plan was coordinated and published. Testing was completed and data analysis initiated. Report is scheduled for completion in July 1974. 5. Test 74-010 Phase III: This test will involve a Marine nuclear ordnance platoon performer mission tasks in a simulated toxic environment and is designed to evaluate mission performance degradation following a massive chemical attack. Testing is scheduled for September-October 1974. Planning has been initiated during this reporting period.

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OBLIGATION REPORT OF PROCUREMENT FUNDS FOR THE SEMI-ANNUAL PERIOD JAN. 1, 1974 THROUGH JUNE 30, 1974—REPORTING SERVICE, DEPARTMENT OF THE ARMY—DATE OF REPORT: JUNE 30, 1974 RCS DD-D.R.&E.(SA) 1065

Description of procurement effort	Funds obligated (millions of dollars)		Explanation of obligation
	PY CFY	In-house contract	
Chemical warfare program	0.595 9.534	4.917 5.212	During the second half of fiscal year 1974, the Department of the Army obligated $10,129,000 for procurement activities associated with chemical warfare agents, weapons systems, defensive equipment, and production base projects. Program areas of effort concerned with these obligations were as follows: Lethal Chemical Program: Materiel Procurement -$352,000 Production Base Projects 3,100,000 Total Lethal Chemical 2,748,000 Incapacitating Chemical Program: Materiel Procurement 0 Production Base Projects 280,000 Total Incapacitating Chemical 280,000 Defensive Equipment Program: Materiel Procurement 7,101,000 Production Base Projects 0 Total Defense Equipment 7,101,000
1. Lethal Chemical Program	-.113 2.861	2.748 .000	
a. Item Procurements:			
(1) Honest John Warhead	(-.337) (.000)	(-.337) (.000)	Deobligation of in-house funds maintained for completion of production orders. Warheads will be demilitarized and disposed of.
(2) M55 Rocket, GB	(-.015) (.000)	(-.015) (.000)	Deobligation and close-out of a prior year (FY63) production order. Funds were being held for a contractor's claim which has been in litigation.
b. Production Base Projects:			
(1) Chemical Agent and Munition Disposal System	(.000) (2.786)	(2.786) (.000)	Obligations incurred for continuing design and fabrication of a multipurpose transportable disposal system for use in detoxifying and/or disposing of obsolete/unserviceable chemical munitions and toxic agents. Ultimate system will consist of a series of modules which can be transported to sites containing obsolete/unserviceable toxic agents/munitions, assembled and operated to detoxify and dispose of material.
(2) Facilities Support of Binary Intermediates	(.000) (.075)	(.075) (.000)	Obligations incurred for advanced engineering efforts in support of a binary production facility.
(3) APE for 155 Binary Projectile, XM687	(.239) (.000)	(.239) (.000)	Obligations incurred to conduct advanced production engineering on the 155MM Binary Projectile.
2. Incapacitating Chemical Program	.000 .280	.280 .000	
a. Item Procurements	(.000) (.000)	(.000) (.000)	No obligations were incurred for procurement of incapacitating chemical items.
b. Production Base Projects:			
(1) MMT Plant Alarm System for Incapacitating Agent	(.000) (.280)	(.280) (.000)	Design and prove-out of a prototype plant alarm system for an incapacitating agent facility for filling DT II quantities of the XM723 155 MM Projectile.
3. Defensive Equipment Program	.708 6.393	1.889 5.212	
a. Item Procurements:			
(1) Filter Unit, Gas, M18	(.000) (.028)	(.028) (.000)	Obligations incurred for a filter unit used in the HAWK Battery Control Centrals.
(2) Alarm, M8	(.016) (1.873)	(.613) (1.276)	Obligations incurred for procurement and in-house engineering support of Chemical Agent Alarm systems.
(3) Mask, M25A1	(.605) (.268)	(.732) (.141)	Obligations incurred for procurement/production and in-house engineering support of protective masks used to provide CBR respiratory protection to the wearer in a combat vehicle.
(4) Filter Unit, M13A1	(.000) (.075)	(.075) (.000)	Obligations incurred for in-house engineering support of a previously awarded contract for filter units which are installed in armored vehicles to provide purified air to crew members.
(5) Shelter System, M51	(.087) (4.149)	(.441) (3.795)	Obligations incurred for procurement and in-house engineering support for a transportable collective protection equipment system used to provide protection from toxic CO agents in the field.
b. Production Base Projects	.000 .000	.000 .000	No obligations were incurred for production base projects in support of defensive programs.

SECTION 2.—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM FOR THE SEMIANNUAL PERIOD JAN. 1, 1974 THROUGH JUNE 30, 1974—DEPARTMENT OF THE ARMY, RCS DD-D.R. & E (SA) 1065

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	Funds obligated (millions of dollars)		
Description of RDTE effort	PY CFY	In-house Contract	Explanation of obligation
Biological research program	0.050 4.803	4.067 .686	During the second half Fiscal Year 1974, the Department of the Army obligated $4,753,000 for genera biological research investigations and the development and test of physical and medical defensive systems. Program areas of effort were as follows: Biological Research: Basic Research in Life Sciences .... $80,000 Exploratory Development .... 67,000 Total Biological Research .... 147,000 Defensive Systems: Exploratory Development .... 3,378,000 Advanced Development .... 135,000 Engineering Development .... 000 Testing .... 674,000 Total Defensive Systems .... 4,187,000 Simulant Test Support 419,000
1. Biological Research	.000 .147	.068 .079	Basic research and exploratory development effort during the report period was expended as follows:
a. Basic Research in Life Sciences	(.000) (.080)	(.001) (.079)	FY74 obligations of $80,000 were erroneously reported in Section 1, paragraph 1a, in the 1 July–31 December 1973 report. A contract effort has successfully completed mass spectrometry analysis of purines and pyrimidines in samples of nucleic acids isolated from bacteria. The analyses were accomplished without the necessity for chemical purification following nucleic acid hydrolysis or derivatization of the purines and pyrimidines, and interfering background was not observed from the hydrolysis residue or from proteins subjected to the same analytical procedures. Based on the favorable outcome of the feasibility study, the work will be extended to continue research on adapting this mass spectrometry approach to the analysis of small quantities of nucleic acids present in air samples.
b. General Biological Investigations	(.000) (.067)	(.067) (.000)	Obligations were incurred in the conduct of operations research studies to evaluate and assess the biological threat to the United States and to US military forces throughout the world. During this report period, two operations research studies were in progress and are as follows: 1. Study: Target Vulnerability Assessment: This effort, in response to a US Army requirement will assess the vulnerability of US military forces to a biological attack for selected environmental areas of Western Europe. During this report period, a study outline was formulated and a survey of available literature initiated. Study completion is scheduled for 4th quarter FY75. 2. Study: Effectiveness of Interim and/or Improvised Defensive Measures: This effort, in response to a US Army requirement, will determine the effectiveness of various defensive measures that could best be employed against a biological warfare attack in the absence of an adequate detector system. During this report period, a study outline has been formulated and a survey of the literature initiated. The study will be applicable for defensive planning for the Army under field and fixed military installation situations and possibly civilian population areas. The study will encompass possible warning systems as well as protective measures. Study completion is scheduled for FY75.
2. Defensive Equipment Program	—.050 4.237	3.580 .607	
a. Physical Defense Against Biological Agents	(.000) (—.030)	(.000) (—.030)	Exploratory development effort during this period was expended as follows: 1. FY74 deobligation of $30,000 resulted from withdrawal of funds from this program to support a higher priority requirement in evaluation of foreign CW potential. Two improved breadboard models of the Biological Decontamination System for Enclosed Areas have been designed and fabricated. There are three modules: (1) weatherproof control system, (2) formaldehyde generator, and (3) an ammonium carbonate-charcoal neutralized unit. A scavenging neutralizing system using 30% hydrogen peroxide mist has been successfully used in an 1800 ft^3 room, both furnished and unfurnished, to eliminate residual surface paraformaldehyde problems following decontamination. Work has continued using lactic acid and propylene glycol as protective blanket counter clouds not toxic to humans. Biological simulant aerosols have been reduced dramatically within 3 minutes by increasing the biological decay rate approximately 20 fold. Tests have been completed demonstrating the synergistic effect of 30% hydrogen peroxide and acetic anhydride against Bacillus globigii surface contamination. Continuing investigations will be performed on the method of formaldehyde generation and neutralization following decontamination of an enclosure. Second generation breadboard models of the decontaminaton system for enclosed areas will be tested and evaluated. Protocol developed for the scavenging and neutralization of paraformaldehyde from surfaces will be further tested in enclosures having volumes equivalent to those of the enclosure in which the equipment might be used. The lactic acid countercloud technology will be extended to the evaluation of other potential nontoxic chemicals, particularly the glycols, propylene, and triethylene. The man mask mobile trailer facility will be operating and low level, sporadic testing will be performed. A contract will be awarded to design, fabricate, and install a permanent man chamber facility at Edgewood Arsenal. 2. Investigations supporting the Advanced Development of the Biological Defense Warning System continued, with emphasis on improved impaction tape and evaluation of reagent formulations for use in the XM19 Alarm. Improved designs of logic circuits were fabricated and evaluated for use in a biological detector utilizing aerosol pattern recognition. Preliminary studies of the potential of a remote detector based upon laser induced fluorescence of biological aerosols indicate promise. Investigations for producing polyvalent antisera continued at the Naval Biomedical Laboratories Oakland, CA, under our sponsorship. Efforts in support of the development of the XM19 Alarm will continue. The detector employing pattern recognition techniques will be tested in the measurement of ambient airborne proteinaceous particulates at selected sites in urban locales. This study is sponsored by the Environmental Protection Agency. Exploratory studies of the remote biological detector using laser induced fluorescence will continue, as will the investigations we are sponsoring at the Naval Biomedical Laboratories. Investigations will continue into approaches for further elimination of spurious responses obtained in chemiluminescence reactions.
b. Biological Defense Materiel Concepts	(.000) (.185)	(—.286) (.421)	Advanced development effort during this report period was expended as follows: 1. XM19 Alarm, Automatic, Biological. During this report period $242,000 of FY74 funds were reprogrammed from In-House to Contract and $185,000 additional contract funds were obligated for the XM19, Biological Alarm. Also, prior year withdrawals included $44,000 of In-House funds and $6,000 of Contract funds. Further improvements were incorporated into the design of the Alarm Final models of the prototype were fabricated and subjected to a rigorous series of performance and engineering tests. The characteristics were revised and the current units evaluated against these new requirements. The data to date indicate that there is a high probability, that after Engineering Development, the Alarm will be capable of satisfying all essential characteristics. 2. XM2 Sampler, Biological. As a result of altered operational requirements for the sampler redesign is underway. No major technical problems are anticipated, and redesign will result in a device which will offer the desired operational flexibility, reduced logistics burden, and lowered unit cost. 3. Final testing of the units will be concluded. All required documentation for the formal In-Process Review, scheduled for January 1975, will be completed. Planning documentation for executing the follow-on Engineering Development program will be prepared.

	Funds obligated (millions of dollars)		
Description of RDTE effort	**PY** **CFY**	**In-house** **Contract**	**Explanation of obligation**
			4. Data from various field and laboratory tests continued to be assessed by computer techniques. These data are used to evaluate various electronic detection schemes for use in the XM19 Alarm, with particular emphasis placed upon obtaining the maximum freedom from spurious alarms. The Draft Proposed ROC has been revised as a result of findings made by Systems Analysis under this task. Deployment modeling studies continued to further optimize field use concept. A limited field trial of an array of XM19 Alarms will be conducted at Dungway Proving Ground, UT, using simulant aerosols. This test will provide preliminary data to explore the theoretical systems concepts under examination.
c. Medical Defense Against Biological Agents	(0.000) (3.408)	(3.192) (.216)	Program areas of effort concerned with these obligations were as follows: 1. The experimental program of the US Army Medical Research Institute of Infectious Diseases is targeted toward: (a) infectious illnesses which pose special problems to our military forces; (b) medical defense against biological warfare; and (c) the safe study of infectious, highly dangerous microorganisms in the unique and special containment facilities of the Institute. A variety of experimental approaches is used to solve these problems as illustrated by: (a) infectious disease models are developed in the laboratory and the resulting information is extrapolated and applied to man; (b) the defense mechanisms of the body are studied and stimulated in an effort either to prevent an infectious disease or to reduce its harmful effects among military personnel; (c) rapid accurate laboratory methods are developed for identifying causative microorganisms before, or soon after, illness begins thus permitting therapy to be instituted early in the disease process; (d) techniques are developed to measure subtle changes that occur at the molecular level in cells of the infected host. An understanding of these mechanisms is basic to establishing effective measures to combat disease. 2. Efforts will continue during FY 1975 to exploit the information obtained previously. All aspects of the program will continue to emphasize infectious illnesses of military importance. None of these or future studies is directed toward offensive biological research and development.
d. Army Materiel Development Tests	(.000) (.674)	(.674) (.000)	Obligations were incurred for the advanced development testing of the biological detector systems. During this period, 60 chamber trials were conducted to evaluate technical performance of the XM19 Phase III detector system and the XM2 biological sampler. Thirty field trials were conducted wherein detector equipment was exposed to selected nonpathogens against a single unit. In addition five field trials were conducted wherein multi target or a number of detectors in a typical target array were challenged with nonpathogenic aerosols in order to evaluate performance. Safari operations were supported at Fort Richie, Maryland, and at Fort Carson, Colorado. In addition, personnel were trained at Bendix Corporation in the chemiluminescence III operations. Limited physical-environmental testing of the current detector systems was initiated in June 1974.
3. Simulant Test Support	.000 .419	.419 .000	
a. Materiel Tests in Support of Joint Operational Plans and/or Service Requirements.	(.000) (.419)	(.419) (.000)	Obligations were incurred in the planning, conduct and/or reporting of two Joint Operational Tests. These efforts are in response to CINC and Service Requirements and are in consonance with the current national policy for CB Test and Studies efforts: 1. Test 70–74 Phase III: This test was designed to evaluate the relationship between biological decay rate data between the mobile van/microfilament technique and free floating aerosols. During this report period, eight comparison trials were conducted. Data were analyzed and a draft-report prepared. Coordination will be initiated with the final report scheduled for publication in the first quarter FY75. 2. Test 70–74 Phase IV: This effort is designed to determine if the microfilament/van technique can be used to obtain aerosol decay rate effects from polluted environments. Prior to these trials, background data will be obtained from the relatively pollutant free air at Dugway. Data are essential for use in biological vulnerability studies of the United States. During this period, a test plan has been finalized and published. Testing has been initiated to obtain background data and all coordination for an urban environment test area has been accomplished. Testing is scheduled for completion in August with a final report published 2nd quarter FY75.

OBLIGATION REPORT OF PROCUREMENT FUNDS FOR THE SEMIANNUAL PERIOD JAN. 1, 1974 THROUGH JUNE 30, 1974, REPORTING SERVICE: DEPARTMENT OF THE ARMY, DATE OF REPORT: JUNE 30, 1974 RCS DD- D.P. & E.(SA)1065—Continued

	Funds obligated (millions of dollars)		
Description of procurement effort	**PY** **CFY**	**In-House** **Contract**	**Explanation of obligation**
Biological research program	0.000 .000	0.000 .000	During the second half fiscal year 1974, the Department of the Army obligated $0 for procurement activities associated with biological defensive equipment and production base projects.

SECTION 3.—OBLIGATION REPORT ON ORDNANCE PROGRAM FOR THE SEMIANNUAL PERIOD JAN. 1, 1974 THROUGH JUNE 30, 1974—DEPARTMENT OF THE ARMY, RCS DD-D.R. & E. (SA) 1065

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE SEMI-ANNUAL PERIOD JAN. 1, 1974 THROUGH JUNE 30, 1974, REPORTING SERVICE: DEPARTMENT OF THE ARMY, DATE OF REPORT: JUNE 30, 1974, RCS DI-D.R.&E.(SA) 1065

	Funds obligated (millions of dollars)		
Description of RDTE effort	**PY** **CFY**	**In-house** **contract**	**Explanation of obligation**
Ordnance program	−0.013 2.278	1.589 .676	During the second half Fiscal Year 1974, the Department of the Army obligated $2,265,000 for general research investigations, development and test of smoke, flame, incendiary, herbicide, riot control agents and weapons systems, and other support equipment. Program areas of effort concerned with these obligations were as follows: Smoke, Flame, and Incendiary Program $17,000 Herbicide Program 99,000 Riot Control Program 906,000 Other Support Equipment Program 559,000 Test Support 684,000

OBLIGATIONAL REPORT OF PROCUREMENT FUNDS FOR THE SEMIANNUAL PERIOD JAN. 1, 1974 THROUGH JUNE 30, 1974, REPORTING SERVICE: DEPARTMENT OF THE ARMY, DATE OF REPORT: JUNE 30. 1974, RCS DD-D.R. & E. (SA) 1065

	Funds obligated (millions of dollars)		
	PY	In-house	
Description of procurement effort	CFY	Contract	Explanation of obligation
Ordnance program	1.052 19.391	3.725 16.718	During the second half of fiscal year 1974, the Department of the Army obligated $20,443,000 for procurement activities associated with smoke, flame, incendiary, herbicide, riot control agents, weapons systems and other support equipment. Program areas of effort concerned with these obligations were as follows: Smoke, Flame and Incendiary Program — $19,126,000 Herbicide Program — 00 Riot Control Program — 292,000 Other Support Equipment — 1,025,000

OBLIGATION REPORT ON CHEMICAL WARFARE—BIOLOGICAL RESEARCH PROGRAM FOR THE SEMIANNUAL PERIOD JAN. 1, 1974 THROUGH JUNE 30, 1974—DEPARTMENT OF THE NAVY, RCS: DD-D.R. & E.(SA) 1065

SECTION 1.—OBLIGATION REPORT OF PROCUREMENT FUNDS FOR THE SEMIANNUAL PERIOD JAN. 1, 1974 THROUGH JUNE 30, 1974, REPORTING SERVICE: DEPARTMENT OF THE NAVY, DATE OF REPORT: JUNE 30, 1974, RCS: DD-D.R. & E.(SA) 1065

	Funds obligated (millions of dollars)		
	PY	In-house	
Description of effort:	CPY	Contract	Explanation of obligation
Chemical warfare program	0.000 .234	0.196 .038	During the 2nd half Fiscal Year 1974, the Department of the Navy obligated $234,000 for procurements associated with chemical warfare defensive equipment. Defensive Equipment Program: Materiel Procurement — $234,000
1. Defensive Equipment Program	(.000) (.234)	(.196) (.038)	
a. Protective Clothing	(.000) (.234)	(.196) (.038)	Obligations incurred in support of Navy and Marine Corps procurement of chemical protection clothing outfits and other equipment consumed in tests.

SECTION 2—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM FOR THE SEMIANNUAL PERIOD JAN. 1, 1974 THROUGH JUNE 30, 1974—DEPARTMENT OF THE NAVY, RCS-DD-D.R. & E.(SA) 1065

No obligations reported.

SECTION 3—OBLIGATION REPORT ON ORDNANCE PROGRAM FOR THE SEMIANNUAL PERIOD, JAN. 1, 1974 THROUGH JUNE 30, 1974—DEPARTMENT OF THE NAVY, RCS: DD-D.R. & E.(SA) 1065

OBLIGATION REPORT OF PROCUREMENT FUNDS FOR THE SEMIANNUAL PERIOD JAN. 1, 1974 THROUGH JUNE 30, 1974, REPORTING SERVICE: DEPARTMENT OF THE NAVY, DATE OF REPORT: JUNE 30, 1974, RCS: DD-D.R. & E.(SA) 1065

	Funds obligated (millions of dollars)		
	PY	In-house	
Description of effort	CPY	Contract	Explanation of obligation
Ordnance program	0.097 .000	0.097 .000	During the 2nd half FY 1974, the Department of the Navy obligated $97,000 for procurement activities associated with smoke, flame, incendiary, riot control agents, and other support equipment. Smoke, Flame, and Incendiary Program — $93,000 Riot Control Program — 4,000

DEPARTMENT OF THE AIR FORCE—SEMIANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (JAN. 1, 1974–JUNE 30, 1974), RCS: DD-DR&E(SA) 1065, JUNE 30, 1974

SECTION 1.—OBLIGATION REPORT OF CHEMICAL WARFARE LETHAL AND INCAPACITATING AND DEFENSIVE EQUIPMENT PROGRAMS FOR THE SEMIANNUAL PERIOD JAN. 1, 1974 THROUGH JUNE 30, 1974, RCS: DD-D.R. & E.(SA) 1065—DEPARTMENT OF THE AIR FORCE, JUNE 30, 1974

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST & EVALUATION FUNDS FOR THE SEMIANNUAL PERIOD JAN. 1, 1974 THROUGH JUNE 30, 1974, REPORTING SERVICE: DEPARTMENT OF THE AIR FORCE, RCS: DD-DR&E 1065

	Funds obligated (thousands of dollars)		
	PY	In-house	
Description of RDTE effort	CY	contract	Explanation of obligations
Defensive Equipment Program:			
Exploratory Development	0 0	0 0	
Engineering Development	0 415.0	0 415.0	Survey of existing Air Force Collection structures and development of Modification Kits for collection structures.
Total Defensive	0 415.0	0 415.0	
Total RDTE Obligations	0 415.0	0 415.0	

SECTION 2.—OBLIGATION REPORT OF BIOLOGICAL RESEARCH PROGRAM FOR THE SEMIANNUAL PERIOD JAN. 1, 1974 THROUGH JUNE 30, 1974—DEPARTMENT OF THE AIR FORCE, RCS: DD-D.R. & E. (SA) 1065, JUNE 30, 1974

Negative

SECTION 3.—OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS AND PROCUREMENT FUNDS FOR THE SEMIANNUAL PERIOD JAN. 1, 1974 THROUGH JUNE 30, 1974 FOR FLAME, SMOKE, INCENDIARY, RIOT CONTROL AGENT, AND HERBICIDE MUNITIONS AND AGENT/MUNITION SYSTEMS AND OTHER SUPPORT EQUIPMENT—DEPARTMENT OF THE AIR FORCE, RCS: DD-D.R. & E. (SA) 1065

OBLIGATION REPORT OF PROCUREMENT FUNDS FOR THE SEMIANNUAL PERIOD: JAN. 1, 1974 THROUGH JUNE 30, 1974, REPORTING SERVICE: DEPARTMENT OF THE AIR FORCE, DATE OF REPORT: JUNE 30, 1974 RCS: DD-D.R. & E. SA 1065

Description of procurement effort	Funds obligated (thousands of dollars) PY/CY	In-house/ Contract	Explanation of obligation
Procurement:			
Anti-PAM 510 lb BLU-32	(2, 401. 0)	(0)	In support of Air Force training and War Reserve Materiel (WRM) requirements.
Smoke Bomb 100 lb PWP M47-A-4	(0) (19. 0)	(2, 401. 0) −81. 0	
Total Procurement Obligations	(−100. 0) 2, 420. 0	0 −81. 0	
	−100. 0	2, 401. 0	

Note: Negative (−) figures represent a deobligation of funds due to change in requirements/price decreases.

METROPOLITAN GROWTH

Mr. MONTOYA. Mr. President, polls taken for the Commission on Population Growth and the American Future showed that nationwide 52 to 33 percent of the American people favor the proposition that the Federal Government should discourage further growth of large cities.

Alas, metropolitan growth continues. Almost all of the population gain of the sixties occurred in metropolitan areas greater than 100,000. Projections are that by the year 2000, 85 percent of our population will be crowded into a mere 16 percent of the Nation's land.

Here we are, still groping for a national policy to come to grips with these realities. Despite two laws setting the goals for a national rural-urban balance, no policy for achieving it has yet been enunciated.

My interest in this derives from both the rapid urbanization of my own State of New Mexico and as Chairman of the Subcommittee on Economic Development of the Senate Committee on Public Works.

We have given a good deal of thought in the Public Works Committee to these questions as they relate to a national economic development and public works investment program. We know it to be generally true that people follow employment. If the sources of jobs are dispersed, population will be dispersed.

Other countries, particularly in Europe, have confronted the same question: How to restrain the movement of people to the present overcrowded population centers such as London, Paris, Rotterdam, and Stockholm. Some countries provide incentives to get industry to move to outlying areas often accompanied by public investment in industrial infrastructure. Perhaps we can learn from their experience.

I ask unanimous consent that an article by James L. Sundquist titled "Population Dispersal: Europe Stops the Urban Swarm," in the July 20, 1974, issue of the Nation be printed in the RECORD. This useful article gives a great deal of perspective in brief compass.

I might point out that Mr. Sundquist is a distinguished scholar on these subjects. He is presently a senior fellow at the Brookings Institution and a former Assistant Secretary of Agriculture. At one time he served as administrative assistant to former Senator Joseph Clark of Pennsylvania. He is the author of "Politics and Policy: The Eisenhower, Kennedy and Johnson Years;" "Making Federalism Work" and "Dynamics of the Party System"—all published by Brookings.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POPULATION DISPERSAL: EUROPE STOPS THE URBAN SWARM

(By James L. Sundquist)

Everybody knows that, along with the rest of the world, the United States has been caught up in a headlong rush toward urbanizations, but the statistics are nevertheless startling when brought together and projected into the future. Many communities in rural and small-town America, especially in older areas of the country, reached their population peaks about the turn of the century, and since then have been declining or in a state of stagnation. In the 1950s half the counties in America lost population; in the 1960s the same thing happened—again half the counties lost population, though not necessarily the same ones. To put it another way, almost the entire gain in population during the 1960s—23.5 million out of 24 million—took place in metropolitan areas with populations greater than 100,000.

Between now and the year 2000, according to current estimates, we will have added 84 million people to the country—a horde almost equal to the combined population of Great Britain and France. And if distribution trends also continue into the future, they will all be added in the metropilitan areas. By then, these metropolitan areas will be merging and flowing out into vast urban regions.

There will be twenty-eight such regions of more than a million population each, comprising at that time 85 per cent of the country's population. Almost half of that metropolitan population—117 million people—will be in one vast rectangular or T-shaped urban region, with its corners at Waterville, Me. in the Northeast; Norfolk, Va., in the South; and Chicago and Indianapolis in the West. Or you may conceive of this as two megalopolises which have grown together—one extending down the Eastern seaboard and the other along the base of the Great Lakes from upstate New York to the western shores of Lake Michigan, and extending south to the Pittsburgh and Cincinnati metropolitan areas.

Another urban region—one more great sea of brick and concrete and 34 million people—will cover most of California from Sacramento to the Mexican border. Thirteen million Americans will live in one Florida city that extends from Jacksonville to Miami and across the peninsula to Tampa. These three gigantic conglomerates will account for 60 per cent of the population. Another 25 per cent will live in the twenty-five other urban regions of a million or more. In short, 85 per cent of the population will be crowded into 16 per cent of the nation's land area. That will be the flourishing one-sixth of the country; the other five-sixths, embracing 15 per cent of the population, will be stagnant or in decline.

No one can prove that this is good or bad—or if bad, how bad. Economists have a concept of economies or diseconomies of urban scale, and the sociologists and political scientists have similar notions. All of their data agree that at one end of the graph our rural communities are too small to be sound bases for economic development. They cannot provide the external economies necessary for modern industry. Public services are too expensive—when they can be provided at all—and the communities cannot offer the cultural amenities to be found in larger places.

At the other end of the graph, in our very largest cities any economies of scale are outweighted by the diseconomies—the costs of congestion, time lost in commuting, and the high cost of public services per capita. Just to give one example, when a city gets to be a certain size, it must have a subway; the Washington subway, under construction now, is reputed to be the most expensive single public works project in the history of the world. Crime, mental illness, suicide, family breakdown—all kinds of social pathology as well as some physical illness—increase with the size of cities, although these figures must be handled with some care. And it seems evident that public services are easier to organize in small metropolitan areas than in large ones and that smaller places are in general more easily governed.

But if we have some solid data about the diseconomies at the upper and lower extremes, we don't know much about what happens in between. We can't say at what point cities become too big, at what point too small; we certainly don't know what is the ideal population distribution.

Yet if the social sciences offer no solid data, there is another source that has particular merit in a democracy: data exist on the kind of settlement pattern in which people would like to live. All public opinion polls taken on the subject in this country and abroad—especially in France, which has apparently done the most polling on it—show that the public has a marked preference for smaller communities. The most recent authoritative poll in this country was taken for the Commission on Population Growth and the American Future. It found that only 55 per cent of the respondents were satisfied with the size of the communities in which they lived. Of the other 45 per cent, most prefer to live in a smaller place. And in the very large cities, only 39 per cent expressed satisfaction.

On the proposition that the federal government should discourage further growth of large cities, the nationwide vote was 52 to 33 in favor. An interesting aspect was that the residents of the large cities voted in about the same proportion—51 for and 36 against—as did the population as a whole.

Responding to public opinion, the politicians seem to be arriving at a mild and weak consensus that the over-concentration of population is getting to be a problem serious enough to merit their attention. President Nixon in 1970 made a strong statement to the effect that policies should be adopted that would "not only stem the flow of migration to urban centers but reverse it." This repeated a similarly strong statement in the Republican platform of 1968. I don't want to overstate the President's commitment to this proposition because he has not mentioned it again since 1970, nor set in motion any action to develop a program that might carry it out. And the 1972 platform of the Republican Party did not repeat the sentiments of 1968.

Meanwhile, however, Congress had taken essentially the same position. In an act of 1970, it committed itself "to a sound balance between urban and rural America," and it repeated that sentiment later in another law. In the 1970 law, Congress sought to stimulate the President by requiring that he submit in February of every even-numbered year a report which would present data useful for the formation of a national growth policy.

The 1972 Democratic platform made a similar declaration, and other political groups, such as the National Governors' Conference, the Advisory Commission on Intergovernmental Relations, and the National League of Cities, have all adopted resolutions calling for a national growth policy that would encourage some degree of population decentralization.

But none of the advocates of a national growth policy has produced anything resembling a program. Nobody has defined a population distribution pattern or proposed the measures that would influence the location of people according to that pattern. So in considering this particular policy problem, it is logical to begin by looking at what has been learned in countries that have been struggling with the problem longer and with a greater degree of determination than we have. They are the industrial countries of Western Europe: in particular, Great Britain, France, Italy, the Netherlands and Sweden.

All those countries have growth policies. They all aim to disperse the national population by stemming migration and thus retarding the congestion of the biggest cities. Some of their plans are quite specific. Some have quantitative population targets for regions, or even communes. In each country, the dispersal policies enjoy complete political support. Implementing measures are becoming increasingly forceful and are clearly effective in slowing down, or stopping altogether, the movement from smaller places to larger centers. There is, of course, the usual squabbling over what the policies should be—that is, where the growth should be directed—but there is no significant political group or party in any of these countries that advocates abandoning a national growth policy and going back to *laissez faire*.

The basic program measure is one of incentives, usually in the form of capital grants to investors, covering a portion of the cost of investment in areas where growth is to be encouraged. This is normally limited to industrial investment. The standard proportion is around 20 per cent, but most of the countries now have a kind of zoning whereby areas most in need of encouragement may get a subsidy of up to 25 per cent, or even 35 to 50 per cent in the case of Italy.

In Britain, the goal has been to stem what is called the "drift to the South"—the movement of people from older, declining industrial areas of Scotland, Wales and northern England to the south, particularly Southeast England, the region centering on London. In France, the object has been to reduce the dominance of Paris in every aspect of national life by building effective competitive centers in the hinterland, with special emphasis on the underdeveloped rural areas of southern and western France. In Italy, the aim has been to develop the economy of the South—or Mezzogiorno—so that the people of that region, who have been emigrating for decades, will not inundate the cities of northern Italy or be forced to seek their livelihoods in other countries. In the Netherlands, the object has been to stabilize the population in the eastern part of the country, so that no unnecessary migrants will be added to the population in the west, which is already threatening what all Dutch governments and Dutch planners (and I assume the Dutch public) hold dear—the so-called "green heart," which is in the center of the "Rimcity," a ring-shaped conurbation made up of Amsterdam, the Hague, Rotterdam and Utrecht, and smaller cities in between. And in Sweden, the object is—as in Britain—to stop the drift to the south that has been gradually depopulating most of the land area of the country—the northern regions which begin a little north of Stockholm and extend beyond the Arctic Circle.

Accompanying the incentives to get industry to move to the designated areas has been a program of public investment in industrial infrastructure, to give the development regions extra funds for roads, ports, utilities, etc., much as in the case with our Appalachian and Economic Development Administration programs. There are also miscellaneous incentives, such as tax concessions to industry and—in the case of Britain at present—a regional employment premium, which is simply a wage subsidy in the amount of between $3 and $4 a week for male adult employees and a somewhat smaller amount for women and juvenile employees.

As a counterpart to incentives, the European countries impose controls upon investment in the most congested areas. London has been under tight controls since the war, and these have now been extended to the entire Southeast region and to the West Midlands, centering on Birmingham, as well. To build an industrial plant—or in recent years an office building in the London region—an entrepreneur must prove that the enterprise he proposes to develop can't be developed anywhere else, and particularly not in one of the depressed areas.

France has required a similar special permit for construction in the Paris region since 1955. It also imposes a small penalty tax to discourage such new construction. Italy has just adopted controls on industrial construction in its large Northern cities; only the other day it was reported that for the first time the government actually turned down Alfa Romeo's application to build an 11,000-job factory at Milan and told the famous auto firm to undertake its development elsewhere.

The Swedes do not have direct controls, but they do have a system of mandatory consultation on the part of any investor proposing to establish a plant in any of the three large metropolitan areas of the country; during the consultation, the government attempts to persuade the investor to put his plant somewhere else. This has not been working very effectively, and the government is now considering the imposition of stronger controls.

The Netherlands Government proposed a measure that would not only introduce controls but impose one of the harshest taxes anywhere: a 40 per cent tax on buildings in the Rimcity and a 5 per cent tax on machinery and equipment. The Parliament is in the process of reducing the rates—putting a greater reliance on direct controls instead—but the measure is considered sure to pass.

In addition, governments are taking various direct measures. Britain, the Netherlands and Sweden have extensive programs for decentralizing government offices. Sweden is in the process of moving one-fourth of its national government out of Stockholm to thirteen growth centers scattered around the country. The state-owned and state-controlled industries that are of particular importance in some European countries—especially in Italy, where they account for 25 per cent of new industrial investment—have been obliged to put virtually all of their new projects in the development areas.

France has a very deliberate, and apparently effective, program of negotiating with occupiers of Paris office space—particularly banks, insurance companies and other "tertiary" institutions—to decentralize. The French can do this in part because of a control program that not only covers construction but also requires permits for the occupancy of office space. So if a bank, for instance, wants to obtain space for 5,000 employees, either by renting or by building, the government is in a position to bargain with it—to say in effect, "Look, if you will put 4,500 of your employees in Lyons or Bordeaux, you can put 500 in Paris." An impressive number of jobs have been decentralized through this process.

As for the total effect, it seems clear that the European governments have interfered successfully with the normal working of the economy—jobs have been moved from congested areas to decongested areas, particularly new jobs. Migration has been slowed down. Population has been stabilized in areas of out-migration. The proudest boasts in these countries now are that, probably for the first time in modern history, there is a net out-migration from the London region (not from just the city proper but from the whole region, which includes most of London's commutation area), from the Paris region and from the provinces of North Holland and South Holland (which contain the cities of Amsterdam, The Hague and Rotterdam). And in the case of the Stockholm region, there was not only a net out-migration last year but an absolute decline in population. The Swedes say that this has happened only twice before in the modern era: once in 1868 as the result of a potato famine, once in 1918 as the consequence of an influenza epidemic.

Some of this turnaround in the migration pattern might have happened anyway as the cities became more and more expensive places in which to do business, but the fact that the shift in migration patterns followed immediately and abruptly upon the adoption of tough national policies suggests that the policy shift was the major factor.

The best economic analyses of results of the population dispersal policies have been made in Britain. Three independent studies made by economists there indicate that government programs have resulted in something like 30,000 to 70,000 additional jobs a year in development areas above what would otherwise have taken place. A. J. Brown, author of one of these studies, concluded that in the absence of policy the migration flow from north to south would have been twice as high, that unemployment in development areas would have been 1 to 1.5 percentage points higher, adding one-half of a percentage point to the national unemployment rate, and that the loss of output would have been more than $500 million a year.

Now, preventing those consequences is not without costs. Britain is spending in the neighborhood of $700 million a year in direct incentives alone—although it may be observed that other countries, which use more selective methods in handing out subsidies, have been able to accomplish about as much with a considerably smaller expenditure. There is some loss, presumably, of competitiveness and efficiency for industries that are forced to accept locations they do not choose; the subsidies are supposedly fixed at amounts to offset such losses, but that is a hotly disputed point. The automotive industry in Britain has recently testified before a committee of the Houses of Commons as to the added costs that are imposed by its being forced to locate plants in Scotland, rather than in the Midlands. The Chrysler Corporation has been forced to assemble its cars on what is called "the longest assembly line in Europe," stretching from the Midlands to Scotland and back again. This, of course, is also disputed; the government planners contend that, had Chrysler planned its expansion properly, the company would not be in the position of transporting components back and forth between plants located in distant places.

Originally, the concept appeared to be that, if industrial production were disbursed, service industries would assume a dispersed pattern as well. Now the planners have found, somewhat to their surprise, that service industries seem to lead a life of their own, that no matter how industry is dispersed, the banking, insurance, engineering, brokerage and related tertiary functions prefer to concentrate in national capitals.

At present there is great rivalry among European countries for the location of the corporate headquarters of multinational enterprises. And each country would like to house the financial center of the European Economic Community (EEC); competition for that honor is particularly keen since the British with their City of London have joined the EEC. The countries believe they must offer their principal cities as the locations for the corporate headquarters and the financial services, which presumably will insist on locating in London or Paris or Amsterdam, rather than in Glasgow or Toulouse or Groningen. So they are trying to invite developments of that kind, while at the same time imposing control measures on office-building construction. And, in the case of France, on office-building occupancy.

When talking to their domestic industries, they make the argument that if enough activities are not pushed out of the capital cities to make room for the multinational corporations, they won't be able to attract the latter at all. But they are finding that international competition puts a damper on the move toward tighter controls on growth in the congested areas. The argument used by opponents of the pending building tax in Holland is that, if the Dutch impose such a heavy penalty, it will simply mean that the corporations that want to locate their headquarters or their factories in Rotterdam or Amsterdam will move over the line to Antwerp or Brussels—and as the opponents put it, "Belgium will get the taxes, while we get the smoke."

Similarly, many French planners would like to impose even tougher controls on Paris, but once again they fear that the beneficiaries of such a policy would not be the regional centers of France, but rather Brussels, Antwerp and Düsseldorf. So both the French and Dutch face the necessity of raising this whole issue to the level of the EEC and trying there to get uniform controls that all countries will impose simultaneously on their congested centers. Unfortunately, the EEC is not quite ready to add this problem to all the other vexations it is dealing with.

So, how applicable is the European experience to the United States? It is clear that difficulties would arise if anyone here proposed to adopt the entire range of European programs. Whereas the tradition in Europe is one of planning and the acceptance of government controls, the tradition in this country is primarily one of *laissez faire*. If in European countries all the parties are for these incentive and control programs, with only the right-wing minority of a conservative party possibly opposed (and even that much opposition would be found only in Britain, since the Enoch Powell wing of the Conservative Party is the one significant political group in Europe that opposes a national growth policy), here it would likely be the other way around. Only a minority, liberal wing of one of our major parties would probably favor a move in this direction.

And our federal system imposes barriers. It is hard to foresee any general acceptance of a system of controls on land use that operated out of Washington, and yet if the states were to endeavor to control growth within their boundaries, they would immediately run into the same problems that are now appearing in Europe on the international scale. If Michigan, for instance, decided to impose controls on the expansion of the automotive industry in the Detroit area, the automobile companies could simply move over the line into Ohio and still for practical purposes be in the Detroit metropolitan area. Michigan would lose the taxes—and whatever politicians in Michigan proposed the control would be out of office.

Nevertheless, one feature of the European approach could be adopted here—the incentive system. We would probably have to use an indirect tax subsidy, but that would be feasible as indicated by the fact that such a measure has passed the Senate twice, but both times being lost in conference. That measure would have applied a higher rate of investment credit to plants located in depressed areas, as defined under current law, than is granted to plants elsewhere.

At any rate, the President is required to focus attention on this subject at least every two years, when he must present to Congress his report on national growth policy. And so, in some February of some even-numbered year, we can expect that there may be recommendations by some President on a first move toward establishing a national growth policy. When that time comes, we shall be able to proceed with the assurance, gained from more experienced countries, that measures to stem the overconcentration of population in one or a few great urban regions can be devised, that they do work and that politically they prove not only acceptable but also popular.

REPEAL OF DAVIS-BACON ACT URGED

Mr. FANNIN. Mr. President, if Congress is truly concerned about inflation, we have the means to take immediate and effective steps to bring it under control. The obvious steps we could take would be to repeal laws which in themselves are highly inflationary.

On February 8, 1973, I introduced S. 832, a bill to repeal the Davis-Bacon Act. This law which was enacted in the depression year of 1931 no longer serves the purpose for which it was passed. Instead, it has become one of the primary causes of inflation.

In the September 10, 1974, Wall Street Journal, the Associated Builders and Contractors offers a cogent statement on the need to repeal Davis-Bacon. The association urges the economic summit conference to consider and take action toward this goal.

Mr. President, this statement is excellent and it should be considered by my colleagues who are concerned about inflation. I ask unanimous consent that the statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Associated Builders
and Contractors, Inc.,
Baltimore-Washington
International Airport.

The Economic Summit Conference Can Have an Immediate Effect on Inflation

Economists in both wings of the political spectrum have urged suspension of the Davis-Bacon Act, a law that builds inflation into 12% of the $1.3 trillion GNP.

Walter Heller in an open letter to President Ford said:

"A government that is dead serious about fighting inflation ought also, at long last, under your leadership, to put an end to the laws, regulations and practices that make government an accomplice in many cost and price-propping actions, running from over-regulation of transportation rates and under-enforcement of antitrust laws to fair trade laws and the Davis-Bacon Act . . . Such actions will step on the toes of articulate, well-heeled pressure groups, but now is the time, under your leadership, to take those political risks."

Hendrik S. Houthakker addressed the problem directly when he said:

"In the field of labor, unreasonable restrictions on union membership, such as prior apprenticeship or excessive entrance fees, would be abolished. The Davis-Bacon Act and similar laws concerning wages paid under government contracts would be phased out . . ."

Economists have abandoned traditional interest group interpretations of the "pushmepullya" animal called inflation, realizing that nothing will get the animal moving downhill until government decides to stop pushing inflation uphill on the other end.

The Davis-Bacon Act forces taxpayers to pay inflated prices for federally-financed construction, restricts apprenticeship training and prohibits multicraft training—all activities that fuel inflation. The Government Accounting Office addressing the Davis-Bacon problem said:

"We estimated that, because of the high rates, construction costs increased 5% to 15% for these projects. As a result, we believe that the Federal Government and beneficiaries of federally financed projects have obtained less construction per dollar than have builders of projects not financed with federal funds."

By just cutting government construction, the problem won't be solved because inflated Davis-Bacon costs spill over into innocent sounding "prevailing" rates that continue to push inflation upwards.

Most important, Davis-Bacon forces contractors to build inflation into non-federal construction contracts by making builders compete for manpower with Davis-Bacon projects.

Suspension of the Davis-Bacon Act will have a significant and immediate impact on reversing the inflationary spiral. Suspension will insure competition for government construction. Suspension will give the taxpayer more needed construction at lower costs and put men back onto payrolls.

NEW AMTRAK 5-YEAR PLAN

Mr. WEICKER. Mr. President, in the past I have often been critical of Amtrak and Amtrak management for its failure to push forcefully enough for improvements to our national rail passenger network. Therefore, I am particularly pleased that the corporation has just released a most impressive 5-year plan which should really get things rolling. Let me just run through some of the highlights:

In terms of new equipment, Amtrak—

Has purchased or ordered 16 new 5-car turbine-powered train seats;

Will order an additional seven turbine-powered train sets;

Has ordered 257 new, conventional, locomotive-hauled single-level cars;

Will order 400 additional single-level cars and 235 bilevel cars;

Has ordered 175 new diesel electric locomotives, 150 of which have already been delivered;

Will order 25 additional similar locomotives; and

Has ordered 26 new electric locomotives for the Northeast Corridor and plans to order 13 more.

In terms of maintenance facilities, the plan shows that Amtrak is finally moving in a big way to take over and upgrade railroad maintenance shops so they can, for the first time, have direct control over routine and heavy maintenance and repair of their equipment.

In terms of stations, the new plan calls for a major program of rebuilding and refurbishing Amtrak stations throughout the country.

But perhaps most important, the new plan calls for the expenditure of $200 million per year over the next 6 years for major track, roadbed, and signal improvements on 12 separate corridor routes. It is in these corridors that Amtrak really has a oppporunity to contribute to a balanced national transportation system. By raising speeds on such routes as Chicago-Detroit, New York-Albany-Buffalo and Los Angeles-San Diego to 90, 100, or even 110 miles per hour, Amtrak will be fully capable of competing against the automobile and airplane. This is good news indeed for the American traveler.

Mr. President, this is a very exciting plan. I congratulate the management and directors of Amtrak for developing and pushing it. I would only urge the Department of Transportation and the Office of Management and Budget as well as my colleagues in the Senate and House not to stand in the way of the new spirit of innovation which appears to be sweeping Amtrak.

In order that the new Amtrak plan may be given the widest possible distribution, I ask unanimous consent that it be printed in full in the Record.

There being no objection, the plan was ordered to be printed in the Record, as follows:

National Railroad Passenger Corporation, 5-Year Financial Program, Operations and Capital Acquisition, Fiscal Years 1975–79

INTRODUCTION

This is the second Five Year Financial Program developed by Amtrak. The first program covered the fiscal years 1974 through 1978 and was submitted to the Executive Department and to the Congress on November 15, 1973. The subsequent impact of the energy crisis required a revision of this first five year projection which was submitted to the Executive Department and to the Congress on April 22, 1974.

The second five year program described in the following text and exhibits adds fiscal year 1979 to the projection and reports fiscal year 1974 on an actual accomplishment basis rather than as a projection of programmed operation. In this new five year program, fiscal years 1975 and 1976 are considered program years in that Amtrak is requesting resources to accomplish the plan of action presented for those years. Fiscal year 1975 is the current year and fiscal year 1976 is the budget year. Fiscal years 1977, 1978 and 1979 are considered planning years in that resources are not being requested at this time for operations or capital investment in those years. It is necessary to review operations over the entire five year period, however, in order to reach a judgment concerning the resource requirements for fiscal years 1975 and 1976.

The content of this second five year program covers the operations for the entire period and the capital investment needed to accomplish the projected operating plans. Each fiscal year in the program is discussed separately by outlining the pertinent marketing and operations plans applicable to that year as well as the capital investment needs and the projected financial results. Exhibits provide supporting data for the projections.

The first section of this program is a general discussion of the overall marketing and operations startegy underlying the projections and an evaluation of the financial trends which result from the implementation of such a strategy. Recognizing that all Amtrak planning must be for the purpose of achieving the objectives established in the NRPC Act, the section begins by stating pertinent provisions of the Amtrak legislation.

GENERAL

Legislative guidance

The objectives of Amtrak planning must be to achieve the purposes established by its governing legislation as stated in the following two sections of the NRPC Act.

"Sec. 101. The Congress finds that modern, efficient, intercity railroad passenger service is a necessary part of a balanced transportation system; that the public convenience and necessity require the continuance and improvement of such service to provide fast and comfortable transportation between crowded urban areas and in other areas of the country; that rail passenger service can help to end the congestion on our highways and the overcrowding of airways and airports; that the traveler in America should to the maximum extent feasible have freedom to choose the mode of travel most convenient to his needs; that to achieve these goals requires the designation of a basic national rail passenger system and the establishment of a rail passenger corporation for the purpose of providing modern, efficient, intercity rail passenger service; that Federal financial assistance as well as investment capital from the private sector of the economy is needed for this purpose; and that interim emergency Federal financial assistance to certain railroads may be necessary to permit the orderly transfer of railroad passenger service to a railroad passenger corporation."

"Sec. 301. There is authorized to be created a National Railroad Passenger Corporation. The Corporation shall be a for profit corporation, the purpose of which shall be to provide intercity rail passenger service, employing innovative operating and marketing concepts so as to fully develop the potential of modern rail service in meeting the Nation's intercity passenger transportation requirements. The Corporation will not be an agency or establishment of the United States Government. It shall be subject to the provisions of this Act and, to the extent consistent with this Act, to the District of Columbia Business Corporation Act. The right to repeal, alter, or amend this Act at any time is expressly reserved."

MARKETING AND OPERATIONS CONCEPTS

The projections of operating revenue and expense over the five year period are based on certain concepts, assumptions and plans. These considerations which have a major impact on program planning are listed in the following paragraphs.

All five categories of intercity rail passenger routes are considered to be a necessary part of a balanced transportation system and are to be continued and improved as a matter of public convenience and necessity. The five categories of routes are: Corridor; Short Haul; Long Haul; International; New Trains-Section 403.

The route structure will expand each year over the five year period with the addition of a long haul route under section 403(d) and the addition of three short haul routes under section 403(b). The frequency and consist of train service in the route system will be determined by market planning and development on a route by route basis.

Market planning over the period will assume the continuation of first class, premium fare service and the continuation of lower priced service to meet price sensitive market demands.

New equipment, innovative in design, will be introduced throughout the system. The requirement to retire worn-out, over-age, costly to maintain equipment in large numbers will result in a total fleet of approximately the same size in fiscal year 1979. The emphasis on the introduction of revenue producing cars as replacements will, however, provide almost double the current seating capacity. The available seat miles of the assigned fleet in fiscal year 1974 totalled 8.0 billion. In fiscal year 1979, the program contemplates the availability of 15.7 billion available seat miles.

New equipment to be delivered during the five year period will meet the unique needs of the corridor, short haul and long haul services. Turbine powered train sets will be utilized in the planned development of corridor and short haul traffic. New low level cars will be used in corridor and tunnel limited long haul service. Bi-level cars will be introduced on the long haul western routes. Maximum flexibility of design will provide for coach, sleeper and food service configurations using a common shell. Standardization of equipment and componentry will be sought by route.

The best of the existing fleet of cars with eight to ten years of life remaining (approximately 1000 stainless steel cars) will be provided with standard components and integrated into the fleet of new equipment if the planned economic return warrants the actual investment requirement after competitive bidding.

The allocation of new equipment to routes over the next five years will be based on complete planning route by route. The market potential of each route, based on speed, price, ccomfort and convenience, will be turned to economic account through the implementation of an action plan which will couple new equipment with right-of-way improvements, with modernized station facilities, with efficient repair and maintenance facilities, with responsive, efficient service personnel and with an aggressive advertising and promotion program.

The system-wide load factor is assumed to approximate 55% over the period. This assumption will allow for a surge capability as the energy shortage creates unusual demand periods during the five year span.

It is assumed that the out of service rate will be improved by 20% during the five years as new equipment is progressively introduced into the system.

Train service to recreational areas and autotrak service will be developed and expanded during the period as equipment and resources permit.

Amtrak will continue to be aggressive in assuming functions from the railroads during this period with the highest priority being placed on the control and operation by Amtrak of major repair and maintenance facilities. In conjunction with this move, Amtrak will purchase, store and distribute repair parts and components throughout the system.

New contracts with the participating railroads will be in force throughout the five year period with provisions for cost control and improved performance based on incentives and penalties.

Standards of service required by the ICC Ex Parte 277 ruling will be met as soon as possible and maintained or exceeded during the period.

The planned level of activity as measured by revenue passenger miles (one fare paying passenger occupying one seat for one mile) is as follows with the trend of the increase being determined by equipment availability.

Fiscal year	Revenue passenger miles (billions)	Index change
1974	4.3	100
1975	4.8	112
1976	5.6	130
1977	6.7	156
1978	7.7	179
1979	8.3	193

Financial trends

Prior financial projections in terms of planned deficits have missed the mark by wide margins. By far the greatest factor contributing to these faulty financial projections has been the unpredictable and skyrocketing wage and price escalation of recent years.

In 1970, the year before Amtrak began operations, the price and wage rate index of the Association of American Railroads stood at 123.0. For calendar year 1973 the index was 163.5 for an increase of 33%. In July 1974 the fuel index was 295.5 or two and one half times greater than the index of July 1971 of 114.5. The index for all other material in July 1971 was 115.9; in July 1974 it was 164.9, an increase of 42%.

From July 1971 when the annual operating expense level of Amtrak was $300 million, until July 1974 the wage and price index has increased 50%. This means that the same level of supplies and service which cost $300 million in 1971 now cost $450 million. Despite multiple fare increases during the period there has been no possible way for a new enterprise seeking public acceptance to stay abreast of inflationary wage and price increases. The following table illustrates the drastic impact of these cost increases on the financial operations of Amtrak.

[In millions of dollars]

	Revenue	Expense	Deficit
Fiscal year 1972 actual	152.7	306.2	153.5
Add change in cost and fare structure	38.0	153.1	115.1
Fiscal year 1972 in current 1974 values	190.7	459.3	268.6

One effective way to evaluate the financial trends of Amtrak's operation is to compare the public's utilization of the system as measured by revenue dollars with the cost to the taxpayer as measured by the deficit. The following table provides this meaningful comparison.

Fiscal year	Revenue (millions)	Deficit (millions)	Loss per revenue dollar
1972 actual	$152.7	$153.5	$1.00
1973 actual	177.3	141.8	.80
1974 actual	240.1	197.9	.82
1975 program	282.0	238.2	.84
1976 program	346.7	239.9	.69
1977 plan	424.4	265.9	.63
1978 plan	471.5	305.4	.65
1979 plan	505.3	302.6	.60

Despite the adverse effects of wage and price increases compounded by higher and higher costs of repairing and maintaining over-age equipment, the cost to the public of Amtrak service has been held reasonably stable as related to the volume of service being provided. Stated quite simply there is an $0.82 to $0.84 public subsidy for each $1.00 of fare paid by passengers in fiscal years 1974 and 1975.

Financial and marketing analyses are being initiated for each category of route and for each train within routes. The purpose of these analyses is to seek that combination of passenger volume, load factor, fare structure and service cost which will provide the most favorable economic return consistent with improved service to the public. As a part of these continuing analyses, the accounting and cost allocation systems are being refined and improved. Utilizing the accounting and cost allocation system, costs have been distributed to all routes. All costs except general and administrative expenses and interest have been distributed. Revenue by route is an accounting of actual ticket lift by train and does not depend upon any the accounting system will be progressively improved and the allocation of costs correspondingly made more accurate, the data by category of route for fiscal year 1975 can be considered generally valid.

Route category	Revenue (millions)	Deficit (millions)	Loss per revenue dollar
Corridor	$90.8	$49.1	$0.54
Short haul	16.3	19.2	1.18
Long haul	157.8	108.0	.68
International	5.9	1.1	.19
New trains, sec. 403	9.1	14.7	1.62

In the subsequent sections of this five-year program, the financial aspects of each year are discussed. The projections are in terms of wage and price levels current in July 1974 and the data in the exhibits do not reflect any further wage and price cost increases nor any further fare increases. Reasonable estimates of the probable impact of prospective changes due to these factors are included in the discussion for each year. Likewise the amount of probable incentive payments to be made to the railroads as they improve performance under the new contracts has not been reflected in the data contained in the exhibits. Estimates of the amount of probable incentive payments are included in the discussion for each respective year.

The financial projection for fiscal year 1975 has been revised from the estimate provided to the Congress. An explanation of the factors causing a change in the projection is included in the discussion covering fiscal year 1975. It is important to note, however, that a supplemental appropriation will be required and it cannot be delayed too many months without disrupting Amtrak operations.

The need for a supplemental appropriation in fiscal year 1975 is recognized by the Congress. On August 13, 1974 the following exchange took place on the house floor.

Mr. Jarman (Chairman, Subcommittee on Transportation and Aeronautics, Interstate and Commerce Cte.),

"At this time, I must point out for the record that the National Railroad Passenger Corporation has indicated in testimony before our subcommittee that in order to provide the kind of service needed by the public, $200 million or very close to that figure will be required in appropriations this fiscal year."

Mr. McFall (Chairman, Subcommittee on Transportation, Appropriations Committee),

"Mr. Speaker, I would like to mention at this time that we expect a supplemental request from Amtrak. Members of the House who are listening to this debate should understand that the $130 million that the Congress is appropriating at this time is not sufficient to operate Amtrak."

A comparable exchange took place on the Senate floor on August 15, 1974 between Senator Robert Byrd and Senator Case, Chairman and ranking minority member, respectively, of the Subcommittee on Transportation of the Senate Appropriations Committee.

Capital acquisition

Amtrak cannot expand and improve its service to the public without an adequate level of capital investment. The detail of the required investment program is included in a later section of this paper and only the highlights are touched upon in this general introductory section.

The proposed capital program is an integrated combination of revenue producing rolling stock, motive power, station and repair facilities and right of way improvements. All are required in a balanced and concurrent plan for improving intercity rail passenger service in all categories of routes.

The program for fiscal years 1975 through 1979 builds on the already approved program which totals $550.4 million through fiscal year 1974. In the equipment category, this approved program lacks funding authority in only one respect; the last seven of the approved 20 turbine powered train sets.

The approved program through June 30, 1974, is classified as follows:

[In millions]

Passenger equipment	$310.3
Motive power	132.6
Facilities	100.2
Right of way	0.7
Research	5.0
Autotrak	1.6
Total	550.4

Of the new passenger equipment included in the approved program, only fourteen United Aircraft turbine cars and ten French turbine cars are actually in service. Three hundred and twelve cars are on order (55 Turbine and 257 Metro Shells) and thirty-five turbine cars are awaiting the approval of the DOT. Amtrak is still operating with a fleet of equipment which averages some twenty-five years of age. The performance level for intercity rail passenger service which will restore rail as a full fledged member of the balanced transportation team is still a year or two away from fulfillment. In the meantime, the momentum of the ridership growth must be maintained with further equipment orders being matched with roadbed improvement for greater speed and comfort, and with improved service and supporting facilities for greater convenience. Intercity rail passenger service has proved that it can gain public acceptance; now it must capitalize on this acceptance by forging ahead to become a leading public service carrier.

The 1975–1979 Capital Acquisition Program is designed to revitalize the Amtrak equipment fleet. The following table traces the change over this period in passenger cars and support cars and shows the dramatic improvement in the age of revenue cars.

PASSENGER CAR EQUIPMENT BY FISCAL YEAR

		Equipment age and type			
		Over 10 yr		Under 10 yr	
End fiscal year	Total cars	Revenue cars	Non-revenue cars	Revenue cars	Non-revenue cars
1974	1,776	1,196	517	62	1
1979	1,931	772	367	792	0

Note: Totals exclude leased cars.

The revised fiscal year 1975 program for passenger car acquisition adds 235 new bi-level cars and 200 new low-level cars to the 312 cars now on order and the 35 cars awaiting DOT approval. A summary of the fiscal years 1974–75 program follows:

	On order	Awaiting approval	Programed	Total
Turbine cars	55	35		90
Metro shells	257			257
Low-level cars			200	200
Bi-level cars			235	235
Total	312	35	435	782

The integrated capital improvement program includes equipment, repair and station facilities and right of way upgrading. All are necessary to achieve the objectives of modern, efficient, intercity rail passenger service over the next five years. The specific requirements in each category are shown on Exhibits 18, 21, 22 and 23. Equipment deliveries and equipment retirements are shown on Exhibits 19 and 20. Included in the overall plan are funds to continue the development and expansion of the Autotrak experiment.

Summary

The Amtrak Five Year Financial Program reflects the following:

A revenue trend which increases from 4.3 billion passenger miles (19 million passengers) to 8.3 billion passenger miles (37 million passengers). Income increases from $240 million to $505 million in the same period.

A capital acquisition program which adds an investment total of $2.1 billion to the currently approved program of $550.4 million. The investment categories which total to the $2.1 billion increase are:

[In millions]

Equipment	$654.8
Repair facilities	233.1
Station facilities	17.2
Right of way	1,190.0
Total	2,095.1

A deficit trend which shows the following change with and without the cost of debt servicing of the capital investment.

	Deficit (millions)	
Fiscal year	With interest	Without interest
1974	$197.9	$186.7
1975	238.2	211.7
1976	239.9	188.2
1977	265.9	185.5
1978	305.4	197.2
1979	302.6	173.2

A loss by category of route, expressed in loss per revenue dollar, which reflects the following trend during the period.

	Loss per revenue dollar	
Category	Fiscal year 1976	Fiscal year 1979
Corridor	$0.54	$0.39
Short haul	1.18	.25
Long haul	.68	.21
International	.19	0
New trains, sec. 403	1.62	.95
All routes	.68	.31

An equipment fleet which remains relatively stable during the period but becomes much more revenue oriented by almost doubling its revenue carrying capacity. A total of 782 new passenger cars will be delivered between the third quarter of fiscal year 1975 and the fourth quarter of fiscal year 1978.

Deployment of the new equipment will be in accordance with integrated marketing and operations plans. The plans contemplate a package approach to each route in a determined effort to penetrate the market potential on the basis of conceived market demand. New equipment featuring speed, comfort and convenience will be combined with programs for roadbed improvement and station rehabilitation. Adjustments by route will be made in the fare structure to eliminate distortions and to optimize income. Improved utilization of equipment will result from better management and the introduction of new cars.

Funding requirements for operations in fiscal year 1975 indicate a need for a supplemental appropriation of $84.9 million. These funds should be provided as soon as possible in order to preclude disruption of train services. The difference between the supplemental appropriation and total cash flow requirements will be met by carry-over funds from fiscal year 1974. Additional authorization is not required.

Funding requirements for operations in fiscal year 1976 indicate a need for authorization and appropriation of $239.9 million. It is recommended that $250 million be included in the President's budget for fiscal year 1975 operating grant requirements.

The revised capital program through fiscal year 1975 totals $1,144.0 million. Of this total, over $100 million would be requested of the United States Railway Association and would not require the use of Section 602 guarantee authority. In addition, the acquisition of major repair facilities will, wherever possible, be by lease rather than purchase which will minimize the use of Section 602 authority. For these reasons, it is not considered necessary to request a supplemental increase in the Section 602 loan guarantee authority in fiscal year 1975.

The capital program through FY 1976 totals $1,548.9 million. After considering availability of USRA loan authority and the probability of leasing rather than purchasing of maintenance facilities, an increase in capital financing of $500 million is considered necessary in FY 1976. This increase is requested in terms of $300 million in Section 602 loan authority and a $200 million capital appropriation grant.

Not included in the financial projections for fiscal years 1975 and 1976 are several potential expense items which could have a major impact on financial results. These potential costs include incentive payments to the railroads for improved performance under new contract provisions. In addition, certain payments will be made to the Penn Central if and when the Court approves the new contract. These costs have not been included at this time because the amount and timing of the costs are uncertain and further because there will be an offsetting reduction in cash flow needs as the advance payment pipeline shortens from 60 days to 30 days.

Another potential cost not included at this time is the expense portion of the car modernization program. The entire car modernization program is under review at this time with the initiation of the selection of cars for retention and standardization of components. Some funds for car modernization are being carried over from the fiscal year 1974 capital program and additional capital funds for modernization are included in the capital program for fiscal years 1975 and 1976. In addition, the expense account for maintenance of equipment is being increased significantly in fiscal years 1975 and 1976 over the level of 1974. This increase reflects larger depreciation charges for the earlier modernization program investment.

Costs of wages and material in the 1975–1979 period are based on labor rates and material prices as of July 1974. Fare levels are also projected on the same basis with the tariff structure in effect in July 1974 being used throughout the period. Labor rates have been increasing at a rate of 1% per month and material prices including fuel at a much higher rate. In order to remain competitive with bus and air transportation, future fare increases cannot be raised at any greater rate than 1% per month or an average of 6% per year. If costs of labor continue to increase an average of 6% per year and material prices increase an average of 10% for the year, fare increases will not cover inflationary costs by over $20 million in fiscal year 1975 and $70 million in fiscal year 1976.

A continued high level of operating deficits must be accepted under those current provisions of Amtrak legislation which relate to funding policy and to route expansion.

In fiscal year 1979, the interest cost which will be incurred as a result of the debt servicing for $1.5 billion of outstanding loans for equipment, station facilities and roadbed improvement will total $129.4 million.

This interest cost, or an equivalent cost of leasing, will become even greater as acquisition of the northeast corridor occurs over the next five years. The related depreciation cost of amortizing the capital investment for equipment and facilities will amount to a further $44.3 million.

The required initiation in the public interest of new routes each year and the relatively low load factor associated with start-up routes, results in the need to keep more equipment in the fleet than would otherwise be indicated as necessary under pressures for optimum equipment utilization. This situation has been further aggravated by the unreliability of over-age equipment and the degraded condition of large sections of roadbed which have required the retention of protect equipment far beyond normal expectations. With the introduction of new equipment and the upgrading of the roadbed, better equipment utilization and improved load factors can be programmed and obtained. Improved equipment management will, in turn, reduce cost by approximately $100 million per year.

With a change in funding policy which would provide for capital grants rather than loan authority, and with approval of the planned acquisition of equipment and facilities coupled with roadbed improvement, the 1979–1980 financial status would change dramatically.

[In millions]

1979 Deficit as currently planned	$302.6
Adjustments:	
Reduction of interest under a total capital grant	129.4
Reduction of depreciation under a capital grant	44.3
Reduction in maintenance to capital investment	100.0
Total adjustments	273.7
1979–80 Revised deficit level	28.9

The remaining deficit of $28.9 million would be eliminated on a constant dollar basis, by the normal growth in revenue in the first ensuing year.

OPERATIONS AND CAPITAL ACQUISITION

Fiscal year 1975

Although revenues are projected to increase in fiscal year 1975 by $42 million over fiscal year 1974 (Exhibit 1) the ability to take advantage of the available market will be severely constrained by equipment. If additional equipment could be made available, revenues would be increased by a further $20 million. The increased revenues projected result primarily from a 12% increase in revenue passenger miles, and annualization of fare increases made in fiscal year 1974. The revenue passenger mile increase occurs primarily in the Northeast Corridor and on long haul routes where increased load factors are projected. New car deliveries will not begin until the 4th quarter of the year when four Turbos (20 cars) and 29 Budd shells (Metro-type) will enter the fleet. Marketing emphasis will be keyed to the concentration of sales on periods when space is available and to the development of corridors outside the Northeast.

The equipment fleet will remain basically constant during fiscal year 1975 at about 1490 revenue cars and 550 non-revenue cars. Deliveries of 63 revenue cars will be offset by 52 retirements. This means that maintenance of an old fleet will continue to be a problem and it will be difficult to reduce the June 1974 rate of 35% of unavailable cars due to cars in shops and bad order rates. Management emphasis will be applied to increase availability, but only marginal improvement can be expected during this period because of fleet age.

There will be a significant increase in new locomotives in operation during this year. During this fiscal year 54 new diesel electric locomotives will be delivered along with 26 new electric locomotives. Taking into consideration the retirement of 100 diesel and electric locomotives during the second quarter of fiscal year 1975, the locomotive fleet will increase from end fiscal year 1974 to end fiscal year 1975 from 422 to 402. The delivery of these new locomotives will occur during fiscal year 1975 so that the full effect of the additional new motive equipment will not be experienced until fiscal year 1976.

Except for the purchase of 13 electric locomotives in fiscal year 1976, our foreseeable requirements for locomotives will be met with fiscal year 1975 and prior year funding. With the delivery of the new locomotives in fiscal year 1974 and fiscal year 1975, most of the prior reliability problems will be resolved.

In fiscal year 1975, further steps to meet the expanding public demand for intercity rail passenger service are being taken by the programmed acquisition of 235 bi-level passenger cars for long haul western routes and the acquisition of 200 low level cars for corridor and tunnel limited long haul routes. A common bi-level shell is being bid on from which interior configurations for coaches (with tracked seating), for sleepers and food service cars can be flexibly selected. Revenue space in these new cars is sharply higher than the present fleet as is indicated by the following statistics:

	Present type	New design	
		Bi-level	Low level
Coach	44–76	70–102	56–84
Sleeper	9–24	54	36
Parlor lounge	14–17	70	
Snack coach	22–44	70	64

Some 5,000 railroad employees were transferred to Amtrak payrolls during fiscal year 1974 as a result of the assumption of functions. The transfer of equipment maintenance is planned on a phased basis beginning in fiscal year 1975. The acquisition of shop and maintenance facilities to support this assumption is contained in the capital program.

The operating budgets for fiscal year 1974 through fiscal year 1976 are shown on Exhibit 1. Actual operations for fiscal year 1974 resulted in a deficit of $197.9 million. Excluding contingent items to be discussed later, the projected deficit for fiscal year 1975 is $238.2 million—an increase of $40.3 million over fiscal year 1974. This results from increased costs of $82.2 million offset by revenue increases of $41.9 million. Of the $82.2 million cost increase, $52.8 million is due to the annualization of wage and price increases that had occurred as of June 30, 1974. A detailed list of budget changes in revenue and expense between fiscal years 1975 and 1976 is included in Exhibit 9.

Increases by category of expense are attributable to (Exhibit 1):

Maintenance of Way and Structures costs increase by $1.9 million. Inflation alone would increase this area by $2.5 million and the annualization of depreciation costs on the Jacksonville station, Brighton Park and other facilities acquired during fiscal year 1974 accounts for a $0.6 million increase. Through better control of railroad costs it is expected that this expense area can be reduced by $1.2 million in fiscal year 1975 on a constant dollar comparison.

In fiscal year 1975, with the advent of the new railroad contracts providing a means to protect the Government's investment, Amtrak is programming the initiation of a very large roadbed improvement program.

Exhibit 23 contains the programmed upgrading contemplated in fiscal years 1975–1979. The routes selected in fiscal year 1975 are those where new equipment is planned for use and where improved speed and comfort will lead to greater ridership acceptance. As improvement in roadbed is obtained in corridor and short haul routes, a fallout benefit will accrue to long haul routes in that long haul trains initiate and terminate in urban centers and use corridors and short haul tracks over significant portions of their routes.

Maintenance of Equipment costs reflect a significant increase of $19.5 million. Again, inflation accounts for $12.1 million and depreciation on new locomotives acquired during fiscal year 1974 and planned for delivery in fiscal year 1975 along with depreciation on passenger cars overhauled in fiscal year 1974 will increase costs by $6.6 million. The net difference of $.8 million will be applied to improve the maintenance of older equipment in an effort to reduce bad orders and increase equipment availability.

In fiscal year 1975, Amtrak plans to acquire and control major equipment repair facilities. Now that the future mix of the equipment fleet is taking definite shape, longer range planning for equipment maintenance, repair and rebuild is necessary. Exhibit 21 lists those facilities which have been included in this program. Until it is determined whether acquisition will be by purchase, lease or new construction, detailed costs by location cannot be accurately determined.

Traffic expenses will require $4.6 million over fiscal year 1974. Inflation alone would account for the increase. However, this account also reflects the expansion of reservation bureaus during fiscal year 1974, which if continued at the June level of staffing would require $5.0 million additional in fiscal year 1976. The requirement is being reduced by the curtailment of reservation bureau staffs after October 1, 1974 relative to expected fiscal year 1975 workloads. This area will then be funded at a lower than the end fiscal year 1974 manning and further economies will be sought during the year as workload permits. Thus, a significant program reduction below the end fiscal year 1974 level of effort is projected for the traffic area.

Transportation costs increase by $16.2 million in fiscal year 1975. This is the result of several offsetting factors. First, inflation will increase the fiscal year 1975 requirements by $24.8 million through wage and price levels already in effect by the end of June 1974. Despite the added costs of Ex Parte 277 related to additional station staffing and on-board crews having an annualized effect of $4.5 million in fiscal year 1975, better control of railroad contracts costs and continued close audit of railroad billings will permit the accomplishment of this function with the funds programmed. Thus, the projected program assumes that approximately $13.1 million in cost savings in other areas can be achieved through aggressive management attention in the highest single operating cost area of the budget. A program for station upgrading in fiscal year 1975 is included on Exhibit 22.

Dining and buffet costs are continuing to increase ($7.2 million) because of the impact of inflation ($6.0 million) and the Ex Parte requirement to provide 24 hour food service on long haul trains ($1.2 million). These two increases account for the fiscal year 1975 increase, although it is estimated that an additional cost increase of $2.3 million will be experienced as a result of serving more meals in fiscal year 1975 than fiscal year 1974. A general tightening of NRPC operations is projected to achieve a cost saving of at least this amount.

General expenses will increase by $7.0 million, of which about $4.2 million is attributable to inflation. The remaining $2.8 million is required to provide for an increased provision for claims ($3.1 million) (including $2.6 million of accruals not previously recorded) and $1.6 million of annualized telephone and computer costs associated with the expanded reservations system.

The net increase resulting from these costs as well as $1.2 million of annualized costs required to handle the added volume of transactions in Revenue Accounting will be accommodated by constraints to be applied to other NRPC costs in this area. This will require offsetting reductions of $3.1 million or about 9%, in areas such as outside consultants and lower priority functions to be identified.

Taxes will increase by $1.5 million because of the annualization of statutory payroll tax rates which became effective on October 1, 1973.

Rents cover primarily the cost of rental of cars, including commuter cars for weekend use. The $10.2 million (increase of $1.2 million) is required to meet the projected increase in ridership during peak demand periods. Car rentals are essential pending the delivery of the new cars with increased seating capacity.

General and Administrative costs are projected to increase by $1.7 million in fiscal year 1975 of which about $1 million is attributable to inflation. The remaining $.7 million is associated with essential expansion of headquarters support in the areas of the administration of new railroad contracts ($.1 million), expansion of the corporate budget and cost control staff ($.2 million), the processing and settlement of passenger complaints and claims received in response to Ex Parte 277 ($.3 million), and the expansion of Personnel and Labor Relations staffs including the need to provide increased office services ($.3 million). These increases are to be offset by $.2 million through further limitation of outside consultants' fees.

The additional personnel associated with administration of new railroad contracts is essential to the surveillance of execution of new contract provisions and should result in improved services and relationships between NRPC and the railroads.

The need for better budget and cost control has become apparent and the ability of the corporation to assure that budgetary objectives are met rest to a large degree on a strong budget and cost control function.

The provisions of Ex Parte 277 have significantly increased the volume of passenger complaints and claims. A proposed increase is essential to a prompt handling of these claims within the time constraints required by Ex Parte 277.

The addition of 5000 people to the NRPC payroll, largely as a result of the assumption of functions of the railroads during fiscal year 1974, has placed increased demands upon the personnel office requiring the increased funding for staff in that area. Despite these increases, the fiscal year 1975 program contemplates no increase in authorized personnel levels established under ceilings in effect as of June 30, 1974.

Interest costs are increasing in proportion to NRPC outstanding debt authorized for capital improvements. Commitments against guaranteed loans authorized at the end of fiscal year 1974 totaled $216.9 million and are projected to increase to $424.7 million by the end of fiscal year 1975. This increased debt will result in increased interest payments in fiscal year 1975 or $15.4 million over fiscal year 1974. In order to reduce interest costs, the NRPC has taken early advantage of the ability to obtain loans from the Federal Financing Bank at an interest rate of approximately 9% compared to 12% to 14% from commercial banks. In addition, much of our equipment is being purchased under leveraged leases which significantly reduces the interest rates that NRPC must pay for equipment. Despite these actions, interest costs will become an increasing burden as NRPC proceeds with the execution of approved capital improvement programs.

For the first time NRPC has developed a procedure to fully allocate costs by routes (excluding general and administration and interest). Because of accounting problems, particularly in the way railroad costs were recorded in fiscal year 1974, there is not as direct a correlation of operating results by routes between fiscal year 1974 and fiscal year 1975 as will be the case in future fiscal years. On the basis of the refined distribution in fiscal year 1975 (which again is not fully comparable to fiscal year 1974) all routes, except the corridor routes, reflect very little change in total losses, whereas the Northeast Corridor reflects a substantial increase. Analysis, however, indicates that this is the result of the change in allocating procedures and not in operations.

Load factors remain substantially constant between the two years, at approximately 55%. Revenue passenger miles will increase about 500 million miles, consistent with the moderately planned increase in car availability in the latter part of the fiscal year.

The operating budget for fiscal year 1975 does not provide for the contingency items discussed on Exhibit 14. These relate to costs associated with the new railroad contracts totaling $31.9 million which will be partially offset in terms of operating grant requirements by a rescheduling of payments to the railroads. Also, there is a $20.3 million item to initiate a two and four year passenger car overhaul program. The principal item is prospective inflation of $40 million, which can reasonably be offset by fare increases only to the extent of about $17 million.

Excluding the contingency items, the estimated loss per year per revenue dollar by route category for fiscal year 1975 is:

Route category	Millions of dollars		Loss per revenue dollar
	Revenue	Deficit	
Corridor	90.8	49.1	0.54
Short haul	16.3	19.2	1.18
Long haul	157.9	108.0	.68
International	5.9	1.1	.19
New trains, sec. 403	9.1	14.7	1.62
Total, all routes	282.0	192.1	.68

Fiscal year 1976

Revenues will continue to increase in fiscal year 1976 associated primarily with the availability of the new cars with greater seat capacity. With the addition of the Budd Metroliner shells to the Northeast Corridor and the full services of the added four French Turbos on the mid-West short haul routes, space availability begins to loosen up on many of the long haul routes. Revenue passenger miles are projected to increase to 5.6 billion, .8 billion above the fiscal year 1975 level. While equipment constraints will still result in reduced revenues of about $21 million for fiscal year 1976, this is a lower proportion of total revenues lost than for fiscal year 1975. The route allocation of the Metroliner shells is keyed to the increasing capacity on the Northeast Corridor and on those long haul routes having the greatest market potential. These include New York-Kansas City, New York-Chicago, Chicago-Miami, and New York-Miami.

Car retirements do not permit extensive equipment reallocation as mostly corridor-type coaches will be released. Western routes will show little increase because they are all equipment constrained.

Basic Marketing emphasis will be on the Northeast Corridor, particularly Boston-Philadelphia, to develop the market with the new Turbos and on the Florida and other Eastern services where added equipment is available.

Since fiscal year 1976 is another year constrained by equipment availability, sales emphasis must also be keyed to selling off-season and off-peak space on all routes since we will be refusing space to many passengers in the peak periods. Heavy advertising and sales promotion will be required to change travel habits to off-peak times. Some fares experimentation on weak routes, such as the 403(b)'s, will be required.

During fiscal year 1976 the equipment fleet of revenue cars will increase from 1,500 to almost 1,600 cars, whereas non-revenue cars will stay substantially constant at about 500. The delivery of new revenue cars will permit the retirement of about 200 older cars, thereby reducing the age of the fleet and increasing car availability. Nevertheless, with a fleet of approximately 1,300 older cars, maintenance will continue to be a problem during fiscal year 1976 although it is expected that the rate of unavailable cars will be reduced below the current 35% rate. This is an area where management attention will continue to be devoted to increasing car availability in order to minimize equipment constraints and increase revenues.

The locomotive fleet of 403 available at the end of fiscal year 1975 will continue in operation through fiscal year 1976. No further purchase of locomotives is presently contemplated. With the availability of the new units purchased through fiscal year 1976, motive power requirements have been satisfied and dependability increased to necessary levels. Therefore, during fiscal year 1976 there begins to be a greater impact of the equipment improvement program, both for passenger cars and locomotives, which will permit substantial expansion of available seat miles and revenue passenger miles in the future, with increasing dependability and service levels for passengers.

The fiscal year 1976 deficit is estimated to be $239.9 million. This is a $1.7 million increase over the fiscal year 1975 deficit, resulting from increased revenues of $64.7 million and increased expenses of $66.4 million. Interest alone, however, will increase by $25.2 million in fiscal year 1976. The other expense increases fall into several major areas:

Maintenance of Equipment costs increased by $16.9 million resulting from additional depreciation of $7.3 million on the increased investment in new and refurbished equipment, and $9.6 million associated with the increased usage of equipment related to a 20% increase in available seat miles for 1976 and the increasing age of the older passenger cars and locomotive fleet. It is estimated that these maintenance costs must be incurred in order to increase the availability of equipment and make some progress toward reducing the out-of-service rate below the June 1974 level of 35%. As indicated in the introduction, the five year objective is to decrease the rate of unavailable cars to 15%. It is not anticipated however that this objective can be met in fiscal year 1976.

Transportation expenses are projected to increase $5.8 million directly attributable to a 3% increase in the average number of available passenger cars for operations in fiscal year 1976. These additional cars will require support in terms of crews and other costs covered by this category.

Dining and Buffet Costs will increase by $3.8 million during the year associated with the projected increase in revenues. Although historically Dining and Buffet revenues have amounted to 38% of related costs, the increase in 1976 has been held to the revenue increase in order to cover food costs only. Since the delivery of new dining cars is not expected in fiscal year 1975, no further increase has been projected in relationship to additional personnel or other support services. Taxes will increase by $2.0 million and this increase is directly related to additional payroll costs forecast in the maintenance and transportation areas.

Interest costs will continue to increase in fiscal year 1976 as the outstanding debt authorized for capital improvements increases. This increased debt will result in added interest payments in 1976 over 1975 of $25.2 million. The corporation will continue to pursue all possible opportunities to reduce these costs, including the use of the Federal Financing Bank, and take advantage of every opportunity for leveraged lease transactions.

The other significant increased costs in 1976 relates to *new services*. An increase of $16.7 million will be incurred by the annualization of new route costs started in fiscal year 1975 and the initiation of four new Section 403 routes in fiscal year 1976.

In other areas of expense, the fiscal year 1976 program anticipates that NRPC will hold costs to the fiscal year 1975 level. This will require intensive management action but it is the intention of management to continue and improve the program of budgetary and cost controls to assure that general and administrative and other controllable expenses are held to minimum essential levels.

It should again be emphasized that the expenses just discussed do not include the contingency items previously covered in detail.

Fiscal year 1976 profit and loss by route data show improvements in the loss picture for all categories of routes except in the areas of new Section 403 trains. A major improvement is reflected in the Northeast Corridor financial projection where the deficit will be decreased from $49.1 million to $26.6 million as a result of a significant revenue increase associated with additional revenue passenger miles and the Marketing emphasis on the Northeast Corridor. Cost increases associated with the Corridor are relatively nominal because of the greater productivity of the new cars being assigned to this service.

As with 1975, revenue passenger miles are expected to increase a very substantial amount—almost .9 billion although there will be a small decrease in load factors affecting the Northeast Corridor and long haul routes. The increase in revenue passenger miles is directly related to receipt of new equipment under the capital investment program and management efforts to increase the availability of cars to meet peak demand periods.

The budget for fiscal year 1976 also does not include contingency items discussed on Exhibit 14. Payments related to the new railroad contracts are estimated at $40.5 million, with only a small offset possible due to rescheduling of contract payments. The second year of the two and four year passenger car overhaul program would cost $31.3 million. The annualization of inflation through the end of fiscal year 1975 is estimated to be $120.0 million which could be offset by fare increases by only $51.0 million.

Excluding the contingency items, the estimated loss per revenue dollar by route category for fiscal year 1976 is:

Route category	(Millions of dollars)		Loss per revenue dollar
	Revenue	Deficit	
FISCAL YEAR 1976			
Corridor	118.5	26.6	0.22
Short haul	21.2	16.4	.77
Long haul	178.9	107.1	.60
International	6.7	.7	.10
New trains, sec. 403	19.8	21.8	1.10

Fiscal year 1977 through fiscal year 1979 prospective

Fiscal year 1977 is the first year to receive the impact of the bi-level coach deliveries as well as continued deliveries of the Metro shells. The bi-level coach is an innovation which will dramatically increase flexibility of NRPC to meet changing passenger demand over the years beginning with fiscal year 1977. The design concept for this passenger car will provide wide choices with respect to interior configuration both in the construction of the car by the manufacturer and by changes once the cars are in service. For example, because the coach seats will be on tracks, the spacing can be altered for high or low density service and incorporate partitions, lounges, or other devices to increase the market for passenger service. The bi-level food service car is similarly flexible. A wide variety of configurations including a dining room will be possible on the upper deck. The lower deck can accommodate a kitchen, buffet, or a lounge, and lounges can be created by partitioning. It may even be practical to provide an elaborate food service to the upper deck by means of a dumb waiter.

The major growth areas are on the long haul trains where metro coach cars are introduced on the National Limited and bi-levels on Chicago-Florida. Turbo trains are added to New York-Buffalo, with increased capacity and frequencies on Boston-Philadelphia. Some conventional equipment made available by new cars will be used to provide a second Chicago-Los Angeles service and an additional Chicago-Denver service.

With the introduction of bi-level cars, fiscal year 1977 is the year of change, with route structure now including all three new types of equipment being acquired by the corporation—Turbos-Metro-Shells and Bi-Levels. The advertising and promotion campaigns to introduce new equipment will be keyed to AMTRAK—America's new railroad system in the Bicentennial year, 1976.

Through the addition of the new equipment, revenues are projected to increase by $78 million related to an available seat mile increase of 2.4 billion and a 1.2 billion increase in revenue passenger miles.

The improved equipment availability in *fiscal year 1978* will permit daily service on the New Orleans-Los Angeles route and further expansion of service with bi-level cars to the Chicago-San Francisco route, Los Angeles-Seattle route, and the Chicago-New Orleans route. Marketing emphasis will continue to support or to exploit capabilites offered by the bi-level cars and it is expected that through this availability seat miles will increase by 2.1 billion and revenue passenger miles by .9 billion. This will generate additional revenues of approximately $47 million during fiscal year 1978.

Fiscal year 1979 will see the full exploitation of the bi-level cars whose delivery will be completed by the end of fiscal year 1978. This will permit the use of bi-levels on both the North and South routes between Chicago and Seattle. Additionally, increased load factors are being projected on most other routes during fiscal year 1979 leading to increased revenues of $34 million over fiscal year 1978. The revenues are associated with a 1.0 billion increase of available seat miles and a .6 billion increase in revenue passenger miles.

During the period fiscal year 1977 through fiscal year 1979, the allocated deficit will be reduced slightly and deficits by major route will remain essentially stable. Again, these projections do not provide for the impact of inflation or the contingency items discussed earlier.

The estimated loss per revenue dollar by route category for the years FY 1977–FY 1979 is:

Route category	Millions of dollars		Loss per revenue dollar
	Revenue	Deficit	
FISCAL YEAR 1977			
Corridor	125.8	38.3	0.30
Short haul	32.9	9.6	.29
Long haul	229.2	94.1	.41
International	8.1	.3	.04
New trains, sec. 403	26.5	27.6	1.04
FISCAL YEAR 1978			
Corridor	128.4	49.9	.39
Short haul	35.4	10.8	.31
Long haul	263.5	87.5	.33
International	8.4	.7	.08
New trains, sec. 403	33.5	32.7	.98
FISCAL YEAR 1979			
Corridor	128.4	49.9	.39
Short haul	37.1	9.1	.25
Long haul	288.9	61.9	.21
International	9.1		.00
New trains, sec. 304	39.0	37.0	.95

CONCLUSION

The National Railroad Passenger Corporation is at a crossroads. It has demonstrated that a great demand for rail passenger service exists and that this demand can be exploited by a combination of improved service, new equipment with flexibility to meet changing requirements, innovative marketing and good management.

The operating program for the five-year period anticipates close management control over costs, both NRPC and railroad. New railroad contracts are specific in terms of charges for almost all types of services and require specific authorization by designated NRPC officers before variations in the type and level of service can be implemented. Within NRPC, budget and cost controls are being further improved to assure that management attention is focused on this vital area.

The capital program is an integral part of the operating plan for the next five years. New equipment and right of way improvements are needed to provide the capacity and schedules necessary for continued public acceptance of rail passenger service.

The increasing impact of wage and price increases presents a major problem and requires full recognition if the NRPC is to continue to meet the increasing public demand for service. These are costs that are not controllable by management, and cannot be reasonably covered by increasing fares.

A special problem faces the Corporation for FY 1975—the need for early action on a supplemental appropriation for operations.

The planned capital improvement program is vital. The financing of the program through guaranteed loan authority instead of grants results in increasing annual interest costs. Interest costs in two years (FY 1974–FY 1976) are projected to increase almost five-fold and in FY 1979 will be over ten times the FY 1974 level. This is despite Corporate efforts to reduce these charges through the use of Federal Financing Bank and leverage leases. In order to decrease the costs of debt servicing, a capital grant of $200 million is being requested for FY 1976 for right-of-way improvements. Additionally, an increase of $300 million in Section 602 loan authority is also required in FY 1976. Maintenance facilities will be leased wherever possible to further reduce debt levels.

The five year plan assumes a continued increase in routes to be established under Section 403 authority. By FY 1979, almost 8% of the revenue passenger miles will be in these routes compared to less than 3% in FY 1974. This expansion will require close working relationships with the Congress, and state and local officials, to assure that the greatest public need is met by the most effective choice of routes.

Finally, this five year program is fully integrated. Equipment, facilities, and right-of-way improvements are essential to providing the kind of service necessary for the maintenance of rail passenger travel and the generation of projected revenues. And integral to this is the need for management to efficiently execute the programs that are approved and to maintain close control over the resources that are made available.

EXHIBIT 1

NATIONAL RAILROAD PASSENGER CORPORATION OPERATING BUDGETS (FISCAL YEARS)

[In millions of dollars]

	1974 actual	1975 program	Variance, 1975 over 1974	1976 program	Variance, 1976 over 1975
Revenue:					
Passenger	218.2	253.1	34.9	310.6	57.5
Other	21.9	28.9	7.0	36.1	7.2
Total	240.1	282.0	41.9	346.7	64.7
Operating expense:					
Maintenance of way	17.7	19.6	1.9	19.6	
Maintenance of equipment	77.1	96.5	19.4	113.4	16.9
Traffic	31.2	35.8	4.6	35.8	
Transportation	178.2	194.4	16.2	200.2	5.8
Dining and buffet	42.4	49.6	7.2	53.4	3.8
General	25.5	32.5	7.0	32.5	
Taxes	31.8	33.4	1.6	35.4	2.0
Rents	9.0	10.2	1.2	10.2	
Net cost of new service		2.1	2.1	18.8	16.7
Total	412.9	474.1	61.2	519.3	45.2
Provision for 1974 delayed charges		4.0	4.0		(4.0)
Corporate expense:					
General and administrative	13.9	15.6	1.7	15.6	
Interest	11.2	26.5	15.3	[1] 51.7	25.2
Total	25.1	42.1	17.0	67.3	25.2
Net deficit	197.9	238.2	40.3	[1] 239.9	1.7

[1] Assuming capital grant for ROW improvements and lease of repair facilities, interest amount is $34,300,000 and amount of deficit is $222,500,000.

NATIONAL RAILROAD PASSENGER CORPORATION

OPERATING BUDGETS

[In millions of dollars]

	Fiscal year—		
	1977 plan	1978 plan	1979 plan
Revenue:			
Passenger	$380.5	$422.9	$453.4
Other	43.9	48.6	51.9
Total	424.4	471.5	505.3
Operating expense:			
Maintenance of way	19.6	19.6	19.6
Maintenance of equipment	136.3	159.6	162.1
Traffic	39.7	42.0	43.5
Transportation	224.8	240.3	233.4
Dining and buffet	62.3	67.1	70.8
General	32.5	32.5	32.5
Taxes	40.3	43.4	42.
Rents	10.2	10.2	10.
Net cost of new service	28.6	38.4	48.2
Total	594.3	653.1	662.9
Corporate expense:			
General and administrative	15.6	15.6	15.6
Interest	[1] 80.4	[1] 108.2	[1] 129.4
Total	96.0	123.8	145.0
Net deficit	[1] 265.9	[1] 305.4	[1] 302.6

[1] Assuming capital grant for ROW improvements and lease of repair facilities—

	Amount of interest is	Amount of deficit is
Fiscal year—		
1977	$40.0	$225.5
1978	42.9	240.1
1979	44.8	218.0

EXHIBIT 2a

NATIONAL RAILROAD PASSENGER CORPORATION—QUARTERLY PHASING OF OPERATING BUDGETS FISCAL YEARS 1975–79

[In millions of dollars]

	Revenue	Expense	Deficit
Fiscal year 1975:			
1st quarter	$75.3	$135.3	$60.0
2d quarter	64.1	118.1	54.0
3d quarter	70.0	129.4	59.4
4th quarter	72.6	137.4	64.8
Total	282.0	520.2	238.2
Fiscal year 1976:			
1st quarter	92.8	147.6	54.8
2d quarter	78.7	130.1	51.4
3d quarter	86.5	150.3	63.8
4th quarter	88.7	158.6	69.9
Total	346.7	586.6	239.9
Fiscal year 1977:			
1st quarter	113.7	177.6	63.9
2d quarter	96.4	158.5	62.1
3d quarter	106.0	174.2	68.2
4th quarter	$108.3	$180.0	$71.7
Total	424.4	690.3	265.9
Fiscal year 1978:			74.4
1st quarter	126.5	200.9	71.8
2d quarter	107.1	178.9	77.6
3d quarter	117.5	195.1	81.6
4th quarter	120.4	202.0	
Total	471.5	776.9	305.4
Fiscal year 1979:			
1st quarter	135.6	209.4	73.8
2d quarter	114.9	187.3	72.4
3d quarter	125.9	202.9	77.0
4th quarter	128.9	208.3	79.4
Total	505.3	807.9	302.6

PROFIT AND LOSS BY ROUTE, FISCAL YEAR 1974

[In millions]

Route	Revenue	Cost	Income/ (loss)	Load factor	R.P.M.
Corridor:					
New York–Washington	37.5	41.1	(3.6)	56.5	362.7
New York–Philadelphia	8.0	17.0	(9.0)	46.6	160.0
Boston–Washington	33.3	51.7	(18.4)	50.0	575.4
Total, corridor	78.8	109.8	(31.0)	51.4	1,098.1
Short haul:					
Los Angeles–San Diego	1.4	3.1	(1.7)	34.1	31.6
Chicago–Milwaukee	1.2	5.0	(3.8)	44.4	18.9
Chicago–St. Louis	2.9	5.3	(2.4)	41.1	54.4
Seattle–Portland	.9	3.2	(2.3)	62.8	22.2
New York–Buffalo	5.3	12.0	(6.7)	62.4	105.3
Chicago–Detroit	1.9	4.5	(2.6)	63.7	37.6
Total, short haul	13.6	33.1	(19.5)	51.7	270.0
Long haul:					
New Orleans–Los Angeles	4.6	8.6	(4.0)	58.1	106.4
Chicago–Los Angeles	18.7	24.9	(6.2)	65.3	399.6
Seattle–Los Angeles	9.5	13.2	(3.7)	62.0	204.6
Seattle–Chicago	18.9	35.6	(16.7)	59.3	401.7
San Francisco–Chicago	14.0	23.2	(9.2)	57.8	316.2
Houston–Chicago	5.3	11.8	(6.5)	55.0	137.3
New York–Washington–Chicago	10.0	16.2	(6.2)	56.0	168.0
Norfolk–Washington–Chicago	2.0	8.6	(6.6)	42.6	43.4
New Orleans–Chicago	4.6	9.4	(4.8)	51.5	104.1
Florida–Chicago	5.3	16.1	(10.8)	54.8	117.3
New York–Washington–Kansas City	6.2	12.6	(6.4)	58.2	109.3
New York–Florida	38.9	64.4	(25.5)	53.2	680.8
Total, long haul	138.0	244.6	(106.6)	56.9	2,788.7
International:					
Montreal-Washington	4.5	7.7	(3.2)	58.8	78.4
Vancouver-Seattle	.3	1.3	(1.0)	27.9	6.1
Total, international	4.8	9.0	(4.2)	54.4	84.5
New trains, sec. 403:					
St. Louis-Laredo	.2	1.7	(1.5)	42.2	9.9
Washington-Cumberland	.2	1.7	(1.5)	32.4	6.1
Oakland-Bakersfield	.1	1.1	(1.0)	76.6	5.8
Chicago-Champaign	1.1	2.6	(1.5)	33.1	23.5
Chicago-Quincy	.8	1.8	(1.0)	44.3	14.4
Chicago-Dubuque		.5	(.5)	15.1	2.0
New Haven-Springfield	.5	2.4	(1.9)	35.4	6.5
Philadelphia-Harrisburg	2.0	4.6	(2.6)	56.0	37.9
Total, sec. 403	4.9	16.4	(11.5)	41.9	106.1
Grand total	240.1	412.9	(172.8)	54.6	4,347.4

EXHIBIT 4

PROFIT AND LOSS BY ROUTE, FISCAL YEAR 1975

[In millions]

Route	Revenue	Cost	Income/ (loss)	Load factor	R.P.M.
Corridor:					
New York–Washington (Metro)	39.3	44.4	(5.1)	55.6	355.3
New York–Philadelphia	9.0	20.9	(11.9)	48.4	176.1
Boston–Washington	42.5	74.6	(32.1)	53.5	737.6
Total, corridor	90.8	139.9	(49.1)	54.3	1,269.0
Short haul:					
Los Angeles–San Diego	1.6	3.8	(2.2)	34.8	34.8
Chicago–Milwaukee	2.1	6.1	(4.0)	46.1	31.0
Chicago–St. Louis	3.3	6.3	(3.0)	44.3	59.6
Seattle–Portland	1.0	3.5	(2.5)	39.4	21.2
New York–Buffalo	5.8	12.3	(6.5)	52.3	107.9
Chicago–Detroit	2.5	3.5	(1.0)	57.5	40.8
Total, short haul	16.3	35.5	(19.2)	46.7	295.3
Long haul:					
New Orleans–Los Angeles	4.4	9.6	(5.2)	56.4	93.2
Chicago–Los Angeles	24.5	31.8	(7.3)	63.6	463.1
Seattle–Los Angeles	13.4	17.9	(4.5)	64.5	261.9
Seattle–Chicago	21.9	43.2	(21.3)	57.9	418.9
San Francisco–Chicago	19.2	27.0	(7.8)	58.4	365.8
Houston–Chicago	6.1	14.6	(8.5)	51.3	126.2
New York–Washington–Chicago	11.4	17.2	(5.8)	57.3	183.5
Norfolk–Washington–Chicago	3.0	7.6	(4.6)	54.4	50.1
New Orleans–Chicago	4.5	10.3	(5.8)	58.0	88.5
Florida–Chicago	6.4	17.5	(11.1)	58.0	99.9
New York–Washington–Kansas City	6.8	13.6	(6.8)	49.2	109.1
New York–Florida	36.2	55.5	(19.3)	56.3	614.1
Total, long haul	157.8	265.8	(108.0)	58.1	2,874.3
International:					
Montreal-Washington	5.5	5.6	(.1)	52.3	93.3
Vancouver-Seattle	.4	1.4	(1.0)	52.7	6.6
Total, international	5.9	7.0	(1.1)	52.3	99.9
Special trains	2.1	2.1		90.0	16.4
New trains, sec. 403:					
St. Louis-Laredo	1.7	2.4	(.7)	59.8	37.8
Washington-Cumberland	.3	1.4	(1.1)	38.7	5.9
Oakland-Bakersfield	.7	2.0	(1.3)	65.3	15.5
Chicago-Champaign	1.7	2.9	(1.2)	49.3	37.3
Chicago-Quincy	.7	1.9	(1.2)	29.0	14.3
Chicago-Dubuque	.5	1.0	(.5)	30.9	11.0
New Haven-Springfield	.4	2.5	(2.1)	29.6	4.9
Philadelphia-Harrisburg	1.7	6.4	(4.7)	48.4	33.6
New York-Montreal	.7	1.2	(.5)	43.4	13.1
Port Huron-Chicago	.4	.7	(.3)	33.5	5.7
Detroit-Jackson	.1	.3	(.2)	40.0	1.1
Norfolk-Cincinnati	.2	1.1	(.9)	43.3	4.0
Total, sec. 403	9.1	23.8	(14.7)	44.2	184.2
Grand total	282.0	474.1	(192.1)	55.5	4,739.1

EXHIBIT 5

PROFIT AND LOSS BY ROUTE, FISCAL YEAR 1976

[In millions]

Route	Revenue	Cost	Income/ (loss)	Load factor	R.P.M.
Corridor:					
New York-Washington (Metro)	38.1	45.8	(7.7)	51.0	345.0
New York-Philadelphia	9.0	21.6	(12.6)	55.3	176.1
Boston-Washington	71.4	77.7	(6.3)	51.9	979.9
Total, corridor	118.5	145.1	(526.6)	52.0	1,501.0
Short haul:					
Los Angeles-San Diego	1.8	4.1	(2.3)	38.3	38.3
Chicago-Milwaukee	4.7	6.6	(1.9)	46.1	67.2
Chicago-St. Louis	3.8	6.6	(2.8)	48.7	65.5
Seattle-Portland	1.1	3.7	(2.6)	43.3	23.3
New York-Buffalo	6.5	12.8	(6.3)	57.5	118.8
Chicago-Detroit	3.3	3.8	(.5)	57.6	50.5
Total, short haul	21.2	37.6	(516.4)	50.3	363.6
Long haul:					
New Orleans-Los Angeles	4.6	10.5	(5.9)	59.2	97.8
Chicago-Los Angeles	25.2	34.0	(8.8)	64.9	472.3
Seattle-Los Angeles	13.9	19.4	(5.5)	65.8	267.1
Seattle-Chicago	22.7	46.5	(23.8)	60.6	438.7
San Francisco-Chicago	20.5	29.2	(58.7)	61.3	384.0
Houston-Chicago	6.5	15.4	(58.9)	52.8	130.0
New York-Washington-Chicago	19.3	18.4	.9	53.9	323.6
Norfolk-Washington-Chicago	3.3	8.0	(4.7)	55.5	51.1
New Orleans-Chicago	4.8	11.0	(6.2)	60.9	92.9
Florida-Chicago	9.0	18.6	(9.6)	50.0	156.6
New York-Washington-Kansas City	8.6	14.4	(5.8)	50.0	136.1
New York-Florida	40.5	60.6	(20.1)	50.0	683.2
Total, long haul	178.9	286.0	(107.1)	54.0	3,233.4

EXHIBIT 5—Continued

PROFIT AND LOSS BY ROUTE, FISCAL YEAR 1976—Continued

[In millions]

Route	Revenue	Cost	Income/ (loss)	Load factor	R.P.M.
International					
Montreal-Washington	6.1	6.0	0.1	57.5	102.6
Vancouver-Seattle	.6	1.4	(.8)	55.4	6.9
Total, international	6.7	7.4	(.7)	57.3	109.5
Special trains	1.6	1.6		90.0	18.9
New trains, sec. 403:					
St. Louis-Laredo	1.8	2.6	(.8)	61.0	38.5
Washington-Cumberland	.4	1.5	(1.1)	30.1	6.2
Oakland-Bakersfield	.8	2.0	(1.2)	65.3	15.5
Chicago-Champaign	1.9	3.0	(1.1)	54.3	41.0
Chicago-Quincy	.8	2.0	(1.2)	31.9	15.7
Chicago-Dubuque	0.6	1.1	(0.5)	34.0	12.1
New Haven-Springfield	.4	2.6	(2.2)	32.5	6.5
Philadelphia-Harrisburg	1.8	6.6	(4.8)	50.8	35.3
New York-Montreal	.8	1.3	(.5)	34.4	14.5
Port Huron-Chicago	.5	.9	(.4)	33.5	7.2
Detroit-Jackson	.1	.4	(.3)	40.0	2.2
Norfolk-Cincinnati	.8	4.6	(3.8)	43.3	15.8
Boston-Chicago	6.3	8.1	(1.8)	56.5	80.9
1,000 miles, unidentified	2.0	3.6	(1.6)	50.0	36.2
300 miles, unidentified (3)	.8	1.3	(.5)	40.0	15.7
Total, sec. 403	19.8	41.6	(21.8)	50.5	343.3
Grand total	346.7	519.3	(172.6)	54.5	5,569.7

EXHIBIT 6

PROFIT AND LOSS BY ROUTE, FISCAL YEAR 1977

[In millions]

Route	Revenue	Cost	Income/ (loss)	Load factor	R.P.M.
Corridor:					
New York-Washington (Metro)	42.7	54.1	(11.4)	53.0	358.8
New York-Philadalphia	3.9	15.0	(11.1)	50.0	77.0
Boston-Washington	79.2	95.0	(15.8	52.0	1,094.6
Total, corridor	125.8	164.1	(38.8)	52.1	1,530.4
Short haul:					
Los Angeles-San Diego	2.3	4.6	(2.3)	50.0	50.0
Chicago-Milwaukee	4.5	7.5	(3.0)	50.0	71.5
Chicago-St. Louis	4.9	7.5	(2.6)	55.0	73.9
Seattle-Portland	1.1	4.2	(3.1)	50.0	26.9
New York-Buffalo	13.4	14.4	(1.0)	50.0	200.0
Chicago-Detroit	6.7	4.3	2.4	50.0	83.0
Total, short haul	32.9	42.5	(9.6)	50.8	505.3
Long haul:					
New Orleans-Los Angeles	5.5	11.9	(6.4)	53.0	117.3
Chicago-Los Angeles	38.9	38.4	.5	60.0	744.5
Seattle-Los Angeles	14.1	21.9	(7.8)	55.0	271.3
Seattle-Chicgao	22.8	52.6	(29.8)	61.2	442.9
San Francisco-Chicago	28.6	33.0	(4.4)	55.0	545.3
Houston-Chicago	8.5	17.4	(8.9)	52.0	173.7
New York-Washington-Chicago	22.5	20.8	1.7	52.0	364.9
Norfolk-Washington-Chicago	4.0	9.1	(5.1)	52.0	64.7
New Orleans-Chicago	5.7	12.4	(6.7)	52.0	110.2
Florida-Chicago	13.9	21.0	(7.1)	52.0	237.6
New York-Washington-Kansas City	13.1	16.3	(3.2)	50.0	211.5
New York-Florida	51.6	68.5	(16.9)	52.0	854.3
Total, long haul	229.2	323.3	(94.1)	54.6	4,138.2
International:					
Montreal-Washington	7.5	6.8	0.7	52.0	126.4
Vancouver-Seattle	.6	1.6	(1.0)	55.4	6.9
Total, international	8.1	8.4	(.3)	52.1	133.3
Special trains	1.9	1.9		90.0	22.6
New trains, sec. 403:					
St. Louis-Laredo	2.1	2.9	(.8)	52.0	45.8
Washington-Cumberland	.5	1.7	(1.2)	40.0	8.3
Oakland-Bakersfield	.9	2.4	(1.5)	60.0	15.6
Chicago-Champaign	2.0	3.4	(1.4)	55.0	44.0
Chicago-Quincy	1.0	2.3	(1.3)	40.0	20.7
Chicago-Dubuque	.8	1.2	(.4)	45.0	15.8
New Haven-Springfield	.5	2.9	(2.4)	35.0	7.0
Philadelphia-Harrisburg	1.8	7.4	(5.6)	50.0	34.8
New York-Montreal	.8	1.3	(.5)	43.4	14.5
Port Huron-Chicago	.5	.9	(.4)	33.5	7.2
Detroit-Jackson	.1	.4	(.3)	40.0	2.2
Norfolk-Cincinnati	.8	4.5	(3.7)	43.3	15.8
Boston-Chicago	6.3	8.1	(1.8)	56.5	80.9
1,000 mi, unidentified	5.9	10.8	(4.9)	50.0	72.4
300 mi, unidentified	2.5	3.9	(1.4)	40.0	31.3
Total, sec. 403	26.5	54.1	(27.6)	55.5	416.3
Grand total	424.4	594.3	(169.9)	53.4	6,746.1

EXHIBIT 7

PROFIT AND LOSS BY ROUTE, FISCAL YEAR 1978

[In millions]

Route	Revenue	Cost	Income/ (loss)	Load factor	R.P.M.
Corridor:					
New York-Washington (Metro)	45.3	59.1	(13.8)	55.0	372.4
New York-Philadelphia	3.9	15.0	(11.1)	50.0	77.0
Boston-Washington	79.2	104.2	(25.0)	52.0	1,094.6
Total, corridor	128.4	178.3	(49.9)	52.6	1,544.0
Short haul:					
Los Angeles-San Diego	2.4	5.0	(2.6)	52.0	52.0
Chicago-Milwaukee	5.0	8.1	(3.1)	71.0	71.9
Chicago-St. Louis	4.9	8.1	(3.2)	55.0	73.9
Seattle-Portland	1.1	4.6	(3.5)	50.0	26.9
New York-Buffalo	15.1	15.7	(.6)	50.0	227.0
Chicago-Detroit	6.9	4.7	2.2	50.0	85.0
Total, short haul	35.4	46.2	(10.2)	50.9	536.7
Long haul:					
New Orleans-Los Angeles	12.4	12.9	(.5)	51.0	263.3
Chicago-Los Angeles	39.6	41.8	(2.2)	52.0	757.4
Seattle-Los Angeles	15.2	23.8	(8.6)	50.0	304.9
Seattle-Chicago	22.9	57.1	(34.2)	61.2	442.9
San Francisco-Chicago	37.6	35.9	1.7	50.0	721.7
Houston-Chicago	11.1	13.9	(7.8)	52.0	229.9
New York-Washington-Chicago	24.6	22.6	2.0	52.0	400.7
Norfolk-Washington-Chicago	5.7	9.8	(4.1)	50.0	97.4
New Orleans-Chicago	10.3	13.5	(3.2)	50.0	205.4
Florida-Chicago	15.2	22.9	(7.7)	50.0	261.8
New York-Washington-Kansas City	14.5	17.7	(3.2)	50.0	236.7
New York-Florida	54.4	74.1	(19.7)	55.0	903.6
Total, long haul	263.5	351.0	(87.5)	51.1	4,825.7
International:					
Montreal-Washington	7.8	7.4	0.4	54.0	131.3
Vancouver-Seattle	.6	1.7	(1.1)	55.4	6.9
Total, international	8.4	9.1	(.7)	54.1	138.2
Special trains	2.3	2.3		90.0	27.2
New trains, sec. 403:					
St. Louis-Laredo	3.4	3.2	.2	52.0	75.9
Washington-Cumberland	.5	1.8	(1.3)	45.0	9.3
Oakland-Bakersfield	.8	2.6	(1.8)	60.0	15.6
Chicago-Champaign	2.0	3.8	(1.8)	55.0	44.0
Chicago-Quincy	1.1	2.5	(1.4)	45.0	23.3
Chicago-Dubuque	.8	1.3	(.5)	45.0	16.0
New Haven-Springfield	.5	3.2	(2.7)	40.0	8.0
Philadelphia-Harrisburg	1.8	8.1	(6.3)	50.0	34.8
New York-Montreal	.8	1.3	(.5)	43.4	14.5
Port Huron-Chicago	.5	.9	(.4)	33.5	7.2
Detroit-Jackson	.1	.4	(.3)	40.0	2.2
Norfolk-Cincinnati	.8	4.5	(3.7)	43.3	15.8
Boston-Chicago	6.3	8.1	(1.8)	56.5	80.9
1,000 mi, unidentified	9.8	18.0	(8.2)	50.0	181.0
300 mi, unidentified	4.3	6.5	(2.2)	40.0	78.3
Total, sec. 403	33.5	66.2	(32.7)	48.6	606.8
Grand total	471.5	653.1	(181.6)	52.1	7,678.6

EXHIBIT 8

PROFIT AND LOSS BY ROUTE, FISCAL YEAR 1979

[In millions]

Route	Revenue	Cost	Income/ (loss)	Load factor	R.P.M.
Corridor:					
New York-Washington (Metro)	45.2	59.1	(13.9)	55.0	372.4
New York-Philadelphia	3.9	15.0	(11.1)	50.0	77.0
Boston-Washington	79.3	104.2	(24.9)	52.0	1,094.6
Total, corridor	128.4	178.3	(49.9)	52.6	1,544.0
Short haul:					
Los Angeles-San Diego	2.4	5.0	(2.6)	52.0	52.0
Chicago-Milwaukee	5.3	8.1	(2.8)	52.0	76.8
Chicago-St. Louis	4.9	8.1	(3.2)	55.0	73.9
Seattle-Portland	1.1	4.6	(3.5)	50.0	26.9
New York-Buffalo	15.7	15.7		52.0	236.1
Chicago-Detroit	7.7	4.7	3.0	56.5	96.0
Total, short haul	37.1	46.2	(9.1)	53.2	561.7
Long haul:					
New Orleans-Los Angeles	13.6	12.9	.7	56.0	289.1
Chicago-Los Angeles	47.4	41.8	5.6	58.0	908.5
Seattle-Los Angeles	18.0	23.8	(5.8)	50.0	363.1
Seattle-Chicago	30.6	57.1	(26.5)	50.0	603.0
San Francisco-Chicago	39.1	35.9	3.2	52.0	750.5
Houston-Chicago	11.6	18.9	(7.3)	54.0	238.8
New York-Washington-Chicago	26.0	22.6	3.4	55.0	423.8
Norfolk-Washington-Chicago	5.9	9.8	(3.9)	52.0	101.3
New Orleans-Chicago	10.7	13.5	(2.8)	52.0	213.6
Florida-Chicago	15.9	22.9	(7.0)	52.0	272.3
New York-Washington-Kansas City	15.6	17.7	(2.1)	52.0	246.2
New York-Florida	54.5	73.9	(19.4)	55.0	903.6
Total, long haul	288.9	350.8	(61.9)	50.0	5,313.8

Route	Revenue	Cost	Income/ (loss)	Load factor	R.P.M.
International:					
Montreal-Washington	8.4	7.4	1.0	58.0	141.0
Vancouver-Seattle	.7	1.7	(1.0)	55.4	6.9
Total, international	9.1	9.1		57.8	147.9
Special trains	2.7	2.5	.2	90.0	32.6
New trains, sec. 403:					
St. Louis-Laredo	3.4	3.2	.2	52.0	75.9
Washington-Cumberland	.6	1.8	(1.2)	50.0	10.4
Oakland-Bakersfield	.8	2.6	(1.8)	60.0	15.6
Chicago-Champaign	2.0	3.8	(1.8)	55.0	44.0
Chicago-Quincy	1.1	2.5	(1.4)	45.0	23.3
Chicago-Dubuque	.8	1.3	(.5)	45.0	15.9
New Haven-Springfield	.5	3.2	(2.7)	40.0	7.9
Philadelphia-Harrisburg	1.8	8.1	(6.3)	50.0	34.8
New York-Montreal	.8	1.3	(.5)	43.4	14.5
Port Huron-Chicago	.5	.9	(.4)	33.5	7.2
Detroit-Jackson	.1	.4	(.3)	40.4	2.2
Norfolk-Cincinnati	.8	4.5	(3.7)	43.3	15.8
Boston-Chicago	6.3	8.1	(1.8)	56.5	80.9
1,000 mi, unidentified	13.6	25.2	(11.6)	50.0	253.4
300 mi, unidentified	5.9	9.1	(3.2)	40.0	109.5
Total, sec. 403	39.0	76.0	(37.0)	51.2	711.3
Grand total	505.2	662.9	(157.7)	53.0	8,311.3

NATIONAL RAILROAD PASSENGER CORPORATION—SUMMARY OF BUDGETED CHANGES EXCLUDING CONTINGENCIES

[In millions of dollars]

	Fiscal year—		
	1974	1975 change	1976 change
Revenue	$240.1	$41.9	$64.7
Expense	438.0	82.2	66.4
Deficit	197.9	40.3	1.7
Explanation of changes:			
Revenue:			
Increased load factor		13.4	.6
Fare increases		12.7	9.8
Added service		2.4	15.7
Equipment availability		13.4	38.6
Total		41.9	64.7
Expenses:			
Added services		2.1	16.6

	Fiscal year—		
	1974	1975 change	1976 change
Inflation during 1974		$52.8	
Interest		15.3	$25.2
Depreciation		7.3	7.3
Annualization of effect of expansion in fiscal year 1974 to meet increased demand		12.3	
Exparte		8.5	
Equipment acquisition—Operating costs			17.4
Cost of dining service for increased ridership			3.9
Anticipated savings		(10.0)	
Consolidation of Reservation Bureau		(3.0)	
Computerization of crew scheduling		(3.7)	
Elimination of outside consultants and full implementation of ARTS		(3.4)	
Provision for fiscal year 1974 delayed charges		4.0	(4.0)
Total		82.2	66.4

EXHIBIT 10

NATIONAL RAILROAD PASSENGER CORPORATION, TENTATIVE PLAN OF SOURCES AND USES OF FUNDS (CONTINGENCIES NOT INCLUDED) FISCAL YEAR 1975

	July	August	September	October	November	December	January	February	March	April	May	June	Fiscal year 1975 total
Cash and temporary investments beginning of period	$8,540	$10,500	$4,000	$6,000	$6,000	$6,000	$6,000	$6,000	$6,000	$6,000	$6,000	$6,000	$8,540
Sources:													
Operating grants	21,500	12,500	23,000	23,500	18,100	10,500	21,000	17,600	2,575				150,275
Capital grants				500	500	500	500	500					2,500
Supplemental grants									13,425	22,100	18,600	13,800	67,925
Total grants	21,500	12,500	23,000	24,000	18,600	11,000	21,500	18,100	16,000	22,100	18,600	13,800	220,700
Guaranteed loans	16,250	15,500	25,000	12,500	21,800	7,500	10,300	14,300	23,700	88,000	17,000	17,300	269,150
Ticket and other sales (net)	26,000	21,200	19,339	20,902	20,727	24,817	21,791	19,349	22,057	22,612	21,350	27,453	267,597
Mail revenue	550	480	600	700	700	500	800	420	400	800	500	800	7,250
Operating losses billed to States			200	300	300	200	100	100	100	100	100	100	1,600
Interest	50	50	50	50	50	50	50	50	50	50	50	50	600
Tours, special trains, and agency fees	13	70	40	55	45	40	70	40	45	30	40	87	575
Total	64,363	49,800	68,229	58,507	62,222	44,107	54,611	52,359	62,352	133,692	57,640	59,590	767,472
Uses:													
Payments to railroads	24,500	22,600	24,000	22,950	22,180	19,000	20,400	19,550	20,000	21,000	21,000	22,291	259,471
Capital expenditures:													
Refurbishment of cars	2,800	4,600	4,000	4,000	5,000	4,000	3,000	6,000	3,000	3,000	4,000	4,000	47,400
Rebuilding locomotives	700	1,200	600	450	500	550	600	400	300	400	400	400	6,500
Purchase of passenger cars	12,820	8,400		5,000	12,000	500	4,000	4,000		65,000	1,800		113,520
Purchase of locomotives			19,000							12,000			31,000
Equipment maintenance facilities	200	400	600	700	700	800	700	1,000	800	900	1,000	1,200	9,000
Station and sales offices	100	375	300	325	450	500	850	700	825	850	900	1,000	7,175

EXHIBIT 10—Continued

NATIONAL RAILROAD PASSENGER CORPORATION, TENTATIVE PLAN OF SOURCES AND USES OF FUNDS (CONTINGENCIES NOT INCLUDED) FISCAL YEAR 1975—Continued

	July	August	September	October	November	December	January	February	March	April	May	June	Fiscal year 1975 total
Right of way improvements				$2, 000	$3, 000	$1, 000	$1, 000	$2, 000	$18, 000	$5, 000	$8, 000	$10, 000	$50, 000
Other	$213	$525	$500	525	650	650	650	700	775	850	900	700	7, 638
Total capital expenditures	16, 833	15, 500	25, 000	13, 000	22, 300	8, 000	10, 800	14, 800	23, 700	88, 000	17, 000	17, 300	272, 233
Operations and administrative:													
Payroll	8, 500	8, 700	8, 300	8, 400	8, 300	8, 500	8, 300	8, 300	8, 350	8, 400	8, 450	8, 500	101, 000
Other operating expenses	8, 070	8, 830	8, 929	9, 088	9, 442	8, 607	9, 014	9, 709	10, 302	9, 931	11, 190	11, 499	114, 611
Interest	4, 500	670		5, 069			6, 097			6, 361			22, 697
Total	62, 403	56, 300	66, 229	58, 507	62, 222	44, 107	54, 611	52, 359	62, 352	133, 692	57, 640	59, 590	770, 012
Cash and temporary investments, end of period	10, 500	4, 000	6, 000	6, 000	6, 000	6, 000	6, 000	6, 000	6, 000	6, 000	6, 000	6, 000	6, 000

EXHIBIT 11

NATIONAL RAILROAD PASSENGER CORPORATION—TENTATIVE PLAN OF SOURCES AND USES OF FUNDS (CONTINGENCIES NOT INCLUDED) FISCAL YEAR 1976

	1st quarter	2d quarter	3d quarter	4th quarter	Total
Cash and temporary investments beginning of period	$6, 000	$6, 000	$6, 000	$6, 000	$6, 000
Sources:					
Operating grants	51, 500	50, 500	57, 500	57, 500	217, 000
Guaranteed loans	68, 200	78, 700	120, 000	118, 500	385, 400
Ticket and other sales	85, 000	81, 000	79, 000	81, 800	326, 800
Mail revenue	2, 500	2, 500	2, 500	2, 500	10, 000
Operating losses billed to States	500	500	500	500	2, 000
Interest	150	150	150	150	600
Tours, special trains and agency fees	150	150	150	150	600
Total	208, 000	213, 500	259, 800	261, 100	942, 400
Uses: Payments to railroads	72, 021	72, 500	73, 500	74, 500	292, 251
Capital expenditures:					
Refurbishment of cars	5, 000	5, 000	5, 000	5, 000	20, 000
Rebuilding locomotives	1, 000	700	500	500	2, 700
Purchase of passenger cars	$10, 000	$10, 000	$39, 000	$50, 000	$109, 000
Purchase of locomotives			12, 500		12, 500
Equipment maintenance facilities	10, 000	10, 000	11, 000	10, 000	40, 000
Station and sales offices	10, 000	10, 000	10, 000	10, 000	40, 000
Right of way improvements	30, 000	40, 000	40, 000	40, 000	150, 000
Other	2, 200	3, 000	3, 000	3, 000	11, 200
Total capital expenditures	68, 200	78, 700	120, 000	118, 500	385, 400
Operations and administrative:					
Payroll	25, 500	25, 200	25, 000	25, 300	101, 000
Other operating expenses	33, 273	28, 512	28, 237	31, 473	121, 495
Interest	9, 006	8, 588	13, 063	11, 327	41, 984
Total	208, 000	213, 500	259, 800	261, 100	942, 400
Cash and temporary investments, end of period	6, 000	6, 000	6, 000	6, 000	6, 000

EXHIBIT 12

ANALYSIS OF OPERATING GRANT REQUIREMENTS, FISCAL YEARS 1975–FISCAL YEAR 1976

[In millions of dollars]

	Fiscal year 1975	Fiscal year 1976
Operating deficit	238. 2	239. 9
Total authorization:		
Carryover from prior years	15. 2	
Fiscal year 1975 enacted	200. 0	
Fiscal year 1976 request		239. 9
Total authorization	215. 2	239. 9
Appropriation: Fiscal year 1975	130. 3	
Budget request: Fiscal year 1975 supplemental	84. 9	239. 9

NATIONAL RAILROAD PASSENGER CORPORATION—IMPACT OF FISCAL YEAR 1974 WAGE AND PRICE INCREASES ON FISCAL YEAR 1975 OPERATING EXPENSES

[Dollar amounts in thousands]

	Fuel	Other material	Wages	Interest and depreciation	Total
Fiscal year 1974 operating expenses	$21, 559. 8	$159, 822. 6	$238, 583. 9	$17, 964. 9	$437, 931. 2
Weighted average fiscal year 1974 AAR index of material prices and wage rates	206. 4	140. 1	180. 2		
AAR index of material prices and wage rates, July 1, 1974	295. 5	164. 9	[1] 191. 7	(2)	
Increase of July 1974 over weighted average of fiscal year 1974 (percent)	43. 2	17. 7	6. 4		
Dollar impact of fiscal year 1974 wage and price increases on fiscal year 1975 at fiscal year 1974 levels of activity	$9, 324. 1	$28, 294. 5	$15, 165. 0		$52, 783. 6
Dollar impact of fiscal year 1974 wage and price increases on costs of increased levels of activity in fiscal year 1975					2, 400. 0
Total					55, 183. 6

[1] Estimated, based on AAR spot wage index of Jan. 1, 1974, inflated at annual rate of 12 percent.

[2] Not available.

Fare Increases: FY 1975, 17.0 million; FY 1976, 51.0 million.

The increase in revenues related to an average 6% fare increase for each year would be relatively nominal in relation to projected increases in wages and prices. However, fare increases above this level would undoubtedly reduce ridership and be self-defeating. Thus, the option to match cost increases with fare increases to generate net gains in revenue are limited.

EXHIBIT 14—CONTINGENCIES

The fiscal year 1975 and fiscal year 1976 contain a number of contingent items that will have a major impact on financial operating results. Three of these items relate to the new railroad contracts:

Incentive Payments: FY 1975, 14.5 million; FY 1976, 28.5 million.

This amount assumes railroads will increase on-time performance from 65% to 85%. The increase in fiscal year 1976 represents annualization of costs for contracts not effective for the full year of 1974.

Penn Central Return on Investment: FY 1975, 12.0 million; FY 1976, 12.0 million.

The new contract provides for this negotiated amount related to the use of the Northeast Corridor right-of-way.

Penn Central Retroactive Payment: FY 1975, $5.4 million.

This payment represents retroactive payments for FY 1974 for cost differentials between the old and new contracts with the railroad.

Two and Four Year Overhaul Program: FY 1975, $20.3 million; FY 1976, $31.3 million.

Beginning in fiscal year 1975, passenger cars will require processing through overhaul programs for the second time and such work must be charged to expense rather than to capital. The FY 1975 amount would cover the intermediate overhaul of 324 cars, and the expense portion of 183 cars previously receiving a light overhaul but now requiring heavy overhaul. In fiscal year 1976, 463 cars will require intermediate overhauls, 65 heavy overhauls, and expense will be charged for a portion of the heavy overhaul of 172 cars which had previously gone through light overhaul. Beginning in fiscal year 1977, all costs of overhaul will be expensed and cost about $59.8 million for 920 cars per year.

Inflation: FY 1975, $40.0 million; FY 1976, $120.0 million.

This level of inflation assumes that wages will increase 12%, materials 18%, and fuel 20% during fiscal year 1975. The fiscal year 1976 amount represents the projection of end fiscal year 1975 costs through fiscal year 1976. Exhibit 13 shows the impact of annualizing inflation during fiscal year 1974 on fiscal year 1975 costs—an amount of $35.2 million. All of these projections are based upon data reported by AAR, with fiscal year 1975 projected at rates below the last half fiscal year 1974 experience.

EXHIBIT 15

BALANCE SHEET AS OF JUNE 30, 1974 AND 1973

ASSETS	1974	1973
Current assets:		
Cash and temporary cash investments	$8,536,694	$2,679,299
Account receivable:		
Federal grant funds		1,100,000
Advances to railroads	38,318,024	29,028,000
Railroad capital payments due within 1 year	322,992	54,973,511
Mail revenue	807,672	1,209,422
Other	18,185,820	5,790,445
	57,634,508	92,101,378
Materials and supplies, at cost	7,068,530	4,607,492
Prepayments and deposits	326,579	843,958
Total	73,566,311	100,232,127
Properties, at cost, less accumulated depreciation of $10,220,738 in 1974 and $3,402,971 in 1973:		
Passenger car and locomotive equipment	190,671,597	77,013,252
Other	14,556,566	4,396,022
Total	205,228,163	81,409,274
Other assets:		
Reservation systems cost	1,652,935	348,806
Other	1,500,174	6,750
Total	3,153,109	355,556
Total assets	281,947,583	181,996,957

LIABILITIES AND STOCKHOLDERS' EQUITY	1974	1973
Current liabilities:		
Notes payable	$44,750,000	$50,000,000
Accounts payable related to:		
Railway operations	22,721,893	17,986,562
Corporate operations	9,326,085	1,600,642
Property purchases		466,180
	32,047,978	20,053,384
Accrued expenses	15,629,844	4,456,981
Accrued taxes	1,425,988	989,939
Deferred revenue	5,705,267	6,820,610
Equipment obligations	4,229,902	1,590,528
Total	103,788,979	83,911,442
Long term debt:		
Notes payable	100,000,000	
Equipment obligations	63,585,145	13,151,445
Total	163,585,145	13,151,445
Stockholders' equity:		
Capital stock:		
Preferred, $100 par value, 1,000,000 shares authorized, none issued		
Common, $10 par value, 40,000,000 shares authorized:		
Subscribed but not paid for, 0 shares in 1974 and 2,607,129.8 shares in 1973		26,071,298
Issued, 9,385,693.8 shares in 1974 and 6,778,564 shares in 1973	93,856,938	67,785,640
Total	93,856,938	93,856,938
Capital surplus:		
Railroad capital payments for which stock was waived	103,238,223	103,238,223
Federal grant funds	333,311,590	205,811,590
Contributions	102	102
Total	436,549,915	309,049,915
Accumulated deficit	(515,833,394)	(317,972,783)
Total	14,573,459	84,934,070
Total liabilities stockholders' equity	281,947,583	181,996,957

NRPC REVISED FISCAL YEAR 1975 CAPITAL PROGRAM

[In thousands of dollars]

	Total revised program through fiscal year 1974	Revised fiscal year 1975 program	Fiscal year—			
			1976	1977	1978	1979
Passenger equipment:						
Turbine equipment:						
2 UA-FRA 5 car trains	$2.3					
2 CN 4 car trains	2.0					
20 new 5 car trains	70.0					
Subtotal turbine	74.3					
235 new bilevel cars		$168.0				
57 new metro-type cars	24.1					
200 new low-level cars	82.4					
200 new low-level cars		82.4				
Used conventional cars	22.5					
Modernize used cars	99.8	23.3	$8.6			
Modernize used RDC's	1.9					
1,000 standardize convertible cars		0	$80.0	$83.0	$83.0	$84.0
Purchase used metro	5.3					
Subtotal passenger equipment	236.0	273.7	88.6	83.0	83.0	84.0
Motive power:						
Lease purchase electric locomotives	.5					
175 new diesel electric locomotives	84.7					
26 electric locomotives	19.0					
13 electric locomotives			11.0			
25 new diesel electric locomotives		$12.5				
Used diesel electric locomotives	$6.8					
Used electric locomotives	1.5					
Diesel electric overhaul	19.7					
160 diesels convert to H/E power		2.0	$5.0	$5.0	$4.0	
Radios	.4					
Subtotal motive power	132.6	14.5	16.0	5.0	4.0	
Facilities:						
Major ($100,000 and over)	42.2	17.2				
Minor (under $100,000)	13.2					
Repair	44.8	128.2	62.3	9.5	29.5	$3.5
Subtotal facilities	100.2	145.4	62.3	9.5	29.5	3.5
Right-of-way:						
Northeast corridor		65.0	65.0	60.0	50.0	50.0
Major	.3	95.0	170.0	250.0	200.0	185.0
Minor	.4					
Subtotal ROW	.7	160.0	235.0	310.0	250.0	235.0
Research and development	5.0					
Autotrak	1.6		3.0			
Total	550.4	593.6	404.9	407.5	366.5	322.5

Note: See footnotes on exhibits 21 and 23.

EXHIBIT 17

STATUS OF REVISED FISCAL YEAR 1974 AND PRIOR CAPITAL PROGRAM

[In thousands of dollars]

	Status							
	Obligated through fiscal year 1974	Awaiting DOT approval	To be processed for Board authorization	Canceled	Total original 1974 plan	Plus authorizations unplanned plus/minus authorization variance	Total revised 1974 plan	Initial fiscal year 1975-76 program
Passenger equipment:								
Turbine equipment:								
2 UA-FRA 5-car trains	2.1				2.1	0.2	2.3	
2 CN 4-car trains	2.1			2.1	4.2	(.1)	2.0	
4 new 5-car trains				20.0	20.0			
20 new 5-car trains	45.5	24.5			70.0		70.0	
Subtotal, turbine	49.7	24.5		22.1	96.3	.1	74.3	
Pur. 235 new bilevel cars								168.0
New electric self-propelled				5.0	5.0			
57 Metro-type cars (shells)	23.8				23.8	.3	24.1	
200 new low-level cars (shells)	80.0				80.0	2.4	82.4	80.0
Used convertible cars	19.3				19.3	3.2	22.5	
Mod. used cars	87.2		14.1		101.3	(1.5)	99.8	
Mod. used RDC's	1.0				1.0	.9	1.9	
Purchase used Metro						5.3	5.3	
Subtotal, passenger equipment	211.3		14.1	5.0	230.4	10.6	236.0	248.0
Motive power:								
Lease pur. electric locomotives						.5	.5	
New D/E locomotives	84.8				84.8	(.1)	84.7	12.5
New electric locomotives	18.7				18.7	.3	19.0	
Used D/E locomotives	6.4				6.4	.4	6.8	
Used electric locomotives	1.5				1.5		1.5	
Locomotive overhaul D/E	10.2				10.2	9.5	19.7	
Radios						.4	.4	
Subtotal, motive power	121.6				121.6	11.0	132.6	12.5
Facilities:								
Major ($100,000 and over)	13.6		18.6		32.2	10.0	42.2	
Minor (under $100,000)	.8		12.4		13.2		13.2	
Repair facilities	5.7		39.3		45.0	(.2)	44.8	
Subtotal, facilities	20.1		70.3		90.4	9.8	100.2	
Right-of-way:								
Northeast corridor								100.0
Major			.3		.3		.3	
Minor	.4				.4		.4	
Subtotal, right-of-way	.4		.3		.7		.7	100.0
Research and development	.8		4.2		5.0		5.0	
Autotrack	1.6				1.6		1.6	
Grand total	405.5	24.5	88.9	27.1	546.0	31.5	550.4	360.5

Note: Program as transmitted in April 1974 totaled 906.5 (original 1974, 546 and initial 1975, 1976, 360.5).

EXHIBIT 18

NRPC CAPITAL PLAN, NEW FISCAL YEAR 1975-79 CAPITAL REQUESTS

[In thousands of dollars]

	New capital project requests	Amount included 1974 and prior plan	Net new capital requests, fiscal year—				
			1975	1976	1977	1978	1979
Passengers equipment:							
235 new bilevels	168,000		168,000				
Modernize used cars	31,900		23,300	8,600			
1,000 cars standardized	330,000			80,000	83,000	83,000	84,000
200 new low-level cars	82,400		82,400				
Subtotal, passenger equipment	612,300		273,700	88,600	83,000	83,000	84,000
Motive power:							
25 new diesel electric locomotives	12,500		12,500				
13 new electric locomotives	11,000			11,000			
160 diesels convert to H/E power	16,000		2,000	5,000	5,000	4,000	
Subtotal, motive power	39,500		14,500	16,000	5,000	4,000	
Facilities:							
Major (exhibit 22)	32,072	14,850	17,222				
Minor repair (exhibit 21)	272,530	39,450	128,230	62,284	9,533	29,533	3,500
Subtotal, facilities	304,602	54,300	145,452	62,284	9,533	29,533	3,500
ROW (exhibit 23)	1,190,700	700	160,000	235,000	310,000	250,000	235,000
Autotrak	3,000			3,000			
Grand total	[1] 2,150,102	55,000	593,652	404,884	407,533	366,533	322,500

[1] See footnotes on exhibits 21 and 23.

EXHIBIT 19

SCHEDULE OF CAR STOCK AVAILABILITY 5 YEAR CAPITAL PLAN FISCAL YEAR 1975 THRU FISCAL YEAR 1979

		Fiscal year 1974				Fiscal year 1975				Fiscal year 1976				Fiscal year 1977				Fiscal year 1978				Fiscal year 1979			
	Total	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Revenue cars:																									
Owned July 1, 1974:																									
Coaches	801																								
Sleeper	378																								
Parlor/lounge	31																								
Rail diesel cars	24																								
Turbine cars	[1] 24	[1] 10																							
Subtotal	1,258	1,258	1,258	1,258	1,258	1,258	1,258	1,258	1,258	1,258	1,258	1,258	1,258	1,258	1,258	1,258	1,258	1,258	1,258	1,258	1,258	1,258	1,258	1,258	1,258
To be acquired:																									
Metro type cars	57								29	28															
Low level coaches	400									36	54	66	44	50	50	50	50								
Bi-level coaches	235													15	15	30	30	30	30	40	45				
Turbine cars	[1] 90							20				5	15	15	30	5									
Subtotal	782							20	29	64	54	71	59	80	95	85	80	30	30	40	45				
Add seats to 70 existing coaches (reflected in equivalent cars)	14				5	2	5	2																	
Subtotal	796				5	2	5	22	29	64	54	71	59	80	95	85	80	30	30	40	45				
Cumulative					5	7	12	34	63	127	181	252	311	391	486	511	651	181	711	751	796	796	796	796	796
To be retired:																									
Coaches	304					4	4	4	5	22	38	25	28	28	10	12	12	12	12	22	22	22	22		
Sleeper	186					6	7	10	12	10	11	10	10	10	10	8	8	8	9	14	15	14	14		
Subtotal	490					10	11	14	17	32	49	35	38	38	20	20	20	20	21	36	37	36	36		
Cumulative						10	12	35	52	84	133	168	206	244	264	284	304	324	345	381	418	454	490	490	490
Owned July 1, 1979	1,564	1,258	1,258	1,258	1,263	1,255	1,249	1,257	1,269	1,301	1,306	1,342	1,363	1,405	1,480	1,545	1,605	1,615	1,624	1,628	1,636	1,600	1,564	1,564	1,564
Under lease and dedicated:																									
Coaches	16																								
Coach-snack	13																								
Coach-clocker	119																								
Sleepers	16																								
Metroliners	61																								
silverliners	8																								
Subtotal	233	233	233	233	233	233	233	233	233	233	233	233	233	233	233	233	233	233	233	233	233	233	233	233	233
Revenue fleet available July 1, 1979	1,797	1,491	1,491	1,491	1,496	1,488	1,482	1,490	1,502	1,534	1,539	1,575	1,596	1,638	1,713	1,778	1,838	1,848	1,857	1,861	1,869	1,833	1,797	1,797	1,797
Nonrevenue cars:																									
Owned July 1, 1974:																									
Diner	207																								
Lounge	97																								
Baggage	130																								
Baggage/dorm	81																								
Special purpose	3																								
Subtotal	518	518	518	518	518	518	518	518	518	518	518	518	518	518	518	518	518	518	518	518	518	518	518	518	518
To be acquired	0																								
To be retired:																									
Diner	89					5	6	9	9	9	9	5	6	5	6	2	3	2	3	2	3	2	3		
Lounge	46					1	1	4	4	4	3	7	6	6	6		1		1		1		1		
Baggage	3					1	2																		
Baggage/dorm	13							1	1	1	1	1	1	1	1					2	1	1	1		
Subtotal	151					7	9	14	14	14	13	13	13	12	13	2	4	2	4	4	4	3	5		
Cumulative						7	16	30	44	58	71	84	97	109	122	124	128	130	134	138	143	146	151		
Owned July 1, 1979	367	518	518	518	518	511	502	488	474	460	447	434	421	409	396	394	390	388	384	380	375	372	367	367	367
Under lease and ded.:																									
Baggage	48																								
Baggage/room	2																								
Diner	4																								
Lounge	7																								
Subtotal	61	61	61	61	61	61	61	61	61	61	61	61	61	61	61	61	61	61	61	61	61	61	61	61	61
Nonrevenue fleet available July 1, 1979	428	579	579	579	579	572	536	549	535	521	508	495	482	470	457	455	451	449	445	441	436	433	428	428	428
Total available fleet July 1, 1979	2,225	2,070	2,070	2,070	2,075	2,060	2,018	1,979	2,037	2,055	2,047	2,070	2,078	2,108	2,170	2,233	2,289	2,297	2,302	2,302	2,266	2,225	2,225	2,225	2,225

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[1] Of the 100 turbine cars to be acquired (authorized under CAR 74-34) 10 were received in the first quarter of fiscal year 1974 and together with the 14 United Aircraft turbine cars make up the 24 turbine cars owned as of July 1, 1974.

EXHIBIT 20

SCHEDULE OF LOCOMOTIVE AVAILABILITY PROGRAM FISCAL YEAR 1974-79

		Fiscal year 1974				Fiscal year 1975				Fiscal year 1976				Fiscal year 1977				Fiscal year 1978				Fiscal year 1979			
	Total	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Diesel electric:																									
Owned July 1, 1974:																									
EP-7	34																								
E-8	157																								
E-9	59																								
SDP-40F	121	40			81																				
Total	371	290	290	290	371																				

EXHIBIT 20—Continued

SCHEDULE OF LOCOMOTIVE AVAILABILITY PROGRAM FISCAL YEAR 1974–79—Continued

		Fiscal year 1974				Fiscal year 1975				Fiscal year 1976				Fiscal year 1977				Fiscal year 1978				Fiscal year 1979			
	Total	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
To be acquired:																									
SDP-40-F	29					29																			
P 30-CH	50								25						25										
Total	79					29			25						25										
To be retired: E-8 (total)	125						46	29	25						25										
Total owned July 1, 1979	325	290	290	290	371	400	354	325	325	325	325	325	325	325	325	325	325	325	325	325	325	325	325	325	325
Under lease July 1, 1974:																									
FP-7																									
E-8																									
E-9		3	3	3	3	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total available July 1, 1979	325	293	293	293	374	403	354	325	325	325	325	325	325	325	325	325	325	325	325	325	325	325	325	325	325
Electric:																									
Owned July 1, 1974: GG1 (total)	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
To be acquired: E-60 CP (total)	39						16	10							13										
To be retired: GG1 (total)	40														40										
Total owned July 1, 1979	39	40	40	40	40	40	56	66	66	66	66	66	66	66	39	39	39	39	39	39	39	39	39	39	39
Under lease:																									
GG1		11	11	11	11	11	11	11	11	11	11	11	11	11	0	0	0	0	0	0	0	0	0	0	0
Total available July 1, 1979	39	51	51	51	51	51	67	77	77	77	77	77	77	77	39	39	39	39	39	39	39	39	39	39	39

EXHIBIT 21

NRPC CAPITAL PLAN REPAIR FACILITIES

[Dollars in thousands]

Priority—Facility	New capital project requests	Amounts including 1974 and prior plan	Net new capital requests				
			1975	1976	1977	1978	1979
1—Boston—turbo train fac., coach yard	$7,000	$7,000					
2—Beech grove shop	(1)		(1)				
3—Hialeah maintenance fac	(1)	1,750	(1)				
4—Car—Heavy maint. shop E. and S.E. reg	20,000	20,000					
5—St. Louis terminal fac	(1)		(1)				
6—New Orleans maint. fac	(1)	500	(1)				
7—Diesel loco hvy. maint. shop	(1)		(1)				
8—Sunnyside yard and shop	(1)	1,000	(1)				
9—Chicago:							
12th Street yard	(1)	2,000	(1)				
16th Street E.H							
10— Western Avenue	(1)			(1)			
11—Metroliner maint. facility electric loco. shop	(1)			(1)			
12—Car—Heavy main. shop W. reg	(1)			(1)			
13—Philadelphia 30th Street facility	(1)	1,000	(1)				
14—Washington Terminal	(1)					(1)	
15—Albany—Rensselaer	(1)				(1)		
16—Los Angeles 8th Street facility	(1)	500			(1)		
17—Oakland car maintenance facility	(1)	750				(1)	
18—Seattle—King Street	(1)	2,000				(1)	
19—St. Petersburg	(1)					(1)	
20—East Coast fuel facility	1,500	1,500					
21—Electrical standby power	(1)				(1)		
22—Pollution control	1,450	1,450					
23—Other maint. expansion	(1)		(1)				
24—Communications and signals	(1)			(1)	(1)	(1)	(1)
Subtotal	272,530	39,450	$128,320	$62,284	$9,533	$29,533	$3,500
25—Washington Union terminal boiler		500					
Total	[2] 272,530	39,950	128,230	62,284	9,533	29,533	3,500

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[1] Type of facility needed and year of need.

[2] The board of directors authorized management to negotiate with owners to acquire use of facilities without purchase and to proceed with the transfer of employees to Amtrak payroll.

NRPC CAPITAL PLAN FACILITIES—MAJOR

[Dollars in thousands]

Facility	New capital project requests	Amounts inc. 1974 and prior plan	1975	1976	1977	1978	1979
New York Penn Station	$5,000	$750	$4,250				
St. Louis terminal	2,500	3,325	(825)				
New Carrollton	15,500	7,100	8,400				
Rochester	1,092	100	992				
St. Paul terminal	5,440	2,600	2,840				
Omaha station	690	375	315				
Miami station	1,700		1,700				
El Paso, Tex., station	150	100	50				
Richmond		500	(500)				
Subtotal	32,072	14,850	17,222				

NRPC CAPITAL PLAN FACILITIES—MAJOR—Continued

[Dollars in thousands]

Facility	New capital project requests	Amounts inc. 1974 and prior plan	1975	1976	1977	1978	1979
Northeast corridor		[1] $11,542					
Los Angeles		1,950					
Kansas City		600					
Richmond		1,395					
Chicago UT passenger lounge		400					
San Francisco station		100					
Hialeah commissary		250					
Jacksonville		1,000					
Orlando		100					
Miami commissary		100					
Cincinnati		300					
Central reservation		600					
Chicago UT ticket office		100					
Chicago mechanization of baggage facilities		213					
Expansion of arts		5,164					
New Laredo service		1,381					
Illinois stations		100					
San Joaquin service		301					
Office furniture		907					
Signals		138					
Reseating program		709					
Total		42,200					

[1] Includes $2,000,000 for Norfolk-Cincinnati service.

EXHIBIT 23

NRPC CAPITAL PLAN—RIGHT-OF-WAY

[Dollars in thousands]

Right-of-way	New capital project requests	Amounts Inc. 1974 and prior plan	Net new capital requests				
			1975	1976	1977	1978	1979
Northeast corridor	$290,000		$65,000	$65,000	$60,000	$50,000	$50,000
Chicago Carbondale	85,000		10,000	15,000	20,000	20,000	20,000
Philadelphia-Harrisburg [1]	45,000			20,000	25,000		
Washington-Richmond [1]	55,000			25,000	30,000		
Chicago-Detroit	85,000		10,000	15,000	20,000	20,000	20,000
Chicago-Quincy [1]	40,000				20,000	20,000	
Chicago-St. Louis	135,000		20,000	25,000	30,000	30,000	30,000
Chicago-Milwaukee	85,000		10,000	15,000	20,000	20,000	20,000
Seattle-Portland [1]	55,000				15,000	20,000	20,000
Los Angeles-San Diego	90,000		10,000	15,000	20,000	20,000	25,000
Chicago-Indianapolis-Cincinnati	135,000		20,000	25,000	30,000	30,000	30,000
New York-Buffalo	90,000		15,000	15,000	20,000	20,000	20,000
Other	700	$700					
Subtotal	[2] 1,190,700	700	[2] 160,000	[2] 235,000	310,000	250,000	235,000

[1] Additional Amtrak funding may be required on these routes.

[2] The board of directors approved submission of a capital grant request of $200,000,000 in fiscal year 1976 to fund fiscal year 1975 program and partially fund fiscal year 1976 program.

EXHIBIT 24

NRPC CAPITAL PLAN

[Dollar amounts in millions]

Route corridors	Marketing departmental priority	Expenditure	Track miles	Current speed (miles per hour)	Possible speed (miles per hour)
Washington-Boston	2	$290	1,030	65.0	110
Chicago-Carbondale	9	85	620	58.0	90
Philadelphia-Harrisburg	10	45	206	59.0	80
Washington-Richmond	7	55	376	50.0	65
Chicago-Detroit	1	85	425	49.0	110
Chicago-Quincy	12	40	524	55.0	80
Chicago-St. Louis	4	135	568	57.0	110
Chicago-Milwaukee	8	$85	170	55.5	110
Seattle-Portland	11	55	372	50.0	75
Los Angeles-San Diego	5	90	256	50.0	90
Chicago-Indiana-Cincinnati	6	135	427	30.0	90
New York-Buffalo	3	90	872	51.0	90
Total		1,190			

EXHIBIT 25

Route	Train Nos.	1-way trips per week
DAILY SERVICES		
Chicago-Los Angeles	3/4	14
Chicago-San Francisco	5/6	14
Chicago-Seattle	7/8	14
Chicago-Seattle (S. Mont.)	9/10 [1]	14
Los Angeles-Seattle	11/14	14
Chicago-Houston	15/16	14
New York-Kansas City	30/31 [2]	14
New York-Chicago	40/41 [3]	14
New York-Chicago	50/51 [4]	14
Chicago-St. Petersburg/Miami	52/53	14
Chicago-New Orleans	58/59	14
Washington-Montreal	60/61	14
Chicago-Carbondale	391/392	14
Chicago-Champaign	380/381	14
Chicago-Quincy	346/347/348	14
Seattle-Vancouver	793/794	14
Oakland-Bakersfield	710/711	14
Chicago-Dubuque	370/371/372	14
Spokane-Seattle	791/792 [5]	14
		266
OTHER THAN DAILY SERVICE		
New Orleans-Los Angeles	1, 2	6
St. Louis-Ft. Worth	21, 22	6

Footnotes on following page.

EXHIBIT 25—Continued

Route	Train Nos.	1-way trips per week
Harrisburg-Boston	42, 43, 46, 47 [6]	12
Empire Service	70, 71, 72, 73, 74, 75, 76, 77, 78, 78	70
Northeast-Florida	81, 82, 83, 84, 85, 86 [7]	42
Metroliners	100 through 133	198
Springfield-Philadelphia	141, 142	14
Boston-New Haven	144, 149 [7]	14
New York-Boston	150, 151, 152, 153, 162,[8] 163 [9]	28
New York-Washington	160, 161, 164, 166, 167	30
Boston-Washington	161, 169, 171, 173, 177, 179, 185, 67, 168, 170, 172, 174, 176, 178, 186, 66[10]	99
Boston-Philadelphia	181, 183, 180, 184	25
New York-Philadelphia	200 series	127
Chicago-St. Louis	300, 301, 302, 303, 304, 305 306, 307 [11]	40
Chicago-Milwaukee	320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 331	70
Chicago-Detroit	306, 361, 362, 363	28
New Haven-Springfield	400 series [12]	85
Philadelphia-Harrisburg	600 series [13]	120
Washington-Cumberland	701, 702, 703, 704, 705 [14]	16
Los Angeles-San Diego	770, 771, 772, 773, 775, 776	42
Seattle-Portland	795, 796, 798, 799	28
		1,101
Total system OW trips per week		1,367

[1] Train No. 9/10 operate triweekly Sept. 15, 1974–May 19, 1975.

[2] Trains No. 430/431 operate Washington-Harrisburg triweekly; not included in count of 1-way trips per week.

[3] Trains No. 441/442 operate Washington-Harrisburg daily; not included in count of 1-way trips per week.

[4] Trains No. 98/90 operate Newport News-Charlottesville daily; not included in count of 1-way trips per week.

[5] Terminates Sept. 14, 1974.

[6] Trains No. 46/47 (2 1-way trips per week) terminate Sept. 15, 1974.

[7] Trains No. 95/96 operate daily Dec. 13 through Apr. 7.

[7] Operates with RDC equipment.

[8] Train No. 162 (2 OW trip/week) terminates Sept. 15, 1974.

[9] Train No. 163 (1 OW trip/week) terminates Sept. 15, 1974.

[10] Train No. 186 (1 OW trip/week) terminates Sept. 13, 1974.

[11] Operates with turbo equipment 34 OW trips/week and with conventional equipment 6 OW trips/week.

[12] Operates with RDC equipment.

[13] Operates with Silverliner equipment.

[14] Operates 2 additional OW trips/week on holidays.

OTHER THAN DAILY SERVICE

Route	1-way trips per week	Number of trains	Total 1-way trips per week
New Orleans-Los Angeles	3	2	6
St. Louis-Fort Worth	3	2	6
Harrisburg-Boston	1	2	2
	5	2	10
Total			12
Empire Service	7	10	70
Northeast-Florida	7	6	[1] 42
Metroliners	1	1	1
	5	2	10
	6	9	54
	7	19	133
Total			198
Springfield-Philadelphia	7	2	14
Boston-New Haven	7	2	14
New York-Boston	1	1	1
	2	1	2
	5	1	5
	6	1	6
	7	2	14
Total			28
New York-Washington	1	2	2
	7	4	28
Total			30
Boston-Washington	1	2	2
	6	1	6
	7	13	91
Total			99
Boston-Philadelphia	5	1	5
	6	1	6
	7	2	14
Total			25
New York-Philadelphia	1	4	4
	5	4	20
	6	9	54
	7	7	49
Total			127
Chicago-St. Louis (Turbo)	1	1	1
	2	2	4
	5	2	10
	6	2	12
	7	1	7
Subtotal			34
(Conv.)	6	1	6
Total			40
Chicago-Milwaukee	2	1	2
	5	1	5
	7	9	63
Total			70
Chicago-Detroit	7	4	28
New Haven-Springfield (RDC equipment)	1	1	1
	5	5	25
	6	3	18
	7	6	42
Total			86
Philadelphia-Harrisburg	1	1	1
	2	1	2
	5	8	40
	6	7	42
	7	5	35
Total			120
Washington-Cumberland	5	1	5
	6	1	6
	2	2	4
	1	1	1
Total			16
Los Angeles-San Diego	7	6	42
Seattle-Portland	7	4	28

[1] Northeast-Florida—6 trains operate 7 days per week April 8 through December 12; 8 trains operate 7 days per week December 13 through April 7.

SENATE RESOLUTION ON FOOD AND FARM INPUTS

Mr. McGOVERN. Mr. President, Senate Resolution 391, which was passed by the Senate this week, was unanimously adopted by our Senate Committee on Agriculture and Forestry.

In the action taken by this body, the Senate has now officially asked that:

First. The new President's Committee on Food, in carrying out the responsibilities assigned to it by the President, in no way assume, displace, or otherwise interfere with responsibilities delegated by law to the Secretary of Agriculture or other Government officials, and that the President's Committee give due consideration to increased farm costs and shortages or the potential for shortages of essential farm inputs in any actions or recommendations it may make. Also, the President's Committee is asked to maintain close liaison with the Senate Committee on Agriculture and Forestry on behalf of the Senate regarding its activities, plans, or actions.

Second. All agencies of the Federal Government having any responsibility for the establishment of priorities regarding the allocation of materials, supplies, or facilities utilized in the production or distribution of fertilizer, fuels, and energy, farm chemicals and other essential farm inputs, give the highest priority to agriculture and related industries in making such allocation priorities.

Third. The Federal Power Commission take immediate steps to provide the highest possible priority in the allocation of natural gas supplies for expanded production of synthetic anhydrous ammonia; feedstocks, intermediates, and solvents used in the production of farm chemicals; feed phosphates; and for all other agricultural uses of natural gas.

Fourth. The President expand the scope and responsibility of the Intergovernmental Agency Task Force on Fertilizer to include all essential farm inputs with respect to their continued supply availability, pricing (wholesale and retail), exports and imports, and the equitable distribution of these inputs among farm producers.

Fifth. The Federal Energy Administration consult with and maintain close liaison with the Senate Committee on Agriculture and Forestry with respect to any plans or proposals that may affect the current priority status that agriculture and related industries now enjoy under Federal mandatory fuel and propane allocation regulations.

BACKGROUND

Federal wage-price controls from early 1971 through April 1974, created many dilemmas for numerous industries and government policymakers. Government intervention of normal marketplace adjustments and interrelationships during this period often created more problems than they solved in achieving certain national goals. For instance: Retail ceilings on beef prices created shortages of beef products available to U.S. consumers. Prolonged regulation of the fertilizer industry stimulated substantial increases in exports of U.S. fertilizer and subsequent shortages of these materials for U.S. farmers. Continued importations of dairy products, eventually contributed to depressed prices and incomes for U.S. dairy producers.

With the expiration of the Economic Stabilization Act of 1970 on April 30, 1974, the Cost of Living Council, which administered its provisions, also was abolished, effective June 30, 1974. However, under Executive Order 11788, signed by President Nixon on June 18, 1974, a President's Committee on Food was established composed of "the Counsellor to the President for Economic Policy, who shall be its Chairman, the Secretary of State, the Secretary of the Treasury, the Secretary of Agriculture, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Executive Director of the Council on International Economic Policy, and such other members as the President may, from time to time, designate."

The purpose of this new Presidential Committee on Food is to "review Government activities significantly affecting food costs and prices and provide coordination for the Nation's policy relating to domestic and international food supplies and relating to food costs and prices."

It should be noted that the purposes of this Presidential Committee on Food, as stated in Executive Order 11788, is silent on farm production costs; shortages, or potential shortages, of essential farm inputs; and, coordination with the Congress or the committees of Congress having responsibility regarding agriculture and food policy concerns.

The likelihood of shortages, or limited available supplies of feed grains, soybeans and possibly wheat during 1974–75 is in the realm of possibility. Given recent official estimates for carryovers of 1973 crops, and production of 1974 crops, it is obvious, even to the most optimistic forecaster, that every effort will have to be made to achieve maximum production this next crop year—1975. Continued adverse weather conditions notwithstanding, such a goal can be reached only if the essential farm inputs required to do so are made available—and at prices farmers can expect to recover their input costs, plus reasonable returns on their capital and labor, during the 1975–76 marketing years. Therefore, the achievement of such an important national goal will require the utmost in cooperation and coordination between the executive and legislative branches of our Government, and between our National Government and farm producers and related industries.

In short, there will be little margin for error, miscalculation, or lack of coordination in the months and years ahead, if our Nation's food and other agricultural goals are to be met.

Two days of hearings were held on July 24 and 25, 1974, by the Subcommittee on Agricultural Credit and Rural Electrification of the Senate Committee on Agriculture and Forestry on the continuing serious nature of the supply, demand and price outlook of fertilizer, farm chemicals, feed phosphates, baling wire and fuels and energy utilized by agriculture and related industries. These hearings and this resolution represent a continuing review of these matters by the Senate Committee on Agriculture and Forestry, which began in the fall of 1973. In February and March of 1974, the committee also held hearings, special meetings, and reported to the Senate a resolution—Senate Resolution 289—which addressed the questions of fertilizer and feed phosphate supply, demand, price and equitable distribution of these products among agricultural producers during the 1973–74 crop year. On March 21, 1974, the committee published as a committee print a document entitled, "U.S. and World Fertilizer Outlook", which contains two major studies—one conducted by the U.S. Department of Agriculture and one by the Tennessee Valley Authority. That document also contains other documents relating to Government agency responses to Senate Resolution 289, as well as information relating to special meetings held between the committee and Federal Government officials having responsibility for establishment of priority allocations regarding fertilizer production, distribution, and pricing.

COMMITTEE CONSIDERATION

At the hearings, held on July 24–25, 1974, representatives of the following agencies, industries and other groups testified: The Intergovernmental Agency Task Force on Fertilizer—Council of Economic Advisers, Department of Agriculture, Department of Commerce, Agency for International Development, Environmental Protection Agency and the Tennessee Valley Authority—the fertilizer industry; the agricultural chemical industry; farm cooperatives; State Departments of Agriculture; the steel industry—manufacturers of baling wire; the food processing industry; the petroleum industry—American Petroleum Institute; individual farmers; the Administrator of the Federal Energy Administration; and the Chairman of the Federal Power Commission.

FERTILIZER

With respect to the expected available supply and demand for fertilizer during the 1975 crop year, some modest increase in U.S. production of nitrogenous and phosphatic fertilizers was forecast by both the Intergovernmental Agency Task Force on Fertilizer and by the Fertilizer Institute. However, with respect to the U.S. demand, inventory and price of these supplies, representatives testifying on behalf of Government and industry were uncertain. Industry officials generally indicated that inventories of these materials going into the 1975 crop year will be substantially down from a year ago, suggesting that supply levels will, for the most part, be tied to existing U.S. production capacity, with some possible increase in imports.

Mr. President, on September 3, 1974, the Fertilizer Institute issued a statement and some figures regarding fertilizer inventories which I ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT FROM THE FERTILIZER INSTITUTE

WASHINGTON, D.C., September 3, 1974.—U.S. fertilizer inventories at producer levels improved very slightly in July from a month earlier but still remain well below a year earlier. End-of-month inventories were reported 18 per cent lower than July 1973 for 20 fertilizer products covered in The Fertilizer Index, a report issued monthly by The Fertilizer Institute.

"Our figures indicate a continued tight supply position, particularly on nitrogen products, going into the fall planting season," noted Edwin M. Wheeler, Institute President.

Nitrogen inventories at the end of July were 10 per cent below a year ago, with tonnage equivalent to 14 days' production. Phosphate and potash inventories are in a similar position with about 15 days' production equivalent on hand, said Wheeler.

Overall, fertilizer production for July 1974 ran six per cent higher than July '73 with domestic disappearance (sales and manufacturing use) two per cent higher than a year ago.

NITROGEN

Production of anhydrous ammonia held a slight gain of two per cent over July 1973 with disappearance showing a two-per cent drop. Inventories of this basic nitrogen fertilizer building block maintained a very low position—30 per cent below 1973, equivalent to 13 days of production. Ammonium nitrate showed best inventory position of this group—52 per cent above July 1973 with an eight-per cent increase in production.

Production of high-analysis nitrogen solutions was 11 per cent higher than July 1973, but inventories fell to 68 per cent below a year ago. Urea production during July also was up—two per cent—from 1973, and its inventory is upward.

PHOSPHATE

Phosphate products showed highest inventories of the three primary groups compared to July 1973 with an eight per cent increase. Inventories of super, and wet process phosphate acid were 43 and 13 per cent higher. Production of normal and concentrated superphosphate showed the same increase, 21 per cent, above July, 1973.

Production of DAP (diammonium phosphate), as earlier in the season, trailed levels of a year ago during July while its inventory was up 14 per cent. Concentrated superphosphate inventories were also up (eight per cent) from July 1973.

POTASH

Inventories for all potash products, except potassium magnesium sulfate, maintained low levels compared to a year ago. Total inventories for the group were 56 per cent lower than July '73. Production rose 26 per cent for the month with coarse and granular muriate showing largest increases of 46 and 35 per cent.

Disappearance of sulphates of potash was comparatively heavy for the month—150 per cent higher than July a year ago.

MULTINUTRIENT PRODUCTS

Mixed fluids was the stand-out product among the multi-nutrient products with a July 1974 domestic disappearance 150 per cent higher than July '73 and a production increase of 165 per cent. Inventories for mixed fluids were also lowest for the group at 36 per cent under July '73.

THE FERTILIZER INSTITUTE

FERTILIZER INDEX SUMMARY, JULY 1974

[Percent change in index values (for total United States and Canada) for July 1974, compared to July 1973]

	July 1974, versus July 1973		
	Production	Ending inventory	Domestic disappearance
Nitrogen products:			
01. Anhydrous ammonia	2	−30	−2
02. Nitrogen solution—over 32 percent nitrogen	11	−68	14
03. Nitrogen solution 32 percent nitrogen or less	−3	0	−13
04. Ammonium nitrate	8	52	−1
05. Ammonium sulfate	−8	6	73
06. Urea	2	24	−4
Total	1	−10	−2
Phosphate products:			
11. Phosphate rock	8	−28	46
12. Phosphoric acid, super	21	43	22
13. Phosphoric acid, wet process	−5	13	−7
14. Normal superphosphate	21	−11	20
15. Concentrated superphosphate	21	8	8
16. Diammonium phosphate	−11	14	−6
Total (except phosphate rock)	1	8	−5
Potash products:			
21. Muriate standard	24	−55	32
22. Muriate coarse	46	−61	51
23. Muriate granular	35	−72	34
24. Muriate soluble	9	−54	53
25. Sulfates potash	−4	−29	150
26. Potassium magnesium sulfate	3	29	−20
Total	26	−56	36
Multinutrient products:			
31. Nitrogen base solutions	9	19	−88
32. Other mixed fluids	165	−36	150
33. Other mixed solids	15	−5	3
Total	15	−4	0
All products (except phosphate rock)	6	−18	2

Note: Potash data supplied by the Potash Institute of North America.

Mr. McGOVERN. It will be noted in this institute statement that end-of-month inventories for the month of July 1974, were reported 18 percent lower than at the end of July 1973, for 20 fertilizer products. Such inventory reductions, combined with increases in demand, will put further strains on the supply-demand—and price—situation regarding these products during this next year. Both industry and government witnesses agreed demand levels would be greatly influenced by the level of farm prices for corn, wheat, and other crops. And since recent projections—August 13, 1974—by the U.S. Department of Agriculture indicate much lower production of 1974 corn, wheat, and other crops than anticipated, it seems clear that prices for these commodities over the next year can be expected to remain strong, thus strengthening demand for fertilizer and other essential farm inputs. As was also pointed out in the hearings, world demand for these farm inputs will likely remain strong, thus creating additional upward pressures on the demand-price situation both in the United States and worldwide, especially in countries such as India and Bangladesh.

Currently world or export prices of these fertilizer materials are almost twice the level of U.S. domestic prices. As to how much higher world or U.S. prices might go in the coming year, nobody testifying would venture to say, other than the likelihood that such prices probably could be expected to further increase over current levels.

The potash supply-demand situation during 1974–75 is not expected to change appreciably from what it was during this past year, according to Government and industry estimates. Both groups pointed out that transportation problems relating to the movement of potash supplies, especially from Canada, could again mean spot shortages during the next year as was the case this past year.

The committee expressed its concerns to fertilizer industry representatives regarding any further unwarranted price increases as well as increases in the export of U.S. manufactured supplies. The committee also urged the fertilizer industry to continue its efforts to assure equitable distribution of available fertilizer supplies during the 1975 crop year among farm producers. In addition, the Committee urged the Intergovernmental Agency Task Force on Fertilizer to continue and strengthen its monitoring and reporting activities regarding fertilizer prices—both wholesale and retail—and exports and imports of such materials.

The committee further acknowledged that expansion of existing U.S. nitrogen production capacity is essential if U.S. reporting activities regarding fertilizer are going to be met. The extent to which this goal will be achieved, of course, will be almost totally dependent upon increased supplies of natural gas being made available to this industry for this purpose.

Mr. President, while I am on the subject of fertilizer, I would like to call your attention to a report issued recently by the Senate Select Committee on Nutrition and Human Needs, which I chair, on the U.S. role in the world food crisis. This report, among other things, reveals that about half of our Nation's AID financed fertilizer shipments to less developed countries are going to South Vietnam. Dan Morgan of the Washington Post had an article in today's issue on this subject which I would like to request unanimous consent to have printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Sept. 10, 1974]

Saigon To Get Major Share of Fertilizer

(By Dan Morgan)

South Vietnam is to get about two-thirds of the fertilizer purchased by the U.S. government so far this year for its overseas assistance, according to an exhaustive study of the U.S. role in the world food crisis released in the Senate yesterday.

In releasing the report of his Select Committee on Nutrition and Human Needs, Sen. George McGovern (D-S.D.) said that "security" considerations continue to dominate U.S. food policy. He also suggested that leadership was lacking in preparing the American program for the World Food Conference to be held in Rome in November.

In responding to the staff study's findings about American shipments of fertilizer to Indochina, an official of the U.S. Agency for International Development said it appeared the figures were "incomplete" for the current fiscal year.

However, he confirmed that in the current fiscal year about half of the entire 700,000 tons of fertilizer shipped abroad under U.S. government assistance programs was earmarked for South Vietnam. The cost of this, to be met through both development assistance and military assistance allocations, will be roughly $125 million.

Congressional critics of U.S. policy in Vietnam have consistently maintained that the administration is using economic assistance, including the Food for Peace program, to prop up the regime there in lieu of direct military support. They assert that the aid amounts to a budgetary subsidy that enhances the capacity of the regime to wage war.

Earlier this year, Congress attached limits on the food aid that could be sent to Indochina, but President Nixon subsequently vetoed the entire agriculture appropriations bill which contained the restrictions and the issue was sent back to Capitol Hill.

Fertilizer has become one of the most critical commodities in the current world food crisis. Numerous experts, including many senior policy makers in the U.S. government, view fertilizer as one of the keys to increasing agricultural production in developing nations.

The application of a ton of nitrogen fertilizer to a crop is thought to produce a nine-ton increase in the yield.

As more nations move away from dependency on the United States' now diminished surplus of food for direct support, the need to increase local production has taken on added importance.

In 1973, the world experienced a tightening of the available supply and prices rose, often beyond the ability of some poorer countries to pay.

During the period when this was happening, the staff study reported, the United States sent 355,856 tons of fertilizer to South Vietnam, out of its total fertilizer assistance of 631,000 tons.

According to an AID official South Vietnam has received a "large amount" of fertilizer this year. He said that 45 per cent of the rice planted in that country is of the high-yield variety perfected during the "Green Revolution" which requires heavy amounts of chemical nutrients.

The staff report which was based on hearings in the Senate June 19 and 21 of the National Nutrition Policy Study, asserted that South Vietnam is scheduled to get 106,000 tons out of the 160,500 tons purchased so far. Cambodia is scheduled to get 10,000 tons and the rest will go to Pakistan, Bangladesh, Kenya, Guatamala and Honduras.

One problem faced by AID, according to the report, is that government buying of fertilizer for overseas programs is restricted because of shortages here.

In a preface to the report, McGovern noted that many aspects of U.S. food assistance had been sharply cut in the last two years, partly in response to the disappearance of the huge U.S. surpluses of the 1950s and 1960s.

Nevertheless, he criticized sharply the position taken by Agriculture Secretary Earl L. Butz on food policy. Butz said last week it would be a mistake for the United States to go to the World Food Conference with a "bagful of goodies."

McGovern said it wasn't necessary to go to Rome with a "bag of goodies" in order to "provide leadership and demonstrate good intentions."

"But neither can we go with a position that says 'Sorry, we can't even provide as much food this year as we did last.' Yet, that appears to be the direction in which our policy is now headed."

The long Senate staff report comes at a time of increasing interest in Congress in the worldwide implications of declining food reserves.

A subcommittee of the House Foreign Affairs Committee under Rep. Donald M. Fraser (D-Minn.) will start hearings today on U.S. policy and world food needs.

Over the weekend, the General Accounting Office, Congress's investigative arm, turned in a report warning that world food reserves have declined to the point where "even small production declines can have severe adverse effects."

FARM CHEMICALS

Mr. McGOVERN. American farm producers have increasingly and very effectively utilized herbicides, insecticides, and fungicides to protect and increase farm output. It is estimated by some USDA scientists that the use of pesticides alone has accounted for at least 20 percent in farm output since 1940. Other agricultural experts indicate that use of herbicides has reduced cultivation by 50 percent on 160 million acres of agricultural land in the United States, which in terms of fuel means a savings from 94 to 170 million gallons of fuel depending upon the type—gasoline, diesel, or liquid petroleum gas—used for cultivation.

Evidence presented to our committee regarding the future availability of these essential farm chemicals, especially during the immediate years ahead, suggest that critical shortages of some of them could very well develop.

The supply of these materials at the farm level during 1974 can best be illustrated by a report issued by the U.S. Department of Agriculture on July 19, 1974, which stated the following:

> Pesticide supplies were reported tight to acute in some counties in 44 States. Herbicide supplies were tight in over 22 percent of all agricultural counties with an acute shortage in only one percent.
>
> More than 18 percent of all agricultural counties reported tight supplies of insecticides, with only one percent reporting the supply situation acute.
>
> Fungicide supplies were reported tight in nearly 16 percent of all agricultural counties, with slightly over one percent reporting an acute shortage.

The chairman of the Committee on Shortages of the National Agricultural Chemicals Association advised our committee that continuing shortages of these materials could be expected during 1975.

These expected shortages during 1975 are based upon two major factors: First—A sharp reduction in inventories of these farm chemicals at all levels—manufacturer, retailer, and farmer—at the end of this season from what they were a year ago; and second, an expected continuing shortage of the raw materials—petrochemical based feedstocks, intermediates, emulsifiers, and solvents—utilized in the formation and manufacturing of these farm chemicals. These conclusions were based upon survey data collected by the National Agricultural Chemical Association from its members.

While Mr. John Sawhill, Administrator of the Federal Energy Administration, indicated to our committee that increased oil imports, and in the long run, increases in U.S. oil refinery capacity, will likely increase the supply of such petrochemical feedstocks, he also reported to us that the shortfall of petrochemicals is expected to continue at a level of about 8 percent through the spring of 1975.

Because the raw materials that are utilized in the production of these farm chemicals are derivatives of either petroleum or natural gas, the chairman of the Senate Committee on Agriculture and Forestry, Senator Herman Talmadge, sent a letter-questionnaire to the major producers of these derivatives in July asking the following questions:

> 1. What quantity and which petrochemical feedstocks and/or intermediates did your company produce in calendar year 1973, and what are the quantities of these products planned for the 1974 and 1975 calendar years?
>
> 2. What was the percentage of these products destined for the purpose of agricultural production in 1973, and what percentages are planned for 1974 and 1975?
>
> 3. What quantity and percentage of the total production of these petrochemicals for agricultural production was marketed during calendar year 1973 and planned to be marketed in 1974 and 1975 through:
>
> (a) your own corporation or subsidiaries;
>
> (b) independent formulators and producers of agricultural chemicals;
>
> (c) others; specify if any.
>
> 4. What quantity and percentage of your total production of petrochemical feedstocks and/or intermediates were exported in 1973? What are the estimates for 1974 and 1975?
>
> 5. Is your company now taking any steps to increase the production of petrochemical feedstocks and/or intermediates to accommodate the need for such products in agricultural and industrial production?
>
> 6. While I understand that you may have contractual commitments that must be met, I would like your comments or suggestions regarding the establishment of a voluntary allocation system for the sharing or distribution of available petrochemical feedstocks.
>
> I would greatly appreciate any other thoughts you may wish to offer on these issues. Also, I would like to know what your plans are to assist in overcoming these short term problems until additional petrochemical production capacity can be brought on stream.

Responses to these questions are now being analyzed. A summary of findings will be prepared and included in the final July 24–25, 1974, hearing record. However, a cursory analysis of responses received to date generally indicate the following:

First, additional production of these raw materials does appear to be coming on stream, but most of it not before 1976;

Second, many producing companies of these raw materials do not seem to be aware of final use of their products, due to multiple and various use of them by others downstream;

Third, agricultural use of these raw materials seem to constitute a relatively small percentage of total production of them; and

Fourth, many companies are allocating available supplies on a voluntary basis, but based upon historical marketing, rather than on any end-use priority system.

FUELS AND ENERGY

The U.S. food and fiber sector accounts for about 13 percent of the total energy consumed in the United States today. Because U.S. agriculture is such a highly mechanized industry, petroleum and electricity are vital to its operations. Currently, farming alone accounts for about 3 percent of petroleum fuel and 3 percent of the electricity consumed in the United States.

Trends in total fuel use in farming reflect increased mechanization on farms. Fuel consumption in 1973 was estimated at 7.76 billion gallons as compared with 7.08 billion gallons in 1969 and 6.47 billion in 1964. By type of fuel, 4 billion gallons of gasoline, 2.5 billion gallons of diesel, and 1.3 billion gallons of LP gas—propane—were utilized in 1973.

A recent study, soon to be published by the Senate Committee on Agriculture and Forestry, which was conducted by the U.S. Department of Agriculture at the request of the committee, indicates that fuel use for farm production will likely rise a modest 4 percent to 1,095 trillion Btu by 1980. The greater production of food and fiber expected by 1980 will likely be produced on from 354 to 365 million acres, substantially lower than the 371 million acres harvested in 1973. Yields are expected to continue to rise as farmers continue to adopt new technology. The USDA study further indicates that the shift from gasoline to diesel-powered tractors and combines will likely continue with over 40 percent of all farm production fuel utilized by 1980 being diesel. LP gas use is expected to continue to increase slightly, as farmers expand crop-drying activities.

Of the 4,667 trillion Btu of energy used in 1970 for those food and fiber industries covered by the USDA report, 50 percent was liquid petroleum fuel—primarily diesel fuel, gasoline and LP gas. Natural gas supplied 30 percent of this total Btu and electricity, 14 percent. By 1980, assuming the same fuel sources for these industries, liquid petroleum fuels would decline to 48 percent of the Btu while natural gas is expected to increase from 30 percent to 32 percent, with electricity rising only slightly, according to the report.

Mr. John C. Sawhill, Administrator of the Federal Energy Administration, in his appearance before the Subcommittee on July 25, 1974, indicated that current FEA forecasts project no shortages of major fuels (excluding natural gas) for the United States through mid-1975, assuming only moderate conservation, which FEA anticipates. Mr. Sawhill also advised the Committee that the June 1, 1974, changes in the Federal Mandatory

Fuel Allocation regulations should correct problems that were encountered during the 1974 crop year relating to supplier difficulties in meeting their obligations to supply agricultural users with 100 percent of their fuel needs.

With respect to the supply and price of propane, Mr. Sawhill indicated that this year's inventory of propane was one of the best in the last decade. He said it is the third highest inventory in the last 8 years. Regarding agricultural uses of propane during the 1974–75 crop year he stated that most recent estimates indicate that there are sufficient supplies to meet "a moderately constrained demand."

A special propane price rule was adopted in January of 1974 by FEA. This regulation provided that the percentage of a refiner's total increased product costs in a 12-month period that can be allocated to propane under the pricing formula cannot exceed the percentage that the total sales volume of propane of that refiner is to the total sales volume of all covered products during the same 12-month period. On February 19, 1974, FEA issued further and more explicit guidance in the Federal Register for propane sellers regarding the January regulation. This action resulted in a rollback of propane prices to lower levels.

Despite this rollback in propane prices following the February action by FEA, propane prices began another climb upward. The Committee, in its questioning of Mr. Sawhill, not only took note of these developments, but requested Mr. Sawhill to take immediate action to bring propane prices back in line with FEA regulations. On August 1, 1974, FEA ordered propane sellers to adjust their prices downward in line with FEA earlier issued regulations. To date most sellers either have or are in the process of complying with the latest FEA order.

The Committee also discussed with Mr. Sawhill recent press reports that the Administration was planning to institute a deregulation of old oil and selected other fuels under their jurisdiction by February 28, 1975. The Committee not only expressed some caution regarding making such a move too precipitously but also requested that FEA maintain close consultation with the Senate Committee on Agriculture and Forestry with respect to any move or action contemplated that may affect the future supply of fuels to agriculture and related industries.

NATURAL GAS

The growing shortage of natural gas supplies portends serious energy supply problems for the U.S. food and fiber sector. Natural gas is the feedstock for our Nation's nitrogen fertilizer production and is the main heat and power fuel for many of the input supply and food processing firms. Conversion of these plants to use coal or oil, in the absence of natural gas, would be costly and would very likely increase retail food and fiber prices.

In 1970 natural gas comprised about 30 percent of all fuel used by the U.S. food and fiber sector in Btu terms. By 1980 it is expected to reach about 32 percent, according to a recent USDA study on the energy use and outlook for the U.S. food and fiber sector. The "input manufacturing industries" analyzed in this study consume about 20 percent of all the fuel and energy utilized by the food and fiber sector. Natural gas predominated as the energy for input manufacturing—83 percent of the Btu—with the fertilizer industry being the heaviest energy consumer of those studied in this group—accounting for nearly 60 percent (of the 83 percent). In 1970, fertilizer production utilized 491,044 trillion Btu of natural gas. By 1980, fertilizer production is expected to consume 581,447 trillion Btu of natural gas. Total energy consumption by fertilizer production from all sources is expected to increase from 555,707 trillion Btu—in 1970—to 659,358 trillion Btu by 1980.

Chairman of the Federal Power Commission, Mr. John N. Nassikas, in testifying before the committee on July 25, 1974, indicated that U.S. production of natural gas this last year amounted to about 22 trillion cubic feet, of which about 15 trillion was regulated by the Federal Power Commission, with the balance unregulated—federally—in the intrastate market. He projected a 55 percent increase in the shortfall of gas, from a year earlier, to meet firm commitment contracts for the period from April 1974, to March, 1975. This would bring the shortfall total to about 1.8 trillion cubic feet.

Mr. Nassikas reported that the Commission established a hearing docket—Docket No. RM 74-14—on Senate Resolution 289, adopted by the Senate in February 1974, relating to giving to the fertilizer industry the highest priority with respect to the allocation of natural gas. The Commission issued its findings and order on the docket on July 16, 1974. Mr. Nassikas indicated that 56 respondents filed comments in the proceeding, 44 of whom generally supported Senate Resolution 289. However, in its July 16 order, the Commission concluded that its existing priority system of service, and its existing emergency relief procedures, were adequate to protect the interests of fertilizer industries and agriculture related industries.

While the committee lauded the Commission's responsiveness this past year with respect to meeting fertilizer industry requests for natural gas under emergency relief procedures, the committee expressed disappointment with both the Commission and those provisions under the Natural Gas Act—section 7—regarding national priority responsiveness in meeting fertilizer and other agricultural industry needs for additional gas supplies to expand existing capacity, which is essential if future U.S. demands for nitrogen fertilizer, and food and fiber, are to be met.

The committee also reviewed with Mr. Nassikas the importance of greater coordination between the Commission and the Federal Energy Administration and the importance of the Commission providing stronger leadership and initiative with State regulatory bodies regarding end-use priorities for intrastate gas supplies.

The committee requested Mr. Nassikas to provide legislative drafting services to the committee in developing amendments to the Natural Gas Act which would require the FPC to provide higher priority status for agricultural uses of natural gas. While such legislation itself would not come under the jurisdiction of the Senate Committee on Agriculture and Forestry, it will be drafted for introduction consideration by committee members.

BALING WIRE

The supply of baling wire and barbed wire are increasingly falling short of demand. Farmers' and ranchers' needs for baling wire to bale hay and alfalfa for livestock feeding purposes continue to expand. They also need barbed wire to satisfy their fencing needs.

Representatives of two major U.S. producers of wire testified before the committee—Colorado Fuel & Iron, Inc., and Armco Steel Corp. Both indicated that their companies were producing wire at full capacity—24 hours a day, 7 days a week. However, only one of these companies—Armco Steel Co.—now has plans to expand production capacity. Armco recently announced a 50 percent increase in productive capacity at its Kansas City works plant, which is expected to be completed by 1977. Both companies are now voluntarily allocating available supplies of wire to jobber-sellers. Also, both company representatives cited the potential for sharply increased foreign imports of wire—principally from Japan—as their greatest fear with respect to expansion of existing production capacity.

Strand steel, a product used to reinforce concrete structures, such as farm silos, is also in critically short supply. In fact, only four U.S. companies now produce this particular product. Several companies that produced this product earlier, have since dropped it entirely due to foreign import competition. Now, it is questionable whether the few remaining U.S. manufacturers and foreign suppliers—principally Japan—can meet the growing demands for this product.

Evidence indicates that foreign suppliers of this product are now reluctant to keep up with the growing demands for this product in the United States, a market which they have almost completely taken over—70 percent. If these foreign suppliers fail to keep up with these growing demands, then our national policies which permit and encourage such U.S. market penetration should be reexamined and changed. The Huron Silo Co., in Huron, S. Dak., was recently notified by the Armco Steel Co. division that normally has supplied them with strand steel, that none will be supplied to them this next year. Unless Huron Silo can find a foreign supplier to provide them with strand, they will likely go out of business.

I intend to examine this market situation very thoroughly, and whatever steps are required to insure an adequate and sustained supply of these materials to U.S. users, I will urge be taken.

Mr. President, the many subjects that I have touched upon today all affect this Nation's future food supply. We have permitted our Nation's food reserves to fall to dangerously low levels. We have persistently failed in our Nation's food and agricultural policy to make allowances for adverse weather conditions, or abrupt changes in international market conditions.

And we continue to fail in not resolving many other national policy conflicts, such as those involving natural gas, which is greatly endangering our ability to meet our Nation's food and agricultural goals.

Mr. President, I was very pleased with the Senate's adoption of Senate Resolution 391. As was the case with Senate Resolution 289, I will be sending copies of this resolution, on behalf of the Senate, to all appropriate Federal and State officials, as well as relevant industry officials, asking them to advise me as what actions they will be taking in response to the Senate's resolution.

PUBLIC SERVICE EMPLOYMENT

Mr. JAVITS. Mr. President, on February 8, I introduced with nine cosponsors, S. 2993, the Emergency Energy Employment Assistance Act of 1974. There are now 13 cosponsors of this measure including Mr. NELSON, the chairman of the Subcommittee on Employment, Poverty and Migratory Labor, Mr. WILLIAMS, the chairman of the Committee on Labor and Public Welfare, on which I serve as ranking minority member, and Senators BIDEN, BAYH, BROOKE, CASE, HATHAWAY, HUMPHREY, KENNEDY, MOSS, RANDOLPH, RIBICOFF, and the distinguished minority leader, Senator HUGH SCOTT.

Under our proposal, there would be added to the Comprehensive Employment and Training Act of 1973 a new title, "Special Emergency Employment Assistance Program". Under this new title, there are authorized to be appropriated for fiscal year 1974, and the succeeding fiscal year, such sums as may be necessary, not to exceed $4 billion over the 2-year period; the 2-year period would, of course, be modified during subcommittee consideration, as fiscal year 1974 has ended since introduction.

Funds appropriated under this authority would be deposited in a special emergency employment assistance fund for utilization by the Secretary of Labor for the provision of transitional public service employment opportunities, and related training and manpower services, when the rate of national unemployment exceeds 6 percent for 3 consecutive months.

Funds could also become available before the 6 percent level if either the President or the Congress—by concurrent resolution—determines, after reviewing forecasts of anticipated levels of economic activity, that specified amounts should be made available.

Funds would be made available by the Secretary through the mechanism of the State and local prime sponsorship system established and now generally in place under the Comprehensive Employment and Training Act of 1973.

As I have noted previously, Dr. Arthur Burns, Chairman of the Board of Governors of the Federal Reserve System, in testimony before the Joint Economic Committee on August 6, indicated that he supports the expenditure of $4 billion for public service jobs if unemployment exceeds 6 percent.

Similarly, Secretary of the Treasury, William Simon, in testimony on August 2 before the Joint Committee, indicated that he was "intrigued" by our proposal.

Mr. President, I am very pleased to report that on September 1, Secretary of Labor, Peter Brennan stated during an interview on CBS "Face the Nation," that his Department had prepared a program of gradually rising payments to local governments to create jobs if national unemployment mounted.

Both the Secretary of Labor's proposal, as reported, and ours, embodied in S. 2993, anticipate the expenditure of approximately $4 billion for public service jobs.

We differ principally—and importantly—on the question of when the situation is serious enough to make such amounts available.

As I indicated, under my proposal all of the funds—$4 billion—would be triggered at the 6 percent level at the latest—since Congress or the President could act before.

On the other hand, as outlined in the Times, Secretary Brennan favors a more conservative schedule, as follows:

If unemployment reached 5.5 percent, the present program of about $500 million, creating just under 100,000 jobs, would be slightly more than doubled to a little more than $1 billion.

If the jobless rate rises to 6 percent, another $1 billion would be added for an additional 200,000 jobs.

If the rate goes to "around 7 percent," the program would be expanded to create "about 800,000 public service jobs" in all, which would cost at least $4 billion.

While these and other possible differences—for example, the amount of expenditure per job—are significant, I shall make every effort as the program is refined within the Administration itself to develop appropriate legislation at the subcommittee and committee levels which will meet the unemployment which we are likely to face in the most realistic and productive way.

Mr. President, I am pleased also in this connection, that the New York Times of September 2, in an editorial entitled "Labor Day: Fresh Start" endorsed the concept of the use of public service employment in the present situation, stating that "There is a need for a public service employment program to create jobs for those laid off, should measures to stop inflation overshoot and dump the economy."

The editorial further stated:

> President Ford has said he would regard such a program with "compassion", if it proves to be needed. But nothing could be more chaotic and wasteful than a public jobs program improvised under the gun of a sudden leap in joblessness. Government planning to reduce unemployment should aim not at "make-work" programs but at programs of lasting value to increase education and training, staff the nation's hospitals, expand low-income housing, and improve the environment.

In that connection we are very benefitted by the fact that the experience with the public employment program under the Emergency Employment Act of 1971—which we seek to replicate—has already demonstrated that a public jobs program can be implemented quickly without chaos and waste and results in a very beneficial rather than "make-work" program.

Experience under the EEA, documented by the Department of Labor, shows:

> Jobs have not been make work. Public Employment Program (PEP) jobs have been created in the following categories: Public works and transportation, 22%; Education, 20%; Law enforcement, 12%; Health and hospital services 9%; Parks and recreation, 8%; Social services, 6%; Environmental protection, 4%; Fire protection, 2%; and General administration and other, 17%.
>
> Jobs under the Act have not been "dead-end"; Department of Labor statistics show that more than one-half of former participants have found jobs with public or private employers; a national sample of PEP participants showed that one month after they have left PEP, 71 percent were in jobs, and were earning an average of $3.30 an hour. Six months after leaving PEP, 79 percent had jobs, while a year after PEP, 82 percent were employed. This is a very impressive record considering the general difficulties complicating the employment situation in the economy during this period.

The program which I have proposed would follow the pattern of the Emergency Employment Act program and—with an average cost of $8,000 per job—continue the practice established under the EEA of providing meaningful rather than "dead-end" or "make-work" jobs.

Mr. President, again on Saturday, September 7, the New York Times indicated its support for public service employment programs. After commenting upon the increase in the unemployment rate from 5.3 percent to 5.4 percent in August, which had been announced the previous day, the Times editorial concluded:

> It is plain that such a prospect does bespeak need for monetary policies designed to bring interest rates down from their present discouragingly high levels and to make credit more readily available for industrial revival and housing. It also indicates the importance of swift joint action by Congress and the White House to activate useful programs of public-service employment, aimed at providing at least 800,000 jobs when National unemployment edges above 6 percent. This is not the totality of a program required to cope with the double peril of inflation and recession, but it is an indispensable ingredient.

Mr. President, the need for a greatly expanded public service employment program is being felt particularly in New York City and State, as it is all over the country.

Unemployment statistics in an excellent article written by Soma Golden and appearing in the New York Times of September 1, 1974, depressingly document the situation.

Among the findings of the article are the following:

Estimates of unemployment for July show New York State to have a far greater problem than the rest of the Nation: 5.6 percent in New York State compared with 5.3 percent nationally.

Rates in New York greater metropolitan area averaged 6.9 percent for the month.

New York City had a rate of 7.5 percent.

Since 1969, New York City has lost more than 250,000 jobs—a drop of 7 percent.

Since 1969, job market participation rates for blacks and other minority groups in New York City have dropped from 61.1 percent of the work age minority population to 54.6 percent in 1973.

Mr. President, to deal with this situation, as well as similar hardships throughout the Nation, I am hopeful that, following the favorable recommendations of his advisers, President Ford will move quickly to provide for a public job program along the lines proposed in S. 2993.

In the interim, joining with Senator KENNEDY and others, I have appeared before the Subcommittee on HEW-Labor Appropriations on the HEW-Labor appropriations bill for fiscal year 1975 seeking an additional $300 million specifically for public service employment under the Comprehensive Employment and Training Act—above the $350 million requested by the administration—as well as an increase in funds for CETA generally; the Committee on Appropriations has not yet acted.

Mr. President, I ask unanimous consent that there be printed in the RECORD a copy of an article in the New York Times of September 2, entitled "U.S. Plans Grants To Help Jobless if Rate Goes Up", a copy of an editorial in the New York Times of September 2, entitled "Labor Day: Fresh Start," a copy of an article in the New York Times of September 1, entitled "Recession is not a Threat, It's a Fact in New York City," a copy of an article in the New York Times of August 17, by Michael Stern entitled "Jobs Drop 41,000 in City in a Year," and a copy of a letter to Chairman MAGNUSON from Senator KENNEDY, myself and others, a copy of a New York Times editorial of September 7, entitled "Recession Barometer," and a copy of my press release of September 6, entitled "Javits urges White House to take action on public Service Jobs as Unemployment Increases."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. PLANS GRANTS TO HELP JOBLESS IF RATE GOES UP

(By Edwin L. Dale, Jr.)

WASHINGTON, September 1.—Secretary of Labor Peter J. Brennan said today that his department had prepared a program of gradually rising payments to local governments to create jobs if national unemployment mounted.

Mr. Brennan said that under this proposal a large program of "public service employment"—amounting to about 800,000 jobs—would not be "triggered" until the national unemployment rate reached "around 7 per cent." It is now 5.3 per cent of the labor force.

Arthur F. Burns, chairman of the Federal Reserve Board, has backed a proposal of Senator Jacob K. Javits, Republican of New York, that would lead to a large program of about $4-billion for public service jobs when the unemployment rate reached 6 per cent. President Ford has promised "compassionate" consideration of the idea, but has made no commitments.

FORD ASKS LABOR'S AID

In a statement for Labor Day, President Ford urged organized labor to help increase productivity and fight inflation.

"I am confident," Mr. Ford said, "that the men and women of the American labor movement know that the struggle against inflation is a joint venture by all segments of the American people—and that they will do their part."

However, a less-than-conciliatory note was sounded by George Meany, president of the American Federation of Labor and Congress of Industrial Organizations, on the issue of possible voluntary "guidelines for wage and price behavior" mentioned by Mr. Brennan.

"If we had guidelines now," Mr. Meany said, "I am sure they would be just as rigidly enforced as legal controls and we would be compelled to strike, and if we struck against the guidelines, we would be considered very unpatriotic and so on and so forth."

BRENNAN INTERVIEWED

Mr. Brennan was interviewed on the CBS "Face the Nation" television program. His department administers the relatively small existing program of grants to state and local governments to hire people for jobs that the local governments think need to be done. He gave the following schedule of proposed increases:

If unemployment reaches 5.5 per cent, the present program of about $500-million, creating just under 100,000 jobs, would be slightly more than doubled to a little more than $1-billion.

If the jobless rate rises to 6 per cent, another $1-billion would be added, for an additional 200,000 jobs.

If the rate goes to "around 7 per cent," the program would be expanded to create "about 800,000 public service jobs" in all, which would cost at least $4-billion.

While Mr. Ford has not adopted any particular program in this area, high Administration officials, as well as the President's own words, have indicated that public service employment would probably be the first area of attack if unemployment should mount, as many forecasters expect.

EFFECT ON BUDGET

The problem with the plan is that it would add further to Government spending and the budget deficit. Mr. Brennan's remarks today indicated that the Administration was likely to favor a somewhat more cautious and conservative plan than that backed by Dr. Burns and Senator Javits, on which hearings will begin shortly in the Senate Labor Committee.

Mr. Meany, interviewed on the American Broadcasting "Issues and Answers" program, said that wage and price guidelines "would be just as unfair as wage and price controls."

However, Mr. Brennan said, "I think this may be a way we may have to go." He emphasized his uncertainty on the point, and added that "we would have to look at each industry and how you would set the guidepost that applies to that particular industry."

He also termed "unfair" a general rule that unions could ask for a specific amount such as 8 or 10 per cent in wage increases, on the ground that various groups in the labor force have had increases recently while others have not.

Mr. Brennan is a member of the newly created Council on Wage and Price Stability, which will have to deal with the issue of guidelines.

NEED TO "CATCH UP"

Mr. Meany reiterated his view that workers were entitled to "catch up" in their wages to the rise in prices, and added. "There is absolutely no way for the workers to catch up except through his wage envelope and if he has the machinery, if he has the union, if he has the will to make the demands and back them up, that is what is going to happen."

Mr. Brennan, too, said workers were entitled to a catch-up in their wages but asserted that "the unions should try to hold within what the increase in costs has been." He added that "management has to realize that if the labor group is willing to do this, then they have to do something about taking a smaller profit, and do something about their prices that are holding costs up."

STATEMENT BY FORD

I salute the working men and women of America on the 80th anniversary of labor's special day. Their strength of mind, heart, and hand continues to guide our destiny.

As American society has changed in modern times, the role and needs of labor have also changed. A need for organization arose and was filled.

Today, therefore, we salute not only the 93 million men and women in the labor forces, but also the organizations which represent labor so well. The goals of those organizations were eloquently summed up by Samuel Gompers 81 years ago, when he said that labor wants "more schoolhouses and less jails; more books and less arsenals; more learning and less vice; more constant work and less crime; more leisure and less greed; more justice and less revenge; in fact, more of the opportunities to cultivate our better natures."

The organized efforts of America's working men and women have been instrumental in helping move this nation a long way towards those goals. Today, the nation needs their support in a new struggle for productivity—for more purchasing power and less inflation. I am confident that the men and women of the American labor movement know that the struggle against inflation is a joint venture by all segments of the American people—and that they will do their part.

On this Labor Day, I say to my fellow Americans who have provided us with so much in the past and from whom we expect even more in the future—"thank you."

LABOR DAY: FRESH START

Labor Day, marking the end of summer and the real start of another working year, is an appropriate time to assess the job that now has to be done to restore order and balance to the United States economy.

The need for such an economic assessment is greater today than at any time since the Great Depression of the nineteen-thirties, although the current problems are vastly different from those the nation faced then. In a sense, the present dominant problem—inflation, which President Ford has called "public enemy number one"—is the counterstroke of the dominant problem of the Depression years, mass unemployment.

In consolidating the political determination never to undergo such a catastrophe again, and in developing the monetary and fiscal tools to prevent wholesale joblessness, this country and many others swung to an opposite extreme that bred chronic inflation. Now the country is learning that, just as deflation brought serious hardships in its train, so does inflation.

Soaring interest rates undermine the entire financial structure of the economy; some industries reap enormous profits while others undergo heavy losses; some individuals prosper while others—unable to keep up with soaring prices—suffer a drop in their standard of living and the value of their savings, pensions and insurance policies. If clumsily handled, the end of inflation could bring a lurch to worldwide deflation and depression.

Between the blundering courses of past policies that have produced first global deflation, then inflation, there is no simple "old-time religion" or formula that will magically restore the United States to that bliss-point which a comedian once called "flation."

The need now is to reinforce efforts to set both monetary policy and the budget back on a course that is neither too stimulative nor too repressive with a broader program of measures aimed simultaneously at checking inflation and preventing excess unemployment.

Such a program should include an incomes policy to restrain inflationary wage and price increases, but this cannot be done without the support of both management and organized labor. And that support from labor will not be forthcoming unless the incomes policy is fair—part of a "social compact." A lower rate of wage settlement might be achieved if workers were assured of a reduction in their payroll taxes, which would increase their take-home pay, and would thereby avoid extra production costs on employers.

A true social compact necessitates measures to increase the fairness of the tax system, widen educational opportunities and health services and prevent the burdens of unemployment from falling upon those who are also the prime victims of inflation. There is need for a public-service employment program to create jobs for those laid off, should measures to stop inflation overshoot and dump the economy.

President Ford has said he would regard such a program with "compassion," if it proves to be needed. But nothing could be more chaotic and wasteful than a public jobs program improvised under the gun of a sudden jump in joblessness. Government planning to reduce unemployment should aim not at "make work" programs but at programs of lasting value to increase education and training, staff the nation's hospitals, expand low-income housing and improve the environment.

Mr. Ford is moving toward an economic "summit" meeting later this month with leaders of labor, business, agriculture and the economics profession—a consultative process that begins this week. An economic summit could become a meaningless battle above the clouds, however, if participants simply pursue their own interests and dogmas. If, instead, all strive for a new understanding of the national problem—and a new social compact—the summit could mark the beginning of a broader program to deal with the unsolved inflationary problem left over from the Great Depression.

[From the New York Times, Sept. 1, 1974]

Recession Is Not a Threat, It's a Fact in New York City

(By Soma Golden)

"We've managed to abolish the business cycle in New York City. Now we no longer have recoveries." With these gloomy words, the metropolitan region's top labor market analyst, Herbert Bienstock, summed up the city's last five years of sputtering economic growth. While the rest of the country and much of the New York region moved from a slump into a boom, the city itself stayed behind, watching the ranks of its employed shrink year by year.

Now, with the nation headed for what many experts believe is another recession, there is growing concern that the economic downturn here may be still more severe. "Last year was a recession year here," said Mr. Bienstock, head of the Department of Labor's regional Bureau of Labor Statistics, "and 1974 gives every indication of being worse, at least by labor market measures."

The most common of these is the unemployment rate. Estimates for July show New York and the region to have a far greater problem than the rest of the nation. The national jobless rate rose to 5.6 per cent, or 5.3 per cent after adjustments for seasonal variations. Rates in the greater metropolitan area, which, for Labor Department purposes, includes northeastern New Jersey, Long Island, Westchester, Rockland and Putnam counties (see map), averaged 6.9 per cent for the month. That is without seasonal adjustments, because none are available.

A general figure for the region hides a wide variety of jobless rates, most of them far higher than the national average. In July, while Westchester County's unemployment was at 4.8 per cent, lowest in the region, Jersey City and the Paterson-Clifton-Passaic area had a 9.5 per cent level, highest in the region. The figure in New York City reached 7.5 per cent, up sharply from 6.8 in June.

For the country's biggest city, unemployment is a twin-edged problem—partly the result of this year's slowdown across the country, partly the continuation of a long-term decline. Since 1969, New York City has lost more than 250,000 jobs, a drop of nearly 7 per cent. Manufacturing employment, which peaked at 1,066,000 jobs in the early 1950s, is still falling fast.

The construction industry, another major city employer, peaked in 1962, when the World's Fair, a zoning change, and a hotel building boom employed more than 130,000 workers. Since then construction work has been increasingly hard to find, and this year, with the housing industry in a severe recession, construction jobs are declining still more.

Wall Street is another job source that is drying up. Employment has been declining steadily since 1970, and with the stock market tumbling and brokerage houses sharply cutting expenses to survive, jobs in this sector are likely to thin out further.

Another major job category that is diminishing is wholesale and retail trade, where 11,600 jobs have disappeared since June, 1973. "Department stores were doing relatively well till the end of 1973," said Mr. Bienstock. "In the first six months of this year they started to fall."

Hidden in these numbers is a serious new specter for the city. "We used to worry about losing manufacturing jobs," said Mr. Bienstock. "Now we've begun to fall behind the rest of the United States on the growth of service jobs too."

Some of the work obviously is moving to the suburbs. Nassau, Suffolk, Westchester and Rockland counties increased total payrolls by 31,400 jobs during the same time that the city lost 41,000. And the rise in wholesale and retail trade positions in the New York suburbs almost precisely matched the city's loss.

In New Jersey, however, the picture is not as good, even though total employment rose by 4,000 since June, 1973. Manufacturing for the first time showed a sharp loss; some 8,000 jobs have vanished.

The only real strength in northeastern New Jersey employment has come from the public sector, with a yearly rate of 9,600 jobs. As elsewhere in the region, construction is off west of the Hudson.

The lack of adequate growth in job opportunity may explain the relatively high unemployment rates in the New York region. But the unemployment rates themselves may not be a very good indicator these days of how the labor market is operating particularly in the ghetto areas and central cities.

THE INVISIBLE JOBLESS

Mr. Bienstock points with particular urgency to a statistic that is usually neglected, the so-called participation rate. This figure goes beyond the visibly unemployed, those looking for work, and traces people who, for some reason such as illness or frustration in efforts to find work, have simply dropped out of the job market. They are neither employed nor looking actively for work and thus are not counted in the labor force.

Since 1969, job market participation rates for blacks and other minority groups in New York City have dropped dramatically, from 61.1 per cent of the work age minority population to 54.6 per cent in 1973. "This is a frightening trend," Mr. Bienstock says. "If this 6 per cent change had shown up on the unemployment rate instead of the participation rate, somebody somewhere would have gotten excited about it."

Somebody has. Across the Hudson River, Harry L. Wheeler, director of Manpower for Newark, calls the Labor Department's method of estimating unemployment "totally inadequate." The state of New Jersey and the city of Newark are currently involved in litigation to prove that point.

Mr. Wheeler, who says that Newark's jobless rate is at 17 per cent and rising, cannot prove this because Newark, unlike New York City, has no monthly unemployment or employment figures. Neither does Newark have a calculated annual jobless figure.

Instead, for purposes of the Labor Department, Newark is generally lumped together with Essex, Morris, Union and Somerset counties. The area had a 7 per cent jobless rate in July, considerably below Mr. Wheeler's estimate for Newark alone.

Manpower officials in the region have no grand scheme to fight the further rise in unemployment expected from the current decline in the economy. The hope seems to be that President Ford will establish a massive new job-creation program. Currently, funds under two existing public service programs, the Emergency Employment Act and the Comprehensive Manpower and Training Act, are flowing into the region.

But the flow isn't very fast. In Newark, for instance, plans are under way to spend $1.4-million of Federal money this fiscal year to provide work for about 200 people. With 20,000 persons jobless in the city, by Mr. Wheeler's count, the money won't go very far. "It's a positive move," says Mr. Wheeler, "even if it's not adequate."

Jobs Drop 41,000 in City in a Year

(By Michael Stern)

The number of jobs in the metropolitan area fell 6,000 between June, 1973, and last June, led by a loss of 41,000 jobs in the city that was only partly offset by a gain of 35,000 outside the five boroughs.

Herbert Bienstock of the New York office of the Bureau of Labor Statistics announced the figures yesterday and said the employment decline in the city was a "substantial acceleration" of the job losses that New York had been experiencing for more than four years.

The decline of 41,000 was the sharpest of any year-to-year drop in 21 months, Mr. Bienstock said. The year-to-year losses had been averaging 30,000 in the three months from March to May, and 15,000 in the months from last December to last February.

Both the city and the metropolitan area as a whole had more jobs in June than in May of this year, but the increases were significantly lower than the usual seasonal rise.

For the city, the job total rose 2,200 in June to 3,528,100. For the area, the job total rose 2,200 in June to 3,528,100. For the area, which includes the city, Nassau, Suffolk, Westchester and Rockland Counties and eight nearby New Jersey counties, the total rose 37,500 to 6,680,800.

The contrast between different sections of the metropolitan area is striking, Mr. Bienstock said. For the four suburban New York counties, which added 31,400 jobs from June to June, there was growth in all employment categories except construction.

For the New Jersey counties, there was a net gain of 4,000 jobs, with heavy losses in manufacturing and construction and gains in services and government employment.

For the city, the loss of 41,000 jobs covered all categories except government employment, which was up 400 jobs. The biggest losses were the manufacturing, 15,700 jobs, wholesale and retail trade, 11,600, and transport and utilities, 8,800.

U.S. SENATE,
COMMITTEE ON LABOR
AND PUBLIC WELFARE,
Washington, D.C., July 30, 1974.

Hon. WARREN G. MAGNUSON,
Chairman, Appropriations Committee, Subcommittee on Labor; Health, Education, and Welfare, Washington, D.C.

DEAR MR. CHAIRMAN: We are writing to request that an aggregate of $2.950 billion be included in H.R. 15580, the HEW–Labor Appropriations Act for fiscal year 1975 for programs under the Comprehensive Employment and Training Act of 1973, compared with an aggregate of $2.450 under the House bill, as follows:

$2.080 billion available for Title I of the Act with $200 million earmarked for an estimated 28,500 public service jobs nationwide, each for a one year period. This total amount of $2.080 is $751 million above the Administration's request and $400 million above the House bill. For fiscal year 1974, $1.540 billion was appropriated for training programs under Title I and $250 million was appropriated for public service jobs nationwide through the transitional provision of CETA, utilizing the Emergency Employment Act. The additional unearmarked funds in Title I will permit the job training and other programs to continue at their level of a year ago, after inflation is taken into account and will enable prime sponsors to begin new innovative job training efforts.

$450 million for public service employment programs in areas of substantial unemployment (having 6½% unemployment for three consecutive months) under Title II of the Act for an aggregate of 64,200 jobs. This is $100 million above the amount requested by the Administration and included in the House bill which would provide 50,000 jobs.

We expect that a substantial portion of the $620 million appropriated for public service employment for fiscal year 1974 will be expended in fiscal year 1975. Together with these carryover funds, the $200 million we are seeking to add as earmarked Title I funds, and the $450 million for Title II, our request would provide a level of funding of approximately $1.25 billion for an aggregate of 178,571 jobs. This would basically restore the level of funding for public service employment and the level of jobs to the fiscal year 1973 level under the Emergency Employment Act of 1971.

Between $420 million (the House-approved level) and $550 million (the maximum under CETA section 4(e)) would be available for CETA Titles III and IV. We believe that sufficient funds must be allocated to maintain funding of such Title III national impact programs as OIC, SER, and Mainstream at least at the fiscal year 1973 levels and to provide adequate support for bilingual and ex-offender programs.

As you know, this fiscal year will be the first year of full operation under the new prime sponsorship system established under the Comprehensive Employment and Training Act of 1973.

We believe it essential that, as states, cities, and counties assume responsbility for job training and public service employment efforts, that they do so with sufficient resources to insure success.

In light of the fact that there are over 4.7 million unemployed persons as well as millions of other "hidden" unemployed, who could benefit from job training programs, we believe it essential that efforts to meet these needs be expanded beyond the present coverage of manpower programs, which remains at approximately one million persons.

For these reasons, we would appreciate your consideration of our recommendation for increased CETA funding.

Sincerely,

EDWARD M. KENNEDY.
JACOB K. JAVITS.
ALAN CRANSTON.
BIRCH BAYH.
GAYLORD NELSON.

[From the New York Times, Sept. 7, 1974]

RECESSION BAROMETER

Unemployment, harshest of all measures of economic distress, is continuing its slow upward creep. It would be irresponsible to make much of the slight increase registered in the national joblessness rate last month if it were not simply an extension of a climb that began last October—one that already has added roughly a half-million workers to the lugubrious roster of those looking for jobs they cannot find.

Small though it is, the further increase in unemployment in August underscores the urgency of the warning given by economists of widely divergent basic philosophies at the first of President Ford's pre-summit conferences on the economy this week. Their surprisingly unanimous advice at a session called primarily to suggest ways to combat rampant inflation was that the time had come for the Federal Reserve Board to loosen its tight rein on the money supply lest the sluggish economy drift lower still, with painful casualties in jobs and business activity.

No sense of panic gripped the economists, but there was a general feeling that the unemployment rate—now at 5.4 per cent—would get up in the next few months to at least 6 per cent and a few thought it might go as high as 7 per cent.

It is plain that such a prospect does bespeak need for monetary policies designed to bring interest rates down from their present discouragingly high levels and to make credit more readily available for industrial revival and housing. It also indicates the importance of swift joint action by Congress and the White House to activate useful programs of public-service employment, aimed at providing at least 800,000 jobs when national unemployment edges above 6 per cent. That is not the totality of a program required to cope with the double peril of inflation and recession, but it is an indispensable ingredient.

JAVITS URGES WHITE HOUSE TO TAKE ACTION ON PUBLIC SERVICE JOBS AS UNEMPLOYMENT INCREASES

Following is the statement by Senator Jacob K. Javits (R–NY) after the announcement of the August 1974 unemployment figures from the U.S. Department of Labor:

The rise in the national unemployment rate to 5.4 percent for August (with 4.9 million unemployed), compared with 5.3 percent in July—while not yet an alarming jump—shows a movement upward toward the 6.0 percent levels which many economists and Administration officials project over the coming months.

Already, the most recent statistics show New York State to be running ahead of the rest of the nation with 5.6 percent unemployment in July, and with rates in the Greater New York Metropolitan Area at 6.9 percent.

Since 1969, New York City itself—which had a rate of 7.5 percent in July—has lost more than 250,000 jobs, a drop of 7 percent.

Before the national and local situations get worse, unemployment must join with inflation on the Administration's and the Nation's 'public enemies list.'

To that end, I urge that the Administration:

First, make available to states and cities immediately $65.0 million in discretionary carried-over Fiscal Year 1974 funds available nationally under Title II of the Comprehensive Employment and Training Act of 1973, which provides funds for public service employment programs to areas of 'substantial unemployment,' (areas having unemployment rates of 6.5 percent or more for three consecutive months). At a cost of $8,000 per job, the $65.0 million could create approximately 8,125 jobs nationally.

New York State and New York City have already received respectively $54.4 million (for 6,800 jobs) and (as a part of the State total) $28.6 million for 8,570 jobs from non-discretionary Fiscal Year 1974 funds allocated under Title II and other provisions of the Act, and which may be used in this Fiscal Year.

Second, make available at the earliest opportunity the $350.0 million requested for Fiscal Year 1975 by the Administration for Title I of the Comprehensive Employment and Training Act and now before the Congress in the HEW–Labor Appropriations bill, which the Senate Committee on Appropriations will act upon shortly. Based upon projections of Fiscal Year 1974, Title II allocations—which will apply for Fiscal Year 1975 depending upon the number of new areas which qualify—New York State could receive approximately $30,285,000 (or approximately 3,785 jobs) in non-discretionary funds from that source, of which $15,659,000 (or approximately 2,000 jobs) would be available in New York City; already New York State and New York City have received allocations respectively of $113,000,000 and (as a part of the State total) $63,000,000 in general manpower training funds (which may be used for public service jobs at the discretion of State and local sponsors) under Title I of the Act for Fiscal Year 1975.

Third, support the request which I made along with Senator Kennedy and others, to the Appropriations Committee to provide in the Labor-HEW Appropriations bill an additional $300.0 million specifically for an additional 47,000 jobs nationally figured at $8,000 per job above the Administration's request of $350.0 million.

Fourth, support even before the current economic conferences are completed, legislation such as I and eleven other Senate cosponsors have proposed in S. 2993, the "Emergency Energy Employment Assistance Act of 1974", for an automatic triggering of $4.0 billion if national unemployment reaches 6.0 percent for three consecutive months, for a total of approximately 500,000 jobs at $8,000 per year, with appropriate triggering of funds before the 6.0 percent level as determined by the Congress and the President."

PROJECT INDEPENDENCE

Mr. STEVENSON. Mr. President, on Monday I testified at the Federal Energy Administration's Chicago regional hearing on Project Independence. I ask unanimous consent that the text of my testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY BY SENATOR ADLAI E. STEVENSON, PROJECT INDEPENDENCE HEARINGS

In discussing "energy independence" we ought first to agree on what it is.

It matters little that the source of oil is Kuwait or the U.S. balance of payments considerations are, of course, a factor, but so is the desirability of drawing down foreign sources of oil before depleting our own.

So, I suggest that by "independence", we mean an assured supply of energy for the nation at a reasonable cost. Oil will always be available for a price. It is available now in surplus—but the price is prohibitive.

The price is the key question, and besides, as you Dr. Sawhill have indicated, the nation may still be importing 25 percent of its oil 11 years from now. The price of oil has swung the major consuming nations' balance of payments into deficit, brought massive transfers of wealth from the consumers to the producers, burdened consumers with inflation and recession and raised the specter of famine and revolution throughout much of the world. Our primary concern must be the price of oil, only secondarily its source.

I suggest also that any effort to achieve "energy independence" recognize that the economic welfare of the United States is inseparable from that of its trading partners. They, too, must be assured an adequate supply of energy at a reasonable cost. To that extent independence requires a sharing of research efforts to develop alternative sources of energy, an agreement to share energy itself in order to strengthen the bargaining position of the consumers, joint bargaining with the producers and agreed sanctions, if necessary, to counteract arbitrary and oppressive actions by producers which seriously restrict access to oil.

Other consuming nations are moving to relieve themselves of dependence on the international oil cartel. The United States, which geophysically is among the most fortunate, lags behind in many respects.

For years the major oil companies and the administration told us that higher prices and higher profits were necessary as incentives to develop increased sources of energy. It isn't that simple. Increased supplies can bring prices and the value of oil and gas reserves down. Both the major oil companies and the governments of producing countries have discovered they can make more money by producing less. And their objective, after all, is to make money, not oil, a fact of life the United States has consistently refused to acknowledge.

For the last nine months we have been told again and again that a world oil surplus will bring down OPEC oil prices. In the month of August, the world oil surplus was over two million barrels per day. But prices did not fall. Instead, Kuwait and Venezuela cut production, and the producer governments discussed price increases. As we meet here, OPEC is convening in Vienna to discuss further production cuts. In Saudi Arabia, which appeared willing to consider price decreases, Aramco, managed by U.S. major oil companies, cut production by ten percent in the month of August.

This monopolistic ability to increase price by decreasing supply, used by the Arabs, has not been lost on the major oil companies. A recent GAO report indicates that despite a tripling in the price of "new" crude oil in the last year and a half, domestic oil production has continued to decline. Refinery runs during the last week in August ran 11.5 percent behind the same week last year. Over the last five months of this year, major oil companies have produced over one billion less gallons of gasoline than in the same period last year.

Despite the fact that natural gas prices have doubled over the last two years, the FPC indicates that major oil companies have shut-in almost five trillion cubic feet of commercially producible natural gas from 163 leases it studied in the Gulf of Mexico; and that is just 168 out of more than 2,200 oil and gas leases nationwide in the public domain.

In the fall of 1972, the major oil companies ran their refineries below capacity, drew down their gasoline inventories at record rates, and in the face of a predictable increase in demand, assured the Congress and the country that there would be no fuel shortages.

It is the same story over and over. Our Government is either incapable of learning from its mistakes or incapable of standing up to the Nation's most powerful industry. Spokesmen for both talk about free enterprise where little exists. They confidently predict falling world oil prices, and production falls instead. Prices and oil company profits rise. Whether it is the oil depletion allowance, the route for an Alaskan pipeline, import quotas, an oil allocation program or oil price controls, the Government submits to the demands of the major oil companies.

Now foreign producers indicate they must increase prices still further in order to offset the effect of inflation on the prices they pay for their imports. And so the wheel may take another turn. The oil companies go along with foreign price increases because they are helpless and have nothing to lose. Their costs are passed on. That is their right, but it is not the right of the Government to always go along, no matter what the consequences for the American consumer and the American and world economy.

In short, the Government has left the Nation to the mercies of a handful of major oil producing corporations and countries. They control the price and supply of our most vital commodity—energy. Instead of acting to save the nation, the administration is reportedly advocating the decontrol of "old" oil prices as well as the deregulation of "new" gas and, to make matters worse, an additional ten cent gasoline tax increase. Oil and gas prices in the United States are linked to world market prices. If presently controlled oil and gas prices are permitted to rise to the stratospheric levels established by the international oil cartel, and then are increased further by a gasoline tax increase, the consequence will be more inflation, more recession and possibly an increase in the world market price with still another turn of the wheel to follow.

To achieve independence the government must first understand that what is good for Exxon and Kuwait is not good for the United States. At the threshold, what is required is an act of emancipation, a firm declaration that the oil companies will not make or administer energy policy in the United States; project independence requires at the outset decision making that is independent of the international oil cartel. The purpose of that cartel is to increase price and profit by decreasing supply. Its purpose is, therefore, in direct conflict with the purpose of project independence. Not since Theodore Roosevelt has the nation enjoyed leadership willing to take on the fuels trust—now the nation's largest and most powerful and most pampered industry. Regrettably, I see little evidence of a determination in either the Congress or in the executive branch to proclaim by deed and word the nation's emancipation.

The keystone of an independent policy for energy independence must be fourfold:

An increase in domestic energy production and standby capacity,

New supply alternatives, including a new kind of supplier,

A new energy ethic which emphasizes conservation, and

Effective two-way bargaining with the foreign producers.

With action along these lines, project independence can provide us with a choice of drawing down world energy resources before we draw down our own. The price and availability of foreign supplies will be more favorable if foreign suppliers know that at some point we can turn to our own.

Central to such a strategy is the question of who shall develop increased domestic oil and gas supplies and maintain the standby reserves. If that responsibility is put in the hands of the international companies, project independence will produce more dependence.

If major oil companies will not produce the shut-in natural gas from the public domain in the Gulf of Mexico, we should find a producer who will.

If the major oil companies are not driving a hard bargain with their Arab partners because they are weak and get a share of each price increase, there ought to be a bargainer who will.

And some agency ought to develop public oil and gas reserves and maintain them in a state of readiness. Probably more than one-half of the nation's oil and gas resources are owned by the public. A portion should be developed and maintained for the public.

It is time to create a new producing entity that puts the American public's energy interests first. It is time to inventory our oil and gas resources before more are leased out in our national forests for 50 cents an acre and for ten year lease terms with little or no appreciation of their value or whether the environmental price is worth paying. It is time also to reintroduce competition in the domestic energy market by creating a U.S. oil and gas corporation to develop publicly owned oil and gas for the public. A government oil and gas corporation would increase energy options by doing what the major oil companies are unwilling or unable to do:

Provide a full inventory of the nation's oil and gas energy resources on the public lands and off shore properties,

Develop standby, ready oil and gas reserves for emergencies,

Negotiate with foreign governments for the acquisition of production facilities and crude oil,

Produce in environmentally sound ways and sell crude oil to independent refiners, maintaining competition at the refining level and a reasonable crude oil price, and

Provide a detailed, reliable accounting of the cost of developing and producing public oil and gas resources.

The goal of the Government Oil and Gas Corporation is the same as Project Independence—to break the stranglehold of those who control energy prices and supplies and are driving the world's economy to the brink of ruin. An industrialized nation's energy supply is too important to be left to the whims of a few major companies and foreign producing governments.

Among all the industrialized nations of the world, ours is the only one without a government oil and gas corporation either planned or in operation. They are not all wrong—and if they can do it successfully—so can we.

Increased natural gas supplies must also be a major goal of Project Independence. Unlike oil, we face immediate and real natural gas shortages. Because of a twenty year legislative deadlock between producers and consumers of natural gas over reform of the natural gas regulatory system, natural gas prices in recent years have not provided the necessary incentives for increased supplies. Senator Pearson and I have authored a bill to increase producer incentives on the one hand and protect the consumer against extortionate prices of the major natural gas producers on the other hand. This proposal could break the deadlock over natural gas legislation.

I know Mr. Sawhill is familiar with the provisions of this legislation and I will not take time to discuss it in detail. I do ask that a copy of my statement describing the bill in detail be inserted in the Record at the conclusion of my remarks.

In addition to broadening our energy options through the creation of a public oil and gas supplier and added incentives for the production of natural gas, we must also redouble our efforts to develop alternative energy sources.

Over 2½ years ago I warned of an approaching energy crisis and pleaded with the administration to double Federal funds for developing environmentally sound uses of our most abundant and under-utilized fuel, coal. In 1972, the administration greeted my proposal with almost as much enthusiasm as my proposal for an oil and gas corporation. This year the administration finally acknowledged the need to double and then quadruple funds for coal research.

Coal makes up 94 percent of all our primary energy resources. It provides only about 17 percent of all our consumed energy. Ten percent of all the Nation's coal reserves are located here in Illinois. Illinois coal is blessed with the highest heating value of any coal in the Nation, and cursed with the highest sulphur content. With vast coal and water reserves, the Nation's most advanced pilot coal gasification plant here in Chicago, and excellent cooperation between the State government and the office of coal research, Illinois is rapidly becoming the coal capital of the Nation. There are approximately eight coal conversion projects in either the development or planning stages slated for Illinois. Whether it be liquefaction, gasification or improved mining techniques, increasing efforts to move the Nation's coal mining and conversion research forward should be a major component of project independence.

Another widely discussed energy alternative is nuclear power. It presents great promise as well as great problems. It is significant that a major portion of the Dresden reactor—featured in the Project Independence Press release for today's meeting as "the Nation's first privately financed nuclear reactor" is shut down because of a mysterious malfunction of the control rods.

There are nuclear safety questions which must be answered before we realize the full potential of nuclear power. Of particular concern to me has been the threat to world peace and stability posed by the potential use of nuclear materials for non-peaceful purposes. After holding hearings on the subject, I authored an article on this danger and what needs to be done. It will be published in Foreign Affairs this month, and I ask leave to submit a copy later for your record.

In addition to coal and nuclear energy, the U.S. should develop other energy sources including solar, geothermal and oil shale. It is my hope that the administration will support the Senate passed amendment to the Energy Reorganization Act of 1975. That amendment would provide up to $20 billion in flexible grant and loan authority over the next 10 years for the development of alternate technologies.

Major oil companies will not make massive investments in coal liquefaction plants if those plants will decrease their petroleum profits. The Senate amendments could provide the resources necessary for the development of alternative sources and at the same time create alternatives to major oil company domination of the alternative fuels. The major oil companies already own at least 20 percent of all the Nation's known coal reserves and 80 percent of its uranium reserves. They control the production, refining, distribution and marketing of oil and gas. It would be imprudent in the extreme to permit the same companies—the largest of which are effectively controlled by foreign governments—to dominate all the Nation's energy sources.

Our public policy recognizes the essentiality of an adequate energy supply at reasonable prices at the consuming level. Gas and electricity distribution companies are regulated. The oil companies supply an equally essential commodity and operate with the characteristics and effects of a cartel. Antitrust enforcement by state and federal agencies at best requires too much time to create a competitive climate for the industry. Other steps ought to be taken to prevent greater concentrations of economic power in the energy industry and, if possible, to enlarge the market shares of independent businesses.

The Federal Oil and Gas Corporation and independent development of alternative technologies would help. I have made other suggestions in the Consumer Energy Act of 1974, all of which I commend to your attention, including common carrier regulation of the oil pipelines to assure connections for independent producers and refiners, and reform of the leasing system in the public domain to permit participation by independents through royalty bidding.

In the intermediate term, emergency conservation can do more than anything else to accelerate energy independence.

By 1980 cost efficient energy conservation measures could save approximately eight million barrels of oil per day. By 1985, the savings could be 13 million barrels per day. That is a 17 percent and 23 percent savings, respectively, from estimated demand.

Through a reordering of investment priorities—a shift in capital from energy to insulation, from refinery construction to more efficient automobiles—we can actually improve our quality of life by reducing energy consumption.

By 1980, government and industry will invest tens of billions of dollars on research and development aimed at increasing energy supplies through increased exploration and new and improved technologies. None of these efforts will come close to producing the equivalent of eight million barrels of oil per day by 1980, or 13 million barrels per day by 1985.

At least through the mid-1980's, energy conservation will be our major tool in moving toward the goals of project independence. Yet, in FY 74, energy conservation received only one percent of all the federal dollars earmarked for energy research and development. In FY 75, that figure will leap to two percent. The promise of energy conservation is too great, and the unanswered questions too numerous, to relegate energy consevation to a backseat role in national energy efforts.

A new public oil and gas supplier, development of alternative energy sources, and a new commitment to energy conservation should all be cornerstones of project independence. I suggest also an effort to bargain effectively with the foreign producers. That effort requires more than a government corporation to represent the public interest. It also requires a government and all its agencies armed with the economic weapons that are ours. If foreign governments restrict access to essential supplies either through embargoes or prohibitive prices, the U.S. should be prepared, after exhausting efforts at the bargaining table, to retaliate.

So far, the major consuming countries have bowed abjectly to the east, paid the price and sowed the seeds of their destruction. This abject surrender to economic blackmail will encourage more of the same from producers of bauxite to producers of bananas—unless it is stopped. To stop it requires action in concert by the major consuming nations, none of which is more powerful, or less dependent on oil imports, than the U.S. The power of the U.S. is economic. It consists of food and technology. And it is a power essentially unused.

The U.S. should use its power to bargain for access to foreign supplies in return for access to our own supplies. For the President to bargain, hopefully in concert with other nations, and, if necessary, to retaliate, he must have authority to control exports. In the Export Administration Act extension recently passed by the Senate he is granted limited authority to control U.S. exports when foreign restrictions on supplies cause either a serious inflationary impact in the U.S. or are intended to influence U.S. foreign policy. The House has approved legislation which does not contain such authority.

I will soon be representing the Senate in conference with the House on that legislation and would welcome efforts by the administration to support the Senate version. Its passage, by itself, could signal an end to U.S. submission to economic blackmail and help bring down barriers to the free flow of vital goods and services in the world.

With economic muscle, a Federal oil and gas corporation, standby oil and gas reserves, alternate energy supplies and a new conservation ethic, we can assert independence of the major oil companies and OPEC, restoring competition to both the domestic and international energy markets. The alternative is economic disaster, and we move closer to the brink each day.

Probably forty percent of the rise in food costs over the last year is attributable to increased energy costs. Twenty percent of the cost of steel reflects the cost of energy.

For every $1 increase in the price of energy, the consumer pays as much as $4 more as the energy prices ripple out through the economy. Nothing is bought or sold or manufactured or grown without energy. The 75 percent increase in the wholesale price index for energy over the last year is the greatest cause of the runaway inflation we are now experiencing. It inflates all the other price indexes.

Those energy price increases are not a result of oil shortages; they are a result of the stranglehold over oil prices and supplies by the producing nations and the major oil companies.

It is time we faced up to the international oil cartel, and declared "independence" with action. No more wishful thinking, just tough action based on hard realities.

The energy crisis is not so much a crisis of supply as it is a crisis of institutions and power. If we have the will, we can change those institutions and redistribute some of that power.

That is the challenge of project independence.

Natural Gas Act Amendments of 1974,
Section-by-Section Summary

Section 2. Short Title.

Section 3. Transfers the authority of the Federal Power Commission to the Administer of the Federal Energy Administration to establish wellhead prices for new or "exempt natural gas". Also extends Federal Power Commission jurisdiction to direct sales of natural gas by pipelines to major industrial customers.

Section 4. Alphabetizes the existing definitions in the Natural Gas Act and adds four new terms contained in the Amendments.

The key definition is of "exempt natural gas" as natural gas which is available for sale under a new contract, and which was not previously dedicated to interstate commerce except under conditions whereby the FPC pre-granted abandonment. "Flowing natural gas" means any natural gas which is not exempt natural gas. Flowing natural gas wellhead prices would not be permitted to increase except if certain expenses rose while exempt natural gas would not be subject to FPC wellhead price regulation, but instead be subject to Federal Energy Administration "area ceiling" price controls so long as ceilings are in effect.

Section 5. FPC jurisdiction over natural gas pipelines is revised to assure that jurisdictional pipelines can pass through to their customers the full price of exempt natural gas so long as the wellhead price for such gas was at or below the applicable area ceiling established by the Administrator. Where extraordinary and unanticipated expenses were incurred by a producer, he may be granted special relief 10 years following the date of passage of this Act in order to charge more than applicable area ceilings under special circumstances.

This section also requires the FPC to permit pipelines to pass through the full price of flowing natural gas charged by producers affiliated with the pipeline so long as the rates do not exceed area ceilings or the charges of independent natural gas companies to that pipeline in the applicable area.

Once the FPC has determined a wellhead price for flowing natural gas to be just and reasonable, the FPC cannot later re-examine and reduce such price.

Section 6. Authorizes the FPC to prohibit a pipeline from charging its customers more for natural gas produced by its affiliates than it is permitted to pass through when it purchases natural gas from an independent producer.

This section also requires the Commission to deny any increase in the wellhead price for old or "flowing natural gas" except to the extent that such increase are necessary to assure sound conservation practices by the producer, to prevent premature abandonment of flowing gas reservoirs or to meet actual increases in costs for advanced recovery techniques.

Section 7. Requires the FPC to establish a uniform accounting system for natural gas producers, as well as for pipelines. The Commission is also required to obtain adequate information which, under existing law is discretionary.

The FPC, after an adjudicative hearing, is directed to declare any natural gas company to be ineligible to bid or participate in any bidding on leases on federal lands if such company willfully fails to reveal its natural gas reserves to the Commission, until such information is satisfactorily supplied.

The Commission is directed to make available upon request all information obtained or developed under the Natural Gas Act, except to the extent that such information is confidential in nature, which if disclosed, would result in significant competitive damage. However, such information may be disclosed to selected petitioners where its confidentiality is maintained.

Section 8. Directs the FPC conduct comprehensive studies of natural gas transportation and sale including an independent study of proved and potential reserves of natural gas.

Section 9. Requires the FPC to concurrently submit all budget requests and legislative recommendations to the Congress and the President. The Commission is directed to submit all materials in its possession upon request of its Congressional oversight Committee, and it is authorized to act in its own name and through its own attorneys in any civil court proceeding.

This section also prohibits new FPC members and senior FPC employees from receiving any compensation or employment from any person subject to the jurisdiction of the Commission for a period of one year following the termination of service with the Commission.

Section 10. Extends the FPC's enforcement authority to area ceilings established by the FEA.

Section 11. Requires the FPC to assure that residential and small commercial users receive the benefit of lower priced "flowing natural gas", and that there is no discrimination in transportation charges among classes of customers nor quantity discounts.

The Federal Energy Administration is to establish area ceilings governing the wellhead price of exempt natural gas. In establishing such ceilings the Administrator is to consider prices necessary to cover projected costs, assure optimum drilling levels, promote conservation by natural gas users, and protect the consumer from unreasonable prices.

The Administrator may at any time propose the termination of area ceilings for exempt natural gas. If the Administrator makes such a proposal, the Federal Trade Commission and the Attorney General have six months to prepare a detailed report to the Congress and the Administrator which assesses the natural gas supply situation, examines whether competition can assure reasonable prices to the consumer, and analyses whether ceiling price termination is in the public interest. Following receipt of such report, the Administrator may terminate area ceilings if both houses of Congress approve such action within ninety days.

To assure the interstate market supply of natural gas with the enactment of the Natural Gas Act Amendments of 1974, "major natural gas producers", as defined, would be directed by the FEA each year to sell a percentage of their total production which is equal to the percentage of their average annual total production of natural gas that was sold to the interstate market in the preceding ten year period. Such an apportionment assures consuming states a supply of interstate gas without invading the regulatory domain of the states in the intrastate market. No small or independent producer would be affected by this section, and each independent producer could choose freely whether to sell his production in intra- or interstate commerce. Only the majors would be affected by the FEA regulations requiring their historic proportion of production (on other than federal lands) to be dedicated to interstate commerce.

The bill establishes a limited term emergency allocation authority within the Federal Power Commission when shortages become so severe that either public health and safety or agricultural production are seriously threatened.

TRIBUTE TO REV. PAUL I. O'CONNOR, S.J., CHANCELLOR OF XAVIER UNIVERSITY

Mr. TAFT. Mr. President, southwestern Ohio especially, and the entire Nation generally, must mourn the passing of the Reverend Paul I. O'Connor, S.J., chancellor of Xavier University. Father O'Connor was a close personal friend and adviser of mine over many years and his death brings a deep sense of personal loss as well.

Father O'Connor became chancellor of Xavier in 1972, the first in the school's long and distinguished history. He has served as president from 1955 through 1972, longer than any other president of that fine university.

But the loss is greater, as Xavier president, the Reverend Robert W. Mulligan, has said:

> Higher education in Ohio has lost one of its greatest leaders.

As an educational leader, a great source of strength in the community, and a great spiritual leader of the Nation, Father O'Connor will be sorely missed, as well as his presence as a warm, generous, and wise human being.

CIA ROLE IN CHILE REVEALED

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the two following articles from the September 8 and 9 Washington Post about CIA covert action in Chile be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

CIA Role in Chile Revealed

(By Laurence Stern)

Central Intelligence Agency Director William E. Colby acknowledged in secret testimony that the United States targeted some $11 million in covert action funds against the late Chilean President Salvador Allende, it was learned yesterday.

Colby told the House Armed Services Special Subcommittee on Intelligence that the clandestine funds were authorized by the "Forty Committee" the National Security Council's covert action policymaking arm, in Allende's 1964 and 1970 campaigns for the presidency as well as to "destabilize" his government and bring about its downfall after 1970.

The testimony came to light in a confidential letter from Rep. Michael J. Harrington (D-Mass.) to House Foreign Affairs Committee Chairman Thomas E. Morgan (D-Pa.).

Harrington appealed to Morgan and other senior committee chairmen in the House and Senate for further congressional investigations of the CIA's role in the Sept. 11, 1973, military coup in which Allende died and his government was toppled.

Harrington acknowledged in a telephone interview from Salem, Mass., yesterday his authorship of the letter to Morgan but declined to comment on its specific contents or make available a copy.

Colby had no comment on the Massachusetts Democrat's account of Colby's testimony last April 22 other than to say that it was given in executive session and was not to be disclosed publicly. He has on several occasions denied that the CIA had any operating role in the September, 1973, coup against Allende. These denials were reiterated by a CIA spokesman yesterday.

Harrington's account of the Colby testimony was based on two perusals of the April 22 transcript with special permission of House Armed Services Committee Chairman F. Edward Hébert (D-La.) and Rep. Lucien N. Nedzi (D-Mich.), chairman of the intelligence subcommittee.

In his letter to Morgan, Harrington said "the information contained in the Colby testimony convinced me that it is of critical importance for the Congress and the American people to learn the full truth of American activities in Chile.

"I wish to share this information with you, in the hope that you will feel the same sense of conviction that I experienced upon learning the full details of significant U.S. activities in the affairs of another country without any prior consultation of even the committee charged with overseeing such operations."

This is the pattern of clandestine U.S. operations against Allende, the leader of a coalition of Chilean leftist parties, which emerged from Colby's testimony to the House subcommittee, as recounted in the Harrington letter:

A total of $3 million in CIA funds was poured into the Christian Democratic Party in 1964 to support the successful candidacy of its nominee, Eduardo Frei, who was being opposed by Allende.

"Funding was provided to individuals, political parties and media outlets in Chile, through channels in other countries in both Latin America and Europe," Harrington related. "Mr. Colby's description of these operations was direct, though not to the point of identifying actual contacts and conduits."

In 1969 some $500,000 was authorized by the Forty Committee to "fund individuals who could be nurtured to keep the anti-Allende forces active and intact."

During the 1970 election, which Allende eventually won, $350,000 was authorized "to bribe the Chilean Congress which at that time was faced with deciding a runoff election between Allende and the opposition candidate." Colby went on to say that the plan, despite the initial approval, was "later evaluated an unworkable," Harrington wrote.

An additional $500,000 was given during the 1970 election to "opposition party personnel."

After Allende's election the Forty Committee authorized an additional $5 million for "more destabilization efforts during the period from 1971 to 1973."

Some $1.5 million more was spent in the 1973 Chilean municipal by-elections when Allende's Popular Unity Party gained in the percentage of national support over the 1970 election. "Some of these funds were used to support an unnamed but influential anti-Allende newspaper " according to Harrington's account of Colby's testimony.

During the summer of 1973, when the Allende administration was plagued by spiraling inflation, strikes and growing civil unrest, the Forty Committee in August approved $1 million "for further political destabilization activities," the CIA director was reported to have told the subcommittee. Colby said that a $50,000 request for CIA support of the crippling truck operators' strike was turned down.

The $1 million program authorized in August was called off, the Colby transcript said, "when the military coup occurred. . . . In the aftermath of the coup, however, funds that had been committed were spent."

These expenditures paid for the purchase of a radio station for $25,000 and the provision of $9,000 to finance a trip by spokesmen for the new junta government to other Latin American capitals to reassure them about the military takeover.

CIA activities in Chile, Harrington wrote, "were viewed as a prototype, or laboratory experiment, to test the techniques of heavy; financial investment in efforts to discredit and bring own a government."

Harrington said he contacted Senate Foreign Relations Committee Chairman J. W. Fulbright (D-Ark.), Rep. Dante B. Fascell, (D-Fla.) chairman of the House Foreign Affairs Subcommittee on inter-American Affairs, and other colleagues in hopes of pursuing "the facts of our involvement in the Chilean situation."

"I turn to you as a last resort," he wrote the House Foreign Affairs Committee Chairman Morgan, "having despaired of the likelihood of anything productive occurring as a result of the avenues I have already pursued."

The first public glimpse of the extent of CIA involvement in the 1970 Chilean elections was provided in confidential corporate documents of the International Telephone and Telegraph Corp., disclosed in 1972 by columnist Jack Anderson.

CIA News Causes No Stir in Chile

(By Joseph Novitski)

Santiago.—The report from Washington that the Central Intelligence Agency had allocated $11 million between 1964 and 1973 to support anti-leftist political action in Chile caused no excitement here today.

Reports of CIA financial involvement in Chilean politics have been so persistent in the past 10 years that they were accepted as fact by many politically aware Chileans long before a military coup deposed leftist President Salvador Allende last year.

On this warm, sunny Sunday, no government official could be located to comment on the report.

Radio stations did not mention the report in their news broadcasts, although international news agencies sent the news to their Chilean subscribers.

There was no certainty that Santiago's government-controlled newspapers would publish news of the report, printed today in the United States on the basis of secret testimony before a congressional committee by William Colby, the director of the CIA.

As long ago as 1970, just after Allende was elected president as the candidate of a leftist coalition, Chileans in the upper levels of several political parties believed that foreign funds had come into their country at campaign time from several sources.

Christian Democrats, then at the end of six years in power under President Eduardo Frei, admitted that their party had been supported by Christian Democratic parties in Germany and Italy. The conservative National Party claimed that the left had received funds from Communist and Socialist parties abroad.

An executive of an American copper company in Santiago said privately that his company had contributed campaign funds to non-leftist candidates in the campaign just ended.

There was little evidence to connect the CIA with Allende's political opposition until the disclosure in 1972 that the ITT conglomerate had offered $1 million to the CIA for use against Allende. The Chilean government printed a paperback translation of all the ITT documents related by Washington columnist Jack Anderson and later brought out a comic book version of the ITT conspiracy.

According to the transcript of Colby's testimony cited by Rep. Michael Harrington (D-Mass.) in his request for a congressional investigation of CIA involvement in Chile, $5 million for "political destabilization efforts" and $500,000 for opposition politicians had been authorized between Allende's election and 1972. In Chile, rumors that CIA funds were being channeled to the opposition grew that year.

After the nationalization of American copper companies, large Chilean companies and banks, Allende's economic policies began affecting the middle class in 1972. First shopkeepers and truck owners, then bureaucrats and professional men reacted with the first of two waves of strikes that were to spread civil unrest and economic disorder through the country.

The strike leaders denied then, and again during the strikes that preceded Allende's downfall last year, accusations from the left that they were being financed by the CIA. However, this year, one of the men involved in organizing both series of strikes indicated that CIA funds had been available.

"We never used them, we never got any," said Vicente Kovacevic, an officer of the Chilean small businessmen's federation, in an interview in April. Kovacevic, an anti-Communist Yugoslav emigre to Chile, had helped to guide the shopkeepers' group through the 1972 and 1973 strikes.

"Friends I had from other organizations came back from abroad and asked us if we had got our share," he added. "They said the money had been allocated by the CIA for all the unions in the strike, and some of it should have gone to us."

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Mr. JAVITS. Mr. President, since the historic pension reform bill was signed into law by the President on Labor Day, there has been an enormous interest expressed by thousands of Americans in the law's provisions. The Department of Labor has prepared a very useful summary in clear language of the important provisions of the new law, which I believe will be very helpful to those who have questions in this area. I note, also that the Department of Labor summary pinpoints where requests for information should be sent. Basic inquiries concerning the law should be sent to ERISA (LMSA) P.O. Box 176, Washington, D.C. 20044. Notices concerning plan terminations should be sent to PBGC, P.O. Box 7119, Washington, D.C. 20044.

Mr. President, I ask unanimous consent that the Department of Labor summary of the pension reform law be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

New Pension Benefits Law Provides Many Protections for Workers Covered by Private Industry Plans

New protections and guarantees for employees covered by private pension and welfare plans and for their beneficiaries are provided in the Employee Retirement Income Security Act of 1974 just enacted.

About 35 million persons covered by private employee benefit plans are affected by the new law. Responsibilities for carrying out the law's provisions are assigned to the U.S. Department of Labor and the Internal Revenue Service of the U.S. Treasury Department, and a new Government Corporation named the Pension Benefit Guaranty Corporation.

The law affects two different types of employee benefit plans—pension plans, which provide retirement benefits, and welfare plans, which provide other kinds of benefits—such as health, accident, etc. The law applies both to employee benefit plans now in existence and to new ones which are instituted after enactment. It does not require any employer to establish a plan.

It is estimated a total of about 1.8 million pension and welfare plans are in operation in the United States. Of that number, about 350,000 are pension plans (excluding Keogh plans, which are plans for the benefit of the self-employed and their employees). The rest are welfare plans.

Basic provisions of the new law are:

Eligibility to participate.—In general, the law requires that a person be eligible to participate in a pension plan after that person is 25 years old and has worked for the employer for one year. The act permits a plan to exclude from participation a person who starts a job within 5 years of the normal retirement age under the plan.

Vesting.—There are three alternative formulas for achieving vested pension rights under the new law. Once vesting is achieved by an employee under the formula chosen by the plan, that individual has a right to receive a pension at retirement age, wherever he or she may be working at the time. The amount of the pension will depend, generally, on the amount of benefits earned by the employee during his or her service under the plan.

Funding.—This is the system by which assets are set aside to cover the cost of benefit rights earned by employees. Funding helps assure that sufficient money will be available to pay benefits on retirement. The law requires employers to fund pension credits for current service as employees earn them. Mandatory formulas are also established for funding past service liabilities (costs of pension benefits earned in the past for which monies have not yet been set aside) over a specific period of time.

Fiduciary standards.—Funds set aside to provide benefits must be held in trust and used only to provide benefits and pay the necessary costs of running the plan. With very limited exceptions, the new law requires that both pension and welfare plans meet new strict standards governing plan administration by "fiduciaries." A fiduciary is a person who holds or controls property for the benefit of another person. He is the man who handles the money. The law says plan fiduciaries must perform their duties solely in the interest of those covered by the plan "with the care, skill, prudence, and diligence . . . that a prudent man . . . would use." A fiduciary may not deal with the plan assets for his own account nor may he benefit personally from any transaction involving plan assets. These provisions generally go into effect on January 1, 1975.

Reporting and disclosure.—The Act calls for extensive reporting and disclosure of information about pension and welfare plans, their operations and their financial condition to the Secretary of Labor and to those covered by the plans and their beneficiaries. These provisions will apply on January 1, 1975. They apply to all pension and welfare plans, regardless of size, maintained by employers or employee orgnizations whose employees are engaged in or affecting interstate commerce, except those specifically exempted. The Secretary of Labor administers these provisions and has the authority to modify some of the requirements for a particular plan.

Plan termination insurance.—The Act establishes a federally chartered insurance corporation, to be known as the Pension Benefit Guaranty Corporation, in the Department of Labor. PBGC is to be administered by the Secretary of Labor in his capacity as Chairman of the Board of Directors of the Corporation, in accordance with policies established by the Board of Directors, which is to be composed of the Secretaries of Labor, Commerce and the Treasury. When a certain type of plan terminates, PBGC will guarantee that participants will receive their vested benefits subject to certain limitations. The Corporation is authorized to borrow from the Treasury but is expected to become wholly self-financing through premiums paid by insured plans.

Enforcement.—The Department of Labor has principal enforcement responsibilities in the areas of reporting and disclosure and fiduciary standards. Civil penalties are authorized for violations in either area, and, in addition, criminal penalties are available for violations of the reporting and disclosure requirements. The Department will emphasize voluntary compliance and seek court action when technical assistance and explanation do not achieve compliance. The Internal Revenue Service has principal enforcement responsibilities concerning the vesting, funding and participation standards, but the Secretary of Labor has some responsibilities in these areas to protect employee pension rights.

Attachments.

COVERAGE

The Employee Retirement Income Security Act of 1974 affects some 35 million working Americans enrolled in 1.8 million private pension and employee welfare plans. Many of the 35 million covered under the new law are enrolled simultaneously in both welfare and pension plans. The Act establishes a program which covers six basic areas. These areas are: fiduciary standards (including office-holding prohibitions and bonding provisions), reporting and disclosure, participation, vesting, funding, and plan termination insurance. It also makes some related miscellaneous changes in the Internal Revenue Code.

The Labor-Management Services Administration (LMSA) has been given major enforcement responsibilities within the Labor Department. (The Welfare and Pension Plans Disclosure Act is supplanted by the new law.) The plan termination insurance will be provided through a government corporation established within the Labor Department.

WELFARE PLANS

Welfare plans are established to provide to participants and beneficiaries certain benefits, such as sickness, accident, disability, death, unemployment or vacation benefit; apprenticeship and other training programs; day care centers; scholarship funds; and prepaid legal services.

Welfare plans are not insured by the PBGC, nor are they subject to the participation, vesting and funding provisions of the new law. However, welfare plans must meet certain reporting and disclosure requirements, and are subject to the fiduciary standards.

PENSION PLANS

The new law will affect most types of pension and deferred compensation plans including defined benefit plans, defined contribution plans, target benefit plans, profit sharing and similar plans; and others. It also affects H.R. 10 or "Keogh" plans (plans for the self-employed and their employees). Defined benefit pension plans will be considerably affected by the Act. There are 100,000 such plans covering some 23 million persons which will generally be covered by the plan termination insurance provisions.

Some types of pension plans are exempted from coverage under the Act. They include:

Government plans, Federal, State and local;

Plans maintained outside the United States for the benefit of non-resident aliens;

Excess benefit plans, which provide benefits in excess of the limitations allowed for tax deductions by the Internal Revenue Code;

Plans maintained solely for the purpose of complying with workers' compensation laws.

Church plans are also exempted but can elect to come under the participation, vesting, and the funding standards. Such plans can also elect to come under the insurance coverage, and fiduciary and disclosure rules.

PLAN TERMINATION INSURANCE

About 23 million of the 30 million persons in pension plans will be covered by the insurance provisions. The 23 million belong to defined benefit plans which use formulas to determine future, fixed benefits. Participants in those plans vest—acquire a legal right to pension credit—when they meet certain time-in-service and other requirements specified in their plans. Even when participants take other jobs, they would still be entitled to benefits to the extent they have vested rights.

In the past, participants—even vested participants—sometimes lost benefits because the employer maintaining their plan went bankrupt or the plan's total assets proved insufficient to pay due benefits. The new Pension Benefit Guaranty Corporation (PBGC) now insures against that contingency.

[Attachment B]

FIDUCIARY STANDARDS

The new law recognizes that when funds are set aside to provide benefits to employees, the money is to be held in trust to be used only for the purpose of providing specified benefits. Accordingly, with very limited exceptions, the law requires that pension and welfare plans must meet new, strict federal standards for responsible administration of the plan by fiduciaries. A fiduciary is a person who holds or controls property for the benefit of another person.

Fiduciaries are required to perform their duties solely in the interest of the plan participants and their beneficiaries and according to a "prudent man" rule. This rule, as stated in the Act, provides that a fiduciary shall discharge his duties "with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use. . . ."

In addition to the overall standards imposed on fiduciaries, certain types of conduct and transactions are expressly prohibited. A fiduciary may not deal with the plan assets for his own account nor may he benefit personally from any transaction involving assets of the plan.

To protect a plan against "kickbacks" to fiduciaries or conflict of interest transactions, a plan administrator is generally prohibited from engaging in business with a party-in-interest to the plan such as the employer, a fiduciary of the plan, or other parties who have an interest in, or relationship with the plan, or with a union any of whose members are covered by the plan. Between a plan and a party-in-interest such prohibited transactions include the selling or leasing of property, the lending of money or other extension of credit, and the furnishing of goods, services or facilities. However, in most cases, a plan may invest up to 10 percent of its assets in qualifying securities of the employer who maintains the plan. As an exception to this 10 percent restriction, profit-sharing, stock bonus and employee stock purchase plans are permitted to invest more heavily in the employer's securities.

The Act contains several exceptions from the prohibited fiduciary transactions. Under strict safeguards, the Act permits a fiduciary: (1) as a participant or beneficiary, to receive benefits or loans which are available to all participants or beneficiaries on a nondiscriminatory basis; (2) to receive reimbursement of reasonable expenses incurred; and (3) to receive reasonable compensation for services performed, except for full-time employees of the employer or of the employee organization whose members are participants of the plan.

A plan also is permitted to make reasonable arrangements with a party-in-interest for office space, or legal, accounting, or other services necessary for establishment or operation of the plan. In addition, banks and other financial institutions, notwithstanding their role as fiduciaries to a plan, are permitted to furnish their customary services, subject to specified safeguards and guidelines, provided they receive no more than adequate compensation from the plan.

The Secretary of Labor, after consultation and coordination with the Secretary of the Treasury, may exempt any fiduciary or transaction from these restrictions, provided, among other things, that such an exemption is in the interests of the plan and its participants.

Fiduciaries are personally liable to the plan for losses due to a breach of their duty. They may be removed for improper conduct and may be subject to other equitable remedies. Fiduciaries and all other persons who handle funds of the plan must be bonded.

Most of the fiduciary standards take effect on January 1, 1975. However, certain party-in-interest transactions which were already in effect on July 1, 1974, and otherwise would be prohibited by the Act, are not subject to the Act for a period of 10 years, provided they are at least as favorable to the plan as an arm's length transaction with an unrelated party would be. In addition, plans, which now hold more than the permissible 10 percent of their assets in employer stock will have up to 10 years to divest.

[Attachment C]

REPORTING AND DISCLOSURE

The Act requires extensive reporting and disclosure of information about employee pension and welfare plans, their operations, and their financial condition to the Secretary of Labor and to plan participants and beneficiaries. These provisions apply January 1, 1975.

The provisions apply to all pension and welfare plans, regardless of size, maintained by employers or employee organizations whose employees are engaged in or affecting interstate commerce, except those specifically exempt from the law.

The Secretary of Labor administers these provisions. He has authority to modify or eliminate some requirements for certain plans.

Principal information vehicles are a detailed plan description, a summary plan description and an annual report. Plan descriptions must include eligibility requirements, a description of plan provisions regarding nonforfeitable (vested) pension benefits, circumstances which may result in disqualification or ineligibility, provisions which could result in the denial or loss of benefits, procedures for presenting claims for benefits, and remedies for redress of claims denied.

The detailed plan description must be filed with the Secretary of Labor on a form to be prescribed by him within 120 days after the plan is subject to the reporting and disclosure provisions of the Act.

The summary plan description must be written to be understood by the average plan participant. It must be furnished to participants and to the Secretary of Labor within 120 days after the plan is subject to the reporting and disclosure provisions of the Act, and to new participants within 90 days after they join the plan. This summary description must clearly inform participants of their rights and obligations under the plan.

The annual report must be filed with the Secretary of Labor on a form prescribed by him within 210 days after the end of the plan year. If there is a substantial change in a plan, a summary description of such change must be furnished to each participant and beneficiary receiving benefits within 210 days after the end of the plan year in which the change takes place. Certain portions of the annual report must be furnished to participants, along with other information necessary to fairly summarize the annual report.

The annual report will include financial statements and schedules, party-in-interest transactions and with respect to pension plans, certain actuarial information.

The financial statements and schedules must include the current value of plan assets and liabilities, receipts and disbursements, and employer contributions. Also to be included are schedules of assets held for investment purposes, uncollectable or defaulted loans and leases, and other transactions. Detailed information is required on transactions with parties-in-interest and on those that exceed 3 percent of the value of the plan's assets.

Insurance companies which provide benefits under the plan, or hold assets of the plan, and banks which hold assets of the plan in trust must transmit and certify the accuracy of certain information to the plan administrator within 120 days after the end of the plan year.

The plan administrator must retain an independent qualified public accountant to prepare or examine the plan financial statements and to state an opinion on whether they conform with generally accepted accounting principles. The financial statements and accountant's opinion must be made a part of the annual report.

A pension plan administrator must also engage an enrolled actuary who will be responsible for the preparation of an actuarial statement and an opinion relating to the relevant actuarial information. This information must include a detailed account of the plan's normal costs, accrued liabilities, and contributions, and the actuarial assumptions and methods used to determine costs and contributions. The actuary's statement and opinion must be made part of the annual report. An actuarial valuation of the plan must be made every third plan year unless the actuary determines that a more frequent valuation is necessary. Actuarial information is not required for profit-sharing, savings, individual account plans, and certain other plans.

Plan administrators need not engage accountants and actuaries for plans exempted from the reporting requirements and their services may be waived by the Secretary for plans using simplified reporting forms.

The Secretary may reject any filing if it is incomplete or if there is any significant qualification in the accountant's or actuary's opinion. If an annual report is rejected and a revised report is not submitted within 45 days of rejection, the Secretary may retain an accountant to perform an audit, retain an actuary to make an actuarial report, or bring civil action to compel compliance. The plan is liable for the expenses of such an audit or report.

Documents relating to the plan (such as a trust agreement) are to be furnished to the Secretary of Labor upon his request. Terminal reports are required to be filed with the Secretary for plans winding up their affairs.

The latest annual report and the documents under which the plan is established or operated must be available for examination by plan participants and beneficiaries at the principal office of the plan administrator or at other places convenient for participants as the Secretary prescribes by regulation. Upon written request, these documents, as well as the latest updated summary plan description, the plan description, and any terminal reports, must be furnished to them at no more than a reasonable charge.

Plan descriptions and annual reports filed with the Secretary are public information and will be available for inspection in a public document room at the Department of Labor.

Every person required to file a report or certify information and certain persons subject to the Act, but exempted from the reporting requirements, must maintain records which will provide the necessary information from the reports may be verified, explained, or clarified for six years after the date the documents are or would have been due for filing.

Each plan administrator must furnish, upon written request of a plan participant or beneficiary, a statement of total benefits accrued, vested pension benefits accrued, if any, or the earliest date on which such benefits will become vested. The administrator must also furnish, upon written request, a copy of the information which must be contained in the registration statement required by section 6057(a)(2) of the Internal Revenue Code relating to the nature, amount and form of deferred vested benefits to which the participant is entitled.

[Attachment D]

PENSION BENEFIT GUARANTY CORPORATION— (PBGC)

The Pension Benefit Guaranty Corporation will insure the pensions of approximately 23 million of the 30 million workers who participate in pension plans covered by the Employee Retirement Income Security Act. Generally, pension plans which provide defined benefits and which are covered by the Act are required to obtain the insurance offered by PBGC. These plans account for some 100,000 of the 350,000 employee retirement plans covered by the Act. Profit sharing, stock bonus, money purchase and other types of defined contribution plans do not qualify for the insurance provided by PBGC though covered by the Act.

PBGC will be administered by the Secretary of Labor in his capacity as Chairman of the Board of Directors of PBGC. The Board of Directors, to be composed of the Secretaries of Labor, Commerce and the Treasury, will establish policy for the Corporation. A seven-member Advisory Commitee to PBGC, to be appointed by the President, will consist of two representatives of management, two of labor and three of the public.

PBGC is authorized to borrow funds from the Treasury but the Corporation is expected to be wholly self-financing from premiums paid by covered plans. The initial premium rate will be $1 per participant per plan year for single-employer plans and $0.50 for multi-employer plans.

Generally, PBGC will guarantee that when a plan covered by its insurance terminates without having sufficient assets to provide promised benefits, participants will not lose vested benefits. A participant's benefits are said to become vested under a pension plan on the day when the participant is given an irrevocable right to a future pension even if he leaves his job before retirement age. There is a maximum limit, however, on the amount of benefits guaranteed by PBGC. Generally, for plans which have been in effect for 5 years when they terminate the Corporation will provide benefits up to a maximum of $750 per month, or the average monthly income of the participant for the five years during which his income from the employer maintaining the plan was at its greatest, whichever is less, payable at age 65. For plans in effect less than five years upon termination, insurance coverage is to be phased in at a rate of 20% per year of the maximum limit.

Since PBGC may be financially liable when a plan terminates, it must be notified in advance by a plan administrator of his intention to terminate. The Corporation then must determine if plan assets are sufficient to pay insured benefits. In many cases, terminating plans are expected to have sufficient assets. In such cases, after verification by PBGC, the plan administrator will be allowed to liquidate the plan and distribute the assets in accordance with priorities established by law. In cases where assets are insufficient to pay insured benefits, the Corporation may ask a U.S. District Court for an order appointing a trustee to administer the plan. The Corporation may also seek appointment of a trustee for a plan which appears to be financially unsound, even though the plan administrator has not given notice of an intention to terminate. After a trustee has been appointed, a plan may be either liquidated and its assets distributed to participants, or it may be continued in existence under the administration of the trustee.

Finally, in order to alert PBGC as soon as possible to potential losses, the law requires administrators of all plans covered by insurance to report events which might indicate financial instability, such as loss of tax qualification, benefit cuts, sharp drops in the number of participants, etc. Should these events warrant, the Corporation may take appropriate action.

[Attachment E]

ENFORCEMENT

Under Title I of the Act, the Department of Labor has principal enforcement responsibilities in the areas of reporting and disclosure and fiduciary standards. The Department will emphasize voluntary compliance. When technical assistance and explanations do not achieve compliance, enforcement action will be sought in the following ways:

REPORTING AND DISCLOSURE

Plan descriptions and annual financial statements are the principal reports required by the Act. The Secretary may reject any filing that is incomplete or if there is any significant question raised by an accountant's or actuary's opinion accompanying an annual report. If an annual report is rejected and a revised report is not submitted within 45 days of the rejection, the Secretary may retain an accountant to perform an audit, or an actuary to make an actuarial report, or bring civil action in a U.S. District Court to compel compliance.

A willful violation of the reporting and disclosure provisions of the Act can bring criminal penalties—up to one year in jail or a $5000 fine or both, for individuals, and up to $100,000 for a defendant which is not an individual.

Cases involving embezzlement, kickbacks or related violations will be referred to the Justice Department for prosecution under the U.S. Criminal Code.

A participant or a beneficiary may bring a civil action against a plan administrator if he refuses to respond to certain requests. If the administrator fails to supply certain documents within 30 days of a written request, he could be ordered by a U.S. District Court to pay the participant or beneficiary up to $100 per day from the date of failure to respond. If a participant or beneficiary has been denied benefits due or other rights under a plan, or has been unable to ascertain future benefit rights from a plan, the participant or beneficiary can sue the plan for relief.

FIDUCIARY STANDARDS

Fiduciary violations may be brought to light by failure to report, by review of annual reports, or by complaints.

Participants, beneficiaries, fiduciaries or the Secretary of Labor may bring civil actions for breach of fiduciary responsibility. Any fiduciary who improperly handles plan assets entrusted to him or who breaches his responsibility in any other way under the new law, is personally liable to make up any resulting losses to the plan. He must also restore any profits he may have made through the use of plan assets. A fiduciary could also be subject to other equitable remedies—including removal from his position. Also, civil penalties are authorized against parties-in-interest who engage in a "prohibited transaction" with a plan, such as a welfare plan which is not qualified under the Internal Revenue Code (tax penalties are authorized for such violations in the case of qualified plans).

CRIMINAL CONVICTION

A person convicted or imprisoned for specified federal or state crimes may not serve as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, employee of or consultant to any employee welfare or pension benefit plan for five years after such conviction or the end of such imprisonment, whichever is later, unless, prior to the end of that five-year period, his citizenship rights are fully restored or the Justice Department's Parole Board clears the person to serve the plan.

Anyone intentionally violating the office-holding prohibition is subject to criminal prosecution and penalties up to a year in jail or a $10,000 fine or both.

BONDING

Every fiduciary and person "handling" funds or other property of an employee benefit plan must be bonded. Those engaged in such activities who are not bonded, or who permit such actions by persons not bonded, or who obtain a bond from a party-in-interest or from a company or broker who has significant interest in the plan involved, would be in violation of the fiduciary standards of the Act.

PARTICIPATION, VESTING AND FUNDING

Enforcement of these minimum standard provisions will be the principal responsibility of the U.S. Treasury Department. The Secretary of Labor is responsible for enforcing these standards as they apply to non-tax qualified benefit plans and qualified plans in cases referred to him by the Treasury Department.

In any event, any plan which fails to meet these minimum standards may be subject to civil action by the Secretary of Labor if he is requested to take such action by participants to protect their benefit claims, and if certain statutory findings are made.

Other Enforcement Provisions under Title I include:

INVESTIGATION POWERS

The Secretary of Labor is authorized to investigate all Title I violations. He may enter plan premises to conduct his investigation where he has reasonable cause to believe such a violation may exist, or pursuant to an agreement with a plan. He also has subpoena powers identical with those of the Federal Trade Commission.

CLAIMS AND COURTS

Denial of benefit claims must be explained to participants or beneficiaries in writing. They can bring a civil action to require full and fair review of their claim.

U.S. District Courts have exclusive jurisdiction over civil and criminal actions brought under Title I, except that cases pertaining to benefit recovery or clarification of future benefit rights brought by participants or beneficiaries may also be brought in State courts.

In cases brought in the Federal courts by a participant or beneficiary, the $10,000 "amount in controversy" requirements is waived.

State laws concerning employee benefit plans covered by the new law are superseded by Title I of the Act, effective January 1, 1975.

INTERFERENCE WITH RIGHTS

Civil actions are authorized against anyone disciplining or discriminating against a participant or beneficiary for exercising the rights granted to him under the Act or under the plan. Any person who willfully interferes with these rights by means of fraud, violence or other coercion will be subject to criminal penalties of a fine of $10,000 or imprisonment for not more than one year, or both.

[Attachment F]

EFFECTIVE DATES—EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

REPORTING AND DISCLOSURE

(Title I, subtitle B, part 1)

Plans are subject to these provisions January 1, 1975. The Secretary of Labor is authorized to delay the effective date of the annual report provisions for plans which do not keep their records on a calendar year basis until the first plan year beginning after January 1, 1975.

FIDUCIARY STANDARDS

Effective January 1, 1975 (with some delays to avoid disrupting certain common business practices).

PARTICIPATION, VESTING, AND FUNDING

Generally, for plans in existence January 1, 1974, these provisions are effective for plan years beginning after December 31, 1975 . . . for new plans, on enactment. The funding requirements for existing collectively bargained plans are delayed until the expiration date of the bargaining agreement in effect on January 1, 1974, but not later than the first plan year beginning after December 31, 1980.

PENSION BENEFIT GUARANTY CORPORATION

PBGC is established on enactment. Insurance for "basic" benefits (up to $750 per month) will apply to—

Any single employer plan terminating between July 1, 1974 and enactment date if notice is sent Secretary of Labor within 10 days after enactment (or, for reasonable cause shown, the notice may be accepted not later than October 31, 1974).

Any single employer plan terminating after enactment date.

Any multi-employer plan terminating on or after January 1, 1978. Multi-employer plan terminations occurring between the enactment date and December 31, 1977 may be covered, in the PBGC's discretion, if certain statutory conditions are met.

Premiums from all covered plans are due within 30 days of enactment.

(Notice of intention to terminate a plan after enactment must be sent to PBGC, P.O. Box 7119, Washington, D.C. 20044, at least 10 days before the proposed termination date.)

ENFORCEMENT PROVISIONS

Effective January 1, 1975. (Criminal provisions under Title 18 U.S. Criminal Code continue in effect on enactment).

[Attachment G]

WHERE TO ASK ABOUT THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

All general informational inquiries relating to plan termination insurance (other than notices of termination) or relating to matters under the law for which the Secretary of Labor has primary responsibility (reporting and disclosure and fiduciary responsibility) should be addressed to: ERISA (LMSA), P. O. Box 176, Washington, D.C. 20044.

INTERNATIONAL AMPHETAMINE RING SCORES NEED FOR CONTROLS

Mr. BAYH. Mr. President, during my nearly 4 years as Chairman of the Subcommittee to Investigate Juvenile Delinquency, I have conducted an intensive investigation into the diversion and abuse of legitimately produced narcotic and nonnarcotic dangerous drugs. We have made considerable progress during these years. We have obtained a drastic, but necessary, reduction in amphetamine production. We had found that by 1971 nearly 50 percent of the amphetamine produced in the United States was reaching illicit markets and thus our streets and schools. The 1973 quota, based on legitimate scientific and medical needs represents a 92 percent reduction over 1971 levels. We have secured more appropriate control over the production and distribution, including export, of other drugs with high abuse potential, including the barbiturates and methaqualone. In short, these and similar important steps have effectively reduced illicit traffic and domestic clandestine manufacture of controlled drugs.

These measures, however, do not fully assist law enforcement agency efforts to curb illicit traffic of controlled drugs which are not domestic products. During the subcommittee's national investigation of barbiturate traffic and abuse we learned that as with the amphetamines, a significant portion of the barbiturates seized were from Mexico. These so-called "Mexican Reds"—capsules containing legitimately produced barbiturates, but illicitely repackaged—were unlike the "Mexican" amphetamine which had in former years been of American origins containing barbiturates of legitimate West European origin.

Likewise, during our March 28, 29 and April 16, 1973, hearings on methaqualone was being illegally imported into the United States for sale in the black market and that counterfeit methaqualone was being produced in Canada and Mexico for illicit sale in the United States.

Yesterday the Drug Enforcement Administration announced that the arrests of more than 100 individuals in 10 major cities throughout the United States and Mexico have smashed a wide ranging syndicate that had been responsible for smuggling annually more than 3,000,000,000 illicit amphetamine tablets into this country. This amounts to nearly 20 times the amphetamine production permitted in this country under the production controls and represents a value of between $16 and $2 billion on the illicit market.

Similar extensive illegal barbiturate and amphetamine operations involving

West European purchases of legitimately produced drugs and transshipment through Mexico to the United States were revealed at our subcommittee hearing earlier this year on my bill, S. 1646, the International Psychotropic Substances Act of 1973 and S. 2544, introduced by Senator Hruska on behalf of the administration. One illicit Mexican operation alone was responsible for the repackaging of many millions of amphetamines eventually sold illegally in at least 14 States in this country.

These and other similar cases underscore the need for international controls which will assist the international law enforcement effort to curb the diversion of legitimately produced drugs to illicit markets around the world.

My bill, S. 1646, introduced in April 1973, was developed to facilitate ratification of the Convention on Psychotropic Substances under circumstances that would adequately protect the confidentiality of patient records, the rights of drug researchers and guarantee an affirmative role for health and scientific professionals in the control decisionmaking process. The aim of the Convention is to limit the manufacture, distribution and use of mind-altering drugs, including LSD, mescaline, amphetamine, barbiturates and tranquilizers, to legitimate medical and scientific purposes, and thereby curb unlawful diversion and illegal international traffic. Such drugs are not subject to international control under any of the existing multilateral opium and other drug treaties.

The diversion and abuse of legitimately produced dangerous drugs into channels other than legitimate medical, scientific, and industrial channels should be a primary concern for all citizens. Even if the war on heroin addiction had in fact been won, the epidemic of drug abuse which plagues American society would not be vanquished; for the source of supply for growing legions of addicts and abusers—polydrug abusers who outnumber heroin addicts 17 to 1—is at its origin a legitimate one. My bill is not a panacea, but it is my belief that it will not only help us solve our problem here at home, but will also be of assistance to other nations, whose legitimate production when diverted to illicit markets can wreak havoc in their countries as well as ours.

I would like to commend Administrator John Bartels and his fellow agents at DEA as well as the many State and local law enforcement agencies in this country, Mexico and Canada whose hard work and cooperation resulted in one of the most significant law enforcement endeavors in the history of our country.

Mr. President, I ask unanimous consent that the DEA release regarding this accomplishment be printed in the Record.

There being no objection, the press release ordered to be printed in the Record, as follows:

The United States and Mexico jointly announced today the conclusion of an eight-month international investigation that has immobilized a multi-million dollar producing and trafficking network responsible for virtually all of the illicit amphetamine tablet ("mini-bennies") smuggled into this country.

Drug Enforcement Administrator John R. Bartels, Jr., said that some 100 simultaneous arrests in 10 major cities throughout the United States and in Mexico have knocked out a wide-ranging syndicate that annually flooded the illicit market with an estimated 30,000 kilograms—equalling three billion tablets—a year.

These tablets would be worth in excess of $1.6 billion a year when sold on the illicit market, Bartels said.

DEA agents began nationwide arrests at midnight Tuesday. Bartels said that the accused conspirators' roles ranged from operating illegal mini-bennie factories in Mexico to aggressively merchandising the pills across the North American continent.

Bartels' announcement was made jointly with Mexican Attorney General Pedro Ojeda Paullada, who said that Mexican authorities have also seized 4 of the clandestine factories in the coordinated enforcement effort.

Paullada, speaking in Mexico City, also said that the Mexican Federal Judicial Police are continuing their search for any remaining secret laboratories.

Federal indictments were today unsealed in San Diego, Los Angeles, San Francisco, Tucson, Seattle, Portland, Oregon, Milwaukee, New York City and Charleston, West Va. The series of raids in these and other cities have so far netted 98 in U.S., 25 in Mexico of the indicted defendants.

Bartels said DEA's investigation into the mini-bennie traffic led into nearly every state, turning up evidence against alleged wholesalers handling millions of pills, as well as street pushers supplying the juvenile market.

The Royal Canadian Mounted Police in Vancouver particiated in one major phase of the investigation, involving two of the principal Mexican sources of the drug, according to DEA.

Bartels said DEA's intelligence showed an alarming increase in illicit trafficking and abuse of mini-bennies over the last three-and-a-half years.

An amphetamine tablet or mini-bennie directly stimulates the central nervous system and can produce conditions of high excitation, alertness and wakefulness. Doctors widely prescribe amphetamine as a weight reduction pill.

When abused, it can produce a euphoric "high" often accompanied by what some doctors describe as "paranoid schizophrenia." DEA has listed mini-bennies as among the top drugs of abuse for some two years.

Mini-bennies come under Schedule II of the Controlled Substances Act of 1970, which DEA enforces. Drugs included under this schedule have a high abuse potential with a severe psychological or physical dependence liability. Other drugs controlled under Schedule II include cocaine and opium, as well as certain barbiturates.

The penalty for trafficking in drugs under Schedule II is not more than five years in prison and a fine of $15,000 for a first offense. A second offense carries a penalty of not more than 10 years in prison and a fine of not more than $30,000.

DEA's response to the rapid increase in abuse and illicit of mini-bennies was to organize a special group of agents known as Central Tactical Unit Four (Centac 4), operating out of San Diego. This investigative team began training the distribution routes from the smugglers at the California border to the wholesalers in U.S. cities.

Cases independently started by other DEA offices were coordinated by Centac 4 and formed the basis for today's all-out roundup.

Total seizures and undercover buys of the drug to be used as evidence exceeds 10 million tablets, Bartels said.

During the investigation evidence and intelligence was compiled concerning the suspects in Mexico. This information was turned over to the Mexican Attorney General, who ordered action within Mexico. Bartels commented that such exchange of prosecutable evidence was the "finest example of international cooperation."

Bartels also praised state and local agencies in this country which cooperated with DEA during all phases of the investigation.

HERMAN STERN OF VALLEY CITY, N. DAK.

Mr. YOUNG. Mr. President, one of the finest, most public spirited and respected citizens of North Dakota, Mr. Herman Stern of Valley City, was honored in an editorial appearing in the Minot Daily News of Minot, N. Dak., on September 6, 1974.

Mr. President, I am very pleased that Mr. Herman Stern has received this well deserved tribute from the Minot Daily News and the Montgomery (Ala.) Advertiser after they had read a story by Tom Fesperman, a freelance writer who stopped at Valley City in his travels around the country.

This is a well written and well deserved editorial which I am sure every civic-minded citizen of our country would be interested in reading. I ask unanimous consent that it be printed in the Record as a part of my remarks.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Minot Daily News, Sept. 6, 1974]

Perfect Climate in People

One of North Dakota's great citizens, Herman Stern of Valley City, was the subject of a feature article in a recent issue of Montgomery (Ala.) Advertiser. The story was written by a Tom Fesperman, a free-lance writer who stopped at Valley City in his travels.

The headline in the Alabama paper was, "Weather's Cold, But What's Important Is 'Climate In People,' Dakotan Says." The article follows:

"There's a little town in Germany, not far from Frankfort-on-main, where Herman Stern spent his boyhood, went to school, until it was time to go out, as a teen-ager, to be an apprentice.

"In those days, at the turn of the century, a boy in Germany was in his early teens when, like a bird, he was pushed out of the nest to go off and make it on his own.

"Herman was working at his first job when word came from his mother to come home and see his cousin Straus, back from America.

"Straus had gone off to a place called Dakota and had a clothing store, needed help, and he wanted to know if Herman would like to go to America.

"Yes. A teen-ager is ready to go anywhere. But of course there was no money. Straus took care of the passage, $75.

"In New York Herman got on a train that took him to a village in North Dakota named Casselton, a tiny spot on the vastness of the plains in that time, 1903, and a tiny spot still today.

"The railroad west was good then, and Casselton was an established little town, though of course the streets were muddy.

"Later Herman moved farther west, to Valley City, to run the store there, and he liked the West, the openness and the warmth of the people.

"Later on trips back to New York the thing that dismayed him was the ignorance of the people. They couldn't imagine what was west of New Jersey. They kept asking Herman about the Indians.

"Herman went back to North Dakota determined to get friends and neighbors together, to form a group to boost the morale of the people, to help them, and to get word out, even all the way back to New York, that North Dakota was a good place.

"Herman and the others formed the Greater North Dakota Association. They had big ideas, these young men. They dreamed of the day, perhaps up in the 1930s, when North Dakota would have a million people.

"A lot of good things happened. The group helped the people in many ways, such as how to prevent the rust that sometimes killed the whole wheat crop.

"Herman Stern is 86 years old now, but his health is good. he still walks to work in Valley City, and he still spends a lot of time trying to get people to understand North Dakota is not your unsettled wilderness plains, that it is a good place.

"But in all these years, North Dakota never got anywhere near to a million people. It has 600,000 spread out over 70,000 square miles. Herman remembers hearing a stand-up comedian say, 'What's this 600,000? We got that many on my block in Brooklyn.'

"Many things have gone well with Herman. He has some good stores and good sons and nice grandchildren, and he has become something of a Dakota patriarch, but you can tell he is disappointed in the way people have stayed away.

" 'These people,' he says, 'they read about how it is 30 below zero. They read about some big snow in Bismarck. They hear all this, and they go to California and Florida.

" 'You know where is the climate that's important? The real climate? It is in the people.'

"Herman, 71 years after arriving in Casselton, still has the energy to work persuasion. He and his old friends keep at it, still sure one of these days people will wake up and understand this is a good place."

We reprint the article as a gesture of our esteem for the one and only Herman Stern, who in our eyes is more than Mr. Valley City—he's Mr. North Dakota.

No one ever will be able to count the tangible things this 86-year-young evangelist for North Dakota has done for his adopted state. The "right climate" always has been in him.

THE KURDISH STRUGGLE FOR SURVIVAL

Mr. JACKSON. Mr. President, the need for stability in the strategic Middle East has never been more apparent. Over the years, the Arab-Israeli conflict has dominated the headlines, while other areas of instability—potentially important in their consequences—are ignored. It took the oil embargo of last October to call general attention to America's important interests in the Persian Gulf area.

For many years, the Kurdish people have been attempting to secure a degree of autonomy for themselves, consistent with their long history of struggling for independence. The Government of Iraq has now launched a new wave of violence in an attempt to suppress the Kurdish movement for autonomy. This situation has become the basis of an exceptional series of articles written by Smith Hempstone and published by the Washington Star-News. I want to call the attention of my colleagues to Mr. Hempstone's excellent report on the human and political dimensions of the Kurds' battle for self-preservation.

I ask unanimous consent that Mr. Hempstone's articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Star-News, Aug. 31, 1974]

The Middle Eastern War Nobody Knows

CHAPTER 1

(By Smith Hempstone)

Haj Omran, Iraqi Kurdistan.—"You are welcome," said Idriss Barzani. The uncertain light of the flickering kerosene lantern illuminated his red-and-white turban and his finely-honed features. "You are very welcome indeed."

Outside the sandbagged bunker, one sensed rather than saw the groups of armed men hunkered down in the moonlight, one eye on the *Rumi* (Roman, hence any Westerner) who had made his way to Idriss' tent, the other on the Big Dipper and the Bear, from which an Iraqi air raid might come.

And indeed, the 30-year-old third son and chief of staff of the leader of the Kurdish rebel movement had cause to welcome an American newsman to his camp high in the mountains of northern Iraq. Since serious fighting erupted here in mid-April, no American correspondent had made his way to this mountain fastness east of the Tigris and the Euphrates. Yet here, in this stark and beautiful land of towering peaks capped by eternal snows, a Middle Eastern war without witnesses is being waged by the Arab Baathist government of Iraq against its Kurdish minority of 2.5 million people.

As we sat cross-legged on a Persian carpet, sipping tiny glasses of heavily-sugared tea, messengers from the front came and went on sandaled feet and a field telephone rang insistently on the back of the bunker. Idriss hitched his Belgian-made .45-caliber automatic pistol into a more comfortable position and gave me a brief accounting of the situation.

It was, he said, a war pitting his turbanned Kurdich tribesmen and their bolt-action Brno rifles against the most modern Russian T–60 tanks, of a few ancient Dushka 12.7mm. anti-aircraft machine guns against the most sophisticated supersonic Soviet Tupolev–22 bombers, of curved Kurdish daggers wielded silently in the night and rolling fireballs of Iraqi napalm that consumed crops and villages, leaving his people destitute but defiant.

This war, Idriss said, his words punctuated by the dull thud of Iraqi bombs falling westward down the valley toward Chouman, was the fifth and most serious Kurdish war since 1961. There could, he said, nervously fingering the suggestion of a black mustache, be only one outcome to this conflict: autonomy for his people within a democratic Iraq or their extinction.

I knew it was not the first time the Kurds had faced such a prospect in the 4,000 years since the founding of the Kingdom of Gutium. They, who like their cousins the Iranians are Moslems but not Semites, harried Xemophon's 10,000, battled the Romans, Parthianos and Mongols, and made war against half a hundred kingdoms, governments and empires.

But despite a deserved reputation for ferocity, the Kurds have seldom left their land of swift-flowing mountain streams, ancient oak trees and red-legged partridges to harass their neighbors. This war, like earlier ones, is in defense of the land and integrity of a people denied their own nation. The Kurds here in Iraq, led by 71-year-old Mulla Mustapha Barzani, are locked in a make-or-break struggle with their Arab rulers; if they fail, the Kurdish nationalist movement, like that of their Armenian neighbors, will disappear into history.

The Kurds, who were promised their own nation by the never-implemented 1920 Treaty of Sevres, are divided among five nations. Kurdish nationalists say there are 5 million in Turkey, 4 million in Iran, 2.5 million here in Iraq, 600,000 in Syria and 150,000 in the Soviet Union. The governments concerned say those figures are high.

The Turks deny the very existence of the Kurds. "We have only mountain Turks who have forgotten their native tongue," they say. And they have done their best to make this so. In the last century and the first third of the present one, there were countless rebellions in eastern Turkey that resulted in the massacre and deportation of hundreds of thousands of Kurds. Now, with the Iraqi Kurds fighting for their survival against their Arab overlords, the Turks have closed their border against the rebels.

The Kurds have fared better in Iran. There was a brief reign of terror there after the collapse in 1946 of the Kurdish Mahabad republic, set up in northern Iran by the departing Russians. The republic's leaders were hanged, their supporters imprisoned and the wearing of the Kurdish national costume and the use of the language were banned.

Iran's Shah Mohammed Reza Pahlavi has removed these proscriptions and distributed many of his personal estates to his Kurdish subjects. The Iranians have left open their border for trade and a small flow of arms and ammunition to the rebellious Iraqi Kurds, more than 60,000 of whom (mostly women and children) have taken refuge in Iran.

The Shah's help is not wholly disinterested: Iran and Iraq dispute the sovereignty of the waterway called the Shatt al-Arab, some 90,000 Iranians were expelled from Iraq a couple of years ago (at which time there were artillery exchanges between Iraqi and Iranian forces), Iraqi agents continue to infiltrate Iran to smuggle arms to dissident Baluchi tribesmen and Iranian troops are fighting Iraqi-backed Dhofari rebels in the Persian Gulf emirate of Oman.

The Soviet Union, although it gave sanctuary to Barzani and 500 of his followers in 1947 after the collapse of the Mahabad republic, long ago snuffed out the spark of nationalism among its own Kurds. Moscow, which seeks in Iraq a base from which to extend its influence over the oil-rich Persian Gulf, is pouring sophisticated aircraft and tanks into Iraq at a rate of more than $1 billion annually. Soviet air force officers coordinate the air attacks on undefended Kurdish villages, their air men reportedly fly an occasional combat mission themselves, and Russian advisors serve with the Iraqi at least down to the brigade level.

Just as Barzani's Kurdish rebels would have no chance of success without Iranian help, Iraq could not hope for victory against the Kurds without this massive flow of Russian military hardware. Indeed, the Sunni Baathists, the Kurds say, are so unpopular with their more numerous Shiite subjects—the theological distinction is roughly comparable to that between Protestants and Catholics—that the government in Baghdad almost certainly would fall of its own repressive weight were it not propped up by Russia.

Syria, too, is a Baathist state (the Baath party is a pan-Arabist, non-Communist movement that rejects Egyptian Arab socialism) and the 600,000 Kurds who live there do so as a depressed and distrusted minority.

There is a Kurdish saying that "the Kurds have no friends." But Israel, like Iran, has an obvious interest in and sympathy for the Iraqi Kurds, if only because the five Kurdish revolts since 1961 have effectively tied down the bulk of Iraq's air force, its 2,000 tanks and six of its eight infantry divisions. There have been reputable reports of Israeli aid to the Kurds, but both sides deny these and they cannot be confirmed.

Whatever and from whom the flow of arms and money, it is not enough to give the Kurds the sophisticated anti-tank and anti-aircraft weapons necessary to launch and sustain the major offensive into the oil fields of the lowlands that is necessary to give them victory.

On the other hand, the Iraqis, despite their vast superiority in weapons and equipment, particularly tanks and aircraft (of which the Kurds have neither), lack either the will or the ability to fight their way into the mountainous heartland of Kurdistan.

In the first five weeks after fighting broke out on March 11, heavy spring rains kept the conflict at a low level. But with the bombing on April 24 of the undefended Kurdish town of Qal'a Dizeh, in which 130 people lost their lives, the fighting has grown in intensity.

The Kurds appear to have had the best of it. Mas'oud Barzani, the nationalist leader's 28-year-old fourth son, who is head of Kurdish military intelligence, estimates that nearly 2,000 Iraqis have been killed (the bodies of more than 600, abandoned on the battlefield, have been recovered by the Kurds, he says), 3,000 wounded and 100 captured. In addition, he reports that more than 700 members of the Iraqi army, 500 of them officers and most of them Kurds, have defected to the rebels, as have 315 Kurdish mercenaries employed by Baghdad.

Despite the small number and inadequate caliber of their weapons, the Kurds claim to have destroyed more than 100 Iraqi tanks and armored cars, and to have knocked out nearly 300 other vehicles. They say they have downed 23 airplanes and damaged 16 others.

This has been accomplished, the Kurds say, at a cost of fewer than 200 of their own men, called *Pesh Merga* (literally, "those who face death") killed and 400 wounded. But nearly 400 civilians have been killed and 700 wounded in the more than 2,000 around-the-clock Iraqi air raids that have destroyed nearly 500 undefended villages and hamlets.

These statistics may not be entirely accurate, if only because firm information is difficult to get here. At any rate, they are all one has to go on, since it was not until late July, with the casualties mounting and the reserves mobilized, that the Iraqi government admitted there was anything like a war going on in Kurdistan. On the basis of visits to four fronts, it would seem that the Kurdish claims are at least within the ballpark.

The Kurdish *Pesh Merga* are possibly the world's finest mountain troops. Armed with a bizarre assortment of Sniders, Martinis, Brnos, Lee-Enfields and Russian Kalashvikov automatic rifles captured from the Iraqis, they scamper like mountain goats from peak to peak. At the front, they live on yoghurt, grey, doughy bread and heavily-sugared tea. There are only walking wounded. The others die before they can be brought down from the mountains.

The Pesh Merga are superbly led by men some of whom have been with Barzani for nearly 30 years. Many of the division and battalion commanders have served in one particular mountain range, every foot of which they know, for eight, 10 or 12 years.

While the Kurds hold three static fronts vital to them in which no retreat is allowed—Barzan, Bilak and Shaqlawah—the conflict in most areas is essentially a guerrilla one. When government forces, heavily supported by tanks and aircraft, move up a valley, the Kurds inflict such losses as they can upon them, then pull back into the mountains to harass the flanks and rear of the invaders. The Iraqis, remembering a disaster in the 1966 war when a 1,200-man Iraqi force was cut off and massacred to the last man, tend to be extremely cautious. Usually, after burning or harvesting the crops and destroying any villages under their control, they pull back to the safety of the plains.

The Kurdish territory under 24-hour rebel control is limited to the mountainous country in a triangle between the Turkish and Persian frontiers, an area 200 miles in length and no more than 60 deep. But there are Kurdish partisans far behind the Iraqi lines and when night falls, the territory under Baghdad's control shrinks to that lighted by the searchlights of their garrisons.

The Kurds, who after dark move and raid virtually at will over much of Iraq, have 60,000 Pesh Merga in the field, organized in 40 battalions, and 40,000 tribal irregulars. They claim that if they had the arms to give them, they could easily raise another 100,000 fighting men. Arrayed against them are more than 70,000 Iraqi troops supported by 150 jet airplanes and 1,100 tanks.

The Kurds are extremely sensitive to suggestions that Mulla Mustapha Barzani does not have the total support of the entire Kurdish people. The Baghdad government has managed to find 60 Kurds to serve in a puppet advisory council and has enlisted 6,000 Kurdish mercenaries, drawn mainly from the Kurdish Communist Party and from tribes traditionally opposed to Barzani. Obeidullah Marzani ("a traitor and a mercenary who will be treated as such," according to his brother Mas'oud), the general's eldest son, is a minister without portfolio in the Baathist government.

Having said this, however, it must be added that Barzani does seem to have the firm support of the great majority of the Kurds, both tribal and educated, who regard him with a reverence bordering on awe. Perhaps the greatest tribute to the legitimacy of his leadership is the $2 million price the Baathists reportedly have put on his head.

Barzani agreed to a truce in March 1970 when the Baathists granted the principle of Kurdish autonomy. Kurdistan was to have its own schools, courts, local administration, internal security forces and a share of the Iraqi oil revenues commensurate with its percentage of the population.

But after the signing in 1972 of Iraq's 20-year treaty of friendship and cooperation with the Soviet Union, the Baathists, given access to the most sophisticated Russian weapons, saw no reason to negotiate Kurdish autonomy. Instead, they unilaterally promulgated a take-it-or-leave-it decree that afforded the Kurds no share in the oil revenues and amounted, the Kurds claim, to no more than decentralization, with an appointive Kurdish council rather than elected one. When Barzani rejected the offer, fighting broke out. And this year, for the first time, he has been joined in the mountains by a great mass of urban intellectual Kurds who in the past had been troubled by the conservative nature of his leadership.

If one is to judge by the fury of their air raids on undefended villages and their treatment of Kurdish civilians who fall into their hands, the Iraqis are determined this time to seek a "final solution" to their Kurdish problem (the Kurds have been trying without success to press charges of genocide against Baghdad at the United Nations). For their part, the Kurds say there is no chance of negotiations with a repressive Baathist regime that already, and more than once, has demonstrated its bad faith.

There is, Idriss Barzani told me, only one question: Will an Arab military dictatorship, supported by the full military might of the Soviet Union, crush the Kurds? Or will the Kurds somewhere find the anti-tank and anti-aircraft guns that will enable them to come down out of the mountains and inflict a telling defeat on the Iraqis?

"We can beat the Iraqis," Idriss said, pounding his small fist into the palm of his hand for emphasis. "We always have. But we cannot defeat the Russians without American help."

"Kissinger must see," Idriss continued, "that the Russian presence in Iraq has as its objective Soviet dominance of the Persian Gulf and its oil. Is this really in America's interest? And, if it is not, why not give us the little bit of help that we need to defeat the Baathists and expel the Russians from our country?"

It was very late, the stars were fading and in the east were the first pale streaks of dawn. There was much hawking and spitting among the bodyguards clustered outside Idriss' tent.

"And what," I asked him, "will you do if you do not get American help?"

He shrugged his narrow shoulders.

"God and the mountains are on our side. We will fight and, if necessary, we will die. But we will never give in, for this would mean the end of us as a people."

The Iraqi artillery could be heard grumbling faintly far away to the west. There would, it seemed, be some dying this day in the Gorge of Ali Beg.

[From the Washington Star-News, Sept. 1, 1974]

THE WAR NOBODY KNOWS

CHAPTER 2

(By Smith Hempstone)

DERBND, IRAQI KURDISTAN.—Getting there, they say, is half the fun. If war-wracked and remote Iraqi Kurdistan is your destination, it can also demand the cunning of a Machiavelli, the patience of a Job and a healthy set of spinal discs. While perhaps is one reason so few American reporters have covered the five Kurdish rebellions since 1961.

It began for me with a telephone call on a Monday morning late in June. Would I, my friend asked, be willing to talk to a delegation of Iraqi Kurds? Knowing that fierce fighting had broken out once again between the Kurds, an Indo-Aryan Moslem people, and their Arab overlords—and on a far more serious level than ever before—I said I would see them the next morning.

When I arrived at work the next day, the three Kurds were waiting for me: Abdul (Sami) Rahman, a former Communist, until March the Iraqi minister for Northern (i.e., Kurdish) Affairs and a member of the Kurdish Democratic Party's seven-man ruling politburo; Mohammed Dizayee, a former Iraqi ambassador (to Czechoslovakia and, later, Canada) and, until fighting broke out in March, minister of public works and housing in the Baghdad government, and M. S. Dosky, another former Iraqi diplomat.

All were dressed in well-cut business suits and, except for the bristling mustaches without which any Kurd feels naked, they bore little resemblance to the bandoleered mountaineers who for 4,000 years defended their mountain homeland in Iraq, Turkey, Syria, Iran and the Soviet Union. (In 260 A.D., a Kurdish army in the service of the Sassanid Persians defeated the Roman emperor Valerian; he was flayed and his stuffed skin was preserved as a war trophy in the imperial palace at Seleucia Ctesiphon.)

The purpose of their visit, Abdul Rahman said, was to try to rally American support for the 2.5 million Iraqi Kurds against whom the Baathist government had launched a genocidal war, bombing undefended villages, burning crops and driving 60,000 refugees across the Iranian border.

For reasons I can only partially analyze, I decided on the spur of the moment that I would, if it were possible, make my way to Kurdistan to see what was happening with my own eyes.

That, Dosky said, could easily be arranged. While the Turkish frontier was closed, I had only to get myself to Tehran, and the Kurdish Democratic Party would see to it that I reached the liberated zone of Iraqi Kurdistan. But although I had never been to Iran, I knew that I couldn't reach Kurdistan without the knowledge and consent of Savak, the ubiquitous Iranian secret police. Dosky suggested that Savak would pose no problem.

I obtained a multiple-entry visa at the Iranian embassy and let it be known that my ultimate destination was Iraqi Kurdistan where, in the eyes of the Baghdad government, I would be an illegal and highly unwanted visitor. Since relations between Iran and Iraq, rivals for hegemony in the Shatt al-Arab and the Persian Gulf, are characterized by a thinly veiled hostility punctuated by gunfire, it seemed unlikely that the Iranians would be unduly distressed by my travel plans.

"Where you go after you leave my country," the Iranian official said with just a suggestion of a smile playing on his lips, "is no concern of mine. By the way, I would not be surprised if someone called on you at your hotel in Tehran."

I made discreet inquiries at the Central Intelligence Agency as to whether a request on my part for an informal briefing on the Kurdish situation would be well received. Because of Watergate and other publicity—or perhaps because CIA was embarrassed by its lack of knowledge on the situation—the response was negative.

From the State Department, I received a rather sketchy low-level briefing, two invaluable large-scale British maps of northern Iraq and the distinct feeling that they wished I weren't going to Kurdistan. The United States, while it sympathizes on humanitarian grounds with the plight of the Kurds, is intent on warming up its rather frosty relations with the Baathist regime in Baghdad. That, too, is the position of the other major powers with interests in the area—the Soviet Union, Britain and France—and the reason is oil: Iraq exports about $9 billion worth annually, and much of it goes to the West.

Dosky and I met again in a Washington restaurant where he gave me letters of introduction to Kurdish agents in London, Paris and Tehran, and to other Kurdish officials at the rebel headquarters in the mountains of Iraq.

I started getting my inoculations—typhoid, gamma globulin, cholera, smallpox and polio—began a mustache that I hoped would enable me to pass more easily as a Circassian among tribes of doubtful loyalty to the rebel cause, and checked out from the Library of Congress its seven books on Kurdistan. Both of the reporters who had gotten into Kurdistan during the fighting in the 1960s and had written books about it had entered on horseback. So I started to assemble camping gear.

With my departure set for July 29, by then only four days away, I began to get a little concerned about my lack of current information on the state of the rebellion. I was, after all, entrusting my life to two men I had met once, and a third I had seen but twice.

Since it was pretty clear that I was not going to receive much help from the United States government, I decided to take a chance and increase the number of people who knew of my plans. I got in touch with a friend at the British embassy and told him of my destination and my problem.

"You ought to call on M in London on your way out," he said. "He is extremely knowledgeable."

That did not help much, so I revealed my plan to another friend, the ambassador of an Asian nation that has no reason to love the Iraquis. My Asian friend, who is no stranger to the murky world of intelligence operations, offered what help he could and gave me this advice:

"Unless they are essential to your mission, do not make contact with the Kurdish representatives in London and Paris. Both cities are swarming with AMN-AAM (Iraqi intelligence) agents. The Kurds are bound to be under surveillance and the Iraqis are a ruthless lot who will stop at nothing. Secondly, gain the confidence of your SAVAK contact, for they surely will be in touch with you; if you can, make him your friend. In this affair, he can help you—or hurt you—a great deal."

The day before my scheduled departure, I ran into CIA Director William Colby at a Blair House retirement party for Adm. Thomas H. Moorer, who was stepping down as chairman of the Joint Chiefs of Staff.

"I'm on my way to Iraqi Kurdistan," I said. "What can you tell me?"

"Not much," Colby replied, "but keep your head down. It's getting pretty mean out there." That I already knew.

When we met in London, M turned out to be a bouncy little man with ruddy cheeks and bright blue eyes, who shook his tightly furled umbrella at passing taxis as if urging on a company of Assyrian levies against some mountain fortress, as indeed he had in times past. Over a lunch of cold salmon and Sancerre at the Belfry Club, he had these reassuring words for me:

"You'll have a jolly good time. But remember to break bread and eat salt with a Kurd just as soon as you can: Then he can't kill you. Eat only with your right hand and don't point the soles of your feet toward anyone. I shouldn't worry about the Iraquis too much. They're damned bad shots or I wouldn't be alive today, and no good at all in the mountains. About the only way they might hit you is if they're aiming at the chap next to you. Of course, with napalm and all that, one can be unlucky. And don't fall into their hands if you can avoid it; they still impale people. Funny you want to go there."

In Paris as in London, I avoided the Kurdish representative. But I did call on a French friend who knows the Middle East.

"I'm going to Iraqi Kurdistan," I said over a kir in the Boulevard St. Germaine.

"Then you are a fool," he replied, echoing a view expressed by other friends familiar with my plan. *"C'est l'ennui du Watergate?"*

"Perhaps."

It was as good a reason as any to explain why an editor, fat and 45, thought he could find happiness dodging MIGs in the Zagros Mountains in the company of men but a step removed from brigandage.

My flight from Paris arrived in Tehran, the Iranian capital, late on the sweltering night of July 3. At 8 a.m. the next morning, there was a light tap on my hotel door. I opened it to find a very small well-dressed Iranian, clean-shaven and wearing an enromous embossed ring on the little finger of his right hand.

"I am Gen. Fariborz,' he announced. "You are Mr. Hempstone?"

I said that I was and invited him in.

"You are going to Kurdistan?" he inquired.

I said that I hoped to.

"Good. You have been wise to be honest with us. So many reporters waste a great deal of time—theirs and ours—playing little games with us. But you cannot go immediately to Kurdistan."

"And why not?"

He shrugged his well-tailored shoulders.

"It seems that Gen. Mulla Mustapha Barzani (the 71-year-old Kurdish nationalist leader) is not prepared to receive you at this time. He is away in the mountains. You can cross in a week or 10 days. Meanwhile, why not see something of Iran? We will, of course, send someone to accompany you."

I knew that the worst thing I could do was to lose my temper. So I tried to explain quietly how important it was for me to get to Kurdistan immediately, that no staff correspondent of an American newspaper had managed to get to Kurdistan since the intensification of the fighting and that I wanted to be the first.

"But I have explained: It is not in our hands. Barzani is not yet ready to receive you. Besides, is it so bad to see something of my country?"

I promised Gen. Fariborz that I would think about it and let him know.

"Do that, Mr. Hempstone," he said evenly. "It is the best course."

I called on a friend at the American Embassy for advice.

"You've got to play it their way," he said. "There may be a hundred reasons—some good, some bad—why SAVAK or the Kurds don't want you to cross over now. But you're in their hands and you won't make it without their help. So why not relax and enjoy it? This is, after all, the Middle East."

It seemed at least possible, however, that if SAVAK would not help me unless I cooperated, at least they might not obstruct me if I tried to enter Kurdistan solely under Kurdish auspices.

I called the number of the Kurdish agent in Tehran, Shaffiq Quazzaz. The line sounded as if someone were frying bacon on it. There were a number of suspicious clicks and bleeps, but no answer. On the eighth attempt, some six hours later, a man answered the phone.

"Mr. Quazzaz?" I inquired.

"No. He is away. This is a friend."

"My name is Hempstone and I come from Mr. Dosky in Washington."

"I know. Quazzaz is away. They are not ready to receive you. Perhaps next week." He hung up.

I gave up and telephoned Gen. Farizorz. And that is how I came to view the wonders of Isfahan and Shiraz, the oil refinery at Abadan, the computerized supertanker at Khark Island in the Persian Gulf, the lonely tomb of Cyrus the Great near Persepolis and the duck-haunted waters of the Caspian Sea, all in the company of a genial and intelligent SAVAK officer.

Back in Tehran a week later, I finally caught up with the elusive Mr. Quazzaz in a sleazy hotel off Pahlavi Avenue. I told him I expected to cross the frontier in the company of my new-found Iranian friend in three days' time.

"We will have someone there to meet you," he promised, giving me a letter of introduction to Idriss Barzani, the nationalist leader's third son and chief-of-staff. As I was leaving Quazzaz's hotel, a SAVAK underling I had once seen in Gen. Fariborz's company popped out from behind a potted palm, smiled and wished me a good morning. It was indeed the Middle East.

From Rizaiyeh on the shores of Lake Urmia, near where the Turkish, Iraqi and Iranian frontiers meet, we drove in a southwesterly direction over bone-jarring mountain roads to the Iranian town of Khaneh, where we picked up a Kurdish liaison officer wearing the baggy-seated brown trousers gathered at the ankle that are the uniform of the *Pesh Merga* (the 60,000-man Kurdish partisan force) and the red and white turban of the Barzani tribe.

The Landrover groaned up over the Shinak Pass, past the Iranian fortifications and police post and rushed down the dirt mountain road to Haj Omran, the Kurdish crossroad where I said goodbye to my Iranian escorts. They eyed the armed Kurds uneasily and did not linger.

Ahmed Hadji, a genial middle-aged Kurd with the bright blue eyes, bristling mustache and carriage of a British sergeant-major, let me into a low stone building, leaned his Kalashnikov AK-47 Russian assault rifle against the wall and ordered metal chairs, a table, cool water, English Craven A cigarettes and tea brought for me.

Idriss, he said, was off directing the fighting. But he would receive me later, perhaps that very evening. Meanwhile, when I had finished my tea, he, Ahmed Hadji, would take me to a place where I could rest.

I said I was ready and indeed I was: Having once known the agony of spending a solid fortnight on horseback, I had taken the precaution of applying tincture of benzoin, a skin-toughener, to my backside for a couple of weeks, the net effect of which had been to make my trousers stick to my skin.

I strode purposefully into the courtyard toward a group of tethered horses. But Ahmed Hadji waved me away with a depreciating gesture, threw his AK-47 on the front seat and indicated I was to get into an ancient yellow automobile with a Persian carpet on its floor, mud smeared on its roof by way of camouflage and its headlights dimmed by blue paint.

And that is how I came to enter Kurdistan in a Mercedes-Benz rather than on a horse. It had, when all was said and done, taken some doing.

[From the Washington Star-News, Sept. 2, 1974]

The Mideast War Nobody Knows

CHAPTER 3

(By Smith Hempstone)

Qal'a Dizeh, Iraqi Kurdistan.—Qal'a Dizeh is Kurdistan's Guernica. But no Kurdish Picasso has emerged to make of this ravaged town that once sheltered 25,000 people a symbol of man's inhumanity to man.

Like the Basque village of 7,000 people devastated by Nazi Germany's Condor Legion in the Spanish Civil War, Qal'a Dizeh had little military importance. It nestles in the wheat fields and melon patches of the valley of the Lesser Zab River, 13 miles from the Kanirash Pass that leads into Iran, and an equal distance from the large lake formed by the Iraqi-held Dukan Dam.

It is true that the headquarters of Hasso Mir Khan's Kawe Division is here, that a certain amount of rebel military traffic goes through the town, that there are Pesh Merga (Kurdish soldiers; literally, "those who face death") in Qal'a Dizeh.

(Since this dispatch was written, Qal'a Dizeh has been stormed by an Iraqi armored column with a heavy loss of life.)

But just as the Nazi allies of General Franco bombed Guernica primarily because it contained the ancient oak tree symbolic of the liberty of the Basque people, the Iraqi pilots and the Russian staff officers who plan their operations had a particular reason—and one that was political rather than military—for wanting to wipe Qal'a Dizeh off the map.

When the uneasy four-year armed truce between the Iraqi Arabs and their Kurdish coreligionists broke down on March 11, the entire Kurdish faculty and student body of the university of Sulaimaniya, 30 miles to the southeast of here, took to the hills. They were joined here in Qal'a Dizeh by Kurdish students and professors from universities in Baghdad and Kirkuk.

The students and their professors did not join the partisans of 71-year-old General Mulla Mustapha Barzani, the Kurdish nationalist leader. But with a staff that included 23 Ph. D.s, 20 Masters and 30 B.A.'s, the 600 Kurdish students planned to continue their studies in the liberated zone, out of reach of Iraq's hated ruling Baath party.

This was something that in all the Kurdish people's long struggle to be free never had happened. In the four previous Arab-Kurdish wars since 1961, Kurdish intellectuals, many of whom had been heavily influenced by Marxism, in the main had stood aloof from Barzani, a conservative, anti-Communist tribal leader whom most of them admired but did not entirely trust.

But now the Kurdish Democratic party, the mouthpiece of the urban Kurdish intellectuals, purged of its Communists by Barzani (who is its president) and KDP secretary-general Habib Mohammed Kassim, was solidly behind Barzani. That the Russians since 1972 had been supplying Iraq with modern arms obviously intended by the Baathists to be used against the Kurds made the decision of the intellectuals easier.

So in striking Qal'a Dizeh, the seat of the university-in-exile, the Iraqis clearly intended to teach the intellectuals a lesson and to drive a wedge between the KDP's urban members and the Kurdish tribal fighting men.

Another possible reason for attacking Qal'a Dizeh, and on that that the pattern of subsequent Iraqi aerial tactics lends credence to, was that the town was jammed with several thousand refugees. These were mainly women and children from Iraqi-held lowland areas who were making for the Iranian sanctuary on the other side of the Kanirash Pass.

For the first six weeks after the breakdown of the truce on March 11, heavy spring rains kept all military activity, including aerial attacks, at a low level. No Kurdish villages were attacked by air during this period. The weather cleared in the third week of April and Qal'a Dizeh's fate was sealed.

This is how it was on the morning of April 24, 1974, just two days short of the 39th anniversary of the bombing of Guernica by the Nazis, as pieced together from eye-witness reports:

Spring is a time of ecstasy in Iraqi Kurdistan, which has boiling hot summers and brutally cold winters. With the end of the rains, April 24 gave a promise of rebirth and plenitude, the wheat fields tossing in a light spring breeze, the sun gentle on the wild flowers and pale green wattle trees cloaking the banks of the Lesser Zab as it meandered its way down from the mountains and through the valley to Dukan Lake.

In the marketplace it was too early for the peaches, apricots, plums and grapes that are the small luxuries of this hard and poor land. But the vendors had put out clots of wild honey, coarse salt, piles of yellow spices, bars of homemade soap and sides of freshly slaughtered sheep and goats.

The refugees and the townspeople, although it was well past 9 a.m. (the Kurds are notoriously late risers for Middle Easterners), were just finishing their breakfasts of yoghurt, rough gray bread and sweet tea. Only a few students were catnapping in the two university dormitories, since classes were not due to start until the following week.

At about 9:35 a.m., the two Russian-built Sukhoi-7 bombers came in at rooftop level from the west along Qal'a Dizeh's main axis. Because the Kurds are very short of anti-aircraft guns, the town was totally undefended. Because it was the first air raid of the war, no slit trenches or other shelters had been dug. It was, as they say, a piece of cake for the Iraqi pilots.

While the few Pesh Merga in Qal'a Dizeh fired their bolt-action Brno rifles at the jets, the Sukhois dumped their bombs, scoring a direct hit on a primary school, another on the marketplace and a near-miss on the university, the concussion of which buckled the steel doors and tore parts of the roofs off the two university dormitories. The bombers wheeled lazily around in the sky and came in for a second run, with the rising sun at their backs, straffing the town and the university dormitories with high-explosive rockets. It was all over, survivors say, in about three minutes.

The Iraqi pilots flew away to the west to receive the congratulations of their Russian mentors at the Kirkuk airbase. And the Kurds began the sad task of pulling the dead and wounded from the flattened buildings. The toll was 131 killed and more than 300 wounded, including seven university students and one professor. Most of the remainder of the casualties were women and children, since the majority of the men were at the front.

The rape of Qal'a Dizeh provoked a reaction among the Kurdish intellectuals who heretofore had been cool toward Barzani, but it must not have been precisely what the Iraqis had in mind: On the day after the bombing, the students and their professors voted not to reopen the university until the war was won, and marched off to join the Pesh Merga.

"Qal'a Dizeh," says Majib Yussif, a senior majoring in physics at the University of Sulaimaniya, "opened my eyes as nothing else could have to the nature of this struggle: Either the Kurds will win their freedom or the Baathists will exterminate us; there is no middle way."

Despite the historic enmity between Arabs and the non-Semitic kurds, a few non-Kurds, including two forcibly retired Iraqi generals, have gone over to Barzani, who already had the support of Iraq's 150,000 Assyrian Christians and its 50,000 Yezidi "Devil-worshippers." This had broadened and deepened Barzani's movement from one for Kurdish autonomy to one for freedom and democracy for all Iraqis.

Meanwhile, there have been other Qal'a Dizehs since April 24, although none so costly. Halabja has been partially flattened, Rania has been heavily damaged, Zakho is a burned-out shell. In all, the Kurds say, 80 big villages and more than 400 hamlets have been destroyed or heavily damaged.

Columns of refugees have been straffed and crops napalmed. Lacking other targets, the Iraqi Migs, Sukhois and even Tupolev-22s, the most advanced Russian supersonic bomber, have attacked flocks of sheep and herds of cattle.

The Iraqi objective, the Kurds say (and their intelligence is excellent), is clear: to make a wasteland out of Kurdistan, to terrorize civilians, to turn them against Barzani's leadership to threaten them with starvation this winter when the passes from Iran are blocked with snow and there is nothing to replace the burned crops and the slaughtered animals.

"If this is not genocide," says Idriss Barzani, the nationalist leader's son and chief-of-staff, "it will do until a better example comes along."

But the United Nations has turned a deaf ear to Kurdish charges of genocide, although the bombing goes on around the clock, night and day.

Since Qal's Dizeh, the Kurds know what to expect and are a little better prepared. Whole villages have moved into the caves that honeycomb these rugged mountains, an estimated 250,000 people having been made homeless by the war, 73,000 of whom have fled to Iran. The peasants carry on their lives as best they can, coming down into the plains to harvest their crops by the light of full moons.

The Kurds simply do not have enough antiaircraft guns to defend the civilian population. The few Dushka 12.7mm antiaircraft machine guns and Hispano Suiza 30mm cannon that they have must be concentrated to defend Barzan's headquarters and that of the KDP, the Haj Omran-Chouman road that is Kurdistan's principal lifeline to Iran and the outside world, and the troops at the front. And these weapons are of such small caliber that, even when they are emplaced on 9,000-foot peaks, the Iraqi aircraft can still bomb with impunity from high altitudes.

The civilian population's only real defenses are dispersal, the caves and slit trenches, supplemented by a primitive but ingenious "early-warning system": sentries with the sharpest eyes and the keenest ears are posted on the mountain peaks. At the approach of Iraqui planes, the first sentry to spot them fires a rifle shot, which is repeated by other sentries as the planes move within their ken.

"The Kurds have no friends," a Kurdish saying goes, and that has been about the size of it for 4,000 years. Since the recent series of five wars began in 1961, only Iran and possibly some of the Persian Gulf emigrates and Israel (which is not unmindful of the fact that the Kurds are tying down six of

Iran's eight divisions, half of Baghdad's 2,000 tanks and most of its air force) have given Barzani any assistance.

And this aid, with the exception of Iranian humanitarian assistance to the 73,000 Kurdish refugees on her soil, has been both small and clandestine.

Because of the huge amount of Russian military aid to the Baathist government in Baghdad, the absence of any American help to the Kurds is a particularly sore point with Idriss Barzani and his father. Says Idriss:

"We asked for American help as long as 10 years ago, and to this day we have had no answer. Ten years is a long time to wait for an answer. The doors of American embassies are open to all other people of the world, but they are closed to Kurds: 'Go away,' they say, 'you are Iraquis and we cannot help you.'

"We can defeat this repressive, anti-American Iraqui regime, as we have always done before. But we cannot defeat the Soviet Union, and that is who we are fighting. The Russians send the Baathists advisers, aircraft, tanks, artillery, bombs, napalm, even poison gas, although the Iraquis have not used this yet. Yet America will not send us a single cartridge to help us defend our homes, not a roll of bandages to bind the wounds of our women and little children.

" 'Go away,' your State Department says to our emissaries, 'and die quietly; this is not our affair.' But does your President so love the Russians that he will allow them to butcher a small nation that would be your friend? If this is so, then we have only God and our mountains to protect us."

But neither God nor the mountains had been able to save Qal'a Dizeh any more than the Basques' tree of liberty had been able to shelter Guernica.

[From the Washington Star-News, Sept. 3, 1974]

THE WAR NOBODY KNOWS

CHAPTER 4

(By Smith Hempstone)

MIRGAH, IRAQI KURDISTAN.—In a post-midnight talk, while we sipped tea and squatted cross-legged on carpets in his sand-bagged tent, Idriss Barzani, the Kurdish leader's third son, chief of staff and possible political heir, gave me leave to pass to Hasso Mir Khan's Kawe Division guarding the Dukan front.

To be my personal bodyguard, he gave me Ahmed Saids from his own retinue. "This kak's (respected older brother's) life is your life," Idriss told Ahmed, and from the serious look on Ahmed's face, I gathered that the injunction was something more than rhetoric.

And so it was that we passed through Haj Omran with Yacub, a Nestorian Christian whiskey smuggler from Kirkuk, at the wheel of the Jeep, and along the Iranian border by the rushing waters of the Lesser Zab, past fields of sunflowers, winnowed wheat and ripening melons, to Sardasht, then across the throat-tightening Kanirash Pass and down into bomb-scarred Qal'a Dizeh, a ghost town that once had 25,000 inhabitants and now has 5,000.

While Yacub went in search of Hasso, we sat in his garden and I questioned Ahmed through Mohammed Ter, the Erbil secondary school headmaster who had joined the Pesh Merga and was my interpreter.

Ahmed is 45 years old, stands about 5'5" and has an outsized leonine head that would be in proportion on a man more than six feet tall. He looks like the actor Anthony Quinn, has several missing teeth and a number of gold ones of which he is inordinately proud, and a deep, gravelly laugh that begins in the neighborhood of his blue-and-white cummerbund and erupts from his barrel chest like a mountain freshet.

He has a wife of 35, and another (he concedes with a chuckle) of 21. Between them, they have given him seven sons and six daughters. He hoped to have 21 children before he is through—a program that he alleges has the enthusiastic support of the two Mrs. Ahmeds—but he admits that he may have to take a third young wife in his declining years to achieve this objective.

Ahmed, a Barzani tribesman, was with the General at the Mahabad uprising as a boy of 16. He has more than compensated for his personal population explosion by killing between 60 and 70 men. These are the ones, he says, "whose faces he has seen." He has wounded many others, and some of these may have died of their wounds. He bears the white crease of a bullet on his chest and has another wound in his left leg. He has a fund of stories mostly involving war, tribal feuds and his years in Iraqi jails and exile. He is a very funny and gentle man.

Hasso Mir Khan, who fought beside Barzani at Mahabad in 1946 and followed the General on his epic 52-day march across Iran, Iraq and Turkey, ending with an 11-year exile in the Soviet Union, came swaggering in about dusk.

A short man with a bristling mustache, a twinkle in his eye and a chest like a pouter pigeon, Hasso commands 2,000 Pesh Merga and 1,500 tribal irregulars. But 150 of the latter lack rifles. Hasso, who has been in charge of this sector for eight years, is faced with the 12,000 troops of the Iraqi III Division that guard the Dukan Dam.

(*Since this dispatch was written, an Iraqi armored column has broken through and taken Qal'a Dizeh with a heavy loss of life.*)

We dined by the light of a kerosene lantern in Hasso's garden. There was roast chicken, bits of fried lamb, mounds of rice, bowls of tomato gravy, rice wrapped in grape leaves, dishes of finely ground salad cooled by ice cut from the mountains in winter, and a foot-high stack of rough, grey bread in thin loaves the size of dinner plates, all washed down with mastow, a mixture of water and yogurt made from sheep's milk.

We washed our hands when we had eaten our fill from the common bowls and sat cross-legged on carpets under the stars while Hasso waved his guards to the table to deal with the remains of the feast.

Hasso, who says he is 43 but looks older, said he had not enjoyed his stay in the Soviet Union. The Kurds has been conscripted into the Red Army for a year, then put to work and not allowed to move about freely. Hasso had learned Russian and read Tolstoy, Chekhov and Turgenev, Solzhenitsyn Hasso said, had written truly of the nature of Stalin's dictatorship. The Russians, he added, were not a hospitable people.

Yes, Hasso said, he knew I had Idriss' permission to see whom and what I wished. The Dukan front I would find interesting. If he had one big gun and the orders to destroy the dam, he could flood Baghdad. He would send me within the hour to Yussif Hamad's fourth battalion headquatrers at Mirgah.

It was better to travel at night because of the Iraqi Migs and Sukhois. They were bombing and strafing all the time. As an escort, he would give me his own nephew, Nuri Suleiman, and five red-turbanned Barzani fighting men.

We lurched off into the night in a wheezing Land Rover with no superstructure, the top halves of its headlights painted blue to reduce their visibility from the air. After an hour over a rough track, we reached the banks of the Lesser Zab, where it makes a great bend to flow southward to form, behind the Iraqi-held Dukan Dam, a lake 20 miles long and perhaps four wide.

In a few minutes, a 15-foot wooden boat called a balem, its outboard motor cut, glided silently out of the shadows and into the muddy shore and we climbed aboard for the half-mile trip to the other bank.

On the other bank another Land Rover in even more atrocious condition than the first, was waiting for us, with Nuri Suleiman at the wheel.

It was not until well past midnight that we reached Mirgah, a substantial village of stone-and-mud houses through and around which flowed a number of streams. The houses were terraced so that the doors of one opened out onto the roof of another. Sentries having been posted, I unrolled my sleeping bag and fell quickly asleep on the flat roof of Mirgah's principal home.

The next morning, Yussif Hamad, the fourth battalion commander, who is even shorter and burlier than Hasso, joined us at breakfast on boiled bits of goat, onions, bread and watered yogurt. It was a five-hour march to the base of the mountain overlooking the Dukan Dam, so, he said, perhaps it would be best to take a chance and cross the plain by Land Rover and approach the mountain by balem. I thought I detected a look of apprehension on Ahmed's face, but he remained silent.

We drove for more than an hour over a treeless plain the color of a lion's pelt, a cloud of dust pluming out behind us. But there were no MIGs (it was a Friday, and perhaps the Iraqi pilots were enjoying the Moslem sabbath) and in due course we reached the village of Khoshaw, a mean place set in dusty wattle trees. (Khoshaw now is in Iraqi hands). There I left my pack after Ahmed had told the headman in gory detail what would happen to him if so much as a thread of it were damaged, or a sock stolen from it.

Ahmed's reputation as a killer of men obviously had preceded him, and the headman swore that he would guard the pack as if it were his wife's honor, a turn of phrase that provoked a remark from Ahmed that set the entire village into laughter. After a draught of cool water from the village spring, we boarded two balems and, hugging the east shore of the reservoir, wound our way under rocky clifts to a small, flinty cove where we debarked. The face of the cliff was nearly sheer and it height about 300 feet, which for a 45-year-old Sunday doubles player proved to be a little too much. I was well winded by the time we reached the top, where carpets had been spread for us by refugees living in caves, and tea, served in three-ounce glasses and slickly sweet, was offered us.

Mercifully, mules were produced for Yussif Hamad and myself, raw-boned, springly-shanked beasts with mouths like iron. I started to mount from the left, in the American fashion, but Ahmed tut-tutted me around to the other side and, there being no stirrups, gave me a leg up. The Kurds, being good Moslems, regard the left as unclean, knot their turbans on the right, step off on the right foot and mount their horses and mules from the right. Christian I might be, he muttered, but as Idriss' honored guest I might as well learn proper behavior.

As we rode off into the foothills, Ahmed, perhaps to make up for his sternness on matters theological, scampered into a vineyard and returned to hand me a huge bunch of grapes, some black, some green, all tart and delicious.

The path up the 4,000-foot mountain, over which all of the fourth battalion's food, water and ammunition must pass on the backs of men or those of the four mules assigned to it, is narrow, steep and precipitous. The angle was so steep that, without stirrups, one could only cling desperately to the pommel and apply as much knee and thigh pressure as a wide freight saddle would permit. It took more than an hour to reach the top, where perhaps the world's finest mountain troops, the Kurdish Pesh Merga (literally, "those who face death") stared down like gaunt wolves from the crags at the hated Iraqis.

While we waited in the battalion CP for the men on foot to catch up with us, Yussif told me his problems. The Iraquis at times had massed as many as 175 tanks against him. He had no anti-tank guns, but had managed to knock out four with mines. He had one anti-aircraft gun, an obsolete Dushka 12.7mm. machine gun that had succeeded in damaging one Iraqi MIG. The base plate was cracked and the firing pin broken on his most powerful artillery piece, a 122mm mortar. Next to that, the biggest gun he had was an 82mm Russian mortar, and of these he had only one.

That he had to defend two mountain ranges 12 miles apart with 550 Pesh Merga and 500 tribal irregulars did not concern him unduly. The Iraqis were cowards, he said, and, regrettably, never attacked him. But it was frustrating not to have the weapons to go down into the plans and destroy the Dukan garrison. "Send me just one anti-tank gun from America, just one, Kak, and I will be your slave," Yussif asserted

We lunched on bread and chickpea soup and, in honor of the occasion, a box of Iraqi cookies carried through the lines from Baghdad by some whimsical smuggler (it is indicative of the Kurds' ability to move at will under cover of darknes that, despite the war, smuggling to and from Iraq accounts for a quarter of liberated Kurdistan's total trade).

In the afternoon, I watched through Yussif's binoculars while the 82mm shelled the Iraqi garrison. There are no such luxuries as field telephones, and range corrections were shouted down to the gun crew 100 yards below us. Every round hit within the fort's walls, sending two Russian T–54 tanks parked outside it into action.

Since a mule can carry only four rounds of 82mm ammunition, we fired only eight rounds and hurried back down from the crest. By the time the Iraqi tanks and guns began returning our fire, we were safely napping on the reverse slope.

In the afternoon, we walked down the mountain and to a cove where our boats were to meet us. Since they were not there, those of us who could swim (which seemed to include about a third of the Kurds) stripped and threw ourselves into the cooling waters of the lake. Ahmed stripped to the pajama bottoms that all older Kurds wear as underwear and, with a blood-curdling yell, did a magnificent belly-flop into the lake.

When an hour had passed and our boats had not come, we hailed a passing balem that leaked prodigiously. Leaving half of our retinue to make their own way home, we, with two men bailing constantly, just made it back to Khoshaw. There we said goodbye to Yussif, since it was our plan to go all the way to the Qal'a Dizeh shore by boat, thus avoiding the dusty and bone-jarring Land Rover trip.

We left at dark. An hour later, the wind through the gorge began to howl and we had begun to ship water over the bow. The boatman said he could not make the turn into the gorge without swamping us, so he was putting into shore. We waded ashore in the pitch dark somewhere between the gorge and Mirgah and sat down in a melon patch to decide what to do.

Finally, we stumbled five miles in the dark until we set to barking the big, crop-eared sheep dogs of Mamandana, a village where we rested on the roof of the headman's house while his women, saucily unveiled and dressed in bright colors as all Kurdish women are, brought us cool melons, fried eggs, yoghurt and tea. (Mamandana also fell a few days ago).

Eventually, another Land Rover turned up, the wind died down and we found a boatman willing to take us over to the Qal'a Dizeh shore where Yacub had been waiting for us in the Jeep. It was 1:30 a.m. before we staggered into Hasso Mir Khan's compound and fell asleep on his lawn.

Next, I decided, I would ask Idriss' leave to pass to his cousin, Sheikh Abdullah, who commanded the Ager ("Fire") Division defending Barzan, the heart of the Kurdish rebellion.

That meant a chance for Ahmed to see his two eldest sons, serving in the Pesh Merga there, and to visit the home he had not seen since March. And so it was agreed.

[From the Washington Star-News, Sept. 4, 1974]

THE MIDEAST WAR NOBODY KNOWS

CHAPTER 5

(By Smith Hempstone)

BARZAN, IRAQI KURDISTAN.—My motives for wanting to visit Barzan were several: It seemed important that I see the homeland of the warlike tribe that was the heart of the Kurdish rebellion. There was always the chance that there I might run across General Mulla Mustapha Barzani, the 71-year-old rebel leader. I wanted to meet his second son, Luqman, who had taken over the day-to-day leadership of the Barzani tribe. And there was always the possibility that there might be heavy fighting there.

Although Barzan was only a day's drive to the north over one of Kurdistan's three roads, this trip, like all others, had to be personally approved by Idriss Barzani, the general's third son and chief of staff. Like other meetings with Idriss, who at 30 looks like a younger edition of King Hussein of Jordan, this one took place late at night at a different location from the previous one.

On three of the four counts, Idriss was discouraging: He did not know where his father was, but he was not in Barzan; Luqman was six days' mule-ride from Barzan, somewhere near the Turkish frontier; there had been no reports of heavy fighting in Barzan. But if I wished to go, I could do so, and he would give me a letter of introduction to Sheikh Abdullah, his first cousin and the commander of the Ager ("Fire") Division guarding the western approaches to Barzan.

And so it was that the four of us—Symmand, my interpreter, Yacub, the Assyrian Christian driver of the Jeep, Ahmed Saids, my Barzan bodyguard, and I—left at 8:30 the following morning for Barzan. The red-turbanned Ahmed Saids was in high spirits: The visit to Barzan would give him his first chance since the fighting began in March to see his home in Spindar and his two sons there, Hassan and Khalil.

We passed by way of Galala over George's Road, built by a single Assyrian Christian bulldozer operator in the lull between the 1970 fighting and the present war, to give the Kurds an access route to Barzan not exposed to direct fire from the Iraqi fortress of Spilak.

As the crow flies, the distance from Chouman to Barzan is not more than 80 miles. But the road crosses such rugged mountain country that the distance is at least twice that far, and the trip cannot be done in less than seven hours.

George's Road had been heavily bombed and it was pock-marked with bomb craters. Burned-out Land Rovers and Jeeps, their bodies twisted into surrealistic shapes by Iraqi rockets, stood like warning mileposts along its verges. The mountains through which George's Road twisted and turned were blackened with napalm. The Christian villages tucked into their folds, once famous for their wine-making, were abandoned and silent, their inhabitants having taken shelter from the air raids in the caves of the Barodosti Mountains.

Yacub drove as fast as the road's bad condition would permit, a plume of red dust billowing out behind the Jeep, while the rest of us kept an eye out for MIGs.

We made good time and by one o'clock had reached Spindar, Ahmed's village just inside the marches of Barzan, each of whose 75 inhabitants was in some way related to him. Of his immediate family, only Khalil and Hassan were still in Spindar, his wives and his other 11 children having accompanied him to Haj Omran where he was attached to Idriss' personal retinue.

Like most Kurdish homes, Ahmed's single-storied, flat-roofed house of mud, stone and wattle contained no furniture. So we sat cross-legged on mattresses brought to the porch on the shady side of the building.

Ahmed said that until 1969, when the Iraqis had managed to seize Barzan, Spindar had boasted a great chestnut tree, "the like of which was unknown throughout all Kurdistan, and perhaps the world." When they had been forced to evacuate the village, the Iraqis had poured gasoline on the chestnut tree and set it aflame, depriving the village of an important source of food during the winter months.

As we talked on the porch, the men of the village, ranging in age from 12 to 70, gathered to hear Ahmed's news and to view his visitor. Although Kurdish women go unveiled, they stay out of the way of strangers, and neither in Spindar nor anywhere else did they share a meal with us.

Having lunched on a meal of mastow (watered yogurt), fruit and bread, dispatched a teen-aged nephew to the market for news of Luqman Barbani's whereabouts (there was none) and left a bottle of beer in the village spring to cool against our return, we left for the Valley of Barzan, following George's Road in a generally northwesterly direction along the ridgelines, skirting sheer drops into gorges hundreds of feet below.

There were, Ahmed said, many great caves in the mountains of Barzan, where one could walk for hours without reaching the end. And in these mountains were bears, wolves, mountain goats, wild boars and red-legged partridges, although all were fewer than in his youth, because everyone was armed and the people were hungry. The mountain goats had been almost wiped out, but Barzani had ordered that they no longer be killed, and they were coming back; but a bounty was still paid for the skins of wolves, which caused much damage to the flocks.

Cresting a ridge, there spread out beneath us the Valley of Barzan, protected on all sides by mountain ramparts and through it flowing the twisting Greater Zab. Looking down upon this green and pleasant land, studded by oak trees, it was easy to understand why Mulla Mustapha Barzani, his family and his retainers had been willing to fight for it.

Having rattled down the mountain road to the floor of the valley, Ahmed and I were swimming at dusk beside a bombed-out bridge over the Rukuchuk River, a tributary of the Greater Zab, when Sheikh Abdullah, a shortish, blue-eyed man with fair skin and a gingery little mustache, presented himself. It was dangerous, he said, to swim so close to the bridge, which the Iraqi airplanes still attacked from time to time. And would we not join him for dinner?

Sheikh Abdullah's house stood in the middle of the village of Barzan, and we dined in its garden, along with some 20 of his retainers. And there began the familiar business of attempting to dissuade me from proceeding farther in the direction of the front: The Iraqi air and artillery had been very active, there was no bridge or ford across the Greater Zab, the land mines had not been cleared from the crest of the Piris Mountains to the west, which his battalions were holding

I thanked Sheikh Abdullah for his concern, but said that, *inshallah* (God willing), I would sleep the following night upon the crest of the Piris. *Inshallah*, Sheikh Abdullah replied somewhat doubtfully, and showed us to the roof of the building where we were to sleep.

At breakfast, Sheikh Abdullah confirmed that Luqman Barzani was wandering in the mountains near the Turkish frontier and could not be reached. He said he was sure I would not want to leave for the Piris front before seeing Barzani's home, visiting the mosque and looking in on the hospital. It being but 7 a.m. and protocol demanding agreement, I said I would see these things and then, *inshallah*, leave for Piris.

Barzani's home has been razed to its foundations 14 times over the years by the Iraqis, and the present structure is remarkable only in that it is three stories high and of concrete, with a fine view out over the village to the valley and the river.

Having seen this, the mosque and the hospital (all of whose patients were civilians), I pointed out to Sheikh Abdullah that the temperature was rising and that I was eager to leave for the Piris. The mules, Sheikh Abdullah replied, had not yet been found and he had invited a number of notables to a lunch in my honor. Surely I would not disappoint him? Syamand, the interpreter, whispered that I dare not refuse, so I accepted with the best grace possible, which I fear was not very much.

There followed a three-hour meal during which the temperature rose into the high 90s. The flies buzzed insistently over bowls of mutton and mounds of rice and the notables and I stared at each other in silence.

Sheikh Abdullah observed that it was very warm. Since all of us were sweating profusely, it seemed pointless to disagree. In that case, asked Sheikh Abdullah, why not rest during the heat of the day and ride up to the Piris in the cool of the evening? This was a bit too much: I told the quaking Syamad to inform Sheikh Abdullah that, by my eyes, I would leave that very minute for the Piris, with or without him, mules or no mules. Sheikh Abdullah nodded and smiled sweetly: Of course we would go; he had not realized I was in such a hurry.

Miraculously, a raft, a rickety wooden platform set on six innertubes and propelled by a single oarsman, was waiting at the Zab. Even more remarkably, two mules were grazing on the west bank, with the promise of the three more we needed (since the division's doctor was to accompany us to the front) at the next village.

At the village, which we reached after a half-hour's climb, a woman, apologizing that she had nothing better to offer us, brought us a cool bowl of buttermilk from which we drank in turn. With the air of one who has known better times, she said she was from the Iranian side of the border, but had "grown old in this place."

Here Sheikh Abdullah made his apologies for not accompanying us to the top of the mountain, and said he hoped on our return we would have a swim at his headquarters on the banks of the Rukuchuk. That was, I knew by now, as much a command as an invitation.

The mule track followed a ridge, dipping down from time to time into gorges where it was incredibly hot. No birds sang, and the only sound was the *"hatchas"* of the muleteers urging on our mounts.

More than three hours passed before, at a turning in the trail, we came upon Gazi Haj Melo, the dark, taciturn and thrice-wounded commander of the battalion guarding the Piris Pass.

From the pass, which we reached in another half-hour, we could see the abandoned town of Amadan, the Berat Hills held by a Kurdish skirmish line and the interlocking system of nine strong Iraqi forts to the north of them. There had been reports, Gazi Haj said, of an Iraqi tank build-up, and the leaders of the *jash*, the Kurdish mercenaries fighting on the side of the government, had been summoned to Baghdad, so it would not be surprising if there were an Iraqi attempt to break through to the Valley of Barzan.

Gazi Haj said his instructions were that he and his men were to die there rather than yield a foot, and he had no doubts as to his men's ability to hold the pass. All leaves had been canceled and Sheikh Abdullah could easily more than double with 24 hours the size of the 6,000-man Ager Division by calling the red-turbaned Barzanis away from their harvesting and threshing.

As night fell, we made ourselves comfortable on the 15-foot-wide rock shelf above a sheer 3,000-foot drop to the valley of the Zab that was Gazi Haj's headquarters. "It is your bad luck," he said, "that there is no fighting; but at least there is meat for dinner."

While small arms fire crackled and popped from the picket lines in the Berat Hills, we talked into the night. The substance was the same as on previous visits to the front: the need for anti-tank and anti-aircraft guns, the attitude of the West in general and America in particular toward the Kurdish cause.

"When a few hundred Greeks and Turks are killed on Cyprus," Gazi Haj said bitterly, "there is an uproar. But if we all die here, the world does not care."

Since I was due back in Haj Omran the following day for a tentative interview with the elusive General Barzani, we said goodbye to Gazi Haj at dawn and sent the mules on ahead. It was fine walking down the mountain in the cool of the morning to the village of the Iranian woman, where we breakfasted on yoghurt, bread and tea.

At the bottom of the mountain, on the west bank of the Greater Zab, there were refugees and their flocks waiting to pass over. Their homes on the west slope of the Piris had been destroyed by Iraqi air strikes that they sensed were a prelude to the expected offensive.

The river was swift-flowing but inviting and, leaving my clothes for the others to bring over on the raft, I waded in and struck out for the opposite shore, being carried by the current to a spot a half-mile below where I had gone in. As I pulled myself from the water cooled by the snows of Turkey, I could see time-fused artillery shells bursting above the crest of the Piris.

Yacub rescued the Jeep from the depression where he had left it camouflaged with branches and we lurched off to Sheikh Abdullah's headquarters, a leafy bower by the banks of the Rukuchuk, where he was busily decoding a message from Idriss to all 17 division commanders: An Iraqi offensive was expected when the moon was full the following week.

After a swim and tea—and refusing yet another invitation to lunch from the remorseless Sheikh Abdullah—we said our farewells and headed back down George's Road toward Chouman.

On the way, we passed a convoy of battered Landrovers loaded with *Pesh Merga* heading in the direction of the Valley of Barzan. It was clear where Idriss thought the Iraqi offensive would come.

[From the Washington Star-News, Sept. 5, 1974]

THE MIDEAST WAR NOBODY KNOWS

CHAPTER 6

(By Smith Hempstone)

HAJ OMRAN, IRAQI KURDISTAN.—In Washington, back in June, Mohammed Rahman, a former Iraqi cabinet minister and a member of the seven-man ruling politburo of the Kurdish Democratic Party, had assured me that I would have an interview in rebel Kurdistan with General Mulla Mustapha Barzani, the 71-year-old father of Kurdish nationalism.

When I had been delayed for 12 days in Iran enroute to the liberated zone of Kurdistan, the reason given by both the Iranians and the Kurds had been that Barzani was traveling among his people and hence was not prepared to receive me. So when I finally was allowed to cross into Kurdistan, it was on the not unnatural assumption that Barzani was prepared to see me.

But things are never quite what they seem in the Middle East, and all assumptions are dangerous.

After each of five trips to the front, I sought a meeting with Idriss Barzani, the general's principal aide, to inquire about my interview with his father. Each time the answer was the same: I was not to worry. I would see Barzani, but only in Haj Omran, his headquarters. He was traveling in the countryside and could not be reached.

Finally, an appointment was made for the day before I was scheduled to return to Iran. I returned dusty and exhausted from the Betwatae front to be summoned to a midnight meeting with Idriss. His father, he said with some evident embarrassment, had not returned. He was expected within three days. Would I extend my stay?

For a number of reasons, this was extremely inconvenient, and I let Idriss know that it was. Could he guarantee an interview at the end of the three days?

Idriss hesitated for a moment, fidgeting with the knot of his turban. He looked very tired. Nothing in life, he finally replied, was certain; he could only say that he would try.

I was tempted to call the whole thing off and return to Iran. But coming to Kurdistan in 1974 and not seeing Barzani would be like visiting revolutionary America in 1779 and failing to see George Washington. I said that I would stay, but only for three days.

With the coming of the full moon, the Iraqi air raids on the headquarters area intensified, there was no news of my interview and I began to fear that Barzani's advisors had made him hole up somewhere in the mountains.

On the morning of the third day, I began to stuff my things into my pack and to distribute presents to those who had been my companions during my stay in Kurdistan. In mid-afternoon, 10 minutes before my scheduled departure for Iran, the word came. I would see Barzani that night.

Just as the moon rose, a car came for me. For security reasons—there were three assassination attempts on Barzani between 1970 and 1973, and the Iraqis are said to have placed a price of $2 million on his head—the short trip to the General's headquarters was made in three stages. At each, there was an identity check, a change in vehicles and retinue, and an inspection of the presents I brought for the General, Idriss and Mas'oud, his fourth son and head of the Kurdish military intelligence.

The last few miles of the journey were at a hair-raising speed over a twisting mountain road in a totally blacked-out Landrover. At the end of the road, we reached a single-story and well-sandbagged concrete building surrounded by anti-aircraft guns and bunkers. Clusters of armed men stood in the shadows of the building, talking softly.

Mas'oud who is a carbon copy of his better-known older brother, greeted me on the steps and led me into a room lighted by two flickering kerosene lanterns, where we were met by Idriss. A few minutes later, we were joined by Dr. Mahmoud Osman, a little man with a Charlie Chaplin mustache who is a legendary figure in Kurdistan.

In the Kurdish wars of the 1960s, Mahmoud, a member of the KDP politburo, was the only physician the rebels had (now they have nearly 100). He operated on casualties by day and ran the civilian administration by night.

Mahmoud enjoys immense prestige and not a little power by virtue of his role as Barzani's personal physician, political advisor, English interpreter and constant companion ("Find Dr. Mahmoud," I had been told, "and you will find Barzani."). He could well emerge—if Idriss does not—as the dominant force in the collective leadership that almost certainly will take over the Kurdish movement when Barzani dies or is killed.

The four of us had barely seated ourselves in aluminum-and-plastic lawn chairs when Barzani appeared. His two sons departed, leaving me alone with the general and Dr. Mahmoud.

The General wore a faded red-and-white Barzani turban, somewhat carelessly tied, the brown jacket without insignia and baggy trousers gathered at the ankle that are the uniform of the Kurdish rebels, and unlaced black shoes. In his intricately knotted blue waist sash nestled a foot-long curved dagger with a wooden handle.

Barzani is tall for a Kurd—he is about 5-foot-8, has piercing brown eyes, shaggy eyebrows and a prominent nose. He walks a little stiffly, but has a firm handshake.

Although he is less well known, Barzani must rank with Mao Tse-tung, Tito and General Giap as one of the world's foremost guerrilla leaders. He was first imprisoned at the age of one (with his mother) when his elder brother was hanged by the Turks for nationalist activity. His rebellions against the British and the Iraqis were annual rites of spring in the 1930s and 1940s.

In 1946, Barzani crossed into Iran with 2,000 followers to fight for the Soviet-sponsored Kurdish Mahabad republic. When the Russians withdrew, the republic collapsed and its leaders were executed by the Iranians. Pursued by Iranian, Iraqi, British and Turkish troops, Barzani sent his women and children into the mountains and began an epic 52-day march with 500 picked followers. The march ended with the swimming of the Araxes River and an 11-year exile in the Soviet Union for Barzani and his men.

When the British-sponsored Iraqi monarchy was overthrown in 1958, Barzani and his followers were invited to return by the new government in Baghdad. Remarkably—given the fact that their long stay in the Soviet Union had made the Kurds vehemently anti-Communist—the Russians agreed.

Three years later, in 1961, the first of the five recent wars for Kurdish autonomy broke out. And Barzani has been almost constantly in the field since that date.

Although Mulla Mustapha Barzani's family for generations has been the religious and political ruler of Barzan, membership in such families, because they are so large, is no guarantee of prominence. As a hotheaded, teenaged third son, Barzani began his career with no more than 20 rifles at his command. Through strength of character, military ability and political skill, he is now president of the 50,000-member Kurdish Democratic Party and commander of 100,000 armed men.

Barzani began our two-hour talk by emphasizing that his quarrel was not with the Iraqi Arabs but with the Baathist government in Baghdad.

"Our struggle," he said, "is not for Kurds alone but for all the people of Iraq. We seek only an autonomous Kurdistan within a democratic Iraq."

The Baathists, who are allied both with the Soviet Union and with the Iraqi Communist party, he described as "scorpions, serpents, wolves" who have executed and tortured to death more than 10,000 Iraqis in the six years since they seized power in Baghdad.

No negotiated peace was possible with such a regime, he said, if only because the Baathists time and again had demonstrated their bad faith. "Either we will have victory and the government in Baghdad will fall, or they will destroy us," he said, puffing vigorously on a handcarved briar pipe (on Dr. Mahmoud's orders, he has given up the hand-rolled cigarettes of light Kurdish tobacco that everyone smokes here.)

Barzani mentioned Israel, Egypt Jordan, Kuwait and Saudi Arabia as Middle Eastern states not totally unsympathetic to the aspirations of the Kurds. But he said that the only "practical help" he was receiving was from Iran, which has a running quarrel with Iraq.

"If the United States would only hint to its Middle Eastern friends that you would like to see us helped, perhaps they could get up their courage to do it," he added.

"I simply cannot believe," Barzani said, "that the American people will sit by while a vicious, unworthy regime such as the Baathists, fully supported by the Russians, wages a war of genocide against a small people that wants only to be your friend. Give us anti-tank guns and ground-to-air missiles and we will overthrow the Baathists and expel the Russians from the headwaters of the Persian Gulf. This is in our interest. But it is also in the interest of Iran and the United States. So why not do it?"

Barzani, with a note of sadness in his gruff old voice, conceded that independence for Iraqi Kurdistan—let alone for a Greater Kurdistan uniting the 9 million Kurds of Iraq, Turkey, Iran, Syria and the Soviet Union—was out of the question.

As we sipped strong, sweet, tea from tiny glasses and nibbled at an enormous tray of fresh fruit, Barzani emphasized that his ambitions were restricted to Iraq and that he was prepared to enter into formal commitments with Turkey, Iran and the United States to that effect.

"But the gates of your embassies are closed to us," Barzani said. "When I send convoys to Washington, they are received by friends such as Senator Jackson. But Kissinger will not see them, Sisco will not see them, Atherton will not see them. Kissinger spends days traveling between Damascus and Jerusalem to stop the fighting between Syria and Israel, but he will not spend five minutes in his own office to talk about the war here. We could understand being low down on the list. But fear we are not even on Kissinger's list."

I mentioned that America is concerned about the flow of Arab oil, of which Iraq produces about $9 billion worth annually.

"Is it really in your interest," Barzani snorted, "to have this oil controlled by an anti-American regime tied so closely to Moscow? They sell oil to you today, but will they do so tomorrow? Would it not be well to have a non-Arab source of oil controlled by your friends?"

Barzani agreed that some of the reluctance of foreign nations to recognize the existence of the Kurdish problem might be related to his age and the uncertainty of the nature of the leadership that might succeed him. But he pointed out that the Kurdish revolution had become institutionalized through the KDP, from which he has purged the Communists.

"But if America acts now," he said, "she can deal with one grumpy old man. We do not need troops or advisors. We are not as well-armed as Israelis, but there are more of us and we are just as good fighters. With a few anti-tank guns and anti-aircraft missiles, you can do a good thing here, one that will reduce Russian influence in the Gulf and contribute to the stability of the Middle East. At least, for God's sake, come and talk to us about it, or let us come to you."

It was past midnight and Barzani, who for security reasons never sleeps in the same place two nights in a row, looked tired. Before me lay an all-night drive over dirt roads to the Iranian city of Tabriz and the different world beyond Kurdistan. We exchanged presents, a battery calculator for Barzam, a riding crop for Idriss, a knife for Mas'oud, a curved dagger for me—and said goodbye by the light of the full moon.

"They say," Barzani remarked, "that the Kurds have no friends. If this is so, we will all die here. Do not let America wait too long to discover that people who want to be her friends, who seek nothing that is not theirs, are dying for their freedom."

"Inshallah (if God wills it), General," I replied.

"Inshallah," he repeated, with a note of resignation in his voice. We saluted each other and I drove off down the winding mountain road to Tabriz, leaving Mulla Mustapha Barzani standing in the moonlight, an erect, lonely but somehow indomitable figure.

The Kurds believe that each man has his own star in the firmament, and that he will not die until it falls. As we pulled out onto the Tabriz road, a shooting star streaked across the night sky and, away to the west, like the grumbling of summer thunder, I could hear the thud of Iraqui bombs falling on Kurdistan.

STATE LOTTERY EXEMPTIONS URGENT

Mr. SCHWEIKER. Mr. President, I am deeply concerned by the threat of the Attorney General to seek court injunctions within the next 6 weeks to stop the operation of State-operated lotteries.

The problems of Federal antigambling laws with respect to State lotteries are not new, of course. When I introduced my own bill in 1972 to exempt State lotteries from these laws, which I reintroduced in the current Congress as S. 1186, I pointed to many anachronisms in the Federal law that should be cleared up.

The Attorney General's actions demonstrate the urgent need for immediate congressional legislation to exempt State lotteries from the Federal restrictive laws. The laws were designed to affect illegal gambling, and should not be applied where the people of a State, through their State governments, have chosen to raise revenues through an official, legal, State lottery.

Lottery exemption legislation does not involve Federal subsidies or congressional appropriations. It also will not require any State to implement a lottery. It simply means that those States that choose to implement a lottery should be free to do so.

I have asked the Senate Judiciary Committee to hold hearings on this urgent situation. The 13 States that have approved lotteries could quite easily coordinate their testimony, perhaps with only one or two representatives of their National Association of State Lotteries actually appearing at the hearings. Thus, there would be no need for lengthy hearings.

During a time of inflationary belt-tightening, the Federal Government must not tie the noose on States using lotteries to raise revenues. It simply does not make any sense to discourage States that choose to raise revenues through lotteries. While we cut the Federal budget, and seek ways to economize, it is backward thinking to keep Federal laws on the books that prevent States from doing the same thing at the State level through State operated lotteries.

Pennsylvania, for instance, in just over 2 years of operation has raised net proceeds of approximately $140 million that has gone to the benefit of senior citizens. Property tax rebates and mass transit assistance for the elderly are the designated beneficiaries of the Pennsylvania lottery proceeds. If the lottery is severely hampered because of Federal laws that were never intended to prevent legitimate State-operated activity, I doubt if the general State revenues would be able to replace the lottery benefits currently helping our senior citizens.

My legislation, S. 1186, would simply exempt the State-operated lotteries from the restrictions in the antigambling laws affecting the mails, interstate transportation, and broadcasting stations. I ask unanimous consent that a summary of my bill, exhibit 1, and the full text, exhibit 2, be printed at the conclusion of these remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. **SCHWEIKER**. Mr. President, I might add that the fourth and fifth points of the summary, covering section 3 of S. 1186, have already been acted upon by the Senate. The Senate Finance Committee recommended exemption of State lotteries from the provisions of the Internal Revenue Code providing for a 10-percent wagering tax on the operators of lotteries, and from additional taxes on coin-operated gaming devices. The Senate on August 13 this year approved these exemptions as amendments to H.R. 11830, a duty bill, and I am hopeful that the House of Representatives will quickly follow suit.

On the day of Senate passage of these tax exemptions I said, "This action today however must only be the first step in eliminating onerous Federal restrictions on State-operated lotteries." The Attorney General's warnings about an injunction against the State lotteries has brought my fears to a head much faster than I anticipated when I made these remarks last month.

Mr. President. The lottery situation is a serious matter to more than one-fourth of the Members of the Senate, representing the 13 States that have approved lotteries. The exemption legislation would preserve the rights of these States to raise revenues through lotteries, without adversely affecting the rights of any State that does not want to conduct a lottery. In addition, I know that administration officials and legislative committees of many other States are currently exploring the State lotteries, and are considering undertaking lotteries. Therefore, it is an issue affecting many more States than just the 13 with official State-lottery approval.

I urge quick action by the Senate. For the information of all my colleagues about the current problem, I also ask unanimous consent that a Washington Post article describing the Attorney General's actions, exhibit 3, be printed in the Record following these remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 3.)

Exhibit 1

Summary of S. 1186, the "State Lottery Exemption Act of 1973"

First, allow radio and television stations to broadcast information about the lottery, including the winning numbers. Title 18, United States Code, section 1304, currently bans any lottery broadcasting, and the Federal Communications Commission has specifically ruled that the current law is to be strictly enforced.

Second, allow newspapers to freely publish lottery information without fear of violating postal regulations. Title 18, United States Code, section 1302, prohibits the use of the mails for distribution of information about lotteries in newspapers. The U.S. Postal Service has permitted publication of legitimate "news" about lotteries so long as the "news stories were not merely fulfilling a necessary part of the operation of a lottery." However, Postal Service representatives have visited Pennsylvania newspapers in connection with publication of lottery information, and a memorandum which has been given to these newspapers in the State by the Postal Service says that—

> Even if the only information published is the winning number, identified as such, and no mention is made of the prizes pertaining thereto, the mailing of the publication might be found to be prohibited by postal lottery law.

The Postal Service has advised newspapers "to seek the guidance of private legal counsel as to contemplated mailings of items dealing with lotteries." I think it would be better to exempt State-controlled lotteries from the prohibitions altogether to eliminate any uncertainty or confusion for newspapers.

This exemption from the postal laws would also insure that the State lotteries could use the mails for any correspondence used to conduct the lottery, which could also be considered illegal under current laws.

Third, allow advertisements of State lotteries in newspapers and on radio and television. This will allow the States to publicize their lotteries more comprehensively, and will help insure greater revenues from the lotteries.

Fourth, insure that States operating lotteries are not subject to the Federal 10 percent wagering tax. Section 4401 of the Internal Reveue Code requires that the operator of a lottery shall pay a 10-percent excise tax "on all wagers placed in such lottery." Exemptions from this tax provided by section 4402 only include lotteries where "the ultimate winners—are determined by the results of a horse race," and do not include computerized number lotteries such as Pennsylvania's. Clearly the intent of the law is to exempt legitimate fundraising events from the gambling tax, and I would hope that my bill might be passed quickly to clarify the law to insure that all State lotteries are exempted from this tax.

Fifth, exempt State-operated lotteries from the Federal tax on "coin-operated gaming devices" imposed by section 4461 of the Internal Revenue Code. This will allow States to utilize coin-operated vending machine sales of lottery tickets, without the threat of an additional tax.

Sixth, allow mailing of lottery tickets, and information about State lotteries. Title 18, United States Code, section 1302, prohibits the use of the mails for distribution of lottery tickets, for sending checks or money orders to purchase tickets, or for any solicitation connected with the lottery. Exemption of State-controlled lotteries from this prohibition would allow a State to expand its lottery sales.

Seventh, allow transportation in interstate commerce of State lottery tickets, equipment and information. Three sections of Title 18, United States Code—section 1301, dealing with "transporting lottery tickets;" section 1084, dealing with "transmission of wagering information;" and section 1953, dealing with "Interstate transportation of wagering paraphernalia"—all provide restrictions on transportation aspects of lotteries which should be exempted.

Eighth, exempt State-operated lotteries from section 3005 of the postal laws which allows postmasters to return mail concerning lotteries.

Exhibit 2

S. 1186

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be cited as the "State Lottery Exemption Act of 1973".

Sec. 2. (a) Chapter 1 of title 18, United States Code (relating to general provisions), is amended by adding at the end thereof the following new section:

"§ 16. State-conducted lotteries, sweepstakes, and wagering pools

"(a) The provisions of chapter 61 and of sections 1084 and 1953 of this title shall not apply with respect to any lottery, sweepstakes, or wagering pool conducted by any agency of a State acting under authority of State law.

"(b) For purposes of this section, 'State' includes any of the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, or any territory or possession of the United States."

(b) The table of contents of chapter 1 of such title 18 is amended by adding at the end thereof the following new item:

"16. State-conducted lotteries, sweepstakes, and wagering pools."

Sec. 3. (a) Section 4402 of the Internal Revenue Code of 1954 (relating to exemptions from the wagering tax) is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) STATE-CONDUCTED LOTTERIES, ETC.—On any wager placed in a sweepstakes, wagering pool, or lottery which is conducted by an agency of a State acting under authority of State law, but only if such wager is placed with the State agency conducting such sweepstakes, wagering pool, or lottery, or with its authorized employees or agents."

(b) Section 4462(b) of such Code (relating to exclusions from definition of coin-operated gaming device) is amended—

(1) by striking out "or" at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or", and

(3) by adding after paragraph (2) the following new paragraph:

"(3) a vending machine which (A) dispenses tickets on a sweepstakes, wagering pool, or lottery which is conducted by an agency of a State acting under authority of State law and (B) is maintained by the State agency conducted such sweepstakes, wagering pool, or lottery, or by its authorized employees or agents."

(c) The amendment made by subsection (a) shall apply with respect to wagers placed after the date of the enactment of this Act. The amendments made by subsection (b) shall apply with respect to periods after such date.

Sec. 4. Section 3005 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The provisions of subsection (a) of this section shall not apply to any lottery, gift enterprise, or scheme for the distribution of money or of real or personal property, by lottery, chance, or drawing of any kind conducted by any agency of a State acting under authority of State law. For purposes of this subsection, 'State' includes any of the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, or any territory or possession of the United States.".

Exhibit 3

[From the Washington Post, Aug. 31, 1974]

United States Challenges Lottery Legality

(By Morton Mintz)

Attorney General William B. Saxbe warned the governors of 13 states yesterday that their state-operated lotteries may violate criminal laws, invited them to meet with him at the Justice Department on Friday and made it clear that Congress has the opportunity to take the lotteries off the hook.

"Serious questions have arisen concerning the legality of the lottery that is being conducted in your state," Saxbe said in a telegram to each of the governors, including Maryland's Marvin Mandel. "There is a distinct possibility that there are violations of the criminal provisions of the federal code."

The department is considering filing a civil suit for a permanent injunction against the lotteries—unless Congress intervenes, Saxbe said. The suit is not expected to be ready for filing for six weeks.

Legislation to legalize the lotteries has been pending for several months, and the department endorsed one bill at a House Judiciary subcommittee hearing in April.

Legislators from some of the 13 lottery states are expected to push hard for such legislation, but the attitude of delegations from the 37 nonlottery states is uncertain.

The principal provision of the criminal code at issue forbids use of the mails to further a lottery. The ban was enacted a century ago in reaction to a notorious Louisiana lottery, which was a private venture.

Other provisions affecting * * * mails inside each state with no change in present law.

The state-operated lotteries have become significant producers of general revenues. Lawyers for some of them contend that the federal government has no right to interfere with revenue-raising by the states—a contention the Justice Department rejects.

New Hampshire's was the first state-operated lottery in the nation, selling its first ticket in March, 1964, and grossing $46 million in the 10 years that followed. New York came second and New Jersey third. Maryland's lottery began in May, 1973, and within a year had sweetened the state's coffer by $16 million. This year, Illinois, Maine and Ohio all started lotteries.

With but one exception, said Marvin Loewy, deputy chief of the department's Organized Crime and Racketeering Section, U.S. attorneys in the lottery states have indicated no eagerness to initiate prosecutions. The exception was Maine's Peter Mills.

However, Loewy said in a phone interview, the section began several months ago to review the question of legality after receiving numerous inquiries. Some came from Federal Prosecutors. Others came from newspapers concerned about whether they could carry lottery advertising, because they use the mails for delivery to out-of-state subscribers.

Direct apparent violations occur when lotteries use the mails to respond to interstate inquiries, as most or all do, and, in some cases, to deliver prizes, Loewy said.

In Maine, the lottery uses federally chartered banks to distribute tickets to sales agents, but federal banking regulatory agencies **have told the banks that the practice * * *** proper.

While the review was under way, the department asked federal prosecutors not to take any action so that a consistent policy could be devised, Loewy said.

"It is true that state lotteries are in apparent violation of a variety of federal criminal statutes," Assistant Attorney General W. Vincent Rakestraw, of the Office of Legislative Counsel, told Maine Sen. Edmund S. Muskie (D) after the state's congressional delegation asked the department in June for a policy statement.

The lottery states, in addition to those mentioned, are Connecticut, Delaware, Massachusetts, Michigan, Pennsylvania and Rhode Island.

TRIBUTE TO SENATOR KARL E. MUNDT

Mr. ABOUREZK. Mr. President, I am pleased to print in the Record a tribute to Senator Karl Mundt by his longtime administrative assistant, Robert L. McCaughey, who was an extremely capable and devoted assistant.

There being no objection, the tribute was ordered to be printed in the Record, as follows:

Tribute to Senator Karl E. Mundt

(By Robert L. McCaughey)

Many differing impressions by many of his associates will be recorded in the tributes being paid to Senator Mundt. His interest in conservation; attention to our country's educational needs; changing attitudes in foreign affairs to meet the times; his attention to detail and services for his constituency; his magnificent speaking ability and utilization of that ability to communicate with people everywhere, plus many, many other attributes too numerous to list here.

As for me, two great attributes in his character and abilities have made a lasting impression in my remembrance of him.

First, his deep understanding of our constitution and its history. He understood the flexibility of that instrument of government and its written word which is able to meet changing times and technocracies. He understood the meaning of the words and the history behind its drafting and adoption which make it a great document or, in his words, "a bastion of freedom for the individual and the preservation of our democracy and its institutions."

While former Justice Hugo Black of the Supreme Court always carried a copy of the Constitution for ready reference, Senator Mundt had the words of that document indelibly imprinted in his mind so that the "litmus test" of "constitutionality" could always be applied to any discussion of any proposed legislative or administrative solution to the many problems confronting the nation as it grew and the workings of its institutions became more involved and complex.

As a "constitutionalist" with its doctrine of local government being the strong government, he also recognized that with growing technocracy, population, and the coming of more affluence to society, there must be legal guidelines for man to follow through implementation of the connotations of our constitution.

Working through the many ramifications of the constitution, he directed new thinking and new efforts for utilization of new scientific discoveries—nuclear and space technology—for the use and benefit of mankind and the family of nations.

He worked within the meaning of the constitution in helping America make the transition from a predominantly rural economy to a predominantly urban-oriented economy. Senator Mundt projected the guarantees of the constitution to all people and he opposed tampering with the words of its authors because, in his mind, it provided equal opportunity and benefits for all—if our leaders would implement the projections of government under our constitution as perceived by those who wrote it.

The second fond memory of Karl Mundt I will always cherish was his humanness—his concern for people and his complete respect for the rights and feelings of others.

He had a continuing and abiding personal interest in the activities of his staff—both on the job and in their personal lives. Their personal problems became his personal problem.

In my 27 years of association with him as a member of his staff, he never at any time revealed an anger with any staff member or talked to them in demeaning terms. It was his way to discuss and reason with the staff as with everyone so as to arrive at proper procedures or decisions based on understanding by all concerned.

At all times, his staff came first in his considerations. A staff party, an invitation to the home of a staff member for a dinner or a leisurely Sunday afternoon took precedent over official functions. He always wanted to participate in the activities of the staff—be it as individuals or as a group.

Senator Mundt enjoyed being with our families. He and Mary spent many Christmas days in our home, where it was an annual occasion for all staff members who remained in Washington on that holiday to gather for dinner. He participated in all the festivities of the day. I had a pool table in the basement, and Karl was always first to the table to challenge the "kids" to a game. In fact, one staff member recently told me that the memory his teenage son has of Karl was the ability of Senator Mundt at the pool table.

He shared our happiness and he shared our sorrows. It was part of him as a great human being with a compassionate understanding of his fellow man.

For me, these two great characteristics of Senator Mundt, his knowledge of and dedication to the constitution with its meaningful form of government plus his devotion to people and especially to his staff associates, made him a leader among men and an outstanding Member of Congress. I shall always cherish my many years of association with him.

UNIVERSITY OF NEVADA CENTENNIAL

Mr. CANNON. Mr. President, the Judiciary Committee has approved and referred to the Senate a concurring resolution I sponsored with Senator Bible recognizing the centennial celebration of the University of Nevada system.

I commend this resolution to the Senate, for as the keystone of higher education in Nevada, the Nevada system has made invaluable contributions to the State's intellectual, political, cultural, economic, and social growth.

I am proud to associate myself with the achievements of this fine institution during its first 100 years, and look forward to its continued growth and productivity as one of the leading State universities in the country.

The University of Nevada is recognized for its high caliber of faculty, students, and staff. Its expertise and progressive nature in a large variety of academic areas, and its modern facilities and teaching aids, are conducive to an active learning environment in the classroom. But the learning does not stop there. The system offers other advantages within the Nevada communities that encourage learning outside the classroom. The rich geographical surroundings, the unsurpassed recreational activities, and the historical sites in southern and northern Nevada greatly complement the learning environment of the Nevada system.

While the Nevada system has developed into a functioning viable institution with two major campuses, it is still a comparatively small, personalized system, important to the serious student seeking a stimulating academic atmosphere within a friendly and casual setting.

As Senator BIBLE has outlined, the history of the University of Nevada system traces an exciting era of the State's development. Established in 1864, the year of Nevada's admission into the Union, the university actually began work in 1874 in the town of Elko. In 1886, the university was moved to Reno, with college-level study formally beginning in 1887. The southern regional division in Las Vegas was first conceived in 1951, and in 1963 was given degree-granting status in several areas of study. The institution was officially named Nevada Southern University in 1965, and was renamed the University of Nevada, Las Vegas in 1969.

The system is now fully accredited by the Northwest Association of Secondary and Higher Schools, the official accrediting body of most Western schools. There are numerous university programs which are also recognized by their respective national professional accrediting associations.

The university offers major fields of study leading to associate, baccalaureate and advanced degrees in a wide variety of academic departments. In addition, there are programs for superior high school students, internships, study abroad, teacher certification, public service, research, and many others. The system is the home of the National College of State Judiciary, the Desert Research Institute, and the National Council of Juvenile Court Judges. Another important arm of the University of Nevada system is the community college branch, which has several training centers throughout Nevada providing the needed technical training for thousands of students. The School of Medical Sciences was added to the University of Nevada, Reno campus in 1971, marking the era for professional schools in the State. The new medical school, which now has nearly 100 students, is a 2-year institution, designed to prepare students for entry into the third year of degree-granting medical schools. The success of the first graduating class in 1973 has been encouraging to all Nevadans who are interested in expanded and improved health care.

Mr. President, the future of the University of Nevada system is exciting. Within this decade, we may see a law school, a veterinarian school, and there has been some discussion of dental and architectural schools; we will see improvement of facilities and programs, and expansion of services and opportunities for Nevada's students; we will continue to see University of Nevada system providing needed research, expertise, and guidance for the development of the fastest growing State in the Nation; we will continue to see Nevadans participating in the educational process of their youth through representation and involvement in the system's approach to higher education.

We all know, Mr. President, that we are judged by what we do, not by what we say. The graduates of the University of Nevada system clearly demonstrate that the school has more than adequately fulfilled its educational responsibility. Graduates are in successful and productive positions in business, education, politics, athletics, military, social, and entertainment work throughout Nevada, the country, and the world. With their Nevada background and training, the alumni are proving that the system prepares students for adjustment into society as contributing members and outstanding leaders.

I strongly urge my Senate colleagues to carefully review the history and accomplishments of the University of Nevada, and to support the wording of this Senate concurring resolution. It has been my personal pleasure to become closely associated with the leadership and students of the University of Nevada.

LEAA OBLIGATIONS AND PRIORITIES

Mr. HRUSKA. Mr. President, on Thursday, September 5, Richard W. Velde was sworn in as Administrator of the Law Enforcement Assistance Administration. I am proud to have been associated with Pete Velde for a number of years and know that he is dedicated to the tasks of reducing crime and improving the criminal justice system in our country. Having served with LEAA for the past 5 years, he brings to his new and important position a thorough understanding of the difficult problems which confront law enforcement today.

A short time after he was sworn in, Mr. Velde issued a statement detailing what he believes are his obligations as the new Administrator of LEAA and discussing his priorities for improving the Agency's effectiveness. That statement contains much information which I believe will be of interest to each of my colleagues and I ask unanimous consent, Mr. President, that the text of Mr. Velde's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY RICHARD W. VELDE, ON LEAA "OBLIGATIONS AND PRIORITIES"

The purpose of this statement is to briefly discuss my obligations as the new LEAA Administrator and to acquaint you with my priorities for improving the Agency's effectiveness.

In taking the oath of office I have sworn to defend the United States Constitution and to see that the nation's laws are faithfully executed. And so I shall.

I will administer LEAA's basic legislation as the Congress intended, and I will be responsive to the orders of the Executive branch of the United States Government. My principal responsibilities are to follow the directives of the President and the Attorney General and to heed the desires of the American people.

LEAA's fundamental task is to support state and local efforts to reduce crime and improve the administration of justice. LEAA fulfills this mission through a block grant program that leaves policy-making to state and local officials, as our Federal form of government requires.

It should be remembered, though, that improving the quality of justice and lowering crime rates are two distinct functions. Substantial success in achieving the former goal does not necessarily guarantee immediate progress in reaching the latter objective. It must be recognized that criminal justice is only one of the many social institutions that directly affect social behavior and thus crime rates.

LEGISLATION AND HISTORY

The Omnibus Crime Control and Safe Streets Act established the LEAA program in 1968. A basic assumption was that the police power is reserved to state and local governments and that crime control is primarily their responsibility. The Federal role was to be limited—to provide financial and technical assistance plus leadership. But there was to be no Federal domination and control. This was the philosophy of the block grant approach, which was a major precedent for the concept of the New Federalism.

The legislation and subsequent amendments established three block grant programs in LEAA—planning, action, and corrections. However, the 1968 statute also set up six categorical grant programs which LEAA administers:

(1) Discretionary action grants.
(2) Discretionary corrections grants.
(3) Academic assistance.
(4) Technical assistance.
(5) Systems and statistics.
(6) Research and development.

LEAA is a relatively small organization in terms of personnel in relationship to the magnitude of its program and its responsibilities. The smallness reflects the theory of block grants and New Federalism, the decision-making process and therefore the machinery should be decentralized from the Federal level to state and local governments.

I believe that during its first six years, LEAA made many significant contributions. However, more must be done both to strengthen the Agency's internal operations and to devise truly effective programs to reduce crime. I would like to cite the areas in which improvement is vital if LEAA is to continue to be the force for progress that the Congress desired.

Some hard facts must be faced if the Agency's operations are to be upgraded. LEAA has to develop proper evaluation programs. We cannot work intelligently unless we know by much more than mere guesswork what programs are working and what programs are failing—as well as why. That, it seems to me, is a top concern. LEAA simply must do more about finding out what works best and then getting the states and localities to put those findings to work. We have not done a good enough job getting states and localities to concentrate on giving their priorities to those areas of crime control and criminal justice where the needs are most pressing. And despite some recent progress we need to know more about fund flow and fund expenditures—especially from programs the states and localities have contracted with sub-grantees. I will devote my administration to making these improvements.

We need to exert new leadership—leadership without domination. We need to expand our efforts in juvenile delinquency and prevention, in organized crime control, in the control of the crimes of violence. We need to expand our technical assistance efforts and our audit program. We need Management By Objective—so it is a reality, not just a concept on paper. Our criminal justice information and data programs must be improved. LEAA's research Institute must provide facts and concepts that help provide the answers to pressing and nagging problems. We need to exert a kind of quality-control in everything we do—so that top value is returned for every dollar expended. And by top value I mean lasting reductions in crime, and lasting improvements in our entire system of criminal justice.

PRIORITIES

The LEAA program is complex. Criminal justice improvement means initiating new efforts in a wide variety of interdependent activities throughout the country. Thus, LEAA is continually involved in an enormous number of individual programs that affect every aspect of the system. Therefore, it is essential that the Agency work at all times according to a plan that puts first things first, dealing with the important issues and not allowing the program to be caught up in trivia. My own efforts will be focused primarily in the following areas:

Criminal justice disciplines

(1) The block grant mandate. LEAA must continue to improve and refine the delivery of Federal financial and technical assistance to the states. This means encouraging the states to build up their own managerial and administrative capabilities. LEAA must continue to foster closer working relationships in the Federal-state-local partnership. It must aid state, regional, and local criminal justice planning agencies in developing increased professionalism in all aspects of their work. It must see to it that there is a full-scale implementation of the Grants Management Information System in all states. It will insist upon full state and local compliance with the applicable civil rights and equal employment opportunity program statutes. It will require responsiveness to the public's needs for protection, safety, and justice.

(2) Corrections. My own interest and emphasis has been on offender rehabilitation through a more effective use of the LEAA corrections improvement program. The state and local correctional programs and institutions must be helped, as the Congress intended they should be. Inmate training and education programs must be drastically upgraded. Simple incarceration is wasteful and destructive, although hardened repeat offenders must be removed from society until they are no longer a threat to the community. The National Institute of Corrections must move forward. Standards and goals in corrections reform must be refined and implemented.

(3) Juvenile delinquency. In the 1973 amendments to LEAA's basic legislation the Congress gave LEAA a significant responsibility for increasing the capacity of state and local agencies to deal constructively with delinquency prevention and juvenile justice. Youths commit much of the violent crime and much of the stranger-to-stranger offenses listed in the Federal Bureau of Investigation's index. Although LEAA cannot by itself remedy the problems associated wtih family dissolution, poverty, undereducation, rootlessness, alienation, unemployment, and racial discrimination, it must face up to the relationship these conditions have to criminal justice and creatively seek workable solutions. This includes coordinating with other Federal, state, and local officials as well as with volunteer groups and all others interested in helping the young. Juvenile delinquency is not only a crime-control issue—it is also a matter of our nation's future as a free society

(4) Courts. LEAA must see to it that an adequate share of the available Federal resources is given to state and local court systems. Prompt adjudication must be emphasized. I am especially interested in supporting model state projects to gain more experience in improving the appellate process. Court reporting must be streamlined. The continuation and expansion of automated legal research is a pressing need. Improved court administration is vital. Project Search efforts in creating better adjudication information systems will be increased.

(5) Law enforcement. I support programs to strengthen the role of the police executive. Increased professionalism is a major goal. Patrolling must be increased and the officer on the beat must be encouraged to look at his assignment as being as vital to good policing as it truly is. Police command and control systems must be upgraded, and more work must be done on improving police body armor, police patrol cars, and lightweight portable radio and digital communications systems. Physical fitness for law enforcement personnel is essential. In summary, our efforts will be directed at achieving improved police response time, effectiveness, and manpower utilization.

(6) Organized crime. The Congress set efforts to combat organized crime as one of LEAA's statutory priorities. LEAA should therefore reinvigorate this work. The states must be encouraged to establish or make more effective organized crime prevention councils and build analytical and prosecutorial tools in those jurisdictions where organized crime is a problem.

Systems and research

(7) Research and development. I intend to make evaluation a particularly effective component of the LEAA program. It will include criminal justice equipment standardization, improved planning methodologies (such as crime-oriented planning), and cost-benefit analysis. LEAA must be a leader in helping state and local governments apply the most modern available technology to all criminal justice system functions. A major mission of LEEA's research and development arm, the National Institute of Law Enforcement and Criminal Justice, must also be to increase its technology transfer activities so that all parts of the nation are provided with the most efficient ways of solving common problems. LEAA will increase its clearinghouse operations to enable government agencies of all kinds to obtain current criminal justice improvement information.

(8) Standards and Goals. This effort which I initiated three years ago has completed its first phase with a series of six volumes published and widely disseminated. A major implementation effort has now begun, supported by a substantial investment of LEAA resources and a follow-up of conferences and meetings in numerous states. However, it was the intention from the beginning that the standards and goals process be a continuing one with modifications and revisions being made as experience in implementation indicates. A second phase will soon be initiated in which task forces on organized crime, research and development, civil disorders, and juvenile delinquency are activated.

(9) Systems Development and Statistics. One of my major interests has been the encouragement of criminal justice information systems. LEAA is conducting or supporting a number of important projects in this area—including the upgraded National Law Enforcement Telecommunications System (NLETS), Comprehensive Data Systems, NALECOM, Interstate Organized Crime Index, Project SEARCH, etc. The issue of the privacy and security of these systems is a vital priority. These efforts must be continued. The states must build up their own statistical capabilities. The National Crime Panel's continuing victimization survey, which I initiated, is important and its results must be employed as effectively as possible.

(10) The Law Enforcement Education Program. This $45-million-a-year academic assistance effort involves 1,000 participating colleges and 100,000 students. It should be given an appropriate organizational recognition, and a professional criminal justice educator should be recruited to head it.

(11) Civil disorders and terrorism. Special attention will be given to preparing criminal justice agencies for dealing effectively and humanely with threats of civil disorders and terrorist acts.

(12) International authority. As authorized in the 1973 legislation, LEAA is establishing a program of assistance to other Federal agencies and international organizations to control airplane hijacking, narcotics smuggling, and terrorism.

Management and administraiton

(13) Fiscal integrity and public accountability. The Agency will insist upon the highest accounting and administrative standards throughout the entire program. Charges of LEAA fund misuse by any participating public or private agency will be scrupulously pursued. LEAA will rigorously inspect and audit its own programs and procedures. The public is entitled to and will receive a full disclosure of such investigations upon their completion as well as an explanation of other LEAA programs and activities.

(14) Internal administration. LEAA has long needed a series of high-standard management reports to give the Agency's top managers timely and accurate status reports of its fiscal and administrative condition. They have just been established, and it is necessary that they continue and improve. The Agency's Grants Management Information System needs to be revitalized and made more effective. Automated correspondence tracking and grants processing systems should be established. The Management By Objectives program should be taken off the paper and put to work.

(15) Employee relations and development. Professionalism and two-way communications between management and LEAA employees must be fostered conscientiously. I reaffirm my dedication to the civil service system and to the equal employment opportunity program principles. An employee conduct code will be written. Career development will be fostered and upward mobility encouraged. Improved intra-Agency communications are imperative. Physical fitness will be emphasized. Outside spare-time activities will be encouraged.

(16) Relationships with the Congress. Much of my time has been devoted to building and maintaining good relationships with the House and Senate Judiciary and Appropriations Committees and those subcommittees which have direct oversight over LEAA. Continued support and good will from Congressional quarters is essential to a successful program.

These are the short, mid, and long term goals of my administration. I will review these priorities every three months to determine their continued relevancy. Additions, deletions, and modifications will be made as experience indicates.

The most important contribution that I can make is to help improve the administration of justice. In so doing I promise to unfailingly seek the best ways to create a more equitable and more humane society.

LEAA priorities

SHORT TERM*

Corrections standards and goals refined and implemented.

Standards and goals task forces activated for organized crime, research and development, civil disorders, and juvenile delinquency.

Juvenile justice program revamped and expanded.

Court funding increased.

Organized crime initiatives revitalized.

National Law Enforcement Telecommunication System upgraded.

Professional criminal justice educator recruited for LEEP.

Management reports issued.

Footnotes at end of article.

Grants Management Information System improved.

Professionalism and two-way communications reaffirmed in employee relations.

Evaluation made an effective LEAA program component.

Congressional relations strengthened.

Privacy and security regulations promulgated.

Code of conduct written.

MID TERM*

Full-scale implementation of Grants Management Information System in all states.

Prison inmate training and education programs substantially expanded and improved in quality.

Model state court appellate process projects established.

Court reporting streamlined.

Automated legal research expanded.

Court administration improved.

Police executive training programs strengthened.

Career development program implemented.

Code of conduct published and implemented.

Police command and control systems upgraded.

Law enforcement equipment research projects fostered.

Police physical fitness increased.

State organized crime prevention councils established and made more effective.

Standards and goals implemented in all states.

CDS, NALECOM, Interstate Organized Crime Index, and Project SEARCH expanded.

Privacy and security guarantees codified.

Automated correspondence tracking and grants processing systems established.

Management by Objectives program implemented.

Criminal justice equipment standardization program expanded.

Programs to combat civil disorders and terrorism broadly instituted.

International assistance program implemented.

LEAA legislative authority extended.

LONG TERM*

Federal-state-local partnership completed.

Offender rehabilitation programs fully operational.

Juvenile delinquency causes studied and countered.

Prompt adjudication procedures established in all state and local courts.

Standards and goals in operation in all criminal justice agencies in the country.

Academic assistance program helping all qualified applicants.

FOOTNOTE

* Short term indicates less than six months, mid term means between six months and two years, and long term is more than two years. The priorities are not ranked in their order of importance.

WHY THERE IS A GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the debate in the Senate on the merits of the Genocide Convention often becomes embroiled in legalisms and minute details. This is entirely proper in a legislative body whose function is to carefully scrutinize the laws which would govern the Nation. However, at times we seem to lose sight of the fundamental reason for the Genocide Convention. It was adopted by the United Nations in response to the holocaust of the Second World War, in which 9 million civilians, including 6 million Jews, were slaughtered by the Nazis. Six million Jews—what a staggering number, so difficult to comprehend.

This incredible situation was documented in a 1954 book in the Oxford Series "Survey of International Affairs 1939–46" by Arnold and Veronica Toynbeen entitled "Hitler's Europe." The authors state:

> All though Eastern Europe, and especially in the Russian provinces invaded by the German armies, the Jews, together with many elements of the local population, were massacred on the spot by the special squads attached to the German forces. They were machine-gunned, gassed, starved, or otherwise annihilated in every city and town which the invaders entered, a procedure which could not be concealed from tens of thousands of the soldiery or from the civil administration, and which evoked singularly few protests comparable to that of the Commissioner-General for White Ruthenia. In the south, in the Ukrainian and Benserabian provinces entered by the Rumanians, the massacres were almost equally bloody and indiscriminate. In all, the death-toll in these campaigns amounted to over 2 million. In many cities where there had been large and prosperous Jewish communities only a few individuals were found when the Soviet armies returned westwards. Others had been more fortunate, especially in the eastern sections of the area, for there they had more time to escape; in this part of Soviet territory some Jews were deliberately evacuated by the Soviet authorities; and though the number of these is impossible to estimate, it is probably smaller than was at one time believed.
>
> While it had not been found prudent by the Nazis to be as open in their policy of extermination in the more civilized portions of Western and Central Europe, their intentions remained the same for the millions of Jews still to be found in these countries. We possess the minutes of an important conference (U.S. Military Tribunals, Case II, Judgment, pp. 28301 seqq. Cf. tesimony of Lammers (I.M.T. Nuremberg, xi. 50–51), of Nazi officials, held under the orders of Goring in January 1942 at Wannsee, in which it was decided, in the expectation of victory, to complete the annihilation of the 11 million Jews when the Nazis calculated that they would be able to reach. Even half-Jews were to be given the choice between death and sterilization. In the meantime the policy of extermination was extended, under the command of Neydrich, to all Jews already within the Nazis' clutches. It was for them that the additional death camps in Poland were devised; and all through 1942 and 1943 transports were being sent eastwards and northwards from France, Belgium, and Holland, from Germany, Austria, and Czechoslovakia, from Hungary and the Balkans. At Auschwitz it was possible to kill 2,000 people in a single operation lasting but a quarter of an hour, and to repeat this three or four times a day. And it must be remembered that only a proportion of those who set out on these terrible journeys, sometimes lasting weeks, arrived alive. How summary was the dispatch with which arrivals were treated is revealed by the story of a train-load of Germans evacuated from Hamburg who had been sent to Lwow to make their homes there. They were seized, stripped of their possessions, and gassed by the Gestapo, before it was discovered that they were not Jews.

Mr. President, it appears that the U.S. representative to the United Nations, Assistant Secretary of State Ernest A. Gross, was tragically prophetic when he warned the Assembly:

> In a world beset by many problems and great difficulties, we should proceed with this convention before the memory of recent horrifying genocidal acts has faded from the minds and conscience of man.

We must not allow the horrible memories to fade from our minds. It is unconscionable that we have delayed so long. The Senate should ratify the Genocide Convention immediately.

CHANGES IN BEEF GRADING PROPOSED BY THE USDA

Mr. DOMENICI. Mr. President, today I would like to call to the attention of my colleagues a recent action taken by the U.S. Department of Agriculture.

On September 10, 1974, the USDA proposed a new grading plan for carcass beef that should lead to leaner cuts of beef for our consumers and which could save millions of bushels of feed grains each year.

The September 11, 1974, issue of the Federal Register contains the complete proposal and the following is a summary of the significant changes involved in the proposed revisions:

> (1) Conformation would be eliminated as a factor in determining the quality grade
>
> (2) When officially graded, all beef carcasses (except bull carcasses) would be identified for both quality grade and yield grade
>
> (3) For beef carcasses throughout the A maturity group, the minimum marbling requirements in Prime, Choice, and Standard grades would be the same as now required for the youngest carcasses classified as beef. However, for more mature carcasses in each of these grades, increases in marbling would be required for increases in maturity but the minimum level of marbling would be decreased one degree.
>
> (4) In the "new" Good grade, the same principles would apply to the requirements for marbling and maturity as described for Prime, Choice, and Standard. However, the minimum marbling requirements would be increased one-half degree for the very youngest carcasses classified as beef.
>
> (5) The maximum maturity permitted in the Good and Standard grades would be reduced and would be the same as now permitted in Prime and Choice.

A few other minor changes are proposed in the standards to improve clarity and facilitate uniform interpretation.

It also is proposed to revise the standards for grades of slaughter cattle to coordinate them with the proposed changes in standards for grades of carcass beef.

I am especially pleased with the proposal that all beef carcasses be identified for both quality grade and yield grade. Two factors, the quality of the meat and the amount of salable meat the carcass will yield, determine the value of a beef carcass. When we have a combination of yield grading and quality grading the incentive is provided for more efficiency in production and marketing, and the producer and feeder will be rewarded for a superior and more economical product. The yield grades will also provide a means of reflecting consumer preferences for beef with a high ratio of lean to fat.

These proposals are aimed at reducing the amount of increasingly expensive feed grains needed to finish cattle for market by encouraging the production of beef containing less excess fat. The net result should be an attractive, and palatable cut of meat available at a lower retail price.

Mr. President, I ask unanimous consent that this recent article in the New York Times concerning this important proposal be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Sept. 11, 1974]

New Beef Grading Urged for Leaner, Cheaper Cuts

(By William Robbins)

Washington, Sept. 10.—The Department of Agriculture proposed today a new grading plan for beef that could lead consumers to eat leaner cuts and save millions of bushels of costly feed grains each year.

"The net effect—increased production at less cost and with less waste fat—could be reflected in lower prices at the retail level," John Pierce, director of the Livestock Division of the department's Agricultural Marketing Service, said at a news briefing on the proposals.

The amount of price reductions would depend on merchandising and the degree to which competition forced suppliers and retailers to pass savings on to buyers, Mr. Pierce said.

He said the over-all effect would be to increase uniformity within the grades without lessening the "basic eating quality—tenderness, juiciness and flavor." He added:

"I don't think even an experienced taste panel would be able to pick up the difference."

Reductions in fat intake could have a health effect on people who have potential heart and circulatory problems, many specialists have said. Additionally, in theory at least, some of the grain saved could be made available to less-developed countries and thus could feed millions of the world's hungry people.

Pressure for changes in the meat-grading system have come from many sources, and have grown recently as the impact of this summer's drought has aggravated the effect of worldwide demand on diminished grain supplies.

Today's proposal will be published for public comment in the Federal Register, and background briefings to explain the plan will be held beginning Oct. 8 here, with subsequent sessions scheduled in Atlanta, Dallas, New York and San Francisco.

After the briefing, 90 days will be allowed for public comment. Something close to the plan proposed today, with modifications in response to such comments, is expected to go into effect early next year.

FAVORABLE REACTION

The first reaction today was favorable.

"On balance, we'll be able to give this good strong support," said C. W. McMillan, executive vice president of the American National Cattlemen's Association, which had proposed a plan that was similar in several respects to that of the Agriculture Department's.

Meat processors have proposed grading-plan changes that also agree in some respects with the department's proposal.

Clarence Adamy, president of the national Association of Food Chains, was less enthusiastic than the cattlemen's spokesman. Mr. Adamy said the change could have a "slight" impact on prices because it would make more meat available in preferred grades, but added that store chains generally required certain quality specifications within those grades.

Not all stores, he noted, buy federally graded beef. Grading is a service that the Agriculture Department offers for a fee that generally pays for its cost.

NO CONSUMER REACTION

There was no immediate response from consumer groups. Nancy Steorts, special assistant to the Secretary of Agriculture for consumer affairs, said the department hoped to elicit consumer reaction through the briefing sessions.

Under the Federal grading system, the qualtiy of meat is judged according to "marbling," or the internal fat within the muscles, and to the age of the animal from which it comes. The older the animal, the more marbling is required to maintain the quality.

The effect of today's proposal generally would be to make more meat available in the "prime" and "choice" grades, the two top categories, and to reduce variability in the "good" grade by eliminating from that group young beef with only a trace of marbling and moving it down to the "standard" grade.

At the same time, the proposal called for reducing from 48 to 42 months the age at which cattle could qualify for these grades. Over 42 months, the meat would be graded "commercial," "utility" or "cutter"—categories that are generally used in ground or processed meat.

"CHOICE" MEAT FAVORED

Meat has been graded by Department of Agriculture inspectors, on request, for nearly a half century. During that period, "choice" meat, with clearly visible marbling but not what the department calls abundant marbling, has become a favorite among shoppers. More marbling is required for "prime" meat.

To produce animals of "choice" or "prime" quality, livestock producers have kept animals confined in pens, or feedlots, and fed them copious quantities of grain and supplements. Such operations were even more attractive in past years, when American grain was plentiful and cheap.

THE THREAT OF RISING FERTILIZER SCARCITY

Mr. McGEE. Mr. President, in last Sunday's edition of the New York Times there appeared an article written by Victor McElheny warning that famine and death is threatened for millions of the world's population due to the rising fertilizer scarcity.

The article is an excellent analysis of a problem which is approaching disastrous proportions. I strongly urge my colleagues to study the article in order to grasp the sweeping ramifications of inaction, apathy, or a sense of isolationism on our part.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Sept. 1, 1974]

Rising World Fertilizer Scarcity Threatens Famine for Millions

(By Victor K. McElheny)

A worldwide shortage of fertilizer, gripping rich and poor nations alike, is intensifying a danger that millions may die of starvation in poor countries in the coming year.

With inventories of food and the fertilizer needed to grow it at the lowest levels since World War II, many experts are concerned with what they see as a global maldistribution of scarce fertilizer.

They have begun searching for potential emergency supplies to reverse sharp declines in food crops caused by shortages in the three main fertilizers—nitrogen, phosphate and potash—in nations like India and Bangladesh.

One possible source is the fertilizer used on American lawns, flower gardens, golf greens and cemeteries. This comes to nearly three million tons a year and would be easier to tap, politically as well as economically, than fertilizer used by American farmers.

TWICE AS LARGE YIELDS

A Senate resolution calling on President Ford to ask Americans to reduce such ornamental uses of fertilizer, freeing it for crops in nations where food is shortest, has gained the backing of 38 Senators. It is an idea that is supported by many food experts as part of a broad program to encourage food self-sufficiency in poor nations.

In this view, scarce fertilizer should be directed to the countries where it will grow the most food. Fertilizer will produce yields at least twice as large on the nutrient-starved soils of Asia, Africa and Latin America as on the already generously fertilized cropland of the United States.

Yet, with food shortages pushing farm prices and farm income to record levels, farmers in developed nations are scrambling for every extra pound of fertilizer they can get to plant more acres and grow more food—some of it for sale to poor nations. The United States and Japan have imposed "quasi-embargoes" on fertilizer exports.

Prices of fertilizer and such fertilizer raw materials as petroleum have doubled and tripled in the last two years. There have been two main reasons—the energy crisis and an exhaustion of reserves because demand outran construction of new fertilizer manufacturing capacity.

Just a few years ago, spurred by the adoption of the high-yield grain types in the widely heralded "green revolution" in many poor countries, the fertilizer industry built so much capacity that it was threatened with bankruptcy. Construction halted. Then scarcity came again much sooner than expected.

Now, mines and factories are being built and opened all over the world—including eight nitrogen fertilizer "complexes" in China—but not enough of them are expected to go into operation in time to alleviate the present emergency.

For lack of sufficient fertilizer, the green revolution is stalled all over the developing world. With nearly all of the world's land suitable for agriculture already exploited, with a world population of nearly four billion growing at better than 2 percent a year, experts estimate that generous supplies of fertilizer are essential to avert chronic famines.

DEPENDENCE ON FERTILIZER

They estimate that one billion people, one fourth of the world's population, already depend for their food on the extra food yields from fertilizer. Virtually all the more than two billion extra mouths to feed in the next quarter century will depend on fertilizer.

In the current emergency, close observers are disturbed when a nation like India, for lack of a pound of fertilizer costing 15 cents, fails to grow 10 pounds of wheat that she must try to buy on the world market for at least $1. Such demand from food-short nations is one of the pressures driving American food prices up.

Food experts are convinced that generous supplies of fertilizer are a key to growing the food needed for the world's nearly four billion people, and for the population of more than six billion expected in the year 2000.

Their concern about unequal distribution and worldwide shortages of fertilizer focuses on India, which has been hit with about half of the estimated 2 million-ton "shortfall" of fertilizer in food-short developing nations around the world.

The nearly three million tons of nitrogen, phosphate and potash that Americans use on lawns and rose gardens and for other ornamental purposes each year roughly equals the entire amount that Indian farmers applied—until the sudden shortage of the last year—to a cropland area only slightly smaller than the 360 million acres of United States farmland. American farmers use at least seven times as much fertilizer per acre as Indian farmers do.

CUT BY 10 MILLION TONS

In the last year, because the Indian supply of the main plant nutrients fell from three million tons to two, food grain yields have been cut, despite relatively favorable weather, by some 10 million tons. This amount, which is a year's supply for 50 million people, would cost $2-billion to buy on the world market.

According to such observers as James Grant and Lester Brown of the Overseas Development Council, the best place to use scarce fertilizer supplies is the developing countries where levels of nitrogen, phosphate and potash in the soil are so low that the extra yield from a pound of fertilizer would be at least 10 pounds of grain. Only two to five pounds could be expected from already richly fertilized American or European fields.

Prof. Raymond Ewell of the State University of New York at Buffalo has estimated that an increase in the world grain yield of 100 million tons—above the present world total of 1.2-billion tons—would require 24 million tons of fertilizer if grown on the fields of rich nations like the United States. The same increase would require only 10 million tons of fertilizer if placed on the fields of the developing nations, such as Bangladesh, where food shortages are greatest.

The problems of fertilizer allocation now affect all parts of what many observers see as a single global food community. In testimony before the House Foreign Affairs Committee in July, Mr. Grant said: "It is no longer possible to insulate U.S. food prices from the outside world. Food prices in the United States are now determined by world price levels."

Mr. Grant said that a $1-billion increase in food and fertilizer aid by the United States would still "be less than half of the more than $2-billion we will receive in 1974 from the developing countries as a result of our higher food prices."

Concern about maldistribution and shortages of fertilizer has triggered these official actions:

A proposal from the government of Sri Lana for establishing a world fertilizer "pool" through which rich nations would share fertilizer supplies with poor ones.

Creation by the United Nations Food and Agriculture Organization of a special fertilizer commission, which held its first meeting in July.

Introduction of House Resolution 1155 and Senate Resolution 329 in the Congress, with sponsorship by more than 100 members, urging enlarged food and fertilizer aid by the United States and reduction of "non-critical, non-food-producing uses of fertilizer."

Pledges by Secretary of State Kissinger, in a speech to the United Nations April 15, of American technical assistance to help improve the operation of fertilizer factories, to help make more effective use of fertilizers, and help build new fertilizer plants in areas like the Persian Gulf where raw materials for nitrogen fertilizers are plentiful.

Such moves are arousing anger among American farmers, who oppose fertilizer exports that would cut into their own supplies. Their complaints led last fall to action by the Cost of Living Council, now defunct, in which decontrol of United States fertilizer prices was allowed in return for a promise by the fertilizer industry to reserve an extra 1.5 million tons of fertilizer for domestic sale.

This action was termed a "quasi-embargo" by Mr. Grant in testimony before the House Foreign Affairs Committee in July. At the moment, farmers fear that fertilizer manufacturers might step up exports, since world fertilizer prices are 50 per cent above American levels. A Senate staff aide called the issue "politically red hot."

WIDE-RANGING IMPACT

Ripples from the fertilizer problem have spread all over the developing world, where leaders suddenly realized last fall—when oil exporting nations set their prices sky high—that both industrial and agricultural development prospects were in pawn to the oil-exporting nations.

Developing nations stepped up their plans for self-sufficiency in fertilizer raw materials and products. The most significant moves came in Southeast Asia, where Indonesia, rich in natural gas and petroleum, dedicated one large fertilizer plant at Palembang on Sumatra and promptly signed a contract for one twice as big.

To save up to a year in its drive for self-sufficiency, Indonesia ordered a ship-borne fertilizer plant from Europe. It will be sailed to a point off-shore from Samarinda in Kalimantan, as the Indonesians call Borneo.

Some of the ammonia to be produced at this plant will be shipped to the Philippines, where it will be made into ammonium phosphate or ammonium sulphate fertilizer. The sulphuric acid byproduct from the Philippine copper industry can be used to make the ammonium sulphate, or to process imported phosphate rock to put into the ammonium phosphate.

Similar arrangements could make Southeast Asia self-sufficient in fertilizer manufacture within a few years, according to experts from the Natioanl Fertilizer Development Center in Muscle Shoals, Ala., who have visited the area.

SEVERAL PLANTS PLANNED

Discovery of important natural gas reserves 100 miles north of Dacca, the capital of Bangladesh, has led to plans for several nitrogen fertilizer plants, according to observers interviewed at the Muscle Shoals center, which is operated by the Tennessee Valley Authority. The fertilizer plants would not only supply the needs of Bangladesh but also a portion of those of neighboring India.

The fertilizer shortage in India, which has little of its own petroleum or natural gas, has led to the signing of World Bank-sponsored contracts for two nitrogen fertilizer plants meant to tap India's large deposits of lignite, or brown coal.

Such efforts point toward more generous supplies of fertilizer a few years from now—so generous, indeed, that the world might seek to "stockpile" surplus fertilizer factories as part of a world fertilizer "bank" and thus avoid the boom-and-bust sequence being experienced now.

A suggestion for this was made in the June issue of War on Hunger magazine, published by the Agency for International Development, by Dr. Donald McCune, head of the international group at the T.V.A. fertilizer development center.

"It appears that adequate capacity is being built to meet long-range needs," Dr. McCune wrote. "In fact, caution may be needed to prevent the pendulum from swinging so far that production may greatly exceed demand."

Fertilizer experts stress that the food needs of a world population growing at 2 per cent a year have long since outrun natural supplies of fertilizer.

Among these are inert nitrogen gas in the atmosphere converted into nitrates by the heat of lightning bolts, at the estimated rate of eight pounds per acre per year. This falls in rain, and helps replenish a little of the nitrogen taken from the soil by food plants.

Another natural source is nitrogen extracted from the air by micro-organisms living in nodules in the roots of such plants as soybeans and alfalfa, or in the soil, or in the water of rice paddies.

Also outrun by man's voracious need for extra food are such recycled materials as bones for phosphate, wood ash for potash, manure and slaughterhouse waste for nitrogen—or mined nitrate. The functions of these fertilizers were first understood scientifically in the eighteen-forties.

Although the raw materials of nitrogen, phosphate and potash fertilizers are plentiful in nature, each requires elaborate, massive technology to convert it to substances that plants can use.

Huge centrifugal compressors convert nitrogen from its "aloof" form in the atmosphere, as the fertilizer expert Dr. A. V. Slack calls it, into ammonia, where the nitrogen is combined with hydrogen "donated" by natural gas, an oil byproduct called naphtha, or coal. The plants then use nitrogen compounds as part of every one of the amino acid building blocks of all their proteins, including the enzyme catalysts that carry out thousands of different operations in the cell.

Phosphate rock is mined in Morocco, or scraped from the earth by electric-powered draglines in Florida, separated from other substances and finally treated with sulphuric acid. In the plants, phosphorus atoms linked together in so-called adenosine molecules provide most of the energy for the operations of living cells.

SULPHUR A KEY TO PHOSPHATE

Sulphur, because of its use in sulphuric acid, is a key to phosphate fertilizer supply. As it happens, sulphur itself forms "bridges" within many proteins, holding them to the exact shape that is essential to the proteins' functions.

Almost all the potash, originally named from the source farmers once used, comes today from potassium chloride mined in ancient, dried out, salty lake beds. The potassium, according to Dr. Slack in his book, "Defense Against Famine," helps promote the assembly of proteins from amino acids and the forming of carbohydrates.

The scale of the nitrogen fertilizer industry, which now accounts for half the fertilizer of the world, jumped dramatically in the nineteen-sixties with the invention of the centrifugal-compressor ammonia plant by the M. W. Kellogg Company, a division of Pullman, Inc., in Houston, Tex. Today's typical ammonia plant, producing 1,000 tons a day, is three times larger than the typical older plant.

The invention meant that if underdeveloped countries wanted to manufacture their own low-cost fertilizer to boost the productivity of their most primeval industry, agriculture, they would have to leap into an enormously complex technology, operating at a vast scale with the help of huge supplies of energy.

If the plants operated below capacity because of bad management or a shortage of spare parts or interrupted electricity supplies, their economies suffered. With the exception of a factor or two in Indonesia, fertilizer plants in developing nations typically operate at 60 per cent of capacity.

Rich resources of natural gas for nitrogen fertilizer are being lost every year in oil-producing nations because markets have not been developed for them. In Venezuela, Nigeria, North Africa and the Persian Gulf region, a total of 4.5 trillion cubic feet of natural gas is burnt, "flared off" into the atmosphere and lost forever each year.

BALANCE SEEN BY 1980

The amount is 10 times what is used in the United States annually to make nitrogen fertilizer. It is enough to make twice the present annual consumption of nitrogen fertilizer.

The existence of such resources, including thousands of years' supply of potash for the entire world in the mines of Saskatchewan, and new discoveries of phosphate rock in

Australia and even India, increase confidence that a balance between demand and supply can be established by the end of the decade.

Recent reviews of the world fertilizer outlook by the Economic Research Service of the Department of Agriculture and by the National Fertilizer Development Center indicate that world consumption of plant nutrients, which was 78 million tons in 1973, would rise at least 30 per cent, to 113 million tons in 1980.

While fertilizer experts study how to meet future demands, agricultural researchers are giving new attention to how hundreds of millions of small farmers in developing nations could economize on fertilizer and still achieve larger food yields than they and their families are accustomed to do now.

Laboratories such as the International Rice Research Institute are studying simple ways to apply fertilizers at just the times plants need them.

The National Fertilizer Development Center at Muscle Shoals is pushing development of a sulphur-coated form of the urea fertilizers, which are fast becoming the most-applied type in Asia, as a kind of "timed-release" nitrogen fertilizer for rice paddies that are alternately flooded and dried.

By releasing the nitrogen more slowly to the rice plants, the sulphur-coated urea, which can be applied in one dose at the start of the growing season on intermittently flooded paddies, yields have been increased in trials from Peru to the Philippines.

Nutritious soybeans, whose rich protein now is fed largely to animals, are receiving new emphasis. Soybean plants supply much of their own nitrogen needs, thanks to the work of bacteria living in nodules in their roots.

At the Asian Vegetable Research and Development Center in Taiwan, genetic work has been begun to extend the range of the soybean plant from the temperate zones in the United States and China, where it grows best now. This would cut fertilizer needs and aid multiple-cropping plans to enrich diets in rice-growing areas.

At North Carolina State University, plant breeders have been reporting some success in developing hybrid soybean plants, which would allow farmers to increase soybean yields per acre. Up to now, the only way to grow more soybeans has been to plant more acres of soybeans.

One hope, which many scientists had reserved for the distant future, has acquired new sharpness in the last year. This is the idea of genetically "tailoring" bacteria living in the soil or plant roots to do a better job of "fixing" nitrogen from the air.

Scientists in California discovered a new technique of using bacterial "plasmids," small rings of genetic material alongside the main rings of genes, to transfer properties from one strain of bacteria to another.

It is thought that this technique might be used to transfer the genes for the nitrogen-fixing protein called nitrogenase into many soil microorganisms now lacking it. The result might be a significant new way to meet the desperate need of the world's farmers for new supplies of nitrogen for their food crops.

BILINGUAL HEALTH SERVICES PROVISIONS IN S. 3280, HEALTH SERVICES ACT OF 1974

Mr. CRANSTON. Mr. President, on September 10, the Senate passed S. 3280, the Health Services Act of 1974. That legislation is of paramount importance in insuring the accessibility and acceptability of health services to all elements of society. Each of the programs which will be strengthened as a result of enactment of the legislation which has been adopted in the Senate—for community health centers, for community mental health centers, and for migrant farmworker health centers, bring critically needed health services to communities throughout the Nation and in particular to those communities which historically have been underserved.

GENERAL PROVISIONS

These health centers have been subjected to a great deal of uncertainty as to their future because of the administration's efforts to reduce the level of Federal support, or to phase out that support entirely. The Health Services Act of 1974 provides these centers with the statutory base which will assure their continuity and, at the same time, make them as financially self-reliant as possible. In many communities, these health services still are nonexistent, and the resources are not available within the community to support the necessary startup costs of establishing a health center. The Health Services Act will insure that where it is demonstrated that a new center is necessary, Federal support will be available to help cover the initial expenses. The legislation also requires that all centers establish effective procedures for the collection of third party payments for services they provide. This will insure their optimal self-sufficiency in the long run.

I was pleased that several amendments I offered to S. 3280 were accepted by the committee in their entirety and are included in the Senate-passed measure. These amendments were directed toward the necessity for these community health services to be highly attuned to the needs of the community served where that community has a substantial number of individuals who have limited English-speaking ability. The amendments were cosponsored by the distinguished chairman of the Health Subcommittee (Mr. KENNEDY) and by the distinguished Senator from New Mexico (Mr. MONTOYA). I am grateful for their help and support.

PROVISIONS RELATING TO SPECIAL NEEDS OF INDIVIDUALS WITH LIMITED ENGLISH-SPEAKING ABILITY

My amendments to S. 3280 require community health centers, community mental health centers, and migrant health centers, where they serve populations with substantial numbers of individuals of limited English-speaking ability to identify on their staffs, an appropriately bilingual individual. This individual would be responsible for developing programs to increase the awareness of the staff—and the staff of contract providers—about the cultural sensitivities related to health of the population served, and for helping staff and patients to bridge cultural and language differences. These centers would also be required, under my amendments, to utilize the services of bilingual outreach workers, who optimally would be recruited from the community to be served, to encourage residents of limited English-speaking ability to utilize community health and related resources in the most appropriate and effective manner.

I believe existing community health centers, community mental health centers, and migrant health centers which have strong consumer participation at the policymaking level have recognized the linguistic and cultural communications gap and have taken steps to bridge that gap. My amendments would reinforce these centers in such efforts and would expand these efforts to include contracts providers as well.

Mr. President, I ask unanimous consent that the portion of the committee report dealing with these amendments be printed in the RECORD at this point.

There being no objection, the portion of the report was ordered to be printed in the RECORD, as follows:

PROGRAMS TO MEET SPECIAL NEEDS OF NON-ENGLISH SPEAKING POPULATION GROUPS

The Committee was concerned by the very special problems in securing health care faced by minority population groups whose members have limited English speaking ability. These problems are many times intensified by different cultural heritages which make an individual's perception of health care at variance with that of the providers of health care, who, by and large, are members of the majority population group. The traditional health practices, the dietary practices, and the family traditions and relationships of the members of the minority population group may well create barriers to the ability of the patient to fully comprehend and carry out the treatment regimen recommended by the physician. In addition, the language barrier makes communication very difficult especially in the essential task of describing symptoms with specificity and clarity, or describing the history of an illness. The physician is limited in his ability to describe to the patient the treatment regimen he should follow. Furthermore, in many cases, members of minority population groups are unaware of the availability of health services and of the means of access to such health services.

All these factors mitigate against the provision of quality health care to population groups with different linguistic and cultural traditions.

To ensure that the health services provided by community health centers, migrant health centers, and community mental health centers, are appropriately utilized by members of the population groups they serve and are responsive to their needs, the reported bill requires any center serving a population with a substantial number of individuals of limited English-speaking ability, to develop programs which would overcome any linguistic or cultural barriers to the receipt of health care.

The committee observes that existing health centers which have strong consumer participation at the policy making level have recognized the linguistic and cultural communications gap and have taken steps to bridge that gap. The provisions in the reported bill would reinforce these efforts and would do so in a manner which recognizes the importance of the individual's cultural heritage and would be in consonance with that heritage.

PATIENT DRUG PROFILES

Mr. CRANSTON. Another amendment I offered in committee, Mr. President, which has been included in S. 3280 as reported, would clarify that the medical records maintained by community health centers, community mental health centers, and migrant health centers, would specifically include a patient drug-use profile. It is estimated by initial studies that from 3 to 6 percent of hospital admissions are due to adverse drug reactions, and that a minimum of 15 to 18 percent of hospitalized patients suffer an adverse reaction subsequent to their admission. By maintaining a drug-use profile on each patient, the incidence of such adverse drug reactions and interactions can be substantially reduced.

OTHER PROVISIONS OF S. 3280

In addition, Mr. President, this legislation includes important new authorities for a program of special support to States in carrying out screening, detection, diagnosis and treatment programs for individuals who have high blood pressure or hypertension, as it is also called. It is estimated that 23 million Americans suffer from hypertension and that it can be controlled if the patient receives appropriate medical treatment. However, half the people suffering from hypertension do not realize it, and as a result, these people fail to seek the treatment that will prevent the heart attacks, the strokes, and the kidney failures which result from hypertension.

The legislation also includes new authorities to encourage the development of home health care agencies and the training of home health care personnel. Mr. President, among various systems of health care services, one of the most promising yet least recognized is the system of home health care. Availability of home health care services in the community can offer an alternative to the more expensive nursing home care or hospitalization when the patient's family is unable to provide all the support necessary to meet fully the patient's needs.

Mr. President, I am pleased the legislation also includes the provisions of S. 1326, the Hemophilia Act of 1973, introduced by the distinguished chairman of the Committee on Labor and Public Welfare (Senator Williams), which I cosponsored.

S. 1326 provides for a program for screening and treatment of hemophilia, and for a better utilization of blood resources, so essential to the treatment of this tragic disease.

Other specific provisions establish a Commission on Mental Health and Illness of the Elderly, a Commission for the Control of Epilepsy, and a National Center for the Control and Prevention of Rape. These new entities will focus the necessary national resources on the means of alleviating these three major social and health problems.

Mr. President, older people, who are often subject to depression and anxiety resulting from changes in status, as well as in health, still have enormous potential for growth and change. Far too often, however, the confusion and uncertainty that besets older people is considered degenerative and irreversible and results in institutionalization.

The Commission on Mental Health and Illness of the Elderly, which was first recommended by the White House Conference on Aging in 1971, represents a significant step forward in advancing the understanding and mobilization of resources necessary to deal with the issues involved in the mental health care needs of the elderly persons and to formulate a national policy for the proper maintenance of mental health for aged and aging individuals.

I am also pleased to note the inclusion of the provisions of S. 2422, the proposed "Rape Prevention and Control Act," which I cosponsored. I feel very strongly about the need for Federal legislation in this area. The crime of rape is increasing at an alarming date—up 10 percent as reported in FBI statistics for this past year—causing untoward suffering by women and creating needless anxiety and uncertainty in their daily lives.

Mr. President, I believe this bill addresses some of the most urgent categorized health services problems facing the Nation today. I would like to express my support for this legislation and my admiration for the leadership and imagination which the chairman of the Subcommittee on Health (Mr. Kennedy) has brought to the development and consideration of this legislation. He was very ably supported in these efforts by the chairman (Mr. Williams) and the ranking minority member (Mr. Javits) of the Committee on Labor and Public Welfare, who, as always, brought their special insights and experience to bear on the important issues covered in the legislation. I would also like specially to thank for their help to me and my staff Stan Jones and Jay Cutler of the majority and minority professional staffs, respectively, of the Health Subcommittee, and pay special tribute to Louise Ringwalt for her as always excellent staff work for me on this measure.

SCHOOL DESEGREGATION

Mr. STENNIS. Mr. President, more than 2 years ago the Congress enacted the Emergency School Aid Act which included a firm statement of national policy that the laws relating to the desegregation of public schools shall be applied uniformly in all regions of the United States.

As a matter of fact, such legislation should not have been necessary because our system of Government requires that the laws of the United States be applied uniformly in all areas of the Nation.

In public school desegregation matters, however, that has not been the case. The record shows that since the passage of the Civil Rights Act of 1964, the Department of Health, Education, and Welfare, and other agencies, have systematically applied the full power and might of the Federal Government against public school districts of the South, bringing them into line and requiring complete desegregation, without regard to the quality of education while at the same time almost totally ignoring the fact that there is widespread discrimination and segregation in the public schools of the North and the West.

In 1969, I obtained figures from the records of the Department of Health, Education, and Welfare which proved without question that at that time there was far more segregation in the public schools of the North and West than in the South. At that time, in a series of speeches on the Senate floor I disclosed these facts State by State. That same year I first sponsored in the Senate an amendment requiring the Department of Health, Education, and Welfare to apply school desegregation policies uniformly to all areas of the country.

I said then and have repeated many times since that we in the South are willing to live under whatever law which may be applied in all sections of the Nation. That was the situation then and that is the situation now.

I will not detail here the long legislative history of the amendment providing that the law should be applied uniformly except to say that it was approved in 1972 in substantially the same form originally presented. The amendment appears as section 702(b) of the Emergency School Aid Act of 1972, Public Law 92-318, 20 U.S.C.A. 1602(b), and provides as follows:

> (b) It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964, and section 182 of the Elementary and Secondary Education Amendments of 1966 shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race whether de jure or de facto in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

In spite of this solemn declaration of national policy which has been enacted into law by the Congress and approved by the President, I have been astounded to read the press accounts of a public statement made by the Secretary of Health, Education, and Welfare on September 6, 1974, conceding that there has been very little progress in desegregation matters in the North and that the Federal Government is taking a conciliatory approach to Northern school desegregation because of "very strong, bitter opposition" in the North.

According to the Associated Press, Health, Education, and Welfare Secretary Caspar Weinberger said in an interview:

> We are doing our job under very difficult circumstances where there is a very strong divergence of viewpoints between what the law says and what the public wants.

Secretary Weinberger further said:

> I think we have to face the fact that we are dealing with a very fierce public opposition to desegregation in many Northern States.

There is a lack of diligence when it is true that 20 years after the 1954 Brown decision and 10 years after the enactment of the Civil Rights Act of 1964, many schools of the North are still more segregated than ever.

I think the facts will show that from 1965 through 1973, a period of 9 years, the Department of Health, Education, and Welfare has conducted only 84 reviews of Northern school districts. In only one of those school districts, Ferndale, Mich., have Federal funds been actually cut off for lack of compliance.

Within 2 years of the passage of the Civil Rights Act of 1964, virtually all of the school districts in the South were singled out for detailed investigation by the Department of Health, Education, and Welfare and funds were cut off or deferred in a wholesale manner until such school districts agreed to a desegregation plan virtually dictated line by line by the Department of Health, Education, and Welfare.

I have been very disappointed to learn that in spite of the clear mandate of Congress, as reflected in the Stennis amendment adopted in 1972, the Department of Health, Education, and Welfare continues to apply a double standard. It follows an extremely flexible and accommodating rule for the North and a harsh, punitive and unyielding rule for the South. In adopting the Stennis amendment, that is the very thing that the Congress directed the Department of Health, Education, and Welfare to avoid. The Congress has mandated the application of the same desegregation policies for the North, South, East and West.

I have today written to the Secretary of Health, Education, and Welfare protesting the continued application of a policy in desegregation matters in schools of the North which largely ignores the provisions of the Civil Rights Act of 1964, while continuing its iron grip on the schools of the South. I have strongly urged that the mandate of the Congress be followed in all school districts throughout the Nation and that the same standard be applied both North and South. I ask unanimous consent that my letter to Secretary Weinberger, dated September 12, 1974, be printed in full in the Record along with the Associated Press newspaper story which appeared in the Memphis Commercial Appeal on September 7, 1974, entitled, "HEW Defends Go-Slow on Integration in North, Cites 'Bitter Opposition.' "

There being no objection, the letter and article were ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., September 12, 1974.

Hon. Caspar Weinberger,
Secretary of Health, Education, and Welfare,
Washington, D.C.

Dear Mr. Secretary: As you know in 1972 the Congress approved Public Law 92–318 appearing as 20 U.S.C.A. 1602(b), which provides as follows:

"(b) It is the policy of the United States that guidelines and critieria established pursuant to title VI of the Civil Rights Act of 1964, and section 182 of the Elementary and Secondary Education Amendments of 1966 shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race whether de jure or de facto in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation."

Of course, this was a firm statement of national policy enacted by the Congress and approved by the President which mandates that public school desegregation policies adopted by the Department of Health, Education and Welfare be applied uniformly throughout the United States.

I have been quite concerned to read press accounts of a statement attributed to you by the Associated Press which apparently concedes that there has been very little progress in desegregation matters in the North and stating that the Federal Government is taking a conciliatory approach to northern school desegregation because of the "very strong, bitter opposition" in the North. Further, the story reports that you referred to doing your job under very difficult circumstances where there is a "very strong divergence of viewpoints between what the law says and what the public wants."

For your ready reference, I attach hereto a copy of the Associated Press article which appeared in the Memphis Commercial Appeal on September 7, 1974.

I am quite concerned that the public records show that 20 years after the Brown decision and 10 years after the enactment of the Civil Rights Act of 1964, many schools of the North are still more segregated than ever. I think it is apparent that in many instances such segregation is the result of discriminatory practices in the local school districts.

Further, I am astounded to learn that since 1965 there have been apparently only 84 complete reviews of school districts in the North and in only one of those districts, Ferndale, Michigan, have federal funds been actually cut off for lack of compliance with the Civil Rights Act.

On the other hand, as you well know, within two years after the passage of the Civil Rights Act of 1964, virtually every school district in the South was the subject of a detailed investigation by your Department and funds were cut off or deferred in a wholesale manner until such school districts agreed to a desegregaion plan as required by your Department.

It is obvious that in spite of the clear mandate of Congress as reflected in the provisions of Public Law 92–318, 20 U.S.C.A. 1602 (b), the Department of Health, Education and Welfare continues to apply a double standard, one for the North and another for the South. According to press reports of your statement, the rule for the North seems to be completely flexible and accommodating. The records show that the guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 have been very sparingly applied among the school districts of the North. The school districts of the South continue to be monitored and controlled by such guidelines.

The Congress has mandated the application of the same desegregation policies for all regions of the United States and I strongly urge that you promptly take the necessary steps to apply uniformly to the public schools of the North the same guidelines and criteria established pursuant to the Civil Rights Act of 1964.

I request that you furnish me as soon as possible a list of the school districts in regions of the United States outside the South where the Department of Health, Education and Welfare has made complete investigations, requested school desegregation plans and approved such plans. Separately, I would like a list of the school districts in those areas outside the South where school desegregation plans have been submitted, but have been rejected or otherwise not approved. In each of the latter cases, I would like to be advised the present status of the case, and particularly whether negotiations are under way which can reasonably be expected to lead to compliance.

Further, I would like to be advised as to the specific plans you have for the Department of Health, Education and Welfare to diligently pursue this question and to make certain that the public schools in regions of the United States outisde the South are in full compliance with the Civil Rights Act and constitutional requirements all in keeping with the uniformity of application of guidelines and criteria as mandated by the Congress in Public Law 92–318, appearing as 20 U.S.C.A. 1602 (b).

Sincerely yours

John C. Stennis,
U.S. Senator.

[From the Memphis (Tenn.) Commercial Appeal, Sept. 7, 1974]

HEW Defends Go-Slow on Integration in North, Cites "Bitter Opposition"

Washington, Sept. 6.—The government is taking a conciliatory approach to Northern school desegregation because of "very strong bitter opposition" north of the Mason-Dixon Line, Health, Education and Welfare Secretary Caspar Weinberger said Friday.

The threat of federal fund cutoffs, used to whip Southern schools into line, frequently would produce more rather than less desegregation in the North, he said in an interview.

"I think we have to face the fact that we are dealing with a very fierce public opposition to desegregation in many Northern cities," said Weinberger, who declined to name any specific trouble spots.

"The bulk of segregated practices occurs in concentrated urban areas of the North where the opposition to busing and various forms of desegregation appears to be far stronger than in the South," he said.

Weinberger conceded that HEW has made greater progress in desegregation in Southern schools.

"One of the reasons is, I think, that we had farther to go," he said. "But secondly, the public has been much more willing to accept desegregation in the South."

Weinberger criticized a private civil rights study released Thursday which argued that HEW was dragging its feet on Northern school cases despite confidence in its own files of violations.

"There are frequently many ways we can accomplish a great deal more in persuasion and discussion and negotiations to produce desegregation plans," he said. "There are many situations in which withdrawal of funds promotes more segregation.

"To conclude that we haven't done our job because we haven't withheld federal funds is, I think, a totally unwarranted conclusion.

"We are doing our job under very difficult circumstances where there is a very strong divergence of viewpoints between what the law says and what the public wants."

In the North, Weinberger said, federal civil rights enforcers often can achieve better results by convincing local school boards to design their own desegregation plans, "with the necessary public support," than by "going in with a blunderbuss, taking away their federal funds and put them in a frame of mind and attitude in which they would make no effort to try to comply with the law.

"We are enforcing the civil rights laws," Weinberger declared, "and the fact that you don't use an extreme or ultimate remedy doesn't mean you're not being effective or not pursuing the problem actively."

Weinberger said HEW is "caught in the middle" between those pressing for faster action in the 32 Northern and Western states and others opposing change. "The more active we become in many areas," he said, "the stronger the public criticism."

All Northern school discrimination cases differ, he said. "The only common thread that runs through them is the very strong, bitter public opinion against the use of many of these plans that would produce desegregation, specifically including busing."

If HEW "just stands up here and cracks the whip and takes away federal funds," Weinberger said, "you would have a far greater pattern of desegregation and bitterness."

Although making it clear there are some cases, such as Ferndale, Mich., where federal fund cutoffs might prove to be the only logical conclusion of a case, Weinberger expressed satisfaction with his department's desegregation efforts so far in the North.

AN ECONOMIC SUMMIT CONFERENCE—ADDITION TO REMARKS OF SEPTEMBER 9, 1974

Mr. DOMENICI. Mr. President, in the Record of September 9, 1974, on pages 30450 and 30451, my remarks to the steering committee for the summit conference on inflation were reprinted at

the request of my distinguished colleagues, Senators TOWER and HUMPHREY. A portion of my remarks was inadvertently omitted when printed in the RECORD.

Accordingly, Mr. President, I request unanimous consent that the concluding remarks I now submit be added to my statement as it appeared in the RECORD of September 9. I further request unanimous consent that the permanent RECORD of September 9 be arranged so that these remarks appear in their entirety.

There being no objection, the statement from the RECORD of September 9, 1974, plus the concluding remarks, was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR PETE DOMENICI TO THE STEERING COMMITTEE FOR THE SUMMIT CONFERENCE ON INFLATION

My colleagues and I have pointed out that we consider balancing the federal budget during this fiscal year to be extremely critical to success of any overall plan to bring inflation under control and to stabilize and strengthen our nation's economy. I would like to extend that basic proposition with some additional remarks on the urgency of this specific action.

The history of Congressional inability to deal adequately with Federal government spending is well-documented and needs no great elaboration here. I think it is sufficient to point out that not since Fiscal Year 1969 has our Federal government receipts exceeded its outlays. An even more dramatic fact is that Fiscal Year 1969 is the *only* year since 1960 that the Federal government has operated in the black. The result is that our national debt now stands at $482 billion and the interest on that debt is now running at about $31.5 billion a year.

During the same period from fiscal 1960 through fiscal 1974, annual outlays by the Federal government increased from about $92 billion to about $270 billion. This year the Administration's budget request projected total spending at about $305 billion.

These astronomical increases in expenditures and their accompanying deficits are the final responsibility of the Congress. It is the Congress that has the power and the duty to raise money and determine how it be spent. Our outdated system for fulfilling that tremendous responsibility has been entirely deficient in the past, contributing directly to both the present size of our budget and our national debt, and also to the uncontrollability of the Federal spending process.

Many Members of Congress point with pride to claims that they as individual legislators have consistently voted for less money than the Administration requested for some specific programs or for all programs. The hard truth is, however, that Congressional action or inaction during the four-year period from Fiscal Year 1970 through Fiscal Year 1973 actually had the effect of increasing outlays by almost nine billion dollars over the outlays anticipated in those budget requests. Again, there can be no doubt that the lack of a Congressional budgetary system contributed to that unfortunate situation chiefly because of the existence in our present system of "uncontrollable" items. The Fiscal Year 1975 budget estimate of $305 billion is made up of about $226 billion which falls into this category of uncontrollable for many reasons, but basically because our lack of a decent budget system encouraged it.

We have a new budget system which will correct many of the gross deficiencies and eliminate many of the problems I have cited. This new system will, for the first time, permit the Congress to consider simultaneously and in relationship to each other, the three major elements of the Federal budget:

1. Its total amount;

2. The appropriate distribution of that total among all the many worthwhile uses to which it could be devoted; and

3. The appropriate relationship of that total amount to revenues generated by the Federal government.

I have supported the activities of the 93rd Congress which produced this landmark legislation and I am confident that it will provide the framework to allow the Congress to conduct this Nation's financial affairs much better than in the past. The unfortunate fact is that this is purely a future prospect and our needs relative to economic stability and inflation control are *here and now*. We must take decisive action on the Federal budget right now if there is any benefit to be gained from such action.

My own premise is that there are definite and identifiable benefits to be gained from immediate action to obtain a balanced Federal budget in FY 1975, the current fiscal year. I am convinced that this is a specific action which can set the stage for such other elements of a comprehensive inflation control plan as may ultimately be developed through the economic summit or any other process.

I have concluded that this Nation's ability to generate the tremendous amount of investment and savings capital will be increased in direct proportion to decreases in Federal spending. This is true, particularly under present circumstances when every additional dollar spent by the government takes that dollar away from the supply of savings available to the private economy. In short, we must reduce the inflationary stimulus provided by government spending and the best way to do that in the near term is to limit spending to income produced during the current fiscal year.

I am not unaware of the arguments made by many prominent economists that reductions of this amount in Federal spending may have little effect or in fact, be counterproductive. For my own part, however, I am convinced that those reductions will have a direct beneficial effect, for many reasons, some of which I have mentioned and therefore must be undertaken.

I am also convinced that there are some indirect benefits which will flow from reduced Federal spending. The first of these has to do with psychology and credibility—the psychological effect on the American public and the credibility of the Federal government, especially the Congress and the Executive, to respond to our economic crisis.

There can be no doubt that we will have to reduce total demand for goods and services, requiring personal and business restraint and even sacrifice. We cannot expect our citizens to meet those challenges, to contribute for the common good, unless those of us who control the Federal spending machine are willing to do the same thing. In short, our efforts to control inflation in order to be credible with the American people must be predicated on restraint in government spending.

The second and very important indirect benefit I see flowing from reduced Federal outlays is the "grease" it will provide for the application of other essential elements of a truly comprehensive plan for curbing inflation. The most obvious example is that a lower level of government spending would reduce the burden placed upon monetary policy as the great stabilizer of the economy. Doctor Arthur Burns has frequently stated that if the Federal budget could be trimmed there could be an easing on the money supply which has served to keep credit tight and hold interest rates at record levels.

I would be remiss if I were to conclude without mentioning an extremely important consideration in reducing Federal outlays. At its easiest—just making uniform cuts in the various appropriations bills or the budget request—it would still be extremely difficult. But we cannot afford the luxury of accepting the easiest way, although that way may be exceedingly difficult itself. We must face up to the even more difficult task of selective reductions in some government programs. It will take the utmost in genuine cooperation between the Executive and the Congress to reshape the Federal budget even by the relatively small amounts in question here so as to hold inequities and resultant disruptions to a minimum.

I would not even suggest that I have those kinds of answers at this point. I can promise, and in this I am sure I speak for my colleagues who helped start this movement toward a domestic summit on the economy, that these answers must be found. They must be found and integrated into legislation initiatives required to reduce Federal spending. My colleagues and I have been working on various legislative approaches to provide the framework of flexibility the Congress and the Executive will need to hold actual government expenditures to the level of actual government receipts for this fiscal year.

In all of its many and varied considerations, the summit conference must address this issue and help provide guidance on that combination of Federal expenditure adjustments most likely to result in the greatest net benefit to our economy without placing intolerable or inequitable burdens on any one sector of our economy or any specific program area.

Before the Congress adjourns for this session it must have created the legislative framework for the implementation of these kinds of spending reductions.

Together with the other four freshmen Senators who introduced the Domestic Summit Resolution, I will work to ensure that, at a minimum, we enact legislation to reduce Federal outlays this Fiscal Year. Our target will be to bring spending at least down to the level of expected receipts. This legislation could take any one of several forms but whatever the final form, we in Congress must face up to our responsibility to provide the statutory authority to reduce outlays this year.

I should observe, in concluding, that those of us who advocate a balanced budget in FY 1975 and into the future, fully recognize that this action, in and of itself, will be of only incremental effect. It is not a cure-all! It will, however, serve to demonstrate our resolve to take decisive action and set the stage for the remainder of the broad array of other initiatives which will be generated. It is that essential first step without which ultimate success may be seriously jeopardized.

ORDER FOR CONSIDERATION ON WEDNESDAY NEXT OF SENATE RESOLUTION 394, RESOLUTION DISAPPROVING ALTERNATIVE PLAN FOR PAY ADJUSTMENTS FOR FEDERAL EMPLOYEES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday next, at no later than 4 p.m., there be a period of not to exceed 2 hours for debate on Senate Resolution 394, the resolution disapproving the alternative plan for pay adjustments for Federal employees, and that the time be divided between the majority and minority leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM WEDNESDAY NEXT TO 10 A.M. ON THURSDAY, SEPTEMBER 19, 1974, AND FOR CONSIDERATION OF CERTAIN MATTERS ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Wednesday next, it stand in adjournment until 10 a.m., on Thursday; that immediately after the two leaders or their designees have been recognized under the standing order, the Senate proceed to the consideration of S. 707, with the time remaining until 11 a.m., to be equally divided between the majority and minority leaders or their designees; that at the hour of 11 o'clock, the 1 hour for debate on the motion to invoke cloture under rule XXII begin running; that at the hour of 12 o'clock noon, there begin 1 hour for debate on Senate Resolution 394, the Federal pay raise resolution; that at the hour of 1 p.m., the automatic quorum required under rule XXII on the motion to invoke cloture be called; and that upon the establishment of a quorum, the Senate proceed without further debate to vote on Senate Resolution 394, the pay raise resolution; and that immediately upon the disposition of that vote, the Senate vote on the motion to invoke cloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FARM RELIEF

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Mr. BIDEN in support of Mr. STEVENSON's proposed amendments to disaster provisions of the farm bill enacted last year, Public Law 93-86, together with certain material referred to therein be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR BIDEN: FARM RELIEF

I support Senator Stevenson's proposed amendments to disaster provisions of the farm bill enacted last year, PL 93-86. That law, which consumed more than two weeks floor debate and literally months of committee work in both Houses, will stand the test of time as a major accomplishment of this Congress and the Members of the Agriculture Committees.

An ironic inconsistency in the final language of the law is the inequitable inclusion in the final language of the phrase "or other non-conserving crop" in the specifications of eligibility in disaster relief assistance payments under the wheat and feed grain production programs. that qualifying clause is conspicuous in its absence in the terms governing the other major crop program, cotton production.

The effect of this policy is the virtual exclusion of corn, barley, wheat and other grain farmers from the prevented-from-planting program of crop loss indemnification, and the limitation of their benefits under the abnormal-yield program, if they attempt to recoup the loss of their traditional, intended crop by planting a fast-growing substitute after the fields are in tillable condition or the failed crop has been plowed under.

Since the reimbursement for losses is at the rate of only one-third of the federally-established 'floor' or target price (or the difference between the floor price and the current market value, which ever is higher) the law justifiably permits stricken cotton farmers to plant alternate, shorter-season crops such as soybeans, to offset the loss of their major crop. However, the provisions of the law as presently written dealing with wheat, corn and other edible grains penalizes the producer who plants his allotted acreage with a second, non-conserving (that is, non-perennial) crop, by the withholding or reduction of the Federal disaster payments on the damaged crop.

This disparity derives from an amendment offered to the bill during mark-upon the House side, and it now demands rectification in a year when the July drought and spring rainfall have combined to cause the worst crop failures in at least 20 years. Last year, which saw the worst flooding on the Mississippi River in a half century, and 1108 tornadoes ravaging the breadbasket of the Nation, 776 counties across the Nation were declared disaster areas by the Secretary of Agriculture. This year, with only one month behind us, more than 30 States have disaster declarations pending or approved—a rate which, if continued, indicates a year even more calamitous than 1973's record.

So, Mr. President, I submit that in order to honor its 40-year commitment to the farm people of this Nation and to be consistent with its express purpose of "assuring consumers of plentiful supplies of food and fiber at reasonable prices", the Senate ought to act to strike the inequitable phrase "or other non-conserving crop" from the disaster provisions of the wheat and feed grain programs.

Mr. President, Kent and Sussex Counties, Delaware, have been stricken by the recent dry spell which is expected to shrivel the average per-acre yield for the corn crop from a 1973 rate of 85 bushels to an anticipated 50 bushels this year. Mr. President, I have in my hand an article from the Wilmington Morning News, which confirms that the 1974 Delaware corn crop will be significantly lower than even the 1972 harvest, which bore the brunt of the devastation wreaked by Hurricane Agnes.

In southern areas of the State, individual growers have lost as much as half of their planting. The overall production for the State is off 41% over last year's yield. Similarly, I have been in close contact with Delaware's Secretary of Agriculture, Martin Isaacs, who advises me that the State's second largest crop, soybeans, could fall as much as 33% of the hoped-for volume.

The narrow, parochial concern I feel for the parched croplands of the farmers of downstate Delaware, among whom I number some of my warmest friends and earliest supporters, underlies a larger national concern with the price and quantity of foodstuffs for the American people. As pointed out by Jack Egan, writing for the Washington Post on August 18, 1974, "livestock feeders, poultry raisers and darly farmers—already squeezed by soaring feed costs—predicted widespread liquidation in the short-term with smaller supplies and much higher prices to follow, if corn, the major feed ingredient, stayed at near $4 a bushel."

Mr. President, the Wall Street Journal of this morning shows the cash value of corn in Chicago stands at $3.58 a bushel, exactly three times higher than the target price the Senate passed for corn only last year. Delaware's famed chicken industry, with its contingent feed grain crops, will be severely impacted by the effects of the drought unless it can be sustained in its losses by Federal loans and reimbursements until next season.

And if the growers and producers of Delaware cannot meet the supply of grain and fowl demanded by consumers, demand-pull inflation will skyrocket food prices by early 1975.

Mr. President, just as I voted for the farm bill last year, in order to stabilize the economic predicament for both the farmer and the grocery-shopper, it is necessary, indeed it is urgent, that the Senate take rapid action to amend the unacceptable provision which threatens the deprivation of government support for wheat and grain growers, while extending it to cotton producers in the same predicament.

I strongly urge the expeditious consideration and passage of my colleague from Illinois' perfecting amendments to the agriculture bill of 1973, to enable the victims of the drought of '74 to reap the benefits of Congress foresight.

[From the Wilmington (Del.) Morning News, Aug. 20, 1974]

DRASTIC CROP LOSSES PREDICTED FOR STATE

Delaware's corn production may be down 41 percent over last year and 33-percent off 1973 totals, creating possible disaster conditions in Kent and Sussex counties.

Both counties are applying to the state for disaster-area designations. In those counties, the corn yield may be as much as 56-percent below the earlier expected crop due to severe drought conditions this summer.

The predicted 50 bushel an acre yield is 35 bushels below 1973 production and 36 bushels below 1972.

The drought, according to the U.S. Department of Agriculture statistical reporting service, may also be at least partially responsible for a 13 percent loss in soybean production as compared to last year. That production, however, would be 7 percent above the 1972 yield.

In Sussex county, soybean losses are estimated at about 25% percent of the crop, though state recovery is expected because of rainfall received after the estimate was made. Sussex corn losses, estimated at about 5.5 million bushels, represent about $16.5 million.

The actual forcast production for corn and soybeans, the state's two major grain crops, is 9.3 million bushels of corn and 4.32 million bushels of soybeans.

The main benefit to farmers whose counties are declared disaster areas—and that will be determined by the governor's office—is a low-interest federal loan program through the Farmers Home Administration.

Another benefit, the livestock feed program, may not be available. The program is designed to assure the availability of feed grains for livestock at a normal price in order to maintain herds whose existence is threatened by a lack of feed in the area.

Donald Campbell, executive director of the Sussex Agricultural Stabilization and Conservation Service, said that at least in Sussex County, the availability of feed grain is still much better than in many states in the midwest and the county probably could not qualify for the program.

On a brighter note, the indicated yield per acre and production totals for small grains are mostly ahead of last year. Wheat production of 1.14 million bushels exceeds last year's crop by 36 percent with better yields per acre and more acre harvested being credited for the increase. Barley production may be up 2 percent and rye 9 percent over last year.

The hay crop is estimated to be about 50,000 tons, as compared to 54,000 tons last year, the commercial apple crop is up 4 percent and the peach crop is down 31 percent from last year.

The forecast also says crop conditions could have been even worse if there had not been a surplus of moisture in most of the states at the end of June, when the drought began.

Locking Up a Crop Report

(By Jack Egan)

When the United States Department of Agriculture releases one of its crop reports, the reverberations can quickly be felt around the world.

This was true in the wake of last Monday's forecast that put the corn harvest below 5 billion bushels—far less than even pessimistic analysts had predicted—and which also significantly reduced expected harvests for other feed grains, wheat and soybeans.

In a year when U.S. grain stocks are at the lowest point in more than a quarter of a century, the message from the drought-reduced crop report was clear: higher food prices and more inflation both here and abroad.

Because Agriculture Department officials from Secretary Earl Butz down as well as other administration economists had earlier held out hopes for bumper crops large enough to tame the rate of inflation, the disappointment was all the more acute.

The next day, the reaction was dramatic. Corn hit a record $4 a bushel on some cash markets.

Commodity prices shot up in a phalanx on world futures exchanges. Though led by corn, the activity was not limited to domestic agricultural commodities but spread to metals, sugar, cocoa and coffee.

In Europe, grain prices had record daily advances.

The Dow Jones average of 30 industrial stocks dropped another 10.88 points after a 10.01-point decline on Monday. Stock market analysts said a major factor was the crop report and what it said about future inflation.

In the highest circles of this government, there was consideration of export controls on agricultural commodities, no matter how unpalatable the prospect. Large export sales of corn were rumored in Chicago grain markets.

And livestock feeders, poultry raisers and dairy farmers—already squeezed by soaring feed costs—predicted widespread liquidation in the short term with smaller supplies and much higher prices to follow if corn, the major feed ingredient, stayed at $4 a bushel.

The effect of the crop report was immediate and obvious.

Because of the high stakes and potential impact of the news—good or bad—contained in one of the crop reports, the Agriculture Department has established careful procedures to protect the integrity of both the reporting process and the information contained in the final document.

Though the information gathering had begun laboriously some weeks in advance, the final assembly by the Crop Reporting Board took place in the bowels of the main Agriculture Department building in Washington in a final 12-hour spurt called the lock-up.

A uniformed guard stands outside. No one who enters after the 3 a.m. start of the lock-up may leave until it ends at 3 p.m. All telephones have been disconnected.

The reason for the strict security is twofold.

First the information contained in the report can be used for personal speculative gain if released prematurely.

There is a popular tale—though most say it is apocryphal—of a breach in lock-up security that involved use of venetian blinds. A predetermined signal was given, the story goes, by a lock-up participant who closed the blinds at a window and tipped a waiting accomplice outside on whether a crucial crop estimate was high or low. The accomplice then invested in the market.

No one seems to be able to verify whether the incident actually occurred. But there are no windows in the basement lock-up quarters today to either peer into or signal from.

When the crop report is complete and the lock-up period is ended, the head of the reporting board goes into an adjacent room where waiting wire service reporters have already dialed their telephones.

The reporters move away from their phones and stand behind a white line in a procedure as old as the Crop Reporting Board, which was established in 1905. The head of the board places a copy of the report, face down, next to each reporter's phone.

At precisely 3 p.m., the signal is given and the newsmen rush across the line and start reading the report summary to their headquarters. This is quickly translated into a story and appears on wire service tickers around the world within minutes.

The reason for the haste is more competitive than because of the immediate value of the information, although interest is intense. The commodity markets, however, have all closed once the report is out and speculators and hedgers have overnight to absorb the information before trading resumes the next morning.

Another reason for the insulation of the Crop Reporting Board is to protect it from undue political pressures during preparation of the report.

The temptation is perhaps too irresistable to nudge a number one way or another and thus convince people that things are better than they really are. To eliminate this possibility, the reporting board is out of touch with the Agriculture Department's brass until the document has been assembled.

Approximately one half hour before the lock-up ends, the Agriculture Secretary or one of the assistant secretaries enters, receives a briefing on the report and certifies it with his signature. He also leaves only at 3 p.m.

The report released on Monday was for crop conditions as of Aug. 1. It contained the first hard production forecasts for corn, sorghum, and other feed grains, soybeans, and cotton that were based on actual growing conditions in the fields.

Earlier estimates had been educated guesses—some critically say wishful thinking—that were based on surveys of how many acres farmers intended to plant of a certain crop, multiplied by historic yields.

The 6.7-billion-bushel corn crop projected by the USDA in March before planting had even begun was precisely this kind of guess. An expected harvest of 69 million acres was multiplied by a 97-bushel-per-acre yield and the result was 6.7 billion bushels. The tool was mainly arithmetic.

Subsequently, the USDA revised the number downward as the situation unfolded precariously. First, spring rains delayed planting of many acres. When the season finally began, the nation's grain belt was subjected to the worst drought in at least 20 years.

But although the number was dropped first to 6.4 billion and then to a range of 5.95 billion to 6.25 billion bushels, the USDA was still estimating rather than forecasting on any hard evidence.

When the hard evidence came in, as revealed in the August crop report, the news of the drought's effect was brutal. Average yield for corn was 77.8 bushels per acre, down from last year's 91.4 bushels and nowhere near 97 bushels.

Four million acres of corn had been lost entirely in the July weather.

Walter Goeppinger, chairman of the National Corn Growers Association, estimated last week that farmers had lost $320 million because of the USDA's initial 6.7-billion-bushel harvest projection.

Testifying before a Senate agriculture subcommittee, Goeppinger said farmers sold 800 million bushels early because of the bearish price forecast and could have gained an extra 40 cents a bushel if they had a more accurate view of the situation.

Crop Reporting Board chairman Bruce Graham worried aloud last week that the public viewed all estimates from the USDA the same, and made no distinction between the early projections put out by the department and the August crop report forecast based on field evidence. The result, he felt, might be a strain on the board's credibility.

The Crop Reporting Board has two sources of information for its forecasts. There are mail surveys of farmers asking the condition of their crops as compared to a normal year. The average response for these surveys is approximately 35 per cent.

In addition, department employees called enumerators are sent out into specific plots of farm land statistically chosen to take various measures of the crops.

These specific plots are staked out, for the enumerators must return to them during the growing season and refine their assessments of how the crops are doing. This is how the so-called objective yield is determined.

For example, for corn, initially, the number of ears on a stalk is counted. Later, the length of the ear over the husk is measured. Then, at a late stage, the enumerator will determine the length of the average kernel row.

Sample ears are then sent to a laboratory to check their shelling percentage, their average weight and their moisture content. All of these things have a bearing on the ultimate yield.

After the harvest, enumerators will return to the plots to find out how much of the crop has been lost on the ground. Pieces of corn ears, kernels and other fragments are counted and measured so that a number can be subtracted from the projected yield to account for this loss.

For the August crop report, enumerators actually entered the fields on July 22. The reports were then gathered in each of the state offices, along with the mail surveys.

These reports are sent on to the Agriculture Department in distinctive envelopes that receive special handling. When they arrive in Washington, they are placed in a special steel box secured by two different locks. One key is kept in the office of the Secretary of Agriculture, and the other is kept by the head of the Crop Reporting Board.

The final assembly take place in the lock-up with a six-member board for each crop. Three of the members work for the USDA in Washington, and the other three are from the state offices.

Each board member makes an independent estimate of the projected average yield for that particular crop in each state.

The chairman of that board then winnows the separate estimates which are said not to vary much from each other—and determines a final figure. This is the objective yield figure which is multiplied against the already determined acreage expected to be harvested for a supply number.

ORDER FOR THE PRINTING OF H.R. 16136, THE MILITARY CONSTRUCTION BILL, AS PASSED BY THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 16136 be printed as amended by the Senate and passed yesterday.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 355—SUBSTITUTION OF CONFEREE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, and I understand this has been cleared on the other side of the aisle, that the name of Mr. Stevens be substituted for Mr. Cook as a conferee on S. 355.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROLLCALL VOTES TO OCCUR AFTER 3:30 P.M. ON MONDAY, SEPTEMBER 16, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no rollcall votes before the hour of 3:30 p.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTIONS IN THE ENROLLMENT OF H.R. 14883

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on House Concurrent Resolution 628.

The PRESIDING OFFICER laid before the Senate House Concurrent Resolution 628, authorizing the Clerk of the House to make certain corrections in the enrollment of the bill (H.R. 14883), which was considered and agreed to.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY FROM TREATY ON EXTRADITION WITH CANADA (EX. G, 93D CONG., 2D SESS.), AND CONSULAR CONVENTION WITH BULGARIA (EX. H, 93D CONG., 2D SESS.)

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Treaty of Extradition with Canada, signed at Washington on December 3, 1971, as amended by an exchange of notes of June 28 and July 9, 1974 (Ex. G, 93d Cong., 2d sess.), and the Consular Convention with the People's Republic of Bulgaria, with an Agreed Memorandum and a related exchange of letters, signed at Sofia on April 15, 1974 (Ex. H, 93d Cong., 2d sess.), both of which were transmitted to the Senate today by the President of the United States.

I also ask unanimous consent that the treaties together with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's messages be printed in the Record.

The PRESIDING OFFICER (Mr. Chiles). Without objection it is so ordered.

The messages from the President are as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty on Extradition between the United States of America and Canada, signed at Washington on December 3, 1971, as amended by an exchange of notes of June 28 and July 9, 1974.

The Treaty is one of a current series of extradition treaties being negotiated by the United States and contains provisions regarding extradition for the offenses of aircraft hijacking, narcotics and conspiracy to commit listed offenses.

The Treaty will facilitate the mutual efforts of the United States and Canada in combating international crime. In addition, modernization of the extradition relations between the United States and Canada is especially important in light of the ease of travel between the two countries. I recommend that the Senate give early and favorable consideration to the Treaty as amended and give its advice and consent to ratification.

Gerald R. Ford.

The White House, *September 12, 1974.*

To the Senate of the United States:

I am pleased to transmit for the Senate's advice and consent to ratification the Consular Convention between the United States of America and the People's Republic of Bulgaria, with an Agreed Memorandum and a related exchange of letters, signed at Sofia on April 15, 1974. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Convention.

The signing of this Convention is a significant step in the gradual process of improving and broadening the relationship between the United States and Bulgaria. Consular relations between the two countries have not previously been subject to formal agreement. This Convention will establish firm obligations on such important matters as free communication between a citizen and his consul, notification to consular officers of the arrest and detention of their citizens, and permission for visits by consuls to citizens who are under detention.

I welcome the opportunity through this Consular Convention to strengthen the ties between the United States and Bulgaria. I urge the Senate to give the Convention its prompt and favorable consideration.

Gerald R. Ford.

The White House, *September 12, 1974.*

LEGISLATIVE PROPOSALS TO THE CONGRESS—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States:

To the Congress of the United States:

In my first address before a Joint Session of Congress, I spoke of "communication, conciliation, compromise and cooperation." The Congress responded. We have communicated, conciliated, compromised, and cooperated.

I thank the bipartisan leaders and all Members for this working partnership. So far, despite some spats, we have had a good marriage.

Landmark bills in the fields of *Education, Housing-Community Development*, and *Pension Reform* were passed. For these examples of cooperation of real benefit to so many Americans, I am grateful.

I had serious objections to the *SBA loan legislation, Public Works Appropriations*, and *D.C. Medical School bill*. Recognizing congressional interest in particular elements of each measure, I signed them.

No effort was made to override measures that I had to veto. Congress responded promptly to my request for a *Council on Wage and Price Stability*.

Of the specific proposals I am singling out today, some are in the conference stage. Others have passed only one body. A few have passed neither. But virtually all have been the subject of hearings and are in the mark-up phase.

NOMINATIONS

Of utmost importance for Congress in its fall term is the consideration of *Nelson Rockefeller* as my nominee for Vice President of the United States. The Administration will assist the Congress in all appropriate ways to expedite this nomination. The precedent for this procedure under the 25th Amendment to the Constitution has been established. I am sure there will be no inordinate delay in moving forward Governor Rockefeller's nomination.

There are other nominations before the Senate, some pending since last January. There are other candidates for Federal office in varying stages of clearance. I expect to be able to submit them to the Senate within a few days. I would hope Congress could expedite action on all these nominees so that none will have to be held over to 1975.

REDUCING 1975 SPENDING

Responding to the initiative of the distinguished majority leader of the Senate and other Members of the Congress, I have convened bi-partisan summit meetings on the issue of inflation. Many of you are participating. The legislative and executive branches are working together.

We are seeking short-term answers to short-term problems and long-term answers to long-term problems.

A concerted effort must be undertaken to bring spending down to manageable proportions. An important first step in this effort is to bring Federal outlays under control in 1975, making possible a balanced budget in 1976.

I need the help of the Congress in reducing 1975 spending below $300 billion. Several important cooperative steps by the Congress will be required to achieve this difficult target.

First, the Congress must resist temptations to add to spending totals on legislation now being considered. Responsible action calls for agreements on cuts, not increases. I solicit suggestions on any programs that might be curtailed or stopped. Let me know about any spending that seems unnecessary or inflationary.

In the same vein, I would hope the Congress could pass specific legislation proposed in the February Budget submission that would reduce 1975 spending by almost $700 million.

Immediate action should be taken on the rescissions that I am proposing in my first message to the Congress under the newly-enacted *Budget and Impoundment Control Act*. Moreover, the deferrals transmitted to Congress under the same Act should be supported. Overturning these actions could increase spending by as much as $600 million in 1975 and by far more in 1976 and future years.

As a matter of highest priority, I need your support of my recommendation to defer the next *Federal pay raise* from October to January. It will be my intention to deal fairly with the just concerns of Federal workers. But I am asking them to join in the sacrifice I want all Americans to share. This action will reduce 1975 outlays by $700 million. It will also set an example of wage restraint for the private sector. Let us practice what we preach.

These efforts are essential if our cooperation is to keep spending under $300 billion. We simply cannot afford to fail.

APPROPRIATIONS

Eight of fourteen regular appropriations bills have been enacted. These measures in total represent a reduction of $532 million from the Administration's budget in spending authority and $144 million in outlays for the current fiscal year. These are helpful moves in the right direction. I urge that this momentum be maintained.

There are seven money bills that require action during the balance of the session.

The *Agriculture* money bill was vetoed on the basis of excessive funding; the *Defense* appropriation is in conference with very sharp reductions. Levels below the House bill would be extremely unwise. *State-Justice-Commerce* is also in conference and undoubtedly will show a reduction in the Budget; *Labor-HEW* appropriations, however, appear to be moving in the direction of exceeding the Budget substantially.

Appropriations for *Military Construction* and *Foreign Assistance* have not yet passed the House of Representatives.

There is ample time to consider the remaining appropriations bills before adjournment. In addition, I will be sending essential but carefully limited *Supplemental Requests* for fiscal year 1975. I trust they will be considered an urgent priority.

LEGISLATION

It is unnecessary to submit a complete list of Administration legislative initiatives to this Congress. Leaders and Members know them as well as I do. I recognize that the inevitable consequence of any legislative message in the twilight of the 93rd Congress is to suggest deferment of some desirable legislation in favor of imperatives that are realistic in the time we have left.

The *Trade Reform bill* has passed the House of Representatives but remains pending before the Senate Finance Committee. Efforts are underway to find a reasonable and mutually acceptable compromise to restrictive language that would deny Most Favored Nation status and Export-Import credits to the Soviet Union. I want to emphasize the importance I attach to the granting of Most Favored Nation status to the USSR. Careful attention should also be given to the importance of Title V concerning tariff preferences for developing countries and providing appropriate limits for Trade Adjustment Assistance. This legislation is close to enactment. It would be a tragedy not to pass it.

In the area of foreign policy, Congress should enact the *Export-Import Bank Authorization, Asian and African Development Bank Authorizations*, and the *Foreign Assistance Act*.

I know that a troublesome piece of legislation for me—and perhaps one of the most important for the Nation—is the Foreign Assistance Act. I am disturbed over the deep cuts in many essential and worthwhile programs which contribute to our overall efforts to attain peace and stability in the world. In addition, the bill contains several restrictions on the Executive which would reduce my ability to meet obligations to American security and that of our friends abroad. I respect and strongly support the role of Congress in the area of foreign policy. But under the Constitution, the Executive is the spokesman for the Nation and must have adequate freedom of action. I may recommend changes in our approach to foreign aid in the coming year and will propose realistic programs in the national interest. I strongly urge this Congress to continue the current programs unencumbered by amendments which prevent the effective implementation of policy.

There are several significant problems in the *State Department Authorization*. I have requested Secretary of State Kissinger to work with appropriate leaders in an effort to resolve these differences.

The *USIA Authorization* has been passed by both bodies and should be finally considered by a conference committee. The House version is preferred.

Both bodies have passed an extension of the *Defense Production Act*. I hope the differing versions will be reconciled and sent to me for signature.

To promote more effective management of the Government's approach to our national energy resources, the Administration recommended creation of an *Energy Research and Development Administration*. This key legislation has now passed both Houses and hopefully will soon be considered by a conference committee. In its consideration of this legislation, I recommend to the conference committee that the provision calling for an Energy Policy Council be deleted and several other undesirable provisions be revised in accordance with current discussions.

To increase the availability of clean natural gas through competitive pricing of newly developed gas supplies, I urge this Congress to enact the *Natural Gas Supply bill*. As we enter the winter months, our energy resources must be effectively utilized for the benefit of all Americans. Gas deregulation which would increase supply is a vital part of the Administration's response to the energy shortage.

Of major importance to our ability to provide sufficient energy in the years ahead is a proposal for the Federal Government to grant permits for construction, licensing and operation of *Deepwater Ports* beyond the three-mile limit. The House has passed a bill. Hopefully, the Senate will move forward on this key measure.

Among the many energy-related bills before Congress, is the important *Energy Tax Package*. This measure imposes a windfall profits tax on the selling price of domestic crude oil, eliminates the percentage depletion deduction for U.S. taxes on foreign production of oil and gas, and limits foreign tax credits available to U.S. oil and gas companies operating in foreign lands.

We learned from the recent oil embargo that we must be better prepared to reduce the impact of any future supply interruptions. At the time of the embargo our naval petroleum reserves, set aside through the foresight of the Congress for the specific purpose of assuring adequate supplies of essential fuels, could not be used in time to contribute to our national defense requirements.

In a moment of need, oil in the ground is useless. We must have authority to produce and deliver our emergency petroleum reserves to the user. Presently, the *Navy Petroleum Reserves at Elk Hills*, California, have proven reserves of approximately 1 billion barrels. The *Navy Petroleum Reserves in Alaska*, although unexplored, have estimated reserves of up to 33 billion barrels. I intend to consult with the Congress on the best way to assure that the reserve capacities of these fields are in a state where they can contribute effectively to our national security in any future energy crisis.

The House and Senate conferees are now addressing the difficult issues involved in striking a balance between the environmental effects of surface coal mining under the proposed *Surface Mining Act* and the Nation's need for coal as an essential source of energy. This issue has been under consideration throughout this Congress. It would greatly reduce the problem of opening new coal mines and increasing production if acceptable mined area legislation can be enacted. I am asking Secretary of the Interior Morton to continue discussions with legislative leaders in an effort to reach an agreement over troublesome provisions in this measure.

The *Illegal Aliens* legislation is necessary to establish clear guidelines regarding the law for employment of aliens who work in this country. The House has already passed a bill. I would hope the Senate could consider this measure during the fall term.

Real progress was made on the House floor when the conference report on the *Veterans Education Bill* was substantially reduced in terms of Federal expenditures. I hope the Senate will now act in the same spirit. This can be done by reducing the benefit limit to the original Senate Bill. It provided a substantial increase—18.2 percent. But cost-of-living increases for our veterans in school are necessary. I urge the Senate to reaffirm its original rate increase and send the bill to me so benefits can begin.

In May of 1973, the Administration proposed the *Job Security Assistance Act*. This measure is an important part of our policy to assist in a period of rising unemployment. It would modernize the unemployment compensation system without violating the relationship between the States and the Federal government.

I recognize the concern of many that unemployment might rise because of the policies we must follow to fight inflation.

I am watching the unemployment rate very closely. This Administration will act with compassion. We will not permit the burden of necessary economic restraint to fall on those members of society least able to bear the costs.

The unemployment rate in August, announced last Friday, was 5.4 percent. While we certainly cannot be complacent about any American lacking work, we are thankful that the number is not larger.

The present situation calls for full use of available tools and dollars.

I have asked Secretary of Labor Brennan to accelerate the obligation of currently available funds under the *Comprehensive Employment and Training Act*.

The Secretary will immediately disperse $65 million to those communities in which unemployment is highest. By the end of the month he will make available another $350 million under CETA Title II. This $415 million will finance some 85,000 public sector jobs in State and local governments. Added to the almost $550 million obligated for public service employment in June from the FY 1974 appropriation, and about $50 million in other funds, currently available resources will provide 170,000 public service jobs this coming winter. The effect of these actions will be to double the number of federally funded public service jobs. In addition, $1.3 billion will be available to State and local governments for manpower programs.

Beyond this, I have requested the Secretary of Labor, in consultation with my economic advisors, and drawing on the outcome of the Conference on Inflation, to develop contingency plans against the possibility of substantially increased unemployment. If future unemployment statistics demonstrate the need, we will be ready to present plans to the Congress and to work together to assure a mutually satisfactory course of action.

There are several health authorizations that require extension this year. They are the *Health Manpower Act*, *Health Services Act* and the *Health Resources Planning Act*. All are necessary but, unfortunately, each currently has objectionable features in program provisions and excessive authorizations. I have requested Secretary of Health, Education, and Welfare Weinberger to cooperate fully with appropriate committees in an effort to enact reasonable legislation. I will continue to seek a sound compromise on the *Comprehensive Health Insurance Plan*.

The House recently passed the *Federal Mass Transportation Act*. While the funding was kept to a level which I can support, certain structural changes in that bill are necessary. I am asking Secretary of Transportation Brinegar to work closely with the Senate in an effort to develop an acceptable bill.

The Administration's proposal to improve the *regulatory climate in the surface transportation industry* is presently before the Congress. This bill, with certain modifications to ensure greater reliance on competitive market forces, would contribute substantially to the efficiency and vitality of this Nation's private sector transportation system. I urge the Congress to act promptly to complete its work on this important legislation.

The *Amtrak Authorization* legislation is now ready for Conference. Since major problems exist with the Senate version, I hope the Conference will adhere as closely as possible to the House measure and soon present it for my signature.

I assume the Congress will pass the *Military Construction Authorization bill*, including expansion of the support facility at Diego Garcia.

The *Export Administration Act* is ready for conference action and should be reported soon.

Legislation to restore financial integrity to the *Railroad Retirement system* has not been enacted by either House. I urge legislation be adopted to accomplish this objective without resorting to a subsidy from either the Social Security System or the general taxpayers.

Court congestion impairs fair and speedy trials. The Administration supports legislation to create new *Federal District Court Judgeships*. While this measure has been slow to move, I would hope Congress could expedite consideration in order to alleviate overcrowded court calendars.

A bill to renew my authority to submit *Executive Reorganization Plans* has been sent to the Congress. During the past 25 years all Presidents have used this authority to improve management in the executive branch. I would like my Administration also to be able to utilize this effective tool of good government. I urge prompt bipartisan consideration of this bill.

It is apparent that I have referred to some legislative matters and omitted reference to others. This is not an inventory of my total legislative concerns. I will send the traditional message to the Congress in January covering the broad spectrum of legislative programs. This will afford me an interim opportunity for detailed study and review.

The 93rd Congress, in which I am proud to have served, has an opportunity to join with the Executive Branch at this turning point of history. We can respond together in the constructive harmony that ought to exist between Republicans and Democrats, between Federal and local governments, between the Executive and Legislative branches, and between America and other nations. A momentous challenge confronts me as well as the 93rd Congress. Together, we can summon forth the reserves of energy, imagination, and devotion necessary to generate a new and proud era of American achievement. We cannot and will not fail the American people.

GERALD R. FORD.

THE WHITE HOUSE, *September 12, 1974.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the message from the President of the United States on legislative proposals and the nomination for Vice President, which was received today, be jointly referred to the following committees: Appropriations; Banking, Housing and Urban Affairs; Commerce; Finance; Foreign Relations; Government Operations; Interior and Insular Affairs; Judiciary; Labor and Public Welfare; Rules and Administration; and Veterans' Affairs.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene again at 12 o'clock noon on Monday next. After the two leaders or their designees have been recognized under the standing order, Mr. ALLEN, Mr. GRIFFIN, and Mr. ROBERT C. BYRD will be recognized, in the order stated, and each for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each, at the conclusion of which the Senate will proceed to the consideration of the HEW appropriation bill.

Rollcall votes on amendments thereto may occur, and there will be a rollcall vote on passage. Hopefully, that bill can be passed on Monday. In any event, upon the disposition of the HEW appropriation bill, the Senate will resume the consideration of the Outer Continental Shelf measure, which has been debated to some extent today.

ADJOURNMENT UNTIL MONDAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 noon on Monday next.

The motion was agreed to; and (at 5:24 p.m.) the Senate adjourned until Monday, September 16, 1974, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate September 12, 1974:

U.S. RAILWAY ASSOCIATION

Clifford G. McIntire, of Maine, to be a Member of the Board of Directors of the U.S. Railway Association for a term of 2 years. (New position.)

IN THE AIR FORCE

The following-named officers for promotion in the Regular Air Force, under the appropriate provisions of chapter 835, title 10, United States Code, as amended. All officers are subject to physical examination required by law:

LINE OF THE AIR FORCE

Lieutenant colonel to colonel

Aaronson, Allan E., [redacted].
Adams, Vincent O., Jr., [redacted].
Alexander, Sigmund, [redacted].
Allison, Clifford, Jr., [redacted].
Allison, John V., [redacted].
Allison, William B., [redacted].
Anderson, Paul R., [redacted].
Astrella, Ralph J., [redacted].
Atwood, Robert L., [redacted].
Aubry, George, Jr., [redacted].
Bacon, Walter J., II, [redacted].
Baker, Coleman L., [redacted].
Baker, Kenneth G., [redacted].
Baker, Mack E., [redacted].
Baker, Robert L., [redacted].
Baldwin, Robert C., [redacted].
Ballard, John G., Jr., [redacted].
Barnes, John F., [redacted].
Bartolich, Eugene, [redacted].
Baulch, Henry L., [redacted].
Bazley, Robert W., [redacted].
Beitsch, Donald E., [redacted].
Bendorf, Harry H., [redacted].
Bennett, Donald W., [redacted].
Bennett, John H., [redacted].
Beranek, Orville J., [redacted].
Berry, Schuyler P., [redacted].
Bierman, Casper S., [redacted].
Blackbird, David P., [redacted].
Blan, Kennith W., [redacted].
Block, Gerald A., [redacted].
Block, Robert L., [redacted].
Bloom, William M., [redacted].
Bobbitt, Billie M., [redacted].
Bookout, Bertram E., Jr., [redacted].
Borowski, Eugene C., [redacted].
Bowen, Donald J., [redacted].
Bowers, Ray L., [redacted].
Boyd, John R., [redacted].
Bradford, John A., [redacted].
Braly, Harold C., [redacted].
Brame, Horace L., [redacted].
Brantley, Arnim L., [redacted].
Bretzke, Lou E., [redacted].
Brockmeyer, William D., [redacted].
Brown, James L., [redacted].
Brown, Norma E., [redacted].
Brown, William E., Jr., [redacted].
Browning, John W., [redacted].
Bruning, Deane B., [redacted].
Bruton, Thomas B., [redacted].
Bryniarski, Albert F., Jr., [redacted].
Budner, John R., [redacted].
Bunker, Gerald B., [redacted].
Burns, Kenneth R., [redacted].
Burtt, Stuart E., [redacted].
Bush, James O., [redacted].
Bush, William H., [redacted].
Butler, Paul A., [redacted].
Bynum, Paul H., [redacted].
Byrne, John J., [redacted].
Caldwell, Alonza L., [redacted].
Callahan, Drury, [redacted].
Carnahan, Kenneth R., [redacted].
Carpenter, Wilbur L., [redacted].
Carter, Robert D., [redacted].
Carus, Glenn A., [redacted].
Casey, James M., [redacted].
Cass, Robert L., [redacted].
Casterlin, Harry B., Jr., [redacted].
Catlin, John E., Jr., [redacted].
Caudle, Ralph E., [redacted].
Caulfield, Patrick H., [redacted].
Cerny, Joseph P., [redacted].
Chag, Steve S., [redacted].
Chapman, Henry A., [redacted].
Charette, Franklin M., [redacted].
Chatfield, William E., [redacted].
Christofferson, Donald D., [redacted].
Church, Joe L., [redacted].
Clark, Edward P., [redacted].
Coen, Charles J., [redacted].
Cole, Donald K., [redacted].
Coley, Ray H., [redacted].
Comerford, John R., Jr., [redacted].
Compton, Laurence B., [redacted].
Conlin, Thomas P., [redacted].
Connors, Donald F., [redacted].
Conrad, David M., [redacted].
Conti, Julius R., Jr., [redacted].
Cook, James A., [redacted].
Cooke, Gerald E., [redacted].
Cooper, James P., [redacted].
Corbitt, Gilland W., [redacted].
Correll, Paul P., [redacted].
Coville, Alan, [redacted].
Crews, Alvan M., [redacted].
Crocker, John C., [redacted].
Crow, Frederick A., Jr., [redacted].
Cunningham, John W., [redacted].
Cunningham, Orpha R., [redacted].
Cuthill, Fred J., [redacted].
Cyr, Louis P., [redacted].
Daily, Ralston B., [redacted].
Davies, Benjamin W., Jr., [redacted].
Davis, John E., [redacted].
Davis, Paul M., [redacted].
Davis, Philip C., Jr., [redacted].
Davis, Richard G., [redacted].
Day, George E., [redacted].
Dees, Robert W., [redacted].
DiBaggio, Anthony J., [redacted].
Dickens, Samuel T., [redacted].
Dickey, Guy E., [redacted].
Dingman, Richard G., [redacted].
Dizer, Samuel K., [redacted].
Doolittle, Harry B., [redacted].
Doss, Thornton T., [redacted].
Driessnack, Hans H., [redacted].
Druen, Walter D., Jr., [redacted].
Dula, Billy F., [redacted].
Dulin, Billy J., [redacted].
Dunagan, Bobby J., [redacted].
Duncan, Kenneth W., [redacted].
Ellis, Billy J., [redacted].
Emmons, Melvin B., [redacted].
Endsley, Leland C., [redacted].
England, John K., Jr., [redacted].
English, Webster C., Jr., [redacted].
Eppley, Lawrence L., Jr., [redacted].
Erikson, Lester A., [redacted].
Etheridge, Travis R., [redacted].
Eubank, Richard A., [redacted].
Eveland, William A., [redacted].
Falvey, Joseph L., [redacted].
Fass, Franklin R., [redacted].
Fehlings, Donald M., [redacted].
Fenell, Klas K., [redacted].
Fenn, James R., [redacted].
Ferguson, William C., [redacted].
Ferree, David F., [redacted].
Fletcher, Marshall H., [redacted].
Ford, Harry E., Jr., [redacted].
Ford, John, [redacted].
Foster, Robert E., [redacted].
Fox, Arthur E., [redacted].
Fox, George A., [redacted].
Friday, Grady L., Jr., [redacted].
Fruge, Romain C., Jr., [redacted].
Gallenberger, Darrell A., [redacted].
Gant, Mason W., III, [redacted].
Gardner, James L. Jr., [redacted].
Gardner, Paul E., [redacted].
Gaylor, Raymond H., [redacted].
Gehrke, Edward F., [redacted].
Geier, Frederick P., [redacted].
Gentzel, Charles R., [redacted].
George, Harry E., Jr., [redacted].
George, James L., [redacted].
Giordano, Bruno A., [redacted].
Giovannini, Max, [redacted].
Glover, Allison G., [redacted].
Gore, James E., [redacted].
Gori, Floyd E., [redacted].
Gorman, Thomas W., [redacted].
Gould, Robert P., [redacted].
Gozur, Alexander, [redacted].
Gray, David L., [redacted].
Gregory, Kenneth L., [redacted].
Griesmer, Donald R., [redacted].
Gronewald, Harry L., [redacted].
Grubaugh, Kenneth W., [redacted].
Guider, Edward J., [redacted].
Haggren, Richard A., [redacted].
Hain, Harlon A., [redacted].
Hall, Harold H., Jr., [redacted].
Hall, Hollis O., [redacted].
Hall, Robert E., [redacted].
Hamilton, Harold T., [redacted].
Hamilton, Thomas M., [redacted].
Hammond, Henry L., [redacted].
Hanson, George B., [redacted].
Hanto, Donald C., [redacted].
Haralson, Donald H., [redacted].
Harding, Frank W., III, [redacted].
Harding, Robert C., [redacted].
Harris, William E., Jr., [redacted].
Hartline, James H., [redacted].
Hartung, Paul T., [redacted].
Hayford, Robert L., [redacted].
Heath, William J., [redacted].
Hebert, Paul E., [redacted].
Hedge, Thomas L., [redacted].
Heinzig, Floyd E., [redacted].
Helms, John D., [redacted].
Hemm, Wayne H., [redacted].
Henderson, Raymond W., [redacted].
Hendricks, Gerald K., [redacted].
Hillock, Joseph P., Jr., [redacted].
Hinz, Richard H., [redacted].
Hite, Kennith F., [redacted].
Hoke, Charles S., [redacted].
Hollandsworth, Victor R., [redacted].
Hooper, Vincent C., [redacted].
Hooten, Donald H., [redacted].
Horne, Elmer A., [redacted].
Horton, Lemuel D., [redacted].
Hostetter, Henry G., [redacted].
Howard, David R., [redacted].
Huff, David W., [redacted].
Huffman, James P., Jr., [redacted].
Hugo, Vane Jr., [redacted].
Humphries, John A., Jr., [redacted].
Hunt, James C., Jr., [redacted].
Hunter, Jene D., [redacted].
Ingram, Benjamin F., Jr., [redacted].
Iosue, Andrew P., [redacted].
Jackson, Donal P., [redacted].
Jackson, Philip R., [redacted].
Jacobs, Robert F., [redacted].
Jaffers, Harry, [redacted].
Janczewski, George H., [redacted].
Jarrell, Vernon H., [redacted].
Jenks, Robert G., [redacted].
Jensen, George W., [redacted].
Johnson, George W., Jr., [redacted].
Johnson, Keith B., [redacted].
Johnson, Loyd M., [redacted].
Johnson, Richard E., [redacted].
Johnson, Samuel R., [redacted].
Johnson,, Worth R., [redacted].
Johnston, Paul J., [redacted].
Johnston, Richard A., [redacted].
Johnston, Robert A., Jr., [redacted].
Johnston, Verle L., [redacted].
Jones, James L., [redacted].
Joppa, Jacob A., Jr., [redacted].
Jordan, James D., Jr., [redacted].
Joyce, John P., [redacted].
Kale, Gerald A., [redacted].
Kalisch, Robert B., [redacted].
Kasler, James H., [redacted].
Kauttu, Paul A., [redacted].
Kay, Donald J., [redacted].
Kenney, Thomas E., [redacted].
Kertesz, George J., [redacted].
Kingston, Raymond F., [redacted].
Knapp, Herman L., [redacted].
Koenig, Ramon L., [redacted].
Koeninger, Charles E., [redacted].
Kottas, William M., [redacted].
Kruggel, Ewald G., [redacted].
Krumpe, Robert H., [redacted].
Kuhlmann, Kenneth L., [redacted].
Lacy, Thomas E., [redacted].
Lamar, James L., [redacted].
Lamb, Norman C., [redacted].
Lambert, Jack E., [redacted].
Lambert, Robert E., [redacted].
Lambrecht, Donald W., [redacted].
Larger, Bernard A., [redacted].
Larkin, Charles J., [redacted].
Lassetter, Jimmy S., [redacted].
Lavish, Alexander, [redacted].
Lawson, Richard L., [redacted].
Leaf, Howard W., [redacted].
Lee, Dwight A., [redacted].
Levy, Eugene D., [redacted].
Lewis, William E., [redacted].
Linnon, Robert D., [redacted].
Lloyd, Robert J., [redacted].
Locke, Jesse C., Jr., [redacted].

Long, Elon [redacted].
Long, Harry C., [redacted].
Long, Patrick G. [redacted].
Long, Robert C., [redacted].
Longo, Vito, [redacted].
Longsworth, Thorne W., [redacted].
Lorenz, J. Edward, [redacted].
Love, Curtis C., [redacted].
Ludwig, John H., [redacted].
Lysaght, Charles A., [redacted].
MacLaren, William G., Jr., [redacted].
Maines, Leland E., Jr., [redacted].
Marks, Donald M., [redacted].
Marks, John B., Jr., [redacted].
Marlow, Louis G., [redacted].
Marshall, James H., [redacted].
Martin, Paul B., [redacted].
Mason, Dwight E., [redacted].
Mazak, Edward P., Jr., [redacted].
Mazza, James D., [redacted].
McArdle, Frank H., [redacted].
McConnell, John P., [redacted].
McConnell, Thomas G., [redacted].
McCormick, James E., [redacted].
McCormick, Robert J., [redacted].
McCrea, Joubert S., Jr., [redacted].
McDonald, Richard Q., [redacted].
McIntosh, Robert H., [redacted].
McKeethen, Lloyd B., [redacted].
McLoud, Harold J., Jr., [redacted].
McMullen, Thomas H., [redacted].
McNamee, Albert R., [redacted].
Meharg, William B., [redacted].
Mendenhall, Joseph H., [redacted].
Merrow, Elmer W., [redacted].
Mickelson, Gordon B., [redacted].
Miller, Burr V., Jr., [redacted].
Miller, Nelson L., [redacted].
Miller, Ray E., [redacted].
Milling, Robert W., [redacted].
Milstead, Robert E., [redacted].
Mixon, Exley C., Jr., [redacted].
Mohr, William E., II, [redacted].
Moore, Emory R., [redacted].
Moore, Warren C., [redacted].
Moore, William E., [redacted].
Morgan, Bernard S., Jr., [redacted].
Morgan, Glenn F., Jr., [redacted].
Moritz, Franklin P., [redacted].
Morrell, Bruce E., [redacted].
Morton, James L., [redacted].
Mott, Elbert L., [redacted].
Mottsmith, Tipton P., [redacted].
Mullaney, David M., [redacted].
Munsey, Virgil W., [redacted].
Murdy, Robert L., [redacted].
Nealon, Francis R., [redacted].
Neiley, Stephen R., Jr., [redacted].
Nesmith, E. A., Jr., [redacted].
Noe, Richard D., [redacted].
Northrup Edgar A., Jr., [redacted].
Nutt, Waymond C., [redacted].
Nyquist, Charles W., [redacted].
Odom, James R., Jr., [redacted].
Ohlheiser, Richard G., [redacted].
O'Malley, Patrick R., [redacted].
Overton, Norris W., [redacted].
Owens, Joy L., [redacted].
Pahl, Philip M., [redacted].
Parks, Robert L., [redacted].
Parlett, Henry W., [redacted].
Parsons, Russell K., [redacted].
Passauer, James L., [redacted].
Pate, Joe H., [redacted].
Paul, Norman L., [redacted].
Peake, Erwin C., [redacted].
Peck, Joe P., [redacted].
Peckham, Howard L., Jr., [redacted].
Penney, Francis W., [redacted].
Perham, Guy D., [redacted].
Perry, Howard I., [redacted].
Peterson, Donald C., [redacted].
Peterson, Richard J., [redacted].
Pfeiffer, Leon K., [redacted].
Phillips, Wilbur O., [redacted].
Phipps, John L., [redacted].
Pierce, Fred P., [redacted].
Pinckney, Thomas C., Jr., [redacted].
Plack, Richard P., [redacted].
Porter, Scott S., [redacted].
Post, Foster A., [redacted].
Powell, Donald M., [redacted].
Price, Jack L., [redacted].
Quinn, William M., [redacted].
Rainey, Harold W., [redacted].
Ramey, Jack L., [redacted].
Randolph, James G., [redacted].
Rankin, James C., [redacted].
Rausin, Gordon D., [redacted].
Reagan, Thomas J., [redacted].
Reed, Irving B., [redacted].
Reedy, Jack C., [redacted].
Reeves, Donald E., [redacted].
Rehwaldt, Robert J., [redacted].
Reilly, Lavern G., [redacted].
Reitan, Harold T., [redacted].
Renken, Randall R., [redacted].
Reynolds, Pleasant G., Jr., [redacted].
Rhemann, John F., [redacted].
Richardson, Floyd W., [redacted].
Ritchie, John, [redacted].
Rubb, Donald S., [redacted].
Robertson, George B., Jr., [redacted].
Robison, Donald, [redacted].
Romine, Lester M., [redacted].
Rosker, Benjamin H., [redacted].
Roy, Robert W., [redacted].
Russell, John P., [redacted].
Ruvolo, Sam J., [redacted].
Ryan, William J., [redacted].
Rynning, James L., [redacted].
Samotis, John A., [redacted].
Sandlin, David W., [redacted].
Savage, George R., [redacted].
Schenaker, Jack H., [redacted].
Schultz, Paul G., [redacted].
Scott, Ralph D., [redacted].
Senger, Pius F., [redacted].
Setter, Louis C., [redacted].
Shannon, Hugh R., [redacted].
Shattuck, Eugene J., Jr., [redacted].
Shattuck, James W., [redacted].
Shepard, Jack E., [redacted].
Shepherd, Philip R., [redacted].
Sherman, Thomas W., Jr., [redacted].
Showen, Donald R. [redacted].
Sifers, Samuel I., Jr., [redacted].
Skillman, Tom M., [redacted].
Slezak, Donald A., [redacted].
Smith, Click D., Jr. [redacted].
Smith, Howard H. [redacted].
Smith, Scott G., [redacted].
Smith, William M., Jr., [redacted].
Snider, Henry G., [redacted].
Sparks, Lawrence R., [redacted].
Sproul, John L., [redacted].
Starrett, John P., [redacted].
Stauffer, Glenn F., [redacted].
Stavast, John E. [redacted].
Stein, James W., [redacted].
Steele, Wayne, [redacted].
Stevens, Walter C., Jr. [redacted].
Stevenson, Sharman R., [redacted].
Stewart, Donald W., Jr., [redacted].
Stewart, Ervin C., [redacted].
Stockman, David T., [redacted].
Stringer, William L., [redacted].
Tarrant, Robert E., [redacted].
Terry, Homer T., [redacted].
Thogersen, Alton J., [redacted].
Thomason, Jackson L., [redacted].
Thompson, Edwin E., [redacted].
Thomson, Herman O., [redacted].
Thresher, Russell W., Jr., [redacted].
Trapani, Renato V., [redacted].
Truesdell, Willard M., [redacted].
Tucker, Roy C., Jr., [redacted].
Tunis, William C., [redacted].
Tynan, George P., [redacted].
Ulrich, Myron D., [redacted].
Umstead, Stanley M., Jr., [redacted].
Vandenberg, Hoyt S., Jr., [redacted].
Venable, William P., Jr., [redacted].
Vewink, William J., [redacted].
Villa, Charles, [redacted].
Walters, Marvin L., [redacted].
Walters, Wilmer C., Jr., [redacted].
Ward, Albert H., Jr., [redacted].
Ward, Robert W., [redacted].
Warren, William J., [redacted].
Wasmund, Lee R., [redacted].
Wasson, Glenn E., [redacted].
Webster, Everett H., [redacted].
Welch, Robert E., [redacted].
Welsh, Mark A., Jr., [redacted].
Whalen, Donald B., [redacted].
Whealen, Daniel M., [redacted].
Wheeler, George E., [redacted].
Whelan, Paul A., [redacted].
White, Simon S., Jr., [redacted].
Whitten, Solomon D., Jr., [redacted].
Wilkins, George I., [redacted].
Willard, Garry A., Jr., [redacted].
Williams, Thomas A., Jr., [redacted].
Williams, Walter A., [redacted].
Willis, Harley N., [redacted].
Winberg, Harry L., [redacted].
Windland, Sara J., [redacted].
Wittry, John P., [redacted].
Woods, David A., Jr., [redacted].
Woske, Donald G., [redacted].
Wright, Howard E., [redacted].
Wright, John C., [redacted].
Wright, Vernon L., [redacted].
Wurschmidt, Leo C., [redacted].
Yennie, Eugene V., [redacted].
Yocum, John W., [redacted].
Zehnder, Herbert R., [redacted].
Zemple, Charles J., [redacted].
Zook, Donald B., [redacted].
Zunic, Nicholas F., Jr., [redacted].
Zurawski, Donald D., [redacted].

CHAPLAINS

Barnett, Ike C., Jr., [redacted].
Cooper, Calvin C., [redacted].
Copeland, Isaac M., Jr., [redacted].
Gabrielsen, Luther T., [redacted].
Margitich, Michael, [redacted].
Taylor, Wayne L., [redacted].

DENTAL CORPS

Johnson, Robert P., [redacted].
Meffert, Roland M., [redacted].
Morrow, Robert M., [redacted].
Parish, Gene D., [redacted].
Pelc, Henry T., [redacted].
Takacs, William J., [redacted].

MEDICAL CORPS

Conrad, Fred G., [redacted].
Dann, Theodore A., [redacted].
Fitzgerald, Robert T., [redacted].
Funk, John W., [redacted].
Hein, Walter R., [redacted].
Heine, Earle R., [redacted].
Howell, William D., [redacted].
Lewis, George O., [redacted].
Martinez, Vicente, [redacted].
Miller, Monte B., [redacted].
Ockner, Stephen A., [redacted].
Parker, Gerald W., [redacted].
Rickenbach, Howard F., Jr., [redacted].
Santacroce, Thomas A., [redacted].
Scibetta, Richard C., [redacted].
Story, William C. [redacted].
Wilson, Charles L., [redacted].

NURSE CORPS

Fueller, Jean M., [redacted].
Householder, Marjorrie L., [redacted].
Maguire, Mary P., [redacted].
Marshall, Louise A., [redacted].
Wells, Sarah P., [redacted].

MEDICAL SERVICE CORPS

Ables, William A., Jr., [redacted].
Beale, Charles C., [redacted].
Green, John R., [redacted].
Guerin, Michael D., Jr., [redacted].
Peters, Kenneth W., [redacted].
Thornell, Emmett A., [redacted].
Watson, Robert A., [redacted].

VETERINARY CORPS

Clarke, Neville P., [redacted].

BIOMEDICAL SCIENCES CORPS

Bates, Jack H., [redacted].
Bell, Herbert E., [redacted].

Smith, Francis J., [redacted]
Williams, William L., [redacted]

WITHDRAWAL

Executive nomination withdrawn from the Senate September 12, 1974:

U.S. RAILWAY ASSOCIATION

Clifford G. McIntire, of Maine, to be a Member of the Board of Directors of the U.S. Railway Association for a term of 2 years, which was sent to the Senate on May 30, 1974.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 12, 1974:

DEPARTMENT OF STATE

Philip C. Habib, of California, a Foreign Service officer of the class of Career Minister, to be an Assistant Secretary of State.

Shirley Temple Black, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ghana.

John Sherman Cooper, of Kentucky, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the German Democratic Republic.

Kenneth Rush, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to France.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXTENSIONS OF REMARKS

THE MEANING OF CITIZENSHIP

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. PICKLE. Mr. Speaker, recently a distinguished former Ambassador, Mr. Edward A. Clark, spoke to new U.S. citizens at a naturalization ceremony before the U.S. District Court in Austin, Tex.

His speech is a vibrant reminder of what our citizenship means to us. Often we forget the full meaning of citizenship because we are so used to it, because we are so secure in its embracing arms. Often we forget the duties and challenges of citizenship as well. As Ambassador Clark said:

> Quite often we feel that we are a great nation simply because we are the United States of America. The truth is, we are a great nation because of the people—the citizenship of this nation. . . . We have not been given our freedom and our right of equal protection under the laws. We have worked for it. We must continue to work.

Mr. Speaker, we all realize that this Nation has just passed a severe test of the strength of its citizens and of their commitment to the ideals upon which this Nation was founded. As we move forward now under a new administration, I think it is well to reflect on our citizenship, and I would like to reprint Ambassador Clark's speech in the RECORD at this time:

REMARKS AT NATURALIZATION CEREMONY

(By Edward A. Clark)

May it please this Honorable Court:

Fellow American Citizens:

It is indeed to me a pleasure, as well as an honor, to address you today—you who have just become united by citizenship with the greatest nation in the world—the United States of America. Just as you enter into the union of marriage with the mate of your choice by ceremony, today you enter into the union of citizenship with the United States of America by ceremony. You have chosen the United States of America and today you have been accepted by her. This union creates new loyalties and new obligations on your part. It also gives rise to new hopes and dreams. It further gives you the opportunity to realize these hopes and dreams.

Is citizenship in the United States of America a meaningless term? No! It has many meanings. The meaning and definition of citizenship grows within each of us as we live in this great nation and observe its democracy in progress. Today the United States of America promises to you the protection provided by her laws and the constitution. The Armies of the United States will defend you. The police force will protect you. You are now a part of a great democracy. Today freedom is yours—make proper use of it. Learn the true meaning of the word "Citizenship".

However, there are also obligations on your part. A citizen of the United States owes no loyalty to any other nation. His sole loyalty is to the United States of America. He has a duty and responsibility to defend the laws and the constitution of the United States of America. He has a duty and responsibility of good citizenship in government, as well as in his daily affairs. A good citizen is one who participates, and one who strives to be informed about the affairs of his state, his nation and his local government. A good citizen is one who exercises his right of freedom of speech—and his right to choose his representatives in government by voting. A good citizen, by his actions and his deeds, trains others to be good citizens. A good citizen defends his nation and his freedom. Remember, a nation is only as strong as the citizens of that nation.

Citizenship is defined in Webster's Dictionary as the status of being a member, native or naturalized of a state or nation. What does citizenship mean to you? To our forefathers it meant freedom. Out of the eternal longing and quest for freedom, the story of this country had its beginning. Millions crossed strange lands and oceans and came here to realize their dream of liberty and freedom. Many of these brought with them a few physical assets. However, they brought the strength and determination of those who desire liberty and freedom, and the right to pursue happiness. The native born and naturalized citizens of this nation have maintained this freedom, this strength and this desire.

Our heritage as a United States citizen is so great that we who are born here often forget. Quite often we feel that we are a great nation simply because we are the United States of America. The truth is, we are a great nation because of the people—the citizenship of this nation. We will continue to be a great nation because of our people—you and the many other naturalized and native born citizens. We have not been given our freedom and our right of equal protection under the laws. We have worked for it. We must continue to work.

This ceremony gives you an occasion to pledge your loyalty to the United States of America, and to dedicate yourself as a good citizen. To those of us who were born here, this ceremony gives the occasion to renew our pledge of loyalty, and to be made mindful of our responsibility of good citizenship. To quote from the words of a great American—a courageous American—President Harry S. Truman: "There is no more precious possession today than United States citizenship. A nation is no stronger than its citizenry. With many problems facing us daily in this perplexing and trying era, it is vital that we have a unity of purpose—to the end that freedom, justice and opportunity, good will, and happiness may be assured ourselves and to people everywhere."

Today is an even more trying time than that referred to by President Truman. There are those who advocate destruction of our system of laws and government. These forces come from outside, as well as within our own nation. Let us join hands in unity of purpose, to protect and defend our own free people, as well as the other freedom loving people of the world. We can prevail—we have in the past and we shall continue to do so. We shall be good citizens of the United States of America. May God continue to bless the United State of America, and the principles for which we stand—liberty and justice for all.

Thank you.

THOMAS A. EDISON

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, September 12, 1974

Mr. HARRY F. BYRD, JR. Mr. President, we are approaching the observance of the 100th anniversary of Thomas Edison's invention of the incandescent electric light bulb in 1879.

In anticipation of that event 5 years from now, and in tribute to the genius of the man whose work so transformed the life of the last century, the Bristol, Va., Herald Courier recently published an editorial salute to Edison.

The editorial points out that as we stand on the threshold of development of new forms of energy, we nevertheless remain in debt to Edison and will continue to benefit from his labors.

The editorial states:

> The technology born of his labors has been the moving force behind the development of modern civilization. It is the hope and promise of the future.

I do not think that is an overstatement.

I ask unanimous consent that the editorial, "From His Genius," be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Bristol, Va., Herald Courier, Aug. 5, 1974]

FROM HIS GENIUS

"It is said of Thomas A. Edison, he led no armies into battle—he conquered no countries—yet," according to Arthur J. Palmer, "he wields a power the magnitude of which no warrior ever dreamed . . . this democratic, kindly, modest man has bestowed upon the human race blessings instead of bondage, service instead of conquest . . . he is humanity's friend."

As the United States approaches the 100th anniversary of Edison's invention of the incandescent electric lightbulb (1879), it is fascinating to contemplate how the creative genius of this man still surrounds us—in the glow of street lights and lamps through music from the phonograph, in the movie projector, mimeograph machine and the typewriter, to name just a few of the hundreds of inventions and developments to emerge during his amazing 84-year life span (1847–1931).

The career of the great inventor is a study in the American way. "Through self-education, strong motivations and," comments a Long Island Lighting Company publication, "powers of concentration, he found the answers to many technical and human challenges. . . . From the knowledge and experience of those that came before him, he added vision, ingenuity, persistence and a practical clearsightedness which brought forth the foundation of modern electric industry." The utility industry has accomplished much since the construction of Thomas Edison's first electric generating station in 1882, which could transmit electricity only 5,000 feet.

In the 92 years since then, electricity has literally transformed our way of life. American families have progressed from tallow candles and hand-operated butter churns to modern homes bristling with electrical appliances. The U.S. has taken the lead in world production of electricity with nearly 1.9 trillion kilowatt hours (kwh) logged for 1972. In 1969, the U.S. produced almost as much electricity as the next five nations combined: Russia, Japan, the United Kingdom, West Germany and Canada. Although the U.S. is home for less than 6 per cent of the global population, the latest Edison Electric Institute (EEI) figures place the number of American electric consumers at 76.15 million in 1972. There seems to be no sign of a slackening of demand either—indeed, quite the opposite.

The EEI adds in its 1973 pamphlet, "Questions and Answers about the Electric Utility Industry," the conversion of raw fuels into electric energy has made business production processes more efficient. The development of whole new industries has been stimulated; countless job opportunities have opened up; it has spurred economic growth; and, in 1972 alone, the investor—owned electric utilities allocated $1.5 billion for air and water antipollution devices and underground power lines—thus making possible an environment of higher quality. Through the use of electric energy, the U.S. has achieved the highest living standard in history and electricity will doubtless continue to prove instrumental in solving many of our modern-day environmental, economic and energy problems.

Under the auspices of the Electric Power Research Institute, some of the finest scientific minds in the country are probing forward in search of the answers. Research and development programs undertaken in U.S. industrial research laboratories have unearthed interesting possibilities in the area of energy. Debate now centers on the feasibility of solar energy, geothermal steam and even wind power as viable domestic energy options to conventional methods presently in use.

Viewed on a long-range basis, however, many experts feel that nuclear power is the most promising alternative to paralyzing energy shortages in the future. As the growth trend in electric sales shoots upward, it is predicted that nuclear plants will assume greater importance because of their clean, safe performance record. Commercial nuclear reactors here and abroad have never experienced an accident hurting a single person among the public in nearly two decades of operation. And the head of the EEI has said that full use of nuclear power "is a crucial ingredient in assuring that our nation has reliable and adequate domestic sources of energy."

Be that as it many, none can deny the tremendous impact that Thomas Edison's life and work have had upon the world. The technology born of his labors has been the moving force behind the development of modern civilization. It is the hope and promise of the future.

The greatest tribute to Edison's landmark discoveries may be the fact that on the day of his burial, a proposal to stop electric power across the U.S. for one minute was discarded as impractical. The reason given said shutdown of electric power would be crippling."

TRIBUTE TO HON. THADDEUS DULSKI

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. BIAGGI. Mr. Speaker, I know I am jointed by many of my colleagues in wishing to pay tribute to Hon. THADDEUS DULSKI as he prepares to retire from the House after a distinguished 16-year career.

Congressman DULSKI has served the people of the 37th Congressional District of upstate New York since 1958. He has amassed a remarkable record of accomplishment and service in these years, including serving as chairman of the House Post Office and Civil Service Committee as well as being the No. 4 ranking Democrat on the Veterans' Affairs Committee.

While many felt confident that THADDEUS DULSKI could have easily been reelected for a ninth term, he instead chose to give up the grueling pace which we all endure and spend the coming years with his wife and five children. It is a decision which I am sure they rejoice in, but one which we all understand but regret.

The people of the 37th Congressional District have been fortunate to have a man the caliber of THADDEUS DULSKI serving their interests in the House of Representatives. His years of service and assistance to the needs of his constituents were rewarded every 2 years by the voters who returned him overwhelmingly to the House.

He will best be remembered for his distinguished 7-year tenure as chairman of the House Post Office and Civil Service Committee. He has been the recepient of a number of awards and honors in his work on behalf of postal and government workers who have acclaimed him for his efforts. Included among these awards is the James A. Elardo Memorial Award and Outstanding Service Award of the Bronx and Manhattan Postal Workers Union, the Award of Merit from the American Legion and numerous "man of the year" awards.

For those of us who had the honor to serve with him in the House, we will remember him for his intense and total dedication to this work. He possessed a great deal of power, but always wielded it with prudence and skill.

THADDEUS DULSKI was a man whose advice and friendship I valued. I hope the coming years will find him in good health and happiness with his family, who I know welcome his return to private life with the same affection with which we bid him farewell today.

SUMMER VOLUNTEER PROGRAM

HON. FLOYD V. HICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. HICKS. Mr. Speaker, the people of the Northwest have long had the well-deserved reputation of being hard working, industrious, and always willing to lend a helping hand to their neighbors.

A good example of this is a program operated by the Tacoma Urban League this summer using volunteers—both from our area and from other parts of the country—to help with housing repair in certain sections of Tacoma.

To better acquaint my colleagues with this program, Mr. Bruce M. Garber, project coordinator, has submitted the following statement which I would like to share with you:

SUMMER VOLUNTEER PROGRAM

This summer, the Tacoma Urban League is operating a volunteer program in housing. Called "Summer '74", we are using volunteers to do housing repair in Tacoma. This program has been a great success because of one factor—community involvement. All different types of people and organizations have come together for one purpose, that is to improve housing for the people of Tacoma.

We have used two types of volunteers, local high school graduates from the Neighborhood Youth Corps and high school students from the New York area. The national volunteers are all high school students (15–18 years old), who have paid eight hundred dollars to come and spend a summer working in the poverty area of Tacoma. Under the supervision of the American Jewish Society for Service, and the sponsorship of the Tacoma Urban League, the volunteers have caused a dent in the area of housing in our community. The Tacoma Urban League brought the community together for a common cause.

The local business community, neighborhood stores, interested citizens, active community groups, together with blacks, Indians, Jewish people and whites formed a coalition for better housing. All of the materials we used were donated by the local community. Supplies, tools, resources, materials, and supervision have all been given by the community and government. The Washington National Guard, the City of Tacoma, the Tacoma School District, have all contributed to this program. VISTA volunteers were used to mobilize the community.

We made somebody's house a better place to live. All the homes we have worked on, belonged to poverty-level people. People who could not afford to do the work or have it done for them. Poor people, senior citizens, handicapped elderly, single women head of household, we have helped them all. We have made their home a nicer place to be in. The variety of work our volunteers have done include painting, carpentry, lawn care, masonry, etc. A wide range of work has been done by our project. In addition to the private homes we have worked on, we also helped the Puyallup Indian Tribe, we fixed up and repaired Hawthorne School, which is to be the new Puyallup Indian Center. It will be used for cultural, educational, and social programs for the Native-Americans.

In conclusion, the Summer Volunteer Program of the Tacoma Urban League was a success because of one factor—People Cared.

Respectfully submitted,

BRUCE M. GARBER,
Project Coordinator.

FOOD PRICES AND FARMERS' INCOMES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include my Washington Report entitled "Food Prices and Farmers' Incomes":

FOOD PRICES AND FARMERS' INCOMES

In a recent meeting with constituents, a housewife vehemently insisted that all politicians (including this writer) visit the grocery store to see just what has happened to food prices. My visit to the supermarket, a little research into food prices, and my wife's purchase of 3 packages of sugar on successive weeks, with each purchase jumping in price over the previous week's purchase, brought home the message of the inflation in food prices.

The food Americans bought in 1972 for $1.00, cost nearly $1.15 in 1973, a 14.5% increase and the largest increase in food prices since World War II. This year food prices are expected to rise not less than 12% during 1974, with most of the increase already having occurred in the early part of the year. Even as food prices continue to climb, the prices farmers receive for major food products have fallen sharply—20 to 40%—in 1974.

Several important changes in 1972–73 caused food prices to go up. As economic activity picked up, Americans had more money to spend, and we spent much of it on food. (In 1953 we ate 78 pounds of beef per person; last year we ate 109 pounds per person, a 40% increase). U.S. livestock production was slightly lower, and people bid up the price of meat. The difference between farm food prices and retail food prices increased, which means that grocery shoppers pay more for food, and less of what they pay goes to farmers. Food Stamp programs have expanded and now help 15 million people, twice as many people as five years ago. The world grain crop was smaller, and there was an upsurge in worldwide demand for food, as people became more affluent and upgraded their diets. Although these food price increases brought food prices more nearly in line with the increases in other goods and services, even with the rise in food prices, food takes a smaller share of the average family's income. Food took 22% of the average after-tax income in 1953, but only 15.7% of the after-tax income in 1973.

The most important action taken by government to moderate food prices has been to increase the supply of food. After forty years of restraining production, government farm programs have been changed so that farmers could plant substantially more acres in 1973 and in 1974, making larger crops in 1973. The severe drought in the farm belt this summer has reduced expectations for this year's harvest and livestock production, and prices have been turning upward again, reversing a four-month decline.

With the sharp increase in food prices, many people think the farmer "never had it so good." But the farmer simply has not benefited substantially from the exhorbitant food prices of 1973. The prices a farmer receives for his products fluctuate widely. When his prices go up, they usually come down later, but the prices of most everything else, including what he must buy, tend to rise. Although in 1973 farm prices began to catch up with the rest of the economy, this year many commodities have fallen off sharply. The price of wheat, for example, fell 43% between February and May. During the last 10 years, farmers got 37 to 41 cents out of each dollar spent for farm produced foods at the store. In 1973 the farmer's share rose to 46 cents, but then fell to 40 cents in the spring of 1974. For years, farmers suffered from low farm prices, then in 1971–73 farm income came more nearly in line with the rest of the economy, but now it is sagging again.

Grocery shoppers are usually disappointed that price drops on the farm do not make their way into the supermarket. Farm prices fizzled from August to December of last year, but supermarket prices remained high. Changes in farm prices usually show up in the supermarket, but not suddenly, and sometimes not even in the same direction.

One reason for the squeeze on the farmer is that he has many disadvantages in the marketplace. He is less able to pass along increased costs than other economic groups. He is not protected by franchises, patents, licenses, or "fair trade" prices. He has no seniority or industry-wide contracts with escalator clauses. He deals with a perishable product that must be sold when ready and cannot easily be held for a price.

But, even with these disadvantages, his productivity is an example to the nation. Output per man hour on farms is 3.4 times higher than 20 years ago (as compared to 1.8 times higher in manufacturing industries). In 1953 one farm worker supplied 16 people with food; today he produces enough for 55 people. Americans need to keep in mind that even while the farmer produces more food for less of their incomes, he is not sharing fully in the benefits of his own productivity. He averages only a 3.9% return on his equity in farm assets and consistently lags behind the income of nonfarm people.

HOUSE JUDICIARY COMMITTEE SCHEDULES HEARINGS ON PROPOSED AMENDMENTS

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. HUNGATE. Mr. Speaker, I would like to notify my colleagues about a matter of interest to them as well as to the legal profession, and the public. The Subcommittee on Criminal Justice of the House Judiciary Committee has scheduled a hearing on the proposed amendments to the Federal Rules of Criminal Procedure on Tuesday, September 17, at 9:30 a.m., in room 2359 of the Rayburn Building.

The following are scheduled to appear and testify: First, Judicial Conference of the United States, represented by Judge J. Edward Lumbard, second circuit; Judge Roszel C. Thomsen, District of Maryland; Judge William H. Webster, eighth circuit; Prof. Frank J. Remington, University of Wisconsin Law School; and William E. Foley, Deputy Director of the Administrative Office of the U.S. Courts. Second, the U.S. Department of Justice, represented by Assistant Attorney General, W. Vincent Rakestraw. Third, the Center for Law and Social Policy, Washington, D.C., represented by Charles Halpern and Herbert Semmel.

The subcommittee will hold additional hearings on this subject in the near future. Anyone who wishes to testify should contact the subcommittee counsel, room 2137 Rayburn Building, or call (202) 225–0406.

AN EX-POW LOOKS BACK

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. CRANE. Mr. Speaker, many of my constituents and I had the opportunity to visit with David Rehmann, a former prisoner of war, when he spoke to a Republican meeting in my district.

David was a prisoner of the North Vietnamese for 6½ years, having been shot down over North Vietnam. His story is similar, I am sure, to that told by many other former prisoners.

I believe David Rehmanns' story has been portrayed excellently by a fine journalist in my district. Bob Lahey, political editor of the Paddock Publications newspapers, visited with David and I would like to share these words with my colleagues:

AN EX-POW LOOKS BACK

(By Bob Lahey)

Halfway through his first, and perhaps only, parachute ride, David Rehmann looked around and said to himself, "Under different circumstances, this could be a pleasant experience."

The circumstances were that his F–4 jet fighter had just been blown up in his face. His arm was broken. He was badly burned.

He was floating toward a reception party of hostile North Vietnamese soldiers. He was about 10 miles inland from the aircraft carrier where he had slept the night before between clean sheets—far beyond the reach of rescue craft.

The explosion had ripped away his flight helmet, his boots, his gloves, his wristwatch and a good deal of his clothing. The nylon straps of his parachute had been "welded" to what remained of his uniform by the heat of the blast. The young pilot whom he had been flying with as co-pilot, to give the rookie the benefit of his combat experience on a maiden operation, had been blown away with the plane.

When he regained consciousness in mid-descent, his first thought was, "I was alive, and I wished I wasn't."

The parachute snagged in a tree and he had to cut himself loose with a knife which had not been torn away by the explosion. His first thought was to rip open his survival kit to get the emergency radio. "There was no chance of rescue. I just wanted to let somebody up there know I was alive, so they could tell my family."

The emergency radio had been left out of his survival kit.

A few minutes later, Ensign David Rehmann "heard voices" approaching the open rice paddies where he was stranded.

It was the beginning of 6½ years as a prisoner of war.

Over bacon and eggs in a Holiday Inn in Mundelein the other day, Rehmann recounted some of his experiences at the prompting of his friend, Rep. Philip M. Crane, R-12th, on whose behalf Rehmann had come from California for a pep rally for Republican campaign workers.

Dressed in modish white slacks, red sport coat, zippered black boots, he looked more like a young Jackie Coogan than a man who had been tormented and isolated in a foreign land for perhaps one-sixth of his life.

The hand that held the toast and jelly could perform brain surgery. The eyes were crinkled at the corners from a lifelong ready smile. He took pains to frame in his mind the name of each well-wisher who stopped by the table.

There is a reason for that. He was a "name keeper," charged with memorizing the names of hundreds of fellow prisoners.

Not reluctantly, but not without being asked, Dave Rehmann told one story and then another about his days in the "Hanoi Hilton."

One thing from the conversation that stuck was what he said about American soldiers and their sense of humor, which he said was one of the major forces which sustained the prisoners.

He illustrated that inadvertently at one point when the conversation turned to the question of whether some American MIA's (missing in action) might still be held prisoner in Indochina. It was mentioned that French prisoners were found in Vietnam as much as 10 years after the fall of Dien Bien Phu.

Rehmann told of the day he was assigned to sweep out a courtyard, and took advantage of the chore to get close to the cells of some newly arrived POWs. One whispered through the cell door to him, "How long have you been here?"

Rehmann replied, "Vive la France."

He avoided direct answers to questions about physical mistreatment. "We played some games," he said. He did mention that his Vietnamese interrogators continually urged prisoners to "think clearly."

"Their idea of how to make you think clearly, of course, was to keep you awake day and night sitting on a milk stool."

He spoke quietly of those who avoided service in the Vietnam war. He tries, said Dave Rehmann, to maintain a "Christian attitude" toward them.

He is not a profane man. But when the conversation turned to U.S. Rep. Pete McClosky, the anti-war Marine veteran who advocated a cessation of bombing during the war, he can't quite conceal his contempt. "I'd like to tell that sonuvabitch that his suggestion that the Vietnamese put prisoners on top of the bombing targets was not original," he said. "They had me staked out within a hundred yards of bombing targets. I can tell you how accurate those B-52s were."

The bitterness could not be contained later when, during a panel discussion, the subject of amnesty came up. Any draft resisters, he said, could come home when they want and ask a court to treat them leniently.

Otherwise, "those yellow, weak-kneed whatever-you-want-to-call-them don't ever need to come home."

That is a harsh sentiment, but it can't be denied that David Rehmann is entitled to it.

In his lapel, he wears an American flag. He earned it.

DR. ALMO J. SEBASTIANELLI

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. McDADE. Mr. Speaker, it would not be possible to know of the splendid people who comprise the American Legion in northeastern Pennsylvania without knowing instantaneously the name of Dr. Almo J. Sebastianelli. He has been outstanding in his work with the Legion, and it has been my privilege to meet with him annually when the Legionnaires have their splendid congressional dinners.

Now Dr. Sebastianelli has received new honors, in being elected Pennsylvania's representative to the American Legion's National Executive Committee. This is not only a signal honor, but a great responsibility. This is the second highest post a Legionnaire can hold in any State, standing right behind the post of State commander.

The election of Dr. Sebastianelli was considered to be something of an upset—and an upset of such magnitude that he outpolled the two other Legionnaires with a vote greater than their combined totals on the first ballot.

In his new capacity, Dr. Sebastianelli will represent some 200,000 Legionnaires in Pennsylvania, the largest group in the national organization, and will represent them well.

In the past Dr. Sebastianelli has served in other national posts, serving on the economic committee and as an alternate to the executive committee.

I commend Dr. Sebastianelli for his willingness to accept this new responsibility, and I know all my colleagues here in the Congress, particularly the many members of the American Legion, will join in that commendation. I also wish to congratulate the Legionnaires of Pennsylvania for their wisdom in selecting Dr. Sebastianelli for this distinguished position. They could not have chosen more wisely.

MIZELL OPPOSES PUBLIC FINANCING OF ELECTIONS

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. MIZELL. Mr. Speaker, the Congress recently passed a comprehensive Federal Election Campaign Reform Act designed to improve the political process in America and remove some of the abuses which have afflicted that process over the years.

I supported the vast majority of provisions in this bill, and voted for the legislation, but there was one provision I opposed very vigorously: Public financing of elections.

As I said when this bill was on the House floor for consideration, I do not believe that tax dollars from the American people should be used to finance political campaigns.

It is my belief that such a policy will only undermine our traditional political process. The Amercan way allows for free expression of our political beliefs, and I do not think the beleaguered taxpayer wants his hard-earned money spent by a candidate he firmly opposes.

In July, I sent a newsletter to residents of North Carolina's Fifth District, which I am honored to represent, and that newsletter more extensively detailed my views on the campaign reform law.

For my colleagues' information, I now insert the text of that newsletter in the RECORD at this point:

MONTHLY NEWSLETTER: JULY 1974

CAMPAIGN FINANCE REFORM

For the past year, a major effort of mine has been in studying the many legislative proposals that have been made on campaign reform. On any of these proposals I have asked this basic question: "Does the proposal strengthen the vitally and preserve the integrity of the electoral process?"

Nearly three years ago, I supported the Federal Elections Campaign Act. This proposal was the first campaign reform legislation to be enacted into public law in over forty years. Since that time, events have shown that reform is still needed in this area and I would like to share with you what I consider to be the basic legislative needs, which will give emphasis to further safeguarding our great American political system.

It is my belief that legislation should be enacted which would:

Limit contributions to $1,000 per election per candidate per individual.

Limit contributions to $5,000 per election per candidate from a political committee that makes contributions to five or more candidates.

Prohibit secretive earmarking and laundering of funds.

Prohibit a candidate from making expenditures from their personal funds or the personal funds of their immediate family in excess of $25,000 per election.

Limit expenditures to $10 million for a candidate for nomination for President and $20 million in the Presidential general election. In the Senate and the House of Representatives limit expenditures to 5¢ times the population of the State or $75,000, whichever is greater.

Prohibit contributions by foreign nationals.

Prohibit contributions in the name of another person.

Prohibit cash contributions in excess of $100.

Outlaw all "dirty tricks" and provide for stiff penalties.

Provide that each candidate designate a central campaign committee through which he must report all expenditures.

Establish an independent Federal Elections Commission, which would administer and enforce the law.

Increase the penalties for violation of the law.

One proposal that has been made and one to which I strongly object is the public financing of elections. The tax dollars from the American people should not be used to finance political campaigns. It is my belief that such a policy would only undermine our traditional political process. The American way allows for free expression of our political beliefs and I do not think the beleaguered taxpayer wants his hard earned money spent by a candidate he firmly opposes.

CONGRESS SHOULD DISAPPROVE FEDERAL PAY RAISE DEFERRAL

HON. WILLIAM R. ROY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. ROY. Mr. Speaker, it is distressing that President Ford has proposed to postpone a Federal pay increase due October 1. This is the fourth straight year that the administration has proposed to postpone provisions of Federal law which provide that Federal pay increases shall occur on October 1 in order that Federal pay be made comparable with pay for the same type of work in the private sector.

It is ironic that President Ford, who has stated again and again that he does not favor implementation of wage and price controls, asks that wage controls be placed on Federal employees, and then on only some Federal employees. The President's recommendation would have no effect on the 706,000 employees of the U.S. Postal Service or on the 547,000 Wage Board employees.

I oppose the President's recommendation to delay the Federal pay increase and will vote to disapprove.

Since the recommendation was made to increase Federal pay by 5.5 percent in order to make it comparable to wages paid in the private sector, wages in the private sector have increased an additional 1.7 percent. What this means is that even if Congress votes to disapprove the President's recommendation, Federal employee wages will still lag behind employees in the private sector.

I agree with President Ford that the Federal budget must be cut to fight inflation. But I think there are other more appropriate places to reduce Federal spending. I plan to take a very hard look at the President's request to provide former President Nixon with $850,000 for transition expenses—an amount $400,000 above the allocation fixed by law in the Presidential Transition Act of 1963. I will continue to vote to eliminate wasteful or unnecessary Federal expenditures. But I will not vote to single out one segment of the population to bear the brunt of our fight against inflation.

CONGRESSMAN DRINAN ADDRESSES ELECTRICAL, RADIO, AND MACHINE WORKERS UNION ANNUAL CONVENTION ON PRESIDENTIAL PARDON OF RICHARD NIXON

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. DRINAN. Mr. Speaker, President Ford's decision to grant an absolute pardon to Richard Nixon for any illegal acts he may have committed during his Presidency has generated a tremendous wave of public indignation. Many of my constituents have written or called me during the past few days to express their disapproval of President Ford's unprecedented action. I fully share their conviction that the decision to pardon Nixon was morally and constitutionally unjustifiable.

Tuesday evening I had the honor of addressing the delegates to the 25th Convention of the International Union of Electrical, Radio and Machine Workers in Chicago. In the course of my speech, I enumerated my reasons for objecting to the decision by President Ford to pardon Richard Nixon. I am pleased to share those remarks with my colleagues in the House and with my constituents in Massachusetts' Fourth Congressional District.

The speech follows:

[Address by Congressman Robert F. Drinan, September 10, 1974]

PRESIDENTIAL PARDON

President Ford's decision to grant an absolute pardon to Richard Nixon is constitutionally and morally wrong. It cannot be justified by any reading of the spirit and intent of the Constitution nor can it be reconciled with the most fundamental moral assumptions underlying the administration of justice in America.

I. THE PARDON GIVEN NIXON VIOLATES THE INTENT OF THE CONSTITUTION

At the Constitutional Convention in 1787 a motion was made to restrict the grant of pardon only to cases "*after* conviction". This motion was withdrawn after the delegates were advised that a pardon before judgment might sometimes be necessary in order "to obtain the testimony of accomplices in a crime". It seems clear, therefore, that President Ford exceeded any power conferred by the Framers of the Constitution with respect to pre-indictment pardons.

President Ford's action is also open to question on another Constitutional point. The Constitution withholds the power to pardon from a President in "cases of impeachment". The intent of the Framers was to prevent Presidents from doing what Gerald Ford has now done—using the pardoning power to rehabilitate political allies whose conduct merited impeachment. If Richard Nixon had taken his chances on conviction in the U.S. Senate after Impeachment in the House and had lost, President Ford would be expressly barred by the Constitution itself from ever pardoning Nixon. Is it proper or just to ignore and flaunt the manifest intent of the Constitution by taking advantage of the technicality that Nixon resigned rather than allow himself to be removed by impeachment?

President Ford acknowledged that "there are no historic or legal precedents to which I can turn in this matter . . . ." Nevertheless he moves forward with the amazing and unbelievable assertion that "only I, as President, have the Constitutional power to firmly shut and seal this book (of Watergate)." What the President forgets is that the last chapters of that book have not yet been written and that his gratuitous assumptions convey the inevitable impression that he does not want those chapters to be written or read.

The Constitution may be vague on the contours of a President's right to pardon. But English history, basic logic, and language itself all teach us that a pardon cannot be applied to acts of wrongdoing that have never been proved, admitted or even alleged. To extend a pardon to such a wide range of unnamed, unnumbered and indeed unknown events is more of a cover-up than a reprieval.

II. PRESIDENT FORD'S PARDON VIOLATES THE BASIC MORAL CORNERSTONES OF THE ADMINISTRATION OF JUSTICE

No matter how compassionate one tries to be in assessing the pardon given to Richard Nixon one cannot escape the conclusion that Mr. Ford has told us that a President may ignore the laws and the Constitution, evade an impeachment inquiry, lie to the Congress and the country and still obtain a pardon from his successor.

President Ford in his address on September 8 stated: "I deeply believe in equal justice, for all Americans, whatever their station or former station. The law, whether human or divine, is no respecter of persons. . . ." But then he adds that "the law is a respecter of reality." Apparently in this case, Mr. Ford is telling us "reality" means that we cannot have "equality".

President Ford's incoherent statement speaks of compassion, but where is his compassion for the Constitution and the government of laws and not of men which was almost destroyed by some thirty lawless men acting at the direction of the nation's chief executive? Where is his compassion for the families of those already convicted or about to go on trial? Was he without compassion when he stated on August 28 that it would be "unwise and untimely for me" to act until some "legal process has been undertaken"?

When all the confusion is removed from President Ford's "case" he is really telling us that he does not want to see Mr. Nixon "twisting slowly, slowly in the wind." Ford wants to protect us against "ugly passions" and "bad dreams." Such contentions bring us back to the verbal illusions of Ron Ziegler and the absurd claims of President Nixon.

President Ford has placed the peace of mind of Richard Nixon above the peace of mind of the nation. He has divided the nation in ways which even the Saturday night massacre did not achieve. Indeed even Ford's designate Vice-President is now involved in the revival of the Watergate coverup. Rockefeller has said that Mr. Ford's pardon was an act of "conscience, compassion and courage." Those are words which make him already tarnished.

Americans want their government to be open and moral. Watergate has humiliated the people of this nation more than any previous scandal in all of American history. Americans are now humiliated once again by a President they never elected pardoning a former President who they in effect impeached. Ford, perhaps even more than Nixon, has debased the Presidency and has alienated the people of America from our government.

His act of flagrant favoritism will mean that his every action will now be suspect, his integrity will questioned, and his intelligence will be challenged.

Every American had hoped that in the next 1000 days, as we prepare to celebrate the bicentennial of this nation, we could see restored to the Presidency and to all of our institutions that integrity and majesty given them by the Constitution. But instead another dark night is descending upon us as the President launches an assault on the very foundation of equality, justice and the right of the people to know.

Drastic measures will be proposed—an inquest into the reasons behind Ford's incomprehensible conduct, the conclusion of the impeachment process by the Congress and even a special Presidential election. I will listen sympathetically to all such proposals. It is time for the peope to speak out as never before. They have been cheated, deceived, betrayed and lied to. It is time for the people to rise up, demand and obtain a government of the people, by the people, and for the people.

A CALL FOR PRAYERS FOR NATIONAL UNITY AND RENEWED PURPOSE BY THE MOST REVEREND EDWARD D. HEAD, D.D., BISHOP OF BUFFALO

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. KEMP. Mr. Speaker, America should be grateful for the counsel of its spiritual leaders like Bishop Head of Buffalo. Our Nation is going through one of the most trying periods of its history. We have now crossed the apex of the crisis, returning to the tasks at hand—not with complacency—but rather with a more acute awareness of our individual moral responsibilities to each other, the commonwealth, and the law.

As President Ford said, upon his accession to office:

> My fellow Americans, our long national nightmare is over.
>
> Our Constitution works; our great Republic is a Government of laws and not of men. Here the people rule. But there is a higher power, by whatever name we honor Him, who ordains not only righteousness but love, not only justice but mercy.
>
> As we bind up the internal wounds of Watergate, more painful and more poisonous than those of foreign wars, let us restore the golden rule to our political process, and let brotherly love purge our hearts of suspicion and of hate.

On the day on which President Ford became our new President, the Most Reverend Edward D. Head, D.D., Roman Catholic Bishop of Buffalo, called upon the clergy and laity of the Church to—in the spirit of our country's renewed direction—offer prayers for the former and new President, their families, and most of all, that God continue to direct the American destiny.

In a letter to the pulpits of the Diocese, Bishop Head made this plea:

> AUGUST 9, 1974.
>
> As our Country approaches its Bi-Centennial, all Americans must recall their past heritage—a heritage of faith and hope—a heritage of strength and courage.
>
> The United States has given the example of an effective Democracy to the entire world. Americans have reason to be proud of their history and accomplishments both national and international. As our Country stands at one of the most important crossroads in its life, it must realize its vitality and initiative. Now is the time for strength and hope—depression and despair are foreign to the fiber of our heritage. World wars, depressions, inner conflicts have not frustrated the American Dream of Democracy.
>
> In this hour of the transition of the highest Office in our Land, I request prayers in all parishes and institutions throughout the Diocese this coming Sunday for our new President, Gerald Ford, and for our former President, Richard Nixon. We pray for them and their families. We pray for our Country that God will direct the American destiny. The Diocese of Buffalo pledges its prayers and support to the new President, and summons all men of good will to unity, reconciliation and renewal.
>
> May I call to mind these words of the Council Fathers of Vatican II, "If the political community is not to be torn to pieces as each man follows his own viewpoint, authority is needed. This authority must dispose the energies of the whole citizenry toward the common good, not mechanically or despotically, but primarily as a moral force which depends on freedom and the conscientious discharge of the burdens of any office which has been undertaken."
>
> It is my personal prayer and hope that these words be fulfilled by our new President.
>
> Sincerely
>
> Most Reverened EDWARD D. HEAD, D.D.,
> *Bishop of Buffalo.*

Mr. Speaker, let our hearts, our minds, and our prayers be in this spirit.

DOG FIGHTING A NATIONWIDE CLANDESTINE "SPORT" FOR 4,000

HON. PETER N. KYROS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. KYROS. Mr. Speaker, I am today introducing legislation designed to stop a most cruel and inhumane practice, which, from recent news accounts, seems to be growing daily. I am referring to what a recent editorial in the Portland, Me., Evening Express calls "cruelty without parallel," the training of dogs for the sole purpose of fighting each other, for the profit and entertainment of their owners and other dog-fight aficionados. Breeders around the country are right now engaged in the training of dogs to kill smaller animals, in preparation for these brutal matches, where they will be pitted against each other.

This cruel practice shocks the sensibilities. Animals are sometimes mistreated by the most well-meaning people, but the deliberate brutality to these dogs is without excuse and beyond what the Congress should tolerate. Although the activities are illegal in every State, the growth of the practice warrants Federal action. The legislation I am introducing today, which has been introduced in the Senate by Mr. WILLIAMS, calls for penalties to stop this inhumane activity. I hope the news article which I am including, which recently appeared in the Chicago Tribune, will help to illustrate the urgency of this deplorable situation:

DOG FIGHTING A NATIONWIDE CLANDESTINE "SPORT" FOR 4,000

(By Carol Oppenheim)

The dogs are carefully bred to produce "game stock"—powerful jaws, strong muscles, agility, and stamina. But only the most aggressive pups are trained for "the pit."

Dog fights, accompanied by high-stake bets, are considered a sport by an estimated 4,000 to 5,000 persons who travel coast to coast following the scent to clandestine duels to the death.

To dog lovers who believe the adage about man's best friend, dog fighting is cruel and those who engage in it or watch it should be arrested.

Earlier this month, the media began exposing bits of this illegal, highly organized activity. A Cook County grand jury is hearing testimony which could bring criminal indictments against dog fight organizers. A congressional committee has scheduled hearings next month on a proposed ban against interstate shipment of dogs for fighting.

More than a century ago, England—home of the Staffordshire bull terrier, champion of all fighting dogs—outlawed the sport. All the states in this country eventually passed similar laws.

The dog fights went underground, surfacing only when an occasional arrest was made in such widely scattered places as De Kalb; Bergen County, N.J.; Porterville, Cal.; Norman, Okla., and Providence, R.I. The penalties were small fines, easily recouped at the next fight.

Duncan Wright, executive director of the American Dog Owners Association, said there are six major dog fighting centers—the New York City area, lower New England, Southern California, Florida, Illinois, and Pennsylvania.

Illinois meets have been held in Chicago, Mokena, Wilmington, Marengo, Waukegan, and Countryside, Wright said. And nearby Gary is a popular spot.

Last year, the Chicago Anti-Cruelty Society tried to infiltrate local operations. James Hedrick, who was director at that time, said the society's investigator was able to gain entry only to out-of-state fights and had no power to stop them. The effort has been abandoned, Hedrick said.

Capt. Donald P. Lambert, of the enforcement division of the Massachusetts Society for the Prevention of Cruelty to Animals, put a man under cover 1½ years ago. His unit has procured three convictions, including that of a reputed top breeder and trainer.

Wright and Lambert have slowly pieced together the way dog fights are run. They cracked the codes in legitimate and sometimes underground magazines which used the words "game" or "stock" for fighting dogs and deliberately misspelled breeders' names. A car outfitted with electronic direction-finding equipment tracked one dog fight 2,700 miles.

Trainers subscribe to respected Dog World as well as two closely circulated sheets—Sporting Dog Journal and Your Friend and Mine, which replaced Pit Dog. There also is an underground registry which Wright identified as the American Dog Breeders Association, run by Ralph Greenwood in Salt Lake City.

Fighting dogs are either pure bred Staffordshires or "Staffs" crossed with bull mastiffs. While the pups are still young trainers rub the dogs' noses together, pinch their flanks, and drive them to frenzied anger, which is then coached into habit.

Then they teach the pups to kill. The trainers start with kittens [15 to 20 are a week's supply] and move up to small dogs. Wright estimated a fighting dog kills 100 cats and dogs during training.

On the night before a fight—usually on Saturday or Sunday, trainers will bring young dogs to the "rolls." The dogs are tested in short bouts where there is no disemboweling, legs broken, or deaths. There may be as many as 25 rolls in one night.

Other times, promoters will pick up German Shepherds, Dobermans, or Saint Bernards from the local dog pound, inject them with drugs and torment them with cattle prods until they fight. Even under these conditions, experts say they are mincemeat for trained dogs.

Each fight card consists of 6 to 10 carefully matched sets of dogs. Bouts last from 20 minutes to 2½ hours with scarcely a sound from the contestants except the snap of a bone. About 40 fights are held each year and the winners meet at annual conventions.

The pit may be a barn, a warehouse, a basement of a commercial building, or the garage of a house. The same place is seldom uesd twice in a row. Security is tight and guards with walkie-talkies may be stationed as much as five miles away.

Betting is heavy, sometimes as much as $20,000 by one trainer or spectator on a single match. Bets are individual or against the house. And the spectators may range from 50 to 150 persons.

All types of people are involved in the action.

In Illinois, they allegedly include Patrick Bodzianowski, a Tinley Park construction worker; John A. Gallano, a policeman who had been assigned as a process server in the sheriff's office; and Richard Bell, a Wilmington breeder of championship dogs.

Those named have denied or refused to discuss the allegations. Bodzianowski allegedly pleaded the Fifth Amendment when subpenaed by the grand jury. Gallano has been transferred to another job and is under investigation by the sheriff's office.

Wright noted that devotes of dog fighting believe they're "not bad, not weird, not just a bunch of crummies. They believe it is perfectly natural for dogs to want to fight and to die gloriously."

LEGISLATION AFFECTING LOW-INCOME INDIVIDUALS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. HAMILTON. Mr. Speaker, despite recent progress many Americans are still without adequate shelter, health care, food and clothing, and without a share of America's affluence. In 1973, 23 million Americans, or one American out of nine, lived below the low-income threshold of $4,540 a year for a nonfarm family of four, and an additional 10 million Americans, the "nearpoor," lived above this threshold but not more than $1,200 above it, and a slight reduction in their incomes, unemployment, illness, a change in family size or some other factor could drop their households into poverty.

While the low-income population has been reduced by more than 40 percent since 1960—from 39.9 million to 23 million people—there is still much that the Congress can do to help those who live in poverty.

I am pleased that the 93d Congress has taken several steps in 1973 and 1974 to assist low-income Americans. Bills that have passed the Congress and been signed into law include the following:

First. Minimum wage: Raised the minimum wage for most nonfarm workers from $1.60 to $2 an hour on May 1, 1974, to $2.10 on January 1, 1975, and to $2.30 on January 1, 1976; extended minimum wage coverage to some 7 million additional workers.

Second. Legal services: Established an independent legal services corporation to provide legal assistance in many kinds of civil cases to poor persons. The corporation takes over a function previously provided under the Economic Opportunity Act, which expired on June 30, 1974.

Third. Housing: Created rent subsidy and block-grant programs to increase housing for the poor. Funds under the block-grant program are to be distributed on the basis of population, overcrowding and poverty, with poverty given double weight in the distribution formula.

Fourth. School lunches: Extended through fiscal 1975 the Agriculture Secretary's authority to purchase food commodities for school lunch programs at nonsurplus prices. Also made permanent the States' authority to serve reduced-price school lunches to children from poor and nearpoor families.

Fifth. Commodity assistance: Extended through fiscal 1977 the Government's authority to purchase food commodities for domestic assistance programs that serve needy individuals and disaster victims, among others. This law also increased the Federal share of the cost of the school milk program, and provided for semi-annual cost-of-living adjustments in the Federal share.

Sixth. Social security: Increased monthly benefits by 7 percent in March 1974, and an additional 4 percent in June 1974.

Seventh. Food stamps: Improved the food stamp program by providing for semi-annual adjustments of food stamp allotments to reflect inflation and extending the program to virtually all areas currently operating commodity distribution programs.

Eighth. Supplemental security income, SSI: Increased minimum monthly benefits paid under the new SSI program from $130 to $140 in January 1974, and to $146 in July 1974.

Ninth. Nutrition for the elderly: Extended programs under the Older Americans Act that provide low-cost meals to elderly citizens.

Several other issues of concern to needy individuals are still working their way through the legislative process. I am hopeful that action will be completed on all of them before the 93d Congress adjourns later this fall. These issues include:

Tax reform: Increase the low-income allowance and the percentage standard deduction.

Community action programs: The extension and transfer of the community action programs of the Office of Economic Opportunity to the Department of Health, Education, and Welfare.

Federal health programs: The improvement and extension of five Federal health services programs, including family planning, migrant health, and community health centers for the medically underserved.

National health insurance: Creation of a nationwide health plan so that no person would be denied adequate health care because of the high cost factor. This proposal is still in the early stages of development, but whatever the final outlines of the plan, it should provide that the poorest families and individuals be exempt from premium and deductible costs.

Child care: The establishment of family-oriented, voluntary preschool programs for those families with working mothers or inadequate financial resources to provide necessary health care, nutrition or educational opportunity for their young children.

Mr. Speaker, completion of this unfinished business is necessary if the Congress is to insure that low-income persons in this country have access to the mainstream of American life. While much has been accomplished to help them, there is much left to be done, and the Congress has the responsibility to see that this important task does not lose its momentum. Millions of Americans are counting on us.

ADMIRAL ZUMWALT: THE AFTERMATH

HON. H. R. GROSS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. GROSS. Mr. Speaker, Adm. Elmo Zumwalt has recently stepped down as Chief of Naval Operations. In his wake he has left a divided and often embittered Navy, one whose fighting ability some critics say has been severely damaged.

In the April 1974 issue of Government Executive magazine, John T. Hayward has written what I believe to be a perceptive account of Admiral Zumwalt's tenure as CNO, and the unfortunate legacy he has left behind him.

I include the article for insertion in the RECORD at this point:

ZUMWALT: SUCCESS OR FAILURE?

(By John T. Howard)

Much has been written and said of the present Chief of Naval Operations. Opinions differ greatly on his impact on the Navy from those of bitter damnation to words of high praise. What does the balance sheet say?

Prior to any evaluation of this man's performance, a bit of history is in order concerning all the previous Chiefs of Naval Operations. The office was created in 1915, really over the objections of then Secretary of the Navy Daniels. At the time, the most qualified man in the Navy to have this post was Bradley Fiske. His knowledge and background in the then-emerging U.S. Navy were extensive.

He was father of the air-launched torpedo as well as advances in the field of modern fire control, a science coming into its own with the development of the modern battleship. He was not appointed the first Chief of Naval Operations. The Secretary nominated Rear Admiral Benson. He was "safe;" and obviously wouldn't "rock the boat" as far as the civilian Secretary was concerned. Unfortunately, this set a pattern that was to be followed for years.

DOG AT SEA

At the close of World War I, Admiral Sims returned from Europe to become President of the Naval War College. Daniels was still Secretary of the Navy. Sims was a logical candidate for CNO but he was an outspoken leader who would certainly "rock the boat." His letter to the Secretary on why he would not want the job is a classic document. He would never be a rubber stamp to any secretary.

There were a lot of things that made him *persona non grata* to Secretary Daniels. He bitterly opposed giving the Navy Cross to all Captains of all combatant ships, particularly if they spent the war behind nets at Yorktown. By letter, he refused his distinguished service medal, which was a senior decoration to the Navy Cross at the time.

He was reverted to Rear Admiral on his return to the U.S. from having been Chief of the U.S. Naval Forces, Europe. General Pershing kept his four stars. Naturally, Sims was bitter. Congress passed a law in the late twenties giving him his four star rank long after he retired. It was just as meaningless as it would be to make today's Admiral Rickover a four-star Admiral if he had already been retired 10 years ago.

Daniels would have had trouble with such a CNO. Incidentally, Sims was the only Admiral at the time to support Billy Mitchell at the time of his trial. Indeed, in 1922 Sims had said the aircraft carrier was the capital ship of the future.

The above potential CNO's are a few of the rebels who didn't make it. What about the rest? The list is long but, in reviewing it, one is forced to the conclusion that only two of them really will live in history for their contributions to making the U.S. Navy supreme on the seas. They are Admiral E. J. King and Admiral Arleigh Burke. King's career can hardly be equalled. He led the Navy from peacetime and a disaster at Pearl Harbor to victory. Tough, unrelenting and a great leader, he was the epitome of what is needed for a Navy to win a world war.

Arleigh Burke, who held the job longer than anyone else, was what was needed to bridge the gap from World War II to the modern technical world of nuclear propulsion and ballistic missiles, a man with the imagination and drive any leader must have. He was really the father of Polaris. He really brought tactical missiles to the fleet. From a "people" standpoint, he did every bit as much as Zumwalt did in a different way. He will be long remembered.

Now to the CNO plusses and minuses of Admiral Elmo Zumwalt. Yes, he let a lot of light into areas that needed it. He knew inertia was not just a term in physics but something involved in all human endeavor. He was also the first CNO who had a "mutiny" in the Navy. Regardless of the pros and cons of why it happened, it can be called nothing else. It stunned not only the Navy but the Nation. As leader of the permissive approach to discipline, he earns the discredit as well as the credit from what happened.

His approach to the "people" problem is best known—in part because of the emphasis the Media have placed on such things during the past 20 years; and in part, probably, because his own background in modern operations at sea is limited.

HUMAN EQUATION

He inherited a Navy suffering from many problems ignored in it by Defense Secretary of the '60s, Robert McNamara. Racial relations was one of these. During McNamara's reign, a black without a high school education was worth more "points" to a recruiter than a white with one. The "policy" idea was that a certain number of Group Four candidates had to be recruited.

Could this be called "equal opportunity"? For whom? But the real point is, would any goal-oriented organization pursue such a policy? Would it even be "opportunity" from the Group Four man? Would he have a chance to pass through any of the technical schools and programs the Navy operates? Hardly. He will end up, most likely, in the ship's first division, cleaning, polishing and painting. There he stays, unable to pass the exam that would free him from those menial chores.

He sees contemporaries going on to bigger and better things. He sees others stuck like himself. Are they held down because they are black and no one likes them? A tough question for a superior, with a lot of work to get done to answer.

In sum, the seeds of trouble on the *Kitty Hawk* and other Navy ships were sown before Admiral Zumwalt became CNO. The chief criticism of him as CNO is what he did when they happened. He and the Secretary of the Navy called a convention of all flag officers in the Washington area and dressed them down as though they were responsible. The ever-present Media was delighted, of course, with the front-page headlines it was handed.

Indeed, it occurred to many officers, aware of how complex this problem really was long before *Kitty Hawk*, that the whole meeting was held simply for its public grandstand value.

One wonders what would have happened if they had had to fight a war at sea right then. And if you look behind *Kitty Hawk*, you can see that the erosion of authority and the changing of regulations went hand in hand. The Zumwalt Navy got its start on a "Bill of Rights" handed to junior enlisted men by the CNO himself; and with little regard for their immediate commanders who, in a real-time sense, are responsible for their performance.

That is where it all started—change! It's good for you! It is better to be an individual than to be proud of one's profession. No longer are uniforms worn ashore in foreign lands; nor are they required on the base after hours. Justified change, once started, has been allowed to run too far.

I believe there is more stability today, to be sure, than there was in the first days of the so-called Z-gram. But the evidence in "people" of what they started is being suffered now. For instance, the Navy, in order to compete for the top Unified Command jobs, had to lower the age of their flag officers. This, Zumwalt did by slicing out many of the older men. It brought the key-officer average age down, all right; and it also brought not just lack of experience but turbulence.

For instance, in the last three years Navy has had at least four different Deputy CNO's for Fleet Operations and Readiness. That alone speaks to the problem. If forced attrition was the only way to lower the officer age level, it also means down on the ranks they can count on not having to follow a "middle management" superior's orders very long.

Critical analysis can show the Navy will have really only 108 modern combatant-type ships by 1980. This does not count the new 1052 nor the Proposed Frigate (PF). Even with them, we will still have almost two Admirals per fighting ship. In this area, the "early out" effect of lowering flag officer age must be counted a plus. But that's a debatable offset.

A list of the areas impacted by the Zumwalt CNO tour breaks down to four: racial relations, changing regulations, discipline and effectiveness. No one denies his strong and good stand on racial relations had to be done. And the *Kitty Hawk* handling aside, his attempts to completely integrate the Navy did not backfire entirely because of his action alone. Moreover, his actions did not make him popular with either the White House or Congress. He is to be admired for having the courage of his convictions.

The minuses loom large, however. The leader who degrades his Captains and violates the "loyalty down" precept is in for trouble. He soon presides over chaos. The Navy is not a social reform agency. It reflects, like many group endeavors, a cross section of our society. Its objective is to produce effective fighting Service.

From our perspective, it appears Zumwalt left a lot to be desired in U.S. Navy combat effectiveness. If one tries to find the leaders prepared and qualified to fight with present Navy combatant forces at sea, it would be a difficult job. Like the Army with its "brownie point" system, the Navy is even more turbulent in its duty shifts. Unusual is the Navy Captain or Admiral who has spent at least three years at sea with the modern combat systems.

In new Navy systems development, Zumwalt's score sheet is thin. He inherited the 1052 class ship with its one gun and single screw. He is compounding the felony with the frigate. The 7500-ton DD963 has one gun on it. Junior officers call it the "floating hotel." His so-called "kitchen cabinet" of junior officers has been racing around in may directions with such efforts as the PHM (hydrofoil ship) and the SES (surface-effect ship) but with little visible impact now or in the future on the combat effectiveness of the Navy.

The two stable components of Navy combat effectiveness, namely the submarine force and Naval Aviation, have suffered some but not much. The weakest link in the Navy team is its surface force. Our potential adversaries on and below the sea can outrun it and have a greater array of workable armaments. Nothing in the past four years has changed this fact.

Zumwalt says it will take a strong "and misguided man to undo" his policies. We question that. The U.S. is an island empire which must have freedom of the seas to survive politically and economically. The Nation needs a leadership dedicated to building a Navy powerful enough to enforce that freedom—a leadership that's strong not on intent, but on result. For the last four year the Navy has not had that leadership.

TRIBUTE TO HON. OGDEN REID ON HIS RETIREMENT FROM THE HOUSE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. BIAGGI. Mr. Speaker, I wish to take this opportunity to pay tribute to my distinguished colleague and friend, OGDEN REID, who will be retiring from the House at the end of the 93d Congress.

"BROWNIE" as he is known to his friends in the House has served the people of Westchester County for the last 12 years. During this period he has served with special distinction as a member of the House Foreign Affairs Committee.

His years in the House have been productive ones, both in terms of substantial legislative accomplishments and providing dedicated service to his constituents. In a district which enjoys both great wealth and dire poverty, OGDEN REID has reached out for and responded to the needs of all the people and his overwhelming election victory margins indicated clearly that the people of the 24th Congressional District strongly supported the efforts which OGDEN REID made on their behalf.

OGDEN REID was an example of a man, born into great wealth who chose to pursue a career in public service. Prior to being elected to the House, REID had gained national and international fame serving as the chairman of the New York State Commission for Human Rights as well as our Ambassador to Israel from 1959–61. His years as Ambassador gave him unique expertise on Middle Eastern affairs, which served him well on the Foreign Affairs Committee.

As "BROWNIE" prepares to resume private life, I am pleased to say that it was a privilege to have served and worked with him in the House. I hope the coming years are productive ones for him and his family. The people of Westchester County are losing one of their finest public servants, and we in the House bid farewell to one of our most distinguished colleagues.

REPRESENTATIVE JACK KEMP HAILS THE ENACTMENT OF THE NEW PENSION REFORM LAW

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. KEMP. Mr. Speaker, on Labor Day, the President signed into law the historic and much-needed Employee Retirement Income Security Act.

This act requires the vesting of employees' rights to receive the pensions benefits accrued over the years in their behalf. When this act becomes fully operational, the distressing stories we have all heard about men and women who contributed to pension funds during their working years, but for a variety of reasons then lost their rights in those funds will be a thing of the past.

As a member of the Committee on Education and Labor—which had jurisdiction over the legislation leading to this new law—I worked for the past 4 years to iron out the problems seen in the various proposals made and in arriving at a workable final bill. That bill is now law.

The new law brings new obligations of, and rights to, plan sponsors, administrators and advisers, trustees, fiduciaries, attorneys, accountants, actuaries, and recipients.

In order that all of these may have a better understanding of these new obligations and rights, I believe the following, brief guide to the act would be helpful to all who now will work with it:

THE EMPLOYMENT RETIREMENT INCOME SECURITY ACT OF 1974

HIGHLIGHTS

The new law establishes:

Procedures for qualifying and registering plans with the Department of Treasury and Labor.

Stringent standards for plan fiduciaries, including a broad definition of fiduciary and detailed prohibited transactions.

Reporting requirements regarding conditions and operations of all employee benefit funds (pension, welfare, etc.) to both the Departments of Treasury and Labor.

Requirements regarding disclosure to plan participants of plan contents, participants' rights and procedures.

Minimum participation (eligibility), vesting, and funding standards.

A system of insurance of nonforfeitable (vested) benefits, and contingent employer liability to the insurance corporation in event of plan termination.

A role for the Department of Labor, the new pension insurance corporation, and participants in the qualifying and registration procedures.

Regulatory authority in the Departments of Treasury and Labor with obligation to coordinate regulations and reporting.

Coverage of all employee benefit plans which seek tax qualification or which are subject to jurisdiction under the Commerce Clause.

Means by which individuals not covered by a retirement plan may set up their own plans and obtain preferential tax treatment.

New limits on deductibility of contribution to retirement plans.

Excise penalties and equitable remedies as additional methods to enforce prohibited transaction rules and the minimum eligibility, vesting and funding requirements of the labor and revenue codes.

Effective dates related to the specific titles and provisions of the Act.

COVERAGE

Excluded from the plenary coverage of the Act are:

(1) governmental plans;

(2) certain church plans;

(3) non-U.S. plans primarily for aliens;

(4) workmen's compensation and unemployment compensation plans.

(5) unfunded plans which provide benefits in excess of the Internal Revenue Code limitations on contributions and benefits.

Excluded from all but the reporting and disclosure requirements are:

(6) unfunded plans maintained by the employer primarily to provide deferred compensation for select management or highly compensated employees.

Excluded from the participation, vesting, funding and plan termination insurance requirements are:

(7) plans established by labor organizations (under Sec. 501(c)(5) of the Internal Revenue Code) which do not provide for employer contributions, and

(8) plans established by fraternal or other organizations (under Sec. 501(c)(8), (9); (18)) which do not provide for employer contributions.

Specifically excluded from the funding standards are:

(9) profit-sharing, stock bonus, and other individual account plans (except for money purchase plans), and

(10) certain qualified level premium individual insurance contract plans, and

(11) plans that have not after the date of enactment provided for employer contributions.

Also excluded from coverage under plan termination insurance are:

(12) individual account plans (e.g.: profit-sharing stock bonus, and money purchase pension plans), and

(13) plans that have not after the date of enactment provided for employer contributions, and

(14) plans established by professional service employers and which have fewer than 26 active participants, and

(15) plans established exclusively for "substantial owners".

ADMINISTRATION AND PROCEDURE

Jurisdiction regarding registration of plans (other than welfare plans) is generally shared by the Internal Revenue Service (through the new Office of Employee Plans and Exempt Organizations) with the Department of Labor.

The plan which seeks qualification for tax benefit purposes first files with the IRS information regarding the funding, vesting and participation standards of the plan and notifies the plan participants of such action.

In the period prior to qualification, upon petition by a group of participants, the Secretary of Labor may intervene with the IRS in behalf of the participants regarding the vesting, funding or participation provisions of the proposed plan. In addition, the employer, the employees, the Labor Secretary, or the Pension Benefit Guaranty Corporation may petition the U.S. Tax Court to obtain a declaratory judgment in regard to a plan qualification.

If the IRS finds a plan qualified, it is to certify this fact to the Department of Labor, which must accept this certification as conclusive evidence of initial compliance with participation, vesting, and funding standards.

When a plan does not seek IRS qualification for tax purposes, the Secretary of Labor can through the Federal courts require compliance with the participation, vesting and funding standards of the bill.

Plans which are qualified under the tax law are to be audited by the I.R.S. Generally, the Department of Labor is to limit its involvement to matters dealing with individual benefits.

The Act gives authority to the Secretary of the Treasury to write regulations on participation, vesting, and funding except that the Secretary of Labor is directed to prescribe regulations in a few select areas. The two departments are to coordinate their activities, and any regulations prescribed by one department are to be binding on the other.

DISCLOSURE TO PARTICIPANTS

The administrator of a pension or welfare plan is responsible for providing to participants and beneficiaries:

(1) a "summary plan description" (written in a manner calculated to be understood by the average plan participant) within 120 days after the effective date (or 90 days after an individual becomes a participant); and

(2) an undated summary plan description every 5th year, unless there have been no amendments, in which case every tenth year; and

(3) a summary description of any material modification of the plan within 210 days after the end of such plan year; and

(4) a copy of the statement of assets, liabilities, receipts, disbursements and other material necessary to fairly summarize the "annual report" within 210 days after the end of each plan year; and

(5) upon written request and within 30 days, a copy of the plan description, annual report, bargaining agreement, trust instrument, or other plan documents for which a reasonable charge may be made; and

(6) the information in (5) in the principal office of the administrator and certain other places; and

(7) upon written request (but not more than once every year) and within 30 days, a statement of total pension benefits accrued and the time and amount of vesting; and

(8) a statement as to a terminated vested participant's benefits and rights within a prescribed period after the end of the plan year in which such participant terminated.

REPORTING

The administrator of a pension or welfare plan is to file with the Secretary of Labor:

(1) an annual report within 210 days after the end of the plan year which is to contain an audited financial statement, a certified actuarial report and other scheduled financial items on forms the Secretary may require (E.G., a balance sheet and income statement, party-in-interest transactions, transactions exceeding 3% of the plan's assets, loans and leases in default, etc.); and

(2) a plan description within 120 days after the later of the plan's adoption or the effective date of the Act, and an updated summary at least every 5 years; and

(3) a summary plan description at the time furnished to participants; and

(4) a description of modifications and changes in the plan within 60 days after such change.

The administrator of a plan other than a welfare plan is to file with the Secretary of Treasury:

(1) an annual registration statement within a time prescribed by the Secretary and is to contain information on the names and Social Security numbers of terminated participants wih deferred vested benefits; and

(2) a notice of a change in status of a plan (e.g.: merger, termination, change in names, etc.), and

(3) an annual return containing such financial and other information as the Secre-

tary may prescribe and to be filed within a period prescribed by the Secretary, and

(4) an actuarial statement of valuation before 30 days prior to a merger, consolidation, or transfer of a plan's assets or liabilities; and

(5) an actuarial report containing a statement of valuation, an actuarial opinion, and such other information as the Secretary may prescribe to be filed in a time and manner prescribed by him (at least once every 3 years).

The administrator of a plan covered under plan termination insurance is to file with the Pension Benefit Guaranty Corporation an annual report which includes a statement disclosing the occurrence of any "reportable event".

The Secretaries of Labor and Treasury and the Corporation are directed to coordinate the timing and content of the various reports required to be filed with each agency. Reports involving fewer than 100 participants would be simplified.

FIDUCIARY RESPONSIBILITY AND TRUST REQUIREMENT

All assets of an employee benefit plan are to be held in trust by one or more trustees subject to certain exceptions (e.g., insurance contracts). The Secretary of Labor may exempt welfare plans from this requirement.

In addition every plan must be maintained pursuant to a written instrument which provides for one or more "named Fiduciaries" who jointly and severally have authority to control and manage the operation of the plan.

An individual is subject to the fiduciary rules if the individual is a trustee, a "named fiduciary" a person to whom a "named fiduciary" delegates duties or if the individual—

Exercises any discretionary authority or control respecting management or disposition of a plan's assets, or

Renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or

Has any discretionary authority or discretionary responsibility in the administration of such plan.

Fiduciaries are required to discharge their duties with respect to the fund solely in the interest of the participants and their beneficiaries and with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

A fiduciary is specifically required to diversify the investments (except in the case of employer securities purchased by profit-sharing, stock bonus, or thrift and savings plans) so as to minimize the risk of large losses unless under the circumstances it is prudent not to do so.

A fiduciary (and a "disqualified person" under the Internal Revenue Code) is specifically prohibited from letting the following transactions occur in regard to a plan:

Dealing with the plan's assets for his own account.

Acting in any plan transaction on behalf of a party adverse to the interests of the plan or participant.

Receiving personal consideration from any party dealing with the plan in connection with a plan transaction.

Transferring property to any party-in-interest.

Permitting the acquisition of property from any party-in-interest.

Extending or receiving credit from a party-in-interest.

Furnishing of goods, services, or facilities by a party-in-interest.

Acquisition of employer securities exceeding the new limitations (generally 10% of the assets of the plan).

A fiduciary may, however, engage in certain otherwise prohibited transactions; he may, e.g., receive benefits from the plan so long as the benefits are consistent with the terms of the plan, permit loans to participants if they generally benefit the plan, receive reasonable compensation for services rendered, etc. The list of exceptions to otherwise prohibited transactions can be expanded by agreement of the Secretaries of Labor and Treasury when to do so would (1) be administratively feasible, (2) be in the interest of the plan, and (3) protect the rights of participants and beneficiaries.

A fiduciary is personally liable to the plan for any breach of fiduciary duty while a disqualified person (who is generally a party-in-interest) is subject to an excise tax penalty.

Trustees may allocate their responsibilities and other fiduciaries may allocate or delegate their responsibilities; however, a fiduciary remains liable for the illegal acts of a co-fiduciary if he knowingly participates in or conceals such illegal acts.

Plans are protected against loss by reason of fraud or dishonesty by requiring fiduciaries who handle funds to be bonded.

PARTICIPATION

An employee benefit plan (other than welfare plans) is not to require as a condition of participation an age greater than 25 or a period of service longer than 1 year (3 years for plans which provide for immediate 100% vesting) whichever is the later. Certain pension plans may exclude from participation employees who are within 5 years of normal retirement age. A "year of service" is defined as a 12-month period during which the employee has not less than 1,000 hours of employment.

VESTING—NONFORFEITABLE BENEFITS

Every employee benefit plan (other than a welfare plan) is to meet one of three minimum vesting rules.

1. Ten Year Service Rule—100% vesting after 10 years of service.

2. Graded 15-year Service Rule—25% vesting after 5 years of service; then 5% additional vesting for each year of service from year 6 through 10, then 10% additional vesting for each year of service from year 11 through year 15, so that an employee is 100% vested after 15 years of service.

3. Rule of 45—50% vesting after 5 years service or, if later, when age plus service equals 45, such percentage increasing by 10% each year until 100% is reached; additionally a participant under the Rule of 45 must be 50% vested after 10 years of covered service, such percentage increasing by 10% for each additional year of covered service, so that an employee is 50% vested after 10 years and 100% vested after 15 years regardless of his age.

A plan is permitted to change its vesting rule at any time if a provision is made that accrued vested benefits not be reduced for participants at the time of change. In addition, any participant with at least 5 years of service may elect to remain under the pre-amendment vesting schedule with respect to past and future benefit accruals.

A year of service for vesting purposes is defined as at least 1,000 hours of employment in a 12-month period. A participant is to accrue benefits for each year of participation (after the first year) in which at least 1,000 hours have been worked. A plan is required to meet one of three benefit accrual rules except that benefits for past service must be at least one-half of the minimum.

Once accrued benefits become vested, they cannot be reduced or forfeited on account of "bad boy" clauses or other conditions (with limited exceptions). A plan must provide for a "buy-back" permitting recapture of forfeited vested benefits (where vesting is less than 50%) if the plan provides for such forfeiture when the participant withdraws his own mandatory contributions.

Present rules regarding plans which coordinate with Social Security benefits are changed. The benefits of a terminated participant are to be calculated without taking into account increases in Social Security benefits after the date he terminates.

Another study (to be completed within 2 years) which could impact on vesting requires the Department of Labor to determine the feasibility of issuing regulations to insure that employees under Federal procurement and other contracts be protected against forfeiture of pension rights.

The Act requires that a plan pay all benefits (including deferred vested benefits) in a joint and survivor form at age 65 or, if earlier, the normal retirement age under the plan. A pre-retirement survivor option is also to be available to participants attaining early retirement age.

FUNDING

All covered pension plans must make annual minimum contributions equal to normal cost plus 30 year (for single employer plans) or 40 year (for multi-employer plans) amortization of unfunded accrued liabilities for all plan benefits. Plans may amortize liabilities existing on the effective date over 40 years. Experience gains and losses are to be amortized over no more than 15 years for single employer plans and 20 years for multi-employer plans. An alternative method for meeting the minimum funding standard is provided for certain plans using accelerated funding methods which lead to a high degree of benefit security for participants.

An enrolled actuary is to be retained by the plan administrator on behalf of the participants to evaluate the plan's funding status (at least every 3 years) and to offer his opinion as to whether the required figures represent his best estimate of anticipated experience under the plan.

The amortization period may be extended by the Secretary of Labor if certain conditions are met. The IRS may also grant a waiver, of the funding requirements on a year by year basis (up to 5 waivers in a 15 year period) if certain hardship conditions can be demonstrated. A failure to meet the minimum funding requirements may result in an excise tax being levied on the employer.

TERMINATION INSURANCE

There is established within the Department of Labor a Pension Benefit Guaranty Corporation, to consist of the Secretaries of Labor (Chairman), Treasury, and Commerce. The Corporation is to guarantee the payment of vested benefits (up to $750 a month) to participants of plans which terminate.

A 7-member Advisory Committee, appointed by the President, is established.

Annual premiums for the first 2 years are to be $1 per plan participant for single employer plans and 50c per plan participant for multi-employer plans. Plans may elect a second annual premium based on a percentage of unfunded insured benefits and total insured benefits, but such premium may not be less than 50c per participant for single and 25c per participant for multi-employer plans.

Later, the Corporation may revise the premium rates and create new rates based on (1) number of participants, or (2) unfunded insured benefits, or (3) total insured benefits. Such revisions must be approved by Congress.

The employer remains liable up to 30% of net worth for any unfunded insured vested benefits of a terminated plan. The Corporation is to establish contingent liability insurance covering this employer liability. Conditions of coverage are to be defined by the Corporation and include payment of the contingent liability premium for five years. Coverage may be elected from the date of enactment with premiums set and collected on a retroactive basis. The Corporation is to explore the possibility of providing contingent liability insurance through the insurance and banking industries.

Employer liability is to be payable over a period of time specified by the Corporation. A lien with the same effect as a tax lien is imposed at such time as the employer neglects or refuses to make payments on demand.

In the case of a voluntary termination, the "date of termination" agreed to by the employer and the Corporation is the date on which the plan's benefits and assets are valued, the employer's liability is established (but with the net worth of the employer determined up to 120 days before such date), and the lien is imposed. The benefits guaranteed on such date are the vested benefits under the plan up to the lesser of $9,000 per year or 100% of the high 5-year compensation.

Benefit increases within 5 years of a plan termination are insured 20% for each year they were in effect prior to termination.

The Corporation must also provide assistance to individuals with respect to evaluating the desirability of using various "portability provisions" (e.g. individual retirement accounts) under the Act.

INDIVIDUAL RETIREMENT ACCOUNTS

An employee whose employer doesn't have any qualified pension, profit-sharing, or similar plan is entitled to set up his own plan.

Contributions up to the lesser of 15% of compensation or $1,500 may be contributed to an individual retirement account, annuity, or bond program and may be excluded from the employee's gross taxable income. Earnings on these accounts are to be tax free. Distributions from such accounts because of retirement after age 59½ or disability at any age are to be taxed as ordinary income. A 10% excise tax is levied on premature distributions.

The employee and the trustee (who must be a bank or other qualified person) must guard against the fund engaging in certain prohibited transactions. These plans may not purchase life insurance, but certain endowment type contracts to the extent of their non-life insurance elements are permissible investments.

CONTRIBUTIONS FOR THE SELF-EMPLOYED

The present contribution limits to self-employed (H.R. 10) plans is increased from $2,500 to $7,500 (or 15% of earned income if less).

LIMITATIONS ON BENEFITS AND CONTRIBUTIONS

Pension, profit-sharing, 403(b) annuity, self-employed, and all other tax qualified plans are now subject to certain overall benefit and contribution restrictions. Generally, a pension plan may not provide benefits greater than $75,000 per annum. Contributions on behalf of an individual to a profit-sharing or other defined contribution plan is limited to the lesser of $25,000 or 25% of compensation. All plans of the employer are combined for the purpose of testing the limitations. A lower limit equivalent to 140% of the limit under one plan is applicable when an individual is a member of both a defined benefit and defined contribution plan. The above dollar limitations are to be increased with the cost of living.

ENFORCEMENT

Criminal sanctions may be imposed on persons who willfully violate the reporting and disclosure provisions of the Act or who use coercive force to interfere with employee rights under the Act.

Violations of the funding standards and prohibited transaction rules may result in the imposition of excise tax penalties. A plan may also be disqualified if it does not meet certain other requirements of the Internal Revenue Code.

In addition to the above, the Secretary of Labor or any participant or beneficiary may bring a civil action to enjoin any act which violates any provision of Title I and to recover denied benefits. Dollar assessments and the removal of fiduciaries are but two examples of the types of penalties that may result from such civil actions.

EFFECTIVE DATES

Participation and vesting:

New plans, plan year beginning after enactment.

Existing plans, plan year beginning after 12/31/75.

Accrual of certain supplementary benefits may be deferred until expiration of contract but not later than 12/31/80.

Funding:

New plans, plan year beginning after enactment.

Existing plans, plan year beginning after 12/31/75.

Collectively bargained plans, at expiration of contract but not later than 12/31/80.

Reporting and Disclosures: 1/1/75, but Labor Secretary to issue regulations immediately.

Fiduciary Standards: 1/1/75.

Termination Insurance:

Single employer plans—

Benefits to be paid for plans terminated after 6/30/74.

Employer liability and other provisions, on enactment.

Multi-employer plans 1/1/78, but Secretary may use discretionary authority to pay benefits before then.

Pre-emption of State Laws: 1/1/75.

Individual Retirement Accounts: 1/1/75.

Limitation on Benefits and Contributions: Plan years beginning 1/1/76.

JONES PRAISES TULSA "RIVER PARKS FESTIVAL"

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. JONES of Oklahoma. Mr. Speaker, just a little over a week ago, the Tulsa Metropolitan Jaycees and radio station KAKC jointly sponsored the first River Parks Festival for residents of our Tulsa area. Over 150 attractions, including arts and crafts booths, fireworks displays, art exhibits, and amusement centers were available to the public without admission charge in order to promote community interest in recreational development along the Arkansas River in Tulsa.

Nationally known NBC Today show host Jim Hartz, a native Tulsan, was on hand to help kick off the festival by crowning Lisa Tibey as "Miss Tulsa River Parks." Miss Tibey received a $1,000 scholarship from the National Bank of Tulsa, and will compete in the Miss Oklahoma pageant next year.

The riverbank site for the festival has in the past been the scene of heavy flooding, and is relatively undeveloped. The Tulsa Jaycees, however, have recognized the new recreational potential of the once flood-prone area, and are working to draw community support for future development of the riverbank. Through the planning efforts of the jaycees, and the promotional attention created by KAKC, the River Parks Festival was able to draw over 150,000 Tulsa area residents during the 3-day celebration.

Without the tireless efforts of the Jaycees and KAKC, the festival could never have been so successful in drawing public attention to the river parks area, and generating community support for its future development. Countless members of the jaycees and employees of KAKC participated in the planning for the festival, but I would like to call particular attention, and offer my congratulations for a job well done, to the following individuals whose help made the festival such an overall success:

Fred Mendoza, Michael Wise, Terry Young, Carl Mark, Gary Stevens, Guy Brannon, Michael McCarthy and Carlie Derick. All of these men and many more persons made this first Tulsa River Parks Festival an exciting success.

A TRIBUTE TO BELEN ZAYAS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. BIAGGI. Mr. Speaker, when she appeared at Radcliffe for an admissions interview, she was told she "had no business applying to a school like Radcliffe." Now, after maintaining an average high enough to remain on the dean's list every semester, Belen Zayas, is the first "working class, New York Puerto Rican" ever to complete the course of undergraduate studies at Harvard University.

Her obstacles were multifarious. A product of the overcrowded South Bronx public schools, she was grossly unprepared for college. She mothered a child at 14, which she is still raising. She enjoyed little encouragement from the professors and admisisons officers at Harvard and Radcliffe. Yet despite the seemingly insurmountable difficulties she succeeded.

The article below, which appeared in the Harvard Crimson, details her difficulties and eventual triumph. The story seems almost to be a fairy tale, but it is a monument to Belen Zayas' determination and spirit. It points out the sometimes forgotten fact that given the opportunity to display and utilize their abilities, the disadvantaged can and do porduce incredible results.

The article follows:

Belen Zayas: Honors With Honor

(By Jo Ana Sanchez)

". . . But one day the smog lifted
The City and the Country smiled at each other
And so did we
The Mariachi met the Mambo
And so did we
And like the frozen snow in spring
We melted
And like the warm winds of summer
We were gentle And no matter how the main falls
And if time stops dead in its tracks tomorrow
I will praise the gods for your existence
I will dance to your rhythms
Even as the sun grows cold
And I am not lonely anymore."

—*AVOTCJA*

In September 1971, I watched a documentary, "Salt of the Earth," about a successful mine workers strike in New Mexico led by the miner's Chicana wives. Being Chicano myself and knowing the film is banned in my home state, New Mexico, I was profoundly affected. The impact of observing those women overcome their exploitative circumstances was enhanced by meeting, that same night, a woman possessing the same strengths and experiences of poor Chicanas in the Southwest. The only difference was that she was Puerto Rican and from New York City.

The woman I met that night is Belen Zayas, a "Newyorrican" from the South Bronx, whose mother had suffered the ultimate in women's exploitation; and whose father had been imprisoned for years. Zayas, who at 14 mothered a son, is a high school dropout who scored below the national average on her Scholastic Aptitude Tests. Thus, some would readily say that Zayas had the perfect criterion—economically, socially and academically—to ensure her rejection from Harvard University. But Belen Zayas is an honors candidate in the Radcliffe class of 1974.

Because of Zayas, my past three years at Radcliffe will always be treasured; not for our discovery that much of what was taught as "VERITAS" was revealed to be "mientiritas" (Chicano word: "lies"); nor for our feelings of existential isolation in the midst of thousands of brilliant minds. They will not be endeared for anger experienced while listening to wealthy students with patches on their jeans complaining about the variety of cafeteria food—as I envisioned my tired parents eating frijoles, chile, y tortillas as usual.

The treasure will be recollection of Belen in class, boldly contesting ideas about behavior and intelligence which so many have swallowed "summa cum laude"—because they have never seen; because they have never been "the studied." Radcliffe years will be remembered for knowledge we shared about fascinating linguistical and cultural similarities and differences about extended Spanish-speaking families on the east and west coasts.

But more significantly, Cambridge years will be valued: for our laughter as we learned to do our people's dances; for what Belen taught me about Don Pedro Albizu Campos as I gave her my account of Emiliano Zapata; because she fed me "rice and beans" when I was home sick for "beans and chili"; and because Belen was the sister, 2500 miles from my home, who understood the dilemma of being born an American citizen yet experiencing the confusion of a recently arrived foreigner.

At 29, Zayas will be the first working-class New York Puerto Rican ever to complete an undergraduate program at Harvard. But her accomplishment has only been through arduous struggle against obstacles imposed by arrogant administrators, faculty and students. The first in a series of battles was admission to Radcliffe.

When Zayas sought admission to Radcliffe, there was no "Newyorrican" undergraduates. Belen recalls that, during the admissions interview, she was told she had "no business applying to a school like Radcliffe and was asked how she could dream of being admitted." Furthermore, she was refused an application form by the interviewer, who is still an admissions officer.

Radcliffe made Zayas their one Newyorrican admittance for that year, but only provisionally—the provision being completion of two summer courses with honor grades. Although many were skeptical about how she would perform, Belen diligently worked to earn the honor marks. She has since been on the Dean's List every semester.

Zayas has often found herself spending much more time on assignments than others in her classes. Still, she has noted her own progress: "A question on my first assignment was 'Analyze the theoretical discrepancies of the following. . . .' I started by getting my dictionary to find out what 'analyze' and 'discrepancies' mean. Now after three years, I can write a paper without going through 100 mental changes!"

Although many helped and befriended Zayas, some instructors did little to encourage her. One faculty member, whom she sought to sponsor her honors thesis, cynically stated that she should not bother writing one, because he told her she would get into graduate school just as she had been admitted to Radcliffe—as a minority.

Zayas' fourteen-year-old son is an added responsibility which she takes very seriously. She spends much of her time with him at meals, studying, and parties if he chooses to go along. Few undergraduates have had to undertake the job of full-time parent in addition to full-time student.

Zayas has other involvements including dedicated recruitment of Puerto Ricans to come to Harvard. Her work has helped increase the numbers of New York Puerto Ricans from one to twelve (still a deplorable admissions figure). In the Boston Spanish-speaking community her application of clinical psychology skills has helped many families. Her dynamic input into the Jamaica Plain Community Mental Health Outreach Program resulted in several needed revisions.

In Harvard history, Zayas is unique. She is special to many who have grown to respect her disciplined and undaunted approach to an awesome task. She is loved by those who know her unrelenting humanitarianism. And justifiably, I could use more superlatives to describe her; however, an injustice would be to portray Zayas as a superhuman individual. There are thousands of potential Belen Zayases—if Harvard and similar institutions admit them.

In her struggle, Zayas represents many others: older persons seeking the dignity of being considered equally with younger people; members of oppressed minority groups; women who have endured sub-human exploitation; and masses who have experienced the atrocities of poverty. Her success clearly shows that given the opportunity and proper guidance, others who, like Belen, might appear to have "no business applying to a school like Radcliffe," can make it through with honors.

It is imperative for admissions personnel to understand that the single most important factor for determining the ability of any applicant to complete an academic program is character strength. No achievement surpasses the boldness of wanting to try "the impossible." No quality is more desirable than fortitude acquired by surmounting hardships far greater than the pressure of exams.

INTERNATIONAL POLICE ACADEMY

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. WON PAT. Mr. Speaker, I am deeply concerned over the proposed amendment to the Foreign Assistance Act of 1974 which would in effect destroy the training program of law enforcement officers sponsored by the International Police Academy.

I am referring to Senate amendment No. 1511 to S. 3894, prohibiting police training in this country, under the Foreign Assistance Act of 1974 now being considered by our sister body, the U.S. Senate.

Notwithstanding the misgivings about the alleged activities of some of its graduates, the International Police Academy, IPA, under AID has performed some meaningful contributions toward projecting our national influence, particularly in the development of professional law enforcement officers in developing countries.

I am also aware of the significant assistance rendered by IPA to our offshore territories and possessions in the upgrading of their public safety programs and personnel. IPA graduates are now serving as responsible police officials in American Samoa, the Virgin Islands, the Trust Territory and Guam, and at the present time two AID police advisers are assisting the Department of Public Safety in Guam. It is in the area of training that IPA has performed an invaluable service to our territories whose limited resources would not otherwise permit the establishment of quality police training comparable to IPA.

While this attitude may appear to be local or provincial in outlook that are also the overpowering reasons of national prestige as well as valuable support to our foreign policy efforts. Besides the purely police assistance character of the International Police Academy, there is also the aspect of our national influence abroad. I cannot think of a better medium through which to protect our influence abroad than through the officials of developing nations entrusted with the protection of life and property of their respective countries. Moreover, in this era of international travel and adventure, many of our citizens are visiting unknown territories, and it is a wise investment for us to have some input in areas in which our citizenry will most likely have their initial encounter with foreigners—the police.

In this respect, international criminal activity such as hijacking of air carriers, drug abuse, and terrorism has become a common problem in the international community. It is in this area that IPA is making a substantial contribution to international public safety.

In a recent Washington Report of the American Security Council, dated August 20, 1974, Lorin J. Goin, Director of the Office of Public Safety, stated:

> The problem with international criminality or terrorism, in this case, is one the solution for which must be shared by more than one nation. If the United States has the ability to assist a foreign nation deal with a problem, the impact of which rests on the United States' shoulders also, then the U.S. should be prepared to help it.

Mr. Goin in another Washington Report dated August 12, 1974, declared:

> From its inception, the Office of Public Safety, or let's refer to it as Police Assistance Programs of the United States, have attempted to develop a civil police institution in foreign countries which are initiated at their request, that can be responsive to the needs of the people for services—services in the way of protection of life and property,

and the protection of individual freedoms. The doctrine of Police Assistance Programs has been effective in changing the way the policeman sees himself. We emphasize that the policeman becomes an asset to the community where he executes his responsibility in a way that is acceptable to the people.

It is important to note that the fundamental tenet of the Police Academy is to instill in the trainees a sense of respect for individual freedom, duty to the community, and, above all, that the raison d'etre of a police organization is to serve the people and community and not vice versa.

Thus, it is readily apparent, Mr. Speaker, that the IPA sponsored training program does contribute significantly to the maintenance of law and order and it is to our best national interest that this program continue and not be interrupted by a misguided fear of alleged police abuses.

In this connection, the rationale or thrust of the arguments against AID's public safety assistance program activities and for the termination of the IPA was based on the mistaken belief that the International Police Academy is engaged in the training of police officers to overthrow legally established foreign governments. Nothing could be farther from the truth. The fact of the matter, Mr. Speaker, is that there has never been a single coup d'etat planned, initiated, or perpetrated by police organizations. Invariably, and perhaps ironically, police organizations are summoned to reestablish law and order only after they have been presented with a fait accompli. Thus, the allegation that police departments are engaged in insurgent activities against legally constituted governments is without historic foundation.

The fact that the IPA program is an effective policy instrument is undeniable. For it is well known that no country can be secure, no political organization can be stable, and no economic progress can be achieved in an environment where law and order does not prevail. It is precisely in the area of training those responsible for the maintenance of law and order in their country and the respect for individual rights and responsibility toward the community that IPA has made its greatest contribution. The minimum we can give to IPA is our continued support and blessings in the interest of our country and its allies.

THE SOARING RATE OF INFLATION

HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. VEYSEY. Mr. Speaker, for the past few weeks the attention of the Nation has been directed to the soaring rate of inflation. Food and energy costs have skyrocketed. Almost everyone is aware of the huge increases in these commodities, but there is another area in which the increases have been much greater. According to a recent television documentary, the cost of a college education has been increasing faster than food or any other single item.

While it may be true that a college degree has been overemphasized at the expense of vocational education, the fact remains that the middle income families that bear the lion's share of the tax burden find themselves the most disadvantaged in the pursuit of an education for their children.

In America today, the very rich can afford to pay the costs, and the children of the very poor as well as the very brilliant student can easily obtain financial aid. Students from middle income families are often caught in a squeeze. Their parents earn too much to qualify for financial aid based on need and make too little to simply absorb the enormous cost of an education.

In recognition of this situation, the United Bank of California has adopted a program which I believe has tremendous merit. It could serve as a guide for other firms and corporations that recognize the need to be involved in making their communities a better place to live.

UCB has established a scholarship and work-study program, SWAP. It is a pilot program of educational aid to students enrolled for the final 2 years of education in a private college or university. UCB will provide each student with a half-tuition scholarship grant, quarter-tuition loan, and an offer of part-time employment opportunities by which living expenses and the remaining portion of the tuition can be earned.

SWAP represents, to my knowledge, the first effort on the part of any American institution to provide a workable formula by which the financial aid needs of middle-income students can be met.

The work experience of the SWAP program is designed to give each student an indepth orientation to a full range of commercial banking. During the 2-year term much of the training received in the work-study program will parallel the program undertaken by bank management trainees. Following the completion of the program there are no obligations to be fulfilled by the student.

The program is operating on a pilot program basis for 1974 with three colleges, Moorpark, Ventura County; Occidental, Los Angeles; and Stanford University, Palo Alto; selecting a student to participate.

Mr. Speaker, this program represents a pioneering effort on a new frontier. It is only the beginning. If the entire business community addresses itself to this problem many of the financial barriers to a college education will fall by the wayside. I personally feel that the directors of the United California Bank deserve our commendations for this outstanding program. We concur with their goals, and we wish them success in this venture. We hope that many other companies that have prospered under our free enterprise system will accept the same community responsibility that motivated the directors of UCB to institute this fine program.

A letter and material regarding SWAP follows:

United California Bank,
Los Angeles, Calif., August 6, 1974.

Hon. Victor V. Veysey,
House of Representatives, House Office Building, Washington, D.C.

Dear Representative Veysey: I am delighted to be able to inform you that UCB has developed an innovative program designed to provide direct educational aid to California students from inflation-pressed, middle-income families.

I know the problem of financing educations is not a new one; public men and women at all levels have been grappling with it in one way or another for many years. It has long been on center stage at countless government hearings and markups. What is new, however, is the fact that the UCB–SWAP program is—

To the best of our knowledge, the *first* such effort on the part of any American institution, public or private, directly targeting the problem as is relates to the children of middle America;

A most unusual amalgam of work and study opportunities, providing promising youngsters with education at once practical and theoretical; and

Expressive of one commercial bank's commitment to do its part by assuring educational opportunity for the talented and determined young by combining direct aid, credit and earned income.

We, naturally, recognize the inherent limitations of our program. By definition it can only be large enough to be of aid to but a handful of California students. But its value rests, we believe, not in the enormity of its application, but in acting as a catalyst. Hopefully, it may spur other institutions to undertake comparable efforts and those, added to SWAP, could join to have a remarkable and significant effect on American education.

I hope you will find the enclosed explanation of UCB–SWAP of interest.

With all good wishes.

Sincerely,

Gary D. Avery.

Explanation of SWAP

The Scholarship and Work-study Assistance Program (SWAP) is a pilot program of educational aid. Under this innovative project, United California Bank will provide the major share of tuition costs for middle-income community college transfer students completing the last two years of their undergraduate education at a private California college or university.

UCB will provide each student with a half-tuition scholarship grant, quarter-tuition loan, and offer part-time employment opportunities by which the remaining portion of the tuition can be earned as well as living expenses.

WHY IS SWAP IMPORTANT?

It represents, to our knowledge, the first comprehensive effort on the part of any American institution, public or private, to provide a workable formula by which the financial-aid needs of middle-income students can be met.

The cost of a college education is going up faster than any other item in the family budget, even food, according to a recent television documentary on higher education. Here in California the tuition at one private school has skyrocketed 180 percent in ten years. According to Business Week, the average annual tuition cost at a private college is $3,159; for public schools it is $1,513.

Middle-income students are often caught in a squeeze; their parents earning too much to qualify for most financial aid based on need, while making too little to simply absorb this enormous educational cost. As a result, they either take out huge loans or forgo higher education altogether. One educator has described the situation thusly: "Circumstances today threaten to bring about a situation in which higher education will become limited to the very rich, the very brilliant, and the very poor."

Thus, SWAP represents a pioneering effort on a tough new frontier.

HOW MUCH AID CAN STUDENTS EXPECT?

UCB will provide $20,000 in grants, $10,000 in loans and $45,000 in salaries over the life of the program. Scholars will receive an average of $6,250 a year from this combination.

HOW LONG WILL THE PROGRAM LAST? HOW MANY STUDENTS ARE INVOLVED?

The pilot phase of this program will be staggered over three years: three students entering the first year, three more the second year. Each group of three students should take two years to graduate. The program began in the summer of 1974.

WHAT SCHOOLS ARE INVOLVED? HOW ARE STUDENTS SELECTED?

Moorpark College, a community college in Ventura County, will be contributing one student to the program for each of the first two years. Students can apply through the Moorpark Financial Aid Office. Occidental College in Los Angeles and Stanford University in Palo Alto will have one of their entering transfer students selected for the first year. Applicants will be screened by the school's financial aid office and final selection will be made by a committee made up of educators and bank personnel. Two other private colleges will be named in the fall of 1974 to have one of their fall, 1975 entering students selected.

WHAT ARE THE CRITERIA FOR SELECTION?

Candidates for SWAP must:

Have been accepted to a private California college

Be receiving not more than $500 in education assistance from sources other than family

Have a demonstrated aptitude for a business career

Be a citizen or permanent resident of the United States

Be from a family having a net income of between $8,000 and $30,000 per year, depending on family size.

WHAT OBLIGATIONS ARE THERE FOR STUDENTS ONCE THEY GRADUATE?

None. However, if a student is happy with UCB and wants to remain with the bank and if the student's work performance and scholastic achievement is satisfactory, an opportunity for career employment may be offered.

HOW DO YOU DEFINE MIDDLE INCOME?

Working with financial aid officers from California colleges and universities, the following stair-stepped definition has been developed and is used flexibly: A net income between $8,000 and $25,000 if a family of four or less; between $9,000 and $26,000, if a family of five; between $10,000 and $28,000, if a family of six; between $11,000 and $29,000, if a family of seven; between $12,000 and $30,000, if a family of eight or more.

WHAT SORT OF DUTIES WILL THE STUDENTS HAVE AT WORK?

The work-experience portion of the SWAP program is designed to give each student an in-depth orientation to the full range of commercial banking operations. Over the course of their two-year employment each student will assist in teller positions, new accounts, check-proofing, loan and collections, and many other operations. In some ways their work experience will be comparable in part to that undertaken by our bank management trainees.

IS THIS THE ONLY UCB EDUCATIONAL AID PROGRAM?

No. While embarking on this new effort to aid the middle-income student, UCB has not forgotten its commitment to the low-income student. Currently UCB assists some 44 low-income high school and college students in obtaining work experience and/or a college education. By the fall of 1974 this number will increase to 49. Of these, 20 will be receiving scholarships to attend the college of their choice.

Moreover, UCB participates in a number of scholarship and fellowship programs, both graduate and undergraduate, aimed at assisting disadvantaged students.

For further information: United California Bank, Office of Public Affairs, 707 Wilshire Blvd., Los Angeles, CA 90017, (213) 614-3420.

PEACE IN NORTHERN IRELAND

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. GILMAN. Mr. Speaker, on August 22 I introduced House Joint Resolution 1116, a resolution calling for peace in Northern Ireland and the establishment of a United Ireland.

The unfortunate confrontation which is bringing continuing misery and fear to the citizens of Northern Ireland is a long term problem with century-old roots. With daily bloodshed and torment, the sporadic outbreaks of violence of recent years are becoming almost a way of life for the citizens of Northern Ireland.

Many citizens of the United States, of all faiths and political persuasions, are extremely concerned over Ireland's prolonged strife. Many are outraged by the fact that weapons used in this confrontation by the "peacekeeping" teams of British soldiers are manufactured here in our own Nation. Many of our citizens share my concern that British soldiers are being trained for duty in Northern Ireland on our soil.

While our Nation may not be a first party in negotiating a lasting settlement in Northern Ireland, we most certainly can and should do our utmost in ending the violence and bitterness.

Accordingly, the resolution I have introduced, joined by my colleague from New York (Mr. WOLFF) requests our President to call upon the United Nations to seek, as a high priority, a settlement of the question of unification of Ireland, making certain that the people of all Ireland have the opportunity to democratically resolve this question.

This resolution calls upon our Nation to discontinue any military aid and training programs with the United Kingdom of Great Britain which are related to the suppression of the minority in Northern Ireland and calls upon our Nation to embargo the exportation of all weapons to Great Britain which are related to the suppression of that minority.

I am hopeful that the introduction of this resolution will help in promoting congressional interest in the critical problems of this region. It is my understanding that the Subcommittee on Europe of the House Foreign Affairs Committee intends to schedule hearings on the confrontation in Northern Ireland sometime early in 1975. I welcome this as a first and long overdue step toward resolution of this problem and I urge my colleagues to join in sponsoring House Joint Resolution 1116 so that we can effectively demonstrate our joint concern at the time of these hearings.

Mr. Speaker, I include the full text of my bill in this portion of the RECORD:

H.J. RES. 1116

Joint resolution calling for peace in Northern Ireland and the establishment of a United Ireland

Whereas the continuing strife in Northern Ireland is a cause of deep concern to Americans of all faiths and political persuasions; and

Whereas the nation of Ireland has been partitioned against the wishes of the majority of the Irish people; and

Whereas the Governments of the United Kingdom and of Northern Ireland have failed to end the bloodshed and have failed to establish measures to meet the legitimate grievances of the minority in Northern Ireland; and

Whereas our Nation's relationship with the Government of the United Kingdom of Great Britain has been supportive; and

Whereas reports have indicated that the United Kingdom of Great Britain has been purchasing military supplies and equipment from the United States for use in Northern Ireland, and

Whereas after hundreds of years of bitter confrontation, hopes for a lasting peace in Northern Ireland remain dim: Now, therefore, be it

Resolved, That the House of Representatives and the Senate of the United States of America in Congress assembled, urge the President of the United States to direct the representative of the United States to the United Nations to call upon that body to request the settlement of the question of the unification of Ireland and that the people of Northern Ireland have a free opportunity to express their will for union and that this be attained by an election of the people of all Ireland, north and south, under the auspices of a United Nations Commission for Ireland, to be designated by the General Assembly pursuant to articles 11 and 35 of the charter, which shall establish the terms and conditions of such election.

Further it be resolved by the House of Representatives and the Senate assembled that the United States of America shall discontinue all military aid and training programs with the United Kingdom of Great Britain which are related to the suppression of the minority in Northern Ireland and which are not directly related to North Atlantic Treaty Organization commitments and that the United States of America shall embargo the exportation of all weapons and ammunition to the United Kingdom of Great Britain which are related to the suppression of the minority in Northern Ireland and which are not exclusively reserved for North Atlantic Treaty Organization usage.

MR. NIXON SHOULD RECEIVE NO FEDERAL SUBSIDIES

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. DRINAN. Mr. Speaker, I attach herewith a perceptive editorial from the Boston Globe of September 4, 1974.

This editorial points out that "subsidies for Mr. Nixon" seem to be contrary to justice and the law.

It is most significant to point out that the relevant statutes of 1958 and 1963 assume that the retiring President in question has, in fact, served his country honorably. The law expressly excludes a President who has been impeached and removed from office pursuant to the Constitution.

The framers of these laws never anticipated that a President would resign under pressure because of the virtually certain expectation of impeachment. As a result, the authors of the statutes did not provide for this contingency. It seems clear that subsidies for Mr. Nixon could arguably be held to be against the letter and the spirit of the applicable laws.

At this time, I would feel obliged to vote against any appropriation that would give any pension or other subsidy to Mr. Nixon. I see no reason why he should get the $60,000 annual pension or the $90,000 per year for office expenses. The so-called "transitional expenses" are even more indefensible and objectionable under the circumstances.

The inappropriateness of the subsidies for Mr. Nixon is made even more clear by the pardon granted to Mr. Nixon by President Ford on September 8, 1974. A White House counsel has conceded that the acceptance of this Presidential pardon can be viewed as an admission of guilt.

Any move to repeal the applicable statutes relating to Mr. Nixon would undoubtedly provoke charges of partisanship. At this particular time I do not expect to so move, but I do expect to vote against any and all appropriations which contain any subsidy for Richard Nixon.

The Globe editorial follows:

[From the Boston Globe, Sept. 4, 1974]

SUBSIDIES FOR MR. NIXON

As President, Richard M. Nixon established himself as a leading advocate of the work ethic and opponent of public largess for the idle. Now, as a private citizen, Mr. Nixon logically should wean himself from the public treasuries that have supported him for much of his life.

If Congress grants in full the request of the General Services Administration, Mr. Nixon will receive $850,000 from the Federal till to spend over the next 10 months. The larger portion of $450,000 is requested under a 1963 act designed to permit the transition of Presidents in an election year "to be concluded in an orderly manner."

Ironically, a matching sum of $450,000 under the 1963 Presidential Transition Act will not be offered to President Ford because there is no transition period prior to his taking office.

The balance of $400,000 is requested under the Former Presidents Act of 1958. This entitles the former President to an annual pension of $60,000 and $96,000 each year for his personal staff.

But surely it must puzzle American taxpayers why Mr. Nixon should also be granted an additional $249,000 to pay for such outlays as "travel" and "furnishings." More curiously, the sum includes a request for $100,000 for just "miscellaneous" expenses.

Mr. Nixon's new attorney, Dean S. Butler, has attempted to depict him as a pauper, saying that it isn't too much of an exaggeration to say Mr. Nixon is broke but adding, "We won't say he's broke in the sense of you and I being broke."

The remark implies that somehow Americans must apply a different standard to Mr. Nixon than to other citizens. A generous nation has already suffered from such differentiation during Mr. Nixon's tenure as President. US taxpayers footed $17 million for bills in connection with Mr. Nixon's use of his private estates in Key Biscayne, Fla. and San Clemente, Calif., the funds paid for a new heating system, landscaping, gardening and other outlays of dubious relation to a public purpose.

In fact, Mr. Nixon listed his net worth in 1972 at $765,118. And he stands to earn hundreds of thousands of dollars, some estimate millions, from the likely sale of his memoirs.

Ordinarily, it would seem almost petty to quibble about a few thousand dollars in the request for retirement funds from a former President. But Mr. Nixon is seeking a considerable public subsidy this year; in years to come he will submit further requests.

The time has arrived to begin to treat Mr. Nixon like the citizen he has become. President Ford has called upon the Congress to cut the Federal budget this year as an anti-inflatonary measure. The Congress might begin with the inflated proposal of $850,000 for Mr. Nixon's welfare.

THE PATIENT'S CONDITION WAS LISTED AS CRITICAL

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. KOCH. Mr. Speaker, the Congress is considering comprehensive health legislation. There have been many complaints concerning the quality of medical care in this country and even more complaints relating to its cost. I would like to bring to the attention of our colleagues correspondence that I have had involving one aspect of care; namely, the patient-physician relationship, and in this case the nonavailability of a physician at a particularly trying moment for the patient and his family. The correspondence follows:

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., June 26, 1974.

MEDICAL SOCIETY OF THE COUNTY OF NEW YORK,
New York, N.Y.

GENTLEMEN: I should appreciate having your comments on the doctor's handling of the following case:

On Saturday evening, June 22, at about midnight, a 79 year old man was seized at home with breathing difficulties and taken by taxi by his wife to a municipal hospital. On Admission he was placed in the intensive coronary care unit of the hospital and his condition was listed by the hospital as "critical." The family was advised by the hospital physician that the patient was suffering from heart fibrillations.

The patient's wife attempted to reach his regular physician (physician A); she was told that he was not available for the weekend but that another physician (physician B) was covering for him. She contacted physician B and explained what had occurred. The following morning at about 9 am (Sunday), the son of the patient visited the hospital and when he inquired of the attending hospital staff as to whether the patient's doctor had visited him, was told that doctor B had not visited the patient but had spoken with the hospital staff physician on the telephone and provided instructions.

The son then called physician B and asked whether the physician would be examining the patient that day. Physician B responded, "No." No visit was contemplated until Monday because the patient's condition was reported as stable. The patient's son stated that he did not want his father treated by telephone and asked that the physician examine his father that day. Physician B declined to do so saying the visit would not take place until Monday unless there was a change for the worse. The son asked to be given the telephone number of physician A, the patient's regular doctor, and was told that physician A was on a brief vacation, and would not return until Monday and was not available by phone. The son requested again that physician B visit his father that day. Physician B declined.

My question is whether the American Medical Association now considers it acceptable or sound medical practice for a physician responsible for a patient, to diagnose and prescribe over the telephone in the situation above described? Furthermore, does the AMA's code of conduct approve a physician's refusal of a family member's request that the physician come to the hospital and physically examine a patient within 12 hours of his admittance to the hospital's intensive care unit?

In recent years we all have read about the increasing rarity of the home visit by the family doctor. Surely this is a phenomenon which the AMA has taken under consideration. The question which the above case brings to mind is whether we are now entering an era in which the hospital visit by a private physician is to become a rarity. Is this what American medical practice is coming to—and if so, what is the AMA's position and response to it?

Sincerely,

EDWARD I. KOCH.

THE MEDICAL SOCIETY OF THE
COUNTY OF NEW YORK,
New York, N.Y., July 25, 1974.

Hon. EDWARD I. KOCH,
New York, N.Y.

DEAR CONGRESSMAN KOCH: Please excuse our delay in acknowledging receipt of your letter of June 26, 1974, outlining a complaint against a physician and posing a number of questions about medical ethics.

The committees of this Society have all adjourned for the summer and will not meet again until October. Please be assured, however, that your complaint will be brought to the attention of the proper committee at that time.

Prior to that time, we would very much appreciate if you would send us the names of the physicians involved in this case so that we can determine whether or not they are members of this organization, and if they are not, to refer your letter to the proper county medical society of which they are members.

Sincerely yours,

RUTH G. ALTMAN,
Administrative Assistant.

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 6, 1974.

RUTH ALTMAN,
Administrative Assistant, Medical Society of the County of New York, New York, N.Y.

DEAR MS. ALTMAN: I have your letter of July 25th. I intentionally omitted the names of the physicians and patient involved because I believe the basic question relating to the kind of medical service provided transcends this single case.

The Congress is now considering comprehensive national health insurance legislation and I would like to be in a position in my statements on that legislation to discuss the views of physicians concerning this particular aspect of the doctor patient relationship. I would therefore be very appreciative if you would send copies of my letter to each member of the appropriate committee asking that they individually respond to me, providing me with the benefit of their views as soon as possible. I would regret your deferring this matter until October.

Sincerely,

EDWARD I. KOCH.

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., August 6, 1974.

(NOTE.—Following letter sent to each of the Medical Societies of the Counties of Bronx, Kings, Richmond, Queens.)

DEAR SIR: I am enclosing a statement of facts representing a real situation but purposely omitting the names and addresses of the physicians and patient. The question raised in that case with respect to the doctor/patient relationship transcends that individual matter.

Congress is now considering comprehensive national health insurance legislation and I would like to be in a position in my statements on that legislation to discuss the views of physicians concerning this particular aspect of the doctor/patient relationship.

I would appreciate your submitting to your appropriate committee, and if it is not now sitting because of the summer recess, then to its individual members, asking that they individually respond to the issue providing me with the benefit of their views as soon as possible.

Sincerely,

EDWARD I. KOCH.

There have been no replies other than the one interim response above set forth. And I think it will be of interest to our colleagues, Mr. Speaker, that I tell them that the patient, who happens to be my father, has fully recovered, is now in good health, and has returned to full-time employment. He is a wonderful man and I love him dearly.

When the replies are received from the respective medical societies, I will place them in the RECORD. While this case concerns my father, the implications transcend the individual involved.

GENERAL MIHAILOVICH AND THE CHETNIKS: JUSTICE FOR AN OLD ALLY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. CRANE. Mr. Speaker, often, in our pursuit of new goals and new relationships, we tend to overlook and forget those men and nations who have stood firmly on the side of freedom in the past. We tend, in addition, to abandon all memory of past injustices committed by our own country and our allies to those brave fighters against communism whom we have abandoned in order to accomplish ends we felt, at the time, to be more important.

Few events in our history are as unhappy to recall as our treatment of Gen. Draja Mihailovich and his Chetnik movement. In a recent column, John Chamberlain points out that—

> During the early days of World War II, the Western allies were dependent on the Yugoslav Gen. Draja Mihailovich and his Chetniks for pinning down the Nazis on the Balkan front. The U.S. tended to favor Mihailovich over the Communist Tito and his Partisans. Despite the U.S. preference, Winston Churchill, who had few qualms about walking his mile with the devil . . . thought Tito was a better bet than Mihailovich as a "soft underbelly" helpmate. With British help, the Communists were permitted to get away with the Big Lie in propagating the idea that Mihailovich was a "reactionary," indeed a Nazi collaborator.

The Chetnik movement, which would have saved Yugoslavia from communism as well as nazism was doomed by the allied action. Mr. Chamberlain writes that—

> After the war, the need to drive a wedge between the victorious Tito and the Stalinists in Moscow took preference in Washington over any policy of fairness to Mihailovich's memory.

The United States completely forgot the heroic role of Draja Mihailovich. In 1947, President Truman awarded the Legion of Merit to General Mihailovich posthumously for his help to the Allied cause. Yet, he did so with the proviso that the award would remain a classified secret until the "Truman Doctrine" would no longer be endangered by its becoming public.

During World War II, 500 U.S. airmen had been rescued by Mihailovich's Chetniks when their planes crashed in Yugoslav territory. Now, some 20 years later, as a result of the efforts of our colleague, Representative EDWARD DERWINSKI, the news has been released of President Truman's bestowal of the posthumous Legion of Merit. The U.S. airmen who had been rescued by the Chetniks have organized a national committee and propose to build a memorial to General Mihailovich in Washington, D.C.

John Chamberlain, writing in Chicago Today of August 28, 1974, states that—

> The time for justice has come; after some 30 years there is no point concealing the skulduggery and ingratitude that marred our victory in World War II.

I wish to share with my colleagues John Chamberlain's important column, and insert it into the RECORD at this time.

JUSTICE FOR AN OLD ALLY

For one reason or another, governments are never very grateful. During the early days of World War II, the Western allies were dependent on the Yugoslav Gen. Draja Mihailovich and his Chetniks for pinning down Nazis on the Balkan front. The U.S. tended to favor Mihailovich over the Communist Tito and his Partisans, who were also conducting an underground resistance.

Despite the U.S. preference, Winston Churchill, who had few qualms about walking his mile with the devil when it came to saving the British Empire, thought Tito was a better bet than Mihailovich as a "soft underbelly" helpmate in pushing the war in Southeast Europe against Hitler. With British help, the Communists were permitted to get away with the Big Lie in propagating the idea that Mihailovich was a "reactionary," indeed a Nazi collaborator. So the Chetnik movement, which would have saved Yugoslavia from communism as well as nazism, was doomed.

After the war, the need to drive a wedge between the victorious Tito and the Stalinists in Moscow took preference in Washington over any policy of fairness to Mihailovich's memory. The "Truman Doctrine" would have been vastly imperiled in neighboring Greece if Tito had not broken with the Kremlin. But Harry Truman, despite his enforced commitment to a distasteful realpolitik, couldn't be totally ungrateful. In 1947 Truman awarded the Legion of Merit posthumously to General Mihailovich for his help to the Allied cause. He did so with the proviso that the award would remain a classified secret until such time as the "Truman Doctrine" would no longer be endangered by the relevation that the U.S. still stood by the memory of Mihailovich as a dedicated anti-Nazi who had to be sacrificed to political expediency.

Truman's gratitude had a specific as well as a general reference. While the war was on, some 500 U.S. airmen had been rescued by Mihailovich's Chetniks when their planes crashed in Yugoslav territory. The problem was how to get them back to Italy. The British, who were breaking with Mihailovich, were not in a position to be helpful; they were afraid that if there were a renewal of American representation at Mihailovich's headquarters Tito would consider it an evidence of double-dealing. To get around the diplomatic impasse, the U.S. 15th Air Force headquarters created their own "authority"—the Air Crew Rescue Unit. And so, without any formal blessing, the stage was set for the dispatch of three Americans by airdrop into Chetnik-held territory.

Led by Lt. George "Guv" Musulin, a 250-pound ex-pro-football player, the Americans made contact with the Chetniks and helped prepare a 775-yard-long airstrip on a natural plateau to bring in C-47 rescue planes. Three hundred peasants hauled the gravel for fill, refusing to take a cent for their work. Within a few hours some 250 American airmen, including 26 who were sick or wounded, had been lifted back to safety. Other rescue missions followed, forcing the Titosis, as represented by Louis Adamic's South Slav Bulletin, to admit that "Nazi Chetniks" had been "forced" to release "some" Allied aviators.

It took some 20 years for Congressman Edward J. Derwinski, R-Ill., to compel the release of news about Truman's bestowal of the posthumous Legion of Merit on General Mihailovich. Said Richard Nixon, in a 20-years-after testimonial, "General Mihailovich was a patriot, a brave soldier and a gallant ally of the United States." The rescued airmen have not been content with a mere acknowledgement that, despite Tito and our need to keep Moscow from invading Yugoslavia as it invaded Hungary and Czechoslovakia, Mihailovich is now to be remembered as an ally. They have formed a National Committee of American Airmen Rescued by General Mihailovich, and they now propose to build a national memorial to the general in Washington as the "savior of American airmen."

A petition for enabling legislation is being drawn up, and a dozen of the rescued airmen have already signed it. One problem is to locate the full number of the airmen, who are dispersed throughout the U.S. Those who have not yet signed the petition are urged to get in touch with Congressman Derwinski's office on Capitol Hill. The time for justice has come; after some 30 years there is no point to concealing the skulduggery and ingratitude that marred our victory in World War II.

OLDER AMERICANS: WHAT WE CAN DO FOR THEM AND WHAT THEY CAN DO FOR US

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. MIZELL. Mr. Speaker, on several occasions in the 6 years I have served in this body, I have spoken of the need for this Government and the American society to pay more careful attention to our older citizens.

I say "older citizens" with some reluctance, because I think no one really likes to be thought of as being part of a large, anonymous group, and just because someone reaches the age of 60 or 65 or some other arbitrarily established age level, that person should not automatically be considered "old" any more than he should be automatically "put out to pasture."

I would remind my colleagues that the President of the United States is 61 years old, and he is strong as a horse and can move as fast as anyone in this Chamber. In fact, about half of this Chamber has in the last day or two been saying that the President is moving too fast on a few things.

I would further remind my colleagues that the Vice-President-designate is 66 years old, going on 35, and he is a man whose energy—not to mention his ambition—seems boundless.

And finally I would remind my colleagues that they have seen the changing of more than a few seasons themselves, and I wonder how many of us are really to call ourselves "senior citizens."

Of course, I have gotten used to it by now, because when I was pitching baseball, they were already calling me an old man before I was 30. So old age is, I think, a very relative thing, and I believe that while we should all respect our elders, we have no business being patronizing toward them.

But it is true that people who have reached the age when they want to retire, or may be forced to retire, have some special problems to cope with, and we have a responsibility to help them.

Four especially important areas with which we should be concerned are income, health, housing, and transportation.

INCOME

Income is central to the concerns of the elderly. Older Americans have, on the average, less than half the income of younger people, yet there is no substitute for an adequate income for people to lead decent lives with security and dignity.

Inflation strikes at the purchasing power of older Americans, just as it does the rest of us, and the impact of inflation is felt with special severity by older Americans.

Prices are rising faster than the relatively fixed incomes which most elderly people live on. Too many older Americans are being forced to cut back on necessities such as clothing, transportation and food, as the actual buying power of the incomes is eaten away by inflation.

We must not allow inflation to exact a toll of hardship, sacrifice and despair from the elderly. As prices go up, an elderly person's income should rise automatically with cost of living increases.

It is important that we have firm leadership on the economic front to slow price rises and achieve the goal of a balanced economy with reasonable price stability, moderate economic growth, and full employment.

The Government should encourage increased production and vigorous competition, educate and protect the consumer, and use an appropriate mix of fiscal and monetary policies to control demand and get its own spending under control.

SOCIAL SECURITY

Social security is the basic source of income for most retired workers and their families.

Older Americans who are covered by social security will receive improved benefits as a result of a number of major recent changes:

First. Congress has passed a two-step, 11-percent increase in social security benefits that has already taken effect.

Second. Older individuals under age 72 can now earn $2,400 a year instead of $2,100 a year and still receive the full social security benefits to which they are entitled.

Third. Beginning in June 1975, social security benefits will increase automatically to reflect increases in the cost of living.

But more improvements are needed:

Social security benefits should reflect the country's rising standard of living, as well as the cost of living.

Social security recipients under age 72 should be able to earn as much income as they can without forfeiting any of the benefits to which they are entitled, and I have introduced legislation that would do just that.

SUPPLEMENTAL SECURITY INCOME

Aged, as well as blind and disabled individuals, who are in financial need, became eligible for cash payments under the new supplemental security income program at the beginning of 1974.

This new program is a welcome step toward addressing the needs of millions of older Americans.

We must learn from the initial experience with the supplemental security income program and continue to make adjustments and improvements as they become necessary.

VETERANS' BENEFITS

Veterans' retirement and disability benefits provide an important source of income for older veterans and their families.

Congress passed a 10-percent increase in veterans' pensions near the end of 1973 that means a significant rise in income for veterans and their families.

Other recent veterans legislation widens the scope of treatment which VA hospitals may provide and expands medical services for veterans' dependents.

Congress also established a National Cemeteries System authorizing a special $150 burial plot allowance, in cases where veterans are not buried in a Federal cemetery.

In addition, I have introduced legislation to prevent increases in social security or Railroad Retirement benefits from lowering veterans' pension benefits.

RAILROAD RETIREMENT

New legislation, which I supported as it passed the House earlier today, provides that railroad employees with 30 years of service may retire at age 60 with full benefits, and that if social security benefits are further increased in 1974, railroad retirees will receive an automatic equivalent increase.

PENSION REFORM

After years of investigation and study, Congress this year enacted landmark legislation to improve private pension and protect the rights and retirement security of both working and retired Americans by setting equitable standards for emplayees' "vesting" rights, by requiring that all pension plans be run on a sound financial basis, by insuring pension plans against losses, and by allowing self-employed individuals without pension plan coverage to receive special tax deductions in order to set up their own retirement accounts.

EMPLOYMENT

Older Americans who want to work and are capable of working confront a number of employment barriers. Too many prospective employers make the false assumption that younger employees are more desirable than older ones. As a result, capable and productive older Americans are forced from their jobs or have trouble finding work that is meaningful and pay that is adequate.

Congress has passed manpower and training legislation that authorizes training, development and public service employment for elderly citizens and others needing employment assistance in areas with 6.5 percent unemployment or more.

For older Americans holding jobs, the minimum hourly wage was recently raised to $2, and minimum wage coverage was extended to 6.7 million additional individuals.

TAXATION

Taxes have a tremendous impact on the income of elderly Americans.

Not only are taxes too high for many older Americans, but studies show that approximately one-half of all elderly taxpayers pay more taxes than they should.

It is important, too, that we simplify the tax statements and calculations older Americans must make to claim rightful deductions, and I introduced legislation as early as 1972 to accomplish that goal.

HEALTH

Health problems are also a heavy burden for senior citizens.

Although, as I mentioned earlier, older Americans have less than half the income of younger Americans, they must pay almost three and a half times as much for their greater health care needs.

MEDICARE

Despite the major health care assistance medicare provides, coverage is often inadequate and too costly for many older Americans.

Supplementary medical insurance has risen from $36 to $75, while the hospital deductible has jumped to $84.

I have proposed legislation providing for a greatly expanded medical and health care system that would more nearly meet the needs of all our citizens, old and young alike. This "Medicredit" system I have proposed would be especially helpful to older citizens with lingering or catastrophic illnesses and the major expenses they entail.

NUTRITION

Proper nutrition is also basic to the health of elderly Americans, many of whom do not have the food they need, as their incomes are overwhelmed by rising food prices.

Congress has recently extended the food stamp program and authorized semiannual cost-of-living adjustments and has extended programs under the Older Americans Act that provide low-cost meals to elderly citizens.

We must see to it that every elderly American enjoys a nutritious diet at an affordable cost.

HOUSING

Housing is still another principal concern of older Americans.

Many elderly Americans do not have a safe, decent place to live at a cost they can afford.

Available housing is often limited, inconvenient, and unsuitable for the special transportation, recreation, and health needs of elderly Americans.

In the major housing and urban development bill enacted this year by Congress, an $800 million loan program was authorized for development of housing for the elderly and handicapped, and this should prove helpful in providing more and better housing for older Americans.

And in order to further improve housing for the elderly, we must enable older Americans to remain in their own homes, if they choose, make it easier for elderly Americans to buy homes, provide multi-unit housing for older Americans, increase production of federally assisted housing for the elderly, see that older Americans are protected against fraudulent and exploitative housing practices, and secure housing and neighborhoods for the elderly against crime and accidental loss through fire and catastrophe.

TRANSPORTATION

Inadequate or inaccessible transportation deprives millions of elderly citizens of mobility, the ability to acquire basic necessities such as food, clothing, employment, and medical care.

Transportation means access to opportunities and the ability to participate in the social, spiritual, and cultural life of one's community.

In many areas, older Americans have no alternative: they go by car or do not go at all.

When and where it is available, public transportation is often unsuited to the special need of the elderly who may have trouble climbing stairs, opening doors, standing, seeing, or hearing.

Those elderly Americans without transportation are, in effect, prisoners in their own homes or immediate neighborhoods. Everything else, perhaps even a movie theater just a few blocks away, is in another world.

Some progress is being made on the transportation problems of the elderly.

The Federal Aid Highway Act, which I cosponsored, stimulates development of mass transit systems and requires that buses and transit vehicles receiving Federal funds be designed for use by elderly and handicapped passengers, and other legislation authorizes a wide-ranging study of the transportation problems of the elderly, and improved Amtrak rail service.

Transportation for the elderly should be designed to take into account their special needs, and it is imperative, above all, that the world's most mobile society provide elderly citizens with inexpensive, accessible, and safe transportation.

A NEW ATTITUDE

These kinds of services can be helpful in guaranteeing a happy and enriching and dignified life for our elders, and we must continue to improve upon them.

But of paramount importance, I believe, is the need to rethink our whole national attitude toward people who are of retirement age, and people over 30 for that matter.

We worship youth in this country. We mimic the fads of youth. We envy the freedom of youth. We covet a return of youth for ourselves.

But youth, fine and exciting and promising as it is, is only a part of what this country is all about. We cannot depend on youth, or the pursuit of youth, for the answers to the many complex problems we face in this country.

Those problems demand the kind of realistic and pragmatic solutions that only experience can teach. Youth and idealism have a place in our society, and an important one. But the wisdom and the knowledge that are the companions of age are just as essential to our national life.

If we content ourselves with shuffling our older citizens out of the mainstream of our national life, we do injustice not only to them but to ourselves. We frankly need what they have to contribute, and probably now more than ever before.

I for one hope to see a new prominence for the Americans who have served their country longest, who have contributed most to its present greatness, and who have a rightful and meaningful place in its future.

PARDON TOM AND HARRY, TOO

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. LEGGETT. Mr. Speaker, on September 10, New York Times satirist Russell Baker published a letter he had written to his local police chief requesting a pardon for a parking violation. This was his reasoning:

First, he had previously obeyed police orders by passing up two illegal parking spaces, therefore, he had suffered enough at the hands of the law and should be held blameless for parking in a third illegal space; second, one of the jugs of wine he bought while in technical violation of the letter of the law broke, and the other was not very good, thus adding to his suffering; third, his expenses had increased, thereby making the $5 fine particularly merciless; and fourth, he was not a crook.

Mr. Baker's letter would be funny if it were not such a deadly accurate characterization of the shameless appeals for special treatment made by Richard Nixon's agents, and of the reasoning offered by President Ford in explaining his pardon.

Unfortunately, Mr. Baker's concluding statement that "I shall require a considerable monetary allowance. It may be necessary to increase parking fines to finance my continued residence" is also in character for the ongoing fiasco. Mr. Nixon is legally entitled to more than $160,000 in pension and allowance every year for the rest of his life. To relieve him from this hardship. President Ford has requested that Mr. Nixon be given an additional $590,000 for this year, and an additional $140,000 every year thereafter.

Mr. Speaker, there is nothing we can do about pardons. President Ford can pardon Nixon, the entire Watergate crew, and then move on to William Calley and Richard Speck if he wishes; the Constitution gives him this power. But we in the Congress can reject the request to escalate Mr. Nixon's already super-luxurious lifestyle into one comparable to that of King Farouk. I fervently hope this appropriation comes to the floor before the election, and I fully expect Congress will not give Richard Nixon 1 red cent beyond the minimum legal requirement.

I insert Russell Baker's column in the Record at this point:

Pardon Me

(By Russell Baker)

Wendell H. Howes,
Chief of Police,
Nantucket, Mass.

Dear Chief Howes: I have your traffic ticket which was left on my automobile in August for a parking violation, said violation having occurred when I briefly left my car in a forbidden space while shopping for wine at Henry's package goods store near the Steamboat Wharf. Your ticket instructs me to remit a payment of $5 in punishment and I would do so immediately were I not firmly persuaded that such punishment would constitute an injustice with which neither you nor the Town Selectmen wish to have your names forever linked in history.

I, therefore, request a full pardon from this $5 parking fine, in support of which proposal I cite the following precedents for pardon:

1. The "already suffered enough" precedent—Before being driven to commit the violation at Henry's, I had sought parking spaces in the vicinity, first, of Murray's Liquor Store, and second, of the Islander Liquor shop.

In each case I was waved out of illegal parking spaces by meter maids, who indicated their intention to ticket me if I persisted in parking. In both cases I gladly made the sacrifice out of my respect for law and order. By the time the illegal parking spot near Henry's was located, it was quite clear that I had already suffered enough in satisfying the law's harsh demands, and so I parked the car.

At Henry's I purchased two half-gallon jugs of domestic red wine at $4.55 each for serving at a large dinner. An oafish dog later knocked one of these jugs off the kitchen table and smashed it, thus putting me out

$4.55. Moreover, the guests criticized the remaining wine as inferior stuff and suggested that I had shown meanness of purse in serving it.

In the $4.55 financial loss caused by the dog and in the loss of face suffered before my guests, I contend that I have already suffered enough and, therefore, should not be asked to bear the additional burden of a $5 parking ticket.

2. The "hanging is enough, you don't have to draw-and-quarter-em" precedent—The paper shortage prevents me from listing all the money Nantucket extracted from me this summer, but even a summary must persuade you that I have already been hanged, financially speaking, if not drawn.

I mean, really now, $93 for water? And $62 a month for electricity. And $75 a month for oil? In a month when there was no heat running. And the ferry service. It costs more per mile to ride the ferry from Wood's Hole to Nantucket than it costs to travel to Europe first class on the France.

In view of the sums Nantucket has already exacted from my bank balance, I am certain you will agree with me that the insistence on yet another $5 check amounts to drawing and quartering the already hanged. As pardoned President Nixon once asked, do you want to pick the carcass?

3. The "American tragedy" precedent—I have never committed a mugging, cracked a safe, stuck up a gas station or stolen fancy bicycles from children. In short, I am not a crook.

Is it not an American tragedy indeed when someone as eminently law-abiding as I finds himself caught parking in a forbidden space? When that space is in an area as crowded as the Steamboat Wharf, the tragedy is compounded, for his shame is flaunted before hundreds and hundreds of passers-by who inevitably see the parking ticket tied to the door handle of his humiliated car.

It is surely better for the country to put tragedy of this order behind it, and to grant its victim such poor mercy as is within temporal government's limited power.

I, therefore, urge the Town of Nantucket to rise above a too scrupulous passion for law enforcement and pardon me this $5 parking fine as a gesture of appreciation for the high quality of the tragedy with which my car and I have enriched Nantucket's otherwise humdrum summer season.

Assuming that the town will act favorably on my pardon, I will also take this opportunity to notify town authorities that I shall soon be requesting a substantial sum of money from the Nantucket treasury.

If I am to grant the town the boon of my residence there next summer, I shall require a considerable monetary allowance for office expenses, travel costs (that murderous ferry!) and miscellaneous, whatever that may be. A detailed estimate of these charges will be sent later. I mention them here only to give early notice that it may be necessary to increase parking fines in order to finance my continuing residence on the island.

In the meantime I await notice of my pardon.

Yours in law,

——— ———.

AN AGREEMENT TO CREATE A NEW COMMONWEALTH OF THE MARIANAS

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. WON PAT. Mr. Speaker, as I have mentioned earlier before the House, the United States is on the verge of concluding an agreement to create a new Commonwealth of the Marianas. Among the many provisions of such an agreement would be that which grants permission to the Department of Defense to establish a new military base on the Island of Tinian.

Although plans for such a base are not yet finalized, present information indicates that the United States would require two-thirds of the small island for its use, leaving the remainder to the present inhabitants.

During my Labor Day trip to Guam and on a visit to the northern Marianas, I received a letter from the elected officials—the mayor and the speaker of the municipal council—of Tinian, together with a Tinian proclamation signed by the residents of Tinian, who say that while they are eager to have this country establish a base on their island, they do not wish to lose the majority of their homeland to the Americans. What they are seeking is that the formula be reversed, leaving the people two-thirds of the land and the military the remainder.

I believe that they are justified in their concern and hope that officials of the Department of Defense will carefully review their needs to assure a proper use of any land they acquire in Tinian.

For the information and benefit of my colleagues, I insert the said communication and document into the Record at this point.

TINIAN ISLAND,
Mariana Islands, Aug. 29, 1974.

Hon. A. B. WON PAT,
Delegate to Washington,
Agana, Guam

MY DEAR MR. WON PAT: The people of the Island of Tinian, Mariana Islands, seek your assistance. We desire a closer association with the United States of America, and we agree to the establishment of a military base on Tinian, but not ⅔ of our Island. We believe ⅓ of Tinian is sufficient for the needs of the United States military establishment.

Again, we seek your help to reduce the military taking of Tinian.

Respectfully yours,

FELIPE C. MENDIOLA,
Mayor.
SYLVESTRE T. CRUZ,
Speaker, Municipal Council.

TINIAN PROCLAMATION

We, the undersigned, all being 18 years of age and over, residents of the Island of Tinian, in the Mariana Islands, Pacific Ocean, do hereby make the following declaration:

First. Neither we, nor our predecessors, have ever committed any acts of aggression against any person or nation. To the contrary, we and our predecessors have been the recipients of aggressive acts from various nations. Thus, we recognize no claim to the island of Tinian by virtue of conquest by war or otherwise. Accordingly, we contend that the Island of Tinian belongs to the inhabitants thereof.

Second. The United States Department of Defense may establish military facilities on the Island of Tinian, but only insofar as it involves the northern one-third (⅓), and certainly not the entire island, nor even two-thirds (⅔). The harbor and existing airfield shall be under the jurisdiction of the people of Tinian.

Third. For establishing its facilities on the northern ⅓ of the island, the United States military must pay a fair rental for the use of such land to the inhabitants of Tinian.

Fourth. The Village of San Jose—and its inhabitants—shall not be relocated.

Fifth. We deplore and condemn the "sales" pitch and tactics utilized by Representatives of the United States military in their relentless attempts to convince the inhabitants that "what is good for the military is good for Tinian". The "land grab" tactics employed on Guam several years ago, shall not be repeated in Tinian.

Sixth. The economic moratorium imposed on the Island of Tinian by trust territory administration is arbitrary and capricious, and without the consent and permission of the inhabitants of Tinian, and is therefore illegal and of no force and effect whatsoever. Thus, for such illegal and dictatorial action, the trust territory administration and/or the Department of Interior, are liable to the inhabitants of Tinian for all damages resulting therefrom.

Seven. Pending a referendum, all discussions, conferences, and negotiations involving the Island of Tinian and its people—particularly such conferences as are being conducted by the Marianas political status commission with representatives of the United States Government—shall immediately cease and desist, it being the desire of the undersigned that this Proclamation be the official position of Tinian and its people. Such referendum shall be held only after full disclosures have been made by the United States Department of Defense as to their bona fide intentions.

A TRIBUTE TO KARL E. MUNDT

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. RHODES. Mr. Speaker, I join my colleagues on both sides of the aisle in paying tribute to a great American who served in both Houses of the Congress.

The career of Karl E. Mundt cannot be put in a capsule, or summarized in a few phrases. He was an active man, of diverse talents, strong beliefs and great energy. He left his mark in many fields of legislation. He was a strong believer in freedom, and during his service in House and Senate worked hard to preserve our American way of life against subversion.

I had the privilege of counting Karl E. Mundt among my friends. He was, in private life, a genial, outgoing man, a sportsman and a gentleman.

His interests in Congress ranged far and wide—at home and abroad. The Voice of America came into being due to legislation he cosponsored. The EROS Data Center, which utilizes the latest developments in satellite information transmission, is located in his home State, largely through his efforts and support of this long-range program. It will be providing valuable information about our planet for years.

His was a career destined to be illuminated by exceptional challenges. His even-handed handling of the Army-McCarthy hearings and his tenacity in conducting the House Un-American Activities investigations made his name a household word throughout our land.

He served a decade in the House, and 24 illustrious years in the U.S. Senate. If there was one word to describe his outlook it was courage. He fought back from a crippling ailment, just as he had fought for the things he believed in while serving the people of South Dakota and the Nation for 34 years in Washington.

He was truly a pioneer in the field of conservation. He served his State as a member of its Fish and Game Commission, and headed up the Izaac Walton league's national wildlife preservation efforts. He saw the danger to many species and was early on in the fight to preserve them from extinction.

Karl Mundt was a man of many facets, with a single purpose. He believed in America, in our Constitution, in the Bill of Rights, in the freedom of opportunity and in the dignity of our people.

He lived a full, rich life of achievement and honor. The Nation is the better for his having chosen to enter public service. His continued endorsement over the years by the people of South Dakota is an expressive tribute to their appreciation of his service.

I am grateful to have had the opportunity to know Karl Mundt—as a staunch Republican, a talented and skillful legislator—and above all as a friend of long standing.

PRESIDENTIAL PARDONS ARE NOT THE WAY TO HANDLE EITHER WATERGATE OR DRAFT EVADER AND DESERTER CASES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. KEMP. Mr. Speaker, I announced earlier this week my opposition to a blanket pardon by the President for those under indictment or already convicted in Watergate and Watergate-related trials. In that statement, I observed:

> I think the pardon of the President was given too early. The American people must perceive that justice has been done and this action is bound to leave a lot of people with many questions still in their minds. I think the President should have waited until Special Prosecutor Jaworski and the Courts had moved on the Nixon case before granting him a pardon.
>
> I am opposed to blanket pardons that frustrate the established process of justice.

That announcement came immediately on the heels of growing speculation that the President was considering a blanket pardon of those convicted or under indictment.

I was encouraged to learn yesterday that the distinguished minority leader of the Senate, Senator HUGH SCOTT, of Pennsylvania, had read on the Senate floor a statement by President Ford following a meeting between the President and congressional leaders, announcing the President is not considering a blanket pardon of the Watergate defendants and those convicted.

The President's statement did indicate, however, that he will consider formal requests for pardons, filed by the defendants and those convicted who wish to exercise that option, on only a case-by-case basis. While this is a preferable procedure to a blanket pardon, I remain, nonetheless, opposed to that process in all those instances where trials have not yet been concluded.

And, as to those which have been concluded, it is the President's judgment—as that authority is given to him under the Constitution—and not mine—which will determine the resolution of those appeals for pardons.

I acknowledge that the Constitution gives the power of pardon to the President without restriction. It is obvious that the framers left the exercise of that power, in any circumstances, to the discretion of the President. It is that very discretion which, I believe, must now be exercised only in a responsible manner.

There is a proper process for the resolution of the two questions of pardons now pending before the Nation—those relating to Watergate and those relating to Vietnam—and that process is judicial. These matters ought to be resolved in the courts of law, for that is the proper forum for their resolution. Only after the full judicial process has run its course as to each defendant—including appeals—ought a pardon to be in order. It is that way with respect to other cases involving violations of Federal statutes; no other standard should be used here.

A cornerstone of our Anglo-American system of law is that each and every defendant has an absolute right to prove his or her innocence. It must be only that one person, whose conduct must be examined against the requirements of a specific statute, who stands before judge and jury—before the public and history's judgment. Once in court, that person cannot be considered as part of an amorphous group of Watergate defendants or draft evaders, for the freedom and future of that particular individual defendant is what is at stake.

There are Watergate defendants who have not yet been tried. Some of these men want to stand trial, for they believe they can prove their innocence in the courts. The fact that other defendants requested or received pardons before these men come to trial would unfairly prejudice their due process rights—particularly the right to a fair trial. For, what jurors would believe their claims of innocence when others similarly charged had asked for or accepted pardons?

Similarly, there are young men now living outside the United States, as a result of not serving or continuing to serve in the Armed Forces during the Vietnam war, who claim that there were mitigating circumstances which would lead either to acquittal or the dropping of charges against them. They ought not to be lumped together with those who have already acknowledged willful violations of criminal statutes without such particular, mitigating circumstances.

To grant pardons to some Watergate defendants or those already convicted or to grant blanket amnesty for draft evaders and deserters runs directly counter to the right of others to prove their innocence and to clear their names. Those rights must not be denied through the use of Presidential pardons or amnesty while the judicial processes are still running. As trials are concluded and precedents established, patterns may emerge which warrant a change in policy, but that is not now the case. Let the courts and prosecutors, not elected officials, determine that at the appropriate time.

I think the President would be well advised to let the constitutional and judicial processes run their courses fully before considering—at that time and in light of circumstances emerging thereafter—to decide what power under the Constitution he ought then to invoke, if any.

A TRIBUTE TO DR. CLARENCE SENIOR

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. BADILLO. Mr. Speaker, it was with deep personal regret that I learned of the sudden and untimely death in Puerto Rico of Dr. Clarence Senior earlier this week.

A progressive and able educator and sociologist, Dr. Senior devoted many years of his life to studying and reporting on the problems of migration of people from Puerto Rico to the mainland. His works on this subject were highly respected and gained him much notoriety in both the Anglo and Puerto Rican communities. Particularly noteworthy was a study he prepared in 1950 with C. Wright Mills and Rose Kohn Goldsen, "The Puerto Rican Journey: New York's Newest Migrants."

It was my pleasure and honor to have known Dr. Senior and to have discussed with him on numerous occasions the status of the Puerto Rican community—both on the island and the mainland—and the unique and varied problems with which we are confronted. During my maiden speech in the House in May 1971, regarding the relationship between the United States and Puerto Rico, I addressed myself to a number of issues which Dr. Senior had explored and advocated for over a quarter of a century.

Dr. Senior made an important and significant contribution toward increasing North American awareness of and sensitivity to the Puerto Ricans and his efforts were successful in developing a better understanding and appreciation of the Boricuas. Both Dr. Senior and his scholarship will be deeply missed and I join with others in mourning his passing.

I insert herewith an article about Dr. Senior's career:

DR. CLARENCE SENIOR DIES AT 71; EDUCATOR AIDED PUERTO RICANS

SAN JUAN, P.R., September 9—Dr. Clarence Senior, a former member of the New York City Board of Education and an expert on migration, died here last night of a cerebral hemorrhage. He was 71 years old.

Dr. Senior, who had lived here since his retirement from Brooklyn College in 1968, was stricken in his home on a mountaintop outside the town of Rio Grande.

He is survived by his widow, Ruth, and a son, Paul.

BROKE NEW GROUND

(By Iver Peterson)

Clarence Ollson Senior is remembered as a man who knew how to combine the responsiveness of voluntary agencies with the power of government bureaucracies.

For the quarter of a century Dr. Senior spent immersed in the problems of Puerto Rican immigration to the city, and in the opportunities for their children's education in the public schools, he occupied a number of public and academic positions that helped him in his work to reduce the difficulties faced by New York's newest arrivals.

Until he moved to Puerto Rico and retirement at the end of the last decade, Dr. Senior had served for almost 10 years, from 1951 to 1960, as chief of the Immigration Division of Puerto Rican Department of Labor's New York office, and after that as a member of the New York City Board of Education. From the late nineteen-forties through this period, he maintained a steady teaching and research relationship with the city's leading colleges—Columbia University and Brooklyn College among them.

Dr. Senior became involved in his groundbreaking work on the problems of migration after leaving the Foreign Economic Administration—formerly the Board of Economic Warfare—at the end of World War II. The University of Puerto Rico had invited him to visit the island to make a study of Puerto Rico's agrarian reform program. But, as he noted later, "Fortuitously, my research assignment was shifted from the agrarian program to demography, with special reference to migration."

LECTURER AT COLUMBIA

Dr. Senior's reports on migration led to his appointment as director of fieldwork for a study of Puerto Rican migration being conducted by Columbia University in 1948. He went on to take his doctorate at Columbia, and published, with C. Wright Mills and Rose Kohn Goldsen, "The Puerto Rican Journey: New York's Newest Migrants" (Harper, 1950).

Although he kept his association with Columbia as a lecturer until 1961, Dr. Senior then plunged into numerous public and professional associations related to urbanology, education and civil rights. They include the United Nations Economic Commission for Latin America, the American Society of Planning Officials, and the American Association of School Administrators.

But he did not join these groups as a bystander, in all cases, he contributed to reports and conferences, always seeking to connect the dispassion of research with arguments and methods for governmental action in the fields of urban migration, education and land reform.

His "Land Reform and Democracy" (University of Florida Press, 1958), was widely used as a textbook for the breakup of rural feudalism in Latin-American countries during the sixties, and in "Strangers—Then Neighbors: From Pilgrims to Puerto Ricans," published by the Anti-Defamation League of B'nai B'rith he found that Puerto Rican immigrants were adjusting more quickly to city life in America than any earlier group of newcomers.

Dr. Senior left Brooklyn College for Puerto Rico in 1968, and published one more book, "Santiago Iglesias: Labor Crusader," in 1973, while teaching at the Inter-American University there.

The eldest of eight children born to Joseph and Margaret Ollson Senior of Kansas City, his father was a paperhanger and painter, and economic necessity forced the youth to leave high school after his sophomore year to help support the family.

He worked his way up from ice-cream packer to shipping clerk, truck driver, and then did a stint as supervisor in the Kansas City police and fire department central alarm system. But an aunt who was a school teacher intervened in this budding career and persuaded him to finish his education.

After his graduation from the University of Kansas with a B.A. degree in 1927, Dr. Senior served with the Adult Education Association of Cleveland. In 1929, under the auspices of the Cleveland Federation of Labor, he helped found the Cleveland Labor College. During this period he formed a friendship with Norman Thomas, the Socialist party leader, and went on to manage two of his Presidential campaigns.

FREEDOM OF CHOICE FOR MOTORISTS

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. HANRAHAN. Mr. Speaker, I have had many letters from my constituents recently referring to the seatbelt interlock system which is being placed in new automobiles. They are against this, and I certainly can understand their views. I insert the following article from the Economist newspaper for the benefit of my colleagues:

FREEDOM OF CHOICE FOR MOTORISTS

Hardly anything done to automobiles in recent years has irritated car owners more than the buzzer system which lets off a noise like a burglar alarm if you travel a few feet—like from the driveway into the garage—without buckling up your seat belt.

In our opinion it is an insult to the intelligence of the average person, an invasion of privacy of those who don't realize the value of seat belts and a damned nuisance.

While it is true that there are occasional instances reported in which seat belts have trapped victims in an accident, we accept the mass of evidence from the National Safety Council and other expert groups that your chances of avoiding injury in case of an accident are better if you do wear your safety belt. We think most people do and will use the belts without being treated like naughty school kids. And if anyone doesn't want to use a seat belt—well, it's their funeral. Congress has no obligation to protect people against their own stupidity.

This, apparently is the overwhelming opinion of motorists and, we are glad to note, the strong sentiment of the U.S. House of Representatives.

The Chicago Motor club polled its membership on current or proposed mandatory auto passive restraint systems and found them opposed to current seatbelt interlocks by a 6 to 1 margin. The proposed air bag restraint system was opposed by a 20 to 1 ratio.

Last week the House, by a vote of 337 to 49, voted to discard government regulations requiring new cars to have seat belt interlock systems, buzzers or air restraints. Under this bill, seat belts still would be mandatory new car equipment, but a dashboard light would be the only warning device required to inform a motorist his belts were not fastened. The bill now goes to a conference committee to iron out the differences between House and Senate proposals.

We believe the House vote is in line with the thinking of the majority of motorists as evidenced by the Chicago Motor Club poll. The dashboard warning light is sufficient.

In the matter of avoiding accidents and reducing the risk of injury, there is still no substitute for safe driving. Of course, that doesn't mean we shouldn't use seat belts or any other proven protective device. But the motorist should have the freedom of choice and he should not be charged an outrageous extra fee for the device, whatever it is.

In connection with the latter, for example, the controversial air bag, which was to become mandatory on 1977 models but won't if the House version of last week's bill is approved, would cost $200 to $300 as new equipment, plus an equal or greater amount if it were used and had to be put back together. Safety officials say the cost needn't be this high if the product were widely used and leave the impression that they believe the auto makers are sticking the motorist for one reason or another.

This is not right. A motor car owner should not be forced into a squeeze between a mandatory law and a high price for the item. If the government is going to make some item, such as air bags, mandatory it has an equal obligation to make sure that the cost is not a burden on anyone.

INFLATION

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. FISHER. Mr. Speaker, under leave to extend my remarks I include an address by our distinguished colleague, BOB POAGE, chairman of the Committee on Agriculture. The speech was delivered before the Food and Agriculture Economic Summit Conference on Inflation in Chicago on September 12.

Mr. POAGE's address on inflation is timely, interesting, and informative. We can all profit from reading it.

The speech follows:

INFLATION

(Remarks of the Honorable W. R. POAGE)

There are a thousand causes of inflation. I don't think we need to try to discuss them all nor do I think we need to spend much time discussing the effects of inflation. Most of these effects are bad. I would, however, point out that even if I had the power to erase all of the influence of inflation during the last ten years, I would be afraid to do so. To do so would restore dollar and a half wheat, ninety cent corn and twenty cent cotton. Farmers were not making a reasonable return at these prices and they would still suffer an inequitable share of income were all prices moved back to the 1964 level.

I don't suppose there has ever been a time in our economic history when everybody received a fair price, a fair wage or a fair income but I would much rather see each individual struggle to obtain the best share of the national income which he can than to see the government attempt to deal out what it considers economic justice by fixing prices, wages and profits.

One of the serious, although generally overlooked and probably rather minor factors causing inflation today is the fact that the government has fixed the price of labor. At least it has placed a minimum below which wages cannot go. This not only controls farm wages but it is a dominant factor in the price of most machinery and supplies which the farmer buys. It is true that the government has also provided much less effective and much less far-reaching supports for a few thousand selected agricultural commodities but I don't know a farmer in the United States who would not be glad to give up all government support of these commodities if at the same time he could be relieved of the burden imposed on his operations—directly and indirectly—by minimum wage and hour laws, by protective tariffs, by government-established freight rates, etc.

But important as these factors are in increasing the cost of agriculture production, I came here to discuss what I believe to be a more fundamental problem and one which I think must be met quickly if we are to ever deal successfully with the specter of inflation.

We are all prone to think and talk only in terms of the relationship between inflation and consumption. True enough, inflation does tend, by and large, to reduce consumption. Theoretically, as high prices restrict the volume of purchases the price structure will go down but this is a slow, ineffective and terribly painful process. The other side of the equation seems to me to be that of productivity. Obviously, we are suffering from shortages of all kinds—some real and some imaginary—but the very fear of the inflation of prices.

A few days ago the hurricane Carmen moved into Louisiana. There were reports of serious damage to the sugar cane crop. Fortunately, that damage was not as great as first reported. I was told that within a few hours after the hurricane struck there was not a package of sugar left on the grocery shelves in Houston, Texas. Housewives bought it in anticipation of a shortage. I expect that the same thing happened in a good many other cities over the land. We are not going to have a serious shortage of sugar although, like automobiles, home construction and hospital bills, the cost is going to be much higher than it was two years ago.

What effect then, must the fact that probably one-third of the American people are not working, have on the price level? Of course, a lot of these people are old, a lot of them are sick or have other valid reasons for not working but if only ten or twelve percent of our people who are able to and who should be working are drawing their support from society without any contribution on their part this must place a substantial strain on those who are working and it must result in a substantial increase of all price schedules.

In some cases able-bodied individuals are living off their own savings but for one reason or another are not contributing anything or are deliberately contributing less than they should to the productivity of the nation, which is so important if we are to overcome the effects of inflation.

Labor organizations have done a great deal for our country just as have farm organizations but they have tended, very naturally, to concentrate on programs of direct benefit to their own members—too often without regard to the public's good. I think that we are now suffering from the adoption of a philosophy which I believe was originated by our labor organizations and which has pretty well been accepted by a large part of our population and that is that every individual should receive the same compensation for the same number of hours on the job regardless of his productivity. I don't believe this. I believe that the compensation of a lawyer, a bricklayer, or a farmer should be in proportion to his contribution to society—not in proportion to the number of hours which the clock shows he was on the job. And I think that our departure from that principle has been disastrous to laboring men as well as to the consuming public.

I was home last week and I visited two large industrial plants going up in my home town of Waco. Both of them were building the walls of their buildings out of cement slabs. This makes no better wall than a brick wall. For many years we made bricks in Waco and all of the older buildings are built of brick. But the brick factories in Waco are closed—not because there is no more sand or clay from which to make bricks—but because bricklayers so limited the number of bricks that any man could lay in a day that it became uneconomical to use this material.

Instead of trying to do an honest day's work for an honest day's pay we have too long tried to get a full day's pay for part of a day's work. If American labor is going to continue this policy we are going to continue to have inflation regardless of any credit regulations that the government may impose—because such limited productivity will not support the living standards which we would like to have and which we could have with full production. Productivity is vital to the maintenance of a properly balanced market.

The laborer must have a fair wage just as the farmer must have a fair price. But just as the public has a right to demand effective and efficient production on our farms so does that same public, including farmers, have the right to demand effective and efficient production at the hands of our workers. I don't think for one moment, as many of my colleagues do, that we are going to be able to solve the problems of this kind simply by passing laws although we have succeeded in passing a lot of laws that aggravate the situation. Possibly we could help by repealing some of these laws.

Basically, we must return to the work ethic that dominated our country for so long. We must return to the philosophy expressed by the old slogan that I used to hear when I was a boy, "I ain't no teamster. I ain't no teamster's son, but I can skin those mules 'til the teamster comes."

Just what enabled Germany and Japan to rise from defeat and become two of the leading industrial nations of the world? It was not the abundance of capital—there was no capital. It was not the availability of natural resources—these resources were extremely limited. It was and it still is the fact that their people worked and are still working. If the American people are not willing to work, at least somewhere nearly as hard as the Japanese and the Germans, International Harvester is going to close its Chicago plant and import farm machinery from Japan, and General Motors is going to close down more of its plants in Detroit and depend far more than they do now on German plants, and more people are going to go on relief in the United States. Prices are going to stay high. Our money is going to continue to lose its purchasing power and our living standards must inevitably decline.

Now that I have possibly succeeded in nothing more than subtracting from your understanding of the problem of inflation, let me point to one or two facts.

Farmers and farm prices are more vulnerable to inflation than almost any segment of our economy. This is because farmers must have a greater degree of price stability than industry or labor if they are to produce abundantly. The lead time for farm production is normally 12 months or more. If the farmer is to make the investments necessary to produce his crops, he must be able to have some assurance as to the price he can expect at harvest time. Once having started the production of a crop of wheat, the farmer cannot change to something else as the laboring man can change his job. Once having planted his fields, the farmer cannot shut down his plant as the industrialist can. He is at the mercy of the market and he must pay all inflationary increases in costs.

In the final analysis, the farmer can and will abandon commercial production and still eke out a subsistence far longer than his city cousins can. But, we are all in this inflationary quagmire together. The farmer and the laborer, as well as the manufacturer, must be willing to accept some rough going if we are to stop inflation and, if we don't stop it, we will surely all go down together.

I believe that farmers will meet this challenge. In spite of drought and in spite of the present disastrous livestock prices, I believe that our farm production this year will be close to the nation's highest levels. I challenge industry and labor to do as well.

C. & G. IS COMING HOME

HON. DAVID R. BOWEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. BOWEN. Mr. Speaker, all of us are keenly aware of the importance of maintaining adequate rail service; particularly with the energy crisis and related transportation and economic problems. There has been a valiant, cooperative effort by many individuals, organizations, communities, and governmental officials to maintain the historic Columbus and Greenville Railroad, which runs through the heart of my Second Congressional District, from Columbus near the Alabama line to Greenville on the Mississippi River.

This very excellent guest editorial, which appeared recently in the Greenville Delta Democrat-Times, gives some of the history and background concerning the railroad and the effort to preserve the C. & G. as we have known and loved it for many years. The editorial written by Mr. Sam Wilhite, executive director of the East Mississippi Council, is as follows:

C. & G. IS COMING HOME

(EDITOR'S NOTE.—In keeping with a recent DD-T "tradition," the editorial columns have been turned over to Mississippians while the editor is on vacation. Today's guest editorial writer is Sam Y. Wilhite, executive director of the Columbus-based East Mississippi Council and president of the C&G Real Estate Co.)

It was in the early 1880s that some far-sighted businessmen and promoters envisioned a railroad from the Atlantic to the Pacific that would cross this section of Mississippi.

Gen. John B. Gordon envisioned a transcontinental rail line which bore the ambitious, but inaccurately descriptive, name of Georgia Pacific Railway, from Atlanta to the West Coast, and the Columbus & Greenville began its existence as a segment of the partial materialization of his dream. The original plan was for the Georgia Pacific to connect with the Texas Pacific at Texarkana. When Gen. Gordon's venture proved unprofitable and, in August 1894, the property of his company was sold under foreclosure proceedings, possession was turned over by the purchaser to the Southern Railway Co. In September of the same year, a Mississippi corporation was organized to operate the section of the railroad from the Alabama state line to Greenville, Miss. under the corporate name of Southern Railway Co. in Mississippi. The name of the company was changed in November 1920, to Columbus & Greenville Railroad Co.

In 1923, when the Columbus & Greenville Railway Co. began operations after the third receivership for the property, to some veteran railroaders the undertaking seemed another "triumph of hope over experience." But a group of Mississippians assumed the responsibility, believing in the need for the railroad and in the future prospects for agricultural development and industrial expansion for this cross section of Mississippi.

Mr. A. T. Stovall, its first president, nicknamed the road the "Coming and Going;" while some of its passengers in the pre-air-conditioned era called it unflatteringly the "Cinders and Grit." Still all of this was good-natured levity, for the C&G made friends in its territory, where some towns were served by its rails exclusively. And these friends contributed materially to its continued existence and the firmer footing it gained. Faith in the ability of fertile farming lands and progressive towns to sustain a railroad enjoyed a measure of justification when, by ceaseless effort and strict economy, and above all, the loyalty of its friends, a short line in Mississippi escaped the bankruptcies which engulfed 31 per cent of the railroad mileage of the nation during the Thirties.

The Columbus & Greenville Railway, with its Delta neighbors, kept a watchful eye on the Mississippi during the season of its spring rise in 1927 and shared their courage and assurance of victory in the recurrent battle with Ole Man River. The unexpected occurred when the levee went out at Scott on April 21, 1927, and a mile-wide flood swept over the country above Greenville. By midnight the water had reached the streets of Greenville. In response to the need created by devastation and prolonged deprivation, the C&G placed 300 box cars on sidings at higher points in the Delta for refugee shelters and temporary housing.

To those who, of necessity or choice, had resolved to escape the hardships of an inundated existence, the C&G offered its facilities to traveling and transporting household goods and livestock, free of charge, as long as the company could operate trains in that region. To meet the need for emergency transportation, trains ran continuously and without regard for cost. The last train out of Greenville, at 12:15 on the morning of April 22, a double-header freight, was caught by the overflow at Paducah, a flag stop about 2½ miles east of Greenville, and there it remained, marooned until the flood waters subsided a month later.

About 40 miles of C&G track were put out of service. The June rise on the Mississippi, flowing through the break in the levee, made rehabilitation difficult, and track repairs were not completed for about three months. The first train after service was completely reestablished, entered Greenville on July 23, 1927. Rehabilitation expense amounted to half a million dollars with a substantial loss of business during the flood.

It will be remembered by the ole timers that fast passenger trains with pullman cars operated on this line. President William Howard Taft made a whistle stop on the railroad. This writer made his first train ride on the C&G to visit relatives in the Delta. It was the C&G that hauled goods into our area and carried out the farm products and lumber that was produced.

This was the railroad's early history. The sound of her whistle and the pounding of her wheels clearly were a part of the history of this area.

We must look ahead. The words that are written on the Department of Archives and History in Washington fit our situation:

"The Past is only the Prologue"

It is time that we looked to the future. The old C&G was merged into the ICG Railroad in September of 1972 even though the C&G is an east-west oriented railroad and the ICG is a north-south oriented railroad. The track and right of way prior to the ICG merger had deteriorated and after the merger it was allowed to continue to deteriorate. Service had declined. It became obvious that the ICG railroad planned to abandon all but small segments of the old C&G which would spell the end of east-west rail service in North Mississippi perhaps for all times.

A group of dedicated citizens met at Mathiston, Miss., on June 26, 1973. This meeting was initiated through the joint efforts of the Delta Council and the East Mississippi Council. A committee was named to make every effort to see that service was continued on the C&G. That committee is composed of: Wade Hollowell, Greenville; John Hough, Indianola; W. S. Stuckey, Greenwood; Betty Humphries, Winona; Lagrone Mortimer, Kilmichael; W. B. Meek, Eupora; William G. Burgin, Columbus; J. R. Scribner, Amory; B. F. Smith, Stoneville, and Sam Wilhite, Columbus.

The committee hired counsel and carried its case to the Mississippi Public Service Commission where the ICG Railroad was ordered to repair the tracks and restore thru service on the old C&G.

It was during these hearings that an attorney for the ICG Railroad made the statement that they would be willing to sell the entire railroad for $1 if we were interested and thought so much of the C&G.

It was from this remark that John Hough and Sam Wilhite pursued the matter and ultimately the C&G was purchased and is on its way back home to the people that love her. The next step is to get Interstate Commerce Commission approval and papers will be filed this month to initiate the proceedings.

The first task which faces the young company is to repair our tracks and improve our right of way. This is top priority since we must improve our service immediately. The new company plans to carry out this part of the program post haste.

The second task is to insure that enough rolling stock and engines are available to service the entire area and our customers.

The third task is to bring together a dedicated team of workers to run this railroad at all levels.

The fourth task is to build a relationship between the cities, towns and villages that compose the C&G family so that we may grow together, building the economy of our area and of the entire state.

This can be done by giving the best service possible to our customers—getting material to them and getting their products out with no delay. The new C&G Co. is dedicated to the accomplishment of all these tasks.

The C&G will carry on an active industrial development program to locate new industry on our tracks but we can see the day when we will operate passenger trains in conjunction with planned tourist attractions.

We believe that our railroad owned by the people who live along its tracks and connecting the Mighty Mississippi and the Tennessee-Tombigbee Waterway (completion in 1981) promises a great future if we are willing to work together and believe in that future.

Yes, the ole C&G is coming back home!!!

TOGETHERNESS?

HON. H. R. GROSS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. GROSS. Mr. Speaker, perhaps the last place one would expect to look in this country for examples of discrimination is the Supreme Court of the United States, but a recent column by Mr. Tom Ethridge in the Jackson, Miss., Clarion-Ledger calls attention to an article alleging the most blatant type of discrimination in the Highest Court of the land.

In order that all Members of the House might become acquainted with the charges, I include Mr. Ethridge's article for insertion in the RECORD at this point:

HITS SUPREME COURT FOR "DISCRIMINATION"

(By Tom Ethridge)

In the news lately have been reports of complaints that state and federal governments in Mississippi are not hiring enough blacks.

Civil rights lawsuits are being instituted or planned to halt so called "job discrimination" in these parts, and of course it is nothing new to hear such allegations.

But what is new—and surprising—is that the United States Supreme Court itself stands accused of "prejudice and discrimiation" in the matter of hiring blacks for its large force.

So says a crusading lady journalist. . . .

Nina Totenberg's sensational article entitled "The Supreme Court—The Last Plantation" in the July 26 issue of New Times Magazine, was apparently ignored by major news media.

Some quotations are herewith reprinted (via a Chicago Tribune review commentary by Nicholas von Hoffman) giving specific allegations of "bias" and "discrimination" against blacks by the Supreme Court.

"The 21 laborers—maintenance and heavy cleaning men—at the court are all black. The 19 skilled craftsmen—including carpenters, painters, electricians, plumbers, stonemasons and the like—all are white. The 22 charwomen are all black. Of the 21 secretaries to the justices, 20 are white. All the justices' messengers are black.

"The next term will see the second black law clerk in the court's history. (You have to go all the way back to the time of Felix Frankfurter to find the first one.) The secretarial pool is all white.

"The telephone operators are all white. The fulltime librarians are all white except for two black messengers. The three printers are white. The three elevator operators are black."

And on and on roll the statistics that Nina Totenberg has compiled in her article.

Cyril Mitchell, Totenberg reports, worked for Justice William Douglas for 18 years, "usually 60 or 70 hours a week. He was fired shortly after he refused to serve at a private party in Justice Douglas' home."

On another occasion, the jurist, who has a reputation in Washington for having the disposition of a bear with a sore nose, "demanded the personnel file of a new elevator operator and almost had the operator fired for not taking Douglas directly to the parking garage—the operator had stopped at another floor first.

Totenberg also learned about the case of the black "laborer who was fired and escorted off the premises by the special Supreme Court police after being warned to stop keeping company with or even saying hello to a white female law clerk of Douglas'."

This goes on with the apparent passive acquiescence of a black justice, Thurgood Marshall, who made his name in law as the NAACP's ablest and boldest attorney.

Reporter Totenberg says that she received "a total lack of cooperation on this story." She had to submit written questions to the court administrator, many of which, she says, were not answered. Nevertheless, she got the story, which suggests that many of the journalists who cover the court regularly may have gotten into bed with the "nine injustices."

She concludes that "low pay and discriminatory nonmerit hiring, firing, and promoting seem to be the rule in the Court that knows such fine words of indignation for the rest of us when we do wrong."

Strange that we should learn these things on the 20th anniversary of the school segregation decision and shortly after the death of Earl Warren.

FARM LEGISLATION IN 93D CONGRESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. HAMILTON. Mr. Speaker, the importance of the farmer to America cannot be exaggerated. His efficiency, productivity, exports and purchasing power are vital to the prosperity of the Nation. He feeds and clothes all of us and protects our resources. He has made us the best nourished people in the world.

FARMER DOES NOT SHARE IN PROSPERITY

Despite his outstanding contributions, he is not getting his fair share of the Nation's prosperity—a prosperity which he helped to create. He finds himself in the middle of the old squeeze on profits, paying more for goods and services and receiving less for his produce.

The farmer gets only 40 cents of each dollar spent for food; the other 60 cents goes for transportation, processing, distribution, and marketing. He generally gets the same prices for his crops that he did 20 years ago, but the costs of labor, machinery, fertilizers, feed, and other input items of production have doubled and even tripled.

Dairy and livestock farmers are in an especially difficult situation because of escalating grain prices and lower meat prices, and we in the Congress must be prepared to take rapid and appropriate action to assist them.

Because of these circumstances, the American farmer deserves our support. The 93d Congress—1973–74—has taken several steps of interest and assistance to him.

LEGISLATION

Bills that have already become law include these:

First. A new omnibus farm bill encourages production, establishes target prices on basic crops, increases dairy price support levels, and establishes a new rural conservation program featuring long-term contracts in dealing with conservation programs.

Second. A major disaster relief measure updates and strengthens existing law, and facilitates Federal assistance for debris clearance and replacement of farm fencing. It was enacted in the wake of the terrible spring tornadoes.

Third. A bill to restructure the Rural Electrification Administration converts it into an insured and guaranteed loan program, with 2-percent loans for rural electrification and telephone systems in sparsely populated areas.

Fourth. The Emergency Petroleum Allocation Act regulates the distribution of crude oil and oil products, and gives agriculture top priority in the receipt of these products.

Fifth. Public Law 93–154 establishes and expands area emergency medical care systems, and earmarks 20 percent of appropriated funds for rural emergency care systems.

Sixth. A recent law establishes impoundment control procedures designed to protect congressional budget decisions from being overruled by a President who refused to spend appropriated funds. At last count, the President was impounding $1.1 billion in agriculture funds alone.

Seventh. Guaranteed loans were approved for livestock, dairy, poultry and egg producers to provide emergency assistance to farmers threatened by severe economic hardship because of the fluctuating market.

Eighth. Food assistance programs enacted by the 93d Congress provide a stable demand for farm produce. New laws require the acquisition of food stocks, even at market prices, for such programs as school lunches and breakfasts, child nutrition, nutrition for the elderly, and other food assistance programs.

Other measures of interest to farmers are still working their way through the legislative process. They include:

First. A bill to regulate all traded commodities through a five-member regulatory commission.

Second. Legislation that would provide for small rural banks to join together and form an agricultural credit corporation.

Third. A bill to exclude the first $200,000 in the value of the family farm from the taxable estate of those farmers who have managed their own farm and willed it to relatives.

I am hopeful that final action will occur on these and other farm bills before the 93d Congress adjourns, in recognition of our farmers' needs.

ACTION NEEDED NOW—CONGRESSIONAL AND SCIENTIFIC FORCES MUSTER TO COMBAT HUNTINGTON'S DISEASE

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1974

Mr. ROE. Mr. Speaker, you have before you a request from the Senate for a conference with the House to discuss the Senate-passed version of the Health Services Act of 1974 (H.R. 14214) which passed the House on August 12, 1974, and I respectfully wish to call to the attention of you and our colleagues here in the House the following information in support of the amendment agreed to by the Senate on Tuesday, September 10 to include the National Huntington's Disease Control Act in this most comprehensive health care and health revenue sharing proposal of the Congress for 1974.

Since the opening day of the current session of the 93d Congress when I introduced this measure in the House to provide Federal assistance for the diagnosis, prevention and treatment of, and research in, this most serious genetically inherited terminal illness which affects thousands of families throughout our Nation, the following 101 Members of the House have joined with me in sponsoring this legislation for a national commitment to combat this dread disease:

HOUSE SPONSORS—HUNTINGTON'S DISEASE CONTROL ACT

The Honorable:

Bella Abzug (N.Y.), Glenn Anderson (Calif.), John Anderson (Ill.), Les Aspin (Wis.), Skip Bafalis (Fla.), Robert Bauman (Md.), Bob Bergland (Minn.), Tom Bevill (Ala.), John Blatnik (Minn.), Lindy Boggs (La.), Edward Boland (Mass.), John Breaux (La.), Jack Brinkley (Ga.), Garry Brown (Mich.), George Brown (Calif.), James Burke (Mass.), and Yvonne Brathwaite Burke (Calif.).

Charles Carney (Ohio), Frank Clark (Pa.), James Cleveland (N.H.), Cardiss Collins (Ill.), John Conlan (Ariz.), Silvio Conte (Mass.), John Conyers (Mich.), James Corman (Calif.), William Cotter (Conn.), Dominick Daniels (N.J.), Ron de Lugo (V.I.), William Dickinson (Ala.), Robert Drinan (Mass.), Don Edwards (Calif.), Jack Edwards (Ala.), Joshua Eilberg (Pa.), and Dante Fascell (Fla.).

Robert Giaimo (Conn.), Sam Gibbons (Fla.), Ella Grasso (Conn.), Kenneth Gray (Ill.), Gilbert Gude (Md.), Tennyson Guyer (Ohio), John Hammerschmidt (Ark.), Richard Hanna (Calif.), Robert Hanrahan (Ill.), Michael Harrington (Mass.), Augustus Hawkins (Calif.), Henry Helstoski (N.J.), Floyd Hicks (Wash.), Lawrence Hogan (Md.), Elizabeth Holtzman (N.Y.), James Howard (N.J.), William Hudnut (Ind.), and John Hunt (N.J.).

William Ketchum (Calif.), Spark Matsunaga (Hawaii), Romano Mazzoli (Ky.), Stewart McKinney (Conn.), Clem Rogers McSpadden (Okla.), Lloyd Meeds (Wash.), John Melcher (Mont.), Joseph Minish (N.J.), Robert Mollohan (W. Va.), John Murphy (N.Y.), John Murtha (Pa.), Robert Nix (Pa.), Edward Patten (N.J.), Claude Pepper (Fla.), and Bertram Podell (N.Y.).

Ogden Reid (N.Y.), John Rhodes (Ariz.), Donald Riegle (Mich.), Matthew Rinaldo (N.J.), Peter Rodino (N.J.), Teno Roncalio (Wyo.), Benjamin Rosenthal (N.Y.), William Roy (Kans.), Edward Roybal (Calif.), Ronald Sarasin (Conn.), Paul Sarbanes (Md.), Floyd Spence (S.C.), Fortney Stark (Calif.), Robert H. Steele (Conn.), Sam Steiger (Ariz.), Louis Stokes (Ohio), and Bill Stuckey (Ga.).

Gerry Studds (Mass.), James Symington (Mo.), Frank Thompson (N.J.), Robert Tiernan (R.I.), Bob Traxler (Mich.), Morris Udall (Ariz.), Lionel Van Deerlin (Calif.), Richard Vander Veen (Mich.), William Walsh

(N.Y.), Charles Whalen (Ohio), Lawrence Williams (Pa.), Charles Wilson (Tex.), Larry Winn (Kans.), Lester Wolff (N.Y.), Antonio Borja Won Pat (Guam), Sidney Yates (Ill.), and Andrew Young (Ga.).

Mr. Speaker, I am indeed most appreciative of the support of our most distinguished colleagues here in the House and the Senate's recognition of the need for this most important legislation as an integral part of the Health Services Act of 1974. My hopes for the families of our Nation who have been tainted and condemned by this chronic, progressive, degenerative disease of the nervous system which lies dormant in the genes of the victim until the prime of life with no known treatment today that will influence the course of the disease were further inspired by an article that appeared in last night's issue of the Washington Star-News, written by their staff writer Judith Randal reporting on a scientific achievement in developing an artificial gene and duplicating the chemical sequences of these control mechanisms as well as the gene itself. The full text of the news article is as follows:

On-Off Signal: Means Found To Control Gene

(By Judith Randal)

The team of scientists that a year ago announced it had made an artificial gene is apparently nearing the point of being able to turn chemical activities on and off inside a living cell.

Speaking in Atlantic City, Nobel Prize winner Har Gobind Khorana told the annual meeting of the American Chemical Society yesterday that he and his colleagues at the Massachusetts Institute of Technology have succeeded in duplicating the chemical sequences of these control mechanisms as well as those of the gene itself.

Dr. Ramamoorthy Belagaje, who works with Khorana at MIT, had reported at the same meeting that the man-made stop signal is now being attached to the gene and that the start signal will be ready soon.

These scientists then plan to build an entire gene and its control sequences in a test tube so that their functioning can be examined more closely, and then to introduce the gene and its on and off signals into a living bacteria to see if they will work. A virus containing the gene will probably be used to get the hereditary material into the one-celled organism.

Genes are the chemical blueprints of heredity. The gene in question in the MIT study is a man-made copy of one essential to the production of proteins in E. coli, a type of bacteria normally present in the intestines of man and animals.

Specifically, the genes' job is to produce a substance called transfer RNA (ribonucleic acid) that hooks on to an amino acid or protein building-block called tyrosine. The molecule then takes the amino acid to protein assembly plants known as ribosomes in the one-celled bacteria. Without the on and off switches, however, the RNA would have no way of "knowing" when to start the process or stop.

The mechanisms of translating the instructions of the genes into the components and behavior of cells are far more complex in higher organisms than in bacteria, but the principles are the same. Thus the achievements of the MIT scientists will probably bring the day closer when materials assembled by man—rather than by nature—can be programmed to determine the traits that living things pass from one generation to the next.

At the same time, the achievement promises to shed light on the precise method by which DNA (deoxyribonucleic acid)—the stuff of which genes are made—exerts its influence on the minute-to-minute chemical functioning of cells.

These influences are governed by various forms of RNA, slave substances to DNA, rather than by DNA directly. But the precise details of how this is done by nature are too poorly understood to be predictably put to use. Eventually, it is hoped that further research in this area will result in knowledge which can be harnessed for agriculture and for the prevention and cure of many forms of hereditary disease such as diabetes or sickle cell anemia.

Khorana shared a Nobel Prize in 1968 for the part he played in helping to decipher the genetic code. After first putting together one kind of artificial gene, he then synthesized another—the E. coli gene—whose particular scientific advantage is that its functions can be detected in a living cell whereas those of his first attempt could not.

Mr. Speaker. The text of the Huntington's disease control legislation is as follows:

H.R. 12215

A bill to amend the Public Health Service Act to provide assistance for programs for the diagnosis, prevention, and treatment of, and research in, Huntington's disease

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "National Huntington's Disease Control Act".

FINDINGS AND DECLARATION AND PURPOSES

Sec. 2. (a) The Congress finds and declares—

(1) that Huntington's disease is a chronic, progressive, degenerative disorder of the nervous system. It is described in medical journals as a hereditary disease of the basal ganglia and cerebral cortex characterized by the onset in adult life of choreiform movements and mental deterioration. The age of onset of the symptoms may be at any time from infancy but in the vast majority of cases it is first discerned between the ages of thirty and fifty years;

(2) that this debilitating, inheritable disease which makes it first appearance in the very prime of life already affects great numbers of Americans and will begin to afflict an even greater number as our young adult population expands;

(3) that the exact cause of Huntington's disease is still unknown. Although severity of the choreiform movements may be reduced by the administration of certain medication or treatment that has been developed, there is no known treatment that will influence the course of the disease;

(4) that efforts to prevent Hungtington's disease must be directed toward increased research in the cause and treatment of the disease, and the education, screening, and coufnseling of carriers of the trait;

(5) that programs to prevent Huntington's disease must be based entirely upon the voluntary cooperation of the individuals involved; and

(6) that the attainment of better methods of prevention, diagnosis, and treatment of Huntington's disease deserves the highest priority.

(b) In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act to establish a national program for the diagnosis, prevention, and treatment of, and research in Huntington's disease.

AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

Sec. 3. (a) Section 1 of the Public Health Service Act is amended by striking out "titles I to X" and inserting in lieu thereof "titles I to XI".

(b) The Act of July 1, 1944 (58 Stat. 682), as amended, is amended by renumbering title XI (as in effect prior to the enactment of this Act) as title XII, and by renumbering section 1101 through 1114 (as in effect prior to the enactment of this Act) and references thereto, as sections 1201 through 1214, respectively.

"TITLE XI—HUNTINGTON'S DISEASE PROGRAM

"PROGRAMS RELATING TO HUNTINGTON'S DISEASE

"Sec. 1101. (a) (1) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and nonprofit entities, and may enter into contracts with public and private entities, for projects for the establishment and operation, primarily through other existing health programs, of Huntington's disease screening, treatment, and counseling programs.

"(2) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals, for projects for research in the diagnosis, treatment, and prevention of Huntington's disease including projects for the development of effective tests which will identify those who have the disease or carry the trait.

"(3) The Secretary shall carry out a program to develop information and educational materials relating to Huntington's disease and to disseminate such information and materials to persons providing health care and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

"(b) (1) For the purpose of making payments pursuant to grants and contracts under subsection (a) (1), there are authorized to be appropriated $500,000 for the fiscal year ending June 30, 1975, and for each of the next two fiscal years.

"(2) For the purpose of making payments pursuant to grants and contracts under subsection (a) (2), there are authorized to be appropriated $1,500,000 for the fiscal year ending June 30, 1975, and for each of the next two fiscal years.

"(3) For the purpose of carrying out subsection (a) (3), there are authorized to be appropriated $25,000 for the fiscal year ending June 30, 1975, and for each of the next two fiscal years.

"VOLUNTARY PARTICIPATION

Sec. 1102. The participation by any individual in any program or portion thereof under this title shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

"APPLICATIONS; ADMINISTRATION OF GRANT AND CONTRACT PROGRAMS

Sec. 1103. (a) A grant under this title may be made upon application to the Secretary at such time, in such manner, containing and accompanied by such information, as he Secretary deems necessary. Each applicant shall—

"(1) provide that the programs and activities for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(2) provide for strict confidentiality of all test results, medical records, and other information regarding screening, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) consents to be treated; or (B) statistical data compiled without reference to the identity of any such patient;

"(3) provide for appropriate community representation in the development and operation of any program funded by a grant under this title;

"(4) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title; and

"(5) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

"(b) In making any grant or contract under this title, the Secretary shall (1) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which repaid and effective use will be made of funds under the grant or contract; and (2) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs.

"(c) The Secretary may make a grant under section 1111(a)(1) for a screening, treatment, and counseling program when he determines that the screening provided by such program will be done through an effective Huntington's disease screening test.

"PUBLIC HEALTH SERVICE FACILITIES

"SEC. 1104. The Secretary shall establish a program within the Public Health Service to provide for voluntary Huntington's disease screening, counseling, and treatment. Such program shall utilize effective Huntington's disease screening tests and shall be made available through facilities of the Public Health Service to any person requesting screening, counseling, or treatment, and shall include appropriate publicity of the availability and voluntary nature of such programs.

"REPORTS

"SEC. 1105. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this title.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary.".

Mr. Speaker, let us add our congressional authorization of the fiscal investment to the scientific forces of technology and the medical profession to help the treatment of Huntington's disease victims and seek the prevention and cure of the hereditary disease, known as Huntington's disease. Action is needed now.

With the modern technological and scientific knowledge available today, I believe we have the expertise and technology to effectively reconcile and harness our objectives to provide resolutions and remedial action to combat the health care problems facing our Nation today and achieve quality health care for all of our citizens.

HOUSE OF REPRESENTATIVES—*Monday, September 16, 1974*

The House met at 12 o'clock noon.

Lt. Col. James M. Thurman, Office of Chief of Air Force Chaplains, Washington, D.C., offered the following prayer:

Eternal God, Lord of the years, the days, and the hours, we begin this new week with the prayer that we may feel Your presence each moment of each day.

We give You thanks for the weekend past, and the chance to get away from some of the daily pressures.

We want to do more than just survive this week. Help us to use our time rather than be used by it.

Bless the President, the Congress, the courts, and help us all as public servants to recognize and to value the person behind each face and each vote.

May "hope" become more than a word in some life this day because of what is done here.

We offer our prayers in faith and trust. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment joint resolutions and a concurrent resolution of the House of the following titles:

H.J. Res. 910. Joint resolution asking the President of the United States to declare the fourth Saturday of September 1974, "National Hunting and Fishing Day";

H.J. Res. 1070. Joint resolution authorizing the President to proclaim the period of September 15, 1974, through October 15, 1974, as "Johnny Horizon '76 Clean Up America Month"; and

H. Con. Res. 628. Concurrent resolution authorizing the Clerk of the House to make certain corrections in the enrollment of the bill H.R. 14883.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1283) entitled "An act to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. METCALF, Mr. JOHNSTON, Mr. HASKELL, Mr. NELSON, Mr. HATFIELD, Mr. BUCKLEY, and Mr. MCCLURE to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 87. Concurrent resolution recognizing the centennial anniversary of the University of Nevada.

The message also announced that Mr. STEVENS be appointed as a conferee on the bill (S. 355) entitled "An act to amend the National Traffic and Motor Vehicle Safety Act of 1966 to promote traffic safety by providing that defects and failures to comply with motor vehicle safety standards shall be remedied without charge to the owner, and for other purposes" in lieu of Mr. COOK, excused.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar Day. The Clerk will call the first bill on the Consent Calendar.

EMERGENCY TOBACCO PRICE SUPPORT INCREASE

The Clerk called the bill (H.R. 16056) to provide for emergency increases in the support level for the 1974 crop of Flue-cured tobacco.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. PEYSER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

LAND CONVEYANCE TO STATE OF NEW YORK

The Clerk called the bill (H.R. 7954) to direct the Secretary of Agriculture to release on behalf of the United States conditions in a deed conveying certain lands to the State of New York and to provide for the conveyance of certain interests in such lands so as to permit such State, subject to certain conditions, to sell such land.

There being no objection, the Clerk read the bill as follows:

H.R. 7954

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 32(c) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(c)), the Secretary of Agriculture is authorized and directed to release, on behalf of the United States, with respect to the following described land, the condition in a deed dated January 28, 1961, between the United States and the State of New York, conveying certain lands in Allegany County in the State of New York to the State of New York, of which such described land is a part, which requires that the lands so conveyed be used for public purposes and provides for a reversion of such land to the United States if at any time it ceases to be so used:

A parcel or tract of land consisting of approximately .42 acre, being a portion of the lands conveyed by such deed dated January 28, 1961, being in the town of New Hudson, county of Allegany, State of New York, being part of lot 47 in such town which begins at the southwest corner of the existing cemetery lot; thence south on a line that is the continuation of the west line of said existing cemetery lot a distance of 100 feet to a point; thence east and parallel to the south line of said existing cemetery lot a distance of 185 feet to a point on the continuation of the east line of said existing cemetery lot;

thence north along the said continuation of said east line a distance of 100 feet to the southeast corner of said existing cemetery lot; thence west along the south line of said existing cemetery lot a distance of 185 feet to the place of beginning.

Sec. 2. The Secretary shall release the condition referred to in the first section of this Act only with respect to land covered by and described in any agreement or agreements entered into between the Secretary of Agriculture and the State of New York in which such State in consideration of the release of such conditions as to such land agrees to convey the land with respect to which such condition is released to the Bellview Cemetery Association for a fair and equitable consideration.

Sec. 3. Upon application all the undivided mineral interests of the United States in any parcel or tract of land, released pursuant to this Act from the condition as to such lands, shall be conveyed to the State of New York for the use and benefit of the State by the Secretary of the Interior. In areas where the Secretary of the Interior determines that there is no active mineral development or leasing, and that the lands have no mineral value, the mineral interests covered by a single application shall be sold for a consideration of $1. In other areas the mineral interests shall be sold at the fair market value thereof as determined by the Secretary of the Interior after taking into consideration such appraisals as he deems necessary or appropriate.

Sec. 4. Each application made under the provisions of section 3 of this Act shall be accompanied by a nonrefundable deposit to be applied to the administrative costs as fixed by the Secretary of the Interior. If the conveyance is made, the applicant shall pay to the Secretary of the Interior the full administrative costs, less the deposit. If a conveyance is not made pursuant to an application filed under this Act, the deposit shall constitute full satisfaction of such administrative costs notwithstanding that the administrative costs exceed the deposit.

Sec. 5. The term "administrative costs" as used in this Act includes, in addition to other items, all costs which the Secretary of the Interior determines are included in a determination of (1) the mineral character of the land in question, and (2) the fair market value of the mineral interest.

Sec. 6. Amounts paid to the Secretary of the Interior under the provisions of this Act shall be paid into the Treasury of the United States as miscellaneous receipts.

With the following committee amendments:

Page 3, line 4, strike out the word "Bellview", and insert in lieu thereof the word "Bellville".

Page 3, line 19, strike out lines 19 through 25; page 4, line 1, strike out lines 1 through 3 and insert in lieu thereof the following:

"Sec. 4. The Secretary of the Interior shall require the deposit of a sum of money which he deems sufficient to cover estimated administrative costs of this Act. If a conveyance is, or is not made pursuant to this Act, and the administrative costs exceed the deposit, the Secretary shall bill the applicant for the outstanding amount, but if the amount of the deposit exceeds the actual administrative costs, the Secretary shall refund the excess."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDMENT OF MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT OF 1964, AS AMENDED, WITH RESPECT TO SETTLEMENT OF CLAIMS AGAINST UNITED STATES BY MEMBERS OF UNIFORMED SERVICES AND CIVILIAN OFFICERS AND EMPLOYEES FOR DAMAGE TO, OR LOSS OF, PERSONAL PROPERTY INCIDENT TO THEIR SERVICE

The Clerk called the bill (H.R. 7135) to amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by civilian officers and employees for damage to, or loss of, personal property incident to their service.

There being no objection, the Clerk read the bill as follows:

H.R. 7135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3(a)(1) of the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (78 Stat. 767, as amended), is amended by striking out "$10,000" and inserting in place thereof "$12,000", and

(b) Section 3(b)(1) of the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (78 Stat. 767, as amended), is amended to read as follows:

"(b)(1) Subject to any policies the President may prescribe to effectuate the purposes of this subsection and under such regulations as the head of an agency, other than a military department, the Secretary of the Treasury with respect to the Coast Guard, or the Department of Defense, may prescribe, he or his designee may settle and pay a claim arising after the effective date of this Act against the United States for not more than $12,000 made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency, for damage to, or loss of, personal property incident to his service. If the claim is substantiated and the possession of that property is determined to be reasonable, useful, or proper under the circumstances, the claim may be paid or the property replaced in kind. This subsection does not apply to claims settled before its enactment.

Sec. 2. Section 1 of this Act is effective August 31, 1964, for the purpose of reconsideration of settled claims as provided in this section. Notwithstanding section 4 of the Military Personnel and Civilian Employees' Claims Act of 1964, or any other provision of law, a claim heretofore settled in the amount $6,500 solely by reason of the maximum limitation established by section 3(b) of the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, or a claim heretofore settled in the amount of $10,000 solely by reason of the maximum limitation established by section 3(a) of that Act, may, upon written request of the claimant made within one year from the date of enactment of this Act, be reconsidered and settled under the amendments contained in section 1 of this Act.

With the following committee amendments:

Page 1, line 5: After "amended" insert "; 31 U.S.C. 241(a)(1)".

Page 1, line 6: Strike "$12,000" and insert "$15,000".

Page 2, line 3: After "amended", insert "; 31 U.S.C. 241(a)(1)".

Page 2, line 7: Strike "Treasury" and insert "Transportation".

Page 2, line 11: Strike "$12,000" and insert "$15,000".

Page 2, lines 20 through 25, and page 3, lines 1 through 8: Strike all of section 2, and insert:

"Sec. 2. The amendments provided in this Act shall apply to claims based upon losses of personal property which occur after the effective date of this Act."

The committee amendments were agreed to.

Mr. DANIELSON. Mr. Speaker, the bill—H.R. 7135—would fix $15,000 as the limit for amounts paid for losses of personal property of military and civilian personnel of the Federal Government incident to their service, and the bill would further make that limit applicable uniformly to all agencies and departments.

The bill—H.R. 7135—as amended by the committee, would amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (31 U.S.C. 240–243), to increase from $10,000 to $15,000 the limit on amounts of claims for damage to or loss of personal property incident to service which may be paid by—

The Secretary of a military department, when the claim is made by a member of the uniformed services under the jurisdiction of, or by a civilian officer or employee of, that department;

The Secretary of Transportation, when the claim is made by a member of the uniformed services under the jurisdiction of, or by a civilian officer or an employee of, the Coast Guard when it is not operating as a part of the Navy; or

The Secretary of Defense, when the claim is by a civilian employee of the Department of Defense not under the jurisdiction of a military department or the Coast Guard.

H.R. 7135, as amended by the committee, would, in addition, increase to $15,000 the amount of such a claim which may be paid by the head of any other agency, when a claim is made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency. Some of these other agencies now may pay a claim for no more than $10,000; some only a claim for no more than $6,500.

As to the military departments and the Coast Guard, the present limitation on the payment of personal claims incident to service was established in 1965. The elements of the Department of Defense and the Coast Guard have demonstrated their ability to administer this act, as well as the other laws authorizing payment of claims against the United States, with fairness to the claimants and concern for the protection of the public funds. Since the $10,000 limitation was established, the cost of repairing or replacing property of the type whose loss or damage may give rise to claims within the terms and purpose of this act has increased significantly. The increase is due primarily to the general inflationary trend which has raised the price of virtually all household items.

One method of calculating increased costs of such goods is the Consumer Price Index. According to the U.S. Bureau of Labor Statistics, the Consumer Price Index in May 1964 was 92.7, and in May 1973 it was 131.5, an increase of 41.9 percent. If this increase is correlated with the congressional intent in 1945, when the $10,000 limit was established, at least $14,190 would be required to provide the same protection today. A $15,000 limit appears to be more in line with the current value of such property or its repair. An increase in the limit to $15,000 would thus serve to maintain the level of protection that was previously considered appropriate for this property by Congress as a matter of fairness, support for morale, of Government personnel. As to the Armed Forces such protection would be a further inducement for entering and continuing membership in the Armed Forces.

The additional cost to the Government is not possible of exact computation since it would relate only to those cases of large loss which would exceed the present limits. An indication of the potential for such losses can be gained from the report of the Department of the Air Force which details the experience of the military services as to claims which exceeded the $10,000 limit in the period since July 1, 1969. In that period the Army had 53 such claims, the Navy 42 and the Air Force 53.

I would like to explain that the committee amendments delete a retroactive effect originally provided in the bill. As originally introduced, the bill provided for a measure of retroactive effect in that it would have permitted a reconsideration of previously adjudicated claims to the extent of providing authority for the payment of proven losses which were not paid because of the previous limit for payments. It would have permitted payments up to the new limit upon application within 1 year of the effective date of a new law. However, the committee recommended an amendment striking this provision. It is felt that the new limit should have prospective force only.

In summary, therefore, it can be said that section 3 of the act now provides for a limit of $10,000 as to the military departments and the Coast Guard in subsection (a), and in subsection (b) there is a limit of $6,500 for civilian departments or agencies, but as a result of a 1972 amendment, the Peace Corps, the Overseas Private Investment Corporation, State Department, AID, USIA, and the U.S. Arms Control and Disarmament Agency have a $10,000 limit. As I have stated, the amended bill would provide a uniform limit of $15,000 for all agencies and departments.

It is recommended that the amended bill be considered favorably.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by members of the uniformed services and civilian officers and employees for damage to, or loss of, personal property incident to their service."

A motion to reconsider was laid on the table.

CITY OF ARANSAS PASS, TEX., AND THE URBAN RENEWAL AGENCY OF THE CITY OF ARANSAS PASS, TEX.

The Clerk called the bill (H.R. 9588) for the relief of the city of Aransas Pass, Tex., and the Urban Renewal Agency of the city of Aransas Pass, Tex.

There being no objection, the Clerk read the bill as follows:

H.R. 9588

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of this Act or title I of the Housing Act of 1949, as amended, the Secretary of Housing and Urban Development is authorized and directed to release the city of Aransas Pass, Texas, and the Urban Renewal Agency of the city of Aransas Pass, Texas, from the obligations of their agreement with the Department of Housing and Urban Development entered into in connection with the closeout of the project numbered Tex. R–92, to provide payments of any kind for any deficit local grants-in-aid to said project. Said release shall be effective as of the original date of closeout: *Provided,* That nothing herein shall be construed to relieve the city of Aransas Pass, Texas, from its contractual obligations with respect to the unsold project land.

Mr. DANIELSON. Mr. Speaker, the bill H.R. 9588 would release the city of Aransas Pass, Tex., and its urban renewal agency from the obligation to repay a Housing and Urban Development Department loan of $166,735.

This would be done by waiving provisions of title I of the Housing Act of 1949 and directing the Secretary of Housing and Urban Development to release the city of Aransas Pass, Tex., and the urban renewal agency of that city from the obligations of this agreement with the Department of Housing and Urban Development concerning payments from any deficit in local grants-in-aid in connection with the closeout of the project numbered Tex. R–92. The bill provides that the city will not be relieved of contractual obligations in respect to unsold project land.

The Department of Housing and Urban Development in its report to the committee stated it had no objection to the bill because of the particular circumstances of the matter.

The indebtedness referred to in H.R. 9588 arises out of an urban renewal project known as the Golden Palms project (Texas R–92). In December 1965, survey and planning on the project was processed through the Fort Worth office of HUD. After review and analysis by HUD personnel, their recommendation for approval was sent to the HUD office in Washington, and approval for execution of the project by HUD Washington was received in March 1968.

The Aransas Pass Urban Renewal Agency immediately began to acquire the necessary property. Of 400 parcels of land acquired, 240 had to be obtained by condemnation proceedings. When the property acquisition finally had been completed, Hurricane Celia struck with devastating force, causing massive destruction to Aransas Pass. As a direct result the city could not continue or complete the project. The seawall played a vital role in the protection of the downtown business district and residential area, and prevented an estimated $5 million of additional damage. The project required cuts in the seawall which were basic to the urban renewal project, which from the beginning called for an integrated marina design. Thus, HUD, the city and the urban renewal agency reached the conclusion that the project was both economically and physically infeasible. Thus, the engineering problem with the seawall, the state of destruction of the city following the hurricane, and the city's dire financial circumstances eliminated any hope for the city to carry out the Golden Palms urban renewal project.

The city entered into negotiations with HUD which culminated in a contract converting the project from a nonassisted loan project, to a conventional project. While this contract conversion did assist them a great deal, it still left the city with a debt obligation of approximately $166,735 plus interest, none of which the city is able to meet because of this very disastrous situation.

The situation is such that the city faces this indebtedness as a result of their agreement to carry out an urban renewal project which when measured by established standards at its inception appeared feasible to HUD experts and received the approval of HUD central office in Washington. The circumstances are now completely changed. Subsequent developments including the hurricane made completion of the project impossible. Interest on the debt continues to accrue daily and the city is without resources to meet increment payments.

In stating it had no objection to relief, the Department of Housing and Urban Development stated:

> The City of Aransas Pass is a small city with a predominantly low to moderate income population of under 10,000. It is our understanding that the 1970 hurricane destroyed most of the City and eliminated most of its tax base. It has since been faced with the considerable financial burden of rebuilding its community facilities, including repairing its seawall to prevent future flooding. In order to repay the HUD loan, the City would have to raise taxes and defer expenditures for vital municipal improvements.
>
> In view of the hardship that repayment would undoubtedly cause the City and the unique nature of the situation this Department would have no objection to enactment of H.R. 9588.

It recommended that the bill be considered favorably.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CERTAIN FIRE DISTRICTS AND DEPARTMENTS IN THE STATE OF MISSOURI

The Clerk called the bill (H.R. 11847) for the relief of certain fire districts and departments in the State of Missouri to compensate them for expenses relating to a fire on Federal property.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HINSHAW. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CUMBRES AND TOLTEC SCENIC RAILROAD COMPACT

The Clerk called the Senate bill (S. 2362) granting the consent and approval of Congress to the Cumbres and Toltec Scenic Railroad compact.

There being no objection, the Clerk read the bill as follows:

S. 2362

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent and approval of Congress is hereby given to the Cumbres and Toltec Railroad Compact as agreed to by the States of Colorado and New Mexico, which compact is as follows:

"CUMBRES AND TOLTEC SCENIC RAILROAD

"The State of New Mexico and the State of Colorado, desiring to provide for the joint acquisition, ownership, and control of an interstate narrow gauge scenic railroad, known as the Cumbres and Toltec Scenic Railroad, within Rio Arriba County in New Mexico and Archuleta and Conejos Counties in Colorado, to promote the public welfare by encouraging and facilitating recreation and by preserving, as a living museum for future generations, a mode of transportation that helped in the development and promotion of the territories and States, and to remove all clauses of present and future controversy between them with respect thereto, and being moved by considerations of interstate comity, have agreed upon the following articles:

"ARTICLE I

"The States of New Mexico and Colorado agree jointly to acquire, own and make provision for the operation of the Cumbres and Toltec Scenic Railroad.

"ARTICLE II

"The States of New Mexico and Colorado hereby ratify and affirm the agreement of July 1, 1970, entered between the railroad authorities of the States.

"ARTICLE III

"The States of New Mexico and Colorado agree to make such amendments to the July 1, 1970, agreement and such other contracts, leases, franchises, concessions, or other agreements as may hereafter appear to both States to be necessary and proper for the control, operation, or disposition of the said railroad.

"ARTICLE IV

"The States of New Mexico and Colorado agree to the consideration of the enactment of such laws or constitutional amendments exempting the said railroad or its operations from various laws of both States as both States shall hereafter mutually find necessary and proper.

"ARTICLE V

"Nothing contained herein shall be construed so as to limit, abridge, or affect the jurisdiction or authority, if any, of the Interstate Commerce Commission over the said railroad, or the applicability, if any, of the tax laws of the United States to the said railroad or its operation.".

SEC. 2. The right to alter, amend, or repeal this Act is expressly reserved.

Amend the title so as to read: "An Act granting the consent of Congress to the Cumbres and Toltec Scenic Railroad Compact."

With the following committee amendment:

On page 1, line 3 of the bill strike out the words "and approval".

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time and passed.

The title was amended so as to read: "Granting the consent of Congress to the Cumbres and Toltec Scenic Railroad Compact."

A motion to reconsider was laid on the table.

The SPEAKER. That concludes the call of the eligible bills on the Consent Calendar.

GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent with respect to Consent Calendar items Nos. 101 and 102, H.R. 7135 and H.R. 9588, that all Members may have 5 legislative days within which to revise and extend their remarks.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 11452, RATE OF DUTY APPLICABLE TO CRUDE FEATHERS AND DOWNS

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11452) to correct an anomaly in the rate of duty applicable to crude feathers and downs, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas? The Chair hears none, and appoints the following conferees: Messrs. MILLS, ULLMAN, BURKE of Massachusetts, SCHNEEBELI, and COLLIER.

SUBPENA IN CONNECTION WITH POSSIBLE VIOLATION OF 18 U.S.C. 608

Mr. McFALL. Mr. Speaker, on Thursday of last week the Clerk of the House of Representatives advised the House that he had been served with a subpena duces tecum issued by the U.S. District Court for the southern district of New York.

The SPEAKER laid the matter before the House, and the letter from the Clerk and the subpena appear in the CONGRESSIONAL RECORD of Thursday, September 12, at page 30947.

Mr. McFALL. Mr. Speaker, I offer a privileged resolution (H. Res. 1365) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1365

Whereas in a Grand Jury Investigation pending in the United States District Court for the Southern District of New York, a subpena duces tecum was issued by the said court and addressed to W. Pat Jennings, Clerk of the House of Representatives, directing him to appear as a witness before the grand jury of the said court at 10:00 o'clock antemeridian on the 16th day of September, 1974, and to bring with him certain papers and documents in the possession and under the control of the House of Representatives; Therefore be it

Resolved, That by the privileges of the House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice or before any judge or such legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That W. Pat Jennings, Clerk of the House, or any officer or employee in his office whom he may designate, be authorized to appear at the place and before the grand jury in the subpena duces tecum beforementioned, but shall not take with him any papers or documents on file in his office or under the control or in the possession of the House of Representatives; be it further

Resolved, That when the said court determines upon the materiality and the relevancy of the papers and documents called for in the subpena duces tecum, then the said court, through any of its officers or agents, be authorized to attend with all proper parties to the proceeding and then always at any place under the orders and control of this House, and take copies of those requested papers and documents which are in possession or custody of the said Clerk; and the Clerk is authorized to supply certified copies of such documents or papers in his possession or control that the court has found to be material and relevant and which the court or other proper officer shall desire, so as, however, the possession of said documents and papers by the said Clerk shall not be disturbed, or the same shall not be removed from their place of file or custody under the said Clerk; and be it further

Resolved, That as a respectful answer to the subpena duces tecum a copy of these resolutions be submitted to the said Court.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.
August 23, 1974.

Hon. CARL ALBERT,
Speaker, House of Representatives.

DEAR SIR: On this date, I have been served with a subpoena duces tecum by a representative of the U.S. Department of Justice, that was issued and signed by the Chief Judge for the U.S. District Court for the District of Columbia. This subpoena is in connection with a possible violation of 26 U.S.C. 7205.

The subpoena commands me or my authorized representative to appear in the said U.S. District Court for the District of Columbia on the 20th day of September, 1974, and requests certain House records of an employee of a former Member, Congressman John G. Schmitz, 35th Congressional District, California, that are outlined in the subpoena itself, which is attached hereto.

House Resolution 12 of January 3, 1973, and the rules and practices of the House of Representatives indicate that no official of the House may, either voluntarily or in obedience to a subpoena duces tecum produce such papers without the consent of the House being first obtained. It is further indicated that he may not supply copies of certain of the documents and papers requested without such consent.

The subpoena in question is herewith attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

Sincerely,

W. PAT JENNINGS,
Clerk, House of Representatives.

The SPEAKER. The subpena will be printed at this point in the RECORD.

The subpena is as follows:

[U.S. District Court for the District of Columbia]

SUBPEONA DUCES TECUM

Re Possible Violation of 26 U.S.C. § 7205.

To: Honorable W. Pat Jennings, Clerk of the House of Representatives, Washington, D.C., or his authorized representative.

Bring with you: All original and official payroll, tax and personnel matters relating to David Emerson Gumaer, social security number number 351-30-7809, former research assistant to the Honorable John G. Schmitz, for the period beginning November 15, 1971 and ending April 1, 1972, such matters to include W-4 Federal Tax Forms submitted by or on behalf of Mr. Gumaer, clerk-hire forms, personnel files, payroll ledgers, and House of Representative records reflecting Treasury checks, by number, issued to Mr. Gumaer during the above-mentioned period.

You are hereby commanded to attend before the Grand Jury of said Court on Friday the 20th day of September, 1974, at 9:30 a.m. to testify and produce the aforesaid documents on behalf of the United States, and not depart the Court without leave of the Court or United States Attorney.

Witness: this 23rd day of August, 1974.

GEORGE L. HART, Jr.,
Chief Judge, U.S. District Court for the District of Columbia.

AUTHORIZING CLERK, HOUSE OF REPRESENTATIVES, TO MAKE AVAILABLE COPIES OF CERTAIN PAPERS AND DOCUMENTS CALLED FOR BY GRAND JURY, U.S. DISTRICT COURT FOR DISTRICT OF COLUMBIA

Mr. McFALL. Mr. Speaker, I offer a privileged resolution (H. Res. 1366) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1366

Whereas in a Grand Jury Investigation pending in the United States District Court for the District of Columbia, a subpena duces tecum was issued by the said court and addressed to W. Pat. Jennings, Clerk of the House of Representatives, directing him to appear as a witness before the grand jury of the said court at 9:30 o'clock antemeridian on the 20th day of September, 1974, and to bring with him certain papers and documents in the possession and under the control of the House of Representatives: Therefore be it

Resolved, That by the privileges of the House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice or before any judge or such legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That W. Pat Jennings, Clerk of the House, or any officer or employee in his office whom he may designate, be authorized to appear at the place and before the grand jury in the subpena duces tecum beforementioned, but shall not take with him any papers or documents on file in his office or under the control or in the possession of the House of Representatives; be it further

Resolved, That when the said court determines upon the materiality and the relevancy of the papers and documents called for in the subpena duces tecum, then the said court, through any of its officers or agents, be authorized to attend with all proper parties to the proceeding and then always at any place under the orders and control of this House, and take copies of those requested papers and documents which are in possession or control of the said Clerk; and the Clerk is authorized to supply certified copies of such documents or papers in his possession or control that the court has found to be material and relevant and which the court or other proper officer shall desire, so as, however, the possession of said documents and papers by the said Clerk shall not be disturbed, or the same shall not be removed from their place of file or custody under the said Clerk; and be it further

Resolved, That as a respectful answer to the subpena duces tecum a copy of these resolutions be submitted to the said court.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
September 12, 1974.

Hon. CARL ALBERT,
Speaker, House of Representatives.

DEAR SIR: The Clerk of the House of Representatives has this date been served by the U.S. Marshal with the attached Summons in a Civil Action together with a copy of the Complaint filed by the Socialist Workers 1974 National Campaign Committee, et al., v. Hon. W. Pat Jennings, Clerk, United States House of Representatives and others in Civil Action File No. 74-1338 in the District Court for the District of Columbia.

This letter is to inform you of my desire to make arrangements for my defense as provided for the Officers of the United States House of Representatives under 2 U.S.C. 118.

The Summons specifies the defendants have sixty days to answer the Complaint. However, the Complaint prays that a three-judge court be convened to "preliminarily and permanently enjoin the operation" of certain portions of the Federal Election Campaign Act of 1971, Public Law 92-225.

The Summons and Complaint in question are herewith attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

Sincerely,

W. PAT JENNINGS,
Clerk, House of Representatives.

[U.S. District Court for the District of Columbia—Civil Action File No. 74-1338]

SOCIALIST WORKERS 1974 NATIONAL CAMPAIGN COMMITTEE, ET AL., PLAINTIFFS v. HON. W. PAT JENNINGS, CLERK, U.S. HOUSE OF REPRESENTATIVES; HON. FRANCIS R. VALEO, SECRETARY, UNITED STATES SENATE; HON. ELMER B. STAATS, COMPTROLLER-GENERAL OF THE UNITED STATES, DEFENDANTS

To the above named Defendant: Hon. W. Pat Jennings.

You are hereby summoned and required to serve upon Melvin L. Wulf, plaintiff's attorney, whose address is American Civil Liberties Union, 410 First St., S.E., Washington, D.C. 20003, an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

JAMES F. DAVEY,
Clerk.
BETTY CARTER,
Deputy Clerk.

Date: September 12, 1974.

WASHINGTON, D.C.,
September 12, 1974.

Hon. EARL J. SILBERT,
U.S. Attorney, District of Columbia, U.S. Courthouse, Washington, D.C.

DEAR MR. SILBERT: I am sending you a certified copy of a summons and complaint in Civil Action 74-1338 filed against the Clerk of the United States House of Representatives and others in the United States District Court for the District of Columbia, and served upon me this date.

In accordance with Title 2, U.S. Code, sec. 118, I respectfully request that you take appropriate action, as deemed necessary, under the "supervision and direction of the Attorney General" of the United States in defense of this suit against the Clerk of the U.S. House of Representatives.

I am also sending you a copy of the letter that I forwarded this date to the Attorney General of the United States.

With kind regards, I am

Sincerely,

W. PAT JENNINGS,
Clerk, House of Representatives.

WASHINGTON, D.C.,
September 12, 1974.

Hon. WILLIAM B. SAXBE,
Attorney General of the United States, Department of Justice, Washington, D.C.

DEAR MR. SAXBE: I am sending you a certified copy of a summons and complaint in Civil Action 74-1338 filed against the Clerk of the United States House of Representatives and others in the United States District Court for the District of Columbia, and served upon me this date.

In accordance with 2 U.S.C. 118 I have sent a certified copy of the summons and complaint in this action to the U.S. Attorney for the District of Columbia, requesting that he take appropriate action under the supervision and direction of the Attorney General. I am also sending you a copy of the letter I forwarded this date to the U.S. Attorney.

With kind regards, I am

Sincerely,

W. PAT JENNINGS, *Clerk,*
House of Representatives.

PRESIDENT'S STATEMENT ON AMNESTY

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, the AP tape shows that President Ford has issued his new statement on amnesty for the Vietnam war resisters and deserters and his position is that they should do up to 24 months of civilian alternate service.

When that original legislation was introduced by Senator TAFT and myself in 1971 it was timely. But we have gone far past that point, particularly in light of the pardoning of the former President.

I commend President Ford for having taken a major step forward and urge him on to an even more compassionate response.

AMNESTY FOR BLACKS

(Mr. MITCHELL of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MITCHELL of Maryland. Mr. Speaker, I, too, am pleased with this tentative first step that President Ford has taken to ease the plight of the American citizens who recognized the wickedness of the Vietnam war and fled from it. As we all know, the war was never a legal war. The Congress never declared that we were at war. Therefore, I think this tentative first step is in the right direction. However, since my first concerns about the Vietnam war, I have taken a position which I think is a logical and consistent position; namely, that in light of the fact that the war was illegal, the only real fair way to deal with this problem is a complete, unconditional amnesty. That is the only fair way to deal with it.

I would call to the attention of the Members of the House the particular plight of the black servicemen who recognized the wickedness and wrongness of Vietnam, who did not flee the country, who stayed and, indeed, because they did stay, received dishonorable discharges which will haunt and plague them for the rest of their lives.

I would hope that the Board just appointed by the President would pay particular attention to the plight of the black servicemen.

APPOINTMENT OF CONFEREES ON H.R. 8193, IMPORTS ON U.S.-FLAG VESSELS

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8193) to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentlewoman from Missouri? The Chair hears none, and appoints the following conferees: Mrs. SULLIVAN, Messrs. CLARK, DOWNING, GROVER, and GOODLING.

CONFERENCE REPORT ON H.R. 11537, CONSERVATION AND REHABILITATION PROGRAMS ON MILITARY RESERVATIONS AND CERTAIN PUBLIC LANDS

Mrs. SULLIVAN submitted the following conference report and statement on the bill (H.R. 11537) to extend and expand the authority for carrying out conservation and rehabilitation programs on military reservations, and to authorize the implementation of such programs on certain public lands:

CONFERENCE REPORT (H. REPT. No. 93-1352)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11537) to extend and expand the authority for carrying out conservation and rehabilitation programs on military reservations, and to authorize the implementation of such programs on certain public lands, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 4, 5, 6, 8, 9, 10, 11, 12, 13, and 15, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

On page 1, line 2, of the Senate engrossed amendments, strike out "rare" and insert the following: threatened; and the Senate agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "Conservation and rehabilitation programs developed and implemented pursuant to this title shall be deemed as supplemental to wildlife, fish, and game-related programs conducted by the Secretary of the Interior and the Secretary of Agriculture pursuant to other provisions of law. Nothing in this title shall be construed as limiting the authority of the Secretary of the Interior or the Secretary of Agriculture, as the case may be, to manage the national forests or other public lands for wildlife and fish and other purposes in accordance with the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528–531) or other applicable authority."

And the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(D) provide adequate protection for fish and wildlife officially classified as threatened or endangered pursuant to section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) or considered to be threatened, rare, or endangered by the State agency;"

And the Senate agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "with respect to resident fish and wildlife in accordance with applicable laws and regulations of the State in which such land is located"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

On page 3, line 10, of the Senate engrossed amendments, immediately after "departments" insert the following: ", and any State officer or employee authorized under a cooperative agreement to enforce such subsection (a)"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "a unit of the National Park System:"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with the following amendments: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"'(D) an Indian reservation; or".

On page 14, line 17, of the House engrossed bill, strike out "or".

And the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

On page 4, line 6, of the Senate engrossed amendments, strike out the semicolon and insert a period; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with the following amendments:

On page 4, line 10, of the Senate engrossed amendments, immediately before "enhance" insert the following: "protect, conserve, and".

On page 4, lines 12 and 13, of the Senate engrossed amendments, strike out ", including appropriate protection,".

On page 4, lines 20 and 21, of the Senate engrossed amendments, strike out "contained herein shall diminish" and insert the following: in this term shall be construed as diminishing.

And the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"'SEC. 206. Notwithstanding any other provision in this title, section 203 of this title shall not apply to land which is, or hereafter may be, within or designated as Forest Service land or as Bureau of Land Management land of any State in which all Federal lands therein comprise 60 percent or more of the total area of such State; except that in any such State, any appropriate State agency may agree with the Secretary of Agriculture or the Secretary of the Interior, or both, as the case may be, to collect a fee as specified in such agreement at the point of sale of regular licenses to hunt, trap, or fish in such State, the proceeds of which shall be utilized in carrying out conservation and rehabilitation programs implemented under this title in the State concerned and for no other purpose."

And the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendmnt of the Senate numbered 21, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 207. Nothing in this title shall enlarge or diminish or in any way affect (1) the rights of Indians or Indian tribes to the use of water or natural resources or their rights to fish, trap, or hunt wildlife as secured by statute, agreement, treaty, Executive order, or court decree; or (2) existing State or Federal jurisdiction to regulate those rights either on or off reservations."

And the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendmnt of the Senate numbered 22, and agree to the same with the following amendments: On page 5, line 17, of the Senate engrossed amendments, strike out "22" and insert the following: "23".

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "209".

And the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

Omit the matter proposed to be inserted by the Senate amendment and on page 14 of the House engrossed bill insert immediately before line 23 the following:

"SEC. 208. Nothing in this Act shall in any way affect the jurisdiction, authority, duties, or activities of the Joint Federal-State Land Use Planning Commission established pursuant to section 17 of the Alaska Native Claims Settlement Act (85 Stat. 688). During the development of any cooperative plan for Alaska which may be agreed to under title I after the effective date of this section and of any comprehensive program for Alaska under title II, such Commission shall be given an opportunity to submit its comments on such plan or program."

And the Senate agree to the same.

LEONOR K. SULLIVAN,
JOHN D. DINGELL,
GEORGE A. GOODLING,
Managers on the Part of the House.

WARREN G. MAGNUSON,
PHILIP A. HART,
FRANK E. MOSS,
MARLOW W. COOK,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11537) to extend and expand the authority for carrying out conservation and rehabilitation programs on military reservations, and to authorize the implementation of such programs on certain public lands, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

AMENDMENT NO. 1

House Provision. The House bill adds a new title II to the Act of September 15, 1960 (providing for conservation and rehabilitation programs on military reservations) under which similar programs will be implemented on certain public lands. Section 201 (a) of the House bill requires the Secretary of the Interior and the Secretary of Agriculture, in cooperation with State agencies, to plan, develop, maintain, and coordinate programs for the conservation and rehabilitation of wildlife, fish, and game on such public lands. Programs are to include, but not be limited to, specific habitat improvement projects and related activities.

Senate Amendment. The Senate amendment retains the House language but includes as a part of such habitat improvement projects and related activities the "adequate protection for species considered rare or endangered".

Conference agreement. The managers agree to the Senate amendment but substitute the term "threatened" in lieu of the term "rare" contained in the Senate amendment. The purpose is to conform the language to the terminology utilized in the Endangered Species Act of 1973 which is to protect "threatened or endangered species" as opposed to "rare or endangered species".

AMENDMENT NO. 2

House Provision. Section 202(c) of the House bill requires that no conservation or rehabilitation program developed by the Federal agencies under title II or any other recommendation in any preliminary study or survey undertaken with respect to any such program, may be implemented under such title unless it is included within a cooperative agreement with the State in which such conservation or rehabilitation program takes place.

Senate Amendment. The Senate amendment strikes the House provision and inserts instead the requirement that conservation and rehabilitation programs developed and implemented under title II are to be supplemental to similar programs carried out by the Secretaries of the Interior and Agriculture pursuant to other provisions of law. In addition, the Senate amendment states that nothing contained in title II shall be construed as limiting the authority of the Secretaries of Agriculture and the Interior to manage the public lands for wildlife and fish in accordance with existing authority.

Conference agreement. The managers agree to the Senate amendment with technical modification. In doing so, it is the intention of the managers to preserve existing Federal-State relationships with respect to the management of fish, wildlife, and game on the Federal lands.

In the event that a cooperative agreement cannot be reached between Federal and State agencies with respect to the development of a conservation and rehabilitation program for the Federal lands involved, the Federal agencies would still be responsible for the development of such plans and would retain all of their existing authority with respect to land and habitat management in the development and execution of conservation and rehabilitation programs.

On the other hand, as stated in section 202(b) of the House bill, in any case where hunting, trapping, or fishing of resident fish and wildlife is to be permitted on public lands under such a plan, such activities are to be conducted in accordance with applicable laws and regulations of the State in which such land is located.

AMENDMENT NO. 3

House Provision. In specifying the nature of cooperative agreements which may be entered into between Federal and State agencies, the House bill is silent on the issue of threatened and endangered species.

Senate Amendment. The Senate amendment establishes as an element of cooperative agreements between Federal and State agencies that adequate protection be provided for fish and wildlife classified as rare or endangered by the United States Department of the Interior, or considered threatened, rare or endangered by any State agency.

Conference agreement. The managers adopted the Senate provision with a technical modification to insure conformity with the Endangered Species Act of 1973.

AMENDMENTS NO. 4, 5, 6

These Senate amendments are technical conforming amendments relating to amendment numbered 3 above and were agreed to.

AMENDMENT NO. 7

House Provision. The House bill requires that hunting, fishing, and trapping shall be permitted on public land which is the subject of a conservation and rehabilitation program implemented under title II, except where limited by a comprehensive plan or a cooperative agreement entered into with the State.

Senate Amendment. The Senate amendment requires that any such hunting, fishing, and trapping so permitted shall be "in accordance with applicable laws and regulations of the State in which such land is located".

Conference agreement. The managers agreed to the Senate amendment with a modification requiring that the hunting, fishing, and trapping of resident species of fish and wildlife shall be in accordance with applicable laws and regulations of the State in which such land is located as opposed to all hunting, fishing, and trapping of all species, including migratory birds. The purpose of adopting the modified language is to ensure that the Senate amendment is not construed as authorizing any State to negate the authority of the Federal Government to regulate migratory species of birds to the extent it is required to do so under the Migratory Bird Treaty Act. The term "resident species" therefore includes all species of fish and wildlife which are not subject to regulation under the Migratory Bird Treaty Act. Furthermore, it is not the intent of the amendment to affect in any manner the authority of the Federal Government to regulate species under other provisions of Federal law, including, but not limited to, the Endangered Species Act of 1973 and the Bald Eagle Protection Act.

AMENDMENT NO. 8

House Provision. In describing the conditions under which cooperative agreements may be reached for requiring a public land management area stamp to hunt, trap, or fish on Federal lands, the House bill specifies several conditions regarding the issuance of the stamps by the States and the handling and distribution of the funds collected.

Senate Amendment. The Senate amendment establishes an additional condition that the requirement to possess any such stamp must be displayed prominently where State hunting, trapping, or fishing licenses are sold and that the sale of such stamps must be combined with the sale of State hunting, trapping, and fishing licenses to the maximum extent practicable.

Conference agreement. The managers agree to the Senate amendment.

AMENDMENTS NO. 9, 10, 11, 12 AND 13

These Senate amendments are technical and conforming amendments relating to amendment numbered 8 above and were agreed to.

AMENDMENT NO. 14

House Provision. The House provision authorizes the Secretary of Interior and the Secretary of Agriculture, in carrying out title II, to designate and authorize their officers and employees to enforce the requirements of conservation and rehabilitation programs. Such officers or employees, as well as State officers or employees authorized under a cooperative agreement, to enforce the provisions of the programs, may arrest any person committing offenses in their presence or view, execute warrants or processes for the arrest of persons charged with the commission of any such offense, and to search any place as authorized by law.

Senate Amendment. The Senate amendment conforms the language of the House provision to the enforcement provision adopted in the Senate-passed version of the National Resource Lands Management Act (S. 424). In general, the Senate amendment conforms to the House provision except that it authorizes officers or employees of the Interior and Agriculture Departments to carry firearms and broadens the search authority to include any person or conveyance, as authorized by law. However, it does not include the authorization for State employees to enforce the provisions of a conservation and rehabilitation plan under a cooperative agreement.

Conference agreement. The managers agree to the Senate provision with the modification that State officers or employees, if authorized pursuant to a cooperative agreement to enforce a conservation and rehabilitation program, may exercise the same enforcement powers as designated officers and employees of the Federal agencies.

AMENDMENT NO. 15

House Provision. In defining the term "off-road vehicle" for the purposes of control under a cooperative agreement between Federal and State agencies, the term does not include "any registered motor boat".

Senate Amendment. The Senate amendment retains the exclusion of any registered motor boat but in addition makes any such exclusion "at the option of each State".

Conference agreement. The managers agree to the Senate amendment.

AMENDMENT NO. 16

House Provision. In defining the public lands to which the requirements of this title II will apply, the House bill excludes "a national park or monument".

Senate Amendment. The Senate amendment substitutes in lieu thereof "units of the National Park System".

Conference agreement. The managers agreed to the Senate amendment with technical modifications. Thus, all units of the National Park System, including national parks or monuments, national recreation areas, national lake shores, national seashores, and other areas of the System will not be affected under title II. Each such area is governed by specific statutory authority with respect to fish and wildlife programs.

AMENDMENTS NO. 17 AND 18

House Provision. In excluding certain lands from coverage under title II, the House bill does not deal with Indian reservations, areas within reservations, and lands held in trust by the United States for an Indian or an Indian tribe.

Senate Amendment. The Senate amendment excludes such lands from coverage under title II.

Conference agreement. The managers agreed to the Senate amendments with technical modification.

AMENDMENT NO. 19

House Provision. The House bill does not define the term "conservation and rehabilitation program" for purposes of title II.

Senate Amendment. The Senate amendment adds a provision to define the term. Under the definition, a substantive standard for the performance of the Federal agencies in carrying out title II would be established. The term means to utilize those methods and procedures which are necessary to enhance fish, wildlife, and game resources to the maximum extent practicable consistent with any overall land use and management plans for the lands involved. The definition further specifies the methods and procedures of resource management which may be used. The definition also disclaims any intent to diminish the authority or jurisdiction of the States with respect to the management of resident species of fish, wildlife, or game, except as otherwise provided by law.

Conference agreement. The managers agreed to accept the Senate amendment with minor clarifying modifications. Under the modifications, methods and procedures must be utilized to "protect, conserve, and enhance wildlife, fish and game" as opposed to "enhancing wildlife, fish, and game" as the Senate amendment specifies. In addition, a duplicative reference to appropriate protection of wildlife, fish, and game species as one of the techniques to be used was eliminated.

AMENDMENT NO. 20

House Provision. Section 203 of the House bill authorizes Federal and State agencies to agree to require "public land management area stamps" in order to hunt, trap, or fish on public lands subject to a conservation and rehabilitation program implemented under title II.

Senate Amendment. The Senate amendment prohibits any such agreement with respect to lands administered by the Forest Service or the Bureau of Land Management in any State in which Federal lands comprise 25% or more of the total area of the state.

Conference agreement. The managers agree to the Senate amendment with modifications. Under the agreement, any appropriate State agency may agree with the Secretary of Agriculture or the Secretary of the Interior (which respectively administer National Forest Service land and Bureau of Land Management land), or both, to collect fees at the point of sale of regular hunting, trapping, or fishing licenses, the proceeds of which shall be utilized to carry out programs implemented under title II within that State and for no other purpose. The provision will, however, only apply in any State in which 60% or more of the lands in any such State are owned by the Federal Government.

AMENDMENT NO. 21

House Provision. The House bill does not contain a provision dealing with Indian rights.

Senate Amendment. The Senate amendment states that nothing in title II shall enlarge or diminish or effect the rights of Indians or Indian tribes to the use of water or natural resources or the rights to fish, trap, or hunt wildlife as secured by statute, agreement, treaty, Executive order, or court decree. At the same time, none of the provisions will affect existing State or Federal jurisdiction to regulate such rights either on or off reservations.

Conference agreement. The managers agree to the Senate amendment.

AMENDMENT NO. 22

This amendment is a conforming amendment to amendment numbered 21 above and was agreed to.

AMENDMENT NO. 23

House Provision. The House bill did not contain any provision relating to the coordination of conservation and rehabilitation programs developed for the State of Alaska by the Joint Federal-State Land Use Planning Commission established under the Alaska Native Claims Settlement Act (85 Stat. 688).

Senate Amendment. The Senate amendment disclaims any attempt under this Act to affect the jurisdictions of such Commission and further requires that any comprehensive plan promulgated pursuant to this Act for Alaska shall be submitted to such Commission for its advice and comments prior to its approval.

Conference agreement. The managers agree to the Senate amendment with clarifying modifications. The modifications insure that both cooperative plans developed by the Department of Defense under title I and the comprehensive plans developed by the other agencies under title II shall be submitted to the Commission for its comment during the development of such plans. The disclaimer that nothing in such titles I and II shall affect the jurisdiction, authority, duties, or activities of the Commission remains.

LEONOR K. SULLIVAN,
JOHN D. DINGELL,
GEORGE A. GOODLING,
Managers on the Part of the House.

WARREN G. MAGNUSON,
PHILIP A. HART,
FRANK E. MOSS,
MARLOW W. COOK,
Managers on the Part of the Senate.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 526]

Abdnor
Addabbo
Alexander
Anderson, Ill.
Andrews, N.C.
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Beard
Bell
Biaggi
Bingham
Blatnik
Bolling
Brademas
Brasco
Brinkley
Brotzman
Brown, Mich.
Broyhill, N.C.
Buchanan
Burgener
Burke, Calif.
Butler
Camp
Carey, N.Y.
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clark
Clausen, Don H.
Cleveland
Collier
Collins, Tex.
Conable
Conlan
Conte
Conyers
Cotter
Coughlin
Crane
Culver
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
Delaney
Dellums
Dent
Derwinski
Devine
Diggs
Donohue
Drinan
Edwards, Calif.
Eilberg
Esch
Findley
Fish
Flowers
Ford
Frenzel
Frey
Froehlich
Fuqua
Giaimo
Goldwater
Grasso
Gray
Green, Pa.
Grover
Gubser
Gunter
Hanna
Hanrahan
Hansen, Idaho
Harrington
Harsha
Hastings
Heckler, Mass.
Helstoski
Hogan
Holifield
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hunt
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Karth
Ketchum
Kluczynski
Kyros
Landgrebe
Landrum
Lehman
Lent
Luken
McCloskey
McCormack
McDade
McKay
McSpadden
Macdonald
Madigan
Mallary
Mann
Maraziti
Martin, Nebr.
Mathis, Ga.
Meeds
Metcalfe
Michel
Milford
Minshall, Ohio
Mizell
Moorhead, Pa.
Murphy, Ill.
Nelsen
O'Hara
O'Neill
Owens
Parris
Patman
Pepper
Podell
Powell, Ohio
Preyer
Price, Tex.
Railsback
Rangel
Rarick
Reid
Rhodes
Riegle
Robison, N.Y.
Roncallo, N.Y.
Rooney, N.Y.
Rostenkowski
Rousselot
Roy
Roybal
Ruppe
Ruth
Sandman
Satterfield
Scherle
Shoup
Shuster
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Steele
Steelman
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Veysey
Walsh
Wampler
Ware
Whitehurst
Whitten
Wiggins
Williams
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wyman
Yates
Young, Alaska
Young, Ill.
Young, S.C.
Zion

The SPEAKER. On this rollcall, 230 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

APPOINTMENT OF CONFEREES ON H.R. 16136

Mr. HÉBERT. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill H.R. 16136, with the Senate amendment thereto, disagree with the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana? The Chair hears none, and appoints the following conferees: Messrs. Hébert, Pike, Bennett, Stratton, Bray, King, and Whitehurst.

COMMISSION FOR THE REVIEW OF FEDERAL AND STATE LAWS RELATING TO WIRETAPPING AND ELECTRONIC SURVEILLANCE

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 15173) to extend for 1 year the authority of the National Commission for the Review of Federal and State Laws on Wiretapping and Electronic Surveillance, and for other purposes, as amended.

The Clerk read as follows:

H.R. 15173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 804(h) of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 197; 18 U.S.C. 2510 note) is amended by striking out "two-year" and inserting in lieu thereof "three and one-half year".

Sec. 2. Section 804(g) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new paragraph:

"(5) Whenever the Commission or any subcommittee determines by majority vote to meet in a closed session, sections 10(a) (1) and (3) and 10(b) of the Federal Advisory Committee Act (86 Stat. 770; 5 U.S.C. Appendix) shall not apply with respect to such meeting, and section 552 of title 5, United States Code, shall not apply to the records, reports, and transcripts of any such meeting.".

Sec. 3. The first sentence of paragraph (1) of section 804(g) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out "The Commission or any duly authorized subcommittee" and inserting in lieu thereof: "Notwithstanding section 2515 of title 18, United States Code, the Commission or any duly authorized subcommittee".

Sec. 4. For purposes of section 108 of title 1, United States Code, section 20(c) of the Omnibus Crime Control Act of 1970 shall be deemed to provide expressly for the revival of section 804 of the Omnibus Crime Control and Safe Streets Act of 1968.

The SPEAKER. Is a second demanded?

Mr. COHEN. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Wisconsin (Mr. Kastenmeier) will be recognized for 20 minutes, and the gentleman from Maine (Mr. Cohen) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Wisconsin (Mr. Kastenmeier).

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, although the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance came into existence technically on June 19, 1973, the selection of its members was a time-consuming process, and the last member to the Commission was not appointed until the spring of 1974. This, Mr. Speaker, is an old story, and one that happens to many of the commissions that we have created in the past.

Due to the fact that the law presently requires that the Commission terminate on next June 19, 1975, it has barely one-half the originally authorized 2 years to complete its enormous task.

And, as the chairman of a congressional subcommittee which has conducted its own inquiry into wiretapping, I can testify to the enormity of this task. If the Commission is to accomplish its congressionally mandated mission it must have the additional time authorized in this bill which extends its life a year and a half until December 19, 1976.

As a matter of fact, parenthetically, Mr. Speaker, its first public meeting in which witnesses will be called is taking place today in the Rayburn House Office Building. The Commission is holding hearings today and tomorrow, and the Members might wish to be aware of that fact so that they can follow the proceedings if they care to do so.

Of course, the Commission was originally authorized by the Omnibus Crime Control and Safe Streets Act of 1968, which for the first time gave statutory approval to wiretapping. The purpose of the Commission was to conduct a comprehensive study and review of the operation of the statute during its first 6 years. Certainly, recent events have indicated the wisdom of the Congress in providing for such a review. However, if it is to do its job effectively, the Commission must be assured of a reasonable life span, and the short amount of time left under the existing law has made it difficult. For this reason, we felt that an extension was desirable. In addition to extending the life of the Commission the bill also does the following:

It allows the Commission to hold closed meetings by a majority vote. The Federal Advisory Committee Act requires that all Federal commissions hold open meetings. This bill would exempt the Commission from this Advisory Committee Act so that it may examine the transcripts and logs of wiretaps while maintaining the privacy of those whose conversations have recorded. It would also enable the Commission to maintain the confidentiality of national security wiretaps. For the same reason it exempts records and certain meeting transcripts from the Freedom of Information Act.

The bill specifically allows the Commission to review and listen to tapes produced by illegal wiretaps. Title 18, United States Code, section 2515, presently prohibits any agency of the Government from receiving in evidence material obtained from an illegal wiretap. The purpose of this prohibition is to prevent the substance of such evidence being used against the subject of the wiretap. However, the Commission's interest does not lie in obtaining information regarding the subject of an illegal wiretap, but, rather, in examining the nature of the wiretap itself. The Committee on the Judiciary feels that the Commission must be authorized to review such material if it is to study adequately the abuses of wiretapping and electronic surveillance.

Finally, the bill restates the legislative intent expressed in the Omnibus Crime Control Act of 1970 which revived the Commission.

The membership of the Wiretap Commission includes four Members of the House of Representatives. In addition to myself, they are Mr. Edwards of California, Mr. Railsback of Illinois, and Mr. Steiger of Arizona. They have joined me as cosponsors of this bill. Four Members of the Senate also serve on the Commission. They are Senator McClellan, Senator Hruska, Senator Abourezk, and Senator Taft.

Mr. Speaker, to my knowledge, this is a noncontroversial bill. It does not authorize an appropriation. It is simply designed to allow the National Commission on Wiretapping and Electronic Surveillance to finish the task Congress originally assigned to it, and I strongly recommend its passage.

Mr. COHEN. Mr. Speaker, I yield myself so much time as I may consume.

Mr. Speaker, I rise in support of H.R. 15173. The primary purpose of this legislation is to extend the authority of the National Commission for the Review of Federal and State Laws on Wiretapping and Electronic Surveillance. Although the Commission officially came into existence on June 19, 1973, selection of its members was not completed until the spring of 1974. This delay cost the Commission nearly one-half of its allotted time for study. The Commission will terminate under existing law on June 19, 1975. H.R. 15173 would allow the Commission an additional year to complete its study and 6 months to write and print its final report which would be submitted at the beginning of the 95th Congress, January 1977.

The recent disclosures of the Government's use and misuse of national security electronic surveillance in the area of domestic intelligence points up the need for deliberate congressional action. The issues are difficult and complex but Congress has the opportunity with the assistance of this national Commission to examine and evaluate past examples of wiretapping and electronic surveillance both on the State and Federal level and consider whether similar measures should or should not be authorized for the future.

The work of this Commission will be of great value and assistance to the Congress. It would be a mistake for us to force this Commission to act in haste without the benefit of whatever study is, in fact, appropriate. Additional time will assure the development of valuable information upon which the Congress can base its action.

Mr. Speaker, I am not aware of any opposition to this legislation and I urge the Members to support the passage of H.R. 15173.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

I know there is no authorization in the bill for additional funds. Evidently the $500,000 was made available in the previous authorization; or was it?

Mr. COHEN. It is my understanding that this is an open-ended authorization. The Commission will have to go before the Committee on Appropriations to justify any request for funds.

Mr. GROSS. Evidently the estimated cost is $500,000.

Mr. COHEN. I would yield to the gentleman from Wisconsin after just one comment. I know the estimated cost is $500,000, but I think this Commission will have to carry the burden of demonstrating why any additional funds would be necessary in view of the fact that they had delayed instituting any hearings until today. So I do not see any additional costs, with the possible exception of the 2 or 3 months the staff may have been in existence; but it seems to me that the Commission would have a heavy burden to carry before the Committee on Appropriations to justify any further funds under this measure.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I will say that the gentleman from Maine is correct, in answer to the gentleman from Iowa. The chairman of the Commission has indicated he will request of the House and Senate Appropriations Committees the sum of $500,000 for the fiscal year 1975. The total estimate for the work of the committee is $832,000.

I do not think, I might say to amplify my answer, that there is any increase contemplated. Had the Commission started at an earlier time, it would have had to have a greater amount of money at that time. As a matter of fact the budget for fiscal year 1974 is $332,000, of which, according to the chairman, $250,000 will be carried over to next year and not be spent this year, so really there is a deferral of the amount which is either sought or the amount which is intended to be spent by virtue of the late start of the Commission.

Mr. GROSS. Mr. Speaker, will the gentleman yield for a further question?

Mr. COHEN. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, then there has been an appropriation for this purpose. Is that correct?

Mr. KASTENMEIER. Mr. Speaker, if the gentleman will yield further, the gentleman from Iowa is correct. There has been an appropriation for the present fiscal year for this Commission.

Mr. GROSS. In what amount?

Mr. KASTENMEIER. I believe the amount is $332,000. That is the amount of the budget. I assume that is the request that was approved.

Mr. GROSS. And they are estimating an additional $500,000 expenditure before this report is made. Is that correct?

Mr. KASTENMEIER. If the gentleman will yield, the gentleman from Iowa is correct, but I would add that the Chairman of the Commission would have had to ask for a greater amount for fiscal year 1974 had the Commission come into existence sooner and had it been able to staff up sooner.

Mr. GROSS. I thank the gentleman.

Mr. EDWARDS of California. Mr. Speaker, I wish to join with my colleague today in support of H.R. 15173, a bill to extend the life of The National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance until January 19, 1977, which is a period of 18 additional months.

Somehow in our enabling legislation when we create commissions, we never take into account the period of time required for all of the appointments to be made to fill the commission, hire staff, and actually get underway. This time seriously erodes the time needed and contemplated for commissions to fulfill their congressional mandate. Having served on the National Commission for the Bankruptcy Laws of the United States, I know from firsthand knowledge that we had a similar problem and it was necessary to extend the life of that commission for 1 year to complete its assigned tasks.

In light of recent events, I am sure I need not underscore the obvious need for this Commission to have adequate time to complete its job. I am impressed with the thoroughness with which the Commission staff is approaching its tasks, and I am certain that this additional time is necessary to do our job properly.

At this very moment, the Commission itself is holding hearings in the Rayburn House Office Building, hearing from the Attorney General of the United States, William B. Saxbe; the Director of the Federal Bureau of Investigation, Mr. Kelley; Henry Petersen, the Chief of the Criminal Division of the Department of Justice; and Mr. Bartels, head of the Drug Enforcement Administration. Adequate time is also necessary to write the report when these studies are completed.

I am, therefore, pleased to strongly urge support of this measure to extend the life of this important Commission.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 15173).

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill H.R. 15173, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to extend for one and one-half years the authority of the National Commission for the Review of Federal and State Laws on Wiretapping and Electronic Surveillance, and for other purposes."

A motion to reconsider was laid on the table.

COMMISSION ON REVISION OF THE FEDERAL COURT APPELLATE SYSTEM

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3052) to amend the act of October 13, 1972, as amended.

The Clerk read as follows:

S. 3052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of October 13, 1972 (86 Stat. 807) is amended as follows:

(a) Section (2) of section 6 of such Act is amended by striking out "fifteen months" and inserting in lieu thereof "twenty-four months".

(b) Section 7 of such Act is amended by striking out "not more than $270,000" and inserting in lieu thereof "not more than $606,000."

The SPEAKER. Is a second demanded?

Mr. COHEN. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Wisconsin and the gentleman from Maine will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, the Commission on Revision of the Federal Court Appellate System was established by Public Law 92-489 and was assigned two major tasks with directions to submit a separate report on each task.

In phase 1, the Commission was to study the geographical boundaries of the judicial circuits and make recommendations for change. This phase of the work was to be completed within 180 days of the appointment of its ninth member, which occurred on June 21, 1973. The report was completed on time and was submitted to the President, Congress, and the Chief Justice on December 18, 1973.

In phase 2, the Commission was to study the structure and internal procedures of the Federal courts of appeal system and to recommend appropriate changes. This report was to be submitted by September 21, 1974. The bill would extend this reporting date to June 21, 1975.

As a result of testimony received by the Commission during its study in phase 1 and the initial inquiry in phase 2, the members of the Commission determined that the problems of the Federal court appellate system were so great that additional time and money were necessary to make a meaningful study prior to submitting recommendations.

Since the passage of the act creating the Commission in 1972, the problems of the Federal court appellate system have become more acute. In the short span of just 2 years the number of appeals commenced has risen by almost one-third, from 11,700 in fiscal year 1970 to 15,600 in fiscal year 1973. In addition, the complexity of the cases has changed. Recent enactments have created important new statutes such as the Environmental Protection Act and the Occupational Health and Safety Act which have required the Federal Appellate Court to fashion new bodies of case law.

This increased burden has resulted in the development of Federal appellate court practices and procedures, which did not exist at the time the funds for the Commission were appropriated. For example, the Seventh Circuit recently began the practice of not publishing opinions in a large percentage of cases. Previously, this practice had been confined to the Fifth Circuit, one of the two circuits toward which the Commission's boundary realinement study was directed.

This dramatic rise in the workload of all circuits without any corresponding increase in the number of judges has resulted in the Commission's determination that a more extensive study of the problems of the appellate system is required.

While the Judiciary Committee was persuaded of the need to extend the life and appropriation authorization of the Appellate Court Commission, it did not agree with the Senate on the amount of money required to accomplish this objective. Therefore, after careful scrutiny, the committee adopted a reduction in the appropriation authorization from the Senate's $1,000,000 to $606,000. Since the Commission was originally authorized $270,000 in Public Law 92-489, this reduced appropriation will allow it an additional $336,000 to complete its work. Senator HRUSKA, the chairman of the Commission has informed us that this reduction is acceptable to the Senate sponsors of the bill.

Mr. Speaker, the bill, as reported by the Judiciary Committee, is reasonable. Four Members of the House of Representatives, Congressmen BROOKS, HUTCHINSON, FLOWERS, and WIGGINS, serve on the Commission and support this legislation. Therefore, I strongly recommend that this legislation receive favorable attention.

Mr. COHEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 3052. This bill has two objectives: First, extends the life of the Commission on Revision of the Federal Court Appellate System by 9 months; and second, increases the Commission's authorization from $270,000 to $606,000.

Congress enacted this legislation in October 1972 in response to the growing problem of increased case loads within the circuits. The Commission was charged with two tasks: First, to study the geographical boundaries of the Federal judicial circuits and make recommendations for change; and second, to study "the structure and internal procedures of the Federal courts of appeal system." Their first assignment was completed in accordance with the mandate of the act, that is within 180 days. This report was filed on December 18, 1973. Under the terms of the governing statute this second assignment is to be completed and the report filed no later than September 21, 1974, which is 4 days from now.

The Commission requested an increase authorization from $270,000 to $1 million. This request is reflected in the other body's version of S. 3052. The Judiciary Committee cut back the Commission's request to $606,000. The committee made this cut reluctantly. We fully appreciate the importance of this particular study but because of the instability of the economy and the need to cut back Government spending, many of us felt that these cuts could be made without seriously affecting the final work product of the Commission. This $606,000 figure is not the amount the Commission will have at its disposal since they have already had appropriated approximately $255,000, leaving a balance of approximately $351,000.

Every Member of this body knows of the serious and complex problems facing our Federal judiciary. Chief Justice Warren Burger in his Report on the State of the Federal Judiciary to the American Bar Association convention in 1973 made the comment that the Federal courts are managing to get along "but at some point this becomes much like the plight of a tired swimmer who struggles to keep his head above water." New and innovative procedures must be developed if we are to do more than keep judges' heads above water. In the past we have merely increased the number of judges with the hope that this would solve the problem of increased caseloads. In this regard the Judicial Conference recently recommended 11 additional judgeships for U.S. courts of appeals and 51 additional judgeships for the U.S. district courts.

At one time it was thought that an appellate bench of nine judges was a maximum number. Presently, the ninth circuit is authorized 13 judgeships and the fifth circuit 15 judgeships. Adding additional judgeships presents an administrative problem of rather large proportion. However, in the absence of any new procedure for handling the increased volume of business these courts are faced with the likelihood that more judges will have to be added.

The increase in appellate filings have already given rise to changes in internal procedures, for instance, the privilege to argue orally before the court has been drastically curtailed in some circuits, and the traditional patterns of opinion writing have also changed with the briefest notation of the action of the court made to suffice in many cases. These changes may be adequate or even an improvement, but the point is, these changes are being forced upon the courts. Under article III, section 1, of our Constitution it is the responsibility of the Congress to establish and maintain inferior courts and what this Commission is doing by its study and research is laying the foundation for a possible overhaul of the appellate court system.

Mr. Speaker, I know of no opposition to this bill. It was ordered reported without opposition by the Judiciary Committee. The Commission has the support of OMB, the Department of Justice, the U.S. Judicial Conference and the ABA. It passed the Senate in March of this year without opposition and I urge my colleagues to vote favorably for its passage.

Mr. KASTENMEIER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, the bill which created the Commission on the Revision of the Federal Court Appellate System assigned two tasks to the Commission. First, it was to study and make recommendations for change in the geographical boundaries of the several judicial circuits. Second, it was to study and make recommendations with respect to "the structure and internal procedures of the Federal courts of appeal system."

Because of the widespread belief that the courts of appeal were already in very serious trouble, the Congress provided that the Commission's first report, that dealing with circuit realinement, was to be filed within 180 days of the appointment of the ninth member of the Commission. The Commission met that deadline. In the process, the Commission held hearings in 10 cities; 4 on the west coast, 4 in the fifth circuit, New York, and Washington, D.C. It published a preliminary report, received hundreds of comments and suggestions, and then submitted its final report recommending two new circuits, basically, by dividing the present fifth and ninth circuits.

The Commission promptly commenced work on the second phase of its assignment, that dealing with the structure and internal procedures of the Federal courts of appeal system. Under the statute as it presently stands, this report would be due on September 21, 1974. Under this legislation, it would be due next June.

The Commission has already held 6 days of hearings: 4 in Washington and 2 in Chicago.

In an effort to keep abreast of burgeoning caseloads, several of the courts of appeal have been denying oral argument in many cases. The fifth circuit, for example, denies oral argument in well over half of the cases that come before it. The same trend has developed elsewhere. Many cases are being decided without any articulation of the reasoning behind the decision, or with a very brief oral statement. The Commission is studying these practices, seeking views of the bench and the bar as to their desirability.

There are a large number of unresolved intercircuit conflicts because the Supreme Court simply does not have time to take many of these cases. Forum-shopping by lawyers is alleged as a result. The Commission seeks to learn, in a systematic way, whether these assertions are supportable and by a review of cases and by seeking the option of practitioners, to gain an understanding of the problems that do in fact exist. We will attempt to fashion suitable proposals for change, consistent with the importance of the Federal judiciary in our country today.

If it is to ascertain the facts and make the most responsible recommendations relative to the structure and internal procedures of the Federal courts of appeal system, it is important that the life of the Commission be extended through next June.

Mr. GROSS. Mr. Speaker, will the gentleman yield for a question?

Mr. KASTENMEIER. I will be happy to yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, how much has been spent on this study of the appellate court system up to this point?

Mr. KASTENMEIER. I am informed the amount of $255,000 has currently been expended.

Mr. GROSS. And would the additional $606,000 take it pretty close to $1 million?

Mr. KASTENMEIER. No; the gentleman would have to deduct the $255,000 from the $606,000. Six hundred and six thousand dollars is a new ceiling. The $270,000 is the old ceiling. The Commission sought a new ceiling of $1 million, but the Committee on the Judiciary in the House reduced that to $606,000.

Mr. GROSS. I commend the committee for the reduction it made, and in the areas where it made the reduction. I do commend the committee for that, but it still seems to be a rather substantial bill. What are they doing, hiring consultants to tell them how to revise the appellate court system?

Mr. BROOKS. Mr. Speaker, will the gentleman yield to me?

Mr. KASTENMEIER. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, to my distinguished friend from Iowa, let me say that what the Commission is doing at this point in its second phase of the investigation is evaluating the caseload and practices before the appellate judges of this country, for all the appellate districts, the circuit court districts.

They have some serious backlogs. There is a serious disadvantage to appellants in some instances where they do not have oral pleadings. While we had this staff together, the Commission which is headed at this point by Senator HRUSKA, thought it would be desirable, that while we were together and we have gotten three or four Federal judges who are senior judges who have consented to work on this—while we had that team together and had the staff, we wanted to complete the study and do it thoroughly at this time.

It is an effort to try to save the circuit court, the appellate system of the judiciary in this country, without the necessity, every time they increase the workload, of creating a new circuit court.

We are trying to evolve a system that will not, as some of the Judicial Council people have advocated, put in another layer of appellate courts. That is the general theory. It is a very difficult thing to evaluate, and I am hopeful that if we can study it, the Judiciary Committees of the House and Senate will then be in a position to take action that will preserve our circuit court judges as we now have them, with some improvements as to their efficiency.

Mr. GROSS. These retired judges are already being paid a salary, are they not?

Mr. BROOKS. These men are not all retired, no, sir. Judge Silvanetti is an acting Federal judge. So is Judge Lombard.

Mr. GROSS. They are on salary. I am wondering where the money is coming from or where it is going.

Mr. BROOKS. The money is going into staff. The members of the Commission cannot work full time on this.

The SPEAKER. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER), that the House suspend the rules and pass the Senate bill (S. 3052), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PANAMA CANAL SOVEREIGNTY IN PERPETUITY CONFUSION CLARIFIED

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, the foundation for U.S. sovereign control over the Canal Zone and Panama Canal is set forth in articles II and III of the 1903 treaty between the United States and Panama. Under these articles, Panama granted to the United States "in perpetuity the use, occupation and control" of the Canal Zone with "all the rights, power, and authority" it would possess "if it were sovereign" and "to the entire exclusion of the exercise by Panama of any such rights, power or authority." In addition and pursuant to the terms of the treaty, the United States obtained title to all privately owned land and property in the zone by purchase from individual owners, making it our most costly territorial acquisition.

This title of the United States has been recognized by treaty with Colombia, the sovereign of the Isthmus before November 3, 1903, and by the U.S. Supreme Court.

In a recent issue of the Miami Herald, I read with much interest a letter to the editor by the Minister of Foreign Relations of Panama, Juan A. Tack. It was so inaccurate and had so many irrelevancies that it was definitely misleading. To set the record straight I wrote the editor, providing elemental facts.

Prior to that the Miami Herald published a letter by Arthur L. Denchfield, Jr., a student of the canal problem, in which he stresses some very pertinent points about the Tack letter.

As the indicated letters should be of interest to the Congress and the Nation at large, I quote all three as parts of my remarks:

[From the Miami Herald, Aug. 28, 1974]

ANOTHER VIEW OF PANAMA, PERPETUITY

As an American reader of your excellent paper and one fully acquainted with the Canal Zone problem, permit me to reply to the Hon. Juan Tack's extensive letter to the editor concerning "Panama's View of Perpetuity Clause" in the 1903 Treaty. Panama's foreign minister commends The recent "Tropic" article on Panama as one of the most precise studies ever published by the American Press," an opinion to which Minister Tack is surely entitled although not shared by myself and hundreds of my friends and fellow Americans.

Referring to "sovereignty" and "perpetuity", words to which Minister Tack takes considerable exception, let me correct some of the the several errors in his letter:

"The Republic of Panama with its sovereignty over the territory today occupied by the Canal . . ." There is no such thing as Panamanian "sovereignty over the territory today occupied by the Canal" and this is confirmed in "the Republic of Panama grants to the United States all rights, power, and authority within the zone mentioned in Article II . . . which the U.S. would possess if it were sovereign of the territory within which lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power and authority."

Obviously, with the authorization to build an interoceanic canal granted to President Teddy Roosevelt by the Spooner Act of 1902, with options, plans, and surveys already begun to build the Canal through Nicaragua, it was the incentive of Panama's granting to the United States clear title and ownership in perpetuity of all the land and water needed to build such a canal which caused the United States to prefer the Panama site over that of Nicaragua. With the French disaster under DeLesseps fresh in everyone's mind, wherein hundreds of millions of dollars had gone down the drain in the same Isthmus at the same time in history, it is absolutely illogical for anyone to suppose that the American taxpayers would spend hundreds of millions of dollars on such a colossal enterprise unless there were clear title of ownership over all the land and water needed for such a tremendous and expensive venture.

2. "Panama's concession was negotiated under unfavorable conditions" is quite untrue considering that Panama was a province of Colombia prior to its independence in 1903, which came about precisely and solely because Panama wanted to enjoy great economic benefits derived from an interoceanic canal adjacent to its borders.

3. Minister Tack, in referring to the Hull-Alfaro Treaty of 1936, when quoting Article II where the "USA renounces through this treaty the concession of perpetuity that the Republic of Panama had given them the use, occupation, and control of land waters, commits a grave error when he significantly omits the remainder of this very clause which in effect refers to the fact that what the United States renounced is the concession of perpetuity to the use, occupation, and control of lands and waters outside of the zone not necessary for the construction of the Canal.

Minister Tack knows full well that the U.S. Senate will not agree to any "giveaway treaty" such as that proposed in Panama last February without the absolutely necessary prior consent and authorization of the U.S. Congress.

ARTHUR L. DENCHFIELD, Jr.

[From the Miami Herald, Aug. 25, 1974]

PANAMA'S VIEW OF PERPETUITY CLAUSE

In a recent Tropic magazine, there was an article titled, "The Panama Experiment," by Latin American Editor Don Bohning.

The article contains one of the most precise studies on the Canal Zone ever published by the American press. It refers to the problems and conflicts existing between the Republic of Panama, with its sovereignty over the territory today occupied by the Canal, where the military-administrative complex was built under American jurisdiction better known as the Canal Zone.

The concession given by the Republic of Panama was negotiated under unfavorable conditions and circumstances for us through the treaty called Convenio del Canal Istmico de 1903, which has been permanently objectionable to Panama, and the source and cause of all the conflicts between our country and the United States of America.

The second article (II) of this treaty established that the Republic of Panama: "gave to the United States, in perpetuity, the use, occupation and control of a piece of land . . ." Such treaty was modified, in some parts, by the General Treaty between the Republic of Panama and the United States of America, signed in Washington, March 2, 1936, and approved by the National Legislative Assembly of Panama the 24th of December of that same year, by the Law 37 of 1936 and ratified by the U.S. Senate on July 25, 1939.

Article II of the above mentioned General Treaty establishes that ". . . The United States of America renounces through this treaty to the concession of perpetuity that the Republic of Panama had given them the use, occupation and control of land and waters . . ."

The fourth paragraph of Mr. Bohning's article could cause confusion to the readers in the sense that the "clause of perpetuity," of the Treaty of 1903, is still enforced. Our permanent fight, since the first day this treaty was agreed upon, has been to repeal Article II.

In all the "Protectorate Treaties" imposed by the empires to their colonies or to the countries under their domination, in past times, the clause of perpetuity was imposed. This is a judiciary aberration and an offense to the dignity of free countries.

In 1964, the BBC (British Broadcasting Corporation), in London organized and diffused the meetings in a symposium on "The Political Ideas." The Sidney Sussex College of Cambridge University, compiled a book with such references. The Spanish edition was published in 1973.

J. Hampden Jackson gave a lecture during that meeting entitled, "Thomas Paine and the Rights of Men." In that lecture he expressed that the fight of the American people for their independence as well as that of the French people in the Revolution of 1789, had taken place so that men could adopt the kind of government, through free voting, that they desired.

Thomas Paine fought the English monarch's Bills of Rights clause that forced English subjects to eternal obedience, "being that no contract or treaty can bind forever," as quoted by Prof. Jackson. He later emphasized the "insistence (of Thomas Paine) in denouncing such a clause. Similar to that of the Republic of Panama's objection to the exigencies of the United States, which pretended to tie, perpetually, Panama to the obligations signed under the Treaty of 1903."

In 1976 the Bicentennial of the Proclamation of Independence of the United States of America will be celebrated. The document of the Proclamation of Independence, ratified by the American people, was written with the fundamental contribution of Thomas Paine—one of the first figures of universal democracy. Paine also took part in the 1789 Declaration of Human Rights proclaimed by the French National Assembly.

The only perpetuity existing in the lives of free countries is their fight for independence and their fight for human rights. The United States was founded on these same principles. They also fought against the clause of perpetuity imposed by the British crown. We, the Panamanians, have also been fighting for this liberty ever since the birth of our Republic—and against the perpetuity clause of 1903.

In an agreement on the basic principles for the new treaty reached by Secretary of State Henry A. Kissinger and myeslf, in the city of Panama on February 7, 1974, the clause of perpetuity was agreed to be repealed for ever.

It is the rseponsibility of the press to truthfully inform, and such information should be objective and authentic, like that in Mr. Bohning's article as published by your newspaper.

JUAN ANTONIO TACK,
Minister of Foreign Relations, Panama.

The EDITOR,
The Miami Herald,
Miami, Fla.

DEAR MR. EDITOR: As a student of Panama Canal history and problems over many years, I read with much interest the article in the August 25, 1974, issue of the Miami Herald on "Panama's View of Perpetuity Clause." Because of its inaccuracies and irrelavencies the article is definitely misleading.

An example of its inaccuracy is the article's quotation from Article II of the 1936 Canal Treaty creating the erroneous impression that the United States has renounced the grant in perpetuity over the Canal Zone. In this it failed to quote the crucial part of the article that the renunciation applied only to areas "outside of the Zone."

The Panama Canal annually transits some 15,000 vessels from about 55 countries, with about 70 percent of its traffic originating or terminating in the United States, thus making it the jugular vein of the Americas. The two crucial issues involved are Canal Zone Sovereignty and the major modernization of the existing canal. All other questions, including the vaunted ancient proposal for a canal of sea level design are extraneous and should not be allowed to confuse.

To understand the Canal question it is essential to know certain elemental facts:

First, in 1901 the United States, in a treaty with Great Britain, made the long range commitment to construct and operate an Isthmian canal under the rules governing the operation of the Suez Canal.

Second, in 1902, the Congress authorized the President to acquire by treaty the "perpetual control" of a canal zone and purchase of all property in it for constructing the canal and its "perpetual operation."

Third, in 1903 Panama "granted" the United States in perpetuity all "sovereign rights, power and authority" over the indispensably necessary Canal Zone for $10,000,000 and the United States assumed the obligation of the Panama Railroad to pay Panama the $250,000 annuity previously paid to Colombia. The Zone is not "leased" by the United States and the annuity is not a "rental."

Fourth, in addition to obtaining sovereign control over the Zone, the United States obtained title to all privately owned land and property in it by purchase from individual owners, making it our most costly territorial acquisition estimated in 1973 to have cost $161,938,571.

Fifth, during the construction period, 1904–14, the United States transformed what was the pest hole of the world into models of tropical health and sanitation and since then has provided an area of political stability that has often served as a haven of refuge for Panamanian leaders seeking to avoid assassination.

Sixth, in the 1914–22 Treaty with Colombia, the sovereign of the Isthmus before November 3, 1903, the United States paid that Country $25,000,000 and gave it valuable transit rights over both the Panama Canal and Railroad; and Colombia recognized the title to both as vested "entirely and absolutely" in the United States.

Seventh, in 1950, the Congress, in the Panama Canal Reorganization Act, specifically provided that the levy of tolls is subject to the terms of the previously mentioned three treaties.

Eighth, from 1904 through June 30, 1971, the total U.S. taxpayers investment in the Canal enterprise, including its defense, was $5,695,745,000.

Ninth, the validity of the title of the United States to the Canal Zone has been recognized by the U.S. Supreme Court (Wilson vs. Shaw, 204 U.S. 24, 1907 at 31–3.)

From the above, it is clear that the United States is not a squatter sitting on the banks of the Panama Canal but its lawful owner with full sovereign rights, power and authority; and no amount of demagoguery or sophistry can alter the essential facts.

The move the United States should make at the earliest possible date is the enactment of pending legislation in the Congress for the resumption of work on the authorized Third Locks Project modified to provide a terminal lake at the Pacific end of the Canal to match the arrangement at Gatun. When the canal program is evaluated from all significant angles, this major modernization program, on which over $171,000,000 have been expended, would provide the best solution at least cost and clear away present confusion and uncertainty.

Sincerely yours,

DANIEL J. FLOOD,
Member of Congress.

ISSUE OF PRESIDENTIAL PARDONS IN WATERGATE AFFAIR

The SPEAKER. Under a previous order of the House, the gentleman from Utah (Mr. OWENS) is recognized for 10 minutes.

Mr. OWENS. Mr. Speaker, I submitted yesterday a resolution to express the sense of the House of Representatives with respect to the issue of Presidential pardons for individuals involved in the Watergate affair. My resolution expresses the sense of the House that, first, Special Prosecutor Jaworski should proceed with the criminal investigation into the conduct of Richard M. Nixon during his term in office to the point of issuing an indictment, if the grand jury so decides; second, that the Special Prosecutor should make public whatever evidence he may possess respecting possible criminal conduct of Richard Nixon; and third, that the House of Representatives opposes granting of pardons at this time to other individuals involved in criminal wrongdoing in the Watergate matter.

Two days ago, President Ford granted a "full, free, and absolute" pardon to Richard Nixon for offenses that Mr. Nixon had committed against the United States while he was President. My response to that action was that it was premature, it was unwise, it was wrong. It is now reported that the President is weighing the matter of pardons for all Watergate defendants. My response to any such action is that that would be even more fundamentally wrong and would represent a flagrant abuse of the constitutional pardon power. Such action is completely unsupportable by any theory of justice and fairplay.

President Ford's all-inclusive pardon of Richard Nixon before any charges were specified, before any fact-finding inquiry was completed, before any actions were taken by the grand jury, was historically unprecedented. It is a dangerous precedent, fundamentally damaging to the American tradition of equal justice.

I do not intend this as an act of vindictiveness. I know the country is tired of Watergate. No one is more fatigued than I by this subject. I was greatly relieved to turn this matter over to the courts at the time of the President's resignation. Less than 2 weeks ago President Ford assured the public that he would not act until the courts had acted on this matter.

But it is imperative now that our voices be raised in objection. What little we can do about this miscarriage of justice we must do—because this well intentioned act of compassion is completely destructive of our judicial process.

The resolution also urges that the Special Prosecutor, at a time and in a manner he considers to be proper, include in a public report on the Watergate matter that evidence dealing with alleged criminal transgressions of the former President. A fair, full, and final record of the Watergate nightmare is essential; we are entitled to know what happened; we must know what happened in order that we may act to prevent it from happening again.

Finally, this resolution expresses the sense of this body that the President should not pardon any other individuals who are charged with participating in criminal activity related to the Watergate matter. Making a second or third or fourth, or however many mistakes, by issuing more pardons will only compound the error of judgment and further mutilate the principles of legal process and equality upon which the legal system is premised.

At a time when the American people are forced to witness, in too many places, too many examples of special treatment for too many special people, they are entitled to hear the voices of their elected officials in opposition to these special and unjustified applications of the law.

BILL TO END UNTERMINATED NATIONAL EMERGENCIES

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, most Americans are unaware that they have been living under a continuous state of national emergency since 1933. In fact, there are four states of national emergency now in force:

The national emergency declared by President Roosevelt on March 6, 1933, to meet the crisis of the depression;

The December 16, 1950, national emergency declared by President Truman in order to prosecute the Korean war;

The national emergency declared by President Nixon on March 23, 1970, to deal with the Post Office strike; and

The national emergency declared by President Nixon on August 15, 1971, to carry out currency restrictions and foreign economic controls.

These four declarations of national emergency confer upon the President the power contained in over 470 emergency statutes to control the lives of all American citizens in ways which are justified only in an actual emergency. Congress has provided in statutes that during a national emergency the President may, among other things, seize property and commodities, organize and control the means of production, call to active duty 2.5 million reservists, assign military forces abroad, seize and control all means of transportation and communication, restrict travel, and institute martial law.

The exercise of authority under emergency statutes is taking place today when no national emergency in fact exists. Therefore, Mr. Speaker, I am introducing today a bill to end national emergencies declared by Presidents over the past four decades which have never been terminated. This proposal also would control the circumstances under which national emergencies are declared by Presidents in the future, and restrict the exercise of emergency authority to actual emergency situations only.

A similar bill has been introduced in the Senate by Senators MATHIAS and CHURCH and has the support of President Ford. In my view, this proposal is important legislation which should be enacted before Congress adjourns this year.

It is my hope that this bill will receive the bipartisan support it merits. Its enactment would benefit the American people and do credit to the Congress by limiting the use of emergency powers to their proper context.

The bill does not take any emergency powers away from the President. Rather, it insures that such powers are exercised only during an actual emergency and that both Congress and the public are kept informed of the exercise of such emergency powers.

Declarations of national emergency presently in effect are terminated by the bill and future declarations of national emergency are limited to 180 days unless extended by Congress or declared anew. A system of reporting to Congress with respect to the exercise of extraordinary authority during a national emergency is established. Finally, certain emergency provisions, no longer needed under any circumstances, would be repealed if this bill is enacted into law.

PAY INCREASES FOR FEDERAL WORKERS

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 10 minutes.

Mr. ADDABBO. Mr. Speaker, an editorial in the Long Island Daily Press of September 13 amply states my position on the question of pay increases for the Nation's Federal workers.

The editorial points out that twice the Congress passed pay increases for Federal employees and twice President Nixon postponed them on the basis that inflationary Federal spending had to be pared.

Now, those pay increases—scheduled to go into effect October 1—have been postponed once more by President Ford who used the same rationale. Unless the Congress acts to overrule the President, the postponement will remain in effect.

My contention, and the editorial position of the Press, is that a 5.5 percent pay increase, should be allowed. All of us are in favor of fighting inflation and cutting Federal spending.

But it is unfair to ask one segment of the American consuming public to accept an overwhelming share of responsibility for fighting inflation while other segments receive cost-of-living increases.

When we talk about Federal employees, we are talking of 1.4 million civilian and 2.2 million military personnel, a considerable share of the Nation's work force. They must pay their bills just as all American workers must do. But unlike the factory worker or the corporate executive, they have been denied even the chance to cope with this Nation's double-digit inflation rate.

We cannot halt the inflation rate simply by forcing one segment of the Nation's work force to suffer unduly. The pay raise should be allowed. The Congress has until September 30 to overrule the President, and I believe that should be done. I call upon the leaders of this House from both sides of the aisle to bring the matter to a vote on the floor as soon as possible. I also ask unanimous consent to insert into the RECORD a copy of the Press editorial.

EQUAL TREATMENT FOR FEDERAL EMPLOYEES

When he was president, Richard Nixon twice postponed pay increases for federal workers that had been approved by Congress. Now President Ford wants to do the same thing.

A 5.5 per cent pay increase—scaled down from 6.3 per cent on the recommendation of the Civil Service Commission and the Office of Management and Budget—had been scheduled to go into effect on Oct. 1. Mr. Ford has ordered the raise deferred to Jan. 1, thus saving the federal treasury $700 million.

We're all in favor of fighting inflation. We do not think though, that one segment of the economy should bear an unfair burden—but that's what Mr. Ford is asking the federal government's 1.4 million civilian and 2.2 million military employes.

Unlike years past, federal employes now earn a reasonably good salary, with excellent pension benefits. Still, they—like their counterparts in private industry—must keep up with rising costs. That's why the pay increase scheduled for October was approved, and why it should go into effect on schedule.

The law allows Mr. Ford's action to be overturned by a simple majority of either House by Sept. 30. The Senate Post Office and Civil Service Committee took the first step in that direction the other day, voting 7–0 to recommend that the President's decision be reversed. The full Senate, or the House, should accept that recommendation.

THE PRESIDENT'S PARDON

The SPEAKER. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

Ms. HOLTZMAN. Mr. Speaker, I am deeply concerned by President Ford's grant of a full, free, and absolute pardon to Richard Nixon, and by reports that some or all of the Watergate defendants might be granted similar pardons.

Shortly after the country had expressed enormous relief at President Ford's candor and honesty during the first days of his administration, it was plunged into despair at the issuance of the pardon to Richard Nixon. A cloud of suspicion has been cast over the White House. There is a widespread belief that President Ford's actions have improperly aborted the criminal justice process and have prevented the truth from becoming public record. The present state of suspicion should not be allowed to continue.

I have therefore introduced a resolution urging President Ford to make a voluntary and full disclosure of all the circumstances surrounding and the reasons prompting his grant of a pardon to Richard Nixon. I am confident that appropriate committees of the Congress, such as the House Judiciary Committee, would welcome the receipt of all information dealing with communications, commitments, and arrangements regarding executive clemency between Mr. Ford or persons acting on his behalf and Richard Nixon or persons acting on his behalf.

In the event that a voluntary disclosure is not forthcoming, my resolution calls on the House Judiciary Committee to conduct a full investigation of the facts.

Because of the deep public concern and the need to restore public confidence in the integrity of governmental processes, I would hope that President Ford would not wait for the adoption of my resolution before making all of the facts available.

The text of my resolution follows:

RESOLUTION

Whereas President Gerald R. Ford granted a full, free and absolute pardon to Richard Nixon prior to any indictment and it was reported that President Ford was considering similar pardons for the "Watergate" defendants, which would have precluded any trial of some of them, and

Whereas these events have aroused serious public concern and widespread public suspicion, and

Whereas it is essential to restore public confidence in the integrity of governmental processes: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that President Gerald R. Ford should make a full and voluntary disclosure in the Committee on the Judiciary of all the circumstances surrounding and the reasons prompting his grant of a pardon to Richard Nixon on September 8, 1974, and should make available for this purpose all notes, documents, tape recordings, memoranda and other things in his possession or control, and the testimony of witnesses which the Committee on the Judiciary deems necessary for a full understanding of the facts. Such disclosure should include any communications that took place, commitments that were made and understandings that were reached at any time (including the time before which Gerald R. Ford was nominated for Vice-President) between Gerald R. Ford or anyone acting on his behalf and Richard Nixon or anyone acting on his behalf, regarding any aspect of clemency or relief from punishment in any form, whether by pardon or otherwise, for any wrongful acts or crimes that may have been committed by Richard Nixon or any of his aides or associates.

SEC. 2. In the event such disclosure has not been made within 15 days after the adoption of this Resolution, the Committee on the Judiciary should investigate fully all the circumstances surrounding and the reasons prompting President Gerald R. Ford's grant of a pardon to Richard Nixon.

SEC. 3. The Committee on the Judiciary should report to the House of Representatives its findings of fact, whether such facts are obtained under the first section or section 2 of this Resolution, together with an analysis of the constitutionality and legal validity of the pardon granted to Richard Nixon, to the House of Representatives.

BILL TO CHANGE FEDERAL WATER POLLUTION CONTROL ACT REQUIREMENT

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 10 minutes.

Mr. DANIELSON. Mr. Speaker, I have today introduced legislation to correct a problem which was brought to light in a recent decision of the Comptroller General interpreting the requirement of the Federal Water Pollution Control Act that local authorities adopt a system of waste-treatment user charges in order to be eligible for Federal financial assistance for sewage treatment facilities.

In my congressional district in Los Angeles County, such sewage treatment costs have traditionally been paid through an ad valorem tax on real property. Initially, there was some question as to whether the ad valorem tax system met the requirements for user charges under the Federal Water Pollution Control Act. However, on April 5, 1974, the Environmental Protection Agency ruled that such an ad valorem tax system was an acceptable and permissible type of user charge under the act, provided that it resulted in the distribution of operation and maintenance costs for treatment works "* * * to each user class in proportion to the contribution to the total waste water loading of the treatment works by such user class." In addition, the ruling provided that the ad valorem tax system would be permitted only where it had been used historically, and where it is shown that abandonment of the ad valorem tax system would be administratively difficult, and more costly, than implementing some other form of user charge. This was, in effect, a sort of limited "grandfather" provision.

Later the Comptroller General rendered his decision, on July 2, 1974, that an ad valorem tax for the payment of sewage charges does not meet the requirements of the Federal Water Pollution Control Act.

In his decision the Comptroller General held that the law requires jurisdictions to implement a system which will measure, as precisely as possible, the actual amount of sewage each user places into the collection system.

The only way to accomplish such a precise measurement, of course, is through the installation of sewage meters. In Los Angeles County, such a system would require the installation of some 1,200,000 sewage meters in the area outside of the city of Los Angeles, which would cost an astronomical sum of money.

The only alternative which would meet the requirements of the Comptroller

General's decision, would be to base sewage charges on the amount of water going into each place of use as determined by water meters, on the supposition that water input will roughly equal sewage output. That system, although less costly, would still result in up to $2 million per year in additional accounting expense to the sanitation districts of Los Angeles County. That is because, in my area, the water supply systems do not overlap precisely with the sewage collection system. In other words, a particular residential area may receive its water from one source, but it may be served by two or more different sanitation districts, or conversely, although a given area is in a single sanitation district, it may receive its water from a number of different suppliers. Matching up the sewage output with the water input could, in many cases result in an administrative nightmare, as well as considerable additional expense which will be passed on to the consumers.

The legislation which I have introduced today would amend Section 204 of the Federal Water Pollution Control Act to expressly authorize the use of an ad valorem tax for sewer-use charges in situations where the Administrator of the EPA determines that this would result in the distribution of waste treatment costs to each user-class in proportion to the load that each such class puts on the total system. It would, in effect, reinstate the April 5, 1974, decision of the Environmental Protection Agency, and result in a substantial savings to the Sanitation Districts of Los Angeles County and other jurisdictions which are similarly organized, where the ad valorem tax is currently in effect as a means of financing sewage treatment costs.

I recognize that other Members may have similar problems within their districts and I invite their support.

PROPOSED CONSTITUTIONAL AMENDMENTS BECAUSE OF PRESIDENTIAL PARDON

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 15 minutes.

Mr. DENT. Mr. Speaker, the pretrial pardon of Richard Nixon by his appointed Vice President has served to once again burden the country with "Watergate" and to shatter the humble beginnings of the restoration of a long absent national trust.

In view of the events surrounding the pardon, I am proposing two constitutional amendments: One, an amendment designed to repeal a section of the 25th amendment to the Constitution of the United States; and, two, an amendment which would buttress the rule of law by prohibiting a President from granting a pardon for offenses against the United States unless an individual has been convicted and sentenced in a court of law.

The 25th amendment was an effort by the Congress to resolve some of the continuing issues revolving around the death, resignation, or removal of a President, and among other procedures, provides for the appointment of a Vice President by a sitting President. It was prompted in part by what, in retrospect, seems an undue concern with the consequences of a vacancy in the Office of the Vice President. To allow the 25th amendment to stand as is, leaves the electorate of this Nation open to the possibility of being governed by persons who have never been publicly elected by or responsible to a body of voters. I am convinced this establishes a precedent inconsistent with the fundamentals of our democratic society and as such, have offered this amendment that, if ratified, would repeal section two of the 25th amendment and disallow the appointment procedure.

The order of succession to the Presidency is protected and established by law. This succession provides that, in the event both the Offices of President and Vice President are vacant, the Speaker of the House will succeed to the Presidency, leaving the Office of Vice President vacant until a national election is held. The succession is further designated and by law, falls progressively to the President pro tempore of the Senate, the Secretary of State, the Secretary of the Treasury, and the Secretary of Defense, followed by other members of the Cabinet.

The 25th amendment is a relatively new addition to the Constitution, adopted in 1965 by the 89th Congress. Prior to this time, the Office of the Vice President had been vacant for some 20 percent of our history, apparently without serious consequence. To repeal the appointive powers of the amendment will permit a return to a succession procedure that has served us properly, and will serve to minimize the possible misuse of Presidential appointive power.

In addressing the second amendment, I must say that President Ford's pardon of Richard Nixon may meet the letter of the Constitution but it clearly violates its spirit. Under this dangerous precedent, any powerful figure in this country can be forgiven all lawless acts he may have committed before the pardoner or the public has any knowledge of what those acts might be.

This extraordinary decision strikes at the very foundations of our legal system by dropping a curtain of secrecy over all possible Presidential wrongdoing—a curtain of secrecy so dense that it cannot be penetrated by the judicial branch of our Government through the normal operation of our legal processes. The months of national probing and discomfort, caused by the Nixon administration, deserve a better end than a Presidential pretrial pardon of Richard Nixon. It is crucial that the public know the full story behind Nixon's disgraceful departure from office, and in an attempt to prevent future Presidents from stretching the pardon power to almost unrecognizable limits as President Ford has done, I offer my amendment to prevent future encroachment of executive power.

WESTERN UNION: THE RELUCTANT MESSENGER

(Mr. ROSENTHAL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROSENTHAL. Mr. Speaker, I have released a major consumer study of Western Union telegram service which reveals:

Telegram service is no longer an efficient and economical means of communication for consumers because of outrageously high prices and a dramatic decline in speed of delivery and general quality of service.

The Federal Communications Commission has failed totally in its responsibility to regulate Western Union telegram service in the public interest. The FCC has consistently allowed the monopoly to increase its telegram-related prices while permitting a continuing deterioration in service.

Consumers are losing millions of dollars annually in refunds due them because of telegram service failures and the company's complex refund procedures.

New York State regulators have been more vigorous than their Federal counterparts and service here may actually be improving.

The telegram, as it exists today, is of little use to the average consumer beyond souvenir value.

Possibly as many as half the homes in America cannot get a telegram delivered by messenger.

Present telegram service, because of the extensive curtailment in messenger delivery, is little more than "indirect telephone service."

Evidence is strong that Western Union would like to phase out the nonbusiness telegram and replace it with its mailgram, a hybrid cross between the telegram and first-class mail.

The U.S. Postal Service has a foot in the door of telegraph service and could be a viable candidate to take over the operation.

In view of the wide interest shown for this report by Members of the House as well as by consumers throughout the Nation, I am inserting the study in the RECORD so that it may be readily available to all.

I also have written to the chairman of the House Government Activities Subcommittee requesting an investigation of the Federal Communications Commission's regulation of the Western Union monopoly and the job it has been doing protecting the consumer interest. A copy of that letter is appended to my report.

The material follows:

WESTERN UNION: THE RELUCTANT MESSENGER—A CONSUMER STUDY

(By Congressman BENJAMIN S. ROSENTHAL)

FOREWORD

For more than a century, the telegram in its familiar yellow envelope has been the first choice of most Americans when a speedy written message was required.

Uniformed Western Union messengers quickly and efficiently delivering their messages became a time-honored part of the

American scene. Telegrams were fast, accurate and economical, too.

But since 1945, Western Union's telegraph service has been slipping badly. Complaints have mounted about garbled telegrams delivered days late or never delivered at all. At the same time, Western Union—with the cooperation of the Federal Communications Commission—has inexorably continued to raise the price of a telegram 19 times since 1945—pushing the cost beyond the reach of many Americans.

Consumer complaints about Western Union—emanating from all parts of the country—prompted this study. Is telegram service as it is currently being provided by Western Union still a viable means of written communication for the consumer? This is the main question which is addressed in this report, and after more than two years of investigation, our answer is an emphatic "no."

It should be kept in mind that the telegram still fulfills an important service for business by providing a printed record of a transaction. The emphasis of this report is on service to the consumer. Business is better able to handle the high cost of the telegram and the criticisms in this report are not necessarily applicable in the context of business usage. While this study does not focus on the financial problems faced by the company, so long as Western Union is in the business of sending telegrams to and from private consumers, it must perform that service in a fair and efficient fashion.

The telegram today has little more than souvenir value to the typical consumer and certainly does not give him his money's worth—a situation caused both by Western Union and the Federal Communications Commission. The FCC, supposedly watching after the interests of the public, has instead repeatedly acquiesced to Western Union's apparent policy of "the consumer be damned." Western Union has an obligation to the public and, of course, to its stockholders; both interests are substantial and weigh in any decision. The FCC, on the other hand, is charged with protecting the public interest and has no direct obligation to any corporate stockholders, although it is in the public interest to see to it that a company remains economically viable. Unfortunately, both the Commission and Western Union appear to put the public interest a far second to stockholder protection.

This report is the work of three student interns—Lewis Kurfist, Wayne Gilbert, and Nancy Shenker—and two American Political Science Congressional Fellows—Jan Stucker and David Rhode—assigned to my office.

It is my hope that this consumer study will prod Western Union, the FCC and the U.S. Postal Service to institute some long-overdue changes in the way the telegraph system is operated in this country. Today's consumer, buffeted by inflationary pressure on all sides, cannot afford to pay $4.75 for a telephone-delivered telegram that might or might not arrive on time when he could phone the message himself at a fraction of that cost.

One cannot read this report without concluding that insofar as the consumer is concerned, Western Union is a reluctant messenger.

CHAPTER I: THE PROBLEM—SCOPE OF STUDY

For more than 100 years, most Americans have considered the telegram the most rapid and convenient means of written communication. Many still consider it the only way they can obtain rapid written communications, 24 hours a day, anywhere in the country.

That presumption was never less true than it is today. Service hours and delivery zones are shrinking and prices are going up while quality moves in the opposite direction as a result of poor telegraph company policies and half-hearted regulation by the Federal Communications Commission.

What was once a rapid written communications system has—in the past 25 years—deteriorated into an "indirect telephone service" which is much slower than the direct service offered by the telephone companies and, in some cases, slower even than the post office.

Since 1945, Western Union has closed over 77% of its branches and offices. This has been accompanied by a similar sharp reduction in the number of messengers employed by Western Union. As a result, in one-half to two-thirds of the country, consumers can only get telegrams *phoned* to recipients, but *not delivered*.

Where rapid record communications still are available, the service is generally poor and the rates very high. Based on performance data submitted by Western Union itself during the past five years, it is clear that the quality of service has deteriorated dramatically.

More and more Western Union offices are failing to meet even the minimal delivery standards established by the telegraph company itself. Whereas the speed-of-service objectives for telephone and messenger delivery were 60 and 75 minutes, respectively, in the early 1960's, speed-of-service standards are 150 and 300 minutes as of June 1, 1974.

Although technological improvements in the post-war era should have led to an improvement in service, service instead has worsened. Moreover, rates have continued to soar.

Western Union has hiked the charge of sending a telegram 19 times since 1945, resulting in a 3,775% increase in price for the basic messenger-delivered telegram traveling the shortest distance. And while prior to 1968 there was no extra charge for physical delivery, today's consumer must pay an additional $3 for this service.

In August 1973, for example, Western Union increased the rates for various telegram services between 35% and 100%, at an annual cost to consumers of $5 million. Less than eight months later, on April 1, 1974, the company asked the Federal Communications Commission for another $6 million rate hike to take effect in 60 days—this one a two-step increase totaling $1 in the basic rate of telegrams, overnight telegrams, day money orders and overnight money orders.[1]

The telegraph company's current policy regarding refunds for undelivered messages is deplorable. Although Western Union was ordered by the Federal Communications Commission in early 1971 to adopt an automatic refund policy, the commission backed down in the face of strong Company protest.

Instead, the sender must first ascertain whether he is entitled to a refund—often he is not even aware refunds are available—and then he must apply in writing for his reimbursement. In most cases, the sender is unaware that the telegram never arrived, or he does not know of the company's failure to comply with its own time and delivery requirements. Thus, the customer-sender usually fails to apply for the refund he deserves.

It has been estimated that each year consumers are denied millions of dollars in refunds to which they are entitled because of Western Union's failure to adopt an automatic refund policy.

Moreover, Western Union has done little to inform the consumer of the existence of a refund policy. Customers filing messages by telephone (the most widely used method since counter service has been severely restricted) are totally unaware of the refund system. Western Union operators never volunteer this information, and the printed notice at counters is rarely displayed prominently. Although the company is required to inform the sender whether or not messenger delivery is possible—and in more and more communities it is not—this is rarely done. Instead, messages specified for messenger delivery often are simply telephoned and later mailed, though the sender is frequently billed the extra $3 for delivery.

The end result of this practice is that the sender, believing his message has been physically delivered, does not file for a refund and unwittingly pays for a service not received.

The Federal Communications Commission—the agency responsible for regulating the telegraph company nationwide—is equally at fault. Though fully aware of the company's past abuses, the FCC fails to enforce its own requirements and continues to approve office closures, thus further restricting service availability.

The FCC also has continued to allow rate increase after rate increase, notwithstanding the continuing deterioration of service.

The FCC has done little or nothing to provide the consumer with improved telegram service and, in fact, has delegated much of its regulatory powers to the company itself.

In short, it must be concluded that the Federal Communications Commission has helped accelerate the decline of Western Union services.

The aim of this report is to answer three questions:

(1) Does Western Union still provide a nationwide system of rapid record communication?

(2) Should the telegram service be continued for the American consumer?

(3) If Western Union no longer provides an effective rapid record communication service, what should be done?

CHAPTER II: WESTERN UNION

The Company and Its Services

Western Union, a 123-year-old corporation, is principally engaged in providing communications services by wire and radio.[2]

The company provides telegraphic messages throughout the continental United States and in Mexico and Canada. Western Union also provides a wide variety of specialized communications services, such as teleprinter exchange (Telex and TWX) linking a network of subscribers with one another by teletype machines; private wire services which are used by business concerns and government units to handle special requirements or heavy communications traffic, and other services such as Mailgrams (messages transmitted by Western Union to post offices for next-day delivery through the mail).

The table below (II–1) shows data on Western Union for the last four years, including corporate revenues by line of business, the proportion of company income derived from Telegram Message Services, net income, federal taxes paid and number of employees. In 1973, the company employed 15,218 persons, had assets totaling $1,402,364,000, revenues amounting to $492,342,000 and net income of $28,115,000.[3] The company paid no federal income taxes in 1973, and in fact, has not paid any since 1957.[4]

Footnotes at end of article.

TABLE II-1

[Amounts in thousands, except employment figures]

Revenues and income	1973	1972	1971	1970	1969	1968
Telegram message services	$86,702	$99,801	$105,873	$151,092	$159,337	$156,423
Teleprinter exchange services	180,452	153,840	124,034	57,089	47,227	39,019
Leased systems and related services	134,736	128,074	113,229	119,920	123,519	117,903
Money order services	39,517	38,724	35,100	45,543	39,092	33,138
Other services	50,935	35,701	29,205	25,598	21,423	20,544
Total revenues	492,342	456,140	407,441	399,242	390,598	367,027
Percent of income from telegraph message service	17.6	21.8	26	37.8	40.8	42.6
Net income	$28,115	$33,974	$13,745	$23,350	$22,774	$26,269
Number of employees	15,218	17,329	19,550	23,735	25,681	26,269
Federal income tax paid	0	0	0	0	0	0

Western Union reported to shareholders a $28.1 million net income for 1973 (down from $34.4 million in 1972), while it reported a $19.7 million deficit to the Internal Revenue Service for federal tax purposes. "Financial critics contend that the results reported to the IRS more accurately portray the company's basic condition than the report to stockholders does," according to *Business Week*. Since the deficits are reported only to the Securities and Exchange Commission, the magazine explains, "many stockholders are unaware of the deficit." Expenditures consistently exceed cash flow from operations by a wide margin. Last year it was almost three-to-one, with expenditures of $329.4 million, compared to $113.4 million cash flow from operations.[5]

Western Union leases AT&T phone lines for providing its services and gets a 57% discount on the rate competing specialized data carriers pay. Those carriers have petitioned the FCC for equal treatment, and AT&T has asked the Commission for permission to raise Western Union's rates. The telephone company was turned down and is challenging the decision in the U.S. Court of Appeals. If Western Union must pay the same rate as the others, it will be in financial jeopardy, according to some observers. Certainly costs will go up considerably and prices to consumers are bound to follow.

Since taking over its only competitor offering public telegraph service (the Postal Telegraph Company) in 1943, Western Union, through its Public Message Telegram Service, has been the only agency in the United States through which the average citizen could obtain record communications anywhere in the country at fairly rapid speed.

The telephone is faster and more convenient, but it provides no written record. The mail, on the other hand, provides a written record but is frequently too slow for the needs of many Americans.

The Public Message Telegram Service (PMS) category currently includes these classes of record communications:[6]

(1) *Telegrams* (or "full-rate" messages)—messages accepted for immediate transmission.

(2) *Overnight Telegrams* (or "night letters")—messages accepted any time during the day and up to midnight for delivery not earlier than the following morning.

(3) *Public Personal Opinion Messages*—a message of 15 or fewer words expressing an opinion on an issue of general, national or regional interest, destined for Washington, D.C. and addressed to the President, Vice President, a Senator or a Member of the House of Representatives.

(4) *Press Messages*—collect messages sent to an agency of the press and containing news for publication.

(5) *Public Facsimile Messages*—facsimiles of messages, filed on a sheet of paper, restricted as to dimension, charged for by column inches, and transmitted between two of five major cities (Chicago, Los Angeles, San Francisco, Washington and New York).

(6) *Money Order Messages*—messages used to arrange for payment to a designated payee a sum of money deposited with the company by the sender.

As this report is primarily concerned with the PMS, which includes the company's services most used by the public, descriptions of other Western Union services are not covered. A discussion of the new Mailgram service is included, however, since it is currently the company's most viable alternative to the telegram.

On the basis of the services described above, the PMS would appear to be useful to non-business consumers when they need to make or change travel plans on short notice, send funeral or death notices, send greetings on special occasions, communicate with public officials, or transmit money quickly.

Whether or not the service is actually useful for these purposes depends on whether the service is accessible to consumers, whether the various message categories are reasonably priced, and whether certain standards of speed and accuracy are maintained. The remainder of this chapter is devoted to a consideration of these questions.

Accessability of Service

Since 1945, Western Union has closed the vast majority of its offices and agencies, and decreased hours of services at many others. (See Chapter V regarding service availability in New York City.) In 1945, there were 3,474 Western Union (company-owned) offices and 26,213 Western Union (franchised) agencies in the United States. As of December 31, 1972, there were only 457 offices and 6,309 agencies.[7]

This is a 77% decrease since 1945 in the number of sites offering over-the-counter telegraph services. As a result, the vast majority of communities throughout the country are served only by telephone from offices or agencies located in other communities. Currently, there are only 4,581 communities in the United States in which offices and agencies are actually located.[8]

Since 80% of Western Union's non-commercial customers file telegrams by telephone, many users are unaffected by these closings. One group of users, however, is clearly affected. Western Union money orders remain a thriving business. With few exceptions (e.g., certain business customers), they must be sent and received in person from Western Union offices and agencies. Thus, office closures and reduction of business hours may make it difficult or impossible for customers to send or receive urgently needed money orders.

In some communities, banks now provide Western Union money order service. Yet since bank hours are limited, access in these communities is considerably restricted.

The reduction of office service also has led to the initiation of a 20-cent surcharge for telegrams filed by telephone, thus, adding to the consumer's expense. (The surcharge started at 5 cents in 1964 and reached its present level in 1971.)

In the past, there have been deficiencies in Western Union telephone service. The Federal Communications Commission in 1971 reported:

"Prompt telephone answering is among Western Union's more serious service problems. The company's telephone answering objective calls for 90% of incoming calls to be answered within 35 seconds (6 rings). Difficulty is often experienced in meeting these objectives."[9]

One noteworthy example occurred in 1970 when a young man in New York attempted to call Western Union. "He let the phone ring for two and one-half hours. After an estimated total of 1,650 rings the phone was answered."[10]

This problem, for the most part, appears to have been alleviated. The company has inaugurated a new system of telephone reception of telegrams which it claims offers a better grade of service and insures more efficient handling of messages received by telephone.

The new system consists of three central telephone bureaus (CTB) providing nationwide telephone service on a toll free basis, 24 hours a day, seven days a week. The three offices, located in Moorestown, New Jersey; Bridgeton, Missouri; and Reno, Nevada are now operating. According to Edward S. Cole, Western Union assistant vice president:

"Our objective is to answer a customer's call within 20 seconds (3 rings). For the most part, we have been doing better than this since the Moorestown Center became operational."[11]

In three successive tries by a researcher for this report, the phone was answered after one ring, six rings and 17 rings, respectively.

Another important aspect of service which has been affected by the closing of offices is the availability of physical delivery of messages. While physical delivery was once nearly universal, the reduction in the number of Western Union offices has made the physically delivered telegram an increasingly rare item. Western Union would have consumers believe that four out of every five American households can receive a hand-delivered telegram today.[12] All indications are that this is excessively optimistic. However, it is difficult to be precise because Western Union itself, despite repeated inquiries, could not or would not say how many homes are within its delivery areas. Thirty to 50% probably would be a realistic figure.

Western Union was unable to furnish this study with the number or names of cities and communities in which it offers physical delivery. However, one indicator of the availability of this servce is the total number of offices and agencies nationwide which physically deliver Western Union messages. In 1945, such service was available through 23,567 Western Union offices and agencies, in cities and towns throughout the country, while today it is available only in a fraction of the nation's communities at 6,766 offices

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Footnotes at end of article.

and agencies,[13] many of these in the same cities. Western Union has been unable to tell precisely what communities have delivery service available.

Certainly many closings had little or no effect on service to consumers because of low volume at the agencies and offices involved.

Such moves in those cases were no doubt economically sound and may have helped contribute to increased overall efficiency. But that does not mean that all or even the majority of closings can be justified on the basis of "economic necessity." That claim has been abused by business at least as much as government has abused the "national security" excuse for concealing misdeeds.

Each of these offices and agencies delivers to a narrowly prescribed area, often determined by city limits. The number of messengers in service also has experienced a similar decline. While there were 12,282 messengers in service in 1945, by 1974 there were only 779 messengers (including 116 in New York City alone, but none in Montana or Wyoming) employed by the company.[14] (Delivery service is available in some non-messenger locales by taxicab.)

The decline in number of messengers has roughly paralleled the decline in telegram volume. From 1945 to 1955 the percentage drop of both was nearly identical. Starting in the early fifties, the installation of facsimile tielines ended the necessity for messenger pickup and delivery to approximately 30,000 business customers by the end of the sixties. The company attributes much of the decline in messengers to this factor, noting:

"Despite these installations, which were largely responsible for a sharp reduction in physical deliveries and the virtual elimination of messenger pickup, the decline in messenger force has been only about 10% greater than the overall decline in volume." [15]

The brunt of the decline of physical delivery of telegrams has been borne by residents of the nation's suburbs and rural communities. Not only has the company failed to open new offices and agencies in these areas as their population has increased, but in many cases the company has closed rural and suburban outlets, making the hand-delivered telegram unavailable to the residents of these areas.

Despite considerable evidence to the contrary, company spokesmen continue to insist that the lack of physical delivery is not a serious problem. In September of 1970, Western Union's vice president for service coverage testified before the FCC that he did "not foresee a time when we will not have physical delivery service available for the person who needs it." [16] In late 1972, James Gorman, Western Union's director of legislative affairs, stated that physical delivery is available everywhere except in "excessively remote areas." [17] Mr. Gorman later admitted, however, that physical delivery is not available in many urban-suburban areas, including parts of Silver Spring, Maryland, a close-in suburb of Washington, D.C., where Mr. Gorman has his home.

In addition to the limited physical delivery service in suburban and rural areas, the availability of such services in cities also has declined. The FCC requires Western Union to report on speed of service at each of the 75 largest volume cities in the country. While as late as October 1968, physical delivery was available in all of these cities, by June 1973, the company had no messenger delivery in ten of them.[18]

Thus, a more accurate assessment of Western Union's physical delivery capability is that of an anonymous company official who stated: "RCA doesn't make victrolas anymore and I guess you could say we don't deliver telegrams—by hand that is." [19]

Pricing policies and the decline of the telegram

Since 1945, Western Union's telegram volume has dropped from 224.6 million per year to 21.7 million per year in 1973 according to the FCC. In 1945, telegraph business produced nearly 100% of total company revenues, but in 1973 accounted for less than 18% of Western Union's revenues.

The decline of the message telegram has numerous causes. Western Union management stresses the growth of alternate communications systems including the telephone network, air mail, and the company's own Telex and TWX as the principal causes of the decline in telegram volume.

The FCC, however, does not agree. The Commission puts primary blame for the great decline in message volume upon the company's pricing policies. While agreeing with Western Union's contention that a substantial portion of telegraph business was diverted to alternate communications methods, the Commission maintains that an absolute decline in message volume need not have resulted if the company had not priced the telegram out of the communications market:

"A different outcome might have been expected had prices been maintained at levels corresponding more closely to the value and cost-of-service consideration for public message telegraph and other communications services. . . . The accelerated decline in volume attributable to the substantial increase in price in the post war period need not have come to pass. Indeed, in a growing economy, it would not have been improbable to assume that message volume would have stabilized, or possibly demonstrated a slight absolute increase as new usage developed." [20] The Commission has reiterated this contention on several subsequent occasions.

In 1945, telegram base rates varied with distance, ranging from 20 cents to $1.20 for the basic message (then 10 words). Between 1946 and 1974 the price of the basic telegram (now 15 words) was increased 19 times, so that by June 2, 1974, the base rate was $4.25, regardless of distance, and by December 1, 1974, that will go up another 50 cents.

In addition to the base rate increases, since 1968 Western Union has charged its customers extra for physical delivery. This surcharge started out six years ago at 75 cents, but was increased in 1971 to $1.50 and again in 1973 to $3. Prior to 1968, no extra charge was made for physical delivery.

Several problems confront customers who are unacquainted with the physical delivery surcharge. Often customers are not asked if they want physical delivery nor, if delivery is requested, are they told that such delivery costs extra, even though employees are required to furnish that information.[21] Recently approved tariff revisions provide that a telegram will be delivered by messenger only if the customer requests such service.

Thus, the base rate increases and the physical delivery surcharges have caused the minimum cost of a physically delivered telegram to rise from 20 cents (intra-city rate) in 1945 to $7.75 in 1974, an increase of 3,775%.[22]

The FCC, in an exhaustive study of the telegram decline, found that in 1945 the telegram was competitively priced. But as the price of telegrams edged closer to the prices of higher quality alternatives such as telephone and special delivery mail, customers increasingly switched to the substitutes.

This meant that subsequent rate increases did not result in significant additional revenues on a permanent basis. Short term earnings were achieved because of the ability of the company to capitalize upon a lag in consumer rejection of the more expensive service. However, the FCC determined that:

"The increased diversion at the higher prices soon erased these benefits and necessitated a repetition of the whole cycle. Over the long run, the consequences of successive price increases in the face of growing consumer price sensitivity, or greater elasticity of demand, could only result in a fall in both message volume and total revenues even at higher prices.[23]

Moreover, Western Union failed to adopt promotional prices for telegrams in an attempt to reverse this trend.

Western Union justified its frequent rate increases by claiming they were necessary to cover anticipated higher wage costs. The FCC found that the rate increases were not needed for that purpose, but were used instead to support the company's diversification into other forms of data communication.[24]

Western Union contends that price increases have not been a major cause of the decline of telegraph volume. The company cites as evidence tests run in three groups of cities, with reduced rates and advertising in one group, reduced rates without advertising in the second, and a third "control" group in which rates and advertising were not altered. The company claims its findings show that reduced rates and increased advertising had no effect upon message volume.

The validity of the Western Union study is questioned by Boyd L. Nelson, chief of the Economic Studies Division of the FCC's Common Carrier Bureau. He believes that Western Union's study was methodologically unsound and therefore useless.

Nelson refers to an extensive unpublished FCC study which determined that the telegram rate structure is characterized by different degrees of price sensitivity. The FCC study found that short telegrams going short distances demonstrate great price sensitivity; message volume for long telegrams going long distances is relatively insensitive to price changes. Western Union's pricing policies have increased prices most drastically for short telegrams traveling short distances, the sector which the Commission found most price sensitive.

Thus, Nelson maintains that the company's pricing policies are largely responsible for the drastic reduction in telegram message volume and telegram revenues that the company has experienced since World War II.[25]

Adequacy of service

Western Union has proven incapable of maintaining its speed of service standards at a time when other methods of communication have become increasingly rapid. Although in some instances Western Union manages relatively swift delivery of telegrams, much of the time it is woefully slow.

Both Western Union and the ECC have generally looked to speed of delivery as one of the primary measures of message service quality. Western Union's speed of service *objectives* (vs. FCC standards), established by the company in 1959, call for delivery of: [26]

(a) 100% of full rate messages by telephone or tieline within one hour,

(b) 100% of business full rate messages by messenger within 75 minutes, and

(c) 100% of residential or social full rate messages by messenger within two hours.

These objectives are simply time limits set by the company to gauge the level of service. No refunds are given for failure to meet these objectives, unlike failure to meet the longer speed of service standards, when refunds are or should be given.

The company regards the attainment of these objectives in 95% of the message hand-

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Footnotes at end of article.

lings as near optimum performance and it has been the Commission's policy to expect Western Union to handle at least 90% of its full rate traffic within the company's speed of service standards.

To gauge Western Union's quality of service, the FCC requires Western Union to submit monthly reports showing the origin to destination speed of service of the basic "telegram" at each of the 75 largest volume cities in the country. A study of these reports for the past several years clearly indicates that the quality of service has indeed deteriorated and continues to do so daily.

In October 1968, 72 of the 75 reporting cities met the minimal 90% objective for telephone delivery, 70 for tieline; and 72 met the objective for messenger delivery. By March 1970, service deteriorated substantially as only 46 of the 75 met the objective for telephone delivery; 46 met the objective for tieline delivery; and 57 of the 75 cities reporting met the 90% objective for messenger delivery of business traffic.

The June 1973 reports indicate further deterioration. During that month, only 14 of the 75 cities met the minimal objective for telephone delivery; 25 of 75 for tieline delivery; and of the 65 cities reporting messenger delivery, only 4 were able to fulfill the minimal 90% objective.[27]

Thus, using studies prepared by Western Union for the Federal Communications Commission and using the criteria established by the two, it is quite clear that speed of delivery and therefore, quality of service have continued to deteriorate over the past ten years. (Table II-2 tabulates this information documenting the massive deterioration of service. It should be noted, however, that the FCC made no independent verification of Western Union's studies.)

TABLE II-2.—DISTRIBUTION OF 75 CITIES BY PERCENT OF MESSAGES DELIVERED WITHIN SPEED OF SERVICE OBJECTIVES

	Telephone (60 min)			Tieline (60 min)			Messenger (75 min)		
	October 1968	March 1970	June 1973	October 1968	March 1970	June 1973	October 1968	March 1970	June 1973
95 percent plus	44	19	8	38	19	9	39	32	0
90 to 94.9 percent	28	27	6	32	27	16	33	24	4
80 to 89.9 percent	3	22	7	4	24	14	2	14	4
70 to 79.9 percent		5	13	1	3	10	1	2	4
60 to 69.9 percent		1	7		1	7		1	0
50 to 59.9 percent		1	9			9		1	7
40 to 49.9 percent			2		1	4			7
30 to 39.9 percent			10			0			5
20 to 29.9 percent			7			4			9
10 to 19.9 percent			3			1			9
0 to 9.9 percent			3			1			16
No messenger delivery								1	10
Total	75	75	75	75	75	75	75	75	75
Number of cities in which standards were met	72	46	14	70	46	25	72	56	4

Speed of service standards call for Western Union to make the first attempt to phone a telegram to a recipient within two and one-half hours of the time it was filed by the sender. The FCC has no rules to cover subsequent attempts if the first call fails, leaving the matter to company regulation.

Western Union says it tells its personnel to phone every 30 minutes for up to two hours after getting a busy signal or no answer, unless the message is urgent or a time factor is involved. Then discretion is urged as to frequency to make sure the message serves its intended purpose. If, after following these procedures, the message remains undelivered, the phone company is supposed to be contacted to be certain the number dialed is correct and working. After verification, the sender is notified by phone; if he wishes, Western Union will continue to try to phone deliver the message by calling every hour for up to four hours, depending on the nature of the message and the lateness of the hour. If it is still undelivered after four hours, the sender is to be contacted again for instructions.

Evidence of the quality of Western Union's performance can be seen in the number of complaints filed by consumers with the company, the FCC and various state Public Service Commissions. Although PMS volume has been declining for years, the total number of complaints has been increasing—at least until last year. That is when automation began having an impact, and the company contends that will reverse the trend and improve service. Although the number of complaints seems small, it reflects only those serious enough to get to FCC and Western Union headquarters. Those received in the field and resolved there are not included. The following figures supplied by both Western Union and the FCC illustrate:[28]

	Total complaints	Telegram volume (millions)
1965	648	94.3
1969	1,087	77.1
1972	1,405	23.3
1973	323	21.7

These figures are for telegrams only and do not include money order, Mailgram, accounting, equipment and miscellaneous complaint cases.

Complaints received by the New York Public Service Commission include:

(1) Delivery of death notices after the funeral;

(2) Delivery of messages for special occassions after the occasion has taken place; and

(3) Delay and nondelivery of messages and money orders.

In many cases, Western Union's late delivery or nondelivery of messages merely results in consumer annoyance and frustration. In other instances, however, Western Union's failure to deliver messages produces more serious consequences. An article in the New York Times reported:

"A telegram notifying a woman that her mother was dying was not delivered. She missed being at the bedside. Another telegram failed to reach her advising her of the funeral. Her family thought her callous. In another instance, a child nearly died waiting permission by telegraph from his parent for an operation in a far-off city."[29]

Western Union Refund Policy

In an order adopted April 28, 1971, the Federal Communications Commission decided that due to the deteriorating quality of public message service, Western Union would have to file new tariffs assuring the Commission that the company would refund to the sender tolls for messages it failed to deliver. The new tariffs provided for:

(1) Classification of messages and charges based upon specification of a reasonable range of elapsed time from the time of filing a message to the time of first attempt of delivery thereof for the given class.

(2) An automatic refund to a customer if the company failed to meet its undertaking in a particular case where the message failed to serve its purpose because of the delay.

In compliance with the first part of this order, Western Union established time limits allowing the company four hours for telephone delivery and six hours for physical delivery. For New York City and for certain holidays, the guidelines were extended to permit six hours for telephone delivery and eight hours for physical delivery of telegrams and money orders. In all cities and communities, all overnight telegrams had to be received by 2 p.m. on the day following the filing dates in all cities and communities. (As of August 13, 1973, these requirements were reduced by one hour, and New York City got the same guidelines as the rest of the nation; and on June 2, 1974, the telephone delivery standard became two and one-half hours.)

The FCC requirement for an automatic refund policy was, however, never instituted. Western Union vigorously protested such a policy would be too costly and too complex. In less than six weeks, the Commission meekly backed down and agreed instead on a negative option-type system which puts the burden on the consumer to request a refund instead of on the company to automatically give one.

"We were convinced that administration of the automatic refund policy was an extremely expensive proposition, even more expensive than the refund itself," said Ray Baker, acting chief of FCC's Domestic Rates Division.[30]

Western Union had argued before the Commission that it should not be held responsible for determining whether or not a message had been received. Although the FCC accepted this rationale, the Western Union position is patently untenable. The sender, especially if he phones in his telegram, is rarely, if ever, informed of speed of service standards and his refund rights. In fact, unless he is willing to pay extra, he usually doesn't even know whether his message was ever delivered. The recipient, likewise, has no way of knowing whether he received the telegram within the allotted time or that the sender may be due a refund. Only Western Union would have this information, and they are not very willing to share it.

Western Union insisted that the burden of requesting a refund fall on the consumer—and only when it is put in writing. When faced with a clash between company and consumer protection, the FCC sided with the company and issued a new refund policy:

When a first delivery attempt is not made within the designated time period, the tolls will be canceled or refunded only upon written application by the sender.

Most of these refunds, however, are never made. As a result of the company's unwillingness to adopt an automatic refund policy,

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consumers lose millions of dollars every year in improper charges.

The current "customer initiated" policy makes it the sender's responsibility to ascertain whether or not he is entitled to a refund, and further provides that the sender must request this refund in writing.

As a result, the sender is often unaware that he is entitled to a refund and, thus, never collects it.

The company has no current statistics regarding the percentage of messages delivered within its permissible time guidelines, but a company spokesman estimated that only 90% of all telegrams are delivered within these limits.[31] In 1973, Western Union revenue from telegrams amounted to $86,702,000. If, as estimated, 10% of all telegrams were not delivered within speed of service standards, then the consumers were eligible to receive as much as $8,670,200 in refunds.[32] However, Western Union that year refunded only $656,513 to customers for overcharges and faulty service on telegrams and all other messages—Telex, TWX, Teltex, money orders, etc.

The failure of most customers to claim their refunds can be explained by four factors:

(1) Consumers are largely unaware that refunds are available. Aside from a few infrequent newspaper advertisements in the past year in 12–15 major newspapers, and small notices posted in Western Union's offices and agencies, the company has done virtually nothing to inform its nonbusiness customers about its refund policy.

(2) 75% to 80% of Western Union's nonbusiness customers file telegrams by telephone. The vast majority—if not all—of these telephone customers are not provided with this information. Seventy-two telegrams were sent in conjunction with this study; in no instance did Western Union operators inform senders about refunds or failure to meet delivery standards.

(3) Since the sender is not notified of the company's failure to meet the delivery requirements, he is often unaware that he is entitled to a refund and, thus, never files for one.

(4) The obstacles placed in the way of getting a refund bring Western Union millions of unearned dollars.

Accuracy of messages

Western Union PMS messages frequently contain textual, spelling or punctuation errors. The majority of errors are probably insignificant and do not alter the meaning of the message. In some cases, however, gross textual errors render messages difficult or impossible to comprehend. One such garbled mailgram, received by Congressman Rosenthal read:

"Our membership is strongly united in our opposition to the fat bill for the sale of all those concerned may of them your constituents we request that you oppose this bill."

In another instance, a telegram was delivered to Congressman Rosenthal, stating:

"I urge you to support the Boland amendment end the senseless knitting."

Message error has, of course, always been a problem. Consider the following message sent by Orville Wright to his father, Bishop M. Wright:

"Success four flights Thursday morning all against twenty one mile wind started from level with engine power alone average speed through air thirty one miles longest 57 seconds inform press home Christmas."

"OREVELLE WRIGHT."

The message misspelled Wright's first name and erred on the duration of his historic flight (it should have been 59 seconds).

Company officials blame message errors largely upon antiquated public message equipment, believing that modernization programs now in progress will eventually alleviate much of this problem. (Early results of computerization indicate this may be so, but evidence is too scant to be certain.) But a large number of message errors probably result from other causes.

One possible source of message error is incorrect recording by Western Union operators of messages telephoned to the company. The majority of such errors could easily be avoided if Western Union operators read back messages to callers to verify accuracy. Repetition of messages, however, does not appear to be a standard practice. In a series of 12 calls in conjunction with this study to the company's Moorestown, New Jersey, telephone bureau, only two messages were read back to callers to insure correctness. Thus, it appears highly probable that incorrect recording of messages by Western Union operators accounts for numerous message errors.

Western Union does not guarantee the accuracy of its messages. Customers concerned with accuracy are required to pay an additional fee to verify that their messages are transmitted without error. Western Union informs concerned customers that:

"To guard against mistakes or delays, the sender of message should order it repeated, that is, telegraphed back to the originating office for comparison. For this one-half the unrepeated message rate is charged in addition."

Repeat-back fees substantially increase the cost of telegrams. For example, as of June 2, 1974, repetition of a 15-word telegram costs the sender an additional $2.13, upping the price of a telephone-delivered message from $4.25 to $6.38, or that of a physically delivered message from $7.25 to $9.38—plus an additional charge of 20 cents for placing the message with Western Union by telephone. In most instances, the exorbitant cost of the repeat-back service dictates against its use by consumers, leaving them subject to possible message errors. However, a confirmation copy which is sent by the Western Union office transmitting, rather than receiving, the message costs only 75 cents. But it assures only that the company *copied* the telegram accurately, not that the addressee got it that way.

Messages telephoned when physical delivery is requested

Western Union frequently does not hand deliver messages for which the $3 delivery surcharge has been paid, but telephones the messages instead. This failure often occurs because the destination to which the message is addressed is outside of Western Union's limited delivery areas. Although it is the responsibility of the company to inform customers of this fact, company employees frequently do not check to see if delivery is available, and the customers only find out too late, if at all.

Western Union cites several additional factors as causes of inability to deliver messages, including delays enroute, unexpectedly large message volumes, and employee absenteeism.[33] These excuses are of questionable validity and indicate the company's inability to properly provide its service to the public.

The company is supposed to refund or cancel the $3 delivery charge if the telegram is not physically delivered. But there is considerable evidence that these refunds are not always made. Charles Kraft of the New York State Public Service Commission has testified that "branch offices have indicated to the commission staff that they do not bother to process any refunds, and others do so only when specifically requested by the sender."[34]

This study found that in three out of 12 telegrams sent in conjunction with the "race" described in the next chapter, Western Union did not refund delivery fees for non-delivered messages. By failing to refund delivery fees, Western Union is, in effect, charging the customers for services that have not been provided.

Perhaps the best summary judgment of the inadequacy of Western Union's services is the following, made by the FCC in 1971:

"We are not persuaded that the company has made realistically adequate efforts to come to grips with the quality of public message telegram service . . .

"We find unconvincing the claims of the company that it sets staffing levels with consideration both for adequacy of service and efficiency of operation, that there is no correlation between service performance and costs to the carrier, and that the incidence of excessive delay in delivery is due not to insufficient force assignment but to unavoidable human error. We think the record leaves substantial doubt as to whether the company assigns a sufficient work force to carry out its responsibilities adequately."[35]

Lobbying by wire

For approximately 30 cents per Member of Congress, a citizen can send the identical telegram (up to 15 words) to all 100 United States Senators and 435 Representatives. Known as Public Opinion Messages or Personal Opinion Messages, they cost $2 each when sent singly. Bulk rates for identical message are $80 to all Senators only, $120 to Representatives only, and $160 to the entire Congress.

As explained at the beginning of this chapter, these are messages expressing opinions on general, regional or national matters, and can be filed from anywhere in the contiguous 48 states to Washington, D.C. (rates from Hawaii and Alaska are higher).

Mailgrams also can be utilized for this purpose. Although slower, it gives the sender 100 words instead of only 15 for his $2. On the other hand, there is no quantity discount for sending Mailgrams to all Members of Congress.

As a regulated common carrier, Western Union is supposed to transmit and deliver the mesage, but should not be advocating positions on specific public issues. Executives agree and say it is not company policy to take sides, just to help citizen-customers express themselves, but there is evidence the company is not being as neutral as it should.

Two incidents which occurred this spring indicate the company has been lobbying against pro-consumer legislation in the Senate by trying to drum up a flood of opposing telegrams and Mailgrams from likeminded opponents.

In early April 1974, the company solicited Mailgrams to Senators from opponents—principally trial attorneys—of no-fault auto insurance legislation. The company offered 30 separate anti-no-fault messages for $2 per Mailgram. The idea was apparently suggested by the Los Angeles Trial Lawyers Association through a plea to members which resulted in 4,300 Mailgrams in two days. Western Union's national sales office thought that was a good way to sell its services and it urged regional sales managers to approach similar groups, suggesting messages opposed to the legislation. Senator Frank Moss of Utah, a key sponsor of the no-fault bill, branded Western Union an "unwitting instrument" of the lobby.[36]

Despite claims of neutrality and views it would not happen again, Western Union was back lobbying against consumer legislation by early May. Company telegrams (signed by John Blowey, a salesman in Western Union's East Hartford sales office) were sent to company presidents warning that the Consumer Protection Agency bill "has an excellent chance of becoming law" and urging them to use the attached text to wire their U.S. Senators. The message concluded: "Western Union maintains a list of all Senators at its message center. If you wish to state your

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disapproval of Senate Bill 707 to each Senator, please contact me immediately."

Western Union's regional vice president, Charles McDonald, said the solicitation violated company policy. "After we got in trouble for the no-fault telegrams, we told everybody not to take sides. But somebody didn't get the message. The whole thing was a dreadful mistake." Another company executive, Washington representative Richard Callaghan, termed the practice "hucksterism at its worst." He conceded the problem is nationwide, but blamed it on "guys on commission [who] get a little overzealous sometimes." [37]

Walter R. Hinchman, chief of FCC's Common Carrier Bureau, asked Western Union for an explanation. Company president, Earl D. Hilburn, declared in response that "the Company is fully aware of its obligation as a common carrier to maintain a position of strict neutrality in all such issues," and he attributed the incident to the "zealous effort" of a salesman. A week after the FCC inquiry, all those who had received the salesman's original appeal were sent an apology by a company vice president and asked to "disregard" the earlier message. He also included the following sentence: "This message (from the salesman) could be misinterpreted as advocating defeat of the measure in the Senate." A rereading of the salesman's appeal leaves no room for misinterpretation. Western Union also sent Telex messages to all its area vice presidents and its sales managers reminding them of company neutrality; three days later this was followed up with another reminder "to reiterate and strengthen" the earlier directive. The FCC accepted the company explanation that the incident was an isolated one and, according to associate general counsel Howard Kitzmiller, the Commission "didn't feel any further action was necessary."

Mailgram

In January of 1970, Western Union inaugurated Mailgram service in 12 U.S. cities. Since that time, the service has been expanded and now is available throughout the entire country.

During this period, Mailgram volume has risen steadily and it is now the company's intent to offer Mailgram as an alternative to Public Message Service. Mailgram, in fact, is being so highly touted by Western Union that some observers suggest the company is deliberately downgrading the telegram and trying to replace it with the Mailgram.

A recent letter from Western Union's Community Relations Director to all Members of Congress, for example, declared that "Mailgram is the action communication. Western Union and the U.S. Postal Service have teamed up to bring you the Mailgram with the next day attention at just a fraction of what it would cost you to send a telegram."

Mailgrams may be filed by tieline, over-the-counter, or by telephone. The company transmits the message by wire to a post office near the receiver's address, where it is put in an envelope and delivered as first class mail. The telegraph company claims the Mailgram will be delivered in the mail the day following filing.

Unlike Public Message Service, however, there are no speed of delivery requirements for Mailgrams and there are no refunds available. Thus, if a Mailgram is not delivered by the next day, the sender has no recourse with the company.

The original charge for a Mailgram filed with the telegraph company by telephone, tieline, or over-the-counter prior to August 13, 1973, was $1.60 for 100 words or less plus 80 cents for each additional 100 words or less.

But on August 13, 1973, the charges were increased to $2 for 100 words or less and to $1 for each additional 100 words or less. Thus, even though the Mailgram remains cheaper than either the full-rate or overnight telegrams, rates underwent a 25% increase in the service's first year of nationwide operation.

Western Union envisions Mailgram as eventually being a profitable and viable alternative to the declining PMS. In discussing possible diversion of usage from PMS to Mailgram, the company has asserted:

"The diversion is from an unprofitable segment of the Company's total business to a potentially profitable segment which can take full advantage of the economies of scale and low unit costs resulting from Western Union's modernization program." [38]

Thus, it appears that the installation of Mailgram service is but another step in the telegraph company's systematic curtailment of the more labor intensive Public Message Service.

Western Union, however, faces at least one drawback in its plans for the Mailgram. In studies conducted prior to the request and approval of the recent rate increase, it was discovered that the demand for such service is elastic. Yet the telegraph company has already increased Mailgram charges 25% and may continue to do so in an attempt to improve its return on investment. Thus, a policy of pricing the service out of many persons' reach, appears to have been initiated for Mailgram very similar to the one which has all but obliterated telegram usage, volume, and revenues.

In summary, the Mailgram is a hybrid cross between the telegram and first class mail, cheaper and slower than the former *but,* more expensive and, hopefully, faster than the latter. There are no speed of delivery requirements, no refund system, and no guarantees that the Mailgram will not soar in price as has its predecessor, the telegram. Yet considering the deteriorating quality of telegram service, the restriction in availability of physically-delivered telegrams, and the significant difference in cost between the two record communication services, using the Mailgram might be preferable to the telegram.

CHAPTER III: ROSENTHAL TELEGRAM RACE

In order to test independently the speed and accuracy of Western Union's service, a three-way race was set up in late March 1974 with a special delivery letter and Western Union's Mailgram and telegram. (A similar race was run 20 months earlier, in July 1972. The results are compared below.)

Twelve messages were sent in 1974—half from New York City and half from Washington—to people living in different cities across the United States. Cities in the North, South, East and West were chosen to assure a geographic spread.

The message was:

Mari arriving Ann Arbor 4/1. Meet her at 352 63rd Street (Signed) Jon.

The text contained numbers and uncommonly spelled names to pose difficulties for Western Union employees. The messages were sent in the late afternoon, a time when consumers may legitimately require such service.

The Mailgrams and telegrams were telephoned to Western Union. Physical delivery of *all* telegrams was specified. Participants in the study were instructed to keep exact records of the time and date of arrival of each message.

When the 1974 data were tabulated (See Table III-1), the telegram came in first in the three-way race, though the average elapsed time between filing and physical delivery was five hours and 33 minutes—33 minutes longer than the FCC's maximum allowable speed of service standard. The average elapsed time for delivery of the Mailgrams was 23 hours, 20 minutes and for the special delivery letters 25 hours, 25 minutes. Two telegrams were not delivered at all and, therefore, could not be included in the computation of average elapsed time; a third was delivered by mail, contrary to instructions. Thus, the physically delivered telegram actually performed worse than the figure above indicates.

Footnotes at end of article.

TABLE III-1

1974 telegram race	Delivery time (hours: minutes)			Telegram overcharge (refund due)	Errors		Comments
	Special delivery letter	Mailgram	Telegram		Mailgram	Telegram	
From New York to:							
Chapel Hill, N.C	24:10	69:31	[1] 19:50	$6.95	2	0	
Des Plaines, Ill	21:39	21:28	2:05		0	1	Messenger did not ring bell—slipped message in door.
Columbus, Ohio	19:36	16:23	2:38		1	1	
Brooklyn, N.Y	20:39	17:43	[2]	[3] 3.10	0		
Bryn Mawr, Pa	38:59	17:48	3:27		1	2	
Silver Spring, Md. (Wagon Way)	22:04	20:17	[2]	6.95	1	0	
From Washington to:							
Columbia, S.C	24:30	20:03	1:45	6.95	0	0	Not billed for mailgram; billed twice for telegram.
Dearborn, Mich	38:30	18:50	4:25		1	1	
Forest Hills, N.Y	19:45	20:52	3:10		2	1	
Silver Spring, Md. (Dean Road)	18:30	18:23	3:23		0	1	
Oakland, Calif	29:55	19:20	4:57		0	0	
Silver Spring, Md. (Wagon Way)	22:50	20:03	[4] 2:47 [5] 44:58	3.00	2	1	Billed for telegram delivery through Western Union would not deliver; telegram mailed.

[1] Exceeded 5-hr speed of service requirement.
[2] Never received.
[3] Full rate for intra-State telegram in New York is $3.10; interstate rate is $0.95.
[4] Phone.
[5] Mail.

Of nine telegrams physically delivered, none was within the company's own speed of service objectives (75 minutes for full-rate telegram delivered by messenger), while seven were delivered within the company's refund guidelines (five hours for messenger delivery). The hand-delivered telegram to Chapel Hill, North Carolina, arrived nearly 15 hours later than the company's standard allowed—or 19 hours and 50 minutes after filing.

Western Union telephone-delivered one telegram, though the sender had requested physical delivery and was not advised that such delivery was unavailable. The message was phoned to the recipient on Wagon Way in Silver Spring, Maryland, a nearby suburb of Washington, D.C. The recipient also requested messenger delivery, but the Western Union employee steadfastly refused, saying the recipient lived outside of the established Western Union delivery limits. The employee admitted, however, that he could deliver a few hundred yards away. (Another telegram sent to a Silver Spring address on Dean Road, the identical distance from the closest Western Union office, was delivered three hours, 23 minutes after it was called in.) The sender was *not* informed that physical delivery did not occur, and subsequently he received a bill which included the $3 delivery charge. Two bills—$6.95 each—were received for the telegram to Columbia, South Carolina, though only one was delivered, but no bill was received for the Mailgram.

When the average elapsed time of all the telegrams was computed, allowing for telephone delivery of the messages, it was found to be five hours and four minutes—still slightly exceeding speed of service standards.

Two telegrams failed to arrive at all, one an intra-city message from Queens to Brooklyn, the other a message from New York City to the Wagon Way address in Silver Spring, Maryland. Neither senders nor recipients received notice of failure to deliver, but each sender was billed for full charges, including the delivery fee.

The correct charge for the 12 telegrams, if delivered according to instructions, should have been $79.95 (11 interstate messages at $6.95 each and one intrastate wire at $3.10). However, Western Union actually sent bills totaling $86.50 because it charged twice for one telegram. Because of late delivery, nondelivery and mistaken billing, the sender was overcharged $26.95 or slightly over 31%.

Western Union's accuracy left much to be desired. Seven of the telegrams and six of the Mailgrams contained textual errors, while another Mailgram had a mistake in the address. Several of the messages contained more than one error, though none had more than two. These errors were generally minor and probably did not interfere with the recipient's understanding of the total message. But considering the brevity of the messages and the frequency of errors, Western Union's accuracy record must be judged poor.

The company undoubtedly could improve this record by requiring its telephone operators to read back the message for accuracy. But of the total of 24 messages sent from Washington and New York only three—or 12.5%—were repeated back for verification.

The results of the 1974 race showed a distinct improvement—time-wise—over the 1972 race. At that time, the telegram came in dead last in the three-way contest, with an average elapsed time between filing and physical delivery of 30 hours and 33 minutes.

In the earlier race, three out of ten telegrams were telephone-delivered, though messenger delivery had been requested in every case. The caller was advised in only one of the three cases that messenger delivery was not available; the remaining two telegrams were telephoned, and the sender was never informed that physical delivery did not occur.

Western Union's accuracy performance in 1972 was little better than in 1974. Two years ago, three of the ten telegrams and four of the Mailgrams contained textual errors. Several messages had more than one error, and one Mailgram contained four textual errors.

In 1972, one telegram sent from New York City to Meridian, Mississippi, never arrived. The telegram to Meridian was transmitted by the company with an incorrect address, and Western Union did not attempt to determine the correct address until several days later. A notice of failure to deliver, received by mail nearly eight days after the telegram was filed, was the first and only notification of this situation given the sender by Western Union.

An intra-city telegram from Queens to Manhattan in 1972 took 16 hours and 45 minutes to arrive. The sender could have carried the message on foot in far less time.

In conclusion, there was a noticeable improvement in the speed of delivery of the telegrams during the 20 months which elapsed between the first and second races.

But the average elapsed time between filing and physical delivery in 1974 still was 33 minutes longer than Western Union's speed of service standards in effect at that time.

Accuracy of messages was poorer in 1974 than two years earlier, and two telegrams failed to arrive in 1974, as compared with only one failure in 1972.

In the 20 months between the two races, Western Union was allowed to put into effect rate increases ranging from 25 to 100% for both the telegram and Mailgram. Those price hikes became effective in August of 1973, and less than eight months later, on April 1, 1974, the company petitioned the FCC for yet another rate increase—its ninth in the past 11 years. The hike was granted.

CHAPTER IV: THE FEDERAL COMMUNICATIONS COMMISSION—THE RELUCTANT REGULATOR

As a monopoly providing communication services, the Western Union Telegraph Company operates under the regulation of the Federal Communications Commission.

During the past ten years, the FCC—aware of the deteriorating quality of telegram service—has been highly critical of Western Union. Reports have been issued by the Commission expressing deep concern over the deteriorating quality of telegram service in the face of ever increasing rates. Yet in spite of such critical comments, the FCC's approach to regulating the telegraph company is best characterized as one of "words-not-action."

In April 1966, the Commission issued the "Report of the Telephone and Telegraph Committees of the Federal Communications Commission in the Domestic Telegraph Investigation." The report was highly critical of both Western Union and the FCC, with the FCC admitting it was "probably too accommodating in accepting justification for message telegraph price increases."[39]

Most importantly, however, the study noted Western Union's failure to meet the needs and standards of the American consumer.

The report included a careful study of Western Union's public outlets. It was discovered that the company had closed so many offices and agencies that it became increasingly clear that:

"As the density of Western Union's geographic service had diminished, telegraph service in an increasingly large number of small communities has become available primarily by telephone only, with "hard copy" delivery generally made by regular mail. . . . It seems clear that Western Union's service coverage is nationwide only to the extent that telephone service is available throughout the nation" . . .[40]

Furthermore, according to the study, "this increased use of the telephone delivery method means that a rapid record service is gradually being displaced by what might be called an indirect telephone service."[41]

The Commission was also highly critical of Western Union's quality-of-service and rate policies. The report stated:

In general, the only significant speed of service improvement was realized by those customers whose messages were shifted to a faster method of terminal handling such as from messenger delivery to tieline delivery, or, in the case of the occasional users, from messenger delivery to telephone delivery. The latter, while being an improvement in speed, represents a deterioration in the quality of service to the extent that the essential attribute of a rapid record communication service—namely its "hard copy" form—has been eliminated.[42]

In reference to Western Union's rate policy, it was found that "the pricing policy of Western Union has been centered on finding the most advantageous areas to the Company, not the public, in which to raise price."[43] It was also decided that due to the somewhat elastic nature of the demand for telegram service, the continuous policy of raising rates served only to depress telegram volume and revenue.

If Western Union had initiated an enlightened pricing policy, the report concluded, the company could have reversed the declining trend in usage and provided the public with an ever-expanding message service.

In concluding its study, the FCC issued a series of recommendations[44] calling for:

(1) The establishment of a "suggestion box" type of survey of present Western Union users to determine which aspects of the service are most satisfactory and which are least satisfactory.

(2) The establishment of a promotional pricing policy coupled with proper advertising and sales promotion, because "it is unwise from the standpoint of the carrier and the public interest, to ask the consumer to pay relatively higher prices for a service when these prices will discourage usage, penalize the residual user, and result in smaller revenues and earnings."

(3) A regular study of speed and quality of service provided by the company.

(4) Federal Communications Commission promulgation of service standards and a system of financial penalties to enforce compliance with these standards.

In 1971, the Commission issued another statement detailing its disenchantment with the policies of the telegraph company. The statement came as the result of hearings before the FCC in the matter of proposed revisions in the rates of the Western Union Telegraph Company. In a decision of February 3, 1971, the Commission once again criticized Western Union's quality of service, concluding that "the Company is failing, by a substantial margin, to comply with its own speed of service requirements for message telegrams."[45]

The FCC further concluded that "any further increases in charges for such PMS services will be unjust and unreasonable in relation to the services provided," and only "in the event that Western Union can demonstrate a change in circumstances bearing on the relationship between the service rendered and the charge therefore, will we consider that changes in charges are justified."[46]

It was ordered that those rates for PMS then in effect should remain so and no further increases be approved until the company could demonstrate an improvement in the quality of service. While these statements and recommendations suggest a legitimate FCC concern for the public interest, the Commission's concern was more illusion than reality because just four months after its scathing report, the FCC approved a $1 increase in the base price of a telegram to

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Footnotes at end of article.

$3.75 without any demonstration of improvement, and ten months later it ok'd another $1 increase, again without evidence of improved service.

Any objective evaluation of the FCC's regulation performance vis-a-vis Western Union during the past eight years must conclude that the Commission has failed in its duty to protect and promote the public interest. The Commission has permitted one rate increase after another without any concern for Western Union compliance with its orders or for the quality of service offered the consumer.

In approving the mid-1974 telegram rate hike, the Commission ordered hearings to be held at a later unspecified date. If these hearings actually are held, they would be only the fourth time since 1945 the FCC has conducted a public inquiry into telegram price increases. The other times were 1946, 1951 and 1969–70 (a hearing was set for 1956 but called off when Western Union voluntarily lowered rates).

Although the FCC in its 1966 report criticized the Company's program of closing telegraph offices and agencies, this process has continued with Commission acquiesence. Whereas there were 12,316 offices and agencies in 1966, as of December 31, 1972, there were only 6,766, a 45% decrease.

This decrease was accompanied by a similar decline in the number of messengers in service (3,650 in 1966 as compared to 771 by the beginning of 1974, a 79% decrease in six years).[47] The overall decrease in messengers has roughly paralleled the drop in telegram volume.

Certainly continuing to close telegraph outlets and curtailing messenger service only further diminish the availability of Western Union's geographic service. Yet the Commission—in complete contradiction of its statements of 1966—has permitted this curtailment to continue.

Other critical statements issued by the FCC have been similarly ignored. Whereas the Commission reported that the demand for telegram service was shown to be elastic, especially for short distances, five rate increases have been approved during the past seven years.

One such increase aproved in 1968 is particularly noteworthy. Prior to November 1, 1968, the rate structure for Public Message Service contained seven rate zones with increasing charges as the distance increased. However, since that date there has been a single flat rate for all distances. Thus, the charge for a telegram traveling the shortest distance soared from $1.27 in 1967 to $2.25 in 1968 to $3.75 in 1971 and $4.75 by the end of 1974.

In light of the 1966 elasticity studies and the Commission's awareness that further increases would only depress usage, volume and revenues, such increases are highly questionable and very contradictory.

The only new tariff provisions required of the telegraph company by the FCC in approving the 1971 increase were the establishment of speed of service requirements and a system of automatic refunds in the event these requirements were not met.

Although these provisions would seem to have insured improved service, the Commission quickly dropped the demand for automatic refunds as noted in Chapter II, and it does little, if anything to enforce speed of service standards. The latter requirements were established by Western Union and not by the FCC. Furthermore, whereas the speed of service *objectives* were 60 minutes for telephone and tieline delivery and 75 minutes for messenger delivery, the actual requirements were three and five hours, respectively, until June 2, 1974, when they went to two and one-half and five hours. The net effect of this action was to allow speed of service to severely worsen.

The remainder of the FCC's recommendations and findings have suffered the same fate. A true promotional pricing policy has never been established; prices, instead, have risen. The Commission has not promulgated a new system of service standards even though Western Union has failed to comply with its own requirements.

Furthermore, these failures have gone unpenalized by the Commission. The suggested survey has never been estabilshed and customer satisfaction can only be gauged through study of complaints received by the FCC and other regulatory agencies and trends in telegram usage. Service currently remains poor and rates are at an all-time high, with no end in sight. This situation does not comply with the Commission's previous concept of fairness as expressed in the 1971 hearings.

In contradiction with its own findings and recommendations, the FCC has allowed the telegraph company repeatedly to increase rates. These increases have been approved with little or no concern for the consumer. Officials at the Common Carrier Bureau of the FCC during personal interviews have readily admitted that rates are approved without any consideration for the quality of service offered.

The FCC permitted the August 1973 telegram rate increase to go into effect unchallenged, although it ordered hearings on increases for TWX and Telex service which went into effect at the same time. Those hearings were still going on when Western Union filed for still another increase (new rates are filed 60 days prior to their effective date, in this case April 1 for June 1). In fact, the preliminary decision (prior to sending the question to the full Commission) had not yet been made by the June effectiveness date of the new rates.

The Commission has the authority to suspend new rates for 90 days while it supposedly investigates whether they are justified, but as a practical matter, it is virtually impossible to hold hearings and render a decision in that amount of time, according to FCC tariff officials.

On May 30, the Commission delayed the latest rate increase (on telegrams, TWX, Telex and money orders) by a token period of 24 hours and ordered hearings on the request. However, it ruled that since the hearings on the previous increase were still in progress and involved increases in the same areas, the new hearings would be held in abeyance until the earlier case was resolved. But the new rates—costing consumers $6 million a year—were allowed to take effect, the Commission said, because in view of the company's current rate of return, there "may be justification for revenue relief."

One veteran FCC staffer said he could recall no instances when the Commission suspended (except possibly for a token day) a telegram rate hike or ordered the increase rolled back or refunds made to consumers, as the FCC has the right to do. The Commission attitude seems to be one of helping improve the company's shaky financial condition.

It would appear that the Commission has delegated much of its regulatory power to the telegraph company itself. Office and agency inspections are performed not by the FCC but by Western Union. Speed of service studies are similary conducted. All data concerning telegram cost analysis and elasticities are currently prepared not only by the FCC but by Western Union as well, even though such information provided by the company has in the past been challenged. The Commission has further allowed the telegraph company to establish its own speed of service objectives and has provided no system of penalties in the event these objectives are not met.

The FCC's failure to properly regulate Western Union cannot entirely be blamed on the Commission's staff. The Commission is concerned with all communication monopolies and a majority of its budget and manpower is devoted to the regulation of AT&T, a far larger and more complex company. Thus, as one Commission official has explained:

"We are short staffed. We have to utilize our limited energies where things count, like in reducing telephone rates or watching burgeoning communications industries. Western Union service is simply not a top priority at the Commission."[48]

As a result, there are currently only three professional staff members working in the Telegraph Services Branch of the FCC studying Western Union's quality of service. The three appear to be doing an admirable job considering their limited resources. They carefully read the service reports and data submitted by the telegraph company, reprimanding those offices and agencies whose services appear below minimal standards. Occasionally, they conduct surprise inspections of limited numbers of offices and agencies throughout different areas of the country. Yet, as a result of their restricted resources, they are for the most part dependent upon the studies and reports submitted by Western Union.

Although they are the only ones whose fulltime assignment is overseeing Western Union, several other persons at the Commission are involved with Western Union to some extent at various times; these include members of the legal, tariffs, rates and economics staffs.

(Five former Western Union employees were working for the FCC in nonclerical positions as of July 1, 1979, according to the Commission. Four were employed in the Common Carrier Bureau, which has overall responsibility for telegraph regulation, but only one was directly involved in that aspect. He is William Rank, who is in the Telegraph Services Branch of the Domestic Services and Facilities Division; he has been wih the Commission four years. Charles Cowan "occasionally gets involved in some aspects" of telegraph regulations, according to an FCC spokesman, but not on a regular basis; he is assistant bureau chief and responsible for management. Arthur David and Henry Zachman joined the Commission in the Fall of 1973 and are assigned to the International and Satellite Communications Division. Western Union recently launched a telecommunications satellite. The fifth Western Union alumnus is Sid Goldman, legal assistant to FCC Commissioner Robert E. Lee.)

The FCC must guarantee Western Union a fair rate of return, which has been established by the company at 10.5%.[49] Figures provided the FCC on April 1, 1974, by the company contended that the telegraph company was then currently realizing a 5.5% overall pre-tax return on investments and a 5.3% earning level for Public Message Service. The same document estimated that the two-step 1974 rate hikes would boost those figures to 7.2% and 7.6%, respectively.

Thus, Western Union has sought—and the Commission has approved—numerous rate increases to improve this situation. Yet in the past, such increases have failed to provide the company with a suitable rate of return. Moreover, if the demand for telegram services is elastic, as Commission studies have indicated, such increases will only worsen the current situation, depressing volume and revenues. Finally, the question must be asked whether it is just to require the consumer to pay ever-increasing rates for a service which has shown little or no improvement and no longer satisfies the needs of the public.

Footnotes at end of article.

In summary, the Federal Communications Commission has indeed been a reluctant regulator. The Commission has consistently ignored its own findings and recommendations. It has allowed Western Union continuously to increase rates in the face of deteriorating service.

This deterioration has been fostered by Commission policies. The FFC has ignored its responsibility to the public by allowing the only remaining nationwide system of rapid record communications to be systematically phased out of existence. In an effort to prop up Western Union's fragile financial position, the FCC has abdicated much of its responsibility and has given its approval to virtually everything the Company has asked for.

CHAPTER V: NEW YORK

Service in New York City

The quality of Western Union Public Message Service in New York City in the past has been far inferior to the poor quality of service found in other parts of the nation. The shortcomings of Western Union's service in New York City were so pronounced, in fact, that for many years the company was forced to create separate—and slower—speed of service standards for delivery in New York City. (As of September 1973, the delivery standards for New York City were brought into line with those of the rest of the country.)

In 1972, an investigation conducted by the New York Public Service Commission revealed frequent, nonscheduled office closings, messages backlogged as much as two and three days (in some instances, it was months), shabby, unattractive offices, and other indications of deficient service.[50] Company spokesmen that year readily acknowledged these complaints, blaming antiquated equipment and employee absenteeism for New York City's severe service problems. The company assured the PSC however, that a planned modernization program would alleviate most of these difficulties.

These optimistic forecasts have not been borne out. Though the company's modernization program is today basically complete, New York PSC officials say they are still "not satisfied with the level of service presently being provided by Western Union in New York City."[51]

PSC staffers acknowledge some improvement in service in New York City, but inspections of the new Western Union Public Message Centers (PMC) in the city in November and December of 1973 disclosed that "tariff delivery requirements are not being met on a consistent basis."[52] Those improvements noted were attributed to increased manpower and a more vigorous program of PSC inspections.

Western Union admits "it was not uncommon for patrons to receive next-day delivery service," but it contends there has been much improvement lately, thanks to a three-part nationwide modernization program, which includes:

1. "The computerization of message relay which assures a single computer switch of generally less than two minutes from the sending office to the receiving office";

2. "The development and installation of three strategically located Centralized Telephone Bureaus . . . which assure telephone access to Western Union by everyone in the (continental United States) . . . on a toll-free basis 24 hours a day, seven days a week" and;

3. "The installation and implementation of six major Public Message Centers (PMCs—four in Manhattan, one in Brooklyn and one in Queens). . . ."

As evidence of improvement, it points to "a recent independently taken study (which) showed that over 96% of all telegrams are delivered within our tariffed standards."[53] The study was an inspection by the New York PSC of one public message center in Queens at 9 a.m. on April 9, 1974. The inspector checked 80 of 375 telegrams destined for telephone delivery and found only three delayed, for 96.2% speed of service compliance. The record for messenger delivery that morning was even better, 99.4%, and 100% for tieline delivery. A PSC staff member familiar with Western Union said the figures "could be accurate for a particular PMC for a particular day," but the figures appeared misleading "because you also get days down to 75%." He suggested the true figure was closer to 85%.

(Congressman Rosenthal personally encountered the very delay Western Union claims to have eliminated. At 8 a.m. Mother's Day 1974, he phoned one of Western Union's three Centralized Telephone Bureaus and asked if a Candygram could be delivered that day to his mother in New Hyde Park, N.Y. He was assured she would receive the package within the next three to five hours by messenger. In actuality, she did not get the package by 1 p.m., the promised time, but actually some 24 hours later, and not by Western Union messenger but by parcel post. Speed of service standards are relaxed by two hours on heavy traffic holidays like Mother's Day, Christmas Day and the day preceding those holidays. He was charged $10.64. A Western Union spokesman, following complaints, explained the operator never should have promised messenger or same-day delivery because neither service is available in New Hyde Park—information the operator supposedly had available in near-by instruction manuals. The correct charge should have been $6.69 for the candy only.)

A report from the New York Public Service Commission dated January 9, 1974, included the following information:

"As an example of the service being provided, a staff inspection of the PMC located in Harlem disclosed that approximately 50% of the messages which were to be delivered by telephone were delayed and about 37% of telegrams designated for messenger delivery were delayed. An inspection of the Queens PMC indicated delays of 22% and 25% of telephone and tieline deliveries, respectively."[54]

In a recent letter to the FCC, it was revealed that an inspection of one of the New York City PMC's on November 20, 1973, "indicated that 10% of the messages in the office awaiting dispatch were already delayed more than five hours. . . . A check of a previous day's speed of delivery disclosed that nine of 41 messages to be messenger delivered were not delivered in the required time span. On the same date there were delays experienced on 73 tieline messages out of 160 on file."[55]

New York PSC officials blamed Western Union's service problems in New York City on two factors: the laying off of PMC personnel "at a rate which is not taking into consideration the size of the work load," and the elimination of one of the company's switching centers, which was used to route some 2,400 telegrams daily.[56] Prior to December 1972, Western Union had over 100 branch offices throughout New York City. Today, there are nine, plus the six major Public Message Centers. The closings were made with FCC approval because, in the words of the company, "many of (the branch offices were) staffed by one man most of them (were) handling negligible loads and all of them (were) extremely difficult to staff and maintain."[57] Another factor in the decline has been the switch from over-the-counter filing to predominantly telephone filing of messages. During the same period, the number of Western Union agents in the city has diminished from 383 at the end of 1951 to 81, of whom only nine (all in Queens) provide both acceptance and delivery services. The following company chart shows the distribution of offices and services:[58]

	Company operated		
	PMC	Branch	Agents [1]
Manhattan	4	2	23/0/0
Bronx	0	5	10/3/0
Brooklyn	1	0	17/5/0
Queens	1	0	6/3/9
Staten Island	0	2	3/2/0

[1] The figures given represent the number of agents of various types according to what they handled keyed as: Acceptance/Delivery/Both acceptance and delivery.

Western Union contends "messenger delivery service is available to *all* residents of each of the five boroughs of New York." It employs 116 persons to serve the entire city of some 8.5 million people; they are distributed as follows:[59]

	Walking	Bicycle	Motor	Total
Manhattan	61		13	74
Bronx				
Brooklyn	2		20	22
Queens		1	17	18
Staten Island			2	2
Total	63	1	52	[1] 116

[1] The company reports that 116 persons represent 17 percent of its nationwide messenger force while the volume of traffic in New York is only 8.9 percent of the nationwide volume.

A November 1973 test conducted by the New York City Department of Consumer Affairs gave Western Union similarly low marks. The Department said the telegraph company improperly delivered or did not deliver nine of 18 telegrams and night letters sent to various addresses in New York City.

Of the 18 messages sent, only nine were delivered properly, according to the report:

"Of the nine full rate telegrams (sent), one arrived as a Mailgram four days after it was sent, one was delivered to the wrong apartment in a large apartment house, two were delivered by messenger many hours after the time the company had said they would arrive, and in the final case, a notice of attempted delivery arrived 36 hours after the message was called in."[60]

Only four were hand-delivered, though messenger delivery was requested in every case.

Betty Furness, who was commissioner of the New York City Department of Consumer Affairs at the time of the study, said the investigation "revealed that Western Union does not offer adequate service to New York City customers."

Ms. Furness added: "We hope that the Public Service Commission will remember our study the next time they are considering a Western Union rate increase. To make sure that they learned about our investigation, we did not send our report by telegram."

The New York PSC began hearings in December 1973 in Albany to determine whether rate increases and service charges proposed by Western Union are justified. The rate hearings are completed and the service hearings are expected to be financed this summer.

The telegraph company was asking for a $1.14 million increase in rates for telegrams, overnight telegrams, personal opinion messages, money orders and messenger delivery. This would raise intrastate rates to the level of *inter*-state rates allowed by the Federal Communications Commission at the time of the filing last fall.

Nearly all New York intra-state rates currently are below the rates charged for interstate messages. A 15-word, telephone-delivered telegram, for example, is $2.25; the company is asking for $3.75, and the new national rate as of June 2, 1974, is $4.25. Intra-state delivery would go from 75 cents

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Footnotes at end of article.

to $3. Unlike the FCC, the New York PSC usually suspends rate hike requests until hearings are completed.

The PSC staff recommended against the rate hike, contending the company did not prove need or clearly enough separate New York operations data from national figures. However, hearing examiner, Robert Husband, recommended the company get everything it asked for. He said that even with the increase Western Union "would still fail to realize a fair rate of return in New York State." The New York Times, in reporting the decision, noted "Recommendations by an examiner are usually approved."[61] A final decision from the PSC is expected in September.

The PSC also has been holding hearings for more than a year on service complaints against Western Union. Staff attorney, Walter Woeffle, says a report is expected to be issued by summer's end. An automatic refund policy by the telegraph company is one of the steps to be recommended by the Commission staff.[62]

The New York State Public Service Commission

The New York State Public Service Commission is one of the numerous state agencies regulating intra-state telephone and telegraph services. Currently, there are 29 supervisory and non-supervisory staff members who handle consumer complaints for the Commission.

The staff, under the direction of Charles Kraft, an associate telephone engineer heading the Consumer Service Sector, is both diligent and effective. Regular inspection of Western Union offices and agencies are made by staff members and are supplemented by telegraph company reports. The Commission has held extensive public hearings highly critical of Western Union and the quality of its service.

In comparing the FCC and the New York PSC, differences are immediately apparent. While the FCC has three persons devoted to the regulation of Western Union telegram service, the New York PSC has approximately eight. The PSC, thus, devotes nearly three times as many man-hours on oversight of Western Union service in New York as the FCC gives to oversight of Western Union service for the entire country. (Both agencies have many other individuals working on Western Union matters on a part-time basis.)

Furthermore, while the FCC relies almost entirely upon service data submitted by Western Union and supplemented occasionally by surprise inspection reports, the PSC conducts its own regular inspection and compiles its own reports. Finally, whereas most FCC hearings are closed to the public, the PSC has conducted public hearings and has sought wide participation.

CHAPTER VI: SUMMARY OF FINDINGS

Consumers historically have relied on the Western Union Telegraph Company to fulfill their need for rapid transmission of written messages. Throughout the years, Western Union developed a reputation for speedy and dependable delivery of messages.

As the telegram became a popular institution, the widespread belief emerged that consumers could send a reasonably-priced telegram, day or night, to any place in the United States.

Today, however, Western Union is not living up to its once fine reputation.

Consumers are paying highly inflated prices for a low level and inferior quality of service. Accuracy of message, speed of service, physical delivery capacity and over-the-counter access to telegram and money order services are severely deficient.

Western Union's failure to provide consumer-senders with information about delivery and pricing policies has resulted in widespread dissatisfaction with the company's service and in a loss to consumers of millions of dollars annually—largely because the vast majority are unaware they are eligible for refunds for undelivered and late messages.

Moreover, the Western Union management does not appear deeply concerned about the impact on the consumer of rising prices of telegram service. The same can be said for the Federal Communications Commission, which, despite its public responsibility, shows far greater concern for the welfare of Western Union stockholders than consumers. As a result, it seems inevitable that prices will continue to rise.

Specificially, this study disclosed the following:

1. *Millions of Dollars Not Refunded:* Several million dollars which rightfully belong to customers of Western Union—possibly as much as $8.7 million in 1973—never left the company coffers. This occurred either because people were unaware that a refund policy existed or were not informed that the company failed to meet its time-of-delivery requirements and thus never filed for a refund.

Western Union makes virtually no effort to inform its customers that money is due whenever the company fails to meet its own refund guidelines. A loophole requiring consumers to apply in writing for these refunds effectively prevents the vast majority of customers from receiving refunds.

Company spokesmen estimate that approximately 10% of all telegrams and two percent of all overnight telegrams are not delivered within the prescribed time limits, making the senders of these messages eligible to receive refunds. However, refunds are made on only an estimated one-fourth of one percent of those Western Union messages. (This study was overcharged by 31% for telegrams sent for the "race" described in Chapter III.)

2. *Frequent Unnecessary Price Increases:* Since 1945, Western Union has increased telegram rates 19 times, going from 20 cents to $7.75 for the basic message, hand delivered, by the end of this year. The result has been greater telegram costs to consumers, decreased message volume and reduced telegram revenues. These ultimately prompt the company to further increase prices and repeat the cycle.

Detailed economic studies by the FCC conclude that excessive telegram rate increases motivate large numbers of consumers to shift to alternate means of communications, resulting in reductions in message volume and long term losses by the company. The FCC found, however, that by capitalizing upon a lag in consumer response to rate increases, Western Union was able to reap short-term revenue benefits from these price hikes.

Western Union justified these increases by claiming it was necessary to cover anticipated higher wage costs. The FCC found that the rate increases were not needed for that purpose but were used, instead, to support the company's diversification program. (The telegraph company in 1973 showed a profit of $28 million but paid no federal income tax. It has paid no federal income taxes since 1957.)

3. *Closure of Offices:* Since 1945, Western Union has closed the vast majority of its offices and agencies, and decreased hours of service at many of the remaining company outlets. Reductions in over-the-counter consumer access to telegram and money order services and decreases in physical delivery capabilities have resulted from these closings.

In 1945 there were 3,474 Western Union (company owned) offices and 26,213 Western Union (franchised) agencies. By the end of 1973, Western Union retained only 457 offices and 6,309 agencies. Thus, there has been a 77% net reduction in the number of sites offering over-the-counter service in the past 28 years.

Western Union money orders, with few exceptions, must be sent and received in person at Western Union offices and agencies. Therefore, closures and reductions of hours at business offices and agencies may make it difficult or impossible for consumers to receive urgently needed money orders.

4. *Late and Non-Delivery of Messages:* Western Union has proven incapable of maintaining its past speed of service standards, often delivering messages after their usefulness has ended and sometimes failing to deliver them at all.

An increasing number of offices are failing to attain the minimal objectives for speed of delivery as established by Western Union and the FCC. As of June 1973, 61 of the 75 cities reporting "origin to destination speed of service" failed to achieve the 90% minimal objective as to telephone delivery. Likewise, 61 of 65 cities reporting failed to achieve the minimal messenger delivery objective. This represents a substantial deterioration over the past two years.

Western Union, FCC and State PSC files contain numerous examples of messages not delivered, special occasion notices delivered after the occasion, and death notices delivered after the funeral.

5. *Garbled Messages:* Telegrams frequently arrive containing textual or spelling errors. In some cases, garbled messages may be incomprehensible and useless to the recipient. Repetition of messages by the operator, which might avoid the majority of such errors, does not appear to be a standard practice.

6. *Hand Delivery of Telegrams Unavailable in Many Communities:* Although Western Union telephone delivery capabilities have expanded in recent years, hand delivery capacity has declined considerably, making physical delivery of telegrams unavailable in many communities. Western Union had only 779 messengers at the beginning of this year (including 116 for all of New York City) compared with 12,282 in 1945.

The majority of the communities currently serviced by Western Union are served only by telephone from offices or agencies in other communities. Rigidly imposed delivery limits cut off millions of residents of suburban and rural areas from any access to Western Union messenger service.

However, Western Union is not entirely at fault. The cost of providing messenger delivery is prohibitive. Furthermore, virtually no private company is willing to provide such service.

7. *Messages Telephoned When Physical Delivery is Requested:* When Western Union is unable to provide requested physical delivery, messages are frequently telephoned without informing the sender that hand delivery does not occur. Thus, company, or its representative, decides that consumers are best served by Western Union telephoning such messages and do not permit consumers to choose their preferred substitutes for hand delivery.

Western Union policy requires that where requested physical delivery is not made, the company must refund (or cancel billing for) the customer's delivery charge. The New York State PSC, however, has found indications that some branch offices neglect to file these refunds, thereby charging consumers for services not provided.

8. *Western Union Management Appears Set Upon the Elimination of the Telegram:* Policies implemented by Western Union management suggest that it believes the death of the telegram is imminent and that the company is trying to squeeze every penny out of the service while it can. (One high official denied this, saying that if Western Union wanted to close out telegram service, it would simply demand a fair rate of return, which he claims is not possible because the rates would then be too high.)

Footnotes at end of article.

Western Union policies have resulted in reduced message volume, closed offices, trimmed service and no attempt to stimulate new telegraph business.

Western Union has apparently ignored predicted efforts on message volume when formulating its pricing policies. It has undertaken the closing of offices and agencies when that could only result in reduced message volume and added inconvenience to consumers. Many closings, no doubt, are economically justified, but it is difficult to determine to what extent the closings are the cause or effect of declining telegram volume. Today, approximately 80% of all telegrams are filed by telephone; almost exactly opposite the situation a generation ago.

The company has recently undertaken a policy of stressing its other services (Telex, Mailgram, etc.) in an attempt to divert usage from the more labor intensive Public Message Service. The company's efforts, however, to increase telegram message volume through advertising have been virtually non-existent.

Some statements of Western Union officials indicate that the company believes the telegram service to be antiquated and foresees a continuing decline in message volume and number of offices coupled with further price increases in the near future.

9. *The Mailgram as an Alternative to Public Message Service:* Western Union management, in an attempt to curtail telegram usage, introduced nationwide Mailgram service in 1972. The Mailgram—although providing a written message at a much lower cost—is slower than the telegram, requiring at least a day for delivery. Furthermore, there are no speed of service requirements for Mailgram service and no refunds are available to the sender if the company fails to meet its objectives. After only one year of nationwide operation, rates for the Mailgram were increased 25%. In less than two years, Mailgram volume exceeded that of telegrams.

The company envisions the Mailgram as ultimately replacing the more labor intensive, fixed cost Public Message Service. Yet, currently, Mailgram is less profitable than PMS and is somewhat price elastic. Thus, the Mailgram in the future may face the same price-cost cycle which has all but destroyed the telegram.

10. *Three-Way Race:* In a three-way race conducted in March 1974 with a special delivery letter and Western Union's Mailgram and telegram, the telegram came in first. The average elapsed time between filing and physical delivery, however, was five hours and 33 minutes—33 minutes longer than the FCC's maximum allowable speed of service standard.

The independent test participated in by volunteers throughout the country showed averaged elapsed times between filing and delivery of the Mailgrams and special delivery letters were 23 hours 20 minutes and 25 hours 25 minutes, respectively.

The results of the 1974 race were a distinct improvement—time-wise—over a previous race conducted for this study in 1972. At that time, the telegram came in dead last in a three-way race, with an average elapsed time between filing and physical delivery of 30 hours 33 minutes.

But in the 1974 race:

None of the telegrams were delivered within Western Union's own speed of service objectives (75 minutes for a full-rate message delivered by messenger).

Only seven of the 12 telegrams were physically delivered within Western Union refund guidelines (5 hours).

Two out of 12 telegrams were not delivered at all—one an intra-city message from Queens, New York, to Brooklyn.

One of the 12 telegrams was telephoned when physical delivery was specifically requested.

Seven of the telegrams contained textual errors.

Six of the Mailgrams contained textual errors.

The sender was not notified that two of the telegrams were never delivered, but he was charged the full rate, including the delivery fee, for both.

As a result of late delivery, non-delivery and mistaken billing, the sender was overcharged by approximately 31%.

11. *FCC Oversight Ineffective.*—The Federal Communications Commission has generally been ineffective in its oversight of Western Union, enabling the company to pursue policies detrimental to consumers. Where the FCC should have exerted strong guidance, it has usually acquiesced to Western Union requests for price increases and office closures. Although the FCC has taken some steps toward correcting certain Western Union abuses, it has generally proved to be slow to act and primarily concerned with the survival of Western Union and the welfare of its stockholders rather than the satisfaction of the company's customers.

A comprehensive 1966 FCC report concluded that continued FCC approval of Western Union rate increases had been a major factor in the decline of telegram message volume. Since publication of that report, the FCC has approved *six* additional telegram rate increases—all in the face of continuing deterioration of service.

The Commission in 1971 decided that service was too poor to allow any further rate increases. Yet, just months later—and again in 1973 and 1974—the Commission approved further increases without any evidence of improved service.

The FCC has only three persons assigned to the Telegraph Service Department overseeing Western Union service throughout the country. The New York State Public Service Commission devotes nearly three times as many man-hours to oversee Western Union service in New York as the FCC spends in full time oversight of Western Union service for the entire country. (Both agencies utilize additional personnel on part-time basis.)

The FCC relies almost entirely upon data and reports prepared by Western Union and has no independent source of information. Many FCC employees consistently defend Western Union policies, sounding far more like Western Union employees than watchdogs of the public interest.

12. *Service in New York City Remains Deficient.*—Though service in New York City has experienced minimal improvement during the past two years with virtual completion of Western Union's modernization program, service is still deficient.

New York PSC officials say they are "still not satisfied with the level of service presently being provided by Western Union in New York City," though there are signs it may be slowly improving. Recent inspections of the Harlem Public Message Center office disclosed that about 50% of the messages which were to be delivered by telephone were delayed, along with about 37% of those designated for messenger delivery.

A November 1973 test conducted by the New York City Department of Consumer Affairs gave Western Union similarly low marks. The Department says the telegraph company improperly delivered or did not deliver all nine of 18 telegrams and night letters sent to various addresses in New York City.

CHAPTER VII: CONCLUSIONS

The American consumer today is being badly served by the Western Union telegram. The romantic notion of the familiar yellow envelope being instantly delivered by messenger to any place in the United States is grossly invalid.

Indeed, this study has shown that the telegram—as it currently stands—is of little use to the consumer beyond souvenir value.

Western Union Telegraph Company has demonstrated itself unable and apparently unwilling to provide the general public with an adequate nationwide system of rapid record communications.

The telegraph service currently offered can more aptly be characterized as an "indirect telephone service" since physical delivery of telegrams has been drastically curtailed and most telegrams are now initiated and delivered by telephone only.

Consumers are grossly overcharged for a low-level and inferior quality of service. (A basic hand-delivered telegram which cost between 20 cents and $1.20, depending on distance, in 1945, will cost $7.75 by December 1, 1974, regardless of distance.) Accuracy of messages, physical delivery capacity and over-the-counter access to telegrams are severely deficient.

Western Union telegram customer-senders lose millions of dollars annually in refunds which remain in the company's coffers because people either are unaware that a refund policy exists or they are not informed that the company has failed to meet its delivery requirements and thus never file for a refund.

At least one in five and probably one in two American households cannot even receive a hand-delivered telegram without paying exorbitant taxi fees on top of a $3 delivery charge because they live outside of Western Union's narrow delivery limits.

Many messages are delivered late or not at all, frequently resulting in unpleasant or tragic consequences.

The level of service in New York City—traditionally far below that of the rest of the nation—has been improved only minimally during the past year or two as the result of a multimillion-dollar modernization program. New York Public Service Commission officials say they are still dissatisfied with the level of service in the city. New York City's Department of Consumer Affairs agrees. An attorney for the New York PSC, which looks into service complaints against Western Union, says the company generally "still is not delivering within their tariff times (delivery standards) much of the time." Similar results were found in two telegram-Mailgram-letter races done for this study.

In short, the century-old image of the telegram as a fast, cheap and accurate method of communication is today nothing more than a myth.

The Federal Communications Commission has had many tought words for Western Union and the job it is doing, but they have never been followed with tough action. Instead, the Commission has watched telegram service steadily deteriorate while it has approved one rate increase after another. In August 1973 and again the following June, the Commission allowed the company to raise prices without any hearings or any independent evidence of the impact on consumers. Concern for Western Union investors has consistently taken precedence at the FCC over concern for Western Union customers.

This study is suggesting specific steps which Western Union and the FCC should take to restore rapid, efficient, nationwide and reasonably-priced telegram service to the American consumers. (See next Chapter.)

Unless significant improvements are made, it is recommended that the non-business telegram be phased out of existence and a viable successor found to take over remaining portions of Western Union Public Message Service and the Mailgram.

It is the conclusion of this study that Western Union has amply demonstrated it is no longer seriously interested in serving the consumer. Deteriorating service and continued rate increases have made it clear that Western Union apparently prefers to serve only the "big business customer."

Since the price of a telegram is now beyond the reach of many Americans, the telegram is no longer a viable means of communication. Direct telephone, Mailgrams and special delivery letters are cheaper and often quicker.

The U.S. Postal Service could take over the remaining portions of Western Union's Public Message Service. The Post Office already operates a nationwide network of offices for receiving, transmitting and delivering communications, including the Mailgram, which it distributes for Western Union. Virtually the entire population of the United States has access to some type of postal service. Moreover, the Post Office maintains a carrier and delivery staff (including special delivery) in excess of 200,000 persons (Western Union employes fewer than 800 messengers).

The Postal Service, then, appears to have the delivery facilities to fulfill the delivery requirements of a nationwide written record system. (Telegraph service is already a function of many postal systems throughout the world.)

It also offers rapid mail services at the current time. Special delivery service provides for delivery within three hours from the time of postmark at the terminal unit. Special delivery service is available between the hours of 7 a.m. and 11 p.m. Another rapid mail service now available is the Accelerated Business Collection and Delivery (ABCD) program which provides for same-day delivery.

A program of combining Western Union's transmitting facilities with the Postal Service's delivery facilities—the Mailgram—already is in operation. The Postal Service is the most likely candidate to take over part or all of Western Union's Public Message Service, and it is strongly recommended that the FCC and Postal Service immediately undertake a study of these possibilities.

Such a take-over might not be feasible for five or ten years because of current managerial and financial problems at the U.S. Postal Service, but because of the long lead-time needed, the investigation should begin at once.

CHAPTER VIII: RECOMMENDATIONS

In order to restore rapid, efficient and reasonably priced telegram service to the American consumer, the following steps should be taken by Western Union, the Federal Communications Commission and the Congress:

Western Union

1. Expand consumer delivery service accessibility on a nationwide basis. This would require the creation of numerous offices and agencies in communities currently serviced by telephone only.

2. Implement a system of promotional pricing coupled with adequate advertising as suggested in the 1966 FCC report.

3. Reduce current speed-of-service standards (two and one-half hours for telephone or tieline delivery and five hours for messenger delivery) to at least the 60- and 75-minute objectives established by the company in 1959.

4. Adopt a true automatic refund system guaranteeing customer reimbursement whenever speed or service standards are not met. The refund should be initiated by the company and should not have to be requested by the customers.

5. Adopt an automatic "repeat back" system requiring Western Union telephone operators to repeat messages to insure accuracy.

6. Adopt a guaranteed delivery policy under which no telegrams may be delivered by telephone to tieline when messenger delivery is specified, without the knowledge and consent of the sender.

7. Notify all consumers filing telegrams by telephone or over-the-counter of all relevant prices, options and refunds available.

8. Request no further rate increases until the quality and accessibility of service shows marked improvements.

9. Provide millions of customers with automatic refunds they should have received but didn't (because of the company's opposition to a true automatic refund policy) in the form of an immediate rate cut.

Federal Communications Commission

The above steps would be useless in the absence of more stringent regulations by the FCC. Thus, it is further recommended that:

1. Funds be requested to provide the FCC with an adequate staff for its Telegraph Services Branch so that a larger percentage of work can be done in the field.

2. Steps be taken to insure the FCC independent sources of information.

3. Rate hikes be tied to the quality of service offered as indicated by both company and FCC reports.

4. Financial penalties be imposed by the FCC if the company fails to attain its quality of service objectives.

The Congress

The Government Operations Committees of both the House and the Senate have oversight responsibility for the Federal Communications Commission, and the respective Commerce committees, through their communications subcommittees, have legislative responsibility for the FCC.

It is recommended that the government activities subcommittee of the House Government Operations Committee look into how well the FCC is regulating Western Union and protecting consumers, and possibly holding hearings on the matter. Accordingly, a letter is being sent to the subcommittee Chairman, Honorable Jack Brooks, making a formal reguest.

If Western Union cannot accomplish these changes, the U.S. Postal Service, with its already established messenger (first class mail) delivery service, is the logical candidate to take over the non-business consumer telegram. It is, therefore, recommended that a feasibility study be undertaken immediately by the FCC and USPS as well as the appropriate committees of the Congress.

CHAPTER IX: ADVICE TO CONSUMERS

Considering the poor quality of service currently offered by Western Union and the curtailment of physical delivery, it is recommended that consumers not use Public Message Service. In many instances, alternatives do currently exist, although none provides true rapid record communications:

(1) If you don't need a written record, a phone call would not only be quicker but also much cheaper (whereas a three minute call from Washington to New York costs from $.48 to $2.15; a telegram both filed and delivered by telephone costs $4.25). Most importantly, it offers the opportunity for direct personal contact and by avoiding the middleman, helps avoid needless and potentially costly errors.

(2) If a written message is necessary, experience shows an airmail special delivery letter provides next-day delivery and is more reliable and far less expensive than either the telegram (73 cents vs. $7.25 and no limit on the number of words) or the Mailgram (100 words for $2).

(3) In addition to the Mailgram, Western Union offers other less expensive alternatives to the telegram. The overnight telegram is $3 for the first 100 words plus eight cents for each additional word. The price includes telephone or tieline delivery the following day. Messenger delivery is $3 extra. The Public Opinion Message allows citizens to address their representatives in Washington or the President by telegram. The price ranges from $2 if sent to only one person, down to 30 cents each if the identical 15-word message is sent to all 535 members of Congress. It is delivered by messenger.

If you still wish to send a telegram (realizing physical delivery is not always available and the telegram may be late or garbled), the following advice could be helpful:

(1) Have the message written out in advance. Check the message and address for accuracy, making sure the phone number and zip code are included.

(2) Spell out all possible words which might be misunderstood.

(3) Insist that the message be read back for accuracy.

(4) Let the operator know whether you want the message physically delivered (at an additional charge of $3) and/or read by phone.

(5) Ask what the delivery standards are; you are entitled to either a full or partial refund if these standards are not met. Also keep this in mind when your bill arrives.

(6) Don't forget. Western Union does not deliver 24 hours a day, so time your message accordingly.

(7) A confirmation copy costs 75 cents extra; remember this before requesting one. It tells only whether Western Union received your message accurately.

(8) If you send the message collect, that costs another 50 cents.

(9) When requesting physical delivery, make sure the destination is within Western Union's delivery area or you or the recipient may wind up paying taxi fare for your telegram.

(10) If you find that you are entitled to a refund, you must request it in writing. If you are then not given a refund immediately contact the Federal Communications Commission.

(11) Follow up—your telegram may not elicit response because it was not delivered or was garbled.

(12) Avoid the holiday rush—send your telegram as far in advance as possible and specify delivery time for special occasions.

(13) Complaints can be sent to the FCC Common Carrier Bureau. Each state has an agency, usually called Public Service Commission, which can also handle consumer complaints. Don't be afraid to complain.

(14) Western Union charges 20 cents extra for messages phoned in as opposed to those delivered to their offices or agencies. If convenient, file your message over the counter.

(15) Ask the Western Union representative filing your telegram about alternative services available to you from the telegraph company. These are often cheaper and almost as rapid.

If you have received a telegram:

(1) If the Western Union has delivered the telegram by telephone, ask if delivery was specified; if so, insist on it.

(2) If the telegram is garbled, late, or was telephoned when physical delivery was requested, let the sender know. This is more than a courtesy as it is the only way the sender may discover that he or she is entitled to a refund.

FOOTNOTES

[1] Congressman Rosenthal wrote to the FCC requesting disapproval of the 1973 and 1974 rate hikes on the grounds they were "unjustified and undeserved" and would only worsen a situation which is already deplorable."

[2] Western Union began in 1851 as the New York and Mississippi Valley Printing Telegraph Company to develop a nationwide telegraph system. Five years later it changed its name to Western Union Telegraph Company and in 1861 built the first transcontinental telegraph line.

The company had a brief flirtation with the telephone business. In 1876, Alexander Graham Bell had just received what has been called the world's most valuable patent (for the telephone) and offered it to Western Union for $100,000. He was turned down. Perhaps seeing the mistake of that decision, the company the following year went into the telephone business under the patents of Elisha Gray and Thomas A. Edison. Bell sued Western Union for patent infringement in 1878 and won an out-of-court settlement. Western Union got out of the telephone business and Bell got out of his own fledgling telegram business. (*Economics of Regulation*, Charles F. Phillips, Jr., p. 666 ff.)

Though it had purchased his telephone patents, Western Union had turned down another Edison invention, this one for sending two or four messages simultaneously over one wire. This proved to be the chink in the company's armor that eventually allowed railroad baron Jay Gould to move in and take Western Union away from his arch rival Commodore Vanderbilt. Gould bought the Edison patents for his new telegraph company in 1877 and set out to take over the big company. By the time he succeeded, in 1881, Western Union was "one of the most influential and profitable companies in the country. As a gatherer of news, through its contracts with the Associated Press, the company had no rival. It also did a large part of the railroad-telegraph business of the country." (*Jay Gould*, Julius Gradinsky, pp. 149, 282.)

[3] Source: Western Union Corporation, 1973 annual report.

[4] Testimony before N.Y. Public Service Commission of Fred J. Kelsey, P. 14, December 1973.

[5] "Western Union in a tightening squeeze," Business Week, June 8, 1974, pp. 68–9.

[6] Source: The Western Union Telegraph Company, Tariff FCC No. 255.

[7] Source: FCC.

[8] *Ibid.*

[9] FCC Docket 17554, p. 36. Released February 9, 1971.

[10] The New York Times, July 26, 1970.

[11] The Washington Post, October 10, 1972, p. B14.

[12] Western Union officials estimate physical delivery of telegrams is available to all households who receive door-to-door mail service from the U.S. Post Office—or 55,501,000 households (82%) out of 67,606,000. This means at least 18%, or one in five households, cannot get messenger delivery. In reality, the figure is much higher; it has been estimated to be as much as 50% more.

[13] Source: Western Union.

[14] The Company contends this figure (its own) "is extremely misleading because these messengers are supplemented by hundreds of delivery arrangements with taxicab companies, local messenger firms as well as several thousand agents who perform their own messenger deliveries." (Attachment to letter to Rep. Rosenthal, June 7, 1974.)

[15] Oran D. Stovall, Director, Service Coverage, June 25, 1974.

[16] Source: FCC.

[17] Personal Interview, August 1, 1972.

[18] Sources: FCC Docket 17554, Attachment D, p. 3, Released February 9, 1971, and FCC Form 338–B, for June 1973.

[19] *New York Times*, July 26, 1970.

[20] FCC Docket No. 14650, p. 5, Released April 29, 1966.

[21] In a series of five calls to Western Union's Moorestown, New Jersey, office, the caller was never asked if she wanted physical delivery and was never informed of the $3 surcharge. (Calls made March 28, 1974).

[22] This increase is calculated on the shortest distance rate zone in 1945. Even if other distance rate zones are employed, the increases are enormous.

[23] FCC Docket No. 14650, p. 3, Released April 29, 1966.

[24] FCC Docket No. 14650, pp. 138, 141, Released April 29, 1966.

[25] Interview with Boyd Nelson, August 3, 1972.

[26] FCC Docket No. 17554, p. 33, Released February 1, 1971.

[27] Source: FCC Docket No. 17554, Attachment D, p. 4, Released February 9, 1971, and FCC Form 338–B for June 1973.

[28] FCC Docket No. 17554, p. 35, Released February 9, 1971, and Western Union Correspondence 1974.

[29] S. Blakeslee, "The Familiar Telegram: A Dying Institution," *New York Times*, July 26, 1970.

[30] June 4, 1974, telephone interview with Congressman Rosenthal's office.

[31] Oral Stoval, director, Service Coverage, Western Union Interview, August 2, 1972.

[32] In some cases consumers are only eligible for partial refunds so this figure may be somewhat overstated. However, given a 10% failure to meet delivery standards, a conservative estimate would still amount to millions of dollars. Figures from 1973 Annual Western Union Corporation Report.

[33] FCC Docket No. 18908, Report and Order, adopted March 3, 1971, p. 30.

[34] Testimony of Charles Kraft Case No. 26116, New York Public Service Commission, minutes of Hearing of April 11, 1972.

[35] FCC Docket No. 17554, pp. 39–40, Released February 9, 1971.

[36] Copies of Western Union's telegrams and instructions to its sales managers were inserted in the Congressional Record by Senator Frank Moss on April 23, 1974, pp. 11387–88.

[37] *Washington Post*, May 26, 1974, p. H–1.

[38] Western Union Telegraph Company report on Mailgram Service, December 15, 1972, p. IV C–5.

[39] FCC Docket No. 14650, p. 4, Released April 29, 1966.

[40] *Ibid.*, p. 76.

[41] *Ibid.*, p. 80.

[42] *Ibid.*, p. 80.

[43] *Ibid.*, p. 126.

[44] *Ibid*, pp. 309–335.

[45] FCC Docket No. 17554, p. 39, Released February 9, 1971.

[46] *Ibid.*, p. 41.

[47] Source: Information supplied by Western Union.

[48] New York Times, July 26, 1970, p. 58.

[49] Source: Information provided by FCC.

[50] Testimony of Charles Kraft, Case No. 26216, New York Public Service Commission, minutes of hearing of April 11, 1972.

[51] Letter to Congressman Rosenthal from Charles Kraft of the New York Public Service Commission, dated January 16, 1974.

[52] Letter to Walter R. Hinchman of the Federal Communications Commission from Neil A. Swift, Director of the Communications Division of the New York Public Service Commission, dated January 9, 1974.

[53] Letter to Congressman Rosenthal from Western Union Executive Vice President, W. E. Girardin, May 3, 1974.

[54] New York Public Service Commission Report on "Western Union—Quality of Service in New York State," January 9, 1974.

[55] *Ibid.*

[56] *Ibid.*

[57] Letter to FCC Chairman Dean Buick from E. C. Chamberlain, Vice President, Western Union, September 4, 1973.

[58] *Op. Cit.*, letter of May 3, 1974.

[59] *Ibid.*

[60] News release from City of New York Department of Consumer Affairs, November 21, 1973.

[61] New York Times, June 12, 1974, p. 41.

[62] Telephone interview with Walter Woeffle, Attorney, with the New York Public Service Commission, January 15, 1974.

WASHINGTON, D.C.,
September 6, 1974.

Hon. JACK BROOKS,
Chairman, Committee on Government Operations, Government Activities Subcommittee, Washington, D.C.

DEAR JACK: I have just completed a study of Western Union telegram service and have found that it is of little value to consumers. The company is apparently unwilling or unable to provide the general public with an adequate nationwide system of rapid communications. Consumers are grossly overcharged for a low-level and inferior quality of service. In short, the century-old image of the telegram as a fast, cheap and accurate method of communication is today nothing more than a myth.

The Federal Communications Commission has been an accomplice in this deterioration of service. It has shown far greater concern for the welfare of Western Union stockholders than for consumers. Where the Commission should have exerted strong guidance, it has usually acquiesced to company requests for price increases and office closures.

In view of your subcommittee's oversight jurisdiction for the FCC, I am hereby requesting that you look into and possibly conduct hearings on how well the Commission is regulating Western Union and protecting consumers.

Enclosed is a copy of my report "Western Union: The Reluctant Messenger." If I may be of any assistance to you in this matter, please call on me.

Best personal wishes.

Sincerely,

BENJAMIN S. ROSENTHAL,
Member of Congress.

A PRIMER ON INFLATION

(Mr. FRASER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FRASER. Mr. Speaker, with the Ford administration moving toward a "summit" meeting on the U.S. economy, I am pleased that in a remarkable series of articles that appeared in the Minneapolis Tribune, Reporter Dick Youngblood provided a graphic description of the issues and challenges of the inflationary trends of recent years.

These articles provide an understandable map to guide all of us through the maze of economic terms and concepts. They help to identify the questions which must be answered in developing a workable program for managing the economy without inflation.

I am particularly impressed with the last article which quotes Irving Friedman and John Bunting. I think that national priorities for the economy must be set, as Friedman advocates. With these priorities established, we must use a more creative method of allocating available credit in the economy, possibly through supplemental reserve requirements, as Bunting of the First Pennsylvania Bank suggests.

The Joint Economic Committee needs to give this question high priority. Marketplace allocation of credit is not working adequately today.

I commend the following articles to my colleagues:

[From the Minneapolis Tribune, July 14, 1974]

YOUR DIMINISHING DOLLAR—WHY?—I

(By Dick Youngblood)

(NOTE.—Why is it taking more and more money to buy less and less? Tribune Business Editor Dick Youngblood, in a five-part series beginning today, reports on inflation in the United States, how it came about and what to expect.)

In the explosive inflation that multiplied Germany's wholesale prices a trillion times between 1920 and '23, so the story goes, people took to paying for restaurant meals before they ate for fear the price would rise before they finished.

This nation's current bout with double-digit inflation—a rate once smugly associated only with so-called "banana" republics—has not yet reached the point of folks carrying grocery money around in a wheelbarrow, as was the case in Germany's Weimar Republic in 1923.

But Larry Smith, a young farmer near Montevideo, Minn., tells a story that leans disturbingly in that direction.

Last fall he ordered a set of dual wheels for his tractor. No discounts, he was informed; you'll have to pay list price: $900.

The wheels hadn't arrived when Smith checked a couple of months later—but by that time, he learned, the price had risen to $1,200.

By mid-April, they still hadn't come—and the price was up to $1,500.

The wheels finally arrived around May 1, and because Smith needed them, and had the cash as a result of a bonanza year for agriculture in 1973, he paid the bill: $1,600—a 78-percent rise in less than eight months.

A thing like that can sour a man's entire day.

It can also sour an entire economy, and with it the society it sustains. In short, the long-term consequences of accelerating inflation can be downright perilous.

The problem is clear: Except for a brief period after World War II, recent consumer price increases—annual rates of 10 percent at the end of 1973, 14.5 percent in the first quarter of 1974 and 13.2 percent in May—have been the steepest of any peacetime period in the nation's history.

If inflation is allowed to remain in double digits—say, at "only" a 10-cent rate—the exponential growth in prices would be chilling to contemplate.

The annual estimated cost of sending your high school graduate to the University of Minnesota as a resident student this fall will be slightly over $2,100. A 10-percent rate of inflation would raise that cost nearly $700 by the time he or she graduates in 1978.

In the same period, the cost of a $2,800 compact car would rise nearly $1,000.

And a home in the Greater Minneapolis area, which cost an average of $31,356 in 1973, would go for an additional $14,600 four years from now.

This country is not the only one grappling with the problem. Inflation is rampant in every major industrial nation, and alive and raging in less-developed countries and the socialist states as well.

"The gravity of our current inflationary problem can hardly be overestimated," Arthur Burns, the pipe-smoking chairman of the Federal Reserve Board, warned in a speech in May.

"If past experience is any guide, the future of our country is in jeopardy," he declared. "No country I know of has been able to maintain widespread prosperity once inflation got out of hand.

"If long continued, inflation at anything like the present rate would threaten the very foundations of our society."

Economists more attuned to the political climate did not relish the message.

Herbert Stein, chairman of the President's Council of Economic Advisers, for one, grumbled about those who use "the language of an Old Testament prophet" and argued—accurately—that current double-digit inflation was produced largely by such "temporary" factors as food and oil.

But Burns has company in feeling deep concern over the long-term implications of what he calls the "inflationary bias" of this nation.

The consequences, economist Henry Kaufman of the Salomon Brothers brokerage firm said in April, could well include "domestic unrest, militant strikes, consumer uprisings and many wage and price inequities that can never be fully rectified."

In even more stentorian tones, others warn of the "capricious" effects of an inflation that robs a nation of billions of dollars of savings and investments, transforming prosperity into uncertainty, fear and, ultimately, social and economic upheaval.

No one is seriously predicting that the U.S. will follow the inflationary pattern of the Weimar Republic, a pattern that in one decade shrank $10 billion in mortgage assets down to the value of a single American penny and helped pave the way for Hitler's rise.

But the implications were not lost on Burns when he noted that "discontent bred by inflation can provoke profoundly disturbing social and political change, as the history of other nations teaches."

Thus, he expresses concern that persistent inflation is making this country vulnerable to "a demagogue . . . who will promise the moon" and deliver little but social, economic and political convulsion.

For something that so deeply affects the lives of all people, inflation is little understood beyond the knowledge that this week's total on the supermarket cash register once again is higher than it was the week before.

What causes inflation? The scene on a Grafton, N.D. implement dealer's lot one day last fall will illustrate one key factor.

There was Gary Hanson, his lot almost empty because he had just taken over a defunct dealership, rejecting the latest of a series of bids on a disc plow that already had been sold for $4,000.

And a farmer, checkbook in hand, was asking him: "Now, how much more do you want for it?"

In short, when there's plenty of money as there was for farmers last fall, and too little supply, as there was throughout the implement industry because of record 1973 farm income, prices are bid up.

Economists, who appear dedicated to preserving the mystique of their science, insist on calling this "demand pull" inflation.

"Demand pull" is produced by two factors: the money supply fed into the economy by the Federal Reserve and the level of government spending competing with the private sector for goods and services.

The Federal Reserve raises or lowers the money supply largely by buying or selling government securities—treasury notes, for example—in the open market. A purchase feeds funds into the banking system for loans and investments; a sale pulls funds out.

The Fed can easily miscalculate, because of the lag in reporting the economic indicators on which it bases its decisions, and because the impact of its money-supply actions takes time to filter through the economy.

If it errs on the side of too rapid growth in money supply, interest rates fall and demand for goods and services begins to press against the economy's capacity to produce them. Again prices are bid up.

Now suppose that at a time when the expanding money supply is already "heating up" the economy—another favorite expression among economists—the government also decides to raise its spending.

If it raises taxes an equivalent amount, then demand for goods and services in the private sector is simply replaced by demand in the government sector, and no inflationary pressures result.

Americans, however, tend to vote for politicans who improve their welfare, but not for those who insist that somebody pay for it. The result is budget deficits, excessive demand from both the private and public sectors—and "demand pull" inflation.

At this point we also see symptoms of another, closely related virus that economist call "cost push" inflation.

Dr. Irving Friedman, a gentle, soft-spoken man with a shock of unruly white hair, is a veteran economist with the International Monetary Fund and the World Bank. Now senior adviser on international operations at First National City Bank in New York, he offers this simple scenario for the way "cost push" works.

"Suppose that, in an economy that is already operating near full capacity," he says, "the government decides to buy 100,000 tanks from General Motors. Now, the patriotic thing for GM to do, in terms of stable prices, would be to make 100,000 fewer cars."

This, of course, would be considered un-American. Instead, GM decides to build both the cars and the autos. The result:

It is forced to reopen (or keep open) inefficient plant capacity, which raises unit costs—in short, cost push.

It begins hiring overtime, which not only adds to costs, but puts more money in workers' pockets with which to buy more General Motors cars—both cost push and demand pull.

Ultimately, GM begins hiring less-skilled workers—"pounding square pegs into round holes," as the University of Minnesota's Dr. Walter Heller, a former chairman of the Council of Economic Advisers, likes to put it. More cost push.

As the Detroit labor market tightens, the United Auto Workers is in a strong enough bargaining position to ram through substantial wage hikes, despite the fact that labor productivity (output per man-hour) has dropped because of these inefficiencies.

This is just the beginning, of course. GM now must acquire the necessary tank materials from suppliers who, until now, had been prepared only for the auto output.

Thus in a host of industries from steel to cooper to rubber to transportation and even computers, inefficient plant capacity is reopened, overtime is hired, unskilled workers are pounded into their round holes, and labor leaders start warming up their adding machines.

The solution, of course, is to stop all these inflationary activities. The Federal Reserve, in this example, undoubtedly will begin contracting the money supply.

But history shows that monetary restraint alone cannot halt inflation, particularly if government continues to increase deficit spending. So monetary restraint must be accompanied by "fiscal restraint"—higher taxes and/or reduced government spending.

The trouble is, not only are higher taxes politically unpopular, but monetary and fiscal restraint, which reduce demand for goods and services in both the public and private sectors, tends to raise unemployment to high levels.

And that, politically, is anathema.

Moreover, if inflation has persisted for a time, something called "inflationary expectations" or "inflation psychology" forces more fiscal and monetary restraint to bring inflation down than would have been required earlier to keep it from going up.

If consumers expect inflation to persist, they'll borrow at high interest rates, if necessary, to buy that auto or refrigerator, because experience has taught them that prices will be higher next year.

Workers who have seen their pay eroded by inflation will strike, if necessary, to win a wage settlement they hope will offset the inflation that's sure to come.

And not only will businessmen buy more now because of this inflation psychology, they will contribute further to price increases by more readily accepting inflationary wage settlements, because it has become easy to pass the cost on to the consumer.

In fact, the Federal Reserve's Dr. Burns suggests, all sorts of business practices tend to become sloppy in a persistent inflation because of the "assumption that price advances will rectify all but the most imprudent business decisions."

Monday: "Pogo," the cartoon character, could have been talking about the roots of our present inflation when he cried: "We have met the enemy—and he is us."

Changes in the Money Supply Are Not Done With Mirrors—They All Take Place on Paper

(By Dick Youngblood)

The nation's money supply is measured in both currency—bills and coins—and demand deposits—amounts held in checking accounts in commercial banks.

The Federal Reserve expands or contracts the money supply primarily through the simple expedient of buying or selling government securities in the open market.

More important, such Fed actions actually have "multiplier" effect on the money supply that goes far beyond the initial amount that was injected into, or withdrawn from, the nation's monetary system.

It may appear that it's done with mirrors, but in fact it's done on paper.

The key is the Fed's requirement that the nation's banks hold in reserve only a relatively small portion of their checking accounts. The rest can be loaned or invested.

And the reason the money supply can expand without the government having to print supplies of currency is that the bulk of the transactions by individuals or businesses are made by check. No actual currency changes hands, figures are just transferred from one bank ledger to another.

This can work because only a certain, relatively predictable, amount of a bank's deposits are withdrawn in the form of cash at any one time.

Here's how the system works:

The Fed decides to expand the money supply, so it buys $1 million worth of U.S. treasury notes from one of a select list of banks and dealers. Let's say Piper, Jaffray & Hopwood of Minneapolis has recently been added to the list.

Piper takes the Fed's $1 million check and deposits it in First National Bank of Minneapolis.

This is where the "multiplier" effect can begin.

If the Fed's reserve requirement is 20 percent of deposits, that means First of Minneapolis must hold in reserve $200,000 of Piper's $1 million deposit. The other $800,000 can be loaned, or invested.

Piper, of course, may very well write checks on its deposit—spend it all, let's say, to meet a payroll. First of Minneapolis thus would lose the opportunity to use the money.

But the fact is, the money doesn't disappear. It winds up as deposits in other banks which can loan or invest the $800,000, after deducting $200,000 for their reserves.

But let's say First of Minneapolis has the opportunity to use the $800,000, and it lends it to General Mills for a final payment to the contractor who built an addition to corporate headquarters.

So far, the Fed's $1 million purchase has expanded the money supply by $1.8 million: the $1 million credited to Piper's checking account and the $800,000 check in the contractor's hand.

It's all on paper—in a bank ledger or on a check blank—but it's all "money," and it can be spent.

Now suppose the contractor deposits the $800,000 to his account in Northwestern National of St. Paul. Northwestern after deducting 20 percent ($160,000) of the deposit for its own reserve requirement, now has $640,000 to lend or invest.

When it does, the money supply will have grown from the Fed's original $1 million purchase to a total of $2.44 million: the $640,000 Northwestern loans out, in addition to the $1.8 million in the checking accounts of Piper and the contractor.

Of course, the contractor, too, may have a payroll to meet, which would mean that Northwestern of St. Paul might not be able to loan or invest all or part of that $640,000.

But to repeat—it makes no difference so long as the contractor doesn't take the money in cash and bury it in his backyard.

In short the money remains in the banking system, creating new deposits (new "money") and thus new loan or investment potential (more new "money"), as it changes hands.

The process cannot go on indefinitely of course because of the Fed's reserve requirements. At each stage of the process an ever-smaller amount of deposits is available for new loans or investments as each bank deducts 20 percent for its reserve requirement.

In the final stage, the total held back for reserves by each bank in the process will total $1 million—the amount the Fed originally injected into the system—and the total new deposits generated by this injection will be $5 million.

In essence, the Fed's purchase of treasury notes adds $1 million to the RESERVES of the banking system, which means that, with a 20-percent reserve requirement, the system can support five times as much new deposits, $5 million.

The reverse is true when the Fed moves to contract the money supply. It sells $1 million in treasury notes, which reduces the banking system's reserves by an equivalent amount and thus requires a $5 million reduction in its loans or investments.

For example, Piper might buy the Fed's treasury notes, paying with a check drawn on First of Minneapolis. This would trim the bank's deposits by $1 million, which, under a 20 percent reserve requirement, would mean First of Minneapolis could reduce its own reserves by $200,000.

But in covering Piper's check, First of Minneapolis has reduced its reserves by $1 million, it now has an $800,000 reserve deficiency that must be made up.

So it sells off $800,000 of its investments to Dain, Kalman & Quail, which pays with a check drawn on Northwestern National of Minneapolis.

Northwestern's deposits have declined by $800,000, which means its reserves can decline $160,000. But covering Dain, Kalman's check has reduced its reserves by $800,000, as well, leaving a $640,000 deficiency to be made up.

So it sells off $640,000 of its securities to another dealer, who pays with a check drawn on another bank . . . and so the process continues until $5 million has been drawn out of the money supply.

[From the Minneapolis Tribune, July 15, 1974]

Your Diminishing Dollar—Why?—II

(By Dick Youngblood)

Few of us were listening, it appears, when dear old mom chided us for our overindulgent tendencies with the words: "You can't have your cake and eat it, too."

Her economics training may have ended with the family budget, but in fact she had grasped a fundamental tenet of economic theory that helps to explain the inflationary crisis now gripping the United States and the world.

Economists describe the theory in more technical language: "There ain't no such thing as a free lunch."

What mom and her economist colleagues have been trying to tell us is that overindulgence—"chronic overdemand relative to supply," to use economics talk—inevitaby must cost us something.

That cost, we are learning now, is galloping inflation.

Since World War II, the American people and their government have indulged in a monumental spending spree that, as Professor Irving Kristol of New York University puts it, has "carried the demands for output far beyond their finite resources."

We have demanded ever-greater government spending on social welfare—but have rejected the higher taxes to pay for it.

We have demanded rising incomes—without concerning ourselves with whether our productivity justified the increases.

We have demanded that billions be spent on the environment—without considering that this drains off expansion capital crucial to meeting our growing demand for goods and services.

And, most impotrant, we have demanded very low unemployment levels—without worrying about the inflationary pressures inherent in stimulating the economy until the least-qualified members of the work force become employable.

"Public policies nowadays," contends Arthur Burns, chairman of the Federal Reserve Board, "are expected to maintain production at high and rising levels, to limit such declines in employment as may occasionally occur, to ease the burden of job loss or illness or retirement, to protect business firms hardships of economic displacement (and) to sustain incomes of farmers and wage earners . . ."

No one denies that these are "laudable objectives," as Burns puts it, that must be pursued.

But we have never accepted the notion, many experts argue, that when a new priority threatens to push consumption to inflationary levels, we might have to give up something else in order to make room for it.

In short, in setting these national priorities, and failing to make full provision for their costs, we have planted seeds of persistent inflation that may never be fully controlled.

The seeds were sown in the pain of the Depression and the suffering of World War II.

America emerged from the Depression, with its unemployment rates as high as 25 percent of the labor force, determined that such a national disaster should never be allowed to happen again.

And World War II taught us that economist John Maynard Keynes had been right back there in the mid-'30s: that government could, indeed, command prosperity into existence by using tax policy, deficit spending and increases in money supply to stimulate demand.

These two factors came together to produce the "Employment Act of 1946" and lay the foundation of what Burns calls this nation's "inflationary bias."

The act proclaimed as a national objective the promotion of "maximum employment, production and purchasing power"—with the accent on "maximum employment."

It was a powerful warning to future politicians that unemployment must never be allowed to rise too high. If inflation was considered at all, it was viewed in terms of moderate price increases that represented a modest price to pay for growing prosperity.

At the same time, there was a historic shift in social values, in the public perception of the government's role in improving the welfare of all citizens.

Before World War II, says Dr. Irving Friedman, senior advisor for international operations at New York's First National City Bank, "only the most destitute of widows and orphans" were viewed as the continuing responsibilities of government.

This changed dramatically after the war, says Friedman, a former International Monetary Fund director and World Bank economist, perhaps, he suggests, because the horrors of World War II created a "crisis of conscience" and a new sense of the value of human life.

These two priorities—high employment and rising government spending for social welfare—combined with the continuing pressure of the Cold War to push the country toward a state of chronic over-demand for goods and services.

Keynes, of course, had formulated his proposals as a means of lifting nations out of depression. Once this was achieved, and an economy set on a course of "moderate" growth, the tools of stimulation could be reversed, when necessary, to contain inflation.

Taxes could be raised and money supply reduced to pull demand out of the private sector. Government spending could be trimmed to do the same thing on the public side of the ledger.

That, as it turned out, wasn't so easy. The Federal Reserve could reduce the money supply, but this wouldn't be enough if government deficits continued.

In fact, says Treasury Secretary William Simon, federal borrowing in recent years has preempted more than 60 percent of the capital market. This, in effect, has forced the Fed to expand the money supply to keep the private sector afloat.

Reducing budget deficits wasn't easy, either. A platform of tax hikes seldom gets anyone reelected. And as time went by, each new Congress was confronted with funding requests of a growing list of "permanent" programs established by earlier Congresses.

Roy Ash, director of the Office of Management and Budget, says nearly three-quarters of the budget thus is "uncontrollable." And while Simon argues that it needn't be that high, the fact is that a growing number of spending programs have gotten "locked in."

Most important, however, is the fact that if fiscal and monetary restraint could be synchronized to fight inflationary demand, the resulting downturn in the business cycle inevitably would mean rising unemployment.

Given our firmly established priorities, the irresistable temptation has been for the government to restimulate the economy before the roots of inflation have effectively been deadened, before supply and demand have been brought fully into balance.

Politicians share the blame, of course, but not all of it, argues New York University's Prof. Kristol. Public policies, he says, are "determined in a democracy by our common culture, by those beliefs about how things are, and those expectations as to how things ought to be, which we jointly share."

The politician's horizon, adds Gov. Henry Wallich of the Federal Reserve Board, "is necessarily short, often not beyond the next election." Thus, he explains, the goal has been "quick relief," and as a result, "we are always living in the long-run aftermath of short-run expedients . . ."

The public's response to these short-run expedients is the key to the underlying "inflationary bias" of the nation.

The University of Minnesota's Walter Heller, a former chairman of the President's Council of Economic Advisers, talks of the people being conditioned to expect that "all of the (economic) valleys will be shallow ones."

And if the private sector failed to produce satisfactory solutions to a current social problem, the conviction grew that the government would intervene.

The result was the growth of what Irving Friedman calls "fantasy expectations" of an endless and unlimited growth in prosperity that produced "chronic overdemand relative to our capacity to produce."

Most significantly, he continues, a key part of these "fantasy expectations" was the conviction that consumption need not be tied to current income.

"If demand were simply a function of current income," Friedman explains, "there would have been an automatic adjustment toward (price) equilibrium."

Instead, our standard of living since World War II has been related to "expectations of rising incomes coupled with easy credit."

In short, because prosperity surely would continue to grow unabated, with occasional shallow dips that were good for the soul, if nothing else, we have been prespending the higher incomes that surely were just down the road.

At the same time, because of these expectations of unlimited growth in prosperity, Arthur Burns contends, price competition has "atrophied" in some areas because we no longer feel the need for discipline in our spending habits.

Inevitably, the resulting inflationary pressures produced the second key factor in our inflationary bias: the strong expectation that inflation would persist.

Inflation rates were moderate through much of the postwar period, averaging only about one and seven-tenths percent a year. But it was inflation, nonetheless; only twice since World War II, in 1949 and 1955, has the consumer price index declined.

Thus, we have been conditioned to expect persistent inflation, explains Herbert Stein, chairman of the Council of Economic Advisers, "and it'll take a lot more than one or two years of price declines to convince us otherwise."

And when inflation begins to spurt, this "inflation psychology" combines with our "fantasy expectations" to persuade consumers and businessmen to buy still more before prices go higher, labor to offset declines in "real" income with inflationary wage demands, and businessmen to accept higher costs because of the growing ease of passing them on.

Ultimately, even efforts to restrain demand may backfire—as we're seeing now with continuing strong demand for credit despite sharply higher interest rates.

Tuesday: First there was "guns and butter," followed by a long series of other economic policy blunders. But even the best of policy decisions would have been hard put to counteract the wage explosion, worldwide crop failure, global economic boom and energy blackmail that followed.

EMPLOYMENT AND STABLE PRICES HAVE NEVER MOVED IN CONCERT

(By Dick Youngblood)

Utopia for an economist—not to mention politicians and their constituents—would be steady economic growth accompanied by zero unemployment and stable prices.

Unfortunately, it has never worked out that way. Price stability has always seemed to mean relatively high unemployment; very low unemployment levels have tended to be accompanied by rising prices.

From 1952 to 1965, for example, consumer prices rose at a gentle rate of 1.3 percent a year, while unemployment averaged 5 percent of the work force.

And from 1966 through 1969, when the Viet Nam war was heating up the economy, unemployment averaged 6.65 percent—and prices rose an average of 4.3 percent a year.

Why this "tradeoff?" Start with the premise that the economy simply cannot provide jobs for everyone at all times.

Some workers will always be out looking for better jobs—thus will be "temporarily" unemployed.

Others, particularly teenagers, may lack the skills to qualify for jobs at union wages or, in some cases, even at the government-established minimum wage level.

Even if an unemployed worker has the skills to qualify for a job somewhere in the economy, that job may be hundreds—even thousands—of miles away from where he lives.

And despite the efforts of both government and some unions and companies, discrimination persists as a barrier to employment.

Thus, if you're a teenager—particularly if you're a black teenager, and more particularly, a teenaged black female—there are forces standing between you and a job that are far beyond the control of government economic policy.

In short, a certain percentage of the work force will be unemployed at any given time, despite vigorous government efforts to stimulate the economy through tax cuts, budget deficits and increases in the money supply.

Any effort to expand the economy enough to take the unemployment rate below that percentage simply will require so much stimulation that the inevitable result must be inflation.

The question is how large that percentage is. And the answer the government's economic policy-makers come up with is crucial to their decisions on whether to stimulate or restrain the economy.

In the early 1960s, when the University of Minnesota's Dr. Walter Heller was chairman of the Council of Economic Advisers, the guess was that this "full employment" rate was about 4 percent.

The idea was that you could stimulate the economy until unemployment got down to 4 percent without generating inflationary pressures.

The trouble is, the relationship between unemployment and inflation keeps changing, simply because the labor force keeps changing.

The work force now contains a greater percentage of married women and teenagers, many of them either unskilled or only loosely attached to the labor force.

Since 1960, for example, the labor force has grown by 19.1 million workers. Of that increase, 40 percent (7.6 million) were married women and 19 percent (3.6 million) were teenagers.

And where teenagers and married women made up 25 percent of the labor force in 1960, they now represent about a third of it.

Some economists thus figure that the "full employment" figure — the unemployment target you can shoot for without accelerating inflation—is now about 5 percent.

The average of 4.9 percent unemployment in 1973 "seemed to us to be full," says Herbert Stein, chairman of the Council of Economic Advisers. "The length of unemployment was short, the quit (resignation) rates were high and the discharges low; people could find work."

Not everyone agrees that the "full employment" figure is that high, and this argument is critical for two reasons:

If the "full employment" level really is about 5 percent, and you shoot for a rate of 4 or 4.5 percent, unemployment, you clearly are aiming at inflationary stimulation of the economy.

The political reaction to unemployment rates of 5.5 or 6 percent, which are promised by current efforts to restrain inflation, clearly would be less severe if "full employment" were perceived as 5 percent rather than 4 percent.

Henry Wallich, a governor of the Federal Reserve Board, contends that the overall unemployment rate should be given less weight than the rates for such "key" categories as heads of households and married men.

While overall unemployment in May rose to 5.2 percent from 5 percent in April, Wallich noted, the rate for heads of households declined from 3.1 to 3.0 percent and for married men from 2.5 to 2.2 percent.

And while unemployment figures for black teenagers (nearly 31 percent in the first quarter) are included in the overall rate, Wallich argues that they would be "quite inadequately" helped by even the most stimulative economic policies.

Whatever the answers to the arguments, Walter Heller feels that the "full employment" level can be made significantly lower than it is today.

The key, he has argued for a number of years, involves both expanding the pool of labor skills and making it more readily available to the economy, thus reducing the amount of economic stimulation necessary to reduce unemployment. Among his proposals:

A broad program of job training and retraining, financed both by government and business, that is much more responsive to the changing needs of the economy.

A comprehensive, nationwide communications network to link available labor skills with emerging employment needs.

A workable relocation program, operated by a partnership of government and business, to transfer workers easily to where the jobs are available.

[From the Minneapolis Tribune, July 16, 1974]

RECENT INFLATION HAS SOMETHING FOR EVERYBODY—III

(By Dick Youngblood)

Some economists blame our flight into double-digit inflation on the blackmail of Arab oil producers and the combination of natural disaster and bureaucratic blundering that produced a global food shortage.

Others lean more toward miscalculations in fiscal and monetary policy that flooded the economy with more money and more demand than could be absorbed at a time when economies were booming worldwide.

Some talk of the coincidence of global economic boom, coupled with the distortions of economic controls, and the resulting pressures on raw-material industries that had not expanded for 20 years because of low profit margins.

Others look for the culprit in the unrestrained power of labor and industry to enforce inflationary wage and price patterns.

Still others blame a war that hardly anyone liked and no one wanted to pay for.

That's what's nice about the inflationary pattern of the past eight years—there's a little something for everybody.

All of them are right, in part: the fiscalists can blame the monetarists and the monetarists the fiscalists; the businessman can blame the unions, and vice-versa; the anti-war bloc can blame the Pentagon, Congress can blame the White House and everybody can blame the Agriculture Department because they're accustomed to it.

And we can all blame ourselves, because all of these were merely short-term factors piled on top of a pattern of chronic excess demand that we have been shaping with unrelieved gusto since World War II.

The inflationary spiral began in 1966 with the "guns and butter" policies of President Johnson—policies that provide an almost classic example of the "inflationary bias" built into American society.

In an economy already approaching full capacity, LBJ escalated two wars—against North Vietnam and against domestic poverty.

But he perceived that the public would not accept a tax increase that would pull enough demand out of the private economy to balance the demands of both the Vietnam War and the War on Poverty.

It was 1968 before LBJ's—and Congress's—reluctance to raise taxes was overcome and a 10 percent surcharge implemented, and by that time inflation had gained irresistible momentum. A summary:

Where federal-budget deficits totaled $40.6 billion in the 14 years of relative price stability from 1952 through 1965, nearly that much red ink—$37.7 billion—was produced in just three years from 1966 through 1968.

Where the money supply grew at an average rate of less than 2.5 percent in the 1952–65 period, the growth was 7 to 8 percent in 1967–68. ("What was the Fed supposed to do," demanded one government official, "tell LBJ they wouldn't finance his goddam war?")

Where unemployment averaged 5 percent in the 1952–65 span, it averaged 3.7 percent from 1966 through 1969—below even the controversial "full employment" goal of 4 percent that many felt was too low when it was first established early in the decade.

And where the consumer price index (CPI) grew at a gentle rate of less than 1.5 percent in the 1952–65 period, it spurted to nearly 5 percent in 1968 and 6.1 percent in 1969.

With the tax surcharge in effect, however, the government moved in 1969 to apply the economic brakes even harder. The budget was brought into surplus or near-balance in 1969–70, and the money supply grew at a comparatively stingy rate of 3.5 percent.

But other inflationary forces had now been loosed, and the result was "stagflation." The CPI grew at a 5.5-percent clip in 1970 even as economic output declined. There were several reasons:

Inflation had produced a decline in "real" wages in four of the five years from 1966 through 1970, and only a fractional gain in the fifth year. Equally important, significant disparities were arising between the wage settlements of major unions.

Thus, as workers sought to "catch up"—with inflation and with each other—a substantial wage spiral began in 1968. Wages and fringes, which had risen an average of 4.3 percent a year in the 1952–65 span, topped 7 percent in each of the four years from 1968 through 1971.

But at the same time, the inefficiencies of inflation were cutting productivity to an annual growth rate of 1.7 percent in the 1968–71 period, compared with 2.6 percent for the 1952–65 period.

This only added pressure to profit margins that had been failing under the assault of "guns and butter" inflation, and in 1970 corporate profits reached the lowest level in 24 years.

Thus, even as the economy declined in 1970, companies also were trying to "catch up" with continuing price increases.

Nevertheless, the inflation rate was receding—it fell to an annual rate of 4.4 percent by August 1971. But it was receding very slowly, and at a significant cost in terms of unemployment rates that lingered at or above 6 percent.

Once again the inflationary demands of the public were heard by government, which marched off in two conflicting policy directions that were to have an impact several years later.

On Aug. 15, 1971, wage and price controls were imposed. And they worked for a time—the CPI growth rate fell to 3.3 percent in 1971 and held steady at 3.4 percent in 1972.

But they worked, critics contend, only because there was slack in the economy to absorb the kind of distortions that came later.

With inflation still running above a 4-percent growth rate, the government reacted to growing complaints over high unemployment by restimulating the economy. And massive stimulation it was.

The money supply grew at a strong rate of 6.3 perecnt in 1971 and at a rate of 8.5 percent—highest since World War II—the following year.

And the total of budget deficits in 1971 and '72 alone soared to $46.2 billion—more than the total for the entire Johnson administration.

Meanwhile, with the same pen with which he commended wage-price controls into existence; President Nixon also ordered the first of two official dollar devaluations that made American exports far cheaper and more attractive in the next two years.

The stage thus was set for the all but incredible coincidence of inflationary forces that were in the making—the surreal combination of weather disaster, governmental bungling and political blackmail that produced our double-digit inflation.

Initially, the key area was food.

Drought and other weather problems were digging into global food supplies in 1971, and in 1972 these problems turned into disasters as drought reduced output in India, the Philippines, Africa, Australia, Argentina—and Russia.

Yet, in the summer of 1972, the United States imposed stiff crop restrictions. It can be argued that the growing food shortage was not apparent when this decision was made.

But Arthur Okun, a senior fellow at the Brookings Institution and a former chairman of the Council of Economic Advisers, charges that "you didn't have to be a genius in the summer of 1972 to see there had been a major change in the global supply-demand situation."

Okun is even more critical of the country's ensuing export policies. The nation's grain reserves, it was argued, must be drawn down to support our commitment to free trade and preserve for the future our credibility as a dependable supplier.

Okun, who calls it "patsy trade" rather than "free trade," says the policy was "nuts." Far from building markets for the long pull, he contends, the U.S. "was busily negotiating sales to customers who had discriminated against us in the past with no guarantees that they wouldn't in the future."

The result, he charges: With an assist from the two dollar devaluations, agricultural exports in 1973 soared some 60 percent—while domestic supplies declined 5 to 10 percent.

Meanwhile, economic expansion in the United States—which consumes a third of the world's raw materials and 25 to 30 percent of the Gross World Product—was being matched for the first time since World War II by a simultaneous boom in all of the industrial nations.

The result was growing pressure on the capacities of an endless list of basic materials industries—petroleum and key related chemicals, steel, aluminum, copper, lead, zinc, tin, nickel, bauxite, paper, cement, synthetic fibers, in addition to food.

A capacity squeeze in these industries produced the 11 percent inflation during the Korean War years of 1950–51, explains Charles Schultze, a senior Brookings fellow and former budget director under President Johnson. But there has been minimal expansion of productive capacity since then, he says, for several reasons.

The Korean War expansion produced excess capacity that held prices low for 20 years. Then came the capital-melting inflation of the late 1960s and early 70s, along with the growing demands for environmental controls.

As an objective, a better environment is not disputed by most economists. But to many, the sheer size of the demands for pollution control meant another dose of the "fantasy expectations" that had led the nation into persistent inflation after World War II.

By the end of 1975, according to a speech by C. R. Dahl, president of Crown Zellerbach, American industry will have spent $105 billion on pollution control—capital that did little to increase the output the country continued to demand.

Henry Wallich, a member of the Federal Reserve Board, puts it diplomatically: "Usually with good motives, but not always with good sense, we have sought to protect the environment without properly calculating the time it would take for productive processes to adjust."

John Dunlop, who headed the Cost of Living Council, puts it a little less diplomatically: "We have demanded all the goodies of a cleaner environment without being willing to pay for them with a decline in output."

And finally there were wage and price controls, which held down some prices but did not always contain all other costs.

This not only limited capacity expansion, but in some cases contributed directly to inflation by stimulating the export of goods into uncontrolled world markets (from which they sometimes were reimported at higher cost).

By the third quarter of 1973, many of these industries were running at an extraordinary—and highly inflationary—95 percent of capacity.

The cushion of excess capacity on which we had come to depend since the Korean War had suddenly disappeared, Schultze explains, and the result was acute shortages throughout the economy.

This, however, is where the similarities end between the 1950–51 inflation and the inflation of 1973, Schultze says.

The Korean War inflation was preceded by an actual decline in prices, he explains. Profit margins were wide as the war began, and businessmen—their memories of World War II rationing and controls still fresh—were quick to raise prices as inflation picked up.

Thus, when capacity was expanded and raw material prices began to fall, there was plenty of room in the profit margins of most businesses to absorb the 20 percent "catchup" in wages that occurred in the three years through 1953.

But now, because of long-term inflation, rising environmental control costs and the lingering effects of price controls—and the resulting steep rise in corporate debt—profit margins are far narrower than they were 25 years ago.

Yet "real" wages are lagging once again, and major unions are talking militantly of "catching up."

Finally, there was the oil embargo, which doubled petroleum product prices in 1973 to help loft inflation in the direction of double digits.

Now, these prices are working their way through the economy in the form of higher prices for a myriad of products and services, from industrial chemicals to plastics, cement, steel and transportation.

Wednesday: "There is no easy way out of the inflationary morass into which we have allowed ourselves to sink through negligence and imperfect vision," says Federal Reserve Board Chairman Arthur Burns. Replies the University of Minnesota's Walter Heller: "In their zeal (to stem inflation), they are failing to count the costs in terms of jobs, output, income, profits and threats to financial stability."

[From the Minneapolis Tribune,
July 16, 1974]

PROFITS HELP TO BALANCE SUPPLY WITH DEMAND

(By Dick Youngblood)

Profits may be a dirty word to many consumers who see the prices they pay heading skyward. But in the battle against accelerating inflation, profits are crucial to financing the expansion of plant and equipment necessary to bring supply into balance with demand.

This is particularly true when inflation has scattered the capital markets into disarray and sent interest rates to unprecedented heights.

The fact is, however, that inflation—coupled with the soaring costs of environmental controls—also has seriously reduced the flow of internal corporate capital available for this critical expansion.

The direct effects of inflation on profit margins cause problems which are fairly obvious: Inefficient plant, equipment and manpower are utilized in an overheated economy and low unemployment gives labor greater leverage to command steep wage settlements.

These forces have held capital expenditures since 1966 to an average annual growth of just 7 percent for all U.S. industry, and less than 5 percent for manufacturing industries—a puny rate in terms of the global economic boom that emerged in late 1972 and '73.

The greater problem, in terms of industrial expansion now and in the future, is the hidden fact that inflation severely overstates profits simply because conventional accounting methods severely understate the rising cost of inventories and depreciation.

According to a recent study of nonfinancial corporations by the Machinery and Allied Products Institute (MAP), taxable profits thus were overstated by $25 billion in 1973—and by a total of $86.6 billion since the present inflationary surge began in 1966.

This meant not only that earnings were far lower than actually reported, but that substantial taxes were paid on these "phantom" profits.

Using the actual tax rate paid by nonfinancial corporations in 1973 (48.3 percent, according to MAPI's figures) this meant that $12 billion in taxes were paid on these overstated profits last year. And since 1966, the total can be calculated at $41 billion.

In simple terms, here's how the problem arises:

Accountants typically reckon the cost of inventories—the items used in production—at original cost. This is called the "first in-first out," of "FIFO" accounting method, under which a company's oldest inventories are assumed to be sold first.

This is fine in a period of relative price stability. But if there is a sharp price rise before the inventory is used or sold, the result is a "windfall" profit on which taxes must be paid.

The question is: Now that you've paid a part of the "windfall" out in taxes, where do you come up with the cash to pay the sharply higher cost of replacing or expanding your inventory?

Similarly, the depreciation you're allowed as a means of financing future replacement of plant and equipment is calculated on the basis of original cost.

Again, there's no problem in a period of price stability. But if the cost of your plant doubles to $200 million during the period in which you're allowed to recover your original $100 million investment, there is an even more serious question of how to finance a replacement.

In short, your depreciation costs have been understated and your profits—and taxes—have been overstated.

As a result, according to MAPI's figures, nonfinancial corporations last year reported net profits of $50 billion—up 21 percent from the $41.1 billion reported in 1966.

But when you deduct for the $25 billion understatement of depreciation and inventory costs last year, the adjusted 1973 net profit falls to $25 billion.

And this is 34 percent below the adjusted level of $38 billion in 1966, when inflation was just beginning to accelerate and the understatement of costs was only $3.2 billion.

Corporations can elect, of course, to use a more realistic means of accounting for inventories. It's called the "last in-first out," or "LIFO" method, which assumes the most recent (or higher cost) inventory purchases are used first.

But there has been stubborn resistance to a widespread shift to this accounting method both in the accounting profession and among corporations.

The corporate view is easy to understand: The FIFO method overstates profits, which in a more normal market are translated into rising stock prices.

And if you've elected to use the more conservative LIFO method, while your competitor sticks with FIFO, the resulting profit disparity can wreak havoc on the value of your stock.

The trouble is, when the stock market starts fretting about inflation—as it is now—the result is havoc, no matter what method you use.

[From the Minneapolis Tribune,
July 17, 1974]

INFLATION MUST BE CURBED—BUT NO ONE AGREES HOW—IV

(By Dick Youngblood)

The University of Chicago's **Milton Friedman**, a distinguished voice among conservative economists, has his summer retreat in Ely, Vt.—way up there on the far right side of your map.

The University of Minnesota's Walter Heller, an equally prominent spokesman for liberal economics, spends his vacations near the ocean in the state of Washington—over there on the left edge of the map.

The distance between spans with fair accuracy the difference of opinion among economists today over what to do about this nation's current struggle with accelerating inflation. A sampling:

To Heller, Chairman Arthur Burns and his colleagues on the Federal Reserve Board have "gone too far" with monetary restraint that has produced economic decline and sent interest rates to record levels.

"In their zeal to save capitalism," Heller complains, "they are failing to count the costs in terms of jobs, output, income, profits and, ultimately, the threat to financial stability."

To Friedman, the rate at which Burns and the Fed are allowing the money supply to expand—an average of about 6.7 percent in recent months—represents "no change at all from the expansionary policies of the past three years that got us into this mess."

And he argues that money growth should be cut by half—or more.

Whoever is right, Burns sits in the middle of the argument, puffing on his pipe and allowing as how "we intend to encourage sufficient growth in supplies of money and credit to finance orderly (read that slow) economic expansion.

"But," he warns, "we are not going to be a willing party to the accommodation of rampant inflation."

Fed chairmen have made such brave pronouncements before, only to have their efforts at restraint torpedoed by the government when it responds to public pressure with premature restimulation of the economy.

Burns, in fact, used almost the same words in 1970—before being swept into partnership with government in a massive restimulation that saw budget deficits, supported by a swiftly rising money supply, soar to record levels in 1971 and '72.

But now, arguing that present rates of money growth are, indeed, restrictive in terms of the rate of price increases, he gives every sign of having dug in for a prolonged assault on inflation.

And the administration is making some cooperative noises about helping out with fiscal restraint: The federal deficit in fiscal 1974 was below $4 billion, a relatively restrictive level; President Nixon has ordered $5 billion cut out of the $11 billion deficit projected for fiscal 1975, and a balanced budget is the announced objective for fiscal 1976.

But an inflation that has persisted and accelerated for so long is enormously stubborn and difficult to contain—witness the continued strong demand for credit despite lofty interest rates.

Thus, the prospect is a lengthy period of restraint that would involve, for a time, the worst of both worlds—both steep inflation, though below present levels, and economic torpor. But how long?

"What's required," says Federal Reserve Gov. Henry Wallich, "is patience—perhaps persistence is a better word—for several quarters."

William Fellner, a member of the Council of Economic Advisers, expressed a more prevalent—and more pessimistic—outlook: "What we're talking about is years, not months."

This view is supported by Federal Reserve Gov. Andrew Brimmer, who used the Fed's computer model of the economy to see how long it might take to bring inflation all the way down to the 4-percent rate that was considered excessive only four years ago.

The answer: If unemployment climbed well beyond 6 percent—a politically unacceptable cost, in most views—we might be able to do it by the end of 1975. Thus, he says, it will take much longer.

And to bring the rate down to the 2- to 3-percent level from which we leaped in 1965, says John Dunlop, former head of the Cost of Living Council, would take "five years of careful management and stringent fiscal and monetary policy."

The question, given this outlook, is whether Congress and the administration will yield once again to the public anger over rising unemployment and economic malaise.

Treasury Secretary William Simon hopes it won't be necessary.

"Each successive bout with inflation has left a higher rate to live with," he says, "Now, I think, double-digit inflation has frightened people enough so that, if we ever had the opportunity to do something about it, it's now—and we should seize it."

Sitting in shirtsleeves in his sprawling office, Simon ignores for the moment the blinking lights on the telephone at his side. Leaning forward, finger jabbing the air, he speaks intensely:

"We've spent a long time grinding inflation into our psychology, and now that we have the people's attention, damn, it, let's do what's right."

Trouble is, there's precious little agreement about what's right.

For one thing, the forces that sent inflation into double digits are mostly on the supply side of the ledger and thus less responsive to the demand-management disciplines of fiscal and monetary restraint.

Inflation: Administration Is Talking About Trying Restraints

Simon, for example, three-fifths of 1973's 8.8-percent inflation rate on food and oil. Roy Ash, director of the Office of Management and Budget, credits these factors with four-fifths of the 14.5-percent annual rate in the first quarter of '74.

Both men expect food prices to fall with this year's harvest, though Sen. Hubert Humphrey, D-Minn., expresses the growing doubts of many that the harvest will be enough to correct a global supply imbalance and offset rising costs of processing, labor and transportation.

And both Simon and Ash expect oil prices to moderate. Simon, in fact, says that if he were a betting man, he'd be willing to lay down a small wager that "they're going to be lower a year from now, or even sooner, than they are now."

This is the basis for administration projections that the rate of inflation will fall to 7 or 7½ percent by year-end, with current expansion in the basic materials (metals, minerals, chemicals) industries counted on for more downward push in the longer run.

It also is the launching pad for the critical salvos that Heller and others have been lobbing at the administration.

"They're fighting a commodities inflation with demand management," charges Heller, who was chairman of the Council of Economic Advisers under Presidents Kennedy and Johnson, "and taking it out of the hides of labor and low-income groups in the process."

Adds Sen. Walter Mondale, D-Minn., noting the first-quarter decline in the economy: "They're restraining excess demand that doesn't exist, and if they keep it up they'll have something far worse than inflation—they'll have depression."

The administration concedes its policy of restraint will boost unemployment—Ash talks of the rate, which was at 5.2 percent last month, climbing "into the high fives" late in 1974 and into '75. Others predict that the rate will top 6 percent.

Nevertheless, administration and Federal Reserve officials argue that there remains a real danger of excess demand being created by an easing of restraint, particularly in basic materials industries, which will take a long time to expand their capacities.

They also feel a strong dose of "oldtime religion"—prolonged restraint—is necessary to squeeze out of society the expectations of limitless consumption that many feel have carried demand far beyond the capacity of government and industry to meet it.

What they're not saying out loud, however, is that high unemployment and economic slack may well give labor less leverage and management more resolve in the major wage bargaining under way this year.

And wage settlements this year are considered the key to the future trend of inflation.

The administration clearly hopes the effects of economic restraint, coupled with declining prices in the second half of the year, will hold compensation (wages and fringes) gains at or near the 1973 level of 7.8 percent.

If a far higher level gets locked into the cost structure, particularly with productivity on the decline, the chance of pulling inflation significantly out of double digits becomes more remote.

For there is a very real relationship between inflation, wages and productivity: Since 1948, annual compensation gains have averaged 5.4 percent, productivity growth has averaged 2.7 percent—and the difference, 2.7 percent, has been the average inflation rate.

What's more, because of the inflation, "real" wages rose an annual average of only 1.4 percent in that period despite the higher compensation gains.

Still, there is little argument that labor has a strong case. Wage demands remained remarkably moderate in 1973 in terms of a commodities-induced inflation that cut "real" income 1.4 percent.

And with the decline in "real" income even more pronounced in the first quarter of '74—in the range of 4 percent—there still has been no wage explosion (although there have been worrisome symptoms since wage-price controls were lifted in April).

Heller and another former head of the Council of Economic Advisers, Arthur Okun of the Brookings Institute, raise the question of how much more wage restraint might be gained from raising unemployment to the 6-percent level or above. After all, a wage explosion occurred in 1970 despite the recession.

But Herbert Stein, present chairman of the council, says the 1970 wage spiral resulted in part from an imbalance between settlements of major unions. The lagging unions have since caught up, he says, "and we now have a much more balanced situation."

Still, Heller and Okun argue that high unemployment is a steep price to pay. Heller expresses their attitudes this way:

"I am not willing to tolerate 5½- to 6-percent unemployment over a sustained period in return for an inflation rate below 5 percent," he says (although it might be argued that he tolerated it during his term as council chairman, when unemployment averaged 5.5 percent and inflation averaged 1.3 percent).

Instead, given the stubbornness of inflation and "the realities of the rest of the '70s," Heller contends, "I think we're going to have to live with 5- to 5½-percent inflation for a long while."

To get an idea of what this would mean, take the average cost of a Minneapolis-area home last year—$31,536—and calculate a 5.5-percent inflation rate. The cost by 1980: $43,479.

Or an automobile that goes for $3,000 this year—it would cost nearly $4,000 by the end of the decade.

What Heller and Okun, among others, are arguing is that fiscal and monetary restraint alone is an altogether too painful means of attacking the present inflation—that something more is needed.

They are not suggesting a return to wage-price controls, which the administration now contends were doomed to failure, but which critics contend were discredited by bumbling management.

Instead, they propose that less economic restraint be offset by some form of wage-price monitoring—a "public presence in the board room and at the bargaining table," as Heller puts it.

Such a mechanism was rejected by Congress this spring, and wins no cheers at the White House, but there is growing agreement on both sides of the economic policy debate that such a mechanism may become necessary—and politically feasible—when the full cost of the inflation battle is realized.

Fed Chairman Burns, for example, and the Cost of Living Council's Dunlop, talk of a limited element of intervention in pacesetting industries—an agency that would conduct open hearings and bring public pressure to bear on unjustified wage-price increases.

Heller, and others, would go further, giving such an agency the power to suspend wage and price increases temporarily and to roll them back in the most "outrageous" cases.

"I think of it in terms of a traffic cop," says Heller, "armed with general speed laws, flagging down the occasional speeder."

The contending sides in the debate also are moving closer together on the issue of dealing with the high unemployment that accompanies fiscal and monetary restraint.

In government, there now is widespread acceptance of the idea of major public-service employment ("which Nixon vetoed twice," Heller is quick to point out) and expanded unemployment benefits.

If such a program were adopted, critics like Heller might be seen moving closer to accepting a stronger dose of "oldtime religion."

"Obviously, if you expand the money supply and raise government spending to bring unemployment down," Heller agrees, "some of that money will spill over into the part of the economy that already is overheated.

"But with public-service employment, there's much less inflationary pressure because a much smaller amount of money can be targeted at the nooks and crannies where it's needed."

Beyond the unemployment issue, the course now being steered by Burns and the administration is an extremely risky one, because of the danger of nipping the industrial expansion now under way.

A 12- to 13-percent increase in plant and equipment spending, matching the 1973 level, is projected for 1974, with the jump in the manufacturing area put at 19 percent—extremely encouraging figures in terms of the crucial need for expanded supplies.

But not only could steep interest rates put a damper on this expansion, warns Charles Schultze, former budget director under President Johnson, "but if we squeeze the economy too much, the products of that additional capacity will be hard to sell, and we could throw the economy into serious recession as we did in 1958."

Burns however while trying to steer a delicate course between over- and under-stimulation concedes that there are risks.

But except for conceding that government has a "proper ameliorative role to play in such areas as housing where the impact of credit restraint is disproportionately heavy" Burns rejects any reversal of present policies.

"There is no easy way out of the inflationary morass into which we have allowed ourselves to sink through negligence and imperfect vision" Burns says.

Thursday: There's one voice—dim but gaining volume—that suggests that there may be a relatively painless road to zero inflation.

[From the Minneapolis Tribune
July 18, 1974]

Irving Friedman: A Painless Anti-Inflation Plan?—V

(By Dick Youngblood)

"(I share) the view that our society is too materialistic, and that man was made for better things than what can be sold by advertising."—Federal Reserve Governor Henry Wallich.

Irving S. Friedman, a veteran economist with the International Monetary Fund and the World Bank, has found a highly effective personal hedge against inflation: A book on inflation, published as public anxiety over the issue was beginning to escalate.

His book, "Inflation: A World-Wide Disaster," has gone through its third printing and been translated into a half-dozen languages since its publication in mid-1973.

It also led to his recent appointment as senior adviser on international operations at one of the nation's largest banks, New York's First National City Bank.

All for good reason.

Friedman plows some fresh ground with his suggestion that the indiscriminate effects of fiscal and monetary restraint—rising unemployment and steep interest rates—need not be the price of a successful attack on inflation.

His alternative is a broad public debate, from the grass roots to the nation's capital, to forge a set of national priorities for the allocation of our limited resources—capital, labor, materials.

This, he explains, would pave the way for a more selective program of incentives and disincentives to funnel scarce resources into high-priority areas of production and attract both capital and demand out of low-priority areas.

And the result, Friedman contends, would be a steadly growing economy in which minimal unemployment could be consistent with—and even a contributor to—price stability.

After laboring in relative anonymity for decades in the realm of international economics, Friedman still is by no means a household word.

Members of the economics establishment profess not to know him—or, at best, not to have read his book.

To his persistent exasperation, people are forever confusing him with his more famous namesake, the University of Chicago's Milton Friedman.

But the situation is changing rapidly. His name and his ideas are beginning to show up in national news magazines as the issue of double-digit inflation grows.

The 1974 Encyclopedia Britannica Yearbook contains a lengthy synopsis of his book.

And he is becoming an increasingly familiar figure at inflation conferences and seminars across the nation.

Friedman's relatively painless road back to price stability, he argues, will require some fundamental changes in the way we live and think.

Since World War II, he contends, the American people—with the help of Madison Avenue, ambitious politicians and ever-friendly credit sources—have consistently violated the law of supply and demand.

Conditioned to believe that prosperity—and thus consumption — could continue without limit, we have used both personal credit and government budget deficits to continue consuming far beyond our means.

We're not alone. To one degree or another, the same thing has been happening around the world.

Some economists refer to this as an "explosion of expectations" of limitless prosperity and consumption. Friedman simply calls it "fantasy expectations."

Whatever you call it, the result has been a demand that has been carried far beyond the productive capacity of the nation—and the world.

Thus, beyond the setting of priorities, a national debate on the issue could have the crucial effect of convincing people that our resources are limited—and that our "fantasy expectations" must therefore be transformed into "realistic expectations."

But to be credible, Friedman says, any such program must also attack another set of "expectations"—the expectation that inflation will persist, which prompts us to continue buying now because the price will surely go higher.

A successful anti-inflation program, Friedman says, must therefore include:

A bipartisan commitment not only to sell the program, but also to convince the public that it will be sustained from administration to administration.

A clear understanding that the unswerving objective must be zero inflation—that even a gentle rate of price increase nurtures the seeds of "fantasy expectations" and accelerating inflation.

Once this is accomplished—and only when it is, Friedman says—a program of incentives and disincentives can be launched effectively to balance supply and demand.

Friedman, a shy, soft-spoken man who professes to be a member of "the school of sloppy economics," has no specific legislative policy proposals to offer.

But he has some suggestions on the direction such proposals might take if only we would "open our minds."

On the supply side, Friedman says a massive increase in industrial investment is needed.

Yet the nation's savings rate—here Friedman includes personal savings and individual and corporate investment, as well as government tax revenues—has held stubbornly at 15 to 17 percent of national income since the end of World War II.

He thinks the level ought to be closer to 25 percent. But how?

"Open your minds," Friedman says: What if interest were made tax-exempt—or, if necessary, the entire amount that is saved?

That not only would raise investment capital substantially, but it would reduce inflationary consumption at the same time.

And if your national priorities tell you that investment in low-cost housing is more important than, say, investment in a plant to produce another brand of deodorant, there are any number of devices to target that capital.

Why not simply expand the tax-exempt bond approach, Friedman asks, to include investment in low-income housing—or in production of small cars, or any number of high social and economic priorities?

On the consumer side, if excessive demand persisted in areas of shortages, or those deemed wasteful and thus low-priority, selective taxes on consumption (say on large automobiles) could discourage such purchases, he says.

Friedman's viewpoint finds substantial agreement from a man he has never met—John R. Bunting, chairman of the First Pennsylvania Bank in Philadelphia.

Writing in the New York Times last month, Bunting proposed a similarly "creative" approach to the allocation of resources through the credit mechanism.

"It seems eminently reasonable," he wrote, "that banks should receive reserve credit (which expands lending power) for certain types of lending—to a certain type of builder or for construction of new capacity in hard-pressed industries such as . . . energy . . . or mass transit.

"Reserve debits (which reduce lending power) against lending for essentially speculative or consumption-stimulating projects also could be a possibility," Bunting said.

Or we might revive an old Federal Reserve System regulation, he suggested, that specified, among other things, the down payment and duration of loans to finance automobiles.

Only it could be molded to fit loan terms to the kind of car being financed, Bunting said—low down payments and extended terms for energy-efficient cars, the reverse for gas-guzzlers.

"The same kind of thinking could be extended to other kinds of consumer lending," he added, "discouraging the sorts of spending we do not need now and encouraging the kinds we do need: less for luxury condominiums, more for basic, energy-efficient housing."

Friedman agrees, declaring: "I believe it is possible to change our consumption patterns—our life styles—through incentives, without anyone feeling deprived."

His only argument would be that, to make such a program acceptable, a package of rational priorities must have found broad agreement.

He also recognizes that such a program would mean dislocations for some industries—and their workers—that are assigned low priorities. But he is convinced the resources of such industries could be shifted quickly to meet other, more pressing needs.

"Think of the miracles we performed in World War II," Friedman says. "We all but turned this economy around in a year."

If this could be accomplished, in his view, low unemployment would be consistent with zero inflation, because "more employment means an increase in the supply of goods."

To those critics who view his proposals as producing an excessive amount of government intervention in a free economy, Friedman cites the recent bout with wage-price controls and argues that "persistent inflation itself makes government intervention inevitable."

RHODESIA OSTRACISM DEFIES COMMONSENSE

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the Pensacola News has editorialized in a commonsense way on the unrealistic attitude of the United States toward Rhodesia. The editorial is well worth reading. More than that, the position taken by the newspaper merits support. It appeared on September 4, 1974, and I submit it for printing in the CONGRESSIONAL RECORD:

Rhodesia Ostracism Defies Commonsense

At the time raw sugar prices began to soar under pressure of heavy world demand, the United States held fast to its quota system of production.

This restricted domestic cane and beet sugar producers and also foreign countries that were a major factor in supplying American needs.

Now, belatedly, Agriculture Secretary Earl Butz says he is considering recommending to President Ford that he abolish the quota system instead of waiting until December 31 when the act enabling it expires.

Butz says that lifting the quotas probably won't have any effect on price of sugar, but it certain should. American production alone can account for a considerable tonnage from land now idle, and foreign growers certainly can increase their production.

The sugar countries with which the U.S. will not do business are Communist-controlled Castro Cuba, and Rhodesia.

To ostracize Rhodesia defies any vestige of American political thinking.

Sanctions were applied merely to satisfy the British to whom Prime Minister Ian Smith would not become a supplicant in declaring Rhodesia independent. This independence had been denied by Britain for political reasons concerning only those two countries—a constitutional clause that did not provide for turning the country over to the blacks although the economy had been directed by settlers who had made it thrive.

Mistakenly, the United States backed the British ploy, and ever since has held fast to the commitment despite the fact that Britain itself is rapidly moving toward socialism through nationalism of all major industry.

And it is not just an ideological gesture of support for London. It has cost the American taxpayers untold millions of dollars in shutting off the major U.S. chromium ore supply, mined from property developed by American capital. The U.S. instead had to go to Russia for its chromium, dangers of which are readily apparent.

So, besides the sugar we could use nicely, there is the chromium ore we need desperately for industry and as just another item of more reasonable price in the anti-inflationary fight.

As for sugar, present high prices are just another argument pin-pointing failure of government controls in a free economy.

Rhodesia is a broader problem than usually concerns the Agriculture Department. It deserves the attention of President Ford and his Secretary of State Henry Kissinger, and action irrespective of British whims.

RETIREMENT OF ADMIRAL CAGLE

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, on September 4, 1974, Vice Adm. Malcolm W. Cagle retired from the U.S. Navy. I have commented previously on the floor of the House about the extraordinary contributions of this distinguished naval officer. I have the highest regard and the highest respect for him and his family.

At the time of his retirement, the principal speaker was the Honorable Joseph T. McCullen, Jr., Assistant Secretary of the Navy—Manpower and Reserve Affairs. In his speech he paid high and deserved tribute to Admiral Cagle. I am pleased to submit it for printing in the CONGRESSIONAL RECORD.

In order to spell out clearly the work of the Naval Education and Training Command, which was founded and headed by Admiral Cagle, I submit also a fact sheet on this program. In addition, I submit a résumé of Admiral Cagle's career; the citation accompanying the award of the Distinguished Service Medal to Admiral Cagle; and finally, his own remarks delivered at his retirement.

REMARKS BY THE HONORABLE JOSEPH T. McCULLEN, JR.

It is a distinct honor and personal privilege for me to be here today on this memorable occasion. The first change of command for the Naval Education and Training Command, and the retirement of one of our truly great naval officers.

It was just about three years ago when the Navy decided to consolidate all education and training under a single manager. It was fitting at that time that the individual responsible for the study which shaped the new command, should also be the one to implement its recommendations.

We are gathered here today to pay tribute to that individual—Vice Admiral Malcolm W. Cagle; to review the accomplishments of this new command.

John Paul Jones is credited with noting nearly 200 years ago that a naval officer should be one with a "liberal education". He should be able "to express himself clearly and with force . . . both with tongue and pen."

Admiral Cagle, you have proven yourself the embodiment of this recommendation of John Paul Jones. You are an author, a lecturer, a television script writer, and a frequent contributor to the public discussion of naval and military matters. In fact, I understand you've even been known to ghost write an editorial column from time to time.

The father of our Navy also noted that a naval officer must often be a diplomat. That he must posses tact, patience and firmness. Anyone familiar with Admiral Cagle's career over the past 38 years, is aware of the abundant presence of all these qualities.

To these criteria, I would like to add one other that is characteristic of Chris Cagle—you are a battler. As early as 1948, you were writing letters protesting what you saw as an erosion of Navy's traditional missions. Most recently, you fought for the highest quality in education and training. He has always fought for excellence in our naval air arm, our navy, and our national security establishment generally. Without Admiral Cagle's dedication and tenacity, I seriously doubt we would have the fine education and training command we have today.

You have played the lead role in ensuring that there has been a listened-to voice for training priorities and training needs.

For the very first time our training program is acting and initiating to meet our needs, not reacting and responding. This is a direct result of your leadership, foresight, ideas and commitment to that goal.

You and your staff have made great strides in improving training and performance through the utilization of modernized learning techniques and technology. We now make extensive use of television and other multi-media in the education and training process. Self-paced instruction and computerized learning processes are now standard rather than innovative.

Beyond the pure process of educating and training our Navy of the future you originated the concept of the Navy campus for achievement. We expect the campus for achievement to make a significant contribution toward attracting young Americans to naval service in this all volunteer force era.

Through the sea power symposium program you have revitalized public awareness of our Navy. You have increased public appreciation of the significance of the seas that surround our Nation. Specifically, you have made the public aware of this Nation's growing dependency on those seas, today and in the future.

There is one final area of personal accomplishment I would like to mention.

The achievement to which I refer, Admiral Cagle, is one for which future generations will be in your debt. I am talking, of course, about the magnificent naval aviation museum which will soon be completed just a short distance from here.

You deserve the lion's share of the credit for the structure there today. It has been your drive that will give Americans the opportunity to see, experience, and gain inspiration from the dramatic history of naval aviation.

I know this new building is the fruition of the dreams of many. But it also is living proof of how one man turned problems into challenges.

Thanks to Chris Cagle and many others—many of whom are here today—the ship of education and training has passed through the hazardous, narrow channel of beginning. It is now in deep water. The course it set.

Yet many challenges lie ahead for the new Chief of Naval Education and Training. Perhaps the most significant of these is the need to remember that the investment we make in our human resource is an investment in our Navy's very survival.

This is a difficult struggle in our climate of fiscal austerity. Particularly at a time when education and training requirements are skyrocketing. Nevertheless, we must not lose sight of quality in our efforts at fiscal prudence.

Admiral Cagle's successor will be faced with serious questions about the consolidation and unification of training. While these functions have traditionally been considered as service-unique areas of responsibility, they will be under close scrutiny by the Department of Defense and Congress. It will be necessary to carefully weigh any new proposals for their impact on the Navy.

Finally, he will face the challenges of educating and training the Navy's all volunteer force. This challenge will require the utmost in dedication and attention.

Serious challenges, such as I have just mentioned, have been ever present during Admiral Cagle's tour. He has met them fully and successfully.

In recognition of his ability, and in appreciation of Admiral Cagle's brilliant and dedicated service, the Secretary of the Navy has approved for the President, the awarding of the Navy Distinguished Service Medal.

[Chief of Naval Education and Training Media Release]

THE NAVAL EDUCATION AND TRAINING COMMAND FACT SHEET

The Naval Education and Training Command provides a single agent responsible for the education and training requirements of today's modern Navy. With headquarters at Naval Air Station, Pensacola, Florida, the command is one of the nation's largest educational institutions, and is responsible for the setting of standards, establishment of priorities, determination of funding requirements, analysis of feedback, design of training systems, development and implementation of short and long-range plans, and the application of research and development to training and education.

Between 1955 and 1971, a number of studies were conducted with the consensus that training in the Navy had been fragmented, leading to duplication, overtraining and undertraining, inappropriate funding priorities and in general, lack of management. Despite recommendations to consolidate the separate training organizations of air, surface and submarine, no action to do so resulted. For this reason, in February 1971, the Naval Training Command Board, chaired by then Rear Admiral Malcolm W. Cagle, USN, was directed by the CNO to develop an implementation plan for a single Naval Training Command in the field, to consolidate existing Navy training structures and thereby achieve higher quality of individual, team and functional training with hoped-for savings in funding and manpower.

Based on recommendations of this aforementioned Board, the Naval Training Command was established. Also, within the CNO's staff, a Director, Naval Education and Training and the training divisions in each of the three warfare offices—submarine, surface and air—were also established to assist the Chief of Naval Training in effectively and efficiency managing education and training in the Navy. Admiral Cagle became both CNT/DNET. In 1973, the command was renamed the Naval Education and Training Command to reflect the transfer of the management of the Navy's education programs from Washington to Admiral Cagle's Pensacola staff. This organization is unique within the Department of Defense.

The Naval Education and Training Command currently manages 150 worldwide training activities, including 58 Naval Reserve Officer Training Corps (NROTC) units, 223 high school Naval Junior Reserve Officer Training Corps (NJROTC) units, the Atlantic area dependents overseas education program, and various degree seeking educational programs available to both enlisted and officer personnel. The average daily student load under CNET's management for all programs in 1973 was in excess of 112,000.

To manage this large training organization comprising almost one-fourth of the Navy, the Chief of Naval Education and Training is assisted by five subordinate flag officers: The Chief of Naval Technical Training, responsible for technical and specialized programs; the Chief of Naval Air Training, charged with the direction of all pilot and naval flight officer training, and flight indoctrination of fight surgeons and aerospace experimental psychologists; the Chief of Naval Education and Training Support, who directs the development and production of educational and training materials (books, examinations, correspondence courses, etc.); the Commander, Training Command, Atlantic and the Commander Training Command, Pacific who provide liaison and interface between the Education and Training Command and fleet training.

Since August 1971, therefore, a single manager has overseen the entire spectrum of education and training in the Navy. This centralized control has resulted in the accomplishment of the following management and administrative actions:

(1) Development of a systems approach to training and education

(2) Restructuring to reduce nonproductive student time through administrative requirements

(3) Reductions in curricula lengths
(4) Combining of similar courses
(5) Collocation of like activities
(6) Base closures
(7) Exploration and development of interservice training

(8) Reductions in the incidences of overtraining and undertraining

(9) Improved the management of the training performed by the U.S. Navy for foreign personnel and foreign navies.

These actions resulted in savings in fiscal year '73 of 27.767 million dollars and 4,925.8 manyears. The same philosophy and methodology is being continuously employed to achieve additional savings wherever possible.

Although the Naval Education and Training Command is continuing to be developed, the new structure has already significantly improved the ability of training to keep pace with the vastly more sophisticated new weapon systems of the 1980s. Heretofore, a 2 to 5-year lag between availability of a new weapon system and the availability of properly trained equipment operators and maintenance personnel was the norm. Through the single training command, the training community is now almost immediately involved with the Chief of Naval Material in the development of training plans and equipment to meet the new systems as they arrive in the fleet. This elimination of time lag will effectively yield a more modern Navy by two to five years.

A notable achievement of the new Education and Training Command directly related to the AVF has been the design and development of the "Navy Campus for Achievement" (NCFA), a management system designed to expand the training or education available to navymen. NCFA makes it possible for naval personnel to coordinate, document and certify both civilian and naval training and education so that a motivated sailor can gain either a skill certification or an associate degree during a career, despite his movement between sea and shore assignments. Seven civilian educational institutions are cooperating and have agreed to waive residency requirements, to accept Navy training for degree credit, and to accept the students from other institutions. As a result of the NCFA, a navyman now has the opportunity to obtain an associate degree in his off duty time despite his nomadic status.

The Navy complex in the Pensacola area has formed what historically has been called "The Cradle of Naval Aviation." More recently with the advent of CNET, Pensacola has become more diversified. Training Air Wings FIVE & SIX under Chief of Naval Air Training are still the most dominant naval influence in the community. Together with their tenant activities, training squadrons form the bulk of the Pensacola area naval community. They are responsible for training some 1800 to 2000 pilots and 700 to 800 naval flight officers annually.

However, Pensacola now includes the Chief of Naval Education and Training Support with its component parts of training manuals, examinations and correspondence courses. Ellyson Field, a former helicopter training base, has become the focus for a consolidation of the two Publication Detachments in Washington, D.C., and Memphis, the Naval Examining Center in Great Lakes, and the Correspondence Course Center in Scotia, New York. They are responsible for all the Navy course material and testing at the Naval Education and Training Program Development Center, Ellyson. Also, the Naval Technical Training Center at nearby Corry Station reports to CNET through the Chief of Naval Technical Training in Memphis. All the Navy's cryptological training and electronic warfare training takes place at this Corry activity. Naval personnel (staff and students) assigned to activities in the Pensacola area includes more than 3,000 officers and 9,500 enlisted. The civilian support force numbers 8,500, including those assigned to nonappropriated fund activites.

The approximate annual expenditure required to support the Naval Education and Training Command is 1.435 billion dollars.

The mission statements of CNET and its functional commands are:

CHIEF OF NAVAL EDUCATION AND TRAINING

The Chief of Naval Education and Training, under the Chief of Naval Operations, is responsible for:

Shore based education and training of Navy personnel and certain Marine Corps personnel in support of fleet and naval shore establishments.

Participating with research and development activities in the development and implementation of the most effective teaching/training systems and devices for optimal training.

CHIEF OF NAVAL TECHNICAL TRAINING

Conduct training for officers and enlisted personnel in technical and specialized areas to provide well qualified technicians required for a modern Navy.

CHIEF OF NAVAL AIR TRAINING

Administer, supervise and coordinate all elements related to pilot and naval flight officer training, flight indoctrination of student flight surgeons, aerospace experimental psychologists, midshipmen and the Navy Flight Demonstration Squadron, exercises operational control of the training carrier.

CHIEF OF NAVAL EDUCATION AND TRAINING SUPPORT COMMAND

Develop and provide support material and services to meet the training and education requirements of the Chief of Naval Education and Training.

COMMANDER, TRAINING COMMAND, ATLANTIC
COMMANDER, TRAINING COMMAND, PACIFIC

Maintenance of maximum degree of combat readiness in the Atlantic and Pacific Fleets by precommissioning, shakedown, refresher training. To serve as an effective instrument of U.S. foreign policy in promoting positive relations between the command and foreign nationals.

Vice Admiral Malcolm W. Cagle, U.S. Navy
Chief of Naval Training

Malcolm Winfield Cagle was born in Grand Junction, Colorado, on September 26, 1918, son of Victor M. and Anna Leola (Cross) Cagle. He attended Knoxville (Tennessee) High School, and entered the U.S. Naval Academy, Annapolis, Maryland, on Congressional appointment from Tennessee on June 11, 1937. As a Midshipman he participated in athletics (basketball, tennis and gymnastics) and was News Editor of the "Log." Graduated and commissioned Ensign on February 7, 1941, he progressed in rank to Vice Admiral on July 22, 1971.

After graduation from the Naval Academy in February 1941, he reported to the USS Overton, in which he served in communications and gunnery until January 1943. During the early period of World War II, the Overton was assigned as a convoy escort in the North Atlantic, and later operated in the Gulf of Mexico and the Caribbean, rescuing the entire crew of the Coast Guard cutter Acacia after an attack by enemy submarine, and taking them to San Juan, Puerto Rico.

From January to August 1943 he was a Student Naval Aviator at the Naval Air Station, Pensacola, Florida, and, designated Naval Aviator (HTA) on August 15, 1943, was ordered as Assistant Flight Instructor, Melbourne, Florida. In June 1944 he was assigned to duty in Fighting Squadron Eighty-Eight, based on the USS Yorktown, first as Executive Officer, and from June to October 1945 as Commanding Officer. He is entitled in the Presidential Unit Citation with star awarded the USS Yorktown, and was personally awarded the Navy Cross, Distinguished Flying Cross and Air Medal for the following actions:

Navy Cross: "For extraordinary heroism as pilot of a fighter plane and Acting Commanding Officer of Fighting Squadron Eighty-Eight, attached to the USS Yorktown, in action against enemy Japanese forces in Kure Harbor, Honshu, Japan, July 24, 1945. Fearlessly disregarding intense antiaircraft fire sent up from surrounding warships and shore batteries, Lieutenant Cagle pressed home his attack to score a direct hit on an enemy heavy cruiser which was left burning furiously. Returning to his base, he observed two friendly aircraft under attack by a numerically superior hostile force and, accompanied by his wingman, engaged the enemy and succeeded in destroying two of the attacking planes . . ."

Distinguished Flying Cross: "For heroism and extraordinary achievement in aerial flight as pilot of a fighter plane in Fighting Squadron Eighty-Eight, attached to the USS Yorktown, during operations against enemy forces over the Japanese Homeland, July 14, 1945.

Skillfully leading a fighter sweep, (he) assisted in strafing enemy trains exploding eight locomotives and in damaging a railroad bridge and several large buildings. In addition, he scored four rocket hits on an enemy freighter-transport and aided in the destruction of other merchant vessels . . ."

Air Medal: "For meritorious achievement in aerial flight as pilot of a plane in Carrier Air Group Eight-Eight . . . in the Japanese Homeland from July 10 to August 13, 1945. Participating in five flights during this period, (he) inflicted extensive damage on enemy shipping, airfields and installations and contributed materially to the success of the air group . . ."

Returning to the United States in October 1945, he served until June 1946 as Flag Secretary on the Staff of Commander Fleet Air, Alameda, at Headquarters in Alameda, California, then had two years of similar duty on the Staff of Commander Air Force, Atlantic. In June 1948 he assumed command of Fighting Squadron Sixty-Three, based on the carrier USS Franklin D. Roosevelt, and when detached in January 1950, reported to the Navy Department, Washington, D.C. for duty as Assistant to the Special Assistant to the Chief of Naval Operations (OP–004).

As Carrier Operations and Special Weapons Officer on the Staff of the Commander in Chief Naval Forces, Eastern Atlantic and Mediterranean, he was again abroad during the period January 1952 until June 1954. He then returned to the Navy Department to serve sixteen months as Special Assistant to the Secretary of the Navy, and from October 1955 until July 1957 as Administrative Aide to the Secretary. He was a student at the National War College, Washington, D.C. for the 1957–1958 school year, and in June 1958 reported as Operations Officer on board the USS Intrepid. He became Executive Officer of that attack aircraft carrier in March 1959.

Detached from the Intrepid in August 1959, he next served as NATO Representative of Commander Second Fleet, Paris, France and in July 1961 returned to the United States for duty as Deputy Director of the Institute of Naval Studies, Cambridge, Massachusetts. He remained there until June 1963 and in September of that year assumed command of the USS Suribachi (AE21). In July 1964 he became Commanding Officer of the USS Franklin D. Roosevelt (CVA42), and in October 1965 was assigned to the Office of the Vice Chief of Naval Operations, Navy Department. In December of that year, he transferred to the Office of the Deputy Chief of Naval Operations (Air), where he served as Director of the Aviation Programs Division until May 1966. In that capacity he was awarded the Legion of Merit "For exceptionally meritorious service . . ."

In June 1968 he assumed command of Carrier Division One. During this period he made two deployments to combat operations in WESTPAC. On 16 April 1969, he was designated as Commander Task Force Seventy-One following the North Korean shootdown of a Navy EC–121 reconnaissance aircraft. This force of 29 ships, including 4 carriers and 3 cruisers, was the largest combat naval force assembled since World War II. In that capacity he was awarded the Distinguished Service Medal "For exceptionally meritorious service from January to August 1969 . . ."

In September 1969 he reported for duty as Director of the General Planning and Programming Division, Office of the Chief of Naval Operations. A year later he became Deputy Chief of Naval Operations for Air.

On February 8, 1971, he was appointed Chairman of a special study board to implement a single naval training command concept, following which he became the Chief of Naval Air Training on July 21, 1971. On August 1, 1971, Vice Admiral Cagle assumed duties as the Chief of Naval Training and additional duty as Director Naval Education and Training.

In addition to the Navy Cross, Distinguished Service Medal, Legion of Merit, Distinguished Flying Cross, Air Medal, Presidential Unit Citation and Navy Unit Citation, Vice Admiral Cagle has the American Defense Service Medal; American Campaign Medal; Asiatic-Pacific Medal; European-African-Middle Eastern Campaign Medal; World War II Victory Medal; Navy Occupation Service Medal (Asia); National Defense Service Medal with bronze star; Korean Service Medal; United Nations Service Medal; Vietnam Service Medal; and Armed Forces Expeditionary Medal (Korea).

Vice Admiral Cagle is married to the former Virginia Lee Power of Knoxville, Tennessee, and they have three children, Patrick Cameron, Mary Winfield and Jane Forrest Cagle. Their official residence is Quarters A, Naval Air Station, Pensacola, Florida.

Vice Admiral Cagle has written books, essays, and television scripts. In collaboration with Captain Walter Karig, NSUR, now deceased, he wrote "Battle Report," Volume VI. In collaboration with Captain Frank A. Manson, USN (Retired) he wrote "The Sea War in Korea." He is the author of "The Naval Aviation Guide" He was the 1957 winner of the US Naval Institute Prize Essay Award and the 1957 Navy League winner of the Alfred Thayer Mahan Award He is the author of "The Butchers of Kapsan", a study of a classmate's adventure in the Korean War, which appeared on the television program "Navy Log" in January 1958, and other stories shown on the same program His latest books are "Flying Ships: Hovercraft and Hydrofoils" and "A Pilot's Meteorology."

CITATION

The President of the United States takes pleasure in presenting the Distinguished Service Medal (Gold Star in lieu of the Second Award) to Vice Admiral Malcom W. Cagle, United States Navy, for service as set forth in the following citation:

For exceptionally meritorious service to the Government of the United States in a duty of great responsibility as the first Chief of Naval Education and Training from August 1971 through August 1974.

Early in 1971, Vice Admiral Cagle was directed to form a study group in order to develop an implementation plan for the consolidation of all Navy education and training under a single command. As a result, the Naval Training Command was approved by the Secretary of the Navy, effective 1 August 1971. Through his exceptional perception, imagination, and leadership, he brought about numerous initiatives which not only substantially increased the effectiveness of Navy education and training but also significantly reduced costs. The development and implementation of a single-site flight training plan, the strengthening of recruit training, and the in-depth review and reorientation of Officer Professional Development are but a few of his distinctive achievements. Vice Admiral Cagle's establishment and management of the Seapower Symposia and his leadership in the successful program to substantially expand and improve facilities for the Naval Aviation Museum are outstanding examples of the many exceptional contributions he made to the Navy and the country.

Through his exemplary professionalism, perseverance, and selfless devotion to duty. Vice Admiral Cagle upheld the highest traditions of the United States Naval Service.

For the President,

J. WILLIAM MIDDENDORF,
Secretary of the Navy.

VADM CAGLE'S REMARKS AT HIS "CHANGE OF CAREER" CEREMONY ON 4 SEPTEMBER 1974

Mr. Sikes, Admiral Weisner, Secretary McCullen, Mr. Mayor, distinguished guests, ladies and gentlemen.

Looking at this audience, especially those in ranks and elsewhere who are in the sun, compels me to keep my remarks this morning very brief. I will. Total listening time: five minutes, ten seconds.

This afternoon, if all goes as scheduled, Dinnie and I will be sitting on the front lawn of our farm in Roseland, Virginia, under the big maple tree, looking at the white face cattle and the Blue Ridge Mountains. I'm sure we'll be a little disorganized and breathless from this hectic day and the past few weeks.

As my staff knows, I dislike the word "retirement" intensely. Very few involved and active people really retire—they just close one door in their life and open another. And so shall we.

I take full pride—but only a small part of the credit—for the accomplishments of the last three years here in Pensacola. The credit mainly belongs to the dozens and dozens of people, many who are present today, and some who have come a long way, who are more deserving of credit for these achievements and accomplishments than I. Time won't permit naming them—but those here who have been a part of this three year period of creativity, change, innovation and development—they know. I thank them, one and all, for putting it together—and for making it work.

Let me quickly inventory the three main ingredients of that success:

First, able and dedicated naval officers—the members of the original study team who labored for six months to design the organization of a consolidated Naval Education and Training Command. Then the officers and enlisted of the embryonic CNET organization, captains study group, and executive staff who came together here three years ago to make that organization work—Dean Axene, Jim Hooper, Bill Maloy and Bill McLaughlin among them. The civil servants, too, who brought their experience and knowledge to help us. Finally, the present staff, here and in Washington, who have and are doing such fine work.

Second, the Congressman of this district—Bob Sikes—believe me, he was a strong and helpful motive force in this great adventure.

Third, one of the most important ingredients of success has been the wonderful and unique community of Pensacola, and the many fine citizens of this area who have helped us the past three weeks. Time forbids cataloging their names individually here, so just let me express my heartfelt thanks to this city and its people—the mayor, the city council, the chamber of commerce and its military affairs committee, the Navy League, the northwest Florida news media, and the two universities here for working with the Navy to help get the Naval Education and Training Command off to such a good beginning.

I cannot leave without saying to my close personal friends who have come today—many from far away places to be here—our son, Pat; our daughter, Jane; my shipmates—George Cassell and Bill McLaughlin; my functional commanders—Al Sackett, Wes McDonald, Dean Mitchell, Newt Foss; my relatives from Tennessee; my old friends Kent Lee and Mike Michaelis; Dr. Gordon Sweet; and my academy classmates—Pierre Charbonnet, Tex Guinn, and our old Knoxville, Tennessee friends, Micky and Norma Weisner from Pearl Harbor. I'm deeply grateful to each of them for being here today. Finally, a deep bow to my personal staff here. Dinnie and I owe Margaret, Debbie, John, Curt, Rich and Chief John Murray so much. (I know that some of you know how hard and how well my wife has worked to help me these past three, indeed for 33 years—and how much I owe to her love and patience.)

I head for the Blue Ridge with four words of caution:

First, the cradle of naval aviation is not secure. Forces are still at work, as they have been for more than twenty years, to unify naval flight training with army and air force aviation. Those forces are today stronger than ever. Unified flight training would be, in my opinion, a national mistake and a Pensacola-West Florida tragedy.

Second, the all-volunteer force concept has not proved itself. Its success still depends on careerism in a Navy manned by high quality volunteers. And a career, professional Navy of high quality depends on how well the American people are willing to support such a force—not just with dollars but with appreciation and patriotism—and in my view that support is not yet certain.

Third, the state of declining American seapower—not just the U.S. Navy—but total American seapower—is critical—when measured against the steady and purposeful growth of Soviet maritime strength. The crossover point, in fact, was passed some time back—and, in my opinion, the American people neither recognize this disturbing fact—nor care.

Finally, the Navy now has a well designed, well built ship of naval education and training which has gone through her shakedown and sea trials, has passed the sea buoy and is now well out to sea, steady on course and speed. To the Naval Education and Training Command, my final request—don't give up the ship.

VIETNAM COUNTDOWN

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the dangers attendant to reducing our support of South Vietnam were spelled out clearly in a recent column in the Washington Post by Rowland Evans and Robert Novak.

Under the subtitle "What makes the threatened congressional aid cutbacks so perilous is the steady increasing aid to Hanoi from both China and the Soviet Union," the authors clearly point out that increasing aid to Hanoi from both China and the Soviet Union should give every Member of Congress deep concern lest we lose a true friend and staunch ally to the Communist powers.

I commend this column to my colleagues and ask permission for it to be reprinted in the CONGRESSIONAL RECORD.

VIETNAM COUNTDOWN

(By Rowland Evans and Robert Novak)

Although top strategists here still disagree on the Communist timetable for the next, massive countrywide offensive against South Vietnam, the remorseless political-military warfare now being waged by Hanoi's invaders is having devastating effects with cruelly perfected new tactics.

Despite the success of these tactics, Congress is showing ever more reluctance to finance Saigon's defense, as witness the immense reduction in both military and economic and requests from the Ford administration. When final action is completed, both will probably be slashed by close to 50 per cent.

The highly probable cutback in military aid, from $1.4 billion to around $700 million for the present fiscal year, means precisely what it implies—a 50 per cent "decrease in the capabilities" of South Vietnam's army.

What makes these threatened congressional cutbacks so perilous is the steady increasing aid to Hanoi from both China and the Soviet Union. Precise, computerized figures on this profligate assistance from Peking and Moscow are, of course, beyond the capacity of American intelligence. But experts here nevertheless know for a certainty that 1974 economic aid is "far above" the level of 1973.

That nonmilitary assistance from Peking and Moscow, if continued at present levels for the balance of the year, will exceed total American economic aid by at least two and possibly three times. The Communist economic aid to Hanoi is now estimated at $1.2 billion-a-year rate—three times the economic aid package for South Vietnam approved on Aug. 13 by the Senate Foreign Relations Committee.

As for military help, U.S. officials believe that there is now enough ammunition in Communist hands to sustain an offensive at the ferocity levels of the spring 1972 Communist offensive for fully 18 straight months.

Directly matching this combat potential is the alarming fact that Hanoi has now infiltrated 160,000 fresh combat troops into the South since the Jan. 28, 1973, cease-fire. That brings the Communist troop level to an estimated 300,000 today (including perhaps 75,000 native Vietcong troops)—and every single infiltrated North Vietnamese regular is a direct violation of the cease-fire agreement.

But it is the perfectability of Communist tactics, particularly in the peripheral areas where Saigon's control touches or overlaps areas of Communist control, that concerns the Ford administration most.

The tactics are designed to further this strategy: by terror and kidnaping, frighten new settlers sent by Saigon to populate isolated areas, thus rendering the newly settled areas vulnerable to Communist advance.

Statistics now available here tell the story. In the Sonha District of coastal Quangnai Province, 130 homes of new settlers were burned to the ground in late spring to discredit Saigon's power. The inhabitants were then "encouraged" to move westward into regions "liberated" by Hanoi where Communists suffer grievous shortages of manual labor, farm workers and pack carriers.

One month later, in the Donglo resettlement center, 200 homes were destroyed, 100 civilians killed and 15 wounded.

To the north in Quangnam Province—near the port of Danag—the invaders forcibly uprooted more than 10,000 civilians settled there two years ago and moved them west to "liberated" areas as virtual slave labor.

From several refugees who escaped this transfer of population it has been established that the Communist plan called for the abduction of no fewer than 15,000 South Vietnamese civilians, most of them farmers and artisans, from a single district in that province.

This is a repeat, but with perfect tactics, of the very strategy practiced against South Vietnam by Hanoi's invaders before and during the notorious—but unsuccessful—1972 spring offensive. Vastly aiding the Communists, of course, is the absence today of U.S. air power and the fact that Hanoi's troops are more muscular and better-trained than two years ago.

It is no wonder, then, that the U.S. officials most experienced in the long, bloody Vietnam war now give about 50–50 odds that the long-feared next general offensive will come this fall. But even the optimists—a dwindling band—believe that if the offensive doesn't come then, it will be sprung around Easter time next year.

Indeed, the slender hopes of January 1973 have all but disappeared. U.S.-Soviet detente and the dramatic diplomatic opening to China have neither isolated Vietnam from world political currents nor encouraged a political bargain between Saigon and Hanoi based on military stalemate.

To the contrary, the opposing centers of world communism seem still bent on fueling Hanoi's lustful conquest of the South, while Saigon's benefactor seems unwilling to fuel its well-established capacity to resist.

DEATH BY THE SALESMEN

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the Armed Forces Journal of July 24 carried a comprehensive summation of Soviet efforts to drain American know-how, particularly our high technology expertise for their own military and commercial purposes. It is written by Senator HENRY M. JACKSON, one of the Nation's best informed individuals on trade and defense. It is well to give serious thought to his statement. It is based on a June 11 speech on the Senate floor in which Senator JACKSON spoke strongly in favor of an amendment to the defense procurement bill that would give more clout to the Secretary of Defense in the processing of export licenses to Soviet Union and Communist bloc. His amendment, which passed substantially as he proposed, gives the Secretary of Defense the authority "to disagree to the issuance of any export license" that he thinks would significantly increase the military capability of the recipient. JACKSON's amendment puts greatest emphasis on export licenses involving high technology product sales with potential military application.

DEATH BY THE SALESMEN

(By Senator HENRY M. JACKSON)

Requests for export licenses for the transfer of high technology to the Soviet Union and eastern bloc countries has increased dramatically in recent years. Right now there are 200 cases awaiting action in the computer area alone.

The existing procedures weigh the determination to grant an export license heavily on the side of commercial interests. In my judgment, commercial considerations ought to be subordinate to considerations of national security in the granting of export licenses—particularly in the area of high technology—to the Soviet Union and the eastern bloc. I believe that decisive authority to pass on these requests should lie in the Defense Department which is the best able department to assess the military implications of proposed exports.

The Soviets have made it plain that their interest in importing technology lies not so much in buying our products as in buying our know-how and production capability. The Soviets do not lack ability in basic science. It is in turning basic scientific and technical ideas into production line items that they lag far behind us. It is the products, techniques and manufacturing facilities which represent our highest technology in which the Soviets are principally interested. Agriculture is one of these, but I shall concentrate my attention here on those which have more direct military significance. Wide-bodied jets, computers, and integrated circuitry are three good examples of the kind of thing I have in mind.

First, consider wide-bodied jets. There are only three companies in the world who produce long range, wide-bodied jets: Boeing, Lockheed and McDonnell-Douglas. The Soviets have asked all three of our wide-bodied jet manufacturers to build a large capacity aircraft manufacturing complex for the quantity production of wide-bodied transport aircraft. (AFJ note, Boeing has already signed a protocol with USSR as a step toward participation in program.) This aircraft manufacturing complex would be more advanced than anything in the United States. It would produce in one place everything from the airframe and the engine to the fasteners. No such integrated aircraft manufacturing complex now exists anywhere in the world. The aircraft it would produce would be 60% faster, carry 25% more, and fly 20% farther than the world's now largest wide-bodied jet, the 747.

The military implications of such a plant are obvious. It is the opinion of our best analysts that the Soviets have no need for so many long range jets of such large capacity and high speed for commercial purposes. Nor are they likely to develop such a need in the foreseeable future. They might, of course, be planning to export these jets to the world market, which would deeply injure our own aircraft industry and remove the biggest industrial hard currency earner we have.

But the Soviets do have a clear military need for such aircraft. They have previously based military transports upon prior civilian transports. The AN–12, for example, their most common military transport was produced from the AN–10, a civilian transport. While the Soviets have a considerable cargo carrying capacity in their present military transports (although as we have seen in the recent Arab-Israeli conflict, it is not up to our own), they lack suitable aircraft for moving large numbers of troops over long distances. They have their forces dispersed in two large groups, one in Western Russia and Eastern Europe; the other in the Far East along the Chinese border. They very much need the capability to move troops from one of the areas to the other rapidly, surely and efficiently. In addition, the capability for Soviet military intervention in other areas of the globe, such as we recently were faced with in the Middle East, would be enormously facilitated by superheavy, very long range, high speed, wide-bodied jets. Moreover, since what the Soviets wish to purchase are not aircraft, but an intergrated production facility, it could also be used to make any sort of long range, high speed aircraft including other types of military transports, airborne tankers, and very large bombers.

Let me now turn to the area of computers. Computers perform vital functions throughout the entire structure of our defense establishment. It is not only the speed of a computer that is important, but also its flexibility of function, its ability to input and output data, the number of independent users it can simultaneously serve, and the amount and type of software which is, or can be made, available to use on it. The most current estimate by the Commerce Department's own independent technical advisers is that we are at least 10 years aread of the Soviets in computer capability and that they show no signs of closing the gap. Five years ago they were also 10 years behind us.

In the middle 1960's the Soviet Union decided to move into third generation hardware by building the RYAD family of machines based on the architecture of the IBM series 360 computers. By 1969, most of the countries of Eastern Europe had joined the program under Soviet pressure. The original Soviet goal was to begin production in 1970, and to produce 12,000 to 15,000 RYAD's during the ninth five year plan (1971–75). The only RYAD model in current production is the small ES–1020, and probably no more than 100 of these machines were built by the end of 1973. The expansion of 1020 production and the series production of the other models suffer primarily from serious difficulties in the production of sufficient quantities of reliable integrated circuits, and to a lesser degree from a lack of modern production technology. It seems clear that the Soviets' original goal of several thousand RYAD's per year by 1975 is unobtainable. Without Western assistance this goal may prove difficult even by the end of the 1970's.

The Soviets are making every effort to close the gap in computer technology in the only way that is possible for them: to get us to give it to them. Their efforts have not been without success. Recently one of our largest computer companies signed a Protocol of Intent with the Soviet Union which calls for the joint development of the next generation of large high speed computers. In addition, this protocol calls for the American company to create a plant for manufacturing this new computer and for manufacturing the most modern peripheral devices. This plant, in the usual Soviet style, would be one of the largest in the world. This venture, if allowed, would not only create, full-blown, a most serious competitor for our overseas computer sales, but it also would, by moving the Soviets 10 years into the future, enormously upgrade their military potential across the board.

Finally, integrated circuits are critical components in almost all of our high technology military systems. As a matter of fact, integrated circuits were first developed for the Minuteman missile program, largely with research and development funds appropriated for the Air Force in procurement bills such as this one. Until 1967 the vast majority of all integrated circuits produced in this country went into military systems. In addition, they plan a fundamental role in the production of modern computers. As I indicated earlier, the most important factor holding up the new Soviet line of computers is their difficulty in the production of sufficient quantities of reliable integrated circuits. The technology of integrated circuits lies not in the circuits themselves, but in the production line by which they are produced.

One of the countries of the Soviet bloc, not long ago, signed a contract with one of our largest manufacturers of integrated circuits. This contract calls for the American company to set up a complete turnkey production line to make integrated circuits for hand calculators. It also calls for this American company to transfer any new knowledge and techniques that it develops for the production of these circuits within the next five years. The production of integrated circuits for hand calculators sounds like an ordinary commercial transaction. But it has implications far beyond that. Because the technology lies not in the circuits but in the production line, such a production line, with at most minor changes, can produce almost the entire range of circuits used in military applications. If this production line is built, we will have transferred a large part of our national integrated circuit technology. This is particularly true since, with the very large amount of cross licensing in this industry, the technology available to this company includes most of the technology in the industry as a whole. If this contract is allowed to go through, we will have removed the largest single problem the Soviet bloc has in the production of modern computers, and enormously upgraded the military potential of our adversaries. All this for less than $20 million, and most of that on very low cost loans.

We, and our allies have gone down the road of unimpeded free trade for a quick buck with our totalitarian adversaries before. The scrap iron we sold to Imperial Japan before the Second World War came back on battlefields in the Pacific. The Rolls-Royce Neve jet engines the British sold to the Soviet Union after the Second World War were copied and went into the MiG–15s which flew against us and the British in Korea, and the MiG–17s which have flown and are still flying against our allies today.

The mistakes we are in danger of making today are far more serious. The Soviet Union has more men, more planes, more tanks, and more of almost every other kind of armament than we do. It is only the quality of our weapons that allows us to maintain the military balance. The higher quality of our weapons is almost solely based on our more advanced technology and manufacturing know-how. If we do not give the Soviets our most advanced technology, I do not believe, given the nature of our two societies, that they will ever catch up. Indeed, I believe they will fall constantly further behind. If we do give them our most advanced technology, if we design for them the world's most advanced wide-bodied jets and super-computers and then build them the world's largest plants to manufacture these and other high technology products, we will earn the all time record for shortsightedness.

I understand that the U.S. Government thinks the problem is serious enough that a special, high-level NSC study has been commissioned in the last month to determine what can be done to stem the leak of technology having military application to the U.S.S.R.

The preliminary conclusions of that study group, which involves the U.S. intelligence community, and the Departments of State, Defense, and Commerce, indicate that there is indeed a much larger flow of military-related technology to the Soviets than the Government had previously suspected; that our system of control is full of loopholes, and that it can be—and has been—easily evaded; that Soviet military capabilities have already profited extensively from the transfer of U.S. technology; and—what is most dangerous of all—the U.S. Government's system for keeping tabs on these transactions is so poor that the administration has absolutely no confidence that it even knows the full extent to which the Soviets have profited from the technology dump that has been going on over the last several years.

It is a situation that verges on scandal. The Soviets are exploiting it to the hilt; and until we get some effective control over it, they will continue to mine our advanced technology in support of their effort to shift the military balance further to their own advantage.

TRIBUTE TO GENERAL ABRAMS

(Mr. HÉBERT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HÉBERT. Mr. Speaker, a great man and a good friend died on September 4. Army Chief of Staff Gen. Creighton Abrams lost a battle with cancer.

His death is a deep personal loss to me and he will be sorely missed by the Army and this country. He was a breath of fresh air, and I and the entire House Armed Services Committee appreciated his honesty and candor when he appeared before us.

In these times of antimilitarism, General Abrams was one of our country's best weapons for restoring confidence to our Military Establishment. The accomplishments and efforts he expended will not be forgotten, and we will continue to reap the benefits of this enlightened, heroic soldier. My deepest sympathy is extended to his family.

Since I was in Europe on official business at the time of his death, I want to enclose some articles written about him which shows the high regard in which he was held. Two are from the September 18 issue of Army Times and one is from the Traveller, published at Fort Lee, Va.:

THE ARMY'S LAST HERO

(By Don Hirst)

WASHINGTON.—The man who led U.S. combat units out of the Vietnam quagmire without a major disaster lost his biggest battle on September 4.

The death of Army Chief of Staff Gen. Creighton Williams Abrams, 59, came slightly less than three months after surgeons removed a cancerous left lung on June 6 and exactly 10 years after his promotion to full general. He had returned to duty on July 25 but was readmitted to Walter Reed Army Medical Center on August 17. Doctors subsequently discovered a clot in his right leg and another in his lung. After a long and lonely battle, death claimed one of America's last military heroes.

Gen. Abrams is survived by his wife, Julia, and their six children, including Creighton W. Jr., an Army major who is currently a student at the Command and General Staff College, Fort Leavenworth, Kans., and John N., an Army captain who is currently an instructor at West Point.

It is somehow fitting that this man did not succumb without a struggle. His football teammates called him the "loudest, happiest, fightin-est man" on the West Point squad. He was graduated in 1936 and the yearbook noted: "Wherever you find Abe, you'll find action. The two are inseparable. Catching hell as a plebe or dishing it out as a yearling, talking it up at football practice or driving the stage crew of the Hundredth Night Show, he's always on the go. The lightest lineman on the Plebe squad, he started his football career on the sixth string; but his energy and spirit soon won him recognition, and though he holds the Academy warm-up record, he stuck and made his letter. Never satisfied to be inactive long enough to do any heavy studying, Abe doesn't rank among the elite of the section. Consequently, he'll probably be in the Cavalry, and we believe the horses will have to work hard to keep up with him."

The Army had switched from the horse to the tank by the time Lt. Col. Abrams participated in the breakout from the Normandy beachhead in 1944. During the lightning Allied thrust across France, Abrams rode at the head of his tank column, frequently chewing on a large cigar.

He spearheaded the drive to relieve the encircled 101st Abn Div at Bastogne. Brig. Gen. Anthony McAuliffe may have replied "Nuts" to the Germans, but the Abrams remark during the Battle of the Bulge typified the man who would one day be chief of staff: "They've got us surrounded again, the poor bastards."

During the push to Bastogne, he spotted an American tank that was pinned down by a fallen telephone pole. Despite constant gunfire from the Germans, he and his crew hoisted the pole off the tank. As Gen. George S. Patton once put it, "I'm supposed to be the best tank commander in the Army, but I have one peer: Abe Abrams.'"

Following War II, he served in a number of staff positions and attended the Command and General Staff College as well as the Army War College. During the Korean War he served successively as chief of staff for I Corps, X Corps and IX Corps. He was promoted to brigadier general in 1956 and to full general in 1964.

In 1967 Abrams left his job as the Army's Vice Chief of Staff to become the number two commander in Vietnam under Gen. W. C. Westmoreland. During the 1968 Tet offensive, Abrams listened to the rosy reports of a briefing officer on the situation in I Corps and supposedly remarked: "Gentlemen, we got our asses handed to us." According to a veteran Associated Press reporter, he then turned around and stalked out of the briefing room.

When Westmoreland became Chief of Staff in 1968, Abrams assumed command of all American forces in Vietnam. In contrast to his predecessor, the rumpled, cigar-chomping Abrams shunned publicity while he settled down to the most difficult task of his Army career, shifting the burden of the fighting onto the South Vietnamese while American units staged a phased pullout from Vietnam.

"You have to eat an elephant bite by bite," was the way he phrased it. No longer did American units conduct massive operations that netted mixed results. When Abrams took the helm, emphasis was placed on small unit actions, night operations by small patrols and raids on enemy supply caches. The biggest of these was the 1970 Cambodia invasion, a move that caused much dissent in the U.S. but was favored by soldiers in the field. "It's about damn time," remarked one soldier from the 1st Air Cav Div as he stacked case after case of enemy guns his unit had captured several miles inside the Cambodian border.

The biggest test of the upgraded South Vietnamese army came during the 1972 spring offensive. Although they were routed at Quang Tri, the ARVN soldiers held their ground at An Loc and Kontum despite massive North Vietnamese tank assaults and artillery barrages that rivaled World War I in intensity.

By the time he returned to Washington to await Senate confirmation of his appointment as Army Chief of Staff, a combination of American air power and an unexpected show of backbone by the South Vietnamese had blunted the offensive. Typical of the man was his departure from Vietnam: no public change of command, no farewell parties. He was presented a medal by South Vietnamese President Nguyen Van Thieu under what press reports after the fact called "strict security." That translated to "no publicity" for the man who was a soldier's soldier. That was the way he was. And that was the way he wanted it to be.

Abrams' Imprint Lingers

(By Phil Stevens)

WASHINGTON.—A man like Creighton Abrams leaves many different imprints on the people and things he has touched.

Too briefly he touched the soul of the Army and gave it better insight into its frailties. He left behind an Army that is the spiritual and physical superior of the one he inherited.

He touched many people. Some knew him for years. Others like myself, knew him in a relatively brief period of service in Vietnam and perhaps as a member of the Army Staff.

The "COMUS Hot Line" on my desk at MACV rang for the first time in early July 1971. I was just back "in country"—a few days into my second tour.

"Abrams" announced the growl on the receiver. "Have you got a minute?"

He wanted to talk about public affairs policy. The aide introduced us. I sat as instructed. The Boss stared at the ceiling, blew cigar smoke but said nothing.

Is he baiting me? Should I attempt some inanity to break the ice? No. Shut up.

He began to talk slowly but with an articulateness that surprised me. In the few minutes of our first meeting he gave me the most succinct and professionally workable set of public affairs guides I had ever heard.

The long minutes of silence were typical. So were the organized and articulate statements that followed. He liked to make his point with anecdotes and homilies that seemed "country" at the first blush but really were not.

"We had better invoke the Pig Rule," he told a Country Team meeting called to discuss a Cambodian request for extravagant logistic support. The need had been generated more by corruption and mismanagement than by combat losses.

"The Pig Rule?" asked an incredulous Ambassador Ellsworth Bunker.

"Sure," said Abe. "You know—never wrestle with pigs. You get dirty and they enjoy it."

When two Navy F-4 crews became the first "Aces" of the Vietnam War we brought them to Saigon to meet the press. I asked the Boss if he would see them for a few minutes and he agreed to sandwich them into a horrendously busy day.

The 15-minute meeting lasted well over two hours as the four Navy lieutenants gave the Boss and his two four-star deputies a lesson on what the air war in the North was really like. The waiting room was overflowing with irate major generals and colonels long past their scheduled appointments.

Abe's pride in those young warriors shown like a beacon. He sited them as prime sources of aerial combat wisdom for weeks, his eyes would light up—Damn, those were real professionals!"

His monthly appearances at the MACV dining-in always played to a sellout crowd because a staff that already idolized him knew they would come away with a better insight into the man.

"I've just been notified of my fourth extension," he said one night.

"It's kinda discouraging when you've been in grade seven years and they can't find a new job for you."

Of course "they" did find a new job for him.

Although that job did not run its full course he probably contributed more in indefinable ways than he ever knew or anyone will ever discern. He gave honesty, warmth, humanity and, above all, selflessness.

Army Chief of Staff Dies

(By Maj. Peter T. Knapp)

A great man left the Army's ranks at 35 minutes after midnight on Wednesday, September 4.

Creighton Williams Abrams, born in Springfield, Mass., died in Walter Reed General Hospital in Washington, D.C. He was 59 years old.

The years had taken their toll on the gallant warrior. He was a far different man in the waning years of the war in Vietnam than he was when this reporter first met him in Germany.

In those early days General Abrams could walk into a room and awe people by his very presence. One senior officer best summed up the Abrams mystique very eloquently when he said: "General Abrams is like fireworks; when he is around he scares the hell out of people, but there is no denying his big bang."

Undoubtedly, now that he is gone, the Abrams legend will grow and he will probably be eulogized as another Patton and that will be a shame because he was a far different individual. He was unique. He was not an imitation of anyone.

Creighton Williams Abrams was not the renegade that Patton was. Instead, from the time that he entered the United States Military Academy at West Point until the last, he was very much the establishment man. He was very good at working within the system and he held a reverence for it. That reverence, coupled with a natural ability to make men rise to their greatest heights caused Abrams to rise from the ranks as an obscure 4th Armored Division battalion commander in WWII to national prominence.

The former Chief of Staff of the Army was a tough man, a cigar-smoking, get-the-job-done individual. But he was also a religious man who was in the habit of going to religious services every morning. Whether it was his work or his religion, he did it hard and did it well.

Toward the end of the Vietnam conflict, and before he became the Army's Chief of Staff, it was a familiar sight to see the white-haired general trodding across the Military Advisory Compound in Saigon with his pet dog in trail. He would occasionally pause to watch the tennis players which seemed so innocuous and paradoxical to the war-time setting.

He was laboring then. The great strength was no longer there, but he was where he wanted to be—in a soldier's environment.

Some said that he didn't have the polish to become Chief of Staff of the Army. Others said that his elevation to that post was merely a reward for his services in Vietnam.

Whatever his critics said, he proved them wrong. The man that many said would always be a tank commander at heart proved to be an able executive as he set about trimming the fat from the Army and reorganizing it into functional elements without so many headquarters.

One thing is for sure the Army was not hurt by the Abrams years. Our ranks will miss him but history will proclaim him.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BLATNIK (at the request of Mr. O'NEILL), for the period September 16 through 30, on account of official business.

Mr. CONABLE (at the request of Mr. PRITCHARD), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCCOLLISTER) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 15 minutes, today.

Mr. MILLER, for 15 minutes, today.

(The following Members (at the request of Mr. MEZVINSKY) to revise and extend their remarks and include extraneous material:)

Mr. FLOOD, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. OWENS, for 10 minutes, today.

Mr. RODINO, for 5 minutes, today.

Mr. JOHN L. BURTON, for 10 minutes, today.

Mr. ADDABBO, for 10 minutes, today.

Ms. HOLTZMAN, for 5 minutes, today.

Mr. DANIELSON, for 10 minutes, today.

Mr. DENT, for 15 minutes, today.

Mr. PHILLIP BURTON, for 60 minutes, on September 17.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ROSENTHAL and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $3,753.

Mr. FRASER and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,668.

(The following Members (at the request of Mr. MCCOLLISTER) and to include extraneous matter:)

Mr. MILLER in four instances.

Mr. BAUMAN.

Mr. GILMAN.

Mr. MCCLORY.

(The following Members (at the request of Mr. MEZVINSKY) and to include extraneous matter:)

Mr. ANNUNZIO in six instances.

Mr. GONZALEZ in three instances.

Mr. RARICK in three instances.

Mr. ANDERSON of California in two instances.

Mr. FORD.

Mr. VAN DEERLIN.

Mr. CHARLES WILSON of Texas in 10 instances.

Mr. RANGEL in 10 instances.

Mr. EDWARDS of California.

Mr. HAMILTON.

Mr. CULVER.

Mr. CARNEY of Ohio.

Ms. JORDAN.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 87. Concurrent resolution recognizing the centennial anniversary of the University of Nevada; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 14883. An act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for a 2-year period, and for other purposes;

H.J. Res. 910. Joint resolution asking the President of the United States to declare the fourth Saturday of September, 1974, "National Hunting and Fishing Day"; and

H.J. Res. 1070. Joint resolution authorizing the President to proclaim the period of September 15, 1974, through October 15, 1974, as "Johnny Horizon '76 Clean Up America Month".

ADJOURNMENT

Mr. MEZVINSKY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 4 minutes p.m.), the House adjourned until tomorrow, Tuesday, September 17, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2747. A letter from the President of the United States, transmitting amendments and supplemental appropriations requests for fiscal year 1975 for the Department of Health, Education, and Welfare (H. Doc. No. 93–353); to the Committee on Appropriations and ordered to be printed.

2748. A letter from the Assistant Secretary of State for Congressional Relations; transmitting a joint statement between the United States and the U.S.S.R. concerning future discussions on the dangers of environmental warfare; to the Committee on Foreign Affairs

2749. A letter from the Administrator, Agency for International Development, Department of State, transmitting a report on famine in sub-Sahara Africa, pursuant to section 639A(a) of the Foreign Assistance Act of 1961, as amended [22 U.S.C. 2399–1a (a)]; to the Committee on Foreign Affairs.

2750. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties entered into by the United States, pursuant to Public Law 92–403; to the Committee on Foreign Affairs.

2751. A letter from the Secretary of the Interior, transmitting a plan for the use and distribution of judgment funds in dockets 30 and 48, and 30–A and 48–A, before the Indian Claims Commission, pursuant to 87 Stat. 466; to the Committee on Interior and Insular Affairs.

2752. A letter from the Secretary of the Interior, transmitting a plan for the use and distribution of Red Lake Band of Chippewa judgment funds in docket 189 before the Indian Claims Commission, pursuant to 87 Stat. 466; to the Committee on Interior and Insular Affairs.

RECEIVED FROM THE COMPTROOLLER GENERAL

2753. A letter from the Comptroller General of the United States, transmitting a report on the need to reimburse health facilities to consistently under medicare and medicaid; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. SULLIVAN: Committee of conference, Conference report on H.R. 11537 (Rept. No. 93–1352). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO:

H.R. 16660. A bill to exclude from gross income the first $1,000 of interest received from savings account deposits in home lending institutions; to the Committee on Ways and Means.

By Mr. BINGHAM:

H.R. 16661. A bill to amend the Land and Water Conservation Fund Act of 1965 with respect to the apportionment of funds to States available under that act, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DANIELSON:

H.R. 16662. A bill to amend section 204 of the Federal Water Pollution Control Act to authorize the use of ad valorem taxes to satisfy the user charge system requirement; to the Committee on Public Works.

By Mr. EILBERG (for himself, Mr. GREEN of Pennsylvania, and Mr. DENT):

H.R. 16663. A bill to amend the Public Health Service Act to promote the health and welfare of children in need of adoption by facilitating their placement, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HINSHAW:

H.R. 16664. A bill to terminate age discrimination in employment; to the Committee on Education and Labor.

By Mr. JOHNSON of Pennsylvania:

H.R. 16665. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the amount of certain cancellations of indebtedness under student loan programs; to the Committee on Ways and Means.

By Mr. KEMP:

H.R. 16666. A bill to extend the State and Local Fiscal Assistance Act of 1972 for 7 years; to the Committee on Ways and Means.

By Mr. RINALDO:

H.R. 16667. A bill to designate the birthday of "Susan B. Anthony" as a legal public holiday; to the Committee on the Judiciary.

By Mr. **RODINO**:

H.R. 16668. A bill to terminate certain national emergencies still in effect, and to provide for the orderly implementation and termination of future national emergencies; to the Committee on the Judiciary.

By Mr. RONCALLO of New York:

H.R. 16669. A bill to amend section 1979 of the Revised Statutes (42 U.S.C. 1983) to establish a 1-year statute of limitations on actions under such section against certain law enforcement officers; to the Committee on the Judiciary.

H.R. 16670. A bill to amend title 38 of the United States Code to authorize the burial in national cemeteries of the surviving parents of deceased servicemen who were unmarried at the time of death; to the Committee on Veterans' Affairs.

By Mr. RYAN:

H.R. 16671. A bill to create a U.S. Amnesty Commission to make recommendations to the President on appropriate action to be taken, on a case-by-case basis, with respect to certain persons; to the Committee on the Judiciary.

By Mr. VANDER JAGT:

H.R. 16672. A bill to provide for the development of a long-range plan to advance the national attack on arthritis and related musculoskeletal diseases and for arthritis training and demonstration centers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 16673. A bill to amend the Merchant Marine Act, 1936, in order to establish a Great Lakes Region Office in the Maritime Administration, Department of Commerce; to the Committee on Merchant Marine and Fisheries.

By Mr. DENT:

H.J. Res. 1124. Joint resolution proposing an amendment to the Constitution of the United States to repeal section 2 of the 25th article of amendment to such Constitution (relating to succession to the Vice President); to the Committee on the Judiciary.

H.J. Res. 1125. Joint resolution proposing an amendment to the Constitution of the United States, clause 1, section 2 of article 2 (relating to the pardoning powers of the President); to the Committee on the Judiciary.

By Mr. GUDE (for himself, Mr. Badillo, Mr. Sarasin, Ms. Abzug, Mr. Fauntroy, Mr. Reuss, Mr. Roybal, Mr. Coughlin, Mr. Symington, Mr. Charles H. Wilson of California, Mr. Conable, Mr. Hechler of West Virginia, Mr. Gray, Mr. Gibbons, Mr. Sisk, Mr. Won Pat, and Mr. Culver):

H.J. Res. 1126. Joint resolution to require the Watergate Special Prosecution Force to make available to the public a report on all information it has concerning Richard M. Nixon in offenses against the United States; to the Committee on the Judiciary.

By Mr. GUYER:

H.J. Res. 1127. Joint resolution to authorize and request the President to issue annually a proclamation designating January of each year as "March of Dimes Birth Defects Prevention Month"; to the Committee on the Judiciary.

By Mr. TRAXLER:

H.J. Res. 1128. Joint resolution to authorize and request the President to issue a proclamation designating May 13 of each year as "American Business Day"; to the Committee on the Judiciary.

By Mr. ADDABBO:

H. Con. Res. 636. Concurrent resolution expressing the sense of Congress with respect to certain pardons granted or which may be granted by the President; to the Committee on the Judiciary.

By Ms. ABZUG (for herself, Mr. Badillo, Mr. John L. Burton, Mr. Dellums, Mr. Eilberg, Mr. Hechler of West Virginia, Mr. Helstoski, Ms. Holtzman, Mr. Koch, Mr. Rosenthal, Mr. Stark, Mr. Stokes, Mr. Symington, and Mr. Charles H. Wilson of California):

H. Res. 1367. Resolution of inquiry relating to Presidential pardon of Richard Nixon; to the Committee on the Judiciary.

By Ms. HOLTZMAN:

H. Res. 1368. Resolution to call on President Ford to disclose voluntarily all the facts regarding his grant of a pardon to Richard Nixon and to authorize and direct the House Committee on the Judiciary to investigate these facts if not such voluntary disclosure has been made; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTION

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. BOGGS:

H.R. 16674. A bill for the relief of Jude Agnes Andrea Cucurullo; to the Committee on the Judiciary.

By Mr. EILBERG:

H.R. 16675. A bill for the relief of Ball State University and the American Association of Colleges for Teacher Education; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

494. By the SPEAKER: Petition of the City Council, New York, N.Y., relative to the Turkish opium ban; to the Committee on Foreign Affairs.

495. Also, petition of the City Council, New York, N.Y., relative to Cyprus; to the Committee on Foreign Affairs.

496. Also, petition of the City Council, New York, N.Y., relative to removal of hazardous materials from passenger planes; to the Committee on Interstate and Foreign Commerce.

497. Also, petition of Raymond Irving Bishop, Washington, D.C., relative to redress of grievances; to the Committee on the Judiciary.

498. Also, petition of the City Council, New York, N.Y., relative to reimbursement of the city of New York for police protection of the United Nations and at foreign missions, consulates, and trade offices; to the Committee on Public Works.

499. Also, petition of members of the City Council, Wickliffe, Ky., relative to general revenue sharing; to the Committee on Ways and Means.

500. Also, petition of the fiscal court, Ballard County, Ky., and the City Council, Mayfield, Ky., relative to general revenue sharing; to the Committee on Ways and Means.

SENATE—*Monday, September 16, 1974*

The Senate met at 12 o'clock noon and was called to order by Hon. William D. Hathaway, a Senator from the State of Maine.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, in whose providence this Nation was born and by whom it has been guided in the past, make us ever mindful of our goodly heritage. Spare us from merely caressing antiquities or fondling ancient episodes. But help us to distill from the wisdom of the past all that is holiest and healthiest for service in the present.

> "To serve the present age,
> My calling to fulfill;
> O, may it all my powers engage
> To do my Master's will!"
> —John Wesley, 1762.

In His holy name, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., September 16, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. William D. Hathaway, a Senator from the State of Maine, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. HATHAWAY thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of proceedings of Thursday, September 12, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the President pro tempore, appoints the Senator from New York (Mr. Javits) to attend the United Nations World Food Conference, to be held at Rome, Italy, November 5–16, 1974.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

INTERNATIONAL ATOMIC ENERGY AGENCY CONFERENCE REPRESENTATIVES

The second assistant legislative clerk proceeded to read sundry nominations of International Atomic Energy Agency Conference representatives.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Coast Guard which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 1092, 1093, and 1100.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORIZATION FOR SALE OF RESERVED PHOSPHATE INTERESTS OF THE UNITED STATES IN CERTAIN LANDS IN FLORIDA

The bill (H.R. 10626) to authorize the Secretary of the Interior to sell reserved phosphate interests of the United States in certain lands in Florida to John Carter and Martha B. Carter was considered, ordered to a third reading, read the third time, and passed.

MUNICIPAL SECURITIES ACT OF 1974

The Senate proceeded to consider the bill (S. 2474) to amend the Securities Exchange Act of 1934, as amended, to provide for the regulation of brokers, dealers, and banks trading in municipal securities, and for other purposes, which had been reported from the Committee on Banking, Housing and Urban Affairs with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Municipal Securities Act of 1974".

SECTION 1. Section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)) is amended to read as follows:

"(12) The term 'exempted security' or 'exempted securities' includes securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States; such securities issued or guaranteed by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury as necessary or appropriate in the public interest or for the protection of investors; municipal securities, as defined in section 3(a)(22) of this title: *Provided, however,* That municipal securities shall not be deemed to be 'exempted securities' for the purposes of sections 15 (except paragraph (5) of subsection (c) thereof) and 15A (except paragraphs (5), (8), and (12) of subsection (b) thereof) of this title; any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian; any interest or participation in a collective trust fund maintained by a bank or in a separate account maintained by an insurance company which interest or participation is issued in connection with (A) a stock bonus, pension, or profit-sharing plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954, or (B) an annuity plan which meets the requirements for the deduction of the employer's contribution under section 404(a)(2) of such Code, other than any plan described in clause (A) or (B) of this paragraph which covers employees some or all of whom are employees within the meaning of section 401(c)(1) of such Code; and such other securities (which may include, among others, unregistered securities, the market in which is predominantly intrastate) as the Commission may, by such rules and regulations as it deems necessary or appropriate in the public interest or for the protection of investors, either unconditionally or upon specified terms and conditions or for stated periods, exempt from the operation of any one or more provisions of this title which by their terms do not apply to an 'exempted security' or to 'exempted securities.'"

SEC. 2. Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end thereof the following new subsections:

"(22) The term 'municipal securities' means securities which are direct obligations of or obligations guaranteed as to principal or interest by a State or any political subdivision thereof, or any agency or instrumentality of a State or any political subdivision thereof, or any municipal corporate instrumentality of one or more States, or any security which is an industrial development bond (as defined in section 103(c)(2) of the Internal Revenue Code of 1954) the interest on which is excludable from gross income under section 103(a)(1) of such Code if, by reason of the application of paragraph (4) or (6) of section 103(c) of such Code (determined as if paragraphs (4)(A), (5), and (7) were not included in such section 103(c)), paragraph (1) of such section 103(c) does not apply to such security.

"(23) The term 'municipal securities dealer' means any person (including a separately identifiable department or division of a bank) engaged in the business of buying and selling municipal securities for his own account, through a broker or otherwise, but does not include—

"(A) any person insofar as he buys or sells such securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business; or

"(B) a bank, unless the bank is engaged in the business of buying and selling municipal securities for its own account other than in a fiduciary capacity, through a broker or otherwise: *Provided, however,* That if the bank is engaged in such business through a separately identifiable department or division (as defined by the Municipal Securities Rulemaking Board in accordance with section 15B(b)(2)(H) of this title), the department or division and not the bank itself shall be deemed to be the municipal securities dealer.

"(24) The term 'person associated with a municipal securities dealer' when used with respect to a municipal securities dealer which is a bank or a division or department of a bank means any person directly engaged in the management, direction, supervision, or performance of any of the municipal securities dealer's activities with respect to municipal securities, and any person directly or indirectly controlling such activities or controlled by the municipal securities dealer in connection with such activities.

"(25) The term 'bank regulatory agency' when used with respect to a muicipal securities dealer which is a bank or a wholly owned subsidiary or department or division of the bank means—

"(A) the Comptroller of the Currency, in the case of a national bank or a bank operating under the Code of Law for the District of Columbia, or a wholly owned subsidiary or a department or division of any such bank;

"(B) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a wholly owned subsidiary or a department or division thereof, a bank holding company, a subsidiary of a bank holding company which is a bank other than a bank specified in subparagraph (A) or (C) of this paragraph, or a wholly owned subsidiary or a department or division of such subsidiary; and

"(C) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System), or a wholly owned subsidiary or department or division thereof.

As used in this paragraph, the terms 'bank holding company' and 'subsidiary of a bank holding company' have the meanings given them in section 2 of the Bank Holding Company Act of 1956, as amended.

"(26) The term 'municipal securities investment portfolio' means all municipal securities held for investment and not for sale as part of a regular business by a municipal securities dealer or by a person directly or indirectly, controlling, controlled by, or under common control with a municipal securities dealer."

SEC. 3. Section 3 of the Securities Exchange

Act of 1934 (15 U.S.C. 78c) is amended by adding at the end thereof the following new subsection:

"(d) No issuer of municipal securities or officer, agent, or employee thereof acting in the course of his official duty as such shall be deemed to be a 'broker', 'dealer', or 'municipal securities dealer' solely by reason of buying, selling, or effecting transactions in the issuer's securities."

SEC. 4. Section 15(b)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(5)) is amended as follows:

(a) Subparagraph (C) thereof is amended by striking out the word "or" immediately before the word "dealer" and by inserting immediately after that word the following: "or municipal securities dealer,".

(b) Subparagraph (D) thereof is amended by inserting immediately before the period therein the following "or of the rules of the Municipal Securities Rulemaking Board".

(c) Subparagraph (E) thereof is amended by inserting immediately after the phrase "or of any rule or regulation under any of such statutes" a comma and the following: "or of the rules of the Municipal Securities Rulemaking Board".

SEC. 5. Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)) is amended as follows:

(a) Paragraph (1) thereof is amended to read as follows:

"(1) No broker or dealer shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (other than commercial paper, bankers' acceptances, or commercial bills) otherwise than on a national securities exchange of which it is a member and no municipal securities dealer shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any municipal security, by means of any manipulative, deceptive, or other fraudulent device or contrivance. The Commission shall, for the purposes of this paragraph, by rules and regulations define such devices or contrivances as are manipulative, deceptive, or otherwise fraudulent."

(b) Paragraph (2) thereof is amended to read as follows:

"(2) No broker or dealer shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) otherwise than on a national securities exchange of which it is a member and no municipal securities dealer shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any municipal security in connection with which such broker, dealer, or municipal securities dealer engages in any fraudulent, deceptive, or manipulative act or practice, or makes any fictitious quotation. The Commission shall, for the purposes of this paragraph, by rules and regulations define, and prescribe means reasonably designed to prevent, such acts and practices as are fraudulent, deceptive, or manipulative and such quotations as are fictitious."

SEC. 6. Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3) is amended as follows:

(a) Paragraph (9) of subsection (b) thereof is amended to read as follows:

"(9) the rules of the association provide that its members and persons associated with its members shall be appropriately disciplined for violation of any provision of this title, the rules or regulations thereunder, the rules of the Municipal Securities Rulemaking Board, or the rules of the association, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member or any other fitting penalty."

(b) Paragraph (10) of subsection (b) thereof is amended by adding immediately after the phrase "the specific rule or rules of the association" the following: "or the Municipal Securities Rulemaking Board".

(c) Paragraph (1) of subsection (h) thereof is amended by adding immediately after the phrase "such rules of the association" the following: "or Municipal Securities Rulemaking Board".

(d) Paragraph (1) of subsection (h) thereof is further amended by adding immediately after the phrase "rule or rules of the association" the following: "or the Municipal Securities Rulemaking Board".

(e) Subsection (i) thereof is amended to read as follows:

"(i)(1) The rules of a registered securities association may provide that no member thereof shall deal with any nonmember (as defined in paragraph (2) of this subsection) except at the same prices, for the same commissions or fees, and on the same terms and conditions as are by such member accorded to the general public.

"(2) For the purposes of this subsection, the term 'non-member' shall include (A) with respect to transactions in securities other than municipal securities, any broker or dealer who makes use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any security otherwise than on a national securities exchange and who is not a member of any registered securities association, except a broker or dealer who deals exclusively in commercial paper, bankers' acceptances, or commercial bills, and (B) with respect to transactions in municipal securities, any municipal securities dealer (other than a bank or a wholly owned subsidiary or division or department of a bank) who is not a member of any registered securities association.

"(3) Nothing in this subsection shall be so construed or applied as to prevent any member of a registered securities association or any municipal securities dealer which is a bank or a wholly owned subsidiary or division or department of a bank from granting to any member of any registered securities association or any such municipal securities dealer any dealer's discount, allowance, commission, or special terms: *Provided, however,* That with respect to municipal securities, the granting of any such discount, allowance, commission, or special terms shall be subject to rules of the Municipal Securities Rulemaking Board adopted in accordance with section 15B(b)(2)(K) of this title."

(f) Subsection (l) thereof is amended to read as follows:

"(l) The Commission is authorized, if in its opinion such action is necessary or appropriate in the public interest and for the protection of investors or to carry out the purposes of this title—

"(1) by order to suspend for a period not exceeding twelve months or to revoke the registration of a registered securities association, or to censure or impose limitations upon the activities, functions, and operations of any such association if the Commission finds, on the record after notice and opportunity for hearing, that such association (A) has violated or is unable to comply with any provision of this title or of the rules and regulations thereunder, (B) without reasonable justification or excuse has failed to enforce compliance with any such provision, the rules of the Municipal Securities Rulemaking Board, or its own rules by a member thereof or a person associated with a member, or (C) has engaged in any other activity tending to defeat the purposes of this title;

"(2) by order to suspend for a period not exceeding twelve months or to expel from a registered securities association any member thereof, or to suspend for a period not exceeding twelve months or to bar any person from being associated with a member thereof, if the Commission finds, on the record after notice and opportunity for hearing, that such member or person (A) has willfully violated any provision of this title, of the rules and regulations thereunder, or of the rules of the Municipal Securities Rulemaking Board, or has effected any transaction for any other person who, he had reason to believe, was violating with respect to such transaction any provision of this title, of the rules and regulations thereunder, or of the rules of the Municipal Securities Rulemaking Board, or (B) has willfully violated any provision of the Securities Act of 1933, as amended, or of the rules and regulations thereunder, or has effected any transaction for any other person who, he had reason to believe, was violating with respect to such transaction any provision of such Act or of the rules and regulations thereunder; and

"(3) by order to remove from office or censure any officer or director of a registered securities association who, the Commission finds, on the record after notice and opportunity for hearing, has willfully (A) violated any provision of this title or of the rules and regulations thereunder, (B) failed to enforce compliance with any such provision, the rules of the Municipal Securities Rulemaking Board, or the rules of the association, or (C) abused his authority."

SEC. 7. The Securities Exchange Act of 1934 is amended by inserting after section 15A (15 U.S.C. 78o-3) the following new section:

"MUNICIPAL SECURITIES

"SEC. 15B. (a)(1) No municipal securities dealer (other than one registered as a broker or dealer under section 15 of this title) shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any municipal security unless such municipal securities dealer is registered in accordance with this section.

"(2) A municipal securities dealer may be registered for the purposes of this section by filing with the Commission an application for registration which shall contain such information in such detail as to such municipal securities dealer and any persons associated with such municipal securities dealer as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Except as otherwise provided in paragraphs (3) and (4) of this subsection, such registration shall become effective thirty days after the receipt of such application by the Commission or within such shorter period of time as the Commissioner may determine.

"(3) The Commission shall, by order deny registration to any municipal securities dealer seeking registration if it finds after notice and opportunity for hearing, that such denial is in the public interest and that such municipal securities dealer is unable to comply with the provisions of this title, the rules and regulations thereunder, or the rules of the Municipal Securities Rulemaking Board, or that, if it were so registered, its registration would be subject to suspension or revocation under subsection (c) of this section.

"(4) Pending final determination whether the registration of a municipal securities dealer shall be denied, the Commission may, by order, postpone the effective date of such registration for a period not to exceed ninety days, except that the Commission may, by order, after notice and opportunity for hearing (which may consist solely of affidavits and oral arguments), extend such period until final determination if it finds good cause for such extension and publishes its reasons therefor.

"(5) Any municipal securities dealer registered for purposes of this section may, upon such terms and conditions as the Commission may deem necessary in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any registered municipal securities dealer or any municipal securities dealer for whom an application for registration is pending is no longer in existence or has ceased to do business as a municipal securities dealer, the Commission shall, by order, cancel the registration or application of such municipal securities dealer.

"(6) Every municipal securities dealer registered for purposes of this section shall make such reports as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Each municipal securities dealer which is a bank or a wholly owned subsidiary or department or division of a bank shall at the time of filing with the Commission an application for registration pursuant to paragraph (2) of this subsection or any report pursuant to any provision of this title also file a copy of such application or report with the bank regulatory agency.

"(7) Any provision of this title (other than section 5 or paragraph (1) of this subsection) which prohibits any act, practice, or course of business by any person or by any municipal securities dealer if the mails or any means or instrumentality of interstate commerce is used in connection therewith shall also prohibit any such act, practice, or course of business by any municipal securities dealer registered for purposes of this section or any person acting on behalf of such municipal securities dealer, irrespective of any use of the mails or any means or instrumentality of interstate commerce in connection therewith.

"(8) The Commission, by rule or by order, upon its own motion or upon application, may conditionally or unconditionally exempt any broker, dealer, or municipal securities dealer or class of brokers, dealers, or municipal securities dealers in whole or in part from any provisions of this section or of any rule or regulation prescribed under this section, if the Commission finds that such exemption is in the public interest and consistent with the protection of investors and the purposes of this section.

"(b)(1) Not later than one hundred and twenty days after ———, 197—, (the effective date of this Act) the Commission shall establish a Municipal Securities Rulemaking Board (hereinafter in this section referred to as the 'Board') to be composed initially of nine members appointed by the Commission which shall perform the duties set forth in this section. The initial members of the Board shall serve as members for a term of two years, and shall consist of three individuals who are not associated with any broker, dealer, or municipal securities dealer, at least one of whom shall be representative of investors in municipal securities, and at least one of whom shall be representative of issuers of municipal securities (which members are hereinafter referred to as 'public representatives'); three individuals who are associated with and representative of brokers engaged in the business of effecting transactions in municipal securities and municipal securities dealers which are not banks or wholly owned subsidiaries or departments or divisions of banks (which members are hereinafter referred to as 'broker-dealer representatives'); and three individuals who are associated with and representative of municipal securities dealers which are banks or wholly owned subsidiaries or departments or divisions of banks (which members are hereinafter referred to as 'bank representatives'). Prior to the expiration of the terms of office of the initial members of the Board, an election shall be held under rules adopted by the Board (in accordance with subsection (b)(2)(B) of this section) of the members to succeed such initial members.

"(2) The Board shall have the power to and shall propose and adopt rules to effect the purposes of this title governing transactions in municipal securities by brokers, dealers, and municipal securities dealers. (Such rules are hereinafter collectively referred to in this title as 'rules of the Board.') No rule of the Board or change in, addition to, or deletion from the rules of the Board shall take effect except in accordance with paragraph (3) of this subsection. The rules of the Board, as a minimum, shall:

"(A) provide that no broker engaged in the business of effecting transactions in municipal securities or municipal securities dealer shall effect any transaction in or induce the purchase or sale of any municipal security unless such broker or municipal securities dealer and every natural person associated with such broker or municipal securities dealer meet such specified and appropriate standards with respect to training, experience, and such other qualifications as the Board finds necessary or desirable. In connection with the definition and application of such standards the Board may—

"(i) appropriately classify brokers engaged in the business of effecting transactions in municipal securities and municipal securities dealers (taking into account relevant matters, including type of business done, nature of securities other than municipal securities sold, and character of business organization), and persons associated with such brokers and municipal securities dealers;

"(ii) specify that all or any portion of such standards shall be applicable to any such class; and

"(iii) require persons in any such class to pass tests administered in accordance with subsection (c)(7) of this section to determine whether they meet such applicable standards or to qualify on the basis of compliance with specified standards of training and such other qualifications as the Board finds appropriate.

"(B) establish fair procedures for the nomination and election of members of the Board and assure a fair representation of brokers engaged in the business of effecting transactions in municipal securities and municipal securities dealers in such nominations and elections. Such rules shall provide that the membership of the Board shall at all times be equally divided among public representatives, broker-dealer representatives, and bank representatives, and that the public representatives shall be subject to approval by the Commission to assure that no one of them is associated with any broker, dealer, or municipal securities dealer and that at least one is representative of investors in municipal securities and at least one is representative of issuers of municipal securities. Such rules shall also specify the term members shall serve and may increase the number of members which shall constitute the whole Board provided that such number is an odd number.

"(C) be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to provide safeguards against unreasonable rates of commission or other charges, to foster cooperation and coordination with bank regulatory agencies, registered securities associations, national securities exchanges, and other persons engaged in regulating, clearing, settling, transferring, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers, brokers engaged in the business of effecting transactions in municipal securities, or municipal securities dealers, to fix minimum profits, to impose any schedule or fix minimum rates of commissions, allowances, discounts, or other charges, to regulate matters not related to the purposes of this title with respect to municipal securities or the administration of the Board, or to impose any burden on competition not necessary or appropriate in furtherance of such purposes.

"(D) if the Board deems appropriate, provide for the arbitration of claims, disputes, and controversies relating to transactions in municipal securities: Provided, however, That no person other than a broker engaged in the business of effecting transactions in municipal securities, a municipal securities dealer, or a person associated with such a broker or municipal securities dealer may be compelled to submit to such arbitration except at his instance and in accordance with section 29 of this title.

"(E) provide for the periodic inspection in accordance with subsection (c)(7) of this section of brokers engaged in the business of effecting transactions in municipal securities and municipal securities dealers to determine compliance with applicable provisions of this title, the rules and regulations thereunder, and the rules of the Board. Such rules shall specify the minimum scope and frequency of such inspections and shall be designed to avoid unnecessary regulatory duplication or undue regulatory burdens for any such broker or municipal securities dealer.

"(F) provide for the form and content of quotations relating to municipal securities which may be disseminated by any broker engaged in the business of effecting transactions in municipal securities, any municipal securities dealer, or any person associated with such a broker or municipal securities dealer, and the persons to whom such quotations may be supplied. Such rules shall be designed to produce fair and informative quotations, both at the wholesale and retail level, to prevent fictitious or misleading quotations, and to promote orderly procedures for collecting and publishing quotations.

"(G) prescribe the accounts, correspondence, memorandums, papers, books, and other records that brokers engaged in the business of effecting transactions in municipal securities and municipal securities dealers shall make and keep and the periods for which such records shall be preserved.

"(H) define the term "separately identifiable department or division', as the term is used in section 3(a)(23) of this title, in accordance with specified and appropriate standards to assure that a bank is not deemed to be engaged in the business of buying and selling municipal securities through a separately identifiable department or division unless such department or division, its operations, and personnel are so organized and administered as to permit independent examination, periodic inspection, and enforcement of applicable provisions of this title, the rules and regulations thereunder, and the rules of the Board. A separately identifiable department or division of a bank may be engaged in activities, otherwise permitted by law, other than those relating to municipal securities.

"(I) provide for the operation and administration of the Board, including the selection of a Chairman from among the members of the Board, the compensation of the members of the Board, and the appointment and compensation of such employees, attorneys, and consultants as may be necessary for carrying out the Board's functions under this section.

"(J) provide that each broker engaged in the business of effecting transactions in municipal securities and each municipal securities dealer shall pay to the Board such reasonable fees and charges as may be necessary to defray the costs and expenses of operating and administering the Board. Such rules shall specify the amount of such fees and charges.

"(K) establish the terms and conditions under which any municipal securities dealer may sell or prohibit any municipal securities dealer from selling any part of a new issue of municipal securities to any municipal securities investment portfolio during the underwriting period.

"(3) (A) The Board shall file with the Commission and each bank regulatory agency, in accordance with such rules as the Commission may prescribe, copies of any proposed rule or any proposed change in, addition to, or deletion from the rules of the Board (hereinafter in this paragraph collectively referred to as a 'proposed rule change') accompanied by a concise general statement of the basis and purpose of such proposed rule change.

"(B) The Commission shall, upon the filing of a proposed rule change, publish notice of such proposal together with the Board's statement of basis and purpose and shall afford interested persons a reasonable opportunity for comment on the proposed rule change. The Commission shall make available for public inspection copies of any correspondence between the Commission or its staff and any interested person relating to the proposed rule change. Within twenty-one days of the filing of such proposed rule change, or within such longer period up to sixty days of such filing as the Commission may designate, if it finds such longer period to be appropriate and publishes its reasons for so finding, the Commission shall—

"(i) publish a rule approving such proposed rule change and declaring it effective if the Commission finds that the rules of the Board as so changed would satisfy the requirements of this subsection named would be consistent with the purposes of this title, or

"(ii) institute further proceedings, including providing interested persons an opportunity for oral presentation of views, data, or arguments, to determine whether the proposed rule change should be disapproved, in whole or in part. Within one hundred and fifty days of the filing of the proposed rule change should be disapproved, in whole or in part. Within one hundred and fifty days of the filing of the proposed rule change, the Commission shall conclude such further proceedings and shall publish a rule either approving such proposed rule change and declaring it effective or disapproving such proposed rule change if it finds that the rules of the Board as so changed would not satisfy the requirements of this subsection or would be inconsistent with the purposes of this title, except that the Commission may extend the period for such further proceedings if it finds good cause therefor and publishes its reasons for so finding.

"(C) The Commission, by rule or regulation or by order, upon its own motion, or upon application setting forth the reasons therefor, may conditionally or unconditionally accelerate the effectiveness of and waive the public procedure with respect to any proposed rule change or any class or classes of such proposed rule changes if it appears to the Commission that such accelerated effectiveness and absence of public procedure are in the public interest and are not inconsistent with the purposes of this paragraph.

"(D) Except as provided in subparagraphs (A) through (C) of this paragraph, action by the Commission under this paragraph shall be in accordance with the procedures specified in section 553 of title 5, United States Code, for rulemaking not on the record.

"(4) The Commission, as it deems necessary or appropriate in the public interest and for the protection of investors, to insure fair and orderly dealing in municipal securities, to insure the fair administration of the Board, to conform the rules of the Board to the applicable requirements of this subsection, to insure adequate regulation and inspection of brokers engaged in the business of effecting transactions in municipal securities and municipal securities dealers, to remove burdens on competition not necessary or appropriate in furtherance of the purposes of this title, or to remove impediments to and perfect the mechanism of a free and open market for municipal securities, may, by rule, abrogate, alter, or supplement the rules of the Board in the following manner:

"(A) The Commission shall publish in the Federal Register any such proposed rule together with a statement of its reasons for proposing to abrogate, alter, or supplement the rules of the Board in the manner specified.

"(B) The Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions with respect to any such proposed rule. A transcript shall be kept of any oral presentations.

"(C) The Commission shall publish with any rule adopted pursuant to this paragraph a full statement of its reasons for abrogating, altering, or supplementing the rules of the Board in the manner provided, including its conclusions as to any disputed facts or other data.

"(D) Except as provided in subparagraphs (A) through (C) of this paragraph, rulemaking under this paragraph shall be in accordance with the procedures specified in section 553 of title 5, United States Code, for rulemaking not on the record. Nothing in this paragraph shall be construed to impair or limit the Commission's power to make, or to modify or alter the procedures the Commission may follow in making rules and regulations pursuant to any other authority under this title.

"(5) The Commission is authorized, if in its opinion such action is necessary or appropriate in the public interest and for the protection of investors or to carry out the purposes of this title, by order to remove from office or censure any member or employee of the Board who, the Commission finds, on the record after notice and opportunity for hearing, has willfully (A) violated any provision of this title, the rules and regulations thereunder, or the rules of the Board or (B) abused his authority.

"(c) (1) No broker, dealer, or municipal securities dealer shall effect any transaction in or induce or attempt to induce the purchase or sale of any municipal security in contravention of any rule of the Board.

"(2) The Commission may, by order, censure, suspend for a period not exceeding twelve months or revoke the registration of, or impose appropriate limitations on the activities, functions, and operations of any municipal securities dealer if it finds, on the record after notice and opportunity for hearing, that such censure, denial, suspension, revocation, or limitation is in the public interest and that such municipal securities dealer has committed or omitted any act or omission enumerated in clause (A), (D), or (E) of paragraph (5) of section 15(b) of this title or has been convicted of any offense specified in clause (B) of such paragraph (5) within ten years of the commencement of the proceedings under this paragraph or is enjoined from any action, conduct, or practice specified in clause (C) of such paragraph (5).

"(3) The Commission may, by order, censure or impose appropriate limitations on the functions and activities of any person, or bar or suspend for a period not exceeding twelve months any person from being associated with a municipal securities dealer, if the Commission finds, on the record after notice and opportunity for hearing, that such person has committed or omitted any act or omission enumerated in clause (A), (D), or (E) or paragraph (5) of section 15(b) of this title or has been convicted of any offense specified in clause (B) of said paragraph (5) within ten years of the commencement of the proceedings under this paragraph or is enjoined from any action, conduct, or practice specified in clause (C) of said paragraph (5). It shall be unlawful for any person as to whom such an order or an order entered pursuant to paragraph (4) of this subsection barring or suspending him from being associated with a municipal securities dealer or limiting his functions or activities is in effect, willfully to become, or to be, associated with a municipal securities dealer, or to function or act beyond such limitations, without the consent of the Commission, and it shall be unlawful for any municipal securities dealer to permit such a person to become or remain a person associated with him, or to function or act beyond such limitations, without the consent of the Commission, if such municipal securities dealer knew, or, in the exercise of reasonable care, should have known, of such order.

"(4) The bank regulatory agency may impose a sanction upon any municipal securities dealer which is a bank or a wholly owned subsidiary, or department, or division of a bank in the manner and for the reasons specified in paragraph (2) of this subsection and any person associated with any such municipal securities dealer in the manner and for the reasons specified in paragraph (3) of this subsection. In addition, the bank regulatory agency may in accordance with section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) enforce against any such municipal securities dealer and any person associated with any such municipal securities dealer the provisions of this section, the rules of the Board, and the rules of the Commission pertaining to municipal securities dealers, persons associated with municipal securities dealers, and transactions in municipal securities. For purposes of the preceding sentence, any violation of any such provision, rule of the Board, or rule of the Commission shall constitute adequate basis for the issuance of orders under sections 8(b) and 8(c) of the Federal Deposit Insurance Act, and the customers of any such municipal securities dealer shall be deemed to be 'depositors' as that term is used in section 8(c) of that Act. Nothing in this paragraph shall be construed to affect in any way the powers of a bank regulatory agency under any other provision of law to proceed against any municipal securities dealer which is a bank or a wholly owned subsidiary, or department, or division of a bank or against any person associated with such a municipal securities dealer.

"(5) Prior to initiating any action against a municipal securities dealer which is a bank or a wholly owned subsidiary or department or division of a bank or a person associated with any such municipal securities dealer pursuant to paragraph (2) or (3) of this subsection or for violation of any rule promulgated under paragraph (1) or (2) of section 15(c) of this title or any rule of the Board, the Commission shall give notice to the bank regulatory agency of the identity of such dealer or associated person and the nature of and basis for such proposed action and shall consult with such agency concerning the effect of such proposed action on sound banking practices and the feasibility and desirability of coordinating such action with any proceeding or proposed proceeding by the bank regulatory agency against such municipal securities dealer or person. Prior to initiating any action against any municipal securities dealer or person associated with a municipal securities dealer for violation of any provision of this section, rule of the Board, or rule of the Commission pertaining to municipal securities dealers, persons associated with municipal securities dealers, or transactions in municipal securities, a bank regulatory agency shall give notice to the Commission of the identity of such dealer or associated person and the nature of and basis for such proposed action and shall consult with the Commission concerning the effect of such proposed action on the protection of investors and the feasibility and desirability of coordinating such action with any proceeding or proposed proceeding by the Commission against such municipal securities dealer or person. Nothing in this paragraph shall be construed to impair or limit (other than by the requirement of prior consultation) the power of the Commission or a bank regulatory agency to initiate any such action or to affect in any way the power of the Commission or a bank regulatory agency to initiate any other action pursuant to this title or any other provision of law.

"(6) The Commission may at any time or from time to time conduct such reasonable periodic, special, or other examinations of the accounts, correspondence, memorandums, papers, books, and other records of municipal securities dealers as the Commission may deem necessary or appropriate in the public interest or for the protection of investors. Prior to conducting any such examination of a municipal securities dealer which is a bank or a wholly owned subsidiary or department or division of a bank, the Commission shall give notice to the bank regulatory agency of such proposed examination and shall consult with such agency concerning the feasibility and desirability of coordinating such examination with the periodic inspections conducted by the banking agency with a view to avoiding unnecessary regulatory duplication or undue regulatory burdens for such municipal securities dealers. Nothing in the preceding sentence shall be construed to impair or limit (other than by the requirement of prior consultation) the power of the Commission under this paragraph to examine any municipal securities dealer which is a bank or a wholly owned subsidiary or department or division of a bank or to affect in any way the power of the Commission under any other provision of this title or otherwise to inspect, examine, or investigate any such municipal securities dealer.

"(7) (A) Tests required pursuant to section 15B(b) (2) (A) (iii) of this title shall be administered by or on behalf of and periodic inspections pursuant to section 15B(b)2) (E) of this title shall be conducted by—

"(i) the National Association of Securities Dealers, Incorporated, in the case of brokers engaged in the business of effecting transactions in municipal securities and municipal securities dealers which are members of such association;

"(ii) the bank regulatory agency, in the case of municipal securities dealers which are banks or wholly owned subsidiaries or departments or divisions of banks; and

"(iii) the Commission, in the case of all other brokers engaged in the business of effecting transactions in municipal securities and municipal securities dealers.

"(B) The National Association of Securities Dealers, Inc. and each bank regulatory agency shall make a report of any inspection it conducts pursuant to section 15(B) (b) (2) (E) of this title and shall promptly furnish to the Commission two copies of any such report and of any data supplied to it in connection with such inspection. The Commission shall make a report of any examination it conducts pursuant to paragraph (6) of this subsection or inspection it conducts pursuant to section 15B(b) (2) (E) of this title and shall promptly furnish to the bank regulatory agency two copies of any report of any data supplied to it in connection with any examination or inspection of a municipal securities dealer which is a bank or a wholly owned subsidiary or department or division of a bank. Subject to such limitations as the Commission, by rule, finds to be necessary or appropriate in the public interest or for the protection of investors, it shall make available to the Board on request a copy of any report made by or furnished to the Commission pursuant to this paragraph.

"(d) Neither the Commission nor the Municipal Securities Rulemaking Board is authorized under this title, by rule, to require an issuer of municipal securities, directly or indirectly through a purchaser or prospective purchaser of securities from the issuer, to file with the Commission or the Board prior to its sale of such securities any application, report, document or other information in connection with their issuance, sale, or distribution.

SEC. 8. Section 21(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78u (e)) is amended by adding immediately after the phrase "or of any rule or regulation thereunder," the following: "or of the rules of the Municipal Securities Rulemaking Board,".

SEC. 9. Section 23(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(b)) is amended by adding at the end thereof the following additional sentences: "The Commission shall also include in its annual report to Congress for each fiscal year (1) a summary of the Commission's regulatory activities with respect to brokers engaged in the business of effecting transactions in municipal securities and municipal securities dealers, including information concerning the number and nature of and sanctions imposed in all enforcement proceedings against such brokers and municipal securities dealers together with an indication of the proceedings which were against municipal securities dealers which were banks or departments or divisions of banks, and (2) a statement of the expenses and an analysis of the operations and administration of the Municipal Securities Rulemaking Board. Each bank regulatory agency shall report to Congress for each fiscal year a summary of such bank regulatory agency's activities with respect to municipal securities dealers which are banks or departments of divisions thereof and shall include in such report information concerning the number and nature of and sanctions imposed in all enforcement proceedings against such municipal securities dealers.".

And to amend the title so as to read: "A bill to amend the Securities Exchange Act of 1934, as amended, to provide for the regulation of brokers, dealers, and banks trading in municipal securities, and for other purposes."

Mr. WILLIAMS. Mr. President, the bill before us for final consideration today would establish for the first time a system of Federal regulation of the professionals dealing in municipal securities—brokers, dealers, and banks. Since the enactment of the Federal securities laws in the 1930's, trading in municipal securities—the debt obligations of State and local governments—has been exempt from all but the antifraud provisions of the securities laws. The significance of this "hands-off" treatment in terms of regulation of the practices of the municipal securities industry is that dealers in municipal securities, whether banks or securities firms, are not subject to regulatory control; there are, in other words, no enforceable standards of just and equitable principles of trade as there are in other aspects of the securities business. In terms of the public policies which underly our securities laws, the lack of regulation means that investors in municipal securities do not receive the same protection as other investors.

During the past four decades, the municipal securities markets have performed their debt financing functions for State and local governments with commendable efficiency and integrity. There is little question that this must continue to be the case if these governments are to respond successfully to pressing social needs and provide essential services at the lowest possible costs. Furthermore, the brokers, dealers, and banks who compose the municipal securities industry have, by and large, operated with commendable professionalism and honesty.

However, in recent years the lack of Federal regulation has proved troublesome both for the protection of investors and the orderly operations of the municipal markets itself. Cases of serious abuse and patterns of professional misconduct by a significant number of brokers and dealers have been revealed. Through its vigorous enforcement program, the SEC has instituted several fraud actions against municipal securities professionals. These cases make clear that vigorous enforcement of the fraud provisions is not adequate alone to assure the investor protection which is the bedrock of the Federal securities laws.

The bill before us is a revised version of the bill introduced by Senators BROOKE and BIDEN and me in September of last year. The revised version now enjoys the unanimous support of the Banking Committee. The bill is designed to preserve and enhance a municipal securities industry capable of serving the financial needs of municipal governments, and providing needed services to investors—while at the same time assuring that basic standards of investor protection and just and equitable principles of trade are observed. Absent additional Federal authority, I believe, and the committee believes, there is a possibility of a loss of investor confidence in the municipal securities markets and attendant adverse impact on the capital raising ability of municipal governments.

I am pleased to note that the committee has not come to this realization alone. The SEC and forward-looking and responsible members of the municipal securities industry, both banks and securities firms, have also recognized the desirability of expanded Federal oversight. Disturbed by the proliferation of abuses which threatened to undermine industry standards and professionalism, industry representatives were early advocates of the need for additional regulation.

Members of the industry, the SEC, the bank regulatory authorities, and representatives of municipal issuers have worked closely with us in the design and perfection of the bill before us, the Municipal Securities Act of 1974. With the cooperation of interested persons, it is not surprising that the sound and practical program of self-regulation subject to Federal oversight embodied in the bill enjoys general support and acceptance.

Broadly speaking, the bill would advance two principal public policy and regulatory objectives.

First, the protections generally available to investors under the Federal securities laws will be expanded to investors in municipal securities. This will substantially benefit the increasing number of individuals who find the tax-exempt features of these securities attractive.

Second, the municipal securities industry itself and State and local governments will benefit from Federal regulation. A framework for regulation of professionals will advance their interests of fair competition and equal regulation, while at the same time improving the markets for the benefit of issuers dependent on those markets.

Mr. President, let me now discuss two specific points in the context of the regulatory structure established by the bill.

First, the uniform regulatory structure established by the bill will, on the one hand, guarantee fair competition and equal regulation of all municipal securities professionals, and on the other, accommodate the different characteristics of the banking and securities statutes. Industry support for the concept of a self-regulatory scheme to achieve these ends was widespread. The historical reasons which persuaded our predecessors to delegate governmental authority to national securities exchanges and national securities associations in 1934 and 1938 convinced the Committee of the desirability of a self-regulatory mechanism tailored to the special circumstances of the municipal securities industry.

The bill would provide for the creation of a new, but limited, self-regulatory entity designated the Municipal Securities Rulemaking Board, and delegate to this Board broad rulemaking authority with respect to all trading in municipal securities by broker-dealers and banks. Unlike the existing self-regulatory organizations, however, the Board would not be a membership organization, nor would it have any inspection or enforcement powers: its sole function would be to exercise rulemaking power with respect to the activities of all persons engaged in the municipal securities business. Inspection and enforcement would be the responsibility of the NASD, the banking agencies, and the SEC. Although authority is shared with the NASD and with the bank regulatory agencies in these areas, the bill vests ultimate authority and responsibility for the regulation of the municipal securities industry in the SEC.

The second point which deserves special mention is the acute sensitivity of governmental issuers to the prospect of indirect Federal regulation as a collateral effect of regulation of trading in municipal securities.

As to these concerns, Mr. President, the committee is mindful of the historical relationship between the Federal securities laws and issuers of municipal securities. While the bill specifically addresses the need for uniform regulation of the activities and practices of professional traders and underwriters, it does not in any way affect the exemption of State and local governments from the Securities Act of 1933. S. 2474 would not in any way regulate the capital raising processes of State and local governments for there has been no evidence of abuses in this area. In order to assure there is no infringement of municipal prerogatives, the bill prohibits the use of the Board's or the Commission's regulatory powers to require any prefiling or screening of financing documents.

Mr. President, I am convinced that the issuers of municipal securities stand to benefit from regulation of the municipal securities industry. With greater industry professionalism and greater investor confidence in the operations of the industry, increased investor participation will inevitably result. Access to the capital markets will not only be easier, it will be more economical.

One compelling reason for the prompt passage of this bill was alluded to on the Senate floor earlier last week. On Tuesday, the Senate passed S. 3838, which would amend the Glass-Steagall Act to permit commercial banks to underwrite municipal revenue bonds. During the debate on S. 3838 concern was expressed over the need to control the conflicts of interests when banks underwrite municipal securities and to prevent advantages which banks may enjoy by reason of their dual role as underwriters and purchasers of municipal securities.

Although there was general agreement as to objectives—fair competition among underwriters of municipal securities, fair treatment of all purchasers, and the maintenance of sound banking practices—there was disagreement as to the most appropriate manner to achieve them.

It is my view and that of the Banking Committee as its states in the reports on both S. 3838 and S. 2474, that the job of regulating the highly technical and extremely delicate mechanism of the municipal and bond market is best left to an expert agency rather than addressed directly in legislation. That expert agency is the Municipal Securities Rulemaking Board which would be created by this bill. Not only is this the best approach, Mr. President, it is the only practical one in light of the importance of our municipal securities markets and the dangerous ramifications of any ill-conceived solutions. I believe that with the creation of the Municipal Securities Rulemaking Board we can be assured that dealing in both general obligation and revenue bonds will be effectively regulated.

Mr. President, S. 2474 is an important step in the evolution of our securities laws. As it has been reported by the committee. S. 2474 will provide a framework for regulation of municipal securities professionals which will advance the interests of fair competition, improve municipal securities markets for the benefit of governmental issuers, and provide increased protection for investors. I urge its prompt passage.

Mr. President, I ask unanimous consent that a summary of the principal provisions of the bill be printed in the Record at this point.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Summary of Principal Provisions of S. 2474—The Municipal Securities Act of 1974

S. 2474 would extend the basic coverage of the Securities Exchange Act of 1934 (the "Exchange Act") to the securities firms and banks which underwrite and trade securities issued by states and municipalities. Under the bill, all such firms would be classified as "municipal securities dealers," and as such they would be required (1) to register with the Securities and Exchange Commission, and (2) to comply with rules concerning just and equitable principles of trade and other matters prescribed by a new self-regulatory organization called the Municipal Securities Rulemaking Board. Although the bill would establish a pervasive and coordinated scheme of federal regulation of the activities of municipal securities dealers, the issuers of municipal securities would continue to be exempt from the basic regulatory requirements of the federal securities laws.

A brief explanation of the provisions of the bill follows:[1]

REGISTRATION OF MUNICIPAL SECURITIES DEALER

Brokers and dealers that buy, sell, or effect transactions in municipal securities and banks that buy and sell such securities as a part of a regular business other than in a fiduciary capacity would be required to register wtih the SEC as "municipals securities dealers." Sec. 15B(a)(1). If a bank engages in the business of trading municipal securities through a separately identifiable department or division, that department or division rather than the entire bank would register with the Commission. Secs. 3(a)(23) and 15B(b)(2)(H). Brokers and dealers already registered with the SEC by reason of their general securities business would not be required to re-register.

Registration of a securities firm or bank as a municipal securities dealer would be conditional upon specified filings and a determination by the SEC that the firm could comply with standards established by the Municipal Securities Rulemaking Board. Sec. 15B(a)(2) and (3). No person would be permitted to engage in the business of trading in municipal securities unless registered with the SEC, and the SEC would have the authority, in accordance with specified procedures, to revoke the registration of any person found to be in violation of the statute or any rule of the SEC or the Municipal Securities Rulemaking Board.

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[1] Section references are to sections of the Securities Exchange Act of 1934, as they would be amended by S. 2474.

THE MUNICIPAL SECURITIES RULEMAKING BOARD

A self-regulatory body called the Municipal Securities Rulemaking Board (the "Board") would be established and delegated responsibility to formulate rules regulating the activities of all municipal securities dealers. Secs. 15B(b)(1) and (2). Unlike the existing self-regulatory organizations, the Board would not be a membership organization, nor would it have any inspection or enforcement responsibilities. Its sole function would be to prescribe rules for the municipal securities industry.

The Board would be comprised of representatives of broker-dealers, banks, and the public, including issuers of and investors in municipal securities. Sec. 15B(b)(1). The procedures to be followed in the nomination and election of members of the Board would be specified to assure fair administration of the Board and fair representation of all segments of the municipal securities industry. Sec. 15B(b)(2)(B). The Board would be authorized to hire appropriate staff and to assess municipal securities dealers to cover reasonable expenses. Sec. 15B(b)(2)(I) and (J).

The Board's rulemaking powers would be extensive. Sec. 15B(b)(2)(A)-(K). A partial list of the areas subject to the Board's regulation includes prevention of fraudulent and manipulative acts and practices and promotion of just and equitable principles of trade; establishment of standards for entry into the municipal securities business; regulation of selling and underwriting practices; creation of procedures for arbitration of intra-industry disputes; and determination of the frequency and scope of inspections of municipal securities dealers by the bank regulatory authorities with respect to banks and the National Association of Securities Dealers (the "NASD") with respect to securities firms.

SEC OVERSIGHT OF THE BOARD

The SEC's powers over the Board would be identical to those the SEC would have over other self-regulatory organizations under S. 2519, the National Securities Market System Act. For example, the Board could not adopt or change any rule without prior SEC review and approval. Sec. 15B(b)(3). In addition, the SEC could, in accordance with statutorily prescribed procedures, abrogate, alter, or supplement the rules of the Board in any respect consistent with the purposes of the Exchange Act. Sec. 15B(b)(4). The SEC would also have the authority to remove from office or censure any member or employee of the Board for willful violation of the Exchange Act or rule of the Board or for abuse of authority. Sec. 15B(b)(5).

In contrast to the expansive rulemaking functions of the Board, the SEC's direct rulemaking authority would be limited to the control of fraudulent, manipulative, and deceptive acts and practices. Secs. 15(c)(1) and (2).

INSPECTION AND ENFORCEMENT RESPONSIBILITIES: COOPERATION AND CONSULTATION AMONG FEDERAL AGENCIES

The Board would have no power to conduct inspections or to enforce its rules. Instead, the bill would assign these responsibilities to the bank regulatory agencies and the NASD. Thus enforcement and inspection responsibility with respect to securities firms which are members of the NASD would be vested in the NASD. Secs. 15A(b)(9) and 15B(c)(7). Similarly, primary inspection and enforcement authority over municipal securities dealers which are banks would be vested in the bank regulatory agencies. Secs. 15B(c)(4), (5), and (7).

The SEC would have the power to review enforcement actions taken by the NASD, Sec. 15A(h), but not those by a banking agency. However, the SEC would have the authority to institute independent action against any municipal securities dealer, provided, in the case of a bank, that the SEC first gave notice to and consulted with the appropriate banking agency. Secs. 15B(c)(3) and (5). Similarly, the SEC would have the power to inspect any municipal securities dealer, provided, in the case of a bank, it first gave notice to and consulted with the banking agency.

The delegation of primary inspection and enforcement authority for bank municipal securities dealers to the banking agencies would in no way diminish the Commission's ultimate oversight responsibilities with respect to the municipal securities markets and the municipal securities industry. The bill would not give the banking agencies any additional policy making authority, nor would the requirement of notice and consultation give the banking agencies a veto power over Commission action.

The requirement of notice and consultation among various federal agencies is intended to assure a coordinated and efficient regulatory structure. For the same reason, the bill requires such agencies to freely exchange inspection reports and other relevant information. 15B(c)(7)(B). It is to be expected that the Commission and the banking agencies will use their respective powers in a cooperative manner so as to facilitate fair, effective, and evenhanded regulation of the municipal securities industry.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

FOR THE RELIEF OF ANGELA GARZA

The bill (S. 2423) for the relief of Angela Garza, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act and section 21(e) of the Act of October 3, 1965, Angela Garza shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to special immigrants as defined in section 101(a)(27)(A) of the Immigrant and Nationality Act.

AGENDA PROPOSED BY DEMOCRATIC CONFERENCE FOR AN ANTI-INFLATION, COUNTERRECESSION PROGRAM

Mr. MANSFIELD. Mr. President, on Thursday last, the Democrats in the Senate held a Democratic conference. As a result of that conference, I was directed by it to write a letter to the President outlining an agenda of seven areas of relevance which the group believed could form the basis of an effective, integrated, anti-inflation, counterrecession program.

The conference directed me to communicate this list to the President of the United States for examination and transmittal to the Economic Summit Conference for consideration as a basis for Federal economic action to deal with the deepening economic difficulties.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the letter to President Gerald Ford, the proposed agenda for an anti-inflation, counterrecession program which accompanied that letter, and the remarks of the Senator from Montana at the Senate Democratic conference on Thursday, September 12.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, D.C., September 12, 1974.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: At a regular Majority Conference of Democratic Senators this morning, the economic situation was discussed at length and a resolution was adopted outlining an agenda of seven areas of relevance which the group believed should form the basis of an effective integrated anti-inflation, counterrecession program. The Conference directed me to communicate this list to you for examination and transmittal to the Economic Summit Conference for consideration as a basis for Federal economic action to deal with the deepening economic difficulties. A copy of the proposed agenda is attached, together with the remarks which I made in presenting it to the Conference.

May I take this opportunity, Mr. President, to congratulate you on your initiatives as President with regard to the convening of the Economic Summit. We have heard through the Senate participants in this highly significant undertaking that the meetings are proceeding very well and producing much in the way of discussion that should be useful.

Speaking for the Senate Democrats, I want to say most respectfully that we share your sentiments with regard to the critical economic situation which confronts the nation. I want to assure you that the Senate Majority is ready and willing to cooperate with you in every possible way in dealing with this problem.

For that reason, as you will see from the enclosed statement, it is the present intention of the Joint Democratic Leadership of the two Houses to recess in mid-October and reconvene shortly after the election. In that manner, Congress will be on hand in November to proceed with a tax bill which will at least provide some relief for the hard-pressed low and moderate income groups and a national health insurance bill which, as you noted, is needed without delay. We will also be ready and willing to consider then, as we are now, on the basis of urgency any measure which you may wish to submit to the Congress or which may otherwise be generated which is designed to arrest the inflation and counter the recession.

As I am sure you are aware, the serious economic situation is producing a rising level of anxiety in the nation. It seems to me incumbent on both Branches, the Executive and the Legislative, to stay with this problem until it is resolved.

With warm personal regards
Most respectfully,
MIKE MANSFIELD.

Enclosures.

PROPOSED AGENDA FOR AN ANTI-INFLATION, COUNTERRECESSION PROGRAM

(Adopted by the Senate Democratic Conference in Causus on September 12, 1974)

1. *A budget policy* that recognizes that budget cuts are not a cure-all for inflation

and assures that reductions in Federal spending which are designed to mitigate the impact of inflation are focused primarily on wasteful and unneeded expenditures;

2. *A wage-price-profit policy* effectively designed and equitably administered to relieve unreasonable price-wage pressures;

3. *An eased monetary policy* that stimulates badly needed monetary relief in certain hard-pressed economic sectors such as housing;

4. *A tax poilcy* which assures that no segment of the economy will enrich itself by capturing excessive profits during the present period of economic hardship and recognizes that special relief must be accorded to those hit hardest by inflation—those in low and moderate income categories and those on modest fixed incomes;

5. *A far-sighted policy relating to shortages and supplies* and adequate machinery which will stimulate research and resources development, recovery, recycling and conservation;

6. *An employment policy,* with related measures which are designed to offset the human hardship of recession; and

7. *International economic policies* which recognize fully the critical inter-relationship of the American economy with the economies of other free nations.

Remarks of Senator Mike Mansfield at the Senate Democratic Conference, September 12 1974

This meeting has been called because it seems to me that the times require continuing contact of this kind. We are in a period, obviously, of rapid, if disparate, developments, all of which bear close watching. There are, for example, the declining state of the economy, continuing repercussions of Watergate, the evolution of major legislation, to state just a few. The Leadership needs to communicate to you whatever awareness we have of these matters and get from you your reactions, obeservations and initiatives.

The Joint Senate-House Democratic Leadership convened yesterday morning to consider the legislative program for the balance of the year. The meeting was also attended by Congressman Wilbur Mills and Senator Russell Long, in whose respective committees some of the principal remaining items are centered. The Legislative program, on the whole, is in excellent shape. A tentative recess for mid-October, therefore, was reaffirmed and the expectation was expressed that by then the Rockefeller nomination and the trade bill will have been disposed of by the Congress. Additionally, Chairman Mills announced the intention of completing a proposed tax bill in the House and Chairman Long indicated that he would make every effort to clear a proposed national health bill in the Senate before an election recess. Present Leadership plans call for the reconvening of Congress shortly after the election at which time every effort will be made to complete action on these two proposals.

The main focus of the Senate-House Leadership meeting on yesterday was on the serious state of the economy. You will recall, that a resolution proposed by Senator Haskell at our last conference asked the Policy Committee to review the possibility of setting forth a Senate, a Congressional or a party program to deal with the problems of the economy. It was thought that such a program might be forwarded through the Senate representatives to the economic summit conference for consideration there or, if that did not prove efficacious, advanced separately from here.

Pursuant to the instructions of this Conference, the Policy Committee met on the issue on Tuesday. The discussion which ensued was very preliminary and designed only to gauge the prospects of delineating the broad areas of relevance which would be involved in an anti-inflation, counter-recession program. We sought to determine, too, the possibility of obtaining sufficient agreement in the Policy Committee, which is highly representative of the Majority Conference, on particular courses of economic action, I think the view was unanimous that while it will be helpful to try to order our thinking in this fashion, we ought not to anticipate a great deal in the way of agreement on specifics at this point. How complex this problem is and how many alternative approaches there are is already evident from reports on the economic summit meeting.

The essential value of the Policy Committee discussion of the question, I think, was that it served to illuminate, at least, the major areas of relevance which any intergrated economic program is likely to encompass if it is going to begin to meet the devastation being wrought today in the nation by inflation and recession.

As we probed these areas in a preliminary way, it became clearer that any attempt to reach democratic, Senate or Congressional positions should be undertaken in the context of the Senate-initiated and Presidentially-encouraged Economic Summit Conference. As you know, the Summit has proceeded in a fully bipartisan and impartial fashion. Joined in those discussions are Democrats, Republicans, and Independents. In due course, I want to call on the Senators here who have been participating in the discussions for reports on their experiences to date. I would point out, too, that the twin plagues of inflation and recession are impartial and non-partisan and as far as possible we ought to fashion our response to these economic ills in similar tones.

Nevertheless, it was agreed in the Policy Committee that the Haskell resolution was very valuable in enabling us to begin to identify those areas to which an effective agenda of federal economic action for the nation, whether it be designed at the Summit Economic Conference or anywhere else must be directed. Such an agenda, I should think, would include measures directed at the following:

1. *A budget policy* that assures that reductions in Federal spending are designed clearly to mitigate the impact of inflation, with prime attention focused on wasteful and unneeded expenditures. May I add that on its part, the Senate has already effected cuts of $6 billion in the Executive's request for appropriations this year and it is expected that Congress will cut between $7 and $8 billion from appropriations requests after it completes work on these funding bills within the next month;

2. *A wage-price-profit policy* effectively equipped to relieve unreasonable price-wage pressures and equitably administered;

3. *An eased monetary policy* designed to stimulate badly needed monetary relief in certain hard-pressed economic sectors such as housing;

4. *A tax policy* designed to assure that no segment of the economy will enrich itself by capturing excessive profits during the present period of economic hardship and recognizing that special relief must be accorded those hit hardest by inflation—those in low and moderate income categories and those on modest fixed incomes;

5. *A far-sighted policy relating to shortages and supplies* and adequate machinery to stimulate research and resources development, recovery, recycling and conservation;

6. *An employment policy* and related measures designed to offset the human hardship of recession;

7. *International economic policies* that recognize fully the critical inter-relationship of the American economy with the economies of other free nations. As you know inflation and recession are not confined to this nation and they are not likely to be overcome in a vacuum by any nation—not, at least, without bringing down the whole structure of international stability.

Let me conclude these remarks with this observation, I believe—and in this I think all of us would concur—that the people of the nation sense that sacrifice is inevitable in the situation which confronts us today. I do not think I misjudge, however, when I say that the people are prepared to make sacrifices. What the people will not tolerate and what we in government should not ask them to tolerate is inequity in the demands for sacrifice. As the Senate reviews the various proposals regarding the issues of the economy—those generated by the Summit and others—I would hope that we will do so with a full awareness that it is essential that those who can do more will be asked to do more and those who cannot will not be pressed by federal policies to do what they cannot. The job of government, at this time, the job of the President and the Congress, is not to put off the asking of the essential sacrifices; it is to insist that insofar as it lies within our power and wisdom the essential sacrifices will be equitably borne in this nation.

Status of Appropriation, 1975, September 11, 1974

ENACTED

D.C.—Public Law 93-405.

Energy Research and Development—Public Law 93-322.

HUD—Public Law 93-414.

Interior—Public Law 93-404.

Legislative—Public Law 93-371.

Public Works—Public Law 93-393.

Transportation—Public Law 93-391.

Treasury—Postal Service—Public Law 93-381.

IN CONFERENCE

Defense.

State-Justice-Commerce.

PASSED HOUSE ONLY

Labor-HEW—On Senate calendar—Will debate on 9-16.

AWAIT HOUSE ACTION

Agriculture—Vetoed bill referred to committee.

Foreign Aid—Await authorization.

Military Construction—Await authorization.

Status of Unfinished Business—93d Congress

IN CONFERENCE

Appropriations: Defense—Conferees meet tomorrow, State-Justice.

Amtrak Authorization.

Campaign Financing.

Duty Suspensions with Tax Amendments.

Energy Research & Development.

Energy Transportation—House conferees unnamed.

ERDA.

Export Control—House conferees unnamed.

Federal Deposit Insurance.

Fire Prevention Control—Conf. rept. filed.

Health Services—House conferees unnamed.

Indian Claims Commission—Await House committee action.

Mass Transit (S. 386 in conference; H.R. 12859 P/H).

Military Construction Authorization.

Motor Vehicle Safety.

Nuclear Incidents and Technology Agreements—Conf. Repts. filed.

Strip Mining.

State Authorization—House conferees unnamed.

Welfare Reform—No action expected.

Toxic Substances Control—No action expected.

White House Personnel—Conf. Rept. still disputed.

AWAIT HOUSE ACTION

Appropriations

Agriculture—Vetoed bill referred to H. Cte.

Foreign Aid—Await authorization.

Military Construction—Await authorization.

Land Use Planning—P/S; House markup in progress.

National Health Insurance—In House Ways & Means Cte.

No-Fault Auto Insurance—P/S; House completed hearings.

Tax Reform—Ways & Means Cte. meeting this week on draft leg.

ON SENATE CALENDAR

Consumer Protection Agency—P/H; 4th Cloture vote on 9/19.

Deep Water Ports—P/H; Commerce Committee ordered reported.

Export-Import Bank Authorization.

Foreign Aid Authorization.

NEED SENATE COMMITTEE ACTION

Appropriations: Labor-HEW—On Senate calendar; S. will debate 9/16.

Amnesty—Hearings not yet scheduled.

Broadcast License Renewal—P/H; Senate hearings in progress.

OEO Authorization—Hearings in progress.

Rockefeller Nomination—Hearings scheduled.

Trade Reform—P/H; in executive markup in Finance Committee.

Mr. MANSFIELD. May I say, Mr. President, that at that conference, also, the conference unanimously instructed the distinguished Senator from Wisconsin (Mr. PROXMIRE) to hold hearings on high interest rates and excess profits. The Senator kindly consented to hold those hearings; and we hope that out of them and other committee hearings on matters affecting the economy will come a congressional—at least, a senatorial—input which will be of some assistance in the Senate meetings which are being held, the final one to be held on September 27 and 28.

So far as the Senate is concerned, we are prepared to cooperate with the President of the United States, not only to consider legislation but also to expedite it, so that we can face up to the deepening needs of the country, in an economic sense, which are so apparent at this time and which are becoming worse all the time.

The ACTING PRESIDENT pro tempore. Does the Senator from Vermont wish to be recognized?

Mr. STAFFORD. Mr. President, I think it may be well to comment that, as the distinguished majority leader knows, there will be the beginning of a series of minisummits in Washington and elsewhere over the coming weekend, in preparation for the major summit which the distinguished majority leader mentioned.

I am certain that any suggestions from the Democratic conference and from Republicans and others around the country who may be deeply concerned about our No. 1 domestic problem, inflation, will be welcomed and such parties will want to get their suggestions before the appropriate miniconference on inflation very promptly as a preliminary to the summit conference itself.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

LISTER HILL SCHOLARSHIP ACT

Mr. ALLEN. Mr. President, on behalf of my distinguished senior colleagues, Mr. SPARKMAN, Mr. ERVIN, Mr. McGEE, Mr. STENNIS, and myself, I am introducing today the Lister Hill Scholarship Act.

The bill will provide for 10 federally funded medical scholarships each year and will offer young people in our country increased opportunities to study and engage in the practice of medicine. At the same time, the bill will honor Lister Hill, our beloved Alabamian who served the people of his State and the Nation for nearly half a century as a Member of the U.S. Congress.

No man is more deserving of honor in the field of health than Lister Hill. And I can think of no honor more fitting than the establishment of medical scholarships which will enable outstanding and deserving young Americans to carry the healing arts to the people of their Nation.

The scholarships to be awarded under the bill will be administered as a part of the present program of scholarship grants directed by the Secretary of Health, Education, and Welfare. Because they will be administered through the existing grants program authorized in section 784 of the Public Health Service Act, they will call for no new administrative funds and will add only the cost of the scholarships themselves to the cost of the grants program.

Each grant will be for $6,000 per year, the amount specified in S. 3585, the Health Professions Educational Assistance Act of 1974. This replaces the figure of $5,000 now in section 784 of the Public Health Service Act. This amount is based upon the cost to each student of tuition, fees, books, and room and board.

The Lister Hill scholarships will be awarded on a nationwide basis, one in each of the 10 geographical regions of the Department. They will not be awarded on a basis of need, but it is my intention in proposing them that the Secretary will insure that a reasonable number will go to applicants from ghetto or depressed urban areas and from rural areas. The bill provides also that recipients of grants will engage in family practice of medicine. It is my hope that the conditions set forth in the Public Health Service Act and applied by the Secretary will encourage them to practice in these areas.

This is appropriate in any measure honoring Lister Hill. We know that throughout his service in Congress, he devoted his most earnest effort to assuring that those most in need should be able to receive high quality medical care under our Federal health program.

Although Lister Hill's master works in the field of health are those most familiar to America today, we must not overlook his long years of service in the whole broad range of human needs and concerns.

His record in Congress reads like a rollcall of legislative action for the health, education, security, and prosperity of the American people and the sound development of their natural resources.

During his 46 years of service in the Senate and in the House of Representatives, he was the author and supporter of more programs for human welfare, national defense, and domestic progress than perhaps any other man in the history of Congress.

He was an early champion in the South's fight for equal treatment by the Federal Government. His leadership brought vital breakthroughs for the South's economic and industrial development: By removing discriminatory freight rates which had chained Southern industry to higher transportation costs; by bringing TVA with cheap electric power and flood control; by developing Alabama's rivers and waterways for cheap water transportation. His efforts for the farmer brought rural electricity and rural telephone service. He was a longtime supporter of conservation, crop loans and insurance, and other programs which gave the farmer and his family security and a good income. He sponsored programs for the working man, military veterans and their dependents, and for the aged, dependent children, and the crippled and handicapped.

Many of the programs for which Lister Hill fought are an accepted part of our way of life today. A few years ago they represented pioneer gains, particularly for the South, where they represented hard won victories in the struggle for parity with other sections of the country.

It was natural that one of his earliest concerns in Congress should be the strengthening of the Nation's programs for health and medicine. Named for Lord Joseph Lister, famed British surgeon, he is the son of one of the South's foremost physicians, the late Dr. L. L. Hill, he is a cousin of five doctors and the brother-in-law of two others. Across the Nation, he is known as "the statesman of health."

Back in 1958, Senator Hill foresaw the bright prospect for modern health that lay within our grasp. In a speech at Hahnemann Medical College in Philadelphia, he declared:

> We stand today at the threshold of a Golden Age of medicine. In the past 25 years we have added as much to our knowledge in medicine as we have acquired in the history of mankind. I predict that within a relatively few short years the world will see a tremendous breakthrough of medical knowledge that will enable us to conquer many of the dread diseases that have plagued and baffled man through the ages. There is reason for confidence that this breakthrough will yield the answer to heart disease, cancer, mental illness, the virus diseases, and many other crippling and degenerative ailments.

Since that time, and due in large measure to Hill programs, the world has in fact thrown back many of these dread diseases and made dramatic progress in preventing and controlling heart disease, forms of cancer, mental illness, and the vascular diseases. Poliomyelitis, measles, mumps and other viral diseases which strike in epidemic form have been virtually wiped out or brought under control.

In structuring the vast health programs that protect the Nation's health today, Lister Hill was the architect of four massive pillars of health:

First. Preventive medicine, which through the Public Health Service places a floor under the health and well-being of every citizen;

Second. The physical facilities for health, thorugh his Hill-Burton hospital and health center construction program;

Third. Research, through the National Institutes of Health, which expands man's scientific knowledge and provides the dynamic force for continued medical progress; and

Fourth. Health manpower, those trained to apply this knowledge and put to use the skills and devices of modern medicine.

Preventive medicine, which in the early days of the Public Health Service attacked epidemic diseases by providing clean water and sanitation, malarial control and the like, has today taken on a far broader and more sophisticated form of prevention and rehabilitation. Preventive medicine now makes use of the whole armamentarium of modern drugs, devices and techniques to eradicate disease through mass immunization programs, to discover disease in its earliest preventable stages, and to rehabilitate those who have been stricken.

Of the many health programs which bear Lister Hill's name, perhaps that with the broadest effect today is the Hospital and Health Center Construction Act of 1946. Known across the country as the Hill-Burton program, its formula for local-State-Federal sharing of the cost has brought the Nation in the past 28 years some 10,000 general and mental hospitals, tuberculosis sanatoriums, public health centers, nursing homes, crippled children's clinics, rehabilitation facilities, and other medical facilities. Alabama is a leader among the States in taking advantage of the Hill-Burton program; 66 of Alabama's 67 counties now have over 300 hospitals and other facilities built under the program.

The dramatic contributions of modern medical research to America's health were described by Senator Hill a few years ago at Langdale, Ala., when he returned to commemorate the first hospital approved under the Hill-Burton Act.

> "Since we began work in this hospital," he said, "we have added ten precious years to the average American's life and millions of lives have been saved through medical research. Many of the diseases which robbed our cradles and sapped our manhood are now under control. Diphtheria, scarlet fever, yellow fever and typhoid fever, malaria, smallpox, pellagra, and hookworm have been almost completely conquered. Pneumonia has lost its fatal sting. Infant mortality is the lowest in our history and only one mother is lost for more than a thousand babies brought into the world."

Under Senator Hill's leadership, support and funds for medical research rose from $125 million a year when he became chairman of the Senate committee handling health to some $2 billion today. This sharp rise in Federal support has stimulated colleges, industry, foundations, and other private sources massively to increase their own support for research.

After World War II, Senator Hill sponsored the original bill to establish the National Institutes of Health as the research arm of the Public Health Service. In subsequent years he introduced amendments which expanded NIH into added fields, and today separate Institutes perform specialized research in cancer, heart disease, mental health, allergy and infectious diseases, arthritis and metabolic diseases, dental ailments, child health and human development, vision disorders, and basic research.

Lister Hill was long aware that whatever the physical facilities for health, and whatever the wondrous discoveries of medical research, these could not become reality without the doctors, nurses, and trained medical manpower able to deliver them to the people. He initiated and gave powerful impetus to many congressional programs for building up the supply and raising the level of training for the Nation's doctors, research specialists, dentists, laboratory technicians, and health workers of all kinds.

Among his landmark programs in the field of medical training are the Omnibus Health Act of 1956, the Health Professions Educational Assistance Act of 1963, the Nurse Training Act of 1964, and many other measures for support of medical schools, public health training, and medical scholarships.

Among the most heart-warming of Senator Hill's humanitarian programs are those for the mentally ill and retarded, and for the rehabilitation of the disabled and handicapped. In the attack on mental illness, his measures provide for the construction and staffiing of community mental health centers. With his concern for children, he established the program for university-affiliated and community facilities to aid the mentally retarded, and for specialized training for health workers in this field.

Senator Hill has called aid to the disabled and handicapped the "restorative phase of medicine." The Hill-Burton provision for rehabilitation center construction has provided a focal point for community rehabilitation effort. Other measures enacted under his leadership provide for the training of teachers of deaf, blind, and handicapped children, and for research into improved education in these fields. Vocational rehabilitation and juvenile delinquency are other targets in these programs.

Senator Hill's long and dedicated service in the cause of health has brought worldwide acclaim and support over the years—from Presidents, Congessional leaders, major writers, and publications, national and international institutions. But valued as this recognition is, the most treasured possession, and closest to his heart, is the respect, affection, and love which his devotion and dedication in their cause has won from generations of his fellow Alabamians.

Nowhere has this been expressed more warmly and tenderly, I believe, than in a letter from the late Helen Keller in 1960, when she wrote to Lister Hill:

> My heart grows warm every time I think of you—and that is ever so often—and I glow with happy gratitude to you.

Mr. President, I send to the desk the bill to which I referred, which is being introduced by Senator SPARKMAN, Senator ERVIN, Senator McGEE, Senator STENNIS, and myself. I ask that it be received and appropriately referred.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

AMENDMENT NO. 1861

Mr. ALLEN. Mr. President, I also send to the desk an amendment to S. 3585 that I ask to be held at the desk and printed.

I ask unanimous consent that both the bill and the amendment be set out at length in the RECORD.

There being no objection, the bill and amendment were ordered to be printed in the RECORD, as follows:

S. 3998

A bill to amend the Public Health Service Act to provide for additional medical scholarships to be known as Lister Hill Scholarships

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Lister Hill Scholarship Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that—

(1) an essential element in maintaining the health of the people of the United States is the continued assurance of trained health manpower, capable of delivering the highest quality of health care;

(2) despite the fact that the health care system in the United States is in general the finest system in the world, quality health care is not always available to those persons residing in depressed urban areas or rural areas;

(3) quality health care is a right of citizens regardless of the area in which they reside, and that the delivery of such quality health care was always an objective of Lister Hill during his service to the people of his State and the nation in the Congress of the United States.

(b) It is the purpose of this Act to assist in securing quality health care for all citizens, through the establishment of a medical scholarship program.

LISTER HILL SCHOLARSHIP PROGRAM

SEC. 3. Subpart III of Part F of title VII of the Public Health Service Act is amended by adding at the end thereof the following new section:

"LISTER HILL SCHOLARSHIP PROGRAM

"SEC. 789A. (a) In addition to the scholarship grants made by the Secretary under the preceding sections of this subpart the Secretary shall make grants to 10 individuals (to be known as Lister-Hill Scholars) in accordance with the provisions of this subpart, who agree to enter into the family practice of medicine in areas described in subsection (a) of section 784. Grants made under this section shall be made from funds appropriated under subsection (b).

"(b) There are authorized to be appropriated to carry out the purposes of this section

$60,000 for the fiscal year ending June 30, 1975, $120,000 for the fiscal year ending June 30, 1976, $180,00 for the fiscal year ending June 30, 1977, and $240,000 for the fiscal year ending June 30, 1978. For the fiscal year ending June 30, 1979 and for each succeeding fiscal year, there are authorized to be appropriated such sums as may be necessary to continue to make such grants to students who (prior to July 1, 1978) have received such a grant under this part during such succeeding fiscal year.".

AMENDMENT NO. 1861

On page 155 insert between lines 2 and 3 the following:

(c) Such Act is further amended by inserting after section 754 the following new section:

"LISTER HILL SCHOLARSHIP PROGRAM

"SEC. 755. (a) In addition to the scholarship grants made by the Secretary under the preceding sections of this subpart the Secretary shall make grants to ten individuals (to be known as Lister Hill Scholars) in accordance with the provisions of this subpart, who agree to enter into the family practice of medicine in areas described in subsection (a) of section 754. Grants made under this section shall be made from funds appropriated under subsection (b).

"(b) There are authorized to be appropriated to carry out the purposes of this section $60,000 for the fiscal year ending June 30, 1975, $120,000 for the fiscal year ending June 30, 1976, $180,000 for the fiscal year ending June 30, 1977, and $240,000 for the fiscal year ending June 30, 1978. For the fiscal year ending June 30, 1979, and for each succeeding fiscal year, there are authorized to be appropriated such sums as may be necessary to continue to make such grants to students who (prior to July 1, 1978) have received such a grant under this part during such succeeding fiscal year.".

Mr. SPARKMAN. Mr. President, my colleague (Mr. ALLEN) introduced for himself and me a bill and submitted an amendment relating to the creation of scholarships to be dedicated to, and designated, Lister Hill Scholarships.

We all know the tremendous job that Senator Hill did here in the Senate over the years in behalf of education. He was chairman of the committee that handled educational bills, both the authorizing committee and also the appropriating committee.

He always was advocating great educational programs. There have been scholarships set up known as the Harry Truman Scholarships. This would follow the same design, serve the same purpose, and be dedicated to this Senator who had a very long service in Congress.

He entered Congress in 1923, in the House of Representatives. He came to the Senate in 1937, and served until 1969. He had 46 years of service.

No one, I believe, made a greater imprint during the time he was here than Senator Hill. I think it would be a befitting honor to adopt this amendment and this bill dedicating these scholarships to him.

Mr. MANSFIELD. Mr. President, I listened with interest to what the distinguished Senator from Alabama (Mr. ALLEN) had to say this morning, and also his senior colleague (Mr. SPARKMAN), relative to former Senator Lister Hill.

Lister Hill was well named. I believe his parents named him Lister in honor and in memory of the great English doctor who made many contributions to the science of medicine.

Senator Hill was an outstanding Member of this body. He was a leader in the field of medical research. He was responsible in large part for the creation of the NIH, the National Institutes of Health, which has done so much good for so many in this country, especially those who had little or no hope left.

He was the prime mover behind the Hill-Burton amendments.

I was delighted to hear the distinguished Senator from Alabama (Mr. ALLEN) state that of Alabama's 67 counties, 66 of them had been the recipients of assistance under Hill-Burton.

I only wish that all our States were in as good a shape. One of the finest programs ever enacted by the Congress was this program which gave so much help to so many people in so many needy areas.

I am delighted to join with the distinguished Senator from Alabama (Mr. ALLEN) who initiated this tribute to Senator Hill this morning.

I would ask most respectfully if he would allow me to become a cosponsor of the resolution as well.

Mr. ALLEN. I thank the distinguished majority leader. We would certainly be delighted to have this cosponsorship.

ORDER OF BUSINESS

Mr. STAFFORD. Mr. President, I ask unanimous consent that the 15 minutes assigned to the Senator from Michigan (Mr. GRIFFIN) be transferred to the Senator from New York (Mr. JAVITS).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, will the Senator from New York permit me to be recognized first, on the time of the distinguished assistant majority leader? I have another appointment.

Mr. JAVITS. Certainly.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

S. 3879—COMMITTEE ON COMMERCE DISCHARGED FROM FURTHER CONSIDERATION AND ORDERED PLACED ON THE CALENDAR—COAL PIPELINE ACT OF 1974

Mr. MANSFIELD. Mr. President, pursuant to the order of August 12, 1974, since the time has passed for the Committee on Commerce to report back S. 3879, to amend the Mineral Leasing Act of 1920, I ask unanimous consent that the bill be placed on the calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE DISPOSITION ON THE WATERGATE TAPES

Mr. MANSFIELD. Mr. President, on September 9, I stated in a speech on the floor of the Senate:

> May I say that I am also concerned that an agreement has been reached whereby, after 3 years, the White House tapes will become the property of former President Nixon. During that period, the former President and the Federal Government will have access to those tapes. It is my belief that those tapes should be retained in the control of the Federal Government, and I would suggest that except for those portions of the tapes dealing with the national security, they all be published.

Mr. President, article IV, section 3 of the Constitution contains the following statement:

> The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Two days later, on September 11, I introduced Senate Resolution 399, as follows:

> Senate Resolution 399—Submission of a Resolution urging full public access to information regarding the Watergate investigation. (Referred by unanimous consent to the Committee on Government Operations.)
>
> Mr. MANSFIELD submitted the following resolution:
>
> S. RES. 399
>
> Whereas, It is paramount to the national interest that the American public be made fully aware of all facts connected with and relating to Watergate matters and the fruits of all investigations conducted pursuant thereto; and
>
> Whereas, It is uncertain that there is now assured public access to all such facts as they are contained in papers, documents, memoranda, tapes and transcripts, Be It Therefore
>
> *Resolved,* That President Ford take all steps necessary to assure full public access to all facts connected with and relating to Watergate matters and the fruits of all investigations conducted pursuant thereto, and Be It Further
>
> *Resolved,* That except in cases clearly vital to the national security interests of the United States, President Ford afford the American public full access to all such papers, documents, memoranda, tapes and transcripts originating at anytime during the period January 20, 1969 through August 9, 1974 at the earliest practicable time and in an adequate and effective manner.

This resolution speaks for itself. It calls upon President Ford to assure the American people that in the national interest they will be provided all of the facts of Watergate and all of the facts relating to matters connected therewith.

That the American people are entitled to these facts is unquestioned in my judgment; that they are not now assured of that opportunity is equally clear, however.

Watergate and all of its ramifications are not now behind us. They will not be behind us until the record is complete. To accomplish that objective in our free and open society will require full access by the American people to all relevant data and information. To justify this action I would refer to the words of Mr. Justice Story in a case cited by Attorney General Saxbe in his opinion issued by the White House on September 6:

> From the nature of the public service, or the character of the documents, embracing historical, military, or diplomatic information, it may be the right, and even the duty, of the government to give them publicity, even against the will of the writers. (Folsom v. Marsh, 2 Story 100, 1841)

Such a duty and such a right have been clearly and amply demonstrated with respect to the nature of Watergate and to the character of all information relating thereto.

In my opinion, the public papers of the Presidency used in the transaction of the people's business belong not to any one person, but to the Government and through the Government, to the people. There is no law which states that these papers become the property of a retiring or resigned President. I am somewhat surprised that Mr. Richard Q. Vawter of the General Services Administration, said recently that:

> We consider every piece of paper accumulated in the White House during the Nixon Administration to be Mr. Nixon's personal property.

It is interesting to note that our first President, George Washington, was of the opinion that his official papers belonged to the Government. To quote President Washington, he stated that his papers were "a species of public property, sacred in my hands."

In order to face up to what has become a custom based on precedents, but not on law, I have introduced Senate Resolution 399 along with a number of other Senators—I see that the distinguished Senator from New York (Mr. Javits) a cosponsor, is in the Chamber—so that congressional intent will be made clear that these papers are not private property but, in the last analysis, belong to the people.

Too many Presidents have stripped the White House of their official papers, some to preserve them in libraries, others to use them as a basis for books and interviews, and all of them being considered the private property of a President who was elected and who used public funds to be able to amass documents, papers, memoranda, tapes and transcripts, or whatever.

I am today addressing a letter to the distinguished Chairman of the Committee on Government Operations, the Senator from North Carolina, Mr. Sam Ervin, and asking that he give consideration to S. 399 as expeditiously as possible to the end that these papers will not be stored away in a vault for 3 years under the joint ownership, so to speak—perhaps I should say under the joint supervision—of Mr. Arthur Sampson, Administrator of the General Services Administration, and Mr. Nixon or his designee, probably Mr. Ron Ziegler, after which time, they would become the property of the former President to use as he saw fit.

Incidentally, there is a request before the Congress at this time for $100,000 to build a vault to store this accumulation of data in San Clemente, Calif. The place to store all this material is in the National Archives where it can be made readily available—all of it except those parts dealing with national security—to the courts, to the Congress, and to the American people.

I ask unanimous consent to have printed in the Record the following:

The text of a letter from Richard Nixon to Arthur F. Sampson, Administrator, General Services Administration, dated September 6, 1974; the text of a legal opinion by the Attorney General, dated September 6, 1974; a press conference of Philip Buchen, counselor to the President, dated September 8, 1974, and also case No. 4,901, the so-called Story case, to which reference has been made by the Senator from Montana now speaking, and also by the distinguished Attorney General, Mr. William Saxbe, relative to the opinion laid down by the President prior to mine.

There being no objection, the material was ordered to be printed in the Record, as follows:

Text of a Letter From Richard Nixon to Arthur F. Sampson, Administrator, General Services Administration

The White House
September 6, 1974.

Hon. Arthur F. Sampson,
Administrator, General Services Administration, Washington, D.C.

Dear Mr. Sampson: In keeping with the tradition established by other former Presidents, it is my desire to donate to the United States, at a future date, a substantial portion of my Presidential materials which are of historical value to our Country. In donating these Presidential materials to the United States, it will be my desire that they be made available, with appropriate restrictions, for research and study.

In the interim, so that my materials may be preserved, I offer to transfer to the Administrator of General Services (the "Administrator"), for deposit, pursuant to 44 U.S.C. Section 2101 et seq., all of my Presidential historical materials as defined in 44 U.S.C. Section 2101 (hereinafter "Materials"), which are located within the metropolitan area of the District of Columbia, subject to the following:

1. The Administrator agrees to accept solely for the purpose of deposit the transfer of the Materials, and in so accepting the Materials agrees to abide by each of the terms and conditions contained herein.

2. In the event of my death prior to the expiration of the three-year time period established in paragragh 7A hereof, the terms and conditions contained herein shall be binding upon and inure to the benefit of the executor of my estate for the duration of said period.

3. I retain all legal and equitable title to the Materials, including all literary property rights.

4. The Materials shall, upon acceptance of this offer by the Administrator, be deposited temporarily in an existing facility belonging to the United States, located within the State of California near my present residence. The Materials shall remain deposited in the temporary California facility until such time as there may be established, with my approval, a permanent Presidential archival depository as provided for in 44 U.S.C. Section 2108.

5. The Administrator shall provide in such temporary depository and in any permanent Presidential archival depository reasonable office space for my personal use in accordance with 44 U.S.C. Section 2108(f). The Materials in their entirety shall be deposited within such office space in the manner described in paragraph 6 hereof.

6. Within both the temporary and any permanent Presidential archival depository, all of the Material shall be placed within secure storage areas to which access can be gained only by use of two keys. One key, essential for access, shall be given to me alone as custodian of the Materials. The other key may be duplicated and entrusted by you to the Archivist of the United States or to members of his staff.

7. Access to the Materials within the secure areas, with the exception of recordings of conversations in the White House and the Executive Office Building which are governed by paragraphs 8 and 9 hereof, shall be as follows:

A. For a period of three years from the date of this instrument, I agree not to withdraw from deposit any originals of the Materials, except as provided in subparagraph B below and paragraph 10 herein. During said three-year period, I may make reproductions of any of the originals of the Materials and withdraw from deposit such reproductions for any use I may deem appropriate. Except as provided in subparagraph E below, access to the Materials shall be limited to myself, and to such persons as I may authorize from time to time in writing, the scope of such access to be set forth by me in each said written authorization. Any request for access to the Materials made to the Administrator, the Archivist of the United States or any member of their staffs shall be referred to me. After three years I shall have the right to withdraw from deposit without formality any or all of the Materials to which this paragraph applies and to retain such withdrawn Materials for any purpose of use I may deem appropriate, including but not limited to reproduction, examination, publication or display by myself or by anyone else I may approve.

B. In the event that production of the Materials or any portion thereof is demanded by a subpoena or other order directed to any official or employee of the United States, the recipient of the subpoena or order shall immediately notify me so that I may respond thereto, as the owner and custodian of the Materials, with sole right and power of access thereto and, if appropriate, assert any privilege or defense I may have. Prior to any such production I shall inform the United States so it may inspect the subpoenaed materials and determine whether to object to its production on grounds of national security or any other privilege.

8. The tape recordings of conversations in the White House and Executive Office Building which will be deposited pursuant to this instrument shall remain on deposit until September 1, 1979. I intend to and do hereby donate to the United States such gift to be effective September 1, 1979, all of the tape recordings of conversations in the White House and Executive Office Building conditioned however on my continuing right or access as specified in paragraph 9 hereof and on the further condition that such tape shall be destroyed at the time of my death or on September 1, 1984, whichever event shall first occur. Subsequent to September 1, 1979 the Administrator shall destroy such tapes as I may direct. I impose this restriction as other Presidents have before me to guard against the possibility of the tapes being used to injure, embarrass, or harass any person and properly to safeguard the interests of the United States.

9. Access to recordings of conversations in the White House and Executive Office Building within the secure areas shall be restricted as follows:

A. I agree not to withdraw from deposit any originals of the Materials, except as provided in subparagraph B and paragraph 10 below, and no reproductions shall be made unless there is mutual agreement. Access to the tapes shall be limited to myself, and to such persons as I may authorize from time to time in writing, the scope of such access to be set forth by me in each said written authorization. No person may listen to such tapes without my written prior approval. I reserve to myself such literary use of the Information on the tapes.

B. In the event that production of the Materials or any portion thereof is demanded by a subpoena or other order directed to any official or employee of the United States, the recipient of the subpoena or order shall immediately notify me so that I may respond thereto, as the owner and custodian of the Materials, with sole right and power of access thereto and, if appropriate, assert any privilege or defense I may have. Prior to any such production, I shall inform the United States so it may inspect the subpoenaed materials and determine whether to object to its production on grounds of national security or any other privilege.

10. The Administrator shall arrange and be responsible for the reasonable protection of the Materials from loss, destruction or access by unauthorized persons, and may upon receipt of any appropriate written authorization from the Counsel to the President provide for a temporary re-deposit of certain of the Materials to a location other than the existing facility described in paragraph 4 herein, provided however, that no diminution of the Administrator's responsibility to protect and secure the Materials from loss, destruction, unauthorized copying or access by unauthorized persons is affected by said temporary re-deposit.

11. From time to time as I deem appropriate, I intend to donate to the United States certain portions of the Materials deposited with the Administrator pursuant to this agreement, such donations to be accompanied by appropriate restrictions as authorized by 44 U.S.C. Section 2107. However, prior to such donation, it will be necessary to review the Materials to determine which of them should be subject to restriction, and the nature of the restrictions to be imposed. This review will require a meticulous, thorough, time-consuming analysis. If necessary to fulfill this task, I will request that you designate certain members of the Archivist's staff to assist in this review under my direction.

If you determine that the terms and conditions set forth above are acceptable for the purpose of governing the establishment and maintenance of a depository of the Materials pursuant to 44 U.S.C. Section 2101 and for accepting the irrevocable gift of recordings of conversations after the specified five year period for purposes as contained in paragraph 8 herein, please indicate your acceptance by signing the enclosed copy of this letter and returning it to me. Upon your acceptance we both shall be bound by the terms of this agreement.

Sincerely,

Richard Nixon.

The White House,
September 6, 1974.

Text of a Legal Opinion by the Attorney General

The President,
The White House.

Dear Mr. President: You have requested my opinion concerning papers and other historical materials retained by the White House Office during the administration of former President Richard M. Nixon and now in the possession of the United States or its officials. Some such materials were left in the Executive Office Building or in the White House at the time of former President Nixon's departure; others had previously been deposited with the Administrator of General Services. You have inquired concerning the ownership of such materials and the obligations of the Government with respect to subpoenas and court orders addressed to the United States or its officials pertaining to them.

To conclude that such materials are not the property of former President Nixon would be to reverse what has apparently been the almost unvaried understanding of all three branches of the Government since the beginning of the Republic, and to call into question the practices of our Presidents since the earliest times. In *Folsom* v. *Marsh*, 9 F. Cas. 342 (No. 4901), 2 Story 100, 108–109 (C.C.D. Mass. 1841), Mr. Justice Story, while sitting in circuit, found that President Washington's letters, including his official correspondence,[1] were his private property which he could bequeath, which his estate could alienate, and in which the purchaser could acquire a copyright. According to testimony of the Archivist of the United States in 1955, every President of the United States beginning with George Washington regarded all the papers and historical materials which accumulated in the White House during his administration, whether of a private or official nature, as his own property.[2] A classic exposition of this Presidential view was set forth by President Taft in a lecture presented several years after he had left the White House:

> The office of the President is not a recording office. The vast amount of correspondence that goes through it, signed either by the President or his secretaries, does not become the property or a record of the government unless it goes on to the official files of the department to which it may be addressed. The President takes with him all the correspondence, original and copies, carried on during his administration. Taft, The Presidency 30–31 (1916).

Past Congressional recognition of the President's title is evidenced by the various statutes providing for Government purchase of the official and private papers of many of our early Presidents, including Washington, Jefferson, Madison, Monroe and Jackson. *See* 1955 Hearings at 28, 39–42.

Even if there were no recent statutory sanction of Presidential ownership, a consistent history such as that described above might well be determinative. As the Supreme Court said in *United States* v. *Midwest Oil Co.*, 236 U.S. 459 (1915):

> [G]overnment is a practical affair intended for practical men. Both officers, law-makers and citizens naturally adjust themselves to any long-continued action of the Executive Department—on the presumption that unauthorized acts would not have been allowed to be so often repeated as to crystallize into a regular practice. That presumption is not reasoning in a circle. But the basis of a wise and quieting rule that in determining the meaning of a statute or the existence of a power, weight shall be given to the usage itself—even when the validity of the practice is the subject of investigation, *Id*, at 472–73.
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> * * * * *
>
> [W]hile no . . . express authority has been granted [by Congress], there is nothing in the nature of the power exercised which prevents Congress from granting it by implication just as could be done by any other owner of property under similar conditions. *Id*. at 474.

Moreover, with respect to the practice at issue here, there is recent statutory sanction. The 1955 Presidential Libraries Act, which serves as the permanent basis of the Presidential Library system, constitutes clear legislative acknowledgement that a President has title to all the documents and historical materials—whether personal or official—which accumulate in the White House Office during his incumbency. The Federal Records Act of 1950, 64 Stat. 587, which was the predecessor of the Presidential Libraries Act, authorized the Administrator of General Services to accept for deposit "the personal papers and other personal historical documentary materials of the present President of the United States." Section 507(e), 64 Stat. 588. The word "personal" might have been read as intended to distinguish between the private and official papers of the President.[3] The corresponding provision of the current law, however, 44 U.S.C. 2107(1), avoids the ambiguity. It envisions the President's deposit of *all* Presidential materials, not only personal ones. During the House debate on the Presidential Libraries Act, Congressman Moss, who was in charge of the bill, expressly stated:

> Four. Finally, it should be remembered that Presidential papers belong to the President, and that they have increased tremendously in volume in the past 25 or 30 years. It is no longer possible for a President to take his papers home with him and care for them properly. It is no accident that the last three Presidents—Hoover, F. D. Roosevelt, and Harry Truman—have had to make special provisions through the means of the presidential library to take care of their papers. 101 Cong. Rec. 9935 (1955).

The legislative history of the Act reflects no disagreement with this position on the part of any member of the Congress. The hearings before a Special Subcommittee of the House Committee on Government Operations indicate congressional awareness of the Act's assumption that all Presidential papers are the private property of the President. 1955 Hearings at 12, 20, 28, 32, 52, 54, 58.

A recent discussion concerning ownership of Presidential materials appears in the report prepared by the staff of the Joint Committee on Internal Revenue Taxation involving the examination of President Nixon's tax returns. H. Rept. 93-966, 94d Cong., 2d Sess. (1974). The report points to the practice of Presidents since Washington of treating their papers, both private and official, as their personal property; and to the congressional ratification of the practice in the 1955 library legislation. It concludes that "the historical precedents taken together with the provisions set forth in the Presidential Libraries Act, suggest that the papers of President Nixon are considered his personal property rather than public property." *Id.* at 28-29.

An apparent obstacle to Presidential ownership of all White House materials is Article II, section I, clause 7 of the Constitution, which provides:

> "The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them."

But objection based upon this provision is circular in its reasoning, except insofar as it applies to the blank typing paper and materials upon which the Presidential records are inscribed. For the record themselves are given to the President as an "emolument" only if one assumes that they are not the property of the President from the very moment of their creation. As for the blank typing paper and materials, which are of course of negligible value, they can be regarded as consumables, like electricity or telephone service, provided for the conduct of Presidential business. In any event, the Constitutional provision can simply not be interpreted in such a fashion as to preclude the conferral of anything of value, beyond his salary,

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Footnotes at end of article.

upon the President. An eminent authority on the subject states the following:

> As a matter of fact the President enjoys many more "emoluments" from the United States than the "compensation" which he receives "at stated times"—at least, what most people would reckon to be emoluments. Corwin, *The President* 348 N. 53.

He gives as examples of such additional emoluments provided by the Congress the use of personal secretaries and the right to reside in the White House. *Id.* at 348–49.

Another obstacle to Presidential ownership of the materials in question is their character as public documents, often secret and sometimes necessary for the continued operation of government. However, without speaking to the desirability of the established property rule (and there is pending in the Congress legislation which would apparently alter it—S. 2951, 93d Cong., 2d Sess., a bill "[t]o provide for public ownership of certain documents of elected public officials"), it must be conceded that accommodation of such concerns can be achieved whether or not ownership of the materials in question rests with the former President. Historically, there has been consistent acknowledgement that Presidential materials are peculiarly affected by a public interest which may justify subjecting the absolute ownership rights of the ex-President to certain limitations directly related to the character of the documents as records of government activity. Thus, in *Folsom* v. *Marsh, supra,* Mr. Justice Story stated the following:

> In respect to official letters, addressed to the government, or any of its departments, by public officers, so far as the right of the government extends, from principles of public policy, to withhold them from publication, or to give them publicity, there may be a just ground of distinction. It may be doubtful, whether any public officer is at liberty to publish them, at least, in the same age, when secrecy may be required by the public exigencies, without the sanction of the government. On the other hand, from the nature of the public service, or the character of the documents, embracing historical, military, or diplomatic information, it may be the right, and even the duty, of the government, to give them publicity, even against the will of the writers. 2 Story at 113.

That portion of the Criminal Code dealing with the transmission or loss of national security information, 18 U.S.C. § 793, obviously applies to Presidential papers even when they are within the possession of the former President.[4] Upon the death of Franklin D. Roosevelt during the closing months of World War II, with full acceptance of the traditional view that all White House papers belonged to the President and devolved to his estate, some of the papers dealing with prosecution of the War (the so-called "Map Room Papers") were retained by President Truman under a theory of "protective custody" until December 1946 *Matter of Roosevelt,* 190 Misc. 341, 344, 73 N.Y.S. 821, 825 (Sur. Ct. 1947); *Eighth Annual Report of the Archivist of the United States as to the Franklin D. Roosevelt Library* (1947) p. 1. Thus, regardless of whether this is the best way to approach the problem, precedent demonstrates that the governmental interests arising because of the peculiar nature of these materials (notably, any need to protect national security information and any need for continued use of certain documents in the process of government) can be protected in full conformity with the theory of ownership on the part of the ex-President.

Because the principle of Presidential ownership of White House materials has been acknowledged by all three branches of the Government from the earliest times; because that principle does not violate any provision of the Constitution or contravene any existing statute; and because that principle is not inconsistent with adequate protection of the interests of the United States; I conclude that the papers and materials in question were the property of Richard M. Nixon when his term of office ended. Any inference that the former President abandoned his ownership of the materials he left in the White House and the Executive Office Building is eliminated by a memorandum to the White House staff from Jerry H. Jones, Special Assistant to President Nixon, dated the day of his resignation, asserting that "the files of the White House Office belong to the President in whose Administration they were accumulated," and setting forth instructions with respect to the treatment of such materials until they can be collected and disposed of according to the ex-President's wishes. We are advised that the materials previously deposited with the Administrator of General Services were likewise transmitted and received with the understanding of continuing Presidential ownership.

I must, however, exclude one category of documents from the scope of this opinion concerning ownership and advise you that their status cannot be definitively determined on the basis of presently available information. Although the fact is not recorded in the published materials we have examined, our inquiry indicates that at least in recent memory certain "permanent files" have been retained by the Chief Executive Clerk of the White House from administration to administration. These include White House budget and personnel material, and records or copies of some Presidential actions useful to the Clerk's office for such purposes as keeping track of the terms of Presidential appointments and providing models or precedents for future Presidential action. Retention of these materials by the Chief Executive Clerk is of course not necessarily inconsistent with initial Presidential ownership. In light of the otherwise uniform practice with respect to much more important official documents, relinquishment of these materials may reasonably be regarded as a voluntary act of courtesy on the part of the outgoing Chief Executive. I cannot, however, make an adequately informed judgment concerning these files without more extensive factual and historical inquiry, which your need for this opinion does not permit. Of course, even if such inquiry should show that these particular documents have been regarded as Government property, that conclusion would not support a generalization of Government ownership with respect to the much more extensive other material covered by this opinion, as to which the Presidential practice and congressional acquiescence are clear.

As to the obligations of the Government with respect to subpoenas and court orders directed to the United States or its officials pertaining to the subject materials; Even though the Government is merely the custodian and not the owner, it can properly be subjected to court directives relating to the materials. The Federal Rules of Criminal Procedure authorize the courts, upon motion of a defendant, to order the Government to permit access to papers and other objects "which are within the possession, custody or control of the government. . . ." Fed. R. Crim. P. 16(b). A similar provision is applicable with regard to discovery in civil cases involving material within the "possession, custody or control" of a party (including the Government). Fed. R. Civ. P. 34(a). In addition, in both criminal and civil cases, a subpoena may be issued directing a person to produce documents or objects which are within his possession, but which belong to another person. Fed. R. Crim. P. 17(c); Fed. R. Civ. P. 45(b). *See, e.g., Couch* v. *United States,* 409 U.S. 322 (1973); Schwimmer v. United States, 232 F.2d 855, 860 (8th Cir., 1956), *cert. denied,* 352 U.S. 833: *United States* v. *Re,* 313 F Supp. 442, 449 (S.D.N.Y. 1970). I advise you, therefore, that items included within the subject materials properly subpoenaed from the Government or its officials must be produced; and that none of the materials can be moved or otherwise disposed of contrary to the provisions of any duly issued court order against the Government or its officials pertaining to them. Of course both the former President and the Government can seek modification of such subpoenas and orders, and can challenge their validity on Constitutional or other grounds.

Respectfully,

——— ———,
Attorney General.

FOOTNOTES

[1] The official documents involved in the case were:

Letters addressed by Washington, as commander-in-chief, to the President of Congress.

Official letters to governors of States and speakers of legislative bodies.

Circular letters.

General orders.

Communications (official) addressed as President to his Cabinet.

Letter accepting the command of the army, on our expected war with France. 2 Story at 104–105.

The clear holding on the property point (*Id.* at 108–09) is arguably converted to dictum by Justice Story's later indication, in connection with another issue, that copyright violation with respect to the official documents did not have to be established in order to maintain the suit. (*Id.* at 114).

[2] Statement of Dr. Wayne C. Grover, Archivist of the United States, during the House Hearing on the Joint Resolution of August 12, 1955, 69 Stat. 695, To Provide for the acceptance and maintenance of Presidential libraries, and for other purposes (now codified in 44 U.S.C. 2101, 2107 and 2108; hereinafter referred to as the "Presidential Libraries Act"), Hearing before a Special Subcommittee of the Committee on Government Operations, House of Representatives, 84th Cong., 1st Sess., on H.J. Res. 330, H.J. Res. 331, and H.J. Res. 332 (hereafter referred to as "1955 Hearings"), pp. 28, 45.

[3] Compare Section 507(e) with Section 507(a), dealing with the records of an agency. A memorandum prepared in the Office of the Assistant Solicitor General (now Office of Legal Counsel) on July 24, 1951 indicated that such a distinction between private and official Presidential papers would be inconsistent with historic precedents, and difficult if not impossible to maintain. It accordingly regarded the Records Act's use of the term "personal" as intended merely to exclude the permanent files of the Chief Executive Clerk discussed at page 12 below.

[4] Section 11 of Executive Order 11652 makes explicit provision for declassification of Presidential material that has been deposited in the Archives.

[The Briefing Room at 12:12 p.m. Sept. 8, 1974]

Press Conference of Philip Buchen, Counselor to the President

Mr. terHorst. Gentlemen, if you are ready for the briefing, we have Philip Buchen, the legal counsel of the White House to address your questions on the President's statement and on the documents you have in your hand.

As you know, he is the President's legal adviser. He was very much a participant in the preparation of this proclamation and so here is Mr. Buchen to take your questions.

I think he may have an opening statement which he may like to read first.

Mr. Buchen. Thank you, Jerry.

I appreciate your all being here on this Sunday morning, or midday.

I wanted just to say a few things first, because it may answer questions in advance, and at the conclusion of these remarks, I will try to field the questions you throw this way.

In addition to the major developments of this morning when President Ford granted a pardon to former President Nixon, I have two other legal developments to announce which occurred prior to the issuance of the proclamation of pardon.

The first involves the opinion of Attorney General William B. Saxbe and President Ford dealing with papers and other records, including tapes, retained during the Administration of former President Nixon in the White House offices.

In this opinion, the Attorney General concludes that such materials are the present property of Mr. Nixon; however, it also concluded that during the time the materials remain in the custody of the United States, they are subject to subpoenas and court orders directed to any official who controls that custody. And in this conclusion, I have concurred.

This opinion was sought by the President from the Attorney General on August 22.

Q. When you say the President, you mean President Ford?

Mr. Buchen. That is right.

The reason for seeking the opinion was the conflict created between Mr. Nixon's request on the one hand for delivery to his control of the materials, and on the other hand, the pending court orders and subpoenas directed at the United States and certain of its officials.

The court orders have required that the custody of the materials be maintained at their present locations. And both the orders and subpoenas have called for the identification and production of certain materials allegedly relevant to court proceedings in which the orders and subpoenas originated.

In addition, we were advised of interests of other parties in having certain records disclosed to them under warning that if they were to be removed and delivered to the control of Mr. Nixon, court action would be taken to prevent that move and to protect the claimed rights to inspection or disclosure.

Therefore, it became fully apparent that unless this conflict was resolved, the present Administration would be enmeshed for a long time in answering the disputed claims over who could obtain information from the Nixon records, how requested information could, as a practical matter, be extracted from the vast volume of records in which it might appear, and how, and by whom its relevancy in any particular court proceeding could be determined, and at the same time to try satisfying the claims of Mr. Nixon that he owned the records.

Within a week of the request by the Attorney General for an opinion made by President Ford, I was advised informally of what its general nature would be. From that time on, I realized that the opinion itself would not provide a practical solution to the handling and management of the papers so as to reconcile rights and interest of private ownership with the limited but very important rights and interest of litigants to disclosure of selected relevant parts of the materials.

Thus I initiated conversations with the Attorney General's Office, Special Prosecutor Jaworski, with attorneys for certain litigants seeking disclosure, and with Herbert J. Miller, as soon as he became attorney for Mr. Nixon.

The purpose of these conversations was to explore ways for reconciling these different interests in records of the previous Administration so that this Administration would not be caught in the middle of trying on a case-by-case basis to resolve each dispute over the right of access or disclosure.

The outcome of these conversations was the conclusion on my part that Mr. Nixon, as the principal party in interest, should be requested to come forth with the proposal for dealing satisfactorily with Presidental material of his administration in ways that offered reasonable protection and safeguards to each party who has a legitimate court-supported right to production of particular materials relevant to his case.

Mr. Nixon and his attorney then agreed to pursue this approach and in company with White House Counsel, they were able to accomplish the second of the developments which I am announcing today.

And that is the letter agreement, of which you have copies, between former President Nixon and Arthur F. Sampson, Administrator of the General Services Administration.

These two developments are, of course, much less significant than the one you have learned about earlier. President Ford has chosen to carry out a responsibility expressed in the Preamble to the Constitution of ensuring domestic tranquility, and has chosen to do so by exercise of a power that he alone has under the Constitution to grant a pardon for offenses against the United States.

About a week ago, President Ford asked me to study traditional precedents bearing on the exercise of his right to grant a pardon, particularly with reference to whether or not a pardon could only follow indictment or conviction. The answer I found, based on considerable authority, was that a pardon could be granted at any time and need not await an indictment or conviction.

President Ford also asked me to investigate how long it would be before prosecution of former President Nixon could occur, if it were brought, and how long it would take to bring it to a conclusion.

On this point, I consulted with Special Prosecutor Jaworski and he advised me as follows, and has authorized me to quote his language, and I quote:

"The factual situation regarding a trial of Richard M. Nixon within Constitutional bounds is unprecedented. It is especially unique in view of the recent House Judiciary Committee inquiry on impeachment, resulting in a unanimous adverse finding to Richard M. Nixon on the articles involving obstruction of justice.

"The massive publicity given the hearings and the findings that ensued, the reversal of judgment of a number of Members of the Republican Party following the release of the June 23rd tape recording, and their statements carried nationwide. And, finally, the resignation of Richard M. Nixon require a delay before selection of a jury is begun of a period from nine months to a year, and perhaps even longer.

"This judgment is predicated on a review of the decisions of the United States courts involving prejudicial pre-trial publicity."

Q. Is that the end of the quotes?

Mr. Buchen. No, I am going on to indicate something else that will be of interest to you. That is the end of that quote.

Another quote from his communication to me is as follows: "The situation involving Richard M. Nixon is readily distinguishable from the facts involved in the case of United States versus Mitchell, et al, set for trial on September 30th.

"The defendants in the Mitchell case were indicted by a grand jury operating in secret session. They will be called to trial, unlike Richard M. Nixon, if indicted, without any previous adverse finding by an investigatory body holding public hearings on its conclusions."

That is the end of the quotation.

Q. Would you end that last sentence again?

Mr. Buchen. Yes. It is an important one. "They," meaning the defendants, "will be called to trial, unlike Richard M. Nixon, if indicted, without any previous adverse finding by an investigatory body holding public hearings on its conclusions."

Except for my seeking and obtaining this advice from Mr. Jaworski, none of my discussions with him involved any understandings or commitments regarding his role in the possible prosecution of former President Nixon, or in the prosecution of others.

President Ford has not talked with Mr. Jaworski, but I did report to President Ford the opinion of the Special Prosecutor about the delay necessary before any possible trial of the former President could begin.

I would also like to add on another subject, no action or statement by former President Nixon, which has been disclosed today, however welcome and helpful, was made a pre-condition of the pardon.

That is a negative because of the word "no" at the beginning. I might add that whether or not it was disclosed today, it was not a pre-condition.

Q. There were no secret agreements made?

Mr. Buchen. That is right.

President Ford in determining to issue a pardon acted solely according to the dictates of his own conscience. Moreover, he did so as an act of mercy not related in any way to obtaining concessions in return.

Q. Would you go over the last phrase?

Q. After "Mercy".

Mr. Buchen. Mercy not related in any way to obtaining concessions in return. However, my personal view—

Q. Is that yours or Ford's?

Mr. Buchen. Mine. — is that former President Nixon's words, which I have had a chance to read, as you have, that followed the granting of a pardon, constitute a statement of contrition which I believe will hasten the time when he and his family may achieve peace of mind and spirit and will much sooner bring peace of mind and spirit to all of our citizens.

Q. Would you review that sentence?

Mr. Buchen. Yes.

However, my personal view—these are my own words—is that former President Nixon's words expressed upon his learning of the pardon, constitute a statement of contrition which I believe will hasten the time when he and his family may achieve peace of mind and spirit and will much sooner bring peace of mind and spirit to all of our citizens.

Now I have only one other paragraph that I would like to bring out in conclusion. I want to express for the record my heartfelt personal thanks and appreciation to a dear friend of the President's and of mine. He is Benton Becker, a Washington attorney, who has served voluntarily as my special and trusted consultant and emissary in helping to bring about the events recorded today.

Q. Emissary to Mr. Jaworski or Mr. Nixon?

Mr. Buchen. To Mr. Miller and Mr. Nixon, not to Mr. Jaworski.

I also acknowledge with deep gratitude the services of William Casselman, II, who is the highly valued counsel—who was the highly valued counsel to Vice President Ford for his whole tenure in that office, and is now my close associate in the service of the President of the United States.

Q. Who informed President Nixon that he was getting a pardon, and also is President Ford basing this pardon only on the fact that it would have taken a long time to try the Presidency in his own conscience?

Mr. Buchen. Let me take the first question first.

When Mr. Becker went to San Clemente on

Thursday evening, he was authorized to advise the former President that President Ford was intending to grant a pardon, subject, however, to his further consideration of the matter because he wanted to reserve the chance to deliberate and ponder somewhat longer, but he was authorized to say that in all probability a pardon would be issued in the near future.

The second question?

Q. The second question is: There is no admission of guilt here at all and despite your assumptions that it is contrition, there is no actual admission of guilt. Do you agree?

Mr. BUCHEN. Well, my interpretation is that it comes very close to saying that he did wrong, that he did not act forthrightly.

Q. Mr. Buchen, what is the linkage between the agreement between Mr. Sampson and Mr. Becker's negotiations at San Clemente?

Mr. BUCHEN. The initiative for getting an agreement that would help solve our problems came from me and I advised Mr. Miller as attorney for Mr. Nixon that that was my desire. I so advised him before I knew anything about a contemplated pardon.

Q. Mr. Buchen——

Mr. BUCHEN. May I finish, please?

However, as we pursued talks on what to do with the papers, I made it very clear to Mr. Miller that I wanted the initiative to come from him and his client as to the specifics of what he and his client would be willing to do regarding the management and ultimate disposition of the papers and tapes.

Q. Mr. Buchen, what will this mean as far as former President Nixon's role as a witness in the upcoming trials are concerned?

Mr. BUCHEN. It would have no effect on that. If the documents do get transferred in a timely fashion, it may permit him to review the pertinent material more adequately so far as his testimony is concerned.

Q. Mr. Buchen, doesn't this pardon eliminate any possibility that the former President might invoke the Fifth Amendment to testify?

Mr. BUCHEN. I think you better ask his own lawyer that. As you know, this applies only to offenses against the United States. It does not apply to possible offenses against State law.

Q. But regarding offenses against the United States, he would have no Fifth Amendment rights now that he has been pardoned; is that correct?

Mr. BUCHEN. I don't know that you can separate them when you plead.

Q. Mr. Buchen, why did the President decide to do this now at a time before the jury has been sequestered in the September 30th trial?

Mr. BUCHEN. That will have to be information that will have to come from his statement. I have nothing to add.

Q. Can you tell us if the President has assured himself that former President Nixon is not guilty or liable to accusation of any very serious charges that have not been made public so far, that there is no other time bomb ticking away?

Mr. BUCHEN. I don't think he said that.

Q. No, no, I am saying, has President Ford done anything to assure himself that there is no evidence of any more serious criminality committed by former President Nixon than what is generally out in the House Judiciary Committee report and this sort of thing?

Mr. BUCHEN. So far as I know, he has made no independent inquiries. If he had wanted to satisfy himself as to the content of the evidence still in the White House, of course, that would have been an insurmountable task, as you have no idea of the huge volumes.

Q. Did you assure yourself——

Mr. BUCHEN. Just a minute. There are huge volumes. However, I did personally consult with Mr. Jaworski as to the nature of the investigation being conducted and I was able to tell the President that so far as I was able to learn through that inquiry, there were no time bombs, as you call them.

Q. Mr. Buchen, what was the President's reaction when Mr. Becker conveyed this message to him?

Mr. BUCHEN. I don't know that it was done in person. I don't think he was necessarily in the room, so I don't believe he can—

Q. Did you get any reaction from the President, even if it was by mail or through counsel, did the President say he was grateful for this?

Mr. BUCHEN. The only reaction we have gotten is the statement that came over the wire.

Q. Are you saying that Ziegler got the word from Becker and that Presiednt Nixon was not informed personally at any time by Ford or by any emissary?

Mr. BUCHEN. I think you will have to ask Mr. Becker that. My understanding is that initially the talks went through Mr. Ziegler, but there were also face-to-face meetings between Mr. Becker and the President and what occurred by one method, and one by the other, I don't know.

Q. There was no personal contact between Ford and Nixon?

Mr. BUCHEN. None at all.

Q. You refer to Becker as an emissary and you talk about one meeting out there Thursday to notify him. What were the reasons for his previous trips back and forth? What was discussed?

Mr. BUCHEN. Becker only went once.

Q. Only on Thursday?

Mr. BUCHEN. Yes. And not only to discuss that, they had to work out the details of that letter agreement because Miller and Becker were in negotiation and Miller had to consult his client and they had to make modifications. And they had to call back to see whether that fit in correctly with what General Services Administration could feasibly do. So, that involved a lot of time he was out there.

Q. Mr. Buchen, did Mr. Jaworski inform you that an indictment, or indictments, against former President Nixon were expected?

Mr. BUCHEN. No, he did not.

Q. May I follow that, then? Isn't the granting of a pardon at this stage an admission that an indictment was expected and that conviction was probable?

Mr. BUCHEN. I think you have to recall that word came out that the Grand Jury at one time wanted to name the former President, or then President, as a coconspirator and that is one evidence that something more would have happened.

And I think it is very likely, from all we have read, that there would be people who would want him prosecuted and would intend to do so, although I don't say that that was Mr. Jaworski's view.

Q. Was Mr. Jaworski ever consulted about this pardon, ever asked about this?

Mr. BUCHEN. No.

Q. Did Jaworski agree to what was done today?

Mr. BUCHEN. He has no voice in it.

Q. Do you know what his mood or sentiment was?

Mr. BUCHEN. You will have to ask him. I want to get to Peter, here.

Q. I wanted to follow up that line. You know we are not able to get a response from Mr. Jaworski's office and it would really help us for you to tell us all you can about the status of the investigation against the President, former President Nixon?

Mr. BUCHEN. I don't have that information, Peter. That is kept in his shop.

Q. But in that regard, why was he not consulted about what kind of action he contemplated against the President before the pardon was issued?

Mr. BUCHEN. We didn't think that was relevant.

Q. You assumed he would be prosecuted; is that right?

Mr. BUCHEN. We assumed that he may be prosecuted.

Q. When was Jaworski told?

Mr. BUCHEN. About the pardon?

Q. About the pardon.

Mr. BUCHEN. I called him about three-quarters of an hour before I knew the President was going to announce it so that he would know it.

Q. Today?

Mr. BUCHEN. Yes.

Q. What was his reaction?

Q. When was that?

Mr. BUCHEN. He thanked me for advising him in advance of his hearing it over the radio or TV.

Q. And he did not object?

Mr. BUCHEN. He didn't. He didn't say anything one way or the other.

Q. As we read this statement, which does not admit guilt whatsoever, what is to prevent the former President from going out, say six months hence, and saying that nothing was really ever proven against him and he was hounded out of office?

Mr. BUCHEN. I guess he has the right to say that because, until an indictment and conviction, I think that would be true in his case as well as anybody else's case who is under a cloud of suspicion.

Q. But President Ford spoke of the historical aspects of this and what is going to keep history from getting more muddled than ever?

Mr. BUCHEN. I think the historians will take care of that.

Q. Mr. Buchen, does President Ford plan to grant a similar pardon to the former President's subordinates who are scheduled to go on trial later this month?

Mr. BUCHEN. To my knowledge, he has not given that matter any thought.

Q. Can you clarify, was the agreement reached with the GSA about the disposal of the tapes and documents? Was the pardon contingent on that?

Mr. BUCHEN. Neither.

Q. They are not together?

Mr. BUCHEN. Right.

Q. Number two, why did he choose 10:30, Sunday morning, to make the announcement?

Mr. BUCHEN. I think you will have to ask him that. He figured that this was a very solemn moment that exemplified, I think, an act that was one of high mercy and it seemed appropriate, I think, to him that it should occur on a day when we do have thoughts like that, or should.

Q. Mr. Buchen, I don't understand why you contrast the treatment of Nixon with the treatment of Mitchell coming up. If I understand your statement right, you said that Mitchell has not had the publicity and the action by a hearing as Nixon had before the House Judiciary Committee.

Mr. BUCHEN. That was Mr. Jaworski's statement. That was not mine.

Q. I don't understand this and maybe you can explain what you think he means there. Mitchell certainly had the hearing with conclusions and explanations of conclusions of a hearing by the Watergate Committee.

Mr. BUCHEN. There was a hearing, but I don't know how conclusive the findings were.

Q. There was a hearing and Mitchell testified. There was a public hearing and there were conclusions and recommendations on that, and a press conference on that, and great publicity.

Mr. BUCHEN. I would judge that Mr. Jaworski does not find those conclusions prejudicial to Mr. Mitchell's upcoming case.

Q. Mr. Buchen, the President, in his statement this morning, referred to this matter threatening the former President's health. Do you have any further details on that? Do you know anything about the former President's health that we don't?

Mr. BUCHEN. No, I didn't go out there, so I didn't see the man.

Q. Do you know what he meant by that?

Mr. BUCHEN. I think it is generally known that this man has suffered a good deal. I think you people who saw him more recently than I have can form your own conclusions.

Q. Has Mr. Ford and Mr. Nixon talked this morning?

Mr. BUCHEN. No, not to my knowledge, but I do not believe they did.

Q. Do you know, was the President in a depression and has the President threatened to commit suicide or anything like that?

Mr. BUCHEN. I have no knowledge.

Q. You say that you looked into this matter from a constitutional standpoint for the President, and I am sure you looked into the history of it. Has any President ever granted a pardon before in history to anyone prior to that person being charged with a crime formally?

Mr. BUCHEN. Oh, yes, there are lots of precedents for that.

Q. Like what?

Mr. BUCHEN. Well, one of your colleagues, named Mr. Burdick, was pardoned before he was asked to testify regarding some alleged criminality involving the Customs Service during the Wilson Administration and he was given a pardon.

Q. He was a newsman?

Mr. BUCHEN. He was a newsman.

And, of course, the pardons granted by President Lincoln, for example—the pardons granted after the Whiskey Rebellion and other insurrections, were applied to people who were not indicted.

Q. Mr. Buchen, I am a little confused at your words, more or less dismissing the question of whether or not the President would grant pardons to Mr. Haldeman, Mr. Ehrlichman, Mr. Mitchell and the others who will go on trial September 30th. Is it not fairly clear to you, or at least do you not, here in the White House, admit the possibility that their defense now, in light of the action of President Ford today, will be that the President has pardoned the man under whose orders they were operating and what is your reaction to this possible line of defense or line of appeal by the defendants in that trial?

Surely, this must have been given some consideration and I again would ask you what you think is going to happen, what you think the President would do when confronted with this question?

Mr. BUCHEN. Well, I question your broad characterization that the acts for which they are being charged were necessarily——

Q. I am just suggesting this may be their defense.

Mr. BUCHEN. This may be their defense. Now, that will become Mr. Jaworski's problem and, of course, the judge's problem. You have already seen that Mr. Jaworski apparently assumes that the situation in their case is far different from the situation in the former President's case.

Q. Phil, can I ask you this: Did this process that led up to the pardon today start a week ago when the President came to you?

Mr. BUCHEN. Yes.

Q. Was there something that happened just prior to his coming to you that got his interest working in doing this thing just now?

Mr. BUCHEN. If there was, I don't know what it was, Ron.

Q. Have they talked on the phone at any time this week, or immediately prior to this week?

Mr. BUCHEN. They have not talked on the phone since Jack Miller became his attorney.

Q. Did this process start after last Sunday's publication of the Gallup poll that said that the majority of the public wanted to see Mr. Nixon prosecuted?

Mr. BUCHEN. Let me figure my dates. That was Labor Day week-end, was it? I worked all Labor Day week-end so it came before that.

Q. To what extent did the transition team look ahead to the problem of a pardon, and have you done any work at all—

Mr. BUCHEN. They didn't consider that. They had far too much else to consider.

Q. As a matter of equal justice under law, we have now had the two top officials of the United States, both allegedly involved in crimes, namely, Vice President Agnew and Mr. Nixon, who have been freed of criminal charges. Both of them are entitled to go around the country and represent themselves as being innocent. What is a citizen to make of that situation when ordinary criminals, including the aides involved in this, have to be tried?

Mr. BUCHEN. Of course I cannot speak at all for the treatment of former Vice President Agnew because this Administration was not in any way involved. But I think you have to understand—and maybe it is a good time on Sunday to think about it—that there is a difference between mercy and justice.

I don't think that you can assume that mercy is equally dispensed or how it could be equally dispensed.

Q. Mr. Buchen, is there any pardon being considered for the aides who performed their acts allegedly in the name of and in behalf of Richard Nixon?

Mr. BUCHEN. I have already spoken to that question.

Q. I don't think you have, Mr. Buchen. I am actually talking about those now in prison, not Mr. Nixon. John Dean and others?

Mr. BUCHEN. So far as I know, no thought has been given to that.

Q. Mr. Buchen, is it now possible under the agreement on the custody of Presidential tapes and papers for any tape made during the Nixon Administration to be subpoenaed even though it is not now the subject of a subpoena?

Mr. BUCHEN. It is possible. In order to get a subpoena, or court order, of course, certain showings would have to be made. It is also possible, of course, for the owner of the tapes to interject objections.

Q. A follow up to that. If the owner of those tapes doesn't want to give them up—he has now been pardoned of everything—what is the leverage?

Mr. BUCHEN. It doesn't affect the court orders or subpoenaes, and he is subject to the consequences of not obeying a valid court order or subpoena.

Q. In other words, that would come under the expiration date of August 9 in the pardon; is that right?

Mr. BUCHEN. That is right.

Q. Do you feel the agreement with Mr. Sampson has insured that the Ford Administration cannot be implicated in any Watergate cover-up? Was that one of your considerations?

Mr. BUCHEN. That was not involved because I don't think that is a relevant issue.

Q. Is there any change in the rules of access to documents by former White House aides?

Mr. BUCHEN. The problem is that there would, of course, be an interim before the Nixon-Sampson letter agreements can be fully implemented. How we will handle the interim arrangements, I am sure can be worked out with Jack Miller as attorney for Mr. Nixon.

Q. As you recall, in the Agnew case, a paper prepared by the Justice Department listing the law violations by the former Vice President was presented in court on the theory that the American people were entitled to have the full story in addition to the specific charge to which the former Vice President pleaded?

In President Ford's preparation for today, what thought did he give to the presentation of an analysis by Special Prosecutor Jaworski of the full extent of President Nixon's role in the Watergate case, and is there any understanding at this point of eliminating Special Prosecutor Jaworski's ability to pursue that type of investigation?

Mr. BUCHEN. There is no limitation on what Mr. Jaworski can do except, of course, the putative defendant has the defense now of pardon.

On the first part of your question, there is a distinct difference between asking a man to plead guilty to a limited offense and the treatment of Mr. Agnew, of course, was done under very different circumstances by the system of justice. In this case, it was reliance entirely on the pardon powers which involve acts of mercy.

Q. You said earlier that you had assumed that Mr. Nixon may have been prosecuted, is that as far as you are willing to go on that issue? Did you all think it was likely that he would be prosecuted?

Mr. BUCHEN. If you mean tried or indicted?

Q. Indicted?

Mr. BUCHEN. I think it would be very likely that he would be indicted. How and when he could be tried was still an open question.

Q. This likelihood, is that on the strength of your conversation with Mr. Jaworski that you think it was very likely?

Mr. BUCHEN. No, it was largely on the basis of what the Grand Jury apparently intended to do on the basis of less evidence than is now available.

Q. Mr. Buchen, if the ex-President retains the sole right of access to the documents and as I understand this GSA agreement, can even limit access by the Archivist of the United States and his staff, why should the United States remain as custodian of the documents at all?

Mr. BUCHEN. There is a double-key arrangement. In other words, access can't be obtained by either the former President or the General Services Administration except by their concurrent acts.

Q. But he could conceivably, to prevent himself from embarrassment, limit access—no one could see these documents during the three years the United States agrees to act as custodian.

Mr. BUCHEN. Unless there is a court order or subpoena.

Q. What about the court orders or subpoenas that are outstanding?

Mr. BUCHEN. We will have to take this agreement to the courts involved in those proceedings and seek relief from the present processes and subpoenas on the basis of the current agreement.

Q. Mr. Buchen, did you and the President give much consideration to the fact that a criminal trial could have cleared Mr. Nixon of the charges of possible guilt, could have cleared him, cleared his name?

Mr. BUCHEN. We certainly recognized that as a possibility. Whether it was given any consideration, I don't know.

Q. I mean by you or the President?

Q. Well, you were there. What was your own view?

Mr. BUCHEN. My own view is that that was a possibility. If that was what the former President wanted to do, he certainly would have told us. He didn't have to accept the pardon.

Q. Did you recommend the pardon?

Mr. BUCHEN. I had nothing to do with recommending it or disrecommending it.

Q. Did you ever discuss the political implications of this pardon with the President?

Mr. BUCHEN. I did not.

Q. Mr. Buchen, to follow up on some of these other questions, it seems that President Ford has an interest in building into the public record a record of Mr. Nixon's alleged criminality for the same reasons that Mr. Agnew's alleged criminality was made a part of the record, to prevent him from saying that he was driven out by political opponents, et cetera. Is President Ford satisfied that former President Nixon's record of wrongdoing is sufficiently in the public record now?

Mr. BUCHEN. All I can tell you is that he knows nothing that you don't know.

Q. Mr. Buchen, does the pardon in any way affect Mr. Nixon's payment of back income taxes?

Mr. BUCHEN. Not at all. This does not apply to civil liabilities.

Q. Let's get back to this double-key arrangement. This is just so much lawyer's language.

Mr. BUCHEN. I know that is complicated.

Q. Does that double-key arrangement prevent the President from going in there and destroying some of those tapes if he wanted to?

Mr. BUCHEN. Yes, it does.

Q. So, there is adequate safeguards?

Mr. BUCHEN. Yes.

Q. Does it mean that if any of those tapes are subpoenaed and he just refuses to honor those subpoenas, then what would happen?

Mr. BUCHEN. He would be subject to contempt of the court that issued the subpoenas. It doesn't apply to any future acts.

Q. When will the tapes be physically moved to this repository in California or are they going to remain here?

Mr. BUCHEN. No, they will be moved to the California repository as soon as we can get rid of, or modification of the existing orders that require they be retained here.

Q. Is that that Laguna Niguel pyramid they will be put in?

Mr. BUCHEN. Yes.

Q. But nobody can get in there by themselves. There will always be somebody to watch; is that correct?

Mr. BUCHEN. Yes.

Q. When you say "current", are you referring to the two court orders that are pending?

Mr. BUCHEN. There are at least three court orders that I know of. One is in the Wounded Knee case in Minnesota. Another is in the nature of an order because the court declined to issue the order on the assurance that documents or tapes could not be moved, and that is the case involving the networks. So, you can get Ron to answer your questions on that.

The third one is the civil suit in North Carolina involving a suit by people kept out of a meeting to celebrate Billy Graham Day.

Q. Mr. Buchen, Mr. Jaworski has, of course, in his possession a considerable number of tapes which are not the originals. They are copies. This agreement with Mr. Sampson does not affect that, does it? They don't have to be returned to the mass to be moved out to Laguna?

Mr. BUCHEN. The copies will be disposed of as the court orders, I assume.

Q. But this does not require them to be returned to the big group?

Mr. BUCHEN. No.

Q. Can I clarify the chronology of all this? When is the first time the President indicated to you he might want to pardon Mr. Nixon?

Mr. BUCHEN. Just at the start of the Labor Day weekend.

Q. On which day?

Mr. BUCHEN. I know I started to work Friday night, so it must have been Friday.

Q. Did you have any contact with Mr. Miller on the issue of a pardon?

Mr. BUCHEN. Not at that time. The first contact, I think, was on Thursday of this week.

Q. And you can't suggest what precipitated the President's interest?

Mr. BUCHEN. I do not know.

Q. Can you tell us whether the President ever tried to—I hesitate to use "extract"—but get any admission of guilt from the President, or was it strictly——

Mr. BUCHEN. He did not.

Q. Mr. Buchen, you said that President Ford has not talked to former President Nixon since Mr. Nixon retained Miller. Could you tell us the last time President Ford had contact with President Nixon, direct contact?

Mr. BUCHEN. I don't know. I think it may have been the time of the Rockefeller appointment.

Q. Mr. Buchen, I am not clear on one thing, and following up Helen's question, your emissary went out on that Thursday, Mr. Becker went out on Thursday, that was the only time he went out. I am trying to get clear in my mind precisely what it was he told the former President, or told Mr. Ziegler, and both of them at different times, that President Ford, in all probability would grant a pardon. What did he ask either of Mr. Nixon or Mr. Ziegler? What did he ask that Mr. Nixon do? Did he ask that this statement we have been given today be issued? Did he suggest wording and what it should say or did he ask for nothing? Did he ask for more than what we got in this statement?

You say at one point the former President could have turned down the pardon.

Mr. BUCHEN. Yes.

Q. Did he offer that option and did he say if the pardon was to be granted, what the former President then should do?

Mr. BUCHEN. The former President was represented by counsel, you know.

Q. Well, did he make the offer to Mr. Miller?

Mr. BUCHEN. Mr. Miller is shewd enough attorney to know that he could have advised his client to accept or reject the pardon.

To answer your other question, as you can see, that letter agreement is a very complicated one and it involved a lot of practical problems. Before Miller and Becker went out, a rough draft of Miller's proposal was in our hands. But it was obvious that we could not work out the details of what would suit Miller's client and what would suit GSA and what would suit what we thought was the best interests of the Government and of the potential other parties in interest without going out and making the final draft out there. And that was done.

As far as the statement from the former President is concerned, that was a matter that was left entirely up to the discretion of his own counsel and his own advisers.

Q. Let me see if I can put it another way, Mr. Buchen. Was the pardon in any of the conversations involving yourself, Mr. Becker, or anyone else, with anyone representing the former President, was this pardon contingent on anything?

Mr. BUCHEN. I have said no and I repeat no.

Q. Are you saying if he had not given this letter at all, if he had said, "Well, I will make no letter agreement," are you saying categorically that a pardon would have been issued anyway?

Mr. BUCHEN. I am not sure because President Ford could have changed his mind or not made up his mind finally.

Q. When was the package completed that was announced today?

Mr. BUCHEN. We got the agreement back on early Saturday morning and spent that day reviewing it with Mr. Sampson so that was wound up.

Q. You mean yesterday mornnig?

Mr. BUCHEN. Yes, yesterday morning. The statement, of course, we didn't see until we got it over the wires right after the speech.

Q. Did the President know there was going to be a statement before he finally decided on the pardon?

Mr. BUCHEN. Yes.

Q. Did he have any idea what the contents would be, what the tone would be?

Mr. BUCHEN. In a general way, yes.

Q. You are saying that the pardon had nothing to do with this letter agreement?

Mr. BUCHEN. That was not a condition.

Q. This was a completely independent action?

Mr. BUCHEN. Right. The negotiations for that agreement were started independently before even consideration of a pardon.

Q. The decision to pardon was not made until after this agreement was obtained?

Mr. BUCHEN. That is right.

Q. What you are saying, you cannot say there would have been a pardon if the agreement had not been made?

Mr. BUCHEN. All I can say is that the President had the right not to grant a pardon because he had not finally made up his mind to do so.

Q. When did he make up his mind to do so?

Mr. BUCHEN. I suppose until that pen got on paper or until he started making the statement.

Q. He made his decision after the agreement was made?

Mr. BUCHEN. That is correct, but what went on in his mind, I don't know.

Q. When did he write the speech?

Mr. BUCHEN. Last night.

Q. In sending this word through the emissary to Mr. Nixon that he was thinking of or expected to pardon him but was reserving time judgment, was that in any way intended as encouragement to Mr. Nixon to get on with the final agreements and possibly offer the kind of a statement that he did offer today?

Mr. BUCHEN. That was not the intent. If it created that impression, it was a wrong impression.

Q. Mr. Buchen, you just said that the President had an indication in a general way of content of the former President's statement. If I may ask a two-part question: How did he obtain this indication, and did he believe, or was he informed, that the statement would be one of contrition?

Mr. BUCHEN. The report was through the mouth of Benton Becker, and the characterization of it as an act of contrition is mine.

Q. Excuse me, then. What general feeling did the President have that the statement would be, what indication did he have of what the statement would be? How was it characterized by Mr. Becker?

Mr. BUCHEN. He in general told the President what it amounts to and in particular called attention to the fact that there would be an acknowledgement of failure to act decisively and forthrightly on the matter of the Watergate break-in after it became a judicial proceeding.

Q. Was that negotiated at all?

Mr. BUCHEN. It was not negotiated.

Q. Was Mr. Becker informed of that on Thursday at the time he went out there?

Mr. BUCHEN. I think he was informed on Friday because he got out there very late on Thursday night.

Q. Do you know if that information had any effect on Mr. Ford's decision?

Mr. BUCHEN. I don't know. I am sure it pleased him and made him feel that it was easier for him to act as he contemplated doing.

Mr. BUCHEN. We will take three more questions.

Q. Would you please clear up some things about this letter of agreement. I am sorry, but it will take me some time to understand it. Let me see here if this is what it means. Unless there is a subpoena or a court order which Mr. Nixon would reply to, any ordinary citizen of the United States, or any officials, outside of Sampson, could not just go in there and look at these tapes or listen to them, or see them at any time. They will be shut off completely to the public?

Mr. BUCHEN. That is right.

Q. Mr. Buchen, why is the date of July 1969 mentioned in the pardon?

Mr. BUCHEN. It is January, the date of inauguration, January 20. President Ford misspoke when he used the word "July".

Q. How complete was your explanation of the case against the former President by Mr. Jaworski? Did he go into what areas that he might be pursuing, what he heard on the tapes that have not been made public? Anything like that?

Mr. BUCHEN. The question asked him what matters could arguably involve further steps, and it read like a list from one of your newspapers.

Q. Did Mr. Becker talk strictly with you or did he ever speak to Mr. Ford? Did he deal strictly with you?

Mr. BUCHEN. Oh, no; he was also in the room on occasions when I was speaking to the President.

Q. Why did he pick Becker to do this?

Mr. BUCHEN. Part of the problem, as you may know, is we have a rather understaffed legal staff here and Mr. Becker is a man of rare talent that helped during the confirmation hearings of the Vice President, and he is such a good and trusted friend of both of ours that we felt he was the one we should call on.

The PRESS. Thank you.

Mr. BUCHEN. All I am going to say is, for the tapes there will be two five-year windows. The first of the five-year windows involves controlled access by the former President for his listening to copies of tapes, copies to be made by an operator who himself does not listen to the originals.

Also, during the first five-year window, anyone with a legitimate court subpoena or order that is upheld can have access or can require the former President to furnish the information contained on relevant portions of the tapes.

At the end of that first five-year period, the former President retains his window, but also can order selective destruction of tapes. At the end of the ten-year period, they all get destroyed, all that remain.

Q. In the second five-year window, is that just by persons who have legitimate subpoenas and court orders closed off?

Mr. BUCHEN. That is right, because there is a five-year statute of limitations on most, in fact on all, Federal offenses and most civil matters, so it is assumed the initial five-year window is long enough.

Q. What is the limit on destruction after five years plus one day, or can he destroy them all?

Mr. BUCHEN. He can.

Q. He can?

Mr. BUCHEN. He can order them destroyed.

Q. If they were making any copies, would the originals then be destroyed in the second five-year window?

Mr. BUCHEN. The originals will be destroyed. The copies will be destroyed immediately after they are used.

Q. And he could do it after five years and one day for everything?

Mr. BUCHEN. Right.

Q. Now can you go then from there to the documents?

Mr. BUCHEN. The documents are a different category. There is no present gift of documents as distinguished from the tapes. However, there is a three-year period when there will be controlled access by the owner of those documents requiring the double-key arrangement with the General Services Administrator. And the former President is under obligation to respond to any subpoena involving documents, just as he is to those involving tapes.

During the three-year period involving documents, the former President will be under obligation to respond to subpoenas involving those documents. At any time, the former President can designate certain documents by description to become the absolute property of the United States.

However, after the three-year period, he may either elect to complete his gifts or to withdraw materials as he desires. These are documentary materials.

Q. Why the three-year limit?

Mr. BUCHEN. We felt that as a practical matter on the documentation that would be long enough. It gives everybody a warning. Obviously if there is a subpoena out that was obtained in the three years and the matter of its resolution has not been concluded, the subpoena would prevail.

Q. Can you destroy the documents after three years?

Mr. BUCHEN. Yes, if he wants to withdraw them.

Q. By the way, Mr. Buchen, I may be wrong in what I am about to say, but I am going to predicate a question on it, nevertheless.

I am under the impression that the tapes, as opposed to documents, the tapes were—that things such as taperecordings were not covered when Congress covered that loophole and for that reason, the former President could donate those tapes to the Government and claim a tax exemption.

Your second window, the ten-year time for destruction appears to rule that out; is that right?

Mr. BUCHEN. He has already given them to the U.S. Government to be a gift effective at the end of the 5-year period.

Q. After he destroys them all?

Mr. BUCKEN. He can't destroy them during the first five-year period.

Q. He has given them as a gift to the United States—we are talking about tapes now—he has given them as a gift to the United States for five years; is that right?

Mr. BUCHEN. No, it is the other way around. He has retained title for five years and the gift takes effect at the end of the fifth year.

Q. But he can destroy his gift?

Mr. BUCHEN. He doesn't have access to them.

Q. But he can the next day. Didn't you say five years and one day he could destroy them all?

Mr. BUCHEN. He can order their destruction.

Q. What can he do with the copies? Can he dispose of them for his own purpose?

Mr. BUCHEN. No, the copies will go back into the hands of the General Services Administrator and they will be destroyed after he has listened to them.

Q. Mr. Buchen, after the ten-year period, is it mandated that the tapes, all tapes and all copies be destroyed?

Mr. BUCHEN. That is a condition.

Q. So, his gift in the second five years is a limited gift, in time it is a limited gift, say limited to five years; is that right?

Mr. BUCHEN. No.

Q. You say he has given them to the United States?

Mr. BUCHEN. Effective five years from now.

Q. Why are they going to be destroyed after five years?

Mr. BUCHEN. Well, maybe they never should have been made in the first place. This was his desire and I think it is consistent with the fact that these matters do involve conversations with people who had no realization that their voices were being recorded.

As an old spokesman for the right of privacy, I think there is considerable merit for putting these in a separate category from documents.

Q. Mr. Buchen, was any consideration given to the right of history?

Mr. BUCHEN. I am sure the historians will protest, but I think historians cannot complain if evidence for history is not perpetuated which shouldn't have been created in the first place.

Q. Is there anything he can keep, or intends to keep?

Mr. BUCHEN. I am sure there are items in the documents that he would intend to keep. Of course, it would involve family letters, things of a highly personal nature.

Q. Mr. Buchen, if it is Mr. Nixon's desire to destroy the tapes after ten years, would it not be logical to assume he will destroy them after five years?

Mr. BUCHEN. That is his option, order them destroyed.

Q. What about the gift option? The tax deduction option?

Mr. BUCHEN. I am not his tax lawyer and it seems to me if you give a gift with instructions that the items have to be destroyed, that the gift immediately loses its value, so I would think it would be very questionable.

Q. What about the President, though? Could he——

Mr. BUCHEN. They will not be perpetuated beyond the limited use.

Q. Does the word "copies" include written transcripts as well as the originals?

Mr. BUCHEN. Yes.

Q. As a practical matter, at the end of five years, then all the tapes will be destroyed except those under subpoena?

Mr. BUCHEN. No, because he reserves the right to keep the window open for himself for another five years?

Q. Just the President, no public?

Mr. BUCHEN. That is right.

Q. Is it a question they can be destroyed in five years, but must be destroyed in ten years?

Mr. BUCHEN. They can't be destroyed short of five years.

Q. Mr. Buchen, Prosecutor Jaworski gave no indication that he objected to the pardon. Is it your impression that he sort of feels relieved?

Mr. BUCHEN. Wouldn't you if you were in his place?

The PRESS. Thank you.

CASE NO. 4,901—FOLSOM ET AL. VERSUS MARSH ET AL.

[2 Story, 100; [1] 6 Hunt, Mer. Mag. 175.]
(Circuit Court, D. Massachusetts. Oct. Term, 1841).

COPYRIGHT—ABRIDGMENT—LITERARY PROPERTY—OFFICIAL LETTERS—PIRACY—DEFINITION OF "BOOK"

1. An abridgment, in which there is a substantial condensation of the materials of the original work, and which requires intellectual labor and judgment, does not constitute a piracy of copyright; but an abridgment consisting of extracts of the essential or most valuable portions of the original work is a piracy.

[Applied in Lawrence v. Dana, Case No. 8,136. Quoted in Story v. Holcombe, Id. 13,497.]

2. An author of letters or papers of whatever kind, whether they be letters of business, or private letters, or literary compositions, has a property and an exclusive copyright therein, unless he unequivocally dedicate them to the public, or to some private person; and no person has any right to publish them without his consent, unless such publication be required to establish a personal right or claim, or to vindicate character.

[Cited in Bartlett v. Crittenden. Case No. 1,076; Stephens v. Cady, 14 How. (55 U.S.) 531; Richardson v. Miller. Case No. 11,791. Followed in Rice v. Williams, 32 Fed. 440.]

3. The government has, perhaps, a right to publish official letters addressed to it, or to any of its departments, by public officers; but no private person has such a right, without the sanction of the government.

4. To constitute a piracy of an original work, it is not necessary that the whole or the larger part of it should be taken; but it is only necessary that so much should be

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[1] [Reported by William W. Story, Esq.]

taken as sensibly to diminish the value of the original work, or substantially to appropriate the labors of the author.

[Cited in Story v. Holcombe, Case No. 13,-497; Webb v. Powers, Id. 17,323; Greene v. Bishop, Id. 5,763; Drury v. Ewing, Id. 4,095; Banks v. McDivitt, Id. 961; Chapman v. Ferry, 18 Fed. 541; Reed v. Holliday, 19 Fed. 326; Falk v. Donaldson, 57 Fed. 35. Approved in Lawrence v. Dana, Case No. 8,136.]

5. Where A. published a "Life of Washington," containing 866 pages, of which 353 pages were copied from Sparks's "Life and Writings of Washington," 64 pages being official letters and documents, and 255 pages being private letters of Washington, originally published by Mr. Sparks, under a contract with the owners of the original papers of Washington,—it was *held*, that the work by A. was an invasion of the copyright of Mr. Sparks.

[Cited in Little v. Gould, Case No. 8,394.]

[6. Cited in Harper v. Shoppell, 26 Fed. 519, to the point that a "book," within the meaning of the copyright statute, is not necessarily a book in the ordinary and common acceptation of the word, but may consist of a single sheet, as well as of a number of sheets bound together.]

Bill in equity for piracy of the copyright of the writings of Washington. The bill in substance stated, that Jared Sparks was the author of a work entitled, "The Writings of George Washington, being his correspondence, addresses, messages, and other papers, official and private, selected and published from the original manuscripts, with a life of the author, notes, and illustrations, by Jared Sparks," consisting of 12 volumes, of all of which the copyright was duly taken out, the term of which copyright has still more than eight years to run.

That the plaintiffs, Charles Folsom, Thomas G. Wells and Lyman Thurston, printers and publishers, under the style of Folsom, Wells and Thurston, had assumed a part of the risk and responsibility of publishing the said work, and that being in the receipt of large sums, the proceeds of the sale of the said work, Bela Marsh, Nahum Capen, Thomas B. Webb, and Gardner P. Lyon, booksellers, under the firm of Marsh, Capen and Lyon, and Charles W. Upham, all well knowing that the said Sparks held such copyright, and that the said Fulsom, Wells and Thurston, were interested as aforesaid, and deliberately, after due notice, intending to infringe upon the said copyright, at Boston, on August 5th, 1840, and at divers times before and since, without the allowance or consent of the orators, or either of them, published, and exposed to sale, and sold, a book in two volumes, entitled "The Life of Washington in the Form of an Autobiography, the narrative being to a great extent conducted by himself, in extracts and selections from his own writings, with portraits and other engravings," consisting of 866 pages, which they still continue to expose to sale, having had due notice, and well knowing, that the same is a copy from, and an infringement and piracy of, the said Life and Writings of George Washington so published by the plaintiffs.

That 388 pages of the said piratical book are copied verbatim et literatim from the said work compiled by the said Sparks, consisting of matter published originally by the said Sparks, under his copyright, and which had never before been published or printed, and which the said Sparks had the exclusive right and privilege to print, publish, and sell. And that many other parts of the piratical work are infrangements of the said Spark's said copyright, whereby the plaintiffs have sustained great damage, and that the said Marsh, Capen and Lyon still threaten to continue to print, publish and sell, copies of the said piratical work.

In consideration whereof, the plaintiffs pray that the defendants be decreed to render an account of the copies of the said piratical work, which they have sold, and to pay over the profits thereof to the plaintiffs; to surrender and deliver up all the copies on hand, and the stereotype plates of the said work, to an officer of the court, to be cancelled and destroyed; to pay the plaintiffs their costs, and that they be restrained by injunction from selling or exposing to sale, or causing to be exposed to sale or sold, or otherwise of disposing of any copies of the said piratical work, and for such other relief as shall seem meet, or as equity shall require.

The answer stated as follows: That the defendants, not confessing or acknowledging any of the matters and things alleged in the bill, are informed and believe that the said complainants are the publishers of the said Life and Writings of Washington, as alleged by the complainants, and that the said Sparks is author thereof. But that they totally deny that the said Sparks has, or has heretofore had, any copyright, whereby he is entitled to any exclusive publication of the said writings, correspondence, addresses, messages, and other papers. That the defendants did, on August the 5th, 1840, publish and sell, and before and since have, without the allowance and consent of the plaintiffs, published and sold copies of the said work, in two volumes, entitled a "Life of Washington, in the Form of an Autobiography," but that the said work is not a copy from, nor a piracy of the said work, by the said Sparks.

The defendants deny that any part of the said work, published by the defendants, is copied verbatim et literatim from any portion of the said work by the said Sparks, to which he has any exclusive right and privilege to print, or publish, or sell. But they aver, that they have, in the work published by them, made such use as they might lawfully do, of the writings, correspondence, messages, addresses, and other papers, by George Washington, printed in the work compiled by the said Sparks, and that they have copied many pages of the said writings, from the original manuscript thereof, and from printed works, printed and published before the publication of the said work by the said Sparks, and that they have made such use thereof, as they might do in a work entirely distinct from and independent of the said work by the said Sparks, and they allege, that the said work published by them, is entirely a distinct and independent work from the work by the said Sparks.

The general replication being filed, the cause was referred to George Hillard, Esq., master in chancery, to ascertain and report the facts to the court. His report in substance stated as follows: The work, of which the plaintiffs are the proprietors, is comprised in twelve octavo volumes, varying in length from five hundred and forty to five hundred and ninety-two pages, and containing in the whole six thousand seven hundred and sixty-three pages, including one hundred and fifty eight pages of index in the twelfth volume. The first volume consists of an original life of Washington by Mr. Sparks, one of the plaintiffs, and the remaining eleven, of the writings and correspondence of Washington, with editorial notes and illustrations by Mr. Sparks. The work, of which the defendants are the proprietors, is in two volumes, duodecimo. The first volume consists of four hundred and forty-three pages, including forty-one pages of glossary and index.

The second volume consists of four hundred and twenty-three pages, including thirty-five pages of glossary and index. The whole amount of pages of the two volumes, is, therefore, eight hundred and sixty-six, including seventy-six pages of glossary and index. I find the whole number of pages in the two volumes of the defendants' work, which correspond with the passages in the plaintiffs' work, and are identical with them, to be (discarding fractions) three hundred and fifty-three. Of these pages, three hundred and nineteen have never appeared in print before the publication of the plaintiffs' work, and I accordingly report them to have been copied by the defendants from the work of the plaintiffs. The remaining thirty-four pages have appeared before, in various other publications, with the variations hereinbefore stated.

In view of these variations, and also in consideration of the fact, that these passages in the defendants' work, generally speaking, differ in punctuation and other typographical peculiarities from the same passages as contained in works, other than that of the plaintiffs, I find that these thirty-nine pages were taken by the defendants from the plaintiffs' work, and none other. The whole of these three hundred and fifty-three pages, in the two volumes of the defendants' work, are taken from the last eleven volumes of the work of the plaintiffs. Of the three hundred and nineteen pages, above mentioned, which are in the work of the defendants, and which have not been published in any other work than that of the plaintiffs, I report sixty-four pages to be official letters and documents, and two hundred and fifty-five pages to be private.

Of the remaining thirty-four pages, I report fifteen pages to be private, and nineteen pages to be official. Under the head of "official" letters and papers, I class the following: Letters addressed by Washington, as commander-in-chief, to the president of congress. Official letters to governors of states and speakers of legislative bodies. Circular letters. General orders. Communications (official) addressed as president to his cabinet. Letter accepting the command of the army, on our expected war with France. All others I class as "private."

The cause was argued upon the master's report, (no exception having been filed thereto,) by Mr. Robbins and Willard Phillips for the plaintiffs, and by R. Rantoul for the defendants.

The points made by the defendants were as follows:

1. The papers of George Washington are not subjects of copyright. 1. They are manuscripts of a deceased person, not injured by publication of them. 2. They are not literary, and, therefore, are not literary property. 3. They are public in their nature, and, therefore, are not private property. 4. They were meant by the author for public use.

II. Mr. Sparks is not the owner of these papers, but they belong to the United States, and may be published by any one.

III. An author has a right to quote, select, extract or abridge from another, in the composition of a work essentially new.

Story, Circuit Justice. This is one of those intricate and embarrassing questions, arising in the administration of civil justice, in which it is not, from the peculiar nature and character of the controversy, easy to arrive at any satisfactory conclusion, or to lay down any general principles applicable to all cases. Patents and copyrights approach, nearer than any other class of cases belonging to forensic discussions, to what may be called the metaphysics of the law, where the distinctions are, or at least may be, very subtle and refined, and, sometimes, almost evanescent.

In many cases, indeed, what constitutes an infringement of a patented invention, is sufficiently clear and obvious, and stands upon broad and general agreements and differences; but, in other cases, the lines approach very near to each other, and, sometimes, become almost evanescent, or melt into each other. So, in cases of copyright, it is often exceedingly obvious, that the whole substance of one work has been copied from another, with slight omissions and formal differences only, which can be treated in no other way than as studied evasions; whereas, in other cases, the identity of the two works in substance, and the question of piracy, often depend upon a nice balance of the comparative use made in one of the materials of the other; the nature, extent, and value of the materials thus used; the objects of each work; and the degree to which each writer may be fairly presumed to have resorted to the same common sources of information, or to have exercised the same common diligence in the selection and arrangemnet of the materials.

Thus, for example, no one can doubt that a reviewer may fairly cite largely from the original work, if his design be really and truly to use the passages for the purposes of fair and reasonable criticism. On the other hand, it is as clear, that if he thus cites the most important parts of the work, with a view, not to criticise, but to supersede the use of the original work, and substitute the review for it, such a use will be deemed in law a piracy. A wide interval might, of course, exist between these two extremes, calling for great caution and involving great difficulty, where the court is approaching the dividing middle line which separates the one from the other. So, it has been decided that a fair and bona fide abridgement of an original work, is not a piracy of the copyright of the author. See Dodsley v. Kinnersley, 1 Amb. 403; Whittingham v. Wooler, 2 Swanst. 428, 430, 431, note; Tonson v. Walker, 3 Swanst. 672–679, 681. But, then, what constitutes a fair and bona fide abridgement, in the sense of the law, is one of the most difficult points, under particular circumstances, which can well arise for judicial discussion.

It is clear, that a mere selection, or different arrangement of parts of the original work, so as to bring the work into a smaller compass, will not be held to be such an abridgment. There must be real, substantial condensation of the materials, and intellectual labor and judgment bestowed thereon; and not merely the facile use of the scissors; or extracts of the essential parts, constituting the chief value of the original work. See Gyles v. Wilcox, 2 Atk. 141.

In the present case, the work alleged to be pirated, is the Writings of President Washington, in twelve volumes, royal octavo, containing nearly seven thousand pages, of which the first volume contains a life of Washington, by the learned editor, Mr. Sparks, in respect to which no piracy is asserted or proved. The other eleven volumes consist of the letters of Washington, private and official, and his messages and other public acts, with explanatory notes and occasional illustrations by the editor. That the original work is of very great, and, I may almost say, of inestimable value, as the repository of the thoughts and opinions of that great man, no one pretends to doubt. The work of the defendants is in two volumes, duodecimo, containing eight hundred and sixty-six pages. It consists of a Life of Washington, written by the learned defendant (the Rev. Charles W. Upham), which is formed upon a plan different from that of Mr. Sparks, and in which Washington is made mainly to tell the story of his own life, by inserting therein his letters and his messages, and other written documents, with such connecting lines in the narrative, as may illustrate and explain the times and circumstances, and occasions of writing them.

Now, as I have already said, there is no complaint, that Mr. Upham has taken his narrative part, substantially, from the Life by Mr. Sparks. The gravamen is, that he has used the letters of Washington, and inserted, verbatim, copies thereof from the collection of Mr. Sparks. The master finds, by his report, that the whole number of pages in Mr. Upham's work, corresponding and identical with the passages in Mr. Spark's work, are three hundred and fifty-three pages out of eight hundred and sixty-six, a fraction more than one third of the two volumes of the defendants. Of these three hundred and fifty-three pages, the report finds that three hundred and nineteen pages consist of letters of Washington, which have been taken from Mr. Sparks' work, and have never been published before; namely, sixty-four pages are official letters and documents, and two hundred and fifty-three pages are private letters of Washington. The question, therefore, upon this admitted state of the facts, resolves itself into the point, whether such a use, in the defendants' work, of the letters of Washington, constitutes a piracy of the work of Mr. Sparks.

It is objected, in the first place, on behalf of the defendants, that the letters of Washington are not, in the sense of the law, proper subjects of copyright, for several reasons: (1) Because they are the manuscripts of a deceased person, not injured by the publication thereof; (2) because they are not literary-compositions, and, therefore, not esteemed of value by the author; (3) because they are, in their nature and character, either public or official letters, or private letters of business; and (4) because they were designed by the author for public use, and not for copyright, or private property.

Now, in relation to the last objection, it is most manifest, that President Washington deemed them his own private property, and bequeathed them to his nephew, the late Mr. Justice Washington, through whom the late Mr. Chief Justice Marshall and Mr. Sparks acquired an interest therein; and, as appears from the contract between these gentlemen, annexed to the report, the publication of these writings was undertaken by Mr. Sparks, as editor, for their joint benefit; and the work itself has been accomplished at great expense and labor, and after great intellectual efforts, and very patient and comprehensive researches, both at home and abroad. The publication of the defendants, therefore, to some extent, must be injurious to the rights of property of the representatives and assignees of President Washington

Indeed, as we shall presently see, Congress have actually purchased these very letters and manuscripts, at a great price, for the benefit of the nation, from their owner and possessor under the will of Mr. Justice Washington, as private and most valuable property. That President Washington, therefore, intended them exclusively for public use, as a donation to the public, or did not esteem them of value as his own private property, appears to me to be a proposition, completely disproved by the evidence. Unless, indeed, there be a most unequivocal dedication of private letters and papers by the author, either to the public, or to some private person, I hold, that the author has a property therein, and that the copyright thereof exclusively belongs to him. Then as to the supposed distinction between letters of business, or of a mere private or domestic character, and letters, which, from their character and contents, are to be treated as literary compositions, I am not prepared to admit its soundness or propriety. It is extremely difficult to say, what letters are or are not literary compositions.

In one sense, all letters are literary, for they consist of the thoughts and language of the writer reduced to written characters, and show his style and his mode of constructing sentences, and his habits of composition. Many letters of business also embrace critical remarks and expressions of opinion on various subjects, moral, religious, political and literary. What is to be done in such cases? Even in compositions confessedly literary, the author may not intend, nay, often does not intend them for publication; and yet. no one on that account doubts his right of property therein, as a subject of value to himself and to his posterity. If subsequently published by his representatives, would they not have a copyright therein? It is highly probable, that neither Lord Chesterfield, nor Lord Orford, nor the poet Gray, nor Cowper, nor Lady Russell, nor Lady Montague, ever intended their letters for publication as literary compositions, although they abound with striking remarks, and elegant sketches, and sometimes with the most profound, as well as affecting, exhibitions of close reflection, and various knowledge and experience, mixed up with matters of business, personal anecdote, and family gossip.

There is no small confusion in the books, in reference to the question of copyright in letters. Some of the dicta seem to suppose that no copyright can exist, except in letters which are professedly literary; while others again recognize a much more enlarged and liberal doctrine. See Gods. Pat. (Ed. 1840, London) pp. 327–332; Gee v. Pritchard, 2 Swanst. 403, 405, 426, 427; Perceval v. Phipps, 2 Ves. & B. 19, 24, 25, 28. Without attempting to reconcile, or even to comment upon the language of the authorities on this head, I wish to state what I conceive to be the true doctrine upon the whole subject. In the first place, I hold, that the author of any letter or letters, (and his representatives,) whether they are literary compositions, or familiar letters, or letters of business, possess the sole and exclusive copyright therein; and that no persons, neither those to whom they are addressed, nor other persons, have any right or authority to publish the same upon their own account, or for their own benefit.

But, consistently with this right, the persons to whom they are addressed, may have, nay, must, by implication, possess, the right to publish any letter or letters addressed to them, upon such occasions, as require, or justify, the publication or public use of them; but this right is strictly limited to such occasions. Gee v. Pritchard, 2 Swanst, 415, 419. Thus, a person may justifiably use and publish, in a suit at law or in equity, such letter or letters as are necessary and proper, to establish his right to maintain the suit, or defend the same. So, if he be aspersed or misrepresented by the writer, or accused of improper conduct, in a public manner, he may publish such parts of such letter or letters, but no more, as may be necessary to vindicate his character and reputation, or free him from unjust obloquy and reproach.

If he attempt to publish such letter or letters on other occasions, not justifiable, a court of equity will prevent the publication by an injunction, as a breach of private confidence or contract, or of the rights of the author; and a fortiori, if he attempt to publish them for profit; for then it is not a mere breach of confidence or contract, but it is a violation of the exclusive copyright of the writer.

In short, the person, to whom letters are addressed, has but a limited right, or special property, (if I may so call it), in such letters, as a trustee, or bailee, for particular purposes, either of information or of protection, or of support of his own rights and character. The general property, and the general rights incident to property, belong to the writer, whether the letters are literary compositions, or familiar letters, or details of facts, or letters of business. The general property in the manuscripts remains in the writer and his representatives, as well as the general copyright.

A fortiori, third persons, standing in no privity with either party, are not entitled to publish them, to subserve their own private purposes of interest, or curiosity, or passion. If the case of Perceval v. Phipps, 2 Ves. & B, 21, 28, before the then vice chancellor (Sir Thomas Plumer), contains a different doctrine, all I can say is, that I do not accede to its authority; and I fall back upon the more intelligible and reasonable doctrine of Lord Hardwicke, in Pope v. Curl, 2 Atk. 342, and Lord Apsley, in the case of Thompson v. Stanhope, Amb. 737, and of Lord Keeper

Henley, in the case of Duke of Queensberry v. Sheffeare, 2 Eden, 329 (cited 4 Burrows, 2329), which Lord Eldon has not scrupled to hold to be binding authorities upon the point in Gee v. Pritchard, 2 Swanst. 403, 414, 415, 419, 426, 427. But I do not understand that Sir Thomas Plumer did, in Perceval v. Phipps, deny the right of property of the writer in his own letters; and so he was understood by Lord Eldon in Gee v. Pritchard; who, however, said, that that case admitted of much remark.

Indeed, if the doctrine were otherwise, that no person, or his representatives, could have a copyright in his own private or familiar letters, written to friends, upon interesting political and other occasions, or containing details of facts and occurrences, passing before the writer, it would operate as a great discouragement upon the collection and preservation thereof; and the materials of history would become far more scanty, than they otherwise would be. What descendant, or representative of the deceased author, would undertake to publish, at his own risk and expense, any such papers; and what editor would be willing to employ his own learning, and judgment, and researches, in illustrating such works, if, the moment they were successful, and possessed the substantial patronage of the public, a rival bookseller might republish them, either in the same, or in a cheaper form, and thus either share with him, or take from him the whole profits?

It is the supposed exclusive copyright in such writings, which now encourages their publication thereof, from time to time, after the author has passed to the grave. To this we owe, not merely, the publication of the writings of Washington, but of Franklin, and Jay, and Jefferson and Madison, and other distinguished statesmen of our own country. It appears to me, that the copyright act of 1831, c. 16, § 9, [4 Stat. 436], fully recognizes the doctrine for which I contend. It gives by implication to the author, or legal proprietor of any manuscript whatever, the sole right to print and publish the same, and expressly authorizes the courts of equity of the United States to grant injunctions to restrain the publication thereof, by any person or persons, without his consent.

In respect to official letters, addressed to the government, or any of its departments, by public officers, so far as the right of the government extends, from principles of public policy, to withhold them from publication, or to give them publicity, there may be a just ground of distinction. It may be doubtful, whether any public officer is at liberty to publish them, at least, in the same age, when secrecy may be required by the public exigencies, without the sanction of the government. On the other hand, from the nature of the public service, or the character of the documents, embracing historical, military, or diplomatic information, it may be the right, and even the duty, of the government, to give them publicity, even against the will of the writers. But this is an exception in favor of the government, and stands upon principles allied to, or nearly similar to, the rights of private individuals, to whom letters are addressed by their agents, to use them, and publish them, upon fit and justifiable occasions. But assuming the right of the government to publish such official letters and papers, under its own sanction, and for public purposes, I am not prepared to admit, that any private persons have a right to publish the same letters and papers, without the sanction of the government, for their own private profit and advantage.

Recently the Duke of Wellington's despatches have (I believe) been published, by an able editor, with the consent of the noble duke, and under the sanction of the government. It would be a strange thing to say, that a compilation involving so much expense, and so much labor to the editor, in collecting and arranging the materials, might be pirated and republished by another bookseller, perhaps to the ruin of the original publisher and editor. Before my mind arrives at such a conclusion, I must have clear and positive lights to guide my judgment, or to bind me in point of authority. However, it is not necessary, in this case, to dispose of this point, because, of the letters and documents published by the defendants, not more than one fifth part are of an official character.

Another and distinct objection urged on behalf of the defendants, is, that congress have purchased the manuscripts of these letters and documents, and they have become public property, and may be published by any one. An answer, in part, has been already given to this objection. Congress have, indeed, authorized the purchase of these manuscripts from the owner and possessor thereof, and paid the liberal price of 25,000 dollars therefor; and they have thus become national property. But it is an entirely inadmissible conclusion that, therefore, every private person has a right to use them, and publish them. It might be contended, with as much force and correctness, that every private person had an equal right to use any other national property at his pleasure, such as the arms, the ammunition, the ships, or the custom houses, belonging to the government. But a reason, which is entirely conclusive upon this point, is, that the government purchased the manuscripts, subject to the copyright already acquired by the plaintiffs in the publication thereof. The vendor took them subject to that copyright, and could convey no title which he did not himself possess, or beyond what he possessed. Nor is there any pretence to say that he either did convey, or intended to convey, to the government, the property in these manscripts, except subject to the copyright already acquired.

The next and leading objection is, that the defendants had a right to abridge and select, and use the materials which they have taken for their work, which, though it embraces the number of letters above stated, is an original and new work, and that it constitutes, in no just sense, a privacy of the work of the plaintiffs. This, in truth, is the real hinge of the whole controversy, and involves the entire merits of the suit. It is certainly true, that the defendant's work cannot properly be treated as an abridgement of that of the plaintiffs; neither is it strictly and wholly a mere compilation from the latter. So far as the narrative goes, it is either original, or derived (at least as far as the matter has been brought before the court) from common sources of information, to all authors. It is not even of the nature of a collection of beauties of an author; for it does not profess to give fugitive extracts, or brilliant passages from particular letters. It is a selection of the entire contents of particular letters, from the whole collection or mass of letters of the work of the plaintiffs. From the known taste and ability of Mr. Upham, it cannot be doubted, that these letters are the most instructive, useful and interesting to be found in that large collection.

The question, then, is whether this is a justifiable use of the original materials, such as the law recognizes as no infringement of the copyright of the plaintiffs. It is said, that the defendant has selected only such materials, as suited his own limited purpose as a biographer. That is, doubtless, true; and he has produced an exceedingly valuable book. But that is no answer to the difficulty. It is certainly not necessary, to constitute an invasion of copyright, that the whole of a work should be copied, or even a large portion of it, in form or in substance. If so much is taken, that the value of the original is sensibly diminished, or the labors of the original author are substantially to an injurious extent appropriated by another, that is sufficient, in point of law, to constitute a piracy pro tanto.

The entirety of the copyright is the property of the author; and it is no defence, that another person has appropriated a part, and not the whole, of any property. Neither does it necessarily depend upon the quantity whether it is an infringement of the copyright or not. It is often affected by other considerations, the value of the materials taken, and the importance of it to the sale of the original work. Lord Cottenham, in the recent cases of Bramwell v. Halcomb, 3 Mylne & Co. 737, 738, and Saunders v. Smith, Id. 711, 736, 737, adverting to this point, said: "When it comes to a question of quantity, it must be very vague. One writer might take all the vital part of another's book, though it might be but a small proportion of the book in quantity. It is not only quantity, but value, that is always looked to. It is useless to refer to any particular cases, as to quantity." In short, we must often, in deciding questions of this sort, look to the nature and objects of the selections made, the quantity and value of the materials used, and the degree in which the use may prejudice the sale, or diminish the profits, or supersede the objects, of the original work. Many mixed ingredients enter into the discussion of such questions.

In some cases, a considerable portion of the materials of the original work may be fused, if I may use such an expression, into another work, so as to be undistinguishable in the mass of the latter, which has other professed and obvious objects, and cannot fairly be treated as a piracy; or they may be inserted as a sort of distinct and mosaic work, into the general texture of the second work, and constitute the peculiar excellence thereof, and then it may be a clear piracy. If a person should, under color of publishing "Elegant Extracts" of poetry, include all the best pieces at large of a favorite poet, whose volume was secured by a copyright, it would be difficult to say why it was not an invasion of that right, since it might constitute the entire value of the volume. The case of Mawman v. Tegg, 2 Russ. 385, is to this purpose. There was no pretence in that case, that all the articles of the encyclopedia of the plaintiffs had been copied into that of the defendants; but large portions of the materials of the plaintiffs' work had been copied. Lord Eldon, upon that occasion, held, that there might be a piracy of part of a work, which would entitle the plaintiffs to a full remedy and relief in equity.

In prior cases, he had affirmed the like doctrine. In Wilkins v. Aikin, 17 Ves. 422, 424, he said: "There is no doubt, that a man cannot, under the pretence of quotation, publish either the whole or a part of another's book, though he may use, what in all cases it is difficult to define, fair quotation." In Roworth v. Wilkes, 1 Camp. 94, Lord Ellenborough said: "A review will not, in general, serve as a substitute for the book reviewed; and even there, if so much is extracted, that it communicates the same knowledge with the original work, it is an actionable violation of literary property. The intention to pirate is not necessary in an action of this sort; it is enough, that the publication complained of is in substance a copy, whereby a work vested in another is prejudiced.

A compilation of this kind (an encyclopedia) may differ from a treatise published by itself; but there must be certain limits fixed to its transcripts; it must not be allowed to sweep up all modern works, or an encyclopedia would be a recipe for completely breaking down literary property." The vice chancellor (Sir L. Shadwell), in Sveet v. Shaw, 1 Jur. (London) 212 [3 Jur. 217], referring to the remarks of Lord Ellenborough, cited by counsel, said: "That does not mean a substitute for the whole work. From what you state, suppose a book to contain one hundred articles, and ninety-nine were taken, still it would not be a substitute." And in this very case he granted an injunction, being of opinion, that there was prima facie, at law, an invasion of the plaintiffs' right; not only an injury, but also a damage to the plaintiffs, in copying from several volumes of Reports, published by the plaintiffs, although eleven only had been copied verbatim, but a considerable number of what were called "abridged cases," were, in truth, copies of the plaintiffs' volumes, with little, or trifling, alterations,

It is manifest, also, from what fell from Lord Chancellor Cottenham, in Saunders v. Smith, 3 Mylne & C. 711, that he entertained no doubt, (although he did not decide the point,) that there might be a violation of the copyright of volumes of Reports, by copying verbatim a part only of the cases reported. Much must, in such cases, depend upon the nature of the new work, the value and extent of the copies, and the degree in which the original authors may be injured thereby. In Lewis v. Fullarton, 2 Jur. (London) 127 [3 Jur. 669], 2 Beav. 6, Lord Langdale, in the case of a topographical dictionary, held, that largely copying from the work in another book having a similar object, was a violation of that copyright, although the same information might have been (but, in fact, was not) obtained from common sources, open to all persons. On that occasion, he said: "None are entitled to save themselves trouble and expense, by availing themselves, for their own profit, of other men's works, still entitled to the protection of copyright;" and, accordingly, in that case, he granted an injunction as to the parts pirated, although it was admitted, on all hands, that there was much which was original in the new work.

In the present case, I have no doubt whatever, that there is an invasion of the plaintiffs' copyright; I do not say designedly, or from bad intentions; on the contrary, I entertain no doubt, that it was deemed a perfectly lawfully and justifiable use of the plaintiffs' work. But if the defendants may take three hundred and nineteen letters, included in the plaintiffs' copyright, and exclusively belonging to them, there is no reason why another bookseller may not take other five hundred letters, and a third, one thousand letters, and so on, and thereby the plaintiffs' copyright be totally destroyed. Besides, every one must see, that the work of the defendants is mainly founded upon these letters, constituting more than one third of their work, and imparting to it its greatest, nay, its essential value. Without those letters, in its present form the work must fall to the ground.

It is not a case, where abbreviated or select passages are taken from particular letters; but the entire letters are taken, and those of most interest and value to the public, as illustrating the life, the acts, and the character of Washington. It seems to me, therefore, that it is a clear invasion of the right of property of the plaintiffs, if the copying of parts of a work, not constituting a major part, can ever be a violation thereof; as upon principle and authority, I have no doubt it may be. If it had been the case of a fair and bona fide abridgment of the work of the plaintiffs, it might have admitted of a very different consideration.

I have come to this conclusion, not without some regret, that it may interfere, in some measure, with the very meritorious labors of the defendants, in their great undertaking of a series of works adapted to school libraries. But a judge is entitled in this case, as in others, only to know and to act upon his duty. I hope, however, that some means may be found, to produce an amicable settlement of this unhappy controversy. The report of the master must stand confirmed, and a perpetual injunction be awarded, restraining the defendants, their agents, servants and salesmen, from farther printing, publishing, selling, or disposing of any copy or copies of the work complained of; the "Life of Washington," by the Rev. Charles W. Upham, containing any of the three hundred and nineteen letters of Washington, stated in the report of the master, and never before published; and that it be referred to a master, to take an account of the profits made by the defendants, in the premises; with leave for either party to apply to the court for farther directions.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I am delighted to yield.

Mr. JAVITS. Mr. President, I consider it an honor to have joined the Senator in sponsoring Senate Resolution 399, and in the ensuing few minutes I shall address myself to the question of the pardon and generally the same subject.

I think it is most admirable that the majority leader has taken this initiative. I am the second-ranking member on the Committee on Government Operations, and I can assure the Senator that I will personally intercede with Senator ERVIN so that we get an early hearing.

Mr. President, may I ask the distinguished majority leader this question. I think it might be better if, without in any way bedeviling the fine bill that has been introduced, another bill is introduced—perhaps the majority leader would consider it seriously and, if not, I will do it—to provide that all Presidential papers from now on shall be treated the same way, as I think it would be quite in accord with the philosophy that the majority leader had in mind.

Mr. MANSFIELD. Mr. President, I would be delighted to join the distinguished Senator from New York if he will take the initiative in that as I have taken the initiative relating to S. 399, in which he joined me. If he offers such an amendment I will be most happy if he would allow me to be a cosponsor.

Mr. JAVITS. I will do that. But I will not do it unless the Senator wishes me to do it on his bill. I thought I would put in another bill.

Mr. MANSFIELD. Fine.

Mr. JAVITS. Would the Senator wish it on his bill? I just did not want to intrude.

Mr. MANSFIELD. No, I think we should do this one thing at a time.

Mr. JAVITS. I thank the Senator very much.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, if I have any time remaining, I will yield it to the distinguished senior Senator from New York so that it can be added to the time he already has.

UNANIMOUS CONSENT REQUESTED TO TRANSFER ADDITIONAL TIME TO SENATOR JAVITS

Mr. STAFFORD. Mr. President, has my unanimous-consent request to transfer Senator GRIFFIN's time to Senator JAVITS been acted upon?

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE PRESIDENTIAL PARDON

Mr. JAVITS. Mr. President, when the pardon action was announced by President Ford, I said that I had hoped that the President would permit the courts to work out the situation and that he would not have acted as quickly as he did. In a statement on the following day I called such action precipitate and unwise and a mistake.

Thereafter, when discussion began in the White House on the idea that the other individuals connected with Watergate be pardoned, again I issued a statement condemning any such action as being not only precipitate and unwise but entirely inappropriate.

Mr. President, I am very deeply troubled by what has been done and by what is going on. Others are also troubled as shown by the almost violent reaction of so many of the American people to what they consider to be not only unwise and a very grave error but also a very serious breach of the principle of equal justice and understanding of what Watergate is all about.

My own course of conduct in this mattr, which dates from the earliest time when it appeared that there was White House involvement, was based on fidelity to the Constitution. In the fall of 1973, I joined with Senator HART of Michigan to introduce a resolution for the appointment of an independent Special Prosecutor in Watergate matters to get the full story of Watergate. I was determined that the constitutional processes should be followed, and that Congress should not show weakness by, on the one hand, feeling that it did not wish to endanger the precedents that no President had been removed or had resigned and on the other hand, that our only recourse was to ask the President to resign.

Therefore, I insisted that Congress act with celerity, that former President Nixon be required to deliver to Congress everything which he had bearing on Watergate and related matters which involved his own conduct in office, without the protection of executive privilege; that the rule of law in the impeachment proceedings was not that he had to be found guilty of some indictable crime, but that he had to be shown to be unfit to hold the office of the President of the United States in moral terms and on that ground could be removed.

Mr. President, it was such determination, expressed on the part of the Judiciary Committee in the House and expressed in this Senate as I have stated it—that we were quite ready to proceed with the removal trial if the House impeached—that was the real factor that brought about the ultimate resignation of the President. Indeed, I was myself a party to the final action, acting with the Senate Republican leadership in deciding how the word should be carried to Mr. Nixon.

The Nixon resignation was hailed as an action which could restore to the country a sense of stability, a renewal of confidence by the people that there would be equal justice under law no matter how highly placed those charged with violations of the law might be, and what was widely characterized as an expectation of an era of good feeling. There was a hopefulness that in a spirit of unity the unbelievable problems of the country, including the dread of inflation, which is so heavily upon us, would be dealt with.

Unfortunately, the pardon delivered a very serious blow to all of these hopes, and it also delivered a very serious blow to the public's conception of equal justice in our country.

While some people have long felt that there were deep inequities in our judicial system in terms of the equality with which all who come before it are treated, generally speaking, as a lawyer of long standing, I felt that it operated fairly on the average and while there was always a percentage of those who got out who should not and much ordinary crime that went unpunished in the great majority of cases, those who transgressed the law were ultimately subjected to punishment.

Now, this rather precipitate pardon of former President Nixon again shakes the confidence of our people in the proposition of equal justice and exacerbates the wounds of the Watergate which had started to heal, and makes it even more difficult to complete the record of this whole sordid chapter in American history.

In addition, this pardon is bound to complicate the trials of those who have been charged and indicted. It is bound also to complicate the problem for judges who, in the case of conviction, are responsible for sentence.

The reason for my seeking the floor this morning, Mr. President, is to try to chart the situation with my colleagues, in the hope that this will engender some further discussion, where we go from here. The pardoning power—I think it is the general opinion and it is the opinion of the Special Prosecutor, Mr. Jaworski, a very distinguished lawyer—is a power dating back, to "time immemorial," and while there are challenges raised to the possibility of illegality in this case, as there was no indictment and trial, I would be less than honest if I did not say that I have grave doubts that there are such limitations on the President's pardoning power.

But, Mr. President, that does not end the matter at all, and the American people have the right to have revealed for them exactly what induced the pardon and what they can do from this point on.

First, Mr. President, of course, the House could have impeached notwithstanding the pardon, and then the Senate would have been under a duty to try and it could have indeed imposed a penalty in that trial, which would be to bar former President Nixon from holding any Federal office. But obviously that seems to be unlikely from the attitude of the House and those who generally carry great influence in the House, and I do not think that there is much need therefore for expanding upon that issue. It does not seem to be a likely alternative.

The next alternative which we have is to continue the legal proceedings in which the former President is called as a witness. The Special Prosecutor is very heavily engaged in those trials and, as a witness, the former President should be dealt with as would any other witness before the bar of American justice, with an understanding, of course, of the national security secrets which are vested in the President, which the courts will judge when called upon to do so.

Of course, these Watergate cases must go forward and any concept that there is a precedent in the Nixon pardon, for other pardons in those cases should be exorcised from the public and the private minds.

Mr. President, that does not mean that there should be a different kind of justice for these defendants than there is for any other defendant in criminal law in the United States. I would not ask the President to forgo his authority to pardon in a proper case, even in those cases. But, Mr. President, this is universally regarded to be only the proper subject of action after trial, sentence, and a consideration of grounds which go beyond the laws dealing with commission of the crime and the indictments, trial and sentence for the crime.

I support the deeply held view of the American people that we do not expect sweeping pardons of all involved, or most of those involved in these cases, if they are tried, convicted and sentenced.

There is yet another question, and that is the question of the commission of State crimes for which the President of the United States cannot pardon and in which the pardoning power, generally speaking, is in the hands of the chief executives of the appropriate States.

Of course, there, the individual State courts and the individual chief executives will consult what they consider to be the highest interests of the country and their own States and communities in determining what to do.

Now, we all understood, and the American people understood, that President Ford might very well have considered a pardon in the Nixon case, but we assumed it would be only after all the facts were out and only after we saw what the former President was charged with and what the courts would do about him.

Only then we could we determine if it was for or against the national interest to allow the various stages to proceed, indictment, trial, sentence.

For, one thing was clear, if there was to be any pardon it should have been determined by the national interest and not by the private interest of the former President.

Indeed, what was done was so important that I would sincerely have hoped that the President of the United States would have sought to join with Congress in whatever action on pardon he ultimately took respecting former President Nixon and that would have been very appropriate in this case. I believe the only thing we can do is to take steps to make all information regarding Watergate public at the earliest possible time. I have joined with Senator MANSFIELD in a Senate resolution calling upon President Ford to make public all papers, documents, tapes, and transcripts covering the period from January 20, 1969, to August 9, 1974. If this is done we may get a more complete picture of Watergate than is presently available or may become available. Congress should authorize the Special Prosecutor to detail the charges against Mr. Nixon with supporting evidence and make those public.

Finally, Mr. President, on the ground rules which are here involved, I know there will be now a great outcry about changing the pardoning power of the President. There will be proposals for a constitutional amendment which will diminish or control, as those who propose it will say, that pardoning power.

I do not wish to commit in any way, Mr. President, how I will vote in such a situation, but I do wish to say that I consider the pardoning power of the President a very important one—a power comparable to the power of the U.S. Supreme Court to declare acts of Congress, or of any State legislature, in contravention of the Constitution of the United States.

In short, this is the kind of power which has to be vested somewhere. Even though so many of us feel it was not properly used in this case, we all know that there are cases in which the compassion of the state, the people acting together under the heading of the chief of state, need to see that that justice which rests in providence is actually done.

Thus we ought to proceed very carefully and very wisely and not be panicked by this real mistake in pardoning former President Nixon into some contravention of the pardoning power which may work truly against the interests of justice in other cases.

Finally, I would hope this incident and its explosive aftermath will have a profound effect on all of us, especially President Ford, and remind us that the American people above all cherish the concept of equal justice in our system of law.

Mr. President, I ask unanimous consent the various statements that I have mentioned may be introduced into the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

JAVITS STATEMENT AFTER PRESIDENT FORD PARDONED FORMER PRESIDENT NIXON, SEPTEMBER 8, 1974

I had hoped that the President would permit the courts to work out the situation of former President Nixon and that the President would not have acted so quickly. Precipitate action of this nature is unwise and a mistake.

The pardoning power is between the President and his conscience, but we must press forward in the cases and with the reforms arising out of the tragedy of Watergate.

JAVITS STATEMENT ON POSSIBLE PARDON FOR WATERGATE DEFENDANTS, SEPTEMBER 11, 1974

As it is now stated that the White House is studying the question of pardoning individuals involved in the Watergate case, I believe it appropriate to give my views.

I hope that President Ford will not precipitously pardon before appropriate court procedures, any of the Watergate defendants, and any who may become subject to the legal process in connection with investigations by the Special Prosecutor and the Grand Jury. I believe that the President acted too abruptly in regard to former President Nixon's pardon but the circumstances that may have persuaded him to act in that case are not present in this situation.

If Watergate is to be erased as a cause of national division and if justice is to be done, the pardoning power must be utilized only as it has been traditionally, the courts must perform their function and the full story must be told. Anything less should deeply concern the American people who are interested in equal justice.

PRESIDENT'S PROGRAM ON AMNESTY FOR VIETNAM WAR

Mr. JAVITS. President Ford is fundamentally on the right track in his decision to establish a clemency board to consider amnesty for Vietnam era draft evaders and military deserters on the condition that they may perform alternative service rather than experience punishment, imprisonment or dishonorable discharge. This action by the President is, in terms of our nation, honorable and conforms to precedent. It is an action that opens up a channel of communication whereby those who wish to do so may qualify to re-enter the mainstream of American society without fear of disgrace, dishonor, or prejudice.

I will want to examine further the conditions under which exemption from alternative service may be sought for cause including sincere conscientious objection to the Vietnam war as I believe this opportunity should be fully available. I am further gratified by President Ford's choice of Charles Goodell, my former colleague in the United States Senate and a distinguished American, as Chairman of the clemency board. The choice of other distinguished Americans to serve on the board—Father Theodore Hesburgh, Robert Finch, Mrs. Aida Casanas O'Connor, General Lewis Walt, Vernon E. Jordan, James Dougovita, James Maye and Dr. Ralph Adams—augurs well for the processes of fairness and justice in consideration of the individual cases.

I hope that all Americans everywhere who expressed their personal dissatisfaction with the war in Vietnam by leaving or avoiding military service will take advantage of President Ford's offer in behalf of the nation and use the clemency board as a means of healing their own wounds of disaffection with their native land.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes.

REGULATION OF CERTAIN INTEREST RATES

Mr. SPARKMAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3838.

The ACTING PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to S. 3838, to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes, as follows:

Strike out all after the enacting clause, and insert: That (a) section 19(a) of the Federal Reserve Act (12 U.S.C. 461) is amended by inserting "and, regardless of the use of the proceeds," immediately before "shall be deemed a deposit".

(b) The amendment made by subsection (a) shall not apply to any bank holding company which has filed prior to the date of enactment of this Act an irrevocable declaration with the Board of Governors of the Federal Reserve System to divest itself of all of its banks under section 4 of the Bank Holding Company Act.

SEC. 2. (a) The sixth sentence of section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by striking out "for the purpose of obtaining funds to be used in the banking business".

(b) The amendment made by subsection (a) shall not apply to any bank holding company which has filed prior to the date of enactment of this Act an irrevocable declaration with the Board of Governors of the Federal Reserve System to divest itself of all of its banks under section 4 of the Bank Holding Company Act.

SEC. 3. Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is amended as follows:

(1) by adding at the end of subsection (a) thereof the following new sentences: "The provisions of this subsection shall apply, in the discretion of the Board, to an obligation issued by an affiliate of an institution which is an insured institution as defined in section 401(a) of the National Housing Act (12 U.S.C. 1724(a)) or is a member or nonmember building and loan, savings and loan, or homestead association, or cooperative bank. The Board is authorized to define by regulation the terms used in this section.";

(2) by striking out "institution subject to this section" in subsection (b) thereof and inserting in lieu thereof "person or organization"; and

(3) by striking out "nonmember institution" and "institution" in subsection (c) thereof and inserting in lieu thereof "person or organization" in both places.

Amend the title so as to read: "An Act to amend the Federal Reserve Act, the Federal Deposit Insurance Act, and the Federal Home Loan Bank Act to provide for the regulation of the issuance and sale of debt obligations by parents of member banks, nonmember insured banks (including insured mutual savings banks), and savings and loan associations, and for other purposes."

Mr. SPARKMAN. Mr. President, I move that the Senate disagree to the amendments of the House to this bill, request a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Acting President pro tempore (Mr. HATHAWAY) appointed Mr. SPARKMAN, Mr. PROXMIRE, Mr. WILLIAMS, Mr. MCINTYRE, Mr. BENNETT, Mr. TOWER, and Mr. BROCK conferees on the part of the Senate.

LABOR-HEW APPROPRIATIONS—PRIVILEGE OF THE FLOOR

Mr. BENNETT. Mr. President, I ask unanimous consent that during the course of consideration of H.R. 15580, Jay Constantine and J. J. Morgan of the Finance Committee staff be permitted privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask unanimous consent that during consideration of this bill Lyell Rushton of my staff be permitted privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that Rom Parker be permitted the privilege of the floor during the consideration of H.R. 15580.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FEDERAL PAY ADJUSTMENT

Mr. STEVENS. Mr. President, on Thursday we are scheduled to consider Senate Resolution 394, my resolution disapproving the President's request to delay the effective date of the Federal pay adjustment. One of the compelling arguments for passage of Senate Resolution 394 is comparability. The Federal Pay Comparability Act of 1970 mandates that Federal workers be paid wages comparable with private enterprise at the same level of work. The very basis for the Federal pay adjustment is that Federal workers are, or as of March 31 were, 5.52 percent behind a comparable salary in private enterprise. A recent Department of Labor survey has shown that even the 5.52 figure is 1.7 percent behind where it should be on October 1.

There is every reason to believe that if we delay in the pay adjustment another 3 months the comparability concept will in effect have been repealed. Recently a survey of 22 Midwestern States involving several hundred companies revealed that salary increases for employees averaging 9.3 percent have been or will be made during 1974.

The September 7 edition of Business Week magazine carries an excellent article pointing out the increases expected for employees in the private sector. In view of this information, I do not see how we can be fair and equitable with Federal employees and postpone the scheduled October 1 pay increase.

Mr. President, I ask unanimous consent that this article from Business Week be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

THE SOARING COST OF EMPLOYEE COMPENSATION

As double-digit inflation roars ahead, corporate compensation executives are finding it increasingly difficult—and expensive—not just to make employees happy, but to keep them from turning downright hostile. This year companies are giving bigger and more frequent raises. And more than a few are resorting to across-the-board increases, special bonuses, and cost-of-living escalators for nonunion employees that were once reserved for unionized workers. In some companies the extra money is going to all but top executives. In some cases, though, it is going to everybody.

"There's a certain amount of panic in the general increase surge," says Donald Simpson, a pay specialist with the Philadelphia consulting firm of Hay Associates. "But for companies that got behind under controls, the only way to get in line is the great leap forward."

With profits of many companies at record levels, the problem is not so much how to pay for this year's bonuses and fat merit increases as how to trim raises back to more normal levels in the future. "In the past few months people have gotten increases that they can't expect again," warns a personnel man at Aluminum Co. of America. The problem is that in many companies employees may indeed expect them, especially if inflation continues at present levels. "You wonder whether you're setting a precedent," says Bruce Thurston, manager of compensation for Celanese Corp., which gave a 5% pay hike to all its employees in June. "You wonder whether in 1975 you'll have to respond the same way."

UP BUT NOT ENOUGH

Whether companies stay entirely with the merit system where raises are based on individual performance, or supplement it with across-the-board increases, the cost of compensating workers is soaring. "This is the first time in my 20 years in the field that inflation has been more than most companies' merit budgets," says Kenneth E. Foster, Xerox Corp.'s corporate manager of compensation and president of the American Compensation Assn.

Just to keep up, many companies will offer average merit raises, or merit and general raises combined, of close to 10% this year. A survey by the American Compensation Assn. this summer of several hundred companies in 22 states, mostly in the Midwest, found that the average increase planned for 1974 was 9.3%, which is substantially higher than the 5.6% handed out in 1973. Almost one-third of the companies were giving general increases for the first time.

With all the signs late last year pointing to continuing inflation in 1974, most companies increased their salary budgets substantially—but plainly not enough. Budgeted increases of 240 companies polled by Hay Associates amounted to 7.8% for 1974, compared with 6% in 1972 and 6.5% in 1973. "Last December companies were expecting salaries to rise about 7.5% for the year," says Hay's Joan Varga. "Mainly they had given that 7.5% by August and were now projecting a 9.9% increase for the year over last December's payroll."

As they plan ahead for 1975, many companies are starting out by putting 10% more money into their salary budgets. Almost uniformly this is earmarked for merit raises and some of it is in the form of a contingency fund that the companies hope they will not have to spend. Most companies hope to avoid general increases in 1975, except where they are committed to adjustments based on the Consumer price Index (CPI).

IT GROWS

Meanwhile, there are pressures from within and without companies to pay more right now. Union contracts with automatic increases for inflation create pressure from below. Top management bonuses, swelled in some cases by inventory profits, sometimes add to the discontent of managers in the middle. But the greatest pressure comes from the competition. Companies often feel compelled to match general increases offered by others in their industry, even when they are dead set against such raises on principle. There was a domino effect among New York banks, for example, when Manufacturers Hanover Trust Co. gave a 7% across-the-board pay hike to all but top executives this spring. Within weeks, seven or eight other banks gave similar increases, and 7% became the universal reference. General increases have become common in oil, chemical, and insurance companies for the same reason.

"Once a prominent company does something, it really has a snowball effect," says Foster of Xerox, which gave a 3% general increase in May. "A lot of companies that said in May they'd never give a general increase by August had done it."

Such competitive pressures can be responded to in a variety of ways. Amidst almost uniform pay increases of 6% in the oil industry, for example, in May Mobil Oil Corp. gave a bonus of one month's salary instead. In the insurance industry, where general increases were common, ranging from Gulf Insurance's 3% increase to a pay hike equal to the rise in the cost of living by State Farm Insurance Co., John Hancock give a one-time payment of one or two weeks' salary to clerical employees.

Whether a company grants a general bonus or a general salary increase can depend on how it sees the economy shaping up. If inflation ebbs, the company that granted the bonus may be off the hook with a one-time payment. On the other hand, if inflation continues unabated, such a company may soon be forced to give a salary increase on top of the bonus to keep its compensation structure in line with that of competitors.

NOT ALL DO IT

Some companies, though, are still resisting either kind of across-the-board payout. "The cost of general increases is enormous, and you buy little in the way of employee satisfaction," says Booz Allen & Hamilton, Inc. salary specialist Fred Teague, although he admits, "If you don't give it you incur the possibility of resentment."

Loss of control over pay policy is a major fear of companies when they contemplate general hikes. Compensation managers worry that general increases will quickly come to be considered automatic even for marginal workers who might not be in line for any sort of merit raise. In addition, as Hay's Simpson points out, "Not giving general increases allows you to correct the mistakes of past years." He urges companies to "raise the ante for performance instead of changing the system."

Companies that pay across-the-board increases generally argue that they are giving substantial merit increases as well, although some admit, off the record, to lowering their merit budgets to help pay for dramatic across-the-board hikes. "A lot of companies haven't really been giving merit increases anyway," says Simpson. "They were length-of-service and promotional increases. Those companies aren't really abandoning the merit system—they already had."

TOO HIGH A PRICE?

Where companies give both kinds of raises, the expense can soar. John P. McMorrow, manager of management compensation at American Telephone & Telegraph Co., says that most if not all of the Bell companies will have given general increases by the end of this year. "But even more significant," he says, "the merit raises are big." Raises in most AT&T subsidiaries are running one third higher than last year.

If a company keeps its salary ranges moving up 8% or 9% a year to keep up with competitors, McMorrow asks, "how do you have money left over to reward managers?" Or, as one pay consultant puts it, "If inflationary increases continue, instead of thinking in terms of 10% to 15% increases for outstanding performers, the indicated action might be more on the order of 20% or 25%."

Companies that make CPI adjustments in employees' pay checks and try to give merit raises as well are already handing out double-digit increases. State Farm Insurance, which has tied compensation to the CPI since 1955, has seen that index rise almost 10% already this year. With what Joseph McCauley, manager of direct compensation systems, calls a modest merit program added to its inflation adjustments, increased costs could average 13% per employee this year. And at Northwest Industries, Inc., where some subsidiaries are giving general increases of 5% to 7% in addition to merit raises, the salary budget this year may be 10% to 15% higher on an annual basis than in 1973. A budget increase in the area of 15% is possible in 1975.

"This is a most unusual period," says Northwest's Peter Dudrow, director of compensation and benefits. "I'd never have dreamed of cost-of-living increases for management and executives before, but now it's a whole new ballgame."

MORE FOR VALUE RECEIVED

Companies not giving general increases are giving more merit raises. Wes R. Liebtag, director of personnel programs at International Business Machines Corp., says salary ranges for particular jobs (IBM calls them "job values") are being adjusted upward, raises are fatter, and they are coming oftener.

Many companies are reviewing salaries more frequently. Alcoa now does it quarterly, whereas it used to do it not more often than every six months. Others shortening the review period or adding a special review include Crown Zellerbach, Samsonite, and Sears Roebuck.

Some companies are so committed to the merit system that they insist they are awarding performance even when they hand out a general raise or bonus. Dow Chemical Co. called its 10% bonus to more than 50,000 employees the company's "first simultaneous recognition" of its workers' contribution to Dow's success and maintained that it had nothing to do with the rising cost of living. Similarly, Bank of America called salary increases averaging 5% for employees making less than $12,000 a year "special merit adjustments." Explained a bank spokesman: "The special adjustments were not based on increases in the cost of living but rather were made to make sure that persons with good skills would be willing to stay at Bank of America."

KEEPING THE TROOPS HAPPY

There is probably a good deal of truth to that. Many corporate compensation managers acknowledge privately that the skyrocketing salaries are aimed more at keeping employees from becoming disgruntled and leaving than at helping them cope with inflation.

"There has been a lot of employee unrest," says Xerox's Foster. "A lot of people had written letters [before Xerox's general increase] complaining about the cost of living going up astronomically." Daniel McCarthy, director of compensation of Allstate Insurance Co., says that inflation is consistently number one on employee's lists of concerns in corporate surveys. "Turnover rates," says the compensation manager of another insurance company, "are becoming unbearable. There is the mentality that will switch for $5 a week, especially at the clerical level. And everybody seems to be struggling for every dollar of extra income." Since a 7.4% rise in average hourly earnings this year is more than offset by an 11.8% increase in consumer prices and a slight decrease in hours worked, that is not surprising. The Labor Dept. maintains that real earnings are down 4.6% so far in 1974.

Many companies seem resigned to the fact that more big raises, on the order of 10% or more, will have to be handed out next year, and the only question is how to do it. The dramatic impact of the cost-of-living increase has to be balanced against the flexibility of a strict merit program.

But either way is going to be expensive. "The real challenge," says Allstate's McCarthy, "is to stay competitive and maintain costs. That's the tightrope we're walking."

A SAMPLING OF ACROSS-THE-BOARD PAY INCREASES*

Percent increase, month 1974

Citibank	7	May
Morgan Guaranty	7	May
Cleveland Trust	6	May
Exxon	6	July
Shell	6	May
Standard Oil (Ohio)	6	May
Union Oil	6	June
Celanese	5	June
Dravo	5	June
Eastman Kodak	5	June
First Pennsylvania	5	January
Monsanto	5	May
Rohm & Haas	4	April
Xerox	3	May

*Top executives and certain others sometimes excluded.

AND ONE-TIME BONUSES

Dow, 10 percent in May.

John Hancock, clerical, 1 or 2 weeks pay in July.

Mobil, 1 month's pay in May.

Mr. STEVENS. Mr. President, I am pleased to see that one of the Nation's most prominent organizations in the Federal field has expressed strong opposition to any delay in the effective date of the scheduled pay adjustment for Federal employees. The Federal Bar Association in its September 7 annual meeting adopted a resolution in support of my resolution.

I ask unanimous consent that their resolution in support of Senate Resolution 394 be included in the RECORD at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

THE FEDERAL BAR ASSOCIATION RESOLUTION

Whereas government employees have suffered inflation in the same degree as the rest of the nation and should not be singled out to bear the burden of inflation, and

Whereas we have legislation assuring comparability of pay with the private sector, and

Whereas the importance of the constitution of career federal employees to the well being of the nation is clear, and

Whereas the proposed 5.5% pay increase is at most only a catchup with the double digit inflation already experienced,

Now therefore, be it resolved that the proposed 5.5% pay increase for federal employees should become effective no later than October 1, 1974, and that any deferral beyond that date would be unfair to the federal career lawyer and other federal employees, and

Be it further resolved that The Federal Bar Association through its appropriate officials transmit this resolution to the President of the United States and to the United States House of Representatives and the United States Senate.

QUORUM CALL

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 12:31 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (H.R. 15301) to amend the Railroad Retirement Act of 1937 to revise the retirement system for employees of employers covered thereunder, and for other purposes, in which it requests the concurrence of the Senate.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 8192) to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels; agrees to a conference requested by the the Senate to the bill (H.R. 8193) to two Houses thereon; and that Mrs. SULLIVAN, Mr. CLARK, Mr. DOWNING, Mr. GROVER, and Mr. GOODLING were appointed managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 11452) to correct an anomaly in the rate of duty applicable to crude feathers and downs, and for other purposes; agrees to a conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MILLS, Mr. ULLMAN, Mr. BURKE of Massachusetts, Mr. SCHNEEBELI, and Mr. COLLIER were appointed managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 16136) to authorize certain construction at military installations, and for other purposes; agrees to a conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. HÉBERT, Mr. PIKE, Mr. BENNETT, Mr. STRATTON, Mr. BRAY, Mr. KING, and Mr. WHITEHURST were appointed managers of the conference on the part of the House.

The message further announced that the House has passed the bill (S. 3052) to amend the act of October 13, 1972, with an amendment, in which it requests the concurrence of the Senate.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker has affixed his signature to the following enrolled bill and joint resolutions:

H.R. 14883. An act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for a 2-year period, and for other purposes;

H.J. Res. 910. A joint resolution asking the President of the United States to declare the fourth Saturday of September 1974, "National Hunting and Fishing Day"; and

H.J. Res. 1070. A joint resolution authorizing the President to proclaim the period of September 15, 1974, through October 15, 1974, as "Johnny Horizon '76 Clean Up America Month".

The enrolled bill and joint resolutions were subsequently signed by the Acting President pro tempore (Mr. HATHAWAY).

HOUSE BILL REFERRED

The bill (H.R. 15301) to amend the Railroad Retirement Act of 1937 to revise the retirement system for employees of employers covered thereunder, and for other purposes, was read twice by its title and referred to the Committee on Labor and Public Welfare.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHURCH, from the Committee on Interior and Insular Affairs, with amendments:

H.R. 11559. An act to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes. (Rept. No. 93–1152).

By Mr. MANSFIELD, Committee on Commerce was discharged from further consideration:

S. 3879. A bill to amend the Mineral Leasing Act of 1920, and for other purposes; placed on the calendar.

By Mr. ROBERT C. BYRD, Committee on Public Works discharged from further consideration:

H.R. 11541. An act to amend the National Wildlife Refuge System Administration Act of 1966 in order to strengthen the standards under which the Secretary of the Interior may permit certain uses to be made of areas within the System and to require payment of the fair market value of rights-of-way or other interests granted in such areas in connection with such uses; placed on the calendar.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Executive A, 93d Congress, second session, Consular Convention between the Government of the United States of America and the Government of the Czechoslovak Socialist Republic along with the Agreed Memorandum and related exchange of notes, signed at Prague on July 9, 1973 (Ex. Rept. No. 93–32).

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Jewel P. Cobb, of Connecticut; Norman Hackerman, of Texas; Saunders MacLane, of Illinois; Grover E. Murray, of Texas; Donald B. Rice, Jr., of California; L. Donald Shields, of California, and James H. Zumberge, of Arizona, to be members of the National Science Board, National Science Foundation.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ALLEN (for himself, Mr. Sparkman, Mr. Ervin, Mr. McGee, Mr. Stennis, and Mr. Mansfield):

S. 3998. A bill to amend the Public Health Service Act to provide for additional medical scholarships to be known as Lister Hill Scholarships. Referred to the Committee on Labor and Public Welfare.

By Mr. SPARKMAN (for himself and Mr. Allen):

S. 3999. A bill to authorize the Secretary of the Interior to convey certain mineral interests of the United States to the owner or owner of record of certain lands in the State of Alabama; and

S. 4000. A bill to provide for the conveyance of certain mineral interests of the United States in property located in Jefferson County, Ala., to the board of trustees of the University of Alabama. Referred to the Committee on Interior and Insular Affairs.

By Mr. SPARKMAN:

S. 4001. A bill to exempt small independent oil producers from the Emergency Petroleum Allocation Act of 1973. Referred to the Committee on Interior and Insular Affairs.

By Mr. HARTKE:

S. 4002. A bill for the relief of Jose and Gladys M. Ferrari. Referred to the Committee on the Judiciary.

By Mr. HARTKE (for himself, Mr. Magnuson, Mr. Cotton, Mr. Pearson, and Mr. Beall) (by request):

S. 4003. A bill to amend the Regional Reorganization Act of 1973 to extend the period for completing the final system plan, and for other purposes. Referred to the Committee on Commerce.

By Mr. SPARKMAN (for himself and Mr. Tower):

S. 4004. A bill to amend the Federal Home Loan Bank Act to provide for the continued duration of the Federal Savings and Loan Advisory Council. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. AIKEN:

S. 4005. A bill to amend the Coastal Zone Management Act of 1972 in order to include Lake Champlain within the provisions of such Act. Referred to the Committee on Commerce.

By Mr. STEVENSON:

S. 4006. A bill to designate the Paul H. Douglas Federal Building. Referred to the Committee on Public Works.

By Mr. PROXMIRE:

S.J. Res. 239. A joint resolution amending the pardon power of the President under the Constitution. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPARKMAN:

S. 4001. A bill to exempt small independent oil producers from the Emergency Petroleum Allocation Act of 1973. Referred to the Committee on Interior and Insular Affairs.

EXEMPTION FOR SMALL INDEPENDENT OIL PRODUCERS FROM PRICE AND ALLOCATION CONTROLS

Mr. SPARKMAN. Mr. President, I am introducing legislation that is designed to provide a clear and concise distinction between the truly independent oil producers of this country and the major oil companies. It is a distinction that could have and should have been made long ago.

I have been told that over 300 separate pieces of legislation have been introduced in this session of Congress that deal with energy matters in general and the oil industry in particular. In the weeks and months ahead, as this great deliberative body reviews and makes judgments on the individual issues presented by these bills, we must be certain that our intent and common goals are not subverted by our failure to recognize the real differences between the small independent oil producers and the rest of the oil industry.

Two questions come to mind: First, what are the differences between the small independent oil producers and the majors? And second, why is it important to make these distinctions? The questions are reasonable; I asked them myself.

Addressing the first question first, I would begin by pointing out that the enormously profitable foreign crude oil and products market is strictly controlled by a relatively few major oil companies with no competition from the independents as we know independents in this country. The major oil companies have full vertical integration, that is, they control production, transportation, refining, and retailing of products with virtually unlimited funds for research and exploration. The small independent producers do not have these advantages. The major oil companies control all of our domestic offshore production, including both deepwater and tidelands production. The small independent producers do not have this opportunity. The major oil companies pay no U.S. income tax on the unrepatriated earnings of their foreign subsidiaries and affiliates. Moreover they can deduct all of their foreign royalty payments as though they were taxes. The small independent producers do not have this advantage. The major oil companies have combined their power in foreign markets by the formation of joint ventures and syndications amongst themselves that have been carried out and implemented in ways which, of done in the United States, would be clearly violative of our antitrust laws.

These factors in combination with others enjoyed by the major oil companies have resulted in the development of enormous capital structures with virtually unlimited access to the capital markets when additional funds are wanted. In looking on a comparative basis at the overpowering economic position of the major oil companies, as opposed to the economic posture of the small independent producers, the image of David and Goliath comes to mind.

Because we have failed to distinguish between the small independent producers and the major oil companies in the past, a review of our previous legislative attempts to limit the size of these "Goliaths" has convinced me that we have only succeeded in taking away pebbles from the "Davids" of the oil industry. For instance, in an effort to "reform" the oil industry, the Tax Reform Act of 1969 reduced the oil depletion allowance by 5 percent.

The major oil companies do not need the depletion allowance because of the vast array of economic advantages that I outlined earlier. On the other hand, small independent oil producers do need the depletion allowance. I have no doubt that the allowance will be eliminated eventually. This is yet another example of where it will be important to distinguish the treatment of small independent producers and to insure that they are not unjustly penalized.

The second question that I raised relates to my opinion as to why it is necessary to make a distinction between the small independent producers and the major oil companies. It cannot be argued that the distinction should be made on the basis of hardship. As far as I know, most of the independent producers have been able to improve their economic position in spite of the discriminatory two-tier pricing regulations currently in effect.

The overriding reason, in my mind, for preserving and protecting the small independent sector of the oil industry is because they are and have been the traditional sources of new exploration and drilling. In testimony before the Senate Committee on Interior and Insular Affairs on July 25, 1974, Mr. Sawhill, the present Administrator of the Federal Energy Administration, cited figures showing that independents drilled 81 percent of all U.S. wells in the fourth quarter of 1973. He also cited figures showing that the independent producers drilled 80 percent of all U.S. wells in each of the first two quarters of this year. He went on to state—

> These figures indicate that the independents are maintaining their historical position of drilling some 80 percent of total U.S. wells.

Mr. President, the need to distinguish can also be seen in the present Government-regulated price controls. As you know, a price ceiling has been imposed on domestically produced "old" crude oil, that is, the oil produced up to the 1972 base year levels. By way of contrast, "new" oil, that is, oil produced in excess of the 1972 levels, as well as all imported oil are free of all price restraints. The major oil companies, with their exclusive tie-ins with the foreign markets, are in a position to step up their import program while depressing their own domestic production with the resulting increased cost being passed all the way through to the consumers at the filling stations' pumps.

This again illustrates a competitive advantage enjoyed by the major oil companies over the small independent producers as a direct result of the "even-handed" policies of the Federal Government. The legislation that I am introducing is designed specifically to provide a limited exemption for small independent oil producers from the allocation and price control provisions of the Emergency Petroleum Allocation Act of 1973. I have chosen to define an independent producer as an individual or corporation who owns no more than 5,000 barrels of daily crude oil production and who, should he also happen to be a refiner, falls within the legal definition of a small business as it is currently applied to refiners.

I would envision the change in the law working this way: Under present regulations, "new" crude oil is subject to allocation control to the extent that historical purchasers are given an opportunity to meet the higher price of a bona fide offer transmitted by a new purchaser before the seller of the crude oil can enter into any agreement with such new purchaser. This "right of first refusal" requirement would be retained and broadened to encompass "old" crude oil only in that segment of the market involving these small independent producers. Thus, this legislation would enable these specially defined independents to seek new purchasers without unnecessarily destabilizing traditional market patterns.

There are those who would argue that exempting even the smallest of the independent producers from the provisions of the allocation and price control regulations would produce an unacceptable inflationary impact. To those who would believe this to be the case, I would say that you have missed my point. We are facing two alternatives: Either we increase our dependence on foreign sources of crude oil and have the prices at our filling stations' pumps set in the capitals of foreign governments or we pay the cost of finding and developing new sources of this vital energy source within the borders of our own country. It is easy to overlook the fact that we have used up or in the process of using up all of the cheap and easily accessible sources of crude oil within our borders. It is now necessary to drill deeper and to expand our exploratory efforts by the use of more expensive and sophisticated equipment.

Secondary recovery techniques, admittedly more expensive, are already in widespread use. Tertiary recovery techniques, though still in experimental stages and clearly more expensive, will soon emerge as a necessity to recover almost all of the oil in place.

It is my fervent hope, Mr. President, that this legislation will be a building block upon which we can move closer to true energy independence. We must take the long view in preserving and encouraging the sector of the oil industry that has consistently stood at the frontier of energy exploration and development. The problem is squarely before us; the time to answer is now.

By Mr. HARTKE (for himself, Mr. Magnuson, Mr. Cotton, Mr. Pearson, and Mr. Beall) (by request):

S. 4003. A bill to amend the Regional Reorganization Act of 1973 to extend the period for completing the final system plan, and for other purposes. Referred to the Committee on Commerce.

AMENDMENT OF THE REGIONAL RAIL REORGANIZATION ACT

Mr. HARTKE. Mr. President, I introduce a bill to amend the Regional Rail Reorganization Act of 1973. This bill has been requested by the board of directors of the U.S. Railway Association, which is charged under the act of issuing a preliminary system plan for reorganizing the railroads in the Midwest and Northeast on October 29, 1974, and with submitting a final system plan to Congress on March 28, 1975. The board of directors has requested that the statutory deadlines for the preliminary system plan and final system plan be extended by 120 days and that the statutory authorization for the association's administrative expenses be increased from $26 to $40 million. This bill would accomplish these ends.

Complete rationale for taking these steps has been developed in a letter to me from the chairman of the USRA, Arthur D. Lewis. I ask unanimous consent that this letter along with the bill I have introduced and a letter in support of the amendment from the Interstate Commerce Commission be printed in the Record following these remarks.

There being no objection, the bill and material was ordered to be printed in the Record, as follows:

S. 4003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec. 1(a). Section 207(a)(1) of the Regional Rail Reorganization Act of 1973 (87 Stat. 985) is amended by striking the figure "300" in the first sentence thereof and substituting therefore the figure "420".

(b) Section 207 (c) of the Regional Rail Reorganization Act of 1973 (87 Stat. 985) is amended by striking the figure "420" in the first sentence thereof and substituting therefor the figure "540".

Sec. 2. Section 214 (c) of the Regional Rail Reorganization Act of 1973 (87 Stat. 985) is amended by striking the figure "$26,000,000" and substituting therefor the figure "$40,000,000".

United States Railway Association,
Washington, D.C., Sept. 3, 1974.
Hon. Warren G. Magnuson,
U.S. Senate,
Washington, D.C.

Dear Mr. Chairman: The Regional Rail Reorganization Act of 1973 established the United States Railway Association to plan a viable rail system for the Northwest and Midwest. Pursuant to that Act, the Association is charged with issuing a preliminary system plan on October 29, 1974 and submitting a final system plan to Congress on March 28, 1975. For the reasons outlined below, the Association's Board of Directors requests that the statutory deadlines for the preliminary system plan and the final system plan be extended by 120 days, and that the statutory authorization for the Association's administrative expenses be increased from $26 to $40 million. Attached is a draft of an amendment to the Regional Rail Reorganization Act which would accomplish these requests.

The Association's entire planning process is dependent upon obtaining relevant data on the region's railroads and the performance of certain studies required under the Act. Because of the four-month delay in the naming of our Board of Directors, much of our basic planning data and many of our study reports will not be available until December or January. Therefore, it will not be possible to include in the October 29 preliminary system plan many of the factors, designations, and corporate features required for the final system plan under Sections (206) (b), (c), and (e) of the Act. A preliminary system plan submitted on October 29 would, in effect, only be a description of the planning process along with recommendations with respect to 75 percent of the branch lines, concerning continued operations, abandonment or subsidy.

If the premliminary system plan fails to treat all the factors and corporate features required for a final system plan, the public will not have an opportunity, as envisioned by the statute, to debate and evaluate the entire USRA plan prior to the presentation to Congress of the final system plan. Only by extending the planning process for a period of 120 days will be hearings that are scheduled to follow issuance of the preliminary system plan achieve their purpose.

A further problem with the issuance of a prelminary system plan on October 29 is created by the litigation presently before both the Special Court and the Supreme Court.

The October 29 date follows by only 30 days the date by which the Special Court must decide the appeals of the 180-day Orders from the various District Courts. While this time relationship was undoubtedly intended to provide the Association with a reasonable opportunity to accommodate in the preliminary system plan the final resolution of basic legal issues, the pending Supreme Court appeal would seem to require that the Special Court stay its order beyond late December since oral argument cannot be scheduled before the week of October 14.

It is true, of course, that the appeals of the 180-day Orders were technically anticipated by Congress in the planning schedule established in the Act. Probably not anticipated, however, was the initial determination by the United States District Courts that the Act does not provide a "fair and equitable" process for the reorganization of the Penn Central, Lehigh Valley, New Jersey Central and Lehigh and Hudson River Railroads.

The court decisions cast doubt on whether the basic mechanism of the Act will be available to reorganize the Northeast railroads. A very different system plan would be required if a substantial part of the Region's rail system is required to be reorganized through a different method than was apparently intended by Congress.

Because of the uncertainty created by this litigation, issuance of a preliminary system plan on October 29 would have to be accompanied with the knowledge that the plan may prove inadequate and largely unresponsive to the statutory purposes of a preliminary system plan.

In summary, if we are to have a preliminary system plan which serves the purposes of a preliminary system plan as envisaged by the Act, it will be necessary to delay the issuance of the preliminary and final system plans for a period of 120 days.

Assuming an extension of time is provided, the Association intends to issue an interim report on October 29 that will provide a basis for public comment. Such a report would (1) identify central issues in restructuring the Northeast rail industry, (2) recommend two or three alternate industry structures for the Northeast rail system, (3) recommend continued operations, abandonment or subsidy decisions for approximately 75 percent of the light-density lines being evaluated and (4) describe the USRA financial assistance programs, and the strategy for their employment. Public input on these matters would assist the Association in drafting its preliminary system plan.

The request for an increase in the Association's administrative expense authorization from $26 million to $40 million is based on careful review of the personnel and contractor costs which must be incurred if the Association is to perform the tasks with which it has been charged by the Congress.

The scope and complexity of the Association's basic planning responsibility have now been more clearly defined. It is in the light of this knowledge that a staffing pattern has been developed and projections prepared concerning personnel requirements through fiscal year 1976. Until this was done, it was impossible to prepare an accurate estimate of the type and quantity of manpower required by the Association. These estimates also anticipate limited pay increases during the year and the increased manpower costs resulting from an extension of planning deadlines.

We are also now in a position to estimate contractor services more accurately. Until the Association defined the contract work and entered into negotiations with the possible suppliers, it was not possible to develop reliable estimates for contractual services. This has now being done for practically all of the services required, and we are confident that our revised estimates reflect with reasonable accuracy the cost of work needed for the development of a system plan. During various contract negotiations we have also found that hourly rates for consultants have escalated rather dramatically by about 15 percent on the average over the past six months.

I have enclosed a functional breakdown of a budget along with a table showing the distribution of the $14 million requested increase.

Your early consideration of this request for an extension in the planning dates for the Regional Rail Reorganization Act and an increase in the authorization is appreciated. If you wish, I would be happy to meet with you to further discuss this matter.

Sincerely,

ARTHUR LEWIS.

REQUIREMENTS BY TYPE OF EXPENSE

[Dollars in thousands]

Organization	Authorized staff	Personnel related costs	Contractual requirements	Other costs	Total
Board, chairman and president	11	$1,447	$850	-------	$2,297
General counsel	13	930	2,025	-------	2,955
Operations and facilities planning	85	5,187	11,262	-------	16,449
Financial planning	30	1,947	2,951	-------	4,898
Manpower planning	13	909	725	-------	1,634
Review and evaluation	11	663	550	-------	1,213
Public and governmental affairs	21	1,276	60	$493	1,829
Congressional relations	9	532	-------	-------	532
Administration	45	2,616	683	4,894	8,193
Total	238	15,507	19,106	5,387	40,000

Budget Increases (dollars in thousands)

Initial budget prepared by DOT	$26,000
Personnel Costs:	
Additional man-years resulting from 48 more positions and a 2½-year life	3,580
Computation of fringe benefits at 21 percent rather than 10 percent	819
Temporary and consultant employees including those borrowed from railroads	710
Pay raises anticipated	959
Total	6,068
Administrative Services:	
Printing system plans	1,000
Other printing, graphics, xerox	225
Reimbursable services	103
Postage and mailing	326
Supplies, vehicle rental, wire service, clipping service, secretarian service, etc	188
Total	1,842
Office occupancy & facilities acquisition resulting from 2½-year life	$579
Contractual services	5,511
Total USRA request	40,000

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., Sept. 9, 1974.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: It has come to my attention that Mr. Arthur D. Lewis, Chairman of the United States Railway Association, has taken up with you the need for amending the Regional Rail Reorganization Act of 1973 so as to provide the organization with additional operating funds and an extension of time within which to conclude its planning process.

In my dual role, as the Chairman of the Interstate Commerce Commission and a member of the Board of Directors of the Association, I am persuaded of the need for these revisions. The late start in the work of the Association resulting from the delays in the nomination and confirmation of the Board members, the sweep of the inquiries that the statute mandates be undertaken and finally the volume and intensity of the litigation challenging the validity of the Act, all have combined to increase the costs of the operations and serve to postpone its progress. Accordingly, I would urge you to support this legislative proposal.

If I can be of assistance in this endeavor, I hope you will feel free to call on me.

Best regards.

Sincerely yours,

GEORGE M. STAFFORD,
Chairman.

By Mr. AIKEN:

S. 4005. A bill to amend the Coastal Zone Management Act of 1972 in order to include Lake Champlain within the provisions of such act. Referred to the Committee on Commerce.

Mr. AIKEN. Mr. President, I introduce, and ask that it be printed, a bill to amend the Coastal Zone Management Act of 1972 which seeks to include Lake Champlain under the provisions of that act.

The Coastal Zone Management Act presently defines the Nation's coastal zone to include the Great Lakes and the connecting waterways of the Great Lakes such as the St. Mary's, St. Clair, Detroit, Niagara, and St. Lawrence Rivers, as well as Lake St. Clair.

Lake Champlain is part of this inland sea network as it drains north through the Richelieu River in Quebec into the St. Lawrence below Montreal.

It is thus an American tributary to the Great Lakes drainage basin and should be included as an integral part of this Nation's coastal zone.

Lake Champlain, first discovered by French explorer Samuel de Champlain in the early 1600's, is still relatively unspoiled and the jewel centerpiece of the Lake Champlain drainage basin.

The State of Vermont strongly supports this amendment as another way to help protect this unique natural resource.

If included in the 1972 act, the States of Vermont and New York would be given the opportunity for continued joint action in wisely managing Lake Champlain.

It should be noted that currently the States of Vermont and New York and the Province of Quebec, working under the auspices of the International Joint Commission, are working to determine the proper water level for the lake.

While no decision has been made yet, inclusion of Lake Champlain under the Coastal Zone Management Act would enhance the prospects for future international cooperation of this kind.

I urge the Congress to act favorably on this amendment before the close of this session.

By Mr. STEVENSON:

S. 4006. A bill to designate the Paul H. Douglas Federal Building. Referred to the Committee on Public Works.

Mr. STEVENSON. Mr. President, Senator Paul Douglas has set the highest standards of political leadership for all the Members of this body, indeed, for the Nation. It is time we honor him. A bill I am introducing today would do so in a most appropriate way by naming the new Federal office building in Chicago for him.

Senator Douglas joined intellect, wisdom, practicality, humility, conviction, and humor. He brought the vision and understanding of an academician to the practical work of Government with unflagging vigor and purpose.

His foresight is well known. Many of our concerns and accomplishments—in medicare, economic development, civil rights, ethics in Government, pollution control, and preservation of open space—were Senator Douglas' issues years ago when often he stood alone.

It would be right for the Congress to honor Paul Douglas by giving this Federal building his name. But this bill would do more.

It would cause people to remember the man and that it is possible to merge politics and principle in Government service. It is a lesson worth learning again.

Mr. President, I ask unanimous consent to insert into the RECORD at the conclusion of these remarks a brief biography of Senator Douglas and Senator PROXMIRE's excellent summary of his political record.

Mr. President, I hope the Senate will move to swift passage of this bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BRIEF BIOGRAPHY

Douglas, Paul Howard (husband of Emily Taft Douglas), a Senator from Illinois; born in Salem, Essex County, Mass., March 26, 1892; attended the public schools of Newport, Maine; graduated from Bowdoin College in 1913, Columbia University in 1915; studied at Harvard University in 1915 and 1916; instructor in economics, University of Illinois, in 1916 and 1917; instructor and assistant professor of economics, Reed College, Portland, Oreg., in 1917 and 1918; industrial relations work with Emergency Fleet Corporation in 1918 and 1919; associate professor of economics, University of Washington in 1919 and 1920; assistant professor, industrial relations, University of Chicago, 1920–1923; associate professor 1923–1925, and professor of economics 1925–1949; visiting professor, Amherst College, 1924–1927; secretary of Pennsylvania Commission on Unemployment and adviser New York Commission on Unemployment in 1930; member of Illinois Housing Commission 1931–1933; member of Consumers' Advisory Board, NRA, 1933–1935; member of Advisory Committee to United States Senate and Social Security Board on Federal social security system in 1938 and 1939; alderman, Chicago City Council, 1939–1942; author of numerous books; during World War II enlisted as a private in the United States Marine Corps in May 1942; served overseas from 1943 to June 1945, mainly with the First Marine Division, advancing through the ranks to lieutenant colonel; wounded at Peleliu and Okinawa; awarded the Bronze Star for heroic achievement in action; delegate to the Democratic National Conventions in 1948, 1952, and 1956; elected as a Democrat to the United States Senate in 1948; reelected in 1954 and again in 1960, serving from January 3, 1949, to January 3, 1967; unsuccessful candidate for reelection in 1966; chairman of the President's Committee on Urban Affairs, 1967–1968; chairman, Committee on Tax Reform, 1969; author; is a resident of Chicago, Ill.

THE 75TH BIRTHDAY TRIBUTE TO SENATOR PAUL H. DOUGLAS

(By Senator PROXMIRE)

Mr. President, Sunday, March 26, will be the 75th birthday anniversary of Senator Paul H. Douglas.

What a remarkable man Paul H. Douglas is. What a superlative record he has achieved.

In this body we know Senator Douglas as a true giant of the Senate.

He has also been a widely read and deeply influential author, a highly gifted teacher, one of the handful of top economists in the world and a delightful human being.

Some 45 years ago Paul Douglas wrote a definite work on the economics of wages, his doctoral dissertation.

At the University of Chicago he taught with a humor, insight, as well as scholarship that made him nationally famous.

For many years he provoked the vested interests in Chicago with his fight for justice, and served as an astonishingly successful alderman in what for a university professor and a reformer must have been one of the toughest political assemblies in the world: the Chicago City Council.

He is the author of 13 books, including "The Theory of Wages," for which he was awarded a $5,000 international prize, "Real Wages in the United States, Social Security in the United States, Ethics in Government, Economy in the National Government," and "America in the Market Place." He has contributed widely to scholarly publications and popular periodicals.

He was awarded honorary degrees by 20 colleges and universities including doctor of laws degrees from Lake Forest, MacMurray, Knox, DePaul, Brandeis, Swarthmore, Bowdoin, Oberlin, and Amherst; a doctor of literature degree from Rollins; and a doctor of civil law degree from Bucknell.

He is past president and a member of American Economics Association, American Statistical Association, American Philosophical Association, Fellow Econometric Society, and American Academy of Arts and Sciences, member of Royal Economic Association. He is also chairman of the board of Freedom House.

At the age of 50 he insisted on joining the Marines to fight in World War II. He demonstrated repeated bravery under fire and suffered a painful shattering wound to his left arm which to this day is withered in pain.

Senator Douglas' brilliant economic qualifications were rapidly put to the test after he came to the Senate in 1949. Price and interest rate policy had plagued the Truman administration. A policy of excessively low interest rates had contributed greatly to a cruelly rapid rise in the cost of living.

In January of 1950 as a new subcommittee chairman of the Joint Economic Committee, Senator Douglas recommended that money mangement by both the Federal Reserve and the Treasury be guided primarily by considerations relating to their effect on employment, production, and purchasing power. Douglas further recommended that the primary power be vested in the Federal Reserve System and that Treasury actions be made consistent with the policies of the Federal Reserve.

This was the famous accord which gave to the Federal Government for the first time in years a monetary policy that could be an effective instrument in holding down prices and promoting stable and sound economic growth.

The accord was a great step forward in rational economic policy. And it was Paul Douglas whose intelligence and leadership made the accord possible.

Consider a few of the Douglas bills that have become law.

The Area Redevelopment Act to aid depressed areas was drafted by Senator Douglas and signed into law in 1961.

The Economic Development Act of 1965 was also authored by Senator Douglas. It expanded the original ARA program.

Paul Douglas wrote the first slum clearance and urban renewal legislation which became law in 1949. As a member of the Banking and Currency Committee of the Senate, he pushed through many amendments that improved the original bill.

The Douglas bill raised the minimum wage to $1 per hour.

It was Senator Douglas who rewrote the Railway Retirement Act, thereby liberalizing benefits for railroad workers.

The Union-Management Pension and Welfare Fund Disclosure Act was drafted by Paul Douglas.

The bill creating the Indiana Dunes National Lakeshores, enacted during the 89th Congress, was first itnroduced by Senator Douglas in 1959.

Consider the bills which Senator Douglas drafted, sponsored or cosponsored and which are now law:

Medicare: Senator Douglas first introduced the medicare bill in 1961. In 1966 he received the Aime J. Forand award presented by the National Council of Senior Citizens. He was cited for his efforts in passing medicare.

Education: In 1953, Senator Douglas proposed using revenues from offshore oil reserves for the payment of better salaries for teachers and for general Federal aid to education. In 1965, after a struggle of more than a decade, the first broad aid to primary, secondary, and higher education was passed by the Congress.

Immigration: Senator Douglas first drafted legislation to liberalize the Nation's immigration laws in 1953. Earlier he had fought passage of the restrictive McCarran-Walter immigration bill. In 1965, after a prolonged legislative battle, a more equitable immigration law was passed.

Housing: As a member of the Housing Subcommittee of the Senate Banking Committee, Senator Douglas was the principal sponsor of most of the important housing legislation in the last decade. He worked for the successful vote in the 89th Congress that led to the bold Housing and Urban Development Act of 1965, and also introduced for the administration the demonstration cities program.

Social security: As a member of the powerful Senate Finance Committee, Senator Douglas authored countless amendments that led to the improvement of the social security system.

Pollution control: Senator Douglas was an early sponsor of legislation that has resulted in a concentrated attack on the problems of both air and water pollution.

Consider his proposals and performance in the field of civil rights:

As early as 1949, Senator Douglas proposed civil rights legislation. In the early 1950's, he regularly proposed legislation that would assure to all Americans the full protection of the 14th and 15th amendments to the Constitution. In 1964, these proposals were enacted into law.

Senator Douglas led the fight for the 1957 Civil Rights Act, the first passed in 80 years.

Senator Douglas was the chief sponsor of the 1960 Civil Rights Act and later the 1964 act that integrated public accommodations.

The Voting Rights Act of 1965, setting up a system of Federal registrars to promote voter registration, was first offered by Senator Douglas and Senator HUMPHREY in 1960. Five years later this measure became the law of the land.

He was the first Senator to introduce a civil rights bill in 1966. The Douglas bill would have improved the process of jury selection, thereby improving the chances of equal justice for all Americans, and it would have protected civil rights workers. Senator Douglas fought for the administration bill, including its freedom-of-residence provision.

During the titanic civil rights legislation fight in 1964 Senator Douglas had the best record of any in answering quorum calls which finally led to shutting off the filibuster and passage of that historic law.

In 1963 Senator Douglas was one of the principal sponsors of the march on Washington.

Consider the bad bills which he was instrumental in blocking:

In 1965 and 1966, Senator Douglas successfully led the fight against those one-man 10-vote amendments that would have overturned the Supreme Court's decision calling for State legislatures apportioned on the basis of one man, one vote. By upholding the Court, the Congress has assured the urban and suburban voters of an equal voice in their State legislatures.

By opposing the giveaway of offshore oil reserves, Senator Douglas has saved taxpayers more than a billion dollars. Through Douglas-offered amendments, all oil from the major areas of the Continental Shelf are reserved to the United States. These reserves are five times more valuable than the oil ceded to the States.

Senator Douglas led the fight against a bill that would have raised the price of natural gas. Defeat of this so-called price raid bill saved gas consumers at least $600 million a year.

Senator Douglas helped to lead the successful Senate fight in 1958 to block the anti-Supreme Court bills.

In the field of consumer protection the name of Paul Douglas has become synonymous with efforts to protect the American consumer from deceptions and deceits. He also has battled the growth of corporate trusts for the protection of the consumer.

Senator Douglas is well known as the author of the truth-in-lending bill which would require that moneylenders state the true rate of interest charged prospective borrowers.

Senator Douglas was one of the chief sponsors of the truth-in-packaging bill which became law during the 89th Congress.

Also for the protection of the people, Senator Douglas drafted and proposed the first code of ethics for those in the Government service. He was one of the first and very few Members of Congress to disclose the extent of his income and assets. Paul Douglas believed in truth in politics.

Consider his part in economy in government, the money the taxpayers have saved:

He is primarily responsible for saving $4.8

billion in fiscal 1969 alone in the Defense Department. This was as a result of the investigations and recommendations of the Douglas subcommittee on Federal procurement which turned up the need for greater economy in military expenditures.

He saved taxpayers untold millions by successfully fighting to reduce and make equitable vacation allowances for Federal employees.

He saved at least $50 million by exposing a plan to build an unneeded parking garage under the Capitol Plaza.

He saved $15 million in 1965–66 by forcing competitive bidding on contracts for shipping military goods on private carriers.

He saved $600 million annually by blocking tax deductions for self-employed voluntary pension plans.

He saved $10 million by blocking an attempt to build an addition to the Library of Congress on privately owned land when public land was available.

He saved more than $1.5 billion in the last 12 years by winning the struggle to gain offshore oil reserves for the Federal Government.

THE AMERICAN ECONOMY

In 1960, Senator Douglas, as chairman of the Joint Economic Committee, directed the first major economic study of employment, growth, and prices. The recommendations of this seminal study provided the framework for Government action to foster economic growth, reduce unemployment, and prevent inflation. As a result of this action, the economy has undergone a period of uninterrupted boom during the last 6 years.

Paul Douglas first proposed in 1958 reduction in Federal excise taxes to stimulate the economy. In 1965, the Congress approved a host of such tax cuts on small retail items and household appliances.

He authored and put through the Senate the Douglas Area Redevelopment Act to assist in bringing industry to areas of the country where there was chronic unemployment. ARA was one of the principal pieces of legislation enacted in the 87th Congress.

He was the principal author and sponsor of the Public Works and Economic Development Act of 1965, which is in part a successor to the ARA.

He has been a prime defender against attempts to scrap interest rate ceilings in Government bonds in the absence of other improved debt management steps by Treasury and Federal Reserve.

He led the fight to establish the rural electrification program and since its establishment has been a stanch supporter of REA.

He has battled against monopoly and consolidation in industry and on the farm. A major defender of the family farm, Paul Douglas led continual fights in the Senate to include antimonopoly provisions in reclamation laws against efforts of large corporate farming interests to take the main benefit of public water projects.

As a senior member of the Senate Subcommittee on Small Business, Senator Douglas sponsored and guided into law many provisions to aid the development of small business and the allocation of a fair share of Government contracts to small businesses.

He put through the Senate amendments which more effectively protect small banks from being taken over by bank chains and holding companies.

He secured amendments to maintain competition and check monopoly trends in disposing of the Government's synthetic rubber plants.

He helped secure passage of the Savings and Loan Holding Company Act in the 86th Congress to prevent concentration and monopoly in this savings and loan field.

He worked to secure passage in the 89th Congress of the Bank Holding Act.

TAX LOOPHOLES

As a member of the Finance Committee, Senator Douglas consistently waged war on the loopholes which provide special privileges and subsidies for the very rich. If these special privileges were wiped out, tax rates could be lowered from the 20- to 91-percent range to the 10- to 50-percent level.

He offered amendments to reduce the depletion allowance for oil and gas wells, set limits on the charitable deduction, make the capital gains tax more equitable, reduce excise taxes, make corporate tax level more progressive, reduce the investment credit of private utilities.

Mr. President, for those of us who fought at Paul Douglas' side in some of his great battles, let me say it was a really joyful experience in leadership by cooperation.

Senator Douglas insisted on sharing the victories achieved primarily by his leadership with those of us who played relatively secondary roles in helping him. I have never met anyone in this highly competitive business of politics who was so consistently self-effacing, and so swift to give credit to others.

I have said earlier that Senator Douglas is blessed with a remarkable wife. Emily Taft Douglas was not only a distinguished Member of Congress and a statewide electoral winner in Illinois. She is a remarkably intelligent, gracious, charming, and feminine woman, wholeheartedly devoted to her great husband. She is also a successful author in her own right, an outspoken fighter for civil rights, and a remarkable campaigner for Senator Douglas. In his campaigns, Mrs. Douglas would work downstate when the Senator was in Chicago and vice versa. And how devoted the people of Illinois are to Emily Douglas. They know her and they love her.

Mr. President, those of us who served with Paul Douglas in this body know him as a remarkable Senator but few of us ever knew the other Paul Douglas—the masterful campaigner.

Toward the end of his last campaign, a gifted reporter, David Murray of the Chicago Sun Times, caught the campaigning spirit of Douglas in a rare and delightful story.

Let me quote a few paragraphs from that story:

"As it quickens in tempo these last few days, the Douglas campaign also gains in the old-fashioned courtliness that is a Douglas hallmark.

"On Friday, the day began with morning handshaking and an exuberant full-scale, full-ticket rally in the Loop. It ended, typically, with a fish fry in Leyden Township and a polka party on the far Southeast Side.

"Saturday, it was the same, and Sunday and Monday the locale shifted to . . . the Downstate areas where local support needs bolstering. . . .

"Yet even with the change of locale, the basic pattern does not change.

"In this campaign, in refreshing contrast to the 'prepackaged,' ad-agency approach that has become modern American politicking, the Douglas style, the Douglas grace, come through increasingly, even as the pressure mounts.

"To a Southwest Side meeting, packed with precinct captains in mackinaws and plastic storm coats, the senator quotes Stephen Leacock. But he refuses to patronize his audience by explaining who Leacock was. They don't have to know: the story is good enough without it.

"In Carl Sandburg Village on the Near North Side, he talks about Abraham Lincoln and, in his brief discourse, gives the assembled young precinct captains a definition of politics at its best:

" 'Lincoln was an idealist, but he was shrewd. He was a politician down to the tips of his toes. He always tried to guide forces for the benefit of mankind.'

"Or, late in the evening, riding in the front seat of the campaign station wagon, he can quote Thomas Mann on the passage of time.

"It isn't all oratory distinguished by the felicitous turn of phrase, however. Where other politicians appear petulant, and push human response buttons with terms such as 'forced housing' or 'Douglas voted against prayer in our schools,' the tall, craggy senator lashes out with old-fashioned campaign oratory.

"It isn't always so serious, however. The Douglas style includes many references—more or less political—to the good things of life.

" 'Democracy and beer and rye bread make a good mixture' the senator, who is fond of all three, told a dinner in Schiller Park Friday night.

"To the students of New Trier East High School he had this to say last week:

" 'Let us not neglect laughter and joy as vital elements in the good life. Let us remember that Beethoven closed his 9th Symphony with his "Hymn to Joy," and that Shakespeare wisely asked in "Twelfth Night," "And dost thou think that because thou art virtuous that there shall be no more cakes and ale?".'

"And even when the nights are long, when reporters and staff aides accompanying him yawn and stretch, Douglas seems, like all other true politicians, to draw strength from the people who shake his hand and listen to his words.

"The memories are sharply etched as they crowd in on each other in these last days."

A GREAT MAN

Mr. President, in conclusion, I repeat remarks that I made on this floor 5 years ago on the occasion of Senator Douglas' 70th birthday, when I said:

One of Browning's most striking poems is a dramatic monologue, "Andrea del Sarto." Andrea del Sarto expresses the dilemma of a faultless painter: a painter who for line and form harmony, color and precision was the superior of Michelangelo. He was flawless epitome of perfection as an artist. But Andrea del Sarto, the perfect painter, somehow was unable to achieve greatness. Why? Because he lacked the capacity to inspire love or to sense and express love. The spark of humanity, the deep, honest human emotion escaped his brush and canvas. His portraits were precise reproductions but lifeless and emotionless.

More than any other man I know, Paul Douglas has the technical perfection that makes him a perfect Senator. But unlike Andrea del Sarto this perfection is wedded to a warm, understanding, sensitive humanity which has made him a truly great man.

Outside this Chamber are the portraits of five men selected as America's greatest Senators. They all contributed mightily to this country.

But did even they earn the status of greatness? Can we be sure?

The word "great" is much overused in our contemporary world, and perhaps nowhere more overused than in the United States Senate.

But, Mr. President, of all the men I have ever known, if I could call only one "great," it would be Senator Paul Douglas.

Mr. President, I ask unanimous consent that the following documents relating to Senator Douglas be printed in the Record at this point:

A column entitled "The Liberal Loner from Illinois," written by Mary McGrory and published in the Washington Star.

An editorial entitled "Professor Douglas," published in the Washington Post of December 8, 1966.

An article entitled "A Senator and a Scholar," published in the New York Times of December 6, 1966.

A column entitled "Portrait of a Man:

Douglas of Illinois," written by Marquis Childs and published in the Washington Post.

A column entitled "Importance of Douglas," written by John Herling and published in the Washington Daily News of November 10, 1966.

A copy of the letter to Senator Douglas written by the Senator from Louisiana [Mr. LONG], dated November 10, 1966.

There being no objection, the articles and letter were ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Star]

THE LIBERAL LONER FROM ILLINOIS

(By Mary McGrory)

If Senator Paul H. Douglas of Illinois ever heard the late Speaker Sam Rayburn's prescription for success on Capitol Hill—"Those who get along the best are those who go along the most"—he certainly never heeded it.

Douglas was during the 50s one of the loneliest men in the Senate. He was an advocate of causes that had not come into fashion. Long before beautification, he worked for the preservation of the Indiana Dunes. Long before "We Shall Overcome" he fought for civil rights. He fought for Medicare and federal aid to education when they represented wild and radical notions to the majority of his colleagues.

Few men suffered more crushing defeats in the pursuit of their causes on the Senate floor. And few men have lived to see more causes enacted into law. And just when he was coming into his own, in seniority and the regard of the coming young men and his ideas had been accepted, he was rejected by the voters of Illinois.

The senator is characteristically high-minded and doughty in defeat. He is looking forward to resuming the academic career which he interrupted in 1948 to come to the Senate. He is working on his autobiography. He is answering thousands of letters from the liberals of the country and the world.

He sits shirt-sleeved and undaunted in his Capitol suite, dispersing his famous art collection, which consists mainly of reproductions of Renaissance art. He has no regrets, and, he says, "no bitterness in my heart."

On the wall opposite the long table where he sits to write is the gallery of his gods—Jane Addams, Clarence Darrow, Abraham Lincoln, Bob LaFollette, George Norris, John Peter Altgeld.

It is obvious that he would have been in his element serving with men like LaFollette and Norris. It was his fate to serve most of his years in a Senate under the domination of Lyndon B. Johnson in the era of "the inner circle" and "the citadel."

Theirs was a conflict between power-shunner and power-monger. Douglas thinks that power erodes the character. Mr. Johnson thinks that power makes the man. He subscribes to the prevailing notion that politics is the art of the possible. Douglas' career seems to be an exercise in demonstrating that it is the art of the impossible.

Johnson won every parliamentary battle. And Douglas has won almost every war on the issues.

Once, when they had worked together on an Area Redevelopment bill, the then majority leader came over to shake the hand of the man who gave him so much trouble.

"With your parliamentary skill and my program, Lyndon," said the Senator from Illinois, "we could go a long way."

In 1956, Douglas, an academician who likes the dramatic, hurried over to the House to intercept a civil rights bill which had just passed. He hoped to prevent it from falling into the wrong hands, but the House messenger passed him with what he later called "jet-age speed" in the hall, and when he came back the bill had already been referred by the presiding officer of the Senate, Lister Hill of Alabama, to the Judiciary Committee, where sudden death awaited it.

Some days later, Douglas tried to get the bill out of committee, Johnson brought the matter to a vote, and Douglas was one of six who stood up on the affirmative side.

He was crushed that day. An aide remembers him walking to the elevator, and saying, "Push the button three times, and let's pretend we are senators."

In the 1960's life became easier for the loner from Illinois. John F. Kennedy, a young Senator from Massachusetts, admired the Senator's massive intellect and his prudence in spending—the Douglas annual review of waste in the Pentagon was one of the most diverting and productive annual features of life on Capitol Hill. Mr. Kennedy adopted Douglas' theories of economic growth, and three members of his staff.

When he fought against a constitutional amendment on the Supreme Court reapportionment decision, he had the help of the younger men in the Senate. No longer did he stand alone, a rugged, snow-capped figure, the left arm disabled in Marine combat service held elbow high, exhorting, expounding, his speeches studied with quotations from the classics, from the 19th century English poets he loves so well.

"There is no man I admire more," said one of the younger senators. "He really was a man for all seasons. He was at home with Marines and at a literary tea."

Douglas does not wish to reminisce or mourn about the past. He has long since changed his opinion about Lyndon Johnson. He quotes Tennyson about the President:

". . . Men rise on the stepping-stones of their dead selves to higher things."

Sen. Philip H. Hart, Democrat of Michigan, remembers once changing a vote because Sen. Douglas pled with his colleagues to defy the leadership and not "be like Roman captives paraded in chains before the crowd."

"I forget the issues, but I knew I didn't want to be a Roman captive," Hart says. "There'll be nobody to say things like that any more."

[From the Washington Post, Dec. 8, 1966]

PROFESSOR DOUGLAS

Students who gain admission to Professor Paul H. Douglas' seminar on "Economic and Political Problems" at the New School for Social Research will be very fortunate indeed. But the return of Senator Paul Douglas to the groves of academe leaves a void on Capitol Hill, one that may never be filled.

Admirers called Paul Douglas the "conscience of the Senate," and his critics were fond of pointing out that he had an affinity for lost causes. Paul Douglas was never admitted to the "oligarchy," the inner club that runs the Senate; and although he had gained international renown as an economist before his election in 1948, ten years were to pass before he was permitted to sit on the Finance Committee. Yet nothing that his more mean-minded colleagues did or failed to do can detract from Paul Douglas' great contributions during his 18 years in the Senate.

Paul Douglas combines the liberal's passion for social justice with a coldly objective appraisal of the threat to freedom posed by the Communists. In the current, rather inelegant parlance, Paul Douglas has for long been a "hawk," but a thoroughly consistent one. He urged the defense of freedom abroad by American arms while carrying on a relentless war against racial discrimination and the host of other social and economic ills at home.

Paul Douglas waged many good legislative fights, notably for the reform of Senate Rule 22 governing cloture, and for the "truth-in-lending" bill that would permit users of consumers' credit to know what rate of interest they actually pay. But Paul Douglas' greatest contributions were in the area of economic policy. As chairman of the Joint Economic Committee in the late 1950s, he was responsible for the study of "Employment, Growth and Price Levels," one of the most thorough, relevant and perceptive investigations of an economy ever undertaken. Douglas' other investigations led to the reform of ocean shipping-rate regulation and to greater economy in defense procurement.

Paul Douglas' last campaign was an exercise in the integrity that characterized his political career. He would not back down on the principle of open occupancy in housing to appease the racial bigots, and he would not soften his line on the war in Vietnam to appease his liberal critics. As usual he went down fighting.

When asked what Paul Douglas accomplished in his years on Capitol Hill, a Congressional staff man who knows him well replied, "He lifted the standards of public office a notch. That took guts." We wish the professor many happy years in the classroom.

[From the New York Times, Dec. 6, 1966]

A SENATOR AND SCHOLAR: PAUL HOWARD DOUGLAS

Portraits of two Renaissance scholars hang in the Washington office of Senator Paul Howard Douglas of Illinois. One is a gilt-framed oil of Erasmus, the other a pencil sketch of Sir Thomas More.

"These two fellows are important to me," Senator Douglas once told a visitor. "They are a good brake, or a sort of warning signal at least. You see, both of them were professors of sorts. One went into politics and lost his head. The other stayed out and kept his. I find it very useful at times to ponder which was the smarter of the two."

Mr. Douglas must have gazed at these portraits many times since Nov. 8, when he was defeated in his bid for a fourth term in the Senate by Charles H. Percy. Yesterday the Senator announced he would return next month to the profession he left 18 years ago. He will teach economics at the New School of Social Research.

But changing occupations is nothing new to him. He is an ex-professor of economics who became a member of the Chicago City Council, an ex-college football player who couldn't pass the physical examination for military service in World War I, an ex-pacifist who pulled political strings in World War II to enlist as a private in the Marines at the age of 50 and emerged as a lieutenant colonel with a chest full of ribbons.

AN EAST-WEST BLEND

Mr. Douglas combines in his make-up the moral rectitude of New England, where he was born, with the crusading liberalism of the Middle West, where he has spent most of his adult years.

He was born March 26, 1892 in Salem, Mass., and was reared by the family of an uncle on a farm near Moosehead Lake in Maine. He was graduated from Bowdoin College, where he earned both a football letter and a Phi Beta Kappa key, and went on to Columbia for a Ph. D. in economics in 1915.

He went into teaching and held several instructorships in economics before settling down at the University of Chicago in 1920.

Though he had tried to enlist in the Army in World War I (he was rejected because of poor eyesight), he was distressed by the spiritual turbulence that followed the war and became a pacifist and a Quaker.

He began writing the first of a dozen books, several of which have become standard texts. Among them are "The Theory of Wages," "Real Wages in the United States," "Ethics in Government" and "Economy in the National Government."

COUNCILMAN IN CHICAGO

In 1935 he was elected to the Chicago City Council. His record for the next two years was one of almost unrelieved defeat. Though a Democrat, he continually pitted himself against the city machine of Ed Kelly and got a sound indoctrination in practical politics.

In 1942 he sought the Democratic nomination for the United States Senate and was soundly thrashed by the Kelly machine. The day after his defeat, he joined the marines. He persuaded his old friend, Secretary of the Navy Frank Knox, to waive the age and eyesight requirements.

His Quaker pacifism had been overcome by his hatred for totalitarianism. Fighting the Japanese on Okinawa and Peleliu, he earned a Bronze Star for front-line bravery and a Purple Heart when he almost had his left arm shot off by Japanese machine gunners. Today the arm hangs limply at his side. "It's only good as a paperweight," he says.

While he was in the service, his wife, the former Emily Taft, became active in politics. In 1964 she was elected to Congress and served one term. The Douglases have one daughter. Mr. Douglas's previous marriage, from which there were two sons and two daughters, had ended in divorce in 1930.

By 1948, after he had recovered from his war wounds, the Democratic machine gave him its reluctant blessing to campaign in an attempt to unseat the incumbent United States Senator, C. Wayland Brooks. Mr. Douglas was still essentially the academician with many of the manners of a professor. He walked with an air of brooding abstraction, his clothes rumpled. He was an incessant cigarette smoker and indifferent to what he ate.

A SUCCESSFUL CAMPAIGNER

But his language on the campaign trail lacked the high-falutin' intonations of the scholar. And he had wit and a sense of drama that endeared him to voters.

When Senator Brooks refused to debate him, Mr. Douglas addressed an empty chair. From time to time, he crossed the platform to speak "in behalf of" his absent opponent. The device delighted his audience, and he repeated it across the state.

In the Senate, Mr. Douglas soon established himself as an independent who followed the party line only when it did not offend his conscience. Though he almost immediately earned the respect of his colleagues, he never became one of the "inner circle."

Vice President Humphrey, speaking in Chicago last January, said:

"There is no member of the Senate today who has his name stamped on more major issues, major bills and major legislation than Paul Douglas."

[From the Washington Post]

PORTRAIT OF A MAN: DOUGLAS OF ILLINOIS

(By Marquis Childs)

By a singular irony, the one sitting Senator to be defeated in the Congressional election was a man unique not only in the present Senate but perhaps also in the long annals of that body. Paul Douglas of Illinois has qualities of cultivation and scholarship scarce in any walk of life but rare indeed in the harsh world of politics.

Consider the furnishings so soon to come down from Suite 109 in the old Senate Office Building; on the walls of the Senator's private office are color photographs of Michelangelo's tombs of the Medicis with their great brooding figures carved in somber majesty. There is a color reproduction of Giorgione's masterpiece which hangs in the Academia in Venice, "Woman in a Storm."

And then there is the Douglas portrait gallery of the heroes and heroines on whom he tried to model his own public career—Fighting Bob LaFollette; Jane Addams, who pioneered social work and so much social legislation; John Peter Altgeld, the courageous Governor of Illinois; Clarence Darrow and the others. They were the inspiration for a career that went from the academic discipline of a full professorship in economics to the intense and perilous discipline of a combat Marine in World War II after the age of 50 and finally to 18 years in the club that likes to call itself the greatest deliberative body in the world.

The unfinished business that Douglas leaves behind is likely to be hauled away with the other furnishings. This is the truth-in-lending bill which the Senator pushed with patient persistence for 10 years or more.

It is based on the conviction, documented in thousands and thousands of pages of testimony in hearings held year after year, that those least able to pay are charged exorbitant rates of interest on installment buying and then they are driven to borrow small sums. The borrower is seldom if ever aware, Douglas showed, that he is paying 36 or 40 percent a year, and where the outright pirates are concerned, as much as 100 or 200 percent.

The Douglas measure requiring the disclosure of interest rates in standard terms so the borrower would know exactly what he was paying had become a political football in the Senate Banking and Currency Committee. As the No. 3 Democrat on the committee Douglas never gave up. But he had the stern opposition of the chairman, Sen. A. Willis Robertson of Virginia.

Robertson was defeated in the primary. He was largely responsible for making sure that only once in its long history did the truth-in-lending bill get beyond a subcommittee and when that happened it was bottled up in the full committee. The powerful interests in the lending business throughout the Nation were naturally opposed to the measure.

Whether anyone in the Senate will now pick up this touchy piece of unfinished business is questionable. Admittedly, it has doubtful aspects. The lengthy hearings showed one instance after another in which pathetic people had mortgaged their lives to pay usurious interest rates on money borrowed for shoddy goods to tide over some desperate emergency. Foreclosure, the loss of a job, suicide—these were the tragic penalties for desperate need.

But often it was shown that high-pressure salesmanship had persuaded an improvident family to buy on the installment plan cheap furniture for two or three times its worth. Here was a larger question of the rightness or wrongness of such pressures, and this got into the area of Esther Peterson and her concern for the more-or-less defenseless consumer at the bottom of the economic heap. If he had been re-elected Douglas would have been No. 2 on Banking and Currency and conceivably he might at last have carried the day for truth in lending.

[From the Washington (D.C.) Daily News Nov. 10, 1966]

IMPORTANCE OF DOUGLAS

(By John Herling)

We live in a representative democracy and we like to think we are led by representative men. When we are fortunate—when we make the sensible choice—then the representative quality of our nationhood comes out strong and clear. Unfortunately, too often the men we send to Congress or to the state houses can be said to reflect us in the same way a distorted mirror reflects your face. It's a sight to behold.

The fact is clear that some men are more representative than others. When our luck is running, we can point with pride to men in public life who express our needs and our aspirations. They add a dimension to the lives of the families of men. Such a man is Senator Paul Douglas of Illinois, now defeated for his fourth term.

What distinguishes Senator Douglas is his great sense of commitment and of advocacy. The expression of his vital concern was not a political additive to make himself more attractive to a certain group of voters. On the contrary, Paul Douglas came on strong when friends of social justice in public life were characterized largely by their absence or indifference. He was an exponent of liberal and labor causes when he had no political ambition. He did not acquire convictions for cosmetic purposes.

The reasons for his defeat are complex. As a result of his war experience, including a severe wounding, he had developed a deep emotional commitment to the Pacific and to checkmating Communist China in Vietnam and elsewhere in Asia. His hard line, it was said, had alienated younger voters on the doveish side. In the face of the white backlash in the Chicago suburbs was Douglas' long record of support for civil rights. He had been a member of the National Association for the Advancement of Colored People since 1922.

But he himself put the problem of his re-election in a characteristic way before the campaign began. Discussing his opposition, Charles H. Percy, the industrialist, he said:

"Each time that I've run my opponent has been of a higher caliber and I take pride in that. This time it is more than ever true."

Percy's quality was a large reason for the defeat. Douglas was 74 years old. As can seldom be said in politics, he is irreplaceable.

From the time he was elected to the Senate—in that miracle year of 1948 when Harry Truman fooled the experts—the American people as a whole came to know what his friends had long known—that Paul Douglas was a man of crystal clear honesty, compassionate understanding and indomitable loyalty. He was so fair even to his opponents that this other-worldly characteristic frequently embarrassed his friends. But in this way, he raised the level of debate.

He brought with him to Washington a vast knowledge of social and labor legislation, which he shared with open-handed generosity. Other Senators knew they could talk to Paul Douglas, confident that he would level with them, never condescend to them.

The remarkable thing about Paul Douglas is his liveliness of spirit and his great energy. He refuses to go stale. He has a yeasty quality about him. He has added leaven to the legislative lump. He has brought humility to a world of pomposity.

When you add to that quality of the spirit, a brilliant mind and eloquent tongue, we assuredly have had a representative man of great durability in the service of the people.

In this election, his opponent attempted to downgrade Paul Douglas as a senator, if not as a man, on the grounds of age. That kind of argument is plain bunk, no matter what sort of advertising package you wrap it up in. When Paul Douglas was 50 years old, he joined the Marines and insisted on combat service. At the age of fifty! He fought in the Pacific islands alongside men who were half his age, and his wounds in battle indicate he sought and got no easy berth.

The essential thing about Paul Douglas is that he is the contemporary of all people—no matter what their age.

Paul Douglas leaving office remains a great man, an exalted representative of what is best today in American life and of its hope for the future.

In his great sweep of mind and character, Paul Douglas represented more than Illinois which did itself proud by making him its progressive spokesman in the Senate for 18 years. He has been a national Senator confined by no narrow boundaries or twisted by self-interest. He belongs to all the people, does Paul Douglas.

November 10, 1966.

Hon. Paul Douglas,
U.S. Senator,
Washington, D.C.

Dear Paul: It was with deepest regret that I learned you had lost your campaign for reelection to the United States Senate. In my book, you are as great as any Senator with whom I ever served—and you always will be.

It has always been my feeling that the reward for devoted public service is not to be found on this side of Heaven. Some of the best men I have known in public life have been defeated at the polls sooner or later. If for no other reason, it was that way because they had the courage to stand for something. I can only say it couldn't have happened to a nicer guy!

I look forward to seeing you whenever you find time to visit your dearest friends in Washington.

Katherine joins me in sending best wishes also to Emily.

Warmest personal regards.
Sincerely yours,
Russell B. Long.

By Mr. PROXMIRE:

S.J. Res. 239. A joint resolution amending the pardon power of the President under the Constitution. Referred to the Committee on the Judiciary.

CONSTITUTIONAL AMENDMENT TO NARROW PRESIDENTIAL PARDON POWER

Mr. PROXMIRE. Mr. President, today I am introducing a constitutional amendment that would buttress the rule of law by prohibiting a President from granting a pardon for offenses against the United States unless an individual has been convicted and sentenced in a court of law.

President Ford's pardon of Richard Nixon may meet the letter of the Constitution but it clearly violates its spirit. An opinion on the pardon power prepared at President James Madison's request and submitted on March 30, 1820, by Attorney General William Wirt makes this very clear. The opinion states that—

> There is nothing in the terms in which the power of pardon is granted which requires that it shall be preceded by a sentence of conviction on the verdict of a jury.

But the writer goes on to say that a pardon presupposes an offense and is appropriately given if the party confesses his guilt. In the words of the opinion—

> The confession should be in writing, and the pardon founded on the specific offense confessed; in other words, it should be a special pardon, so as not to protect the party against a prosecution for any more aggravated offense than he has thought proper to confess. And it is proper to suggest, further, that it would be much safer, as a general rule, to require a previous trial and condemnation.

My amendment would resolve this issue and prevent future abuses of the pardon power by conditioning its application upon a final decision by the courts. Just as we have traditionally been recognized as a government of laws, not of men, so the power of the President to pardon should extend to proven violations of the law, not to every illegal act that an individual man might conceivably have committed during his period in public office.

Under the dangerous Ford precedent any powerful figure in this country can be forgiven all lawless acts he may have committed before the pardoner or the public has any knowledge of what those acts might be.

Why did the framers of the Constitution make the pardon power so broad as to apply to preconviction situations? The best argument I can find in the constitutional debates is stated by Mr. Wilson in these words:

> Pardon before conviction might be necessary to obtain the testimony of accomplices.

However, we now have an immunity statute that is a far more effective tool to use in achieving this end. That statute, 18 U.S.C. 6002, permits a person presiding over a court trial, grand jury proceeding, agency proceeding or congressional action to grant immunity in return for testimony that might otherwise implicate a witness in a criminal act. In fact, this approach is more effective than the pardon route, since a potential witness can refuse a pardon and continue to decline to testify on fifth amendment grounds (*Burdick* v. *United States,* 236 U.S. 79) while the fifth amendment cannot be pleaded under the immunity statute.

In the course of the Virginia debates on the Constitution the danger of permitting pretrial pardons was convincingly stressed in this statement by George Mason, June 18, 1788:

> If he [the President] has the power of granting pardons before indictment, or conviction, may he not stop inquiry and prevent detection?

This objection was never answered in the course of the debates and, in fact, Mason predicted an abuse of the pardon power that occurred almost 190 years after his prescient statement.

President Ford's extraordinary decision strikes at the very foundations of our legal system by dropping a curtain of secrecy over all possible Presidential wrongdoing—a curtain of secrecy so dense that it cannot be penetrated by the judicial branch of our Government through the normal operation of our legal processes.

The amendment I introduce today would restore the balance that President Ford has disrupted by stretching the pardon power to almost unrecognizable limits. It would preserve the essential right of our legal system to try citizens for their misdeeds, yet it would also preserve the power of the President to forgive proven offenses in a spirit of charity and compassion.

The Ford decision has quite plainly substituted the power of the Presidency for the factfinding power of the courts. My proposed amendment would nip this further encroachment of executive branch power in the bud. It would restore the democratic concept that all men are accountable for their deeds to their fellow men.

Not even God at the Last Judgment will wipe the slate clean without first looking at the slate. Yet this is what President Ford has done in the Nixon case, and what my proposed constitutional amendment would prevent future Presidents from doing.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2022

At the request of Mr. Tunney, the Senator from Kentucky (Mr. Cook) was added as a cosponsor of S. 2022, a bill to promote expanded part-time working opportunities.

S. 3234

At the request of Mr. Humphrey, the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 3234, a bill to authorize a vigorous Federal program of research and development to assure the utilization of solar energy as a major source for our national energy needs, to provide for the development of suitable incentives for rapid commercial use of solar technology and to establish an Office of Solar Energy Research in the U.S. Government.

S. 3572

At the request of Mr. Percy, the Senator from Alaska (Mr. Gravel) was added as a cosponsor of S. 3572, a bill to amend the Higher Education Act of 1965 to provide that certain loans under that act cannot be discharged in bankruptcy proceedings for 5 years, and for other purposes.

S. 3676

At the request of Mr. Stevenson, the Senator from Minnesota (Mr. Humphrey) was added as a cosponsor of S. 3676, a bill to amend section 174 of the Internal Revenue Code of 1954 to insure its uniform application to business products.

S. 3869

At the request of Mr. Hartke, the Senator from New York (Mr. Javits) was added as a cosponsor of S. 3869, a bill to provide advance notification to Federal employees when it is determined that a Federal installation is to be closed.

S. 3883

At the request of Mr. Hartke, the Senator from North Dakota (Mr. Burdick) was added as a cosponsor of S. 3883, a bill to amend chapter 37 of title 38, United States Code, to improve the basic provisions of the veterans' home loan programs and to eliminate those provisions pertaining to the dormant farm and business loans, and for other purposes.

ADDITIONAL COSPONSOR OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 113

At the request of Mr. Percy, the Senator from New Jersey (Mr. Williams) and the Senator from Massachusetts (Mr. Brooke) were added as cosponsors of Senate Concurrent Resolution 113, relating to world food shortages and population growth.

SENATE RESOLUTION 402—SUBMISSION OF A RESOLUTION RELATING TO AMNESTY FOR DRAFT DODGERS AND DESERTERS

(Referred to the Committee on Armed Services.)

Mr. HELMS submitted the following resolution:

S. Res. 402

Whereas, more than two and one-half million United States servicemen served honorably during the conflict in Southeast Asia, and

Whereas, 55,000 servicemen lost their lives while performing their duty in service to their country in that conflict, and

Whereas, nearly 1300 American servicemen remain unaccounted for in Southeast Asia,

Now, therefore, be it resolved that:

It is the sense of the Senate that no amnesty, conditional or otherwise, be considered for any United States citizen who knowingly evaded the draft in order not to serve in the conflict in Southeast Asia, or who knowingly deserted from the armed services while serving our country, until such time as there is

(a) the fullest possible accounting of all Americans still missing in action or otherwise unaccounted for in Southeast Asia; and

(b) a return of all Prisoners of War; and

(c) the fullest possible accounting for and repatriation of the remains of those American servicemen who died in the conflict in Southeast Asia.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 384

At the request of Mr. Church, the Senator from Kansas (Mr. Dole) was added as a cosponsor of Senate Resolution 384, a resolution relating to the economic plight of dairy farmers in the United States.

HEALTH PROFESSION EDUCATIONAL ASSISTANCE ACT OF 1974—AMENDMENT

AMENDMENT NO. 1861

(Ordered to be printed and to lie on the table.)

Mr. ALLEN (for himself, Mr. Sparkman, Mr. Ervin, Mr. McGee, Mr. Stennis, and Mr. Mansfield) submitted an amendment intended to be proposed by them jointly to the bill (S. 3585) to amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in the health and allied health professions, to revise the National Health Service Corps program and the National Health Service Corps scholarship training program, and for other purposes.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS ACT, 1975—AMENDMENTS

AMENDMENTS NOS. 1862 AND 1863

(Ordered to be printed and to lie on the table.)

Mr. FANNIN submitted two amendments intended to be proposed by him to the bill (H.R. 15580) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1975, and for other purposes.

AMENDMENTS NOS. 1864 AND 1865

(Ordered to be printed and to lie on the table.)

Mr. CHILES submitted two amendments intended to be proposed by him to the bill (H.R. 15580), supra.

ENERGY SUPPLY ACT OF 1974—AMENDMENTS

AMENDMENT NO. 1866

(Ordered to be printed and to lie on the table.)

Mr. TUNNEY submitted an amendment intended to be proposed by him to the bill (S. 3221) to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act; and for other purposes.

AMENDMENT NO. 1867

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK (for himself, Mr. Hart, and Mr. McGovern) submitted an amendment intended to be proposed by them jointly to the bill (S. 3221), supra.

EXPORT-IMPORT BANK AMENDMENTS OF 1974—AMENDMENT

AMENDMENT NO. 1868

(Ordered to be printed and to lie on the table.)

Mr. BENNETT. Mr. President, I am submitting an amendment to S. 3917 designed to meet one of the major criticisms which has been leveled against the Export-Import Bank in recent years. I am offering the amendment for discussion purposes only, in the hope that it will aid the Senate in considering provisions dealing with interest rates charged on Ex-Im Bank credits. I do not personally agree with this proposal, but it is one alternative which exists for dealing with this thorny problem and I agree that it should be available for consideration by the Senate.

The amendment would require the Bank to charge interest on its loans at a rate no lower than the rate which the Bank would have to pay if it were borrowing money of a comparable maturity in the open market. The Bank would, however, be allowed to waive this requirement on as much as 10 percent of the loans which it extends during any fiscal year, if it determines that such loans are in the national interest.

The effect of this amendment would be to make the interest rates charged by the Bank more reflective of rates in the open market. There would still be, however, a subsidy involved since the Bank, as a Federal Government agency, is able to borrow in the open market at a lower rate than private borrowers.

In this respect, this proposal is somewhere in between those which would require the Bank to pay interest at a comparable rate on private borrowings, and proposals for tying the Bank's lending rate to its average cost of funds, which is a blending of both past and present borrowing costs. In other words, this amendment requires the Bank to take into consideration its present "opportunity cost" of borrowing, and to reflect that "opportunity cost" in the rate at which it lends. At the same time, it allows the Bank some leeway in meeting this requirement if its credits are deemed to be in the national interest, while still providing a subsidy.

As I have said before, I do not agree with this proposal, but I think that it is one that should be given consideration.

FOREIGN ASSISTANCE ACT AMENDMENTS OF 1974—AMENDMENTS

AMENDMENTS NOS. 1869 AND 1870

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK submitted two amendments intended to be propsed by him to the bill (S. 3394) to amend the Foreign Assistance Act of 1961, and for other purposes.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 1850

At the request of Mr. Abourezk, the Senator from Illinois (Mr. Stevenson) was added as a cosponsor of amendment No. 1850, intended to be proposed to the bill (S. 3394) to amend the Foreign Assistance Act of 1961, and for other purposes.

ANNOUNCEMENT OF HEARING: THE IMPACT OF RISING ENERGY COSTS ON OLDER AMERICANS

Mr. CHURCH. Mr. President, as chairman of the Special Committee on Aging, I would like to announce that the full committee will hold hearings on the "Impact of Rising Energy Costs on Older Americans" on September 24 and 25 beginning at 10 a.m., in room 1318, Dirksen Senate Office Building. Senator Chiles will preside.

The elderly have been particularly hard hit by the present policies of the Federal Energy Administration and there is little indication that this situation will change as winter approaches. Older Americans are in a precarious position during this period of rising costs and possible shortages of energy. Federal Energy policy should be designed to assure equity and prevention of hardship.

It should not be the sole responsibility of the Federal Energy Administration to prevent the elderly from carrying a disproportionate share of the burden of high energy costs. The Federal Energy Administration and particularly the Office of Consumer Affairs and Special Impact should be a facilitator and coordinator to define problems and seek solutions in concert with other executive departments of the Federal Government. For this reason we shall also have testimony from the Department of Housing and Urban Development; Department of Health, Education, and Welfare; and the Office of Economic Opportunity.

NOTICE OF HEARINGS ON REVISION OF FIFTH AND NINTH CIRCUIT COURTS OF APPEALS

Mr. BURDICK. Mr. President, I wish to announce that open public hearings have been scheduled before the Subcommittee on Improvements in Judicial Machinery on S. 2988, S. 2989, and S. 2990, the bills which embody the recommendations of the Commission on Revision of the Federal Appellate Court System which propose to geographically realine **the Fifth and Ninth Circuit Courts of Appeals.**

On September 24, 25, and 26, in room 457, Russell Office Building at 10 a.m. each day, hearings will be held on the fifth circuit proposals.

On October 1 in room 6202, Dirksen Office Building and on October 2 and 3 in room 457, Russell Office Building, hearings will be held on the ninth circuit proposals.

The subcommittee has arranged for the appearance of various circuit judges, representatives of bar associations, and other members of the bench and bar from the States affected by these proposals.

Other persons who wish to testify or submit a statement for inclusion in the RECORD should communicate as soon as possible with the Subcommittee on Improvements in Judicial Machinery, 6306 New Senate Office Building, telephone 225-3618.

ADDITIONAL STATEMENTS

NEW TRANSATLANTIC SPEED RECORD

Mr. McGEE. Mr. President, on September 1, 1974, a new trans-Atlantic speed record was established by a U.S. SR-71 reconnaissance flight. However, few people are aware there is a Wyoming angle to this historic achievement.

The pilot of that aircraft was Maj. James Sullivan, the son of Mr. and Mrs. James Sullivan of Farson, Wyo. Therefore, I want to take this opportunity to express my sincere congratulations to Major Sullivan and his parents for this landmark in U.S. aviation history. I know that Wyomingites join me in sharing the same pride Mr. and Mrs. Sullivan feel over their son's historic triumph.

I ask unanimous consent that an article noting this event, which appeared in the September 5, 1974, Rock Springs Daily Rocket-Miner, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THERE GOES THE SULLIVAN BOY

(By Tim Lowry)

At 2 a.m. last Sunday, Farson, Wyo., was gently rocked by the sonic boom of a U.S. Air Force jet speeding over-head. Most of the people who were still awake dismissed the boom casually, but for Mr. and Mrs. James Sullivan this particular boom signalled the beginning of a historic flight.

In the cockpit of the SR-71 reconnaissance airplane cruising at 80,000 ft. at a speed of almost three times that of sound, was their son, Major James V. Sullivan, pilot, and the systems officer, Major Noel Widdifield. The two airmen were preparing for a flight to London, England from New York that would shatter the previous record time of 4 hours, 46 minutes by almost three hours.

Major Sullivan called to tell his parents when he would be going over Farson and that they were going to break the record. "I knew he could do it," Mrs. Sullivan said Wednesday afternoon. "And he had no doubts about it."

This confidence was borne out Sunday when Major Sullivan and Major Widdifield covered the 3,490 miles between New York and London in one hour and 55 minutes. But the sonic boom over Farson that was a prelude to the record flight had a melancholy note.

According to Major Sullivan's father, before the boom could reach the ground from 80,000 ft., the speeding jet was 60 miles down the line and the pilot's parents could only wave at the sound and wish their son a "bon voyage".

The SR-71 the two American airmen flew into the record books is "the world's most advanced strategic reconnaissance aircraft," according to the Strategic Air Command (SAC). It was introduced to SAC in 1966 and is operated out of SAC's 9th Strategic Reconnaissance Wing.

The jet that propelled the two modern day Supermen travels at a rate of 3,100 ft. per second. The muzzle velocity of a 30.06 rifle bullet is 3,000 ft. per second.

Major Sullivan was born in Wheeler, Mont., June 27, 1937 and graduated from the Riverdale (N.D.) High School in 1955. The following January he enlisted in the Air Force. Major Sullivan was selected for the Aviation Cadet program in July 1958 and he received his commission and flight wings in November 1959.

Major Sullivan served in the Vietnam war where he flew 100 combat missions over North Vietnam in an F-105. In 1965 around Christmas, Major Sullivan had the privilege of meeting comedian Bob Hope during one of Hope's tours of American bases.

Major Sullivan was flying a mission over North Vietnam when ground fire cripped his aircraft. He managed to bail out but landed in a tree only a few yards from enemy soldiers. While other jets kept the soldiers away from the downed airman, a helicopter went in and plucked Major Sullivan from the enemy.

In Hope's book "Five Women I Love," he explains how he met Major Sullivan. "Kaye Stevens had just finished her number when I noticed a stir in the audience," Hope wrote. "Then I saw a pilot being carried in and placed on a truck in front of the stage. I didn't know what to think of it until an officer rushed up and whispered to me that the pilot had been shot down only two hours before . . . His name was Jim Sullivan."

"His face looked pasty-white and he was obviously in shock. The doctors thought it would be good therapy for him to see the show. I got Captain Sullivan up on stage and interviewed him, drawing him out on some of the details of his ordeal. Needless to say, it wasn't quite as funny as the rest of the show, but it got a tremendous response from the guys, and to me, it was unforgettable."

In February, 1971, Major Sullivan returned to the United States where he entered the SR-71 program. He and his wife, Margaret, reside in Yuba City, Calif., with daughters Sharleen 11, and Diane, nine.

The girls stayed with their grandparents in Farson while Major Sullivan shot across the skies to London. The Major's wife flew to England, her homeland, to be with her husband. According to Mrs. Sullivan, the couple will probably take some time to visit Margaret's parents.

Mrs. Sullivan said that every time she hears a sonic boom, she runs outside to see if it is her son. Most times it isn't but she feels she must make the effort regardless if she can see the plane or not.

So the next time residents of the Farson area hear a sonic boom, they can chuckle and go about their business. It may be the Sullivan boy saying hi to his folks.

NO AMNESTY SHOULD BE CONSIDERED UNTIL AMERICAN SERVICEMEN MISSING IN SOUTHEAST ASIA ARE ACCOUNTED FOR

Mr. HELMS. Mr. President, with today's news comes word that President Ford has announced a plan to grant a conditional amnesty to 15,500 draft evaders and 12,500 deserters who broke the laws of this Nation by refusing to serve or deserting the military during the conflict in Southeast Asia.

But nowhere in that news was there word for those many families who still await some news, any word, concerning the plight of their loved ones still missing in action or unaccounted for in Southeast Asia. Recent estimates place the number at about 1,300, but only an accurate accounting can tell us for sure.

Additionally, there are at least another 1,200 who were killed in action, but whose bodies have not been recovered from Communist-controlled zones, so that they can be returned to the United States for proper burial.

Mr. President, these are Americans who obeyed the laws of this country that we are talking about. They did not evade the draft, even if some of them might have questioned the U.S. involvement in Southeast Asia; they did not desert. They obeyed the laws; they fought; many died, and now, others remain missing or unaccounted for.

It is the most fundamental kind of human decency which requires us to give these Americans and their long-suffering families due consideration before any amnesty is granted for those who refused to obey the law. For it is the families of America's POW's and MIA's who have suffered greatly as a result of the conflict in Southeast Asia. Their story is not new to us. The long years of futile hope, of despair, and of family disruption calls out to us to take action to alleviate their personal suffering.

That is why I today am introducing a resolution expressing the sense of the Senate that no amnesty, conditional, or otherwise, should be considered until all American servicemen still missing in Southeast Asia are accounted for; until all POW's are returned; and until the remains of all American servicemen are brought home for proper burial.

Mr. President, surely we all can see the need for such an expression. At a time in our Nation's history when the call goes out for a national reconciliation, how can there ever be such a reconciliation when the wishes and desires of those who disobeyed the law—and the hopes of their loved ones—are put above the hopes of the loved ones of those Americans who did obey the law, and well may have paid for that obedience with their lives.

To grant amnesty to those who shirked their duty to this country in its time of need without first doing everything possible to account for those 1,300 Americans still missing in action who did serve, would make a mockery of those thousands of patriotic Americans who sacrificed their lives for us and the cause of freedom.

Therefore, Mr. President, I urge my colleagues to stand for those who did serve and remain unaccounted for, before they stand for those who refused to serve and are accounted for—all fugitives from the law. Maybe then, we can talk justifiably about moving toward a national reconciliation.

SENATE SOFTBALL LEAGUE CHAMPIONS

Mr. ERVIN. Mr. President, the Senate softball league championships was recently won by Sam's Sluggers, representing my office and composed almost entirely of members of my staff. For the championship, the Sluggers defeated a team fielded by the office of my good friend, Senator CHARLES PERCY.

The Sluggers completed their final season of play with a perfect record of 18 wins and no losses. They finished the regular season with 15 wins and went on to take three victories in the league championship series. Members of the team have told me that they were determined to win the championship this season since it is their last year in the league and since they were defeated in the final game of the 1973 tournament.

Mr. President, North Carolinians are well known for their prowess in athletic competition. The State is recognized around the Nation for producing some of the finest brands of basketball and golf, among other sports, to be found anywhere. This particular championship will certainly not receive the same wide publicity as have other titles garnered by North Carolinians; however, I do feel it to be worthy of note.

Several people associated with my staff participated in this softball season. The team was managed by Clinton Kelly. Other members of the championship team include: Marcy Allen, Tony Allen, Jim Armstrong, Nancy Darr, Polly Dement, Ben Dixon, Bill Goodwin, Joyce Hanula, Betsy Hayes, Jerry Johnson, Louise Kelly, Joe Kluttz, Coit Liles, Susan Liles, Mary Nealon, Gretchen MacNair, Sylvia Muszalski, Bill Pursley, Mahi Savage, Mike Savage, Gail Schwartz, Dan Smith, Britt Snider, Ginger Snider, Gordon Thomas, and Diana Todd.

DEATH OF FORMER SENATOR KARL E. MUNDT

Mr. THURMOND. Mr. President, it was with much regret that I learned of the death on August 16, 1974, of my former colleague, Senator Karl E. Mundt of South Dakota. Karl Mundt well served his State and his Nation as a Member of the House of Representatives and the U.S. Senate for a period of 32 years.

Born in Humboldt, S. Dak., on June 3, 1900, Senator Mundt served four terms in the House before being appointed to the Senate in December 1948, to fill an unexpired term created by the death of Harlan Bushfield. Thereafter, Senator Mundt, a lifelong Republican, was elected to the Senate for four consecutive terms.

His colleagues in both the House and Senate will remember him as a staunch anti-Communist who alerted this Nation to the Communist threat during his years as acting chairman of the House Committee on Un-American Activities.

One of Karl Mundt's major accomplishments came as a Member of the House, when he authored legislation creating the Voice of America which was designed to acquaint radio listeners abroad with American views.

The creation of the Voice of America was based upon Mr. Mundt's unyielding belief in the need to counteract Communist propaganda.

Senator Mundt was among the vanguard in Congress to advocate the control of nuclear weapons. He felt that prompt action in international atomic control was necessary to prevent the elimination of civilization through an atomic war.

During his distinguished career in the Senate, Karl Mundt proposed reform of the electoral college by advocating the adoption of the district plan which I have also favored.

Under the district plan, the Presidential candidate who received a majority of votes in a State would receive two electoral votes, and the candidate carrying a congressional district would receive one electoral vote. By giving each district an electoral vote, the district plan would return the election process to the people at the grassroots level where it belongs.

Karl Mundt was a courageous Senator, an able statesman, and a great American who possessed unquestioned character and high integrity. He will surely be missed by his friends in the House and Senate.

My deepest sympathy is extended to Karl's lovely wife, Mary, who was always a devoted and understanding companion of her husband and who ministered so faithfully to him during his sickness.

DR. DAN CALLAHAN

Mr. TALMADGE. Mr. President, one of Georgia's most outstanding physicians, Dr. Dan Callahan, of Warner Robins, Ga., was recently awarded honorary life membership in the Reserve Officers Association of the United States at the association's annual convention in Atlanta on July 6.

Senator NUNN paid tribute to Dr. Callahan for his devoted service to his Nation, State and community. I share Senator NUNN's admiration for Dr. Callahan and his good work in behalf of his fellowman, and he is most deserving of recognition.

I bring Senator NUNN's tribute to Dr. Callahan to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

TRIBUTE TO DR. DAN CALLAHAN ON RECEIVING HONORARY LIFE MEMBERSHIP IN RESERVE OFFICERS ASSOCIATION

In every generation, there are those men and women who are constantly working to improve the lot of their fellow man. Conversely, there are those who spend their time complaining and tearing down our institutions, never making a positive contribution to society.

While the Vietnam war raged, there were those who criticized our country for its involvement, spit upon our flag, burned draft cards, and demanded that our troops be summarily recalled from that Asian nation.

Where was Dan Callahan?

For three months in 1966 Dan worked, voluntarily, in Khan Hoc Provincial Hospital in Nha Trang, treating in 90 days, over 10,000 patients.

His wife, Jeanette, sent him a large sterilizer for the hospital as well as a large supply of special drugs for treating lepers in a nearby Leprosarium.

When he returned to the United States, he persuaded drug manufacturers to donate medicines for Vietnam hospitals. He personally packaged and shipped to Vietnam over $12,000 worth of essential and vitally needed drugs.

That's what Dan Callahan was doing during the Vietnam conflict.

In many parts of the country, there are those who don't care for the military presence in their communities and could care less if bases were closed and the military influence removed—permanently.

In Middle Georgia, however, there is a man who believes in the necessity of maintaining a strong national defense posture, and who also believes an essential ingredient in this posture is the maintenance of a genuine spirit of cooperation between the civilian and military communities. That man is Dan Callahan. Dan has played a significant role in cementing excellent relations between the civilian and military communities in Middle Georgia.

"Every Day in Middle Georgia is Air Force Appreciation Day." That slogan, proposed by Dan Callahan when he was president of the Middle Georgia Chapter of the Air Force Association, is now a household word throughout Middle Georgia. I can't help but think that somewhere at Robins Air Force Base, they have a slogan on the wall that goes: "Every Day in the Air Force is Dan Callahan Appreciation Day."

Now, of course, it would have been easy for Dan to stick strictly to the career of a general practitioner, devoting all his time and talent to serving the people of his own community—Houston County. Such a commitment would have been admirable, but not in keeping with a man who has consistently sought to explore new avenues of service to his fellow man.

He is the kind of individual who, when he sees a need in his community, seizes upon it, devises a solution, and follows through to its successful conclusion.

For many years Dan has worked to improve job opportunities for retarded citizens in Houston County. Working through the Georgia Association for Retarded Children, Dan was instrumental in raising the necessary funds ($25,000 locally and $75,000 from an anonymous grant) to establish a Vocational Workshop for Retarded Teenagers and Young Adults in Warner Robins.

He has also directed the Warner Robins Community Chest activity, expanding it into the United Givers Fund, and including the entire county.

Dan Callahan's positive contributions to our society would fill a book. The record of his life would reflect a man of dignity, stature, and of human affection.

It is my belief that Dan Callahan personifies the very best in the American character and patriotic spirit.

Woodrow Wilson once described the Dan Callahan type of patriotism with this statement:

"Patriotism is not a mere sentiment. It is a fine energy of character and of conscience operating beyond the narrow circle of self-interest. Every man should be careful to have an available surplus of energy over and above what he spends upon himself and his own interest to spend for the advancement of his neighbors, of his people, of his nation."

It is precisely this selfless dedication to his fellow man that has distinguished the career of Dr. Dan Callahan. His philosophy should be ours: that we should set aside a certain amount of our energy to devote to building a better community, state, and nation for our neighbors and generations to follow. That, really, is what being an American is all about.

Though the Honorary Life Membership in the Reserve Officers Association is truly a great and deserving recognition, I believe the highest honor we can pay Dan Callahan is to try to emulate his life in our thoughts and deeds.

I commend the Reserve Officers Association for its wise selection, congratulate you, Dan, on receiving this prestigious honor, and wish you and Jeanette continued success and happiness.

CHOWAN COLLEGE HAS UNIQUE FACE

Mr. HELMS. Mr. President, Chowan College has served the citizens of North Carolina and the Nation for more than a century with pride and distinction. Located in Murfreesboro, N.C., this beautiful Baptist school has been built on the solid foundation of quality education and the principles of the Christian faith. Its record of accomplishment is the envy of those less fortunate and far-sighted private colleges that have been unable to cope with the ravages of inflation and radicalism.

On August 28, 1974, an editorial entitled, "Chowan College Has a Unique Face," appeared in the News-Herald of Ahoskie, N.C., which calls attention to the strengths and service of this outstanding school.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CHOWAN COLLEGE HAS UNIQUE FACE

Chowan College is not a community college by the definition of community colleges established by the State Board of Education. It is a junior college. But in Murfreesboro and the rest of the Roanoke-Chowan area, Chowan is considered very much a community college by local definition.

The Baptist junior college is a focal point in almost all facets of community life. It has a unique face.

First, it is an educational institution that fills an important need in formal education. Education is the basic structure of its face, but it is the individual characteristics that give substance to the face and make it different from many other colleges.

As an educational institution, Chowan serves the area as a research and resource center. Whitaker Library alone is an invaluable research center for the Roanoke-Chowan area. There are now 46,000 volumes on the shelves, up from 9,000 in 1957.

The School of Graphic Arts, considered one of the finest in the nation, is a major resource for newspapers and printing and publishing businesses throughout the southeast. Its one year old photography course has helped round out a total graphic arts program and is among the most popular courses on campus and in the community.

Chowan College is a cultural center, the only major one in the area. The Fine Arts Department brings art, music and dance to students and community people and provides the facility for the Community Concert series. The reputation and popularity of fine arts are evidenced by the department's expansion this year into renovated Green Hall to accommodate increasing enrollment.

The third feature, that gives impetus to its community importance is that it is one of the area's largest industries with an annual payroll in excess of $1 million and a total anticipated 1974–75 budget of $2,600,000. Chowan spends more than 80 per cent of its operating budget locally. In addition, an estimated $15 per week is spent locally by each out-of-area student and his parents. This is a significant contribution to local economy.

No one can assess the value of the collection of talent among staff and faculty that is so generously shared with the community and the area. Any evaluation would be difficult, but we know about the many college employees who fill leadership roles in the community and local churches. Chowan is well represented in all civic clubs, on the volunteer fire department and rescue squad, in charitable efforts and town government. Faculty and staff hold district, state, regional and national honors that bring recognition to the Roanoke-Chowan area.

Contributions in community involvement are not limited to staff. Students are more deeply involved in community life than most local residents know. On a population ratio, students put residents to shame in their donation of blood to the local blood program, helping Hertford County meet its quota. They have retired the rotating silver bowl the Tidewater Blood Center gives to the top participating college each year in its 57 counties, having won it three consecutive times.

Chowan students have worked quietly in local public school educational projects and with retarded children and indigent families. Each year they collect money and food for needy families. They tutor local students, usually without compensation.

Graduates fill leadership roles across many states. Here in N.C. two 1973 Chowan graduates hold the two top positions in the N.C. Baptist Student Union.

Another classic feature of the Chowan College face that is almost taken for granted locally is the recreational one. Whenever possible, without depriving the students of recreational opportunities that are a part of their college life, Chowan College throws open its doors to local people. Recreational opportunities on the campus fill a serious gap created by the limited opportunities available in the county.

Pick any day of the week and you will find local people on the tennis courts, in the swimming pool, on the track, in the art department or just strolling or sitting on campus to enjoy the aesthetic benefits of a tree-lined campus that abounds with small wildlife.

The college also brings a diverse sports program to the community, offering football, basketball, baseball, tennis, golf, track and more.

The final facial feature that holds it all together at Chowan College is the religious influence. It is not mentioned in order of importance; it is noted last because it is the precept that gives the face its character.

SOCIAL SECURITY: STILL A GOOD VALUE

Mr. CHURCH. Mr. President, in recent weeks a number of "scare" stories have been circulated about the social security program.

Unfortunately, these articles have been based upon some misleading and inaccurate information.

And, the net impact is that these accounts have only served to create needless anxiety in the minds of social security beneficiaries and workers.

The social security system is not—and I want to underscore this point very forcefully—on the verge of financial collapse.

A recent report by the Board of Trustees—the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare—points to a need for additional future financing of cash benefits over the long term.

This is chiefly because of a declining birth rate which, if present trends continue, will result in a larger proportion of aged persons to workers in the 21st century. The changed population projections, however, will have no significant impact for the short term.

Moreover, Social Security Commissioner James Cardwell has said:

> The Trustees report shows that there will be sufficient funds to meet all benefit obligations for many years to come and that there will be ample time to review the emerging long-range imbalance and to take whatever remedial action is necessary. In the short-term, we are forecasting assets in the cash benefits trust funds of $44 to $46 billion at the end of 1978, compared to $44.5 billion at the end of this year.

Both the short-term and long-range financial picture will be the subject of intensive study by the newly appointed Advisory Council on Social Security, which is composed of representatives from business, labor, and the public sector. The Advisory Council will examine the overall financial situation and make recommendations to the Congress in the very near future.

In addition, the Senate Committee on Aging is conducting hearings on "Future Directions in Social Security."

A major purpose of this inquiry is to assure that the social security program is built upon sound actuarial, economical, and policy principles now and in the future.

At the outset, I want to stress that the social security system can be improved. And, to my way of thinking, it should be improved in several key areas.

But commentaries relying upon questionable data can serve no useful purpose in determining the appropriate future directions of social security, a program which now affects the lives of almost every American family in one form or another.

Quite clearly, policymakers must rely upon solid and accurate information which is, in no way, misleading.

Because of the importance of this point, I strongly recommend a response by Richard Johnson, a professor of risk management and insurance at the University of Georgia. He has also had almost 20 years of professional experience with the Prudential Life Insurance Co.

His article—entitled "Social Security: Still a Good Value"—responds to the recent "scare" stories in a very convincing and forthright manner. It recently appeared in the Idaho Statesman.

Mr. President, I commend this article to my colleagues and ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Idaho Statesman, Aug. 30, 1974]

Defense of Social Security—Program Termed Efficient, Comprehensive

(Part 1)

(Editor's Note: The five-part series on the ills of the Social Security system, which ended Thursday morning in The Idaho Statesman, has generated considerable comment. The same series, written by reporter Warren Shore of Chicago Today newspaper, has appeared in other papers around the country. As rebuttal, the Social Security Administration has distributed a response to the Shore series written by Richard E. Johnson, professor of Risk Management and Insurance at the University of Georgia. In a statement accompanying the Johnson article, James B. Cardwell, Social Security commissioner, wrote:

("When the articles by Warren Shore criticizing Social Security appeared in newspapers around the country, Prof. Richard E. Johnson of the University of Georgia decided on his own initiative to write a response. We at the Social Security Administration found his article to be a thoughtful and objective statement of Social Security principles and an appropriate reply to the Shore series. We felt the article was all the more credible because of his position as an authority in insurance and risk management, and because he is not affiliated in any way with the Social Security Administration. Prof. Johnson has permitted his article to be circulated to the newspapers that printed the Warren Shore Series."

(Social Security is a complex subject, but it vitally concerns all of us. To give a fair hearing to both sides of this controversial issue, The Statesman will present Prof. Johnson's rebuttal in two parts, beginning today.)

(By Richard E. Johnson)

Newspaper readers around the country have recently been exposed to a series of articles condemning the Social Security program. These articles, written by a Chicago newspaper reporter, Warren Shore, are inaccurate and misleading.

For example, Mr. Shore writes of Jeff Alfred, who, at the age of 23, contributed $676 (matched by an equal amount by his employer) to the Social Security Administration as a tax on his earnings this year. He then comments that should Jeff die, less than $300 would be paid to his wife as the total settlement of his account. This seems inequitable, but let us look at another possible example of a young married couple.

Bob Miller (age 23) is a successful salesman and earns $13,200 both this year and next. At the end of that period he is killed in an auto accident and leaves behind his wife, Mary, and twin children, age one. It is possible for Mary and the children to receive social security benefits in excess of $1,844,715.

This total benefit would only be paid to the Millers if the children were disabled during childhood and continued so until age 65. (An even greater benefit would be paid if they lived longer.) It is assumed in this calculation that a yearly increase of 3 per cent in benefits is made to offset increased inflation.

Thus, for a contribution of slightly over $1,500, Bob's family profited to the extent of $1.8 million. Even if neither child had been disabled, a benefit of $819 per month would have been paid immediately and this monthly benefit would have been increased as the cost of living increased. The mother would have received this until the children were 18 and they would have received almost this amount had they continued their education until age 22, the total benefit paid being about $280,000.

No one will defend the first part of this example as being reasonable or typical—twins being disabled for life. It is, however, just as typical as many of the examples used by Shore in his series. Jeff Alfred's widow would have had to have been childless to have received the benefit stated by Mr. Shore. Although this is possible, it does not represent the average family being covered by the Social Security Act. Instead of looking at either the "less than $300 pay-off" or the "$1,800,000 benefit," let us instead look at the total program and investigate its purpose and what it has done for our society.

The Social Security Act became law and benefits were paid to retirees prior to World War II. Initially only retirement benefits were to be paid and those only if the insured individual did not work in employment covered by social security.

As the program expanded and started providing survivor benefits to widows with children, the philosophy of creating jobs for the young was continued. If a mother with small children was widowed, her right to full benefits depended upon her terminating "covered" employment. Even at this time, however, the benefits paid on the children's behalf were still continued, regardless of whether the mother worked or not.

Today, almost 40 years later, the Social Security Administration follows the same pattern laid out initially—"If a parent is lost to a family, the surviving children need a full-time survivor parent as a guardian." If this is no longer the belief or attitude of the population, then the approach can be modified, but not without cost.

The present cost projections of the Social Security program (Old Age, Survivors, Disability and Health Insurance) consider the fact that some participants will not claim their benefits, preferring to work rather than to receive a social security benefit. If the "retirement test" were eliminated for all groups, retirees and survivors, the estimated increased cost would be about $4 billion. The ultimate result would be an increase in the Social Security payroll tax.

Perhaps this is the proper time to look at the cost of the program. Mr. Shore, in his series, constantly compares the cost of commercial insurance with that provided under OASDHI. His major failing is that he constantly compares the cost or the tax for the whole Social Security program with the premium charged for isolated coverages by the commercial insurance industry.

Your author would be one of the last to criticize marketing methods used by the commercial insurance industry. Having been a part of it for 20 years and having made my living teaching the intricacies of the discipline for the last 10, I still find it a most viable and necessary component of our society. But, it cannot compete with a social insurance program. Social insurance is mandatory—there are no acquisition expenses in the form of sales commissions and underwriting expenses. Everyone must join the OASDHI system and their tax added to the employer's tax is automatically forwarded to the government.

Due to the great savings generated by the efficiencies mentioned above, Social Security cash benefits are administered for about 2 per cent of the total tax income. Since the tax monies in the trust funds earn 5.6 per cent interest per year, over 103 per cent of all Social Security tax revenues is available for benefit payments. An average of 98 per cent of all Social Security tax rev-

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gram must continue as a compulsory program. It cannot exist if voluntary choice of participation is extended the public. If free choice were implemented, two groups would discontinue the coverage because they really do not need it and because of the slight redistribution effect of the program (slightly higher benefits per dollar of tax for the lower income). The poor would discontinue because they realize our society will not let them starve and will take care of them via the welfare route. Thus, the large group of middle income earners not only will pay for their own future security, but also will be obligated to pay most of the tab for the increased welfare costs.

How does the life insurance industry compare in terms of costs and benefits? On the average, about 85 per cent of premium income is returned in the form of benefits. The balance is required for administration and acquisition costs. This is not a large charge in comparison with the rest of the insurance industry. For most segments of the industry, expenses vary between 25 and 45 per cent of premium income.

Thus, even though the life insurance industry is doing a great job in comparison to the rest of the insurance industry, the Social Security Administration is doing a phenomenal one, almost beyond belief for a governmental agency.

Perhaps one of the biggest problems confronting the individual is that of comparing costs and benefits of the social security program with those provided by the commercial insurance industry. The major benefits provided by the OASDHI program include:

Monthly retirement benefits to retired workers

Monthly benefits to disabled workers

Monthly benefits to husbands or wives of retired workers

Monthly benefits to widows and widowers of covered workers

Benefits to widowed mothers

Benefits to disabled widows and widowers

Benefits for children of retired workers

Benefits to children of deceased workers

Benefits to children of disabled workers

Benefits to parents of workers

The entire Medicare benefit program

Since these benefits are so varied and complex, no insurance company will offer all or duplicate benefits. But even when cost or price comparisons are made with similar contracts, there is no commercial insurance company that can compete, price-wise, with the Social Security Administration.

Perhaps an example is called for. When Mr. Shore speaks of the term policy as being the equivalent of the survivors benefit being paid for children under the age of 18, he is incorrect. When a 20-year term policy is purchased from a life insurance company to protect against premature death during the critical period while his children are young, he receives protection for that period. If however, he had additional children later in life, the original contract is only good if it is renewable. Even then, it will only be renewed at a substantially higher price.

The Social Security Administration makes no demands upon the individual as to his age or the time in life when he has his children. The only requirement is that children exist at the time of death, whether this be when he is 25 or 65. How does one compare the premiums charged for these "similar" coverages? It is almost impossible for anyone, let alone the interested insured.

It is now time to answer some of Mr. Shore's charges. In his first article, he comments on the increase in Social Security taxes during the past 20 years. He mentions an 800 per cent increase in the social security tax, while benefits were increased only 300 per cent. His figures are faulty. He is correct in that the total tax receipts did, in fact, increase by 800 per cent; but, the benefits paid during this same period increased by almost 1,000 per cent. Benefits actually increased more than contributions, not less, as his article stated.

Mr. Shore also states that the tax rate of the Social Security program has discouraged savings. He stressed the fact that in 1942 savings were at a very high level, while only three years later, in 1945, savings had started to drop. He neglects to mention that in 1942 about the only thing available for sale was a tank or a battleship while in 1945 Germany had already surrendered.

It is very difficult to understand how he finds a causal relationship between the program as now constituted and lack of savings. Many people are not saving today because of a drop in value of the dollar due to inflation. It is not the fault of the Social Security program that the dollar has depreciated. It is to the credit of the program that it guards against the failure of the dollar by virtue of its inflationary hedge. (A benefit that increases in value to maintain a relatively constant relationship in purchasing power.)

There is no evidence to indicate that larger tax rates or salary bases have caused reduced savings by the individual.

The Middle Class Benefits—(Part 2)

If one income group has profited more than others by the Social Security Act, it is probably the "great middle class." This is the group which would suffer most if required to provide for their aged parents and relatives. As stated previously, it is no major burden for the wealthy, and for the poor it is impossible. The group in the middle would be forced again to provide for their own, and also for those who found it impossible. When Mr. Shore criticizes the situation where the middle-aged worker must pay the bulk of his security cost during his working years, the question must be asked when does he expect the individual to pay these costs? If he waits until retirement, it is too late. Adequate preparation must be made in advance to guarantee that which our people have come to expect.

Mr. Shore also considers the plight of Mrs. Marion Poteka, whose husband died and due to low earnings in his early years, had an average taxable income of only $6,600. He states that her benefit check for her two children and herself amounted to only $435 per month (incidentally, this is tax free). For this amount to have been correct, death would have had to occur prior to 1971. To illustrate the advantages of the "inflation hedge" provided in the Act, the benefit would have been $522 in 1972 and about $580 today. This benefit will continue to increase as the cost of living increases. Inasmuch as this income is tax free and inasmuch as there is no longer any expense involved in securing this income or in providing for deceased spouse, this should prove to be adequate income, assuming her husband took some steps to supplement it with other private insurance. The reduction in benefits as depicted in the article ($435 reduced to $220 when Mrs. Poteka went to work) is simply not true. If Mrs. Poteka works and earns the total $7,540 cited in the paper, she would still receive about $360 per month if death occurred prior to 1971 and about $480 if death occurred today.

For many years the insurance industry has tried to convince the public that a reasonable aim for retirement is one-half the gross income prior retirement. It is assumed that the cost of going to work, living away from home, and paying income tax will take 25 to 35 percent of one's gross income. In addition, since a retiree no longer has the financial obligation of paying social security taxes, retirement insurance premiums or other pre-retirement expenses, this income level is usually deemed reasonable.

How is the Social Security Act meeting this challenge? Actually, the benefits promised are very close to that mark. A married insured who has earned an average of $8,000 per year which has been subject to social security taxation will be entitled to $558 per month or about $6,840 per year, probably more than this couple realized on the gross pay of $8,000 prior to retirement. Similarly, a married individual who averaged $6,000 under the Act would be paid $440 monthly or $5,388 per year. If either the retired worker or his spouse died, the survivor would continue to receive about $3,600 per year.

The beauty of the present program is that there is no need for the retiree to worry about inflation. Today an automatic provision of the Act increases benefits as the cost of living increases. No commercial insurance contract can provide that benefit. The closest approximation would be the variable annuity which is offered by some companies. This provides an inflation hedge if the value of common stock keeps pace with the cost of living. In recent years there has been almost no correlation between the cost of living and the value of common stocks. The Social Security Act removes this worry from our retired citizens.

Primarily due to faulty assumptions and incorrect data, Mr. Shore comes to the conclusion that the program is bad and that it is even bankrupt. There is no way that anyone could consider that social security program bankrupt. It is true that the trust funds do not have adequate funds on hand to pay all future obligations today, but then neither do most private pension plans. The trust funds contain in excess of 50 billion dollars, sufficient to pay approximately one year's obligations. During that period it will collect sufficient revenue to pay the following year's benefits. This has been the basic technique over most of the history of the program. Most people would be far more concerned over some governmental agency having 400 to 700 billion dollars to play with. Disregarding what this might have done to the economy (some suggest that even World War II would not have brought prosperity if burdened by a fully reserved social security trust) think what an enjoyable time our congressmen would have had in increasing the debt limit sufficiently to provide securities for the social security trust to invest in. Perhaps an excerpt from the 1971 Advisory Council on social security's report might make this clear. The advisory board, consisting of economists, businessmen, and at least one executive from a major life insurance company, stated in its report:

"The test of actuarial soundness for a social insurance system is whether the expected future income from contributions and interest or invested assets will be sufficient to meet anticipated expenditures for benefits and administrative costs over the valuation period. The concept of actuarial soundness as it applies to a compulsory social insurance system differs considerably from the concept as it applies to private insurance and private pension plans, although there are certain points of similarity, particularly with the latter. A private insurance company must have sufficient funds on hand so that it will be able to pay all existing obligations. Such funding, however, is not necessary for a national compulsory social insurance system and is frequently not provided for in private pension plans, which may or may not have funded all the liability for prior-service credits toward benefits.

"Because compulsory social insurance is assured of continuing income (new workers must come into the program), it does not have to build up the kind of reserves that are necessary at all times in an institution that cannot count on current income to meet current obligations. It is proper in a social insurance program to count both on receiving contributions from new entrants to the system and on paying benefits to future beneficiaries, as well as those now on the rolls."

Thus, social insurance need only maintain funds sufficient to serve as contingency reserves. The assets of the social security funds serve this purpose.

Throughout this paper, most of the space has been devoted to pointing out the errors and omissions in Mr. Shore's articles. It would be just as much in error for me not to admit the shortcomings of the Social Security Act as that for which I have criticized Mr. Shore. Nothing is ALL good or ALL bad. There are areas in the Social Security Act which need improvement and further study. It is true that the single person or the married couple without children receive far less in protection than the typical married couple with one or more children. By the same token, less benefit for dollar contributed is provided the married couples where both parties work and pay social security taxes. The problem of having retirement benefits reduced if the retiree continues receiving earned income is also worthy of consideration. Of the 22 million people eligible to receive retirement benefits, only 6.4% are having any amount of their benefit withheld due to the earnings test. Although more people might work if the earnings test did not exist, it is reasonable to assume that the number would not exceed a total of 10%. Although this does affect the people concerned, the resulting benefit for the other 90% and the effectiveness of accomplishing the basic aim of the program, that of taking older people out of the labor market, is not disputed.

The criticisms levied by Mr. Shore are not new. They have been with us in some fashion since the initial implementation of the Act. Committees are constantly studying the program, its projections, and possible changes. Recently, James B. Cardwell, Commissioner of Social Security, issued the report of the trustees of social security. This 1974 Trustee's Report shows a long-range actuarial deficit for the OASDI program of about 3% of taxable earnings over the next 75 years. Much of this projected deficit is caused by a change in life style of many of our younger married couples, and the resulting decrease in birth rates for the Nation. We are now approaching a "no-growth" birth rate and it is important to know what effect zero population growth might have on the future levels of social security income and outgo.

Although no major impact will be experienced until the 21st century, the entire area of financing will be the main subject of study by the new Advisory Council on Social Security. Their recommendations will be submitted to the Congress by the end of the year. Therefore, by the end of 1975, in all probability, Congress will have enacted legislation to help solve this problem of the 21st century.

Over the history of the Social Security Act, many changes have been made, faults corrected, and more changes will undoubtedly be made in the future. The solution to the problems faced by the Social Security Administration cannot be solved by Mr. Shore's suggestions. Should the government ever make the decision to follow the recommendations of Mr. Shore—discard payroll tax for social security and buy government bonds—the most incredible fiscal confusion imaginable would result. All of the benefits of the social approach to insurance would be lost and all of the problems of Federal bureaucracy would remain.

Social security today is paying $4.6 billion a month in benefits to 30 million people.

Ninety-one percent of the people age 65 and over are receiving social security benefits or are eligible to receive them.

Ninety-five percent of all children under age 18 and their mothers will receive benefits if the family breadwinner dies.

Eighty percent of the population between the ages of 21 and 64 are eligible for disability benefits in case of a severe and prolonged disability.

Anything which can and does provide so much for so many cannot be bad. To the contrary, no better plan has yet been offered to us. Certainly, Mr. Shore's suggestion is not a better alternative.

DRUG CONTROL

Mr. THURMOND. Mr. President, the apparent success of New York State's new and tough drug laws was the subject of an editorial in the September 5, 1974, issue of the Augusta Chronicle newspaper, Augusta, Ga.

This editorial entitled "Toughness Pays Off" points out that New York State has put into effect the Nation's toughest drug laws.

The result has been that the number of narcotic felony arrests in New York City has dropped approximately 4,000 annually in the last several years.

This is an example that other States may wish to follow as the Nation continues its fight to gain ground in the war against drugs.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Augusta (Ga.) Chronicle, Sept. 5, 1974]

TOUGHNESS PAYS OFF

A year ago this month, New York State put into effect the Nation's toughest drug law, which includes mandatory life sentences for pushers, and in some cases, users.

Enacting this law took guts, especially for a state with a decidedly "liberal" reputation, because the cries of bleeding hearts and the soft-on-drugs crowd soon became deafening. But even "liberal" legislators could not ignore the fact that their state had become the haven for over half the hard-core addict population in the country.

There are definite signs that the New York law is working. Whereas there were 11,400 narcotic felony arrests in New York City in 1972, the number declined this year to 7,500. And while the new law probably shouldn't receive all the credit, we believe enforcement of the statute could have just plain scared many pushers into leaving the state.

It is cheering that a corner seems to have been turned on the long road toward freedom from this major evil.

We look with keen expectation to the day when other states follow the New York example. Tough laws, and an equally thorough educational campaign among the young, are necessary to gain ground in the war against drugs.

THE CIVILIAN AND MILITARY PAY ISSUE

Mr. McGEE. Mr. President, Senate Resolution 394 disapproving of the President's alternative plan for pay adjustments for Federal employees has been reported to the floor by the Committee on Post Office and Civil Service and will come to a vote on Thursday.

In order that Senators might better assess the issue, I want to lay out the background and the major reasons why the sponsors and the supporters of Senate Resolution 394 believe the President's alternative should be rejected.

THE BACKGROUND

First. Since enactment of the Federal Salary Reform Act of 1962 Government salaries have in principle been based on comparability with non-Federal rates of pay as determined through annual surveys of appropriate occupations, conducted by the Bureau of Labor Statistics.

Second. Under the Federal Pay Comparability Act of 1970 the President's agents recommend to the President an appropriate adjustment for covered employees. These agents are the Chairman of the Civil Service Commission and the Director of the Office of Management and Budget. Their report must be received by the President in time for him to present an alternative plan in lieu of the statutory October 1 pay raise, if he believes that is warranted, before September 1 of each year.

Third. The act establishes an independent, impartial three-member Advisory Committee on Federal Pay appointed by the President from outside Government. The committee reviews the report of the President's agents, considers additional views, and reports its findings and recommendations to the President.

Fourth. The law further directs the President's agents to establish and consult with a five-member Federal Employees Pay Council.

Fifth. Unless the President offers an alternative pay proposal before September 1, the pay adjustment he arrives at after considering the agents' report and the findings and recommendations of the Advisory Committee goes into effect for the first pay period on or after October 1 of each year. An alternative must be based on a national emergency or economic conditions affecting the general welfare and can be overturned by majority vote of either House or Senate, in which case the October 1 pay adjustment must take place.

THE AGENTS REPORT AND COSTS

First. Under the authority given him by the 1970 act, the President has offered an alternative plan proposing a 90-day delay in this year's pay adjustment. His alternative plan does not state what percentage adjustment might be implemented either October 1 or January 1, although it is known that the President's agents have recommended it be 5.52 percent, a figure considered too low by the Federal Employees Pay Council.

Second. The President has stated that the estimated savings would be $700 million.

THE AGENT'S REPORT AND COSTS

First. The savings projected by the Executive are presumably based upon the agent's recommendation of a 5.52-percent increase, which in turn is based upon the March 1974 BLS survey of professional, administrative, technical and clerical pay in the private sector.

Second. The agents' cost estimates on the 5.52-percent recommendation, now in the hands of the President, follow:

COSTS

The cost, stated on an annual basis, of implementing the recommended pay adjustments for the 1.36 million employees under the statutory pay systems is estimated as follows:

[Millions of dollars]

Statutory pay systems	Basic pay	Fringe benefits and premium pay	Total [1]
General schedule	$992.3	$113.3	$1,105.6
Department of Medicine and Surgery schedules	20.3	3.1	23.5
Foreign service schedules	12.6	1.7	14.4
Total [1]	1,025.3	118.2	1,143.5

[1] Because of rounding, sums of individual items may not equal totals.

In addition, certain other employees whose pay is fixed by administrative action normally receive pay adjustments corresponding to General Schedule adjustments. We estimate the cost of these administrative pay adjustments to be $27.7 million.

Under the provisions of Public Law 90-207, members of the uniformed services will receive an adjustment in the rate of their monthly basic pay comparable to the General Schedule adjustment. We estimate the cost of this military pay adjustment for the uniformed services to be $1,340.0 million.

Therefore, we estimate the total annualized cost of the pay adjustment we are recommending to be $2,511.1 million.

Third. As the result of passage of H.R. 15406, which has been sent to the President, military pay raises will be applied at the same rate as civilian raises to base pay and allowances, rather than at an increased rate to base pay only. The estimated savings from this recent measure have been stated at $3 billion over a 5-year period, including $160 million in the current fiscal year.

Fourth. Note should be taken to significant differences between the President's agents and the Federal Employees Pay Council over the methods used to compute the annual comparability adjustment. The Council believes that a 7.3-percent increase is warranted, that a proper implementation of the law would actually result in a recommendation of 8.5 percent, and that the agents' recommendation has the effect of keeping Federal employees and military personnel at the level of the 5.5-percent wage ceiling which was lifted for all other American workers on April 30, 1974.

THE BUDGET

One. Ample provision was made in the fiscal year 1975 Budget for the October 1 pay adjustment of 5.52 percent, as recommended by the President's agents.

Two. The budget states that:

> The allowance for civilian agency pay raises includes an estimate of the additional amounts that will be required for pay raises anticipated in October 1974 for employees of civilian Government agencies. A separate allowance for pay raises is shown for the military and civilian employes of the Department of Defense and is included in its figures. These increases could not be reflected in the various program appropriation requests since the applicable detailed amounts have not yet been determined.

Three. The budget tables showing the Federal program by agency and account show, for civilian agency pay raises, a budget authority of $625 million and outlays of $600 million, while the Department of Defense tables, in the heading under "allowances" reveals a budget authority of $2 billion and outlays of $1.94 billion for civilian and military pay raises within that Department.

CONSIDERATIONS FAVORING OCTOBER 1 RAISE

First. Under the provisions of the Federal Pay Comparability Act of 1970, Federal employees do not set the pace for compensation. Rather, they follow by 6 months the levels of compensation achieved by their counterparts in private industry, as determined by the BLS surveys. The October 1 pay raise conforms to private industry rates in effect the previous March.

Second. This year, because the Economic Stabilization Act expired on April 30, ending wage and price controls, the effect of this time lag is heightened. A special survey of the same occupations covering the first 10 weeks following the end of controls showed private industry rates rose by an average of an added 1.1 to 1.7 percent, depending upon the weight given various types of increases.

Third. While this pay adjustment is tied to comparability with non-Federal pay, and not the cost of living as such, the President's 90-day delay is postulated as an anti-inflationary measure. The employee, too, is ravaged by inflation.

Fourth. Consumer prices have, of late, been running at a rate about 11.7 percent higher than a year ago and just last week we learned that August wholesale prices rose 3.9 percent, or at an annual rate of 46.8 percent, which is the second highest increase in this key index since the end of World War II. Clearly, a raise of 5.52 percent is not going to maintain the workers' standard of living undiminished. Delaying such a raise for 90 days aggravates that problem.

Fifth. Seven-hundred-million dollars, while not an insignificant amount, does not represent the kind of savings necessary for the Government to clearly demonstrate its serious intent. The President stated in his August 31 message to Congress that—

> I must call on all Americans without exception to make sacrifices in order to hold down wages and prices.

But he has called only on 3.5 million individuals, and their families, who are particularly vulnerable because they are precluded from expressing their displeasure or supporting their demands in the fashion freely available to others. They cannot strike, for example.

Sixth. Not only are these 3.5 million employees, civilion and military, discriminated against by comparison with non-Federal employees, but also by comparison with other elements of the Federal work force, including Postal Service employees and wage grade workers who are not covered by the same pay-setting mechanism.

Seventh. This proposed raise, whatever its effective date, will not increase the compensation of those individuals in the higher grades. Because of the ceiling imposed on the statutory pay systems, no employee in the grades GS–17 or 18 or those above the third step of GS–16 will benefit from this raise unless and until increased compensation is approved for personnel in the executive salary schedule.

Eighth. Through a long and trying period our President has termed a national nightmare, the career civil service employee and the military have continued to function, carrying on the day-to-day duties of their jobs in the public interest. None has been involved in these morale-shattering events. Perhaps they only did their job. But for that they should at least get what is their due under public policy—parity on payday.

THE COMMITTEE'S CONCERN OVER PROCEDURES

First. The Executive has consistently attempt to thwart the Pay Comparability Act ever since its passage. It has been overridden by the Congress in 1971, by the Court of Appeals in 1972 in a decision which resulted in a costly retroactive payment, and by the Senate in 1973 on a 72-to-16 vote.

Second. The committee is concerned about what it sees as the failure of full compliance, at least with the intent and spirit of the Pay Comparability Act. Again this year, as always in the past, the President's alternative plan gives no sure indication of what percentage increase would become effective October 1 if his postponement were disallowed. Again, as has been the case in each instance, the August 31 deadline for the President's alternative plan arrived before the Advisory Committee on Federal Pay had submitted its findings and recommendations. Indeed, the agents' report to the President is dated August 28, only 3 days prior to the deadline for an alternative plan. And, again, Federal employee organizations not represented on the Pay Council have had extremely limited opportunity to express their views and recommendations, as provided for in the law. The committee understands that the pertinent data was made available to the agents in its entirety only a month before the statutory deadline for a Presidential decision.

Third. In view of these circumstances and others, the committee does intend to carefully examine the entire pay-setting system and recommend any changes needed to improve it.

U.S. FISHERIES CANNOT WAIT FOR LAW OF THE SEA TREATY

Mr. STEVENS. Mr. President, the Emergency Marine Fisheries Act of 1974, S. 1988, commonly known as the "200-Mile" bill, is among the most significant measures to be considered by this Congress.

Since its introduction on June 13, 1973, this bill has been the subject of Commerce Committee hearings in Washington, D.C., and the States of Alaska, California, Massachusetts, Rhode Island, and Washington. Spokesmen for all concerned U.S. commercial fisheries were heard either here or in the field. Representatives of State and Federal Government, and the sports fishing and conservation communities also were heard. The Commerce Committee has reported S. 1988 favorably.

This bill's progress has generally coincided with the schedule of the Conference on the Law of the Sea in Caracas, Venezuela, and its preparatory sessions, and there has been some sentiment that final action should not be taken before the conclusion of that conference. Many proponents of the bill, including myself, believe that the attention it was given through the hearings served to inform other governments that our Nation stands ready to take whatever action is necessary to protect the fisheries resources off our shores from destruction by foreign fleets.

As a congressional adviser to the Law of the Sea Conference, I traveled to Caracas in August to see for myself what was happening. By then it was evident that no international agreement was in sight on the 80 or more issues being negotiated. Now that the conference has adjourned without noticeable progress, I am convinced even more than ever that our fisheries cannot survive foreign onslaughts through the unknown number of years it will take to conclude an international law of the sea treaty. Last week I reported this conclusion before the Senate Foreign Relations Committee, which is now considering S. 1988. Mr. President, I ask unanimous consent that this testimony be printed here in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR TED STEVENS REGARDING S. 1988 BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE, SEPTEMBER 5, 1974

Mr. Chairman, I wish, first of all, to express to the members of this Committee my appreciation for the opportunity to testify today. I attach great importance to the urgency for early consideration by the Senate Foreign Relations Committee in its examination of the bill S. 1988 as an instrument of United States Foreign Policy. It is crucial that the short- and long-range effects of an enacted S. 1988 on foreign relations and on the developing international legal order be accurately anticipated in Senate deliberations on the legislation.

For several years I have followed closely the evolution of negotiations aimed at establishing an international legal order of the sea. Along with members of this Committee, as an advisor to the United States delegation, I attended the third United Nations Conference on Law of the Sea, which met in Geneva and again in Caracas. I was afforded the opportunity to discuss main trends in the Law of the Sea negotiations at some length with leaders of the United States and foreign delegations. Most of those with whom I spoke in Caracas were very aware of the possibility of action by the United States Congress on matters directly related to Law of the Sea issues—particularly of the emergency fisheries conservation and management measure, S. 1988.

I would like to take this opportunity to share with you some observations on current trends in the Law of the Sea negotiations and an assessment of the importance and ramifications of immediate action by Congress to conserve American fisheries in the interim period prior to the signing of a comprehensive Law of the Sea treaty. My visit to Caracas left me with little doubt that the enlightened national and international interest will best be served by the prompt enactment of S. 1988 and that the process of establishing a fair system of international law governing the world's oceans will be facilitated by this action.

When, in 1971, the General Assembly of the United Nations passed a resolution calling for a major conference on the Law of the Sea, it did so in anticipation of a rapid global intensification of the use of the high seas for commerce, resource exploitation, military activities, and scientific research. The General Assembly recognized the desirability of preventing this intensification from occurring in anything but a peaceful manner. The success of the Law of the Sea Conference is dependent upon the degree to which it can anticipate potential ocean-related problems and confrontations and resolve them by an equitable and agreeable statement of law before injury occurs. I think it is fair to say that for most issues under consideration by the delegates in Caracas there is time for deliberation—even if the promulgation of a comprehensive Law of the Sea Treaty is delayed longer as most Caracas observers are now predicting.

However, in the fisheries issue we have already run out of time. A rapid international expansion of effort in fishing has been underway world wide for more than ten years. While commercially, the exploitation of fisheries has been pushed to, and even beyond, the limit of sustained yield in many regions of the ocean. At least 11 commercially valuable species have been depleted, or are threatened with depletion, off the coasts of the United States; there are the haddock, herring, menhaden, and yellow tail flounder of the Atlantic; the mackerel, sable fish, shrimp, Alaska pollock, yellow fin sole, and hake of the Pacific; and the halibut of the Atlantic and Pacific. This is slightly less than half the total number of species severely damaged by over-fishing world wide.

The depletion of stocks because of inadequate conservation practices is of no benefit to any nation in the long run, including those responsible for such destruction. A fishery is a self-renewing source of protein which, if properly managed and protected, can endure indefinitely. However, if it is senselessly exploited, stocks are reduced below the level where self-renewal is possible and the fishery is destroyed. Protein is more and more becoming a limited commodity in this crowded world and the extensive destruction of fisheries through over-fishing, particularly off the coasts of the United States, will in the long run be as detrimental to the international community as to the United States itself.

Nearly all of the present 11 species of fish now in advanced stages of depletion off the coast of the United States have been the subject of some sort of international agreement. Many fundamental and necessary conservation regulations cannot be imposed on foreign fleets under such agreements. As an example, one highly visible source of concern to United States fishermen and conservationists is the small mesh monofilament net which is often found drifting at sea or washed onto beaches. Foreign fishermen employ huge expanses of such net to sweep clean local populations of fish located by advanced sonar equipment. The nets have been outlawed for use by United States fishermen because they kill immature fish of lesser economic value but vital to the perpetuation of the species. However, the mobility of foreign fleets allows them to attack stocks of fish with these nets, reaping maximum short-term benefits, and to move on when there is little of value left; perpetuation of the species is apparently not of immediate concern to those who practice "pulse fishing."

Fishermen in Bristol Bay, Alaska, have little doubt about the lack of concern of some foreign fishermen for fundamental conservation principles. The Japanese high seas salmon fishermen, who in 1973 caught 40% of the total catch of Bristol Bay salmon, were informed early this year that the best scientific evidence indicated that two severe winters had reduce the Bristol Bay salmon population to below the spawning requirement. They expressed sympathy—and continued fishing. Bristol Bay has now been declared a state and national disaster area because of the depleted salmon runs upon which the economy of the area depends.

It was heartening for me to learn earlier in the summer through State Department cables that widespread agreement had developed in Caracas in favor of a 200 mile economic zone. The State Department joined this growing international consensus in what I believe to be a major policy shift announced on July 11 in the Law of the Sea Conference Plenary by Ambassador John R. Stevenson, leader of the United States delegation. Ambassador Stevenson proposed a 200 mile economic zone giving the coastal nation exclusive rights to all seabed resources and preferential rights to living resources. This means that within the zone the coastal nation would have full discretionary control over the exploitation of the seabed, but would be obligated to allow foreign fishermen to exploit coastal stocks which could not be fully utilized by the coastal nation up to a scientifically determined maximum sustainable yield. International navigation and overflight would remain unhampered.

S. 1988 closely resembles the State Department fisheries proposal. It attempts to minimize economic hardship and dislocation caused historic foreign fishermen of United States coastal stocks by stricter conservation and management regulations. The State Department proposal is viewed as one of the most moderate proposals which was under consideration in Caracas. Other economic zone proposals which enjoyed major support called for coastal state sovereignty over all resources within 200 miles of shore, while the most extreme proposals advocate a 200 mile territorial sea. The only nation of which I am aware expressly to oppose any kind of 200 mile economic zone was Japan. However, the Japanese, I feel, have indicated the inevitability of a 200 mile economic zone in international law for they sought concessions in the zone despite their continued opposition to it.

The popularity of the general 200 mile fishing jurisdiction concept as a conservation as well as an ecomonic measure is based on the general assessment that it is the coastal nation which has the greatest interest in conserving and managing fish stocks within 200 miles of its shares, particularly if it has preferential or exclusive rights to coastal fisheries. This interest is plainly not shared in the same degree by distant water fishermen. Furthermore, experience with international management authorities has generally been disappointing.

Of great concern to me is that although there now exists almost universal agreement that the coastal nation has the right to conserve and protect its fisheries within 200 miles of shore, implementation of this agreement must wait until all of the more than 80 issues under consideration in Caracas have been resolved and incorporated into a single comprehensive Law of the Sea Treaty. Ambassador Stevenson in his July 11 speech emphatically stated that the United States delegation would accept nothing less than a single comprehensive treaty—this position is shared by a number of foreign delegations. Unfortunately, this position does nothing to answer the difficult reality we are facing. It would be a cruel irony if the mechanics of the Law of the Sea Conference contributed to a continued lawlessness on the seas and that fish stocks are destroyed while the world is working to preserve them.

The basis for my concern is my conclusion, shared by many others, that the prospects for a prompt agreement on many Law of the Sea issues are not good. It is my understanding that several international scholars who only last year testified against S. 1988 are now, after Caracas, considering returning and reversing their testimony. They have concluded, as I have, that it is unrealistic to expect American fisheries to survive as long as will be necessary for a Law of the Sea agreement to be reached.

The more than 80 issues which comprised the official agenda at Caracas are of enormous political, strategic, and economic importance to the international community. World interest in the Law of the Sea negotiations has increased remarkably since the First United Nations Conference on the Law of the Sea was held in Geneva in 1958. An unprecedented 149 nations participated in the 1974 Caracas Conference, 59 more than were present in Geneva sixteen years ago. The importance of this cannot be overemphasized for global negotiations based primarily on a consensus method of agreement, or, if consensus is unattainable, on a one nation-one vote, two-thirds majority voting procedure. Most new participants in the negotiations are developing nations, newly independent, which have only recently turned their attention to Law of the Sea issues. They mistrust the motives of developed nations and doubt their own present ability to discern their future national interest in Law of the Sea issues. Many have, therefore, taken highly nationalistic and secure positions which are, unfortunately, quite unacceptable to developed maritime nations, such as the United States. Privately, the new participants admit that they will eventually compromise on their positions but they do not presently have sufficient confidence in their own knowledge of the issues to negotiate realistically, and they plainly do not see hastiness as working in their favor. Thus for a large bloc of developing nations, all of whom have one vote, the Law of the Sea negotiations have just begun. The 33 signers of the 1958 Geneva Law of the Sea Convention now make up less than a quarter of the nations now participating in Law of the Sea negotiations. Several new nations which did not participate in the Geneva Conference have gone so far as to question, and implicitly repudiate, the Geneva Convention as viable international law because of the lack of adequate representation of developing nations in the 1958 proceedings. Few nations today would risk relying on a provision of the Geneva Convention as having the force of international law when there is widespread agreement in 1974 superseding it as, I believe, is the case with Article VII of the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas which has been proposed as an alternative to enacting S. 1988.

I continue to believe that international law governing the oceans is attainable and eminently worthwhile, particularly law preserving world fisheries. But if the present lack of concern for basic conservation principles on the seas persists among some foreign fish operators for the indefinite amount of time necessary to conclude the Law of the Sea negotiations then we may be left very little of value to preserve. Enactment of S. 1988 by the United States will not be prejudicial to the successful formulation of a Law of the Sea treaty; it is not a substitute for Law of the Sea negotiations on fisheries. On the contrary, S. 1988 conforms closely to world trends and is strictly an interim conservation measure. I am confident that, given the consensus now evident in Caracas, any eventual Law of the Sea treaty will affirm or strengthen the fisheries protection established through S. 1988.

There has been expressed some disappointment with the management provisions of S. 1988. Some would like to see provision for domestic management taking immediate effect rather than a study plan which would institute domestic management in two years. Strong domestic management whether immediate or delayed is crucial to the success of S. 1988. However, two years is probably adequate time for the implementation of domestic management since it will take some time for U.S. fishermen to build their fleets to the point where they are able to catch as much as foreigners are catching now. Furthermore S. 1988 calls for a gradual rather than an immediate phase down in foreign fishing. The point is that the phase down must be started now.

There has been no moratorium on international fishing within 200 miles off our shores in deference to the deliberations in Caracas and the world consensus evident there. It does indeed take time to formulate international law and the nations fishing our coastal and anadromous stocks to the point of depletion are apparently quite content to wait. We must act firmly and demonstrate openly we will not abandon our commitment, enunciated in Senate Concurrent Resolution 11, to preserve United States fisheries. Strength, rather than weakness, on this issue will not only be in the overall best interest of the United States but will serve the world by removing an important incentive for delay in the Law of the Sea negotiations.

I returned from Caracas with the conviction that we must act to extend our fisheries management authority to 200 miles. This United States Congress is now the only organization capable of taking measures to insure the survival of United States fisheries.

Mr. STEVENS. Mr. President, in discussing this topic, I would be remiss if I failed to acknowledge the assistance afforded me by Mr. David Keto. This young man worked on fisheries and law of the sea matters in my office this summer between sessions at Princeton University. He dedicated himself to the work with exceptional diligence, and became so deeply interested in the conference that he journeyed to Caracas at personal expense so he could be a part of it. David has been of great assistance in sharing his observations with me and in helping prepare numerous written materials concerning the conference.

FIFTY SENATORS COSPONSOR INDEPENDENT SOCIAL SECURITY AGENCY BILL

Mr. CHURCH. Mr. President, last year the Senate Committee on Aging initiated hearings concerning "Future Directions in Social Security."

As of this date the committee has conducted 8 days of hearings. During this inquiry we have heard from all major groups with a direct interest in the social security system, including workers, retirees, national aging organizations, Government officials, educators, opinion leaders, and others.

All in all, the testimony has provided a solid foundation not only to take stock of the present condition of the social security program but its future direction as well.

Several witnesses have also drawn upon their technical expertise and experience to recommend proposals for strengthening social security.

One of the most important recommendations emerging from these hearings was the establishment of an independent, nonpolitical governing board to administer the social security program.

A few months ago I introduced legislation—the Social Security Administration Act, S. 3143—to implement this objective.

This bill has three principal provisions.

First, it would reconstitute the Social Security Administration as an independent agency outside the Department of Health, Education, and Welfare. This autonomous agency would be under the direction of a three-member governing board appointed by the President, with the advice and consent of the Senate. To help assure the nonpolitical nature of this unit, these three individuals would be appointed for staggered terms for 5 years.

Second, my bill contains another safeguard to assure that the social security program is not manipulated for narrow, partisan purposes.

This would be achieved by prohibiting the mailing of announcements with social security checks which make reference to any elected official.

No one benefits—least of all the elderly—if the social security mailing process can be subverted for potentially partisan purposes. This program is simply too important to be exploited in this fashion.

Finally, S. 3143 would remove the transactions of social security trust funds from the unified budget.

Consequently, proposed social security changes could be assessed on their own merits and in relation to financing provided for the program.

This change would also help to emphasize the essential difference between contributory social insurance programs, such as social security, and the general revenue operations of the Government.

Social security is, of course, almost entirely a self-financed program through payroll contributions. The trust funds can, in no way, be used to reduce the Federal deficit caused by the general revenue operations of the budget.

My proposal, I am pleased to say, has attracted widespread bipartisan support.

As of this date, 50 Senators have sponsored this proposal. Others who are not cosponsors have indicated their support for the essential features in this bill.

With such strong support, I am hopeful that prompt action can be initiated on this proposal either during this Congress or early next year.

As the chairman of the Senate Committee on Aging, I also want to reaffirm my commitment to work for the enactment of this urgently needed legislation at the earliest date possible.

Mr. President, I ask unanimous consent that a listing of the sponsors of S. 3143 be printed in the Record.

There being no objection, the listing was ordered to be printed in the Record, as follows:

SPONSORS OF S. 3143

Mr. Church, Mr. Allen, Mr. Gravel, Mr. Tunney, Mr. Haskell, Mr. Ribicoff, Mr. Biden, Mr. Chiles, Mr. Gurney, Mr. Inouye.

Mr. Stevenson, Mr. Hartke, Mr. Bayh, Mr. Clark, Mr. Huddleston, Mr. Mathias, Mr. Kennedy, Mr. Brooke, Mr. Hart, Mr. Mondale.

Mr. Humphrey, Mr. Eastland, Mr. Eagleton, Mr. Metcalf, Mr. Bible, Mr. Cannon, Mr. McIntyre, Mr. Williams, Mr. Case, Mr. Montoya.

Mr. Domenici, Mr. Javits, Mr. Young, Mr. Burdick, Mr. Metzenbaum, Mr. Hatfield, Mr. Scott (Pa.), Mr. Schweiker, Mr. Pastore, Mr. Hollings.

Mr. McGovern, Mr. Abourezk, Mr. Brock, Mr. Moss, Mr. Stafford, Mr. Magnuson, Mr. Jackson, Mr. Randolph, Mr. Nelson, Mr. McGee.

RHODESIAN CHROME

Mr. THURMOND. Mr. President, the September 6, 1974 issue of the Augusta Chronicle newspaper in Augusta, Ga., contained a succinct editorial on the chromium issue.

Entitled "Chromium and Logic," the editorial comes down hard on efforts in the House to stop American purchases of Rhodesian chromium.

The editor correctly makes several points. First, it would be costly to shift our chromium orders to the Soviets. Second, it would also be unwise to depend upon that nation as our supplier of this important defense related material.

Mr. President, I ask unanimous consent that this editorial be printed in the Record at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Augusta Chronicle, Sept. 6, 1974]

The reality of liberal hyprocrisy, even though some liberals may not recognize it for what it is, is dramatized by the number of U.S. congressmen seeking repeal of the Byrd amendment which authorizes importation of strategic chromium metal from Rhodesia.

The reason they want to gut the Byrd amendment in the House (the Senate voted repeal in December) is two-fold: Rhodesia's internal affairs are not to liberal liking, and, in the interests of "detente," we can buy chromium from the world's only other major supplier, the Soviet Union.

We do not undertake to defend the manner in which Rhodesia conducts its internal affairs; Rhodesians are capable of speaking for themselves. We do, however, feel the need for upholding the right of any peaceful country to its own internal decision-making, free from outside interference.

The ironic truth is, of course, that those who cry the loudest against tiny Rhodesia are Communist and African nations whose governments have brutally denied basic rights to millions.

Why—in the words of Sen. Harry Byrd—must we cut ourselves off from Rhodesia and make America "dependent on a sworn enemy for an indispensable defense material?"

During the Rhodesian chrome ban of 1967–71, the Soviet selling price of the metal was sky-high. Since enactment of the Byrd amendment, we have realized substantial savings in dealing with Rhodesia.

The only logical and proper course of action the House can take would be, we feel, to uphold the Byrd amendment.

INADEQUATE HOUSING

Mr. SPARKMAN. Mr. President, I believe everyone recognizes the terrible condition that confronts us in the matter of adequate housing for American families. The number of housing starts in July was at the lowest level in 4 years with an annual rate of 1,335,000 units—just a little more than half of the rate a year ago. The number of building permits issued in July was at an annual rate of only 1,043,000. We should be building homes at the rate of 2,600,000 in order that families in this country might have an opportunity for a decent home in decent surroundings, in accordance with the pledge that was made to the American people in the Housing Act of 1968, and in accordance with the promise given in the housing policy stated in the 1949 Housing Act.

The construction industry is one of the great users of workers. Yet in July, the unemployment rate was 10.6 percent, double the national unemployment rate.

One thing that some may lose sight of is that home-building probably affects more employment than any other single industry. It not only affects those engaged in the building of the houses, but it goes even back into the woods where the logs are cut, to the sawmills where it is converted into lumber, and to the other processes in preparation of homebuilding. It goes into the bowels of the Earth where workers mine the minerals and the metals that are required in building a house and in supplying it with bathtubs, kitchen sinks, furnaces, and other metal products used in the average home. In view of the impact on employment, home construction can be regarded as one of the greatest factors in our economic welfare.

In the Wall Street Journal of September 12, there was an article discussing the homebuilding slump. I ask unanimous consent that this be printed in the Record.

The National Housing Conference, on September 5, issued a statement giving a "Program to Overcome Depressed Housing Construction and Employment." I ask unanimous consent that this also be printed in the Record.

There being no objection, the article and statement were ordered to be printed in the Record, as follows:

Ripple Effect: Homebuilding Slump Is Bringing Problems to Supplier Industries—Makers of Plywood, Glass, Appliances Feel Pinch; "Big Labor" Joins Outcry—Bad Time on Bathtub Front

(By John V. Conti)

Ripples from the housing industry's plunge into depression are beginning to rock the boats of a widening circle of industries that supply products for home building.

In recent weeks, large layoffs and a few plant closings have hit appliance makers, glass makers, lumber and plywood producers, and others that supply the diverse range of products that go into new homes. General Electric Co., Westinghouse Electric Corp., PPG Industries, Georgia-Pacific Corp. and Honeywell Inc. are examples of those feeling the impact of housing's slump. Most—with considerable reason—are fearful that the situation will get worse before it gets better.

While adding to the nation's general economic woes, the ripple effects of the housing slump seem certain to add to the pressure on government policymakers to come up with help for home building. Until recently, the slump had been most pronounced in the construction of single-family homes, a field dominated by nonunion workers and small builders. But the ripples are touching the members of big unions and some of the country's largest corporations.

ADDING INFLUENTIAL VOICES

Thus the influential voices of big labor and big business are being added to the complaints from builders, real-estate brokers and savings-and-loan officials over soaring interest rates, lagging home sales and building-trades unemployment. All of these complaints are expected to be voiced with special vigor today as leaders of the construction industry and union officials meet in Atlanta to discuss housing problems at one of President Ford's economic "mini-summits."

The suppliers are particularly worried because they see little prospect that, without some action to aid the housing industry, their situations can do anything but get worse. Suppliers are just beginning to feel the effects of the building slump because there have been a large number of housing units still under construction. But housing starts have been declining dramatically over the past year, and now this is being reflected in completions. Through April, completions were running at an annual rate of 2 million units; now they're down to 1.6 million and headed lower.

New housing starts hit a four-year low in July when the annual rate sagged to 1.3 million, down from 2.2 million a year earlier. Some experts feel the housing industry will be lucky if the rate doesn't fall below a million before the end of the year. Even if today's minisummit should spur action to aid the industry, there's little optimism that things will get better fast.

LAYOFFS AT APPLIANCE PARK

The unemployment rate among construction workers is running about 11.1%. Some estimates say it will hit 20% by year-end.

No such precise figures are available for housing-industry suppliers, but it's obvious that more and more people are being thrown out of work.

Next Monday, for example, General Electric will begin to furlough the first of 1,500 workers who are to be laid off at its huge Appliance Park plant in Louisville due to weak sales of refrigerators, washers, dryers and other items caused by the housing slump; within three weeks 8.3% of the plant's current hourly work force will be on layoff. Another 2,000 air-conditioner workers will be furloughed at the Louisville plant for just one week next month. Westinghouse has laid off some 1,400 since July, at least partly due to the housing slump. The workers make appliances, heating and air-conditioning equipment, light switches and electrical receptacles.

PPG closed an Oklahoma glass plant employing about 500 workers "indefinitely" about three weeks ago because of slack demand for windows. Honeywell Inc. recently laid off 100 employes in Minneapolis who made thermostats and furnace controls.

The number of plants making glass fiber bathtubs in the U.S. has shrunk to about 120 from 190 a year ago as the owners have been squeezed between sagging demand and rising prices for raw materials.

The Bureau of Labor Statistics says employment in the stone, clay and glass industries—all heavily dependant on construction—fell to a seasonally adjusted total of 689,000 last month from a peak of 707,000 last December. Even in the furniture and building-fixtures industries—which supply products used late in the home-construction cycle—employment plunged to 509,000 in August from a November 1973 peak of 528,000.

LOPPED-OFF WORK TURNS

Not surprisingly, the wood-products industry is one of the hardest-hit, with new housing construction accounting for about 55% of its business. Georgia-Pacific, for example, has closed two sawmills in the Southeast and two decorative-paneling plants in Eugene, Ore., at a total cost of 600 jobs. About a fourth of the nation's 160 plywood mills have lopped one or more work turns off production schedules, and six are closed. The American Plywood Association estimates that 3,000 U.S. plywood-mill workers—close to 10% of the work force—have lost their jobs in recent months. "We could very well be facing 20% to 25% unemployment by December," says Bronson Lewis, executive vice president of the association.

Not all companies are feeling the slowdown evenly. Big makers of plumbing fixtures have largely escaped, mainly because the industry is still trying to catch up with demand from last year when a lack of vitreous china capacity caused shortages. And the asphalt-shingle industry has suffered little—mainly because 75% to 80% of its output goes to replacing roofs ou existing homes.

Program To Overcome Depressed Housing Construction and Development

(1) Housing starts and employment are seriously depressed. In July, housing starts were at a 4-year low. The annual rate was 1,335,000 units—almost 40% below the rate a year ago. As to future housing activity, the forecast is that there will be a lower rate of housing starts since building permits issued in July were at an annual rate of only 1,043,000. In the construction industry, the unemployment rate in July was 10.6% which was double the national unemployment rate. These emergency conditions call for the emergency actions recommended below.

(2) Administration spokesmen have recognized the need for public service employment and expenditures of billions of dollars if there are further substantial increases in unemployment. It is better to avoid more unemployment in housing and related industries by increasing housing construction. This will also meet urgent housing needs that cannot otherwise be met in today's market.

(3) HUD should take all actions necessary to accelerate the processing of Section 236 projects in the pipeline. This is the fastest way to get a quick start of construction of over 100,000 multi-family housing units for the lower income group. HUD offices should be advised to expedite these cases and process them with mortgage amounts and rents that are realistic in terms of current costs; also, income limits should be updated.

(4) All available unused contract authority and authorizations should be utilized quickly to stimulate construction of additional subsidized housing for those of low and moderate incomes and the elderly. This includes housing assistance programs under Sections 236, 235, 202, conventional public housing, and the new Section 8 program. The following administrative or legislative actions should be taken immediately to effectuate these programs:

(a) Approve in an appropriation act the additional contract authorization of $75 million for Section 236.

(b) Authorize in an appropriation act $800 million in loans under Section 202.

(c) Housing-assistance applications for new projects should be processed without delay and without waiting until next year's filing of local assistance plans as part of a Community Development Program. The Secretary should provide the local government a 30-day opportunity to respond concerning an application regarding the need for the housing and consistency with any housing assistance plan of the local government.

(d) Congress should rescind the provision in the Conference Report that commitments for new projects under Section 236 must await a demonstration that the housing need cannot be met through the new housing assistance program under Section 8. The new Section 8 program is untried and untested. It will take many months to determine whether that program will work to meet various housing needs. In the present emergency, it is necessary to proceed now with new projects under Section 236.

(5) While serious questions have been raised concerning the workability of Section 8 as program which can achieve a large volume of housing construction, all necessary actions should be taken to make that program as workable and attractive as possible, including:

(a) Establish fair market rents which are realistic and feasible in terms of current costs.

(b) Use the Tandem Plan to provide par financing for FHA-insured mortgages on projects to be assisted under Section 8.

(c) Provide FHA-insured financing for a 40-year period to achieve lower carrying charges which are needed.

(6) With the present tight money and high interest rates, developers are experiencing great difficulty in obtaining construction financing for housing projects. When they can get such financing, the interest rates are over 17%. To meet this problem, GNMA should utilize its authority to take a 95% participation in construction financing on multi-family housing where GNMA will be purchasing the FHA-insured mortgage on the completed project. The interest rate should be the applicable rate under the permanent mortgage.

(7) Housing should be sheltered from the disproportionate and adverse impact of tight money and high interest rates. The following actions will help achieve this objective:

(a) An additional $6 billion should be authorized for the Tandem Plan under which GNMA will purchase FHA-insured mortgages or VA guaranteed mortgages on new housing. The interest rate under this and previous unused authorizations should be at 7%. This financing is urgently needed to achieve a reasonable continuing level of housing production under the market rate programs of FHA and VA—both rental and home ownership. The Tandem Plan authorzations should finance more than 300,000 new homes.

(b) An additional $3 billion should be authorized to the Federal Home Loan Bank System for a commitment program which will cover mortgages other than those which are FHA-insured or VA guaranteed. This will allow purchases of new conventional mortgages at 8¾% from savings institutions and finance more than 100,000 housing units. These commitments would be made on conventional mortgages of $35,000 or less covering new construction.

(c) There should be tax exemption on a prescribed amount of interest earned on savings deposits which are invested in mortgages.

(d) Authorize more flexible repayment plans which would permit young families and others to make smaller payments in the earlier years of the mortgage and larger payments when their incomes are higher.

(8) The Federal Reserve Board should use its authority to allocate more credit to housing as a priority need and less credit to lower priority needs. During this tight money period, such credit allocation will be an effective weapon against inflation.

(9) HUD should create simplified procedures and a sense of urgency in all its offices to accelerate action under its housing programs. These actions are necessary to achieve the largest possible volume of housing construction as soon as possible.

National Housing Conference, September 5, 1974.

THE DEATH OF CHARLES LINDBERGH

Mr. THURMOND. Mr. President, I would like to say a few words to commemorate the life and contributions of one of America's most celebrated heroes of this century, Charles Augustus Lindbergh. With his death at the age of 72 on August 26, 1974, America suffered the loss of a daring and courageous patriot and pioneer. Yet, though we are all saddened with his passing, I am sure the Nation joins me in extolling the accomplishments of this great American.

Born in Detroit, February 4, 1902, Lindbergh's father was a Swedish immigrant who served five terms in Congress, and his mother was a school teacher. At a very young age, Charles showed an intense interest in excitement and adventure. He was only 25 when he confounded the gloomy predictions of the experts and amazed the world with his historic transatlantic flight. Lindbergh's incredible journey across the Atlantic in his specially designed "Spirit of St. Louis" plane was not the first such crossing, but he was the very first person to accomplish this feat on his own and without stopping.

It is most fitting, I think, that we should again be acclaiming Mr. Lindbergh's historic transatlantic flight at a time when two other bold Americans, Maj. James Sullivan and Maj. Noel Widdifield, have just accomplished that crossing in a record time of 1 hour and 56 minutes. Even though it took Lindbergh over 16 times as long to make the journey, his feat should always be regarded as nothing short of amazing.

When the daring pilot safely landed on Le Bourget Field in Paris after 32 hours, 29 minutes alone in the air, his record-shattering success was broadcast around the world. "Lucky Lindy" came home to the United States to much deserved victory parades which lasted for months. President Calvin Coolidge presented him with the first Distinguished Flying Cross ever awarded, the Army promoted him from lieutenant to colonel in the Air Corps Reserve, and the U.S. Congress bestowed on him the premier accolade this body can give, the Medal of Honor.

Yet, true to the kind of greatness with humility that he exhibited, Lindbergh was not content to merely bask in his glory. Under the auspices of the Guggenheim foundation, the national hero made a tour of 85 cities in all of the then 48 States to promote the cause of aviation. He also shared his knowledge and aeronautical skills with commercial airlines, advising them on international routes, which he surveyed and charted.

Although Lindbergh was much criticized for his initial isolationist stand in the initial stages of World War II, after Pearl Harbor he immediately offered his services to the Army Air Corps as a civilian. Citizen Lindbergh made an invaluable contribution to Air Corps intelligence information regarding the strengths and weaknesses, of the German Luftwaffe. He then became involved in the Pacific theater, where he instructed American pilots in tactics and strategy.

He flew some 50 combat missions with his students and shot down at least two Japanese planes. Like another great American hero of an earlier era, Zachary Taylor, Lindbergh firmly believed that he could never ask or tell those under his leadership to do anything without being willing to demonstrate it himself. Lindbergh made a number of other contributions to the American war effort as a civilian, and in a fitting recognition of his bold and unselfish deeds on behalf of America, President Eisenhower, in 1954, restored his Army Reserve commission and promoted him to brigadier general.

Charles Lindbergh was throughout his life a very private person. True, he so distinguished himself as a hero and an outspoken individual that he was often in the limelight. However, he never sought public recognition, and in fact he spent much of his time trying to achieve privacy for himself and his family.

In his later years, General Lindbergh championed another great cause—that of ecology. He deplored the damage done to the world environment by many of the advances of civilization, including detrimental effects of the aeronautical and space sciences. In one of his more memorable quotes, General Lindbergh declared that:

> Short term survival may depend upon the knowledge of nuclear physics and the performance of supersonic aircraft but long-range survival depends alone on the character of man.

Mr. President, Charles Augustus Lindbergh was one of the foremost pioneers and heroes of aviation. He was a man with outspoken opinions about the role of his country in foreign affairs. He was a courageous participant in World War II, an outstanding author of three acclaimed books, a recognized authority on many aspects of aviation and rocketry, and one of the early ecological stalwarts. All of these and many other accomplishments clearly indicate that Charles Lindbergh was one of the greatest of Americans. I, along with all the citizens of this country, mourn his passing, and I extend my sincere condolences to the Lindbergh family. Yet, though saddened, I also feel a deep sense of gratitude and fulfillment, knowing that a man of the stature of General Lindbergh has lived so boldly and served his country so well.

ARE PRIVATE FOUNDATIONS FAILING THE AGED?

Mr. CHURCH. Mr. President, older Americans have received considerable attention from the Congress since the White House Conference of 1971, most notably in increased social security benefits, a broadened Older Americans Act, significant breakthroughs in the new housing act, establishment of a National Institute on Aging, and the pension reform bill.

As chairman of the Senate Special Committee on Aging, I take some satisfaction in the gains, even while I acknowledge that formidable challenges remain and sometimes increase in intensity. Inflation is one such challenge; so are the great gaps in medicare coverage.

Fundamental to any review of the well-being of older Americans, however, is the realization that governmental concern and action—while essential—

can do only part of the job. If the United States is to overcome the very real problems which still afflict older Americans, all of its strength must be tapped.

This means that churches, voluntary service organizations, labor unions, and the imagination and energy of citizens, young and old, should be brought into play.

For these reasons I was very much impressed by an article which appeared in the July/August issue of Foundation News, the Journal of Philanthropy. Mr. Jack Ossofsky, Executive Director of the National Council on the Aging, is the author, and he writes that foundations, on the national average, give less than 3 cents to aging out of every $10 they give for all philanthropic purposes each year. Furthermore, he argues that this imbalance is caused at least in part by negative attitudes to old age, and that great need exists for organized research and experimentation in new pilot programs intended to improve the well-being of the elderly. Such efforts could well complement governmental efforts and increase their effectiveness.

Mr. Ossofsky has raised important issues which should receive widespread attention. I ask unanimous consent to have his article printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Foundations Are Failing the Aged

(By Jack Ossofsky)

Foundations, recognized as pioneers in many areas of exploration, service and social experimentation, reflect some rather common stereotypes and reservations when it comes to our nation's elderly. Interestingly enough, there appears to be sound evidence that this is an area in which they are lagging behind public awareness and that the public is calling for more effort from them.

The May/June 1973 issue of *Foundation News* carried results of a Gallup poll revealing that the public feels "study of ways to help older people" should be a major priority of foundations. (It ranked third among 22 choices.)

The poll is in sharp contrast with what foundations are actually doing, according to the National Council on the Aging. NCOA, the foremost voluntary organization for research, development and training in the field of aging, has found that *foundations, on a national average, give less than three cents to aging out of every ten dollars they give for all philanthropic purposes each year.*

Aging received less than $2 million of nearly $800 million in foundation grants (of $5,000 or more) during 1972, according to figures reported by *Foundation News*. The ratio is consistent with that of 1971, when aging also received less than three-tenths of one per cent of all recorded grants. Youth agencies were receiving 10 times as much.

The disproportion is understandable since it reflects a pattern of the nation at large. Some societies are said to have a healthy respect for age. America is not one of them. Aside from connoisseurs of whiskey and antiques—and maybe a handful of romantics—aging has always had an uphill struggle among most groups for favorable recognition in our youth-oriented society.

The "youth," however, are living longer and in increasing numbers, adding size and visibility to the problem of ageism. A recently published book, "Aging and Mental Health," by Dr. Robert Butler and Myrna Lewis, describes ageism as:

". . . a systematic stereotyping of and discrimination against people because they are old, just as racism and sexism accomplish with skin color and gender.

"There is an added factor in ageism—unlike the racists and sexists who never need fear becoming black or female, ageists are all too aware that if they live long enough they will end up being 'old,' the object of their own prejudice. Ageism is a thinly disguised attempt to avoid the personal reality of human aging and death."

Old age as a clearly identifiable period of life to be anticipated by large numbers of the population is a recent phenomenon in western society. Surely one of the most dramatic features in our 200 years of nationhood, worthy of celebration, is the change in average life expectancy from about 38 years in George Washington's day to more than 70 years for both men and women in 1970.

Older people are the fastest growing segment of our society. In this century, the percentage of 65-plus has doubled, with the number increased almost sevenfold. Twenty million people are 65 or over, about the same as the total population of the 22 smallest states. At present death rates, that figure is expected to grow to 29 million by the year 2000. Persons in retirement, or nearing it, now constitute more than 15 per cent of our total population.

The change in the balance of age in the population came so gradually that it has only recently become evident. The added years caught individuals, families and institutions unaware and unprepared. As a result, old age is all too often plagued by poverty, chronic illness, a sense of uselessness, isolation and loneliness. Small wonder that few people have dared face the uncertainties of old age; many have avoided thinking about it as long as possible, conditioned substantially by a society that is locked into negative stereotypes about aging that show little cognizance of present realities.

As the numbers and proportions of elderly persons have visibly increased, rapidly and steadily, attention has slowly begun to focus on the quality of life in the later years. New social inventions have followed technical and scientific advances. Social Security and pensions undreamed of 50 years ago are now in effect. There are new dimensions in medical care and health insurance. Housing is and can be adapted to meet the needs of age. A revolution in transportation reduces distance from other climates and countries. There is a recognized period of retirement with freedom from work pressures, leisure time for rest and for enjoying life for its own sake or even for starting a second career. All are beginning to forecast a new life style in old age, since most older persons are in fairly good health, can care for themselves and live alone or with a spouse.

This self-sufficiency has created a vast new reservoir of capability that society is not using, because it continues to view older persons as problems rather than solutions to many of our societal ills. Foundations have a unique and challenging role to play in this new environment. In this period, foundations need to examine the extent to which their priorities and their programs reflect the growth of the elderly population, their potential for a new life-style and an investment in programs that would overcome barriers for the elderly and, not incidentally, the value for all society of the continuing contributions of its older citizens. An enormous potential exists for influencing the development of training, research and service programs needed to improve both the lives of older people and society's attitudes about them.

The age of new federalism that nurtures local and regional relationships with Federal money offers foundations a chance to make exceptional impact through matching arrangements. Foundation funds, representing only a fraction of the total cost, can be the catalyst for launching projects that otherwise might not reach even the blueprint stage.

The need for foundation help is acute, the time is crucial. Older persons have been drastically affected by domestic financial cutbacks on the Federal level, curtailing training, research and health care programs. Though a total of $30.2 billion has been earmarked for general revenue sharing over a 5-year period, with the aged specifically mentioned for priority attention, there is no guarantee that they will receive significant funding. The 50 states may use the funds for any legal expenditure (except to match Federal grants), and local units have a broad list of 8 categories in which they may spend the money received through fiscal year 1976.

Without specific protective safeguards, the "him-what-has-gits" syndrome is likely to prevail. In this context, those interests whose capacity and experience permit them to engage in power politics are apt to emerge with revenue sharing funds that in no way bear a relationship to the community's actual needs.

In an examination of revenue sharing in operation, the Washington Post reported that in New Jersey nearly two dollars in every three at the local level were spent for either public safety (45.5 per cent), including police cars, fire trucks, etc., or for capital projects (20 per cent). Lowest by far on the list of eight priorities was the category "social services for the poor and the aged," which, combined, received slightly more than one per cent.

In such circumstances—probably typical of inequities in most areas of the nation—the aged obviously will not fare well. But an equalizer could make the difference, and foundations are capable of providing it. The imagination soars when contemplating what might happen if a foundation expressed the desire to match a portion of a city's revenue sharing funds in establishment of a legal service program for the elderly, to launch a medic bus to visit shut-ins or to underwrite architect fees for construction of a senior center exemplifying the latest in design considerations for older people.

That these kinds of projects should be local government responsibilities and that foundation resources can't begin to have significant impact over the long haul are effective arguments in rebuttal. However, it can also be argued cogently that a decisive battle to change public policy cannot be waged in state and local communities until a process of education by example has taken place. Foundations could at least begin the process and perhaps inspire others to take up the banner by sponsoring suitable programs that bring aging into focus, give it visibility and enhance its prestige.

Similar opportunities for action, on national as well as local and state levels, exist with the passage of the Older Americans Act, signed into law by President Nixon on May 4, 1973. A compromise version of the $2.1-billion measure earlier vetoed by the President, the new law authorizes a total of approximately $545 million, plus "such funds as may be necessary" for programs over a 3-fiscal-year period.

This single act hardly solves all of the elderly's problems. The specific amount appropriated averages out to less than $8 per year for each person 65 or over, and most of it will go for planning. But it does provide for many historic breakthroughs in the level of funds, the strengthening of state commissions on aging, potential support for senior centers and in providing an atmosphere in which programs funded, partly or entirely, by foundations can flourish.

Evidence abounds that this can be a fertile field for foundations. While the percentage of all other groups living in poverty is diminishing, the percentage and number of the aging existing in poverty is steadily rising. Nearly 4 million persons 65 and over live at the poverty level, with incomes of less than $2,500 per year, according to the U.S. Census Bureau.

Citizens who are poor and/or old become the target of discrimination in many settings—in jobs, denial of pensions, lack of access to benefits otherwise available to the disadvantaged, in housing and the quality of health care, in taxes—and, yes, sometimes even in the confiscation of their property when they are needlessly confined to state or community hospitals and nursing homes, not because they are ill, but because they are poor or alone, and other appropriate facilities do not exist.

Fortunately, not all older people are poor. Many are affluent. But rich or poor, society's generally negative attitude about aging and the social structures we have built to accommodate older people seem to encourage their isolation and segregation. Dan W. Dodson, professor of sociology at Southwestern University, Austin, Texas, and professor emeritus of New York University, has observed that whenever a new group is formed in society, there tends to be a move to segregate them from the remainder and to fail to treat them as psychological or economic equals. Older people are such a group.

Foundations can spearhead a movement to eradicate the stereotypes that are prime deterrents to progress. It can be done through examination of programs for the aging, not in isolation, but with the recognition that their concerns are interrelated with those of the total society. This new yardstick can be applied to a wide range of programs foundations are funding at present. Assigning favored status to proposals broadened to include an aging component would be eminently practical and actually strengthen many such proposals. The Grants Index in any recent issue of this publication gives various examples of how the concept would work in practice.

In dealing with drug abuse, for example, there is a tendency to think of it primarily as a problem affecting youth. A redirection of these funds might be more effective if the donors were to express concern that both ends of the age spectrum be objects of attention. "Drug abuse in a variety of forms is of major significance in the aging but has received little or no attention," says Dr. Peter G. Bourne, director, Office of Programs, President's Special Action Office for Drug Abuse Prevention. "Older people are exposed to and consume quantities of drugs far in excess of any other age group," he observes, "and the potential for drug abuse in the aging is substantial."

In recent years, the country has finally grown to understand the importance of involving minority groups and meeting their special needs, and foundations have a distinguished record in this regard. This awareness is just beginning to emerge regarding aging among minorities, and foundations can be effective in accelerating the awareness by broadening the scope of grants presently earmarked for minorities. Much more knowledge must be gained, especially about older blacks, Mexican-Americans and Indians and about the quality of the facilities and services that would be in keeping with the cultural and ethnic desires of the older members of this minority population. Such emphasis could conceivably provide added insight as to heritage and customs, leading to more understanding and effective programs involving all members of these minorities of any age.

A similarly expanded standard could be applied to many other programs foundations are asked to fund. It does not seem unreasonable to suggest that proposals directed to the inner city or to a remote rural section should provide for the specialized needs of people 50 years of age and older, since they are likely to constitute the majority of inhabitants in either area. The social concerns might include employment, transportation, health care, housing, education and cultural services.

In these and other areas of aging, traditional formulas and attitudes are unlikely to bring about effective solutions. The willingness to innovate that foundations have so often demonstrated is in great demand to cope with the unprecedented range of problems concerning older people. The need for such flexibility in assessing programs that require funding support is especially apparent in the field of work. We are told by the U.S. Department of Labor that an "older worker" is anyone above 45 years of age. The Labor Department definition means about 25 million members of the work force are now facing, or beginning to face in varying degrees, a wide variety of associated concerns such as job security, second careers, pensions and life in retirement.

Approximately 10 times more people are receiving retirement benefits today than a generation ago. While not all working people retire—or can afford to—there is increasing evidence that for many of those who do, a major problem of the new leisure is psychological. Most simply don't know what to do with themselves, a problem with immense social implications. Neither society at large nor industry has recognized the need for preretirement plans for employees that extend far beyond the gold watch, a party and farewell. Nor has much yet been done to encourage second careers and new careers on a paid or voluntary basis for those who have been forced to retire. Though NCOA has conducted some retirement research, a great deal more is needed along with pilot projects to convince industry on a large scale of the issue's validity.

Ways to encourage employment of the middle-aged and older worker is another legitimate area for foundation involvement. NCOA has tested a system that matches physical capability with job requirements, with results so successful as to virtually eliminate age, per se, as a factor in employment. Passage of the Age Discrimination in Employment Act in 1957 has not solved the problem. NCOA's demonstration projects in industrial gerontology have developed tools that have the catalytic power to join the forces of foundations with industry and government, coordinating them to serve the older worker's job and health needs.

There is also a place for support of avante-garde concepts in which technology points the way to the future. Dr. Peter Goldmark, former head of CBS Laboratories and inventor of the long-playing record, has made a second career for himself by mobilizing communications technology in exciting new ways with special relevance to the problems of aging in health, education and recreation. Foundation investment in further development of the application of such technological concepts could, in a few years, bring within the grasp of the older population a large array of products, ranging from a new book invention for those with poor vision to a health bus with the technical sophistication of a modern health screening facility.

Less glamorous, perhaps, but certainly worthy of study are the rate and causes of suicide among the elderly. Most people prefer longevity to the alternative—but not everyone, especially men over 65. Males 65-69 commit suicide nearly twice as much as do males 20 years younger, and beyond age 85, men commit suicide 10 times more often than do women in the same age bracket. The statistics speak so loudly of misery, loneliness and despair that they virtually shout the command for attention to us all.

The housing arena is another in which a foundation's participation could provide needed insight that neither government nor private builders and realtors are providing. In the soon-to-be-published book "Planning Housing Environments for the Elderly," authors Gelwicks and Newcomer observe that "the housing crisis for the older person has reached such a critical state that facilities we are setting in concrete today may have a deleterious effect upon the health and well-being of a major portion of our population for many generations to come."

Cultural services also offer imaginative possibilities for funding. NCOA, in a year-long exploration with the John F. Kennedy Center for the Performing Arts in 1972, examined ways in which the arts and the elderly can join forces for their mutual enrichment We learned that such a service can be effective in reducing isolation and segregation of older people. The activity helps to bring people of all ages together, stimulating new awareness and understanding of the human condition unlikely to be achieved in any other way.

Another role for foundations to play is in developing new partnerships now required between aging interests and educational institutions because of the unprecedented need for expertise at local, state and regional levvels. Universities and community and junior colleges nationwide are showing interest in curricula to turn out more experts in the comparatively new profession of gerontology and to provide courses of study to attract older people.

A new educational consortium in behalf of older persons was established in June 1973, when the State of Colorado signed a contract for experts on aging to serve as consultants to Colorado institutions of higher learning in the development of curricula, training and organizational relationships. The Federal government provided approximately 75 per cent of the funds. For a comparatively modest sum, foundations in each state could similarly match Federal commitments, supplying the impetus to set the educational machinery of their areas in gear and replicate the pattern established by Colorado.

Once the precedent had been set, chances of program continuity probably would be bright, as each state would, no doubt, view the program as a state responsibility for subsequent funding and a necessary addition to its educational services.

The network to provide a focus for attention and the effective implementation of the various programs above, plus innumerable other possibilities, did not exist a generation ago. It does today in several forms in both the public and private sectors. Forming the most extensive network in the private area are senior centers in virtually every county in the nation. The National Institute for Senior Centers, a program of NCOA, is conducting a study for the U.S. Administration on Aging (AoA) that indicates that throughout the nation there are more than 10,000 centers or groups serving the aging, most being formed since the late sixties. Within government, presently emerging under the impetus of the Older Americans Act and the AoA are some 600 area agencies of aging whose mission it is to assess community needs of the elderly and to plan and coordinate the development of public and private resources to meet those needs.

Two decades ago, when the prime need in aging was to coordinate national programs just beginning to emerge and to provide a central source of information and involvement by the private sector, several foundations responded with the necessary money and leadership. A grant from the Ford Foundation resulted not only in the formation of NCOA as a separate entity, but also provided the basic "seed money" from which many of the subsequent efforts on behalf of the elderly have blossomed.

Today, we have a new set of conditions that require attention and provide new opportunities for imaginative, innovative leadership by foundations to meet the needs of the elderly, the fastest growing segment of American life.

The time for a "reseeding" is clearly at hand.

HOW MANY OLDER PERSONS WORK

More than 3.1 million, about 16 per cent of older people, are in the labor force—either working or actively seeking work in 1972. They make up 3.4 per cent of the U.S. labor force.

The male labor force participation rates have decreased steadily from 2 of 3 older men in 1900 to 1 in 4 in 1972; the female rate has risen slightly from 1 in 12 to 1 in 10.

THE INCOME SITUATION

Some are well off. About 850 thousand couples with 65+ heads had incomes of $10,000 or more in 1971. About 1.6 million older couples had incomes between $5,000 and $10,000.

Many are not well off. Almost 1.1 million couples (1 in 5) had incomes under $3,000 ($58 a week). Some 1.5 million older persons living alone or with nonrelatives (1 in 4) had incomes under $1,500 ($29 a week).

Almost 22 per cent (4.3 million) of older people lived in households with incomes below the poverty thresholds for 1971. Almost 2.6 million, or 60 per cent, of these poor were living alone or with nonrelatives; of these, more than 2.1 million were women, mostly widows. Of the almost 26 million poor persons of all ages, 16 per cent were 65+.

REMARKS BY GEN. DAVID JONES BEFORE AMERICAN LEGION CONVENTION

Mr. THURMOND. Mr. President, the problems of inflation affect not only the average citizen but also the Government's largest purchaser of goods, the U.S. Department of Defense.

This key point and others were made in a speech by Gen. David C. Jones, recently appointed Chief of Staff of the U.S. Air Force.

General Jones made his remarks in a speech on August 22, 1974, before the 56th Annual National Convention of the American Legion in Miami Beach, Fla.

In his remarks he stressed the necessity for maintenance of an adequate national defense. General Jones also emphasized President Ford's strong opposition to "unwarranted cuts in national defense."

Mr. President, this is one of the first significant public statements made by the new Air Force Chief. Therefore, I ask unanimous consent that it be printed in the Record at the conclusion of my remarks.

There being no objection, the address was ordered to be printed in the Record, as follows:

Remarks by Gen. David Jones, Before American Legion Convention

Ladies and Gentlemen of the American Legion:

I am deeply honored to represent the United States Armed Forces before as distinguished an organization as the American Legion. As the members of your oganization have been second to none in war, so have they been second to none in their dedication to responsible citizenship during peace. Likewise, the conduct of this great nation has been without equal as a very responsible leader of the Free World.

During the early years of our post-war leadership, we had a thermonuclear monopoly and then clear cut superiority. It is to the everlasting credit of this nation that we did act so responsibly while we had an unmistakable lead in nuclear weaponry. I doubt very seriously whether others would have acted so responsibly with such an overwhelming margin of strength.

The last few years, however, have seen a very decided shift in strategic power, and the balance is now very difficult to calculate with any precision. The relative positions of the United States and the Soviet Union tend to be obscured by a very complex dialogue on strategic posture which is undoubtedly confusing to many. The net result of the dialogue has been a general perception throughout the world that there is near parity or at least no clear cut advantage for either side. At least neither side has a disarming first strike capability; and both sides know such a capability is not achievable by either. Certainly the United States has no intention of pursuing a first strike capability, or of implying, either by word or deed, that such a course is contemplated.

To date, the shift in strategic posture has not yet been destabilizing. Our diplomatic efforts have lessened tensions and made important strides toward a cooperative solution to many difficult and dangerous world problems. And direct confrontation between the super powers has been avoided.

The military applauds this progress. Speaking for the Air Force directly and based on my close contact with the leaders of the other Services, I want to assure you that the Armed Forces solidly support initiatives to bring about a more stable international climate and to reduce the risks of war. In fact, the senior military people, nearly all of whom have seen the ravages of combat firsthand, are at the forefront in trying to insure a durable and enduring peace.

Nevertheless, there are a number of disturbing factors which compel us to view what may lie ahead with serious concern. First, the Soviets have great momentum in their research and development programs. They are developing four separate new ICBM systems, a new bomber, MIRVs for their large missiles, and a large panoply of other weapon systems. In addition, Soviet defense expenditures have increased substantially.

Second, there is the danger of complacency in the West. As I just stated, we strongly support the initiatives to relax tensions; however, we must not let the warm breezes of detente lull us into believing that Soviet capability has decreased—in fact, just the opposite is true.

Third, inflation, shortages of resources, and a host of other complex problems at home and abroad have taxed the public understanding and have sent many Americans looking for simple, quick and inexpensive solutions. And there are some who believe they have such solutions to the challenges of national security.

In my judgment, there are no simple and inexpensive answers. This has been well recognized by the Administration and the Congress in the support of our defense programs.

As troublesome as the required effort may be, we must squarely face the fact that the issues in the strategic field are exceedingly complex. They are difficult to define for public understanding and there are some significant factors which are not subject to precise mathematical calculations. The very multiplicity of terms which characterize the strategic dialogue tends to foster a desire for simplistic solutions; I refer to terms such as massive retaliation, assured destruction, counterforce, first strike, overkill, flexible response, sufficiency and a host of others.

The assured destruction theory is particularly appealing to some because it is relatively simple and less expensive. One version of the theory goes like this: It really doesn't matter what the Soviets build, or how many weapons they have, as long as we have an assured capability to destroy a large portion of their population and industrial base. This capability would presumably be sufficient to deter an attack on the United States and any additional capability is simply overkill.

On the surface, such a theory appears to have great logic, but the problem with this approach is that it treats America as an island unto itself. It implicitly assumes that the shadow of our nuclear umbrella falls only on the United States, and ignores the importance of our strategic deterrent for the wide range of substantial American responsibilities and interests concerning our Allies around the world.

We live in a world of increasing interdependence. Not just with natural resources, as was so dramatically demonstrated with oil, but with agricultural products, financial institutions, and virtually every field of business. Such interdependence and cooperation have provided increasing prosperity and diversity not only to our lives but throughout the world. They have also produced a complex and interlocking framework of international relationships. And these interdependencies have further increased our responsibilities—and our vulnerabilities. Embargoes, nationalizations, and export controls can have sweeping consequences for our lives.

The Free World looks to the United States for leadership in the international arena—not as the world policeman—but as a responsible leader, and as the only nation which counterbalances the strategic power of the Soviet Union. No one else can provide the strategic umbrella, and the impact of our capability has far broader consequences than merely defending American soil.

I could go on at great length in this complex area of strategy, and many difficult decisions lie ahead. As we consider our possible courses of action, however, we must think long and hard about what the worldwide impact would be if we, the Soviets, or the rest of the world believed the Soviets were gaining the upper hand. The result is very unlikely to be nuclear war but perhaps a slow and steady erosion of our world position.

As we look ahead, we must provide the options necessary to prevent this erosion. With the Soviet momentum in strategic programs and the long lead times required to develop modern weapons, it is imperative that we hedge against future risks with strategic research and development initiatives of our own. Our current efforts are intended to provide just such a hedge.

Another frustratingly complex subject to some is our contribution to the NATO Alliance. Here again, the real issues can be obscured by tortuous deliberations on offsets, burden sharing, specialization, force reduction, and the like. Simple approaches to complicated situations abound in this area as well, and one of these simplistic solutions is particularly dangerous—yet particularly difficult to dispel. This is the notion that we almost single-handedly provide for European defense and that we ought to withdraw and leave this defense to the Europeans. Such an approach continues to ignore the stark reality so painfully brought home twice in this century—that the defense of Europe is essential to our own. As I mentioned earlier, our interests and interdependence with Europe are deeper now than during either World War. Without question, our forces committed to NATO are deployed in defense of American interests just as surely as if they were stationed in Los Angeles, or Boston, or Miami. And these forces face a growing threat as the Warsaw Pact continues the momentum of its modernization.

Calls for unilateral American cutbacks in Europe also seem to assume that the Europeans will do more if we do less. Unfortunately, I fear such cutbacks would only stimulate a feeling of hopelessness in Europe and serve to undermine European determination. Although our NATO Allies can and should assume a greater share of the defense burden, their efforts *are* substantial and their combined forces *do* surpass our contribution by a wide margin. U.S. forces form an important and integral component of NATO's defense, but they fulfill a complementary—not a dominant role. The task of deterrence or defense in Europe must of necessity remain an Alliance responsibility. And within that responsibility, force reductions are the goal of current Alliance negotiations with the Warsaw Pact—negotiations which will certainly fail if we unilaterally withdraw.

While the issues I have touched upon are difficult, I certainly do not want to sound pessimistic. But the enlightened and solid support of the American people has never been more important. And here, I want to salute you and all the members of the American Legion for your dedicated efforts. Certainly no organization has worked harder or more consistently to practice responsible citizenship than the Legion. This meeting follows a week of intensive committee meetings and culminates another active year of service for which the nation is grateful. And I think such efforts are bearing fruit. In place of the national self doubt and pessimism so characteristic of our society a few years ago, I sense a rising confidence in our ability to pull together and solve our problems.

Much of the previous unthinking and frequently vitriolic criticism of the uniformed services is also being replaced by a healthier and more balanced understanding. As you know, a nationwide poll conducted last fall rated the military ahead of all other organizations—both public and private—in terms of mission accomplishment. My travels have also convinced me that public support and confidence in the military are on the rise. I was recently privileged to serve as Grand Marshal for the Minneapolis Aquatennial parade and the hundreds of thousands of people who turned out were very warm and convincing in their recognition of my role as the representative of the Armed Forces. But I realize that public support is a two-way street—that as problems grow in complexity, we in positions of responsibility have an increasing obligation to keep the public informed—that we must continuously earn the public trust and confidence.

In this light I want to assure you that your Air Force is without equal in the world today. Our people are well equipped, highly trained and motivated, and well disciplined. Our senior leaders—both officers and noncommissioned officers—are highly experienced and capable. As an organization, we stand ready to respond to any challenge. By way of example and also to emphasize some points I made earlier, during the recent Middle East war, it was your Air Force that flew F-4s non-stop from the United States to Israel, and delivered these aircraft at Lod Airport within 15 hours of execution.

It was your Air Force that airlifted half again as much equipment as the Soviets and delivered it over four times the distance in seven days less time. And finally, when we became concerned the Soviets might intervene, the entire U.S. military increased its readiness as a deterrent to any reckless adventures.

You should expect such a performance from the Air Force, but you can also be exceedingly proud of it. In fact, the very capability and determination we demonstrated during the conflict, strengthened our credibility throughout the world and enhanced our ability to help negotiate the peace with both Israel and the Arab nations.

To provide a quality force costs money, and this has been recognized by the President, the Congress, and a majority of the American people. Certainly, our defense expenditures have been substantial—and generally adequate. Still these expenditures have declined in every meaningful sense—as a percentage of federal spending, of GNP, and in terms of real purchasing power. In addition, military spending is painstakingly scrutinized and budgeted, with deep involvement by both the Executive and Legislative Branches.

Even with this scrutiny, however, problems will arise, particularly with weapons system acquisition and cost. In these efforts, we live in a glass bowl and rightly so, for when we deal with the weapons in our national arsenal, the stakes in both national security and economic responsibility are high.

As a result of inflation, cost overruns are now commonplace throughout our entire economy, but I do not mention this to avoid the responsibility for effective management. Some of our so-called overruns have in fact been due to faulty estimates either by us, by the contractors we are responsible for supervising, or by our pushing technology too hard.

In spite of our mistakes, however, our record is excellent and I believe it is important for the country to recognize that. As one of our sternest critics, Senator William Proxmire observed on the floor of the Senate last April, "Judging by the past fifteen years, the Department of Defense has faced and solved more management problems with greater success than any business in the world. I have criticized the Defense Department before and will do so again and vigorously. But in all fairness, they have done well in many respects and they deserve credit for it. It is reassuring to look back at the enormous problems the Defense Department has solved by wise management and sound decisionmaking."

In today's sophisticated world, the sound decisionmaking referred to by Senator Proxmire requires first-rate people and the Air Force places great emphasis on building a force of increasing professional quality.

I was pleased that the American Legion commended the Air Force last year—in Resolution 439—for achieving recruiting objectives despite a difficult environment. This year has been even more successful. After more than a year without the draft, we are not only meeting all of our requirements, but the quality of our recruits is higher than ever. More than 90% of our airmen are high school graduates and a substantial number have college credits.

One out of every five of our officers—or more than 20,000—has at least a Master's Degree, and nearly 1,200 of our officers have their Ph.D. or the like—and this does not count physicians or dentists. Even though most of these officers could command higher salaries in the civilian world, the vast majority are career professionals who are dedicated to the Air Force and the service of their country. No matter what measure you use—education, training, on-the-job performance, or compliance with laws and regulations—our young men and women are tops.

But our efforts to build a quality force—and quality attracts quality—must be based on a far broader and deeper understanding of the human individual than can be measured by any statistic. We must never lose sight of the importance of discipline and esprit in combat. History is replete with examples where a force superior in numbers was decisively defeated by the well-disciplined and tenacious execution of an opponent of lesser size.

We must also never lose sight of the moral and human aspect of discipline. We believe we have a solemn obligation to uphold and promote the principles on which our society is founded. This includes the recognition that people must be treated equally and as individuals. I disagree with those who fear that such an approach might breed permissiveness. Good discipline and good human relations are inseparable if we are to achieve our full potential in a climate of limited manpower and resources. Never before has individual initiative been more important or individual discipline more crucial. Our leadership must continuously emphasize both.

In closing, let me observe that it is perhaps trite but still true that we do not really appreciate what we have until we lose or leave it. I have always been proud of America but never more proud than during my years in Europe. During those years, I watched this country rise to the occasion again and again—the Vietnam settlement, the breakthrough with the People's Republic of China, strategic arms limitations, and the Middle East. I also found sincere respect and admiration for the United States by the Europeans—not just for our military capability—but for our genuine efforts to provide responsible leadership of the free world. We have not earned this respect by resting on our laurels, or by lessening our vigilance. And our position of leadership now carries with it not only greater opportunities but greater responsibilities than ever before.

Sometimes the burden of these responsibilities may seem heavy to the American people. But if we do not continue to shoulder this burden, there *is* no one to take our place. I know that you have all risen to the occasion before—often many times over. But each of us has the highest personal stake in the days and years ahead, and all of us need to stand up and be counted again.

Thank you.

BALLISTIC MISSILE DEFENSE

Mr. ERVIN. Mr. President, the September–October 1974 issue of National Defense, the official publication of the American Defense Preparedness Association, includes an article entitled "Ballistic Missile Defense," by the distinguished Junior Senator from Alabama (Mr. ALLEN), in which Senator ALLEN discusses the need for continued research and development of means to protect our Nation from nuclear attack. I ask unanimous consent that this informative article be printed in the RECORD as recommended reading for all.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BALLISTIC MISSILE DEFENSE

(By Hon. James B. Allen)

One of the most controversial defense programs in the United States today is that of ballistic missile defense, or BMD. It is controversial because it is felt by some to be expensive, it has been attacked by some members of the scientific community as not effective, and it is not clearly understood by the Congress or the public.

The latter is probably the biggest problem—and may explain the cliffhanging 49-to-48 vote in the Senate in 1972 that permitted a partial deployment of Safeguard, the Nation's BMD system. The best way to bring the entire BMD picture into focus is to review the history and rationale for BMD so that we may realistically and logically plot our future course.

Like it or not, the United States has the role of maintaining strategic stability for the West. We are living in a world dominated by two powers with opposing political philosophies. As Defense Secretary James R. Schlesinger pointed out during fiscal 1975 appropriations hearings, when we speak of "balances" or "defense posture" we are talking basically of those things as they relate to us and to the Soviet Union.

So, while we talk of detente and while we continue initiatives in our foreign relations, we must also be certain to maintain the strategic balance. To do less would, in effect, abrogate our **world position** and vacate the role that made detente a possibility in the first place. Very simply, the alternative is national suicide.

From the U.S. point of view, as long as we were the only country with an advanced rocket technology and a monopoly on atomic weapons, there was no problem. But as the Russians and other nations began to develop nuclear weapons and delivery systems the changing situation became cause for serious American concern (see Figure 1).

Realizing the potential of the intercontinental ballistic missile (ICBM) and submarine-launched ballistic missile (SLBM) to deliver mass destruction deep into the U.S. heartland, the United States began development of a ballistic missile defense system. The BMD mission is the destruction of incoming ICBM and SLBM nuclear warheads before they reach their intended targets.

A typical system consists of interceptor missiles, acquisition and tracking radars, data-processing equipment, and command-and-control communications. After requiring the incoming reentry vehicles (RV's), the radars provide data to the computers for discrimination and tracking and the computation and tracking and the computation of launch and guidance signals to the interceptor missiles which then must close to within lethal range of the attacking missile.

In the past 20 years the United States has had five major BMD systems in various phases of research and development, reflecting adaptations to shifting strategic and political conditions. The Nike Zeus, Nike-X, and Sentinel systems of the 1950's and 1960's have been replaced by the Safeguard and site-defense ssytems of the 1970's.

Nike Zeus was first fired in 1959 and made the world's first successful intercept of an RV in 1962. However, in 1963 it was determined that the mechanically scanning radars employed by the Zeus system could not cope with the projected Soviet threat. Therefore, the research and development program was reoriented and became the Nike-X system. Nike-X introduced phased-array radars to replace conventional radars, replaced the Nike Zeus with the long-range, 55-foot Spartan, and added a new short-range, high-speed, 27-foot missile, called Sprint, for close-in intercepts.

In 1967 Secretary of Defense Robert McNamara announced the decision that the U. S. would deploy a ballistic missile defense system. To be designated Sentinel, the system would utilize components developed under the Nike–X program. The plan called for a 17-site deployment for area defense of the continental U. S., Alaska, and Hawaii. The system objectives were threefold: (1) to deny or limit damage to the U. S. from the Chinese threat, (2) to provide limited protection of our Minuteman force against the Soviet threat with an option to thicken that protection with local defense, and (3) to provide protection against an accidental launch of a small number of ICBM's from any source.

The Sentinel system included sites near large cities for greater protection of population and industrial centers—a feature that proved highly unpopular with the public. The only site ever started was near Boston, where opposition became politically overwhelming. Furor also was raised over other proposed sites in Chicago, New York, Seattle, and Detroit.

When President Nixon took office in January 1969 he was confronted meeting stiff opposition from the public. He ordered a halt to deployment pending a review.

A choice had to be made, and the alternatives available to the new administration were these: (1) continue with the Johnson administration's program; (2) revert to only an R&D program on a Sentinel-type system; (3) terminate Sentinel and shift R&D to advanced BMD technology; or (4) redefine and reschedule the Sentinel program.

The fourth alternative was chosen, for several reasons. First, it was believed that the threat was real, that a defense was required, and that deployment was essential. Secondly, Sentinel was heavily oriented to the Chinese ICBM threat against cities, with little capability against the submarine-launched threat or as a Minuteman-site defense. This was in contrast with the fact that the Soviet threat to our ICBM's and bombers was growing more rapidly than had been projected, while the Chinese threat was progressing more slowly.

Thirdly, two-thirds of the Sentinel sites in the continental U.S. were to be located near major population centers. This could appear to the Soviets as the basis for a thick defense and a threat to their deterrent or second-strike capability. It was reasoned that while we wanted the capability to defend our cities against a heavy attack, it was not feasible and would only cause the Soviets to react with an increased threat. Further, many people were seriously concerned over the possibility of accidental detonation of the nuclear warheads carried by Spartan and Sprint, and they objected to sites near their homes.

After weighing these considerations, the President announced reorientation of the Sentinel program in March 1969. The new Safeguard program had these objectives:

Protection of the U.S. retaliatory forces against a direct Soviet attack.

Defense of the American people against the type of nuclear attack that Communist China could mount within the decade.

Protection against accidental attacks from any source.

The President further described the system as follows:

"We will provide for local defense of selected Minuteman missile sites and an area defense designed to protect our bomber bases and our command-in-control authorities. In addition, this new system will provide a defense of the continental United States against an accidental attack and will provide substantial protection against the kind of attack which the Chinese Communists may be capable of launching throughout the 1970's. This deployment would not require us to place missile and radar sites close to our major cities."

The number of deployed sites was reduced from seventeen to twelve, and their locations were shifted away from cities. Deployment of Safeguard was to be in phases, the first phase consisting of two sites, at Malmstrom, Mont., and at Grand Forks, N. Dak.

Even this reduced and reoriented program, remote as it was from population centers, was less than universally popular and touched off considerable debate in the scientific community, the press, and in Congress. However, the 1970 authorization passed the Senate, as did the 1971 bill—both by slim margins.

Meanwhile, testing of the Safeguard system was under way at Kwajalein Atoll in the Pacific where an impressive flight-test record of intercepts against both simulated and actual RV's launched from California was being compiled by Spartan and Sprint missiles.

Then, in May 1972, the SALT effort bore fruit, and an agreement was reached by the United States and the Soviet Union. The agreement was in two parts—the ABM Treaty and the Interim Agreement.

The ABM Treaty permitted deployments in two widely separated areas in each country—one for defense of the national capital and the other for the defense of an ICBM site. The size of each site was not to exceed 93 miles in radius and could contain up to 100 antimissile missiles. Each missile launcher must be land-based and fixed. Restrictions also were placed on radar size and numbers at each site. The treaty specifically allowed testing of new systems and modernization and replacement of deployed elements. This treaty has now been modified by the recent agreement between President Nixon and First Secretary Brezhnev which limits each nation to one site.

The Safeguard site at Grand Forks, N. Dak., has been selected as the single ICBM defense site allowed by the agreement, and construction is now nearing completion. Work on the Montana site was discontinued, and no action had been taken to provide a BMD site in the Washington area. Russia will probably continue with the Moscow defense complex.

Under the Interim Agreement each side agreed to limit its offensive missile launchers to that number operational or under construction at the time of the agreement.

When the U.S. Senate voted to ratify the Interim Agreement on offensive weapons and the ABM Treaty, mine was the only vote cast against both. Significantly, some of those who voted *for* ratification now agree that, in retrospect, the quantitative ceilings set by SALT appear greatly to favor the Russians who are permitted 2,360 launchers, including up to 950 submarine-launched vehicles, as opposed to a total for the United States of 1,710 launchers, including up to 710 SLBM's.

In terms of numbers, then, the United States lost its front-runner position in the missile race and has, in total number of boosters at least, failed behind the Soviets. Under the agreement, the Soviets are allowed 38 per cent more strategic boosters than the U.S. and with a significant throw-weight advantage.

In his testimony to the Congress on the fiscal 1975 military budget, Secretary of Defense Schlesinger recalled President Kennedy's conclusion, reached in the early 1960's that the United States needed "alternatives other than suicide or surrender."

"If anything," Secretary Schlesinger said, "the need for options . . . is more important to us today than it was in 1960."

He confirmed that in recent years the U.S.S.R. has been pursuing a vigorous research and development program. "This we had expected," he said, "but its breadth, depth, and momentum as now revealed comes as something of a surprise to us."

Secretary Schlesinger added these points: During 1973 the Soviets tested four new ICBM's—the SS–X–16, –17, –18, –19—and have developed their first MRV (multiple reentry vehicle) for a submarine-launched missile. Three of the four new ICBM's have been flown with multiple independently targeted reentry vehicles (MIRV's). The SS–X–18 has about 30 per cent more throw weight than the current SS–9 it will replace. The -17 and -19 missiles have three to five times the throw weight of the SS–11's they will replace. If all three new ICBM's are deployed, Soviet throw weight will reach an impressive 10 to 12 million pounds. They would then possess a major one-sided counter-force capability—and that is impermissible from our point of view.

What this tells us is that once again we have grossly underestimated the Russians—both their intentions and their technical capabilities.

The counter to this massive Soviet capability is the U.S. strategic deterrent force made up of land-based ICBM's, sea-based SLBM's, and Strategic Air Command bombers. Together these elements constitute the "triad" which is the basis of America's retaliatory capability.

This combination of three different strategic-offense force elements compounds the Russian's first-strike problems. Each force element would have to be brought under attack simultaneously and without meaningful warning to the other two—a difficult problem that increases the Soviet's uncertainty. In addition, the Russians must use a different detection system to locate each element and a separate defense to protect themselves from a retaliatory response *from* each triad element.

The triad combination is effective in other ways, too, since it prevents the Soviets from concentrating their scientific, technological, and economic resources against any single element of the triad.

If the U.S.S.R. should make a major breakthrough against any one element of the triad, the remaining two elements still would provide a significant measure of deterrence until the U.S. could respond to the Soviets' initiative.

The vulnerability of Minuteman is of special concern in light of our policy of flexible-response options. The options place extra importance on Minuteman because of its targeting flexibility, higher accuracy, payload diversity, and reliable command and control. Moreover, in contrast with our submarine-launched missiles, Minuteman is a stabilizing deterrent. No matter what the circumstances, an attack on Minuteman requires an attack on the U.S. homeland. Presumably, such an attack would result in a major U.S. response—something the Russians would want to avoid. On the other hand, an attack on a missile submarine at sea does not involve U.S. soil and might even be made without nuclear weapons; this is an attack the Soviets might be more willing to risk.

Thus, survivability of our retaliatory force becomes the key to a viable triad, coupled, of course, with the ability to penetrate the enemy defenses.

Penetrability is ensured by our own ICBM and SLBM penetration aids, such as chaff, decoys, and MIRV's. Penetrability also is at the very heart of the B–1 bomber program.

Survivability, or "survivable basing," to use the vernacular, is achieved differently for each member of the triad. In the case of the submarine, survivability is provided by concealment somewhere in a vast ocean. The mobility of bombers offers survivability for that delivery system. And, for land-based Minuteman sites, the ability to survive is provided by "hardening" the launch area against enemy attack, augmented by an active defense.

The "active defense" today is the Safeguard system site nearing readiness in North Dakota.

Survivability of Minuteman against the 1974 threat, which Safeguard is designed to handle, is considered by defense officials as "acceptable." The Safeguard design is good, and the system has proved itself by an impressive record of intercepts of actual ICBM's over the Pacific. But the design is of the early 1960's, and the system employs the technology of the 1960's against a threat level conceived in the 1960's.

But we are now in the mid-1970's—and the Soviets have not been idle. Technology has changed and so has the Russian knowledge of it. As the Soviets continue to improve their land- and sea-based launchers, Minuteman survivability will be far from "acceptable" in the 1980's.

Survivability of our present-day triad is at least partially due to the low reliability and poor accuracy of Russian weapons—factors which the Russians are working to correct through extensive research and development. Such improvements, all clearly allowed under SALT I agreements, could become a serious menace to Minuteman survivability as early as three or four years from now. Add to that the larger Soviet throw weight, improved technology, and an increase in the number of MIRV's the Russians can toss, and the number of Minuteman missiles that could survive an ICBM attack becomes an alarming question.

In recently released testimony before a Senate Foreign Relations subcommittee, Secretary Schlesinger illustrated the impact of Soviet missile accuracy on the number of Minuteman silos surviving a Soviet first strike. His baseline curve showed a potential of as low as fifty Minuteman survivors. Although this number would increase for poorer Soviet accuracy or fewer warheads used in the attack, the message is alarming.

To put it bluntly, Grand Forks, with the present Safeguard system, soon will not be defensible and therefore will be unable to carry out its retaliatory mission.

What can be done? The answer lies, generally, in what the Russians are doing—and that is continuing research and development work. Specifically, we must continue work to develop a system to augment Safeguard to meet the 1980 threat level. Such a system must be designed with one mission in mind—defense of the Minuteman launch sites.

Site defense is a program to create the capability to provide a needed terminal defense of Minuteman against a larger and more sophisticated threat than the present Safeguard system can handle.

Numerous Army and DOD studies have shown that active defense of the hardened dispersed Minuteman force is less costly with a new modular terminal defense system (site defense) than modifying Safeguard components to the same threat and effectiveness criteria.

Acceptance of these study conclusions and validation of system feasibility resulted in the initiation in 1971 of the site-defense program as a long-term hedge against political and technological developments.

The site-defense system is being designed and tested to accommodate a credible, but very advanced, defense-response to the Soviet offensive threat. The system is fully responsive to U.S. national security interests—providing low-cost, nonprovocative insurance against many of the substantial uncertainties in the strategic environment.

Site-defense components consist of phased-array radars, associated data processors, and modified Safeguard Sprint interceptors (Fig. 2). The radar is similar to the Safeguard missile-site radar, but it is smaller and requires less power. The data processor is a highly cost-effective adaptation of a commercial computer. The Sprint II missile incorporates modifications that increase performance (accuracy, reliability, maneuverability, and hardness) and reduce operation and maintenance costs. The basic elements are arranged in modules, so that if one or more of the radars of a module are momentarily blinded by warhead detonations, their functions can be performed by the remaining radars.

The technical advances of site defense would increase Soviet uncertainty regarding U. S. defense system characteristics and introduce to the Kremlin some defensive unknowns, such as reliability, kill probability, and intercept altitude.

Such unknowns would tend to incorporate conservatism into Soviet calculations and show a higher number of Minuteman survivors. This uncertainty in itself becomes a deterrent against a strategic first strike.

Of immediate advantage, development of the site-defense system will provide the U. S. with the option of responsively deploying a strategically significant defense of Minuteman should it be necessary.

A responsive deployment option is critical to the deterrence potential of the site-defense system. The ABM Treaty allows the deployment of up to 18 new radars and 100 missiles at Grand Forks in addition to the Safeguard radars.

One means of providing a readily expandable base for any emergency would be actually to deploy five or six skeleton site-defense modules at Grand Forks with fifteen to twenty missiles in each. This would provide a means for rapid augmentation to full site capability in the shortest possible time should the treaty be abrogated. It might also buy the time necessary for full deployment.

It is not the intent here to support any one element of the triad at the expense of the other two. All three are essential to a viable strategic deterrent force.

But the vulnerability of Minuteman demands special attention because of our dependence on flexible-response options.

As stated earlier, the SALT agreements, while limiting offensive strategic weapons, did not curtail research and technology development. In permitting a "qualitative race" to continue, the advantage in potential growth areas is in favor of the Soviets. Maintaining a viable deterrent hedge through site defense is the only logical approach to confronting the Soviet threat within SALT.

It is my firm belief that we must increase our weapons research and development activities across the board. Ballistic missile defense cannot be conjured up on the spur of the moment. The capabilities come as a result of continuous work. It is on new technology that our survivability as a nation rests.

In short, Ivan must not only believe we have the *will* to respond, he must also believe we have the *means*. Uninterrupted development of the site defense prototype can give us the means. There is no alternative we can live with.

APPLICATION OF THE FEDERAL WATER POLLUTION CONTROL ACT TO FEDERAL FACILITIES

Mr. BAKER. Mr. President, a question has arisen as to the meaning and intent of language in section 313 of the Federal Water Pollution Control Act, as amended in 1972, that requires Federal agencies to make ". . . payment of reasonable service charges," incident to the requirement that they "... comply with Federal, State, interstate, and local requirements respecting control and abatement of pollution to the same extent that any person is subject to such requirements. . . ."

As a member of the Public Works Committee which developed this provision in Public Law 92–500, the 1972 amendments to the act, and of the conference committee which resolved the differences between the House and Senate on Public Law 92–500, I wish to help indicate the clear intent of this language.

It is my recollection that the language on payment of such charges was intended to authorize Federal agencies' compliance with such requirements even if, for example, this meant that an agency had to pay a charge or fee to a State as part of a requirement that the agency obtain a State effluent permit under section 402 of the act.

I have often told my good friends in the Federal agencies and departments that I expect them to be exemplars in their compliance with our environmental laws and regulations. I trust that this clarification of the intent and meaning of section 313 of the Federal Water Pollution Control Act will help remove any misapprehension they may have as to how far they should go in meeting such requirements.

THE GENOCIDE CONVENTION AND INTERNATIONAL TREATIES

Mr. PROXMIRE. Mr. President, many who argue against the Genocide Convention claim they fear the ratification of an international treaty which sets guidelines for the actions of American citizens and the Government. While these critics certainly do not wish to condone genocide—acts undertaken with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group—they do not want to enter into any international treaty which might restrict the options for action open to the United States.

I fail to see the cogency of this argument in light of the number of other international treaties and conventions to which this country is a party. In 1973, the Senate ratified the Convention on International Trade and Endangered Species of Wild Fauna and Flora, which obligated the United States to work to protect certain endangered species. Pursuant to the ratification of that and several other treaties, the Congress enacted the Endangered Species Act of 1973 to implement the guidelines suggested by these treaties. These treaties by international agreement prevent Americans from hunting certain species. If we are willing to enter into treaties to end the destruction of seals and polar bears, why will we not ratify a treaty which seeks to prevent the slaughter of humans?

Another relevant treaty to consider is the convention relative to the treatment of prisoners of war which was signed on August 12, 1949, and went into force for the United States on February 2, 1956. This convention, which was also ratified by the Senate in another form in 1932, prescribes international rules governing the treatment of prisoners. It commits the United States to act in a certain manner. If we are willing to participate in an international treaty which seeks to safeguard the lives of captured combatants, why will we not ratify a convention which seeks to protect large groups of innocent noncombatants?

Mr. President, the Senate has ratified other international agreements for the protection of various groups, and it is shocking that we have failed to ratify this treaty which would protect the world's people from the scourge of genocide. I call on the Senate to ratify the Genocide Convention with the greatest haste.

FILLING STRIP MINE SCARS

Mr. HUGH SCOTT. Mr. President, in view of the current conference on the strip mine bill, and particularly in view of the plan proposed by Congressman Joseph McDade—Lackawanna County Pennsylvania Republican—for financing the abandoned mine reclamation fund, I ask that two editorials be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

Filling Strip Mine Scars

The strip mine control bill passed by the U.S. House of Representatives recently is a good bill, but it's going to need help if a meaningful provision to fill abandoned mine pits of the past is to be approved in House-Senate conference.

The House bill varied in some respects from the strip mine control bill approved by the Senate, and the differences will be worked out in conference. One major difference is the method of paying for filling abandoned strip mine pits left open years ago when there were no effective surface mining laws.

Congressman Joseph M. McDade, Lackawanna County Republican, whose district, like our own area, is not lacking in abandoned strip mine holes, has come up with a financing plan which we believe merits strong public backing.

The McDade plan, already approved by the House, is now dependent on the House-Senate conference for eventual passage. Members of the Senate generally, and the conference committee in particular, should be made aware that the public supports the McDade plan.

In brief, the Lackawanna Congressman persuaded his House colleagues to establish a $200 million abandoned mine reclamation fund. He estimated that some 2.5 million acres of land in 29 States, much of it in Pennsylvania, have been "victimized by 100 years of unregulated mining practices." Total cost of this reclamation is estimated at $10 billion.

"Currently," McDade pointed out, "almost eight billion dollars goes into the U.S. Treasury from activities in connection with the leasing of the Outer Continental Shelf, primarily in the Gulf of Mexico. These receipts originate from the auctioning at the high dollar bids for the privilege of exploring for oil on federally owned lands in the Gulf." From that, $200 million would be set aside each year for the reclamation.

The Senate version is far less acceptable. It authorized $80 million to be funded out of general receipts of the Treasury and authorizes future Congresses to decide what funds to use. It is unacceptable because it appropriates for only one year, makes no definite provision for the future, and takes the money from the general fund. Also, one needs no crystal ball to guess who would be required to replenish the fund.

In House debate on the bill, Democratic Congressman Morris K. Udall of Arizona, a prime mover of the strip mine regulation act, spoke forcefully for the McDade amendment, asserting that the area Congressman "has done a real service in giving us an alternative that enables us to avoid a lot of these difficulties and arguments that may prevent us from having any kind of a fund."

We agree with Mr. Udall—the McDade plan makes sense, and merits inclusion in the final version of the nation's strip mine control reclamation law.

Paying for Mine Restoration

During the recent hot debate in the U.S. House of Representatives on the strip mining bill, there was agreement that something should be done about restoring the 2.5 million acres of land in 29 states destroyed by 100 years of past mining practices.

But there was wide disagreement on how to pay for it.

The Senate already had passed a bill calling for $80 million to be provided out of general receipts of the U.S. Treasury, authorizing future Congresses to decide what funds to use from "time to time" for land reclamation.

Many congressmen feared this was too shaky a basis. Rep. Morris Udall, D-Ariz., said such requests would fall in line "behind the foreign aid for Albania and behind the fund for Tea Tasters Board and behind the Disarmament Agency . . ."

Others wanted the burden to be on the coal companies, arguing that industry was responsible for the spoliation. Various levies per ton of coal were proposed.

Then a Republican congressman from Pennsylvania, Joseph McDade from Scranton, came up with an ingenious proposal which eventually was adopted as part of the House measure. His idea: earmark for strip mine reclamation $200 million in annual revenues received by the federal government from petroleum leases on the Outer Continental Shelf, primarily in the Gulf of Mexico. (In fiscal 1974 $6 billion in receipts came from this source, and this is expected to go up to $10 billion by 1976.)

The idea immediately caught fire as a way out of the dilemma. Mr. Udall praised "the very innovative proposal of the gentleman from Pennsylvania. . . . In that way we do not have to fight the howl of the utility companies and their customers who say they will have to pay for past sins, and we do not have to fight the fight of East against West, and we do not have to fight the fight of the deep mines against the surface mines."

That makes sense to us. Of course, we are well aware of the truth voiced by Rep. John Dent, D-Pa., that people will be deluded if they think the offshore revenues "will be paid from out in space somewhere." As he noted, the customers eventually will foot that bill, too.

But a review of the conflicting interests involved, well summarized by Mr. Udall's ironic statements, persuades us that the McDade amendment is the best way out. We hope the Senate-House conference committee will write it into the final measure.

SENATORS GRUENING AND MORSE: PROFILES IN CONSCIENCE

Mr. CHURCH. Mr. President, America has lost two men in recent weeks whose names will always be linked in profiles of courage and conscience when the history of the turbulent era of Vietnam is written.

Ernest Gruening and Wayne Morse were good Senators. But they were greater Americans. On August 8, 1964, they stood alone in this body and voted against the Gulf of Tonkin resolution—a most ill-advised blank check for war.

Time, of course, proved both men correct in their assessment of the American tragedy in Vietnam, and both lived to see a majority of their fellow Americans come to agree with them.

In a recent issue of the newsletter of the National Committee for an Effective Congress, an eloquent tribute was published honoring Wayne Morse and Ernest Gruening. I call it to the attention of my colleagues, and ask unanimous consent that it be printed in the Record.

There being no objection, the tribute was ordered to be printed in the Record, as follows:

Gruening and Morse: A Legacy of Conscience and Courage

On August 8th, ten years ago, Ernest Gruening and Wayne Morse stood together, the only Senators to vote against the Gulf of Tonkin resolution. Both insisted that the resolution was unconstitutional, because it was "a predated declaration of war power" reserved to Congress.

Gruening had been supported by NCEC in each of his Senate elections, but in 1968 he was defeated in a primary upset. He had nurtured and led the Alaskan territory into the Union through 14 years of tireless lobbying. "Go north, young man," was his motto. His life, so well described by his autobiography, *"Many Battles,"* covered fourscore and seven years of intrepid crusading. Physician, editor, author, administrator, and Senator, he was constantly focused on the human condition. Eskimos, Indians, Puerto Rican Nationalists, anti-Franco Spaniards, all reached for him as their champion.

Amazingly, his incisive mind never tired. Only his body failed to keep pace, and on June 26 he died. But almost to the end he was involved, battling for conservation, for population control, for an effective Congress. A few weeks before his death he phoned NCEC's Washington office to say he would be sending his regular contribution and wanted to discuss the Committee's campaign choices in the coming election. He believed that the congressional outcome this year would set the presidential stage for 1976.

Like his friend Wayne Morse, it has been said of him that all too often he was right too soon. The greatest tribute to Ernest Gruening is that history is confirming his judgments and his warnings.

A novelist once wrote that every Frenchman has two home towns, his own and Paris. In that sense, every American has his own Senators—and Wayne Morse. He was a national senator, transcending party, the Senate's inner club, and all so-called pragmatists. That is why the NCEC supported him, worked with him, argued with him, loved him.

He did not live in the "changeless center," as his colleagues found out when he compelled them to act on civil rights, on education, on facing up to their responsibilities. He made them move by relentlessly driving himself. He was the tiger of the Senate. He was known as "the five o'clock shadow" because each day he would unfailingly take the floor late in the afternoon, delaying adjournment for hours, to denounce the latest attempt to give away federal land or to castigate an agency for flouting congressional intent. The President of the United States felt his stinging rebukes for cutting the corners of the Constitution on Vietnam.

He held with Edmund Burke that a representative's first loyalty must be to his own judgment, so he took counsel with his conscience and had the courage to act on it. There was no alloy in his moral metal. As a Republican, he worked to draft Eisenhower in 1952 but left the GOP over the platform and the choice of the running mate, Richard Nixon. Years ago, a dismayed Dixie Senator discovered Morse eating with a Negro friend in the senators' private dining room, and said, "At least, Wayne, you practice what you preach."

Morse's instinct for the jugular was infallible, as five Presidents, Clare Booth Luce, and a host of pompous politicians found out. He was cantankerous, but also he was a superb parliamentarian and legislator, producing a body of fundamental law for education, labor and civil rights.

How does one compress all that this one man did, worked for, and tried to do for an effective Congress in a few lines? He seemed to have the attribute that is lacking in today's politics, something that is missing in today's Senate. What was it that made him so uniquely creative and effective? Was it the fire in the belly, the sharpness of the tongue, the quickness of the mind, the willingness of the heart? How does one say that is missing from today's Senate in a couple of words?

Wayne Morse.

PENDING NOMINATIONS

Mr. HUGH SCOTT. Mr. President, in order to keep my colleagues informed of the intentions of the administration on pending nominations, I would like to share with them a list of nominations which the President has had an opportunity to review and which he approves and reaffirms. I ask unanimous consent that this list be printed in the Record in its entirety.

There being no objection, the proposed nomination list is printed in the Record, as follows:

Name, position, and date nominated:

Cobb, Jewel P., Member of National Science Bd., National Science Foundation for a term expiring May 10, 1980, June 26, 1974.

Coors, Joseph, Member of Board of Directors of the Corp. for Public Broadcasting for a term expiring March 26, 1980, August 7, 1974.

DuPont, Robert L., Jr., Administrator of the Alcohol, Drug Abuse, & Mental Health Administration, July 16, 1974.

Geimer, William W., Director, Intergovernmental and Regional Relations, Federal Energy Administration, July 29, 1974.

Greenwalt, Lynn Adams, Director of the U.S. Fish and Wildlife Service, July 29, 1974.

Gresham, Robert Coleman, Interstate Commerce Commissioner for a term of seven years expiring December 31, 1981, June 3, 1974.

Habib, Philip C., Assistant Secretary of State, August 2, 1974.

Hackerman, Norman, Member of National Science Bd., National Science Foundation for a term expiring May 10, 1980, June 26, 1974.

Hubbard, William Neill, Jr., Member of National Science Ed., National Science Foundation for a term expiring May 10, 1980, June 26, 1974.

Kauffman, John William, Member of the Bd. of Regents, Nat'l Library of Medicine, Public Health Service, for a term expiring August 3, 1977, February 7, 1974.

Name, position, and date nominated:

Kingsley, Daniel T., Member of the Federal Power Commission for the term of five years expiring June 22, 1979, May 20, 1974.

MacLane, Saunders, Member of the National Science Bd., National Science Foundation, for a term expiring May 10, 1980, June 26, 1974.

Meskill, Thomas J., U.S. Circuit Judge, Second Circuit, August 8, 1974.

Murray, Grover E., Member of National Science Bd., National Science Foundation, for a term expiring May 10, 1980, June 26, 1974.

O'Melia, Richard Joseph, Member of the Civil Aeronautics Bd., for the term of six years expiring December 31, 1980, May 21, 1974.

Rice, Donald B., Jr., Member of the National Science Bd., National Science Foundation, for a term expiring May 10, 1980, June 26, 1974.

Shields, L. Donald, Member of the National Science Bd., National Science Foundation, for a term expiring May 10, 1980, June 26, 1974.

Silbert, Earl J., U.S. Attorney for the District of Columbia, January 30, 1974.

Smith, Eddie G., Jr., Member of the Board of Regents, National Library of Medicine, Public Health Service, for a term expiring August 3, 1976, February 7, 1974.

Trione, Henry F., Member of the Board of Directors of the National Corporation for Housing Partnerships for the term expiring October 27, 1977, August 5, 1974.

Varner, Durward Belmont, Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1980, April 30, 1974.

Zumberge, James H., Member of the National Science Bd., National Science Foundation, for a term expiring May 10, 1980, June 26, 1974.

THE PRESENT AGRICULTURAL ECONOMIC AND PRODUCTION SITUATION

Mr. TALMADGE. Mr. President, I had a member of my staff bring together in outline form some facts and figures pertaining to the present agricultural economic and production situation.

With the thought that this information will be informative to my colleagues, I ask unanimous consent that this material be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Agricultural Research

(Prepared for U.S. Senator Herman E. Talmadge, Chairman of the Committee on Agriculture and Forestry)

I. FARM DEBT

A. Outstanding farm debt totaled $81.7 billion at the end of 1973, up $8.1 billion from a year earlier, $14.8 billion above the ending 1971 level.

B. The growth in farm debt exceeded 22.1 percent during the past two years, the largest two year gain since the early fifties.

C. Outstanding real estate debt totaled $41.7 billion at the end of 1973, up $8.4 billion from two years earlier.

D. Net realized farm income rose to $17.5 billion in 1972, 34.5 percent above the year earlier.

E. Net farm income for 1973 totaled $32.2 billion (84 percent gain from 1972).

II. FARM PRICES

A. In the last 25 years (1947–72) rising farm prices have accounted for only 16.5 percent of the increase in food prices, while the other 83.5 percent was due to increases in cost of the preparing and moving of food from the farm gate to the consumer.

B. Marketing costs have more than doubled in the last 20 year period. (These costs increased by $50.8 billion during this period, from $31.5 billion to $82.3 billion.)

C. Farm production costs have more than tripled since 1953, increasing from $21.5 billion to $64.7 billion in 1973.

III. SUPER FARMS

A. 109,000 super farms, each with sales of $100,000 or more turned out 45.7 percent of the nation's food and fiber last year.

B. Small farms with sales of only $2,500 or less produced a declining share of U.S. farm goods. These rural residences accounted for only one percent of the 1973 output.

C. These figures showing sales values indicated that many farmers advanced into higher brackets, because 1973 was a top year for most production, but mainly because prices averaged 36.5 percent higher than in 1972.

D. 109,000 super farms sold commodities worth $100,000. (this number increased from 70,000 farms in 1972)

E. 753,000 farms in the $2,500 or less category made up 26.4 percent of the U.S. total. These accounted for 1 percent of sales, down from 2.1 percent in 1972.

F. Nationally there were 26,000 fewer farms in 1973 than in 1972.

G. The $100,000 sales farms got 34.8 percent of the total net income although representing only 3.8 percent of all the farms in the country.

IV. FARM INCOME

A. Per capita disposable income of farmers in 1973—from all sources including jobs in cities—exceeded for the first time the average take home pay of city and other nonfarm people.

B. It rose to $4,820 on a farm per capita basis, compared with $3,153 in 1972.

C. Per capita disposable income of nonfarm people rose to $4,270 last year, a gain of $394 compared with the boost of $1,667 for farmers.

D. In 1972, farm disposable income topped nonfarm per capita income by 12.9 percent.

V. THE MIDDLEMAN

A. The spread between what housewives pay for food and what farmers get for the same foods has widened.

B. In August, 1973 farmers were getting a high $.52 of every dollar that the housewife spent for food; in May, 1974 their share was down to $.40. The remaining $.60 went to the middleman.

VI. FARMLAND VALUES

A. Value of one acre of farmland rose 24.7 percent between March, 1973 and March, 1974.

B. Georgia values averaged 31.3 percent more than in March, 1973.

C. This upswing in value surpassed that long time record, 22 percent, set in March, 1920.

D. Figures are based on approximately 125,000 sales of over 40 million acres of farmland.

VII. AGRICULTURAL PREDICTIONS

U.S. crop production estimates are down drastically due to heavy spring rains and severe drought, which hit the midwest in July. As a result, Administration hopes of abundant supplies for domestic use, exports, and food aid have been slashed.

While all crop production estimates as of August 1 were down 7 percent from last year, the most severe blow was in corn production, which dropped by 1.7 billion bu., and 26 percent below the April estimate of 6.7 billion bu. Even the USDA's optimistic analysis puts the corn carry-over figure from the 1974–75 crop as low as 340 million bu. The average yield is predicted to be 77.8 bu. as compared to last year's 91.4 bu.

All Feed Grains, including corn, sorghum, oats and barley are now estimated at 175 million tons. That's down 15 percent below 1973. The USDA says that even with reduced projections of domestic use and exports, "total use may exceed output." Sorghum production alone is down 34 percent below last year to 619 million bu. Carry-over for all feed grains is estimated to be down from 20.6 million tons this year to a low of 13.6 million tons next year. That is equal to about 22 to 25 days of feed grain supplies and is virtually at the vanishing point.

The Soybean crop production estimates, at 1.3 billion bu. are 16 percent below last year. Rains in early August could improve that situation slightly, but the USDA warns that "an unusually high degree of uncertainty remains." If their predictions prove accurate, the 1975 carry-over will be as low as 50 million bu. or 12 to 25 days supply.

Wheat production at 1.8 billion bu., is down 4 percent below the July forecast and 11.2 percent below the April forecast, but 8 percent above last year's crop. If demand for domestic and export use is reduced from 3 percent to 7 percent, the 1975 carry-over will be between 332 and 382 million bu., or only 60 to 70 days supply. That is the lowest since World War II, with the exception of this year, when carry-over is placed at 249 million bales.

Cotton production estimates are down 2 percent below last year to 12.8 million bu. The national average yield is down 49 pounds per acre to 470 pounds. Carry-over next year is expect to be between 3.3 and 4.3 million bales.

The rice crop is expected to amount to 107 million cwt. That's a 15.3 percent increase over 1973, but slightly less than last month's prediction, and 3.6 percent below the April estimates. The USDA called the rice predictions a "bright spot" in the crop production report, but in terms of the overall food needs, it is relatively insignificant.

Estimates of the sugarbeet crop are down 8 percent below 1973 to 22.5 million tons.

The effect of the short grain crop on farm prices will depend primarily on what the government does about restricting exports. Consumer worries about food prices have brought pressure for export controls in Congress and among some Administration officials. But Agriculture Secretary Butz has told reporters that President Ford will not impose curbs on food exports because "basically, he understands the counter-productive nature of controls."

Export controls could bring on a collapse of grain prices because even the short supplies that are forecast are far in excess of what can be used domestically. Although grain farmers face serious risk and uncertainty, short supplies will probably result in continuing strong prices.

But livestock producers face an economic bind due to high feed costs and consumer price resistance. Large supplies of beef cattle are likely to go to slaughter early right off grass or only light feeding. Culling may add to the slaughter numbers. Then a beef shortage would set in, bringing sharply higher meat prices. Poultry and hog production are expected to be cut back this year.

A shortage of milk next winter is likely if dairy farmers cull severely or sell entirely to counter the high cost of feed. Once gone, dairy cows can't be replaced for three or four years, and dairy farmers may never be replaced.

PERFORMANCE ROYALTY IN THE COPYRIGHT BILL

Mr. TUNNEY. Mr. President, last week the Senate passed S. 1361, a reform of the copyright law. This is a most significant step in achieving the goal of copyright modernization and reform which has been underway for many years. Unfortunately, I was unable to be present when that bill was debated and voted upon, because of previously scheduled minor surgery. I would, therefore, like to make clear for the record my views on one of the most important and most controversial sections of the copyright bill, section 114—the so-called performance royalty.

I have, for many years, supported the concept of a full copyright for sound recordings and voted to retain section 114 in the Judiciary Committee. However, when the bill was referred to the Commerce Committee, I recognized that section 114 has significant impact on the Nation's communications industry, which is a matter within that committee's jurisdiction. In the committee, the members expressed considerable concern at the lack of adequate hearings and information on all aspects of this issue. I believe the Commerce Committee, ultimately, will accept the principle of the performance royalty, but that committee certainly should have an opportunity to have a close look at the economics of section 114. Since the Congress will set a copyright fee for broadcasters, the Commerce Committee must have a chance to explore the economic pros and cons.

The Commerce Committee recommended that the portions of section 114 relating to broadcasting be deleted from the bill. Although motives of the Senators may differ, it was clear to me, from the previous discussion in committee, that there was wide dissatisfaction with the lack of time to hold hearings in subcommittee. Because of this added factor, it has been impossible to generate the kind of clear debate on the merits which this issue deserves.

It is clear that copyright reform legislation will not be adopted in the House of Representatives this year, so we will have another opportunity in this body to consider these issues. I share the hope of Senator SCOTT and others who have supported the concept of the performance royalty that thorough hearings will be held next year, so that both sides have a full opportunity to present all aspects of this question. Next year I would hope there will be no problem of inadequate hearings or time for consideration by either the Commerce or Judiciary Committees. This question can be voted on with full knowledge, and I trust that it will be voted affirmatively to incorporate a performance royalty. Therefore, while I regret the action of the Senate last week in striking section 114, I know that that action was taken without a full debate, and I hope that next year a full record and debate will result in a different outcome.

I would like to emphasize that I strongly believe this question is fundamentally one of principle, rather than one of economics. If the principle can be studied and accepted, I believe the economic result can be resolved satisfactorily for all parties. It is incontrovertible, in my view, that performing artists, musicians, engineers, and other personnel contribute enormous creative and unique talents to the production of a sound recording. A record is a unique product and entitled to the protection of the copyright laws. This has been the rule in almost all European countries for years. It has not been recognized by the United States only because of court interpretations of the 1909 copyright laws. But now we are writing a new law, and this anachronism should be eliminated. There is simply no logical reason why only the composer, lyricist, and publishing company should receive copyright protection and royalty payments from record sales and broadcasts. The performers, musicians, and recording company professionals deserve equal treatment.

This does not, of course, end the issue. The level of royalty fees is an economic question, wholly separate from the copyright principle. It deserves careful examination of which parties are able to pay royalties, and at what levels. I recognize that many smaller broadcasters have economic problems, and these should be recognized and the small broadcaster protected. At the same time, many large and small broadcasters are making sizable profits from the airplay of records. In the case of both the broadcast and recording industries, it is very difficult to get accurate profit figures in many cases because of conglomerate or multiple media ownership. So I am by no means certain what the proper level of royalty fees should be. I look forward to further hearings next year, and I am hopeful that the Royalty Tribunal will operate impartially and effectively on this problem.

PURDUE'S 100TH ANNIVERSARY

Mr. HARTKE. Mr. President, today marks the 100th anniversary of Purdue University, one of our Nation's leading institutions of higher learning. Not only is Purdue a source of pride for the citizens of Indiana, but it represents the very best in American public education.

Created in 1869 by the Indiana General Assembly under the Land Grant Act, it opened its doors on September 16, 1874, to 39 students with a faculty of 6. The original, and main campus is located in West Lafayette; over the years, Purdue has expanded its operations to better meet the educational needs of Indiana by establishing three regional campuses. The Purdue University system now boasts a total faculty of 2,250 and a student population of 37,650.

Long recognized nationally and internationally for the excellence and size of its engineering school—which still graduates more engineers than any American university—Purdue has pursued a policy of balanced growth. Today, its schools of humanities, technology, science, pharmacy, and veterinary medicine are second to none.

It is a tribute to the continuing quality of the Purdue system—both academic and administrative—that in these days of severely declining university enrollments, registration for the fall semester has increased almost 4 percent. Engineering schools have been particularly hard hit; yet enrollment in that area has remained stable, and this year promises to rise.

Mr. President, I would like to bring to the attention of my colleagues an article that appeared recently in the Hammond, Ind., Times detailing the successful growth of Purdue University, and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Purdue Begins 100th School Year

West Lafayette—Another major milestone in the long and illustrious history of Purdue University occurs this year. For it was just 100 years ago—on Sept. 16, 1874—that the first formal classes opened on the West Lafayette campus.

This followed by five years establishment of Indiana's land-grant school by act of the Indiana General Assembly on May 6, 1869, a date which has since been celebrated as the birth date of the university.

Classes began in the fall of 1874 with six instructors and 39 students. This fall approximately 2,250 faculty members will be teaching an estimated 37,650 students on four campuses.

When classes open on the West Lafayette campus on Aug. 29 about 27,160 undergraduate and graduate students will be enrolled —or 578 more than a year ago.

In contrast to many colleges and universities, new admissions have been prosperous. As of mid-June, admissions of beginners and transfer students were running three to four per cent higher than in the comparable period for 1973.

On the other hand, housing may be a discouragement for some. Purdue student residence halls have been booked solid for the fall opening since early May. However, adequate housing is available off campus.

Another optimistic note is that the declining enrollment in engineering has turned around and that this fall will show the first increase in about five years. Estimated total undergraduate enrollment in engineering this fall is 4,224.

Projected enrollments for the other schools are: humanities, 4,468; science, 3,242; agriculture, 3,106; industrial management, 2,079; technology, 1,692; home economics, 1,633; pharmacy, 724; veterinary medicine, 276; graduate school, 5,150, and temporary and unclassified, 566.

In addition to the main campus, registration at the Calumet campus is projected at 5,769; 3,089 at Fort Wayne, and 1,627 at the North Central campus as Westville—all of which are substantial gains over last year.

Nearly all new students on the West Lafayette campus completed their registration for the fall term during their "day on campus" this summer, thereby avoiding three days of registration before the start of school.

Classes for the fall semester begin Aug. 29, and continue until Dec. 14 with final examinations the following week and the semester ending Dec. 21. Thanksgiving vacation will be from Nov. 27 to Dec. 2. The second semester begins Jan. 13, 1975 and ends May 10, with spring vacation March 8-17. Commencement for the 1975 class is scheduled for May 18.

Purdue rests her reputation on 120,000 alumni throughout the world who have been educated for living at one of America's leading coeducational universities.

Living alumni include the first man to set foot on the moon—Neil Armstrong, and the last to leave—Eugene Cernan; a U.S. senator; the present secretary of agriculture; college presidents; a Nobel prize winner in physics; the chairman of the board of Westinghouse, and heads of other large corporations.

Long famous for its engineering and agriculture programs, Purdue has also built solid reputations in many other fields such as science, home economics, humanities, industrial management, education, technology, veterinary medicine and pharmacy.

For many years Purdue has awarded more bachelor's degrees in engineering than any other university in the nation. In the number of master's degrees and doctorates awarded, Purdue is first in the United States in pharmacy, fourth in engineering, sixth in chemistry, and ninth in biology.

It enrolls more students in science courses than any other American university. The School of Veterinary Medicine is one of only 18 in the country.

The mission of the university is not limited to regularly enrolled students on the campus. Last year approximately 87,000 people enrolled in more than 500 continuing education programs, in a wide variety of subject matter. And through the Cooperative Extension Service and Agricultural Experiment Station Purdue touches the lives of thousands of citizens of the state.

For many years, Purdue has had cooperative education programs in engineering in which students spend a semester or year on campus followed by a like period working in industry. The Board of Trustees has approved cooperative education programs for agriculture, science, and industrial management. Not all of these programs will be available this fall.

Purdue's School of Engineering expect a 10 per cent increase in incoming freshmen this fall, while many of the nation's technical schools are struggling to match last year's figures.

Quality educational programs for qualified students is likely the chief reason Purdue engineering continues to lead the nation in numbers of degrees granted each year, says R. W. Fox, assistant dean for instruction.

"There can be no other explanation for the relative stability in our enrollments when numbers dropped significantly elsewhere, for recruiters continually knocking on our doors, and for students finding they still have broad choices for job opportunities," he says.

Educational programs in engineering are changing. Fox points out. As an example, nine courses will be available to nearly all Purdue students this fall in "The Man Series," a suite of interdisciplinary courses dealing with man and his social, political and technological contributions and their consequences.

New offerings in the series include the relationships of man and his food, transportation, human values and the worth ethic, aesthetics and public works, health care, engineering and technological advances in the 19th century, and societal models.

Costs of attending the university vary with the individual and to some extent with academic programs. However, the basic costs for an Indiana resident for one year breaks down approximately as follows: university fees, $750; room and board in university housing, $1,200; books and supplies, $150, and miscellaneous, $400. Students from out of state are charged an additional tuition fee of $940 a year.

About 50 per cent of the single undergraduate students on the West Lafayette campus are housed in university residence halls, which have a capacity of some 5,600 single undergraduate men, 4,200 single undergraduate women, and 1,300 single graduate students.

Apartments in university housing for married students total 1,638. About 15 per cent of the undergraduates live in 38 fraternity houses and 15 sorority houses. There are ten cooperative houses for men and five for women. The remainder of the students live in private housing.

A new 500-plus parking garage is nearing completion on Northwestern Avenue, opposite the main entrance to the campus. This will clear a parking lot behind the Engineering Administration Building, making room for a new engineering research building, on which construction is scheduled to begin this fall.

NATIONAL BUDGET PRIORITIES

Mr. CHILES. Mr. President, the Congress is now in the process of completing its deliberations on the $305 billion budget proposed by former President Nixon. In our deliberations, the problem of inflation has become our overriding concern and, in particular, the impact of the Federal budget on resolving it. It is clear that cutting the budget will not solve or offer either an immediate or permanent answer to the inflationary problem, but it is a necessary start in getting at the problem, especially since it symbolizes our resolve to act.

The inflationary crisis that we are experiencing constitutes one of the most serious and widespread problems to face the American people in recent decades. We, their representatives, are being turned to for relief. It is timely in our deliberations of the budget that we act in behalf of their concerns.

As a member of the Appropriations Committee and the new Budget Committee, I took the opportunity to find out what Floridans' attitudes were on Federal spending, and I would like to share the results of the survey with my colleagues.

The survey served two main purposes: I was given guidance from the people I represent, and the people of Florida were given input into a process that they feel alienated from.

The questionnaire asked respondents to judge which national needs are most important; which are being served well; which require more attention; what adjustments you feel should be made to serve the public's needs with the public's money; and whether the format for presenting the budget is clear and understandable.

Enclosed with each letter was a summary spending table and a description of the major programs in each functional category which, to my mind, highlights the essence of the budget, the key choices open to use and the basic framework for improved control over spending and Government programs.

I asked each person to look at the budget summary, consider where his money was proposed to go, and express his judgment on where it should go by filling in the blank spaces for each need with "more," "less," or "same."

In other words, based on what they knew of the services being provided for the money spent in each area, if the budget could be altered to reflect their own view of national priorities, I wanted to know in which areas they would increase, decrease, or leave spending the same.

The people's input has been the most rewarding part of the survey. Ever since I arrived in Washington, I have been concerned with the growing alienation of the people from their Government—a feeling that the individual no longer has much control. Declining voter turnout signals just how deeply that frustration has spread. What has been missing is a mechanism for people to express their will, to have some meaningful input.

Recently, the results of the survey were released. Not one of the 12 budget areas received a majority response for increased spending and only three areas narrowly missed cutback demands. They were natural resources and environment—37 percent more, 23 percent less; health—35 percent more, 27 percent less; and veterans' benefits—28 percent more, 15 percent less. The two top candidates for cuts were foreign aid—64 percent less, 5 percent more; and national defense—55 percent less, 17 percent more.

Although the survey was not designed to be a scientific sample, I was pleased to find that the random statewide distribution produced results consistent with other similar national surveys conducted recently.

The entire survey indicated that people seemed concerned that the tens of billions of dollar spent creating Federal deficits also create inflation.

From the figures obtained in the survey, it also seems clear that Floridian's had a definite idea of how their money should be spent. In addition to answering the basic questions of the survey, the majority of respondents had additional points to make. These points were genereated along the lines of balancing the Federal budget and get away from deficit spending. Balancing the budget was the central concern of virtually all respondees who added written comments, the majority indicated that we should not be spending money we do not take in.

In followup response to the survey, the people have expressed their pleasure to have taken part in the budget process, expressing a voice in one of the most fundamental processes of Government. Mr. President, hearing the people's voice points in the right direction and I hope the new Budget Committee and the focus provided for debate by the concurrent resolutions on the budget will provide even greater opportunities for public participation.

Mr. President, I ask unanimous consent that the survey form, the results, and some pertinent comments be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SURVEY QUESTIONNAIRE

[In billions of dollars]

National need areas	Outlays this year	Proposed outlays for next year	More? Less? Same?
National defense	81	88	--------
International affairs and finance	4	4	--------
Education and manpower	11	12	--------
Health	23	26	--------
Income security	85	100	--------
Veterans benefits	13	14	--------
Agriculture and rural development	4	3	--------
Natural resources and environment	1	3	--------
Commerce and transportation	14	13	--------
Community development and housing	5	6	--------
General government	7	7	--------
Space research and technology	3	3	--------
Other (net interest, allowances, etc.)	23	25	25
Total	275	304	304

Note: $9 billion deficit.

PROGRAMS INCLUDED IN EACH NEED AREA

[Figures Show President's Proposals]

National Defense ($88 billion): Includes manpower ($48 billion); procurement, research, development and construction ($25 billion); foreign assistance ($1.2 billion); atomic energy programs ($3 billion).

International Affairs and Finance ($4 billion): Includes foreign economic and financial assistance ($2.8 billion); Food for Peace ($700 million).

Education and Manpower ($12 billion): Includes elementary and secondary education ($2.3 billion); higher education ($2.1 billion); manpower training and employment services ($2.8 billion).

Health ($26 billion): Includes development of health resources ($3.4 billion); financing and providing medical services ($22 billion).

Income Security ($100 billion): Includes retirement and disability ($75 billion); public assistance ($14.5 billion); social services ($3.4 billion).

Veterans Benefits ($14 billion): Includes pensions and insurance ($7.5 billion); education, training and rehabilitation ($2.9 billion); hospital and medical care ($3.4 billion).

Agriculture and Rural Development ($3 billion): Includes farm income stabilization ($1.4 billion); land and water resources ($330 million); research and services ($1.1 billion).

Natural Resources and Environment ($3 billion): Includes pollution control ($4 billion); recreational resources ($780 million); water resources and power ($3 billion); land management ($1.1 billion); payments received from rents and royalties on public lands (—$6.3 billion, income).

Commerce and Transportation ($13 billion): Includes ground transportation ($6 billion); air transportation ($2.2 billion); water transportation ($1.5 billion); postal service ($1.6 billion); advancement of business ($836 million); area and regional development ($1.6 billion).

Community Development and Housing ($6 billion): Includes housing mortgage market maintenance ($515 million); low- and moderate-income housing aids ($2.3 billion); community planning, management and development ($2.9 billion).

RESULTS FROM SENATOR CHILES' NATIONAL BUDGET PRIORITIES SURVEY

(Based on Approximately 1,000 responses)

SPENDING LEVELS FOR EACH MAJOR BUDGET CATEGORY (PRESIDENT'S RECOMMENDATION IN PARENTHESES)

[Amount in percent]

	More	Less	Same
National defense ($88 billion):			
Statewide	17	55	28
North	23	53	24
Central	16	49	35
South	16	60	24
International affairs and finance ($4 billion):			
Statewide	5	64	31
North	6	57	37
Central	7	65	28
South	3	67	30
Education and manpower ($12 billion):			
Statewide	31	32	37
North	30	35	35
Central	28	30	42
South	33	33	34
Health ($26 billion):			
Statewide	35	27	38
North	30	28	42
Central	36	25	39
South	37	28	35
Income security ($100 billion):			
Statewide	17	46	37
North	17	49	34
Central	17	48	35
South	18	43	39
Veterans benefits ($14 billion):			
Statewide	28	15	57
North	28	16	56
Central	29	14	57
South	27	15	58
Agriculture and rural development ($3 billion):			
Statewide	23	38	39
North	27	38	35
Central	23	35	42
South	20	40	40
Natural resources and environment ($3 billion):			
Statewide	37	23	40
North	41	30	29
Central	33	22	45
South	39	21	40
Commerce and transportation ($13 billion):			
Statewide	23	37	40
North	21	36	43
Central	23	35	42
South	24	38	38
Community development and housing ($6 billion):			
Statewide	23	43	34
North	26	41	33
Central	19	42	39
South	24	44	32
General government ($7 billion):			
Statewide	5	52	43
North	3	50	47
Central	5	50	45
South	5	54	41
Space research and technology ($3 billion):			
Statewide	14	46	40
North	16	42	42
Central	16	41	43
South	12	51	37

DR. ARTHUR BURNS AND THE ECONOMIC POLICY OF THE FEDERAL RESERVE BANK

Mr. PERCY. Mr. President, over the last 2 years the Federal Reserve Bank has been forced to carry the bulk of the Government's fight against inflation. The price controls of the Nixon administration failed and Congress has not been effective in limiting expenditures or balancing the budget. The failure of administrative and fiscal measures has placed monetary policy as the lone safety man for economic stability.

As Chairman of the Board of Governors of the Federal Reserve Bank, Arthur Burns is the man held responsible by the public for monetary policy. His is a difficult position. Ideally monetary policy as well as fiscal policy and administrative measures are used concurrently to control inflation because each measure is selective as to whom it affects and how it affects them. When the screws are tightened on inflation using only one alternative, such as monetary policy, the effects are felt unevenly.

The present political outcry against the Federal Reserve monetary policy is, therefore, understandable. The varying impact of tight money on the population causes some to oppose and others to support the policy. The essence of the political debate centers on what is best for the general welfare and who should sacrifice the most for the common cause. It is a debate over means rather than ends.

But the recent article by Sanford Rose in the July 1974 issue of Fortune magazine is a criticism of another sort. Mr. Rose asserts that decisions by the Federal Reserve Board in 1972 were made on political rather than economic criteria. This is a serious assertion and cause for concern if true. Mr. Rose is impugning the integirty of Dr. Burns and the independence of the Federal Reserve.

It has been my experience as a member of the Joint Economic Committee that Dr. Burns has always been open, forthright, and willing to receive constructive criticism. Never over the years that I have known Dr. Burns have I ever seen him abandon his academic theories and sound objectives for the raw politics of political survival.

It was, therefore, with both relief and satisfaction that I read in the September 8, 1974, edition of the Washington Post a very succinct rebuttal of Mr. Rose's remarks by Hobart Rowan. While not debating the validity of Dr. Burns' policies, Mr. Rowan restores the integrity and independence of Dr. Burns and the Federal Reserve.

Mr. President, I ask unanimous consent that Mr. Rowan's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ARTHUR BURNS' FED

(By Hobart Rowen)

Sanford Rose, in an article in the July issue of Fortune magazine, charged that Federal Reserve Board Chairman Arthur F. Burns deliberately promoted an excessively easy money policy in 1972 in order to assure President Nixon's re-election.

At one point, Rose wrote, when the majority of the Federal Open Market Committee—which sets the policy—opposed a plan to keep interest rates from going higher, "Burns left the meeting in obvious anger. He returned in about an hour, announcing: 'I have just talked to the White House.' "

According to Rose, this "dramatic" declaration got the point across to the OMC that the White House was trying to prevent interest rates from rising, and armed with the "implied threat" of presidential intervention, Burns was successful in keeping the money spigot open through, and even after, the election.

On Aug. 18, the New York Times published an article by Financial Times Washington correspondent Paul Lewis, who quoted from the Rose piece in Fortune. And although Lewis reported that Burns and other members of the Fed had categorically denied the Rose story, he nonetheless himself raised the question about Burns' independence and integrity.

Federal Reserve Board officials, including Governor Robert C. Holland, who was a staff member and secretary of the OMC during 1972, and responsible for keeping the minutes; former members J. L. Robertson and Andrew Brimmer; and others who attended all meetings during 1972 have without exception and in the most categorical terms said that the incident described by Rose is totally false.

The very notion that a sophisticated individual like Burns, if he had succumbed to political pressure, would give the game away by a public announcement is absurd on its face.

And the whole history of Burns' relationship to the White House belies the possibility that he would knuckle under to pressure. Rose has the wrong man.

A simple anecdote may be illuminating. In the spring of 1970, John Ehrlichman came to a Washington Post luncheon, and was asked one point about the then developing economic recession. When Ehrlichman denied that there was, in fact, a recession, a Washington Post editor cited Burns' congressional testimony of a few days before as evidence.

"He's your friend," Ehrlichman shot back, pointing an accusing finger at the editor.

That Burns was not considered a White House friend became all too apparent after the distinguished economist-turned-central-banker called for wage and price controls in February 1971 in the face of persistent White House opposition.

In his book published last year, "Managing the Dollar," former Fed Governor Sherman J. Maisel writes:

"The call for such a (wage-price) policy was an anathema to those on the White House staff who believed in the traditional remedies of demand management to create a labor surplus."

But Burns kept on the heat for wage-price action, which brought him in the summer of 1971 a nasty, personal attack by the White House carried out by Charles Colson. That quickly backfired in markets here and abroad, because it was clear that the White House was trying to undercut the independence of the Federal Reserve. (Colson subsequently sought out Burns and apologized.)

Like his predecessor, William McChesney Martin, Burns insists on the independence of the Federal Reserve, not from the rest of the government, but within the government. That limited independence is totally respected by President Ford.

In the end, Nixon—embarrassed by the backlash—had to issue a public statement re-affirming his friendship and support of Burns. And on Aug. 15, 1971, Nixon's New Economic Policy was keyed to a wage-price freeze.

Colson's pressure was not the first Nixon effort to influence Burns that failed. Earlier, the White House dispatched two emissaries to Burns' office at the Fed, with blunt requests for a modification of Fed policy. They were politely ejected.

Treasury Secretary George P. Shultz was also rebuffed when he arrived at the Fed's Constitution Avenue offices to convey a suggestion from Nixon on monetary policy. Shultz, incidentally, was among those who wrote to the Times last week to protest the Lewis article, testifying to Burns' "strength of character, integrity, and independence of purely partisan interests."

Nothing in this account is meant to suggest that Burns or other Fed governors live in a vacuum and are oblivious to outside pressure, including pressure from the White House or Congress.

Nor is this to suggest that monetary policy in 1972 was exactly right: it probably, in retrospect, was too expansive, but Democrats as well as Republicans were then urging an easier monetary policy, in the fear that the unemployment rate would climb too high.

A review of the period in question shows that Burns consistently resisted an increase in the Fed's discount rate. Between Sept. 1 and Dec. 18, 1972, the Fed voted eight times to turn down a request for a discount rate increase by one or more regional banks.

Burns considered the discount rate an "administered rate," which ought to be held below market rates, like the federal funds rate, which was rising. Burns, who was then also chairman of the Committee on Interest and Dividends (part of the economic stabilization program), worried that failure to hold the discount rate—taken by many as a symbol—would discourage labor from supporting a renewal of the stabilization act in 1973.

Although Brimmer voted against Burns five times out of eight, he re-iterates today that Burns' stand didn't reflect political pressure, but simply a difference of view.

The simple fact is that Burns is a strong-willed innovative, self-confident and powerful administrator who knows, uses and relishes the power of the Federal Reserve system. He can be tough and demanding to work for, and some of his colleagues consider him arrogant. He has earned the respect not only of congressmen on both sides of the aisle, but of ministers and diplomats all over the world.

And, being human, he has also at times been wrong.

But the thought of Burns trading off some of his unparalleled and hard-earned reputation for brilliance and integrity to make a few votes for Nixon or anybody else would be funny were not the charge so serious.

As Nixon himself said on more than one occasion, only partly in jest: "Arthur speaks only to God and to me occasionally."

ASBESTOS CONTAMINATION CONTINUES IN LAKE SUPERIOR

Mr. PERCY. Mr. President, in July of 1973, I wrote to the Attorney General asking that he seek a temporary injunction to halt the dumping by Reserve Mining Co. of 67,000 tons per day of taconite waste into Lake Superior, while research was conducted on the potential health hazard of the asbestos fibers in the waste material. No injunction was issued, and in the long history of the case of the United States against Reserve Mining Co., the dumping has been halted for only 2 days. It continues today unabated.

Recently the eighth circuit court of appeals ordered the State of Minnesota and the company to agree on a site for on-land disposal of the taconite waste, which for years has been polluting Lake Superior and the air surrounding its north shore. This is an encouraging development. However, it is by no means a sufficient solution to the case.

First, the dumping must be stopped while an on-land disposal site is prepared, and the sooner it is stopped the better. Such a site could take 3 to 5 years to construct.

Second, the preliminary ruling of the eighth circuit court of appeals must not be allowed to stand as the final word on this case, or future health and environmental cases may be seriously prejudiced by the precedent.

As I noted in my July 18 statement to the Senate, I would urge the Attorney General to appeal immediately to the

Supreme Court if the court of appeals finally rules against the Government on the merits of the case. The Environmental Protection Agency has assured me that it would also urge an appeal to the Supreme Court under those circumstances.

A superb explanation of the dangers to the public health inherent in the preliminary ruling of the court of appeals is contained in a letter to the Justice Department from Russell W. Peterson, Chairman of the Council on Environmental Quality. I ask unanimous consent that Mr. Peterson's letter, dated July 16, 1974, be printed in the Record. I also ask unanimous consent that the letter to me from the Environmental Protection Agency, dated August 12, 1974, be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Council on Environmental Quality,
Washington, D.C., July 16, 1974.
Hon. Wallace H. Johnson,
Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C.

Dear Mr. Johnson: The Council on Environmental Quality has been concerned about the asbestos contamination of Lake Superior, which is the subject of litigation in the case of *United States* v. *Reserve Mining Co.*, since June 22, 1973, when the Chairman was designated coordinator for Federal activities related to this matter. In this capacity I have become convinced of the potential public health risk caused by Reserve's discharge of asbestos into the air and water. I therefore believe that the merits of this case and the Eighth Circuit's opinion filed June 4, 1974 should be reviewed as quickly as the Court system permits.

Because of the latent effects of carcinogens it will be more than 10 years before the magnitude of the health risk to the people of Duluth and Silver Bay will be fully realized, and unfortunately it will be based upon the fate of over 200,000 people. Even a few more days of additional exposure pose an unnecessary and unacceptable risk to the residents of the area. As long as the plant continues to operate without efficient air pollution controls, residents of Silver Bay will continue to inhale excessive amounts of asbestos. Although the Corps of Engineers is proceeding with an emergency relief effort to provide interim filtration of the water supplies affected by the discharge, this effort will not be completed for some time. Unless the discharge is halted, all those drinking water from Lake Superior will continue to ingest millions of fibers in each quart of their water. The higher levels which occur in the fall due to changing hydrologic conditions of the Lake make immediate action especially important. Therefore, as expressed earlier, I urge the Justice Department to aggressively pursue all means to eliminate this unwarranted potential public health menace as soon as possible.

This opinion is based both on my experience as coordinator of Federal activities involving asbestos in the Reserve Mining matter, and from a concern that the language of the opinion of the Eighth Circuit might be cited as precedent with serious adverse effects in the future. The judicial policy that translates scientific information into legal restraints on hazardous activities will directly affect the health of large segments of the public in the years ahead.

This case presents an archetype legal problem that will frequently arise in the future. The problem stems in part from the differing functions of scientific reports and the information offered in courts. The physical and biological sciences are struggling to explain the unknown relationships in the physical world. Some of those secrets are easily discovered, but most are not.

And it is that perspective on scientific knowledge that must be understood. We must realize that our present knowledge (about human health in general, and about the health effects of asbestos in particular) is miniscule in relation to the principles that must be hypothesized, screened and tested before we can claim understanding of these problems. But that small bit of information may be the only tool available to those responsible for protecting the public's health. When information on the nature of the hazard is uncertain or unknown, courts and agencies should encourage the use of the safest, most conservative course of action. They should not misread lack of knowledge about a potential hazard as proof that the hazard is slight or does not exist.

The Eighth Circuit Court accurately summarized the problem on p. 23 of the opinion.

"The discharges may or may not result in detrimental health effects, but, for the present, that is simply unknown. The relevant legal question is thus, what manner of judicial cognizance may be taken of the unknown."

But the problem is the legal principle which the Court then announced.

"We do not know that a bare risk of the unknown can amount to proof in this case. Plaintiffs have failed to prove that a demonstrable health hazard exists. This failure, we hasten to add, is not reflective of any weakness which it is within their power to cure, but rather, given the current state of medical and scientific knowledge, plaintiffs' case is based only on medical hypothesis and is simply beyond proof."

The major part of the opinion explains why, in its view, the evidence was inconclusive. (We suggest that a careful review of the evidence supports the trial court's finding that a health hazard does exist.) But for purposes of comment on the Court's view of the law, the important assumption was that the evidence did not prove (in a scientific sense) that ingestion of asbestos was safe or harmful. It reflected only lack of documentation for either theory. That is, while there are certain underlying reasons to *suspect* that asbestos in water is a serious health hazard, the Circuit Court found insufficient information to "prove" that water-borne asbestos causes cancer. The Court has in essence abandoned the traditional legal test applicable in civil case, i.e., more probable than not, and has imposed a test requiring scientific certainty. Counting dead bodies through an after-the-fact epidemiology study then becomes virtually the only way the Government could "prove" its case.

If the courts had required "proof" of a full cause-and-effect relation between source and illness, then 19th century courts could not have acted as they did to prevent discharge of sewage into drinking water streams before the discovery that "germs" or "microbes" carried disease.

The problems here are admittedly one step more complex in that the Court assumes there is no clear correlation between the ingestion of asbestos and the incidence of cancer. This is partly due to the long lapse between exposure and diagnosis that is expected here. That is, the symptoms of the disease would not show up until 15–40 years after exposure. But to wait for that incident to develop (and thereby provide the proof demanded by the Court's ruling), could mean that the public had been exposed to cancer-causing materials for well over 15 years before the first restrictive steps could be taken under the theories of this opinion. Considering the magnitude of the potential disaster, it is not unreasonable to enjoin the discharge even if probabilities of harm are low. It is even more justifiable to enjoin, where the probabilities of harm are unknown (as here).

I, therefore suggest that three general proposals be pursued.

1. The traditional judicial balancing cases involving injunctions against health hazards should consider these factors: A) the probabilities of occurrence of harm, B) the certainty or lack of certainty about the probabilities of the harm, or its cause, C) the magnitude of the harm that could occur, and D) the length of exposure time during which little evidence of harm would be expected. A case where the harm threatened was something less than exposure of broad segments of the public to cancer may well require more certain proof than cases where widespread harm could occur. But so long as there is some rational basis for believing that a large scale health hazard exists, it would be short-sighted public policy to require that plaintiffs "*prove* that a demonstrable health hazard exists" as that phrase was construed in this case. (Op., p. 23)

2. The second principle that should be considered in the law governing these cases would be an important scientific principle that emerged from recent decades of ecological study. That is, when there is uncertainty about the effects of any alteration of the natural system (particularly where there is alteration of human food or water supply) it is best to prefer that alternative which least alters the natural system. We would be happy to provide further documentation supporting a legal argument along these lines.

3. The third principle concerns the way that the common resource, Lake Superior, was used by the public and by Reserve. The Lake's waters originally were so pure that they could be used without filtration as water supplies for cities around the Lake. Knowing that the Lake was used as a water supply, Reserve undertook to dump wastes into the water, that created risk of a health hazard. It now seems equitable to ask that when an enterprise, such as Reserve, undertakes an activity that creates profit for itself and risk of harm to others, and when facts later suggest the possible existence of a health hazard, that it undertake the burden of proving its activities are *safe*, rather than force others to prove its activities unsafe.

A different problem is presented by the Circuit Court's reading of the "protocol" tests, which it interpreted as affirmative proof that the asbestos was not hazardous. But the uncertainty surrounding the use of those novel test procedures suggests the Court's reliance was misplaced.

My own staff viewed the tissue analysis protocols as follows:

Air and water analyses for asbestos according to testimony cited by the circuit court are reliable only to plus or minus an order of magnitude. Tissue analysis, on the other hand, is even more difficult.

No level of asbestos fibers in tissues are regarded as safe—a single fiber may initiate a response. The concentration of fibers in tissues from humans consuming asbestos laden water would be expected to be quite small as are found in non-lung tissues from occupationally exposed individuals. Thus, with the level of detection available from current analytical techniques, it is not at all surprising that measurable levels of fibers were not found. Had such fibers been found, however, the health implications would have been ominous.

Similarly, the Court's reliance on the epidemiological studies appears misplaced. The Circuit Court should not have concluded from the findings of epidemiological studies from the Duluth area that asbestos is not a hazard. Even if the tailings are extremely carcinogenic when inhaled or ingested, the maximum length of exposure has not been as long as the typical latency period for carcinogens from first exposure to first signs of cancer.

Finally, the Court may not have appreciated the difficulties of "proving" anything about cancer, when the full "causes" of the disease remain unknown after the most intensive research campaign in medical history. That lack of knowledge should increase our caution in exposing the population to carcinogens, not decrease it.

There is, however a dose—response relationship between the level of exposure of humans to any carcinogen and the risk of their developing cancer, a relationship recognized by the Circuit Court. But no one has established any scientifically or medically accepted threshold levels of exposure for any carcinogen below which there is no risk of cancer. Thus, if asbestos is carcinogenic, there will be some health risk from any exposure to such fibers. This knowledge dictates extra caution when dealing with carcinogens that could find their way into a public water supply.

Since the Supreme Court has decided not to further consider the case at this time, we believe it is critically important that the Circuit Court of Appeals promptly reconsider its earlier ruling. We strongly support all steps by the Justice Department to expedite the hearings and present the above stated positions to the Circuit Court.

Sincerely,

Russell W. Peterson,
Chairman.

Environmental Protection Agency,
Washington, D.C., August 12, 1974.

Hon. Charles H. Percy,
U. S. Senate,
Washington, D.C.

Dear Senator Percy: Thank you for your letter transmitting the Congressional Record of July 18, 1974, with your comments on the Reserve Mining case. We could not agree more completely with your view on the importance of the health and environmental issues in the Reserve Mining case. The Agency has taken the position that the discharge of taconite tailings must be abated because of the environmental harm it causes and the health hazard it creates. Of course, the fact that the asbestos fibers from the discharge are in the drinking supplies of residents of Lake Superior's North Shore makes the abatement an even more urgent matter in our opinion.

The difference between the District Court's view and the Court of Appeals' view of proof of a public health hazard is an issue to which we are giving careful consideration. We, of course, advocated before the District Court that risk of harm was a sufficient measure of proof to justify an abatement of the discharge. We felt we met that burden and had shown present harm as well. We were delighted to see that the District Court concurred in our view. When the Court of Appeals in its preliminary order indicated that it would require a different burden of proof, *i.e.*, a demonstrable health hazard, we were concerned about the ruling. We requested that the Justice Department take further action to reverse the decision because the appeals court's standard of proof established an overly restrictive burden for the government and also because its decision failed to acknowledge significant testimony supporting a finding of a present serious health hazard. The Department of Justice, after careful review, determined that an appeal to the Supreme Court for relief from the Court of Appeals' preliminary order might actually delay ultimate resolution of the case. Instead, they determined that a better course of action was to request an *en banc* hearing before the appeals court on an expedited basis. That motion for expedition is still pending without a decision by that court and, as you know, the Supreme Court decided not to review the Court of Appeals' preliminary ruling.

If the Court of Appeals, after hearing the appeal fully on the merits, maintains its ruling that a demonstrable health hazard must be shown, we fully intend to urge the Department of Justice to appeal that ruling to the Supreme Court. You can be assured that we still believe that this discharge must be terminated at the earliest possible time and that we will pursue vigorously every possible means of achieving that result. Thank you for your support in this matter.

Sincerely yours,

Alan G. Kirk, II,
Assistant Administrator for Enforcement and General Counsel (EG–329).

CALIFORNIA WANTS OPERATIONAL ERTS

Mr. MOSS. Mr. President, of the many letters I have received on the Earth Resources Technology Satellite, none has been more detailed and enthusiastic than Gov. Ronald Reagan, of California. Here is part of his letter:

> Placed in perspective, our experience with ERTS imagery reveals that it has a potential yet to be exploited. ERTS data has progressed beyond the experimental stage and should move to an applied, operational role. The need for an ERTS-type system is clearly manifested in ever increasing pressures to obtain timely and accurate information for efficient resources management.

In case there is any doubt of where California stands he states:

> Without equivocating, we believe ERTS should be an operational system.

Mr. President, I ask unanimous consent that Governor Reagan's letter be printed in the Record at the conclusion of my remarks.

As I stated above, Governor Reagan's letter is most detailed in describing California's use of ERTS imagery in agriculture, forest management, water resources, coastal processes, littoral drift and dune movement, watershed studies, and many others.

I urge my colleagues to read this thoughtful letter.

There being no objection, the letter was ordered to be printed in the Record, as follows:

State of California,
Governor's Office,
Sacramento, Calif., July 26, 1974.

Hon. Frank E. Moss,
U.S. Senator,
Senate Office Building,
Washington, D.C.

Dear Senator Moss: In your recent letter you asked for my comments on the Earth Resources Technical Satellite (ERTS).

Without equivocating, we believe ERTS should be an operational system. No useful purpose is served by orbiting another satellite with the same equipment to duplicate what has been done before with similar expectations of results. Since ERTS has established its efficacy, all evidence suggests a satellite with improved systems fulfilling an operational role. Further, we believe the second generation ERTS should include side looking airborne radar and an infra red thermal scanner as part of the data surveillance and collection systems. These types of sensors are needed to provide new dimensions to acquisition of earth resources information.

To date, ERTS imagery has been used in agriculture for crop inventory to identify range land, pasture, and other land use patterns. It also has been used in the broad categories of forest management, hydrology and water resources, coastal processes, geology, littoral drift and dune movement, watershed studies, and vegetation mapping. Additionally, various campuses of the University of California have extensive programs utilizing ERTS imagery in discipline areas such as agriculture, forestry, water resource management, and land use inventory.

Placed in perspective, our experience with ERTS imagery reveals that it has a potential yet to be exploited. ERTS data has progressed beyond the experimental stage and should move to an applied, operational role. The need for an ERTS-type system is clearly manifested in ever increasing pressures to obtain timely and accurate information for efficient resources management.

Thank you for the opportunity to express some capsulated remarks on this subject.

Sincerely,

Ronald Reagan,
Governor.

SENATOR J. WILLIAM FULBRIGHT

Mr. PERCY. Mr. President, Senator Fulbright is one of Washington's most interesting personalities and Kandy Stroud is one of the Capitol's most perceptive journalists. When the two of them are combined to create a "newsmaker" article for Women's Wear Daily, the result is bound to be a perceptive, interesting, and worthwhile article. I ask unanimous consent that the article on Senator Fulbright that appeared in the August 16 issue of Women's Wear Daily be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Senator Fulbright Looks Back and Ahead

(By Kandy Stroud)

Washington.—Arkansas Sen. J. William Fulbright sat behind his massive desk, chewing yeast tablets and telling a visitor he was "inclined to think that it would be better for the country" if Richard Nixon was spared any prosecution.

In the course of a lengthy conversation with WWD, the veteran Democrat—who is himself leaving politics in November after 32 years, having been defeated in his state's primary election by Arkansas Gov. Dale Bumpers—talked about Watergate and its aftermath, the new President, his own career, political corruption and the caliber of young people coming into politics.

"There are those who still say that to impeach Nixon would have been more official and constitutional," said Fulbright, "but you have to be pragmatic sometimes and, on balance, this was the best way to end it. And I'm inclined to think that it would be better for the country, too, if the prosecutor should feel it is not necessary to prosecute.

"I know it might be a deterrent against future actions and I know people talk about his underlings being punished and not him; but from a philosophical sense, I think it is important that the distinction be made between the president and his assistants. His office is separate and unique. And from the point of view of punishment, I think he has already suffered the greatest humiliation.

"Yes, you can make a good case against him that would stand on legal ground, but to do so would generate such a poisonous atmosphere. I agree with what Ford says: It is a time for conciliation and compromise."

As chairman of the Senate Foreign Relations Committee, Fulbright says he has great respect for what Nixon was able to accomplish as far as detente, the SALT talks, the Middle East and Vietnam peace settlements are concerned. He rates Henry Kissinger "higher than any Secretary of State I have known." But he also predicts the Nixon administration will go down in history as a "very great political and personal tragedy."

Gerald Ford, he believes, will be "a good president."

"I don't know what he'll do with the economy, but he has an attractive personality and I felt it was most encouraging that he has taken great interest in George Reedy's book, 'Twilight of the Presidency' and recommended it to all of his staff to read.

"It is the best book on the presidency ever written," said Fulbright. "It talks about why a president acts so peculiarly. It explains what the presidency does to people, how a president becomes isolated from reality, how in about six months the men around him become sycophants and when he raises his finger, they all jump. I think Ford is trying to guard against that."

Politics, said Fulbright, who was first elected to Congress in 1942, to the Senate in 1944 and who was reelected four times, will never be completely clean.

"That's because it's run by human beings who are subject to frailties. There is hardly anyone who can go through a day without lying half a dozen times in some fashion. It all depends on the moral standards of the time."

He became defensive when asked if he has been pressured by special interest groups and whether he is free of any taint.

"No, I'm free of all mistakes. You ought to be ashamed to ask that question . . . Yes, I've been subject to special interest pressure and I've done everything in my power to help them out. It's part of the job. But they've never offered me money."

Fulbright does not feel politics has become too polluted to attract young people. Watergate, he said, may indeed have had a purging effect.

"And I think the performance of the House Judiciary Committee restored a great deal of respect for Congress. But you can't say politics will attract a higher caliber person now than in the past. That would imply all past politicians were corrupt. And they all were not. Young people of all walks will continue to be attracted to politics. It's a question of taste. It's a calling, a mysterious art that attracts people as diverse as the country as a whole. You can't predict who will be attracted to it any more than you can say who somebody will marry, or why somebody will like a Rembrandt better than a Picasso or a Gaugin.

"It all depends on temperament. Politics takes a great deal of energy, ego and ambition, and it is also brutal and cruel. Think of how few are elected and how many are defeated, and what a man of high ideals feels when he gets defeated."

As for his own defeat, Fulbright said he feels no bitterness.

"It's our system and I accept it. It's remarkable I've been here for so long anyway. I was puzzled in the '60s, when I assumed such an anti-Vietnam stance, that I was reelected. If there was ever a chancy election, that was."

Of his many accomplishments in the Senate, he said he takes most pleasure in the Fulbright scholarship program "because it's tangible—you can see visible results." Of the presidents he has served, he most admired Franklin D. Roosevelt and, surprisingly, Dwight D. Eisenhower—"He relaxed the power of the presidency and allowed the government agencies to function independently."

Fulbright doesn't yet know what he'll do after November. His wife, Betty, is not in good health and, consequently, said Fulbright, he would not consider an ambassadorship or a university post. (He is a former president of the University of Arkansas.) "I'm too old for that, anyway," he said.

Basically, he would like to do what he has been doing.

"I'd like to be able to influence public opinion, to make the United Nations more effective and to promote the same ideas about international relations that I've been trying to promote for the last 25 years. I've been trying to say that we've been much too self-righteous about being the savior of mankind and we've been isolated from reality. I'm trying to restore a sense of reality."

TO COMBAT INFLATION: AN AGENCY FOR CONSUMER ADVOCACY

Mr. PERCY. Mr. President, last Thursday and Friday, more than 50 delegates assembled in Chicago to attend the Agriculture and Food Conference on Inflation in preparation for the Summit Conference on Inflation to be held in Washington, D.C., September 27–28. That conference is under the joint sponsorship of President Gerald R. Ford and the Congress.

An excellent paper and addendum was presented to the conference specifically addressing the importance of the role of the Agency for Consumer Advocacy as a mechanism to more effectively represent consumers in the fight against inflation. With great interest, I have read the paper of Ellen Haas, of the National Consumers League; James S. Turner, of the Consumer Action for Improved Food and Drugs and the National Consumers League; and the addendum of E. Thomas Garman, president of the American Council on Consumer Interests.

I feel it is important to share the insightful views of these consumer delegates to the conference with my colleagues in the Senate prior to Thursday's fourth cloture vote on S. 707, which would establish an Agency for Consumer Advocacy. Accordingly I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VIEWS OF ELLEN HAAS AND JAMES S. TURNER

This position paper on inflation, presented to the Agriculture and Food Economic Summit Conference has been prepared jointly by Ellen Haas and James S. Turner after consultation with representatives of consumer groups and consumer and public interest economists.

I. MAIN CAUSES OF INFLATION

A. One of the main causes of inflation, if not the main cause of inflation is the imbalance of power between weak individual consumers and strong corporate producers which:

Forces the consumer to perform in the marketplace as an isolated generalist in competition with a corporate producing and distributing sector functioning with widespread departmental support such as organized legal, advertising, financial, promotional, marketing and other expertises.

Reverses the basic tenent of Adam Smith's capitalism that "Consumption is the sole end and purpose of all production; and the interest of the producer ought to be attended to, only so far as it may be necessary for promoting that of the consumer." (Wealth of Nations Modern Library Edition p. 625.)

Allows the corporate distribution and production sectors of the economy to deprive the consumer of the economic tools (information, knowledge, standards of choice, measurements of safety, access to decision making) necessary for the consumer function of a free market economy to perform its essential role effectively and bases the country's decisions as to what is produced, by who, and how economic resources are distributed.

B. The real but manageable effects of economic dislocations caused by drought, instability of the world market, and rising energy prices are magnified by the general feeling of powerlessness on the part of individual consumers, which in turn leads to a pervasive lack of confidence in government and other major policy setting institutions of the society.

C. Concentration of corporate economic power in the food industry resulting from the imbalance between individual consumers and corporate producers results in prices which:

Tend to be inflated above the competitive level;

Tend to rise even in the face of low or declining demand; and

Tend to remain permanently at these increasing inflated levels.

II. MAIN CONSEQUENCES OF INFLATION ON AGRICULTURE, FARMING AND FOOD

A. With food prices expected to rise 15% over last year's record of 16%, real income of the factory worker declining 5.3 percent, and the middle income family spending 31% of its income on food, the economic viability of the individual consumer household is being destroyed.

B. With the feed grain prices approaching record high prices, farmer credit costs at 10 percent interest, and energy and fertilizer costs at record high the individual agricultural producer is in serious economic jeopardy.

C. As prices rise quality diminishes: the nutritional quality of diets continues to deteriorate as nutritional surveys show; agricultural fiber products diminish in size as Consumers Union has shown in its report on the bed sheet market.

D. The consumer interest is disregarded by the corporate sector as it cuts corners in an effort to survive economically.

III. GOVERNMENT POLICIES AND ACTIONS TO CONTROL INFLATION

A. Recognize the role of consumers as equal participants in the operation of the American economy through adoption by the President and Congress of a national consumer policy; consisting of but not limited to:

Establishment of effective representation of consumers and consumer organizations, through individuals qualified by experience and/or training to represent the consumer interest, at every level of government policy formulation effecting food prices, quality, distribution or other questions of food availability including but limited to:

Consumer representation on all agricultural commodity marketing boards;

Consumer participation in the formulation and execution of all economic policies designed to control inflation or prevent depression; such as those which may be developed by this series of summit conferences;

Consumer representation and participation in regulatory process establishing food labeling, food safety, and food quality standards, and other food marketing regulations; such as those affecting grass-fed beef.

Establishment within the Council on Wage and Price Stability of a permanent Food Cost Monitoring Group (including effective consumer participation) with the responsibility to determine an acceptable *food price range* and place Presidential prestige behind a policy of food price stability with the consumer as a central focus by:

Establishing and maintaining an objective economic data base including price trends and projections;

Conducting a continuous review of price levels in each of the concentrated industries and a public report as to the extent that their prices exceed the competitive level;

Monitoring, as part of the above activities, all agricultural economic sub-groups to identify any inflated or depressed agricultural sub-markets and recommend policies to correct the economic situation identified;

Defining an acceptable food price range to which export, import, production and other agricultural supply policy can be keyed; so that for example when prices rise to the triggering level export and import policies can be adjusted to retain adequate supply in the domestic marketplace and price within the acceptable range.

Establishing price guidelines on which interim action can be based, for example, establish an upper price limit which when reached could cause a reduction in exports (according to established standards of equitable and proportion distribution) necessary to maintain adequate domestic supply.

Establishment of a Consumer Protection Agency within the federal government representing the consumer interest before regulatory agencies in general and food regulatory agencies in particular by:

Establishing within the agency a division representing the interests of food consumers;

Providing a mechanism for coordination and interaction with the consumer offices in the USDA, FDA and other agencies which affect national food policy.

Undertake an examination of profit, price and marking practices of concentrated industries with a particular (but not exclusive) focus on the middle sector through;

Presidential support for effective (budget, personnel, resources and endorsement) use of the Federal Trade Commission authority to collect economic data by line of business;

Directions to the Federal Trade Commission to provide additional information on the food industry on a "product line" basis (in accordance with the Report of the Special Task Force to the Secretary of Agriculture on Farm-Retail Spreads for Red Meat of August, 1974.)

Establishment of an Independent Regulatory Agency to supervise the activity of the commodity futures market (in the manner contained in legislation amending the Commodity Exchange Act which has passed the Senate and is pending in the House) and to insure the Presidential appointment of Commissioners including representatives qualified by experience and/or training to represent the consumer interest.

Examining and where warranted, altering the credit system relied on by the individual farm producer to determine the extent to which unnecessary, unjust or improper, credit policies create pressure against efficient production of agriculture commodities which in turn create inflationary prices and destructive economic pressure on the individual consumer.

Reduce the inflationary impact of the excessive spending contained in the federal budget by:

Examining all federal programs and reducing federal spending for those programs which contribute most to the inflationary pressure on the economy and preserving those which contribute most to alleviating the effects of inflation on the individual consumer.

Review federal tax policy to determine which aspects of it (particularly special corporate tax benefits and "emergency" subsidy policies) contribute to inflation and then alter them:

By levying an emergency inflation surtax on those sectors of the concentrated marketplace contributing to inflation.

B. Government, as a matter of policy, should indicate an awareness of and commitment to the need to elevate the organized consumer sector to a position of equality with other sectors of the economy. Steps that can be taken to this end include:

A meeting between representatives of the consumer movement and the President of the United States to exchange views on the role of organized consumers in combating inflation and strengthen the economy.

The President could proclaim the national observance of a consumer day for the purpose of bringing the importance of the consumer role in the economy to the attention of the entire population.

The President could deliver a consumer message to Congress, as his three predecessors have, outlining the consumer situation and describing the national consumer policy which should be developed, in conjunction with representatives of the consumer both inside and outside of government.

IV. ACTIONS IN THE PRIVATE SECTOR OF AGRICULTURE AND FOOD TO CONTROL INFLATION

A. Full agricultural production must be achieved, but it is not enough merely to state that all land available will be put into production; in addition all marketing and distributional mechanisms must be reviewed to insure that full output of agricultural sector reaches the consumer.

B. Increase communication among consumers, producers and marketing firms to reach mutual goals by developing programs that use visibility of consumers; include participation of individuals qualified by experience and/or training to represent the consumer interest; and provide detailed economic data for consumers. This could be achieved by:

Developing corporate consumer offices reporting directly to chief executive officer;

Including consumer representation in the review and development of policy in areas such as pricing, labeling, advertising and product development;

Assigning a significant percentage of the promotional money raised by agricultural commodity marketing boards to informing, promoting, and protecting the consumer interest. This money should be controlled by representatives qualified by experience and/or training to represent the consumer interest.

V. POLICIES AND PRACTICES IN THE PRIVATE NON-AGRICULTURE AND FOOD ECONOMIC SECTOR TO CONTROL INFLATION

A. Retailers should become buying agents for consumers rather than selling agents for producers if American free market is to work to eliminate inflation. Steps to achieve this should include, but not be limited to the following:

Insuring that full output of agriculture sector reaches the consumer;

Enabling the public to respond knowledgeably to food supply changes in a world where populations threaten to outrun food production;

Reviewing current practices of promotion, advertising, and packaging in an effort to modify those that act as inflationary pressures.

B. Food markets in which consumer information is imperfect should be made more competitive by the voluntary efforts of industry to provide the disclosure of such informational measures such as unit pricing, grading, and nutritional labeling.

C. Pricing practices, such as those that tend to restrict entry of new food retail outlets, or those that otherwise adversely affect competition should be eliminated.

D. Efforts to use technology to shift from labor intensive to capitol intensive industry economics, such as implementation of automated checkout systems in supermarkets should be carefully reviewed and not allowed to develop in such a way that they contribute to inflation or to making effects of inflation more harsh on individuals.

E. The sacrifice demanded of the consumer wage earner should not be too high; rather, it should be proportional to the advantages gained in the past. (Those who made the most in the past should be asked to sacrifice the most.)

F. Review national transportation practices and eliminate any wasteful inflationary practices such as unnecessary empty backhauling and unwarranted refusal to piggyback food carrying trucks on railroads.

G. A federal energy production facility should be developed to serve as a yardstick against which efficiency of the private energy production sector can be measured.

Addendum to the Statement of Ellen Haas and James S. Turner to the Agriculture and Food Economic Conference Submitted by E. Thomas Garman

This position paper on inflation, presented to the Agriculture and Food Economic Summit Conference, is an addendum to the nine-page paper submitted by Ellen Haas and James S. Turner. I fully support that joint position paper which represents the views of all three of the consumer delegates to the conference. My endorsement and statements are to represent consumers in general and not those of the non-partisan, non-profit organization of professionals in consumer affairs, the American Council on Consumer Interests, of which I am President.

One of our recommendations concerns Government Policies and Actions to Control Inflation. It specifically calls for the establishment of a Consumer Protection Agency within the federal government "representing the consumer interest before regulatory agencies in general and food regulatory agencies in particular."

The proposed Agency for Consumer Advocacy now pending in the Senate would be a tremendous effort toward fighting inflation. Injection of the viewpoint of consumers into the hearings and proceedings of the federal regulatory agencies related to food is sorely needed, particularly in these times of high inflation, since advocacy of the consumer interest in these regulatory agencies is nonexistent. The ACA will help other agencies in the development of their anti-inflation programs as well as in assisting them in examining rules that may need modification to result in higher productivity, increased economy, and greater efficiency. The Agency for Consumer Advocacy also will be able to help federal agencies identify areas of the economy where a lack of competition fosters inflation.

The true consumer interest requires very simply that they be adequately represented. For anyone to suggest that supermarket shoppers have a voice in controlling inflation through governmental policies and regulations is mere cant! The Agency for Consumer Advocacy is needed in these times of cost effectiveness and institutional credibility.

But, while we are meeting today at the request of both the President and the Congress to address ourselves to the important problem of inflation, ferocious lobbying is underway to prohibit this same needed representation of consumers. Senate bill 707 to establish an Agency for Consumer Advocacy will not receive the full decision-making power of the Senate unless two-thirds of the Senators vote for cloture to end the present filibuster September 19th. Yet, this very legislation is definitely a vehicle to represent the consumer interest in government to effectively combat inflation. Hopefully, each of us here discussing inflation in food and agriculture will consider the value of an Agency for Consumer Advocacy in combating inflation and representing the interests of consumers. By communicating your views to your Senators perhaps the full Senate will have the opportunity to vote on this critical issue of inflation and consumer representation.

THE CASE FOR A FOOD RESERVE

Mr. HUMPHREY. Mr. President, despite fervid denials and protestations from Secretary of Agriculture Earl Butz, the current world food crisis is, indeed, a reality. Adverse weather conditions at home and abroad this year will mean significant shortages in food supplies in the coming months. The days of surplus food are now but a memory of former times, and we must now take positive steps to insure our food security for the future.

It is my belief that a program of food reserves combined with monitoring of exports should be established immediately. The legislation I have introduced S. 2005, proposes a modest reserve, two-thirds of which would be held in private hands and one-third of which would be held by the Government. Such a reserve would help to assure price stability while serving as a cushion during times of shortage and international emergencies.

An editorial in the Minneapolis Tribune of August 25, entitled "For a Policy of Food Reserves," presents a strong case for establishing a reserve such as I have proposed.

Mr. President, I ask unanimous consent that this editorial, along with my letter to the editor in response, be printed in the Record.

There being no objection, the editorial and letter were ordered to be printed in the Record, as follows:

For a Policy of Food Reserves

Mention food reserves and many recall the agriculture surpluses acquired by the federal government in past years to keep farm prices high. Proposals for food reserves, here and in other countries, also sound like a contradiction when the immediate problem is how to avert famine in parts of the world. Cultivating those impressions, the Department of Agriculture is pursuing policies more likely to exacerbate than lessen food problems. Its officials suggested that critics offer simplistic solutions and that, in contrast, present policies are the best.

Scornfully, Secretary Earl Butz said recently that the way some people would "solve the problem of feeding a hungry world" is to "set up a food reserve and let other nations draw from it." That is not what responsible advocates of alternative policies propose. For example, Minnesota agricultural economist Willard Cochrane urges the establishment of a reserve-stock program in two parts. One would maintain supplies for emergency grants and other food aid to developing countries (20 million children around the world suffered from cutbacks in such programs last year). The other would cushion markets from the excessive price swings typical of the past two years.

The second point was addressed this month by another senior Agriculture official, Clayton Yeutter. "We cannot afford partial embargoes or export reporting systems that trigger panic in world markets," he said. "We must simply let market forces operate."

Market forces should indeed operate, and they have been, with vengeance. This happened, in part, because there isn't much elasticity in world demand. People tend not to consume a great deal more from year to year even when food is abundant; they do not want to consume much less when shortages appear, as has recently been the case. Hence the scramble for food and the skyrocketing prices. The purpose of a reserve program is to make supplies, and thus prices, more flexible. That implies flexibility, too, in good crop years, so that prices to farmers don't plunge as precipitously as they have risen since 1972.

But how should the United States begin a reserve program? In part, the answer is in the question. By enacting the legislation to do so. Congress would be giving advance notice that such a policy was on the way. That alone would dampen speculation. Moreover, the necessary statement of goals—domestic requirements, commitments to buyers abroad, food aid minimums and the like—would make the notice explicit. Economist Cochrane suggests periodic reporting of what would in effect be a food-supply budget, which, far from "triggering panic," as Yeutter warns, would trigger confidence. If extraordinary depletion required export limitations, the conditions under which they would be applied should be established long in advance.

We recognize that disadvantages and problems are involved in even a limited policy of food reserves. They pale, we believe, in comparison with those demonstrable in present policies, whose supporters seem content with abrupt changes in American farm and consumer prices, and are apparently unworried about the threat of starvation elsewhere.

August 29, 1974.

Mr. Charles W. Bailey,
Editor, Minneapolis Tribune,
Minneapolis, Minn.

Dear Mr. Bailey: I wish to extend my congratulations to the Minneapolis Tribune on its excellent August 25 editorial, "For a Policy of Food Reserves." It is a cogently stated editorial which accurately sums up the main issues on the subject of food reserves.

Food reserves have been a major concern of mine since 1956. At that time, as Assistant Secretary of Agriculture, Earl Butz opposed the idea, just as he does as Secretary of Agriculture today. The Tribune editorial develops some of the key issues which Mr. Butz has chosen to ignore.

I have introduced food reserve legislation, S. 2005, and extensive hearings have been held on the bill. The bill proposes a modest food and fiber reserve designed to benefit both consumers and producers. It also recommends increased in the target and loan prices to reflect increased agricultural production costs.

Farmers are rightly concerned over the experience of earlier years when crop production was well above demand, and surpluses were looked on as a disposal problem.

Today, we face world food scarcity, and reserves are needed for our own security, to assure price stability, to provide an adequate return to our farmers and to meet our export requirements and international emergencies.

My bill calls for a program with two thirds of the total reserves to be held in private hands by farmers and traders, and the remaining third held by the government. The government-held reserve would be released only under carefully prescribed conditions to seal off these supplies and avoid depressing the prices paid to producers.

We must learn from the events of the last two years and develop a sensible program. We need a program which would provide more careful monitoring of export sales in a tight supply market, and a reserve program should be established now in case we have excess production in the future.

Mr. Butz's response that there is no surplus now to put into a reserve ignores the lessons of food shortages and wild price fluctuations which he should have learned over the last two years.

The Tribune is correct in stating that the disadvantages and problems of even a limited food reserve pale in comparison to our present policies.

A reserve program would bring confidence and dampen speculation. With our economy in its present state, these goals should be pursued with full force.

Sincerely,

Hubert H. Humphrey.

CANADA'S WHEAT SHORTAGE

Mr. HUMPHREY. Mr. President, the crop shortages we face this fall have been widely publicized. However, Canada, which like the United States had earlier hopes for a bumper crop this year, has also been the victim of unfavorable weather and now foresees the harvesting of its smallest wheat crop since 1970.

Heavy snowfall in the spring, followed by heavy rains, delayed planting. Now, early freezing temperatures have damaged the wheat crop, and even further damage by frost is expected since heavy rains in some areas in the past few weeks have delayed harvesting.

Canada is one of the world's largest suppliers of wheat, and many countries depend on her exports, as well as those of the United States, to meet their people's food needs.

With world food demands increasing as they are, while agriculture production is down, it becomes more and more apparent that an international effort to solve our food crisis problems is essential. It is hoped that we will take a leadership position at the World Food Conference in November, and that our Government will end its efforts to downplay the seriousness of the present food situation.

Mr. President, an article by William Borders in the New York Times of September 16, and entitled "Canada's Wheat Hopes Fade at a Time of Food Shortages," describes the current situation in Canada with respect to the fall wheat crop. I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Canada's Wheat Hopes Fade at a Time of Food Shortages

(By William Borders)

Montreal, September 15.—An early killing frost on the Canadian prairies has dimmed the prospects for this country's vital wheat crop, prospects that were already none too bright.

At a time of critical food shortages, when buyers in many countries have been looking eagerly to Canada, which is one of the world's major exporters, it now appears that the wheat crop here this fall will be the smallest since 1970.

"At planting time, and now again at harvest time, this has been an unusually bad year for weather," explained a spokesman for the Canadian Wheat Board, the government marketing agency in Winnepeg.

SNOWFALLS ARE FACTOR

Last spring, heavy snowfalls followed by heavy rains delayed planting for several weeks beyond the normal date. Since a certain set amount of time is required to develop a crop—100 days or so in the case of Canadian wheat—the late spring led the farmers to hope for a late fall, so their crops would have time to mature before the first frost.

Instead, it came early, with temperatures dropping into the 20's over the Labor Day weekend in Saskatchewan, which produces 60 per cent of Canada's wheat. Since then, steady rains have prevented harvesting in many areas, increasing the likelihood that the crop will be further damaged by frost.

The quality of this year's harvests of oats and barley, Canada's other principal grains, is also thought to have been diminished by the freezing weather. But in this country wheat is the undisputed king, and that is the crop that attracts the most attention.

The latest informal predictions from the Wheat Board is that when the harvest is completed during the next few weeks, Canada's crop of wheat will total less than 500-million bushels, a drop of more than 100-million bushels from last year.

That amount, which is less than one-third the size of this year's expected harvest in the United States, would be Canada's smallest annual wheat crop since the disastrous drought of 1961, except for 1970, when the farmers sharply reduced the number of acres planted to wheat, following a market glut.

The wheat producers in this country also have problems besides the weather. Canada exports four bushels of wheat for every one that it consumes, but this year long labor disputes have severely hampered the foreign trade on both coasts.

A strike by engineers and officers on Canadian Great Lakes ships is interfering with shipments across the Atlantic, while on the Pacific Coast, grain handlers have stopped work. At last count, the Wheat Board said, there were 19 idle ships waiting in the Vancouver harbor, including 10 from Japan and six from China.

THE FIGHT AGAINST HUNGER

Mr. HUMPHREY. Mr. President, George Ivan Smith, in a recent issue of the Christian Science Monitor, has reviewed an important new biography, "Facing Starvation: Norman Borlaug and the Fight Against Hunger," by Lennard Bickel. Norman Borlaug, who has testified before the Foreign Agricultural Policy Subcommittee of the Senate Committee on Agriculture and Forestry, was the first agronomist to be awarded the Nobel Peace Prize in 1970. I recently participated with him in the Food Forum at the Midwest Govenors' Conference.

Dr. Borlaug is best known for his development of new strains of rust-resisting wheat which, by making possible great increases in production, has saved millions from starvation in developing countries.

Dr. Borlaug has been a crusader in promoting international efforts to solve the mammoth problems of the current global food crisis. He says that we must act now, internationally, in addressing all the contributing factors to this crisis, including population growth, adverse weather conditions, the scarcity and high price of fertilizer, and the lack of adequate food reserves to fill our consumption needs during times of short supply.

It is my hope that the World Food Conference in Rome this fall will receive wide participation and will mark the commencement of a truly cooperative, international "fight against hunger."

Mr. President, I ask unanimous consent that the book review by Mr. Smith be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IT'S OUR NEIGHBORS WHO ARE HUNGRY

(By George Ivan Smith)

The Nobel Prize, highest award for an individual contribution to world peace, was given for the first time to an agronomist in 1970. He is U.S.-born Norman Borlaug, who developed new strains of dwarf, rust-resisting wheat that made possible such dramatic increases of production in poorer lands.

As a result of his work, and that of his "wheat disciples" from some 20 countries, literally many millions of peoples have been saved from certain starvation. In India alone, in one year, the new wheat fed an additional 70 million people. The Rockefeller Foundation, which funded the start of this work, also encouraged others to develop high-yield rice strains.

The combined successes created "The Green Revolution" which daily is saving the lives of multitudes.

IN THE MINDS OF MEN

This beautifully written biography demonstrates again that individual purpose and knowledge can make a global impact on problems that appear to be so complex in our world. His success was built, not so much by the great energy and effort that Borlaug spent in growing the seed, but by growing the new concepts in the minds of men. He is out at dawn with the workers in the fields. He is arguing with presidents to win the battle against stubborn technocrats who cause his projects to fail. He is pleading his case at international conferences.

In his every action, and he works like a whirlwind, he is not the clever agronomist peddling his discovery but the sensitive human being affected by knowledge that billions of fellow humans are living in crushing poverty and many are in fact starving to death. He wants action to prevent that.

To Borlaug the seed is but a catalyst. To put the germ in the soil is not enough. It has to be sown in the society itself, nourished by agricultural policies that realistically take into account "the race against time to keep from starving."

Although the author presents a moving, inspiring account of what Borlaug has done there is a more compelling, urgent significance to the book that demands attention. The gains from increased food production are perilously at risk.

Population growth will outpace food production unless checked. The energy crisis has either reduced the amount of fertilizer available or put its price beyond the reach of poor countries where the need for food is greatest.

There is scarcely 60 days of food grain left in the world—at a time when population growth produces every three years as many more mouths to feed as there are in the U.S.A. today. Human settlements are spreading over arable land.

Far from resting on his laurels Borlaug is thundering a warning that unless action is taken now we are heading for famine on an unprecedented scale. From the book and Borlaug's speeches the dimensions of the food crisis arise like a Colossus.

NEEDED: A GLOBAL VIEW

The problem of Joseph in Egypt in ancient times was dimensionally minor by comparison, but was solved by the national application of a wise policy. Now, Borlaug argues, nothing short of truly effective international action can avert disaster.

There is a World Bank for money but not for food. Grainaries are not strategically located so that supplies can arrive in time to save life. The United Nations agencies over past decades have done some great work to aid development but nation states are not yet willing to give them the funds and the power to cope with critical global issues on the scale required.

We shall go on only tinkering with problems until the environmental, food, and population policies of governments are based on the fact that conditions now integrate us as mankind and not a collection of races and tribes, some of whom may survive at the expense of others.

OPPORTUNITY IN BRAZIL

There is hope. It emerges from Borlaug's thinking, his knowledge of vast tracts like Brazil that can become gigantic producers and his conviction that a program of internationally integrated action can yet stop disaster from happening.

A World Food Conference will be held in Rome next November. For the first time in human history, the subject will be studied on this scale in a global frame. A world fertilizer fund is under consideration.

The first conference document bears out much of Borlaug's assessment. By 1985 it is expected that the cereals shortage will leave the vast majority of developing countries in great need, unable to afford to import the food.

If the crop failures occur during the next few years in major producing areas, as they did in 1972, the cereals deficit, may be 100 million tons. Only radical changes in international agricultural policies could meet that demand.

It can be done given the political will. On that note the book ends. It also quotes a profoundly important reminder from Borlaug. There are no miracle seeds.

"Nothing the generations of wheat breeders had done, nothing he had done, had created a single new gene. Human skill had been managing, manipulating the basic material that had been at hand for all of history."

JOSEPH A. BEIRNE, PRESIDENT EMERITUS OF CWA, PASSES AWAY UNEXPECTEDLY ON LABOR DAY, 1974

Mr. HUMPHREY. Mr. President, on this Labor Day America lost a great leader, labor lost a seasoned champion and I lost a dear friend; Joseph A. Beirne died unexpectedly after a long, valiant battle against cancer.

A founder and the driving force behind the Communications Workers of America during the union's 36-year history, Joe Beirne had resigned as president of CWA in June 1974. At that time, delegates at the union convention in Kansas City, which I was privileged to address, immediately and unanimously designated him as CWA president emeritus.

Mr. Beirne had retained his position as a vice president of the AFL–CIO and his membership on the federation's powerful executive council. He was also a member of the Democratic National Committee, among a host of other activities and interests.

Mr. Beirne's last appearance before an official CWA group was on January 16, 1974, when he went before the union's Bell System bargaining council to announce achievement of a lifelong dream:

> We have made our breakthrough: the Bell System has agreed to national bargaining with the Communications Workers of America.

Mr. Beirne lived long enough to witness the conclusion of this first round of national bargaining.

Mr. President, I ask unanimous consent that a moving homily delivered by

Msgr. George G. Higgins at the funeral of this great American leader, be printed in the RECORD.

There being no objection, the homily was ordered to be printed in the RECORD, as follows:

Homily: Funeral of Joseph A. Beirne

(The virtuous man, though he died before his time, will find rest.

Length of days is not what makes age honorable, nor number of years the true measure of life; understanding, this is man's grey hairs. . . .

Yet people look on, uncomprehending. It does not enter their heads that grace and mercy await the chosen of the Lord and protection, His holy ones.—Book of Wisdom, Chapter IV.)

I have chosen this reading from the Book of Wisdom as the opening text of this morning's homily for the reason that Joe Beirne, by today's actuarial standards, died slightly before his time. He died in his early sixties, whereas the Psalmist tells us that "seventy is the sum of our years, or eighty if we are strong." But actuarial figures or projections of this kind—even biblical projections—were rather meaningless in Joe's case. He was a hyperactivist if I ever met one. I don't think he had a lazy bone in his body. He moved at an incredibly hectic pace and, by ordinary standards managed to crowd at least two lifetimes into one. As the Washington Post pointed out in its obituary notice on Tuesday morning, quoting some of his union associates, Joe was dynamic, methodical, and restless. They might had added for good measure, that he was also tireless—tireless physically and mentally also in the sense that he never stopped thinking—and thinking very imaginatively—about the role of his own organization—the CWA, and the role of the labor movement as a whole. The two books in which he summarized his hopes and aspirations for the movement were very much to the point when they were first published several years ago and, even today, are still very timely and well worth reading.

In any event, "Length of days is not what makes age honorable, nor number of years the true measure of life; understanding, this is man's grey hairs." All of us who knew Joe Beirne as a personal friend or trade union associate can vouch for the fact that he had the gift of understanding to a remarkable degree. He had a profound understanding of human nature with all its strengths and weaknesses, a great tolerance for human foibles, a personal and compassionate interest in the everyday problems of ordinary people, and a willingness—which went far beyond the call of official duty—to help people resolve their problems, whatever they might be. Both the New York Times and the Washington Post picked up his own definition of the union president's role in this regard. It's a marvelous statement and a great tribute to Joe's sense of decency and humanity. "When you're head of a union," he said, "you've got to be a sociologist, marriage counselor, father confessor, psychiatrist, economist, legal expert, all wrapped into one. You must have the desire to help people help themselves."

In pulling together some notes for this informal eulogy, I found in my own files a similar quote which could appropriately be inscribed on Joe's tombstone as a fitting epitaph for a man who was truly democratic with a small d. (It's a matter of common knowledge, of course, that Joe was also a Democrat with a capital D—passionately so, some would say incorrigibly so—but that's another matter and one which it would not be appropriate to expand upon this morning.)

"Labor unionism," he told a reporter for the Washington Star in 1966, "is a movement of the people, not just a legal structure. A union leader who lacks feeling ought to be doing something else."

Joe had another personal quality which did great credit to him as a human being and contributed much to his extraordinary effectiveness as a trade union leader. He was a man of the future, not of the past, and was willing, even eager, to listen to and to learn from people younger and less experienced than himself—a rare quality in any man who has achieved a position of national leadership in whatever walk of life.

You may recall, in this connection, that Joe went out of his way in one of his books to disassociate himself from the orators of his own generation—whether clergymen, politicians, or labor leaders—"who hark back to the abuses, the deprivations, the outrages of thirty years ago as though their eradication were reason enough to enlist the grateful support of today's voters and workers. "It isn't," he continued. "Those old battles," he said, "are a glorious page in history and we young 'old' codgers who had a part in them have every right to be proud of what we did. But the young generation has an equal right to ask, without cynicism, What have you done for us lately?' "

The point is well taken. Nevertheless, at the obsequies of one of the young 'old' codgers, I can't help but feel sorry for those under-thirty militants of the present generation what at least appear to be completely indifferent to the social history of the forties and the fifties and seem to think that they have nothing to learn from the experience and the example of that particular period. That's not cynicism; it's a kind of sophomoric immaturity, mixed with a certain amount of youthful conceit.

To be sure, Joe Beirne was correct when he said, in deference to today's younger militants, that it's the future that really matters, not the past. He was also correct, however, when he went on to say that even "the most dedicated liberal can learn from the record of past rebellions" and that "a modest appreciation of former struggles will reinforce the fainthearted, for the odds were far longer and the perils far greater in the dim past."

The thirties and the forties and the fifties—the years in which Joe Beirne was doing his trade union apprenticeship—really don't belong to the dim past but, in any event, one of the lessons to be learned from reviewing the history of social reform movements during that period is that, whatever the situation may be at the present time, being over thirty in those days wasn't necessarily synonomous with being irrelevant. I am thinking, for example, of men like the late Philip Murray, long-time president of the old CIO, whom I mention by name only because he was such an intimate friend of Joe Beirne—indeed one of his closest friends and admirers. Murray and many of his contemporaries in the labor movement were fairly well along in years when Joe Beirne became associated with them. They were good men—some of them truly great men—in my opinion. A modest appreciation of their contribution to the cause of social justice and of Joe Beirne's contribution will, hopefully, reinforce the fainthearted, for the odds which they faced were longer and the perils much grimmer than those which most of the militants of this more affluent generation are confronted with. Putting it another way, we can agree, I think, with the author of one of the more recent and more substantial histories of labor-management relations in this country when he says, apropos of the so-called generation gap: "Today's impatience, after all, rests on yesterday's achievements."

Joe Beirne helped to make some of yesterday's achievements possible. But to place too much emphasis on his achievements in the public order would be inappropriate in the case of a labor leader who, as many of you know even better than I do, was the least impersonal or, if you will, the most warmly personal of men. It's important to emphasize, I think, that it was precisely this personal quality which made Joe Beirne so effective in the labor movement and so endeared him to his countless friends of every race and creed. In other words, it would not do justice to the man to think of him primarily as a public figure concerned impersonally with important public issues and involved, as a celebrated VIP, in all sorts of public events. He was that, of course, but, first and foremost, he was interested in people—ordinary people, the so-called rank and file. In his opinion, they were truly the salt of the earth.

Who are these people, these ordinary rank and file workers? Here is a composite portrait of the type of person I am talking about. It was drawn up some fifteen or 20 years ago by a well known labor economist on the basis of a survey which he had made of a number of local unions:

"The rank-and-file union member goes through life at a humble level, seeking in his or her own way the livelihood, the security, the necessities, and small comforts that our civilization makes possible. He is caught up, as all of us are, in the mass society that technology has fashioned. Usually he lives in an urban community near the job that is his economic base, in a small town or metropolitan center created by forces beyond his control. A less-advantaged member of the community, he has had limited education and enjoys little prestige; he has a relatively small income and seldom gets to own property more substantial than his modest home or car; he never makes a speech or gets his name in the paper; he rarely makes important decisions, except in his own little world. He becomes an unskilled, semiskilled, or, if he is fortunate, a skilled worker, gets a job and holds on to it, joins a union, and eventually dies as anonymously as he has lived . . . Yet this rank-and-file worker, anonymous and unimportant though he may seem, is at the base of American society and unless one knows what he is like one cannot fully understand the society."

This is the man, the average man or woman, the so-called rank and file worker whom Joe Beirne understood so well and held in such high esteem and whom he looked upon as being his own equal in every respect in the eyes of the merciful God Who created all of us in His own image and likeness. In his long career of service to the working people of this country, Joe Beirne tried, in the words of one of the better spiritual writers of this generation, a European Jesuit by the name of Boros, "to be God's goodness" to thousands of these ordinary men and women. In a recent essay on the virtue of respect—respect for the dignity of every human being—this writer reminds us that "God wants to enter the world in us and through us, He wants to be kind through us. He has taken this extraordinary risk. This is the task that is involved in being a Christian: to be God's goodness, so that men can recognize that goodness and benevolence exist, that, 'despite everything' being is good. If we are Christians, we must prove to others that tomorrow will be a better day. In this they experience God; total benevolence and infinite love. There are proofs of God (he continues) that refute unbelief with logical impeccability. But in the grave crises of human existence they mean nothing, or very little. In such times there must be a man whose life is at least a sign that humanity is respected and honored, that it is taken up into an unconditional friendship, that is, that He really exists Who makes all possible: God."

It seems to me that that's what Joe Beirne's breezy but, in fact, profoundly serious life was all about. He wanted to prove to others—by his own militant and completely disinterested concern for their welfare—that tomorrow will be a better day and, in this way, wanted to help them experience God; the God of total benevolence and infinite love."

In saying this, I don't want to leave the false impression that Joe Beirne was the kind of man who wore his religion on his sleeve. That wasn't his style at all. He most assuredly did not wear his religion on his sleeve and probably would have found it not only embarrassing but impossible to put into words the relationship between his own religious faith and his life-long commitment to the labor movement. Nevertheless I think I owe it to his memory to say for the record, as I have already suggested, that his personal religious faith did, in fact, make a significant difference in his public career as a trade union leader and a militant champion of social justice both at home and abroad.

I am thinking, in this connection, of something. I read just a few weeks ago in a very thought-provoking book on the religious meaning of death by a distinguished Protestant theologian from Canada. He himself holds to the traditional Christian belief in the resurrection of the body and life after death, but he says that large numbers of our contemporaries find it impossible to accept this belief. One reason for this, he contends, is the mistaken notion that religion stands in the way of social justice and social progress. "It is frequently said, and constantly repeated," he points out, "that to believe in heaven is to take men's minds away from the pressing problems of earth and induce a social indifference or passive acceptance of the status quo with all its suffering and injustice. Marx said this, and many who are not Marxists have swallowed his critique of religion and of Christianity in particular without subjecting it to critical examination.

A French priest, whose writings on social matters are well known in the United States, makes the same point even more emphatically in one of his more recent books. "Christians, generally," he writes, "have been conspicuously absent from the mass movement of workers. . . . Certainly, the good works of of some Christians have often been heroic; but those good works, though they have been a striking form of witness for some, for others have been a counterwitness to the extent that they have not been accompanied by participation in the battle for social justice. The Church, in fact (as many have noted), never 'lost' the working class, for she was never really present among the workers—and she was especially absent from the labor movement, which is essentially an expression of the ideal of life and dignity."

What this French priest says about the situation in France may or may not be accurate. I wouldn't know about that. I do know, however, that what he says about the Church and the labor movement has little or no relevance in terms of our own experience in the United States. The Church in the United States, by and large, has been in complete sympathy with the essential aims and aspirations of the American labor movement and has strongly encouraged her own members to take an active, even a militant, interest in union affairs as an indispensable means of achieving justice for the working people of this country. Joe Beirne was one of those who heeded this call and brought to his work in the labor movement a strong conviction that his faith required of him a lifelong commitment to the cause of social justice. In other words, he was a militant trade unionist not in spite of, but precisely because of his religious faith.

The Psalmist, in meditating on the brevity of life, says that, whatever the number of our years, "most of them are fruitless toil, for they pass quickly and we drift away." Joe Beirne's years, like those of all of Adam's sons and daughters, passed quickly, to be sure, but they were not years of fruitless toil. They were years of dedicated service to the people whom he was privileged to represent, to the country which he was proud to call his own, and to the world community as well. For this we honor his memory, even as we mourn his passing. How appropriate, incidentally, as many others have already observed, that he should have died on Labor Day, the official national holiday of the movement to which he dedicated the better part of his remarkably productive life. How appropriate, too, that the day of his death should have coincided with the American observance of the feast of his patron saint, St. Joseph the Worker, through whose intercession we now commit him to the merciful God Who created and endowed him with such extraordinary qualities of heart and soul and mind.

Now that he has been taken from our midst, I can find no words which are adequate to assuage the grief of his wife and daughters to whom, as we all know, he was so deeply devoted. I can only encourage them, in the words of St. Paul, not to grieve for Joe as those who have no hope. Their hope is founded in the Resurrection of Christ. With St. Paul, we "believe that Jesus died and rose again, and that it will be the same for those who have died in Jesus," as Joe Beirne most assuredly did.

Learned theologians down through the ages have elaborated upon this Resurrection theme from every conceivable point of view, but I doubt that any of them has put it quite so simply and quite so impressively as Mrs. Rose Kennedy, the mother of the late President John F. Kennedy and the late Senator Robert F. Kennedy. At the end of her recent autobiography, Mrs. Kennedy writes: "Very often I am asked about what people like to call my 'philosophy of life.' When it is put that way it always seems to be a rather formidable expression, and one too profound to respond to in simple terms."

Nevertheless her answer is simplicity itself. "I have come to the conclusion," she writes, "that the most important element in human life is faith." Her own faith is in the Resurrection of the Lord. Whenever I am making the Stations of the Cross, and think of the death and Resurrection of Christ, she says, "I think of my three sons in their last moments—on their final missions, undertaken for the benefit of humanity—and I bow my head in silent resignation to God's Holy Will. I think of my eldest son, Joe, when his airplane exploded over the English Channel. I recall kneeling heartbroken at Jack's catafalque in the Rotunda at Washington, and I weep again at the remembrance of Bobby's funeral cortege, in New York, led by Ethel and his ten children.

"At the fourteenth station, I see the Blessed Mother view, for the last time, her Son placed in the tomb. I think again of my beloved ones. I take renewed strength and courage in the thought that as Jesus Christ rose from the dead, my husband and I and our sons and daughters will one day rise again and we all shall be happy together, never more to be separated. My spirits are lightened and my heart rejoices, and I thank God for my belief in the Resurrection. 'I am the resurrection and the life; he who believes in me, even if he die, shall live; and whoever lives and believes in me shall never die.'

"This promise has been a steady source of guidance and inspiration throughout my life, and I hope and pray that all . . . may find renewed peace and strength and joy in these thoughts."

With these words of consolidation, very simple but very moving words from the pen of a truly valiant woman, I offer to Ann and her daughters and the rest of the family my condolences and yours and the assurance of our continued prayers for the happy repose of a great man whom we all admired and respected and whom we are going to miss very much. May he rest in peace.

In closing, let me add a very brief word about the meaning of Joe Beirne's death for those of us, his friends and associates who are left behind to carry out his work. A funeral service is conducted not only for the deceased, but for the living as well. It is a service of worship as well as a service of comfort and support for the bereaved. It is a way of expressing our gratitude to God for the gift of life, particularly the life we have shared with the deceased. Hearing the Word of God, we proclaim that God is the author of life and the source of human good. We also affirm the worth and dignity of human life even in the face of death. And, last but not least, in the familiar words of the poet John Donne, the funeral service is intended to remind us that our own years shall also pass very quickly and that we too shall drift away to be joined with our friends in Paradise. When the Church "buries a man, the poet reminds us, that action concerns me. All mankind is of one Author, and his one volume; when one man dies, one chapter is not torn out of the book, but translated into a better language; and every chapter must be so translated; God employs several translators; some pieces are translated by age, some by sickness, some by war, some by justice; but God's hand is in every translation; and His hand shall bind up all our scattered leaves again . . . No man is an island, entirely of itself; every man is a piece of the continent, a part of the main; if a clod be washed away by the sea, Europe is the less, as well as if a promontory were, as well as if a manor of thy friends or of thine own were; any man's death diminishes me, because I am involved in Mankind; and never send to know for whom the bell tolls; it tolls for thee."

It tolls for you and me, reminding us that we have not here a lasting home but are destined for Paradise where Joe Beirne will be awaiting us.

May God support us all the day long, 'til the shades lenthen and the evening comes, and the busy world is hushed and the fever of life is over and our work is done. Then in His mercy, may He give us a safe lodging and a holy rest and peace at the last.

RETIRED PROFESSIONALS—AN UNTAPPED RESERVE OF ENERGY AND WISDOM

Mr. HUMPHREY. Mr. President, the Institute for Retired Professionals, a part of the New School for Social Research in New York, is a creative educational program developed by retirees themselves with the help and encouragement of the university. Under the energetic leadership of the program's director, Dr. Hyman Hirsch, this program recognizes the vast pool of experiences and talents which must somehow be used constructively, for the benefit of retired persons as well as society. The Institute for Retired Professionals—IRP—offers a chance for older citizens to participate in mind stretching activities at the university level specifically designed by their peers for them. It enables former professionals from every phase of private and public endeavor to explore new interests both as students and teachers.

IRP allows these retired persons to discover new fields of interest and permits them to rise to leadership in second careers as educators. The cornerstone of the coordinated activities of the IRP is its self-directed educational programs—with volunteer staffs. However, the IRP functions through elected officials and its activities are communicated through an imaginative periodical newsletter entitled The IRP Review.

The membership of IRP includes persons from every walk of life, from the ages of 60 to 85. All these people have valuable experiences, talents, and knowledge to share with their colleagues.

Among the most popular courses offered at the Institute are the following:

Art Discussion
Avant Garde Literature
Classical Guitar
Foreign Press Review
American Political Democracy
Foreign Languages
Shakespearian Literature
World Economics Review, and many more

This relatively new and dynamic program, begun in New York in 1962, has been duplicated in association with some of the Nation's most esteemed academic institutions, including the University of California at San Francisco and San Diego, Case Western Reserve University in Cleveland, and other universities in Boston and Philadelphia.

We, along with the IRP's director, Dr. Hyman Hirsch, hope that other universities will follow their lead and create throughout the United States such meaningful activity for the older person.

It is innovative programs such as these which retired persons need to make a full use of their often untapped energy and wisdom. The Institute for Retired Professionals Newsletter reflects the bubbling enthusiasm with which these older people participate in the vast array of educational programs that are offered. As one woman wrote:

> The rewards far outweigh the efforts. . . . In every sense there is an improvement in the quality of life.

Mr. President, it is with these sentiments in mind that I urge and encourage the extension of this unique educational program to all of our States. Programs like this can undoubtedly improve the quality of life among all retired persons.

Mr. President, I ask unanimous consent that a brief summary of the IRP "Challenge" be printed in the Record.

There being no objection, the program was ordered to be printed in the Record, as follows:

The New School's Institute for Retired Professionals—The Challenge

RETIREMENT

Approximately one in 10 persons in the United States today is of retirement age (over 65). What is more, according to Reginald H. Holland, Consulant on Science and the Humanities of The Conference Board, "Retirement at an ever-earlier age is clearly the pattern of the future."

Retirement often raises more questions than it answers. For the increasing numbers of educated persons in our retired population, the usual answers for the use of leisure time are not responsive to their needs and to their sense of personal worth and dignity. The Institute for Retired Professionals at The New School has dealt with the leisure time of the educated retired person. It believes with Willard Wirtz, the former Secretary of Labor, that "there is more to life than twenty years of learning, forty of earning, and the rest just waiting." At the Institute retirees have created their own program of continued learning.

WHAT IS THE IRP?

The Fall of 1962 at the New School in New York City marked the opening of the Institute for Retired Professionals, the first educational venture of its kind in the United States. The Institute is not a special course created for retirees by the university. It is a program which was developed by retirees themselves with the help and encouragement of the university. In that program is a recognition by an institution of higher learning that the vast pool of experience and talents in the retired population must somehow be used constructively in retirement for the benefit of retirees as well as society.

The Institute offers an opportunity for the many highly trained retired professionals to renew their education at the university level without the usual course procedures. The use of their experience and talents in a retiree's self-directed program represents a new approach in adult education. It enables former professionals as well as executives retired from business, public affairs organizations and government units to explore new interests and directions both as students and as leaders in a continued learning program with a social program important to all age groups, especially older people.

THE PROGRAM

For a fixed annual fee of $200, a member of the IRP is entitled to enroll in one New School course each semester and participate in all phases of the IRP program, without any additional fees. It is therefore possible for a member to attend a weekly session of a New School course, as well as structure his or her leisure time by participating in IRP groups, and to go back to school daily if he wishes.

IRP groups are based on cooperative leadership and membership participation. The courses of study of discussion groups in current affairs, book reviewing, the threatre and other areas, are developed by the leaders of each group with individual members assuming the tasks of paper-giving and reporting at each session. These assignments are undertaken by members months ahead so as to allow for adequate research and preparation.

Groups such as poetry, history and playreading are conducted as seminars under leaders of proven competence. Languages, art and music groups are taught by specialists in the field. Every two months the group chairmen and co-chairmen meet. At these conferences educational policies and standards are discussed.

A basic approach in the formation of IRP groups is to create as many opportunities for membership participation as possible. No nonmembership may teach or lead IRP groups. All are non-paid volunteers. This "volunteer faculty" concept of the IRP has made possible new forms of involvement for the educated retiree. Retired doctors, dentists, business executives, teachers, attorneys, and engineers find new opportunities to rise to leadership in second careers as educators.

Just as in every university students are encouraged to participate in social activities, so too at the IRP. Group discussions, class activities, bus trips, concertgoing, the cafeteria, special group luncheons, the IRP annual luncheon, are among the large variety of socializing opportunities presented. At the IRP there is an ever expanding opportunity to make new friends.

The IRP also conducts a community volunteer service. Not only are opportunities for such services brought to the attention of the membership, but places in various organizations are found for those who feel a need for such service.

For the creative writers the IRP provides the opportunity to be published. A board of editors, consisting of former journalists, editors and advertising executives, cooperate in publishing *IRP Review*. A Newsletter is also published periodically.

Since this is a self-directed program without a paid staff, The New School and the initial organizing group agreed upon by-laws providing for democratic procedures. Elections for officers and council members are held annually. Because of the character of the membership The New School and the IRP have a special relationship. The Director acts in the capacity of the department head and is responsible to the Dean of the school, as well as to the IRP Council for the conduct of the program.

ELIGIBILITY

Membership is open to those who have recently retired from a professional or executive career. Applicants must have suitable educational background and interests. Admission is determined after a review of the application by the IRP Admissions Committee and a personal interview by the Director.

ENDOWMENTS

The Edward and Florence Neinken Scholarship Fund is administered by the Director of the IRP.

The Nat Packer Fund is utilized by the IRP Council with the approval of the Director and the Dean of The New School for appropriate purposes.

THE MEMBERSHIP

The number admitted annually is limited (550 in 1972). Since few drop their membership (annual rate about 10 percent) a long waiting list develops each year.

The success of the program is due in large measure to the predominant number of teachers and school administrators.

In the "executive and administrative" category are included such diverse occupations as bankers, corporate executives, government department heads, public affairs specialists and union officials.

Also among the members are artists, designers, editors, journalists, actors, music teachers and photographers.

This large variety of occupations has resulted in a welcome diversity of points of view in IRP discussion groups. It has added a new interest in the lives of retirees who, during their working careers, had a social life often limited to the colleagues in the professions.

PROGRAMS IN OTHER AREAS

The Institute has cooperated with universities and groups of retirees in other areas to establish continued learning programs. It is to be hoped that an increasing number of programs will result in the near future.

IRP GROUPS

Advanced Science Study.
American Political Democracy.
Art Discussion.
Avant Garde Literature.
Basic Economics.
Basic Themes in Literature.
Biography.
Chess.
Classical Guitar Instruction.
Community Service Volunteers.
Concepts of Science.
Contemporary Affairs Discussion.
Creative Reporting for IRP Groups.
Current Scene Discussion.
Film Documentaries.
Foreign Press Review.
French Conversation—Elementary and Advanced.
French Playreading.
German Literature.
Great Political Theories.
History Study—Ancient.
History Study—18th Century.
Italian—Elementary and Advanced.
IRP Review.
Jewish History.
Modern Poetry.
Modern Yiddish Literature.
Music History.
Nature Walks.
Periodicals.
Philosophy.
Playreading.
Recorder Instruction.
Russian Conversation.
Shakespeare's Plays and Poetry.

Sketching and Painting.
Social Science Study.
Spanish—Elementary and Advanced.
Tape Recording.
The Singers.
Theatre Discussion.
Travellers.
Watercolor.
World Economics Review.

REPORT ON THE WORLD POPULATION CONFERENCE

Mr. PERCY. Mr. President, as the only Member of the Senate to have accompanied the U.S. delegation to the World Population Conference, sponsored by the United Nations in Bucharest, Romania, last month, I would like to take this opportunity to report briefly to my colleagues on its outcome.

The World Population Conference was a meeting of some 135 nations, represented by official governmental delegations, to discuss the problems of global population growth, which, as my colleagues know, are voluminous, complex, and interrelated with virtually every other problem that currently confronts people and nations. The goals of the conference were to reach a consensus on the importance of international cooperation to solve population problems and to approve a World Plan of Action to deal with those problems.

The U.S. delegation, under the capable chairmanship of Secretary Caspar Weinberger of the Department of Health, Education, and Welfare and cochairmanship of Gov. Russell W. Peterson, Chairman of the Council on Environmental Quality, had hoped in Bucharest to strengthen the draft plan of action that was prepared beforehand by intergovernmental groups and at regional international meetings. We had hoped to convince the other nations that global population growth has attained critical proportions and that concentrated efforts to lower world growth rates must be undertaken immediately if the peoples of the less developed nations can ever hope to improve significantly their standards of living and if the citizens of the developed nations are to continue to enjoy the quality of life we have been fortunate enough to attain.

In Bucharest, however, we found that many Communist and Third World nations do not share this view, which is held not only by the United States but by the other developed nations as well. We encountered the opposing view that population growth is not a critical problem and that population problems will resolve themselves if the world's wealth and resources are redistributed more equitably.

Press reports coming back to the United States from Bucharest and that I saw in India subsequent to the conference emphasized this major difference of opinion and seemed to concentrate more on the disagreements among nations and on the superficial rhetoric common to all such international gatherings than on the actual accomplishments of the conference. And these are accomplishments of which all nations can be proud, for they are truly significant.

The first important achievement of the World Population Conference—and one that has appropriately been cited before—is that it took place at all and that the problems of population became page one news in the world press throughout the conference. Ten years ago, the topic of population was by and large the esoteric enthusiasm of demographers—those scientists concerned with the facts and figures of birth rates, death rates, growth curves and projections of the impact of the 3-child family on the population level of the 21st century. Few social scientists and humanitarians and fewer governments were interested in population science, which in 1974 is recognized as an integral aspect of the quality of life of all people. The global affirmation of 1974 as World Population Year and the participation of 135 governments in a population conference are therefore occurrencies of importance, simply because they stand as indications that the international community recognizes population as a subject of global concern and its related problems deserving of global attention and cooperation.

And to hold such a conference in a Communist country under the leadership of a Catholic Secretary-General for the Conference, Mr. Antonio Carrillo-Flores, is even more significant. Even if major differences of opinion on the seriousness of population problems and on approaches to solving them persist, the convening of the World Population Conference is in itself a real sign of progress.

The greatest achievement of the conference was the consensus of participating nations in adopting the World Plan of Action, which contains provisions that will have immeasureable consequences for people everywhere for generations to come. The plan affirms the "basic human right of individuals and couples to decide freely and responsibly the number and spacing of their children and to have the information, education, and means to do so; the responsibility of couples and individuals in the exercise of this right takes into account the needs of their living and future children, and their responsibilities toward the community." The plan further recommends that—

> All countries * * * encourage appropriate education concerning responsible parenthood and make available to persons who so desire advice and means of achieving it.

Although the plan of action does not make outright recommendations of target dates for specific population goals, the concept of quantitative goals is included, and the U.S. delegation deserves much of the credit for that inclusion. The goals that are mentioned, if not recommended, are these:

> (1) Population growth rates in the developing countries as a whole may decline from the present level of 2.4 percent per annum to about 2 percent by 1985 and below 0.7 percent in the developed countries. Such a reduction would result in a decline from 2 percent to about 1.7 percent per annum worldwide.
>
> (2) An increase in average life expectancy of 11 years for Latin America, 17 years for Asia, and 28 years for Africa, resulting in a worldwide average life expectancy of 62 years by 1985 and 74 years by 2000.

The plan does specifically recommend that countries should aim by 1985 to have an expectation of life at birth of at least 50 years and an infant mortality rate of less than 120 per thousand live births.

In connection with these possible targets, "countries which consider that their present or expected rates of population growth hamper their goals of promoting human welfare are invited, if they have not yet done so, to consider adopting population policies, within the framework of socioeconomic development, which are consistent with basic human rights and national goals and values."

It is important to realize that nations of all levels of development and all points of view concurred in the inclusion of these possible goals in the World Plan of Action. While these potential target dates are put forth most informally, that all nations accepted their inclusion can be seen as a positive step.

Perhaps the most unexpected development of the World Population Conference and one that I considered to be one of its outstanding accomplishments was the relatively easily reached agreement among nations that emphasis on the role of women in population policies and in economic and social development should be included in the Plan of Action. The plan includes as one of its principles that:

> Women have the right to complete integration in the development process particularly by means of an equal participation in education, social, economic, cultural and political life. In addition the necessary measures should be taken to facilitate this integration with family responsibilities which should be fully shared by both partners.

A new objective of the plan was also added:

> To promote the status of women and expansion of their roles, the full participation of women in the formulation and implementation of socio-economic policy including population policies, and the creation of awareness among all women of their current and potential roles in national life.

A number of specific recommendations in the areas of education, planning and development, economics, legislation, and family life are made that would allow countries to achieve this objective.

These new provisions in the World Plan of Action are based on the recognition by all governments that an improved status for women will yield progress not only for individual women but for their societies as well, as women participate more fully in the social and economic planning and development of their countries. Development and implementation of population policies can most particularly benefit from expanded participation by women.

The World Population Conference reflected throughout its course and in the resulting plan of action that the nations of the world are in agreement on a very important point: population policies and goals cannot be achieved without accompanying economic and social development. For years, many population experts believed that family planning services could yield reduced population growth even in the absence of economic and social development and adequate standards of living. Proponents of this view have gradually come to the conclusion that expectations for a decent and improving quality of life are absolutely necessary if families are going to limit willingly the size of their families. As a consequence, the World Plan of Action lays as much stress on rapid economic and social development for the less developed nations as it does on population policy. In approving the plan of action, the delegates of all participating nations have indicated their willingness to increase global cooperative efforts to assist the developing nations to make rapid advances in these areas.

Mr. President, there was one major development at the World Population Conference which I feel was not thoroughly reported in the press, and I believe it is important that I bring this development to my colleagues' attention. The sixth special session of the UN General Assembly held earlier this year approved a declaration on the establishment of a "new international economic order" and a programme of action to achieve it. There was considerable discussion of this new international economic order in Bucharest and the Plan of Action reflects the interest of the international community in this relatively new concept.

The philosophy behind the new international economic order is based on the fact that the developed, wealthier nations use a substantially greater share of the Earth's resources and contribute more to global pollution and environmental degradation than do the less developed, poorer nations. The new order calls for a more equitable distribution of the Earth's resources among the Earth's peoples and a redistribution of wealth among rich and poor nations. In line with the new economic order, the plan of action states:

> Recognizing that per capita use of world resources is much higher in the more developed than in the developing countries, the developed countries are urged to adopt appropriate policies in population, consumption and investment, bearing in mind the need for fundamental improvement in international equity.

The plan of action also cites that the implementation of the declaration and the program of action on the new international economic order should lead to a reduction in the widening gap in levels of living between developed and developing countries and would be conducive to a reduction in population growth, particularly in countries where such rates are high.

The plan further states:

> It is imperative that all countries, and within them all social sectors, should adapt themselves to more rational utilization of natural resources, without excess, so that some are not deprived of what others waste.

Mr. President, the World Population Conference obviously concerned itself with a broad range of issues, only a few of which I have highlighted here. The United States can be very proud of the role our delegation played in Bucharest and of its significant contributions to the world plan of action. I am proud that I was able to be associated even in a small way with the work of the delegation, and I am extremely hopeful that my colleagues will familiarize themselves with the entire plan of action and commit themselves to support for it.

The plan of action is on the agenda of the 29th U.N. General Assembly convening this week in New York. As a delegate to that assembly from the U.S. Senate, I hope to have the opportunity to work for acceptance by the Generaly Assembly of the World Plan of Action, and I will report further to my congressional colleagues on progress in that regard.

Meanwhile, I hope the Congress will approve Senate Concurrent Resolution 113, which Senator Humphrey and I and 11 other Senators are sponsoring. Our resolution expresses the support of Congress for the activities and goals of both the World Population Conference and the forthcoming World Food Conference to be held in Rome in November. The House has already held hearings on this resolution, introduced by Congressman Pete duPont and James Symington, and I would urge Senate action as quickly as possible to indicate to the international community that the Congress of the United States is committed to cooperative efforts to solve world population problems and the interrelated world food crisis. The support of Congress will be extremely helpful to international efforts to solve these difficult problems that so affect us all.

I wish to commend the members, the U.S. delegation, including my distinguished colleague Mrs. Edith Green, for their outstanding work at this significant conference, express regret that my own attendance was so brief, and commend Ms. Lorna Thompson of the staff of the Senate Select Committee on Nutrition and Human Needs for her fine services to the U.S. delegation and to those outstanding private agencies that attended the conference and themselves made such a significant impact on the final conference results.

MIDWEST FUEL RECOVERY PLANT FAILURE

Mr. PERCY. Mr. President, on July 23, an article from the publication Weekly Energy Report was reprinted in the Record at the request of my colleague, Senator Gravel. The article described General Electric's Midwest Fuel Recovery Plant at Morris, Ill., as a "fiasco" which "does not work and probably never will."

Naturally, I was concerned by the implications of the article and I asked General Electric to describe the circumstances of the Morris reprocessing plant from the company's viewpoint. In order to complete the record regarding the failure of this plant, I would like to make public the company's reply as well as a statement of the Atomic Energy Commission on the impact of processing plant delays on uranium enrichment requirements.

It is deeply disturbing to me that any nuclear facility could be constructed with so fundamental a flaw in design. However, since no radioactive material has been used in the plant, no inference can be drawn that the public safety has in any way been endangered.

Mr. President, I ask that the exchange of letters between myself and the General Electric Co. be printed in the Record, along with the statement of the Atomic Energy Commission at an August 6 hearing before the Joint Committee on Atomic Energy. I also ask that an article about the Morris reprocessing plant, which appeared in the Chicago Daily News on August 5, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

July 29, 1974.

Mr. Reginald H. Jones,
Chairman, General Electric Co.,
New York, N.Y.

Dear Reg: I am enclosing an article from a publication called Weekly Energy Report, which was printed in the Congressional Record at the request of Senator Gravel of Alaska. The article describes General Electric's Midwest Fuel Recovery Plant at Morris, Illinois, as a "fiasco" which "does not work and probably never will."

Naturally, this kind of article is very disturbing to me and to the people of Illinois, and I would like to be able to assess its validity before commenting on it in any way.

I would greatly appreciate it if you would describe the circumstances of the Morris reprocessing plant from the viewpoint of your company, and also send me any unclassified statements or documents which the Atomic Energy Commission may have prepared concerning the plant's condition.

I am sure you realize that in requesting this information, my only desire is to become better informed for the benefit of the public, and not to draw inferences concerning the management of your company.

Thank you very much.

Sincerely,

Charles H. Percy,
U.S. Senator.

General Electric Co.,
Fairfield, Conn., Aug. 16, 1974.

Hon. Charles H. Percy,
U.S. Senate,
Washington, D.C.

My Dear Senator Percy: Reg Jones is out of the country and has asked me to reply to your letter regarding our Midwest Fuel Recovery Plant (MFRP) at Morris, Illinois.

The MFRP was built as a small (300-ton annual output) demonstration plant to test a new system, the "Aquafluor" process, for reprocessing spent nuclear fuel. Reprocessing of spent fuel is desirable from the standpoint of energy conservation because it permits recycling of unburned uranium and of the plutonium created during irradiation. Reprocessing also is environmentally desirable because it reduces the quantity of radioactive waste requiring long-term storage. The Aquafluor process promised very significant improvements in the economics of reprocessing as well as sharp reductions in the physical quantity of radioactive waste materials as compared with the solvent extraction process which GE developed for AEC at Hanford.

Construction of the MFRP was completed in 1971. For the past three years we have carried on an extensive startup and checkout program using unirradiated material. This program turned up numerous process problems and extensive equipment modifications were made. As a result of these continuing problems, this spring we conducted an independent, high-level review of the operating capability of the MFRP. This study was headed by Dr. C. E. Reed, Senior Vice President, Corporate Studies and Programs, a nationally known chemical engineer, assisted by a board of experts in radioactive chemical processes. The study concluded that the plant could not achieve acceptable time operating efficiency without extensive changes in the process flow sheet and plant configuration, and, therefore, should not be committed to radioactively hot operation. The changes required would represent a complete departure from the original approach. The study was submitted to AEC on July 8th, and I am enclosing a copy for your review.

We are now undertaking a detailed technical and financial analysis of the redesign of the MFRP. The results are not likely to be available until well into 1975. I might add that a final decision whether to rebuild the MFRP will depend in part on clarification of government policies with respect to such issues as the use of plutonium as a reactor fuel and the requirements for radioactive waste disposal. The lack of clear AEC policies introduces major uncertainties regarding the incentives for reprocessing and its costs.

Let me comment briefly on the statement of Senator Gravel in the excerpt from the Congressional Record of July 23rd forwarded with your letter. He suggests that the problem we encountered at Morris raises questions regarding the safety of nuclear power. As I have indicated, the MFRP was built as a demonstration plant to test out a new concept. It was tested for three years with unirradiated material at a cost to GE in excess of $20 million, and we have now concluded that the plant, in its present configuration, should not be loaded with irradiated material. Far from supporting Senator Gravel's assertions, these facts provide further evidence of the high degree of care and conservatism which has characterized our nuclear power program.

While we are, of course, disappointed by the failure of the Aquafluor process, you know from your own experience at Bell & Howell that such disappointments are an inevitable part of the development of advanced technology. Concepts which look promising on a laboratory scale must be scaled up and tested, and some times you don't achieve the promised results. Unfortunately, there is no other way to make progress even though this is particularly expensive in the nuclear field.

I am also attaching a copy of the statement submitted by AEC to the Joint Committee on Atomic Energy on the impact of our MFRP problem on the demand for uranium and enriching services. The statement concludes that because of its small size, the unavailability of the MFRP will not cause any significant perturbation on nuclear fuel-cycle requirements.

I hope this letter supplies the information you want. If you or your staff would like to have further details, I will be glad to have the management of our Nuclear Energy Division brief you.

Sincerely,

W. D. DANCE.

IMPACT OF CHEMICAL PROCESSING PLANT DELAYS ON NATURAL URANIUM AND ENRICHING SERVICES REQUIREMENTS

(Statement of Robert W. A. LeGassie, Deputy Director, Office of Planning and Analysis, U.S. Atomic Energy Commission)

Recently, the General Electric Company announced that it could not begin operations on schedule at its Midwest Fuel Recovery Plant and that, unless major alterations are made, the plant may never go into operation. We have examined what effect the resulting delay in returning the source and special nuclear material in the irradiated fuel would have on the demand for natural uranium and enriching services.

A year-by-year analysis was made of the backlog of unreprocessed fuel with its separative work and natural uranium content. The assumptions used in this calculation are:

a. The reprocessing demand is derived from WASH–1139(74), "Nuclear Power Growth, 1974–2000", Case D.

b. The Midwest Fuel Recovery facility, at 300 MTU/year, is assumed to be unavailable through the time period.

c. The Allied-General Nuclear Services plant, at a capacity of 1500 metric tons uranium (MTU) per year, is assumed to begin operation in 1977; the expanded NFS Reprocessing plant, at 750 MTU per year, to resume operation in 1978; and another plant, possibly Exxon, at 1500 MTU per year, to begin operation in 1983.

d. Each reprocessing plant operates at one-third of capacity in the first year and operates at full capacity thereafter.

e. A regulatory approval of plutonium recycle is assumed. Consistent with the above assumptions, concerning the availability of reprocessing, the first recycle of plutonium would be delayed one year behind the 1977 forecast expectation.

In this first case, the cumulative quantities of incremental separative work and uranium demand resulting from the non-availability of plutonium and uranium in spent fuel peak in 1977, reaching a level of 430,000 separative work units and 4100 short tons of U_3O_8. As the reprocessing plants come on stream, the backlog of spent fuel is reduced to nominal inventory levels by 1980.

The anticipated increase in nuclear power plant capacity during the early 1980's creates a significant increase in requirements for reprocessing. Even with the addition of a new 1500 MTU/year plant in 1983, the inventory of unreprocessed fuel begin to increase at a fairly rapid rate.

However, due to its relatively small size, the absence of the Midwest Fuel Recovery plant makes little difference in the pattern of events assuming that the other needed capacity comes on stream in a timely manner.

These calculations are sensitive to the assumptions made regarding the availability of new reprocessing plants to the extent that they may either be delayed or not operate at full capacity. Obviously, the inventory backlog and the impact on the nuclear fuel cycle would be greater if either one of these problems should occur. We also analyzed a case that arbitrarily delayed the startup of the Allied-General and the NFS plants an additional two years, until 1979 and 1980, respectively. This situation would result in a three-year delay (to 1980) in beginning plutonium recycle. The cumulative inventory backlog would rise to 2.7 million separative work units and 15,000 short tons of U_3O_8 by 1979. For separative work requirements, this represents 7% of the 1975–79 cumulative demand. For uranium, this represents 15% of the 1975–79 cumulative demand. The inventory backlog was calculated to remain near these levels during the 1979–1982 period and then begin a rapid growth in 1983 as in the previous case, thus implying the need for still further capacity at that time.

Another calculation presumed that the two plants began operations as scheduled, but that they achieved only a 70% operational capacity. Although the timing changed slightly, the inventory backlog built up to approximately the same level as computed in the two year delay case.

If the availabilities of the Allied-General and the NFS plants are assumed to be relatively close to schedule, it appears that these increased demands are not very substantial and that the loss of capacity from the Midwest Fuel Recovery plant has not caused significant perturbation in the nuclear fuel cycle requirements. A greater delay would, of course, increase the impact. In the case of the assumed two-year delay, utility needs for enriching services could be supplied from the preproduction inventory; however, the additional demand for natural uranium might be difficult for the industry to meet, particularly since the advance notice is short.

If reprocessing capability should not be available for an individual reactor, then the fuel cycle consequences for it would be quite significant. In order to assess the effect for an individual reactor, we have analyzed the situation for a 1000 MWe PWR nuclear power plant operating at a 75% capacity factor. A year-by-year examination of the additional separative work and uranium requirements for the individual plant is based on the assumption that this particular plant does not recycle any fuel.

In the third year after commercial operation, the plant would require about 7% more separative work and 19% more uranium in that year than if recycled fuel were available. By the fifth year the plant would annually require 27% more separative work and 61% more uranium. Of course, as soon as the plant does begin utilizing reprocessed fuel, the annual requirements will return to previously expected levels. These calculations illustrate what might happen, at least for a while, to an individual nuclear power plant that winds up last in the queue for reprocessing of inventory backlog.

With the advent of commercial reprocessing capability in the 1960's, the AEC ceased its development work and plans to receive and process fuels that industry was then contemplating handling. Further, AEC agreed by notice published in the Federal Register on January 3, 1968, that it would not contract to receive any more private fuel. The notice stipulated also that, if required services are not available, the AEC would continue to receive fuel from light water-type reactors only until December 31, 1970.

If the AEC were now to undertake to process power reactor fuels, a substantial effort would be required. Funds to modify present facilities and add the required new facilities are currently estimated to be in the one to two hundred million dollar range. Preparation of environmental statements, adequate designs, procurement of construction materials and construction of the needed facilities could require as long as five years before a meaningful quantity of fuel, such as a thousand tons or more per year, could be processed to recover the plutonium and enriched uranium contained therein.

The failure of the Midwest Fuel Recovery facility to come into successful operation is distressing. The larger increments of capacity represented by NFS, Allied-General and plants still in the planning stage are needed to achieve maximum efficiencies in nuclear material use. The analysis does not indicate however, that the unavailability of the small Midwest facility represents a serious threat to the achievement of these efficiencies. There can be fuel element storage problems and other related perturbations, but these appear to be temporary in nature. The more significant consideration is the ability of the larger plants now contemplated to come into successful operation on or near their scheduled dates. The AEC will continue to review the situation in greater detail to determine appropriate actions on its part.

[From the Chicago Daily News, Aug. 15, 1974]

FOUR YEAR DELAY MAY PERIL FUTURE SUPPLY—ATOMIC-FUEL RECYCLING PLANT FAILS

By Arthur Snider

A $60 million plant built for reclaiming spent nuclear fuel at Morris, Ill., has failed its test runs and faces a four-year delay before it can be put into use.

The delay poses a serious question of whether the nation will have enough reprocessing capacity when nuclear energy plants proliferate in the 1980s.

Reprocessing adds to the supply of nuclear fuel by removing radioactive impurities from the uranium and permitting reuse after enrichment.

Construction of the Morris plant was started in 1967 by General Electric Co. and was to have been the first commercial plant to begin operation.

But a technical audit just completed showed that the design would not work.

"The technology is there but we blew it in that we did not know all of the mechanical problems that would be involved in purifying uranium," said Richard Fine, spokesman for the GE Midwest Fuel Recovery Plant.

"What appears to be necessary is to change our flow sheet and provide extra purification. This will take a minimum of four years."

The additional cost may total $100 million, according to industry sources.

Meanwhile, the plant is fully safe. No radioactive material was used in the dry runs.

The large structure was built only a half mile from the Dresden nuclear facility of the Commonwealth Edison Co. in order to service it and other nuclear installations. Some spent fuel had already been shipped to Morris in anticipation of a startup this fall.

Loss of the Morris plant leaves only commercial reprocessing plants at Barnwell, S.C., now nearing completion, and another at West Valley, N.Y. The Barnwell plant, where Commonwealth will ship spent fuel, is expected to be on line in 1976 and the New York facility, in 1978.

Just how serious is the outlook for reprocessing will be discussed before the Joint Commission on Atomic Energy this week by AEC Chairwoman Dixy Ray.

An AEC study has shown that if recycling were not used, about 230 tons a year of uranium would be required at current electrical output. If uranium were recycled, only 180 tons a year of new supply would be needed.

Recycled fuel would also help keep the price down.

Another problem is storage of spent fuels. Nuclear power plants have only a limited storage capacity pending shipment to a reprocessing plant.

JUPITER EFFECT

Mr. MOSS. Mr. President, a NASA researcher, Stephen Plagemann, has coauthored a publication which warns that a rare lineup of all of the nine planets in our solar system which will occur in 1982 could lead to major earthquakes. A summary of this hypothesis, referred to as "The Jupiter Effect," was contained in the September 16 edition of Newsweek which I ask be printed in the Record at the conclusion of my remarks.

Because of the impact on this country if there is a "Jupiter Effect," I have written to Administrator Fletcher of NASA asking that he advise me of his views on the "Jupiter Effect" hypothesis.

If there is credibility to the "Jupiter Effect" hypothesis, I plan to invite leading authorities to advise us of actions which NASA should take to keep us informed of potential resulting phenomena and to suggest actions which should be taken to reduce adverse effects on our citizens.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Jupiter Effect

Mankind may be able to control nuclear warfare, but it can only try to cope with natural catastrophes—and two scientists are predicting that the earth may face a devastating series of events in just eight years. In 1982, all of the nine planets of the solar system will be aligned on the same side of the sun like a rank of heavenly guardsmen on parade. In a book published this week, astronomers John Gribbin and Stephen Plagemann warn that this rare planetary line-up (it occurs once every 170 years) could lead to major earthquakes in California and other areas of the world.

Gribbin, who is a physical-sciences editor of the British magazine Nature, and Plagemann, a researcher at NASA's Goddard Space Center in Maryland, began investigating the likely consequences of the grand planetary alignment in the late '60s, when both were graduate students at Cambridge University. Their deliberations have produced the following scenario: first, the new planetary line-up will cause a great increase in magnetic activity on the sun, which will be at the peak of its sunspot cycle at that time. This will create huge storms of sunspots and solar flares. Like all bursts of solar activity, these episodes will severely affect the upper parts of the earth's atmosphere, disturbing radio communications, creating such effects as the northern lights and—most important—greatly disrupting weather patterns around the globe, principally by sharply altering wind directions in the upper atmosphere.

As the winds shift, they may modify rainfall and temperature patterns in various parts of the world. More important, the scientists say, the frictional effect exerted by atmospheric circulation on the solid earth will change with the winds; the consequence would be to brake suddenly the pace of the earth's rotation—thus giving the planet a jolt sufficiently large to trigger earthquakes in areas of the world under severe geological strain. "There will be many earthquakes, large and small," predict Gribbin and Plagemann. "And one region where one of the greatest fault systems lies today under a great strain, long overdue for a giant leap forward and just waiting the necessary kick, is California."

BURSTS

To back up this gloomy estimate, the two scientists quote recent findings in such varied fields as planetary and solar astronomy, meteorology and geophysics. The effect of large solar storms on the earth's rotation was well illustrated by massive bursts of solar activity that occurred in the late '50s and two years ago. Calculations by Gribbin and Plagemann indicated that even the 1972 activity, far lower than the amount anticipated in 1982, slowed down the earth by about one one-thousandth of a second a day, and the solar activity in the late '50s apparently caused a notable increase in the number of earthquakes in geologically unstable areas.

The concoction of a chain of possible events, of course, does not establish an actual certainty. The researchers do note, however, that each one of the eight large quakes to have hit an area within 50 miles of San Francisco since 1836 has taken place within the two years following a period of maximum solar activity. Plainly, this apocalyptic prediction will stir controversy in scientific circles. But Gribbin and Plagemann are regarded by their peers as reputable astronomers and, at the least, their calculations are likely to add to the public pressure on authorities in California to speed up preparations for coping with a major earthquake.

CARE

Mr. PERCY. Mr. President, the name CARE has always had favorable connotations in my mind for its charitable work overseas, yet I have not known that many details about the work of the organization. I was delighted therefore to read about CARE in a book entitled, "Give! Who Gets Your Charity Dollar?" outlining the operations of CARE and confirming my favorable impressions of the organization. The chapter on CARE is well worth reading.

Mr. President, I ask unanimous consent that the description of CARE contained in chapter 11 of "Give! Who Gets Your Charity Dollar?" be printed in the Record.

There being no objection, the description was ordered to be printed in the Record, as follows:

Charity With a Bonus

I am holding a typical issue of a typical family magazine, reading one of those typical cutesy articles on the letters children write to the adult world. One of the letters says: "I make Christmas cards and sell them. I give the money to you for people who are starving and dying. It makes you feel good that you are saving someones life out there in that great big world of ours. I will do this as long as I live and teach my children to do this and give to CARE." The same article relates the tale of a little girl who sent a nickel to Richard Nixon "for the poor people," which Nixon forwarded to CARE. The nickel was used to buy two bricks for a house built recently in Bangladesh. HER 5C BOUGHT TWO BRICKS, the headline reads.

It is all very typical, of course. Aside from children, the Lennon Sisters and Richard Nixon, CARE has certainly been the star attraction of the family-magazine circuit. The articles are always sloppy in praise and human interest, usually written with such gushing sweetness that you know it has to be a pack of lies. Well, it isn't. In fact, CARE's proclivity for saccharine publicity is just about its only weakness. And those syrupy tones are so contrary to the organization's true nature that we can easily dismiss even this lonely charge against it.

CARE is a lean, hard-nosed, efficient organization. It maintains sixteen field offices in the United States and Canada and a national office in New York City, through which it annually raises $11.1 million in contributions and nearly $8 million in government grants and other income; purchases $10 million in food and equipment for overseas shipment; receives $69 million in government-surplus foodstuffs for overseas distribution; and arranges for the packaging and shipping of all food and equipment—nearly $100 million worth—to overseas destinations. Fund raising and general management run $3.1 million—28 per cent of cash contributions, 16 per cent of total income, and if we include the value of commodities distributed, an incredible 3 percent of program services. If you made a contribution to CARE in 1972, each dollar you donated produced nearly ten dollars' worth of overseas services.

One reason for this remarkable charity value is Public Law 480, a federal statute that enables private organizations providing overseas assistance to obtain free agricultural commodities from the United States Government. The commodities are surpluses that the government buys to assist farmers.

The statute also provides for payment of overseas shipping costs on PL 480 commodities by the federal government. During 1971 the government provided over $139 million in agricultural commodities to foreign-aid charities and paid out over $44 million in shipping costs, with CARE receiving about 40 per cent of each.

Although there are more than eighty charities that assist people overseas, the lion's share of PL 480 commodities are distributed by CARE, Catholic Relief Services, and Church World Service. Some of the other foreign-aid charities have developed their programs in different directions and do not have the capability of delivering large quantities of foodstuffs. Others seem to be deliberately avoiding all contact with the government, presumably under force of the "government-aid-leads-to-government-control" theory of charity management. "That's nonsense," Frank Goffio, CARE's executive director, told me. "If you're doing what you want to do without compromising your principles, you're not prostituting yourself by taking money from the government and you're not being controlled by anyone. Look us over and let me know if you think we've compromised on anything." Actually, in nearly thirty years of existence, CARE has demonstrated a remarkable amount of principle, dedication, and determination in carrying out its mission.

Its full name—Cooperative for American Relief Everywhere—is traceable to the organization's birth, in late 1945. It was formed by twenty-two existing organizations—many of them religiously oriented—as a co-operative distributing agency of voluntary aid to war-torn Europe. As originally conceived, CARE's role was limited to designated relief: food packages for individuals, rather than general assistance to communities and nations. The first shipment of CARE packages arrived in Le Havre, France, on May 11, 1946.

During the following few years, many of the agencies involved in the organization came to believe that individual aid was not enough, that CARE should expand its programs to include other types of assistance. Several of the biggest religious organizations disagreed vehemently. But their representatives were a minority on the CARE board. The smaller agencies refused to compromise and the larger groups split off and founded independent foreign-aid charities.

In 1950, CARE initiated its first self-help programs by providing agricultural equipment to farmers overseas. In 1951, PL 480 was passed, enabling CARE to expand its food packages to large quantities of commodities. In 1962, CARE brought another organization into its fold: MEDICO, founded by Dr. Thomas A. Dooley four years earlier and dedicated to bringing medical talent and supplies to underprivileged nations. And in 1967, CARE established a new type of self-help program, in which it joined in partnership with a foreign government to assist the government in a specific shared-cost construction project. The first such project was a school to be constructed in Honduras. Throughout its history, CARE demonstrated a remarkable flexibility in adopting new programs to suit changing times and needs—a very rare quality for a large organization, particularly a charity. At the same time, the essential principles upon which CARE was founded remained unaltered. They are very much in evidence today.

Unlike too many charities in the foreign-aid field, CARE issues annual financial statements, which are available upon request to any member of the public. And unlike nearly every charitable organization in America, giving to CARE does not mean that your name will thence be passed from one charity to another. "We've never rented our list to anyone and we've never exchanged our list with anyone," Frank Goffio told me, "and we never will." It may seem an insignificant matter.

But we are talking about a very productive mailing list of several million people, which means "$50 per M" on the open market for each rental, which adds up to a lot of dollars that CARE is giving up just so its contributors will not be annoyed. Most important of all, Frank Goffio is proud of it!

By visiting any of its offices, you can find other aspects of CARE that have remained unaltered from the beginning. CARE national headquarters is located in a former brewery on First Avenue in New York. "It's the cheapest office space in the city," Goffio told me, again with considerable pride. And there is every reason to believe him. The elevator is an ancient relic that groans with each breath-taking inch of progress. The walls are in desperate need of new paint, the floors in desperate need of new floors. The only frill I could detect was a moth-eaten carpet in one of the closetlike offices. The CARE Washington office is located in one of the oldest office buildings in the city. It is a suite of minuscule dimensions, furnished with scarred desks and metal cabinets. I recoznized only one room from past travels through the charity world—the storage closet. But even this was different. The shelves should have been piled high with lavishly produced brochures and manuals and pamphlets, mostly duplicates of other brochures, manuals, and pamphlets. But here there was only a stingy supply of material, all turned out on cheap paper, with few photographs and very little color. If CARE was spending our money on anything but bare essentials, it was doing a very good job of hiding the extravagance.

The most impressive thing about the two CARE offices I visited was the nature of the people in them. To a person, they struck me as a very determined group—idealistic and compassionate, yes; but also remarkably realistic. Theirs is the type of approach reflected in a dinner speech given by Dr. Peter D. Comanduras, who joined with Tom Dooley to found MEDICO in 1958: "Let me give you a capsule distillation of world conditions as they really are. Of the two hundred human beings born every minute, one hundred sixty will be colored—black, red, yellow, or brown. About half of those will be dead before they're a year old. Of those that survive, half will be dead before they reach the age of sixteen. The survivors will have a life expectancy of thirty years. During this brief and wretched existence, they will be sick and hungry most of the time. Most of them will never learn to read or write. Their homes are tents and mud huts. Others have no shelter. They lie seminaked in the alleys and byways of Asia, Africa, and Latin America. Hoping. Waiting. Starving."

The CARE people are proud of the organization they work for. "I suppose the thing I like best about CARE is that we don't degrade people by just handing out alms," I was told by Suzanne Wright, assistant director of the Washington office. "If people are in a crisis situation, if they're unable to produce enough food or cope with a natural disaster, then we give emergency relief with no strings attached. But they just can't sit back and live off CARE and our contributors. They have to work with us, develop their own capabilities so that we can go out of business in that country and move on to another one."

CARE does not solicit customers. Before CARE can provide assistance, the foreign government must request its help. What usually happens is that the people in a nation that neighbors on one in which CARE is already at work will look over their border, realize the value of CARE assistance, and request it. CARE will then explain to the new government's leaders that several things must happen before it will agree to enter the country: The government must agree to allow entry of CARE commodities duty-free, to help arrange and pay for inland transportation of those goods, and to protect CARE against legal suits and entanglements while operating in the country. CARE must also conduct a survey within the country in which it analyzes whether the country has true needs that CARE can meet and whether the country and its citizens are sincerely ready to join with CARE in helf-help programs. Finally, CARE and the foreign government must sign a "Basic Agreement," which clearly defines the relationship between them. After the Basic Agreement is signed, CARE will establish a mission in the country, comprising a mission chief and a small staff.

The first responsibilities of the mission are to conduct an in-depth survey of specific needs, to develop proposals for particular projects and to work with the foreign government to devise a long-range plan. The latter will include numerous projects, each timed and budgeted. The plan will be designed to attack a broad range of problems—nutritional, educational, economic. For each project, the foreign government or one of its local communities will provide labor and as much money as possible. CARE will provide equipment, expertise and money where required.

Frank Goffio told me: "We're constantly trying to avoid several pitfalls that we've seen in other agencies and even fallen into ourselves. They all involve the same human weakness: shortsightedness. It's easy to just give food to a hungry person and leave it at that. But that doesn't really solve that person's ignorance about nutrition. And if something happened to our food shipments, that person would starve to death.

The same type of problem arises in construction of physical plants. A country sees one of its neighbors building a school with our help. So it wants a school. But that school isn't going to solve anything by itself." CARE guards against the danger of an empty schoolhouse in two ways: first, by devising a long-range plan in advance that provides for complete and comprehensive programs, not just one-shot projects; second, by maintaining a CARE mission in the country to make sure the programs work.

As of this writing, CARE has 150 employees serving in thirty-four countries. Their accomplishments are mind-boggling. During 1972, they helped feed 28 million people, mostly children—14 million people in India alone. They supervised construction of 504 primary schools, 17 secondary schools, and 97 nutrition centers that will feed 150,000 children. They helped build safe-water sources for 339 communities. They provided counsel and equipment to 562,400 farmers. But their contribution to such continuing programs is only part of the service provided by CARE personnel overseas. They are in continuous friendly contact with both the citizens and government officials of the country in which they are stationed. They often serve as informal arbiters, advisers, and liaison people—greasing wheels, soothing ill feelings, and finding simple solutions to complex problems. A former mission chief told me: "A few years ago in Hong Kong the community leaders and government officials were having a terrible time getting the nutritional program off the ground. There was a lot of bickering. The mothers weren't showing much interest. So I suggested that they form the Hong Kong Infant Feeding Society. It worked beautifully. They forgot their differences and launched a fantastic campaign to educate mothers and feed babies. I'll never forget it."

Combined with CARE's awesome resources, the cordial relationship of CARE personnel with government officials produced quick and effective responses to two terrible 1972 disasters. Within moments of the December earthquake that struck Managua, Nicaragua, CARE director James Puccetti was conferring with Nicaragua officials, arranging for CARE emergency relief. Arrangements were quickly finalized and, a few hours later, CARE commodities were being flown in from stockpiles in Costa Rica and Honduras. During the summer of 1972, CARE officials in devastated Bangladesh somehow managed to cut through the governmental chaos of the new nation, finalize arrangements for an emergency housing-relief program for 34,000 refugees, and supervise construction of 5,639 brick houses.

There is no great mystery surrounding

these achievements. CARE employees are certainly not super-beings, although they must be terribly dedicated and talented. If they accomplish more than equally dedicated people working for other groups, it is because of the reputation and efficiency of the organization behind them. And these qualities are traceable to several factors. For one thing, CARE has an edge in experience, being the first to enter the voluntary-foreign-aid and self-help fields. As a result of its early presence in postwar Europe, it received considerably more publicity and dramatic news coverage than other organizations of its type. In attracting the right type of personnel, all overseas charities have an advantage over domestic organizations, particularly now that voluntary foreign aid to Europe has been redirected to underprivileged nations. These are not soft jobs. Executives who seek expense accounts and sports cars will seldom turn to a foreign-aid charity. Those who do are usually very special types of people. And for the past twenty years or so, CARE and its fellow overseas charities have had the benefits of PL 480, certainly an extraordinary bonus. All these things were certainly crucial to CARE's success, but they don't tell the full story.

Throughout its history, CARE has shown an extraordinary commitment to serving only the needy—and the most needy, if possible. When Europe got back on its feet, CARE packed up and got out. It could have stayed much longer. When assistance to individuals proved ineffective in meeting the challenges posed by underdeveloped nations, CARE abandoned this approach. It could have continued to hand out food packages. CARE's insistence on seeking out those who needed it the *most* brought a bonus. Where there is great deprivation, even a very little money and effort can result in dramatic improvement overnight. In 1961, for example, CARE took an $875 donation from employees of an insurance company and used it to buy 1,400 fruit trees for a group of families living on Guatemala's Pacific coast. The people were living in crude shacks, subsisting on a meager diet. There were no jobs, no hope of improvement. CARE gave each family an average of thirty-five trees and advice on how to grow them. In four years, the 1,400 trees had become, through graftings, 134,000 trees. Two years later, the number of trees had risen to 255,000. By 1966, there were four hundred orchards where none had been five years before. The people began marketing their produce, using the proceeds to build solid homes, acquire proper food for their families, and educate their children.

Such is the stuff of which human-interest stories are made. And human-interest stories mean free publicity and more donations. But it goes much deeper than that. Dramatic results provide strong inspiration for an organization's employees, making up for the low salaries, tiny offices, and other anguishes imposed upon those who work for a penny-pinching enterprise. And dramatic results make it much easier to work with potentially hostile charity recipients, bureaucrats, and government leaders. So it has been with CARE.

Where, then, did CARE acquire its commitment to the needy, its dedication to economy, its concern for its contributors, and its remarkable blend of flexibility and uncompromising principle? Where did it all come from? From wherever the power is, of course. And the power to control CARE's destiny is vested in a board of directors composed of representatives from each of CARE's member agencies, most of them groups that helped organize the co-operative in 1945. The board encompasses a broad spectrum of organizations, including the General Federation of Women's Clubs, the National Farmers Union, the Fraternal Order of Eagles (also big supporters of the Damon Runyon-Walter Winchell Cancer Fund, see chapter 9), the National Council of Negro Women, United HIAS Service, the National Grange, and the Salvation Army. They demonstrated their principled stubbornness by refusing to bow to the big religious organizations on the question of designated relief. And the many remarkable qualities of the organization they direct stand as convincing evidence of their deep appreciation of charity.

It seems an appropriate note on which to end our brief tour of American charity. Looking back from the height of CARE, we can see too many organizations that suffer badly in comparison. There are many reasons. But the primary ones certainly lie at the centers of power. Too many of our charitable organizations are controlled by too few people. They have erected too many barriers between us and the needy people we are eager to help: barriers such as self-interest (and lack of interest), petty quarrels, bureaucratic waste, arrogance, deceit.

CARE is showing us a better way. It is telling us that charity does not mean an American flag, a celebrity parade, a heart-beat, or a fancy brochure. Rather, it means needy people on one side, generous people on the other side, and a lot of dedication, compassion, sacrifice, and hard work in the middle.

SENATOR GOLDWATER AND THE EARNINGS LIMITATION

Mr. PERCY. Mr. President, I am sure my colleagues are aware of the leadership of the Senator from Arizona (Mr. GOLDWATER) on behalf of the repeal of the social security earnings limitation.

Not long ago the distinguished Senator wrote a guest editorial for the News Bulletin of the American Association of Retired Persons in which he set out in no uncertain terms the case for repeal of this outrageous provision of the Social Security Act.

This essay was condensed and republished in the August 1974 Reader's Digest.

I want to take this opportunity to associate myself with the Senator's position. I have long advocated repeal or, at the very least, liberalization of a restriction which works against an individual's ability to live with comfort and dignity during retirement.

And progress has been made. In 1972 the ceiling was raised from $1,680 to $2,100; as of last January it went up to $2,400. Future increases will occur automatically as the cost of living increases. Finally, the Senate voted last year to raise the ceiling immediately to $3,000, but the other body has refused to go to conference on this amendment.

Mr. President, I favor immediate repeal of the earnings limitation, but I know this stands little chance of approval. So I have introduced a bill, S. 3427, which provides for the gradual elimination over 10 years of this unfair restriction. We are moving in that direction by bits and pieces; let us make the commitment once and for all that we do indeed intend to go all the way and let us set the timetable now.

I ask unanimous consent that Senator GOLDWATER's article, "This Law Robs Our Senior Citizens," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THIS LAW ROBS OUR SENIOR CITIZENS!

(By Senator BARRY GOLDWATER)

The earnings limitation for Social Security benefits should be repealed. I'm speaking of the penalty imposed on individuals who are otherwise eligible for Social Security but who earn more than $2400 per year. As the law now stands, an individual receiving Social Security is denied one dollar for every two dollars he earns over this $2400 exempt amount, until his benefits are cut off completely. The only exclusion is for persons 72 and older.

This restriction is an outrage against millions of citizens who have made years of Social Security contributions from their hard-earned salaries. It is wrong morally, because each citizen should be able to earn an income, without unfair restrictions, to the full limit of his ability and initiative. Social Security should not be a contract to quit work.

Did you know that income from investments—stocks, bonds, rentals and so forth—is not counted in determining whose benefits shall be reduced? It is only the individual who continues to work for a salary who is penalized. Here we have the utterly illogical situation where a really wealthy person might draw tens of thousands of dollars a year from his investments and, at the same time, receive his full Social Security check. Yet the man who has worked for a salary all of his life, and who might need to continue working as a matter of economic survival, cannot do so under the law without being penalized.

According to the Social Security Administration, there are at least 2.5 million Americans aged 65 to 72, or their dependents, who are directly affected by the earnings ceiling. Nearly a million of these individuals earn enough so that they receive no benefits at all, and most of the rest earn enough so that their benefits are reduced. Another 500,000 may be receiving full benefits, but are intentionally holding their earnings down because of the limitation.

It is true that some progress has been made in liberalizing the restriction. In 1972, for example, an amendment passed which lifted the ceiling from $1680 to $2100. This followed a motion by me to abolish the ceiling entirely, which was defeated on a voice vote. Then, in June 1973, Congress raised the ceiling to $2400. It is now past time to remove this statutory shackle completely.

Supporters of the earnings limitation attempt to justify it mainly on two grounds. First, they say it would cost money—approximately $4 billion—to pay those people 65 and over who still work. I doubt this statistic. I have asked the Social Security Administration for the basic assumptions used in computing their cost estimate, and have requested that an independent study be made by the Government Accounting Office. Taking account of increased income and Social Security payroll taxes paid by older workers, the true cost is likely to be under $2 billion. If necessary, I would take the money out of the general treasury by cutting wastes elsewhere, in order to give these people the benefits they have earned over an entire working life.

The second argument for the earnings limitation is equally weak. Supporters say that Social Security was set up to insure against the loss of earnings. Thus, if a person does not—or cannot afford to—retire at 65, he suffers no loss of earnings and is therefore entitled to no benefits.

This is preposterous. Social Security payments are not gratuities from a benevolent government. They are a repayment of our own earnings, which we have deposited in trust as a regular contribution deducted from our salaries and from our employers on our behalf. This method was designed from the start as a guarantee that benefits would be paid as a matter of right, not of charity.

I propose that we make these promises a truth by repealing the earnings test entirely for all our older citizens.

MEXICAN INDEPENDENCE DAY

Mr. PERCY. Mr. President, a year ago on the occasion of Mexican Independence Day I spoke in the Senate of the necessity to reaffirm our commitment to liberty and justice for all our citizens. I specifically called for support of the rights of Chicanos to full education and employment opportunities.

Now, a year later, we note some small improvement in the opening of such opportunities to Hispanic Americans. However, the improvement is not substantial. The problem of discrimination in education and employment remains with us.

I would hope that all of us, all Americans, would rededicate ourselves to both the principle and practice of equal opportunity as we commemorate the 154th anniversary of Miguel Hidalgo's "Grito de Dolores," the famous cry for freedom which in 1810 inspired the Mexican struggle for independence.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. HATHAWAY) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1975

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the pending business, H.R. 15580, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 15580) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1975, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, that the bill as thus amended be considered for the purpose of further amendment as the original text, and that no points of order shall be considered to have been waived by reason of agreement to this order.

The PRESIDING OFFICER. Is there objection?

Mr. BENNETT. Reserving the right to object, the Senator from Utah would be willing to give consent if exception were made to the matter on lines 14 to 18 of page 6, and the general provision, section 210. We think these are important enough to be considered separately, so I object, subject to that.

Mr. MAGNUSON. As I understand, the Senataor from Utah will not object if we except section 210 on page 35, line 8.

Mr. BENNETT. Plus the material on page 6.

Mr. MAGNUSON. Plus the OSHA amendments on page 6, lines 14 through 18.

Mr. BENNETT. The Senator from Utah will not object if those exceptions are included in the unanimous-consent request.

Mr. MAGNUSON. I ask unanimous consent that the committee amendments be agreed to en bloc, again, with the exception of the two exceptions that have been mentioned by the Senator from Utah and myself.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Before putting the question, would the Senator from Washington be willing to include in his motion the exemption of page 22?

Mr. MAGNUSON. Well, again, I make a unanimous-consent request that we consider the committee amendments en bloc and exempt the two items mentioned. Section 210 of the OSHA amendment suggested by the Senator from Utah, and page 22.

The PRESIDING OFFICER. The Senator from Virginia is suggesting that.

Mr. BENNETT. Acting for the Senator from Virginia (Mr. HARRY F. BYRD, JR.) from the floor, the Senator from Utah will add that request to his request for exceptions.

Mr. MAGNUSON. So the Senate will know what we are doing, that additional exception will be on page 22.

The PRESIDING OFFICER. Beginning on line 4 through——

Mr. MAGNUSON. Line 4 down through line 15.

The PRESIDING OFFICER. Right. It will exempt line 4 through line 15.

Mr. MAGNUSON. That will be three items in the bill that will be exempt from the unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. BENNETT. No objection.

The PRESIDING OFFICER. The Chair hears none, and without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 2, in line 5, strike out "$67,759,000" and insert in lieu thereof "$68,259,000".

On page 2, in line 14, strike out "$2,450,000,000" and insert in lieu thereof "$2,150,000,000".

On page 2, in line 24, strike out $10,000,000" and insert in lieu thereof $20,000,000".

On page 4, line 2, strike out "$845,400,000" and insert in lieu thereof "$975,400,000".

On page 4, in line 20, strike out "$27,890,000" and insert in lieu thereof "$27,745,000".

On page 4, line 26, strike out "$69,362,000" and insert in lieu thereof "$69,150,000".

On page 6, in line 8, strike out "$100,816,000" and insert in lieu thereof "$105,206,000".

On page 6, in line 24, strike out "$53,000,000" and insert in lieu thereof "$52,872,000".

On page 7, in line 8, strike out "$30,290,000" and insert in lieu thereof "$28,375,000".

On page 8, in line 12, after "(42 U.S.C. 253a)," insert the words "section 108 of Public Law 93-353,".

On page 8, in line 14, strike out $481,860,000" and insert in lieu thereof $508,455,000".

On page 10, in line 11, strike out "$134,910,000" and insert in lieu thereof "$140,443,000'.

On page 10, in line 19, strike out "section 301" and insert in lieu thereof "title IV, parts A and I,".

On page 10, in line 20, strike out "$479,506,000" and insert in lieu thereof "$720,000,000".

On page 10, in line 24, strike out "part B" and insert in lieu thereof "parts B and I".

On page 10, in line 25, strike out "$321,196,000" and insert in lieu thereof "$330,000,000".

On page 11, in line 3, strike out "part C" and insert in lieu thereof "parts C and I".

On page 11, in line 4, strike out "$44,388,000" and insert in lieu thereof "$51,000,000".

On page 11, in line 7, strike out "part D" and insert in lieu thereof "parts D and I".

On page 11, in line 10, strike out "$162,207,000" and insert in lieu thereof "$178,000,000".

On page 11, in line 14, strike out "part D" and insert in lieu thereof "parts D and I".

On page 11, in line 16, strike out "$131,960,000" and insert in lieu thereof "$144,000,000".

On page 11, in line 20, strike out "part D" and insert in lieu thereof "parts D and I".

On page 11, in line 21, strike out "$105,843,000" and insert in lieu thereof "$122,000,000".

On page 11, in line 25, strike out "part E" and insert in lieu thereof "parts E and I".

On page 12, in line 1, strike out "$178,108,000" and insert in lieu thereof "$198,000,000".

On page 12, in line 6, strike out "part E" and insert in lieu thereof "parts F and I".

On page 12, in line 7, strike out "$120,232,000" and insert in lieu thereof "$145,000,000".

On page 12, in line 10, strike out "part F" and insert in lieu thereof "parts F and I".

On page 12, in line 12, strike out "$38,878,000" and insert in lieu thereof "$50,000,000".

On page 12, at the beginning of line 17, strike out the word "and".

On page 12, in line 17, after "311" insert a comma and the words "and title IV, part I".

On page 12, in line 18, strike out "$32,594,000" and insert in lieu thereof "$35,000,000".

On page 12, at the beginning of line 22, insert the words "and title IV, part I".

On page 12, in line 24, strike out "$124,370,000" and insert in lieu thereof "$130,000,000".

On page 13, in line 6, strike out "$5,384,000" and insert in lieu thereof "$6,000,000".

On page 13, in line 13, strike out "part I" and insert in lieu thereof "parts I and J".

On page 13, in line 14, strike out "$21,768,000" and insert in lieu thereof "$29,350,000".

On page 13, in line 22, strike out "$17,894,000" and insert in lieu thereof "$17,000,000".

On page 14, line 14, strike out "$761,601,000" and insert in lieu thereof "$811,114,000".

On page 15, beginning at line 2, insert the following new language:

"HEALTH RESOURCES

"For carrying out the District of Columbia Medical and Dental Manpower Act of 1970, as amended, $7,500,000."

On page 16, in line 10, strike out "$42,628,000" and insert in lieu thereof "$23,215,000;".

On page 17, in line 9, strike out "$105,600,000" and insert in lieu thereof "$113,100,000".

On page 17, in line 9, strike out "$10,000,000" and insert in lieu thereof "$16,000,000".

On page 17, in line 15, strike out "($433,978,000)" and insert in lieu thereof "($445,012,000), D, F".

On page 17, in line 16, strike out "($30,994,000)" and insert in lieu thereof "($46,000,000)".

On page 17, in line 17, strike out "($7,849,000)" and insert in lieu thereof "($10,524,000)".

On page 17, in line 20, strike out "($32,655,000)" and insert in lieu thereof "($8,139,000)".

On page 17, line 21, strike out "($2,100,000)" and insert in lieu thereof "($5,000,000)".

On page 17, in line 21, strike out "($7,000,000)" and insert in lieu thereof "($11,860,000)".

On page 17, in line 23, strike out "$622,892,000" and insert in lieu thereof "$634,851,000".

On page 18, in line 15, strike out "$2,145,271,000" and insert in lieu thereof "$2,117,591,000".

On page 18, in line 17, strike out the word "reallotted".

On page 18, in line 20, strike out "$650,000,000" and insert in lieu thereof "$685,000,000".

On page 18, in line 22, after the word "expenses)" insert the words "of which $673,500,000 shall remain available through June 30, 1976".

On page 19, beginning in line 2, strike out the following language: "full time students at institutions of higher education who were enrolled as regular students at such institutions prior to April 1, 1973" and insert in lieu thereof the following:

"students who were enrolled at institutions of higher education prior to April 1, 1973 or for part-time students enrolled at such institutions after April 1, 1973: *Provided further*, That funds appropriated in fiscal year 1974 for work-study shall remain available until June 30, 1975".

On page 19, in line 12, strike out "($44,155,000)" and insert in lieu thereof "($66,906,000)".

On page 19, in line 15, strike out "($5,000,000)" and insert in lieu thereof "($12,500,000)".

On page 19, in line 16, strike out "$63,724,000" and insert in lieu thereof "$99,857,000".

On page 20, in line 5, strike out "$120,808,000" and insert in lieu thereof "$114,400,000".

On page 21, in line 3, after the word "loans" insert a comma and the words "not to exceed $3,000,000,".

On page 21, in line 4, strike out the words "the fund to the extent that amounts are available from commitments withdrawn prior to July 1, 1975, by the Commissioner of Education" and insert in lieu thereof the words "funds previously appropriated".

On page 21, beginning at line 8, strike out the following language:

"NATIONAL INSTITUTE OF EDUCATION

"For carrying out section 405 of the General Education Provisions Act, including rental of conference rooms in the District of Columbia, $80,000,000."

On page 21, in line 16, strike out "$2,437,000" and insert in lieu thereof "$2,307,000".

On page 22, in line 1, strike out "$12,402,864,000" and insert in lieu thereof "12,111,731,000".

On page 22, in line 1, strike out "$47,500,000" and insert in lieu thereof $50,000,000".

On page 23, in line 11, strike out "$280,000,000" and insert in lieu thereof "$210,000,000".

On page 23, in line 19, strike out $768,600,000" and insert in lieu thereof "$784,120,000".

On page 23, in line 24, strike out "$72,020,000" and insert in lieu thereof "$63,819,000".

On page 26, in line 9, strike out "$1,992,107,000" and insert in lieu thereof "$2,004,729,000".

On page 27, in line 19, after the words "United States" insert a colon and the following new language: "*Provided further*, That notwithstanding any other provision in law, not to exceed $64,622,000 of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j))."

On page 28, in line 23, strike out "$27,476,000" and insert in lieu thereof "$27,543,000".

On page 29, in line 2, strike out "$79,194,000" and insert in lieu thereof "$79,650,000".

On page 29, in line 12, strike out "$170,530,000" and insert in lieu thereof "$179,950,000".

On page 29, in line 17, strike out "$22,321,000" and insert in lieu thereof "$22,207,000".

On page 29, in line 25, strike out "$93,970,000" and insert in lieu thereof "$78,754.000".

On page 33, beginning at line 16, strike out the following language:

"SEC. 208. No part of the funds contained in this title may be used to force any school or school district to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school; or to force the transfer or assignment of any student attending any elementary or secondary school to or from a particular school over the protests of his or her parents or parent.

"SEC. 209. No part of the funds contained in this title shall be used to force any school or school district to take any action to force the busing of students; to require the abolishment of any school; or to force on account of race, creed, or color the transfer of students to or from a particular school, as a condition precedent to obtaining Federal funds otherwise available to any State, school district, or school.

'SEC. 210. No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.", and insert in lieu thereof the following language:

"SEC. 208. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on accout of race, creed, or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

"SEC. 209. No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district, or school."

On page 37, in line 8, strike out "$96,000,000" and insert in lieu thereof "$100,000,000".

On page 37, in line 16, strike out "$55,000,000" and insert in lieu thereof "$60,000,000".

On page 39, in line 23, strike out "$5,512,000" and insert in lieu thereof "$5,700,000".

On page 40, in line 15, after the word "achieved" insert a colon and the following new language:

"*Provided further*, That notwithstanding any other provision in law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Service Act of 1949, as amended (40 U.S.C. 490(j))."

On page 43, beginning at line 21, insert the following new langauge:

"SEC. 411. The Secretary of Labor and the Secretary of Health, Education, and Welfare are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I and II, respectively, for official reception and representation expenses."

Mr. MAGNUSON. Mr. President, I have a preliminary statement on this bill, and I am a little bit reluctant to make it before the arrival of the Senator from New Hampshire (Mr. COTTON), who is on his way but has had some plane trouble coming down from New Hampshire. However, I understand he would like me to proceed with my statement—I am sure he has one also—so that we might get this very important bill under way.

Mr. President, I would like to briefly discuss this Labor-HEW bill (H.R. 15580) which we all worked so hard on for the last several months. Before getting into the details of the bill, I would like to say that I personally consider the bill a notable reflection on the Members who helped develop it. The recommendations we have made include both increases and decreases spread over more than 450 programs in this bill. And I might, incidentally, say that means 450 line items, and several hundred witnesses over the months that we have listened to.

I would wager that not one of the recommendations is entirely satisfactory to all of the Members here. However, I do think that as a whole this bill represents a good, considered effort under the circumstances. It is a bill that the committee feels can best serve the public interest. Cuts have been made in programs considered to contain surplus funds, and programs that are less essential or of marginal value to the taxpayer, while the increases are there to meet the critical needs of people. After all, this is a "people" bill; this bill affects every citizen of this country—it represents the business of mankind. If we keep that in mind, as the committee has tried to do, then surely the business of mankind will prosper and be taken care of.

Mr. President, may we have order?

The ACTING PRESIDENT pro tempore (Mr. HATHAWAY). The Senate will be in order.

Mr. MAGNUSON. Now, Mr. President, as to the realinement of priorities which is necessary under this bill:

RELINEMENT OF PRIORITIES

As I said before, I am sure there are many who think this bill is too high or too low—that is only natural. The bill is not expected to please everyone. Instead, what we have attempted to do here is set a trend. We have realined some of the priorities, and we came out below the budget estimates. As has been the case for several years, the architects of the budget estimates somehow lost sight of many of the real needs. Instead of mounting a real effort against, for example, cancer or heart disease, the budget proposed to increase the staff of bureaucrats downtown. Instead of strengthening the keystone of our educational system—the libraries—HEW proposed a $60 million travel budget, $60 million, in this one category alone. And instead of providing more public service jobs, the budget would rather rely on the more costly alternative of paying out scarce resources on welfare. The committee bill simply rearranges these misbegotten priorities.

OVERALL TOTALS

In total, the committee bill adds to $32.9 billion. That is $255 million below the House and $630 million below the budget. By comparison, the bill is $3.7 billion over last year's operating level and $495 million below the committee's recommendations last year.

Now let us take the items individually.

TRAINING AND EMPLOYMENT

Over the last few years, one program in this bill has taken on more critical importance than we ever imagined—the training and employment program. One of the saddest casualties of the current economic situation is the idle men and women it produces. We are not talking about machines that can be turned off or raw materials we can put in storage. We are talking about human beings who can and want to work. Should we let them go on the welfare rolls, or should we offer them self-esteem for themselves and economic stability for us all?

Here the committee recommends $2.15 billion, an increase of $100 million over the budget, to provide job opportunities for the growing numbers of unemployed in this country, including the disadvantaged, migrants, and our native American population. This amount, together with $620 million carried over from last year, represents a sizeable increase over the fiscal year 1974 level. In total, we are providing more than 145,000 public service jobs.

The Members will note that the committee has deleted $300 million of the House add-on for these programs. We are not against the programs—we support them. However, we did some checking and found that this money that we deleted would not actually be spent until fiscal year 1976. We will consider providing the additional funds at a later date, either in a supplemental or the next regular bill, if they are needed. These are really only estimates to begin with.

HEALTH PROGRAMS

The committee recommends $3.7 billion to carry out the various health components of HEW. This represents an increase of $452 million over the budget and about $440 million over the comparable House bill. I think the bill represents a sound, yet vigorous approach to meeting our Nation's health needs, particularly in research.

For the Members' benefit, I would like to put this in perspective. Back in 1971, this country was given new hope in the fight against cancer. The Executive and the Congress were to join in partnership in trying to conquer this dreaded disease. Yet, this year the budget request falls far below what is needed to continue this effort—far below what the President's own advisory panel recommended. We sometimes wonder what has happened to our partnership.

The list goes on. The committee found itself plugging up several gaps in the budget, including heart and lung research, alcoholism services, drug abuse, mental health, venereal disease control, and lead-base poisoning treatment. Of course, one of the most damaging effects of the budget has been this on-again, off-again research training policy. We all know that if health research programs are to work and progress, we need properly trained people. These talents cannot be manufactured overnight. Only through continued training support can we hope to get back all of the talents which these people have and will continue to develop.

Mr. President, listening to all these witnesses in health, they all came up with, to them, a real problem. Looking down the road—if we are going to have national health insurance, if it is to become a reality, we are going to need every trained health professional we can find to make national health insurance work. We can have the best national health insurance program that is possible for Congress to concoct, but without trained people to service it, it will fall flat on its face. This was the concern of many of these fine people in the whole health field, and to me.

We listened to all kinds of people in all phases, administrators in the health field, hospital field, Nobel prize winners in research, personnal at the National Institutes of Health, the presidents and deans of most of the medical schools in the United States, the nursing profession, the students and all of those involved, and this was their one worry—that without proper training or the money available to continue a training program across the board in the health field we could have a national health insurance that would not amount to much because we would not have the trained people to carry it out.

EDUCATION PROGRAMS

This year the education totals in the bill may be misleading. As the Members know, it was not until just a few weeks ago that the President received and signed authorizing legislation for elementary and secondary programs. This came much too late to be considered by either the House or the Senate committee. Hopefully, we now can take this up in the first supplemental which both Houses will be considering shortly.

May I say, Mr. President, this is one of the real problems of the Senate Appropriations Committee and, I suppose, the House, too. We can be downstairs in S-128 talking about appropriations, say, in the education field on a budget that has been made up some months before and, the same day—and this happens to me on many occasions—the Senate will be considering a new program for education on the very same day. This is why we ought to have a legislative session and then have a fiscal session to know what we are doing. I have advocated that for years, but I do not seem to get any place with it.

In the other education programs the committee recommends $3.2 billion, including $1.9 billion to maintain higher education grants and loans to more than a million students, $427 million to help out more than 10.3 million students enrolling in vocational and technical training programs, $46 million to strengthen consumer education training for more than 3.6 million people, and $99 million to restore public and college library services.

We are talking about a sizeable investment in education, but keep in mind—this is not a handout. We are not merely helping send someone to school to achieve some economic advantage over others. Through a good education, we develop people who can properly bear the burdens of responsible citizenship. This can only lead to prosperity and security in the future

WELFARE ESTIMATES

Probably one of the most controversial items in this bill is the welfare program. There has been a lot of misleading information on this—some of it intentional. Let me try to clear the air. Last year this committee discovered a $1.2 billion surplus in the welfare estimates. The year before it was $600 million. Right up to the end, HEW was reluctant to own up to the surplus. The committee sought out assistance from the Library of Congress and the General Accounting Office—GAO—to help analyze the situation. We had to do this because over the last several years, HEW's system for estimating welfare costs has been off the mark by more than $4.5 billion.

Here is our basic rationale in this year's budget: When HEW put the 1975 budget request together, it built upon last year's projections before the $1.2 billion surplus was taken out. In other words, the 1975 budget contains the same surplus as was deleted by Congress last year.

Above all, I want to assure the Members that the cuts made by the House and by this committee will in no way affect services to people. The law requires that we pay out whatever the States absolutely need. If more is required—and I doubt this will happen this fiscal year—the Congress will provide the funds at a later date. In the meantime, some of this excess can be put to good use in other critical areas of the bill, rather than sitting in a freezer downtown.

In other areas, the committee has concurred with the House allowance of $680 million for rehabilitation training of 1.3 million people, including 88,000 who are now on welfare rolls and 144,000—a very conservative estimate—of severely handicapped people.

PROGRAMS FOR THE ELDERLY

The committee paid a great deal of attention to bills the Congress had passed even before we started looking at this budget some months ago in regard to programs for the elderly.

For our senior citizens, the committee has recommended $122 million. The funds will go to support about 500 State and community centers providing comprehensive services to the elderly. We have a lot of catching up to do when it comes to properly caring for this Nation's elderly—they are the hardest hit victims of inflation. Many just need a good dose of pride to get back on the track. We are going to take another look at it but, in this bill, we think this is a good beginning.

Under social security, the committee concurred with the House in providing $4.8 billion for the new supplemental security program—SSI. We intend to keep a close watch on this program. It has the potential for reaching millions more of our needy aged, blind, and disabled members of society, and, hopefully, HEW has learned enough to make the program work the way it should. It is a pretty sad story in some States, the unnecessary delays and the failure to get the program moving have left many of the needy high and dry.

On a related item, we have deleted the request to use trust funds to support construction of Federal office buildings. The committee, however, would not object to considering a direct appropriation request for this in a later supplemental, but we feel strongly that trust funds should not be used for this purpose. I hope the Senate will sustain us in that feeling.

BUDGET CUTS

Now, what are some other cuts?

The committee has taken a very careful look at this budget. The administration witnesses had a difficult time trying to justify some of the increases proposed in the budget. We heard requests for more staff, more furniture, more executive training, and more travel. Judging by the $60 million HEW travel budget, there must be at least 50,000 bureaucrats in the air at any given time.

The committee listened patiently to these requests, but frankly, they did not make much sense. As a result, the committee has disallowed all requests for more travel funds, and it has tightened up the budget for all overhead accounts. The effect of this is to save over $29 million across-the-board. Of course, there is also the welfare savings of $1.2 billion, which I mentioned earlier.

The committee has deleated all funding for the National Institute of Education. This is a drastic step, but those who are critical of the cut ought to take a look at some of the projects being funded by NIE.

If anybody asks me, I will put in the RECORD some of the millions they spent on some of these projects. It would not be believed.

There are projects here that are doing very little to help education. Considering the tight budget situation other tried and proven programs are facing, the committee believes the money could be better used elsewhere in the bill.

The committee has cut the House bill by $18 million for professional standards review—PSRO. This is only the second year for this program, and they have been slow in starting.

There is not any objection to the program, but this is only the second year and everybody testified it has been slow getting off the ground. We thought there was enough in there to keep it moving.

Mr. BENNETT. Will the Senator yield at this point?

Mr. MAGNUSON. May I finish my statement before I yield?

Mr. BENNETT. Yes

Mr. MAGNUSON. The committee has also cut direct student loans by $52 million. This is not a program cut since the amount provided would support 682,000 loans—the same as last year. This is a revolving fund. More than $165 million will be repaid by students this year and lent out again to new students. The combination of these collections plus the $286 million now in the committee bill will keep the program running strong.

For developing institutions, the committee cut $20 million below the House bill and budget. We are not against the concept of the program, but we are concerned over how HEW is running it. We would like nothing better than to have HEW come up again with a sound and more equitable plan for assisting all minority institutions.

For the work incentives program, we cut $70 million in funds which HEW did not plan to spend until 1976. Under those circumstances, the committee felt the request should be considered in next year's budget—not this one.

As you can see, we have made several substantial cuts, totaling more than $1.4 billion. This is important, because of the supplemental items we still have ahead of us this fiscal year.

ITEMS NOT CONSIDERED

The committee has deferred consideration of $4.4 billion worth of programs which were not authorized in time.

Many of them, even now, are not authorized and some of them are still subject to Presidential review. This problem grows worse every year—the committee tries to enact early appropriations; yet every year our efforts are frustrated by late enactment of legislation.

As I say, sometimes we find our time divided between marking up an appropriation bill downstairs, while up here we are debating over new legislation on the same subject

Now, I repeat, our efforts are frustrated by delayed enactment of legislation, legislation which only recommends an authorization and an authorization is only a ceiling.

Mr. President, if we were to appropriate all of the legislation, the amount that is suggested by some of the Senate committees in this field, I am afraid a sheriff would have to go down to the Treasury Department and padlock their doors.

So we try to work it out, although the authorization is a just recommendation and a ceiling, the best way we can from year to year.

Now we are facing a very large supplemental bill, and I do not know just what is going to be sent up by OMB, but we are going to have to consider the estimates in the next few weeks. One item we will consider in a supplemental is the National Health Service Corps.

A detailed listing of items deferred appears on page 7 of the committee report. The report also has tabulations that the members of the committee would want to look at.

Now, Mr. President, I wanted to take time out to talk about my distinguished colleague from New Hampshire—specifically the role he has played over the years in this very difficult and sensitive bill.

Well, he is not here yet and I would not want my words to be wasted on a nearly empty Chamber and I will wait until he comes and I will take some time to talk about him.

Mr. President, I ask unanimous consent to have printed in the RECORD a detailed listing of items in this bill, as compared to the budget request and the House bill.

There being no objection, the listing of items was ordered to be printed in the RECORD, as follows:

SUMMARY OF ESTIMATES AND APPROPRIATIONS

[The following table compares, on a summary basis, the appropriations for 1974, the estimates for 1975, the amounts carried in the House bill, and the Senate Committee recommendations]

	1975 estimates	House 1975 bill	1975 Senate Committee recommendation
Department of Labor	$2,999,188,000	$3,403,717,000	$3,116,207,000
Department of Health, Education, and Welfare:			
Health Services Administration	493,413,000	481,860,000	508,455,000
Center for Disease Control	124,714,000	134,910,000	140,443,000
National Institutes of Health	1,834,784,000	1,787,328,000	2,158,350,000
(NIH Research Institutes)	(1,785,922,000)	(1,744,666,000)	(2,109,000,000)
Alcohol, Drug Abuse, and Mental Health Administration	734,502,000	803,941,000	853,454,000
Health Resources Administration	4,000,000	4,000,000	11,500,000
Assistant Secretary for Health	95,721,000	86,050,000	66,637,000
Education Division	$3,207,555,000	$3,270,933,000	$3,212,307,000
Social and Rehabilitation Service	14,372,173,000	13,523,484,000	13,169,670,000
Social Security Administration	8,995,412,000	8,995,412,000	8,995,412,000
Special Institutions	118,979,000	118,456,000	118,979,000
Assistant Secretary for Human Development	162,700,000	170,530,000	179,950,000
Office of the Secretary	120,791,000	116,291,000	100,961,000
Total, HEW	30,264,744,000	29,493,195,000	29,516,118,000
Related Agencies	267,163,000	259,629,000	268,817,000
Grand total	33,531,095,000	33,156,541,000	32,901,142,000

Mr. MAGNUSON. As I said earlier, this bill is not going to satisfy everyone. There are those who would increase the bill substantially, while others—like the OMB—want us to cut more in the vital health and education areas. What the committee has done is to strike a balance by closely examining each and every item and determining the real budget need. What we arrived at is the result of 6 months of hearings 5 days a week, thousands of witnesses, and many long hours of deliberations.

This is a sound bill and can be solidly defended in conference. More than anyone else, I want to see a signed bill this year. Nobody wins if this bill is vetoed—not the President, not Congress and, most important, not the citizens who are served by these programs.

This administration is playing a dangerous game sometimes with what are human needs and what should be the role of the Federal Government. I think we have come up with some sound answers. I can recall President Kennedy speaking to my people back in the State. He said that if this country falls back, if we do not take those steps to final employment for our people, to educate our children, to use our human resources to the maximum, then the great responsibilities which the United States has carried for years will become too much.

Now, the bill will be open for amendments and the Senator from Utah has one amendment he would like to discuss. I think he has an amendment which involves the dollar figure in part of this bill.

Mr. BENNETT. If discussion of that amendment to the dollar figures for the professional standards review program is in order at this point, I will be very happy to proceed.

The PRESIDING OFFICER. The Chair will state it is not in order at this time. The committee amendments not agreed to would now be in order.

Mr. MAGNUSON. The committee amendments have been adopted en bloc with the exception of three exemptions.

The PRESIDING OFFICER. The Senator is correct. Those are in order right now.

Mr. MAGNUSON. Are those in order now?

The PRESIDING OFFICER. The Senator is correct.

The clerk will report the first committee amendment, the first excepted amendment.

The legislative clerk proceeded to read the amendment.

The first excepted committee amendment is as follows:

On page 6, beginning at line 14, strike out the following language:

None of the funds appropriated by this Act shall be expended to pay the salaries of any employees of the Federal Government who inspect firms employing twenty-five or fewer persons to enforce compliance with the Occupational Safety and Health Act of 1970.

Mr. MAGNUSON. Mr. President, may I ask unanimous consent to bypass the three amendments and go into a discussion with the Senator from Utah on these money amendments?

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair will point out that there are four committee amendments that were expected.

Mr. BENNETT. For the information of the Senator from Utah, are we bypassing all four?

The PRESIDING OFFICER. The Senator is correct.

Mr. CURTIS. Will the Senator yield? What do we mean by bypassing? Are we just taking them out of order?

Mr. BENNETT. As I understand, we are now going to a consideration of the committee amendments rather than the exceptions and all exceptions have been pushed back until after we have considered——

The PRESIDING OFFICER. All committee amendments but the four exceptions have been agreed to. We are now bypassing the four amendments to let other amendments come in.

The Senator from Utah is recognized for his amendment.

Mr. BENNETT. I send to the desk an unprinted amendment and ask the clerk that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 16, line 10, insert the following: strike out "$23,215,000" and insert in lieu thereof "$51,115,000".

Mr. BENNETT. Mr. President, I offer an amendment to raise the committee appropriation amount for professional standards review programs from $30 million to $57.9 million—the level requested by the administration for implementation of this vital new quality and cost control program.

Mr. President, the Finance Committee worked long and hard over several years in an attempt to come to grips with the many serious problems facing the medicare and medicaid programs. Perhaps the most serious of these problems was the uncontrolled and rapidly increasing costs of these programs. Expenditures for medicare and medicaid in this fiscal year alone will total some $25 billion. Aside from these staggering costs, there were other problems associated with the medicare and medicaid programs, such as the fact that many of the services being financed through these programs did not meet professional standards of quality and need for care.

As the Finance Committee wrestled with these problems, it became clear that an effective utilization and quality control mechanism was absolutely imperative for the medicare and medicaid programs to be brought into control. It is relatively less difficult to put controls on the costs of each medical service—the truly difficult task is to control the utilization of these services and to monitor the quality of the services. In brief, after years of effort, I developed, and the Finance Committee approved an amendment establishing Professional Standards Review Organizations—PSRO's—under which physicians throughout the United States would make these vital judgments concerning the utilization of medical services rather than having these decisions be made by bureaucrats in Washington. The amendment was passed by the Congress and signed into law in October 1972. It was a controversial amendment but I have been pleased to see that most people, including most members of the medical profession, now realize the need for a utilization and quality control mechanism and are ready to work to implement the PSRO program.

Most members of the Senate Finance Committee were convinced of how critical the PSRO provision is to control of the $25 billion medicare and medicaid programs. Members of this committee and the administration also recognized that the PSRO program is absolutely essential to the success of any expanded national health insurance program. The major national health insurance proposals recently considered by the Ways and Means Committee all call for a PSRO-type review mechanism.

Mr. President, the case for my amendment is simple. It makes no sense to slash the budget for the one program which both Congress and the administration are looking to as a mechanism to control the cost and quality of medical services. Both Congress and the administration are all too aware of the incredible inflation in the health care sector and should be concerned with implementing an appropriate PSRO program to monitor our current $25 billion expenditures, as well as the increased expenditures under a possible national health insurance program. Most assuredly, slashing the budget of the PSRO program is akin to cutting off your nose to spite your face. It simply makes no sense for Congress to cripple the mechanism which we are counting on to control the expenditures of $25 billion of public funds.

I believe that members of the Appropriations Committee did not fully appreciate the fact that the PSRO program's budget requests expanded because the program is moving—following enactment in late 1972—from the planning to operating stage. It was enacted in 1972. From that time until recently it was in the planning stage and the amount of money appropriated for planning was reasonably adequate.

PSRO is not an expanding boondoggle; to the contrary, it is an investment to moderate the rapidly increasing costs of medicare and medicaid and to assure the quality and need for services provided under those programs.

My amendment, as I said at the outset, would restore the amount of funds which the administration had originally requested to implement the PSRO program. My amendment is, of course, strongly supported by the administration, and, in fact, I have the following communication from Secretary Weinberger.

I ask unanimous consent that that part of this letter referring to the PSRO be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.

Hon. WALLACE F. BENNETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BENNETT: I am writing you to express the concerns of the Department of Health, Education, and Welfare with regard to the actions of the Senate Appropriations

Committee on our Fiscal Year 1975 budget request for Professional Standards Review Organizations (PSRO's). I also want to call several related matters in the Appropriations Bill to your attention.

For PSRO's, the Committee bill contains only $30 million for this program for FY 1975, a reduction of $27.9 million from the President's budget request and $3.7 million below the FY 1974 level.

The Senate Report states that:

"The Committee feels that, at a time of fiscal austerity when Health and Education programs are being slashed, a 600% increase in two years for the PSRO program is sufficient."

I think you will agree that the use of the 600% figure borders on the irresponsible. As you know, the $5 million 1973 appropriation was merely for Federal start up costs. There was not a single dollar for actual PSRO operations.

The reduction in the bill from our request will have a devastating effect upon the implementation of the PSRO program, which is only now getting underway, and I urge the Senate to restore the funds to the level of the President's budget. To this end, I am enclosing an amendment which you may wish to introduce when the bill is debated today on the Floor of the Senate.

As you know, the implementation of the PSRO program has a very high priority within the Department. It is an integral part of our national health insurance proposal and is included in many of the other national health insurance bills. This gives recognition to the fact that any national health insurance program should have built into it a utilization review and control system.

As currently designed, the PSRO program should help to moderate the spiraling expenditures of the Medicare and Medicaid programs in a manner which is consistent with the delivery of quality medical care. The existing Medicare and Medicaid utilization review and quality control measures have proven to be insufficient safeguards against the provision of unnecessary and costly services.

The response of the physicians of this country to the opportunity to organize and perform PSRO activities has been gratifying. While some segments of organized medicine have opposed the program, most have come forward to participate, as reflected in the fact that the Department is now supporting 115 PSRO projects. An additional 40–50 medical groups are also interested in applying, thereby affording the potential to place PSRO's in almost all the 203 PSRO areas by the end of FY 1976.

The Senate level of $30 million would seriously jeopardize the prospects of implementing the PSRO program, both in the near and long-term. The physicians of the country have already begun to view the proposed budget cut with distrust, concluding that the Congress has a lack of confidence in their ability to control the utilization and expenditures of medical care funds. I believe that this would have unfortunate consequences by discouraging physicians participation, a prerequisite to the success of the program.

The effect of the Senate budget level would be detrimental to the continued development of the 91 PSRO planning projects, 11 conditional projects, and the 13 PSRO Support Centers. The eleven conditional projects would have to curtail sharply their review activities. Only about one-fourth to one-third of the 91 planning projects would be able to convert to conditional status, leaving the remaining planning medical groups in very tentative status; the 13 Support Centers which are essentially run by the State medical societies, may have to be discontinued.

The success of national health insurance in part depends upon the availability of an effective utilization and quality control mechanism, and we believe that the PSRO program is the most viable approach.

For these reasons, we urge the Senate to restore the PSRO budget to the President's requested level for FY 1975 of $57.9 million.

Mr. BENNETT. The thing that has happened between last year and this year is; first, that the process of making PSRO contracts has begun. The Secretary set up 204 PSRO areas in the United States, and he has already received applications from local organizations in 108 of the 204 areas.

These people are either prepared—some are—like the ones in my State, to begin to offer the service right now, or they are applying for planning grants so that as rapidly as possible they can get their organizations set up and the machinery in operation.

By reducing the funds for this purpose, we can seriously delay the implementation of the program. We may force the Secretary to put off the authorizing of more contracts, and we will postpone the time when this monitoring program can begin to produce results.

There was a time when there were a number of major organizations, including the American Medical Association, that were opposed to the program.

In its meeting of June of this year, the American Medical Association reversed its position and came out in favor of cooperating with the administration to see that the programs operate most effectively with the understanding which all of us have that if, after experience, some phases of the program are found to be inadequate, then they can be changed.

Most of the organizations of particular medical disciplines have also approved the program, and their members are working to implement the program.

Before we vote on this particular amendment, I yield the floor to my colleague from Massachusetts (Mr. KENNEDY), the author of two proposals for national health care, who I believe shares my feeling about the importance of getting this PSRO program operating successfully.

Mr. KENNEDY. I thank the Senator from Utah. I join in support of the amendment of the Senator from Utah in restoring or adding some additional funding to permit this effort on the PSRO's to move ahead.

It is one of a variety of aspects to the health care crisis in this country. There is the question of the adequacy of manpower and whether they are in the right specialities. There is the question of facilities. There is the question of costs and financing. There is also the very important question of quality.

The PSRO proposal, which was the amendment offered by the Senator from Utah a few years before, offers one of the constructive ways in which the quality of health care can be maintained in an effective way across the country. I would have liked to have seen the development of a PSRO more balanced as to the boards themselves, rather than just being the medical profession. Nonetheless, Congress has spoken on that issue, and we have the PSRO organization now in its formation. I think it can make an extremely useful and positive and constructive contribution in the whole area of quality health care.

Congress is going to face any number of different alternative programs in the development of health insurance. No matter what final decision will be made by the Senate in any of these health insurance areas, knowing that we are going to be able to get quality care is something that is going to be fundamental and basic to any of these programs.

I believe that the amendment of the Senator from Utah will help the country. So I commend him for offering this amendment. It is important that we move ahead.

Mr. President, the professional standards review organizations are our Nation's most important current effort to better assure the quality of health care.

They are unique in the world—indeed they are a uniquely American institution. They are operated by physicians. Physicians review the work of physicians. They are designed to be autonomous organizations devoted to highest standards of professionalism, and to assuring the quality of services in the field of health care. The PSRO's, in fact, are designed to challenge and build upon the creativity and professional spirit of physicians.

The Federal role in the program is to require that the job be done, and to supply the funds to support these efforts—since they are not reimbursable and no fee could be collected for them. In other words, the PSRO program uses Federal funds and authority to assure that the job gets done, but leaves the initiative to America's health professionals for doing the job responsibly, and in a manner that enhances American medicine.

Mr. President, I have had grave concerns over this program. We urgently need quality control in health care. I believe we could move more quickly if we established national standards and more rigorous guideines—and required local quality review agencies to live up to them. I also believe we should involve consumers at all levels of the review process. I have, in fact, brought these more rigorous quality control provisions before the Senate in the Health Maintenance Organizations Act, and in the health security program of national health insurance.

However, we are talking today about a program that already exists, that initiates a fundamentally new way of viewing the physician's responsibilities, and has the potential for making enormous improvements in the quality of American medicine. I commend Senator BENNETT and the Finance Committee for their imagination in initiating this program. I congratulate them also for the determination they have shown in the face of resistance from organized medicine. Like any program that requires reorientation and change, the PSRO program has met with heated opposition from the more defensive elements of organized medicine. Other physicians, however, are quietly and constructively demonstrating the power and potential of the program.

I urge the Senate to support this program to the fullest—and offer American medicine the maximum opportunity to do this urgent task. I am hopeful that physicians across the country will rise to this challenge—because ultimately the job must and will be done.

This request for additional funding is a responsible position and one that can be extremely helpful in providing quality health care. I hope it will be accepted.

The PRESIDING OFFICER (Mr. HELMS). The question is on agreeing to the amendment.

Mr. MAGNUSON. Mr. President, I do not disagree with what the Senator from Massachusetts or the Senator from Utah have said. I have been active in this program, too. I put the first money in the bill. Senator COTTON and I agreed upon putting it in.

Our only problem was the question of how much money should be funded. We had absolutely no clear evidence from anyone on this matter—the AMA or other medical people—except that the administration went by this item very quickly in their general statement.

We found out that the program, as the Senator from Utah has pointed out, has been dragging a little. In part, it was dragging because there was an argument, such as there was in my own State as to whether they had one State board or whether they had three. I think we finally ended up with one on the east side of the mountains and one on the west side.

All the members of the medical profession who came to see me during this time were in favor of it. But the program has not progressed as fast as we would like, and we thought we could take a little out of the budget estimate, which was based upon the fact that it was going full steam ahead, and it is not.

The House allowance is $48.3 million, and I suppose we will have to reach a compromise in conference.

I had hoped that we would not start to amend this bill—moneywise. If that is done, I have a few programs of my own that I would like to put in, about which I feel just as keenly as the Senator from Utah does about this one. If we start to do this, we are going to open up a Pandora's box. All these health needs are important. The Senator from Utah has given some dedicated service to this proposition. I have too, as has the Senator from Massachusetts and many others.

We thought that with the committee recommendation, considering the House amount, we could go to conference and find out a little more about what PSRO's are doing. This program is not moving as fast as it should, for many reasons. There is no use putting money into it before we really get it going. Five months of the fiscal year will have gone by before we get through with this.

There is plenty of money in here to keep these programs going in this particular field. I have no evidence that the PSRO programs are ready to move. We heard nothing in the committee about that at all. We heard: "We are moving along. We are making progress. This would probably be sufficient money to go ahead for the rest of the year and get this moving."

I have been around here a long time, and I have been talking about many items in this bill. I would like to put a good deal more money into cancer research. I helped establish the Cancer Institute back in 1937. That goes back a long way. But we all agreed that we would try to practice some economy here and make the best bill we could. I would hate to see this amendment adopted. It would just open up the bill, and then everybody who has an amendment would go ahead and load up the bill just because he is dedicated to the program. I am dedicated to some programs too, and I gave them up in committee so we could get a bill signed.

We did add some more for the Cancer Institute. We also added other funds for the biomedical research effort at NIH so that they could enhance some of the important work they are doing in diabetes, arthritis, hemophilia, multiple sclerosis, heart diseases, children's diseases, especially the sudden infant death syndrome, and many other important disease areas.

No one has preached more that we should do something about Federal expenditures than the Senator from Utah, and I agree with him, and we followed his preaching. We did the best we could. I suppose one could argue that $30 million is not enough, that it should be more. When we get to conference, we will work this out.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield the floor.

Mr. BENNETT. Mr. President, the point the Senator from Utah has tried to make is that this is a unique program. This is a program to set controls in place which should have the effect of reducing the total cost of medical services and at the same time improving the quality.

If this were a program just to spend money on something, desirable as it may be, that can be carried on over time and expanded as it grows, I would agree with the Senator from Washington. But by cutting it back now, just as it is beginning to get in place, may be postponing the day when the money saving controls of this program can be effected. The size of the job is represented by the figure I used—perhaps too many times—in my opening statement. We are spending $25 billion for medicare and medicaid. The PSRO program, if we adopted the recommendation of the administration, would be approximately $60 million to put in place an organization to monitor the quality and appropriateness of the care and to cut down on overutilization. We have had enough experience with some prototypes that have been operating, including some in my own State, to be able to say with complete assurance that once this program is operating, particularly in the beginning, there will be a rather substantial reduction in the cost. With $600 million against $25 billion, you can see this is very, very cheap insurance. I think it is poor economy to reduce our capability to monitor a system the costs of which are very high and going higher.

I share with the Senator from Massachusetts (Mr. KENNEDY) the realization that as we move into national health care, the $25 billion will probably be $75 billion or even $100 billion, and we had better have an organization in place and operating to monitor it before that happens.

My point is, I suppose, in summary, that this is very poor economy, to cut $27 million out of this bill when, by getting this system operating more quickly, we can begin to get its benefits. If we cut it back to the Senate figure, I doubt that the existing contracts can be carried out. I think we are handicapping the program very severely. I hope my friends in the Senate will recognize that.

I do not share the fear of the chairman that if we correct this situation, we are automatically going to have to consider every other figure in the bill. Maybe I am glad I got at it first.

Mr. President, I hope the Senate will agree to this amendment.

Mr. MAGNUSON. Mr. President, I do not know where the Senator from Utah gets his figures. They probably come from downtown. No one up here on this side, no one from the Senate, no one from the doctors, no one from the medical profession, not a soul has appeared to make a banner case for PSRO's, and all of a sudden, this shows up today.

The Senator says that we are seriously handicapping the program. I do not think we are. There is no evidence that PSRO will not survive. And of course, we are going to have to make a concession in the conference. I know that.

This amount is a 600-percent increase in the 2 years the program has been in operation.

Mr. BENNETT. Will the Senator yield?

Mr. MAGNUSON. I wish to complete my statement first.

Six hundred percent. We thought that was enough. We have no information that these contracts cannot be made. There are a lot of places that are not quite ready. They need some more time.

We have a supplemental before us. If they have some contracts to bring to our attention that they cannot fulfill, they ought to do it. They did not come before us to plead a strong case. No one appeared in front of us. All of a sudden, on the floor, everybody decides that our figures are bad and their figures are right. I do not know where they got them. I suppose they got them from downtown. They are good on this last-minute stuff. They wait until we mark up a bill and then they go around and pass out slips of paper to everybody.

If the Senator from Utah was so concerned about this, why did he not appear before our committee. We had a whole week of hearings and wrote every Senator to come and tell us what he thought. We had 200 requests to increase this bill from the Senators alone to raise this bill's figure by over $2 billion.

Someplace we have to stop. We think this happens to be the amount. If it is not, I can assure the Senator from Utah, the Senator from New Hampshire and I will look at this again. If the House has further evidence that we do not have, we shall be glad to have it.

I know what this program is. This is the doctors looking over other doctors. Well, that is like a bunch of lawyers looking over another bunch of lawyers.

I think this program is moving. It can be a good one. In my State, they were not ready until this year because they had that argument about who should do the job, and it took some time to reach agreement within the medical profession.

I do not know what happens to the State of Utah, but we are going to give them enough money.

Well, the Senator from Utah has a letter from the Secretary. Oh, I can show him letters from the Secretary. I have a file drawer full of them. Does he want me to put them all in the RECORD?

Mr. BENNETT. The figure of $59 million was the administration's original request.

Mr. MAGNUSON. But we said their request was too high, and we have a right to say that, surely. If we took all the administration requests in this bill, we would make hardly any cuts at all.

Mr. BENNETT. But the Senator should not say to the Senator from Utah that he just brought this up today. The administration sent up that figure in the beginning, and the Senator from Utah is trying to defend it and have it put back in the bill.

Mr. MAGNUSON. We said we thought it was too much, considering the movement of the program, and we give the program high praise. That is all we are trying to do. We have no problem here at all. We have no differences of opinion about the merits of the program.

Mr. BENNETT. Will the Senator yield for another comment?

Mr. MAGNUSON. When the doctors start monitoring the doctors, we had better be sure that the program is good in each State.

Yes, I yield.

Mr. BENNETT. The Senator makes two comments. One, 600 percent of zero is zero. The fact that we had only $50 million for this program last year—it is not fair, I think, to use the mathematical figures that when we ask for $60 million, in order to get the thing actually operating——

Mr. MAGNUSON. Last year, we had $33 million.

Mr. BENNETT. Last year, there was $5 million.

Mr. MAGNUSON. The first year, we had $5 million.

Mr. BENNETT. All right, that was last year. This year, we ask for 12 times that, or the administration asks for 12 times that. The Senator gives them six times that and says that is 600 percent. But 600 percent of not enough is still not enough.

I should like to make another comment. I enjoy this question of who looks over whose shoulder. I think if the lawyers looked over the shoulders of the doctors to decide whether they were practicing properly, I should hate to go to a hospital.

Mr. COTTON. Will the Senator yield?

Mr. MAGNUSON. What I am saying is I agree with what the Senator says about the program. We think this is enough, because when we go to the House, we may have to go up at to $35 million or maybe $40 million, agree with the House figure. We think that is enough. Now, the administration sends up an appeal to their budget and they say, oh, that is sacred.

We are here to cut the budget, and that is what we are doing. We do not have to accept their position. If we are going to start opening up this bill, I am going to say, go ahead, and I am going to put some more money in for cancer. I do not think what we have is enough. It is a good program.

I am going to put some more money in for mental health centers. I do not think it is enough in here. That is a good program, is it not? They are all good programs.

Mr. BENNETT. I do not think that is a reason for not straightening out this situation.

Mr. MAGNUSON. We are not doing anything wrong with it. It is straightened out. We are just saying give them only the money they can realistically use this year.

Mr. COTTON. Will the Senator yield?

Mr. BENNETT. I think the Senator from Washington has the floor.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. MAGNUSON. I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. COTTON. In justice to my friend from Utah, I must say that he did not wait until the last minute to urge this increase. He talked with me about it several days ago. He talked with other members of the committee. I discussed it with other members of the committee, with the staff, with the chairman. So I do not think he should be reproached because in the beginning he failed to appear, because he has discussed this with us on several occasions—he has with me.

On the other hand, much as I should like to yield to the request of the Senator from Utah—we have been here so long together that certainly I should hate to refuse his last request. I must say, first, I apologize for being late. I was late because the planes were canceled due to fog. I am not entirely familiar with everything that the distinguished chairman has said, although I think I know what he has said.

We have had all kinds of requests from Senators who honestly and with a great deal of justice each had their own special additions that they wanted to place in this bill. It has been a long, hard task to try to hold the bill in line and keep it within reason.

The situation that we are confronting right now in this country, the situation that we are confronting as to Federal expenditures, is such that even though this is the most sensitive appropriation bill, as it always is, that comes before us—because this is the bill in which we seek to take care of our own people, to provide for medical research, and instead of sending money across the seas somewhere, this is the bill that hits every family and every home in America—we must do our best to hold the line.

We had that in mind as various Senators came before us. They all had worthy causes, and they all pleaded with us for something that we wanted to give. We tried, in certain places, to yield a little, but we finally reached the point where we knew that if this thing busted loose, we would come out with a bill that would be, if we gave every Senator what he asked for, some $2 billion over the budget.

I have great sympathy with the case that has been ably presented by my friend from Utah, because what he seeks to do, of course, he feels is a saving rather than an expenditure, because he seeks to watch more closely over the expenditures. But we have an army of people downtown watching expenditures. We have, I think, a most alert group in the Department of Health, Education, and Welfare, under the leadership of the present Secretary, who are determined that the money shall be spent carefully, frugally, and wisely.

We are trying to cut out and hold down positions, and trying in every way, even in this bill, which is the hardest bill to deal with, to follow the economy we must follow this year if we are not going to move into a situation which will bring us nearer to Federal bankruptcy.

Therefore, Mr. President, the distinguished chairman of this committee, who has always tried to be as liberal as possible—and as ranking minority member I have tried to be the same—we finally thrashed this out, and I am appealing to my colleagues on this side of the aisle, just as the Senator from Washington is appealing to his colleagues on his side of the aisle, to hold the line on this bill.

The only thing that the Senator from Utah has said that I must find myself in disagreement with is that if we adopt his amendment, it is not going to open up the gates and let all the cows out, as we say in New Hampshire. I am afraid, Mr. President, that that is exactly and precisely what would happen. The information I have is that year before last, the appropriation started with $5 million; it was some $33 million last year, there is $30 million in this year, and with all the people who are supposed to be watching the fees that are charged and watching the disbursements, I just cannot see the compelling difference between what the Senator from Utah is asking and what other Senators are going to be asking within 2 minutes after we handle this amendment.

The Senator from Utah knows how fond I am of him, how much I respect his judgment, and how much I agree with his objective. However, I must join with the chairman; and in joining with the chairman I am joining with the majority of the Appropriations Committee, because first the subcommittee and then the full committee thrashed this out. We listened to all the Senators in the full committee as well as the subcommittee who wanted to increase the amount of this bill.

I think we can hold the line on this bill. If we do—though I have no authority to talk for anyone downtown—I am sure the President will have to sign this bill, if we hold the line on it. But if we agree to one amendment, no matter how worthy, and then another and then another, we will be marching down the hill we have marched up—and it has been a painful thing.

In this bill there are a number of items that were not put in by the House of Representatives because they had not been authorized. We had to put them in, but we did not put in the full amount. We tried to make our cuts, first, in reasonable proportion, and second, with due consideration for the priorities, particularly as to health and research, which is so important and must go on.

I have been on this committee for 16 years. I have been the ranking minority member for nearly all that time. And, Mr. President, I can honestly say that under the circumstances and the problems that we are faced with this particular year, I think as it stands, though we have made changes here and there where it seemed to be most imperative, it is the fairest bill, considering the financial condition of the country, that we have brought out in all the years that I have been on the committee.

So with deep regret, I must join with the chairman, as I shall throughout this day as many other amendments come along—and there are some more coming in—in hoping that the Senate will stand firm and back up its committee, because we have honestly and earnestly tried to give the Senate a bill which meets, as nearly as we can afford to meet them, the essentials, the prime essentials in this area of health, education, and welfare.

Therefore, I am compelled to oppose the amendment offered by my friend from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I think I see the handwriting on the wall.

I would like to make one or two final comments.

I was wrong when I was saying we were going from the first year of $5 million up to $30 million. I had not realized that actually the committee cut us back from $33 million to $30 million in the year when we were beginning to get operating.

The committee gave them $30 million, the committee gave the Department $30 million, to get its internal system organized. Now when they begin to develop the groups in the field the committee cuts them back.

I hope that when the Senator gets to conference with the House that his necessity to be tough on PSRO in order to protect his flank on all the other appropriations in the bill will not be controlling.

I just cannot resist the temptation to make one final comment. Medicare funds come out of the social security tax but medicaid funds, now running about $10 billion plus, must go through the Senator's committee, and I think for the sake of saving $25 million or $27 million in this situation he is going to see that medicaid costs rise many times that in the year.

Now, that is really the basis of my argument. But if it is more important to save the figures in the bill for the sake of protecting raids against other amounts, I can recognize that as a procedural and policy arrangement.

I made the point as best I can, and I have to close with the hope that the Senator will listen to the House when he gets into conference because the House at $48 million is more nearly adequate than the $30 million.

Mr. MAGNUSON. Mr. President, will the Senator yield? I appreciate the Senator's attitude on this. I am sure that both the Senator from New Hampshire and I will agree that on this item we may want to examine it when we get to conference. There was not too much testimony on this either way, that was our real problem, and we never did get any figures on how far they were going, and so I am sure the Senator from New Hampshire and I will agree to that. In other words, we will reexamine the situation when we get to the House-Senate conference. I am sure we can try harder so we will not end up with the figure that is in the bill.

Mr. COTTON. May I add, if the Senator will permit it, that the difference between the amendment offered by the Senator from Utah and some things in the bill—and I am not sure we are talking about other amendments because I do not know what they are—but the difference is he seeks to use a little more money to try to save money.

There are ghastly holes in the law; there are ghastly holes where money is leaking out more and more each year and the Appropriations Committee never has the opportunity to do anything about it. Only 44 percent of the whole spending budget ever comes to us because of the fact of this back-door spending by legislative acts which goes on, and we cannot control it.

Now, I certainly recognize the merit and the purpose of the Senator's amendment, which is an amendment to save money and not to spend it, and I expect the House will have to defend its position.

I join with the chairman in stating honestly to the Senator from Utah that I am sure that both the chairman and I shall have much sympathy for yielding what we think we can yield to the House on the Senator's amendment.

Mr. BENNETT. Mr. President, the handwriting is on the wall. Since an order is out that we cannot vote anyway until half past three, the simplest thing for me to do at this point is to withdraw the amendment, which I now do.

The PRESIDING OFFICER. The Senator's amendment is withdrawn.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I send to the desk an amendment on behalf of myself, the distinguished Senator from New York (Mr. JAVITS), for Senator HART, and Senator RIBICOFF.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Massachusetts (Mr. KENNEDY) for himself and for the Senator from New York (Mr. JAVITS) proposes an amendment, on page 2, lines 14 and 15: In place of "$2,150,000,000", insert "$2,500,000,000".

The PRESIDING OFFICER. Without objection the Senate will proceed to the consideration of this amendment.

Mr. KENNEDY. Mr. President, before getting into a description of the amendment which Senator JAVITS and I are offering here today, I, first of all, commend the ranking member and the chairman of the Committee on Appropriations and the senior minority member, Senator COTTON, for the work they have done in the development of this appropriations legislation.

As the chairman of the Committee on Appropriations mentioned earlier, he invites different Members of the Senate to come down and submit suggestions to the Appropriations Committee on various programs in which they have some special interest, and I availed myself of that opportunity over the past in the areas of health.

Mr. President, I would like to congratulate Senator MAGNUSON, Senator COTTON, and the members of the Labor-Health Education and Welfare Appropriations Committee for the work that they have put into this fiscal year 1975 appropriations bill with respect to health. The bill reflects careful judgments in a variety of important health areas, and I am pleased that the committee has adopted many of the funding levels I proposed to them with respect to health research.

It is vitally important that despite the problems in our economy, we maintain our capacity to conduct medical research, and to train future researchers to carry on the tradition of the best biomedical research institutions in the world. Unfortunately, under the pressures of the economy, the administration has been inclined to allow the research capacity of the National Institutes of Health to deteriorate in the areas of neurological disease and stroke, allergy and infectious diseases, child health and human development, eye disease, arthritis, and digestive diseases.

They have chosen instead to favor with scarce dollars the highly visible and highly popular programs for cancer research and heart and lung disease. I have been convinced that, while we must give increased support to areas such as cancer and heart disease, in response to the growing concern in our Nation over these diseases, we must also maintain our research capability with respect to the whole range of human diseases. As the Senate knows, I have been personally active in passage through the Health Subcommittee of legislation to expand our research on cancer and heart disease. I am pleased to have been able to argue for increased support for all of the National Institutes of Health this year, and I am delighted that the Appropriations Committee has made such support available in this bill.

I am also pleased that committee has restored to the 1974 level the research training programs of the National Institutes of Health. The administration has been working to curtail these programs for several years, and had proposed a much reduced funding level for fiscal year 1975, I believe the level of support by the Senate, which is very close to that proposed by the House appropriations bill, will allow these programs to continue—and to produce the types of research personnel our Nation will need to carry on vital medical research in years to come.

Mr. President, I do wish to make clear one aspect of the committee's bill relating to health maintenance organizations. As the Senate recalls, the President only recently signed into law the Health Maintenance Organizations Act of 1973. This newly established program was not able to begin operations in time to award the $60 million appropriated for its use in fiscal year 1974. The Appropriations Committee proposes to add $18 million in fiscal year 1975 funds to this $60 million, which is carried over into fiscal year 1975, for a grand total of $78 million for health maintenance organizations for fiscal year 1975. I deeply regret the delay in implementing this program, but must concur in the committee's view that the $78 million total is as much as this new organization can responsibly award in fiscal year 1975. However, my committee proposes to watch the activities of DHEW very closely with respect to HMO's, and should it prove possible during the course of this fiscal year for them to move more rapidly, and catch up with some of the time they have lost due to their delay in implementing the program, then I will most certainly return to the Appropriations Committee with a supplemental request in this area.

Finally, let me draw my colleagues' attention to the fact that this appropriations bill does not include dollars for many vital health programs. During fiscal year 1974, the Health Subcommittee has undertaken a major rewrite of a variety of health manpower, health services, and comprehensive health planning authorities which expired on June 30 of this year. We are very near completion of this work, and in fact, only last week, the Senate reported extensions of a variety of health services authorities. I will approach the Appropriations Committee with requests for fiscal year 1975 supplemental appropriations for these programs as soon as the authorities have been defined by the House and the Senate in conference. In the meantime, these health programs are operating under a continuing resolution.

Mr. President, again, let me offer my congratulations to the members of the Appropriations Committee for their judgment on health programs in this bill. I am pleased with the priority that they have accorded health programs, and look forward to working with them in the future on programs, that are not covered in this particular legislation.

Mr. President, this amendment means jobs. It means that cities, counties, and States would have additional funds to meet the rising levels of unemployment within their communities by funding additional public service jobs.

This amendment simply returns the level of appropriations for titles I, III, and IV of the Comprehensive Employment and Training Act to the House-approved level. The House voted to increase the level of funding for these programs to $2.1 billion. It is my understanding that the Appropriations Subcommittee on Labor-HEW concurred in that view but was reversed by the full Appropriations Committee.

We would simply restore the $350 million which was cut by the full committee.

I would add that the committee did accept a portion of the recommended amendment which I and other Senators urged earlier this summer when it raised title II of CETA $50 million over the House level. We concur in that action and our amendment today does not affect title II.

However, title II is limited to public service jobs in those communities with 6½ percent unemployment or more. Two-thirds of the 150 labor market areas in the Nation are slightly below that level and, therefore, are ineligible for those funds. We believe that these communities need and can effectively use additional funds for public service jobs now.

National unemployment continues upward with nearly 5 million Americans out of work. The recent August figures of the Department of Labor showed 5.4 percent of the Nation's workforce jobless.

In addition, President Ford has acknowledged that, as many of us have argued for several years, additional public service jobs are needed around the country. They are needed to provide vital public services and they are needed to prevent the failure of this administration's economic policies from being borne by those at the bottom of the socioeconomic ladder.

Our amendment would permit prime sponsors to add between 41,250 and 47,000 jobs to be funded—depending on whether an $8,000 or $7,000 per job estimate is used. Thus, this could permit nearly a doubling of the 57,100 jobs which would be funded under title II. Along with the carryover funds from the supplemental appropriations this would mean close to the $1.25 billion level we established under the Emergency Employment Act, 2 years ago.

We have telegrams of support for this amendment from the mayors and the Governors across the Nation, and from county officials. We have telegrams of support from the AFL-CIO and the UAW, and from community organizations as well. They are ready to use these funds now and they need these funds now. They cannot wait for some still undefined assistance for the future.

I would also emphasize that this amendment is necessary to insure that cities, counties, and States, the prime sponsors who now administer most of the job training and public service job programs, do not have the rug pulled out from under them. They were told when the Congress and the administration approved CETA last year that they were to have the resources they needed to run their programs.

Yet, under the committee amendment, not only is the overall Federal manpower and public service employment program sliced by $239 million from its level of appropriations for fiscal year 1974 but the prime sponsors—the cities, counties, and States are cut back by $330 million.

That would result, as the chart which we have placed on every Senator's desk indicates, substantial reductions in your State.

In my own State the committee amendment would produce, according to these Labor Department figures, a reduction of approximately one-sixth of their title I allotment, which is 80 percent of the sum total appropriated for title I. Our amendment would restore that cut.

Under the committee amendment, Alabama would lose approximately 20 percent of its title I prime sponsor allotment; South Carolina, a similar amount; Mississippi, even more; Indiana, approximately the same. Under our amendment, substantial portions of those cuts are made up to insure that no State, I repeat no State, received less than 90 percent of its fiscal year 1974 allotment.

Also, I would emphasize to my colleagues that the amendment we have proposed would raise the overall jobs and job training program to a level—$2.5 billion—that barely permits us to keep up with the pace of inflation, and it still permits the overall bill to be some $250 million below the budget estimate.

I would caution my colleagues about assuming that this is the place to cut back Federal spending in meeting the crisis of inflation. First, I believe it is fundamentally wrong to place the burden on those at the lower end of the scale to bear the brunt of the war against inflation. The President has said the same thing. Yet, the $350 million cut by the full committee goes to provide jobs and job training to the individuals at the bottom of the scale.

Second, if these individuals were not to receive assistance from these Federal programs, their only recourse would be welfare. And this is not, nor should it be, an appropriate policy of this Government.

Third, when these funds are used—as I expect they will be and hope the conferees agree—on public service jobs for the most part, then there is a return to the Treasury in the form of tax revenues.

Let me note that we also concur with the general directions established by the committee in the report to insure that the special Federal responsibilities under CETA, those programs in titles III and IV such as opportunities industrialization centers—OIC—and jobs for progress—SER—and Jobs Corps. Our amendment would increase titles II and IV from the $400 million level voted by the committee to $420 million—again which is the House-approved level.

We would note that we also share the view of the committee that these additional funds should be used to increase the funding of SER and OIC and to meet the special needs of the limited English-Speaking communities in the East and Southwest which traditionally have been underserved.

Other groups, such as migrants and Indians, also would receive additional funding under our amendment since they are guaranteed a percentage allocation of the title I funding level.

I would also hope that there would be a general increase in the number of persons over 55 served by our Federal manpower programs. On this point, although I had urged additional funding, I want to commend the committee for approving $20 million for title IX of the Older Americans Act, I hope that program will be further expanded in the future.

However, what I would like to emphasize is that the amendment simply attempts to restore the levels of titles I, III, and IV of CETA to the House-approved level and that I would expect that the vast percentage of these additional $350 million would be used to increase the number of public service jobs.

The value of the public service employment has been well documented during the course of the hearings before the Appropriations Committee. The real issue in question was going to be as to what figure was going to be established by the Appropriations Committee.

I find in my own State where these emergency public service employment jobs have been established they have been extremely successful. I think the mayors have responded with very important leadership in the programs—Governors, as well—and it is my understanding from my contacts, both with the Governors' Conference, the National Association of Counties and League of Cities that they belive they could find qualified applications and develop quality programs several times in excess of the amount of programs which actually would be appropriated for under this legislation.

Furthermore, Mr. President, many of us have been aware that during recent weeks there have been a number of summit meetings on the economy at the White House. One of the themes that has gone out from those meetings, from Democratic economists, Republican economists, conservative as well as liberal economists, is strong support for the idea of public service employment.

As a matter of fact, Mr. Arthur Burns, who is the Chairman of the Federal Reserve Board, indicated he would support a proposal that the Senator from New York has advanced that would provide about $4 billion for public service employment. Mr. Brennan, Secretary of Labor, has indicated support for it.

The kind of programs they are talking about far exceed in amount what we are talking about here today. The $350 million would bring the total program to some $2.1 billion and this includes not only the public service employment, and job training programs but specialized manpower programs such as OIC and SER and migrant and Indian programs as well.

So the mandate under this legislation is even broader than that under a particular public service employment proposal. But I want to indicate at this time as one sponsoring this amendment with my colleague and friend, the Senator from New York, that it is our intention that these additional funds be used for public service employment. Although we have not restricted by any formula those funds in order to comply with the spirit of the legislation which permits a degree of flexibility within the States and within the parent committees, it is our intention that these title I moneys would be used for public service employment.

Finally, I would say, Mr. President, we cannot get away from the fact that unemployment has increased over last year. The recent figures for the month of August have indicated it is starting up again. Most economists believe it will creep up during the latter part of this year.

It is in excess of where it was last year, now 5.4 percent and last year 4.9 percent, many hundreds of thousands of additional people being unemployed.

Just as a concluding note, there may be those that will say, "Well, this is going to be additional expenditures, additional moneys that will be spent."

I would remind my colleagues, if we are not going to be able to provide public service employment that can really aid and benefit various communities and upon which individuals actually pay taxes, we are going to end up on the other side, where the taxpayers are paying for welfare for these individuals.

Look at the figures—we are talking about, the job program costs approximately 7,000 per slot—some programs go up to $8,000, but primarily $7,000—but in so many of these States similar costs are present for welfare.

Under the public service program the community will benefit, taxes will be paid. Beyond that, it will reach that dimension of unemployment that is never fixed by statistics, what it means to able-bodied men and women who because of various economic problems are denied the opportunity to gain employment and, therefore, are condemned to taking welfare. In so many instances, they would much prefer to work.

I would like to submit a more detailed statement that goes into the particular analysis of the amendment. Of course, the Senator from New York and I will be glad to develop this in as much detail as the Members want to do. I ask unanimous consent to include a Dear Colleague letter and a comparison by State of our amendment versus the committee action.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON LABOR AND
PUBLIC WELFARE,
Washington, D.C., September 16, 1974.

DEAR COLLEAGUE: When H.R. 15580, the HEW-Appropriations Act for fiscal year 1975 is considered on the floor, we intend to propose an amendment increasing funds available for Titles I, III, and IV of the Comprehensive Employment and Training Act of 1973 from the Committee recommendation of $1,750,000,000 to $2,100,000,000, the amount of the House allowance—an increase of $350,000,000.

This increase is necessary to restore the House allowances for Titles I, III, and IV as follows:

* an additional amount of $330,000,000 for job training and transitional public service employment programs conducted by some 400 state and local governmental prime sponsors under this Title; the Senate Committee recommended only $1,350,000,000.

The increase is essential to hold each prime sponsor harmless (to the extent of 90% of the area's manpower allotment for fiscal year 1974), to help meet statutory reservations for Indians and Migrants relating to Title I and to meet increased costs of providing services.

* an additional amount of $20,000,000 for special federal activities under Title III (such as Opportunities Industrialization Centers, "OIC"; Jobs for Progress, "SER"; ex-offenders and bilingual programs, and under Title IV (Job Corps). The House allowed $420,000,000 for these Titles. The Senate Committee recommended $400,000,000.

We would leave unchanged the recommendation of the Committee for $400,000,000 for Title II (Public Employment Programs) which the Committee estimates would create approximately 57,100 jobs in areas which qualify for that Title by reason of having an unemployment rate of 6.5% or more for three consecutive months; for that Title the House allowed $350,000,000. We consider the Committee's recommendation necessary in light of increases in the number of areas qualifying for assistance and in the number of unemployed persons living in such areas.

We anticipate that prime sponsors will choose to use significant portions of their Title I funds for public service employment programs.

Accordingly, with the $400,000,000 recommended by the State Committee for Public Employment Programs under Title II, our request would result in an aggregate of $2,500,000,000 for the Act compared with the Committee's recommendation of $2,150,000,000.

As state, city and county prime sponsors assume responsibility for job training and transitional public service employment in this first full year of operation under the Act, we believe it essential that they have basic resources available to insure a meaningful start.

In light of the facts that the national unemployment rate appears on the increase (from 5.3% in July to 5.4% in August) and most experts, including many in the Administration, expect it to go substantially higher—perhaps over 6.0%—in the very near future, it is all the more important that they have the resources to do the job.

Enclosed is a chart prepared by the Department of Labor indicating funds that would be available in your State during fiscal year 1975 under our amendment, compared with the Committee's recommendations, and levels available in fiscal year 1974.

If you would like to co-sponsor or have any questions, please have a member of your staff contact Mark Schneider (54543) for Senator Kennedy or John K. Scales (57686) for Senator Javits, before the close of business Friday, September 13.

EDWARD M. KENNEDY.
JACOB K. JAVITS.

STATE-BY-STATE

MANPOWER ALLOCATIONS FOR STATE AND LOCAL PRIME SPONSORS

	Preceding year (fiscal year 1974)	Senate Appropriations Committee amount for fiscal year 1975	Kennedy-Javits amendment (fiscal year 1975)
Alabama	26, 818, 500	20, 649, 490	24, 763, 164
Alaska	3, 981, 200	3, 170, 789	3, 871, 627
Arizona	16, 457, 300	12, 039, 087	14, 811, 570
Arkansas	16, 994, 500	13, 025, 788	15, 472, 035
California	131, 836, 900	119, 278, 864	144, 008, 966
Colorado	12, 969, 000	10, 312, 670	12, 308, 597
Connecticut	21, 351, 200	17, 539, 165	21, 777, 701
Delaware	3, 449, 900	2, 902, 144	3, 460, 890
District of Columbia	17, 212, 800	11, 232, 980	15, 491, 520
Florida	40, 930, 400	34, 791, 887	42, 155, 604
Georgia	30, 895, 400	24, 637, 758	29, 141, 691
Hawaii	5, 177, 300	4, 512, 256	5, 518, 570
Idaho	5, 145, 400	4, 344, 197	5, 261, 143
Illinois	72, 452, 400	56, 900, 697	71, 622, 535
Indiana	30, 544, 800	25, 286, 383	31, 956, 272
Iowa	14, 793, 700	11, 789, 661	14, 431, 267
Kansas	11, 868, 700	9, 612, 111	11, 755, 444
Kentucky	27, 931, 100	21, 244, 003	25, 502, 506
Louisiana	30, 140, 100	24, 105, 151	28, 141, 570
Maine	7, 879, 000	6, 397, 803	7, 499, 901
Maryland	22, 854, 600	17, 584, 219	22, 180, 937
Massachusetts	39, 381, 500	34, 420, 547	42, 425, 968
Michigan	56, 921, 500	48, 060, 417	57, 741, 405
Minnesota	23, 511, 700	19, 489, 135	22, 775, 730
Mississippi	21, 586, 600	15, 723, 784	19, 434, 743
Missouri	32, 910, 400	25, 165, 076	31, 122, 936
Montana	4, 678, 400	4, 102, 884	5, 035, 511
Nebraska	9, 478, 500	7, 396, 468	8, 894, 810
Nevada	4, 231, 000	3, 505, 379	4, 142, 372
New Hampshire	4, 201, 600	3, 364, 974	4, 116, 302
New Jersey	46, 798, 400	39, 596, 967	50, 047, 430
New Mexico	10, 203, 500	7, 665, 120	9, 180, 450
New York	124, 303, 300	100, 250, 517	119, 335, 460
North Carolina	36, 543, 600	28, 391, 551	33, 532, 915
North Dakota	4, 059, 700	3, 400, 201	4, 062, 971
Ohio	60, 408, 600	49, 864, 751	61, 672, 994
Oklahoma	18, 347, 000	14, 664, 353	17, 049, 483
Oregon	14, 008, 700	11, 897, 885	14, 614, 148
Pennsylvania	68, 982, 300	58, 111, 309	70, 668, 406
Rhode Island	6, 924, 900	5, 958, 769	7, 648, 584
South Carolina	20, 444, 200	15, 548, 101	18, 629, 782
South Dakota	4, 210, 100	3, 336, 415	3, 850, 069
Tennessee	29, 371, 300	22, 397, 261	26, 507, 545
Texas	75, 043, 700	59, 601, 186	70, 661, 526
Utah	7, 036, 100	5, 913, 405	7, 074, 403
Vermont	3, 273, 800	2, 675, 697	3, 149, 507
Virginia	28, 004, 600	22, 352, 952	26, 583, 805
Washington	27, 562, 700	23, 262, 009	28, 262, 476
West Virginia	14, 671, 200	11, 677, 350	13, 513, 748
Wisconsin	24, 524, 300	20, 641, 276	24, 052, 905
Wyoming	2, 150, 700	1, 657, 438	1, 935, 630
Puerto Rico	31, 191, 900	26, 947, 360	32, 777, 929

Mr. KENNEDY. Finally, I would like to just read the telegram urging support for this amendment, signed on behalf of the International League of Cities and the

U.S. Conference of Mayors. There is also the support for this from the Governors Conference, and from the various labor organizations, as well, and I am hopeful we will be able to be successful with this amendment.

Mr. JAVITS. Mr. President, I joined with Senator KENNEDY in this amendment and I shall not repeat the points which he has made, which I adopt and include, by reference as part of my remarks.

This amendment to H.R. 15580, the HEW-Labor Appropriations Act for fiscal year 1975, is to increase funds available for titles I, III, and IV, of the Comprehensive Employment and Training Act of 1973 from the committee recommendation of $1,750,000,000 to $2,100,000,000, the amount of the House allowance—an increase of $350,000,000.

This increase is necessary to restore the House allowances for titles I, III, and IV as follows:

First, an additional amount of $330,000,000 for job training and transitional public service employment programs conducted by some 400 State and local governmental prime sponsors under title I of the act. The House allowed $1,680,000,000 for this title; the Senate committee recommended only $1,350,000,000.

This increase consists of $231,000,000 which the Department of Labor advises is necessary to hold each prime sponsor harmless—to the extent of 90 percent of the area's manpower allotment for fiscal year 1974. The remainder, $99,000,000, is to meet increased costs of providing services and insure greater coverage of segments of those to be served under the act.

Second, an additional amount of $20,000,000 for special Federal activities under title III—such as Opportunities Industrialization Centers, "OIC"; Jobs for Progress, "SER"; ex-offender and bilingual programs—and under title IV—Job Corps. The House allowed $420,000,000 and the Senate committee recommended $400,000,000 for these activities.

Mr. President, we would leave unchanged the recommendation of the committee for $400,000,000 for title II—public employment programs—the third major element of the Comprehensive Employment and Training Act—which amount the committee estimates would create approximately 57,100 jobs in areas which qualify for that title by reason of having an unemployment rate of 6.5 percent or more for 3 consecutive months; for that title, the House allowed $350,000,000. We consider the committee's recommendation necessary in light of possible increases in the number of areas qualifying for assistance and in the number of unemployed persons living in such areas.

Accordingly, with the $400,000,000 million recommended by the committee for public employment programs under title II, our request would result in an aggregate of $2,500,000,000 for the act, compared with the committee's recommendation of $2,150,000,000 and the House recommendation of $2,450,000,000.

Mr. President, I believe the managers of this measure, who are long-standing associates of myself, and every other member in this chamber who is favorable to Federal development and aid to education, health, and the other programs incorporated in HEW, will feel it an element of fairness to make a statement as to why we move this amendment when we know that this particular subcommittee is very sympathetic to our point of view and has shown that on a thousand battlefronts in which I have engaged with them.

Indeed, through the very kind yielding of Senator COTTON I was at one time ranking member of this particular subcommittee because he wanted me very much to be, and they are very anxious to hold the line on this particular bill and to accept no money amendments—I realize that.

Therefore, I feel as the Senator from Massachusetts (Mr. KENNEDY) has already expressed, a duty to explain to the Senate and others why we move this matter, and the basic reasoning in that general regard is as follows:

In respect of the appropriations, especially this year, there is a big question of priorities. Shall we give priorities to one thing or another?

I believe it is unquestioned that we will cut the overall expenditure to $300 billion, and I lend myself to that.

I am a member of the Budget Committee, and one of the hopes I have for the Budget Committee—and I have already raised it in the committee and there is a great deal of interest in it—is that we will at the very end come in with some resolution which will deal with our future responsibility but applying it to the present day, and give the Senate our best advice, careful study and consideration as to how and where this budget can be brought within the operable frame of reference that the President has called for, and that we ourselves have called for.

At that particular time, it will not be possible to raise any figure. It will be possible to reduce figures, but not to raise them. Therefore, I felt morally justified in coming in with Senator KENNEDY with this amendment at this time so that relative priorities might begin to be established which would finally be worked out when we fixed the overall budget.

I am convinced—and I really feel that every Senator should be convinced—whether the budget committee does it or the appropriations committee does it, itself, with whatever input the budget committee can make, there will be such a resolution of the overall appropriations before us before we actually let them take effect and money is paid out on that score.

In view of the fact that I think very, very deeply, as I will explain briefly in the minute, that job training and transitional public service employment is a critical element in fixing priorities, we come in to establish our priority at this time. I will appreciate it if the rankng member and the chairman oppose us, as undoubtedly they will, with their customary vigor and skill. But it was still our duty in order to assert the relative priorities to bring this matter forward.

As the Senator from Massachusetts (Mr. KENNEDY) has already stated, public services employment is now right in the forefront of consideration in what is properly called stagflation, that is, ununemployment and double-digit inflation as well.

I was deeply interested in an article in the New York Times of yesterday in which it was made clear that the trade unions, for example, today feel that they are pretty capable in collective bargaining to get their piece of the economic pie, even in the face of inflation, but they are very unconfident of being able to do anything appreciable about unemployment. That is what they are really afraid of, as is quite right. You cannot do much on that in collective bargaining without featherbedding, and we are more opposed to that, I suppose, than anything else you could bring in here.

Mr. President, I ask unanimous consent that the article that I referred to in the New York Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 15, 1974]

BIG UNION WORRY IS JOBS, NOT INFLATION

(By A. H. Raskin)

The high command of organized labor, strangers to the White House through the last year of the Nixon chill, traveled to the economic summit at President Ford's invitation last week. They climbed down, warmed by the personal charm of the new tenant at 1600 Pennsylvania Avenue but worried that they had been used as shills in a White House cosmetic operation.

That worry didn't stop the 28 union leaders from speaking bluntly about what they thought ailed the economy and what the Administration was doing to make it sicker. In language that occasionally bordered on the "expletive deleted" segments of the Watergate tapes, the unionists set forth their conviction that the classic Republican weapons on which the President is relying to fight inflation—budget cuts and tight money—will merely speed up the rise in prices, worsen the economic downspin and create massive unemployment.

By way of antidote, the labor chiefs expounded what amounted to their own brand of the "old-time religion"—lower interest rates, vastly expanded programs to insure full employment, spurs to housing and education, more vigorous enforcement of the antitrust laws, especially in oil and coal, and tax reform to put more of the burden on big business and the rich.

The one thing that was nowhere in their program was the thing the President wanted most to hear: a belief that the unions could play a primary role in meeting the nation's economic needs by moderating their demands at the collective bargaining table. Labor's view was that its members were the victims, not the perpetrators, of the current upsurge in living costs. All unions are doing, the laborites said, is playing "catch-up ball" to check an erosion that has left the average worker $5 a week worse off in terms of purchasing power than he was two years ago, despite an $18 increase in his money wages.

Alan Greenspan, newly installed chairman of the President's Council of Economic Advisers, acknowledged that no one familiar with the price-wage record of the last three years could depict wages as the villain in inflation. The White House would like to keep things that way; but the growing gulf between productivity, as measured by unit labor costs, and the size of wage settlements in recent months has stirred fears of a new scramble in which pay scales will again become an engine of inflation in their own right.

The principal immediate focus of that fear is the negotiations now under way between the United Mine Workers and the country's soft-coal operators for a new pay contract, the first to be signed since a new reform leadership took over direction of the union in the wake of the murder of insurgent Jock Yablonski four years ago.

Nothing at the conference appeared to do much to persuade the new U.M.W. president, Arnold Miller, that he ought to ease up in pushing any of the 200 demands the union presented to the mine operators two weeks ago. On the contrary, he emphasized that no "flag-waving" appeals to sacrifice would influence the U.M.W. when it saw corporate profits in coal surge up by as much as 844 per cent.

The President, who had sat through the whole morning session and mingled with the unionists at lunch, was absent in the afternoon when Mr. Miller inveighed against the coal companies and their domination by the oil companies. It did not make U.M.W. officials happy to learn that Mr. Ford had flown off to North Carolina to play golf and to dedicate the World Golf Hall of Fame. "Evidently golf has a higher priority in this Administration than listening to the voice of labor," said one Miller aide.

Concern about whether anyone at the White House really wanted to pay attention to labor's views was widespread among the union chiefs. At a breakfast given before the session by George Meany, president of the American Federation of Labor and Congress for Industrial Organizations, he told the group that he suspected the whole affair might be nothing more than "a public relations gimmick."

However, he urged all the unionists to proceed on the basis that the President was acting in good faith and to "play it for real" in setting forth their positions. Private conversation among the group made it plain that the Ford standing had plummeted as a result of the President's surprise decision to pardon Richard M. Nixon and the White House flip-flop on the possibility of a blanket pardon for Nixon aides. The favorite joke over the coffee cups was that Mr. Meany ought to begin his remarks at the White House with the words, "Pardon me, Mr. President."

Once the unionists moved over to the White House, however, even the most cynical found themselves intrigued by the President's geniality and the apparent genuineness of his desire to entertain their views. The big question—still a question for most of them—is whether Mr. Ford will make his own policy or whether he will leave it to the men he inherited from President Nixon, men for whom labor has no regard.

Complicating the answer is the difference made manifest by the mini-summit in the White House and labor estimates of what problem needs solving. For Mr. Ford inflation is "domestic enemy No. 1." Without minimizing the gravity of that problem, labor sees an even graver menace in unemployment. Its worry, voiced over and over again, is that the Administration's stress on cutting Federal outlays for social programs and on raising interest rates to combat inflation means an ever-deeper economic slump, marked by hundreds of thousands of new unemployed.

The one place in which the Ford policy and labor's policy coincide is in the inappropriateness of any re-establishment of mandatory wage-price controls. The President, in opening the conference, appealed for "restraint" by industry and labor but emphasized that he was talking about "self-imposed restraint."

"There will be no controls imposed on wages and prices as far as I am concerned," Mr. Ford pledged.

Mr. Meany went him one better. He conjured up visions of Mussolini and Peron, issuing economic decrees from a balcony, and warned that even a return to guidelines would be just as arbitrary and inequitable. The verbal overkill was not meant to be rhetorical. Burned by its 30-month experience with stop-and-go controls under the Nixon Administration, labor puts little stock in current assurances that controls are gone forever.

Only one unionist dissented from the down-with-controls party line. He was Sol Stetin, president of the Textile Workers Union, and he made it plain that he would be for them only if they applied across the board to prices, profits, rent, interest rates, dividends and every other element in the economy. He got no seconders, but privately several of the union heads indicated considerable sympathy.

Conspicuously not present was Frank E. Fitzsimmons, president of the country's biggest and strongest union, the two-million-member International Brotherhood of Teamsters. Mr. Fitzsimmons, who was President Nixon's favorite labor leader, told Mr. Ford just after he took office that America needed to be "shocked back to reality" by a freeze of both wages and prices.

No such thought was voiced at the summit meeting by Mr. Fitzsimmons's alternate Murray W. Miller, the Teamster secretary-treasurer. Instead, he declared that the truck union could never agree to any restraints at the bargaining table until the balance between purchasing power and prices was restored. "To do less would be to forfeit the standard of living of all working people," he declared.

The real crusher for the unionists came after they went home and learned on the evening television news shows that, while the President was lecturing to them on the need for curbing inflation, his principal economic aides were busy elsewhere in the capital urging the states to let electric utilities raise their rates and profits quickly so they could finance expansion projects.

The next day came the report of a staggering 3.9 per cent jump in wholesale prices last month plus a renewed call by the President to Congress for cuts in Federal spending—exactly the inflation cure the unionists had used most of their lung power opposing on the ground that the bulk of the hardships would fall on the poor.

Against that backdrop, Mr. Ford's one specific anti-recession commitment, the speedy release of funds already authorized by Congress for creation of 85,000 public service jobs, was variously described by the labor as a "crum," a "phony" and a "bid to steal the headlines."

"It's still a rich man's Administration," said one disheartened conferee.

Mr. JAVITS. Second, I believe it is very clear that when we add funds to title I of this bill, that is currently to the job training phases which can also be used for public service employment, we do it in order to free that money from the restraints of title II which are conditioned upon 6.5 percent for 3 months unemployment rate.

Mr. President, unemployment is clearly on an upturn. The rise in the national unemployment rate to 5.4 percent for August—with 4.9 million unemployed—compared with 5.3 percent in July—while not yet an alarming jump—shows a movement upward toward the 6 percent levels which many economists and administration officials project over the coming months.

Already the most recent statistics show New York State to be running ahead of the rest of the Nation with 5.6 percent unemployment in July, and with rates in the Greater New York Metropolitan Area at 6.9 percent. Since 1969, New York City itself—which had a rate of 7.5 percent unemployment in July—has lost more than 250,000 jobs, a drop of 7 percent.

We will be in a deep recession, probably a depression, if unemployment goes to 6.5 percent.

So as we do not wish to await that time on a national basis we have to put the money that we wish to add to the bill in title I where it is discretionary in use.

We expect that the prime sponsor—and we have now cut that total number to 400 and they are mainly top governmental levels—will utilize the money that is provided, if we are successful, for public service employment.

Public service employment has now found favor with the President himself. Indeed, he proposed that as one of the big carrots to the labor summit in order to induce the labor leaders to go along with him on what he is seeking in favor of restraint on wages and salaries and, though it was not emphasized nearly as much as it should have been—productivity—which is probably the key to our ability to break inflation in this country.

Mr. President, I ask unanimous consent that the statement of the President on the contribution to the basic policy of our country that can be made by public service employment, extracted from his remarks to that summit, may be made part of the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

[From the New York Times, Sept. 12, 1974]

Excerpts From Talks by Ford and Meany

(Following are excerpts from a transcript of the White House conference on inflation yesterday as recorded by the New York Times:)

President Ford. Let me at the outset wish you all a good morning and to express my deep appreciation for your attendance at this very important and critical meeting.

Naturally, I'm pleased to have in attendance the distinguished members of the house and Senate, both Democratic as well as Republican, and I'm especially pleased to see so many outstanding labor leaders in the United States. And I warmly welcome each and every one of you.

Obviously, we've gathered here to deal with inflation and the immediate danger that's threatening every American, young and old, poor and well-to-do. It's a very critical issue.

I think the future of labor union members and all other Americans depend upon what we can achieve together in this campaign against inflation. I wish to re-emphasize my appreciation for your participation.

Some of you have generously accepted an additional burden by agreeing to participate in such other meetings. By so doing, you've indicated that you share with me the conviction that inflation is the most critical national domestic issue facing the United States.

Without the productive dedication of American labor, World War II might have ended very differently. Labor built America. Labor is America.

Together we must now preserve and enhance the economic base of our existence from everybody's enemy, the scourge of inflation. I have described it as Public Enemy No. 1 in America. It might be expanded actually to say that's a world-wide problem.

We need your advice and we need your guidance on this issue of such overwhelming concern to all your members. I want your ideas on steps which can help the individual as well as the nation.

PART OF A SERIES

Today's meeting is a part of the series that culminates in the Conference on Inflation on Sept. 27 and 28. Since this is only a one-day session, let's get directly to the point. Let's dispense with formality; let's be frank. Let us also try to keep our comments brief and specifically on target.

I should say that the meeting we held last week with 28 outstanding economists was by all standards a success. I must confess I was dubious that we could get that many divergent economists together and have them come up with a superb performance, which they did.

And I am confident in this room we can have the same constructive results.

I will certainly welcome, however, any detailed statement that anyone wishes to make in the form of a written proposal, and please submit these directly to me, if you will, within the next several days. This will give us adequate time to consider them before the conclusion of the designated time frame.

You are aware of the severity of inflation, although inflation is unfortunately no novelty in our economic history. Its present form is the worst we've experienced in 27 years.

Consumer prices are increasing at an unacceptable annual rate of 11 per cent. Statistics alone are inadequate to describe the inflation in human terms; cold and impersonal numbers and percentages cannot describe the impact on individual lives.

While everyone is hit by inflation, some obviously are hit much harder. I am thinking of families in the low and moderate income level, of older people who are struggling trying to live on modest incomes, or young people whose initial experience with the employment scene may not generate real confidence in our economic system.

These are very real human problems which must guide the actions of government as well as the decisions of the private sector. Government has a particular obligation to act responsibly and we will. We will make a concerted effort to cut the budget and reduce our expenditures to show our willingness to sacrifice.

BUDGETARY KNIFE

But we shall wield our budgetary knife ever so carefully so as not to sacrifice the meat while trimming the fat. Within our general budgetary restraints, we shall be mindful of the need to increase what we allocate to the essential while we decrease what we apportion to programs which are to some extent discretionary.

We also must exercise care to prevent our recently overheated economy from cooling off too rapidly. We must at all costs avoid a damaging recession.

We are now making a cooperative effort in response to the initiative of the distinguished majority leader of the United States Senate and other members of the Congress on a bipartisan basis.

The legislative and executive branches are working together. This is evidenced by the people who are here from both political parties to seek short-term answers to short-term problems and long-term answers to long-term problems.

In May of 1973, the Administration requested enactment of the Job Security Assistance Act. This proposal is an important part of our policy to assist in a period of rising unemployment. It would modernize the unemployment compensation system without violating the relationship between the states and the Federal Government.

I recognize the concern of many that unemployment might rise because of the policies we must follow to fight inflation. I am watching the unemployment rate very, very closely.

This Administration, as I said the other day, will act with compassion. We will not permit the burden of necessary restraint to fall on those members of society least able to bear the cost.

NO COMPLACENCY

The unemployment rate in August, announced last Friday, was 5.4 per cent. But we certainly cannot be complacent about any American lacking work.

The present situation calls for full use of currently available tools and dollars. As a consequence, I have instructed the Department of Labor to accelerate the obligation of currently available funds under the Comprehensive Employment and Training Act. The Secretary of Labor will immediately disperse $65-million to those communities in which unemployment is at the highest level. By the end of the month he will make available another $350-million under the C.E.T.A. Title II program.

This $415-million will finance some 85,000 public sector jobs in state and local governments, added to the almost $550-million obligated for public service employment in June from the fiscal year 1974 appropriations and about $50-million in prime sponsorship under C.E.T.A. Title I as allocated for this purpose.

Currently available resources will provide approximately 170,000 public service jobs this coming winter. The effect of these actions, based on the tools and the dollars we have, will be to double the number of federally funded public service jobs.

In addition, $1.3-billion will be available to state and local governments for manpower programs. Beyond this, drawing on the outcome of the conference on inflation and your suggestions, we will develop contingency plans against the possibility that unemployment might give evidence of rising to substantially higher levels.

If the employment statistics demonstrate the need in the future, we will be ready to present such plans to the Congress and work together to assure a mutually satisfactory course of action before the end of this session.

APPEAL FOR RESTRAINT

To the leaders of our labor organizations and to the captains of industry, I make a sincere appeal for restraint. It must be a self-imposed restraint. As I have said before, there will be no controls imposed on wages and prices as far as I am concerned.

Settlements at the bargaining table are the sole responsibility of the participants, so long as they respect the public interest. We need your help today, not merely for my Administration but for the whole nation.

GEORGE MEANY. I think all Americans agree with your announced objective, Mr. President, of breaking the back of inflation, hopefully long before 1976. Certainly the union members we represent and their families agree with the priority this Administration has given to this problem.

But as worried as our members are about inflation, they are also very concerned about recession, the forgotten twin of America's economic woes.

We will not try to recite to you all the various statistics that are put out by agencies of the executive branch of the government that clearly show this country is in a recession.

By the same token, we hope that we and our members, as well as the American people, will be spared the optimistic rhetoric so often used by the past Administrations.

It's our opinion that this Administration would be making a grave mistake if it attacked inflation as the only problem besetting this country. Worse than that, it would be jeopardizing the livelihoods of millions of American families.

It would be bad government, in our view, to fight inflation by making recession work.

EXCESSIVE DEMAND

The starting point of fighting inflation and recession is the truth, the truth of the economists, the truth of the leaders of business, the truth of the leaders of labor, and all the other truths that you will hear at these mini-summits.

Laying the problems out as the many groups in America see them, we submit, is a beginning, but only a beginning. So we intend to try to give you the benefit of our truths.

The first is that today's inflation is not caused by excessive demand, which is the classic reason for inflation—too many dollars chasing too few goods.

Hence, we believe that budget cuts, high interest rates and tight money, which might be appropriate weapons against excessive demand inflation, simply will not work on today's inflation.

Indiscriminate budget cutting could compound recession; higher interest rates could only insure higher prices; tight money only chokes an economy that needs to grow.

Another truth is that unemployment hurts people. It's easy for the government economist to talk about "acceptable" rates of unemployment. But it's very difficult for people who are unemployed.

The prospect of a deepening recession and mounting unemployment, even in the name of the glorious battle against inflation, is a frightening prospect to millions of Americans. Their only hedge against inflation is their jobs. And these American workers whom we represent are not economists, not bank officials or corporate executives, people who do not have to worry about recessions. We look to our government for protection.

I would like to respectfully submit that, as a starting point, we all should agree that we're doing something wrong.

However, we were still faced with the unfair controls.

Again, Mr. President, I agree and I'm delighted to hear you say there are no controls, but there are some great minds around in the economic field that feel, "Well, let's have guidelines."

And to me, the guideline is the same as the control because, Mr. President, you've never seen greater patriotism, greater civic pride on the part of employers than when you give them a guideline—on wages. So each one of them becomes a great patriot and they're going to go along with the national Administration; they're going to go along in the interests of the country and the interests of the country happens to dictate wages will be held down to a certain level.

GUIDELINES RECALLED

We had guidelines back in the days of President Johnson and they didn't work. Price and wage controls will not work in this country.

We've been going down-hill for five and a half years under the present economic policies that we have right up to this minute.

I think we've got to have some new thinking on the part of the experts, some new ideas and some new direction.

I think we should, despite the fact that you have assured us, Mr. President, there's going to be no wage and price controls, I think we should take a look at the 32 months of the so-called stabilization program, starting on Aug. 15, 1971, and ending on April 30 of 1974.

And during this period, it's our contention that workers and their unions were subject to one-sided controls on workers' wages. But there were no effective controls on prices or interest rates, and no restraint whatsoever on corporate profits.

So, Mr. President, we will cooperate, I'm sure, to the fullest extent and I'm sure that the people sitting here at the table here this morning will let you know what they think.

Maybe what they think won't please you completely, but you'll at least give them credit for saying what they think, and I'll give you credit for being ready to listen to what they say.

Mr. JAVITS. To meet the threatening unemployment situation, we are fortunate to have in the law—after more than 3 years of disagreement between the Congress and the Executive—the

Comprehensive Employment and Training Act of 1973, the first manpower reform measure since job training programs began over a decade ago.

The key element of this new legislation is title I, which establishes a system of State and local governmental prime sponsors to carry out job training and transitional public service employment programs, basically at their discretion from allocated funds—with some Federal oversight, but not the direct "grantsmanship" inherent in the old system.

It is really the first legislation to take the "special revenue sharing" or "block grant" approach in an important area of concern and this is to be its first full year of operation.

Will we let it be the success the Congress and the administration designed it to be, or in this perhaps most difficult year in terms of the unemployment situation, are we going to put prime sponsors out to the sea of rising unemployment "without an oar" or at least without a strong enough one; how many other social programs are now judged "failures" because we failed to give them adequate resources.

Mr. President, as to other aspects of this particular situation, which is the essence of our amendment, the fact that public service employment has been very well utilized in an extension—and an essential extension—of service of high desirability, not "leaf ranking," has already been made very, very strong and very, very clear in respect to the experience under the Energy Employment Act, and testimony before the Subcommittee on Employment this morning.

This was a hearing on S. 2993, the Emergency Energy Employment Assistance Act of 1974, which I introduced in February to provide for an automatic triggering of $4 billion if national unemployment reaches 6 percent for 3 consecutive months, for a total of approximately 500,000 jobs at $8,0000 per job, with appropriate triggering of funds before the 6-percent level as determined by the Congress or the President.

A number of statements made by witnesses in the hearing bear upon the need for funds which Senator KENNEDY and I are seeking.

John V. N. Klein, county executive of Suffolk County, appearing on behalf of the National Association of Counties, urged that the Senate provide at least the level of funds approved by the House. He stated:

> The prospect of an expanded public service employment program must not result in a cutback of appropriation levels for vitally important manpower activities authorized under CETA. Counties, cities, State, Congress and the Administration worked hard to gain passage of CETA in the belief that manpower funds could most effectively be spent when decision-making was brought to the local level. This is where the most accurate determination of need can be made.

And very importantly, I would note the testimony of Jack Walsh, supervisor of the county of San Diego, who estimated that they are now receiving in public service employment funds only approximately one-third of what they need, both in terms of meeting the unemployment problem and in terms of providing adequate public service within his county.

Moreover, I should note there has been a very intelligent division at the municipal and county level in terms of jobs which are made available; that the transition which we count on is a very real transition. The estimate is that over 70 percent of those who are in these public service jobs will actually move into a permanent level of employment, either public or private.

We had an estimate this morning that it is split 50–50 between public and private, thus showing the validity of this kind of a program.

In addition, and I would like to give some figures—the estimate from Mr. Klein's testimony of this morning that just about half of what is paid in compensation to these public service employees many come back in terms, one, of their actual taxes, and, two, of the savings in various kinds of welfare, unemployment compensation, et cetera, which would otherwise result from this activity.

Mr. President, as the real key to social stability in this country will be the fact that we are ready to move into the unemployment situation in an effective way, I believe that the particular program which we put forward in this amendment is entitled to the highest priority.

As I said a minute ago, as we can only assert that priority through this amendment, it represents our duty to do it.

I made earlier a statement about the kinds of jobs that went into public service employment. An analysis by the Department of Labor in a report on this subject and other aspects of public service employment to date, Mr. President, is before me.

I think the report is so useful that it ought to be completely included. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

Report on the Public Employment Program by the U.S. Department of Labor, Peter J. Brennan, Secretary

U.S. DEPARTMENT OF LABOR,
Washington, February 25, 1974.

The Honorable the PRESIDENT OF THE SENATE.
The Honorable the SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIRS: I have the honor to present herewith a report pertaining to the Public Employment Program in 1973, as required by section 13 of the Emergency Employment Act of 1971.

Respectfully,

PETER J. BRENNAN,
Secretary of Labor.

The Public Employment Program in 1973

The $2.25 billion Public Employment Program (PEP), authorized by the Emergency Employment Act (EEA) of 1971, had as its immediate purpose transitional public service jobs for unemployed and underemployed individuals. At that time the national unemployment rate was 6 percent and the severity of joblessness was considerably greater in many localities. Insofar as PEP served groups named in the legislation as meriting special consideration—unemployed Vietnam-era veterans, welfare recipients, youth entering the labor force, older workers, workers with little or no command of English, migrant and seasonal farmworkers, and other disadvantaged persons—it was also addressed to problems of structural unemployment.[1]

The legislation authorized a program with 2-year funding of $1 billion in the first year and $1.25 billion in the second. However, unexpected funds (resulting from a delay in the 1973 appropriation until near the end of the fiscal year) supported activities at a declining level in fiscal 1974, overlapping new authorization for similar activities under the Comprehensive Employment and Training Act (CETA), passed in late 1973.

Because PEP was the first large-scale, federally sponsored program of its kind, much interest has centered on how PEP was administered by State and local governments (including Indian tribal councils); how well they developed meaningful jobs in essential public services suited to their particular needs and circumstances, while honoring the broad goals and objectives of the authorizing legislation; and who among unemployed and underemployed persons were assisted.

In implementing PEP, program agents exercised considerable freedom in determining the agencies that were to receive money, the jobs to be created, the training and supportive services to be supplied, and the amounts of money subagents and employing agencies were to receive. By and large the cities, counties, and States handled Federal funds effectively and met Federal objectives with a minimum of Federal direction. Since PEP provided the first real experience with "special" revenue sharing and promoted effective communication among local governments and between local governments and Federal agencies, the experience helped to lay the groundwork for some features of the CETA, which are discussed later in the chapter.

FUNDING ALLOCATIONS IN FISCAL 1973

When fiscal 1973 funding uncertainties were resolved in March 1973, $803 million in EEA funds remained to be expended in the balance of fiscal 1973 and during the following year. Since the program was then entering its final phase, emphasis shifted from hiring new participants to phasing out existing programs in an orderly manner. Accordingly, it was considered appropriate to allocate the remaining funds on the basis of the data used in fiscal 1972 rather than introduce more recent unemployment data and create serious program dislocations. The $803 million available was distributed in the following manner:

$500 million was allocated to 691 program agents—cities and counties with populations of 75,000 or over, States, and sponsors of Indian reservation programs. (Some eligible agents combined into consortia, reducing the total number of grants to 650.)

$165 million was allocated to program agents who qualified because their entire area or sections within it had an unemployment rate of 6 percent or higher for 3 consecutive months. A total of 1,072 geographic units, including 222 Indian reservations, were thus funded.

$80 million was distributed for summer youth programs to supplement funds which program agents had set aside from their regular funds to sponsor summer employment programs for youth.

$33 million was allotted for continuing special high-impact and welfare demonstration projects in selected areas.

$25 million was allotted for other purposes, including supplementing funds for Indian reservations, financing migratory farmworker projects, and phasing down programs in areas which had received discretionary funds in fiscal year 1972.

Toward the end of the year, a final redistribution was made of nearly $44 million in funds previously obligated but unspent.

STATE AND LOCAL ADMINISTRATION

Rapid implementation

PEP funds were allocted to program agents in accordance with a two-part formula, re-

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flecting the volume (proportion of all unemployed) and severity (unemployment rate) of unemployment in each jurisdiction. According to a series of studies of the program's implementation,[2] passage of the legislation found cities, counties, and States in widely varying stages of readiness to act. Even jurisdictions which had done advance planning were surprised at the speed with which the legislation was passed and the funds distributed by the Manpower Administration—with the admonition that hiring should begin by Labor Day of 1971. Nevertheless, implementation proceeded rapidly across the Nation under quickly devised National guidelines and regulations. Program evaluators have generally commented favorably on this demonstration that bureauracies can mobilize efficiently; the first participants were at work just a few weeks after the legislation was signed in July 1971.

Program agents exercised considerable latitude in determining not only the jobs to be filled but the qualifications of employees and the nature of supportive services. Participants were hired by the local governments in one of the two ways—either outside the normal competitive systems with "provisional" or special status or through the normal competitive system with status equivalent to that of other employees.

The machinery employed for administering PEP also varied widely. In large jurisdictions, which were already the site of manpower programs, administration was often assigned to a manpower office or agency. For example, the program was operated by the Mayor's Office of Budget and Program Analysis in one large city, by the Mayor's Manpower Office in another, by 24 specially created consortia of towns and/or counties in one State (where they acted as subagents for the State Office of Manpower Affairs), by existing councils of government representing the counties in other States, and by a newly established Emergency Employment Section in a State employment security agency. In smaller jurisdictions, the function was frequently assumed by regular personnel departments.

In one of the Nation's largest cities, responsibilities for implementation were assigned to three agencies: The Human Resources Administration, the Bureau of the Budget, and the Department of Personnel. Administrative complexities are further illustrated by the example of a single county acting as program agent for the county itself, 64 cities of less than 75,000 population, 77 individual school districts, 15 community colleges, and 800 special taxing districts.

Small administrative cost

PEP was operated at relatively small administrative expense; only 1.9 percent of direct Federal expenditure were devoted to administration, considerably less than the 3.2 percent allowed by Federal guidelines. In many cases, local administrative costs were held down by employing PEP participants to administer the program. Wages, at an average of $6,003 per man-year of employment, accounted for about 87 percent of Federal expenditures, and fringe benefits of $741 per man-year accounted for nearly 11 percent. The remainder—one-half of 1 percent—was spent for training and support services. (It should be noted that program agents contributed to administration and training and support services out of their matching share.) While the legislation had specified that at least 85 percent of all resources should be expended on direct payrolls and fringe benefits, holding Federal administrative expenses to less than 2 percent meant that about 15 percent more jobs were created than would otherwise have been possible.

PEP PARTICIPANTS

PEP employed over 404,000 persons from its August 1971 inception through the end of June 1973. Approximately 113,000 of these were youth in summer programs.[3] Of the nearly 300,000 regular PEP participants, about three-quarters entered during the first year and the remainder were hired during fiscal 1973.

All the groups specified in the act as deserving special consideration were represented, although not always in proportion to their numbers among the unemployed. The priorities established by the program agents varied widely, with some putting the emphasis on making the program a vehicle for upgrading the hard-to-employ while others stressed its countercyclical aspects. In some instances, these somewhat contradictory approaches existed side by side within a single State or county.

Some highlights of the fiscal 1973 participant group's characteristics are these:[4]

Vietnam-era veterans made up 37 percent of all participants and veterans of earlier eras another 10 percent.[5] Veterans accounted for only 17 percent of total U.S. unemployment during fiscal 1973 and Vietnam-era veterans for 7 percent. The "special veterans," who served in Indochina and Korea and whom the authorizing legislation identified as meriting particular preference, constituted 13 percent of all participants.

Nearly three-quarters of the group were men. The 26 percent who were women were well below their proportion of all unemployed persons (47 percent in 1973).

Forty-one percent were minority group members: Blacks, 23 percent; the Spanish speaking, 14 percent; Indians, 3 percent; and Orientals and others, 1 percent. This compares with 23 percent of all unemployed workers who are members of minorities.

Disadvantaged persons (poor and having at least one employment handicap) constituted 18 percent of the total.[6]

Fourteen percent of all participants were former welfare recipients. About half of these were minority group members and nearly three-fifths were high school graduates.

Almost three-quarters of the total had at least a high school education, a somewhat higher level of educational attainment than that of the civilian labor force at large.[7] PEP jobs went to individuals at both extremes of the education spectrum, to those with 4 or more years of post-high school education (12 percent) and to those with less than 8 grades of schooling (3 percent).

With an average age of 32 and with only 22 percent under 22 years of age and 11 percent 45 and over, PEP participants did not reflect the age patterns of all unemployed. Younger workers accounted for 38 percent of total unemployment in 1973 and older workers for 20 percent.

Average duration of unemployment in the 12 months prior to entering PEP was 5 to 26 weeks for 40 percent of participants and 27 or more weeks for another 40 percent. Over 15 or more weeks immediately before entering PEP, compared with only 22 percent of all unemployed workers who experienced this much unemployment in their "current spell" in 1973.

While PEP did not serve the same groups of the disadvantaged as programs authorized by the Manpower Development and Training and Economic Opportunity Acts (in terms of race, age, or education), it did serve the long-term unemployed and met the congressional directive to serve all significant segments of the unemployed.

PROGRAM RESULTS

For States and localities

The financial resources provided by the Emergency Employment Act arrived at a time when local budget stringencies were forcing painful choices in many areas. The kinds of jobs supported were, therefore, dictated by the critical need for expanded public services in many States and localities, as well as by the goals affirmed in the act. However, because of its limited life and the second-year restrictions imposed by funding uncertainties, the PEP experience has not furnished conclusive evidence that the Federal funds would continue to create new jobs after an initial year or two or, in effect, begin to replace local funds for existing positions.

PEP jobs are generally acknowledged to have been "real," not "make work." Over the span of the program from August 1971 through June 1973, they were distributed among these public service activities:

	Percent
All activities	100
Public works, transportation	22
Education	20
Law enforcement	12
Health and hospital services	9
Parks and recreation	8
Social services	6
Environmental protection	4
Fire protection	2
General administration and other	17

Over $300 million in PEP funds went to each of the first two activities, nearly $200 million to law enforcement, $130 million to health services, $124 million to parks and recreation, and $60 million to environmental protection.

Of the 291,000 regular participants, 15 percent were hired by State governments, 28 percent by county governments, 42 percent by cities, 14 percent by other units of government such as consortia and school district, and 1 percent by Indian tribles.

Evaluators generally consider that program agents performed well in expanding employment and public services and that the fears that makework jobs would be developed or that political scandal would taint the program were unfounded. By and large, agents proceeded to make good use of the available resources. While the majority of jobs were not innovative but fell in the normal range of public sector clerical, service, and technical jobs, they nevertheless served the goal of filling unmet public service needs. In determining job categories, program agents generally had a good idea of the areas of greatest need. They turned to less essential areas only in the absence of resources to supply needed equipment or of needed skills among the unemployed applicants. Interviews of participants, public officials, and employers by evaluation teams confirm that a large majority believe the jobs created met real needs and show that employers judged performance to be as good as or better than that in other public jobs.

For participants

The average starting wage for all PEP participants in 1973 was $2.93 per hour; none were hired at less than $1.60 an hour, and 4 percent began PEP employment at $5 or more per hour. For many, especially women and minorities, PEP wages represented a gain over their last employment. The average wage was up from $2.79 per hour prior to PEP, and the proportion earning less than $2 declined from 24 percent in the last pre-PEP job to 11 percent in PEP.

Individuals entering PEP in fiscal 1973 obtained professional, technical, and managerial jobs structural work (19 percent), or clerical and sales (25 percent), service jobs (20 percent), jobs in JOBS (19 percent). In the majority of these posts, salaries were near entry levels. Typical job titles included engineering aide, recreation aide, clerk-typist, traffic engineer, street and highway repairman, housing and fire inspector, classroom aide, police dispatcher, apprentice fireman, park laborer, and maintenance helper. As already noted, for the most part they did not represent new activities but rather additional jobs in already existing classifications.

An important PEP goal was to move participants into unsubsidized employment, and

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this has been a continuing concern of PEP administrators. The program was started at a time when, despite the long-term uptrend in public employment, many State and city governments were experiencing job freezes or layoffs, an obvious handicap to finding permanent assignments for PEP participants. Moreover, the national freeze on PEP hiring in mid-1972, impelled by uncertainties about an appropriation for fiscal 1973, disrupted many plans for transition to permanent jobs in the second year of PEP. Since openings could not be refilled for an indefinite period, there was reluctance to move participants out of them. Despite some initial resistance by employee organizations and restrictive local laws, modest progress was reported in many areas in reforming merit systems and overcoming other barriers to achieving the employment goal.

In the face of these obstacles, however, a high percentage of former participants have found jobs with public or private employers, whether through their experience in PEP or as a result of the strengthening of the economy in 1972 and 1973. Program data show that more than one-half of PEP participants who had left the program by June 1973 transferred directly to public or private employment, while others returned to school or entered the Armed Forces. This was confirmed by a followup survey of a national sample of participants who were interviewed initially in the summer of 1972 and twice thereafter, revealing that 1 month after they had left PEP, 71 percent were in jobs and were earning an average of $3.30 per hour. Six months after leaving PEP, 79 percent had jobs, while a year after PEP, 82 percent were employed; earnings averaged $3.25 an hour in both periods.[8]

The data show a dramatic improvement in the employment and earnings status of participants from the preprogram to the postprogram period. In the first half of the year prior to entering PEP, when earnings were higher than in the 6 months immediately before entry, their average earnings (on an annual basis) amounted to only $3,490. In the 6 months after leaving PEP, the average rose to $5,260, a 51-percent increase. Most of the gain was realized through a sharp increase in the amount of time employed, up from an average 53 percent of normal full-time employment in the preprogram period to 76 percent after leaving the program. Blacks, youth under 22 years of age, and welfare recipients made above-average earnings gains of 63 percent, 90 percent, and over 100 percent respectively. On the other hand, a few individuals who lost high-paying jobs before coming into PEP (e.g., engineers, scientists, and technicians) had lower earnings than formerly, both during and after their PEP participation.

PEP INDIAN PROGRAM

Roughly $21 million of EEA funds was allotted to Indian Intertribal Councils and tribal governments for 222 Indian reservations or suballocated to Indians by State, city, or county program agents. Over 6,200 reservation Indians had been employed in the program through June 1973, of whom slightly over half were still in the program at that time. Of those who had left PEP, more than half had obtained jobs, either with the employing agency or with other public or private employers.

Reports on the outcomes of PEP for Indians, who are among the most seriously disadvantaged of workers, indicate that the program has been useful but that the gravity of Indian unemployment is so great that PEP jobs can have only a limited impact.[9] However, a high proportion of PEP jobs for Indians were newly created (70 percent), so that they did make observable changes in the staffing patterns of reservation governments and provide much-needed public services.

INTERGOVERNMENTAL RELATIONSHIPS IN PEP

PEP has involved all levels of government—Federal, State, and local county and city units—and has prompted the formulation of multijurisdictional arrangements in much the same fashion expected in a decentralized manpower system. It is impossible to characterize these relationships with any single formula.

Evaluators have noted that there were problems in some localities in coordination, monitoring, and technical assistance. They were perhaps inevitable in a program involving public agencies in unaccustomed relationships, especially since many of these agencies were unfamiliar with Federal Government procedures and requirements. Disharmonies were observed in certain localities, as various agencies vied for the administrative role or for larger shares of the job openings supported by PEP funds. Due to the speed of implementation, it was not always feasible to establish linkages between PEP and other manpower programs to provide supportive services or training for PEP participants, although there have been notable examples of very effective coordination among programs.[10]

Overall, however, program agents accommodated very well to a new and complex program, albeit with some uneveness and with considerable variation in the ways in which the several goals posed for it by the Congress have been served. The alacrity with which the funds were distributed and the many innovations employed throughout the country in marshaling and filling jobs augur well for the adaptation of categorical manpower programs to manpower revenue sharing.

Much of the language of the Emergency Employment Act was incorporated in the Comprehensive Employment and Training Act, although there are differences. EEA funding was triggered when national unemployment equaled or exceeded 4.5 percent for 3 consecutive months, and special additional funding was made available for areas with 6 percent or higher unemployment for 3 consecutive months. Title II of the CETA provides funding only for areas with unemployment rates of 6.5 percent or higher for 3 consecutive months. Prime sponsors in other areas may also operate public employment programs (under title I), as one option among other types of manpower programs and services.

There are other significant differences between PEP and the newly authorized program. Prime sponsors are allowed much wider discretion in the uses of CETA title II funds than were PEP program agents. As in PEP, CETA funds may be used for public service transitional jobs, and the programs are to be "designed with a view toward—(1) developing new careers, or (2) providing opportunities for career advancement, or (3) providing opportunities for continued training . . ." However, they may also be used for any of the services authorized by title I. The CETA does not require that eligible applicants provide a 10-percent "match" with Federal funds as did the EEA. To safeguard promotional opportunities of regular employees, the CETA specifies that jobs created can be at other than entry levels only if program agents have complied with applicable personnel procedures and collective bargaining agreements. The EEA was silent on this score. In addition, the maximum salary that can be subsidized in a public employment program is reduced to $10,000 from the $12,000 authorized in the EEA.

Special consideration for the unemployed who are most seriously disadvantaged (in terms of their length of unemployment and poor prospects for finding other employment) distinguishes the new program from PEP. And in order to circumvent "paper" layoffs, the new law specifies that individuals must be unemployed for 30 days prior to being hired for CETA-funded public sector jobs, whereas the EEA required only a 7-day period of unemployment. (PEP guidelines subsequently extended this to 14 days.) [11]

Other features of the CETA title II are these:

Eighty percent of the funds (a minimum of $250 million is reserved for title II in fiscal 1974, $350 million in fiscal 1975) are to be allocated on the basis of the proportion of all unemployment in each eligible area and the remainder at the discretion of the Secretary of Labor, who is to take into consideration the severity of unemployment in such areas. EEA funds were generally distributed on the basis of a formula which gave equal weight to the volume and severity of unemployment, with no special formula for areas of high unemployment.

Ninety percent of the funds used for public service employment must be for wages and employment benefits, compared with 85 percent under EEA.

Insofar as possible programs are to be designed with a view toward transition to unsubsidized employment and continued training paralleling the language of the EEA.

Eligible applicants are prime sponsors qualified under title I (primarily States and cities and counties with populations of 100,000 or more) and Indian tribes on Federal or State reservations. Program agent functions must be delegated by prime sponsors to units of local government having populations of 50,000 or more which are not eligible to be prime sponsors. The EEA provided that all units of Federal, State, or general local government, regardless of population level, and Indian tribes on Federal or State reservations were eligible to receive funding. However, the Department of Labor developed a procedure for using units with populations of 75,000 or more as program agents and smaller units as subagents.

FOOTNOTES

[1] Priority consideration for workers displaced by technological change or shifts in patterns of Federal expenditures was also specified.

[2] *Case Studies of the Emergency Employment Act in Operation*, prepared for the Subcommittee on Employment, Poverty, and Migratory Labor of the Committee on Labor and Public Welfare by the National Manpower Policy Task Force (Washington: 93d Cong., 1st sess., U.S. Senate, September 1973). Another evaluation which deals with the implementation of PEP is *Public Employment Program and the Cities* (Washington: National League of Cities and United States Conference of Mayors, June 19, 1973).

[3] PEP funds supported an estimated 330,000 summer jobs for youth in 1973, mostly after the fiscal year ending in June.

[4] Youth in short-term summer jobs are excluded. This accounts for differences between the data reported here and in table 3 in the chapter on Manpower Programs: Moving Toward Decentralization.

[5] An initial goal was to put veterans into one-third of all PEP jobs. In fiscal 1973, the sights for veterans were raised.

[6] Program data showed a higher proportion (35 percent) of the disadvantaged, but the finding of 18 percent by Westat, Inc., in a survey of a national sample of participants is believed to be more reliable.

[7] In March 1973, 68 percent of the civilian labor force 16 years of age and over had completed 4 years of high school and 32 percent had dropped out of school at a lower grade. See "Educational Attainment of Workers, March 1973," *Monthly Labor Review*, January 1974, pp. 58–62.

[8] "Longitudinal Evaluation of the Public Employment Program" (Rockville, Md.: Westat, Inc., in process). Completion of this study awaits a final followup series of inter-

Mr. JAVITS. That report shows that public works and transportation took up 22 percent of the public service workers; education, 20 percent; law enforcement, 12 percent; health and hospital services, 9 percent; parks and recreation, 8 percent, and other miscellaneous making up the total.

Mr. President, this certainly represents a high degree of diversity. We all know that there is great understaffing today in the services which are useful to people, in some cases indispensable, and a very, very appreciable start is being made in this regard.

Also this morning in the testimony before us there was an estimate by Dr. Sar Levitan that we ought to provide public service jobs for one-fourth of the unemployed who come above what would be considered a proper hypothesis for unemployment, which we simply do not tolerate or accept but which seems to be endemic in our society. That level was given at 4.5 percent. If you figured it on that basis, then this particular provision is richly warranted. On that basis of current levels we would need about 225,000 public service jobs, even at current levels—that is, the 5.4 percent of unemployment—and that the highest estimate, the present figures of what we have on the program now, would get us 170,000 public jobs.

So the facts bear out the $350 million figure to which we refer.

Mr. President, another important point: This is money, it was testified to this morning, which they are all geared up to spend. Really, I take enormous pride, and I think the Senate should take enormous satisfaction, out of the agreement between ourselves and the White House which resulted in a comprehensive employment training act. We always chide ourselves, and we are the first to blame ourselves, about administrative breakdowns and the ineffectiveness and inefficiency of the law. Apparently this particular law has worked out brilliantly. It really works, and really works effectively. It works economically, and works well.

The proof of that is that the testimony which we had this very morning is that you can convert money into jobs in this particular program, within the CETA framework, within 30 days. That is absolutely phenomenal. You can convert money not jobs within 30 days. This was the testimony of the two representatives of the National Association of Counties, one of them from Suffolk County, New York, on Long Island, a big county of well over a million people, and the other from San Diego County in California—very diverse positions. It was a tremendously important item of evidence to me, and I am very pleased to put the matter in the Record and to put it in focus accordingly.

Mr. President, another important element of the legislation—although not the principal one—is title III, under which the Secretary has the authority to continue a number of important essentially "national" efforts; these include support for the JOBS program—the major private sector initiative—programs for bilingual persons, and ex-offenders, migrants, Indians, and other groups.

It is under this title that such important efforts as the Opportunities Industrialization Centers program—begun and conducted by Rev. Leon Sullivan of Philadelphia—and the "Jobs for Progress", "SER" program, a similar effort for Spanish speaking persons, must be funded to the extent that they are not picked up by State and local prime sponsors.

The Committee on Appropriations directs at page 19 of its report that these two programs be maintained.

However, the Department of Labor advises that the Senate committee recommendation, after meeting the administration's request of $171 million for the Jobs Corps and after reserving $67.2 million for migrants and $53.7 million for Indians, as required by sections 30(b)(2) and 302(g) of the act respectively, will not be sufficient to continue funding for all of the important national efforts such as minority skills programs, correctional programs, National Alliance of Businessman efforts, OIC, operation SER, trade adjustment assistance, program support, at the levels requested.

Moreover, even the amount we are requesting of $420,000,000 will not provide for funding these efforts at sufficient levels.

Accordingly, I wish to note, and Senator Kennedy will make a similar statement, that we consider the $420,000,000 to be a minimum and that we expect that the Secretary may wish to utilize his transfer authority under section 4(e) of the act. Under that section, the Secretary of Labor may utilize up to 20 percent of funds appropriated under the act—excluding any amount in excess of $250,000,000 for title II—for titles III and IV; accordingly, under our aggregate appropriation of $2,500,000,000—excluding the $150,000,000 excess under title II—the Secretary could make available $470,000,000 for titles III and IV—rather than the $420,000,000—and we intend that he do so if necessary.

Mr. President, in conclusion I note that in its report, at page 18, with regard to the overall appropriation, the committee states:

> The Committee reduction of $300,000,000 under the House allowance is based on information from the Labor Department that at least that amount would not be spent until fiscal year 1976. The Committee feels that additional funding could be deferred until a later date.

It is very difficult to believe, given the great unemployment problems confronting State and local prime sponsors, that at least $300,000,000 will not be spent until fiscal year 1976.

I assume that the committee is referring to the usual fact that programs are often funded on a 2-year basis.

In any event on the basis of our experience under the Emergency Employment Act of 1971, we know that funds for public service employment, one of the eligible activities under title I, can be put to use almost immediately.

Were State and local prime sponsors to elect to use all of the $330 million for public service employment, those funds could create 41,250 jobs nationally utilizing a cost per job of $8,000; using the committee's cost estimate of $7,000 per job, 47,100 jobs could be created.

Mr. President, in this connection, I note that according to a chart prepared by the staff of the Subcommittee on Employment, Poverty and Migratory Labor, based upon Department of Labor statistics, New York State would be assured $119,335,460 for title I under our amendment, compared with $100,250,517 which it could receive under the Senate committee's recommendation—an increase of $19,084,943.

If the increase resulting from our amendment were applied solely to create public service jobs—as prime sponsors could do—at a cost of $8,000 per job; 2,880 jobs could be created in New York State with the increase; at the committee's cost of $7,000 per job, 2,726 jobs could be created with the increase.

To date, taking into account fiscal year 1974 nondiscretionary funds made available in June, and discretionary funds distributed last week under title II, and the special transition provision all under the Comprehensive Employment and Training Act of 1973—to be used principally during this fiscal year—sponsors within New York State have received $59,391,396 specifically for public service employment. At a cost of $8,000 per job, this will provide 7,676 slots; at a cost of $7,000 per job, it will provide 8,484 slots.

In addition to the funds it will receive under title I for fiscal year 1975, and whatever level is agreed to nationally after consideration of this bill is complete, New York State will share in the $400 million, or if the House allowance prevails, the $350 million, for title II, depending upon the number of areas which will qualify and therefore share in the funds at the time of distribution.

Mr. President, what we seek overall is only approximately $100,000,000 over fiscal year 1974 levels, as indicated on page 17 of the committee's report.

It is $450,000,000 below the $2,950,000,000 which Senator Kennedy and I originally requested of the Subcommittee on Labor-HEW Appropriations in a letter to its chairman, Senator Warren G. Magnuson, on July 30, 1974.

Again, given the threatening unemployment situation, and the increased

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views after all participants have left the program.

[9] *Impact of Grants to Indian Tribes under the Emergency Employment Act of 1971*, report to the Subcommittee on Employment, Poverty, and Migratory Labor of the Committee on Labor and Public Welfare by the Comptroller General of the United States (Washington: 93d Cong., 1st sess., U.S. Senate, Mar. 14, 1973) and *An Evaluation of the Public Employment Program for Reservation Indians* (Scottsdale, Ariz.: American Indian Consultants, Inc., November 1973).

[10] See *Case Studies of the Emergency Employment Act in Operation* and *Public Employment and the Cities*.

[11] In PEP, program data indicates that less than a fourth of all participants over the 2-year period ending June 30, 1973, were unemployed for as little as 4 weeks before entering PEP. Over half experienced 15 or more weeks of unemployment immediately prior to entering PEP.

costs arising from the already skyrocketing inflation situation, I believe that what we now seek should be considered as a very "conservative" increase overall.

It should also, in my opinion, be considered only as a basic "floor" in terms of what may be needed in this fiscal year, if national unemployment moves up to the 6-percent level.

Mr. President, for all those reasons, and again with the greatest tribute especially to Senator MAGNUSON and Senator COTTON for their profound sympathy with this matter and with so many others—indeed, as Senator MAGNUSON properly said, he has many things he would like to put in this bill that are very deep in his heart—but from the point of view of establishing the proper order of priorities, which the Senate can do, we put forward this amendment and ask for its approval by the Senate.

Mr. President, I ask unanimous consent that a chart prepared by the staff of the Subcommittee on Employment, Poverty, and Migratory Labor based upon Department of Labor statistics, showing allocations for each State under our amendment, compared with the committee recommendation and last year's level, along with communications from Gov. Calvin L. Rampton, chairman of the National Governors' Conference, Bernard F. Hillenbrand, executive director of the National Association of Counties, Andrew J. Biemiller, director of the Department of Legislation of the AFL–CIO, and the National League of Cities-U.S. Conference of Mayors, in support of this amendment, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE-BY-STATE

MANPOWER ALLOCATIONS FOR STATE AND LOCAL PRIME SPONSORS

	Preceding year (fiscal year 1974)	Senate Appropriations Committee amount for fiscal year 1975	Kennedy-Javits amendment (fiscal year 1975)
Alabama	26, 818, 500	20, 649, 490	24, 763, 164
Alaska	3, 981, 200	3, 170, 789	3, 871, 627
Arizona	16, 457, 300	12, 039, 087	14, 811, 570
Arkansas	16, 994, 500	13, 025, 788	15, 472, 035
California	131, 836, 900	119, 278, 864	144, 008, 966
Colorado	12, 969, 000	10, 312, 670	12, 308, 597
Connecticut	21, 351, 200	17, 539, 165	21, 777, 701
Delaware	3, 449, 900	2, 902, 144	3, 460, 890
District of Columbia	17, 212, 800	11, 232, 980	15, 491, 520
Florida	40, 930, 400	34, 791, 887	42, 155, 604
Georgia	30, 895, 400	24, 637, 758	29, 141, 691
Hawaii	5, 177, 300	4, 512, 256	5, 518, 570
Idaho	5, 145, 400	4, 344, 197	5, 261, 143
Illinois	72, 452, 400	56, 900, 697	71, 622, 535
Indiana	30, 544, 800	25, 286, 383	31, 956, 272
Iowa	14, 793, 700	11, 789, 661	14, 431, 267
Kansas	11, 868, 700	9, 612, 111	11, 755, 444
Kentucky	27, 931, 100	21, 244, 003	25, 502, 506
Louisiana	30, 140, 100	24, 105, 151	28, 141, 570
Maine	7, 879, 000	6, 397, 803	7, 499, 901
Maryland	22, 854, 600	17, 584, 219	22, 180, 937
Massachusetts	39, 381, 500	34, 420, 547	42, 425, 968
Michigan	56, 921, 500	48, 060, 417	57, 741, 405
Minnesota	23, 511, 700	19, 489, 135	22, 775, 730
Mississippi	21, 586, 600	15, 723, 784	19, 434, 743
Missouri	32, 910, 400	25, 165, 076	31, 122, 936
Montana	4, 678, 400	4, 102, 884	5, 035, 511
Nebraska	9, 478, 500	7, 396, 468	8, 894, 810
Nevada	4, 231, 000	3, 505, 379	4, 142, 372
New Hampshire	4, 201, 600	3, 634, 974	4, 116, 302
New Jersey	46, 798, 400	39, 596, 976	50, 047, 430
New Mexico	10, 203, 500	7, 665, 120	9, 180, 450
New York	124, 303, 300	100, 250, 517	119, 335, 460
North Carolina	36, 543, 600	28, 391, 551	33, 532, 915
North Dakota	4, 059, 700	3, 400, 201	4, 062, 971
Ohio	60, 408, 600	49, 864, 751	61, 672, 994
Oklahoma	18, 347, 000	14, 664, 353	17, 049, 483
Oregon	14, 008, 700	11, 897, 885	14, 614, 148
Pennsylvania	68, 982, 300	58, 111, 309	70, 668, 406
Rhode Island	6, 924, 900	5, 958, 769	7, 648, 584
South Carolina	20, 444, 200	15, 548, 101	18, 629, 782
South Dakota	4, 210, 100	3, 336, 415	3, 850, 069
Tennessee	29, 371, 300	22, 397, 261	26, 507, 545
Texas	75, 043, 700	59, 601, 186	70, 661, 526
Utah	7, 036, 100	5, 913, 405	7, 074, 403
Vermont	3, 273, 800	2, 675, 697	3, 149, 507
Virginia	28, 004, 600	22, 352, 952	26, 583, 805
Washington	27, 562, 700	23, 262, 009	28, 262, 476
West Virginia	14, 671, 200	11, 677, 350	13, 513, 748
Wisconsin	24, 524, 300	20, 641, 276	24, 052, 950
Wyoming	2, 150, 700	1, 657, 438	1, 935, 630
Puerto Rico	31, 191, 900	26, 947, 360	32, 777, 929

SEPTEMBER 13, 1974.

Senator JACOB JAVITS,
New Senate Office Building,
Washington, D.C.

The National Governors' Conference fully supports your efforts to restore the Fiscal 1975 CETA Appropriation to $2.5 Billion.

CALVIN L. RAMPTON,
Governor, Chairman, National Governors' Conference.

NATIONAL ASSOCIATION OF COUNTIES,
WASHINGTON, D.C., *September 13, 1974.*

Hon. JACOB K. JAVITS,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR JAVITS: The National Association of Counties wishes to register its strong support for your efforts to restore the $300 million which have been cut from the Fiscal 1975 appropriations approved by the House of Representatives for the Comprehensive Employment and Training Act of 1973 (CETA). Counties worked hard to gain passage of CETA in the belief that manpower funds could be most effectively spent when decision making was brought to the local level. It is a cruel hoax to give responsibility for provision of manpower services to counties and other prime sponsors but to provide less money.

In fiscal 1973 the Department of Labor spent $2.14 billion for comprehensive manpower services under the Manpower Development and Training Act, Title I of the Economic Opportunity Act, and Section 5 of the Emergency Employment Act. Since fiscal 1973 inflation has reached an annual rate of twelve percent, and the 1974 amendments to the Fair Labor Standards Act have increased the minimum wage by approximately sixteen percent.

An appropriation of $2.15 billion for 1975 as proposed by the Committee would actually be a substantial cut in the amount of federal funds available to help the unemployed. This comes at a time when unemployment is rising, when there is an increasing need for both jobs and training.

The National Association of Counties urges the Senate to give CETA a chance to work and to restore to $2.45 the level of funding for CETA as approved by the House.

Sincerely yours,
BERNARD F. HILLENBRAND,
Executive Director.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., September 12, 1974.

On Monday, September 16, the Senate is tentatively scheduled to consider the fiscal 1975 Labor-HEW Appropriations Bill, H.R. 15580. Contained in the bill are funding for programs of vital concern to organized labor—especially Occupational Safety and Health, Manpower, and Apprenticeship Training.

The AFL–CIO strongly supports the Occupational Safety and Health Act provisions reported by the Appropriations Committee. Efforts will be made on the Senate floor to restrict the safety inspection of plants covered by the law based on a numerical worker exemption. The first of these amendments will prohibit inspection of plants of 25 or fewer employees. This amendment, for example, would deny protection to over 30% of the workers and nearly 90% of the workplaces covered by the law effectively exempting the most hazardous occupations, such as in the construction, longshore and logging industries where most industrial accidents occur.

The AFL–CIO is unalterably opposed to any and all numerical exemption amendments which discriminate against millions of American workers, distort the guiding principle of equal protection under the law and subvert the intent of the landmark 1970 Occupational Safety and Health Act. The AFL–CIO opposes all amendments to the bill's OSHA provisions dealing with enforcement and funding.

The AFL–CIO strongly supports the $10.2 million appropriated for the Bureau of Apprenticeship Training which will enable the employment of additional, badly needed training personnel.

The Senate Appropriations Committee, disregarding the recommendation of its subcommittee, cut $350 million from Title I of the Comprehensive Employment and Training Act of 1973. At a time of rapidly increasing unemployment these funds are needed to not only insure that states, counties, and cities meet the increased cost of inflation, but also so that portions of these funds can be used by prime sponsors for public service employment and job training. In addition, the Department of Labor requires these funds to insure that prime sponsors retain a funding level of at least 90% of their previous year's funding as stipulated by the CETA Act.

The AFL–CIO urges you to support a floor amendment to restore the $350,000,000 cut from the Comprehensive Employment and Training Act of 1973.

Sincerely yours,
ANDREW J. BIEMILLER,
Director, Department of Legislation.

TEXT OF TELEGRAM SENT TO: THE HONORABLE JACOB K. JAVITS AND THE HONORABLE EDWARD M. KENNEDY

Appreciate your support of adequate funding for manpower programs and urge adoption of your amendment by the full Senate restoring $350 million for title I, III, and IV CETA. Inflation ought not be dealt with at the expense of the unemployed.

ALLEN E. PRITCHARD, Jr.,
Executive Vice President, National League of Cities.
JOHN J. GUNTHER,
Executive Director, U.S. Conference of Mayors.

Mr. PASTORE. Mr. President, I do not think any other Members of the Senate appreciates more than I do what motivated the committee, of which I am a member, to come back with this amount. I understand that the amount they are suggesting is substantially over the estimate but below the House figure.

I suppose that in all these matters, when we talk about priorities, it all depends on whose ox is being gored.

I have said this so often on the floor of the Senate that now it begins to sound like a broken record. We in Rhode Island have been hit, and we have been hit hard. As a matter of fact, in April of 1973, when the Government decided to close down the naval bases throughout the country, we in Rhode Island, with less than 1 percent of the population of the country, sustained 50 percent of the national cuts. We lost approximately 20,000 jobs. I need not tell the Senate about all the ancillary businesses that were hit and had to go out of business because the bases were closed.

In the meantime, we have been trying to rehabilitate ourselves, and the one thing that has been a boon to us has been manpower training. We have spent the money, and we have spent it well. We have trained people, and we are trying to attract new industries to Rhode Island. Not too long ago, we were lucky enough to attract the Electric Boat Co., to open a branch factory on the land that was abandoned by the Navy.

I realize the problems involved here. I realize that Senator COTTON and Senator MAGNUSON are not without compassion for people who may be out of work. We have the very serious problem of inflation. We have the very serious problem of meeting the ceiling of $295 billion. For that reason, they were motivated, not because of lack of compassion, but because of the fiscal problems that are involved.

I do not think we are going to get very far by jumping at each other's throat this afternoon, trying to outargue each other as to the merits of the case. I was wondering whether somehow we would get our heads together and reach a compromise figure. I would hate to see this matter, which involves the question of great compassion, either approved or defeated only on the ground that perhaps some people do not have the same problem in their States that might exist in other States.

The Senator from Washington knows how I supported him when he asked for an extension of the Unemployment Compensation Act, when the Boeing Co. factory in Washington was hit, and how necessary it was to pass the Unemployment Compensation Act and how the administration was against it. But the Senate rose up and defended him and stood behind him and supported him because they knew they were dealing with humanity, that something had to be done about the people who were out of work.

No matter how we look at these problems, as people become unemployed, the social welfare burden becomes greater, homes become disrupted, and in the long run we suffer a great deal more. If we are reaching for the Moon, then we ought to be told by the chairman, "You are asking for too much." But, in view of what has transpired on the floor of the Senate this afternoon, I hope that the committee chairman and his counterpart, the distinguished Senator from New Hampshire, will be a little more understanding of the problems that confront certain States and act out of compassion and understanding. Inasmuch as this is going to happen inevitably—the administration is already talking about huge sums for public service programs—I say we should let Congress start now and place here the priority on manpower. When we speak of manpower, we speak about jobs. When we speak about jobs, we speak about people. When we speak about people, we speak about the welfare of America.

I hope that somewhere between the request that is being made and the amount recommended by the committee, we can reach a compromise figure and get on with our work.

Mr. MAGNUSON. Mr. President, I am glad that the Senator from Rhode Island mentioned that the Senator from New Hampshire and I have some compassion.

Mr. PASTORE. A lot of it.

Mr. MAGNUSON. That is what this bill is filled with.

Mr. PASTORE. That is right.

Mr. MAGNUSON. Every item in it. We have to make some hard decisions about priorities within priorities in the bill.

The only reason that this $350 million was taken out was that our best evidence from the department itself—and we had a great deal of evidence—was that this amount would not be spent until 1976, if then.

This is revenue sharing, to a certain extent. I think the legislative committee—I ask the Senator from New York to give me his attention—made these things revenue sharing. Is that correct?

Mr. JAVITS. Special revenue sharing.

Mr. MAGNUSON. Special revenue sharing.

When we found out that they would not expend it. The amount recommended by the Senate committee would still increase the number of public service jobs in 1975 over that of 1974—up from 94,000 jobs to 145,000 jobs.

The Senator from Rhode Island is a member of the committee. Senator COTTON and I kept this money in because no one knows the value of these jobs more than the Senator from Washington.

When a man becomes unemployed, he loses his dignity, he loses self-esteem, and he may go on welfare when his unemployment compensation has run out. What does it cost us to keep a man on welfare for a year? The best figure I can get is about $4,000 a year. But when he is working, he is paying taxes, and that adds up, so there is a difference.

We put the proposal in the subcommittee, but the full committee, on an amendment by the Senator from West Virginia—and I am sure he does not mind my saying this—took it out again. That is the way it comes to the floor of the Senate. I think it should have been kept in, but we were looking for cuts to make to appease the budget cutters. We agreed that we would try to hold this bill down.

We are running into this situation: If we appropriate money they are not going to use it until 1976. Some say we are going to get some announcement on jobs from the President. He announced last week his plans for public service jobs, to release $415 million which has been in the icebox for a long time. We appropriated that amount months ago in the supplemental of 1974.

So if he comes up with a new version of public service, which he said he would, they are going to have to bring up an appropriation for that, too, in the supplemental.

Our only purpose in the full committee, in all deference to him, was, what is the use of appropriating money that is not going to be spent now? If the public service job program is moving faster than it has in the past, and I think the Senator from New York quoted that we can get jobs in 30 days—if that is moving as fast as it should and the plans of the local governments under the special revenue sharing are moving faster, then probably this money would move faster in 1976.

I do not want to go back on my committee, on the full committee. However, the House had $2,450,000,000, and we allowed $2,150,000,000. So in all respects, we are going to have to deal with the House conferees anyway for a great deal of this amount. They will want it back; I know that. I should think that there would be something said about this amendment, doing something with the House in conference or even doing something here, as the Senator from Rhode Island has said, because employment is on the rocks in many parts of the country.

Mr. JAVITS. Will the Senator yield to me on that?

Mr. MAGNUSON. Yes.

Mr. JAVITS. One has to make a distinction between the money for training and the money for public service jobs. I agree with the Senator that the money for training needs to be piped into a pipeline, which is a much slower operation.

Mr. MAGNUSON. Will the Senator yield, so that the record will be clear?

Mr. JAVITS. Yes.

Mr MAGNUSON. Have we not found out that the training program is diminishing all the time, whereas the need for public service jobs has gone up?

Mr. JAVITS. Exactly, that is just the point I make.

Mr. MAGNUSON. The two of them were put together.

I suspect that, as the Senator from Massachusetts mentioned, most of the State and local sponsors would use a greater amount for public service jobs rather than for training.

Mr. JAVITS. May I explain that, Mr. Chairman?

Mr. MAGNUSON. Yes.

Mr. JAVITS. Again, with the greatest respect——

Mr. MAGNUSON. Another thing: We also put in $60 million extra for public service jobs under title II of the Comprehensive Employment and Training Act.

Mr. JAVITS. I realize that. And again, with the greatest respect and full recognition of the remarkable feeling that the chairman and the ranging member and so many other members of this Committee on Appropriations have, to understand us, you have to realize that, one public service employment is often coupled with training, because that is the way in which they got ready to go out after 2 years in order to get a regular job.

Second, serious unemployment will also involve an effort to upgrade many workers.

Last, the Department of Labor itself bears out what I said about the quick transition. They say in their report, which I have already placed in the RECORD:

> Program evaluators have generally commented favorably upon this demonstration that bureaucracies can mobilize efficiently. The first participants were at work in just a few weeks after the legislation was signed in July '71.

That is as to public service employment.

That bears out our argument that this is the one place that we can really translate money into jobs very quickly.

Mr. MAGNUSON. This is better training; 90 percent of these jobs are training people for something, or older people who might want to be retrained. It is better than some manpower training.

I say to the Senator from New York, the history of manpower training as such alone does not have a very good cost record. For each 100 people that are put in at the end of the pipeline, very few come out with jobs. The Senator from New Hampshire will bear me out that, after digging a long time for the facts, the costs were $22,000 per person trained. That is why we are a little shy of manpower training.

Did the Senator hear what I said?

Mr. JAVITS. Yes, I did.

Mr. MAGNUSON. $22,000. Someone on the committee said, well, we can send a fellow to Harvard for that. And somebody else said, well, who wants to go to Harvard? But it is $22,000, per person. So we are a little gun shy about the cost of manpower training.

We are not so gun shy about the cost of public service jobs. They were good. So I want to separate the two.

Mr. TUNNEY. Will the chairman yield?

Mr. MAGNUSON. Yes.

Mr. TUNNEY. Mr. President, I should like to join my colleagues in commending the distinguished Senator from Washington for the very astute leadership he has demonstrated in bringing this complex appropriations bill to the Senate floor, and the skill with which he has handled it in the committee.

Mr. President, I note that a portion of the budget for the Department of Labor is devoted to research in the area of more effective use of America's manpower and womanpower.

Mr. President, I note that a portion of the budget for the Department of Labor is devoted to research into the area of more effective use of America's manpower and womanpower. I support this research effort, but I have a question concerning the research priorities of the Department.

The Senator from Washington has long been a supporter of my efforts to expand the availability of part-time job opportunities, both in the Federal Government and the private sector, so that millions of women, students, disabled persons, and elderly citizens may have a chance to obtain employment. The Senator was one of the earliest cosponsors of my bill, S. 2022, the Flexible Hours Employment Act, to provide 200,000 to 300,000 part-time job opportunities in the Federal service over the next 5 years. Now that 23 other Senators have joined the Senator from Washington and me in cosponsoring this bill, favorable Senate action is expected before the end of this month.

Mr. President, I mention our mutual interest in the promotion of part-time job opportunities because I believe that the Department of Labor can and should vastly expand its efforts to promote research into the many important questions raised by the rising demand in this country for part-time job opportunities.

Mr. MAGNUSON. I know the Senator's interest in this matter. I suggest, as he suggested, our mutual interest in the promotion of job opportunities. We believe the Department of Labor can and should vastly expand its efforts to promote research into the many important questions raised by the rising demand in this country for part-time job opportunities.

What has been the experience of the Senator from California concerning the Labor Department's funding of research into part-time employment? I should like to hear his comment on it.

Mr. TUNNEY. Mr. President, I am unhappy to have to say that the Department has heretofore made very little effort to promote research into the potential productivity benefits of part-time employment, the dimensions and nature of the need for more flexible working arrangements, the high quality of the labor force now available for professional-level, part-time employment, and other issues raised by the part-time question.

Mr. MAGNUSON. Well, this is so important. The Senator probably knows that we took a look at this in 1965, and in 1967, the Bureau of Labor Statistics—and it has not changed—estimated that by 1980, one worker out of every seven would be part time. But the rate of increase in part-time workers has been so great that this figure was reached by the end of 1972, when more than 12.5 million American workers were employed part time.

The Senator from California has a very good point. With the number of part-time workers increasing faster than the number of full-time, and with the rising demand for part-time opportunities on the part of women's organizations, handicapped groups, senior citizens, and others, I think it imperative that the Labor Department give much more attention to funding research on part-time employment.

Mr. TUNNEY. I thank the distinguished chairman for his remarks. His leadership on social issues is unparalleled in the halls of Congress. I am sure that program administrators, not only in the Department of Labor but also in the Department of Health, Education, and Welfare and elsewhere, will take notice of and respond to the chairman's and my concern for new research initiatives in the area of part-time employment.

Mr. President, I have another area in which I am interested.

As a member of the Senate Committee on Aging, I am especially pleased that the committee bill includes a $9 million funding increase for the title III program of the Older Americans Act, from $96 million under the House-passed bill to $105 million.

The committee report indicates that these increased funds "are provided for partial support of designated State agencies on aging, assistance to approximately 500 areawide planning and social services agencies, and model projects."

In this regard, I would like to pose a couple of questions to the chairman of the Labor-HEW Appropriations Subcommittee.

First, what is the intent of the subcommittee and the committee concerning the apportionment of this increased funding? In other words, how much is allocated for area-wide planning and social services and what portion is earmarked for the section 308 model projects program?

Mr. MAGNUSON. The committee report, as the Senator is aware, does not contain specific dollar figures for the particular sections under the title III program in order to allow the Administration on Aging greater flexibility in determining funding priorities. However, it is my hope that the Administration on Aging will increase funding for the model projects program for the purpose of strengthening representation and referral services for the elderly. I also hope the Administration on Aging will use at least $1 million of this increase to strengthen legal representation for older Americans. I also hope that a portion of this $1 million increase will be used to continue the National Senior Citizens Law Center, if alternative funds are not available to sustain their extraordinarily effective efforts on behalf of older Americans.

If that is not the case, we will discuss it in the next report.

Mr. TUNNEY. I thank the chairman for the support he has given to the continuation of the National Senior Citizens Law Center.

Since this program is based in my home State of California, I have had an opportunity to see firsthand how effective that center has been in sensitizing area agencies on aging, law schools, the organized bar, the legal services program, and others about the special legal problems of the elderly.

In California, we held some hearings on this problem, and heard from the grass roots, and it is very clear that this is a most important program for senior citizens, to have their legal needs attended to.

The elderly's need for legal representation, it seems to me, is perhaps more acute than for any other age group. This point was made very forcefully during the hearings which I conducted on "Improving Legal Representation for Older Americans" as the Chairman of the Judiciary Subcommittee on Representation of Citizen Interest and as a Member of the Committee on aging, where it was brought home to every member of the committee that upon reaching retirement age the elderly typically rely upon many Federal programs, such as social security, railroad retirement, VA pensions, medicare, medicaid, supplemental security income, and others. Quite frequently, these programs are couched in rather complicated and technical language, which is not always readily understandable to the layman; and senior citizens are not always able, because of a variety of physical infirmities, to understand what their rights and remedies are.

But the continuation of the National Senior Citizens Law Center plus additional efforts by the Administration on Aging to make representation more readily available for the aged—such as the development of paralegal services—can be very crucial steps in overcoming legal barriers for the elderly.

I thank the chairman again for giving such special attention to this problem.

Mr. MAGNUSON. I appreciate the interest of the Senator from California. Of course, he is absolutely correct. These people try to find out what the rules are for governing eligibility for social security, VA pensions, medicare, medicaid, and so on, and they usually get a bureaucratic answer. The Senator knows what a bureaucratic answer is, does he not?

Mr. PASTORE. No answer at all.

Mr. MAGNUSON. No one can understand it.

I think the need for this is just as great as the Senator from California says, and I and the rest of us support legal services for the elderly.

Mr. TUNNEY. I thank the Senator.

Mr. MAGNUSON. Mr. President, who submitted the amendment? The Senator from Massachusetts?

Mr. COTTON. Mr. President, will the Senator yield to me before he yields the floor?

Mr. MAGNUSON. Oh, yes, surely. I yield to the Senator from New Hampshire.

The PRESIDING OFFICER. (Mr. BARTLETT). The Senator from New Hampshire.

Mr. COTTON. Mr. President, there are two or three observations that I would like to make on the pending amendment on manpower.

In the first place, the Senate should be reminded that the committee has reported a bill which increases manpower assistance $100 million over the budget request. The budget request was for $2,050,000,000, and we added to that $100 million, so that in the bill as it now stands the amount to $2,150,000,000.

But we did more than that. Because the committee was well aware of what has already been so well said on this floor, that if there was going to be a pinch it must come on the training and not on the jobs, the bill as we have it before us earmarks $400 million out of the total of $2,150,000,000 for necessary public service jobs.

Frankly, I do not think that is enough. We have had some rather unhappy experiences with the training programs. We have had an experience, I know, in my own locality, where a man got himself full training as a plumber, finished it, and then he took training as something else, and he was always training and never working.

There is a lot more leakage in the job training. But there is not one of us on this floor—and I commend the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from New York (Mr. JAVITS), not only for their presenting of the amendment, but for their manner of presentation. I note the Senator from New York as saying that when his special committee came in with their recommendation for controlling the budget, that all we could do in here was decrease it, we could not increase it—I know that that is the basis and the law as regards the creation of this committee.

But, Mr. President, I picked up, coming down on the plane, the Wall Street Journal. I do not want the Senate to get the idea that is the only publication I read, but it happened to be available, and I started in reading the first four or five items, and it would make your blood run cold.

The first item:

> Oil producers will boost their take from royalties and taxes 3.5 percent.

Except Saudi Arabia had some reservations. The rest all agreed to it.

The next item said:

> Natural-gas price rises were granted improperly by the Federal Power Commission, according to a General Accounting Office report. A sweeping congressional investigation was called for.

The third item:

> An oil-price overcharge of up to $300 million by some major refiners is under study by the Federal Energy Administration and Congress.

The fourth item:

> Industrial output fell 0.4 percent in August, leading Administration economists to doubt there is much chance of any real economic growth the rest of the year. They also are raising their year-end inflation forecasts to the two digit level.

Fifth:

> An international recession looms if all nations don't cooperate in anti-inflation efforts before the price explosion "gets further out of hand." The International Monetary Fund's annual report warned this. It said that the world faces "the worst economic mess since World War II."

Well now, your committee is walking a tightrope. We want, and it is our desire, to be just as liberal as possible, particularly on the money for creating jobs. At the same time, we had two other considerations to take into account. The first is that when we go to conference, of course, we will have to yield more in some measure to meet the position of the House; and, second, I do not know how many other money amendments we are going to have today, but we do not want the bill to get out of hand to a point where we get a veto.

I learned a lesson long ago when I was a small boy up in a hill town in New Hampshire, when a penny would buy a stick of candy. We lived on a farm, and that is what we literally lived on—but I always used to creep up to my dad who was a workingman and ask for a penny because I wanted to buy a stick of candy, and he would give me a penny, and really it amounted to something.

Then I learned to put that penny in my pocket, and I waited until the next time we went to town, and then I would ask him for another penny. In that way I got myself into a position where I salted away a couple in reserve, and then if I got another penny in another week or another 10 days, I would buy the stick of candy.

We want this bill signed. We want it to become law. We want to get this money for the unemployed, to meet the unemployment situation, and we would like to salt away some of it in a bill that is signed. If the situation continues to go along the line as predicted in that column in the Wall Street Journal, we are going to have to go back for more just as sure as the Lord made little apples.

Now, Mr. President, I think we should see that out of the $2,150,000,000 we have earmarked $400,000,000 for jobs. The rest goes to various subjects, and I commend the framers of this amendment that they have specified many objects and seen to it in this amendment that it is not a leaf-raking affair, and that the money is used for useful purposes, to provide employment.

It also deals with environmental problems, and it deals with various other problems that have to be dealt with. There may be some leakage in that. I noted last year a tendency on the part of State Houses—and I cannot speak so much about city halls because we do not have large cities in my State—to use some of this money to add greater staffs in the local governmental units.

I would like to see a larger proportion of the $2,150,000,000 in the bill, a larger proportion earmarked for jobs and a somewhat smaller proportion going for other purposes. That is the first thing I would like to see done. That would not cost us a cent.

In the second place, I am sure that the chairman, Senator MAGNUSON—and I know that I feel this way—does not expect that this final bill is going to be confined to $2,150,000,000. We have got to go to the House and the House is going to, of course, demand more.

Now we have this decision to make. I would not object to adding a reasonable amount, if the chairman approved of it, earmarked for jobs, not for any other purpose.

The only thing that worries me is that if we, for instance, add half of what the House appropriated above the Senate, then that is where we start bargaining with the House, and I am afraid if we get too near the House figure and we cannot show something we will save, we may not be able to get this bill signed without going up and down the hill again. Otherwise I would instantly agree to adding half of what the House figure was over the Senate figure.

The only thing that worries me is that that is where we start bargaining when we sit down with the House Members. It means that we will probably split the difference again. We will have added three-fourths, and it does bring it up. But that is the practical situation.

What we are doing today, I think, first, we are appropriating too much for other purposes than just for jobs.

I think the proportion should be larger for jobs and less for other purposes.

Second, what we are doing today is just in the assumption that the job situation, the unemployment situation, and, more important than either of them, the production situation in this country, is going to grow steadily worse and very fast in the coming months.

If it does, I do not care what restrictions are on that very useful committee on which the Senator from New York serves. I do not care what we appropriate and get signed. If it does, we are going to have to produce some more money to be portioned out where the unemployment exists.

Now, those are things we ought to keep in mind.

If by adding, splitting the difference, adding now here on the floor, we open the door for half a dozen more amendments, money amendments, then we are in trouble.

I would like to inquire from the chairman of the committee, whose leadership I so greatly respect, what his best judgment is on that point?

Mr. MAGNUSON. Well, I will say to my friend from New Hampshire, of course, I was a little reluctant to make this cut. As you know this cut was made in full committee, but I thought as long as we were $100 million over the budget and $50 million more than the House for title II public service jobs, that amount might be sufficient.

But I think the Senator from New York, the Senator from Massachusetts, the Senator from Rhode Island, and all of us, because you and I have never been adverse to this, make a good point.

I would suggest to the Senator from New York that the committee, if it is all right with the Senator from New Hampshire, if the Senator would cut this amount in half, we will go to the House with this.

Mr. COTTON. The Senator means, add $175 million?

Mr. MAGNUSON. That would be $175 million.

Mr. JAVITS. Mr. President, I ask the Senator to yield both to me and Senator KENNEDY and then let Senator KENNEDY lead off, but I would like to make the point before he does, he proposed it and I joined with him and he should take the lead in respect to the suggestion made, and he will, but I would like to just follow what Senator COTTON said, that the proponents of the amendment specify whatever we may do, what they expect will go into public service employment out of this additional amount out of title I, because that is the reason we made it, title I, that is the only title that has the flexibility.

I believe if we make the statement on the floor, that will have a very considerable effect. I might point out in that regard, it is almost self-dictating, because I think we would all agree with the $20 million under title III relating to the Opportunities Industrialization Centers, et cetera, so whatever sum we did agree on, if we do, the remainder should go, and be understood to go, to public service employment.

Mr. MAGNUSON. If we add this amount to title I under comprehensive manpower assistance, a certain amount has got to go under title III, due to provisions of the authorizing legislation.

Mr. JAVITS. All right.

Mr. MAGNUSON. Since the Senator from New Hampshire is concerned, I would think 95 percent of any money that we would add would go to jobs.

Mr. JAVITS. That would be in the area of a little over 10 percent, and I think the special programs are so desirable that we would certainly want to do that much.

I would point out the only restriction in the act is that the following quotation, which I make from the act itself, section 4(e), of the amount appropriated to carry out this act for any fiscal year, not more than 20 percent of such amount, excluding any amount in excess of $250 million of the amount made available for carrying out title II, shall be available for carrying out provisions of titles III and IV.

Mr. COTTON. I would like to ask two questions of the Senator from New York, and I shall not detain him.

The first question is: Are not some of those special programs taken care of out of this $2 billion, before we add?

Mr. JAVITS. To some extent they are, but, of course, we do not know what will be allocated.

As a matter of fact, doing it this way, where the sponsors state their intention, it does give the necessary flexibility.

Mr. COTTON. That takes care of the money added by the amendment.

Mr. JAVITS. Right.

Mr. COTTON. And we have already taken care of $400 million.

Mr. JAVITS. Exactly.

Mr. COTTON. And a lot of money is left there, that goes somewhere, and does not necessarily go to the jobs.

Mr. JAVITS. Mr. President, may I point out, there is a lot of money needed for training. There are ongoing training programs. But I would suggest that if we do act, as is now contemplated, that in the conference report the managers detail their contemplation as to how the money is to be distributed.

Mr. COTTON. I think we should cut further the training, although I realize its importance.

But in this emergency we are facing, I think we could earmark a little more for the jobs.

The second question I wanted to ask is, I wonder if we have any idea how many more money amendments there are. The only thing we say is that we split the difference and add $175 million to this, then along come money amendments and the dam has been broken.

Would you care to give us any idea how many more money amendments we have to face?

Mr. JAVITS. Mr. President, I have no other money amendment and I realize that there were heavy cuts in health and education that concern money.

I have no more money amendments; Senator KENNEDY will speak for himself, and the chairman and ranking member would know better than I. This particular item is just, as these Senators themselves have favored, so favored in view of our emergency situation that I do not think the Senator need fear.

Mr. COTTON. I thank the Senator.

Mr. KENNEDY. Mr President, I would like to modify my amendment by changing the figure from $2.5 billion to $2.325 billion.

The PRESIDING OFFICER. Is there objection? The Senator has the right to modify his amendment.

The amendment was so modified.

Mr. KENNEDY. That, I understand, Mr. President, is an increase over the committee bill by $175 million; it would be the intention of the sponsors of the bill that that money in title I would be used for public service jobs.

It certainly is our intention, and the record should be extremely clear, it is the intention of the sponsors, and I would think from discussion with the managers of the bill, it is one of their conditions in being willing to take it, that those title I funds be used for public service employment.

I also want to reiterate that it is the intention of the sponsors to provide that of that $175 million that $155 million would go toward title I and that $20 million toward title III, to boost SER, DIC and other special programs dealing with the limited English-speaking, Indians and migrants.

That is not designated as such within the amendment itself, but certainly is the intention of the Senator from New York and myself and I would hope that would be worked out.

I know taking this to conference that the managers, the majority and minority members, will take this into consideration.

Mr. MAGNUSON. That will be made clear in this colloquy. If we can, we are going to put the same type of language in the conference report when we finally arrive at a figure, directed toward the same objectives that you and all of us here want to keep as a goal.

Mr. President, I ask for a vote.

Mr. McCLELLAN. Mr. President, may I inquire? Am I correct, is the effect of this amendment to increase the amount of appropriations as recommended by the committee by $175 million?

Mr. MAGNUSON. That is correct.

Mr. McCLELLAN. Then that amount would come off of the $629 million that you are under the budget, with one amendment?

Mr. MAGNUSON. Yes.

Mr. McCLELLAN. I heard the chairman say a while ago that if these amendments were adopted, he had some of his own to raise funds in this bill. I am wondering now where we are going. That is, if we are opening up now to increase this bill up to the amount of the budget or beyond the budget.

Mr. MAGNUSON. When the Senator from Washington said that, he meant that——

Mr. McCLELLAN. I am not necessarily opposing this amendment. I realize adjustments will have to be made. This may be meritorious. The only concern I have about it is he is raising the amount of this bill, the amount of the appropriations bill, and yet he is saying this money will not be spent to this fiscal year. That is what I do not quite understand.

If it is not going to be spent this year, if it is not going to be needed until next year, why increase the amount of this bill and incur the risk of a veto?

Mr. MAGNUSON. We came to that conclusion because past experience with this program was that they were not using the money, 1976 would be the tail end of this appropriation, and they would not use this money. But the situation throughout the United States may now be a little bit different than in the past.

I think the assurance from many people, and particularly those who are going to use it—this is revenue sharing when you get down to it—is they say they can use it faster and they are ready to use it.

Mr. PASTORE. Will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. PASTORE. I thought I heard the Senator say that the President only recently released $415 million which, as you said, was in the icebox.

Mr. MAGNUSON. That is correct.

Mr. McCLELLAN. But I heard him say he did not anticipate that it would be spent. As I say, I think adequate funds should be made available for these purposes. I am not opposing that. But he is confronted with a situation here about this bill and the amount of budget, and so forth. If it does lead to what the Senator suggested a while ago, other amounts placed in the bill, he is not going to have a bill under the budget before he gets through.

Mr. MAGNUSON. I hope it will not exceed the budget.

Mr. PASTORE. I call for the vote.

Mr. HARTKE. Mr. President——

Mr. MAGNUSON. Will the Senator from Indiana yield so we can vote on this?

Mr. HARTKE. I wanted to bring up another amendment.

Mr. MAGNUSON. Let us vote on this amendment.

The PRESIDING OFFICER. The question is on the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COTTON. Mr. President, I know it is customary to nail down a vote by moving to reconsider and then to move to lay that motion on the table. Senators are then bound by it. I wish we did not have to do it. I believe that should be done later in the day. If we yield $175 million on this, then we go into conference with the House, we may have to yield a little more. Then if we get three or four more, or two or three more additions to this, we are in trouble.

I was reasonably confident that we were not going to add another batch of money. I am perfectly happy with this $175 million. There is no better place.

Mr. KENNEDY. Will the Senator yield for a unanimous consent request?

Mr. COTTON. Yes.

Mr. KENNEDY. I withdraw the motion to reconsider. Based upon the very fair position which has been taken by the ranking member of the Committee on Appropriations, understanding his concerns, I would like to ask unanimous consent that that motion be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COTTON. I thank the Senator for his cooperation. I think he is very fair.

Mr. KENNEDY. The Senator has been very fair, of course, on this and other matters. I did not have a chance to answer his earlier question. I do not have any more money amendments, and I do not think there will be others. I am confident we will gain his support on this.

Mr. JAVITS. If the Senator will yield, the only reason I made the motion, to explain to Senator Cotton, is that I cannot be here tomorrow and I was not sure that the bill would end today. The difficulty that I have dictated it.

I agree with Senator Kennedy and will not push the matter.

Mr. COTTON. I am hoping to wind this thing up today, and he can make his motion later today, or will not need to if it is in the bill.

Mr. CURTIS. Mr. President, I ask unanimous consent that Mr. Tom Cantrell be allowed the privilege of the floor during the consideration of H.R. 15580.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will read the first remaining committee amendment.

The legislative clerk proceeded to read the first remaining committee amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent to bring up at this time my modified amendment, which is at the desk, out of order, before the committee amendments are considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment of Mr. Hartke, as modified.

The legislative clerk proceeded to read the amendment, as modified.

Mr. HARTKE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Hartke's amendment (No. 1631), as modified, is as follows:

On page 10, line 16, strike "$140,443,000", and insert in lieu thereof "$142,443,000".

Mr. HARTKE. Mr. President, the amendment which I have at the desk increases the appropriations for the measles and rubella immunization programs by $2 million.

These are difficult economic times. Each of us is especially conscious of the need to keep the budget as free as possible of waste. If this amendment appropriated the taxpayers' moneys for something trivial or inconsequential, I would not offer it

We are dealing, however, in the most fundamental manner possible with the health and welfare of our people—namely, our children. The Nation's children are the Nation's heritage, and each year, Mr. President, hundreds of our children die, are born with genetic defects, or become mentally retarded because of two related diseases—measles and rubella. The sad fact is that we have it within our power to conquer both of these diseases.

For most of us, measles is simply part of growing up. But we are the fortunate ones. Ten out of every 10,000 cases of measles result in death, and 1 out of every 3,000 results in permanent retardation. Rubella—or German measles—has its greatest impact on the unborn. A woman who contracts it during the first 4 weeks of pregnancy can look forward to a 50–50 chance that her child will be born with a congenital defect—defects which are too often too horrible to describe.

Even though our health agencies have been fighting these two ravagers of our young, neither disease has been conquered. I shall cite a few of the more important figures and place the latest study by the Center for Disease Control in the Record at a later point.

Measles, the technical term for which is rubeola, is still widespread; in fact, our information regarding its true dimensions is most incomplete. Doctors at the Center for Disease Control believe that 9 out of every 10 cases go unreported. Both the figures I will mention as well as those I will place in the Record, would probably be more accurate if multiplied by 10.

Reported cases of measles stood at 25,826 in 1969. In 1970, the figures rose to 47,451; in 1971, it jumped dramatically, because of a national epidemic, to 75,290. By 1972, reported cases began to drop and stood at 32,275; 1973 continued the trend with 26,686 cases, but this was still higher than in 1969. Through August 25 of this year, 19,579 are known. I am informed by health officials that we are in the midst of a regional epidemic centered in New Jersey and Pennsylvania.

Statistics are hollow and impersonal. But each of those numbers is a child who faces possible death or retardation.

We have, indeed, made inroads in the fight against measles. But that achievement should not be an excuse to slacken our efforts. We are far from the goal of 100-percent immunization, a goal I have insisted upon in the past and which I reiterate now. As of 1972, we had reached only 67 percent of white children between the ages of 1 and 4, and 60.5 percent of nonwhite children.

The $2 million in additional money appropriated by this amendment would be used by public health agencies—State, local, and Federal—to conduct a nationwide public awareness program aimed especially at rural and urban poor. These groups have been especially resistant to immunization. Unless they can be convinced of the benefits of immunization, making millions of doses of vaccine available will be largely an exercise in futility. And, unless we succeed in immunization, we leave ourselves vulnerable to large-scale, potentially devastating, epidemics.

The devastating effects, both physical and mental, of rubella are more well known. In 1963–64, before the development of an effective vaccine, 20,000 children were born with major birth defects and deformations. Spurred by that disaster, we pushed ahead with a major immunization program. But that effort has begun to taper off. In 1972, we had immunized about 57 percent of the children in the 1 to 4 age bracket; but in 1973 that figure dropped to 55.6 percent. I do not know whether this decline is the result of lack of funds or lack of desire to move ahead aggressively. I do know, however, that the drop has been accompanied by a rise in the number of reported rubella cases from 25,000 to 27,900.

Officials at the Center for Disease Control have expressed—and I quote—their "alarm" that barely one-half the population has been immunized.

I have heard the argument raised that once we pass the 50 percent mark, it becomes increasingly difficult, perhaps impossible, to go much further. I will simply reply that at the height of the polio inoculation program we reached 87 percent of the children in the 1 to 4 age bracket.

These figures, Mr. President, are to me persuasive. No monetary value can be attached to the life of a child, and no sum is too great to save it.

I am aware, however, that we have a responsibility to expend the Nation's limited resources in the most efficient manner possible. The measles and rubella immunization programs have been one of the best investments we have ever made; every dollar has been repaid a hundredfold.

A cost-benefit analysis of the measles program covering the years 1963 to 1972 is startling. During that period, 60 million doses of vaccine were dispensed, preventing approximately 24 million cases of the disease. The savings to the country both as the result of medical costs not incurred and productive capacity not lost was $1.3 billion.

By the most conservative possible estimate, 2,400 lives were saved, and 7,900 incidents of mental retardation prevented. Furthermore, 140,000 hospitalizations were avoided and 12,182,000 physicians' visits which would have been necessary were not. Because of the deaths and retardations averted, the Nation gained 709,000 man-years.

Let me put some of this data in a more personal and immediate perspective. If, for example, a child of 2 contracts measles and becomes mentally retarded, what are the costs to the State if he is institutionalized. Assuming—and we all know this to be a very low figure—that it costs $10,000 per year for this care, and assuming the individual lives until the age of 42, the State will have incurred about $400,000 in costs. Looked at in these terms, if five children are prevented from becoming institutionalized retardates, my amendment will have fully paid for itself.

It offends my sensibilities, Mr. President, to argue about human life and suffering in dollars and cents, but the case is impressive. An investment of $2 million will bring us a very great return, not only in medical costs avoided and productivity gained; most important, it will prevent great human suffering and personal tragedy.

I urge the adoption of the amendment.

Mr. MAGNUSON. Mr. President, I do not know the source of the figures that the Senator from Indiana has, but I assume they are correct.

We heard a great deal of testimony on this matter, and some people are in that condition. But the committee recommended $140,413,000 for preventive health services. We are $5.5 million over the House figure. We are $15.7 million over the budget. We are $11.9 million over the figure of last year. The total includes $6.2 million for immunization, which is the House level and the budget request. The testimony indicated that in this whole field there were some priorities. Venereal diseases and things of that kind are getting a little out of control. So we added $6 million.

If during the year, the department finds a shift in priorities—as they suggested to us—then the reprograming requests would be the appropriate way to deal with it.

The Senator from Indiana did not appear with these figures, and I do not know why. Our testimony from Dr. Sencer, the head of CDC, indicated that $4.5 million which previously had been impounded was released in order to replenish vaccine supplies. That is out.

I was the first one to put money into the rubella program years ago. We thought we were going to have an epidemic.

They also reported that cases of measles are declining for the third straight year and that the rubella epidemic that had been expected in 1970 through 1972 had not occurred.

With all these figures, I think we have put plenty of money in the bill to adequately take care of the situation that the Senator from Indiana suggests to us at this time. I am going to oppose the amendment on that ground. If we had worked this out in committee and needed some more, we would have done so, but not here, at the last minute. We have $140 million for all these cases. Sympathetic as I am toward anybody who has measles or rubella or anything else, we have appropriated $5.5 million over the House figure, almost $16 million over the budget, and $11.9 million over last year's level. That will take care of all the situations to which the Senator from Indiana has referred.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield the floor.

Mr. COTTON. This is one part of the bill on which the committee went all out. Out of that $140,443,000, in view of the fact that they have just replenished their supply of vaccine, if there should be indication of an increasing emergency with respect to this situation, they could find $2 million more very easily out of what we appropriated. Rather than add to the bill, it could be indicated in our report, that they should watch this rubella situation. If they have any apprehension, they can find the $2 million, or they can come back to us and get some prompt action.

Mr. HARTKE. Mr. President, I understand what the chairman, the manager of the bill, has said and what the ranking minority member has said. Both of them I respect very highly for the fine work they have done on the matter of the Department of Health, Education, and Welfare and related agencies appropriations bill. The difficulty is that I am not talking about vaccine. I am talking about $2 million for a form of Outreach program, to reach those individuals who are not, at the present time, for one reason or another, being immunized.

The Center for Disease Control in Atlanta has informed us that they are going to need some kind of educational program to reach the urban and rural poor, if they are going to successfully eliminate this tragic disease.

I want to clarify at this moment the question of money. It is correct, as the Chairman has indicated, that they have asked for a total of $140,443,000 of new budget authority, and that this was recommended by the Senate. It is true that this represents an increase over the amount recommended by the House by $5,533,000; and over the budget estimate by $15 million. But I point out that when we are dealing with the Center for Disease Control appropriation, we must think in terms of subheadings.

The section with which I am concerned is 1(b)2, dealing with immunization. Here, we find no increase whatsoever in the new budget obligational authority, as recommended by the Senate. The fact is that it is the same as was requested and as was passed by the House. That amount is $6,200,000. That is for an immunization program which includes polio as well as other communicable diseases.

By contrast, four times as much is being devoted to venereal disease, with which I am fully in accord, and which is $5,200,000 over the amount in last year's appropriation.

What I am saying to the Senators is that we must whip this problem. The amount of money I am proposing that we spend would, if it saved only five children, pay for itself completely. It is not a question of shortage of vaccine; it is not a question of lack of medical technology. It is not a question of the Center for Disease Control not doing its job. It is not a question of anything except simply going out and bringing these people in and having them immunized. At the present that is not being done. The net result is that we have had a sharp increase in the total number of German measles cases, and that we have had a total increase in the defects in these children and in the death total.

I think that if we are going to go to a total program for this one section for the Center for Disease Control and increase the total by some $15,729,000, over the budgetary request, an additional $2 million in this field certainly is not unreasonable, and certainly is, beyond that, very definitely fiscally responsible and highly desirable.

Mr. President, I should like to ask for the yeas and nays. There is not a sufficient number of people on the floor, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I thank my colleague. I have just two matters I want to deal with.

I ask unanimous consent that the privilege of the floor during consideration of the OSHA amendments be extended to Don Zimmerman, Don Elisburg, and Jeffrey Doranz.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I wish to make a few remarks on other provisions of the bill which have no relationship to those that we have so far discussed. One is a matter of the health appropriations, in which we feel that the committee has done, within the limitations which it has imposed and which we can all understand, the best that it probably can do.

With respect to health appropriations funding requests I made in testimony before the Appropriations Committees I would note several areas.

NATIONAL INSTITUTES OF HEALTH

In almost all instances, the Institutes received at least as much as I recommended and in several cases substantially more. It would be fair to conclude that the substantial increase over my recommendations will achieve the result of my research training dollar recommendation of $207.9 million—as authorized by Public Law 93–348, based on the bill I jointly developed with Senator Kennedy. Although the bill awards $147 million, the fiscal year 1974 appropriation level which is $20 million over the budget request, I do not believe any floor amendment is necessary. The Institutes' substantial increases will achieve the purpose of my dollar appropriation recommendations by allowing the individual Institutes to substantially increase their research training programs.

VENEREAL DISEASE

I recommend full funding of $30 million for project grants for venereal disease control, an increase of $5.2 million over the budget request, and $4 million over the House allowance. I am pleased that the bill provides for my $5.2 million recommended increase although it did not include my suggested $10 million of the $25 million authorized for State formula grants.

LEAD-BASED PAINT

Concurs in my recommended increase of $2 million over the House allowance—$2.5 million over the budget request. Thus the program would be funded at $11 million rather than the $9 million 1974 appropriation level.

ALCOHOL AND DRUG ABUSE

A total research, training, and community program increase of $26.3 million compared to my $55.799 million request.

MENTAL HEALTH

I suggested "this committee express their intent to appropriate substantial funding for new mental health centers staffing grants when the authorizing legislation becomes enacted into law." I am pleased that the report on the bill states:

> While the Committee is enthusiastic about continued expansion of community mental health centers and children's services, it can take no action due to the lack of authorizing legislation at the time of this report.

HEALTH MAINTENANCE ORGANIZATIONS

I recommended fully funding the $60 million authorization, as opposed to the $18 million House recommendation, which was a $40 million reduction from the budget request. I am not offering a floor amendment since the report states:

> The Committee supports the reduction in the 1975 budget since the Second Supplemental Appropriations Act of 1974 which provided $60,000,000 for initial funding of this new program, was enacted into law June 8 and none of the appropriated funds were obligated in fiscal year 1974.

We are concerned and disappointed with some of these, but under the circumstances it is probably the best that we can expect.

I should like to make especial note of two provisions in the education portion of the bill.

The committee has provided $20 million for State student incentive grants. This program authorizes grants to the States on an even-matching basis to assist them in providing grants to students of substantial financial need to attend institutions of higher education. The provision was designed to encourage the States to establish new programs or expand their present programs or grant assistance to students and complements the other Federal student assistance programs.

There are key differences between this program and others now in law—it is designed to encourage State participation in student assistance efforts and it is a 50–50 matching program. Consequently a Federal dollar is matched by a State dollar and, thus, the needy student receives $2 to assist him to achieve a higher education. Here we have a Federal-State partnership for the benefit of the student. And the federally appropriated money goes twice as far.

The $20 million included by the committee is $1 million more than the appropriation last year and $1 million more than the amount allowed by the House. As the committee report indicates, $15 million will fund renewal grants to those students who are already in the program and $5 million will support initial grants to 20,000 new students. I would hope that as part of the supplemental appropriation bill the committee will consider an additional $15 million for initial grants, thus, in effect, maintaining the program at existing levels. The fact that every Federal dollar results in $2 going to the student as a result of State matching is a strong argument for giving this student assistance effort special emphasis.

The other education item to which I should like to address my remarks is the National Institute of Education, NIE. Last year, the Congress provided NIE with $75,589,000. The administration requested $130 million for fiscal year 1975 and the House allowed $80 million. The Senate committee allows nothing.

I know that this is a particularly sensitive subject in many quarters. I do wish to note, however, that I am particularly encouraged by the statement in the committee report that "conferees of the House and Senate may agree to restore some funds for NIE." I do hope that this is the case. The Senate Education Subcommittee will in 1975 be considering legislation renewing the authority for the NIE and I feel that that is the proper forum to make any determination as to the future of that program, which was originally authorized in Public Law 92–318, enacted in June of 1972. It is a new program and should be allowed sufficient time to demonstrate its worth so that the authorizing committee may make a considered judgment as to its future.

Mr. President, I ask unanimous consent that an article entitled: "First Fruits of NIE-Supported Programs" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

First Fruits of NIE-Supported Programs

The education research and development process is more often than not a long one. This is one reason researchers often are strapped when asked to come up with concrete evidence about the success or failure of recent R&D efforts. Incomplete results in a process that can take as long as seven years are sometimes misleading and can prove anything but beneficial to students who may be the unwary recipients of innovations that haven't been thoroughly tested.

Since the National Institute of Education (NIE) began operation nearly two years ago with the mandate to coordinate the Federal effort in education research and development, its output of new R&D products has been modest. The explanation, of course, is that that nature of the activities undertaken by the Institute precludes early productivity; it will be several more years before they have developed blueprints for useful products. However, a number of programs begun under the auspices of the Office of Education and transfered to NIE are beginning to bear fruit.

For example, the Center for the Study of Evaluation at UCLA, one of the regional R&D centers supported by NIE, is producing a set of critical and objective evaluations of all available tests designed to reveal the capacities, skills, and accomplishments of students from preschool age through grade 12. The four volumes that make up the series contain a comprehensive list of educational goals with an entry and rating for each test measuring achievement of a specific goal. (An educational goal is defined as the ability to perform a particular skill at a certain level.) The books are, in effect, catalogs of tests sorted under general categories to guide teachers and administrators in selecting the one test best suited to their particular purpose.

Among the entries in the series are:

A preschool/kindergarten test evaluation, which lists 550 tests for children ages 2½ to 6.

An elementary school test evaluation, which rates about 750 tests for children in grades 1, 3, 5, and 6.

A secondary school test evaluation, now being printed, which will rate 5,400 tests for grades 7–8, 9–10, and 11–12.

An evaluation which lists more than 4,000 tests—applicable for all ages—that measure effective and interpersonal characteristics such as awareness, deductive reasoning, and individual self-perception rather than academic course material.

To enable users to find the right test for a given purpose, tests are arranged in each book first by grade level and then by the educational objective tested. For example, to find a test that measures sixth-graders' research skills in the area of social studies, one would first look under sixth-grade tests, then under social studies, and finally under research skills where all tests measuring that particular skill are listed.

The need for test evaluations is imperative. On the one hand the number of tests available from commercial publishers has grown almost exponentially over the past several years (the number has soared past 10,000), so that teachers, counselors, and administrators are lost in the welter. On the other hand, educators are coming to rely more and more on tests despite the increasing difficulty to keep current on new developments. Thus, this crucial and sensitive area often is opened to chance—that the right test is being used or that the results are being correctly interpreted. The results, of course, often influence judgments that in turn have a bearing on the careers and, in fact, the future lives of many students.

It is important, then, that the evaluation volumes provide a complete listing of all available tests. However, they perform an equally important service in rating the tests on the same specific points—format, ease of scoring, content, and comprehension, for example—making it easier to choose the best test for a given purpose. Test reviews, of course, are not new to education literature, appearing in various scholarly journals which rate the tests by different criteria and usually present the ratings in a narrative form so that comparing the relative value of the tests becomes extremely difficult.

Studies made on the test evaluation books have so far indicated predominantly positive user reactions. One such study reported that 84 percent of those using the elementary school tests evaluation book indicated confidence in the material; another study reported that 60 percent of the 697 people sampled used the book to select new tests, and 14 percent changed from the tests they had been using. Fifteen thousand copies of the first three available evaluation books have been distributed to every State in the Union since the first volume was published in 1970. The volumes have generated interest among administrators, counselors, principals, teachers, and graduate students, as well as parents and community groups. Most sales were made to school systems and principals.

The results of the 25 man-years of effort involved in completing the task are now available as a set for $40.50, or individually, the preschool/kindergarten book and the elementary school book at $5 each, the secondary school book at $22.50, and the Higher Order Cognitive, Affective, and Interpersonal Skills book at $8.50. Orders should be addressed to the Center for the Study of Evaluation, Graduate School of Education, UCLA, 405 Hilgard Ave., Los Angeles, CA 90024.

Another example of a successful research project is the Minicourse, which is designed to change and improve the quality of classroom teaching through use of a "microteaching" system conceived at Stanford University. The system works as follows:

The teacher is shown a film in which a model instructor demonstrates the skill the teacher is interested in mastering. The teacher also receives a written rationale for the importance of the skill being learned, and a handbook for charting individual progress.

The teacher then plans a learning session, using the new skill on a small group of children while being videotaped.

The teacher then watches her on his own performance in much the same way that athletes watch reruns of game films to see where they have made errors and how to correct them. Additional research has indicated that in some cases audiotapes or written transcripts of the teacher's performance may be satisfactorily substituted for videotapes.

For self-evaluation, the teacher compares his or her performance on tape or film to that of the videotape model instructor.

Teachers are then encouraged to take additional practice sessions to maintain their skill level.

The Minicourse concept has been transformed into an actual program by the Far West Laboratory for Educational Research and Development, currently supported by NIE. The laboratory selected the skills which became the focus of the microteaching programs; it developed procedures for creating a series of programs that could be used across the country; and it arranged for publication and distribution of the programs.

The Minicourse program appears to be among the more promising and least expensive approaches available for upgrading the performance levels of experienced teachers. There is persuasive evidence that the Minicourse can change teacher behavior, and the method is economical because the program does not require the teacher to return to the college classroom.

There are now six Minicourses available. About 1,000 copies of the six sets have been marketed, with half going directly to schools and the other half to schools of education, State, or intermediate agencies. Sales of Minicourse handbooks are expected to reach about 45,000 by this month.

To the extent that a student's ability to learn is tied in the capability of the teacher. Minicourses can have an important impact on student learning. Even the most outstanding teaching methods are only successful with competent teachers.

One Minicourse skill aims to increase the amount of active pupil participation in the classroom by improving general classroom discussion skills. Analyses of previous research indicate that teachers need to employ methods to increase the readiness and spontaneity of students to respond to discussion questions; they should reduce any behavior on their part which interferes with the flow of discussion; and they should increase the use of techniques enabling pupils to provide a more complete and thoughtful response.

Results of this Minicourse have been promising. In the initial test of the program, teachers showed definite improvements in 11 of the 13 specific types of skills measured. Four months later the teachers who were rechecked had continued to improve on three of the skills measured and had not regressed in any of the others. Similar tests conducted independently on other groups of teachers produced similar results. A three-year follow-up study indicated that of the ten skills measured, eight remained significantly above pretest levels. Considering that the teachers only spent about 25 hours taking the Minicourse, it was extremely encouraging to note how well the skills were retained.

NIE is currently sponsoring studies to determine the relationship between teacher performance and student learning and to specify the types of skills teachers should possess. The outcomes of these studies will enable Minicourses to be refined and should produce new products aimed at upgrading teacher performance and pupil education.

Another NIE-supported program now in use in more than 1,100 schools across the country is the Multiunit School project, which sets up teacher teams focusing on the individual progress of the students. Decision-making about the instructional program needed by a student is shared among several teachers, the school principal, and the student. Staff members are encouraged to look at ways learning can be improved, and as a result, research and observation have become integral parts of the total instructional process.

Evaluations of the program indicated that change does take place in a Multiunit School: Various team and staff structures are tried, as are new teaching techniques, and curriculum innovations are adopted. All this builds a higher staff morale. Few schools have dropped the plan once adopted, and the cost of the program is about the same as that of traditional schools.

Mr. JAVITS. I note on page 84 of the committee report that the committee agreed with the House action regarding funding for educational policy research centers. Is my understanding correct that the intent of the committee is to continue the centers at the same level of support as last year, $950,000.

Mr. MAGNUSON. That is correct. The committee's action is without prejudice to the centers and is designed to maintain them on a calendar year funding basis at the same level as last year. Thus, the $475,000 in this bill provides for 6 months funding through December 31, 1974. For funding after that date, it will be necessary to seek funds for the centers in a supplemental appropriations bill. The committee will give this its sympathetic consideration.

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD a description of the Educational Policy Research Centers.

There being no objection, the material ordered to be printed in the RECORD, as follows:

SUMMARY—EDUCATION POLICY RESEARCH CENTERS* AMENDMENT

Two educational policy research centers—which provide useful research to the education committees of both houses of the Congress as well as to the educational division of H.E.W.—are now funded through the office of the Assistant Secretary for Education. The Centers were funded at $950,000 annually for 1973 and 1974, and the administration request for FY 1975 is also $950,000. Because of an error in the H.E.W. Budget presentation, which occurred because the centers were transferred from USOE to the Assistant Secretary for Education in December 1973, half ($475,000) of the FY 1975 request was incorrectly labeled as an increase rather than as level funding. The House Committee approved what it incorrectly thought to be level funding ($475,000), but disallowed the other $475,000 with the statement "The program increase . . . for policy centers . . . is not recommended . . ." (page 62 of the House Appropriations Committee Report on Labor-H.E.W. Appropriations).

Unless this Committee restores the other six months funding ($475,000) to the Office of the Assistant Secretary for Education, the budgets of these policy centers will be halved and their usefulness destroyed. The request, therefore, is to change the Senate Subcommittee recommendation of $2,307,000 for the salaries and expenses of the Assistant Secretary for Education to $2,782,000. This total is still $889,0000 below the Administration request as a result of reduced funds for administrative overhead, disallowance of any increased travel funds, and concurrence with the House deletion of funds for the Bicentennial Internship program.

This amendment is not inconsistent with the intent of either the House Appropriations Committee or the Senate Appropriations Subcommittee on Labor-HEW. On the House side the error was not discovered until shortly before the measure went to the floor for debate. Rather than take a money amendment at that stage, Subcommittee Chairman Flood engaged in the following colloquy with Representative Hanley on the floor.

Mr. HANLEY. Mr. Chairman . . . Is it the intent of the committee that the Educational Research Policy Centers be funded at the level of last year?

Mr. FLOOD. Yes. That is so, yes.

It is my understanding that the Senate Labor-HEW subcommittee also intended level funding, but rather than restore the funds in the FY 1975 bill, treated the $475,000 as six months funding (July 1, 1974 to December 31, 1974) and expected the second six months funding to be requested through a supplemental. However, it is now clear that the anticipated administration supplemental is already on its way to Congress and is entirely limited to HR 69 funds. Therefore, restoration of the $475,000 by the Senate Appropriations Committee is the only effective means of insuring the continuance of the practical research on legislative questions provided by the policy research centers.

Again, it should be stressed: the amendment does not increase Federal spending, but merely maintains present funding levels for the two policy research centers. This funding is also entirely consistent with the President's budget and with HEW's program priorities.

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*Administered by the Syracuse University Research Corporation and the Stanford Research Institute.

AUGUST 14, 1974.

Dr. JOEL S. BERKE,
Director, Educational Finance and Governance Center, SURC Policy Institute, Washington, D.C.

DEAR JOEL: President Ford is scheduled to sign H.R. 69, the Education Amendments of 1974, on Tuesday, August 20.

Since that bill is now almost law, I would like to take this opportunity to thank you for the assistance you provided us during our deliberations. I am particularly appreciative of your assistance on the new intrastate formula for the distribution of funds under the Library and Learning Resources consolidation. The need for that type of provision was clearly demonstrated in your research work.

Another outgrowth of your research and of your testimony to the Congress on the lack of sound educational finance data was the new requirement in the General Education Provisions Act (Sec. 437) that the States must submit detailed information to the Office of Education and to the Congress on their distributions of Federal aid. That provision appears on page 95 of the conference report on H.R. 69, which I am enclosing.

Thank you again for your assistance. I look forward to working with you in the future.

Sincerely,

JOHN F. JENNINGS,
Counsel.

NOVEMBER 1, 1973.

Dr. JOHN R. OTTINA,
Commissioner, U.S. Office of Education, Washington, D.C.

DEAR JOHN: I understand that you are currently reviewing the status of the policy research centers in line with your budgetary retractions.

For what it is worth, I thought that you might like to know that I personally found the Syracuse University Washington people, as well as Bob Goettel of the Syracuse office, to be very helpful and very willing to provide information and data. My perception may be somewhat affected by the fact that they have been dealing with issues such as school finance which are close to the work of the Committee.

In any event, it is nice to find the kind of cooperation which has existed. Since we may well be doing further work in school finance, I would hope that in some way we might be able to retain the expertise which is available through that organization.

Cordially yours,

CHRISTOPHER T. CROSS,
Minority Legislative Associate.

SEPTEMBER 28, 1973.

Dr. JOEL BERKE,
SURC,
Washington, D.C.

DEAR DR. BERKE: On October 4, 1973, the Subcommittee on Education of the Senate Committee on Labor and Public Welfare will be conducting a hearing on the question of intrastate equalization of expenditures for public elementary and secondary education and the Federal role, if any, in achieving such equalization. This hearing is a continuation of the Subcommittee's investigation of elementary and secondary education and the appropriate Federal role in school finance.

I would appreciate it if you could appear as a witness before the Subcommittee, to share with us your research on school finance and its relationship to the Federal government. The hearing will be held in room 6202 of the Dirksen Senate Office Building at 10:00 AM. You should submit to the Subcommittee 50 copies of your prepared statement, which you should be prepared to summarize during the hearing.

I am looking forward to your appearance before the Subcommittee.

Ever sincerely,

CLAIBORNE PELL.

JANUARY 18, 1973.

JOEL S. BERKE,
Director, Finance and Government Program Institute, Syracuse University Research Corp., Syracuse, N.Y.

DEAR JOEL: As you may know, the Select Committee on Equal Educational Opportunity—on which I have had the opportunity to serve as Chairman—last weekend issued its Final Report, "Toward Equality of Educational Opportunity."

I am enclosing a copy of the Report, with by deepest appreciation and gratitude, both for the contribution you have made to the work of the Committee and for your continuing commitment to the cause of disadvantaged children.

With warmest personal regards,

Sincerely,

WALTER F. MONDALE.

Mr. JAVITS. Mr. President, I yield the floor.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that George Shanks and Howard Segermark, of my staff, be granted the privilege of the floor for the duration of debate on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COTTON. Mr. President, I ask unanimous consent that Robert Crest of my office be allowed to remain on the floor during the remainder of the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COTTON. Before we reach the point of voting, I should like to make a bid to the distinguished Senator from Indiana. I thoroughly respect his interest in dealing with this disease which has had such terrible consequences.

In the first place, I did not suggest that I understood he wanted to ask for more money for vaccine, but the fact that $4.5 million was released to start up the necessary funds for vaccination means that none of the $6 million that goes for rubella has to be used for the purpose of vaccine. It releases money for those purposes.

Dr. Sencer testified before our committee, and others testified before the committee, and we are well aware that it is their desire to engage in an outreach program so that immunization may be increased by making people in remote communities and other places aware of the need of it. That we entirely understood. But in view of the fact that they had other requirements that had already been supplied, Dr. Sencer did not ask for an additional cent, and the Senator will find that the testimony before our committee was that $6 million, in view of the fact that they did not have to use any part of it for some of the purposes they have had to use it for in the past, would take care of this campaign.

I do not know, of course, the source of the Senator's information. His information may be correct, and ours may be incorrect. But we sat through the hearings, we went over this whole thing, and we gave them every single cent they asked for.

They did discuss the need of television and other means of making more people aware of the need of immunization. That is the reason why the chairman of the committee and I feel very strongly that we just cannot open the gate on a situation without the strength of any testimony or request for it. If we do, we will be going all the way down the line.

We are perfectly willing to produce this money if it cannot be produced from funds we have already put into the bill. We are perfectly willing to give them what they require; but the evidence we passed on is what they testified to, and that testimony was very plain that they did not ask for any addition to the $6 million, because of the fact that some of their needs had already been taken care of through the release of previously impounded funds.

Mr. HARTKE. Mr. President, I understand what the Senator from New Hampshire is saying, but I want to point out that there is $6.2 million in this bill, and that will provide 10.5 million doses of vaccine to State and local agencies to go ahead and proceed with their program of immunization for measles and rubella.

The problem, very simply, is that that is enough money if we do not intend to go ahead and immunize any more people than we are immunizing.

Just for the record, let me say that I did not testify personally before the committee, but I did submit an amendment for approval by the committee, and I did submit written testimony, and I would like now to supplement that with two documents.

One of them is entitled "The Benefits From 10 Years of Measles Immunization in the United States," written by Dr. John J. Witte, and Dr. Norman W. Axnick, published by the Center for Disease Control in Atlanta, Ga. I ask unanimous consent that that document be printed in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

THE BENEFITS FROM 10 YEARS OF MEASLES IMMUNIZATION IN THE UNITED STATES

(By John J. White, M.D. and Norman W. Axnick, M.S.)

Dramatic reductions in the morbidity and morality of disease may occur following effective immunization programs. For example, large areas of the world are now free from smallpox as a result of intensive vaccination efforts,[1] and epidemic poliomyelitis is no longer a major health problem in those countries with effective poliomyelitis immunization programs.[2] Extensive vaccination against measles in the United States has accounted for a sizable reduction in the number of cases of measles, the cases of measles encephalitis and the deaths resulting from measles.[3] The humanistic benefits resulting from prevention of these diseases are obvious. However, there are other benefits which are less obvious, particularly the economic benefits, which result from immunization. It is these economic benefits, translated into dollars, that the administrator of a health service can use to justify the seemingly high cost of vaccination programs and to raise the priority for the funding of vaccine preventable disease programs. The expression of the savings accrued by preventing disease in economic terms involves a new parlance for physicians and other health

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Footnotes at end of article.

professionals. The benefits derived from immunization must be described in terms that can be added or subtracted. For example, they can be translated into the dollar value of savings of work days, savings of hospital admissions, savings of physicians' services and savings of other medical costs. The dollar value of these savings is particularly relevant today, as the costs of health services are increasing and the available public funds are limited.

Measles vaccination in the United States is an excellent example of the humanistic and economic benefits derived from immunization. Prior to the licensure of live measles virus vaccines in 1963, an estimated 4 million cases of measles, 4,000 cases of measles encephalitis and 400 measles-associated deaths occurred each year. Since licensure, approximately 60 million doses of vaccine have been distributed. This report analyzes the benefits, both humanistic and economic, of the first 10 years of measles vaccination in the United States.

METHODOLOGY

Our objective is to measure both the benefits and the costs resulting from measles vaccination in the United States. For the 10-year period 1963–1972, we estimated (1) the costs the nation would have sustained without immunization against measles and (2) the actual costs of measles. The difference between these costs represents the gross immunization benefit. In other words, (1) the estimated measles costs without immunization *minus* (2) the actual measles costs equal the gross benefit. To determine the net economic savings due to immunizations, the costs related to immunization must be considered. Thus, the gross benefits *minus* the costs of immunization equal the *net* benefits from immunization. Included in these immunization costs are moneys spent for the purchase of vaccine, the delivery of immunization services, and, if applicable, the cost of research and development.

Research costs to develop and test measles vaccines were excluded from this analysis. The identification of expenditures for basic and applied research that contributed to the development of measles vaccines is difficult to measure accurately. We are also faced with the problem of determining the share of research costs applicable to the 1963–1972 time frame for the United States, considering the potential long-term use of the vaccine and the global distribution of vaccine.

The benefits associated with the immunization against measles include (1) medical care costs for physicians' services and hospital services, and the long-term institutional care for the retarded; and (2) the production lost as a direct result of morbidity and premature mortality. In this report, we have not included an estimate of the value of the social benefits associated with the school days saved, nor the humanistic benefits associated with the prevention of retardation, the prevention of premature death, and the suffering resulting from measles complications—encephalitis, otitis, and pneumonia.

The methodology by which the two components (costs and benefits) are estimated is detailed in our previous paper.[4] A discount rate of 4 percent was utilized to determine the present value of the benefits and costs which will occur in future years. This analysis assumes that the national immunization effort had no marked effect on the demand for medical care nor on the labor force.

SAVINGS IN MORBIDITY AND MORTALITY

The incidence of measles in the United States compared with the expected occurrence of measles without immunization is shown for the years 1963 through 1972 in Figure 1. During the first 3 years of vaccine availability (from early 1963 until mid 1966), a total of 15 million children were immunized (Table 1). The number of reported cases was reduced by 50 percent, and many believed that measles could be eliminated from the United States through intensive vaccination campaigns.

In October 1966, the Center for Disease Control, with the support of professional and voluntary health organizations, launched a national campaign to attempt to eliminate measles.[5][6] This campaign emphasized community immunization programs, but also included intensified surveillance of the disease, control of measles outbreaks, and the establishment of continuing immunization programs for those children who were either reaching 1 year of age or entering school. These efforts resulted in a further decline of measles, to a low of 220,000 cases in 1968. Unfortunately, the impetus for the program was not sustained after the legislation providing the Federal funds specifically for the measles program expired in 1968. At that time, many States did not have sufficient money for the purchase of measles vaccine and continuing vaccination efforts were terminated by many health departments. The incidence of the disease then began to increase, to 530,000 cases in 1970 and to 850,000 cases in 1971. Federal money for measles vaccination programs again became available in the middle of 1971 and intensive immunization efforts were renewed. In 1972 the number of cases declined and in 1973 there were fewer cases than in 1972.

Without vaccine, between 4.0 and 4.5 million measles cases would have occurred each year. During this 10-year period, almost 24 million cases were averted (Table 2). Similarly, measles mortality also declined substantially. A total of about 2,400 lives were saved as a result of immunization (Table 2).

ECONOMIC SAVINGS

The annual benefits and costs of immunization against measles in the United States for the period 1963 through 1972 are shown in Figure 2. The costs appear to be relatively stable throughout this period. Included in the total costs for each year are the costs of vaccine production, distribution and administration as well as expenses related to promotional activities. The total costs is approximately 3 dollars ($3.00) per dose of vaccine. The economic benefits from vaccination are greater than the costs for every year, even 1963, the year the vaccine was first available. The annual benefits rise steadily during this period and now are substantially higher than the costs. These benefits can be expected to increase even further in the future (provided immunization of each new birth cohort continues at a reasonable level), because the benefits from immunization are additive. The proportion of immune persons in a population depends on the number of immunizations given in the past. As the proportion of immune persons increases, the potential for transmission of disease decreases because a smaller number of persons are capable of spreading infection. In this way, the immunity that innoculation against measles confers on susceptible populations increases as time passes. Additionally, every case of mental retardation averted and every death prevented provides an economic benefit for that individual's expected life span. That person will become a member of the work force and will contribute economically for many years and these benefits will accrue for those years.

A summary of health and resource savings due to immunization against measles is shown in Table 2. In addition to the cases averted and lives saved, there were 7,900 cases of mental retardation obviated, 709,000 years of normal and productive life preserved by preventing deaths from measles and the mental retardation following measles encephalitis. The savings of educational resources include 78 million days of regular academic schooling and, for the 7,900 mentally subnormal cases, substantial savings in special class or individualized schooling accrued.

The value of the net benefits achieved through immunization is $1.3 billion saved for the 10-year period.

SUMMARY

For many years, measles was regarded by many physicians as an unpleasant but relatively benign disease. These data reinforce the significance of the disease measles and the benefits of prevention. Because a number of costs of illness were not considered, this estimate of $1.3 billion in economic savings is a conservative one, particularly from a health care delivery viewpoint.

Information on the relative benefits from any preventive practice is of value to the administrator who must make decisions on the priorities for spending public moneys. Clearly, the benefits derived from measles immunization are impressive. Extensive use of vaccine has resulted in substantial savings of the nation's health resources and has allowed medical, educational, and economic resources to be relesed for other uses.

FOOTNOTES

[1] World Health Organization: Weekly Epidemiologic Record. 49:9–11, 11 January 1974

[2] Drozdov S, Cockburn WC: Poliomyelitis in the Developed and Developing Countries. Proceedings of International Conference on the Application of Vaccines Against Viral, Rickettsial, and Bacterial Diseases of Man. Pan American Health Organization Scientific Publication. 226:163–170, 1971

[3] Center for Disease Control: Measles Surveillance Report No. 9. August 1973

[4] Axnick NW, Shavell SM, Witte JJ: Benefits Due to Immunization Against Measles. Public Health Rep 84: 673–680, 1969

[5] Sencer DJ, Dull HB, Langmuir AD: Epidemiologic Basis for Eradication of Measles in 1967. Public Health Rep 82:253–256, 1967

[6] Dull HB, Witte JJ: Progress of Measles Eradication in the United States. Public Health Rep. 83: 245–248, 1968

TABLE 1.—*Measles virus vaccine, total doses distributed, United States, 1966–1972*

Year:	*Doses (Millions)*
1963	3.2
1964	3.8
1965	6.0
1966	7.9
1967	6.4
1968	5.3
1969	4.9
1970	4.5
1971	8.3
1972	8.2
Total	58.5

Summary of health and resource savings due to immunization against measles, United States, 1963–1972

Cases averted	23,707,000
Lives saved	2,400
Cases of retardation averted	7,900
Additional years normal and productive life by preventing premature death and retardation	709,000
School days saved	78,000,000
Physician visits saved	12,182,000
Hospital days saved	1,352,000

Mr. HARTKE. I also ask unanimous consent to have printed in the RECORD, Repart No. 9, 1972 Summary, issued in

August 1973 by the Center for Disease Control, on measles surveillance, published by the U.S. Public Health Service.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

MEASLES SURVEILLANCE

I. SUMMARY

The resurgence of reported measles cases in the United States that was first noted in 1969, was reversed in 1972. For calendar year 1972, 32,275 cases of measles were reported, representing a decline of 57.1% over the 1971 level. This significant reduction in measles morbidity in the United States followed the reinstitution of federally assisted measles vaccine programs in 1971 and a significant increase in measles vaccine distribution in 1971 and 1972.

II. CURRENT TRENDS

A total of 32,275 cases of measles were reported in calendar year 1972, compared with 75,290 reported in 1971. Although this represents more cases than the lowest annual total of 22,231 cases reported in 1968, the decline in reported cases for 1972 represents a reversal of the upward trend noted since 1969. Following the licensure of measles vaccine in 1963, a significant reduction in reported cases was brought about by 1967 and the lowest number of cases on record was reported in 1968. Following the redirection of national measles control activities in 1968, a resurgence of disease began in 1969 and the upward trend in reported cases continued until 1971 when 75,290 cases were reported. In that year direct Federal funds for measles vaccine were reinstituted and the upward trend was reversed in 1972. Reported cases in 1972 declined to 57.1% of the 1971 level.

As in previous years, cases in 1972 peaked in February–May; 58% of the total cases reported in 1972 occurred between weeks 9 and 24. These annual and seasonal trends were noted in 8 of the 9 regions of the country. The New England region experienced a large increase in reported cases in October and an increase of 26.7% for the year, compared with the number of cases reported in 1971. The total number of reported cases in Massachusetts, New Hampshire, and Rhode Island more than doubled (Table 1). Nine other states and Puerto Rico also noted increased numbers of reported cases in 1972 over the number reported in 1971. The East South Central, West South Central, and Middle Atlantic regions experienced the largest percentages decreases in 1972.

TABLE 1.—REPORTED CASES OF MEASLES BY STATE AND GEOGRAPHIC DIVISION, UNITED STATES 1969–1972

Division	1969	1970	1971	1972	1972 percent decrease (increase) from 1971
United States	25,826	47,351	75,290	32,275	57.1
New England	1,206	1,253	3,527	4,520	(28.2)
Maine	11	474	1,495	254	83.0
New Hampshire	246	62	218	884	(305.5)
Vermont	3	9	123	128	(4.0)
Massachusetts	262	482	276	1,189	(330.8)
Rhode Island	35	109	225	525	(133.3)
Connecticut	649	117	1,190	1,540	(29.4)
Middle Atlantic	8,099	5,361	7,758	1,280	83.5
Upstate New York	648	427	744	226	69.6
New York City	5,033	1,154	3,819	447	88.3
New Jersey	1,121	1,661	1,260	535	57.5
Pennsylvania	1,297	2,119	1,935	72	96.3
East north-central	4,008	10,693	17,104	12,559	26.6
Ohio	634	4,080	3,952	312	92.1
Indiana	528	286	3,034	1,401	53.8
Illinois	1,746	3,085	3,460	4,656	(34.6)
Michigan	401	1,834	2,659	2,353	11.5
Wisconsin	699	1,408	3,999	3,837	4.1
West north-central	1,246	3,884	7,356	1,500	79.6
Minnesota	11	31	59	27	54.2
Iowa	362	1,144	2,717	1,114	59.0
Missouri	23	1,275	2,630	221	91.6
North Dakota	74	307	247	62	74.9
South Dakota	51	109	223	12	94.6
Nebraska	712	946	77	24	68.8
Kansas	13	72	1,403	40	97.1
South Atlantic	3,060	7,902	8,457	2,394	71.7
Delaware	517	302	30	56	(86.7)
Maryland	159	1,361	542	15	97.2
District of Columbia	182	346	15	2	86.7
Virginia	811	2,335	1,628	73	95.5
West Virginia	229	350	580	306	47.2
North Carolina	391	1,034	1,966	38	98.1
South Carolina	132	638	941	230	76.6
Georgia	2	19	390	214	45.1
Florida	637	1,517	2,365	1,460	38.3
East south-central	328	2,292	8,623	1,156	86.6
Kentucky	74	1,115	3,994	558	86.0
Tennessee	21	608	1,028	195	81.0
Alabama	12	430	2,035	161	92.1
Mississippi	221	139	1,566	242	84.5
West south-central	5,227	9,851	12,937	1,789	86.2
Arkansas	16	25	819	48	94.1
Louisiana	125	345	1,719	112	93.5
Oklahoma	143	987	814	12	98.5
Texas	4,943	8,494	9,585	1,617	83.1
Mountain	1,377	2,418	3,601	1,978	45.1
Montana	122	111	924	18	98.0
Idaho	84	484	273	160	41.4
Wyoming		9	75	53	29.3
Colorado	141	295	932	540	42.1
New Mexico	284	306	364	129	64.6
Arizona	730	1,140	670	912	(36.1)
Utah	11	40	354	159	55.1
Nevada	5	33	9	7	22.2
Pacific	1,275	3,697	5,927	5,099	14.0
Washington	82	912	2,030	1,483	26.9
Oregon	194	458	388	204	47.4
California	916	1,979	2,919	3,304	(13.2)
Alaska	30	143	58	13	77.6
Hawaii	53	205	532	95	82.1
Guam		4		17	
Puerto Rico	2,187	996	684	1,119	63.6
Virgin Islands					

The incidence of reported measles in the United States in 1972 (per 100,000 population 18 years of age and younger) was highest in New Hampshire (349.3), Wisconsin (242.3), Rhode Island (175.0), Connecticut (156.8), and Arizona (141.6) and lowest in the District of Columbia (0.9) and Maryland (1.1).

As in previous years, morbidity and mortality data indicated that lower socioeconomic populations had higher measles attack rates. The median age of children having measles continued to be lower in urban areas than in rural areas. Nationally, the emphasis on measles control programs for preschool and elementary school children was reflected by the greatest decrease in attack rates in these age groups. Although age-specific attack rates have decreased in all age groups since vaccine licensure, the smallest decline was noted in infants under 1 year of age.

III. CURRENT STATUS OF LIVE MEASLES VACCINES

A. Biologics Surveillance Data: In 1971 and 1972, the distribution of live measles vaccines increased substantially over the declining distribution noted from 1967 to 1970. The Center for Disease Control's Biologics Surveillance shows that the total number of doses of measles vaccine distributed in 1971 and 1972 as a single or combined vaccine (measles, measles-rubella, or measles-mumps-rubella) was 8.3 and 8.2 million doses, respectively.

Federal funds for measles vaccine programs were reinstituted in the 2nd half of 1971 and helped stimulate increased distribution. In the last 1½ years, the Center for Disease Control purchased 5 million doses of measles-rubella vaccine for use in national programs. This represented approximately 50% of all measles vaccine distributed during that time.

B. *1971–72 United States Immunization Survey:* The U.S. Immunization Survey is conducted by the Bureau of the Census in cooperation with the Center for Disease Control (CDC). Since 1965, measles immunity level data has been collected by the Bureau through a supplemental questionnaire attached to the monthly Current Population Survey. The survey sample consists of 37,500 housing units located throughout the United States.

The U.S. Immunization Survey showed that in the 1–4 year age group, immunity increased to 66.6% in 1971 from the level of 62.3% demonstrated in 1970. No gains were made in 1972 in the total immunity level, although the percentage of children protected by natural infection decreased to 7.4% from the 1971 level of 8.7% indicating a larger percentage of this population with protection acquired by immunization. A similar pattern was noted in the 5–9 year olds who had an immunity level of 81.3% nationally in 1971 and 1972 (Table 2).

TABLE 2.—MEASLES IMMUNIZATION STATUS OF CHILDREN IN AGE GROUPS 1 TO 4 AND 5 TO 9, UNITED STATES, 1965–72

Year	Population (thousands)	1 to 4 yr of age percent with— Vaccine	Infection	Vaccine/infection	Population (thousands)	5 to 9 yr of age percent with— Vaccine	Infection	Vaccine/infection
1965	16,502	33.2	19.7	51.0	20,361	19.3	54.3	NA
1966	16,091	45.4	16.7	59.0	20,436	28.0	49.0	NA
1967	15,552	56.4	12.8	66.2	20,862	40.8	42.5	NA
1968	14,994	58.8	9.7	66.0	20,856	50.4	34.7	NA
1969	14,393	61.4	8.3	66.9	20,733	59.0	28.2	80.1
1970	14,123	57.2	8.1	62.3	20,421	62.8	25.4	79.8
1971	14,112	61.0	8.7	66.6	19,799	68.0	21.8	81.3
1972	13,905	62.2	7.4	66.0	18,552	70.9	18.8	81.3

C. *Combined Live Virus Vaccines:* Combined measles-rubella and measles-mumps-rubella vaccines were licensed in 1971. Antibody responses to each component of the vaccine are comparable to the response when the same vaccine is given separately. There is good evidence that clinical reactions are no more frequent or severe than reactions following receipt of individual vaccines. [1] [2]

In 1971 and 1972, Schwarz measles and Cendehill rubella vaccines were administered to 408 susceptible children simultaneously at separate sites or as a combined product. The seroconversion rates were 90% or better from rubella and measles in all of the groups studied in 4 different locations and similar to that obtained following the single administration of the antigens (Table 3). As a result of these studies, the Advisory Committee on Immunization Practices (ACIP) has recommended that the Schwarz measles and the Cendehill rubella vaccines may be given simultaneously at separate sites.[3]

TABLE 3.—SEROCONVERSION RATES AND GMT'S OF SERONEGATIVE CHILDREN TO MEASLES-RUBELLA VACCINE[4]

	Number of children	Measles Rate (percent)	Measles GMT	Rubella Rate (percent)	Rubella GMT
Tol [1]	197	96	1:77	93	1:82
Tampa [1]	114	94	1:58	96	1:25
Miami [2]	61	97	1:54	90	1:24
Norfolk [2]	36	92	1:33	94	1:26
Total	408	95		94	

[1] Combined method of admininstration.
[2] Separate method of administration.

Recent studies with measles-rubella (M–R) and measles-mumps-rubella (M–M–R) vaccine and the 3rd dose of trivalent oral poliomyelitis vaccine (TOPV) have demonstrated that when these agents are given simultaneously, antibody responses can be expected to be comparable to those which follow administration of the vaccines at different times (Tables 4 and 5).

TABLE 4.—SEROCONVERSION RATES OF SERONEGATIVE CHILDREN TO MEASLES-MUMPS-RUBELLA VACCINE WITH AND WITHOUT POLIO VACCINE IN 2 STUDIES[4]

Study and vaccine	Measles Number of children	Measles Rate (percent)	Mumps Number of children	Mumps Rate (percent)	Rubella Number of children	Rubella Rate (percent)
Guam:						
M–M–R	106	100	82	89	107	99
M–M–R+P	44	100	42	95	45	98
Houston:						
M–M–R	80	91	80	95	80	89
M–M–R+P	78	97	78	94	78	91
Total:						
M–M–R	186	96	162	92	187	95
M–M–R+P	122	98	120	94	123	94

TABLE 5.—GUAM COMBINED VACCINES STUDY PERCENT OF CHILDREN WITH ANTIBODY TO 3 TYPES OF POLIOVIRUS BEFORE AND AFTER "BOOSTER" INOCULATIONS[4]

	Number of children	Percent with antibody I	II	III
Poliovaccine alone	52			
Preboost		71.2	84.6	78.8
Postboost		90.4	98.1	90.4
Poliovaccine with measles-mumps-rubella	43			
Preboost		76.6	88.4	69.8
Postboost		93.1	97.7	88.4

The Advisory Committee on Immunization Practices has therefore recommended that measles and rubella vaccines and the 3rd dose of TOPV may be administered simultaneously during the 2nd year of life.[3]

Studies of the effect of variations of the component antigens of the measles-rubella and measles-mumps-rubella) vaccine were conducted in Truk and Guam in 1971–1972. Although vaccines are required to have a minimal potency prior to release, the vaccines in use do have a range of virus titers. The 2 studies documented that no suppression of immunologic response occurred in the presence of a high "dose" of 1 component and a relatively low "dose" of another component. Seroconversion rates and geometric mean titers were comparable in all vaccine dose combinations (Tables 6 and 7).

TABLE 6.—SEROCONVERSION RATES OF SERONEGATIVE CHILDREN FOLLOWING VARIOUS DOSES OF MEASLES AND RUBELLA VACCINES, TRUK 1971[4]

Component titer Measles	Component titer Rubella	Number vacinated	Seroconversion rates (percent) Measles	Seroconversion rates (percent) Rubella
High	Low	58	98.3	94.8
Do	High	46	91.3	93.5
Low	Low	49	98.0	93.9
Do	High	44	97.7	90.9
Total		197	96.4	93.4

TABLE 7.—GUAM COMBINED VACCINES STUDY SEROCONVERSION RATES AND GMT's OF SERONEGATIVE CHILDREN TO VARIOUS COMBINATIONS OF MEASLES–MUMPS–RUBELLA VACCINES[4]

	Measles Number of children	Measles Rate (percent)	Measles GMT	Mumps Number of children	Mumps Rate (percent)	Mumps GMT	Rubella Number of children	Rubella Rate (percent)	Rubella GMT
Component titer (Measles-mumps-rubella):									
Average-average-average	59	100	1.71	49	87	1.8	58	100	1.129
Low-average-average	22	100	1.66	16	94	1.10	24	100	1.53
Low-average-high	25	100	1.89	17	88	1.10	25	96	1.78
Total	106	100	1.82	82	89	1.9	107	99	1.100

D. ***Neurologic Disorders Following Live Measles Virus Vaccination:*** In the period from 1963 to 1971, 84 cases of neurologic disorders with onset less than 30 days after vaccination with live measles virus vaccines were reported in the United States. Fifty-nine of these cases were of unproven and varied etiology. However, 45 of these 59 (76%) had onset between 6 and 15 days after vaccination; this clustering suggests some may have been related to vaccination. The incidence of reported neurologic disorders was 1.16 per million doses of measles vaccine administered, while the risk of encephalitis following measles infection is 1 per 1,000 cases.[5] In 1972, 6 cases of neurologic disorders were reported and 8.2 million doses of vaccine were distributed for a rate of 0.73 neurologic disorders per million doses (Table 8).

TABLE 8.—NEUROLOGIC DISORDERS FOLLOWING LIVE MEASLES VIRUS VACCINATION, 1972

Case No.	State	Age (years)	Sex	Vaccination	Onset (days after vaccination)	Major signs and symptoms	Outcome
1	Colorado	8	Male	May 12	5	Paralysis right leg, fever, weakness right arm	Recovery.
2	Louisiana	2	do	Jan. 14	1	Weakness of legs	Do.
3	Oregon	1	Female	Feb. 24	9	Fever, seizures	Death.[1]
4	New York	1	do	do	6	Weakness of legs, cranial nerves	Recovery.[2]
5	New York	1	Male	Jan. 18	8	Seizures, temporary mental regression	Recovery.[2]
6	Wisconsin	6	do	Mar. 22	1/6	Fever, convulsion, respiratory arrest	Death.[3]

[1] Autopsy diagnosis: Streptococcal septicemia.

[2] Clinical diagnosis: Guillain barre syndrome.

[3] Autopsy diagnosis: Chronic laryngotracheobronchitis.

IV. IMMUNIZATION REQUIREMENTS PRIOR TO SCHOOL ENTRY

The screening of children prior to school entry provides a valuable tool for identifying and vaccinating susceptible children and assessing the success of preschool programs. As of September 1972, 26 states and the Virgin Islands required protection against measles (either by history of infection or vaccination) prior to school entry (Table 9). Although Connecticut, Maine, Missouri, and Puerto Rico had mandatory school entry immunization requirements, measles immunization was not specifically required. The legislation in the District of Columbia is to be implemented in September 1973. Mississippi, Nebraska, and New Jersey had permissive school entry laws.

The 26 states with mandatory school entry requirements for measles immunization (or history of infection), had a lower incidence or reported measles in 1972 than did those states without a law (Table 10).

TABLE 9.—IMMUNIZATION REQUIREMENTS PRIOR TO SCHOOL ENTRY, SEPTEMBER 1972

	Type of legislation			If no State law at present, are there plans pending for proposing such a law?			Immunizations required for specific diseases								Authoritative agency					Agency delegated issue regulations		
	Mandatory	Permissive	None	Yes	No	If yes, before September 1973?	Diphtheria	Pertussis	Tetanus	Measles	Mumps	Polio	Rubella	Small pox	Health	Education	Other	Have regulations been issued?	Is compliance to regulation required?	Health	Education	Other
Alabama			×		×																	
Alaska		×														×		No		×		
Arizona			×		×																	
Arkansas	×						×	×	×	×		×			×	×		Yes	Yes		×	
California	×						×	×	×	×		×			×	×		Yes	Yes	×	×	
Colorado			×	×		Yes																
Connecticut	×[1]	×[1]								×		×	×		×	×		Yes	Yes[1]		×	
Delaware			×		×																	
District of Columbia	×						×[2]	×[2]		×[2]		×[2]		×	×			Yes	Yes	×		
Florida	×						×	×	×	×		×	×		×	×		Yes	Yes	×		
Georgia	×						×	×	×	×		×	×		×			Yes	Yes	×		
Hawaii	×						×	×	×	×		×	×	×	×			Yes	Yes	×		
Idaho			×		×																	
Illinois	×						×	×	×	×		×	×		×			Yes	Yes	×		
Indiana			×		×																	
Iowa			×		×																	
Kansas	×						×	×	×	×		×	×	×		×		Yes	Yes	×	×	
Kentucky	×						×		×	×		×				×		Yes	Yes	×		
Louisiana	×						×	×	×	×		×				×		Yes	Yes		×	
Maine	×													×		×						
Maryland	×						×	×	×	×		×	×		×	×	×[3]	Yes	Yes	×	×	
Massachusetts	×						×	×	×	×		×			×			Yes	Yes	×		
Michigan	×						×	×	×	×		×	×	×	×			Yes	Yes	×		
Minnesota	×									×					×	×		Yes	Yes		×	
Mississippi		×					×	×	×	×		×	×		×			Yes	No	×	×	
Missouri	×						×					×		×	×			Yes	Yes	×	×	
Montana			×	×		Yes																
Nebraska		×														×		No			×	
Nevada	×						×	×	×			×	×			×						
New Hampshire	×						×	×	×	×		×	×		×			Yes	Yes	×		
New Jersey		×														×					×	
New Mexico	×						×	×	×	×		×	×		×	×		Yes	Yes	×		
New York	×						×			×		×	×			×		Yes	Yes	×	×	
North Carolina	×						×	×	×	×		×		×	×	×		Yes	Yes	×		
North Dakota			×		×																	
Ohio	×						×	×	×	×		×	×		×			Yes	Yes	×	×	
Oklahoma	×						×	×	×	×		×	×		×			Yes	Yes	×		
Oregon			×	×		Yes																
Pennsylvania			×	×		Yes																
Rhode Island	×						×		×	×		×	×		×	×		Yes	Yes	×	×	
South Carolina	×						×	×	×	×		×	×	×		×		Yes	Yes	×		
South Dakota	×						×		×	×		×	×		×	×		Yes	Yes	×		
Tennessee	×						×	×	×	×		×	×		×	×		Yes	Yes	×		
Texas	×						×		×	×		×	×		×	×	×[4]	Yes	Yes	×	×	
Utah			×	×		Yes																
Vermont			×		×																	
Virginia	×						×	×	×	×		×	×		×			Yes	Yes	×		
Washington			×	×		Yes																
West Virginia	×						×	×	×	×		×	×	×		×						
Wisconsin			×		×																	
Wyoming			×		×													No				
Guam			×		×																	
Puerto Rico	×													×				Yes	Yes	×		
Virgin Islands	×						×	×	×	×		×	×	×		×		Yes	Yes	×		
Total	33(1)	5(1)	17	6	11	6	29	23	27	29	0	30	23	10								

[1] Connecticut: rubella—mandatory/measles and polio—permissive.

[2] Effective September 1973.

[3] State medical society.

[4] Department of public welfare.

TABLE 10.—MEASLES INCIDENCE ACCORDING TO EXISTENCE OF A MANDATORY SCHOOL ENTRY IMMUNIZATION REQUIREMENT FOR MEASLES IN SEPTEMBER 1972, UNITED STATES

	Number	Population [1] under 18 years	Number of cases in 1972	Incidence (per 100,000 population under 18 yrs)
States with law	26	48,079,804	18,990	39.5
States without law (includes District of Columbia)	25	21,564,277	12,591	58.4
Total	51	69,644,081	31,581	45.3

[1] 1970 Census.

V. HEALTH AND RESOURCE BENEFITS

In the 10 years since vaccine licensure, significant impact has been made in reducing measles morbidity and mortality. Over 60 million doses of vaccine have been distributed, nearly 24 million cases have been prevented, and the economic savings, both from direct medical expenditures and indirect costs from loss of productivity, total nearly $1.3 billion.[6]

Direct health benefits estimated on the basis of existing data indicate that 2,400 deaths (1 death per 10,000 cases) were prevented, 7,900 cases of retardation (1 per 3,000 measles cases) averted, and 140,000 hospitalizations (6 per 1,000 measles cases) avoided (Table 11). These savings total over $700 million. Indirect savings stem from loss of productivity from death, retardation, and illness and total over $500 million. The benefits from each case averted are currently estimated to be about $73.

TABLE 11—*Summary of health and resource savings due to vaccination against measles, United States, 1963–72* [6]

Cases averted	23,707,000
Lives saved	2,400
Cases of retardation averted	7,900
Additional years normal and productive life saved by preventing premature death and retardation	709,000
School days saved	78,000,000
Physician visits saved	12,182,000
Hospital days saved	1,352,000

VI. REPORTING RELIABILITY

Reported measles cases are compiled from weekly reports submitted to CDC by local and state health officers. These reports provide reliable information concerning measles trends on an ongoing basis and identify areas of significant measles incidence. Encephalitis cases resulting from measles are reported to CDC through a similar reporting mechanism. Deaths attributed to measles are recorded by the National Center for Health Statistics from death certificates submitted by state health departments.

In assessing the reliability of current reporting mechanisms, the death-to-case ratio (deaths per 10,000 cases) provides a gauge of the present system. Although it is estimated that the true death-to-case ratio in the United States is about 1.0 per 10,000 cases,[7] the death-to-case ratio determined by using reported measles cases is approximately 10 per 10,000 reported cases indicating that about 1 in 10 cases is reported to CDC (Table 12). In addition, recorded measles deaths probably do not reflect the total number of deaths due to measles, since measles may have only contributed to death and not be the primary cause. This implies that the surveillance system is probably reporting less than 10% of measles cases. Recent studies in New York State revealed that less than 5% of general practitioners and pediatricians reported any measles cases in 1971.[8]

TABLE 12.—REPORTED MEASLES MORBIDITY, MEASLES ENCEPHALITIS, AND RECORDED MEASLES DEATHS, UNITED STATES, 1963–71

Year	Reported measles cases	Reported measles encephalitis	Encephalitis-to-case ratio (per 10,000 measles cases)	Recorded measles deaths	Death-to-case ratio (per 10,000 measles cases)
1963	385,156	239	6.2	364	9.5
1964	458,083	300	6.5	421	9.2
1965	261,904	171	6.5	276	10.5
1966	204,136	319	10.7	261	12.8
1967	62,705	62	9.9	81	12.9
1968	22,231	19	8.5	24	10.8
1969	25,826	35	13.6	41	15.9
1970	47,351	27	5.7	[1] (120)	[1] (25.3)
1971	75,290	69	9.2	[1] (90)	[1] (12.0)
Total	1,542,682	1,141	7.4	[1] 1,678	[1] 10.8

[1] Preliminary mortality estimates from National Center for Health Statistics.

Similarly, it is estimated that 10 cases of encephalitis occur per 10,000 cases of measles. Since the encephalitis-to-case ratio is fairly close to this level, one implication is that reporting reliability for measles encephalitis is similar to that for measles.

Using reported measles data, death-to-case ratios for each state were determined and demonstrated a tremendous diversity, probably reflecting differential case reporting reliability. Twenty-five states reported death-to-case ratios lower than the national average of 10 deaths per 10,000 reported cases of measles during the 7-year period, 1963–1969.

VII. EPIDEMIC REPORTS

In 1971 and 1972, measles epidemics sporradically occurred and several were investigated by health departments and the Center for Disease Control. The efficacy of live attenuated vaccine was substantiated to be well over 90% in recent investigations; reported cases primarily resulted from large pools of susceptibles. The following reports briefly summarize the approaches 3 states have taken toward the control of measles through immunization.

A. *Mississippi:* Between November 22 and December 20, 1971, 100 cases of measles occurred in Clay County, Mississippi. The county is semirural and located in the northeastern part of the state. Its population is 18,840 (1970 census). The epidemic began in the week of November 22 when a single case was reported; no cases were reported in the following week. Then the number of cases rose sharply to 20 the week of December 6 and jumped to 64 the following week.

Cases occurred in all areas of the county and in all of the county schools. The majority of cases were in school-age children (Table 13). Before the outbreak, the level of immunity of children age 1–11 years was estimated to have been 65%. Eleven cases occurred in previously vaccinated children; vaccine efficacy was an estimated 93%.

TABLE 13.—*Age Distribution of Measles Patients, Clay County, Mississippi, November–December 1971*

Age group (years):	Number of cases
<1	1
1–4	15
5–9	38
>10	46
Total	100

The Mississippi State Board of Health was notified of the outbreak on December 7. That day, a special investigator was sent to Clay County. Based on his evaluation of the epidemic, a countywide measles immunization program was held on December 9. A total of 688 vaccine doses were administered: 604 to 5–9 year olds and 84 to children 10–12. This campaign brought the measles immunity levels in young school children to nearly 90%. Following this program, the number of cases declined rapidly; 17 cases were reported the week of December 20 and none after that. (Reported by Thomas E. Waller, M.D., Health Officer, Clay County, West Point, Mississippi; David Adcock, Assistant Supervisor, Paul Turner, Supervisor, Immunization Program, and Durward L. Blakey, M.D., Director, Preventable Disease Control, Mississippi State Board of Health (MMWR: Vol. 21, No. 18, 1972)

NOTE: The rapid mobilization of the vaccination program in Clay County deserves notice. Almost 700 doses of vaccine were administered within 48 hours after the State Board of Health was notified of the outbreak. The number of cases declined sharply in the 2nd week after the vaccination campaign, much sooner than would have been expected had the epidemic been allowed to run its course.

B. *Massachusetts:* In October 1972, the first case of measles reported from an eastern Massachusetts town since 1966 led to an investigation by the Division of Communicable Diseases, Massachusetts Department of Public Health. Forty-one cases were subsequently identified through school absentee surveillance, retrospective contact tracing, and official morbidity reports. All had a typical clinical syndrome. The investigation revealed that occasional unreported cases of measles occurred in July and August. The number increased early in October. Thirty-four cases (83%) were in children 8–13 years of age, and 29 were in students at 2 of the 7 local grammar schools. Only 8 children had a history of vaccination.

In October, the school immunization records were reviewed and susceptibles from grades 1–9 identified. They were offered measles vaccine at school on October 20 and at a special clinic on October 26. Approximately 2,100 school children (39% of the enrollment in the target grades) and 150 preschoolers received the vaccine. Within 2 weeks, the number of cases diminished abruptly. (Reported by Nicholas J. Fiumara, M.D., Director, George E. Waterman, M.D., Assistant Director, and Michael Baltier, Epidemiologist, Division of Communicable Diseases, Massachusetts Department of Public Health; and David L. Freeman, M.D., EIS Officer located at the Massachusetts Department of Public Health) (MMWR: Vol 21, No 47, 1972)

NOTE: Massachusetts reported large numbers of measles cases during the last quarter of 1972, partially due to improved surveillance, and has attempted to identify and vaccinate susceptible populations.

C. *New Hampshire*: New Hampshire reported a total of 849 cases of measles in 1972, a number greater than the total cases reported for the 6-year period 1966–1971. Sixty-seven percent of these cases were reported in the last 12 weeks of 1972. Four of the state's 10 counties (Grafton, Merrimack, Hillsborough, and Belknap) had the highest attack rates for measles in 1972, although the disease was widespread throughout the state. The major clustering of cases was in the south central region. Data from school reporting and a survey of New Hampshire physicians indicated that the greatest number of cases occurred in the 6- to 9-year age group. Immunization records on students in 13 schools in communities experiencing measles showed a 69.2% level of protection against measles in elementary school students as a result of vaccination and/or natural immunity.

In response to this increase in reported measles cases, a "Measles Alert" in New Hampshire was declared by the Departments of Health and Welfare and Education of the State of New Hampshire, and plans were developed for an immediate statewide immunization campaign, utilizing community-sponsored clinics, directed primarily at elementary school and preschool chidren. Specific attention was to be given to all vaccine-preventable diseases against which protection is required by the recently enacted school entry law in New Hampshire. These diseases included measles, rubella, poliomyelitis, diphtheria, tetanus, and pertussis in younger children. Susceptible school children were to be given measles, rubella, and polio vaccines in the first 3 to 6 weeks with the remainder of their vaccinations to be completed by the close of school in June 1973. By encouraging preschoolers to participate in these community-sponsored clinics, a significant increase in their immunity levels may also be achieved. (Reported by Gerard Zeiller, Fellow of the American Academy of Medical Administrators, Commissioner, Hugh L. C. Wilkerson, M.D., Acting Director, Division of Public Health, Vladas Kaupas, M.D., Director, Bureau of Communicable Disease Control, Elizabeth Burtt, R.N., Epidemiologist, and Arthur Van Buskirk, Public Health Advisor, New Hampshire Department of Health and Welfare; Newell Paire, Ph.D., Commissioner, and Mary Hall, R.N., school consultant, New Hampshire Department of Education; and Roger M. Barkin, M.D., EIS Officer, Field Services Branch) (MMWR: Vol 21, No 52, 1972)

STATE EPIDEMIOLOGISTS

Key to all disease surveillance activities are those in each State who serve the function as State epidemiologists. Responsible for the collection, interpretation and transmission of data and epidemiologic information from their individual States, the State epidemiologists perform a most vital role. Their major contributions to the evolution of this report are gratefully acknowledged.

Alabama, Frederick S. Wolf, M.D.
Alaska, Donald K. Freedman, M.D.
Arizona, Philip M. Hotchkiss, D.V.M.
Arkansas, G. Doty Murphy, III, M.D.
California, James Chin, M.D.
Colorado, Thomas M. Vernon, Jr., M.D.
Connecticut, James C. Hart, M.D.
Delaware, Ernest S. Tierkel, V.M.D.
District of Columbia, William E. Long, M.D.
Florida, Ralph B. Hogan, M.D.
Georgia, John E. McCroan, Ph.D.
Hawaii, Ned Wiebenga, M.D.
Idaho, John A. Mather, M.D.
Illinois, Byron J. Francis, M.D.
Indiana, Charles L. Barrett, M.D.
Iowa, Charles A. Herron, M.D.
Kansas, Don E. Wilcox, M.D.
Kentucky, Calixto Hernandez, M.D.
Louisiana, Charles T. Caraway, D.V.M.
Maine, Peter J. Leadley, M.D.
Maryland, John D. Stafford, M.D.
Massachusetts, Nicholas J. Fiumara, M.D.
Michigan, Norman S. Hayner, M.D.
Minnesota, D. S. Fleming, M.D.
Mississippi, Durward L. Blakey, M.D.
Missouri, H. Denny Donnell, Jr., M.D.
Montana, Martin D. Skinner, M.D.
Nebraska, Paul A. Stoesz, M.D.
Nevada, William M. Edwards, M.D.
New Hampshire, Vladas Kaupas, M.D.
New Jersey, Ronald Altman, M.D.
New Mexico.
New York State, Alan R. Hinman, M.D.
New York City, Pascal J. Imperato, M.D.
North Carolina, Martin P. Hines, D.V.M.
North Dakota, Kenneth Mosser.
Ohio, John H. Ackerman, M.D.
Oklahoma, Stanley Ferguson, Ph.D.
Oregon, John A. Googins, M.D.
Pennsylvania, W. D. Schrack, Jr., M.D.
Puerto Rico, Luis Mainardi, M.D.
Rhode Island, James R. Allen, M.D., (Acting).
South Carolina, William B. Gamble, M.D.
South Dakota, Robert S. Westaby, M.D.
Tennessee, Robert H. Hutcheson, Jr., M.D.
Texas, M. S. Dickerson, M.D.
Utah, Taira Fukushima, M.D.
Vermont, Geoffrey, M.D.
Virginia, Karl A. Western, M.D.
Washington, John Beare, M.D. (Acting).
West Virginia, N. H. Dyer, M.D.
Wisconsin, H. Grant Skinner, M.D.
Wyoming, Herman S. Parish, M.D.

NOTE: New Hampshire responded to the impending epidemic threat in a comprehensive and systematic fashion.

VIII. REFERENCES

[1] Stokes J Jr, Weibel RE, Villarejos VM, et al: Trivalent combined measles-mumps-rubella vaccine. JAMA 218:57–61, 1971.

[2] Villarejos VM, Arguedas JA, Buynak EB, et al: Combined live measles-rubella virus vaccine. J Peds 79:559–604, 1971.

[3] Morbidity and Mortality Weekly Report, Center for Disease Control. 21:402–403, 1972.

[4] Whitte JJ: Simultaneous administration of live or killed virus vaccine, Presented at the Conference on Vaccination Against Communicable Diseases, International Association of Biological standardization, March 14–17, 1973, Monte-Carlo.

[5] Landrigan PJ, Witte JJ: Neurologic disorders following live measles virus vaccination. JAMA 223:1459–1462, 1973.

[6] Sencer DJ, Axnick NW: Cost benefit analysis. Presented at the Conference on Vaccination Against Communicable Diseases, International Association of Biological Standardization, March 14–17, 1973, Monte-Carlo.

[7] Barkin RM: Measles mortality. Publication pending.

[8] Hinman AR: Surveillance of communicable diseases. Presented at the American Public Health Association annual meeting, November 15, 1972, Atlantic City.

Mr. HARTKE. I call to the particular attention of the Senator from New Hampshire the situation which exists in his State of New Hampshire, which is covered in rather detailed form in the Center for Disease Control Measles Surveillance document. I quote from page 15 of that report. Incidentally, they picked out just a few States, and New Hampshire is listed in the charts as one of the States which had the highest number of cases per 100,000. If the Senator will look on page 3, he will see there are only three States in which they had this high an incidence of measles, and New Hampshire is one of them.

Here is what the report says:

> New Hampshire reported a total of 849 cases of measles in 1972, a number greater than the total cases reported for the 6-year period 1966–1971. Sixty-seven percent of these cases were reported in the last 12 weeks of 1972 (Figure 10). Four of the state's 10 counties (Grafton, Merrimack, Hillsborough, and Belknap) had the highest attack rates for measles in 1972, although the disease was widespread throughout the state. The major clustering of cases was in the south central region. Data from school reporting and a survey of New Hampshire physicians indicated that the greatest number of cases occurred in the 6- to 9-year age group. Immunization records on students in 13 schools in communities experiencing measles showed a 69.2% level of protection against measles in elementary school students as a result of vaccination and/or natural immunity.

Incidentally, with this epidemic occurring, I point out that New Hampshire was over 10 percent higher than the national immunization rate, which we are trying to increase at this time.

I quote further from the report:

> In response to this increase in reported measles cases, a "Measles Alert" in New Hampshire was declared by the Departments of Health and Welfare and Education of the State of New Hampshire, and plans were developed for an immediate statewide immunization campaign, utilizing community-sponsored clinics, directed primarily at elementary school and preschool children. Specific attention was to be given to all vaccine-preventable diseases against which protection is required by the recently enacted school entry law in New Hampshire. These diseases included measles, rubella, poliomyelitis, diphtheria, tetanus, and pertussis in younger children. Susceptible school children were to be given measles, rubella, and polio vaccines in the first 3 to 6 weeks with the remainder of their vaccinations to be completed by the close of school in June 1973. By encouraging preschoolers to participate in these community-sponsored clinics, a significant increase in their immunity levels may also be achieved.

That is from a report by Gerard Zeiller, Fellow of the American Academy of Medical Administrators, and others in the New Hampshire Department of Health and Welfare and the New Hampshire Department of Education.

The only point I want to make about this survey is very simple: what happened is exactly what he thinks needs to be done, and what the Center for Disease Control really advocates, that is, a program of trying to reach out and develop the type of community support which would increase the number of immunizations, so that the health of the people could be protected.

Mr. COTTON. Let me say to the distinguished Senator from Indiana that I am aware of these figures he has just read. I went to New Hampshire and sat in conference with the State Board of Health and the representatives of the medical profession, and they assured me that if additional funds were necessary, either for vaccine or to assist them in a more aggressive campaign to bring home to the people the need of immunization, they felt, serving on this committee, I could get them what was necessary.

After the hearings were held, the Senator from New Hampshire conferred with those who represented the people concerned and discussed the situation of the measles, and I was assured that I did not need to seek additional money to the $6 million-plus because of the fact that a larger amount of that money, a larger proportion, available for the purpose of disseminating vaccine was available due to the fact we had laid aside a reserve supply of a vaccine.

Certainly, the Senator may be assured that I would not have sat idly by in this committee with my own State suffering from a need of more funds and not do anything about it because it would not have required much. But the testimony was that what we were giving them was sufficient if we gave them the $6 million-plus.

Mr. HARTKE. Mr. President, all I am trying to say is the simple fact that the Advisory Committee on Immunization Practices has recommended that measles and rubella vaccines and the third dose of TOPV may be administered simultaneously during the second year of life to children and that is, frankly, not going to be done unless somebody takes the responsibility to do it. It is not going to be done unless somebody goes back and takes it into the arena where it is going to be done. If we count on a voluntary program it is not going to work. There are some States which have mandatory immunization in schools. The Senator certainly stresses that it is not being done, so the alternative is to proceed in the fashion I have indicated.

I say if we can go ahead and spend an increased amount of money for buildings down in Atlanta, Ga., of which I am in favor, an increased amount of money for foreign aid, we ought to be able to spend $2 million to prevent babies from dying because of rubella, and having babies deformed as the result of a preventable disease.

Mr. MAGNUSON. No one has an argument with what the Senator from Indiana is talking about. We are merely saying there is enough money in the bill to do what he suggests.

We recommend to the NIH, the Preventive Health Services, $140 million. They can use it for anything. Preventive medicine includes what the Senator wants. I do not see any sense—and we were over the budget of last year—of adding $2 million for one specific purpose. They are conscious of this matter down there. As a matter of fact, we were the first ones 2 or 3 years ago who came up here and got some money for rubella, and we did not have the epidemic. But it is all in here, $140 million. We are not going to start to pick out all of the things in preventive medicine. They have carte blanche, and they do a good job. I oppose the amendment. I think it is unnecessary, even though the Senator's figures are correct. We know all these figures. I do not know what the source of his figures is, but we have got stacks of that down there.

We are $12 million over last year, $5 million over the House, and $15.7 million over the budget for all these things from last year for this one institute. They can do what the Senator is suggesting that we do. They have plenty of money.

Mr. HARTKE. Mr. President, will the Senator yield? Will the Senator look at his own report on page 117 and just confirm the fact that the immunization program under project grants under the Center for Disease Control, under which rubella is included, that the budget request was for $6,200,000; the House passed $6,200,000, and the Senate gave them $6,200,000. So when we are talking about increasing the $140 million we are not talking about $6,200,000.

Mr. MAGNUSON. The figure is $140 million.

Mr. HARTKE. Not for immunization.

Mr. MAGNUSON. We do not program this German measles or white measles or anything else in preventive medicine. We give them an amount of money that they can use. We do not spell out what they are doing. They are doing it. They have money for rubella, they testified about that, and they had money for measles.

Mr. HARTKE. But they do not have money for this outreach program.

Mr. MAGNUSON. They certainly do.

Mr. HARTKE. I am ready for the vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from California (Mr. Cranston), the Senator from Missouri (Mr. Eagleton), the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from Iowa (Mr. Hughes), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), and the Senator from Missouri (Mr. Symington), are necessarily absent.

I further announce that the Senator from Colorado (Mr. Haskell), the Senator from Wisconsin (Mr. Nelson), the Senator from Georgia (Mr. Nunn), the Senator from Rhode Island (Mr. Pell), and the Senator from Connecticut (Mr. Ribicoff), are absent on official business.

I further announce that, if present and voting, the Senator from Georgia (Mr. Nunn) and the Senator from Rhode Island (Mr. Pell), would vote "nay."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kentucky (Mr. Cook), the Senator from Kansas (Mr. Dole), the Senator from Colorado (Mr. Dominick), the Senator from Michigan (Mr. Griffin), the Senator from Pennsylvania (Mr. Schweiker), and the Senator from Texas (Mr. Tower), are necessarily absent.

I also announce that the Senator from Maryland (Mr. Beall), the Senator from Oklahoma (Mr. Bellmon), the Senator from Arizona (Mr. Fannin), the Senator from Wyoming (Mr. Hansen), and the Senator from Ohio (Mr. Taft), are absent on official business.

The result was announced—yeas 5, nays 66, as follows:

[No. 396 Leg.]

YEAS—5

Abourezk
Church
Clark
Hartke
Mathias

NAYS—66

Aiken
Allen
Baker
Bartlett
Bennett
Bible
Biden
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Cotton
Curtis
Domenici
Eastland
Ervin
Fong
Goldwater
Gurney
Hart
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
McClellan
McClure
McGee
Metcalf
Metzenbaum
Montoya
Moss
Muskie
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Talmadge
Thurmond
Tunney
Weicker
Williams
Young

NOT VOTING—29

Bayh
Beall
Bellmon
Bentsen
Brock
Buckley
Cook
Cranston
Dole
Dominick
Eagleton
Fannin
Fulbright
Gravel
Griffin
Hansen
Haskell
Hughes
McGovern
McIntyre
Mondale
Nelson
Nunn
Pell
Ribicoff
Schweiker
Symington
Taft
Tower

So Mr. Hartke's amendment, as modified, was rejected.

The PRESIDING OFFICER (Mr. Johnston). The question before the Senate is the committee amendment on page 6, lines 14 through 18.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. I understand that there is not only the amendment which is pending, which would be moving the adoption of the committee amendment on page 6, lines 14 through 18, which the Senator from Nebraska is going to propose——

Mr. CURTIS. That is correct.

Mr. MAGNUSON. But then there are two or three other amendments. They are not money amendments, but they are matters of language, which are quite controversial. The Senator from North Carolina has just informed me that he is going to bring up the busing amendment, which will probably take some time and some discussion.

I understand there will be a so-called abortion amendment, which will also take some discussion, I would think. I am hopeful, if the Senator from Nebraska and the leadership will agree, that with regard to the amendment now pending, that is the committee amendment at page 6, lines 14 through 18, which strikes out the provision to exempt businesses employing 25 or fewer employees, that we consider a point of procedure.

I want to lay this before the Senate tonight, if I can, and have it the pending amendment for tomorrow.

I do not think we can have any votes tonight because of the nature of these amendments which will require a great deal of discussion.

Mr. CASE. Will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. CASE. Would it be possible with this understanding, that we do not convene the Senate until sometime around noon? We do have a defense appropriations conference. Senator Williams and I also have a meeting which is quite important, and there are a number of other things which would be in conflict if we come in at an early hour with these important matters.

Mr. McCLELLAN. Will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. McCLELLAN. We have a conference on the Defense appropriation tomorrow morning at 10:30. We made very good progress last Thursday. I am hopeful that in another 1½ or 2 hours we can conclude that conference. We are making progress.

I do not see anything at the moment that is insurmountable. It would be well for those of us on the Appropriations Committee, especially some of us interested in some of these amendments, to have the opportunity to be on the floor.

Mr. MAGNUSON. The Senator from Washington is a member of that conference committee. He has a few items in there, too. He wants to participate in the conference.

Mr. McCLELLAN. If I can find the leadership, we can resolve this right now.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. I would like to direct a question to the manager of the bill, now that the leadership is here. Insofar as the busing amendment is concerned, we have traveled this road many times before. As I understand it, there is this so-called abortion amendment. I was wondering, in view of the fact that we have a lot of pressing business, if we cannot reach a unanimous agreement on limitation of time on these amendments. I do not see why we cannot do that. I do not think we have to talk about them ad infinitum. We all understand the subjects. It is a matter of discussing it and then coming to a vote. I wonder if that would be possible.

Have we lost the leadership again?

Mr. MAGNUSON. We have lost the leadership again.

Mr. COTTON. Will the Senator yield?

Mr. MAGNUSON. The Senator from Rhode Island can adequately fulfill the shoes of leadership.

Mr. PASTORE. If they let me do it, I could propose the unanimous consent agreement. I do not think it would be fair.

Mr. COTTON. Will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. COTTON. So far as I know, there are only three amendments to be considered, none of them being a money amendment. One is an amendment dealing with OSHA—the exemption of employees, that is, how far down you go on health and safety inspection.

The second is the abortion amendment, which is purely of academic interest to me and may be of interest to some younger people. [Laughter.]

The third is the busing amendment.

May I ask the Senator from Virginia if he had a public assistance amendment?

Mr. HARRY F. BYRD, JR. I wanted to get into a colloquy with the manager of the bill on that amendment.

Mr. BENNETT. I also have an amendment.

Mr. COTTON. Then that makes five.

Mr. CURTIS. If the Senator will yield at that point, I want to serve notice that should the committee amendment in reference to OSHA prevail, there will be another OSHA amendment offered. If that fails, there are apt to be some more amendments offered. I do not say that as a matter of threat or prolonging the debate, but in all fairness we will try various figures on the small business exemption in reference to OSHA.

I might also correct the record to point out that this is a money amendment. It will save a considerable sum of money if the committee amendment is rejected.

Mr. HUMPHREY. If the Senator will yield, I have an amendment I will offer.

Mr. MAGNUSON. A money amendment?

Mr. HUMPHREY. Yes, a modest one.

Mr. PASTORE. How modest is a modest one?

Mr. HUMPHREY. About $80 million.

Mr. MAGNUSON. I thought we were going to do something about this bill and keep it down.

Mr. HUMPHREY. I want to do a little more on the subject of cancer than the committee has done. May I say I know the committee has done a good job, but we have to go to conference with the House. I was going to suggest that we move it up from $720 million to $800 million.

I do understand that the chairman of the committee today has been doing some negotiation on other matters. He is not a hard liner on these matters.

Mr. MAGNUSON. That is not correct. There is one item we thought about renegotiating. The subcommittee voted one way and the full committee another way, and we have not negotiated anything. We are under the House figure by $175 million on that item.

Mr. HUMPHREY. I understand that.

Mr. MAGNUSON. As to cancer, I wish the Senator would think about that, because I do not know how anybody can run counter to the Senator from Washington on the matter of appropriating money for cancer.

Mr. HUMPHREY. I must say that no one has been more generous than the Senator from Washington.

Mr. MAGNUSON. Why this extra amount, then?

Mr. HUMPHREY. Because the current authorization, which was passed some time ago, before costs had increased, was over $800 million, and the panel of advisers recommended a 1975 budget of $750 million. The House has appropriated substantially less than the Senate bill.

I know the realities of the conference committee. I just wanted to get the Senator in a position to do a little better job in conference.

Mr. MAGNUSON. I think we will do a good job and get as much as needed, if we are going to do a few things here that we should do. We have worked on cancer over the years, a long, long time. The Senator from Washington introduced a bill in 1937 that established the Cancer Institute. That is how long I have been at it.

The Senator from New Hampshire and I thought this was an adequate amount. If we are going to do this with respect to this item, then the people who have amendments with respect to heart and lung conditions will come in. We have 13 institutes out there that have supporters that will want to come in and get more, and they fight among themselves over what is the right figure.

I hope the Senator will think about this overnight.

Mr. HUMPHREY. I say most respectfully that I commend the distinguished Senator from Washington and his associate, the distinguished Senator from New Hampshire, for all the good work they have done in this field. But we all have our point of view here. When I look back over the authorization and see that we are appropriating less than the authorization, even though the authorization was made some time ago, and that the recommendation of the panel of advisers for fiscal 1975——

Mr. MAGNUSON. Which panel?

Mr. HUMPHREY. There was a panel in 1970.

Mr. MAGNUSON. The President's panel? They proposed $750 million.

Mr. HUMPHREY. That is correct. And a panel of the Senate advisers recommended a 1975 budget of $850 million. If the amendment I propose were to be adopted, it still would be a matter of conference, and I believe the House figure is substantially lower than the Senate figure. When we come out of that conference, we will be lucky to come out with a figure of $600 million or $650 million.

Mr. MAGNUSON. I do not think so. The House was $60 million over the budget. The budget was $600 million. I would expect the conference to come out between $660 million and $720 million. I think there is sufficient money here. We have used our best judgment. We listened to witness after witness in the cancer field. The Senator knows some other of our friends who are always around.

Mr. HUMPHREY. Yes, indeed.

Mr. MAGNUSON. I do not know what more we can do. We are trying to keep this bill under the budget.

Mr. HUMPHREY. The Senator has done so, and the committee has done so.

Mr. MAGNUSON. $80 million plus other amendments will put it over.

Mr. HUMPHREY. No, it will not.

Mr. MAGNUSON. It will be closer to it and it will put us over the House—or very close to it.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. COTTON. I assume that the Senator is aware that, reluctantly, we agreed to increase by $175 million the money for public service employment.

Mr. HUMPHREY. I understand that.

Mr. COTTON. But it was not reconsidered, through the courtesy of those who offered it. I requested that we do not nail it down by voting to reconsider and lay it on the table, because I feared that we would get some more money amendments that would push this thing up to the point where we would be walking a tightrope.

They are going to need more money, and we are going to be as liberal as we can be. We want to get the bill signed and the money in our pocket. Then if we need more, we can go after it. It would mean that those who agreed to settle for the $175 million would share some of that with the Senator from Minnesota in his very laudable desire for more money for cancer, so that we would not have to increase this bill and add $80 million to the $175 million.

As the Senator from Rhode Island suggested a few moments ago, could we not put our heads together and work out a compromise? Is there a chance of working out a compromise with my good friend, the Senator from Minnesota, so that we would shave that $80 million?

Mr. HUMPHREY. I am prepared to do that. I just voted against an increase here. I am not for all increases.

Mr. MAGNUSON. That was only $2 million.

Mr. HUMPHREY. I know. I suggest that each request has considerable merit and support.

Mr. MAGNUSON. That had very little merit at all.

[Laughter.]

Mr. HUMPHREY. I know the chairman feels that way. He had an overwhelming victory, and I supported the chairman. I know what the chairman's view is with respect to the cancer program. I know of his generosity and his leadership. I know that this is an effort in which we have to pour in our resources, and it is not a waste of money. If this country is at a point that it thinks another few million dollars for cancer control is going to bring inflation, then we are in dire trouble. We can save million of dollars by giving people a little extension of life.

The Senate has been very good in this bill, with a figure of $720 million. The House bill is less than $500 million. I am trying to get us in a bargaining position, so that we can come out with a reasonable amount of resources.

The largest increase today in inflation is in medical costs and medical research. So that even though we appropriate, let us say, more this year than last year, we do not get any more for it because of the increased cost of equipment, personnel, laboratory, and all that goes into it. This battle has to maintain its momentum.

If I thought for a minute that we could get the Senate figure of $720 million, I would say "hallelujah" three times out loud and spring up and do three handsprings. I know that the Senator cannot get that amount.

When we come to the conference with the House we are lucky if we can come out with an even split.

All I am asking for is to put ourselves in a better bargaining position, so that we can realize the great dreams and hopes and leadership of our distinguished chairman and his associate, the distinguished Senator from New Hampshire. I want to befriend them; I want to help them; not in any way to burden them. Is that convincing?

[Laughter.]

Mr. PASTORE. Not tonight.

Mr. HUMPHREY. Perhaps tomorrow.

Mr. MAGNUSON. The Senator from Minnesota has made a speech that I have made over and over again.

Mr. HUMPHREY. I know, and the Senator has convinced me.

Mr. MAGNUSON. The Senator from Washington becomes a little fed up, too, sometimes, by being accused of spending too much money in Congress. The only place I have spent money is in the field that the Senator from Minnesota is talking about, health and education, and so forth.

I want to put these figures in the RECORD. Perhaps they will be helpful to the Senator from Minnesota. The Senate committee recommended $720 million for cancer, which is $120 million over the budget request, $169 million over last year, and $240 million over the House allowance. The $120 million increase for cancer research is by far the largest increase over the budget of any single item in the bill.

The proposal of the Senator from Minnesota is more than the National Cancer Advisory Council said to us can be used effectively. I do not think we can afford to put in funds that will not be used, because if we go up too much on this bill, we will have another veto. We have not had an election yet, so we cannot pass the bill over the President's veto. HEW would then be operating on a continuing resolution, and the Cancer Institute would be forced to operate at $600 million—which is $120 million below what we have in the bill now. I just want to put these figures in the RECORD.

I am not opposed to money for cancer. We are about to make a breakthrough in cancer, after all these years. It is very exciting. A team of doctors has found that by a combination of many drugs, a recurrence of breast cancer in women, which is the most prevalent form of cancer, does not occur. They are going to release the information one of these days at a medical convention.

But when we are $120 million over last year, I do not want to waste any money. I do not want to keep the scientists hungry, either, but Dr. Vannevar Bush always told me that to get something out of scientists, you have to work harder.

I shall take a look at it tomorrow, the Senator from New Hampshire and I, but I want the Senator to take a look at these figures, too.

Mr. HUMPHREY. Thank you.

Mr. PASTORE. Will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. PASTORE. I should like to address my statement to the majority leader. In view of the fact that, as I said before, many of the amendments are easily understood and most of us know what they are all about, can we not reach a unanimous-consent agreement of limitation of debate on the amendments?

Mr. MANSFIELD. If the Senator will yield, we are very agreeable, but I understand that there are some objections on the other side of the aisle for the time being, and the request——

Mr. CURTIS. Will the distinguished Senator yield?

Mr. MANSFIELD. Yes, indeed.

Mr. CURTIS. It appears that the Senator is talking about an arrangement for tomorrow.

Mr. PASTORE. That is right.

Mr. CURTIS. The junior Senator from Nebraska would not object to a time limitation on the pending committee amendment. I should not want to be foreclosed from offering subsequent amendments should the committee position prevail. But so far as disposing of that amendment, I am prepared to agree to a time limitation.

Mr. PASTORE. One hour?

The Senator wants to agree on the committee amendment itself, but he does not want to be bound on any subsequent amendments to it.

Mr. CURTIS. I do not want to foreclose agreement to it.

Mr. PASTORE. I know that.

Mr. MANSFIELD. Mr. President, I propose that there be a 1-hour limitation on debate on the committee amendment alone.

Mr. CURTIS. Will that run tomorrow?

Mr. MANSFIELD. It is rather early tonight. We ought to go ahead. We have a very busy week ahead of us, with the pay raise proposal, cloture, the outer shelf, Export-Import Bank, just to mention a few.

Mr. CURTIS. I should like to have 10 minutes of my 30 minutes tomorrow.

Mr. MANSFIELD. Very well.

Mr. COTTON. Reserving the right to object, all that the Senator from Nebraska wants to be sure of is that, should an amendment which he offers fail, he can offer a different amendment or amendments on the same subject.

Mr. CURTIS. That and subsequent action on the committee amendment.

Mr. HARRY F. BYRD, JR. Will the Senator from Montana yield?

Mr. MANSFIELD. The Senator from Rhode Island has the floor.

Mr. PASTORE. That is very satisfactory. I understand that the management of the bill does not feel we can have a vote tonight. I do not see why we cannot start at 10 tomorrow morning on this 1-hour limitation and decide this committee amendment.

Mr. MANSFIELD. I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I want the majority leader to identify the amendment. Is it the OSHA amendment?

Mr. PASTORE. That is correct.

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate adjourns today, it stand in adjournment until the hour of 9 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing order was subsequently changed to provide that the Senate convene at 10:30 a.m. tomorrow.)

UNANIMOUS-CONSENT AGREEMENT—ORDER OF BUSINESS TOMORROW

Mr. MANSFIELD. I ask unanimous consent that at the hour of 9:15 tomorrow, the Senate turn to consideration of Calendar No. 1074, H.R. 15977, an act to amend the Export-Import Bank Act of 1945, with time to run until the hour of 12 o'clock, which I understand is the time that the manager of the bill wants to start, at which time we shall return to committee business.

Mr. MAGNUSON. I shall be glad to. We have some important things at the Defense Appropriations Committee tomorrow morning.

Mr. MANSFIELD. That is fine.

Mr. JAVITS. Mr. President, reserving the right to object, I shall not object, but I should like to inquire of the majority leader whether any substantive action will be taken on the Ex-Im Bank bill. I want to be here, but I cannot get here tomorrow.

Mr. MANSFIELD. I doubt that we shall finish it in that 3-hour period, but I hope to finish it on Wednesday, if possible.

Mr. COTTON. Will the distinguished majority leader yield to me?

Mr. MANSFIELD. Yes.

Mr. COTTON. While we are all here talking about tomorrow, agreement has been asked and obtained, I guess, on the OSHA amendment. But we have some time-honored amendments that we march up and down the Hill on every year. One is busing, and we can talk all day and not say anything that we have not said for the last 5 years. The second is abortion, which I mentioned awhile ago is of only academic interest to some of us, but it may be of greater interest to others. We all know the arguments on that.

Can we not, while we are about it, get an agreement on a time on those amendments?

Mr. MANSFIELD. I shall be glad to ask the distinguished Senator from Oklahoma (Mr. BARTLETT) if he would consider the time limitation on the abortion amendment. I think the distinguished Senator from North Carolina has the busing amendment. I shall ask him to consider a time limitation.

If it is possible, may I say to the ranking Republican member of the committee, I shall be delighted to enter into any kind of unanimous-consent agreement to get the business rolling.

Would the Senator from Oklahoma care to comment, not for today but for tomorrow?

Mr. BARTLETT. I should like an hour and a half, equally divided. The reason for it being a little longer is that there probably will be a point of order raised on the germaneness question. That might take a little longer.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the Bartlett amendment, there be a time limit of not to exceed 1½ hours, the time to be equally divided between the author of the bill, the distinguished Senator from Oklahoma (Mr. BARTLETT), and the manager of the bill, the distinguished Senator from Washington (Mr. MAGNUSON).

Mr. JOHNSTON. Will the Senator yield? Reserving the right to object——

Mr. MANSFIELD. I think the Chair has ruled.

The PRESIDING OFFICER (Mr. HATHAWAY). Is there objection?

Mr. MANSFIELD. I shall ask the Chair to withdraw the agreement, if it has been made.

The PRESIDING OFFICER. The agreement has not been made.

Mr. JOHNSTON. Reserving the right to object, prior to the agreements which are now being asked for, did I understand correctly from last week that the Outer Continental Shelf bill was the first order of business to which we were to return after Labor-HEW?

Mr. MANSFIELD. That was the order, but I understand that there are negotiations still going on. What we are trying to do is get the Export-Import Bank Act in to take up the slack for the first 3 hours tomorrow morning.

Mr. JOHNSTON. Will this have any effect on the Outer Shelf bill's order of priority?

Mr. MANSFIELD. That is what we are trying to work out something on. It would all depend on what, if anything, can be worked out.

Mr. JACKSON. Will the Senator yield?

Mr. MANSFIELD. Yes.

Mr. JACKSON. The distinguished Senator from Arizona (Mr. FANNIN) is not here. He will be here tomorrow. It is our hope that we can set a time certain for Wednesday to vote on the Outer Continental Shelf, because that has been the pending business, the carryover business.

I hope that tomorrow morning, we shall be able to work out an understanding on the specific time.

Mr. MANSFIELD. This is one of the few times that four or five Senators have asked the leadership to bring up their legislation this week on certain days. I hope the Senators can give us a little leeway to work out something, if at all possible.

Mr. STEVENS. Mr. President, the Senator from Utah and I have a dispute over section 210. The Senator from Utah intends to make a point of order. We would be prepared to suggest a 1-hour limitation preceding that point of order. If it goes beyond the point of germaneness, we would want 30 minutes or so on the amendment itself.

Mr. MANSFIELD. Who is offering the amendment?

Mr. STEVENS. This is section 210 in the committee bill, the third committee amendment.

Mr. MANSFIELD. We have to settle the matter on the Bartlett amendment before that. I think the Senator from Florida also has an amendment.

Mr. CHILES. Mr. President, the Senator from Florida has two amendments to the OSHA section of the bill. I would be perfectly willing to agree to a one-hour time limit, 30 minutes to a side, for both of those amendments.

Mr. MANSFIELD. Is the committee amendment on that agreed to yet, or not?

The PRESIDING OFFICER. There is a unanimous-consent request pending.

Mr. MANSFIELD. We have the BARTLETT amendment pending—I mean the unanimous-consent request on the BARTLETT amendment for tomorrow.

Mr. JAVITS. Mr. President, on that amendment, reserving the right to object——

The PRESIDING OFFICER. Neither the unanimous-consent request on the BARTLETT amendment nor the request on the committee amendment has been ruled on, nor has the request on the Eximbank been ruled on.

Mr. MANSFIELD. Oh, no; the Eximbank will be taken up tomorrow regardless.

Mr. JAVITS. Mr. President, reserving the right to object, and I have just asked the majority leader this question: Is it understood, in respect to the Bartlett amendment, though I shall not be here, that a motion to table it is in order?

Mr. MANSFIELD. Yes, as to any amendment.

Mr. JAVITS. Under the unanimous-consent request?

Mr. MANSFIELD. Yes.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may be absent from the Senate tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Now, Mr. President, may I ask the majority leader also, on the Eximbank, in which I have a very deep interest, whether we might conceivably expect that the 3 hours will be spent on general debate, and there will not be votes on substantive matters? I ask that question specifically.

Mr. MANSFIELD. I can make no commitment. I do not see the Senator from Oregon (Mr. PACKWOOD) nor the Senator from Illinois (Mr. STEVENSON) on the floor, but I would not want to take up 3 hours of the Senate's time just to talk. I would like to take something else up, if possible, because if we lay aside that matter we had better consider the possibility of some amendments.

Mr. JAVITS. I think I can trust my interest in my bill to the minority leader and the majority leader, to do all that they can to protect me in that respect, without commitments.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. HARRY F. BYRD, JR. As I understand, the Senator from Montana has not requested a unanimous-consent agreement on time limitation on the Export-Import Bank bill?

Mr. MANSFIELD. Not yet, but we will later this evening.

Mr. HARRY F. BYRD, JR. Will the Senator from Montana permit me——

Mr. MANSFIELD. The Senator will be notified.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. MANSFIELD. Yes.

Mr. BENNETT. In spite of the fact that there are still pending two or three unanimous-consent requests, here is one that can be wound up. As to the request of the Senator from Alaska, we can get that one behind us.

Mr. STEVENS. That is on one of the committee amendments that was set aside.

Mr. MANSFIELD. All right. Mr. President, I ask unanimous consent to lay aside the unanimous-consent request as to the Bartlett amendment temporarily, and I ask unanimous consent that there be a 1-hour limitation on the Stevens amendment, to be equally divided between the Senator from Alaska (Mr. STEVENS) and the Senator from Utah (Mr. BENNETT).

Mr. STEVENS. That is on the Senator from Utah's point of order. If the amendment is ruled germane, we would request an additional half-hour on the amendment.

Mr. McCLELLAN. Mr. President, reserving the right to object, I would suggest that no amendment except one that is germane to the amendment be considered.

Mr. BENNETT. I do not intend to offer any amendments.

Mr. McCLELLAN. I know, but I think it will be well for it to be included.

Mr. BENNETT. I have no objection to that.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I return to the request for a limitation of 1 hour, to be equally divided, under the stipulations just laid down, on the amendment of the Senator from Oklahoma—or 1 hour and a half.

Mr. JAVITS. Mr. President, is it understood, under the agreement, that a motion to table is in order?

The PRESIDING OFFICER. That would be in order. Is there objection to the 1½ hour request on the Bartlett amendment?

Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I return to the unanimous-consent request on the committee amendment concerning OSHA, and I add to that that there be a 1-hour limitation on the two amendments to the amendment to be offered by the Senator from Florida (Mr. Chiles)—1 hour each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the Bartlett amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, reserving the right to object, I understand the agreement on the committee amendment on OSHA and the amendments thereto to be offered by the Senator from Florida is that it would not necessarily preclude any other amendments from being offered to that section.

Mr. MANSFIELD. That is correct.

Mr. McCLURE. I thank the Senator.

Mr. COTTON. Mr. President, we have already disposed of about 5 hours on this appropriation bill, and it does not appear clear to me when we will be taking it up again, if we take up the Eximbank first.

Mr. MANSFIELD. I am afraid that our timetable has been turned around. I do not want to call up the Eximbank Act just to spend 3 hours shooting the breeze, so I would hope that the chairman of the committee out of which this legislation came would relate that word to Senator Stevenson and Senator Packwood, that because of circumstances beyond our control we will be unable, except at the earliest maybe to take it up tomorrow evening, if we finish the pending legislation at that time.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. SPARKMAN. It is perfectly agreeable to us, and I know it is with Senator Packwood, not to take it up until later in the afternoon tomorrow. The only suggestion he made to me was that he would like to have it laid before the Senate, at least tomorrow evening.

Mr. MANSFIELD. Fine.

I think what we will try to do is come in at 9 o'clock tomorrow, to fill in wherever we can, so that we can keep this body functioning. We do have a very difficult week, and we hate to see the legislation pile up behind us.

Mr. SPARKMAN. I might say we will be ready to proceed on Eximbank any time the majority leader sets.

Mr. COTTON. Mr. President, if the Senator will yield once more, it has been our experience that the longer you keep this Health, Education, and Welfare appropriation bill going, the more the amendments blossom like mushrooms, and if we lay it aside for something else and go back and forth, some of us who are no longer youthful may not live long enough to see it brought to a vote.

Mr. MANSFIELD. I would like to start on the bill at 9 o'clock or 9:30 tomorrow morning, but the manager of the bill has indicated that because of a conference on the Defense appropriation bill he cannot be here until 12 o'clock. So it is due to circumstances over which the leadership has little or no control at the moment.

Mr. COTTON. I was not aware of that circumstance, or I would not have raised the point.

Mr. BARTLETT. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

Mr. BARTLETT. Mr. President, may I be recognized for a unanimous-consent request?

The PRESIDING OFFICER. The Senator from Montana has requested a quorum call.

Mr. BARTLETT. Will the Senator from Montana delay his unanimous-consent request?

Mr. MANSFIELD. I withdraw it.

Mr. BARTLETT. Mr President, I ask unanimous consent that the distinguished Senator from North Carolina (Mr. Helms) and the distinguished Senator from Arizona (Mr. Goldwater) be added as cosponsors of my amendment; and, further, that Tom Thornbrugh and David Russell, of my staff, be accorded the privilege of the floor during the consideration of this measure, H.R. 15580.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1975

The Senate continued with the consideration of the bill (H.R. 15580) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1975, and for other purposes.

Mr. JAVITS. Mr. President, I wish to express my opposition to the committee amendments which will be voted on tomorrow relating to the Occupational Safety and Health Administration. We must resist any amendment which would exempt employers from coverage of the Occupational Safety and Health Act of 1970 simply on the basis of the number of workers employed. To do so would violate the promise stated in that act "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions," and would create the worst kind of discrimination against this Nation's workers.

Such an amendment would declare that only some people deserve the protection of the law. If we were to exempt employers with 25 or fewer employees, we would be denying coverage to 87 percent of the establishments and 27 percent of the employees which were brought under this act's protection—that is discrimination against 17 million Americans. Exempting employers with 15 or fewer employees would remove 81 percent of the establishments and 23 percent of covered employees. Even an exemption of employers with up to 3 employees would leave 47 percent of establishments and 5 percent of our workers—3 million employees—unprotected.

An exemption based on the number of employees makes no distinction between the relatively safe and unsafe small business. Of course, some industries and occupations are safer than others, but there is simply no basis in fact on which to assume that the small establishment is any safer than the large firm. In fact, the most recent data show that the 27 percent of covered employees working in establishments of 25 or fewer employees is matched by our statistics showing that 27 percent of the occupational fatalities occur in these establishments.

There is a particular problem with respect to construction work, one of the most hazardous occupations, because so many subcontractors would fall into the numerical exemption category. And yet the activities of just one construction subcontractor may endanger the lives of every man on the job. In this connection, I am pleased to note that the Associated General Contractors of America have vigorously opposed the numerical exemption. As stated by the Association's safety director—

> If we're going to have a law, it is only fair to have the law apply to all. This amendment would create chaos for the industry in dealing with subs and sub-subs employing fewer than 25 employees.

I also note that, although the National Association of Manufacturers has its disagreements with OSHA, they have strongly opposed a numerical exemption.

I recognize, along with the other members of the Labor and Public Welfare Committee, that OSHA is far from perfect. Many of the complaints made by employers and employees reflect serious problems in the Occupational Safety and Health Administration. These have not been ignored. Our committee has the primary oversight responsibility for this act, and I am pleased to report that it is carrying out this responsibility right now. Extensive oversight hearings have been held over the past 2 months, with more to come this year. The GAO has assisted the committee in this effort. On the basis of our review thus far, a preliminary report has been furnished to the Secretary of Labor.

Mr. President, I ask unanimous consent that the letter transmitting our preliminary findings to the Labor Department be inserted into the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., August 20, 1974.

Hon. Peter J. Brennan,
The Secretary, Department of Labor,
Washington, D.C.

Dear Mr. Secretary: Three years have passed since the implementation of the Occupational Safety and Health Act (OSHA), hailed at its passage by the President as one of the most important pieces of legislation ever passed by the Congress in that it involves the lives of about 60 million people.

We concur with this assessment of the importance of the Act, and as a result oversight hearings have been held to ascertain its effectiveness on the safety and health of American workers.

As part of these efforts, the Labor Subcommittee staff requested assistance from GAO on issues which we felt to be of the utmost importance. The Subcommittee staff accordingly developed 17 OSHA-related issue papers intended to point out areas in which OSHA seems to have floundered.

The results are not encouraging. In fact, some of our findings would seem to necessitate the immediate application of corrective measures if OSHA is to have any meaningful effect on the safety and health conditions of the American workplace. The following is a partial list of the more disturbing problem areas:

1. After 3 years of record-collecting, OSHA has failed to to develop the necessary statistical information by which to measure OSHA's impact on safety and health conditions. In fact, the current data system does not provide information in a form that is useful for management information and monitoring purposes. For instance, it is impossible to determine whether serious violations have been followed up, whether hazards have in fact been abated, and whether OSHA is inspecting those establishments which are most accident-prone.

2. Contrary to the claims of small business representatives, it does not seem that small businesses are being harassed by a disproportionately large number of inspections. Small businesses with 25 or fewer employees constitute 90% of the establishments and cover 30% of the labor force. OSHA's inspection figures indicate that for the period July 1972–May 1974, small establishments accounted for slightly under 50% of the inspection efforts.

3. There seem to be no uniform guidelines covering the issuance of citations in circumstances where there is employer unawareness of hazardous conditions; where multiple-employer worksites are involved; where there is no obvious employee exposure; and where the employer agrees to the immediate abatement of a hazard.

4. There have been claims that OSHA is based on punitive measures rather than voluntary compliance. However, these claims do not seem to be substantiated by the available statistics. Non-serious violations account for an incredible 98.6% of all violations, with average penalty assessments of only $18. In contrast, the number of serious violations totals only 1.3%, while willful, repeat, and imminent danger violations constitute less than 1%. The low number of serious violations being cited would seem to bear little or no relationship to the amount of serious accidents and illnesses which are occupationally related.

5. There have been instances of unduly lengthy periods between inspections and the issuance of a citation even where death of an employee was involved. Long delays, sometimes averaging over three months, are also involved in the processing of complaints.

6. OSHA has not exercised its authority to require employers to conduct inspections of their own worksites.

7. Inspection activity in the maritime industry has declined dramatically since OSHA's pre-emption of the safety and health program formerly administered by the Bureau of Labor Standards under the Longshoremen's and Harbor Workers' Compensation Act. During fiscal year 1974, the number of establishments found in compliance by OSHA officials was 68% as compared to the general industry average of 26%, in spite of the fact that accident frequency rates in the maritime industry remain excessively high. This indicates that OSHA has failed to direct its inspection activity into high hazard areas.

8. After three years, NIOSH has submitted research data and recommendations to OSHA on only 20 substances out of the 471 listed as having a high hazard potential. Inadequate research facilities and personnel shortages are held to be mainly responsible.

9. OSHA has promulgated standards for only three hazardous substances in the past three years. Criteria documents submitted as long as two years ago are still languishing somewhere in OSHA's standards-making process.

As a result of these findings, our Subcommittee has been forced to conclude that the Act has yet to be properly implemented. It has been shackled by an administrative ineptness which is being compounded by the lack of relevant management information.

It is not our intention to sit idly by while the Occupational Safety and Health Act is being undermined. We will continue to maintain an interest in the safety and health of millions of American workers through oversight hearings.

We would urge that the necessary internal steps be taken to correct the mal-administration that has impeded the realization of the potentials of OSHA. However, if appropriate administrative action is not forthcoming, we will seriously consider alternative corrective measures.

Sincerely,
Harrison A. Williams, Jr.,
Chairman.

Mr. JAVITS. The Department of Labor has recognized many of its problems and is working with us to correct them. Of particular relevance to this amendment to exempt small businesses, we recognize that many problems of the small firm can be alleviated by providing information on health and safety standards in more useable form. For this purpose, the Department has recently published and is making available digests of industry standards in a readable format. Moreover, OSHA is now entering into a pilot program which will make training available to employers through the Nation's junior colleges.

More important, however, through another provision in the Labor-HEW appropriation bill we have an opportunity to provide real assistance instead of a blanket exemption for the small employer. The bill as reported by the committee contains a provision already adopted by the House to provide OSHA consultation at the employer's worksite using State employees as already authorized under the act. The bill would permit up to $5,000,000 for this important purpose in fiscal year 1975.

For those States operating under approved plans for State administration of OSHA, funds are already permitted for onsite provisions of consultative services to employers who need assistance in complying with the requirements of the act. This provision in the appropriation bill will enable the Labor Department to extend this program to those States without approved plans.

I have worked with the Secretary of Labor in devising an agreement on how this program will be administered to meet the needs of small business establishments, and am satisfied that this will operate to meet their real needs for assistance by having trained personnel visit the worksites, answer questions, and advise on what steps may be necessary to come into compliance with the requirements for a healthful and safe work place.

Mr. President, I ask unanimous consent that a recent letter to me from the Secretary of Labor, Peter Brennan, on the way in which the Department will carry out this responsibility be inserted into the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Department of Labor,
Washington, D.C.

Hon. Jacob K. Javits,
U.S. Senate,
Washington, D.C.

Dear Senator Javits: We would like to advise you of our endorsement of the amendment to the FY 1975 Labor-HEW Appropriations bill adopted in the House which provides that States be funded to provide on-site consultative services to employers who request assistance in understanding their obligations under the Occupational Safety and Health Act.

As you are aware, the need for on-site consultation to assist employers in applying OSHA standards to their workplaces has been a recurring issue, especially among small businessmen. In our opinion, the House Amendment, introduced by Congressman William Steiger, represents a viable and practical solution to this problem.

Under the Steiger amendment, OSHA would contract with State agencies whose personnel would perform on-site consultative services. This contracting authority already exists under section 7(c)(1) of the Act, which states:

> In carrying out his responsibilities under this Act, the Secretary is authorized to . . . with the consent of any State or political subdivision thereof, accept and use the services, facilities, and personnel of any agency

of such State or subdivision with reimbursement.

One of the Secretary's responsibilities, enumerated in section 21(c)(2) of the Act, is to "consult with and advise employers and employees . . . as to the effective means of preventing occupational injuries and illnesses." Accordingly, it is clear that consultative services performed by State personnel pursuant to a section 7(c)(1) arrangement are authorized by the Act.

In actual operation, I would propose that this program be implemented in the following manner:

On-site consultative services would consist of visits to workplaces at employer request by State personnel trained in OSHA standards wherein the consultant would (1) explain to the employer which standards apply to his workplace situation; (2) when necessary, explain the technical language and application of the standard, and (3) advise the employer of where and in what way he is out of compliance with OSHA standards. Where it is feasible and within the technical competence of the consultant to do so, he may advise the employer of the means by which he can come into compliance. It is recognized that since the primary obligation of the consultant is to advise the employer about violation of standards, comprehensive technical advice on engineering and administrative methods of compliance must be sought from customary private sector sources. Distinction between consultation as to violations and advice as to various methods of abatement must be recognized in order to make this type of governmental consultative service feasible and effective. A written report on the consultation visit would be furnished to the employer.

Eligibility for consultation contracts under the Steiger amendment as a general matter would be limited to States without approved State plans, since states already operating under such plans may presently provide onsite consultation with fifty percent federal grant assistance.

Grants to participating States would be apportioned on the basis of objective criteria developed by the Department of Labor after consultation with the National Advisory Committee on Occupational Safety and Health and after consideration of public comment received as a result of publication in the *Federal Register* of proposed regulations relating to the consultation program.

State personnel selected to staff the onsite consultation program would have to possess occupational and educational qualifications similar to those of Federal compliance safety and health officers. State consultants would be required to complete the training which is provided to Federal compliance officers at the OSHA Training Institute in Chicago.

Consultation personnel would be functionally separate and distinct from enforcement activities, but would be kept abreast of all appropriate Federal administrative and policy developments in order to assure that the consultative services provided satisfy the need for reliability and uniformity of advice.

Consultation would be provided only upon request of the employer. If the employer has a substantial number of differing working conditions in his workplace, he would be required to refer to specific working conditions and consultation would be limited to the working conditions specified. Since resources will not be unlimited, a system of priorities will be necessary. Highest priority would be given to small business.

No citations or proposed penalties would be issued on the basis of the consultative visit. However, if an imminent danger situation were discovered, the consultant would request immediate abatement of the danger or, if abatement were impossible, removal of workers from the danger area. In the event of employer refusal to cooperate in eliminating an imminent danger, the consultant would advise OSHA of the problem immediately. The above procedure for consultant handling of imminent danger is consistent with the policy set out for state consultative services provided under state plans.

As previously indicated, enforcement activity and consultative services would be functionally separate. Therefore, Federal enforcement would continue, and an employer would still be subject to regular inspections. On the other hand, consultation would not trigger enforcement activity, with the exception of unresolved imminent danger situations.

If an employer is inspected subsequent to a consultative visit, citations would be issued for all violations identified. Citations would not be barred by the advice given by a consultant or by the failure of a consultant to point out a violation. However, the inspecting officer may, subsequent to his inspection and determination of violence, request a copy of the consultative report and consider the employer's request for consultation and efforts to comply with the advice of the consultant as an element for the purpose of determining the nature of the violation and the amount of any penalties.

OSHA and the appropriate State agencies would carefully monitor the consultative program in order to evaluate and work to improve the reliability and competence of consultative services.

The above description is intended to give you our approach to the implementation of the Steiger amendment.

Again, we endorse the Steiger amendment as a workable approach that can be implemented with a minimum of difficulty.

Sincerely,

PETER J. BRENNAN,
Secretary of Labor.

Mr. JAVITS. It is also appropriate to give you the views of Secretary Brennan on this proposed exemption which he expressed to our committee during its oversight hearings on July 22, 1974. He said:

> An exemption of 25 or fewer employees would exempt about 90% of all workplaces and about 17 million workers. This provision would leave vast numbers of employees without Federal job safety and health protection. This provision would create an unfair and intolerable situation where workers at some establishments are protected, while workers at other establishments, exposed to the same hazards, doing the same kind of work, are not protected simply because of a numbers game.

The Secretary also said:

> I do not believe the Congress intended to leave any worker in our smaller establishments without job safety and health protection. The life of that man or woman is just as valuable as the life of an employee in a larger firm.

Mr. President, I concur fully with the Secretary's statement.

It is clear that we must act to help employers, which the onsite consultation amendment will provide, but we must reject the small business exemption amendment which would so discriminate against the workers of this country and remove the critical safety and health protection on which their lives depend.

Finally, Mr. President, I ask unanimous consent that the letter to my colleagues from Chairman WILLIAMS and me be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 13, 1974.

DEAR COLLEAGUE: When the Labor-HEW appropriations bill reaches the Senate floor, you may be asked to strip 17 million working men and women of their protection under the Occupational Safety and Health Act by prohibiting the expenditure of funds to pay Federal salaries to enforce OSHA in firms of 25 or fewer employees.

If offered, we ask you to reject this amendment. It is essential that the Senate resist any attempt to exempt employers of any size from OSHA.

We have all become acutely aware and concerned about the frustrations of small businessmen over OSHA. The most frequent complaint of small employers has been a lack of understanding of what the standards mean and how they apply. But there is an *affirmative* alternative to exemptions. We are strongly urging you to take the constructive approach of meeting the needs of small businessmen by supporting the allocation of funds for on-site consultation as provided for in this bill, and to vote against any amendments to establish exemptions, which are inequitable and unjustifiable.

Let us show you just how unwarranted and unfair an amendment to exempt employers of 25 or fewer persons is:

Overall, establishments of 25 or fewer employees:

Employ 17 million workers, 30% of the covered workforce;

Constitute 90% of all covered workplaces;

Incur 27% of recorded occupational deaths;

Incur occupational injury and disease to 1 out of every 17 workers, which is 1 million workers annually.

In the contract construction industry where 89% of the establishments employ 25 or fewer:

10% of all recordable injuries take place;

1 out of every 5 workers suffers an occupational injury or disease;

984 work-related deaths were reported in FY 1974 (to May).

In the manufacturing industries where 66% of the establishments employ 25 or fewer:

Over 50% of all recordable injuries take place;

1 out of every 6 workers suffers an occupational injury or disease;

1,083 work-related deaths were reported in FY 1974 (to May).

The inequities created by any exemption take several shapes. There is, of course, the fundamental inequity cited by Secretary of Labor Brennan:

"This provision would create an unfair and intolerable situation where workers at some establishments are protected, while workers at other establishments, exposed to the same hazards, doing the same kind of work, are not protected simply because of a numbers game."

The Associated General Contractors have identified another inequity:

"The construction industry would suffer utter chaos with any action such as this. . . The general contractor would find himself in a position wherein he could be cited and fined because his employees were subjected to a hazard created by a [small] subcontractor's employee either as a result of error of commission or omission. The subcontractor . . . would be free of penalty."

The testimony before the Subcommittee on Labor has been overwhelmingly against exemptions of any size establishment. Insurance companies, unions, the National Association of Manufacturers, the Associated Builders and Contractors, the Associated General Contractors, and the Chamber of Commerce have all testified against exemptions of any employers from OSHA.

The Department of Labor is so adamantly

opposed to exemption, that Secretary Brennan testified that he will recommend that the President veto the appropriations bill if such an amendment is included.

On-site consultation would meet the needs of the small businessman and has been strongly supported by almost every group which has testified before the Subcommittee. As provided for in this bill, the Department of Labor would contract with the States for trained personnel who would, at the request of the employer, visit his worksite and consult on the application of OSHA to his particular situation.

Again we urge you to defeat any amendments for exemptions with a vote that reaffirms this Congress' concern for the health and safety of all American working men and women.

Sincerely,
JACOB K. JAVITS,
Ranking Minority.
HARRISON A. WILLIAMS, JR.,
Chairman.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. There will be order in the Senate.

Mr. JAVITS. Mr. President, on another matter, also the subject of an amendment which will be here tomorrow.

I am deeply concerned by Senator BARTLETT's amendment to the Labor/Health, Education, and Welfare appropriations bill—H.R. 15580—which provides:

> No part of the funds appropriated under this act shall be used in any manner directly or indirectly to pay for or encourage the performances of abortions except such abortions as are necessary to save the life of the mother.

Congress has developed and expanded the medicaid program as the primary means of assuring that the poor of this country have access to medical care. It is apparent from the millions of people who participate in the program that this program is vital to the health and well-being of economically disadvantaged individuals and their families.

I believe there is no benefit to individuals and families in Senator BARTLETT's amendment. Access to medically supervised abortion under the rules laid down by the U.S. Supreme Court is now considered to bring about significant health advantages in many cases to individuals and their families. This is best illustrated by the statistics in New York State, where the maternal death rate has been cut in half and infant mortality rates have declined to a new low since enactment of a liberalized statute. The Bartlett amendment, without regard to medical need, would completely deny health benefits to women who are poor and most distinctly in need of adequate medical care to improve their health.

This amendment, by denying abortions only to women who are poor, is discriminatory for it deprives women too poor to pay of the rights which the Constitution and the Supreme Court accord to women with means. The amendment would effectively deny 3 million low-income women their right to good health care by prohibiting the use of the only funds available to them for this medical service. Also, this amendment eliminates all decisionmaking and exercise of choice on the part of women who are poor, thereby infringing upon their civil rights and personal freedom.

The inherent discrimination of such a prohibition was pointed out by Circuit Judge Lumbard in his decision in the U.S. district court requiring the State of New York provide medicaid payments for abortion. He ruled that:

> The directive [prohibiting Medicaid payment for abortions] . . . would deny indigent women the equal protection of the laws to which they are constitutionally entitled. They alone are subjected to State coercion to bear children which they do not wish to bear, and no other women similarly situated are so coerced. . . . The indigent is advised by the State that the State will deny her medical assistance unless she resigned her freedom of choice and bears the child. . . . She is thus discriminated against both by reasons of her poverty and by reason of her behavioral choice. No interest of the State is served by the arbitrary discrimination.

Even prior to the Supreme Court ruling, no State law in this country totally prohibited access to abortion, and both State and Federal courts have progressively struck down legal obstacles to abortion. Most recently, the Supreme Court recognized abortion, "consistent with responsible medical practice," as a matter of private choice and personal conscience, and the amendment would constitute a legal impediment to equal protection for a class of women who must look to the Federal and State governments for their health care.

COMMITTEE ON AMNESTY

Mr. GOLDWATER. Mr. President, when first I heard that President Ford had suggested amnesty before the Veterans of Foreign Wars, to put it mildly I was shocked. I later felt he had thought about this a little bit and had decided not to do it.

This morning, however, he announced——

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. There will be order in the Senate.

Mr. GOLDWATER. This morning the President announced there would be a committee formed consisting of nine members. I believe former Congressman Goodell is to head it, and Father Hesburgh, of Notre Dame, is to serve on it. I do not know the other names. But the shock that I had when I first heard about amnesty before the Veterans of Foreign Wars became just a little tremor compared to what I felt this morning.

I think the man who will not serve alongside his fellow man in war is not deserving of being called an American citizen. I think the man who would rather run away from his responsibilities to his country and take refuge in some foreign land is not to be considered an American citizen.

I deplore very deeply and greatly the fact that our President, my President, whom I want to back as much as I can, has taken this step that is like throwing mud in the faces of millions of men who have served this country.

I have no confidence that this committee, with men at the top of it who opposed the Vietnam war, can do anything but grant blanket amnesty across the board. Should this country ever need to go back to the draft in the event of a future war—which we all pray will never happen—I doubt that we can draft one man.

I think it is a travesty on justice. I think it is going to be an insult to every man who has ever worn the uniform of his country, and is going to be a challenge to every traitor living in our midst.

I deeply resent the fact that my President has taken this step.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1975

The Senate continued with the consideration of the bill (H.R. 15580) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1975, and for other purposes.

Mr. MAGNUSON. Mr. President, the distinguished Senator from West Virginia has an amendment which he will offer for the distinguished Senator from Arkansas (Mr. McCLELLAN).

Mr. ROBERT C. BYRD. Mr. President, I wish to offer an amendment to the pending bill.

The PRESIDING OFFICER. The clerk will report.

Mr. ROBERT C. BYRD. I ask unanimous consent that it may be in order to offer this amendment.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

> The Senator from West Virginia (Mr. BYRD) proposes an amendment on page 23, line 21, before the period insert a semicolon and the following: "and of which $29,000,000 shall be for activities under sections 120 and 130 of the Rehabilitation Act of 1973".

Mr. ROBERT C. BYRD. Mr. President, I wish to offer an amendment to the pending bill, in the nature of a perfecting amendment, to insure that the intent of the Congress will be implemented by the administration. Specifically, my amendment would earmark, within the present total of the bill, $29,000,000 for activities under sections 120 and 130 of the Rehabilitation Act of 1973, which authorize grants for innovation and expansion programs which are directed toward assisting the severely handicapped. These funds will be distributed to the States on a formula basis.

I wish to note that my amendment will not increase the funding contained in this bill by 1 cent, nor will it decrease the funding in the bill for any other program. It merely writes into law the allocation proposed by the committee for this program. Also by writing this allocation into law, this $29 million becomes a formula entitlement of the States. Under recent court decisions, the States have successfully sued in court to obtain their Federal formula entitlement.

My amendment is necessary to insure that moneys which the Congress deems appropriate for innovation and expansion grants, will actually be made available to the States.

These grants are specifically designed to allow for experimentation in the development of procedures and programs which can, if successful, be incorporated into existing State programs. It will allow the States to experiment and work toward rehabilitating persons whose handicap is of such a nature as to make successful rehabilitation an extremely speculative proposition. The earmarking of funds for this purpose will insure that it will not be done at the expense of those less severely handicapped persons whose successful rehabilitation is more probable. It is very difficult to successfully rehabilitate handicapped persons with severe spinal cord and related injuries, but that difficulty should not deter us from working toward that objective.

These grants should continue, if new methods and procedures for the rehabilitation of the most severely handicapped are to be developed. Without such grants, new procedures for rehabilitation of those with handicaps, which were heretofore beyond hope of rehabilitation, cannot be perfected.

I would hope the chairman of the subcommittee, Mr. Magnuson, would accept the amendment.

Mr. JAVITS. Mr. President, may we ask some questions about this? I am from the committee which has this matter in charge, and I do not quite follow it.

First, does this mean that money which was generally available to the Secretary would now be under a formula grant to the 50 States, and so on?

Mr. MAGNUSON. This is services for the severely handicapped, and the budget proposed to eliminate all the funds for the program. The House allowed $20 million and the Senate restored the program to last year's level which the Senator advocated the $29 million. The proposed amendment would not add funds to the bill but would provide a specific earmarking in the bill for innovation and expansion.

Some fear that without this bill language the funds would be impounded, and any attempt to impound funds would have to be preceded with, if we put this in, by a formal rescission proposed by the President.

Mr. JAVITS. Mr. President, I understand that, and it may very well be an extremely desirable amondment, but I know nothing about it, and neither does the Senator's staff, and we would like to find out, so I ask the Senator from West Virginia again does this take the money and put it on a formula basis or is the money earmarked for innovation, et cetera, depending upon where innovation can be obtained.

Mr. MAGNUSON. Well, of course, we earmark it.

Mr. ROBERT C. BYRD. It would provide earmarking for innovation within the State grants.

Mr. JAVITS. Well, if I may just pursue that because, as I say, it is a matter of first impression to me. I am just trying to find out about it before we let it go.

The Senator says, "Within the State grants." Is the amount now provided in the bill provided to be distributed according to a formula for State grants?

Mr. ROBERT C. BYRD. This does provide an earmarking. It complies with the formula.

Mr. MAGNUSON. I understood that there would be. As I say, I did not think there would be any objection to this. If there is going to be any we should put it over until tomorrow. We told all the Senators to go home.

Mr. JAVITS. Well, Mr. President, I am not going to call the Senators back from home, but we are going to pass an amendment.

I am the ranking member of the committee in charge and I would like to find out about it.

Mr. MAGNUSON. I am the ranking member——

Mr. JAVITS. All I want to do is find out what it is all about.

Mr. MAGNUSON. I was going to suggest that we put this over, if there is going to be any problem.

Mr. JAVITS. It is a problem to me, but I cannot put it over, Senator.

Mr. MAGNUSON. Why can the Senator not put it over.

Mr. JAVITS. I am not going to be here tomorrow.

Mr. MAGNUSON. I should be at home in my State tomorrow, too.

Mr. JAVITS. It is not being at home; it is for religious reasons, I am sorry, Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Johnston). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURDICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF THE ACT OF OCTOBER 13, 1972

Mr. BURDICK. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3052.

The PRESIDING OFFICER (Mr. Johnston) laid before the Senate the amendment of the House of Representatives to S. 3052 as follows:

> Line 10, strike out "$1,000,000", and insert: "$606,000".

Mr. HRUSKA. Mr. President, the bill before us, S. 3052, would extend the final date for the last report of the Commission on Revision of the Federal Court Appellate System by 9 months from September 1974 to June 1975.

This bill as it initially passed the Senate last March would also have increased the authorization of this Commission from $270,000 to $1 million. As passed by the House, the authorization has been set at $606,000. While the total initially requested—$1 million—for the full 2 years of the Commission's existence was a modest request for such an undertaking, we are presently faced with serious efforts to reduce the budget in all respects. The Commission has done much to reschedule its program in order to meet a reduced authorization. Therefore, I urge that the House-passed version of this bill be accepted by the Senate without amendment.

The Commission, of which I am a member and chairman, is made up of three other Members of the Senate, Senators Burdick, Gurney, and McClellan, in addition to four Members from the House, four appointed by the President, and four appointed by the Chief Justice.

The Commission, established by Public Law 92–489, was charged with two major objectives. Initially, it was to study the geographic boundaries of the several judicial circuits and make recommendations for change. The Commission finished its first phase in timely fashion in December 1973. Legislation which implements these recommendations was introduced earlier this year by Senator Burdick and hearings thereto are presently ongoing.

In its present phase, the Commission is studying the structure and internal procedures of the circuit courts. The final report on this phase is presently due to be filed on September 21, 1974. It became apparent late last year that in spite of its diligent efforts the Commission would not be able to complete a study of this magnitude within the given time strictures.

In view of this impending filing date I urge my colleagues to speedily consider this measure and to agree to the House amendments thereto.

Mr. BURDICK. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Dakota.

The motion was agreed to.

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1975

The Senate continued with the consideration of the bill (H.R. 15580) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1975, and for other purposes.

Mr. JAVITS. Mr. President, I would like to ask two questions of the Senator from West Virginia, the purport of the amendment.

Mr. President, my first question is this, as I understand the thrust of this amendment, it results in freeing States which receive a formula grant under this particular provision relating to the handicapped to use a part of that formula grant for innovation and expansion grants for which the budget has proposed no funding.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. JAVITS. Second, do I understand also that the amendment additionally will lock in this appropriation so that it will not be subject to impoundment?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. JAVITS. I thank my colleague.

Under the circumstances, I have no objection.

The PRESIDING OFFICER. Is there objection to the amendment?

Mr. COTTON. Yes.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. COTTON. I shall not object, I do not know if we can stop an amendment by objecting to it, but I just want the record, to show, first, that if there were a vote on this, I would be compelled to vote against it; and, second, I think the record should show that all these innovations would be fine, but I do not believe that we will ever get the House to swallow it in a thousand years.

I might as well be frank about it because if I am a conferee I will represent the Senate, but I am not going to strain myself about this.

I am sure the Senator understands.

Mr. ROBERT C. BYRD. I understand the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia (Mr. Robert C. Byrd).

The amendment was agreed to.

Mr. CASE. Mr. President, in the full Appropriations Committee markup of this bill, the Senator from Washington will recall we discussed the possibility of shifting $30 million from the supplemental educational opportunity grants—SOG's—program to the State scholarship incentive grant program—SSIG. This approach was based on the idea that more students could be helped with the same amount of money through the State scholarship incentive grants program because of its requirement of dollar-for-dollar matching by the States. However, when the decision was reached that the basic opportunity grants program had to be reduced from the amount approved in subcommittee, a question arose about whether any shift from the supplemental opportunity grants program would detract from our ability to help those students most in need. As a result no action was taken on this matter. It is my understanding, however, that it was the intent of the committee that the Office of Education should have the authority to reprogram any funds that could be diverted from the supplemental opportunity grants program without severe adverse effect on the level of assistance to students most in need, so that these funds could be used in the State scholarship incentive grants program. Can the chairman tell me if my understanding in this matter is correct?

Mr. MAGNUSON. The Senator's understanding is correct. The subcommittee will look with favor on reprograming of up to $30 million of any funds in excess of the immediate needs of the supplemental educational opportunity grants program.

OPPORTUNITIES INDUSTRIALIZATION CENTERS

Mr. HUGH SCOTT. Mr. President, I am pleased that the Committee on Appropriations has recommended the support of the Opportunities Industrialization Centers program to train and place in jobs some 75,000 Americans, one-third of whom are now on welfare. I believe this is a most appropriate and practical approach to the development of manpower resources.

The OIC self-help type of program, in contrast to some others, does not pay its trainees; rather, it relies on a motivational process to create an attitude that seeks self-improvement and a paying job. The program's president and founder, Dr. Leon Sullivan of Philadelphia, has demonstrated that the OIC approach not only works, but is cost-effective and, therefore, get results that justify the kind of support which the Federal Government has given so far.

In my opinion, it is important that this type of training be continued in the coming fiscal year. Therefore, I feel it is particularly important that the Secretary of Labor follow the clear statement contained in the Senate's authorization bill by specifically including OIC in the Department's plans for manpower development.

In times of inflation and high unemployment, difficult decisions must be made on questions of priorities. The OIC program has a 10-year track record of proven success in its ability to cut the per capita cost of training without cutting back on the number of people placed and the number of jobs developed. OIC has set the pace in getting the kinds of results which I hope will result in priority consideration.

RESEARCH ON ASBESTOS IN DRINKING WATER

Mr. HUMPHREY. Mr. President, I am particularly pleased to see that the Senate Appropriations Committee has agreed to my recommendation to provide $1 million for a 3-year study of the effects on humans of drinking water containing asbestos, under the appropriations bill for the Department of Labor and Health, Education, and Welfare.

The information to be developed in this study is of critical importance to the hundreds of thousands of people in Minnesota, and elsewhere, who rely on Lake Superior for their water supply. It is also very important to citizens throughout the Nation who live in communities in which drinking water is delivered via concrete pipes that contain asbestos.

I am delighted that the distinguished chairman of the Labor-HEW Subcommittee, Mr. Magnuson, agreed with the arguments in favor of this study, which I made to him in a letter of July 10.

Mr. President, I ask unanimous consent that the July 10 letter be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

July 10, 1974.

Hon. Warren Magnuson,
Chairman, Subcommittee on Labor, Health, Education and Welfare, Committee on Appropriations, U.S. Senate, Washington, D.C.

Dear Warren: The appropriations bill for the Departments of Labor and Health, Education and Welfare and related agencies (H.R. 15580), which passed the House on June 27, included an appropriation of $1 million to the National Institute of Environmental Health Sciences to carry out a three year study of the long-term health hazard resulting from drinking water which contains asbestos particles.

The question of the hazards of ingestion of asbestos is a matter of urgent public concern, especially in light of the discovery of the contamination of the water supply of Duluth, Minnesota and other communities drawing their water supply from Lake Superior by asbestos fibers. Asbestos also enters the drinking water in many of our communities which use concrete water pipes containing asbestos. Our ignorance of the exact effect on humans of long-term consumption of asbestos contaminated drinking water must be corrected as soon as possible if the health and welfare of our people is to be protected.

Because of this, and because of the commercial importance of mining operations which produce asbestos waste, it is imperative that we have definite and accurate information on which to base any decision regarding asbestos waste disposal. I urge the Senate Subcommittee on Labor, Health, Education and Welfare to appropriate the full $1 million required for a long-term study of the health hazards associated with asbestos. This is a matter of vital importance to us all, but particularly the residents of Minnesota and Wisconsin.

Thank you in advance for your cooperation. Best wishes.

Sincerely,

Hubert H. Humphrey.

STATEMENT IN OPPOSITION TO BARTLETT ANTI-ABORTION AMENDMENT

Mr. PERCY. Mr. President, I am opposed to amendment 1859 to be offered by Senator Bartlett that would prohibit the use of funds appropritaed for HEW programs for the performance of abortions.

Regardless of the views my distinguished colleagues hold on the subject of legalized abortion, I hope the majority of the Senate will conclude that it would be wrong to add such an amendment to the Labor-HEW Appropriations bill.

This bill is, after all, an appropriations bill and therefore an entirely inappropriate vehicle for social policy legislation such as proposed here by Senator Bartlett. Accepting this amendment would set a dangerous precedent for all appropriations bills, opening the door for policy debates each time Congress considers spending priorities.

Second, I believe Senator Bartlett's amendment is clearly unconstitutional. As long as some 2 million medically indigent American women rely on medicaid programs for the full range of medical care, they have as much right to use medicaid funds for medical remedies which are legal under the Constitution as they have to use those funds for any other type of legal medical procedure. Indeed, Federal courts in Connecticut, New York, Pennsylvania, and Utah have already ruled against prohibiting the use of medicaid funds for abortions. These decisions are based on the contention that denying funds for abortion while allowing them for medical childbirth procedures discriminates against those women who choose legal abortion over continuing pregnancy and childbirth. In a Connecticut ruling, Judge Jon O. Newman pointed out that such denial is no more justifiable than would be a denial of medicaid funds to women choosing childbirth while allowing funds to women choosing abortion. This is a discrimination against women based on financial ability that the Government should not legislate in this bill.

The morality of abortion is not in question here. The only question before us now is whether we will set an unwise precedent by allowing an unconstitutional policy ruling to be attached to this appropriations bill. I urge my colleagues to oppose or vote to table this amendment.

LABOR-HEW APPROPRIATIONS-BALANCING NATIONAL PRIORITIES

Mr. PEARSON. Mr. President, today the Senate is considering appropriations for the Departments of Labor and Health, Education, and Welfare. Traditionally, we have heavily amended this bill in an effort to meet numerous needs. I note, however, that this year the committee has judiciously avoided massive spending increases. In fact, the bill totals $600 million less than the administration's budget request.

The committee is to be commended for its restraint and responsibility. Rightly or wrongly, Federal spending is a symbol of the Federal Government's resolve in fighting inflation. We can convince the country that inflation is our No. 1 national problem only by exercising a degree of restraint.

This year I personally began to appreciate some of the problems faced by the Appropriations Committee when it balances the needs of worthwhile programs against the need for fiscal restraint. My involvement grew out of efforts to persuade the Labor-HEW Subcommittee to include approximately $45 million for the cost of an education grant program. In order to justify inclusion of these funds, I suggested corresponding budget cuts of $45 million. The process of balancing priorities proved to be very tough. Even though the committee did not include support for the cost of education grants, I was interested to note that its reductions corresponded, in some instances, with my proposal. This included a reduction in public assistance payments, which have been seriously overestimated in the past, and in direct student loans, which should be able to rely on a revolving loan fund for a portion of future financing.

I was also pleased that the Kansas education community in large measure supported my efforts to provide backing for the cost of education grants. This proved to me that educators are acutely aware of the problems of inflation and are willing to sacrifice and place priorities on needed programs. For this reason, I want to briefly outline some of the basic programs in this bill which should be accorded priority status. Although it would be desirable in some instances to provide greater Federal support, I will refrain from proposing amendments due to the overriding need to curtail Federal spending. In most cases, the items in which I am interested have been appropriately funded. I would hope that some provisions can be made in the future to include Federal support for other important measures which are not adequately funded.

HIGHER EDUCATION

Mr. President, I firmly believe that higher education will undergo considerable change in the next few decades. We are entering a period of declining enrollments, added inflationary pressures, and tuition increases. Higher education may also need to place greater emphasis on post-secondary vocational training. It is my personal belief that our spending decisions should reflect these trends rather than react to them.

For example, institutional assistance may become more necessary as the financial pressures on our institutions of higher learning grow. Cost of education grants would have provided such assistance. Unfortunately, this program has never been funded by Congress. I would hope that in the future both the administration and Congress will look more favorably upon it. The alternative is the closing of many of our fine private colleges. One such institution, the College of Emporia in Kansas, was forced to close its doors this past year. While we do not need to subsidize marginal schools, we cannot afford to lose schools which have contributed immeasurably to this Nation's educational development. The resources of these fine institutions, the high level of personal instruction, and the high quality of faculty members who serve out of personal dedication should not be forfeited.

Student aid is another means of supporting both private and public colleges. This assistance generates enrollment of students who otherwise would be unable to attend college. Thus, I was pleased that the committee included $20 million for State student incentive grants. This program is a form of revenue sharing whereby the Federal Government provides funds on a 50 percent matching basis with State scholarship moneys; $15 million of the funding should help support renewal grants to 60,000 students. The remaining funds will support first year grants for 20,000 students. This is not enough. In Kansas, for example, the State has authorized the extension of scholarship assistance to students in vocational technical schools, community junior colleges, Kansas Technical Institute, independent colleges, Washburn University, and the universities and colleges under the aegis of the Board of Regents. Additional funding will be necessary to fully match State support.

The committee has also expanded Federal support for basic opportunity grants, and continued an appropriate mix of support for college work study, the supplemental opportunity grants, and direct student loans. This wide range of student assistance is necessary, according to most college administrators, to meet the wide equal range of student financial needs.

One group of post-secondary students, however, does not benefit from these programs. Students at public area vocational-technical schools are not eligible for participation in the BOG program unless the school is fully accredited under rules promulgated by the Office of Education. Although the 1972 Higher Education Amendments provided that State education agencies could be appropriate accrediting bodies, only eight State agencies have qualified because of the long, complicated, and tedious accreditation process imposed by the Office of Education.

While I can appreciate the need for a full review of a State agency's qualifications as an accrediting body, I am concerned about the unequal treatment which is accorded students at area vocational schools. I was pleased, that the Education Subcommittee recently held hearings on accreditation. Moreover, during upcoming hearings on vocational education, I intend to submit testimony outlining the need for interim relief for these students. If such relief is granted, it may be necessary to expand the future level of assistance for the growing number of students at public vocational-technical schools.

One final aspect of higher education deserves comment. I note with dismay that the Appropriations Committee has totally eliminated Federal support for the National Institute of Education. Although this agency's programs have often been misdirected and diffused in their impact, there are numerous worthwhile efforts which should be continued. I was pleased that the committee saw fit, therefore, to include language in its report citing the efforts of the University of Mid-America, an innovative program using mass-media to take education to the homes of individuals located in rural areas of the Midwest. Both the University of Kansas and Kansas State University are participating in this program. I hope that the Conference Committee will restore funds to the NIE to support this and other deserving beneficiaries.

TRAINING PROGRAMS AND VOCATIONAL REHABILITATION

Mr. President, I was pleased to learn that the Appropriations Committee had continued Federal support for Consumer and Homemaker Education. Knowledgeable consumers and homemakers are on the front lines of the war against inflation. Adequate support for their education will assist them in their efforts to become better consumers. The $46 million included by the committee will assist approximately 3.6 million students enrolled in these programs around the country.

The committee also met its obligations to existing training programs with the provision of $8.9 million for social work training programs. If we hope to continue the trend toward reduced dependence on welfare, well-trained social workers will be necessary. The need for good training is heightened by increasingly stringent licensing requirements for social workers. I do not argue with this. But it does add even greater impetus to the need for training funds. By emphasizing long-term training programs we can give a large boost to both graduate and undergraduate schools of social work.

Finally, Mr. President, I want to emphasize the continuing need for Federal support of Vocational Rehabilitation. In the last few days, with the passage of H.R. 14225, we have reaffirmed our support of these programs. I was pleased, therefore, that the committee increased the recommended amount for innovation and expansion grants as well as for training activities. In vocational rehabilitation just as in consumer and homemaker education and social work training, the availability of trained personnel is a crucial ingredient which needs to be combined with the basic grants to the States for vocational rehabilitation. The provision of funds, without trained personnel to work with handicapped individuals, would be counterproductive.

Mr. President, these are but a few of the important programs administered by the two Departments under consideration today. Overall, this bill probably contains the bulk of Federal support for people—whether they be old, poor, black, or white. It is for this reason that we must be particularly careful about precipitous reductions in the budgets for these Departments. With few exceptions, the bill before us is fair. It should enable most of these important national priorities to continue receiving the support which they deserve.

Mr. BIDEN. Mr. President, the Labor-HEW appropriations bill, which is before the Senate today, reflects the earnest efforts of the subcommittee and its distinguished chairman, Senator Magnuson, to report a bill responsive to both an inflationary economy and to the needs of the millions of Americans affected by the programs funded under this bill.

I commend the distinguished chairman of the Appropriations Subcommittee on Labor and HEW for his accomplishment.

With respect to appropriations for the Department of Health, Education, and Welfare, the committee has managed to reduce the administration's request by $748 million, while increasing funds for important research activities at NIH, for maternal and child health programs, vocational rehabilitation, and other vital programs for which the administration had proposed drastic reductions or program phaseouts—a laudable achievement.

The committee justifiably points out in its report:

> While general program growth has been limited, or eliminated altogether, staffing and various administrative functions have continued to grow.

In this regard, I was pleased to note that the fiscal 1975 HEW appropriations will reflect funds for only the most essential staff increases and a reduction of funds where administrative costs are superfluous. Further, I am particularly gratified that the committee has held funds allotted for travel to their fiscal 1974 level.

There is, however, an aspect of the fiscal 1975 budget request which particularly puzzles me, and as a newcomer to the Senate, I would be grateful for the distinguished subcommittee chairman's assistance.

I am aware that the administration's budget is presented by program and by object classification, and, furthermore, that we have justifiably tended to base many judgments of the budget request on program priorities.

Nevertheless, I did review the budget by object classification and was somewhat disturbed that over $2.5 billion was classified as "other services." I have been informed by HEW that further itemization of "other services" is not required for preparation of the HEW budget, but can be obtained through the budget division of each agency within the Department.

I realize that a large portion of funds aggregated under "other services" will be used for research and development contracts. However, a significant amount of the funds requested will be used for unspecified contractual obligations. I know, too, that decreases in appropriations for certain programs will be reflected in the amount shown under "other services" in the object classifications.

Senator Magnuson and I, as newly appointed members of the Senate Budget Committee, share a special interest in the preparation of the budget. For this reason, I would ask the distinguished Senator if he agrees that it might be useful in the future for Members of Congress to have access to a further itemization of funds requested for "other services"?

Mr. MAGNUSON. I thank the Senator from Delaware for his suggestion.

I agree that any additional information further defining budget expenditures would be beneficial in our efforts to streamline the budget.

Mr. BIDEN. I appreciate knowing that the Senator concurs. Would it be unreasonable to request that HEW make this information available for congressional deliberations on the fiscal 1976 budget?

Mr. MAGNUSON. I think that request is valid, and I will alert the Department of Health, Education and Welfare to that effect.

Mr. BIDEN. I thank the distinguished Senator. I would hope that a further accounting of this $2.5 billion category will contribute to a more complete picture of new expenditures.

Mr. TUNNEY. The Appropriations Committee approval of a $7 million funding level for two widely acclaimed children's television workshop programs will mean continued quality programing for an audience estimated at more than 15 million children.

I had urged committee approval of the $7 million figure, pointing out that it would put the cost of each of the hour-long shows—"Sesame Street" and "The Electric Company" at less than 1 percent per viewer.

I am pleased the Appropriations Committee has given much-deserved recognition to the merits of "Sesame Street" and "The Electric Company" by appropriating $7 million for fiscal year 1975. The committee, no doubt, recognized last year's cutbacks in Federal moneys severely curtailed much of CTW's experimentation. With this $7 million figure, CTW will be able to resume its high quality work.

Mr. CASE. Mr. President, during consideration of the Labor-HEW appropriations bill 2 years ago, the Senate passed by a rollcall vote my amendment to strike from the bill restrictive language exempting from coverage of the Occupational Safety and Health Act employers who employ 15 or fewer employees.

That provision would have exempted more than 86 percent of all business establishments from coverage under the act and would have left a full one-fourth of the Nation's work force without the protection of the act.

In subsequent votes, the Senate rejected an attempt to exempt businesses with seven or fewer employees and rejected an attempt to exempt businesses with four or fewer employees. Although an exemption for businesses with three or fewer employees was finally included in the bill, the bill was vetoed and the veto was sustained. As a result, the law contains no exemption from coverage from the Occupational Safety and Health Act by size of business. This is as it should be. Employees of small businesses are every bit as entitled to protection from occupational safety and health hazards as employees of large concerns.

This year, both the Labor-HEW Subcommittee and the full Appropriations Committee have adhered to this concept of equal protection. My amendment in subcommittee struck from the bill House language exempting from coverage businesses with 25 or fewer employees. The full committee supported this action. Obviously, such an exemption would be even more discriminatory than the "15 or fewer" exemption the Senate so wisely rejected 2 years ago.

In a letter to me early last month Secretary of Labor Peter J. Brennan expressed his strong opposition to the House amendment. The Secretary said.

> I can conceive of no rational basis for excluding any employees from a statute like this one and least of all on any numerical basis.

The point the Secretary makes, and one with which I strongly concur, is that a "numbers game" should not be the issue here. The question is not whether we exempt businesses with 25 employees, or with 15, or with 7, or even with 3; the question is whether we take the stand that the law shall apply equally to all workers.

I am pleased that the Secretary's answer to that question is quite clear, and I commend his views to my colleagues and ask unanimous consent to include Secretary Brennan's letter in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

August 12, 1974.

Hon. Clifford P. Case,
U.S. Senate,
Washington, D.C.

Dear Senator Case: I am writing to advise you of my views on a recently enacted amendment to the Labor/HEW Appropriations bill for FY 1975 (H.R. 15580), introduced on the floor of the House of Representatives by Congressman Paul Findley of Illinois. This amendment would have the effect of prohibiting this Department's Occupational Safety and Health Administration from inspecting firms having 25 or fewer employees.

I strongly object to that amendment. This exemption of employers with 25 or fewer would actually exempt 87% of the working establishments in the Nation and exclude 27% of all working people.

The purpose of the Occupational Safety and Health Act of 1970, as stated in its preamble, is to assure "so far as possible every working man and woman in the Nation safe and healthful working conditions." The legislative history of the statute's enactment clearly shows that every amendment or other proposal which would have resulted in any employee's being left outside the protections afforded by the Act was rejected by Congress. The reason for excluding no employee, either by exemption or limitation on coverage, lies in the most fundamental of social purposes of this legislation which is to protect the lives and health of human beings in the context of their employment. That underlying reason was valid when the statute was enacted and it is valid today. I can conceive of no rational basis for excluding any employees from a statute like this one and least of all on any numerical basis.

The numerical exemption contemplated in the amendment makes no distinction between small employers engaged in relatively safe occupations and those engaged in hazardous industries.

Recent statistics collected by this Department clearly show that there are significant occupational hazards to employees in workplaces of employers who would be excluded under the amendment. The 1972 survey of occupational injuries and illnesses conducted by the Bureau of Labor Statistics shows, for example, that employers, having fewer than 25 employees and engaged in contract construction work, recorded an incidence of 14.3 occupational injuries and illnesses per one hundred workers. While this figure is somewhat lower than the overall incidence figure for contract construction (19.0 per hundred workers), it is nevertheless higher than the all-industry (non-farm) incidence of 10.9 recorded job injuries and illnesses per one hundred workers. Ninety-six per cent of the employers in the logging industry, which has been designated a target-industry because of its particularly hazardous nature, have 20 or fewer employees.

The injury and illness incident rate for firms employing 25 or fewer employees is only slightly lower than the combined rate for all employers, regardless of size. Nevertheless, the 17 million employees who comprise the 27% of employees who would be excluded from the Act's protection by such an amendment suffer 27% of the total number of fatalities occurring in all firms regardless of size. Obviously, size of business in this instance has no relation to the possibility of being killed on the job.

This provision would have further confusing consequences in the area of Federal/State efforts by exempting smaller employers in states without plans, while not exempting smaller employers in states operating under such plans. This confusion would even further detract from the goal of consistent worker protection.

At the present time, the Department conducts inspections under administratively-established inspection priorities which allows us to concentrate our enforcement efforts where the most serious hazards exist. The target-industry and target-health hazards programs are examples of such priorities. This approach provides this Department with needed flexibility in determining on the basis of the most recent data and without regard to the size of the employer involved where our resources could best be expended in order to afford the greatest protection to employees. The amendment would deprive us of this flexibility with regard to 90% of the establishments in the Nation, and thus would seriously undermine the salutary purposes of the Act.

As I stated in my recent testimony before the Senate Labor Subcommittee, I would urge a veto of the appropriation measure if the exemption remains.

Sincerely,

PETER J. BRENNAN,
Secretary of Labor.

Mr. CHURCH. Mr. President, I support the enactment of the fiscal 1975 Labor-HEW Appropriations bill, H.R. 15580.

As the Chairman of the Senate Committee on Aging, I shall direct my remarks to provisions of direct concern to the elderly.

First, however, I wish to compliment the Senator from Washington (Mr. MAGNUSON) for his genuine concern for the needs of older Americans. In his capacity as the chairman of the Labor-HEW Appropriations Subcommittee, he has been one of the outstanding leaders in Congress in obtaining more adequate funding for programs serving the elderly.

Additionally, he has been in the forefront in advancing other important legislation for older Americans, including emergency property tax relief, medicare coverage for out-of-hospital prescription drugs, tax counseling assistance for elderly persons, home-repair assistance for the aged, and many others.

Quite clearly, Senator MAGNUSON is one of the leading advocates for the elderly.

And the fiscal 1975 Labor-HEW Appropriations bill is another clearcut example of his longstanding interest to improve conditions for older Americans.

I am especially pleased that the committee bill includes $20 million for the title IX older American community service employment program. This funding will provide 6,600 job opportunities for low-income persons aged 55 or older in a wide range of useful activities, such as antipollution control, community beautification, restoration of historical sites, health aides, and others.

The effectiveness of these programs has been amply demonstrated time and time again, not only for the elderly participants but also the communities being served.

The committee bill also provides a $9 million funding increase for the title III State and community programs on aging under the Older Americans Act, from $96 million in the House-passed bill to $105 million. Money allocated for these programs, it seems to me, has been well spent.

Many of the services provided under title III have enabled elderly persons to continue living in their own homes, instead of being institutionalized at a much higher public cost.

This point cannot be overemphasized because institutionalization is our most expensive form of care. If we could shave 1 day off the medicare national hospital average, we could produce a savings amounting to $400 million.

I am also pleased that the committee has voted a $2 million appropriation increase for the title IV training program.

Today a dearth of adequately trained personnel is one of the most serious problems in the entire field of aging.

But the committee's funding level, $10 million, will be helpful in training individuals to provide the essential services which the elderly need.

For these reasons, I urge the adoption of H.R. 15580.

Before closing, I want to pay my respects to the ranking minority member of the Labor-HEW Appropriations Subcommittee (Mr. COTTON). He, too, has exhibited great concern for the special needs of older Americans.

H.R. 15580 will be his last regular Labor-HEW appropriations bill, since he will retire from the Senate in January. In this regard my wife, Bethine and I want to extend our best wishes for a happy and active retirement to both Senator COTTON and his good wife.

ORDER FOR ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, there will be no further action on this bill today.

I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on tomorrow, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 3234, THE SOLAR ENERGY BILL, TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business tomorrow the Senate proceed to the consideration of S. 3234, the solar energy bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR FURTHER CONSIDERATION OF H.R. 15580 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at no later than the hour of 12 o'clock noon tomorrow the Senate proceed to the further consideration of the Labor-HEW appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR UNFINISHED BUSINESS TO BE TEMPORARILY LAID ASIDE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside tomorrow and that it remain in a temporarily laid aside status until the close of business tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR H.R. 11541 TO BE PLACED ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, H.R. 11541 was reported on August 22 from the Committee on Commerce and referred by unanimous consent to the Committee on Public Works for 7 calendar days. That time having passed, I ask that the bill be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour at 10:30 a.m. tomorrow. After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each, at the conclusion of which period the Senate will turn to the consideration of S. 3234, a bill to authorize a vigorous Federal program of research and development to assure the utilization of solar energy.

Hopefully, action can be completed on that bill by 12 o'clock noon tomorrow. In any event, at the hour of 12 o'clock, the Senate will resume consideration of the HEW appropriation bill. Amendments will be in order. Rollcall votes may occur on amendments thereto.

Hopefully, the Senate will complete action on the HEW appropriation bill tomorrow afternoon.

ADJOURNMENT UNTIL 10:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10:30 a.m. tomorrow.

The motion was agreed to; and at 5:52 p.m. the Senate adjourned until tomorrow, Tuesday, September 17, 1974, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 16, 1974:

IN THE NAVY

The following-named Naval Enlisted Scientific Educational Program Candidates to be permanent Ensigns in the Line or Staff Corps of the Navy, subject to the qualification therefor as provided by law.

Winfred G. Aker
Robert C. Alexander
Damon E. Allen
Daryl C. Allen
Lee F. Anderson
Earnest S. Anthes
Michael D. Assel
Roger L. Bailey
Francis E. Baker
James M. Baker
James P. Baldwin
Forrest L. Barbee
Nelson W. Barber
John A. Baumgarten
Robert L. Beard III
Jerry W. Beersdorf
Gene R. Bellinger
Gregory L. Bender
Daniel R. Beth
David E. Billingsly
Stephen F. Binderup
Richard E. Blake
Victor E. Blitz, Jr.
James W. Bloomer III
John W. Bolyard
Daniel L. Boucon
Charles S. Bowers III
Steven G. Bowers
Lloyd R. Boyd
Robert B. Brannon
John A. Britt
Budd C. Brown
Gerald R. Brown
William H. Brown
Terrance J. Bruski
Gregory R. Bryant
James H. Bryce
William V. Budd
Rolf J. Burger
Leslie A. Burgess
Larrie G. Cable
Marvin R. Caddell
Charles A. Cadwell
Henry M. Caldwell
Robert D. Callier
Steven M. Carter
Patrick J. Casey
Ralph P. Cavalieri
Anthony F. Centeto, Jr.
Michael A. Chilton
Craig J. Clark
David R. Clark
Michael D. Clark
Raymond M. Clark
Michael D. Clary
David W. Cochrun
Ronald E. Collins
Donald V. Conte
Michael P. Connors
Kevin J. Cowley
Bruce J. Cuppett
Kenneth W. Curry
Patrick F. D. Curry
William L. Dale, Jr.
Allen H. Dandeneau
Brian T. Debs
John A. Dietrich
William D. Dilmore
Albert J. Dooley
James L. Duncan
Ralph E. Duncan
James C. Dunlap
Gilbert A. Dupaul
Andrew J. Eckhart
Barton A. Ewers
Roy L. Eyman
Martin J. Farber
Charles D. Ferguson
Joe S. Flood
James R. Forgy
Wilson E. Fry
Thomas M. Fursman
Charles D. Gilliam
James R. Gilmore
Robert L. Gilson
Joseph G. Graf
Patrick W. Grant
Timothy M. Gustafson
Michael R. Haben
Patrick C. Hale
Stephen J. Halko
Charles F. Hall
Frank D. Hammitt
Warren A. Harding
Robert H. Hart
Kenneth D. Harvey
David G. Heine
Richard V. Heitfield
Jim E. Helm
David L. Higgins
David S. Hilder
George C. Hill
Ralph S. Hixson
Ronald K. Hoefer
Richard W. Hopper
Andrew J. Howard
William E. Huebner
Daniel E. Hughes
Robert J. Hugo
Lynn M. Hunton
Andrew E. Jackson
Donald A. Jagoe
Bernardino Jaramillo
John F. Jarecki, Jr.
Stephen A. Jarvis
Robert E. Jenkins
Johnny L. Johnson
Ralph B. Johnson
Roger F. Johnsrud
Ronald E. Jones
Joseph W. Julias
Donald H. Jump
Randal M. Justus
Dana S. Kaeser
George D. Kasten
Charles R. Keene
Richard N. King
David C. Klugh
Michael L. Knaebel
Ronald J. Kriel
Pamala A. Kuhn
Thomas W. Lair
William G. Lamb, Jr.
Victor H. Lambeau, Jr.
Keith R. Larson, Jr.
Gregory J. Lavassaur
Martin J. Leghart, Sr.
Ellis A. Leonard
James L. Lewis
Steven M. Livingston
Donn N. Lorhammer
Michael J. Loucks
Peter J. Luciano
Jeffrey F. McCauley
Gene E. McClellan
Roger C. McClelland
Daniel K. McGhee
Thomas M. McKannon
Don O. McLaughlin
Tommy H. McNair
Michael T. McNally
John J. Macris
Allyn F. Mallory
Mark M. Manion
Robert P. Martin
David A. Mawhinney
Michael D. Maxwell
Robert L. Miller
Gary B. Mills
Percy F. Milster
Gregory D. Mitchell
Van E. Moir
Leslie E. Moldenhauer
Kenneth J. Moore
Robert G. Morgan
Harold Mosley, Jr.
David J. Mulholland
Christopher K. Neff
Bruce K. Nesset
Scott L. Nicholson
William C. Oberg
Randall G. Oliver
William G. Owen
Christopher D. Owens
Thomas B. Pannell
Robert F. Patterson, Jr.
Alec A. Pay
Burt W. Pierce
Gregory D. Pierce
William E. Pierson
Charles W. Planck
Leland C. Powell
Thomas B. Powell
Joseph G. Provenzano
Peter G. Pryjmak
Patrick G. Razalan
Truman A. Richey, Jr.
Steven D. Ricketts
William R. Robinson
Glynn E. Roth
William E. Rudin
James R. Russell
Charles C. Saunders
Steven B. Saunders
Robert W. Savage
Duane L. Sawyer
Frederick W. Schueneman
Dale R. Scott
David A. Scott
Mark E. Seago
Timothy D. Shriver
John A. Sill
Kenneth V. Sjodin
Thomas B. Skinner, Jr.
Dale G. Skurla
William A. Smart
Marlin B. Smith
Darrel W. Spayd
Gary L. Spear
Joseph C. Spinnato
David A. Spivey
David S. Stafford
Frank P. Stagl
Martin M. Stevens
Mark D. Sullivan
Richard L. Swiontek
Arthur D. Sqan
Victor H. Szepe
Charles L. Tague
Richard L. Thomas
Robert B. Thomas
George H. Titus
James B. Towne
Jack W. Tucker
Duane M. Tufte
Charles R. Turbanic
Harry W. Vasquez
Robert J. Veal
Leo W. Vollmer, Jr.
Kim C. Walden
David B. Wallace
Ainslie B. Walter
Gary N. Watkins
Thomas V. Watkins
Charles J. Warner
Steven D. Wedoff
William A. Wells
Joseph W. Whatley
Michael L. Whyms
Robert D. Withers
William H. Williams
James A. Woods, Jr.
David R. Young
George L. Yungk

EX-LTJG Joseph D. Matarazzo, MSC, USNR, to be a permanent Captain in the Medical Service Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

Major Billy J. Blankenship USAFR to be a Commander in the Medical Corps in the Reserve of the U.S. Navy, for temporary service, subject to the qualifications therefor as provided by law.

EX-1st LT Herbert T. Smith, USA to be a permanent Captain in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

James H. Black (Civilian College Graduate) to be a Commander in the Medical Corps in the Reserve of the U.S. Navy, for temporary service, subject to the qualifications therefor as provided by law.

Robert J. Zillner (Naval Reserve Officer) to be a permanent Lieutenant (junior grade) and a temporary Lieutenant in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law.

The following-named (Naval Reserve Officers) to be permanent Lieutenants and temporary Lieutenant Commanders in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law.

George M. Taybos
John D. Brian, Jr.
Peter M. Fallon

Ralph H. Zengen, temporary commissioned Warrant Officer to be a Permanent Warrant Officer in the classification of Communication Technician subject to the qualifications therefor as provided by law.

Peter B. Blanchard, U.S. Navy Officer, to be a Permanent Commander in the Medical Corps in the Reserve of the U.S. Navy in lieu of temporary Commander as previous nominated, subject to the qualifications therefor as provided by law.

Robert W. Higgins (Naval Reserve Officer) to be a permanent Lieutenant Commander and a temporary Commander in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

The following-named (Naval Reserve Officers) to be permanent Lieutenants (junior grade) and temporary Lieutenants in the Dental Corps of the Navy subject to the qualifications therefor as provided by law:

Thomas R. Baker
Glen R. Gordon
Thomas T. Heck
Charles R. Ingle
Jay C. Kruer
Robert B. Linville
Douglas S. Lohoefener
William D. Nordquist
Milton B. Reynolds
William M. Strunk

The following-named U.S. Navy Officers, to be Commanders in the Medical Corps in the Reserve of the U.S. Navy, for temporary service, subject to the qualification therefor as provided by law:

James R. Wardner
Paul F. Williams

HMCS Samuel R. Bonilla, USN, to be a Chief Warrant Officer, W-2, for temporary service, subject to the qualifications therefor as provided by law.

Roman J. Machowski (Civilian College Graduate) to be a Commander in the Medical

Corps in the Reserve of the U.S. Navy, for temporary service, subject to the qualifications therefor as provided by law.

Bryan C. Crafts, U.S. Navy Officer, to be a permanent Commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

Ernest W. Hunt, Jr., U.S. Navy Officer, to be a Commander in the Medical Corps in the Reserve of the U.S. Navy, for temporary service, subject to the qualifications therefor as provided by law.

IN THE NAVY

The following named line officers of the United States Navy for temporary promotion to the grade of lieutenant, subject to qualification therefor as provided by law:

Abernathy, Thomas Henry
Achille, Franklin Scott
Ackley, Victor Howard
Acton, Thomas Gerald
Acuff, Lucian Mark
Adams, Adrian John
Adams, Charles Llewellyn
Adams, David Alan
Adams, Harold Stanbery, Jr.
Adams, James Joseph
Adams, Michael Richard
Adams, Thomas Durward, Jr.
Adkins, Harvey John
Adkins, Robert Francis
Agnor, Robert Joseph
Ahart, John Louis
Akins, William Everett
Albright, Jeffrey Horace
Alburger, John Francis
Alexander, John Francis, III
Alexander, John Whitlock
Alexander, Patrick Francis
Alexander, Robert Theodore J.
Alexander, Ronald Keith
Alford, Ralph Mart, Jr.
Alger, James Allen
Alleman, David Peterson
Allen, Charles Edward
Allen, Dale Ivan
Allen, Dale Joseph
Allen, David Michael
Allen, James Richard
Allen, Michael Norton
Almand, Richard Maxwell
Almy, Gideon Wilcox, III
Almy, Thomas Barton
Altmeyer, Magnus Stephen
Alvarez, Richard Erben
Ames, Lloyd Monroe
Ammerman, David Chaffin
Ammons, Edward Arnold
Andersen, George Michael
Andersen, James Benjamin
Andersen, Robert George
Anderson, Christopher Edward
Anderson, Douglas Warren
Anderson, J. Quinton
Anderson, Kenneth George
Anderson, Leonard Mark
Anderson, Robert Kirby
Anderson, Thomas Edward, Jr.
Anglehart, Gary Lee
Annis, Robert Earl
Anthony, Joseph Douglas.
Apley, Walter Julius, Jr.
Appleby, Robert Thomas
Archdeacon, Francis Joseph J.
Architzel, Ralph Emory
Ardizzone, Vincent
Armfield, Alfred Emanuel S.
Armstrong, Ralph Francis
Arndt, Stephen Alan
Arnold, Berthold Klaus
Arnold, David William
Arnold, Hollis David
Arnote, Stanley Dean
Artis, Herbert
Ashley, Gary Kenneth
Athow, Karl James
Atkinson, Byron Craig
Atkinson, John Scott, Jr.
Atkinson, Leland Dale
Auer, Bartlett Dexter
Austin, James Larry
Austin, Robert Benjamin, Jr.
Austin, Simeon Haile
Avera, Troy Garland, Jr.
Award, David Paul
Ayers, Carleton Royse, II
Ayres, Kermit Arnold
Babin, Ordale Paul, Jr.
Bagley, David Worth, II
Bahnmiller, Michael Patrick
Bailey, Hubert Vaden
Bailey, James Preston
Baittinger, Eric Wayne
Baker, Leonyx Gene
Baker, Peter Arnold
Baker. Raleigh Duncan, Jr.
Baker, Timothy Louis
Bakken, Gary Curtis
Baldwin, Robert Earl
Balisle, Phillip Monroe
Ball, John Charles
Ballock, Roman Roger
Banellis, Charles Edmund
Banks, Paul Elliott
Banwarth, Mark Charles
Bardwell, Robert Ronald
Bargelski, Michael Joseph
Barker, Jimmy Lester
Barker, John Philip
Barker, Laughlin McClatchy
Barker, Loyd Nolan
Barnes, Robert Field, Jr.
Barnett, Harry Eugene
Barnett, Richard Lynn
Barnett, Stewart Roland, II
Barnhart, Edward Eugene
Barnum, Kenneth Paul
Baron, Gilbert Henry
Barrett, Donald Hall
Barrett, John Michael, Jr.
Barron, James Devens, Jr.
Barrowman, Glenn James
Barrows, Ray Lee
Barry, Charles Todd
Barry, John Michael
Bartholomew, David Lynn
Bartley, James Arnold
Bartley, John Alan
Barton, Walter Hurt
Bartram, Roger Walsh
Bashore, Harry William, III
Bateman, Clifford Banks
Bates, David Gayle
Bates, Marshall Edward
Batman, James Robert
Bauer, Carl Oscar
Bauer, Michael Joseph
Bauman, James Lawrence
Baxter, Harry Toppin
Baxter, Richard Berry
Baylor, Edward Kirk
Beacham, Frederick Brought, J.
Beard, Michael Roane
Beare, Lloyd Allen
Beasley, Drew Wentz
Beasley, Roy Wayne
Beatty, Charles Thomas
Beauboef, Joe Ray
Beauchamp, David Neville, Jr.
Beaudet, Carl Alan
Beck, Ardie Lavon
Beck, Edward Charles, III
Beck, George Harris
Beck, Richard Alan
Beck, Wayne Arthur
Becker, Fred Reinhardt, Jr.
Beckham, Don Hobert
Beckman, John Walter
Beckman, Robert John
Bedell, Ronald Anthony
Beelby, Michael Howard
Beier, Werner John
Bekkedahl, Stephen Lee
Bellflower, James Alvin
Bellflower, Robert Jerome
Belotti, Joseph Peter, Jr.
Belrose, Benjamin George
Bender, John Paul
Benefiel, James Wiley
Benne, Richard, III
Bennett, Arthur King, III
Bensing, Donald Ray
Benson, Eric James
Benziger, Philip Ennes
Berger, Robert Denton
Bernard, Eugene Philip
Bernard, Sanford Kendall
Bernia, Douglas James
Bersticker, Keith Paul
Bertelsen, Duane Leland
Bertelson, John Dwight
Betancourt, Alberto Lino
Bethune, Gordon Mason
Bettis, Bobby Gerald
Biber, Reginald Eugene
Bickford, John Charles
Bickler, Jerome Edwin
Bien, Jay Kent
Biernesser, James Carr, Jr.
Bigos, Randall Edward
Biles, Richard Carey
Billick, Dan Richard
Birkholz, Howard Daniel
Black, Richard Allen
Blackstone, Franklin Arthur
Blackwell, Theodore Irving J.
Blair, Coy Lynn
Blair, Gary Wayne
Blair, Gregory Alan
Blair, Thomas Benton, II
Blake, Richard Thomas
Blakesley, Larry Lee
Blanchard, Raleigh Thomas
Blanton, Sankey Lee, III
Blase, William Edwin
Blauvelt, Russell Morrison
Bliss, Donald Herbert
Blocker, Gerald Clinton
Bloom, James Alan
Bloomfield, Walter William J.
Bluestein, Michael Steven
Boardman, Geoffrey Philip
Bogdewic, Daniel David
Bogle, Ronald Coombs
Bohannan, James Guy
Bohrer, Herbert August
Bolcar, James Andrew
Bolduc, David Theodore
Bollinger, George Edward
Bolton, Dwight Edward
Bolton, Patrick Joseph
Bongard, Charles Robert
Boniface, John Morrill
Bookwalter, James Monroe
Boomhower, Paul Milton
Booth, Bryant Fred, III
Boriotti, Thomas
Boston, Bruce Dennis
Boswell, Barry Eugene
Bottenberg, Richard Browne
Botwright, Richard Edward
Boucher, David Lee
Bouck, William Gordon
Boughter, Chris Edward
Bouton, Edwin Harry, Jr.
Bowen, John Dennis, III
Bowen, Vernon Robert
Bowers, Michael Edward
Bowman, Marvin Edward
Bowman, Richard Thomas, Jr.
Boyd, William Kirk, Jr.
Boyd, William Linwood
Boyden, John Parker
Boylan, Raymond Lawrence
Boyter, William Thomas
Brackett, Vincent George
Braddy, James Roger
Bradford, Billy Cleveland
Bradford, Gregory Copeland
Bradley, William Frederick
Brady, Patrick Donald
Brady, Peter Douglass
Brady, Robert Merritt
Bragg, Noel Warren
Brake, Terry Allen
Braman, Frederick Allen
Branaman, Larry Gene
Brandes, John Charles
Brandon, George Aaron
Brandt, Charles Roger
Brandt, Ted Merle
Brashear, John Edward
Breitinger, Thomas Leinbach
Brender, Mark Edward
Brewer, Donald Stokes

Brice, Allen Guy
Brick, James Michael
Bridge, Frederick Lawrence
Briggs, Frederick Lane
Brinkmann, William Russel
Brisby, Richard Lee
Britt, Charles Ray
Brooker, Richard Isaac
Brooks, David Atwood
Brooks, James Alden
Brooks, Ross Newton, Jr.
Brooks, Williams Albert
Broome, Michael Clarke
Brouhard, Jack William.
Broun, Charles Wood, III
Brouse, Robert Ammon
Brown, Charles Walter
Brown, Daniel Earl
Brown, Donald Claudean
Brown, Donald Collins
Brown, Duane Walter
Brown, Gary J.
Brown, Harry Parker, Jr.
Brown, Henry Pell, Jr.
Brown, Jerry Krag
Brown, John Richard
Brown, John Wilfred
Brown, Joseph Morgan
Brown, Leonard Harrison, Jr.
Brown, Leroy Allen
Brown, Lonnie Cole
Brown, Randall Ray
Brown, Stephen John
Brown, Steven Allen
Brown, Wendell Earl
Brown, William Bruce
Brown, William Burcher, Jr.
Browngardt, Robert Peter
Brubaker, Robert Craig
Bruce, Stephan Robert
Bruggemann, Glenn Alfred
Brunelli, Duane Lee
Bruwelheide, Dennis Raymon
Bryan, Carroll Littleton, II
Bryant, James Brantley
Buergey, William Clavin
Buescher, Joseph Henry, Jr.
Buford, Gaston Reedy, Jr.
Buhr, Edward Curtis
Buist, Andrew Robertson
Bullard, George Clough, Jr.
Bullis, Richard Alan
Bulmer, William Richard
Bunce, James Standish
Buntrock, George Emil, III
Buote, Raymond Edmund
Burd, John Scott
Burgess, Lee Edgar
Burgess, Richard Sumner
Burkett, Harvey Benton
Burkhead, Ferree Ross
Burkland, Peter White
Burlingame, Charles Frank, II
Burman, Richard Allan
Burns, Allen Dale
Burns, Joseph Henry
Burns, Timothy John
Burns, William Edward
Burr, Frederic Worthington
Burrows, Hoyt Nathaniel
Burton, John Cicero, Jr.
Burtt, Chester Arthur
Buschbaum, Dennis Eugene
Bushby, John Melbourne
Busseno, Henry William
Butkus, Stephen Benedict
Butler, Bruce Alan
Butler, Craig Lindley
Butler, Frank Kennédy, Jr.
Butler, Thomas Albert
Butler, William Aubrey
Butt, Cyrus Hugh, IV
Butz, John Erwin
Byers, Stephen Alan
Byrd, Robert Earl
Byron, Bruce Bernhardt
Cadden, Charles John
Cady, William Douglas
Caffrey, Edward Francis, Jr.
Cahill, John Joseph
Callahan, Joseph Anthony, II
Cameron, Robert Ellis
Camp, Phillip Steven
Campbell, Donald Leroy
Campbell, Edward Patrick
Campbell, Richard Dennis
Campbell, Richard Lorimer, Jr.
Canfield, Frank Louis
Cann, John David
Canty, Benjamin Keith
Capizzi, David Alan
Capra, Robert Arthur
Carlin, James Joseph, Jr.
Carlin, Thomas James
Carlson, James Allen
Carlson, Richard John
Carnahan, Thomas Michael
Carr, Russell Morgan
Carro, Stephen Joseph
Carroll, Patrick William
Carson, Thomas Hill, III
Carter, Arthur Edward
Carter, Harry McClain
Carter, Lee Deforest
Carter, Michael Wayne
Caruthers, William Philip
Casey, Paul John
Cash, Louie Oliver
Caspary, Kenneth Allen
Casselman, Richard Duane
Catarella, Philip Dennis, II
Cauchon, Richard Paul
Chacon, Gerald Michael
Chadwell, Robert Gregory
Chaffee, Edmund John
Challberg, Edward Carl
Chambers, Harold Dean
Champagne, Gerald Edward
Champagne, Lee Wesley
Chandler, Jeffrey Douglas
Chaney, David Allen
Chapman, Robert Bentley
Chappell, Thomas Eugene, Jr.
Charbonnet, Pierre Numa, III
Charvat, David Edward
Chase, Peter MacDonald
Chattin, James William
Cheliras, Richard Mark
Cheney, Ricky Dennis
Chew, David Wellington
Childers, Robert Blair
Chimenti, Robert Arthur
Chiquelin, William Rene
Chisholm, Van Edward
Choate, Edward Howe
Christensen, Bo Gunnar
Christianson, Donald Thorer
Christman, John Howard
Christy, Leonard Clifton
Cichucki, Jon Lawrence
Clark, Augustus Walter, III
Clark, Harry Eugene
Clark, James
Clark, James Robert, Jr.
Clark, Lawrence Francis
Clark, Mackenzie Curtis
Clark, Ray Wilmarth
Clark, Reed Owen
Clark, William Phil, Jr.
Clayton, Gregory
Clemens, Paul Daniel
Cleven, Ronald Arthur
Clifton, Lowell Douglass
Clopper, Richard John
Closs, John William
Closson, Bradley Dayton
Coatney, Brian Leslie
Coats, Bruce Arthur
Cocolin, David Paul
Cocos, William Joseph
Cocowitch, John Herbert
Coen, Ronald Lee
Coffer, Joe Ralph
Cohlmeyer, Alan Stanley
Cole, Christopher Warren
Cole, Fred Gordon
Coleridge, David Theodore J.
Collier, Charles Maceo
Collier, Michael James
Collignon, Michael Joseph
Colling, Arthur Karl, Jr.
Collins, James Patrick
Collins, John Henry, Jr.
Collins, Wyndolin Gray
Colquitt, Richard Edward, Jr.
Combs, Osie V., Jr.
Comer, Stephen Andrew
Condon, John Kenneth
Conkey, John Alen
Conklin, Douglas George
Connelly, Richard James
Conner, Roger Allan
Conner, William Robert, III
Conners, Jeffrey Durnell
Conover, Richard Philip
Conrad, Jack Lawrence
Conte, Enrico Emil
Cook, Norman Ervin
Cook, Roger Darrell
Cooksey, Mark Garland
Coolbaugh, Robert John
Cooley, John Eugene
Cooper, Gary David
Cooper, Kenneth Charles
Cooper, Richard Wayne, II
Cooper, Ward Joseph
Cooper, Bruce Duncan
Coppotelli, Lawrence Joseph
Corbin, James Harold
Corrado, John David
Cosgriff, Kevin Joseph
Costa, Pat Angelo
Costas, John Nicholas Hantse
Countryman, Larry Dean
Courtney, Thomas Berry, Jr.
Covington, George Barkley
Cowan, Jack William
Coward, Thomas Wayne
Cowell, David Eden
Cowherd, Robert Francis
Cox, Lyle Ashton, Jr.
Cox, Patrick George
Cox, William Travis
Cozzolino, Andrew
Crabtree, Thomas Edward, Jr.
Cradduck, David Charles
Cramer, Mark Jay
Crandall, Kenneth Duane
Crane, Alvin Edward
Crank, William Orson
Cranmer, John Michael
Creath, Timothy George
Creech, James Willard
Creighton, Robert Thomas, Jr.
Crescimanno, Terry Alan
Crickman, Frederick Paul
Crompton, David Robert
Cronin, Richard Barry
Croom, Miles Millar
Crosby, Richard Allen
Crouch, Orren Rayburn
Crouch, Richard Madison
Crow, Paul Edward
Crowe, Robert Kenneth
Crowl, Edward Allen
Crowther, Jackie Moran
Culberson, Jerome Joseph
Culbertson, Frank Lee, Jr.
Cummings, Harold Heuszel, Jr.
Cupps, Stephen Leigh
Curry, Daniel Lee
Curry, Ronald Kenneth
Curry, Ronald Norwood
Curtis, Stephen Charles
Cusick, Stephen Kent
Custer, Robert Christopher
Dahlman, Carl Eskil, Jr.
Dailey, Leroy
Dale, Charles Joseph
Dale, Thomas Norman
Daley, Bradley Lee, Jr.
Daniel, James Mikell
Daniels, David Gray
Daniels, Thomas Lee
Dargo, Ronald Steven
Darr, Sammy Lee
Daugherty, Jack Edward
Davenport, Eugene
Davis, Ernest Graham
Davis, Jack Michael
Davis, James Andrew
Davis, Jerrie William
Davis, Kenny Dale
Davis, Leroy William, II
Davis, Mark Eugene

Davis, Marvin Gary
Davis, Michael Eugene
Davis, Terry Lee
Davis, Thomas Elder
Davis, William Brian
Davison, Glenn Charles
Dawson, Michael Kenneth
Day, Marvin Gorman
Day, Ralph Davis
Deacon, Glenn Russell
Dean, David Bennett
Dean, Raymond Edward
Decesari, Robert James
Dechene, Philip Edward
Degruise, Jerome Joseph
Deitch, Harry Edward, Jr.
Dejaegher, Richard Howard
Delbalzo, Michael Fredrik
Deloof, Ronald Milton
Demmon, William John Russell
Denny, Donald Jefferson
Densmore, Russell Alan
Denton, Kenneth William
Denzien, James Robert, Sr.
Dereniuk, Harry Michael
Derrick, Jerry Wilson
Derusso, Michael Patrick
Dessert, Ross Stephen
Dessommes, Jack Carver
Devey, Graham Richard
Devins, Robert Sylvester
Devos, Peter Francis
Devries, Harold Marvin
Diantonio, Steven Michael
Dibello, Michael Frank
Dickey, Thomas Patton, Jr.
Dickinson, Peter John, Jr.
Dies, Gregory Baird
Digeorge, Frank Peter, III
Dimambro, Ronald Edward
Dionne, Roger William
Dipadova, Arthur Anthony
Disney, Donald Bruce, Jr.
Dixon, Lewis Randolph
Dixon, Loren Kenneth
Doan, Carl Edwin
Dobrovolny, Timothy George
Dobrydney, Frank Joseph
Dobson, Joseph O., III
Dodd, Carl Thomas
Dodenhoff, Andrew Chandler
Doherty, James Edward, Jr.
Dokos, James Alan
Dolan, Robert Dennis
Donahue, Charles Richard
Donald, Balfour John
Donges, William Henry
Donnelly, Michael Scott
Doores, Gale Norman
Doorly, Dale Martin
Dornan, John Richard
Dote, Michael Kenneth
Doty, Brian Keith
Doty, Michael Giles
Dougherty, James Bryan
Dougherty, Patrick Joseph
Dougherty, Terryll, Jr.
Dowty, Bobby Leon
Doyle, John Joseph
Doyle, Patrick Michael
Drake, Carroll Maynard
Dresel, Jon William
Dresner, Jay David
Driscoll, Michael Brian
Driscoll, Michael Lon
Drurey, Harold Leroy
Dryden, Richard Arthur
Dryfka, John Edmund
Dubeck, John Byrne
Dubois, William Louis
Dubose, Roy Harold
Duclos, Edward Decell
Dudley, Roger Albert
Duffy, Mark Edward
Duke, Daniel Fitzgerald, III
Dumas, Edward Lewis
Duncan, Michael Gordon
Duncan, Robert Aubrey
Dunford, Patrick James
Dunlap, Philip Stephen
Duquette, Marc Raymond
Duquette, Wilfred Boland
Durocher, Peter Howard
Durst, David Paul
Dussman, Thomas Raymond, Jr.
Dutra, Edward Patrick, Jr.
Duzy, Charles Adam
Dvorak, William Charles
Dyer, James Russell
Dykes, Edward Ray
Dykstra, David Albert
Eakin, Philip Joseph
Earhart, Ralph Paine
Earley, Anthony Francis, Jr.
Easley, Stephen Wayne
Easterday, Kenneth Paul, Jr.
Easterling, James Thorpe, Jr.
Eastin, William Paul
Eberhardt, Thomas Frank
Ebright, Arthur Lloyd
Ecker, William Michael
Ector, Richard Haley
Eden, Michael Spencer
Edington, Ronald James
Edmondson, Joel Martin
Edmonson, Albert Clinton
Edson, James Marshall
Edwards, Kenneth Paul
Edwards, Terence David
Egan, John Robert
Eggett, Andrew James
Eiben, Norman George
Eissler, William Roberts
Eklof, Sven Peter
Eldridge, John Karson
Elfelt, James Michael
Ellerman, Dean William, Jr.
Ellis, Joseph Clyde
Elsen, Morris Eugene
Emerick, Donald Neal
Emory, Charles Byron
Emslie, William Arthur
Enderle, John Philip
Enderly, Richard Harold
Endo, Victor
Engel, Douglas Todd
Engel, Gregory Allen
Engelhardt, Robert Granger
Engelman, Robert Henry
Engelmann, Bruce Henry
Englehart, William Patrick
English, Jerome Robert
Ennis, James Wathan
Enright, Joseph Earl
Enzinger, Richard Smith
Erbe, Herbert Carl, Jr.
Erickson, Bruce Norman
Erickson, Charles Albert
Erickson, Jerald Lee
Ericson, Alfred Eugene, Jr.
Ersek, David Alan
Erskine, Robert Sageley
Erwin, Troy James
Esposito, Vincent John, III
Esteral, Charles Thomas
Etnyre, Terrance Thomas
Ettredge, Michael Lloyd
Evans, Charles Dean
Everett, David Anderson
Everett, Jon Berry
Exstrum, Terry Dale
Fagan, John Michael
Faine, Levarn Leroy
Faith, Everett Wilbur, Jr
Falkner, James Raymond
Faltisek, Dale Wallace
Farley, David Lee
Farley, Richard Lee
Farrand, Thomas Walter
Farrell, Richard James
Fazio, Joseph Leonard
Feallock, William John, III
Feeley, Michael Edward
Feeney, John Patrick
Felts, William Saunders, Jr.
Fenech, Robert Allan
Fennell, Walter Francis, Jr.
Fergione, John Anthony, Jr.
Ferrara, Bernard Joseph
Fichter, John Edward
Field, Philip Howard
Fields, David Albert
Filka, Ronald Allen
Finch, Randal Craig
Findeiss, Lawrence William
Fine, Jerry Michael
Fine, Leo Norman
Finegold, Brian David
Finley, Richard Gale
Finn, Michael Patrick
Finney, Robert Terry
Fischer, Halsey Robert
Fischer, Joseph Christopher J.
Fischer, Theodore Arthur II
Fishel, Henry Gilmar
Fisher, Charles Steven
Fisher, Kelly Martin
Fite, James Wilson
Fitzgerald, Douglas
Fjelde, John Arthur
Flanagan, Edward Michael
Flanagan, Thomas James
Flannery, Peter Andrew
Flaugher, Robert Harvey
Fleming, John Boyd, Jr.
Fleming, William Legwen
Fletcher, Patrick James
Fletcher, Richard Sills
Flickinger, Stephen Lee
Flocken, Erick Michael
Flood, Jeffrey Lee
Flores, Pablo Jimenez
Flores, Roberto, Jr.
Fluker, James Andrew
Foe, Christopher Glen
Foerst, John Eugene
Foley, John Mark
Foltz, Ricky Allen
Foote, Edward Potter, Jr.
Foraker, Allen Shane
Forbes, Clarence
Ford, William Patrick
Formby, Roy Gene
Forrest, William Thomas
Foskett, Edwin Albert
Foster, Bradley Scott
Foster, Finley Bowman
Foster, Michael Stephen
Foster, Timothy Walter
Foust, John Terrence
Fowler, Boyd Cannon
Fowler, John Jay
Fox, Al E.
Fox, Jerry William
Fox, John Richard
Frame, Daniel Alva
Frame, Terrance Craig
Francis, Robert Mackenzie
Frank, David Elvin
Frank, Joel Stephen
Franklin, Ronald James
Franssen, Roger Allen
Fredericksen, John Scott
Fredericks, John Andrew, Jr.
Freeland, Thomas Lee
Freeman, George
Freeman, Parker Channing
Freiheit, Richard Otto
Fremont, Robert Francis, III
French, Michael Jon
Freund, Robert Henry
Frey, Robert Andrew
Frick, Willis Gilbert, Jr.
Friedman, Paul, Jr.
Fritchman, Wilson John
Fritz, Robert Wayne
Froelich, Clifford Anthony
Frohlick, Thomas Anthony
Frost, Charles Whitfield
Frost, Jack William
Fry, Scott Allen
Fryman, Donn Lynn
Fujimoto, Gene Tsuruo
Fuller, Daniel Richard
Fulton, Thomas Benton
Funk, Richard Louis
Funk, William Ted
Funke, James Christian
Funke, Richard Harrison, III
Fuqua, Harry Emerson, II
Furrevig, Harold Lawrence
Futral, Donald Gordon
Gabe, Daniel Evans
Gabriel, Daniel Webster, Jr.
Gaden, Michael Dean

Gadzinski, Gary Francis
Gaffney, Michael Gattrell
Gafney, Edward James, III
Gailes, Thomas James
Gaiser, Manfred John
Gallagher, Robert Michael
Gallagher, Terrence Michael
Gallemore, James Bruce
Galloway, Thomas Robert
Galvin, David Warren, Jr.
Gammage, Patrick Odell
Gancel, John Edward
Gann, Virgil Eugene
Gannon, Thomas Hugh, III
Garcia, Frank Charles
Garden, Bruce William
Gardner, Dale Allan
Gardner, Leroy Elwyn
Garnett, Claude, Jr.
Garrett, Leo Edward
Garrison, Rolland Roy
Garrow, James Wallace
Garvin, David Elgin
Gaskell, Michael Lee
Gatchell, James Kip
Gault, Harry Stewart, Jr.
Gaut, Leon Westley, Jr.
Gauthier, Normand Claude
Gavin, Donald Earl
Gavrich, Douglas Dean
Gay, Billy Thomas
Gay, Donald Lee
Gayler, Ralph
Gearhart, Michael Warren
Gebel, Michael Walter
Gebhardt, Robert Edward, Jr.
Gecan, Anton Stamos
Geci, Karl Edward
Geddes, Norman Drew
Geddes, Stephen Schoolcraft
Gede, Thomas Frederick
Gee, James Truett
Gehl, Michael Thomas
Gemmell, Stephen Long
Gendreau, John Robb
Genin, Louis Paul
Gessner, Robert Louis, Jr.
Gettig, Roger Lynn
Gibbs, Ralph Walter
Gibson, Bernard Edward
Gibson, Richard Ernest
Giger, Charles Eugene
Gill, Robert Ledman, Jr.
Gilley, Edward Ray
Gilliland, Larry Daniel
Gillogly, Jay Trevellyan
Girvin, Charles Rodney, III
Giunta, Joseph Francis
Glanzmann, Christopher Franc
Glasser, Donald Julius
Glynn, Dennis William
Gokey, James Webster
Golden, Larry Frederick
Goldschmitt, Marc Lewis
Goldstein, Abraham Jeffrey
Gonzales, James Garfield
Good, Layne Walter
Goodner, William Fleming
Goodrich, Boyd Larry
Goodwin, Robert Archer, III
Gorans, Larry Dean
Gorman, John Joseph, Jr.
Gorski, Thomas Henry
Gorton, Grant John, II
Gosma, James Allen
Goswick, George Ralph
Gouveia, Ronald Stanley
Goyette, Richard Leonard
Grace, Robert Michael
Graeber, Grant Leroy
Graham, Clive, Jr.
Graham, David Joseph
Graham, John Edward
Graham, Thomas Hugh
Graham, William Ross
Grames, Steven Mark
Granberry, Michael Gene
Grange, Joseph Ellison
Grant, George Michael
Graves, Charles Richard
Graves, Davie Wilson
Gray, Charles Lawrence
Gray, Donald Francis, Jr.
Graybill, Jon Gilbert
Green, Barton Lamb, II
Green, Kevin Patrick
Green, Marion Wendell
Green, Richard Howard
Green, Terry Allen
Greene, Bobby Eugene
Greene, Brenton Clair
Greene, John David
Greksouk, John Gary
Griffiths, Charles Henry, Jr.
Grimard, Gregory Paul
Griswold, Ronald Kent
Groff, Lawrence Lafayette
Gronroos, William Edward
Gross, Mitchell Ira
Gross, Ronald Thomas
Gross, Thomas Mark
Grubb, Ronald Eugene
Grupe, David Arthur
Gryde, Stanley Kermit, Jr.
Gubanc, David Michael
Gudis, Richard Paul
Gulas, John Eugene
Gunn, Donald Patrick
Gunther, Donald Louis
Gurke, Lee Samuel
Gustafson, Robert Andrew
Gutridge, Wallace Glen
Gyles, Leon Leonard
Hackett, David James
Hafner, Kenneth Duane
Hagadone, Ronald Stanley
Hager, Luther Hunt, III
Hagstrom, David William
Hahn, Randall Paul
Hahn, Raymond
Hakanson, Donald Kip
Hale, John Frederick
Hale, Nathaniel
Hall, Allen Eugene
Hall, Charlie Hermond
Hall, Garry Richard
Hall, Herbert William
Hall, Kenneth George
Hall, Mark Glover
Hall, Richard Thomas
Hall, Thomas Clayton
Hall, William Burke, Jr.
Hallahan, Michael John
Hallenbeck, Amos Edward, Jr.
Hallenbeck, Wayne Jay, Jr.
Halpern, Herbert
Hambleton, Michael Gilbert
Hamilton, Howard Wilson, Jr.
Hamilton, Robert Edward, Jr.
Hamilton, William Lawrence, II
Hamm, Thomas Rawdon
Hammock, Charles Raymond, Jr.
Hammond, Russel Edwin
Hancock, Edward Lee, Jr.
Haney, James Michael
Haney, Robert Edison
Hanneman, Richard Keith
Hanson, Paul Edward
Hansson, John Noel
Happ, David Richard
Harbaugh, David Raymond
Hardee, James Bryan
Harding, Steven Leslie
Hardman, Samuel Robinson, Jr.
Harmon, Sidney William
Harmon, William Craig
Harms, Alfred Glen, Jr.
Harney, Edward Paul
Harold, Thomas Louis
Harper, Gregory Paul
Harper, John Franklin, III
Harrington, Festus Marcel
Harris, Eldon Dudley
Harris, James Daniel
Harris, Jodie Ralph, Jr.
Harris, Lester Leroy
Harris, Wendell, Jr
Harrison, John Green, Jr.
Harry, Dennis Jackson
Hart, Monte Arthur
Hart, William Smith
Hartman, Jeffrey Everard
Hartmuller, Roger Louis, Jr.
Hartshorn, Randy Lee
Harvey, Fred Seldon, Jr.
Harvey, Gary Wayne
Harwell, Michael Adaire
Haseltine, Raymond Frederic
Haskins, Michael Leslie
Hatcher, William Lloyd, III
Haugen, Clinton Jerome
Haus, David Stauffer
Hawes, Jesse Norman, Jr.
Hawkins, Bruce Wayne
Hawkins, Larry
Hay, Willard Caldwell, Jr.
Hayden, Michael Patrick
Hayden, Robert Leeland, Jr.
Hayes, Bradd Crouch
Hayes, James Alfred
Hayes, Thomas Mather
Haynes, Arthur Dean
Haywood, Louis Frank
Headrick, James Oliver
Headrick, Joseph Robert
Heath, Donald Edward
Heath, Gregory Garver
Hebert, Charles Edward, Jr.
Hebert, Edward Richard
Heckhaus, Richard
Hecomovich, Michael Roy
Hedegor, John Wayne
Hederstrom, Paul Holly
Heeger, George Franklin
Heflin, William Nelson, Jr.
Heidecker, William August
Heil, James Peter
Heilman, Stephen Craig
Heinen, Jerry Joseph
Heinz, James Alan
Heitmanek, James Lovell
Held, John Michael
Held, John Thomas
Helfrich, James Carrothers
Helgeson, Marc Arnold
Hellmann, William Edward
Helton, James Nathaniel
Helwig, Gary Lynn
Henbest, Philip Michael
Hendershot, Robert Paul
Henderson, Haywood Hardy, Jr.
Henley, Ronald Wayne
Hennessy, Raymond Michael
Henson, John William
Herbst, Alan Keith
Herda, Raymond John, Jr.
Hergenreter, Dennis Dean
Hergenroeder, James
Herger, Joseph Ferdinand
Hermanson, Bruce
Hermeling, Theodore Allen, Jr.
Herrera, Heriberto
Herring, Frederick S.
Herring, Thomas, III
Herrington, David William
Herris, John William
Hess, Charles Menk
Hess, Glenn Edward
Hess, Mark William
Hewett, Ronald Edward
Hichak, Michael Joseph
Hickey, Daniel George
Hicks, Clayton Thayer
Hicks, Leonard Lee
Hicks, William James
Hiers, Preston Henry
Higgins, Robert Arthur
Higgins, Timothy
Hiles, Charles Hall, Jr.
Hill, Clark Gale
Hilton, William Ray
Hines, Jerome Howard
Hingle, Leander Leon, Jr.
Hinz, Donald Eugene
Hirsh, Louis Meyer
Hite, Ralph Edward
Hitt, Curtis Wayne
Hobart, Joseph Ross
Hoblitzell, Timothy Allen
Hoefer, Albert, III
Hoepper, Charles Thomas

Hoert, Michael John
Hoewing, Gerald Lee
Hoffman, Richard Bernard
Hoffman, Thomas Lewis
Hoffmann, Mark William
Hoffoss, Peter Orange
Hogan, Raymond Joseph
Holcombe, Edwin Franklin, Jr.
Holeva, Carl
Holland, Nathaniel Littlet J.
Holland, William Wayne
Hollenbach, James Warren
Holloway, Robert Hardy
Holm, John August II
Holmes, Doyle Edward
Holmes, Richard Nelson
Holmquist, Kurt Ervin
Holmstrom, Garry
Holstrom, Marshall Vaughn
Hook, James David
Hooper, Charles Cortland
Hooper, James Ernest
Hoover, William Carroll
Hope, Roger Keith
Hoppus, Michael Leemon
Horais, Brian John
Horgan, Mark Michael
Horne, Richard Allen
Hornung, Scott Allen
Horton, Daniel Winston
Hoskins, Michael Henry
Houck, Oran Lee
Houck, Timothy Lee
Hough, Thomas Harrison
Houle, Normand Arthur
Hovermale, Mark Daniel
Howard, David George
Howard, John Lester
Howdyshell, Walter Steven
Howe, David Blais
Howe, Mark Herbert
Hower, James Donald, Jr.
Hoxie, Joel Philip
Hrenko, John, Jr.
Hubbard, John Hampton
Hudson, Harold Ray
Hudson, Steven Dorsey
Hudspeth, Barry Edward
Huffman, Thomas Dean
Hugghins, Harold Terry
Hughes, Charles Earl
Hughes, Eric Marshall
Hughes, John Thomas, II
Hughes, Joseph Alexander
Hulsizer, Stephen Anthony
Hume, John Griffith, Jr.
Hunston, Larry Allan
Hunt, Douglas Leon
Hunt, John Allen
Hunt, Ted Lawrence
Hunter, Bruce Reed
Hupp, Alfred Rector, Jr.
Hura, Leo Orest
Hurst, Brian Dwane
Hussey, George Owen
Huston, Norman Earl, Jr.
Hutcheson, James Edward
Hutchings, Roger Arthur
Hutchins, Alfred Gordon, Jr.
Hutchins, Stephen Cullen
Hutson, Thomas Woodward, III
Hyjek, Michael Lester
Hyland, Joel Thomas
Hyster, David Robert
Ibert, Peter John
Ilgen, John Larson
Ingram, Walter Spencer
Innella, Michael James
Inverso, Francis Carlo
Isaacks, Carl Richard
Isen, Forester William, Jr.
Ives, Kenneth Richard
Jackson, Daniel Franklin
Jackson, John Adrian
Jackson, Robert Warren
Jackson, Timothy Howard
Jacobs, Alfred James
Jacobs, Robert William
Jacovelli, Paul Bernard
James, Charles Rayburn
James, Dempsey Dean
James, Edwin Clarence
James, Michael Thames
Janes, Charles Enos
Janiec, John David
Janis, Henry John, Jr.
Jarabak, John Paul, Jr.
Jaroncyk, William, Jr.
Jarvis, David Earl
Jastrab, Michael Edward
Kapinos, James Michael
Kasdorf, Roy Edward
Kaskin, Jonathan David
Kasmiroski, Lige Henry, III
Kaylor, Jefferson Daniel, Jr.
Keane, Joseph Patrick, Jr.
Keating, Charles Lewis
Keating, Timothy John
Keen, Wayne Carl
Keenan, Philip Vincent
Kehoe, Michael John
Kehoe, Raymond Jerome
Keith, Fredrick Williams
Kelley, Daniel William, Jr.
Kelley, Danny Burton
Kelley, Richard Gordon, Jr.
Kellogg, Robert Lea
Kelly, Edward William
Kelly, Mark Cephas
Kelly, Patrick Robert
Kelso, Robert Bruce
Kemp, Allan William
Kemp, Dieter Karl
Kendall, David Carl
Kendall, Gene Roger
Kennedy, Francis Joseph, Jr.
Kennedy, Robert Lee
Kent, Lowell Rodney
Kent, Robert Harold
Kerwin, James Albert
Keuhlen, Phillip Joseph
Keyser, Emmett Marvin, III
Kidder, Jeffrey Brian
Kilby, William Gene
Killian, Riley Edward, Jr.
Kilpatrick, James Hoyt, Jr.
Kimball, Jackson Geoffrey
Kimmel, Robert Lee
Kindberg, Richard Ray
King, John A., Jr.
King, Michael Reedy
Kirby, Wayne Edward
Kirk, Robert Wayne
Kirkland, Ronald Eugene
Kissmann, Ronald Martin
Kistler, Jay Ross, Jr.
Klein, Fred Corwin
Klissus, Anthony Joseph, III
Klose, Craig William
Knechtel, Glenn Karl
Knight, John Richard, Jr.
Knighton, Richard Benjamin
Kocmich, Eugene Joseph
Koenig, Bernard Joseph
Koerner, Douglas Gene
Koger, Gary Lang
Kohut, John George
Kolle, George Nicholas, Jr.
Kolody, Paul Walter
Kooker, Frederick Marshall
Jenkins, Harry Don
Jennings, Gary Harold
Jensen, Charles Louis
Jensen, James Cecil
Jensen, Jens Alford
Jensen, John Alexander
Jerome, Douglas Jay
Joel, Noble Fred, Jr.
Johanek, James Francis
Johns, George Kenneth
Johns, Joseph Howard
Johnsen, Jeffrey Kent
Johnson, Arthur Lee
Johnson, David Mark
Johnson, David Patrick
Johnson, Dennis Jack
Johnson, Eric Charles
Johnson, Gary Mel
Johnson, Gilbert Leon
Johnson, Jack Monroe
Johnson, Jerry Reed
Johnson, John Curtiss
Johnson, Kenneth Paul
Johnson, Larry Charles
Johnson, Michael Bruce
Johnson, Philip Gregroy
Johnson, Ralph Parke
Johnson, Stephen Mansell
Johnson, Troy Rollen
Johnson, William Roy
Johnston, Phillip Lee
Johnston, Steven Anderson
Johnston, Robert James
Jolls, John Danley
Jones, Darrell Wayne
Jones, Douglas Clark
Jones, Francis
Jones, Glenn Edward
Jones, Isaiah John
Jones, Jimmie Gee
Jones, John Herbert, II
Jones, Mark Webb
Jones, Rooney Richard
Jones, Stanley Lloyd
Jones, Stephen Ray
Jones, Walter Earl
Jones, Wayne Michael
Jopp, Rudolf Heinz
Jordan, Franklin Wayne
Jordan, Kenneth Sterling
Josefson, Carl Elof, Jr.
Josephson, Hardy Richard
Judson, James Hugh
Julian, Thurman J.
Junge, Dennis Michael
Jurkowsky, Thomas Joseph
Kaiser, Edward Wise, Jr.
Kaiser, Michael John
Kaltneckar, Steven Richard
Kane, Dennis Leland
Kopec, John Michael, Jr.
Kopicko, Henry Donald
Kortman, Gregory Marion
Kosar, Peter George
Koski, Carlos Irving
Kovacinski, Boleslaw Anthon
Kovar, Michael
Kraemer, Francis Xavier, Jr.
Kraft, Robert Allen
Kramer, Klaas
Krattli, Robert Walter
Kraus, George Frank, Jr.
Krause, Charles Frederick
Krech, Donald William
Krueger, Edward Henry, III
Krug, Norman Edward
Krug, William George
Krupsky, John Walter
Kubic, Tad Arthur
Kubovchik, John Francis, Jr.
Kuemmel, James Dean
Kuhlman, Henry Fredrick, Jr.
Kuhlmann, John Arthur
Kuhnert, Howard Julius, Jr.
Kunselman, David Edward
Labrecque, Lester Ray
Lacambra, Joseph Louis
Lagerman, Peter Michael
Laib, Duwaine Leroy
Laing, Clinton, Louis
Lake, Robert George
Lalonde, Larry Warren
Lamkin, Harry Brent, III
Lampert, Brian John
Land, William Bost
Landers, Judson, Theodore
Lane, Christopher K.
Lane, Jerry Paul
Lanier, Richard Joel
Lantz, James Scott
Lappano, Gilbert Christopher
Large, William Robert, III
Largent, William Dayton, II
Larkin, Robert Joseph
Larson, David Allen
Larson, Gregg David
Larson, Marvin Leigh
Larue, Larry Dean
Lashbrook, Daniel Floyd
Lasky, Ralph Carleton
Lassman, Abraham Joel
Latham, Buford Earl
Laughead, David Carl

Laughton, Bruce Loring
Lavery, William Harry
Lavigne, David Edgar
Lawhon, James Clinton
Lawrence, Russell George
Lawrence, Wilfred Paul
Laws, David Thomas
Lawson, Jeffrey Eugene
Leach, Frederick John
Leach, John Walter
Leard, Ernest Lee
Leary, Dennis James
Ledvina, Thomas Neal
Ledwith, Ronald William, Jr.
Lee, David Lawhon
Lee, Thomas Early
Leestma, David Cornell
Lehman, Michael Paul
Leiby, Kenneth Llewellyn, Jr.
Leighty, William Eric
Leinenweber, Lewis Eugene
Leith, David Michael
Lemaster, Joe Henry
Lemkin, Bruce Stuart
Lennon, Gerald Thomas, Jr.
Leo, Barry Lawrence
Leon, John Anthony, Jr.
Leonard, Peter James
Lepick, Mark Howard
Leroy, Richard Duane
Lessel, John Charles
Lewandowski, Allan Adrian
Lewis, Frank Leroy, Jr.
Lewis, Ira J.
Lewis, Jeffrey Evans
Lewis, Jerry Lloyd
Lewis, Kirk Thomas
Lewis, Lowell Grant
Ley, Gary William
Liberatore, Donald John
Lichwala, Stanley John
Linck, Victor Tecumseh
Linder, Bruce Richard
Lindgren, Paul Willard
Lindsay, Howard Byron
Linnehan, John Joseph, II
Linnenbom, Victor John, Jr.
Lins, Roderick William
Lippincott, William Ralston
Lipscomb, Gary Edwin
Liseno, Robert Thomas
List, Gary Harold
Lister, Robert Corley
Littke, Richard Henry
Little, Benerson Vernon
Little, Charles Ernest
Little, William Henry
Loague, Anthony Alan
Locke, Edward Stephen
Locke, James William, Jr.
Logan, Johnnie Monroe
Logan, Solon Eugene, Jr.
Lohman, Gary Walter
Loiselle, James William
Long, John Harvey
Long, Paul Bucher
Long, Theodore William
Long, William Trigg
Longworth, Michael William
Loria, Louis Charles
Loring, Paul Michael
Loss, William Joseph
Louden, Peter Eric
Loustaunau, Paul Jeffrey
Love, Jack Wilson, Jr.
Love, Robert Creekmore, Jr.
Lovell, Bruce Arthur
Lover, Kevin Francis
Lowe, Aljurnel Eldon
Lowe, John McCreary
Loyd, Robert Cameron
Loynes, James Lewis
Luce, Robert Emmett
Lucy, Robert Warren
Ludowise, John David
Ludwig, Donald Ralph
Lueck, Wallace Roy
Luengen, David William
Lukens, Frank Alan
Lupper, Kenneth Dale
Lusky, Charles Andrew
Luten, James Griffin
Lutz, Michael Hilton
Lydiard, Jeffrey Robert
Lynch, Michael James
Lynch, Ronald
Lynch, William Daniel,
Lynn, James Jefferies, III
Lyons, Daniel Ward
Lyon, Joseph Francis, Jr.
Maak, John Edward
MacCarthy, Patrick
MacDonald, Thomas Leo
Mackey, Jeffrey Alan
Mackin, Thomas Gabriel
Macris, Athos Constantine
Maddock, James Fairweather
Mader, James Frederick
Madurski, Paul Edward
Magee, Terry Edward
Magnino, John David
Maguide, David Paul
Mahafey, Vaughn Eugene
Mahar, Joseph Chester
Maher, John William
Mahoney, Stanton Van, Jr.
Maier, Larry Keith
Malboeuf, Ernest Joseph
Malin, Leslie William
Mallgrave, Fred Joseph, III
Malloch, James Edward
Mallory, Harry Burton, III
Maloney, Michael John
Manley, Richard Walter
Mann, Craig Raymond
Mann, Elmer Heath
Marecic, Terrence Joseph
Marich, Milutin
Maris, James Raymond
Marks, Kenneth Allen
Marks, Michael David
Marle, William Herman
Marshall, Raymond Lee
Martin, David Parker
Martin, David Thomas
Martin, John Francis, III
Martin, John Thomas Oliver
Martin, Michael Reed
Martin, Paul Henry
Martin, Richard Francis
Martin, Robert Roy
Martin, Ronald Reid
Martin, Stephen Richard
Martin, Thomas Latimer
Martini, Perry James, Jr.
Martino, Nathan Peter
Marvin, Richard Bruce
Maskaluk, David Charles
Mason, Lewis Gerhard
Mason, Roger Evans
Mason, Russell Terry
Massa, Richard
Massie, John Lawrence
Masson, Donald George
Masters, William David
Mathews, Monty Guwain
Mathis, Michael George
Matsunaga, Geoffrey Dean
Matthews, John Manard, Jr.
Mattox, John Allen
Maturi, Harold John
Matz, William Paul
Mauriello, Mark Edward
Maxey, John Donald
Maxfield, Dennis Wayne
Maxfield, Gregory John
Maxwell, Walter Raymond, III
May, Bobby Eugene
May, James Walker
May, Robert Michael
Mayberry, Jack Brian
Mayers, Joseph
Mayon, Michael Howard
McAffee, Montgomery, Jr.
McCallister, James Paul
McBride, Michael Patrick
McCabe, Michael Joseph
McCabe, Robert John
McCarley, Theodore Kershaw
McCarriar, Thomas Lee, Jr.
McCarthy, Joseph Bruce
McCarty, Gordon Leigh
McClanahan, Michael William
McClary, William Wylie
McClendon, Erwin Lowe
McClure, Bruce Patrick
McComb, Lorne Bruce
McConaughy, Steven Craig
McConkey, David Luther
McCoy, Ernest Vincent
McCoy, Kenneth Ferrell
McCoy, Rex Calvin
McCracken, James Russell
McCroskey, Bruce Adrian
McCuddin, Michael Ennis
McCulloch, Ben, Jr.
McDermott, James Kevin
McDonald, Lawrence Lee
McDonald, Terrance Sean
McDougal, James Michael
McDougall, Fred David
McDuff, Douglas Marc
McEntee, William John
McEwen, Randall James
McFarland, Clyde Edward, Jr.
McFarlane, Craig Lee
McGaha, John Robert, Jr.
McGee, Bruce Briden
McGillvray, John William, Jr.
McGlothen, James Benjamin
McGough, Larry Wayne
McGovern, Peter Joseph
McGowan, Eugene Edward
McGrath, Thomas Ross
McHale, Robert Vincent
McIntire, Paul Gerard
McKay, Duane Leon
McKee, Robert Leonard
McKee, Stanley Walter
McKelvey, Edward Lee
McKennan, David Jonathan
McKinney, George Richard
McLaughlin, David Earl
McLaughlin, Timothy Martin
McLean, Peter, III
McLeod, John Burton
McLochlin, John Michael
McMacken, John Christian
McManus, Donald Edward
McManus, Michael Paul
McMullin, Geoffrey Lloyd
McNabb, Donald George
McNallen, John Michael
McNeeley, Steven Wayne
McPeak, Robert Leroy
McQuaig, Michael Gray
McSweeney, Joseph Matthew
McVoy, Richard Edward, Jr.
McWane, Rodney Reynolds
McWilliams, George Randolph
Mead, Willie Jack
Meade, John Thomas
Meadows, Gregory Dea
Meister, John Thomas
Mell, John Knisely, Jr.
Mellin, Peter John
Melton, Daryl Keith
Melton, James David, Jr.
Mendenhall, Thomas Leo
Mendez, Robert
Menhennett, James Richard
Mercier, Kevin Gerard
Merdes, Daniel Ward
Meriwether, Gordon Kenyon, II
Merrick, Walter Forrest, II
Merrill, Wayne Rucker
Merring, Robert Louis
Merwin, Ronald Jo
Metcalf, Robert William
Metzger, James Wallace
Metzger, William Marvin
Meyer, Stephen Dennis
Meyers, James Vaughan
Meyers, Orville Luther
Midgett, Joe Christopher
Miernicki, Michael James
Mihalak, Edward
Millard, Ronald Eugene
Miller, Arlington Robert, Jr.
Miller, Charles Raymond
Miller, David Benjamin
Miller, Donald Peter
Miller, Douglas Lee

Miller, George Roland
Miller, Joseph Gordon
Miller, Lee Carlton
Miller, Mark Wayne
Miller, Richard Scott
Miller, Stephen Carl
Miller, Steven Michael
Miller, William Alan
Milligan, Jan Sherwood
Mills, Charles William
Millsap, Dewey Jed
Milne, Thomas John
Mims, Dwight Clifton
Miner, John Boyd
Minnehan, David William
Minnich, John Holloway, III
Minor, Donald Arvine
Mitchell, Billie Eugene
Mitchell, Donald Russell
Mitchell, James Alan
Mitchum, Kenneth Ray
Mizer, Herald Steven
Moaney, Phillip Bernard
Mocock, William Ralph
Modes, Ronald William
Modzelewski, Daniel Michael
Moffat, Steven Pearsall
Molochko, Gerald Anthony
Moloney, Rodger Timothy
Monopoli, Anthony Michael
Monson, Lee Edward
Monson, Scott Anthony
Montemarano, Anthony Salvato
Montesano, Frank William
Montgomery, Glenn Harold
Montoya, Anthony James
Moody, Richard Alan
Moon, Raymond Lawrence
Moon, William Samuel
Mooney, Jerry Dale
Moore, Ben, III
Moore, Hubert
Moore, Lavonne Hendricks
Moore, Michael James
Morawski, Richard Theodore, J.
More, Gary Kiely
Moreau, James Frederick
Morgan, Gregory Charles
Morgan, James Clayton, Jr.
Morgan, Walter Claude
Mori, Donald Paul
Moriarty, Christopher Paul
Morin, Roger Armand
Morrell, Michael Preston
Morris, Ernest Lewis, Jr.
Morris, John Joseph
Morris, John Lowell
Morris, John Therrell
Morris, Leon
Morris, Robert Lee
Morris, Thomas William
Morrison, David Ian
Moseley, James Robert
Mosher, James Keith
Mosher, John Carpenter
Moss, Bobby Leon
Motolenich, Stephen Eugene J.
Moyer, Jeffrey Kent
Moyer, Milton John
Mueller, John Carroll
Muetzel, Michael Paul
Muller, William Godfrey
Mullin, Dale Edward
Mullins, Patrick Charles
Mulvany, Gregg Patrick
Mulvey, David Richard
Munice, John Clifton
Mundell, James Michael
Murchie, Gates Skiffington
Murchison, Grover Richardson
Murner, William David
Murphy, Brian Francis
Murphy, Douglas Alan
Murphy, Larry Edward
Murphy, Patrick Joseph, Jr.
Murphy, Peter Joseph
Murray, Craig Harland
Murray, John Joseph
Murray, Raymond Michael
Murray, Steven Allen
Musso, Thomas Francis
Mustain, James Aitchison
Myck, Stephen Rhinehart
Myers, Frederick Howard
Myers, Randall Wayne
Nacht, John Joseph
Nacion, Robert James
Nadeau, James Claude
Naedel, Daniel Scott
Naff, Peter Benade
Nance, Roger Allan
Naple, Richard Peter
Nasief, Edmund George, Jr.
Nation, Arthur Raymond, Jr.
Nave, Herbert Mack
Neasham, Edwin Lowell
Nededog, Jose Terlaje
Needham, John Joseph, Jr.
Neely, Frederick Calvin
Neff, Jeffrey Cannon
Neil, Robert Howard
Nelms, Larry Wayne
Nelson, Frederick Dan
Nelson, Robert Edward
Nelson, States Lee
Nelson, Stephen Charles
Nelson, Terry Lee
Neville, Richard Creighton
Nevins, John David, Jr.
Nevitt, William Renwick, Jr.
Newman, Don Russell
Newman, Micajah Wilson
Newnam, Stephen Hugh
Newton, Joseph Stanaland
Newton, Laurence Harold
Newton, Thomas Alexander, Jr.
Nichols, Bruce Earl
Nichols, David James
Nichols, Thomas Jeffrey
Nicholson, Harry Xell, III
Nicolin, Kevin Cashel
Nielson, Eugene Keith
Nielson, William George
Niemczyk, Robert Richard
Nise, James Richard
Nitschke, Karl William
Nixon, Leslie Ray
Njaa, John Roger
Noel, Ronald Eugene
Nolan, Arthur George
Nolan, Carl William
Noland, Neal Douglas, Jr.
Nold, William Frederick
Nolin, Bruce Edmund
Nordin, Michael Thomas
Norris, John Anthony
Norvell, Larry Montgomery
Novin, Keith Everett
Nowell, George Wesley
Nowicki, Marvin Ernest
Nye, Richmond Roderick
Oakes, Delbert, Jr.
Oatley, Eugene Thomas
O'Brien, Thomas Fitzgerald
O'Brien, William Stanley
O'Bryant, Kenneth Michael
O'Connor, James Joseph, Jr.
O'Connor, Joseph Michael
O'Connor, Kevin John
O'Dea, James Edward
Odland, David John
O'Donnell, Brendan James
Offerdahl, David Carlyle
Ogden, Robert John
Ogurek, Robert Francis
Olde, Frederick George, III
Oliver, Larry Lee
Oliver, Thomas Albert
Olivieri, Carl Michael
Olson, Larry Stephan
Olsson, John Phillip, Jr.
O'Neill, John Patrick, Jr.
O'Neill, Kevin David
O'Neill, Robert Gregory
Onyon, Dale Everett
Oponick, William Charles, Jr.
Opsal, James Kenneth
Organek, William Edward
O'Rourke, Michael Patrick
Orrison, Michael Leggett
Ortmann, Robert Allen
Osier, Christopher
Oslund, Dwayne Arthur
O'Sullivan, George Daniel
O'Sullivan, John
O'Sullivan, Patrick Leo
Oswald, Louis John, III
Othmer, John Arthur
Ottesen, James Joseph
Otto, William Edward
Overend, William Jones
Owens, John Richard, Jr.
Owens, Ricky Lynn
Owens, Terry Dean
Oxford, Edward McKinley
Oxrider, James Penfield
Oyler, John Matthew
Padgett, Gerald Allen
Padgett, Ralph Wayne
Page, Steven George
Palanca, Rodney Alton
Pales, Michael Franklin
Palmer, Carleton Ashcroft
Palmer, Henry Boberg
Palmer, James Duane
Palmer, Michael Conithon
Palmer, William Ware, III
Palsgrove, Russell Tillman
Pampe, Robert Allen
Panzigrau, Jerome Eugene
Paoletti, Aldo Thomas
Pappas, Gregory Wilson
Parish, Richard Joseph
Park, James Alexander, III
Parker, Daniel Matthew
Parker, David James
Parker, Phillip Kendall
Parks, Edward James
Parks, Philip Douglas
Parsons, Robert Charles
Parsons, Robert Eugene
Partin, Thomas Lawrence
Patrick, John Walter, Jr.
Patterson, Ricky Lee
Patterson, Thomas Francis, Jr.
Patterson, Thomas Gibson, Jr.
Patton, John Anthony
Paul, Roy Leslie
Paulsen, Kent Allen
Paulson, John James
Paulson, Lael James
Paulus, Richard Alan
Pautler, David Bernard
Payne, Robert Lee, Jr.
Payton, John Dewey
Peach, Ellis Elbert
Pearce, Robert Keith, Jr.
Pearl, David Alan
Pearl, John Edward, Sr.
Pearson, Charles William, II
Pech, Gerald Roman
Peele, Franklin Dale
Pelstring, Stephen
Penley, Stephen Scott
Penman, Richard Lee
Penniman, William Talbot, III
Percival, William Lee
Perin, Jeffery Mark
Perkins, David Eugene
Perkins, Keith Allen
Perkuhn, Claus Peter
Perras, Wayne Irvin
Perritti, Frank Victor, Jr.
Perry, Allen Burrell
Perry, Eugene Joseph
Perry, James Frederick
Perry, Junior Lacie
Persson, Michael Edward
Pesce, Charles Stephen
Peszynski, Walter Franklin
Peterman, Ronald Ray
Peters, Kerry Alden
Peters, Wayne Albert
Petersen, John Steven
Peterson, Kenneth Edmund
Peterson, Richard Michael
Petitte, Mark Henry
Petrie, John Noel

Petty, Marion Alfred
Petty, Randolph Allen
Pfuhl, John Francis
Phelps, Norman John
Phelps, Roy Leon
Phillips, David Edwin
Phillips, Marc Stephen
Phillipson, William Robert
Phipps, John Willard
Pickelsimer, Billy Murel
Pieper, Charles Paul, Jr.
Pierce, John Williamson, Jr.
Piercy, Kenneth Roy
Pike, Edward Desloge, III
Pilnick, Steven Earle
Pinder, Franklin Blake, Jr.
Pinkham, Timothy Hull
Pitcher, William Crawford
Pitkin, Richard Cochran
Pittman, Charles Wesley, III
Pittman, Ernest Davis Black
Pittman, Norward Thomas
Plank, Richard Glen, Jr.
Plourde, Elwood Henry
Poch, Henry William, Jr.
Pokrywka, James Michael
Polatty, David Pierce, III
Poleshaj, Valentin
Pollard, Mark Edward
Pollock, Weston James
Polwarth, John Bruce
Polzien, David Edward
Poole, Timothy Earl
Pope, Nicholas Albert
Poppe, Larry Dean
Poro, Edward Kenneth
Porritt, Richard Harley, Jr.
Porter, Samuel Jack
Porter, Thomas Paul
Potter, David Lawrence
Potter, Thomas Lynn
Powell, John Ramon
Powers, Lynn Frederick
Poyer, David Charles
Prather, David Wayne
Prescott, Jesse Allen, III
Prestidge, Ronald Otis
Prevar, John Edward
Prevatte, Richard Louis
Price, John Robert
Price, Michael Leon
Price, Richard Marion
Pridgen, Joel Bernard
Prior, Melville Edwin, Jr.
Proctor, Scott Campbell
Prokasky, Stephen Scott
Prunty, Robert Wayne, Jr.
Pruter, Thomas John
Ptak, Alan Charles
Pugh, David Charles
Pugh, William Norman
Purdy, Stephen Ransley
Puryear, Eric Paul
Putman, Michael William
Pyne, Joseph Howland
Queen, Arnold Allen
Quinn, John Hartley, Jr.
Quinn, Richard Eugene, Jr.
Quint, Jeffrey Donald
Radack, James Paul
Radich, Thomas Francis
Ragghianti, Charles Frank
Raggo, Charles Joseph
Ragland, Gordon Gilbert, Jr.
Ragnetti, Michael John, Jr.
Raines, Richard Kenneth
Raines, Thomas Steven
Rainey, David Ross
Rand, Michael Miller
Rankin, Richard James
Rannels, David Alan
Raphael, Stephen Todd
Rathbun, Michael Stephen
Rathburn, Curtis Stanley
Ratliff, Perry Michael
Ratliff, Thomas Linwood
Ratner, William David
Rauch, Dale Arthur
Ray, Samuel Leon
Reasoner, James Douglas, Jr.
Redding, Hugh K.
Redmayne, Peter Clift
Redshaw, Michael Dennis
Reece, Stephen Michael
Reed, Billie Mitchell
Reeder, James Barry
Reese, Gary Arthur
Reese, Michael James
Reeve, Edward Joseph
Reeves, Donald Ray
Rehkopf, James Alan
Rehwaldt, Anthony James
Reilly, David James
Reinauer, Gordon Shelby, II
Reinertsen, Donald Grant
Reitz, Richard Patton
Reitz, Stephen Leslie
Remer, James Wesley
Repicky, John Joseph, Jr.
Resch, Philip Ray, Jr.
Reynolds, John Charles
Rhodes, John Albert
Rhodes, Thomas Walker, Jr.
Rhudy, Carl Emory
Rice, Elijah Eugene
Rice, Glenn, Jr.
Rice, Robert Ernest, Jr.
Rich, Albert Dyckman, III
Richardo, Fortunato, Jr.
Richards, Philip Earl
Richardson, Donald Charles
Richardson, Isaac Eugene, III
Richardson, James Dean
Richardson, Kenneth Alan
Richardson, William Ronald
Richmond, John Walker, III
Rickman, Loy Doyle, Jr.
Rickman, William Lee
Riddle, Richard Arnold
Rider, John David
Ridgway, Donald Craig
Ridley, John Sam, Jr.
Riedy, John Alvin
Riegger, Robert Ronald
Rigby, William Herman, Jr.
Riggs, Marvin James
Rightmire, James William, Jr.
Riley, Daniel Duncan
Rineman, Jon Richard
Rinker, James Ross
Rinz, William Harold
Riordan, Michael Eugene
Rivenes, Iver John, III
Robart, Gregory Paul
Robbins, Brian Arthur
Robbins, Donald Dean
Roberts, Dana Alan
Roberts, Ralph Dale, Jr.
Robertson, Brian David
Robertson, Ronald Leigh
Robertson, Thomas Arden
Robertson, William Reed
Robillard, Ronald Walter
Robinson, Douglas Rufus
Robinson, Lawrence Kerr
Robinson, Richard Stanton
Roble, Woodrow John
Rocklein, Timothy Arthur
Rockwell, Donald Edward, III
Roda, Richard David
Rodeffer, Ronnie Lee
Rodgers, Richard Lee
Rodgers, William Kenneth
Roehrs, Stephen Lowell
Rogers, Frank Leonard
Rogers, Stephen England
Rogers, Ted Ernest
Rohrbaugh, Michael Gray
Romann, John Edgar
Romas, Gregory George
Rooks, John T.
Roope, George Winfield, III
Roscoe, Stacy Alexander
Rose, Paul Joseph
Rose, Robert Ray
Rosenberg, Leo Charles
Roshelli, Ronald Joseph
Ross, David Charles
Ross, Jessie Clarence, Jr.
Ross, John Clyde
Ross, Johnny Edward
Ross, Robert Jay
Ross, Roger Dana
Ross, Stephen Carl
Rossignol, Donald Joseph
Rottler, Howard Colby, Jr.
Route, Ronald Arthur
Rowe, Daniel John
Rowe, James Frederick
Rowland, Curtis Alvin
Rowland, Mitchell Lee
Royal, Robert Louis
Royall, Michael Bruce
Rubel, Robert Charles
Rubino, Woody Michael
Ruddock, Theodore Davis, III
Rundberg, Edward Ernest
Rupertus, Leonard Raymond
Ruryk, Mirian Eugene
Rusch, Christopher Alan
Rush, David Paul
Russell, Bobby Gene
Russell, Donald Clarence
Russell, Howard Streeter
Ruston, Chuck Norman
Rutkowski, Edwin Gerard
Ryan, Gerald Dean
Rychener, Bruce Eric
Ryder, Richard Evans
Ryder, Robert Mac Aulay
Sacia, Roger Ethan
Sage, Michael Joseph
Sagi, John Phillip
Sakre, Larry Louis
Salerno, Michael Joseph
Salinas, Manuel Guillermo
Salka, Michael Stephen
Samar, Jack Joseph, Jr.
Sameit, Douglas Edward
Samons, George Michael
Sampson, John Alan
Sampson, Robert David
Sandelli, Raymond Frederick
Sanders, James Hugh
Sanderson, Edward Jennings J.
Sandknop, John Benjamin
San tangelo, James Angelo
Sassen, Grant William
Sassen, John Clay
Sauls, Aubrey Plowden
Sauls, John Ike, Jr.
Saunders, Kenneth Paul
Savage, Robert Ray
Sax, Karl, II
Sayles, Richard Norvelle
Saylor, Roger Stanton
Schaeffer, Jacob Donald
Schaffer, Jack Thomas
Schaffter, Alan Bruce
Schalk, John Edward
Schall, George Edwin, Jr.
Schapira, Joel Richard
Scharfe, Mark Charles
Schaufelburger, Albert A., II
Scheiner, Edward Charles
Scherr, Michael Robert
Schick, Carroll George
Schierer, Leon Arthur
Schilder, James Frederick
Schilling, Ronald Kurt
Schimmels, John Norman
Schlicher, Frederick James
Schmehl, Robert Louis
Schmidt, Allen James
Schmidt, Robert Henry
Schmidt, Robert William
Schmidt, William Richard
Schmidtkunz, James Edward
Schmitt, Stephen Richard
Schmitt, William Edward
Schneider, Peter Paul Jr.
Schneider, Richard Clarence
Schnellenberger, James Edwar
Schoonover, Robert Arthur
Schott, Frank Theodore Jr.
Schrade, Lawrence Leonard
Schroder, Ronald Dean

Schroeder, Milton David
Schuknecht, Richard Edward
Schuler, John Joseph
Schultea, Patrick David
Schultz, Carl John, III
Schultz, James Calvin
Schultz, John Arthur
Schultz, Joseph Michael
Schultz, Robert Gwynn, Jr.
Schultz, Ronald Haygood
Schultz, Warren Robert
Schultze, Warren Lee, Jr.
Schultzman, Jay Samuel
Schuyler, John Harrington
Schwab, Stephen Taylor
Schwaller, Gregory Anthony
Schwarz, Edward Gerald
Schwedhelm, Martin Henry
Schweitzer, Richard
Scoffield, William Thurgood
Scott, Charles Richard
Scott, Donald Gordon
Scott, Jeff Charles
Scott, John Everett
Scott, Kenneth Henry Jr.
Scott, Wayne Alexander
Scroggins, Bradley Dale
Seabrooks, John Robert
Seaton, Robert Deane
Secorsky, Thomas Alan
Seekins, Steven Selden
Seil, John William
Selde, Peter Jay
Sellers, Ronald Edward
Senior, Michael William
Sentman, Orville Lawrence
Serhan, Marvin Thomas
Seth, Roy Allen
Settlemoir, Rex William
Setzer, Charles William, Jr.
Sevi, Alfred Nicholas
Sexton, Ralph John
Shackelford, Leland Scott
Shaffer, Daniel Robert
Sharp, Larry Ralph
Sharpe, Bruce Edward
Sharpe, Larry Robert
Shatzer, Lewis Allen, Jr.
Shaw, Daniel Nelson
Shaw, Henry Milton, Jr.
Shaw, Robert Scott
Shaw, Russell James
Shaw, Samuel Duane
Shaw, Robert Harrison
Sheffield, Harold Leo
Shellem, James Bernard
Shelton, John Presley, Jr.
Shemanski, Clem John, Jr.
Shepard, Fredric Alan
Shepherd, William Mc Michael
Sheppard, James Joseph
Sheppard, Walter Timothy
Sherfesee, Louis, III
Sherman, Richard Floyd
Sherrard, John Carr
Shields, Robert David
Shirkey, Jack Michael
Shirley, Tommy Farrel
Shoaff, Ray Leroy, Jr.
Shockley, William Robert
Shoffner, Mann Aner, III
Short, Kenneth De Wayne
Shuff, Allen Ray
Shuk, John Gregory
Shutt, William Leroy
Sides, John Elvin
Silvers, Richard Allan
Simila, James David
Simmons, Charles Harrison, Jr.
Simmons, John Wallace, II
Simmons, William Russell
Simoneaux, Lawrence Frederi
Simpkins, Earl Lewis, Jr.
Simpson, James Michael
Simpson, Paul Lewis
Sinclair, Robert Grayson
Sinclair, William Fraser, Jr.
Siple, Roy Crane
Sirmans, Lance David
Sitler, Stephen Douglas
Sivers, Mark Raymond
Sixta, John Anton, Jr.
Skelton, Robert Thomas
Skibitsky, William Samuel
Skidmore, Michael Guest
Skinner, Michael Edward
Skirm, George Louis, III
Slater, Arthur Francis
Slaton, Steven Gregory
Sloat, Mark Steven
Smartt, Douglas Arthur
Smedberg, James Eric
Smith, Adrian Lee
Smith, Charles Hughes
Smith, Chester Burton
Smith, Craig Howard
Smith, Dallas Thomas
Smith, Donald Gene
Smith, Gary James Ernest
Smith, Gary Lloyd
Smith, Gene Arnold
Smith, Gregory Clare
Smith, Harris Latimer
Smith, James Luther
Smith, Jeffrey Campbell
Smith, Jeffrey Townsend
Smith, Jerry Clifton
Smith, John Kevin
Smith, Lawrence Darcy
Smith, Leonard Gregory, III
Smith, Richard Charles
Smith, Richard Markley
Smith, Robert Myron
Smith, Samuel Arnold
Smith, Stephen Wayne
Smith, Steven Thomas
Smith, Stuart Whittney
Smith, Thomas Phillip
Smogen, James Leon
Smoot, Sherman Gaar
Snigg, Steven William
Snodrass, Guy Burl
Snook, Thomas Russell
Snow, Homer Eugene
Snowdon, William Henry
Snyder, Michael Dennis
Soderlund, John Henry
Solomon, Robert
Somers, Larry Leroy
Sorrentino, Ludwig Arthur
Soule, William Earl
South, Michael Larry
Sowers, Bobby Gene
Sowers, Gary Gilbert
Sowers, James Richard
Spanbauer, Mark Edward
Spancake, Steven Craig
Spaulding, Robert Parish, Jr.
Speer, John Paul
Speer, Robert George
Sperberg, Lester William, Jr.
Spivey, Danny
Spotts, William Warren
Staehr, James Paul
Stahlak, Russell Floyd
Stahler, Scott Wood
Stahlhut, David Michael
Stanke, Jay Douglas
Stanke, John Gardner
Stankoski, John Stephen
Stansfield, James Daniel, III
Stark, Richard Robert
Stark, Thomas Alon
Steding, Michael William
Steelman, William Jeffrey
Stefanick, Andrew
Steffen, Norman William
Steinke, Paul Douglas
Stephan, Herbert Adam
Stephens, Ben Franklin, Jr.
Stephens, Michael Robert
Stephens, Michael Wayne
Stephens, William Bradford J.
Stephenson, Thomas Richard
Stepherson, Gerald Dwayne
Sterusky, Robert Dennis
Stevens, Paul Harold
Stevens, William Thomas
Stevenson, John Gray
Stevenson, John Henry
Steward, Scott Christoffer
Stewart, Daniel Dawson
Stewart, Frank Wood
Stewart, Richard Kenneth
Stewart, Richard Maxwell
Stgermain, Robert Donald
Stiles, Joseph Ellsworth
Stomboli, James Ralph
Stone, James Benjamin, Jr.
Stone, Timothy Gene
Stonecipher, William Benjab
Storms, Ernest Newton
Stott, John Joseph
Strain, Hugh Joseph
Stratton, James William
Strobbe, Robert James
Strom, William Werner
Strong, Robert Alan
Struble, James Franklin
Stuart, Robert William
Stubblefield, William Howard
Stuetzer, F. John
Stuhlman, Robert Harold
Stull, Mark Judson
Stutler, Frank Otley, Jr.
Subalusky, William Thomas, Jr.
Sullivan, Edward Lawrence
Sullivan, Eugene
Sullivan, Kerry Jay
Sullivan, Martin Dennis
Suman, Steven Michael
Summerlin, Michael Don
Summers, Jack McConnell, Jr.
Sumner, Gary Bruce
Sumner, Robert Lewis
Sundin, Melvin Leroy
Swacker, Robert Nathan
Swartz, Lowell Franklin
Swartzell, Robert Dale
Sweet, John Lawrence
Swepston, Anderson Henry
Swetland, Paul Duffield
Sydnor, Thomas Lee
Szemborski, Stanley Robert
Szucs, John Howard
Szydlowski, Chester Peter
Talipsky, Richard William
Tapajcik, John Michael
Taplett, Kenneth John
Tappen, Frank Robert
Taylor, Christopher James
Taylor, Dean Edward
Taylor, Donald Walter
Taylor, James Edward
Taylor, Joseph E.
Taylor, Perry Reece, Jr.
Taylor, Richard Warner
Taylor, Robert Eugene
Taylor, Samuel Walter
Teems, Billy Walter
Teller, Thomas Lee
Tennant, John William
Tente, Dennis Joseph
Terlizzi, Thomas Paul
Ternes, Thomas John
Terry, Kenneth Sturgis
Tew, Larry Allen
Thaggard, Robert Stephen, Jr.
Thalman, David Marvin
Thames, Charles Melvin
Thayer, Paul Duncan
Theis, James Murray
Thies, Denzil Delane
Thomas, Danny Ray
Thomas, Donald Eugene
Thomas, Donald Ralphael
Thomas, Francis Farrell
Thomas, Harry Fannin
Thomas, Joseph Walter
Thomas, Michael Charles
Thomas, Steven Edward
Thompson, Alan Jeffrey
Thompson, Charles Edward
Thompson, Clarence Elmer
Thompson, George Albert
Thompson, Jerry Dennis
Thomson, David Duerr
Thomson, James Stuart
Thorley, Robert Allen
Thorne, Lewis Gibson
Thornhill, Arthur Nelson
Thornton, Peter Brittin
Thyfault, Marion Eugene

Tilden, Averill Edward
Timmester, Terry Wayne
Timmins, John Paul
Timms, Terry Wayne
Tinsley, James Weller, Jr.
Todd, Dale Edward
Tody, Stephen Lee
Toliver, Lynden Robert
Tomlinson, Phillip Franklin
Toms, Brian Lee
Toomey, James Edward
Toomey, Terrance Anthony
Tosatto, Francis Levern
Towcimak, William Robert, Jr.
Towers, Kenneth Wayne
Townsend, James Lewis
Trammell, David Grounds
Travis, Cecil Lowell, Jr.
Travis, Thomas Lee
Treadwell, William Philip
Tredway, Leo Joseph, Jr.
Trenka, Harold Norman
Tribelhorn, Ronald Wayne
Trudell, Michael Albert
Truitt, Benjamin
Trytten, Dean Orville
Tucker, Charles Wayne
Tucker, Eugene Frank
Turk, Richard Snyder
Turnbull, Steven Scott
Turner, James Sunday, Jr.
Turner, John Stantial
Turriff, David James
Tylenda, Francis Paul
Tyler, Warner Russell
Tyson, Robert Karl
Ulaszewski, Terence Jerome
Unangst, William Clinton
Unruh, Howard Kirk, Jr.
Uplinger, Joseph Charles
Uthe, David Harley
Utsch, Frank Robert
Utschig, Thomas John
Uzenoff, Ronald James
Vagts, Steven Walter
Valdivia, Richard Stephen
Valenta, David Michael
Vandeman, Frank Leslie IV
Vanderels, David Michael
Vandover, David Lee
Vanhaute, Raymond Thomas, Jr.
Vanhoy, William Allen
Vannatta, John Orvis
Vansickel, Michael Eugene
Varley, John Charles
Vassar, William Lee
Vassos, George Arthur III
Vaughan, Timothy Lee
Venes, John William, Jr.
Vercellino, David Lee
Vessey, Robert Douglas
Vetsch, William Joseph
Vick, Paul Steven
Vickery, Thomas Edwin
Viglienzone, Dennis Edward
Villarosa, John Poteat
Virus, Terry Paul
Vivian, John Wendell
Vivoli, James Warren
Volkart, Bruce Ray
Waddell, James Bryant
Waddell, Joseph Robert
Wade, Phillip Morris
Wadington, Clair Allen
Wagemaker, Wallace James
Wagner, Cort Davis
Wagner, Randall Douglas
Wagoner, Henry Martin
Wagoner, Robert Charles
Wahl, Harry Alexander
Waite, Lynn Lewis
Wales, Richard Allan
Walker, David Lee
Walker, Frank Thomas, Jr.
Wall, Allan David
Wallace, David Kitts
Wallace, Howard Atkinson, Jr.
Wallace, James Stuart
Wallace, Robert Christopher
Wallin, Jeffrey Erling
Walsh, Peter Earl
Walsh, Richard Francis
Walter, Robert Elwood
Walters, Chester Huel
Walters, John Justin
Walton, Robert Lynn
Walz, Lee Lucas
Walz, Victor Martin, Jr.
Ward, Charles Raymond
Ward, Michael Charles
Wargo, Joseph William
Washam, Gary Ivan
Waters, Raymond Spencer, Jr.
Watford, Qube Gene
Watkins, Kenneth Stratte, Jr.
Watson, Chester Arthur, Jr.
Watson, John Lawrence
Watts, Patrick Roger
Wavle, Gordon Radford
Weatherington, Michael Wayne
Weatherup, Mark Robert
Weaver, Charles Shepard
Weaver, Christopher Edward
Weaver, John Wood
Weaver, Lloyd Peter
Weaver, Richard Kristin
Weaver, Vaughan Crawford
Webb, Lincoln Putman
Webb, Wayne Patrick
Webber, Thomas Charles
Weber, Frank Cecil
Weedon, Gerald William
Wegrzyn, Raymond Robert
Weibley, Rolland Edward, Jr.
Weidman, Richard Dennis
Weimerskirch, John Peter
Welch, Daniel Roy
Welch, George Douglas
Wellborn, Richard Bowen
Weller, Wayne Leroy
Weling, David Craig
Wellman, William Earl
Wells, Cecil Eugene
Welsh, Edward Joseph, III
Welsh, Harold Kenneth, Jr.
Wenner, David Lee
Werner, Gerald Chester
Werthmuller, Roy Walter
Wessman, Ernest Everett
Wessman, Mark Donald
West, Frank, Jr.
West, Michael Christopher
Westbrook, Gary Michael
Westendorf, William Joseph
Westhoff, Dennis Anthony
Westmoreland, William Donald
Wharton, Darryl Matthew
Wheatley, Charles Dimmer
Wheeler, Richard Carter
Wheldon, Richard Gayton
Whiddon, William David
Whitaker, Lawrence Winans
White, Grover Lee, III
White, Joseph Michael
White, Richard Longstreth
White, Russell Andrew
Whitelatch, Robert Clinton
Whiteman, Charles William
Whitfield, H. Leland, III
Whitford, Daniel Lee
Whitman, David Allen
Whitney, Darrell Emerson
Whitney, Russell Terrence
Whitson, William Frederick
Whittaker, Forrest Richard
Whittle, Alfred James, III
Wierzbicki, Gregory Thomas
Wiggins, Bryan Douglas, Jr.
Wiggins, Ronald Luther, Jr.
Wile, Ted Shannon
Wiles, Tom Dee
Wilhelm, John Raymond, Jr.
Wilkinson, Lester Paul
Will, Alan David
Willard, Jimmy Wayne
Williams, Bruce Arnold
Williams, David Morgan
Williams, Donald Grant, Jr.
Williams, Elmer Eugene
Williams, Eugene Joseph, Jr.
Williams, Gary Eugene
Williams, John Alan
Wililams, Stephen Wayne
Williams, William Robert
Williams, Willie Love
Williamson, John David
Williamson, Kenny Dew
Willoughby, Michael Loren
Wills, Thedore Chapman
Wilmoth, James Walter
Wilson, David George
Wilson, John Edward
Wilson, Larry Lavon
Wilson, Michael Kenneth
Wilson, Walter Edward
Winsky, Gregory John
Winsted, Bradley Yancey
Winterstein, Williard Jacob, J.
Wise, John Roy
Withrow, John Alexander
Wnek, Francis Mitchell
Wohler, Stephen Arthur
Wolf, Terry Lee
Wolfe, Albert George
Wolford, Earl Lee
Wolfsen, Terrence Harold
Working, Fred Louis
Wolnewitz, Robert Lawrence, I
Wolpert, William Lee
Wood, Albert Wayne
Wood, Charles Edward, Jr.
Woodall, Allen Gene
Woodford, Joseph Phillip
Woodring, Roger Oster
Woodyard, William Douglas
Woolard, Reginald Wallace, II
Worley, James Lloyd
Worley, Robert Allen
Worrall, Eric Hamilton
Worrell, Ira Gene
Worth, Joseph Christophe, III
Worwetz, Harry Joseph
Wray, Lawrence Frederick
Wright, Carroll Gregory
Wright, Larry Clinton
Wright, Richard Gary
Wright, Wilbur Grant
Wunder, Bernard Almond
Wunsch, Charles Steven
Wylie, James Meredith, Jr.
Yale, James Arthur
Yeakley, James Robert
Yeatman, Lawrence Lankford
Yee, Thomas Hop
Yocum, William Elton, Jr.
York, Robert Ronald
York, William Joe
Young, Cassin, II
Young, Gregory Carl
Young, Kerry Alan
Young, Neal Ronald
Young, Wendell Richard
Yount, Richart Fulton
Yourth, Ronald David
Zajicek, Richard Gene
Zapf, William Edward, Jr.
Zavaglia, Ronald Francis
Zboyan, Roy Warren
Zeitler, George Dean
Zell, William Beigler, Jr.
Zetes, John Arthur
Zimmerman, Ralph Kendall
Zimmerman, Robert Wade
Ziska, Richard Frederick
Zitzelman, Philip Wayne
Zmuda, Raymond Anthony, Jr.
Zogby, Reagan Joseph
Zuorro, Kenneth Joseph Peter
Zurfulh, Michael Thomas

CONFIRMATIONS

Executive nominations confirmed by the Senate September 16, 1974:

INTERNATIONAL ATOMIC ENERGY AGENCY CONFERENCE REPRESENTATIVES

The following-named persons to be the Representative and Alternate Representatives of the United States of America to the

Eighteenth Session of the General Conference of the International Atomic Energy Agency:

Representative:

Dixy Lee Ray, of Washington.

Alternate Representatives:

John A. Erlewine, of Maryland.

Abraham S. Friedman, of New York.

Dwight J. Porter, of Nebraska.

Gerald F. Tape, of Maryland.

IN THE COAST GUARD

Coast Guard nominations beginning Hugh C. McCaffrey, to be captain, and ending Thomas L. Wofford, to be chief warrant officer, W-3, which nominations were received by the Senate and appeared in the Congressional Record on August 19, 1974.

Coast Guard nominations beginning James B. Clarke, to be lieutenant, and ending James J. Keller, to be lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on September 4, 1974.

EXTENSIONS OF REMARKS

THE U.S. POSTAL SERVICE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 16, 1974

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include my Washington Report entitled "The U.S. Postal Service":

THE U.S. POSTAL SERVICE

The U.S. Postal Service, which became three years old this summer, continues to be a disappointment. Perhaps expectations were too high for the success of the new postal corporation when the Postal Service was launched with bipartisan support, a boost from a blue ribbon Presidential Commission, and the advice of the best brains in the field. Nobody expected perfection, but most did expect significant improvement in a reasonable time—and it has not come.

When begun, the Postal Service had a lot going for it. Political appointment and promotion of postmasters was eliminated, postal employees got collective bargaining, and rate setting was put in the hands of experts (not politicians in Congress). But it hasn't worked. The woes of the Postal Service continue, as any Congressman knows after a walk down Main Street in his District. It all sounds too familiar: rising rates and costs, severe cutbacks in service, damaged packages, and slow delivery.

The postal managers have indeed scored some successes in the first three years of the Postal Service. They have reduced the payroll from 739,000 to 708,000, improved the availability and regularity of airmail flights, removed some of the employee discontent that plagued the old system, begun to modernize post office and mail handling facilities, increased mail sorting automation, and undertaken a $950 million project to construct a new bulk-mail system.

Nonetheless, operating costs have soared, and losses have burgeoned from $13 million for the year ending June 30, 1973, to $415 million for the year just ended, over and above a $1.5 billion subsidy from Congress. Postal Service income has risen from $8.8 billion in 1971 to the present $10.8 billion mark, but the average letter or package takes longer to reach its destination than three years ago, and a well motivated work force simply has not emerged.

The Postal Service inherited a number of headaches when it got underway in 1971, and since then it has acquired a number of tough new problems. Most recently the Postal Service, one of the country's biggest fuel consumers, has seen its gasoline and energy bills jump alarmingly, and the general inflation level has pushed up costs of all kinds. The labor payroll, which makes up 85% of the total cost of delivering the mail, has increased to $9.3 billion, a three-year hike of 24%. Mail volume has risen to a staggering 90 billion pieces of mail this year.

Some members of Congress want to drop the Postal Service and return to the old system of a Post Office Department, with the President and the Congress substantially controlling it. That approach did not work before, and I strongly suspect that a 535-member Congress, with many other important things to do, cannot exert effective management of the vast postal system. Other members want a system of free enterprise, and they point out that some private carriers are doing well. Under this approach some areas of service probably would improve, but nationwide service would probably suffer. Rural areas, non-profit groups, and publications would incur immense price increases.

The disappointing record of the Postal Service, however, requires that all of us keep an open mind to these and other proposals, and any criticisms of the Postal Service must be tempered with recognition of the loyalty and competence of postal employees, and the size and complexity of the task of running an enterprise with a $10 billion budget, 700,000 employees, and a mail volume of 90 billion pieces each year, with the average letter going through 47 processing steps. The importance of the postal system also dictates caution. It is the only branch of the federal government that touches the lives of most Americans every day; without it the economy would become quickly paralyzed, and the unity of the nation endangered. For the present, then, I regret extreme measures and favor several substantial changes in the Postal Service to achieve the goal of a service conducted in a businesslike fashion.

A new management team is needed. The team must have experience in labor intensive enterprises, familiarity with postal operations, and dedication to public service. They should be in their most productive years, without taint of political influence, broadly representative, and, so far as possible, combine know-how in both business and government. High-level management should include more career postal workers. Some variety in the form of mail will have to be sacrificed for the efficiency of automation, e.g. standardized envelopes with preprinted zip code squares for speed in sorting, available at reduced rates to encourage their use. Experiments with incentives for employees for improved productivity, postal contracts let on a more competitive basis to insure quality service at lower cost without favoritism, improved recruiting standards, especially for high level management personnel; and realistic and announced mail service standards are other steps urgently needed to give the American people the kind of service they need and deserve.

REPORT TO THE PEOPLE OF THE 12TH CONGRESSIONAL DISTRICT

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 16, 1974

Mr. RINALDO. Mr. Speaker, as we approach the end of the 93d Congress, we have an opportunity to look over the work that has been done this year and the job that lies ahead. Putting America back on the track toward economic recovery while combatting inflation is one of the greatest challenges that the Members of Congress face.

The American public expects us to mount a vigorous attack on the domestic problems that have been building up since our tragic and costly involvement in Vietnam. With the war behind us, and a new President in office, the rebuilding of America has become an exciting and compelling challenge.

Certainly this session proves that the interest of this Congress has inexorably shifted away from solving the world's problems to taking care of our own. I share the feeling of many of the Members of this Congress that there is a positive awareness that our Federal Government is heading in the right direction at long last.

We have, of course, been spurred toward a revival of the American spirit through a series of disheartening events. Watergate, the Arab oil embargo, the worldwide problems of inflation, environmental dangers, and raw material shortages. And, of course, we want to celebrate the Nation's 200th anniversary in 1976 in a mood of national trust, harmony, and confidence that all is right with America.

Looking back at this session of Congress, I am convinced that we have already set the wheels in motion.

We have begun the difficult task of grappling with inflation, energy shortages, budget reforms, the abuse of Presidential power, housing and community development, assisting older Americans, protecting the environment, safeguarding the pensions of American workers, rebuilding our bankrupt mass transit systems, promoting policies of national conservation, and setting the ground work for the next session of Congress to enact a national health insurance program, tax and campaign reforms, consumer protection, and emergency public employment. This Congress did not stand still. I believe that an objective review of our record in this session will prove it to the American public.

Permit me to list the major areas of accomplishment in this session:

INFLATION

In adopting the historic Budget Reform Act, Congress has reasserted its power to control the public purse and to audit carefully the spending programs and policies of various Federal agencies.

It is clear to me, from my conversations with constituents and my own studies of inflation, that one of the first steps is to control and reduce Government spending. Congress has given itself the tools through budget reform to work with the White House in prudently eliminating unnecessary spending. Congress cannot meekly submit to demands to raise budget ceilings because of overspending. We must stick to the limits on Federal spending or else face the unpopular decision of raising taxes.

In addition, we have created a Cost of Living Task Force, as requested by President Ford, to more closely monitor our complex economy. As a member of the House Banking and Currency Committee, I was pleased to cosponsor this bill. Weaknesses in our national economy must be spotted long before they develop into crises.

ENERGY

The Arab oil embargo awakened the Nation from its extravagant waste of energy. As the world's strongest industrial nation, we cannot afford blackouts, brownouts, factory layoffs, closed schools, cold homes, and empty offices. Neither can we tolerate dependence on oil cartels in the Mideast that are sapping billions of dollars out of the American economy.

Project Independence is stimulating America's technology and science to develop new fuel sources and power. We are embarked on a vastly accelerated program of research and development into solar energy, geothermal energy, oil shale, coal, gas, and other fossil fuels. In addition, nuclear power has been given a strong push, and off-shore deposits of oil and gas are receiving increasing attention and investment.

CONSERVATION

At the start of the energy crisis, Congress reduced the speed limit to 55 miles an hour. It saved millions of gallons in fuel and thousands of lives. Along with other measures encouraging the use of coal and establishing a commission on national reosurces and raw materials, Congress started a trend aimed at ending the enormous waste of our limited resources.

HOUSING

The shortage of private capital has led to a serious depression in housing construction all across the Nation. For 2 years our Nation had no comprehensive housing program. Fortunately, the 93d Congress acted to remedy the situation by passing an $11 billion housing bill, which I cosponsored.

The law sets up a community development revenue-sharing program to provide up to $20 million to Union County over the next 6 years. And more funds will be made available under this act for senior citizens' low-rent housing and for housing rehabilitaton. Meanwhile, moves to trim the Federal budget and pressures to stem the rate of inflation should bring down interest rates for private home construction.

MASS TRANSIT

For the first time, Congress voted to allow highway trust funds to be used for mass transit. This Congress set another precedent by voting to allow mass transit funds to be used as operating subsidies for buses, trains, and subway systems facing serious financial problems.

The 93d Congress also responded to the crisis of bankrupt railroads in the Northeast by approving legislation to establish a Federal corporation to take over failing lines to consolidate services. I have been disappointed by some of the early planning that would eliminate some needed freight and commuter service. Along with other Members of Congress, I intend to fight for improvements in rail service rather than the extinction of lines that play a vital economic role.

FOOD

In order to increase the supply of food, Congress removed the restrictions on crop planting and is moving to streamline commodity trading practices that tend to discourage price cuts in farm goods and fibers. At the same time, I have battled to cut farm subsidies to the bone and to eliminate them in such areas as beef production, sugar, tobacco, cotton, and a range of other crops now selling at record prices.

PENSIONS AND PAY

The protection of billions of dollars in pensions of American working men and women has been assured by passage of the Pension Reform Act after more than a decade of study and effort. And this Congress also raised the minimum wages of millions of workers at the bottom of the economic ladder from $1.60 to $2 an hour this year.

WAR

The undeclared war in Vietnam taught this Congress a lesson. The War Powers Resolution enacted by the 93d Congress requires a President to seek the approval of Congress to commit American troops to a combat area for a period of more than 60 days. I strongly supported this measure and voted to override former President Nixon's veto. The constitutional power to declare war rests with Congress, and executive decisions should not be permitted to usurp that authority.

THE ELDERLY

After years of discussion and study, Congress approved an automatic escalator for social security payments to insure that those who have contributed to the system over the years can keep up with inflation. This provision was contained in a bill that provided an 11-percent increase in social security divided into two stages in 1974.

This Congress also adopted many of the recommendations of the White House Conference on Aging by enacting the Older Americans Act. The bill provides a wide range of service to older Americans.

UNFINISHED BUSINESS

National health insurance will be on the agenda for the next Congress. The cost of health care has become unbelievable. A major illness can bankrupt the average American family. And the delivery of health services to all who need them has not kept pace with our growing population and demand. Along with national health insurance we need better preventive medicine and nutrition to guard against serious illness and costly hospitalization. And the care of the aged must be improved through better home care and local community health clinics.

Tax reform should be another priority of the next Congress. We cannot live with a system that places so much of the tax burden on middle-income people. Tax loopholes for the very wealthy must be closed if we are to retain confidence in our tax system.

Consumer protection, which has been bottled up in the Senate, has been passed twice by the House. American consumers need a public advocate who will represent their interests at hearings on product safety, design, and use before various Federal agencies.

On a more personal note, I wish to thank the leadership of this Congress for naming me to the prestigious House Banking and Currency Committee during my first term. This year the committee approved a broad range of domestic legislation, ranging from the housing bill and the mass transit act to establishing the Cost of Living Task Force.

The committee has been holding a number of hearings on the whole question of inflation and high interest rates, and its recommendations to the House will play a vital role in attacking both these problems. At the present time, the consumer affairs subcommittee on which I serve is preparing a bill that I introduced to eliminate discrimination in credit on the basis of sex or marital status. It should be high on the agenda of the next Congress.

Let me finish this summary by saying that it has been an honor to serve in this hard-working, dedicated body of the people's representatives. The upsurge of public confidence in Congress indicates to me that the public does appreciate our best efforts in their behalf and that it understands the complexities and difficulties of our assignment.

But no job in Congress is ever complete. A dynamic society constantly provides new challenges. And it demands wisdom, integrity, and courage from the men and women who have devoted themselves to the people's work and America's well-being.

WALTER BESTERMAN'S USEFUL LIFE RECALLED

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 16, 1974

Mr. McCLORY. Mr. Speaker, it has come to my attention that my friend, Walter M. Besterman, former Deputy Director of the Intergovernmental Committee for European Migration—ICEM—died recently. In addition to his distinguished service in behalf of the displaced and homeless immigrants whose interests were served by ICEM, Walter Besterman had given earlier distinguished service to the Subcommittee on Immigration of the House Judiciary Committee.

Mr. Speaker, I met Walter Besterman and Mrs. Besterman in Geneva, Switzerland, while attending meetings of ICEM and I can attest to the skillful manner in which he served this multinational organization.

Mr. Speaker, in addition to his legal and administrative skills, Walter Besterman had a full and dramatic life from the time of his birth in Poland in 1903 through his service as foreign correspondent, as counsel to the House Judiciary Committee and as administrative head of ICEM.

Mr. Speaker, since Walter Besterman's departure for ICEM in 1970, he continued his service in behalf of immigrants and refugees as overseas director of the Tolstoy Foundation with its principal headquarters in Geneva, Switzerland.

Mr. Speaker, Walter Besterman was a friendly man who possessed many talents which he utilized for the benefit of mankind. Walter and his lovely wife, Catherine, were gracious hosts. I recall one occasion in Geneva when they were my hosts and extended their warm and generous hospitality—for which they were both well know.

In reflecting on Walter Besterman's passing, I recall many personal contacts with him and deem it a privilege to have known this good and valuable citizen. I extend my deep sympathy to Mrs. Besterman and to Walter Besterman's son, Charles.

HOUSE REFORM

HON. JOHN C. CULVER

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 16, 1974

Mr. CULVER. Mr. Speaker, as we enter the last weeks of the 93d Congress, there remains for the House of Representatives an inescapable obligation to act on its own internal reform. The Rules Committee has before it the carefully prepared bipartisan proposals of the Select Committee on Committees as well as two alternate and more limited plans from the Hansen subcommittee and from Mr. Martin.

In my own congressional district and in the State of Iowa I find a widespread conviction that genuine congressional reform is not a distant abstraction or a specialized issue of concern only to the membership of Congress. The capacity of this body to modernize itself, to recognize the imperatives of change and overhaul are seen as a major test of the institutional strength and responsiveness of Congress.

Mr. Speaker, the Washington Post of September 12 in an editorial argues persuasively the need to bring the reform proposals to the House floor. It would be a tragic failure to allow this issue to be smothered by delay. House reform deserves our full attention to open debate and decision on the merits.

I insert the Post editorial in the Record:

Remolding the House

> The House Rules Committee may decide this week whether the House will have a chance this year to overhaul its committee system for the first time since 1946. The immediate question is not whether any specific reorganization plan will be approved, but whether the opponents of change will be able to stall and frustrate a broadly-based movement for institutional reform.
>
> The focus of the fight is the ambitious reorganization plan devised by the Select Committee on Committees, a bipartisan panel chaired by Rep. Richard Bolling (D-Mo.). The committee's aim is to inject more rationality and coherence into the workings of the House. Predictably, this effort has aroused powerful forces because it would, among other things, drastically reduce the jurisdiction of the Ways and Means Committee, disturb the influence of labor by splitting the Education and Labor Committee, take campaign regulation away from House Administration Committee Chairman, Wayne Hays (D-Ohio), and limit the power of other entrenched legistlators and lobbying groups.
>
> Those hostile to the Bolling plan first tried to shelve it in the House Democratic caucus last spring by referring it to a caucus committee chaired by Rep. Julia Butler Hansen (D-Wash.). As expected, the Hansen panel's recommendations on committee jurisdiction are much closer to the status quo, To the surprise of some reformers, however, the Hansen group did suggest some major changes in House rules, including a very controversial plan which would allow committee chairmen, with the backing of the Speaker and the caucus, to circumvent the Rules Committee and bring legislation directly to the floor.
>
> The generally constructive, though limited, nature of the Hansen report reflected a general recognition among House Democrats that some changes are overdue. The caucus finally deferred the showdown between the Bolling and Hansen camps by voting to send both plans to the House floor. Meanwhile, the outnumbered House Republicans have been trying to define their own position, primarily on the question of minority staffing, and a third reorganization plan has been offered by Rep. David T. Martin (R-Neb.), co-chairman of the select committee and the Rules Committee's ranking Republican.
>
> With adjournment approaching those who wish to shelve the issue entirely have now focused their efforts on the Rules Committee. That panel was persuaded to postpone a scheduled meeting on the subject last month, but another is scheduled for today. If the Rules Committee and the House leadership act expeditiously, the House will still have ample time to debate and decide how extensively its committees and procedures should be changed. Killing the issue by further delay would be a sad way to conclude a Congress which began with an encouraging interest in modernization and reform.

TRINITY HOSPITAL TACKLES PROBLEM WITH IMAGINATION

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 16, 1974

Mr. CHARLES WILSON of Texas. Mr. Speaker, Trinity Memorial Hospital & Nursing Home shares fiscal difficulties with all small hospitals across the State of Texas. There are about 140 hospitals in this category in Texas and all of them depend on the generosity of the communities to stay open.

Historically, each unit of Trinity Memorial Hospital was built according to the then existing standards required by the State, the Social Security Administration, Hill-Burton, and anyone else that had the power of advise and consent over the project. After the last renovation in 1971–72, there were changes in the National Fire Safety Code. The hospital now needs a sprinkler system, the cost being approximately $32,625 to meet these new requirements. Without this sprinkler system, the hospital could lose its medicare and medicaid providership; these programs provide financial help to over half the patients. The hospital operating room is in need of major renovations. It needs new lighting, a new operating table, and the nursing home could use 30 more beds to accommodate the community.

Some of the Nation's best-known country/western stars will converge on this little east Texas town in September to play golf and then do what they do best; pick, sing, and grin—all because rural medicine, which affects them and the people they love the most, rural residents, needs help.

Rusty Wier, Michael Murphy, B. W. Stevenson, and Steve Fromholz, exponents of the "Austin" sound, are among the country/western artists who will appear at the Country/Western Celebrity Golf Tournament at nearby Westwood Shores on September 28 and in concert here on the following evening for the benefit of the Trinity Memorial Hospital & Nursing Home, where three country doctors are conducting a unique program in rural medicine.

George "Goober" Lindsey, familiar to millions of television viewers of "The Andy Griffith Show," "Mayberry, R.F.D.," and "Hee Haw," will host the concert.

Trinity is a hotbed of country/western enthusiasm for the entire State. Westwood Shores is a recreational-residential development about 2 miles southeast at the tip of Lake Livingston. People living in both places and in the surrounding area either sing, play an instrument, or simply appreciate the unique American musical lore—and in many cases, do all three. They are fiercely loyal to this style of music and to their favorite performers.

So intense is this loyalty and enthusiasm that a concert hall, the Risin' Sun, was constructed in Trinity. It seats approximately 1,100 persons and regularly features the best in the country/western field, and has for years.

The management of Westwood Shores, sponsor of the tournament and concert, has also extended invitations to a number of other celebrities to attend the 2-day event.

The country/western industry is rallying to the cause of rural medicine and the tremendous needs of Trinity Memorial Hospital and Nursing Home. Besides the entertainers already announced, others are attempting to arrange their schedules so that they can be in Trinity in September.

Rural medicine has long been a special interest of Drs. Sam R. Barnes, J. Richard Cook, and N. W. Colwell, and it is this project, along with the hospital and nursing home, that will be the beneficiary of both the golf tournament and concert.

Dr. Colwell said:

> People who live on farms get ill just like everyone else, and these illnesses must be treated. However, there are also other illnesses and accidents that are peculiar only to rural areas. Here is where the research must be done and treatment developed.

In order that the rural medicine project and hospital realize as much of the proceeds as possible, all of the country/western entertainers who appear will be donating their time and talent.

I am extremely pleased to be able to call attention to the efforts of the residents of Trinity and the surrounding area being made on behalf of the Trinity Memorial Hospital.

PERSONAL EXPLANATION

HON. BARBARA JORDAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 16, 1974

Ms. JORDAN. Mr. Speaker, due to a state visit to the People's Republic of China during last week, I was unable to vote on six separate rollcall votes taken by the House of Representatives. Had I been present and voting I would have cast the following votes:

Rollcall No.	Item	House vote	Ms. Jordan vote
	WEDNESDAY, SEPT. 11, 1974		
520	Motion by Mr. O'Neill (Massachusetts), a call of the House.	299	Present.
521	Amendment by Mr. Fuqua (Florida) to H.R. 13565 that deletes sec. 7 and requires the Administrator to report to the President and the Congress within 6 months on his assessment of the impact of existing patent policies on ERDA programs and his recommendations for additional legislation.	182–142	Yes.
522	Passage of H.R. 13565, to establish a national program for research and development in non-nuclear energy sources.	327–7	Yes.
523	Passage of H.R. 15928, to amend the Federal Reserve Act, the Federal Deposit Insurance Act, and the Federal Home Loan Bank Act to provide for the regulation of the issuance and sale of debt obligations by parents of member banks, nonmember insured banks and savings and loan associations.	317–5	Yes.
	THURSDAY, SEPT. 12, 1974		
524	Motion by Mr. Devine (Ohio) to recommit H.R. 15301 to the Committee on Interstate and Foreign Commerce with instructions.	26–329	No.
525	Passage of H.R. 15301, to amend the Railroad Retirement Act of 1937 to revise the retirement system for employees of employers covered thereunder.	343–10	Yes.

WHAT ELECTION REFORM?

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 16, 1974

Mr. BAUMAN. Mr. Speaker, an editorial in one of our most respected Maryland dailies, the Times of Salisbury, points up many of the objections that I and others had to the recently passed "election reform" bill H.R. 16090. The editorial clearly points out that this bill contained far more propaganda about reform than it did real reform.

I include the editorial at this point:

[From the Salisbury (Md.) Times, Aug. 25, 1974]

WHAT ELECTION REFORM?

The clean elections bill voted by the House is a sham.

If enacted, it could be a trap for honest candidates and a protective screen for crooked politicians. It could not be enforced.

The committee report admits the bill is so complex it "may make compliance most difficult even with the most conscientious effort . . ."

Not knowing what is legal and what not could discourage honest citizens from entering politics—depriving us of new blood. A man who has made good in private life would not want to submit his reputation to the dangers this bill would create. However honest, he would inevitably run risk of corruption charges, perhaps before a board or court on technicalities. Though he might beat such trumped up cases, his reputation would be hurt.

Political corruption can be reduced only if we are able to get public spirited citizens who have proven themselves honest in private life to run for office.

The bill would make more difficult the conviction of candidates who intentionally but deviously break the law. It would create exceptions to what must be reported and exceptions to illegalities. The lines between what must be reported and what could be kept hidden, and between what would be legal and what not, are fuzzy. Any accused candidate with a battery of skilled lawyers would be able to escape conviction. Swindlers love complex, devious laws filled with contradictory provisions and marked by loose language which can be used to "prove" innocence.

Though this bill prohibits laundering campaign funds, donors and organizations need only use a minimum of legal ingenuity to continue dirty business as usual.

The bill specifically bans donations by foreign nationals in one section but other paragraphs open the door.

In writing, individuals are prohibited from donating more than $1,000 to any one candidate. But exception would make it possible for a careful donor to give many times this amount to one man without breaking the law. In addition, he could give multi-thousands to a political association which could then give to his candidate. The bill says that the donor would not be able to designate which man his gift would go to. But he could, without difficulty, choose an association which he knew would give to the candidate of his choice without the necessity of actually earmarking the dollars.

The bill would prohibit political associations from giving more than $5,000 to a candidate (his principal committee being excepted). Evading this provision would be ridiculously simple. The association would merely need to set up 5, 10, 15, or 20 subgroups each deciding "independently" to give up to $5,000 each. Or it could publicize him directly to its membership without limit. Groups with millions of members in the aggregate could thus spend without limit.

Since many political associations are already fragmented by their very nature, it would be difficult for a court to declare illegal the deliberate fragmentation of rival groups aimed at meeting this competition without running into severe constitutional questions involving equal rights and free speech.

A NEW KIND OF NURSE

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, September 16, 1974

Mr. MATSUNAGA. Mr. Speaker, I have often addressed myself in this Chamber on behalf of a new kind of utilization of health manpower. One approach which I favor, and have introduced legislation to support, is to allow nurses the opportunity to engage in the practice of their profession in a fashion that is consistent with their training.

I am therefore submitting, for the attention of my colleagues, and other readers of the RECORD, several articles reporting on the experiences of nurse practitioners which recently appeared in RN magazine:

THE NURSE-PRACTITIONER: EXPANDING YOUR LIMITS

(By Alice M. Robinson, R.N.)

(What is a nurse-practitioner? To write of the nurse-practitioner is to write of the nurse—for every nurse who practices his or her profession is a nurse-practitioner. But in terms of the movement currently gaining momentum across the country, the term nurse-practitioner has taken on a special meaning.

(First and foremost, the nurse-practitioner is a nurse, whatever title she carries. Second, she has advanced in independence—usually by dint of additional education or training—to where she undertakes duties directly involving patients that many nurses would feel are beyond their roles.

(Finally, in terms of the movement, the nurse-practitioner's home base is often the clinic or private office setting rather than the hospital proper.

(Here, then, is an account of the impact she's having on the nursing scene.—THE EDITORS.)

"They come to my mother's house at all hours looking for me; I guess they think I have a whole medicine cabinet full of things to cure them."

The speaker is Valentine (Tiny) Johns, R.N., a pediatric nurse-practitioner with her people, the Hopi Indians of Second Mesa, Ariz., a region of vast plains and mesa near the state's northwestern border.

Of course she doesn't have a "full medicine cabinet," and wouldn't dispense from it if she did. But on any given day she can be found working with her Indian people at the local clinic, at the hospital in nearby Keams Canyon, or at one of the crowded stone villages atop massive mesas that overlook hundreds of miles of plains.

Tiny Johns is a prototype of the many nurse-practitioners who are finding their skills put to a severe test in areas otherwise nearly devoid of medical services. Some 6,000 Hopis and 140,000 Navajos live on reservations near Keams Canyon, and her patients have high rates of alcoholism, otitis media, trachoma, and tuberculosis.

Some 300 miles south of Second Mesa, in Tucson, two other nurse-practitioners are meeting challenges of a different kind. Mary Lou Gonzales, R.N., and Shirley Tetrault, R.N., are family nurse-practioners. Each carries her own patientload at the El Rio Santa Cruz Neighborhood Health Center, housed in a former juvenile detention school. The center serves a neighborhood population of some 27,000 persons, 85% of whom are Mexican-Americans. Four nurse-practitioners and eight physicians see about 150 patients daily.

These nurse-practitioners and the many others I visited recently in settings ranging from university centers to logging camps have a great deal in common. Most of all, though, they are the vanguard of a rapidly growing movement that, in whatever setting, promises to expand nursing's role to its full potential in meeting patient needs.

HISTORICAL PERSPECTIVE

During the last two decades, to the dismay of patients, physicians, and nurses themselves, many nurses have migrated away from direct patient care into nonnursing tasks, mostly administrative in nature. Partially one can fault nurses for letting it happen, but it was also the result of burgeoning hospital bureaucracies, an influx of "allied health workers," the offer of status and enticing salaries at the administrative level, and a significant change in the systems of nursing education.

All along, however, most nurses have felt the need to "get back to the patient." Now the nurse-practitioner role seems to hold a great deal of promise toward meeting that need.

Historically, public health and visiting nursing services have offered a limited version of nurse-practicitioner services to patients. But it was only in 1965 that the first of the formalized programs for nurse-practitioners, the pediatric nurse associate program, was established at the University of Colorado School of Nursing at Denver. Since then, 143 programs have been developed throughout the country aimed at preparing pediatric, family, medical, maternal-child, and other types of nurse-practitioners.

In some programs, the preparation involves on-the-job-preceptorship; in others, a four-year master's degree course. The work setting may be in a university clinic, a community clinic, a hospital outpatient service, or a physician's office; the relationship with physicians may be direct or remote. And the R.N.s who choose such careers may find themselves anywhere from the inner city to the vast plains of Second Mesa, Ariz. But the movement is solidly on its way.

GRASS-ROOTS DEVELOPMENT

What got the movement started? "Initially, expansion of the R.N.'s role began at the grass-roots level," says Laurel Archer Copp, R.N., Ph. D., whose advice on how to plan for an expanded nursing role also appears in this issue. "Nurses who were unwilling to provide inferior patient care expanded their care to meet their patients' needs while others were talking about what should be done. Today the expansion is occurring both by decree and by design. Much administrative labeling and scriptwriting is going on to define the work R.N.s will do."

As nurses took on new duties out of need, they also found themselves straining against the "handmaiden" philosophy, Dr. Copp points out. Then as they gained confidence in their ability to meet patient problems. that philosophy began to change.

"You might say this is a symbolic loosening of the cord," says Rosemary Pittman, R.N., who heads a nurse-practitioner program at the University of Washington School of Nursing. "Not only do these nurses want to move back to direct patient care, but they want a change from their dependent role with physicians. They're moving toward a more collaborative relationship."

If these nurses are motivated toward a more collaborative role with physicians, they're also moved to a much more direct relationship with patients. "They feel they're the patient's advocate," says Marguerite Cobb, R.N., chairman of the Department of Family and Community Nursing at the University of Washington. "There's more commitment to get out and improve patient care."

R.N.s currently training in the programs express similar sentiments. "I was getting tired of a lack of real patient contact," says Shirley Carlin, R.N., at the University of California, San Francisco. "I want to do something more exciting than hospital nursing, where most of the 'nursing' is done by nurse's aides. In our program, we take histories; do physical exams, including pelvics; take pap smears; G.C. (genococcal) cultures; and meratology. We follow up on return appointments to determine the well-being of patients and fetal development. If they want it, we teach breast feeding and do sexual counseling."

EDUCATIONAL PROGRAMS

With such enthusiasm behind it, the nurse-practitioner movement began to reach out in many directions, with as many types of education to support it. Most programs are still just getting off the ground and faculty, funding, and practice facilities are all in great demand.

One exception is the medical nurse-practitioner course at the University of Rochester School of Nursing, Rochester, N.Y., begun formally this year, it was preceded by a pediatric nurse-practioner program, now in its fifth year, and by an eight-month experimental program conducted last year. The course which is tuition-free is designed for nurses who have completed their basic educations and are working in an ambulatory-care setting where the extended role is possible, that is clinic, hospital out-patient departments, and doctors private offices.

Joan Lynaugh, R.N., co-director of the project with Barbara Bates, M.D., outlined the curriculum content: interview and history taking; physical examination of the adult; medical nursing content with emphasis on the common problems in ambulatory settings.

To be admitted to this program, applicants must meet a requirement common to many of the nurse-practitioner programs. They must be employed "in a practice setting where a nurse may use her practitioner skills both during and after the course . . . [with] assurance of physician backup of patient care."

The collaborative relationship of physician and nurse, of course, is the crux of the success of the practitioner programs. According to Dr. Bates, during the learning phase the physician-preceptor checks the physical findings and helps the nurse work through the patient's problems and patient management. He also is expected to assume medical responsibility for the patient and to spend a significant amount of time in teaching.

"Indefinitely thereafter the nurse and physician should expect to share in the care of their patients, refer back and forth according to the patient's needs, and communicate effectively with each other," Dr. Bates says. "The exact organizational, economic, and spatial arrangements are worked out within each nurse-physician team."

"We aim for a team approach," Miss Lynaugh adds, "where either nurse or physician assumes responsibility for primary care."

"Primary care" is a term used by most of those involved in the nurse-practitioner movement. It means simply that the first person to see the patient with a health problem provides assessment, physical, and treatment plan.

Perhaps the most advanced state in expanding and spelling out the nurse-practitioner role is Washington. Nurses there have just succeeded in convincing legislators that the practice of nursing includes a lot of things not heretofore legalized. Their new nurse-practice act, signed into law March 19, is probably more comprehensive than any other passed so far, and includes even such measures as suturing and prescribing certain drugs.

Faculty at the University of Washington School of Nursing have several programs that will be enhanced by the widened practice bill. One is a Primex program, guided by Dolores Little, R.N., professor of nursing, designed to prepare the primary nurse-practitioner for rural areas, or perhaps to work in an apartment complex. "We have to be community-minded, community-oriented," she says. "The consumer is important in planning the clinics."

In three apartment buildings with 320 potential clients, for instance, Miss Little and two other R.N.s set up clinics for the residents. In six months' time, 192 clients had visited the clinics.

"We, as nurses, had 875 problems we were trying to help them with," Miss Little says. "We had no lab facilities, no ECG or other essentials. The residents of the building bought us scales, desks, filing cabinets, and the like. We persevered."

Also at the University of Washington School of Nursing, Jacqueline Vandeman, R.N., Ph. D., and her staff prepare pediatric nurse-practitioners. "Our course is really continuing education," says Dr. Vandeman. "We're not a degree program. Those who complete the course get a certificate from the University. They take a 12-week intensive course here, and their sponsors have to guarantee them time each week, for six months after, for supervised clinical practice. During the six months following the intensive course, they have to come back to the university at least three times for special workshops, and finally oral and practical exams.

"We teach them practical, general pediatrics. We're training them for primary care—not independent practice. They do their own well-child checkups, but they can call on the physician if they feel it's necessary." Next summer the university plans to add a session just for school nurses because the demand has been great.

Still another program at U.W. School of Nursing is part of an over-all master's program, encompassing leadership and research as well as the nurse-practitioner segment. According to Marguerite Cobb, "We are trying to produce a generalist who works with families—adults and children—and learns emergency nursing skills."

The students in this program already have a B.S., and besides learning the usual duties of carrying out a physical examination, suturing, taking X-rays, and giving emergency room care and first aid (including basic cardiopulmonary resuscitation), they have to write a clinically oriented thesis.

These are just a sampling of the types of programs R.N.s are pursuing in their goal to extend nursing care. There are many others. At San Francisco's University of California School of Nursing, for example, the maternal-child nurse-associate program trains three levels of students—a limited number of senior baccalaureate students, master's students, and continuing-education students—registered nurses who wish to develop nurse-practitioner skills in maternal-child health.

PHYSICIAN REACTION

How are physicians reacting to all this activity in the nursing profession? As might be expected, they often start off with feelings ranging from opposition to skepticism—but usually turn favorable in the actual practice setting.

Barbara Durand, R.N., assistant clinical professor at San Francisco's University of California Nursing School and a pediatric clinical specialist, makes this observation: "In our area, many physicians have mixed feelings about the whole concept of the new nursing role—those in private practice, especially. The birth rate is down, and they're trying to get and keep patients themselves."

Eleanor Smith, R.N., another assistant clinical professor and adolescent-maternity clinical nurse-specialist, comments: "Physicians in our clinic were skeptical at first, but since our initial group has gone through, they are pleased and really trust us."

Diana Jacobson, R.N., took the maternal-child nurse-practitioner program while getting her master's degree at U.C. in San Francisco. Now employed at the pediatric clinic there, she finds the relationship with physicians satisfying.

"I've developed a role here and have my own caseload of families," she says. "On some problems we consult with the physicians, though those consultations may just be 'out in the hall.' We don't prescribe medications, for example, so if I pick up an ear infection in one of my patients, I discuss it with the doctor. He prescribes. But we follow our families throughout. That's the thing the nurse-practitioner can really come through with."

GROWING PAINS

Like any growing movement, the nurse-practitioner one is not without problems—and the number one problem is certification. With various programs proliferating like weeds, comprising a period of time anywhere from six hours of lecture to inclusion in the master's programs, who will—who should—

set standards and qualifications for certification?

The ANA is working to establish criteria, but it will still be some time before certification exams will be in operation. According to Betty Highley, R.N., associate professor and project director of the Maternal-Child Nurse-Associates/Practitioners Program at U.C. in San Francisco and also a member of ANA's certification committee, the pediatric nurse-associate exams will be ready first—maybe by January. But someone, hopefully the ANA, is going to have to move—and soon. If not, physicians may take over as they did the physician's assistant programs.

That's one of the fears of nurse educators like Rheba de Tornyay, R.N., Ed.D. "My major concern about the rapid growth of practitioner preparation is the heterogeneous manner in which programs are developing," she says. "For example, some are offered in service agencies, others in schools, some in extension programs, others in undergraduate education, others in graduate education. We are going back to the 'post-graduate' courses of yesteryear; nurses will be confused, and the public will not have the safeguard of accredited programs.

"I hope that certification will occur through the profession, not through a variety of specialty organizations that are not controlled by nursing. I have fears that if physicians do the certifying, we will have junior doctor programs rather than superb nursing programs. I don't mean to raise the jurisdictional boundaries of autonomy questions. Rather, I would hope that physicians and nurses would complement and supplement one another; nurse-practitioners are not meant to be physician-surrogates."

Another pertinent problem to be faced is remuneration. Most of those involved in the nurse-practitioner programs favor nurses working on a percentage basis (as compared with straight salary or fee-for-service), particularly when the nurse is operating within the framework of M.D.-group practitioners or in combination with a solo physician. The important factor here is that nurses and physicians must not be in competition with one another. Nurses should be paid for nursing services.

That brings up another important question—whether health insurance will pay for nursing services. In the state of Washington, one step has been taken in that direction. At the request of the Washington State Nurses' Association, a bill affecting insurance premiums contained an amendment providing for payment of registered nurse services by commercial insurance companies. Another measure that would have had a similar effect on nonprofit insurers, such as Blue Shield, was vetoed by the Governor, but with the warning that if such companies do not voluntarily cover "other health-care services" (including nursing), "legislation such as this may well be appropriate next year." Under the present system, neither Medicare nor Medicaid make direct payment to nurse-practitioners.

With so many legitimate nurse-practitioner programs already in operation and more being planned and implemented all the time, the nurse-practitioner movement offers an intriguing challenge to nurses who want to give patient care. It also gives nurses a legitimate chance to use skills and techniques they've always used.

Observing these practitioners in action is an exciting experience. Their motivation and enthusiasm are convincing evidence that the practitioners are going to be a large faction in nursing in the near future.

AN ALL-R.N. FEE-FOR-SERVICE GROUP PRACTICE

Fifteen R.N.s in Denver, Colo., have pooled their savings and opened a fee-for-service group nursing practice in an office they've leased a few blocks from the University of Colorado.

Eight of the group are clinical nurse-specialists with Master's degrees in such fields as psychiatric nursing, adult health, and maternal-and-child care. They offer patients such services as psychiatric counseling, well-baby care, and nursing assessments. Fees are based on an hourly rate of $16. A nurse will take a blood pressure in the office for $3, give a liver injection for $5, go to a patient's home to administer an insulin shot for $10 and give a complete pelvic examination for $10 (Pap smear, lab report, breast exam, and counseling). The nurse who does the work keeps half the fee and turns the rest over to the corporation.

Their patients come from referrals from M.D.s, other nurses, and hospitals. Two hospital emergency departments, for example, have included the nurses among their list of referral agencies for patients who enter the ED in need of psychiatric help.

Incorporated last October as Creative Health Services, the nursing group has already generated a heavy patient load. However, none of the nurses work full time at the clinic, and several moonlight from other full-time positions. "We're all busy people," explains Rorry Zahourek, a psychiatric nurse. "Some weeks you don't mind working 20 hours a week at Creative Health Services, but other weeks it can be a problem." Frank J. Lang, the only man in the group, who has been elected president of the corporation by the other nurses, believes it will be several months, perhaps a year, before the nursing practice can support full-time nurse-specialists.

The office is open five days a week, and appointments are scheduled around the clock as needed. On a recent day, for example, Mrs. Zahourek had appointments from 11 A.M. to 9 P.M.

Existing laws prevent third-party payments for "nursing assessments," but the Creative Health Services nurses are optimistic that the laws will eventually be changed. Meanwhile they are offering services—and prices—that many patients find attractive. "A number of patients have told me they like the convenience of being able to get a physical exam in the evening," says Millie Ludington, the part-time secretary who at present is the only salaried employe.

The 31-year-old Lang, a captain in the Army Nurse Corps, is head nurse on Fitzsimons General Hospital's thoracic and genitourinary floors. Mary Alexander, the pediatric nurse-clinician, is in charge of the pediatric nurse-practitioner program at the University of Colorado. Mrs. Zahourek is a psychiatric nurse-clinician at Denver General Hospital's Community Mental Health Center; Dolores Leone fills a similar role for the Colorado State Department of Health.

The idea of forming an independent nursing practice originated when six of the nurses attended a Decision-Makers' Workshop sponsored by the Colorado Nurses' Association in 1972. The CNA provided a big assist, all agree, in furnishing advice on business administration and law. "The transition from institutional to independent practice has been a surprise for all of us," Mrs. Zahourek admits. "We didn't realize that three hours devoted to a patient might actually involve a total of five or six hours of the nurse's time."

Already many feel the nurses have more than lived up to their name of "Creative Health Services." Mrs. Zahourek and Dolores Leone, for example, both use hypnosis on selected patients for pain relief and helping hypertensives relax. Judy Ryan, Jan Rohe, and Mr. Lang are setting up a nursing service for some industries that are too small to have their own full-time industrial nurses. Another service is envisioned in which a geriatric nurse-practitioner will serve a number of nursing homes.

Though the nurses believe it will be some time before the caseload will justify their full-time employment, they've already reached the point where the services of at least one full-time R.N. appear to be indicated. The nurses are now seeing about 10 to 20 patients a week, and the enterprise is grossing about $1,200 a month—just about enough money to meet the expenses.

RHEA FELKNOR.

VICTIMS OF THE BUREAUCRACY—THE FOREIGN STUDENTS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 16, 1974

Mr. BROWN of California. Mr. Speaker, in times of crisis, Government officials often look for simple, somewhat petty ways to relieve their feelings of ineffectiveness. The victims are usually chosen because of their inability to resist.

A perfect example of this is the hasty decision by the Immigration Service, brought on by the critical inflation problem, to force all foreign students to apply directly to the Immigration Service for summer work permits. The students' schools have previously been allowed to handle this matter, but Immigration Commissioner Chapman decided that there were not enough jobs to go around and the policy must be changed so that only those foreign students who could prove unforeseen, serious economic problems would be given work permits.

The Council on International Educational Exchange has performed recent studies on this subject of job scarcity and the results show that in the summer of 1974, many vacation resorts, hotels, restaurants, et cetera were desperately searching for temporary help to fill positions such as dishwasher, maid, cashier, and busboy—positions that foreign students often willingly fill, where, on the whole, the American students seem to be looking for more glamorous summer employment. The victims of Commissioner Chapman's decision are unable to fight back; they have no voting privileges, and if the Immigration Service discovers that they cannot finance the next year's cost of education, they face deportation.

The following article by Marianne Means, published in the News American, aptly describes some of the effects of this new policy on our foreign students:

INS POLICY IS UNFAIR!

(By Marianne Means)

The current combined economic problems of inflation, recession and high unemployment strike at everyone, and sometimes in illogical and unexpected directions.

Foreign college students and, indirectly, the universities they attend here, are the latest victims.

The police recently spent a day checking the credentials of all taxi-drivers who pulled into National Airport in Washington to wait for passengers and turned up 20 young aliens, to whom they gave 30-day deportation orders. The drivers were students on vacation, but this year—unlike the previous 20 years—they had been denied summer work permits and thus were operating illegally.

The U.S. Immigration and Naturalization Service suddenly decided this spring to prevent foreign students from holding summer jobs. The rationale was that jobs are getting scarce and therefore ought to be saved for Americans.

There were approximately 150,000 foreign students in this country last year, of which only about one-third held part-time jobs. Most of that employment was of the lower-paying and temporary variety of little interest to the unemployed full-time workers or returned veterans the government seeks to protect.

The new immigration policy allows exceptions where special hardship can be shown, but foreign students complain that "hardship" is defined so narrowly few work permits are in fact issued.

The INS has come under heavy fire recently for alleged corruption in admitting illegal aliens and its crack-down on foreign students appears to be a symbolic gesture to demonstrate that it is not lax in its duties after all.

But this is a perfect example of bureaucracy gone astray. Students are not illegal visitors and indeed it has been official U.S. policy to encourage their enrollment in colleges around the country.

Every student entering is required to demonstrate that he has financial resources to go to school without working. But lives there a student of any nationality whose needs have not outstripped his finances? To deprive these students of the right to earn a little extra cash in the summer is unrealistic and unfair.

College officials have been outraged at the new regulations. Acting director of the University of Colorado Office of International Education, Ruth Purkaple, predicted that it would ultimatey mean that "only the sons and daughters of the wealthy" could afford to come here to school. In addition, the colleges themselves may be affected. The International Student Foundation, which was formed to protest the new ruling, estimates that foreign students pump more than one-half billion annually into the U.S. economy for college tuition, taxes and living expenses.

The new immigration policy also ignores the fact that at the same time it is depriving foreign students of jobs the State Department has invited 5,000 students from abroad to work and travel here under government sponsorship.

ISF representatives appealed recently to the Justice Department to overrule the Immigration Service, but found no sympathetic ear. "It just means that it will be more expensive for foreign students to come here," a Justice official shrugged. "In times of inflation, some people get hurt, and that's the way it is."

FOUNDATIONS ARE FAILING THE AGED

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 16, 1974

Mr. BINGHAM. Mr. Speaker, Jack Ossofsky, executive director of the National Council on the Aging, Inc., in an excellent article appearing in the July/August issue of Foundation News, asserts that foundations have been neglecting *the aging*—the fastest growing segment of our population.

I believe Jack Ossofsky has made the case for greater foundation involvement in solving the problems of the aged, and commend the article to my colleagues and other readers of the RECORD:

FOUNDATIONS ARE FAILING THE AGED

(By Jack Ossofsky)

Foundations, recognized as pioneers in many areas of exploration, service and social experimentation, reflect some rather common stereotypes and reservations when it comes to our nation's elderly. Interestingly enough, there appears to be sound evidence that this is an area in which they are lagging behind public awareness and that the public is calling for more effort from them.

The May/June 1973 issue of *Foundation News* carried results of a Gallup poll revealing that the public feels "study of ways to help older people" should be a major priority of foundations. (It ranked third among 22 choices.)

The poll is in sharp contrast with what foundations are actually doing, according to the National Councill on the Aging. NCOA, the foremost voluntary organization for research, development and training in the field of aging, has found that *foundations, on a national average, give less than three cents to aging out of every ten dollars they give for all philanthropic purposes each year*.

Aging received less than $2 million of nearly $800 million in foundation grants (of $5,000 or more) during 1972, according to figures reported by *Foundation News*. The ratio is consistent with that of 1971, when aging also received less than three-tenths of one percent of all recorded grants. Youth agencies were receiving 10 times as much.

The disproportion is understandable since it reflects a pattern of the nation at large. Some societies are said to have a healthy respect for age. America is not one of them. Aside from connoisseurs of whiskey and antiques—and maybe a handful of romantics—aging has always had an uphill struggle among most groups for favorable recognition in our youth-oriented society.

The "youth," however, are living longer and in increasing numbers, adding size and visibility to the problem of ageism. A recently published book, "Aging and Mental Health," by Dr. Robert Butler and Myrna Lewis, describes ageism as:

". . . a systematic stereotyping of and discrimination against people because they are old, just as racism and sexism accomplish this with skin color and gender.

"There is an added factor in ageism—unlike the racists and sexists who never need fear becoming black or female, ageists are all too aware that if they live long enough they will end up being 'old,' the object of their own prejudice. Ageism is a thinly disguised attempt to avoid the personal reality of human aging and death."

Old age as a clearly identifiable period of life to be anticipated by large numbers of the population is a recent phenomenon in western society. Surely one of the most dramatic features in our 200 years of nationhood, worthy of celebration, is the change in average life expectancy from about 38 years in George Washington's day to more than 70 years for both men and women in 1970.

Older people are the fastest growing segment of our society. In this century, the percentage of 65-plus has doubled, with the number increased almost sevenfold. Twenty million people are 65 or over, about the same as the total population of the 22 smallest states. At present death rates, that figure is expected to grow to 29 million by the year 2000. Persons in retirement, or nearing it, now constitute more than 15 per cent of our total population.

The change in the balance of age in the population came so gradually that it has only recently become evident. The added years caught individuals, families and institutions unaware and unprepared. As a result, old age is all too often plagued by poverty, chronic illness, a sense of uselessness, isolation and loneliness. Small wonder that few people have dared face the uncertainties of old age; many have avoided thinking about it as long as possible, conditioned substantially by a society that is locked into negative stereotypes about aging that show little cognizance of present realities.

As the numbers and proportions of elderly persons have visibly increased, rapidly and steadily, attention has slowly begun to focus on the quality of life in the later years. New social inventions have followed technical and scientific advances. Social Security and pensions undreamed of 50 years ago are now in effect. There are new dimensions in medical care and health insurance. Housing is and can be adapted to meet the needs of age. A revolution in transportation reduces distance from other climates and countries. There is a recognized period of retirement with freedom from work pressures, leisure time for rest and for enjoying life for its own sake or even for starting a second career. All are beginning to forecast a new life style in old age, since most older persons are in fairly good health, can care for themselves and live alone or with a spouse.

This self-sufficiency has created a vast new reservoir of capability that society is not using, because it continues to view older persons as problems rather than solutions to many of our societal ills. Foundations have a unique and challenging role to play in this new environment. In this period, foundations need to examine the extent to which their priorities and their programs reflect the growth of the elderly population, their potential for a new life-style and an investment in programs that would overcome barriers for the elderly and, not incidentally, the value for all society of the continuing contributions of its older citizens. An enormous potential exists for influencing the development of training, research and service programs needed to improve both the lives of older people and society's attitudes about them.

The age of new federalism that nurtures local and regional relationships with Federal money offers foundations a chance to make exceptional impact through matching arrangements. Foundation funds, representing only a fraction of the total cost, can be the catalyst for launching projects that otherwise might not reach even the blueprint stage.

The need for foundation help is acute, the time is crucial. Older persons have been drastically affected by domestic financial cutbacks on the Federal level, curtailing training, research and health care programs. Though a total of $30.2 billion has been earmarked for general revenue sharing over a 5-year period, with the aged specifically mentioned for priority attention, there is no guarantee that they will receive significant funding. The 50 states may use the funds for any legal expenditure (except to match Federal grants), and local units have a broad list of 8 categories in which they may spend the money received through fiscal year 1976.

Without specific protective safeguards, the "him-what-has-gits" syndrome is likely to prevail. In this context, those interests whose capacity and experience permit them to engage in power politics are apt to emerge with revenue sharing funds that in no way bear a relationship to the community's actual needs.

In an examination of revenue sharing in operation, the Washington Post reported that in New Jersey nearly two dollars in every three at the local level were spent for either public safety (45.5 per cent), including police cars, fire trucks, etc., or for capital projects (20 per cent). Lowest by far on the list of eight priorities was the category "social services for the poor and the aged," which, combined, received slightly more than one per cent.

In such circumstances—probably typical of inequities in most areas of the nation—the aged obviously will not fare well. But an equalizer could make the difference, and foundations are capable of providing it. The imagination soars when contemplating what might happen if a foundation expressed the desire to match a portion of a city's revenue sharing funds in establishment of a legal service program for the elderly, to launch a medic bus to visit shut-ins or to underwrite architect fees for construction of a senior center exemplifying the latest in design considerations for older people.

That these kinds of projects should be local government responsibilities and that foundation resources can't begin to have significant impact over the long haul are effective arguments in rebuttal. However, it can also be argued cogently that a decisive battle to change public policy cannot be waged in state and local communities until a process of education by example has taken place. Foundations could at least begin the process and perhaps inspire others to take up the banner by sponsoring suitable programs that bring aging into focus, give it visibility and enhance its prestige.

Similar opportunities for action, on national as well as local and state levels, exist with the passage of the Older Americans Act, signed into law by President Nixon on May 4, 1973. A compromise version of the $2.1 billion measure earlier vetoed by the President, the new law authorizes a total of approximately $545 million, plus "such funds as may be necessary" for programs over a 3-fiscal-year period.

This single act hardly solves all of the elderly's problems. The specific amount appropriated averages out to less than $8 per year for each person 65 or over, and most of it will go for planning. But it does provide for many historic breakthroughs in the level of funds, the strengthening of state commissions on aging, potential support for senior centers and in providing an atmosphere in which programs funded, partly or entirely, by foundations can flourish.

Evidence abounds that this can be a fertile field for foundations. While the percentage of all other groups living in poverty is diminishing, the percentage and number of the aging existing in poverty is steadily rising. Nearly 4 million persons 65 and over live at the poverty level, with incomes of less than $2,500 per year, according to the U.S. Census Bureau.

Citizens who are poor and/or old become the target of discrimination in many settings—in jobs, denial of pensions, lack of access to benefits otherwise available to the disadvantaged, in housing and the quality of health care, in taxes—and, yes, sometimes even in the confiscation of their property when they are needlessly confined to state or community hospitals and nursing homes, not because they are ill, but because they are poor or alone, and other appropriate facilities do not exist.

Fortunately, not all older people are poor. Many are affluent. But rich or poor, society's generally negative attitude about aging and the social structures we have built to accommodate older people seem to encourage their isolation and segregation. Dan W. Dodson, professor of sociology at Southwestern University, Austin, Teaxs, and professor emeritus of New York University, has observed that whenever a new group is formed in society, there tends to be a move to segregate them from the remainder and to fail to treat them as psychological or economic equals. Older people are such a group.

Foundations can spearhead a movement to eradicate the stereotypes that are prime deterrents to progress. It can be done through examination of programs for the aging, not in isolation, but with the recognition that their concerns are interrelated with those of the total society. This new yardstick can be applied to a wide range of programs foundations are funding at present. Assigning favored status to proposals broadened to include an aging component would be eminently practical and actually strengthen many such proposals. The Grants Index in any recent issue of this publication gives various examples of how the concept would work in practice.

In dealing with drug abuse, for example, there is a tendency to think of it primarily as a problem affecting youth. A redirection of these funds might be more effective if the donors were to express concern that *both* ends of the age spectrum be objects of attention. "Drug abuse in a variety of forms is of major significance in the aging but has received little or no attention," says Dr. Peter G. Bourne, director, Office of Programs, President's Special Action Office for Drug Abuse Prevention. "Older people are exposed to and consume quantities of drugs far in excess of any other age group," he observes, "and the potential for drug abuse in the aging is substantial."

In recent years, the country has finally grown to understand the importance of involving minority groups and meeting their special needs, and foundations have a distinguished record in this regard. This awareness is just beginning to emerge regarding aging among minorities, and foundations can be effective in accelerating the awareness by broadening the scope of grants presently earmarked for minorities. Much more knowledge must be gained, especially about older blacks, Mexican-Americans and Indians and about the quality of the facilities and services that would be in keeping with the cultural and ethnic desires of the older members of this minority population. Such emphasis could conceivably provide added insight as to heritage and customs, leading to more understanding and effective programs involving all members of these minorities of any age.

A similarly expanded standard could be applied to many other programs foundations are asked to fund. It does not seem unreasonable to suggest that proposals directed to the inner city or to a remote rural section should provide for the specialized needs of people 50 years of age and older, since they are likely to constitute the majority of inhabitants in either area. The social concerns might include employment, transportation, health care, housing, education and cultural services.

In these and other areas of aging, traditional formulas and attitudes are unlikely to bring about effective solutions. The willingness to innovate that foundations have so often demonstrated is in great demand to cope with the unprecedented range of problems concerning older people. The need for such flexibility in assessing programs that require funding support is especially apparent in the field of work. We are told by the U.S. Department of Labor that an "older worker" is anyone above 45 years of age. The Labor Department definition means about 25 million members of the work force are now facing, or beginning to face in varying degrees, a wide variety of associated concerns such as job security, second careers, pensions and life in retirement.

Approximately 10 times more people are receiving retirement benefits today than a generation ago. While not all working people retire—or can afford to—there is increasing evidence that for many of those who do, a major problem of the new leisure is psychological. Most simply don't know what to do with themselves, a problem with immense social implications. Neither society at large nor industry has recognized the need for preretirement plans for employees that extend far beyond the gold watch, a party and farewell. Nor has much yet been done to encourage second careers and new careers on a paid or voluntary basis for those who have been forced to retire. Though NCOA has conducted some retirement research, a great deal more is needed along with pilot projects to convince industry on a large scale of the issue's validity.

Ways to encourage employment of the middle-aged and older worker is another legitimate area for foundation involvement. NCOA has tested a system that matches physical capability with job requirements, with results so successful as to virtually eliminate age, per se, as a factor in employment. Passage of the Age Discrimination in Employment Act in 1957 has not solved the problem. NCOA's demonstration projects in industrial gerontology have developed tools that have the catalytic power to join the forces of foundations with industry and government, coordinating them to serve the older worker's job and health needs.

There is also a place for support of avante-garde concepts in which technology points the way to the future. Dr. Peter Goldmark, former head of CBS Laboratories and inventor of the long-playing record, has made a second career for himself by mobilizing communications technology in exciting new ways with special relevance to the problems of aging in health, education and recreation. Foundation investment in further development of the application of such technological concepts could, in a few years, bring within the grasp of the older population a large array of products, ranging from a new book invention for those with poor vision to a health bus with the technical sophistication of a modern health screening facility.

Less glamorous, perhaps, but certainly worthy of study are the rate and causes of suicide among the elderly. Most people prefer longevity to the alternative—but not everyone, especially men over 65. Males 65–69 commit suicide nearly twice as much as do males 20 years younger, and beyond age 85, men commit suicide 10 times more often than do women in the same age bracket. The statistics speak so loudly of misery, loneliness and despair that they virtually shout the command for attention to us all.

The housing area is another in which a foundation's participation could provide needed insight that neither government nor private builders and realtors are providing. In the soon-to-be-published book "Planning Housing Environments for the Elderly," authors Gelwicks and Newcomer observe that "the housing crisis for the older person has reached such a critical state that facilities we are setting in concrete today may have a deleterious effect upon the health and well-being of a major portion of our population for many generations to come."

Cultural services also offer imaginative possibilities for funding. NCOA, in a year-long explortion with the John F. Kennedy Center for the Performing Arts in 1972, examined ways in which the arts and the elderly can join forces for their mutual enrichment. We learned that such a service can be effective in reducing isolation and segregation of older people. The activity helps to bring people of all ages together, stimulating new awareness and understanding of the human condition unlikely to be achieved in any other way.

Another role for foundations to play is in developing new partnerships now required between aging interests and educational institutions because of the unprecedented need for expertise at local, state and regional levels. Universities and community and junior colleges nationwide are showing interest in curricula to turn out more experts in the comparatively new profession of gerontology and to provide courses of study to attract older people.

A new educational consortium in behalf of older persons was established in June 1973, when the State of Colorado signed a contract for experts on aging to serve as consultants to Colorado institutions of higher learning in the development of curricula, training and organizational relationships. The Federal government provided approximately 75 per cent of the funds. For a comparatively modest sum, foundations in each state could similarly match Federal commitments, supplying the impetus to set the educational machinery of their areas in gear and replicate the pattern established by Colorado.

Once the precedent had been set, chances of program continuity probably would be bright, as each state would, no doubt, view the program as a state responsibility for subsequent funding and a necessary addition to its educational services.

The network to provide a focus for attention and the effective implementation of the various programs above, plus innumerable other possibilities, did not exist a generation ago. It does today in several forms in both the public and private sectors. Forming the most extensive network in the private area are senior centers in virtually every county in the nation. The National Institute for Senior Centers, a program of NCOA, is conducting a study for the U.S. Administration on Aging (AoA) that indicates that throughout the nation there are more than 10,000 centers or groups serving the aging, most being formed since the late sixties. Within government, presently emerging under the impetus of the Older Americans Act and the AoA are some 600 area agencies on aging whose mission it is to assess community needs of the elderly and to plan and coordinate the development of public and private resources to meet those needs.

Two decades ago, when the prime need in aging was to coordinate national programs just beginning to emerge and to provide a central source of information and involvement by the private sector, several foundations responded with the necessary money and leadership. A grant from the Ford Foundation resulted not only in the formation of NCOA as a separate entity, but also provided the basic "seed money" from which many of the subsequent efforts on behalf of the elderly have blossomed.

Today, we have a new set of conditions that require attention and provide new opportunities for imaginative, innovative leadership by foundations to meet the needs of the elderly, the fastest growing segment of American life.

The time for a "reseeding" is clearly at hand.

FACTS ABOUT OLDER AMERICANS [1]

At age 65, life expectancy is 15 years—13 years for men, but over 16 years for women. This sex difference in life expectancy starts at birth so that in the 65+ group there are 140 older women per 100 older men and the disparity continues to grow.

About 1.2 million older people died in 1969, a rate of 61 per 1,000—73 for men and 52 for women. The death rate for the under-65 group was 4 per 1,000.

Three-quarters of all deaths of older persons resulted from: heart disease (46 per cent), cancer (15 per cent) and stroke (14 per cent).

Suicide rates for women show a "normal" shaped curve, beginning with a rate of 0.2 per 100,000 at ages 5–14, rising to 12.3 per 100,000 at ages 45–54 and dropping to 4.4 per 100,000 at 85+. For men, however, the rate rises continuously with age—starting at 0.5 per 100,000 at age 5–14 and increasing steadily to 47.3 per 100,000 at 85+.

HOW MANY OLDER PERSONS WORK?

More than 3.1 million, about 16 per cent of older people, are in the labor force—either working or actively seeking work in 1972. They make up 3.4 per cent of the U.S. labor force.

The male labor force participation rates have decreased steadily from 2 of 3 older men in 1900 to 1 in 4 in 1972; the female rate has risen slightly from 1 in 12 to 1 in 10.

HOW MANY OLDER AMERICANS ARE THERE?

In 1970, 1 in every 10 person in the U.S. was 65+—20.1 million men and women. This number is about the same as the population of the 22 smallest states.

In this century, the percentage of the U.S. population aged 65+ more than doubled (from 4.1 per cent in 1900 to 9.9 per cent in 1970), while the number increased more than sixfold (from 3 million to 20 million).

At present death rates, the older population is expected to increase 46 per cent to 29 million by 2000. If the present very low birth rate continues, these 29 million will be 10.6 per cent of the total population of 271.1 million. If the birth rate should increase very significantly, they would represent 8.9 per cent of a total population of 322.3 million.

THE INCOME SITUATION

Some are well off. About 850 thousand couples with 65+ heads had incomes of $10,000 or more in 1971. About 1.6 million older couples had incomes between $5,000 and $10,000.

Many are not well off. Almost 1.1 million couples (1 in 5) had incomes under $3,000 ($58 a week). Some 1.5 million older persons living alone or with nonrelatives (1 in 4) had incomes under $1,500 ($29 a week).

Almost 22 per cent (4.3 million) of older people lived in households with incomes below the poverty thresholds for 1971. Almost 2.6 million, or 60 per cent, of these poor were living alone or with nonrelatives; of these, more than 2.1 million were women, mostly widows. Of the almost 26 million poor persons of all ages, 16 per cent were 65+.

GRANTS TO THE AGED

The Foundation Center has compiled a list of grants to programs for the aged covering the period from January 1972 through January 1974. In all, 70 foundations are listed. The contributions total about $10.5 million, including $5.6 million in real estate from the Houston Endowment to Moody House, in Galveston, Texas in 1972. The printout is available for use by the general public at the Center's facility. Or, copies of the 21-page printout are available for $.25 per page from: The Foundation Center, 888 Seventh Avenue, New York, N.Y. 10019.

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[1] These and other statistics in this article from "New Facts About Older Americans," U.S. Department of Health, Education, and Welfare, Office of Human Development, Administration on Aging, DHEW publication No. (SRS) 73–20006.

HOUSE OF REPRESENTATIVES—*Tuesday, September 17, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

What doth the Lord thy God require of thee, but to fear the Lord thy God, to walk in all His ways, to love Him, and to serve Him with all thy heart and soul.—Deuteronomy 10: 12.

O Lord, our God, we lift our hearts unto Thee seeking Thy presence as we with our Hebrew friends enter the sacred festival of Rosh Hashana. On this day may we live in Thy spirit, obey Thy commandments, and dwell in harmony with one another. By Thy grace may we make this new year a time of rejoicing because we are working for peace in our world, justice in our country, and love in our hearts.

We thank Thee for this land of liberty in which we live. To us may there come a deep sense of our duty as a free people, and when we gather in our homes and churches may we be mindful of our obligation to Thee and pray for those who still dwell in the house of bondage. May those who hunger for freedom and justice be satisfied and may all mankind be blessed with the joys of brotherhood and peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 10626. An act to authorize the Secretary of the Interior to sell reserved phosphate interests of the United States in certain lands in Florida to John Carter and Martha B. Carter.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following titles:

S. 3052. An act to amend the act of October 13, 1972.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3838) entitled "An act to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes," requests a conference with the House on the disagreeing votes for the two Houses thereon, and appoints Mr. SPARKMAN, Mr. PROXMIRE, Mr. WILLIAMS, Mr. MCINTYRE, Mr. BENNETT, Mr. TOWER, and Mr. BROCK to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2423. An act for the relief of Angela Garza; and

S. 2474. An act to amend the Securities Exchange Act of 1934, as amended, to provide for the regulation of brokers, dealers, and banks trading in municipal securities, and for other purposes.

CONFEREES APPOINTED ON S. 3792, TO AMEND THE EXPORT ADMINISTRATION ACT

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3792) to amend the Export Administration Act, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. **Patman**, **Ashley**, **Rees**, **Mitchell** of Maryland, **St Germain**, **Hanna**, **Koch**, **Young** of Georgia, **Moakley**, **Widnall**, **Blackburn**, **Brown** of Michigan, **Johnson** of Pennsylvania, **McKinney**, and **Frenzel**.

AMENDING DEFENSE PRODUCTION ACT OF 1950, AS AMENDED

Mr. REES. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 3270) to amend the Defense Production Act of 1950, as amended, with Senate amendments to the House amendments thereto, and consider the Senate amendments in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. The Clerk will report the Senate amendments.

The Clerk read the Senate amendments as follows:

In the Senate of the United States,
August 20, 1974.

Resolved, That the Senate agree to the amendments of the House of Representatives to the bill (S. 3270) entitled "An Act to amend the Defense Production Act of 1950, as amended", with the following:

SENATE AMENDMENTS TO HOUSE AMENDMENTS:

Page 3, of the House engrossed amendments, strike out all after line 19 over to and including line 6 on page 6 and insert:

"NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES

"Sec. 720. (a) Short Title.—This section may be cited as the 'National Commission on Supplies and Shortages Act of 1974'.

"(b) Findings.—(1) The United States is increasingly dependent on the importation from foreign nations of certain natural resources vital to commerce and the national defense.

"(2) Nations that export such resources can alone or in association with other nations arbitrarily raise the prices of such resources to levels which are unreasonable and disruptive of domestic and foreign economies.

"(3) Shortages of resources and commodities are becoming increasingly frequent in the United States, and such shortages cause undue inconvenience and expense to consumers and a burden on interstate commerce and the Nation's economy.

"(4) Existing institutions do not adequately identify and anticipate such shortages and do not adequately monitor, study, and analyze other market adversities involving specific industries and specific sectors of the economy.

"(5) Data with respect to such shortages and adversities is collected in various agencies of the Government for various purposes, but is not systematically coordinated and disseminated to the appropriate agencies and to the Congress.

"(c) Purposes.—It is the purpose of this Act—

"(1) To establish a national commission to facilitate more effective and informed responses to resource and commodity shortages and to report to the President and the Congress on needed institutional adjustments for examining and predicting shortages and on the existence or possibility of shortages with respect to essential resources and commodities.

"(2) To direct the Comptroller General of the United States to complete a study recommending means for the development of a new strategic and economic stockpiling policy.

"(d) Establishment of Commission.—There is established as an independent instrumentality of the Federal Government a National Commission on Supplies and Shortages (hereinafter referred to as the 'Commission'). The Commission shall be comprised of thirteen members selected for such period of time as such Commission shall continue in existence (except that any individual appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term) as follows:

"(1) The President, in consultation with the majority and minority leaders of the Senate and the majority and minority leaders of the House of Representatives, shall appoint five members of the Commission from among persons in private life;

"(2) The President shall designate four senior officials of the executive branch to serve without additional compensation;

"(3) The President of the Senate, after consultation with the majority and minority leaders of the Senate, shall appoint two Senators to be members of the Commission and the Speaker of the House of Representatives, after consultation with the majority and minority leaders of the House of Representatives, shall appoint two Representatives to be members of the Commission to serve without additional compensation.

"(e) Chairman and Vice Chairman.—The President, in consultation with the majority and minority leaders of the Senate and the House of Representatives shall designate a Chairman and Vice Chairman of the Commission.

"(f) Compensation.—Each member of the Commission appointed pursuant to subsection (d)(1) of this section shall be entitled to be compensated at a rate equal to the per diem equivalent of the rate for an individual occupying a position under level III of the Executive Schedule under section 5314 of title 5, United States Code, when engaged in the actual performance of duties as such a member, and all members of the Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

"(g) Functions of the Commission.—It shall be the function of the Commission to make reports to the President and to the Congress with respect to—

"(1) the existence or possibility of any long- or short-term shortages; employment, price or business practices; or market adversities affecting the supply of any natural resources, raw agriculture commodities, materials, manufactured products (including any possible impairment of productive capacity which may result from shortages in materials, resources, commodities, manufactured products, plant or equipment, or capital investment, and the causes of such shortages, practices, or adversities;

"(2) the adverse impact or possible adverse impact of such shortages, practices, or adversities upon consumers, in terms of price and lack of availability of desired goods;

"(3) the need for, and the assessment of, alternative actions necessary to increase the availability of the items referred to in paragraph (1) of this subsection, to correct the adversity or practice affecting the availability of any such items, or otherwise to mitigate the adverse impact or possible adverse impact of shortages, practices, or adversities upon consumers referred to in paragraph (2) of this subsection;

"(4) existing policies and practices of Government which may tend to affect the supply of natural resources and other commodities;

"(5) the means by which information with respect to paragraphs (1), (2), (3), and (4) of this subsection can be most effectively and economically gathered and coordinated.

"(h) Reports of the Commission.—The Commission shall report not later than March 1, 1975, to the President and the Congress on specific recommendations with respect to institutional adjustments, including the advisability of establishing an independent agency to provide for a comprehensive data collection and storage system, to aid in examination and analysis of the supplies and shortages in the economy of the United States and in relation to the rest of the world. The Commission may, until June 30, 1975, prepare, publish and transmit to the President and the Congress such other reports and recommendations as it deems appropriate.

"(i) Advisory Committee.—(1) The Commission is authorized to establish such advisory committees as may be necessary or appropriate to carry out any specific analytical or investigative undertakings on behalf of the Commission. Any such committee shall be subject to the relevant provisions of the Federal Advisory Committee Act.

"(2) The Commission shall establish an advisory committee to develop recommendations as to the establishment of a policy making process and structure within the executive and legislative branches of the Federal Government as a means to integrate the study of supplies and shortages of resources and commodities into the total problem of balanced national growth and development, and a system for coordinating these efforts with appropriate multi-State, regional and State governmental jurisdictions. For the purpose of carrying out the provision of this paragraph there is authorized to be appropriated not to exceed $75,000 for the fiscal year ending June 30, 1975.

"(j) Staff and Powers of the Commission.—(1) Subject to such rules and regulations as it may adopt, the Commission, through its Chairman, shall—

"(A) appoint and fix the compensation of an Executive Director at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code, and such additional staff personnel as is deemed necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and the General Schedule under section 5332 of such title;

"(B) be authorized to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code; and

"(C) be authorized to utilize to the extent practicable the staff and internal analyses of the General Accounting Office developed pursuant to the study mandated by subsection (l) of this section.

"(2) The Commission or any subcommittee thereof is authorized to hold hearings and to sit and act at such times and places, as it may deem advisable.

"(k) Assistance of Government Agencies.—Each department, agency, and instrumentality of the Federal Government, including the Congress, consistent with the Constitution of the United States, and independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman, such data, reports, and other information as the Commission deems necessary to carry out its functions under this Act.

"(l) Policy Study by the Comptroller General.—The Comptroller General of the United States, in consultation with the Commission and any other appropriate agency of the United States, shall prepare a study recommending legislative and administrative actions to develop a comprehensive strategic and economic stockpiling and inventories policy which facilitates the availability of essential resources. The Comptroller General shall transmit such study to each House of Congress and to the President not later than March 1, 1975. In carrying out such study the Comptroller General shall—

"(1) coordinate the research for such study with the Commission's identification and analyses of shortages or market adversities affecting the supply of essential resources, in order to avoid duplication of effort;

"(2) consider the following in the development of the strategic and economic stockpiling policy:

"(A) the feasibility of purchase and sale of essential resources by the United States in order to achieve reasonable and orderly market prices of these resources;

"(B) a method to determine what constitutes 'essential resources';

"(C) a proposal for a unified administrative structure to formulate and implement a continuing and comprehensive program for the efficient marketing of United States inventories and stockpiles of essential resources;

"(D) the quantities of materials necessary to satisfy demand for such resources for a period of not less than one year at current and projected levels of military and civilian materials consumption;

"(E) any current or projected adjustment necessary to reflect dependency on importation;

"(F) the current and potential ability of the United States to develop substitutes for imported essential resources;

"(G) the feasibility of expanding acquisitions of essential resources through barter agreements; and

"(H) the impact of the pricing of essential resources on the international monetary system.

"(m) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Commission not to exceed $500,000 for the fiscal year ending June 30, 1975, to carry out the provisions of this Act."

Amend the amendment of the House to the title so as to read: An Act to amend the Defense Production Act of 1950 and to establish a National Commission on Supplies and Shortages Act of 1974."

Attest:

Secretary.

Mr. REES (during the reading). Mr. Speaker, I would ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. GROSS. Mr. Speaker, reserving the right to object, I do so to ask the question as to whether there will be some information presented with respect to what transpired in the conference on this measure, and also some information as to what the measure does.

Mr. REES. Mr. Speaker, if the gentleman from Iowa will yield, I would be very happy to respond to the request of the gentleman.

The original bill was an extension of the Defense Production Act.

There was an amendment in the Committee on Banking and Currency, which I authored, to the Defense Production Act to have the General Accounting Office make a very thorough study of our strategic stockpiles and come up with specific recommendations by March 31 of next year. The problem was that this country is dependent upon quite a few imported raw materials and metals, and it was felt that in light of the Arab oil boycott, the boycott problem in other commodities might exist in the future. Therefore, it was felt that we should have a GAO study of this problem and come up with specific recommendations.

The Senate had passed previous legislation which set up a formal commission called the National Commission on Supplies and Shortages. This would be a 13-member commission appointed by the President of the United States. Five members would be from private life, four from the executive branch, and four—two from the House, two from the Senate—would be appointed by the House and Senate leadership. They would do approximately the same task that previously had been assigned to the General Accounting Office, and they would have to report back March 31 any specific recommendations.

Then they also authorized an appropriation of a half million dollars to support the activities of the Commission. That was the nature of the Senate amendment to the House bill.

Mr. GROSS. So that the Senate insisted on the establishment of a 13-man commission for a study of this subject; is that correct?

Mr. REES. This is what the Senate requested, and this request was supported by the leadership of both Houses.

Mr. GROSS. I respect the leadership of both Houses but I also respect the value of a dollar. What is this commission going to cost?

Mr. REES. The specific appropriation in the Senate amendment was for $500,000.

Mr. GROSS. The gentleman from California, presently explaining the conference report, suggested that the General Accounting Office carry on this study; is that correct?

Mr. REES. My original amendment was that the GAO consider taking of this study and report back early next year.

Mr. GROSS. Yes, but we are now asked to pass up an agency of Government already in being, with employees capable of carrying on the study and establish a commission which, of course, will have a staff and cost a half million dollars at a minimum. I simply do not understand this recommendation of the leadership. I think the leadership is headed in the wrong direction when it calls for still another commission in Government. I know of no reason why the General Accounting Office could not carry on this study as the gentleman proposed in the first place, and save the taxpayers a substantial amount of money.

I thank the gentleman for his explanation. If this conference report is approved without a record vote, I want the record to show that I am opposed to it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

MOTION OFFERED BY MR. REES

Mr. REES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. REES moves that the House concur in the Senate amendments with an amendment as follows:

Page 2, amend section 720(c) to read as follows:

"'(c) PURPOSES.—It is the purpose of this Act to establish a national commission to facilitate more effective and informed responses to resource and commodity shortages and to report to the President and the Congress on needed institutional adjustments for examining and predicting shortages and on the existence or possibility of shortages with respect to essential resources and commodities.'"

Page 5, redesignate section 720(g)(5) as section 720(g)(6), and insert immediately after section 720(g)(4) the following new paragraph:

"'(5) necessary legislative and administrative actions to develop a comprehensive strategic and economic stockpiling and inventories policies which facilitate the availability of esential resources.'"

Page 5, amend section 720(g)(6), as redesignated by striking out "and (4)" and inserting in lieu thereof "(4)".

Page 7, strike out section 720(j)(1)(C), and immediately after the semicolon at the end of section 720(j)(1)(A) insert "and", and at the end of section 720(j)(1)(B) strike out "; and" and insert in lieu thereof a period.

Pages 8 through 10, strike out section 720 (l).

Page 10, redesignate section 720(m) as section 720(l).

Mr. REES (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. REES. Mr. Speaker, so that we do not have two duplicating groups studying the one problem of critical materials, the purpose of the House amendment is to strike out the provision that the General Accounting Office study this matter and come up with a report by March 31. The purpose of the amendment is to make sure that we do not have duplication in approaching this problem. The Senate kept the previous House amendment and added their amendments.

All this amendment does is to eliminate that duplication so it is the Commission on Critical Materials that makes the study.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. REES).

The motion was agreed to.

A motion to reconsider was laid on the table.

COMMODITY FUTURES TRADING COMMISSION ACT OF 1974

Mr. POAGE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 13113) to amend the Commodity Exchange Act to strengthen the regulation of futures trading, to bring all agricultural and other commodities traded on exchanges under regulation, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. Poage, Stubblefield, Foley, Bergland, Wampler, Price of Texas, and Thone.

ENABLING EGG PRODUCERS TO CARRY OUT COORDINATED PROGRAM

Mr. POAGE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 12000) to enable egg producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain, and develop markets for eggs, egg products, spent fowl, and products of spent fowl, with Senate amendments thereto, and concur to the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 8, line 3, strike out "false or misleading clauses" and insert: "unfair or deceptive acts or practices".

Page 8, line 5, strike out "false or misleading statements" and insert: "unfair or deceptive acts or practices".

Page 11, line 2, strike out "six" and insert: "three".

Page 11, line 3, strike out "years" and insert: "terms".

Page 11, line 4, strike out "two, four, and six years" and insert: "two-year and three-year terms".

Page 16, line 25, strike out "thirty" and insert: "ninety".

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. GOODLING. Mr. Speaker, reserving the right to object—and I shall not object—I would like to ask the gentleman from Texas (Mr. Poage) if my amendment is still included in H.R. 12000, as amended by the Senate? As you will recall, my amendment states that the costs incurred by the Department of Agriculture in the course of administering the egg checkoff program shall be paid for out of the funds raised by the checkoff.

Mr. POAGE. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Texas.

Mr. POAGE. Mr. Speaker, the amendment offered by the gentleman from Pennsylvania still is in the bill. Actually the amendments proposed by the Senate are, as our counsel describes them, all of a technical nature and do not go to the substance. The gentleman's language is still there.

Mr. GOODLING. Mr. Speaker, I thank the gentleman for his answer. I am extremely delighted to hear that the other body has displayed a sense of good judgment and wisdom by accepting my amendment.

In essence, this simply means that those who will benefit directly from the checkoff program—namely the egg producers through the promotion of their products and development of new markets—will also pay the costs of administering the program, rather than asking the taxpayers of this country to bear the burden of providing the finances to operate this very self-serving promotion and market development program.

Not only does my amendment set a good precedent for all checkoff legislation which may be considered in the future, but it also indicates, in my opinion, at least, that we should revise all existing checkoff programs to make them administratively self-supporting as we have done in H.R. 12000.

Mr. Speaker, the Congress has struck a blow for the taxpayers in this bill, and even though the savings to the taxpayers will be relatively small, we have at least taken a step in the right direction by accepting my amendment.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. McCOLLISTER. Mr. Speaker, I make a point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 527]

Abdnor
Abzug
Adams
Andrews, N.C.
Archer
Armstrong
Ashley
Aspin
Badillo
Bafalis
Barrett
Beard
Bell
Bergland
Bevill
Biaggi
Blatnik
Bowen
Brasco
Breaux
Brinkley
Buchanan
Burke, Calif.
Carey, N.Y.
Casey, Tex.
Chisholm
Clark
Clay
Cleveland
Conlan
Conte
Conyers
Corman
Cotter
Culver
Davis, Ga.
Delaney
Diggs
Dingell
Donohue
du Pont
Eilberg
Esch
Eshleman
Fascell
Frelinghuysen
Froehlich
Giaimo
Gibbons
Gilman
Goldwater
Grasso
Gray
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hébert
Helstoski
Hogan
Holifield
Holtzman
Hudnut
Jarman
Johnson, Colo.
Jones, Okla.
Kluczynski
Koch
Lehman
Lent
Long, Md.
Luken
McCormack
McKay
McSpadden
Macdonald
Mann
Maraziti
Martin, Nebr.
Matsunaga
Mezvinsky
Milford
Mizell
Moorhead, Pa.
Murphy, Ill.
O'Hara
Owens
Pike
Podell
Powell, Ohio
Price, Tex.
Rangel
Rarick
Reid
Riegle
Roe
Roncallo, N.Y.
Rooney, N.Y.
Rosenthal
Roy
Ruth
Sandman
Scherle
Shuster
Skubitz
Slack
Snyder
Steele
Steelman
Symms
Teague
Thone
Tiernan
Towell, Nev.
Van Deerlin
Waldie
Walsh
Ware
Whitehurst
Wilson,
  Charles, Tex.
Wolff
Wyman
Yates
Young, S.C.

The SPEAKER. On this rollcall 308 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

APPOINTMENT OF CONFEREES ON S. 3473, AUTHORIZING APPROPRIATIONS FOR THE DEPARTMENT OF STATE AND THE U.S. INFORMATION AGENCY

Mr. HAYS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3473) to authorize appropriations for the Department of State and the United States Information Agency, and for other purposes, with the House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Ohio? The Chair hears none, and appoints the following conferees: Messrs. Hays, Morgan, Zablocki, Frelinghuysen, and Thomson of Wisconsin.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

MRS. ROSE THOMAS

The Clerk called the bill (H.R. 2535) for the relief of Mrs. Rose Thomas.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

COL. JOHN H. SHERMAN

The Clerk called the bill (H.R. 2633) for the relief of Col. John H. Sherman.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ESTATE OF THE LATE RICHARD BURTON, SFC, U.S. ARMY (RETIRED)

The Clerk called the bill (H.R. 3533) for the relief of the estate of the late Richard Burton, SFC, U.S. Army (retired).

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MR. AND MRS. JOHN F. FUENTES

The Clerk called the bill (H.R. 2508) for the relief of Mr. and Mrs. John F. Fuentes.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MURRAY SWARTZ

The Clerk called the bill (H.R. 6411) for the relief of Murray Swartz.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

RESOLUTION TO REFER BILL FOR THE RELIEF OF ESTELLE M. FASS TO THE CHIEF COMMISSIONER OF THE COURT OF CLAIMS

The Clerk called the resolution (H. Res. 362) to refer the bill (H.R. 7209) for the relief of Estelle M. Fass to the Chief Commissioner of the Court of Claims.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the resolution be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

RITA SWANN

The Clerk called the bill (H.R. 1342) for the relief of Rita Swann.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

LEONARD ALFRED BROWNRIGG

The Clerk called the bill (H.R. 2629) for the relief of Leonard Alfred Brownrigg.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

FAUSTINO MURGIA-MELENDREZ

The Clerk called the bill (H.R. 7535) for the relief of Faustino Murgia-Melendrez.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

ROMEO LANCIN

The Clerk called the bill (H.R. 4172) for the relief of Romeo Lancin.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

GABRIEL EDGAR BUCHOWIECKI

The Clerk called the bill (H.R. 3190) for the relief of Gabriel Edgar Buchowiecki.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

LEONOR LOPEZ

The Clerk called the Senate bill (S. 280) for the relief of Leonor Lopez.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the Senate bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

ESTATE OF PETER BOSCAS, DECEASED

The Clerk called the bill (H.R. 2637) for the relief of the estate of Peter Boscas, deceased.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the further call of the Private Calendar be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERSONAL EXPLANATION

Mr. DULSKI. Mr. Speaker, on September 11, 1974, I was delayed in my office and unable to reach the floor in time to vote on rollcall No. 522. I would like the RECORD to show that had I been able to get here in time, I would have voted "yea."

FEDERAL SPENDING FOUND TO BE INFLATIONARY

(Mrs. HOLT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HOLT. Mr. Speaker, if too many politicians in the Congress talk vaguely about inflation and pretend to be bewildered, it is because they do not want to admit the truth.

Excessive, irresponsible spending by Federal Government is the primary cause of double-digit inflation which is bankrupting the American people, and the congressional majority is to blame for much of it.

The Federal Government spent $65 billion more than its income over the past 4 fiscal years, and the projected deficit for this fiscal year is at least $10 billion. This is not earned money, but represents a flood of cheap paper that devalues all of our earnings. Inflation is an indirect form of taxation that is looting the people without their consent.

Mr. Speaker, the House Ways and Means Committee has legislation which would require a balanced Federal budget. I would urge that committee to report this important legislation to the floor so that every Member of Congress can be counted on the issue.

Throughout the remainder of this congressional session, I hope that every Member of this House will concentrate on the task of curbing excessive Federal spending, which is the enemy of the people.

Let us not pretend to be serving the people with spending programs that are bankrupting the people.

INCREASED U.S. PARTICIPATION IN THE ASIAN DEVELOPMENT BANK

Mr. PATMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11666) to provide for United States participation in increases in the ordinary capital and special funds resources of the Asian Development Bank.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. PATMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11666, with Mr. NEDZI in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. PATMAN) will be recognized for 30 minutes and the gentleman from New Jersey (Mr. WIDNALL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. PATMAN).

Mr. PATMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are considering today a bill, H.R. 11666, to support the lending activities of the Asian Development Bank—the ADB—by increasing U.S. participation both in the ADB ordinary capital and its special funds.

Briefly, the ordinary capital proposal is to authorize a further U.S. subscription of $362 million, which would bring our total subscription in the Bank to $603 million.

The United States is now approximately 2 years behind other ADB members in implementing its share of the current ordinary capital replenishment. As a consequence, our voting share in ADB has dropped to less than 8 percent, lower than that of Japan, Australia, and India. This is lower than I believe is required to adequately reflect our interest in the Bank and in the Asian region.

This new contribution would bring our voting back up to parity with that of Japan at about 17 percent—a level which would more accurately reflect U.S. concern for and interest in Asian development.

The appropriations for this $362 million increase will be spread over three equal annual installments beginning in fiscal year 1975. Each $121 million installment would consist of $24 million in paid-in capital—$10 million in cash and $14 in noninterest bearing letters of credit—and $97 million in callable guarantee capital. In this regard I should point out that $97 million of the proposed $121 million annual contribution would not have any budgetary impact whatsoever. From the standpoint of the U.S. Government, the guarantee capital is only a contingent liability, but it does provide financial backing to the Asian Bank for ADB bond placements in private capital markets.

H.R. 11666 authorizes a final $50 million installment to be contributed to the ADB's soft loan operations, the Asian Development Fund. This $50 million is additional to an already authorized $100 million contribution to the concessionary loan window of the Asian Development Bank, against which $50 million was appropriated last year and $50 million is being sought in fiscal year 1975. The appropriation for the $50 million in the bill before us will not be sought until fiscal year 1976.

Authorization of this $50 million would complete the U.S. share in the multinational effort to establish an Asian development fund, which is to mobilize a total of $525 million in concessional lending resources of which the United States would provide $150 million. Taking into account a previous round of soft loan resource contributions in which the United States did not participate, the cumulative U.S. share in the Bank's special funds will be about 20 percent. These funds are being used to make concessional loans to the poorest of countries and to critical development projects in Asia.

I want to emphasize that the funds which are being proposed for authorization are not going to go to pay for increased costs of food, fertilizer, or oil. As former Secretary of the Treasury Shultz testified last November, all funds to be provided to the Asian Development Bank by the United States and other nations will be used entirely for economic assistance in the form of loans to finance specific development projects in the less developed countries of the Asian region. These loans will not only finance desperately needed road, power, farming and industrial projects but also education, housing, public health and family planning projects for the people of the poor countries of Asia.

ADB borrowers range from Afghanistan to the Pacific islands, and the needs are great throughout the region.

Mr. Chairman, I encourage my colleagues to support H.R. 11666—to provide needed soft loan resources for Asian development and to restore U.S. voting power to an appropriate level. I believe the Asian Development Bank plays a central role in providing a framework for cooperation by over 40 nations in building employment in member nations, in increasing productivity, self-reliance and in strengthening economic cooperation among member nations for the mutual welfare of us all.

Mr. Chairman, I will yield such time as he may consume to the gentleman from Texas (Mr. GONZALEZ), since that gentleman has held hearings on this bill in his subcommittee and is conversant with the bill, and I therefore believe that he should have charge of the bill from here on.

So at this time I will ask the gentleman from Texas (Mr. GONZALEZ) to take over the bill.

Mr. GONZALEZ. Mr. Chairman, I thank the distinguished gentleman from Texas, the chairman of the full committee, Mr. PATMAN, for yielding me this time, and I appreciate this opportunity to present to the Members of the House the facts concerning what is involved in this particular bill. I would first state that I support the bill.

The bill came out of our subcommittee unanimously late last year. We obtained a rule from the Committee on Rules earlier this year. The main reason I support the measure is because it involves our national interests, and I believe that it represents one of the most successful ventures that our country has been associated with. I believe that our membership in the Asian Development Bank has served the interest of our Nation very well, and will in fact serve it better in the future.

In the past the Bank worked out successfully and effectively, and I believe that it shows promise of being more effective in the future.

Mr. Chairman, the Asian Development Bank is a regional institution, and it is designed primarily to focus on the needs of the region it serves. I might add that in this respect it is like the Inter-American Development Bank and, like the Inter-American Development Bank, it has proved to be very effective in its mission.

Mr. Chairman, the United States, I need not recite at great length, has very strong interests in Asia, and the Asian Development Bank has been particularly active in those countries where our interests are the strongest, so as I say it is beneficial to us. When the Bank makes loans that help to strengthen and stabilize the economy of Malaysia, this is important to us because we have considerable interest in Malaysia which is an important producer of certain resources such as tin and rubber.

When the Bank helps build up the Philippine economy, that serves our interests as well as the interests of the Philippines where we have strong economic, strategic, and historical interests. When the bank makes loans to Korea, that helps lessen the dependence of Korea on the United States. I think we all know of Korea's great economic strides in recent years.

The Asian Development Bank made its first loan only in 1968. Since that time the Bank has made 177 loans to 20 countries, totaling $1.4 billion. Most of these loans have been through the Bank's hard loan window, financed by the ordinary capital resources of the Bank. All together $1.1 billion of the Bank's loans have been through the hard-loan window.

The United States has never contributed to the Asian Development Bank soft-loan funds. I repeat. Other governments—notably Japan—have put up resources sufficient to enable the Bank to make $319 million in loans through the soft-loan window.

What this bill proposes to do is to provide a substantial increase in the U.S. capital holdings of the Bank. We are being asked to provide $362 million for purchase of Bank stock. Of this money only 20 percent is actually required to be paid over to the Bank. Eighty percent of the funds authorized for this capital contribution will stay in our Treasury as callable resources. If the Asian Development Bank ever defaults on its bond obligations, some of this money, presumably, would be called upon. But no international financial institution has ever defaulted, and there is virtually no chance that this callable capital would ever leave our Treasury. So I emphasize that our capital contribution enables the Bank to obtain hundreds of millions of dollars in resources for very little in cash outlays from our Government.

Moreover, our voice in the Bank, our influence in it, depends directly on our stock position. If we fail to buy the stock, our voting position in the Bank declines. Right now our vote in the Bank stands at only 7.5 percent. But Japan, which has fully subscribed to its share of stock, has a vote of 18 percent. We are the only country that has not fully subscribed to its share of capital in this Bank. I believe that we should do so, both because it is a good investment and because, if we aim to have the kind of influence in the Bank that we should, and which I think my colleagues want and expect, we have to increase our investment. I cannot think of a sounder, a safer, and actually a cheaper investment that is available.

We are not talking about charity here. Regional members of the Asian Development Bank are not asking us to buy all the stock. In fact, the charter requires regional members must hold 60 percent of the stock. They are paying a reasonable share of the Bank's capital costs. We ought to recognize that they have done their part by doing our part. The reward for us would be a far more effective Bank, one with much greater resources and a greatly increased U.S. voice in the role of this Bank.

The bill before us also calls for an additional $50 million authorization for contribution to the Asian Development Fund, the so-called soft-loan window.

The Asian Development Fund will total $525 million over all, of which our share would be a total of $150 million. One hundred million dollars of our share has already been authorized.

Here again, our share is reasonable. It is far less than our proportionate share of wealth among members of the Bank. The proposed share for Japan is greater than our own. I think that this is as it should be. Japan is the economic leader in Asia, and they are taking the lead in providing resources for the Bank's soft loan operations. While we will put in $150 million total as a result of this $50 million, Japan however will put in $177 million. Japan has been far more generous than we have; they have contributed to the soft loan funds of the Asian Development Bank before, some $170 million, while we have contributed nothing.

This is an unusually good deal for us. Two-thirds of our contributions to the fund will be tied to procurement in this country. The first $100 million of our contribution to the Asian development fund can only be spent in this country. The last third, the $50 million authorized in this bill, would not be so tied.

We are the only contributor to this fund whose contribution is in any way restricted in this fashion. Whereas other countries have given without restriction, we are protected in two-thirds of our contributions. American contractors can bid on any and all projects in the $525 million fund, but contractors from other countries will not have a chance at all to bid on the $100 million that would be restricted for Americans only. I say that this is a generous deal, and we ought to accept it.

The Asian Development Bank is operating in a region that is of considerable importance to us. Its loans are going to countries in which we have a very strong and considerable interest.

Malaysia is a strong supplier of tin and rubber. Asian Development Bank loans to Malaysia have constituted 12 percent of the Bank's business. That is good for Malaysia, and it is good for us.

Twelve percent of the Bank's loans have been to the Philippines, where we also have strong economic and strategic interests—interests of long and historical standing.

In Korea, we also have strong interests, and a huge investment of our own—and nearly 20 percent of the Bank's loans have been to Korea.

So the Bank is clearly doing business in places where we have great interest.

And do not underestimate the importance of the Bank to the developing countries of Asia. It is a new and young institution. It has been in business only since 1966, and it has been making loans only since 1968. But in the developing countries of Asia, the Bank today is providing fully one-third of all the funds available through multilateral sources.

I want to emphasize that these loans are going to projects that are for economic development. Strengthening the economies of these countries is good for us. These places are already a good market for U.S. goods, and the stronger they get the better those markets will be. And economic development is what this Bank does.

Twelve percent of the Bank's loans go to agriculture. Nearly one-fourth of the loans go to power facilities. A fourth of the loans have gone into transportation and communications facilities. And a fourth has gone to industrial development and local development banks.

In every one of these cases the loans have been aimed toward economic betterment. And of 177 loans to date, not one is in default.

We are talking in this bill about a business proposition. I believe that the Asian Development Bank is good business for us, just as the Inter-American Bank is a good investment for us. It has served well, and it will serve better. It merits our support, and I urge support of this bill.

Finally, I know that many of my colleagues are anxious to avoid unnecessary expenditures. I recognize this, and so I asked the President to tell me whether he supports this bill. I have a letter from the President assuring me of his full support for this bill. When we return to the House I will obtain permission to include this letter from President Gerald R. Ford with my remarks.

I believe, as the President does, that this is a good bill. It is a good investment. It ought to be approved. I suggest we follow the example of the Senate and give a hearty vote of approval for this bill.

Mr. Chairman, the letter from the President is as follows:

> THE WHITE HOUSE,
> *Washington, D.C., September 16, 1974.*
> Hon. HENRY B. GONZALEZ,
> *Chairman, Subcommittee on International Finance, Committee on Banking and Currency, House of Representatives, Washington, D.C.*
>
> DEAR HENRY: In regard to your letter of August 19, I can assure you of my full support of H.R. 11666, which would authorize further United States resources for the Asian Development Bank.
>
> Like the other international development lending institutions in which the United States participates, the Asian Development Bank supports important international economic and foreign policy objectives of the United States. It does this in a way that permits the financial burden to be shared with other developed countries so that the United States bears only a small share of the cost.
>
> You are correct that I am intensely concerned about Government expenditures. But the proposed legislation need cause no misgivings in that regard. By far the greatest proportion of the authorization is in the form of contingent guarantee authority, with no foreseeable expenditures. Almost all of the balance is in the form of non-interest bearing letters of credit that will not be fully drawn down until many years into the future.
>
> A bill identical to H.R. 11666 has already passed the Senate. I believe H.R. 11666 deserves the strong support of the House so that the United States can join with others who have already contributed to the Bank's program of assistance for poor nations throughout the Asian region.
>
> Sincerely,
> GERALD R. FORD.

Mr. WIDNALL. Mr. Chairman, I rise in support of H.R. 11666 and yield myself such time as I may consume.

Mr. Chairman, the Asian Development Bank is one of the group of multinational banking organizations dedicated to a cooperative effort among nations to the improvement of economic conditions throughout the world. We on the committee have watched these organizations develop and grow and are convinced of the moral rewards and the economic wisdom of this approach to assisting underdeveloped nations.

Although I recognize that we are facing some economic stresses at home today, I am convinced that our investment in ADB is justified—and in view of the relatively small amounts of money actually to be expended in 1975—is well within our ability to pay.

I would like to call attention to an observation made by former Secretary Shultz when he appeared before the committee expressing the administration's support of this bill. I quote from his statement.

> Our relations with developing countries are important to the United States economically and politically. The developing countries provided a $14.6 billion market in 1972 for U.S. goods and services. In fact, as a group, they purchase more from us than we do from them.
>
> Perhaps more important, they provide us with one-third of our raw materials imports, and that proportion will only grow in the future. All nations are facing today the problems of inflation. More raw materials and products from the developing countries will help abate that problem. It makes good sense for us to utilize proven vehicles, such as the international development lending institutions, for aiding the growth of nations that are at the same time such important sources and markets for us. Our benefits need not be at the expense of others' losses, for with growth all parties can be better off.

In the past we have tended to think of this assistance in terms of developing markets for ourselves and the other contributing countries. We have tended to overlook the importance of these underdeveloped countries as sources of raw materials for ourselves and the other developed nations of the world. I find important and impressive the statement made by former Secretary Shultz that the developing countries provide us with one-third of our raw materials imports, and that proportion will only grow in the future.

What this bill proposes is an actual cash expenditure of $79.1 million; $29.1 million in cash payments for capital stock payable over 3 years, and $50 million for the special fund payable over an extended period as loans are drawn down. In addition, there would ultimately be a drawdown of the $43.5 million in letters of credit but this takes place over an extended period of years. The result is that while an appropriation of some $412 million is called for, actual expenditures over a period of years will total only $122.6 million. This is a worthwhile investment in our markets and supply sources in Asia.

Other member countries of the Bank have already provided their shares of the planned proportionate capital increase for the Bank. The increase in the Bank's capital stock went into effect November 23, 1972, when the required number of other stockholders notified the Bank of their interest to subscribe. Since the United States has not yet taken up its share of the capital, the voting strength of the U.S. shares has been reduced from 17 percent to about 8 percent. This share is inadequate if the United States wishes to have an ongoing, effective voice in the Bank.

As with any organization of this type, there have been some growing pains but your committee feels that appropriate corrective actions have been taken.

Last year we were concerned about problems of expropriation without proper compensation. Obviously, it is unfair to ask us to provide money for loans to countries. As an expression of our policy against this, we adopted what has come to be known as the Gonzalez amendment to insure that the United States would vote against countries that expropriate without taking appropriate steps to compensate. This has proved to be an effective tool and is working well to protect our investments abroad.

Concern has also been expressed at times that United States representatives to the various multinational institutions were prone to commit the United States to financial or other obligations prior to adequate consultation with Congress. We are pleased to tell you that this problem has been corrected. Not only has your committee's liaison with the administration been significantly improved, but U.S. intentions for future action are now formally expressed in terms that make it clear to other participants that they are subject to congressional approval.

Concern has also been expressed about where development assistance is going and what for. We now believe there is adequate dispersal of the funds. As of June 30, 1974, $274 million of ordinary capital resources has been lent to Korea; $100 million to the Republic of China; $174 million to the Philippines; and $131.5 million to Thailand. From special funds resources, Indonesia has received $99.1 million, and Pakistan, $32 million. These and other countries whose economic and social progress are making significant contributions to stability in Asia, and to U.S. interests there, have benefitted from a large proportion of the Bank's resources at a minimal, burden-sharing cost to the United States.

From an economic sector point of view, the Bank's projects have been mainly in electric power—24 percent—industry and development banks relending to industry—25 percent—and communications and transport—25 percent. Agriculture and water supply projects have also been emphasized, and recently the Bank financed two projects for education from its special funds resources.

We are particularly pleased to note the increased share of assistance now being directed to the least developed countries.

All in all, Mr. Chairman, it is our judgment that the Asian Development Bank is soundly managed and is pursuing policies which are consistent with our desires. We support the enactment of H.R. 11666.

Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. J. WILLIAM STANTON).

Mr. J. WILLIAM STANTON. Mr. Chairman, I rise today in support of H.R. 11666, a bill to provide for increased participation by the United States in the ordinary capital and the special funds of the Asian Development Bank—ADB. This bill authorizes the United States Governor to subscribe to 30,000 shares of the capital stock of the ADB, worth $362 million, and to agree to contribute $50 million to the Bank's special funds.

The Asian Development Bank is an increasingly important institution on the Asian politico-economic scene. By mid-1974, the Bank had made loans on conventional and concessional terms, totaling almost $1.5 billion to 21 developing member countries. I believe that the ADB is well equipped in technical skills and expertise to help create the sound economic infrastructure necessary to achieve economic growth and development in the countries of Asia. Almost 75 percent of ADB lending has been in the three sectors of industry and development banks, transport, communications, and electric power. Agriculture is becoming increasingly important, and the Bank is planning to expand its lending education.

The ADB provides a multilateral institutional setting in which developed nations—both Asian and nonregional—can contribute to Asian development. This permits an equitable sharing of the burden of development financing. In fact, other countries have participated in the ADB to a relatively greater extent than the United States, inasmuch as the first capital replenishment has gone ahead without U.S. participation, and other countries had contributed about $300 million to the ADB special funds before the Congress acted late last year to appropriate the first U.S. payment of $50 million.

The bill before us authorizes a $362 million U.S. subscription to ADB ordinary capital, which would be appropriated over 3 years, as the U.S. share in the Bank's first capital replenishment since its establishment in 1966. As a result of other member countries already providing their proportionate subscriptions to the capital increase, the U.S. voting share has fallen to below 8 percent—a level which I do not consider commensurate with the U.S. policy and financial interest in the region. The proposed subscription will restore U.S. voting power to parity with that of Japan—about 17 percent. This is a level which I believe more accurately reflects U.S. interest in and concern for Asia development, and which will enable us to have an ongoing effective voice in the Bank.

These ordinary capital funds are to be made available in three equal annual installments of $121 million. Only $24 million of this is to be paid-in capital and, of this, only $10 million represents actual cash payment to the Bank.

The remaining $14 million will be held by the Bank in the form of noninterest bearing letters of credit. The bulk of the annual installments—$97 million—will consist of callable capital which does not represent a U.S. Government budget expenditure, although it serves as backing for ADB private market borrowings. I urge support of this proposal because it will re-establish the U.S. voting share at an appropriate level, and because it will provide additional resources in support of ADB "hard" lending operations.

As regards the proposed authorization of $50 million for special funds, it represents the final installment of a $150 million U.S. contribution. Last year $50 million was appropriated against a previous authorization, and appropriation of the second $50 million is being requested in fiscal year 1975. Appropriation of the funds to be authorized by H.R. 11666 will not be required until fiscal year 1976, and outlays will be stretched out in later years.

The U.S. contribution to the special funds is part of a multilateral effort to which all donors have pledged $525 million. When the previous contributions in which the United States did not participate are taken into account, the U.S. share, on a cumulative basis, is only about 20 percent. I believe it is important to provide these concessional resources to enable a sustained concessional lending program for the next few years. In conclusion, Mr. Speaker, I want to stress one point: I sincerely believe that the ADB is an effective institution which deserves U.S. support. In addition, the Asian Development Bank is effectively serving broad U.S. interests in Asia. It is contributing significantly to the economic growth and development of many U.S. friends and allies in Asia, such as South Korea, the Philippines, Thailand, and Malaysia. As of June 30, this year, 89 percent of ordinary capital loans had gone to these countries. And, the ADB will continue to serve the U.S. interest of development in Asia as long as it has adequate resources at its disposal.

Therefore I urge my colleagues to vote in favor of H.R. 11666.

Mr. GONZALEZ. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. REES).

Mr. REES. Mr. Chairman, I support this legislation dealing with the Asian Development Bank. I do this because I think it is very important legislation for the interests of the United States.

In looking at various development banks in which we participate, such as the Inter-American Bank and the World Bank, I think that when we look at our interests in terms of our future balance of payments and our future foreign trade, it is obvious that perhaps the greatest future is in Asia. In Europe, we find that with the Common Market and with the attachment of Africa to the Common Market, many of these markets are now closed, and American manufacturers are forced to shift their production facilities into these closed market areas in order to save those markets.

The Asia area is not closed in a restrictive market. They are not members of a trade group, and I think with the huge population and with the many talents that the Asians have in these diverse countries, that much of our economic future is there, both for American investment and also for potential American markets.

What has disturbed me in the Asian Bank is that our participation in the overall capital participation has gone down from 17 to 8 percent. Therefore, we find now that the dominant country in the Asian Bank is Japan. This is not really something that the Japanese desire, but this has occurred because we were falling behind our capital contributions, and I think we have to reassert our influence in the bank. What we must do is to develop in Asia an increasing purchasing power which will accrue not only to the recipient country but to the benefit of the United States to help us perhaps to narrow our trade balance which has been exacerbated by the 450-percent increase of imported oil.

The actual budgetary effect of this is not nearly as high as might appear. This is an authorization for $362 millon, for the capital of the bank, but something like 80 percent of that would be callable capital and would remain in the United States Treasury. About the only cash-out on an annual basis would be about $9.7 million in cash and then a further $14.5 million annually in letters of credit.

I think it is good that we participate in the soft-loan window because many of the countries in Asia, such as Bangladesh, simply do not have the foreign currency reserves to pay for the conventional financing in the bank, which would probably be around 9, 10, or 11 percent at this present time.

Mr. Chairman, I think that this is a well-structured piece of legislation. As mentioned before, I think it is very much in the interest of the United States and our own economic future in the relationship with Asia that we approve this legislation.

Mr. GONZALEZ. Mr. Chairman, I have no further requests for time.

Mr. WIDNALL. Mr. Chairman, at this time I yield to the gentleman from California (Mr. KETCHUM) for a unanimous-consent request.

Mr. KETCHUM. Mr. Chairman, what I am about to say here is not new. I have said it in this Chamber before, and I anticipate I shall be required to say it again.

I strongly oppose adoption of this bill, because the Government of the United States simply cannot afford it. We are being asked to authorize a staggering sum of money, $41,904,726 to provide loans for people in Asia at a time when our own citizens cannot obtain loans here at home. The proposal strikes me as unbelievable.

I hope that before my colleagues vote on this measure they will think a minute about the state of our domestic economy. I hope that they will remember that our national debt is over $505 billion, and that the payment of interest on this debt is $50,000 a minute. I hope that they will recall that we have an inflation rate of over 12 percent. And before we vote to send money for soft-window loans abroad, I hope we call to mind the thousands of constituents in each of our districts who find it economically impossible to secure loans to buy a home.

I daresay that every Member of this House has vowed to fight inflation. Most of us have pledged to put a stop to the massive overspending of the Federal Government which is the chief cause of inflation. We can prove our dedication to that fight by defeating this bill.

Mr. Chairman, we must ask ourselves where the money to pay for this bill is going to be obtained. I suppose we will tax our citizens for part of it, as if their taxes were not high enough. And the Federal Government will borrow for most of it—competing in the money market for scarce funds and driving up interest rates as a result. We do this so we can provide citizens of other nations with cheap loans, while we drive up interest rates for our own people. This is sheer lunacy, and I doubt that the American people will stand for it.

The principle of this bill is the same as the one contained in the IDA bill which we originally defeated on January 23 by a vote of 248 to 155. We should defeat this bill as well.

I urge all my colleagues who are serious about fighting inflation, who really want to see interest rates lowered, and who believe in wise use of our taxpayers' money, to join me in voting against this outrageous bill.

Mr. WIDNALL. Mr. Chairman, at this time I yield such time as he may consume to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Mr. Chairman, I strongly support the ADB bill before us today.

Many people have said that we should cut back on our multilateral assistance because of the energy crisis. I consider this view shortsighted and I applaud the action of this House in July in authorizing U.S. participation in the Fourth IDA Replenishment. I consider that action a recognition that the world's poorer countries still need resources for their long term development.

The ADB provides these long range development resources. It does so by financing specific projects, and its funds pay for the machinery, technology and expertise required to carry them out. We need not wory that the funds we provide to the ADB will go to pay for increased oil prices. They can only be used for the projects for which they have been approved.

I believe the OPEC countries should assume their share of the burden of providing development assistance. They have stated their willingness to do so, and are already engaged in providing funds to the poor countries to help them pay for their petroleum needs. They have agreed to provide major resources to a special oil import finance facility of the International Monetary Fund, for example, and have set up an Arab Fund for Africa. Despite the increase in oil prices, however, the United States and the other developed nations remain the world's economic powers. Assistance by the OPEC countries cannot be considered a substitute for continued assistance by the developed countries, and we cannot expect the oil exporters to contribute to the international development efforts if we do not shoulder our share of the burden.

Another argument against multilateral assistance has been that the energy crisis vitiated all previous assistance efforts and that foreign assistance was, therefore, useless. This has not been shown. The poor nations have been severely hurt, and clearly need short-term assistance from other sources for oil imports. But these nations are not in a state of collapse. And it is long-term development assistance, such as ADB provides, which is helping them to build their economies to withstand setbacks like those of the last year.

I believe the energy crisis reemphasized the interdependence of the world economy. Provision of multilateral development assistance is part of our responsibility to further world economic cooperation. Therefore, I urge my fellow Members to support this legislation.

Mr. WIDNALL. Mr. Chairman, at this time I yield such time as he may consume to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER. Mr. Chairman, I am afraid the House is about to embark on another one of those ill-advised foreign aid authorizations at a time when the funds could be spent far more wisely here at home.

H.R. 11666 in effect authorizes a contribution to the Asian Development Bank of over $400 million. I do not deny the fact that some of the underdeveloped countries of the Asian region may need this aid—but so do large sectors of the United States. We are told that approximately three-fourths of the Bank's lending goes toward electric power, industry, and transportation projects. If my colleagues will think back over the first 9 months of this session, they will realize that is precisely what we have been debating and voting on for our own country. My own district in southeastern Ohio can use these projects to improve the standard of living and quality of life as much as any nation in Asia.

In addition, how can the Bank possibly justify the interest rates they charge on loans? An ordinary loan from the Bank carries a 7½-percent interest rate and a special fund—easy-term—carries a rate of only 3 percent. On top of that, the repayment periods are incredibly lengthy. I am sure that most Members will agree that none of our constituents has benefited from interest rates such as this in a long, long time. Why are we being so generous with our money sent abroad when millions of Americans are suffering from tight money problems here at home?

Mr. Chairman, the fact that some of this money flowing into organizations such as the Asian Development Bank may be used to procure U.S. goods and services carries little weight when measured against the immense immediate benefit such a sum could have if spent directly in the United States. It is long past time that we began to tighten the flow of American money abroad as virtual gifts. H.R. 11666 is a good place to begin. I urge defeat of the bill.

Mr. WIDNALL. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. If there are no further requests for time, the Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Asian Development Bank Act, as amended (22 U.S.C. 285–285p), is further amended by adding at the end thereof the following new sections:

"SEC. 20. (a) The United States Governor of the Bank is authorized to subscribe on behalf of the United States to thirty thousand additional shares of the capital stock of the Bank in accordance with and subject to the terms and conditions of Resolution Numbered 46 adopted by the Bank's Board of Governors on November 30, 1971.

"(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there is hereby authorized to be appropriated without fiscal year limitation $361,904,726 for payment by the Secretary of the Treasury.

PARLIAMENTARY INQUIRY

Mr. WYLIE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WYLIE. I do not intend any implication by this question over and beyond the fact that I understood from a colloquy between the majority leader and minority leader on last Thursday that we would have general debate only on this bill today.

The CHAIRMAN. The Chair will advise the gentleman that immediately upon the finishing of the reading of the bill, the Chair will entertain a motion for the committee to rise.

Mr. WYLIE. I thank the Chairman.

The CHAIRMAN. The Clerk will continue to read.

The Clerk continued to read, as follows:

"SEC. 21. (a) The United States Governor of the Bank is hereby authorized to agree to contribute on behalf of the United States $50,000,000 to the special funds of the Bank. This contribution shall be made available to the Bank pursuant to the provisions of article 19 of the articles of agreement of the Bank.

"(b) In order to pay for the United States contribution to the special funds, there is hereby authorized to be appropriated without fiscal year limitation $50,000,000 for payment by the Secretary of the Treasury.".

Mr. GONZALEZ. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NEDZI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11666) to provide for U.S. participation in increases in the ordinary capital and special funds resources of the Asian Development Bank, had come to no resolution thereon.

CONSUMER PRODUCT WARRANTIES AND FEDERAL TRADE COMMISSION IMPROVEMENTS ACT

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1307 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1307

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7917) to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. Immediately after the reading of the enacting clause, it shall be in order to consider the text of the bill H.R. 16327 as an amendment in the nature of a substitute for the bill H.R. 7917, and said substitute shall be read as an original bill for the purposes of amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of H.R. 7917 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 7917, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 356, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 7917 as passed by the House.

The SPEAKER. The gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 1 hour.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1307 provides for consideration of H.R. 7917, which, as reported by our Committee on Interstate and Foreign Commerce, would, among other things, provide minimum disclosure standards for consumer product written warranties against defect or malfunction, define minimum Federal content standards for such warranties, and amend the Federal Trade Commission Act in order to improve its consumer protection activities. The resolution provides an open rule with 1 hour of general debate, with the time being equally divided and controlled by the chairman of the committee and the ranking minority member.

After general debate, the bill would be read for amendment under the 5-minute rule. Immediately after the reading of the enacting clause, it would be in order to consider the text of the bill H.R. 16327 as an amendment in the nature of a substitute for the bill H.R. 7917, and the substitute would be read as an original bill for the purpose of amendment under the 5-minute rule by titles instead of by sections. At the conclusion of the consideration of H.R. 7917 for amendment, the committee will rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute.

The previous question will be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 7917, the Committee on Interstate and Foreign Commerce will be discharged from the further consideration of the bill S. 356, and it will then be in order in the House to move to strike out all after the enacting clause of the Senate bill and insert in lieu thereof the provisions contained in H.R. 7917 as passed by this body.

Mr. Speaker, it has been the usual experience of consumers for many years to be lulled into a false sense of security by the documents labeled "warranty" or "guaranty" which generally comes with the purchase of many products, particularly automobiles and large and small appliances for the home. All too often these documents have led consumers into believing that what they were getting from the manufacturer was something better than the implied warranties of merchantability and of fitness.

Too many consumers have discovered, much to their surprise and chagrin, that the bold-faced official-looking documents called warranties and guarantees actually disclaimed or limited implied warranties of merchantability and fitness. In other words, consumers sadly realized that they were getting less protection when presented with a written warranty than when given no such document with the merchandise.

H.R. 7917, as reported, is designed to prevent the manufacturers or retailers, as the case may be, from continuing this sharp practice and, if I may resort to vernacular, "taking the consumers for a ride." The proposed legislation would accomplish this objective by strengthening the Federal Trade Commission's role as the consumer's watchdog.

Under the proposed legislation, the FTC would, among other things, be authorized:

To prescribe rules providing for the disclosure of the terms and conditions of written warranties on consumer products bearing a retail price tag of more than $5;

To require that warranties which are given on consumer products costing more than $10 to be designated as either "full" or "limited" warranties;

To prescribe by rule the manner and form in which a service contract on a consumer product could be given in addition to or in lieu of a warranty in writing; and

To obtain injunctive relief against any person violating its provisions or issuing deceptive warranties in writing.

In addition, the proposed legislation would broaden the investigational authority of the FTC to include persons and partnerships, as well as corporations, which comprise the only group covered under present law.

Mr. Speaker, there is one thing that ought to be made perfectly clear: H.R. 7917 does not require that a written warranty be given on any consumer product. It merely protects the consumer from issuance of deceptive warranties.

To enable the FTC to carry out its responsibilities, as expanded by the proposed legislation, there would be authorized $41 million in its appropriations for fiscal year 1975, $45 million for fiscal year 1976, and $49 million for fiscal year 1977.

Mr. Speaker, I urge the adoption of House Resolution 1307 in order that H.R. 7917 may be considered.

Mr. WYMAN. Mr. Speaker, will the gentleman yield?

Mr. MATSUNAGA. I should be happy to yield to the gentleman from New Hampshire.

Mr. WYMAN. If the gentleman would answer this question, I should appreciate it. Did they justify the $41 million? Did they explain how they needed the $41 million?

Mr. MATSUNAGA. Yes. This will be brought out more clearly, I am sure, during the general debate. As the gentleman knows, whenever a bill is introduced and presented, and the committee adopts a bill, the money to be authorized must be justified.

Mr. WYMAN. If the gentleman will yield further, I merely am making an observation as a member of the Committee on Appropriations, because we run time and time again into the fact that authorizations often are far above what is actually expected in the way of appropriations. If the gentleman at some point could enlighten us as to what the realities are in comparison for this case, whether they are the same or if we are going to be committed to the $41 million, I should appreciate it.

Mr. MATSUNAGA. I would suggest to the gentleman that during the general debate the question may be put to a member of the committee.

Mr. MOSS. Mr. Speaker, will the genleman yield?

Mr. MATSUNAGA. I yield to the gentleman from California.

Mr. MOSS. I thank the gentleman for yielding.

I would state that the $41 million is for the operation of the entire Federal Trade Commission. The amount estimated by the Commission for the purposes of the warranty provision alone is $810,000 in 1975, the same amount in 1976, rising to $900,000 in 1977.

Mr. WYMAN. I thank the gentleman for yielding.

Mr. MATSUNAGA. I thank the gentleman from California.

Mr. Speaker, I now yield to the gentleman from California (Mr. Del Clawson).

Mr. DEL CLAWSON. Mr. Speaker, as previously explained, House Resolution 1307 provides for 1 hour of general debate on H.R. 7917, the Consumer Product Warranties and Federal Trade Commission Improvements Act. The bill will be open to all germane amendments. The rule makes it in order to consider H.R. 16327 as an amendment in the nature of a substitute for H.R. 7917, and H.R. 16327 shall be read, by titles instead of by sections, as an original bill for the purpose of amendment. It will also be in order to insert the House-passed language in the Senate bill.

The three major purposes of H.R. 7917 are: First, to make warranties on consumer products more readily understood and enforceable; second, to provide the FTC with means of better protecting consumers; and third, authorize appropriations for the operation of the FTC for fiscal years 1975, 1976, and 1977.

Title I deals with consumer product warranties. It defines a consumer product as any tangible personal property distributed in commerce and normally used for personal, family, or household purpose. The bill authorizes the FTC to prescribe rules providing for disclosure of terms and conditions of written warranties on consumer products actually costing the consumer more than $5. It also requires written warranties given on consumer products, costing more than $10, to be designated as either "full" or "limited" warranties. Under a full warranty, the warrantor must remedy the product within a reasonable time and without charge in case of a defect, malfunction, or failure to conform with the written warranty. The warrantor is also prohibited from imposing any limitation on the duration of any implied warranty on the product. And, the warrantor is to permit the consumer to have a refund or replacement of the product if it continues to be defective after a reasonable number of attempts are made at correction. There is provision for the consumer to bring suit in the appropriate court.

Title II amends the Federal Trade Commission Act to expand their jurisdiction from matters and entities in commerce to those in or affecting commerce. The FTC's power to issue substantive rules defining and prohibiting unfair and deceptive practices is clarified and confirmed. The Commission's investigative authority is expanded to cover persons, partnerships, and corporations instead of only corporations.

The bill authorizes appropriations of $41 million for 1975, $45 million for fiscal year 1976, and $49 million for fiscal year 1977.

Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7917) to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 7917, with Mr. Rees in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. Staggers) will be recognized for 30 minutes, and the gentleman from North Carolina (Mr. Broyhill) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, H.R. 7917—the Consumer Product Warranties-Federal Trade Commission Improvements Act—is one of the most important and far-reaching consumer measures which the 93d Congress will act upon. The legislation will: First, make warranties on consumer products more readily understandable and enforceable; second, provide the Federal Trade Commission with better means for protecting consumers; and third, authorize appropriations for the FTC for fiscal years 1975, 1976, and 1977.

The bill consists of two titles.

TITLE I. CONSUMER PRODUCT WARRANTIES

Title I applies to warranties which are given on consumer products. I would like to emphasize that the bill would only apply to warranties which are voluntarily given on consumer products. In other words, nothing in the legislation would require that a warranty be given on any consumer product.

Consumer products are defined in the bill to be any tangible personal property distributed in commerce and normally used for personal, family, or household purposes.

The bill authorizes the FTC to provide for disclosure of the terms and conditions of written warranties on consumer products. These provisions would apply to consumer products costing more than $5.

Written warranties on most consumer products costing more than $10 would have to be designated as "full" or "limited" warranties.

Under a full written warranty, the

warrantor: First, would be required to remedy a consumer product within a reasonable time and without charge in case of a defect, malfunction, or failure to conform with the written warranty; second, would be prohibited from imposing any limitation on the duration of any implied warranty; and third, would be required to permit the consumer to elect either a refund or replacement of the warranted product if the product continued to be defective after a reasonable number of attempts were made to remedy the defect.

Any person damaged by the failure of a supplier to comply with any obligation under title I or under a warranty or service contract could bring suit in an appropriate district court of the United States or in any State court of competent jurisdiction. Before bringing such a suit the plaintiff would have to give the warrantor reasonable opportunity to cure the breach to which the action or proceeding relates. However, such a suit could not be brought in a Federal district court unless: First, each individual claim exceeded $25; second, the matter in controversy exceeded $50,000; and third, in the case of a class action, the number of named plaintiffs was 100 or greater.

If a person protected by a warranty or service contract on a consumer product prevailed in such an action, the court could award him as a part of his judgment a sum equal to the aggregate amount of his costs and expenses, including attorney's fees based on actual time expended.

Mr. Chairman, I understand that some concern has been expressed that title I of the bill might apply to union labels. As Members know, many unions promote the purchase of products bearing their particular union label. As part of their promotion, it is usual for them to say that the union label is a guaranty of quality workmanship or superior workmanship or something like that. Of course, this is not a warranty within the definition of that term in the bill. In order that section 101(10)(A)(i) apply there must be a written affirmation of fact or written promise made by a supplier which promises that the workmanship is defect free or will meet a specified level of performance over a specified period of time. Furthermore, the term "supplier" is defined in section 101(8) to mean any person engaged in the business of making a consumer product directly or indirectly available to consumers. This was clearly not intended to embrace employes of businesses or their unions. That should be obvious. "Supplier" means the business organization—the firm—engaged in the business of making a consumer product available to consumers, not the employees of such firms, and certainly not their unions.

No one had any intention that the thousands of workers engaged in dress manufacturing, for example, would be viewed as suppliers. And since the only applicable portion of the definition of "warranty" includes only representations made by a "supplier," there is no possibility that a union's promotion of its union label would be covered by the legislation.

TITLE II. FEDERAL COMMISSION ACT AMENDMENTS

Title II would amend the Federal Trade Commission Act as follows:

First. The FTC's jurisdiction would be expanded from matters and entities in commerce to those in or affecting commerce—section 201.

Second. Specific and detailed procedures would be established to be followed by the FTC in prescribing substantive rules—section 202.

Third. The FTC's investigational authority would be broadened to cover persons, partnerships, and corporations instead of only corporations as at present—section 203.

Fourth. The FTC's authority to be represented in court by its own attorneys would be limited to those cases where the Commission obtains the concurrence of the Attorney General—section 204.

In addition the bill would authorize the appropriations of the following amounts for operation of the FTC: $41 million for fiscal year 1975; $45 million for fiscal year 1976; and $49 million for fiscal year 1977.

Appropriations for subsequent fiscal years could only be made if authorized by law—section 205.

Mr. Chairman, consumer products affect the life of every American. In the late 1960's the FTC carried out two major studies on waranties. One involved automobile warranties, and the other, warranties given on major home appliances. Both of those studies established that there was a massive gap between promise and performance on the warranties given on automobiles and major appliances.

Today the situation does not seem to have improved much. Let me read from Consumer News for July 1, 1974, which is published by the Federal Government's Office of Consumer Affairs.

It states:

> How much do appliance warranties tell you? Not as much as they should, according to the Major Appliance Consumer Action Panel (MACAP) which is sponsored by three trade associations representing the home appliance and gas appliance industries and retail merchants. After conducting a study last year, MACAP concluded that many appliance warranties could be improved.
>
> MACAP . . . examined 106 different warranties submitted by major appliance manufacturers, importers and private label manufacturers. These covered a variety of products: freezers, refrigerators, humidifiers, washers, dryers and other gas and electric products. . . . In general, MACAP recommended that warranties needed more accurate language, clearer instructions on how consumers should file claims and clearer statements of disclaimers and exceptions.

Mr. Chairman, the MACAP study rated consumer product warranties on the basis of nine criteria. I think the following results of the study are a forceful argument for H.R. 7917:

Twenty percent of the warranties did not give the name or address of the warrantor.

Twenty-one percent did not describe the product or specific part covered by the warranty or what they were covered for.

Five percent did not specify the period of time during which the products or parts were covered.

Twenty-one percent did not describe exactly what the warrantor would do and at whose expense in the event of a claim.

Forty-one percent did not describe exactly what the consumer must do and at whose expense in the case of a claim.

Thirty-nine percent failed to state the warranty in clear, concise, and simple language avoiding legalisms.

Thirty percent failed to present exceptions and disclaimers as prominently as affirmative statements.

Twenty percent failed to set forth the warranty in print that was clear, well-spaced, and easy to read.

Thirty-two percent failed to set out headings and titles that were fully descriptive and accurate.

And I also have here an article from the July 15, 1974, issue of U.S. News & World Report documenting consumer products. The article is captioned "The Angry Consumer: 'No Words Can Express my Disgust'." The litany of complaints flooding Washington is a long one: cars that break down, appliances that would not work, TV sets and toys that pose safety hazards. What is more, many claim sellers are indifferent to complaints.

Mr. Chairman, this bill, H.R. 7917, would not solve all the problems that occur with regard to consumer products. Nonetheless, it is a major step in that direction which is long overdue. I urge passage of this legislation.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, the purpose of this legislation is: First, to make warranties on consumer products more readily understood and enforceable; second, to provide the Federal Trade Commission—FTC—with means of better protecting consumers; and, third, to authorize appropriations for the FTC for fiscal years 1975, 1976, and 1977.

Warranties are given on a broad range of consumer products which are sold in interstate and foreign commerce and which, therefore, cannot be effectively dealt with under State law. Warranties on consumer products have no fixed format or content, and in many instances are complex legal documents which are almost unintelligible to the average consumer. Many warranties on consumer products have the effect of limiting the responsibility of the warrantor by negating the implied warranties of fitness and merchantability which might otherwise be available to the consumer.

Where a warranty on a consumer product is breached and the warrantor is unwilling to live up to the terms of its warranty, in most instances it is too costly for the consumer to obtain redress.

The FTC is charged with protecting consumers against unfair or deceptive acts or practices. However, the FTC is limited in carrying out this responsibility by the enforcement procedures which are available to it and the fact that these procedures may only be directed against unfair or deceptive acts or practices in commerce.

SUMMARY OF LEGISLATION

TITLE I—CONSUMER PRODUCT WARRANTIES

Title I applies to warranties which are given on consumer products. The legislation does not require that a warranty be given on any consumer product.

Title I would—

First, authorize the Federal Trade Commission to issue rules requiring that the terms and conditions of written warranties be fully and conspicuously disclosed in simple and readily understood language.

Second, require that all written warranties be clearly designated as "full" or "limited" warranties. In order for a warranty to be designated as a "full" warranty, it must incorporate the Federal minimum standards for warranty. If the Federal minimum standards are not incorporated in a warranty, it must be designated as a "limited" warranty.

Third, encourage warrantors to establish procedures for settling consumer disputes through informal dispute settlement mechanisms and require that the consumer must first resort to the procedures established before commencing a civil action in a court of law.

TITLE II

The most important section of title II is section 202, which would amend the Federal Trade Commission Act to limit the Federal Trade Commission's rulemaking authority to defining acts or practices which are unfair or deceptive. In addition, existing procedural requirements are altered so as to give those affected by the rule a greater opportunity to be heard on any proposed rule. The scope of review has been broadened so as to provide that a rule would not be affirmed by the court unless the Commission's action was supported by substantial evidence in the record taken as a whole.

For a number of years, the FTC issued rules defining acts or practices deemed unfair or deceptive to consumers. During this period, there were continuing assertions that the FTC did not possess substantive rulemaking authority, and that any rules it issued had only the effect of being a guideline to industries.

In the octane rating case, the court held that the Federal Trade Commission Act did confer authority to the FTC to issue substantive rules defining both unfair methods of competition and unfair or deceptive acts or practices to consumers. Under this interpretation, the FTC has the authority to issue substantive rules which may affect an entire industry and, in some cases, a great number of industries. However, the act is silent regarding the procedural requirements to be followed in issuing these rules; therefore, those persons immediately and seriously affected by such rules have no procedural rights before the agency except the informal rulemaking procedure set by the Administrative Procedure Act. Thus, the committee determined that the Federal Trade Commission Act should be amended to provide adequate procedural safeguards for those affected by the Commission's rules. In our judgment, more effective, workable, and meaningful rules will be promulgated if persons affected by such rules have an opportunity, by cross-examination and rebuttal evidence, to challenge the factual assumptions on which the agency is proceeding and to show in what respect such assumptions are erroneous.

POSSIBLE AMENDMENTS

It is possible that two amendments may be offered to title II. The first pertains to section 204. As written, section 204 would amend the Federal Trade Commission Act so as to permit the FTC to appear in any civil action in its own name through its own legal representatives only with the concurrence of the Attorney General. The proposed amendment would authorize the FTC to appear in such cases, without prior approval of the Attorney General.

The need for section 204 as written, arose from enactment of the Alaska Pipeline Act, which authorized the FTC to represent itself in any civil action after notifying and consulting with the Attorney General and giving him 10 days to take such action as proposed by the FTC. A majority of the Interstate and Foreign Commerce Committee has been strongly opposed to this provision.

While the FTC is, in a sense, an independent law enforcement agency, its law enforcement is based on an administrative process rather than a judicial one. The Justice Department generally has been responsible for management of litigation on behalf of the Government, when it is necessary to enforce agency orders in judicial proceedings. We support continuation of this procedure because Justice can insure the maintenance of consistent positions on matters of interest to all Government agencies. It is vitally important that the positions to be taken by a single agency on a question of general concern to the Federal Government and all of its agencies reflect the overall best interests of the entire Federal Government, and not just the interest of a particular agency in winning a particular case. We are also concerned that the enactment of this amendment would set an undesirable precedent which would encourage all other agencies to push for similar authority. Thus, we urge you to vote against any amendments to section 204.

It is also possible that an amendment will be offered to add a new section 207 to the bill, which was stricken in committee. Section 207, as stricken, would have provided the FTC with new authority to seek judicial redress for consumers injured by acts or practices that were found in violation of final FTC orders. It would also have granted authority to the FTC to institute actions against those persons engaged in acts or practices similar to those prohibited by a cease and desist order, even if they had no actual notice of the outstanding order and even though there had been no hearing to determine whether their acts or practices were, in fact, illegal. The FTC was troubled by this provision and advised the committee of its concern. Consequently, the committee decided to strike the provision until further study could be given to this matter.

The proposed amendment would provide the FTC with authority to seek judicial redress for consumers injured by acts or practices that were found in violation of FTC rules. A similar amendment was offered in full committee and rejected. This provision was not before the subcommittee at the time hearings were held on the bill and, considering the difficulties that were encountered and the concerns that were expressed with the stricken provision, we think it wise to have full hearings on the matter of consumer redress prior to enacting any provision into law.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the chairman of the subcommittee, the gentleman from California (Mr. Moss).

Mr. MOSS. Mr. Chairman, I have asked unanimous consent that I may revise my remarks and include in them a study of warranties, for which I secured prior permission in the House itself.

Mr. Chairman, I rise in support of the Consumer Product Warranties-Federal Trade Commission Improvements Act. American consumers have waited a long time for this bill.

The first warranty bill—S. 3074—was passed by the Senate in 1970 during the 91st Congress. In the 92d Congress a combined warranty-Federal Trade Commission improvements bill again passed the Senate by a vote of 76 to 2. That bill—S. 986—was the subject of extensive hearings by a subcommittee of the Committee on Interstate and Foreign Commerce in 1971 and was reported favorably to the full committee in July 1972, but in the rush of adjournment was not acted upon in the 92d Congress. During the 93d Congress the Subcommittee on Commerce and Finance held 6 additional days of hearings on this legislation and the subcommittee and the full Interstate and Foreign Commerce Committee spent weeks in markup. As a result, the bill now before the House is legislation which has been carefully balanced to afford increased protection to consumers and at the same time to afford fairness to manufacturers and suppliers.

It is particularly appropriate that we consider warranty legislation in this period of rapidly escalating inflation. I do not have to remind my colleagues that the Consumer Price Index has risen 11.9 percent during the first 6 months of 1974. The consumer's pocketbook is being squeezed and so is the consumer. An effective warranty program will enable purchasers of consumer products to more effectively compare the quality of the products and thus stretch their dollars further. In addition, the legislation authorizes better remedies for consumers when a product is defective and thus will assist them in maximizing their investments in home appliances, automobiles, and other consumer products.

Mr. Chairman, there have been many careful studies of the adequacy of consumer product warranties by the Congress and the executive branch during the last decade. It is now some 5 years since the President's Task Force Report on Appliance Warranties and Service was furnished to the Congress and the public in 1969. Among other things, the task force report concluded:

> The majority of the major appliance warranties currently in use contain exceptions and exclusions which are unfair to the purchaser and which are unnecessary from the standpoint of protecting the manufacturer from unjustified claims or excessive liability.

It is almost 6 years since the Federal Trade Commission Report on Automobile Warranties was issued. That report concluded:

> 1. Performance of manufacturers and dealers under the warranty has not achieved the levels implied by the warranty.
>
> 2. Failure to perform up to warranted standards has been encountered in the manufacture and preparation of cars under the warranty.
>
> 3. An excessive amount of service under the warranty does not meet the standards of consumer acceptability.

Mr. Chairman, in order to determine whether the criticisms of the President's task force and the Federal Trade Commission continue to apply to consumer product warranties, I directed the staff of the Subcommittee on Commerce and Finance of the Interstate and Foreign Commerce Committee to conduct a new review of warranties currently in use. That review has now been completed and will be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks today under permission previously granted in the House. I am certain that prior to consideration of amendments to this bill, Members will want to evaluate the results of this study. Approximately 200 warranties from major manufacturers of household appliances, mobile homes, automobiles, and home entertainment equipment were studied. These warranties were measured against a list of 11 exemptions and disclaimers which had been cited either by the Federal Trade Commission or the President's Task Force on Appliance Warranties and Service as being unfair to consumers or misleading. The exemptions and disclaimers which were the basis for the evaluation included the following:

1. Transportation and shipping costs excluded. The staff found that 19 of the 51 firms had warranties with this clause.

2. Home use only—other uses excluded. 12 of the 51 firms had warranties with this clause.

3. Consequential or incidental damages arising from a product defect excluded. 21 of the 51 firms had warranties with this clause.

4. All implied or common law warranties disclaimed. Five years after the unfairness of this type provision was emphasized by the task force, 31 of the 51 firms studied had warranties with this clause.

5. Warranties limited to parts only. 10 of the 51 firms studied had warranties with this clause. They would have to be labeled "limited" warranties under H.R. 7917.

6. Warranties not valid unless a registration card is completed and returned to the manufacturer. 27 of the 51 firms the staff reviewed had warranties with this clause.

7. The manufacturer will be the *sole* judge of whether the part is defective. 8 of the 51 firms had warranties with this clause—which is of questionable legality anyway.

8. Warranties valid for original purchaser only. 20 of the 51 firms had warranties with this unfair clause—a practice which would be eliminated by this bill, when a "full" warranty is given to the consumer.

Mr. Chairman, I will not go into any further detail regarding this enlightening staff study except to say that the staff found no significant change from 1969 to the present in the quality of consumer product warranties. It concluded:

> Today's consumer product warranties are replete with limitations on the manufacturers' and sellers' obligations. Any action taken on the part of manufacturers and trade associates to clean-up these guarantees during the past 5 years appears to have had minimal results.

This new report is continuing evidence of the need for an effective Federal warranty bill. It is evidence of the need to equip the Federal Trade Commission with effective powers to establish rules to promote fair and honest warranties and to police the marketplace against those few sellers who refuse to abide by the rules.

I urge the House to enact this important legislation.

Mr. Chairman, I want at this time to pay a particular compliment and express my appreciation not only to the distinguished gentleman from North Carolina, the ranking minority member of the Subcommittee on Commerce and Finance, but to the gentleman from Nebraska (Mr. MCCOLLISTER), who has contributed very much to this legislation.

This is the kind of bill that could have, at many points during the process of markup, resulted in serious disagreement and a final abandonment, but there was a commitment, I believe, on the part of Members of both parties, Members with varied shading of philosophical approaches, that we did want to accomplish something. I am proud of what the subcommittee submitted to the full committee, and I am proud of the action of the full committee in concurring in that.

The text of the staff study on consumer product warranties follows:

HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE, SUBCOMMITTEE ON COMMERCE AND FINANCE, STAFF REPORT ON CONSUMER PRODUCT WARRANTIES

(This staff report has neither been approved nor disapproved by members of the House Interstate and Foreign Commerce Committee.)

I. INTRODUCTION

Representative John E. Moss, Chairman of the House Commerce and Finance Subcommittee, in April of 1974 directed the Subcommittee staff to study consumer warranties currently being used in commerce to determine the effect of various government studies and voluntary action throughout the past decade on the quality of warranties on consumer products which are in use today. For this purpose, the staff examined warranties for any exemptions, limitations and disclaimers.

II. METHOD AND SCOPE

Approximately 200 warranties from major manufacturers of consumer goods were examined for this study. All of the warranty samples used for this study were obtained directly from industry pursuant to letters sent to four manufacturers and four trade associations. The trade associations, in turn, directed the request to their members. Among the 51 firms responding, the products manufactured fall within four major categories, which are:

1. *Household Appliances.*—principally refrigerators, freezers, clothes washers and dryers, air conditioners, and stoves;

2. *Mobile Homes.*—including camper trailers and recreational vehicles, or camper trailers;

3. *Automobiles.*—including light trucks and four-wheel drive vehicles;

4. *Home Entertainment.*—principally radio and television receivers and stereo units.

Each company manufactures more than one type of product. Most of them use warranties with essentially the same provisions for all of the various products each manufactures. In the few instances where there are two separate divisions of the same corporation, or one firm otherwise offers a substantively different warranty for a different product, then the company is considered twice.

In evaluating each warranty, the Subcommittee considered the findings of previous federal studies on the scope and effectiveness of warranties as well as the law covering guaranties. The law of warranties was an important area for consideration for this study because Anglo-American courts have long examined consumer warranties insofar as issues of fairness or equity are concerned. Further, the previous federal studies cited in this report also examined the applicable law in order to gain some perspective about the reasonableness and fairness of various warranty provisions and practices.

A. Applicable law

Warranties are currently governed by common law and the Uniform Commercial Code (UCC) which has been adopted in forty-nine states (all but Louisiana) and the District of Columbia. In the jurisdictions where the UCC is in effect, it generally controls the rights of parties in commercial transactions. In regard to warranties, the UCC provides these general principles: A warranty is a statement or representation expressed or implied by a seller of goods with reference to the character or quality of the goods being sold.

Express warranties

It is not necessary to the creation of an express warranty for the formal words "warranty" or "guarantee" to be used. An express warranty may arise through sales literature, labeling, the oral statements of the seller, or advertising. The UCC requires that an express warranty must be "a basis of the bargain," in other words, a part of the actual sales transaction. Accordingly, the legal enforceability of a "guarantee" which the buyer is made aware of only after the actual sales transaction is completed would be questionable. Lastly, an express warranty whether spelled "guarantee", "guaranty", "warranty", or "warrantee", it matters not—all four words as a matter of law mean the same.[1]

Implied Warranties

An implied warranty arises by operation of law rather than out of an agreement by the parties to the purchase. There are two types: An implied warranty of merchantability means that a buyer can expect the purchased goods to be reasonably fit for the purpose for which they are sold. An implied warranty of fitness, or fitness for a particular purpose, arises where the seller at the time of sale has reason to know the particular purpose for which the goods are required and the buyer is relying on the seller's skill or judgment to select or furnish suitable goods. One classic hypothetical case[2] which has been used to illustrate the difference between these two types of implied warranties is as follows:

If a buyer informed the seller that he wanted a toothbrush to clean his typewriter, and relied on the seller's skill or judgment, an implied warranty of fitness for a particular purpose could arise. The toothbrush would be merchantable if it cleaned teeth without cleaning the typewriter, but it would not be fit for that particular purpose if it would not clean the typewriter. The two types of guarantees would coexist if the toothbrush were purchased to clean teeth with the purpose known to the seller and with the buyer relying on the seller's judgment.

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[1] The words warranty and guaranty are used interchangeably in this report.

[2] 4 Pacific L. Rev. 193 (1973)

Disclaimers

Many warranties and guaranties now given on consumer products disclaim or negate these implied warranties of merchantability and fitness. One or both of these two types of implied warranties are created with every sale unless expressly modified or excluded pursuant to the requirements of the UCC. The law requires that any modification must, for example, be in writing. The modification of these implied obligations of the seller must be stated "conspicuously" and must not be "unconscionable", which in both cases are determinations to be made by a judge. The courts are increasingly inclined to hold that disclaimers of these implied warranties are against public policy or that they are inconsistent with other representations of the seller and are, therefore, inoperative.

Implications

Although disclaimers, limiting these implied rights, may be inoperative as a matter of law, they can be effective in discouraging consumers from pursuing their rights. Consumers are not always informed about their rights as well as the remedies available when they are wronged. They generally do not know about the implied warranties or the full implications of these seller/manufacturer obligations.

Few consumers, for example, seem to know that a seller can be liable for the cost of food spoiled or damaged by a defective food freezer, or that the seller/manufacturer can be held liable for personal injuries incurred in an automobile accident caused by a defective part. Yet such actions have been sustained in courts as breaches of implied warranties.

But even when the consumer knows about implied warranties (obligations owed to the buyer by the seller and/or the manufacturer), costs of litigation often make pursuit of such rights prohibitive. Because of costs, such as for attorney fees, litigation is seldom feasible unless personal injury is involved or when the alleged defective product is very expensive. Going to court, charging breach of warranty, is not likely to be practical where the damage sought is $20 for replacement of a defective toaster. Thus, the fate of aggrieved consumers usually rests with the seller/manufacturer and its willingness to live up to its promises as contained in the written warranties given with most products sold today.

B. Previous reports

The problems and frustrations described above, were reported in *The President's Task Force Report on Appliance Warranties and Services*, issued in 1969. The Task Force Report is one of several federal government studies which, in addition to numerous law review articles, were examined by the staff to compare current warranties with the observations and findings made in previous reports including those made by the Federal Trade Commission, the United States Congress, and the President.

Federal Trade Commission

Throughout the 1950's, the FTC received as many complaints on automobile warranties as on any other subject since the Commission was established in 1914.[3] The FTC directed its staff to undertake a limited field investigation to determine whether sufficient evidence of automobile company non-enforcement of their warranties existed to justify further action to protect consumers in this area.

On the basis of preliminary staff findings, the Commission directed an investigation of automobile warranties on July 6, 1966. Two years later that investigation concluded that, among other things "Performance of manufacturers and dealers under the warranty has not achieved the levels implied by the warranty. An increase in private litigation while placing pressure on the industry for better made cars and improved service," the FTC report also found, "does not represent an efficient or generally satisfactory way to achieve proper performance under the warranty." The FTC also participated in the 1969 report by the President's Task Force on Appliance Warranties and Service.

The Congress

The House Interstate and Foreign Commerce Committee's Subcommittee on Commerce and Finance held six days of hearings in March of 1973 on consumer product warranties. The Subcommittee devoted six days of markup H.R. 7917, a bill to set minimum federal content and disclosure standards for written consumer product warranties, which was introduced by Congressman Moss and co-sponsored by Congressmen Eckhardt (Texas), Helstoski (New Jersey), Breckinridge (Kentucky), Dingell (Michigan), Adams (Washington), and Carney (Ohio), and reported it to the full Committee by a voice vote on June 13, 1974. The bill was, as amended, considered and reported to the House by the full Committee.

In addition to the hearings held by the 93rd Congress, the House Commerce and Finance Subcommittee also held hearings in 1970 and 1971 on this problem. These hearings[4] concluded that there is need for (1) requiring that the terms and conditions of written warranties on consumer products be clearly and conspicuously stated in simple and readily understood language, (2) safeguards against the disclaimer or modification of the implied warranties of merchantability and fitness, and (3) providing consumers with access to reasonable and effective remedies where there is a breach of a warranty on a consumer product. Similar legislation was passed by the Senate in the 91st, 92nd, and 93rd Congresses, but has yet to become law.

The President

President Kennedy sent the first Presidential Message on consumer interests to the Congress on March 15, 1962. Six additional Presidential Messages on consumer matters have been submitted to the Congress since then and most recently by President Nixon. On March 1, 1971, the President proposed a Fair Warranty Disclosure Act which would provide for clearer warranties and prohibit the use of deceptive warranties.

President Johnson established the Task Force on Appliance Warranties and Service in his message of February 6, 1968. This task force consisted of a Special Assistant to the President for Consumer Affairs, the Chairman of the Federal Trade Commission, the Secretary of Commerce, and the Secretary of Labor. Their directive was to work with industry to encourage improvements in the quality of warranty service, to assure that warranties say what they mean (and mean what they say), and finally, to determine if Federal legislation was needed.

Summary

The President's 1969 Task Force Report on Appliance Warranties and Service concluded that there were widespread, substantive deficiencies in warranty service as well as fairness of the promises made in written guarantees, but it said legislation was not needed at that time. It said manufacturers and trade associations should be encouraged to remedy this situation on their own before Federal legislative steps were taken. All of the previous government reports cited here and relied upon by the Subcommittee staff came to essentially the same conclusions. However, The President's 1969 Task Force Report was the most comprehensive examination of consumer warranty problems to date. Accordingly, the staff relied on this report in particular as a guide post for comparing previous findings with warranties currently in use.

Among other things, the President's Task Force Report said: *"The majority of the major appliance warranties currently in use contain exceptions and exclusions which are unfair to the purchaser and which are unnecessary from the standpoint of protecting the manufacturer from unjustified claims or excessive liability."* (Italics added.)

Five years have elapsed since publication of that report and that call for voluntary action by industry. Thus, the Subcommittee staff sought to determine:

What have manufacturers done since those findings to resolve the problems of unnecessary exceptions and exclusions which are deceptive or otherwise unfair?

C. Findings

The Subcommittee staff, in its examination of 200 warranties from 51 major American firms, found no significant change from 1969 to the present. Today's consumer product warranties are replete with limitations on the manufacturers' and sellers' obligations. Any actions taken on the part of manufacturers and trade associations to clean-up these guarantees during the past five years appear to have had minimal results. These certificates, often marked "Warranty" in large letters, in most cases serve primarily to limit obligations otherwise owed to the buyer as a matter of law. This is done, just as reported five years ago in the President's Task Force Report, by disclaimers and exemptions, and by ambiguous phrases and terms.

The Typical Guarantee

Typically, the warranties examined were printed on good quality paper with a filigree border. They may be on a separate sheet of paper or may be in an instruction pamphlet or booklet. In many cases they contained statements describing the excellence of workmanship and high standard of care used by the manufacturer in making the product. Often the document is captioned "Warranty" or "Guarantee" or something such as "Full 5 Year Warranty." The documents often have an introductory sentence such as "We warrant this product to be free from defects in material and workmanship." The succeeding sentences undertake to explain the obligations the manufacturer is assuming under the warranty, and those it is not.

All too often these warranties shroud and effectively cover-up in unclear language the obligations of the seller. Of all the warranties examined, the average length was between 300 and 600 words. The "big four" American automakers offered warranties that were the longest, one of which exceeded 2,500 words. The Subcommittee staff believes, on the basis of its study, that warranties can be written more clearly and more briefly. For example, the following is the essence of the shortest guarantee found:

"If any part of your new Brand-X product is found defective within one year from the date of purchase from a retail dealer, we will repair it without charge for either parts or labor. This guarantee covers defects due to faulty workmanship and/or defective materials."

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[3] H. Rept. 93-1107, p. 25

[4] House Report 93-1107, p. 28.

Few warranties, however, came close to matching that composite picture.

Only two of the 51 firms participating offered guarantees designed to be a "basis of the bargain," that is, part of the actual sales contract between buyer and seller. These two firms (both manufacture mobile homes) had warranties bound with carbon paper with a place for the signatures of the seller and the buyer. One copy was labeled for the customer, another for the dealer, and the third for the manufacturer.

These specific steps are not required by law. However, it is required that the warranty be "a basis of the bargain" as previously discussed in this report. But, the fact that these steps were taken shows an intention to make the buyer aware of the warranty and its terms before completion of the transaction. The other warranties examined appear to be of the "prepackaged" variety. That is the type packaged with the product resulting often in the buyer not being aware of the terms of the warranty, or its existence, until he or she gets home and opens the box containing the product. In such instances, it is questionable whether the pre-packaged warranty would be a basis of the bargain.

Exemptions and Disclaimers

The Subcommittee staff compared each warranty against a list of 11 exemptions and disclaimers which serve to limit the legal obligations owed to the buyer. This list was prepared after first examining all of the more than 200 warranties to gain some perspective as to the scope of the exemptions, if any, present. It was quickly found that all of the various limiting clauses could be grouped into 11 basic classifications. A clause limiting the warranty from covering plastic parts, for example, is similar to a clause limiting coverage of glass parts, or filters, in that these parts are all easily damaged or otherwise not likely to last as long as parts made of steel or iron. Therefore, a clause disclaiming any warranty liability for replacement of plastic parts was grouped with similar clauses limiting coverage for glass parts and/or filters.

As previously discussed, each company manufactures several products and often offers the same warranty for each product. In the few instances where there are two separate divisions of the same company, or one firm offers a substantively different warranty for a different product, than the company is considered twice (and its product is cited by symbols in parenthesis on the attached table.) Generally, only one warranty, representative of those used by the given firm, was used for purposes of this study.

Years of Coverage

The second column on the attached table cites the years of warranty coverage. Most warranties are good for a one year period from the date of purchase. The one year usually covers all parts and labor required to repair or replace a defective part. However, guarantees were often found to give extended coverage for particular parts such as the compressor unit in a refrigerator or the picture tube in a television receiver.

The typical television warranty, for example, gives the buyer a promise to repair any part found to be defective within one year from date of purchase, but extends the coverage time on the picture tube to two years. Thus, this coverage would be cited on the table as: 1–2. The first numeral indicates the longest coverage available for all parts, and the second number indicates the extended coverage if any for specialized parts.

A few guarantees were for periods of as short as 30 days; some for as long as the life of the original purchaser and if still owned by that buyer. On the whole, most coverage was for a period of one year for all parts and sometimes for two or more years on special parts.

The 11 Disclaimers

The next 11 numbered columns represent exemptions on the obligations of the manufacturers or sellers. Each of the exemptions are discussed here in the same numbered order as they appear on the attached table:

No. 1. *Transportation and shipping costs and/or servicemen's travel charges excluded.*—This clause typically reads, "Charges and costs for shipping defective part or product, or repairman's service call to inspect product is not included." This clause can be unfair because the travel cost of repair personnel to the buyer's home to diagnose the repair needed for a defective refrigerator, for example, plus the transportation charge for taking that product to the shop and back, can exceed the cost of the actual repair work. Thus, a guarantee with this clause is substantively limited.

19 of the 51 firms had warranties with this clause.

No. 2. *Home use only—Other uses excluded.*—This clause typically reads, "The warranty covers this product when used for home use only." This clause may be reasonable in instances where, for example, a washing machine is manufactured for non-commercial purposes. A laundromat uses its machines many times more often than the busiest of homes. But such a clause would be unfair on a refrigerator that is used in an office. In such a setting, it would likely get much less use than in the average home; 12 of the 51 firms had warranties with this clause.

No. 3. *Filters, plastic and/or glass parts excluded.*—This clause typically reads, "This warranty does not cover replacement of glass parts (or plastic parts)." This clause can be unfair because a defective filter or plastic part, though relatively inexpensive, can cause the product not to function. Therefore, an inexpensive part can be just as costly to replace, primarily because labor charges would be the same as for an expensive part.

6 of the 51 firms had this clause in their warranties.

No. 4. *Consequential damages excluded.*—Typically this clause reads, "Consequential or incidental damages arising from this product or a defect thereto are not included under their warranty." This clause is contrary to common law principles of making manufacturer and/or seller liable for the consequences of their breach of contract or warranty. This clause takes away much. For example, hundreds of dollars in damages to floors can result from water flowing from a defective washing machine. Spoilage of food caused by a defective freezer can also be costly. As previously explained, (see page 5) courts are inclined to hold this type of clause invalid. Although this clause may have little enforceability in law, it can be effective in discouraging buyers from pursuing remedies; 21 of the 51 firms had this clause in their warranties.

No. 5. *Disclaimer of implied, and all other warranties.*—Such a clause typically reads, "This guarantee is offered in lieu of all other guarantees or warranties, express, implied in law, including implied warranties of merchantability or fitness for a particular purpose." Again, this type of clause is increasingly likely to be found invalid by courts. Nevertheless, such a clause serves to discourage consumers from pursuing remedies available from courts. Even if the buyer is not misled by these words and does seek to challenge the validity of the disclaimer, having the clause held invalid in a given situation usually requires costly litigation.

This clause was found in the warranties of 31 of the 51 firms.

No. 6. *Limited to parts only/or to specific parts.*—This clause typically reads: "Coverage under this warranty is limited to parts only." Or, "This warranty provides for the replacement, minus labor, of any defective part." Or, "Refrigeration parts only will be replaced under this warranty." The unfairness of this clause should be self-evident. It provides only half a warranty. And since labor may well be the most expensive cost, this clause gives the buyer the smallest half of the warranty coverage.

This clause was found in the warranties of 10 of the 51 firms.

No. 7. *Warranty registration card.*—27 of the 51 firms studied had warranty registration cards attached to their warranty. Some of these warranties expressly stated, "This warranty is not valid unless the information requested on the registration form is completed and the card returned within ten days to the manufacturer."

The enforceability of such a clause is subject to serious question. As previously discussed (see pages 3, & 13), to be enforceable, an express warranty must be "a basis of the bargain," or that is, part of the actual sales transactions. Most warranties and warranty registration cards appear to be of the type that are packaged with the product in the factory. The buyer usually finds the warranty packaged in a box along with the product and an instruction pamphlet; This discovery often takes place at home, long after the actual sales transaction has been completed. Thus, the requirement of filling out and returning a warranty registration card in order to obtain full warranty protection (under common law implied warranties), is likely to be held invalid by most courts.

Some of the warranties that had these cards did not expressly require that the cards be filled out and returned, but instead state to "please" do so. However, the fact that it is labeled "Warranty Registration Card" and is attached to the warranty can nevertheless convey the idea that the card is needed to validate the warranty.

It is important to note that most of these cards appear to be clearly for the benefit of the manufacturer—to obtain marketing information. These cards often ask for such information as the yearly salary, marital status, type of employment, and the number of children of the buyer. Questions seeking this kind of information can pose a threat to privacy, especially if it is given under the mistaken notion that the buyer will obtain full warranty protection by doing so. Proof of purchase (e.g., a sales receipt) is needed, when questioned, to obtain warranty service. The reasonableness of having to offer anything more is questionable.

The Automobile Makers

It might be of interest to point out what auto makers have done in this area. General Motors, for example, prints its warranty in the form of a folder and states that the warranty is not valid "unless the owner possess a new vehicle warranty folder." Presumably, G.M. regards the warranty to be void when the folder is lost, or misplaced. This is the clear inference than can be drawn from that clause.

American Motors offers a folder like that of G.M. in the form of what it calls an "Owners Manual Supplement" which "entitles you to Guarantee Service until you receive your Vehicle Identification Card." After the owner receives the card in about five weeks, they are told, "(T)hen to obtain Guarantee Service, you *should* present the Vehicle Identification Card to the Servicing AMC Dealer." (Italics added.) Does AMC mean that the buyer should or must have the card to obtain warranty service? Or, do they mean that having the card would be more convenient when the owner does not have a sales receipt or when the servicing dealer does not otherwise recognize the customer or the car.

Chrysler and Ford have similar systems

where the warranty states that the warranty folder should be presented to obtain warranty service.

On their face, such clauses appear to be unfair because they impose, expressly or by implication, an extra requirement for showing proof of purchase. This extra requirement can also convey to the buyer that they will not receive warranty coverage without that extra piece of paper or card. In the case of General Motors, their warranty expressly states that requirement.

No. 8. *Void if serial plate is defaced.*—This clause typically reads, "This warranty is void if the serial plate has been defaced." Such a clause may be reasonable in those cases where the manufacturer wants to match up the serial number on the product with that number cited on the sales receipt. This might be needed in order to determine whether the product is still within the years of coverage provided under the warranty. However, such a provision can be unfair when the "serial plate" consists of a metallic sticker or a piece of metal attached by adhesives since such a "serial plate" can be easily and naturally defaced by normal use of the appliance. Here, no malice on the buyer would have to have been involved in the "defacing" of the serial plate.

This clause was found in use by only four firms. The Friedrich Company (which manufactures air conditioning and refrigeration products) was the only one of the four to have this clause as the only one of the eleven disclaimers present in their warranty.

No. 9. *Special appliances excluded.*—This clause typically reads, "The manufacturer makes no warranty whatsoever with respect to tires, batteries, automotive chassis, engines, or automotive related accessories, refrigerators, stoves, or other special appliances, inasmuch as they are generally warranted by their respective manufacturers."

This clause was found in warranties used by 10 of the 16 mobile home firms. It was not found in any other group of product warranties examined.

This clause appears to be unfair because it passes the responsibility and common law obligations of the manufacturer of the mobile homes, and the seller of said product, onto the manufacturers of the component parts, or in most cases, onto a long list of such manufacturers.

No. 10. *The opinion of the seller governs.*—This clause typically reads, "The manufacturer will be the sole judge of whether the part is defective." This clause appears to have the probable effect of discouraging the buyer from pursuing a breach of warranty claim in court, should such an issue arise.

This clause was found in 8 of the warranties used by the 51 firms.

No. 11. *Valid for original purchaser only.*—This clause typically reads, "This warranty applies to the original purchaser only." It appears to be unfair, particularly for those firms which advertise their product as being ideal for gifts. The recipient of the gift would not be an "original purchaser" and therefore would not be covered with such a clause from seeking repair or replacement of any defective part. Furthermore, under the UCC, the law on warranties, implied warranties can extend not only to the original purchaser, but to "anyone who might reasonably be expected to use" or be affected by the product. Section 101(3) of H.R. 7917 would likewise extend the protection and coverage under warranties to also include, in addition to "the first buyer at retail," "any person to whom such product is transferred during the duration of a warranty." Therefore, under H.R. 7917, a warranty with such a clause would have to be labeled a "Limited Warranty," instead of "Full Warranty"; 20 of the 51 firms used warranties with this clause.

The following page briefly lists the 11 exemptions to be used as a quick reference guide to the table that follows:

LIST OF THE 11 EXEMPTIONS, LIMITATIONS AND DISCLAIMERS

No. 1. Transportation and shipping costs and/or servicemen's travel charges excluded.

No. 2. Home use only—other uses excluded.

No. 3. Filters, plastics and/or glass parts excluded.

No. 4. Consequential damages excluded.

No. 5. Disclaimer of implied, and all other warranties.

No. 6. Limited to parts only/or specific parts.

No. 7. Warranty registration card (required or suggested).

No. 8. Void if serial plate is defaced.

No. 9. Special appliances excluded.

No. 10. The opinion of the seller governs.

No. 11. Valid for original purchaser only.

TABULATIONS OF EXEMPTIONS, LIMITATIONS, AND DISCLOSURES FOUND IN CONSUMER PRODUCT WARRANTIES

Companies	Years of coverage	Exemptions, limitations and disclaimers											
		No. 1	No. 2	No. 3	No. 4	No. 5	No. 6	No. 7	No. 8	No. 9	No. 10	No. 11	Total
Household appliances:													
Admiral	1 to 5	X						X			X	X	4
Amana	2 to 5	X	X	X					X				4
Blackstone	1 to 3	X					X	X				X	4
Carrier	5				X	X							2
Chrysler (air conditioner)	1	X					X	X					3
Corning	1 to 3												0
Emerson	1 to 5	X					SP[1]	X				X	4
Fedders	1 to 4		X		X	X	X	X				X	6
Friedrich	1 to 5								X				1
Frigidaire	1 to 5					X		X					2
General Electric	1 to 5		X									X	2
Gibson	1 to 5	X	X		X	X							4
Hamilton	1 to 5	X	X		X	X		X			X	X	7
Hardwick	1			X	X	X	X					X	5
Hoover (refrigerator)	1 to 5			X		X		X	X				4
Hoover (clothes washer)	1		X								X	X	3
Kelvinator	1 to 2	X	X	X	X	X						X	6
Maytag	1 to 5		X										1
McGraw-Edison	1 to 5	X			X				X			X	4
Modern Maid	1		X				X						2
Revco	1 to 2		X		X			X					3
Roper	1 to life[2]	X		X			X				X	X	5
Speed Queen	2							X					1
Tappan	1 to 5		X		X	X		X					4
Westinghouse	1 to 5				X						X	X	3
Whirlpool	1 to 5		X					X					3
Motor homes:													
AMF (CT)	1/4 to 1	X			X	X							3
Airstream (CT)	Life	X				X	SP					X	4
Avco (MH)	1	X				X		X		X			4
Champion (MH)	1/4 to 1				X	X				X			3
Coachman (CT)	1/4 to 1	X			X	X							3
Commodore (MH)	1					X		X			X	X	4
Grace, W. R. (RV)	1	X			X	X	SP	X		X			6
Guerdon (MH)	1							X		X		X	3
Midas (RV)	1					X		X		X		X	4
Monitor (CT)	1	X			X	X		X		X			5
Redman (RV)	1/4 to 1				X	X		X		X			4
Skyline (MH)	1							X					1
Superior Coach (RV)	1	X			X	X				X			4
Swinger (CT)	1/2 to 1				X	X		X		X			4
Vesely (CT)	1					X		X		X		X	4
Winnebago (CT)	1/4				X	X	X	X					4
Automobiles:													
American Motors	1 to 3					X							1
Chrysler	1				X	X							2
Ford	1					X							1
General Motors	1					X	"Owner (must) posses a new vehicle warranty folder."						1
Home entertainment:													
Magnavox (color TV)	1 to 2	X										X	2
Motorola (color TV)	1 to 2					X		X					2
Zenith (color TV)	1 to 2					X		X				X	3
K.L.H. (stero)	⅓ to 5	X				X		X			X	X	5
J.V.C. (stero)	¼ to 1			X	X	X		X			X		5

[1] SP: Warranty protection is limited to special parts.

[2] Life: The Life of the original purchaser.

Note: Each exemption here corresponds to the same numbered exemption discussed in the text of this report. CT—Camper trailer. MH—Mobile home/motor home. RV—Recreational vehicle.

Examples of Warranties Examined (other samples are included in appendix).

One of the clearest and most direct warranties submitted were those used by the Corning Corporation. For example, note the following:

"The Corning Built-In Oven Promise: Corning Glass Works, Corning, New York 14830 promises that an authorized service agency will provide for repair or replacement of any defective part and correct any faulty workmanship without charge to the owner for the time periods stated below:

"Labor for any repair required: 1 year from date of installation.

"Parts which fail during normal use except the parts below: 1 year from date of installation.

"Oven heating units (bake/broil) which fail during normal use: 3 years from date of installation.

"For this promise to apply, the Corning Built-In Oven must be installed and used according to instructions provided at the time of purchase. Improper installation or repair by an unauthorized service agent that results in subsequent failure will void this promise. The owner shall notify the authorized service agency or Service Department, Major Appliances, at the address above, of any defective part of faulty workmanship."

The Corning warranty illustrates how it is possible to be brief and to the point.

On the other hand, the following is an example of a warranty which is much more restrictive. It contains 5 of the 11 exemptions looked for in this study.

"WARRANTY CERTIFICATE

"The warranty is valid only if the warranty registration card is mailed within ten days from date of purchase from your dealer. JVC America, Inc., guarantees all products it manufactures to be free from defective material and workmanship. JVC America, Inc. agrees to arrange for the remedy of any defect if the product is brought to an authorized service agency. Cabinet, plastic parts and phono needles are not included.

"This warranty shall be considered void if the product has been subjected to abuse, abnormal service, damage is transit or if in the opinion of JVC America, Inc., it has been altered or repaired in any way that affects the reliability and performance of our product.

"The warranty includes 90 days free labor and one year on parts except as listed above provided the warranty card is mailed as introduced.

"Your bill of sale will serve as proof of warranty which must be presented to the service station when applying for in-warranty service.

"The foreging is in lieu of any other warranty expressed or implied, JVC America Inc., neither assumes nor authorizes any person to assume for it any other obligation or liability in connection with the sale of this product.

"1. If the set is battery operated, this warranty does not cover batteries furnished with the set.

"Please remove exhausted batteries that may damage the set due to the corrosion.

"2. Product out of warranty will be repaired for a nominal service charge.

"JVC AMERICA, INC."

JVC America Incorporated manufactures stereo equipment. The warranty contains 5 of the 11 exemptions looked for in this study, which were: No. 3 exempting "cabinet, *plastic parts* and phono needles . . ."; No. 4 excluding consequential damages described here as ". . . any other obligation or liability in connection with the sale . . ."; No. 5 a general disclaimer of implied warranties; No. 7 stating that "(t)his warranty is valid only if the warranty registration card is mailed within ten days from date of purchase from your dealer"; and No. 10 restricting the judgment of whether a given part is defective up to the sole judgment of the manufacturer.

LIMITATIONS OF THIS STUDY

The time and resources were not available for evaluation of the performance of the various firms to determine what they do to carry out their promises. Only the promises, that is, the actual warranties, were studied.

Further, the warranties used were supplied directly from manufacturers as explained on page 1. It is assumed that typical and accurate warranties were supplied.

The listing and tabulation of the exemptions found in the warranties used by the fifty-one firms is in no way intended to be nor should necessarily be used as a guide in determining who has the best and worst warranties. Many other factors must be considered in such a determination. However, the table can serve as a guide to the kinds of warranties and limitations on warranties used by a representative sample of industry today.

The table does help to gain some perspective on the scope of exemptions found in curent warranties. For example, only one of the fifty-one firms, whose warranties were studied, had a warranty free of the 11 disclaimers. The average was between 3 and 4 exemptions per warranty.

IV. SUMMARY OF FINDINGS

The Subcommittee staff in its examination of 200 warranties from 51 major American firms found no significant change from 1969 to the present. Today's consumer product warranties are replete with limitations on the manufacturers' and sellers' obligations. Any actions taken on the part of manufacturers and trade associations to clean-up these guaranties during the past five years appear to have had minimal results.

These certificates, often marked "Warranty" and printed on good quality paper with a fancy filigree border, in many cases serve primarily to limit obligations otherwise owed to the buyer as a matter of law. This is done by disclaimers and exemptions and by ambiguous phrases and terms.

All too often the warranties shroud and effectively cover-up the obligations of the seller. Of all of the warranties examined, the average was between 300 and 600 words in length. Few were less than a hundred words. The four major American automakers offered the longest warranties, one of which exceeded 2,500 words.

Only one of the 51 firms offering warranties for this study was found to be free of all 11 exemptions, limitations and disclaimers. The average was between 3 and 4 exemptions per warranty, 8 had 5 to 7 exemptions, 16 had less than 2 limiting clauses.

Thirty-one of the 51 firms had clauses disclaiming all other warranties including implied warranties imposed by law. Most courts have held these clauses to be invalid because they are against public policy or are inconsistent with other affirmations made by the seller.

Two of the 51 companies had warranties clearly designed to be part of the sales transaction by providing a space for the seller and buyer to sign and with three carbon copies, one for the buyer, one for the seller, and one for the manufacturer. These specific steps are not required by law. But the law does require that an express warranty be a "basis of the bargain," or that is, part of the actual sales transaction. The specific steps described here with signatures from both parties does show an intention to make the warranty a basis of the bargain.

The warranties used by the remaining 49 firms appeared to be of the type that are packaged with the product in the factory. The buyer usually finds the warranty packaged in a box along with the product and an instruction pamphlet—this discovery often takes place at home, long after the actual sales transaction.

There were 10 warranties which were limited to parts only or to specific parts.

Most written guarantees are good for one year of coverage from the date of purchase. The one year usually covers all parts and labor required to repair or replace a defective part. However, guarantees were often found to give extended coverage for particular parts as the compressor unit in a refrigerator or the picture tube in a television receiver.

Although a few guarantees provided coverage for periods as short as 30 days, most covered periods of one year for all parts, with about half of the warranties covering an additional 1 to 4 years for specialized parts.

The Subcommittee staff found no reason why a warranty could not be written within 100 words in length, giving a simple, straightforward promise.

APPENDIX A

WARRANTY

1. Warranty: Tappan/O'Keefe and Merritt warrant the refrigerator which this warranty accompanies, when installed in the Continental United States or in Alaska or Hawaii, to be free from defects in workmanship and material during the warranty period. This warranty sets forth our total warranty commitments. We will not assume, nor authorize any person to assume for us, any other liability in connection with the sale of Tappan/O'Keefe and Merritt products.

2. Length of Warranty: One year from date of initial use of appliance.

3. Defective Parts: During the warranty period all defective or inoperative parts, excluding light bulbs, will be replaced by Tappan/O'Keefe and Merritt at no charge to you.

4. Labor to replace defective parts: During the warranty period all cost of labor performed by an authorized Tappan/O'Keefe and Merritt Sentinel Service Agency to replace defective or inoperative parts, excluding light bulbs, will be paid for by Tappan/O'Keefe and Merritt.

5. If you should move: Warranty continues in force for one year from initial use of appliance. Service is available to you anywhere in the Continental U.S.A., or in Alaska or Hawaii.

6. Change of ownership of appliance: Warranty remains in force for one year from initial use of appliance by the first retail customer.

7. Misuse of appliance: This warranty does not apply to any appliance which is misused, altered, improperly installed or used for anything other than normal private household use.

8. How to receive service: Contact the source from whom you purchased the appliance. He will give you the name of the local Tappan/O'Keefe and Merritt Sentinel Service Agency. Service must be performed by an authorized Tappan/O'Keefe and Merritt Sentinel Service Agency.

9. Sentinel Service Division: If you are unable to locate an authorized service agency, or you do not receive satisfaction from the source from whom you purchased your appliance or from your local authorized sentinel service agent, you should write to either the Tappan or O'Keefe and Merritt Sentinel Service Division, depending on which brand you own.

Tappan: Sentinel Service Division, 250 Wayne Street, Mansfield, Ohio 44901 or call 419/524-3111.

O'Keefe and Merritt: Sentinel Service Division, 3700 Easy Olympic Blvd., Los Angeles, California 90023 or call 213/268-8231.

10. Registration of your appliance: You should fill out and mail the registration card included with your appliance. This will help

the Sentinel Service Division expedite any further matter pertaining to your appliance.

11. Additional 4-year coverage on hermetically sealed unit: During the four years following the expiration of the one-year warranty we will repair or replace defective or inoperative hermetically sealed units. The hermetically sealed unit includes the compressor, motor, condenser, freezing coils, and those parts welded to them. This 4-year coverage includes both parts and labor at no cost to you.

12. Model number and serial number: The model number and serial number can be found on the serial plate of your appliance. You should always use the model number and serial number when talking or writing to your authorized Tappan/O'Keefe and Merritt Sentinel Service Agency about your appliance.

APPENDIX B

AMANA—5 YEAR WARRANTY

Amana warrants for five years from date of original purchase, parts and related labor when product is used for normal home use within the U.S. and warranty service performed by an authorized Amana servicer.

Owner's responsibility is for serviceman's travel charges, local cartage, replacement of gaskets, filters, rubber or plastic parts, installation kit material, appearance items, and normal maintenance.

Warranty void where product is misused, damaged or altered, or serial plate defaced.

Warranty applies in Canada except for taxes, duties, and assessments levied at time of part export.

Amana Refrigeration, Inc., Amana, Iowa.
Room Air Conditioners.

APPENDIX C

WARRANTY REGISTRATION

RECREATIONAL VEHICLE

Subject to the conditions set forth below, Midas will replace, or at its option repair, without charge for parts or labor, any part of the recreational vehicle ("unit.") identified below if found by Midas to be defective in materials or workmanship for a period of One Year after delivery, provided the unit is still owned by the original purchaser.

(1) All warranty work must be done by the selling Midas dealer. If the owner has permanently moved or is travelling, then warranty work may be performed by any authorized Midas dealer. It is the owner's obligation to deliver and retrieve his unit from the dealer's repair facility.

(2) This warranty applies only when the unit is used for normal personal recreational purposes, and only when the original purchaser is an individual. This warranty does not apply to a unit purchased by a business entity, or used by a club or group, or is rented.

(3) This warranty does not cover repairs made necessary by reason of misuse (including, but not limited to, loading beyond the unit's gross vehicle weight rating and gross axle weight ratings), negligence, accident, normal wear and tear, and repairs or alterations done without Midas' approval, and failure to follow ordinary maintenance procedures.

(4) This warranty does not apply to tires, battery, appliances, electronic equipment, and in the case of the Mini Home, to the automotive chassis, which items are warranted by the manufacturers thereof.

(5) This warranty is in lieu of any other warranty by Midas, including warranties of fitness and merchantability and Midas' obligations hereunder may not be altered or extended by any other person or firm. Midas assumes no liability for secondary or consequential damages attributable directly or indirectly to any defect in the unit.

This warranty applies only to the following identified new recreational vehicle and when sold for the first time by the authorized Midas dealer named below, and only if the warranty registration card, properly filled out, is mailed to Midas within 10 days after delivery to the original purchaser.

Dealer Name------------------------ Unit Serial Number----------.

Midas-International Corporation, 222 S. Riverside Plaza, Chicago, Illinois 60606.

WARRANTY REGISTRATION CERTIFICATE REGISTRATION

Serial No.
Model.
Customer Name.
Street.
City.
State.
Zip.
Purchased From.
Street.
City.
State.
Zip.
Delivery Date.
Dealer Signature.

Important: You must register within 10 days of purchase to validate your warranty with Midas. Detach, get your dealer's signature, fill out and mail at once.

WARRANTY OWNER'S CARD REGISTRATION

Serial No.
Customer's Name.
City.
State.
Zip.
Delivery Date.
Mileage.
Dealer Name.
City.
State.
Zip.
Dealer Signature.
Owner to retain this card . . .

Mr. BROYHILL of North Carolina Mr. Chairman, I yield 3 minutes to the gentleman from Nebraska (Mr. McCOLLISTER).

Mr. McCOLLISTER. Mr. Chairman, I thank the ranking member of the minority for yielding, and I thank the gentleman from California for his kind and generous remarks.

This subcommittee has distinguished itself by showing a spirit of harmony in working together which has made my service thereupon a considerable pleasure, an enjoyment, and a satisfaction.

Both the gentleman from California and the gentleman from North Carolina have referred to section 202 where the subcommittee has attempted to wind its way through the Administrative Procedure Act, chapter 5, in which the informal and formal hearing process in the rulemaking procedures has been undergoing some considerable study by members of the subcommittee.

I think we have reached a good compromise in trying to provide for the right of interested parties not only to submit oral and written testimony, but also to cross examine the testimony of other witnesses. I think the basis of judicial review which is substantial evidence, on the record taken as a whole, is an improvement.

I support the bill. I have one reservation, which will be in the form of an amendment, I understand, to be offered by the gentleman from North Carolina (Mr. PREYER) on third-party interests, about which we have some reservations.

I believe it is essential that we clarify the scope of the definition as to what is a warranty under section 101(10). The definition of warranty is so broad as to include the Kosher seal, the Good Housekeeping seal, and the union bugs, and certain forms of other warranties.

Mr. Chairman, I think that an amendment is needed to clarify that definition. When the gentleman from North Carolina (Mr. PREYER) offers that amendment, I intend to support it and would recommend to other members of the committee that they do likewise.

Mr. Chairman, I am pleased to have been a part of this long, tedious process by which H.R. 7919 reaches the floor, and I am grateful that we shall have the opportunity very soon to vote favorably for it.

Mr. STAGGERS. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. PREYER), a member of the committee.

Mr. PREYER. Mr. Chairman, I join with the gentleman from Nebraska (Mr. McCOLLISTER) in praising the committee for bringing to us an effective bill, one that I support.

Like the gentleman from Nebraska (Mr. McCOLLISTER), I, too, have some concern about one provision in the bill which I think we can cure by a relatively simple amendment. My objection to it is that the bill fails to recognize the traditional distinction between warranties and guarantees, and the practical effect of this in the marketplace and in the courts, I think, could be demonstrated by its effect on the familiar Good Housekeeping seal of approval.

If Good Housekeeping puts its seal of approval on a blanket, for example, and the blanket is defective, under existing law they would be liable to pay the amount of the blanket. But if the house burned down as a result of that, they would not be liable for the burning down of the house.

Now, to make them liable in that circumstance, as this bill may do, would result in reversing several hundred years of law. This is a warranty bill, and those who have been guarantors were not fully cognizant that this might reach this far.

So I wish to point out that the American Newspaper Publishers Association, the National Association of Broadcasters, and the Magazine Publishers Association have only recently been alerted to the problems involved in this matter.

The amendment which the gentleman from Nebraska (Mr. McCOLLISTER) and I have offered has been endorsed by the American Newspaper Publishers Association, by the Magazine Publishers Association, and by the National Association of Broadcasters.

Mr. Chairman, at this point I shall include a letter dated September 17, 1974, addressed to me from the National Association of Broadcasters. The letter is as follows:

NATIONAL ASSOCIATION OF BROADCASTERS,
Washington, D.C., September 17, 1974.

Hon. RICHARDSON PREYER,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN PREYER: The National Association of Broadcasters wishes to commend you for your amendment to clarify the definitional provisions of H.R. 7917. As the Bill is currently drafted, broadcast stations could be deemed warrantors of certain advertising carried by our member stations.

As you know, the courts have carefully maintained the position that broadcasters are not warrantors of the products which are advertised. The expansive definitions of Title I of H.R. 7917 cast a cloud over this legal doctrine and present potential dangers for station owners. The definition of a supplier in Section 101(8) as "any person engaged in the business of making a consumer product directly or indirectly available to consumers," is so broad that it could encompass broadcasting. Written signs and other material shown on television screens could bring us within the definition of "warranty" in Section 101(10).

We believe that the important purposes of this Bill can be better served by having precise definitions, and we support you in your effort to have the term "warranty" and the term "supplier" defined in their historic way.

The object of this legislation should be to improve warranties, rather than to create a legal cloud over business activity which has never fallen within the definition of a warranty before.

In offering your amendment, you are performing a service not only to the broadcasting industry but to the consumers of America who will be better served with more precise and ascertainable definitions.

Sincerely,

GROVER C. COBB.

Mr. Chairman, let me just say finally that I think there is some fear that by adopting this amendment third-party guarantors, such as the Good Housekeeping or those responsible for magazine advertisements, will be getting away with something in some fashion. Let me point out that this is not the case. These people may still be sued if this amendment is adopted, on grounds of negligent misrepresentation, and they are still subject, secondly, to the guidelines concerning deceptive advertising of guarantees under the FTC.

Mr. Chairman, at this point I include an explanation of amendment, as follows:

EXPLANATION OF AMENDMENT

I. CONFUSION OF "GUARANTY" WITH "WARRANTY"

This amendment would limit the definition of "warranty" so as to be applicable to those engaged in the manufacture, distribution, and retailing of consumer products. H.R. 7917 in its present form would overturn several hundred years of well-established law by defining the term "warranty" to include third parties, such as Good Housekeeping Magazine, who recommend consumer products and stand by their recommendations with offers to replace, repair or refund the purchase price.

While third party guarantors may be sued at the present time for negligent misrepresentation, they may not be sued like warrantors can on a strict liability theory. This distinction is of critical importance. The courts have correctly recognized that third-party guarantors, unlike manufacturers and retailers, have no opportunity to examine the condition of the goods as they pass through the distribution chain. They must necessarily make their recommendations or criticisms on the basis of a few samples. In addition, a third party guarantor does not receive as large a profit on each individual sale as does a warrantor who is a manufacturer or retailer.

Quite apart from the remedies in this bill, by defining the term "warranty" so broadly H.R. 7917 would invite local judges to impose strict liability upon guarantors such as Good Housekeeping Magazine which offers the consumers their money back if a product is defective. If Good Housekeeping were to put its seal on a blanket and promise the consumer his money back if the blanket were defective, and if the blanket were to catch fire, Good Housekeeping should be liable for the price of the blanket, but not for other damage caused by the fire. Such strict liability can only be afforded by manufacturers and retailers, but not by third party guarantors who merely offer the consumer his money back if there is a product defect.

The amendment would correct this by providing in Section 101(10)(ii) that to constitute a warranty, the undertaking would have to be by a supplier.

The amendment would also confine the term "supplier" to its historical context of manufacturer, distributor and retailer. As currently drafted, the term "supplier" is so broad as to include even common carriers who transported the goods.

In giving the term "warranty" such a broad definition, the bill departs not only from Anglo-American common law but also departs from the UCC which, in Section 2-312, defines "warranty" in terms of sellers.

II. THE PROVISION IS ANTI-CONSUMER

Guarantors such as Good Housekeeping could avoid all liability under this bill by simply refusing to stand by their product endorsements with offers to repair, replace or refund the purchase price. Only the consumer would suffer as a result. There is no logical basis for extending liability to third party guarantors who offer money back to the consumer while providing no liability for third party endorsers who give the consumer nothing.

III. POSSIBLE UNCONSTITUTIONALITY

Section 110(c) provides for the issuance of temporary restraining orders. To the extent that such orders would issue against the publication of a magazine such as Good Housekeeping, there would be a prior restraint in violation of the First Amendment.

IV. GUARANTORS CAN BE SUED AT THE PRESENT TIME IF THEY ARE DECEPTIVE OR MISREPRESENT THEIR PROGRAMS

The *Hanberry* case establishes the proposition that third party guarantors can be sued for negligent misrepresentation.

Second, guarantors are subject to the Guides Against Deceptive Advertising of Guarantees, as promulgated by the Federal Trade Commission.

Finally, Good Housekeeping is subject to the Order entered by the Federal Trade Commission on May 13, 1941.

V. THE ISSUE OF GUARANTORS WAS NOT RAISED IN THE HEARINGS AND WAS NOT CONSIDERED BY THE SUBCOMMITTEE

If it is decided by the Committee that legislation is needed with respect to guarantors, there should be a separate bill where hearings could focus on issues of law and fact which are different as between guarantors and warrantors. Since the hearings on the bill in the House and Senate entirely failed to consider the issue of guarantees, and because guarantees and warranties are different as to law and fact, they should be the subject of separate legislation if legislation is deemed necessary.

The record discloses, however, no reason why guarantees need be the subject of legislation at all in light of existing legal requirements which pertain to them. Their inclusion in this bill is an oversight which can be easily corrected through the amendment which is now proposed.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I would like to address a question to Mr. STAGGERS or Mr. Moss regarding the definition of the term "warrantor" in section 101(9) of the bill. Does the term "warrantor" include a supplier who merely assigns or delivers to a consumer a warranty on a consumer product which is given by another supplier or the manufacturer of the product? I refer, for example, to a situation where the builder of a home passes on to the purchaser of a home the warranties relating to the refrigerator, air-conditioning system, and such other consumer products.

Mr. MOSS. In answer to the gentleman's question, section 101(9) states that a "warrantor" means "any supplier who gives or offers to give a warranty." In the case referred to by the gentleman, the warranty is actually given by the manufacturer of the appliance and not by the builder. Therefore, the builder would not be a warrantor by reason of the assignment of such a warranty.

Mr. BROYHILL of North Carolina. I would like to address a question to Mr. STAGGERS or Mr. Moss regarding the definition of "consumer product" in section 101(1) of the bill. Would a house be within the definition of consumer product?

Mr. MOSS. A house would not fall within the definition of consumer product since a house is not "tangible personal property."

Mr. BROYHILL of North Carolina. If a warranty applied to component parts of a new home, such as dry wall, plumbing, heating, and air-conditioning, would these items be within the definition of "consumer product"?

Mr. MOSS. The definition of consumer product in section 101 includes "any tangible personal property which is distributed in commerce and which is normally used for personal, family or household purposes—including any such property intended to be attached to or installed in any real property." This definition would apply to any separate equipment such as heating and air-conditioning systems which are sold with a new home. However, the definition would not apply to items such as dry wall, pipes, or wiring which are not separate items of equipment but are rather integral component parts of a home.

Mr. BROYHILL of North Carolina. Mr. Chairman, I have no other requests for time.

Mr. STAGGERS. Mr. Chairman, I have no further requests for time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. REES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7917) to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes, had come to no resolution thereon.

ADMINISTRATION POLICY FAVORS BIG INVESTORS

(Mr. WRIGHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WRIGHT. Mr. Speaker, once again the administration's economic advisers have shown their extreme insensitivity to the root causes of inflation and to the manner in which its burdens are being deliberately placed upon those least able to bear them.

Last month the Treasury Department offered U.S. Treasury notes bearing 9 percent interest, which all American taxpayers will be obligated to pay to those who bought the notes.

The predictable result was that many investors, in order to take advantage of this Government-guaranteed windfall, began drawing their money out of banks and savings and loan institutions. The result of that, of course, was a further drying up of money for mortgages and home loans.

Yesterday, the Treasury Department compounded the felony by barring small savers from buying these high-yield notes. The Treasury announced that only those big investors with at least $10,000 to invest will be permitted to participate in this unprecedented boom at the expense of the taxpayers.

In this brazen and callous open discrimination against the small- and modest-income families, the U.S. Government is officially engaged in the deliberate redistribution of income, taking it from the poorest among us and giving it to the wealthiest.

This is a thorough outrage. It is a natural culmination of our misbegotten policy of high interest rates. This policy is pushing the economy at an ever accelerating pace toward the precipice of economic depression. The tragedy is that this trend is being deliberately hastened and abetted by official Government policy.

The only way we ever will halt inflation and revive the American economy is through a conscious government policy to reverse this perilous trend and bring interest rates back down to a healthy and normal level. Until that is done, all of our other efforts will be in vain.

As one member of the House Budget Committee, I am prepared to do all within my power not only to balance the budget as the President has requested but to lay aside at least some amount to begin a series of long overdue annual reductions in the national debt.

But balancing the budget alone will not achieve the result we seek so long as this type of deliberate discrimination against the American families of modest income is followed by the administration.

The President has the concomitant responsibility to use all the inherent constitutional powers of his office and of the executive branch of government to bring interest rates down to a livable level. I call upon him today to begin such a policy in the interest of the average American family which is and always has been the indispensable bulwark of our Nation's economy.

COVERT ACTIVITIES BY CIA IN CHILE

(Mr. DRINAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneuos matter.)

Mr. DRINAN. Mr. Speaker, I share the dismay of all Members of Congress and all citizens of this country at the admission by President Ford of covert activities by the CIA in Chile. These activities, designed to "destabilize" the Allende regime can, in plain language, be said to be the intervention by the United States in the internal politics of another sovereign nation.

Such activities, always suspected, are now openly admitted. What is appalling, however, is the unbelievable assertion by President Ford that such activities are justified because Russia indulges in them and because the United States has done them for more than 20 years.

President Ford shrugged off the question at his news conference as to whether such activities violate international law. Most assuredly, of course, they do contravene the basic tenets of international law. In addition, such activities of a clandestine and covert nature are in violation of the preamble of the United Nations.

The most unbelievable part of President Ford's admission centers on his statement that the appropriate committees of the House and Senate have been duly informed about the covert activities of the CIA. I doubt very much whether any members of the appropriate committees will be conceding that they have been adequately informed about the adoption and implementation of covert activities as decided upon by Committee Forty—a group chaired by Dr. Kissinger.

If, however, certain high ranking members of the House and Senate committees engaged in foreign affairs do in fact know of the covert activities of the CIA, I call upon them to share this information with all Members of the House and Senate. There is no such thing as adequately informing the Congress by whispering a few secret decisions arrived at by certain unnamed individuals operating upon unstated premises. It is totally erroneous and basically unfair both to the Congress and to the country for President Ford to intimate—and, indeed, to state—that Congress has been adequately informed of the covert activities of the CIA. In addition, President Ford indicates that he will meet with the appropriate committees in order to make certain that they are satisfied with the flow of information to them. If President Ford does meet with the appropriate committees, the stenographic report of that executive session should be available to every Member of Congress since it is a document of the House and thereby under the rules of the House cannot be withheld from any of the duly elected Members of the House of Representatives.

President Ford has operated for many years on the assumption that disclosure of an oral kind in a very informal way to a selected number of Members of the House or Senate constitutes adequate communication by the Executive of his operations in the foreign field. In the confirmation proceedings of Gerald Ford conducted by the House Judiciary Committee, I asked Congressman Ford whether he had been informed by the Nixon administration of the clandestine bombing in Cambodia. Mr. Ford admitted that he knew of this information during all of the 14 months in which the Nixon administration, without the knowledge or consent of the Congress or the country, sent 3,800 B–52s over neutral Cambodia. I found Mr. Ford's conduct in withholding this information from the Congress and the country reprehensible and indefensible. I now find his justification of such conduct in the covert operations of the CIA equally without justification.

Mr. Speaker, the struggle of the Congress to find out what the CIA is doing in the name of America will now continue with increased vigor. The new President has admitted that the CIA, in the name of gathering intelligence, is in fact "destabilizing" governments as it sees fit. Such activities violate the letter and the spirit of what Congress has mandated the CIA to do. The CIA was started in 1948 to coordinate all intelligence gathering by the United States. It is by law directly under the National Security Council. The extent to which Congress permitted the CIA to withhold information from the Congress and the country in no way justifies the covert operations which this Agency has conducted in Chile and, we must assume, in a number of other nations throughout the world.

Mr. Speaker, the shock and shame which I feel at hearing President Ford's remarks justifying the covert activities of the CIA will be shared by all Americans who heard the President of the United States on September 16, 1974, admit and justify the efforts of the CIA in Chile which were, in President Ford's words, designed:

> To help and assist the preservation of opposition newspapers and electronic media and to preserve opposition political parties.

The distinguished professor, Edwin O. Reischauer, former Ambassador to Japan, reflects the view of most Americans concerning the CIA when he wrote in his book "Beyond Vietnam" that the covert activities of the CIA:

> Are a net loss to us abroad, and running counter as they do to our own concepts of morality, they probably do even more serious internal injury to us at home.

PARDON THE PRESS CORPS

(Mr. ANDERSON of Illinois asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ANDERSON of Illinois. Mr. Speaker, while I do feel President Ford's preindictment pardon of Mr. Nixon was premature, I nevertheless feel President Ford acted in what he felt was the long-term interests of national tranquility. Whether that judgment was correct, only time will tell. The fact remains that the pardon is final and irreversible and is now behind us.

I was therefore disturbed by the seeming preoccupation of the White House press corps with the pardon issue during last night's press conference, practically to the exclusion of all other important issues, particularly the economy. It is understandable that some questioning of the pardon decision was necessary and appropriate. But when one considers that better than two-thirds of the questions asked centered on the pardon and related matters, one must wonder whether the press corps has not suffered a Watergate relapse, or at least the serious side effects of overskepticism and distrust.

When one considers the tone and repetitive nature of the various pardon questions, one can only be left to wonder in the post-Watergate era whether every Presidential decision and policy which may not be popular will be magnified out of all proportion to reality under the lens of suspicion and doubt.

The White House press corps has been faulted by some as sitting idly by while a couple of police reporters exposed the original Watergate scandal. Is it possible that we are now witnessing an overreaction to a guilt complex—an attempt to expose "deals" never made and "motives" never involved in a decision? While it may be proper to question motives and ask about possible deals, what can possibly be gained by the incessant repetition of such questions other than to convey a dissatisfaction with the original answer and try the patience of the respondent?

Mr. Speaker, there can be no question that our Government has suffered a great crisis of confidence and credibility as a result of Watergate, and, as a consequence, Government decisions, policies, and actions will understandably be subject to more critical scrutiny than ever before. I consider this a healthy development so long as criticism does not outweigh scrutiny—so long as unfounded and redundant criticism is not allowed to replace well-grounded and responsible scrutiny.

I raise these questions now because, just as I feel President Ford has done some sincere and serious soul-searching about how to heal the national wounds and restore public confidence, and just as we in the Congress are hopefully doing the same, I would hope the media is searching its own soul and role in this regard. If it persists in looking for a Watergate under every bush, and, failing that, continues to beat that bush just the same, then the perpetuation of Watergate will become a self-fulfilling media prophecy and media-made phenomenon.

MANDATORY DEBT CONTROL

(Mr. WYLIE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WYLIE. Mr. Speaker, last Thursday I filed a petition to discharge the Committee on Ways and Means from further consideration of H.R. 15375 in an effort to bring this anti-inflation bill before the full House for a vote.

The Columbus Dispatch endorsed the move in an editorial last Sunday. I insert it into the RECORD because it focuses on a critical point: The widely held belief that without mandatory legislation the Congress will never act to reduce the national debt and its painful side effects.

The article follows:

MANDATORY DEBT CONTROL

A Columbus lawmaker is putting his fellow congressmen on the spot with a do-it-now anti-inflation measure.

Rep. Chalmers P. Wylie feels strongly that an immediate step against inflation is his bill mandating a balanced budget with any surplus being applied to national debt reduction.

Although there have been numerous political epistles decrying the huge debt, there has been little action on the congressional level.

It has become obvious the House Ways and Means Committee intends to bottle up the Wylie measure so the lawmaker is seeking to force a floor vote by the petition method. If 218 signatures of House members can be obtained, this would require a floor vote.

This is difficult as the record shows. It has been accomplished only twice in 20 years. Mr. Wylie did it once with his school prayer amendment.

Normally administration economists and congressmen point their fingers at each other in placing blame for the increasing national debt.

Thus it is surprising and refreshing when the Central Ohio legislator declares:

"Deficit federal spending has for years over-stimulated our economy, pushing demand past our ability to produce, and Congress must bear the responsibility."

The proposal, of course, is not a panacea but could be a brake on inflation as well as a start to chop away at the astronomical national debt.

The petition method of forcing a bill to the floor is a put-up-or-shut-up approach. It may be a most effective tool this election year.

It is time for the lawmakers in Washington to stand up and be counted on the debt and inflation issues. With all the pressures on congressmen for spending programs, it is doubtful debt reduction will take place without mandatory legislation.

INTRODUCTION OF BILL TO ESTABLISH THE RECONSTRUCTION FINANCE CORPORATION

(Mr. PEPPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I am today introducing the bill H.R. 16677 to establish the Reconstruction Finance Corporation. A summary and the bill follows:

SUMMARY OF THE RECONSTRUCTION FINANCE CORPORATION BILL—REVISED

A bill to establish the Reconstruction Finance Corporation to make loans or loan guarantees to business concerns which would otherwise be unable to obtain needed financing.

Section 1 establishes the Corporation and its name, and the location of its offices.

Section 2 capitalizes the Corporation at $2,000,000,000, and authorizes the appropriations of $2,000,000,000 by the United States to provide it.

Section 3 describes the composition and compensation of the board of directors of the Corporation. The Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System are members ex-officio, and there are four full-time directors, appointed by the President and confirmed by the Senate for two year terms. The salaries of the directors are tentatively set at $42,500 a year.

Section 4 outlines the corporate powers granted to the RFC. The Corporation has the authority to hire, fire, and pay its own employees independent of the Civil Service regulations. Access to services and employees of the executive branch is granted.

Section 5. Loan Authority. The Corporation makes loans to business concerns (1) to enable them to finance plant construction, conversion, or expansion, or the acquisition of equipment, facilities, machinery, supplies, or material, (2) to supply them with needed working capital, or (3) to aid in the payment of current debts or obligations, if such aid is deemed by the board of directors to be in the public interest. Loans are available only if the businesses are unable to obtain them elsewhere on reasonable terms. (The Corporation acts only as a last resort, and only for good reason.) Loans are made for ten years maximum, although the Corporation may extend the time of payments, but not beyond twelve years from the date of the original loan. The initial interest rate is set as the average yield of all outstanding United States securities for the month preceding the loan. A maximum of 5% of the aggregate of capital plus all obligations of the Corporation may be loaned or guaranteed to any one borrower or affiliate (=$400,000,000). No new enterprises or undertakings may be financed under these provisions.

Section 6. Loan Guarantee Authority. Loan guarantee authority of a maximum of $2,000,000,000 is granted under the same guidelines as detailed for loans in Section 5. The same priority is in force. Following the general authority come technical clauses explaining the Corporation's rights to recover in case of a default.

Section 7. Deposit of money in the Treasury or in the Federal Reserve banks discussed and rights defined. Retirement of corporate bonds.

Section 8. The right of the Corporation to seek and to obtain information from agencies and executive departments of the Federal government is granted and defined. The requirement of examination of applicants is specified.

Section 9. Right of the Corporation to issue bonds, notes, debentures, or other obligations, up to three times the capital stock of the Corporation (=$6,000,000,000, making for a total lending authority of $8,000,000,000). Obligations are unconditionally guaranteed by the United States of America. The obligations of the Corporation, however, are not eligible for discount or purchase by the Federal Reserve System.

Section 10 makes all bonds of the Corporation exempt from taxation, both interest and principal.

Section 11 details the preparation and status of obligations as legal investments. (also Section 12)

Section 13. Quarterly reports to Congress of corporate activities.

Section 14. Annual audit of corporate accounts.

Section 15. Penalties for fraud, counterfeiting, conflict of interest violations, embezzlement, misuse of corporate information, etc. detailed.

Section 16. Amendments.

H.R. 16677

A bill to establish the Reconstruction Finance Corporation to make loans or loan guarantees to business concerns which would otherwise be able to obtain needed financing

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and is hereby, created, a body corporate with the name "Reconstruction Finance Corporation" (herein called the corporation). That the principal office of the Corporation shall be located in the District of Columbia, but there may be established agencies or branch offices in any city or cities of the United States under rules and regulations prescribed by the board of directors. This act may be cited as the "Reconstruction Finance Corporation Act of 1974".

SEC. 2. The Corporation shall have capital stock of $2,000,000,000, subscribed by the United States of America, payment for which shall be subject to call in whole or in part by the board of directors of the Corporation.

There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $2,000,000,000 for the purpose of making payments upon such subscription when called.

SEC. 3. The management of the Corporation shall be vested in a board of directors consisting of the Secretary of the Treasury, or, in his absence, the Under Secretary of the Treasury, the Chairman of the Board of governors of the Federal Reserve System, who shall be members ex-officio, and four other persons appointed by the President by and with the advice and consent of the Senate. Of the seven members of the board of directors, not more than four shall be members of any one political party and not more than one shall be appointed from any one Federal Reserve district. Each director shall devote his time not otherwise required by the business of the United States principally to the business of the Corporation. Before entering upon his duties, each of the directors so appointed and each officer of the corporation shall take an oath faithfully to discharge the duties of his office. Nothing contained in this or in any other Act shall be construed to prevent the appointment and compensation as an employee of the Corporation any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof. The terms of the directors appointed by the President of the United States shall be two years and run from the date of the enactment hereof and until their successors are appointed and qualified. Whenever a vacancy shall occur among the directors so appointed, the person appointed to fill such a vacancy shall hold office for the unexpired portion of the term of the director whose place he is selected to fill. The directors of the Corporation appointed as hereinbefore shall receive salaries at the rate of $42,500 per annum. No director, officer, attorney, agent, or employee of the Corporation shall in any manner, directly or indirectly, participate in the deliberation upon or in the determination of any question affecting his personal interests, or the interests of any corporation, partnership, or association in which he is directly or indirectly interested.

SEC. 4. The corporation shall have power to adopt, alter, and use a corporate seal; to make contracts; to lease such real estate as may be necessary for the transaction of its business; to sue and be sued, to complain and defend, in any court of competent jurisdiction, State or Federal; to select, employ, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary for the transaction of the business of the corporation, without regard to the provisions of other laws applicable to the employment and compensation of officers or employees of the United States; to define their authority and duties, require bonds of them and fix the penalties thereof, and to dismiss at pleasure such officers, employees, attorneys, and agents; and to prescribe, amend, and repeal, by its board of directors, by-laws, rules, and regulations governing the manner in which its general business may be conducted and the powers granted to it by law may be exercised and enjoyed, including the selection of its Chairman and Vice-Chairman, together with provision for such committees and the functions thereof as the board of directors may deem necessary for facilitating its business under this Act. The board of directors of the Corporation shall determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid. The corporation shall be entitled to the free use of the United States mails in the same manner as the executive departments of the Governments. The corporation, with the consent of any board, commission, independent establishment, or executive departments of the Government, including any field service thereof, may avail itself of the use of information, services, facilities, officers, and employees thereof in carrying out the provisions of this Act.

SEC. 5. (a) To aid in financing agriculture, commerce, and industry, the corporation is authorized and empowered to make loans, upon such terms and conditions not inconsistent with this Act as it may determine, to any business concern.

(1) to enable such business concern to finance plant construction, conversion, or expansion, or the acquisition of equipment, facilities, machinery, supplies, or materials;

(2) to supply such business concern with working capital; or

(3) to aid such business concern in the payment of current debts or obligations, if such aid is considered by the board of directors to be in the public interest.

For purposes of the Act, the term business concern shall mean any individual, corporation, company, association, firm, partnership, society, or other entity which is

(1) engaged in the manufacture or production of goods or services in the United States; or

(2) a bank, savings bank, trust company, building and loan association, insurance company, mortgage loan company, credit union, Federal land bank, joint-stock land bank, Federal intermediate credit bank, agricultural credit corporation, livestock credit corporation, or other financial institution, organized under the laws of any State or of the United States.

(b) No loan may be made under subsection (a) to any business concern unless such business concern is otherwise unable to obtain such a loan on reasonable terms.

(c) No loan may be made under subsection (a) unless an application therefor has been submitted to the Corporation in such manner and containing such information as the Corporation may require. To the extent practicable, the Corporation shall give priority to applicants which manufacture or process products or services of which shortages are perceived to exist in the national economy, or which are engaged in enterprises which are deemed by the board of directors to be in the public interest.

(d) Each such loan made under subsection (a) may be made for a period not exceeding ten years, and the corporation may from time to time extend the time of payment of any such loan, through renewal, substitution of new obligations, or otherwise, but the time for such payment shall not be extended beyond twelve years from the date upon which such loan was made originally.

(e) Each such loan made under subsection (a) shall bear interest at a rate equal to the current average yield (as certified by the Secretary of the Treasury to the Corporation) on all outstanding obligations of the United States as of the last day of the month immediately preceding the month in which the loan is made. Each such loan shall be made on such other conditions and terms, as the corporation may require.

(a) All loans made under the foregoing provisions shall be fully and adequately secured. The Corporation, under such conditions as it shall prescribe, may take over or provide for the administration and liquidation of any collateral accepted by it as security for such loans. Such loans may be made directly upon promissory notes or by way of discount or rediscount of obligations tendered for the purpose, or otherwise in such form and in such amount and at such interest or discount rates as the corporation may approve: *Provided*, That no loans or advances shall be made upon foreign securities or foreign acceptances as collateral or for the purpose of assisting in the carrying or the liquidation of such foreign securities and foreign acceptances. In no case shall the aggregate amount of advances made under this section or Section 6 to any one business concern and its subsidiary or affiliated business concerns exceed at any one time five (5) per centum of (1) the authorized capital stock of the Reconstruction Finance Corporation plus (2) the aggregate amount of bonds of the Corporation authorized to be outstanding when the capital stock is fully subscribed.

(g) No loan or loan guarantee, or advancement shall be made by the Corporation for the purpose of initiating, setting on foot, or financing any enterprise not initiated, set on foot, or undertaken prior to the adoption of this Act.

(h) No fee or commission shall be paid by any applicant for a loan or loan guarantee under the provisions of this Act in connection with any such application or any loan or loan guarantee made hereunder, and the agreement to pay or payment of any such fee or commission shall be unlawful.

SEC. 6. (a) To assist any business concern—

(1) to finance plant construction, conversion, or expansion, or the acquisition of equipment, facilities, machinery, supplies, or materials; or

(2) to obtain working capital; or

(3) to meet the payment of current debts or obligations, if such aid is considered by the board of directors to be in the public interest;

the Corporation may guarantee the payment when due of the principal of and interest on a loan made to such business concern by a non-Federal lender. The Corporation may make a commitment to make such a guarantee prior to the making of the loan with respect to which the guarantee is to be made.

(b) Each such loan guarantee may be made for a period not exceeding ten years.

(c) A loan guarantee may not be made under subsection (a) unless an application therefor has been submitted to the Corporation in such manner and containing such information as the Corporation may require, and the Corporation has approved such application. The Corporation may not approve such an application unless it determines that the terms, condition, and security (if any), and the schedule and amount of repayments with respect to the loan are sufficient to protect the financial interest of the Corporation and are otherwise reasonable, including a determination that the rate of interest on such loan does not exceed such rate as the Corporation determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans. The Corporation may not approve such an application unless it determines that the loan would not be available to the applicant on reasonable terms and conditions without the guarantee provided under subsection (a). To the extent practicable, the Corporation shall give priority to applicants which manufacture or process products or services of which shortages are perceived to exist in the national economy, or which are engaged in enterprises which are deemed by the board of directors to be in the public interest.

(d) The Corporation shall be entitled to recover from an applicant for a loan guarantee under subsection (a) the amount of any payment made by the Corporation pursuant to such guarantee upon the failure of the applicant to pay when due the principal of and interest on the loan with respect to which the guarantee was made, unless the Corporation for good cause waives the right of recovery; and the Corporation shall be subrogated to all of the rights under such loan of the recipient of such payment.

(e) Any loan guarantee by the Corporation under subsection (a) shall be incontestable (1) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (2) as to any person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(f) Guarantees of loans under subsection (a) shall be subject to such further conditions and terms as the corporation may require to carry out the purposes of this Act.

(g) The aggregate of the principal amounts of the loans outstanding at any time with respect to which guarantees have been made under this section shall not exceed $2,000,000,000.

Sec. 7. All moneys of the Corporation not otherwise employed may be deposited with the Treasurer of the United States subject to check by authority of the Corporation or in any Federal Reserve bank, or may, by authorization of the board of directors of the Corporation, be used in the purchase for redemption and retirement of any notes, debentures, bonds or other obligations issued by the Corporation, and the Corporation may reimburse such Federal Reserve bank for their services in the manner as may be agreed upon. The Federal reserve banks are authorized and directed to act as depositories, custodians, and fiscal agents for the Reconstruction Finance Corporation in the general performance of its powers conferred by this Act.

Sec. 8. In order to enable the Corporation to carry out the provisions of this Act, the Treasury Department, the Comptroller of the Currency, the Federal Reserve Board, the Federal Reserve Banks, the Interstate Commerce Commission, the Internal Revenue Service, and all other executive departments, agencies, boards, commissions, and independent establishments of the Federal Government, are hereby authorized, under such conditions as they may prescribe, to make available to the Corporation, in confidence, such reports, records, or other information as they may have available relating to the condition of business concerns with respect to which the Corporation has had or contemplates having transactions under this Act, or relating to individuals, associations, partnerships, or corporations whose obligations are offered to or held by the Corporation as security for loans to business concerns under this Act, and to make through their examiners or other employees for the confidential use of the Corporation, examinations of such business concerns.

Every applicant for a loan or a loan guarantee under this Act shall as a condition precedent thereto, consent to such examinations as the Corporation may require for the purposes of this Act and that reports of examinations by constituted authorities may be furnished by such authorities to the Corporation upon request therefor.

Sec. 9. The corporation is authorized and empowered, with the approval of the Secretary of the Treasury, to issue, and to have outstanding at any one time in an amount aggregating not more than three times its subscribed capital, its notes, debentures, bonds, or other such obligations; such obligations to mature not more than twelve years from their respective dates of issue, to be redeemable at the option of the corporation before maturity in such manner as may be stipulated in such obligations, and to bear such rate or rates of interest as may be determined by the corporation: *Provided*, That the corporation, with the approval of the Secretary of the Treasury, may sell on a discount basis short-term obligations payable at maturity without interest. The notes, debentures, bonds, and other obligations of the corporation may be secured by assets of the corporation in such manner as shall be prescribed by its board of directors: *Provided*, That the aggregate of all obligations issued under this section shall not exceed three times the amount of the subscribed capital stock. Such obligations may be issued in payment of any loan authorized by this Act or may be offered for sale at any price or prices as the corporation may determine with the approval of the Secretary of the Treasury. The said obligations shall be fully and unconditionally guaranteed both as to interest and principal by the United States and such guaranty shall be expressed on the face thereof. In the event that the corporation shall be unable to pay upon demand, when due, the principal of or interest on notes, debentures, bonds, or other such obligations issued by it, the Secretary of the Treasury shall pay the amount thereof, which is hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, and thereupon to the extent of the amounts so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such notes, debentures, bonds, or other obligations.

The Secretary of the Treasury, in his discretion, is authorized to purchase any obligations of the Corporation to be issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended, or under any other general bond-issuing authority granted, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, or under any other general bond-issuing authority granted, are extended to include any purchases of the Corporation's obligations hereunder. The Secretary of the Treasury may, at any time, sell any of the obligations of the Corporation acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the Corporation shall be treated as public-debt transactions of the United States. Such obligations shall not be eligible for discount or purchase by any Federal Reserve bank.

Sec. 10. Any and all notes, debentures, bonds, or other such obligations issued by the corporation shall be exempt both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. The corporation, including its franchise, its capital, reserves, and surplus, and its income shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; except that any real property of the corporation shall be subject to State, Territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

Sec. 11. In order that the corporation may be supplied with such forms of notes, debentures, bonds, or other such obligations as it may need for issuance under this Act, the Secretary of the Treasury is authorized to prepare such forms as shall be suitable and appoved by the corporation, to be held in the Treasury subject to delivery, upon order of the corporation. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The corporation shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody and delivery of such notes, debentures, bonds, or other obligations.

Sec. 12. When designated for that purpose by the Secretary of the Treasury, the corporation shall be a depositary of public money, except receipts from customs, under such regulations as may be prescribed by said Secretary; and it may also be employed as a financial agent of the Government; and it shall perform all such reasonable duties, as depositary of public money and financial agent of the Government, as may be required of it. Obligations of the corporation shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof.

Sec. 13. The Corporation shall make and publish a report quarterly of its operations to the Congress stating the aggregate loans and loan guarantees made to each borrower and the number of borrowers and amount borrowed by States. The statement shall show the assets and liabilities of the Corporation, and the first report shall be made on January 1, 1975 and quarterly thereafter. It shall also show the names and compensation of all persons employed by the Corporation whose compensation exceeds $1,500 per month.

Sec. 14. (a) The accounts of the Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents and custodians shall be afforded to such person or persons.

(b) The report of each such independent audit shall be included in the appropriate quarterly report submitted to Congress under section 13 of this Act. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Corporation's assets and liabilities and surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the Corporation's income and expenses during the year, and a statement of the sources and application of funds, together with the independent auditor's opinion of those statements.

Sec. 15. (a) Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of obtaining for himself or for any applicant any loan, or extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the corporation, or for the purpose of obtaining money, property, or anything of value, under this Act, shall be punished by a fine of not more than $5,000 or by imprisonment for not more than two years, or both.

(b) Whoever (1) falsely makes, forges, or counterfeits any note, debenture, bond, or other obligation, or coupon, in imitation of or purporting to be a note, debenture, bond, or other obligation, or coupon, issued by the corporation, or (2) passes, utters, or publishes, or attempts to pass, utter or publish, any false, forged or counterfeited note, debenture, bond, or other obligation, or coupon, purporting to have been issued by the corporation, knowing the same to be false, forged or counterfeited, or (3) falsely alters any note, debenture, bond, or other obligation, or coupon, issued or purporting to have been issued by the corporation, or (4) passes, utters or publishes, or attempts to pass, utter or publish, as true any falsely altered or spurious note, debenture, bond, or other obligation, or coupon, issued or purporting to have been issued by the corporation, knowing the same to be falsely altered or spurious, or any person who willfully violates any other provision of this Act, shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both.

(c) Whoever, being connected in any capacity with the corporation, (1) embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to it or pledged or otherwise entrusted to it, or (2) with intent to defraud the corporation or any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the corporation, makes any false entry in any book, report, or statement of or to the corporation or, without being duly authorized, draws any order or issues, puts forth or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof, or (3) with intent to defraud participates, shares, receives directly or indirectly any money, profit, property or benefit through any transaction, loan, commission, contract, or any other act of the corporation, or (4) gives any unauthorized information concerning any future action or plan of the corporation which might affect the value of securities, or, having such knowledge, invests or speculates, directly or indirectly, in the securities or property of any company, bank, or corporation receiving loans or other assistance from the corporation, shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both.

(d) No individual, association, partnership, or corporation shall use the words "Reconstruction Finance Corporation" or a combination of these three words, as the name or a part thereof under which he or it shall do business. Every individual, partnership, association, or corporation violating this prohibition shall be guilty of a misdemeanor and shall be punished by a fine of not exceeding $1,000 or imprisonment not exceeding one year, or both.

(e) The provisions of the United States Code, Title 18, Chapter 11, sections 201 through 218, inclusive, and Title 18, Chapter 23 sections 431 through 433, inclusive, are extended to apply to contracts or agreements with the Corporation under this Act, which for the purposes hereof shall be held to include loans, loan guarantees, advances, discounts, and rediscounts; extensions and renewals thereof; and acceptances, releases, and substitutions of security therefor.

SEC. 16. The right to alter, amend, or repeal this Act is hereby expressly reserved. If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

IMMEDIATE HELP FOR THE HOUSING INDUSTRY

The SPEAKER. Under a previous order of the House, the gentleman from Maryland (Mr. BAUMAN) is recognized for 5 minutes.

Mr. BAUMAN. Mr. Speaker, at a time when those of us in the Congress are acting in concert with the administration to develop effectice economic policies to curb the present high rate of inflation it is important to focus on the consequences of this inflationary spiral on an important segment of private industry. I am speaking of the crisis in the homebuilding industry, which as indicated by the statistics for July is rapidly reaching disastrous proportions.

Housing starts for July dropped to an annual rate of 1,335,000 units which was their lowest level in more than 4 years. The July rate was 16 percent below June's pace and 38 percent below the rate of 2,152,000 units in July 1973. These statistics are alarming because they represent increased unemployment in the homebuilding industry and many related businesses and an increased cost to society of providing unemployment compensation for these unemployed workers. Add to this the acute inability of consumers to find suitable housing in a price range which most Americans can afford and the need for quick action is obvious. The reasons behind this current housing slump are varied, but they definitely include tight money available only at high interest rates and the impact of inflation on the cost of available homes.

Both of these factors are aptly illustrated by the following example. An average home in the Metropolitan Washington area in 1971 sold for $32,000; in 1974 the same home retails for $45,750, this is an increase in the purchase price of $13,750 or an increase of 43 percent. In 1971, 10 percent down on the purchase price would have amounted to $3,200 and in 1974 this would amount to $4,575 or an increase of $1,375 and the resulting mortgage in 1971 would have been $28,800 as opposed to $41,175 in 1974 or an increase of $12,375. The monthly payment on the mortgage in 1971 would have been $192 while the same monthly payment in 1974 would be $324 or an increase of $132 per month in the necessary payment. The magnitude of this increase and the slump in the sales of new homes indicate that many American families are not able to afford an additional $132 a month for a mortgage payment. This is further illustrated by the fact that a Government worker in this area at the salary range of GS–11, which in 1971 was $12,600, could afford a home at that time while a GS–11 worker today in 1974 earning $14,600 would not qualify for a mortgage. Obviously, a way has to be found to eliminate the tight money situation in this country and make mortgage money available to potential home buyers at an interest rate which will not result in a monthly payment which is priced out of sight of most Americans.

I believe that the present increase in mortgage rates can be reversed and this can be done by making it more attractive for individuals to deposit and keep money in thrift institutions which place large amounts of their assets in home mortgages. Banks, and savings and loan institutions provide most of the home loan money in the United States today.

The method which I offer to encourage people to invest additional funds in thrift institutions provides for the annual exclusion from gross income for tax purposes of the first $750 of interest on an individual return—$1,500 on a joint return—received from savings account deposits in lending institutions. I realize that in the past, the Department of Treasury has been opposed to similar proposals on the basis that it would mean a huge loss to the United States Treasury. This is an important consideration at a time when it is possible that the deficit for fiscal year 1975 could reach $20 billion, however, I believe that this would be counterbalanced by increased tax receipts as the building industry once again begins to employ additional individuals and provides the U.S. Treasury with increased corporate and personal income tax receipts. In addition, an upsurge in the home building industry does have a multiplier effect on the economy and additional funds would be spent by the new home buyers on the purchase of new appliances, rugs, drapes, garden equipment, furniture, and other items for use around the home.

I am today introducing this type of legislation because I feel that it will encourage a greater involvement by private industry in providing necessary housing for all segments of our society. Increased personal involvement by many Americans through the investment of additional funds in savings accounts would be immensely preferable to increased Government involvement and controls in all sectors of the housing industry. This legislation is not a panacea for all the ills of the home building industry but it does attempt to provide a solution to the problem of tight money. As I have stated earlier, consideration must also be given to less Government involvement in the banking industry, so as to allow thrift institutions to compete more evenly with other segments of the market for available funding. We also must have an honest effort on the part of the Federal Government to reduce deficit spending which in turn would decrease the pressures on the money markets created by the U.S. Treasury paying high rates of interest to borrow enormous sums of money on a short-term basis.

Mr. Speaker, I am hopeful that the House Ways and Means Committee will seriously consider this and similar proposals as we in the Congress make every effort to assist our troubled economy. Certainly, a boom in the home building industry would be most beneficial at this time.

ETERNAL TRIANGLE: RESOURCES, ENVIRONMENT, ECONOMY

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDADE) is recognized for 5 minutes.

Mr. McDADE. Mr. Speaker, the 14th Annual International Congress of Surveyors has recently concluded its activities here in Washington. This gathering of many of the world's top authorities on mapping, surveying and land administration heard from numerous distinguished speakers. Foremost among them was our own Secretary of the Interior, Rogers C. B. Morton.

Secretary Morton brought his own personal commitments and insight into many of the problems discussed by the conference. While his remarks are particularly appropriate to the Congress of Surveyors, I know the Members of this Congress will find them of great interest as well.

The remarks follow:

Remarks of the Honorable Rogers C. B. Morton

ETERNAL TRIANGLE: RESOURCES, ENVIRONMENT, ECONOMY

It is a rare privilege for me, and a great personal pleasure to represent the President of the United States at this 14th International Congress of Surveyors. Upon first assuming office, as you probably know, President Ford pledged his personal and immediate attention to an economic summit meeting to devise a bipartisan action for stability and growth in the American economy.

He is now very much involved in the details of that summit. But he has asked me to assure you that if it were not for the urgency of our economic problems, he would have been here with you today. And since inflation is not only a serious domestic enemy, but an enormously serious global problem, I'm sure you will understand the President's having to regret your very kind invitation.

It is a high honor for the United States that the International Federation of Surveyors has chosen to convene the Congress in our country for the first time in the 96-year history of your notable organization.

(These diplomatic niceties come from my sitting next to Henry Kissinger at Cabinet meetings, on those rare occasions when he is in the country. Otherwise I might have said "What took you 96 years to get here?")

For myself, I take particular pride in the fact that your President William Radlinski and Secretary General William Overstreet, as well as Assistant Congress Directory George Loelkes (LOLE-keyz) are members of our Department of the Interior family.

That is known, in the vernacular, as "stacking the deck," which means you can't lose.

Actually, I don't feel I could lose with this distinguished audience in any case. Because I think I have a pretty fair set of credentials.

First, it is my honor to serve a Nation whose first President began his working life as a surveyor, some 225 years ago. At age 14, he made many surveying trips into the wilderness areas of Virginia and Pennsylvania. When he was 16 years old, George Washington became assistant to the Official Surveyor of Prince William County in Virginia. By the age of 17, he was Official Surveyor of Culpeper County, Virginia.

Second, it happens I'm a collateral descendant of George Rogers Clark—from whom I get 50 percent of my name. A frontiersman and military leader of the middle 18th and early 19th centuries, Clark also studied surveying in his youth.

Third, as an amateur boatman and private pilot, I necessarily have a keen appreciation for precision surveying, mapping and charting.

Fourth, my experience as a farmer and businessman provided additional insight into the basic importance of the disciplines you practice.

But fifth, and most important, I can relate to your work because of my various duties and responsibilities as Secretary of the Interior. At that Department, I get to wear many hats:

Public lands management; energy and minerals development; water resources management in the West; wildilife protection; preservation of parks, wilderness areas and historic places; Indian affairs and Territorial affairs . . . you name it, and I've probably got it.

To give you some flavor of the scope of all that, the Department of the Interior has more than 500 million acres of public lands under its jurisdiction—and more than 1¼ million square miles of the Outer Continental Shelf.

That gives you some indication of why our Department relies so heavily upon the professions of surveying, mapping and land management. And why the Earth sciences—residing in our Geological Survey—are so indispensable to everything we hope to do for our Nation and its people.

I hope that thumbnail sketch establishes my bona fides as a participant in this Congress.

Now let me hasten to add that it is also a great honor to share this platform with the distinguished international space pioneer, Dr. Wernher von Braun. Here is a man of whom it can truly be said that he is a legend in his own time. The debt all the world owes to his vision and brilliance can hardly be calculated, let alone repaid.

One thing Dr. von Braun has showed us, by way of the Saturn rocket that took Man to the moon, is how alone in space and how fragile our little home planet really is. I guess we realized that all along, in a vague philosophical kind of way. But those unforgettable photographs from the Apollo moon journeys underscored vividly how beautiful and isolated the blue-white ball of Earth really is.

We learned something else, too, from the moon rocks. With the present state of the art of rocket technology, the ton-mile costs of transporting minerals to earth from other parts of the solar system are prohibitively high. The rocks, of course, were vitally important to our knowledge and understanding of our world and our universe—far beyond any cost in money.

But you see, my point is this. For the foreseeable future, everything we have or hope to have in this world is going to have to come from the crust of the earth, from the seas and the seabed, and from the envelope of our atmosphere.

This planet is the only one we've got. It is our supplier, our storehouse, our waste disposal system, the only thing we have to stand on, and even our final resting place. We had better learn to use it wisely.

If the space program underscored that sober reality, it also provided us with one of the keys to the solution. That, of course, is the orbiting satellite, with a great variety of remote sensors and vast data-gathering capabilities. The Interior Department's EROS (Earth Resources Observation Systems) program, utilizing the Earth Resources Technology Satellites, is a powerful tool for inventorying the resources of the earth, and objectively evaluating man's impact on his environment. This is the largest and probably the most significant Earth-science experiment in the long history of Man.

The United States made a commitment to the United Nations in 1969 to dedicate this program to producing information not only for our own country, but also for the entire world community. Let me assure you that we are still firmly dedicated to that commitment.

For I believe very strongly that the entire world community has finally arrived at the most critical juncture in its history.

We are facing the life-or-death question:

Will Spaceship Earth continue as the viable life support system for all its billions, the beautiful orb the astronauts saw from the deep vacuum? Or are we going to let it become, in the words of Thomas Wolfe, a "weary unbright cinder?"

The choice is ours. And we don't have much time left to ponder what we ought to do about it. In fact, we're already running late.

We need not only a heroic measure of determination, in my opinion, to meet the foremost challenge of our time—but also an enormous increase in our knowledge.

The kind of knowledge we're going to need is the kind that you professionals of some 65 nations are so well qualified to discover: the true dimensions and the real picture of our planet Earth.

This is the one dominant cause in which true internationalism is absolutely essential. We are all going to have to depend upon each other to meet this global challenge; no nation, however large or powerful, can hope to face it alone.

What we're faced with, as I see it, is a new kind of "eternal triangle"—which has little or nothing to do with love affairs.

The first side of the triangle: more and more people are exerting increasing pressure on a store of energy, minerals and foodstuffs that obviously has to have a definite upper limit. So we're going to have to discover and develop our natural resources far more vigorously—over and above a widely practiced ethic of conservation and reuse, which is also essential.

The second side of the triangle is the environment—which is, after all, a vital component of our global life support system. What will it profit anyone if we bring forth a huge abundance of energy and materials and, in the process, so despoil our surroundings that they can no longer support a decent life—physically or spiritually?

So we are called upon to produce more and despoil less. I happen to believe that the two are not necessarily incompatible. They can be done. But doing them brings us to the third side of the triangle. . . .

The third side is to produce more and despoil less at a cost the world can support. Inflation is already rampant throughout most of the globe; everything costs too much, everywhere. Factoring social and ecological costs in to the production equation threatens to further raise the cost of just about everything we need and want.

Thus although increased productivity in the output of goods and services is considered a classic remedy for inflation, the necessity for preserving the environment complicates the solution.

Then what is the answer? How do we successfully complete the perplexing puzzle of the eternal triangle?

I'd like to announce here and now that I have all the answers. But of course I do not. Nor does anyone else, as far as I've been able to determine.

But I do know who is going to help us find the answers.

You are.

We need your brains and your skills, to let us know what our natural resources are, where they are, and how extensive they are.

We need the surveyor and the mapper. We need the experts in land use, land planning, land management, and land ownership. We need the geologist and the geodetic scientist. We need the photographic specialists, the sensor experts and the electronics engineers, We need the foresters and the geographers and the cartographers. We need the urban and regional planners, the hydrologists, the agronomists and the resources managers. In short, we need all the professionals who use surveying and mapping and photo-measuring techniques.

The professions represented here are vital to our efforts to balance the demands of a growing population against the practical limits on our resources. And at the same time to preserve our environment without an adverse impact on the economy. Not merely on a national scale, but worldwide. For we are all dependent upon each other and, in the final analysis, everything is related to everything else.

Some would say that, in a sense, the exploitation of science and technology has brought us to our present state. But I am convinced that scientific knowledge and technology are the only sure means to help us find solutions. How successful they will be will depend upon the wisdom with which we employ them. But wisdom itself depends upon an increase in our knowledge of the world about us.

That is what "serendipity" is all about—looking for one thing and unexectedly finding something even better. Like the case of the United States Air Force, which many years ago sponsored some basic research into defects in certain crystal structures.

Whether the investigators ever found what they were looking for, no one seems to remember. But they did discover, as if by accident, the principle that led to the maser, an amplifier of microwave frequencies. And that led directly to the laser, which did the same with light frequencies.

The laser, as you know, has a great many practical and potential uses. One of the potential uses that shows great promise is as a trigger for controlled thermonuclear reactions—or fusion.

I don't think I have to tell an audience like this one what the perfection of controlled fusion reactions would mean to the world's material and energy problems.

Was that chain of events all "dumb luck?" I hardly think so. I see it as a result of years and centuries of curious and talented men building upon the knowledge curious and talented men had fought to acquire before them. As Sir Isaac Newton so modestly—but correctly—expressed it, if he saw farther than other men, it was only because he stood on the shoulders of giants. And Wernher von Braun would be the first to admit, I am sure, that his space ships traveled the universe according to laws laid down by Newton centuries before.

This is your great heritage, as scientists and technologists. You now have the opportunity to push your various sciences to new frontiers—at a time when they are more urgently needed than ever before in the history of the world.

In land use and management, in harvesting the bounties of the sea and the land beneath it, in preserving the earth in both its beauty and its rich bounty in all these areas, and so many more, the work you do will help to make it a more perfect world for all our peoples.

As just one example, we are clearly going to have to mine the three-fourths of our planet that has been largely ignored up to now because it happens to be covered with water. But we must also protect the seas themselves because of the foods and minerals they provide, as well as for basic health and aesthetic reasons.

The third UN Sea Law Conference at Caracas ended last month in more or less of a deadlock. But at least the door is open for further discussion of this very difficult issue. Ultimately, we must agree on a just and equitable law of the sea. And when we do, cartographic and hydrographic precision will be vital to our knowledge of locations, limits and boundaries—and to the protection of the rights of all.

That will be one of your many contributions to the more perfect world we all seek.

So I would like to close on this note. I say what follows not as a politician, although I have been one—and not as a spokesman for the Government of the United States, although I am one. Rather, let me speak as a fellow inhabitant of this small world we all share; as one who loves its land, its mountains, plains and valleys, its great seas and watercourses, the towering forests and the cities and towns, and the aspiring works of Man.

As that private person, I say this to you:

This is an infinitely diverse ball of clay we live on. Not every area can possibly have everything it needs. We clearly and simply have to cooperate if there is ever going to be a just and equitable distribution of the world's goods to the world's people. That is the ideal—and I refuse to believe that it is forever unattainable.

In the real, imperfect world of today, we have upwards of 150 sovereign nations, some with great natural advantages, many with very few. Not every country can float on a sea of oil. Not every country can sit atop silver or gold or diamonds. Not every country can stand astride rich deposits of coal and iron and aluminum and copper. Not every country can produce tropical fruits. Not every country can boast endless fields of grain.

But every country of Man certainly deserves to be able to share in these things. With good will and cooperation on the part of all peoples and governments, we can at least approach that ideal. If every country, like the 13 original colonies of this land almost 200 years ago, would willingly translate its sovereign right to wage war into the sovereign right to achieve together for the greater good of everyone, what a truly beautiful blue-white world this would be!

The International Federation of Surveyors, representing so much of that world and demonstrating what international cooperation can do, is helping to bring that kind of world about.

I wish you every success in all your ventures, and in this Congress. And please don't wait another 96 years to honor us gain.

Thank you.

HIGH HOLY DAYS 5735

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the Jewish high holy days begin this year on September 17 and 18 with Rosh Hashanah and conclude on September 26 with Yom Kippur. This is a period of piety, holiness, and spirituality for Jewish people all over the world, and I am happy to join my colleagues in the Congress and my constituents and friends of the Jewish faith in observing the advent of this significant holiday period.

Rosh Hashanah marks the beginning of the Jewish New Year, and traditionally, is a joyous holiday. On Rosh Hashanah, religious services are conducted in synagogues throughout the world where Jews pray for forgiveness and a year of peace and happiness for themselves and the world. It is also a time spent with family and friends discussing the events of the past year.

The high point of Rosh Hashanah is the blowing of the shofar, or ram's horn, which symbolizes the beginning of the high holidays, and its shattering sound is meant to awaken man's conscience to renew his faith and to return to his God.

September 26, the Day of Atonement, or Yom Kippur, is the climax of 10 days of penitence and is the holiest of all of the Jewish holidays. The entire day is spent in prayer, fasting, and worship. On the Day of Atonement, the Jewish people seek to be in harmony with the world by expressing a true feeling of repentance through prayer. It is a day during which years gone by are recalled and loved ones who have passed away are remembered in prayer.

Rosh Hashanah and Yom Kippur evoke in the Jewish people a sense of awe, high seriousness, and especially obedience to God's law. The meaningful practice of the Jewish faith, I believe, has influenced Jewish moral law far beyond the confines of practicing Judaism. The historic Jewish concepts of social justice and individual human dignity have done much to guide the course of western democracy and, in particular, to shape the philosophical system of government created by the American Founding Fathers.

Especially during the High Holy Days, the Jewish people look to the universal establishment of the principles of compassion and tolerance for which Judaism has so long and painfully fought. Unfortunately, the Jews have not received this same compassion and tolerance, but instead, under Nazi persecution, have suffered incomprehensible brutality and have been the subject of mass murders.

In Russia today, the Government is persecuting Jewish citizens by curtailing religious observances and discriminating against the Jews in their traditional cultural and educational activities. Consequently, I have joined over 250 of my colleagues in the 93d Congress in the introduction of the Freedom of Emigration Act. Our Government has an opportunity in this situation to assert moral leadership by refusing to proceed with expanded East-West trade until the Soviet Union clearly recognizes the basic human rights of all of its citizens.

I feel it is our responsibility, as the world's greatest democracy, to make every possible effort to focus international attention and opinion on the problem of Soviet anti-Semitism. By so doing, the Soviet Union may at least understand and receive the full force of our official position in the interest of human justice and decency.

I should like, on this occasion, as the Congressman for the 11th District of Illinois, to extend my greetings and best wishes for the holiday season to my constituents and my many friends of the Jewish faith. In the coming year, may the Jewish people know freedom from persecution, from which they have particularly suffered, and may they experience peace, well-being, prosperity, and spiritual enlightment.

LEGISLATION TO AMEND THE NATIONAL SECURITY ACT OF 1947

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, the Subcommittee on Intelligence of the Committee on Armed Services has been holding hearings on legislation to amend the National Security Act of 1947.

I was scheduled to testify before the Subcommittee on August 15, but due to a Banking and Currency Committee meeting on the Cost of Living Task Force I was unable to appear. I have, however, provided the subcommittee with my testimony for the hearing records and at this time I would like to insert my remarks in the CONGRESSIONAL RECORD.

The remarks follow:

REMARKS BY CONGRESSMAN HENRY B. GONZALEZ

Mr. Chairman, I want to first commend you and the Subcommittee for holding hearings to amend the National Security Act of

1947 with regard to clarifying the role of the Central Intelligence Agency in our organization for national security, and I want to thank you for giving me this opportunity to testify before you today.

The activities of the CIA have always been of concern to me. Although I am very aware of the need to keep our nation secure from covert actions by other countries, I am also cognizant of the responsibility the Congress has to the American people to ensure that agencies under our jurisdiction such as the CIA are not misused.

I'm sure that many consider the CIA as a shadowy institution and its recent involvement in the Watergate matter has made its reputation even more questionable.

It is hard for us to believe that White House aides were able to pressure the CIA into involving itself in activities that were clearly improper. It is even more difficult to understand, but it has been discovered that the Executive Office tried to use the CIA to divert the FBI investigation of the Watergate break-in, and to assist Watergate defendants which is a blatant violation of the law. And most recently we have come to know of the shocking comments of President Nixon in the White House tapes of June 23, 1972, with regard to Hunt, the CIA and the Bay of Pigs.

The question clearly emerging is who controls the Central Intelligence Agency.

Back in December of 1970, during a House debate on amending the CIA Retirement Act, I raised several questions concerning the extent and range of the CIA activities. I was assured at that time that Congress was well aware of these activities, but of course this information could not be made public—for obvious reasons.

I certainly understood the need to keep this information from becoming public, but as I look back over these last four years I wonder what our role has been in controlling this agency, and I'm sure this thought is in the minds of many Americans.

Mr. Chairman, considering the vastness of the CIA operation it is difficult to believe that Congress does not have tighter jurisdiction over it, and I again want to commend you for considering legislation to strengthen the laws governing CIA activities. It is obvious that the legislation under consideration today is needed. We need new statutory guidelines that will ensure the American people that our intelligence operations are serving the nation's real security need within the constitutional process.

I would like to take a few minutes to discuss several of the features proposed in the bill, H.R. 15845, under consideration today.

One feature would tighten the phraseology of the section of the current law with regard to protection of intelligence sources and methods by the Director of the CIA. At the present time I understand the Director has a charge to protect intelligence sources and methods from unauthorized disclosure, but if anything is discovered he can do nothing beyond instituting internal disciplinary action. He has no way to follow-up the matter or do any investigating on his own. He must rely on other government agencies for the authority to do what he, in fact, is charged to do. It is time to give the Director the power to enforce that which he is responsible for, and perhaps require that he immediately make matters of this type known to this Subcommittee.

Secondly, the bill under consideration would prohibit transactions between former CIA employees and the Agency above and beyond purely routine administrative matters. This is very important in light of the findings that a number of those involved in Watergate were former CIA employees. We must be assured that former employees do not take advantage of their former association to utilize the Agency's assistance or resources, or to unduly influence their activities.

But most importantly we must clarify the role of the CIA. With the information the CIA has it could, without proper and efficient monitoring, become overly powerful and pose a serious threat to the freedoms in our country that we hold sacred. Congress has the responsibility to conduct oversight hearings into the activities of this agency, and I would strongly suggest that this be done more frequently and perhaps more in-depth than in the past.

I do not believe that this bill would in any way hamper the authority or capability of the CIA to carry out its task to conduct foreign intelligence activities. And it would assure the American people that Congress is watching over CIA activities to ensure that we maintain a free and open society while still implementing the measures we must in order to protect our nation.

I hope that we can have legislation of this type passed and enacted into law in the 93rd Congress and I will certainly work with this Subcommittee toward that end.

INTEROCEANIC CANALS: KEYS THAT LOCK THE OCEANS

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, as a long time member of the Subcommittee on Defense of the House Committee on Appropriations and student of interoceanic canal problems for many years, I have learned the vital importance of the control of strategic waterways in the struggle for world power.

Among these crucial arteries of marine transportation are the Panama and Suez canals, the Strait of Magellan and Drake Passage, the Strait of Malacca, and the Turkish Straits.

In a recent address before the Birmingham, Ala., Vice Adm. Malcolm W. Cagle, Chief of Naval Education and Training, gave a most timely discussion of this subject. In it, he emphasizes that the "narrow seas, straits, and the canals" are the "keys that lock up the world" and where the decisive actions of the next generation may well take place. His article serves to stress the vision of the statesmen and other leaders of the United States who, early in the 20th century, formulated our Isthmian policies.

The facts as presented by Admiral Cagle are so obvious that I shall repeat what I have often stated: That under no circumstances should the United States surrender any of its sovereign rights, power or authority over the U.S.-owned Canal Zone and Panama Canal.

The indicated article follows as part of my remarks:

[From the Vital Speeches of the Day, Aug. 15, 1974]

THE KEYS THAT LOCK THE OCEANS

THE NARROW SEAS, THE STRAITS AND CANALS

(By Malcolm W. Cagle)

Seventy years ago, Admiral of the Fleet Sir John Fisher, First Sea Lord of Great Britain's Royal Navy, the mightiest navy in the world said, "Five strategic keys lock up the world."

What were those five keys 70 years ago?

Singapore
The Cape of Good Hope
Alexandria, Egypt
Gilbraltar
Dover

And *all* of them were in England's hands.

Today, there are many more keys to the oceans, they are in many more hands and, in consequence, it is very hard for any one country to lock up the oceans. In 1974 we can add the Danish Straits, the Turkish Straits, the Panama Canal, the Straits of Tiran, the Caribbean's Windward Passage, Leeward Passage and Yucatan Channel, the Great Lakes and the Saint Lawrence Seaway, the Straits of Florida, the Chesapeake Bay, the Straits of Magellan, the Mozambique Channel, the Gulf of Oman, the Straits of Hormuz, the San Bernardino and Surigao Passages of the Philippines, the Taiwan Straits, and Bab El Mandeb of Arabia. And there are more.

The point is this: though the oceans are vast and cover three-fourths of the earth—so huge that one can steam across them for days and not see another ship or any other evidence of human life—thousands of ships are at sea; but the places one finds them mainly are the straits, in the canals, and in the narrow seas.

The ocean straits, narrow seas and canals, in themselves, are neutral. They work for whoever controls them. If you look at a map of where the world's ships are, you would see what the Soviets have learned so well—and before them the British, the Dutch, the Portuguese, all the way back to the Romans, the Phoenicians and the Carthaginians. Control or own the keys to the oceans—and you hold a military advantage of global significance.

So I am going to talk about those narrow waterways which are so important to us and loss of which to any hostile country could do us grievous harm. Then I am going to talk about those narrow ocean keys which, if we control them, or can be assured of their availability, we can also control enormously the harm done to us. Finally, I will tell you something of what the Soviets have done about the straits and narrow seas—and draw some conclusions.

Let us begin with one of the newest ocean keys—the Great Lakes and the Saint Lawrence Seaway. The Great Lakes are secure. Many enormous cities are on them: Chicago, Detroit, Toronto and so on. Since the Saint Lawrence Seaway was opened in 1957, these inland cities have all become major international seaports. But where do the ships go, once they leave the Saint Lawrence with the goods carried from those cities? Before they enter the central ocean they must pass through the Gulf of Saint Lawrence, the Strait of Belle Isle, or the Cabot Strait. I will tell what to make of this in a moment.

Look at the oil fields of Louisiana, Texas, and in the Gulf of Mexico, and look at the oil-consuming cities of Boston, Albany and Baltimore. Pipelines connect them. So do ships. Of the two, ships are by far the cheaper of moving the oil from where it is to where it is needed. To get from Texas and the Gulf of Mexico oil fields to the cities of our East Coast, or the Great Lakes, ships must pass through the Straits of Florida. On the port hand, the ship has Florida, and to starboard, Cuba.

Let us go back 32 years, to when the whole world was at war, for in 1942 the Straits of Florida, the Cabot Strait, the Passes of the Mississippi were crowded with merchant ships. German U-boats found it easier to find and sink ships in the narrow passages close to our own land. In fact, more than 250 ships were sunk by U-boats in the Gulf of Mexico, along the Atlantic seaboard, in the Gulf of Saint Lawrence, and in the entrance to the Chesapeake Bay in the 7 months after Pearl Harbor!

Perhaps one will say, "It won't happen again." But it has been said often enough that the Germans started World War II with only 57 submarines, all of them small, and in about 3 years, 3,663 ships were sunk in the North Atlantic including the waters of Great

Britain. The Soviets now have over 300 submarines, all of them huge, compared to the German standard of 30 years ago, many of them nuclear, and all of them capable of far greater range on station-time and destructive capacity.

With those facts in mind, let us discuss the ocean keys of the Atlantic and Mediterranean area—the Panama and Suez Canals, the Straits of Magellan and Cape of Good Hope.

First, the Panama Canal. Today, as in 1942, a ship passing between the Atlantic and Pacific Oceans goes either via the Panama Canal or around South America. Using the canal, a ship in the Atlantic steams down our east coast, passes through either the Straits of Florida or one of the narrow passages among the islands of the Bahamas, and through the Windward or Mona Passages, enroute to the Panama Canal. She might also go west after passing Florida and steam south for the Canal through the Yucatan Channel.

In World War II, Cuba was on our side. Even so, U-boats were all over the place. I know, for I spent many months hunting them between Key West, New Orleans, Trinidad and San Juan. Now Cuba isn't on our side. Nevertheless, she still forms the western shore of the Windward Passage and the eastern shore of the Yucatan Channel. Whatever the origin of Soviet involvement in Cuba, the Soviet presence has significant military implications.

Fourteen thousand ships still pass through the Panama Canal each year. Seventy percent of Panama Canal traffic either originates or terminates at a U.S. port—14 percent of our total U.S. foreign trade. Certainly the Panama Canal is one of the most important traffic arteries in the World. It was made possible by United States enterprise and United States capital.

What about the Suez Canal? When the Suez Canal was closed, from late 1956 until mid-1957, and again from 1967 until this very moment, ships traveling between Europe or America and the Indian Ocean had to use the very long Cape of Good Hope route, around South Africa. For the Soviets, reopening the Suez Canal has considerable promise—for them, it shortens their fleet transfer distance from the Black Sea to Vladivostok by 3,000 miles, or 7 days. It opens another door into the Indian Ocean. It may make more difficult Red Chinese growth and influence in Africa but, of course, it might stimulate the Chinese for greater efforts. It shortens transit to Soviet markets for the east coast nations of Africa and the countries of the Indian Ocean. And, most important of all, it provides them with a strengthened and shortened pincer movement to reckon with Red China.

A century ago, before there was a Suez Canal or a Panama Canal, ships often made passage around Cape Horn and the Cape of Good Hope, hardly narrow straits, but certainly still keys of the oceans of today.

Today, the countries of Argentina and Chile border the Straits of Magellan, and the Republic of South Africa sits at the southernmost point of the continent of Africa. While these nations are not hostile, we cannot ignore recent events in those countries. Each has its own problems and no one can guarantee the nature of governments or their attitudes at any given time in the future.

The strategic lesson is: the keys which lock up the oceans belong to those who can send warships or warplanes into and over them and control or block, or stop, or divert, or even sink ships passing through.

Now let us go to the Indian Ocean. Once upon a time, to enter the Indian Ocean, one went through the Suez Canal. That will happen again soon. But the vast new supertankers can't and won't use Suez. It isn't big enough. Like ships did before there was a Suez Canal, ships from America bound for the Middle East traversed the Mediterranean or took the long way around Africa, depending on their objective.

Ships that sail past the Cape of Good Hope enroute to the Persian oil fields can either pass through the Mozambique Channel, which runs between East Africa and the huge island Republic of Malagasy (more familiar to us as Madagascar), or they can go all the way around Madagascar. They can then proceed to the Persian Gulf to pick up their cargo of oil. Until near the end of the voyage, it is a long, dull coastal passage. Near the end they must enter the Gulf of Oman. then through the Strait of Hormuz. Finally, they are in the Persian Gulf. The Soviets have recently signed a Treaty of Cooperation and Friendship with Baghdad to assist the Iraqis in modernizing the naval port of Umm Qaar. There can be little doubt of Soviet appreciation of the Ocean Keys.

Nonetheless, suppose the smaller tankers are filled with oil and are then ordered to deliver it via a re-opened Suez Canal to Europe. Around Arabia they must steam and through the Strait of Bab El Mandeb. Then northwest for 2,000 miles through the narrow Red Sea, a waterway which can be described as a mile long and an inch wide. Then they must go into the slender Gulf of Suez, through the Suez Canal itself, and out into the Mediterranean.

Now let us turn to the ocean keys of the Pacific. Japan, as you know, is almost totally dependent on foreign oil, and almost all of that oil—90 percent—comes from the Persian Gulf we have just described. For that matter, much of her iron ore comes from India.

So take a Japanese ship in the Indian Ocean, choose as you will whether she be a tanker bearing oil from the Persian Gulf or a bulker laden with ore from Bombay, and head her for Japan.

How must she steam? Southeast, first, after leaving the Indian Ocean, into the Strait of Malacca. Then northeast, around Singapore, and into the South China Sea.

But what if Malaysia or Singapore take exception to a Japanese ship passing through waters they claim as theirs? Then southeast around Sumatra she must go, and through the Sunda Strait, or farther east yet and through Lombok and Makassar Straits. But if Indonesia forbids it, forget it all, for all those Straits—Malacca, Sunda, Lombok, and Makassar—border the land of that huge island nation who tell us these passages are their *inland* waters.

Even if all is well so far, the Japanese ship is not home yet. She must pass through the shallow, reef-strewn South China Sea, bordered to port by Vietnam and China, to starboard by the Philippines. Then she can pass between Mainland China and the Republic of China or, if some dispute or degree of hostility prevents *that*, between Taiwan and the Philippines. Or, if some claim or jurisdiction or degree of hostility prevents that, then through one of the narrow and tricky straits separating one Philippine island from another or skirt the Philippines completely. Should something prevent *that*, then the voyage cannot be made. Japan will have to do without her oil and her iron. She must make peace with whomever keeps her ships from using the straits.

If you wish to, you may substitute "American" ship or even "Russian" ship for "Japanese" ship because all ships must use those same straits if they are to get to the countries on the other end of them.

What about the Soviets? What is their record in regard to the narrow seas?

The Soviet policy toward the ocean keys has a measure of ambivalence. They start with an international outlook based on free transit in some areas. That policy generally applies where the ocean keys are far distant and where their influence is weak. For example, they have joined us in opposing what amounts to a joint nationalization claim of the Strait of Malacca by Malaysia and Indonesia. Why? Because the Strait of Malacca (and, by extension, all the other narrow waterways surrounding Europe, Africa and Asia) are waterways they must use but do not control. If a Soviet ship wishes to go from European Russia to Asian Russia, she must pass through many narrow waterways. The voyage may begin in Leningrad and end in Vladivostok, it will involve crossing thousands of miles of desolate sea, but it will also involve no less than five narrow passages, of which the Strait of Malacca would be neither the first nor the last.

But wherever Soviet influence is strong, wherever the ocean keys are in *their* hands, the Soviet policy is xenophobic. For example, the Soviet Union opposes letting ships into the Sea of Okhotsk, North of Japan. You can't fish there.

They have sometimes protested entry of American men-of-war into the Black Sea. Indeed, the Soviets protest loudly even when the West Germans—one of the states bordering on the Baltic—send a warship into the middle of that sea.

Let me recount a brief naval history of what happened to the Soviet Union in the Second World War, for it explains their intense and recent interest in the oceans, their drive to become the world's foremost seapower, it explains their great merchant fleet, their huge fishing fleet, their big research fleet, and their policy to hold the keys which lock up the oceans. It also has a bearing on the future.

In the early days of World War II, when the United States and England were anxious to help the Soviets in their gigantic struggle with the German Army, the Soviet Union had then, as now, four coasts—the Siberian, with harbors on the Sea of Japan, the Black Sea, the Baltic Sea, and the Arctic sea coasts. All are on seas narrow, or remote, or both.

Because Japan, then hostile, controlled the entrance to the Sea of Japan between the United States and the Soviet Union, we could not ship supplies to Russia via Siberia. Nor could we help them via the Baltic. The German Navy had given the Soviet Baltic Fleet a disastrous defeat and had gained total control of the Baltic, and had bottled up the inept Soviet Navy into the eastern portion of the Gulf of Finland. Thus Germany controlled the Baltic entrances—the Skaggerak, the Kattegat—we could not ship supplies by that route.

Nor could we supply Russia via the Black Sea because Germany had conquered most of the Soviet Black Sea ports and because, in the Mediterranean, Germany and Italy stood between us and the Turkish Straits. So the Black Sea route was blocked. Germany owned those ocean keys.

Only by two routes, one dangerous, the other long, were we able to supply Russia in World War II. The first route was the northern route to the remote port of Murmansk. But because the Germans held Norway from which submarines and bombers and even surface ships could attack our convoys, that route was dangerous and uncertain. So a new route was created, a very long one—the Cape of Good Hope, Iran and the Persian Gulf.

Mind this history well—the Soviet Union has learned it very well indeed—that in World War II, her four main sea routes were held by enemies. The Soviet Union was almost totally isolated and landlocked.

To me, this is one of the key explanations of why the Soviet Bear has learned to swim so well. The Soviet Union doesn't yet control or influence many of the vital ocean keys, but there is no doubt her growing maritime strength reflects increasing interest.

We must not forget that the Soviet Union is basically a land power, a continent power, a have nation. She needs only two strategic materials—tin and rubber. Her only overseas food needs are fish and occasionally agricultural grains. The Soviet Union is nevertheless embarked on programs to become a major maritime power. So it is important to Soviet interests to shift the ocean keys from other controls to theirs—or at least to shift control to neutral.

In nearly every one of the ocean keys I have mentioned, you see problems—problems which in some cases at least could become Soviet opportunities.

The Soviet Union recognizes her potential maritime vulnerability. She knows she can again be isolated. But just as clearly, she sees our diminishing control of the ocean keys, and our diminishing capability to provide the maritime strength when needed over these ocean keys. Her sea *denial* strength has been growing steadily since World War II. I believe we should not allow this challenge to go uncontested.

We must remember that only one kind of war requires shooting, and that shooting has become more dangerous now than ever before. Instead, if one can gain the advantage over an opponent by political or economic means, or if he can gain such a clear military advantage as to be incontestable, he has won everything without suffering the risks of shooting.

So, whatever the means, be they political, economic, or the clear evidence of military superiority, it is in and around the narrow seats, the straits, and the canals—the keys that lock up the world—where the decisive actions of the next generation may well take place.

FEDERAL RESERVE VOLUNTARY GUIDELINES ONLY THE FIRST STEP TO EFFECTIVE CREDIT CHANNELING

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 20 minutes.

Mr. REUSS. Mr. Speaker, yesterday, the Board of Governors of the Federal Reserve distributed a set of credit allocation guidelines to its member banks, to be observed on a voluntary basis.

This action is a welcome sign that the Federal Reserve recognizes that its restrictive monetary policies have resulted in the banks' channeling too much credit toward inflationary uses, such as real estate speculation, conglomerate mergers, and overbuying of supplies, and away from productive and anti-inflationary uses, such as new capital investment, low- and middle-income housing, small business, agriculture, public utilities, and State and local governments.

But the new guidelines should only be seen as a first step toward mandatory credit allocation under clearly defined ground rules. The guidelines are only advisory, and so general that any bank can say, "But that's just what we're doing now." Instead, the Federal Reserve should take steps toward a formal system of credit channeling under the Credit Control Act of 1969. We need a government of laws, not of men, even if the men are the venerable gentlemen of the Federal Reserve.

This need to allocate more credit to productive and anti-inflationary uses has been the subject of an August 27 Christian Science Monitor article, a September 1 Boston Globe article, and my September 3 Op-Ed column in the Los Angeles Times.

The articles follow:

[From the Christian Science Monitor, Aug. 27, 1974]

CREDIT ALLOCATION URGED AS MORTGAGE PICTURE LOOKS BLEAKER—REUSS WANTS FUNDS STEERED TO WORTHY, PRIORITY BORROWERS

WASHINGTON.—With interest rates holding at the highest levels in history and small borrowers being squeezed out of the market, the demand for some form of credit rationing is mounting.

Federal Reserve Board chairman Arthur F. Burns stoutly resists proposals for the Fed to allocate credit. The AFL–CIO, however, calls allocation a top priority. And Rep. Henry S. Reuss (D) of Wisconsin, joined by Sen. Walter F. Mondale (D) of Minnesota, is pushing legislation to require the Fed to channel more of the available credit into priority areas.

Mr. Reuss wants credit steered away from investments in gambling casinos, corporate take-overs, inventory accumulation, or land speculation and into four needy segments of the economy: long-term capital investment in industry to increase production, low- and middle-income housing, state-local governments, and small business.

TOPIC FOR PARLEY

The subject of credit allocation will be a prime topic in the economic summit conference President Ford has called for late September. It has a strong appeal in political circles, since it is easy to understand and sounds like direct affirmative action. Economists, however, are sharply divided on how effective credit allocation would be. Nearly all agree it would be difficult to administer.

Mr. Reuss charges that letting the marketplace determine who gets credit means that a bank's biggest customers can get it for purposes of dubious value to the economy, while worthier borrowers go begging. His bill calls for steering available loan money into priority channels by requiring banks to hold larger reserves against nonpriority kinds of lending. That would make it less attractive for banks to lend to "gambling casinos." The AFL–CIO backs the same approach.

Mr. Burns charges that the Fed should not get into the rationing business, but should concern itself only with the aggregate supply of money. If credit is to be rationed, which he thinks unwise, it should be done by some specially established agency or committee. He holds that the money supply is too amorphous to be regulated easily. If banks are controlled, big borrowers will go to pension funds or insurance companies. When you squeeze down on credit in one place, he says, it pops up in another. Moreover, the paper work and information required would be enormous.

One member of the Federal Reserve Board disagrees. Andrew F. Brimmer, who is leaving for private life, endorses the Reuss idea. While it would work very imperfectly, he says, the benefits would "outweigh the drawbacks."

URGENT NEEDS CITED

Walter W. Heller, top economic adviser to President Kennedy, made the same point in testimony to the Senate Budget Committee last week. "It's unconscionable," he said, "to let scarce credit go into inventory and grain speculation when so many urgent needs can't be met."

He admitted that carrying out credit allocation effectively would be "tough," but said that "in times like this we ought to explore every possibility of allocating it." Sen. Jacob K. Javits (R) of New York has another proposal: an "advisory board" to recommend voluntary guidelines for bank lending.

GUIDELINES ISSUED

During the Korean war, a voluntary program was set up. A committee composed of bankers and industrialists issued guidelines for lending, and the program was administered through the Fed. Mr. Reuss says it was highly successful, steering a half-billion dollars of credit into defense production and utility expansion.

[From the Boston Globe, Sept. 1, 1974]

MONEY RATIONING MAY BE NEEDED

(By John Robinson)

We may never have to ration meat, milk, sugar or even gasoline in America again as we did during World War II but the day may have arrived for rationing of a formerly bountiful item: credit.

Prospective homeowners, small businessmen, low and moderate income families and thrift institutions understand the credit problem very well since they are on the disadvantaged side in the present environment.

Mobil Oil, for instance, can find creditors to back a $350 million deal to buy Marcor but Joe Palooka can't get a $35,000 mortgage to buy a home for his wife and kids.

There is ample credit for building and operating gambling casinoes in the Bahamas but financing for low and moderate income housing is scarce.

Acme Inc. can double its revolving credit to $50 million but your local small businessman folds because lenders, squeezed by spiraling interest rates and tight money, tend to allocate credit in a way that shuts out those who need it most.

These incongruities are a result of what Rep. Henry S. Reuss (D-Wis) calls "the meat-axe, undifferentiated, money-aggregate approach to monetary policy."

According to critics, this approach, otherwise known as the Fed's tight money policy, sends interest rates soaring, making the diminished supply of money more expensive to borrow.

It also dries up credit sources because money on deposit in banks and normally available to borrowers is withdrawn in favor of higher yielding money instruments such as Treasury notes and bills.

In theory, the "meat-axe" approach eventually will dampen demand by restricting purchasing power which in turn will reduce upward inflationary pressures.

Whether the policy will work is an open question but in the meantime, as Federal anti-inflationary strategy stiffens, a scenario of little fellows strangling from lack of credit, which some big fellows have in abundance, becomes more vivid.

Along with housing and small business, other sectors in the economy such as capital investment, thrift institutions and state and local governments are finding themselves crowded out at the credit wells—in the few places such oases exist.

The situation is becoming so extreme that a growing number of law-makers, businessmen and economists are advocating expanded Federal authority to encourage credit in "priority" areas.

The effort is being advanced by Reuss who submitted legislation last June to grant the Federal Reserve Board authority to influence the allocation of bank credit by establishing certain new reserve requirements.

The legislation has many opponents, in spite of growing support, but possibly the most influential opponent is the Federal Reserve itself.

Only one member, out-going Andrew F. Brimmer, supports increasing the Fed's authority in this area. He has been a major voice for credit allocation (which he calls "differential reserve requirements to influence sectoral credit") for at least five years.

Otherwise, the members stand firmly opposed. They are likely to be joined by most commerical bankers, conservatives and the White House.

James T. Lynn, secretary of Housing and Urban Development, for example, indicated the Administration's negative view of credit allocation in a televised interview last week.

But a number of powerful voices have been raised in support of some kind of allocation program.

The New York Times ran an editorial in June favoring legislation to channel more credit into the nation's priority areas.

David P. Eastburn, president of the Federal Reserve Bank of Philadelphia, supports the idea.

The House Democratic caucus; John Bunting, chairman of the First Pennsylvania Bank; Albert T. Sommers, senior vice president and chief economist of the Conference Board in New York; and Business Week magazine have all added their voices in support of some kind of allocation program.

Objections to such a program, and specifically to Reuss' Credit Allocation Incentive Act, run the gamut from the often heard "administrative nightmare" argument to more fundamental objections.

In a letter to Reuss last July, Federal Reserve Chairman Arthur Burns defined the fundamental position of the board and the opposition.

"We believe that the discretion of the central bank should be confined, in the main, to matters of general monetary policy," he wrote. He said the responsibility of providing the money and credit needed to promote economic growth with a minimum of inflation was the Fed's proper role.

He wrote that a credit allocation plan involving the Fed would "reduce the precision of Federal Reserve control over the stock of money and bank credit, since shifts in the level of required reserves would result from changes in the composition of bank asset portfolios."

Furthermore, he wrote, restructuring in this way would have only minimal results because there would be an accompanying downward pressure on asset yields, driving other lenders from the market which credit allocation is supposed to help.

Finally, Burns said member banks of the Federal Reserve system would face "competitive disadvantages" from non-member banks if a program such as Reuss's were enacted.

Notwithstanding his objections, Burns admitted that "our financial markets may not provide adequate supplies of credit for high priority uses, judged by Congress."

What to do?

Proponents of a credit allocation plan submit that the Federal Reserve policy creates the tight money situation that sends interest rates soaring and contributes to the allocation problem.

Because of its pivotal role, they say, the Fed should be obliged to take responsibility for the allocation implications of monetary policy.

"In essence," Brimmer wrote last month in support of the Reuss bill, "during a period of substantial monetary restraint, the resulting higher costs and lesser availability of bank credit strike different sectors of the economy most unevenly."

"In general banks show a strong preference for lending to long-standing business customers (particularly large corporations) while other potential borrowers receive a reduced share of the available funds."

Proponents also point to examples of credit allocation which seem to work perfectly well in foreign countries.

The central banks of France, Germany, India, Italy, Mexico and Japan all have programs for encouraging credit allocation to areas of high national priorities, according to study by the Joint Economic Committee.

"In light of the damage done by meat-axe aggregate money policies to national priority sectors of the economy," says Reuss, "a new, new approach to credit allocation is needed."

[From the Los Angeles Times, Sept. 3, 1974]

WHAT IS TO BE DONE ABOUT INFLATION? REPRESENTATIVE REUSS URGES A REALLOCATION OF CREDIT

(By HENRY S. REUSS)

Restraining the money supply and credit is simply not enough to fight inflation. Where that money goes can be even more important.

Inflation continues to rampage because inordinate amounts of credit are being siphoned by high interest rates into all sorts of inflationary lending. Loans to bid up the prices of scarce materials and real estate, loans to finance anticompetitive mergers, loans to be squirreled away into unnecessary lines of credit by favored borrowers—all these add to inflationary pressures.

As a result, scarce credit is kept from anti-inflationary uses such as homebuilding, which would absorb purchasing power, and investment in plant and equipment, which would expand supply and reduce costs.

The major banks tend to favor large corporate borrowers, no matter who else is squeezed. Despite the fact that many banks have 90% of their funds committed to loans (75% is considered normal), major corporations are having little trouble floating new loans, even for inventory buildups or expanding foreign investments. Indeed, since inflation started in 1968, more than 50% of the growth in total public and private debt has occurred in the corporate area—from $630 billion in 1968 to $1,150 billion today.

Small businesses, meanwhile, are squeezed for credit, even for productive or innovative investments. Homebuilding is in its worst state since before World War II, with new starts 1 million fewer than just a year ago. Many state and local government bond issues have failed recently, or have been withdrawn because of exorbitant interest rates. New schools and pollution-control facilities are among the projects which are suffering.

To contain this inflationary geyser of credit, the House Democratic Caucus last month, in a "resolution on the economy," urged "cushioning the impact of monetary restraint and bringing down high interest rates by channeling credit toward credit-starved areas of the economy, such as productive capital investment, housing, state and local governments and small business, and away from speculative and inflationary uses of credit."

It is high time we did this. Government could accomplish such a channeling of credit in a number of ways—while still keeping a lid on total growth of the money supply.

A number of other countries, including France, Italy, Japan, Sweden and Mexico, successfully use capital issues committees under their central banks to insure productive use of capital. Through a variety of tools, ranging from voluntary restraints on lending for nonpriority uses to mandatory controls, they direct credit to priority needs.

Sherman Maisel, director of the National Bureau of Economic Research at Stanford and a former Federal Reserve governor, has proposed that borrowers be licensed, with the license fee varied according to the use of the credit. Under the Maisel system, a firm which increased its borrowing over a base period would be charged a hefty license fee. But if the credit were for a priority use, the fee would be reduced or waived altogether. With a 10% license fee, a corporation which wanted to increase its line of credit by $10 million for a merger or for expansion of a foreign subsidiary would have to pay $1 million for the license; if for a new refinery or assembly line, there would be no fee.

The President is empowered today, under the Credit Control Act of 1969, to adopt such an approach.

Another approach would be for the Federal Reserve Board to require a bank to deposit supplemental reserves when it makes a nonpriority loan or investment. For example with a 2% reserve requirement, a bank making a $100 million loan for a corporate takeover would have to set aside $2 million in reserves. On the other hand, loans and investments for priority purposes—productive capital investment, low- and moderate-income housing and loans to state and local governments, small business and farms—would earn credits against this supplemental reserve.

In the above example, if the bank made $50 million worth of these priority loans and investments, and the percentage fixed was 4%, this would provide a $2 million reserve credit, completely wiping out the $2 million deposited.

One way or another, we have to evolve a method of supplementing controls over the total aggregate of credit with controls over its composition—away from *inflationary* uses and toward *anti-inflationary* uses. The sooner the better.

MAKING THE CASE FOR NUCLEAR POWER

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, this RECORD and the public media continue to print articles concerning the safety of civilian nuclear powerplants. These articles are authored by persons whose qualifications run the entire gambit from unsuitable to highly qualified. The concerns expressed vary from well intended to—in some cases—totally malicious.

Surely it is a difficult task for the layman, exposed to such divergent opinion, to assess whether his health and safety are in good hands or whether it is imperiled by a Federal nuclear licensing agency and an industry which in effect are driving recklessly down the highway at breakneck speed with a bottle in one hand and the other arm around a girl.

It is refreshing, therefore, to come across such a fine article as "Making the Case for Nuclear Power" written by Mr. Simon E. Rippon, editor of Nuclear Engineering International, in the September 1974 issue of that magazine. Mr. Rippon with unequaled clarity discusses the issues at controversy with respect to the construction and operation of civilian nuclear power here and abroad and offers some views deserving of consideration by both critics and proponents of the nuclear industry.

I insert at the conclusion of these remarks Mr. Rippon's article. I commend it to all Members of this body:

MAKING THE CASE FOR NUCLEAR POWER

(By Simon Rippon)

It is unlikely that the nuclear industry will ever satisfy the more extreme critics of the peaceful uses of nuclear energy with their barrage of questions directed at ever changing targets. But it is important that all those working on the development and exploitation of nuclear energy should be able to explain quietly and carefully to concerned members of the public just what the nuclear issues are and why we think the industry answers are satisfactory.

The primary motivation for the majority of those working on the development of nuclear energy for peaceful applications is the provision of abundant cheap energy for the good of mankind. Unfortunately this laudable ideal has been sadly tarnished by the onslaught of the critics of nuclear power. They have exploited to the full the current public suspicion of high technology and of large scale industrial activity. Anybody mentioning in conversation that he works in the nuclear industry is now likely to find himself immediately on the defensive when a few years ago he would have been greeted with fascinated questioning. Thus the first task today is to establish that you have not sold your soul to the devil and that you genuinely believe in the ideal abundant cheap energy for the good of mankind. One should also acknowledge that the nuclear industry offers a very challenging and interesting job and that the financial rewards are commensurate with—but certainly not in excess of—one's academic qualifications.

It is also important to establish the fact that the big industrial concerns have not entered the business for quick profits—indeed most of the companies that have enteed the nuclear business around the world have been shaken to their foundations by losses on early projects and few can see dramatic profits in the future. For the most part the position of industry is that the long term direction of energy supply is going to be increasingly in the direction of nuclear power and therefore for the wellbeing of their company they must establish a foothold in this sector of the business in spite of the heavy initial costs.

While establishing the sincerity and integrity of those working in the nuclear industry, it is important not to fall into the trap of attacking the sincerity of the critics. They too believe that their actions are in the best interests of mankind and in many cases they are prepared to accept a relatively modest life style as a demonstration of their sincerity. Admittedly, some of the more prominent anti-nuclear speakers can demand an honorarium or generous expenses for their appearances, and an anti-nuclear writer can certainly earn more than a proponent of nuclear power. But the only people making a lot of money as a result of the nuclear controversy are the lawyers—on both sides.

DO WE NEED SO MUCH ENERGY?

The question of whether we need abundant cheap energy is the one with which the nuclear critics have made most impression on the general public. In the advanced industrial countries, and in particular in America, people are very aware of the fact that the habits of mankind have become scandalously wasteful. If asked in an opinion poll whether they would accept a simpler life style in the interests of less pollution, a very substantial majority of the public would probably say "yes". At times of national emergency the public have even demonstrated that in response to massive propaganda campaigns they are capable of making savings in their use of energy for limited periods.

In arguing the case for nuclear power it would be very wrong to challenge this very real public acceptance of the concept of a simpler life style but it is worth pointing out, with regret, that it is not a wholly practical solution. When asked at a press conference what was his solution to the energy crisis, Ralph Nader suggested that Americans could willingly accept a 40 per cent reduction in energy consumption. This seems distinctly optimistic in the light of the events of the last nine months. In the U.K., with a miners' strike during the winter oil crisis, domestic consumers responded to an extensive advertising campaign with an initial saving of about 20 per cent, but as the emergency continued there were signs of the Dunkirk spirit waning. The inability to sustain personal economy has also been seen with the worldwide return of motoring habits to their former depressing extravagance since the oil crisis. Even if Americans, who consume a third of the world's energy, were to achieve the spectacular 40 per cent reduction, the rest of the world with a per capita consumption of energy which is less than one fifth of the U.S. figure could hardly be expected to accept a significant reduction in energy demand until the gap between the haves and the have-nots has been closed a little bit more. And raising the average standard of living of the rest of the world with some 3500 million people is going to take more than 40% of America's energy.

Forecasting true energy requirements in different parts of the world is a notoriously difficult task and even the most knowledgeable experts produce widely differing projections. This state of confusion makes it very difficult to answer those who say "do we really need so much energy?" The most important points to get over are the general trend of growth in energy requirements and the relative contribution of different primary energy sources. It is then reasonable to argue that even with major programmes of energy conservation it is not going to be possible to limit the momentum of the growth trend overnight and any new alternative sources of energy are unlikely to make any rapid impact on the general pattern of primary energy consumption.

The colourful diagram on the front cover of this issue is an attempt to present the world energy flow situation, with a common scale for different types of energy, as it might be expected to develop over the next ten years. This is a simplified version of a series of diagrams devised by the staff of the U.S. Joint Committee on Atomic Energy in an excellent report on "understanding the National energy dilemma" prepared in 1973. The version on our front cover has been adapted to incorporate the whole world using the best averages that we could derive from the many published figures of national and regional energy requirements. An attempt has also been made to apply some reduction in overall growth rate that seems probable as a result of a general slowing down of economic development and at the same time some readjustment of the relative contribution of the different primary energy sources has been made as a likely outcome of world oil prices. We would claim no great accuracy for this diagram—we must even admit to some artistic license in adapting it as a front cover design—but it gives a feel for likely trends and provides some pointers to the ways in which we should strive to modify the pattern of energy usage later in the century.

The percentage increase in the nuclear energy contribution in the next ten years is larger than any other sector and represents something like 400,000 MW(e) of installed generating capacity—a requirement that will strain the resources of the world's nuclear industry to the absolute limit. But bearing in mind the fact that a common energy scale has been used throughout the diagram, it is apparent that growth in demand for oil is going to be larger than the nuclear contribution while coal and gas will only be slightly less. Thus, it looks as if all the main sources of primary energy are going to be stretched to the limits of their potential growth over the next ten years in meeting a growth in end use which is a good deal less than the traditional ten year doubling normally associated with a reasonable evolution of standard of living in advanced countries. If conservation measures do start to bite in the next ten years most sectors of the energy industry will probably breathe a sigh of relief.

Before leaving our front cover diagram it is worth mentioning some of the conclusions that can be drawn from it with regard to the directions in which we should be making efforts to improve the long term situation. Clearly there is a desperate need to try to reduce the amount of wasted energy and in the case of electricity production this means higher thermal efficiencies and diversion of some of the waste heat into domestic and industrial uses. It would also be nice to see flow of nuclear energy directly into the industrial sector without going through the electricity production stage. One might even see a small nuclear contribution to the transportation sector in the form of nuclear ships. The sizable increase in the contribution of gas over the next ten years reflects mainly the influence of oil prices in Western Europe, but taking a lesson from America, it should be recognized that the limited natural gas resources can only be considered as a stop gap solution. In the longer term this will have to be replaced and the best prospects would seem to be a large increase in gasification of coal with nuclear energy.

CAN WE AFFORD IT?

The latest area of attack from the anti-nuclear movement in America seems to be on the question of utility finance. They argue that the massive nuclear power programme in the U.S. is going to call for prodigious amounts of money which are unlikely to be forthcoming with traditional methods of utility financing. Thus, the critics argue, the nuclear programme can only be fulfilled by diverting vast amounts of Government money which could, in their opinion, be better spent on other environmental improvement programmes. It is true that government control of electricity tariffs in the U.S., and in many other parts of the world, have presented utilities with a nightmare cash flow situation in which they have great difficulty in meeting the high interest charges on the money they need for their capital investment programmes. If governments, for anti-inflationary reasons, want to hold down electricity tariffs then they are certainly going to have to help out the utilities by providing cheap money for capital intensive nuclear power programmes. But the suggestion that this money is not being well spent should be challenged at every possible opportunity by the nuclear industry. It should be pointed out to public and politicians alike that there is no better investment than nuclear power. The reasons for this situation can be spelt out as follows:

Nuclear electricity, even from obsolete first generation plants, is today being produced at lower generating costs than modern fossil fired plants.

The differential between fossil fuel generating costs and nuclear generating costs is certain to increase rapidly in the future and could be a factor of two by the 1980s.

The saving in fuel cost obtained by using nuclear energy rather than fossil fuel is likely to exceed the capital charges on nuclear power plants by the 1980s and therefore if one finds oneself in the happy position of having more generating capacity than required it will still pay to decommission, or place in mothball, the surplus fossil fired capacity.

The insensitivity of nuclear generating costs to fuel prices and the absence of any political domination of world sources of uranium, lead to another important reason for investment in a large nuclear power programme—competition from nuclear power will eventually have a stabilizing effect on world oil prices. This factor alone is sufficient justification for the nuclear industry to claim that their activity is in the best interests of mankind, for stabilization of oil prices will benefit all nations and especially the smaller developing countries.

ARE WE UP TO IT?

The safety of nucear power plants is the issue on which the nuclear industry has the biggest problem in communication with the public for obvious reasons of technical complexity. Members of the nuclear community should judge carefully the level of technical comprehension of people they meet and in presenting the case for nuclear power should try to avoid either overestimating or underestimating the knowledge of the public. It is important that everybody working in the nuclear business should familiarize themselves with the major issues and prepare themselves with simple explanations suited for different levels of technical comprehension—in particular it is important to try out explanations at every opportunity on family and friends paying careful attention to the points which are understood easily and those that need to be explained more carefully.

Other articles in this issue deal in more detail with some of the safety issues and specific technical issues have been, and will continue to be, dealt with in this publication as they arise. We will confine ourselves here to the more general philosophical question which has been raised by certain prominent academics of whether modern man has committed himself to technological tasks which are just too demanding when one takes into account the consequences of failures. There are two issues here—one is the degree of excellence of our technology and the other is the seriousness of the consequences of a failure. There is no doubt that the opponents of nuclear power have exploited public fears of nuclear radiation and grossly exaggerated the consequences of hypothetical nuclear accidents. But since the safety record of the nuclear industry has been so excellent this is not an easy point to prove. Equally, because we have had no serious accidents the design of backup safety systems must be based on hypothetical failures—and multiple failures—which must be analysed in great detail. In the process of this detailed analysis there is inevitably the possibility of elevating an incredibly low probability series of coinciding incidents from a hypothetical accident to an everyday occurrence in the minds of the public.

Thus, the nuclear industry starts at a severe disadvantage in presenting the excellence of its technology because, ironically, it adopted a more responsible attitude than has been shown historically by other new industrial activities. And the public, helped by the few prominent academic, just cannot believe that the nuclear industry is any less fallible than other industries. The best way to counter this understandable attitude is to explain that the assumption of fallibility is an important aspect of nuclear safety design philosophy. It leads to the concept of multiple levels of protection which, although it is not a completely new idea, has been applied in the nuclear industry to a far greater extent and much more rigorously than any previous industrial activity. The American critics of nuclear power have chosen to ridicule the "defense in depth" philosophy but if the uniqueness of this approach were explained more carefully to the public the ridicule of the critics might well be turned against them.

The first point to make about "defence in depth" is that it is the answer to rather than an example of, the "weakest link in a chain" argument. It relies upon independent backup systems each designed to be capable of dealing with the consequences of failure of lower "links" in the overall protection system. One can think of some simple examples of what this philosophy might involve in other more familiar areas where the consequences of failure are potentially of comparable seriousness.

Failure of a suspension bridge packed with traffic due to a road accident could cause thousands of fatalities. The first level of defence in depth is in the design margins coupled with quality control and in-service inspection. A second level might be a control system designed to prevent the build up of thousands of people on the bridge at any one time and there are some instances where this has been done. The third level of defence in depth would, however, have to be something like a series of independently suspended nets designed to catch the contents of the bridge if it failed.

A jumbo jet crashing on a packed sports stadium could cause many tens of thousands of fatalities and the probability of such an accident has been compared to the probability of large failure of a reactor pressure vessel. The first level of defence in this case is the extremely high standard of flight safety in the aircraft. The second would be some form of control on overflying during major sports events. And the third would probably have to be a steel dome over the stadium or underground siting.

It is not difficult to think of other examples along these lines and it is advisable that those making the nuclear case to the public should devise some of their own analogies in order to avoid the danger of repeating familiar examples.

ARE WE PROVIDING THE ANSWERS?

A familiar charge made by the opposition movements, especially in America, is that the nuclear establishment is withholding information from the public and is unresponsive or evasive in answering the critics' questions. Anybody who has followed the development of nuclear energy in the U.S. knows that this charge is patently untrue—if anything the U.S. AEC errs with an overkill of public documentation. But the present climate of public opinion is such that any charges against establishments or big commercial interests are accepted without question. The situation becomes more difficult the further one moves away from America because virtually all the substantive questions raised by the critics in other countries can be traced back to the U.S. nuclear controversy and the credibility rating of the American establishment is, understandably, even lower outside the country. But the world nuclear community has not been as clever as the opposition movements in learning from each other. Movements such as the Friends of the Earth and the Union of Concerned Scientists have shown great efficiency, though no great accuracy, in communicating the latest point of attack in the U.S. controversy across the Atlantic or Pacific and in communicating back to the U.S., with further exaggeration, the public reaction to these attacks. In contrast, the nuclear establishments in other countries have been slow in going back to the U.S. source for the authoritative rebuttal of the critics' charges. This is not to say that the other countries should rely exclusively on U.S. answers—an original approach is very valuable—but when the critics' charges are based on distorted reports of minor incidents or reputed quotations of experts taken out of context, it is very important to go back to source to check the facts.

Unfortunately the rebuttal process is very laborious and the answers do not always lend themselves to ease of presentation to the public. A classic example is shown in the photograph. The two large folders contain a point by point rebuttal of a ten page press release put out by the Friends of the Earth in London at the time of the debate on the U.K. choice of reactor system. The slightly smaller folder is a similar rebuttal of a letter by Amory Lovins—an American representative of the Friends of the Earth in London at the same time—which was published in the *Sunday Times*. These documents demonstrate one of the most devastating techniques used by the opposition movements, namely the presentation of large numbers of apparently authoritative quotations. The small team at Westinghouse in Pittsburgh who were responsible for preparing these rebuttals, and who provide a similar services to utilities dealing with public hearings in the U.S., find it necessry to include full copies of all the documents referred to so that there is no question of taking quotations out of context. The resulting files are of considerable value in advocacy type hearings but are hardly suitable for publication in response to press releases or letters to newspapers.

The preparation of rebuttal material may at first sight seem to be a formidable undertaking but it is interesting to note that the Westinghouse team claim that the job rapidly becomes one of routine because so many of the quotations and charges of the critics have been heard time and time again. Clearly there is a case for the nuclear community, both on a national and an international scale, to co-ordinate these activities. A good deal has already been done in this direction in America especially by the Atomic Industrial Forum but so far efforts in the rest of the world have been rather fragmented.

NUCLEAR POWERPLANT LICENSING BILL

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, on December 13, 1973 I announced that the Joint Committee would hold hearings in the coming session of Congress on amendments to the Atomic Energy Act which would help eliminate delays in the AEC licensing process and improve procedures generally. I also introduced a bill to accomplish these purposes (H.R. 11957), which I hoped would stimulate thinking in the Congress, the executive branch and the public as to means of expediting the licensing process consistent with safety and environmental requirements.

Since that time several other bills have been introduced in the Congress to improve the licensing process. These include bills proposed by Congressman MCCORMACK (H.R. 12823) and AEC (H.R. 13484 and S. 3179). A proposal by a representative for various environmental groups was discussed in the hearings and a modified version was introduced on May 29, 1974, by Senator KENNEDY as S. 3547.

The main purpose of the first three bills is to try to eliminate unnecessary delay by better planning and scheduling of various segments of the licensing process, through standardization of plants, and by measures to expedite the hearing process. S. 3547, besides providing detailed procedures which its proponents claim would expedite the licensing process, also would provide for AEC financing of attorney's fees and technical and other expenses of intervenors.

Hearings were held on the general causes and problems of delay in the planning, siting and licensing of nuclear power plants on March 19, 20, 21, and 22, 1974. The Joint Committee continued its hearings on April 24, 25, 26, and May 1, 1974 for the purpose of receiving testimony on the above referenced legislative proposals.

The committee and its staff utilized

an informal Planning Committee for advice on the scope of the hearings, selection of witnesses, and on the substance of the provisions of the various bills before the Joint Committee. The Planning Committee was composed of representatives from AEC, industry, environmental organizations, universities, and individual attorneys knowledgeable in the AEC licensing field. Six meetings were held with the informal Planning Committee during the period of January through June, 1974. Without objection, I would like to enter in the Record at the conclusion of my statement a list of the membership of this committee.

On the basis of guidance from members of the Joint Committee in June, and with the benefit of discussions with the informal Planning Committee, the staff of the Joint Committee has prepared a bill which I am introducing today for the purpose of further consideration by the Joint Committee. I would also like to include a staff memorandum which highlights its principal issues and major features in the Record following my statement.

I regret that the Joint Committee did not have the opportunity to take up this bill earlier, because of the need to give priority to the Price-Anderson extension and certain other legislation. I hope the Joint Committee can take up the bill I am introducing today during the remainder of this session.

I would like to emphasize that certain issues are not dealt with in the bill. The committee did not have sufficient time to consider all factors involved in the legislation.

The material referred to follows:

Planning Committee, Siting and Licensing of Nuclear Powerplants

NAME—REPRESENTING

James T. Ramey: Chairman, Planning Committee; Consultant, JCAE.

Don Allen: N. E. Electric System, Westboro, Mass.

Gene A. Blanc: Rep. Mike McCormack.

Albert K. Butzel: Berle, Butzel & Kass, New York, New York.

Myron M. Cherry: Jenner & Block, Chicago, Illinois.

Malcolm L. Ernest: AEC.

George C. Freeman, Jr.: Hunton, Williams, Gay & Gibson, Richmond, Va.

George Gleason: Atomic Industrial Forum, New York, New York.

Harold P. Green: Graduate School of Public Law, George Washington University, Washington, D.C.

J. Thomas Greene: Callister, Greene & Nebeker, Salt Lake City, Utah.

Larry Hobart: American Public Power Association.

Prof. Arthur Murphy: Columbia University Law School, New York, New York.

Charles A. Robinson, Jr.: National Rural Electric Cooperative Association.

Anthony Z. Roisman: Berlin, Roisman & Kessler, Washington, D.C.

Peter H. Schiff: New York Public Service Commission, Albany, New York.

Howard K. Shapar: AEC.

David Sive: Winer, Neuburger & Sive, New York, New York.

George Taylor: AFL-CIO Department Research.

David A. Toll (Robert Polan, Alt.): National Association of Electric Companies.

Leonard M. Trosten: LeBoeuf, Lamb, Leiby & McRae, Washington, D.C.

L. E. Zeni: Director, Maryland Power Plant Siting Project, Annapolis, Maryland.

Observers

Robert H. Gifford: Federal Energy Office.

W. Thomas Jacks: Texas Law Review Project, Public Citizen Litigation Group.

Richard Kosiba: Federal Energy Office.

Paul Leventhal: Senate Reorganization Subcommittee.

Walter T. Skallerup, Jr.: Consultant, JCAE.

Ms. Ann Roosevelt: Legislative Director, Friends of the Earth.

Suggested Committee Bill To Improve the Siting and Licensing Process Staff Memorandum, Joint Committee on Atomic Energy

On the basis of the earlier guidance from Members of the Joint Committee and in the light of the discussions at the informal Planning Committee meetings, the Staff has prepared a draft bill for Committee consideration. This memorandum highlights the principal issues and major features of the draft bill.

The draft bill prepared by the Staff is patterned on and adopts the major features of the AEC bill (H.R. 13484 and S. 3179). The basic features of the AEC proposal include:

(1) Designated sites established through adjudicatory hearings;

(2) Standardized plants approved through generic hearings; and

(3) Elimination of construction permit hearings and operating license hearings, subject to certain limited exceptions, where the applicant submits a proposed standardized plant for a designated site.

While the hearings evidenced little criticism of these AEC proposals, it was generally recognized that they would not have an immediate impact on the problem of licensing delays. Several years would be needed to develop the requisite inventories of designated sites and approved standardized designs. The AEC bill also did not cover the role of the states and the Staff draft incorporates certain features of the McCormack bill, H.R. 12823.

To remedy the failure of the AEC bill to provide measures which would have an immediate effect on licensing delays, the Staff has made certain modifications in and added certain features to the AEC proposal. These proposals were discussed in Planning Committee sessions and to some extent in the Joint Committee hearings. Pursuant to these provisions, which in some instances further clarify the Commission's existing authority, the Commission may:

(1) Use expedited procedures in licensing proceedings;

(2) Authorize applicants, under a limited work authorization procedure, to begin site preparation and limited construction activities, including some safety-related work subject to certain hearing rights prior to issuance of a construction permit; and

(3) Issue interim operating licenses, and interim amendments to licenses or authorize interim operation of a nuclear power plant.

The following topical summary provides further explanation of the principal issues addressed by the draft bill. The applicable section of the draft bill (hereafter DB) is shown in parenthesis.

ISSUES IN DRAFT BILL ON SITING AND LICENSING OF NUCLEAR POWER PLANTS

I. *Advance Planning.*—The hearings brought out the importance of early and open planning for nuclear power plant sites. To encourage applicants for AEC licenses to engage in advance open planning, the draft bill authorizes the AEC to accord priority of consideration to applications referencing pre-selected sites chosen in this manner—namely after full consideration of relevant physical, economic, environmental, aesthetic and social factors, other possible alternative sites and the views of all interested persons and groups. To assist in the planning process, the draft bill also includes provisions similar to those in H.R. 12823 authorizing the Commission to conduct a national survey of nuclear energy center sites and to obtain through the Federal Power Commission from regional electric reliability councils and make available to the public, data on existing or potential nuclear power plant sites. (§ 111a (1) and (2), § 111c; DB, § 3, pp. 2–4). Considerable interest has been expressed recently in Congress and the Administration in the concept of nuclear energy centers as a means of minimizing the transportation of radioactive materials. In addition, the conjunctive siting of these elements may allow reductions in the overall costs of generating electric power by nuclear fission.

II. Role of States.—The hearings showed the desirability of joint hearings by AEC and various states on nuclear plant licensing, but indicated difficulties in large numbers of states participating in the AEC-State site certification plan envisaged by H.R. 12823.

This suggestion is implemented in § 193; DB, § 13, pp. 17–18, which relates to federal-state cooperation and which would authorize the Commission to:

(1) Coordinate the timing of its licensing proceedings with the schedules of related state proceedings in order to expedite the overall licensing process. (§ 193a; DB, § 13, p. 17.)

(2) Conduct consolidated AEC-state hearings on matters subject to concurrent jurisdiction under NEPA and State law. Under this authority, the Commission would be authorized to hold joint and/or concurrent hearings. In connection with any consolidated hearings, the Commission would be empowered, with the concurrence of the affected State agency, to prescribe special procedures as necessary and appropriate, to accommodate the procedures of the State agency. There would be a requirement that these changes in Commission rules should be consistent with a full disclosure of the facts and involve minimal modifications in the procedures prescribed for on-the-record hearings by 5 U.S.C., 554, 556 and 557. (§ 193b; DB, § 13 p. 17.)

(3) Collect data needed for the conduct of environmental reviews in such a manner as to take into account data developed pursuant to State law and to avoid, to the maximum extent practicable, consistent with the provisions of the National Environmental Policy Act of 1969, duplication with the efforts of State agencies with similar responsibilities. (§ 193c; DB, § 13, pp. 17–18.)

III. Expedited Procedures—For Immediate Use.—There was general agreement on the immediate need for expedited procedures, although environmental representatives stressed the corollary necessity for full disclosure of information and financial assistance for intervenors.

The following is a listing of the most important provisions to eliminate undue delay:

(1) Generic Hearings. The AEC bill, H.R. 13484, provided for generic hearings to consider matters of plant standardization and related issues, but included a further requirement that adjudicatory procedures be used in these hearings. Testimony presented at the hearings supported increased use of generic hearings but evidenced the advantages of using normal rule-making procedures in which cross-examination can be limited. Under its existing authority, the Commission has discretion to use either rule-making or adjudicatory procedures in generic hearings. The draft bill would not change AEC's present authority to prescribe hearing procedures. Under this arrangement, AEC would have discretion to control the extent of legal discovery and cross-examination as appropriate to the particular subject matter of the generic hearing and useful in resolving complex questions of fact. Recent

court holdings indicate that some cross-examination should be permitted if the intervenor can make a prima facie case. (See § 192c and §189c(2); DB, § 12, pp. 14–16 and § 10, p. 12.)

(2) Limited Work Authorization Procedures. There was general agreement that AEC's Limited Work Authorization (LWA) procedure should be extended to permit additional construction work at the applicant's risk if the project would be otherwise delayed while the construction permit hearing is underway. The AEC LWA procedure would permit such work only if there were opportunity for a separate hearing on the extension.

The draft bill would confirm the Commission's discretionary authority to permit applicants for construction permits to begin site preparation and limited construction activities after all environmental issues have been resolved in an adjudicatory hearing and there has been an AEC determination of reasonable assurance that the proposed site is suitable from a radiological health and safety standpoint for a nuclear power reactor of the general size and type proposed by the applicant.

The bill would also provide for a supplemental LWA procedure which would permit an applicant to undertake a limited amount of safety-related work (for example, pouring foundations and similar construction work up to ground level) for a specified period of time (for example, twelve months or some shorter period) if the applicant could show that his work under the initial LWA would be completed before the construction permit hearing was concluded and a decision issued. This further extension would only be granted for good cause. Public notice and an opportunity to file written objections would be provided. The draft bill contemplates that there would be an opportunity for a hearing on the further extension of the LWA if the Commission has made a determination that the work to be performed involves a significant safety issue, otherwise no further hearing would be required. (§ 185b; DB, § 6, pp. 7–8.)

(3) Interim Operating Licenses. No significant objections were raised in the hearings to the interim operating licenses and interim amendments to licenses proposed in the Price and AEC bills. This authority would prevent plants, which were either ready to begin or in full power operation, from standing idle during prolonged public hearings on the operating license or amendment. The draft bill would authorize the Commission to issue interim operating licenses, interim amendments to licenses or order interim operation of plants on the basis of a good cause showing by the applicant and a determination by the Commission that such action is necessary in the public interest. The requirement for a public interest finding was also included in the Price bill. It encompasses such matters as the need for power—the finding required in the AEC bill—and the need to avoid undue delay. It should be noted that demonstration plants would not be covered if the decision to issue an interim operating license rested solely on a need for power finding. (§ 189a DB, § 9 pp. 9–11.)

(4) Additional Procedures. The hearings identified several useful devices for expediting the licensing process, including time limits on hearings, limits on the scope of discovery and cross-examination, designation of AEC as the lead agency in coordinating Federal and State environmental reviews of nuclear plants, and the application of the doctrines of res adjudicata and collateral estoppel. The latter provision was adopted from S. 3547. These additional procedures, which clarify the AEC's existing authority, are placed in a single section of the draft bill. This section would authorize and direct the AEC, in conducting licensing proceedings, to follow expedited procedures generally, including but not limited to those specifically enumerated. (§ 189c; DB, § 10, pp. 11–12. See also Alt. § 189c(3); DB, last page)

IV. Public Participation and Full Disclosure of Information—

A. The hearings brought out that legal arguments and litigation on issues of public participation and full disclosure of information have been one of the chief causes of delay in AEC proceedings.

(1) Disclosure of Information. In the past several years, AEC has permitted greater and earlier opportunities for interventions and disclosure of information. To formalize these practices and insure their continuation, a section has been included in the draft bill which would require the Commission to confer with persons seeking to intervene in licensing proceedings and make existing technical studies and reports available to them.

This section would also require the Commission to provide all parties to licensing, enforcement and rule making proceedings with all documents and written communications relating to those proceedings, to notify all parties of any meetings relating to those proceedings and to furnish all parties with summaries of those meetings. (§ 194 a and b; DB, § 15, pp. 18–19.)

(2) Early Notice of Intent. There has been general agreement on a staff suggestion that applicants be required to give a one-year notice of their intent to file an application, with an opportunity for interested parties to have access to information and attend meetings. S. 3547 would require license applications to be filed three years prior to the start of construction. At the present time, applicants informally advise AEC of their intentions and AEC provides guidance to them as to its requirements. AEC believes that a formal requirement for advance notice would pose no significant problems for AEC or applicants. Accordingly, the draft bill includes a section which would authorize and direct the Commission to require persons expecting to file applications or petitions to provide notices of intent to file within time periods prescribed by Commission rule. In order to provide needed flexibility, a specific time period is not stated in the bill. However, the report would indicate that the minimum advance notice on new sites would probably be one year. (§ 11b; DB, §3, pp. 2–3.)

B. Other issues with respect to public participation and disclosure of information include:

(1) Payment of attorney's fees for intervenors as proposed in S. 3547.

(2) Provision of technical assistance and experts.

The above two matters were discussed to some extent in the hearings and by the Planning Committee. The AEC also discussed these questions in connection with the Ribicoff hearings on the ERDA-NEC bill.

Payment of Attorneys Fees. It has been asserted in favor of these proposals that the contributions of intervenors are essential if all issues relating to safety and the environment are to be fully aired, and that without assistance intervenors do not have the wherewithal to make a showing in every proceeding where they could make substantial contributions.

The arguments that have been raised in opposition to these proposals are primarily that such assistance, particularly the payment of attorney fees, would encourage litigation that is without merit, that is unduly motivated by the desire to obtain the compensation that would be allowed, and that would serve to unjustifiably delay licensing proceedings. It is also argued that the AEC is charged with representing the public interest and that ability to engender at least some financial support is a valid and appropriate measure of the extent to which a party seeking to intervene truly represents the public interest.

Technical Assistance. With respect to technical assistance, the draft bill would confirm the Commission's authority to respond to requests for relevant technical studies or reports, and would provide that these reports may be offered as part of the record of the proceeding. Where reports must be especially prepared, the draft bill would provide that a determination must first be made as to whether such studies or reports are reasonably necessary for the requesting party to present its position in the proceeding and are in the public interest. Among the factors to be considered in determining the public interest are the potential for delay of the Commission proceeding and the relative priority that preparation of the studies or reports should take in the allocation of Commission resources. This provision does not envisage the conduct of original research; only the collection and compilation of existing data is contemplated. The bill would also provide that the Commission should take into consideration in determining the scope of the report, the ability of the requesting party to make a financial contribution towards the cost of its preparation. (§ 194; d, e, f; § 14, pp. 19–21.) Although the draft bill does not now contain such a provision, the staff also suggests that the Commission be authorized to make the assistance of experts available to parties to licensing proceedings.

V. Role of ACRS.—There was general agreement that the ACRS should not be required to review and report on every commercially licensed reactor as presently provided. However, there was general disagreement with the AEC proposal that ACRS only review reactors at AEC's request. The draft bill incorporates the amendment language suggested by the ACRS on three prior occasions: (1) in the testimony of Dr. Spencer H. Bush, then ACRS Chairman, and Dr. Joseph M. Hendrie, past Chairman, at the hearing before the Subcommittee on Legislation on June 27, 1971; (2) in a letter of April 14, 1972, to Senator John O. Pastore, Chairman, JCAE, from Dr. C. P. Siess, ACRS Chairman; and, most recently, in testimony by Dr. William R. Stratton, ACRS Chairman, at JCAE hearings on nuclear power plant siting and licensing on April 24, 1974. This language would leave to ACRS' discretion which reactors ACRS would review, in addition to those on which AEC requested an ACRS review. (§§ 29, 182b; DB, §§ 1, 5, pp. 1 and 4–5.)

VI. Antitrust Provisions.—There was considerable discussion of the pros and cons of grandfathering or otherwise permitting a construction permit to go forward while the antitrust issue was being thrashed out. No formal amendments have been proposed, although the Atomic Industrial Forum representative suggested language.

VII. Demonstration Plants.—None of the bills specifically address the issue of the kind of expedited procedures which might be useful in reducing the lead time required to license, construct and operate demonstration plants.

INTERNATIONAL NUCLEAR AGREEMENT CONGRESSIONAL REVIEW ACT

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, yesterday I addressed a letter to all Members of the House concerning the upcoming conference report on the International Nuclear Agreement Congressional Review Act—(S. 3698, House of Representatives Report No. 93–1299). To assure its availability to all Members I include my September 16 letter in the RECORD at the conclusion of my remarks.

As will be noted, my letter responds to a statement issued by Mr. ECKHARDT of Texas, advising that he will move to recommit the bill to conference. For the reasons I state in my letter I urge each member to support the conference report and vote down any proposed action to recommit. Acceptance of the conference report will provide the Congress with the additional control of proposed plans for international cooperation in the field of nuclear technology without any further delay.

The letter follows:

WASHINGTON, D.C.,
September 16, 1974.

DEAR COLLEAGUE: The Conference Report on the International Nuclear Agreement Congressional Review Act, (S. 3698, House of Representatives Report No. 93–1299), is tentatively scheduled for action the week of September 16. On September 11, Representative Bob Eckhardt distributed to the Members of the House a letter advising that he will move to recommit the bill to conference with instructions to insist on the House position. I would like to take this opportunity to explain the basis for the decision of the House conferees to accept essentially the Senate position, and also to urge the defeat of the proposed motion if it is made.

The bill as reported unanimously by the Joint Committee provided that any proposed international agreement for cooperation in the field of nuclear technology which involved either military application or reactors (or their fuel) above a certain size must be submitted to Congress for a 60-day review period, and that such an agreement would not become effective if during the sixty days the Congress were to pass a concurrent resolution in effect disfavoring the agreement. The bill was amended on the House floor, by a 194–191 vote, to add the requirement that no such agreement would become effective unless specifically approved by Act of Congress. A similar amendment had been rejected by the Senate during floor action on the Senate bill earlier.

Subsequently, and prior to the Senate-House conference on the bill, I received letters from the Atomic Energy Commission, the Department of State, and the Defense Department expressing serious concerns regarding the House amendment. It is asserted by these agencies that the requirement would undermine the Government's negotiators, would tend to result in international proliferation of nuclear weapons by sending customers of nuclear technology to less careful supplier nations, would endanger the security of the NATO alliance, and is questionable on constitutional grounds. I placed copies of these letters in the RECORD on August 14, and am enclosing copies with this letter.

In the face of the serious opposition to the House amendment from the Administration and from the Senate conferees, and in light of the narrow margin by which it was adopted, the conferees receded and agreed to the Senate version. It was apparent to us that the President would probably veto the measure as approved by the House, and that insistence on its inclusion could defeat our objective of assuring that Congress has a meaningful vote in regard to these agreements.

My distinguished colleague from Texas asserts that the provision for invalidating proposed agreements by concurrent resolution is ineffective because Article I, Section 7, Clause 3 of the Constitution, in his opinion, gives the President the authority to veto such concurrent resolutions. This suggestion is not in accord with authoritative constitutional law. I do not intend to discuss this complex question in an exhaustive way, but I will outline the agreements *contra*, and include a list of references for those interested in a more detailed review.

There are many exceptions to the requirement of Section 7 that all measures which require the approval of both Houses of Congress must be submitted to the President for approval or veto. For instance, although no provision of the Constitution specifically exempts constitutional amendments from this requirement, they have never been submitted to the President, and this practice was sanctioned by the Supreme Court in 1798. Other examples include resolutions expressing the opinion of Congress or dealing with matters particlular to the Congress. Concurrent resolutions have never been submitted for Presidential veto or approval.

Since about 1939, considerable use has been made of the concurrent resolution as a means for a Congressional veto of executive actions. Reorganization Acts are the most typical, but there are many other examples. Arguments have been made both supporting and opposing the constitutionality of such use, but the recent trend has been to accept this process.

The general rationale in favor of their use is that the concurrent resolution provided for in such Acts is not a legislative action, which would be subject to Presidential veto, but is rather a condition subsequent to completion of the authorizing legislative action which the President has the option to veto.

While past Presidents have sometimes expressed opposition to the engraftment in a statute of such conditions subject, and have occasionally vetoed acts containing such provisions, more recently such provisions in numerous acts have been accepted by the Administration, and have even been included in legislation proposed by the Administration. In a 1949 opinion, the Justice Department stated that "it is not believed that there is constitutional objection to the provision . . . which permits the Congress by concurrent resolution to express its disapproval of reorganization plans." There have been many Congressional exercises of this type of concurrent resolution, and the Administration has never attempted to veto such action or to challenge its constitutionality in the courts.

Considering the pervasiveness of such provisions in a variety of legislation and the long history of their acceptance since 1949, the Library of Congress Congressional Research Service, after thoroughly researching this question, concluded in a memorandum of July 13, 1973 that: "it would appear . . . that no serious constitutional objections can now be raised against these provisions." This analysis appears to me to be correct.

I believe without reservation that the procedure provided by the conference report will enable Congress to play a practical and meaningful role in this important area. We need this legislation this year. A recommittal of this measure at this late date in the session may well mean that we would have to be reconciled to the posture of Congress under existing law. Even if the Senate conferees could eventually be persuaded to accept the House amendment, the bill would very likely be vetoed. I urge each member to support the conference report and to vote down any motion to recommit.

Sincerely,

MELVIN PRICE,
Chairman.

REFERENCES

1. *Hollingsworth* v. *Virginia*, 3 U.S. (3 Dall.) 398 (1798)

2. Corwin, Small and Jayson, *The Constitution of the United States of America*, 1963 (pp. 135, 136)

3. Ginnane, *The Control of Federal Administration by Congressional Resolutions and Committees*, 66 *Harvard Law Review* 569 (1953)

4. Cooper and Cooper, *The Legislative Veto and the Constitution*, 30 *George Washington Law Review* 467 (1962)

5. *Currin* v. *Wallace*, 306 U.S. 1 (1939)

6. Memorandum Re. Constitutionality of Provisions in Proposed Reorganization Bills Now Pending in Congress, Senate Report No. 232, 81st Congress, 1st Session 120 (1949)

7. "Use of Congressional Resolutions to Disapprove Executive Actions", Library of Congress Congressional Research Service, Memorandum, July 13, 1973.

U.S. ATOMIC ENERGY COMMISSION,
Washington, D.C., July 1, 1974.

Hon. MELVIN PRICE,
Chairman, Joint Committee on Atomic Energy, Congress of the United States.

DEAR MR. PRICE: Pursuant to Section 123c of the Atomic Energy Act of 1954, as amended, copies of the following are submitted with this letter:

a. a proposed superseding "Agreement for Cooperation Between the Government of the United States of America and the Government of the Hellenic Republic Concerning Civil Uses of Atomic Energy";

b. a letter from the Commission to the President recommending approval of the agreement; and

c. a memorandum from the President containing his determination that its performance will promote and will not constitute an unreasonable risk to the common defense and security and authorizing its execution.

The proposed agreement would supersede the present research type of agreement, which came into force in 1955 and expires in 1974. The basic purpose of the superseding agreement is to establish the framework for long-term supply of enriched uranium for fueling nuclear power reactors in Greece. The agreement's term would be forty years.

The agreement reflects the Commission's revised policy governing the long-term provision of uranium enrichment services, which was adopted in 1971 and which has been reflected in bilateral amendments and agreements negotiated since that time, for example, the Spanish agreements and Korean and Swedish amendments. Pursuant to this policy, the new agreement with Greece would be essentially an enabling document and would no longer represent any kind of supply assurance prior to execution of specific toll enrichment contracts. The agreement also is consistent with the modified Uranium Enrichment Services Criteria published by the Commission on May 9, 1973. Major provisions of the agreement are discussed below.

Article VII of the agreement sets forth the basic, enabling framework for long-term supply of enriched uranium fuel. The Commission would be authorized to enter into toll enrichment contracts for supplying power reactor fuel, subject to the availability of capacity in Commission facilities and within the ceiling quantity established in Article IX of the agreement. Once customers in Greece are ready to contract for a particular quantity, they would compete for access to available Commission enrichment capacity on an equitable basis with the Commission's other customers. Such competition for access to available capacity will, in general, be on a "first come, first served" basis.

Article VII provides for continued supply of U–235 to fuel research and experimental reactors. As in the Korean and Swedish amendments, for example, and in view of the expected commercial use of plutonium as reactor fuel, a new provision has been incorporated (paragraph D) to permit transfers of special nuclear material other than U–235 (i.e., plutonium and U–233) for fueling purposes. The Commission does not plan to be a world supplier of such material, particularly plutonium; rather, reactor operators in Greece would be expected to look to the commercial market to meet needs which arise.

Article VIII sets forth conditions governing material supply from the U.S. and its use within Greece. These are common to other Agreements for Cooperation. For example, an economic or technical justification is required before the Commission will give consideration to the transfer of uranium enriched to more than 20% in U-235. Further, the Commission would participate in any decision as to where fuel reprocessing shall be performed. Regarding special nuclear material produced through the use of U.S. material acquired under the bilateral, such produced material may be transferred to third countries provided that such countries have an appropriate agreement for cooperation with the United States or guarantee the peaceful uses of such material under safeguards acceptable to the U.S. and Greece.

Article IX establishes a ceiling on U-235 transfers for power applications. Under the revised supply policy mentioned earlier, the U-235 ceiling is merely an upper limit on the amount which may be transferred for power reactor fueling and does not represent an advance allocation of U.S. diffusion plant capacity. Following the approach adopted in other recent amendments and agreements, the ceiling is based on the total megawatts of nuclear power anticipated to be supported, and it covers a program composed of reactor projects for which supply contracts are expected to be executed within the next five years. Since the Commission's policy pursuant to the Uranium Enrichment Services Criteria normally requires that initial deliveries of enriched uranium for first core loadings be contracted for at least eight years in advance of such need, the quantity limitation in the Greek agreement contemplates the execution of contracts calling for initial first core deliveries up to thirteen years in the future. The Greek power program which would be supported by the proposed agreement totals 3,000 megawatts (electric).

Pursuant to Article X, Greece would give guarantees like those given in the present agreement and other Agreements for Cooperation. The "peaceful uses" guarantee extends to material, equipment and devices transferred under the proposed agreement and to produced special nuclear material.

With respect to safeguards, the current Greek agreement calls for application of safeguards of the International Atomic Energy Agency (IAEA) to transfer under the bilateral. Greece has concluded a standard trilateral safeguards agreement with the U.S. and the Agency respecting such transfers. Further, and as Article XII of the agreement recognizes, Greece has concluded a safeguards agreement with the Agency pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons. Accordingly, and with U.S. agreement, the standard trilateral safeguards arrangement has been suspended, and the U.S. has agreed to suspend its bilateral safeguards rights under the Agreement for Cooperation during the time and to the extent it agrees that the need to exercise such rights is satisfied by the IAEA safeguards arrangements indicated in Article XII.

Article XV establishes a term for the agreement of forty years. The forty-year period is considered appropriate in view of the advance contracting requirement noted earlier and the practice of establishing a term for power-type Agreements for Cooperation which encompasses the approximate economic lifetime of nuclear power reactors. For planning purposes, this lifetime is considered to be about thirty years.

The agreement will enter into force on the date on which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements for entry into force.

Sincerely,

William A. Anders,
Chairman.

Department of State,
Washington, D.C., August 6, 1974.

Hon. Melvin E. Price,
Chairman, Joint Committee on Atomic Energy, Congress of the United States, Washington, D.C.

Dear Mr. Chairman: The Department of State has considered with concern the amendments to section 123.d of the Atomic Energy Act of 1954, as amended, as passed by the Senate on July 10, and by the House with an amendment on July 31 (S. 3698). The Senate bill establishes a specific period of time within which full congressional review of agreements for international cooperation in atomic energy is to take place, i.e., within 60 days of the date such an agreement is submitted to the Congress. This provides more than ample opportunity for the Congress to act prior to the entry into force of any agreement for cooperation. In contrast, the House amendment would leave consideration by the Congress completely open-ended. We believe that enactment of the House amendment would be seriously detrimental to the security and foreign policy interests of the United States.

The procedure for a sixty-day period for Congressional review, with an opportunity for Congress to disapprove the proposed agreement, already exists under present law with respect to agreements for military cooperation. The Senate bill modifies that procedure by requiring the Joint Committee on Atomic Energy to report its findings and recommendations to the full Congress within the first thirty days of the sixty-day period. It also extends this modified procedure to apply to most agreements for civil cooperation.

Twenty years of experience with military cooperation agreements has demonstrated the effectiveness of the above-described procedure in assuring the Congress a meaningful participation in and oversight of the conclusion of nuclear cooperation agreements. The new requirement for a report to the full Congress by the Joint Committee will further strengthen the ability of Congress to exercise its responsibilities.

By contrast, the House amendment poses a grave threat that important programs of international cooperation will be disrupted, not because of Congressional opposition, but because of the uncertainty and risk of Congressional inaction inherent in an open-ended review procedure.

The negotiation of agreements for cooperation under the Atomic Energy Act is often a lengthy, and frequently a delicate, diplomatic task. It is important that both parties to a negotiation work within stable and relatively predictable constitutional and statutory requirements on both sides for successfully bringing into effect the agreement under discussion. This is especially so in this case, where complex technologies requiring long lead times are involved and where critical decisions which may well have basic long-range effects upon a nation's future economic development and strategic position must be made and implemented in a timely manner. The existing provisions of Section 123 reflect these considerations.

Since S. 3698 as passed by the House places no time limit for congressional action, the potential for lengthy delay is obvious and can have serious foreign policy and national security consequenes. For example, amendments to existing agreements for cooperation in civil uses often increase authorized quantities of materials to be transferred to a foreign country for power reactors needed to generate adequate electricity for the nation's people. Thus, delay can result in cutbacks in the power supply of a country with substantial adverse effects on its economy and well-being and, consequently, a harmful impact on our foreign relations with that country. A 60-day period in which the Congress can act has no such drawback.

In addition, agreements for military cooperation with some of our NATO allies are of limited duration in order to permit periodic review by the parties of the continued desirability of particular arrangements for cooperation. When such review, including consultations with the Congress, results in a decision that a particular program should be continued, it is imperative that procedures for renewing the agreement do not involve a serious risk that ongoing programs of importance to our national security, and that of our allies, will lapse. Such a risk is unavoidable under the House amendment.

The uncertainties a foreign government faces when choosing the United States as its supplier of nuclear technology and materials is another matter of special concern from a foreign policy perspective. In addition to the delay discussed above, enactment of the House amendment would be perceived by some governments as a signal that Congress may not act at all. The effectiveness of our representatives, who would be perceived as lacking in adequate authority to speak for the United States Government, would be seriously undercut. The problem of uncertainty would also lead foreign governments to be less able to rely upon the representations made in the course of negotiations on the terms of an agreement pending congressional action. And perhaps most importantly, such uncertainties would lead some foreign governments to choose to do business with suppliers other than the United States.

Our most serious concern with the House amendment is the risk it poses for nuclear proliferation, which would have an obvious and adverse impact on the security and foreign policy of the United States. Our approach to the problem of proliferation in connection with civil uses of atomic energy is to require legal guarantees as a condition of supply and to apply stringent safeguards to all technology, materials, and products of the technology or materials we export. If the potential for delay and the numerous uncertainties described above come to pass by virtue of the enactment of the House amendment, the likelihood inevitably incresaes that foreign governments will turn to other suppliers who may not be as rigorous as the United States in applying safeguards. The gravity of the potential consequences of such an eventuality render the risk unacceptable to the United States.

We respectfully urge that the comments expressed above be given the most careful consideration before final congressional action on S. 3698.

Cordially,

Linwood Holton,
Assistant Secretary for Congressional Relations.

General Counsel of the
Department of Defense,
Washington, D.C., August 8, 1974.

Hon. Melvin E. Price,
Chairman, Joint Committee on Atomic Energy, Congress of the United States, Washington, D.C.

Dear Mr. Chairman: The amendment to H.R. 15582 which was adopted by the House of Representatives on July 31, 1974, is a source of concern to the Department of Defense. As so amended, section 123.d. of the Atomic Energy Act of 1954, which relates to agreements for military cooperation, would be substantially revised to the detriment of the security interests of the United States.

Under the present law, section 123.d. requires all proposed agreements for military cooperation to be submitted to the Congress for review and to lie before the Congress for a 60-day period while Congress is in session. The agreement enters into force after the end of that period if Congress does not disapprove the agreement by concurrent resolution during that period. As revised by H.R. 15582, as amended, a proposed agreement for military cooperation would not, however, enter into force unless and until specifically approved by an Act of Congress.

Insofar as I am aware, the existing statutory procedure has been deemed over the years to provide the Congress with a meaningful voice in determining the parameters of military cooperation in nuclear matters.

As you know, the Department of Defense has kept the Joint Committee fully and currently informed with respect to all matters within the Department of Defense relating to the development, utilization and application of atomic energy. The continuing and fruitful dialogue between the Department of Defense and the Joint Committee has enabled the Department of Defense to enter into negotiations with our Allies for agreements for military cooperation in the confidence that the terms and conditions proposed by the representatives of the United States would be acceptable to the Congress, and that such agreements would enter into force 60 days after they had been submitted to the Congress for review. The existing statutory procedure has permitted our negotiators not only to speak authoritatively for the United States Government during the negotiation of the initial agreements for cooperation, but also with respect to renewals of the duration thereof. When reviews of expiring agreements result in a decision after consultation with the Joint Committee that a particular agreement should be continued, the existing statutory procedure provides a high degree of assurance that the agreement proposed to be renewed will in fact be renewed without interruption to ongoing programs of importance to our national defense.

In contrast, the House Amendment would create a substantial risk that these important programs would be disrupted—not because of any change in the relationships between the Department of Defense and the Joint Committee, but because of the uncertainty of the timing of the required affirmative action by the Congress. To take the case, for example, of the agreement for military cooperation with the United Kingdom which is scheduled to expire on December 31, 1974, it is not anticipated that the Congress would oppose the renewal of that agreement. The Congress might, however, fail for a variety of reasons to enact timely legislation specifically approving the renewal of the agreement. If so, we would be unable as of January 1, 1975, to continue to exchange information with the United Kingdom of critical importance to the maintenance of the deterrent strength of the North Atlantic Treaty Alliance. The potential consequences of delay or inaction on the part of the Congress under the House Amendment could, therefore, have grave destabilization effects.

I accordingly urge that the House Conferees assess the foregoing comments when they meet with the Senate Conferees to resolve the differences between H.R. 15582 and S. 3698.

Sincerely,

MARTIN R. HOFFMANN.

LABOR DISTORTION OF CAMPAIGN REFORM

(Mr. ANDERSON of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ANDERSON of Illinois. Mr. Speaker, just prior to the Labor Day recess, I inserted remarks in the CONGRESSIONAL RECORD highly critical of the AFL–CIO News account of a key vote on the Federal Election Campaign Act—CONGRESSIONAL RECORD, August 21, 1974, page 29747. The August 17 issue of the News had printed a rollcall vote-listing in the Dickinson motion to recommit with the explanation that it was a vote to "kill" the bill. As one who voted for that motion to recommit with instructions to simply add an amendment, I expressed my indignation with the paper's characterization of the vote and demanded that the News print a retraction properly explaining the significance of the vote.

I am pleased to report that the August 24 issue of the AFL–CIO News, page 2, carried a retraction of sorts, though not labeled as such, in which it explained that the real effect of the Dickinson motion would have been to "severely cripple labor's COPE activities," by requiring that individual contributions to COPE be designated for specific candidates. The account did not indicate that this provision would apply equally to all such political action funds, not just to labor's.

In the press release which I issued in conjunction with my remarks on August 21, I predicted that, "if the AFL–CIO News account is any indicator, COPE is bound to use this as the vote on campaign reform," thus emphasizing the absurdities of special interest group congressional rating systems. Sure enough, the September 7 issue of the AFL–CIO News carried the 1974 COPE ratings, and only one vote on the campaign reform bill was included in those ratings: The vote on the Dickinson motion to recommit the bill with instructions. The News COPE rating completely ignored key votes on expenditure limitations, independent elections commission, or public financing. As I had predicted, the amendment to permit individuals, including union members, to designate the beneficiaries of their interest group campaign contributions, was listed as the only important vote on the campaign bill. Frankly, as one who voted for the Dickinson motion, I will be delighted to justify to every union member in my district my vote to protect his right to specify which candidates should receive his COPE contributions.

But, the overriding importance of this whole episode, it seems to me, is the double disservice performed by the AFL–CIO News in its original account by smearing many Members of the House in charging them with attempting to "kill" a bill which they voted for on final passage. At a time when President Ford is attempting to inspire new confidence in Government through openness and candor, it is sad that this arm of the labor press is employing tactics which undermine its own journalistic integrity and credibility. Moreover, for the COPE rating system to use the vote on the Dickinson motion as the only important vote on campaign finance reform is a gross distortion of the real stand on this issue taken by many Members of Congress.

WALTER PARKER JONES—1894–1974

(Mr. MOSS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MOSS. Mr. Speaker, a few days ago the Nation witnessed the passing of one of our greatest editors. I refer to Walter P. Jones, editor of the McClatchy Newspapers, whose 70-year career in newspapers began as a carrier boy on the streets of his home city of Sacramento, Calif., and ended at the age of 80 at the top of his profession. At the time of his death he was editor of the Sacramento Bee—the third editor in that newspaper's 117-year history—and was responsible for the editorial contents of that paper as well as the Fresno and Modesto Bees.

Mr. Speaker, a glimpse at the character and an indication of the dedication of purpose of this truly great and fine man are aptly portrayed in the following editorial, appearing in the Sacramento Bee on September 9, 1974:

WALTER PARKER JONES—1894–1974

Walter P. Jones, Sr., was a strong man who believed men and institutions should never look back, that they always should look forward. But before we look ahead, again, let us mourn his passing, man and editor, if only briefly.

Perhaps the most appropriate tribute to the memory of this good man is to recall that he took the position of editor of a newspaper committed to "independence of clique or faction," as The Bee's salutatory editorial put it in its founding year, 1857, that Jones passes on that editorship—still free from influence and still independent.

In all, Walter Jones gave to The Bees 55 years of his life, 36 of them as editor. His was a leadership firm in resolve, decisive in execution, unyielding in dedications. His position among courageous editors is secure for all time.

Walter Jones came to the editorship of The Bees in 1936 at the death of C. K. McClatchy who represented the second generation of a family direction of The Bees begun in 1857 by James McClatchy. Thus, Jones was but the third editor in a tradition which has survived 117 years, giving to this publication a rare continuity in American journalism.

He came to his assignment with 17 years of close association with C. K.: As political editor, as a managing editor, as editorial director of the McClatchy newspapers the last years of C. K.'s life.

He would be embarrassed by tribute. Suffice it to recall, then, but a few of the projects to which he dedicated this newspaper:

The promotion of flood control and irrigation; the extension of the Central Valleys Project; progressive statutes bearing on the general welfare—"people legislation," as he would put it—the preservation of the State Fair and Cal Expo and the State Capitol, in Sacramento, and unfailing support for the military establishments in the Greater Sacramento Community and in the circulation territories of the three Bees.

Also: Perpetuation of the Sacramento Municipal Utility District and defense of the concept of public ownership of the basic utilities; encouragement of redevelopment in the old slums; preservation of the Old City Quarter and, more recently, the establishment of the Sacramento-Earl Warren Community Center.

In all that he undertook, Walter Jones never lost sight of The Bee reader in the scheme of things. He was firm in his resolve that The Bees should remain "tribunes of the people," a phrase he often quoted from C. K. McClatchy.

He loved this city.
He loved its people.
He loved this newspaper.

But it was the love of an advocate who constantly urged upon all who would listen commitment to the better life and a faithful respect for the old principles of decency and honesty in the conduct of affairs.

The best testament to Walter Parker Jones, perhaps, is in The Bee readership and in the laws of the city and the state upon which he had immeasurable influence, through The Bees. In his exposes of abuse in government—one such expose under Walter Jones' direction was to bring to The Sacramento Bee the Pulitzer Prize—he thought government ought to be kept "answerable" to the people; he thought the Constitution meant what it said when it spoke for freedom of speech; and in all its dealings with the people he demanded that government be the servant, never the master, of the people.

This good and gentle man is gone.

He was greatly valued, in life. In death, if men truly are judged by the good work they leave behind, and his was a full printer's measure, his memory will endure so long as The Bee masthead endures.

THE TAX AND LOAN ACCOUNT INTEREST ACT OF 1974

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, I am today reintroducing the Tax and Loan Account Interest Act of 1974. I introduced this bill 1 year ago in an attempt to draw public attention to a serious misuse of the taxpayers' money where the Federal Government is keeping billions of dollars of Federal revenues in interest-free "tax and loan accounts" at commercial banks. The banks are free to invest this money as they please, and earn millions of dollars in interest each year.

At a time when many families can not even find a bank to give them a mortgage to buy a home, this subsidization of the banks by the Federal Government approaches the outrageous. My bill would require the banks to pay interest on tax and loan account funds.

The Treasury Department recently announced that it is preparing a similar proposal to reform the tax and loan account system, after years of prodding by the distinguished chairman of the Banking and Currency Committee, Hon. Wright Patman, and others. The Banking and Currency Committee is expected to take up the Treasury's proposal shortly after it is sent up to Congress.

Because of the way my Tax and Loan Account Interest Act was originally drafted, it was sent to the Ways and Means Committee, which does not intend to consider it this year. In order that my bill may be considered along with the Treasury' proposal, I have redrafted it so that it clearly falls, within the jurisdiction of the Banking and Currency Committee.

Ralph Nader recently wrote a column outlining the history of the tax and loan account issue, and urged prompt congressional action to end the Government's subsidization of the banks. I offer it for inclusion in the Record at this point:

Subsidizing the Banks

(By Ralph Nader)

Back in December 1970, law professor John A. Spanogle sat down and wrote a letter to Hampton Rabon, deputy assistant secretary of the Treasury Department, about a very large subsidy which the Treasury was providing hundreds of banks.

Spanogle, who was working with us at the time, wanted to know why the Treasury was leaving billions of dollars of its tax deposits and other funds, known as tax and loan accounts, in non-interest-bearing demand deposits.

He believed that the banks were reaping a massive windfall at the expense of taxpayers, whose payments should have been earning interest for the Treasury.

Rabon replied two weeks later:

"I must take exception to your categorical statement that the earning value of balances in tax and loan accounts is much greater than the value of services performed by banks.

"These facts . . . clearly show, in my opinion, that the balances maintained in tax loan accounts with some 12,700 banks throughout the country are not surplus to our needs and, therefore, no part of the balances should be invested."

Spanogle was not satisfied. He pressed on and his cause was taken up in 1971 and 1972 by another law professor, Fairfax Leary, who was on leave with us. Congressman Wright Patman, chairman of the House Banking and Currency Committee, renewed his longstanding criticism of this bank subsidy with a staff report in May 1972 that denounced these non-interest bearing accounts.

These accounts are not small. The average tax and loan account balances by the Treasury in banks ranged from $6.9 billion in 1970 to $8.4 billion in 1973.

More than four-fifths of these sums could be invested in short term money market instruments. At present interest rates, the Treasury could be earning more than $600 million a year instead of being a sugar daddy for banks already reporting record profits.

Other voices spoke up against this tax and loan windfall. Sen. Thomas McIntyre, D-N.H., went to the Senate floor in June 1973 calling for Congressional hearings. Congressman John Seiberling, D-Ohio, introduced a bill to require the payments on interest on these balances.

In the meantime, there were stirrings at the Treasury Department. A study was ordered in 1972 and a draft questionnaire was developed for banks to answer about what services they believed they were providing the government.

My associate, attorney Tommy Jacks, submitted detailed suggestions on the inadequacy of this draft questionnaire, some of which were adopted.

Last month, the force of fact and reason prevailed and the Treasury Department changed its mind.

In a public report, the department concluded that the nation's banks, based on the 1967–1972 average interest rate of 91-day Treasury bills (5.5 percent) reaped a $300 million benefit each year by investing idle tax and loan accounts. At current interest rates the windfall in 1974 will be over $600 million.

That amount of money would have funded in fiscal 1974 all the following federal agencies: the Small Business Administration, Civil Aeronautics Board, Consumer Product Safety Commission, Equal Employment Opportunity Commission, Federal Power Commission, Federal Trade Commission, Occupational Safety and Health Review Commission, Securities and Exchange Commission, and the Selective Service System.

There was one more hurdle to overcome, said the Treasury: "Congress should consider legislation authorizing the Treasury to invest in money market instruments for cash management purposes." Pending such legislation, the Treasury says it is limited in what it can do to reduce this unjust bank enrichment.

So every day that the Congress delays, the Treasury is losing almost two million dollars in interest.

Congress has been known to move very quickly in favor of a special interest, such as the present loan guarantee program for banks lending to the cattle industry. If the Treasury is sincere in its desire for congressional authority, its emissaries will move fast on Capitol Hill in cooperation with Rep. Patman and Sen. McIntyre.

Our experience with this matter, however, indicates that citizens cannot take anything for granted when it comes to Congress and the Treasury actually doing something for the public interest, even when they agree about what should be done. So let them hear from you.

H.R. 16703

A bill to amend the Federal Deposit Insurance Act to terminate the insurance of any bank which fails to pay a certain rate of interest on all tax and loan accounts

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Tax and Loan Account Interest Act of 1974."

Sec. 2. The second sentence of section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended by inserting "or fails to pay interest (to the United States) at the Federal funds interest rate on all tax and loan accounts maintained at such bank," immediately before "the Board of Directors shall first give to the Comptroller of the Currency."

Sec. 3. The Secretary of the Treasury may enter into agreements with banks which render banking services to the Federal Government for charges to be made for the banking services which the bank performs on behalf of the Federal Government.

THE WORLD FERTILIZER SHORTAGE

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the world's food needs are increasing at a rate of about 4 percent per year. That means that we must accomplish the incredible task of doubling current food production levels within the next 25 years in order to insure that the next generation has enough to eat.

One essential ingredient in any effort to increase global food production is an increase in fertilizer supplies. Since the onset of the energy crisis, however, we have seen a drastic decrease in the availability of raw materials needed to produce this precious commodity, threatening our ability to maintain even current food production levels.

The impact of the fertilizer shortage has hit the developed nations hard enough. Its impact on the underdeveloped nations of the world has been devastating. While a ton of fertilizer applied to already heavily fertilized lands in developed nations produces 5 tons of food grain, a ton of fertilizer applied to the emaciated lands of some underdeveloped nations produces 10 tons of food grain.

Doubling and tripling fertilizer prices have made it virtually impossible for the underdeveloped countries to import enough fertilizer to maintain sufficient domestic food production to meet the needs of their rapidly growing populations. For each $1 worth of fertilizer the developing nations are unable to import now, they will have to import $5 worth of food a year later. This could cost more than $3 billion in scarce foreign exchange, an almost impossible amount for many countries where the per capita income is less than $100.

As long as we rely on oil and natural gas as the primary raw materials for producing fertilizer, fertilizer supplies will be short and costly, and food in many areas of the world will be scarce. We must develop new ways of producing fertilizer not dependent upon scarce raw materials. I recently introduced the Food Research and Development Act to establish a Government-sponsored program to help find new sources of fertilizer, as well as new types of protein which do not require its use.

The Food Research and Development Act would support research like that being conducted by scientists at the University of Wisconsin who think they have discovered a new strain of bacteria which can product eight times as much fertilizer as normal soil bacteria. Their work, if successful, could have revolutionary implications for agricultural technology, particularly in underdeveloped nations where transportation of heavy commercial fertilizers is expensive. Farmers of the future may be able to add this new super bacteria to their soil and not have to worry about refertilizing for long periods of time.

Our ability to meet the food needs of the next generation depends on basic research such as this. The Food Research and Development Act would insure that such research continues and is applied to our practical food needs.

The Wisconsin State Journal recently published an article on the research being done at the University of Wisconsin on the new fertilizer-producing bacteria, which I ask to have printed in the Record at this point:

This Mutant Is Always Turned On

(By John Newhouse)

In the days when food shortages are a world-wide concern, farm fertilizers are in the limelight.

And that makes a discovery at the University of Wisconsin-Madison involving nitrogen, a key component in important farm fertilizers, all the more interesting.

Throughout the years, tiny bacteria working underground have taken nitrogen from the air and turned it into nitrates and ammonia and have done it with little fuss and feathers.

Smarter than the smartest human laboratories, they have even developed a way of turning production off and on, depending on the level of nitrates and ammonia in the soil around them, says Prof. Winston Brill, of the UW-bacteriology department.

Now Dr. Brill and his group have come up with a mutation of those bacteria which have lost the ability to turn themselves off. They just keep on working.

How to utilize the invention, he doesn't exactly know.

"My job is to do the basic research," he says. "Someone else—with a different know-how—can use the information as best they can."

Over the past year since he announced his discovery in scientific papers, there's been a world-wide interest. Brill has ample supplies of the bacteria, and he is sending samples to laboratories that want to work more with the mutant.

One scientist in France writes that he plans to use the bacteria in fertilizing rice paddies.

"Nitrogen is important to human life in that it is a vital part of the proteins we need to sustain life," says Dr. Brill.

"There are ample world supplies of nitrogen. Eighty per cent of the air is nitrogen. But neither humans nor animals can take it directly into the body from the air.

"That requires the work of bacteria in the soil, which perform the task at normal temperatures and normal pressures."

Man can make nitrates and ammonia, he says, but that takes tremendously high temperatures and pressures. And, worse than that, it calls for natural gas, and in these days of energy shortages that poses a problem.

(The farm editor of The Wisconsin State Journal reports that anhydrous ammonia, containing nitrogen, is selling for more than $300 a ton as compared with $57 a ton last year, and some scalpers are asking $400 a ton.)

There are two types of nitrogen-fixing bacteria in the soil, Dr. Brill says. One is called the "free living nitrogen-fixing bacteria," and the second, "rhizobium," which infect the roots of such plants as soy beans, alfalfa, sweet clover, and peas.

A nodule grows at the site of the infection, and the rhizobium goes to work inside to produce nitrates and ammonia which the plant, in turn, uses to make it a richer food for cattle or humans.

To complete the chain, humans get their protein from the animals or the plants, gaining the nitrogenous products they can get no other way.

Since both types of bacteria can turn themselves off and on, nature avoids the kind of problems which occur when man puts commercial fertilizer on fields ahead of a rain and the fertilizer goes to a lake, to overfertilize it, or into a well, where it can cause problems to humans drinking the water.

Dr. Brill and his group have done most of their work with the free living nitrogen fixing bacteria, and are trying to find out how the bacteria work their magic.

They've purified enzymes, the catalysts, from the tiny bacteria themselves so small that 1 million of them would stretch a yard if laid end to end.

Industry is eyeing their work for there may be a way to synthesize the work of the bacteria in the factory.

There's the possibility that a better mutant can be made. The researchers discovered one mutant bacteria which has close to eight times the ability to make one part of the nitrogen fixing system, and maybe they can tinker this up as a super nitrogen fixer, "or merge its genes into the mutant which has forgotten how to turn itself off."

"There's the possibility of improving through genetic change," says Dr. Brill.

To do this, they introduce different genes into the DNA of viruses, smaller themselves than the bacteria, in the hopes that the viruses will burrow through the walls of the single celled bacteria and that the genes will start issuing new production orders to the host bacteria.

"We have a virus which will go through the walls of some bacteria," says Dr. Brill, "but unfortunately, not on the one we most want to change."

But they're still working on it.

There is the possibility that, some day, a farmer will add the bacteria to the soil, along with the food the bacteria needs, to fix nitrogen.

"All it needs is air, water, and the sugars which are bound up in many presently waste products, such as corn cobs, and a few salts," says Dr. Brill.

This could be significant for countries low in fertilizers and where transplantation of heavy commercial fertilizers could be expensive.

As for the bacteria which have forgotten how to turn off being a problem in the soil because they keep on producing . . .

"I rather doubt this," says Dr. Brill. "We have to take it into account, of course. But these bacteria are freaks, and I'd guess that other bacteria would overtake them after about so long.

"After all, there's competition among bacteria for food. Bacteria produce antibiotics which poison other bacteria, and there's a real life-death struggle going on in the soil all the time."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Mann (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Helstoski (at the request of Mr. O'Neill), for September 16, 17 and 18, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Pritchard) to revise and extend their remarks and include extraneous matter:)

Mr. Bauman, for 5 minutes, today.

Mr. McDade, for 5 minutes, today.

(The following Members (at the request of Ms. Jordan) and to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Flood, for 10 minutes, today.

Mr. Reuss, for 20 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Moss, in connection with general debate in the Committee of the Whole today on H.R. 7917, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,251.

(The following Members (at the request of Mr. Pritchard) and to include extraneous matter:)

Mr. Dickinson.

Mr. Broomfield in two instances.

Mr. Zwach in two instances.

Mr. Anderson of Illinois in two instances.

Mr. Ketchum.

Mr. Landgrebe.

Mr. Findley in three instances.

Mr. Kuykendall.

Mr. Derwinski in four instances.

Mr. Wyman in two instances.

(The following Members (at the request of Ms. Jordan) and to include extraneous material:)

Mr. Van Deerlin.

Mr. Pickle in 10 instances.

Mr. Won Pat.

Mr. Matsunaga in five instances.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Anderson of California in two instances.

Mr. Drinan.

Mr. Reuss in five instances.
Mr. Evins of Tennessee.
Mr. Aspin in 10 instances.
Mr. Harrington.
Mr. Carney of Ohio.
Mr. Dingell.
Mr. Udall in five instances.
Mr. Pepper.
Mr. Mollohan.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2423. An act for the relief of Angela Garza; to the Committee on the Judiciary.

S. 2474. An act to amend the Securities Exchange Act of 1934, as amended, to provide for the regulation of brokers, dealers, and banks trading in municipal securities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

BILL AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on September 16, 1974, present to the President, for his approval, a bill and joint resolutions of the House of the following titles:

H.R. 14883. An act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for a 2-year period, and for other purposes;

H.J. Res. 910. A joint resolution asking the President of the United States to declare the fourth Saturday of September 1974, "National Hunting and Fishing Day"; and

H.J. Res. 1070. A joint resolution authorizing the President to proclaim the period of September 15, 1974, through October 15, 1974, as "Johnny Horizon '76 Clean Up America Month."

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3052. An act to amend the act of October 13, 1972.

ADJOURNMENT

Ms. JORDAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock p.m.), the House adjourned until tomorrow, Wednesday, September 18, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2754. A letter from the President of the United States, transmitting a proposed supplemental appropriation for fiscal year 1975 for the U.S. Postal Service (H. Doc. No. 93–354); to the Committee on Appropriations and ordered to be printed.

2755. A letter from the President of the United States, transmitting a proposed supplemental appropriation for fiscal year 1975 for the U.S. Railway Association (H. Doc. No. 93–355); to the Committee on Appropriations and ordered to be printed.

2756. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to reestablish the period within which the President may transmit to the Congress plans for the reorganization of agencies of the executive branch of the Government, and for other purposes; to the Committee on Government Operations.

2757. A letter from the Deputy Assistant Secretary of the Interior, transmitting a report on the disposal of surplus Federal real property for park and recreation purposes covering fiscal year 1974, pursuant to section 203(o) of the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C. 484(a)]; to the Committee on Government Operations.

2758. A letter from the Secretary, Aviation Hall of Fame, Inc., transmitting the annual audit of the organization for calendar year 1973, pursuant to section 15(b) of Public Law 88–372; to the Committee on the Judiciary.

2759. A letter from the Deputy Assistant Secretary of the Interior, transmitting a report of the Fish and Wildlife Service, Department of the Interior, on the administration of the Marine Mammal Protection Act of 1972 during the year ended June 21, 1974, pursuant to section 103(f) of the act (16 U.S.C. 1373(f)); to the Committee on Merchant Marine and Fisheries.

2760. A letter from the Secretary of Health, Education, and Welfare, transmitting a report on prospective reimbursement studies, experiments, and demonstrations, pursuant to section 222(a)(5) of the Social Security Amendments of 1972 (Public Law 92–603); to the Committee on Ways and Means.

2761. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Social Security Act to exclude certain limited partnership income from coverage under the old-age, survivors, and disability insurance program established under that act; to the Committee on Ways and Means.

Received From the Comptroller General

2762. A letter from the Comptroller General of the United States, transmitting a report that fundamental changes are needed to achieve a Government-wide overseas benefits and allowances system for U.S. employees; to the Committee on Government Operations.

2763. A letter from the Comptroller General of the United States, transmitting a report on employment opportunities in the Federal Government for the physically handicapped; to the Committee on Government Operations.

2764. A letter from the Comptroller General of the United States, transmitting a report on U.S. economic assistance to Turkey; to the Committee on Government Operations.

2765. A letter from the Comptroller General of the United States, transmitting a supplement to the report on U.S. economic assistance to Turkey; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 3458. A bill to declare that the United States holds in trust for the Bridgeport Indian Colony certain lands in Mono County, Calif. (Rept. No. 93–1353). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 7978. A bill to declare that certain federally owned lands shall be held by the United States in trust for the Hualapai Indian Tribe, of the Hualapai Reservation, Ariz., and for other purposes; with amendment (Rept. No. 93–1354). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 8229. A bill to declare that certain federally owned land is held by the United States in trust for the Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Indian Reservation in North and South Dakota; with amendment (Rept. No. 93–1355). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 8230. A bill to authorize the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation to consolidate its landholdings in North Dakota and South Dakota, and for other purposes; with amendment (Rept. No. 93–1356). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 9105. A bill to declare that certain federally owned lands shall be held by the United States in trust for the Kootenai Tribe of Idaho, and for other purposes; with amendment (Rept. No. 93–1357). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 12972. A bill to amend the act of June 30, 1944, an act "To provide for the establishment of the Harpers Ferry National Monument", and for other purposes; with amendment (Rept. No. 93–1358). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 14791. A bill to amend the Wild and Scenic Rivers Act (82 Stat. 906), and for other purposes; with amendment (Rept. No. 93–1359). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. House Joint Resolution 444. Joint resolution to authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project; with amendment (Rept. No. 93–1360). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 8824. A bill to provide for the conveyance of certain real property of the United States to Mrs. Harriet La Pointe Vanderventer (Rept. No. 93–1361). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MELCHER (for himself, Mr. Haley, Mr. Hosmer, Mr. Udall, Mr. Steiger of Arizona, Mr. Don H. Clausen, Mr. Dellenback, Mr. Regula, Mr. Won Pat, Mr. Owens, and Mr. Young of Alaska):

H.R. 16676. A bill to establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PEPPER:

H.R. 16677. A bill to establish the Reconstruction Finance Corporation to make loans or loan guarantees to business concerns which would otherwise be unable to obtain needed financing; to the Committee on Banking and Currency.

By Mr. ASPIN:

H.R. 16678. A bill to provide for the conveyance to the Boy Scouts of certain real property in the Chequamegon National Forest in Wisconsin; to the Committee on Agriculture.

H.R. 16679. A bill to protect purchasers and prospective purchasers of condominium housing units, by providing for disclosure and regulation of condominium sales by the Secretary of Housing and Urban Development; to the Committee on Banking and Currency.

By Mr. BAUMAN:

H.R. 16680. A bill to amend the Internal Revenue Code of 1954 to provide a limited exclusion from gross income for interest on deposits in banks and certain other savings institutions; to the Committee on Ways and Means.

By Mr. BLACKBURN:

H.R. 16681. A bill to further the purposes of the Wilderness Act by designating certain lands for inclusion in the National Wilderness Preservation System, to provide for study of certain additional lands for such inclusion, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. JOHN L. BURTON (for himself, Mr. Phillip Burton, and Mr. Stark):

H.R. 16682. A bill to extend for 2 years the authorization for the striking of medals in commemoration of the 100th anniversary of the cable car in San Francisco; to the Committee on Banking and Currency.

By Mr. COCHRAN (for himself and Mr. Bowen):

H.R. 16683. A bill to prevent discrimination against electric customers for costs of electric service in those cases where electric power generation must be provided through use of more expensive fuels as a result of natural gas curtailments under authorization of the Federal Power Commission, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 16684. A bill to prohibit the Federal Power Commission from abrogating natural gas curtailments under authorization of the Federal Power Commission, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. COCHRAN (for himself and Mr. Lott):

H.R. 16685. A bill to amend the Internal Revenue Code (as it pertains to accumulated taxable corporate income) to provide for an increase in the accumulated earnings credit; to the Committee on Ways and Means.

By Mr. CORMAN (for himself and Mr. Conte):

H.R. 16686. A bill to amend the Small Business Act to make small business procurement policies and procedures as prescribed in such act applicable to the U.S. Postal Service; to the Committee on Banking and Currency.

H.R. 16687. A bill to amend title 39, United States Code, to make small business procurement policies and procedures as prescribed in the Small Business Act applicable to the U.S. Postal Service; to the Committee on Post Office and Civil Service.

By Mr. DINGELL:

H.R. 16688. A bill to increase the amount of benefits payable to widows of certain former employees of the Lighthouse Service; to the Committee on Merchant Marine and Fisheries.

By Mr. FISH:

H.R. 16689. A bill to prohibit the sale of "Saturday Night Special" handguns in the United States; to the Committee on the Judiciary.

By Mr. GUNTER (for himself, Mr. Haley, Mr. Chappell, Mr. Gibbons, Mr. Harrington, Mr. Kyros, Mr. Studds, Mr. Moakley, Mr. Wolff, Mr. Roe, Mr. Benitez, Mr. Conyers, Mr. Tiernan, Mr. Rodino, Mr. Hosmer, Mr. Fascell, Mr. Bafalis, Mr. Murphy of New York, Ms. Grasso, Mr. Rogers, Mr. Howard, Ms. Heckler of Massachusetts, Mr. Cronin, Mr. Forsythe, and Mr. Pepper):

H.R. 16690. A bill making a supplemental appropriation for the Department of Health, Education, and Welfare for the fiscal year ending June 30, 1975, to provide funds to conduct a study of the effects of the red tide on human health; to the Committee on Appropriations.

By Mr. HAMMERSCHMIDT:

H.R. 16691. A bill to abolish the U.S. Postal Service, to repeal the Postal Reorganization Act, to reenact the former provisions of title 39, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 16692. A bill to repeal the earnings limitation of the Social Security Act; to the Committee on Ways and Means.

By Mr. KARTH (for himself and Mr. Dingell):

H.R. 16693. A bill to provide additional funds to the States for carrying out wildlife restoration projects and programs, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. McDADE:

H.R. 16694. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended; to the Committee on Interior and Insular Affairs.

H.R. 16695. A bill to provide for protection of franchised dealers in petroleum products; to the Committee on Interstate and Foreign Commerce.

H.R. 16696. A bill to amend the Internal Revenue Code of 1954 to increase the exemption for purposes of the Federal estate tax from $60,000 to $120,000; to the Committee on Ways and Means.

By Mr. MATHIS of Georgia:

H.R. 16697. A bill to amend the Internal Revenue Code of 1954 to increase the exemption for purposes of the Federal estate tax, to increase the estate tax marital deduction, and to provide an alternate method of valuing certain real property for estate tax purposes; to the Committee on Ways and Means.

By Mr. MELCHER:

H.R. 16698. A bill to provide for an accelerated cost-of-living increase in social security benefits; to the Committee on Ways and Means.

By Mr. PEYSER:

H.R. 16699. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the interest on deposits in certain savings institutions; to the Committee on Ways and Means.

By Mr. PRICE of Illinois (for himself Mr. Holifield, Mr. Hosmer, Mr. Young of Texas, Mr. Anderson of Illinois, Mr. McCormack, Mr. Roncalio of Wyoming, Mr. Hansen of Idaho, and Mr. Lujan):

H.R. 16700. A bill to amend the Atomic Energy Act of 1954, as amended, to provide for approval of sites for production and utilization facilities, and for other purposes; to the Committee on Joint Committee on Atomic Energy.

By Mr. ROGERS:

H.R. 16701. A bill to exclude from gross income the first $750 of interest received from savings account deposits in home lending institutions; to the Committee on Ways and Means.

By Mr. ROYBAL (for himself and Mr. Thompson of New Jersey):

H.R. 16702. A bill to provide for the establishment of a National Office for Migrant and Seasonal Farmworkers within the Department of Health, Education, and Welfare, with responsibility for the coordinated administration of all of the programs of that Department serving migrant and seasonal farmworkers; to the Committee on Education and Labor.

By Mr. SEIBERLING (for himself and Mr. Regula):

H.R. 16703. A bill to amend the Federal Deposit Insurance Act to terminate the insurance of any bank which fails to pay a certain rate of interest on all tax and loan accounts; to the Committee on Banking and Currency.

By Mr. McDADE:

H.J. Res. 1129. Joint resolution asking the President of the United States to declare the month of January as "National Polka Month"; to the Committee on the Judiciary.

By Mr. FRASER:

H. Con. Res. 637. Concurrent resolution authorizing the printing of additional copies of a report issued by the Committee on Foreign Affairs; to the Committee on House Administration.

By Mr. KETCHUM:

H. Con. Res. 638. Concurrent resolution expressing the sense of Congress regarding amnesty; to the Committee on Armed Services.

By Mr. BYRON:

H. Res. 1369. Resolution expressing the sense of the House regarding the halt of U.S. economic and military assistance to Turkey until all Turkish armed forces have been withdrawn from Cyprus; to the Committee on Foreign Affairs.

By Mr. CONYERS:

H. Res. 1370. Resolution directing the President to furnish to the House of Representatives the information on which he based his decision to grant a pardon to Richard M. Nixon and certain other information; to the Committee on the Judiciary.

By Mr. MATHIS of Georgia:

H. Res. 1371. Resolution expressing the sense of the House that efforts of the Department of Health, Education, and Welfare to promote the desegregation of public schools should be applied with the same intensity standards, and sanctions in every region of the United States; to the Committee on Education and Labor.

By Mr. THOMSON of Wisconsin:

H. Res. 1372. Resolution to amend the Rules of the House of Representatives with respect to the estimated cost to the public and nonpublic sectors of legislation and proposed administrative rulemaking; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

532. The SPEAKER presented a memorial of the Legislature of the State of California, relative to interest rates; to the Committee on Banking and Currency.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HANNA:

H.R. 16704. A bill for the relief of Sergio Velikopoljski; to the Committee on the Judiciary.

By Mr. ROGERS:

H.R. 16705. A bill for the relief of Shoji Oue Snyder; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

501. By the SPEAKER: Petition of the American Soybean Association, Hudson, Iowa, relative to soybeans; to the Committee on Agriculture.

502. Also, petition of the Alabama State Restaurant Association, Mountain Brook, Ala., relative to the shortage of pennies; to the Committee on Banking and Currency.

503. Also, petition of the City Council, East Orange, N.J., relative to the pardon of former President Nixon; to the Committee on the Judiciary.

504. Also, petition of the House Delegates of the American Bar Association, Chicago, Ill., relative to establishment of an Office of Law Revision Counsel in the House of Representatives; to the Committee on Rules.

SENATE—*Tuesday, September 17, 1974*

The Senate met at 10:30 a.m. and was called to order by Hon. Harry F. Byrd, Jr., a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, we thank Thee for this world which Thou hast given us for our home; for night and day, for light and dark, for sunset and for dawn.

We thank Thee for our creation as we are. We thank Thee for hands to work and feet to walk, for eyes to see and ears to hear. We thank Thee for minds to think, for memories to cherish and hearts to love.

We thank Thee for colleagues on whose wisdom we draw to help us do our work and solve our problems. We thank Thee for all those who counsel, guide, and support us. We thank Thee for those whose friendship gives strength and whose love gives glory to our lives.

We thank Thee for this Nation in which we live and are privileged to serve. Lift all our work into the higher order of Thy kingdom and grant us the grace and wisdom of Jesus, who went about doing good.

We pray in His name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., September 17, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Harry F. Byrd, Jr., a Senator from the State of Virginia, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. HARRY F. BYRD, JR., thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of proceedings of Monday, September 16, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

NATIONAL SCIENCE FOUNDATION

The second assistant legislative clerk proceeded to read sundry nominations of National Science Foundation members of the National Science Board.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

POWER OF CONGRESS TO IMPEACH AND TRY A PRESIDENT AFTER HE HAS RESIGNED; AND POWER TO CONTINUE A TRIAL OF AN IMPEACHMENT BEGUN IN ONE SESSION AND CARRIED OVER INTO A SUBSEQUENT SESSION OF CONGRESS

Mr. MANSFIELD. Mr. President, on August 4, 1974, during the impeachment proceedings in the House of Representatives, I requested the very able and distinguished law faculty at the University of Montana School of Law, through its dean, Robert E. Sullivan, to consider and provide me and the Senate with advice and counsel concerning two constitutional questions, which at that time confronted the Senate and the Nation. One question dealt with the power of Congress to impeach and try a President after he has resigned and the other related to a continuation of a trial of an impeachment begun in one session and carried over into a subsequent session of Congress.

Dean Sullivan responded to my request and has submitted a memorandum prepared under the direction of Prof. Gardner Cromwell of the University of Montana School of Law.

While the overriding issue of impeachment proceedings has been rendered moot by the acceptance by the House of Representatives of the report of its Committee on the Judiciary, it is my judgment that the work product of this legal research endeavor by the University of Montana is of significance and should be included in the public record. In pursuance of that objective, also, I have forwarded a copy of the memorandum to Senator Howard Cannon, chairman of the Committee on Rules and Administration, asking that he review the conclusions of this memorandum to determine whether any changes in Senate rules might be suggested in view of the points considered.

Moreover, to enable the full Senate, and others interested in these issues, to have the benefit of these views, I ask unanimous consent that the memorandum be printed at this point in the Record, as well as a letter which I have received from Dean Robert E. Sullivan of the School of Law, University of Montana, under date of August 23, 1974.

There being no objection, the letter and memorandum were ordered to be printed in the Record, as follows:

University of Montana,
Missoula, Mont., August 23, 1974.

Hon. Mike Mansfield,
Senate Majority Leader, Senate Office Building, Washington, D.C.

Dear Senator Mansfield: In response to your request of August 7, I am enclosing a memorandum by Professor Gardner Cromwell of our law faculty. As you may know, Professor Cromwell teaches Constitutional Law and has been a member of our law faculty since 1957. He practiced for a time after graduation from law school and has the reputation of an accomplished legal scholar and a hard-nosed realist.

As the memorandum indicates, there are no definitive answers to the questions presented. Source material is not extensive, but there is sufficient basis to state conclusions on the basis of probabilities—conclusions that reflect what a court would do if the questions were presented for decision.

I appreciate the opportunity to submit this memorandum to you. It enables us to reciprocate in a small way for your extensive and continuing efforts to assist the University of Montana.

Best personal regards.

Sincerely yours,

Robert E. Sullivan,
Dean, School of Law.

Constitutional Responsibility of Congress To Pursue Impeachment and Trial Remedies in a Proceeding Once Commenced or After a President Resigns

QUESTIONS PRESENTED

I. Whether the Congress has power to impeach and try a President after he has resigned.

II. Whether the Senate has power to continue the trial of an impeachment begun in one Session of Congress into the next Session.

CONCLUSIONS

I. Probably.

II. Probably not.

Preliminary Question: Whether determinations of these questions are subject to judicial review.

Conclusion: Probably.

The preliminary question raises the issue of the justiciability of so-called "political questions." Or, as the Supreme Court put it, in *Baker* v. *Carr*, 369 U.S. 186, 210 (1961): "The nonjusticiability of a political question is primarily a function of the separation of powers." This memorandum approaches the questions presented from the viewpoint of the lawyer, not that of politician or historian, so most of the materials cited will be "legal." Because the questions presented are unusual (if not unique), there is not much legal authority available.

The *Baker* decision culled criteria from other cases (the Court called them "common characteristics") for identifying cases involving political questions. At p. 217 of 369 U.S., it listed these:

(1) A textually demonstrable constitutional commitment of the issue to a coordinate political department;

(2) A lack of judicially discoverable and manageable standards for resolving it;

(3) The impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion;

(4) The impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government;

(5) An unusual need for unquestioning adherence to a political decision already made;

(6) The potentiality of embarrassment from multifarious pronouncements by various departments on one question.

Thereafter, in *Powell* v. *McCormack,* 395 U.S. 486 (1969), the Court applied the *Baker* criteria to Adam Clayton Powell's declaratory judgment suit claiming that the House of the 90th Congress had unconstitutionally refused to seat him. Because the United States District Court had dismissed Powell's petition "for want of jurisdiction of the subject matter," the Supreme Court considered the question of justiciability. Particularly, the Court determined the "textually demonstrable commitment" and the scope of that commitment. The constitutional text involved was that portion of Article I, § 5, which makes the House of Representatives "the Judge of the Qualifications of its own Members."

It is sufficient for the purposes of this memorandum to record that the Supreme Court decided that it had the power to separately construe that provision and to conclude that the provision "is at most 'a textually demonstrable commitment' to Congress to judge only the qualifications expressly set forth in the Constitution. Therefore, the . . . doctrine does *not* bar federal courts from adjudicating petitioner's claims." (Emphasis added.) (395 U.S. at 548.)

Most recently, the Supreme Court assumed jurisdiction in *U.S.* v. *Nixon,* (No. 73–1766), 42 L.W. 5237 (7/24/74). On appeal was the District Judge's order to the President to produce "certain tapes, memoranda, papers, transcripts, or other writings" allegedly relevant to criminal proceedings brought by the Special Prosecutor. The Supreme Court upheld that order and the District Judge's ruling that the judiciary, not the President, was the final arbiter of a claim of executive privilege. The Court rejected the President's claim that the doctrine of separation of powers prevented judicial review of a President's determination that the privilege applied. Especially relevant to this heading is the following language:

"In the performance of assigned constitutional duties, each branch of the Government must initially interpret the Constitution, and the interpretation of its powers by any branch is due great respect from the others. The President's counsel, as we have noted, reads the Constitution as providing an absolute privilege of confidentiality for all presidential communications. Many decisions of this Court, however, have unequivocally reaffirmed the holding of *Marbury v. Madison,* 1 Cranch 137 (1803), that *'it is emphatically the province and duty of the judicial department to say what the law is.' Id.,* at 177." (Emphasis added.) (42 L.W. at 5243.)

One more decision must be discussed under this heading. *U.S. v. Smith,* 286 U.S. 6 (1931), concerned the application of certain Senate rules to action by the President. The facts were these: The President had transmitted to the Senate the nomination of Smith to the F.P.C. The Senate confirmed the nomination, ordered that the resolution of confirmation be forwarded to the President, and adjourned (from December 20 to January 5) all on the same day. On December 22, the Secretary of the Senate notified the President of the confirmation, the President commissioned Smith and named him chairman, and Smith took the oath and began work.

On January 5, when the Senate returned, a motion to reconsider the confirmation of Smith was properly made under Senate rules. It passed, as did a motion to ask the President to return the original resolution of confirmation. The President was notified. He refused to accede to the request on the ground that Smith had been properly appointed. Thereafter, the Senate asked the district attorney of the District of Columbia to bring a *quo warranto* proceeding.

The Supreme Court stated that the sole question was one of law: Did the Senate have the power it asserted? The answer to the question, the Court said, "depends primarily upon the applicable Senate rules." (286 U.S. at 30.) The Court made plain that the question concerned *construction* of the rules, not their constitutionality, clearly recognizing that it had no concern with "wisdom or folly," only power. The significance of the *Smith* decision to this heading is emphasized in this quotation:

"As the construction to be given to the rules affects *persons other than members of the Senate,* the question *presented is of necessity a judicial one.*" * (Emphasis added.) (286 U.S. at 33.)

This position is significant, too, to a matter considered under the second question presented—present Senate rules and their relation to impeachment. In the *Smith* opinion, following the language quoted above, the Court stated that it "must give great weight to the Senate's present construction of its own rules," but that it was *not* precluded from making its own interpretation of them.

*A related view was expressed by the Court of Appeals for the District of Columbia Circuit in *Nelson v. U.S.,* 208 F.2d 505, 513 (1953), *cert. den.* 346 U.S. 827 (1953): "Though a court can no more enjoin a congressional committee from making an unconstitutional search and seizure than it can enjoin Congress from passing an unconstitutional bill [citing *Hearst v. Black,* 87 F.2d 68 (1936)], a court does have the power and duty to deny legal effect to either in an action before it." A similar statement and application appears in *Fischler v. McCarthy,* 117 F. Supp. 643 (D.C.S.D.N.Y. 1954), *aff'd.* 218 F.2d 164 (1954).

Addendum: Somewhat related to the preliminary question is another posed by Raoul Berger in IMPEACHMENT: THE CONSTITUTIONAL PROBLEMS (Harvard, 1973). Chapter III, entitled "Judicial Review," refers to some of the matters discussed under this heading, including *Powell v. McCormack.* Berger recognized that "from Story onward," (including Prof. Herbert Wechsler), the view has been that the Senate "has the last word." But, taking account of constitutional guarantees of individual freedoms, *inter alia,* he wrote:

"Constitutional limits, as *Power v. McCormack* again reminds us, are subject to judicial enforcement; and I would urge that *judicial review of impeachment is required* to protect the other branches from Congress' arbitrary will." (Emphasis added.) (Berger, IMPEACHMENT, p. 119.)

Irving Brant, IMPEACHMENT: TRIALS AND ERRORS (Knopf, 1973) presents a different argument [pp. 182–197] that, if impeachment in fact amounts to a bill of attainder, the judiciary has power to act.

Bates, Book Review [Berger and Brant books on IMPEACHMENT, 25 Stan. L. Rev. 908, 925 (1973) states: "Berger and Brant have, by their analyses, considerably undermined the traditional view that judicial review of impeachments is unavailable. . . . These authors, almost alone among constitutional scholars, have developed arguments for judicial review that the Court might adopt."

On the other hand, W. W. Willoughby (3 THE CONSTITUTIONAL LAW OF THE UNITED STATES, p. 1551, 1929) asserted flatly: "It is scarcely necessary to say that the proceedings and determinations of the Senate when sitting as a court of impeachment are not subject to review in any other court." Broderick, *Citizens' Guide to Impeachment of a President: Problem Areas,* 23 Cath. U. L. Rev. 205, 237 (1973) makes the same "assumption," but takes account of Berger's contrary view.

DISCUSSION

I. Whether the Congress has power to impeach and try a President after he has resigned.

There is very little precedent or discussion available. The Associated Press wire carried an item (Spokane, Washington, Spokesman-Review, Sunday, August 11, 1974, p. 3, col. 7) quoting an ACLU demand for impeachment despite resignation, based on the 1876 impeachment of ex-Secretary of War Belknap.

In the most recent of his two timely books [Executive Privilege; A Constitutional Myth (Harvard, 1974)], Raoul Berger referred to the Belknap situation. In discussing President Andrew Jackson's refusal to furnish certain material at the request of Congress Berger wrote:

". . . Jackson was clearly wrong, unless we are to assume that the power to *investigate* executive conduct is cut off by termination of official service." [Emphasis added.] (Berger, Executive Privilege, p. 182.)

In a footnote (No. 114) to that sentence appears this:

". . . The issue was 'squarely raised' in the impeachment of Grant's Secretary of War, W. W. Belknap, and the Senate ruled that 'it had not lost jurisdiction by virtue of Belknap's resignation'; 3 W. W. Willoughby, *The Constitutional Law of the United States,* 1449 (New York, 1929)."

As far as it goes, the reference to Willoughby is accurate. But, for the purposes of this memorandum, it is important to record that a footnote (No. 5) to the Willoughby text states that, upon five separate occasions, impeachment proceedings against federal judges were dropped by the House when it was notified that each had resigned.

Belknap was acquitted. A Treatise on Federal Impeachments, Simpson (Scholarly Resources, Inc., 1973; first printed 1916) contains (pp. 203–205) an abridgement of the Belknap impeachment trial, taken from "Proceedings of the Senate sitting for the trial of William W. Belknap, 9 (1876)." It concludes with this sentence: "He was acquitted upon the ground that he had resigned his office as Secretary of War, and his resignation had been accepted by the President a couple of hours before the actual adoption of the articles of impeachment by the House." (Simpson, Treatise, p. 205.)

Brant, Impeachment, *supra,* treats of the Belknap trial in Chapter VIII. He reports that 37 senators voted for conviction (4 short of the two-thirds necessary) and 25 for acquittal. Twenty-two[1] of the latter number gave as their reason that the Senate had no jurisdiction over a civil officer who resigned before he was impeached.

Finally, under this heading, it is emphasized that the last clause of Art. I, § 3, provides not only for removal from office as a judgment in a case of impeachment, but permits "disqualification to hold and enjoy any office of honor, Trust or Profit under the United States." Berger's footnote No. 114 (p. 182), referred to above, cites instances of *requests* by Secretary of the Treasury Wolcott (1800) and Vice President Calhoun (1826) to the House to investigate their respective performances in offices since vacated. Then appears this sentence: "And, if the derelictious warrant, impeachment can follow and result in disqualification to hold office."

II. Whether the Senate has power to continue the trial of an impeachment begun in one Session of Congress into the next Session.

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[1] Willoughby, *supra,* gives the figure of "twenty."

The only flat answer appears in "Jefferson's Manual," reproduced in Rules and Manual United States Senate 1973 (93rd Congress, 1st session—Senate Doc. No. 93–1): "Continuance. An impeachment is not discontinued by the dissolution of Parliament, but may be resumed by the new Parliament. T. Ray., 383, 4 Com. Journ., 23 Dec., 1970; Lord's Journ., May 15, 1791; 2 Woods., 618." (Rules and Manual, p. 565). Rule XIII of the Senate's Rules for Impeachment Trials does not speak to the issue, providing that adjournment of the impeachment *trial* does not adjourn the Senate. (Rules and Manual, p. 140.) Likewise, Willoughby's statement is not on the point. He argues that dissolution of the *House*, by analogy to criminal proceedings and the English practice, ought not to terminate the *charges*. (Willoughby, *supra*, § 933, p. 1451.)

To some extent, the answer to the question presented depends upon whether the character of the Senate when trying an impeachment is so altered from that of "legistive body" as to prevent the application of decisions concerning the effect of adjournment. Existing *precedent* relates to the latter. But Willoughby, *supra*, asserts (§ 932, p. 1450) that the "Senate, when trying impeachments, sits not as a legislative but as a judicial body." His reason for making the assertion, however, appears revealed by the next sentence which suggests that the Senate has "at least a moral obligation" to apply judicial procedures.

In an extensive article entitled *Federal Impeachments*, 64 U. Penn. L. Rev. 651 (1916) reprinted in Treatise cited *supra*, Simpson poses the question (pp. 667–676): "In what capacity does the Senate sit upon the trial of an impeachment?" He answers the question, after consideration of historical precedent, thus: "The Senate, then being a court, *or proceeding as if it were, ...*" (Emphasis added.) (p 674.) Much of the ten pages devoted to discussion of the question relates to the manner in which the Senators, in impeachment trials, have denominated the Senate—as "court" or as "high court of impeachment." But the more telling precedent is this (from p. 668): "The matter came up during the impeachment of President Johnson. It is said in Hinds' *Precedents of the House of Representatives* [Vol. 3, par. 2057 (1907)]:

" 'In 1868, after mature consideration, the Senate decided that it sat for impeachment trials as the Senate and *not as a court*. . . An anxiety lest the Chief Justice might have a vote seems to have led the Senate to drop the words "High Court of Impeachment" from its rules.' "

It is worth observing that the use of such phrases as "High Court of Impeachment" may ignore the historical fact that the House of Lords has performed *both* legislative and judicial functions. To the very recent past: Press reports of proposals to change the Senate Rules to deprive the Chief Justice of a vote do not affect the analysis which follows.)

On several occasions, the Supreme Court has treated the question of the effect of adjournment of the Congress or the House. There have been two subjects involved—(1) the extent of the power to punish for contempt, and (2) the veto power of the President.

(1) The earliest case was *Anderson v. Dunn*, 6 Wheat. 204 (1821). There, the question was the extent of the power of Congress to imprison for contempt. The Supreme Court ruled that the duration of imprisonment was set by the life of the Congress. For purposes of this heading, the following language is significant:

". . . although the legislative power continues perpetual, the *legislative body ceases to exist on the moment of its adjournment* or periodical dissolution." (Emphasis added.) (6 Wheat. at 231.)

That conclusion was reaffirmed in *Marshall v. Gordon*, 243 U.S. 521, 542 (1916).

Both of those decisions are cited in support of a footnote statement appearing in *Gojack v. U.S.*, 384 U.S. 702, 707 (1965). That case involved an indictment and conviction for contempt of Congress under statute, and the footnote related to an assertion by the United States that there was a "continuing investigation" by a House committee of Communist activities in labor unions. The Court pointed out, in footnote, that there was no record of House authorization of such a "continuing investigation." The Court continued:

"In any event, the authorization of a 'major investigation' by a full Committee must occur during the term of the Congress in which the investigation takes place. *Neither the House of Representatives* nor its committees *are continuing bodies. Cf. Anderson . . . ; Marshall. . . .*" (Emphasis added.) (384 U.S. at 707, fn. 4.)

(The Court also noted that the House adopted its Rules at the beginning of each Congress. The same reason could be applied to the Senate. The SENATE RULES cited *supra*.)

The consistent pattern shown by constitutional provisions and Court decisions continues in Acts of Congress. For example: 2 U.S.C. § 7 provides: "The Tuesday next after the 1st Monday in November, in every even numbered year, is established as the day for the election, in each of the States and Territories of the United States, of Representatives and Delegates to *the Congress* commencing on the 3d day of January next thereafter. . . ." (Emphasis added.) The provision for adjournment, 2 U.S.C. § 198, recognizes that each Congress ends at the end of an even-numbered year.

(2) The "pocket veto" decisions make clear that the adjournment of a Congress ends its legislative life. The question was extensively considered in *The Pocket Veto Case* (*Okanogan Indians v. U.S.*), 279 U.S. 655 (1928). At issue there was that part of the Constitution which reads as follows:

Art. I, § 7, cl. 2: ". . . If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law."

The Court decided that the word "adjournment," as used in that provision, was not limited to *final* adjournment. But the opinion specifies the effect of such final adjournment. The Court stated that it was conceded "that the President is necessarily prevented from returning a bill by a final adjournment of the Congress, since *such adjournment terminates the legislative existence* of the Congress. . . ." (Emphasis added.) (279 U.S. at 681.) And the Court concluded:

". . . it follows, in our opinion, . . . that no return can be made to the House when it is not in session as a collective body and its members dispersed." (279 U.S. at 683.)

(The opinion also considered at pp. 685–690 an abortive attempt by the Senate in 1868 to provide for return of bills by the President when Congress was not in session. The extensive footnote reproduction of Senate debate shows the opinion of some Senators that the Senate has no life after adjournment.)

The *Pocket Veto Case* was relied on in *Wright v. U.S.*, 302 U.S. 583 (1937), to determine that a "temporary recess" taken by one House during a session of Congress was not "adjournment." But the Court emphasized the bases of the earlier decision.

The factual difference between the *Pocket Veto Case* and the *Wright* case has received contemporary emphasis. The Great Falls Tribune (Thursday, August 15, 1974, p. 2, col. 7) reported that the United States Court of Appeals (Dist. Col.) had affirmed a District Court holding that President Nixon's "pocket-veto" of the Family Practice of Medicine Act in 1970 could not stand. The press reported that Circuit Judge Tamm wrote that "an *intrasession* adjournment of Congress does not prevent a president from returning a bill he disapproves. . . ." (Emphasis added.) In *Kennedy v. Sampson*, 364 F. Supp. 1075 (D.C.D.C. 1973), the trial court came to the same conclusion. And the District Judge wrote: "It must be kept in mind that the Supreme Court's language in the *Pocket Veto Case* applied to an *adjournment at the end of a session and not to a short recess during a session, ...*" (p. 1084.)

CONCLUSION

It appears beyond argument that the capacity of a Congress to act as a *legislative* body ends when Congress adjourns. The Constitution, Art. I, § 1, provides: "All *legislative* powers herein granted shall be vested in *a Congress* of the United States which shall consist of *a Senate and House of Representatives*." (Emphasis added.) The provisions empowering House and Senate to function in impeachment appear in Article I, which establishes *legislative* powers.

Without embarking on extensive extralegal research, one can fairly assert that the record of constitutional convention debate shows that impeachment was intended as a legislative, not judicial, check on the executive. (Politically speaking, it is a function of the doctrine of separation of powers.) Whether the Senate, in conducting trial of an impeachment, follows or adopts "judicial" or "legal" rules procedure, the proceeding itself is, constitutionally speaking, legislative.

Any argument that *a Senate*, sitting in trial of an impeachment, has a life separate and distinct from that of *the Congress* of which it was a part so that it may continue trial past adjournment of *the Congress* must clear that formidable obstacle. In the *Wright* case cited *supra*, the Supreme Court posed the question whether "the Congress by their adjournment" prevented the President from returning the bill which was the subject of the dispute. The Court responded:

" 'The Congress' did not adjourn. The Senate alone was in recess. The Constitution creates and defines 'the Congress.' It consists 'of a Senate and House of Representatives.' Art. I, § 1. *The Senate is not 'the Congress.'* " (Emphasis added.) 302 U.S. at 587.)

OTHER REFERENCES

Fenton, *The Scope of the Impeachment Power*, 65 Nw. U. L. Rev. 719 (1970), does not contain matter helpful to solution of these problems.

Executive Impeachment: Stealing Fire from the Gods, 9 New Eng. L. Rev. 257 (1974), is contained in a bound volume missing from the library.

Prof. Charles Black's book IMPEACHMENT: A HANDBOOK (Yale, 1974), ordered some time ago for Constitutional Law, has not been received from the publisher.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Chair recognizes the distinguished minority leader (Mr. HUGH SCOTT), the Senator from Pennsylvania.

FILL THE VICE PRESIDENCY

Mr. HUGH SCOTT. Mr. President, the Philadelphia Inquirer of yesterday has an editorial entitled "Fill the Vice Presidency." I am going to read it and comment on it. It is as follows:

> ### Fill the Vice Presidency
>
> House Democrats now say it will be impossible to act on the vice-presidential nomination of Nelson Rockefeller before Congress adjourns for the November election.
>
> Nonsense. It has already been almost a month since President Ford submitted the nomination on Aug. 20, and it is almost two months before the election. The congressmen plan to flee Washington early, of course, to do their campaigning, but they still should have ample time to consider the Rockefeller nomination.
>
> It is of "utmost importance," as President Ford said, that this piece of unfinished business be taken care of before the lawmakers go home. While the nation can function well enough without a Vice President, it would be unfortunate indeed if anything should happen to Mr. Ford before the office is filled.
>
> There is no relationship, we suppose, between the slow pace at which the House Democrats are moving and Mr. Rockefeller's decision to cancel all political appearances until after his confirmation. Still, one wonders.
>
> Careful consideration of a vice-presidential nominee is one thing, but foot dragging is another. Congress *does* have time to act on the Rockefeller nomination without any risk of haste and definitely should do so before closing up shop for the elections.

The Senate has pledged itself to expedite its consideration of this nomination. The distinguished majority leader has so stated publicly and privately, and so has the distinguished assistant majority leader, who has urged within the committee that we move as rapidly as possible.

I have so urged, and so has the distinguished assistant minority leader. We are all three members of the Committee on Rules and Administration.

The committee will begin its deliberations on Monday, the 23d next. The FBI report is largely in except for one element of information to be furnished in one area. That has to do with the financial situation of the designee.

The GAO report is, I believe, in. The financial information furnished by the designee is already in before the committee and has been read by those authorized to read it, and it is being updated since some items are carried at cost on acquisition, and those are being updated voluntarily by the designee.

Now, meanwhile what is going on at the other ranch? Nothing. And the distinguished House Judiciary Committee which has just made a name for itself for dignity in procedure is now making another name for itself of sloth or inactivity or apathy. Now that, of course, would not be fair because those are none of the reasons I have cited why the House, why the other body, is so undiligent in this matter.

I suspect the true reason is that the designee has undertaken not to campaign during the confirmation proceedings.

I think if the other body does not act the designee ought to be released from that undertaking and be free to state his views as to matters of national concern. I am sure that he will not say anything that is critical or unkind about members of either party. But he certainly ought to be released from that obligation if the other body, having ample time to act on this nomination, and having, I am told, rejected the suggestion of joint hearings, and having not stirred its stumps in any regard, must bear the burden.

Could this have any relationship to the campaign of Representative Hugh Carey of New York for the governorship of New York?

As the article says, "one wonders."

As the article says about delay, "nonsense."

I suspect that inactivity of the other body is, indeed, related to the recognition of the popularity of the designee in public appearances and the desire to keep him out of New York State

I hope that is not the case.

I expect angry expostulations in return. I expect the volume to crescendo. I hope reason squeaks its quiet way into the deliberations if there is to be an answer to these remarks of mine, which are in no way to be designated as fulmination.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes.

SENATOR ROBERT C. BYRD OPPOSES AMNESTY FOR DRAFT DODGERS AND DESERTERS

Mr. ROBERT C. BYRD. Mr. President, I fear that President Ford has made another mistake in his offer of clemency to draft dodgers and war deserters in the Vietnam conflict.

I say this as a Senator from West Virginia—not as a member of the Senate leadership.

He has short circuited the established legal processes again.

I do not understand the timing of this conditional amnesty program for one thing, coming so close as it does on the heels of the unconditional pardon for former President Nixon. But that aspect of the rather strange priority Mr. Ford has chosen to give the matter of dealing with those who fled their country rather than serve in Vietnam—as so many thousands of Americans did serve—must remain secondary to the more important considerations.

Without attempting to place the various considerations in the order of their importance, let me list some of them.

The young men who left this country to evade the draft, or who deserted the Armed Forces, and who wish now to return to the country they denounced as "immoral" for its actions in Southeast Asia, had recourse to due legal processes before the Ford amnesty program was devised. They violated the law—there can be no doubt of that fact; and it seems to me that consideration of clemency for them would have been much more in order after individual cases had been considered by the courts under the procedures already established by law. But, as in the case of Mr. Nixon, Mr. Ford chose to act before normal procedures had been carried out.

That this will leave almost no one happy—neither those who favor unconditional amnesty nor those who favor no amnesty at all—was a foregone conclusion. And we are now already seeing that result. Both the draft evaders on the one hand and the opponents of amnesty on the other are denouncing Mr. Ford's proposals. Most of those who deserted now want to be completely vindicated; while those who have never favored amnesty, believe that those who evaded the irresponsibility have made their bed and that they should lie in it.

The evaders and the deserters, Mr. President, made their choice. They acted of their own volition. They knew what they were doing. If they choose now to say they were wrong, and that they are prepared to accept the normal consequences of their actions, and let their cases be adjudicated in civilian and military courts, that is one thing. But 24 months of so-called alternate service in a civilian hospital or elsewhere, in my judgment, is in no way to be equated with the hardships which 2½ million young Americans gallantly endured in Vietnam.

Undoubtedly, there are some cases in which extenuating circumstances would justify some leniency. But such leniency can best be accorded, in a fair and just and equitable manner, by handling each case on an individual basis under the regular procedures already established by law—with the cases of draft evaders handled in the civilian courts, and the cases of deserters adjudicated in the military courts.

The suggestion that draft evaders and deserters be given a second chance is appealing, but I think we have to keep in mind the fact that for every man who deserted, another man had to take his place; for every man who went to Canada or Sweden to evade the draft, someone else had to take his place. Many of these surrogates were killed or wounded. The man who lost a leg cannot be given a second leg. The man who lost an arm cannot be given a second arm. The man who lost an eye cannot be given a second eye.

While draft evaders were living in fairly comfortable apartments in Sweden or Canada, hundreds of American prisoners of war were living away from their families and in miserable prison camps in North Vietnam.

It is idle to argue that those who evaded their responsibilities, and who now want to evade the penalty, were high-principled persons who obeyed their conscience. Those who truly act upon a principle ought also to be willing to take the consequences of their actions. Many young men who, in good conscience, violated the Selective Service laws, have served time in prison as a penalty for following their conscience. They did not flee the country; they stayed here and took the consequences.

Additionally, in accordance with our country's laws, persons who qualified for conscientious objector status, were granted that status and rendered service accordingly.

Many—or even most—of the 2½ million Americans who went to Vietnam likewise considered the war evil, as all wars are evil, but they still obeyed the laws of our country. It is unfair to those men who went to Vietnam, in obedience to their country's call, for our Government now to welcome back with only a slap on the wrist, those persons who ran out on their country when their time came to serve.

Moreover, in the stagnant economic situation in which we now find ourselves, the forgiven returning deserters might well be found to be replacing other civilian workers, or even veterans, in scarce jobs as unemployment increases. This is no time, in my opinion, to be throwing additional unemployed persons onto the job market.

But the most compelling objection that I find to the Ford forgiveness program is twofold: The inestimable damage that it does to the morale of the thousands who served and the families of those who did not come back; and the threat that it poses to the proper operation of the Selective Service System in any future national emergency. If one can run off to Canada or Sweden, sit out a war, and come back at leisure, unscathed, to do a few months alternate service—if this is to be the precedent and the pattern—then how can anyone expect the draft laws to operate effectively in the future when the security of the Nation could be at stake?

The basic issue is that of the citizen's obligation to his country—under any and all circumstances.

Compassion is important—in the right situation. But realism should be uppermost here. I do not believe that the President will be any more successful in his declared objective of binding up the Nation's wounds with his amnesty program than he was in his unconditional pardon for Mr. Nixon. Instead, fresh new controversy that the Nation does not need has been stirred, and it can only grow more intense. Instead of being put behind us, Vietnam—like Watergate—has now been forced onto center stage again. And at this time, Mr. President, that can do our country no good.

TRAVEL EXPENSE AMENDMENTS ACT OF 1974

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1091, S. 3341.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

> A bill (S. 3341) to revise certain provisions of title 5, United States Code, relating to per diem and mileage expenses of employees and other individuals traveling on official business, and for other purposes.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Government Operations with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Travel Expense Amendments Act of 1974".

Sec. 2. (a) Section 5701 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (5);

(2) by striking out the period at the end of subparagraph (6) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following:

"(7) 'high cost locality' means any geographic location within the continental United States designated by regulations prescribed under section 5707 of this title.".

(b) Section 5702(c) of such title is amended to read as follows:

"(c) Under regulations prescribed under section 5707 of this title, the head of the agency concerned may prescribe conditions under which an employee may be reimbursed for the actual and necessary expenses of the trip, not to exceed an amount named in the travel authorization, when the per diem allowance would be less than those expenses due to—

"(1) the unusual circumstances of the travel assignment, in which case the amount named in the travel authorization may not exceed—

"(A) $50 for each day in a travel status inside the continental United States; or

"(B) the per diem allowance established under subsection (a) of this section plus $23 for each day in a travel status outside the continental United States; or

"(2) a travel assignment to a high cost locality, in which case the amount named in the travel authorization may not exceed the daily amount provided in those regulations for that locality."

(c) Section 5707 of such title is amended—

(1) by striking out "Director of the Bureau of the Budget" and inserting in lieu thereof "Administrator of General Services";

(2) by inserting the subsection designation "(a)" at the beginning of the text thereof; and

(3) by adding at the end thereof the following new subsection:

"(b) The regulations prescribed by the Administrator shall include the designation of any high cost locality with respect to which the Administrator determines that the per diem allowance established under section 5702(a) of this title would be less than the actual and necessary expenses incurred in traveling to that locality. The Administrator shall establish for each high cost locality, the daily amount (not to exceed $50 for each day) that may be paid under section 5702(c)(2) of this title in traveling to that locality."

Sec. 3. (a) Section 5702(a) of title 5, United States Code, is amended to read as follows:

"(a) An employee, while traveling on official business away from his designated post of duty, is entitled to a per diem allowance. For travel inside the continental United States, the per diem allowance shall be $35. For travel outside the continental United States, the per diem allowance may not exceed the rate established by the President or his designee for the locality where the travel is performed.".

(b) Section 5703(c) of such title is amended by striking out "the per diem allowance may not exceed—

"(1) the rate of $25"

and inserting in lieu thereof "the per diem allowance shall be—

"(1) $35".

(c) Section 5703(d) of such title is amended—

(1) by striking out "much"; and

(2) by striking out "$40" and "$18" and inserting in lieu thereof "$50" and "$23", respectively.

(d) The seventh paragraph under the heading "Administration Provisions" in the Senate appropriation in the Legislative Branch Appropriation Act, 1957 (2 U.S.C. 68b), is amended by striking out "$25" and "$40" and inserting in lieu thereof "$35" and "$50", respectively.

Sec. 4. (a) Section 5704 of title 5, United States Code, is amended to read as follows:

"§ 5704. Mileage and related allowances

"(a) Except to the extent otherwise provided under this section, and under regulations prescribed under section 5707 of this title, an employee or other individual performing service for the Government, who is engaged on official business inside or outside his designated post of duty or place of service, is entitled to—

"(1) 9 cents a mile for the use of a privately owned motorcycle;

"(2) 16 cents a mile for the use of a privately owned automobile; or

"(3) 20 cents a mile for the use of a privately owned airplane;

instead of the actual expenses of transportation when that mode of transportation is authorized or approved as more advantageous to the Government. A determination of advantage is not required when payment on a mileage basis is limited to the cost of travel by common carrier including per diem.

"(b) In addition to the mileage allowance provided in accordance with the other provisions of this section, the employee or other individual performing service for the Government may be reimbursed for—

"(1) parking fees;

"(2) ferry fares;

"(3) bridge, road, and tunnel tolls; and

"(4) airplane landing and tiedown fees.

"(c)(1) The Administrator of General Services shall conduct a continuing investigation of the average, actual cost a mile, to the employee or other individual performing service for the Government who is engaged on official business inside or outside the designated post of duty or place of service, for the use of a privately owned motorcycle, automobile, and airplane. In conducting the investigation, the Administrator shall review and analyze the following:

"(A) depreciation of original vehicle cost;

"(B) gasoline and oil (excluding taxes);

"(C) maintenance, accessories, parts, and tires;

"(D) insurance; and

"(E) State and Federal taxes.

The Administrator, in conducting such investigation, shall meet at least once every 3 months with representatives of the General Accounting Office, the Department of Transportation, the Department of Defense, and organizations of employees of the Government of the United States, and allow them to make their views personally known to him with respect to such average, actual cost.

"(2) Not later than January 10 and July 10 of each year, the Administrator shall determine, based upon the results of his continuing investigation with respect to the 6 full calendar months preceding the month in which the determination is made, specific figures, each rounded to the nearest one-half cent, of the average, actual cost a mile during that period for the use of a privately owned motorcycle, automobile, and airplane. The Administrator shall report such figures to Congress not later than 5 days after he makes his determination. Each such report shall also include a detailed description of the factors utilized in conducting the investigation during such 6-month period. Each such report shall be printed in the Federal Register. The cent figures contained in paragraphs (1), (2), and (3) of subsection (a) of this section, or any adjustments previously made thereto and in effect under this subsection, shall be adjusted, as of the first day of the first month following the submission of that report, to the figures so determined and reported by the Administrator. Those figures shall not be less than the figures in effect under subsection (a) of this section immediately after enactment of the Travel Expense Amendments Act of 1974. Those reported figures shall also be included as of such day in the regulations prescribed under section 5707 of this title.

"(d) The Comptroller General shall from time to time review the continuing investigation of the Administrator and make reports to Congress with respect to his review as he considers appropriate.".

(b) The Administrator of General Services shall begin the continuous investigation referred to in subsection (a) of this section on that January 1 or July 1 which first occurs after the date of enactment of this Act.

Sec. 5. Section 506 of the Supplemental Appropriations Act (2 U.S.C. 58), is amended—

(1) by striking out of subsection (a)(8) "actual transportation expenses" and inserting in lieu thereof "travel expenses"; and

(2) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) In accordance with regulations prescribed by the Committee on Rules and Administration, an employee in a Senator's office shall be reimbursed under this section for per diem and actual transportation expenses incurred, or actual travel expenses incurred, only for round trips made by the employee on official business by the nearest usual route between Washington, District of Columbia, and the home State of the Senator involved, and in traveling within that State (other than transportation expenses incurred by an employee assigned to a Senator's office within that State (1) while traveling in the general vicinity of such office, (2) pursuant to a change of assignment within such State, or (3) in commuting between home and office). However, an employee shall not be reimbursed for any per diem expenses or actual travel expenses (other than actual transportation expenses) for any travel occurring during the 120 days immediately before the date of any primary or general election (whether regular, special, or runoff) in which the Senator, in whose office the employee is employed, is a candidate for public office. Reimbursement of per diem and actual travel expenses shall not exceed the rates established in accordance with the seventh paragraph under the heading 'Administrative Provisions' in the Senate appropriation in the Legislative Branch Appropriation Act, 1957 (2 U.S.C. 68b). No payment shall be made under this section to or on behalf of a newly appointed employee to travel to his place of employment.".

Sec. 6. Any increases in expenses of per diem, travel, transportation, mileage, and subsistence incurred during fiscal year 1975 as the result of the enactment of this Act shall be absorbed by the departments, agencies, independent establishments, and other entities of the three branches of the United States Government and the government of the District of Columbia incurring such increases. No amounts shall be appropriated for fiscal year 1975 to pay for such increases.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Fannin). Without objection, it is so ordered.

AMNESTY FOR DRAFT DODGERS AND DESERTERS

Mr. HARRY F. BYRD, JR. Mr. President, a few moments ago the able Senator from West Virginia (Mr. Robert C. Byrd) made what I thought was an excellent statement to the Senate in regard to President Ford's clemency and amnesty proposals for Vietnam deserters and draft evaders.

I associate myself with the Senate speech by my friend and colleague from West Virginia. It seems to me that he reasoned the case well.

As he pointed out, compassion is a fine attribute, but realism in cases of such potential consequence is important also.

We are dealing with men, draft evaders and deserters, who deserted their Nation in time of war. They should be treated fairly, but their cases should be reviewed on a case-by-case basis, and those who deserted their units, those who refused to serve their country in time of war, should not be given just a light slap on the wrist or perhaps a few months in a comparatively easy job to make up for refusing to serve their Nation in war. It is a dangerous precedent for the future.

We must remember, I think, that 2.5 million Americans served in Vietnam. Most of them did not want to be there. Most of them would have preferred to be at home. Many of them even would have preferred the more desirable atmosphere of Canada or Sweden than the jungles of South Vietnam. But they answered the call of duty.

I think the Senator from West Virginia (Mr. Robert C. Byrd) has made an excellent statement, putting this matter in focus. I applaud his statement. I associate myself with it.

I feel that President Ford's proposal, as the Senator from West Virginia suggested, is not going to satisfy anyone. It will not satisfy those who feel that deserters and draft evaders should pay a reasonable penalty, and it will not satisfy those deserters and draft evaders who feel they should be welcomed home with open arms.

MESSAGES FROM THE HOUSE

At 12:30 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 7135. An act to amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by members of the uniformed services and civilian officers and employees for damage to, or loss of, personal property incident to their service;

H.R. 7954. An act to direct the Secretary of Agriculture to release on behalf of the United States conditions in a deed conveying certain lands to the State of New York and to provide for the conveyance of certain interests in such lands so as to permit such State, subject to certain conditions, to sell such land;

H.R. 9588. An act for the relief of the city of Aransas Pass, Tex., and the Urban Renewal Agency of the city of Aransas Pass, Tex.;

H.R. 15173. An act to extend for one and one-half years the authority of the National Commission for the Review of Federal and State Laws on Wiretapping and Electronic Surveillance, and for other purposes.

The message also announced that the House has passed the bill (S. 2362) granting the consent and approval of Congress to the Cumbres and Toltee Scenic Railroad Compact, with amendments in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The message further announced that the Speaker has affixed his signature to the enrolled bill (S. 3052) to amend the act of October 13, 1972.

(The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. Harry F. Byrd, Jr.).

At 3 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 12000) to enable egg producers to establish, finance, and carry out a coordinated program of research, producer, and consumer education, and promotion to improve, maintain, and develop markets for eggs, egg products, spent fowl, and products of spent fowl.

The message also announced that the House insists upon its amendment to the bill (S. 3792) to amend and extend the Export Administration Act of 1969, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Patman, Mr. Ashley, Mr. Rees, Mr. Mitchell of Maryland, Mr. St Germain, Mr. Hanna, Mr. Koch, Mr. Young of Georgia, Mr. Moakley, Mr. Widnall, Mr. Blackburn, Mr. Brown of Michigan, Mr. Johnson of Pennsylvania, Mr. McKinney, and Mr. Frenzel were appointed managers of the conference on the part of the House.

The message further announced that the House insists upon its amendment to the bill (S. 3473) to authorize appropriations for the Department of State and the U.S. Information Agency, and for other purposes, disagreed to be the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Hays, Mr. Morgan, Mr. Zablocki, Mr. Frelinghuysen, and Mr. Thomson of Wisconsin were appointed managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 13113) to amend the Commodity Exchange Act to strengthen the regulation of futures trading, to bring all agricultural and other commodities traded on exchanges under regulation, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Poage, Mr. Stubblefield, Mr. Foley, Mr. Bergland, Mr. Wampler, Mr. Price of Texas, and Mr. Thone were appointed managers of the conference on the part of the House.

The message further announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 3270) to amend the Defense Production Act of 1950, as amended, with amendments in which it requests the concurrence of the Senate.

HOUSE BILLS REFERRED

The following House bills were each read twice by their titles and referred as indicated:

H.R. 7135. An Act to amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by members of the uniformed services and civilian officers and employees for damage to, or loss of, personal property incident to their service; to the Committee on the Judiciary;

H.R. 7954. An act to direct the Secretary of Agriculture to release on behalf of the United States conditions in a deed conveying certain lands to the State of New York and to provide for the conveyance of certain interests in such lands so as to permit such State, subject to certain conditions, to sell such land; to the Committee on Agriculture and Forestry; and

H.R. 9588. An act for the relief of the city of Aransas Pass, Tex., and the Urban Renewal Agency of the city of Aransas Pass, Tex.; to the Committee on the Judiciary.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. HARRY F. BYRD, JR.) laid before the Senate the following letters, which were referred as indicated:

PROPOSED LEGISLATION BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to amend the Social Security Act and the Internal Revenue Code of 1954 to exclude from social security coverage the distributive share of income or loss from the trade or business of a partnership which is received by a limited partner (with accompanying papers). Referred to the Committee on Finance.

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

A letter from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, copies of international agreements other than treaties entered into within the past sixty days (with accompanying papers). Referred to the Committee on Foreign Relations.

REPORT OF THE CABINET COMMITTEE ON OPPORTUNITIES FOR SPANISH-SPEAKING PEOPLE

A letter from the Executive Director of the Cabinet Committee on Opportunities for Spanish-Speaking People transmitting, pursuant to law, the annual report of the committee for the fiscal year 1973 (with an accompanying report). Referred to the Committee on Government Operations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHILES, from the Committee on Government Operations, with an amendment:

S. 2785. A bill to authorize the Administrator of General Services to enter into multiyear leases through use of the automatic data processing fund without obligating the total anticipated payments to be made under such leases (Rept. No. 93-1153).

By Mr. EASTLAND, from the Committee on the Judiciary;

S. Res. 403. An original resolution authorizing supplemental expenditures by the Committee on the Judiciary for an inquiry and investigation relating to administrative practice and procedure (Rept. No. 93-1154). Referred to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following reports of committees were submitted:

Mr. HARRY F. BYRD, JR. Mr. President, from the Committee on Armed Services, I report favorably the nominations of five rear admirals in the Navy to the grade of vice admiral. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations ordered to be placed on the Executive Calendar are as follows:

Rear Adm. James B. Wilson, U.S. Navy; Rear Adm. Shannon D. Cramer, Jr., U.S. Navy; Rear Adm. Robert C. Gooding, U.S. Navy; Rear Adm. Earl F. Rectanus, U.S. Navy; and Rear Adm. Joe Williams, Jr., U.S. Navy, having been designated for commands and other duties of great importance and responsibility commensurate with the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

By Mr. MANSFIELD (for Mr. FULBRIGHT) from the Committee on Foreign Relations:

The following-named Foreign Service officers for promotion from class 1 to the class of Career Minister:

Alfred L. Atherton, Jr., of Florida.
Frank C. Carlucci, of Wyoming.
Richard T. Davies, of Wyoming.
Arthur W. Hummel, Jr., of Maryland.
Robert J. McCloskey, of Maryland.
Terence A. Todman, of the Virgin Islands.
George S. Vest, of Virginia.
Charles S. Whitehouse, of Virginia.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. MANSFIELD. Mr. President, as in executive session, on behalf of the distinguished Senator from Arkansas (Mr. FULBRIGHT), and from the Committee on Foreign Relations, I report favorably sundry nonminations in the Diplomatic and Foreign Service which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the CONGRESSIONAL RECORD of July 31, and September 10, 1974, at the end of the Senate proceedings.)

By Mr. BROCK (for Mr. CANNON) from the Committee on Commerce:

Richard Joseph O'Melia, of Maryland, to be a member of the Civil Aeronautics Board.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HARTKE, from the Committee on Commerce:

Robert Coleman Gresham, of Maryland, to be an Interstate Commerce Commissioner.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HUGH SCOTT:

S. 4007. A bill to amend the National Foundation on the Arts and Humanities Act of 1965 to further cultural activities by making unused railroad passenger depots available to communities for such activities. Referred to the Committee on Labor and Public Welfare.

By Mr. METCALF:

S. 4008. A bill to amend title XVIII of the Social Security Act to facilitate the expeditious payment of claims, based on certain covered services furnished to an insured individual, which remain outstanding at the time of such individual's death. Referred to the Committee on Finance.

S. 4009. A bill to amend section 5901 of title 5, United States Code, to increase the authorized maximum uniform allowance for Federal employees to $300 per annum. Referred to the Committee on Post Office and Civil Service.

By Mr. ERVIN:

S. 4010. A bill to establish an independent Public Attorney to further insure the separation of constitutional powers and the administration of justice. Referred to the Committee on the Judiciary.

By Mr. CHURCH:

S. 4011. A bill to amend the Internal Revenue Code of 1954 to increase the exemption for purposes of the Federal estate tax. Referred to the Committee on Finance.

By Mr. HARTKE (for himself and Mr. WEICKER):

S. 4012. A bill to designate a national network of essential rail lines; to create a nonprofit Corporation to acquire and maintain rail lines; to require minimum standards of maintenance for rail lines; to provide financial assistance to such Corporation and to the States for rehabilitation of rail lines; and for other purposes. Referred to the Committee on Commerce.

By Mr. EASTLAND (for himself, Mr. MCCLELLAN, Mr. HRUSKA, and Mr. THURMOND):

S. 4013. A bill to amend the Act incorporating The American Legion so as to redefine eligibility for membership therein. Referred to the Committee on the Judiciary.

By Mr. PERCY:

S. 4014. A bill to establish criteria to be observed by approving entities for federally assisted postsecondary education programs in order to protect students in such programs. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUGH SCOTT:

S. 4007. A bill to amend the National Foundation on the Arts and Humanities Act of 1965 to further cultural activities by making unused railroad passenger depots available to communities for such activities. Referred to the Committee on Labor and Public Welfare.

Mr. HUGH SCOTT. Mr. President, today I am introducing a bill to amend the National Foundation on the Arts and Humanities Act of 1965 to further cultural activities by making unused railroad passenger depots available to communities for use as community arts and cultural centers. Representative FRANK THOMPSON, Jr. is offering a counterpart measure in the House of Representatives.

Many old railroad stations have the basic qualities necessary for community center use: First, adequate space; second, sound structure; third, aesthetic design, and fourth, central location. All stations, of course, do not possess these qualities and therefore would not be considered for acquisition. However, I have seen excellent possibilities during my travels about the Commonwealth of Pennsylvania. And I am sure my colleagues can identify their favorite whistle stops that can be recycled into useful, charming cultural depots. As unique expressions of American culture, what place could be more appropriate to enjoy the arts.

With at least half of the 40,000 railroad stations built in the United States already destroyed, these magnificent structures are an endangered species. We must act now to preserve what still remains of the architectural heritage that exists in railroad stations.

Mr. President, with the Bicentennial almost upon us, I urge prompt approval of this legislation so that some of these reminders of a bygone era could be put to good cultural use giving them a new lease on life—one in which they can again serve the public as they did in the past.

By Mr. CHURCH:

S. 4011. A bill to amend the Internal Revenue Code of 1954 to increase the exemption for purposes of the Federal estate tax. Referred to the Committee on Finance.

Mr. CHURCH. Mr. President, I introduce, for appropriate reference, a bill to amend the estate tax provisions of the Internal Revenue Code of 1954 dealing with the specific exemption. The proposal I offer has already been introduced in a similar form in the House of Representatives by Congressman ORVAL HANSEN of Idaho.

A principal reason for offering this legislation is to make the estate tax exemption, presently $60,000 of the gross estate, more realistic. The rapid rise in the cost of living has just about tripled since the original exemption provision was first written into the tax laws in 1942. This cost increase is also reflected in the value of farmland which has increased 25 percent over the past year according to the Agriculture Department's Economic Research Service. During 1973, the value increased by 21 percent. To reflect this increase in value, the law needs to be reconciled with the sunken value of today's dollar. By raising the present amount to $120,000, the exemption will be brought more into line with today's price levels.

More importantly, adoption of this legislation would eliminate a primary obstacle to the preservation of small family businesses and family farms. When a family member inherits a small business or farm, he or she is immediately saddled with very large estate taxes. This is so because real property is valued at "fair market value" for estate tax purposes. The productive capacity of land which is used as farm land may not be reflective of that land's value at current market prices. Income produced by small businesses is also frequently below the return one would expect if the assets of the business were purchased at current values. Even where a closely held business, like a family farm or small business, comprises the major part of an estate—in which case the Federal estate tax imposed on that estate may be paid in installments over as long a time period as 10 years—there is frequently too little income realized from a small business or a family farm to permit payment of estate taxes without sale of the property subject to the tax.

An illustration of the burden involved makes the point clearer: Suppose an Idahoan inherits from his or her father a 200-acre farm valued at $650 an acre, plus farm equipment and farmhouse, for a total valuation of $180,000. Under the present estate tax structure, the beneficiary would have to pay $26,700 in Federal estate taxes—less expenses for settling affairs of an estate or credits for State death taxes.

Even during a good crop and price year, a small farm or business may net no more than $10,000; with today's prices, this amount is stretched thin for living expenses and investment in new farm equipment or assets.

If liquid assets are not available to pay the Federal estate tax—which is usually the case—then the outcome is predictable. The beneficiary must mortgage the property, if it is not already mortgaged, or sell part of the farm or business in order to pay the tax on the father's estate.

Adoption of this legislation would raise the specific exemption provided under section 2052 of the Internal Revenue Code from $60,000 to $120,000. Under the illustration I have described, an exemption of $120,000 would mean that a beneficiary would pay a total of $9,500 of estate taxes on $60,000 worth of the father's $180,000 farming or small business estate.

While on a recent visit to Idaho a great many fellow Idahoans expressed to me a need for this type of amendment to the Federal estate tax laws. I heartily agree.

Last year the number of farms in the United States declined by 26,000 and at the same time the number of acres in farming declined by 3 million. Preliminary figures for 1974 indicate that the number of farms will again decline by some 23,000.

Furthermore, the average age of the American farmer is 56 years. It is plain to see that young people are simply not moving into agriculture. The sons and daughters of existing farm families are the Nation's most logical reserve of farmers. Yet, the Federal estate tax laws create, for these potential farmers an unnecessary obstacle.

It never was intended that the Federal estate tax should break up family farms. Its purpose was to prevent the perpetuation of great fortunes.

Also, if you visit the small, rural communities of this country—and I have visited many such communities in Idaho—what was once a bustling center of business activity is no longer. Many small businesses which once served these communities are leaving, no longer able to compete with the giant chain stores.

Sensible action can be taken and adoption of this proposal would be a step in the right direction. Inaction will surely result in unacceptable consequences; American agriculture will continue to move toward concentration of farming into large conglomerate agribusinesses and the small, community-based business fold up shop, unable to avoid the clutches of the giant corporations. In the end, the country will have lost a way of life which makes living in a place like Idaho so pleasurable.

I urge speedy action by the Senate in adopting this proposal which will relieve the burden estate taxes presently placed on small family farms and businesses.

By Mr. HARTKE (for himself and Mr. WEICKER):

S. 4012. A bill to designate a national network of essential rail lines; to create a nonprofit Corporation to acquire and maintain rail lines; to require minimum standards of maintenance for rail lines; to provide financial assistance to such Corporation and to the States for rehabilitation of rail lines; and for other purposes. Referred to the Committee on Commerce.

RAILROAD REVENUE ACT OF 1974

Mr. HARTKE. Mr. President, today I am introducing, along with Senator WEICKER, the Railroad Revenue Act of 1974. This legislative proposal, along with such measures as S. 3343, the Interstate Railroad Act of 1974, the administration-proposed Transportation Improvement Act, S. 3237, and the Surface Transportation Act, which is currently being considered by the House of Representatives, all share a common goal—an adequate and efficient railroad system for the transportation of freight and passengers in the United States. Furthermore, all these legislative proposals originate from a commonly perceived problem—the severely deteriorated state of our Nation's railroad system.

Mr. President, the Congress has already dealt with the extreme emergency in railroad operations that exists in the Midwest and Northeast through passage of the Regional Rail Reorganization Act of 1973. That measure was signed into law in early January, and should result in substantial improvement in the rail transportation system in the region covered by the legislation. Indeed, any improvement would be "substantial." In my own State of Indiana, for example, the Federal Railroad Administration recently ordered the closure of some 450 miles of trackage because it was unsafe to operate a train on it at 10 miles per hour. The Amtrak passenger trains have had to be rerouted—in fact, one of these trains, the James Whitcomb Riley, has now been rerouted three times because of continual deterioration of trackage throughout my State. Obviously, improvements in the Midwest and Northeast are needed badly. But deterioration of track and roadbed is not unique to this region—it is a nationwide phenomenon. It is a relatively well known fact, for example, that passenger trains throughout the Nation routinely maintained faster schedules in 1940 than they are able to do today.

As transportation policy has evolved in the United States, increasing subsidies have been given to every mode of transport but rail. Aside from the original land grants to the western roads, there has been little in the way of Government subsidies for rail transport in the more recent past; in fact the railroads need to maintain their own roadbeds and right of ways and pay taxes on them, which is a striking difference from the treatment of other modes. These differences are reflected in the amount of moneys spent on the various modes of transportation. For example, last year over $28 billion in public funds were spent for transportation purposes; of this amount, approximately 86 percent was spent for highways, 10 percent for air transportation, 3.7 percent for waterways, and less than one-quarter of 1 percent for rail transportation. I am not critical per se of the expenditure of funds for other modes of transportation; the point is that all modes have not been treated equally. Today we are seeing, all too painfully, the results of that inequality of treatment.

Mr. President, my subcommittee, in recent hearings on rail safety, received testimony that the United States has the worst maintained rail system of any major industrial country in the world. My own observation of rail operations in several European countries and Japan would tend to confirm that observation. It is time that the United States makes the commitment to follow the lead of most of the rest of the developed world and put sufficient resources into our rail system to assure a dependable, efficient, high quality rail system for the transportation of passengers and freight. With the energy crisis upon us, we can hardly afford not to do so.

The legislation I am introducing today represents one possible approach to solving the track and roadbed problems facing so much of our Nation. This bill would create an Interstate Railroad Corporation that would take over, rehabilitate, maintain, and finance a national railroad track system, but allow the present carriers to remain in private ownership. Rehabilitation costs would be financed through a 1 percent tax on all surface freight shipments for a 6-year period, and long-term maintenance would be financed by a charge of $1 per 1,000 gross ton miles on freight and rail passenger carriers using the system. While there is no mandatory conveyance requirement, those carriers who convey their lines to the new corporation would have the benefits of operation over the system; those carriers who decide not to join may instead maintain their trackage to the standards required by the legislation. Those lines acquired by the new corporation would be exempt from State and local property taxes, but this loss in needed revenue for State and local governments would be made up by equivalent payments to the States by the Federal Government.

Companion legislation—H.R. 15503 and H.R. 15504—has already been introduced in the House of Representatives. I am hopeful that it receives an early hearing there. I intend to see that this legislation gets serious consideration by my subcommittee. It is time for a major structural change in the way our rail system operates in the United States. I am hopeful that these two bills, along with similar legislation, receive wide consideration and promote discussion among the interested parties and the general public. While I am not at the moment committed to any specific legislative approach, I am committed to producing quality, balanced transportation for the people of the United States. That means that attention needs to be given to our badly deteriorated rail system and quickly.

Mr. President, I ask unanimous consent that the full text of this bill be printed in the Record at the conclusion of my remarks and those of Senator Weicker.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I am pleased to join the distinguished chairman of the Surface Transportation Subcommittee, Senator Hartke, in introducing the Railroad Revenue Act of 1974.

This legislation establishes a national railroad track system operated by an Interstate Railroad Corporation. The new Corporation would own, rehabilitate, maintain those tracks which private carriers convey to it, and would be financed by a freight waybill tax and a gross-ton mile charge on the private carriers operating over the system. Private carriers which do not choose to convey their tracks to the Corporation would be required to maintain their trackage to contain minimum standards assuring safe and efficient rail service.

As a principal sponsor of S. 3343, the Interstate Railroad Act of 1974, and longtime supporter of other related legislation, I am hopeful that the issues of rail safety and rail track maintenance will be afforded expeditious and thorough consideration by the Congress. Clearly, several legislative proposals will be reviewed in Senate hearings commencing next year. It is in the interest of stimulating discussion by presenting alternative solutions that I have today sponsored with Senator Hartke this important legislation promoting an effective and efficient rail transportation system in the United States.

S. 4012

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Railroad Revenue Act of 1974".

TITLE I—FINDINGS, PURPOSES AND DEFINITIONS

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Sec. 101. The Congress finds that modern, efficient rail service is essential to interstate commerce and to national defense; that the international energy crisis requires more intensive use of fuel-economic freight and passenger trains; that better utilization of existing rail rights-of-way is more compatible with the environment in terms of land use, air pollution, and noise levels than is expansion of facilities for other modes of transportation; that many railroad tracks and roadbeds have greatly deteriorated in recent years; that such deterioration has resulted in inferior railroad transportation for both freight and passengers, together with a sharp increase in train derailments; that rehabilitation of such tracks and roadbeds will provide substantial public benefits through improved rail freight and passenger service; that both the efficiency and quality of railroad service and the economic utilization of the railroad plant can be improved by freer access by rail carriers to rail lines and facilities they do not own; and that to obtain modern and efficient rail service it is necessary to designate an Interstate Railroad System; to organize a nonprofit corporation to acquire, rehabilitate, maintain, modernize, and restructure the rail lines included within such System; to transfer to the States responsibility for maintenance of rail lines not included within such System; to require minimum standards of maintenance for rail lines; to establish rights of access by rail carriers to rail lines they do not own; and to provide Federal financial assistance to the corporation and to the States for rehabilitation, of rail lines.

DEFINITIONS

Sec. 102. For the purposes of this Act, the term—

(1) "Commission" means the Interstate Commerce Commission;

(2) "Corporation" means the Interstate Railroad Corporation created by this Act, which shall not be deemed a "railroad" for purposes of the Interstate Commerce Act;

(3) "Office" means the Rail Services Planing Office of the Interstate Commerce Commission established by the Regional Rail Reorganization Act of 1973;

(4) "rail carrier" includes railroad companies; mail, express, or less-than-carload rail freight carriers; State, regional, or local transportation agencies; the National Railroad Passenger Corporation; and other private rail passenger carriers;

(5) "rail line" includes main rail track or tracks; side tracks, and yard tracks adjacent to such main tracks; the roadbed supporting such tracks; signaling, communication, and power transmission structures and devices as are permanently installed on or adjacent to such tracks and roadbed; bridges, culverts, fills, tunnels, and other structures occupied by such tracks and roadbed; real estate occupied by such tracks and roadbed; real estate adjacent to such tracks and roadbed which is used for drainage of, maintenance of, access to, and protection of such tracks and roadbed; but does not include classification yards; station and terminal tracks and facilities, other than running tracks; any structures and devices other than those specified in this paragraph; and does not include air rights over, nor mineral rights under, such tracks and roadbed;

(6) "railroad company" means a class I or class II railroad, including the Consolidated

Rail Corporation and switching and terminal companies, as designated by the Interstate Commerce Commission and subject to part I of the Interstate Commerce Act together with all subsidiaries, affiliates, and leased lines of such railroads;

(7) "Secretary" means the Secretary of Transportation;

(8) "State" includes the District of Columbia; and

(9) "System" means the Interstate Railroad System established by this Act.

TITLE II—INTERSTATE RAILROAD SYSTEM

INVENTORY OF RAIL LINES

SEC. 201. (a) Within thirty days after enactment of this Act, every rail carrier shall provide the Secretary, the Office, and the Corporation with one copy each of the latest edition of all train operating timetables with related special instructions; all temporary and semipermanent slow orders currently in effect; all other current restrictions on train operation not included in the preceding items; and a verified statement indicating the maximum speeds authorized on every rail line for freight and passenger trains at all times since January 1, 1935.

(b) Additions, deletions, and changes in the information required to be provided by subsection (a) shall be promptly forwarded to the Secretary, the Office, and the Corporation within seven days after any such deletion, addition, or change is made.

INITIAL DESIGNATION OF SYSTEM

SEC. 202. (a) The initial Interstate Railroad System shall consist of all rail lines operated within the United States by domestic railroad companies which as of the date of enactment of this Act are subject to traffic usage of at least ten million gross ton-miles per year per mile of rail line.

(b) Within thirty days after the date of enactment of this Act, the Secretary shall release a concise descriptive summary, together with a map, of all rail lines included within the initial system.

HEARINGS BY COMMISSION

SEC. 203. Commencing thirty days after release of the initial System, the Office shall hold public hearings in the District of Columbia and in other parts of the country. Notice of the dates, times, and places of such hearings shall be given in a manner which will assure a full and fair opportunity to be heard for consumers, shippers, rail carriers, industry, labor, and State and local governments.

RECOMMENDATIONS OF COMMISSION

SEC. 204. Within one hundred and twenty days after release of the initial System by the Secretary, the Office shall release and report to the Secretary its recommendations for additions and deletions to such System. In making such recommendations, the Office shall take into consideration the interests of persons, communities, States, and regions as developed during the hearings. Such report shall include findings in support of each recommended addition to or deletion from the initial System.

FINAL DESIGNATION OF SYSTEM

SEC. 205. (a) Upon receiving the recommendations of the Office, the Secretary, after giving full consideration to such recommendations, and with the cooperation and assistance of the Office, shall, within thirty days, prepare and transmit to the Congress the final Interstate Railroad System of rail lines located within the United States. The System shall improve and enhance the ability of rail carriers to provide modern, efficient, and economical interstate rail freight and passenger service responsive to present and future needs and demands. The report of the Secretary shall include findings in support of each addition to or deletion from the initial System. To the extent consistent with the purposes of this Act, the Secretary shall not designate as part of the System rail lines which are parallel to, or duplicative of, other lines included in the System.

(b) The system as designated by the Secretary shall be deemed approved at the end of the first period of sixty calendar days of continuous session of Congress after transmittal unless either the House of Representatives or the Senate passes a resolution during such period stating that it does not favor the System. If either body passes a resolution of disapproval, the Secretary with the cooperation and assistance of the Office shall prepare and adopt a revised System. Each such revision shall be submitted to Congress for review pursuant to this subsection. For purposes of this subsection, continuity of session of Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period. Upon becoming effective after review by the Congress, the System shall not be subject to review by any court.

MAINTENANCE STANDARDS

SEC. 206. (a) Within one hundred and twenty days after the date of enactment of this Act, the Secretary shall prescribe standards for maintenance of rail lines included within the System. In formulating such standards, the Secretary shall be guided by preferred or recommended practices from an engineering and economic standpoint as distinct from minimum requirements for safety.

(b) System rail lines shall be maintained for smooth and dependable operation of freight trains at speeds up to sixty miles an hour. Upon application and for good cause shown, the Secretary may require a standard of maintenance on any given System rail line which will allow higher speeds.

(c) All rail lines shall be in compliance with the standards included within the System prescribed by the Secretary in accordance with this Act on or before the expiration of three years following enactment of this Act, and shall be kept in compliance at all times thereafter.

MODIFICATION OF SYSTEM

SEC. 207. (a) At any time after the expiration of five years following the final designation of the System, the Corporation or any railroad company may apply to the Commission for an order permitting deletion of rail lines from such System. After hearings by the office, the Commission shall authorize the deletion, if consistent with the public interest. Approval of a deletion shall not be considered by the Commission as evidence in an abandonment proceeding that service on the line deleted is no longer required by public convenience and necessity.

(b) Requests to the Commission for orders permitting deletions from the System on account of initiation of joint use of rail lines in accordance with Sections 406, 409, and 502 of this Act, may be made at any time after the final designation of the System.

LONG-TERM CAPITAL IMPROVEMENT NEEDS

SEC. 208. (a) Within sixty days after the enactment of this Act, State and regional agencies and the National Railroad Passenger Corporation may severally designate high density passenger corridors within the Interstate Railroad System.

(b) Within two years after enactment of this Act, the Secretary and the Corps of Engineers, United States Army, shall jointly carry out a study of the long-term capital needs for modernization of signal systems, line relocation, tunneling, highway grade crossing elimination, electrification, and other major upgrading of the Interstate Railroad System, including high density passenger corridors as designated by State and regional agencies and by the National Railroad Passenger Corporation under subsection (a). The study shall include recommendations for investment priorities among the various possible upgrading projects. The study shall evaluate the form and extent to which the Federal Government should assist with the financing of such upgrading, and the extent to which the Corps of Engineers should participate in the work involved in such upgrading. The study shall include an evaluation and recommendations regarding public acquisition and operation of railroad freight yards and terminal facilities.

(c) Upon completion of the study, the Secretary and the Corps of Engineers shall jointly submit to the President and to the Congress, and shall release to the public, a full report thereon together with their recommendations for such legislative, administrative, and other actions as they deem appropriate for implementing the report.

ACCESS TO INFORMATION

SEC. 209. All rail carriers shall provide such information as may be requested by the Secretary or by the Office in connection with the performance of their respective functions under this title. Nothing in this section shall authorize the withholding by the Secretary, the Office, or any rail carrier of any information from the duly authorized committees of the Congress.

DISCLOSURE OF RECORDS BY SECRETARY

SEC. 210. All material supplied to the Secretary in accordance with sections 201 and 209 of this Act shall at all times be open to public inspection. Any person desiring to inspect such material shall reimburse the Secretary for the time of his employees required to assist with such inspection. Any person requesting reproduction of any material shall reimburse the Secretary for the cost of such reproduction.

ADMINISTRATIVE EXPENSES

SEC. 211. There are authorized to be appropriated, to remain available until expended, for purposes of this title, $1,000,000 each for the Office and for the Corps of Engineers.

TITLE III—INTERSTATE RAILROAD CORPORATION

CREATION OF THE CORPORATION

SEC. 301. There is authorized to be created an Interstate Railroad Corporation. The Corporation shall be a nonprofit corporation, the purpose of which shall be to rehabilitate, maintain, and modernize the rail lines of the Interstate Railroad System so as to fully develop the potential of modern rail service in meeting the transportation requirements of the Nation. The Corporation will not be an agency or establishment of the United States Government. The Corporation shall be subject to this Act, and, to the extent consistent with this Act, to the District of Columbia Nonprofit Corporation Act citation.

PROCESS OF ORGANIZATION

SEC. 302. (a) The Secretary of Transportation, the Under Secretary of Transportation, and the Federal Railroad Administrator shall serve as incorporators of the Corporation, and as the interim board of directors for thirty days following the enactment of this Act. The incorporators shall take whatever actions are necessary to establish the Corporation, including the filing of the articles of incorporation.

(b) There are authorized to be appropriated to the Secretary in fiscal year 1975, $50,000,000 to remain available until expended for the purpose of assisting in the initial organization and operation of the Corporation.

BOARD OF DIRECTORS

SEC. 303. (a) The Corporation shall have a board of nine directors as provided by this section (hereinafter referred to as the "board") consisting of individuals who are citizens of the United States, who shall elect one of their number annually to serve as chairman. The board shall take office on the thirty-first day after the date of enactment of this Act.

(1) One member of the board shall at all times be the Secretary.

(2) Four members of the board shall be appointed by the President of the United States for terms of four years, except that the first member so appointed shall continue in office for a term of one year, the second for two years, and the third for three years.

(3) Two members of the board shall be appointed by the Senate leader (majority leader or minority floor leader, as the case may be) of the political party opposite to the political party of the President for a term of four years, except that the first member appointed shall continue in office for a term of two years.

(4) Two members of the board shall be appointed by the House of Representatives leader (Speaker or minority leader, as the case may be) of the political party opposite to the political party of the President for a term of four years, except that the first member so appointed shall continue in office for a term of one year and the second for three years.

(b) Any member selected to fill a vacancy may be selected only for the unexpired term of the director whom he or she succeeds. A director whose term has expired shall continue to serve until his or her successor is selected.

(c) Upon the swearing into office of a President of a different political party than his or her predecessor, successors of members who have been appointed by the Senate and House leaders shall be appointed by the President, and successors of members who have been appointed by the President shall be appointed by the Senate and House leaders, the first such successor by the Senate leader.

(d) Each director shall receive compensation at a rate of $300 for each meeting of the board that he attends. In addition, each director shall be reimbursed for necessary travel and substance expenses incurred in attending the meetings of the board.

(e) No director may have any direct or indirect financial or employment relationship with any railroad company during the time that he or she serves on the board.

BYLAWS AND OFFICERS

SEC. 304. (a) The board is empowered to adopt and amend bylaws governing the operation of the corporation. Such bylaws shall not be inconsistent with any law of the United States or the District of Columbia.

(b) The Corporation shall have a president and such other officers as may be named and appointed by the board. The rates of compensation of all officers shall be fixed by the board. Officers shall serve at the pleasure of the board. No individual other than a citizen of the United States may be an officer of the Corporation. No officer of the Corporation may have any direct or indirect employment or financial relationship with any railroad company during the time of his employment by the Corporation.

GENERAL POWERS

SEC. 305. The Corporation is authorized to own, possess, construct, control, maintain, rehabilitate, and modernize rail lines including operation of signalling and communication systems; to acquire by construction, purchase, or gift, or contract for the use of, real estate, physical facilities, equipment, and devices necessary to its functions; to exercise the right of eminent domain in connection with acquisition of necessary property in accordance with the procedures of section 305(d) and 402(d) of the Rail Passenger Service Act of 1970; to impose and collect user charges from rail carriers using its facilities; and to conduct research and development related to its mission. To carry out its functions and purposes the corporation shall have the usual powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act. Leases and contracts entered into the Corporation, regardless of where the same may be executed, shall be governed by the laws of the District of Columbia. The Corporation shall not be subject to State and local property taxes, nor to State and local taxes imposed in lieu of such property taxes.

BOOKS AND RECORDS

SEC. 306. (a) The Corporation shall maintain books and records in accordance with the Uniform System of Accounts prescribed by the Commission, insofar as is applicable.

(b) The Corporation shall file an annual report with the Commission at the same time and in substantially the same format as such reports of railroad companies, insofar as such format is applicable.

(c) The Commission is empowered to promulgate and modify rules and regulations governing accounting and recordkeeping requirements of the Corporation, if and when such action is deemed appropriate in view of the nature of the Corporation and the requirements of this Act.

(d) All books, papers, records, and documents of the Corporation shall at all times be open to public inspection. Any person desiring to inspect such material shall reimburse the Corporation for the time of employees required to assist with such inspection. Any person requesting reproduction of any material shall reimburse the Corporation for the cost of such reproduction.

AUDIT OF RECORDS

Sec. 307. (a) (1) The accounts of the Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audit shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person conducting the audit; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person.

(2) The report of each such independent audit shall be included in the annual report required by section 308(b) of this Act. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Corporation's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, and a statement of the sources and application of funds, together with the independent auditor's opinion of those statements.

(b) (1) The financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the Comptroller General of the United States in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General. Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representative of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the Corporation pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Corporation shall remain in possession and custody of the Corporation.

(2) To the extent the Comptroller General deems necessary in connection with such audits as he may make of the financial transactions of the Corporation pursuant to paragraph (1) of this subsection, his representatives shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by any rail carrier pertaining to such rail carrier's financial transactions and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of such rail carrier shall remain in the possession and custody of such rail carrier.

(3) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform Congress of the financial operations and condition of the Corporation, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President, to the Secretary, and to the Corporation at the time submitted to the Congress.

QUARTERLY AND ANNUAL REPORTS

SEC. 308. (a) Within thirty days following the end of each calendar quarter, the Corporation shall submit to the Congress and release to the public a complete report of its activities and finances for the previous quarter. Such report shall include, but not be limited to, the amount and location of (1) new and relay rail laid; (2) ties installed or replaced; (3) miles of track surfaced; (4) signals and interlockers installed or replaced; (5) grade crossing protection installed; and (6) communication systems installed. The report shall include a summary of all train derailments and collisions on Corporation rail lines, including the probable cause thereof, and a statement of the extent to which each and every rail line of the Corporation is not in compliance with the maintenance standards promulgated under this Act.

(b) On or before October 31 of each year, the Corporation shall submit to the President and to the Congress, and release to the public, a comprehensive and detailed report of its activities and accomplishments during the preceding fiscal year, including a balance sheet and statement of receipts and expenditures. The report shall include a projection of receipts and expenditures for the current fiscal year, and a proposed budget for the forthcoming fiscal year, which shall provide specific justification for each and every proposed expenditure.

TITLE IV—ACQUISITION, REHABILITATION, AND MAINTENANCE OF RAIL LINES BY CORPORATION AND STATES

ACQUISITION OF RAIL LINES

SEC. 401. (a) On or after thirty days after approval of the final System and in consideration of—

(1) relief from responsibility for rehabilitation of, maintenance of, and signalling and communications functions in connection with, the rail lines conveyed;

(2) relief from liability for the payment of State and local property taxes imposed on the rail lines conveyed (including taxes imposed in lieu of such property taxes); and

(3) the right to continue operation over the rail lines conveyed, in accordance with the provisions of this title,

any railroad company may convey to the corporation its right, title, and interest in all its rail lines included within the System.

(b) A railroad company which—

(1) conveys its rail lines to the Corporation pursuant to subsection (a), or

(2) has no rail lines included within the System,

may convey its non-System rail lines to the States in which such rail lines are located, in consideration of the same relief and operational rights as is accorded by subsection (a).

FEDERAL PAYMENT OF PROPERTY TAX EQUIVALENT

SEC. 402. There is hereby authorized to be appropriated during each fiscal year for payment by the Secretary of the Treasury to State and local governments an amount equivalent to the State and local property taxes (including taxes imposed in lieu of such property taxes) which railroad companies are relieved of responsibility for payment of in accordance with the provisions of section 401. Such payments shall be adjusted upward during succeeding fiscal years by amounts equivalent to increases in taxes on other property located within given taxing jurisdictions.

OPERATIONAL RESPONSIBILITIES OF CORPORATION AND STATES

SEC. 403. (a) Upon acquisition of System rail lines, the Corporation shall assume responsibility for the rehabilitation and maintenance of such rail lines; and for operation of signaling and communication devices on such rail lines.

(b) Upon acquisition of a rail line under this title a State may assume responsibility for the rehabilitation and maintenance of such rail line, and for the operation of signaling and communication devices on such rail line. States assuming such responsibilities shall be subject to the applicable provision of sections 404 through 408 of this title.

(c) The Corporation and States shall have the power to fix rights of trains, maximum train speeds, size and weight limits for equipment, and other rules governing operations over Corporation and State rail lines, respectively.

(d) The Corporation and States are subject to the provisions of the Federal Railroad Safety Act of 1970 and regulations promulgated under such Act to the extent that any such provision is not inconsistent with any provision of this Act.

(e) The Corporation shall not abandon any rail line. Any Corporation rail line which is deleted from the System shall be immediately conveyed to the State within which such rail line is located.

LABOR RELATIONS

SEC. 404. In the performance of functions assumed by the Corporation or any State, the Corporation or State, as the case may be, shall—

(1) employ all persons theretofore employed by a railroad company,

(2) assume collective-bargaining agreements previously entered into between any bargaining unit representing employees and such railroad company, and

(3) be subject to the same laws and regulations as such railroad company with respect to the representation of its employees for purposes of collective bargaining, the handling of disputes between employer and employees, compensation for job-related injuries and other disabilities, employee retirement annuity, unemployment systems, and other dealings with its employees.

LIABILITY

SEC. 405. All bodily injury and property damage arising out of any accident caused by defects in, or improper maintenance of, track, roadbed, signals, communications, or other facilities owned or controlled by the Corporation or State or caused by the negligence of an employee of the Corporation or State shall be the responsibility of the Corporation or State, as the case may be. Rail carriers shall be responsible for all bodily injury and property damage arising out of any accident or occurrence caused by reasons other than those enumerated in the preceding sentence.

OPERATIONS OF RAIL FREIGHT CARRIERS

SEC. 406. (a) A railroad company which conveys its rail lines to the Corporation or to any State or which holds trackage rights over rail lines which are conveyed to the Corporation or to any State shall continue operations as a rail carrier of freight over all such rail lines maintained by the Corporation or any State that such railroad company was conducting prior to the conveyance thereof. The terms and conditions of preexisting agreements and contracts for the use of track and other facilities shall be of no force and effect as between the Corporation or any State and any rail carrier, but insofar as applicable, shall remain in effect as between two or more rail carriers of freight using the same rail lines.

(b) If a State does not assume responsibility for any given rail line in accordance with section 401(d) of this title, the rail carrier may discontinue freight service over such rail line, notwithstanding any provision of the Interstate Commerce Act, upon giving at least sixty days written notice by certified mail to the Governor of the State, transportation agencies of the State, and the government of each political subdivision within the State in which such rail line is located; and to each shipper who has used such rail service during the previous twelve months.

(c) Upon application to the Commission by any rail carrier for the use of any rail line of the Corporation or any State for freight service, if the Commission finds that—

(1) the applicant is fit, willing, and able to properly perform the service proposed;

(2) such service is or will be required by the present or future public convenience and necessity; and

(3) the operations of the applicant will not significantly impair the level of performance of the carrier or carriers already using the line who are adequately serving the public;

the Commission shall by order require the Corporation or State to permit the applicant to use such rail line upon such other terms and conditions as are reasonable under the circumstances.

(d) No one shall commence freight operations over rail lines of the Corporation or any State other than in accordance with the provisions of this section.

(e) Subsequent to commencement of freight service over State rail lines under the provisions of this section, the duty of providing continued service shall be enforced exclusively by the States, notwithstanding any provision of the Interstate Commerce Act.

OPERATIONS OF RAIL PASSENGER CARRIERS

SEC. 407. (a) Any rail carrier shall have the right to continue passenger service over any rail line maintained by the Corporation or any State at the same frequency with which it was providing such service prior to the conveyance. All preexisting agreements and contracts for the provision of passenger service shall be of no force and effect as between the Corporation or any State and such rail carrier.

(b) (1) Any rail carrier shall have the right to initiate new passenger service, or to increase the frequency of passenger service already being provided, unless the Corporation or State determines that the rail carrier is not fit, willing, and able to properly perform the service proposed.

(2) A rail carrier or freight shipper whose service or operations are affected by new or expanded passenger service may file an application with the Secretary requesting appropriate relief. If, after hearing and upon sufficient proof, the Secretary finds that such passenger service will materially lessen the quality of freight service provided to shippers, he shall issue an order fixing such terms and conditions for the operation of such passenger service as are reasonable.

(c) (1) Except in an emergency, passenger trains shall be accorded preference over freight trains in the use of any given line of track, junction, or crossing of the Corporation or any State unless the Secretary has issued an order to the contrary in accordance with paragraph (2) of this subsection.

(2) A rail carrier or freight shipper whose service or operations are affected by paragraph (1) above may file an application with the Secretary requesting appropriate relief. If, after hearing and upon sufficient proof, the Secretary finds that adherence to paragraph (1) will materially lessen the quality of freight service provided to shippers, he shall issue an order fixing rights of trains, on such terms and conditions as are reasonable.

USER CHARGES

SEC. 408. Rail carriers operating over rail lines of the Corporation or any State shall pay to the Corporation or State, as the case may be, a user charge of $1 per thousand gross ton-miles of locomotive and train operation. The amount of such user charge shall be adjusted during each successive year following enactment of this Act in accordance with changes in the applicable wage and price indices.

FINANCIAL ASSISTANCE FOR REHABILITATION

SEC. 409. (a) There are authorized to be appropriated to the Secretary during each of the six fiscal years following enactment of this Act, to remain available until expended, such sums as may be necessary for the purposes of this section: *Provided*, That, if during any fiscal year tax is collected under section 4383 of the Internal Revenue Code of 1954, the sums authorized to be appropriated under this section during such fiscal year shall not exceed the aggregate of all transportation taxes expected to be collected under such section 4383 during such fiscal year: *And provided further*, That, if during any fiscal year no such tax is collected, the sums authorized to be appropriated shall not exceed $500,000,000.

(b) Funds appropriated to the Secretary under subsection (a) shall be disbursed in accordance with an application by the Corporation or any State for the following purposes, upon such terms and conditions as the Secretary deems appropriate:

(1) Rehabilitation of Corporation rail lines in accordance with the requirements of section 206 of this Act, and

(2) Rehabilitation of State rail lines in accordance with the Federal Railroad Safety Act of 1970.

(c) Funds disbursed under subsection (b) shall not be expended for rehabilitation, maintenance, or improvement of rail lines used exclusively for passenger service.

STATE MAINTENANCE ASSISTANCE FUND

SEC. 410. (a) There is hereby established in the office of the Secretary a State maintenance assistance fund. Ten per centum of all moneys collected by the Corporation in user charges shall be deposited by the Corporation in the fund.

(b) Upon application by a State, the Secretary is authorized to grant financial assistance from the fund to such State for maintenance of State rail lines, in an amount not to exceed 70 per centum of that portion of the annual ongoing State maintenance cost which exceeds the amounts collected by the State from rail carriers in user charges. The Secretary may attach to grant such terms and conditions as are just and reasonable.

(c) States entitled to rail service continuation subsidies under the provisions of title IV of the Regional Rail Reorganization Act of 1973 shall not be eligible for assistance under this section for so long as funds are authorized by such title to be appropriated.

(d) Amounts remaining in the fund at the end of each fiscal year shall be returned to the Corporation for financing capital improvements and for other corporate purposes.

TITLE V—MAINTENANCE OF AND ACCESS TO RAIL LINES OF RAILROAD COMPANIES

REHABILITATION AND MAINTENANCE

SEC. 501. (a) Rail lines included within the system which are owned or possessed by a railroad company shall be maintained in accordance with the provisions of section 206 of this Act.

(b) All other rail lines which are owned or possessed by a railroad company shall be maintained to standards prescribed by the States within which such lines are located, consistent with the minimum requirements of the Federal Railroad Safety Act of 1970 and of regulations promulgated thereunder.

(c) Within one hundred and eighty days after the date of enactment of this Act, any railroad company which owns rail lines included within the System shall file with the Secretary a detailed schedule of proposed short-term and long-term maintenance activities to be performed on each such rail line on a regular basis to assure that each such rail line is maintained in accordance with the applicable standards. If the Secretary does not believe that the proposed maintenance activities will be adequate, he may require an appropriate revision of the schedule. Deferrals of any scheduled maintenance activity is hereby prohibited.

ACCESS TO RAIL LINES

SEC. 502. (a) Section 3(5) of the Interstate Commerce Act is amended to read as follows:

"(5) Upon application by any rail carrier for the use of any track or other facility owned or possessed by a railroad subject to this part, and if the Commission finds that such use will not substantially impair the ability of the owner or possessor of such track or other facility to handle its own business, the Commission shall by order to require such owner or possessor to permit the applicant to use such track or other facility upon such terms and conditions and for such compensation as is just and reasonable under the circumstances. Compensation for such use by passenger carriers shall not exceed the incremental expenses incurred by the owner or possessor as a result of such use. Applications by passenger carriers under this subsection shall be acted upon by the Commission within ninety days after such application is filed. If, under any arrangement for the use of a track or other facility which is in effect at the time of enactment of this subsection, or which is entered into subsequently, a party desires a modification in the terms and conditions, including compensation, such party may apply to the Commission for an order fixing revised terms of conditions as may be consistent with this subsection. In passing upon any application by a rail carrier for increased freight rates, increased division of revenues, or other financial relief, the Commission shall consider and determine the extent to which such carrier has availed itself of the provisions of this subsection to effect economies and efficiencies in its operations. Upon granting such application in whole or in part, the Commission may condition such relief on the filing of an appropriate application under this subsection."

(b) Section 5(2)(a) of the Interstate Commerce Act is amended by (1) striking out the semicolon and "or" at the end of clause (i) and inserting in lieu thereof a period, and (2) striking out clause (ii).

TITLE VI—PROTECTION OF EMPLOYEES

CONTRACTING OUT LIMITATION

SEC. 601. No owner or possessor of rail lines shall contract out any project for rehabilitation or maintenance work required by this Act of a value of over $450 per month in labor and materials which is normally performed by employees in any bargaining unit covered by a labor agreement between such owner or possessor and any labor organization.

GUARANTEE OF PREVAILING WAGE

SEC. 602. Every owner and every possessor of any rail line shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed with the assistance of funds received under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. No one shall enter into any construction contract or agreement without first obtaining adequate assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts or agreements, except any construction work performed by an employee of a railroad company. Wage rates provided for in collective bargaining agreements negotiated under and pursuant to the Railway Labor Act shall be considered as being in compliance with the Davis-Bacon Act.

PROTECTIVE ARRANGEMENTS REQUIRED IN CERTAIN TRANSACTIONS

SEC. 603. (a) In connection with any transaction for access to rail lines, transfer of freight traffic, reduction of capacity of rail lines, or abandonment of rail lines, the Corporation, State, or rail carrier whose employees will be affected by such action shall be required to protect the interests of its respective employees. Such protective arrangements shall be those agreed to by the Corporation, State, or rail carrier and the representatives of its employees, or in the absence of such agreement, as the Commission may determine upon application by such representatives. Such protective arrangements shall be included in any order which authorized such transaction.

(b) The protective arrangements required by subsection (a) shall protect individual employees from the date first affected against a worsening of their positions with respect to their employment and shall include, without being limited to, such provisions as may be necessary to provide for (1) notice, negotiation, and execution of implementing agreements prior to the interests of employees being affected; except that, where such implementing agreement has not been executed within thirty days after the date on which the action became effective, either party may submit for binding arbitration any unresolved questions in connection therewith, the arbitration decision to be rendered if possible within thirty days thereafter, but if such decision is for any reason delayed beyond said thirty days, the rights of the parties to such arbitration shall not be affected; (2) the preservation of compensation (including subsequent wage increases), rights, privileges, and benefits (including fringe benefits such as pensions, hospitalization, vacations, and the like, under the same conditions and so long as such benefits continue to be accorded to other employees of the Corporation, State, or rail carrier in active service or on furlough as the case may be) to such employees under existing collective-bargaining agreements or otherwise; and (3) the arbitration of disputes arising out of the protective arrangements which cannot be settled by the parties. In such arbitrations the burden shall be upon the Corporation, State, or rail carrier to prove that the employee was not affected by the action taken. In no event shall said arrangements provide benefits less than those established pursuant to section 5(2)(f) of the Interstate Commerce Act.

TITLE VII—OVERSIGHT AND ENFORCEMENT

ADVISORY COMMITTEE

SEC. 701. (a) The following organizations are requested to each appoint, within thirty days after the date of the enactment of this Act, a representative to form an advisory committee for the purpose of this section:

(1) National Association of Regulatory Utility Commissioners;

(2) National Governors Conference;

(3) Association of American Railroads;

(4) National Railroad Passenger Corporation;

(5) Congress of Railway Unions;

(6) Railway Labor Executives Association;

(7) National Industrial Traffic League: and

(8) National Association of Railroad Passengers.

(b) Such committee is requested to (1) monitor the activities of the Secretary, Commission, Corporation, and States pursuant to this Act, and (2) upon the expiration of one year after the date of enactment of this Act, and after each following year, submit to the Secretary and to the Congress and release to the public a report evaluating the effectiveness of this Act in achieving the objectives thereof declared by the Congress.

ANNUAL REPORT BY SECRETARY

SEC. 702. On or before October 31 of each year, the Secretary shall submit to the President and to the Congress, and release to the public, a comprehensive and detailed report of his activities pursuant to this Act during the preceding fiscal year, together with his evaluation of the effectiveness of this Act in achieving the objectives declared by the Congress. The report shall set forth the number, nature, and location of inspections of raillines made by the Secretary's personnel, and the extent to which each and every railline falls short of compliance with the standards promulgated under this Act.

INVESTIGATION AND INSPECTION

SEC. 703. The Secretary is authorized to perform such acts, including, but not limited to, conducting investigations, holding hearings, making reports, issuing subpenas, requiring production of documents, taking depositions, prescribing recordkeeping and reporting requirements promulgating rules and regulations, and delegating to any public bodies or qualified persons functions respecting examination, inspecting, and testing of railroad facilities as he deems necessary to carry out the provisions of this Act. Officers, employees, or agents of the Secretary are authorized to enter upon, inspect, and examine railroad facilities and pertinent books, papers, and records. Such officers, employees, and agents shall display proper credentials when requested.

RIGHT TO COURT ORDERS

SEC. 704. The United States district court, at the request of the Secretary and upon petition by the Attorney General on behalf of the United States, shall have jurisdiction, subject to the provisions of Rules 65(a) and (b) of the Federal Rules of Civil Procedure, to enforce the provisions of this Act, and orders of the Secretary issued thereunder, by requiring the production of information, issuing injunctions, or restraining orders, or granting of such other relief as may be appropriate. Failure to obey any order or decree of the court may be punished by the court as a contempt thereof.

PENALTIES

SEC. 705. (a) It shall be unlawful for the Corporation, any State, or any rail carrier to disobey, disregard, or fail to adhere to the provisions of this Act or to any rule, regulation, order, or standard prescribed by the Secretary under this Act.

(b) The Corporation, any State, or any rail carrier violating any rule, regulation, order, or standard referred to in subsection (a) shall be assessed by the Secretary a civil penalty for violation thereof in such amount, not less than $250 nor more than $10,000 as he deems reasonable. Each day of such violation shall constitute a separate offense.

(c) Such civil penalty may be recovered in a suit or suits to be brought by the Attorney General on behalf of the United States in the district court of the United States having jurisdiction in the locality where such violation occurred. Civil penalties may, however, be compromised by the Secretary for any amount, but in no event for an amount less than the minimum provided in this section, prior to referral to the Attorney General. The amount of any such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged. All penalties collected under this Act shall be covered into the Treasury as miscellaneous receipts.

SUBPENAS IN COURT ACTIONS

SEC. 706. In any action brought under this Act, subpenas for witnesses who are required to attend a United States district court may run into any other district.

OTHER RIGHTS AND LIABILITIES RESERVED

SEC. 707. Nothing contained in this Act shall be construed as depriving any person of any right of action which he may have otherwise than under this Act, or of relieving any person of any punishment, liability, or sanction which may be imposed otherwise than under this Act.

ADMINISTRATIVE EXPENSES OF SECRETARY

SEC. 708. There are authorized to be appropriated to the Secretary such sums as are necessary for administration and enforcement of this Act, not to exceed $10,000,000 in any one fiscal year. Wherever feasible, the Secretary may make use of personnel and facilities employed under the Federal Railroad Safety Act of 1970 (75 U.S.C. 421 et seq.) in carrying out his responsibilities under this Act.

TITLE VIII—RAILROAD REHABILITATION FUND

SEC. 801. (a) Subchapter C of chapter 33 of the Internal Revenue Code of 1954 (relating to transportation by air) is amended by adding at the end thereof the following new part:

"PART IV—TRANSPORTATION OF PROPERTY BY RAIL, MOTOR VEHICLE, OR WATER

"SEC. 4383. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is hereby imposed upon the amount paid for the transportation of property within the United States by rail, motor vehicle, or water, a tax equal to 1 percent of the amount so paid. In the case of property transported—

"(1) from a point outside the United States to a point within the United States, or

"(2) from a point within the United States to a point outside the United States,

the tax imposed shall apply to the amount paid for that part of the transportation which takes place within the United States.

"(b) APPLICATION OF TAX.—The tax imposed by subsection (a) shall apply to amounts paid—

"(1) to a carrier engaged in the transportation of property for hire, including amounts paid to a freight forwarder, express company, or similar person, but not including amounts paid by a freight forwarder, express company, or similar person for transportation with respect to which a tax has previously been paid under this section; and

"(2) for all expenses of the private carriage of property, including labor, fuel, maintenance, and depreciation, whether paid directly or as lease rentals.

"(c) BY WHOM PAID.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the tax imposed by subsection (a) shall be paid by the person making the payment subject to the tax.

"(2) PAYMENTS MADE OUTSIDE THE UNITED STATES.—If a payment subject to tax under subsection (a) is made outside the United States and the person making such payment does not pay such tax, such tax—

"(A) shall be paid by the person to whom the property is delivered in the United States by the person furnishing the last segment of taxable transportation in respect of which such tax is imposed, and

"(B) shall be collected by the person furnishing the last segment of such taxable transportation."

(b) The table of parts for such subchapter C is amended to read as follows:

"Subchapter C—Transportation

"Part I. Transportation of persons by air.
"Part II. Transportation of property by air.
"Part III. Special provisions relating to taxes on transportation by air.
"Part IV. Transportation of property by rail, motor vehicle, or water."

(c) The heading for part I of such subchapter C is amended to read as follows:

"PART I—TRANSPORTATION OF PERSONS BY AIR"

(d) The heading for part II of such subchapter C is amended to read as follows:

"PART II—TRANSPORTATION OF PROPERTY BY AIR"

(e) The amendments made by this section shall apply to transportation beginning 60 days after the date of the enactment of this Act and shall terminate six years after the date of enactment of this Act.

TITLE IX—MISCELLANEOUS PROVISIONS

ANTITRUST EXEMPTION

SEC. 901. Persons contracting for the joint use of railroad tracks and facilities shall be and hereby are relieved from all prohibitions of existing law, including the antitrust laws of the United States, with respect to such contracts, agreements, or leases insofar as may be necessary to enable them to enter into such contracts and to perform their obligations thereunder.

EVIDENCE IN DIVISIONS CONTROVERSIES

SEC. 902. For a period of five years following the enactment of this Act, evidence that the operating expenses of any rail carrier were reduced as a consequence of any direct or indirect assistance provided by this Act shall not be admissible as evidence before the Commission in any controversy involving the division of revenues.

SEPARABILITY

SEC. 903. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

By Mr. PERCY:

S. 4014. A bill to establish criteria to be observed by approving entities for federally assisted postsecondary education programs in order to protect students in such programs. Referred to the Committee on Labor and Public Welfare.

POSTSECONDARY EDUCATION CONSUMER PROTECTION ACT

Mr. PERCY. Mr. President, on June 26, I inserted in the CONGRESSIONAL RECORD a penetrating series of articles by Eric Wentworth of the Washington Post on the abuses and fraud in the proprietary school industry; that is, in those schools set up by private organizations to teach occupational skills on a profit-seeking basis. Mr. Wentworth detailed case after case of students signing up in good faith for career training and obtaining federally insured loans to finance that training, only to find the school incapable of providing the promised instruction or job placement. Even though many of the students drop out, no better off than before they enrolled, the Federal Government or a lending institution requires repayment with interest on the loans. Understandably, many students in this situation see themselves as victims of a fraud in which the Government is a partner, and they subsequently refuse repayment. The more conscientious borrowers, often poorly employed or with no job at all, set about repaying a loan from which they received no real benefit.

I wish to make very clear that the great majority of private vocational schools and courses are entirely legitimate and do indeed deliver the training promised. But as things now stand, it is often impossible for prospective students to differentiate between the hundreds of good schools and the institutions set up primarily to cash in on the Federal Government's willingness to insure loans to vocational postsecondary students. As long as abuse in the trade school industry is allowed to continue, the legitimate schools, as well as hopeful students and American taxpayers, will suffer. Increasing consumer protection in postsecondary education can only serve to improve the educational system for everyone.

For a comprehensive and distressing review of the problems in the trade school industry, I urge my colleagues to read the Wentworth articles as well as a series of pieces in the Boston Globe on the same subject inserted in the RECORD by Senator BROOKE on April 4. To give an idea of the seriousness of the current situation, however, I want to describe two illustrative cases at this point.

Sylvia Kronstadt, in an article in the Washington Monthly, relates the typical experience of one student defrauded by a trade school. Ramona Gavilan responded to a television advertisement offering training in "the glamorous world of computers." Ramona met in her home with a sales representative—"admissions counselor"—who assured her she had a high aptitude for computers and that she could easily expect a $12,000 to $15,000 starting salary after training. In addition, the course was approved for federally insured student loans, which to Ramona seemed a guarantee of quality. Ramona signed both a 9-month training contract and a student loan agreement that enabled the school to collect full tuition and fees immediately.

Ramona's instruction proved valueless, but unlike more than half of her classmates, she completed the course. The promised demand for her new skills were nonexistent; recruiters wanted only those with college degrees or work experience. Ramona wound up without a job and in debt to the Federal Government for $1,500.

The Famous Writers Correspondence Course, accredited by the National Home Study Council, led prospective pupils to believe that their work would be read and evaluated by famous writers, which was totally untrue. The 3-year course cost $785, and the fact that partial refunds for dropouts were available was well concealed until the Federal Trade Commission stepped in. Ninety percent of the students dropped out before completion but most paid full fees because of pressure from the school.

Actual course material was made up of handy hints on successful writing and fabricated success stories of former students, accompanied by continuing encouragement as to how publishable student work might be. The cost of the materials and grading represented only 17 percent of tuition, while advertising costs were nearly 40 percent. In the end, justice prevailed as the FTC, the Securities and Exchange Commission, the accrediting agency, and the city of New York all took action to bring about the collapse of the Famous Writers Correspondence course.

These are only two examples of the con games that continue to be played at the expense of American students and taxpayers. It is high time that Congress dealt firmly with the problems of the trade school industry, and the legislation I am introducing today should stimulate useful debate and act as a vehicle for the eventual reform of the accrediting-eligibility procedures which allow these problems to continue.

One of the basic causes of trade school industry problems is the complicated relationship between the Federal Government and the private sector with regard to accreditation and eligibility for Federal funds. Many proprietary schools are not accredited and therefore not eligible for participation in a wide variety of Federal programs such as guaranteed student loan and the GI bill. In 1971, however, 58 percent of all proprietary students attended accredited schools.

Accreditation is, for the most part, the responsibility of private agencies ranging in importance, scale, resources, influence, and sophistication from the American Medical Association on one hand to the American Board of Funeral Service Education on the other. The Accreditation and Institutional Eligibility Staff—AIES—at the Office of Education relies heavily for accreditation on some 61 of these tremendously varied agencies that have been approved by AIES to determine the eligibility of schools for participation in federally funded programs. Eligibility of private vocational schools depends entirely on private accreditation for no other means of evaluating their eligibility exists.

The Office of Education has sought to encourage and discipline the approved accrediting agencies to improve their reliability for the Government's eligibility purposes, but has evidently not succeeded very well. Guaranteed student loan statistics indicate the magnitude of the problem: students in proprietary schools account for 10 to 15 percent of the federally insured loan volume, but they account for about 75 percent of the defaults, amounting to some $60 million in 1973 alone.

Placing the blame for the problems in the proprietary school industry is not a simple matter, for controls that have been created to insure against abuses enable blame to be diffused. Whether because of legitimate financial or administrative difficulties or because of intended fraud, the school is, of course, to blame for not providing the promised and paid-for training. The accrediting agency is to blame for continuing to accredit a school that does not meet agency standards. This weakness is somewhat understandable since most accrediting agencies are designed neither to monitor their members thoroughly nor to protect student interests. AIES must share the blame for failing to remove the negligent accrediting agency from the approved list.

While placing the blame is difficult, finding workable solutions is even harder. In 1971, HEW commissioned the Newman Task Force to study accrediting. Their findings have been published and revised but not implemented or even sufficiently debated. A recent report on accrediting and institutional eligibility commissioned by the Office of Education and authored by Harold Orlans and others of the Brookings Institution and the National Academy of Public Administration Foundation, makes some similar, some conflicting recommendations for the improvement of the current accreditation-eligibility tangle. Neither of the studies claims that reform will be simple, but both emphasize the critical need for change.

When professionals like Frank Newman and Harold Orlans and their colleagues devote years of study to the problems of accreditation and eligibility and fail to provide clear-cut solutions, it is obvious that no one legislator could introduce a piece of legislation and sincerely believe it would solve all the problems. Congressional study, public discussion, and the input of experts on every facet of the accreditation-eligibility issue must be brought to bear so that the fraudulent and substandard practices in the proprietary school industry can be eliminated. As I continue to study the problems of the trade school industry, I will, I am sure, find ways of improving this bill, and I will suggest changes accordingly.

I am pleased that Senator PELL and the Subcommittee on Education of the Senate Labor and Public Welfare Committee have begun oversight hearings into the subjects of accreditation and eligibility. The bill I introduce today, the Postsecondary Education Consumer Protection Act, is offered at this time in order to facilitate the Senate action that has thus already begun.

When Congressmen ALPHONZO BELL and JERRY PETTIS introduced a very similar version of this bill in the House last December, they expressed the hope that the legislation would spur House investigation into the proprietary school industry problem. The bill has done just that, and hearings in the House have already begun to consider the recommendations of experts. I am hopeful that the same type of serious study will continue in the Senate Education Subcommittee, with this bill as a focal point for ongoing hearings.

The Postsecondary Education Consumer Protection Act does not propose sweeping changes in accreditation or eligibility processes, but it does seek to strengthen the existing system. The bill has five major provisions. The first is that AIES will study the operation and effectiveness of federally recognized accrediting agencies, utilizing, if desired, other major reports on the issues already completed. Second, the Secretary of HEW shall strengthen and more fully delineate the criteria to be met by recognized accrediting agencies, according to guidelines given in the bill. Third, the Secretary will continuously monitor approved agencies and will publish lists of approved agencies, accredited postsecondary schools, and schools which have lost or were denied accreditation. Fourth, the United States will refund the student's money and repay his federally insured loan if a school accredited by an approved agency becomes insolvent or fails to provide stipulated training. Fifth, Congress expresses its sense that the States should enact laws for the accreditation of postsecondary schools and authority to grant degrees.

It is difficult to determine what the cost to the Federal Government of this bill might be in terms of the cost of repaying students and lenders for tuition and fees paid to eligible schools that fail to fulfill their obligations. It is my hope that long-range costs will be minimal or that Federal dollars will eventually be saved as a result of this legislation. If the strengthened accreditation-eligibility process works as intended, students will get their money's worth in terms of education and the Federal Government will no longer be faced with paying off millions of dollars in defaulted loans of defrauded and disappointed students.

As my colleagues know, I am an avid supporter of legislation to protect consumers and am the sponsor of S. 3572, a bill designed to prevent defaults and declarations of bankruptcy in the guaranteed student loan program. The bill I introduce today I offer with the same goals: That the consumers of postsecondary education be protected from those who would take advantage of and profit unfairly from the aspirations of young Americans who are willing to work for better career opportunities and that the American taxpayer be guaranteed to the greatest extent possible that his tax dollars are effectively spent.

I ask that the text of the Postsecondary Education Consumer Protection Act be included at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 4014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Postsecondary Education Consumer Protection Act of 1974".

PURPOSES

Sec. 2. The Congress declares that the purposes of this Act are to provide protection for students, consumers, and legitimate postsecondary educational institutions against substandard or fraudulent practices, to provide compensation for losses of Federal financial assistance by way of loan or loan insurance because of the insolvency of eligible institutions, and to provide for improvement in the quality of postsecondary education, by strengthening the process by which postsecondary educational institutions gain eligibility for funding status.

FINDINGS

Sec. 3. The Congress finds that—

(a) under the provisions of various federally assisted student aid programs and other Federal programs assisting educational institutions, substantial Federal funds and loan funds guaranteed by the Federal Government flow into postsecondary educational institutions;

(b) eligibility of such institutions for receipt of such funds has sometimes been misrepresented by institutions as amounting to direct accreditation or approval by the Federal Government or an agency or department thereof, when no such accreditation exists;

(c) such misrepresentation has sometimes induced students to enroll in a particular education program who would not otherwise have so enrolled; and

(d) the Nation has suffered substantial losses of human, financial, and educational resources because of the unethical actions of some administrators, recruiters, and other persons associated with eligible postsecondary educational institutions.

DEFINITIONS

Sec. 4. For the purposes of this Act—

(a) The term "approving entity" means a public or private association or accrediting agency which approves or accredits postsecondary educational institutions or the programs of such institutions.

(b) The term "federally recognized approving entity" means an approving entity relied upon by any Federal officer or agency in connection with a program (1) of Federal assistance to postsecondary educational institutions by way of grants or contracts, loans, or loan insurance or guarantee, (2) of Federal assistance to students at postsecondary educational institutions by way of grants, loans, loan insurance or guarantee, or work-study programs, or (3) under which continuation of Federal payment is conditioned on attendance at a postsecondary educational institution approved or accredited by an approving entity.

(c) The term "postsecondary educational institution" includes, but is not limited to, an academic, vocational, technical, home study, business, professional, or other school, college, or university, or other organization or person, offering instruction or edcational services primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory school attendance in their respective States.

(d) The term "education" includes, but is not limited to, any class, course, or program of training, instruction, or study.

ELIGIBILITY STUDY

Sec. 5. (a) The Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") shall, through the Advisory Committee on Accreditation and Institutional Eligibility, conduct a study of the operation and effectiveness of the various federally recognized approving entities. In conducting said study, the Secretary may utilize information and data available as a result of other studies which are relevant to the purposes of this Act. Such study should be conducted with a view toward determining whether the standards employed by such entities are closely monitored and strictly enforced by the entities and effective in protecting the interests of students and toward general improvement of postsecondary educational institutions and their programs.

(b) The Secretary shall, from time to time, make such interim reports of his activities, findings, and recommendations (including recommendations for changes in the provisions of this Act) as he may deem appropriate and shall make a final report to the President and the Congress not later than December 31, 1975, which shall detail the results of his findings and make such recommendations with respect to the operation of this Act or to new legislation as he may see fit.

CRITERIA FOR FEDERALLY RECOGNIZED APPROVING ENTITIES

Sec. 6. Upon completion of the study conducted under section 5(a), the Secretary shall, by regulation, and upon recommendation of the Advisory Committee on Accreditation and Institutional Eligibility, revise the criteria to be met by federally recognized approving entities, where appropriate, to ensure that recognized approving entities are functioning as to assure the following:

(1) That the institution shall have a statement in plain, clear, and understandable language regarding the objectives of its program of education or training.

(2) The institution provides students and other interested persons with a catalog or brochure containing information describing the programs offered, program objectives, definition of educational credentials awarded, length of program, job placement data on former students, schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study, cancellation and refund policies, and such other material facts concerning the institution and the program or course of instruction as are reasonably likely to affect the decision of the student to enroll therein, and that such information is provided to prospective students prior to enrollment.

(3) That the institution provides students and other interested persons with a disclosure statement of its financial status, business relations, and other relevant information regarding the fairness, legality, and solvency of its financial situation, and that such a statement is provided to prospective students prior to enrollment.

(4) That the education, moral character, ethical practices, and experience qualifications of directors, administrators, supervisors, and instructors are such as may reasonably insure that the students will receive fair administrative treatment and education consistent with the objectives of the course or program of study.

(5) That the institution has adequate space, equipment, instructional materials, and personnel, where appropriate, to provide education of good quality.

(6) That the quality and content of each course or program of instruction, training, or study are such as may reasonably and adequately achieve the stated objective for which the course or program is offered.

(7) That upon satisfactory completion of training, the student is given appropriate educational credentials by said institution, indicating that said course or courses of instruction or study have been satisfactorily completed by said student.

(8) That accurate auditable financial records accounting for receipt and refund of guaranteed student loan proceeds, and records to show attendance, progress, or grades are maintained on the premises; and that satisfactory standards are enforced relating to admission, attendance, progress, and performance.

(9) That the institution is maintained and operated in compliance with all pertinent ordinances and laws, including rules and regulations adopted pursuant thereto, relative to the safety and health of all persons upon the premises.

(10) That the institution is financially sound and capable of fulfilling its commitments to students.

(11) That neither the institution nor its agents engage in advertising, sales, collection, credit, or other practices of any type which are deceptive or unfair, as defined by the Federal Trade Commission by final orders, trade regulation rules, or guides.

(12) That the institution has a fair and equitable cancellation and refund policy; that all unearned tuition from guaranteed student loan proceeds is returned to the student's account with the lender (or other holder of the note); that such refunds be on a timely basis (within thirty days of the student's last day of attendance or, in the case of home study students, within a reasonable time as determined by the Secretary); and that failure to comply with these requirements shall be cause to remove the approved or accredited status (and the institutional eligibility) of such institution.

ADMINISTRATION

Sec. 7. (a) The Secretary shall continuously monitor the performance of all federally recognized approving entities and if he determines, after due notice and opportunity for a hearing on the record, that such an entity is failing to meet and enforce the criteria established pursuant to section 6, he shall so notify all departments and agencies recognizing such entity. The Secretary shall rescind such notification when he determines, after due notice and opportunity for a hearing on the record, that the entity has come into compliance with such criteria.

(b) Whenever an officer or agency of the United States receives notification from the Secretary that a federally recognized approving entity fails to meet the criteria prescribed by the Secretary, he shall, until such notification is rescinded, discontinue reliance on such entity's approval or accreditation of postsecondary educational institutions or programs, but institutions and programs which such an entity has approved or accredited prior to receipt of such notification may (in the discretion of the department or agency) continue to be considered to be recognized through the end of the current enrollment period.

(c) During the period that subsection (b) is applicable to an approving entity, and the Secretary determines there is no other nationally recognized approving entity qualified to approve the institutions formerly approved by such approving entity, he shall appoint an advisory committee, composed of persons specially qualified to evaluate education provided by postsecondary institutions formerly approved by such entity, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate in programs in the area with respect to which such approving entity operated.

SEC. 8. If the Secretary determines, after affording due notice and opportunity for a hearing, that (1) a student who is pursuing a program of postsecondary education with the assistance of a student loan which is guaranteed by the United States has been denied the primary educational benefits for which the loan was obtained by reason of the insolvency of the institution or its failure to provide the education or training stipulated in an agreement between the student and the institution, and (2) in the case of a denial of such benefits by an institution eligible after the establishment of criteria under section 6, the Secretary determines that such institution should not have been eligible under the standards of the federally recognized approving entity which approved or accredited the institution, the United States shall (A) forgive the student of any obligation to repay the loan and loan interest when the United States is the holder of the loan, and (B) pay any other holder of the loan any amount due on the loan if it releases the student from further obligation to repay the loan, and (C) pay to the student an amount equal to all payments he may have made on the loan. This section shall apply in cases of insolvency and in cases of failure to provide stipulated education or training which occur less than five years after enactment of this Act.

SEC. 9. Section 553 of title 5, United States Code, shall apply to the promulgation of criteria by the Secretary, and sections 554 through 558 of such title shall apply to proceedings under section 6.

SEC. 10. The Secretary shall publish biannually in the Federal Register a list showing the following:

(1) The approving entities which currently meet the criteria established by the Secretary pursuant to section 6.

(2) The postsecondary educational institutions which are approved or accredited by such approving entities including a particularization of the departments or courses of study which are approved or accredited at the institutions.

(3) The institutions which have lost approval or accreditation and those whose applications for approval or accreditation were not accepted.

SEC. 11. It is the sense of the Congress that the several States should enact laws for the approval or accreditation of postsecondary educational institutions and authorization to grant degrees. Such laws should establish standards for approving entities that will insure proper business procedure within the industry and could utilize model legislation plans and the wealth of recent study in drafting statues for this purpose.

FEDERAL CONTROL

SEC. 12. Section 432 of the General Education Provisions Act is amended by inserting after "the Emergency School Aid Act;" the following: "the Postsecondary Education Consumer Protection Act of 1974;".

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3234

At the request of Mr. HUMPHREY, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 3234, a bill to authorize a vigorous Federal program of research and development to assure the utilization of solar energy as a major source for our national energy needs, to provide for the development of suitable incentives for rapid commercial use of solar technology and to establish an Office of Solar Energy Research in the U.S. Government.

At the request of Mr. JOHNSTON, the Senator from Hawaii (Mr. FONG) was added as a cosponsor of S. 3234, supra.

At his own request, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 3234, supra.

S. 3941

At the request of Mr. DOMENICI, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of S. 3941, a bill to authorize payment for one comprehensive physical examination per year for each person enrolled in medicare.

S. 3981

At the request of Mr. HELMS, the Senator from Mississippi (Mr. STENNIS) was added as a cosponsor of S. 3981, to limit the jurisdiction of the Supreme Court of the United States and of the district courts to enter any judgment, decree, or order, denying or restricting, as unconstitutional, voluntary prayer in any public school.

SENATE RESOLUTION 403—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

(Referred to the Committee on Rules and Administration.)

Mr. EASTLAND, from the Committee on the Judiciary, reported the following resolution:

S. RES. 403

Resolved, That Senate Resolution 255, 93d Congress, agreed to March 1, 1974, as amended by Senate Resolution 358 of that Congress, agreed to August 22, 1974, is further amended as follows:

(1) In section 2, strike out "$4,085,500" and insert in lieu thereof $4,141,600".

(2) In section 3, strike out "$377,800" and insert in lieu thereof "$433,900." and "$5,000" and insert in lieu thereof "$433,900" and "$25,000", respectively.

SENATE RESOLUTION 404—SUBMISSION OF A RESOLUTION TO ESTABLISH A SELECT COMMITTEE ON INTELLIGENCE POLICY

(Referred to the Committee on Armed Services.)

Mr. MONDALE submitted the following resolution:

S. RES. 404

Whereas, revelations concerning the role of foreign intelligence operations of the United States Government in undermining the stability of democratically elected governments have raised serious questions concerning the management, policies and purposes of United States intelligence operations and their compatibility with the authority of the Congress and the values of the American people: Now therefore be it

Resolved by the Senate, That—

SECTION 1. There is hereby established a select committee of the Senate, which may be called, for convenience of expression, the Select Committee on Intelligence Policy.

SEC. 2. The select committee created by this resolution shall consist of 15 Members of the Senate, composed of three majority and two minority members of the Committee on Armed Services, three majority and two minority members of the Committee on Foreign Relations, and three majority and two minority Members of the Senate, to be selected in the same manner as the Chairman and members of the Standing Committees of the Senate. For the purposes of paragraph 6 rule XXV of the Standing Rules of the Senate, service of a Senator as a member, chairman, or vice-chairman of the select committee shall not be taken into account.

SEC. 3. The select committee is authorized and directed to examine past, present and projected intelligence operations and policies of the United States Government, and to determine the role of such operations in supporting the decision-making of the United States Government, and the impact of such operations on national security and the conduct of foreign policy. The select committee shall make an interim report to the appropriate committee of the Senate not later than June 30, 1975, and shall make a final report not later than January 31, 1974. Such final report shall contain the findings of the Committee together with recommendations respecting the management of intelligence operations within the Executive branch, the appropriate role of Congress, the appropriate function of varying types of intelligence activities, and recommendations requesting any appropriate legislative action.

SEC. 4. To enable the select committee to make the investigation and study authorized and directed by this resolution, the Senate hereby empowers the select committee as an agency of the Senate to employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as it deems necessary or appropriate; to sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate; to hold hearings for taking testimony on oath or to receive documentary or physical evidence (including classified information respecting clandestine operations, which shall be made available to the select committee and senior staff designated by the select committee) relating to the matters it is authorized to investigate and study; and to expend to the extent it determines necessary or appropriate any money made available to it by the Senate to perform the duties and exercise the powers conferred upon it by this resolution and to make the investigation and study it is authorized by this resolution to make.

SEC. 5. The expenses of the select committee under this resolution shall not exceed

$750,000 per annum. Such expenses shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee.

Mr. MONDALE. Mr. President, I can only describe as unbelievable the President's statements last night concerning the role of the CIA in Chile. His statement that the United States was spending $11 million for the purpose of preserving the opposition democratic elements, including the newspapers and electronic media, from being suppressed by the Allende government was wholly unconvincing. I can only conclude, with great sadness, that after only a month in office, President Ford is headed down the same road toward a credibility gap that has ruined the Presidency of too many of his predecessors.

When will the leaders of the executive branch of this Government realize that the American people and the Congress and the press will no longer tolerate hogwash as a response to legitimate questions about the behavior of the U.S. Government, either at home or abroad. There is nothing in the record of the previous administration, nor of the CIA, for that matter, which lends credence to the cover story perpetrated last night at the President's press conference.

If we are so concerned about the existence of opposition elements and the preservation of democracy in Chile, do we now have a program to help support the democratic politicians and journalists who have now been muzzled, banned, and jailed?

Has the Forty Committee taken this issue up? How many millions of dollars are they now spending to "destabilize" the military junta in Chile?

Mr. President, I doubt that a dime is being spent to restore democracy in Chile; just as not a penny is being spent to support the opposition elements in Saigon, who might provide a viable alternative to both the depredations of the Vietcong and the oppression of the Thieu regime.

Mr. President, we have been battling for 2 years to restore public control over secret operatives in the White House. It is now clear that we also must restore public control over foreign policy. Our foreign relations can no longer be handled by a handful of elitists in the Central Intelligence Agency and the State Department, who are no longer mindful of the basic values and traditions of the United States and whose main qualification is that they hold an exotic security clearance.

President Ford drew attention last night to the fact that the Forty Committee has been in existence since 1948. That may well be the most compelling argument for it to be drastically overhauled.

In 1948, the United States and its Western Allies were in the midst of the Berlin Airlift; the Czechoslovakian Government had fallen to Communist subversion. The Communist were spending huge sums to win elections in Italy. There was a clear and present need in the United States to be able to respond to the covert operations of the Soviet Union.

We undertook those operations reluctantly: not because we were anxious to compete with the villany being perpetrated at the time by the Stalinist regime in the Soviet Union, but because we held the basic values of democracy and freedom to be worth fighting for against Soviet tyranny.

Now, however, we find that these operations have taken on a life of their own; regardless of changes in the relations with the Soviet Union; of the declining ideological attractiveness of Soviet communism and of the painful lesson that we are not the world's policeman. The CIA's covert activities have not declined. The number of operatives that it employs does not seem to have diminished. Is it a mindless bureaucracy, fulfilling itself by seeking out democratic regimes to topple, undermine, subvert and co-opt? Or is it an irresistible temptation for Presidents and their advisors—who, after all, bear the real responsibility for covert operations?

There is a legitimate role for the Central Intelligence Agency and even for some select covert operations. There is a requirement to gather intelligence on threats directly affecting the physical security of the United States. It is necessary to protect our war plans, to conduct counterintelligence operations and monitor arms control agreements. But on the level of political action, the long history of covert operations, from the Bay of Pigs through the Phoenix Assassination program in Vietnam, in Chile and in Greece, the record of America's use of covert operations is a shameful failure.

But the Central Intelligence Agency must not become a scapegoat. It needs to clean house, but the fact that it is directed against democratic regimes can only be rectified by house cleaning at a higher level.

The real responsibility for the perversion of the CIA and its functions must lie with the political leadership that directs it. Indeed, with the Forty Committee itself and its principals and, with the President of the United States.

The issues that have been raised by the revelation about Chile and Greece, are whether our foreign policy reflects and pursues the basic values of this Nation; and whether these values are being subverted by the way intelligence operations are managed and supervised.

The American people will no longer tolerate violations of the Constitution in regard to domestic affairs; it will not let the fog of national security protect malefactors and break ins, bugging and other operations which are contrary to what this Nation stands for. It is now time that we had a thorough examination of the operation of our foreign intelligence agencies, how they are controlled and coordinated, how they support Government decisionmaking. At the same time, we have to expose the policies these operations are designed to carry out. We need to find a better way for Congress to be involved in decisions relating to intelligence activities, and to establish legal and legislative safeguards in order that the intelligence operations conducted abroad do not disgrace us here at home.

For this reason, Mr. President, I am, today, submitting a proposal for a special committee of the Senate which is designed to examine these issues and return within 24 months with proposals to the Senate of the United States on possible reforms in the organization, structure, and political control of our overseas intelligence operations.

Many resolutions and proposals have been submitted to the Senate on this issue. Almost all of them propose certain answers to the questions that I have raised here today. I do not claim to have these answers. All I know is that there is a very serious problem. Because of the secrecy that surrounds these issues, it is not even possible to tell whether the oversight function of Congress has, in fact, been working well or poorly. The jurisdiction over the intelligence operations is scattered among four separate committees dealing with Armed Services and Appropriations in the House and Senate—but completely unresponsive to the Foreign Relations and Foreign Affairs Committee of the Congress. Clearly, what is required is a new special body, with membership from both Armed Services and Foreign Relations, as well as membership outside of those bodies, which can dig into the urgent issues of what our overseas intelligence operations are for, how they are managed, and how they can really serve the American people.

The Select Committee will not take on the functions of the existing oversight committees; they will continue to perform their present tasks. The purpose of the Select Committee will be to prepare a report so that Congress can act to make necessary reforms and correct deficiencies and abuses.

Mr. President, in the earlier part of this century, there was a Secretary of State who abolished foreign intelligence gathering operations with the smug remark that "gentlemen don't read other people's mail." Everyone can agree that this remark is naive. But embarking on vital intelligence-gathering activities and, even some covert action, to counter real threats to our security is a long way from the kind of mindless hooliganism and wholesale intervention that have recently come to light. That only undermines necessary intelligence activities.

The time has arrived for the American people, through their representatives and in the context of necessary security requirements, to pursue relentlessly the truth of our overseas intelligence operations. Because of the nature of these activities, we cannot simply spread everything out on the public record. Peoples' lives, literally, can be at stake. But this does not mean that our representative form of government cannot deal with these issues. Indeed, it is one reason for representative form of government—so that the people's elected officials can perform functions that would not be possible by the people at large.

If we fail to take this step, if we fail to bring our overseas intelligence operations and, indeed, our foreign policy under domestic control, we will not only be failing our trust, but we will become a party to undermining the basic values for which this great country stands.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 399

At the request of Mr. Robert C. Byrd, the Senator from Pennsylvania (Mr. Schweiker) was added as a cosponsor of Senate Resolution 399, urging full public access to all facts and the fruits of all investigations relating to Watergate and full public access to all papers, documents, memoranda, tapes, and transcripts during the period January 20, 1969, through August 9, 1974.

AMENDMENTS OF THE EXPORT-IMPORT BANK ACT OF 1945—AMENDMENT

AMENDMENT NO. 1871

(Ordered to be printed and to lie on the table.)

Mr. CHURCH submitted an amendment intended to be proposed by him to the bill (S. 3917) to amend the Export-Import Bank Act of 1945, as amended.

AMENDMENT NO. 1874

(Ordered to be printed and to lie on the table.)

Mr. BROCK. Mr. President, I submit an amendment in the nature of a substitute for the amendment of the Senator from Pennsylvania (Mr. Schweiker) to be proposed to the Export-Import Bank Act.

My amendment clearly sets congressional policy that the Board of Directors of Eximbank in determining the interest rate which the Bank should charge must take into consideration the average cost of money to the Bank as well as its role in supporting U.S. exports on competitive financing terms.

The funds that the Bank uses in making loans are from two sources—first funds borrowed from Treasury and the private capital markets and second the Bank's capital and reserves.

The Bank periodically borrows medium and long term funds in the private market at whatever rate is required by that market and on a short term basis it borrows from the U.S. Treasury paying the 182-day Treasury rate.

The Bank's interest rates on its loans have been responsive to the recent increases in its cost of money. Prior to the middle of last year, its average cost of borrowed money was below 6 percent, the rate at which it was lending. When this increased the Board of Directors raised the lending rate to 7 percent in February of this year. Again this lending rate was higher than its average cost of borrowing money. However, due to the very rapid increase in rates, the Bank's average cost of borrowed funds slightly exceeded 7 pecent in May and shortly thereafter the Board of Directors adopted a program of charging rates on a case-by-case basis within a band ranging from 7 to 8½ percent per annum. In most loans extended since that time, the Bank has charged 8 percent.

Furthermore, throughout the history of the Bank it has, with one rare exception, charged more than its average cost of money. In fact, for 10 of the last 14 years and as recently as 1972, Eximbank was charging more than the prime rate. Today the Bank's average cost of money, taking into account its capital and reserves, is only slightly over 5½ percent and therefore it is able to continue to meet the mandate which we have placed upon it of supporting U.S. exporters in this very competitive export sales market.

We have continually instructed the Bank to supplement and not compete with private sources of capital. In meeting this mandate, the Bank finances only 30 to 45 percent of the total cost of a transaction with the balance of the financing being extended by commercial banks after receipt of a downpayment of at least 10 percent. Thus, the effective rates which borrowers from the Bank must pay ranges between 9 and 11 percent per annum. This is approximately the same as U.S. corporations would pay in our private capital market even in this unique period of extremely tight money. This effective cost to the borrower, when buying U.S. products, is higher than the cost of financing available to the customers of the exporters of all of the Western European countries and Japan.

My amendment gives clear guidance to the Board of Directors of the Bank in setting interest rates and takes into account the fact that the Bank should continue on a profitable basis while supporting the maximum amount of U.S. exports.

More rigid requirements would deprive the Bank and our exporters of the ability to compete at this important time when we must substantially increase our exports to pay for the higher costs of imported oil and other raw materials. This would spell disaster for our businessmen in the export sector of our economy; it would create hardship for the hundreds of thousands of American workers employed in these businesses; and would sap the strength of our U.S. dollar.

Under my amendment which directs the Bank to take into consideration the competitive situation as well as the overall cost of all of its sources of money including its borrowed funds, its capital and its reserves as a regular commercial bank would do, the Board of Directors of the Bank will be equipped to continue its profitable operation, and its support of U.S. exporters in the competition for international markets while not asking the American taxpayer for any funds.

Mr. President, I ask unanimous consent that the amendment be printed in the Record at this point.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 1874

In lieu of the material proposed to be inserted, insert the following:

On page 3, line 24, after the words "It is further the policy of the United States that" insert the following: "loans made by the Bank shall bear interest at a rate which is not less than the average cost of money to the Bank; that".

AMENDMENT NO. 1879

(Ordered to be printed and to lie on the table.)

Mr. EAGLETON (for himself, Mr. Stevenson, Mr. Abourezk, Mr. Allen, Mr. Bayh, Mr. Bible, Mr. Biden, Mr. Chiles, Mr. Cook, Mr. Cranston, Mr. Hart, Mr. Helms, Mr. Hollings, Mr. Hughes, Mr. Jackson, Mr. McGovern, Mr. McIntyre, Mr. Metcalf, Mr. Metzenbaum, Mr. Moss, Mr. Percy, Mr. Mathias, Mr. Proxmire, Mr. Schweiker, Mr. Ribicoff, and Mr. Roth) submitted an amendment intended to be proposed by them jointly to the bill (S. 3917), supra.

ENERGY SUPPLY ACT OF 1974—AMENDMENTS

AMENDMENT NO. 1872

(Ordered to be printed and to lie on the table.)

Mr. TUNNEY submitted an amendment intended to be proposed by him to the bill (S. 3221) to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act; and for other purposes.

AMENDMENT NO. 1875

(Ordered to be printed and to lie on the table.)

Mr. BROCK submitted an amendment intended to be proposed by him to the bill (S. 3221), supra.

AMENDMENT NO. 1876

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS (for himself, Mr. Brooke, Mr. Cranston, and Mr. Kennedy) submitted an amendment intended to be proposed by them jointly to the bill (S. 3221), supra.

Mr. MATHIAS. Mr. President, the Senate is now considering an important new piece of legislation to deal with our Nation's energy needs. It is critical that we establish in S. 3221 a coherent national policy with regard to our resources on the Outer Continental Shelf. As we define a national policy in these waters, we must be ever mindful of the protection of our valuable coastal zone.

In commending Senator Jackson and the Interior Committee for a job well done, I, at the same time, hope that we can make further improvements in the coordination mechanism between the States and the Federal Government. It is entirely possible to work toward energy self-sufficiency and at the same time harmonize those efforts with ongoing State programs, specifically the coastal zone management program, so that the many difficult problems which are associated with oil and gas development can be solved rather than exacerbated.

Mr. President, I propose with Senators Brooke, Cranston and Kennedy an amendment which will greatly strengthen the coordination procedures in the bill. Our amendment will allow the Governor of a coastal State, following the announcement of a lease sale in waters adjacent to that State, to request a postponement of up to 3 years of the Secretary of the Interior should the Governor feel that such a sale and the anticipated and actual oil and gas production would have an adverse environmental or economic impact, or cause other damage to the State.

Some of the coastal States are in the very formative stages of providing coastal zone management programs. Others are now exploring the possibility of enacting power plant and refinery citing legislation. Others are just now exploring the question of what the proper standards of liability for environmental damage should be.

In short, there are States with individual circumstances which need additional periods of time to determine how best to plan for offshore oil and gas production.

In hearings before the National Ocean Policy Study, of which I am a member, on offshore drilling, there has been testimony that if proper planning and precautionary measures are not implemented prior to exploration and development of these resources, severe adverse environmental and economic impacts can be experienced. But just as we can predict with certainty the severe effects of improper planning of oil rigs, pipelines, docking facilities, refineries, and all the other activities that take place when oil and gas is produced, transported and refined, I think we can also look forward to demonstrations of sound planning where every safeguard is utilized and a situation where the economic and environmental well-being of the adjacent coastal State has been fully protected.

Our amendment will insure that the Governor has the proper opportunity and forum for presenting his views as to when lease sales should occur in waters adjacent to the State. Under our proposal the Governor may request up to a 3-year delay in any lease sale in waters where oil and gas production could in the Governor's opinion adversely impact his State. The Secretary must act within 30 days to either grant this request in full, provide a shorter period of time should he feel that such is adequate for study and provision to ameliorate any adverse economic or environmental effects or deny the Governor's request for postponement if he finds that this would be consistent with the national policy as expressed in section 3 of the Outer Continental Shelf Lands Act as amended.

Should the Secretary fail to grant the Governor's request, the Governor may appeal within 30 days to the National Coastal Resources Appeals Board which is established by our amendment. This Board shall include the Vice President, who shall be Chairman of the Board, the Secretary of the Interior, the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Environmental Protection Agency, and the Chairman of the Council on Environmental Quality. They shall hear the appeal within 30 days and render a decision after an adjudicatory proceeding within 90 days. That decision shall be reported in detail to the Congress.

There is precedent for this Board. I refer Senators to the report of the Senate Committee on Commerce on S. 3507, the National Coastal Zone Management Act of 1972. S. 3507, as passed by the Senate, would have established in section 311(a) a new National Coastal Resources Board within the Executive Office of the President. The Board was designed to provide an effective coordination mechanism between programs of Federal agencies within the coastal zone, to be a forum for the resolution of serious disagreement between any Federal agency and the coastal State regarding the development of a coastal zone management program, and finally to hear appeals by an aggrieved areawide entity or unit of local government from a decision or action of the Secretary, or an areawide planning entity. It was a good idea then, and it is an even better idea now.

Basically, we have taken the proposal which was passed by the Senate, but dropped in conference with the House, and tailored it to the situation we find ourselves in with regard to offshore oil development. We have included only those members of the old National Coastal Resources Board on our National Coastal Resources Appeals Board as are necessary for the proper hearing of these appeals. We have included the Vice President, as Chairman, because of his important functions in the dynamic relationship between the States and the Federal Government.

We have included the Secretary of the Interior, who has prime management responsibilities for land on the Outer Continental Shelf. We have included the Administrator of the National Oceanic and Atmospheric Administration who oversees the coastal zone management program, which is severely impacted by activities in the Outer Continental Shelf. The Administrator of NOAA will be of great assistance in evaluating the States' coastal zone management program and determining whether it is adequate to deal with the impacts of offshore drilling.

The Administrator of the Environmental Protection Agency would also be a member of the Board because of his important responsibilities for water and air quality. Oil and gas production, transport and refining raise important questions of water and air quality and the Administrator will bring expertise to evaluate these important aspects of OCS development.

Finally, the Chairman of the Council on Environmental Quality will be a member of the Board. As a member of the national ocean policy study, I have been most impressed by the work done at CEQ on offshore drilling. Their study of potential leasing areas in the Atlantic and in the Gulf of Alaska at the request of the President represents some of the finest work that has been done in this field. We very much need CEQ to translate that study into meaningful decisions and bring to bear their expertise in evaluating the adequacy of environmental impact statements.

Our amendment creates a mechanism which does not permit unnecessary or unsubstantiated postponement. The final decision as to whether the lease sale will take place is still in the hands of the agencies of the Federal Government which have primary responsibility in this area. The amendment provides a forum for the Governor to make his case. It brings together in one forum all the agencies which have responsibility for OCS activities. It provides a broad review with congressional oversight to produce a comprehensve result.

As the national ocean policy study has grappled with the question of State participation in what is primarily a Federal decision, we have examined a number of alternative ways of providing this participation. Our amendment steers a middle course. It rejects giving the Governor of a coastal State a veto over OCS development. It also rejects vague urgings that the Federal Government coordinate with the States. The first would be disruptive; the second inadequate. Our amendment is a compromise that should be supported by not only Senators who represent coastal States, but by all Senators who recognize that more needs to be done to provide a working relationship between the States and the Federal Government.

The off-shore leasing program will only be considered a success if all parties are adequately protected in the timing of lease sales. Not all wisdom is found in the Nation's Capital so let us provide a mechanism for State participation in these important decisions.

Mr. President, I ask unanimous consent that the amendment appear at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1876

On page 71, between lines 17 and 18, insert the following:

AUTHORITY OF GOVERNOR OF ADJACENT STATE TO REQUEST POSTPONEMENT OF LEASE SALES

SEC. 210. Section 8 of the Outer Continental Shelf Lands Act, as amended by this Act, is further amended by inserting at the end thereof the following:

"(1) (1) The Secretary shall give notice of the sale of each lease pursuant to this Act to the Governor of the adjacent state. At any time prior to such sale the Governor may request the Secretary to postpone such sale for a period of not to exceed 3 years following the date proposed in such notice if he determines that such sale will result in adverse environmental or economic impact or other damage to the State or the residents thereof. In the event of any such request, the Secretary shall postpone the sale until proceedings under this subsection are completed.

"(2) The Secretary shall, not later than 30 days from the receipt of such request:

(A) grant the request for postponement;

(B) provide for a shorter postponement than requested provided that such period of time is adequate for study and provision to ameliorate any adverse economic or environmental effects or other damage and for controlling secondary social or economic impact associated with the development of Federal energy resources in, or on, the Outer Continental Shelf adjacent to the submerged lands of such State; or

(C) deny the request for postponement if he finds that such postponement would not be consistent with the national policy as expressed in Section 3 of this Act.

(3) The Governor of a State aggrieved by the action of the Secretary shall have 30 days to appeal directly to the National Coastal Resources Appeals Board established pursuant to paragraph (4) of this subsection. Such Board shall hear the appeal within 30 days of its receipt and shall render a final decision within 90 days of such hearing. The

Board shall overrule the action of the Secretary if it finds that (A) the State is not adequately protected from adverse environmental and economic impacts and other damages pursuant to subparagraph (3) of paragraph (2) of this subsection; or (B) the request of the Governor for postponement is consistent with the national policy as expressed in Section (3) of this Act.

(4) (a) There is hereby established, in the Executive Office of the President, the National Coastal Resources Appeals Board (hereinafter called the "Board", which shall be composed of the following, or their designees—the Vice President, who shall be Chairman of the Board, the Secretary of the Interior, the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Environmental Protection Agency, and the Chairman of the Council on Environmental Quality.

(b) The Board shall:

(1) hear the appeal of the Governor of the aggrieved State and to render a decision within 90 days of such hearing;

(2) transmit a written report to the appropriate committee of Congress as to the basis for any decision rendered; and

(3) conduct such hearings pursuant to Section 554 of Title 5, U.S.C.

(5) For the purposes of this section, an aggrieved State is defined as being one which has requested a postponement of a lease sale but has been denied such postponement or provided a shorter period of time in which to ameliorate adverse impacts associated with development of the Outer Continental Shelf and the Governor has determined that such period of time is not adequate.

(6) This section shall take effect immediately upon enactment of this Act.

FUEL STAMP STUDY AMENDMENT

AMENDMENT NO. 1877

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS. Mr. President, I have recently received letters from my constituents who are becoming increasingly disturbed at the rise in the price of home heating oil. In some parts of Maryland, the price has risen almost 50 percent over last year's cost, and I presume that similar situations exist elsewhere. As we head into another winter, we cannot tolerate even the possibility that some of our citizens could be frozen out of the fuel market because of their inability to meet these drastic price increases.

I therefore offer an amendment to S. 3221, the Energy Supply Act of 1974, directing the Administrator of the Federal Energy Administration and the Secretary of HEW to jointly undertake a 60-day study to examine the feasibility of a fuel stamp program. I envision a system similar to the food stamp program, utilizing that existing machinery, operating through local welfare offices. But I think we must go beyond those welfare recipients, and direct attention to those who are on fixed incomes, whether they be on social security, retired military or civil servants, or beneficiaries of other pension programs.

It is these citizens who are bearing the brunt of our inflation, and the rising price home heating fuels places an additional burden on their shoulders. I do not think it is asking too much for the Federal Government to assist those persons who might be placed in the position of sacrificing food for fuel in the upcoming months. My amendment is simply a first step in examining the feasibility of such a program.

AMENDMENTS NOS. 1884, 1885, AND 1886

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT submitted three amendments intended to be proposed by him to the bill (S. 3221), supra.

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS ACT—1975—AMENDMENTS

AMENDMENT NO. 1881

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY (for himself and Mr. Biden) submitted an amendment intended to be proposed by them to the bill (H.R. 15580) making appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1975, and for other purposes.

AMENDMENT NO. 1862

(Ordered to be printed and to lie on the table.)

Mr. HATHAWAY submitted an amendment intended to be proposed by him to the bill (H.R. 15580), supra.

AMENDMENT NO. 1883

(Ordered to be printed and to lie on the table.)

Mr. THURMOND (for himself, Mr. Curtis, Mr. Fannin, Mr. Hansen, Mr. Gurney, Mr. McClure, Mr. Buckley, Mr. Bartlett, Mr. Goldwater, and Mr. William L. Scott) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 15580), supra.

FOREIGN ASSISTANCE ACT OF 1974—AMENDMENT

AMENDMENT NO. 1873

(Ordered to be printed and to lie on the table.)

Mr. PROXMIRE (for himself and Mr. Clark) submitted an amendment intended to be proposed by them jointly to the bill (S. 3394), to amend the Foreign Assistance Act of 1961, and for other purposes.

AMENDMENT NO. 1878

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself and Mr. McGee) submitted an amendment intended to be proposed by them jointly to the bill (S. 3394), supra.

RELIEF AND REHABILITATION FUNDS FOR AFRICA, BANGLADESH, AND CYPRUS

Mr. KENNEDY. Mr. President, I am submitting today an amendment to S. 3394, the pending Foreign Assistance authorization bill. The amendment provides special funds for disaster relief and rehabilitation programs in the drought-stricken areas of Africa, for flood relief in Bangladesh, and for refugee assistance in Cyprus.

The amendment authorizes the use of existing funds—an estimated $119,000-000 available under scheduled loan repayments administered by AID—to permit our Government to respond to the massive human tragedies in these areas, and to possible disasters in other parts of the world.

The current crisis in Cyprus, the massive flooding in Bangladesh, and the spreading drought and famine in Africa, are only the latest links in the chain of ravaged populations which have circled the globe in recent years. Such humanitarian crises have always brought forth an immediate response from the American people—in fulfillment of our Nation's longstanding leadership in helping, to the extent we can, all people in need. Just last spring the Congress responded to the famine needs of Africa, and the disaster relief requirements of Pakistan and Nicaragua, by enacting the Foreign Disaster Assistance Act. And, during consideration of the foreign assistance bill last year, the Congress enacted section 639B, which provided substantial famine and disaster relief to the African Sahel for the first time.

The amendment I am introducing today continues our country's record of concern for our fellow man, and the longstanding support of Congress for disaster relief overseas. The amendment was prepared in very close cooperation with AID, and carries with it the support of the Ford administration.

For the people of Cyprus, Mr. President, this is especially a perilous time—as it is also for the renewal of democracy and freedom in Greece, and for the future of peaceful relations in the Eastern Mediterranean. Regrettably, the plight of Cypriot civilians has taken second place to the military and political dimensions of the Cyprus problem—and to the special interests of those who have much to loose or to gain by the outcome of the conflict on the island. But the civilians of Cyprus—both Greeks and Turks—also have interests. And for tens of thousands, the past weeks have been a nightmare of death and tragedy and grief.

1. CYPRUS

This week I received a preliminary report from a special study mission to Cyprus, which visited the area on behalf of the Subcommittee on Refugees, which I serve as chairman. The study mission visited refugees in all parts of the island, including the Turkish occupied areas. The study mission met with both Greek and Turkish Cypriot leaders and United Nations relief officials, and also held extensive conversations on humanitarian and related problems with officials in Ankara and Athens.

The study mission reports that nearly 300,000 Cypriots—mostly Greeks—are now refugees. They fled the advancing Turkish Army, leaving their homes and nearly all of their belongings behind. This is close to half the island's population—without sufficient food and medicine, with little shelter, with few clothes and blankets, and with increasingly little hope for an early return to their villages and homes.

A drive along the highways of Cyprus, especially in the southern zone, quickly tells the tragic tale of the events of July and August—of the human consequences of an armed invasion, of constant cease-fire violations, of military occupation, and of man's inhumanity to man.

Refugees are still fleeing down the

roads of Cyprus. During the team's recent visit some 20,000 people fled the town of Athna, in advance of what the Turkish Army calls "armed reconnaissance in force"—or what simple language would label a ceasefire violation. These thousands of refugees, like the tens of thousands before them, are today seeking protection and safety in the towns of southern Cyprus, swelling the local population in some areas by at least 500 percent. They are seeking shelter wherever they can find it—in open fields, under trees, along the roadsides, and in schools, churches, and civic buildings. In the first days they had no shelter, and few blankets. And only in the past 2 weeks have relief supplies begun to arrive in meaningful quantities, and clusters of tents are beginning to sprout around towns and cities in the government controlled areas of the island. The overwhelming majority of those in need are Greek Cypriots, but significant numbers of Turks also command our help and concern.

The economy and life of Cyprus has been shattered by the Turkish invasion, with some 80 percent of the economic base located in the occupied areas which now have less than 10 percent of the population. The vast citrus industry rots on the trees. Farms on the plain lie idle, as cattle and other livestock die from lack of food and water. The tourist center of Kyrenia has been looted beyond recognition, and the city of Famagusta—a city of over 40,000 people—is now a ghost town, with empty streets, houses, and hotels. The population of whole cities have become refugees.

For many refugee families, the tragedy is still too fresh, their flight to safety too recent, for them to realize fully what has happened. And few in the international community have recognized the full tragedy of Cyprus. Our Government's role during the crisis—our early silence and later vacillation toward the political and military problems of the island—must not characterize our Nation's attitude or response to the escalating human crisis which has gripped all of Cyprus.

The study mission reports that important relief efforts have now been undertaken, in cooperation with Cypriot authorities, by the United Nations High Commissioner for Refugees and the International Committee of the Red Cross, among others. But these initiatives, and programs for humanitarian relief in Cyprus, are just getting off the ground and need the immediate support of the United States—support which this amendment will provide. It is estimated that the United Nations High Commissioner for Refugees will alone need some $22 million for emergency relief through the end of this year, and that an additional sum will be required for returning the refugees home or resettling them elsewhere on the island. Our Government must be in a position to actively encourage and generously support this important humanitarian work of the United Nations and the Cypriot authorities. Peace and relief for all Cypriots in need must be our goal on Cyprus.

2. BANGLADESH

In Bangladesh, there can be no doubt today that great tragedy has once again hit the Bengali people. A recent hearing before the Subcommittee on Refugees indicated that flood refugees number in the millions, as the worst floods in over 20 years have inundated the land and people of Bangladesh. Crops have been destroyed, and food reserves have been lost. Housing, schools, health clinics and other facilities have been swept away. And all reports confirm that this latest disaster seriously compounds existing economic and social problems brought about by the dislocations of the 1971 war for independence.

In testimony before the Refugee Subcommittee recent travelers to the area report that there is more human suffering than ever before, that the country stands on the brink of starvation, and that epidemic and disease threaten the well-being and lives of millions, and, perhaps, the nation as a whole. In purely human terms, there is great suffering today in Bangladesh which must call forth a greater response from the United States—out of humanitarian concern, as well as concern for the stability and peace of South Asia. The United States cannot assume the full responsibility for meeting the massive human needs in Bangladesh. The United Nations and other governments must help. But we, too, must do what we can with what we have.

3. AFRICA

And in the Sahel and other parts of Africa, the food situation continues to deteriorate as famine conditions spread across the continent. Contrary to our Government's general optimism over the past year, recent reports, even within the government, tell of catastrophic consequences from the Sahelian drought, and that the situation among the people is precarious in some areas. The number of famine refugees is growing. Relief camps are over-burdened. Last year's logistical bottlenecks and administrative delays in the movement of food and relief supplies continues. Malnutrition and disease still threaten the lives of many thousands, and unless something more is done the death rate will continue to climb.

Mr. President, it is the purpose of this amendment to make available already appropriated funds to support international relief and rehabilitation programs in Cyprus, Bangladesh, Africa, and other areas of possible need over the coming year. This amendment authorizes the Agency for International Development—AID—to use 50 percent of the fiscal year 1975 scheduled loan repayments, which now revert to the Treasury, to be used for the relief, rehabilitation, and reconstruction purposes mandated in the amendment—especially in Cyprus, Bangladesh, and Africa. Current estimates by AID suggest that some $119 million is immediately available. And by using the loan repayments, under specific Congressional authorization, it will not be necessary to appropriate a new obligational authority this fiscal year.

The humanitarian concerns today—in Cyprus, Bangladesh, and Africa—illustrate once again that those foreign policy variables involving people are crucial elements in our foreign policy. Little will be achieved in building a structure of peace unless governments place a higher priority on the welfare and real-life problems of people—whose neglect fosters instability and spawns conflict around the globe.

Political wisdom and simple humanity demands of our country that we do more to help the critical humanitarian needs in today's world. The extraordinary needs in Cyprus and elsewhere demand that we take extraordinary steps to utilize all readily available sources of funds—including those scheduled loan repayments which will revert to the Treasury, unless Congress and the administration act to use them for humanitarian purposes in the interest of world stability and peace. The amendment I introduce today will help accomplish this end.

Mr. President, I ask unanimous consent that the text of the amendment, as well as a section-by-section analysis of its provisions, be printed at this point in the RECORD.

There being no objection, the amendment and analysis were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1878

At the end of the bill, add the following new section:

RECONSTRUCTION, RELIEF, AND REHABILITATION

SEC. 33. (a) Section 203 of the Foreign Assistance Act of 1961 is amended by inserting immediately after "of this part." the following: "The balance of such receipts for fiscal year 1975 is authorized to be made available for the purposes of sections 639B, 639C, and 639D of this Act."

(b) Section 639B of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following: "Notwithstanding any prohibitions or restrictions contained in this or any other Act, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for reconstruction and economic development programs in the drought-stricken nations of Africa. Such assistance shall be furnished solely out of funds made available under section 203 of this Act to carry out this section."

(c) The Foreign Assistance Act of 1961 is amended by adding after section 639B a new section 639C as follows:

"SEC. 639C. RELIEF AND REHABILITATION IN BANGLADESH AND CYPRUS.—(a) The Congress finds that the recent flooding in the People's Republic of Bangladesh, and the civil and international strife in the Republic of Cyprus, have caused great suffering and hardship for the peoples of the two Republics which cannot be alleviated with their internal resources. The President shall make every effort to develop and implement programs of relief and rehabilitation, in conjunction with other nations providing assistance, the United Nations, and other concerned international and regional organizations and voluntary agencies, to alleviate the hardships caused in these two nations.

"(b) Notwithstanding any prohibitions or restrictions contained in this or any other Act, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for disaster relief, rehabilitation, and related programs in the People's Republic of Bangladesh and the Republic of Cyprus. Such assistance shall be furnished solely out of funds made available under section 203 of this Act to carry out this section."

(d) The Foreign Assistance Act of 1961 is amended by striking after section 639C, as added by subsection (c) of this section, the following new section:

"Sec. 639D. Disaster Relief and Rehabilitation.—Notwithstanding any prohibitions or restrictions contained in this or any other Act, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for disaster relief, rehabilitation and related programs in the case of disasters that require large scale relief and rehabilitation efforts which cannot be met adequately with the funds available for obligation under section 451 of this Act. Such assistance shall be furnished solely out of funds made available under section 203 of this Act to carry out this section."

(e) The Foreign Assistance Act of 1961 is amended by adding after section 639D, as added by subsection (d) of this section, the following new section:

"Sec. 639E. Internationalization of Assistance.—Assistance for the purposes set forth in Sections 639A, 639B, 639C, and 639D shall be distributed wherever practicable under the auspices of and by the United Nations and its specialized agencies, other international organizations or arrangements, multilateral institutions, and private voluntary agencies."

Section-by-Section Analysis of the Amendment

The purpose of this amendment is to permit the President to respond to the disasters in Cyprus and Bangladesh, to have the authority to respond to future disasters of a like nature, and to permit him to complement disaster relief for the drought-stricken nations of Africa with long-term development and reconstruction assistance which will facilitate a reorientation of the Sahelian and Ethiopian economies and will halt the advance of the desert. Absent such efforts, the African nations are likely to endure a perpetual and ever-growing disaster.

This amendment also directs that both reconstruction and relief assistance be undertaken with other donors, international organizations, and voluntary agencies.

Subsection (a): This subsection provides a funding source for the Sahelian and Ethiopian development authority, the Bangladesh and Cyprus relief authorizations, and future large scale disasters which other portions of this amendment create. Presently, A.I.D. may use 50% of the scheduled loan repayments for new loans under its regular development accounts. The balance reverts to the Treasury. This subsection makes the 1975 balance available for loans or grants for the purposes set forth below. A.I.D. estimates that this balance will total $119 million. Although only 1975 receipts will be used, the funds need not be used during this fiscal year but will remain available for use as multilateral programs for the Sahel, Bangladesh and Cyprus develop. By using the loan repayments, it will not be necessary to appropriate new obligational authority.

Subsection (b): Last year the Congress enacted Section 639B which urged the Executive to develop, in conjunction with other donors and international organizations, long-range development plans in the drought-stricken African nations. Congress indicated its belief that the short-range reaction to the disaster (authorized by Section 639A) must be followed by reconstruction and development that will halt or reverse the advance of the desert, if the inhabitants of the area are ever to overcome their misfortune and participate in a self-sustaining economy. This subsection complements that directive by authorizing the President to furnish such assistance. There are some restrictions in the Act that will work against this effort, however. One example is the 25% local participation requirement of Section 110(a). The drought-stricken regions of Africa are confronted with such enormous problems that their scant resources cannot provide even 25% of the cost of reconstruction. For this reason, the language "notwithstanding any prohibitions or restrictions. . ." is included. The amendment's sponsors believe that this authorization will greatly facilitate the executive branch's attempts to involve other nations and organizations in development plans by showing the seriousness of our commitment.

Subsection (c): This subsection responds to the misfortunes of the people of Cyprus and Bangladesh. In both cases, events beyond the control of the local populace—armed conflict in one case and devastating flooding in the other—have caused great suffering and hardship to the respective populations. Emergency relief and rehabilitation in large but still undetermined amounts is needed in both situations. The Congress recognizes this need and authorizes and encourages the President to make every effort to work in concert with other concerned nations and organizations to provide assistance to these two areas. As in subsection (b), a waiver of the restrictions of the Act is necessary. Such restrictions as sections 620(a)(3) and (n), which prohibit assistance to countries whose ships carry cargoes to Cuba and North Vietnam respectively, must be overcome. Other disaster relief provisions of the Foreign Assistance Act contain similar language which permits the Act's prohibitions to be overridden.

Subsection (d): Rather than reacting to disasters some time after they occur, this subsection will give the President the authority to respond quickly to large-scale disasters the nature and consequence of which cannot yet be foreseen. Drawing on the same funding source as the other portions of this disaster oriented provision, this subsection will be available for efforts beyond those possible under the Contingency Fund of Sec. 451. This section will allow response when disasters are so serious and on such a large scale that an extensive effort will be needed. The funds allocated under Sec. 451 are authorized primarily for disaster relief purposes, but are limited to $30 million under current authorizations. This subsection makes it possible for the U.S. to respond promptly to the Sahels, Cypruses and Bangladeshes of the future without obtaining new authorizing and appropriating legislation. Since this subsection does focus on a need that will transcend normal policy restrictions, this provision includes a waiver of the restrictions of this and other laws. Such a waiver is consistent with the other disaster relief provisions of the Foreign Assistance Act.

Subsection (e): Stipulates that the assistance provided under all the above sections "shall be distributed wherever practicable under the auspices of and by the United Nations and its specialized agencies, other international organizations or arrangements, multilateral institutions, and private voluntary agencies."

THE HEALTH PROFESSIONS EDUCATIONAL ASSISTANCE ACT OF 1974—AMENDMENT

AMENDMENT NO. 1880

(Ordered to be printed and to lie on the table.)

AMENDMENT TO PREVENT THE FOOD AND DRUG ADMINISTRATION FROM REGULATING SAFE VITAMINS AS DANGEROUS DRUGS

Mr. PROXMIRE. Mr. President, on behalf of myself and Mr. Abourezk, Mr. Allen, Mr. Bentsen, Mr. Bible, Mr. Brock, Mr. Buckley, Mr. Chiles, Mr. Church, Mr. Cranston, Mr. Dole, Mr. Domenici, Mr. Dominick, Mr. Eastland, Mr. Fulbright, Mr. Goldwater, Mr. Gravel, Mr. Gurney, Mr. Hansen, Mr. Hartke, Mr. Hatfield, Mr. Helms, Mr. Hollings, Mr. Humphrey, Mr. Inouye, Mr. Johnston, Mr. Mathias, Mr. Mansfield, Mr. McClure, Mr. McGee, Mr. McGovern, Mr. Montoya, Mr. Moss, Mr. Nunn, Mr. Packwood, Mr. Pell, Mr. Randolph, Mr. Roth, Mr. Schweiker, Mr. Scott of Pennsylvania, Mr. Sparkman, Mr. Stevens, Mr. Talmadge, Mr. Thurmond, Mr. Tower, and Mr. Tunney I introduce an amendment of S. 3585 and ask that it be printed.

This amendment is the substance of S. 2801, the so-called vitamin bill, which would prevent the Food and Drug Administration from regulating safe vitamins and minerals and dangerous drugs.

There are several reasons why this amendment should be adopted.

PROCEDURAL REASONS

First of all there are procedural reasons.

Hearings on the substance of the amendment have been held in both the House and the Senate. We are not proceeding without hearings.

But apparently neither the House of Representatives nor the Senate Labor Committee intend to act on the bill this year.

However, unless action is taken before July 1, 1975, we have no guarantee that the FDA will not try again to put into effect its regulations which would regulate many vitamins as dangerous drugs.

If the Congress does not act this year, it will be exceedingly difficult to get action in both the House and the Senate before July 1 of next year.

But if Congress or the Senate acts this year, we will increase the urgency and pressures to make certain this amendment and this bill is not killed by inaction and delay.

Finally, on the procedural issue, both the House Health Subcommittee bill and the U.S. Court of Appeals of the Second Circuit in its decision of August 15, 1974, support the basic substance of the amendment. I am introducing on behalf of myself and 45 colleagues, that the FDA regulations establishing 150 percent of the RDA's as a standard to distinguish vitamins from drugs is an arbitrary, unsound, and unsupported standard.

My amendment and bill throws it out. The Kyros bill passed by the House committee threw it out. And the second circuit threw it out.

In fact in a really remarkable statement, the court said:

> Our examination of the record (of the FDA vitamin hearings) has turned up not a single instance in which the scientific processes by which the RDA figures were developed were subject to searching examination.

What this amendment would do would be to prevent the FDA from redrafting its regulations based on modified RDA's and putting them into effect next July 1.

SUBSTANTIVE REASONS

The so-called U.S. recommended daily allowances, which are specifically based on the food and nutrition board's recommended daily dietary allowances, are a capricious and arbitrary standard. They have fluctuated from year to year and from time to time without apparent rhyme or reason. The 1968 RDA's had 55 changes in value from the 1964 list, and they varied from 20 to 700 percent.

Some vitamins now on the list were not even on the RDA list a few years ago. Obviously in that case, they might be sold in unlimited quantities under the proposed FDA regulations. Vitamins and minerals such as vitamin E, folacin, vitamin B–6, vitamin B–12, biotin, iodine, magnesium, zinc, and others were not even on the 1964 Food and Nutrition Board's RDA's list. But if the FDA has its way, these nutrients, which only a few years ago were not even on the RDA list, could shortly become drugs.

Further, the effect of the FDA regulations would also vastly increase the cost of vitamins and minerals. Vitamin C would have to be sold in quantities of 90 mg or less unless they were classified as drugs. If one wished to purchase 500 mg tablets, it would be a drug. Obviously, it is going to cost the consumer far more to buy vitamins in small amounts than in larger quantities.

It is also very possible that many vitamins now purchased routinely will have to be purchased by prescription in the future. If the FDA refuses to allow vitamin C or some other vitamin, like B–6, to be sold in quantities larger than 150 percent of the RDA's, or refuses to allow them to be sold as an over-the-counter drug, then they will only be allowed in large quantities under prescription. And with the makeup of the present Over the Counter Committee, with its orthodox and antediluvian views, there is a real danger that many vitamins will in the future have to be prescribed except in the minimal quantities.

AMENDMENT RESTORES THE STATUS QUO ANTE

Essentially what the amendment does is to restore the status quo ante, for example, the condition prevailing before the FDA's drug regulations.

The key language from the amendment is taken either from part 1.11, 21 Code of Federal Regulations which have been in effect at least since 1955—or for almost two decades—or is taken directly from the law itself, namely from section 402(a)(1).

The FDA has attempted to say that the amendment would limit their jurisdiction by the language in the text which states that the Secretary cannot limit the potency, number, combination, amount, et cetera, of a vitamin or mineral "if the amount recommended does not ordinarily render it injurious to health."

That language has been in the law for years, and the propaganda put out by the FDA that it would change matters by suddenly placing the burden of proof on the Government is just not so.

CONCLUSION

If the FDA wants to raise the price of vitamins, put hundreds of small health food stores out of business, or arbitrarily call a food a drug, let them come to Congress with specific legislation to do just that.

In the meantime, let us pass this amendment to restore the status quo until such time as they are willing to make drastic changes by law rather than by regulation or arbitrary executive action.

ADDITIONAL COSPONSOR OF AMENDMENTS

AMENDMENT NO. 1850

At the request of Mr. ABOUREZK, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of Amendment No. 1850, intended to be proposed to the bill (S. 3394), the Foreign Assistance Act of 1974.

AMENDMENT NO. 1867

At the request of Mr. ABOUREZK, the Senator from Iowa (Mr. HUGHES) was added as a cosponsor of Amendment No. 1867, intended to be proposed to the bill (S. 3221) to increase the Nation's supply of energy from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act; and for other purposes.

ADDITIONAL STATEMENTS

STATE LOTTERIES

Mr. HUGH SCOTT. Mr. President, a recent editorial in the Pittsburgh Post-Gazette called for legislation to exempt State lotteries from Federal gambling laws. I fully concur. In May I introduced S. 3524 to accomplish this purpose, and Senator RICHARD SCHWEIKER has also drafted legislation to help the lotteries.

We both recognize the need to continue the Pennsylvania lottery and others without interruption. I have seen the many benefits provided by the Pennsylvania lottery, specifically the millions of dollars funneled into programs benefiting our senior citizens.

I ask unanimous consent that this Pittsburgh Post-Gazette editorial be printed in its entirely in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LEGALIZE STATE LOTTERIES

The Senate Judiciary Committee should speedily follow the advice of Sen. Richard Schweiker, R-Pa., and approve legislation exempting state lotteries from federal gambling laws.

Sen. Schweiker's call for such legislation followed a warning by U.S. Atty. Gen. William Saxbe that the lotteries operated by 13 states, including Pennsylvania, may be in violation of federal statutes prohibiting the distribution of lottery tickets across state lines and through the mails.

Atty. Gen. Saxbe has called the governors of states with lotteries to Washington today for a meeting on how to bring a multi-million-dollar business and a vital part of state revenue into conformity with federal laws. That enterprise may be an impossible one; some experts believe the Justice Department will have no choice under the present situation other than to bring suit against the states to shut down their lotteries.

Such disruption of state lotteries can be avoided if the Senate Judiciary Committee approves legislation such as Sen. Schweiker has suggested in time for consideration by both houses before Congress adjourns.

YOUTH AND AGE

Mr. CHURCH. Mr. President, it is always encouraging when young people take the initiative in opening up lines of communications with other generations.

As chairman of the Senate Special Committee on Aging, I was very much impressed, therefore, when I recently learned of two efforts to encourage communication between youth and older Americans.

One was organized through the Girl Scouts of the U.S.A. Mrs. William McLeod Ittman, Girl Scout president, wrote me several months ago to describe a proposal called Hand-in-Hand: Cross-Age Interactions. She called for the Administration on Aging to fund seven pilot demonstrations to involve Girl Scout councils in areas of service to the elderly. I supported the proposal, and I was pleased to learn recently from Mrs. Ittman that the Administration on Aging has given its approval. It is the hope that these pilot projects will encourage the remainder of the 359 Girl Scout councils to become similarly involved.

Mr. President, I shall ask unanimous consent to have reprinted at the close of these remarks a brief introduction to the project proposal. It provides additional information on the thinking behind the Girl Scout program.

The second example of concern by the youth for the elderly was provided by the Future Homemakers of America, the national organization for secondary school students in home economics and home economics-related occupations. One of the FHA concerns is "the need of older citizens for contact and association with the community and particularly with the younger members of our society."

Recently FHA issued a booklet describing volunteer work projects already under way by FHA members. In some cases, they cooperate with established programs in nursing homes or other institutions for the aging. In others, they are concerned with older citizens in their own homes.

Mr. President, I ask unanimous consent to have printed in the RECORD an FHA news release describing the booklet, and I commend their membership for taking such positive action on aging. I also ask unanimous consent that the introduction to which I referred be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEWS FROM FUTURE HOMEMAKERS OF AMERICA

"Under 20–over 65" is the title of a 34-page, self-cover booklet showing how FHA and HERO (Home Economics Related Occupations) members work with the older generation.

The booklet contains examples of how the teenage members of Future Homemakers of America carry out chapter projects with the aging correlated with the home economics classroom studies to increase knowledge and understanding related to family living.

It is pointed out in the introduction that working with the older people becomes a learning, growing, understanding experience for young men and women. It helps them explore in depth their relationship with all segments of society and broadens their views with regard to members of their own families.

Future Homemakers of America believe that "Through projects with the elderly we not only obtain the satisfaction of knowing that we are helping our community, but a special kind of friendship grows between us and the aging because of our joint effort to help and be helped."

The publication is available from National Headquarters, Future Homemakers of America, 2010 Massachusetts Avenue, N.W., Washington, D.C. 20036. Price: 50c

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Introduction: From Project Application: Girl Scouts of the U.S.A.

"They all seem to have the same problem and that is loneliness. They don't exactly say it but they imply that nobody wants to bother with them. Most of them can't get out or have visitors. I really feel good knowing that I can help them and that I'm appreciated."

These words appeared on a young teenager's report of her volunteer experiences working with the elderly poor on a service project. We placed them first, since the thrust of our whole project is directed toward encouraging and facilitating very basic and very real human relationships. Although our organization brings the mechanism for direction and careful attention to planning, administrative, financial and logistical matters, it must be emphasized here that the personal experiences and mutual enrichment from cross-generation exchange and sharing are our raison d'etre and the foundation upon which this project proposal has been designed.

The proposed project described in the following pages is a three-year, nationally coordinated demonstration project conducted by Girl Scouts of the U.S.A. The aim is to provide a national direction and defined focus for the development and testing of a number of program models involving the interaction between young people and the elderly poor, and resulting in the mutual sharing of experiences, increased understanding and tangible and greatly needed delivery of service to the elderly in a number of very practical ways. The program models, after careful testing, will be available to all of the 359 Girl Scout councils throughout the United States, and after the expiration of the three-year project, continuing assistance will be available from Girl Scouts of the U.S.A. to all councils requesting help in developing and expanding projects working with the elderly. It is expected that nearly all 359 councils will be interested in either following the examples of our established program models, or in developing replicas and/or similar projects to fit the special needs of the elderly and the girls from the many divergent social, cultural, and geographic areas throughout the United States.

ABOUT GIRL SCOUTS OF THE U.S.A.

Girl Scouts of the U.S.A., founded in 1912 by Juliette Gordon Low, incorporated in Washington, D.C. June 10, 1915, and chartered by Congress in 1950, has grown in its sixty-one years to be the largest single voluntary organization for girls in the free world. Our membership numbers 3.2 million girls aged 6 through 17, and 669,000 adults. This includes over 38,000 Americans living abroad. The motivating forces in Girl Scouting are a spiritual belief, an ethical code to which all members subscribe, and a commitment that the strength of the movement rests in voluntary leadership by adults, in cooperating with the community, and in close affiliation with the Girl Guide and Girl Scout movements of over 90 other countries. Girl/adult partnership, the concept of service to others, self-growth and development of the individual girl, volunteerism, adult education, and willingness to serve all girls are the fundamentals of Girl Scouting.

THE NEED FOR FISCAL AND MONETARY RESTRAINT

Mr. FANNIN. Mr. President, we have been repeatedly told inflation is currently our Nation's No. 1 problem. The primary cause of this problem has been reckless Government spending resulting in huge deficits which have been partially financed by the Federal Reserve.

The remedies for this problem are limited: the national budget should produce a surplus of revenue and monetary growth must be reduced to a reasonable level. In spite of these obvious remedies, they have not been adequately employed. We are now being advised that the classical remedy for inflation has not and will not work. We are receiving this economic advice from the same body of advisers who counseled that a little inflation was a good thing. They did not foresee that a little inflation has resulted in runaway inflation and now they appear to be recommending a policy that would somehow slow the rate of inflation and still maintain constant economic well-being. This policy is obviously impossible to implement and we must adopt the classical cure for inflation and allow sufficient time for it to work.

An excellent article by Dr. Paul McCracken, professor of business administration at the University of Michigan and former Chairman of the Council of Economic Advisers, in the Wall Street Journal, August 29, 1974, pointed out that the classical remedy has worked in the past and should be adopted now.

Dr. McCracken states that—

> This all comes into focus in the current scene with the rhetorical question: "Why would it be expected to work this time when it failed before?" The "it" is, of course, fiscal and monetary restraint, and "before" usually refers to the 1969–71 period. That was an episode during which according to the historical myth fast congealing, the inflation rolled on in spite of fiscal and monetary restraint until stopped in desperation by wage and price controls. This is wrong. The strategy was succeeding. And it is quite obvious to anyone who will look at the facts that it was succeeding.

Dr. McCracken goes on to substantiate his position that basic fiscal and monetary restraint has worked and will work in today's economy.

Mr. President, I ask unanimous consent that the full text of the article by Dr. McCracken be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Let's Read the Minutes

(By Paul W. McCracken)

Americans reflect a notable lack of historical-mindedness, and this myopic concentration on the here-and-now can be troublesome. Not bothering to look up the facts, we often find ourselves making current decisions based on what "everybody knows" to have been demonstrated by some previous episode. In some cases what "everybody knew" turned out to be surprisingly unrelated to the historical facts. This historical myopia may simply be unfair. According to a recent article on this page, for example, four decades after he left office and a decade after his death Herbert Hoover, we are now perceiving, looks a good deal better than what "everybody knew."

When misperceptions assume the force of historical facts through sheer repetition, however, public policy can also become a casualty. "Those who cannot remember the past," observed Santayana in his oft-quoted warning, "are condemned to repeat it."

This all comes into focus in the current scene with the rhetorical question: "Why would it be expected to work this time when it failed before?" The "it" is, of course, fiscal and monetary restraint, and "before" usually refers to the 1969–71 period. That was an episode during which, according to the historical myth fast congealing, the inflation rolled on in spite of fiscal and monetary restraint, until stopped in desperation by wage and price controls.

This is wrong. The strategy was succeeding. And it is quite obvious to anyone who will look at the facts that it was succeeding. If nothing more were at stake than that a chapter in the annals of economic history might get wrongly written, the matter would not be serious (except perhaps to those associated with policy at that time, but they are expendable). Something far more important is at stake, however, and that is whether this nation can now restabilize its price level. And without a restabilization of the U.S. economy, the probability of international disorder that could become social and political as well as economic is uncomfortably high.

THREE PROPOSITIONS

In the 1969–71 period economic policy was based on three propositions. First, the accelerating rise in the price level was a serious matter, and it needed to be countered. Second, to counter the inflation basic reliance should be placed on fiscal and monetary restraint. Third, in the modern world the therapy must work without massive increases in unemployment, though some rise would have to be expected.

That there was fiscal and monetary restraint during that period is not usually in dispute. It began with the belated 1968 tax increase, but it was carried substantially further by expenditure restraint in 1969. In the early part of 1968, for example, federal outlays (on a national accounts basis) were rising at the rate of 15% per year, but by the first half of 1969 the rate of increase was reduced to about 2%. During the second half of 1968 the money supply was rising at a 7.9% per year pace, but in the first half of 1969 this was reduced to a 5½% per year rate, and for the second half of 1969, the figure was only 1.6%. (Monetary policy was, in fact, too restrictive by the second half of 1969 and the restraint was held too long, but that is another story.)

What were the results?

The unemployment rate did rise as had to be expected, but the rise was held within relatively narrow tolerances. The peak was 6.1% at the end of 1970, and again in August 1971, and it averaged 5.9% in 1971. Just over 94% of the civilian labor force, in short, was employed during that episode of disinflation instead of the 95% or so that would be consistent with reasonably full employment. While social policy has unfinished business so long as anyone is searching for work and unable to find a job, it is a fact that the rise in the unemployment rate did not carry it beyond 1 to 1½ percentage points above any realistic conception of what is normal.

What happened to the price level? This obviously was the meat of the coconut. The facts are important enough to warrant a table, and the profile of the figures deserves a careful look. The acceleration of the inflation really began after the first half of 1967 when the annual rate was still only 2%. The price level then began to rise at an accelerating rate, reaching a 6.1% per year pace by the first half of 1969. Now if that rate of acceleration had been allowed to continue, where would it have carried us by the first half of 1971? Anyone who plots these figures on a sheet of graph paper will find that if the 1967–69 rising trend in the rate of inflation had been allowed to run, it would have carried us to the 9% to 10% per year zone by 1971. In fact, the rate of inflation had moved back to a 3.8% per year rate by the first half of 1971 before the controls were imposed.

Rise in consumer prices

[In 6-month periods, annual rate]

Period:	*Percent*
1967 First half	2.3
1967 Second half	3.8
1968 First half	4.6
1968 Second half	4.9
1969 First half	6.1
1969 Second half	6.1
1970 First half	5.9
1970 Second half	5.1
1971 First half	3.8
1971 Second half	2.9

Source: Bureau of Labor Statistics.

If restrictive action had not been taken, would the rate of inflation have continued to accelerate, or would it have leveled out in any case? The facts of experience are not encouraging to those who would like to believe that inflations somehow die a natural death or at least remain benign. They continue to roll until they are restrained. And when they are countered, the price level will begin ultimately to stabilize.

The facts of history also suggest that how long "ultimately" is depends on the longevity and virulence of the inflation. And they also suggest that even in the easy cases there are no instant results. Indeed the search for instant results is apt to lead to policies with short-term cosmetic gains at the expense of a fundamentally worsened position in the longer run.

Again history is instructive. In 1958 the price level was stabilized by mid-year though it rose through the recedence phase and this stability lasted until the middle of the next decade. The little recessionette of early 1967 rather promptly produced a slowing of the price level. Indeed, 1967 may well be the year of lost opportunity in terms of restabilizing the economy. The economy's response mechanisms were still sensitive. Stronger fiscal and monetary policies pursued then a little longer might have saved a good deal of subsequent trauma if we had been willing to accept slightly more slack at that time.

By 1969 the acceleration in the pace of inflation was in its third year, and more pressure and more time were required, but the price level did respond. The acceleration was halted as early as 1969, and by 1971 even before the controls program the rate was less than half of what could reasonably have been expected if counter-action had not been taken.

The 1974 inflation has even more momentum, and it has now been running for almost two years. Moreover, it has been a part of an international explosion of price levels. This all makes turning its flank hard going, and it will take time. The person who expects instant results is simply reflecting a failure to read the lessons that history has to offer about how things happen in the real world.

MORE THAN RESTRAINT NEEDED

A disinflationary program must, of course, include more than restraint. At some point, which at the time will seem premature, policies must become more expansive in order to obtain the favorable effects on costs from the larger productivity gains that come from more rapid increases in production. We are probably close to that time now for monetary policy. There must be programs to handle the casualties of inflation. Impediments to more rapid gains in productivity and to more effective competition should be dealt with, and many of these impediments have been imposed by government. Jawboning and monitoring can make a small contribution but they are tricky and their actual effect on the rate of inflation is quite small.

Basic reliance on fiscal and monetary restraint must be central to the strategy. If history is discouraging to those impatient for instant results, it is encouraging to those who want fundamental results. This is not the first era in which the nothing-works-anymore jeremiad has surfaced. A tendency in a wealthy society for savings to outrun investment had achieved catechistic status in the 1930s, and in a far more affluent economy four decades later we are floundering for lack of savings. There were those who predicted "last time" that the new type of inflation would never respond to therapy but it did. There were those who hailed the controls program with its quick-acting therapy, but these same controls produced their inevitable distortions and they mislead us into overly expansive fiscal and monetary policies—thus contributing to more severe inflation in 1973 and 1974.

If we never actually read the minutes of the last meeting, we needlessly compound our bewilderment about the seeming intractability of the problems we face.

U.S. FOOD ASSISTANCE

Mr. HUMPHREY. Mr. President, today's New York Times carries a compelling editorial, "Crops and Credibility."

It highlights the critical problem facing President Ford in deciding whether to increase our food for peace assistance in the face of reduced total crop levels and the administration intention to cut Federal spending.

The editorial points out the world food shortage and the importance of a positive response by the United States. Our country as the world's major food reserve nation can hardly look the other way and ignore the threat of mass starvation.

The World Food Conference requires our leadership if it is to be a success. It will be of little value if substantive steps are not taken promptly.

The Senate has already unanimously endorsed an expansion in our food assistance in its passage of my food assistance resolution, Senate Resolution 329.

I call upon the administration to speak out in clear and forthright terms. Now is the time to respond with courage and generosity. A false economy now would be foolish and shortsighted.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CROPS AND CREDIBILITY

The trend of the current debate in Washington on the level of food aid to be made available to hungry people in other nations under Public Law 480 seems to be pulling President Ford toward what could be the first diplomatic disaster of his Administration.

Agriculture Secretary Earl Butz has warned that disappointing American farm production this year will limit this country's ability to provide increased food aid. If that warning is translated into a firm decision not to make a substantial increase in the P.L. 480 program, the world food conference in November—originally proposed by Secretary of State Kissinger—could turn into a shambles.

In planning for the conference the original hope was that the American delegation would go to Rome with authority to announce a measurable increase in this country's commitment to supply food aid. A decision on that point has now been delayed while policy-makers from various Federal agencies ponder two intervening developments—shortfalls in the expected United States crop for this year and President Ford's determination to cut the over-all budget sharply as part of his fight against inflation.

Both are powerful considerations, especially with domestic food prices shooting upward again. It is also a powerful consideration, however, that the world food problem is serious and becoming more serious each day. World population keeps growing at an appalling rate, and the emptiness of the talk at the United Nations population conference, just ended in Bucharest, removes any hope of effective international coordination of population policies.

The green revolution of a few years ago is faltering under the impact of the energy shortage and the decreased availability of fertilizer, so vital to increased food production in developing countries. Kenneth R. Farrell, deputy administrator of the Economic Research Service, has warned that "long-range projections of current rates of population growth simply run off the chart and beyond the range of agricultural solutions that are either possessed or conceivable."

An international attack on the food problem, led by the world's food producers and industrialized nations, is essential. John A. Hannah, former United States Aid Administrator, has warned that the Rome conference cannot succeed without a major positive approach by the United States.

If the United States is to persuade other countries to make real contributions—investments by the Arab countries in agricultural development in developing countries, for example, or financial contributions by Europeans to storing emergency food reserves—this country must demonstrate the genuineness of its own commitment.

Without a substantially increased program under Public Law 480, the United States protestations of alarm about the world food problem will have a hollow ring. This country's contribution in Rome would be little more than empty exhortations to others that they increase their own efforts while we failed to lead the way by our own example.

Such an American stance would be doubly difficult to defend in the light of Secretary Butz's repeated recent assurances to the home audience that there is no reason to panic. "So far as food grains are concerned, we had a pretty good year," he says. To be sure, food prices are going up again, but agricultural economists insist that an expansion in the P.L. 480 program can be achieved without significant additional increases in the prices American consumers will have to pay in any case.

It cannot be argued that increasing the P.L. 480 program will be easy. It will entail a shift of priorities in deciding where cuts are to be made in Mr. Ford's budget. A sacrifice of some kind, modest in terms of the total budget and the total food supply, must be made if this country is to play a responsible role in the fight against the ravages of hunger which are afflicting ever larger portions of the earth's population.

Without such a commitment, the result in Rome will be no progress—or worse, a babbling of recriminations that will impede international cooperation for years to come and possibly even lead to large-scale starvation in the Southern Hemisphere.

CAMPAIGN FINANCING REFORM

Mr. HUGH SCOTT. Mr. President, today the conferees on campaign financing meet for the first time. As a conferee myself and as a prime advocate of reform of the campaign financing system, I pledge my thorough efforts to achieve the strongest, most effective bill possible.

An editorial in Sunday's Philadelphia Inquirer stresses the extreme importance of this legislation and urges the conferees to "stand firm on * * * partial public funding of campaigns for both the House and Senate." For the interest of my colleagues, I ask unanimous consent that this editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Philadelphia Inquirer, Sept. 15, 1974]

Campaign Finance Reform Faces a Critical Test

A Senate House conference committee this week will face the task of demonstrating whether the Congress is willing to right some of the grievous wrongs that have polluted American democracy through campaign giving and spending.

Should anyone be of a mind that simple public embarrassment might be a restraint on the evils of the recent past, it should be noted that the nation's dairy cooperatives have amassed more than $2 million for 1974 campaign spending—and influence. The maritime unions have a war chest of more than $1 million standing ready. The list goes on interminably.

What can be done about it?

A great deal, we believe. And much earnest legislative study and lobbying have gone into the processes that led the Senate to pass a campaign finance reform act on April 11, and the House to produce another, quite different, one on Aug. 8.

Generally, the Senate bill is vastly preferable to that passed by the House, whose entrenched and powerful timeservers' club sought to make their bill something of an incumbents' insurance policy, and which produced a weak enforcement provision.

The Senate's provision for an independent regulatory agency with authority to undertake criminal prosecution should be accepted by the House. The House bill's ceiling on spending for individual Congressional campaigns—$60,000 plus $15,000 for fund-raising—is so stringent, we believe, that it would in many cases give unjust advantage to established incumbents. The Senate version sets those limits at $90,000 for each candidate, which we find more realistic and preferable.

But the central and critical difference between the two bills is on the matter of partial public financing of election campaigns.

Both chambers accepted the principle by approving public financing, through income-tax return checkoffs, in Presidential campaigns. There is little danger that that necessary provision will fail to become law.

Extending the principle of partial public funding to Congressional elections, however, was rejected by the House in a 228 to 187 vote.

The mechanics of matching-fund public financing of elections are complex, and doubtless will have to go through the fire of experience to be brought even to their imperfectible best. But the principle, we believe, is vitally important if America hopes to effectively minimize the dependence on private wealth or special-interest support that plagues us today.

The Senate conferees should stand firm on the insistence that partial public funding of campaigns for both the House and Senate begin with the bill before them. A final bill should be put before both houses before the November election. Every House member who votes to reject these overdue reforms should be held to account for that vote at the polls.

JOBS FOR PEOPLE OVER 60

Mr. CHURCH. Mr. President, since we so often hear that older people are unable to find employment, it is heartening to find from the August issue of Manpower that a State employment service office in Louisville is successfully placing people over 60. The Retired Workers Job Service Center of Louisville, Ky., has placed 4,000 of such applicants since 1966.

It is interesting to note, too, that the center is operated by only one employment service veteran age 60 with the help of three full-time volunteers all over 65. Older themselves, the employment counselors understand the needs of their age group.

Most of the jobs are part-time and fill the need not only for meaningful activity but for extra income to supplement social security benefits. Many are service jobs with small employers and skilled craft workers are in demand.

The on-the-job performance and dependability of the older workers have made them popular with employers. Job orders outnumber applicants. Employers have found that hiring older people has been a decided plus in their organizations.

This is, of course, not really news—for the experience of many employers has been similar—when older people are given a chance to demonstrate their employability. This has certainly been the case in Idaho, where several similar efforts are underway.

I commend the Louisville Retired Workers Center for its very worthwhile efforts in bringing together employers and old jobseekers.

Mr. President, I ask unanimous consent that the article "Not the Retiring Kind" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Not the Retiring Kind

(By Emil Michael Aun)

When Carroll F. Briscoe lost his job of 15 years in October 1972, a State employment service counselor in Louisville advised him to apply for unemployment compensation. But he refused. He wanted a job and, with the help of the employment service, he was soon placed as a desk clerk in a Louisville apartment house.

The story wouldn't be unusual except for one thing: Briscoe was 86 years old at the time.

The State employment service in Louisville has obtained 4,000 placements for older job seekers like Briscoe since 1966 through its Retired Workers Job Service Center. The center serves only workers over 60 years old, placing them in full- or part-time jobs. Located in Dosker Manor, a federally subsidized apartment house complex near downtown Louisville, the center is run by a full-time employment service manager aided by three full-time volunteers.

Briscoe typifies one kind of client aided by the center. He could get by without the $28 he earns for 2 days' work a week. He and his wife both collect social security and he has a second pension from his 37 years as a street car and busdriver. But he has worked steadily since his first job in 1903 (in a furniture factory where he earned $3 a week) and he is determined to go on working.

"I enjoy it," Briscoe explained. "When you retire there's nothing to look forward to. That's the whole thing in a nutshell. Someone asked me the other day, 'How long will you work?' I said, 'Till I die.' "

More typical, perhaps, is Lela Edwards, 64, a receptionist for Louisville surgeon Richard E. Doughty. She also likes to work—"I'd go crazy if I stayed home all the time"—but her assets were badly drained by the lingering illness of her late husband. She needs her $300 monthly salary to supplement her modest social security check.

Employers are understandably less concerned with the reasons older people work than with the results. And they have found that hiring the aged has been a decided plus. "I had a series of young people in here and they took no pains to do a good job," said Dr. Doughty. "They weren't dependable like Mrs. Edwards."

"I'm from the old school," said Mrs. Edwards. "I was taught that when I got a job, I had to do it. There are plenty of times when I feel like I don't want to come in—but I come. I haven't missed a day yet." And that's been 4 years.

PART-TIME JOBS STRESSED

As a measure of her devotion to work, Mrs. Edwards may have to sacrifice part of her social security income this year. She has been alternating on the job every 3 months with another older worker; each worked 6 months a year. But recently her alternate has been sick, and Mrs. Edwards, now working full time, seems certain to surpass the $2,400 that social security recipients are allowed to earn without losing part of their Government check.

To avoid such penalties and to reduce the pressure on older workers, the center concentrates on getting—or developing—listings for part-time jobs. A prize example is the arrangement worked out with the Louisville and Jefferson County Department of Health to hire retired people part time to fill full-time jobs. The job of switchboard operator, for example, now is handled by three people who work overlapping 4-hour shifts.

This means the switchboard is covered through lunch, and working hours can quickly be rearranged in case one of the three operators is off for the day. Each operator earns $39 a week after deductions and one, Edna May Schneider, who gives her age as "65 plus," has been on the job nearly 6 years.

Steadiness and dependability like this have relieved a major headache for the health department. "We had switchboard problems for years," said Dr. Thomas Wallace, department director. "An 8-hour day just seemed to be too much. By using three people, with staggered and overlapping hours, they can relieve each other and fill in when necessary. The extra woman is not idle. One always separates mail for us, does the filing, and helps other units in the department."

The Retired Workers Center is an outgrowth of a 15-month, $52,000 experimental and demonstration project funded by the Manpower Administration in 1966. The pilot effort sought to demonstrate the effectiveness of neighborhood employment centers, staffed by trained volunteers, in placing older people in jobs. Two centers were set up. One located in St. Matthews, an affluent Louisville suburb, served mainly people over 40. The second, sponsored by Senior House a local organization for older people, was established in the downtown YMCA and served primarily people past 60. The volunteers were managed by A. B. Jones, a full-time employment service professional who until then had specialized in running youth programs.

The final Manpower Administration evaluation of the project turned up the following facts:

The two centers served 973 older job applicants of whom 405 or 42 percent were placed.

The downtown center, serving those past 60, placed about 60 percent of its 461 applicants.

Sixty percent of those applying downtown had been unemployed for a year or longer.

These results demonstrated that volunteers could handle placement services in a facility outside the employment service main office. It also demonstrated that the employment service could team up with an agency such as Senior House, and train its volunteers to serve the people making up their constituency. Finally, the pilot program showed that its specialized services were needed by employers and older workers alike.

Federal funding ceased when the demonstration ended, but the Louisville office of the employment service was determined to continue service at least for those 60 and over. "It filled such a need we had to go on with it," said O. L. Burkeen, area employment service manager.

In 1967, the St. Matthews facility was closed but the operation serving those past 60 was transferred to a ground floor apartment in Dosker Manor and assumed its present character. The office is open 5 days a week from 8:30 a.m. to 4:30 p.m. and is managed by Carl Bach, 60, a 12-year employment service veteran, and the only paid person on the staff. His fulltime volunteer assistants are, Eula E. Redmon, 78, a widow and experienced office worker; Norma Embray, 69, also a widow and a former secretary; and John Morgan, 75, former president of a machinists' union local.

The volunteers receive no pay, but are given $5 a day to cover lunch, transportation, and other expenses. Other project costs are $45 a month rent for the apartment, plus supplies and telephone.

"It doesn't cost much when you're using volunteers," said Burkeen. "I think we've shown that volunteers can do a job and do it effectively for such an employment service operation. These people are placing 40 to 50 job applicants a month and in January they reached 88, which is about twice what any of our professional paid placement units did.

Mrs. Redmon, who has been with the center since its demonstration project days, was named Louisville volunteer of the year in 1968. She prefers accolades like that to pay. "I enjoy the work," she said in her perky fashion. "I like people."

Her greatest satisfaction is getting someone a job. "Lots of them don't have the income I have," she said. She draws social security and a railroad pension. "They just can't live on what they get. I placed one woman who was 62 and had no income outside of work. Another woman was trying to get by on $93 a month."

Some of the placements made by her and her colleagues have been outstanding. One applicant, a retired engineer, was placed in a $16,000 job and a 78-year-old physician, unable to endure idleness, was given even a higher salary as a medical director for one of the area's largest employers.

Most placements, however, are in service jobs with small employers; only about 5 percent are in the professional and managerial category. Skilled craftworkers are in some demand. Typical placements are in jobs as bookkeepers, inventory clerks, companions, ticket takers, sales clerks, and security guards. Starting pay is usually about $2.25 an hour or less.

Transportation is a continuing problem. Bus service is spotty and many older people can't afford, or can't drive, automobiles.

In the early days, job orders also were a problem. Community support and the help of other agencies had to be drummed up through cards, phone calls, and newspaper publicity. A professional public relations campaign put together by a retired stockbroker brought in a spate of job orders, a majority of them from employers not at that time using the employment service. Now job orders flow in automatically and greatly outnumber applicants. To fill them, the local social security office refers a steady stream of clients to the Dosker Manor office, as do churches and local senior citizens' organizations.

Economic facts help explain the demand for older workers. Their primary competitors for the modest paying jobs they are offered are youngsters who often lack the patience, skill, and ingrained work disciplines of their senior contemporaries. Also, many of the jobs are part-time, ideally suited to retired workers who want to keep busy but who stand to lose some of their social security income if they earn too much. And, despite Federal law to the contrary, many employers do discriminate against the aged—so when an older worker finds a job, he or she is grateful and tends to stay with it.

"NEEDS ARE DIFFERENT"

There are, of course, exceptions. "We have one woman we've placed over and over again as a companion," says Mrs. Embrey. "She doesn't ask for a job, she demands it, and she's not at all grateful. We don't know what's wrong, but what can you do?" Since July 1971 the center has found more than 20 jobs for this woman.

Burkeen and James Marion, employment service placement officer in Louisville, point out that before the center opened, older jobseekers weren't getting personalized services. And they wouldn't if the center were closed. "There's a tendency for them to get lost in the shuffle," said Marion. "Their needs really are different from the rest of the labor force. Most of our orders downtown are for regular 40-hour-a-week jobs. The center does locate some full-time jobs but it specializes in part-time spots and it makes sure the openings go to those over 60."

They caution, however, that any such operation should be kept simple, and, so far as possible, separate. The Louisville center, for example, does not use the Job Bank and its daily printout of all openings in the area. Bach and his staff do their own job development work and solicit all their own openings. And they keep their own records.

They fill out an information card on each new applicant which stays permanently in the files at the center. On a separate form they report all hires and job orders weekly to the downtown office. Also on a separate form, they keep a record of employer contacts which is also sent downtown weekly so employer service representatives can coordinate their activities. They use Employment Security Automated Reporting System (ESARS) forms to report directly to State employment service headquarters on each new applicant and on those who go inactive either by getting a job or by dropping out of the labor force.

Other than these forms, the staff's tools are the Dictionary of Occupational Titles, a Labor Department booklet called *Do's and Don'ts for Mature Jobseekers,* the telephone, and their own powers of persuasion.

A key element in their performance is that, being older themselves, they understand the needs of other senior citizens. As A. B. Jones, first director of the center, said in a speech before the Urban Affairs Institute:

"There is no doubt that most of us look forward to retirement. Some of us have even called it the day of independence. But when that day arrives, most of us prefer it to be temporary—a vacation rather than permanent retirement."

AMNESTY

Mr. GOLDWATER. Mr. President, the President, in my opinion, has made a serious mistake in approaching amnesty in any way and I hope that he reconsiders his proposal before further serious division in this country takes place. The American Bar Association panel on amnesty was an interesting one particularly the opening statement made by Maj. Gen. Robert F. Cocklin of the Army Reserve. I ask unanimous consent that his statement be printed in the RECORD together with a table showing Presidential amnesties for military-connected crimes.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN BAR ASSOCIATION PANEL ON AMNESTY

(Opening Statement by Major General Robert F. Cocklin, U.S.A.R.)

I firmly oppose any general or blanket amnesty for draft evaders or resisters or for service personnel in a desertion or absent without leave status. Each is an offender who has violated civil or military law and each should, with full rights protected, be adjudged within the applicable judicial system on a case-by-case basis.

Millions of young Americans served honorably in the Armed Forces under extremely difficult conditions during the Vietnam conflict. Hundreds of thousands suffered wounds, tens of thousands were killed, and almost 2,000 became prisoners of war or were missing in action. For the sake of these people alone, the advocacy of amnesty for those who refused to do their duty is at best ill-considered. The duties that the deserters and draft evaders avoided—which they knew might have exposed them to some danger and hardship—ultimately had to be performed by other young men with a higher sense of duty and responsibility.

Proponents of amnesty are fond of remembering that President Washington gave pardons in 1794 to several hundred who participated in the Whiskey Rebellion. But our first President clearly enunciated another conviction that is even more applicable to this discussion and I quote: "It may be laid down as a primary position and the basis of our system, that every citizen who enjoys the protection of a free government, owes not only a portion of his property, but his personal services to the defense of it." End quote.

Because amnesty is such an emotional subject, it will be useful for rational discussion to deal with facts to the extent that we can. To that end, I have appended to this opening statement a table listing and describing some twenty-five instances of Presidential Amnesties for Military Crimes. I have made this available to my colleagues on the panel so that it is available for easy references. The accuracy of the material on this chart is further documented by a paper prepared by the Legislative Reference Service of the Library of Congress which I have with me here.

A close examination of both of these which are historical and I believe accurate, reveals that amnesty has in fact been used very sparingly and only in situations completely unlike the present post-Vietnam era. As a matter of fact, general amnesty for all deserters or draft evaders has never followed an American war. Even partial amnesties have been rare and applied only to those already convicted and not to deserters or draft evaders still at large. There were no general amnesty actions by our government following World War I, World War II, or Korea. Thus I find any suggestions that blanket amnesty is in the American tradition a fraudulent conclusion.

Here we must deal with the philological problem and that is to settle the distinction between pardon and amnesty. Pardon is extended to individuals and absolves them from or reduces punishment but does not concede innocence of wrongdoing; amnesty on the other hand, is extended to groups and by some definitions, wipes out the offense itself. The courts have ruled, notably in Burdick vs. U.S. 236 U.S. 79 that "the only purpose of an amnesty is to stay the movement of the law; its function is exercised when it overlooks the offense and offender leaving both to oblivion." End quote.

So it is entirely consistent to oppose amnesty but in our system of justice to review each case individually and to apply pardon totally or in part as the facts warrant. That is the position I support.

I am less than persuaded by the suggestion by some of the more pro-amnesty advocates that our country suffers because we are denied the talents of any of those who shirked their obligations by running to another country rather than to obey the law. From the articles that I have seen in the public press including interviews with these people, they all appeared to have made a very conscious decision to leave. Some of the more articulate are vociferous in the critical disdain in which they hold this country and our system. So their absence has caused no great drain on the talent available to the country. Nor is it easy to develop much compassion for someone who voluntarily abandons the country because he is unwilling to fulfill his citizenship.

The emotional arguments are as always difficult to deal with. The most succinct summation of some of these emotional issues which has come to my attention was published by the Navy League of the United States. Let me quote briefly from it:

"Compassion is a virtue which is neither visible or quantifiable. But it is not the only virtue. Responsibility and a sense of duty are also virtues, and those against blanket amnesty are of the opinion that draft dodgers and military deserters have shown much less than their fair share of these virtues. "Justice is another virtue which has a great claim on the body politic as does compassion. It might prove compassion of a sort to release from prison on the grounds that some might be innocent—all those guilty of crimes against fellow citizens, but it certainly would not be just or wise. Similarly, granting amnesty to all draft dodgers or deserters on the grounds that some may be innocent would not be just or wise either.

"The charge, which some pro-amnesty spokesmen have made that those against blanket amnesty 'lack compassion' or are 'vindictive' is no more valid or provable than would be the assertion that parents who discipline their children love them less than those who do not discipline their children.

"The 'more compassionate than thou' argument, in short, is unprovable—and irrelevant in any case—and tends to cloud rather than clarify the issue." End quote.

The theory is sometimes advanced by the pro-amnesty advocates that the granting of amnesty would be a unifying and reconciling influence on the people of America. All the evidence I can find refutes this. I know from checking with more than a dozen veterans organizations and other associations, such as my own, that they consistently and strongly oppose the granting of amnesty. The memberships of the groups I checked number more than 6 million.

I think a fairer assessment would be that blanket amnesty would not be a reconciling influence at all. For a considerable period of time at least, the granting of a blanket amnesty would be felt so keenly and so deeply by most of the men who served and their families that it would be, in fact, a divisive influence. We must bear in mind that we are talking about amnesty for somewhere between 5,000 and 50,000 people, with the lower end of the spectrum the closer, as near as I can judge. Those who did their duty and obeyed the law number in the millions.

In December of 1946, President Truman established an amnesty board to review convictions under the Selective Service and Training Act of 1920: Justice Owen J. Roberts, who was chairman of that Board originally favored a general pardon or amnesty but was persuaded by his two board colleagues that the cases should be examined individually. Roberts stated at the conclusion that he had not been aware of how many were not entitled to amnesty and that the individual examination was the only way to handle the problem. In any event, the Roberts board considered 15,805 cases. They recommended that executive clemency be extended to 1,523 individuals. In almost one half of the cases the Roberts board examined, over 7,000, the files reflected prior records of two or more serious criminal offenses. This suggests that in far too many cases conviction or conscience plays no role at all on the decision to evade or desert. But above all, the examination of individual files focused on the great differences and mitigations that exist between various individuals.

The experience of the Roberts board suggests two points that deserve serious consideration. First, their success indicates that it would indeed be possible mechanically to physically handle Vietnam cases on an individual basis through a board or series of boards and that in so doing justice will most surely be better served. Secondly, that in serving justice in this way, the dignity and integrity of the law can be upheld rather than degraded by blanket amnesty. There is no more reason to suppose that revenge or vindictiveness would play a role in board judgments that would be true of any criminal case in the courts.

Ours is a government of law, not of men. Laws enacted by the elected representatives of the people after full and free debate. The draft evaders and deserters have deliberately and intentionally broken the law proclaiming themselves superior to and not bound by the law. Endorsing such actions would produce a government of men and destroy the greatest hope to free men everywhere. I don't believe thoughtful Americans would ever favor this choice. I certainly do not.

PRESIDENTIAL AMNESTIES FOR MILITARILY CONNECTED CRIMES

Offense	Number benefitted	Form	Conditions and limitations	Cite	Case	Date
1. Treason and other indictable offenses against United States.		Blanket pardon of individuals elsewhere identified by name.	Limited to those who gave (apparently in writing before date of proclamation) assurances they would not obstruct revenue laws.	1 Richardson, Messages and Papers of the Presidents (Washington, 1896) 181.	Whiskey Rebellion	Acts around July 17, 1794 Proclamation: July 10 1795.
2. Treason and other crimes against United States.	Over 100	Blanket pardon	Excluded those indicted or convicted (they were later pardoned separately).	1 id. 303	Fries' Rebellion	Acts up to Mar. 12, 1799 Proclamation: May 21, 1800.
3., 4., 5., 6. Desertion		do	Must return to ranks within 4 mo (all proclamations almost identical).	1 id. 425, 512, 514, 543.	War of 1812 deserters; earlier deserters.	Desertions up to dates of proclamations: Oct. 15, 1807; Feb. 7, 1812; Oct. 8, 1812; June 17, 1814.
7. Piracy, offenses against revenue laws.	Ca. 1000	do	Individual must prove he aided in defense of New Orleans.	1 id. 558	Madison's amnesty for Lafitte's pirates.	Acts up to Jan. 8, 1815. Proclamation: Feb. 6, 1815.
8. Desertion		Blanket pardon in form of War Department Order reciting "order" of President.	Those under arrest to return to duty, unless under sentence of death; if so, to be discharged and never reenter the Army. Those at large to be discharged and never reenter the Army.	2 id. 499	To give full effect to legislative abolition of death penalty for peacetime desertion.	June 12, 1830.
9. Desertion		Blanket pardon	Return to duty by Apr. 1, 1863	6 id. 163	Lincoln, in conjunction with command to AWOL's to return to unit.	Mar. 10, 1863.
10. Rebellion		Blanket pardon with group exclusions: CSA civil and military officers (COL and above); former USA military, judicial, and Leg. officers; those who mistreated POW's. The 1864 supplementary proclamation excluded men in confinement from eligibility.	Take and keep loyalty oath	6 id. 213–16; 6 id. 218.	Lincoln's first Confederate amnesty, issued during war to undermine Confederate resistance.	Dec. 8, 1863, retrospective and prospective in operation. Qualified Mar. 26, 1864.
11. Desertion		Blanket pardon	Return to duty by May 10, 1865, and serve out enlistment.	6 id. 278	Lincoln, giving deserters chance to avoid increased legislative penalties for desertion passed in March 1865.	Mar. 11, 1865.
12. Rebellion		do	Loyalty oath with some exclusions as No. 10 plus all CSA officers educated at U.S. Military or Naval Academy; all who left United States to aid rebellion; all privateers, and everyone worth $20,000 or more.	6 id. 310	Johnson's first Confederate amnesty, issued immediately after war after Atty. Gen. opinion that No. 10 was solely a wartime measure.	May 29, 1865.
13. Desertion from regular Army.		Blanket War Department Order issued at direction of President.	Return to duty before Aug. 15, 1866; make good time lost by desertion.	20 Op. Atty. Gen. 330, 345 (1892).	No background information	July 3, 1866.

Offense	Number benefitted	Form	Conditions and limitations	Cite	Case	Date
14 Rebellion	All but ca. 300 Confederates.	Blanket pardon excluding only (1) CSA President, VP, cabinet, officers over BG, CSA State governors, (2) those who mistreated POW's, (3) those in confinement.	Loyalty oath	6 Richardson 547	Johnson's 2d Confederate amnesty with fewer exclusions than 1st.	Sept. 7, 1867.
15. Treason	Ca. 290	Blanket pardon excepting those under indictment for treason (e.g., Jefferson Davis.)	None (no oath required)	6 id. 655	Johnson's 3d Confederate amnesty.	July 4, 1868.
16. Treason	Ca. 10	Blanket pardon	None	6 id. 708	Johnson's 4th Confederate amnesty.	Dec. 25, 1868.
17. Insurrection		Blanket pardon except for murder, rape, arson, robbery.	Loyalty oath	14 id. 6690–92 (cite not verified).	Teddy Roosevelt's pardon for Philippine insurrectionists following Aguinaldo.	Acts up to May 1, 1902. Proclamation: July 4. 1902.
18. Desertion after close of hostilities	Ca. 100	Blanket pardon, retrospective, and prospective, applying to those convicted.	Applied only to citizenship portion of penalty.	Not found	Coolidge's partial relief for post-Armistice deserters.	Mar. 5, 1924.
19. Draft and espionage in World War I.	500–600 or ca. 1,500 (conflicting estimates).	Blanket pardon for those convicted.	Compliance with sentence imposed when convicted.	2 FDR Public Papers and Addresses (New York 1938) 539.	Franklin D. Roosevelt's restoration of civil rights to World War I law violators.	Dec. 23, 1933.
20. Various U.S. crimes		Blanket pardon	Served year or more AD in U.S. Forces; honorable separation.	10 Fed. Reg. 15409 (Dec. 24, 1945).	Truman rewarding convicts who served in Armed Forces in World War II.	Dec. 24, 1945.
21. Violation of World War II Selective Service Act.		Pardon of named convicted individuals.	Only if recommended by 3-man screening board.	12 Fed. Reg. 8731 (Dec. 23, 1945).	Pardon of selected World War II draft law violators.	Dec. 23, 1947.
22. Various U.S. crimes		Blanket pardon	Served year or more AD in U.S. Armed Forces; honorable separation.	17 Fed. Reg. 11833 (Dec. 24, 1952).	Truman rewarding convicts who served in Armed Forces in Korea.	Dec. 24, 1952.
23. Desertion after close of World War II hostilities, before Korea.		Blanket pardon applying to those convicted.	Applied only to citizenship portion of penalty.	Id	Truman's partial relief for postwar deserters.	Do.

IN A SPIRIT OF FAIRNESS

Mr. PROXMIRE. Mr. President, in a spirit of fairness, I wish to have printed in the RECORD a copy of a letter to the editor of the New Republic from Reed J. Irvine, chairman of the board of Accuracy in Media, Inc. Mr. Irvine's letter was in reply to a piece by Steve Knoll on the FCC's fairness doctrine which I inserted in the RECORD of September 4.

I do not intend to answer Mr. Irvine point by point because I am preparing a speech to be delivered on this floor soon that will deal with fairness in the free, printed press.

I would like, however, to comment on Mr. Irvine's contention that—

> The courts have ruled that it is the right of the public to be informed, not the right of the wealthy individuals who control broadcasting facilities to propagandize their views, that is paramount.

This Senator does not argue with the premise that the people in a democracy have a right to be informed. My argument, simply stated, is that this right can be abrogated when a government, democratic though it may be, has the power to influence the tone and content of that information.

That leads to the second part of Mr. Irvine's sentence, which I quoted. I wish to make these points:

It does take a great deal of wealth for one person to own solely a major broadcasting station. But we have antitrust laws to see to it that there is no monopoly in broadcasting as there should be no monopoly in any other type of enterprise. There is no need for additional Federal machinery, in the form of the FCC, to do that same job, especially when the power of the FCC goes beyond financial interests into content control.

Next, under our free press system, a publisher has the right to print what he pleases. It is the competition of the marketplace of ideas that insures the public's right to be informed. Any governmental control of ideas, even though those ideas were universally accepted as truth, would lead eventually to a bland homogeneity of thought that would rob our society of its dynamism. Of course, there is no guarantee at all that government will be omniscient. History proves that. History proves that governmental control is dangerous to a free society. In other words, the free press carries with it the right to be wrong as well as to be right. The Supreme Court, in a 1967 decisions involving transit advertising, said that one of the functions of free speech is to "invite dispute."

The word "propagandize" is a loaded one. A dictionary definition of propaganda is:

> . . . ideas, facts, or allegations spread deliberately to further one's cause or to damage an opposing cause.

The word is loaded because of the connotation that people are unable to fight propaganda, that they will be unwilling dupes to the message. That, of course, denies that individual persons are able to think for themselves.

If that is true—and I reject the idea—there can be no democratic government. I contend that psychology shows that, at worst, the adult reaction to what is seen, heard, and read is a reinforcement of ideas already held. At best, the adult mind will take what has been seen, heard, or read and compare that with previously acquired knowledge. The mind then will reject or accept the information offered, or make selective judgments.

Finally, news decisions in broadcasting as well as in publishing are made, for the most part, by professionals. As private persons, they hold varying opinions. As professionals, they know they must compete with other broadcast professionals for credibility. Seldom will they be asked to kowtow to the owner or the board of directors. If asked or ordered, they have the option of bending or not. Should they bend, there remains the safeguard of freedom of choice of the listener or viewer in our society.

We live in a free society. To keep it free we must be diligent. But we should not be afraid of freedom.

Mr. President, I ask unanimous consent that Mr. Irvine's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ACCURACY IN MEDIA, INC.,
Washington, D.C., Sept. 12, 1974.

EDITOR,
The New Republic,
Washington, D.C.

SIR: Steve Knoll's article on the FCC ruling that an NBC program on private pension plans violated the fairness doctrine contained a number of statements that were factually inaccurate and misleading. I hope that you will publish this letter to give your readers a better view of the problems involved in this case.

Knoll says that Accuracy in Media had charged that the fairness doctrine was violated because NBC "pinpoint(ed) the defects of many private pension plans and (did) not allocat(e) sufficient time to those who feel that some other plans as currently administered are all right."

Actually in our letter of complaint to the FCC we charged that the program had given the viewers "a grotesquely distorted picture of the private pension system of the United States." We noted that the program had given the impression that failure and fraud are the rule in the management of private pension funds, while the statistical and other evidence proves that the failures and disappointments are the exception, not the rule. The program was highly defamatory of the people who have set up and operated pension programs for businesses and unions throughout the country. It is little wonder that they were offended and incensed by the distorted and one-sided picture that NBC painted.

Knoll says the FCC did not dispute the truthfulness of the documentary. Knoll implies that the FCC upheld the accuracy of the documentary, which is false. The FCC follows a rule of not ruling on questions of truth or accuracy unless there is "extrinsic" evidence that material has been ordered to be slanted or distorted. Thus the failure of the FCC to challenge the truthfulness of the NBC program is meaningless. The Commission simply refused to take up that aspect of our complaint. Contrary to NBC's contention that the program did not deal with a controversial issue of public importance, the FCC found that the issue was controversial, important and that NBC had dealt with it in a very one-sided manner.

Those who attack the ruling in the "Pensions" case frequently insult the profession of journalism, as does Knoll, by suggesting that good journalism has to be one-sided. They argue that if the networks have to give the public both sides of controversial issues, this will make them unexciting and dull. Knoll suggests that one-sided presentations are "in the tradition of the printed media." The fact is that the printed media, or at least some of it, including the Washington Post, recognized that there were two-sides to the complicated pensions controversy, and they recognized their duty to give their readers the essential facts on both sides. Why should the people who depend on television for their information be fed only that side of controversial issues that is favored by the broadcaster?

The fact is that the networks loudly proclaim that they would be fair even without the fairness doctrine, but Knoll reveals their devotion to the concept of fairness when he talks of Reuven Frank of NBC speaking "candidly of 'fairness filler,'" material inserted in television news simply to satisfy management's sense of what will satisfy the federal standard of 'rough balance.'" The NBC program on "Pensions" had a little of that "fairness filler," and the FCC recognized it for what it was—a token bow in the direction of fairness.

The courts have ruled that it is the right of the public to be informed, not the right of the wealthy individuals who control broadcasting facilities to propagandize their views, that is paramount. I have a strong feeling that if the networks had a different ideological orientation and were regularly airing programs that were one-sidedly arguing for such things as capital punishment, literacy requirements for voters, and slashes in expenditures for social programs, The New Republic would be clamoring for enforcement of the fairness doctrine.

Sincerely yours,

Reed J. Irvine.

ARIZONA JOB COLLEGES, INC., PROGRAM FOR RURAL POOR

Mr. FANNIN. Mr. President, one of the most outstanding antipoverty efforts in our Nation is in Pinal County, Ariz. It is operated by Arizona Job Colleges, Inc., in Casa Grande.

The August 1974 edition of Interaction, the ACTION newspaper, carried a brief but enlightening article about the Arizona Job Colleges program and VISTA participation in this excellent project.

Mr. President, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Job College Aids Arizona Poor

(Note.—The following article was written by VISTA Robert J. Rosenberg, who, along with 13 other VISTA's, is currently serving at the Arizona Job Colleges, Inc.)

In Pinal County, Arizona, where summer temperatures of 115 degrees are common, 13 VISTA "desert rats" are coping with the twin enemies of severe weather and severe rural poverty in a major effort to assist hundreds of families enjoy a better life.

The volunteers are working in a variety of jobs at the Arizona Job Colleges Inc. (AJC), a private, non-profit, rural anti-poverty project, headquartered in the small city of Casa Grande, a few minutes south of Phoenix.

What's Pinal County really like? Here are two perspectives. First, these few excerpts from a local promotional pamphlet: "Wonderful climate, fertile lands, rugged mountains and raw desert beauty . . . a wonderful place to live . . . a delightful place to visit."

And here is the second perspective, described by Sid Goodman, the energetic and effective AJC Project Director: "In the county, for thousands of migrant and seasonal farm hands, cotton is still king. The workers spend long hard hours for low wages serving this harsh master. Average annual family income a year is $3200. Housing is sub-standard. The children have serious health problems and malnutrition is not uncommon. Racial and ethnic discrimination is a fact of life. These workers are the hardcore underemployed, the working poor."

The AJC, begun in May 1970, offers its clients (mostly chicano, native American, and black) a fairly complete array of services aimed at all the family members. The AJC deals with whole household units, and assumes that help directed at single family members only is not sufficient to accomplish the goal of raising the family's economic status permanently.

According to Goodman, poverty will not be eliminated merely by giving the breadwinner a better paying job.

"Poor families have a thousand-and-one problems," he said, "and we have got to deal with them all or we just won't succeed in alleviating poverty. These people need medical care, counseling, educational and homemaking aid. Any anti-poverty project that is less than comprehensive is bound to be less than totally effective."

Once a family is approved by AJC, it must agree to relocate in furnishing housing in Casa Grande and participate in the many programs offered.

The project has a high ratio of staff to clients. More than 115 staff work with 80 resident family units, comprising approximately 400 individual members. Of the total staff, 13 are the VISTA "desert rats."

Six VISTAs are in supportive services. They work directly with the children in educational, health and recreation areas. They counsel the adults with job and living problems. They teach adult courses leading to the awarding of the G.E.D. high school equivalency diploma. They teach homemaking skills and English as the second language.

Four VISTAs are in family services. They counsel families with personal problems, assist in finding suitable employment, and offer follow-up services to families after they have graduated from the project.

Two VISTAs are in the business department, dealing with the housing needs of families.

And one VISTA is in the administration department, working in the broad area of state and local community relations.

The volunteers are thoroughly integrated into the AJC, and morale is generally so high that seven elected to serve a second year after their first year expired in August 1973!

To date, more than 200 families have graduated from the AJC, over 95 percent of the total admitted, and almost all are now working in jobs that have removed them from the hardship of rural poverty.

But the effectiveness of the program is not measured by statistics alone. According to one VISTA, "This project works. I can see it working with my own eyes. I can see youngsters getting health care and laughing as they play. I can see the fathers getting intensive job training to help them stay out of the hot fields. I can see mothers learning to cook and sew. I can FEEL the project working."

(Anyone interested in knowing more about the AJC should write: Project Director, Arizona Job Colleges, Inc., 1665 N. Pinal Ave., Casa Grande, Arizona 85222.)

EFFICIENT, ECONOMICAL PERFORMANCE BY MEDICARE CARRIERS MUST BE ASSURED

Mr. EAGLETON. Mr. President, later today we will resume consideration of the Labor-HEW appropriations bill. Among many other things, this bill allocates moneys from the various trust funds for the administrative expenses of the social security and medicare programs. Where medicare is concerned, some two-thirds of the administrative costs are in the form of reimbursements to private organizations which process bills and claims for services rendered under the hospital insurance and medical insurance programs.

I believe, therefore, this is an appropriate time to comment briefly on the report of the Advisory Committee on Medicare Administration, Contracting, and Subcontracting issued on June 21 of this year.

The specific focus of the report, somewhat more narrow than the committee's name might suggest, is the relationship between the Social Security Administration and those private organizations known as "carriers" with which it contracts to administer the part B supplementary medical insurance program.

There are now 47 medicare carriers serving designated geographical areas. Of these 47 carriers, 32 are Blue Shield plans and 13 are commercial insurance companies. The remaining two carriers are Group Health Insurance of New York, Inc., and the Oklahoma Department of Public Welfare.

Medicare carriers are responsible for processing and paying claims for physicians' services, including a determination of whether the service was medically necessary and the reasonable charge for the service.

Mr. President, I do not pretend to be an expert on the subject of medicare administration. My interest in this subject was triggered in a very practical, prosaic way earlier this year when the mail coming into my office indicated a rather serious breakdown in the timely processing of medicare claims by the carrier serving approximately two-thirds of Missouri. To put this particular matter in perspective, all the evidence I have seen indicates that this carrier—General American Life Insurance Co. of St. Louis—has had over the years a generally good record of performance. The backlog of claims that developed during the past year was apparently the result of the installation of a new data processing system.

Having said that, I also want to make it clear that I believe the problem at General American Life was permitted to continue for entirely too long a period of time. The percentage of claims, pending for over 30 days stood at levels that the Commissioner of Social Security described as "unacceptable" for more than a year, with resulting hardship and distress to many medicare beneficiaries in Missouri.

This local and, hopefully, temporary problem raised in my mind certain questions I had not had occasion to consider previously: How closely does the Social Security Administration monitor the performance of carriers? What mechanisms are employed to assure high quality performance? What happens when a carrier performs in an unacceptable manner over an extended period of time? How are the payments made to carriers related to the quality of their performance? What procedures exist for terminating contracts with carriers and are those procedures ever employed?

Fortuitously, the answers to my questions were forthcoming in very short order with the issuance of the report of the Advisory Committee on Medicare Administration, Contracting and Subcontracting which had been appointed by the Secretary of Health, Education, and Welfare in February 1973.

Among the findings of the committee are the following:

First. The Social Security Administration has inadequate criteria for evaluating the overall performance of carriers.

Second. There are enormous variations in administrative costs among carriers which analysis suggests are principally the result of differences in efficiency and/or differences in accounting practices.

Third. There is an absence of financial incentives for high carrier performance.

Fourth. There is no workable system for terminating contracts of carriers showing a consistently poor performance.

Fifth. There is inadequate competition in terms of both the data processing systems and the EDP subconstractors available to the part B program.

To expand a little on the subject of costs, the committee found that in fiscal 1972 administrative costs per claim ranged from $1.57 to $4.72, with a mean of $3.18. As a measure of the significance of this variation, if all carriers had had costs in that year no greater than the average of the five lowest-cost carriers, aggregate administrative costs would have been roughly $57 million less than actual costs, a potential reduction of 32.9 percent.

The committee examined a long list of variables that might have explained the differences in administrative costs among carriers and found that the bulk of the variation could not be explained by such factors. The committee's conclusion:

> Whatever the explanation, very large differences in administrative costs attributable neither to superior quality of service nor to so-called noncontrollable variables reflect an unacceptable situation if it continues for a long time.

The committee did not recommend any change in the basic policy of contracting with private organizations for the administration of part B of medicare and, in fact, listed a number of advantages of that system. However, the committee went on to state that—

> The Federal Government should (not) place blind trust in a group of privately operated non-profit and commercial carriers. A system must exist which provides incentives for high performance and a close monitoring of results.

Stated in very abbreviated form, the committee recommended that—

First. Efforts to develop more refined criteria of performance of carriers, including a better system of reporting costs by carriers, be intensified and given the highest priority.

Second. The power to terminate the 1-year carrier contract be made into an effective incentive mechanism by announcing a policy of nonrenewal of contracts for those carriers consistently showing the poorest record of performance over a 3-year period.

Third. The Social Security Administration undertake an analysis of the alleged obstacles to removal of territorial boundaries for carriers, and develop a plan for opening up, on an experimental basis, a single territory within which several carriers could compete.

Fourth. Top priority be given to the formulation and testing of various incentive reimbursement arrangements as authorized by section 222 of Public Law 92–603.

Fifth. The Federal Government take additional steps to insure more competition in data processing for the part B program which would result in an increase in both the number of subcontractors and the number of EDP systems.

This latter area has been a matter of considerable interest and concern to the Senator from Alaska (Mr. Stevens) and at his initiative the Labor-HEW appropriations bill, as reported by the Senate committee, includes a provision designed, as I understand it, to prevent further erosion of what competitive forces still remain in the data processing field.

Mr. President, I ask unanimous consent that a summary of the conclusions and recommendations of the Advisory Committee on Medicare Administration, Contracting and Subcontracting be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EAGLETON. Mr. President, the part B medicare program, a program which in my opinion fails to adequately cover the medical bills of the elderly, is financed by the monthly premiums of medicare beneficiaries and the general revenues of the Federal Government. I believe it is incumbent upon the legislative and appropriations committees of the Congress to assure that the administrative costs of this program are kept at a minimum. The Senate Appropriations Committee in its report has directed HEW to report to the committee in detail its actions to implement the recommendations of the advisory committee or its reasons for not doing so.

As one member of that committee, I urge the Secretary of Health, Education, and Welfare and the Commissioner of Social Security to move without delay to implement the recommendations of the committee or to undertake appropriate alternative actions which will insure that all medicare carriers provide the efficient and economical administration of this program that beneficiaries and taxpayers have the right to expect.

Exhibit 1

Report to the Secretary of Health, Education, and Welfare and the Commissioner of Social Security by the Advisory Committee on Medicare Administration, Contracting and Subcontracting

I. CONCLUSIONS AND RECOMMENDATIONS

1. The pluralistic system created by Congress in 1965 for the administration of Medicare has continuing advantages.

We are not recommending a change in the basic governmental policy, established by Congress, to rely on a pluralistic system through which contracts are entered into with private carriers (both non-profit and commercial) for the administration of Part B of Medicare. That system has distinct advantages for both Medicare beneficiaries and for taxpayers.

(a) This does not mean that the Federal Government should place blind trust in a group of privately operated non-profit and commercial carriers. A system must exist which provides incentives for high performance and a close monitoring of results.

(b) The creation and operation of Professional Standards Review Organizations (PSRO's) will not reduce significantly the functions of the Part B carriers in the immediate future. The PSRO's will be exercising professional judgments with respect to medical necessity, standards of practice and utilization, and will be furnishing parameters and guidelines in these areas to the carriers for use in processing Medicare claims.

2. There must be a viable method for measuring carrier performance.

The efforts to develop more refined criteria of performance of carriers should be intensified and given the highest priority.

(a) While the Bureau of Health Insurance (BHI) has made some progress toward assessing the administrative efficiency of carriers, much more needs to be done to improve the criteria for evaluating overall carrier performance.

(b) The Social Security Administration (SSA) should enter into a research contract promptly with an independent private entity in order to accelerate the improvement of the performance criteria. Such a firm should be capable of dealing with management problems, performance measurement, and incentives.

(c) In addition to other factors, the performance criteria should also take into account the degree to which the carrier performs the function of applying professional standards of medical necessity and quality.

(d) An important element in the development of improved criteria of carrier performance is the development of a better system of reporting of costs by carriers. Cost accounting information at the carrier level is not standardized to the point where comparisons can be made with a reasonable degree of reliability. SSA should consider developing cost accounting standards to remedy this.

(e) Variations in administrative costs among carriers are at present enormous, if one considers that the Part B carriers contract to produce a standardized, if not essentially identical, service. Analysis suggests that the principal reasons for these variations are (i) differences in efficiency among carriers, and/or (ii) differences in accounting practices. Further work is needed to analyze the cost differential and, as indicated below, to give the high cost carriers incentives toward greater efficiency.

3. There must be a workable system for terminating contracts of carriers showing a consistently poor performance.

Armed with more refined criteria of performance of carriers, SSA should pursue a policy of promoting greater competition among carriers with the objective of improving overall performance.

(a) The Secretary's power to terminate the 1-year carrier contracts should be made into an effective incentive mechanism. SSA should announce now a policy of nonrenewal of contracts for those carriers consistently showing the poorest record of performance over a 3-year period. The first such period should commence as of July 1, 1973.

(b) SSA should inform carriers in the potential non-renewal category as early as July 1, 1975.

(c) The present system of territorial monopoly precludes effective competition among carriers. While we do not advocate wholesale change, SSA should (i) undertake, internally or with outside consultants, a point-by-point analysis of the alleged obstacles to removal of territorial boundaries for carriers, and (ii) develop a plan for opening up, on an experimental basis, a single territory within which at least several carriers could compete—such as an area in which a contract termination is being considered because of poor carrier performance. The lessons to be learned from an experiment in one territory would be well worth the risks of failure.

4. Incentive mechanisms must be developed for high carrier performance in addition to the power of contract termination.

The legislative encouragement to experimentation in the area of incentives which was enacted by the 1972 Amendments to the Social Security Act should be utilized extensively.

(a) SSA should immediately conduct surveys to determine the feasibility of permitting carriers with consistent records of superior performance to comply only on an optional basis with the more detailed regulatory controls imposed by BHI.

(b) SSA should explore the feasibility of offering a flat fee per claim processed (which would be established initially at or near the level of the unit cost of the lowest cost carriers) to all carriers with demonstrated records of superior performance.

(c) SSA should also consider a plan for financial rewards to the personnel of carriers with records of superior performance, i.e., an award to the carrier with authorization for distribution as executive and employee bonuses.

(d) SSA should also study the feasibility of transferring segments of the claims workload from one carrier to another—either through transfers of portions of territories or by categories of claims (e.g., all claims submitted by doctors newly engaged in practice in the territory).

(e) SSA should disseminate more widely public information as to the performance of the Part B carriers.

5. The consultative role of the carriers should be enlarged.

Mechanisms for greater contact between top management in Government and top management of the carriers should be established.

(a) An annual conference of top level executives of both HEW and the carriers should be held at HEW to discuss performance results and policy problems.

(b) The Carrier Representative Group should be made a more effective body.

(c) Carrier views should be solicited as early as possible in the policy-making process, since Government has entrusted to the private carriers the execution of such a large public function.

6. SSA should reduce its role in carrier decision-making and rely on its capacity to test carrier performance by results.

The most important area of decision-making by carriers to which this recommendation is pertinent is the decision as to how data processing should be performed for the carrier.

(a) Our conclusion assumes compliance by the carriers with clear and precise standards for soliciting subcontract bids, as recommended below.

(b) As a necessary corollary of item 6, the decision of a carrier to perform its data processing on an "in-house" basis should not, as such, be subject to the approval of SSA. The efficiency and cost of the carrier's performance of the data processing function will be a part of the overall evaluation of a carrier's performance.

(c) On the other hand, the delegation by a group of carriers to a jointly-sponsored entity of their data processing functions should not be treated as an "in-house" operation.

7. There are two types of inadequacy in competition in the field of data processing for Part B of Medicare.

(a) The first type arises from the present trend for two EDP systems, that of EDS and Model B, to assume an increasingly dominant role.

(b) The second type of inadequacy in competition concerns the options of carriers who do not wish, or are unable, to employ an in-house EDP system. For these carriers, the number of subcontractors is less than optimal for effective competition. Moreover, the precarious position of some of the subcontractors threatens to make the situation worse in the future.

8. The Government must take additional steps to insure more competition in data processing for the Part B program.

An appropriate goal is an increase in both the number of subcontractors and the number of competing EDP systems. The elements of the Government program to foster competition should include:

(a) Improvements in the procurement process for EDP subcontracts.

SSA should require improved specifications in the requests for proposals; should consider financial assistance to responsible bidders in order to defray the cost of developing proposals; should require carriers to make explicit the factors and weights for evaluating the proposals; and should require the carriers to improve the procedures whereby the subcontractors submit bids so as to facilitate comparison among proposals.

(b) Acceleration of the decision-making process (90 days following receipt of proposals should be ample) with respect to final approval of EDP subcontracts.

(c) Strict adherence by the carriers to announced evaluation factors.

(d) Separation of the decision-making process within SSA as to the award of EDP subcontracts (to the extent SSA is involved at all), from the Model B data processing group within BHI.

(e) Imposition of a 2-year limit on the term of all new EDP subcontracts, with an option for the carrier to renew for 1 year.

(f) Redoubling of efforts to get EDP manufacturers and/or software houses to enter the Medicare data processing competition.

(g) Development with Government funds of at least one new data processing system. There would be a procurement request for the development of such a system, with competitive bids. The procurement request should require that the winning contractor offer both a systems assistance option and a facilities management option.

(h) Inauguration of financial awards (possibly utilizing procedures currently used by the National Science Foundation for research grants) for research and development in the area of Medicare EDP systems.

(i) Announcement of policy to end Government support of maintenance of the Model B System in two stages:

(i) transfer of operational responsibility for interim maintenance of the Model B System to a private contractor (selected through a competitive procurement); and

(ii) ultimate termination of the maintenance contract when there is assurance of adequate competition.

9. Government must have access to records of subcontractors and affiliates.

Not only must carriers perform cost and price analyses before making subcontract awards, but also the Government must have access to full financial information as to the cost and profits involved in the subcontracting. We support the recent move of BHI to include a contract clause in carrier contracts which gives the Government the right to review the records of any parent corporation or a subsidiary at any tier or a division of the subcontractor.

10. SSA should consider requiring additional conflict-of-interest regulation of carriers vis-à-vis relationships with subcontractors.

11. The Government should contract for an independent feasibility study to determine the cost/benefits of developing "regional" EDP centers.

CHARLES A. BOWSHER,
MICHAEL GORT,
ROSWELL B. PERKINS,
Chairman.

ARIZONA-SONORA DESERT MUSEUM

Mr. FANNIN. Mr. President, near Tucson there is a small but important and delightful institution known as the Arizona-Sonora Desert Museum.

The Reader's Digest has printed a very interesting article by Jean George concerning this unique museum. I ask unanimous consent that this article, "America's Remarkable Desert Zoo," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Reader's Digest]

AMERICA'S REMARKABLE DESERT ZOO

(By Jean George)

At the top of Gates Pass in the bald Tucson Mountains, I braked to a stop. Below lay an other-worldly forest of tall green cacti. Far out across the valley, the road meandered toward the low buildings of the Arizona-Sonora Desert Museum I had come to visit. Beyond stood red and purple mountains, huge, discarded clinkers from earth's prehistoric furnace.

The vista puzzled me. Here was a land where no more than ten inches of rain per year fell and where thirst had eons ago given birth to such strange things as bushes without leaves, trees with spines, and extraordinary creatures of the dust—scorpions, rattlesnakes and cactus-eating pigs. What, I wondered, could be so beautiful about a zoo dedicated to this?

The question had posed itself some months before, when the British Broadcasting Company did a film series on what it considered the seven outstanding zoos in the world. It selected only two in the United States: the huge and internationally established San Diego Zoo. and this small and relatively obscure newcomer in the southern Arizona desert.

I wound down the narrow road, entered the museum and was immediately confronted by a 12-by-16-foot bowlful of lizards. A crowd of people was watching them, fascinated. A chuckwalla, looking like the tiny dinosaur that he is, cocked his head and stared out of eyes designed a hundred million years ago. Suddenly, with some primitive sense of humor, he upended himself and hung by his back toes from a twig like a monkey.

Next, I was peering through a glass wall into a crystal-green pool where an otter, a former resident of desert rivers, swam gracefully in spirals and loops, lines of silver bubbles trailing behind him. Nearby, a bighorn sheep crashed down a man-made cliff on the world's oldest shock absorbers, his cartilagelined hoofs. Farther on, I pushed a light button in a darkened room and peered into the den of a magnificent ocelot. He yawned and looked at me with friendly, golden eyes.

I was in a capsulated desert. All around me cats, coyotes, roadrunners, gila monsters, scorpions, elf owls played in habitats built by the zoo staff to re-create their natural homes in dry washes, water holes, creosote-bush country and dunes of the desert. Some residents were not even caged. Rock squirrels, pack rats, several species of birds and even javelinas—"wild pigs"—had moved into the zoo from the countryside and were now living on the premises.

In what has come to be known as the "tunnel," I pushed light buttons and peered directly into dens 15 feet below ground level to see how the desert's animals live on a hot summer day. Vampire bats hung upside down; foxes and badgers rested and groomed their fur; snakes stretched out in the cool. One button lighted up not a beast but the simulated roots of a saguaro (sa-wá-ro) cactus, spread out like a sponge through the soil, ready to sop up the flash floods of August and the soft rains of March. "A desert is a lovely place when you understand it," said museum director Mervin Larson. "Our job is to interpret it for people so they appreciate, enjoy and protect it."

An exhibit of a fringe-toed lizard was a case in point. When I first looked at this creature, he seemed merely a nondescript, raspy little scurrying thing. Then I read his biography. He is a veritable Christmas tree of inventions for life in the blowing, drifting sand. His nostrils close like trapdoors; his toes are snowshoes that prevent him from sinking into soft underfooting; his upper jaw closes down over the lower one to keep sand out of his mouth; his eyelids interlock like a zipper. When an occasional sand grain does get into his eye, a spring-like membrane sweeps across and ejects it like a slingshot. Then there is the pretty kangaroo rat, which never drinks water; it has evolved a "water metabolism" for converting the starch in dry seeds into water.

The Arizona-Sonora Desert Museum is 22 years old. It could be said to have got its start some 50 years ago, however, when 18-year-old William H. Carr of Flushing, New York, dropped out of high school and headed for what he now calls "the greatest education a boy was ever to have"—the American Museum of Natural History in New York City. Here he spent his days learning about birds and mammals, poring over books in the library, talking to scientists. Eventually, a museum patron encouraged the interested young man to help the staff create a small zoo in a corner of the dimly lighted insect hall. Soon crowds of youngsters were coming in to pet the skunk, feed the woodchuck and handle the harmless bull snake.

The "corner" grew in concept, and in 1927 Carr was commissioned to build an outdoor corner in Bear Mountain State Park, 40 miles north, on the Hudson River. Called the Trailside Museum, and still immensely popular today, this was one of the first displays of its kind in the world, combining nature trails, zoo and museum dedicated to showing the wildlife of the immediate locale, rather than plants and animals from all over the earth.

Seventeen years later, Carr developed emphysema and moved to Tucson. Soon he was serving as a member of the Pima County Park Advisory Committee. The committee had a problem: What to do with two large adobe structures in the desert, built during the Depression by the Civilian Conservation Corps for weekend hikers and campers? Carr drove out to take a look. As he walked around the buildings, woodpeckers drilled the tall green saguaro cacti, a rock squirrel dashed over the rocks nearby, the air crackled with eerie calls of insects and birds. "Right then," he says today, "I knew we could create a living museum in the desert."

The museum opened on Labor Day, 1952. It was an instant success. Cars overflowed the parking lot and spread onto the main road. The animals appeared to like it, too. When the ocelot, jaguarundi and bobcats were released in their new homes, their appetites doubled. One night a door was left open by mistake, and several beavers went off exploring in the manner of their wild kin. By dawn they had returned. Their footprints in the desert dust revealed that they had strolled out in the moonlight, met a coyote, and then swiftly scampered back to their cage.

No animal at the museum has been better liked than a young cougar that was shipped to Tucson from California about six months after the museum opened. Christened George L. Mountainlion, he loved to clown for his hundreds of daily visitors. At that time, Carr was writing a column for the *Arizona Daily Star*, and one night an idea hit him: Why not let George write the column? A few days later, "George L. Mountainlion, Research Associate in Human Behavior," replaced Carr in the *Star*. These writings brought people by the thousands to see George.

George died of hepatitis on March 8, 1955. When Carr left his office that evening, he walked out on the museum patio. The sun was setting red over the blue mountains; the birds were calling across the spring desert. "Before me lay all I had come to love," he said. So there he wrote George's epitaph, now engraved on a stone tablet beside a museum path:

"I, George L. Mountainlion, freely give all sights and sounds of nature to those who have the grace to enjoy God-made beauty.

"To humans who are tired, worried or discouraged, I bequeath the silence, majesty and peace of our great American Desert.

"To those who walk the trails, I bequeath the early-morning voices of the birds and the glory of the flowering desert in the springtime.

"To the children who have enjoyed me, hearing me purr and watching me turn my somersaults, I offer the precious gift of laughter and joy. The world so needs these things.

"And, lastly, I bequeath my own happy spirit and affection for others to all who may remember me and my museum, where I did my best to show people that I truly liked them."

THE SUGAR ACT

Mr. MONDALE. Mr. President, 2 weeks ago my distinguished colleague from North Dakota, Senator Burdick, gave an excellent speech at the dedication of the new Red River Valley beet sugar factory at Hillsboro, N. Dak.

Sugar beet production is a large and rapidly growing industry in the Red River Valley bordering the States of Minnesota and North Dakota. With the opening of the Hillsboro and Wahpeton plants in North Dakota and a new facility at Renville, Minn., next fall, the beet industry could be a $300 million a year business in the two States within the near future.

But, as Senator Burdick pointed out in his address:

> It is ironic that the forty-year-old Sugar Act, which induced farmers to erect these factories, is currently scheduled to expire at the end of December of this year.

I should like to quote a brief portion of Senator Burdick's remarks which I believe go to the very heart of the controversy over extension of the Sugar Act:

> Although the sugar program was born during the Depression, it aided us in obtaining necessary supplies when prices were high. It provided for orderly marketing and prevented scrambling for world supplies in periods of shortage. By means of it, we obtained adequate supplies at fair and stable prices.
>
> Critics have called the Sugar Act Program a "subsidy program." They talk about the costs of the program to American consumers in periods when world prices are low. They disregard the benefits this country has received from the program.

It is far more enlightening and realistic to think of the Sugar Act as a long-range purchase contract.

What is the impact of the defeat of the Sugar Act earlier this year by the House of Representatives? Several figures cited by Senator Burdick offer useful insight:

> From January 1 through May of this year, before the House action, the duty paid price of sugar landed in New York was $3.25 per 100 pounds lower than the world price at the point of origin. On July 25, the New York price was $3.25 per 100 pounds above the world price.
>
> The increase of $5.88 per 100 pounds in domestic prices relative to world prices is chargeable to the action of the House of Representatives in voting down the Sugar Bill. That increase will cost American consumers $1.4 billion on the 12 million tons of sugar they consume each year.

I strongly support the recommendations of my colleague from North Dakota in urging prompt Senate approval of sugar legislation, as I do those of Representative Bob Bergland in the House to secure reconsideration of this important act. As a member of the Senate Finance Committee, I pledge my full cooperation and support in this effort.

Mr. President, as evidence of the need for this legislation, I ask unanimous consent that the full text of Senator Burdick's speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Address of Senator Quentin N. Burdick

I welcome the opportunity to appear here today at this historic dedication of the Red River Valley Cooperative. The Hillsboro factory, being dedicated today, and the Wahpeton factory have carried their efforts forward in making the Red River Valley the "Sugar Beet Bowl" of the world.

I would like to commend you for the leadership you have shown under John Brunsdale, your President, and John Alexander, your Executive Vice President. The fact that all of you have invested a tremendous amount of money and dedication to this project is highly commendable and the reason why we are here today.

This year marks the turning point in the history of the beet sugar industry of the Red River Valley. All beet sugar factories in the Red River Valley are now farmer-owned cooperatives.

Not only have the farmers of the Cooperative joined together in this undertaking, but you have had the cooperation of private banks, state banks, and of the Bank for Cooperatives, and you have had the cooperation of several agencies of the States of North Dakota and Minnesota and of the federal government. It was a privilege for me to participate in this effort also, as I always stand ready to help you.

The Hillsboro and Wahpeton factories have been constructed because of a guarantee provision designed to encourage new sugar production. These provisions were to enable new sugar factories and farmers to produce and market until they could develop historical bases for allotments.

These two new factories have been constructed because of a guarantee provision incorporated in the 1971 extension of the sugar act. Congress recognized that no new sugar factories had been constructed for several years. New factories were needed to replace the old ones that were going out of production and to help supply the increasing requirements of domestic consumers. Accordingly, Congress guaranteed that sufficient acreage and marketing allotments would be made available to permit the production and marketing of 100 thousand tons of sugar by new beet sugar factories during 1972, 1973, and 1974. A corresponding provision was made for the establishment of a new sugar cane enterprise.

Farmers of the Red River Valley started to work immediately after the new sugar bill was approved, October 14, 1971. As a result of heroic efforts, the factories at Hillsboro and Wahpeton will start operating this fall. Through no fault of their own, the growers at Renville, Minnesota, were unable to meet the construction schedule, so their factory will not be able to start until the fall of 1975. I emphasize this time frame because it demonstrates the need for long-range planning for sugar production. But surely, the result is worth all the effort—by 1975 the beet industry could be a $300 million a year business in North Dakota and Minnesota—large by any standards.

It is ironic that the forty-year old Sugar Act, which induced you farmers to erect these factories, is curently scheduled to expire the end of December of this year. There are a number of factors which contributed to the defeat of the bill in the House of Representatives. Consumer resistance to the present price of sugar and food prices in general; the fact that for the first time the domestic producers, processors, and cane sugar refineries could not agree on a unified position; and, significantly—that the Administration did not actively support the bill. In fact, certain officials of the U.S. Department of Agriculture were known to be opposed to any extension of the program.

Today, we have a sugar crisis. The problem has been in the making for several months. It deserved able handling. The handling that it has received is costing American consumers billions of dollars and is tending to prevent corrective actions.

Let us examine this country's sugar program and its wreckage.

The Sugar Act was primarily established in 1934 to protect domestic sugar growers and major farm organizations. In round figures, the Sugar Act provides that 60% of this country's requirements are to be supplied by the domestic areas and that 40% are to be imported. Nearly half our requirements are produced on the mainland. Prior to 1960, Cuba and the Philippines supplied almost all of our imported sugar. Since Cuba has joined the Communist orbit, sugar imports come from the Philippines and 30 other countries. But the Act has also assured consumers ample supplies of sugar at reasonable prices. A fundamental effect of the Act has also been to encourage foreign trade—a situation which has helped create a healthy economic climate for our domestic sugar industry. These purposes have not and should not change.

Last November, when it was becoming evident that the world sugar supplies were short and prices were starting their ascent, spokesmen for the Department of Agriculture called for the termination of the sugar program. The essence of the sugar program is very simple. A fair price objective is established for sugar supplies to the domestic market. Prices have been maintained in this country by means of a tariff and quota system. In addition, there is a tax on sugar, which provides funds for making conditional payments to growers and for meeting the general expenses of government.

Foreign producers were glad to sell this country sugar under the quota system at the prices established by the formula of the Sugar Act. They knew that, at times, they would receive lower prices in our market than they could receive in the world market. They filled their U.S. quotas at such times because they received fair prices in the United States in periods when world prices were disastrously low. Over the years they came out ahead.

When this country stopped taking sugar from Cuba, our quota system was used to stimulate production in other supplying countries.

Although the sugar program was born during the depression, it aided us in obtaining necessary supplies when prices were high. It provided for orderly marketing and prevented scrambling for world supplies in periods of shortage. By means of it, we obtained adequate supplies at fair and stable prices.

Critics have called the Sugar Act Program a "subsidy program". They talk about the costs of the program to American consumers in periods when world prices are low. They disregard the benefits this country has received from the program.

It is far more enlightening and realistic to think of the Sugar Act as a long-range purchase contract.

Many people, even in the Department of Agriculture, appear not to understand the differences between marketing problems for such crops as cotton, soybeans and wheat, on the one hand, and sugar cane and sugar beets on the other. Soybeans and wheat, in the form marketed by farmers, may be shipped great distances and processed months after harvest. A bale of cotton may be stored for years and finally be processed on the other side of the world.

Sugar cane and sugar beets must be processed locally. Sugar cane should be ground within hours after it is cut. In cold weather, sugar beets can be carried for several months before they are sliced, but even for beets, the processing season is short.

You growers know, firsthand, the cost of entering sugar beet production. Each of your two new factories is costing more than $30 million or $400 per ton of productive capacity. If they were being contracted for today, the cost would be far higher. I understand the cost of the Renville plant will exceed $50 million or around $700 per ton of capacity.

In addition, each beet farmer has spent tens of thousands of dollars for specialized planting and harvesting equipment and for trucks to haul the beets to delivery points. You have incurred indebtedness that will take 30 years to repay.

Even greater investments of time and money are required in areas where land must be cleared and irrigation systems installed. Foreign countries invested hundreds of millions of dollars expanding sugar production to fill the gap in our supplies when Cuba diverted its supplies to the Soviet Union.

Once sugar beet projects are started, it is necessary that they be continued for a number of years. Of course, where growers have no financial interest in the factories, they are legally free to stop production at will. Stopping the production of beets, however, soon leads to the closing of factories. That may be one of the reasons that corporate capital stopped building beet sugar factories in the United States.

Although sugar beet and sugar cane factories and associated farm production must be planned and financed for long period of years, sugar prices in the world market are subject to wide fluctuations over short periods of time. Some of you will recall 1920, when sugar prices rose to around 25 cents a pound; two years later, refined sugar was selling for less than 5 cents a pound. Most of you will recall early 1964 when the world price exceeded 10 cents per pound; for the next four years, it averaged 2 cents per pound.

It may be argued that conditions are different now, and certainly they appear to be different. Nevertheless, responsible financial institutions can not base the investment of hundreds of millions of dollars on the mere hopes or appearances. They need assurances until the loans can be repaid.

Sugar producers, both in this country and abroad, will expand production if they are assured of fair prices over a period of years, but they cannot jump into production during periods of temporary scarcity and high prices.

In recent months, we have witnessed a carefully planned and organized effort to terminate the Sugar Act and destroy the domestic sugar-producing industry. Starting last November, the Director of the Sugar Division at the Department of Agriculture made speeches against the Sugar Act. He was followed and supported by other officials of the Department. Shortly before the bill to extend the Sugar Act came up on the floor of the House, a publication, criticising the sugar program and the existence of the domestic sugar industry, was released. Some of these statements incorporated suggestions for a target price and payment system for temporary protection, but in terms of practical economics and politics, those suggestions offered North Dakota beet growers no protection.

Critics of the domestic sugar industry charge that it is inefficient and say that domestic sugar production is subsidized. They undertake to woo consumers by calling attention to the cheap sugar they could buy on the world market when prices are depressed.

The critics tell farmers that they could make more money growing other crops for export than they can growing sugar for domestic consumption.

This last bit of advice makes one wonder whether these critics are acquainted with the problems that confronted Red River Valley wheat growers when they lost their export market 50 years ago. Some of it has been regained in the past two years. Do you remember when your wheat problem was referred to as "that pain in our Northwest"? Do you remember when your leaders were referred to as "The Sons of The Wild Jackass"? My guess is that farmers in the Red River Valley will be unwilling to return to one-crop agriculture.

Some of those who argue for free trade and the elimination of the domestic sugar industry, also claim that the Red River Valley would have more beet factories today if the Sugar Act did not exist. They say this, knowing that world sugar prices were below 3 cents per pound during most of the 1960's and as low as ½ cent per pound during the Great Depression.

Then we come to the argument that the sugar program is expensive to consumers. The basic argument is that, in most years, sugar prices on the so-called world market are lower than they are in the United States. The United States has long been the largest sugar importer in the world. However, at no time since the early 1930's could the world market have supplied all the United States requirements for sugar. It would require decades of effort and the expenditure of billions of dollars to expand world production sufficiently to meet the total requirements of the United States. Do we want to put foreign countries in complete control of our sugar supplies? Our recent experience with oil imports and our current sugar problems would seem to give sufficient warning not to get into further difficulties of that sort.

The major sugar-consuming countries of the world consider their sugar supplies to be too important to leave to the vagaries of the so-called world market. Napoleon impressed the countries of Europe with the fact that overseas supplies could be cut off. Countries on the continent of Europe obtain all or most of their requirements from their own beet sugar industries and they insist on continuing to do so.

The charge has been made that our domestic sugar programs costs consumers between $502 million and $730 million annually. I understand that sugar experts quarrel with these statistical conclusions and even critics have admitted that they were uncertain of these figures. In view of the tremendous increases in sugar prices since the Sugar Bill was defeated, however, consumers of this country should keep in mind that even critics of this bill placed the cost within a range of only 1½ to 2½ cents per pound.

There is nothing new about recent arguments for free trade. They add nothing to the arguments, by Adam Smith, the father of free trade, made 200 years ago. Indeed, the critics of the sugar program appear not to be very good students of Adam Smith. Smith was not confronted with a shortage of import supplies. The critics of our sugar program are now discovering, to their surprise and dismay, that world sugar supplies are short.

Sugar production is one of the industries this country cannot have without protection. In this respect, it is similar to the textile industry and, in fact, to most of our manufacturing industries and to a number of our agricultural enterprises. If we want the benefit of such industries, we must give the protection they require to continue to operate. This is accepted by government, business and labor in the case of our manufacturing industries. It needs to be accepted equally for some of our agricultural enterprises.

The defeat of the Sugar Bill told foreign suppliers that they would no longer have an assured market at a fair price in the United States. In effect, they were told to sell their sugar to the highest bidder anywhere in the world. Domestic consumers were told that, henceforth, they could obtain imported supplies only by outbidding all other buyers.

What has all this done to sugar prices?

Last November, when the attack on the Sugar Act started, the New York price of raw sugar was just over 11 cents per pound; the wholesale price of refined sugar was under 14 cents per pound; and the U.S. average retail price was 16½ cents per pound. By June 5th, the day the Sugar Bill was defeated, the raw price had risen to 24½ cents per pound. By July 25, the raw price had risen to 31½ cents per pound—20½ cents above the November level. Retail prices have been quoted as high as 45 cents per pound. They may be heavenly to sugar brokers, but it is hellish to the housewife.

From January 1 through May of this year—before the House action, the duty-paid price of sugar landed in New York, was $2.63 per 100 pounds lower than the world price at the point of origin. On June 25, the New York price was $3.25 per 100 pounds above the world price.

The increase of $5.88 per 100 pounds in domestic prices relative to world prices is chargeable to the action of the House of Representatives in voting down the Sugar Bill. That increase will cost American consumers $1.4 billion on the 12 million tons of sugar they consume each year.

It is impossible to determine how much of the additional rise is a result of the House action; just as it is impossible to determine how much was the result of earlier statements and actions of the Department of Agriculture. However, the total increase of 20½ cents per pound since last November will add nearly $5 billion in the annual cost of sugar to American consumers.

Many families have raised gardens this year to help keep down the cost of food. Now when the canning season is here, they find that the higher cost of sugar may offset the savings from their summer's work. If American housewives or industrial users are unhappy with present sugar prices, the record shows who brought about the defeat of the Sugar Bill.

In respect to the future, the defeat of the extension of the Sugar Act obviously creates uncertainty. The Act has probably worked better than any other agricultural program and naturally the prospects of operating without a sugar program give rise to many questions. Unless action is taken during this session of the Congress, the program expires on December 31. However, Administrative actions could help. This is what could be done.

1. The tariff on imported raw sugar will go from 62½ cents to at least $1.52 to $2.00 per hundred weight. However, the President has the authority to keep the tariff at 62½ cents by an Executive Order imposing a quota system. The exact authority is still being researched.

2. Secretary of Agriculture, Earl Butz, has discretionary authority to institute a loan or purchase price support program at levels from zero to 90% of parity for domestic sugar producers under Title III of the Agriculture Act of 1949, in the event such protection is deemed necessery.

3. The President has general authority to restrict imports through the Tariff Commission or Section 22 of the Agricultural Adjustment Act of 1933.

These then are possible alternatives that we have available other than legislation.

There is no quick or easy solution to our sugar problem. We need increased sugar production in the United States and in foreign-supplier nations. This will require the investment of hundreds of millions of dollars over a period of years. Results cannot be obtained from a 1-year or a 2-year program. It is not certain that results can be obtained from a 5-year program. It may require a 10-year program.

Congress should enact a new sugar program, looking solely toward the attainment of adequate production and stabilized prices. That legislation should be enacted for a long enough time to enable producers, at home and abroad, to end the sugar shortage and get prices back to normal levels. Admittedly, present high prices are undoubtedly welcomed by those who have sugar to sell. I hope they will enable you to liquidate some of the huge indebtedness you have incurred in undertaking these projects.

Those who enjoy these profits, should temper their good fortune with reality, for if prices are too high, there is the danger, that the users of sugar, particularly commercial users will turn to substitutes such as corn syrup and other sweeteners. There is a peril point which cannot be ignored. I am confident, however, that you growers will be willing to sit down with consumer representatives and with the Committees of Congress to write legislation that will reestablish plentiful supplies and fair prices. The House's earlier rejection of the sugar bill and the constitutional problem in originating such legislation in the Senate will of course, make your task more difficult.

At present we are exploring all avenues, which include possible recommendations by the House and Senate rider on a House bill. The attitude of the new President may have a bearing on the possibility of legislation in this Congress. At the moment, I have nothing concrete to report. As I close, may I leave you with this tribute; You are fast making the Red River Valley into a major sugar bowl for the United States. This climate and rich soil are well suited to beets. Your large, level fields permit the efficient use of machinery. Your increasing production is strategically located for marketing. You are attacking your problems with the same spirit of pioneering and daring that your forefathers showed when they settled this country.

I pledge you my continued efforts on the legislative front.

I congratulate you and wish you the great success you so richly deserve.

AMERICA, THE BEAUTIFUL

Mr. GOLDWATER. Mr. President, I doubt if there is a Member of this Senate who would deny the fact that our country has been through some very rough days in the past couple of years. In fact, it has lead one friend of mine, Mr. Charles Luckman of Los Angeles, to claim that:

> The United States has a bad, but undeserved, case of hypochondria.

Mr. Luckman in an address to the Channel City and Women's Forum of Santa Barbara, Calif., in late July, pointed out that despite new statements bemoaning the state of public morality and predicting dire results from problems such an inflation, we have always survived "every great crisis in the history of our country."

Mr. Luckman believes it is the duty and obligation of every American in every walk of life to either remain silent or stand up and be counted. He said that:

> When liberty destroys order the hunger for order will destroy liberty.

Mr. President, Mr. Luckman's speech urged his listeners to write to editors, columnists, TV stations, newscasters, and their representatives in Congress if they believe fair play is not being adhered to in the presentation of the facts.

Besides that, the speech entitled "America, the Beautiful" is one of the most inspiring that I have come across in recent days, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

AMERICA, THE BEAUTIFUL

(By Charles Luckman)

That overly generous introduction reminds me that when I was nine years old I must have had what was called in the days of King Arthur, "a Divine revelation"—I decided I wanted to be an architect. To put it mildly, my parents were astounded. My Mother wanted me to be a violin player; my Father wanted me to be a baseball player. I am afraid that they were always terribly disappointed with my failure.

There is a disease which medical doctors call "hypochondria". It is not limited to individuals; entire societies sometimes have it. I submit that today, the United States of America has a bad, but undeserved, case of hypochondria.

Practically every issue of every newspaper, every TV news commentary most new plays and novels, have statements bemoaning the state of public morality; predicting dire results from the inflation which has been besetting our economy; warning that international peace has a very flimsy foundation; concerned over corruption in high places; constantly stressing that our future is bleak and that everything is in a state of total collapse. Ladies and Gentlemen, I simply don't believe it. We will survive! We will do so because of the character, courage, and determination of the American people.

We have always survived every great crisis in the course of our history.

Some two centuries ago we were fighting a war against the British empire, which at that time was the most powerful nation in the world. Its navy was mistress of the seas; its army maintained the balance of power in Europe; its economy dominated the world's trade and commerce.

We, on the other hand, were a tiny nation not yet united, with an army of short term enlistments so that half of the troops were always going home. We had few ships to fight off Britain's fleet. In retaliation for our declaration of independence, the British army pushed us out of Boston; out of New York; pushed us to the back country of Pennsylvania. We were on the brink of disaster.

But on a bitterly cold night at Valley Forge, when it appeared that all would be lost in the crucial battle that was to range the next day, General Washington inspired his troops by saying "Put none but Americans on guard tonight!" We won! We survived!

A little over a hundred years ago our country was split apart by one of the most ferocious Civil Wars that any nation ever had to endure. The nation was ripped apart by hatred and violence. It was torn asunder by pitting brother against brother—father against son. We could see nothing ahead but death and destruction—and the end of the Republic. Yet our shattered nation surmounted even that ordeal. We survived!

Like most of you, I, too, lived through history's worst depression. We all remember the gnawing hunger; the bread lines; the soup lines. Who can forget the $14 billion collapse of the stock market; the "dust bowls". Millions of Americans were barely able to eke out a livelihood. Who can forget our total lack of credibility in our basic institutions such as banks, business and government. Yet we surmounted those obstacles; we survived!

Like almost all of you, I, too, went through the Second World War. Many wondered if even the great people of this nation could stand up against two of the most efficient and ruthless military juggernauts in the history of mankind; which had captured half of the world on each side of our two oceans. We did stand fast. We fought man's grisliest war; defeating the tyranny of the dictators. We survived! And when it was over, we had the compassion to spend untold billions of dollars to help our former enemies rebuild their homelands; we had the sense to begin the United Nations.

Survival has always been based on just one thing; the character of our people. Because of this historic strength of the American people, and because we have surmounted crises that make our present troubles look puny, we are today the most powerful nation in the world.

Now, from this point on, I am speaking to each of you individually, regardless of political party. I don't care whether you're in the Democratic Party, the Republican Party, the American Nazi Party, the American Communist Party (whose name is a strange contradiction), the John Birch Society or what!

Recent polls show that our people, the people of this nation, think that neither the White House nor Congress is doing a good job, with Congress having a slight edge on the lead of negative votes. My position is that both, in their separate ways, are partly responsible for our problems today. But neither will ruin this country. The only factor that can rock this nation to its foundations is the widespread abuse of freedom of the press.

I'll tell you quickly of an incident that started this awareness of abuse within me, five years ago. We literally had fire and furor on the San Francisco State College campus. Riots broke out. Buildings were ablaze. I was in New York at the time, and since I have been a member of the Board of Trustees for the State Universitys and Colleges for the entire 14 years of our existence, the Chancellor called and said, "I'm going to send a transcript which a CBS reporter made last night when he was standing, with the fire in the background, on the campus at San Francisco State. I am wiring CBS to demand the right to have you answer for us on their network."

He sent me the transcript taken from the studio tapes, and after I read it, I called the president of CBS, an old friend. He said he just could not understand it . . . that he would arrange for Mr. Salant, "Chief of CBS News, to call me. Salant called and said, "You have a slight problem?" I said, "No, *you* have a big problem; I have a transcript of last night's broadcast and there are lies in it." He said, "Well, for example?" I said, "Well, I'm now reading from the transcript of your reporter who said, "The Board of Trustees is all white, all wealthy, and no member has been on the campus at any time in the last five years." Salant said, "Well, so what?" I said, "Well, the Board is not all white, because we have two black-Americans and one Mexican-American. We are not all wealthy, because there are at least half who work in a subordinate position for companies, or for other state agencies. As far as no trustee ever having been on the campus in the last five years, I personally, as Chairman of the Trustee Adhoc Committee at San Francisco State, had 11 meetings with student and faculty representatives on the campus. At least five other Trustees have had multiple meetings on the campus. So, we are entitled to have network time to answer these lies."

And Salant said, "But you didn't *see* it on the air." I said, "Why would I have to see it on the air, I have the script." He said, "Without seeing it you can't get the feel of it." P.S.—I never did get on the air. But I sure did get a "feel" of Salant. There is a great deal of well-warranted sarcasm in the trade about "Salant-ed news."

As a matter of fact, not too long ago Barron's Magazine, the business and financial weekly generally viewed as a conservative voice of the "establishment," supported my personal experience by publishing a devastating article in which they described the activities of CBS News as being "baised," "distorted," "illegal," and "harmful."

My story of San Francisco State is further exemplified by almost everything that you and I read or hear today. "High official sources state", or "It is reliably understood", or "According to a well-informed official". Who, Ladies and Gentlemen, should be held accountable for the truth or falseness of those statements? The unknown source, or the known reporter?

By no means are all media, all publishers and all reporters guilty, but the majority are. In last week's Washington Post, I read a subhead, and I'll quote carefully: "Based on a memorandum we secured from the secret hearings of the House Judiciary Committee, Mr. Nixon is guilty." Last week, in the N.Y. Times: "Based on an off-the-record statement by a member of the House Judiciary Committee, Mr. Kissinger is guilty." If we are going to permit the use in this country of the tactics of the Russian purge, they will "get" first the President, then the Secretary of State, then other Americans, like you and me.

Who is guilty of breaking the law? The Los Angeles Times reporter who induced two lawyers to give him information from a secret Grand Jury, or the two lawyers who broke the law? Should the reporter be dismissed for writing? Should the two lawyers be disbarred for giving it? Should a reporter be permitted to "protect his source" so that two lawyers who flagrantly violated the basic law of Grand Jury secrecy can stand before the bar of justice and plead the innocence of their clients? I say no!

I say it is the duty, the obligation of every American in every walk of life, to either remain silent or to stand up and be counted. For as Erwin D. Canham, on July 6, 1974, observed:

"It cannot be denied that the function of providing news and opinion is considerably concentrated—we now have Goliaths of media, A large part of news coverage for all the media comes through two wire services. Syndicated columns of opinion are widely used throughout the nation. Chain ownership of newspapers is constantly increasing. 97% of all of our cities are one-newspaper towns. The national television networks are concentrated into three major groups.

"Those who operate these giant media are far from infallible.

"Opinion-riddled writing has become more and more fashionable. The line between background-reporting, interpreting, and editorializing is, today, not easy to draw or to defend."

I agree with Mr. Canham, and with Justice Jackson, who, 25 years ago, offered this forceful opinion in a free speech case:

Ladies and Gentlemen, when liberty destroys order, the hunger for order will destroy liberty!

"The choice is not between order and liberty. It is between *liberty* with *order* and *anarchy* without *either*. There is danger that, if the Court does not temper its doctrinaire logic with a little practical wisdom, it will convert the constitutional Bill of Rights into a suicide pact."

Ever since Adam—or was it Eve?—leaked the news about that tempting apple, and other funny business, in the Garden of Eden, the human race has been buffeted, confused and repelled by the leaking of forbidden news and secret information.

The only *new* fact of the present leakage problem started with two burglaries. This new facet has been the ending of the traditional American spirit of fair play. *All* the leaks—at least all that have been used by the media—have been anti-Nixon. This can hardly be called an "accident".

One burglary was by Ellsburg, who stole and sold Government documents—and went free, not for lack of guilt, but for lack of privacy for his psychiatrist!

The second burglary—two out of 388,000 burglaries committed in that year—has best been described by a recent observation by Dr. Norman Vincent Peale, who said . . . "I know the President . . . he is a good man. I know nothing about his staff . . . yet I feel sad that these young men have been destroyed. There is too much hate loose today . . . spewed out by the media."

Many people, incensed by the blatant bias of the press, have written letters to the editors, demanding that the staff and members of the House Judiciary Committee be punished for the dreadful leaking of anti-Nixon information out of the secret impeachment proceedings.

The haters may be punished, for we are now coming full circle in Washington, as Washington reporter Aaron Latham said:

"The President created the "Plumbers" unit because he was deeply angered and concerned about White House leaks, as exemplified by the New York Times, which had disclosed in advance the details of the United States negotiating position in the Strategic Arms Limitation Talks. Recently, the Senate Watergate Committee, which has been investigating the "Plumbers", but not the "Leakers", or the users of the "Leakage", has become obsessed with plugging its own leaks. On the day after the Watergate arrests, Gordon Liddy was spotted on his way to the shredder with an armload of documents; now it is Senate Committee Counsel Sam Dash who has been employing a shredder. The rough draft of the committee's final report carried the following:

"Memo To: All members of the Select Committee.

"From: Samuel Dash, Chief Counsel.
"Date: May 7, 1974.
"Subject: Security of rough draft of report.

"This rough draft is part of the final report and is a staff draft—not the committee report until the committee approves it. It would of course be very embarrassing to the committee if the rough draft "leaded". Dan Schorr, of CBS, has told us that he has been promised a copy of the draft by a member of the committee as soon as it is received. I am sure this is merely a boast, but I would urge very careful security of the draft. . . .

Each draft has a control number. At the staff level, we have shredded all working papers, and are keeping only a few copies of the draft (for editing purposes) tightly secured in a safe."

Attorney Dash is personally guilty of practicing that which he called on nation-wide television an "unmitigated crime".

I turn now to a recent editorial by an old friend; the famous son of a famous father, William Randolph Hearst, Jr., Editor-in-Chief of all Hearst papers.

"There was a barely noticed, non-headlined story this week which struck me as strong editorial material. It involves that now well-known Washington character, Senator Sam Ervin. The Ervin story is noteworthy for what it reveals, but has the added attraction of being something of a mystery. It started, for me, when I was looking through a copy of the New York Daily News last Tuesday. There, on page 6, was a picture of Big Sam. The caption below it said:

"Senator Sam Ervin, Jr. leaves Severance Hall, Cleveland, on Sunday after speech in which he said the Watergate investigation did not indicate to him that President Nixon had committed an impeachable offense.

"To me that was pretty startling news. Big Sam, after all, is the Bible-quoting sage from North Carolina who presided over the Senate Watergate hearings and delighted anti-Nixonites with his pointed sermonettes on the evils of sin. And here he was declaring in summation that impeachment is unwarranted."

Real front page stuff, right?

A real break for the President in his desperate battle against political enemies determined to topple him, right?

Wrong! Almost a thousand percent wrong. No New York newspaper carried the Ervin bombshell on the front page. A careful search of editions for several days, in fact, disclosed no stories at all in any other paper . . .

To a life-long newspaperman, the absence of attention to the Ervin declaration is all but incredible. Here, for the record, is the UPI night lead on the story, sent on Monday, March 11:

"CLEVELAND.—No evidence was produced in the Senate Watergate hearings to support impeachment of President Nixon, Watergate Committee Chairman Sen. Sam Ervin, D.-N.C. said Sunday.

"I think this is one section of the Constitution on which Dick Nixon and I agree, he said."

Bill Hearst continues:

". . . you can't prove that there was any kind of deliberate plot to kill it. On the other hand it certainly is no secret that many members of the press and electronic media, including editors, have it 'in' for Dick Nixon.

"You will have to draw your own conclusions as to what happened to the Ervin story and why it was so generally ignored.

"I have done so—and on the evidence before me, I must cast my vote for impeachment of the news media."

There is no question but that the press has merited criticism at different times in the Watergate coverage. Erroneous material has been published. Lesser episodes have been blown out of proportion.

For certain transgressions Mr. Nixon undoubtedly has been criticized more than his predecessors were for similar shortcomings. Above all, there has been frequent distortion, playing Watergate out of proportion to stories of greater importance at the moment.

I say to you with political dispassion: By the time the 1976 elections are over, the Watergate episode will be dead, but the accomplishments of this administration will live on—to benefit all the people of our world.

I think, too, the press has learned some hard lessons during the last year. One is that, like all other institutions in a democracy, it must exercise civility and restraint. If the President is not a law unto himself, neither is the press. I am not asking for a censored press; I am asking for a responsible press. Our "freedoms" depend on it!

Even Time, the magazine of infallibility, admitted this on July 8, 1974.

"Don't Love the Press, But Understand It" by Henry Grunwald

"Journalists deserve much of the criticism directed at them, and ought to examine themselves and their practices far more carefully, rather than wrapping themselves in the First Amendment at any sign of hostility.

"Journalists have considerable power to help or hurt, but there is no code of ethics, . . . no form of checks and balances . . . no professional association of peers, to judge their performance.

"That freedom raises many moral ambiguities about the source and limits of the authority of the press."

Note by CL: "So far, that hardly sounds like Time Magazine—but the rest of the article does"!

"Further moral doubt about the way in which the press exercises its power is summed up in another frequent question: Why don't you treat a man as innocent until he is proved guilty? In short, the press is widely accused of having already condemned Richard Nixon in print."

Now listen to this:

"The fact is that the 'innocent-until-proved guilty' rule is a courtroom rule , . . it cannot apply in situations that are essentially political debates, and it certainly should not prevent newsmen from using their eyes, ears and heads to form conclusions.

"Despite the public's frequently naive faith 'in objective, just-the-facts reporting', every newsman must interpret and judge."

What a shocking concept! That the media should have the right to interpret, judge, and thereafter, to purvey these conclusions as fact—thereby influencing every potential member of the juries who are today hearing these cases throughout the land—is Constitutional heresey at its worst; and criminal heresey at its best!

And speaking of heresey, permit me to quote from a recent newspaper story:

"WASHINGTON.—House Judiciary Committee members began meeting in closed sessions.

"The secret sessions were arranged by Democratic leaders of the committee, so that 'all members can have a frank and honest discussion without the polarizations that seem to develop in public debates.'

"They acknowledged that the strategy was aimed primarily at helping Republicans who might vote for impeachment, but who 'don't want to put their feet in concrete in public statements and then go back home and have political problems with what they have said.' "

Secret sessions to hear evidence, and closed meetings to vote!

Don't the American people have the right to know what their elected representatives think and say? There has been too much talk about power of the government, and power of the press. I think it's time to have some power of the people!

We need it, and we need to use it.

On Page 14 of a recent morning newspaper, there was a tiny, but very interesting, article.

"JACKSONVILLE, FLA.—Senator Edward J. Gurney was indicted by a Federal Grand Jury Wednesday on bribery, conspiracy and perjury charges. He was accused of taking part in a scheme to collect $233,000 in kickbacks from housing contractors.

"Senator Gurney, a ranking member of the Senate Watergate Committee, is the first sitting U.S. Senator to be indicted in 50 years."

Note by CL: It's a good thing he wasn't a Vice President or he would be de-officed and dis-barred. Despite his Federal indictment, Senator Gurney signed the recently issued Committee report, which castigates and condemns a score of men who were party to the minor offense of breaking and entering.

It will perhaps amuse you to know that I have been warned by several friends against making this kind of speech for fear that I, too, might be "castigated and condemned". I can only hope there is some truth in a quip I heard recently when we were in Moscow, "In Russia we have freedom of speech; but in America, you have freedom after the speech." In the belief that is true, I'll keep on saying what I believe to be right.

An evening paper ran an editorial "Horse of the Same Color" on July 11.

"The select Senate Watergate Committee revealed last week that Senator Hubert Humphrey and Rep. Wilbur Mills received big campaign donations from the Milk Lobby as well as illegal corporate contributions during their unsuccessful bids for the Presidency in 1974.

"Here we have a case of two prominent Democratic politicians, both of whom have been sharply critical of Nixon's handling of campaign contributions, and his refusal to turn over evidence, accused of committing the same kind of indiscretions.

"And what is their response? Well, for one thing, they're trying to protect themselves. Their top campaign aides took the Fifth Amendment when they were asked to testify about the matter before the Senate Watergate Committee.

"That committee's chairman, Sen. Sam Ervin, sent Mills two letters asking him to supply information concerning the matter—and Mills declined to do so. Those letters were sent to Mills last January and February. It seems both logical and fair to ask why we didn't hear about them until June.

"Was Sam Ervin so busy complaining about the President's refusal to turn over tapes and documents that he couldn't even lodge one mild complaint against Mills during the last six months?

"But that's not all. Humphrey's campaign manager, Jack Chesnut, now admits that he destroyed all of HHH's early 1972 campaign-financial records.

"Can you imagine what would have happened if Nixon, or someone else at the White House, had burned the tapes? The howls of indignation and outrage were deafening enough when they were turned over one by one or edited and released in transcript form.

"What's the difference, really, between Nixon's, Humphrey's or Mills' refusal to cooperate? Unless someone can explain the difference, it strikes us simply as a matter of whose ox has been gored."

But the tides are turning; the people of this country are getting mad about unfairness, and fed up with Watergate. An editorial in the New York Times, June 20, 1974 shows how far the mighty have fallen!

"The House Judiciary Committee, after making an appropriately measured start on its impeachment inquiry, now seems to have sprung not just a leak, but a gusher.

"Even before these confidential memoranda from closed sessions were leaked to the press, various members of the committee were providing fragmentary 'recollections' of bits and pieces of the evidence to which they had been exposed. And then, of course, there was that moderate-sized geyser of information from the staff of the Judiciary Committee, about Secretary Kissinger's alleged role in wiretapping.

"The basic question posed by the leaks is one of fairness." (Note by CL . . . yes, this is the N.Y. Times talking!) "The Judiciary Committee, after all, is conducting an inquiry into whether there are grounds for the House to charge the President with an impeachable offense. It is not trying Mr. Nixon. If the House decides to impeach him, the President is entitled to a fair trial before the Senate. The leakers, apparently impatient with the rules of secrecy adopted by the committee, and presumably anxious to 'get the President', are subjecting him to trial by the court of public opinion based upon fragmentary and unrebutted evidence and analysis."

Note by C. L. . . . there is no one more holy than a reformed sinner. And day in and day out, during the past 18 months, the N.Y. Times has really been in the top 10 of those sinners who—by fair means or foul—have dishonorably induced the betrayal of all laws with respect to secrecy. Now they preach—but not what they practiced. Adversary journalism is helpful; advocacy journalism is disastrous!

Most lawyers are horrified by the press's intrusion on grand jury privacy.

Columnist Jack Anderson published transcripts of some of the testimony given in secrecy to the Watergate grand jurors. Reporters Woodward and Bernstein of the Washington Post, desperate for new information when other sources went dry for a while, have acknowledged in writing they approached members of the same jury, attempting to get them to violate their oath of secrecy. If you or I had done this, we'd be in jail for jury tampering!

And speaking of tampering, a story out of Washington on June 29, 1974, is highly significant.

"Washington.—Rep. Peter Rodino, chairman of the House Judiciary Committee, Friday denied a Los Angeles Times story quoting him as saying that the committee's 21 Democrats were prepared to vote to impeach President Nixon.

"The story had touched off an uproar among both Republicans and Democrats.

"Rodino then told the House that the report was unequivocally and categorically . . . not true. I do not know how anyone will vote, nor could I presume to know . . . and if it is determined I have been unfair in the impeachment inquiry, I will resign as chairman."

In Los Angeles, Times Editor William F. Thomas replied,

"The Times remains certain of the accuracy of its story."

Sam Donaldson, a reporter for ABC, said on television Friday evening that he was present in Rodino's office . . . and he supported the Times' story saying:

"Rodino did say . . . the way members were reacting to the evidence, that he believed all 21 Democrats would most likely reach that conclusion."

If the Times and ABC are correct, then Rodino was guilty of "prejudging" the impeachment case, and of making a mockery of claims the Committee was being fair to the President. . . . Rodino should fulfill his offer to resign. If another story in last Friday's papers is true, he will be forced to resign.

"A congressional committee has evidence detailing alleged corruption among U.S. Immigration officials . . . reportedly includes a tape recording which contains embarrassing allegations about a number of high Government officials, including Rep. Peter Rodino and a key staff member of his House Judiciary Committee which is currently considering the impeachment of President Nixon."

But Rodino's resignation would only be symptomatic of the problem; not the answer thereto.

The answer lies in remembering that "freedom" applies constitutionally, and equally, to everything that is said, printed, or written—including your letters. Your club, and thousands like it throughout the United States, can become the wave of the future, simply by making the present ground swell of letters, become a storm of protests. The first amendment gives *you* the right to blow off steam!

Please understand me—not letters for or against impeachment. No, No, a thousand times No! Letters asking only for *fair play*, only for facts in the news; with rumors, opinions and conclusions confined to the editorial pages where they belong!

Write to your editors, your columnists, your TV stations, your newscasters, your representatives, your senators. Demand that those who break the law by inducing or producing leaks of secret testimony, or secret documents, be brought to trial. Do it today! The nation's future depends on our people—and most of all on our willingness to join in a common effort to achieve justice and equality.

Our nation needs you. Help re-establish the basic tenet that every American has the right to trial by jury; has the right to the presumption of innocence until proved guilty. I say to you today, that this "freedom" is rapidly being eroded. Accusation without proof, accusation by unnamed so-called sources, accusation by rumor, is not freedom of the press, but a license to libel and lie . . . I say to you today, that "freedom of the press' does not take precedence over our "inalienable rights."

In the wars during our two centuries of existence, 43,400,000 Americans fought—not for freedom of the press—but for our inalienable rights. 1,038,000 died for them.

I know we all staunchly retain our belief in our American Republic. But a free democracy is not something that, once created, is certain to be perpetuated. It must be continuously earned. It must be defended against encroachment and against decay. It will survive only so long as its citizens respect its values highly enough to be willing to pay for them in common forbearance for the common good. It will survive only so long as its citizens respect the basic tenet—that freedom is not for each, but for all.

Keeping our society free, strong, and united, calls for an understanding of the basic fact that freedom and responsibility are inseparable. It calls for a firm commitment from each of us to act responsibly for the common good, to protect the strengths of our great nation. Freedom did not begin with us; do not let it end with us. Only we can preserve freedom; only we, working together, can preserve America, the beautiful . . . from sea to shining sea!

MORE ABOUT BUZZERS AND INTERLOCKS

Mr. EAGLETON. Mr. President, anticipating congressional enactment of legislation this session to revoke the standard requiring a seatbelt interlock and buzzer system on new cars, I wrote to the major auto companies on August 28 suggesting they consider offering to disconnect existing systems for any purchaser who wants that done at no cost to that purchaser.

I was particularly pleased by the response from Mr. P. N. Buckminster, vice president for Washington Affairs of Chrysler Corp. His response was direct and categorical:

> Chrysler Corporation does voluntarily agree to disconnect the seat belt and interlock buzzer system for any purchaser who wishes it done at no cost to the purchaser.

This, of course, assumes enactment of legislation to get rid of the interlock and buzzer and I am confident that that action will be taken.

The replies from General Motors Corp. and Ford Motor Co., by contrast, showed less willingness to bear the cost of this relatively simple operation. I would hope that with final passage of seatbelt legislation, these companies will join Chrysler in offering this service to purchasers of 1973 and 1974 automobiles.

Mr. President, I have not yet received a reply from American Motors but I ask that the text of my letter to the auto companies and the replies from Chrysler, Ford Motors, and General Motors be printed at this point in my remarks.

There being no objection, the correspondence was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., Aug. 28, 1974.

Mr. John J. Riccardo,
President, Chrysler Corp.,
Detroit, Mich.

Dear Mr. Riccardo: As you know, the House of Representatives recently adopted an amendment to ban the seat belt interlock and buzzer systems on new model automobiles. I plan to offer a similar amendment in the Senate shortly after the recess and I am confident that it will pass.

Neither the House nor the proposed Senate amendments will do anything for the owners of 1973 and 1974 model cars equipped with interlock or buzzer systems. With the revocation of the Department of Transportation's standard, of course, will come a revocation of the present prohibition against disconnecting these systems but no specific provision is made for automobile owners who wish to have that work done.

I would like to propose to you and the presidents of Ford, General Motors and American Motors that your companies' voluntarily agree to disconnect the systems for any purchaser who wants it done at no cost to the purchaser. As I understand it, the work itself is not complicated or expensive, but it does require a mechanic's attention.

I believe that such an offer on the part of major auto manufacturers would be greatly appreciated by the consumer and would earn those companies enormous good will for the future.

Because this question is likely to arise during debate on my amendment, I would appreciate your earliest response.

Best wishes.

Sincerely yours,
Thomas F. Eagleton,
U.S. Senator.

Chrysler Corp.,
Washington, D.C., Sept. 11, 1974.

Hon. Thomas F. Eagleton,
U.S. Senate,
Washington, D.C.

Dear Senator Eagleton: In reply to your letter of August 28 to John Riccardo, Chrysler Corporation does voluntarily agree to disconnect the seat belt interlock and buzzer system for any purchaser who wishes it done, at no cost to the purchaser.

We appreciate the interest and concern for the response of consumers which is displayed in your current amendment, and we are happy to pledge our fullest cooperation.

Best wishes.

Sincerely,
P. N. Buckminster.

Ford Motor Co.,
Dearborn, Mich., Sept. 10, 1974.

Hon. Thomas F. Eagleton,
U.S. Senate,
Senate Office Building,
Washington, D.C.

Dear Senator Eagleton: I appreciate the opportunity to comment on the pending legislation concerning the automobile seat belt ignition interlock and sequential warning systems.

Although these systems have obviously caused much irritation, we have been impressed by the dramatic increase in belt usage that has occurred in the 1974 models. On pre-1974 models, lap belt wearing was at an approximate rate of 30 to 40 percent and the wearing of shoulder belts was in the order of 4 to 5 percent. Surveys conducted early in the 1974 model year indicated that the wearing rate of the complete system had increased to approximately 60 percent, with an additional 10 percent wearing only the lap belt portion of the system. This is of special importance, because it is generally agreed that belt systems, when used, constitute one of the most effective and economical means of improving occupant protection.

Nevertheless, the ignition interlock may have too many drawbacks in customer use to be acceptable. Ford therefore does not object to its elimination, either by legislation or through rule-amendment by the Department of Transportation. We urge, however, that serious consideration be given to retaining the sequential buzzer system, while reducing its irritation—for example, by limiting buzzer operation to one or two minutes.

If the interlock, or the sequential buzzer, or both, should be eliminated from new cars (either through legislation or rule-changes), we believe that franchised new car dealers, and all other repair establishments should be legally free to remove or disconnect the devices on cars already in customer service. We would not undertake to reimburse dealers for the costs of such "disconnect" services. The charge would probably be too small to justify the extra paperwork, although this might depend on the specifics of the new legislation. Further, Ford could hardly take the position of urging our owners to have the devices disconnected. We believe it appropriate to limit Ford's reimbursement of repairs of vehicles in Company service to those instances covered by warranty or involving potential safety problems.

We should be glad to discuss this further or to answer any questions you may have.

Very truly yours,

L. A. IACOCCA.

GENERAL MOTORS CORP.,
Detroit, Mich., Sept. 6, 1974.

Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: You inquired under date of August 28, 1974, whether, if the Congress passed legislation outlawing seat belt interlock-buzzer systems on new model cars, General Motors would be willing to disconnect such systems in cars now on the road at no cost to the owner.

It would not be possible at this stage of development in the legislation to say even what would be feasible from a legal and technical standpoint or the practical considerations involved, either in cars on the road or for cars to be manufactured in the future. Also, you are no doubt aware that General Motors and the other automobile manufacturers distribute vehicles through dealers and, therefore, any modification of vehicles would have to be performed by them.

In the first instance, H.R. 5529—as passed by the House and to be considered by the Conference Committee—contains a provision (Sec. 103(a) (1)) which forbids manufacturers and dealers, under penalty provisions, from rendering occupant to restraint systems inoperative. If this provision remains in the legislation finally adopted, any action to disconnect by us or our dealers would be illegal.

Secondly, it is not known what systems would be required as a result of final action by the Congress on such legislation. That is, the required system might contain solely a shoulder-lap belt combination with a warning light to indicate that the belts should be buckled; it might require a buzzer in addition to the warning light; or it might have to include a sequential device whereby the warning light would be deactivated only by buckling up after the occupant is seated. Various other possibilities also exist.

Thus, until these matters are resolved by Congress, it would not be possible for us to say whether we would be permitted to do anything at all, or what would be required from a technical or practical standpoint to bring existing systems into agreement with the new standard provided for under any amended law.

We would be pleased to discuss this further with you or your staff.

Sincerely,

R. F. MAGILL.

SPACE RIDERS IN THE SKY

Mr. GOLDWATER. Mr. President, circumstances being what they are, many people are attempting to guess about the future and what it holds for the United States. The opinion of one prominent scientist, Dr. Wernher von Braun, is that in 50 years space riders in the sky will be the big thing with oil prospectors, astronomers, and climatologists cruising the heavens in spacecraft just now coming into development.

It will be recalled that Dr. von Braun worked on rocket development culminating in the V–2 rocket during World War II. In the United States after the war, he directed programs for NASA resulting in the manned lunar landing program. At present, he is a vice president of Fairchild Industries.

According to von Braun, during the seventies, eighties, and nineties a worldwide satellite search will be initiated for additional deposits of metal ores, coal, oil, shale, and natural gas.

The doctor said:

> Using multispectral scanners, and other sophisticated optical devices, the orbital prospectors will collect picture material that, by comparison with known ore or fossil-fueled deposits, can point out promising sites for closer scrutiny by ground crews.

Mr. President, this article written for the Saturday Review World of August 24, 1974, is of such importance that I ask unanimous consent that it be printed in its entirety in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SPACE RIDERS IN THE SKY

(By Wernher von Braun)

(Oil prospectors, astronomers, and climatologists will cruise the heavens. A life without spacecraft may be as hard to imagine as one without planes or phones.)

It is safe to predict that fifty years from now, people will look back and wonder how man ever managed his affairs on his limited planetary abode without the tools provided by the space program. That there could ever have been a world without spacecraft will be just as difficult for them to imagine as one without telephones and airlines is for us.

In 2024 mankind will be faced with many problems that can only be tackled successfully by a global, coordinated systems approach. Successful solutions to these problems will require continuous monitoring and surveying of the entire earth, supported by an effective communications system capable of transmitting the large quantities of collected data and pictorial information in real time to a multitude of users in almost one hundred nations. Unmanned earth survey and communications satellites and orbiting manned observatories will form the backbone of this system.

The dominating problems of humanity during the next fifty years that will require such aid from space will arise from the collision between man's happy-go-lucky joy ride of unrestrained and unlimited growth—both in numbers of people and their material expectations—and the grim limitations of resources the earth can provide and of wastes it can absorb.

Some of these problems are already upon us today. The sudden shortage in fuel oil and gasoline made us shockingly aware of our dependence on resources that for too long we have taken for granted. We would be tragically mistaken if we took our present energy crisis as an isolated incident—brought about by mischievous Arabs or profit-hungry oil moguls—as a problem of a temporary nature that will soon be resolved. We should rather accept it as a timely and deadly serious storm warning. Not only is our automotive joy ride over (a ride made possible only by a hitherto unlimited supply of cheap energy from oil), but also we will have to learn to utilize more intelligently our planet's scarce remaining resources in metal ores and its limited ability to produce food crops for its exploding population.

During the Seventies, Eighties, and Nineties, a worldwide satellite search will be initiated for additional deposits of metal ores, coal, oil, shale, and natural gas. Using multispectral scanners and other sophisticated optical devices, the orbital prospectors will collect picture material that, by comparison with known ore or fossil-fuel deposits, can point out promising sites for closer scrutiny by ground crews. "Side-looking" orbital radars, with "synthetic apertures" (radars so designed that their own orbital movement produces the effect of larger antennas than they really have), will conduct these surveys even through permanent overcast and at night.

The satellite search for non-renewable resources will be combined with a continuing survey of cyclically renewable resources, such as the yearly food and fabric crops and the thirty-year cutting and reforestation cycle of timberland. Ever since ERTS–1, our first Earth Resources Technology Satellite, demonstrated in 1972 its uncanny ability to distinguish, from orbit, the subtle differences between the spectral reflectivities of different crops, this orbital fact-gathering technique has been perfected beyond the fondest expectations. By the turn of the century, resource satellites will be collecting, as a matter of routine, precise global data on the local and worldwide yield of such food crops as corn, wheat, rye, barley, rice, and soybeans, and of fiber crops like cotton and sisal. As a fleet of these satellites circle the earth in their low, near-polar orbits, they will enable the data centers on the ground continually to update their crop predictions. For instance, wherever the sensors of a satellite detect a region where previously unspoiled fields had suffered from flood, drought, hailstorm, or insect infestation, the "update" will enable the data center to correct its previous estimate.

The same satellites will also produce a continuing record of the pattern of worldwide human habitation. Built-up urban areas, characteristically lacking the chlorophyll-signature of vegetation, will stand out like sore thumbs on the satellite-produced earth pictures.

Thus the satellites will provide the two key pieces of quantitative information required for a badly needed worldwide food-supply management system:

Where is the food, and how much of it will be available for consumption? ("supply")

Where on earth are all those hungry mouths that must be fed? ("demand")

The big computers in the resource data centers then can figure out what options are available to the world economy to satisfy the regional calorie and protein requirements and to stave off mass starvation in regions of critical crop failure.

In addition to their usefulness with short-term problems, however, the earth-looking satellites will also provide man with a deeper understanding of many of the long-term implications of his industrial civilization. For instance, they can settle the old controversy as to whether the earth as a planet is gradually getting warmer because of the "greenhouse" effect created by the great amounts of carbon dioxide released into the atmosphere through man's massive burning of fossil fuels, or whether the opposite is true, that it is actually getting colder because those same offensive smokestacks and exhaust pipes increase the average cloudiness and thus reduce the percentage of sunlight reaching the earth's surface.

The concern is well founded. In the former case even a few degrees' rise in the earth's average temperature would suffice to melt, within a few hundred years, the ice caps and glaciers in the Arctic and Antarctic regions. As a result, the ocean level would rise about fifty feet, inundating all of the world's coastal cities. In the latter case, our industrial activities might trigger another Ice Age, with equally disastrous consequences. The answer (which the author's crystal ball refuses to yield) will be found by carefully measuring from orbit, over a period of many years, the minute changes in the earth's albedo, or percentage of sunlight reflected back into outer space.

Another problem of potentially grave long-term consequences is the pollution of the continental shelves. The shelves comprise only 3 percent of the total ocean area; but as they extend only to depths of a few hundred feet, which sunlight can still penetrate, they provide the abode for the bulk of all photosynthesis-supported marine plant life. Because marine animals feed, directly or indirectly, on this plant life, the continental shelves actually support much of the life at sea.

The problem now is that many of the world's polluted rivers do not really flow into the wide-open oceans, but rather onto the continental shelves. What makes it even worse is that the steady sea breezes drive the dirty river waters back to shore and thus often pollute hundreds of miles of shelf to the right and left of the estuary. The global environmental effects of this extended pollution of the shelves are virtually unknown. Some scientists are concerned that one effect may be a slow but substantial reduction of the oxygen content of our atmosphere. They believe that the ocean's plankton (which is affected by the health of the shelves) accounts for possibly as much as 50 percent of all oxygen regeneration out of carbon dioxide, with only the other 50 percent being regenerated by land vegetation.

Again, the satellites will provide the answer. By a systematic study, over several years, of the shelf-pollution pattern caused by the earth's rivers, they can provide a data base on which corrective action could be taken. In many cases the river cleanup measures ordered by national or regional environmental protection agencies may prove to have been adequate or could be tightened sufficiently for restoring a shelf's ecological health. In more difficult cases, massive engineering projects can be initiated to virtually channel, or pipe, the poisoned river waters across the continental shelves to the near-barren deep-water ocean areas.

Even the open oceans can be held under continuous scrutiny. Whenever a tanker captain in 2024 thinks that he can get away with cleaning his bilges or bunker spaces on the high seas under protection of night, the satellites, detecting both the telltale oil slick and the ship steaming away from the scene, would quickly report the misdeed to the U.N. pollution-control branch, and the shipping company could expect to be fined for violation of worldwide treaties on environmental protection.

Atmospheric pollution could also be a subject of continuous monitoring by the ever-watchful eyes in the sky. The worldwide machinery of environmental protection would be promptly notified whenever pollution levels dangerous to human health were approached.

Thus, the years between 1974 and 2024 may give us what Spaceship Earth needs most: a capability of doing some sound "planetary systems engineering." These 50 years will provide us for the first time with a planetary data bank, and the orbit-collected data stored in this bank will provide the basis for at least some rudimentary "planetary systems management."

Will the "planetary system management" of 2024 be tantamount to "world government"? Not necessarily. Many people today are concerned that the seemingly unavoidable controls for protecting our environment, or for preserving our non-renewable resources, will inescapably lead us more and more into a world resembling Orwell's 1984, with Big Brother watching our every move. I do not think it needs to be quite that bad. Man has accomplished some pretty remarkable things on a global basis without putting us in a straitjacket. Take the control of epidemics. In the Middle Ages, the bubonic plague depopulated vast areas. Even a few decades ago, typhoid, yellow fever, malaria, and diphtheria were still major hazards to foreign travel. The international medical community, in close cooperation with governments, has quietly managed to establish a worldwide health-control system that checks the spread of epidemics very effectively while it causes a minimum of inconvenience to international travelers. Those who fail to get the proper inoculation may wind up in quarantine quarters for a few days. A similar fate may befall our future tanker captain who cleans his bilge at midnight.

The upshot: some more commonsense restraint on the part of everybody will be necessary if our planet is to remain a suitable habitat for Homo sapiens. But Orwell's 1984 in 2024? No.

In the communications field, satellites will bring about another revolution. After the Intelsat communications satellites of the Sixties and Seventies have established a global telephone network interconnecting nearly one hundred nations, satellites will take over a major share of domestic communications as well. In addition to telephone conservations, they can carry television programs and facsimile service and provide direct ties between computers in different locations in support of such operations as banking or ticket reservations. Soon, lasers, operating at visible and infrared wavelengths (where spectrum space is almost unlimited), will make their entry into the communications satellite field. Nuclear lasers in geosynchronous orbits—23,000 miles up—will be the next major breakthrough. They could provide the capability of handling millions of television channels simultaneously and billions of telephone conservations.

Controlled by an orbital switchboard, laser beam connections could be established (and withdrawn after use) that provide direct links between any two points on earth. The abundance of available channels would soon lead to worldwide video-telephone service. And as communications improve, commuting for business purposes would go out of style. It would become more convenient to let electrons, rather than people, do the traveling. Traffic and parking problems have kept people off the streets even for local chores. But the average American household of 2024 will be equipped with an appliance that combines the features of a television set with those of a desk computer and a Xerox machine. In addition to serving as a TV set and a printout device for news, the push-button-controlled console will permit its owner to receive a facsimile-radioed letters, review the shelves of a nearby grocery store, order food and dry goods, pay bills, balance books, and provide color-video telephone service to any point on earth.

Zero-gravity manufacturing and processing experiments conducted in 1973 and 1974 in Skylab, our first manned space station, will open up a new industry in space. Ultra-pure vaccines, growth of huge crystals for solid-state devices required by the electronics industry, manufacture of metal alloys that could not be created at all under normal gravity conditions (where the heavy components of the melt would sink to the bottom while the light ones rose to the top), will be produced in orbit. By 2024 the value of these orbital products will have risen to several billion dollars per year, a handsome payoff indeed for the costly Skylab experiments.

Coming generations of our global system of meteorological satellites, equipped with greatly improved instruments, will provide the entire world with all the data needed for a reliable two-week weather forecast. This data will be fed into computers on the ground that have stored in memory banks the detailed information that will permit making an extremely elaborate model of the weather.

This system already saves thousands of lives and millions of dollars in property damage every year by timely warning of approaching hurricanes, tornadoes, and tidal waves. As the meteorological system improves, these savings will grow, too. The economic savings to agriculture, construction, transportation, and many other industries now subject to the vagaries of the weather should indeed be enormous.

It is also safe to predict that some degree of weather control will be achieved. Think of the implications of having rainfall occur only at night, or, more important in terms of meeting the world's need for food, of being able to bring rainfall at will to areas now parched and wracked by drought.

Many of the U.S. space operations in 2024 will become possible through the advent of the reusable Space Shuttle, which will see its first use in approximately 1980. The shuttle will not only drastically reduce the cost of space transportation but also will open up space for the non-astronaut. Surely, there will still be astronauts on the flight deck of the advanced Space Shuttle of 2024, but their role can be compared with that of the flight crew in an airliner. The passengers will be astronomers, meteorologists, environmentalists, climatologists, geologists, oil prospectors, and other earth-resources experts. For them space flight will become the old airline routine of "coffee, tea, or milk?"

With the help of the Space Shuttle, the United States will also resume flights to the moon. *Apollo 17*, launched in December 1972, brought to a close a string of fabulously successful expeditionary ventures to our nearest neighbor in space. For all of its great scientific returns, however, the *Apollo* transportation system had the inherent limitations of all great firsts. For exploring the moon thoroughly, longer "staytimes" on the lunar surface and the capability of covering greater distances on the ground are vitally necessary. The shuttle, supported by a breed of equally reusable, non-streamlined vehicles known as "space tugs," can transport substantially larger useful loads to the lunar surface and do this at greatly reduced cost. This breakthrough in lunar logistics will make possible the establishment and support of a permanent research station on the moon, operated on the principles of our older research stations in the Antarctic. Around the year 2000 this station will be the site of a milestone event in human history: the birth of the first lunar baby.

By 2024 man will also have set foot on the planet Mars. Will he find life? Here again my crystal ball gets clouded. (There would be no fun in science and exploration if everything could be predicted. We can only *speculate* that we might find at least some lower forms of life there.)

Many of the things I have discussed here are already well on their way to fruition. Others may be a bit on the speculative side. All I have really done is enumerate our options and alternatives.

Whether this nation does indeed achieve its goals in space, turning promise to reality, depends in large measure upon the plans we make and the commitments we are willing to accept. All these things can be, and I believe will be, within our grasp if we have the foresight and the will.

I fervently believe that we have.

S. 3280—HEALTH SERVICES ACT OF 1974

Mr. McINTYRE. Mr. President, I was heartened by the recent approval by the Senate of the Health Services Act (S. 3280). I am pleased that we can continue and improve programs of this type, which allow the State and local level to deal with their health problems in a way which they determine to be the most appropriate.

Programs under health revenue sharing and community mental health center grants, have been most successful in New Hampshire, and I endorse their continuation.

I am also pleased, Mr. President, to note that the committee has chosen to revise section 314(e) of the Public Health Services Act, into a new section, that will allow for the funding of community health centers. My longstanding concern with this primary care delivery mechanism is reflected in the National Health Care Act of 1973, which I have introduced in the past two sessions of Congress. The concept of ambulatory care centers, which I outlined in my bill, in many ways is reflected in S. 3280, and I am encouraged by the recognition being given this important part of the health delivery system.

I am indeed pleased that the Senate has passed the Health Services Act of 1974, and hope this bill can become law in the 93d Congress.

AFFIRMATIVE ACTION

Mr. BUCKLEY. Mr. President, I ask unanimous consent that testimony presented by me today before the House Special Education Subcommittee on the subject of affirmative action be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATOR JAMES L. BUCKLEY TESTIMONY BEFORE THE HOUSE SPECIAL EDUCATION COMMITTEE, SEPTEMBER 17, 1974

Mr. Chairman, I want first to express my thanks to you and to the members of the committee for the opportunity to offer my views on what I am convinced is a problem of profound importance to our nation. I also want to express my personal thanks to you and the committee for holding these hearings which, I believe, are the first to be held in regard to the problems of affirmative action programs.

It is by now a commonplace that the Congress and the American people will usually not respond to a problem unless that problem first reaches critical dimensions; e.g., the energy crisis. The facts that led to the energy crisis were apparent years before the actual crisis occurred. Yet little was done to increase dwindling supplies and reduce consumption until the Arabs reminded us of the dangers of an excessive dependence on foreign sources.

I bring this to your attention because I believe there is another potentially explosive situation occurring in the United States, one that could set back the cause of social harmony. The facts are available, but there does not seem to be any sense of urgency in dealing with them. More and more, we see evidence that the discrimination inherent in the "affirmative action" programs now being enforced by the federal government are already causing hardships and controversies throughout the land. The problem is complex, but at its heart is a simple question: is it just for the United States Government to require discrimination in favor of some ethnic or racial groups as opposed to other ethnic or racial groups? In short, are some Americans to be treated as more equal than others? This is what I consider to be at the heart of what may well develop into a new civil rights crisis. I want to emphasize that what we are talking about is not "reverse" discrimination; it is discrimination period.

The New York *Times* (June 28, 1974) carried a news story headlined "Minority Hiring Said to Hurt Colleges." The story said in part:

"The affirmative action program by which the Federal Government is compelling colleges and universities to hire more women and blacks is lowering standards and undermining faculty quality, according to a report to be published today under the sponsorship of the Carnegie Commission on Higher Education.

"Lacking an adequate pool of qualified women and blacks for tenured appointments, the 168-page report asserts, institutions are 'playing musical chairs,' pirating the limited number of minority and women faculty members from each other.

"Moreover, it is charged that new minority and women appointees may be paid more than white male faculty members at the same level and that some do not have proper qualifications for the tenured and untenured positions to which they are appointed . . ."

The report in question has received nation-wide publicity and for good reason. It is the first scholarly study to stress what many have long known: the affirmative action programs now being enforced by the federal government are a mockery of fair play and a perversion of the concepts of individual dignity and of equal justice for all under the law. Today I would like to address myself to some aspects of this growing national problem, one that is entirely the creation of over-zealous bureaucrats.

For the record, I want to state that my interest in this problem is long-standing. As you know, New York State is blessed with more than its share of this country's institutions of higher learning. As a result, I have received more than my share of the cries of anguish now issuing from our campuses as the tireless agents of the Department of Health, Education and Welfare's Office for Civil Rights seek to impose "affirmative action plans" on all educational institutions hapless enough to receive funds pursuant to contracts with the Federal Government.

As early as May 22, 1973, I made a statement, "What Does Affirmative Action Really Affirm?", pointing out the obvious inequities in the "affirmative action" programs. At that time I said:

"The absurdity of the exercise ought to be self-evident. But it is worse than absurd. The notion of affirmative action plans designed to achieve precise goals is inherently vicious, inherently discriminatory. It flies in the face of everything that the civil rights movement has sought to achieve—a society in which every human being is judged on his merits as a human being, a society that is truly colorblind, a society that applies a single set of standards for employment and advancement irrespective of the accident of birth.

"This is true whether quotas are applied to universities or businesses, or unions. The human soul does not know distinctions of race or sex or ethnic origins. To attempt to catalog human beings by such categories for purposes of employment is to insult their humanity . . ."

Mr. Chairman, I support the Civil Rights Act of 1964. I also support the principles underlying Executive Order 11246 from which the entire affirmative action programs have directly arisen. What I do not support—what I cannot support—is Administration appointees and bureaucrats asking young Americans today to pay for the sins others have committed in the past.

I recently came across two documents which I believe have very much to tell us about the crisis. The first was an article by George F. Kennan, concerning Parts I and II of Alexander Solzhenitsyn's *Gulag Archipelago*, and the second was a speech given by the distinguished member of the House of Representatives, Representative Edith Greene. At first glance, these two documents would appear to have little in common, but I am convinced that both are speaking to the same issue.

The review by George Kennan contains the following statement, concerning the Stalinist terror of the nineteen-thirties:

"Only a tiny percentage of those who were made victims of the system can be said to have been in any sense political opponents of the regime. People were arrested and consigned to this terrible half-world not as individuals—not, as a rule, for anything they themselves had individually done—but as members of categories. 'Prophylactic' considerations—i.e., the reflection that certain categories of people might be theoretically more capable than others of making trouble for the regime in the future—no doubt had something to do with the identification of the categories from which arrests were to be made . . ."

Mr. Chairman, the idea that human beings should be treated as members of categories is repugnant to Americans. Yet, we are at this very moment treating certain Americans as members of "favored" categories and others as members of "non-favored" categories in hiring, in academic institutions and in a broad range of areas. We are, in short, officially engaging in a practice which formed the philosophical structure of the Great Terror.

I need not emphasize the fact that Congresswoman Edith Greene has long been at the forefront of the fight for true equality of opportunity. This is why her words are so important. Here is what she said:

"In drafting the language of Title IX I never intended it to be interpreted as establishing a quota system. I consider the rhetoric of some in saying, 'We don't require quotas, we require goals', as nothing more than a game of semantics . . .

"One of the most damaging things about prejudice, in my view, is that it gives primary value to a group characteristic rather than recognizing the unique individuality of each human being. It does not matter whether this discrimination works in the person's favor or against him. What he or she still loses is the irreplaceable privilege of being looked upon as an individual rather than an anonymous face in the crowd.

"*As I* see it—only genuinely equal opportunity—containing neither advantage nor disadvantage can provide this . . ."

The eloquent words of Representative Greene are something more than a denunciation of the wrongs perpetrated by bureaucratic quota systems. They are instead an appeal to the conscience of the Congress, an appeal that cannot be denied and no longer can be ignored. And there is ample evidence that what Representative Greene has warned us against is fast becoming accepted practice in many parts of our nation. Allow me to illustrate that point with one recent example.

The Wall Street Journal (Friday, August 2, 1974) carried an article which shows just how far we have moved as a nation toward accepting an alien and dangerous philosophical viewpoint concerning the true meaning of equality. It seems that one of the biggest growth industries are the "consulting firms" that help companies implement equal employment opportunities programs. Here is what the article stated about the motivation behind most affirmative action programs:

" 'It's a business problem of dollars and cents and should be approached as such,' says Barbara Boyle, a partner in the consulting firm of Boyle-Kirkman Associates, Inc. Her own scare tactics include showing clients a pamphlet distributed by the National Organization of Women that gives women step-by-step guidance on how to sue their employers . . ."

So we have come to the highly ironic state of affairs in this country that "scare tactics" are used to bludgeon employers to hire high-priced consultants whose chief task is to show the employer ways in which he may most expeditiously discriminate against present and would-be employees, all in the name of justice.

In order to demonstrate what the bureaucratic mind can do to twist the clear intent of the legislation we enact, I believe it is worth while to examine briefly one part of the affirmative action programs.

In trying to thread my way through the labyrinthian world of affirmative action policies, I had had occasion to read "The Higher Education Guidelines" issued by the Department of Health, Education and Welfare through its Office for Civil Rights. On page 3 of that document we find the following:

"The affirmative action requirements of determining underutilization, setting goals and timetables and taking related action as detailed in Revised Order No. 4 were designed to further employment opportunity for women and minorities. Minorities are defined by the Department of Labor as Negroes, Spanish-surnamed, American Indians, and Orientals . . ."

Now it happens that the word "minority" does not appear at all in Executive Order 11246 or in the 1964 Civil Rights Act. I therefore wondered how the term came to be used as it is in the guidelines for implementation of that Executive Order. I discovered that the Office for Civil Rights relies on a document of the Department of Labor called "Revised Order No. 4" as the basis for its guidelines. An examination of "Revised Order No. 4" revealed that the word "minority" or some form of that word is used no fewer than 65 times—but is never defined. Where, then, was the basis for the particular definition of the word "minority" contained in the OCR guidelines?

I asked the scholars of the Library of Congress to attempt to answer this question. I want to include in these remarks excerpts taken from a response given to Mr. Paul Downing of the Library of Congress by Mr. Irving Kantor, Assistant Executive Director, United States Civil Service Commission:

"The term 'minority group' first appears in our files in connection with a 1961 study of minority group employment in the Federal government, conducted by the President's Committee on Equal Employment Opportunity . . . 'the Civil Service Commission developed a working definition for field use and identified those groups that appeared to be identifiable and significant enough to measure statistically in the Federal civilian work-force. These minority group designations—Negroes, Spanish surnamed Americans, American Indians, and Oriental Americans—as you indicated in your letter, remain pretty much the same in current usage.'

"Obviously, there are numerous other ethnic and religious minorities in our pluralistic society, but ethnic and religious identification of all employees would be impracticable and, we believe not particularly useful for equal employment opportunity program purposes. . ."

In his covering letter, Mr. Downing stated:

"On 3/22/74 I discussed use of this term with Mr. James Scott, an assistant to Mr. Kantor. Mr. Scott cited two reasons for selection of particular minority groups.

"(1) The minority groups selected are those which have historically suffered most discrimination and which have suffered discrimination continuously to the present.

"(2) The minority groups selected are those most easily identifiable as minority groups. . ." Some questions arise at this point. Why should the criteria for special governmental treatment be limited to identifiability and the statistical prominence of one group? And how, precisely, is "identifiability" defined? Why is it "impracticable" to identify other ethnic groups? What have the bureaucrats done to analyze the reasons for this alleged "impracticability?"

Now I believe the record shows it is reasonable to state that the arguments given by these bureaucrats for making some minorities more equal at the necessary expense of others is at the very least questionable, when seen in the light of the non-discrimination requirements of the 1964 Civil Rights Act. But to make matters even more complicated, there are, unknown to most Americans and, I would think, even to most in Congress, whole categories of minorities who are by official admission discriminated against but are not, apparently, important enough in the eyes of the bureaucracy to warrant protection. Once more I want to quote from my previous speech in order to show what the affirmative action philosophy has brought us to:

"The problem of the universities in attempting to cope with the infinite variety of human beings is just beginning. To show what may lie ahead, let me quote from 'Guidelines on Discrimination Because of Religion or National Origin,' issued by the Department of Labor and printed in the Federal Register on Friday, January 19, 1973, which have to do with affirmative action in another area of employment. Part (b) of 60–50.1 of those guidelines reads as follows:

" 'Members of various religious and ethnic groups, primarily but not exclusively of Eastern, Middle, and Southern European ancestry, such as Jews, Catholics, Italians, Greeks and Slavic groups, continue to be excluded from executive, middle-management and other job levels because of discrimination and/or national origin. These guidelines are intended to remedy such unfair treatment.'

"All of this presents us with a complex problem . . . As it stands now, the Government of the United States has decreed, officially, through the Department of Labor, that while members of European minority groups and certain religions are definitely victims of discrimination in business employment, it has also decreed, through HEW's Office of Civil Rights, that when it comes to employment on a campus, they are not entitled to the same regulatory protection that is now accorded Negroes, the Spanish surnamed, American Indians and Orientals. I, for one, have no doubt that in due course, the OCR will not only catch up with, but leapfrog the DOL as more and more groups seek the very real advantages of reverse discrimination that will accrue to them by virtue of membership in a class officially found to be subject to job discrimination. And so our colleges and universities will find themselves forced to punch into their computer cards more and more categories of human beings so that they may achieve the exact mix of sex, race, religion and national origin that will be required to satisfy their ever more fastidious inquisitors . . ."

Mr. Chairman, I am in no way arguing that we should add new categories of Americans to the "preferred list." I am instead directing your attention to the logical and practical inadequacies and injustices inherent in *any* system of preferment. The way to rid ourselves of this new discrimination is not by setting up officially designated groups for special treatment or by adding more and more categories to the arbitrary list in order to make the new discrimination look more justified. The way to achieve equal employment opportunity is to simply enforce the laws already on the books concerning discrimination and to let every man and woman know that it is the person, not the group to which he belongs, that counts when it comes to employment. Let's not discriminate against some minorities as a means of making up for past discrimination against other minority groups. Most important of all, let us return to common sense and common decency when it comes to dealing with the complex and important task of racial and ethnic harmony in this country. However noble in original purpose they may have been, the "affirmative action" programs have become disasters in practice. What we need is a fresh start, with each individual guaranteed that he or she will be hired on the basis of merit alone, free from any form of discrimination, however well intentioned.

I would like to conclude, Mr. Chairman, by quoting from an excellent study of this problem. George Roche, the President of Hillsdale College, who has already eloquently testified before this committee, has written in his new book *The Balancing Act:*

"If we give way before the force which now menaces higher education and our society as a whole, we are not only opening the door to second-rate standards and a new and more vicious and permanent form of injustice. We are also passing control of tomorrow's leaders and tomorrow's dominant ideas from the privacy and independence of the academic community to the realm of egalitarian politics. If Affirmative Action gains the final say in curriculum, faculty, and admissions throughout higher education, effective control of society will have passed to the social engineers and the politicians, and America will have lost one of her greatest resources in the struggle to remain an open and effective society."

STATISTICAL SURVEY CARD FOR U.S. OFFICE OF EDUCATION CIVIL RIGHTS COMPLIANCE REPORT

Please note: Discard if you are *not* a member of an ethnic minority or a foreign student.

Name ----------------------------------
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Date ----------------------------------

Please check one (if applicable) and return with registration material: Ethnic Background (*U.S. Citizens only*)

American Indian [ ]
American Negro [ ]
Oriental American [ ]
Spanish-Surnamed American [ ]
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Country

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National Defense Student Loan [ ]
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The information will be used for statistical purposes only and will not appear on any official Graduate School record. Your cooperation is essential if the survey is to benefit the entire student body.

HEALTH PROFESSIONS EDUCATIONAL ASSISTANCE ACT OF 1974

Mr. INOUYE. Mr. President, I wish to speak today in support of S. 3585, the Health Professions Educational Assistance Act of 1974, which will soon be before us on the Senate floor.

I am aware of the controversial nature of a number of the provisions of this far-reaching legislation. However, if we are truly dedicated to insuring that adequate health care will be readily available for all of our citizens, then we must begin to squarely face the basic issue of physician maldistribution, both geographically and by speciality areas.

In the committee report accompanying S. 3585, the statistics clearly indicate that the physician-to-population ratio in doctor-rich States are growing at a much greater rate than such ratios for our doctor-poor States. Further, in the 300 metropolitan areas of our Nation, we found that the physician-to-population ratio is more than twice that of nonmetropolitan areas. As a Senator from a largely nonmetropolitan State, I can assure you that these figures have a very real personal meaning to my constituents.

Further, although to some it may seem radical to tie Federal financial support to 2-year mandatory service in a designated underserved area, I think that it is highly significant that the student group of the American Medical Association testified in support of this legislation. It costs approximately $12,000 per year to educate a physician and I personally feel that along with the prestige, social status, and comfortable life, also comes a deep personal obligation to be responsible to our Nation's basic needs. Similarly, the development of national standards for licensure and continuing education also seems to be a viable approach to maximizing the utilization of our present resources. In conclusion, I sincerely hope that my colleagues will join me in actively supporting S. 3585.

JOYCE H. MARTIN, MESA VERDE REPUBLICAN WOMEN'S CLUB OF COSTA MESA, CALIF.

Mr. GOLDWATER. Mr. President, a member of the Federation of Republican Women from Orange County, Calif., has spent a large part of her life working for the betterment of the United States. She is an immediate past president of the Mesa Verde Club and presently the first vice president of the Orange County Federation of Republican Women.

Mr. President, Mrs. Joyce H. Martin has attempted, and very ably, to put her feelings into the form of a prayer which she delivered August 12 to the Mesa Verde Republican Women's Club of Costa Mesa, Calif.

I ask unanimous consent to have Joyce Martin's prayer printed in the RECORD.

There being no objection, the prayer was ordered to be printed in the RECORD, as follows:

MESA VERDE REPUBLICAN
WOMEN'S CLUB, FEDERATED,
Costa Mesa, Calif., August 12, 1974.

God, our Father,

Your people have come to a crossroad. We stand in perplexity, in anguish, with heartache and sorrow. Lord, we are needful of assurance of your guidance so that we chose the road that still leads within our Canaanland, our America.

Father, give us a reassessment of spiritual values in our secular areas as we ask your protection for the new leaders of our beloved America. Sustain their loyalty for our country, give strength and wisdom when decisions are to be made. Preserve their integrity and uphold their divine faith in that all things come from You and all things are possible only through unswerving and intuitive faith in You.

Father, temper the hate and vindictiveness now rampant in our land. We beg a return to the dedication of our forefathers as they wrote the constitutional principles of yore.

In your infinite mercy, heed the prayers and supplications being asked for the families of Government officials now saddened and chastised. In your compassion, help them find peace and justification for a renewed dedication of future service for there is a need for many workers in the field.

Lord, from these crossroads, send us forward, secure in the faith that this is one Nation, under God, indivisible. Amen.

JOYCE MARTIN.

ADDRESS BY ARDESHIR ZAHEDI, AMBASSADOR OF IRAN

Mr. GOLDWATER. Mr. President, one of the best friends that the United States has is the country of Iran, and one of the best personal friends that all of us has here in Washington is the Ambassador from that country, His Excellency Ardeshir Zahedi.

I first met this gentleman many years ago when he came to my hometown of Phoenix to work first as a dishwasher and then a waiter in order to learn the American free enterprise system. I have watched his career with a great deal of interest in the years since, and I know that his country and his Shah are very proud of him.

On August 31, he made the commencement address at Kent University in Kent, Ohio, and I ask unanimous consent that this well-reasoned, well-put-together speech be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY HIS EXCELLENCY ARDESHIR ZAHEDI, AMBASSADOR OF IRAN TO THE UNITED STATES

President Olds: Members of the Board of Trustees: Members of the Faculty: Graduates and Guests: and of course, my fellow countrymen from Iran:

It is an honor to be here today, on this beautiful campus of Kent State, with all of you, who go to make up a great university.

With due respect to my own generation, I find it stimulating, to be with young people. I always encounter a mingling of idealism and optimism with a healthy (skepticism), which is, re-assuring of the future, and necessary for a keen perspective of human events. Thank you for this privilege and for allowing me to share with you the fruits of this memorable occasion.

This generation gap reminds me of this fellow who, during an argument with his parents, cried "I want excitement, adventure, money and beautiful women. I'll never find it here at home, so I'm leaving. Don't try to stop me."

With that, he headed for the door. His father rose and followed close behind. The boy said, "Didn't you hear what I said? Don't try to stop me." "Who's trying to stop you?" replied his father. "If you wait a minute, I'll go with you."

When I received the invitation to speak before you, I began to wonder why commencement speakers so often choose to talk of the problems which confront the world.

I have come to the conclusion that this is not done in any sense of pessimism. It is rather based on a feeling of realism. I say this because we are faced with real problems.

What are some of these problems and what role can you as the citizens of the world community play to resolve the difficulties confronting us?

Foremost among these are the questions of education and health. While you have the good fortune of benefiting from modern education and adequate health facilities, there are still millions in the world who continue to live in the darkness of ignorance and disease. The latest UNESCO study indicates that over 34 percent of the world's population is illiterate.

In Iran under the leadership of his imperial majesty the Shahanshah Aryamehr a concerted effort has been made to eradicate this problem.

A principal tool for carrying out our intensified education program is Iran's youth corps, made up of thousands of young people of military draft age.

These young people choose to serve their country through programs that are social and creative, rather than military. Their program is composed of the educational and extension corps, the health corps, and the development corps.

In the educational corps, they carry modern education into the mountain villages, and remote areas.

I am sure, that Dr. Olds recalls that while he was United States ambassador to the United Nations social and economic council, his imperial majesty proposed a universal welfare legion. Under this noble cause, the youth corps, through the United Nations, would enable individuals of any country, class, race, or religion, to devote a part of their lives to the service of mankind.

Moreover, a few months ago, a national goal decreed the right of every Iranian to a free education, in keeping with his abilities, and without regard for his financial means. At the same time, a concurrent principle was expressed: Those who study at public expense, must repay their debt to the Iranian people.

Thus, we proposed a contract, between the nation and the student, which will assure immense returns, to both sides.

More recently, the Shahanshah issued a decree on education which formalized this principle, and, provided free education through all elementary levels and what you call junior high school. It also provides free lunch to every child attending school in the country.

To facilitate nation-wide education, a $2 billlion program will use educational satellites, T.V. and other audio-visual teaching aids.

In the field of health, we have equally extended free health care to every man, woman and child in the country.

As educated and informed members of this great society, you too have an important mission to promote the cause of universal education and welfare.

The energy crisis is yet another problem which confronts the world today. It involves all forms of energy. By that I mean it includes the food necessary for human energy and survival, as well as industrial energy for the operation and survival of the world's technology.

The food crisis is far more serious, and more fundamental, than the energy crisis. For we can live with less energy. We may be able to live with less heat, more cold. But the world can hardly manage with less food or allow a billion people to starve or perish. We owe it to our children to cope with this problem before it is too late.

A few years ago, Iran warned about the energy crisis and nobody paid much attention. Now once again we would like to emphasize the grave situation concerning food. I hope this time the world will take it more seriously.

The food crisis calls for a degree of international cooperation and effort that the world has not yet made up its mind to give.

In recognition of this fact, my beloved sovereign recently sent a message to the Secretary General of the United Nations calling attention to the rapid population growth on the one hand, and the state of world food production on the other. He urged increased cooperation between the developing and the developed nations to increase food production, establish population control, food programs, and make provision for sufficent food reserves to guard against famine.

When we look at the problems of industrial energy, we tend to think too much of oil. We must equally turn our minds to the development of other forms of energy.

Iran has no intention of putting all her eggs in one basket. Already, his majesty, the Shahanshah, has called for research and exploration into alternative sources of energy.

As long as oil was cheap, the world neglected the abundant supply of coal, shale, and natural gas that is still available to us. We did not seek the means of using them as a source of energy that was economical and met environmental standards.

Solar energy, at the other extreme, has not received the serious attention required for achieving its effective production, storage, and transmission.

Nuclear energy is in hand. But there are problems of production, and the disposal of nuclear waste, for which the world needs to find proper solutions.

Iran has contracted with a number of countries for construction of nuclear power stations.

We want to make clear that this is for peaceful purposes only. Here I must remind you that Iran has signed and ratified the non-proliferation treaty. Moveover, for six years my sovereign the Shahanshah has called for designation of the Middle East as a nuclear-free zone in terms of weapons. To prove this, his majesty only recently suggested again to the U.N. Secretary General that the proposal be put on the agenda for the next session of the General Assembly.

We hope that other nations will join us in pressing for this goal.

Meanwhile, we must put oil in proper perspective, with a realistic assessment of a fair price, assured supply, and the proper uses for oil.

Iran has said many times that we will adjust the price of oil to the price of other world commodities. It is up to the industrial nations to contain inflation of their prices and we will contain the price of oil. But we cannot hold down oil prices, when prices for almost everything we buy have been going up in the range of 300 to 400 percent or more in the past decade.

Oil, as a "noble commodity," should be reserved for use in the petrochemicals and medicine, where it has some 70,000 by-products.

Iran's intentions, and her sense of responsibility, are best indicated by what we are doing with our increased oil revenues.

Domestically, 80 percent of this new income is committed to internal development.

At the same time, we are always eager to learn from the experience of other nations. Your great country is rich in experience and know-how. Here in this great institution, for example, I am hoping to look into some of the outstanding research which has been done by your liquid crystals institute.

Perhaps we can persuade some of these fine intellects to help us in our scientific development.

With regard to other nations, Iran has embarked on an extensive program of investment and contracts with the industrial countries, and of direct financial aid to the less developed countries.

It is obvious that the third world countries which are not blessed with natural resources and raw materials are the chief victims of the energy crisis.

Iran looks with the gravest concern on the problems of these nations and already is moving to help them with billions in direct aid, as well as long-term loans which will help them to pay the increased price of oil. For example, we have advanced $1 billion to India. To Pakistan it is about the same. Egypt is to receive slightly more than $1 billion; and Syria some $150 million. Other countries such as Senegal and Morocco have already received financial aid from Iran.

Bilateral aid is now well over $8 billion. In proportion to Iran's 32 million inhabitants, I am sure you will agree that this is an enormous amount.

On the multilateral front, his majesty has proposed the formation of a special international fund to be supported by 12 oil producing and 12 industrial nations. We have also set aside $1 billion for the International Monetary Fund and the World Bank.

In Europe, we are making investments in Germany, France, and Great Britain, and seeking advanced technology in Iran. These investments will give us participation and experience in the world economy, and will bring to Iran business managers, skilled administrators, and technicians.

In the Middle East, we continue to exert our influence in behalf of peace, stability, and mutual trust. For this reason we are in favor of the implementation of the security council resolutions 242 and 338 which call for the withdrawal of Israeli Forces from Arab territories—and the establishment of peace and stability in the Middle East.

But our desire for peace will not cause Iran to fail to assert her rights, or by the same token to work for greater understanding and harmony among all the nations in this area.

We are very much concerned about the Persian Gulf, and we hope that the atmosphere of peace and friendship which we genuinely seek with our neighbors can prevail for the mutual benefit of all the countries in the Persian Gulf.

Economic and diplomatic events demonstrate once again that interdependence among nations is increasing. At the same time, the gap between the rich and the poorer nations has grown wider.

Iran believes strongly that the nations of the world cannot work together effectively for peace while these disparities are growing. We believe also that the international policy and actions which I have described illustrate our sincere desire to reduce the disparities.

Iran's independent national policy enables us to deal with any country on a basis of respect for the rights of nations and of individuals. We believe this is the essential foundation of mutual trust and cooperation. We do not believe that what is mine is mine but whatever is yours is negotiable.

Thus, Iran extends her relations with the nations of Eastern Europe, China, and the Soviet Union, while we maintain our close community of interest with the western nations.

We had a deep historical commitment to the humanist traditions of the west. And we are especially aware of our close friendship with the United States and the many ties which link us together. His imperial majesty, the Shahanshah, in his recent message to President Ford, stated as follows: and I quote:

"Our bonds have withstood the test of time and with the passage of years have gone from strength to strength culminating in an atmosphere of perfect mutual trust and good will."

Though quite different in our forms of government, Iran and the United States share many common goals and aspirations.

Iran was the first country to receive aid under the United States technical assistance program. And the first to terminate aid a few years later with mutual trust, friendship, and good will. I am happy to state that Iran is now in fact a donor nation.

We have not forgotten the aid you extended, with no strings attached, at a very critical time in our history. It was a time of internal chaos and turmoil. A time of external threat and danger. And Iran is grateful for your help in that hour.

This is a great example of partnership between two nations, which has expanded ever since.

Like the United States, Iran is dedicated to the building of peace, to the expansion of cooperation among nations of the world and the fulfillment of rising human needs. We attach the highest importance to the establishment of community of interests and promotion of world peace and security on the international scene.

These are deep-rooted convictions among the Iranian people and their sovereign, the Shahanshah. We live by them, and in our everyday actions, we strive to make them real. We seek to move forward, with the establishment of Iran as a progressive and hard-working society. We are determined to recapture the glories of Iran's past and lay the foundation once again for a great civilization.

In closing, let me take a moment to speak to you with candor, affection, and trust, as a friend who can speak from the thousands of years of Iranian history.

You, in this graduating class, this new generation often tend to be critical of your society. It stems from a certain degree of modesty about your accomplishment. This is a healthy attitude—an outlook which deserves praise and admiration. But, you should also be proud of your achievements. You have the heritage of America, which within 200 years has moved from the frontier to the world's most powerful nation. You have been given an enormous responsibility in this short period to ensure continuing peace in the world. To this, you have made a lasting contribution. I would therefore ask you to look at your country and its role with pride and optimism.

On the eve of the two-hundredth birthday of your Nation, you can look again to your national virtues of idealism, compassion, and generosity to other nations and other peoples.

Do not underestimate the resources of your people in their dedication, their loyalty, and their inner spirit. These are a greater source of strength than you perhaps realize. This was demonstrated so clearly in World War II in the sacrifices for your own country and for the world community.

Every nation has its periods of stress and trial. These are, in truth, only moments in the life of your nation. Go forward, I urge you, to meet its challenge.

To you, the members of this graduating class, one further word.

There is in the United States a commitment to hard work, self-discipline, and a respect for duty and morality, which you are too modest at times to admit.

You are afraid that this is too much on the square side of things.

Believe me, the eternal verities may sound a little corny, but they are eternal just the same. They have a way of rising up again and again in the course of history.

Do not be afraid to embrace them. You don't have to wear them on your coat sleeves. But you can carry them in your hearts.

Thank you.

MINNEAPOLIS STAR COLUMN DISCUSSES CREDIT ALLOCATION

Mr. MONDALE. Mr. President, a recent column in the Minneapolis Star by Editorial Editor Harold Chucker contains an excellent discussion of proposals for allocating credit more selectively.

As Mr. Chucker points out, many people have trouble understanding why "when credit is so tight that home mortgage loans are out of reach or almost impossible to find, should there be money available to build a casino in Las Vegas or to finance backyard swimming pools?"

Legislation I have proposed—S. 3901—would give the Federal Reserve Board authority to give incentives to banks to grant more credit to high priority needs such as housing, small business, farming, community facilities, and productive capital investment, and less to lower priority, speculative, and inflationary investments.

This legislation was introduced in the House by Congressman Henry Reuss, and is cosponsored in the Senate by the Senator from Connecticut (Mr. Ribicoff), the Senator from New Jersey (Mr. Williams), and the Senator from West Virginia (Mr. Randolph).

I ask unanimous consent that the Minneapolis Star column be printed in the Record.

There being no objection, the column was ordered to be printed in the Record, as follows:

Dividing Up Tight Capital Among Demanding Agencies

(By Harold Chucker)

The question that is increasingly being asked goes something like this: Why, when credit is so tight that home mortage loans are out of reach or almost impossible to find, should there be money available to build a casino in Las Vegas or to finance backyard swimming pools?

The answer—

"That's the way the free market operates"—is drawing more frowns than nods these days. The free credit market is almost swamped by a gargantuan demand for money. With other avenues to raising funds—selling stock or borrowing in the bond market—either closed or narrowed by rising costs, the focus turns to commercial banks.

But the banks themselves are hard-pressed for capital. And record yields on securities sold by governments, which compete for funds, have diverted savings from thrift institutions. This, in turn, has meant a disaster for the housing industry and dashed hopes for those who want to buy or build a home.

The problem boils down to this: How do you divvy up a fixed amount of capital among growing, competing demands? The answer, offered by some congressmen and a few bankers, is to allocate credit resources, either by voluntary plans or mandatory allocations.

Sen. Jacob Javits, R-N.Y., is one of those proposing a voluntary plan. Javits suggests sorting out credit priorities, with the federal government—presumably the Treasury or the Federal Reserve Board—advising lenders on which categories of borrowers should have preference on getting loans. Under such a system of priorities, housing might get top priority, with the Las Vegas casino or the backyard pools at or near the bottom.

Javits is confident such guidelines on bank loans would be followed. He may be overly optimistic, even though some bankers might welcome such a program as a way to relieve the pressure from borrowers.

Sen. Walter Mondale, D-Minn., has introduced a bill for mandatory allocation of credit, but it is doubtful that there are enough votes to push such a measure through. Dr. Arthur Burns, chairman of the Federal Reserve Board, and others in government have said "no way" to mandatory allocations.

Mondale, however, has growing support for his proposal, particularly from Democrat-oriented economists. A group of economists, including Walter Heller, Otto Eckstein, Arthur Okun, Paul Samuelson and Charles Schultze, pointed out in a joint statement that "the large, powerful corporate borrower is still able to meet his credit needs. If an excessive expansion of bank loans is the central problem, the Federal Reserve should impose limits on bank loans as numerous other countries have done. It should also restrain the unsound use of credit to finance speculative inventories, enterprise acquisition and foreign exchange speculation."

A powerful argument for credit allocation has come from one of banking's mavericks, John R. Bunting, chairman of First Pennsylvania Bank. In a speech last May, Bunting called on the monetary authorities to encourage banks to channel loans into industries whose products are in short supply and whose production is pushing close to capacity. Banks, he said, should be discouraged from making nonproductive loans in a highly inflationary environment.

Bunting suggested one tool for allocating credit: Let the Federal Reserve give banks an incentive for making loans to capacity-short industries. It could do this, he said, by allowing banks to set aside smaller reserves against "scarcity and energy" loans than on other types of loans, thus making the former more profitable.

Under present rules, banks are required to set up reserves against deposits, not loans. But the Federal Reserve could change the rules, Bunting said. Presumably, this would involve setting up a sliding scale of reserve requirements on loans. Banks would have to set aside a larger reserve for nonproductive loans—the backyard swimming pool type. Loans for productive purposes would require the least amount of reserves.

There is, however, a loophole in this argument. The nation's commercial banks are not a monolith. Not all of them belong to the Federal Reserve System. In fact, there has been a decline in the number of member banks, since some feel they are at a competitive disadvantage because of the requirement that they hold reserves against deposits in the form of vault cash or as deposits at the Federal Reserve. Such reserves, of course, cannot be loaned out.

In addition to those banks dropping out of the Federal Reserve System, and those that have never joined, there are the thrift institutions, over which the Federal Reserve has no control. So the Federal Reserve's control over the monetary system, via the reserve requirement, is far from precise. This could be remedied by giving the system blanket authority over all banks and thrift institutions, but this move, proposed as far back as 1950, has gotten nowhere.

But given this loophole, and even with the Federal Reserve's reluctance to take on the job of allocating credit, don't count out the prospect of such allocations in the future. The growth demands for credit, and dislocations resulting from the present free market system, could force the Federal Reserve into the business of deciding who should get credit, and how much.

WORLD FOOD SHORTAGES

Mr. GOLDWATER. Mr. President, for some months now, we have been bombarded with one prediction after another concerning world food shortages and the prospects of significant starvation in the near future. Because of drought conditions in many sections of the world, there can be no doubt that this problem is very near our doorstep. As a matter of fact, it came up last night at President Ford's press conference when he was asked whether the United States will be able to significantly increase its food aid to foreign countries. In reply, the President said that within the next few days "a very major decision" will be made in this area, but that he was not at liberty to tell the press and the TV audience about it at that time.

Mr. President, the whole business of agriculture has become extremely complicated and difficult within the past few years, and for this reason the student of the agricultural leadership class at California State Polytechnic University, Pomona, Calif., were extremely fortunate to hear one of the best speeches on this subject I have seen in recent years. The speech was delivered by John R. Norton III, and it dealt very conclusively with almost every facet of the food shortage problem that is developing. He described the situation as a "great challenge and responsibility—one that is both exciting and awe-inspiring." He explained that agriculture, which has always been one of the major points in world power, has undergone some important changes. He added:

> Wealth by conquest, as best exemplified by the Roman Empire, or by colonialization, as best exemplified by the British Empire, are no longer practical sources of national power. Consequently, despite the amazing Japanese industrial miracle, I am pessimistic about

their ability to maintain such economic wealth over the long term unless by territorial conquest or otherwise the Japanese are able to broaden their agricultural base.

After explaining how the wealth of a nation is correlated to its agricultural productivity, Mr. Norton explained that this wealth is a result of many factors of climate and geography over which people have little control. It is for this reason, he said, that he sometimes questions the claim that agricultural producers in the United States are much greater than those in other nations.

He acknowledged that today's agriculture is big business and said it is time that we graduated from "the tiresome prattling about saving the family farm." One of his major points was that the Soviet Union is continually hampered by agricultural shortcomings due in great part to the fact that her major producing areas lie north of the latitude of Minneapolis and St. Paul.

Mr. President, because of the importance of this subject at this time, I ask unanimous consent to have Mr. Norton's address printed in its entirety in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Speech Presented to the Agricultural Leadership Class by John R. Norton III

To the graduating class of 1974 and to the other classes and Board of Directors of the Agricultural Education Foundation, to the Council of California Growers, and guests—good morning.

Your group has enjoyed a wonderful opportunity to broaden your knowledge of agriculture. Probably one of the most lasting effects of this program will be the fellowship with each other and the enduring friendships with your contemporaries across the State of California that you might never have had the opportunity to know on such an intimate basis. Surely the most exciting and rewarding benefit is the exchange of ideas with each other. I compliment you on the efforts you have made and the time you have sacrificed away from your businesses. This you will never regret.

I was especially pleased to be asked to talk to your elite group in what is one of today's most discussed vocations. Television and the newspaper are filled with stories about food—prices and shortages. Food used to be taken for granted. It was grown by someone in overalls with a tractor someplace outside the city. But that is past. Now people are worrying about crop yields, exporting and importing, middlemen, and other facets of growing and marketing food. The worldwide question today is will there be enough to eat for this year and for the coming decades. The world is looking to us to provide the formulas for human survival. We are faced with a great challenge and responsibility—one that is both exciting and awe-inspiring.

This is not to say that the importance of agriculture is a new development. Abundant agricultural productivity has been the foundation for the enduring power of all great nations. Wealth by conquest, as best exemplified by the Roman Empire, or by colonialization, as best exemplified by the British Empire, are no longer practical sources of national power. Consequently, despite the amazing Japanese industrial miracle, I am pessimistic about their ability to maintain such economic wealth over the long term unless by territorial conquest or otherwise the Japanese are able to broaden their agricultural base.

This points up the importance of a nation's natural resources. In recent years I have had the opportunity to visit Japan, the Soviet Union, Israel and Western Europe. When flying across Germany, I was overwhelmed by the panorama of one huge, highly productive farm. Last month, when in France, I was surprised to hear a high French official state that the single biggest asset of France is water in the form of abundant rainfall with very minor seasonal variations, a climatological phenomenon due to having major oceans on three sides. Conversely, the Soviet Union's struggle for economic growth is continually hampered by her agricultural shortcomings due in great part to the fact that her major producing areas lie north of the latitude of Minneapolis/St. Paul. Consequently, the Soviets suffer a short growing season and erratic weather damage.

As to our country, it is always fascinating to contemplate the huge expanse of fertile land in the central U.S., gradually warming in the spring and summer, thus drawing in moisture-bearing clouds from the perfectly located reservoir of the Gulf of Mexico. In this way, Mother Nature irrigates, on a very timely basis, this huge expanse of fertile land in the heart of the temperate zone. So, in reality, the wealth of a nation, if correlated with its agricultural productivity, is a result of many factors of climate, topography, and geography, over which the people have little control. For this reason, I sometimes question it when told how great the agricultural producers of the United States are in comparison to those of the rest of the world. After all, we have been blessed with the most desirable combination of agricultural resources on earth.

Naturally, climate and land are not the entire basis for agricultural productivity. There does appear to be a real difference in the characteristics of peoples in different nations and different areas of the world. Otherwise, how can we explain the inability of Mexico to achieve a higher productivity? Resourcewise, Mexico is far from testing its limits, but many other factors obviously bear upon their productive ability, such as cultural customs, religious attitudes, and government and political philosophy. Also, it is well established that India has a huge unrealized potential of agricultural productivity. Naturally, the role of government cannot be overemphasized. The negative effect of agrarian reform in Mexico and the complete destruction of a free agriculture in Cuba are prime examples very close to home.

This brings me back to the main point of my talk. Today's agriculture is big business. It is the basis of a country's wealth and the primary source of its power. Our greatest obligation to society and to our country is to determine what policies and attitudes will insure the continuation and improvement of the most efficient, productive agricultural economy in the world.

If we are to consider agriculture as big business, then it is time that we graduated from the tiresome prattling about saving the family farm. The time to do that has expired.

If the U.S. Census ever told a story, it has told us that the people in the U.S. really don't want or can't afford to live on the family farm. The figures show a decrease from 23 million (or over 15% of our population) living on the farm in 1950, to less than 10 million (which is less than 5%) living on the farm in 1970, a period during which our agricultural efficiency and productivity improved substantially. If we continue to perfect labor-saving machinery for use in agriculture, isn't it obvious that less people will be required to live on the farms and do this work? We have given the farmer the means to produce from more acres with the same manpower, thus freeing masses of people in our nation to devote their abilities to the advancement of industrial production, scientific research, and the pursuit of the arts.

To regress by insisting that the family farm is a desirable goal would be overlooking the obvious, such as the failures of agrarian reform in other nations, the efficiencies available to farming on a larger scale, the regressive and detrimental effects of the 160 acre limitation of the Reclamation Act, and, perhaps most important of all, the whole question of whether living on and operating a family farm in the U.S. as it existed 30, 40 or 50 years ago was such a desirable way of life. I believe that the romanticists overlook the tremendous economic hardships inherent in the small family farm as it has existed in the past. There were severe ups and downs for those people, and economic hardship for major portions of a farmer's life was considered routine. A result of our evolution into larger scale farming will be a more stable and better standard of living for more people in agriculture than ever existed for the family farm.

I do not mean to imply that a family cannot own a large and efficient farm unit, but rather that the romantic concept of the small, and I emphasize small, family farmer, doing virtually all of his own work and being so limited in his ability to industrialize his operations, is doomed to economic failure. The operations of a very small rancher or farmer have often been described, defensively, as a "way of life" as opposed to being sound economically.

But our goal should be to pursue the development of agriculture under the concept best described by the term "agribusiness". We can, with pride, dedicate our energies to the continuation of the full industrialization and modernization of American agriculture as has been occurring so miraculously in recent years. The goals of higher productivity per man hour and complete utilization of all the natural resources available to agriculture will be the most valuable contribution we could make toward improving the standard of living and insuring peace among the people of the world. If our goal is to create an even greater abundance of food and fiber for the nourishment and sustenance of human life the world over, then the problem is, what steps can be taken to achieve this goal? I will give you a few ideas that I have on this subject.

The biggest threat today to agriculture and business in general in the United States is inflation and the destruction of our monetary system, resulting in the decline of capitalism and free enterprise. When rates of inflation exceed the rates of return available from savings, which is the situation for the millions of small savers in the U.S. today, then eventually these people will lose their incentive to save. Thrift will vanish because the most prudent management of money will be to spend it as fast as possible before it is worth less. It is now, in the U.S., wiser economics to be a borrower and pay back your debts with vastly cheaper dollars than to be a lender and watch the true value of your savings being gradually eroded away. Capitalism is faced with its most severe test of survival.

People who sacrifice to accumulate capital must be rewarded because it is this capital that is necessary to increase and to broaden the standard of living for all the people. Another equally important means of creating capital is through the accumulation of profit which can then be used for reinvestment into the machinery of production. The creation of capital through thrift and savings and through the accumulation of profits are both in great jeopardy in the U.S. today. In the area of energy production alone, the capital requirements necessary to enable our nation to meet the coming demands are awesome.

The most astute economists in the nation are greatly perplexed over the dilema of providing the billions needed by our utility companies in the coming decades. Ponder for a moment what will happen if we are unable to amass the financial resources necessary to finance the building of our schools, factories, highways, dams, power plants, tractors, packing sheds, processing plants, and all the other things required to continually maintain, modernize, and improve our industrial machine and our standards of living. To a great extent, this is what has been happening in the U.S., and statistics will show that we are lagging far behind other nations in the modernization of industry. Many of our largest industries are operating with obsolescent machinery, causing them to fall behind in world economic trade.

Ernest R. May, a Harvard University Dean, believes the U.S. has lost its leadership in industry and technology to other nations and is gradually heading back towards its earlier role as an agricultural nation. In other words, more and more other countries will supply our automobiles, televisions and other mechanical gadgets, and we will pay for them with soy bean, wheat, corn, cattle, hogs and other agricultural products.

We in agriculture also face the need for great amounts of capital in the coming years. Agriculture in the U.S. has made great strides, but the future will demand increasing amounts of fresh capital to finance its further modernization and industrialization. The American people have been spoiled by cheap, plentiful food. It will be our task to continue providing them with this high standard of living. This can only be done by the vigorous preservation of our free enterprise system. To this end, we must exert all of our influence to convince our government to balance the national budget and stop the economic decay which has resulted from ever increasing federal debt, budget deficits, and inflationary policies. It may surprise you that I regard this as agriculture's number one problem, but I can assure you that the strength of our nation has related directly to the soundness of the American dollar and the inherent strength and stability of our financial system. We must bring this message clearly to our leaders before they permit our great economic system to be completely destroyed. There can be no greater task than this before us.

Now, in the area of agriculture specifically, one of the most encouraging trends is the real progress being made in the area of mutual cooperation and joint efforts to attain the goals of increased and more effective bargaining power, closer liaison with government, and better public relations.

Aside from the inefficiencies in production, the biggest reason for the failure of the small family farm has been the totally fragmented and ineffectual means of marketing the products of agriculture. Our agriculture will be stronger and will be better able to supply vast amounts of low cost food and fiber if we are in a position to bargain effectively with those to whom we sell. This should help temper the extremes of cyclical fluctuation which are so disruptive to sound economic planning and so discouraging to the investment of risk capital in agriculture.

The cooperative movement is a sound method of increasing the farmers' bargaining power despite the constant criticism received from fearful competitors. Who can argue that Sunkist has not made a great contribution to the citrus industry of Arizona and California or that Calcot likewise has not made a great contribution to the cotton industry? And there are many others, of which you are aware. I believe strongly in this form of cooperation. I have searched my soul and I am unable to justify some of the sniping criticism of the farmer cooperative movement in the U.S. One of the biggest criticisms of the cooperatives is that they pay no taxes. However, there is no practical difference between a cooperative returning the profits to the participant member for inclusion in his taxable income and a member of a partnership or Subchapter S corporation doing the same thing. Further, any profits retained by the cooperative for capital purposes are taxed to the members in the year earned. It simply isn't true that a cooperative can build a tax-free capital structure. We should defend our cooperatives. We should enlarge upon them as viable and effective means of overcoming our historical fragmented condition.

There is perhaps something new in the use of cooperatives on a somewhat different basis than the creation of a large marketing organization such as Sunkist or Calcot. In 1972 a cooperative was formed in Salinas, California called the "Central California Lettuce Producers Cooperative." This organization did not contemplate being a single central marketing agency employing salesmen, but rather a federation of the shippers for the main purpose of associating together to create more orderly marketing procedures and practices for the lettuce industry with a rather broad scope of potential areas of activity. I was apprehensive about the effectiveness of this organization when it was begun, since the membership did not include several of the very largest volume producers.

Also, some of its goals were things which had proven difficult for the industry to achieve in the past. However, the Central California Lettuce Producers Cooperative is proving to be effective in eliminating the excesses of disastrously low or exorbitantly high prices and in instituting beneficial trade practices. I truly believe I witnessed a miracle when, early last month, this organization prohibited its membership from deducting brokerages for payment to a buying broker out of the net proceeds of an f.o.b. sale. The rightful source of this compensation for a buying broker should be the buyer or receiver of the product as was customary many, many years ago.

Through a general breakdown of industry marketing practices since World War II, the custom of the shipper paying the brokerage out of his net proceeds from an f.o.b. sale had become so well entrenched as to be almost irreversible. This small cooperative representing a portion of the producers of only one of the fresh commodities may have actually accomplished the reversal of this malpractice, and this action could spread throughout the fresh fruit and vegetable industry in the U.S. This program is receiving a great deal of attention all over the nation and is a prime example of working together in agriculture and of achieving a degree of maturity in our approach to our business which has been so often lacking in the past.

Another major area that has concerned me over the years is the fact that agricultural labor has been relegated to a sort of second class citizenship. Before you rise up in protest, I wish to make clear that I understand that we in California and the West have led the nation in improving the lot of agricultural labor. But any rational individual will have to admit that, nation wide, agricultural labor has lagged far behind in enjoying many of the benefits of living in the richest nation in the world. It is not becoming to us, nor will it win us higher profits or the esteem of the American people, to continue to drag our feet in the areas in which agricultural labor is sub par as compared to our industrial labor force in the U.S.

There really isn't any justification for a wage earner to have available to him under the law certain fringe benefits in industry and not in agriculture. We must focus our energies and efforts toward improving the economic efficiency of our agricultural machine, strengthening our marketing organizations and bargaining power, maintaining our free enterprise economy, and preserving the soundness of our monetary system. This will accomplish more than spending to much of our time and energy resisting the efforts to raise agricultural labor up to a par with the rest of the country in the areas of Workmen's Compensation benefits, wage and hour laws, Unemployment Compensation, medical insurance coverage, vacation pay, pension programs, etc.

I am sure most of you already have, as I have in my own company, instituted many of these benefits and are truly a step ahead of our country in general. It is negative and counter-productive to waste our energies in denying to agricultural labor what is abundantly available elsewhere. You must by no means interpret my remarks to mean that I am encouraging the unionization of agricultural labor. Quite the opposite is what I am recommending. If we consider our work force as human beings with needs and rights equal to those of the balance of the American labor force and treat them accordingly, I think we will find that unionization poses a far lesser threat. If we prove by our deeds that we are willing to remove the old stigma of underprivileged status from agricultural labor, we will be moving forward in the modernization of our industry. Then we can join with all of industry in what must be our next priority in the labor field which is to exert our utmost efforts to persuade our government to apply the same rules and restraints to organized labor that are now applied to business and to agriculture.

This brings me to the question of our place in the political sphere. The subject is complex and particularly frustrating in today's atmosphere. Organized labor's political power is overwhelming. In addition, we have a new force—the consumer groups and their lobbies. Our greatest strength lies in maintaining constant contact and liaison with the government through our industry associations, and even more important, on an individual basis with our elected representatives. Because of a very involved problem between my own company and the government, it was necessary for me to make many trips and spend a considerable amount of time in Washington during the last 12 years. While I regretted the time away from my business, I was forced to learn how to get things done in the nation's capital.

To make personal contact with our representatives and senators is not difficult. The great majority of them are glad to make themselves available and will welcome a sincere, direct and informed person's comments and information. Many of them have admitted to me their lack of knowledge in specific areas, and since becoming personally acquainted, they have sought my opinions and views on issues affecting agriculture. It is mandatory for anyone who expects to operate an agricultural business or otherwise occupy a role of leadership in the industry to be personally acquainted and to make the effort to personally visit with as many congressmen and senators at possible, and to communicate to them his views. This will bear more fruit than mass lobbying through large trade associations which, by necessity, can only present a composite or majority point of view.

Nevertheless, the trade associations and organized lobbying agencies for agriculture are serving a purpose and should be continued. Agriculture is becoming more sophisticated and more effective, and I do not wish to be misunderstood as recommending that we diminish this activity, but rather that we not relax and assume that "George will do it" and that we are off the hook on a personal basis. The real weakness lies, then, in letting somebody else make all our political contacts for us.

In our relations with our government, we should strive to avoid becoming dependent on federal programs and to keep agriculture as free from government control as possible. Thomas Jefferson has been quoted as saying, "When the government tells us when to sow the seed and harvest the crop, then we shall

all starve." Our strengths in agriculture are a result of a vigorous and competitive system, and there is nothing better than the market place to determine the true value of a commodity. This is not to say that the government does not have a role in regulating trade practices, commodity exchanges, prevention of monopolies, and otherwise instituting the controls necessary to protect and enhance the operation and functions of the free enterprise system. But to quote Thomas Jefferson again, "Agriculture, manufactures, commerce and navigation, the four pillars of our prosperity, are most thriving when left most free to individual enterprise."

The last obligation of agriculture to society that I would like to discuss this morning is the subject of public relations. Briefly, we should encourage the sound efforts being made by organizations such as the Council of California Growers to tell our story to the American people. The Council was one of the earliest organizations dedicated to this long overlooked and necessary function of our industry. Many other organizations such as these have followed with strong public relation programs of their own. The main criticism of our progress to date is that there are so many diverse groups with considerable overlapping of activity, duplication of effort, and limited financial support. We have, in addition to the Council of California Growers and American National Cattlemen's Association, many others, such as the National Council of Agricultural Employers, Associated Farmers, the Free Marketing Council, and the various national farm organizations such as the Farm Bureau, the Grange, and the NFO. Agricultural leaders should cooperate and strive toward bringing this organizational strength together and achieve a broader scope of public relations activity, hopefully avoiding some of the intra-industry bickering and divisiveness that has been so evident in the past.

In conclusion this morning I will summarize by saying that our rich agriculture is due partly to the blessings of our resources and partly to our political and economic system. Our greatest obligation to society, then, is to preserve that system and to keep our agriculture as strong, as efficient, and as productive as possible. To do this, we must work together through cooperative efforts, through a more effective communication with our political leaders, and through a strong public relations program. We can accomplish this by being positive builders and creators, rather than clinging to the so-called blessings of the past, as exemplified by the small family farm and the repression of our agricultural labor force. Unfortunately, in our country today there seem to be plenty of destroyers and wreckers when our greatest need is for builders and creators. Let's face our future with pride, with vigor and with the knowledge of the tremendous value of the contribution of a strong and profitable agriculture to the welfare of our country and the world.

Thank you.

GENERAL HAIG SHOULD BE SUBJECT TO SENATE CONFIRMATION

Mr. PROXMIRE. Mr. President, this morning's Washington Post column by Joseph Kraft makes the perceptive point that General Haig should be subject to a thorough confirmation hearing by the Senate.

Too many unanswered questions require explanation and there may never be such an opportunity again.

It seems clear that General Haig should be subject to the "advice and consent" of the Senate. Under title 10, section 3066, it states that the President may designate generals to positions of "importance and responsibility" only with the advice and consent of the Senate.

Inasmuch as General Haig has been accepted, albeit reluctantly according to some sources, by the European NATO allies to be Supreme Allied Commander, Europe, there can be little question but that post is one of "importance and responsibility."

Furthermore, the Army's own list of positions requiring Presidential designation of "importance and responsibility" contains the post of Supreme Allied Commander Europe and Commander in Chief, United States-European Command—the position now held by General Haig.

Therefore, I urge the Armed Services Committee to exert its jurisdiction in this matter and quickly open confirmation hearings for General Haig.

Mr. President, I ask unanimous consent that the Army's list of positions of "importance and responsibility" be printed in the RECORD, along with the excellent article by Joseph Kraft.

There being no objection, the list and article were ordered to be printed in the RECORD, as follows:

POSITIONS DESIGNATED BY THE PRESIDENT OF IMPORTANCE AND RESPONSIBILITY WHICH WARRANT THE GRADE OF GENERAL OR LIEUTENANT GENERAL UNDER TITLE 10, UNITED STATES CODE, SECTION 3066

GENERAL (4-STAR POSITIONS)

1. Chief of Staff, United States Army (vacant).
2. Vice Chief of Staff, United States Army.
3. Commander in Chief, United States Army, Europe and Seventh Army (also Commander, CENTAG-NATO).
4. Commanding General, Eighth United States Army, Korea (also Commander in Chief, United Nations Command and Commander in Chief, United States Forces, Korea).

*5. Commander in Chief, United States Readiness Command (vacant).

*6. Supreme Allied Commander Europe and Commander in Chief, United States European Command.

*7. Commander in Chief, United States Southern Command.

8. Commanding General, United States Army Materiel Command.

*9. Commanding General, Allied Land Forces Southeastern Europe.

10. Commanding General, United States Army Forces Command.
11. Commanding General, United States Army Training and Doctrine Command.

LIEUTENANT GENERAL (3-STAR POSITIONS)

1. Deputy Chief of Staff for Personnel, United States Army.
2. Deputy Chief of Staff for Operations and Plans, United States Army (also Senior Army Representative, Military Staff Committee, United Nations).
3. Deputy Chief of Staff for Logistics, United States Army.
4. Chief of Research, Development, and Acquisition, United States Army.
5. Comptroller of the Army.
6. Chief of Engineers, United States Army.
7. The Surgeon General, United States Army.
8. Commanding General, First United States Army.
9. Commanding General, Fifth United States Army.
10. Commanding General, Sixth United States Army.
11. Commanding General, XVIII Airborne Corps.
12. Commanding General, III United States Army Corps.
13. Deputy Commanding General, United States Army Materiel Command.
14. Commanding General, VII United States Army Corps, Europe.
15. Deputy Commanding General, Eighth United States Army, Korea.
16. Commanding General, I Corps (ROK/US) Group, Korea.

*17. Chief of Staff, Allied Forces Southern Europe.

18. Commanding General, V United States Army Corps, Europe.

* 19. Chief of Staff, United States European Command.

20. Deputy Commander in Chief, United States Army, Europe.

* 21. Deputy Director General, NATO Integrated Communications System Management Agency.

22. Superintendent, United States Military Academy (MG assigned).

*23. Deputy Director, Central Intelligence Agency.

24. Commanding General, IX United States Army Corps/United States Army, Japan.

*25. Director, Defense Intelligence Agency.

26. The Inspector General, United States Army.

*27. Joint Chiefs of Staff Representative for Strategic Arms Limitation Talks.

28. Deputy Commanding General, United States Army Forces Command.
29. Deputy Commanding General, United States Army Training and Doctrine Command.

*30. Commandant, Industrial College of the Armed Forces.

*31. US Representative, Permanent Military Deputies Group, CENTO.

*32. Deputy to Director, Central Intelligence for Intelligence Community (Nomination pending).

33. Director of the Army Staff.

*34. Director, Plans and Policy, J-5, OJCS.

[From the Washington Post, Sept. 17, 1974]

QUESTIONING HAIG'S ROLE

(By Joseph Kraft)

Coming in the wake of the bungled pardon, the nomination of Gen. Alexander Haig, the White House Chief of Staff to be commander of NATO poses serious problems. For circumstantial evidence connects General Haig with a mountain of dirty work—including a doctored White House memo served up to the congressional impeachment inquiry.

But the President—and this is a principal lesson of the pardon—is not in a good position to deal with the Nixonite Old Guard. So it is essential that General Haig be subjected to a thoroughgoing congressional scrutiny before being allowed to resume military duties.

General Haig's over-all difficulty is best expressed by General Haig himself. According to the Wall Street Journal, he told an interviewer that, "It's only a soldier who can respect and admire a politician." Politics, he said, is "a field where a man lays everything on the line to win or lose . . . When one doesn't win, the results are fatal."

It is hard to think of a more wrongheaded notion. The quintessential genius of American democracy, the basic premise of representative government, is that it is not fatal to lose. Those who go down don't get wiped out. On the contrary, they live to fight—and even win—another day. That's what elections are about.

But General Haig, for all the half-baked talk about being a soldier-statesman, doesn't understand that. He is a bureaucratic general, a highly effective pusher of buttons on behalf of his boss. If the boss plays a clean game, then Haig will play clean. But if the boss plays a dirty game, Haig will play dirty.

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* Joint, International or OSD position "outside" the Army.

It is not exactly a secret that the Nixon White House played an exceptionally dirty game. Nor that General Haig played the game with zest and skill in a way which brought him rapid promotion. Nor that he was involved in a suspicious number of smelly transactions.

As deputy to Henry Kissinger at the National Security Council, he managed the wiretap program. As White House chief of staff, in 1973 and 1974, he presided over the Watergate cover-up. That is how he happened to be in a position—a totally inappropriate position for a military man—to make the final arrangements for Mr. Nixon's resignation.

But while the broad outlines of Haig's operations are known, the details are obscure and full of question marks. What exactly was Haig's role in the Saturday night massacre of the Watergate special prosecutor, Archibald Cox, in the fall of 1973? Didn't Haig think something was fishy when Lt. General Robert Pursely, a distinguished officer serving as military aide to Secretary of Defense Melvin Laird, was subjected to wiretapping? What was Haig's role in the "Pentagon Spy Ring" and the White House "plumbers"? How about the 18½ minutes missing from the most critical White House tape?

Then there is the strange episode of the doctored Butterfield memo. When wiretaps picked up the information that Clark Clifford, a leading Democratic adviser, was preparing an article critical of President Nixon's Vietnam policy in 1970, Jeb Magruder of the White House staff was detailed to prepare a response. He asked Alexander Butterfield, the former Nixon aide who later revealed the existence of the White House tapes, for advice. Butterfield spoke of organizing a "counter-attack," and said, in a memorandum to Magruder, "Al Haig can get you squared away on at least a preliminary scheme."

But when the Magruder memo was turned over by the White House to the Congress, it had been badly doctored. The sentence about Haig setting up a "preliminary scheme" was missing. Haig was White House chief of staff at the time of the doctoring, which protected him. Did he know about it? If not, how come? Wasn't he on the distribution list for the original memo?

The Ford White House staff cannot possibly explore such questions. If nothing else, as the pardon blunder indicates Mr. Ford and his staff are too decent to deal effectively with the Nixon gang. But the Senate, through rigorous confirmation hearings, could handle the Haig problem.

Confirmation hearings would settle the doubts many entertain. They would allow Haig to talk to the truly vital question of whether it is appropriate for a military man to take on the broad political responsibilities he assumed for Mr. Nixon. And they would ease the suspicion generated by the pardon, that the President is lavishly rewarding those who figured in the Nixon resignation, no matter what else they may have done.

BOB COULTER

Mr. CHURCH. Mr. President, Idaho recently lost to history a man who over the years contributed immeasurably to the political life of our State.

Bob Coulter was, in the words of his friend and Idaho political commentator, John Corlett of the Idaho Statesman, a "giant" of a man. I could not agree more.

As Corlett said in a recent column in the Statesman:

> To the very end, he still lived and breathed politics. He was one of a small number of men going back to pre-World War I days, who made politics an integral part of his everyday life.

The influence Bob Coulter exercised was immense when he was at his prime, and it was exercised for the good of the State he loved so much, and the people he served through the political process.

Bob Coulter will be missed, for he leaves a legacy not soon to be matched in the political life of Idaho.

Mr. President, I ask unanimous consent that John Corlett's column be printed in the Record.

There being no objection, the column was ordered to be printed in the Record, as follows:

[From the Idaho Statesman, Sept. 3, 1974]

The Last of the Breed Is Gone

(By John Corlett)

The very last of Idaho's political "giants" has been laid to rest.

Those of us who knew, lived with and worked with the "giants," whose days became numbered in the last 10–15 years, are nostalgic about their era in the state's history.

Modernization of the legislative system and the demise of the political parties simply left no place or room for the "giants" to continue to operate.

Robert Coulter was 99 when he died. Nearly all of his old—emphasis on the old—friends were at hand at graveside services at Dry Creek Cemetery.

His influence may have waned and vanished, but to the very end he still lived and breathed politics. He was one of a small number of men going back to pre-World War I days, who made politics an integral part of his everyday life. The reward was power and influence more than monetary gain.

It was not a game women indulged in. The one woman in my experience who came closest to the pattern of political life is the former Gwen Barnett, now Mrs. Roland Wilbur of Oregon.

Others of the Coulter breed who have died in recent years are W. Lloyd Adams of Rexburg, Tom Boise of Lewiston and J. A. P. Inscore of Moscow.

More than his colleagues, Coulter worked actively within his party (Democratic) and also in government. Coulter was no doctrinaire Democrat. Some of his greatest friends were Republicans.

Adams, Republican, and Tom Boise, Democrat, along with Coulter, found it easy to collaborate at times on issues in what they believed were the best interests of Idaho. There were other times when they were in confrontation with each other. All operated behind the scenes and without publicity. They built their egos on basis of the results of their influence and elections.

Bob Coulter was a special sort of person to whom integrity and the keeping of one's word were the prime characteristics needed for anyone to operate in the political arena.

He was a part of Idaho's political story for more than 70 years. That is a long time. As a Democrat he found himself in the minority in most of his political life. Republicans have controlled the state government and the legislature with only a few interludes since 1900.

It was fortunate for Idaho that Bob Coulter, with five terms behind him, was on hand to be speaker of the Idaho House in 1933. The Democratic landslide of 1932 had brought to the legislature an overwhelming majority of representatives and senators who had no legislative experience at all. Coulter ran the House with an iron hand and kept it from straying into extraneous issues and away from proper decorum.

As a state official, Bob Coulter made integrity a guiding rule. I remember an instance of hanky-panky in the bidding for state timber, and Coulter, then land commissioner, was on the side of right when some of the elective land board members wavered.

Coulter made sure that books were properly kept in expenditure of campaign funds when he served as state chairman. More than once I was called to his office to report on expenditures. In those days contributions were not reported. And the expenditures were minuscule compared to the growing cost of campaigning in the last 15 years.

It was battle within the Democratic party structure in selection of party officials and candidates that Coulter enjoyed. The battles were fought on the basis of both issues and personalities.

Coulter would say every once in a while that he elected governors and senators. And in truth he did. He was a man whose advice was assiduously desired by candidates for public office and by officials in office.

There will be no more Coulters, Adamses and Boises. The times are such that even if one can afford to devote much of his nonworking days to politics, the political parties are without power.

Coulter and his colleagues worked within the framework of the party process, and with people whose influence could bring results. Every candidate is not on his own any more, relying solely on an organization he builds.

The legislative system has changed so drastically for the better that backroom control, once possible, is unavailable to anyone seeking to be a "giant" in the old mold.

Bob Coulter left a legacy of contributions to the welfare and benefit of Idaho and its citizens.

THE FRANCHISE GAME: IT'S EASY TO LOSE

Mr. HARTKE. Mr. President, the Chicago Tribune has done a series of excellent articles on the franchise business or, as they call it, the "franchise game." Unfortunately, Mr. President, it is a game being played at the expense of thousands of unsuspecting individuals.

Most franchise operations are honest, legitimate businesses with an impressive number of financial successes. It is this very success that the unscrupulous utilize as bait to lure away the life savings of their victims. The situation is similar to that in every brand-new industry where industry fostered business standards have not yet solidified. Unless some form of regulation is developed, the entire industry will be tainted by the unethical operations of a few.

Franchise arrangements have proved themselves in the arena of the modern marketplace. They are most important because they combine economies of scale essential to competitiveness with the tradition of the small, independent businessman. I, for one, Mr. President, do not want to see the retail and service industries of America dominated entirely by the corporate giants.

To protect franchising, we must regulate it. I have introduced legislation, S. 2467, now pending before the Commerce Committee, which would require any group or individual offering franchises to make available a full and complete report to prospective customers. I would like to reiterate that it is my intention to encourage and protect legitimate franchise operations, but at the same time to protect the public from that small minority of what the Tribune calls franchise "con men."

I ask unanimous consent, Mr. President, that the first article in the Chicago Tribune series be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Chicago Tribune, July 21, 1974]

The Franchise Game: It's Easy To Lose

Don and June Gerum sold their family grocery store three years ago in New York City and headed for Florida with their three children, $25,000, and a dream.

That dream was to own their own pet store, and they were convinced it could happen. The salesman for Guppies 'N Puppies Ltd., Inc., said it could.

A year later their money was gone and they were on their own. Guppies 'N Puppies and the men who had put it together had disappeared. The Gerums were the victims of a phony franchise scheme.

Playing on the success of successful franchise operations, con men exploit the franchising field every year to cheat thousands out of their life savings.

In a way, the Gerums were lucky. They had had some experience from running their store in New York and were able to salvage their pet business by investing long hours and more money.

They had been promised a modern pet store fully equipped, including animals. The cost: $35,000.

"This looked like the ideal opportunity for us," Gerum said.

But, he said, what they got was several dirty dog cages, some sickly dogs, a second-hand bath tub, a dog-grooming machine that was missing a leg, and a microscope of questionable value.

"When we were inquiring about the franchise, they took us to some other store owners who couldn't tell us enough about their fantastic business and how the company had treated them," Mrs. Gerum said.

"We learned later that these pet store owners were paid $500 for telling us lies," she said. "When we finally opened our store, they tried to pay us $500 to lie to a prospective purchaser."

The Gerums were shown modern offices and a stocked warehouse.

"There were secretaries running around and people coming and going," Gerum said, "and to a guy who has never been in the pet store business, the warehouse also looked impressive."

"We learned later that the people in that office were part of one huge family, and there wasn't enough inventory in that warehouse to stock one good pet store."

After they made a $12,500 down payment, the Gerums were treated to an extravagant dinner—for which they received the bill.

"What a wingding," Mrs. Gerum said. "It was anything we wanted on the menu."

Then came the delays until the frustrated couple found a store site and demanded equipment and pets from the company. The equipment, Gerum said, was awful, but the carpenters who came to work on the store were worse.

"What they knew about carpentry you could put in your left ear," he said. "First they nailed up used paneling without cutting it to fit the walls. Then they built a railing that fell down and shelves that tilted."

The Gerums salvaged their store and opened it with their last $64.

Then they faced the sad realization that they were not going to get back any of their investment. The company had folded and the officials were scattered. A lawsuit filed by disgruntled franchisees charging the company with fraud failed because of the jurisdictional confusion that surrounds franchise sales in Florida and other states. Then local authorities said they could not prosecute.

The man who once headed the firm that owned Guppies 'N Puppies now brushes off the experience with a simple excuse.

"We got into a position where we were laying out more money than we were taking in, and got in over our heads," said John Holmes. "The company reached the point where it didn't have any money to supply the licensees with much of the things mentioned in the contract."

The Gerums simply had jumped too quickly at a well-wrapped package. That package can offer the answer to any working man's dream.

Or it can go the other way.

The unwise investor who sees franchising as the chance to buy into a nationwide organization may find that his partners have gone out of business the day after cashing his check. He will wait awhile for the national advertising campaign he was promised and the company training schools he needs, but they won't come.

Americans are going for both kinds of packages. They bought into the $1.5 billion-a-year industry last year to the tune of half a million new franchise businesses. Some found the dignity of self-supervision, and others learned the frustration and shame of pouring a lifetime of savings into a hollow corporation.

"It's a crapshoot," said Robert Czekalski, 42, a Waukegan man who lost $22,000 in two franchise ventures. "You roll the dice and hope it comes up in your favor. You just don't know until you are either making money of you're broke whether you are doing the right thing."

In the end the consumer must rely on his common sense.

"It is one of the few areas left totally unprotected, consumer-wise," according to Arthur Bailey, an executive board member of the American Trial Lawyers Association and a franchise law specialist.

The safest route is to go with one of franchising's solid names. Those companies build their reputations on a history of service, guidance in the art of locating and establishing a new business, and help in making it work. Most of the companies, like McDonald's Corp., for instance, have a sizable chunk of their money tied up in each individual franchise deal.

But a McDonald's franchise costs at least $150,000 if it is even available.

Some other companies care only about the buyer's bank book, and they have no name or image to protect. They will offer the stars and deliver next to nothing. The investor's lifetime savings may be lost, but the company won't lose a penny when he fails.

And you can buy as many of those opportunities as you want for a lot less than $150,000.

That's why there are losers. They usually are not wealthy, but they have the $2,000 or $10,000 to invest in a dream of self-determination. They will negotiate for weeks thru a lawyer before investing $10,000 for a down payment on a house, but are somehow willing to pour their life savings into a business venture overnight.

They are lured by the dream of being their own boss, and all too often it ends with a basement full of broken-down vending machines and cases of dried-out coffee. The businesses they choose are doomed from the start.

The ventures fail for a variety of reasons. Sometimes the product just won't sell, sometimes a marketing system doesn't work, and sometimes a scheme was never intended to work.

The leaders of McDonald's Corp., a name almost synonymous with franchising, are so well aware of the industry's sordid side that they don't even want to be thought of as a franchise business anymore and call their investors "licensees."

Al Golan, spokesman for McDonald's, makes it clear: "McDonald's feels they are not part of the franchise industry. They feel there have been a lot of fly-by-nights, especially when celebrities came into it."

The celebrity game began in the '60s, a simple technique of lending credibility to a corporation that suddenly appeared on the business scene one day and offered franchises at exorbitant prices.

Ironically, the organization's greatest asset, the celebrity's name, frequently became its greatest liability.

But there are many ways to make a buck, and the consummate flim-flam men don't need a celebrity's lofty name to ply their trade. They just need confidence—yours.

Here's how they do it:

They will leave you with broken machines and unsaleable products in your basement and nothing but a bankrupt company to hear your complaints. In only seven months one Louisiana firm sold $1.3 million worth of vending route franchises for cookies and snacks to 400 people, many in Chicago, and then declared bankruptcy.

An attorney for 140 creditors says he knows of only one person who received vending machines that actually worked.

They are experts in the package deal, wrapping fine words and phrases around what is at best a bad investment. A Highland Park man gave up trying to make money off the lawn-care equipment he leased for his "exclusive territory" from a New England firm for $9,500. A survey of Chicago-area retailers shows that he could have bought similar equipment himself for $3,000.

They have also figured out a way to use consumer education against the consumer. Prospective buyers wanting to get a credit rating or reference report on some of the flimsiest of companies are referred by the salesman to a California-based organization that has set itself up as a sort of Better Business Bureau of the franchise industry. It sells favorable credit reports regardless of the stability of the new franchise operator or the reputation of its officers.

The worst of the breed has learned to hide behind legal borders and has mastered the art of what a New York attorney calls "running between the paths of jurisdiction." They do it by incorporating in one state and peddling franchises in others, thus avoiding local prosecution. Once over this hurdle, they are free to operate at will.

Thru it all, the nation's franchising laws have remained a mish-mash. There is no federal law, tho three bills designed to impose some controls on the industry have languished in Congress or died because of opposition from the franchising industry.

The International Franchise Association favors a federal disclosure law, the result of an effort to deal with the fly-by-nights of the industry. Such a law would force the seller to give the buyer information about the company's financial condition, officials, and any legal actions taken against the firm.

In the absence of federal legislation, seven states have passed such disclosure laws. An Illinois law went into effect last January. Scores of companies, however, have not filed the required disclosure statements with the secretary of state.

Meanwhile, the Federal Trade Commission has been working on a package of franchise regulations for three years, but has not been able even to deal with the hundreds of definitions proposed for franchising. Each would include and exclude different things.

To America's consumers, the battles over definitions are unimportant.

They learn the definitions on their own, and the lesson often costs them dearly.

Mr. HARTKE. The bill I have proposed contains a number of provisions that specify the areas in which full disclosure would be required. I would like to summarize them briefly so that my colleagues can get a sense of the direction in which I believe we should move.

The disclosure statement to prospective purchasers of the franchise must contain such information as the Federal Trade Commission may require as necessary or appropriate to serve the public interest and to protect franchisees. These would include, but would not be limited to:

First. The name of the franchisor, the trade name(s) or tmademark(s) under which he intends or is doing business, and the name of any parent or affiliated company that will engage in transactions with franchisees.

Second. The name of the State or other severeign power under which the franchisor is organized and the location of the franchisor's principal place of business.

Third. The names and addresses, educational and business background, and biographical data, stated individually, of the directors, or persons performing similar functions, the chief executive, and the financial, accounting, and principle executive officers, chosen or to be chosen, if the franchisor is a corporation, association, or other entity; of all partners, if the franchisor is a partnership; and of the franchisor if the franchisor is an individual.

Fourth. A statement as to whether the franchisor or any of its directors, stockholders owning more than 10 per centum of the stock, or chief executive officers: Has been convicted of a felony or pleaded nolo contendere to a felony, or has been held liable in a civil action which involved fraud, embezzlement, fraudulent conversion, or misappropriation of property; or is subject to any currently effective order of the Securities and Exchange Commission or the securities administrator of any State denying registration to or revoking or suspending the registration of such person as a securities broker or dealer or investment adviser or is subject to any currently effective order of any national securities exchange—as defined in the Securities and Exchange Act of 1934—suspending or expelling such person from membership in such association or exchange; or is subject to any currently effective order or ruling of the Federal Trade Commission; or is subject to any currently effective injunctive or restrictive order relating to business activity as a result of an action brought by any public agency or department, including, without limitation, actions affecting a license as a real estate broker or salesman.

Such statement shall set forth the court, date of conviction or judgment, any penalty imposed or damages assessed, or the date, nature, and issuer of such order; or is subject to any currently effective injunctive or restrictive order or ruling relating to business activity as a result of action by any public agency or department; or has filed bankruptcy or been associated with management of any company that has been involved in bankruptcy or reorganization proceedings.

Fifth. The business experience of the franchisor, including the length of time the franchisor has conducted a business of the type to be operated by the franchisee; has granted franchises for such business; and has granted franchises in other lines of business.

Sixth. Recent financial statements of the franchisor. The Commission may by rule or regulation prescribe the form and content of financial statements required under this act, the circumstances under which consolidated financial statements may be filed, and the circumstances under which financial statements shall be certified by independent certified public accountants or public accountants.

Seventh. A description of the franchise offered or to be sold, and a general description of the franchise business.

Eighth. A copy of the franchise agreement proposed to be used.

Ninth. A statement of the franchise fee charged, the proposed application of the proceeds of such fee by the franchisor, and the formula by which the amount of the fee is determined if the fee is not the same in all cases.

Tenth. A statement describing any payments or fees other than franchise fees that the franchisee or subfranchisor is required to pay to the franchisor, including royalties and payments or fees which the franchisor collects in whole or in part on behalf of third parties, markups on land, buildings, leases, signs, equipment, or supplies, and all other terms of the offer for sale, including a full disclosure of the total investment to be made by the franchisee.

Eleventh. A statement of the lowest royalty fee for the use of a service mark, trademark, or trade name which it charges to any other of its franchisees in the United States.

Twelfth. A statement of those fees which may be refunded, in full or in part, and the circumstances under which such refunds may be made.

Thirteenth. A statement of the conditions under which the franchise agreement may be terminated or renewal refused, or repurchased at the option of the franchisor, and any limitations as to the right to sell, transfer, move, renew, or terminate the franchise.

Fourteenth. A statement as to whether, by the terms of the franchise agreement or by other device or practice, the franchisee or subfranchisor is required to purchase from the franchisor or his designee services, supplies, products, fixtures, or other goods relating to the establishment or operation of the franchise business, together with a description thereof, including the cost.

Fifteenth. A statement as to the goods, products, services, training programs, supervision, advertising promotion, and other management services to be provided by the franchisor.

Sixteenth. A statement of the length of time it will take to obtain the franchise, and the average length of time between the signing of a franchise agreement and the opening of the franchisee's outlet.

Seventeenth. A statement as to whether, by the terms of the franchise agreement or other device or practice, the franchisee is limited in the goods or services offered by him to his customers.

Eighteenth. A statement whether the franchisor requires the franchisee to participate personally in the direct operation of the franchise.

Nineteenth. A statement of the terms and conditions of any financial arrangements when offered directly or indirectly by the franchisor or his agent.

Twentieth. A statement of any past or present practice or of any intent of the franchisor to sell, assign, or discount to a third party any note, contract, or other obligation of the franchisee in whole or in part.

Twenty-first. A statement of the number of franchises presently operating and the number proposed to be sold, indicating which franchises, if any, can be owned and their addresses.

Twenty-second. A statement of the number of franchisees, if any, that opererated at a loss during the previous year.

Twenty-third. A list of at least 10 representatives operating franchises, with their addresses and telephone numbers, situated similarly to the franchise being offered and located, to the extent possible, in the same geographic area, if such are available.

Twenty-fourth. Subject to any limitations imposed by the Commission, a statement of available earnings of past and present franchises and a fair analysis of their performance, including records of failures, and resales to the franchisor.

Twenty-fifth. A statement as to whether franchises and subfranchisors receive an exclusive area or territory.

Twenty-sixth. A statement as to the methods and responsibilities of the parties in determining the site for the franchisee's outlet.

Twenty-seventh. A statement setting forth such other information as the franchisor may desire to present.

Twenty-eighth. A statement setting forth such other information as the Commission may require.

Twenty-ninth. A statement of any compensation or other benefit given or promised to a public figure arising, in whole or in part, from the use of the public figure in the name or symbol of the franchise.

Thirtieth. When the person filing the disclosure statement is a franchisor, the statement shall include the same information concerning the subfranchisor as is required from the franchisor pursuant to this schedule.

The disclosure statement which must be submitted to the Federal Trade Commission for review and acceptance, may not be used by the franchisor for promotional purposes until it becomes effective after approval by the FTC.

Mr. President, I have asked my staff to review my bill with a view toward broadening its coverage and increasing its protection. I have also asked the Commerce Committee to hold hearings on the franchise relationship. Most important of all, we must take a first step toward establishing reasonable protection for the small businessman franchisee.

THE GENOCIDE CONVENTION IS A VITAL LEGAL DOCUMENT

Mr. PROXMIRE. Mr. President, I would like to speak in the next few days about the Genocide Convention as a vital legal and moral force in our world. Everyone condemns the crime of genocide. Most would like to be able to prosecute in a court of law those who commit this terrible crime. It seems that many, however, do not realize that ratification of the Genocide Convention is essential if we are ever to be able to hold such criminals accountable for their acts.

This point is amply supported by events which occurred during this century's two world wars. In 1915, during the First World War, the Turks launched a bloody campaign against the Armenians, which ultimately cost the lives of 1,200,000 men, women, and children. However, those responsible for this great atrocity were never punished, even though the Turks lost the war. No legal precedent was established, therefore, and Hitler recalled this in a speech given in August 1939, just before the invasion of Poland:

> What the weak western European civilization thinks about me does not matter. . . . I have sent to the East only my Death's Head units with the order to kill without pity or mercy all men, women and children of the Polish race and language. Only in such a way will we win the vital space we need. Who still talks nowadays of the extermination of the Armenians?

As we well know, Hitler's campaign of terror began long before the invasion of Poland. However, the Nazis were never tried for the many atrocities committed before 1939 because the Nuremberg Tribunal could cite no international law which had been violated. The Tribunal was only empowered to try them for crimes of war. The Genocide Convention would have permitted the court to hold the Nazis accountable for their prewar genocidal acts.

We must learn from history. Because we did not prosecute the Turks, the Nazis felt free to launch their campaign of terror. Because no international law such as the Genocide Convention existed, the Nazis would not be tried for their prewar crimes. The ratification and enforcement of the Genocide Convention would have prevented this. I strongly urge the Senate to ratify this treaty as an essential part of the international defense against the crime of genocide.

TRANSPORTATION OF HAZARDOUS MATERIALS BY AIR

Mr. HARTKE. Mr. President, within the past few weeks, I have received many letters from people who are concerned about the hazardous nature of cargo carried aboard passenger aircraft. Among those who have been in the forefront of efforts to provide more stringent regulations on hazardous cargo are the airline pilots themselves.

Mr. President, I ask unanimous consent that the text of an article appearing in Airline Pilot on the subject of hazardous materials be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Airline Pilot magazine, August 1974]

Hot Cargo: Where the Issue Stands

(By Marty Martinez)

Officially, little has changed: Radioactive packages are still moving over the airways at the rate of 750,000 a year; passengers are still riding atop radioactive cargo and pilots are still carrying it both without knowing it carriers are still accepting radioactive cargo without checking it; shippers are still putting illegally packed shipments of it into the air transportation system; FAA is still neglecting enforcement and radioactive air cargo incidents are still happening.

Unofficially much has changed: The number of concerned citizens is getting larger; AEC radiation standards are under scrutiny; evidence of slipshod packaging and meager enforcement is increasing, and Congress has cupped its ear to catch even the faintest pronouncement of ills in the industry.

What hopes pilots, consumers and other proponents of reducing "hot" cargo hazards had following the National Transportation Safety Board inquiry into the Dec. 31, 1971, radioactive contamination of Delta Air Lines aircraft, faded as FAA's vacillating implementation of NTSB recommendations fell short of the needs.

The safety experts felt that only about 20 persons in the nation were truly knowledgeable about hazardous material rules. Hence, NTSB asked for increased training of cargo handlers. Months later, FAA finally acceded to the request and required carriers to establish training programs in the handling of hazardous materials. It set no standards for the training and carrier implementation varied in length and intensity. One airline set up an eight-hour program; another thought 15 minutes was long enough to impart the knowledge of complex hazardous materials regulations.

One cargo handler, who earlier was a victim of radiation exposure, said of his training: "We saw a training movie, read a little booklet and then we had to take a test—the answers were on the back."

Captain Jim Eckols (OZA), ALPA's Hazardous Materials Subcommittee co-chairman, characterizes the FAA-required training as "the most ineffective program that I've ever witnessed in my life."

FAA has continually held to the belief that only a low level of violations of hazardous materials regulations existed. That idea expressed most recently by FAA Administrator Alexander P. Butterfield was shattered by a report of the Government Accounting Office, the watchdog of Congress. Released in May 1973, the report revealed that a federal interagency study of "air shipments of radioactive materials disclosed that 175 of about 300 packages inspected at airports or carrier facilities violated the regulations." Violations ranged from excessive levels of radiation to illegal labeling and containerization.

Meanwhile, ALPA's safety experts were themselves recording violations at an alarming rate, as was the Department of Transportation's Office of Hazardous Materials. These findings, along with those of GAO, bolstered pilot belief that the "hazardous cargo situation is just a catastrophe waiting to happen."

On Nov. 3, 1973, as pilots see it, that catastrophe happened. Three pilots died in a Pan American 707 crash at Boston Logan International Airport. The all-cargo aircraft was loaded with 15,360 pounds of 12 different kinds of hazardous chemicals. NTSB reported the probable cause of the accident as "improper packaging of hazardous cargo and a possible on-board fire resulting from leakage of nitric acid into its flammable packing material—sawdust. (See "Pilots Call it Murder," *Air Line Pilot*, July 1974.)

Inasmuch as the Boston accident involved no passengers, the accident quickly passed from the general public's memory. But the sight of a pregnant woman talking on a national television news show about her fears of a deformed child because she was exposed to radiation while flying aboard an airliner impacted in every viewer's home with the startling force of an unexpected thunderclap.

IRIDIUM 192

The radiation exposure incident began at Value Engineering Co. in Alexandria, Va. last April 5 and ended at Baton Rouge, La. three days later. It involved an improperly packaged shipment of 32 curie Iridium 192 (used for industrial radiography). Two Delta Air Lines aircraft were involved. In all 159 passengers, 31 ground handlers and 12 flight crew members were exposed.

Coming a mere five months after the Boston-Pan Am tragedy this radiation release, coupled with the Atomic Energy Commission's (AEC) initial estimate of a 20 rem exposure (later reduced), moved legislators to quickly schedule hearings into the transportation of hazardous materials.

Representative Harley O. Staggers (D-W.Va.) chaired the Special Subcommittee on Investigations, Committee on Interstate and Foreign Commerce hearing held on April 25; Senator Vance Hartke (D-Ind.) handled the inquiry for the Senate Committee on Commerce in mid-June.

The purpose of the House hearing, Representative Staggers said, was to "inquire into whether certain hazardous materials should be banned from passenger airplanes." He added: "We are extremely concerned with the fact that the number of shipments of hazardous materials by air is increasing year by year." The Senate Commerce Committee focused its attention on all modes of transportation that are involved in the carriage of hazardous materials. Senator Hartke said: "While injury and death statistics from hazardous materials accidents appear to be relatively small, I believe that this is a matter which warrants immediate congressional attention. The amount of these materials in commerce is continually escalating and if involved in an accident, losses can be devastating. The potential for disaster is ever-present."

The array of witnesses before the two committees covered almost the entire spectrum of interested parties: regulatory agencies, medical men, nuclear physicists, pilots, consumer advocates and Delta Air Lines officials.

Atomic Energy Commission testimony at both hearings was similar. It sought to assure the committee members that only a "small risk" is involved in the transportation of radioactive materials. Robert F. Barker, chief of the AEC Products Standards Branch, told Senator Hartke: "We believe the public concerns about safety in transportation of radioactive material stems largely from lack of comprehensible information on the measures taken to assure the protection of the public." Once again officialdom's credo that says "if people know regulations exist and if they are followed, then no danger exists" was aired.

ALPA pilots and the Aviation Consumer Action Project, a Ralph Nader organization, long ago gave up on the idea that regulations would always be followed, much less always understood. They asked that hazardous materials be totally banned from passenger-carrying aircraft. The groups sought no more than what is afforded all other modes of transportation. Airliners are the only "vehicles" that may carry radioactive material and passengers simultaneously.

With the request for a total ban summarily rejected by FAA, ACAP turned to the Civil Aeronautics Board asking that at the very least passengers be informed when they must ride with radioactive cargo. Federal regulations require all ground vehicles carrying radioactive material to be placarded to warn persons of its cargo. For example, the truck that carried the Iridium 192 from Value Engineering to Washington National Airport was placarded. But that is where the warning stopped.

CAB washed its hands of the ACAP petition by saying in effect that since it was a safety matter it was outside its province. FAA rejected a similar petition saying: "It would be misleading in that it would foster an unwarranted apprehension without imparting any information of value to the average passenger." Translated, that means any such warning might scare passengers away.

RADIATION STANDARDS

The ALPA-ACAP action was before the Iridium 192 incident. Since then a fresh look at the seriousness of accidental release of radiation and its effect on individuals is taking place. One of the prime questions being debated is: "How much radiation is too much?"

Regulatory agencies and those involved in the nuclear and isotope industry hold to the AEC established standards that allow 170 millirem (1 millirem=0.001 rem) of exposure for the "public as a whole" annually, and 5 rems per year for occupational workers.

How much radiation did Delta's passengers receive? AEC calculations estimate the maximum exposure any passenger aboard the two aircraft could have received was: Boeing 727—males, 7.1 rems and females 6.2 rems; DC-9—males, 12.9 and females 10.6. The calculations were based on seat height and the shipment container locations relative to seat locations. AEC also said that none of the crew members "received an estimated exposure in excess of the maximum passenger seat estimate." The estimated maximum dose to handlers of the faultily packaged Iridium 192 shipment was considerably higher. The amount varied with their location: Washington National Airport, 10.4 rems; Atlanta Airport, 26 rems, and Baton Rouge, 134 rems.

Yet, Frank F. Fox, vice president, public affairs, Delta Air Lines, told Senator Hartke: "According to the information available . . . gathered as a result of the investigations conducted by the company's retained experts, the AEC, DOT and public health departments of the states involved, coupled with the actual blood analyses made by the medical doctors . . . no passenger suffered any biological involvement of consequence resulting from such exposure as may have taken place . . . (and) medical doctors concluded that none of the Delta employes would suffer any general health impairment as a result of that incident."

Dr. Arthur R. Tamplin, biophysicist and presently on a year's leave of absence from the AEC's Lawrence Laboratory at Livermore, Calif., while he serves as associate scientist with the Natural Resources Defense Council, doesn't see eye-to-eye with that assessment. He strongly believes that existing standards of radiation are too high and should be reduced by a factor of 10. He reminded the Senate committee that "radiation induces genetic damage which will be transferred to many future generations and that it is capable of inducing cancer." Relating those thoughts to the Delta passengers he said: "The effects from this damage will be suffered not by this, but by future generations." In his opinion, "there is no way to justify the exposure of these airline passengers, their genes or developing fetuses."

He also noted that the nuclear industry spokesmen who say that no humans who have been exposed at the "so-called permissible level" have shown ill effects are "quite incorrect." He cited cases in which there was "a measurable increase in the incidence of childhood cancer and leukemia in children who were exposed to a single X-ray examination while in utero." The dosage they received was about one-half of the permissible level.

One of the most damning indictments against holding to the established radiation standards comes from a no less prestigious group than the National Academy of Sciences. Its report on the Biological Effects of Ionizing Radiation (BEIR), released in November 1972 said: "The present guides of 170 millirems per year grew out of an effort to balance societal needs against genetic risks. It appears that these needs can be met with far lower average exposures and lower genetic and somatic risk than permitted by the current radiation protection guide. To this extent, the current guide is unnecessarily high.

"It is no longer sufficient," the report continued, "to assume that the adverse effects of man-made radiation are insignificant, negligible, tolerable, permissible (or) acceptable." In addressing the degree of risk involved at present standards the report estimated that exposing the entire population to the allowable 170 millirems per year could result in 3,000 to 15,000 extra deaths each year from cancer. Also, that exposure of the total population to 170 millirems a year for an entire generation could cause between 1,100 and 27,000 added genetic defects and diseases per year. The panel that submitted the report didn't attempt to suggest at what level new standards should be set but did say: "No exposure to ionizing radiation should be permitted without the expectation of a commensurate benefit."

MEDICAL ASPECTS

Shipment of packages of radioactive materials stands at about 1 million a year today, compared to 200,000 in 1961, according to the AEC. Of the million packages, AEC says 75% are carried on aircraft, mostly passenger planes, and that of those packages more than 95% contain radioactive material for use by the medical profession.

Interestingly, one of the findings of the 470 page BEIR report is that exposure from medical procedures could be reduced substantially at little cost and with no sacrifice of medical benefits.

Tamplin believes that "about 75% of all medical air shipments of radioisotopes could be eliminated without incurring a real reduction in the visibility of medical practice in this country . . . (and) that radioisotopes being air shipped for experiments in the chemical and biological area could be reduced 90% without penalty to the public."

Can nuclear medicine be narrowed to such a degree?

Dr. William Briner, speaking for 7,000 members of the Society of Nuclear Medicine doesn't think so. He gave before the Senate committee impressive statistics that show tremendous growth in nuclear medicine: Patients in 102 Veterans Administration hospitals receiving nuclear medicine examinations increased from 117,208 in 1970 to 245,266 in 1972. "The Veterans Administration hospital system is representative of the state of the art . . ."; in 1972 more than a third of the 6,622 reporting hospitals to the American Hospital Association provided nuclear medicine diagnostic services; "33-million patient admissions (were) reported to the AHA;" 6,545 AEC-sanctioned licenses for the medical use of radionuclides were in effect as of June 30, 1973; "(this) further indicates the extent of utilization of radiopharmaceutical products."

Although these statistics were intended to reveal the great numbers of people gaining the benefit of nuclear medicine, some onlookers took them as indications of acute proliferation of nuclear medicine practices.

ALPA looked to both sides of the question and eased its stand of a total ban on shipments of hazardous materials aboard passenger aircraft. One of its exemptions is "radioactive pharmaceuticals that are processed and ready for delivery to a patient." What the exemption means is that low radioactive level radionuclides with truly short half-lives such as Technetium-99m (half-life six hours) used so widely in the practice of nuclear medicine will continue to be acceptable to pilots for passenger-aircraft air shipments.

ENFORCEMENT

Nothing has so severely affected the entire issue of transportation of hazardous materials including radioactive materials, than the lack of enforcement of existing regulations by regulatory agencies. And for air shipments that means FAA.

ALPA's Hazardous Materials Subcommittee co-chairmen, Eckols and Captain Don Dunn (OZA), both concede that if rigid enforcement by FAA had been the norm instead of the exception, there would probably be no issue today because danger to the flying public would be greatly reduced.

ALPA isn't alone in its condemnation of FAA enforcement procedures. St. Paul Mayor Lawrence D. Cohen, vice chairman of the Minneapolis-St. Paul Metropolitan Airports Commission, charged: "Federal agencies have never made a serious attempt to ensure full compliance with the regulations that do exist. Infrequent spot checks and occasional seminars are poor substitutes for package-by-package examination for regulatory compliance."

The difference between the mayor and many other "consumers" is that he is in a position to do something about it. And he did. Effective July 15, the Twin Cities became the first municipality in the country to have an airport radiation monitoring system. Enactment of the ordinance that created the system wasn't routine. FAA didn't want it; AEC didn't want it; DOT didn't want it; air carriers didn't want it; and shippers didn't want it—but it passed anyway because "long overdue radiation safeguards" were needed.

The ordinance provides for: film badging of ground personnel working with radioactive packages; registration of all incoming and outgoing radioactive packages; geiger-counter examination of all radioactive yellow II and yellow III packages, and wipe tests for package contamination.

NEW WHEAT EXPORT REGULATIONS

Mr. HUMPHREY. Mr. President, the Secretary of Agriculture has repeatedly assured one and all that, despite the sharply reduced crop levels anticipated for this year, there is no need to panic.

I am not aware of anyone who has advocated panicking. But there are many responsible individuals, and I count myself within that group, who have expressed concern over the need for more careful monitoring of our food exports. We do not want to wake up some morning and discover that large scale food purchases by foreign governments have wiped out our own supplies.

I have repeatedly pointed out the importance of and the need for dealing with this issue before it is too late. We should not subject our farmers and consumers to continued rampant inflation and the possibility of food shortages.

Secretary Butz has refused to accept the idea of having a reserve program, as I have proposed in my bill, S. 2005. My bill also calls for more careful monitoring of our food export sales.

In spite of administration assurances

that all is well, steps were recently announced to place the reporting of food export sales on a more current basis.

The administration has also engaged in jawboning with the Japanese and the EEC countries to reduce their purchases.

There is some doubt as to how effective these measures will be, but it does appear that at least the seriousness of the issue is becoming clearer to the Department of Agriculture.

I wish to point out a September 17 New York Times article, "Daily Reports Set on Wheat Exports," which outlines these new USDA regulations. Mr. President, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record as follows:

DAILY REPORTS SET ON WHEAT EXPORTS

WASHINGTON, September 16.—To prevent depletion of United States agricultural supplies, large exports of wheat and certain other products must be reported daily to the United States Government beginning this week.

Exporters must give daily notification on contracts for 100,000 tons or more of wheat, corn, grain sorghum, soybeans or soybean meal. Penalties include fines up to $25,000, or up to one year in jail for "knowing" violations.

There is nothing in the regulations, officials said in weekend interviews, to prevent a foreign buyer or an exporter desiring a few extra days of secrecy from signing two 50,000-ton contracts on successive days.

According to the regulations, transactions under 100,000 tons made with any one trader on any business day need not be included in the daily reports. They may be held for inclusion in an already existing program of weekly reports.

The new daily reporting system was announced Friday, after weeks of confusion over the Agriculture Department's plans, to satisfy heavy pressure from lawmakers including Chairman Herman E. Talmadge, of the Senate Agriculture Committee.

With grain supplies cut by drought this year, the Georgia Democrat and others demanded closer government monitoring of the export flow to prevent a heavy overseas drain on United States supplies.

Mr. CRANSTON. Mr. President, I am delighted to join my colleague from Maryland (Mr. MATHIAS) and others in sponsoring an amendment to S. 3221, the Energy Supply Act of 1974.

Our amendment would provide a forum for appeal by the Governor of a State adjacent to a proposed offshore oil and gas lease sale. It would authorize the Governor of an adjacent State to request the Secretary of Interior to postpone for no more than 3 years any lease sale which the Governor determines will result in adverse environmental or economic impact or other damage to the State or its residents.

An important element of our amendment is a strict timetable for rendering a decision on a Governor's request for postponement. While the Secretary of Interior would suspend the lease sale for the period during which the Governor's appeal is under review, the amendment calls for a very strict time frame for this appeal. Once the Governor had submitted his request for postponement, the Secretary of Interior would have 30 days to grant the postponement, deny the postponement, or provide for a shorter period of postponement than was requested.

If the Governor's request was denied by the Secretary, the Governor would have one more level for appeal. The amendment would authorize him to appeal within 30 days of the Secretary's decision to the National Coastal Resources Appeals Board created by our amendment. This Board would be composed of five members: the Vice President, who would serve as its chairman, the Secretary of Interior, the Secretary of Commerce, the Administrator of the Environmental Protection Agency and the Chairman of the Council on Environmental Quality. This Board would be required by our amendment to hear the appeal within 30 days and to render a decision within 90 days of such hearing. Consequently, if every day provided for in our timetable was used, the maximum amount of time consumed by our appeals process would be only 6 months.

I believe this amendment would provide a much needed forum for the interests and concerns of an adjacent State to be aired and resolved within a reasonable period of time.

I also believe that this amendment will fill a serious gap in the bill as now written. Section 202 of the bill would amend the Outer Continental Shelf Lands Act by adding a new section 18. This new section would require the Secretary of Interior to prepare and maintain a "leasing program" which would indicate the size, timing and location of leasing activity to best meet our national needs during the 10-year period following its approval. After the leasing program is approved, no lease sales could be held except for areas included in the leasing program. Unfortunately, this leasing program would not have to be approved until January 1, 1978. The Bureau of Land Management is now proceeding on a leasing schedule which will result in the completion of 14 of the 15 sales listed on this schedule before the "leasing program" has been approved and implemented.

Southern California is now faced with a sale of 297 tracts totaling 1.6 million acres in May of 1975. Many Californians are concerned about the possible economic and environmental impact of this proposed lease sale.

Our amendment would provide an opportunity for the Governor of California to request a postponement of this May 1975 lease sale if he determined it would result in adverse economic or environmental impact on the State. This same opportunity would be provided to the Governors of other States facing scheduled lease sales prior to January 1, 1978.

Mr. President, I believe this is an important addition to the bill and I urge its approval by the Senate.

NATIONAL BLOOD BANK REGULATION

Mr. HARTKE. Mr. President, the quality of our health is only as good as the quality of blood which is in our blood banks. Early in 1973, I introduced S. 1402 to establish a Federal program to encourage voluntary donations of pure and safe blood, and to require the licensing and inspection of all blood banks.

I have received a letter from Mr. Martel Dailey, Secretary-Treasurer of the American Hepatic Foundation, Inc., suggesting the necessity for my bill to become law. As he stated, "It is a great prescription" and would upgrade the quality and quantity of blood available to patients in the United States who are in need of blood.

I ask unanimous consent that the text of Mr. Dailey's letter be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

AMERICAN HEPATIC FOUNDATION, INC.,
Greenville, N.C., March 15, 1974.

Hon. VANCE HARTKE,
U.S. Senate, Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR HARTKE: Bill S. 1402 is great and I appreciate your sharing this with me.

Please study the letter to Governor Scott dated January 15, 1971. The Red Cross Blood Program is doing a good job, however, they do not supervise blood usage nor is their inventory control as good as it should be. I have been an active supporter of our Red Cross Blood Program for 25 years and for 10 years the Martin County Director. In Section 4, Par. 4, I see that rules and regulations could be adopted by the Director which would prevent the All-Volunteer Blood Donor Program from facing the deficiencies which presently exist in the Red Cross Blood Program.

The enclosed material reveals why I became interested in this subject.

I congratulate you for sponsoring this wonderful bill. It is a great prescription.

With kindest personal regards, I am

Sincerely,

MARTEL J. DAILEY, M.D.,
Secretary.

Mr. HARTKE. Mr. President, of major concern in upgrading the blood program is the factor of serum hepatitis with 63,436 cases reported, resulting in 7,410 deaths in 1972. An American Hepatic Foundation report indicates that solving the "hepatitis problem obviously will save thousands of lives and billions of dollars." I ask unanimous consent that the report be printed in the Record as exhibit 1, and that a letter written by Mr. Dailey and printed in the American Medical Association Journal be printed as exhibit 2, both at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1 and exhibit 2.)

Mr. HARTKE. Mr. President, the anticipated 60,000 plus cases of hepatitis which will occur in the United States in 1974 need our help. I am hopeful that my bill will be reported from the Committee on Labor and Public Welfare this year. If it is, there may be 7,000 people around to enjoy 1975 who otherwise might have fallen prey to this dreadful disease.

EXHIBIT 1

AMERICAN HEPATIC FOUNDATION, INC.,
Greenville, N.C.

Prior to 1950 medical research in the United States was largely supported by the private foundations. During the nineteen fifties the Congress through legislation funded most of the medical research in this country. As the governments programs became competitive with the private foundations, the private foundation largely withdrew from medical research. Private foundations obviously could not compete with the government. The pendulum now has swung back; government medical research programs have been reduced and if research is not to suffer the slack must be assumed by the private and public foundations.

Public medical foundations came into existence in the mid-nineteen forties. Public medical foundations, in contrast to private foundations and governmental medical research, are more flexible. Public needs can be more readily acted upon by public medical foundations.

The success of the public medical foundation has been notable. Conquering polio returned many fold the contributions made by the public to the March of Dimes and all other medical foundations. Based on the incidence of polio in the years immediately before the introduction of polio vaccine, 462,000 cases of paralytic polio were prevented between 1955 and 1973. Of those affected during this period 37,500 individuals would have died, and 42,900 would have experienced complete disability. Of the remainder, 109,200 would have been disabled, 174,300 moderately disabled, 101,100 would have suffered only slight disability. The estimated loss of lifetime income, as of 1973, based on the age at which morbidity and mortality occurred, would have been $19,767 billion (total savings $15.3 billion for men, $3.9 billion for women). The cost of medical care avoided through prevention of polio cases was estimated at $981 million for the period 1955 to 1973. Thus, in the 18 years between 1955 and 1973 there is an estimated net gain of $18 billion or $1 billion per year.

This information was derived from an Editorial, *The Dollar Benefits of Biomedical Research: A Cost Analysis*, Journal of Laboratory and Clinical Medicine, Volume 79, Number 3, March 1972.

In 1971 there were 69,162 reported cases of hepatitis (acute inflammation of the liver caused by virus) in the United States. In 1972 this figure was 63,436. The mortality from hepatitis in 1971 was 8,962 and in 1972 was 7,410. Solving the hepatitis problem obviously will save thousands of lives and billions of dollars.

It is evident that priority should be given to research in liver disease. Liver diseases have been a victim of medical research neglect and until recently there was no American medical foundation concerned with liver disease.

On November 26, 1973, the American Hepatic Foundation was founded by the Department of Pathology, School of Medicine, East Carolina University, Greenville, North Carolina 27834. The purpose of the foundation is to benefit mankind by helping to eliminate liver disease. This objective will be pursued by clinical study, laboratory research, publication, scholarship and fellowship programs.

Help fight liver disease. Your contribution to the American Hepatic Foundation will help us wage a war against liver disease!

EXHIBIT NO. 2

HOMOLOGOUS SERUM HEPATITIS—A TRUE EXPERIENCE

To the Editor.—The homologous serum hepatitis (HSH) virus has many curious characteristics but the most striking feature of the virus is its ability to produce disease like a phantom. If the HSH virus causes hepatitis, by intrahepatic replication, then why can't we recover the virus from the liver? The yellow fever virus and the HSH virus are the same size [1] yet the yellow fever virus did not remain elusive. Yellow fever succumbed to medical research several decades ago.

The HSH virus is transmitted primarily by parenteral inoculation [2] yet the virus had worldwide distribution with the advent of parenteral inoculation. How did the virus achieve worldwide distribution? Why should nature impose such a restrictive means of transmittal for this virus?

Two explanations are usually offered to explain the natural reservoir of the virus. The first proposes that there existed a maternal carrier state. The maternal carrier infected her offspring. If this hypothesis were true then females should have a higher carrier rate for the Australia antigen. The opposite is the case.[3]

The other explanation for the natural reservoir of the virus proposes spread of the virus by accidental inoculation. Supposedly a carrier deposited the virus when cut by sharp objects. Later a susceptible individual would be inoculated by chance. This hypothesis can explain only a minute portion of the natural reservoir.

Another strange characteristic of the HSH virus is its tendency to procrastinate. Its incubation period is both prolonged and variable. Also, after the virus has produced hepatic damage it lingers in the blood stream for years. Most viruses do not exhibit a prolonged viremia.[1]

Magically the HSH virus spares some of our most vulnerable patients. Patients with a leukemia and pancytopenia have a strange and unexplained resistance to the HSH virus,[4] whereas, other viruses are not as considerate. It is a paradox that renal dialysis patients when infected with the HSH virus should have a milder infection than their attendants who develop hepatitis.[5] Strangely, susceptibility to HSH virus is not altered by the prophylactic use of gamma globulin.[3] Even more unusual is the reported benefit of the steroids in HSH. In most vital infections steroids are useless or are contraindicated.

The HSH virus at times exhibits very intelligent behavior. It is most selective in its residence. The virus resides only in certain protein fractions. Strangely, the virus had rather live in New York city than Boston.

Another behavioral problem of the HSH virus is its poor arithmetic. It just can't add. A recipient of 7 units of blood is as likely to develop HSH as a patient receiving 15 units of blood. Susceptibility to transfusion hepatitis levels off (plateaus) with seven blood transfusions.

I concluded that HSH was a hoax and the virus must be an imposter when a curious experience happened to me. I met the HSH agent. He had just finished taking a dip in a plasma pool when he sat down beside me. He was benevolent looking and quite old. I recognized him by his clack-clack and, also, he had two thirds of a coffin on his shoulder. We talked pleasantly on various subjects for about an hour. I tried vainly to question him but he was always evasive. Finally, I aroused his ire by calling him a virus and he exploded:

"A virus! I have never been a virus and never will be! Many factors cause my existence. My family tree is complicated. If you hadn't wasted so much time in assuming that I was a virus you would have had me solved. Viruses cause me to be created but viruses explain only part of my existence. Quite properly I consider myself an agent.

"If you examine the liver in yellow fever patients you would discover that the amount of virus present does not explain the massive liver damage. A virus does initiate hepatic damage in yellow fever; however, the final process of disease is auto-immune. The yellow fever virus damages hepatic cells and hepatitis antigen is released. Subsequently an antibody is made. The hepatitis antigen-antibody complex then causes further liver damage. Once begun, the process is self-replicating. Hughes demonstrated antigen-antibody in 53 of 54 cases of yellow fever. Eaton et al studied infectious hepatitis and observed an additional interesting possibility that liver antibody once produced combines with additional antigen in situ in the liver cells and causes further liver damage.

"This observation is correct! Infectious hepatitis, like yellow fever, is viral in origin. The final disease pathway in both is identical and is auto-immune. In retrospect, it is evident that Eaton et al lacked a really high titred antiserum, and they would have done better to have regarded their human serum specimens as antigen, rather than antibody, source. The carrier state after infectious hepatitis is due to antigen-emia, not viremia.

"You accuse me of poor arithmetic. Your arithmetic is bad, not mine! It was reported in 1969 that I caused 5,359 cases of hepatitis. Actually my total number of cases was much greater. Frequently, I was not recognized and, also, many physicians failed to report me.

"I plateau after seven blood transfusions because I produce disease immunologically. With seven blood transfusions, a recipient's immune response is taxed maximumly. Further stimulation does not increase the immune response. If the cause of transfusion hepatitis were viral, the attack rate of hepatitis would be proportional to the number of blood transfusions.

"My immune manner of disease production explains my prolonged and variable incubation period. Steroids, as they alter the immune response, do alleviate some of my havoc. My low incidence in patients with leukemia and pancytopenia is due to the immunologic defect in these diseases. I produce a milder illness in renal dialysis patients for the same reason.[5]

"As in fetal and neonatal hepatitis there is a genetic basis for my existence. My genetic basis is quite simple. When a recipient receives, by parenteral administration, a serum protein of a different phenotype from his own he may make an antibody. The antigen-antibody thus created subsequently damages hepatic cells. Damaged hepatic cells release hepatitis antigen and further isosensitization occurs. The process is self-replicating. This is why such a small amount of plasma is nedeed for me to cause hepatitis.

"My genetic basis is the reason I reside more often in New York city than Boston. It should be obvious why my natural reservoir is worldwide.

"The HSH agent smiled and ceased talking. I believe he told the truth."

MARTEL J. DAILEY, MD.,
Martin County Health Department.

FOOTNOTES

[1] Rhodes, Van Rooyen: *A Textbook of Virology*, ed 4. Baltimore, Williams & Wilkins Co., 1962.

[2] Scheinberg H. Kinney TD, Janeway CA: Homologous serum jaundice. *JAMA* 134:841–848, 1947.

[3] Okochi K, Murakami S: Observations on Australian antigen in Japanese. *Vox Sang* 15:374–385, 1968.

[4] Stampfli: Fatal posttransfusional hepatitis in Switzerland. *Minn Med* 52:53–61, 1969.

[5] Hepatitis virus and renal dialysis, editorial. *Lancet* 2:989–990, 1969.

GAO PARTIAL REPORT ON INDEPENDENT RESEARCH AND DEVELOPMENT

Mr. McINTYRE. Mr. President, the Comptroller General has submitted report B–164912, "Partial Report—In-Depth Investigation into Independent Research and Development and Bid and Proposal Programs," dated August 16, 1974.

This report provides answers and comments on a portion of the 22 questions contained in a letter dated October 8, 1973, signed jointly by myself, as chairman of the Armed Services Subcommittee on Research and Development, and by my good friend, the senior Senator from Wisconsin, as chairman of the Joint Economic Committee, Subcommittee on Priorities and Economy in Government.

For complete background on this matter I refer my colleagues to pages 16445 through 16458 of the CONGRESSIONAL RECORD for May 28, 1974.

To keep everyone having an interest in this subject informed of developments as they occur, Mr. President, I ask unanimous consent to have the GAO report printed in the RECORD at the conclusion of my remarks.

My distinguished colleague, Senator PROXMIRE, and I will continue to follow this study closely and, when the final GAO report is submitted late this year or early next year, will determine and recommend any actions deemed appropriate for Senate consideration at that time.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

PARTIAL REPORT—IN-DEPTH INVESTIGATION INTO INDEPENDENT RESEARCH AND DEVELOPMENT AND BID AND PROPOSAL PROGRAMS

COMPTROLLER GENERAL OF THE
UNITED STATES,
Washington, D.C.

Hon. THOMAS J. MCINTYRE,
Chairman, Subcommittee on Research and Development, Committee on Armed Services, U.S. Senate.

DEAR MR. CHAIRMAN: Your letter of October 8, 1973, signed jointly with the Chairman, Subcommittee on Priorities and Economy in Government, Joint Economic Committee, requested an in-depth investigation of the underlying assumptions and the overall justification of the independent research and development (IR&D and bid and proposal (B&P) programs. Also, you asked us to consider the implementation of section 203 of Public Law 91-441 and Department of defense (DOD) regulations. In regard to the latter, we refer you to our recent report to the Chairman of the Senate Committee on Armed Services (B-164912, May 1, 1974).

You enclosed a list of 22 questions to be answered as part of our examination. We previously notified you that, because of the extensive effort required to adequately fulfill your request, we will not have a full report until the fiscal year 1976 authorization and appropriation cycle. For this partial report, we have

Analyzed and reconciled the costs of IR&D and B&P programs as reported by DOD for the years 1968 through 1973 (questions 1 to 5);

Explored the availability of information on the costs of administering the programs (question 6);

Considered whether certain types of costs (directed toward new business, promotional and nontechnical services, etc.) are allowed and reimbursed as IR&D and B&P under DOD's regulation (questions 8 and 9); and

Evaluated the procedures implemented by DOD for contractors not meeting the $2 million threshold prescribed by section 203 for advance agreements and technical reviews (question 10).

Each of these matters is covered in detail in the summaries in the enclosed report. These summaries are based on information obtained during previous and current GAO reviews at DOD, the Defense Contract Audit Agency, the Atomic Energy Commission, the National Aeronautics and Space Administration, and the Council of Defense and Space Industry Associations.

We have not obtained formal comments on this report from agency heads but have discussed it with DOD officials.

We are also sending this report today to the Chairman, Subcommittee on Priorities and Economy in Government, Joint Economic Committee.

As your office agreed, we are sending copies to the Chairmen of the House and Senate Committees on Appropriations, Armed Services, and Government Operations and to Representative Gubser at his request. Also, as agreed, we are sending copies to the Director, Office of Management and Budget; the Secretary of Defense; the Director of Defense Research and Engineering; the Secretaries of the Army, Navy, and Air Force; the Director, Defense Contract Audit Agency; the Chairman, Atomic Energy Commission; the Administrator, National Aeronautics and Space Administration; and the Council of Defense and Space Industry Associations.

Sincerely yours,
ELMER B. STAATS,
Comptroller General of the United States.

QUESTIONS 1 TO 5—DEFENSE CONTRACT AUDIT AGENCY REPORTS ON IR&D AND B&P COSTS

Question 1. The DCAA audits of IR&D costs show that the ratio of IR&D costs to defense sales increased from 2.73 percent in 1968 to 3.83 percent in 1972. What accounts for this increase? What is the rationale to support a high level of contractor IR&D expenditures even in the face of declining defense sales?

DOD's share of IR&D, B&P, and other technical effort (OTE) costs of major defense contractors for contractor fiscal years 1968-73 is shown below. We include defense sales to show the percentage of such costs to DOD sales. Amounts were compiled by DCAA.

TABLE 1.—DOD'S SHARE OF I.R. & D., B. & P., AND OTE COSTS OF MAJOR DEFENSE CONTRACTORS AND SALES TO DOD FOR FISCAL YEARS 1968-73

	Millions of dollars						Percent of costs to DOD sales	
	I.R. & D.	B & P.	I.R. & D. and B. & P. total	OTE	Total	Defense sales	I.R. & D. and B. & P	I.R & D, B. & P. and OTE
1968	$338	$271	$609	$64	$673	$22,275	2.73	3.02
1969	410	289	699	79	778	22,692	3.08	3.43
1970	376	278	654	60	714	21,315	3.07	3.35
1971	354	265	619	49	668	19,568	3.16	3.41
1972	392	306	698	34	732	19,117	3.65	3.83
1972[1]	392	306	698	37	735	19,117	3.65	3.85
1973	441	346	787	32	819	20,941	3.76	3.91

[1] DCAA recently updated its 1972 OTE figure and completed its compilation of 1973 figures.

The two percentages cited in question 1 are not comparable. The 2.73 percent was based on the costs of IR&D and B&D, and the 3.83 percent was based on IR&D, B&P, plus OTE. Many other factors affect any year-by-year comparison of IR&D and B&P costs.

Burdening

Burdening is the accounting practice of adding a proportionate share of overhead to the direct costs of a particular project. Some contractors have always allocated an appropriate share of indirect and administrative costs to IR&D, consistent with their accounting policies. Other contractors have began to burden IR&D at various times during the past years. Effective January 1, 1972, all contractors were required by Defense Procurement Circular 90 to burden B&P as well as IR&D with all applicable indirect costs except general and administrative expense.

As a result, IR&D and B&P costs from 1968 to 1973 increased by amounts representing burden added by contractors for the first time although contractor effort did not increase. The increases in IR&D and B&P costs solely for first-time burdening were $32 million in 1972 and $55 million in 1973. The amounts of burden included in prior years is not available.

OTE

Changes in OTE reporting requirements also affect the comparison of IR&D and B&P cost data. These changes are discussed in the answer to question 3.

Foreign military sales

The sales data in table 1 includes sales to foreign governments which were placed through DOD contracts. The foreign government reimbursed DOD for these sales, as well as the applicable IR&D and B&P costs allocable to the sales.

Foreign military sales for 1972 totaled about $435 million, including about $13.8 million of IR&D and B&P costs. Comparable figures for 1973 were $962 million and $36 million, respectively. Consequently, DOD's net share of IR&D and B&P costs reported for 1972 and 1973 is overstated by $13.8 million and $36 million, respectively. DOD sales data should also be reduced by the amount of the foreign sales.

All prior years would require similar adjustments. However, information on the amount of IR&D an B&P included in foreign sales for prior years is not available.

Inflationary trend

Following is a summary of total IR&D and B&P costs and DOD's share. The dollar amounts and the percent of sales to DOD were extracted from DCAA reports. This table differs from table 1 in showing costs incurred by the contractors and amounts accepted by the Government for allocation to all work performed by the contractor, a share of which is then absorbed by the Government.

TABLE 2.—I.R. & D. AND B. & P. COSTS

	Millions of dollars								
	Contractor costs			Accepted by Government			DOD share		
	I.R. & D.	B. & P.	Total	I.R. & D.	B. & P.	Total	I.R. & D.	B. & P.	Total
1968	$776	$381	$1, 157	$579	$367	$946	$338	$271	$609
1969	808	426	1, 234	653	409	1, 062	410	289	699
1970	753	413	1, 166	597	398	995	376	278	654
1971	703	427	1, 130	567	390	957	354	265	619
1972	936	469	1, 405	725	432	1, 157	392	306	698
1973	1, 051	526	1, 577	809	488	1, 297	441	346	787

DOD'S SHARE OF I.R. & D. AND B. & P. COSTS

	Percentage of contractor costs			Percentage accepted by Government			Percentage of sales to DOD
	I.R. & D.	B. & P.	Total	I.R. & D.	B. & P.	Total	
1968	44	71	53	58	74	64	68
1969	51	68	57	63	71	66	62
1970	50	67	56	63	70	66	65
1971	50	62	55	62	68	65	61
1972	42	65	50	54	71	60	63
1973	42	66	50	55	71	61	61

The above table shows that contractors' costs declined from 1969 through 1971 by about 8.4 percent. DOD's share declined at an even greater rate, about 11.5 percent. DOD's share of contractors' costs increased about 12 percent in 1972 over 1971.

However, these costs have not been adjusted for the impact of inflation. We know of no research and development cost index. The National Science Foundation, in the absence of a reliable index, used the gross national product price deflator in its reports on funds supporting research and development for 1968 through 1973.

Price index and year-to-year increase

1968:	104.01	4.01
1969:	109.02	5.01
1970:	115.01	5.99
1971:	120.42	5.41
1972:	124.25	3.83
1973:	130.91	6.66

Using a base year of 1967, the table indicates the inflationary trend, i.e., products or services purchased for $100 in 1967 would cost $104.01 in 1968 and would cost $130.91 to purchase in 1973.

We have not attempted to convert current IR&D and B&P dollars to constant dollars. The gross national product deflator includes price changes of all goods and services in the economy and therefore can only indicate approximate changes in costs of inputs specifically related to research and development.

Based on discussion with the cognizant National Science Foundation official, we believe there is some merit to the contention that salaries of scientists and engineers and, especially, costs of complex equipment have increased at a rate higher than that of the overall economy.

Support during declining sales

DOD has found that, in times of declining sales, contractors' emphasis in IR&D will generally shift to efforts with shorter range payoff, as a means of survival. Greater B&P activity will also result. Initially, the amount of resources devoted to these endeavors may rise at the expense of other, less critical functions of the company. As sales continue to decline, however, IR&D and B&P actual dollar resources will start to decline even though IR&D and B&P as a percentage of company resources may increase even more at the expense of other company functions.

DOD finds that this same pattern will generally follow in negotiations of advance agreements with major defense contractors. In periods of declining defense sales and increasing commercial sales, establishing relatively constant IR&D and B&P ceilings will reduce DOD's actual dollar participation. Table 2 shows that DOD's percentage share of contractor costs declined from 1969 to 1972, as did sales to DOD by these contractors. (See table 1.)

DOD points out that it has the responsibility to maintain a base of competent contractors capable of competitive efforts in every critical defense technology area. This responsibility is often in direct conflict with any policy which would follow the forces of the marketplace relative to the level of IR&D and preclude a high level of support during declining defense sales.

Question 2. Reconcile the apparent inconsistencies in the figures for IR&D expenses from 1968 to 1972 between your April 16, 1973, report, reports by DCAA, and the figure given by DOD to the Senate Armed Services Committee as printed in the Committee report of September 6, 1973.

Much of the confusion regarding the varying IR&D and B&P cost figures stems from the fact that DCAA releases two sets of figures applicable to each year—one in the year immediately following the year in which the costs were incurred, based to some extent on estimated costs, and updated figures in the second following year. Table 3 identifies the source of figures referred to in question 2.

TABLE 3.—I.R. & D., B. & P., AND OTE COSTS REPORTED BY THE SENATE ARMED SERVICES COMMITTEE, GAO, AND DCAA

[In millions]

	I.R. & D. and B. &P. costs	OTE costs	Total	Defense sales
1968				
Senate report[1]				
GAO report[2]			$673	$22, 275
DCAA report March 1970	$609	$64	673	22, 275
1969				
Senate report			[3] 754	
GAO report			778	22, 692
DCAA report March 1971	699	79	778	22, 692
1970				
Senate report			714	
GAO report			714	21, 315
DCAA report March 1972	654	60	714	21, 315
1971				
Senate report			[4] 668	
GAO report			673	[4] 19, 655
DCAA report March 1973	619	49	668	19, 568
1972				
Senate report			[5] [6] 738	
GAO report			[6] 704	[6] 18, 385
DCAA report March 1973	704	(7)	[6] 704	[6] 18, 385
DCAA report March 1974	698	(7)	698	19, 117

[1] Dated Sept. 6, 1973.

[2] Dated Apr. 16, 1973.

[3] Consists of I.R. & D./B. & P. costs of $675,000,000 reported by DCAA in its March 1970 report plus $79,000,000 of OTE costs. The $675,000,000 was subsequently corrected to $699,000,000. The $699,000,000 of I.R. & D. and B. & P. plus OTE of $79,000,000 equals the $778,000,000 reported by DCAA and GAO.

[4] Preliminary amounts reported by DCAA in March 1972.

[5] Includes $34,000,000 of OTE costs which are not considered of an I.R. & D. and B. & P. nature, as in prior years, because of the redefinition and reclassification of such costs effective in 1972. (See answer to question 3.)

[6] Preliminary figures. The final figures for 1972 appear in the DCAA March 1974 report.

[7] DCAA stopped reporting OTE after 1972.

Question 3. In its report to Congress, DOD includes an amount for "other technical effort (OTE)" in its IR&D figures. What are the audit substantiated amounts for OTE for the years 1968 to the present? Why are these amounts not included in the DCAA audit report? Do the same rules apply for OTE as for IR&D and B&P costs?

The miscellaneous technical costs of operating a contractor's facility, which were not classified as IR&D or B&P, came to be known collectively as OTE. Although not a clearly defined group, these costs were cumulatively reported by DCAA as OTE. They did not necessarily represent audited amounts and, for the most part, were extracted from contractor's records. OTE reports were prepared and submitted in conjunction with IR&D and B&P reports through 1971. (For OTE amounts, see table 3.)

In the late 1960s, DOD became concerned that costs for designing and developing new products or improving existing products, and accumulated under such account titles as feasibility studies, capability studies, proposal efforts, predesign studies, product development, and product improvement, should properly be considered as IR&D and B&P. Other accounts, such as technical equipment maintenance, sales engineering, and advanced marketing, even though technical efforts, were clearly not directed toward new or improved products.

Because of this concern, the definition of IR&D was revised to include "systems and other concept formulation studies [such as] analyses and study efforts either related to specific IR&D efforts or directed toward the identification of desirable new systems, equipments or components." The definition of basic and applied research remained substantially the same while the definition of development was revised to clarify the types of technical effort, such as design engineering, prototyping, and engineering testing, to be included.

B&P had been simply defined as the costs of preparing bids and proposals on potential Government and non-Government contracts or projects, including the necessary supporting engineering and cost data. Upon completion of the study, the definition was revised and expanded to include the costs incurred in preparing, submitting, and support bids and proposals, whether or not solicited, on potential Government or non-Government contracts which fall within the definitions of administrative costs and technical costs.

These changes were published in Defense Procurement Circular 90 September 1, 1971. Revisions in contractors' accounting practices, to provide cost data required by these changes, were to become effective for the contractors' first fiscal year starting on or after January 1, 1972. This substantially removed costs which were in the nature of IR&D and B&P from other overhead accounts. However, contractors continue to incur certain technical costs in overhead accounts which are not part of IR&D or B&P effort.

With the revised definitions of IR&D and B&P, DOD felt that it was unnecessary to continue to compile a summary of OTE costs because items remaining in that category should no longer be considered as similar to IR&D and B&P. DCAA auditors are still expected, however, to review OTE costs to insure that they are properly identified and classified.

DCAA said that about $14 million of costs incurred during 1972 for the types of projects previously classified as OTE had now been included as costs for projects in the IR&D and B&P category. DCAA auditors identified an additional $34 million in 1972 of OTE costs that were not in that category. This total of $48 million compares to the $49 million of OTE reported during 1971. DCAA identified $32 million of costs in 1973 which would have been reported as OTE prior to 1972 but are not IR&D and B&P type of costs.

The IR&D and B&P ceilings do not apply to OTE. OTE costs are recoverable through the normal overhead rate. Therefore, for the years 1968 through 1971, it can be assumed that some unknown portion of OTE, under current definitions, should have been classified as IR&D or B&P. The remainder should not have been considered in cost analyses relating to either IR&D or B&P.

Question 4. The DCAA audit report of IR&D covers only those defense contractors with "an annual auditable volume of costs incurred of $15 million or more and other contractors who, although not meeting the auditable volume criteria, required 4,000 or more man-hours of DCAA's direct audit effort per year".

What does the term "auditable volume" of costs incurred mean? What is the difference between auditable volume of costs and total defense sales (including both prime contracts and defense subcontracts)? What is your estimate of total IR&D, *including* contractors that do not meet the criteria of $15 million of annual auditable costs incurred or 4,000 man-hours of defense audit effort?

The term "auditable volume" of costs incurred means costs related to negotiated flexibly priced contracts, as opposed to firm fixed-price contracts, which DCAA audits to determine either the actual or projected total contract costs. Examples of such contracts are cost-plus-fixed-fee, fixed-price redeterminable, fixed-price incentive, and cost-plus-incentive-fee. A contractor who meets the DCAA criteria of having $15 million or more of auditable volume of costs or requiring more than 4,000 man-hours of direct audit effort a year is included in the DCAA annual report.

Total defense sales, as reported by DCAA, means total sales prices of all contracts where DOD is the ultimate customer including total sales under firm fixed-price contracts and/or subcontracts.

Neither we nor DCAA has any data to determine how much additional IR&D and B&P costs are paid to contractors who do not meet the criteria for inclusion in their annual report. DCAA said that getting any further detailed data would necessitate an inordinate amount of work, requiring a survey of 350 field audit offices and involving data collection of approximately 3,300 contractors. Even then, such a survey would only account for some of the smaller DOD contractors. The IR&D data of major contractors not included in the DCAA annual reports is not available to DCAA. Contracts are either awarded to those contractors on a firm, fixed-price, competitive basis or are based upon rates or schedules set by law and thus are not susceptible to DCAA audit.

We recognize the absence of data pertaining to some unknown portion of the IR&D and B&P paid by DOD. This figure has in the past been roughly estimated to represent 10 to 15 percent of the total. We plan to explore further the feasibility of reasonably estimating this amount.

Question 5. The IR&D figures reported to Congress are based on a DCAA statistical report covering 77 defense contractors. The top 77 defense contractors account for only 69 percent of defense prime contracts. How much additional IR&D costs are reimbursed by the DOD to divisions, contractors, and subcontractors not covered in the DCAA report?

As explained under question number 4, neither GAO nor DCAA has any data to determine how much additional IR&D/B&P costs are paid by DOD. We plan to explore the matter.

QUESTION 6—COSTS OF ADMINISTERING IR&D AND B&P PROGRAMS

Question 6. What is the total in-house cost of administering the IR&D program—include the cost of reviewing contractor proposals, DOD negotiation teams, technical review effort, administration of disputes, etc.? What are the comparable costs for AEC?

We asked DOD if such costs were maintained and, if not, could it estimate costs which could be verified by us.

DOD replied that no accounting or reporting system had been established which directly relates DOD administrative costs to IR&D and B&P. Further, there is no documentation that would provide a basis for estimating, with any sense of traceability, costs of time spent in prenegotiation preparation, preparation of correspondence, position papers, reports, advance agreements, supervision policy material, or other administrative support. These costs would have to be estimated by participating personnel on the basis of their recollection and could not be verified by audit.

Supporting documentation, such as lists of participating personnel and travel records, could be used to estimate roughly the time spent and costs involved in onsite technical evaluations of contractors' proposed programs. Because of the roughness of any such estimates, we did not obtain this unauditable information.

AEC does not maintain a system that will produce the in-house cost of administering IR & D and B & P programs, which involve a relatively minor portion of its overall contract negotiation and administrative effort. Therefore, AEC does not believe that the results produced by such a system would be commensurate with the cost. AEC was also unable to provide an estimate of in-house costs on an auditable basis. An estimate by one of the AEC offices most involved in IR & D activities indicated it to be very minor.

NASA also does not separately account for the costs of administering its IR & D program. NASA acknowledged that one of the important advantages of its cooperation with DOD is the administrative economy of such an arrangement. NASA's in-house costs of administering its program are relatively small compared to what they would be if it had to assume the burden of an independent technical review and negotiation function.

Although not included in the scope of the question, a major factor in administering these programs is the contractors' costs. The seven contractors covered in our 1973 report to the Chairman of the Senate Committee on Armed Services said then that the increased emphasis on technical evaluations and relevancy reviews had increased administrative costs for them. Four contractors furnished estimates which showed, cumulatively, increased costs of between from $500,000 to more than $1 million. Three other contractors did not quantify the amount that their expenditures had risen. Some acknowledged improvements in management controls stemming from the expenditures.

One of these contractors recently affirmed that its visible costs for administering IR & D and B & P ran from $500,000 to $750,000 annually. The contractor attributes about two-thirds of these costs to the special handling required by Public Law 91–441. Another believed the administrative and management costs equaled about 50 percent of the total program costs. Still another contractor, whose administrative costs exceeded $1 million annually, believes these costs have not been greatly affected by requirements of the law.

In conclusion, Government in-house costs and contractor costs of administering IR & D and B & P are probably substantial in view of the number of people involved and the time spent. However, these costs are not quantified. We will look into the possibility of obtaining a rough estimate of them.

QUESTIONS 8 AND 9—CONTRACTOR COSTS ACCEPTED BY DOD IN IR&D AND B&P

Question 8. Does DOD pay contractors' cost for:

a. research and development projects primarily of a promotional nature, such as projects directed toward the development of new business or projects connected with proposals for new business;

b. studies or projects which are undertaken, in whole or in part, for other customers; and

c. projects which represent unwarranted duplication of other research and development work sponsored by the DOD.

Cite examples if any such costs are paid.

Question 9. Do Bid and Proposal costs paid by DOD include negotiating and promotional costs or the cost of salesmen, representatives or agents who do not provide technical services in connection with bids or proposals?

The request of October 8, 1973, states that, for the purposes of this study, the term IR&D is inclusive of B&P. In answering the above questions, however, we have assumed that question 8 pertains only to IR&D exclusive of B&P, since question 9 is specifically directed at B&P costs.

New business projects in IR&D

The overall intent of DOD in supporting IR&D is to encourage the evolution and maintenance of a strong, up-to-date, and creative technology-based industry, from which DOD can draw both new concepts and rapid competitive responses to meet its requirements.

The Armed Services Procurement Regulation (ASPR), in defining IR&D, allows technical effort of projects directed at new business. Projects allowable as IR&D include (1) applied research to exploit the potential of scientific discoveries or improvements and attempts to advance the state of the art, (2) projects to design, develop, test, or evaluate a potential new product or service, or improve an existing product or service, and (3) analyses and studies directed toward identifying desirable new systems, equipment, or components or desirable modifications and improvements to existing ones.

DOD's policy is to allow, as charges to overhead, costs of IR&D projects which are judged to be relevant to DOD's mission and responsibility and which, in the aggregate, are not unreasonable in total dollar value as measured by what a prudent business man would expend in operating his business.

Based on IR&D projects examined in our past work; reviews of contractors' procedural guidelines; and discussions with contractor officials and DOD personnel, including contract auditors; it is clear that contractors undertake IR&D projects to obtain new business. The projects we examined were largely technical in content rather than related to selling or marketing activities.

Projects for other customers

DOD is aware that IR&D accepted for allocation to Government and commercial contracts may result directly in products which both DOD and other customers desire. Some IR&D relevant to DOD may also be of interest to other customers of the contractor. On the other hand, IR&D primarily directed toward commercial customers may be of interest to DOD and the Government.

The percentage of IR&D relevant to DOD is generally much greater than the percentage of DOD's participative share. Therefore, DOD believes that it receives benefits considerably greater than its dollar share in those cost centers involving a mix of DOD and commercial business. Our previous studies have shown that military relevant projects in all cases exceeded the negotiated ceilings which DOD agreed to accept for allocation to all customers. For example, in 1973 DOD absorbed $441 million as its share of the $809 million of IR&D accepted by the Government, the better part of which had in the past been relevant to DOD. Also, contractors incurred an additional $242 million for IR&D projects, some of which were relevant to DOD. (See table 2.)

Duplication of research

DOD acknowledges that creating and maintaining multiple bidding sources in the various technologies necessarily results in some duplicative effort among contractors in any particular area. DOD believes that this duplication provides alternate approaches to a problem and is thus beneficial to some degree.

In 1970 we reported to the Congress (B-164912, February 16, 1970) our belief that a data bank on contractors' IR&D programs would be of benefit to Government personnel in selecting research projects. A DOD official agreed that a systematic method of disseminating information on IR&D projects would be useful in avoiding unnecessary duplication in Government-sponsored research. DOD subsequently established a data bank, which is still in a trial period to end July 1, 1975. In view of the proprietary nature of the contractors' IR&D programs, such information is confined to Government personnel.

Although some of the duplication might be eliminated by exchange of information between contractors, this is not feasible because of the proprietary nature of IR&D. DOD states that it has no authority to single out and support a limited number of competitors in any specific product area.

AEC policy on allowance of contractor I.R. & D. costs

The costs described in question 8 are excluded from acceptance by AEC's procurement regulations, which allow IR&D costs only to the extent to which they provide a direct or indirect benefit to the particular contract work. AEC's rationale for restricting its support of these costs is due to a large extent to its type of operation.

AEC's procurement has been concentrated in relatively narrow technical fields where the Government has developed and continues to develop most of the technology. AEC does not rely primarily upon private industry using contractor-owned facilities and is not concerned with contractors maintaining a nuclear research and development capability, since most of AEC's activities are conducted and financed in a Government-owned, contractor-operated environment.

On the other hand, a part of DOD's rationale for supporting IR&D is the development and maintenance of competition. DOD concludes that the complexities of the technological areas, the many avenues and alternatives requiring exploration within any one technology, and the need for two or more competent and competitive contractors in each technology, all combine to justify the current approach to IR&D as not being unwarranted duplication of other research and development work sponsored by DOD.

Negotiating, promotional, nontechnical costs in B. & P.

ASPR distinguishes between B&P costs and selling costs, defining the latter as sales promotion, negotiation, liaison between Government representatives and contractor personnel, and other related activities. DOD, therefore, stated that selling and promotional costs of the type usually associated with these words are not allowed as part of B&P.

ASPR defines B&P to include two types of costs incurred in preparing, submitting, and supporting bids and proposals on potential contracts—(1) administrative costs incurred for nontechnical effort in the physical preparation of the technical proposal documents and for technical and nontechnical effort in the preparation and publication of supporting cost and other administrative data and (2) technical costs incurred to specifically support a bid or proposal, including systems and concept formulation studies and the development of engineering data.

An allocable share of B&P is recoverable on Government contracts as an indirect cost, subject to any limiting agreement negotiated in advance.

The contractor's negotiation team that meets with Government personnel will include nontechnical people concerned with the negotiation of price and other nonengineering aspects of the contract. DOD said that these people may charge their time to the B&P project established by the contractor for the solicitation under consideration. Other nonengineering personnel at the contractor's facility who assist in preparing cost and pricing data and proposed contract provisions may also charge their time to B&P. However, this practice is not followed by all contractors; frequently such personnel charge their time to the overhead organization in which they work, such as the Controller's or General Counsel's offices. Either practice is permitted under ASPR.

According to resident auditors at two contractors' plants, B&P costs generally do not include nontechnical services as direct charges. Direct charges to B&P are almost exclusively technical support. However, B&P costs are burdened with a proportionate share of allowable nontechnical effort other than general and administrative overhead.

A defense audit agency official located at another defense contractor's plant said that the ASPR definition of B&P does not include marketing functions of sales promotions, negotions, and related activities. ASPR allows contractors to recover, as indirect costs not considered B&P costs, the full amount of selling costs for marketing their products, subject only to tests for allocability and reasonableness.

The defense contract audit manual specifies that selling costs should be appraised for a recognizable benefit to the Government in consonance with the amount included in the contractor's claims or cost representations. If it can be established that useful and desirable information on technical matters concerning existing contracts were discussed during visits by contractor personnel to Government procurement offices, the resulting costs may be considered to result in benefit to the Government.

Our limited inquiry of contractors' practices indicated that most B&P activity involves preparation of proposals or quotations in response to known needs of customers. Contractors' accounting manuals generally correspond to the ASPR provisions. We did not find in any B&P projects examples of personnel engaged in accelerated advertising or promotional activities. For each contractor in our sample, the resident auditor had similar negative findings from his more in-depth reviews over the past several years.

We conclude that, since contractors can recover reasonable amounts of selling expenses in their entirety, they have no incentive to charge them to B&P. B&P expenses, recovery of which may be limited, are primarily used for technical activities responding to stated, or in some instances anticipated, needs of customers.

QUESTION 10—DOD PROCEDURES FOR CONTRACTORS BELOW $2 MILLION THRESHOLD

Question 10. Public Law 91–441, Section 203, provides that appropriated funds may not be spent for IR&D unless the Secretary of Defense determines that the IR&D has potential military value. However, it appears that DOD does not technically review IR&D proposals in cases where it is charged less than $2 million a year. What is your evaluation of the adequacy of DOD's technical review of such program? Of the $700 million in IR&D expenses in 1972, how much goes to contractors under the $2 million ceiling? What is the Comptroller General's opinion of the legality of IR&D payments made in the absence of any technical review as to potential military value? Would it be feasible to lower the technical review threshold below $2 million?

Section 203 precludes payment by DOD of IR&D or B&P unless the work has, in the opinion of the Secretary of Defense, a potential military relationship and other requirements are met, one of which is the negotiation of advance agreements with all companies which, during the last preceding year, received more than $2 million of IR&D or B&P from DOD.

DOD interpreted the statute to require a relevancy test only for projects of major companies, those which received payment of more than $2 million from DOD for IR&D and B&P. DOD believed that the following factors supported this conclusion.

1. DOD deals with thousands of contractors, an unknown number of which may incur IR&D expense and all of which incur B&P expense.

2. DOD does not have the personnel resources to perform technical and relevancy reviews for hundreds or thousands of contractors.

3. Many contractors with limited amounts of Government sales would probably not assume the burden of submitting IR&D and B&P data.

DOD told us that, before section 203 was implemented, DOD furnished and discussed drafts of its implementation policy with staff personnel of the Senate and House Committees on Armed Services. Although no official concurrence was requested or received, no opposition was expressed.

In our April 1972 report to the Chairman of the Senate Committee on Armed Services, we agreed that DOD's interpretation was administratively sound but suggested that the Congress might want to clarify the intent of the law. In the absence of further guidance, DOD does not make a technical review or relevancy determination for IR&D and B&P projects of contractors under the $2 million threshold.

It is our opinion that section 203(a)(2) does not expressly call for a technical review of the projects of a contractor with which an advance agreement is not required. For such cases, the act merely states that the opinion of the Secretary of Defense that the contractor's work has a potential military relationship is required. Since the word "opinion" implies an element of discretion and the act does not specifically require that such "opinion" be based on a technical review of the contractor's projects, we are unable to conclude that DOD payments of IR&D in the circumstances described are contrary to law.

Amount paid by DOD to contractors under the $2 million ceiling

Of the $698 million reported to the Congress by DCAA as paid by DOD in 1972 for IR&D and B&P, about $20 million was paid to contractors who received less than $2 million from DOD for IR&D costs during 1971. These contractors were included in the report because they met other criteria (auditable volume of costs, etc.). In addition, an unknown amount of IR&D and B&P was was paid to other contractors under the $2 million threshold and not included in the report. DCAA has no practicable means of estimating the amount paid to contractors not meeting the criteria for inclusion in its report. We plan to explore the matter. (See question 4.)

Lowering of the $2 million threshold

DOD does not recommend any change in language covers all major contractors and the number should not be increased because the $2 million threshold. It feels the present of the additional workload involved. Neither does it want to lessen its surveillance, so it does not advocate any change that would reduce the number of contractors with which advance agreements are negotiated.

One contractor told us that it had observed the volume of effort involved with evaluating programs and the limited number of projects that had been determined not to be relevant. Therefore, in its judgment it would not be practicable or cost effective to attempt to lower significantly the threshold above which a relevancy determination would be required of DOD.

WEMA, an industry association representing many smaller companies, expressed the opinion that Congress recognized the administrative burden and expense involved in the negotiation of advance agreements and therefore, in drafting the statute, limited its application by establishing a threshold of $2 million of IR&D or $2 million of B&P expense. WEMA believes that DOD, by establishing the threshold at $2 million of IR&D and B&P combined, extend these controls beyond the congressional interest and added to contractors' indirect expenses.

A formula for determining the allowability of IR&D and B&P is used by DOD for contractors below the $2 million threshold. WEMA believes the formula is highly practical and economical for these numerous cases that represent a small fraction of the dollars. Because the formula does not provide for a precise determination of potential military relationship and the lack of such a determination has been questioned, WEMA hopes that any inquiry will not lead to stricter interpretation and enforcement where administrative expense would exceed any possible return.

We believe that the pros and cons of changing the threshold should be evaluated thoroughly before any change is made in the $2 million standard. Lowering the threshold significantly might not justify the additional administrative costs to DOD and the contractors. On the contrary, assuming that relevancy determinations will be a continuing requirement and that inflation will continue, additional companies could exceed the $2 million threshold and advance agreements and the accompanying reviews and evaluations could become necessary.

WHITE-COLLAR CRIMES

Mr. KENNEDY. Mr. President, crime is no stranger in America. But in the last few years the Nation has witnessed not only crimes on the street, but also crimes in the highest office in the land, crimes in State and local governments and crimes by wealthy individuals and powerful corporations. Possibly no other period in the history of the United States has seen such a serious outbreak of corruption, fraud, and swindle.

Yet we in the Government more often think of crime in terms of muggings, rapes, and murders. As serious and dangerous as these crimes are, they should not obscure our total picture of crime in America. We have devoted little attention to crimes taking place on our stock markets including frauds that steal hundreds of millions of investor's dollars. My colleague, Senator Jackson, has been holding hearings on the thefts of securities that have possibly put $50 billion in stolen securities in circulation.

We have devoted little attention to crimes by corporations in any uniform sense even though these crimes span illegal campaign contributions, antitrust offenses, pollution, bribery, and kickbacks. We have been mute observers to evidence of massive corruption in State governments, such as in New Jersey, and police corruption in New York, Philadelphia, or Chicago. And we have been most negligent in the area of consumer frauds which have taken millions of dollars in phony land deals, mail frauds, pyramid selling schemes, and the like. Unfortunately, we do not have an FBI crime report of white-collar crime. We are ignorant of the nature and impact of these crimes.

That is why I was very interested when Ralph Nader testified on July 19, 1974, before the Judiciary Committee's Subcommittee on Criminal Laws and Procedure on ways in which the bills to reform the Federal Criminal Code can be strengthened to stop what Mr. Nader has called a virtual epidemic of business crime. Nader, at the hearing, released the Public Citizen Report on White-Collar Crime from January 1973 to June 1974. The report collected and analyzed white-collar crimes reported in major newspapers during this period including Equity Funding, C. Arnhold Smith, stock frauds, official corruption, and consumer frauds. The report, the first of its kind, is both interesting and provocative. It causes one to ponder the questions of whether we have equal justice for all or whether the scales of justice are tipped in favor of the powerful and the wealthy.

As we in the Senate debate issues of crime and justice, I think it is of vital importance that we have the factual knowledge provided by Ralph Nader's insightful suggestions.

I ask unanimous consent that Mr. Nader's testimony be printed in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Statement by Ralph Nader on Federal Criminal Code Reform

Mr. Chairman, thank you for your invitation to comment today on aspects of S. 1 and S. 1400, the proposals for the reform of the federal criminal code. Crime in the United States, like the moon, has its obvious side. But like its lunar counterpart, crime also has it dark side—the overworld exploration of which has only just begun. Watergate and other recent scandals have forced the dark side into public visibility for all to see. This dark side of crime is that specialty of government officials and corporations, of genteel accountants and high-powered executives—white-collar crime.

Attached to this testimony for the committee is a *Report on White-Collar Crime, 1973–1974*[1], prepared by Public Citizen to shed more light on this hidden side of crime. It describes cases that involve over 1,000 individuals, 150 corporations, 168 government employees, 160 corporate executives, 40 stockbrokers, and scores of politicians and lawyers who engaged in or are alleged to have engaged in white-collar crimes during 1973 and the first half of 1974. Among the defendants that were either convicted or sentenced were a former Vice President of the United States, a former Attorney General of the United States, a former United States Senator, two members of the U.S. House of Representatives, a United States Court of Appeals judge, four former White House aides, American Airlines, Gulf Oil, Minnesota Mining and Manufacturing Company, Goodyear, Tire and Rubber Company, and American Voting Machines Corporation. Numerous others have been indicted for white-collar crimes and are awaiting trial.

These crimes—a severely limited sample of the apprehended white-collar crimes in this period—impose a severe cost on the citizens of the United States. Some 30% of them are conservatively estimated to cost the victims four billion dollars[2], four times the national loss from larceny, burglary and theft, including auto theft as reported by the FBI's Uniform Crime Reports for 1972. Other, more comprehensive, estimates of the cost of corporate crimes and consumer frauds range from a low of $40 billion by the 1967 President's Commission on Law Enforcement and Administration of Justice to $200 billion by Senator Philip Hart (D-Mich).[3] The comparisons with street crime in any category are dramatic. Newspapers and television highlight bank robberies as major events, yet the white-collar criminal inside the bank through fraud and embezzlement took six times more money in fiscal year 1973 than did the hold-up man.[4]

The Report focuses on the extent, nature and responsibility for white-collar crimes. It provides a factual base for legislative recommendations offered later in this testimony concerning the role of corporate management in the commission of offenses and the subsequent role of persons who blow the whistle on corporate misdeeds; the need for the enactment of prohibitions against various offenses such as environmental spoliation; and finally the development of more effective sanctions to help deter white collar crime instead of the present system which imposes only the slightest obstacles to the perpetuation and success of white-collar crime.

The Report covers four areas of white-collar crime—stock frauds, consumer frauds, official corruption and corporate crime. Each has a unique form, occasion and methodology. But underlying each type is a simple fact—the victims are honest taxpayers, decent businessmen, consumers and the poor. Because of sophisticated duplicity and insulated predations, these victims lose their money, their health, and their trust in our political and economic institutions to crimi-

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Footnotes at end of article.

nal operators who hold positions of power in government, law and business.

Ten major conclusions proceed from this Report:

During the period covered by the report the United States experienced a significant number of serious crimes which are undermining this country's basic economic institutions and which have produced severe economic consequences. Examples include the failure of S. Arnholt Smith's U.S. National Bank, of Weis Securities and Equity Funding Life Insurance Company. These crimes have weakened the confidence of consumers in the business and financial community.

It has been revealed that the political institutions of the country, be they political parties, state, local or federal government, have been the instruments for high level and widespread crimes. The Watergate scandals exemplify political corruption at the highest levels of government, but they have not been unique. Scandals have also pervaded the Congress, state governments (New Jersey and Maryland), and local governments (New York and Chicago).

It is evident that crimes affecting our economic institutions are often closely interwoven with the corruption of government officials, such as documented by the Agnew and Queens (N.Y.) District Attorney Mackell cases and as alleged in several other cases mentioned in the Report.

Evidence exists that alleged underworld crime figures, in addition to their involvement with narcotics, gambling and other offenses, are becoming increasingly involved in overworld crimes, with the collaboration of insiders, dealing in stolen securities and stock frauds affecting economic institutions.

The conclusions of earlier white-collar crime studies, notably that of sociologist Edwin Sutherland, that white-collar criminals exhibit a high rate of recidivism, are supported by the Report. Moreover, the eighteen-month period covered by the Report shows that this recidivism is true not only for individuals but also for major corporations, such as Diamond International which pleaded guilty to an illegal campaign contribution and was indicted for price fixing paper labels.

In a number of cases, the penalty imposed on white-collar criminals in proportion to the gravity of their offense, as opposed to the penalty imposed on street criminals in proportion to the gravity of their offense, is relatively lenient. Such leniency is due in part to statutory limits, and in part to judicial preferences for powerful, respectable white-collar defendants.

The business community has shown itself either incapable or unwilling to police its own ranks or to aid law enforcement agencies in the detection and prosecution of white-collar crime. This is evident in the *Report's* description of various stolen stock cases and the Weis Securities case.

Law enforcement agencies devote meager resources to the investigation and prosecution of white-collar crime in relation to that expended on street crime. The Department of Justice's legal activities budget for fiscal year 1974 showed that the tax, antitrust and consumer protection activities constituted less than 15% of the total legal activities, manpower and budget.

Increased manpower and greater budgets for law enforcement agencies to investigate and prosecute white-collar crime would be a productive investment in our economic and political institutions. It would reduce the increasing public resentment at two standards of justice, one for the powerful and one for the powerless, and reduce the spirit of lawlessness pervading the ranks of the wealthy and powerful. As the National Advisory Commission on Standards and Goals for Criminal Justice has stated:

"The . . . robber . . . burglar and the murderer know that their crimes are pale in comparison with the larger criminality 'within the system' . . . As long as official corruption exists, the war against crime will be perceived by many as a war of the powerful against the powerless; law and order will be just a hypocritical rallying cry, and 'equal justice' will be an empty phrase."

The lack of information and understanding of white-collar crime constitutes a great obstacle to its eventual prosecution and elimination. Even though the Federal government, including the Law Enforcement Assistance Administration, spent over $70 million in 1973 for crime research and statistics, there has yet to appear an official analysis of the corporate crimes, consumer frauds and officials corruption that are devastating this country's economy and bringing its political institutions to the brink of ruin. Our survey of U.S. Attorneys and State Attorneys-General verified that only a few of these officials maintain any useful data on white-collar crime.

LEGISLATIVE RECOMMENDATIONS

For white-collar crime to be eradicated, there must be a change of attitude in both local, state and federal law enforcement agencies, and in the public. But there must also be an emphatic and distinct change in the basic philosophy and thrust of the nation's laws that pertain to white-collar crime.

There are three general legislative areas that should be examined for their impact on white-collar crime. The first is the culpability of corporate management. Too often, corporate executives have been able to use the invisible—but presently legal—shield of their corporation to mask their activities.

The second area concerns specific criminal offenses, four of which are of particular importance. And finally and most importantly, the sentencing procedure should be strengthened so that when all other moral, ethical and economic considerations fail, the severity of sentencing will deter future white-collar crimes.

1. Corporate management

The lack of accountability in our large corporate and governmental organizations is a failure of our present legal system. It is too easy for top levels of management to pressure employees to commit illegal acts or to participate in illegal activities. No better example of this exists than that of the President's former counsel, Charles Colson. In a sworn statement, Colson said that President Nixon ordered him to do "whatever has to be done . . . whatever the cost" to stop leaks of classified information. Colson quoted the President as saying, in effect, "I don't give a dam how it's done." Colson then proceeded to obstruct justice. Ironically, President Nixon's own proposal to reform the federal criminal code would make such Machiavellian management an offense. Under proposed section 403(a)(3) of S. 1400, a person in a supervisory capacity who so defaulted in the supervision of an organization as to permit or contribute to crime would be guilty of a misdemeanor.

The American Bar Association's Section of Corporation, Banking and Business Law has contended that such an offense would make executives reluctant to delegate responsibility. In fact, it would deter managers who exalt results over methods. It would mean that delegation cannot be mindless—that those who delegate in reckless or invidious ways will share the burden if that delegation results in criminal activity.

The discovery of many white-collar crimes depends not on police operations, but on whistle-blowers inside a corporation who reveal illegal activities. Such was the case in the Equity Funding and Weis Securities cases. Under the two proposals to reform the criminal code, persons who retaliate against a whistle-blower would be guilty of a felony. But S. 1400 unnecessarily limits retaliation to bodily harm. This virtually exonerates the use of the great corporate economic power against an employee or, in some cases, ignores the power of one corporation against a smaller corporation. This economic power involves firing, demoting, transferring, or reassigning personnel, altering fringe benefits and blacklisting employees. When one corporation informs on the illegal activities of another corporation, say for accepting kickbacks, the informing corporation may be at the economic mercy of the guilty corporation. It should be protected from the loss of business and other economic harm that a larger, more powerful corporation may exert.

But S. 1 does not limit harm to the definition in S. 1400. Instead, harm includes economic injury. This is an absolute necessity. If people are to be permitted to cultivate their own free conscience, their own form of allegiance to their fellow citizens, they must be protected from having their professional careers or employment opportunities destroyed. This new ethic, expressed in S. 1, will eventually assure that employees have the right of due process within their organizations. If carefully protected by law, whistle-blowing can become another of those adaptive, self-implementing mechanisms which mark the relative difference between a free society that relies on free institutions and a closed society that depends on authoritarian institutions.

2. Offenses

While there are literally hundreds of offenses contained in the proposals to reform the federal criminal code that deserve mention, it is important particularly to endorse three new offenses proposed in S. 1 for inclusion in the criminal code. These are: Environmental Spoliation, Unfair Commercial Practices, Pyramid Selling Schemes, and Regulatory Offenses.

The offense of Environmental Spoliation, proposed in Section 2–8F3 of S. 1 (but not in S. 1400), would make it a felony to knowingly pollute the water, air or land in violation of a federal statute or regulation when such violation is gross or the person or corporation manifests a flagrant disregard for the environment. While more specific, narrower definitions should replace the terms "gross" and "flagrant disregard", the thrust and intention of this section is commendable. In some societies, violence to the environment is or has been treated more seriously than altercations between individuals. It is mandatory that our nation perceive the destruction of our natural resources and our environment in its proper perspective; that we realize that society can survive individual and relatively sporadic instances of bribery or embezzlement, but that the despoliation of our environment is a self-destructive and masochistic act; that society can hopefully transcend the actions of some of its more venal and corrupt members, but for humanity to survive, it must first have an environment—land, air and water—that can foster and satisfy it—aesthetically, spiritually and physically.

The second offense which is necessary to make the federal criminal code a just and reasonably comprehensive law in Unfair Commercial Practices, proposed in S. 1, Section 2–8F4. This section is directed to several areas of consumer fraud that have bilked billions of dollars from trusting citizens. Such acts as the adulteration and mislabeling of goods, false advertising, and rigged sports events would be felonies punishable by a year in prison and $100 fine per day.

But this section does not include another consumer fraud, the pyramid selling scheme, in which the right to sell or distribute a product is sold to persons, who in turn are encouraged to solicit other persons to join the pyramid of distributorships. The intent is not to sell products—only to sell the rights to distribute them. Markets quickly become saturated with distributors. This is the kind of offense which has brought Glenn Turner and William Penn Patrick before the courts. The former Chairman of the Securities and Exchange Commission, William Casey, has estimated that consumers have lost over $300 million in such schemes. This committee should seriously consider including such schemes in the Federal Criminal code.[5]

The last offense on which I would like to comment is the Regulatory Offense of S. 1, Section 2–8F6, which would establish uniform penalties for violations of regulatory laws and regulations. (S. 1400 contains no comparable section.) Charles Maddock, representing the American Bar Association's Section on Corporation, Banking and Business Law, said when this section was first proposed—

"We reject the concept that any activity that is or may be regulated by the government is of such serious import to the public interest that a failure to abide by any regulation, rule, or order issued by anyone in authority in any of these areas (business and economic activity) should be punished as a crime."[6]

There were federal regulations for safety that affected the Texas Eastern Transmission Corporation storage tank on Staten Island when its explosion killed 40 people. There were federal regulations in effect which Georgia-Pacific Corporation allegedy violated when it was indicted for offering sulphuric acid for shipment in railway cars. There were federal regulations on drug safety when Abbott Laboratories was indicted for contaminated intravenous solutions. And there were federal clearances required which Libbey-Owens Ford allegedly disregarded when in 1970 it shipped bulletproof windows to the Portugal dictatorship in a scheme, as charged by the Federal government, to give the Portugal military the ability to produce an armored amphibious vehicle after efforts to legitimately purchase them in the United States had failed. Federal regulations contain safety standards for autos and tires, meat inspection, flammable fabrics, conflicts of interests requirements, prohibitions against deceptive obligations and mislabeling, and mandatory obligations for record keeping, and furnishing information.

The penalties for violating these regulations are contingent upon the variations in existing statutes. For there to be some consistency throughout the government, penalties for violating agency statutes and regulations should span a uniform range. S. 1 would impose such uniformity. Under the bill, statutory penalties would range from 30 days to 6 years imprisonment and fines would range from $500 to $100,000.[7]

Yet S. 1's Regulatory offense section is concerned with only one of the components of criminal conduct—culpability.[8] It ignores the other major component—the proportion of the harm inflicted upon the victim. For this section of the bill to be effective and comprehensive, it should encompass both culpability and the gradient of harm caused by violation of the statutes or regulations intended to protect consumers' health, safety, pocketbook and environment. Without such a provision then, the bill simply equates relatively harmless transgressions with those that have the potential to inflict serious harm and possibly death on entire communities.

3. Sentencing

a. Prison

Former U.S. Attorney Whitney North Seymour, Jr.'s study of sentencing of white-collar criminals in the federal court in New York City concludes that:

"The primary objective of deterrence should be focused on those deliberate and willful crimes which might be prevented by prompt and firm detection, prosecution and sentencing, e.g. white-collar crime, extortion, narcotics trafficking . . . In individualizing the sentence imposed for deterrent purposes, the term obviously should be increased where aggravated circumstances are present, and reduced in recognition of special efforts by the defendant to make amends such as voluntary restitution or active cooperation with law enforcement agencies to assist in apprehending and prosecuting other violators."

Our prisons are the shame of our nation. They are often inhumane and barbaric, antiquated and medieval. There is a tendency in our judicial system to suit the prisoner to the prison, to imprison only those whose impoverished and poorly educated lives reflect the humanitarian impoverishment of America's prisons. Though prisons were established to remove those from society who pose a threat to its safety, too often those who pose the greatest threat never see the interior of a prison, except perhaps for brief and relatively luxurious terms in prison farms resembling country clubs. It is not necessary or even desirable that all convicted criminals languish in jail for lengthy terms. But what is essential if this society is to retain the least semblance of a democracy and the merest facade of an equitable judiciary is that penalties be imposed fairly and indiscriminately to all offenders.

For example, in October, 1973, Spiro Agnew resigned as Vice President, pleaded nolo contendere before a Maryland court, and was sentenced to a three-year unsupervised probation and $10,000 fine for evading $13,551 in federal income taxes on income which was allegedly given him in bribes. Yet the day before Agnew's resignation, Charles J. Glasgow, a Sacramento, California draftsman, was sentenced in municipal court to 70 days in jail for fishing without a license and possessing seven striped bass under the legal size limit. He was also given an additional 15 days in prison for failing to appear in court. And on the very day Agnew resigned, a Rhode Island man was sentenced to four months in prison and a $5,000 fine for evading $26,306 in corporate income taxes.

b. Fines

Fines, not prison sentences, have been used most frequently as the penalty for white-collar criminals. Yet it is precisely this monetary penalty that causes the least hardship for the white-collar criminal. In the proposals to reform the federal criminal code, fines have been maintained at a level that may seriously burden an individual, but may be miniscule to a wealthy defendant or a corporation. White-collar crime is profitable, and until the profit is removed from these crimes, they will continue. Fines for corporations should be set at a percentage of that corporation's profits or assets. Fines have been questioned[9] as inadequate deterrents because the cost is passed along to consumers or shareholders and because it is directed not at the individuals who caused the crime but at that legal fiction, the corporation.

In fact, however, those individuals may be individually tried and sentenced. And, to the extent that a corporation faces competition in its field, it will not be able to pass along heavy fines to its customers. Loss of profits will mean less capital or dividends to shareholders, reduction of debt and financing of expansion. This, in turn, decreases the attraction of that corporation's stock and investors will support more law-abiding companies. This would also, in some cases, prompt shareholder action for new management. The issue here is not the severity of prison sentences or of fines, but their proportionate equality. For unless penalties for crimes are just, then there is no justice.

c. Corporate Quarantine

Until S. 1 was introduced, it was generally assumed that a corporation was immune from traditional limitations imposed on individuals by imprisonment. However, S. 1, section 1–4A1, provides that if the offender is an organization, its right to engage in interstate or foreign commerce may be suspended for the term authorized for imprisonment of individuals. This sanction is not unlike that available to the Securities and Exchange Commission's suspension of brokerage firms from doing business for a certain period of time. Such a sanction may be appropriate for a large number of offenses. It overcomes the accounting problems that may accompany fines and it impresses on the corporations' shareholders, employees and customers the severity of the offense.

However, S. 1 should be amended to protect innocent employees so that their pay or employment may be continued or compensated during the period of suspension. So, too, contracts and obligations of the corporation should be provided for in such a way as to mitigate the effects of suspension on innocent customers and lenders. In addition to suspension, the legislation should allow a form of Public Trusteeship to permit continuation of the enterprise if it promises to fulfill certain conditions, much like the present system of probation, under the close government supervision for a period of time. Such conditions would include reorganizing the board of directors and/or the management, temporarily placing a federal officer on the board to insure future compliance with federal and state laws, liquidating the company and selling its assets to those with the strongest legal and moral claim to them, divesting certain property or operations, and seizing or recalling property.

d. Restitution and Notice

Restitution and notice are very important penalties for corporate crime and consumer fraud cases. Both S. 1 and S. 1400 include restitution as a sanction that the sentencing court can impose in appropriate cases. While the criminal law has seldom attempted to restore losses to individuals, the restitution of money, either in the form of repayments to specific victims, or the lowering of the price of goods or services for a period of time, is an effective sanction and should be enacted. It is a penalty which can contribute to the re-creation of citizen trust that their government is actually protecting their pocketbooks and economic security. As Philip Wilson, a confessed international stock swindler, told the Senate Permanent Investigations Subcommittee, "many people would be willing to do two years for stealing $2 million."[10]

The notice sanction both warns consumers of the kinds of frauds being committed and imposes a small penalty by tainting the corporation's major asset—its reputation. S. 1 section 1–4AT and S. 1400 section 2004 would require that an offender give appropriate notice of conviction to the person, class of persons or sector of the public affected by the conviction by advertising in designated areas or by designated media for a period of time. Many consumer frauds and corporate crimes are woefully underreported. Consumers often do not know about various frauds and what can be done to avoid them. Under this important section, the sentencing courts would be encouraged to order that consumers, shareholders, employees and the public at large be informed of the activi-

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Footnotes at end of article.

ties of corporations they patronize. When appropriate, such notice would require television and newspaper advertisements and clauses in contracts, loans, prospectuses and other documents.

Other types of sanctions are also possible. For instance, William O. Woolridge, the former top enlisted man in the U.S. Army was sentenced for accepting stock in a corporation in exchange for his endorsement of the company to supply Army service clubs. Part of his sentence required him to work for charitable organizations. Not only do such sentences benefit charitable organizations, but they would greatly aid rehabilitation of the offender. For example, the president of a coal mine convicted of a mine safety health code violation could be ordered to work in his own mine to heighten his personal awareness of the hazards resulting from his actions or inactions. The proposed revisions of the criminal code already contain a negative sanction that would disqualify professionals and executives from exercising their professional and organizational functions. Such a sanction is valuable, but it should be complemented by an affirmative authority for the courts to order the offender to perform socially useful activity.

It is apparent that there is a vast unknown quantity of economic crime and political corruption in our society hindering the welfare and growth of the country. Our ability to master the great economic, social and political challenges of the next quarter century and beyond will depend on our knowledge and understanding of how it is that our commercial and governmental institutions can breed such corruption and such contempt for the rule of law and principles of justice. We cannot turn away from seeking this knowledge; too much is at stake: the vitality of the economy, the accountability of the political and legal institutions, and the cords of trust and justice which bind society together. To tackle this problem the Congress must establish a National Commission on Economic Crime which would fully document and analyze the scope of white-collar crime; expose where governmental enforcement agencies and business entities are failing in their responsibilities to discover and discourage deceit and illegalities; and recommend to the Nation those actions which must be taken if we are to achieve the dream of the founders of this Republic, "Equal Justice Under Law."

Thank you.

FOOTNOTES

[1] The Report is a compilation of violations against which the law enforcement process has moved and which has been reported in three major newspapers, The New York Times, the Washington Post and the Wall Street Journal. Limited case study information was supplied by questionnaire responses from U.S. Attorneys, State Attorneys-General, and Law Enforcement Assistance Administration.

[2] This estimate is limited to those matters to which either the law enforcement agency or investigative reporters assigned a cost. Some of the most costly crimes had no dollar cost estimate; only one of the thirteen antitrust cases in the Report and Appendix contains a cost estimate. For other categories, such as auto repair and land frauds, no estimate was available although it is reasonable to assume that these frauds cost millions of dollars yearly.

[3] The Chamber of Commerce 1974 report "White-Collar Crime" said that the dollar impact of white-collar crime is certainly not less than $40 billion per year, excluding the costs of price fixing and industrial espionage. Senator Hart's estimate was made in a speech before the New York Consumer Assembly, New York City, on March 7, 1970 and reflects consumer abuses that are considered fraudulent, even if not prosecuted in the criminal courts. For example, a Department of Health, Education, and Welfare, Office of Consumer Affairs Study "Consumer Auto Repair Problems, of June 1974 documents an "overwhelming increase in consumer complaints" on auto repair service received by State Consumer offices. The 36 states which cited specific complaint figures estimated that 62% to 100% of the complaints were valid. Yet prosecutions for auto repair fraud remain completely out of proportion to their frequency. In August of 1972, the Center for Auto Safety released a report showing that General Motors acknowledged a serious steering failure in all 1959 and 1960 Cadillacs, in the pitman arm. The Center, concluding that GM has chosen not to replace the weak steering arms in spite of the considerable risk of injury involved, has made repeated requests that the Department of Justice institute criminal proceedings against GM for conspiring to defraud the government by hiding the safety defect. The requests have been denied. (See, "The Recall That Never Was," Center for Auto Safety, August 1972)

[4] In fiscal year 1973, 135.6 million was lost in bank frauds and embezzlements while $22 million was lost in robberies. Frauds and embezzlements have increased 313% since 1969, while bank robberies have increased 12%. See Hearings, Department of State, Justice and Commerce, the Judiciary and Related Agencies Appropriations for 1975, Part I, Appropriations Committee, House of Representatives, 93d Congress, 2d Session at pp. 554, 559.

[5] Legislation to make pyramid selling schemes a crime has been proposed by Senator Walter Mondale (D-Minn.) in S. 1939.

[6] Hearings, Reform of Federal Criminal Laws and Procedures, 92nd Congres, 2nd Session, Part III–B, p. 1637 (1972)

[7] For a discussion of fines, see p. 11

[8] The variations of culpability in S. 1 are: (1) non-culpable, (2) reckless, (3) knowing, (4) flaunting of regulatory authority and (5) dangerous.

[9] See Hearings, Reform of Federal Criminal Laws, Part III–B, p. 1669.

[10] Hearings, Senate Permanent Investigations Subcommittee, Sept. 19, 1973.

PAN AMERICAN WORLD AIRWAYS

Mr. STEVENS. Mr. President, I am seriously concerned about the current economic hardship being experienced by Pan American World Airways, and I believe that Pan American's financial position has a direct effect on the operation of our American air transportation system.

Fuel costs to the scheduled airlines continue to increase each year, and I am informed that Pan Am's 1974 fuel costs will total $367 million, about $200 million more this year than in 1973. July fuel costs were $34,101,000 including $21,469,000 attributable to a 153-percent increase in the average price per gallon compared to July 1973.

Pan Am is important to the national economy and defense since it represents about 47 percent of the U.S. Flag System. Pan Am's balance of payments contribution to the United States was more than $400 million in 1973, and it has committed about $1 billion worth of aircraft to the standby fleet for national defense. Landing fees at foreign airports also contribute significantly to high airline costs.

Pan Am has recently made application to the CAB for short-term Government subsidy, and suggestions have been made for alternate financial assistance, or possible merger approval with TWA. I believe it important that the Congress and the Civil Aeronautics Board take positive steps to maintain a healthy national and international air transportation network. The outcome of Pan Am's financial problems will be of great significance to both the aviation community and the availability of adequate public air transportation.

My State depends overwhelmingly on its public and private aviation facilities for maintenance of efficient air transportation, and I am convinced that the Federal Government should pay close attention to ways of achieving financial stability for economically troubled airlines.

Mr. President, the Congress and the CAB have a responsibility to the American people to act positively in Pan Am's behalf to prevent a transportation crisis which could result if our national and international airlines are not maintained.

I ask unanimous consent that the editorial from the Anchorage Daily Times entitled "Troubles in the Sky" be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TROUBLES IN THE SKY

Pan American World Airways doesn't have passenger rights into Anchorage, although many of its flights to the Orient pass through here. It does maintain passenger service between Fairbanks and Seattle and between New York and Tokyo on its Great Circle route.

Trans World Airways doesn't serve Alaska at all, and any landing by a TWA jet in Alaska comes only in the course of special charter operations.

Both airlines are in the headlines because of grave financial problems—and their fate and their future is of great interest to Alaska where airline fortunes are closely linked with the life of every resident.

Because what happens to Pan Am and TWA is of importance to the aviation community as a whole, it's worth everybody's time to spend a few moments pondering their problems.

The two airlines are fighting for their lives. Without some sort of dramatic shift in their operations, they face economic failure and ultimate collapse. By far the worse off is Pan Am, which has told Congress it cannot survive unless it receives $10 million a month in government subsidies. TWA, bolstered by profitable domestic routes to help offset losses on its international routes, is in better shape—but still in trouble.

To fend off disaster, the two airlines have renewed merger talks that in the past have been broken off without agreement. This time, looking at combined losses of $46.5 million in the first seven months of 1974, a union may be forced upon them, like it or not.

Presumably the transfusion of gigantic subsidy money into Pan Am might preserve the status quo, but the likelihood of congressional approval of that course of action seems remote. Instead, congressional leaders such as Sen. Mike Mansfield of Montana are pressing for a forced merger.

From the public standpoint, a merger might be the only way out. But should that course be followed, the matter should not end there.

The San Diego Union, in an editorial last month, pointed out that there must be a major change in United States policy. Said the Union:

"Our government can do nothing about the fact that most of the 57 foreign carriers that compete directly or indirectly with U.S. airlines on international routes are subsidized by their governments. However, there is no excuse for the United States to be making the competitive advantage of foreign airlines even greater.

"Why, for instance, should Australia's Qantas Airlines pay a $271 fee to land one of its 747 jumbo jets at San Francisco when Pan Am must pay a $4,200 fee to land at Sydney, Australia? Why is our government-sponsored Export-Import Bank loaning money to foreign airlines at special low interest rates so they can purchase aircraft in the United States, when they are going to use those planes to compete with U.S. airlines that must pay the prevailing high commercial interest rates to buy the same kind of planes? Why is the U.S. Postal Service paying foreign carriers more to carry mail than it pays our own airlines?

Why, indeed?

GENERAL HAIG'S APPOINTMENT AS NATO COMMANDER

Mr. CLARK. Mr. President, I must question the wisdom and propriety of General Haig's appointment as NATO commander. This country has maintained a long and fast tradition of strictly separating the Military Establishment from the civilian government. General Haig's easy passage from the one to the other and back again is inconsistent with that tradition, and sets a disturbing precedent.

Haig's relative lack of command experience and his strong identification with the Nixon administration is not likely to instill confidence among our own citizens or among our NATO allies.

In addition, Haig's unusually rapid advance in the military—which came about through his service in the executive branch—can hardly instill confidence within the military itself. There is certainly a strong incentive now for other officers to attempt to advance their own careers by allying themselves with political causes and political officials.

If this occurs, it would not advance the quality of either the military or the Government, and it could have serious implications for our entire Nation in future years.

A TRIBUTE TO J. WELLES HENDERSON

Mr. HUGH SCOTT. Mr. President, on Friday, September 13, the two distinguished Senators from Washington, (HENRY JACKSON and WARREN MAGNUSON) wrote a glowing letter to the editor of the Philadelphia Inquirer regarding Mr. J. Welles Henderson. Mr. Henderson is a resident of Philadelphia and is past Commissioner General of the International Exposition on the Environment in Spokane, Wash. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the Philadelphia Inquirer, Sept. 13, 1974]

HENDERSON'S WORK

To the EDITOR:

A prominent resident of Philadelphia, Mr. J. Welles Henderson, recently resigned for personal reasons as U.S. commissioner general at the International Exposition on the Environment in Spokane, Washington.

As the official representative of our national effort, Mr. Henderson was charged with the obligation to both represent the U.S. government and to guarantee the fulfillment of all its obligations to the 10 foreign nations represented.

He faced an enormously difficult task since he was appointed less than a year before the scheduled opening of the exposition. But with characteristic determination and diplomatic skill, he immediately set off on a number of international negotiating trips to bring together the foreign representation that was so essential to meeting the goals and obligations of EXPO '74.

One can easily understand the desire of the Hendersons to return to Philadelphia and to their substantial professional, civic and family obligations there, but they will be greatly missed.

WARREN G. MAGNUSON,
HENRY JACKSON,
U.S. Senators.

AN EXPRESSION OF CONFIDENCE IN CONGRESSMAN YOUNG

Mr. MONTOYA. Mr. President, recently, much publicity was given to alleged discrimination in the hiring practices of some Members of Congress. Mentioned in these articles was Representative JOHN YOUNG who represents Corpus Christi, Tex. A constituent and a longtime, strong supporter of Congressman YOUNG, Dr. Hector V. Garcia, founder of the American GI Forum, issued a newspaper release in which he expressed his confidence in Congressman YOUNG and defended his reputation among the Spanish-speaking constituency in Congressman YOUNG's district in south Texas.

I ask unanimous consent that the news release be printed in the RECORD.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

AUGUST 22, 1974.

Recently newspaper article appeared indicating that Congressman Young's office had indicated that his office was not hiring "Mexican Americans".

Congressman John Young answered that he has three on his staff who were of Mexican American origin.

In reference to his hiring of Mexican Americans in his office in Washington, I wish to state that to the best of my recollection, when I visited Congressman John Young's office from 1960 to 1968, I saw or was attended by some of his Mexican American staff. In fact, several of these staff workers asked me to bring back messages to their parents or friends in South Texas. I well remember meeting and talking to several young ladies about their home towns.

Personally, I know of at least two Mexican American males from Corpus Christi whose names I could give if necessary who were hired by Congressman Young. I also know of several other Mexican Americans who were able to get jobs and positions with other Congressmen and Senators.

The entrance of the Mexican Americans into the Washington scene was done by the assistance of many. Certainly the Kennedys, both President John F. and Senator Robert Kennedy and President Lyndon B. Johnson were some of the main persons. But the one who assisted us the most in overall was Congressman Young. We placed many Mexican Americans from this area and Texas in high important positions in government. We placed many in the diplomatic corps and if Congressman Young had wanted to object or veto any of these positions, he could have because he has the power. He never did.

Many crucial issues to us like the establishment and funding of the cabinet committee for Mexican Americans affairs were helped by Young who helped move the bill through the Rule Committee. Many pieces of legislaiton favoring the Mexican Americans in education, work, and equality were moved out of the committee to the floor.

In 1947, after serving our country overseas for approximately 3½ years, I established my office downtown at the Texas building. Next door to me, I met a recently Navy discharged person whose name was "John Young".

John Young and his family were certainly very familiar with the Corpus Christi community even then. After the death of Congressman Young's father, his mother earned a living for her small children by teaching school to Mexican American children in Corpus Christi.

Ever since the first time I met John Young, I have admired and respected this man. First as a county attorney, then as a county judge and finally as a Congressman.

Being a democrat like Young, I wish to state that because of his assistance and guidance, the area around Corpus Christi has been able to elect many Mexican Americans to high positions in the local area, the county and the district. He has helped us openly supporting many of our candidates and in November always supporting all of them.

Congressman John Young has been a man of compassion, humanitarianism and understanding towards the problems of my people, the Mexican American minority. Since 1947 until now, I can attest that his philosophy has not changed.

At the request of the American GI Forum of the State of Texas and the United States, we have recognized Congressman John Young for his work. Only recently, at the American GI Forum Convention, Congressman John Young was presented a plaque that read:

"Hon. JOHN YOUNG,
U.S. Congressman.

"For 25 years friendship to the forum; for humanitarian service to our people; for assistance to all veterans families; for your action to our area in disaster; for love, understanding and compassion. To all the little people.

AMERICAN GI FORUM OF THE U.S."

Why did we give this great American and humanitarian such a plaque? Among the reasons are:

1. During Hurricane Celia at our request, Congressman John Young instructed the S.B.A. office here to open many cases of denial to the poor and in that way made it possible that many minority members receive assistance to rebuild their homes and mitigate their suffering and get bedding and food.
2. After my return from World War II there were no Mexican Americans in the U.S. Naval Base who held high positions and none in the Civil Service Board of Examiners.

Today as anyone can attest, we have about 47% of the force in the Corpus Christi Army Depot being Mexican Americans. We have Mexican Americans in many high departmental positions and for several years we have had Gilbert Gasarez and now Alex Chapa being the Director of the Equal Employment Program. This also was made possible with the help and guidance of Congressman Young.

As founder of the American GI forum, Congressman Young has helped us in the establishment and the continuation of the American GI Forum Veterans Outreach Program and now with the American GI Forum R.O.T.C. Program.

During the funding of SER a joint American GI Forum and Lulac Program to assist needs Mexican Americans with service employment and redevelopment, he has helped us get the funding from the very beginning. He has received letters and citations from the organizations for this assistance.

There are hundreds of gold star mothers and their families that he has assisted with their problems. He has assisted us in seeing that military escorts, honor guards, and firing squads are furnished for the soldier killed in action as well as to the veterans.

Many pioneer families in Corpus Christi like the families of the Ernesto and Roberto Meza's, like the families of the late Vicente Lozano and his family consider Congressman Young a great friend of theirs.

There are scores of veterans whose discharge papers had to be corrected and with the assistance of Congressman Young, they were.

On September of 1971 when the SBA Office was going to close the time for emergency loans due to the hurricane, Congressman Young requested and received a 30 day extension.

Of course, I do not mean to say that Congressman Young serves only the minority group members. I know that he tries and serves all of the many groups of people in his 14th Congressional District and assists with the business of all, whether they be rich or poor, or whether they be Mexican Americans, anglos, or blacks.

On different occasions where there was need of more than one American flag to present to the families of men killed in action, it was Congressman Young who furnished such flags at no cost to anyone.

As county judge of Nueces County, he appointed Attorney Hector de Pena as the first Mexican American assistant to be appointed.

Congressman Young has been responsible for getting funds for many worthy projects, hospitals, housing, schools, etc.

As a resident of Corpus Christi, I wish to thank Congressman Young for so many good things he has done for us.

As a Mexican American spokesman and fighter for my people, I can say that Congressman John Young is the oldest and most faithful friend of the Mexican Americans in Texas.

THE PITTSBURGH ECONOMIC PRESUMMIT MEETING

Mr. TAFT. Mr. President, I was pleased to serve yesterday as a congressional cochairman of the economic presummit meeting of businessmen in Pittsburgh. This conference was attended predominantly by the chairmen of many of America's large corporations, although it also included a few small businessmen and consumer representatives.

These economic meetings symbolize both a new openness to ideas in the executive branch and a new commitment to Government in full view of the people, rather than behind closed doors. This is a healthy trend for the Government and the Nation.

The Pittsburgh meeting produced many positive and important suggestions, including a surprisingly strong consensus of businessmen that monetary policies should be eased somewhat. I was distressed, however, that some of the most difficult issues were not addressed, for the most part, by the participants.

Reginald Jones of General Electric forcefully pointed out that monetary policy is now more restrictive relative to the inflation rate than it was during the credit crunches of either 1966 or 1969. He told us that GE economists project an unemployment rate rising to 7.5 percent next year, a decline in corporate profits of 20 percent and a Federal deficit of $25 billion if monetary policy remains as restrictive as it is now.

Regardless of whether the situation is as drastic as these projections indicate, there is no question that the high interest rates which have resulted from the present monetary policy have been devastating to the housing sector, small businesses, and industries trying to finance needed capacity expansion. These rates also have some inflationary effect in themselves, particularly in industries disproportionately dependent upon credit markets. That effect somewhat counteracts their deflationary impact.

I agree with the businessmen that the time has come to move in the direction of a somewhat less restrictive monetary policy. However, the Federal Reserve Board should still aim for a rate of monetary expansion significantly below the rate of inflation, so that monetary policy will continue to have a deflationary impact.

The Federal Reserve Board indicated yesterday, both in its money market actions and in its new loan guidelines to member banks, that it is aware of the need for some relief.

The businessmen favored major budget cutting this year and a balanced budget in fiscal 1976. They also advocated increased tax incentives to help support investment in expanding production capacity, so that tight supplies will contribute less to future inflation. Unfortunately, I do not think that the businessmen totally came to grips with the difficult problems inherent in these suggestions. Fiscal restraint is certainly necessary and we should strive as never before to eliminate waste in the budget. However, large budget cutting other than the $5 billion defense cut the Senate has already voted is going to be extremely difficult.

Only $15.1 billion in fiscal 1975 nondefense expenditures are estimated to be subject to appropriations cuts at this point. Furthermore, if there is no expansion whatsoever in our present programs, next year's budget will grow by $35 billion and we will have at least a $10 billion deficit. Irrespective of the possible merits of the businessmen's proposals for increased tax incentives, these proposals clearly could add significantly to the deficit. Yet, there were inadequate suggestions how to compensate for the revenues that would be lost.

I believe that several of the businessmen's other recommendations on productivity were quite sound. These recommendations included a continuation of educational and analytical efforts by the National Commission on Productivity. They also included administration of programs by agencies such as the Interstate Commerce Commission, the Environmental Protection Administration, and the Occupational Safety and Health Administration with sensitivity to the need for promoting efficient, low-cost production. I agreed strongly with the businessmen's consensus recommendations supporting prompt passage of the Trade Reform Act, an "international outlook" on trade matters and negotiating efforts by our trade representatives to solve international raw materials problems.

While the businessmen made clear their opposition to any reinstatement of wage and price controls, they generally deferred on questions of antitrust policy, wage and price guideposts, and possible government action against those whose price behavior is unjustifiable in this time of economic sacrifice. I had hoped that the businessmen would address more fully these difficult issues.

Despite these shortcomings, I was impressed by the cooperation and enthusiasm which was reflected by this meeting. In addition, while we naturally did not find all the answers, I believe that we do have some important substantive contributions to make to the Economic Summit Meeting on September 27 and 28.

U.S. ACTIVITIES IN CAMBODIA

Mr. HUGHES. Mr. President, in response to continuing reports about U.S. activities in Cambodia, the distinguished senior Senator from California (Mr. CRANSTON) and I addressed a letter to Secretary of Defense James Schlesinger. We expressed our concern about possible American involvement in military activities and raised specific factual questions.

We have now received a reply from the Defense Department which denies any deviations from the announced restrictions on U.S. personnel.

I am pleased to have these reponses, and I trust that U.S. officials will continue to monitor our activities closely in order to prevent any violations of the law. So that everyone may be aware of facts which this exchange of correspondence has brought out, I ask unanimous consent that the letter from Senator CRANSTON and myself, and the Defense Department reply, be printed in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., August 2, 1974.

Hon. JAMES R. SCHLESINGER,
Secretary of Defense, The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: In March of this year, serious allegations were made by an American journalist. Ms. Elizabeth Becker, about the role of American military personnel in Cambodia. Ms. Becker specifically charged that Major Lawrence Ondecker had acted as an adviser to the Cambodian military in a combat situation.

In response to widespread public and Congressional concern, you and other American officials assured us that no Americans were serving as military advisers in Cambodia or were involved in combat situations. Those assurances have subsequently been reiterated.

Yet despite these repeated assurances, we have received a report to the contrary from another American journalist recently returned from Cambodia. The journalist further indicates that he has observed Americans who appear to be acting as military advisers to the Cambodians and are indeed exposed to combat.

The journalist further charges that American fighter aircraft have been used to provide cover for cargo planes which have come under fire.

This report—while admittedly unconfirmed—is troublesome, and raises questions to which we would appreciate your response.

Since August 15, 1973, have there been any alleged violations of existing rules which have been reported and investigated? If so, what conclusions have been reached? In what cases, if any, has disciplinary action been taken against U.S. personnel in Cambodia?

Are U.S. armed escorts provided for cargo and utility aircraft or naval convoys in Cambodia? What are the instructions to U.S. personnel if they are fired upon? Have there been any such incidents? Has there been any U.S. retaliation?

Since August 15, 1973, have any Americans been injured in combat situations? If so, please explain the circumstances.

What are the instructions to U.S. personnel if they find themselves under fire on the ground? Has such a situation occured? What is the nature of reports required under such circumstances?

Your comments will be of great assistance to us in evaluating the above mentioned unconfirmed charges. We would be grateful if, insofar as possible, any classified information included in your reply could be provided separately.

Sincerely,

Harold E. Hughes.
Alan Cranston.

Assistant Secretary of Defense,
Washington, D.C., August 15, 1974.

Hon. Harold E. Hughes,
U.S. Senate,
Washington, D.C.

Dear Senator Hughes: The Secretary of Defense has asked me to respond to the letter of 9 August 1974 jointly signed by Senator Cranston and yourself in which you raise a number of questions concerning the role of military personnel in Cambodia.

For clarity, the questions have been repeated, followed by the Department of Defense response:

Question 1: Since August 15, 1973, have there been any alleged violations of existing rules which have been reported and investigated? If so, what conclusions have been reached? In what cases, if any, has disciplinary action been taken against U.S. personnel in Cambodia?

DOD Response: Since 15 August 1973, there have been no violations of Congressionally imposed constraints on the role of U.S. military personnel who are stationed in Cambodia. There have been allegations, but upon investigation none have been substantiated. In the case of Major Ondecker, Ms. Becker alleged that he acted as an adviser to the Cambodian military in a combat situation. This allegation was thoroughly investigated by the U.S. Ambassador to Cambodia and it was determined that Major Ondecker was not acting as an adviser. He was to the contrary, properly performing the duties of an assistant Army Attache which are to gather military information and to render reports relevant to that information. Therefore, no disciplinary action was taken in this case.

Question 2: Are U.S. armed escorts provided for cargo and utility aircraft of naval convoys in Cambodia? What are the instructions to U.S. personnel if they are fired upon? Have there been any such incidents? Has there been any U.S. retaliation?

DOD Response: U.S. armed escorts are not provided for the unarmed cargo or utility aircraft, or for naval convoys in Cambodia. We have no information which indicates that any U.S. aircraft involved in SCOOT* has been fired on. If U.S. personnel involved in these operations are fired upon, instructions are to abort the mission and take evasive measures to the extent necessary to protect life and property.

Question 3: Since August 15, 1973, have any Americans been injured in combat situations? If so, please explain the circumstances.

DOD Response: Since 15 August 1973, one U.S. military officer has been wounded as a result of enemy fire. On 16 October 1973, Major Vincent Gomez, an assistant Army Attache was wounded in the arm while visiting the Commanding General of the Cambodian 1st Division.

Question 4: What are the instructions to U.S. personnel if they find themselves under fire on the ground? Has such a situation occurred? What is the nature of reports required under such circumstances?

DOD Response: If U.S. military personnel find themselves under fire on the ground, they are instructed to evade the contact, seek the protection of government forces, and take passive action to protect themselves. Occasionally, U.S. military personnel have come under fire while in the conduct of their official duties. While these incidents are reported to their appropriate supervisors, there is no official requirement to apprise any Washington level agencies of such incidents.

I trust the information provided will be of assistance.

Sincerely,

Morton I. Abramowitz,
Deputy Assistant Secretary.

U.S. POLICY TOWARD CHILE

Mr. HUGHES. Mr. President, in the past 10 days we have witnessed a flash flood of revelations about U.S. policy toward Chile during the presidency of Salvador Allende.

We have read about CIA efforts to influence Chilean politics and we are puzzled about sworn testimony denying such U.S. interference.

Several articles have also appeared, evaluating the changes in Chile in the year since the military seized power.

These reports raise serious questions about the conduct and control of U.S. policy:

Who made the decisions to "destabilize" the Allende government?

Was the Congress provided full, timely, and truthful information about this policy? If not, why not?

Was U.S. policy singular and consistent, or did different arms of the U.S. Government strike out in different directions?

Have the consequences of this policy—a year of bloodshed and repression by a military regime—led to any changes in U.S. policy?

On what basis was it—or is it ever—deemed appropriate for the United States to interfere in the internal affairs of a nation like Chile?

Fortunately, Mr. President, the Congress is already moving to get the answers to these kinds of questions.

I hope that the Congress will go farther and reconsider the whole question of covert actions by the CIA for purposes other than collection of intelligence information.

In order that we may all have a collection of the most significant articles on these matters, I ask unanimous consent that several newspaper reports on Chile be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the New York Times, Sept. 8, 1974]

CIA CHIEF TELLS HOUSE OF $8 MILLION CAMPAIGN AGAINST ALLENDE IN 1970–73

(By Seymour M. Hersh)

Washington, Sept. 7.—The director of the Central Intelligence Agency has told Congress that the Nixon Administration authorized more than $8-million for covert activities by the agency in Chile between 1970 and 1973 to make it impossible for President Salvador Allende Gossens to govern.

The goal of the clandestine C.I.A. activities, the director, William E. Colby, testified at a top-secret hearing last April, was to "destabilize" the Marxist Government of President Allende, who was elected in 1970.

The Allende Government was overthrown in a violent coup d'etat last Sept. 11 in which the President died. The military junta that seized power say he committed suicide but his supporters maintain that he was slain by the soldiers who attacked the presidential palace in Santiago.

INTERVENTION IN 1964

In his House testimony, Mr. Colby also disclosed that the Central Intelligence Agency first intervened against Dr. Allende in 1964, when he was a presidential candidate running against Eduardo Frei Montalva of the Christian Democratic party, which had the support of the United States.

The agency's operations, Mr. Colby testified, were considered a test of the technique of using heavy cash payments to bring down a government viewed as antagonistic toward the United States. However, there have been many allegations that the C.I.A. was involved in similar activities in other countries before the election of Dr. Allende.

Mr. Colby also maintained that all of the agency's operations against the Allende Government were approved in advance by the 40 Committee in Washington, a secret high-level intelligence panel headed by Secretary of State Kissinger. The 40 Committee was set up by President Kennedy in an attempt to provide Administration control over C.I.A. activities after Cuban exiles trained and equipped by the agency failed in their invasion of Cuba in 1961.

A SPECIAL HEARING

Details of the agency's involvement in Chile were first provided by Mr. Colby to the House Armed Service Subcommittee of Intelligence, headed by Representative Lucien N. Nedzi, Democrat of Michigan, at a special one-day hearing last April 22. The testimony was later made available to Representative Michael J. Harrington, a liberal Massachusetts Democrat who has long been a critic of the C.I.A. Harrington wrote other members of Congress six weeks ago to protest both the agency's clandestine activities and the failure of the Nixon Administration to acknowledge them despite repeated inquiries from Congress. A copy of a confidential seven-page letter sent by Mr. Harrington to Representative Thomas E. Morgan, chairman of the House Foreign Affairs Committee, was made available to The New York Times.

The testimony of Mr. Colby indicates that high officials in the State Department and White House repeatedly and deliberately misled the public and the Congress about the extent of United States involvement in the internal affairs of Chile during the three-year government of Dr. Allende.

Shortly after Dr. Allende won a plurality in the presidential elections in September, 1970, high Chilean officials told newsmen, as a dispatch in The New York Times reported then, that the "United States lacks political, economic or military leverage to change the course of events in Chile, even if the Administration wished to do so."

However, Mr. Colby testified that $500,000 was secretly authorized by the 40 Committee in 1970 to help the anti-Allende forces. Another $500,000 had been provided to the same forces in 1969, Mr. Colby said.

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*Support to Cambodia out of Thailand.

BRIBE ATTEMPT REPORTED

Mr. Allende's victory was ratified by the Chilean Congress in October, 1970, and the State Department later declared that the Administration had "firmly rejected" any attempt to block his inauguration.

But Mr. Colby testified that $350,000 had been authorized by the 40 Committee in an unsuccessful effort to bribe members of the Chilean Congress. The bribe was part of a much more complicated scheme intended to overturn the results of the election, Mr. Colby testified, but the over-all plan, although initially approved by the 40 Committee, was later rejected as unworkable.

While the Central Intelligence Agency was conducting these clandestine operations, there were reductions in United States foreign-aid grants to Chile in development bank loans and in lines of credit from American commercial banks. Commodity credits for vitally needed grain purchases also were restricted.

United States officials have declared that there was no over-all Administration program designed to limit economic aid to the Allende Government, but critics have noted that large-scale loans and aid are now going to Chile.

* * * * *

COLBY DECLINES COMMENT

Mr. Colby acknowledged in a brief telephone conversation this week that he had testified before the Nedzi intelligence subcommittee about the C.I.A.'s involvement in Chile, but he refused to comment on the Harrington letter.

Mr. Nedzi, contacted in Munich, West Germany, where he is on an inspection trip with other members of the House Armed Services Committee, also declined to comment.

Mr. Harrington noted in his letter that he had been permitted to read the 48-page transcript of Mr. Colby's testimony two times, apparently without taking notes. "My memory must serve here as the only source for the substance of the testimony," he wrote.

A number of high-ranking Government officials subsequently confirmed the details of the C.I.A.'s involvement as summarized by the Massachusetts Representative, a liberal who has long been a critic of the agency's policies.

COMPANIES' HELP REJECTED

In 1964, Mr. Colby testified, some American corporations in Chile volunteered to serve as conduits for anti-Allende funds, but the proposal was rejected. A similar proposal in 1970 led to a widely publicized Senate hearing last year.

The C.I.A. director also said that after Dr. Allende's election, $5-million was authorized by the 40 Committee for more "destabilization" efforts in 1971, 1972 and 1973. An additional $1.5-million was provided to aid anti-Allende candidates in municipal elections last year.

Some of these funds, Mr. Colby testified, were provided to an unidentified influential anti-Allende newspaper in Santiago.

In his summary of the Colby testimony, Mr. Harrington noted that "funding was provided to individuals, political parties, and media outlets in Chile, through channels in other countries in both Latin America and Europe."

"Mr. Colby's description of these operations was direct, though not to the point of identifying actual contacts and conduits," Mr. Harrington added.

One fully informed official, told of The New York Times's intention to publish an account of the clandestine C.I.A. activities in Chile, declared, "This thing calls for balanced reporting to put the blame where it should be laid."

"The agency didn't do anything without the knowledge and consent of the 40 committee," he said, pointedly adding that the committee was headed by Mr. Kissinger, who was then serving as President Richard M. Nixon's National Security Adviser.

SECRECY CALLED NECESSARY

Another Government official similarly defended the C.I.A.'s role in funneling funds into Chile and the agency's subsequent denials of any such activities. "You have a straight out policy that the United States conducts covert action on an officially authorized basis," he said. "If you do such things, obviously you're not going to say anything about it."

"On this kind of covert action," the official added, "it's up to those asked to do it to do it secretly."

Mr. Kissinger, although fully informed of The Time's account through an aide, did not respond.

A number of officials whose information about such activities has been accurate in the past declared in interviews this week that there was a sharp split between some State Department officials and Mr. Kissinger over the 40 Committee's Chile policy.

KISSINGER'S COMMENT

In his only public comment on the Allende coup, Mr. Kissinger told the Senate Foreign Relations Committee last year: "The C.I.A. had nothing to do with the coup, to the best of my knowledge and belief, and I only put in that qualification in case some madman appears down there who without instructions talked to somebody. I have absolutely no reason to suppose it."

In his July 18, 1974, letter to Representative Morgan, Mr. Harrington quoted Mr. Colby as testifying that the 40 Committee authorized an expenditure of $1-million for "further political destabilization" activities in August, 1973, one month before the military junta seized control in Santiago.

"The full plan authorized in August was called off when the military coup occurred less than one month later," Mr. Harrington wrote. He added, however that Mr. Colby had testified that $34,000 of the funds had been spent—including a payment of $25,000 to one person to buy a radio station.

A specific request earlier in the summer of 1973 for $50,000 to support a nationwide truckers' strike that was crippling the Chilean Government was turned down by the 40 Committee, Mr. Harrington further quoted Mr. Colby as testifying.

A DIFFERENCE OF OPINION

"In the period before the coup," one official said, "there was a pretty firm view on the part of the 40 Committee—which is Kissinger and nobody else—that the Allende Government was bound to come to destruction and had to be thoroughly discredited."

"The State Department supported this, but in a different way," the official recalled. "It wanted to stretch out any clandestine activities to permit the regime to come to a political end.

"The argument was between those who wanted to use force and end it quickly rather than to play it out. Henry was on the side of the former—he was for considerable obstruction."

All of the officials interviewed emphasized that the Central Intelligence Agency was not authorized to play any direct role in the coup that overthrew Dr. Allende. It was also noted that most of the subsequent denials of agency involvement in the internal affairs of Chile were made in the context of a direct United States role in the overthrow.

"On most of those you have to look at the language very carefully" one official said of the denials.

Shortly after President Allende's overthrow there were unconfirmed reports that the truckers' strike, which was a key element in the social chaos that preceded the coup, had been financed, at least in part, by the C.I.A.

At a closed hearing on Chile before a House Foreign Affairs subcommittee last October, Mr. Colby refused to rule out the possibility that some anti-Allende demonstrations in Chile may have been assisted through subsidiaries of United States corporations in Brazil or other Latin-American countries.

He was sharply questioned about that possibility by Mr. Harrington, who emerged during Congressional debate as a leading critic of the Administration's Chilean policies.

Representative Harrington, reached yesterday at his Massachusetts office, refused to discuss his letter to Mr. Morgan, which he termed confidential. Nor would he discuss other aspects of the possible American involvement in the fall of President Allende.

In his letter, Mr. Harrington complained about the "inherent limitations facing members of Congress in uncovering the facts of covert activities such as those in Chile."

He also expressed dismay that the Administration had authorized the covert expenditure of $1-million in August, 1973, "without any apparent deterrent being posed by the recently completed hearings into I.T.T. [International Telephone & Telegraph] involvement in Chile and the Senate Watergate committee's disclosure of C.I.A. activities related to Watergate."

A Senate Foreign Relations subcommittee concluded hearings last April into what I.T.T. officials acknowledged was an attempt to contribute $1-million to the United States Government for use by the Central Intelligence Agency to create economic chaos in Chile. Testimony showed that the offer was rejected after discussions that apparently involved Mr. Kissinger and Richard M. Helms, then director of the agency.

A number of high State Department officials testified under oath at those hearings that the United States was not making any attempts to interfere with Chile's internal politics.

Edward M. Kory, former Ambassador to Chile, declared: "The United States did not seek to pressure, subvert, influence a single member of the Chilean Congress at any time in the entire four years of my stay. No hard line toward Chile was carried out at any time."

Charles A. Meyer, former Assistant Secretary of State for Latin-American Affairs, similarly testified that the United States scrupulously adhered to a policy of nonintervention. "We bought no votes, we funded no candidates, we promoted no coups," he said.

Senator Frank Church, Democrat of Idaho, who is chairman of the Subcommittee on Multinational Corporations, could not be reached for comment. The subcommittee's chief counsel, Jerome I. Levinson, expressed anger today on hearing of Mr. Colby's testimony. "For me," he said, "the fundamental issue now is who makes foreign policy in a democracy and by what standards and by what criteria?"

Mr. Levinson said that the subcommittee had been "deliberately deceived" during its public hearings last year.

In his letter to Mr. Morgan, Mr. Harrington said that he had turned to the Foreign Affairs Committee chairman "as a last resort, having despaired of the likelihood of anything productive occurring as a result of the avenues I have already pursued."

Mr. Harrington noted that the subcommittee on Inter-American Affairs had held five hearings on human rights in Chile since the junta came to power, with testimony from only one State Department witness with full knowledge of the clandestine C.I.A. activity.

And that witness, Harry W. Shlaudeman, a Deputy Assistant Secretary of State for Inter-American Affairs, refused to testify about agency activities, Mr. Harrington wrote.

He urged Mr. Morgan to call for a full-scale public investigation of the Nixon Administration's involvement in Chile. Mr. Morgan could not be reached for comment, nor could it be learned whether he had responded to Mr. Harrington's letter.

The Foreign Affairs Committee will begin sessions next week on the Administration's foreign military-aid requests, committee aides said. Amendments have been offered calling for the halving and for the complete elimination of the Administration's request for more than $20-million in military aid and training for Chile.

[From the New York Times, Sept. 9, 1974]

Hearings Urged on CIA's Role in Chile

(By Seymour M. Hersh)

BEVERLY, MASS., Sept. 8.—Representative Michael J. Harrington called today for full-scale public hearings into the central intelligence agency's clandestine operations against the Government of President Salvador Allende Gossens of Chile.

In an interview at his home here, Mr. Harrington said he would formally request the House Foreign Affairs Committee, of which he is a member, to summon Secretary of State Kissinger and William E. Colby, Director of Central Intelligence, to testify about the Chilean policy of the United States.

The New York Times reported today that Mr. Colby told a House committee in April that the C.I.A. was authorized to spend more than $8-milllion clandestinely from 1970 to 1973 in an effort to make it impossible for President Allende to govern. The Allende Government was overthrown in a violent military coup on Sept. 11, 1973, in which the Chilean leader died.

KISSINGER'S ROLE

In calling for hearings, Mr. Harrington declared that one reason senior officials in Congress were reluctant to investigate Chilean policy was what he termed a "disinclination" to turn up facts that might reflect adversely on Mr. Kissinger.

"Without knowing anything at all about Mr. Kissinger's role in all of this," Mr. Harrington said, "Congress is hesitating because of fear that they'll run into Kissinger."

"It's obvious to me," he added, "that the role played by Kissinger is going to be of significance in the evaluation of how the policy toward Chile evolved. But there's a disinclination in Congress to even get into some areas that might peripherally damage or embarrass Kissinger."

In his testimony before a House subcommittee on intelligence last April 22, Mr. Colby noted that all of the C.I.A.'s efforts against President Allende were directly approved by the 40 committee, a high-level intelligence review committee that has been headed by Mr. Kissinger since the beginning of the Nixon Administration in early 1969.

"We're not going to undo what happened in Chile," Mr. Harrington said today, "but we must examine the role of the intelligence community in foreign policy.

"When you look at the Colby testimony, you'll see that the notion of Congressional oversight of the C.I.A. is passive, bystandish, totally ineffective."

Mr. Harrington's public call today for hearings was his latest in a series of attempts most of them in private, to force senior members of the Senate and House to begin a review of the Central Intelligence Agency's Chilean policy.

The C.I.A. report published today was based in part on a confidential seven-page letter Mr. Harrington wrote in mid-July to Representative Thomas E. Morgan, chairman of the House Foreign Affairs Committee, in which Mr. Colby's testimony was summarized. The Times received a copy of the letter from an outside source.

Mr. Harrington said today that he had sent a similar letter to Senator J. W. Fulbright, chairman of the Senate Foreign Relations Committee.

In his letter to Mr. Morgan, Mr. Harrington complained that he had discussed Mr. Colby's testimony with other members of the committee and concluded that there would be no "further investigations or hearings into the broader policy questions that such activities pose."

So far, Mr. Harrington said today, Mr. Morgan has refused to permit such hearings, arguing that the Foreign Affairs Committee does not have the authority to pursue questions of C.I.A. activities.

"Kissinger and Colby should testify," Mr. Harrington maintained. "It's just insane to suggest that a foreign affairs committee has no authority to conduct such hearings."

Mr. Harrington refused to characterize Mr. Fulbright's response to his letter, but a senate source said later today that the Arkansas Democrat had told the Congressman that he could see "no useful purpose" in reopening the Foreign Relations Committee hearings into Chile.

"What this really means," the Senate source said, "is that he doesn't want to take Kissinger on head on because it could mean exposing the fact that Kissinger himself was the man who controlled and directed the policy of using covert action to make it impossible for Allende to govern."

COLBY'S TESTIMONY PRAISED

Mr. Harrington, a liberal Democrat who was first elected to Congress in 1969, praised Mr. Colby's testimony as "The most direct unambiguous and to the point I've ever seen." He was permitted to review the still classified 48-page Chilean transcript in June by Representative Lucien M. Nedzi, chairman of the House Armed Services subcommittee on intelligence.

Mr. Harington recalled today that his initial reaction after reading the account was one of "profound shock."

"I did not expect to see the documentation of theories I hadn't held myself," he said, "I'd never subscribed to the conspiracy theories about the United States' involvement in the distintegration of the Allende Government."

"Colby's testimony may have been matter-of-fact," Mr. Harrington added, "but it also was almost clinical—as if you had a well-trained surgeon called in to describe procedures. You didn't get the feeling that there was any element of right or wrong that went into the decisions about what to do."

U.S. Again Denies Anti-Allende Policy

By Laurence Stern

The State Department found itself in the center of a growing congressional furor yesterday over the disclosure that some $11 million in U.S. funds had been authorized for covert political action against the late Chilean president, Salvador Allende.

In the face of new charges that it misled Congress on the issue of U.S. intervention in Chile, a State Department spokesman yesterday stood by sworn testimony of officials on Capitol Hill that the United States pursued a policy of non-intervention during the Allende period.

The new round of controversy over U.S. policy on Chile was triggered by the disclosure Sunday that CIA Director William E. Colby acknowledged to a House Armed Services subcommittee last April 22 that $3 million in covert funds was targeted against Allende's candidacy in 1964 and more than $8 million was authorized to block his 1970 election and "destabilize" his government between 1970 and September, 1973, when he was overthrown.

Sen. Edward M. Kennedy (D-Mass.), chairman of a Senate Refugee subcommittee which is investigating human rights violations in Chile, said yesterday that the disclosure of CIA funding of Allende's opposition "represents not only a flagrant violation of our alleged policy of non-intervention in Chilean affairs but also an appalling lack of forthrightness with the Congress."

He noted that covert political funding, such as was acknowledged by Colby, "has been denied time and time again by high officials of the Nixon and now Ford administration."

Kennedy called for full congressional investigation of the discrepancies in the official versions of what the United States did in Chile during the Allende period.

Jerome Levinson, counsel for the Senate Foreign Relations Committee's multinational corporations subcommittee, said "there is no doubt that we were misled" by State Department witnesses who testified last year that the United States had not undertaken covert activities against Allende.

Levinson said he will raise the issue of whether the subcommittee's hearings on Chile should be reopened when Chairman Frank Church returns from campaigning in Idaho. It will be up to the subcommittee to decide whether it wants to extend the inquiry to investigate sharp public discrepancies in the testimony.

The former Assistant Secretary of State for Inter-American Affairs, Charles A. Meyer, gave sworn testimony to the subcommittee March 29, 1973 that "the policy of the government . . . was that there would be no intervention in the political affairs of Chile. . . . We financed no candidates, no political parties. . . ."

Last June 12 Acting Assistant Secretary of State Harry Shlaudeman told a House Foreign Affairs subcommittee: "Despite pressures to the contrary the U.S. government adhered to a policy of non-intervention in Chile's affairs during the Allende period. That policy remains in force today. . . ."

When pressed by Rep. Donald M. Fraser (D-Minn.) on whether "you are prepared today to deny an assertion that the U.S. funneled money covertly to opposition parties following the 1970 election in Chile," Shlaudeman responded: "I am not . . ."

Fraser, chairman of a House Foreign Affairs subcommittee on international organizations, charged yesterday that "the executive branch had deceived the Congress as well as the public with respect to its involvement in the overthrow of the Allende regime."

Yesterday State Department spokesman Robert Anderson said that "we stand by the statements that have been made in the past." He declined to confirm or deny the report of Colby's testimony published Sunday in The Washington Post.

Secretary of State Henry A. Kissinger similarly declined yesterday through a spokesman to respond to Colby's testimony, which was recounted in a confidential letter from Rep. Michael Harrington (D-Mass.) to House Foreign Affairs Committee Chairman Thomas E. Morgan (D-Pa.) appealing for further congressional inquiry into covert operations in Chile.

Kissinger was chairman of a meeting of the "Forty Committee" on June 27, 1970 when the question of covert political action against Allende was taken up. Kissinger, according to records of the proceeding, favored a limited and thoroughly concealed program of intervention.

The State Department, according to sources with access to inter-departmental records of the deliberations, opposed CIA intervention in the Allende election but abandoned its opposition when President Nixon ratified a limited program of intervention for which some $350,000 to $400,000 was authorized by the Forty Committee.

Kissinger was quoted in minutes of the June 27 top-secret meeting at the White House as having said: "I don't see why we need to stand by and watch a country go

Communist due to the irresponsibility of its own people."

A spokesman for the Secretary said yesterday that Mr. Kissinger had no recollection of having made such an observation and would not comment on his role in the deliberations.

Colby's closed testimony to the House Armed Service subcommittee, as recounted in the Harrington letter, was that the CIA's role in the 1970 Chilean election was that of a "spoiler" engaged in "general attempts to politically destabilize the country and discredit Allende to improve the likelihood that an opposition candidate would win."

The Forty Committee, which is an interdepartmental White House panel supervising all U.S. covert operations, authorized a steady outpouring of funds into Chile through individuals, political parties and news media through Latin American and European channels during the anti-Allende effort, according to the summary of Colby's testimony.

Kissinger had, on various occasions, expressed personal reservations about the emergence of the Allende government which was committed to a program of nationalization and income redistribution.

After Allende's popular election in September, 1970, but before the congressional run-off, Kissinger told a group of editors at the White House that "it is fairly easy for one to predict that if Allende wins, there is a good chance that he will establish over a period of years some sort of Communist government . . .

"So I don't think we should delude ourselves that an Allende takeover in Chile would not present massive problems for us, and for democratic forces and pro-U.S. forces in Latin America . . ."

But Kissinger added that the situation was not one "in which our capacity for influence is very great at this particular moment now that matters have reached this particular point."

It was during this period that the CIA and International Telephone and Telegraph Co. sought actively to undermine Allende's prospects for election, according to testimony that emerged last year before the Senate Foreign Relations multinational subcommittee and most recently corroborated in far greater detail by CIA Director Colby.

Harrington, whose letter revived the controversy over U.S. policy in Chile, said he would renew his requests to Morgan and other congressional chairmen for a full inquiry into the extent of CIA intervention against Allende's elected government.

"I strongly support the broad initiatives of the Nixon and Kissinger foreign policy," he said. "But I do not think we should tolerate the standard of international conduct we displayed in Chile whether it was approved by Henry Kissinger or anyone else."

[From the New York Times, Sept. 10, 1974]

STATE DEPARTMENT BACKS REPORTS OF A HANDS-OFF POLICY OF CHILE

(By Seymour M. Hersh)

WASHINGTON, September 9.—In a dispute that could lead to further hearings, the State Department declared today that it was standing by the testimony of senior officials who previously had asserted at Congressional hearings that the United States had not intervened in the internal affairs of Chile after the election of President Salvador Allende Gossens.

The challenged testimony was officially endorsed by the State Department spokesman, Robert Anderson, at a news briefing. His statement came two days after it was reported that the Central Intelligence Agency had been authorized to spend more than $8-million from 1970 to 1973 in an effort to make it impossible for President Allende to govern. The Allende Government was overthrown last September in a military coup d'etat.

NONINTERVENTION POLICY

In the last two days, a Massachusetts Representative and a Senate aide have attacked the credibility of testimony given under oath by Charles A. Meyer, former Assistant Secretary of State; Edward M. Korry, former Ambassador to Chile, and Harry W. Shlaudeman, Deputy Assistant Secretary of State.

Mr. Meyer and Mr. Korry both maintained at a Senate Foreign Relations subcommittee hearing last year into the International Telephone & Telegraph Company's involvement in Chile that the Nixon Administration had scrupulously adhered to a policy of nonintervention. Mr. Shlaudeman similarly told a House Foreign Affairs subcommittee in June that the United States "had nothing to do with the political destabilization in Chile."

Jerome L. Levinson, chief counsel of the Senate Subcommittee on Multinational Corporations, which conducted the I.T.T. hearings, last week accused Mr. Meyer and Mr. Korry of having deliberately deceived the Senate. Representative Michael J. Harrington, a Democratic member of the House Foreign Affairs Committee, charged that Mr. Shlaudeman was evading questions and, in effect, dissembling by refusing to testify about C.I.A. activities against the Allende Government.

Asked about those criticisms today, Mr. Anderson said, "With regard to the testimony that was given on the Hill by Mr. Shlaudeman and Mr. Meyer and others, we stand by that."

"I realize there have been allegations to the contrary," Mr. Anderson added, "and if any such allegations are presented, obviously we will be very pleased to review the testimony. But we are unaware of any mistatements by the officers that you referred to."

Mr. Levinson, reached later today in his Senate office, asserted that he would "stand on what I said."

NEW HEARINGS POSSIBLE

"A reading of the record by any fair-minded person has to lead one to the conclusion that they were not candid with the subcommittee," he said.

"The words used by Mr. Meyer and Mr. Korry were artful in terms of dodging, but in substance and spirit the intent was to deceive."

The subcommittee counsel said he was planning to confer tomorrow with Senator Frank Church, chairman of the subcommittee, to determine whether further hearings would be necessary. Mr. Church, who is up for re-election this fall, was said to be campaigning in Idaho today and could not be reached for comment.

In testimony before the Church subcommittee last year, Mr. Meyer and Mr. Korry repeatedly asserted that the United States policy was one of nonintervention, although both men claimed executive privilege in refusing to discuss confidential State Department and White House communications.

Mr. Korry, who was Ambassador at the time Dr. Allende won the presidency in 1970, testified as follows in response to a question from Mr. Levinson about his instructions:

"It was obvious from the historical record that we did not act in any manner that reflected a hard line; that the United States had maintained the most total hands-off the military policy from 1969 to 1971 conceivable; that the United States did not seek to pressure, subvert, influence a single member of the Chilean Congress at any time in the entire four years of my stay."

However, according to still-secret testimony supplied for Congress earlier this year by William E. Colby, Director of Central Intelligence, the United States authorized $1-million in clandestine funds in 1969 and 1970 in an attempt to keep Dr. Allende from winning the general elections, and then spent an additional $350,000 in the fall of 1970 in an attempt to bribe members of the Chilean Congress not to ratify his election.

Mr. Meyer, who was in charge of Latin-American affairs in the State Department at the time of the coup d'état, similarly testified a few days later that "we were religiously and scrupulously adhering to the policy of the Government of the United States . . . of nonintervention. We bought no votes, we funded no candidates, we promoted no coups."

Mr. Korry and Mr. Meyer could not be reached for comment today.

Mr. Shlaudeman, while refusing to discuss C.I.A. activities in public testimony, also emphasized the United State's "policy of nonintervention" during his appearance June 12 before the House Foreign Affairs Subcommittee on Inter-American Affairs.

In that testimony, Mr. Shlaudeman quoted Secretary of State Kissinger as having declared that "we prefer democratic governments and attempt to exercise our influence to that end; but we also know we cannot impose our political and legal structures on others."

Mr. Shlaudeman, who spent four years in Chile before being reassigned to Washington last year, said "I certainly do" late this afternoon when asked whether he stood by his House testimony.

CENSORED MATTER IN BOOK ABOUT CIA SAID TO HAVE RELATED CHILE ACTIVITIES

(By Seymour M. Hersh)

WASHINGTON, September 10.—The Central Intelligence Agency, citing national security, censored the first printed account of some of the agency's clandestine activities against President Salvadore Allende Gossens of Chile from a recently published exposé of the intelligence establishment, well-informed sources said today.

The sources said that the book, "The C.I.A. and the Cult of Intelligence," written by two former Government intelligence officials, initially included a detailed description of the internal debates in 1970 before the Nixon Administration reportedly tried covertly to prevent Mr. Allende's victory in the Chilean national elections of September, 1970.

After a lengthy battle in Federal Courts, over prior censorship, the 434–page book was published in June by Alfred A. Knopf with blank space where 168 passages were deleted. Much of the chapter dealing with Chile, titled "the Clandestine theory", was heavily censored in that manner.

DAMAGE FEARED

The C.I.A. has argued that those deletions and 177 other passages it unsuccessfully sought to censor would "cause grave and irreparable damage to the U.S." if published.

As initially written, the sources said, the books chapter on Chile began with the following quote from Henry Kissinger, who was then serving as adviser on national security to President Richard M. Nixon:

"I don't see why we need to stand by and watch a country go Communist due to the irresponsibility of its own people."

According to the book, Mr. Kissinger made the comment while chairman of a meeting of the secret "40 Committee," the high-level review panel that oversees and authorizes clandestine C.I.A. activities. The meeting took place on June 27, 1970, according to the sources, a few months before the Marxist leader won the Presidential election.

KISSINGER SILENT

Thus far Secretary of State Kissinger has refused to comment publicly on the reports published Sunday that the Central Intelligence Agency, acting at the specific direction of the Nixon Administration, was authorized to spend more than $8-million between 1970 and 1973 in an effort to make it impossible for President Allende to govern. The Allende Government was overthrown last September in a military coup d'état in which the Chilean leader died.

Shortly after the coup, Mr. Kissinger told the Senate Foreign Relations Committee that "the C.I.A. had nothing to do with the coup to the best of my knowledge and belief." Other Government officials, in their appearances before Congressional committees, have gone further, insisting that the Administration followed a policy of nonintervention toward the Allende regime.

Mr. Kissinger has been described by a number of officials with first-hand knowledge as having been among those most alarmed in the Nixon Administration about Mr. Allende's rise to power.

At a background meeting with newsmen in Chicago on Sept. 16, 1970, shortly after the election of Mr. Allende, Mr. Kissinger declared that "an Allende take-over in Chile would present massive problems for us, and indeed to the whole Western Hemisphere.

If the Chilean Congress were to ratify the election, Mr. Kissinger added, "in a major Latin American country you would have a Communist government, joining, for example, Argentina, which is already deeply divided along a long frontier, joining Peru, which has already been heading in directions that have been difficult to deal with, and joining Bolivia, which has also gone in a more left, anti-U.S. direction."

A CLOSE LOOK

He told the newsmen then: "We are taking a close look at the situation. It is not one in which our capacity for influence is very great."

According to still-classified House testimony last April by the Director of Central Intelligence William E. Colby, the intelligence agency was authorized by the 40 Committee to spend $500,000 in 1970 to head off Mr. Allende's popular election, and was later provided with $350,000 to bribe members of the Chilean Congress who nonetheless voted in October to ratify the election.

A number of officials cautioned in interviews today that the C.I.A.'s efforts against Mr. Allende were—as one source put it—"much more passive than you'd think" from the published newspaper accounts.

"We were just trying to bail out people who were under the gun from Allende and his supporters," one well-informed source said.

MOST BACKED FREI

Most of those who were aided, the source added, had been supporters of the former President, Eduardo Frei Montalva, who had received heavy C.I.A. subsidies while running for office in 1964 against Mr. Allende.

"Don't forget," the source added, "the whole idea in the nineteen sixties was what we called 'nation building' and it worked. Frei would have won re-election easily."

"It's a shame their Constitution prevented his re-election," the source added. Under Chilean law, Mr. Frei could not be a candidate for re-election in 1970.

According to another well-informed source who received "The C.I.A. and the Cult of Intelligence" before it was censored, a somewhat similar account of the decision to intervene in Chile was presented the two authors, Victor Marchetti, a former C.I.A. official and John D. Marks, a former State Department intelligence analyst.

The C.I.A. later censored a part of the book in which, a source said, the C.I.A. was depicted as having been divided about the proposals to invest funds secretly against Mr. Allende. Officials at C.I.A. headquarters were said by Mr. Marchetti and Mr. Marks to be concerned because of the possibility that a sudden spurt in spending against Mr. Allende would be traceable to Washington.

In addition, the source said, the original Marchetti-Marks manuscript described what was depicted as a serious dispute over the Chilean policy between Edward M. Korry, who served as Ambassador to Chile from 1967 until 1971, and Charles A. Meyer, a former Assistant Secretary of State for Latin American Affairs. The book depicted Mr. Korry as having been concerned that he would be considered after Mr. Allende's election as the ambassador who permitted Chile to be taken over by a Castro-type figure, the source added.

Mr. Meyer, an official with Sears, Roebuck & Co., in Chicago, could not be reached today for comment.

Mr. Korry, contacted today at his home in Briarcliff Manor, N.Y., declared that he was standing by his testimony last year to a Senate subcommittee in which he stated that the United States maintained a policy of nonintervention toward the Allende Government.

"I'm not ducking anybody on this," Mr. Korry said. "I stand on all the statements I have given." He added that he had sent a lengthy letter to The New York Times explaining his position and said he would prefer not to comment further pending receipt of the letter.

Although Mr. Kissinger has not spoken publicly on the Chilean issue, he did authorize to newsmen yesterday the fact that the 40 Committee only acted upon the unanimous approval of its five members.

They include Mr. Kissinger, the Central Intelligence Director, the chairman of the Joint Chiefs of Staff, the Deputy Secretary of State for Political Affairs, Mr. Anderson said.

All 40 Committee decisions must be approved by the President before being put into effect, Mr. Anderson said.

PERJURY INQUIRY IS ASKED ON CHILE

(By Jeremiah O'Leary)

Chairman Frank Church of the Senate subcommittee on multinational corporations today ordered the committee staff to review testimony of two former State Department officials to determine whether there is a prima facie case of perjury in relation to CIA activities in Chile.

Church said he also intends to contact Chairman J. William Fulbright of the Senate Foreign Relations Committee to see whether the full committee should open a new investigation of all CIA activities overseas in the aftermath of revelations that the agency spent nearly $11 million to combat the Marxist government of the late President Salvadore Allende in Chile.

Church, D-Idaho, returned to Washington last night and said he immediately ordered the multinational corporation subcommittee staff, of the Foreign Relations Committee to review testimony given in April 1973 by Charles A. Meyer, former assistant secretary of state for inter-American affairs, and former ambassador to Chile Edward M. Korry. Both men testified at the ITT-Chile hearings six months before the September 1973 revolution in Chile that the United States scrupulously adhered to a policy of nonintervention there.

If the committee staff discovers flagrant discrepancies in the Meyer and Korry testimony, Church said, he would reconvene the subcommittee hearings on Chile.

"Other State Department witnesses, including former Assistant Secretary of State Jack B. Kubich and Deputy Assistant Secretary for Latin American Affairs Harry Shlaudeman have testified before other committees that there was no intervention by the U.S. government," Church said in an interview. "But Korry and Meyer testified before my subcommittee and I have a direct interest in that."

In order to air the entire matter, Church said, he is considering asking that the full Foreign Relations Committee take up the broad issue of U.S. activities in Chile from 1964 to 1973.

It was disclosed over the weekend in a letter from Rep. Michael Harrington, D-Mass., that the "40 committee' of the National Security Council, headed by Secretary of State Henry A. Kissinger, authorized expenditure of more than $10 million in Chile to assist anti-Allende institutions and "de-stabilize" the Allende regime.

U.S. officials are not denying the truth of the Harrington charges, based on secret testimony of CIA director William Colby, although all deny that the United States had any role in the Sept. 11 military coup which toppled the Allende government.

Meanwhile, the Ford administration is undertaking a review of the fundamental question of whether a democratic nation ought to engage in convert operations—such as the newly exposed CIA funding of anti-Marxist institutions in Chile.

The highest policymakers in the administration remain unwilling to confirm or deny that the United States spent between $8 million and $11 million on direct authorization of the National Security Council's so-called "40 Committee" on such covert operations. But Kissinger is known to be prepared to discuss the question with the Senate and House committees that theoretically oversee such directed operations. It is also possible that President Ford may work out new arrangements with congressional leaders for future conduct of such operations.

There is no longer any question that the CIA, with approval of the Kissinger-chaired "40 Committee," funneled money into Chile in the period of Allende's election in 1970 until just before he was overthrown by military coup a year ago today.

It is also known that the NSC is undergoing reorganization of an undisclosed nature. A meeting was held at the White House last week and another is scheduled this Saturday, presumably with Kissinger conducting the examination in his other role as national security assistant to the President.

The operations in Chile, which began in 1964, allegedly were not "cloak and dagger" operations but rather a technique often used by the United States to strengthen democratic institutions and parties in countries where "the other side"—presumably the Russians and Cubans in the case of Chile—are clandestinely supporting non-democratic parties. Kissinger is known to express the view that such operations by a democracy must be carried out with restraint.

In the case of Chile, the justification is suggested that a democracy might be throttled without covert U.S. assistance. The CIA, it is known, designated large amounts of money for the anti-Allende newspaper, El Mercurio, when the price and accessibility of newsprint was used as a weapon by the Santiago government.

[From the Washington Post, Sept. 13, 1974]

DISCLOSURE OF CIA CHILE ROLE "SURPRISES" OVERSEERS ON HILL

(Ey Laurence Stern)

One of the Senate's most senior congressional overseers of the Central Intelligence Agency's operations said yesterday that he was not informed of the extent of U.S. covert political operations in Chile.

Sen. Stuart Symington (D-Mo.) made this admission in a telephone interview after CIA Director William E. Colby was called into a two-hour executive session of the Senate Armed Services intelligence subcommittee in the aftermath of disclosures Sunday that $11 million in covert action funds had been targeted against the late Chilean president, Salvador Allende.

"You can say that I was surprised," said Symington, a loyal supporter of the agency in the past.

Symington's surprise, it was understood, was shared by Senate Armed Services Committee Chairman John C. Stennis (D-Miss.), who also presides over the CIA oversight subcommittee.

Symington's statement seriously clouds the credibility of the oft-repeated assertion by Colby and other top CIA officials that the agency's congressional oversight committees have been fully briefed on all major covert programs carried out by the agency under the authority of the National Security Council.

The disclosure of secret funding for anti-Allende activities, made by Colby in executive testimony to a House Armed Services intelligence subcommittee last April 22, was also in direct conflict with sworn testimony by high-ranking State Department officials that the United States pursued a policy of non-intervention during the Allende period.

So serious were these conflicts that Sen. Frank Church (D-Idaho), said he would refer to the Justice Department for perjury investigation previous sworn testimony before his Multi-national Corporations Subcommittee that appears to be misleading.

Rep. Dante Fascell (D-Fla.), chairman of the House Foreign Affairs Latin America subcommittee, was also reported by aides yesterday to be "deeply concerned" by discrepancies in official testimony over covert U.S. action in Chile.

The issue was given further impetus yesterday with the release by Rep. Michael Harrington (D-Mass.) before television cameras of his summary of the top-secret Colby testimony on Chile as well as his until now futile efforts by letter to generate further congressional inquiry into the subject.

Harrington's dossier disclosed that last June 12—the day he examined Colby's testimony detailing the $11 million in covert authorizations for a second time—a State Department witness testified under oath that there was no CIA funding of efforts to upset the Allende government.

The witness was Harry Shlaudeman, then acting assistant secretary of state for inter-american affairs and second in command of the U.S. embassy in Chile during the Allende administration.

Shlaudeman, former Ambassador to Chile Edward Korry and former Assistant Secretary of State for Inter-American Affairs Charles A. Meyer Jr., all testified under oath before various congressional committees that no money was spent and no covert programs were carried out to subvert the Allende government.

Harrington said any congressional inquiries growing out of the Chile disclosures should include testimony by Secretary of State Henry Kissinger. As chairman of the National Security Council's senior panel on secret operations, the so-called Forty Committee, Kissinger was a principal decision-maker on the funds and programs targeted against Allende.

The CIA was the subject of a three-ring whirl of developments on Capitol Hill yesterday: the Armed Service Committee meeting, the Harrington press conference and an unusual conference on the agency's covert operations attended by former government officials, ex-agents and specialists on intelligence.

The conference produced a mountain of special reports on covert programs and a consensus that the agency's covert operating programs were, on the whole, contrary to national interest.

CIA Director Colby will appear before the conference at 3 p.m. today to speak on "The View from Langley," the suburban Virginia headquarters of the CIA.

Sen. Philip A. Hart (D-Mich.), in opening the conference, urged that Congress further explore the CIA role in Chile and protested that "we haven't done a damn thing . . . to prevent the President from waging secret wars."

One of the principal points of criticism in the conference and in Harrington's press conference was the ineffectiveness of congressional oversight of the CIA's operations—principally those targeted against governments or foreign political leaders considered "unfriendly" to U.S. interests.

Symington's admission of surprise upon learning from press reports Sunday and from Colby yesterday of the scope of the Chile programs was an example of what the critics were talking about.

[From the Washington Post, Sept. 13, 1974]

CHILE, THE CIA AND KISSINGER

(By Stephen S. Rosenfeld)

To go barking after the CIA because of its secret operations in Chile is beside the point. The agency, in subverting the late Socialist President Salvador Allende, was carrying out established national policy—White House policy. The CIA's director, William Colby, who was in the position of reporting to Congress about actions taken under earlier directors, deserves praise for his candor.

The real need is to fathom why Henry Kissinger, then (1970-73) Mr. Nixon's national security adviser, felt it was essential to get rid of one particular leader of a country which, by its region, size and general importance, plays almost no part in the global balance of power, on which Kissinger's strategy supposedly is based.

Interestingly, Allende and Chile are not mentioned once in the absorbing new book, "Kissinger," by Bernard and Marvin Kalb. The only public clue to his thinking is pretty insubstantial. An Allende "takeover," Kissinger said in 1970 of Allende's *electoral victory*, could produce over time "some sort of Communist government" which could pose "massive problems for us, and for democratic forces and pro-U.S. forces in Latin America."

What were those "massive problems" which the United States set out to help deter by covert means?

No doubt Kissinger and Nixon wanted, if possible, to limit leftist movements throughout Latin America: "No more Cubas." But in view of Washington's moves then toward Moscow, and its tentative move now toward Havana, this hardly seems an adequate rationale.

Nor can a very persuasive case be made that the defense of the United States' then-embattled corporate interests in Chile—and by extensions, elsewhere in the third world—required measures so extreme. You have to be a Marxist, or to think Kissinger and Nixon were pretty stupid, to believe that was a dominant factor.

For what it's worth, I suspect Kissinger feared that the example of a successful popular front government in Chile—Communists and Socialists working together—might have a contagious effect in France and Italy and other places where, in the 1970s, popular fronts have a real chance of coming to power. Kissinger voiced this fear in discussing his Chile policy privately at the time.

The election of a Socialist-Communist coalition in Chile had, after all, aroused global attention. Communist parties were widely being made respectable, in part by the example of Richard Nixon in dealing with Moscow and Peking. Their "natural" political partners were and are the democratic socialist parties of the left. It was not far-fetched—not then, not now—to imagine popular fronts taking power and, degree by degree, removing their countries from the "West," as the area of postwar American dominance is commonly known.

It is suggestive that CIA Director Colby apparently ranked the Chile operation in importance with postwar Greece and Guatemala and described it as a "prototype" for bringing foreign governments down with money. In postwar Greece, the United States helped Athens defeat a Communist insurgency launched across a national frontier. In Guatamala in 1954, the CIA sponsored a millitary coup against a Communist government. In Chile it provided finacial support to help local elements thwart an elected Marxist who was expected to take Chile toward communism by a parliamentary route.

Kissinger, using wit as a cloak, has equipped that Chile is "a dagger pointed at the heart of Antarctica." His implication: How can anyone think he was uptight about Chile? But perhaps he was uptight about Chile.

Temperamentally, what Kissinger seems to fear most in the current international scene is the flux, the uncertainty, the difficulty of convincing the American public to deal with international challenges less evident—but in his mind, hardly less ominous—than military attack.

Kissinger is a child of Weimar Germany: He has seen democracy destroyed. He was some of the European intellectual's characterstic ambivalence about popular democracy, for whose putative weaknesses he attempts to compensate by diplomatic manipulation, elitism, secrecy, personal virtuosity. This is of a piece with his scarcely concealed contempt for Europe's cravenness—an attitude of which the public saw traces after the Mideast war last year.

It is the conventional wisdom that Vietnam taught the United States that it could no longer play the "policeman" of the world. But perhaps it taught Kissinger, whose view of history is long and dark and extends much beyond Vietnam, that the United States must play the policeman in a particular way—a way that tends of feared foreign dangers but does not bring down the domestic public's wrath on the government's or ones own head.

There is something undeniably valiant about Kissinger's purposes, but there can be something undeniably vicious about his means. Is there no other way for the values and the interests of the United States to thrive?

[From the New York Times, Sept. 13, 1974]

SECRET WAR ON CHILE

(By Tom Wicker)

On the very day that President Ford extended preventive pardon to Richard Nixon, another high crime of the Nixon Administration was being disclosed in The New York Times. Public outrage because of the pardon must not be allowed to obscure this sordid story of indefensible American intervention in the internal affairs of Chile, in the years just before the violent overthrow of the Allende Government and the death of President Salvador Allende Gossens.

Secretary of State Henry Kissinger appears to have been a principal force in this covert intervention, and is being charged once again with not having told the whole truth to a Senate committee. Demands are being heard for a reopening of the hearings which recommended his confirmation as Secretary.

The Times story, by Seymour Hersh, was based on a letter from Representative Michael Harrington of Massachusetts to Chairman Thomas E. Morgan of the House Foreign Affairs Committee. The Harrington letter gave an account, from memory, of testimony to a House Armed Services subcommittee by William E. Colby, the director of the Central Intelligence Agency.

Mr. Harrington said he had twice read a transcript of the Colby testimony. As he described it to Mr. Morgan, Mr. Colby said that the Nixon Administration had authorized about $8 million to be spent covertly to make it impossible for President Allende to govern. Specifically, $500,000 was authorized in both 1969 and 1970 to help Mr. Allende's election opponents, and $350,000 was later authorized for bribing members of the Chilean Congress to vote against ratifying Mr. Allende's election.

Later $5 million was authorized for clandestine "destabilization" efforts in Chile; and in 1973, $1.5 million was provided to help anti-Allende candidates in municipal elections. The authorizing body for all this C.I.A. activity was the so-called "40 Committee" of the Nixon Administration—a committee chaired by Henry Kissinger.

But Mr. Kissinger told the Senate Foreign Relations Committee during his confirmation hearings that "the C.I.A. had nothing to do with the coup, to the best of my knowledge and belief." While that may have been true in the narrowest sense, it was at best one of those torturous non-lies in which governments specialize and at worst a concealment of the true nature of U.S. policy toward the Allende Government and the scope of American activities to undermine that Government.

Similarly, Edward M. Korry, ambassador to Chile during most of the period in question, denied under oath to a Senate subcommittee that there had been American attempts to "pressure, subvert, influence a single member of the Chilean Congress." Charles A. Meyer, a former Assistant Secretary of State for Latin-American affairs, also swore that the United States had scrupulously followed a policy of nonintervention in Chile.

No wonder, then, that Senator Frank Church, to whose subcommittee this sworn testimony was offered, was reported to be outraged upon learning of the Colby testimony. He has properly raised not only the possibility of perjury charges but the question of comprehensive hearings by the full Foreign Relations Committee on the intervention in Chile.

If such hearings are held, or if Mr. Kissinger's confirmation hearings should be reopened—as they already have been once, to inquire into charges that he did not tell the whole truth about wiretaps on reporters and some of his associates—the inquiry should press much further than the candor of official testimony, important as that question is.

But as one Government official pointed out to Mr. Hersh, if covert activities against another country are authorized, Government officials—sometimes including Secretaries of State and President—have to lie about them. Lies are part of the business. The real questions are whether this supposedly peace-loving and democratic nation has any legal or moral right to conduct covert operations abroad, and whether any Administration of either party has the constitutional authority to order taxpayers' money spent for clandestine warfare against the legitimate government of a soverign country.

These questions are long overdue for full and open debate; the Colby testimony, for example, said the the first intervention against Mr. Allende was ordered by Lyndon Johnson in 1964. Congress, the press, Presidential candidates—all have consistently shied away from this subject. Supposed liberals have pled the supposed need to be "hard-nosed." The real need is to face the fact that gangster schemes of bribery, violence and even assassination are being carried out, in the name of the great American people.

The C.I.A. may be only an instrument, but it seems to have its own sinister vitality. The Chilean efforts, in fact, were authorized by the lineal descendent of a body set up by the Kennedy Administration to "control" the C.I.A. Isn't it clear at last that such "control" can be achieved only by a Government with the political will to cut the C.I.A. in half, or kill it altogether?

CIA Chief Says Covert Activities Aren't Vital

(By Seymour M. Hersh)

Washington, Sept. 13.—William E. Colby, Director of Central Intelligence, said today that there would be no "major impact" on the nation's security if the United States ceased all cloak-and-dagger operations against foreign countries.

"The current status of the world is such that we do not appear to be threatened at this time," Mr. Colby told a conference on the Central Intelligence Agency and covert activity. "The Capitol will still stand whether any particular action does or does not take place."

The C.I.A. director spent more than three hours making a speech and answering often hostile questions from the panelists and audience at the two-day conference, sponsored by the newly formed Center for National Security Studies.

AGAINST CURTAILMENT

He made it clear, both in his prepared address and during the question-and-answer session, that he did not wish to see the agency's clandestine operations curtailed. Those operations, officially known as covert actions, have been the focus of dispute this week in Congress because of the disclosure that the C.I.A. was authorized to spend more than $8-million from 1970 to 1973 in an effort to make it difficult for President Salvador Allende Gossens of Chile to govern.

More than $7-million of the authorized funds was spent.

"I think it would be mistaken to deprive our nation of the possibility of some moderate covert action response to a foreign problem and leave us with nothing between a diplomatic protest and sending in the Marines," Mr. Colby said in his prepared address.

Later, in response to a question Mr. Colby declared that "these days, in view of the world situation and our policies, we're not spending much effort" on clandestine activities.

"We're keeping our powder and musket dry," he said.

Mr. Colby's statements acknowledging that clandestine operations were not vital to the nation's security did not seem to indicate any impending change in the Ford Administration's approach to such activities. The C.I.A. director was apparently giving a candid assessment of the value of such activities—as viewed by him today.

When a panelist, Richard J. Barnet, author and former Kennedy Administration aide, asked whether he could envision any national security threats that would justify covert activity in Latin America, Asia or Africa, Mr. Colby said, "There are some, yes."

"By security of the United States," he repeated, "I do not mean that the Capitol will fall by night. There are certain things that today are not an immediate danger to the United States but could become so."

Discussing Chile, Mr. Colby again denied that the C.I.A. played any direct role in the overthrow of the late President Allende. "We did look forward to a change in government," he said to caustic laughter from the crowded Senate hearing room, "but by elections in 1976."

Although he had announced that he would not discuss any specific details concerning the C.I.A.'s clandestine involvement in Chile, Mr. Colby all but specifically confirmed that the agency had been heavily involved.

Insisting that Congress had been kept informed about the clandestine activities there, Mr. Colby declared. "I can't say that every dollar the C.I.A. spent in Chile was individually approved [by intelligence committees], but there was a series of discussions."

He took note of a letter, published last week, describing the agency's activities in Chile between 1964 and 1973 that had been written earlier this year by Representative Michael J. Harrington, Democrat of Massachusetts. "At various times during that period," Mr. Colby said, "the major steps were brought to the attention of the chairman or various members of those committees."

His account of the congressional overview was challenged by Mr. Harrington and another member of Congress attending the conference, Senator James Abourezk, Democrat of South Dakota. Mr. Abourezk questioned whether the C.I.A. was providing up-to-date briefings about current clandestine operations to the Congress; Mr. Harrington urged a broader, and more critical, Congressional overview of C.I.A. activities.

In an obvious rebuke to those who advocated more C.I.A. disclosure to Congressional committees, Mr. Colby complained that what he termed "the leak" about the Chilean involvement "raises the dilemma of how we're going to supply the Congress with such delicate information without its disclosure."

"This is a matter, of course, for the Congress to decide," he added.

Throughout his long appearance today, Mr. Colby expressed little emotion and remained calm, even when confronted with personal denunciations and accusations that he had lied. The sharpest response from the audience came during a series of questions about his participation in the Vietnam pacification program and his direct role with Operation Phoenix, a C.I.A.-involved program designed "to root out the Vietcong infrastructure" that has been widely criticized. It has been charged that the program resulted in the deaths of more than 20,000 Vietnamese.

"How many did you kill?" one youth shouted from the audience.

"I didn't kill any," Mr. Colby responded.

At one point, panelist Daniel Ellsberg, who has said he was responsible for turning over the Pentagon Papers to the press in 1971, delivered a lengthy summary of the C.I.A.'s involvement in Watergate, provoking an exchange with Mr. Colby that provided no new information about the known involvement of the agency in the break-in at the office of Dr. Ellsberg's psychiatrist.

Earlier, in response to a question from Dr. Ellsberg, Mr. Colby had acknowledged that the C.I.A. may have had advance information about the impending coup d'état in Chile that was not forwarded to the Allende Government.

Mr. Colby, who had agreed to attend the two-day conference before the press disclosures of the covert activities in Chile, pointedly noted in his prepared remarks that such activities were conducted "only when specifically authorized by the National Security Council." "Thus," he added, "C.I.A. covert actions reflect national policy."

A number of high officials have told The New York Times this week that much of the impetus for the clandestine policy against the Allende Government was supplied by Secretary of State Kissinger, who was serving as former President Nixon's national security adviser in 1970.

Arguing today in favor of covert actions, Mr. Colby said that "a sovereign nation must look ahead to changing circumstances."

Kissinger Called Chile Strategist

(By Seymour M. Hersh)

Washington, Sept. 14.—Secretary of State Kissinger personally directed a far-reaching Nixon Administration program designed to curtail economic aid and credits to Chile after the election of President Salvador Allende Gossens in 1970, well-informed Government sources said today.

These sources said that after the election of Dr. Allende, Mr. Kissinger, who was then serving as President Nixon's adviser on national security, took charge of a series of weekly-interagency meetings at which Administration officials worked out a policy of economic sanctions—or "retaliation," as one source put it—against Chile.

COVERT C.I.A. ACTIVITIES

The Nixon Administration repeatedly denied that there was any covert program of economic sanctions against Chile, publicly stating that the Chilean Government's inability to get loans and credits after Dr. Allende's election was a reflection of its poor credit risk.

There was no immediate comment from Mr. Kissinger.

The Secretary of State has been under increasing criticism from Congress since it was revealed last week that the United States had authorized more than $8-million for clandestine activities by the Central Intelligence Agency against the Allende Government from 1970 to 1973. The funds were approved by the 40 Committee, a high-level panel headed by Mr. Kissinger that is in charge of overseeing the C.I.A.'s covert activities.

Although he is Secretary of State, Mr. Kissinger remains as President Ford's national security adviser and thus still heads the 40 Committee.

The sources emphasized that Mr. Kissinger's economic activities against the Allende Government were distinct from his involvement in clandestine C.I.A. operations, although both programs were controlled by him with great secrecy.

Mr. Kissenger's decision to become personally involved in the economic reprisals against the Chilean Government angered a number of high-level State Department officials, who considered his action to be a sign of mistrust toward the department, the sources said.

"The whole purpose of the meetings in the first couple of months after the election was to insure that the various aid agencies and lending agencies were rejiggered to make sure that [Allende] wasn't to get a penny," said one well-informed source.

LOANS DENIED

Over the next two years, the Chilean Government was denied dozens of loans by the World Bank, a multinational loan agency over whose activity the United States has virtual veto power, and by the Export-Import Bank, a United States Government agency. In addition, Chile's short-term line of credit with private banks fell from $220-million in 1971 to less than $40-million a year later.

In a speech on Dec. 4, 1972, to the United Nations, Dr. Allende complained of "large-scale external pressure to cut us off from the world, to strangle our economy and paralyze our trade in our principal export, copper, and to deprive us of access to sources of international financing." The Allende Government was overthrown in a bloody coup d'etat 10 months later in which the Chilean leader died.

The most explicit Administration denial of such economic pressure came during hearings last year on Chile before a Senate Foreign Relations subcommittee, in which John M. Hennessy, then an Assistant Secretary of the Treasury for International Affairs, had the following exchange with Senator Frank Church, Democrat of Idaho, the subcommittee chairman:

Senator Church: "So the position of our Government on the state of the economy in Chile was such that Chile was not creditworthy, and that no further loans should be made owing to the general condition of the economy. Is that correct?"

Hennessy: "That is correct."

DECISION CALLED POLITICAL

A number of sources characterized the Nixon Administration's curtailment of credit and aid to Chile as a political decision that was initiated shortly after Dr. Allende formally took office in November, 1970.

"There was a range of alternatives being considered," one source recalled. "The options ranged from a marine-type invasion to massive infusions of money. When Allende became President, everybody breathed a sigh of relief because we hadn't done anything."

"Once he was President, then there was set in motion a carefully planned program led by Kissinger," the source added. "He personally chaired—for maybe as long as 10 or 12 weeks—a working staff group dealing with economic sanctions. It was our understanding that the President was extremely concerned about Allende and Henry was showing him that he was on top of it."

The New York Time's sources include former Nixon Administration officials who were involved in the decisionmaking on Chile after the election of Dr. Allende. Other information was supplied by Congressional officials who have had access to all the sworn testimony on Chile.

The sources said that the working group included officials at the assistant-secretary level from the State Department, the Pentagon and the Treasury Department as well as Mr. Kissinger and other National Security Council aides. During that period, sources said, a formal National Security Council Decision Memorandum ruling out economic aid to Chile was issued.

A KISSINGER GROUP

Normally, the interagency unit would have been under the chairmanship of the Assistant Secretary of State for Inter-American Affairs. But, the sources said, the Assistant Secretary at that time, Charles A. Meyer, had fallen into disfavor with the White House because of his resistance at meetings of the 40 Committee to some of the clandestine C.I.A. activities authorized against the Allende Government.

"It was a big blow to the State Department," another source said. "It was a Kissinger group.

"It stuck in my mind because Kissinger, in effect, became a Chilean desk officer," the source added. "He made sure that policy was made in the way he and the President wanted it."

[From the New York Times, Sept. 16, 1974]

U.S. TOOK "EXTRAORDINARILY SOFT LINE" IN ALLENDE'S FIRST YEAR, ENVOY SAYS

(By Peter Kihss)

In the late Salvador Allende Gossen's first year as President in Chile, the United States pursued "an extraordinarily soft line" and tried to develop a "modus vivendi" with the lefist Government, according to former Ambassador Edward M. Korry.

Mr. Korry says that when Dr. Allende reneged on one agreement and "proceeded to break almost every assurance he had volunteered," he warned the Chilean leader of "the inescapable consequences of provoking American enmity," at least in terms of blocking international credits. That was in September, 1971, just about a month before Mr. Korry's appointment in Santiago ended.

Mr. Korry described efforts during his ambassadorship to cooperate with Dr. Allende's regime to back up testimony he gave last year to a Senate Foreign Relations subcommittee. He contended that his testimony was being wrongly challenged as potentially misleading in the latest disputes over Central Intelligence Agency activities in Chile.

Mr. Korry, who was Ambassador from October, 1967, through October, 1971, had told the subcommittee: "The United States did not seek to pressure, subvert, influence a single member of the Chilean Congress at any time in the entire four years of my stay. No hard line toward Chile was carried out at any time."

He said in an interview with The New York Times, that insofar as his own period as Ambassador was concerned, "I stand by that statement unconditionally." In his use of the word "influence," Mr. Korry said, he meant to deny any attempt to "influence in the sense of bribery."

SUCCEEDED IN 1970

Dr. Allende won a plurality in a three-way presidential election on Sept. 4, 1970. He was confirmed as President by the Chilean Congress on Oct. 24, and was inaugurated on Nov. 3, 1970. In October, 1971, Mr. Korry was succeeded as Ambassador to Chile by Nathaniel Davis, who was still serving when a military coup led to Dr. Allende's ouster and death in September of last year.

Now a writer and consultant, Mr. Korry, 52 years old, was interviewed at his home in Briarcliff Manor, N.Y., last Thursday after disclosures of Congressional testimony by William S. Colby, Director of Central Intelligence.

Mr. Colby reportedly testified that the agency was authorized to spend more than $8-million clandestinely from 1970 to 1973 to "destabilize" the Marxist regime. According to Washington reports, $7-million of the authorized amount was spent.

SUPPORT FOR CENTER

"When I launched the soft line toward Allende," Mr. Korry said, "I also believed unswervingly that the United States should support some of those who were committed to democracy and its practices as understood in the United States as well as in Chile [to help them] to survive. The kinds of people that I had in mind were nonextremist, nonmilitary practitioners of center democracy."

Mr. Korry said he had warned in a September, 1970, cablegram shortly after Dr. Allende's election that "there was no chance of any political or other intervening event preventing Allende from being confirmed as President or inaugurated in November."

"I gratuitously inserted, not once but more than once," he added, "the strong statement that if anyone were to be contemplating a United States intervention of any kind— direct or indirect— to bar Allende's assumption of power, its consequences would be worse for United States interests than the Bay of Pigs, both in and outside of Chile."

FREI'S ELECTION BACKED

The administrations of both Presidents John F. Kennedy and Lyndon B. Johnson, Mr. Korry said, had decided to "go all-out," to support the election of Eduardo Frei Montalva, a Christian Democrat, as President in 1964 to defeat Dr. Allende. "Congress was fully aware of the policy of stopping Allende in 1964," he contended.

The Administration of President Richard M. Nixon, he said, decided in March 1969—while Mr. Frei was still in office—against signing agreements Mr. Korry had negotiated for $40 million in standby loans to Chile on the ground that "the high price of copper provided enough dollars for Frei."

Mr. Korry said he had appealed against the decision, warning that Mr. Frei would "start nationalizing copper companies" and would resume trade relations with Premier Fidel Castro's Cuban Government despite inter-American sanctions—as it then did.

The United States, Mr. Korry said, had already decided in 1968, during the Johnson Administration, virtually to avoid any new guarantees of American investment in Chile. He said the reason was that Chile had a disproportionately high percentage of such United States guarantees on a worldwide basis.

In 1969, he said Washington refused to go along with business opposition to Chilean nationalization of copper companies. In 1970, he said, Washington "put the Chilean military off limits" to embassy relations and "refrained from financing any party or candidate." Under the Chilean constitution, Mr. Frei could not succeed himself.

Mr. Korry held that it would betray both his government oaths and Chileans whose lives would be endangered to discuss details of Central Intelligence Agency activities.

But he declared that in testimony before a Senate Foreign Relations subcommittee last year, he significantly "never denied" C.I.A. funding for some programs—and had referred questions to the agency.

"ANTI-COMMUNIST PROGRAM"

The United States in 1969 and 1970 "was continually carrying out an anti-Communist program." he said. After he warned against any effort to block Dr. Allende's confirmation or inauguration, he said he took part in consultations in Washington in October, 1970, on three potential policies:

"A—conscious effort to work out a modus vivendi; B—seek correct but minimal relations; C–try to isolate and hamper."

President Nixon, he said, officially decided on the middle "correct but minimal" line. In fact, Mr. Korry said, all three lines were followed.

On his own, he said, he offered to work with Clodomiro Almeyda Medina, Foreign Minister in the Allende Government, "pragmatically, problem by problem"—and in secret to have greater latitude.

The first result, he said, was that the Chileans agreed to buy at an acceptable price a plant of the Northern Indiana Brass Company.

Also, he said, there had been $800-billion in outstanding Agency for international Development loans by the United States to Chile, and "tens of millions" under these were kept flowing that first year.

BANK LOANS AGREED

On his recommendation, he said, the Nixon Administration consented in 1971 to two Inter-American Development Bank loans to Chile totalling $11.6 million.

He said he told Allende officials that the United States would consider new bilateral help if there was no "undue hostility or irrationality," but had added that Congressional requirements for audits would probably be unacceptable to the Chileans.

The "high points of this early period of good working relations," Mr. Korry said, were agreements early in April, 1971, for Chilean purchase of Bethlehem Steel Company iron mines with 15-year bonds "in the $20-million bracket" and then in May, 1971, for Chilean purchase of a Cerro Copper Company mine.

The Cerro pact, he said, would have averted a $14-million outlay by the United States in Overseas Private Investment Corporation antiexpropriation insurance.

Thirty minutes before it was to be signed, Mr. Korry said, President Allende delayed it under pressure from "the most extreme of the Marxist-Lennists in his coalition"—and kept stalling it until the coup.

Mr. Korry said he had looked on the Cerro pact as a precedent for potential agreements on properties of the Anaconda and Kennecott copper companies and the International Telephone & Telegraph Company, which involved, United States antinationalization guarantees with "taxpayer exposure of between $300-million and $500-million."

In July, 1971, Mr. Korry said he went to Washington and obtained approval from William P. Rogers, then the Secretary of State, and "no objection" from Henry A. Kissinger on behalf of the National Security Council to offer another idea. This, he said, was to be "in my name only" at the outset, to avoid drawn-out bureaucratic delays.

It would have had Chile pay for nationalizations in low-interest, 25-year notes. The United States Treasury would back these with its "full faith and credit" so that each company could then readily discount the notes for cash in banks. A similar plan this year let the Treasury back Israel bonds for arms purchases, Mr. Korry said.

[From the New York Times, Sept. 16, 1974]

THE CIA IN CHILE

Disclosure that the Central Intelligence Agency authorized more than $8 million for covert activities aimed first at preventing Salvador Allende's election as President of Chile and then at "destabilizing" his Marxist Government would be appalling enough by itself. It is doubly so when stacked against flat denials of any such United States intervention or policy to intervene, some of it in sworn testimony before committees of Congress by former and present Government officials.

In secret testimony before a House subcommittee last April, C.I.A. Director William E. Colby said his agency authorzied $500,000 to aid Dr. Allende's opponents in the 1970 election; $350,000 to bribe Chilean legislators to vote against him when the election was thrown into the Congress, and $6.5 million for subsequent "destabilization" activities and for helping anti-Allende candidates in the 1971 municipal elections.

This conflicts directly with testimony before a Senate Foreign Relations subcommittee by former Ambassador Edward M. Korry that "the United States did not seek to pressure, subvert, influence a single member of the Chilean Congress" during his four years in Chile, and by former Assistant Secretary of State Charles A. Meyer that "we bought no votes, we funded no candidates, we promoted no coups."

During part of the period when Mr. Colby says the C.I.A. was financing "destabilizing" activities, Ambassador Korry says he was carrying on secret negotiations with President Allende, looking toward uninterrupted American cooperation and financial aid, provided Chile did not act with undue hostility toward the United States. These efforts, he says, were undermined by extremists in Dr. Allende's Popular Unity coalition.

Are we to believe that Ambassador Korry and the State Department were endeavoring to stabilize Dr. Allende's Government while the C.I.A. was trying to "destabilize" it? Could the American Ambassador in Santiago and the Assistant Secretary of State for Inter-American Affairs have been ignorant of what the C.I.A. was doing—or was the C.I.A. in truth a law unto itself?

And what of the role of Henry A. Kissinger in this sordid affair? Throughout the period he headed the so-called Forty Committee which supervises C.I.A. operations and, according to Mr. Colby, approved in advance the covert activities in Chile. Yet, Mr. Korry says that on a trip to Washington in 1971 he got approval from both Mr. Kissinger at the National Security Council and Secretary of State William P. Rogers for his proposal of cooperation with Chile in a compensated take-over of American copper interests. Mr. Kissinger told the Senate Foreign Relations Committee that "to the best of my knowledge and belief," the C.I.A. "had nothing to do" with the military coup that overthrew Dr. Allende.

It is now up to President Ford to find out who is actually in charge of United States foreign policy in sensitive areas of the world, and whether anyone in fact controls the operations of the C.I.A.

Of far greater importance than the bizarre spectacle of two United States agencies trying simultaneously to stabilize and "destabilize" as elected Government is that fact that an inadequately controlled C.I.A. badly served the American national interest by its dirty work in Chile. It matters not that the Soviet Union does far worse, that Fidel Castro intervened far more outrageously in Chile than did the United States, or that extremists in Dr. Allende's camp would in any event have destroyed the Chilean democracy on their own.

Clearly, the so-called C.I.A. "oversight" committees in Senate and House are failing to do their job. Representative Harrington of Massachusetts has asked the House Foreign Affairs Committee for hearings on the C.I.A.'s role in Chile. Senator Church of Idaho will ask similar action from the Senate Foreign Relations Committee.

If this enormously powerful agency is ever to be brought under effective oversight, Congress must rise to this distasteful but imperative responsibility.

[From the Washington Post, Sept. 17, 1974]

PERJURY INQUIRY URGED ON CHILE DATA

PANEL GETS REPORT

(By Laurence Stern)

A Senate staff report recommends that a perjury investigation be initiated against former Central Intelligence Agency Director Richard M. Helms and accuses Secretary of State Henry A. Kissinger of having "deceived" the Senate Foreign Relations Committee is sworn testimony.

The report, which centers on testimony given by high-ranking officials on U.S. covert intervention in Chile's internal political affairs, also recommends perjury and contempt investigations of three other government witnesses in the Chile inquiry.

Prepared by Jerome Levinson, chief counsel to the Senate Foreign Relations Subcommittee on Multinational Corporations, the confidential report will be taken up for possible action today at an executive session of the Foreign Relations Committee.

The committee has the option of endorsing or rejecting the report in whole or in part.

The targets of the proposed investigations are former Assistant Secretary of State for Inter-American Affairs Charles E. Meyer, former U.S. Ambassador to Chile Edward Korry, and William Broe, former chief of the CIA's Latin American Division.

The report, submitted to subcommittee chairman Sen. Frank Church (D-Idaho) and Sen. Clifford P. Case (R-N.J.), also asks that the record of Kissinger's confirmation hearing be reopened in public session to question the Secretary on the "rationale" for U.S. covert political actions in Chile after 1969.

It further recommended that Kissinger be asked to testify generally on U.S. policy toward "duly elected governments which may be anticipated not to follow policies to the liking of the United States."

The staff recommendations reflected rising concern in Congress over major discrepancies in the sworn testimony of high State Department witnesses and the disclosure of secret testimony last April 22 by CIA Director William E. Colby that the agency spent $3 million in Chile to foil the late Salvadore Allende's candidacy in 1964 and $8 million in attempting to block his election and undermine his government after 1969.

The report cites previously secret testimony by Kissinger, delivered at an executive session of his confirmation hearing on Sept. 17, 1973, minimizing the role of the CIA in the 1970 Allende election.

It quotes Kissinger as saying:

"The CIA was heavily involved in 1964 in the election, was in a very minor way involved in the 1970 election and since then we have absolutely stayed away from any coups. Our efforts in Chile were to strengthen the democratic political parties and give them a basis for winning the election in 1976, which we expressed our hope was that Allende could be defeated in a free democratic election."

At the time Kissinger gave his testimony, the report noted, "the Forty Committee [the National Security Council's senior covert action panel] had already authorized the expenditure of . . . $8 million for the purpose of destabilizing the Allende government so as to precipitate its downfall."

Only a month before Kissinger testified, the report further noted, the Forty Committee—which he chaired—authorized the expenditure of $1 million of this amount for "further political destabilization."

The basis for these assertions was the Colby testimony as recounted by Rep. Michael Harrington (D-Mass.), a member of the House Foreign Affairs Committee. The CIA's only comment on the Harrington disclosure was to question whether Colby has used the word *"destabilization"* in his April 22 testimony to a House CIA oversight committee chaired by Rep. Lucian Nedzi (D-Mich.).

Colby's only personal comment on the Harrington report was that he would neither confirm nor deny its authenticity since it was given in executive session. Last Friday Colby commented that the disclosure of his testimony through a confidential letter by Harrington to his chairman, Rep. Thomas Morgan (D-Pa.) raised questions about the ability of government witnesses to testify on "delicate" matters.

The report described as "disingenuous" Kissinger's testimony that since 1970 "we have absolutely stayed away from any coups" in Chile, Kissinger, wrote Levinson, "must have known that expending funds for the express purpose of creating political destabilization had to enhance the possibility, indeed the probability, of the coup which, in fact, took place."

In the case of Helms, the report cited an exchange between the former CIA director and one of his leading senatorial defenders, Stuart Symington (D-Mo.), during an executive hearing on the Helms nomination as ambassador to Iran on Feb. 7, 1973.

Symington: Did you have any money passed to the opponents of Allende?

Helms: No, sir.

Symington: So that the stories that you were involved in that are wrong entirely?

Helms: Yes sir . . .

But Colby's testimony, as reported in the Harrington letter, was that the CIA expended $500,000 in 1969 to fund anti-Allende forces and during the 1970 election $500,000 was given to opposition party personnel. After the Sept. 4 popular election in which Allende won a plurality, the account continued, $350,000 was authorized "to bribe the Chilean Congress" in an effort to "overturn" the results of the popular election in an ensuing congressional run-off.

The staff report alluded, for the first time, to the existence of a National Security Council Decision Memorandum prior to Allende's election which served as the "umbrella" under which the Forty Committee authorized clandestine activities designed to destabilize the Allende government.

Such a policy document would have been drafted under the director of Kissinger who also chaired the Forty Committee meetings at which the anti-Allende action programs were authorized.

The report was also critical of Assistant Secretary of the Treasury for International Affairs John M. Hennessy, who assisted in coordinating U.S. economic policy toward the Allende government that leaned heavily toward withdrawal of lines of credit by such international lending bodies as the World Bank, Inter-American Development Bank and Export-Import Bank.

Hennessy, said the Levinson report, "either perjured himself or seriously misled the subcommittee in stating that the primary consideration in U.S. economic policy toward the Allende government was Chile's credit worthiness."

Broe, the CIA's highest ranking operative for Latin America, was quoted in the report as having testified that there was no U.S. policy to intervene in the 1970 Chilean election. Broe's answers, however, are "technically shy of perjury," the report concluded, though they were "intended to convey the impression of a policy of non-intervention."

The testimony of Nathaniel Davis, U.S. ambassador to Chile during last year's anti-Allende coup, conformed to the "overall pattern of State Department witnesses dissembling and deceiving the committee and subcommittee with respect to the true scope of U.S. government activities designed to undermine the Allende regime," the Levinson report added. No action, however, was recommended against Davis.

Kissinger and Meyer were not available for comment. Korry, reached in New York, said he was "gratified that Mr. Levinson, after deliberately spreading the word that I have committed perjury, now reached the conclusion that I have not."

PRESIDENT DEFENDS OPERATIONS IN CHILE

(By Laurence Stern)

President Ford defended U.S. covert political operations in Chile last night and said they were designed to preserve the opposition press and political parties after the 1970 election of the late Salvador Allende.

State Department and White House spokesmen were unable, however, to amplify on the President's assertion that the Allende government attempted, after its accession, "to destroy opposition news media . . . and to destroy opposition political parties."

Mr. Ford said that the covert program was "in the best interests of the people in Chile and certainly in our best interests."

At the time of Allende's overthrow and death on Sept. 11, 1973, some 10 major newspapers covering the entire political spectrum, nearly two dozen radio stations and all major political parties were operating in Chile.

The military junta that ousted Allende from power terminated operations of all political parties and permitted only pro-government newspapers to resume publication. The Chilean Congress, which ratified Allende's election in 1970, was also closed.

Both White House and State Department spokesmen said they had "no guidance" on the President's explanation for the initiation of the covert programs in Chile.

The issue emerged during the press conference in the context of recent disclosure that Central Intelligence Agency Director William E. Colby told a House subcommittee some $11 million in covert funds were authorized by a National Security Council body and targeted against Allende both before and after his election in 1970.

Mr. Ford also endorsed the kinds of covert actions carried out in Chile and other countries that are supervised by the Forty Committee, an inter-departmental panel of the NSC responsible for management of those programs.

Ford noted that the Forty Committee reviews "every covert operation undertaken by our government and that information is relayed to the responsible congressional committees where it is reviewed by House and Senate committees.

"It seems to me that the Forty Committee should continue in existence and I am going to meet with the responsible congressional committees to see whether or not they want any changes in the review process so that the Congress as well as the President are fully informed and are fully included in the operations for any such actions," Mr. Ford added.

As far as could be determined in interviews with chairmen and members of the two principal oversight committees in the House and Senate last week, they had not previously been briefed by past administrations on the details and scope of the anti-Allende operations as they were revealed in the Colby testimony.

Sen. Stuart Symington (D-Mo.), one of the most senior CIA overseers on Capitol Hill, told The Washington Post he was "very surprised" at Colby's recent revelations.

Asked whether, under international law, the United States has a right to seek to destabilize a constitutionally elected government abroad, Mr. Ford said: "I'm not going to pass judgment on whether it's permitted or authorized under international law. It's a recognized fact that, historically, as well as presently, such actions are taken in the best interests of the countries involved."

The President said he has been reliably informed that Communist countries spend "vastly more money than we do" for covert operations.

He reiterated the claims made by Secretary of State Henry A. Kissinger and CIA Director Colby that "our government had no involvement whatsoever in the Allende coup. . . . The facts are we have no involvement in any way whatsoever in the coup itself."

Last night the only record of an anti-press action by the Allende government was the closing June 21, 1973, for six days of the leading opposition newspaper El Mercurio on a charge that it was inciting subversion. The newspaper, which controls the country's major news chain, was reopened by an appellate court decision.

[From the New York Times, Sept. 17, 1974]

SENATE STAFF REPORT ON CHILE ACCUSES HELMS AND THREE OF CONTEMPT

(By Seymour M. Hersh)

WASHINGTON, Sept. 16.—The staff of a Senate Foreign Relations subcommittee has recommended that contempt of Congress charges be placed against Richard Helms, former director of Central Intelligence, and three retired Nixon Administration officials because of their allegedly misleading Senate testimony on Chile last year, highly reliable Congressional sources said today.

They said that a report by the subcommittee staff mentioned besides Mr. Helms, Charles A. Meyer, former Assistant Secretary of State for Inter-American Affairs, Edward M. Korry, Ambassador to Chile from 1967 to 1971, and William V. Broe, former director of clandestine activities for the Central Intelligence Agency.

Mr. Helms, Mr. Meyer and John M. Hennessy, former Assistant Secretary of the Treasury for International Affairs, the report said, might have committed perjury in testimony before the Subcommittee on Multinational Corporations in the spring of 1973.

None of the men named in the subcommittee report could be reached immediately for comment.

The staff report, written by Jerome I. Levinson, chief counsel of the subcommittee, was prepared last week at the request of Senator Frank Church, Democrat of Idaho, who is chairman of the subcommittee. Details of Mr. Levinson's report, which was distributed to subcommittee members over the weekend, were provided to The New York Times by a Senator's office.

At issue is the discrepancy between the testimony presented to the subcommittee last year about the clandestine role of the C.I.A. In Chile and recent news reports indicating that the intelligence agency had been authorized to spend more than $8-million from 1970 to 1973 in a covert attempt to make it impossible for the Chilean President, Salvador Allende Gossens, to govern.

In addition, sources said, the subcommittee staff report cited Mr. Hennessey's sworn testimony that the Nixon Administration's economic sanctions against Chile were based exclusively on her lower credit rating after Dr. Allende's election. It was reported yesterday that Secretary of State Kissinger, then President Nixon's adviser for national security affairs, had personally headed an interagency panel that decided shortly after Dr. Allende's election in 1970 to attempt to cut off all economic aid and international credits.

The allegations against the five Nixon Administration officials stem from their testimony at highly publicized hearings into a reported attempt by officials of the International Telephone & Telegraph Corporation to seek to interfere in Chile's domestic politics.

Mr. Korry and Mr. Meyer both testified that the United States had continued its policy of noninterventidon toward Chile after Dr. Allende's elections. It was that testimony, sources said, that led to the staff recommendation that contempt and—in the case of Mr. Meyer—possible perjury charges be considered.

The testimony that led to the recommendation that Mr. Helms be charged with contempt and possibly perjury and Mr. Broe with contempt was apparently provided to the subcommittee at classified briefings, sources said.

Mr. Church, in an interview last week, said he had authorized a staff review to determine if the testimony should be turned over to the Justice Department for possible prosecution.

Senate sources said today that only the perjury recommendations, if approved by Senator Church, would be referred to the Jusitce Department directly for investigation.

The contempt of Congress recommendations would have to be voted on by the Foreign Relations Committee and then the full Senate before being forwarded to the department for possible prosecution. Under the law, such contempt is a misdemeanor punishable by a fine of up to $1,000 and a jail sentence of one to 12 months.

The Senate Foreign Relations Committee has scheduled a closed executive session tomorrow to discuss, among other matters, what to do about apparently misleading testimony provided to the Church subcommittee.

In an interview, Senator Clifford P. Case, Republican of New Jersey and a ranking minority member of the committee, declared. "There'll be a serious question as to what the committee ought to do."

"I certainly will press for appropriate action," he said. "No matter what, if a guy is caught lying to a Congressional hearing, there has to be some kind of action."

Other Foreign Relations Committee sources said, however, that it was unlikely that the full committee would immediately agree to press for contempt of Congress or perjury citations against the witnesses. Far more important, the sources said, will be an attempt to determine who in the Nixon Administration influenced the various officials, including Mr. Helms, to be less than candid before the Church subcommittee.

Asked whether the Foreign Relations Committee would summon Mr. Kissinger, Senator Case said, "This applies to everyone."

Mr. Kissinger has not publicly commented on the clandestine activities in Chile. He is chairman of the 40 Committee, the intelligence review board that was responsible for authorizing and overseeing the reported C.I.A. activities against the Allende Government. President Allende was overthrown in a bloody coup d'état last year in which he lost his life.

In a brief talk with newsmen after a breakfast meeting with Mr. Kissinger at the State Department, Senator J. W. Fulbright, chairman of the Foriegn Relations Committee, criticized what he termed the "freewheeling capacity" of the C.I.A. and urged the establishment of a joint Congressional committee to supervise its operations.

PRESIDENT PUBLICLY BACKS CLANDESTINE CIA ACTIVITY

(By Philip Shabecoff)

WASHINGTON. Sept. 16.—President Ford tonight publicly declared his support for the clandestine use of the Central Intelligence Agency "to help implement foreign policy and protect national security," but he denied that the C.I.A. had been involved in the Chilean coup d'état last year.

In his televised news conference, the President bluntly acknowledged that the C.I.A. activities in Chile had been authorized because "there was an effort being made by the Allende Government to destroy opposition news media, both the writing press as well as the electronic press, and to destroy opposition political parties." He said the C.I.A. operations were "in the best interests of the people of Chile."

In a related development, The New York Times learned earlier that the staff of a Senate Foreign Relations subcommittee had recommended that contempt of Congress charges be placed against Richard Helms, the former C.I.A. director, and three retired Nixon Administration officials because of their allegedly misleading Senate testimony last year on the clandestine activities in Chile.

Mr. Ford's defense of covert C.I.A. operations came amid a growing protest in Congress and newspaper editorials stemming from published reports last week that the intelligence agency had been authorized to spend more than $8-million between 1970 and 1973 in an effort to make it impossible for President Salvador Allende Gossens to govern Chile.

Until today, the Nixon and Ford Administrations had repeatedly insisted that the United States had not intervened against Dr. Allende, who died last September when a military junta took power. Just last week, a State Department spokesman said that the department was standing behind testimony to Congress about the C.I.A.'s involvement in Chile despite charges that it was misleading.

Asked about the dispute tonight, Mr. Ford, considered a supporter of strong military establishment while in Congress, described the issue as "an important question."

"Our Government, like other governments," he continued, "does take certain actions in the intelligence field to help implement foreign policy and protect national security."

CITES COMMUNIST PRACTICES

He added that he had been reliably informed that "Communist nations spend vastly more money than we do for the same kind of purpose."

The covert funds funneled into Chile by the C.I.A. were authorized, Mr. Ford said, "to help and assist the preservation of opposition newspaper and electronic media and to preserve opposition political parties."

Mr. Ford was asked whether the Soviet Union had a "similar right to try to destabilize the Government of Canada or the United States." He replied:

"I'm not going to pass judgment on whether it's permitted or authorized under international law. It's a recognized fact that historically as well as presently, such actions are taken in the best interests of the countries involved."

Mr. Ford's account of the type and purpose of the United States intervention in Chile differed—in part, at least—from that provided to Congress in April by William E. Colby, the C.I.A. director.

EXPENDITURE REPORTED

Mr. Colby was reliably reported to have told a House Armed Services subcommittee that $350,000 was authorized by the 40 committee, a secret, high level intelligence review panel then headed by Henry A. Kissinger, to bribe members of the Chilean Parliament late in 1970, shortly before the legislature was scheduled to ratify Dr. Allende's popular election.

Although he was not directly queried about it, Mr. Ford also discussed another aspect of the dispute over the covert activities in Chile—that such operations were not properly reported to the Congressional committees charged with overseeing them.

The 40 Committee, Mr. Ford explained, "reviews every covert operation undertaken by our Government. And that information is relayed to the responsible Congressional committees where it is reviewed by House and Senate committees."

Acknowledging, in effect, the dispute over the procedure, Mr. Ford said that he was going to meet with the Congressional committees "to see whether or not they want any changes in the review process."

Critics in the House and Senate have challenged the review process on the grounds that only a few senior members of the Armed Services committees received the C.I.A. briefings and thus were able to give sanction to covert activities on behalf of the whole Congress.

In addition, the critics have pointed out that such senior Senators as Stuart Symington, the Missouri Democrat, who is a member of the C.I.A. intelligence subcommittee of the Senate Armed Services Committee, told a newsman last week that he had not been fully informed about covert operations in Chile.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore (Mr. HARRY F. BYRD, JR.). Is there further morning business? If not, morning business is closed.

UNFINISHED BUSINESS TEMPORARILY LAID ASIDE

The PRESIDING OFFICER. The unfinished business will be temporarily laid aside and will remain in a temporarily laid aside status until the close of business today.

SOLAR ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1974

Mr. JOHNSTON. Mr. President, I ask that the Senate proceed to the consideration of S. 3234, the Solar Energy Research Act of 1974.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 3234, which the clerk will state.

The second assistant legislative clerk read as follows:

A bill (S. 3234) to authorize a vigorous Federal program of research and development to assure the utilization of solar energy as a major source for our national energy needs, to provide for the development of suitable incentives for rapid commercial use of solar technology and to establish an Office of Solar Energy Research in the U.S. Government.

The Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Solar Energy Research, Development, and Demonstration Act of 1974".

DECLARATION OF FINDINGS AND POLICY

SEC. 2. (a) The Congress hereby finds that—

(1) dependence on nonrenewable energy resources cannot be continued indefinitely, particularly at current rates of consumption;

(2) it is in the Nation's interest to begin to expedite the long term development of renewable energy resources, such as solar energy; and

(3) to date, the national effort in research, development, and demonstration activities relating to the utilization of solar energy has been extremely limited; therefore

(4) the urgency of the Nation's critical energy shortages and the need to make clean and renewable energy alternatives commercially viable requires that the Nation undertake, at a minimum, a five-year $1,000,000,000 research, development, and demonstration program.

(b) The Congress declares that it is the policy of the Federal Government to—

(1) pursue a vigorous and viable program of research and development into the utilization of solar energy as a major source of energy for our national needs; and

(2) provide for the development and demonstration of practicable means to employ solar energy on a commercial scale.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) utilization of solar energy means advanced technology applications of solar energy including, but not necessarily limited to, solar thermal and photovoltaic power generation for terrestrial applications, whether situated on the ground or in space, wind energy conversion, ocean thermal gradient conversion, solar stimulated bioconversion, and solar production of synthetic gases and hydrogen;

(2) the term "Project" means the Solar Energy Coordination and Management Project; and

(3) the term "Chairman" means the Chairman of the Project.

MANAGEMENT PROJECTS

SEC. 4. (a) There is hereby established the Solar Energy Coordination and Management Project.

(b)(1) The Project shall be composed of six members as follows:

(A) an Assistant Director of the National Science Foundation;

(B) an Assistant Secretary of Housing and Urban Development;

(C) a member of the Federal Power Commission;

(D) an Associate Administrator of the National Aeronautics and Space Administration;

(E) the General Manager of the Atomic Energy Commission; and

(F) a member to be designated by the President.

(2) The President shall designate one member of the Project to serve as Chairman of the Project.

(c) The Project shall have overall responsibility for the provision of effective management and coordination with respect to a national solar energy research, development, and demonstration program.

(d) Within sixty days from the date of enactment of legislation establishing a Federal Energy Research and Development Administration, the functions and authorities of the Project shall be transferred thereto, vested in the Administrator thereof, and implemented through the Assistant Administrator for Solar, Geothermal, and Advanced Energy Systems, to achieve the purposes of this Act.

RESEARCH AND DEVELOPMENT

SEC. 5. The Chairman shall—

(a) Initiate a research and development program for the purpose of resolving the major technical problems inhibiting commercial utilization of solar energy in the United States.

(b) In connection with or as a part of such program—

(1) conduct, encourage, and promote basic scientific research and fundamental studies to develop effective and economical processes and equipment for the purpose of utilizing solar energy in an acceptable manner for beneficial uses;

(2) carry out systems, economic, social, and environmental studies to provide a basis for research and development planning and phasing;

(3) perform or cause to be performed technology assessments relevant to the utilization of solar energy; and

(4) cooperate and participate jointly with other nations, especially those with agreements for scientific cooperation with the United States, in interinstitutional, bilateral or multilateral research projects in the field of solar energy.

(c) The specific solar energy technologies to be addressed or dealt with in the program shall include—

(1) direct solar heat as a source for industrial processes, including the utilization of low-level heat for process and other industrial purposes;

(2) thermal energy conversion, and other methods, for the generation of electricity and the production of chemical fuels;

(3) the conversion of cellulose and other organic materials (including wastes) to useful energy or fuels;

(4) photovoltaic and other direct conversion processes;

(5) sea thermal power conversion; and

(6) windpower conversion.

FULL-SCALE DEMONSTRATIONS

SEC. 6. The Chairman shall—

(a) for each of the technologies specified in subsection 5(c), solicit specific proposals for full-scale demonstration plants. Such proposals shall be for facilities or powerplants of sufficient size to demonstrate the technical and economic feasibility of utilizing the various forms of solar energy, and shall include, at a minimum, a detailed description of:

(1) the proposed plant or facility, including plant site and proposed technology;

(2) an economic assessment of the costs and benefits of proposed project;

(3) an assessment of both the immediate and potential future uses for the solar energy utilized in the proposed program; and

(4) the nature and extent of Federal participation, if any, anticipated in carrying out the proposal.

(b) for each of the technologies specified in subsection 5(c), select one or more specific proposals solicited pursuant to subsection (a), to be pursued to the point of full-scale demonstration. Such selection shall be made pursuant to an evaluation of the potential success of each proposal, giving full consideration to the following matters:

(1) economic costs and feasibility;

(2) long-term national interest in the technology;

(3) environmental impact;

(4) potential for technology transfer to other applications; and

(5) likelihood of success for commercial application.

(c) conduct feasibility studies for a full-scale demonstration program for each of the specific selected proposals, identifying any engineering and technical work (such as the design, construction, and testing of pilot plants, modules, or other scaled-down operations), that must be completed prior to developing processes and plant design concepts to the point of full-scale demonstration.

REPORTS

SEC. 7. (a) Not later than one year after the date of enactment of this Act, the Chairman shall report to the President and the Congress, on the results of the feasibility studies conducted pursuant to subsection 6 (c), together with a request for authorization for the construction of the demonstration plants to be pursued to full-scale application.

SMALL-SCALE DEMONSTRATION PROGRAMS

SEC. 8. (a) If the Chairman determines that the available level of technology and knowledge of the proposal warrants immediate initiation of a small-scale demonstration involving a total Federal investment of not greater than $20,000,000, the Chairman, in cooperation with the Atomic Energy Commission, is authorized to initiate such demonstrations.

(b) The Commission shall be the agency directly responsible for the administration of construction contracts and agreements with non-Federal participants in such demonstrations.

(c) The Commission is authorized to investigate, negotiate, and enter into cooperative agreements with non-Federal utilities, industries, and governmental entities for the construction, operation, and maintenance of demonstration developments for the production of electric or heat energy using solar energy technologies.

(d) No agreement shall be entered into under the authority granted by this section unless the Chairman determines that—

(1) the nature of the resource, the geographical location, the scale and engineering design of the facilities, the techniques of production, or other significant factors of the proposal offer opportunities to make important contributions to the general knowledge of solar energy, the techniques of its development, or public confidence in the technology;

(2) the potential non-Federal cooperating entities are willing and capable to make contributions toward the capital cost of the development, to operate the power generation or other commercial facilities, and to provide a market for any energy produced;

(3) the development or the practical benefits of the development as set forth in clause (1) of this subsection are unlikely to be accomplished without Federal assistance.

ADMINISTRATION OF DEMONSTRATION PROGRAMS

SEC. 9. (a) Subsequent to the establishment of the Energy Research and Development Administration, the Administrator of the Energy Research and Development Administration, acting through the Assistant Administrator for Solar, Geothermal, and Advanced Energy Systems shall perform the necessary contract administration for the construction and operation of any demonstration programs authorized by the Congress, including contracts for the construction and operation of pilot plants, modules, and other scaled-down operations deemed necessary to establish the feasibility of authorized projects.

(b) If, on the date of submission of the report specified in subsection 7(b), there has not been established a Federal Energy Research and Development Administration, the President shall designate an appropriate agency to carry out the functions specified in this section and in section 13 of this Act.

INFORMATION

SEC. 10. (a) The Chairman is authorized and directed to collect, analyze, process, and disseminate information and data on the applications of solar energy developed pursuant to this Act. Such data and information shall include:

(1) technical information resulting from and related to the reserch and demonstration programs specified under sections 5, 6, and 8 of this Act; and

(2) general information on solar energy applications to be disseminated for popular consumption.

(b) The Chairman shall encourage the development of agreements and programs with other countries to facilitate the exchange of information and data relating to solar energy resource assessment.

PROGRAM COORDINATION

SEC. 11. The Chairman shall enter into such arrangements and take such other steps as may be necessary or appropriate to provide for the effective coordination of solar energy technology utilization with all other technology utilization programs within the Federal Government.

SCIENTIFIC AND TECHNICAL EDUCATION

SEC. 12. The Chairman is authorized to support programs of education in the sciences and engineering to provide the necessary trained personnel to perform the solar energy research, development, and demonstration activities required under this Act. Such support may include fellowships, traineeships, technical training programs, technologist training programs, and summer institute programs.

ANNUAL REPORTS

SEC. 13. The Chairman, acting through the Office, shall report, on an annual basis, to the President and the Congress all actions taken under the provisions of this Act, all action planned for the ensuing year, and, to the extent practical, a projection of activities and funding requirements, for the ensuing five years. Further, he shall recommend, as he deems appropriate, legislation and/or reorganizations which might further the purposes of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. (a) To carry out the provisions of this Act, there are authorized to be appropriated—

(1) for the fiscal year ending June 30, 1976, $100,000,000;

(2) such amounts as may be provided by annual authorization measures in subsequent years; and

(3) such amounts as may be authorized for the construction of full-scale demonstrations pursuant to section 9(a) of this Act.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senator from Hawaii (Mr. FONG) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for two unanimous-consent requests?

Mr. JOHNSTON. I yield.

ORDER FOR ADJOURNMENT UNTIL 9 A.M. THURSDAY

Mr. ROBERT C. BYRD. Mr. President, these requests having been cleared on both sides of the aisle. I ask unanimous consent that when the Sentae completes its business tomorrow, it stand in adjournment until the hour of 9 a.m. Thursday.

The PRESIDING OFFICER (Mr. CHILES). Wtihout objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday after the two leaders or their designees have been recognized, there be a period for the transaction of routine morning business, with statements limited therein to 5 minutes each for a period not to extend beyond the hour of 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 707 AND SENATE RESOLUTION 394 ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 9:30 a.m. on Thursday debate be resumed on the unfinished business, S. 707, and continue for 2 hours, the time to be divided between Mr. RIBICOFF and Mr. ALLEN; that at the hour of 11:30 a.m. the unfinished business, S. 707, be temporarily laid aside; that until the hour of 12:15, and between the hours of 11:30 a.m. and 12:15 p.m., debate ensue on Senate Resolution 394; that at the hour of 12:15 p.m. a vote occur on Senate Resolution 394; that upon the disposition of that vote, or circa 12:30 p.m., debate begin on the motion to invoke cloture on S. 707, which debate will run for 1 hour under the rule.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That on Thursday, September 19, 1974, the Senate proceed to debate S. 707, the so-called "Consumer Protection Agency Act," from 9:30 a.m. until 11:30 a.m., at which the Senate will begin consideration of S. Res. 394, disapproving the alternative plan for pay adjustments for Federal employees, and debate thereon will continue until 12:15, at which time a vote will occur on the adoption of the resolution. Immediately following the vote, there will be a one hour debate on the motion to invoke cloture on S. 707. Under Rule XXII there will then be a quorum call, followed by a vote on the adoption of the motion to invoke cloture. (Sept. 17, 1974)

(The foregoing unanimous-consent agreement was hereinafter modified as hereinafter appears.)

EXPORT-IMPORT BANK AMENDMENTS OF 1974—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 3917, a bill to amend and extend the Export-Import Bank Act of 1945, as amended, is called up and made the pending business before the Senate, there will be a time limitation thereon of 3 hours, to be equally divided between Mr. STEVENSON and the Republican leader or his designee; that there be a time limitation on any amendment thereto of 1 hour; that there be a time limitation on any amendment to an amendment of 30 minutes; that there be a time limitation on any debatable motion or appeal of 20 minutes; and that the agreement be in the usual form, with the understanding that an amendment by Mr. EAGLETON, which may not be germane, will nevertheless be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That during the consideration of S. 3917, a bill to amend and extend the Export-Import Bank Act of 1945, as amended, and for other purposes, debate on any amendment in the first degree shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill; debate on any amendment to an amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the author of the amendment in the first degree; and debate on any debatable motion or appeal shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee: Provided further, That no amendment that is not germane to the provisions of the said bill be received, except an amendment to be offered by the Senator from Missouri (Mr. Eagleton), which may or may not be germane.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 3 hours, to be equally divided and controlled, respectively, by the Senator from Illinois (Mr. Stevenson) and the Minority Leader or his designee: Provided, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal. (Sept. 17, 1974)

Mr. ROBERT C. BYRD. I thank the distinguished Senator for his courtesy in yielding.

SOLAR ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1974

The Senate continued with the consideration of the bill (S. 3234) to authorize a vigorous Federal program of research and development to assure the utilization of solar energy as a major source for our national energy needs, to provide for the development of suitable incentives for rapid commercial use of solar technology and to establish an Office of Solar Energy Research in the U.S. Government.

Mr. JOHNSTON. Mr. President, it is with great pleasure and satisfaction that I today offer my full support of S. 3234, the Solar Energy Research Act of 1974, as it was amended and reported unanimously from the Committee on Interior and Insular Affairs. In doing so, I wish to commend my distinguished colleague, the junior Senator from Minnesota (Mr. HUMPREY) who, as the original sponsor of this measure, is responsible for its being before us today.

My colleague's interest in harnessing the energy of the sun for practical use dates back many years. As early as 1962, he introduced a bill to establish an Office of Solar Energy within the Department of the Interior. Although no action was taken on that measure, the Senator has remained an active and persistent advocate for an expanded Federal role in solar energy research and development.

The wisdom and farsightedness of the Senator from Minnesota's commitment has been amply demonstrated by the recent energy crisis. Faced with the relentless depletion of our nonrenewable energy resources and with steadily mounting fuel costs, we now recognize an urgent need to accelerate development of our alternative forms of energy. These factors, plus growing concern with the environmental impact of many existing energy processes, have led the Government to assign clean and renewable solar to a more prominent position in the research and development program.

The purpose of S. 3234, the Solar Energy Research, Development and, Demonstration Act of 1974, is to provide for research, development, and demonstration activities relating to the utilization of advanced solar energy technologies. As reported by the Senate Interior Committee, the measure is designed to initiate an aggressive and comprehensive program with the administrative framework and financial support needed to make the widespread use of solar energy economically and technologically practical. The measure has the following major parts:

First. A policy statement emphasizing the need to expand and accelerate the development of solar energy.

Second. Organizational arrangements to coordinate and expand solar energy research, development, and demonstrations.

Third. Authorization of appropriations in the amount of $100,000,000 for fiscal year 1976.

Fourth. Authority to solicit and evaluate proposals for full-scale demonstration projects of solar energy technologies.

I ask unanimous consent that the section-by-section analysis included in the committee report on the bill be printed in the RECORD. And I recognize the senior Senator from Arizona and ranking minority member of the Senate Interior Committee who has been active in his interest and support for this measure.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IV. SECTION-BY-SECTION ANALYSIS

SHORT TITLE

The short title of this measure is the Solar Energy Research, Development and Demonstration Act of 1974.

SECTION 2. DECLARATION OF FINDINGS AND POLICY

Section 2(a) sets forth the Congress' findings that faced with a depleting supply of conventional energy resources, the nation must accelerate and expand its development of such clean and renewable energy alternatives as solar energy. The section estimates that to make solar energy commercial viable will require at least a five-year $1 billion research, development and demonstration program and it declares (2(b)) it to be the policy of the Federal government to pursue such a program. The Committee's estimate that to make solar energy commercially viable will require a five-year $1 billion program is derived from a variety of private and Federal agency sources, including the National Science Foundation and the Federal Energy Administration.

SECTION 3. DEFINITIONS

This section defines utilization of solar energy for purposes of this Act as being limited to advanced technology applications. The reason for this limiting definition is to avoid any overlap, conflict or duplication of the scope of this measure with the Solar Heating and Cooling Demonstration Act, which was signed into law on September 3, 1974. The scope of the present bill encompasses all applications of solar energy not contained in the previous legislation.

SECTION 4. MANAGEMENT PROJECTS

Section 4 establishes an interagency Solar Energy Coordination and Management Project to coordinate and administer the provisions of the Act. The Project is to be composed of six members, as follows:

(1) One Assistant Director of the National Science Foundation;

(2) One Assistant Secretary of Housing and Urban Development;

(3) One member of the Federal Power Commission;

(4) One Associate Administrator of the National Aeronautics and Space Administration;

(5) The General Manager of the Atomic Energy Commission; and

(6) One member designated by the President.

The President shall designate one of the members as Chairman of the Project.

The section requires that the functions and authorities of the Project are to be transferred to the Federal Energy Research and Development Administration within 60 days after that agency is established. Once ERDA is created, it will be the most appropriate agency to carry out the objectives of the Act, consistent with its mandate to oversee and coordinate all energy research and development activities involving the Federal Government.

SECTION 5. RESEARCH AND DEVELOPMENT

This section authorizes and directs the Chairman of the Project to initiate research and development programs fundamental to the commercial development of advanced solar energy technologies. These activities are intended to lay the groundwork for the full-scale demonstration programs provided for in Section 6 of this Act. The Chairman is directed to carry out economic, environmental, and social studies relevant to the planning, development and demonstration activities of the Act and to engage in solar energy research agreements and projects with other nations.

A great deal of testimony was received at the Committee's June 27th hearings in support of the mutual benefits which could accrue from international cooperation in solar research and development activities. The language in this section makes clear that to the fullest extent possible the accumulated expertise of scientists in other nations in the field of solar energy should be utilized and not needlessly duplicated by U.S. scientists.

Section 5 also delineates the specific advanced solar energy technologies to be covered by this Act, namely:

1. Solar heat for industrial purposes;
2. Thermal energy conversion for electric powerplant generation;
3. Conversion of organic materials to energy;
4. Photovoltaic conversion;
5. Sea thermal power conversion; and
6. Windpower conversion.

SECTION 6. FULL-SCALE DEMONSTRATIONS

This section provides for active solicitation and careful evaluation by the Chairman of any proposals for full-scale demonstration of the advanced solar energy technologies. It requires that feasibility studies be conducted on selected proposals for full-scale demonstrations to determine what further work is needed prior to full-scale application. The purpose of this section is to lay further groundwork for, and develop to the demonstration stage, at least one specific proposal for each of the advanced solar technologies covered by the Act.

SECTION 7. REPORTS

This section requires that, not later than one year after the date of enactment, the Chairman submit to the President and to the Congress a report on the feasibility studies conducted on specific advanced solar technology proposals, together with recommendations and requests for authorization for the construction of the selected demonstration activities. The purposes of this provision are twofold: (1) to provide a timely impetus to actual full-scale demonstration of the advanced solar technologies; and (2) to afford the opportunity for Congressional oversight of the program.

SECTION 8. SMALL-SCALE DEMONSTRATION PROGRAMS

This section provides that the Chairman may proceed with the construction of a small-scale demonstration plant if the status of a technology warrants its immediate application and if the Federal cost outlay for such a plant would not exceed $20,000,000. The Atomic Energy Commission is designated as the agency which will be responsible for the administration of advanced design and construction contracts and agreements with non-Federal participants in such demonstrations. It is also authorized by this section to enter into cooperative agreements with non-Federal entities for the construction, operation and maintenance of demonstration developments for the production of electric or heat energy using solar energy technologies. No agreements shall be authorized under this section unless the Chairman determines that:

(1) The demonstration will offer opportunities to make important contributions to achieving objectives of the Act;

(2) The non-Federal participants will be willing and able to make some contribution in the form of funds, rights in property, services or some other valuable consideration; and

(3) The practical benefits to the development of solar energy of the proposed demonstration are unlikely to be accomplished without the Federal assistance authorized by this Act.

SECTION 9. ADMINISTRATION OF DEMONSTRATION PROGRAMS

It is herein provided that the contracts for the construction and operation of the full-scale demonstration projects will be administered by the Assistant Administrator for Solar, Geothermal and Advanced Energy Systems of the Energy Research and Development Administration (or an appropriate alternative to be designated by the President if ERDA has not been established).

SECTION 10. INFORMATION

This section provides for the collection and analysis of data and dissemination, on both a technical and popular level, relating to the applications of advanced solar technologies covered by this Act. It also directs the Chairman to encourage the development of agreements and programs with other countries to facilitate the exchange of information and data relating to solar energy resource assessment. The purpose of this section is to assure a more rapid advance of solar energy utilization in all sectors, to facilitate replication of successfully demonstrated applications, and to increase public understanding of the potential beneficial uses of solar energy.

SECTION 11. PROGRAM COORDINATION

This section requires that the Chairman coordinate the efforts of the Project with other Federal agencies engaged in similar activities.

SECTION 12. SCIENTIFIC AND TECHNICAL EDUCATION

Financial assistance is authorized by this section to train personnel to perform the solar energy research, development and demonstration activities required by this Act. The provision recognizes that, because solar energy R. & D. has hitherto been extremely limited, there are insufficient personnel trained in the field to carry out the kind of large-scale program envisioned by the Act. It will therefore be necessary to train a significant number of persons in the requisite skills. The broad phrasing of the language in this section permits significant leeway for innovative support programs as well as for more traditional assistance.

SECTION 13. ANNUAL REPORTS

This section requires that an annual report be submitted by the Chairman to the President and the Congress on the ongoing and projected activities carried out under the Act and recommending the funding requirements needed for carrying out those activities.

The report shall also include any recommendations by the Project which might serve, through structural or functional revisions or additions to the program, to further the objectives of the Act.

SECTION 14. AUTHORIZATION OF APPROPRIATIONS

This section authorizes the following to be appropriated to carry out the provisions of the Act:

(1) For the fiscal year ending June 30, 1976, $100,000,000;

(2) Such amounts as may be provided by annual authorization measures in subsequent years; and

(3) Such amounts as may be authorized for the construction of full-scale demonstrations pursuant to section 9 of the Act.

Because of the lack of experience, it is difficult to predetermine the schedule of requirements for capital investments in full-scale demonstrations. The amounts which would be authorized beyond fiscal year 1976, therefore, are not specified in the bill.

V. ESTIMATE OF COST

In accordance with Section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–150, 91st Cong.) the Committee provides the following estimate of cost of this measure.

(1) To be authorized for appropriation in fiscal year 1976, $100,000,000.

(2) Such amounts as may be provided by annual authorization measures in subsequent years to further carry out the provisions of this Act. It is estimated that an authorization of at least $1 billion over a 5-year period would be necessary to achieve the objectives of the Act.

VI. COMMITTEE RECOMMENDATION

The Senate Committee on Interior and Insular Affairs in open markup session on September 10, 1974, by unanimous vote of a quorum present, recommends that S. 3234 be enacted with the amendments set forth herein.

VII. EXECUTIVE COMMUNICATIONS

The comments of appropriate Executive agencies on S. 3234 were requested but had not been received as of the date of this report.

VIII. CHANGES IN EXISTING LAW

Subsection (4) of Rule XXIX of the Standing Rules of the Senate requires a statement of any changes in existing law made by the bill as ordered reported. S. 3234 as reported makes no amendment to or changes in existing laws.

Mr. FANNIN. Mr. President, it gives me great pleasure today to join the distinguished junior Senator from Louisiana in suport of S. 3234, the Solar Energy Research Development and Demonstration Act of 1974. It is particularly a pleasure to participate in the discussion of this bill for two specific reasons. The first is that this bill, like the earlier solar bill and the geothermal bill, resulted from a cooperative effort between Democrats and Republicans here in the Senate and between Senators and administration officials. Contrary to the pattern in which other energy legislation has been considered, this bill represents the high level of bipartisan cooperation in which the Senate is occasionally capable of operating. I praise the Senator from Louisiana for his leadership in accomplishing this objective.

The second reason that I am proud to be a cosponsor of this bill is that it will be of particular benefit to Arizona. Arizona was not blessed with oil and gas deposits, but it is blessed with sunshine. I like to think of Arizona as the "solar energy state." Fortunately, we have been working with solar energy, and I have participated in these projects for more than 20 years. Our universities are active in research work. We have many firms in Arizona that are doing a great deal of research, and some are locating plants within the State for the development of solar energy equipment.

Several solar experts from Arizona were of great assistance to us in the work which has gone into this bill. I am hopeful that several of the demonstration projects contemplated in this legislation will take place in Arizona.

As I earlier indicated, Arizona has been blessed with an abundance of sunlight. The time has now come to put that sunlight to use for the benefit of our citizens. I am confident that as a result of this legislation scientists and engineers from all over the country and all over the world will soon be coming to Arizona to learn how to put sunlight to use for the benefit of mankind.

Mr. President, I would like to pay special tribute to the academic community in Arizona for the help and guidance given me in working on solar energy legislation. Arizona State University, the University of Arizona, and Northern Arizona University all have contributed greatly. Last April 17 a group of experts from around the State gathered in Tempe for a very productive Solar Energy Seminar. These included solar research scientists, architects, engineers, and industry people who were already starting to make practical application of solar energy.

I am hesitant to single out any individual because so many people have joined in this effort. As with any highly creative and inventive group, there is disagreement even in the solar energy community of experts as to which direction we should go. This diversity is not bad; to the contrary, it is very good—it shows that a great many intelligent people have been devoting time and independent thought to this important resource.

The legislation we are putting forth should provide for the testing of various approaches. One thing that all solar experts are united on is the fact that this is a resource which will provide infinite benefit to society once we figure out how to make the conversion to usable energy in an economically feasible manner. It is only a matter of time and effort to achieve this goal. It is my hope that we will be able to accelerate this greatly through such legislation as we have considered today.

Mr. President, some scientists have taken the mistaken approach that solar energy to be useful must first be proven in the States which have the least sunshine. I definitely believe that this is putting the cart before the horse. I believe that we must develop solar energy in our sunshine States, and then from that we can refine the technology to utilize the sunlight in the world's more dismal climates.

There is no better place to center the national effort than in my own State of Arizona. The March 1974 edition of Arizona Progress published by the Valley National Bank carried these paragraphs:

> ### SUNSHINE IS ARIZONA'S GREATEST ASSET
>
> In the entire Western Hemisphere, less than four hundredths of 1% of the earth's surface receives 4,000 plus hours of sunshine per year. Phoenix and Tucson fall within this exclusive area. The sun shines all the time, everyday practically, an average 86% of all possible hours, which is higher than any other major city in the U.S.
>
> Most people like sunshine, and this alone is largely responsible for attracting the great numbers of new residents and tourists-visitors to the warm, dry desert climate of southern Arizona. Normal daily maximum and minimum temperatures, and monthly precipitation figures, by month for Phoenix and Tucson, are contained in a table on page two. The last time Phoenix had measurable snowfall was February 1939, when 0.6 of an inch fell. It didn't last long.
>
> Although over 80% of Arizona's population prefers the warm, dry desert, the statewide climate is much more varied than this. Prescott and Payson, for example, possess a warm highland climate. Winslow and much of the Navajo and Hopi Indian Reservations are high plateau country with wide temperature and precipitation ranges. Flagstaff and Show Low are high mountain, pine tree, cool climate country.

Mr. President, I believe that Arizona's sunny and dry climate is ideal for developing the prototype and demonstration projects which eventually may have nationwide application. Whatever progress is made would benefit the entire country. Not only would technology be developed, but energy would be conserved in Arizona, thus freeing conventional energy resources for use elsewhere.

It also should be pointed out that Arizona already has developed a corps of experts on solar energy. Efforts in our State to harness the sun go back to the turn of the century.

Mr. President, the March 1974 issue of Aware carried an interesting article by John I. Yellott of Arizona State University. I ask unanimous consent that this brief article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOLAR ENERGY—HERE IS SOME HISTORICAL AND TECHNICAL BACKGROUND INFORMATION

(By John I. Yellott)

HISTORICAL BACKGROUND

Attempts to make technological use of solar energy go back about a century to the years just after the War between the States. August Mouchot in France and John Ericsson in the United States were bitter rivals in their attempts to build sun-powered engines. Mouchot had sunny Algeria as his testing grounds and Napoleon III as his financial backer, while Ericsson tested his engines on his New York city rooftop and drew upon the fortune which he had amassed by building fleets of iron-clad Monitors. Neither was successful in his attempts to harness the sun's energy. Mouchet gave up in despair but Ericsson, an eminently practical man, made his solar engines burn wood and coal and sold fifty thousand of them in New York City for driving water pumps.

In Philadelphia, at the turn of the century, Frank Shuman built a 3 horsepower solar-powered engine which used ether as its working fluid. Later, at Meadi, near Cairo, he and Prof. C. V. Boys of London built a sun-powered engine which still holds the world's record for size. It used a series of parabolic-trough collectors to intercept more than 13,000 square feet of Egyptian sunshine and it actually produced from 50 to 60 hp for periods up to five hours in duration. World War I put an end to these efforts with no more permanent success than Mouchot or Ericsson had obtained.

In our part of the country, the pioneer was Aubrey G. Eneas, who described himself in his patent application of August 20, 1900, as "a subject of the Queen of Great Britain, residing at Boston, County of Suffolk, State of Massachusetts." He succeeded in interesting a "band of Boston capitalists" in supporting the development of a steam engine which was powered by a gigantic conical solar concentrator, lined with thousands of individual glass mirrors. It followed the sun, like a heliotrope, thanks to an ingenious clockwork mechanism.

1901, AN EARLY PROTOTYPE IN PHOENIX

His best-known engine was erected at the Ostrich Farm, in South Pasadena, and it was as much of an attraction as the giant birds that ranged around it. An earlier prototype was erected in 1901 near Phoenix and later moved to a ranch in southeastern Arizona. It ran quite well, according to newspaper accounts, until a spring hailstorm transformed its 3,500 mirrors into millions of silvery splinters, and that put an end to solar engines in Arizona. (A good account of these and other early solar engines is given in Dan Halacy's book: "The Coming Age of Solar Energy," Harper and Row, New York, 1973).

Between World Wars I and II there was virtually no interest in solar energy in the United States. The hundreds of solar water heaters which had been in use in California and Arizona were gradually replaced by cheap, reliable gas-fired heaters. The availability of low-cost gasoline and electric motors for pumping irrigation water discouraged the few enthusiasts who continued to try to find ways to harness the sun. Only Dr. Charles Greeley Abbot, Secretary of the Smithsonian Institution, persisted in his search for ways to use the sun's energy as he made his daily mountain-top measurements of solar radiation intensity.

Today, at 101 years of age, Dr. Abbot still works diligently to perfect his latest invention, a sun-following thermo-electric generator which he patented in 1972.

AFTER WORLD WAR II INTEREST REAWAKENED

Immediately after World War II, interest in solar energy was reawakened by Dr. Farrington Daniels, an eminent physical chemist from the University of Wisconsin, who played a vitally important part in the development of nuclear fission for the Manhattan Project. He became deeply concerned about the problem of supplying energy for the underdeveloped nations of the Orient and he sought ways to use their vast supplies of solar radiation for pumping irrigation water, for converting brackish or saline water into drinkable form, and for cooking.

Before his death in 1972, Dr. Daniels had been able to secure from the Rockefeller Foundation a modest amount of support for the Solar Energy Laboratory which he founded at the University of Wisconsin. There he trained a number of protégés who are now among the leaders in the field of solar energy utilization.

Success of silicon solar cells in the space program brought government support channeled through NASA

Despite the efforts of Dr. Daniels and his followers, and a handful of enthusiasts in France, India, Japan and Australia, there was very little serious interest in solar energy for terrestrial uses until 1972. The spectacular success of silicon solar cells in the space program brought a considerable degree of governmental support, channelled through NASA, for the development of bigger and better arrays of solar batteries, and these have now become the accepted means of powering communications satellites. Large solar stills were built on the Greek Islands and in Australia, solar water heaters fluorished for a while in Israel and Japan, and a few experimental solar-heated houses were built in Cambridge, Denver, Phoenix, Tucson, Washington and Tokyo. Aside from these sporadic and under-financed efforts, and the government-subsidized construction of large solar furnaces in France, Japan, and the U.S., there was no real interest in the utilization of solar energy as long as there were endless resources of cheap natural gas and petroleum.

Potential for alleviating our national energy exigency

It was the sudden and belated realization that, as a nation, we have been living far beyond our energy means which has brought about a great resurgence of interest in solar energy. Two major government-sponsored reports, appearing in 1972, have focussed interest upon solar energy and its potential for alleviating, at least in part, our national energy exigency.

TECHNICAL BACKGROUND

Solar energy reaches the earth after a 500-second journey across the 93 million miles which separate us from the sun. This energy reaches us on the surface of the earth in the form of short-wave radiation. On a surface perpendicular to the sun's rays, the intensity beyond the earth's atmosphere is about 430 Btu per hour per sq. ft. (the notation Btu will be used hereafter for that set of units). At sea level, after passing through about 100 miles of air, water vapor, ozone, carbon dioxide and dust, the maximum intensity is reduced to about 300 Btu. On horizontal surfaces, when the sky is completely overcast, the maximum intensity may be as low as 50 Btu, and it will drop completely to zero when the sun sets. The intensity will begin to rise again when the sun comes up on the following morning, but the sudden appearance of clouds may cut out the sun's direct rays at any time.

Do not as yet have satisfactory way of storing large quantities of heat

It is the predictable diurnal variation and the unpredictable interruptions due to clouds that have made the solar scientist's task so difficult, since we do not as yet have any really satisfactory way of storing large quantities of heat for even short periods of time We do have a means of storing energy by the pumped-storage hydroelectric system, but this is limited in its availability by geographical factors.

Despite the problems posed by the diffuse and interruptible nature of solar radiation, the incentive to finding feasible ways of using it is great, because in a temperate, sunny central U.S. location, a 1500 sq. ft. house could be provided with no less than 75% of its heating and cooling needs with a roof-mounted collector covering some 600 to 800 sq. ft., and about 2,000 gallons of hot water as the energy storage means. The availability of solar radiation varies quite sharply throughout the United States, but it is at its maximum in both hours of sunshine and average intensity in the sunny southwest. It is very likely that the first practical applications will take place in this part of the country.

Mr. FANNIN. Mr. President, I also would like to have printed in the RECORD several additional articles which indicate the need for development of solar energy and ask unanimous consent that they appear in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From U.S. News & World Report, Apr. 13, 1973]

POWER FROM SUN: THE SEARCH PICKS UP

As signs of a fuel crisis grow more ominous, scientists are spurring efforts to tap the awesome power of the sun to help meet earth's energy needs.

An age-old dream of man-harnessing the sun's energy—is moving close to reality. Solar heat is expected to be helping ease America's fuel shortages by the end of this decade.

The potential is enormous. Scientists say, for example, that just one day of sunlight on the surface of Lake Erie is equal to all the energy consumed by Americans in a year.

Much of the technology to tap this ever-present, nonpolluting source of power is at hand.

A Solar Energy Panel of top federal scientists has concluded that, with increased research and development, this timetable is possible:

In five years, solar energy could be heating many private homes and office buildings.

In less than 10 years, the sun's power could be running air-conditioning systems.

In five to 10 years, solar heat could be used to convert organic materials into fuel oil and methane gas. The latter is similar to natural gas and can be employed for the same uses. Experts say that this process is capable of providing the U.S. with a third of its gaseous fuels by shortly after the turn of the century.

Within 15 years, the sun's energy could be producing substantial amounts of electricity for American consumers.

HEATING HOMES, OFFICES

As prices of conventional fuels increase, interest is expected to quicken in drawing warmth from the sun to heat the places where people live and work. Another growing application of solar energy is seen in heating water for homes.

Eighty-four per cent of the average homeowner's fuel and electricity bills goes for running furnaces, air conditioners and water heaters. Over all, 26 per cent of all the energy consumed in this country goes for these three uses.

The experts are divided on the best way to rtap the sun's heat in order to warm a home or other building.

Some hold that each building should have its own solar-energy system, because this would make for fuller use of the sun's widespread radiation. It would involve construction of relatively expensive equipment in every building.

Another group favors a centralized system with solar-energy "farms" providing power for whole communities. These farms would concentrate the sun's heat on steam boilers that would generate electricity.

There are at present about two dozen houses in the United States that use the sun's energy for heating. Four of them were designed and built by Harry E. Thomason, a Washington, D.C., patent attorney.

About 90 per cent of winter-heat requirements for Mr. Thomason's own home are provided by the sun.

Mr. Thomason has laid corrugated aluminum on his roof, painted it black to absorb the sun's heat, and covered it all with glass to hold the warmth. Water circulates from a 1,600-gallon tank up to the roof and over the sun-heated aluminum. A backup oil furnace in the basement heats the house in case a string of sunless days cuts into the solar equipment's efficiency.

The whole system, minus the oil furnace, costs about $2,500. Mr. Thomason figures this is about $1,000 more than a conventional heating system, but that long-term savings in fuel oil will erase the cost differential.

BULK COLLECTORS

Advocates of the solar-farm approach say that, to provide all the electricity in U.S. will need in the year 2000, about 14,000 square miles of land would have to be devoted to energy collectors. That is slightly more than the combined areas of Connecticut and Massachusetts.

These estimates were worked out by a husband-and-wife scientist team, Aden and Marjorie Meinel of the University of Arizona. The Meinels say that a 1,000-megawatt solar farm—producing about as much electricity from its steam-driven turbines as one of the country's largest nuclear reactors—would require 7 square miles of land for its energy collectors in southern parts of the U.S. Farther north, the size would have to be increased to compensate for more cloudy days and colder weather.

Solar water heaters installed on roof-tops of homes were once a big business in parts of the U.S. For example, Miami, Fla., during the late 1940s had an estimated 50,000 such heaters in operation.

The emphasis in Miami was on sales, however, and not on quality of equipment. As a result, the booming industry soon faded. Small numbers of the water heaters are still sold and serviced in the South. Experts say the market could expand with a quality product. In Japan, Israel and the U.S.S.R., solar water heaters are a growing business. The French Government in 1970 built a 2-million dollar, 1,000-kilowatt solar furnace in the Pyrenees to explore the sun's potential for industrial application.

SOLAR CELLS

Development of an inexpensive solar cell, using a crystal that chemically converts solar energy to electricity, would mean that a home's entire energy needs could be met by using only roof-top collectors.

Silicon solar cells now power scientific experiments aboard U.S. satellites in space. These cells convert the sun's energy to electricity with an efficiency of about 11 per cent. They are handmade at a cost of around $7,000 per square meter. Experts say the efficiency will have to be doubled and the price cut down to less than $3 per square meter before the cell could achieve widespread use.

Utilization of solar cells would require storage of electricity for the night hours, and that also poses a problem. There are no large-scale, inexpensive storage batteries on the market such as would be needed for this system.

But scientists say that if demand were widespread, current problems with the solar cell and the batteries for storage would take care of themselves. There would be more money for research, and mass production would lower the costs.

ENERGY FROM SPACE

One of the most advanced blueprints for utilizing solar energy calls for putting giant "collector farms" into space orbit around the earth.

The basic idea was developed in 1966 by Peter Glaser, a vice president of Arthur D. Little, Inc., a Cambridge, Mass., research firm. Now Grumman Aerospace, Textron and Raytheon are all working on the concept.

Mr. Glaser proposes to use a space shuttle of more than 1,000 flights to put a collector farm into earth orbit. This huge satellite, 7 miles long and 3 miles wide, would convert the sun's radiation to electricity in solar cells. The electricity would then be channeled to a central power station, converted to microwaves and beamed back to earth.

The receiver for the microwaves would be a saucer more than 4 miles in diameter. And, according to Mr. Glaser, each space station would be sending back to earth 1,000 megawatts of electric power.

The advantage of putting collectors in space is that the sun's radiation is not interrupted by weather or darkness, and power production could be maintained at an almost constant level.

Mr. Glaser claims the prototype of his satellite concept would produce electricity at a cost of about three to five times that of today's conventional sources.

FUEL FROM PLANTS

Another way to use the sun's energy is to let nature capture it in growing things. Then, by burning the material, or by more advanced conversion methods, a fuel is created.

One advanced application of this so-called biological conversion is known as pyrolysis. Using this process, man can extract methane gas and fuel oil from organic materials. In fact, the Environmental Protection Agency is helping Baltimore build a pyrolysis plant which not only will supply valuable fuel, but also will dispose of the city's organic wastes.

MORE MONEY

Research on all types of solar energy is now under way at more than a dozen universities and private organizations.

The National Science Foundation is asking Congress for three times as much money next year for solar-energy research—12 million dollars, compared with 3.8 million in the year ending June 30, 1973. This is still far short of the level of 100 to 150 million annually, recommended by the Solar Energy Panel.

Many of the early industry leaders in solar-energy research have dropped out of the field—Goodyear, Hoffman Electronics and Westinghouse, for example. But new interest is springing up among some utilities, aerospace companies and manufacturers of "energy intensive" products such as aluminum and glass.

REASONS FOR DELAY

The fact that America has enjoyed an abundance of cheaper fuels is perhaps the leading reason why this country has been slow to exploit the sun's potential.

Two other natural problems hamper potential growth. First, solar energy is widely dispersed and therefore difficult to collect in usable quantities. And second, the sun shines only half the time at any one point on earth, creating a need for massive energy storage to provide power on cloudy days and at night.

The Solar Energy Panel is made up of experts from the National Science Foundation and the National Aeronautics and Space Administration. It sums up the future in these terms:

"There are no technical barriers to wide application of solar energy to meet U.S. needs. . . . For most applications, the cost of converting solar energy to useful forms of energy is now higher than conventional sources, but [with] increasing constraints on their use, it will become competitive in the near future."

[From the Washington Star-News, June 17, 1974]

Solar Energy's Big Push Into the Marketplace

(By John Fialka)

The job of harnessing the energy in sunlight has been like pushing a cumbersome object up near the top of a steep, difficult hill.

Much of the heavy, basic scientific work has been done, some of it completed years ago. But getting the notion of a solar power industry over the top and rolling under its own momentum was still a dream until last winter when the Arab oil embargo came along.

Now, if you took a journey through the world of solar ideas, the broad spectrum of devices and concepts that have long been in the realm of a few scientists and many magazine feature writers, you would see considerable movement.

Solar-heated radiators, solar power from trees and garbage, solar power from wind, solar power from the ocean and from strange wafers of silicon are no longer Buck Rogers dreams. The revolution in fuel prices means that some, perhaps all of these things, are about to become practical.

Almost anywhere you look, you will see evidence that the Arabs may have given solar power the final, crucial push into the marketplace.

For example, the Washington office of Alfred J. Eggers, Jr., is packed with reports that conclude that solar power may be the cheapest, cleanest new source of energy. If you could catch and use one out of every 700 units of solar energy falling on the United States, asserts one, the energy crisis would be over forever.

Yet Eggers, along with nearly every other government official concerned with energy needs, found himself sitting in his office last winter, wondering how to repace the oil that suddenly was not there.

Then one day someone gave Eggers a picture of some school children in Paola, Kan. What attracted his attention was that the children were freezing. They were wearing heavy coats because their school's oil tanks had run dry.

"I said to myself, the Arabs have really given us an opportunity," recalls Eggers, who is assistant director for research applications at the National Science Foundation. What Eggers had hit upon was the chance to use solar power in the simplest way, to use the sun's heat to fill radiators in buildings and homes.

The word went out from NSF, the lead agency promoting solar energy, that there was over $1 million in grants available for companies who could design solar heating systems for the schools and have them running before the 1973–74 heating season was over.

What Eggers was trying to prove is that the technology is not complicated. "And the school is the perfect place to do that," he explained, "it's kind of a focal point for the whole community."

The potential market is enormous, for space heating is estimated to consume one-quarter of all the fuel used in the United States.

Some of the giants of the U.S. heating industry responded, including General Electric and Honeywell, Inc. So did Intertechnology Corp., in Warrenton, Va., a relatively tiny company headed by Dr. George C. Szego, a chemical engineer.

Using a crew of 30 people and working nights and weekends, Szego's company put together in 57 days what may be the world's largest single array of solar collector plates on the grounds of a nearby school.

Since March 19, the sun has been the sole source of heat for five drafty temporary classroom buildings at Fauquier County Public High School in Warrenton.

The system saves roughly 24 gallons of fuel oil every day and it can store heated water in insulated tanks for up to 12 days when the sun is not shining. Everything that went into Szego's system can be found on the shelves of building supply stores.

The basic solar heating device, the solar collector, has been experimented with since 1909. It is simply a thin, rectangular box, covered with glass and bottomed with a black-painted metal sheet that has thin water pipes running through it.

When the sunlight hits the metal it is absorbed, turning into heat. The glass traps the heat, creating temperatures inside the box that can reach as high as 200 degrees. The water in the pipes carries the heat away to radiators, or to underground, insulated tanks for storage when the heat is not needed.

While there are only about 30 solar-heated buildings in the United States today, there are indications that soaring fuel bills and examples like Szego's school and three other schools that suddenly received solar heating systems last winter are beginning to give industry dreams of mass production.

For instance Peter E. Glaser, a vice president of Arthur D. Little Inc., one of the nation's leading management consulting firms, has been signing up companies in a group that sponsors market research that will be needed to form a solar heating industry.

Membership costs $1,500. Last November Glaser's group had 44 members. Now it has 78.

Within the last few months, according to Glaser, who is one of a handful of people who have followed solar development over the years, plans for at least 50 new solar-heated buildings have been announced.

"It's happening in so many places it's hard to keep track of," he said.

But solar collector panel systems are really just the tip of an iceberg of ideas and designs that scientists have developed.

"If all the plans for solar power were simply put in one place and ignited," quipped one scientist, "you wouldn't need a new energy source."

In fact, solar power has really become, in recent months, a generic term, covering almost any way you can get energy from something that has been touched or produced by sunlight in recent months.

For example, a growing plant is really a creature of sunlight and schemes of creating large power-producing facilities from plants or other forms of vegetable matter are now under serious consideration in several parts of the nation.

Szego's company is currently negotiating with a North Carolina pulp and paper company over the contract that may bring the first of these plants into being.

Imagine a field of trees, densly planted like hybrid corn and harvested every three to five years. The trees would be slender whips, gathered by sugar cane cutting equipment and fed into wood chipping machines.

The resulting mountain of chips would be fed into a wood-burning steam boiler system, part of a conventional electric power plant.

Strange? Maybe so. But high-priced low-sulphur fuel oil, much in demand by electric power plants, may bring it into being.

According to Szego, the wood chips are a low-sulphur fuel that soon may be highly competitive with fuel oil in terms of cost and heat produced.

The wood would be harvested on land near the plant, creating a perpetual supply of fuel and ending fuel transportation costs and supply worries forever. Ash from the burning would be dumped back on the land as the major fertilizer for more trees.

While other solar scientists have been working with storage batteries and other devices that would store solar energy for use at night and on cloudy days, Szego believes he has hit on the simplest solar storage system of all: "It's the pile of chips."

The idea, called an "energy plantation" has been criticized by the Atomic Energy Commission, among others, because it would require as much as 200 square miles of land to support a 400 megawatt plant that could power a city of 200,000.

That might seem like a lot of land, but Szego points out that there are at least 26 pulp mills operating in the South, each of which needs 350 square miles of pulp wood to stay in production.

Once you accept a tree as the embodiment of solar power it is not too big a step to include metropolitan sewage sludge and animal wastes in the same category. After all, solar scientists reason, aren't these wastes simply the digested remains of vegetable and organic matter that was recently grown by the sun?

The idea here is not to recover the energy by burning the waste, but by letting it ferment in the absence of oxygen and in the presence of anaerobic bacteria. The result is methane, the substance most people know as "natural gas."

The process is not a new one. Sewage plants have been making methane gas for years as a biproduct of waste treatment. Often, however, the methane produced has been considered a nuisance and has been piped outside the plant to be burned, or flared off.

Now, as part of its solar program, the National Science Foundation, is studying the feasibility of a large-scale methane production plant from sewage sludge.

If the process works, according to a study by a panel of NFS and National Aeronautics and Space Administration (NASA) solar experts, it will yield a gas at the same price as the market rate being considered for synthetic gas from coal and imported natural gas.

Moreover, it would begin to reduce the mountain of sludge now accumulating in metropolitan areas.

Animal wastes represent another problem that could be converted into "solar power." According to a recent report by the House Government Operations Committee, 2 billion tons of animal wastes are produced annually in the United States. Much of it is produced in animal feedlots and often it is simply discharged into lakes and streams where it quickly fouls the water.

Mass fermentation of wastes into methane could ultimately supply 2 to 3 percent of U.S. gas needs, according to the NSF–NASA study.

Then, if you extended the process and began cultivating such fast-growing plants as algae, the water hyacinth or kelp for fermentation into methane the potential would be enough gas to "supply all our gas needs," the study asserts.

The next step beyond using growing things for solar energy would be to eliminate the growing cycle and apply solar heat directly to the task of boiling water to make steam. That would take a device to magnify solar heat up to 500 degrees or so to get sufficient pressure to run a turbine.

There are at least a dozen major scientific efforts in this area. A husband and wife, Aden and Marjorie Meinel of the University of Arizona, have plans to develop "solar power farms" in western deserts.

According to the Meinels' theory, the sunlight would be collected in special gas tubes that would concentrate the heat and pass it on at very high temperatures to a liquid metal coolant, such as liquid sodium, that could be stored for use during the night and on cloudy days.

A square mile of desert, covered with collectors, according to the Meinels, would generate 100 megawatts of electric power, enough for a city of 76,000 people.

The Atomic Energy Commission has been working on a much smaller, but similar system and recently announced the invention of a trough-shaped light collector that can concentrate up to 10 times the sunlight falling on a flat surface.

The AEC has stated that systems of collectors could be arranged to deliver up to 60 percent of all the power, heat and hot water needed by a community of more than 100 homes.

Taking the process still another step further, there is a relatively simple way to make rotary power from the sun without going through the fuss of boiling water to make steam. The wind is produced by temperature differences caused by the sun.

Again, inventors have been at work for some time. The Danes built a 100 megawatt windmill in 1915 and an American power company built one at Grandpa's Knob, Vt., in 1940.

The National Aeronautics and Space Administration NASA is currently building a windmill with a 125-foot rotor blade to be installed next year in Sandusky, Ohio. It will have variable pitch blades and a complicated gearing and wind sensing system that will allow it to deliver a constant rate of spin.

The problem with all of these devices, however, is the same. They involve huge amounts of expensive machinery that just sits around at night when the sun goes down and the wind drops. If only there was a river of solar heat that ran 24 hours a day.

Such a river has been found and some scientists believe it could be harnessed to provide all of the nation's energy demands by the year 2000.

It consists of the Gulfstream and the tropic seas in the Gulf of Mexico. A French scientist proved that you could harness this nearly infinite heat reservoir of 82 to 85 degree water in 1929.

Now the NSF is making up to $1.8 million in grants available to see what sort of hardware would be needed.

The idea is to use a liquid such as propane or ammonia that would boil at such temperatures and run turbines to make electricity. The vapor or "steam" that came out of the turbines would then be cooled with water and pumped 2,000 feet below the surface. There, another almost infinite supply of cold water at between 35 and 28 degrees would condense it and turn it back into a liquid to begin the process again.

The system would need large pumps and huge pipes because huge volumes of seawater would have to be moved through it to take advantage of the temperature differences.

Last fall, a panel of solar experts assembled by the NSF reported that such generating units could be positioned 1 mile apart, across the lengths and breadth of the Gulfstream.

The energy from these and a few more units positioned in the Gulf of Mexico, the panel stated, would provide more than 26 trillion kilowatt years of electrical power—enough to totally satisfy the nation's energy demands.

The use of temperature differences or thermal gradients in the Gulfstream has raised a number of questions. Can the U.S. make the hardware, for instance, strong enough to withstand the corrosion of seawater?

Since the Gulfstream terminates by delivering its heat to England and Northern Europe, would tampering with its heat content turn that area into a new Siberia?

These are just a few of the pesky questions that bother solar scientists. Some of them feel it would be a lot simpler to manufacture something that has no moving parts that would just sit there in the sunlight and make electricity.

Such a device, called a solar cell, was invented in the early 1950s when scientists discovered that if you take certain types of crystals, say a wafer of silicon, and put it into the sunlight, a small charge of electricity is created for a fraction of a second before it degenerates into heat.

The sunlight causes rapid movement among the electrons, charged particles within the silicon atoms. By using special coatings and silver wires to tap the momentary movement of the electrons, scientists found they could "catch" a supply of usable power from the process.

Simple as all this might sound, there was one big drawback. Making the silicon wafers and coating them and installing the tiny silver wires took up to 65 hand processes. The labor costs drive the price of the resultant electricity up to around $6 a kilowatt hour. That is enough electricity to light ten 100-watt bulbs for one hour.

Who would pay such a fantastic price for solar electricity when the same amount of power coming out of the socket in the average living room wall costs about 3.5 cents?

NASA would and did. It appeared to be the simplest way to power space crafts. As a result of its space program, the U.S. has probably spent far more on solar cell development than on anything else in the entire solar field.

Bringing the solar cell down to earthly prices has been the big problem, but there are now four or five companies who believe they can do it.

One of them is Solarex, an eight-month-old venture in Rockville, Md., headed by Joseph Lindmayer, who has invented several types of solar cells.

"There has been a tremendous change in this in just a year. This was science fiction a year ago, now things are beginning to happen," he told a reporter recently.

Lindmayer believes he can get the price down to 60 cents a kilowatt hour. That may still seem steep compared to utility rates, but millions of Americans pay that much for electricity when they buy batteries.

Early last month the NSF announced that a new process of making the silicon wafers in long strips rather than slicing them off of big bologna-sized crystals, might cut production costs by 50 percent.

A problem with developing solar cell technology, as with all other devices to use the heat of the sun, has been money. When Lindmayer started out, he took his scheme to Wall Street, which was not interested.

"All the venture capitalists we talked to in the beginning had this basic hangup. They said, "where is the market?" But Lindmayer gradually found enough financing to begin.

The really big money in the energy research and development business is going into the development of the breeder reactor, a device which the AEC says will create enough additional fuel to power itself as well as other nuclear reactors.

Lindmayer's most ambitious scheme is to build a "solar breeder" to demonstrate that solar energy, too, can develop such profound economic advances.

Soon, he believes, solar cells will be mass produced so cheaply that they will be used to panel the roofs of houses and large buildings. At that point Lindmayer hopes to start a solar cell factory that will begin by paneling its own roof.

Once the sun provides enough power to heat and light the building and to power its production line, Lindmayer says he will do what every solar scientist secretly dreams of doing.

"We will mark this glorious day with champagne and then we will go outside and cut the wires from Pepco (the Potomac Electric Light & Power Company.)"

[From the Washington Star-News, June 18, 1974]

Solar Energy at Work

(By John Fialka)

If there were some way that the government could prod industry into mass-producing solar heating equipment, the day would soon come when a do-it-yourselfer could afford to put solar panels on his roof.

That is the theory behind a little-noticed bill that is on its way to the White House. It would earmark $50 million in government funds to buy 2,000 solar-powered heat heating units and another 2,000 home heating and cooling units that would be tested on various homes throughout the country.

Although all manner of gadgets have been invented to use solar energy, nearly all of them have been waiting on the drawing boards, waiting for the government to put together the right package of economic incentives and waiting for company engineers to develop cheap mass-produceable equipment.

There are only about 30 buildings in the nation that have solar heating systems. All of them are custom-made and most of them have cost small fortunes.

The bill is intended to find the companies that can run solar equipment off assembly lines. But the bill also demonstrates the political clout that solar power is finding within Congress.

In a year when most energy bills have involved desperate, knock-down-drag-out fights between environmentalists, consumer advocates and industry supporters in Congress, solar power has been, as one scientist recently put it, "God, motherhood and the flag."

Congressmen fell all over themselves to get associated with the "Solar Heating and Cooling Demonstration Act of 1974." There were 185 sponsors in the House, where only two people voted against it. In the Senate, where it passed without dissent, five committees demanded the right to hold hearings on it.

The bill, which is now before a House-Senate conference committee, may soon be followed by a second measure, initiated by Sen. Hubert Humphrey, which would pump $600 million in grant money into a wider spectrum of solar power projects.

The money and attention from Washington has been a long time in coming.

Up to 1970, the federal government spent about $100,000 a year on solar power research, while devoting billions to subsidies for coal, oil and nuclear power.

Next year the budget for solar power research will be $50 million—apart from the new grant money coming from Congress.

Will the new research money and growing political interest produce an affordable solar home heating unit? Many government scientists involved in solar-related work privately state that it many not, unless the government finds ways to pump in even more money.

Big business, they point out, has shown a great lack of enthusiasm for assuming the risks involved in the solar business.

But there are still enough tinkerers left in the United States to press the argument, that solar power can be done and can be done cheaply.

Probably the closest to Capitol Hill is Harry Thomason a patent attorney who lives in a solar-heated house in District Heights, Md. It is one of three that he has built himself.

By now, platoons of Congressmen have visited Thomason's four-bedroom ranch house, which Thomason says cost him a total of $35 to heat last winter.

Eighty-five percent of the heat, according to Thomason, came from the glass covered panels on his roof. Inside them, water flowing over corrugated aluminum roofing absorbs the heat from the sun and flows through a system of pipes that takes it through heating units in the house, or, when it is not needed, into a 1,600-gallon insulated storage tank.

Thomason also uses the system to help him air condition during the summer. It stores and dehumidifies the cool night air and then circulates it during the day.

But the crowning achievement, according to Thomason, is the system's cost. Putting up an ordinary roof on a house can cost about $1 a square foot. Thomason claims he can replace the roof with a solar-paneled roof for $2 a square foot.

What is more, Thomason says he will soon be in the business of building and selling solar equipped houses. The heating and cooling system will include a small, conventionally fired furnace as a backup system.

The system will sell for about $2,000 more than conventional heating and cooling systems, Thomason asserts. His company, he says, will also warrantee them by putting $1,000 in escrow to cover any repair problems that come up.

Thomason, who holds 17 patents covering his solar inventions, has a kind of contempt for the federal research and development agencies like the National Science Foundation and the National Aeronautics and Space Administration, the agencies that are managing the federal program to explore solar power.

The bureaucrats of science, he asserts, have actually held back solar power by prolonging the research and development stage. They have "ignored" his homes, which have been producing solar power cheaply for up to 15 years, he adds.

Some of the managers of government solar research programs, on the other hand, privately belittle Thomason and complain that getting reliable, mass-produced solar collectors to the marketplace will take more research and development.

Recently the NSF issued grants to four companies to build solar heating units at four schools and discovered that the collector costs were running over $15 a square foot.

According to John Del Gobbo, program manager for one of NSF's solar programs, a number of questions still remain to be answered. For instance, glass may prove to be too heavy and expensive for home rooftops and plastic substitutes, which are lighter, may lose their transparency over the years, like the back windows of cars with convertible tops.

William H. Woodward is head of the space propulsion and power systems program at NASA which also includes solar research.

He wonders whether the benefits of solar heating such as reduced air pollution and fuel demands, might not be nullified by the energy needs and resulting smog of a new industry needed to manufacture solar collector panels.

Most solar panel designs, Woodward points out, have aluminum bottoms and aluminum production requires enormous amounts of electricity.

Under the mechanism contained in the forthcoming solar heating and cooling demonstration bill, these problems would be worked out by the Department of Housing and Urban Development (HUD) and the Bureau of Standards, which would select the basic standards the government would accept in solar units.

Then NASA would use its expertise in buying hardware to test various units submitted by manufacturers and select two or three companies to build the government units.

Roughly half of these would be tested on the homes of servicemen at military bases and the rest would be distributed by HUD to interested civilian homeowners in various parts of the nation. The units are expected to begin rolling off the lines sometime in 1977.

When NASA begins shopping around, it will find that some designers are already busy trying to accelerate the state of the art:

Scientists at the University of Delaware, working with funds contributed by the Delmarva Power and Light Co., a local utility, have built "Solar One," a house that uses solar collectors for heating as well as solar cells to generate electricity. The cells, previously used in space craft, make electricity directly from sunlight. The house's designers say it can get 80 percent of its heat and electricity from the sun.

The Institute of Gas Technology, a Chicago-based research firm, unveiled a 3½-foot square metal box this month that, according to the institute, has machinery with the capability of using solar heat to completely heat and air condition a home. The system, which can be switched over to gas on cloudy days, is designed to cut heating and cooling bills by at least one-third.

The Mitre Corp., a research firm in McLean, Va., is busy installing a system on its roof that may be the most advanced solar-powered unit yet. It will use solar cells to generate electricity. Part of the electricity will be used for lighting, the rest will be used to separate hydrogen from water through electrolysis. The hydrogen will be reconverted into electrical power for use at night.

Getting these inventions into the building supply stores, however, would be greatly aided by another invention, a legislative invention conceived this spring by Robert D. Garton, an Indiana state senator. He is the author of the nation's first tax subsidy for homeowners who take the plunge into solar heating and cooling.

He drew up a bill that would exempt as much as $2,000 worth of the solar heating and cooling equipment from local property taxes. The bill sailed through the Indiana legislature and is now being studied by several other states and the Canadian government.

Federal energy planners are known to be considering subsidy which could be justified by showing that solar power is environmentally clean and that its use would significantly reduce peak demands on other energy.

Such subsidies for a form of energy are nothing new. The federal government has done it for years to stimulate the production of coal and oil. The 22 percent oil depletion write off, for instance, is estimated to have saved oil companies around $2 billion last year.

The cost of the government promotion, subsidy and protection given the nuclear power industry has never been added up, but it "too" probably runs into the billions.

Further subsidies for synthetic fuels such as shale oil and gassified coal will be contained in the plans for Project Independence, the Nixon administration's palns for energy self-sufficiency by the early 1980's.

Recently, a panel of government solar experts tried to insert one subsidy plan in the forerunner of Project Independence, a blueprint for energy self sufficiency compiled by Atomic Energy Commission and presented to the White House in December.

After an 18 month study, the panel reported to the AEC that "ultimately, solar energy systems could easily contribute 15-30 percent of the nation's energy requirements."

An accelerated government program to capture this gross savings in energy would cost the government a billion dollars over the next five years, the panel said, adding that a "minimum" program to develop solar power could be put together for $409 million.

When the AEC delivered the final version of its energy blueprint to the White House, however the document, entitled "The Nation's Energy Future," of the solar experts' findings and had chopped the "minimum" spending plan in half.

Although solar power may lose a few battles in its efforts to gain visibility in big government circles, many of its supporters feel that its appeal in Congress and its environmental payoffs will win the war.

The 1950s were the heyday of nuclear power. There were a multitude of ideas on how to harness nuclear power. Some proponents argued that the resultant electricity would be so cheap that there would no longer be any need for meter readers.

The 1970s may be the boom time for solar power. There are hundreds of ideas and Congress is once again being asked to reach for its pocket book. Moreover, the meter readers are still there.

As one solar power researcher, Dr. Aden B. Meinel, recently put it to a House subcommittee, a new energy industry now deserves a place in the sun. Although some of its schemes may sound far fetched, the government has bankrolled risky ventures before, he pointed out.

". . . if I were here today telling you we could make nuclear power and all we would have to do would be to slightly enrich natural uranium in U-235, you would ask what that will cost: I would say it will cost only $1 billion. . . . You would probably say forget it."

Asserting that solar energy has the same "start-up problems" that nuclear power had in the 1950s, Meinel urged that some new way has to be found to bring solar power to the marketplace.

"How you go from where we are today to that point, I don't know. Solar energy will never support a bomb program," he concluded.

Mr. FANNIN. Mr. President, with the permission of the distinguished Senator from Louisiana, I offer an amendment. I have a letter from the Office of Management and Budget which expresses their support of the objectives of S. 3234, as amended by the committee. I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 19, line 10, delete the phrase "together with" and insert instead the phrase "and where technical analyses so warrant."

Mr. FANNIN. Mr. President, the OMB made a recommendation with respect to the procedure whereby the chairman requests authorizations for the construction of demonstration plants to be pursued to full-scale application. It is suggested that additional language is needed to statutorily provide the chairman the option of not making requests for full scale demonstrations if the feasibility studies show this to be the wisest choice. While the committee did, in fact, intend for the chairman to have this flexibility, I concur with the view of the OMB that clarification regarding this matter is desirable. I am, therefore, submitting the amendment which should clarify the intent of the committee and also satisfy the concern of the OMB.

I ask unanimous consent that the text of the letter from the Office of Management and Budget be inserted in the Record, because it provides the information to which I have referred.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Office of Management and Budget,
Washington, D.C., Sept. 13, 1974.

Hon. Henry M. Jackson,
U.S. Senate,
Washington, D.C.

Dear Senator Jackson: This is in response to your letter of July 31, 1974 requesting the views of the Office of Management and Budget on S. 3234, "An Act to authorize a vigorous Federal program of research, development, and demonstration to assure the utilization of solar energy as a viable source for our national energy needs, and for other purposes." (The comments which follow refer to the bill as ordered reported by the Interior Committee. Our review was based on Committee Print No. 3.)

We support the objectives of this bill. However, we do have some reservations about several of the bill's provisions.

Section 6(a) directs that the Chairman of the Solar Energy Coordination and Management Project (authorized by Section 4) solicit specific proposals for full scale plants to demonstrate the technical and economic feasibility of solar energy technologies. Section 6(b) directs the Chairman to select one or more specific proposals solicited to pursue to the point of full scale demonstration. Such selections are to be made after feasibility studies are conducted. Section 7 directs the Chairman to request authorization for the construction of such full scale demonstration plants.

One of our concerns is that Sections 6 and 7 do not appear to provide the Chairman the option of not pursuing full scale demonstrations if the feasibility studies show this to be the wisest course. We would recommend that the provision would be more flexible if Section 6(b) were to begin with the phrase "(b) if economic and technical analyses so warrant," (no change to the rest of Section 6 (b)). We feel that this addition to the bill's language would provide for the same degree of flexibility as is provided in Section 8(a) which concerns small scale demonstration programs.

We believe that it would not be wise to specify a Fiscal Year 1976 funding level for solar energy R&D (as the bill does in Section 4) until there has been an opportunity to review the priorities for R&D on other energy sources. As you know, solar energy is a very dynamic research area. Therefore, information gained over the near term should be very useful in arriving at the optimal level for funding for Fiscal Year 1976.

I hope that these comments will be of use to you.

Sincerely,

Frank G. Zarb,
Associate Director.

Mr. FANNIN. Mr. President, since the distinguished Senator from Minnesota has just entered the Chamber, I take this opportunity to congratulate him on the leadership he has given to the proposed legislation and for his origination of it and for the very active participation he has displayed. Although he is not a member of the committee, he has worked diligently and has brought this matter forward and is to be highly commended for his efforts. I know that the people of this Nation who will benefit by the work that will be done as a result of this legislation, will be thankful to him for his efforts in getting it started. I do appreciate this opportunity to commend him.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Minnesota was not in the Chamber when I had occasion to make my complimentary remarks about him, but I repeat that we congratulate him on his leadership.

We in Louisiana claim Senator Humphrey as our own because he was educated there, and that is where his flashes of brilliance have all come from. I suppose his affection for solar energy has come from the fact that, having gone to school in Louisiana, he became familiar with the fact that sunshine can be very nice in that part of the country.

So we welcome his leadership in bringing the great benefits we enjoy in Louisiana to the rest of the country, and I hope he can figure out some way to get some sunshine in Minnesota.

Mr. FANNIN. Mr. President, I should like to explain to the distinguished Senator from Minnesota what has transpired.

I have offered an amendment, at the request of the Office of Management and Budget. I trust that the Senator is familiar with the amendment. It is just a clarification, to provide management flexibility, and I trust that I will have his support of this amendment.

I should say that it is something that will be very beneficial. While the committee intended the chairman of the solar management project to have this flexibility, it was not included in the bill. If the distinguished Senator would refer to the bill, on page 19, line 10, the amendment would delete the phrase, "together with," and insert instead the phrase, "where technical analysis so warrants."

Mr. HUMPHREY. That would be inserted at what point?

Mr. FANNIN. On page 19, line 10, it would delete the words, "together with," and insert instead "where technical analysis so warrants."

Mr. HUMPHREY. Yes, I think that is a constructive proposal.

Mr. JOHNSTON. Mr. President, the committee endorses the amendment in that it clarifies the intent of section 7 to provide for the construction of demonstration projects only where there is indication, from feasibility studies, that their construction and application and use may be favorable.

Mr. FANNIN. I thank the Senator.

The PRESIDING OFFICER. Is there further discussion?

Mr. FANNIN. I ask immediate consideration of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, first of all, I wish to express my thanks to the Committee on the Interior and to the distinguished chairman (Mr. JACKSON) and, of course, to Senator JOHNSTON of Louisiana, who is managing the bill today, and Senator FANNIN of Arizona, a minority member, who is vigorously supporting this legislation. I say to these two distinguished Senators that there is some scientific data that does prove that there is a little more sunshine in both Arizona and Louisiana than we have in Minnesota. Possibly, this is why, when there is a want for something, or when there is a lack of something, one always wants to do something about it. Maybe this is what propelled the Senator from Minnesota some years ago, and more recently, to be interested in solar energy.

I am most grateful to the Senators for their complimentary remarks. More importantly, I am grateful for their leadership in bringing this legislation to the Senate and the many changes in the committee that were adopted, and for the expeditious handling of the proposal before the Committee on the Interior.

Fourteen years ago, Mr. President, in a speech before this body on February 12, 1962, I made a statement that remains essentially true today. Here is what I said:

> The Federal Government has played an active and effective role in the development of hydroelectric power and, more recently atomic energy."
>
> But, in the relatively new but exciting field of solar energy, the Government needs to step up its activities for development of solar energy devices and techniques."

At that time, I offered legislation to establish a significant solar energy program within the Federal Government. Unfortunately, the solar energy legislation that I offered in 1962, and again in subsequent sessions of Congress, was not enacted.

Yet, I remained convinced of the tremendous potential of this cleanest and most abundant source of energy and of the urgency of a substantial Federal commitment to bringing this great potential to the service of mankind.

In fact, Mr. President, during my service as Vice President of the United States, I tried—and I think somewhat successfully—to encourage the Department of the Interior to maintain at least a modest program in the field of solar energy.

Today, we have an opportunity to reclaim solar energy from decades of official neglect. Today, we have before us legislation that will provide the long overdue commitment of the human, technological, and financial resources that are needed to seriously and soundly develop and demonstrate what can and cannot be done with this tremendous energy source.

In the years that I have been following solar energy developments, the possibilities that I have seen presented are mind boggling in their implications. To me, what has been done as well as what might be done demands our full support.

Consider the implications of just three developments:

The solar heated home being operated efficiently today in the Washington suburbs by my friend of many years, Dr. Harry E. Thomason and his family.

The exciting bioconversion approach to rural energy self-sufficiency being developed in Israel by the Kibbutz Development Institute.

The visionary work of those who look to the use of satellites to beam solar energy to earth for man's use.

These are but three brief examples of the fertile field of solar energy research, development, and demonstration that must be opened up by the commitment we can make today.

The evidence is mounting rapidly that solar energy can make a substantial contribution to meeting our Nation's energy needs. As importantly, the basic solar energy resource—the Sun—knows no nationality and is a virtually unlimited source of energy. The long-term political and economic implications of these two facts greatly enhance its value to man.

In terms of the solar energy contribution, Dr. Alfred J. Eggers, Jr., of the National Science Foundation wrote last December, as chairman of the expert panel advising the Chairman of the Atomic Energy Commission on solar programs, that—

> Through widespread application of these (six basic solar) technologies, it is estimated that 10 percent to 30 percent of the Nation's required input B.t.u.'s can be provided by solar energy by the year 2000 and as much as 50 percent by the year 2020.

We must start now if we are to make these possibilities realities.

In fact, Mr. President, those years, when you say "the year 2000," for some it may seem a long way off, but we are really talking of 25 years from now. That is a short time in the history of a country.

Mr. President, S. 3234, the Solar Energy Research, Development, and Demonstration Act of 1974, which I authored and introduced with 24 cosponsors on March 26, 1974, is truly landmark legislation.

For the first time in our Nation's history we will establish a Federal policy regarding the development of advanced solar energy technologies and their full utilization.

For the first time, we shall initiate an aggressive and comprehensive solar energy program, providing the administrative structure and financial support that such a program requires.

For the first time, this Nation will make a major, long-term commitment of financial resources to the development of advanced solar energy technology and its utilization. The $1 billion, 5-year program called for in this legislation, as the minimum required to meet our initial need for clean energy, is more than 10 times the total of all federally supported solar energy activity in the last 5 years. The recognition, by Congress, of this need clearly signals a new era of Federal solar energy development support.

Mr. President, it is so important that our Nation use every means at its command to become energy self-sufficient. It is my judgment that we will find the work we shall do in solar energy making a very distinct contribution to the fulfillment of what was called Project Independence.

I am very pleased, also, to note that the Presiding Officer today, during the time of this debate, shall be listed as a cosponsor of this legislation. He comes from the State of Florida, and without trying to arouse any competitive instincts or competitive oratory, since it would be unfair, the Presiding Officer being unable to reply as he sits in that seat of the Vice President, I shall simply ask unanimous consent now that the Senator from Florida (Mr. CHILES) be added as a cosponsor.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

Mr. HUMPHREY. I am pleased that the Chair said "without objection." I can remember during my days as Presiding Officer in the Senate the horrible discipline that I had to suffer sitting in that chair, being unable to speak. That was cruel and inhuman punishment for the junior Senator from Minnesota.

The $100 million specifically authorized for solar energy programs under this legislation in the fiscal year 1976, not to mention the additional funds that shall be authorized for major demonstration projects, is virtually twice the level of funding for all solar energy supporting activities this year. Yet even this level of support, which is based primarily on pre-oil embargo data and analysis, may need to be significantly increased in fiscal year 1976 to reflect new technological break-throughs and changes in energy prices.

Mr. President, one element in my original bill, which has not been included in the version reported by the committee——

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. HUMPHREY. I am happy to yield to my illustrious friend from Arizona.

Mr. GOLDWATER. I thank the Senator. Representing, as I do, together with my senior colleague, the State of Arizona, the State that has almost all of the sunshine in the United States, I think it would only be fair that I join my senior colleague in cosponsoring this measure. So if the Senator from Minnesota will permit me to, I ask unanimous consent that I may join with my illustrious colleague as a cosponsor of this measure, recognizing, of course, that we are the home of everything solar.

Mr. HUMPHREY. Mr. President, I am most happy to have the able, distinguished, and gifted Senator from Arizona as a cosponsor.

Mr. JOHNSTON. Mr. President, I shall not object, but I would like to note for the RECORD that I have been to Arizona once, and it rained that one time.

Mr. GOLDWATER. Mr. President, let me say to the distinguished Senator that if he can make it rain, he can come back any time.

Mr. HUMPHREY. Mr. President, I also ask unanimous consent that my good friend from Hawaii (Mr. FONG) be listed as a cosponsor of this legislation. The sun shines in Hawaii as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, as I was stating, one element in my original bill, which has not been included in the version reported by the committee, is the provision for the development of time-limited incentives to encourage the development and use of solar energy technology. While I will not offer a specific amendment, I would urge the conferees to again carefully consider the arguments in favor of an incentive system, such as that called for in the House version of this legislation. In this regard, the conferees may also wish to consider providing the Federal Energy Administration with direct participation in the management project established in this bill to focus the Federal solar energy effort.

Mr. President, I am convinced that the program called for in this bill, the mandate which it contains, and the funding that it provides, will greatly accelerate the process of making the tremendous potential of solar energy a reality in the lives of our citizens. I also believe it will be looked back on in years to come as one of the wisest decisions made by this Congress.

Oh, how I wish that today, instead of offering to countries in the Middle East and elsewhere nuclear plants that create plutonium, which also can be converted into a nuclear weapon, we could offer to those countries solar energy technology which would provide them the energy that they need for their development. What a blessed day that will be, and how much it will contribute to a peaceful world.

Mr. President, I thank the distinguished Senator from Washington (Mr. JACKSON) for his able leadership on this vital legislation. His support and encouragement, as well as the substantive modifications to the original version of S. 3234, which he urged as chairman of the Committee on Interior and Insular Affairs, have definitely strengthened this legislation and made enactment possible.

I also wish to thank Senator HASKELL, who chaired the hearings on this legislation, and Senator FANNIN, the able ranking minority member of the committee, for their deep interest, active support, and important contributions to this legislation. The unanimous vote of support for this legislation, by the Interior Committee on September 10, is a tribute not only to the soundness of their legislative product, but also to the outstanding bipartisan effort that was made by the committee's leadership.

Mr. President, I would also like to apprise my colleagues that the Office of Management and Budget, upon careful review and analysis of this proposal, has endorsed it. I am delighted that the OMB had agreed to support this bill and am hopeful that it will be quickly implemented after final congressional action.

Mr. President, I understand that the House is expected to act this week on parallel legislation developed over the last several months under the able leadership of my good friend Congressman MIKE MCCORMACK. I am very confident that any differences that may exist can be quickly overcome so that the President will be able to sign this vital commitment into law prior to the end of the 93d Congress.

Mr. President, the bill before us is of great importance to every American. The promise it holds, while still impossible to picture clearly, is certainly tremendous. But the uncertainty of the payoff must be a spark to our imagination, to our national creativity, and not allowed to be turned into a dreary shadow of uncertainty and timidity. The magnitude and complexity of our Nation's energy and environmental problems are too great to be solved by the timid; only the bold will find the solutions that will help man prosper without destroying the very habitat he requires for life.

With these thoughts, these challenges, in mind, I urge all of my colleagues to be bold in their willingness to find effective answers to the problems their people face by voting for the Solar Energy Research, Development, and Demonstration Act of 1974.

Mr. President, on behalf of myself, the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Colorado (Mr. DOMINICK), I offer an amendment. Is the amendment now at the desk?

The PRESIDING OFFICER. There are two amendments at the desk from the Senator from Massachusetts (Mr. KENNEDY).

Mr. HUMPHREY. Yes. The amendment I offer is the one from Senator KENNEDY, Senator DOMINICK, and myself. I send a copy to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 16, line 6, strike the word "basic".

On page 16, line 7, strike the word "fundamental".

On page 22, line 16 after the word "Chairman" insert the words "acting through the National Science Foundation".

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. HUMPHREY. Mr. President, the amendment now before the Senate clarifies the role of the National Science Foundation with regard to the solar energy research and development program established under S. 3234. It provides that the National Science Foundation, in cooperation with the Chairman of the solar energy coordination and management project, will continue and expand its ongoing support for science education to insure that this Nation has the scientific and technical manpower it needs to support the comprehensive solar energy research, development and demonstration programs called for in the bill. It also clarifies the intent of S. 3234 with regard to basic and applied solar energy research. It insures that the National Science Foundation will continue to build on its $50 million solar energy research program funded by the Congress for fiscal 1975 in such critical areas as the heating and cooling of buildings, wind energy conversion, solar energy to power industrial processes, solar thermal conversion, bioconversion to fuels, ocean thermal energy conversion, photovoltaic energy conversion, and energy storage. It also provides that the Foundation will keep the Chairman of the solar energy coordination and management project fully and currently informed of the results of this research.

This is a technical amendment, may I say, just to tie in the work of the National Science Foundation.

Mr. JOHNSTON. Mr. President, the committee endorses the amendment as described by the Senator from Minnesota.

Mr. FANNIN. Mr. President, I, too, would like to endorse the amendment. I feel that the clarifying amendment is beneficial, and I commend the Senator on his amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments en bloc were agreed to.

Mr. HUMPHREY. Mr. President, I send a second amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 23, after line 6, insert the following new section and renumber section 14 as section 15.

SOLAR ENERGY RESEARCH INSTITUTE

SEC. 14. (a) There is established a Solar Energy Research Institute, which shall perform such research, development, and related functions as the Chairman of the Project may determine to be necessary or appropriate in connection with the Project's activities under this Act or to be otherwise in furtherance of the purpose and objectives of this Act.

(b) The Institute may be located (as designated by the Chairman of the Project) at any new or existing Federal laboratory (including a non-Federal laboratory performing functions under a contract entered into with the Project or with any of the agencies represented in the Project as well as a laboratory whose personnel are Federal employees).

Mr. HUMPHREY. Mr. President, the amendment really speaks for itself. I have a very brief statement on behalf of Senator KENNEDY and myself.

This amendment, as it was read, has as its purpose the establishing of a Solar Energy Research Institute to perform research development and related functions and to provide our scientists with the facilities they need to effectively concentrate on complex solar energy research and development problems. This institute may be located at any new or existing Federal laboratory—and I underscore the words "existing Federal laboratory"—and will provide a focal point for the long-overdue effort to expedite the development and commercial utilization of solar energy.

Mr. JOHNSTON. Mr. President, the committee believes the Solar Energy Research Institute, as offered by this amendment, will be helpful and give needed new thrust in accordance with the purposes of the amendment, and we, therefore, endorse it.

Mr. FANNIN. Mr. President, the Senator from Arizona would also like to endorse the amendment providing for the establishment of a Solar Energy Research Institute which, I feel, should be in Arizona, but that will be determined at a later time. I feel it is ideal since we have more sunshine than any other State in the Nation. We should immediately start considering that the laboratory be established there and I intend to request that the administration give serious consideration to establishing the institute in Arizona.

I thank the distinguished Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. BIBLE. Mr. President, I rise in support of the pending bill. I am a cosponsor and strong supporter of this proposed Solar Energy Research Act. This legislation declares it the policy of the Federal Government to pursue a vigorous and vital program of research and development into the utilization of solar energy as a major source of our national energy needs. I enthusiastically endorse that policy and have for many years.

As some Senators will recall, I introduced one of the earliest solar energy research and development bills some 15 years ago. It was S. 2318 of the 86th Congress—introduced July 1, 1959—and would have authorized the Secretary of the Interior to make grants to private institutions and to use Federal scientific laboratories for research and the development of technology for the practical utilization of solar energy. That bill envisaged the development of practicable low-cost means of putting solar power to work to supplement our fossil fuels and nuclear energy in order to maximize the Nation's energy resources. Unfortunately, that bill did not pass. It was ahead of its times and too far removed from the kind of environmental awareness and energy crisis we know today.

We have an entirely different situation today. Never before has there been such public awareness and interest in the enormously promising potential of the boundless energy of the Sun. We are told, for example, that the annual amount of solar energy falling on the State of New York alone is double the energy obtained annually from the entire world's production of coal and oil. Dr. Alfred J. Eggers, of the National Science Foundation, has indicated that through the widespread application of solar energy technologies it is estimated that from 10 to 30 percent of the Nation's B.t.u. requirements can be provided by the year 2000 and as much as 50 percent by the year 2020.

Mr. President, there can be no question that the present domestic and worldwide shortage of depletable energy resources to meet not only our own but the world's future energy requirements mandates the earliest possible development of renewable and continuous clean energy sources. Solar energy is without question one of the most promising candidates—as it is one of our most formidable technological challenges. America's technological breakthroughs in space and nuclear energy came about because the Nation was wiling to accept those challenges and to apply resources needed to do the job. I am confident that there is now a like determination to do what has to be done to harness the energy of the Sun.

S. 3234 has been well-designed to provide the organizational framework to coordinate the Federal Government's solar energy research and development effort. It would establish an interagency solar energy coordination and management project, the function of which would become part of the Energy Research and Development Administration—ERDA—as soon as that or a comparable overall Federal energy R. & D. organization comes into being. In the meantime, the project would be authorized to move the program forward on a temporary basis. The bill would authorize a $100 million Federal research and development program to explore and exploit solar energy potential. The new project would be expected to provide the initiative and force for the mounting of an aggressive "all-out" assault on the technological barriers that now deny us access to the Sun's energy. The objective is to dramatically reduce the time it would otherwise take to harness solar energy in the service of mankind. The new project would provide the basic administrative structure and central policy focus for all Federal solar energy research programs.

S. 3234 also provides for full-scale demonstrations of advanced solar technologies and small-scale demonstrations of solar systems that warrant immediate application.

Very importantly—and I feel this is absolutely essential—this legislation anticipates that there will be close and continuing cooperation throughout the Government and private industry. There is no question that Government can and must make a major commitment to solar energy development. But in this as in other areas, Government is ill-equipped to go the route alone. Industry expertise and participation is essential if the economic and other factors are to be solved. Consequently, S. 3234 anticipates an emphasis on Government-industry cooperation. The Government is expected to supply the incentives that are needed and it is anticipated that our free enterprise business system will respond effectively as it has in the past.

In conclusion, Mr. President—and at the risk of stating what is fairly obvious to all who have taken the time to think about it—I want to recall that our Nation's success in taming the atom and conquering space was due in large part to the fact that those challenges were confided to the care of "mission-oriented" agencies of the Government. The Manhattan project and the AEC had well-defined objectives and were structured to do the jobs they were given to do. NASA also had its target—the Moon—and drove toward it with singleness of purpose and well-known success. The same undivided attention and singleness of purpose is required if we are to achieve our objective of harvesting the massive energy of the Sun. There is no question in my mind that the Nation is now prepared to make the necessary commitments.

S. 3234 is well-designed to give us the kind of "mission-oriented" project needed to effectively cope with and solve present barriers to harnessing the Sun. It is legislation whose time has come. In fact—and as we all know too well—it is long overdue.

I urge early and favorable action on this Solar Energy Research Act.

Mr. JACKSON. Mr. President, I am very pleased at this time to give my full support to the Senate passage of S. 3234, the Solar Energy Research, Demonstration, and Development Act of 1974. In doing so, I wish to express my appreciation to the original sponsor of the bill, my distinguished colleague, the junior Senator from Minnesota (Mr. HUMPHREY), whose long-time commitment to solar energy and its practical application has provided us with the opportunity to consider this legislation today.

The amended version of this bill, which I cosponsored, provides the congressional initiative and direction for a coordinated, comprehensive Federal effort in the research, development, and demonstration of advanced solar energy technologies. The solar energy coordination and management project, which it establishes, will be empowered to undertake a $1 billion, 5-year research and development program to accelerate the commercial readiness of various solar energy systems.

Testimony received by witnesses at the Interior Committee's June 27 hearing on this bill addressed the current and projected capability of United States and foreign industry in the area of solar energy conversion. Their favorable estimates confirmed the committee's belief that, provided the appropriate amount of Federal participation and financial support, solar energy could well make a significant contribution to our national energy needs.

The aggressive program set forth in S. 3234 provides a firm base for our efforts to make this clean and abundant energy source commercially viable. I commend my colleagues in the Interior Committee for their unanimous, bipartisan support which enabled us to expeditiously bring this measure before the full Senate for final consideration. I strongly feel that implementation of this bill, together with H.R. 11864, the Solar Heating and Cooling Demonstration Act, which was recently signed into law by the President, will bring us closer to achieving our national goal of energy self-sufficiency. I, therefore, urge my colleagues in the Senate to support me in achieving its final adoption today.

Mr. KENNEDY. Mr. President, with the passage of the Solar Energy Research, Development, and Demonstration Act of 1974, which I have cosponsored, the Congress will take one more major step toward freeing this Nation from its dependence on dwindling fossil fuel supplies—a dependence which has had a devastating effect on our economy and on consumers who are faced with electricity and heating oil bills up to four times higher than for a comparable period a year ago.

Earlier this year, with the enactment of the Solar Heating and Cooling Demonstration Act, the Congress authorized a 5-year, $60 million program designed to promote the early development and utilization of solar energy to meet our space heating and cooling needs. Over 25 percent of the energy consumed in this Nation is used in heating and cooling systems—at a cost of $18 billion a year. We urgently need good, inexpensive solar heating and cooling systems which will work in houses that wage earners can afford, and which will meet with broad public acceptance. There are no technical barriers to the wide application of solar energy, and the Solar Heating and Cooling Demonstration Act will provide the operational experience necessary for large-scale commercial application of this technology.

In addition, building on basic and applied research programs begun in 1950, the National Science Foundation in fiscal year 1975 will quadruple its solar energy research efforts. As chairman of the Special Subcommittee on the National Science Foundation, I am confident that the $50 million program the Foundation is now supporting will lead to significant breakthroughs in areas of solar energy research which are not yet as far advanced as space heating and cooling. The Foundation's fiscal year 1975 solar energy research program includes: $10 million for solar thermal conversion, $7 million for wind energy conversion, $5 million for bioconversion to fuel, $3 million for ocean thermal energy conversion, and $8 million for photovoltaic energy conversion.

If, 15 years from today, 5 percent of our homes and buildings receive 80 percent of their energy for heating and airconditioning from solar energy, this will represent a savings of fuel equivalent to about 600,000 barrels of oil per day. At $10 a barrel, this would constitute a savings of $6 million a day, or about $2 billion a year. Savings will continue to grow indefinitely as we use more and more solar energy. Solar energy is a free source of power—one that is available in abundance and one which does not contribute in any way to the pollution of our environment .

The legislation before the Senate today authorizes a comprehensive program to provide for research, development, and demonstration activities relating to solar energy technologies. It provides the administrative framework and financial support necessary to bring solar energy technologies to commercial development at the earliest possible date; to formulate specific national goals for solar energy resource determination and assessment; to provide adequate trained scientific and technical manpower to carry out solar energy research, development, and demonstration programs; to establish a national solar energy laboratory; and to promote widespread utilization of solar energy technology.

S. 3234 authorizes $100 million for fiscal year 1976 for solar energy research and development. It recognizes that we cannot continue indefinitely to depend on nonrenewable energy sources, as well as the urgency of this Nation's critical energy shortages. It recognizes that solar energy technologies today are at widely differing stages of development, with some already near the stage of commercial application, and others requiring further basic research. The coordinated program it establishes, between the solar energy coordination and management project and the National Science Foundation, will provide the necessary Federal commitment necessary if we are to utilize solar energy as a major source of energy supply.

The provisions of the legislation as amended on the Senate floor today will bring us closer to the time when solar energy will be available for widespread application to meet the heating and power needs of this Nation. The education and training programs it establishes will insure adequate trained scientific and technical manpower to carry out solar energy research; the national laboratory it calls for will provide a focal point for that research.

In 1972 the report of the NSF–NASA solar energy panel called for a simultaneous solar energy research effort concentrating on three main objectives, first, economical systems for heating and cooling of buildings; second, economical systems for producing and converting organic materials to liquid, solid, and gaseous fuels, or to energy directly; and third, economical systems for generating electricity. It recommended that research and development proceed on various methods for accomplishing those objectives and that programs with phased decision points be established for concept appraisal and choice of options at the appropriate times. For those developments which show good technical and economic promise, the panel called on the Federal Government and industry to continue development, pilot plant and demonstration programs, while continuing appraising the environmental, social and political consequences of solar energy utilization.

The kind of program envisioned in this panel's report and which will be implemented through the pending bill, could mean that by the year 2020 solar energy could economically provide up to 35 percent of the total building heating and cooling load, 30 percent of the Nation's gaseous fuel; 10 percent of the liquid fuel, and 20 percent of the electric energy requirements.

I urge my colleagues to support the bill.

Mr. HUMPHREY. I thank my colleagues.

The PRESIDING OFFICER. The bill is open to further amendment.

If there are no further amendments, the question is on agreeing to the committee amendent in the nature of a substitute, as amended. (Putting the question.)

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

So the bill (S. 3234) was passed, as follows:

S. 3234

An act to authorize a vigorous Federal program of research, development, and demonstration to assure the utlization of solar energy as a viable source for our national energy needs, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Solar Energy Research, Development, and Demonstration Act of 1974".

DECLARATION OF FINDINGS AND POLICY

SEC. 2. (a) The Congress hereby finds that—

(1) dependence on nonrenewable energy resources cannot be continued indefinitely, particularly at current rates of consumption;

(2) it is in the Nation's interest to begin to expedite the long term development of renewable energy resources, such as solar energy; and

(3) to date, the national effort in research, development, and demonstration activities relating to the utilization of solar energy has been extremely limited; therefore

(4) the urgency of the Nation's critical energy shortages and the need to make clean and renewable energy alternatives commercially viable requires that the Nation undertake, at a minimum, a five-year $1,000,000,000 research, development, and demonstration program.

(b) The Congress declares that it is the policy of the Federal Government to—

(1) pursue a vigorous and viable program of research and development into the utilization of solar energy as a major source of energy for our national needs; and

(2) provide for the development and demonstration of practicable means to employ solar energy on a commercial scale.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) utilization of solar energy means advanced technology applications of solar energy including, but not necessarily limited to, solar thermal and photovoltaic power generation for terrestrial applications, whether situated on the ground or in space, wind energy conversion, ocean thermal gradient conversion, solar stimulated bioconversion, and solar production of synthetic gases and hydrogen;

(2) the term "Project" means the Solar Energy Coordination and Management Project; and

(3) the term "Chairman" means the Chairman of the Project.

MANAGEMENT PROJECTS

SEC. 4. (a) There is hereby established the Solar Energy Coordination and Management Project.

(b) (1) The Project shall be composed of six members as follows:

(A) an Assistant Director of the National Science Foundation;

(B) an Assistant Secretary of Housing and Urban Development;

(C) a member of the Federal Power Commission;

(D) an Associate Administrator of the National Aeronautics and Space Administration;

(E) the General Manager of the Atomic Energy Commission; and

(F) a member to be designated by the President.

(2) The President shall designate one member of the Project to serve as Chairman of the Project.

(c) The Project shall have overall responsibility for the provision of effective management and coordination with respect to a national solar energy research, development, and demonstration program.

(d) Within sixty days from the date of enactment of legislation establishing a Federal Energy Research and Development Administration, the functions and authorities of the Project shall be transferred thereto, vested in the Administrator thereof, and implemented through the Assistant Administrator for Solar, Geothermal, and Advanced Energy Systems, to achieve the purposes of this Act.

RESEARCH AND DEVELOPMENT

SEC. 5. The Chairman shall—

(a) Initiate a research and development program for the purpose of resolving the major technical problems inhibiting commercial utilization of solar energy in the United States.

(b) In connection with or as a part of such program—

(1) conduct, encourage, and promote scientific research and studies to develop effective and economical processes and equipment for the purpose of utilizing solar energy in an acceptable manner for beneficial uses;

(2) carry out systems, economic, social, and environmental studies to provide a basis for research and development planning and phasing;

(3) perform or cause to be performed technology assessments relevant to the utilization of solar energy; and

(4) cooperate and participate jointly with other nations, especially those with agreements for scientific cooperation with the United States, in interinstitutional, bilateral or multilateral research projects in the field of solar energy.

(c) The specific solar energy technologies to be addressed or dealt with in the program shall include—

(1) direct solar heat as a source for industrial processes, including the utilization of low-level heat for process and other industrial purposes;

(2) thermal energy conversion, and other methods, for the generation of electricity and the production of chemical fuels;

(3) the conversion of cellulose and other organic materials (including wastes) to useful energy or fuels;

(4) photovoltaic and other direct conversion processes;

(5) sea thermal power conversion; and

(6) windpower conversion.

FULL-SCALE DEMONSTRATIONS

SEC. 6. The Chairman shall—

(a) for each of the technologies specified in subsection 5(c), solicit specific proposals for full-scale demonstration plants. Such proposals shall be for facilities or powerplants of sufficient size to demonstrate the technical and economic feasibility of utilizing the various forms of solar energy, and shall include, at a minimum, a detailed description of:

(1) the proposed plant or facility, including plant site and proposed technology;

(2) an economic assessment of the costs and benefits of proposed project;

(3) an assessment of both the immediate and potential future uses for the solar energy utilized in the proposed program; and

(4) the nature and extent of Federal participation, if any, anticipated in carrying out the proposal.

(b) for each of the technologies specified in subsection 5(c), select one or more specific proposals solicited pursuant to subsection (a), to be pursued to the point of full-scale demonstration. Such selection shall be made pursuant to an evaluation of the potential success of each proposal giving full consideration to the following matters:

(1) economic costs and feasibility;

(2) long-term national interest in the technology;

(3) environmental impact;

(4) potential for technology transfer to other applications; and

(5) likelihood of success for commercial application.

(c) conduct feasibility studies for a full-scale demonstration program for each of the specific selected proposals, identifying any engineering and technical work (such as the design, construction, and testing of pilot plants, modules, or other scaled-down operations), that must be completed prior to developing processes and plant design concepts to the point of full-scale demonstration.

REPORTS

SEC. 7. (a) Not later than one year after the date of enactment of this Act, the Chairman shall report to the President and the Congress, on the results of the feasibility studies conducted pursuant to subsection 6 (c), and where technical analyses so warrant a request for authorization for the construction of the demonstration plants to be pursued to full-scale application.

SMALL-SCALE DEMONSTRATION PROGRAMS

SEC. 8. (a) If the Chairman determines that the available level of technology and knowledge of the proposal warrants immediate initiation of a small-scale demonstration involving a total Federal investment of not greater than $20,000,000, the Chairman, in cooperation with the Atomic Energy Commission, is authorized to initiate such demonstrations.

(b) The Commission shall be the agency directly responsible for the administration of construction contracts and agreements with non-Federal participants in such demonstrations.

(c) The Commission is authorized to investigate, negotiate, and enter into cooperative agreements with non-Federal utilities, industries, and governmental entities for the construction, operation, and maintenance of demonstration developments for the production of electric or heat energy using solar energy technologies.

(d) No agreement shall be entered into under the authority granted by this section unless the Chairman determines that—

(1) the nature of the resource, the geographical location, the scale and engineering design of the facilities, the techniques of production, or other significant factors of the proposal offer opportunities to make important contributions to the general knowledge of solar energy, the techniques of its development, or public confidence in the technology;

(2) the potential non-Federal cooperating entities are willing and capable to make contributions toward the capital cost of the development, to operate the power generation or other commercial facilities, and to provide a market for any energy produced;

(3) the development or the practical benefits of the development as set forth in clause (1) of this subsection are unlikely to be accomplished without Federal assistance.

ADMINISTRATION OF DEMONSTRATION PROGRAMS

SEC. 9. (a) Subsequent to the establishment of the Energy Research and Development Administration, the Administrator of the Energy Research and Development Administration, acting through the Assistant Administrator for Solar, Geothermal, and Advanced Energy Systems shall perform the necessary contract administration for the construction and operation of any demonstration programs authorized by the Congress, including contracts for the construction and operation of pilot plants, modules, and other scaled-down operations deemed necessary to establish the feasibility of authorized projects.

(b) If, on the date of submission of the report specified in subsection 7(b), there has not been established a Federal Energy Research and Development Administration, the President shall designate an appropriate agency to carry out the functions specified in this section and in section 13 of this Act.

INFORMATION

SEC. 10. (a) The Chairman is authorized and directed to collect, analyze, process, and disseminate information and data on the applications of solar energy developed pursuant to this Act. Such data and information shall include:

(1) technical information resulting from and related to the research and demonstration programs specified under sections 5, 6, and 8 of this Act; and

(2) general information on solar energy applications to be disseminated for popular consumption.

(b) The Chairman shall encourage the development of agreements and programs with other countries to facilitate the exchange of information and data relating to solar energy resource assessment.

PROGRAM COORDINATION

SEC. 11. The Chairman shall enter into such arrangements and take such other steps as may be necessary or appropriate to provide for the effective coordination of solar energy technology utilization with all other technology utilization programs within the Federal Government.

SCIENTIFIC AND TECHNICAL EDUCATION

SEC. 12. The Chairman, acting through the National Science Foundation, is authorized to support programs of education in the sciences and engineering to provide the necessary trained personnel to perform the solar energy research, development, and demonstration activities required under this Act. Such support may include fellowships, traineeships, technical training programs, technologist training programs, and summer institute programs.

ANNUAL REPORTS

SEC. 13. The Chairman, acting through the Office, shall report, on an annual basis, to the President and the Congress all actions taken under the provisions of this Act, all action planned for the ensuing year, and, to the extent practical, a projection of activities and funding requirements, for the ensuing five years. Further, he shall recommend, as he deems appropriate, legislation and/or reorganizations which might further the purposes of this Act.

SOLAR ENERGY RESEARCH INSTITUTE

SEC. 14. (a) There is established a Solar Energy Research Institute, which shall perform such research, development, and related functions as the Chairman of the Project may determine to be necessary or appropriate in connection with the Project's activities under this Act or to be otherwise in furtherance of the purpose and objectives of this Act.

(b) The Institute may be located (as designated by the Chairman of the project) at any new or existing Federal laboratory (including a non-Federal laboratory performing functions under a contract entered into with the Project or with any of the agencies represented in the Project or with any of the agencies represented in the Project as well as a laboratory whose personnel are Federal employees).

AUTHORIZATION OF APPROPRIATIONS

SEC. 15. (a) To carry out the provisions of this Act, there are authorized to be appropriated—

(1) for the fiscal year ending June 30, 1976, $100,000,000;

(2) such amounts as may be provided by annual authorization measures in subsequent years; and

(3) such amounts as may be authorized for the construction of full-scale demonstrations pursuant to section 9(a) of this Act.

The title was amended so as to read: "An act to authorize a vigorous Federal program of research, development, and demonstration to assure the utilization of solar energy as a viable source for our national energy needs, and for other purposes."

Mr. FANNIN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS UNTIL 12 O'CLOCK NOON

Mr. ROBERT C. BYRD. Mr. President, if no Senator wishes to be recognized, I move that the Senate stand in recess until the hour of 12 o'clock noon today.

The motion was agreed to, and at 11:34 a.m., the Senate recessed until 12 o'clock noon; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HATHAWAY).

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1975

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 15580, which will be stated by title.

The second assistant legislative clerk read as follows:

> A bill (H.R. 15580) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1975, and for other purposes.

The PRESIDING OFFICER. The pending question is the committee amendment on page 6, on which there is 1 hour of debate.

CLOTURE MOTION

Mr. CRANSTON. Mr. President, I ask unanimous consent that I may file at this time a cloture motion on S. 707.

The PRESIDING OFFICER. Without objection, it is so ordered.

The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill, S. 707, to established a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

Abraham Ribicoff.
Gaylord Nelson.
Edmund S. Muskie.
Harrison A. Williams.
Warren G. Magnuson.
Frank E. Moss.
Henry M. Jackson.
Mark Hatfield.
Floyd K. Haskell.
Philip A. Hart.
James Abourezk.
Edward M. Kennedy.
Jacob K. Javits.
Mike Mansfield
Joseph R. Biden, Jr.
Robert C. Byrd.
Walter F. Mondale.
Clifford P. Case.
Charles McC. Mathias, Jr.
Thomas F. Eagleton.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1975

The Senate continued with the consideration of the bill (H.R. 15580) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1975, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. Who has charge of the time?

The PRESIDING OFFICER. The Senator from Nebraska has 30 minutes, and the Senator from Washington has 30 minutes.

Mr. CURTIS. I yield myself such time as I may require.

Mr. President, the people on trial this morning are absent. The House placed a very needed amendment in the bill. The Appropriations Committee is made up of scholarly, eminent, and distinguished gentlemen, but it all goes to show that error creeps into everybody's being, and they erroneously have stricken that from the bill as a committee amendment. They are not here to speak for their committee amendment.

Actually, I think I should be entitled to a default judgment against them. But, in a more generous spirit, I may be absent sometime when I should be here. I will not insist that the Chair enter such a judgment.

The amendment offered by the committee should not prevail. This relates to the Occupational Safety and Health Act, referred to as OSHA. This law was enacted about 1970. It was an undertaking on the part of the Federal Government to police all safety matters and health matters from Washington, even down to the businessman or the farmer who employs only one person.

On the face of it, it was too big a job. They could not handle it. Some matters should be left to local and State governments. There are not enough inspectors available to police every transaction and every business in the country.

Where are you going to hire a bureaucrat who is competent to prescribe the safety regulations for a contractor who undertakes to build a building with 10 stories beneath the ground? The industry itself has that competence. Where are you going to get enough inspectors to look over the shoulder of every filling station operator who employs only his son or perhaps his wife? Is that man not interested in safety beyond the total interest of the Government? The people involved are himself and members of this immediate family.

Yet, in this obsession that everything must be regulated and run and inspected from Washington, we said we are going to put the Federal Government in here. That is only half the story.

The other half of the story is that by that law, we agreed to give an inspector the authority to be inspector, prosecutor, jury, and judge. We can come in and tell the businessmen what is wrong, and instead of giving them time to make the corrections—assuming that the inspector knows enough about it—he levies a penalty right there. It is a disgrace.

All through these years, the legislative committee would not budge in bringing any amendments to the floor. Time and time again, under pressure, they have a hearing. On one occasion, I brought several Nebraskans here, at their own expense, to tell of the treatment they received. After it was all over, the Senator presiding thanked them for their great contribution. And then nothing was done.

It is time that the union bosses who are blocking any corrective legislation in this field realize that the rights of Americans are being greatly violated. They have to pay penalties which are in the nature of fines, without any notice, without any trial. They are compelled to pay a penalty and are given no chance to make a correction.

Mr. President, the House put an amendment in this bill denying the funds for the enforcement of this outrageous law against employers having fewer than 25 employees. I freely admit that this is not the ideal answer. The ideal answer would be to amend the law and to take away all this autocratic power of the inspectors, to have a law whereby if a competent inspector came around and said something was wrong, the individual businessman could correct it within a reasonable time, and that would be the end of it.

There are other needed changes, but we have not denied the opportunity to have those changes. The proposal placed in the bill by the House, which this committee would strike, is a reasonable proposal because it is temporary. It does not establish a permanent small business exemption. It runs for the life of the appropriation, which is to next July 1. In the meantime, if these funds are curtailed, it would be hoped that we could have some substantive changes in the law.

I know that the committee will argue, "Well, if we go to conference, then we can decide anywhere between zero and 25 as to what the small business exemption should be."

That may be good rhetoric, but it will not satisfy that great number of Americans who have felt the heel of a bureaucratic oppression. Mr. President, the only reason that we do not have an opportunity to vote on changes in this law seems to be that those who are really in charge, whoever they are, just do not want it.

When we first commenced to complain about the operation of this law, the distinguished chairman of the Committee on Labor and Public Welfare said this:

> It is clear from my mail and from my discussions with operators of small businesses that one of the chief causes of their concern about the Act is the lack of adequate and accurate information regarding its requirements and the regulations issued to implement it.

Yet nothing has been done about it. The distinguished chairman in charge of the bill before us today said this:

> The point I am trying to make is that the legislative committee surely ought to see that the law gives some period of grace so that a person could take time to fix anything that might be in his plant or workshop or in his little business establishment and give him time to do it, because he may not even know he is violating a law.

That was the advice that the distinguished chairman of this committee (Mr. Magnuson) gave to the legislative committee almost 3 years ago.

The distinguished Senator from Rhode Island, a former Governor, a very able individual, had this to say almost 3 years ago:

> I was surprised in the colloquy between the Senator from New Jersey and the Senator from Washington to learn that an inspector can come in and it is his sole judgment to say whether or not there will be prosecution. It seems to me that is a tremendous police power given to one individual. Why would not the proper method be to have the inspector go in and tell the man what the safety regulations are so the man does not have to read 20 or 30 books? Let the burden be on the Government to come in and say, "Your business hires only 10 people. You have here and there some minor violations. That is wrong and that is wrong. Fix it up. I will give you 30 days to do it and if you do not we will bring an action." This procedure we have now is almost entrapment. A man is in compliance with the State law but it does not conform to the Federal law. So the man is brought into Federal court charged with a Federal offense for endangering the safety of people who work for him. It seems to me that is the wrong way to go about it.

Those are the words of the Senator from Rhode Island (Mr. Pastore) almost 3 years ago.

I hope that no one on the Committee on Appropriations will say that this is a matter that the legislative committee ought to deal with. They have no intention of dealing with it. Some of the most eminent Members of this body have urged them to do it for 3 long years.

I quote Senator Randolph, the distinguished chairman of the Committee on Public Works:

> A very large part of the problem, I believe, is Government redtape. Over 1,500 years ago a man said of this aspect of government: "If all the seas were ink; if all the needs were pens; if all the skies were parchment; and if all men could write, they still could not match the redtape of this government." That same redtape exists today. These problems in the administration of the Occupational Safety and Health Act can be solved. The small businessman can be assisted—and should be. The smaller firms are a very vital segment of our economy. And this job can be accomplished without eliminating effective enforcement of health and safety programs for employees.

He went on to say:

> In conclusion, Mr. President, I ask the chairman—and I am a member of his committee and serve under him and with him—are we not prepared to move affirmatively in this area in an all-out effort to find solutions to the problems to which the pending amendment is directed?

Senator Williams replied:

> The answer is unequivocally "Yea" we are prepared, and we are going to do it.

Three long years ago. They have no intention of doing it. Either the Senate avails itself of the opportunity to take this tyranny off the backs of every employer of less than 25 for the short period between now and July 1, or it will side in with those sinister, vested forces outside the Senate who do not want any change in this law.

I wish to read the testimony of a Nebraskan who journeyed to Washington on July 25, 1972, more than 2 years ago, appealing to his Congress to make some changes in the law. Here is his testimony:

> Mr. Chairman, my name is Al Pimper, and I have been a Chrysler-Plymouth dealer in Fremont, Nebraska, for 10 years. For 15 years before that, I managed a Chrysler-Plymouth dealership in another town.
>
> Fremont is a town of 23,000 people in eastern Nebraska. In addition to new-car sales, my business involves the selling of used cars. It includes a body shop and a complete service department facility. We employ 18 people. The business is situated in three buildings, all in one location.
>
> I have always felt my business was operated efficiently. For the past two years, I have received one of the Chrysler Corporation's highest awards, the "Distinguished Dealer Award." I am a graduate electrical engineer and served as an officer in the Navy in World War II.
>
> Last November, shortly after the Federal Occupational Safety and Health Act went into effect, one of my older mechanics filed a "grudge" complaint against my company with the Occupational Safety and Health Administration.
>
> The complainant had been a mechanic for about 35 years and had been employed by me for nine years. He had complained to me in the past about the level of carbon monoxide exhaust fumes in the garage area where he worked. Primarily as a result of these complaints by him, I had installed a completely new exhaust system in the mechanical service area. This was done approximately three years prior to last November. I felt certain that this action corrected any problem that existed. Still he complained of headaches and other ailments. He filed a workmen's compensation claim against me, contending that he had a certain level of carbon monoxide poisoning in his bloodstream. He underwent a medical examination as a basis for determining the validity of his claim, and the medical decision that resulted was adverse to him. It showed that he did not have a disability-causing affliction of any kind.
>
> This mechanic filed a complaint with OSHA after he quit his job with me. He contended, once again, that the carbon monoxide fumes exceeded the allowable limits. I learned of this complaint when a person who identified himself as an OSHA compliance officer came to my place of business. The officer came up to me and asked me where my office was. I told him I didn't understand what he meant, and he said he wanted to talk to me in my office. He pulled out a small identification card and told me I was in trouble. He explained that an employe had turned me in for having an unsafe place to work.
>
> The compliance officer used an instrument which he had brought with him to measure the carbon monoxide level in the garage. He did not find the level excessive or at all dangerous. He gave me a clean bill of health on the complaint that had been filed against me. He told me there was no doubt in his mind—the complaint filed against me was a "grudge" complaint. He said that most of the inspections conducted in what I understand are known as "non-target industries" were the result of complaints filed by disgruntled employes.
>
> If the inspector had stopped there, I probably would not have thought much more about it, although I did feel he was somewhat accusatory in his approach before he had any facts to back up an accusation. He told me that the carbon monoxide level in

my shop was considerably below the maximum allowable level. Then he proceeded to inform me that I would be subject to an immediate, complete inspection of my facilities. I began to feel that I was being victimized. I felt that I had passed the inspection which was brought about by the specific complaint, and now I was being subjected to a fishing expedition of some sort to try to find something else wrong to fine or penalize me for. I was sort of a suspected criminal who was being frisked.

In the inspection which ensued, I was cited for four alleged violations. I was cited for three counts of inadequate electrical wiring, for which I was fined $150 and given 12 days' time to completely rewire my building. I was also cited for storing combustible liquids in excess of one day's supply in the body shop, for having no record of maintenance on two recently-installed carbon dioxide fire extinguishers, and for "poor housekeeping" due to the piling of some wrecked body front-end parts near the back door. For each of these violations I was fined $36 and given two days to correct them. The total amount of my fine was $258. I would be glad to leave a copy of my citation with the Committee if it is of any value to you in understanding what happened to me.

After studying the citation and thinking about it for a while, I called the Area Director of OSHA at Omaha and inquired about the appeal procedure. He told me, "There's a board hand-picked by President Nixon. They come out to Kansas City, and you can appear before the board." I asked him what my chances would be of winning an appeal before the board, and not having to pay the fine. He told me that "in several cases they have increased the fine." I paid the $258 because I was afraid it would cost me more in the long run to fight it. I thought it was wrong at the time, and the more I have thought about it and talked with people about it the more wrong it seems to me. I find it hard to believe that my government, which I support not only with my taxes but with jobs that provide income and taxpaying ability for 18 persons including some families, would do this to me.

It seems only logical and fair that every employer confronted with a law of this type should be entitled to know exactly what the requirements are, and to be told either in writing or by a penalty-free inspection what he is expected to do to comply. I think the government should give us at least a few days after such an inspection to correct any deficiencies that might be turned up, before they come back and fine anybody. This is just a simple plea for co-operation in achieving what I feel could be a mutual goal of having a safe place for everybody to work. The principles of the law are all right, but the way they are carried out is altogether different.

After my experience with OSHA, I received 50 or 60 phone calls from other car dealers and service stations. I told them what happened to me but to this day I haven't been able to tell anyone what to do to comply with the law. We had the Area Director of OSHA come to Fremont and talk to the car dealers there. He could not tell us what to do or what exactly was expected of us. He just said, "Look in the book."

I'm convinced from my own experience that no book contains the answers, and the Area Director told us that he couldn't send someone to visit our places of business to tell us how to comply unless he made a complete inspection while he was there. I think the only answer is to change the law and the regulations to make them more reasonable, and direct OSHA to co-operate instead of castigate.

Mr. President, on an occasion more than 2 years ago I brought into this Chamber a stack of books containing all, or supposedly all, of the regulations in reference to the Occupational Safety and Health Act. Actually, I was only able to get part of them. They constituted a stack of books more than 4 feet high.

Mr. President, it is exceedingly important that the committee amendment be defeated. To do otherwise would be to encourage every violation of the principles of fair play that a tyrannical government can engage in.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COTTON. Mr. President, the chairman of the committee has been detained. He will be here shortly. Strictly speaking, I am not the member of the committee who should be controlling the time in opposition to the Senator from Nebraska, because, while I heartily approve the five-employee limit, I have steadfastly, in the past, voted I believe several times for the exemption of even five-employee business, and therefore I believe I should not be the representative of the committee handling the time.

I think the chairman will be here to yield time shortly, but in the meantime the distinguished Senator from New Jersey (Mr. WILLIAMS) wishes to be heard on this matter as the chairman of the legislative committee.

How much time does the Senator require?

Mr. WILLIAMS. Mr. President, may I ask a question? As I understand, on this amendment there is 1 hour, to be equally divided.

Mr. CURTIS. That is correct; and the junior Senator from Nebraska is prepared to yield back the remainder of his time if the other side will do the same, and we will vote.

Mr. COTTON. We have one other complication. Today is the day that the Republican policy luncheon takes place and, in the past, the leadership on the majority side have been very kind and have tried to hold off votes until about 2 o'clock so that we could have our meeting.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. COTTON. I do not want to vote this very minute.

Yes; I yield.

Mr. CURTIS. I am prepared to yield back all of my time and agree to vote at 2 o'clock if the other side is prepared to do the same.

Mr. COTTON. Well, there are those who want to be heard on the other side and, specifically, the Senator from New Jersey (Mr. WILLIAMS).

Mr. CURTIS. I wanted to be heard, too, but there was nobody here to listen.

Mr. COTTON. I was here, and I listened to every word.

Mr. CURTIS. I appreciate that fact. I had in quality what I lacked in quantity.

Mr. COTTON. Right.

Would it be satisfactory for the Senator from New Jersey, pending the arrival of the chairman of the subcommittee, to take charge of the time on his side of the debate and use it as he sees fit until the chairman arrives?

Mr. CURTIS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Does the Senator yield for a parliamentary inquiry? Does he yield for that purpose?

Mr. COTTON. Yes; I yield for that purpose.

Mr. CURTIS. How much time has the other side consumed?

The PRESIDING OFFICER. The other side has consumed 5 minutes, and the Senator from Nebraska 26 minutes.

Mr. COTTON. So we have 25 minutes remaining.

The PRESIDING OFFICER. The Senator is correct.

Mr. COTTON. Well, if there is no objection, I would ask the Senator from New Jersey to take charge of that 25 minutes until the chairman of the subcommittee, who would be in control, arrives. Is that satisfactory?

Mr. WILLIAMS. If the Senator will yield, I have a statement in opposition to the amendment offered by the Senator from Nebraska. I have easily 25 minutes worth of reasons to oppose this amendment, and I would appreciate this opportunity to have time. I certainly would, on the arrival of the chairman of the Appropriations Subcommittee, work out the remainder of the time.

Mr. COTTON. We would give the Senator the rest of the time, but if he will take charge of the time in opposition to the amendment of the Senator from Nebraska until the arrival of the chairman, I would appreciate it.

The PRESIDING OFFICER. Without objection, the Senator from New Jersey is in charge of the time in opposition to the amendment of the Senator from Nebraska.

Mr. WILLIAMS. Mr. President, today, because of the rather unorthodox use of the appropriations process we are being asked not just to increase or decrease financial support for ongoing and newly authorized programs, but to initiate through the appropriations process two major changes to the implementation of the Occupational Safety and Health Act of 1970.

These requests for changes present a harsh dichotomy: Do we wish to strengthen the act with consultative services or destroy it with exemptions?

It should be immediately understood that the consultative services provision and the amendment offered by the Senaator from Nebraska (Mr. CURTIS,) put at issue again whether this Congress supports the American worker in his need for a safe and a healthful work place or whether we are now willing to see the workers subsidize the production of goods and services with his health and physical well-being.

Both proposals attempt to deal with the frustrations of small businessmen over the Occupational Safety and Health Act that has the acronym OSHA. However, the contrast in approach is crucial. The consultative services provision, added to the appropriations bill in the other body by the Member of Congress whose name is associated with the original act, Representative WILLIAM STEIGER, is included in this bill before us. It offers a workable method within existing legislative authority for providing employers with on-site consultation to help them understand the application of OSHA to their particular work place.

The amendment before us to exempt employers of 25 or less, would negate the Senate Appropriations Committee aciton which deleted the House-passed exemption. It would strip Federal protection of safety and health from 17 million workers whose distinction from other workers would be not the safety of the place where they worked but only the size of their employing establishment.

We must vote "yes" to uphold the action of the Committee on Appropriations, and "no" to any further amendment which may be offered to establish exemptions. I state this out of a background of years of hearings and investigations, consideration and refinement; it seems to me, that this is clearly the wisest course.

In 1970 the Occupational Safety and Health Act was passed by a solid majority in both Houses of Congress. At that time there was bipartisan recognition that safety and health hazards were taking a devastating toll of the lives of many of America's working men and women.

Today the need for an effective occupational safety and health program is just as compelling as it was 4 years ago. Every Senator in Congress has received mail from constituents who are uneasy about OSHA. Frequently, however, that mail does not derive from any direct experience with OSHA but is wholly anticipatory.

OSHA has never had sufficient numbers of compliance officers to actually inspect a significant portion of the businesses covered. In July of this year OSHA had 750 persons to inspect 5 million workplaces, and this included supervising and administrative personnel.

In fiscal year 1974 only 55,000 of the millions of workplaces were inspected for the first time; 23,000 worksites received repeat or follow-up inspections. From those inspections 292,000 violations were cited, of which 98.6 percent were cited as nonserious, and there was an average penalty of $14.

Some of the most vociferous complaints about OSHA have come from farmers and from farmers' associations. But look at the true picture of enforcement before agricultural workers: 85 to 90 percent of agricultural workers are not covered by OSHA at all. This, because the Labor Department ruled that family members would not be considered employees. Substantially less than one million workers are covered, and those who are within OSHA jurisdiction are covered by only four standards. The vast majority of OSHA standards could not be applied to agriculture and its operations because they were developed by consensus organizations which did not include agricultural representation. So the standards which do apply cover pulpwood logging, sanitation in temporary labor camps, storage and handling of anhydrous ammonia, and use of the slow-moving vehicle emblem. Those are the four standards that do apply in agriculture.

Of the 78,000 inspections carried out in fiscal year 1974, only 273 were of agricultural workplaces. Of the 292,000 violations cited, only 298 were for conditions in agriculture workplaces. To me this is gross underprotection when it is considered that the agricultural work-related death rate runs to three times the average of all industry.

There is, however, a legitimate need of businessmen, and, particularly small businessmen, for assistance in understanding the standards and how they apply to individual workplaces.

That this need exists has never been a part of the debate; at issue has been whether it is the role of the Federal Government to provide that help and whether such a role in the Federal Government would create a conflict of interest with enforcement responsibilities.

Let me provide a little background. There are consultative efforts going on. The insurance companies are already providing onsite consultative services as a part of their loss control programs under workers compensation and other casualty insurance.

The National Institute of Occupational Safety and Health, created by the act, provides some onsite consultation and has produced technical assistance booklets for small business industries, such as grocery stores and gas stations, to explain OSHA's application to them.

The Labor Department provides offsite consultation and training and has indicated an intention to step up these programs.

The question now is how best to meet a still unsatisfied need for onsite consultations without compromising enforcement activities.

It is well known here, I believe, that the Labor Subcommittee which I chair has been holding hearings on OSHA this summer. There have been many sessions. At these hearings there has been overwhelming support for the concept of consultative services. Almost the only issue on which witnesses have differed is that of who should provide the consultative services. Some have said the States; some have said a unit in OSHA; and some have said the Small Business Administration.

I prefer the method included in this appropriation bill wherein the Department of Labor would contract with the States to provide the services after our full investigation, for a full hearing record. It makes sense to me, and in my judgment is the wisest course that we should pursue in our effort to fill in this gap, the gap of not full and effective consultation, consultation that would run particularly to small businesses.

So I strongly support what we have before us in the bill in that regard.

The issue of familiarity with standards and OSHA policy, which has been raised by those wishing to place the responsibility in OSHA, will be dealt with by requiring the State consultants to go through the same training at the Chicago Training Institute that the compliance officers go through and by forwarding to them all directives and policy papers sent to compliance officers.

The Department of Labor is fully behind this consultative services provision. I have received a letter from Secretary Brennan, which I ask to be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WILLIAMS. The Secretary outlines how this procedure would operate.

At present, those States which operate under State plans may provide onsite consultative services, while those States without State plans have no access to consultation. With the Steiger provision, all States would have the opportunity to provide consultative services.

One of the most important aspects of the implementation of a consultative services program is maintaining complete separation between enforcement and consultation. Consultants may not have the authority to issue citations or to impose penalties. Nor may the results of their inspections routinely go to the compliance staff.

I believe you would all agree, however, that keeping the safety and health of the worker foremost, we would expect the consultant to take some remedial action if he were to find a serious hazard or an imminent danger situation. Still without citations or penalties, the inspector would be required to request immediate relief of any imminent danger situation or, failing that, immediate removal of the workers from the danger area. In the case that the employer refused to cooperate, then, to protect the lives of the workers, it would be the responsibility of the consultant to report the situation to OSHA.

In the case of the finding of a serious hazard, the consultant would set up an abatement period at the end of which time an OSHA inspector would visit the employer to assess abatement. Were the inspector to find that the hazard still existed, he would issue a citation but would not base either the citation or any penalty on failure to abate but only on the presence of the hazards.

Consultations would not invoke inspection visits, but neither would inspection visits be deterred by the fact that a consultant has been to an establishment.

Onsite consultative services would consist of visits to workplaces at employer request by State personnel trained in OSHA standards wherein the consultant would, first, explain to the employer which standards apply to his workplace situation; second, when necessary explain the technical language and application of the standards; and third, survey the workplace and advise the employer of where and in what way he is out of compliance with OSHA standards.

Where it is feasible and within the technical competence of the consultant to do so, he may advise the employer of the means by which he can come into compliance. It is recognized that since the primary obligation of the consultant is to advise the employer about violation of standards, comprehensive technical advice on engineering and administrative methods of compliance must be sought from customary private sector sources, and they are certainly abundantly available.

I believe this method of providing consultative services is workable and can be readily implemented. I urge support of this provision in the bill rather than eroding the protection of worker safety and health by wholly excluding through exemptions millions of workers in the American workplaces from the protections that are designed for their safety and their health on the job.

Testimony before our committee on the proposed exemption has been resoundingly against such action.

To quote one statement:

> What kind of law is it that pledges on the one hand to assure safe and healthful working conditions for every working man and woman and then turns around on the other hand and excludes 90% of the employers from their obligation to provide such conditions? . . . This is unconscionable in human terms, and in legislative terms it is indefensible.

Accident statistics undercut any argument for this amendment. In 1972, small businesses were the site of 27 percent of occupational deaths and 18 percent of occupational injuries. In the construction industry where 89 percent of the establishments employ 25 or fewer persons, 10 percent of all recordable injuries take place and one out of every five workers suffers an occupational injury or disease. In the manufacturing industries where 66 percent of the establishment employ 25 or fewer persons, over 50 percent of all recordable injuries take place and one out of every six workers suffers an occupational injury or disease. Nearly one-half of all serious violations cited are found in small business establishments.

We should underscore that: Nearly one-half of all serious violations cited are found in small business establishments.

Exemptions also cause some disastrous inequities, as can be seen by looking at the construction industry.

The Associated General Contractors testified before our committee and strongly opposed—I repeat, strongly opposed—this approach of exempting workers from coverage.

The Associated General Contractors said:

> The construction industry would suffer utter chaos with any action such as this. Traditionally, the industry has functioned with a general contractor coordinating all operations coupled with the support of sub and sub-sub contractors. The subs are generally small in size and carry out specialized tasks. Nonetheless, the subs and sub-subs would well, under the terms of the Findley amendment, create hazards for both their own employees as well as those of the general contractor and be free of citation or penalty. The general contractor would find himself in a position wherein he could be cited and fined because his employees were subjected to a hazard created by a subcontractor's employee either as a resullt of error of commission or omission. The subcontractor . . . would be free of penalty. We do not believe that this was the intent of the Congress and the President when the Occupational Safety and Health legislation was enacted.

In any situation where small employers and larger employers mix and are exposed to each other's work environments, this amendment would create chaos and unjust situations.

Further, this amendment is specious in the inequities which it would create between the working conditions in States without State plans where Federal inspectors would be barred from establishment of 25 or fewer employees and States with approved State plans where States inspectors would continue to enforce Federal standards in establishments of all sizes.

The Department of Labor is so adamantly opposed to exemptions which devalue human lives by a numbers game that Secretary Brennan has publicly stated that he will urge veto of the entire Labor-HEW appropriations bill if such a provision remains.

As an original sponsor of the landmark Occupational Safety and Health Act. I am unalterably opposed to any exemptions from the protection provided by this act. If we are to assert ourselves as men of conscience and fair play, we must vote to uphold the Senate Appropriations Committee's action and resist any misguided responses which mistakenly equate exemptions with the needs of small business. Instead, help the small businessman by supporting the consultative services provision which will aid him in his efforts to provide a safe workplace for his employees.

EXHIBIT 1

U.S. DEPARTMENT OF LABOR,
Washington, September 10, 1974.

Hon. HARRISON A. WILLIAMS, JR.,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We would like to advise you of our endorsement of the amendment to the FY 1975 Labor-HEW Appropriations bill adopted in the House which provides that States be funded to provide on-site consultative services to employers who request assistance in understanding their obligations under the Occupational Safety and Health Act.

As you are aware, the need for on-site consultation to assist employers in applying OSHA standards to their workplaces has been a recurring issue, especially among small businessmen. In our opinion, the House Amendment, introduced by Congressman William Steiger, represents a viable and practical solution to this problem.

Under the Steiger amendment, OSHA would contract with State agencies whose personnel would perform on-site consultative services. This contracting authority already exists under section 7(c)(1) of the Act, which states:

"In carrying out his responsibilities under this Act, the Secretary is authorized to . . . with the consent of any State or political subdivision thereof, accept and use the services, facilities, and personnel of any agency of such State or subdivision with reimbursement."

One of the Secretary's responsibilities, enumerated in section 21(c)(2) of the Act, is to "consult with and advise employers and employees . . . as to the effective means of preventing occupational injuries and illnesses." Accordingly, it is clear that consultative services performed by State personnel pursuant to a section 7(c)(1) arrangement are authorized by the Act.

In actual operation, I would propose that this program be implemented in the following manner:

On-site consultative services would consist of visits to workplaces at employer request by State personnel trained in OSHA standards wherein the consultant would (1) explain to the employer which standards apply to his workplace situation; (2) when necessary, explain the technical language and application of the standard, and (3) advise the employer of where and in what way he is out of compliance with OSHA standards. Where it is feasible and within the technical competence of the consultant to do so, he may advise the employer of the means by which he can come into compliance. It is recognized that since the primary obligation of the consultant is to advise the employer about violation of standards, comprehensive technical advice on engineering and administrative methods of compliance must be sought from customary private sector sources. Distinction between consultation as to violations and advice as to various methods of abatement must be recognized in order to make this type of governmental consultative service feasible and effective. A written report on the consultation visit would be provided to the employer.

Eligibility for consultation contracts under the Steiger amendment as a general manner would be limited to States without approved State plans, since States already operating under such plans may presently provide on-site consultation with fifty percent federal grant assistance.

Grants to participating States would be apportioned on the basis of objective criteria developed by the Department of Labor after consultation with the National Advisory Committee on Occupational Safety and Health and after consideration of public comment received as a result of publication in the *Federal Register* of proposed regulations relating to the consultation program.

State personnel selected to staff the on-site consultation program would have to possess occupational and educational qualifications similar to those of Federal compliance safety and health officers. State consultants would be required to complete the training which is provided to Federal compliance officers at the OSHA Training Institute in Chicago.

Consultation personnel would be functionally separate and distinct from enforcement activities, but would be kept abreast of all appropriate Federal administrative and policy developments in order to assure that the consultative services provided satisfy the need for reliability and uniformity of advice.

Consultation would be provided only upon request of the employer. If the employer has a substantial number of differing working conditions in his workplace, he would be required to refer to specific working conditions and consultation would be limited to the working conditions specified. Since resources will not be unlimited, a system of priorities will be necessary. Highest priority would be given to small business.

No citations or proposed penalties would be issued on the basis of the consultative visit. However, if an imminent danger situation were discovered, the consultant would request immediate abatement of the danger or, if abatement were impossible, removal of workers from the danger area. In the event of employer refusal to cooperate in eliminating an imminent danger, the consultant would advise OSHA of the problem immediately. The above procedure for consultant handling of imminent danger is consistent with the policy set out for state consultative services provided under state plans.

As previously indicated, enforcement activity and consultative services would be functionally separate. Therefore, Federal enforcement would continue, and an employer would still be subject to regular inspections. On the other hand, consultation would not trigger enforcement activity, with the exception of unresolved imminent danger situations.

If an employer is inspected subsequent to a consultative visit, citations would be issued for all violations identified. Citations would not be barred by the advice given by a consultant or by the failure of a consultant to point out a violation. However, the inspecting officer may, subsequent to his inspection and determination of violations, request a copy of the consultative report and consider the employer's request for consultation and efforts to comply with the advice of the consultant as an element for the purpose of determining the nature of the violation and the amount of any penalties.

OSHA and the appropriate State agencies would carefully monitor the consultative program in order to evaluate and work to improve the reliability and competence of consultative services.

The above description is intended to give you our approach to the implementation of the Steiger amendment.

Again, we endorse the Steiger amendment as a workable approach that can be implemented with a minimum of difficulty.

Sincerely,

PETER J. BRENNAN,
Secretary of Labor.

Mr. CURTIS. Will the distinguished Sentor yield for two unanimous consent requests?

Mr. WILLIAMS. Yes.

Mr. CURTIS. I ask unanimous consent that Mr. Tom Shroyer, of Senator FANNIN's staff, have the privilege of the floor during this discussion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I would like to ask unanimous consent for a time to vote.

Mr. MAGNUSON. Will the Senator yield?

Mr. WILLIAMS. I yield to the distinguished chairman.

Mr. MAGNUSON. First, Mr. President, I would like to associate myself with what the Senator from New Jersey has said on this particular matter. I question of course, as I always have, the arbitrary cutoff in enforcement. I think it is discriminatory, which he has suggested, and it would be virtually impossible to administer. For instance some subcontractors on the same job would be included while others would not. It is difficult, if not impossible, to arrive at a sensible cutoff point.

Another thing I want to suggest to the Senate is that the highest rate of injury is with employers with less than 25 employees. Thus, we would be exempting and excepting coverage of the most dangerous work places.

In this bill we provided $5 million for onsite consultation services which will vastly help small business. This is a much better way to relieve the burden on small businesses. The exemption language that is now being considered would defeat the purpose of the consultation services funded in the bill.

This provision would bar enforcement in 90 percent of the Nation's businesses. If we want to repeal this law, it should be done through authorizing committees, not as an amendment to an appropriation bill.

I have strong doubts that the suggestion of these cutoff numbers is not germane to the bill—it might be subject to a point of order.

This language barring enforcement of the act at workplaces with less than 25 employees has been strongly opposed by the Secretary of Labor. He forwarded a long letter to the committee, which I ask unanimous consent to have placed in the RECORD in full.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF LABOR,
Washington, August 7, 1974.

Hon. WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor and Health, Education, and Welfare, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On June 27, 1974, the House of Representatives passed the fiscal year 1975 Department of Labor-Department of Health, Education, and Welfare appropriations bill (H.R. 15580) with an amendment forbidding appropriated funds to be expended to pay the salaries of Federal Government employees who inspect firms employing 25 or fewer persons to enforce compliance with the Occupational Safety and Health Act of 1970 (the Act). Those of us concerned with the safety and health of the working men and women of this Nation are adamantly opposed to such an amendment. I urge your support in overturning this measure when the Departmental appropriations are considered in the Senate.

Such exemption would have a deleterious impact upon a significant proportion of this country's workforce; in fact, 90 percent of the work establishments and 30 percent of this Nation's employees would be left without Federal job safety and health protection if this amendment remains in the appropriations when enacted. Not only would this represent a forfeiture of our moral obligation to these employees, it would be clearly discriminatory to both employer and employee. While excluding workers in areas of Federal jurisdiction from receiving equal protection under the Act, it imposes differing requirements upon employers of 25 or fewer persons and those with over 25 employees. It is not difficult to envision a worksite with employees from various firms, some of whom are exempted from enforcement provisions of the Act and others who are not exempted. Such a situation would be patently unfair to both employer and employee.

The amendment also establishes differing standards for employers and employees in areas of State jurisdiction under an approved State plan and areas subject to Federal jurisdiction. The implications of this measure for the future of the Federal-State cooperative job safety and health program are ominous; exemption of smaller employers from responsibility creates a precedent for similar action by State legislatures as well as incentive for employers in approved States to move their businesses to those States affected by the exemption.

The exemption amendment overlooks a reality crucial to the working population of this country. During fiscal year 1974, 27 percent of the job-related fatalities reported to the Department by employers occurred in firms with 25 or fewer employees. Among firms inspected by the Department, 57 percent of the serious violations cited were in establishments of 25 or fewer employees, although establishments of that size grouping accounted for only about 42 percent of the firms inspected. Although many small firms have a relatively low rate of job-related injuries and illnesses, certain high-hazard industries such as contract construction and lumber and wood products have occupational injury and illness rates substantially higher than the average for all covered industries. Since these industries are traditionally composed of small firms, the House restriction on inspections could amount to an almost total exemption for the very industries which represent the greatest danger to the health and safety of the employee.

Finally, the exemption could serve as an inducement for an employer with just over 25 employees to fire a number of workers in order to come within its purview. Such a by-product of the amendment would be anathema, I believe, to even its strongest supporters.

The exemption originated not from consideration of the amendment by the proper legislative committee but by a visceral attempt to change the thrust of this law and deny its protection to millions of workers. Such a change deserves careful discussion.

I urge, therefore, that you oppose any similar measure during Senate consideration of the Departmental appropriations billl and that you lend support to eliminating the exemption amendment from the final appropriations legislation to be submitted to the President.

Sincerely,

PETER J. BRENNAN,
Secretary of Labor.

Mr. MAGNUSON. I want to also call attention to the fact that where you have the exemption, I say to my friend from New Jersey, you are talking not only about the percentage of the total work force that would not be included, but you are talking mainly about women. The percentage of women working in small businesses is much higher than the percentage of men.

Finally, it seems to me that if we are going to have occupational safety, it ought to apply to everyone.

Mr. WILLIAMS. I certainly appreciate the statement of the distinguished Senator and chairman of the subcommittee dealing with this. I applaud the action of the committee in all regards, and particularly in this area where our committee has worked long and knows the subject matter. The result of the committee's action, the bill before us, I am convinced is sound and right. On the other hand, to create this exemption would be to repeal, effectively repeal, a law as it relates to millions of people and their safety on the job.

The PRESIDING OFFICER. The time of the Senator from Washington on this amendment has expired.

Mr. MAGNUSON. I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. MAGNUSON. Mr. President, the committee has worked long and hard on this matter. It was not an abrupt action. This has been going on for a long time. The committee came to an almost unanimous conclusion on this. We are merely carrying out what we think is the legislative wish of Congress.

I know we are going to have to go to conference. We may have to argue about it there. I am perfectly willing to do so. I have even suggested if there is only one-half of an employee who works in the afternoons or in the mornings, they ought to be included. If we are going to preach the safety of workers, it should apply to all of those who work.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MAGNUSON. Mr. President, I ask

unanimous consent to place in the Record a table showing the impact of exempting enforcement of the Occupational Safety and Health Act of workplaces with varying numbers of employees.

There being no objection, the material was ordered to be printed in the Record, as follows:

OSHA ENFORCEMENT EXCEPTION IMPACT

[In percent]

Cut off workplaces with—	Workplaces excluded	Employees excluded
3 or less employees	52	6
4 or less employees	63	8
5 or less employees	68	10
6 or less employees	72	12
7 or less employees	76	14
8 or less employees	79	16
9 or less employees	81	18
10 or less employees	83	20
11 or less employees	84	22
12 or less employees	85	23
13 or less employees	85	24
14 or less employees	86	25
15 or less employees	86	25
20 or less employees	89	28
25 or less employees	90	30
50 or less employees	95	43
100 or less employees	97	53

Mr. MAGNUSON. When we passed this exclusive language the last time, we got down to workplaces with three or less employees, as I recall, but the President vetoed the bill.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CURTIS. Reserving the right to object, Mr. President, I wonder if we could have unanimous consent that this vote occur at 2 o'clock.

Mr. MANSFIELD. Mr. President, I would be delighted to do so if we could finish this amendment within the allotted time. Otherwise, I would have to object.

Mr. CURTIS. The time has all expired.

Mr. MANSFIELD. I understand the Senator has 4 minutes.

Mr. CURTIS. If there are no more speakers on the other side, I will yield back my 4 minutes.

Mr. MANSFIELD. Why not split the time, giving 2 minutes to each side?

Mr. CURTIS. Reserving the right to object, I would like to have a determination as to the voting time.

Mr. MANSFIELD. Why does the Senator not split the time, and I will make the unanimous consent request?

Mr. CURTIS. I have no objection to giving up the 4 minutes.

Mr. MANSFIELD. I do not want time. We have a lot of work and we have to finish this bill today.

Mr. CURTIS. I will give 4 minutes.

Mr. MAGNUSON. Will the Senator from Nebraska yield 2 minutes to me? I will yield 2 minutes to the Senator from New Jersey.

Mr. MANSFIELD. I ask unanimous consent that at the conclusion of the 4 minutes remaining, that we turn to another amendment, and that the vote of the pending amendment occur at the hour of 2 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. I yield 2 minutes to the Senator from New Jersey.

Mr. CASE. I thank my chairman. I join with him and my colleague (Mr. Williams) in opposing this amendment.

I opposed last year an amendment to strike a provision like the one that the Senator from Nebraska has offered.

It would be most unfortunate, as the Secretary of Labor has said, for us to do this. The smaller the plant, the smaller the establishment of the employer, the more important this legislation is. Large plants, large companies, have a situation which organized labor, in general, can effectively take care of safety and other requirements. It is the small, unorganized operation where this is terribly important.

Therefore, I join my colleagues in opposing the amendment. I hope it will be defeated, as I hope any other amendment based upon even a smaller number of employees will be defeated.

I invite attention to the statement by the Secretary of Labor that if this amendment should be adopted or if any amendment based upon the number of employees in a plant should be adopted, he would feel obliged to recommend a veto of the appropriation bill.

I thank my colleague.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. Burdick). The Senator will state it.

Mr. MAGNUSON. We are now discussing the committee amendment on page 6, beginning on line 7, which knocks out lines 14 to 18, the 25 or fewer employees exemption. Therefore, when we resume at 2 p.m., the vote will be on the committee amendment. Would it then be that those who favor knocking out lines 14 to 18 would vote "aye" and those who favor the proposition advanced by the Senator from Nebraska would vote "nay"?

The PRESIDING OFFICER. The Senator is correct.

The Senator from Nebraska has 2 minutes remaining.

Mr. CURTIS. Mr. President, I think it is well that we state for the record the situation we face at this time.

Almost 3 years ago, we were promised corrective legislation. The distinguished Senator from West Virginia (Mr. Randolph) pointed out some of the problems of this law. He said at that time:

> I ask the chairman—and I am a member of his committee and serve under him and with him—are we not prepared to move affirmatively in this area, in an all-out effort to find solutions to the problem to which the pending amendment is directed?

The distinguished Senator of the Committee on Labor and Public Works answered:

> The answer is unequivocally yes. We are prepared and are going to do it.

Mr. President, that was almost 3 long years ago. We have asked the citizens of the United States to come in here and testify before the Committee on Labor and Public Welfare. They have been here. They have told accurate accounts of the mistreatment they have received by the bureaucrats in the name of safety, by inspectors who did not know what they were doing, by arrogant inspectors who came on the scene, made an inspection, and levied a fine at the moment.

For 3 long years, we have begged for a change in the law. Today, we are not asking for a permanent small business exemption. It is temporary. During the life of this appropriation bill, until July 1, an individual must either cast a vote in support of the harsh and cruel and autocratic system of an inspector serving as judge, jury, prosecutor, and inspector or grant us some relief under this bill.

Mr. BUCKLEY. Mr. President, the OSHA law is another example of well-intentioned social legislation which has created unintended, undesirable side effects. While intended to protect the safety of workers the law in its effect threatens the very jobs of thousands of workers.

This is because of the harsh penalties and excessive, expensive demands being placed on the proprietors of small businesses. These high costs can bankrupt some small businesses, or force them to lay off employees. Or they may necessitate a raising of prices, which could cost a small business its competitive position and thereby force it out of business.

In either case, the result is higher unemployment and a loss of income and productivity.

In this time of worsening economic conditions, it is sheer folly for the Government to be adding to the problem by contributing to the closing of small businesses and the consequent loss of jobs.

The punitive administration of the OSHA law, which will not provide businesses with penalty-free consultations nor with any penalty-free grace period to correct safety hazards, is an important source of the current threat to small businesses and jobs.

One solution is to exempt small businesses, those with 25 employees or less, from the law, in lieu of achieving other changes in law and policy, which has been difficult and unsuccessful.

The New York Chamber of Commerce has prepared testimony on the problems of OSHA, particularly as they affect small businesses. They have also offered a series of legislative recommendations.

Mr. President, I ask unanimous consent that this testimony be inserted in the Record at this point.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

New York Chamber of Commerce and Industry, Statement on the Occupational Safety and Health Act of 1970 by J. George Piccoli, Vice President

The New York Chamber of Commerce and Industry, the largest Chamber of Commerce in the East, represents approximately 3,000 business concerns that are made up of small, medium and large companies with just about all types of industrial and commercial activity including a substantial number of the corporations headquartered in Greater New York City but engaged in multi-state operations.

We appreciate this opportunity to present the Chamber's views in connection with the Occupational Safety and Health Act.

We desire in this statement to deal exclusively with the difficulties encountered by the small and medium size companies, and at the same time make recommendations which we believe, on the basis of discussions with member firms, located in Greater New York City, will help them to do a more effective job to provide safe work places and working conditions, and in this way meet their obligations under the Occupational Safety and Health Act just as they do any other laws.

The basic problem appears to be that the administration of the Act seems to be dominated by the erroneous assumption that the managers of business will not act voluntarily to eliminate hazardous working conditions. In this connection they believe that the only positive approach in getting compliance is the punitive approach rather than the consultative approach. This approach we believe tends to place an additional burden on many small companies who today are struggling to remain in business. Facing severe competition, increased costs of raw material, overhead, labor, etc., and in most cases because of these conditions, they are unable to expend the necessary monies to replace machinery or make costly improvements. Thus, in all fairness, it can be said that the cost of complying with OSHA raises the cost of doing business.

The increase in cost without a supporting increase in productivity compels an increase in prices thus causing those companies (many of which have been in business for many years and in many instances were the sole and only employer of those employed) to think seriously about closing shop. This then raises several questions: What shall the small and medium size companies do in such cases? Is it the intent of this law to shut a business down and bring about losses to the owner and loss of jobs for those employed? We do not believe that this was the intent of the authors of the law nor do we believe that this should be the intent of those who have the responsibility of administering the law. It is in this frame of reference that we make the following recommendations;

1. REQUIRED LEGISLATIVE AMENDMENTS

Small business needs most the establishment of a procedure providing for on-site consultation between the employer and OSHA inspectors to assess and advise in the detection of and the correction of unsafe working conditions. Because of the complexity of OSHA standards small and medium size employers require the advice of trained personnel to aid them in their efforts in bringing their work place into compliance.

Two suggestions are made in the interest of meeting these needed changes:

First: This program should include a provision in which employers will be advised what must be done to assure them that they are in compliance with the law.

Second: Employers must feel that they will not be subject to greater penalties after a request for such consultation than they would have been had they not requested assistance.

If these assurances are not given, then it is reasonable to expect that the system of on-site consultation will fail. But even worse is the fact that unsafe plants will continue either because the employer is ignorant of the facts or is fearful of the consequences. Regardless of which, the objective of OSHA is not being achieved.

To be constructive any on-site consultation program should be directed at the following goals:

a. The program should be available to all companies on reasonable request. We believe that this service will be used primarily by small and medium size companies who do not have on their staff safety experts. This is the area requiring priority attention.

b. The visit by an OSHA representative should not be limited to such items as contained in the request. The employer should receive an overall inspection of the shop. When the OSHA representative conducts a routine visit, it should be his responsibility to assist the employer by pointing out any unsafe conditions.

c. The OSHA representative conducting the advisory inspection should be required to recommend corrective steps to remedy or eliminate such unsafe conditions as he discovers in the course of his inspection.

d. All plant inspections involving consultation to be constructive should be administered by the same agency that has the enforcement responsibility under the Act. It is fair and practical to all concerned that the agency that conducts compliance inspections also conduct consultative inspections in order to avoid misunderstandings and at the same time insure uniform interpretation of the Act and the standards involved.

The complaints we have heard most in our inquiries of member companies was that the OSHA representative would tell the employers what is wrong with their shops or equipment but refuse to tell them what they should do to bring the equipment or work area into compliance. This complaint area we believe would be eliminated if the above recommendations were adopted. We recommend also that a citation of unsafe conditions also contain specific recommendations for correction of the cited hazards.

2. PENALTIES

As already stated we believe that the Act should be amended in the interest of developing a climate conducive to voluntary compliance.

One positive change that we recommend is to remove any punitive aspect of the Act which does not serve to eliminate work place hazards. Two of the penalty provisions of the Act require amending as well as Section 10(c) dealing with the Review Commission penalty assessment powers:

First: Section 17(c) which provides for a discretionary penalty for any violation of the Act which is determined to be a not serious violation. Section 17(c) should be modified to prohibit the imposition of a penalty for a first time nonserious violation.

This amendment in our judgment will not weaken the Act in as much as the assessment of relatively small penalties does not have a deterrent effect. What such penalties do is to create resentment and lack of respect for the law since the employers look at this as pure and simple harassment.

In light of this we believe that if there is interest in building a climate that will create voluntary compliance, this amendment should be made.

Second: Section 17(k) be amended to provide that for the first instance serious violation a penalty will be discretionary rather than mandatory, and should depend on whether the imposition of a penalty, in the opinion of the Secretary of Labor, furthers the principle of worker safety.

This in our judgment would not weaken the Act in as much as the Secretary of Labor could still assure that a penalty will be proposed for all serious violations if it is believed that such imposition will have a beneficial effect. This change would increase administrative flexibility of the enforcement process so that the Secretary could fit the realities to a given situation. We believe that this change would have a constructive effect.

3. NONCOMPLYING MACHINERY AND/OR METHODS OF OPERATION

Our investigation reveals that in several instances machinery or work methods preexisted the enactment of OSHA. To modify the machinery or methods of operation necessary to comply with OSHA standards would require the replacement of existing workable equipment thus requiring a substantial expenditure, which in some cases could be considered wasteful. For small marginal employers this kind of a demand could very well be the straw that breaks the camel's back.

In light of this we recommend that the Act be amended to allow for the continued use of non-complying machinery or methods for which a change would represent prohibitive costs in cases where the following conditions are present:

a. The machinery or method of operation was installed prior to the enactment of OSHA or before the development of standards which resulted in the equipment's noncompliance with the law.

b. The useful life of the machinery or related equipment has not expired.

c. The continued use of the machinery or method of operation has not contributed to an unsafe condition that could be characterized as a serious violation on the basis of past practice.

Related to the above suggestions is the need to re-define "serious violations." The existing meaning has been somewhat shaded by a 2 to 1 decision of the Occupational Safety and Health Review Commission. The new definition should take into consideration the points listed above and must be practical.

The Act now defines serious to be "if there is a substantial likelihood that serious physical harm could result" from a condition or practices in a work place. That definition is good on its face, but not as the Review Commission has interpreted it. The Commission has ruled that a violation can be serious even if the likelihood of an accident occurring is remote. That ruling changes the meaning of "substantive likelihood." As interpreted, the Act now says that the slightest possibility of an accident occurring can result in a serious violation. In this connection as stated earlier past practices must play a major factor. If history shows that the machine or method has a good experience free of accidents, the violation should not be considered serious. Section 17(k), therefore, should be amended to allow for this type of consideration.

CONCLUSION

We have directed our attention primarily to the problem areas confronting small and medium size business. Under today's economic conditions we must not treat lightly the many problems these businesses face. Each day there are an increasing number of closings. We are not saying here that these companies are going out of business solely because of OSHA. What we are saying is that the strict enforcement of OSHA standards merely creates just another hardship for these sick businesses to overcome. When a business shuts down, regardless of whether it is small or medium size, it means a loss of jobs and a loss of taxes to the community, the State and Federal governments. Certainly no one gains. Therefore, we believe that the forementioned be considered.

The Occupational Safety and Health Act could be made more effective in achieving the goal of safe and healthful working conditions for the American worker. But as presently written and administered, the Act tends to discourage voluntary compliance which must exist if the Act is to live up to its expectations.

The Select Subcommittee on Labor of the House Committee on Education and Labor must recognize that employers, many of whom have their life savings tied up in a business, will voluntarily respond to a law which they deem fair simply because they consider this good business. They resent, however, harassment that is based on the assumption that the only way to get compliance with safety and health standards is to penalize.

Accordingly we respectfully request that the Subcommittee on Labor of the House Committee on Education and Labor consider the recommendations contained in this paper for adoption.

Mr. THURMOND. Mr. President, I rise in support of the position taken by the distinguished Senator from Nebraska. This small business exemption is a solution to the basic problem faced by small business, namely the unreasonable research burden placed on these businessmen by the voluminous and complex OSHA standards. Small businessmen cannot afford to hire professional consultants or safety engineers to help them digest and understand the highly technical and complicated regulations promulgated by OSHA. Consultation cannot be provided on a large enough scale without an excessive appropriation of funds. Furthermore, the complexity of the regulations places an unfair burden on the small businessman who is trying to ascertain which regulations apply to his particular business.

The concept of OSHA is that increased worker safety and health can be assured through the development of safer and more healthful working conditions. Small businessmen realize the merit of this concept and agree with it. Safe working conditions contribute to high employee morale and increased productivity.

Mr. President, because of this realization on the part of small businessmen and because of the unreasonable burden of research placed upon them by OSHA, I believe the interests of both business and labor would be best served by the exemption of small business from OSHA regulation.

Mr. HANSEN. Mr. President, I am in agreement with a provision in the Labor-HEW appropriation for fiscal year 1975 which would permit grants to States with approved occupational safety and health plans for the purpose of providing onsite consultation to small employers. This provision would help small employers understand what the law requires of them and permit them to bring their operations into compliance.

The mail I have received from Wyoming since enactment of the Occupational Safety and Health Act indicates the greatest difficulty faced by employers is their inability to discern from the thousands of regulations and pounds of brochures precisely what their individual obligations are, and what they must do fully to comply with the act. Small employers do not have the resources to hire attorneys and/or consultants to interpret the many regulations under OSHA and to advise of their application to a given workplace.

Small employers want to comply with the act, and know they must do so, but find the task of wading through all the regulations and applying them to their workplaces nearly impossible. The fact that employers cannot, under the law, seek consultation without risking citations if violations are found makes the act more punitive than effective in its purpose of protecting employees.

Instead of coercing and harassing employers into compliance, it would make more sense and result in greater protection for employees to take steps to inform employers first of their obligations, so that lack of knowledge and understanding will not be the basis for noncompliance. If an employer is unable to comprehend what the act requires of him, citations and fines will not necessarily increase his understanding of the rules; nor will these punitive actions enhance his ability to comply.

Mr. President, a great deal has been said about the sheer bulk of the OSHA requirements, and the difficulty faced by anyone attempting to apply them to a given workplace. It is difficult to exaggerate the complexity and enormity of the task of comprehending the overall scope of the act and its requirements. When asked recently how many standards exist under OSHA, personnel at the Labor Department indicated they did not know for sure. But, an official of the Standards Division said he knows there are at least 4,900 standards, since the computer indicates citations have been issued for violation of that many.

Statistical information that was available from OSHA indicates that of the 238,478 violations found from July through April of fiscal year 1974, 77 percent involved only 29 of the several thousand standards. Standards relating to electrical requirements and codes are most often violated, according to information provided by the Labor Department.

If onsite consultation were available to small employers, a concerted effort could be made to educate them concerning these 29 standards, thus significantly reducing the number of violations and substantially increasing protection for employees.

The PRESIDING OFFICER. The time of the Senator has expired. All time has expired.

Under the unanimous-consent agreement, the vote on this matter will occur at 2 p.m.

The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

On page 22, in line 4, strike out the word "May" and insert in lieu thereof the word "March".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, we have several other amendments with a time limitation. The majority leader has suggested that between now and 2 p.m., while the Republican conference is going on, Senators who have amendments and who could be here would bring them up and start to discuss them.

Mr. MANSFIELD. I sent for Senator CHILES and Senator HUMPHREY, so I hope they are on their way over.

Mr. MAGNUSON. We are not going to take up the Humphrey amendment until the end of the day.

Mr. MANSFIELD. I have sent for Senator CHILES. He has two or three amendments that may be acceptable.

Mr. MAGNUSON. I do not know whether they will be acceptable.

We have an amendment on the antibusing provisions, sections 208 and 209.

Mr. MANSFIELD. Here is the Senator. He will bring it up right now.

Mr. MAGNUSON. Mr. President, how much time is allotted to the amendment with respect to sections 208 and 209?

The PRESIDING OFFICER. Sections 208 and 209 have been agreed to. It is section 210. There is 1 hour on section 210.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. Sections 208 and 209 are committee amendments.

The PRESIDING OFFICER. They have been agreed to en bloc.

Mr. MAGNUSON. Does the Senator have a specific amendment?

Mr. HELMS. Yes.

Mr. MAGNUSON. The Senator's amendment deals with the general provisions in the bill.

Mr. MANSFIELD. Mr. President, will the Senator yield me 1 minute, without it being taken from his time?

Mr. HELMS. I yield.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, on behalf of the Senator from Arkansas (Mr. FULBRIGHT) I send to the desk a list of nominations reported earlier today by the Committee on Foreign Relations, and I ask unanimous consent that the Senate go into executive session to consider those nominations.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

REPRESENTATIVES TO THE GENERAL ASSEMBLY OF THE UNITED NATIONS

The assistant legislative clerk read the names of the following persons to be representatives of the United States of America to the 29th session of the General Assembly of the United Nations:

John A. Scali, of the District of Columbia.

W. Tapley Bennett, Jr., of Georgia.

Stuart Symington, U.S. Senator from the State of Missouri.

Charles H. Percy, U.S. Senator from the State of Illinois.

Thomas H. Kuchel, of California.

The assistant legislative clerk read the names of the following persons to be alternate representatives of the United States of America to the 29th session of the General Assembly of the United Nations:

Oliver C. Carmichael, Jr., of Indiana.

Joseph M. Segel, of Pennsylvania.

William E. Schaufele, Jr., of Ohio.

Clarence Clyde Fergusion, Jr., of New Jersey.

Barbara M. White, of Massachusetts.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1975

The Senate continued with the consideration of the bill (H.R. 15580) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1975, and for other purposes.

Mr. HELMS. Mr. President, I send an amendment to the desk, and ask that it be stated.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that this amendment be considered before disposing of the other committee amendment?

Mr. HELMS. I do. I thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

> At the appropriate place, insert the following:
>
> No funds appropriated on this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

Mr. HELMS. Mr. President, I ask unanimous consent that the names of the distinguished Senator from South Carolina (Mr. Thurmond) and the distinguished Senator from Oklahoma (Mr. Bartlett) be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection. it is so ordered.

Mr. HELMS. Mr. President, this amendment is simply the so-called Ashbrook amendment to the Elementary and Secondary Education Act in its plain, unvarnished, unwatered-down form.

The history of this language is clear; but the impact was watered down greatly by the multiplicity of changes made by the conference on the ESEA Act.

The House voted on the Ashbrook language four times, every time approving it by a 2-to-1 margin. The first time, the House approved the amendment when it was offered from the floor; and three times afterward, the House instructed its conferees not to deviate from the Ashbrook language. I repeat, all the votes were by a 2-to-1 majority. Nevertheless, the conference report did deviate from the language which, needless to say, I feel was most unfortunate.

Moreover, there were a total of 24 sections in the House-passed bill and 17 in the Senate-passed bill, dropping 4 and amending 3, all relating to desegregation orders and busing to carry out such orders. My colleagues will remember that tough busing language failed in the Senate on that occasion by a see-sawing margin of one vote. The net effect of the resulting hodge-podge is difficult to assess. There were conflicting judgments at the time, and conflicting judgments today.

The result of that conflict is very much in the news today. The people do not want ambiguities that mask the sell-out of their liberties. What can the people think when they read in the Christian Science Monitor paragraphs such as the following, from July 24, 1974:

> The Senate conferees appear once again to have gotten their House counterparts to accept an agreement that appears to be against busing, but really would not prohibit it.
>
> The compromise says essentially that courts cannot require that children be bused farther than the second-nearest school to their homes—except when the courts hold that such busing is necessary to protect the constitutional rights of black children.
>
> This important exception was proposed by Senate conferees. Senate sources who insist on anonymity admit that the purpose of this exception was to nullify completely the staunch anti-busing legislation proposed by the House conferees.
>
> In this stance, the House reflects the nation's general anti-busing stance. For instance, last September a Gallup Poll reported only 5 percent of persons surveyed picked busing as the best way to integrate schools . . .
>
> For many Senate conferees, who find busing more acceptable, the question became: How can we include wording which will negate the anti-busing provisions? They hit on the idea of an exception for busing to assure constitutional rights of black children, and House conferees bought it.
>
> In the view of one such Senate source, this gives the courts "free rein" to order busing and renders the busing prohibition meaningless.

Mr. President, I do not for 1 minute ascribe such cynical motivations to our distinguished colleagues who were conferees on that bill. On the other hand, if the public press comes to such a conclusion—and particularly a newspaper that has long been in sympathy with those who believe that busing is a suitable remedy for school segregation—then, I suggest that the time has come to abandon ducking and turning, and to state straightforwardly that the Senate of the United States is opposed to forced busing of schoolchildren.

The Ashbrook amendment, as I have already indicated, was embedded in a background of evasive clauses and cloudy provisions. But the language of the amendment itself was mutilated by the conference.

What we need is the Ashbrook language plain and unvarnished. My amendment fulfills that need. While it is true that we face the problem of forced busing again when the HEW supplemental appropriation comes up, this bill—H. R. 15580—contains millions of dollars for salaries and planning and so-called voluntary advice. My language forbids the use of funds under this act for transportation to overcome racial imbalance. This is language that is to be interpreted broadly to forbid any Federal expenditures relating to such transportation, including funds for transportation planning and advice, whether voluntary or not.

The time has come to clear the air. Whatever the ESEA Act amendments mean, we have the opportunity to prohibit the expenditure of any funds in the appropriations measure now before us for purposes related to forced busing.

This is a time for compassion and national healing. Yet, we read in the headlines of the terrible ordeal that is being imposed on a great northern city, the city of Boston. This city is known as one of the cradles of our basic liberties. Yet, the people of that city see a fundamental right being taken away from them—the right of parents to direct the educational future of their children. The question is whether the State is supreme in our society, or whether the rights of humanity are supreme. The citizens of Boston are so deeply disturbed that they are defying law and order. I do not point to these disturbances invidiously. Many of our Southern cities have faced the same trauma. But you cannot deny the fundamental rights of parental responsibility without tearing the fabric of society.

But what can the citizens of Boston think when they read in their own newspaper, the Christian Science Monitor, the cynical paragraphs which I quoted a few moments ago. Indeed, they have gone beyond reason. As we all know, they even physically assaulted our distinguished colleague from the State of Massachusetts, and denied him the right to speak and explain his view of the matter. Had our colleague been allowed to speak, I am sure he would have brought enlightenment to the gathering, since the Senator from Massachusetts was one of the conferees who worked to water down the antibusing language.

Let us bring reason back into the dialog. This body knows full well that the vast majority of American parents, black and white, are opposed to forced busing. They oppose State control of their children, for any purpose, even one supposedly beneficient.

Our children do not belong to our courts or to the State. They are individuals, and they are members of their individual families, responsible to their parents. Therefore, let us heal the wounds of our Nation, and wipe away the festering sore of forced busing of our schoolchildren.

Mr. President, I have collected all the clauses from the conference report on the ESEA amendments which relate to school desegregation and forced busing; and I ask unanimous consent that they be printed in the Record at the conclusion of my remarks. Perhaps some of our colleagues will be able to work out an unambiguous interpretation of their impact; but, frankly, Mr. President, I have not been able to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Exhibit 1

Conference Report Bill

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES AND THE TRANSPORTATION OF STUDENTS

Short title

Sec. 201. This title may be cited as the "Equal Educational Opportunities Act of 1974".

PART A—EQUAL EDUCATIONAL OPPORTUNITIES

Subpart 1—policy and purpose

Declaration of Policy

SEC. 202. (a) The Congress declares it to be the policy of the United States that—

(1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

(2) the neighborhood is the appropriate basis for determining public school assignments.

(b) In order to carry out this policy, it is the purpose of this Act to specify appropriate remedies for the orderly removal of the vestiges of the dual school system.

Findings

SEC. 203. (a) The Congress finds that—

(1) the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

(2) for the purpose of abolishing dual schools solely on the basis of race, color, sex, thereof, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students;

(3) the implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expend large amounts of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

(4) transportation of students which creates serious risks to their health and safety, disrupts the educational process carried out with respect to such students, and impinges significantly on their educational opportunity, is excessive;

(5) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades; and

(6) the guidelines provided by the courts for fashioning remedies to dismantle dual school systems have been, as the Supreme Court of the United States has said, "incomplete and imperfect", and have not established a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system.

(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems, except that the provisions of this title are not intended to modify or diminish the authority of the court of the United States to enforce fully the fifth and fourteenth amendments to the Constitution of the United States.

Subpart 2—Unlawful practices

Denial of Equal Educational Opportunity Prohibited

SEC. 204. No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools;

(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with subpart 4 of this title, to remove the vestiges of a dual school system;

(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency of providing the appropriate grade level and type of education for such student;

(d) discrimination by an educational agency on the basis or race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below:

(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instruction programs.

Balance Not Required

SEC. 205. The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among the schools shall not constitute a denial of equal educational opportunity, or equal protection of the laws.

Assignment on Neighborhood Basis Not a Denial of Equal Educational Opportunity

SEC. 206. Subject to the other provisions of this part, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity or of equal protection of the laws unless such assignment is for the purpose of segregating students on the basis of race, color, sex, or national origin, or the school to which such student is assigned was located on its site for the purpose of segregating students on such basis.

Subpart 3—Enforcement

Civil Actions

SEC. 207. An individual denied an equal educational opportunity, as defined by this title, may constitute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this title referred to as the "Attorney General"), for or in the name of the United States, may also institute such a civil action on behalf of such an individual.

Effect of certain population changes on civil actions

SEC. 208. When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan.

Jurisdiction of district courts

SEC. 209. The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 207.

Intervention by Attorney General

SEC. 210. Whenever a civil action is instituted under section 207 by an individual, the Attorney General may intervene in such action upon timely application.

Suits by the Attorney General

SEC. 211. The Attorney General shall not institute a civil action under section 207 before he—

(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of subpart 2 of this part; and

(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate action.

Subpart 4—Remedies

Formulating remedies; applicability

SEC. 213. In formulating a remedy for a denial of educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

Priority of remedies

SEC. 214. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below or of the first combination thereof which would remedy such denial:

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 215;

(e) the construction of new schools or the closing of inferior schools;

(f) the construction or establishment of magnet schools; or

(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of section 215 and 216 of this part.

Transportation of students

SEC. 215. (a) No court, department, or agency of the United States shall, pursuant to section 214, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

(b) No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such students or constitutes a significant impingement on the educational process with respect to such student.

(c) When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which results in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement any modification of the court approved desegregation plan, which would require transportation of students to compensate wholly or in part for such shifts in school population so occurring.

District lines

Sec. 216. In the formulation of remedies under section 213 or 214 of this title the lines drawn by a State subdividing its territory into separate school districts shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin.

Voluntary adoption of remedies

Sec. 217. Nothing in this title prohibits an educational agency from proposing, adopting, requiring, or implementing any part of desegregation, otherwise lawful, that is at variance with the standards set out in this part, nor any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this part, if such plan is voluntarily proposed by the appropriate educational agency.

Reopening proceeding

Sec. 218. A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, or an educational agency subject to a court order or a desegregation plan under title VI of the Civil Rights Act of 1964 in effect on the date of enactment of this part and intended to end segregation of students on the basis of race, color, or national origin, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student or significantly impinge on his or her educational process.

Limitation on Orders

Sec. 219. Any court order requiring, directly or indirectly, the transportation of students for the purpose of remedying a denial of the equal protection of the laws made to the extent of such transportation, be terminated if the court finds the defendant educational agency has satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable and will continue to be in compliance with the requirements thereof. The court of initial jurisdiction shall state in its order the basis for any decision to terminate an order pursuant to this section, and the termination of any order pursuant to this section shall be stayed pending a final appeal or, in the event no appeal is taken, until the time for any such appeal has expired.

No additional order requiring such educational agency to transport students for such purpose shall be entered unless such agency is found not to have satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable.

Subpart 5—Definitions

Sec. 221. For the purposes of this part—

(a) the term "educational agency" means a local educational agency or a "State educational agency" as defined by section 801(k) of the Elementary and Secondary Education Act of 1965;

(b) the term "local educational agency" means a local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965;

(c) the term "segregation" means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin;

(d) the term "desegregation" means desegregation as defined by section 401(b) of the Civil Rights Act of 1964; and

(e) an educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

Subpart 6—Miscellaneous Provisions

repealer

Sec. 222. Section 709(a)(3) of the Emergency School Aid Act is hereby amended.

Separability of Provisions

Sec. 223. If any provision of this part or of any amendment made by this part, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this title and of the amendments made by this part and the application of such provision to other persons or circumstances shall not be affected thereby.

Part B.—Other provisions relating to the assignment and transportation of students

Prohibition Against Assignment or Transportation of Students to Overcome Racial Imbalance

Sec. 251. No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

Sec. 252. Part B of the General Education Provisions Act, as amended by title IV of this Act, is amended by adding at the end thereof the following new section:

"PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

"Sec. 420. No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except for funds appropriated pursuant to title I of the Act of September 30, 1950 (P.L. 874, 81st Congress), but not including any portion of such funds as are attributable to children counted under subparagraph (C) of section 3(d)(2) or section 403(1)(C) of that Act."

Provision Relating to Court Appeals

Sec. 253. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired. This section shall expire at midnight on June 30, 1978.

Provision Requiring That Rules of Evidence Be Uniform

Sec. 254. The rules of evidence required to prove that State or local authorities are practicing racial discrimination in assigning students to public schools shall be uniform throughout the United States.

Application of Proviso of Section 407(a) of the Civil Rights Act of 1964 to the Entire United States.

Sec. 255. The proviso of section 407(a) of the Civil Rights Act of 1964 providing in substance that no court or official of the United States shall be empowered to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards shall apply to all public school pupils and to every public school system, public school and public school board, as defined by title IV, under all circumstances and conditions and at all times in every State, district, territory, Commonwealth, or possession of the United States, regardless of whether the residence of such public school pupils or the principal offices of such public school system, public school or public school board is situated in the northern, eastern, western, or southern part of the United States.

Additional Priority of Remedies

Sec. 256. Notwithstanding any other provision of law after June 30, 1974, no court of the United States shall order the implementation of any plan to remedy a finding of de jure segregation which involves the transportation of students, unless the court first finds that all alternative remedies are inadequate.

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES AND THE TRANSPORTATION OF STUDENTS

Remedies with respect to school district lines

Sec. 257. In the formulation of remedies under this title the lines drawn by a State subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn, or maintained or crossed for the purpose, and had the effect of segregating children among public schools on the basis of race, color, sex, or national origin, or where it is established that, as a result of discriminatory actions within the school districts, the lines have had the effect of segregating children among public schools on the basis of race, color, sex, or national origin.

Prohibition of forced busing during school year

Sec. 258. (a) The Congress finds that—

(1) the forced transportation of elementary and secondary school students in implementation of the constitutional requirement for the desegregation of such schools is controversial and difficult under the best planning and administration; and

(2) the forced transportation of elementary and secondary school students after the commencement of an academic school year is educationally unsound and administratively inefficient.

(b) Notwithstanding any other provisions of law, no order of a court, department, or agency of the United States, requiring the transportation of any student incident to the transfer of that student from one elementary or secondary school to another such school in a local educational agency pursuant to a plan requiring such transportation for the racial desegregation of any school in that agency, shall be effective until the beginning of an academic school year.

(c) For the purpose of this section, the term "academic school year" means, pursuant to regulations promulgated by the Commissioner of Education, the customary beginning of classes for the school year at an elementary or secondary school of a local educational agency for a school year that occurs not more often than once in any twelve-month period.

(d) The provisions of this section apply to any order which was not implemented at the beginning of the 1974-1975 academic year.

Reasonable time for developing voluntary plan for desegregating schools

SEC. 259. Notwithstanding any other law or provision of law, no court or officer of the United States shall enter, as a remedy for a denial of equal educational opportunity or a denial of equal protection of the laws, any order for enforcement of a plan of desegregation or modification of a court-approved plan, until such time as the local educational agency to be affected by such order has been provided notice of the details of the violation and given a reasonable opportunity to develop a voluntary remedial plan. Such time shall permit the local educational agency sufficient opportunity for community participation in the development of a remedial plan.

Mr. HELMS. I urge the adoption of my amendment, Mr. President.

The PRESIDING OFFICER. The Chair observes the absence of a quorum and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

Mr. HELMS. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I yield to my distinguished colleague from South Carolina (Mr. THURMOND).

Mr. THURMOND. Mr. President, I was very pleased to join the able and distinguished Senator from North Carolina (Mr. HELMS) in sponsoring this amendment on school transportation. This is known as the Ashbrook amendment. It has passed the House of Representatives four different times.

This amendment would prevent Federal funds from being used to transport students in order to bring about a racial balance.

What does a racial balance mean? A racial balance simply means that if we have a certain percentage of whites in the community or blacks in the community, either one, then we have to have that percentage in the schools.

Now, this is simply not practical. In 1954, the Supreme Court handed down the decision in the Brown case which held that no child could be denied admission to any school because of his race, creed, or color. That decision simply meant you could not deny a child the right to attend any school he wished because of his race or color.

Since then the courts have gone far beyond the *Brown* decision, and some courts have now held that you can require children of a certain color to be sent to another school even though you have to transport them 20, 30 or 40 miles away.

There are many places in this country today where children are selected because of their color—no other reason, but simply because of their color—and the principal says or the school authorities say to them, "You have to be transported across the city a great distance, or perhaps to another town, simply to bring about a racial balance."

Now, Mr. President, the purpose of the decisions in the school desegregation cases originally, in the 1954 *Brown* case for instance, was to prevent what is known as discrimination; that is, you cannot discriminate against a child because of his color. In other words, you could not deprive him of going to a school because of his color. The idea was to prevent discrimination.

Now, just the opposite is taking place. Some of the courts are now saying to a black child that there are not enough black children in a predominantly white school 20 miles away. Therefore the courts require the child to be bused 20 miles in order that a racial balance may be achieved. The courts apply the same criteria to require the busing of white children.

Mr. President, this is completely unreasonable and impractical. The American people have shown in poll after poll that they do not approve of busing to achieve racial balance. Some of these polls have indicated as high as 85 percent of the people oppose busing for racial purposes.

If there is any good reason for busing, that is another matter. If you are busing to improve the education of the children, that is good. If you are busing just to bring about a racial balance—to say to a child, "Because you are one color, you are going to be transferred to another school for racial balance"—that is another thing, and I do not think that is good. I think that is very unjust and discriminatory.

Mr. President, I wonder how much longer this busing of schoolchildren is going to go on just to satisfy certain people in this country who want to stir up the race question? Why not treat all children alike and open up all schools to all races. Let any child who wants to go to any school go to that school. Why are we going to force a child against his wishes or her wishes and the parents' wishes to attend a school of his race or color? That is exactly what we are doing when we force a child to be bused for miles and miles to bring about a racial balance in order to please certain sociologists; or, in some cases, to please the courts which have taken peculiar positions on this matter.

In addition, I want to say that any parent who has children of school age feels that the school is the closest thing to them. The school is the hope of that child; an opportunity to get a good education. They look forward to rearing that little child, improving his mind, preparing him for life so that he can go out and enter a career or occupation that would be beneficial to the child.

I ask my colleagues, "Is it beneficial to put a child on a bus and keep him there for several hours a day, to transport them for 20 or 30 miles, just to bring about a racial balance?" Many of these little children are restless, hungry, tired, and may have a school a block away or two or three blocks away from their home.

The American people, as I say, do not approve it. There is not a place in this Nation where they approve it.

Years ago many people called loudly for the desegregation of schools in the South. Well, every public school in South Carolina, as far as I know, is desegregated. The children can go to any school they choose except where the courts have ordered them to go otherwise.

The schools are available to accept these children and it is horrible to think that we are going to force little children to get on these buses and ride hour after hour after hour, just to comply with some autocratic wish of a bureaucrat in Washington, or some judge who does not seem to understand the situation.

It appears the only way we are going to correct this situation is to pass an amendment like this one offered by Senator HELMS to cut off the Federal funds for busing these children.

If the State or local people want to bus the children to promote their education, that is a different thing. However, for the Federal Government to require this and to furnish funds to bus these children against the wishes of the parents, the children, and the people of the whole Nation, is entirely wrong and should be stopped.

Mr. President, I hope this amendment will be accepted by my colleagues in the Senate.

I commend the distinguished and able Senator from North Carolina who has taken such an interest in this matter. He, naturally, has taken an interest because in Charlotte, N.C. the largest city in North Carolina which adjoins South Carolina—and I might say that we claim part of it since we have so many people there, Senator—the children have been ordered bused for miles and miles and miles just because they are a particular color.

The people of Charlotte do not like it, and the people in other States do not like it. We have been reading in the paper lately about the trouble in other States—there has been trouble in Michigan, there has been trouble in Chicago, there has been trouble in New York, and there has been trouble in Boston.

Mr. President, if the people in those States do not want it, if the people in the South do not want it, if the people out West do not want it, and if the people in none of the States in the Nation want to bus children just for racial balance, then why should we continue it?

As I said, the House has passed this amendment four different times, and I think it is high time the Senate should take favorable action on this. In accepting this amendment, the Senate would comply with the wishes of the people of the Nation and stop discriminating, for that is just what is being done, discriminating against these little school children simply because of their color.

I hope this amendment will pass and, again, I commend the distinguished Senator from North Carolina for leading the fight on this matter.

Mr. HELMS. Mr. President, I thank the distinguished Senator from South Carolina who has always been in the forefront of the preservation of the liberties of the people and he has constantly fought the forced busing schemes that have been heaped upon the backs of the people, depriving them of their rights, their freedom to choose what is best for their children.

What is at stake here, Mr. President, is a very basic, fundamental right of the people.

I call to the Senate's attention that in Charlotte-Mecklenberg, to which Senator THURMOND alluded, one child is bused 22 miles to school and 22 miles back home each day—a total of 44 miles—and that child is the sole passenger of the bus. This is an illustration, a measurement of the absurdity and the cruelty of this particular forced busing scheme.

Now, Mr. President, I ask unanimous consent that it be in order for me to ask for the yeas and nays for both pending amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I do ask for the yeas and nays on both amendments, the committee amendment to be voted on at 2 o'clock and the Helms amendment immediately thereafter.

The yeas and nays were ordered

Mr. HELMS. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I think it is time that the Senate bring its spending priorities in line with national sentiment on the use of Federal funds for busing. We have finally gone on record—with the recently enacted education bill—as opposing the concept of busing to overcome racial imbalance, but we have yet to prohibit the use of appropriated education moneys for carrying out a plan of racial desegregation, or purchasing equipment incident thereto.

This amendment would accomplish precisely that, and I urge my colleagues to join me in supporting its adoption. The House agreed to a similar provision—when it passed H.R. 15580—by a margin of nearly 100 votes, and I have no doubt that it is the will of our constituents that we demonstrate a like concern for ending this subsidy of an unwanted practice once and for all.

INCONSISTENT AUTHORIZATION

It seems to me to be a little inconsistent anyway that we should continue to sanction the use of Federal money for promoting a policy that has proven to be so disruptive, ineffective, and mutually unacceptable. Certainly, this is true of any other public school-related activity which has bred such substantial disfavor among both administrators and legislators, and it should be applied to busing as well.

It just does not conform to the fundamentals of legitimacy and reason that we should repudiate the viability of forced busing on one hand, but further assist in sustaining it by permitting Federal funds to be used on the other. By all means, we should arrive at a consensus here today that such a conflicting authorization will no longer be tolerated.

THE RIGHT DIRECTION

We established a responsible trend in reacting to the ills of massive busing by taking the action we did during consideration of H.R. 69. Although I was personally disappointed that we failed to make a more absolute commitment by adopting the complete House language, it was at least a step in the right direction.

Now we have the opportunity to take another step that will further demonstrate our willingness to respond to one of the major problems confronting education systems in so many of our big cities today. Although, unfortunately, cutting off Federal funds will not in itself serve to terminate busing plans now being implemented, it will provide one mechanism for challenging existing orders and stimulating other alternatives.

ATTITUDES IN KANSAS

As I recall, the most recent surveys have shown that 95 percent of Americans nationwide are opposed to busing as a means of achieving integration—even though the vast majority of those favor integration itself. I am sure this would be an accurate reflection of the attitude prevailing in Kansas, and feel certain that a decisive measure to prohibit further funding would be greatly welcomed.

This is especially true in Wichita, Topeka, and Kansas City, where they have been wrestling with threats, ultimatums, orders, and physical impossibilities associated with artificial busing for more years than anyone cares to remember. Attempts to resolve the resulting impasse have never succeeded in gaining either full acceptance or understanding, and have precipitated only more confusion and disillusionment.

PROPER EMPHASIS

I believe we have a definite obligation, therefore, to focus our attention on ways to discourage this unnecessary and undesirable undermining of our neighborhood school traditions. And the best way I know of to do that is through financial restraints.

The amendment proposed by the distinguished Senator from North Carolina (Mr. HELMS) is, in my view, placing the proper emphasis on educational programs by directing funds away from hour-long bus rides and toward better teacher salaries, better school facilities, and better opportunities for all students. A positive stand by the Senate is long overdue on this, Mr. President, and I call upon each one here this afternoon to see that such an affirmative action is finally taken.

Mr. HELMS. Mr. President, so that there will be no mistake, I want to clarify the unanimous-consent request I just made and which was granted, to vote on the Helms amendment immediately after the committee amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that the vote on the adoption of the Helms amendment occur immediately following the prior amendment at 2 o'clock, which is scheduled at 2 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HELMS). Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. King, of my staff, have the privilege of the floor during the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The hour of 2 p.m. having arrived, the question is on agreeing to the committee amendment on page 6, beginning with line 14. On this question the yeas and nays have been ordered.

Mr. BROOKE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BROOKE. Are we voting on a committee amendment or on an amendment by Senator CURTIS?

The PRESIDING OFFICER. The vote is on the committee amendment on page 6, beginning at line 14, to strike that paragraph.

Mr. BROOKE. I thank the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), and the Senator from Alaska (Mr. GRAVEL) are necessarily absent.

I further announce that the Senator from Wisconsin (Mr. NELSON) is absent on official business.

I also announce that the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Ohio (Mr. METZENBAUM) are absent because of Jewish holy day.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Ohio

(Mr. Metzenbaum), and the Senator from Connecticut (Mr. Ribicoff) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. Cook), the Senator from Colorado (Mr. Dominick), the Senator from New York (Mr. Javits), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Illinois (Mr. Percy) is absent on official business.

I further announce that, if present and voting, the Senator from New York (Mr. Javits) and the Senator from Illinois (Mr. Percy) would each vote "yea."

The result was announced—yeas 60, nays 29, as follows:

[No. 397 Leg.]

YEAS—60

Abourezk
Aiken
Allen
Beall
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Domenici
Eagleton
Fong
Hart
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Jackson
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Packwood
Pastore
Pell
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NAYS—29

Baker
Bartlett
Bellmon
Bennett
Brock
Buckley
Byrd,
  Harry F., Jr.
Cotton
Curtis
Dole
Eastland
Ervin
Fannin
Fulbright
Goldwater
Griffin
Gurney
Hansen
Helms
Hollings
Hruska
McClure
Nunn
Pearson
Scott,
  William L.
Stennis
Talmadge
Thurmond
Young

NOT VOTING—11

Bayh
Bentsen
Cook
Dominick
Gravel
Javits
Metzenbaum
Nelson
Percy
Ribicoff
Tower

So the committee amendment on page 6 was agreed to.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATHAWAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the question now before the Senate is the amendment of the Senator from North Carolina (Mr. Helms).

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. Is it not true that under the previous order, we are now to vote immediately on the amendment by Mr. Helms which is commonly known as the antibusing amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. MAGNUSON. The vote will be a little different from the last vote, will it not, where the Senator from Nebraska did not have an affirmative amendment? In this case, the Helms amendment is affirmative and puts a paragraph in the bill which was not there; therefore it is an affirmative motion. So if you are for the Helms amendment, you vote "yea"; if you are with the committee in taking this type of language out, you vote "nay." Is that correct?

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ALLEN. Regular order, Mr. President.

Mr. ABOUREZK. Mr. President, how am I recorded?

Several Senators: Regular order, Mr. President.

The PRESIDING OFFICER (Mr. Helms). The Senator is recorded as having voted in the negative.

Mr. ABOUREZK. I vote "yea."

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from California (Mr. Cranston), the Senator from Arkansas (Mr. Fulbright), and the Senator from Alaska (Mr. Gravel) are necessarily absent.

I further announce that the Senator from Wisconsin (Mr. Nelson) is absent on official business.

I also announce that the Senator from Ohio (Mr. Metzenbaum) and the Senator from Connecticut (Mr. Ribicoff) are absent because of Jewish holy day.

I further announce that, if present and voting, the Senator from California (Mr. Cranston), the Senator from Ohio (Mr. Metzenbaum), and the Senator from Connecticut (Mr. Ribicoff) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. Cook), the Senator from Colorado (Mr. Dominick), the Senator from New York (Mr. Javits), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Illinois (Mr. Percy) is absent on official business.

I further announce that, if present and voting, the Senator from New York (Mr. Javits) would vote "nay."

The result was announced—yeas 45, nays 42, as follows:

[No. 398 Leg.]

YEAS—45

Abourezk
Allen
Baker
Bartlett
Beall
Bennett
Bible
Brock
Buckley
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cotton
Curtis
Dole
Domenici
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hartke
Helms
Hollings
Hruska
Huddleston
Johnston
Long
McClellan
McClure
Nunn
Proxmire
Randolph
Roth
Schweiker
Scott,
  William L.
Sparkman
Stennis
Talmadge
Thurmond
Young

NAYS—42

Aiken
Bellmon
Biden
Brooke
Burdick
Case
Church
Clark
Eagleton
Hart
Haskell
Hatfield
Hathaway
Hughes
Humphrey
Inouye
Jackson
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Packwood
Pastore
Pearson
Pell
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NOT VOTING—13

Bayh
Bentsen
Cook
Cranston
Dominick
Fulbright
Gravel
Javits
Metzenbaum
Nelson
Percy
Ribicoff
Tower

So Mr. Helms' amendment was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HANSEN. Mr. President, I move to lay that motion on the table.

Mr. PASTORE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. PASTORE. Mr. President, what are we voting on, the motion to reconsider or the motion to table?

The PRESIDING OFFICER. The question is on the motion to table. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Arkansas (Mr. Fulbright), and the Senator from Alaska (Mr. Gravel) are necessarily absent.

I further announce that the Senator from Wisconsin (Mr. Nelson), is absent on official business.

I also announce that the Senator from Connecticut (Mr. Ribicoff) and the Senator from Ohio (Mr. Metzenbaum) are absent because of Jewish holy day.

I further announce that, if present and voting, the Senator from Ohio (Mr. Metzenbaum), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Rhode Island (Mr. Pell) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. Cook), the Senator from Colorado (Mr. Dominick), the Senator from New York (Mr. Javits), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Illinois (Mr. Percy) is absent on official business.

I further announce that, if present and voting, the Senator from New York (Mr. Javits) would vote "nay."

The result was announced—yeas 44, nays 43, as follows:

[No. 399 Leg.]

YEAS—44

Allen
Baker
Bartlett
Beall
Bennett
Bible
Brock
Buckley
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cotton
Curtis
Dole
Domenici
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hartke
Helms
Hollings
Hruska
Huddleston
Johnston
Long
McClellan
McClure
Nunn
Proxmire
Randolph
Roth
Schweiker

Scott, William L.
Sparkman
Stennis
Talmadge
Thurmond
Young

NAYS—43

Abourezk
Aiken
Bellmon
Biden
Brooke
Burdick
Case
Church
Clark
Cranston
Eagleton
Hart
Haskell
Hatfield
Hathaway
Hughes
Humphrey
Inouye
Jackson
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Packwood
Pastore
Pearson
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NOT VOTING—13

Bayh
Bentsen
Cook
Dominick
Fulbright
Gravel
Javits
Metzenbaum
Nelson
Pell
Percy
Ribicoff
Tower

So the motion to table the motion to reconsider was agreed to.

Mr. HUGH SCOTT. Mr. President, today, the first day of the Jewish New Year, the Senate has gone on record, by a very narrow margin, against the use of funds for school busing. Two of the Senate's most eloquent spokesmen in support of busing, Senators JAVITS and RIBICOFF, are of the Jewish faith and, therefore, were not present. This is unfortunate.

Several months ago, during debate on the education bill, the busing issue was fought out on the Senate floor. The prevailing view was generally one of support for busing as one tool to achieve quality education. Most of this philosophy was recognized in the conference report's bill which was recently signed into law. A Supreme Court decision handed down a short time ago adopts further restrictions on busing in addition to those included in the education bill. Most of our colleagues were convinced that the busing fight was over.

Today, however, through legislation on an appropriations bill, busing will be prohibited. I have been urged to note that it is unfortunate that Senators JAVITS and RIBICOFF could not be present to argue their views. It is more unfortunate that the Senate decided such an important issue on the first day of the Jewish New Year. It could have waited another day, and I regret the Senate's action.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. MAGNUSON. The Senator from Nevada has a very important announcement to make. I yield such time as he needs.

NOTICE OF HEARINGS ON THE NOMINATION OF NELSON A. ROCKEFELLER, OF NEW YORK, TO BE VICE PRESIDENT OF THE UNITED STATES

Mr. CANNON. Mr. President, I wish to announce that at 10 a.m., on Monday, September 23, 1974, in room 318—caucus room—Russell Senate Office Building, the Committee on Rules and Administration will commence hearings on the nomination of Nelson A. Rockefeller, of New York, to be Vice President of the United States.

Mr. Rockefeller will be the first and only witness on that day.

All individuals or organizations wishing to testify on this nomination should contact Miss Peggy Parrish, assistant chief clerk, room 305, Russell Senate Office Building, Washington, D.C. 20510, telephone 202-225-6352. Since Members of the U.S. Senate and House of Representatives have a direct responsibility and an immediate interest in this nomination, they will be accorded priority in scheduling of witnesses.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1975

The Senate continued with the consideration of the bill (H.R. 15580) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1975, and for other purposes.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The clerk will suspend.

Mr. MAGNUSON. Mr. President, I understand that we have now disposed of two amendments.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The legislative clerk proceeded to read the next committee amendment, as follows:

> On page 22, in line 7, strike out the words "thirty days" and insert in lieu thereof "three months".

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, I thought the amendment of the Senator from Oklahoma would be next. I made arrangements with the Senator from Oklahoma to present his amendment. I was hoping that my friend from Virginia would let him go ahead.

The PRESIDING OFFICER. The Chair advises the Senator that can be done by unanimous consent.

The Senate is not in order. Will the Senator suspend?

Mr. HARRY F. BYRD, JR. The Senator from Virginia is willing to cooperate but he cannot hear a word anybody is saying.

The PRESIDING OFFICER. The Senate is not in order.

Mr. MAGNUSON. As I said, I made arrangements with the Senator from Oklahoma to present his amendment, the so-called abortion amendment. He is ready to present it and have it sent to the desk.

The colloquy of the Senator from Virgina was to come up ahead of that. I am hopeful the Senator from Virginia would let the Senator from Oklahoma proceed under a time limitation. As the Senator from Virginia and I discussed earlier, we will have plenty of time to discuss his remarks, questions, and comments.

Mr. HARRY F. BYRD, JR. The Senator from Virginia will be happy to let the Senator from Oklahoma proceed.

The PRESIDING OFFICER. Will the Senator from Washington ask unanimous consent that the Senator from Oklahoma be recognized?

Mr. MAGNUSON. Yes.

Mr. PASTORE. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MAGNUSON. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. For the benefit of the Senate, the time allotted for this amendment is 1½ hours to be equally divided. Is that correct?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 1859

Mr. BARTLETT. Mr. President, I call up my amendment (No. 1859), which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment as follows:

At the end of the bill add a new section as follows:

> SEC. . No part of the funds appropriated under this Act shall be used in any manner directly or indirectly to pay for or encourage the performances of abortions except such abortions as are necessary to save the life of a mother.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the amendment. Who yields time?

Mr. BARTLETT. Mr. President, I yield such time as I will require.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Will the Senator sustain? The Senate is not in order. The Senator is entitled to be heard.

The Senator may proceed.

Mr. BARTLETT. Mr. President, I would first like to point out that there is a possibility that a point of order might be raised on the basis that this amendment legislates in an appropriation bill. Second, this is the case. But if this point of order is raised, then I will raise the question of the germaneness. It is germane because in this bill on page 21 funds are made available to the States for the purposes of abortion under title IV and under title XIX.

It is my understanding of the rules that if the germaneness was stated, which I think it should be, that this would nullify the point of order.

Mr. President, I would like to point out that this amendment is not involved with what is normally called family planning or advice, or the use of contraceptives. I would like to point out further that, as Governor of the State of Oklahoma in 1967, for those who were desirous, I took the steps to make available through our welfare department that the poor of Oklahoma could receive counseling as well as contraceptive devices.

In my last year in office in 1974, again, those who desired could receive, through the public health office in a bill I signed, contraceptive devices and also counseling in the area of family planning.

Mr. President, at the present time, Federal funds are used by States for abortions—and this takes place in about 14 or 15 States—and yet in 1972 there were two plebiscites: one in Michigan in which the majority of the voters voted "no," against abortion, and in North Dakota, in the same year, when 75 percent voted "no."

I know that there are polls that show either way, and certainly I would agree that the issue is somewhat evenly divided. But certainly there are those who believe that this should be a prerogative of the States. I believe that the Federal Government should leave it to the States, as far as financing, so that those States which are desirous of financing abortions may do so, and those which are not would not do so. In other words, the action taken here will decide whether the Federal Government will continue to make available funds for States, funds that come from all the taxpayers, to pay for the desires of 14 or 15 States' taxpayers.

Personally, I feel that it should be up to the individual State to make that decision, and the funds should not be made available by the Federal Government, which certainly influences the State in making up its mind as to whether it will provide counseling and payment for doctors fees for abortions.

Among the 14 or 15 States that were receiving HEW funds for abortions, from April 1971 until August of 1972, HEW spent $22.7 million through medicaid to fund 27,000 abortions in New York State alone.

Medicaid is now funding abortions in those States which desire it.

I think it raises a real question as to whether the Federal Government should spend millions and millions of dollars on various health care programs—and we are talking of expanding the health care programs even more—and then spending millions and millions to take the lives of healthy, unborn infants.

The Supreme Court said in its ruling on abortion:

> When those trained in the respective disciplines of medicine, philosophy and theology are unable to arrive at any consensus, the judiciary at this point in the development of man's knowledge is not in a position to speculate as to the answer. We need not resolve the difficult question of when life begins.

What the Supreme Court is really doing here is putting us in Congress on notice that there may be life in the abortion of a fetus.

I know there is considerable agreement that life does begin at the moment of conception, when the female ovum is fertilized by the male sperm and it forms that unique genetic organism called the zygote, or fetus, which in a few days implants itself in the womb.

But I want to refer to the warning the Supreme Court has given to us in Congress. When there is doubt about the possible effects of inaction, then commonsense dictates that one take the safer course. Thus, as there is the possibility that abortion is taking human life, one would naturally forbid abortion until that matter can be decided conclusively one way or the other. We must decide whether we are preserving or destroying life.

I am deeply concerned that there are those—and those in this body—who are promoting abortion when, according to the Supreme Court, it may involve the taking of human life. In making up his mind about voting on this amendment, a Senator should decide for himself whether or not he is aiding and abetting the taking of human life. He must realize that a fetus is the product of the male sperm fertilizing the female ovum, and therefore it certainly is human. The fetus certainly is alive, because the purpose of abortion is to take that life. A fetus is there; it is a being; it exists. So it is a live human being. A Senator must decide whether human life is involved in the taking of a living being whose heart beats at 3 weeks, who moves after 6 weeks, who has fingerprints at 9 weeks, who at 12 weeks is sucking his thumb, digesting, swallowing, and so forth.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BARTLETT. I yield.

Mr. PASTORE. Mr. President, I am supporting this amendment, and I think it goes beyond all the arguments that are being made by my distinguished colleague, the sponsor of this measure, the Senator from Oklahoma.

We are in a very sensitive area. I do not think we are deciding whether one is on the side of the right to live or whether one believes in abortion. Many people in this country, including myself, have a very strong religious belief that life begins at the moment of conception. There are other people who disagree, and I honor their point of view. But the question here, in this very sensitive area at this time, is: Do you think it is right to use the taxpayers' money to resolve this issue? That is where the sensitivity lies. What we are doing here, what we are saying, is that none of this money can be used for this purpose.

If somebody wants to get an abortion, that is their business. If an abortion is allowed in New York under the law, that is their business. But what we are saying here, in the Congress of the United States, is that there are many people in this country who pay money and pay their taxes, and they have a very strong feeling against this sort of thing. Why should the money be used and be abused in this manner?

We are not talking about family planning. We are not talking about birth control. There is no control once life starts, and there is no control once you get into abortions.

The point that needs to be made here is that there is no earthly reason why any of this money that has not been sanctioned for this reason should now be used as a matter of abuse by any agency of the Government to do what is offensive to many taxpayers in this country.

That does not mean that anybody else does not have a right to their opinion. If they believe in abortions, that is their business. I do not happen to believe in abortions, and that is my business. But the taxpayers' money is everybody's business, and that is what we are talking about here.

I hope the Senator will make that position strongly.

Mr. BARTLETT. Mr. President, I agree with the Senator from Rhode Island. He makes a very cogent point, and he makes it very effectively. Certainly, this is a prime consideration in the consideration of this amendment. It is everybody's business, because the practice has been that the taxpayers' money, from all over the country, is to be paid in those States which desire abortions for those who desire the abortions.

Mr. President, I yield to the Senator from New York (Mr. BUCKLEY).

Mr. BUCKLEY. Mr. President, I thank the Senator from Oklahoma.

I express my appreciation for the perspective brought into the debate on this amendment by the distinguished Senator from Rhode Island. We all know that this country is engaged in a very large, far-reaching debate on the whole question as to whether or not abortion on demand should be tolerated in a society dedicated to the principle that certain rights to life, to liberty, and to the pursuit of happiness are undeniable.

We are dealing here not with a philosophical discussion, not with an ethical evaluation, but with the question as to whether or not the taxpayers' money, under the guise of health treatment, should be allocated to purely arbitrary decisions on the part of pregnant women—as to whether these funds should be used for their convenience, not for their life, not for matters of their health—whether, in short, taxpayers money should be utilized for the performance of abortive practices.

One thing that has marked debate on this subject in this country, and one that I think does no credit to the medical profession in this country, is that the attitude has somehow been allowed to gain currency that an abortion, so long as it is performed legally, in some sanitary clinic, by a licensed physician, is safe. Yet, the overwhelming evidence that has been gathered from jurisdictions in Europe and in Japan and elsewhere, where legalized abortion has been permitted for a period of years, is that it is an unsafe procedure under the best circumstances. Therefore, I suggest that, as a matter of policy, we should not encourage the use of Federal funds to pay the cost of elective abortion.

I should like to support what I have just said in a few statements quoted from material that has been introduced to the hearings that are now going on with respect to an amendment to prohibit abortions except when necessary to save the life of the mother.

I should like to quote, for example, from a statement by Doctors Thomas Hilgers and Robert Shearen, in testimony presented to the Minnesota State Legislature. In that testimony is this flat statement:

> In the majority of countries, including New York State, a woman is more likely to die from legal abortion than she is if she were to carry the pregnancy to term. This is in contradiction to what proponents of abortion would have us believe. It must be emphasized that these figures are for legal abortions done by licensed physicians in fully-accredited medical facilities.

We are not talking merely of mortality. The facts are that the statistics derived from long experience abroad indicate that women, especially in their first pregnancy, who submit to abortions are apt to suffer far higher rates of sterility than are women who allow their pregnancies to come to term.

The same thing is true of premature births, of stillborn and so forth. I should like, for the record, to quote from testimony given by Dr. William Godfrey, a specialist in internal medicine in Elizabethtown, Ky., summarizing some of these statistics:

> To give all the statistical complications associated with therapeutic abortion, would encompass a large sized book. However, the following are a few of the immediate complications:
>
> (a) Incomplete obortion with a need for a second anesthetic and a second dilatation and curettage (D & C).
>
> (b) Abnormal blood clotting mechanisms (called disseminated intravasular coagulopathy) especially with saline induced abortions.
>
> (c) Blood poisoning (called septicemia).
>
> (d) 1–2% have perforation of the uterus with peritonitis of which 65% need immediate surgical exploration.
>
> (e) Confusion and coma.
>
> (f) Air embolism.
>
> (g) Anesthetic deaths of various types.
>
> (h) Twins with destruction of only 1 child with 1 normal live birth.
>
> (i) 9% of all abortions require blood transfusions which, in themselves, have complications.
>
> (j) 30% develop anemias.
>
> (k) 27% of 1,182 legal abortions in England in 1971 had subsequent infections.
>
> The delayed complications include the following:
>
> (a) 800% increase in ectopic pregnancies on subsequent deliveries.
>
> (b) 14% increase of prematurity in subsequent deliveries after the first abortion.
>
> (c) 23% increase of prematurities in subsequent deliveries after the third abortion.
>
> (d) 30 to 40% of subsequent pregnancies will end in spontaneous abortions.
>
> (e) Psychological complications.
>
> (f) 200% increase in the incidence of fetal death in subsequent pregnancies.
>
> (g) 6.9% of women in Poland and 9.7% of women in Japan were found sterile after the first abortion.
>
> (h) Decreased libido.
>
> (i) Increased incidence of endometriosis.
>
> (j) An increased need for Cesarean section with subsequent deliveries.
>
> (k) Increased incidence of irregular periods and amenorrhea.
>
> (l) Prolonged labor with subsequent deliveries.
>
> (m) Increased incidence of placenta previa.
>
> (n) Increased incidence of excessive postpartum bleeding with subsequent pregnancies.

Mr. President, if I may translate these figures, and they are not the full findings, into a more understandable, term, it would mean that, given an assumed 1 million legalized abortions within the United States each year, using these figures, we could expect that the result would be that between 30,000 and 40,000 women a year would be rendered sterile.

Furthermore, if we utilize the figures for encouraging prematurity in subsequent pregnancies and, given the fact that a substantial portion of those premature deliveries take place within the 32 weeks when the unborn child is most susceptible to injury, we then come to the statistical conclusion that encouraging legal abortion will result in over 2,000 cases per annum of children being born with cerebral palsy or other serious damage to their nervous systems. I suggest, Mr. President, not only that this kind of information about the medical implications of abortion ought to be far more widespread than it is now, but furthermore, that for moral, as well as medical, as well as prudential reasons, the funds of the United States should not be authorized to be spent in a health, education, and welfare appropriation, not for purposes of health, but for purposes that demonstrably pose a threat to health.

Mr. President, I urge our colleagues to support this amendment.

The **PRESIDING OFFICER.** Who yields time?

Mr. **BARTLETT.** Mr. President, I thank the distinguished Senator from New York. He gave some very learned information on the research and observations that are taking place on the large number of abortions that are made in this country and what this leads to as far as future births are concerned, and as far as the health of the mother and the general health of this Nation. I thank the distinguished Senator for his remarks.

Mr. President, the Government, the Federal Government, is and, of course, should be interested in the welfare of all women, all citizens, and certainly pregnant women. It should be interested in their health, education, their training, employment or unemployment, prenatal care for pregnant women, and adoption, for those pregnant mothers who desire to have their children put up for adoption. But for Congress to hold that a pregnant woman can solve her problems only by having her unborn child aborted is not only a blow to human development and, in my opinion, to justice, but is an admission of the failure of the many programs which are available.

Certainly, the pregnant woman, and perhaps the unmarried pregnant woman in particular, has many problems, but it seems that there must be a better way to solve them than by the taking of human life. It raises a question as to how much effort is being made to find solutions to the pregnant woman's problems other than abortion. What refinements might there be in our basic institutions? What can be done to serve better the interests of the pregnant woman and to deal with her problems than solving them by abortion?

It seems to me that the way to face up to the problems besetting a pregnant woman is not by abortion but by a realignment of our social institutions: better, more meaningful care for the poor, more meaningful assistance to an unwed mother, full public acceptance of adopting unwanted children, and a public consensus to improve the lot of all unwanted, including unwanted children.

We hear the argument given quite often that abortion should be made available to the pregnant mother because her child is unwanted. I should like to bring out that there are many unwanted parents in this world, unwanted aged and unwanted sick, as well as unwanted children. If we are going to eliminate the unwanted people in this Nation. I think the population would decrease rather strikingly.

I think our challenge is not to eliminate an unwanted person or an unwanted child, but to deal with the problems of the pregnant woman.

I yield to the Senator from Delaware, if he desires.

Mr. **BIDEN.** If the Senator will yield for a very brief comment by the junior Senator from Delaware, as so often has happened with me since I have been here in the Senate, I find myself agreeing with the Senator from Rhode Island (Mr. PASTORE), who I think moments ago succinctly stated the issue, at least as far as I am concerned.

Although there may be a good deal of merit in the antiabortion sentiment stated by the Senator from New York and the Senator from Oklahoma, it seems to me that we should resolve this issue in a more objective manner. By that I mean that those who are proponents of abortion, when we talk about constitutional amendments, remind those of us who are not particularly crazy about a constitutional amendment that this is a very personal matter; this is a matter that should not be infringed upon by the Federal Government; therefore, we should not have an amendment countermanding the Supreme Court's recent ruling. I submit that if that logic is appropriate with regard to a constitutional amendment, it is more than appropriate and persuasive with regard to the amendment offered by the junior Senator from Oklahoma, which I support. That is, if abortion is as personal a matter as the proponents say it is, then it seems to me that they should recognize that taxpayers who feel very fervently about this issue and who are on the other side of the issue should not be put in the position of having their tax dollars used for something which they feel so strongly and adamantly against, in light of the fact that there is a recognition of the personal aspect of this particular issue.

Therefore, I plead with those who are the proponents of the pro-abortion position to be consistent and to keep the Federal Government out of this issue, keep it a personal matter, and support the Senator from Oklahoma in his amendment to delete the use of funds for any aspect of this abortion question from this particular legislation. I ask that there be consistency, and I strongly support the Senator from Oklahoma. What is good for the goose is good for the gander.

If they want us to stay out of the issue of abortion because it is a private matter with regard to the constitutional amendment, I ask them to be consistent and stay out of the issue when it comes to the expenditure of tax dollars to promote the procurement of abortions.

I thank the Senator for yielding.

Mr. **BARTLETT.** Mr. President, I appreciate the comment of the Senator from Delaware. I think he has supported the statement made by the Senator from

Rhode Island with additional comments that make sense.

Mr. COTTON. Mr. President, will the Senator yield to me?

Mr. BARTLETT. I yield to the Senator from New Hampshire.

Mr. COTTON. Although I am a member of the committee, I think I should ask time from the Senator from Oklahoma, rather than from the committee, simply to say that although I am on the committee, I support his amendment.

Mr. BARTLETT. I thank the distinguished Senator from New Hampshire. I appreciate his support and his comment.

Mr. President, the American courts have ruled that the average testator, in writing of children in his will, intended to include those who were conceived but not born. British law has held for years that it is legal for the unborn children to share with the born children that property willed to all the children.

In connection with this amendment, which proposes to eliminate the Federal financing of abortions, there is more involved than the life of the unborn child. One question that I think is raised is, should the American taxpayers finance a judgment denying a mother's fiduciary responsibility to her child? Should the American taxpayer make taking a life a principal part of the profession of a physician? Should the Federal Government finance State agencies to procure and pay for the taking of the offspring of the poor or underprivileged?

Before voting on the amendment, Senators should contemplate a statement made by Piet, the prospective father of an aborted child in John Updike's book, "Couples." Piet said, in referring to the abortion of his child:

> Death, once invited in, leaves its muddy footprints everywhere.

Mr. President, I have additional remarks to make. I reserve the remainder of my time.

Mr. MAGNUSON. Mr. President, I wonder if the Senator from Maine will allow me to make a short statement, and then I will yield to him.

Mr. HATHAWAY. I am happy to.

Mr. MAGNUSON. Mr. President, I do not wish to argue the merits of the amendment Senator BARTLETT is proposing today or imply that this issue should be dismissed from the Senate's consideration.

We in the committee did have a great deal of testimony on this matter, some of which was highly emotional, as Senators can understand, from both sides. We had some pretty potent testimony that trouble us in the field of family planning, which is funded in this bill, in which it seemed to be implied that there may have been abuses by the people in charge. They were isolated, and both Senator COTTON and I assured those people, like the Senator from Oklahoma, that we would make a thorough investigation of the improper use of any funds for family planning.

But I did say to those people, and to the members of my committee, that we had some doubts, as suggested by other Senators here, as to whether this bill, the Labor-HEW Appropriations bill, is the proper place to consider a measure of this nature and importance. I told some of the people, who were sincere and presented good testimony, that they were in the wrong committee, that they should have been testifying before the Committee on Labor and Public Welfare, the constitutional subcommittee, and the finance committee. They questioned that, but they accepted it. We heard a lot of testimony on both sides.

The question of whether or not the Federal Government should be in the business of financing abortions is fundamentally a legislative issue and as such this question should be carefully weighed and decided first by a legislative committee. That is the proper place for changes in the present law to be made—not here. Our primary business right now is the appropriation of funds for authorized programs; it is not within the jurisdiction of this committee to alter or change the authorization of these programs but merely to consider funding for them. This amendment prohibits instead of just limits—if my understanding is correct.

Therefore, I reluctantly oppose the amendment. I think it is probably subject to a point of order because of its legislative nature. The full committee—with the exception of the Senator from New Hampshire, who just now suggested he would support the amendment—I am sure, regardless of their views on this matter, felt this is not the place for it.

I suggest that the amendment of the Senator from Oklahoma not be just passed out of hand, but that he ought to go to the Committee on Labor and Public Welfare and have a substantive hearing on this matter. It really does not belong in this bill.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield the Senator from Maine such time as he wishes.

Mr. HATHAWAY. I thank the Senator from Washington for yielding.

Mr. President, I take the floor at this time to oppose the amendment of the Senator from Oklahoma. As the Senator mentioned at the outset of his remarks, a point of order to this amendment probably would not lie. Although it is clearly legislation on an appropriations bill, under rule XVI of the Senate rules and interpretations thereof a vote on germaneness would be in order prior to a vote on whether or not it was legislation on an appropriation bill, and since it is germane under a certain section of the appropriations bill, the germaneness undoubtedly would be upheld by a vote of the Senate.

But I do not wish to press this body into a vote on germaneness. The amendment could then be revised, and we might have several votes on germaneness before really getting to the merits of the issue.

I do think, however, that the amendment as it is now phrased is going to be a difficult one to administer, because it states that no part of the funds appropriated under this act shall be used in any manner, directly or indirectly, to pay for or encourage the performance of abortions except such abortions as are necessary to save the life of the mother.

If this amendment becomes law, it is going to be very difficult for whoever is administering these funds to determine whether funds are being used indirectly to pay for or encourage the performance of abortions. Certainly it will be very difficult for the person administering these funds to determine what constitutes the encouragement of an abortion.

So, as a technical matter, I think that the amendment should be defeated on the grounds that it would be extremely difficult to administer.

But I am not going to, of course, rest my argument on the technical objections to the amendment. I think there are much more substantive reasons why the amendment should not be agreed to.

It has been mentioned by the Senator from Rhode Island and again by the Senator from Delaware that we should not support this amendment because taxpayers are very emotionally charged up on the issue of abortion, and that is undoubtedly true. But taxpayers are very charged up on other Federal programs for which we are providing money. Certainly taxpayers are very much concerned about the money we spend on welfare. They were very much concerned about the money that we were spending when we were involved in South Vietnam. They are very much charged up and emotionally so on many other Federal programs. Certainly we cannot determine whether or not we are going to spend funds for a certain program on the basis of whether or not the taxpayers have an emotional interest in the matter.

It has been mentioned also that this is a very personal matter and that those who are going to support the amendment, at least some of those who are going to support it, do not hold it against anyone if she wants to have an abortion; that is her own business, but we should not be spending taxpayers' money for it.

That is all very well for those who are wealthy enough to provide for an abortion, which is their privilege now under the Supreme Court's latest ruling, because they can afford to do so. But if funds are not provided under this act for those who are in the poorer elements of our society, and who do wish to exercise their rights under the Constitution they will not have the funds to do so.

Furthermore, this amendment concerns one of the most controversial and one of the most complex issues being discussed in this country today, and I do not believe that we do justice to the complexities of the issues by adding an amendment with such far-reaching implications to the Labor-HEW appropriations bill. It simply does not become the Senate, in my opinion, to place such an amendment on appropriations bills.

Does any one of my colleagues truly feel that we have the right—and the insight—to decide in a few minutes discussion here on the Senate floor issues about which the experts in the medical, theological, and legal fields disagree? Mr. President, for the past 6 months our colleague from Indiana, Senator BAYH, has been holding hearings on the issue of abortion in the Subcommittee on Constitutional Amendments. These hearings have been extensive—with 60 witnesses having been heard in 10 days of hearings, and some of the hearings continuing all day. Testimony has been heard from a wide range of medical and theological experts, from our colleagues in Congress, as well as from organizations concerned with the issue of abortion.

I gather there has been little agreement evident among the witnesses concerning this issue. Even the medical witnesses have differed on such basic questions as when life begins and what contraceptive devices might have abortifacient qualities. Moreover, I understand that there are still aspects of the issue which are yet to be taken up by the subcommittee. In fact, the legal implications—that is, the implications of legislating on this issue as we are being asked to do today—have not yet been considered in the hearings.

I believe, therefore, that it would be wrong—even precipitious, from a procedural standpoint—for this body to use this appropriations bill as a vehicle to legislate on a complex and controversial issue about which there is so little agreement.

Furthermore, as I have stated, I do not feel the way to deal with this emotional, constitutional issue is by an amendment which discriminates against poor people. Perhaps the most fundamental purpose of the Labor-HEW appropriation bill is the equalization of access to education and health services and the elimination of practices which, intentionally or not, discriminate against individuals on the basis of income by depriving them of this access—and thereby deprive them of their rights.

As every Member of this body knows, the Supreme Court has held that there is a right to an abortion, that women do have a constitutional right to an abortion under the right of privacy. As Members of Congress, we do not have the right to deny constitutional rights to people because they are poor, and that is what we would be doing with this amendment. Constitutional rights should be equally available to all, and until the Constitution itself is changed in this regard, this right should not be available to some, but not available to others. At the appropriate time I shall offer a motion to table. I am not offering this motion to table because I am for or against abortion.

I have not come to any definite conclusion with respect to that issue in my own mind. I mentioned earlier in my remarks that extensive hearings are still going on in the Subcommittee on Constitutional Amendments, and I shall await at least the outcome of those hearings and whatever floor debate may ensue from that before making a decision on this very important matter.

I have extremely strong reservations about the detail with which the Supreme Court handed down its decision overruling the Georgia and Texas abortion statutes. I think the Supreme Court decision was legislative in nature and that it should have been left to a legislative body such as this Congress to determine the details of what would constitute a reasonable abortion law. Nevertheless, the Supreme Court has handed down a decision in some detail, and that decision does afford women throughout this Nation the right to abortion under certain specified circumstances.

I am supporting this motion to table the amendment of the Senator from Oklahoma because to deny the use of medicaid for abortions effectively denies the right of abortion to the poor, and to the poor alone. This amendment would affect no one who could afford to pay a private physician for an abortion. It would affect only those who suffer from economic want. To consider such an amendment in connection with a piece of legislation that is supposed to be for purposes of equalizing the availability of the rights and benefits of our society is, in my opinion, totally inappropriate.

The broad policy objective behind HEW legislation is equalization. The policy effect of this amendment is discrimination. This amendment should be tabled.

I thank the Senator from Washington for yielding to me this time.

The PRESIDING OFFICER. Who yields time?

Mr. BARTLETT. Mr. President, I yield to the distinguished Senator from Nebraska.

Mr. CURTIS. I thank my distinguished colleague from Oklahoma.

Mr. President, I shall support the amendment offered by the distinguished Senator from Oklahoma. As a matter of fact, it is the only remedy available. No argument can be made that this is not appropriate. There is no way that a legislative committee could bring in a bill that would set aside the act of the Supreme Court. The only thing left for Congress to do is to deny funds in order to stop use of abortion under Government programs.

This amendment is not only right and proper but it is the only way available. It is not legislation on an appropriation bill. It is merely a limitation on funds. It has been repeatedly held that an amendment to an appropriation bill which denies the use of the funds for certain purposes is in order.

ORDER OF BUSINESS

Mr. CURTIS. Now, Mr. President, I ask unanimous consent that I may proceed for the remainder of my time out of order.

The PRESIDING OFFICER (Mr. Helms). Without objection, it is so ordered.

TRADE BILL

Mr. CURTIS. Mr. President, it is extremely important that the Senate pass without further delay the trade bill. It is impossible for the U.S. negotiators to proceed with this important subject without the authority that is to be granted in the pending trade bill, which has already passed the House of Representatives.

Expanded trade means a great deal to the economy of our country. It is of vital importance to our entire population and it is of great importance to agriculture. The one bright spot in reference to our trade balance has been the high level of exports of agricultural products.

The wrongful attitude of a small segment of the business community is delaying action on the trade bill. This group is pressing for a bill that would confine our negotiations to a sector-by-sector approach. Our negotiations should not be so limited. The negotiators representing the United States should be able to negotiate across the board. It should be approached in an integrated way. The sector-by-sector approach means that negotiations concerning a certain product or a group of similar products will be limited to the same product, or a group of similar products produced by the other country. This narrow view is not conducive to expanded trade. It is protectionist and isolationist in character. Those business entities pressing for this should not have their way in the legislation.

In criticizing certain companies for their dog-in-the-manger attitude toward the trade bill, I do not wish to criticize all of the companies in these particular sectors of our economy. Among the concerns which are the offenders are found some, not all, of those who are engaged in the manufacture of electrical generating equipment and related items; some, not all, of the steel and iron sector; and some, not all, of the companies engaged in chemical manufacture.

I can cite an illustration showing the need for across-the-board bargaining. The European Economic Community restricts a great many of the agricultural exports from the United States. This is unfair to our whole economy and it injures both our balance of trade and our balance of payments. With a sector-by-sector approach the United States is very limited in what it can do to eliminate these barriers of the European Economic Community. The United States needs to be able to say to these European nations that unless these agricultural barriers are eliminated or materially lessened, we will have to consider barriers in reference to Volkswagens coming into the United States. The across-the-board bargaining can then become effective.

Mr. President, I appeal to the Senators for a quick advancement of the trade bill legislation and that our negotiators be granted the broad authority to negotiate across the board in the interests of our total economy.

Mr. President, I yield back the remainder of my time.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1975

The Senate continued with the consideration of the bill (H.R. 15580) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1975, and for other purposes.

Mr. BARTLETT. Mr. President, I thank the distinguished Senator from Nebraska for his remarks on this amendment and I wish to express to him thanks for making them and for his support.

I would like to say to the distinguished chairman that I do know that his committee has looked into this matter in depth and has had hearings, comments from the citizenry across the country, and that in the strong thinking and emotional thinking that has been expressed, there are many thoughts, many different ideas about this matter of abortion.

But this amendment, I would say to the distinguished chairman, faces very directly the problem of whether or not we shall finance abortions in this bill.

I would appreciate the distinguished chairman's attention because this amendment is very direct in dealing with the financing that exists in this law in this bill.

The amendment proposes to disallow financial support for abortions, so I think it approaches it head on, it does not duck the issue at all.

I think to not consider this amendment is then just not to consider the question of whether there shall be Federal financing of abortions, or not.

Now, the distinguished Senator and my good friend from Maine discussed the wording of the amendment in which it uses the words "directly or indirectly" and it says that no part of the funds appropriated under this act shall be used in any manner directly or indirectly. There is a reason for that.

As I understand it, at the present time, none of the Federal funds available in this act are used directly by the Federal Government for abortions, but they might be in the future. It is for that reason that the word "directly" is used.

But there are 14 or 15 States that indirectly today are utilizing these funds for abortions and it is the purpose of this amendment to make certain that those indirect funds are cut off.

In addition, the amendment accepts such abortions as are necessary to save the life of a mother, which presumably would be one of the other reasons for it being considered in this legislation, but, certainly, I think most people would feel that this would improve it regardless of which side of the abortion question they were on.

So I think the amendment does deal directly with the question of financing abortions by the Federal Government. As far as I know it is the only way that we can deal with that because this is the bill that provides that financing, and so it proposes to disallow that financing.

My distinguished friend from Maine mentioned that in a short period of time after this debate we will be voting on a very important matter on which there are many differences of opinion across the country. I would cite for him that there are doubts in many people's minds about whether or not life exists in the fetus for the first 3 months, or 6 months, or for that matter until birth takes place.

But the Supreme Court ruled that we need not resolve this difficult question and so they did not rule on the question of whether life exists in the fetus, and because of that doubt I think it is certainly the most sensible way to proceed, that is, to consider that we should not permit abortions since there is a doubt as to whether or not we are dealing with a human life.

As long as that doubt exists, I think that we are following a very questionable path in supporting funds for the financing of abortions where human life may be involved, according to the Supreme Court, and, in the opinion of many, many others, where it very definitely is involved.

Mr. MAGNUSON. Will the Senator yield on my time?

Mr. BARTLETT. Yes, I yield to the Senator.

Mr. MAGNUSON. I want the record to be clear, we did not hold hearings on the specific question of abortions, as such.

Mr. BARTLETT. I thought we had, I am sorry.

Mr. MAGNUSON. We were holding hearings on part of the HEW bill and public witnesses came in and directed themselves to the item called family planning, which is a program in the bill, and gave testimony that some of the people administering family planning were encouraging abortions. We also heard items in the bill pertaining to medicaid, research, and social services, that relate to this issue. We have no testimony that Federal funds were being used at any time to perform an abortion.

We countered that the intent of family planning was just what it meant and did not mean to go into the question of abortions, but we said we would look into it.

I just wanted to clear that up.

Mr. BARTLETT. It is my understanding, Mr. Chairman, that there are funds provided in this bill that are going to the States, at their wish, 14 or 15 States are exercising that right, and so the Federal funds are being used.

Now, if those Federal funds are not cut off, then presumably at least the 14 or 15 States will use Federal funds in counseling and in paying the doctors' fees for abortions; is that not correct?

Mr. MAGNUSON. But I say, we did not go into that specifically. Most of this money goes to the States and is subject to State laws and State administration. That is all we went into in this hearing. I do not know all about what some of the States have been doing.

Mr. BARTLETT. Mr. President, I suggest that since the committee did not have the hearing on the abortion aspects of the money available to the States for abortions, that it would be proper and wise for this amendment to be passed so that this money will not be used for abortions, particularly because this area has not been studied. I think that it is very obvious that the Federal moneys provide an incentive for the States to engage in abortion practices that they might not otherwise do, because of the financing that is readily available in this bill. It is available to all the States. But to my knowledge it is only being utilized by some 14 or 15 States.

Mr. President, the question is: Should the Federal Government, through the States, aid and abet a mother because of her desire not to have an unwanted child or for convenience, or for her health, for her comfort, for her education, or her employment, or for other reasons, to exercise her legal power of life over her unborn child?

Two hundred years ago our Nation declared that all men are created equal and this included the unborn fetus. Now we have gone to the other extreme, that some human beings, pregnant mothers, have the legal right to determine whether another human being, her unborn child, continues to live.

I think that these two principles cannot stand together. Whoever holds to one must despise the other.

In making this vote, we should be reminded of what President Lincoln said, that our ultimate defense "is the preservation of the sapirit which prizes life as a heritage of all men."

To hold that life has only relative value and not absolute value is to advance the Machiavellian philosophy that the end justifies the means, an expedient belief that has received growing American popularity and support in the past decade.

My friend from Maine said that he opposes this amendment because he does not want to discriminate against the poor. I feel that this law without the amendment, and the existing laws that provide financing for abortions by making moneys available to the States, are discriminating against the unborn.

I think that they are discriminating also against the poor. My amendment advocates the right of the fetus of the poor woman to live, to life. So I think it advocates a right that any living human being wants and desires.

I recognize the constitutional right that exists for a person, a pregnant woman, under certain conditions to have an abortion. But I think that this law that I am trying to amend is the one that discriminates against the poor.

I would certainly suggest to the chairman, that his committee have hearings on this matter, and that he support this amendment.

The PRESIDING OFFICER. The time of the Senator from Oklahoma has expired. Who yields time?

Mr. MAGNUSON. I will yield a couple more minutes, if he wishes, on my time.

Mr. BARTLETT. Could I have about a half a minute?

Mr. MAGNUSON. Certainly.

Mr. BARTLETT. I thank the distinguished chairman from Washington.

I would suggest to the distinguished chairman that there be hearings and he support this amendment so that actions that are taken in the future by this body upon the recommendation of the committee can be based on facts obtained by hearings in depth.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. I yield to the Senator from Maine such time as he may wish.

Mr. HATHAWAY. I thank the Senator from Washington.

I need only a couple of minutes on the points the Senator from Oklahoma has made. He mentioned, and I think the Senator from Nebraska mentioned also, that it was not legislation in an appropriation bill. I do differ with him in that respect, in that if it required only an administrative act, then it would not be legislation. It would simply be a limitation on an appropriation bill. Obviously, the words "indirectly" and "encourage" necessitate a judgmental determination by the administrator of the funds and, consequently, require more than just an administrative act.

I do not know whether the word "indirectly" would apply to some woman who gets a salary under this act to use any part of her salary for the purpose of obtaining an abortion, whether that would be covered or not. The word "indirectly" is a very broad word. I suppose on the face of it that interpretation would be justified.

Second, the word "encourage" is one that covers a very broad range of actions, such as a consultation service where a person suggests to the person who asks for the consultation that an abortion might be something that that person should consider. Is that encouragement or is that just advice?

Furthermore, I appreciate the argument that the Senator from Oklahoma makes in regard to the right to life. But the Supreme Court has already ruled on that. Even though the Senator from Oklahoma says there is no mention in the opinion about when, in the Supreme Court's mind, life begins, the Supreme Court nevertheless has said that abortions are legal under certain circumstances.

To paraphrase the opinion, I think it says in the first 3 months at the will of the individual woman, the second 3 months of pregnancy with the advice of her physician, and in the last 3 months only to save the life of the mother. Sub silentio, at least, it has considered the question that the Senator from Oklahoma raises.

Although I may very well vote with the Senator from Oklahoma when we finally get a resolution for a constitutional amendment here on the floor to outlaw all abortions, the fact of the matter is that today abortions are legal under those circumstances. By eliminating funds from this bill for that purpose we are, as I mentioned earlier, taking that privilege, that right, away from poor people.

The HEW appropriations bill is designed to equalize, and the Senator's amendment would discriminate.

I thank the Senator from Washington.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, we have no further speakers. I would be glad to yield back the remainder of my time, or yield to the Senator from Maine to present his motion.

Mr. HATHAWAY. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATHAWAY. Would a motion to table be appropriate at this time?

The PRESIDING OFFICER. The motion would be in order if the Senator from Washington yields back the remainder of his time.

Mr. MAGNUSON. I yield to the Senator from West Virginia.

ORDER FOR VOTE ON SENATE RESOLUTION 394 ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared on the other side of the aisle.

Under the order previously entered, on Thursday, at the hour of 12:15, a vote was to occur at the conclusion of debate on Senate Resolution 394. I ask unanimous consent that at the hour of 12:15 on Thursday the Senate proceed to the debate on the motion to invoke cloture; that one-half hour of the full 1 hour be then used, and that a vote occur at 12:45 on Senate Resolution 394. That at 1 p.m. the remaining one-half hour under the rule for debate on the motion to invoke cloture begin running; that at 1:30 p.m. the automatic quorum under rule XXII be called; and that the vote on the motion to invoke cloture occur immediately upon the establishment of the quorum.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That on Thursday, September 19, 1974, the Senate proceed to debate S. 707, the so-called "Consumer Protection Agency Act," from 9:30 a.m. until 11:30 a.m., at which time the Senate will begin consideration of S. Res. 394, disapproving the alternative plan for pay adjustments for Federal employees, and debate thereon will continue until 12:15, at which time the Senate will proceed to debate the motion to invoke cloture on S. 707 for ½ hour, at the end of which (12:45 p.m.) the Senate will proceed to vote on S. Res. 394. Immediately following this vote, there will be another ½ hour of debate on the motion to invoke cloture on S. 707. Under Rule XXII there will then be a quorum call, followed by a vote on the adoption of the motion to invoke cloture. (Sept. 17, 1974)

ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the following Senators be recognized for not to exceed 5 minutes each and in the order stated: Senator NUNN, Senator BARTLETT, Senator CHILES, Senator DOMENICI, and Senator HUDDLESTON.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1975

The Senate continued with the consideration of the bill (H.R. 15580) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1975, and for other purposes.

Mr. MAGNUSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair advises the Senator that the motion has not been made.

Mr. HATHAWAY. Mr. President, I move to table the pending amendment.

Mr. MAGNUSON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Oklahoma. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. TALMADGE (when his name was called). On this vote I have a pair with the junior Senator from Ohio (Mr. METZENBAUM). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

Mr. BEALL (after having voted in the negative). On this vote I have a pair with the Senator from New York (Mr. JAVITS). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Arkanas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from California (Mr. TUNNEY), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Wisconsin (Mr. NELSON) is absent on official business.

I also announce that the Senator from Ohio (Mr. METZENBAUM) and the Senator from Connecticut (Mr. RIBICOFF) are absent because of Jewish holy day.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. COOK), the Senator from Colorado (Mr. DOMINICK), the Senator from New York (Mr. JAVITS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Illinois (Mr. PERCY) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The result was announced—yeas 34, nays 50, as follows:

[No. 400 Leg.]

YEAS—34

Abourezk
Aiken
Baker
Brooke
Burdick
Case
Chiles
Clark
Cranston
Fong
Hart
Haskell
Hathaway
Hollings
Humphrey
Inouye
Jackson
Kennedy
Magnuson
Mathias
Mondale
Moss
Packwood
Pearson
Pell
Scott, Hugh
Scott,
  William L.
Stafford
Stevens
Stevenson
Symington
Taft
Weicker
Williams

NAYS—50

Allen
Bartlett
Bellmon
Bennett
Bible
Biden
Brock
Buckley
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Church
Cotton
Curtis
Dole
Domenici
Eagleton
Eastland
Ervin
Fannin
Goldwater
Griffin
Gurney
Hansen
Hartke
Hatfield
Helms
Hruska
Huddleston
Hughes
Johnston
Long
Mansfield
McClellan
McClure

McGee
McGovern
McIntyre
Metcalf
Montoya
Muskie
Nunn
Pastore
Proxmire
Randolph
Roth
Schweiker
Stennis
Thurmond
Young

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Talmadge, against.
Beall, against.

NOT VOTING—14

Bayh
Bentsen
Cook
Dominick
Fulbright
Gravel
Javits
Metzenbaum
Nelson
Percy
Ribicoff
Sparkman
Tower
Tunney

So the motion to table Mr. BARTLETT's amendment was rejected.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

Shall we now proceed to vote on the amendment itself?

The PRESIDING OFFICER. That is correct.

Mr. MAGNUSON. As modified?

The PRESIDING OFFICER. That is correct.

Mr. MAGNUSON. I make this suggestion: if it is agreeable to the Senator from Oklahoma, as long as we are trying to move fast on a money bill—this is supposed to be a money bill, but apparently it is getting to be more of a legislative bill—as long as the vote was conclusive, it seems to me that we can save time by not having a rollcall, and having a voice vote on the amendment as modified.

Is that all right with the Senator from Oklahoma?

The PRESIDING OFFICER. All time for debate on the amendment has expired.

Mr. AIKEN. Mr. President, how was it modified?

Mr. MAGNUSON. It was modified by the amendment of the Senator from Oklahoma.

May we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MAGNUSON. I was suggesting to the Senator from Oklahoma and the rest of the Senators that we are trying to move along and get this so-called money bill out of the way, but it is not shaping up that way.

I was thinking that, as long as the vote was so overwhelming in favor of not tabling the amendment of the Senator from Oklahoma, which we now have to vote on, we could have a voice vote and get it over with.

Mr. BARTLETT. Will the distinguished Senator yield?

Mr. MAGNUSON. I yield.

Mr. BARTLETT. I certainly understand his problem on time.

Will the distinguished chairman work for this amendment in the conference committee? Will he advise me now that he will see that this stays in, or use every effort that is available to him in that respect?

Mr. MAGNUSON. The Senator from Washington makes it a practice to try the best he knows how in conference to uphold the will of the Senate.

The PRESIDING OFFICER. Debate is not in order. The question is on agreeing to the amendment (No. 1859) of the Senator from Oklahoma.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it, as soon as the Senate is in order. The Senate will be in order. The Senator cannot be heard, by the Chair, at least.

The Senator may proceed.

Mr. MAGNUSON. As I understand it, the Senate will now proceed to a further amendment of the Senator from Nebraska (Mr. CURTIS), relating to occupational safety and health, the OSHA appropriation. Is that correct?

The PRESIDING OFFICER. The Chair would advise the Senator that that can be done by unanimous consent, but that under the previous order, the committee amendment is next in order.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Nebraska may offer his amendment at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. I ask unanimous consent that there be a time limitation of 10 minutes on the Curtis amendment, to be equally divided between the sponsor of the amendment and the manager of the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Will the clerk state the amendment, so Senators may have a chance to hear it?

Mr. CURTIS. Mr. President, I send to the desk my amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment as soon as the Senate is in order. Senators will take their conversations to the cloakroom, or take their seats.

The clerk may proceed.

The second assistant legislative clerk read as follows:

> On page , line , insert the following: "None of the funds appropriated by this Act shall be expended to pay the salaries of any employees of the Federal Government who inspect firms employing 10 or fewer persons to enforce compliance with the Occupational Safety and Health Act of 1970."

Mr. CURTIS. Mr. President, we have agreed to 5 minutes on the side. I will try to state the matter concisely.

This amendment is to deny funds for the enforcement of OSHA as to business where 10 or fewer persons are employed.

Let me call the attention of the Senate to a little history of this act. Three long years ago, I stood in this Chamber and begged for the adoption of an amendment to exempt small business. At that time, those opposing the amendment suggested a chance to have the law amended by the legislative committee.

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order. Senators are asked to take their conversations to the cloakroom.

The Senator from Nebraska may proceed.

Mr. CURTIS. The distinguished chairman of the Committee on Labor and Public Welfare said:

> It is clear from my mail and from my discussions with operators of small enterprises that one of the chief causes of their concern about the act is the lack of adequate and accurate information regarding its requirements and the regulations issued to implement it.

The distinguished Senator from Washington (Mr. MAGNUSON) said:

> The point I am trying to make is that the legislative committee surely ought to see that the law gives some period of grace so that a person could take time to fix anything that might be in his plant or workshop or in his little business establishment and give him time to do it, because he may not even know he is violating a law.

The distinguished Senator and former Governor of Rhode Island (Mr. PASTORE) said this:

> I was surprised in the colloquy between the Senator from New Jersey and the Senator from Washington to learn that an inspector can come in and it is his sole judgment to say whether or not there will be prosecution. It seems to me that is a tremendous police power given to one individual. Why would not the proper method be to have the inspector go in and tell the man what the safety regulations are so the man does not have to read 20 or 30 books? Let the burden be on the Government to come in and say, "Your business hires only 10 people. You have here and there some minor violations. That is wrong and that is wrong. Fix it up. I will give you 30 days to do it and if you do not we will bring an action." This procedure we have now is almost entrapment. A man is in compliance with the State law but it does not conform to the Federal law. So the man is brought into Federal court charged with a Federal offense for endangering the safety of people who work for him. It seems to me that is the wrong way to go about it.

Senator PASTORE further remarked:

> So much jurisdiction could be given to the inspector with respect to whether to prosecute or not that I do not think it is a good law, it puts too much power in the hands of one man. That is a police state atmosphere.

The distinguished chairman of the Committee on Public Works, Mr. RANDOLPH, said:

> These problems in the administration of the Occupational Safety and Health Act can be solved.

Then he went on to say:

> I ask the chairman—and I am a member of his committee and serve under him and with him—are we not prepared to move affirmatively in this area in an all-out effort to find solutions to the problems to which the pending amendment is directed?

And the distinguished chairman of the Committee on Labor and Public Welfare, the Senator from New Jersey (Mr. WILLIAMS) said:

> The answer is unquivocal. Yes. We are prepared and we are going to do it.

That was 3 long years ago. We have to beg for hearings. We bring in citizens, small businessmen, who tell of the abuse and the harassment that they receive under this act. After they finish, someone smiles and thanks them for their helpful contribution, and 3 long years go by, and the tyranny, the un-American system of allowing some one inspector to be inspector, prosecutor, jury, and judge goes on.

Now we are asking, not for a permanent small businessmen's exemption, but a temporary one. It would run for the period of this appropriation, until next July.

The PRESIDING OFFICER. The Senator's 5 minutes have expired. Who yields time?

Mr. WILLIAMS. Mr. President, will the chairman yield me 2 minutes?

Mr. MAGNUSON. I yield the Senator from New Jersey such time as he may require.

Mr. WILLIAMS. As chairman of the Committee on Labor and Public Welfare, I made statements that we would have hearings, that the experience under the OSHA Act would be described before us in hearings. We have had several hearings, and we have one more hearing scheduled.

Let me just say that the whole Nation had an opportunity to come in and give its judgment on the effectiveness, the right, the wrong, of the OSHA Act. Out of those hearings, we had a unanimity of view that exempting employers because of the number of employees they had was absolutely wrong, and it would be unwise in every possible way.

I will say this, that we have had the testimony not only of individuals but insurance companies, unions, the National Association of Manufacturers, the Associated Builders and Contractors, Associated General Contractors, the Chamber of Commerce, and all of these great organizations that are deeply involved with industry in this country uniformly opposed any exemption of coverage of the act or the enforcement of the act on the basis of the number of employees in the company.

The only testimony that we had that favored the Curtis exemption in this case was the Farm Bureau Federation. That was the only institutional support this idea has had, and for very good reasons. If the money is not there to enforce the act in effect the act does not cover, and when we cut it down to an exemption at 10 that means that 83 percent of the work places of the land would not be reached by this act in its enforcement and 20 percent of the workers of the country and, therefore, it would really be saying, "There is a law that covers but you do not have to obey it because there will be no enforcement reaching these establishments."

Mr. CURTIS. Mr. President, will the Senator yield for a brief question?

Mr. WILLIAMS. Yes.

Mr. CURTIS. Has the Senator's committee ever reported any amendment, except the recommendation of Senator DOMINICK, on any subject in reference to OSHA since the commitment was made to do so some 3 years ago?

Mr. WILLIAMS. The answer is the substance of the amendment that we would have brought on is right here in this well-fashioned bill before us before the Appropriations Committee, and the money has been there earmarked, $5 million, for the new element that everybody supported, and that is the opportunity for consultation. Businesses can know what is required of them, how to do it, and they can do it before the inspector gets there to see whether they have done it. So the $5 million is there for consultation. The Committee on Labor and Public Welfare is favorable to this. It is already here in this bill.

Mr. CURTIS. As I understand the Senator, there is some money in this bill to inform people about the law. But my question was has the Senator's committee ever recommended any changes in the basic law?

Mr. WILLIAMS. On this business of exemption?

Mr. CURTIS. On any part.

Mr. WILLIAMS. No.

Mr. CURTIS. All right.

Mr. WILLIAMS. The exemption has been thoroughly discussed in committee. I think the committee is unanimous in opposition to an exemption.

The Senator from Colorado (Mr. DOMINICK), second ranking on the committee—and I do not see him here now—I know he has led our committee in its discussions favorable to consultative services which we all support, and against exempting companies because of the number of employees they have.

Mr. CURTIS. Mr. President, if the Senator will just yield further briefly—and I appreciate his great kindness—I want to point out that we are here pressing for an exemption not because it is the ideal solution but because of the refusal of the committee to report out any legislation to change the law.

Mr. WILLIAMS. The only approach that I know of that the Senator from Nebraska has taken——

The PRESIDING OFFICER. All time has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senators have 2 more minutes, 1 to the Senator and 1 to the Senator from Vermont (Mr. AIKEN).

Mr. WILLIAMS. The only thing I know of the Senator from Nebraska has advanced is this exemption in terms of the number of employees, and the consultation services, I believe, are also another change that he would support. Consultation, as I say, is in this appropriation bill. The exemption has had uniform rejection across this land from all of the witnesses we have heard.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield time to the Senator from Vermont.

Mr. AIKEN. I have a question to ask of the Senator from New Jersey. If the Curtis amendment is not carried the conferees can choose any number between zero and 25 for exemption purposes, is that correct?

Mr. MAGNUSON. That is correct.

Mr. WILLIAMS. There are no exemptions under the bill.

Mr. AIKEN. Does the Senator mean under the House bill or under the Senate bill?

Mr. WILLIAMS. Well, it is an item that can go to conference.

Mr. CURTIS. Mr. President, will the senior Senator from Vermont yield? The answer to that is "yes." But I would like to point out that the distinguished chairman of the Committee on Labor and Public Welfare is totally misinformed.

I have sent several amendments in; I have submitted a number of amendments and they all deal with OSHA.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

Mr. CURTIS. Mr. President, I ask for the yeas and the nays.

The yeas and the nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Wisconsin (Mr. NELSON) is absent on official business.

I also announce that the Senator from Ohio (Mr. METZENBAUM) and the Senator from Connecticut (Mr. RIBICOFF) are absent because of Jewish holy day.

I further announce that, if present and voting, the Senator from Ohio (Mr. METZENBAUM) and the Senator from Connecticut (Mr. RIBICOFF) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. COOK), the Senator from Colorado (Mr. DOMINICK), the Senator from New York (Mr. JAVITS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Illinois (Mr. PERCY) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) and the Senator from New York (Mr. JAVITS) would each vote "nay."

The result was announced—yeas 30, nays 56, as follows:

[No. 401 Leg.]

YEAS—30

Baker
Bartlett
Bellmon
Bennett
Brock
Buckley
Byrd, Harry F., Jr.
Cotton
Curtis
Dole
Eastland
Ervin
Fannin
Goldwater
Griffin
Gurney
Hansen
Helms
Hollings
Hruska
McClellan
McClure
McIntyre
Nunn
Pearson
Scott, William L.
Stennis
Talmadge
Thurmond
Young

NAYS—56

Abourezk
Aiken
Allen
Beall
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Domenici
Eagleton
Fong
Hart
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Jackson
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
Mondale
Metcalf
Montoya
Moss
Muskie
Packwood
Pastore
Pell
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Weicker
Williams

NOT VOTING—14

Bayh
Bentsen
Cook
Dominick
Fulbright
Gravel
Javits
Metzenbaum
Nelson
Percy
Ribicoff
Sparkman
Tower
Tunney

So Mr. Curtis' amendment was rejected.

ORDER FOR H.R. 15173 TO BE HELD AT THE DESK

Mr. MANSFIELD. Mr. President, before the Senator from Nebraska is recognized, I ask unanimous consent that H.R. 15173, to extend for 1½ years the authority of the National Commission for the Review of Federal and State Laws on Wiretapping and Electronic Surveillance, and for other purposes, be held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 17, 1974, he presented to the President of the United States the enrolled bill (S. 3052) to amend the act of October 13, 1974.

SENATOR ROBERT C. BYRD ON THE "TODAY SHOW," SEPTEMBER 9, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there appear in the Record a transcript of the "Today Show" on September 9, during which program I appeared as a guest.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

Transcript of the "Today Show," NBC-TV

Bill Monroe. Senator, you have indicated that you don't agree with President Ford's action in pardoning former President Nixon. What are your chief reasons?

Senator Byrd. I think that the matter of leniency would have been better left to the trial judge. In the first place, there hasn't even been an indictment. And even if there had been an indictment, there has been no conviction. A trial jury may have acquitted Mr. Nixon. And even if a jury had convicted him. I think that this is a matter that more properly comes within the province of the trial judge. There is no question but that the President has authority to do this. But why the rush? Why the necessity for doing this now, especially in view of the fact that only a few days ago he told the American people that the judicial process would be allowed to work its will and he would not make a commitment until that time. I think the fact that he has done this now hurts his believability.

Bill Monroe. Senator, the polls have indicated that many people in the country have felt that 'Can't we get this Watergate business over with, get it behind us', and the President laid some stress on that yesterday. He said it could 'go on, and on, and on, unless somebody stops it; and I'm in a position to stop it.' Might not President Ford's action have the effect of putting the whole thing behind the country?

Senator Byrd. I don't think this stops it. It was off the front pages of the newspapers, and now it's back on the front pages. And Mr. Ford went into office in an atmosphere in which the American people all wanted him to succeed. And he had believability—that was his greatest asset. They were forgetting about Watergate, and leaving it to the judicial process. They were more interested in getting on with other issues like inflation. But his action puts Watergate back on the front page. It opens it all up again, and whereas the need for Mr. Ford, it seems to me, was, in the main, to restore faith in government—and he was well on his way—now this just goes in the opposite direction. This whole business—this lack of faith in government—has now been revived.

Mr. Monroe. But aren't there a lot of future news stories that have now been cut off—possible news stories to the effect that the former President has been indicted, maneuverings over a trial, legal maneuverings leading up to a trial of the former President himself, than a trial in which the President himself might have been a defendant? Wouldn't all those news stories be cut off by this action?

Senator Byrd. I don't think that is the important thing. The important thing is that the system—that the young people of this country, and all the people of this country, have faith in the system. We have been told since I was a child that no man is above the law. But now it has been demonstrated that, indeed, there is someone who is above the law. I think that goes to the core of the whole thing: the credibility of the system. And I think President Ford's action is injurious to the system.

Mr. Monroe. President Ford put great emphasis also on sympathy for Mr. Nixon. He talked about this matter hanging over the former President's head; it threatens his health; the fact that he and his family, as President Ford put it, have suffered long enough. Are these not legitimate factors?

Senator Byrd. There is no question but that the President has suffered. I don't want to see any President in jail. But he brought his troubles upon himself. He could have ended some of his suffering by resigning two years ago. His taped conversations with Mr. Haldeman show that he was in on the coverup as early as six days after the burglary. Yet, he stonewalled the American people for two years and two months before this came to light—and, it came to light only then, under pressure from a court order that went against him. Now, it is true he gave up his job; but a public office is a public trust. He was entrusted to this job by the American people. He betrayed their trust; he misled them, and has admitted that he misled them. In so doing he forfeited his office. So, what has he really given up? The President of a corporation, if he embezzles the funds of the stockholders, is going to have to give up his job. He suffers; his family suffers. But no one would suggest that the prosecution not go forward simply because he gave up his job. What about all these other people who gave up their jobs, and who are in jail or on their way to jail because they took orders from Mr. Nixon? Their families have also suffered. Their careers have also been destroyed. Yes, the President has suffered. But the American people have also suffered. Everyone who is viewing this program right this minute has suffered because of Mr. Nixon's stonewalling the American people, his misleading the American people, his concentrating on how to "cut the losses" and how to save himself, while the great problems like inflation, the energy shortage, and so on and so on, went to pot because of inattention by his Administration. We have all suffered. The system has suffered. I don't think that the fact he may have suffered is justification for this action.

Barbara Walters. Senator, I'd like to ask you not about the past, which can't be changed, but about the future. We saw at the time of the impeachment hearings Senator Brooke proposing that there be an act of Congress—and this was just after the President's resignation—to give the sense of Congress as to the future of Richard Nixon. Senator Javits talked yesterday about he was sorry that this wasn't handled in the courts, and that there would be some feeling as to the sense of Congress, to perhaps advise President Ford and to give him some idea as to how the country felt. I would like to ask, for the future, should, or perhaps, can Congress pass a new law so that this kind of confusion cannot happen again, and so that we would have some more distinctive policy on what happens during an impeachment process such as this?

Senator Byrd. I think the laws already on the books are probably ample, if they were adequately enforced. Moreover, Congress is well on its way to passing campaign reform, which would have some considerable impact on the election process, and help to prevent acts of this kind in the future. But I think the fact that the former President has been pardoned at this juncture sets a bad precedent, and certainly is not conducive for avoiding a repetition of Watergate in the future.

Jim Hartz. Senator, the pardoning power of the President does not include impeachment. Is the Congress inclined to take that matter up again?

Senator Byrd. The House could still impeach, even though the President has resigned. It did that in the case of Secretary of War Belknap in 1876, and the Senate even proceeded to try him—and acquitted him.

Mr. Monroe. After he had resigned.

Senator Byrd. Yes. It could do that in this case, but I don't think it is realistic to believe that it will.

Mr. Hartz. Let me ask you this: there was some talk in the *New York Times* among some of the former President supporters in California, one urging him to get involved in Republican politics out there and perhaps running against Senator Tunney. What would the reaction of the Senate be if the former President were re-elected and presented his credentials to the Senate?

Senator Byrd. If he were elected by the people of California to the Senate, I suppose there would be some question raised in the Senate. Any Senator could raise the question. The Senate is the judge of the qualifications of its own members, and the judge of the elections of its members. But that's a bridge we ought to wait to cross until we get to it, and I doubt that we'll ever have to.

Mr. Monroe. Do you anticipate any challenge at all to the right of the President to issue the pardon he has?

Senator Byrd. No. No. He clearly has the right to do this. But I can't see the necessity for his action at this point.

Mr. Monroe. What will be the effect of this pardon? Will it change prospects for the '74 elections, or the '76 elections?

Senator Byrd. It seems to me that this action by President Ford identifies—even though in a tangential way—the Ford Administration with Watergate. He went into office clearly outside the purview of the taint of Watergate. But it seems to me that this relates, in a way, to Watergate. I think it has tarred him to some slight extent, at least.

Mr. Monroe. You think it hurts President Ford politically, and hurts the Republicans politically?

Senator Byrd. I think it hurts his credibility, his believability, and it must have an impact upon the Republicans. Here, they were in a situation where Mr. Ford was high in the polls, he was not associated with Watergate, and his great asset was believability; yet, now, he has done exactly the opposite of what he said he would do, less than two weeks ago. I think it revives this whole matter, exacerbates it, and, in the minds of the American people, it is going to identify Mr. Ford and his Administration with Watergate and Mr. Nixon all over again?

Ms. Walters. Do you feel that Mr. Nixon has no political future?

Senator Byrd. I can't see how he has any political future. One of the unfortunate things of this whole episode is that he hasn't been indicted; he hasn't been tried; he hasn't been convicted; yet, he has been pardoned. For what? For what offense? The record hasn't been laid open. He can go around the country and be a martyr. He can say he was driven out of office. I think this is the unfortunate thing—that the whole record probably will never be laid open.

Mr. Hartz. The Congress now has the power to set that record straight, do you not?

Senator Byrd. The Congress has the power to impeach and to convict. But I think that you have to be realistic about things. I just don't think that Congress now will do this.

Mr. Hartz. Why not?

Senator Byrd. The momentum has to some extent been lost, and I just think that Congress will not regain that momentum. Hopefully, at the trials—if they now come to pass—of Ehrlichman and Haldeman and some of the others, the President will have to lay some of the remaining portions on the record. And in this way it may yet be brought out.

Mr. Monroe. Senator Byrd, thank you very much for being with us this morning.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS ACT, 1975

The Senate continued with the consideration of the bill (H.R. 15580) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1975, and for other purposes.

Mr. CURTIS. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I ask unanimous consent that debate be waived by both sides.

Mr. MAGNUSON. Mr. President, if I am willing to waive debate, I will waive my time.

Mr. CURTIS. I just asked unanimous consent. The Senator may object if he wishes. I am trying to help him get his bill passed.

Mr. MAGNUSON. Mr. President, I will yield back the remainder of my time.

Mr. PASTORE. I object.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation not to exceed 5 minutes, to be equally divided between the sponsor of the amendment and the manager of the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The amendment will be stated.

The legislative clerk read the amendment as follows:

> On page , line , insert the following: "None of the funds appropriated by this Act shall be expended to pay the salaries of any employees of the Federal Government who inspect firms employing 5 or fewer persons to enforce compliance with the Occupational Safety and Health Act of 1970."

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. This amendment now drops the number of employees from 10 to 5?

The PRESIDING OFFICER. That is correct. Who yields time?

Mr. CURTIS. I yield back the remainder of my time, and I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MAGNUSON. I yield back the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered. The clerk will call the roll.

Mr. PASTORE. Just a moment.

Mr. MAGNUSON. I ask unanimous consent that the yielding back of my time be rescinded, and I yield that time to the Senator from Rhode Island.

The PRESIDING OFFICER. Is there objection? The Chairs hears none, and the Senator from Rhode Island is recognized.

Mr. PASTORE. Do I understand that if a family-owned store has two daughters, two sons, and a father who work in the store, they are supposed to have two lavatories, and when they go home they can use the same one? Is that what we are talking about? I would like to have this explained to me. I think this is all becoming a little mechanical. What does this amendment actually do? I think that the sponsor of the amendment ought to explain it.

Mr. CURTIS. Mr. President, I ask unanimous consent that the yielding back of my time be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Nebraska is recognized.

Mr. CURTIS. This amendment means that because of the failure of the legislative committee to pay any attention to any amendments that have been argued before that committee, that our only recourse is a temporary small business exemption.

So far as this amendment is concerned it means that someone who employs five or less is outside of the OSHA law because there will be no funds for enforcement.

Mr. PASTORE. Will the Senator yield?

Mr. CURTIS. Yes.

Mr. PASTORE. In my State, when I was Governor—which takes me back 25 years ago—we were just as much jealous of the safety and the comfort of our people who worked in shops as the Federal Government might be.

I have voted against all of the amendments that have been sponsored by the Senator from Nebraska, but there are many establishments in our country that are family run.

The big question here is: How far are we going to go with this intrusion by the Federal Government into a family enterprise which is satisfactory and supervised by the State?

When he gets himself down to five, I think we have an entirely different situation. Now we are talking about a family business.

We have a lot of little shops in my State where a man runs it, and he has his two daughters and his two sons who work with him. That is five people.

Some fellow from Washington is going to come down and say, "Now you have boys and you have girls. You are going to have a lavatory for the girls; you are going to have a lavatory for the boys. Yet when you go home, everybody goes to the same john." [Laughter.]

That is getting to be a little ridiculous. I think we have an entirely different situation at this point. I would like to sustain the Senator from Nebraska on this particular amendment. I am going to vote for it.

Mr. CURTIS. Thank you very much.

Mr. MAGNUSON. Is there a half-minute yet, Mr. President?

Mr. CURTIS. Have the yeas and nays been ordered?

The PRESIDING OFFICER. Yes.

Several Senators addressed the Chair.

The PRESIDING OFFICER. One minute remains.

Mr. MAGNUSON. Mr. President, I do not think Federal inspection under this bill is directed to the situation described by the Senator from Rhode Island at all. It is directed to the physical safety in work places where there may be some danger. It is not directed to the situation described by him. All the States have sanitary laws. I do not know of one that does not. They go around and inspect what the Senator from Rhode Island is talking about.

When we get down to exempting workplaces with 5 or less employees, you are still excluding 68 percent of all the workplaces in the United States from enforcement of the Occupational Safety and Health Act. You are also excluding 10 percent of all of the Nation's workers from the health and safety provisions of the act.

Mr. PASTORE. Will the Senator yield?

Mr. MAGNUSON. I am talking about safety matters. I never heard of the situation the Senator is talking about. I do not know who brought that up. We never had any testimony to that effect. We are talking about safety for workers, all workers.

The Senator mentioned earlier today about a meat market. Lack of safety would mean, for example, that a saw is so exposed that someone could be seriously hurt. Another example would be a situation where a ceiling might fall in.

Mr. PASTORE. That is not the way I heard it. These fellows from Washington walk in and they tell you you have to have two of them. You have to have one for the boys and one for the girls, even if they are members of the same family.

Mr. MAGNUSON. I never heard of that.

The PRESIDING OFFICER. All time has expired. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from Alabama (Mr. Sparkman), and the Senator from California (Mr. Tunney), are necessarily absent.

I further announce that the Senator from Wisconsin (Mr. Nelson), is absent on official business.

I also announce that the Senator from Ohio (Mr. Metzenbaum), and the Senator from Connecticut (Mr. Ribicoff), are absent because of Jewish holy day.

I further announce that, if present and voting, the Senator from Connecticut (Mr. Ribicoff), and the Senator from

Ohio (Mr. METZENBAUM), would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. COOK), the Senator from Colorado (Mr. DOMINICK), the Senator from New York (Mr. JAVITS), and the Senator from Texas (Mr. TOWER), are necessarily absent.

I also announce that the Senator from Illinois (Mr. PERCY), is absent on official business.

I further announce that, if present and voting, the Senator from New York (Mr. JAVITS), and the Senator from Illinois (Mr. PERCY), would each vote "nay."

The result was announced—yeas 42, nays 44, as follows:

[No. 402 Leg.]

YEAS—42

Abourezk
Baker
Bartlett
Bellmon
Bennett
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cotton
Curtis
Dole
Eastland
Ervin
Fannin
Goldwater
Griffin
Gurney
Hansen
Hatfield
Helms
Hollings
Hruska
Huddleston
Hughes
Mansfield
McClellan
McClure
McGovern
McIntyre
Nunn
Pastore
Pearson
Scott, William L.
Stennis
Talmadge
Thurmond
Young

NAYS—44

Aiken
Allen
Beall
Biden
Brooke
Burdick
Case
Clark
Cranston
Domenici
Eagleton
Fong
Hart
Hartke
Haskell
Hathaway
Humphrey
Inouye
Jackson
Johnston
Kennedy
Long
Magnuson
Mathias
McGee
Metcalf
Mondale
Montoya
Moss
Muskie
Packwood
Pell
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Weicker
Williams

NOT VOTING—14

Bayh
Bentsen
Cook
Dominick
Fulbright
Gravel
Javits
Metzenbaum
Nelson
Percy
Ribicoff
Sparkman
Tower
Tunney

So Mr. CURTIS' amendment was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President.

The PRESIDING OFFICER (Mr. ABOUREZK). The Senator from Idaho is recognized.

Mr. MAGNUSON. Now, Mr. President——

The PRESIDING OFFICER. The Senator from Idaho has been recognized.

Mr. McCLURE. Mr. President, I ask unanimous consent that my amendment may be in order at this time, with a time limitation of 10 minutes to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment.

The second assistant legislative clerk read as follows:

> On page 6, after the period on line 13, insert the following: "None of the funds appropriated by this Act shall be expended to pay for the enforcement of any penalty arising out of a violation of any duty, standard, or regulation under the Occupational Safety and Health Act of 1970 attributable to the non-compliance of an employee after such employee has been instructed with respect to the standard, duty, or regulation."

Mr. MAGNUSON. If the Senator from Idaho would yield to me just a half minute, I want the Senators to know, after this series of votes, that although the Senate bill has zero, the House bill still bars enforcement of OSHA at workplaces with 25 or less employees. Those who advocate the Curtis amendments have a chance to convince the House-Senate conferees of their position.

Mr. McCLURE. Mr. President, the amendment which has been reported by the clerk is intended to rectify one of the worst areas of the OSHA situation. While the act gives lipservice to the concept that safety is the result of a combined effort of both employer and employee, only the employer can be punished for a violation unilaterally caused by an employee.

For instance, the act holds that sometimes the wearing of a hardhat is necessary for safety. No one quarrels with that. But how much can an employer do to insist that such a hat be worn at the appropriate time and in the proper place? He can provide the hats. He can designate a convenient storage place for them. He can post rules and regulations in conformity with OSHA standards about the use of the hats. He can even go so far as to have these regulations read to his employees. But how, for heaven's sake, can he insist that the proper hat stays on the proper head at the proper time? Is he to behave like a mother with a baby, who reties the strings of his sunbonnet whenever they come undone?

There is nothing in this act which would prevent a single disgruntled employee from calling inspectors to his worksite and discarding his hardhat on their arrival. Under the act, as it is now written, the OSHA inspectors would have no choice but to fine the employer. The employer, in order to avoid such random fines, would be forced to think up, and pay for, something like a buzzer interlock system. But in order to have it work, the hat would somehow have to be chained to the employee. I do not think, given the recent vote in the Senate on auto interlocks, that the country is ready to lock its workers into their hats, but it is hard to see how otherwise, under the present system, an equitable solution can be reached.

If the system of automatic fining continues, we could well see a series of instant violations. Even the threat of such violations would constitute a sort of blackmail.

If, on the other hand, a man is really bound and determined to injure himself, there is no way, short of putting him in a padded cell, that we can stop him no matter what the law. A man's own life and his safety are, ultimately in his own hands. The law can punish him for carelessness if it must, but it has to recognize that it is he who is careless. The concept of individual maturity is basically complementary. It is like saying to an individual, "At this point you and only you are sovereign over yourself." Without such a dividing line, it would be perfectly logical for OSHA to insist that a man who had removed his hat was endangering his own health—an abnormal act. Perhaps OSHA would say that men who commit abnormal acts are unhappy and unhealthy mentally—and that the employer is somehow responsible for keeping a happy workplace and happy workers. If this seems like something from Wonderland, just remember that it is the logical outcome of the current legislation under which we are now operating. I ask Senators' votes that we may take this unfair and unwanted burden off the backs of the Nation's small businesses.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. McCLURE. I yield.

Mr. DOMENICI. I thank the distinguished Senator from Idaho.

First, I wish to say that I have not been voting for any of the exemptions, because I do not think the arbitrariness and unevenhandedness that I have found in OSHA's administration is in any way necessarily related to numbers. But I do not want anyone to construe my failure to vote for exemptions to indicate any kind of approval for what I have found to be an arbitrariness on the part of OSHA.

I rise in support of the Senator's amendment, even though I see some problems with it, because I have had occasion to visit with contractors who had a fullblown safety program just for OSHA, where they once a week trained their men involved in trench digging, to tell them precisely what the rules were, not in a passive way by putting up on a blackboard "This is what you are supposed to do," but by having one man responsible for training the ones out on the job. But I have seen them cited because, out on a job, a man failed to move an oil drum that is supposed to be 25 feet away from anything that is moving when passing by with a piece of equipment: I have seen them get out of the trench and cite the owner for that movement, even though he proved to them that he trained everyone at least once a week about the rules.

I think many of the regulations and enforcement policies are at the heart of why we are angry here today. It has nothing to do with numbers; it has to do with, for example, whether or not they are dealing fairly with the company because it is not a union company, or, on the contrary, unfairly because it is a union company. These points have to be looked at by someone, and the Senator's amendment says:

> At least be reasonable; if an employee intentionally violates a rule, knowing he is violating it, having been told what the rules were, it is really arbitrary to cite the owner of that company on the spot for a violation of the OSHA regulation.

Am I correct?

Mr. McCLURE. I would say to the Senator from New Mexico that it is intended to relieve the employer of the burden if the employer has done all that can reasonably be expected of him, and the employee knowingly violates the regulations. I submit that under those circumstances it is unfair and arbitrary to find the employer guilty of the violation with which he had had nothing to do.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WILLIAMS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. There are 5 minutes to the manager of the bill, of which there are 4 minutes remaining.

Mr. MAGNUSON. I yield the Senator from New Jersey such time as he may require.

Mr. WILLIAMS. Mr. President, there is no reason why the Senator from Idaho should be fully familiar with the OSHA enactment, particularly with the manual revised as recently as May of this year.

The substance of what is advanced by the Senator's amendment is now recognized as wise policy, and is now included in the manual of the OSHA agency.

In May 1974, OSHA revised its compliance operations manual to provide that the inspector will not issue a citation for failure to comply with a standard if all five of the following conditions are present.

The violation was caused by an employee's action.

The violation was an isolated incident not normally anticipated.

The violation was of short duration.

The violation was not participated in, observed by or performed with the knowledge of any supervisory personnel.

The employee's action was in conflict with a well-established company policy that is generally enforced through disciplinary action or other appropriate procedures within the company.

As I say, there is no reason why this detail of the manual should be known to the Senator, but I take this opportunity to read it, to show that he is correct in the reach of his amendment, and the agency itself feels that it has arrived at the same conclusion.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. McCLURE. I am happy to know of the change in the manual. That, of course, indicates another problem: the complexity of the manual. But I would say to the Senator that apparently some of the OSHA inspectors are not familiar with that section, either, or the reports that have reached my ears are erroneous, I know not which is the case.

Mr. WILLIAMS. If I were the Director of the agency, and had a regular monitor on the CONGRESSIONAL RECORD, I would see to it that this feature of the debate would be on the minds of all inspectors from tomorrow on out.

Mr. McCLURE. Mr. President, under the circumstances, and in relation to the full tenor of the debate in the Senate, and the unwillingness of the chairman to enter into this kind of substantive amendments, I ask leave to withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. MAGNUSON. Mr. President, will the Senator yield for 1 minute?

The PRESIDING OFFICER. Time on the bill has expired.

Mr. MAGNUSON. I accept the purpose of this amendment, and I will join with the Senator from New Jersey in his effort to see that this does not happen.

Mr. McCLURE. I thank the chairman very much.

Mr. THURMOND. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair reminds the Senator that it will require unanimous consent, because the committee amendments must be acted on first.

Mr. THURMOND. I shall not call up the amendment at this time, then. I will wait until they finish with the rest of the committee amendments.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

> On page 22, in line 7, strike out the words "thirty days" and insert in lieu thereof "three months".

Mr. RANDOLPH. Mr. President, Congress has declared it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality, regardless of race, color, religion, sex, national origin, or social class.

Although the American educational system has pursued this objective, it has not yet attained this goal. Inequalities of opportunity to receive high quality education remain in many areas. To achieve quality in education requires far more dependable knowledge about the processes of learning and education than now exists, or can be expected from present research and experimentation in the field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

It is for this reason that, in the Education Amendments of 1972, the Congress created the National Institute of Education. Among the long-range goals established for NIE was the mission to help solve or to alleviate the problems of, and promote the reform and renewal of American education. It was charged to advance the practice of education, as an art, science, and profession; and to strengthen the scientific and technological foundations of education.

It was felt that NIE could become the central agency in which all research and technological advances in education could be formulated and distributed throughout the educational system. The aim was to coordinate the fragmented research and development efforts of a number of Federal agencies as well as numerous private institutional entities. Admittedly, these goals are broadly defined and somewhat nebulous in execution. That is the nature of research.

We were warned back in 1972 that spectacular results would not be immediately forthcoming. Some who testified before our Senate Education Subcommittee stated that, much like the space effort, the spinoffs from educational research must be fully evaluated over a matter of years. Nevertheless, we were at that time determined to find out, in a manner applicable to all educational systems, why and how people learn, and how best to apply research techniques to practical teaching.

Mr. President, I submit that this is being accomplished in many areas today. I know from personal observation that the Appalachian Educational Laboratory, which covers an eight-State region where education has not kept pace with the national norm, is achieving splendid results in its programs of early childhood education and career training.

In 1972, there was authorized for the NIE a total of $550 million over a 3-year period to initiate a broad series of programs and studies to improve the quality of education. Actual appropriations were somewhat less. The 1974 appropriated level, for example, was $75.5 million. In this fiscal year, the administration budget request amounted to $130 million, but the House of Representatives appropriations bill reduced this to $80 million.

The Senate Committee on Appropriations report, accompanying H.R. 15580, contains a recommendation for zero funding for NIE. This comes as a shock and surprise to those of us who have worked over the years to expand the Nation's fundamental knowledge about the processes of education. On page 84 of the report—No. 93-1146—there appears this statement:

> The Committee has not allowed any funds for the National Institute of Education (NIE), but recognizes that conferees of the House and Senate may agree to restore some funds for NIE.

I believe that this is slim assurance to those thousands of persons currently engaged in educational research that their vital work can continue. The report suggests that the present ongoing research activities of NIE can be returned to appropriate bureaus of the Office of Education. It is my understanding, and I stand to be corrected if I am wrong, that these research activities, including the new programs of bilingual research, are not transferable without enabling legislation by Congress.

Mr. President, I realize that in a period of budget belt-tightening, in a collective desire to throttle back in many areas of Federal spending that fuel inflation, there must be sacrifices. I wholeheartedly agree with that goal, and I am committed to work to achieve such reductions wherever and whenever possible. There is little to question that in the overall educational budget, there is room for belt-tightening. I would point out, however, that administrators in private business seeking to trim their expenditures look with reluctance on cutting their research and development activities, because they consider such research an essential factor in future productivity. I submit that if, in the judgment of the Committee on Appropriations, the NIE has fallen short of the goals set forth in its enabling legislation, then these goals were set too high, and the expectations of educational breakthroughs in the short time of its existence are unrealistic.

I would ask the distinguished and knowledgeable Chairman of the Committee on Appropriations (Mr. MAGNUSON) if he can give us any assurance that the conference might agree on an amount which would adequately support the more critical and concrete areas of productive research?

Mr. MAGNUSON. I can understand the Senator from West Virginia's concern for any budgetary action that might suddenly halt all research projects underway. I would, however, hestitate to give any blanket assurance that the conferees might share this concern, or be in a position to distinguish between what projects might be worthy and what projects might be wasteful. The basic problem with NIE is that many of the activities it has undertaken don't really appear to be directed at improving the quality of education. In fact, some of them seem designed to improve only the quality of life for the educational researcher. No one is opposed to improving education through developing better methodology and techniques of teaching. I feel that the conferees might approve funds directed solely toward accomplishing this—to adequately support the more critical and concrete areas of productive research. These funds should not be thrown away on esoteric studies and projects that benefit neither education nor the ultimate consumer of education—the young people of America.

Mr. HARRY F. BYRD, JR. Mr. President, will the manager of the bill yield?

Mr. MAGNUSON. I wonder if I should not get these amendments out of the way first, and then I will yield. I would like to take up now the amendment of the Senator from Minnesota, which will take about 2 minutes, as far as I am concerned.

Mr. HARRY F. BYRD, JR. Mr. President, the Senator from Virginia has been waiting here all day long.

Mr. MAGNUSON. Well, the Senator has to stay here anyway. We will have the vote on final passage sooner or later.

Mr. HARRY F. BYRD, JR. Very well. I have permitted several unanimous-consent agreements to be acted on, but I will not shut off the Senator from Minnesota, so I am glad to yield to the Senator from Minnesota.

Mr. HUMPHREY. I thank my good friend from Virginia very much.

Mr. MAGNUSON. Then I will yield next to the Senator from Virginia, and he can ask his questions. As a matter of fact, some of the questions he is thinking about may take the chairman a little while to study. Some of the questions are hard to understand, and even harder to answer.

I yield to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. It will require unanimous consent for the amendment to be considered.

Mr. HUMPHREY. It does?

The PRESIDING OFFICER. Some of the committee amendments have not been acted on.

Mr. HUMPHREY. I ask unanimous consent, and I am sure it is granted.

The PRESIDING OFFICER. Is there objection? Without objection, the clerk will state the amendment.

The assistant legislative clerk read as follows:

On page 10, line 20, strike "$720" and insert in its place "$755."

Mr. HUMPHREY. Mr. President, I did not say "dollars." It is strike "$720 million" and insert in lieu thereof "$755 million."

This amendment is the result of the discussion on yesterday, when I proposed that we raise the cancer funding up to the figure of $800 million. This figure is now in line with the recommendation of the National Cancer Institute, and I believe is a worthy addition to the bill.

Mr. President, the word that is on the minds of all of us in this Chamber as we consider this appropriations bill is "inflation."

This Senate must in no circumstances do anything to aggravate the dangerous inflationary situation the country faces now and will face in the coming months.

I want to commend the distinguished Senator from Washington, WARREN G. MAGNUSON, Chairman of the Labor/HEW Appropriations Subcommittee, and the ranking Republican member, Senator COTTON of New Hampshire, for the budgetary responsibility with which they have acted. The subcommittee struggled successfully with many, many of those hard choices that all appropriations committees face, but which this year were more difficult than ever. Likewise, I want to laud the full Appropriations Committee and its chairman for approving the work of our good friends and colleagues, Senators MAGNUSON and COTTON.

There is one place, however, that I feel that the battle against inflation can be served by raising an appropriation. That is where a modest spending increase will, in fact, reduce inflationary pressure.

I refer to the budget for the National Cancer Institute.

The inflationary pressure that comes from cancer hits this country in the form of hospital bills, doctor bills, laboratory test charges, nurses' fees, and Government research and Government program development in cancer control.

Cancer is a tremendous waste of human resources. This dread disease takes millions of productive hours away from our workers each year. The conquest of disease is one of the great unheralded weapons we have against inflation and economic waste.

I must point out that our Government does not take care of cancer patients excepting for those few patients who happen to be included in a federally supported research program, an experiment, or as they happen to be included in a cancer control demonstration project. This touches very few of our cancer victims. Most of the costs of cancer in the United States are not paid by the Federal Government, but out of each victim's savings.

A major factor influencing inflation is what the private sector must pay for cancer prevention and care. If we increase the appropriation for the NCI before us by a modest amount, we can continue our cancer research without disruption and thereby make a sharp drop in private expenditure on cancer. We will have struck another blow against inflation.

Mr. President, I propose that we do exactly that. I propose that we increase the appropriation for the National Cancer Institute from $720 million to $755 million. This is approximately the figure recommended by the National Cancer Institute. By this increase we can directly cut private inflationary spending on cancer, but most importantly we will reduce the pain and suffering of millions of potential cancer victims in the United States.

This is not theoretical. It is immediately and directly practical.

The monetary cost of cancer care and cancer deaths in the United States is now running at $6 billion to $8 billion annually. That is $9,000 per death and treatment costs.

We need to help stop this human waste and suffering.

We can do something about it today. Some recent tests indicate that new approaches to solid tumor treatment, the immediate use of drugs following surgery, rather than following surgery with a waiting period in the hope that cancer will not appear, shows the distinct possibility of saving between 10,000 and 20,000 lives by 1977. But we must complete these tests and pass the results on to the practicing physician. This necessitates continued funding for research and application of this program.

The National Cancer Institute is bearing down hard on a number of such experiments that have only been theories for many years. By continuing our research through NCI, lives and dollars can be saved in the long run, far in excess of what we are asking to be added to this appropriation.

The crucial factor is the NCI's newly authorized program of cancer control. This carries research beyond the bedside. This element is getting only about $50 million under the current appropriation.

This new program of cancer control must have enough funds to operate effectively. It will cut costs for patients by communicating to doctors and hospitals the best method of treatment and referral for each cancer victim.

The National Cancer Institute has produced excellent research results. But without more money for cancer control the potential cost saving to the American people simply will not be realized.

Mr. President, the current authorization for the NCI is $803.5 million. In 1970 a panel of Senate advisers recommended a 1975 budget of $850 million. The National Cancer Institute has asked for $750 million for fiscal year 1975. My amendment will add $35 million to the committee figure and bring the total approportion for cancer research up to $755 million. I urge my colleagues to appropriate $755 million for the National Cancer Institute. I ask my colleagues for their support.

I have talked to the distinguished manager of the bill, and I hope he will accept this particular modest increase in the research funds for the war on cancer.

Mr. MAGNUSON. Mr. President, I discussed this with the Senator from New Hampshire, and both he and I are extremely concerned when it comes to appropriations for cancer. We feel that strongly about this matter.

As I said last night, the Cancer Institute is sort of my baby, and I have been feeding it well over the years, keeping it alive and healthy—and I do not want to overfeed it. But if this council of advisers, who know a great deal more about it than we laymen, feel that we can do a great deal more with this extra $35 million, I am glad to accept the amendment, if it is all right with the Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I am very grateful to my colleagues.

Mr. COTTON. Is the figure now $35 million?

Mr. MAGNUSON. Yes, $35 million.

Mr. COTTON. If the chairman is agreeable to that I am agreeable.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota. (Putting the question.)

The amendment was agreed to.

Mr. HUMPHREY. I thank the distinguished chairman and the ranking Member.

The PRESIDING OFFICER. The pending question now is on agreeing to the committee amendment on page 22.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Washington explain that amendment and why 3 months is being used instead of 30 days, and will the Senator explain that entire section?

Mr. MAGNUSON. The Senator is talking about the amendment on page 22 of the bill in which the committee struck out under all titles the words "the last 30 days" and used the words "the last 3 months of the current fiscal year, except with respect to activities included in appropriations for work incentives."

The language that we have in the bill is similar to that contained in earlier Labor-HEW bills. If HEW runs short on welfare appropriations, funds could be drawn from the Treasury and charged to the fiscal 1976 appropriation.

The House bill allows HEW to do this during the last 30 days of the fiscal year. The Senate allows a 3-month margin for error, and this provides HEW with more flexibility in the event that welfare funds fall short, and helps avoid the need for a last-minute urgent supplemental.

Mr. HARRY F. BYRD, JR. Have they ever had 3 months before?

Mr. MAGNUSON. Some of the earlier bills had 3 months, yes.

Mr. HARRY F. BYRD, JR. What years?

Mr. MAGNUSON. I believe the 30-day language has only been in the last two appropriations bills.

Mr. HARRY F. BYRD, JR. May I ask the Senator this: Does that mean HEW in the last quarter of fiscal 1975 can then draw on what it assumes the Congress will appropriate for fiscal 1976?

Mr. MAGNUSON. Not exactly.

Mr. HARRY F. BYRD, JR. What does it mean?

Mr. MAGNUSON. This is a mandatory program. The only thing HEW can do, by law, is meet the absolute needs of the States. This is controlled by what the States need under the law.

Mr. HARRY F. BYRD, JR. I thought it was controlled by what the Congress is willing to give.

Mr. MAGNUSON. Congress in some cases was not willing to give more than was needed at one time. The committee has disallowed a portion of the request but the States control the actual amount, and we are obligated by statute to give it to them. It is mandatory.

Mr. HARRY F. BYRD, JR. May I ask the Senator does this permit HEW to take what it assumes will be the 1976 appropriations and spend that money in the last quarter of 1975?

Mr. MAGNUSON. The answer is "No."

Mr. COTTON. Mr. President, will the Senator yield to me for a moment?

Mr. MAGNUSON. Yes.

Mr. COTTON. I am sure the Senator from Virginia knows that we talk about reducing our budget, we talk about balancing our budget, we talk about economy, and yet legislatively we have obligated ourselves to meet obligations of States, individuals, veterans, and everybody else, so that I believe that I am correct when I say that only 25 percent of this whole bill——

Mr. MAGNUSON. Thirty percent.

Mr. COTTON. Thirty percent of this $33 billion bill, only 30 percent is controllable. The rest are fixed charges, and we have to pay them. If the States report they have spent so much on welfare, we have to reimburse them. So that this particular item does permit—I am not defending 3 months particularly—but this item means that if the bills that must be met come in larger than we have estimated and appropriated—instead of rushing up to Congress for more money or if Congress is not in session, the obligations can be met. It would be out of the anticipated money the next year because they are fixed charges.

Mr. HARRY F. BYRD, JR. Well, it seems to me, may I say to the Senator from New Hampshire, that the answer to my question which I put to the Senator from Washington should have been "Yes" instead of "No."

Mr. COTTON. I cannot speak for what went on in the mind of the Senator from Washington, but the way the question was put I believe the Senator from Virginia said this means that HEW can go ahead and spend in anticipation of next year's appropriation. Well, the phraseology of "go ahead and spend" sounds as if it were something they were doing of their own volition. I think probably that is the reason the Senator from Washington said no. The answer is, of course, "Yes," provided we understand that they cannot anticipate what we are going to appropriate and spend on some project that they want, but only to meet fixed obligations that, by law, they have got to meet, we have got to meet, and have to be paid.

Mr. HARRY F. BYRD, JR. But this authorizes them to pay that, whatever the sum might be, and to charge it against a subsequent appropriation.

Mr. COTTON. That is correct.

Mr. MAGNUSON. The Senator is correct, they can do that because we are in fiscal 1975 and, at the end of fiscal 1975, if we have estimated it wrong and they have estimated wrong, and if they get into a bind, we say they can go ahead under a continuing resolution and pay their obligations out of the 1976 appropriations until we have a chance to consider their needs in a supplemental.

What we ran into, and I think the Senator should know this, was that their estimates over the last 8 years have been incorrect. They overestimated about $4.5 billion, and the welfare surplus in 1973 was $600 million; and the welfare surplus was $1.2 billion last year.

Now, this is an estimate like we have when we have other obligations.

The House cut it out, did not put it in the bill, over the objections of the Office of Management and Budget, which wanted this money, and we said we do not know. You do not know. If you need anything you can come back in with a supplemental if you are in real need. The House cut out $878 million of what they wanted, and we cut out $300 million, so we cut out over $1 billion, and we got HEW down pretty tight. But we do know by late next year or before the next 1976 appropriations are enacted that they may have to find some funds to meet real needs.

We were faced with this problem, and our cuts are only in social services. The Senator will remember the Senate, 2 years ago had to put on a limitation of $2.5 billion. This was the beginning of limiting their money a great deal.

Mr. COTTON. Certainly there would not be time to get a supplemental here and enacted in 30 days.

Mr. MAGNUSON. So we put in 3 months. That is the reason.

Mr. HARRY F. BYRD, JR. The House had 30 days and the Senate committee changed it to 3 months.

Mr. MAGNUSON. The House may give us good arguments to put it back to 30 days. I do not know.

But I will say to the Senator from Virginia, it is most confusing and complex, so much of the work and the estimates are all being done by computers and these computers are sometimes wrong, or if they estimate it wrong they come back with a standard excuse, "Well, the computer was wrong, not us."

Mr. COTTON. May I say to the Senator from Virginia that the main reason we changed the 30 days to 3 months was that we figured they were asking for more money than they would use and we cut down accordingly, over a billion dollars. Having done that, we thought we should give them a little leeway if we cut too much because it is a fixed obligation.

Mr. MAGNUSON. Another thing, I am sure we are all pleased about it here as we are in the Appropriations Committee, the welfare roles are actually declining, they are really declining month by month, not as much as we would perhaps all like, but they are declining.

So I do not think they will ever use this by next year.

Mr. HARRY F. BYRD, JR. It gives them additional time.

Mr. MAGNUSON. It gives them 60 days instead of 30.

Mr. HARRY F. BYRD, JR. Ninety instead of thirty.

Mr. MAGNUSON. Well, 60 days more than the provision in the House bill.

Mr. HARRY F. BYRD, JR. Sixty more days.

May I ask this: In getting an understanding of the total cost, the figures in the committee report, as I understand it, do not reflect the supplementals of last year, or the supplemental for the current year?

Mr. MAGNUSON. On a comparable basis, only the figures in the bill reflect supplementals from last year.

Mr. HARRY F. BYRD, JR. What was the supplemental for fiscal——

Mr. MAGNUSON. For HEW?

Mr. HARRY F. BYRD, JR. Yes, for fiscal——

Mr. MAGNUSON. We have not got that figure right here, it was substantial. I believe we appropriated about a billion dollars in the 1974 supplementals, but this was more than offset by the rescission of $1.2 billion in surplus welfare costs. So in 1974, we ended up with a minus figure for the supplementals—somewhere around a minus $200 million.

Mr. HARRY F. BYRD, JR. I would like to have it.

Mr. MAGNUSON. My staff tells me the next supplemental bill will be approximately $4.4 billion.

Mr. HARRY F. BYRD, JR. And that was for fiscal 1974?

Mr. MAGNUSON. 1975.

Mr. HARRY F. BYRD, JR. For fiscal 1975?

Mr. MAGNUSON. This year, yes, this fiscal year.

Mr. HARRY F. BYRD, JR. For this fiscal year, it would be $4.4 billion?

Mr. MAGNUSON. That is an estimate for the upcoming supplemental—the 1974—for the same programs, are comparable.

Most of this amount is for programs for which appropriations could not be considered in this bill because authorizing legislation was not enacted in time. We plan to start hearings this week on this supplemental.

Mr. HARRY F. BYRD, JR. That is for fiscal 1976, I assume.

Mr. MAGNUSON. No; 1975.

Mr. HARRY F. BYRD, JR. Well, fiscal 1975, that is in addition to the $4.4 billion?

Mr. MAGNUSON. Yes.

Mr. HARRY F. BYRD, JR. For fiscal 1975.

Mr. MAGNUSON. We have a supplemental for fiscal 1975, amounting to about $4.4 billion.

We will get the exact figure and put it in the RECORD.

We are starting hearings soon on this supplemental sent up by the administration. We do not create supplementals at all; they are sent from downtown.

Mr. HARRY F. BYRD, JR. But the Senator has to pass on them.

Mr. MAGNUSON. We pass on them, but we do not create them.

Mr. HARRY F. BYRD, JR. The Senator does not create them.

Mr. MAGNUSON. No; but we pass on them, and most are a result of Congress passing legislation before we could catch our breath on appropriating for the legislation that is on the books now.

Mr. COTTON. If the Senator will yield, I am glad the Senator from Virginia had this colloquy and I will not prolong it; but here we are in the situation where, I understand, only 44 percent of Government spending ever comes before an Appropriations Committee, because the legislative committees have created, through backdoor spending, and other means, these obligations. These step up, for example, a million dollars one year, $2 million the next year, and $2½ million the next year. Congress has approved and granted all this obligational authority.

Pretty soon, we will not know what use the Appropriations Committee will be because the time was when they authorized.

Mr. MAGNUSON. I do not think anybody appreciates this at all.

Mr. COTTON. I think that is why the Senator from Washington made the reply he did.

If the interest on the mortgage on my house comes due, a payment comes due and I have to pay it. I do not usually call it spending because spending carries the implication that it is something we voluntarily spend for something we want.

We have got ourselves so obligated that every year the controllable items that either the President or the Appropriations Committees or the Congress can do anything about are less and less, and that is why I thought it was a perfectly responsible vote I cast against raising the debt ceiling.

Some morning people of this country may wake up to find that veterans and others have not received their checks. People say that will end the country. I think it will be the beginning because unless some catastrophe like that happens, we know how little chance we would have to repeal some of these legislative bills that have pleased the people.

Here we are, we go through this in the Committee on Appropriations day after day and week after week, and we come on the floor and struggle through this.

In this particular bill, as has been brought out, only 30 percent of it is anything we can touch.

Mr. HARRY F. BYRD, JR. I think the Senator from New Hampshire raises a very fine point.

Mr. MAGNUSON. Let me give one example, one reason for this big first supplemental that is coming up while we have been working on the regular appropriation.

We passed an education bill, did we not? I think the vote was something like 92 to 2, or something like that, in the Senate. It contains a lot of built-in obligations that have got to be met.

Even the President in his first State of the Union Message stated,

> **I am going to sign the education bill, but I do not think any money should be appropriated for it.**

Well, somebody advised him wrong, because the bill itself creates obligations that we cannot deny.

I checked with Mr. Ash here just over 2 weeks ago about trying to cut down this supplemental bill that is coming up, but it is going to be about $4 billion or $5 billion.

Mr. HARRY F. BYRD, JR. May I ask the Senator from Washington the figure for the supplemental for fiscal 1974?

Mr. MAGNUSON. Not 1974.

Mr. HARRY F. BYRD, JR. Yes, 1974.

Mr. MAGNUSON. Well, all right, go ahead, you can call it 1974, part of 1975, it is a combination of things.

It is comparable. Go ahead.

Mr. HARRY F. BYRD, JR. My question is: What was the supplemental for fiscal 1974? That was for the previous year, not the year we are in now.

Mr. MAGNUSON. Comparable to $4.4 million. The supplemental contains every department. HEW is only one facet.

Mr. HARRY F. BYRD, JR. We are speaking of HEW. My question directs itself to HEW. What is the supplemental for fiscal 1974, not 1975?

Mr. MAGNUSON. There are some things left over that were not authorized, that they did not send up. Some of them spilled over, over the end of the fiscal year. But the supplemental that we are going to start to work on now is the supplemental to fiscal 1975.

Mr. HARRY F. BYRD, JR. I understand that.

Mr. COTTON. But in 1974, my recollection is—and that may be wrong—I am sure we had two supplementals, and I think we had three. The staff would have to do a little research to give the Senator his answer. We had repeated supplementals to make up. That is why when we pass this bill and when it finally goes through and is signed by the President, and everybody says the Labor-HEW appropriations were taken care of, it is no such thing. Every year we are lucky if we do not get three supplementals to pay obligations that have to be paid.

Mr. MAGNUSON. And sometimes the supplemental is sent up and they will request an addition to another budget that they had sent up earlier, because they said they made a mistake and they needed more money.

Mr. COTTON. And in other cases, the authorizing legislation has not passed when we bring in a bill. It passes later.

Mr. HARRY F. BYRD, JR. The only point that the Senator from Virginia is trying to understand is this: I am trying to get a figure from the committee as to what was the supplemental, or supplementals, if plural, for fiscal 1974.

Mr. MAGNUSON. It is about $4.4 billion.

Mr. HARRY F. BYRD, JR. For fiscal 1974?

Mr. MAGNUSON. Yes. We will get all the figures in detail for the Senator.

Mr. HARRY F. BYRD, JR. Then fiscal 1975 will also be approximately $4.4?

Mr. MAGNUSON. About that. We do not have all those figures yet.

Mr. COTTON. They said about $5 billion.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. MAGNUSON. I thank the Senator. I think it is well that we have these discussions so that we can try to explain how complicated these things can become. It used to be that we would have a bill for the yearly appropriation. Then later on, just about the time we are ready to quit, there would be a final supplemental. That would be the end of it.

I will say to the Senator from Virginia that the supplemental was usually to do things that were absolutely necessary, that could not be taken care of in the regular budget. Now there is no such thing. We have the regular appropriation, and supplementals go around the calendar and overlap. Supplementals are not created by the Congress. They are created by the budget and the people downtown, and sent up to us.

Mr. COTTON. They are created by the Congress. The reason or the need for supplementals—and I must differ slightly with my chairman—is the fixed obligations that have been written by the Congress into legislative bills.

It will be impossible to get this Nation's finances under control until something happens to stop this back-door spending.

Mr. HARRY F. BYRD, JR. The Senator from New Hampshire is so right.

I assume the Senator from Washington will return?

Mr. MAGNUSON. I thought you were through.

Mr. HARRY F. BYRD, JR. I am almost finished.

I am not unaware of the difficulty facing the committee. I realize the grave problems the committee has. What I would like to get, if I may, from the committee is this: Let me read five figures. I will ask the staff to put down these five figures and then verify them for me. Let me know whether they include supplementals for the various years. Then I will know whether the figures I am working on are correct figures or incorrect figures.

Mr. MAGNUSON. We can do that. We can do that almost immediately.

Mr. HARRY F. BYRD, JR. I am going back to fiscal 1971. If it meets with the chairman's approval I will ask if the staff members will put these figures down. I will not seek the information immediately, but I would like to have the information before we vote on final passage.

Mr. MAGNUSON. We can get that.

Mr. HARRY F. BYRD, JR. For fiscal 1971 in Federal funds I have a total HEW appropriation of $21.6 billion. I am rounding the figures off. For fiscal year 1972 I have a total appropriation of $26.9 billion. For fiscal 1973 I have an appropriation of $31.6 billion. For fiscal 1974 I have a figure of $35.6 billion. For fiscal 1975 I have a figure of $35.1 billion.

Mr. MAGNUSON. That is correct. It is about the same as last year.

Mr. HARRY F. BYRD, JR. I do not want to delay the senator from Washington.

Mr. MAGNUSON. You are not delaying him.

Mr. HARRY F. BYRD, JR. Before we vote on final passage, if the staff would verify these figures and tell me whether they do or do not include supplementals, and if they do not include supplementals, what the supplementals are, I would appreciate it.

Mr. MAGNUSON. All right.

Mr. MONTOYA. Will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. MONTOYA. I believe in furnishing those figures the staff should also distinguish between the controllable and noncontrollable items.

Mr. HARRY F. BYRD, JR. That is all right, but I am interested in the total figure. I am glad to have the breakdown also. I am mainly interested in the total figure.

Mr. MONTOYA. In this bill there are $21.4 billion in noncontrollable items.

Mr. HARRY F. BYRD, JR. I am not expressing criticism of the bill, the committee, anyone, any person, any group, or any organization. I am merely trying to get some facts and figures in my own mind. I would be glad to have that breakdown. I mainly want the total figure.

Mr. MAGNUSON. We can get them for you. We have more figures in this bill than anybody in the United States. We can give you all the figures you want.

Mr. COTTON. Does the Senator want them before final passage of this bill? We had hoped to have another amendment and then passage. We cannot go back to 1971 and get all this information without holding the bill over.

Mr. HARRY F. BYRD, JR. I do not want to hold the bill over, but certainly we can get it for 2 or 3 years.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

Mr. MAGNUSON. Mr. President, the next committee amendment should be the amendment that the committee adopted, an amendment by the Senator from Alaska. It is in the bill, but I understand that he wants to bring it back up for discussion because the Senator from Utah would like to make some remarks on that amendment.

Mr. BENNETT. The Senator from Utah asked that the amendment be passed over when all the committee amendments were approved. So it has not been approved; it is not in the bill.

Mr. MAGNUSON. Was that one of the exceptions?

Mr. BENNETT. That is correct.

Mr. MAGNUSON. I beg your pardon. So it is up for discussion.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I yield myself such time as I may need on the amendment.

The PRESIDING OFFICER. Would the Senator from Alaska state which amendment he is referring to?

Mr. STEVENS. This is section 210.

The PRESIDING OFFICER. Is this the committee amendment on page 35?

Mr. STEVENS. That is correct.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

The amendment is as follows:

On page 35 after line 7 insert the following:

Sec. 210. (a) No funds appropriated under this Act shall be used to pay any agency or organization, which is a party to an agreement entered into under section 1816 of the Social Security Act, or to any carrier, which is a party to an agreement entered into under section 1842 of such Act, with respect to any service described in subsection (b) (whether provided directly by such agency or organization or such carrier or by another party under contract with such agency, organization, or carrier), any amount in excess of the amount which such service is determined to have cost if such service had been furnished under contract, between such agency or organization or such carrier and another party engaged in the business of furnishing such service, entered into for at least a one-year period on the basis of fixed-price competitive bidding judged on the basis of total administrative costs. In applying the limitation imposed by the preceding sentence with respect to any such service (which is to be provided directly to themselves by such an agency, organization, or a carrier), any startup costs incurred in connection with the provision of such service shall not be excluded in determining the amount of the cost of providing such service over the one-year period commencing with the date such agency, organization, or carrier first commences to provide such service directly, in lieu of the contract service referenced above.

(b) A service referred to in subsection (a) is a service—

(1) which an agency or organization or carrier (which is a party to an agreement referred to in subsection (a)) is obligated to provide under such agreement,

(2) which, for a period ending on or after June 30, 1974, was furnished by another party pursuant to a contract entered into prior to such date between such other party and such agency or organization or such carrier, and

(3) which is furnished after the expiration of the contract referred to in clause (2) either directly by such agency, organization, or carrier, or by another party under a contract entered into between such other party and such agency or organization or such carrier.

Mr. STEVENS. Mr. President, this amendment is in the committee bill. At the request of the Senator from Utah we passed it over. It is my understanding now, and I hope the Senator from Utah will correct me so we can inform our colleagues, that he now seeks a yea and nay vote up and down on the amendment itself, which will mean that we will divide our time on the amendment.

Is that correct?

Mr. BENNETT. Mr. President, it was my original intention to make a point of order against it, but that would just require an extra vote tonight. So I would be perfectly satisfied to have the Senator from Alaska present the amendment. I will present my reasons for opposing it, and I hope we can have a yea and nay vote on the amendment itself, up or down.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PELL. Mr. President, will the Senator yield on a matter of personal privilege for 1 minute?

Mr. STEVENS. I yield.

STATEMENT OF PERSONAL PRIVILEGE

Mr. PELL. Mr. President, vote No. 399 should reflect the fact that I voted in the negative on the motion to table the motion to reconsider the vote by which the Helms amendment was adopted. The unofficial records of the Reporters of Debates and of the Secretary to the Majority shows that I was here and voted, although the official record does not show or reflect this fact.

I am deeply disturbed that my negative vote on such an important matter was not recorded.

Accordingly, I ask unanimous consent that my vote be recorded in the negative; and in doing so, and in fairness to my colleagues, I must note that this would change the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, I reserve the right to object.

Mr. PELL. I understand that the objection is perfectly proper and well sustained, but, as a matter of record, I wanted to make this point.

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. Mr. President, the committee amendment—section 210—could save the taxpayers millions of dollars by insuring that needed administrative services in the medicare program are provided at the lowest cost.

Medicare is administered by the Social Security Administration through "carriers" such as Blue Cross-Blue Shield and other commercial insurance companies. Inherent in the administrative functions of the carriers is the right to subcontract for services, such as audit, data processing, and so forth, or to provide such services themselves "inhouse." Carriers are reimbursed their administrative costs on a "reasonable cost" basis.

The problem is that the legislation did not adequately define "reasonable cost" nor did it sufficiently define the extent SSA should be involved in and review the administrative affairs of the carriers. These issues were recognized by the Secretary of HEW when he established an independent commission, the Advisory Committee on Medicare Administration, Contracting, and Subcontracting—so-called Perkins committee report—to: "advise the Secretary and the Commissioner of Social Security concerning broad organization and operational matters, contract formulation, and reimbursement principles applicable to Medicare contracts and subcontracts."

One of the specific items the Secretary pointed out to the Committee was review of the proper reimbursement of the organizations involved—both the carriers and their subcontractors.

That committee spent 18 months reviewing medicare contracting and subcontracting. They reviewed SSA reports, congressional and other Government agencies reports, held 15 public hearings, and consulted extensively with SSA, carriers, subcontractors, and other interested parties. Commissioner Cardwell later testified to the Congress that he concurred with the Perkins committee report that there were substantial problems and concerns in the area of contracting with medicare carriers, their subcontracting for services and the utilization of the private sector. He stated that the Perkins committee has been of great assistance and that the committee recommendations would receive serious consideration. As a matter of fact, he stated positively that he intended to implement at least one committee recommendation—that of getting SSA out of the data processing business where those services are available from the private sector.

I concur with Commissioner Cardwell. I believe the Perkins committee report has great merit and potential for controlling medicare administrative costs. I believe part of the solution to the problem is the full and timely implementation of the committee recommendations.

One last point about the committee observations and Commissioner Cardwell's testimony before I move on. It disturbs me deeply that a Government agency such as SSA could be in a position where it is competing directly with the private sector. SSA has spent over $6 million to develop a data processing system, the Model B system, which is designed for the use of carriers—not SSA directly—to process medicare claims. In other words, SSA has a data processing system, which it does not use directly, but which it markets directly to the insurance companies, just like any other data processing company would provide its services to an insurance company, bank, utility, et cetera. That is bad enough, but as pointed out by the Perkins committee report, SSA also has final approval over which data processing system or subcontractor a carrier uses. The Perkins committee report pointed out the widespread belief that SSA is biased in the decisionmaking process in favor of its own system. Commissioner Cardwell also indicated his concern over the "bias" issue in his testimony to us. This is obviously an intolerable situation and completely at odds with BOB Circular A-76 which states the Government's general policy of relying on the private sector to supply its goods and services. The Perkins committee recommended Government support of the SSA Model B system be ended and the BHI Model B staff reassigned to other Government positions. Commissioner Cardwell stated his general intent to implement this recommendation. I agree and propose that funds for this staff be restricted pending total implementation of this provision.

One last point dealing specifically with the definition of "reasonable cost" and my proposal. A carrier may perform a function in one of two ways. First he can do it himself and be reimbursed his incurred costs. Second, he can subcontract for the service at a fixed price. However, where a carrier decides to bring a subcontracted function "in-house" the carrier is reimbursed whatever cost he incurs instead of being limited to a fixed price subcontract cost. In other words the carrier could be paid more for simply providing essentially the same service. I believe it is our responsibility to insure that tax dollars are not expended in this manner. The committee amendment would correct this waste by prohibiting SSA reimbursement of any carrier cost that is in excess of the cost he was paid while subcontracting. The way to establish this is through the competitive process. This would in no way deter a carrier from ending his subcontracts, but it would mean the Government would no longer subsidize the higher cost for the same contracts. The net result should be that medicare administrative services will be procured at the lowest cost—thereby saving taxpayer dollars.

The legislation establishing the medicare program—part B, payments to doctors—also authorized the Social Security Administration to reimburse insurance carriers for their "reasonable" costs incurred in the administration of that program. However, that legislation contained no clear guidelines as to what expenses would or would not be considered "reasonable," thus leaving that determination to the normal appropriating and review processes of Congress.

The record of HEW's performance in making payments to carriers under this program shows that HEW has been reimbursing carriers for certain large startup and conversion costs incurred when such carriers decide to transfer certain functions from an outside subcontractor to their own "in-house" operation.

Examples of such work required by carriers would include housing, auditing, data processing, and so forth. Such HEW reimbursements have the direct effect of subsidizing one private party—the carrier—at the expense of another private party—the previous independent subcontractor. As such payments are not only "unreasonable" because of their unnecessary and excessive character but are thus subject to Appropriations Committee review and approval. In addition, such subsidy payments are in apparent violation of Office of Management and Budget circulars which require that the Federal Government not favor any party in a competitive bidding situation and that governmental treatment of competing private parties be even-handed.

EFFECT OF COMMITTEE AMENDMENT

The committee amendment, added to the HEW Appropriations Act, corrects the circumstances by requiring that HEW not reimburse carriers for such costs until and unless there has been a determination of the upper limit of the "reasonableness" of such costs as established by an open competitive bid situation.

The effect of this language would not be to deter any of the existing private carriers—that now subcontract our various functions—from canceling such subcontracts and assuming such work themselves; however, these carriers would no longer be able to have the Federal Government subsidize the additional costs associated with such a move.

The net result of the committee amendment is to put a ceiling on administrative expenses which the carrier has been able to incur and later request and receive reimbursement from HEW's Bureau of Health Insurance. In the first three quarters of fiscal year 1974, these carrier administrative costs—under part B of medicare—amounted to $157 million. In addition, HEW's BHI paid out another $900,000 in non-recurring costs to carriers which was not governed by any cost ceiling as proposed by the attached language limiting administrative expenses. Both of these costs could be expected to be curtailed sharply when HEW is no longer able to reimburse carriers for those certain administrative expenses covered by this limitation or ceiling.

The committee's legislative intent in limiting costs under both part A and B of medicare is necessarily only briefly and incompletely stated in the accompanying committee report.

Therefore, I would like to state several of the committee's conclusions and intentions here so that there will be no doubt as to those matters. Most importantly, the committee intends that its phrase "competitive bidding," as it is used in subsection (A), is not to be interpreted as a narrow term of art, but instead is intended only to refer to the competitive process. In addition, the committee's use of the term "start up costs" is also intended to refer to the concept of any starting costs incurred if directly related—regardless of the time incurred.

Mr. President, I point out that the committee statement sets for the reasons for this report, and it ends with this comment:

> The Committee expects that the competitive process will be utilized to the fullest extent possible in the administration of Medicare or similar programs, particularly in the procurement of equipment, goods, and services or changes in providers of equipment, goods, and services. The Committee's "cost limitation" language will assure that no federal monies will be expended for reimbursement for administration costs incurred following a change of sources where the costs are in excess of the amount said services could have been procured for through the competitive process.

This is one of the areas where we do have control over the so-called uncontrollable costs. Under part B, which is the payments to doctors under the medicaid program, it is possible for a carrier either to perform certain services such as auditing or data processing in-house or to subcontract them out.

We have had a trend toward subcontracting out, while the same time the Social Security Administration has been inducing people to move "in-house" and perform these services themselves. If they are performed "in-house," the Social Security Administration will reimburse the carrier for its "reasonable costs" incurred in performing these services.

The insurance carrier does not normally do these functions. It would not normally do the auditing of its own claims processing, nor would it do the data processing of the claims. They have normally been contracted out. The trend is still toward that.

When I got into this matter in committee, I asked several questions of Mr. Cardwell of the Social Security Administration concerning the Perkins report. The Perkins report is a report of a committee which is an advisory committee to the Secretary of Health, Education, and Welfare and the Commissioner of Social Security on the costs of administering the medicare program. This report specifically encourages that the Government take additional steps to insure more competition in these service programs.

What we are doing in this amendment is to say to the Social Security Administration that it must take into account the costs of the conversion and the costs of administering the program "in-house," in comparing those costs to the subcontracting costs, if a carrier elects not to subcontract.

It says, further, that the total costs should not exceed the costs the Government would have incurred if the services had in fact been contracted out.

I understand the reluctance of the Senator from Utah to accept the procedure that the committee amendment would effect. What it would not do is it would not prevent any carrier from going in-house. It merely says that if the carrier is to do these services in-house, there must be a fair comparison of the costs with the actual costs of the taxpayer in subcontracting out these services.

I point out that we are not very far removed from national health insurance. If one thinks these administrative costs are high now, wait until we get into the concept of the total Federal expense of national health insurance. In the first three-quarters of fiscal 1974, the carrier administrative costs under part B of medicare amounted to $157 million. That is the in-house administrative cost that someone just pays on the basis of his determination that they are reasonable, without regard to the competitive standard. This competitive standard, I feel, will save the taxpayers money, and it will go toward meeting the objections of the Perkins report, which the Social Security Administration says they want to follow.

I point out to the Senator from Utah that this amendment was originally drafted by the Social Security Administration, at my request. The staff went to the Social Security Administration, at my request, to get an amendment which would accomplish what we thought we had agreed upon in the dialog in the hearings. As a result of some activity—I do not know what—the Social Security Administration has now turned around and has decided that it does not want to have this because, as the Senator from Utah will point out, it will, in their opinion, have the effect of benefiting one of the subcontractors only. It will benefit that subcontractor only if that subcontractor continues to be competitive. If it is not competitive, it will not have the business.

I believe that this is one of the few handles that the Senate and Congress can get on these uncontrollable costs in the servicing of the Medicare and Medicaid programs and, in the future, on the national health insurance.

Mr. BENNETT. I yield myself such time as I may require.

Mr. President, the amendment offered by the Appropriations Committee to the House-passed bill as section 210 would have the effect of totally disrupting the administration of the medicare program and serve to "lock-in" and benefit one subcontractor in particular—the Electronic Data Systems Corp.

At this point, I ask unanimous consent to have printed in the Record an article published in the Des Moines Register of September 14, entitled "Proposed Law Seen Aiding Perot's Medicare Contracts."

There being no objection, the article was ordered to be printed in the Record, as follows:

Proposed Law Seen Aiding Perot's Medicare Contracts

(By James Risser)

Washington, D.C.—Legislation that would assist Texas millionaire H. Ross Perot in retaining his contracts for the computer processing of government Medicare claims has been approved by the Senate Appropriations Committee, it was learned Friday.

The provision was added to a $33-billion labor, health and education bill during a closed-door committee session Wednesday. The bill is slated for Senate floor debate Monday.

THE EFFECT

The measure would, in effect, discourage carriers who administer Medicare in various states from dropping Perot's firm—Electronic Data Systems, Inc. (EDS)—and doing the computer work themselves.

Six-year contracts held by EDS in several states are on the verge of expiring, and some of the state carriers are reportedly considering not renewing them.

An aide to Senator Ted Stevens (Rep., Alaska), who sponsored the provision in the committee, acknowledged that a Perot lobbyist had been consulted in its preparation.

But the original idea for the measure came from Steven's own concern about the high costs and slow processing of Medicare claims, the aide, Lyle Rushton, said.

The legislation will foster competition and reduce costs for Medicare computer work, he said.

The EDS lobbyist was Carl Arnold, a former oil lobbyist who was identified recently as having funneled sizable contributions from an oil company and others through dummy committees and into the 1972 presidential campaign of Representative Wilbur Mills (Dem., Ark.):

MILLS CONTRIBUTIONS

Two top EDS executives also have been identified as having secretly given $100,000 to Mills, who as Chairman of the House Ways and Means Committee has primary jurisdiction over Medicare.

Medicare carriers in each state—often that state's Blue Cross-Blue Shield organization—may do their own computer processing and get reimbursed by the federal government. Or, they can hire a subcontractor to do the work and obtain federal reimbursement for the amounts paid to the subcontractor.

Perot's firm is now the only one with any significant Medicare processing business, and a special government study committee recently criticized the lack of competition in the field. It was not clear Friday how the Stevens amendment could encourage other firms to compete.

Rushton said Blue Cross-Blue Shield opposes the Stevens amendment.

The House intergovernmental relations subcommittee has criticized the fees paid to EDS as possibly being excessive, has questioned the quality of EDS' work, and has heard testimony that EDS makes profits on Medicare business of up to 100 per cent.

The firm processes Medicare claims in 10 states, including Iowa. Its contracts include such large states as Pennsylvania, New York and California.

KANSAS SAVINGS

Kansas recently dropped the Perot firm and reportedly is doing its own computer work at substantial savings.

Gary Sellers, a Senate Appropriations Committee staff member who worked with Senator Stevens' office in preparing the amendment, said it would work this way:

If a carrier's contract with a computer firm is expiring and the carrier wants to begin doing the computing work itself, the carrier must show that its costs during the first year would be less than if it continued to use the computer firm. And the carrier could not obtain reimbursement for the initial start-up costs usually involved in switching to a new system.

This might discourage the carrier from dropping the subcontractor, even though in the long run the carrier might be able to operate more cheaply doing its own computer work, Sellers acknowledged.

Under present law, a Medicare carrier who switches to an "in-house" computer system is reimbursed for "reasonable" start-up costs. Sellers said the reimbursement provision is being abused.

When a carrier decides to do its own computer work, it is "squeezing out" its subcontractor and reducing competition, Sellers said. "There's a value to maintaining competition," he said.

Once initial costs are taken care of, many carriers probably can process Medicare claims more cheaply themselves than by hiring a subcontractor, Sellers admitted, predicting that eventually all carriers will do their own computer processing despite the obstacles of the Stevens' amendment.

Mr. BENNETT. Basically, the committee amendment would prevent a medicare carrier or intermediary—principally Blue Cross, Blue Shield, and private insurance companies—from directly undertaking responsibilities previously subcontracted unless they could show, under a distorted discriminatory and unworkable formula, that estimated costs of direct operation in the first year—and that is the key—would be the same or less than they would have been if put out for bids.

There is no way that anyone—other than the original subcontractor—can come up with a lower cost when the test of the amendment is first year cost and when the carrier or intermediary or other potential subcontractor must include his startup and conversion costs—that is, changeover costs—on an unamortizable basis, put them all in the first year. The original subcontractor, of course, had previously received his startup costs but—in contrast to any potential competition—over the years had ample opportunity to amortize and write them off. That is what I mean by "lock-in," because neither the carrier nor any other potential subcontractor can hope to compete on a 1-year cost basis when they cannot exclude nonrecurring startup and conversion costs from operating costs.

What is particularly disturbing is that a provision of this nature totally disregards the quality of overall performance of a medicare carrier or intermediary which may well be enhanced by transfer of the subcontracted work to inhouse capability; even, in some cases, by increasing data processing expenditures where subcontracted or performed inhouse. It is in the context of overall performance that a carrier's operation must be judged.

The genesis of this provision, as I understand it, lies in the fact that several medicare carriers who have subcontracted their data processing to Electronic Data Systems are now preparing to undertake that work directly in-house upon expiration of the subcontract periods. As a matter of fact, I further understand that this procedure is in full accord with their contracts with the subcontractor the terms of which provide that the carriers may directly utilize and operate the EDS system without further payment at the end of the contract period. Understandably, the subcontractor would be unhappy in those cases where carriers tried to exercise their legal rights under their contracts.

Let me indicate some of the ridiculous but real possibilities if section 210 were approved—that is, apart from its basic anticompetitive nature: First, most of the local Blue Cross plans which serve as medicare intermediaries are themselves subcontractors with the Blue Cross Association, which holds the prime contract with Social Security. If this section becomes law, if we sought to terminate a local Blue Cross subcontractor who was poorly and inefficiently serving older people under medicare, it would be virtually impossible to do so because any proposed replacement would have to come in on a competitive basis at the same or lower cost than the aberrant Blue Cross plan. There is no way any replacement could do that if their one-shot startup costs and system conversion costs had to be added to their prospective operating costs for the first year.

Taking another example, suppose a medicare carrier or intermediary has leased building space for their medicare operations. Suppose the medicare operations were 10 miles from the carrier's general office. Suppose the carrier sought to terminate its leased space and move the medicare activities into its headquarters in the interest of more efficient and better service. How could it show that the move would cost less than leasing equivalent space on the basis of a first-year comparison if this had to include all moving and related transfer expenses? This is what I mean by subcontractor lock-in.

Section 210 would in effect change the medicare law with respect to reimbursement of intermediaries' or carriers' administrative costs from actual reasonable costs to some hypothetical amount based on what the total administrative costs would have been if some prior subcontracted service now performed directly by the intermediary or carrier were subcontracted for a 1-year period through fixed price competitive bids.

This proposed amendment would be virtually unadministerable. In the first place this hypothetical cost amount could not be determinable unless the intermediary or carrier obtained competitive bids for the previously subcontracted services, and it is not proper to solicit such bids if there is no intention of accepting any. In the second place, even if the costs of subcontracted services based on fixed price competitive bids were known, the hypothetical cost amount, expressed in terms of total administrative costs, still would not be susceptible to precise determinations because of the various tangible and intangible factors which would have to be considered in determining what total costs would have been had some part of the contractor's functions been subcontracted rather than performed directly.

For example, in recent years there has been a tendency for intermediaries to switch from subcontracted audits of hospitals or nursing homes to audits performed by intermediary staffs. In the past, these audit subcontracts have been priced on the basis of hourly rates for various classes of auditors times the actual number of hours spent in making audits, which can vary considerably based on the provider and the scope of the audit.

Under the proposed amendment, if an intermediary decided to make some previously subcontracted audits in-house, how could anybody determine how many hours it would have taken somebody else to do the audits and what it would have cost had the audits been subcontracted on the basis of some hypothetical competitive bids? Further, there would also be a need to assess or cost-out the impact of this hypothetical situation on the intermediary's administrative costs.

It should also be noted that the effect of many intermediaries going in-house for auditing has been a tremendous reduction in the backlog of unsettled accounting periods with hospitals which existed when audits were performed under subcontract.

To summarize, section 210 would have the following effects:

First. Once a medicare carrier had subcontracted data processing functions, for whatever reason, it could not return to performing those functions itself without incurring the liability of exposing its own private funds to potential nonreimbursement of costs incurred in administering a Government program.

Second. There is no provision whatsoever for an analysis of the quality of performance or results of the opposing operations.

Third. It seems incongruous to impose a potential liability on one carrier which, perhaps for very good reason, decided for a specific period of time to subcontract its data processing, without imposing the same obligation on those who have operated their own in-house systems from the beginning. This latter group would include Aetna, Prudential, Equitable, Occidental, and other major organizations.

Fourth. Because of the actual facts of the history of medicare subcontracting, only one organization would profit in any way from such a provision because if conversion, installation, and startup costs are to be included in the computation, it would be virtually impossible for even another potential subcontractor to be successful.

Fifth. Particularly the Blue Shield plans would have a serious legal problem in taking a course of action which could expose their own subscriber funds to nonreimbursement from medicare. The attitude of State insurance commissioners to such an action would seem apparent even if the strictly legal implications were overcome. Plans which are now contemplating or have decided to resume their own data processing responsibilities would find it extremely difficult to do so in view of the potential loss. A very reasonable question on their part would seem to be, why should we assume this liability for the administration of a Government program if we can totally escape it by continuing to subcontract?

Sixth. The basic medicare law provides that intermediaries and carriers will be fully reimbursed the actual cost of their operations so long as those costs are reasonable. To the extent that they are unreasonable, the program can deny reimbursement and the matter is then subject to review and decision by the Armed Services Contract Appeal Board. This is quite foreign to either a legislative provision or an administrative directive that could ultimately require every carrier to provide data processing services on a subcontracting basis. This latter decision, under the intent of the law, should remain the prerogative of the private sector organization. If it fails to perform its contractual responsibilities, the ultimate protection to the Government lies in nonrenewal.

Mr. President, the National Association of Blue Shield Plans is unhappy with section 210; the Blue Cross Association is unhappy with section 210; the Health Insurance Association of America is unhappy with section 210; the Social Security Administration is unhappy with section 210; and I am unhappy with section 210.

In the interest of bona fide competition and in the interest of orderly and quality administration of medicare, I move to delete section 210 of the committee amendment.

Mr. President, the Senator from Alaska has said that the Social Security Administration's service drafted this amendment. He told us that they did it at his request. My information is that they did not agree with the text of the amendment, and they made that clear to the Senator from Alaska, but they provided him the drafting service which he asked.

EFFECT OF SECTION 210 IN SENATE VERSION OF H.R. 15580

Mr. BENNETT. Mr. President, I ask unanimous consent to put in the RECORD at this point a statement, "The Effect of Section 210 in Senate Version of H.R. 15580." It backs up the information I have just given to you.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

EFFECT OF SECTION 210 IN SENATE VERSION OF H.R. 15580

EXPLANATION OF PRESENT LAW AND REGULATIONS

The Medicare program is operationally administered through prime contractors in the private sector. Under Part A of Medicare, the Hospital Insurance program, bill processing and other services are performed by intemediaries under contract to the Secretary of Health, Education, and Welfare, as authorized in Section 1816 of the Social Security Act. Part B of Medicare, Supplementary Medical insurance, is similarly administered by contracting carriers under Section 1842 of the Act. These prime contractors (carriers and intermediaries) are both nonprofit groups such as Blue Cross/Blue Shield organizations, and commercial insurance companies. Under the terms of the law, all are reimbursed by the Government for the reasonable costs of administering their Medicare contractual responsibilities on the basis of no profit and no loss (i.e., cost reimbursement).

A number of carriers and intermediaries have chosen to subcontract with third parties for provision of certain services which they are required to provide under the terms of their prime contracts with the Government. Most commonly, carriers have let subcontracts with electronic data processing firms to provide EDP services required to process and pay Part B medical bills.

There are other services which are sometimes subcontracted, however, such as the auditing of hospitals and other providers under Part A. It is possible that leasing of office facilities by carriers or intermediaries might also be considered a subcontracted service.

Normally when a carrier or intermediary wishes to subcontract for a service, he is required to do this through a fixed-price, competitive procurement. When competition is not available, negotiated contracts based on cost and price analyses are used. All major subcontracts must be approved by the Secretary.

If a carrier or intermediary has been subcontracting for a service and wishes, upon expiration of the subcontract, to convert to an "in-house" operation in which he directly provides the service, he may do so at his option. For any major change, however, he must be able to demonstrate to the Secretary that he possesses the necessary technical capacity and be able to show through cost analyses that such a change would be cost-effective over the long term.

The Government reimburses carriers and intermediaries for all reasonable costs of services they provide, whether these services are performed under an approved fixed-price subcontract or are the actual costs incurred for direct, "in-house" operations.

EXPLANATION OF SECTION 210 OF H.R. 15580 ADDED BY THE SENATE

While there are some ambiquities or uncertainties about how Section 210 would apply in practice, the general operation of the provision is clear.

Section 210 would be applicable only to those carriers and intermediaries who were subcontracting for a service on or after June 30, 1974, and would have effect only when such subcontracts expired during fiscal year 1975. If these conditions were fulfilled, the provision would apply whether the carrier or intermediary again wished to subcontract for the service or wished to convert to a direct operation. In either event, it would prohibit use of funds appropriated under H.R. 15580 to reimburse the carrier or intermediary for any costs in excess of the total administrative costs (i.e., the costs of his entire Medicare operation) which the carrier or intermediary would have incurred over a 1-year period, had the service in question been provided under a fixed-price subcontract arrived at through competitive bidding and entered into for at least a 1-year period.

If a Medicare prime contractor (a carrier or intermediary) wished to again subcontract for a service, to avoid a reimbursement penalty he would be required to obtain fixed price bids on a competitive basis and award the subcontract to the firm whose bid and method of providing the service would result in the lowest total administrative costs for the prime contractor during the first year of operation. Since the bid would only cover the price of the subcontracted service, some method would be required for estimating what all other administrative costs of the prime contractor would be under the various bid proposals. (This may be relevant largely for EDP services, where the particular type of system employed may affect the costs of related operations.) While the language of the provision is ambiguous, to be consistent with the treatment of direct operations (described below) the judgment as to the low bidder would have to be based on bids for a 1-year subcontract, although the actual subcontract period would probably be 2–3 years.

When the Medicare prime contractor wished to directly perform a previously subcontracted service, he would presumably be required to solicit competitive bids as if he were intending to subcontract for 1 year. The prime contractor's estimated 1-year total administrative cost under the most favorable competitive subcontract arrangement would then be projected. At the end of the first year of direct operations, the prime contractor's actual costs (including any "start-up" costs associated with the conversion from subcontracting to direct operations) would be measured against this projected subcontracting cost, and any excess above the projected cost could not be reimbursed by the Government.

EFFECT OF SENATE ACTION

Section 210 would primarily apply to Medicare carriers who presently subcontract or might wish to subcontract for EDP services.

Of the 47 carriers, 16 now subcontract with EDP firms. The contract between one carrier (Pennsylvania Blue Shield) and a data processing firm (Electronic Data Systems Federal) expires in fiscal year 1975, and several other contracts expire early in fiscal 1976. The provisions of Section 210 would apply to Pennsylvania Blue Shield, should the carrier choose to conduct an "in-house" data processing operation or to competitively subcontract upon expiration of the present subcontract. (A third option, to extend the present subcontract, would presumably not be affected by Section 210.) Since substantial lead time is required when a carrier wishes to change the mode of his data processing operation, the existence of Section 210 could affect decisions about future EDP service by carriers whose subcontracts expire in fiscal 1976.

Under present law, the carrier who wishes to switch from a subcontracted to a direct EDP operation incurs no risk in doing so, since his reasonable costs will be reimbursed. As noted above, however, Section 210 would prohibit reimbursement of any costs incurred by the carrier in excess of his projected costs under a competitive subcontract during the first year of operation. Because "start-up" costs in an EDP conversion are often substantial, and occur during the first year of operation, even the most efficient conversion to direct operations would be likely to produce higher costs during the first year than a subcontracting arrangement in which the subcontractor had no "start-up" costs (as would be the case if he previously had been performing the carrier's EDP services) or could amortize these costs across a number of years.

The likely effect of Section 210, therefore, would be that no carrier who had subcontracted for EDP services could risk converting to a direct operation, even though a conversion might be more cost effective than subcontracting if measured on the basis of costs and performance over a multi-year period. It would be particularly difficult for a nonprofit carrier, such as a Blue Shield organization, to enter into an arrangement wherein cost might not be fully reimbursed.

In the event a carrier again wished to subcontract, under any circumstances the former subcontractor is likely to be in a competitively favorable position, since his system is in place, he has been performing the work, and he has no start-up costs. Under Section 210, the competitive position of the former subcontractor would appear to be further enhanced. If the competition is judged on the basis of bids for 1 year of operation, then any new competitor would presumably be forced either to include his "start-up" costs in the bid, or to absorb them under the assumption that they can be recovered in subsequent years or contract periods.

It is possible that Section 210 might discourage future subcontracting for EDP services by carriers presently operating their own data processing systems, since a decision to subcontract might be viewed as precluding any option to return to direct operation in the future.

Section 210 is either silent or unexplicit on a number of matters which would have to be resolved in any operational application. It does not treat with a situation in which competing bids are not submitted, as might be the case where competition is not available or where EDP firms conclude that they have no chance of winning a bid or obtaining a contract. The method of estimating what a carrier's hypothetical total administrative costs would be under competing subcontract proposals would seem, of necessity, to require subjective judgments which are open to argument and differences of interpretation. Finally, since Section 210 deals solely with cost, it would appear to leave unanswered questions about the overall quality of carrier operations; in some instances, quality improvements involving additional cost would seem to be precluded.

It should be noted that the Report of the Advisory Committee on Medicare Administration, Contracting, and Subcontracting (the "Perkins Committee" Report), submitted to the Secretary on June 21, 1974, addressed the issues and questions surrounding Medicare EDP subcontracting in great detail. It recommended a general policy of allowing carriers a considerable degree of freedom in decisionmaking about how and by whom their EDP services would be performed. This was coupled with a recommendation that a workable system be developed to terminate the prime contracts of carriers who, over a period of several years, showed consistently poor cost and quality performance in their total operation.

Mr. BENNETT. The fact of the matter is that the social security system would be very much worried about the problems that would be created if this amendment were to remain in the law. I quote a few lines from a letter I received today from Mr. Cardwell, the Commissioner of Social Security. I shall not read the whole letter:

> In short, it is quite clear that Section 210, at least in its present form, would depart significantly from an inherent and regular feature of the basic Medicare statute. . . .
>
> In summary, the Social Security Administration acknowledges that the current substantive law provides more incentives for the carrier to go in-house under these circumstances than to use a subcontractor—without consideration of whether the subcontractor's performance might actually produce a lower cost. On the other hand, we see Section 210 as an ineffective means of dealing with that anomaly and would prefer a different solution; namely, the solution recommended by the outside study group. In fact, in its present form, we doubt that Section 210 could be effectively administered. There is also significant risk that it could complicate what is an already extremely complicated administrative and management problem.

Mr. President, I have also received a letter from the Comptroller General in which he sets forth very clearly his concern about the feasibility and the potentially dangerous impact on the operation of the system if all contractors under the system were required to be bound by the limitations that have been written into section 210.

I think the Senate would do well to review this proposal. The Senator from Alaska has said he did it to increase the competitive situation. Actually, so far as this one company is concerned, it would lock them in, protect them, regardless of the kind of job they do, and practically make it impossible for the carrier either to enter into another subcontract or to do its own work in-house, because the real key to this proposal is the requirement that all expenses in the first year must in fact be lower than the previous contract.

Mr. President, I ask unanimous consent that the two letters to which I have referred be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE COMMISSIONER OF SOCIAL SECURITY,
Washington, D.C., September 17, 1974.
Hon. WALLACE F. BENNETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BENNETT: At your request, following are our comments about the significance and effect of Section 210 of the Labor-HEW Appropriations Bill for 1975, which at this moment is being debated on the floor of the Senate.

Enclosed is a literal and we believe objective discussion of the effect of the provision on Medicare carriers, intermediaries, carrier data processing subcontractors, and the Medicare program generally.

As we interpret it, Section 210 is designed to avoid any increase in cost to the Federal Government for Medicare claims processing in those instances where a Medicare carrier elects, during fiscal year 1975, to convert from the use of a data processing subcontractor to his own in-house operation of the same or comparable data processing system.

As you know, the Medicare statute specifies that the Government will reimburse carriers for their actual costs. As we see it, Section 210 is designed to modify that provision of the substantive law in a way that would limit 1975 payments to carriers (who have converted in-house) to approximately the prior-year level.

We think the net effect of this would be to sharply influence carriers to remain with their existing data processing subcontractors rather than to exercise what we believe is a free choice concerning whether or not to use subcontractors for their claims processing.

In short, it is quite clear that Section 210, at least in its present form, would depart significantly from an inherent and regular feature of the basic Medicare statute.

While it might well avoid reimbursement during fiscal year 1975 of a higher claims processing cost in those few cases where carriers elect to go in-house, it would, at the same time, however, change the balance and opportunity of choice on the part of individual carriers. It would seem to shift the balance in favor of the continuation of subcontractors. While we ourselves are concerned that the current law might well provide too many disincentives to the continuation of subcontractors, we doubt that the Section 210 approach is the proper way to solve the problem. In this regard, a special outside group, commissioned by former Secretary Richardson to study this and related problems associated with Medicare carrier operations, has recommended that the proper solution to the same problem would be to adopt overall performance criteria by which the Government could measure each carrier's total operations and at the same time leave to him his own choice as to how he performs them (i.e., with or without the use of subcontractors). In the long-term, we believe the recommendation on the part of that outside group would be the proper one. As we have advised staff of the Committee on Appropriations, however, any such solution cannot occur immediately and will probably require a significant developmental period. In fact, it is clear that there would not be time during this Session of Congress to work out all the details that would be necessary to implement the outside study group's recommendation in this regard.

In summary, the Social Security Administration acknowledges that the current substantive law provides more incentives for the carrier to go in-house under these circumstances than to use a subcontractor—without consideration of whether the subcontractor's performance might actually produce a lower cost. On the other hand, we see Section 210 as an ineffective means of dealing with that anomaly and would prefer a different solution; namely, the solution recommended by the outside study group. In fact, in its present form, we doubt that Section 210 could be effectively administered. There is also significant risk that it could complicate what is an already extremely complicated administrative and management problem.

I hope this answers your questions.

Sincerely yours,
JAMES B. CARDWELL.

COMPTROLLER GENERAL OF THE
UNITED STATES,
Washington, D.C., September 17, 1974.
Senator WALLACE F. BENNETT,
U.S. Senate.

DEAR SENATOR BENNETT: This is in response to your request of September 16, 1974, asking for our observations on the merits and feasibility of a limitation on certain administrative expenses involved in section 210 of H.R. 15580, the Department of Health, Education, and Welfare (HEW) Appropriation Bill for fiscal year 1975.

The effect of this limitation would be to place a ceiling on reimbursement to intermediaries and carriers under contract with HEW under sections 1816 and 1842 of the Social Security Act. The ceiling would apply to such organizations that transfer certain functions—such as audit or EDP work—from an outside contractor to an "in-house" operation and would be based on an amount which it is determined such services would have cost if furnished under a subcontract awarded on a fixed price competitive basis judged on the basis of total administrative costs.

The explanation accompanying the amendment states that the effect of the limitation is not to prevent carriers from assuming such subcontracts themselves, but, rather to require HEW not to reimburse such costs until and unless there has been a determination of the reasonableness of such costs as established by an open competitive bid situation.

OBSERVATIONS ON MERITS OF THE PROPOSED AMENDMENT

Under sections 1816 and 1842 of the Social Security Act agreements or contracts with intermediaries and carriers shall provide for the payment of the cost of administration as are determined by the Secretary of HEW to be necessary and proper for carrying out the functions covered by such agreements and contracts. The extent to which the Government should or should not reimburse intermediaries or carriers for the costs incident to their internal management decisions—which would include moving from a subcontract to in-house operation—is essentially a policy matter which is up to the Congress to determine.

It should be pointed out, however, that the magnitude of this issue as it pertains to previous transfers of EDP work from a subcontract to an in-house operation should be viewed in perspective.

According to information obtained from the Social Security Administration (SSA) there have been three carrier conversions from subcontract to in-house operations specifically involving EDP claims processing services. The first was in May 1973 when Illinois Medical Service brought SSA's Model B system in-house to operate the system on a consortium basis with North Dakota Blue Shield and the Milwaukee, Wisconsin Blue Shield Plan. Previously the system at Illinois Medical Service had been operated by University Computing Corporation. The identifiable conversion costs for Illinois Medical Service during fiscal year 1973 were about $140,000 of the total reported administrative costs of $3.8 million.

The second carrier conversion from subcontract to in-house operation occured in January 1974 and involved the Topeka, Kansas Blue Shield organization which brought in-house the system previously developed and operated by Electronic Data System Corporation and its wholly owned subsidiary E.D.S. Federal Corporation (EDSF) upon the expiration of the carriers' subcontract with EDSF. We understand this transfer was accomplished under the following standard clause in the EDSF subcontract with the Medicare carriers.

"In the event that COMPANY [carrier] shall desire to install computers for its own use following expiration of this agreement on the Termination Date provided for, herein, COMPANY shall have the right to the use of the System under mutually agreeable conditions which shall include the following:

"(a) The System shall not be operated, directly or indirectly by persons other than COMPANY personnel.

"(b) COMPANY work exclusively shall be processed on the System.

"(c) Neither the System nor any of the various components thereof shall be disclosed to third parties, nor sold, assigned, leased or otherwise disposed of or commercially exploited."

The identifiable conversion costs by the carrier during fiscal year 1974 were about $94,000 of the total reported carrier's administrative costs of about $2.6 million.

The most recent carrier conversion was essentially completed in June 1974 and involved the General American Life Insurance Company of St. Louis, Missouri, and its data processing subcontractor McDonnell-Douglass Automation Company (MCAUTO). This was accomplished through a subcontract which essentially provided for the installation of MCAUTO's version of the Model B system in April 1973, operation by MCAUTO for a test period, and the subsequent conversion to in-house operation with the carrier paying license fees and systems maintenance charges. We have not identified the conversion costs of this transfer.

According to SSA the pending carrier conversions from subcontract to in-house operation of EDP systems involve

Pennsylvania Blue Shield whose contract with EDSF expires in January 1975

Texas Blue Shield whose contract with EDSF expires in October 1975

Washington Physicians Service whose contract with Computer Systems, Inc., expires December 1974 with an option of two additional 90-day extensions

Colorado Blue Shield whose contract with MCAUTO terminates in March 1975.

In addition to the foregoing there are 12 carriers which have subcontracted with EDP claims processing services of which nine have subcontracts with EDSF.

OBSERVATIONS ON FEASIBILITY OF PROPOSED AMENDMENTS

Our technical problems with the proposed amendments principally involve—

The broad, but undetermined impact on Medicare subcontracted activities in addition to carrier subcontracts for EDP services, and

The difficulty of administering a limitation based on what total administrative costs would have been if some particular function or portion had been subcontracted on a competitive basis.

POTENTIALLY BROAD IMPACT ON SUBCONTRACTED ACTIVITIES

The explanation accompanying the amendment refers only to coverage of agreements with carriers entered into under section 1842 of the Social Security Act. We understand, however, that it is the intent, as stated in the limitation language, to include agencies or organizations which are parties to agreements under section 1816 (intermediaries), within the coverage of the limitation and we have suggested to the Chairman of the Appropriations Committee that for the purpose of achieving greater clarity, consideration might be given to discussing the coverage of the section 1816 intermediaries in the explanation accompanying the proposed amendment.

For example, under section 1816 there are agreements with 10 intermediaries that administer Medicare payments involving institutional providers of services such as hospitals and skilled nursing homes. The principal intermediary however, is the Blue Cross Association (BCA) which has subcontracted most of its intermediary functions to 73 Blue Cross Plans on a cost reimbursable basis. BCA and its Blue Cross subcontractors service about 90 percent of the 6,800 hospitals participating in Medicare and incur about 90 percent of the intermediaries' total administrative costs. The potential impact of the proposed limitation in the event of any modification or realignment of BCA's existing subcontract arrangement with the Blue Cross Plans is undeterminable at this time without further study of such arrangements and any contemplated changes thereto.

DIFFICULTY IN ADMINISTRATION

On the basis of our discussions with SSA personnel and our reviews of data processing subcontracts, we believe the proposed limitation would be difficult if not impossible to determine and to administer unless the carriers were required to obtain competitive proposals as a precondition for converting from a subcontract to in-house operation. As noted on page 63 of the June 21, 1974, report to the Secretary of Health, Education, and Welfare and the Commissioner of Social Security, by the Advisory Committee on Medicare Administration, Contracting and Subcontracting (the Perkins Committee), article XVIII of the existing carrier contracts do require prior approval of a major systems change including a shift from EDP claims processing activities performed on a subcontract basis to in-house operations. The report also notes, however, that the carriers are not required to solicit competitive proposals in assessing the cost effectiveness of such a move in-house. Thus, if a carrier, under its existing contract, declined to go through the motions of obtaining competitive proposals, without the bonafide intention of making a subcontract award, the limitation in the proposed amendment would be virtually undeterminable.

Further, even requiring competitive proposals under conditions where the carrier would prefer to bring its EDP operations inhouse raises a practical problem in establishing a truly open competitive situation as intended by the proposed amendment. Some potential subcontractors—particularly those not a party to the preexisting subcontract—may be unwilling to expend the time and expense of developing meaningful proposals because they would probably be aware of the carrier's preference to go in-house. This disinclination to compete could be more critical at the large carriers in view of the conclusions stated on page 69 of the Perkins report that the large carriers' choices are now basically limited to EDSF or MCAUTO.

Finally even if the contractual and practical problems of achieving a truly competition situation on which to base the proposed limitation in costs could be overcome, the process of assessing the impact of a proposed EDP system and related price on total administrative costs as required by the proposed amendment is neither a simple nor precise one.

For example, as pointed out in our August 2, 1973, report to the Subcommittee on Intergovernmental Relations of the House Committee on Government Operations on the award of a subcontract for Physicians Services in Ohio and West Virginia, B-164031(4), the quoted prices per claim by three offerors for data processing services were about $.94, $.53 and $.25. In assessing the impact of the quoted prices and related technical proposals on total administrative costs, the carriers estimated total costs per claim of $2.40, $2.31, and $2.06, respectively. Conversely, an independent SSA review team estimated total costs of $1.99, $2.22 and $1.90 respectively, and officials of SSA's Bureau of Health Insurance estimated the total cost per claim of the $.94 and $.25 price proposals to be $2.53 and $2.19 respectively. Although we believe that the techniques for estimating the impact on total administrative costs of various quoted prices and related competitive technical proposals has improved since the issuance of our report, we question whether the state of the art is sufficiently precise to reasonably assure that the intent of the proposed amendment can be complied with or to provide an equitable basis for limiting reimbursement to carriers for the costs otherwise necessary and proper in carrying out the functions covered by the contracts.

We hope that this information will satisfy your needs.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

Mr. BENNETT. Mr. President, I reserve the remainder of my time.

Mr. STEVENS. Mr. President, having great regard for my good friend the Senator from Utah, I am not going to be as strongly worded concerning his intent as he was in his language concerning the intent of the committee. There is nothing in this amendment which says it is for 1 year. It pertains to a contract entered into for at least a 1-year period, on the basis of fixed competitive bidding, judged on the basis of total administrative costs. It does not say just for 1 year; that is nonsense.

Let me state what is going on. The Social Security Administration and I had an exchange during the committee hearings. They agreed that they ought to change this process. At my request they drafted this amendment, and now someone has become disturbed about it, I do not know who, and they have undertaken to explain why the amendment they drafted will be impossible to administer.

If we encourage going in-house, and that is what they have been doing with the concept that the Social Security Administration will pay all costs of conversion and all of what they determine to be reasonable costs, we are going to have buildings built all over this country, with palatial gardens outside, and fountains—you have seen them and so have I—where these people go in-house and suddenly discover they have an unlimited fund available.

This is one of those uncontrollable costs, in the sense that whatever the Social Security Administration agrees to reimburse, we have to pay out. We have no way whatsoever to judge except on the basis of some competitive standard, and all we are saying is that if they convert, they should not convert if the cost will exceed what they could have procured the services for on a competitive basis.

This does not protect on supplier at all, unless he is competitive. If he is not competitive, he is going to lose out. The fact that there is so little competition in this field, to me, is directly related to the activities of the Social Security Administration in encouraging people to go in-house, in encouraging people by saying, "Look, if you will go and take this new Model B computer program we have, we will pay all the costs of the program, we will pay all the costs of updating that program, we will pay all your reasonable costs of conversion, and all the reasonable costs incurred by you in connection with that program."

They sit there and pay anything, and it is impossible to come up with a definition of a competitive standard. According to the Perkins report, during calendar year 1973 the subcontractors processed about 48.9 percent of all claims. There is a competitive standard. We are saying, "If you are going to convert those to in-house, you have to assure us that you are not going to pay any more in doing it than if you had continued to subcontract it out."

That is the only protection the taxpayer has, because the minute that they commit the Government to pay them, the Appropriations Committee has to appropriate the money without question. We have no alternative unless we have some yardstick for them to follow in administering these claims.

I would say to my good friend from Utah that if these people cannot determine the administrative standards for an amendment they wrote themselves, they may not agree to it now, but they did during the committee hearings; they agreed with me that they ought to stop the Model B computer program, as recommended by the Perkins committee. They agreed that they ought to foster competition, and they agreed that there ought to be more subcontractors involved in this business.

The only way to get more subcontractors involved is to preserve competition. Again I say, I think it is very unfortunate that someone has paraded all over the news media that this is an amendment produced by one of the suppliers, Ross Perot. It is not. It is my amendment, which grew out of a discussion I had in the committee and the subcommittee with the Social Security Administration. It benefits them because they will be competitive.

I am sorry that I have to be repetitive in saying that, but that is the only way it will benefit them. It will not benefit them in any other way.

I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, it is certainly not a happy duty for me to have to get up and oppose my distinguished colleague and dear friend, the ranking minority member of the Committee on Finance, the Senator from Utah (Mr. BENNETT). I do it, though, because I am compelled by the logic of the action taken in the Appropriations Committee.

My understanding is that the Appropriations Committee has dealt with situations similar to this many times. They considered the amendment proposed by the Senator from Alaska, looked at it, examined it, determine what was in the best public interest, and incorporated it into the bill, along with other amendments; and then, in order to afford the Senator from Utah, the ranking Republican member of the Finance Committee, an opportunity to raise a point of order, they withdrew that one——

Mr. BENNETT. Mr. President, I am the one who asked that it be withheld.

Mr. HANSEN. I thank the Senator very much; I appreciate that information.

Nevertheless, Mr. President, the point I wish to make is this: I was in Dallas, Tex., yesterday, as the Presiding Officer knows, and I am frightened by some of the things that I see rampant in the country today.

We had a presentation down there by a representative of TVA. He may have been the director; I am not certain about that. But he was talking about the price of coal, talking about the price that TVA has to pay for coal. He deplored the fact that the price was rising. And then he issued something of a threat or an ultimatum to the industry, saying, "If you do not do something about these rising prices, if you do not stop them, we may have to take over the coal industry."

Those may not be his precise words, but essentially that was what he was saying. He spoke about a committee or a supervisory board that would examine the whole problem, examine the prices, and it might be their recommendation that they take over the coal industry insofar as our coal-producing States were concerned.

I suggested to him that before he do that, I would hope that he would have his committee charged with the responsibility of making that determination undertake a trip to England, and live there for a month or two before they decided to take over the coal industry.

I think the same logic is inherent in the amendment now before us. The only way we have of seeing that costs are kept within due bounds, the only yardstick we have for knowing whether costs are reasonable, the only way we have of knowing whether the average taxpayer is getting value received for his money, that I know of, is on the basis of competitive bids.

It is very true that the Social Security Administration devised what they called their model system. They said they could do the job far cheaper than private industry was doing it, and though I do not recall precisely the figures, as I recall, for about $4 million they were going to set up a system to process all of these State claims, and be a clearinghouse for the whole operation.

Well, in the first place, it cost more, or so I am informed, than they had predicted it would for their system; and second, it does not work as well as private enterprise works. So what we find is that it is a little embarrassing, probably, to them to have their system compared, on the one hand, with the operations of private industry on the other.

I think that that sort of comparison is what we will assure will protect the interest of all Americans by including this Stevens amendment in this bill. All it asks for, as the Senator from Alaska has pointed out, is to make certain that there will be the comparisons afforded between Government operations, between this in-house system, using the model system, on the one hand, and this system, on the other.

I thank my colleague from Alaska for yielding to me.

Mr. MANSFIELD. Mr. President, will the Senator yield briefly?

The reason I ask the distinguished Senator from Alaska to yield is that a number of us have been invited to the White House at 7 o'clock to attend what is referred to as a working dinner. I do not know what the subject is to be discussed, but I have heard that it is the budget.

I believe the distinguished Republican leader, the distinguished ranking Republican Member, I think, has gone down already—and I am referring to Mr. COTTON. What I would like to do—I do not mind being a little bit late—it appears that, in view of the circumstances and from my point of view, it is most unfortunate that we cannot finish this bill tonight, that we will be unable to do so, so I would like to get to a vote on this amendment as rapidly as possible, and then find out from Senators BUCKLEY, THURMOND, and possibly, FANNIN, who have or may have amendments to offer, to see if we could not reach a time limitation on those amendments and be able to vote on final passage at a time certain some time tomorrow morning.

Mr. STEVENS. I would be glad to vote in 2 more minutes.

Mr. MANSFIELD. I thank the Senator.

Mr. BENNETT. I will take 2 minutes when he is through.

Mr. STEVENS. My last comments, Mr. President, would be these: This is only a 1-year limitation. If this standard is unworkable, we invite the Finance Committee to address themselves to it in the next session of Congress and work out some standards that will work.

Those of us who spent time on these hearings in respect to the appropriations bill tried our best to find out whether the so-called uncontrollable costs are really uncontrollable. I convinced myself that these costs here, these administrative costs of the services connected with medicare and medicaid, are not truly uncontrollable. The problem is that we have set no standards whatsoever. We have just said, "Pay whatever you think is reasonable for these costs in connection with the administration of these programs."

We are trying to give them a nudge down at the Social Security Administration to preserve competition and to use a competitive standard in measuring changes when they get the services performed by other sources, and I would urge the Senate to give this a trial. If it is wrong, if it does not work, let them come up and tell the Finance Committee next year that it does not work and what will work.

But somehow we have to get control of these costs—again, $147 million in three-quarters of 1 year, based upon one man's determination of whether it was reasonable or not to have services, have space, have any kind of costs at all associated with in-house conversions.

When it is competitive and it is bid out, the people who make the bid on a competitive basis have to perform the service for what they said they would do. That is the standard we have got. The standard is a competitive standard, and I think it is the only one that is going to save us money in the long run.

Mr. BENNETT. I apparently cannot get over two simple points. First, the 1-year reference in this bill—and I will read it from the language in the bill:

> Any startup costs incurred in connection with the provision of such service shall not be excluded in determining to amount of the cost of providing such service over the one-year period commencing with the date such agency, organization, or carrier first commences to provide such service directly.

The 1 year is a device which will make it impossible not only for them to do it in-house but—my colleague from Alaska says this is to promote competition—no other contractor can come in and take the contract over because he is going to have startup charges. So this is a program, as I said in the beginning, to lock in the existing subcontractors, and particularly one, the electronic data system.

The Finance Committee has oversight over this program. The law says that the Secretary may only pay—and I am reading—"reasonable costs consistent with efficiency and economy."

To say that if we do not put this in, buildings are going to proliferate all over the United States and we are going to spend millions and millions of new dollars, I would imagine between the Secretary and the Finance Committee we could see that that does not happen.

Then I cannot resist one last word, and this is what makes the whole thing just a little bit ironic. The EDS systems that are responsible for this amendment tried to sell it to me 2 years ago, so I know its source, and they received a subsidy of $250,000 from the Department of Health, Education, and Welfare to develop the systems in the first place.

So with that subsidy, plus the fact that they are locked in, this is, in my opinion, the worst anticompetitive amendment we could possibly adopt, and I hope the Senate will reject it.

Mr. STEVENS. Mr. President, I have 30 seconds left, and I think I will use them.

I would again point out that the 1-year period reverts back to the concept of a contract entered into for at least 1 year. That is the contract we are talking about. If it is more than 1 year obviously we spread the costs over more than 1 year.

It is very unfair to put this into a 1-year category.

Mr. BENNETT. I will read the Senator the words. They are in the amendment:

> Any startup costs incurred in connection with the provision of such service shall not be excluded in determining the amount of the cost of providing such service over the 1-year period.

Mr. STEVENS. The 1-year period that is referred to, I would say to the distinguished Senator, is on page 35, and specifically refers to "at least a 1-year period on the basis of fixed-price competitive bidding." That is what we are defining in the subsequent term.

Mr. BENNETT. Here is the amendment.

Mr. President, I think we might as well vote and get it over with.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. STEVENS. I yield back my time.

Mr. BENNETT. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on pages 34 and 35 to strike section 210 and insert new language.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. BIBLE), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Wisconsin (Mr. NELSON) is absent on official business.

I also announce that the Senator from Ohio (Mr. METZENBAUM) and the Senator from Connecticut (Mr. RIBICOFF) are absent because of Jewish holy day.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senator from New York (Mr. JAVITS) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The result was announced—yeas 71, nays 13, as follows:

[No. 403 Leg.]

YEAS—71

Allen
Baker
Bartlett
Biden
Brooke
Buckley
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Cranston
Curtis
Domenici
Eagleton
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Johnston
Kennedy
Magnuson
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Roth
Schweiker
Scott,
William L.
Stafford
Stevens
Stevenson
Symington
Talmadge
Thurmond
Weicker
Williams
Young

NAYS—13

Abourezk
Aiken
Beall
Bellmon
Bennett
Brock
Church
Clark
Dole
Long
Mansfield
Scott, Hugh
Taft

NOT VOTING—16

Bayh
Bentsen
Bible
Cook
Cotton
Dominick
Fulbright
Gravel
Javits
Metzenbaum
Nelson
Ribicoff
Sparkman
Stennis
Tower
Tunney

So the committee amendment on pages 34 and 35 to strike section 210 and insert new language was agreed to.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the committee amendment to pages 34–35 to strike section 210 and insert new language was agreed to.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I would like to comment briefly on the tremendous, and I believe unnecessary costs that are incurred in administering our student aid programs.

The budget section at the Office of Education informed my office that at least $58 million are expected to be spent in fiscal year 1975 on simply administering the various student aid programs. This figure realistically is even higher, but specific administrative costs for some student aid programs are not immediately available.

Mr. President, it is inefficient and wasteful to spend millions of dollars in the administration of each separate student aid program when costs could be cut drastically by administering all of our student aid programs through one department or administration group.

Not only would the Government be able to save millions of dollars annually, but by administering our aid programs through one office rather than seven or eight, we would be increasing the efficiency of the program and would be making it more responsive to the needs of the individual student. It does not make good sense to have separate administrative authorities for these programs.

Mr. President, I would hope that in the future we will be able to consolidate the administrative costs of student aid programs so we can be more responsive to the student and more fiscally responsible.

I ask unanimous consent that a table showing these costs be printed in an appropriate place in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ESTIMATION BY THE OFFICE OF EDUCATION OF THE ADMINISTRATIVE COSTS NEEDED TO ADMINISTER VARIOUS STUDENT AID PROGRAMS IN FISCAL YEAR 1975

Program funds used for the administration of student aid programs throughout the Nation	Amount	Salaries and expenses used to administer student aid programs within the Office of Education in Washington, D.C.
Basic opportunity grants.	$11,500,000	$2,600,000.
Supplemental opportunity grants.	$2,900,000	$943,600 (for supplemental opportunity grants and work study program).
Work study program.	$9,700,000	
Cooperative education program.	$10,000,000	$302,000.
Insured student loans.	Administrative costs not available.	$4,600,000.
Direct student loans.	Administrative costs for schools $14,000,000.	$914,000.
Incentive grants for State scholarships.	Although there is no money requested for this item, funding is planned by Congress.	Although there is no money requested for this item, funding is planned for this item by the Congress.
Special services for disadvantaged students.	Administrative costs cannot be determined.	$560,000.

Total of Administrative Costs in Running Student Aid Programs is almost $48.1 ml.

The cost is probably more but costs of several programs could not be specifically determined at this time.

Total costs of salaries and expenses and administration costs of running student aid programs within the Office of Education is at least 9.9 ml. This figure would probably be higher but figures could not be accurately determined on several programs.

The combined cost of administering student aid programs in FY '75, both within the Office of Education and throughout the nation, comes to a total of $58.019 ml.

The figures for this tabulation were supplied to Senator Stevens' office by the budget office of the Office of Education within H.E.W.

Mr. BEALL. Mr. President, I would like to briefly discuss some report language which appears on page 20 of Report No. 93–1146 which accompanies H.R. 15580. In referring to title IX of the Older Americans Comprehensive Services Amendments of 1973, the Community Service Employment Program for Older Americans, the report states that—

> The Committee again reiterates the intent of Congress that these funds be handled primarily through national contracts rather through prime sponsors.

Mr. President, I do not believe that this language accurately reflects the intent of Congress as expressed in Public Law 93–29 or its accompanying report. I believe that there are three basic reasons why this is the case;

First, Public Law 93–29 specifically states in paragraph 2, subsection B of section 903 that—

> The Secretary is authorized to make whatever arrangements that are necessary to carry out the programs assisted under this title as part of any general manpower legislation hereafter enacted, except that appropriations for programs assisted under this title may not be expended for programs assisted under that title.

This language was specifically written into the law so as to allow the title IX programs to be coordinated with the comprehensive manpower legislation which was then working its way through the legislative process.

Second, the committee report stated that:

> National organizations such as those previously named, that have acted as sponsors of Mainstream Projects would continue to be eligible to participate. In view of the success that has been achieved under the pilot program the Committee is hopeful that there will be a continued participation by these organizations.

I believe that it is safe to say that there is a great deal of difference between saying that an organization "would continue to be eligible to participate" and stating that these funds must "be handled primarily through national contracts."

Third, in Report No. 93–304 which accompanied S. 1559, the **Job Training and Community Services Act of 1973**, stated that:

> The Committee shares the view that manpower programs can best be planned and administered at the State and local level but with the financial support, technical assistance, and oversight of the Federal Government to insure that the programs are carried out in accordance with legislatively established national objectives.
>
> The Committee believes that the framework for such decentralization must be worked out through the legislative process. The Job Training and Community Services Act of 1973 represents the results of 5 years of efforts toward that end.

Mr. President, in conclusion I would like to state once again that language was built in the title IX program specifically allowing it to be coordinated with general manpower legislation, the enactment of which was anticipated by the subcommittee. That legislation was subsequently passed into law and signed by the President on December 28, 1973, approximately 8 months after legislation extending the Older Americans Act was signed into law. While I am not stating that national organizations should not remain eligible to participate in these programs I do believe that the language contained in the committee report for this appropriation bill clearly exceeds both the original intent of Congress and subsequent legislation in the manpower field.

THE NEED FOR ADDITIONAL LEGISLATION ON STATE PAYMENTS

Mr. TAFT. Mr. President, I would like to call the Senate's attention to the discussion of an extremely important matter on page 94 of the committee report on H.R. 15580. The report language reads as follows:

> The committee is aware of recent developments involving individuals' claims for assistance under various social security programs. Earlier this year, it was ruled that Federal courts did not have jurisdiction to hear claims against a State for recovery of financial assistance. The committee directs the Secretary to undertake a careful review of the current situation and explore possible alternatives which might help prevent the recurrence of this problem.

The situation to which the committee is referring was created by an unfortunate 5-to-4 Supreme Court decision rendered last March 25. In this decision, the court ruled that the 11th amendment to the Constitution bars Federal courts from ordering State officials to pay retroactive program benefits even if it recognizes that the State officials acted unlawfully in withholding these benefits. The court said that Federal courts would have the power only to order the State officials to comply with Federal law in the future.

The case was brought as a class action by John Jordan, an elderly Chicago beneficiary of aid to the aged, who wished to protect himself and others receiving aid from delays in the provision of assistance which were held to be illegal by the district court—a ruling which was not contested by higher courts. His case was predicated on the simple concept assumed valid, in my judgment by the vast majority of us, that a State which participates voluntarily in a federally funded program certainly must abide by Federal laws and regulations governing the administration of the program.

The 11th amendment literally prevents suits against States in Federal courts by foreign citizens or citizens of other States. Mr. Justice Brennan expressed his belief that it is not applicable to suits against a State by citizens of the same State, as in Jordan. Furthermore, the court's decision was an express overruling of recent decisions in which it has held for other reasons that courts could order States to pay retroactive benefits withheld in violation of Federal law. These decisions were based on the proposition that:

> When a State leaves a sphere that is exclusively its own and enters into activities subject to congressional regulation, it subjects itself to that regulation as fully as if it were a private person or corporation." *Parden* v. *Terminal R. Co.*, 377 U.S. 184, at 196.

Such rulings, coupled with reinforcing statutes—as noted in Mr. Justice Douglas' dissent to Jordan—and the voluntary nature of State participation in these federally funded programs led Mr. Justice Douglas, Mr. Justice Marshall, and Mr. Justice Blackmun to conclude that by agreeing to participate in the aid to the aged program, States automatically waived whatever immunity they might otherwise have had from Federal court orders requiring retroactive payment of benefits.

The effects of the Supreme Court decision on the operation of the Federal assistance programs affected could, unfortunately, be extremely serious. As Mr. Justice Marshall and Mr. Justice Blackmun noted, no remedy other than the court's power to order retroactive payment of benefits can effectively deter States from the strong temptation to cut welfare budgets by circumventing the stringent requirements of Federal law. Unless this loophole is closed, State bureaucrats will be able to violate Federal regulations freely, without fear that effective action will be taken against their State.

Therefore, I commend the committee for its concern with respect to this problem. However, I am convinced that legislative action, rather than administrative action as recommended, is necessary to alleviate it.

The court's argument in the Jordan case rested largely on the premise that because Congress did not specifically require the State to waive its immunity to suit in Federal court as a condition for participation in the aid for the aged program and the State did not take specific voluntary action to do so, the State retained that immunity. Legislation is needed to restore the legal rights of affected program beneficiaries, by requiring States to waive immunity to suit as a condition for future Federal financial participation in State-administered assistance programs. These programs would include aid for dependent children, medicaid and food stamps.

I have introduced legislation, S. 3937, which would do this. S. 3937 is now pending before the Judiciary Committee. A copy of this bill and the slip opinion of the Supreme Court to which I have been referring were printed with my introductory statement in the Congressional Record of August 21, 1974. My statement started on page 29471.

I am hopeful that Congress will act quickly and favorably on this measure. In my view, the issue has nothing to do with congressional support or lack thereof for specific provisions of the assistance programs. Rather, S. 3937 is necessary to insure that once the Congress has decided what those laws are, the citizens we have decided to assist will have appropriate recourse against States which do not comply with those laws.

I ask unanimous consent that an April 3, 1974, Washington Post editorial on this subject be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Washington Post, Apr. 3, 1974]

Welfare and the Courts

John Jordan, an elderly Chicago indigent, made a simple assumption about equitable justice in the United States and went to court to test it. Last week Mr. Jordan learned that his assumption was wrong. What he assumed is that if a state is conducting a program that involves federal funds, and if the state violates the federal regulations under which the program was established by Congress, then those who are entitled to the benefits of the program are also entitled to sue the state officials and receive the benefits that had been withheld.

What the Supreme Court said in the case, *Edelman v. Jordan,* is that the 11th Amendment to the Constitution bars the federal courts from ordering state officials to pay retroactive benefits, even if it recognizes that the state officials acted unlawfully in withholding the benefits. The Court said it could order the state officials to behave legally in the future, but it could not order the state to pay back benefits.

Mr. Jordan was eligible for benefits under the Assistance to the Aged, Blind and Disabled program. He applied for them, only to discover that Illinois had a regulation that resulted in long delays before such benefits were paid. The federal regulations called for payment to Mr. Jordan within 30 days. Mr. Jordan was told he would have to wait much longer. And so he sued. His class action was intended to do more than recover the $195.00 he would have received if Illinois had obeyed the federal regulations. He wanted to protect the interests of others in the state who had also been victimized by the delays.

Mr. Jordan won in the federal district court and in the Seventh Circuit of the U.S. Court of Appeals. At the Circuit Court level, Illinois asserted its rights under the 11th Amendment, which has been held to bar suits in federal courts brought by residents against their states. The amendment, adopted in 1798, was originally designed to prevent the federal courts from being able to enforce the claims of foreigners against individual states. It has since become a tricky current in the law and has produced a variety of conflicting holdings.

The Supreme Court's most recent interpretation in *Jordan* is that residents of states who are eligible for aid from federally assisted programs cannot sue the state officials in federal court for violating the regulations laid down by federal agencies or by Congress. The Court held that it could enjoin the state officials from future violation of the regulations, but it could not grant the back benefits that had been denied. The Seventh Circuit held that Illinois waited too long to assert its 11th Amendment right, but the Supreme Court ruled that the 11th Amendment is such a grave bar against federal jurisdiction in such cases that it had to be entertained, no matter how late the hour at which it was invoked.

The implications of this case for the public welfare system are serious. If welfare agencies can withhold funds until the courts tell them to stop, many welfare lawyers fear that delay in the processing of applications could well become the rule rather than the exception. The reason for demanding restitution of lost benefits in the Jordan case is to prevent state bureaucrats from discouraging welfare applicants by putting them through long processes. The federal regulations requiring that applications be processed within 30 days for the elderly indigent, the blind and the disabled were intended to guard against just such bureaucratic delay. The Supreme Court has now removed the federal courts from their equity role in such matters.

The court has said that unless a state consents to such a suit in federal court, the court cannot award back benefits. The court rested its decision on the absence of any specific language in the law requiring states to give up their immunity against such suits as a condition of participation in the program. Since the courts no longer have the power to protect recipients, and since the Congress has left the bureaucrats so large a loophole, it is the Congress that must make its intent clearer.

We are here concerned with the interests of the poorest of our citizens who are elderly, disabled or blind. To leave them at the mercy of the agencies that have already demonstrated their lack of concern is unfair and cannot have been the intent of Congress. What is required now is an amendment of the Social Security Act that would take a simple step to right a wrong. Congress can require that any state that participates in a federal welfare program must waive its immunity against suit under the 11th Amendment. Otherwise, an illegally operated program can continue to be in violation until it is enjoined. And at that, its officials will feel no pressure to do anything other than to begin operating legally from the point at which an injunction has been issued.

The reason for the welfare program is to assist those who are unable to help themselves. It is designed to grant "minimal subsistence" in cases of indigence, infirmity or disability. We give to the John Jordans of this country just enough to stay alive. We require the states to do a simple thing—assist them promptly when they are in need. Since the Supreme Court in *Edleman v. Jordan* has removed the courts from their traditional equity function in welfare cases, the Congress should act to protect the least among us.

Mr. FANNIN. Mr. President, some nine amendments have been offered to the HEW appropriation bill which are concerned with the operation of the Occupational Safety and Health Act. This act has generated continuous controversy since its enactment in 1970. Many amendments have been offered to OSHA from both sides of the aisle. In the House a number of bills have been introduced calling for outright repeal of OSHA.

Mr. President, I do not support repeal. The law's intent was to provide safe and healthful working conditions for all American workers. Every Senator in this Chamber is sincerely interested in obtaining safe and healthful working conditions for all American workers.

OSHA amendments are considered every time HEW appropriation bills are debated. OSHA amendments have been offered to unrelated bills. The controversy continues. There is not unanimous agreement as to whether the difficulty lies primarily with the way the act is being enforced, or with unfair provisions in the act itself. There is broad agreement that some changes are needed. Of course, the proper forum for considering such changes is the legislative committees where the act originated, not floor debate on an appropriation bill. Brief hearings have been held by the Labor Committees of both Houses. No bills have been reported. Therefore, once again we are forced to offer OSHA amendments to an appropriation bill.

On March 8, 1973, I joined Senator Dominick in introducing S. 1147, which proposed six amendments to OSHA. Later, some 20 Senators from both sides of the aisle joined as cosponsors. I refer to S. 1147 because for the most part the nine OSHA amendments now being offered are drawn from that bill. The only exception is Senator Curtis' small business exemption amendment. As I remember it, Senator Dominick did not include any exemptions because of a fear that there could be more hazards to health and safety in a small business than in large industry. Because of my interest in the protection for the employees of small employers if we should exempt those with 25 or fewer employees, I called the chairman of the Arizona's Industrial Commission. Arizona's OSHA plan was never approved. Approval was withheld primarily because it did not provide for first instance sanctions. I was happy to learn that my State's industrial commission has retained its 17 well-trained, competent OSHA inspectors. Under Arizona law every employer with one or more employees is covered by the State OSHA law. Therefore, if we exempt small employers, their employees will be fully protected.

Mr. President, I believe that almost every State has its OSHA law, and that most State plans have been approved. Arizona is not unique. The States are ready, willing, and able to take over if an exemption is authorized.

Annual reports on occupational safety and health indicate that less than 50 percent of employers inspected were found to be in compliance with the act. It is not working because the act as presently written places too much emphasis on punishment of employers for noncompliance and not enough emphasis on assisting employers toward compliance. It is clear that employers must bear the burden for complying with the act, and that penalties are necessary where they refuse to comply. But it is equally clear that the objectives of the act cannot be achieved without their cooperation. There will never be enough Federal inspectors to coerce this country's employers into compliance.

Mr. President, OSHA was never intended to be a revenue-raising statute. Nor was it intended to take on the aspects of a criminal statute. Legislation in the field of health and safety must have the support of the business community, organized labor, employees not represented by unions, and all other like-minded citizens who support the basic goals of OSHA.

We need to understand that employers, particularly small ones, need assistance in understanding and complying with complex OSHA standards. At the present time, OSHA cannot provide technical assistance through onsite consultations. If an OSHA inspector observes a violation during a visit to the worksite, he is obliged to issue citations and propose penalties. For that reason, many employers have declined to ask any advice from OSHA as to what they should or should not do about conditions in their plants.

One of my amendments, No. 1863, would dispense with posting of a notice of violation. Section 9(b) of the act provides that each citation issued shall be prominently posted at or near each place a violation occurred.

Section 17(i) provides a civil penalty of $1,000 for violation of such posting requirement. The employer may completely remedy the violation, but the notice must remain posted for such time as the Secretary provides. This is ridiculous. It does not help anyone—the worker, the employer, or the health and safety of the area. Continued posting of the notice of violation after the violation has been corrected serves no useful purpose other than to further punish employers and to damage the morale of his employees. The employer has shown good faith in that he has corrected the violation in the abatement period. The employees had notice of the violation by the original posting.

The same argument holds for not requiring posting of citation 30 days after notice of contest. The sole purpose of the posting regulations is to provide workers with knowledge of the citation.

The posting requirement of OSHA was apparently inspired by the requirements of the National Labor Relations Board. When that Board finds an unfair labor practice, it requires the employer to post a notice for 60 days which states in effect that the employer will not do it again. For example, an employer is found to have stated that he would discharge every employee who joined the union. The Board's rationale for the posting of the notice is that it takes 60 days of disavowal to put the minds of the employees at rest from the threat of discharge.

The situations are in no way comparable. OSHA finds a health or safety hazard. The hazard is corrected during the abatement period, the notice is posted for the abatement period. The employees see the notice and the corrective action. There is no justification for continuance of the posting for 30 or 60 more days. Whithin the hour I have been advised that current regulations of the administrator now provide that the notice may be withdrawn when violation is abated. I shall not call up this amendment.

Mr. President, my other amendment, No. 7862, deals with on-site consultation. S.1147, the bill introduced by Senator Dominick and me, required OSHA to provide advice and technical assistance to employers having fewer than 100 employees. Such advice and assistance would be provided only upon request of the employer and would be conducted onsite at the premises. Such consultations would be limited to matters specified by the employer, and no citations could be issued during the consultative visit. At the present time, OSHA cannot provide technical assistance through onsite consultations. If an OSHA inspector observes a violation during a visit to the worksite, he must issue a citation and propose penalties. Thus, many employers are reluctant to seek advice from OSHA. OSHA would be permitted to provide advice and technical assistance by means other than a visit to the worksite where such other means would be more appropriate and equally effective.

The House passed appropriation bill recognizes the need for onsite inspection by an amendment offered by Congressman Steiger, one of the authors of the original OSHA law.

Mr. President, OSHA has placed almost total reliance on the citation and penalty system of the act as a means of motivating employers to comply with the act. The enforcement program for all intents and purposes has been used to the virtual exclusion of meaningful incentives to comply voluntarily.

The current OSHA administration attitude is summed up in a recently published statement by an OSHA official that the employer must be made to recognize that he is subject to fines upon discovery of violations in addition to being subject to fines for failure to abate violations once discovered. The "fear" incentive, based on the threat of inspection, citation, and penalty, is felt to be the key to the act's effectiveness. Monthly Labor Review, August 1973.

I believe that the OSHA administration should be required to review its policy and resource allocations with the objective of achieving a productive balance between enforcement and voluntary compliance programs. Only by moving away from the present emphasis on the citation and penalty system, and toward a more balanced approach, can full compliance with OSHA be achieved.

Mr. President, I have discussed the problem of OSHA with many businessmen. Without exception business supports the concept and purpose of safety legislation. They are not altruistic in this support. High accident and health risks only serve to raise their insurance premiums for workmen's compensation. If any one can show them how they can make their places of employment a safer place to work, they welcome it. The large employers employ safety engineers to accomplish that purpose. Employers with less than 100 employees do not have the resources to employ safety engineers and technicians.

Mr. President, penalties do not provide persuasive economic incentives to comply. The Small Business Administration estimates that there are nine million small businesses. There are now about 2,000 OSHA inspectors, including Federal and State, who spend about one-half of their working time on inspections. Based upon such figures, the odds are that approximately three out of every one hundred businessmen will be inspected each year. There is thus a 97-percent probability of noninspection. Each business, therefore, would be inspected once every 33 years on the average.

The small businessman has received a mountainous pile of OSHA regulations. He cannot understand them or afford a lawyer or engineer to advise him. The odds being what they are, I am afraid too many are simply ignoring OSHA's bulletins.

I am just as convinced that if the small businessman could request free advice and technical knowledge on the site of his business, he would welcome such service and health and safety would be much better for the employees.

Mr. President, I regard onsite advice as one of the most important features that could make OSHA more acceptable.

Mr. President, in conclusion, all we are attempting to do in those OSHA amendments is to obtain a year's time in which to work out amendments to OSHA by the proper legislative committees and on the floor of the Senate. Pressure for outright repeal of OSHA is mounting if the letters from my State are in any way typical of the mail other Senators are receiving. OSHA does not have the support of small business and that part of the general public who have some acquaintance with the law. Neither I nor the sponsors of the other OSHA amendments assert that these amendments meet all of the problems of OSHA. We do believe that they meet the worst problems.

I shall support all nine OSHA amendments.

I ask unanimous consent to insert at the end of my remarks an excellent article from the Journal of Commerce which points out the problems of the small businessman in dealing with OSHA.

There being no objection, the article was ordered to be printed in the Record, as follows:

OSHA Compliance Bewildering to Small Companies

(By Bernard D. Berch)

Taxes, inflation, material shortages, union demands, consumer complaints, government regulations—all problems, all important, and all shared by big and small businesses alike, but with a difference.

That difference is the advantage of size. Where the large firm has specialists in law, accounting, data processing and planning to predict problem areas and handle them, the small firm often reacts as they occur.

Today, as an insurance company specializing in serving the small-to-medium sized concern, we're seeing the effects of these problem areas on the small firm.

GOVERNMENT REGULATION

Particularly important is government regulation, especially OSHA, the Occupational Safety and Health Act of 1970.

If not a household word, OSHA is rapidly becoming a common business term. It seeks to assure national standards for a safe and healthful working environment for more than 60 million men and women in five million workplaces. No one will argue with the fact that employe safety makes humanitarian and economic good sense. But the small business person may have negative feelings towards this legislation.

For one reason, it consists of voluminous complicated standards (256 pages) that are undergoing constant revision. For example, let's look at OSHA's requirements in the working environment as to the amount of asbestos fibers per million parts of air today.

Now, if there's any exposure to asbestos, a company is required to have thorough medical examinations of employes and maintain medical records for 20 years.

Tomorrow, through court action regarding that regulation, it may be relaxed. But, in the meantime the examinations and record keeping are costly for the concern.

FREQUENT COMPLAINT

A frequent complaint is that it takes an expert to keep current with all of the regulations. This is because they cover every aspect of the work environment, including such specialized areas as LPG tank requirements, or floor construction standards.

Also, standards are complex, and the employers may have difficulty in isolating the areas that pertain to their business. Another problem is that employers are not confident concerning the response expected of them, such as in reporting accidents and recordkeeping.

One complaint heard about OSHA is that it's expensive to make all required revisions, on the one hand while failure to comply may subject the firm to financial penalties.

The National Federation of Independent Business (NFIB), an organization of more than 300,000 small to medium-sized independent firms, reported the average cost to comply with the law was $3,826, based on its field survey of its members. In July 1973, OSHA conducted 5,038 inspections, issued 3,534 citations alleging 17,198 violations with proposed penalties totaling $547,298.

To aid in compliance with OSHA, the Small Business Administration can approve loans made for nonprofit producing additions at an interest cost which fluctuates with the availability of money. These loans are provided for in Section 28 of the act. Repayment must be made on the earliest possible date.

QUESTIONABLE PRACTICES

To further bewilder small business about regulation compliance there have been reports of some questionable business practices by individuals that thrive on their ignorance of the law. Some firms promise to inspect a company's operation and tell them what's wrong for $100—it's not hard to see the kind of headaches OSHA can cause the small business person.

There are a number of options for small businesses. They can talk to their agent or insurance carrier's engineering representative. Our branch offices report that they get a multitude of calls from small business people concerning their compliance with OSHA legislation.

They hesitate to call OSHA directly, they have said, because they fear this might result in an inspection of their premises. However, through their agent and-or insurance company, they're assured of getting an answer from a source who is both well informed and interested in helping them.

Actually a source of help is OSHA itself. Its pamphlet, "What Every Employer Needs to Know About OSHA Recordkeeping", includes the most frequently asked questions regarding injury and illness recordkeeping and reporting requirements and is available from OSHA, U.S. Department of Labor, Communications Department, 1726 M Street, N.W. Washington, D.C. 20201.

Also, OSHA has an official magazine called "Job Safety & Health", which is available by subscription from the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402 for $4.50 per year. This includes news briefs and articles which are very readable and helpful.

Other legislation, such as the Consumer Product Safety Act, and others, are the cause of questions and worries for the business community. Again, a good source of expertise is the agent and the insurance company's engineering representative.

Probably at no other time has the relationship between a business firm and its agent and the insurance carrier been so important. What can a firm do to assure itself of the best in coverage, expertise, and value from an insurance carrier?

The first consideration is to look for an agent who represents companies that are stable and have established reputations. Most companies will be competitive, but this is no time or place to look for a bargain.

One reason is that insurance is a cyclical industry and enjoyed record years in 1971 and 1972. The competition for business had driven some companies to irresponsible price cutting and as a result another insurance shortage is forecast.

This should present no problem to the consumer if he deals with a stable company.

Second, a firm should look for an insurance company with an efficient loss control program, staffed with engineering representatives who are readily available to the insured's operations.

The key questions to ask before buying a policy are: What types of inspection and loss prevention services are available and what is the frequency of these services? It's important then to follow their recommendations which might keep premium costs down.

Also, when buying insurance, explore package policies as they can prove advantageous:

Since all the coverage is purchased through one carrier, the firm becomes a more important and valued client and as in any business the best service goes to these best customers.

The company engineering representative is capable of coordinating all loss prevention activities.

If a claim is made, there is no cause for delay to determine which carrier should pay the loss.

Cost, of course, is important and any employer should consider purchasing deductible coverages. This presents a way to save on "go-in" premium.

Most businesses are not looking for a "maintenance" policy, but rather protection against serious financial loss.

At one time, one had to agree to deductibles to get coverage, but this is no longer the case. However, deductibles are a cost saving measure, particularly if a firm's loss history is good. In choosing deductibles, it pays to remember that losses of more than $10, not covered by insurance, are generally allowable as tax deductions.

A collective purchasing system, in a sense, describes what many similar-line firms are doing when they band together as an association or a group to buy life and health insurance. This same approach is now available for property and casualty coverages.

An insurance carrier can design a special loss prevention program for the group, that could result in the members benefiting with premium savings through safety dividend plans. It usually has a good loss control program; the members suffer fewer losses and the financial result can be lower premiums on the group's experience.

In a very real sense, this allows the small firm to enjoy the advantage of size. You might want to investigate this with your own association. We recommend your independent insurance agent as an excellent source of advice and counsel.

Mr. SCHWEIKER. Mr. President, I would like to call the attention of my colleagues to pages 18 and 19 of the committee report on H.R. 15580, regarding funding for manpower programs.

Specifically, this portion of the committee report earmarks $75 million for the Opportunities Industrialization Centers of America program in fiscal year 1975. Of this amount $60 million is to be made available directly from prime sponsors under title I of the Comprehensive Employment and Training Act of 1973, and $15 million is to be made available by the Department of Labor, under title III of CETA. The Appropriations Committee further provided that other ongoing title III programs will not be reduced below fiscal year 1974 funding levels, and I am hopeful the Secretary of Labor will give full support to all effective title III programs, while fulfilling this commitment to OIC.

I sponsored this earmarking provision regarding OIC, as I sponsored the provision in CETA which specifically designates OIC in the definition of "community based organizations." But I am pleased to state that a large number of my colleagues, on both sides of the aisle and in both the Senate and the House, have strongly supported these efforts to insure that OIC receives Federal support commensurate with its remarkable record of success. In particular, my good friend and subcommittee chairman, Senator MAGNUSON, has been a leader in this effort.

I think it is useful to review, for the public record, exactly why OIC has attracted this broad-based congressional support. In a phrase, it is because OIC works; $75 million is a lot of money—but this will enable OIC to train, and place 75,000 workers in productive jobs, and that is a better buy than we can get from any other manpower training agency, public of private. In this period of economic uncertainty, when minority unemployment and declining productivity threatens to run out of control, OIC is uniquely qualified to reverse these symptoms of inflation. In short, we cannot afford not to support OIC in today's economy.

My colleagues know that OIC was established in Philadelphia by Rev. Leon Sullivan. I had the opportunity to meet with Dr. Sullivan yesterday, and I can report that he is willing and able to assume the heavy new responsibility implicit in this budget earmarking.

At a time when all of us are giving close scrutiny to any appropriations requests, I think it is particularly important to emphasize what OIC does with its money. It does not pay trainees. It follows the motto "A hand up instead of a handout," and the strong personal motivation of OIC trainees has been a key factor in its success. It does not preach pie-in-the-sky, training for theoretical jobs that may never exist. OIC concentrates instead on practical training for real jobs that already exist—mostly in the hard core of our urban centers.

Our national unemployment is reaching crisis proportions. But urban unemployment is even higher than the national average, and minority urban unemployment is so high it is difficult to even get accurate statistics on it. OIC can have a real impact on this critical problem—and I am pleased that the full Senate has agreed to give OIC the tools to do the job.

Thank you very much.

VETERANS COST-OF-INSTRUTION PROGRAM

Mr. MATHIAS. Mr. President, I am especially pleased that my colleagues on the Appropriations Committee have concurred with the House in recommending $23.7 million for the Veterans Cost-of-Instruction, VCI, program, as part of the Labor-HEW Appropriations bill we have before us for our consideration today. During its first year of operation, I have been most impressed by this valuable program, and I have collaborated on a number of occasions with my distinguished colleague from California, Senator CRANSTON, the author of the original VCI program provision, in efforts to expand and improve the program.

As we continue our deliberations on all the provisions of the bill before us, Mr. President, I do want to make explicitly clear for the record how very important the VCI program has already been for veterans on campuses where the program is already in place and how crucial it is that the Office of Education spend the funds we are providing for the VCI program during the current academic year.

In this connection, I would like to commend to my colleagues' attention a portion of Senator CRANSTON's testimony which was submitted to the Senate Appropriations Subcommittee on Labor-HEW during its consideration of the VCI program, as follows:

> Mr. Chairman, the Veterans Cost-of-Instruction program was designed to provide incentives and supporting funds for colleges and universities to recruit actively returning veterans and to establish the kinds of special programs and services necessary to assist many veterans in readjusting to an academic setting. Institutions which increased their enrollment of veterans by 10 percent over the previous year and who met other requirements of the legislation for special veterans programs were to be entitled to payments of up to $450 for each of certain categories of veterans enrolled in an undergraduate program on a full-time basis.
>
> In the VCI program's first year of operation (1973–74), eligible colleges and universities received only 17 percent of their entitlements. Despite the limited amount of money made available by the Office of Education, many VCI programs provided a central focus for efforts to meet the needs of veteran-students. Many smaller schools, however, found it necessary to return their awards for lack of sufficient funding to meet the requirements of the law. And most schools were unable to implement fully the kinds of programs they had originally planned.
>
> Mr. Chairman, at the current, even lower, funding level of 14 percent, more schools may find it necessary to return their awards, and other programs will probably be more severely cut back. At a time when thousands of Vietnam-era veterans continue to suffer from serious readjustment problems, I believe we must enhance rather than severely restrict the educational opportunities and services available to veterans, particularly those veterans who are educationally disadvantaged. There is still much to be done in the way of counseling, recruitment, remedial and tutorial services and outreach. These efforts, however, cannot even be maintained on the limited amount of money being made available by the Office of Education.
>
> Additionally, Mr. Chairman, the Congress has passed the Conference Report on H.R. 69, the Education Amendments of 1974. This bill contained amendments to the Veterans Cost-of-Instruction program provision, which were considered and agreed to by the Conference Committee, with only minor modification.
>
> These amendments do not weaken the basic purpose or design of the VCI program, but rather, I believe, strengthen the program by providing for a more equitable funding procedure for eligible schools to increase the amount many smaller qualifying institutions have been receiving, and by making the first-year and second-year eligibility requirements slightly less restrictive.

As a cosponsor of the VCI provisions in the Education Amendments of 1974, Public Law 93–380, to which our colleague from California referred in his testimony, I am pleased to observe that these new provisions will allow a number of additional schools to qualify for this important program without significantly weakening the eligibility and maintenance-of-effort requirements of the law.

In order to accommodate these newly eligible schools, however, and especially in order to provide adequate funding to smaller schools whose program levels were already inadequate to begin with, it is essential that the Office of Education make available the funds appropriated for the VCI program in this fiscal year 1975 Appropriations Act during academic year 1974–75, and not withhold these funds for obligation until June 1975, for use in the following academic year.

Last year, HEW refused to spend the $25 million we appropriated for the VCI program in the Labor-HEW Appropriations Act for fiscal year 1974, Public Law 93–192, for use during the then-current academic year.

In this connection, Senators will recall that in our May 3, 1974, report on the Second Supplemental Appropriations Act for fiscal year 1974, the Appropriations Committee stated that it "strongly disapproves of HEW's refusal to spend" these funds appropriated for 1973–74 school year payments, and "expects (the) funds will be obligated without further delay."

Mr. President, I strongly urge the Office of Education to heed this direction of the committee with respect to the fiscal year 1975 appropriations for the VCI program, and to make these funds available for use during the current academic year, 1974–75. Failure to do so will leave small campuses—including 10 of the 20 campuses receiving VCI funding in Maryland which are currently slated to receive less than $10,000 each for the program—critically underfunded at a time when their veteran-student population is growing, and will make it impossible to provide funds to newly eligible campuses without further reducing the funds available for the existing programs.

AMENDMENT OF THE DEFENSE PRODUCTION ACT

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3270.

The PRESIDING OFFICER (Mr. JOHNSTON) laid before the Senate the amendments of the House of Representatives to the amendments of the Senate to the amendments of the House to the bill (S. 3270) to amend the Defense Production Act of 1950, as amended, which were:

(1) Page 2 of the Senate engrossed amendment, strike out lines 14 through 25, inclusive, and insert:

"(c)" Purposes.—It is the purpose of this Act to establish a national commission to facilitate more effective and informed responses to resource and commodity shortages and to report to the President and the Congress on needed institutional adjustments for examining and predicting shortages and on the existence or possibility of shortages with respect to essential resources and commodities.

(2) Page 5 of the Senate engrossed amendment, after line 19, insert:

"(5) necessary legislative and administrative actions to develop a comprehensive strategic and economic stockpiling and inventories policies which facilitates the availability of essential resources;

(3) Page 5, line 20 of the Senate engrossed amendment, strike out "(5)", and insert "(6)".

(4) Page 5, line 21 of the Senate engrossed amendment, strike out "and".

(5) Page 7, line 16 of the Senate engrossed amendment, after "title;", insert: "and".

(6) Page 7, line 19 of the Senate engrossed amendment, strike out "Code; and", and insert: "Code".

(7) Page 7 of the Senate engrossed amendment, strike out lines 20 through 23, inclusive.

(8) Page 8 of the Senate engrossed amendment, strike out all after line 10 over to and including line 2 on page 10.

(9) Page 10, line 3 of the Senate engrossed amendment, strike out "(m)" and insert: "(l)".

ECONOMIC FORESIGHT: THE FIRST STEP ACHIEVED

Mr. MANSFIELD. Mr. President, the Defense Production Act Amendments of 1974 establishes the National Commission on Supplies and Shortages. This I regard as the first step toward the creation at the highest level of our national life, of a full-fledged capacity to approach the complexities of our economic problems in a rational and farsighted manner.

The distinguished Republican leader and I have today written the President explaining the background and purpose of this measure and I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. Senate,
Washington, D.C., September 17, 1974.
The President,
The White House,
Washington, D.C.

Dear Mr. President: As an amendment to S. 3270, the Defense Production Act Amendments of 1974, the Congress has today cleared for your endorsement the National Commission on Supplies and Shortages Act—a measure considered essential to the Nation's efforts to curb inflation insofar as price pressures have been produced by adversities with regard to the availability of resources, materials and commodities.

This proposal is significant, as well, because it emerged from close cooperative efforts between parties, between Branches and between the two Houses of Congress. Its genesis lies in a recommendation made last February to President Nixon concerning the establishment of an instrumentality designed to assist the Nation—the Executive and Legislative branches together with broad segments of the private sector—in dealing with future areas of crisis with regard to sufficient supplies of resources, materials and commodities. "Economic Foresight" was the way it was perceived, and the idea was offered not only as an alternative to the crash-based planning with which the Nation has endeavored to meet the energy crisis, but as a way of providing as well an integrated and more rational approach to the network of economic problems that engulf the Nation today and those on the horizon.

President Nixon responded favorably to the suggestion and appointed Secretary Simon, Director Ash, former Chairman Stein, former Chairman Dunlop and former Chairman Flannigan to meet with the combined party leadership of both Houses. It was from those meetings that there emerged the National Commission on Supplies and Shortages Act of 1974. It will be the task of the Commission created thereunder to provide specific recommendations by March 1, 1975, as to a permanent facility at the highest level of our national life fully equipped with all relevant information to perceive a potential economic crisis area and to offer alternative policy actions needed to offset or mitigate that crisis. More importantly in light of today's economic adversities, this Commission itself must perform the basic indicative economic planning function until Congress acts on its recommendations as to a permanent facility. In every way the National Commission established by S. 3270 is transitional in nature and has the capacity today to identify all market adversities and to provide the Executive, the Congress and the public with alternative action recommendations designed to correct those adversities.

It is gratifying indeed that this first step in the Nation's efforts to find more effective ways to deal with its economic problems has been arrived at with such a broad spectrum of cooperation. That cooperation was possible because all agreed that information-gathering and analysis in a comprehensive and coordinated fashion followed by effective forecasting will provide the only way this Nation—the Congress, the Executive and the private sector together—can prepare itself not just for the immediate concerns, but for the crises that loom ahead—on the horizon and beyond.

In closing, Mr. President, we would only call to your attention the appointment processes of this Act. In this regard, the makeup of the Commission reflects clearly the joint cooperative basis with which this initial step has been taken to provide economic foresight for the Nation. Those provisions are as follows:

The Commission shall be comprised of thirteen members selected for such period of time as such Commission shall continue in existence (except that any individual appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term) as follows:

(1) The President, in consultation with the majority and minority leaders of the Senate and the majority and minority leaders of the House of Representatives, shall appoint five members of the Commission from among persons in private life;

(2) The President shall designate four senior officials of the executive branch to serve without additional compensation;

(3) The President of the Senate, after consultation with the majority and minority leaders of the Senate, shall appoint two Senators to be members of the Commission and the Speaker of the House of Representatives, after consultation with the majority and minority leaders of the House of Represntatives, shall appoint two Representatives to be members of the Commission to serve without additional compensation.

We are confident that we speak for the full Congressional party and institutional leadership in saying that we shall do everything possible to cooperate with you in seeing that this Commission is set up and underway in performing its vital tasks at the soonest time possible.

Sincerely,

Mike Mansfield,
Majority Leader.
Hugh Scott,
Republican Leader.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendments of the House.

The motion was agreed to.

RECONSIDERATION OF S. 3341, A BILL TO REVISE CERTAIN PROVISIONS OF TITLE 5, UNITED STATES CODE—REQUEST WITHHELD

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote by which S. 3341 was passed earlier today be reconsidered and an amendment agreed to, and that as thus further amended the bill be passed.

The PRESIDING OFFICER (Mr. Johnston). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I withhold my request.

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight it stand in adjournment until the hour of 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

LABOR-HEW APPROPRIATIONS—ORDER OF BUSINESS FOR TOMORROW—UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the hour of 9 a.m. tomorrow the pending business be laid before the Senate and the Thurmond amendment be called up for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I ask unanimous consent that there be a time limitation of 30 minutes on the Thurmond amendment, the time to be equally divided between the sponsor of the amendment and the manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. The leadership on the other side has contacted Senator Fannin, whom it was thought would be offering an amendment. He has indicated he would not. Senator Buckley has indicated, and I believe the manager of the bill has agreed, that his amendment would be agreed to by the committee.

It is my understanding that Senator Pell will offer an amendment.

I ask unanimous consent that that amendment be confined to a time period of 10 minutes, to be equally divided between the manager of the bill and the sponsor of the amendment to be offered by the Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, there would be no objection to the time, but if there were any points of order about the amendment, of course, they would not be waived.

Mr. MANSFIELD. I know of no points of order. Naturally, tabling motions and points of order could be made.

On that basis, if this turns out to be correct, I would ask unanimous consent that the vote on final passage occur at the hour of 10:30.

Mr. HARRY F. BYRD, JR. Reserving the right to object, I may want just a little time for discussion or to state my views. I do not think it will take very long, but I would like to reserve a matter of 30 minutes. I may yield it back.

Mr. MANSFIELD. Would the Senator make that not to exceed 20 minutes? I understand, and I made a personal inquiry, that the Senator did ask what I thought was going to be the questions he would propound at the end of the bill. He has been promised certain information. I have been informed that information would be forthcoming.

Mr. HARRY F. BYRD, JR. I will accept 20 minutes.

Mr. MANSFIELD. I ask unanimous consent that the distinguished Senator from Virginia (Mr. Harry F. Byrd, Jr.) be allocated not to exceed 20 minutes prior to the passage of the bill and after the amendments are disposed of.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, on that basis, I ask unanimous consent that the vote occur not later than the hour of 11 o'clock, the vote on the final passage, and that rule XII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS VACATED FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the orders previously entered for the recognition of certain Senators on tomorrow be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR FURTHER CONSIDERATION OF S. 3221, THE OUTER CONTINENTAL SHELF BILL, TOMORROW

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with Senators on both sides of the aisle. I ask unanimous consent that further debate on the bill S. 3221, the Outer Continental Shelf bill, be limited to 1 hour, to be equally divided between Mr. JACKSON and Mr. FANNIN; that there be a time limitation of 1 hour on any amendment thereto; that there be a time limitation of 1½ hours on an amendment by Mr. BARTLETT; that there be a time limitation on any amendment to an amendment of 20 minutes; that there be a time limitation on debatable motions and appeals of 20 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER AUTHORIZING SENATOR PROXMIRE TO OFFER AMENDMENT TO EXPORT-IMPORT BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. PROXMIRE be allowed to offer an amendment to the Export-Import bill whether or not it is germane.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, reserving the right to object, has that been agreed to?

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. There has been a time agreement entered into as far as the Export-Import Bank bill is concerned, is that correct?

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. The Senator from Wisconsin is in the Chamber. I wonder if he would give us any idea what his amendment would deal with.

Mr. PROXMIRE. Mr. President, the amendment would require that the Export-Import Bank be included in the budget. This was an amendment that was discussed in the Banking Committee. It was voted in the Banking Committee. It was narrowly defeated by one or two votes.

I feel that it should be considered by the Senate. I discussed it with the Budget Committee, and I think they are inclined to support it.

Mr. GRIFFIN. I appreciate that information. It seems to me that such an amendment would be germane, but in the event it is not, I certainly will not object.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR CONSIDERATION TOMORROW OF S. 3917, EXPORT-IMPORT BANK AMENDMENTS OF 1974

Mr. ROBERT C. BYRD. Mr. President, under the order entered yesterday or prior thereto, the Senate, upon disposing of the HEW appropriations bill, is to resume consideration of the Outer Continental Shelf measure. Am I not correct?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the Outer Continental Shelf measure, the Senate take up the Export-Import Bank legislation.

The PRESIDING OFFICER. Without objection, it so so ordered.

ORDER FOR S. 707, CONSUMER PROTECTION—AGENCY FOR CONSUMER ADVOCACY, TO BE TEMPORARILY LAID ASIDE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the unfinished business, S. 707, Consumer Protection—Agency for Consumer Advocacy, be laid aside temporarily tomorrow and that it remain in a temporarily laid aside status until the close of business tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, the Senate will resume consideration of the HEW appropriation bill. The pending question at that time will be on the adoption of the amendment by Mr. THURMOND. Rollcall votes will occur on that amendment and other amendments to the bill and on final passage thereof, with the vote on final passage of the bill to occur no later than 11 a.m.

Upon the disposition of the HEW appropriations bill, the Senate will resume the consideration of the Outer Continental Shelf measure, with a time limitation thereon, and with yea-and-nay votes to occur on amendments thereto and undoubtedly on final passage of the bill.

Upon the disposition of that bill, which should occur at not too late an hour tomorrow, the Senate will take up the Export-Import bill, S. 3917, under a time agreement. Rollcall votes will occur on amendments thereto and on final passage thereof.

That ought to make a pretty full day for tomorrow, Mr. President.

ADJOURNMENT TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 a.m. tomorrow.

The motion was agreed to; and at 7:03 p.m. the Senate adjourned until tomorrow, Wednesday, September 18, 1974, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 17, 1974:

DEPARTMENT OF STATE

William D. Rogers, of Virginia, to be an Assistant Secretary of State.

Peter M. Flanigan, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Spain.

Edward S. Little, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chad.

DEPARTMENT OF DEFENSE

Harold L. Brownman, of Maryland, to be an Assistant Secretary of the Army, vice Eugene E. Berg, resigned.

H. Tyler Marcy, of Massachusetts, to be an Assistant Secretary of the Navy, vice David Samuel Potter, elevated.

Gary Dean Penisten, of Connecticut, to be an Assistant Secretary of the Navy, vice Robert D. Nesen, resigned.

DEPARTMENT OF COMMERCE

James Leonard Pate, of Ohio, to be an Assistant Secretary of Commerce, vice Sidney L. Jones, resigned.

NATIONAL MEDIATION BOARD

Kay McMurray, of Idaho, to be a Member of the National Mediation Board for the term expiring July 1, 1977. (Reappointment.)

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration:

To be commanders

Theodore Wyzewski
Merritt N. Walter
James M. Wintermyre
Kenneth F. Burke
Fidel T. Smith

To be lieutenant commanders

Martin R. Mulhern
Donnie M. Spillman

To be lieutenants

Ronald W. Jones
Craig B. Christensen
Theodore C. Kaiser
Richard W. Permenter
Sidney R. Withers
James W. Davis
Wayne L. Perryman
Robert K. Norris

To be lieutenants (junior grade)

Robert E. Losey
Dirk R. Taylor
Stuart H. Thorson
Patrick D. Harman
Mark A. Miller
Ronald D. Polvi
Kurt X. Gores
Michael S. Bohle
Pamela R. Chelgren
Michael C. McMillan
David C. Jarrett
Douglas G. Hennick
Gary L. Johnson
Duane C. Simpson
George D. Vose
Stephen E. Anderly

To be ensigns

Dale E. Bretschneider
Bruce W. Dearbaugh
Stanley R. Iwamoto
Gregory P. Kosinski
Richard E. Marriner II
Lawrence D. Parsons
Edward B. Price
Hans E. Ramm
William A. Saperstein
Roddy J. Swope
Lewis W. Walker

IN THE MARINE CORPS

Maj. Jack T. Kline, U.S. Marine Corps, for appointment to the grade of lieutenant colonel.

The following-named temporary disability retired officer for reappointment to the grade of major in the Marine Corps, subject to the qualifications therefor as provided by law:

Shaver, William C., [redacted] USMC.

CONFIRMATIONS

Executive nominations confirmed by the Senate, September 17, 1974:

National Science Board

The following-named persons to be members of the National Science Board, National Science Foundation, for terms expiring May 10, 1980:

Jewel P. Cobb, of Connecticut.
Norman Hackerman, of Texas.
Saunders Mac Lane, of Illinois.
Grover E. Murray, of Texas.
Donald B. Rice, Jr., of California.
L. Donald Shields, of California.
James H. Zumberge, of Arizona.

Representatives to United Nations Session

The following-named persons to be representatives of the United States of America to the 29th session of the General Assembly of the United Nations:

John A. Scali, of the District of Columbia.
W. Tapley Bennett, Jr., of Georgia.
Stuart Symington, U.S. Senator from the State of Missouri.
Charles H. Percy, U.S. Senator from the State of Illinois.
Thomas H. Kuchel, of California.

The following-named persons to be alternate representatives of the United States of America to the 29th session of the General Assembly of the United Nations:

Oliver C. Carmichael, Jr., of Indiana.
Joseph M. Segel, of Pennsylvania.
William E. Schaufele, Jr., of Ohio.
Clarence Clyde Ferguson, Jr., of New Jersey.
Barbara M. White, of Massachusetts.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXTENSIONS OF REMARKS

A STRUGGLE TO PUT THE HOUSE IN ORDER

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 16, 1974

Mr. BROWN of California. Mr. Speaker, the Rules Committee met last Thursday to attempt to decide the conditions under which this body will consider the House committee reorganization proposals. It resumes its deliberations this coming Thursday. These meetings are of particular significance. Although certainly not as dramatic as impeachment or any of the other major issues which we have had to consider in recent months, committee reorganization may well be the most important issue before the 93d Congress. Since the business of Congress is conducted in committee, the committee structure of this House will determine our very capacity to deal with future issues. Our committee structure will determine whether Congress will continue to defer to the Executive in setting Government policy or whether it will be able to regain its position as the coequal of the Executive that the Constitution intended.

In the Los Angeles Times of September 11 there was a very perceptive article by Roger H. Davidson, a member of the political science faculty of the University of California at Santa Barbara. As he points out, the very "future viability of Congress as a policymaking body is at stake" as it considers these reorganization proposals. For the benefit of my colleagues from California and elsewhere in the Nation I would like to insert the article in the CONGRESSIONAL RECORD at this point:

[From the Los Angeles Times, Sept. 11, 1974]

A HIDDEN STRUGGLE TO PUT THE HOUSE IN ORDER

(By Roger H. Davidson)

A virtually unheralded confrontation is set for this week on Capitol Hill. It will help tell the American public whether or not Congress is serious about assuming a more vigorous policymaking role in the post-Watergate years.

The clash will take place in a tiny, ornate chamber just off the House of Representatives gallery. Here the House Rules Committee will decide whether to allow floor debate on the "Committee Reform Amendments of 1974," a wide-ranging plan for reorganizing the House. Presented earlier this year by a committee headed by Rep. Bolling (D-Mo.), the plan proposes the first reshuffling of the House structure in many years.

The Rules Committee's hearing should be lively. Bolling and his vice chairman, Rep. Dave Martin (R-Neb.), both serve on the Rules Committee, which will make the final decision. But ranged against them are most of the powerful committee chairmen, who have decided to stonewall against any changes in their committees' jurisdiction.

Few people deny, at least in principle, that Congress desperately needs structural modernizing. Even to those well acquainted with Capitol Hill, the houses of Congress often seem a buzzing confusion—with powers scattered and party leaders unable to bind them together. Individual legislators and committees may do an effective job, but the system fails to function as an integrated whole.

Historical precedents dictate the assignment of bills to the House's 21 committees and 132 subcommittees. Once a measure is assigned to a committee—and bills are cleverly drafted with particular committees in mind—it permanently remains in that committee's jurisdiction. If the legislation is passed, renewals and amendments follow the original bill back to the same committee. Also by precedent, House bills cannot be divided or shared among various committees.

The result is a monstrosity in which historical accidents are frozen forever into place. National forests, for example, are handled by two House committees, with the Mississippi River as the dividing line. International fishing treaties are overseen by two committees—cod and herring by one, tuna and salmon by another. Auto safety and highway safety are divided between the committees dealing with consumers and roads, respectively. Similar examples abound.

When an issue becomes popular, prudent Congress-watchers duck for cover while committee and subcommittee chairmen fight for their piece of the action. This happened last year when legislators suddenly discovered the energy crisis. While gasoline lines grew longer, timely legislative action was prevented by the fierce jurisdictional scramble on Capitol Hill.

In the House alone, more than a dozen committees, all going their own way, exercised major control over energy policy. Nearly all the rest are busy getting into the action.

Other issues are equally scattered. Environmental matters are in five committees, as is transportation. Everyone vies to protect his "turf" against real or imagined intrusion. Last December two incompatible pension reform bills reached the floor, and last month two deep-water ocean port bills were discovered percolating in committees.

All this enterprise might be laudatory, except that nobody wields the power to coordinate the committees, work and guide it to the floor in timely fashion. Often Congress is castigated for puttering around when in fact it labors mightily but ineffectually to overcome its own dispersal of power.

The Bolling reforms propose to bring order out of this chaos by consolidating responsibilities in the key fields of energy, environment, health, transportation and international economics. Glaring overlaps and deficiencies would be patched up. To help focus their energies, legislators would serve on only one major committee, and these committees would be small enough to permit real deliberation. Periodic adjustment in committee workloads would be required. And the Speaker would have stronger powers in assigning bills and gaining cooperation among committees with legitimate claims on broad problems.

The Bolling plan is far from perfect; but if the House is to put itself in order, something at least as radical must be implemented (it actually looks so mild that it's hard to convince outsiders of its significance).

Speaker Carl Albert (D-Okla.) and his lieutenants, though they stand to gain from the Bolling reforms, have been buffeted by conflicts within the majority Democratic Party. A few powerful lobbies, mainly segments of organized labor, charge that the proposal would damage their influence on the Hill. But the main opposition comes from committee and subcommittee chairmen who simply don't want their powers tampered with.

As the majority party for all but four of the past 44 years, the Democrats presumably bear the greatest responsibility for the way the House operates. But more than half of all House Democrats are committee or subcommittee chairmen. Enjoying the prestige and staff resources that go with their posts, they are unwilling to see any shifts in their powers.

Foes of reform have already succeeded in stalling the Bolling proposals for nearly six months. Initially the Democratic Caucus voted to send the plan to one of its subcommittees, headed by Rep. Julia Butler Hansen (D-Wash.), for "study and review." The Hansen group came up with a substitute plan of its own. More palatable to powerful committee leaders, the Hansen scheme fails to address the basic problems and would further fragment power in such key issues as health and transportation.

Now the Rules Committee must decide whether to send the two measures to the floor, or whether—as reform foes are now urging—to kill the matter altogether.

In a sense, the future viability of Congress as a policymaking body is at stake in this week's Rules Committee debate. Watergate occurred not because Chief Executives usurped power, but because they stepped into vacuums caused by congressional ineffectiveness. Recent events have not diminished the public's demands that government agencies respond to their problems. Nor have they, except temporarily, weakened the ability of resourceful Presidents to deal with these problems, or at least appear to deal with them.

If Congress fails to equip itself to deal with the issues that lie ahead, then it has only itself to blame if its powers continue to erode.

The Washington Post has revealed that foes of reorganization last March decided that the strategy which should be followed when the rule on House Resolution 988 comes to the floor is to vote against it then and there in order to kill the plan at the outset. The strategy of reorganization foes, however, is also one of delay and more delay. This is apparent from the comments of the editors of the Los Angeles Times in their September 3 issue. Unless the Rules Committee is able to complete its consideration of the reorganization proposals promptly, it will only serve to substantiate this type of criticism. I would like to insert the editorial in the RECORD at this point:

[From the Los Angeles Times, Sept. 3, 1974]

LIPSERVICE TO REFORM

There is now only a faint chance that the House of Representatives will vote at this session to reform its committee system—a tangle of chaotic entities that are at best obsolete and at worst overly responsive to special-interest pressures.

Rep. Richard Bolling (D-Mo.) is chairman of a bipartisan select committee that months ago wrote a reorganization plan that has considerable merit. Among other reforms, House Resolution 988 would limit each congressman to service on a single major committee, guarantee the minority party a third of each committee's staff members, reassign many categories of legislation to more appropriate committees and eliminate a number of redundant committees.

Given the lipservice that Democrats have been paying to reform, one would have thought HR 988 would receive prompt consideration. But no. Lobbyists representing big labor and big business were against it because it would diminish their influence on powerful committees that have been sympathetic to their interests. Rep. Wilbur D. Mills (D-Ark.), chairman of Ways and Means, was against it because it would take away certain of his committee's powers. And a host of other Democrats who chair less important committees and subcommittees were also unwilling to surrender one iota of their authority.

The tactics of those opposing HR 988 soon became clear. Rather than let it come to a vote on the floor, they would stall it to death until the end of the session.

One of the first maneuvers was a secret vote by the House Democratic caucus in May to sidetrack the Bolling reforms to a caucus committee whose chairwoman is Rep. Julia Butler Hansen (D-Wash.). Their secrecy was a shabby tactic because it meant that Democrats who were against reform would not have to explain their votes to their constituents back home in an election year. The Hansen committee, as everyone knew it would, wrote a much weaker reorganization plan.

While all this was going on, the House was preparing for lengthy impeachment proceedings against Richard M. Nixon—and even if the Democrats had been willing to let reform go to the floor, time probably would have run out at this session before the House could consider it.

But Nixon quit, and there was clearly time for action this year. The Bolling and Hansen proposals were then in the hands of Rep. Ray J. Madden (D-Ind.), chairman of the Rules Committee, who set a hearing for Aug. 20. But he abruptly postponed the hearing—he claims at the request of Rep. Hansen—until Sept. 12. That is only three weeks to a month before the House will adjourn. Even if Rules were to report the resolutions out quickly, that leaves little time for floor debate and a vote.

It's up to Rep. Madden now. If he and the Democratic majority on Rules continue to stall, it will only confirm what is already apparent—the Democrats don't want reform, despite all their rhetoric that Watergate demonstrates the necessity for more open and responsive government.

Mr. Speaker, Congress cannot afford to lose this rare opportunity to restore itself to its rightful place in the constitutional firmament. The committee reorganization plan must come before the House promptly and must be adopted.

BAN THE HANDGUN—LIII

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 16, 1974

Mr. BINGHAM. Mr. Speaker, during the recess, I received a letter from an Iowa man asking that I insert in the CONGRESSIONAL RECORD a newspaper story about the shooting death of his friend, to convince others of the need for Federal gun control legislation.

The attached article from the August 22 edition of the Des Moines Tribune tells about the horrifying shooting rampage of a would-be hotel robber in an effort to eradicate potential witnesses to his crime.

With the assistance of other concerned citizens—raising their voices in opposition to the widespread trafficking in handguns—I believe we can enact strict Federal gun control legislation. I am pleased to include Mr. Ryerson's letter in the RECORD:

AMES, IOWA,
August 22, 1974.

Hon. JONATHAN B. BINGHAM,
House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE BINGHAM: Today, a good friend of mine was shot and killed in a holdup at a motel. He was a security guard there and was only 21 years old. It was a senseless killing as of course all killings are. I am enclosing a copy of the newspaper account of the incident. I would appreciate it if you would insert this article, or parts of it, in the Congressional Record as you have done in the past in similar cases. Hopefully, each time one of these articles appears in the Record it will help to persuade other congressmen to vote for strict gun control legislation.

Thank you.

Sincerely,

BILL RYERSON.

TWO SLAIN IN HOLDUP HERE—SHOTS WOUND TWO; GUNMAN FLEES

A gunman, apparently intent on leaving no witnesses behind, shot and killed two men and seriously wounded two others after taking $269 from the Downtown Holiday Inn here early Thursday.

Innkeeper Paul Verciglio, noting that the bandit scattered all but $61 of the money in the lobby as he fled, said:

"That's the stupid thing about it. There's no reasoning behind it. It's a real tragedy."

According to police, the bandit entered the main lobby of the 12-story motel shortly after 2 a.m., walked up to the main desk and demanded money, which he was given. Then he opened fire, hitting everyone in the lobby at the time before fleeing in a car.

FIVE OR SIX SHOTS

Altogether, he fired five or six shots from a large-caliber handgun.

Killed were:

Danny Lee Peters, 21, of 801 S.W. Loomis, a security guard at the motel. He was shot twice, once in the chest and once in the hip.

Luis A. Trujillo, 22, of 2349 Saylor Rd., the assistant night auditor and bell captain. He was shot once in the left temple.

Both were pronounced dead at the scene by Dr. R. C. Wooters, Polk County Medical Examiner.

The motel is located at 1050 Sixth Ave., overlooking the MacVicar Freeway.

Wounded were:

Charles Ted Nolte, 28, of 2221 Stanton Ave., night auditor at the motel. He was in serious condition at Iowa Lutheran Hospital with wounds in the wrist and the head. He was hit by at least one shot, possibly two.

John Paul Stewart, 23, a radio disc jockey from Lincoln, Neb., who was to have started work at KFMG Radio here Monday. He was in serious condition at Iowa Methodist Hospital with a gunshot wound in the chest.

Patrolman Steven Morris, the first officer on the scene, speculated that the bandit "just didn't want to leave any witnesses behind."

Patrolman Morris said the first thing he saw when he arrived was security guard Peters lying fatally wounded on his back in the lobby.

"When I looked behind the counter (the motel's front desk) there were three of them lying there," Morris said.

"There was more blood around there than I could believe . . . I've never seen any thing like it."

Verciglio said he was not at the motel at the time the shooting occurred but was called by a bartender, Dodd Postma, who had been working in the Red Fox lounge just off the main lobby. Postma also notified police.

PREPARING TO CLOSE

Verciglio said he was told by Postma that he was just in the process of cleaning up and closing the lounge when the incident occurred. He said the security guard, Peters, was in the lounge talking to Postma.

"The bartender heard four or five shots," Verciglio said. "The security man (Peters) came toward the front desk.

"He apparently drew his gun, but I don't know whether he fired it or not. He was found dead in the lobby next to a coffee table." (Police said later that Peters gun had not been fired.)

Verciglio said the gunman apparently entered a hallway that leads west off the main lobby toward the innkeeper's office, then slipped through a doorway behind the main desk and surprised the two motel employes, Trujillo and Nolte, who were at the desk at the time.

Verciglio said Stewart apparently was also in the desk area, but it was not known immediately whether he just happened to be in the motel or was registering for a room.

Verciglio said that after the shooting occurred Peters, severely wounded, made his way to a house phone and called Postma in the lounge.

"I'VE BEEN SHOT"

"I need help; I've been shot," Verciglio said Peters told Postma.

House phones are located on a column in the main lobby near the place where Peters' body was found.

Verciglio said at the time of the incident there were between 5 and 10 Holiday Inn employees on duty, including the three who were shot.

He said it was a "full house night" with approximately 500 guests staying at the Inn.

He said one or two customers were still at the Red Fox lounge when the shooting occurred but he was not sure whether they witnessed the holdup.

The Red Fox lounge is a few steps down a corridor leading east off the rear of the main lobby. The main desk is near the rear of the main lobby on the west side.

BULLET HOLES

The only signs of the shooting that remained later Thursday morning were a bullet hole in a well next to the main desk and a second bullet hole above the main desk and next to a "message at desk" sign.

Patrolman Morris said that after arriving at the scene, he talked first with Nolte, who had been shot in the head and wrist.

"I asked him how he was doing, and he said he thought he was all right. All he could remember was that it was one guy wearing green and that he had glasses," Morris said.

Money was lying all over the floor when the patrolman arrived.

Morris said Trujillo was lying behind the counter near Nolte. He "did not know what hit him" when he was shot, the officer said.

Stewart was just entering the motel through the main door when the gunman was fleeing, Morris said.

"VICTIM OF CIRCUMSTANCES"

"He was an innocent victim of circumstance, that's all," Morris said. He said Stewart was shot in the chest at least once, walked into the lobby and looked behind the counter.

"When he saw the other two lying there he must have just fainted away and fell right on top of them," Morris said.

Morris said he found Peters, the security guard, lying near a desk and a pole in the center of the lobby.

Police apparently received two or three calls alerting them to the robbery and shooting incident. Morris said he believes that Nolte was able to get to a phone. Morris said blood was found on a phone behind the desk where Nolte was lying semi-conscious.

GUEST CALLS, TOO

And at least one guest at the motel on about the seventh floor called police after hearing gunshots.

"One witness on about the seventh floor said he heard shots and looked out his window and saw a black guy jump into a green car and take off," Morris said.

Another witness told police that a "dirty white vehicle" sped from the motel's north side parking lot.

Police said the car proceeded the wrong way on Seventh Street, which runs one way south. The car then turned east on Laurel Street, across Sixth Avenue toward Doctors Park at Mercy Hospital.

Peters has been an employe of Allied International, Inc., 600 Fifth Ave., for about a year, said the firm's president, Ron Skeens.

Skeens said that Peters would have been a senior this fall at Simpson College at Indianola where he was majoring in law enforcement.

NO PREVIOUS EXPERIENCE

Peters had no previous law enforcement experience before joining Allied, Skeens said, but had passed firearms tests and "knew how to handle a gun real well."

Peters had worked as a security guard at several different companies in the Des Moines area and had a Warren County gun permit.

Polk County Sheriff's deputies said Peters didn't need a Polk County gun permit since surrounding counties recognize valid out-of-county permits.

Peters is a native of Wall Lake in northwest Iowa and married the former Nancy Powe of Creston last November. The couple had no children. Mrs. Peters has been employed as a bookkeeper at Arnolds Fashion Centers for the past two years.

In addition to his wife, Peters is survived by his father and stepmother, Mr. and Mrs. Lester Peters of rural Wall Lake; three brothers, Dennis, Ronnie and Keith; and a sister, Linda.

FATHER A SHERIFF

Trujillo's father, Luis C. Trujillo, has been sheriff of Keith County, Nebraska, for the past 5½ years and the young man's mother, Rosie, is a deputy sheriff. An uncle, Anthony, is a Kansas City, Mo., policeman.

In an interview Thursday, Sheriff Trujillo said he "hopes (his son's killer) will come out this way so I can catch him."

But Sheriff Trujillo said he had great faith in the ability of midwestern law enforcement officers to catch the man.

He said, "You put in bold print that I'm sure that law officers will catch him, so that guy (his son's killer) will shake wherever he walks."

Sheriff Trujillo said of his son: "He wasn't afraid of anything alive."

The boy at one time intended to be a Roman Catholic priest and attended the Benedictine seminary at Conception, Mo., for a year after high school. But young Trujillos' father said the boy changed goals: "Some day he wanted to get old enough to become an innkeeper."

He began working for Holiday Inns in Ogalalla, Neb., and later worked for Holiday Inn in Omaha, before coming to Des Moines several months ago.

In addition to his parents, he is survived by two sisters, Antoniette and Melissa, and a brother, Raymond, all at home, and his grandparents, Mr. and Mrs. Fred Baca of Julesburg and Antonio Trujillo of La Junta, Colo.

Services will be at St. Luke's Catholic Church in Ogalalla, of which he was a member, with burial in a cemetery there. Draucker Funeral Home in Ogalalla is in charge of arrangements.

Stewart, a disc jockey, was to have started work at midnight Monday on the "allnight" shift at KFMG Radio here, according to KFMG program director Ted Scott. KFMG is owned by Stoner Broadcasting Co., which also owns KSO Radio here.

Before coming here, Stewart worked as a disc jockey for KFMQ Radio in Lincoln, Neb. He used the name, Jonathan Stewart, and hosted a "progressive rock" show from 11 a.m. to 4 p.m. daily in Lincoln, according to KFMQ disc jockey Randy McCutcheon.

LEFT TO SEEK JOB

McCutcheon said Stewart began working for KFMQ in January of this year and hosted the show until "two or three weeks" ago, when he left to look for a new job.

Stewart is the only child of Dr. and Mrs. Frank A. Stewart. The elder Stewart is a Lincoln pediatrician. A secretary in Dr. Stewart's office said the parents got word of the shooting early this morning and left by car for Des Moines shortly after 5 a.m.

Stewart attended Marquette University in Milwaukee, Wis., between 1969 and 1972 and this spring attended the Lincoln campus of the University of Nebraska, where he was a junior enrolled in the College of Arts and Sciences. He is a 1969 graduate of East Lincoln High School.

VOTING RECORD

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. FINDLEY. Mr. Speaker, during the 93d Congress, there have been more than 1,206 votes and quorum calls. I have answered 91 percent of them. Space does not permit me to list them all. However, the following are some of the more important votes I cast during the last 2 years.

AGRICULTURE

For a guaranteed loan program for hard-pressed livestock producers. For financial assistance to colleges of veterinary medicine for animal health research. Against a target price support program for wheat, cotton, and feed grains.

ANTI-INFLATION

For adopting a Federal budget to control inflation. Against $400 million in operating subsidies for mass transit systems. For a spending ceiling of $20.4 billion for military procurement. Against the proposed congressional pay raise. Against increase in postal subsidies. For limiting the number of cars for top Government executives.

CONSUMERS

For the Consumer Protection Act of 1974.

CONGRESSIONAL

For a limitation on political contributions and campaign expenditures. For opening committee hearings to the public.

EDUCATION

For aid for elementary and secondary education. For the extension of the Environmental Education Act. For the school lunch program.

ENERGY

For creation of a Federal Energy Administration. For repeal of daylight saving time during winter months. For energy research and development.

FLOODING, ENVIRONMENT AND NATURAL RESOURCES

For regulation of strip mining. For extension of the Clean Air Act. For aid to States suffering from major disasters. For Federal flood insurance program. For conservation and restoration of threatened species as well as endangered species.

FOREIGN AFFAIRS

Against aid, trade, or diplomatic recognition of Vietcong until they comply with Paris Peace Agreement. For Trade Reform Act. For funding of Radio Free Europe and Radio Liberty. For war powers resolution which strengthens Congress' role. For cut-off of funds to support U.S. combat activities in Cambodia. Against funding for reconstruction aid to North Vietnam.

HEALTH

For the National Cancer Act. For the Alcohol Abuse Act. For the Drug Abuse Education Act. For the Emergency Medical Services Act. For prevention, identification and treatment of child abuse and neglect. For improved treatment of people suffering from burns. For diabetes research.

HOUSING

For revision of Federal housing and community development programs.

LABOR

For pension reform bill. For increasing the minimum wage to $2.20. For employment and training of unemployed persons.

LAW ENFORCEMENT

For $50,000 death benefits to survivors of any public safety officer killed in the line of duty. For the omnibus crime control bill.

SENIOR CITIZENS

For expanding the nutrition program for senior citizens. For social security increases.

TRANSPORTATION

For the Railroad Safety and Hazardous Materials Transportation Act. For Federal aid to high programs.

VETERANS

For increased educational benefits and extension of the deadline for making use of the allowances. For expanded Veterans' Administration program for medical care. For increased disability benefits for veterans and their dependents.

U.S. FARM BANK PROPOSED

HON. THOMAS F. EAGLETON

OF MISSOURI

IN THE SENATE OF THE UNITED STATES

Tuesday, September 17, 1974

Mr. EAGLETON. Mr. President, Frank Farmer, of the Springfield News and Leader, is one of the most respected farm editors in the country.

I had the pleasure of appearing with Mr. Farmer at a farm conference in Springfield last month and I can attest to his understanding and insights into farm problems.

Mr. Farmer recently proposed establishment of a U.S. farm bank to help finance farm operations at reasonable interest costs. His article in the September 1, 1974, edition of the Springfield News and Leader makes a cogent case for such a bank and I commend the artiicle to all of my colleagues.

I ask that Mr. Farmer's article be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A U.S. BANK FOR AGRICULTURE

(By Frank Farmer)

A bank of the United States for Agriculture? With funds "created" by Congress and parceled out at low interest rates to recapitalize agriculture?

Why not?

Something must be done—and quickly—to inject new life into a dying giant.

Make no mistake about it: animal agriculture is in deep financial trouble, not only in the Ozarks, but all over the nation. From a thundering giant which produced more bounty for more people than in any other society in earth's history, animal agriculture has been reduced to dire circumstances.

Financial incentive is gone; faith in government to provide a healthy economic climate is gone; belief in the promise of America is fading. Too often have farmers heard the cry, "Produce, produce, produce. The world is starving." But when production is taken to the market place, where is the reward? A planting of golden hope turns into a harvest of tears.

Production is grinding to a halt. This has already manifested itself into food shortages that will cause America to tighten her belt and will create fantastically higher prices.

But this doesn't have to continue. It will not continue—if the nation is awakened to the fact, if Congress is properly responsive and if proper medication can be administered in time. That medication is "Proper Capitalization." That's where the Bank of the United States for Agriculture comes in.

First, let's briefly touch on some agricultural and economic background;

For several decades now, the wheels of commerce in the U.S. have been greased by agriculture's subsidy; not subsidy TO agriculture, but from agriculture. This is contrary to popular opinion which is that the general society has subsidized agriculture.

Nothing could be further from the truth. At no time in the 198-year history of the United States has agriculture been regularly allowed to make more than 100 per cent (on "par") with other sectors of the national economy; only on brief occasions has agriculture been allowed to reach 100 per cent. The average has been around 75 per cent of parity.

Thus, if agriculture has been operating at 110 per cent parity, it could be said that it had been subsidized 10 per cent by the rest of society; but since it has operated at about 75 per cent, then it can be said that agriculture has subsidized the rest of the economy by 25 per cent.

How has this subsidy to the rest of the economy been manifested?

By virtue or agricultural debt. Each year, farmers unable to meet their needs for capital expenditure have gone into the money market for funds for capital expansion. This money has been used to buy goods and services from every other sector of the economy and has kept the wheels of the economic merry-go-round well lubricated.

However, when the products created by this capital expansion went back into the market place at only 75 per cent of parity, the "recirculation" of money was short-circuited. If an automobile radiator were to lose 25 per cent of its volume of water on each circulation, then on the fourth revolution it would be completely empty and have to be refilled.

This has been agriculture's main condition. Increased debt was the primary way to refill its financial radiator. But other ways were used, too; squeezing every grain from the land to sell or feed to livestock with no provision for bad years; failure to demand "going" interest returns on equity assets; most telling of all, failure to realize adequate returns at the market place.

In short, in spite of every innovation of agriculture, in spite of productive efficiency that has far outstripped that of vaunted American industry, agriculture has at last reached the point where it cannot refill its financial radiator.

Part of this is because of factors in the international money market which have caused—or allowed—interest rates to become too high for feasible use. Example: If interest rates are 12 per cent, interest costs are as high for feeding 8000 head of cattle as they are for feeding 16,000 head if the interest rate is 6 per cent. This extra cost must be "built into" the final price.

Interest is the first cost of doing business; that, no economist will deny. And so the interest cost to agriculture must be built into the cost of the final product. Interest cost is on the price tag of every package of meat, every carton of milk, every can of beans—everything! Interest is necessary, because interest is the child of money, and it is the primary way in which money, or capital, can grow.

But let's examine interest a bit closer, and see just what its function in agriculture—or the entire society—really is.

Interest is rent on money. And more people borrow money than lend it, so more people are negatively affected by the rate of interest than are positively affected by it.

Thus, interest takes a part of life's work. The amount of life's work it takes depends upon the rate of interest charged for borrowed capital.

If interest is allowed to accumulate too fast—for instance, more than double its parent dollar in a generation or less—the amount of a person's life required to service his debt exceeds his normal ability to service his own needs, contribute to his service his own needs, contribute to his economic community and set aside sufficient savings for his own unproductive, waning years.

So, the higher the rate of interest, the quicker the principal doubles. The amount of life's work consumed increases correspondingly.

Finally, a point is reached where a man is unable to properly function in his economic community. As more of his productivity is stolen by debt service, he contributes less and less to his particular sector of society, his part of the gross national product declines and finally, he is unable to salvage enough of his productivity to prepare for his unproductive years and carry him to his grave. Thus, social security becomes a societal necessity to keep the unproductive from becoming ever more a burden and it adds its own negative aspect to the economic community.

In the course of reaching this state of undesirable societal imbalance, a singular economic condition is developed; too rapid an expansion of the capitalistic base.

At some point, this condition comes to be called "inflation."

Here is why inflation is propagated from a seed of interest which is higher than a man—or a society or a segment of society—can service with his, or its, human energy, the natural resources and the societal technology available:

Interest is not a one-time cost. Interest is built into the cost of any finished product, or service, not once but many times. As it is folded over and over and blended into the raw materials and services that go into the creation of any finished product, it is mingled with another economic phenomenon—taxes. Thus, the compounding effect of these two economic entities (actually the same negative factor) is a drain on society's productivity. They create a primary share of the cost of any product.

Raw materials cost now becomes secondary—but simultaneously begins to feel pricing pressure from above because of the mounting costs of production.

Labor costs in the finished product appear high, but must be high, since concealed within the labor costs (or wages paid) are the compounded negative factors of interest and taxes, running completely through the fabric of the economic community.

This is not to say that interest and taxes are wholly undesirable nor unnecessary to the balanced function of a society. They are.

A barren cow is worth only her face value in relation to the number of pounds of beef she will produce for a man to eat; conversely, a prolific cow will create capital in the form of a calf—or "interest"—and will still serve herself up for consumption at the end of her useful cycle.

And just so, a dollar. A dollar that will not have "children" is comparable to the barren cow and cannot be tolerated in a society that desires to grow and increase its standard of living. But those "children" must not be created too fast for, unlike the cow, the mother dollar never dies. In fact, the first mother dollar ever created still lives. She is still as prolific as ever, if she is in good hands, and stil having children and so are all of her children and her children's children.

Thus, money grows geometrically, as opposed to the arithmetic progression of a cow, which dies after a cycle and ceases to produce.

But if the growth rate of the dollar is too rapid, and if it is primarily applied to the consumptive factor instead of the productive factor, then too great a demand pull on goods and services is created.

Also, taxes are necessary to the functioning of any group of people who band together as a society and agree to forego certain freedoms in order to insure certain other, more valuable freedoms. Taxes are in effect each person's rent on civilization and should guarantee his essential freedoms. But just as interest can drain him of his life's work, so can taxes drain him of his life's work.

Both, carried to a state of inbalance, destroy the ability of any individual to contribute properly to his society. That society must finally collapse, even though the sun still comes up, even though ample raw materials are underground, even though agricultural bounty still grows, even though the same labor force still exists.

His economy has been destroyed, he reverts to the barter system and the limitations of this system essentially reduce him to a tribal civilization.

Let's examine money and see what it is, what it does and how it functions.

The popular definition of money is "wealth." This is wrong, according to Prof. Carroll Quigley, of Georgetown University, who penned the history entitled "Tragedy and Hope." Wrote Quigley:

"Goods went from places where there were less valuable to places where they were more valuable, while money, doing the same thing, moved in the opposite direction. This valuation, which determined the movement of both goods and money and which made them move in opposite directions, was measured by the relationship between these two things. Thus the value of goods was expressed in money, the value of money was expressed in goods. Goods moved from high-price areas to low-price areas, because goods were more valuable where prices were high and money was more valuable where prices were low.

"Thus, clearly, money and goods are not the same thing but are, on the contrary, exactly opposite things. Most confusion in economic thinking arises from failure to recognize this fact. Goods are wealth which you have while money is a claim on wealth which you do not have. Thus, goods are an asset; money is debt. If goods are wealth, money is non-wealth, or negative wealth, or even anti-wealth. They always behave in opposite ways, just as they move in opposite directions. If the value of one goes up, the value of the other goes down, and in the same proportion. The value of goods, expressed in money, is called 'prices,' while the value of money, expressed in goods, is called 'value.' "

Money is a societal tool. Nothing more, nothing less. Except to the extent a man or a society is lured into believing it is something else—wealth, for instance. Money was first developed to make barter, or exchange of goods, more convenient.

But at some point in time, certain men seized the knowledge that money, itself, could be used not only as a tool, but as a commodity, and that the "reserve" system could be used to "create" money. Thus, interest, or "rent" on money was devised.

From that moment forward, men went into bondage to other men who understood money and how it worked.

As Quigley explained, wealth and money change places. A current familiar example is Arabian crude oil and American dollars.

Until the discovery of vast seas of petroleum under the Arabian sands, the people and governments were terribly poor. Yet, once those vast stores of a desirable commodity were discovered, and recovery began, they began to flow where? To where there was money; money which has been a claim on the wealth of the United States, for instance. And the money began to flow where the wealth was produced.

Anti-wealth began to accrue in fantastic amounts—something like $65 billion this year. The Arabs began acquiring true wealth—productive lands, industry, income-producing property. It is estimated that by 1980—just six years from now—the oil producing nations will accumulate $400 billion, or more than 70 per cent of the world's entire monetary reserves. If the exchange of money and wealth continues at this rate, the oil-producing nations will have a claim on virtually all the wealth in the world—or sufficient amounts to counterbalance any national attempt short of war to render it impotent in the economic community.

The most furious monetary struggle of all time is currently underway and any serious national attempt to create economic equality must give this crisis first consideration. Otherwise, the so-called free nations will have sold their birthright.

In this manner, holders of money lay claim to the productivity of wealth-producing nations, yet are not burdened with actual production. Rates of interest could be kept sufficiently high to sap the economic viability of any nation so foolish as to become economic slaves.

However, the system is the same and the name of the game is to control entire governments and peoples by control of money.

For many years now, Americans have followed a siren call: "Buy now, pay later." The new-found purchasing power compressed industrial time, created vast industries with this "new" money and thus the wheels of commerce hummed as never before.

But a fatal mistake was being made. Economists and governmental leaders failed to reckon with the rate of interest men could pay and still remain viable assets to the economic community and to themselves, and they failed to realize that the first mother dollar still lived and still is producing children, thus adding all the while to purchasing power. They failed to accept the universal law: That human energy can only produce over its needs to some given point before it becomes exhausted and ceases to function properly and contribute to its share of societal balance.

Thus, ever higher and higher interest rates stole from man's real productivity and as the productivity was being removed, a greater share of what he had earned was being funneled as a claim on wealth to those who had not earned it.

This money returned to the community to claim wealth which the original claimant could no longer protect; he had spent so much energy servicing a claim on his productivity he could no longer protect his true wealth.

Meanwhile, a singular manifestation is appearing. Men manipulating money learn how inflation—or excessive economic growth—creates paper profits which can be converted into hard wealth by periodic "harvests," or turning on and off the money supply and adjustment of interest rates, and they develop a psychology to create inflation even faster, apparently inclined to forego even a pretense of humanism or concern over the welfare of their fellow men.

The American economist, Thorstein Veblen, saw this in his analyses of our society. Veblen theorized that the mass of the society desired to create a mechanism for production of all goods and services needed by that society, and was content to function within this system.

On the other hand, however, there were those unproductive elements of the society who desired not to work within the mechanism in order to accumulate and prosper, but chose to create methods of causing breakdowns in that mechanism which, by prior knowledge of timing of such breakdowns, by virtue of innocence of those tied to the mechanism, allowed them to "harvest" the created wealth.

But back to the productive man. Seeing the value of his money fading, he seeks belatedly to exchange his claim on wealth for real wealth—a home, a farm, needed transportation, extra food or clothing—before the value of his money is further eroded and the price of real wealth increases.

Thus does the seed of inflation sprout, break from the ground and begin to flourish. Add to this the "fertilizer" of excess profits and wage demands, fiscal irresponsibility on the part of government, and the growth becomes virtually uncontrollable—unless men know where the roots of inflation lie.

Perhaps government does not understand its real function in economics. Should not government be the groundskeeper, the scorekeeper, the umpire and the bat boy as well as the owner of the ball team wherein economics is concerned?

Should not government's most vital function, even prior to national defense, be maintenance of a fair, equitable and healthy economic climate? Is it not only in such a climate that free men can create free enterprise and maintain free stature?

But the government of the United States has not in the past and is not today performing that function. To the contrary, it seems quite puzzled as to its economic function and how to proceed.

The government of the United States has not always been so puzzled.

When Washington and his staff were deciding upon economic measures, the opinion of Alexander Hamilton prevailed. Hamilton believed a central bank was essential to the financial stability of any nation, and that this bank must be controlled by, and be responsive to, the people.

Accordingly, the first Bank of the United States was chartered Feb. 25, 1791. Its 20-year charter was not renewed, however, and following an unsatisfactory period of state banking, the second Bank of the United States was chartered. It served well but a dispute between its president, Nicholas Biddle, and President Jackson was resolved by Jackson "killing" the bank. It was Jackson's belief the bank and its officers were not properly responsive to the needs of the people.

The nation's fiscal affairs were not so conducted again until the National Banking Act of Feb. 25, 1863. This was wiped out by the Federal Reserve System of Dec. 23, 1913, a system which promised stability of the economy but which has never done so, which has never been audited in spite of efforts by such leaders as Congressman Wright Patman, and which drains billions each year from the U.S. economy, in the form of taxes, to pay interest on the debt.

Since the passing of the Federal Reserve Act, has the Congress abdicated its foremost responsibility—that of creating a currency, setting its value and seeing to its distribution?

The nation has been paying interest to the Federal Reserve System in the form of ever higher and higher taxes since that time until, finally, the point of insufficient human energy and natural resources to service the debt and to contribute to the economic community and to tend to one's own personal needs has been virtually destroyed. Inflation is rampant and the primary methods used to combat it—tight money at high interest—only compound the problem. For any economist's definition of inflation is "too much money chasing too few goods," and there is no way tight money and high interest will produce more goods and lower the cost of those goods. They will only increase the cost, lower production.

Indeed, the banking community's consumer-oriented psychology has itself been a catalyst in inflation for its loaning for consumer goods. Remember: Inflation is too much money chasing too few goods.

How does this relate to agriculture?

In every fashion, for agriculture is the first turn of the wheel of commerce. No nation can prosper except upon a firm foundation of agriculture; no nation can succeed unless agriculture is allowed not only its fair share of the economy, but its full share. A short-circuit in electricity blows the fuses and the lights go out. A short-circuit in the agricultural economy destroys the ability to produce and to make the wheels of commerce turn.

What, then, can be done as the wheels of agriculture are grinding ever slower and when this lack of momentum will soon be felt full-force throughout the entire economy

Looking over the entire economy, analyzing the mood of the people, has there ever been a more appropriate time for re-creation of a Bank of the United States to once again begin the function of maintaining a sound economic climate?

Perhaps this is too big an order, too big a step. But why not a Bank of the United States for Agriculture?

Using its constitutional power, could not Congress create this bank and let it become the "mother bank" of every federal institution today involved in lending to agriculture? Could not Congress create, by mandate, and with a stroke of the pen, the funds necessary to fund this bank and cease to go into the national and international money market to borrow money? Does not this latter fact alone—seeking funds in the regular money channels—increase tension upon the monetary market, helping to push it ever upward?

Why should interest rates to agriculture not be kept at the very minimum—cost of administration? In this fashion could not agriculture come to the market place with food and fiber produced at sufficiently low cost to afford this nation what it must have—cheap and plentiful food to sustain it while the entire process of winding down inflation and revamping our catch-as-catch-can economic system is undertaken?

Eventually, a Bank of the United States for Industry could be created, and industrial production would then come to the market at lower cost, thanks to low interest costs built into every facet of production.

And finally, and most important, at some point these two banks would be merged into the Third Bank of the United States, the mother bank of all financial institutions. This would stop the drain of billions of dollars a year in interest—paid for in the form of taxes—to the Federal Reserve System.

The American dollar would once again be sound; if the United States economic system was based on assets, rather than debts, it would be respected in the international community; interest rates the world over would be substantially reduced and the productivity drain on men everywhere would cease.

The game of financial monopoly would be over and mankind could get on with the business of creating a Brotherhood of Man, where every man could share in the successes of his nation in direct proportion to the amount of wealth (and sweat) he is willing to produce.

And not an ounce of flesh would be stolen from him.

FEDERAL PAY RAISES

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. VAN DEERLIN. Mr. Speaker, our colleagues in the Senate this week will act upon a resolution to disapprove the President's recommendation for an alternate effective pay raise date for Federal and military personnel.

The proposed delay would add a further burden on one segment of the consuming public by depriving them of raises they need just to keep up with inflation. Federal workers and military personnel will, I am certain, be willing to carry their fair share of the load. It is unjust to ask them to carry more, however.

An editorial in the San Diego Evening Tribune of September 7 expresses concisely the reasons why such a raise should not be delayed:

FEDERAL PAY RAISES

More than 150,000 federal workers and military personnel in San Diego County would be affected by President Ford's order for a three-month delay of a scheduled Oct. 1 pay raise.

The Congress, however, can overturn the order by a simple majority vote in either house within 30 days.

Undoubtedly the symbolic importance of the President's action in his effort to fight inflation was the main reason for his decision.

He is asking federal workers and military personnel to show the way to restraint in pay and price demands by demonstrating their own patriotic willingness to sacrifice purchasing power in the marketplace.

But the fact remains that the cost of living index has risen at an annual rate of more than 11 per cent since the last government pay raise in October 1973. And the proposed pay raises which would be delayed amount only to an average of 5.5 per cent to keep federal salaries comparable with those in private business.

Either way, the federal employes and military men are going to be losers. Real wages will go down in either case but the sacrifice will be greater if the raises are delayed until Jan. 1.

The President perhaps was compelled by his position to seek to make an example out of federal workers and military personnel.

But now the gesture has been made. The Congress should consider the human needs of the federal workers and military personnel and their families.

Is it fair to ask one segment of our society to sustain a $700-million loss in standard of living?

We think not. The remedy is not far to seek. The Congress should promptly restore the pay raises.

CONYERS INTRODUCES RESOLUTION OF INQUIRY INTO NIXON PARDON

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. CONYERS. Mr. Speaker, I have today introduced a resolution of inquiry directing the President to provide this House with all the facts upon which he based his decision to pardon Richard Nixon. This resolution further requires the facts relating to any pardon of other persons involved in the criminal actions of the Nixon administration.

President Ford's decision to pardon Mr. Nixon was sudden and controversial. I also believe that it was constitutionally questionable and gravely damaging to the criminal justice system. For years, we have endured Chief Executives who made important decisions without prior consultation with Congress and without fully explaining the causes and circumstances of their actions to the American people. We had hoped that President Ford would reverse this trend, but the insulated power of the White House now seems to have seduced its most recent occupant.

The purpose of my resolution is simply to require President Ford to give the Congress and the people the information we should have had before a decision to pardon was made. After the President provides these facts, the Congress will then be able to judge what further action, if any, should be taken.

The text of my resolution follows:

RESOLUTION

Resolved, That the President is directed to furnish to the House of Representatives the full and complete information and facts upon which was based the decision to grant a pardon to Richard M. Nixon, including—

(1) any representations made by or on behalf of Richard M. Nixon to the President;

(2) any information or facts presented to the President with respect to the mental or physical health of Richard M. Nixon;

(3) any information in possession or control of the President with respect to the offenses which were allegedly committed by Richard M. Nixon and for which a pardon was granted;

(4) any representations made by or on behalf of the President to Richard M. Nixon in connection with a pardon for alleged offenses against the United States.

The President is further directed to furnish to the House of Representatives the full and complete information and facts in his possession or control and relating to any pardon which may be granted to any person who is or may be charged or convicted of any offense against the United States within the prosecutorial jurisdiction of the Office of Watergate Special Prosecution Force.

PARLIAMENTARIANS FOR HUMAN RIGHTS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. FRASER. Mr. Speaker, protection of human rights is an international concern. It has been especially a concern of elected representatives serving in international parliaments.

In order to facilitate an exchange of information about human rights developments, we have initiated a newsletter circulated to parliamentarians in other countries who have a special interest in human rights. The first issue of the newsletter is included at the end of these remarks.

We are pleased with the response we have already received to the newsletter. Of course, we welcome the active participation of U.S. legislations in this informal human rights network:

PARLIAMENTARIANS FOR HUMAN RIGHTS

NEWSLETTER NO. 1—AUGUST 1974

In April 1974 a notice was sent to approximately 75 parliamentarians from various countries suggesting the formation of an international network of parliamentarians, which we propose to call simply "Parliamentarians for Human Rights." We have received many replies indicating an interest in participating. This newsletter summarizes the ideas suggested by various parliamentarians and lists all of the persons who expressed an interest in the activity.

It is hoped that through this newsletter and other correspondence, parliamentarians throughout the world can apprise each other of their activities and problems in defense of internationally recognized human rights. Our informal network might also facilitate cooperation among parliamentarians on major human rights issues. Parliamentarians in many countries are pressing their governments to accord a higher priority to human rights in foreign policy. If these efforts are supported by parliamentarians in other countries, and coordinated among them, the impact of an individual's work may be strengthened. Participants are encouraged to use our informal network to alert others of their activities, so that assistance can be given whenever possible.

IPU ADOPTS RESOLUTIONS ON TORTURE AND RACIAL DISCRIMINATION

Meeting in Bucharest in April, a committee of the Inter-Parliamentary Union adopted resolutions on the problem of torture and on The Inter-Parliamentary Conference will measures to eliminate racial discrimination. meet in Tokyo from October 2 to 11th of this year and will vote on these resolutions.

The resolution on torture, *inter alia*, requests parliaments (a) to ensure permanent control over action by the Executive, systematically to denounce all abuses and to oblige the public authorities to put an end to them; (b) to establish monitoring machinery independent of the executive which would intervene when attacks on human dignity are reported; (c) to urge their governments to take appropriate action in the United Nations and to ratify the International Covenant on Civil and Political Rights and the Optional Protocol; (d) to denounce the practice of torture and maltreatment.

The resolution on racial discrimination urges *inter alia*, (a) ratification of the International Convention on the Prevention and Punishment of the Crime of Apartheid and the International Convention on the Elimination of All Form of Racial Discrimination; (b) full support for the UN Decade against Racial Discrimination; (c) denial of any assistance to the racist regimes; (d) recognition of the liberation movements as the sole legitimate representatives of the people struggling against colonialism; (e) that the Parliament of the Republic of Guinea-Bissau will assume, as soon as possible, its rightful place within the Inter-Parliamentary Union; (f) that an effort be made on behalf of immigrant workers, particularly as regards education, vocational training, housing and employment.

Parliamentarians desiring copies of these resolutions should write to Pio-Carlo Terenzio, Secretary-General, Inter-Parliamentary Union, Place du Petit-Saconnex, 1211 Geneva 19, Switzerland.

Congressman Donald M. Fraser (United States) suggests that parliamentarians may wish to ask their own foreign ministries for their comments on the IPU resolution. In response to such an inquiry, the Department of State has indicated to Congressman Fraser that "For the next session of the United Nations General Assembly we are considering proposing that recommendations and measures for the prevention of torture be developed by the Commission on Human Rights." Congressman Fraser would appreciate receiving any suggestions parliamentarians might have as to what further measures the United Nations might develop to prevent the practice of torture.

POLITICAL PRISONERS IN SOUTH VIETNAM

A group of Canadian parliamentarians have been trying to get the issue of imprisonment and torture of political prisoners in South Vietnam considered by the U.N. Commission on Human Rights. Fourteen Members of Parliament and four Senators have been pressing the Secretary of State for External Affairs to raise this subject at the Commission. The Swedish delegate to the Commission did raise the issue but the Commission did not take any action. Andrew Brewin, a Member of the Canadian Parliament, also reports that the Netherlands Government has expressed the opinion "that without any exception all camps should be opened for inspection by the Red Cross—preferably by the International Committee and that the prisoners detained in these camps should be interviewed by the investigating teams without the presence of witnesses."

Parliamentarians interested in working on this issue should contact Mr. Brewin, House of Commons, Ottawa, Canada.

For information concerning the UN Commission on Human Rights, see item on U.S. Congressional Committee.

RUSSELL TRIBUNAL FINDINGS

President Lelio Basso of the Senate (Italy) announced findings against the Governments of Brazil, Chile, Uruguay and Bolivia in the Second Russell Tribunal. (President Basso served as President of the Second Russell Tribunal). President Basso reports that: "The conclusions were reached after thirteen work sessions during which the members of the jury examined written and spoken evidence concerning repression and torture in these countries." Persons desiring copies of the Tribunal's report should write to President Basso, Tribunal Russell II, Via Della Dogana Vecchia, 5, Rome, Italy.

NEW RESEARCH INSTITUTE

President Edgar Faure of the National Assembly (France) reported plans to establish a European Institute of Research on Parliamentary Democracy, Economic Planning and International Relations. The Institute would be set up and organized by a common effort of the national parliaments, the European Parliament and the universities.

President Faure wrote to Congressman Fraser that the Institute, whose formation is soon to take place, "could be one of those exchange bodies which you have in mind, in as much as its objective is specifically the definition of the conditions for democratic action and therefore liberty in the world today."

A copy of President Faure's speech outlining the purposes of the new institute may be obtained by writing to him at the National Assembly, 126 rue de L'Universite, Paris 7, France.

WOMEN'S RIGHTS

Lord Avebury of the House of Lords (United Kingdom) reports that women are not allowed to bring their husbands of alien nationality to live with them in the U.K. unless they're "compelling personal circumstances to justify it." On the other hand, a man has an absolute right to bring his wife to the U.K. He is interested in hearing from other parliamentarians with regards to their own immigration laws on this subject.

His address is 24 Rivermill, Grosvernor Road, London SWIV 3JN.

MEETING OF EUROPEAN OMBUDSMEN AND PARLIAMENTARY COMMISSIONERS

On April 18 and 19, the Legal Committee of the Council of Europe sponsored a meeting in Paris of the European Ombudsmen and Parliamentary Commissioners. Copies of the proceedings of the meeting may be obtained from Monsieur Auguste Plate, Secretary of the Legal Affairs Committee, Council of Europe, 67006 Strasbourg, France.

U.S. CONGRESSIONAL COMMITTEE HOLDS HEARINGS AND ADOPTS REPORT ON HUMAN RIGHTS

The Subcommittee on International Organizations and Movements of the Foreign Affairs Committee (U.S. House of Representatives) has been devoting special attention to the international human rights field. Congressman Donald M. Fraser serves as Chairman of the Subcommittee. The Subcommittee held 15 hearings during the Fall of 1973 with testimony from 45 witnesses including government officials, scholars, and representatives of non-governmental organizations. A number of country situations were considered: Burundi, Southern Africa, Brazil, Northern Ireland, the Soviet Union, Bangladesh (1971) and Chile. Special sessions dealt with human rights in armed conflicts and the status of women. Following these hearings the Subcommittee issued a 54 page report entitled "Human Rights in the World Community: A Call for U.S. Leadership." The report contains 29 recommendations for raising the priority given to human rights in U.S. foreign policy and strengthening the capacity of international organizations to insure protection of human rights.

In 1974 the Subcommittee has held hearings on human rights in the Middle East, Chile, Korea and Africa, as well as on the recent session of the U.N. Commission on Human Rights. All of these hearings will be published.

The 15 hearings held in 1973 have been published under the title "International Protection of Human Rights: The Work of International Organizations and the Role of U.S. Foreign Policy" (987 pages). Copies of any of the Subcommittee's publications on human rights may be obtained by writing to Congressman Fraser at the address given below.

EFFORTS IN U.S. CONGRESS TO RECOMPLY WITH RHODESIAN SANCTIONS

A major effort has been underway in the U.S. Congress for the past year to repeal the so-called "Byrd Amendment" which allows the importation of Rhodesian chrome in violation of United Nations economic sanctions against the white minority government in Southern Rhodesia. Repeal would be accomplished by passage of a bill halting Rhodesian imports and thereby returning the United States to full compliance with the sanctions.

The repeal bill passed the Senate in December of 1973 under the leaderships of Senators Gale McGee and Hubert Humphrey. It now faces tough opposition in the House of Representatives, where the leaders for repeal are Congressmen Charles Diggs, Donald Fraser, John Buchanan, and Edward Biester.

Secretary of State Henry Kissinger, expressing his support for the bill, said "I am personally convinced that the Byrd provision is not essential to our national security, brings us no real economic advantages, and is costly to the national interest of the United States in our conduct of foreign relations." Other high State Department officials have stated that U.S. violation of the sanctions against Rhodesia has been the most serious blow to the credibility of U.S. policy toward Africa.

When Congress passed the Byrd Amendment in 1971, the U.S. became the only country, other than South Africa and Portugal, to violate the sanctions. Now that Portugal has announced its adherence to the sanctions, the United States finds itself only in company of South Africa. With Portugal's decision to grant independence to its African territories, the future of the racist regime of Ian Smith in Rhodesia becomes all the more doubtful.

A vote on the repeal bill in the House of Representatives will be held early in August.

ALL CORRESPONDENCE FOR INSERTION IN THE NEXT ISSUE OF THE NEWSLETTER SHOULD BE ADDRESSED TO:

Congressman Donald M. Fraser, U.S. House of Representatives, Washington, D.C. 20515.
Attention: Mr. John Salzberg.

LIST OF PARLIAMENTARIANS WHO HAVE EXPRESSED AN INTEREST IN THE NEWSLETTER

Australia: L. Bowen, D. Everingham, M. Oldmeadow, R. Hunt.

France: A. Poher, P. Taittinger, E. Faure, H. Rivierez, R. Forni, P. Elvinger and M. Rocard, J. Chevenement, K. Vasak, F. Ermacora.

Israel: E. Eliav, Y. Ben-Amaron, Y. Sarid.

Canada: E. Forsey, A. Brewin.

Norway: K. Khristiansen, H. Rossbach.

Ireland: P. Dockrell.

United Kingdom: P. Grieve, I. Loyd, A. Davidson, L. Avebury, P. Archer, L. Caradon, and L. O'Hagan, M. Ennals.

Sweden: A. Hernelius.

Germany: A. Sieglerschmidt, A. Amrehn.

Switzerland: N. MacDermot, P. Terenzio, H. Schmitt.

Italy: L. Basso.

FEDERAL GRANTS AND LOANS IN THE 20TH DISTRICT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. FINDLEY. Mr. Speaker, taxpayers who live in the 11 counties which make up the 20th Congressional District, which I represent in Congress, will be glad to see that some of their hard-earned tax dollars are being returned to them by the Federal Government. In 1973, the total returned was $821,664,033. Included in this amount were all Federal services, from social security and veterans' benefits to loans and grants to cities for water and sewer projects. Each county received the following total amounts:

Adams	$50, 344, 663
Calhoun	5, 271, 439
Greene	15, 145, 270
Jersey	12, 068, 868
Macoupin	45, 988, 758
Madison	208, 957, 439
Montgomery	27, 928, 098
Morgan	25, 115, 197
Pike	18, 164, 626
Sangamon	407, 359, 275
Scott	5, 320, 400

Following is a list of some of the major Federal grants and loans in each of the 11 counties during the 2 years of the 93d Congress:

LIST OF MAJOR FEDERAL GRANTS

ADAMS COUNTY

General revenue sharing—$3,566,037.

Loan of $485,000 to Mill Creek Water District by Farmers Home Administration for rural water system.

Loan of $480,000 to Golden by FHA for sanitary sewer system.

Loan of $420,000 to Liberty by FHA for sewer system.

Loan of $398,000 to Adams Electrical Cooperative by Rural Electrification Administration for distribution lines and expanded service.

Grant of $364,630 to Quincy College by Department of Health, Education, and Welfare for National Direct Student Loans, Educational Opportunity and Work-Study Programs, instructional equipment, and library resources.

Grant of $156,081 to Quincy by Federal Aviation Administration for airport development and improvements.

Grant of $115,000 to Quincy Public Schools by HEW for Head Start program.

Grant of $60,000 for Quincy seawall and flood control project by Army Corps of Engineers.

Loan of $34,000 to Adams County Water District by FHA for central water system.

Grant of $27,268 to Quincy by Department of Transportation for new bus system.

Grant of $25,813 to United Community Services by Action for retired senior citizens volunteer program.

Grant of $16,838 to Blessing Hospital by HEW for nursing student loan program.

Grant of $10,800 to Clayton by Environmental Protection Agency for sewage treatment works.

CALHOUN COUNTY

General revenue sharing—$211,079.

Grant of $15,700 to Hardin by Environmental Protection Agency for sewage treatment works.

GREENE COUNTY

General revenue sharing—$1,052,128.

Loan of $70,000 to Patterson by Farmers Home Administration for community water system.

Grant of $12,975 to Roodhouse by Environmental Protection Agency for waste water treatment works.

JERSEY COUNTY

General revenue sharing—$826,250.

Loan of $500,000 to Jersey County Rural Water Company by Farmers Home Administration for completion of water system.

Grant of $308,022 to Illinois Department of Conservation by Department of Interior to purchase additional land for Pere Marquette State Park.

Grant of $66,256 to Jerseyville Industrial Development Commission by FHA and Department of Commerce to develop Jerseyville Industrial Park and for administrative costs.

Grant of $57,388 to Principia College by Department of Health, Education, and Welfare for National Direct Student Loans.

MACOUPIN COUNTY

General revenue sharing—$2,009,196.

Loan of $666,000 to M.J.M. Electric Cooperative, by Rural Electrification Administration for distribution lines and expanded service.

Grant of $224,219 to Illinois Valley Economic Development Corporation, by Office of Economic Opportunity and Department of Health, Education, and Welfare for summer Head Start program and administrative costs.

Grant of $77,836 to Blackburn College by HEW for National Direct Student Loans, Educational Opportunity and Work-Study Programs, and library resources.

Grant of $61,910 to Macoupin County Housing Authority by Department of Housing and Urban Development for low-rent housing.

Grant of $14,900 to Virden Sanitary District by Environmental Protection Agency for waste water treatment works.

MADISON COUNTY

General revenue sharing—$9,819,610.

Grant of $3,782,625 to Alton by Environmental Protection Agency for improvements to sewage treatment plant.

Grant of $1,682,837 to Madison County Housing Authority by Department of Housing and Urban Development for low-rent housing.

Grant of $1,500,000 for construction of Alton Lock and Dam No. 26 by Army Corps of Engineers.

Grant and loan of $1,078,000 to Fosterburg Water District, by HUD and Farmers Home Administration for water distribution system.

Loan of $575,000 to Worden by FHA for new sewer system.

Grant of $406,078 to Madison County Economic Opportunity Commission by Office of Economic Opportunity and Department of Health, Education, and Welfare for summer Head Start programs and administrative costs.

Grant and loan of $217,000 to Grantfork by FHA for new water system.

Grant to $72,566 to Lewis and Clark Community College by HEW and Department of Defense for Law Enforcement Assistance Program, increased veterans enrollment, and nursing student loans.

MONTGOMERY COUNTY

General revenue sharing—$1,684,802.

Grant of $140,340 to Litchfield Municipal Airport by Federal Aviation Administration for airport development.

Grant of $37,000 to Litchfield Park District by Department of Interior for land acquisition.

MORGAN COUNTY

General revenue sharing—$1,405,297.

Loan of $530,000 to Chapin by Farmers Home Administration for sewage disposal system.

Grant of $458,654 to Illinois College by Department of Health, Education, and Welfare for library, National Direct Student Loans, Educational Opportunity and Work-Study Programs, and instructional equipment.

Grant of $408,494 to MacMurray College by HEW and Department of Defense for National Direct Student Loans, Law Enforcement Assistance Program, Educational Opportunity and Work-Study Programs, cooperative educational program, instructional equipment, library resources, and environmental research.

Grant of $315,891 to Jacksonville by Department of Housing and Urban Development for Town Square Project.

Grant of $257,000 to Jacksonville by Environmental Protection Agency for sewage treatment works.

Loan of $116,000 to Woodson by FHA for community sanitary sewer system.

Loan of $90,000 to Meredosia by FHA for sewer system.

Grant of $63,888 to Morgan County Housing Authority by HUD for low-rent housing.

Grant of $47,000 to Jacksonville Airport Authority by Federal Aviation Administration for airport development.

Loan of $34,000 to Murrayville by FHA for sewer system.

Grant of $30,800 to South Jacksonville by EPA for sewage treatment works.

Grant of $14,764 to Passavant Memorial Area Hospital by HEW for student loans and grants.

PIKE COUNTY

General revenue sharing—$1,180,586.

Grant of $28,000 to Pike County by Department of Health, Education, and Welfare for summer Head Start program.

SANGAMON COUNTY

General revenue sharing—$6,371,334.

Grant of $4,200,000 to Springfield by Department of Housing and Urban Development for East Side Neighborhood Development Program.

Grant of $3,992,932 to Memorial Medical Center by Department of Health, Education, and Welfare for ambulatory care center teaching facility.

Grant of $1,548,691 to St. John's Hospital by HEW for family practice center, nursing student grants and loans, and residency program in family medicine.

Grant of $1,508,348 to Springfield Airport Authority by Federal Aviation Administration for airport improvements and fire fighting and rescue vehicle.

Grant of $948,000 to Springfield by Environmental Protection Agency for sewage treatment works.

Grant of $637,365 to Springfield by HUD for social services center.

Loan of $600,000 to Divernon by Farmers Home Administration for sewer system.

Grant of $571,100 for construction in the Lincoln Home National Historic Site.

Grant of $562,800 to Springfield Mass Transit District by Department of Transportation for busses and maintenance.

Grant of $553,466 to Sangamon State University by HEW, Department of Defense, and National Endowment for the Arts for educational FM radio station, National Direct Student Loans, Educational Opportunity and Work-Study Programs, Law Enforcement Assistance program, Community Arts Management Program, instructional equipment, and library resources.

Grant and loan of $522,000 to New Berlin by FHA for sewer system.

Grant of $453,000 to Auburn by EPA for sewage treatment plant.

Grant of $447,973 to Springfield and Sangamon County Community Action, Inc. by HEW, Department of Labor, and Office of Economic Opportunity for Head Start program, Neighborhood Youth Corps, and administrative costs.

Grant of $283,488 to Lincoln Land Community College by HEW and DOD for National Direct Student Loans, Educational Opportunity and Work-Study Programs, Law Enforcement Assistance Program, nursing grants and loans, increased veterans enrollment, and instructional equipment.

Grant of $270,000 for railroad relocation project in Springfield.

Grant of $265,000 to Springfield Park District by HUD for swimming pool in Lincoln Park.

Grant of $218,074 to Southern Illinois University School of Medicine, Springfield, by HEW for student loans and scholarships, research, and medical library resources.

Loan of $210,000 to Auburn Rural Electric Convenience Cooperative by Rural Electrification Administration for distribution lines and extended service.

Grant of $98,920 to Springfield-Sangamon County Regional Planning Commission by DOT and HUD for planning various municipal services.

Grant of $80,000 to Central Illinois Health Planning Council by HEW to provide adequate medical services to central Illinois residents.

Grant of $19,120 to Senior Citizens Center by Action for Retired Senior Citizens Volunteer Program.

Loan of $598,000 to Illinois Rural Electric Company, Winchester, by Rural Electrification Administration for distribution lines and expanded service.

General revenue sharing—$386,293.

Loan of $30,000 to Alsey-Glasgow Water Commission by Farmers Home Administration to develop water system.

Grant of $17,000 to Winchester by Environmental Protection Agency for sewage treatment works.

NATIONAL HISPANIC HERITAGE WEEK

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. BROOMFIELD. Mr. Speaker, last week was National Hispanic Heritage Week, as proclaimed by President Ford. To commemorate this event, Hispanic-Americans in Pontiac, Mich., held last Sunday their annual La Raza Day in honor of Mexican Independence Day.

The 1,200 people celebrating in Pontiac were joined by millions of Hispanic-Americans holding festivities around the country.

For many years people of Hispanic origin have contributed greatly to the heritage of the United States while maintaining a strong sense of pride in their own Hispanic heritage. Today, more than 10 million Americans of Hispanic background contribute daily to our national character in virtually every area of American life.

President Ford said in his remarks proclaiming National Hispanic Heritage Week that—

> Americans must rededicate themselves to the principle of full and equal opportunity for all citizens, and to seize upon the broad spectrum of skills and abilities of those individuals of Hispanic heritage who have so significantly contributed to our Nation's growth and prosperity.

I echo those sentiments as I salute those Americans of Hispanic origins in Pontiac and around the country for their many great contributions to our society.

UNITED CALIFORNIA BANK SWAPS

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. HANNA. Mr. Speaker, when Americans talk about inflation today, they usually do so in terms of high food, clothing or gas prices, those expenses which require almost daily withdrawals. Other prices, in fact, have increased more steeply and at a greater rate, but, because they are less visible, we are not aware of the potential damage to our purses, that is, until we get sick, need a larger home or—most inpurious of all—want to send a child to college.

The cost of a college education is going up faster than any other item in the family budget, even food. The tuition at one private school in California has risen 180 percent in 10 years. According to Business Week, the average annual tuition cost at a private college is $3,159; for public schools, $1,513. As one educator described the situation.

> Circumstances today threaten to bring about a situation in which higher education will become limited to the very rich, the very brilliant, and the very poor.

This leaves about 80 percent of us caught in that twilight zone where we earn too much to qualify for financial aid and too little to withstand the brunt of this enormous cost.

United California Bank, in response to the problem, has developed an innovation program designed to provide direct educational aid to California students from inflation-pressed, middle-income families. The UCB scholarship and work-study assistance program—SWAP—is, to the best of my knowldedge, the first such effort on the part of any American institution, public or private, directly targeting the problem as it relates to the children of middle America.

SWAP is an unusual combination of scholarship, loan and part-time employment opportunity, providing promising students with education at once practical and theoretical. Qualified candidates receive half-tuition scholarship grants and a quarter-tuition loan. At the same time, each student is offered part-time employment so that the remaining portion of the tuition, as well as living expenses, can be earned.

The work-experience portion of the SWAP program is designed to give students an in-depth orientation to the full range of commercial banking operations, their duties in many ways similar to those undertaken by the bank's management trainees. Students are under no obligation to remain with the bank following their graduation; however, if they are happy with UCB and their work performance and scholastic achievement is satisfactory, they may be offered an opportunity for career employment.

UCB's SWAP is small, at the moment involving only six students from middle-income families. UCB has other commitments to the low-income student, assisting some 44 high school and college students in obtaining work experience and/or college educations. By the fall of 1974, this number will increase to 49. Of these, 20 will be receiving scholarships to attend the college of their choice. Moreover, UCB participates in a number of scholarship and fellowship programs, both graduate and undergraduate, aimed at assisting disadvantaged students. The size and the SWAP program, however, is not as important as the example it sets. Hopefully, other institutions will follow UCB's lead and undertake comparable efforts in the work/study area to insure that the talented and determined child of middle-income America is not barred from higher learning.

TVA POWER RATES ALREADY HIGH—AND FURTHER MAJOR INCREASE EXPECTED

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. EVINS of Tennessee. Mr. Speaker, within the past 7 years the Tennessee Valley Authority has put into effect nine electric power rate increases aggregating more than 80 percent with increased revenues totaling more than $460 million.

Now we get the word from a TVA spokesman that more major rate increases are in the offing—and there is speculation in the press that TVA rates may soar another 50 percent—on top of the already staggering increases.

Since TVA announced its so-called fuel escalator clause policy of monthly rate increases in July, the cost of coal has skyrocketed. The Nashville Banner in a recent article reported that the cost of coal has more than tripled in cost in one recent purchase by TVA—increasing from $8 to $28.50 per ton.

Many believe that the TVA's policy of automatic monthly increases in rates based on increases in the price of coal is an open invitation to the big coal companies to jack up their prices every month.

Many also believe that the big oil companies which have socked it to the American people with inflated gasoline prices are following the same pattern in a different dimension through their ownership of many of the big coal companies.

This is monopolistic big business at its worst—eroding the free enterprise system, feeding inflation, swelling their excess profits, victimizing consumers by increasing prices for necessities that must be purchased.

The series of escalating TVA power rate increases that began in 1967 is as follows:

Month rate increase effective	Average percent of increase	Additional annual revenue
July 1967	7.5	$27,300,000
March 1969	7.3	28,200,000
August 1969	6.0	24,800,000
August 1970	3.4	16,200,000
October 1970	24.1	98,700,000
January 1973	8.9	64,600,000
January 1974	20.0	190,000,000
August 1974	2.3	[1]
September 1974	2.7	[1]

[1] Fuel escalator clause.

It is coincidental but significant that a recent article by the Associated Press reporting that TVA is "considering wholesale reductions in the area's use of electric power" was published in the same editions of some newspapers that also carried the announcement by big oil companies of a major increase in oil prices.

This monopolistic control and pricing is to be deplored and regretted—but there is no real challenge to this trend by this administration—friendly—to big business.

Because of the interest of my colleagues and the American people in this most important matter, I place a recent article from the Nashville Banner in the RECORD herewith.

The article follows:

[From the Nashville Banner, Sept. 13, 1974]

TVA EXPECTING RATE BOOSTS—MAY BE DRASTIC

(By Frances Meeker)

Electricity bills are going to increase again, perhaps drastically.

That's the unofficial word from TVA officials today following the announcement that coal bought by the TVA has tripled in cost.

Consumers of electricity can expect their bills to increase at a similar rate if TVA is forced to buy all its coal at the higher levels, according to John Smith, assistant district manager for TVA here.

Smith said TVA must pass on the increase in coal prices to its 160 municipal and cooperative distributors, including Nashville Electric Service.

"We buy from a number of coal companies and as the old contracts expire, the new contracts call for higher prices," said Smith.

This week TVA under an amended contract with Webster County Coal Corp. of Kentucky agreed to pay $28.50 per ton for coal going to TVA's Gallatin Steam Plant for the remainder of the 1970s.

Under the old contract, the price was $8 per ton.

"If this was the stopping place, we might estimate what the increase in electricity rates in the next few years might be," said Smith, "but we are dropping lower contracts and picking up higher ones."

Coal accounts for about half the total cost of the production of electricity, the TVA official said, and as it becomes higher, it will represent more than half the cost.

"Other things have increased also but not at the rate of coal," said Smith.

He pointed out that under TVA's coal escalator clause permits monthly increases in consumer electric bills according to the monthly increase in the cost of coal.

Meanwhile, Kenneth McPherson, manager of the sales development department of Nashville Electric Service, said he sees no way the power distributors "can keep from going higher if we continue to have electricity."

However, he said, the distributors cannot predict what the increase to the consumer in the TVA region will be.

"We just pass on to the consumer what TVA passes on to us from what has been passed to them by the coal companies," McPherson said.

TVA makes the retail rates, he said, "and we apply them to our customers."

HIGHER ELECTRIC RATES—AN AFFRONT TO THE PUBLIC

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. YOUNG of Florida. Mr. Speaker, recently the Federal Government hosted a conference here in Washington to enable State utility commissioners to meet with Federal energy officials. It was my understanding that this meeting was called to consider means of helping utility companies meet the high costs of producing electricity.

However, from reports which I have seen, this conference was used by Federal officials to encourage State utility commissions to grant rate increases. Thus, it appears that the Federal Government again wants the consumer alone to bear the burden of the energy crisis. This suggested policy is grossly unfair to those Americans who live on limited or fixed incomes, and I strongly object to any such proposal. Rather, I recommend to Federal energy officials that they work with the Congress and the States in developing alternative energy-producing resources and to put into effect programs which would help ease the impact of the energy crisis on the public.

Since the Secretary of the Treasury, William E. Simon, was the chairman of this meeting, I have sent him the following letter, which I am including in my remarks for the consideration of my colleagues.

CONGRESS OF THE UNITED STATES,
Washington, D.C., September 13, 1974.

Hon. WILLIAM E. SIMON,
Secretary, Department of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: It was my understanding that the recent meeting, chaired by you, with State utility commissioners was to "assure that the public interest can be served by a viable electric utility industry."

However, reports circulated after your meeting appear to indicate that the conference was called only to reprimand State utility commissions for not approving increases in electric rates. As with the petroleum shortages of last winter, you are asking the public alone to bear the costs of the energy crisis. Again I remind you, extraordinary price increases in basic necessities wrongfully discriminate against those persons with low or fixed incomes.

The electric utility company which operates in my congressional district and among Florida's Gulf Coast serves approximately 600,000 customers. A significant portion of the population is comprised of older Americans who have retired. Because of health reasons, many of these persons must use electricity to run air conditioners or health-related equipment. What increases in benefits these persons have received are hardly realized with the galloping rate of inflation now facing this country. For example, the most recent increase in social security benefits was intended to help these deserving Americans equalize their purchasing power with today's high costs. But, more than one-sixth of that basic increase has to be applied toward the higher cost of using only a minimum amount of electricity. Others, too, including young families, businesses, and local governments, are finding it more difficult to meet their obligations because of the already high electric rates.

I might add that most of the persons who have corresponded with me on this issue have indicated that they have, in fact, reduced the amount of electricity consumed. In other words, these persons have complied with the federal government's requests to conserve energy. Still, their electric bills are higher, mainly because of increasing fuel costs. Yet the federal government appears to be advocating a policy of event greater increases, despite the consumer's honest and sincere efforts to reduce consumption. In my opinion, this is a direct affront to these people.

The American public can, and will, live through the energy crisis. However, the federal government should be willing to do its part in helping alleviate this situation. Instead of falling back on higher prices as the only alternative, I would encourage you to pursue consideration of other means of helping utility companies: 1) lower fuel prices, 2) tax incentives, and 3) development of improved energy-producing resources, and I call on you to work with the Congress in this respect.

With best wishes and personal regards, I am

C. W. BILL YOUNG,
Member of Congress.

RAILROAD RETIREMENT ACT

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. KETCHUM. Mr. Speaker, due to a last minute change in the legislative program for last week, the House considered the restructuring of the Railroad Retirement Act sooner than we were led to believe. At the time that the bill, H.R. 15301 was being voted on, I was en route from my congressional district, where I had been meeting with my constituents. According to the announced schedule, I would have been present in the Chamber to cast my vote in favor of this bill, and regret I arrived 2 hours too late to do so.

I would like to take this opportunity to state my strong support for this bill, and to commend this House for the overwhelming vote by which it was passed. Congress made a mistake by instituting the dual benefits system in 1951, and this error has cost the railroad retirement system dearly. Had the House not acted, the trust fund of the system would have been exhausted by 1981.

I am a fiscal conservative. The sum of money authorized by this bill bothers me, but I agree with my colleagues that we had no other choice. I would, therefore, have voted for H.R. 15301.

SEATBELTS OR AIRBAGS—SHOULD MOTORISTS HAVE AN OPTION?

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. WYMAN. Mr. Speaker, the conferees meet today on the Motor Vehicle and Schoolbus Safety Amendments of 1974 (H.R. 5529). During floor consideration of this legislation, the House voted 339 to 49 to eliminate the ignition interlock and to require an option between the airbag and a seatbelt/shoulder harness system. While technically there is no comparable provision in the Senate version of this bill, a Senate amendment to another bill, which passed 62 to 21, would delay adoption of airbag requirements by the Department of Transportation until after public hearings have been held.

Regulations currently being proposed by DOT would make airbags mandatory on all cars manufactured after August 15, 1976.

To allow DOT to put such a regulation into effect is to assure a repeat of the kind of public outrage generated by the ignition interlock.

Airbags are extremely expensive, costing about $300 per car, and $600 for repair and replacement after use. A seatbelt/shoulder harness package costs about $50 per car.

More important, however, is the lack of protection provided by airbags in certain accidents as compared to seatbelts. No protection, for example, is provided in lateral or rear-end collisions, and in a rollover an airbag is effective only when used in conjunction with a lapbelt. Under these conditions, why not simply stay with a seat belt/shoulder harness system?

These and other problems raised by adoption of a mandatory airbag regulation are pointed out in the following letter to the House membership from Lynn A. Townsend, chairman of the board of Chrysler Corp. While I do not agree with his interpretation of my amendment as it might relate to a seatbelt-airbag option, Mr. Townsend's analysis of airbags merits thoughtful consideration.

CHRYSLER CORP.,
September 12, 1974.

Hon. LOUIS C. WYMAN,
Cannon House Office Building,
Washington, D.C.

DEAR MR. WYMAN: The action Congress may take in the next few weeks can determine whether automobile manufacturers will be required to make available on an optional basis an air bag restraint system for passenger cars. The Wyman Amendment to H.R. 5529, which is intended to eliminate the mandatory interlock system, would also require the automobile companies to offer air bags as a buyer option. We believe this would penalize both the manufacturers and their customers. The price of our vehicles must surely increase if the law requires us to spend tens of millions of dollars developing an air bag system people do not want. A Michigan AAA survey reported that while 73 percent of the people did not want seat belt interlocks, 83 percent did not want air bags. In light of all the facts, we urge you to reject the portion of the Wyman Amendment that would require air bags as buyer options.

Before deciding this issue which can cost the industry and the consumer billions, I would like to call your attention to some important facts about the air bag and the lap and shoulder belt system it would replace.

Some of the reports and publicity that have been circulated in support of air bags are misleading. The real-life experience and the data that we have about air bags are too sketchy to support the claims made for them.

The air bag, its proponents say, is a simple device that will protect an automobile's passengers without any action on their part. But in its latest report, "Analysis of Effects of Proposed Changes to Passenger Car Requirements of MVSS 208," NHTSA figures its life-saving statistics on the basis of the air bag plus lap belt. Since a person has to wear a lap belt even with an air bag, the air bag becomes little more than an expensive substitute for the shoulder belt.

The air bag will add about $300 to the price of today's car. Once the bag has fired—perhaps after lying in untested readiness for years—it will cost at least $600 to replace it and repair the damage to the inside of the car. We believe it is unfair to require that the individual who wears his lap and shoulder belts pay a penalty because his neighbor sits on his belts.

We recognize the air bag has some advantages. It will protect an automobile's occupants in a straight head-on crash, perhaps even if they do not wear their lap belts. It may offer the driver some extra protection from facial injuries in severe crashes. It also gives the center front passenger protection equivalent to a shoulder belt. But it is not designed to protect the occupant in a roll-over crash, and its protection in side crashes is doubtful.

The air bag is a complicated, single-shot, high-energy device of unproven reliability. The lap and shoulder belt is a mechanically simple system that is always in place.

So far, air bags have only been installed in full-size production cars. Engineers have yet to develop air bag systems that will work effectively in smaller cars. In fact, it may be impossible to develop an air bag system for a subcompact because there may not be enough time to deploy the bag and protect the occupants.

There have been fewer than 30 accidents in the field in which an air bag has deployed. DOT itself says this sample is too small to draw any conclusions about the value of air bags.

In contrast, we have years of experience with belts—and we know they already save thousands of lives each year.

People are learning to wear belts at an impressive rate—about 60 percent of occupants of 1974 model cars. We realize that 60 percent usage is supported by the interlock system, but there are other ways to achieve a high usage rate. For example, it is reported that Australia has persuaded 80 percent of her drivers to use their belts, not by means of an interlock, but by a mandatory seat belt law. We can also continue to make the belt system more comfortable and easier to use. According to a study in Canada, 44 percent of drivers of 1974 models use their belts, even though there is no interlock on Canadian cars. We want to work on even better restraint systems, such as the inflatable belt. But with the proposed revisions to Motor Vehicle Safety Standard 208, we cannot devote our resources to developing the better systems that do not meet the standard's technical requirements for passivity.

We urge you to oppose any government action that mandates air bags or requires them as buyer options.

Instead of wasting time and resources chasing the pie-in-the-sky promise of air bags, let's work to get the most from the system already at hand.

About 90 percent of the cars on the road today have lap belts, and 50 percent have lap and shoulder belts. It would be at least a decade before air bags could be installed in that many cars. To assure we get the full benefits from the belt system right now, we urge the Congress to support any action requiring car occupants to wear their belts. No other Congressional action would save so many lives so quickly. Experts believe that if 80 percent of car occupants wore lap and shoulder belts, we would save 10,000 to 12,000 lives a year.

We believe an intensive campaign of information and motivation could create widespread acceptance of seat belts and raise the level of belt usage.

We pledge our full support for a national commitment to seat belts. After considering all the facts about air bags and seat belts, I hope you will agree that this commitment is in the nation's best interest.

Sincerely,

LYNN TOWNSEND.

ENERGETICS: A TOOL FOR MENDING OUR WORLD

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. DINGELL. Mr. Speaker, I have recently been provided with a copy of a most interesting paper on the relationship of energy to the controversy on growth and its implications. I feel that this paper will be of interest and value to the Members as we begin to educate ourselves in an area which shows every sign of becoming more and more critical in the days ahead. Accordingly, I include it in the RECORD at this point:

ENERGETICS: A TOOL FOR MENDING OUR WORLD

(By Jean Matthews)

Since this is an environmental education offering on the subject of energy in the context of a Professional Growth Conference, I feel the need of a few definitions before we declare the meeting open for its most important phase—the dialogue. So I'd like to back up to the beginnings of what we call environmental education and set it in a sort of historic perspective.

In the long haul of humanity and history, mankind has tended to perceive the environment through a sort of stereoptican yo-yo—zooming in for periods of close-up, specialized study, and then whirring back up the string to see how all the pieces fit together. Perhaps it would be fairer to say that this has evolved as Western man's pattern of perception, since the Eastern ways of wisdom have tended to remain more holistic over the long time-frame.

The perspective gained by these periods of overview has changed drastically and of course so have the perceptive tools we have used. In Aristotle's day it was enough for a man to tuck up his toga and settle in the shade of the lyceum trees, sorting out in conversation with fellow philosophers the various theories of the universe. Eventually, their ideas jelled into a "world view", or paradigm, against which individual men and women more or less consciously perceived *their* world and their own parts in its play of events.

Recent attempts to end perceptual fragmentation were underway here and there on earth long before the Apollo space craft that took us to the moon had left the ground. But the whole movement toward synthesis acquired tremendous thrust when the first pictures of earth flashed back from space and struck the human optic nerve. The oneness of the world and its systems came through with the impact of a sledge hammer. Anxiously, man searched the photos for some sign of himself. For only 23,000 miles off the planet's surface—the mere distance of the earth's circumference—there was none.

The need to understand the systems of earth, how they flow and function, the forcing factors and storages and maintenance units and feedback loops and all they imply for the dominant life form that doesn't even show from space—this need has powered enormous growth in the systems-approach to understanding wholeness.

In a very real way, environmental education is the manifestation of this trend toward putting things back together—examining the larger patterns of the way they work. Environmental education is basically an attempt to *integrate*. At its best, it provides a methodology or a framework, through or within which it is possible to see the interrelationships of all knowledge, how that knowledge expresses the real world, and how it can be useful to an individual within that real world, and how it can be useful to an individual within that real world for purposes of work and play, contemplation and creativity.

Just as mankind oscillates between generalism and specialization, between wholeness and fragmentation, so the living/learning life of each human being needs periods for pursuit of specialized knowledge within the order of a discipline, and periods of fitting those data into a general knowledge of other data and one's own personal world and needs. Such an understanding of the whole is a necessary background for organizing the study of its parts.

In its role as a focus on the *functioning* nature of our interacting, changing, continuing world, environmental education has dwelt heavily on the word "process." And so I found fascinating the commentary on process which is set forth in Nicholas Georgescu-Roegen's tremendous book, *The Entropy Law and the Economic Process*. (Imagine! An economist who is cognizant of the laws of the physical world.)

"Occasionally," writes Georgescu-Roegen, "the use of a term spreads through the scientific literature with amazing swiftness but without a valid birth certificate; that is, without having been defined in some precise manner. Actually, the swifter the spreading, the greater is everyone's confidence that the meaning of the term is perfectly clear and well understood by all. One of the most glaring examples of this," Dr. Georgescu-Roegen wrote, "is supplied by 'process'."

The eminent economist goes on to suggest that "process is Change or it is nothing at all." And then he asks how do you define change? Change can only be conceived as a relation between one thing and what Hegel conveniently termed "its other;" in other words, "the other thing" that a thing is becoming in the process of change.

Why do we dwell on such distinctions? Because any analytical definition of process demands boundaries. We must separate out a part of any process in order to order it—the particular compartmentalization being the hallmark of the particular discipline within which we attempt to define *real* processes. The same "reality" can be separated out and analyzed by carving up process in any number of different ways—along other lines of differentiation. It is environmental education's job to point out that the choice of where to cut is purely arbitrary, since "the whole" has no seams . . . . not even any dotted lines.

Faced with the unpleasant fact that there can be no analytical process without analytical boundaries, one is forced to plunge in and make what Dr. Georgescu-Roegen calls "some heroic simplifications." He cites Niels Bohr, who pointed out in his *Atomic Physics and Human Knowledge*, that even the purest of purists will eventually fall on his face as he tries to carve his way through atoms and define which of them belongs to a particular totality as it *is* and which are a part of what it is *becoming* in the process of change.

Having disposed of process at the atomic level, and with the blessing of such mental giants as Niels Bohr and Georgescu-Roegen, we can proceed to be arbitrarily simple, smug in the belief that we are also heroic.

Now—since this is a "growth conference," our exercise here might well include exploration of the whole idea of growth, especially as its meaning is expressed through environmental education. Recent attention to a possible *limit* to growth has raised some educational problems and opportunities. Is it possible that the limits to energy expansion have already been reached and that we are already over-structured?

In considering our two-century-long worship service for "the biggest" and "the most," it occurred to me that sometimes the absurd makes a point best. So I ask you to consider the case of the burlesque queen, whose agent was touting her to a producer. "This girl has the most fantastic breastworks you ever saw," burbled the agent. "Her bust measures 72 inches over a 23-inch waist."

"My stars," gasped the producer. "What does she do for an act?"

The agent arched triumphant brows and announced, "She crawls out on the stage and stands up."

The story has implications for a society that measures growth in terms of structure and production, and whose energy to support all this proliferation of growth is fast becoming a limiting factor. Very shortly we are liable, as a society if not as a species, to find ourselves hardput to "crawl out on the stage and stand up."

Which brings us at last to energy . . . an integrator that works at every level of learning, from the simplest to the most complex, to bind our perception of the world into a working, workable whole.

Energy is the powering action that runs process, in other words, *energy does work*, as opposed to dollars—which are nothing more than pervasive *symbols* of work and work potential. The sun's radiant energy, which is just about all the input that this round earth has, pushes our mineral nutrients around the system-through roots and leaves and insects and carnivores and decomposers. The sun pumps are great weather engines of the world—it forces the winds that sweep the skies clean and delay the day when we could strangle on our own urban wastes; it sucks up water and sends it down again, turning it from filthy and polluted to clean and life-giving in a never-ending circle of forgiveness.

Our housekeeping then, is done by solar power. And how about the *living* fires of earth? How about the cool burning in the organic engines of the biosphere? As the sun rises on field and forest and fjord, the light triggers a great breath as the earth exhales tons upon tons of oxygen-released from the living photochemical surfaces of green plants that are becoming charged with food storages by the onrush of solar photons.

Dr. Howard T. Odum, Graduate Research Professor Environmental Engineering Sciences at the University of Florida and creator of "energetics" and the symbol language of the analog computer, is also at times a poet. He describes in his book *Environment, Power and Society*, this "cool burning" process.

"Then when the sun passes in shadows before the night, there is a great exhalation as the oxygen is burned and carbon dioxide pours out, the net result of the maintenance activity of the living machinery. During the day while the oxygen is generated, a great sheet of new chemical potential energy in the form of new organic matter lies newborn about the earth, but as the oxygen is consumed in the darkness, the organic matter disappears like firewood in a bonfire and releases heat through the night."

This cool "living fire that dominates the dark," but which is masked as "primary production" during the day, is called "respiration" by those who study segments of it and "food and fuel" by those who consider it in large amounts. But how many people call it "the engines of life"? And how many see the process as a crucial backdrop to any other decision man might make?

What our perceptions *do* insist on as the primary reality is the number of dollars in our bank accounts. Even when these dollars begin to shrink, in alarming but predictable proportion to the shrinking supplies of energy, we continue to focus on "the economy" alone—as though the economy of dollars were *real* compared to the ecology "that all those environmental freaks keep telling us we have to put ahead of money and jobs."

Dollars are still used as a real-world measurement. But both the economy and the environment are telling us today, in terribly troubled tones, that a monetary system can set up artificial loops and reward itself even as it drives into extinction the physical systems it feeds on.

The *real* world is a single, seamless process. A study of energy flows through this whole world can help restore a basis for intuitive common sense—a commodity remarkable today for its *uncommon* quality.

It is possible to equip pre-schoolers to see the world more clearly and realistically than today's top economists do—simply by introducing them to the basic patterns and language of energy flows in the real world. To understand that the Laws of Thermodynamics operate as inexorably in the urban and agricultural systems of man as they do in the natural systems that undergird the man-made world is to understand *intuitively* the basic tie between the world's total energy flows and the monetary flows that only mirror energy.

Recognizing this general truth is so simple that a child's mind can grasp it and add it to his store of "common sense"—the seat of *attitudes* and *values* and *decision-making*—which is what education is all about!

It's not altogether surprising that the pervasive, seamless nature of energy flow is only beginning to be understood. The overview—the MACROscope—the camera lens from space—the knack of general systems modeling for conceptualization and computer simulation, all are recent and their implications only beginning to be grasped. Pieces of the energy picture we have in detail. Gaps remain, and the sewing together of the pieces of the world has barely begun. Manipulation of systems and their components is the way the man-made world operates, and this manipulation is still very much a matter for the expert social technicians—even the economists, whose current performance is so collectively tragi-comic.

It is the current state of the art of economics (low comedy, pie-in-the-face) that most dramatically underscores the need for over-hauling our world view and giving the natural laws of energy their due.

The horrendous state of economics demands a pause at this point. Why did economists miss the limiting energy factor in their equations? Because as long as there has been a science of economics there has been an endlessly expanding flow of fossil fuel energy. When something is always available it tends to be overlooked; certainly it is not treated in process equations as a limited or limiting factor. Economists as a group have been as unmindful of the role of energy as a forcing function in the economy as fish are unaware of the water that surrounds them or as people are unaware of the culture that is their millieu and that shapes their view of the world.

The fish never misses water until it is no longer there. People exist within culture and take it for granted in the same way until its values begin to break down and its lifestyles begin to change. Economists took energy as a factor in economy for granted in much the same way. Energy was endlessly available. Natural energies didn't demand dollars in return for the work they did for society, so they were left out of economic equations. And fossil fuel, although it demanded a dollar transaction for extraction, treatment, and delivery, was always available in seemingly endless supply; therefore, although it was figured in as a salable item, it was *not* figured in as a limiting factor.

At the University of Florida, Dr. Odum, his colleagues and graduate students are working with a systems modeling methodology that uses energy as the integrator for examining environmental processes—natural, agricultural and urban. The method also covers the way these processes function in relation to the *economy*, a part of the process which depends ultimately on the environment and whose visible working is most remarkable for its flow of dollars—symbols which provide information about the use and allocation of energy and its products.

The Odum models show eloquently why nature gets such short shrift in environmental impact statements: Nature doesn't have any dollars! The value of the work nature does for us becomes visible in dollar form *only after we destroy* the natural systems and are forced to *build, fuel, and pay* for man-made, fossil fuel-powered substitutes.

Tertiary treatment of sewage effluents is an apt illustration. Limiting the growth of a city and saving the natural systems around it to do the water cleansing work, makes expensive tertiary treatment unnecessary. Failure to limit growth is seldom noticed until it shows up in tax bills that must grow enormously to pay for such "unnecessary necessities" as tertiary treatment.

Costs of excessive growth become predictable when the "MACRO-scope" of energy systems modeling is applied to the interacting natural, agricultural and urban systems of the world. The fragmented educational system of industrial society has taught the value of money but not of sun and wind and water. Men and women raised in such a system have an understandable mental block to seeing reality. It is desperately urgent that we shed the light of overview on our curricula and into the minds of our children. I really believe that this is what environmental education is all about, and Odum's "energetics" is one of the great tools we have for making it happen.

A small stab at using this tool can be found in the front of the State of California's Petaluma Adobe Historic Site guide, which introduces at an extremely simple level the concept of energy flows into, through, and on out of a particular system.

The immensely complicated energy, environmental, and economic flow charts that will make up the South Florida Environmental Study under Dr. Odum, contain indicators of where the new perceptions this methodology affords can lead the movers of our society. The Petaluma Adobe sketch is the other end of the scale—a simple diagram preparing a child to see the world as flow and process.

In each case, overview is obtained by moving one system out. In other words, the subject system is set within the context of the next larger system within which it operates, thus making possible identification of the external influences on the subject system and an understanding of how they are affecting what happens inside.

An excellent illustration is the squirrel. Studied by himself, he is a busy little animal who hides acorns all over his territory—an energy-wasting, inefficient little food-gatherer with a lousy memory for where he stashed his winter supplies. Most of what he puts away he never finds again. But—pull out your macroscope and look at the squirrel from the next system out. Here you see him as a fantastic planter of oak trees.

From the larger perspective, the squirrel's survival is more easily understood. His activity constitutes a reward loop of positive feedback both for himself and for the larger system. He helps the forest perpetuate itself by planting oak trees; the forest system helps perpetuate squirrels by producing acorns for on-going generations of squirrels. It becomes obvious that the world systems that grew both squirrels and people will eventually "select out" a species that asks scornfully, "What has posterity done for me lately?"

Incidentally, scientists can be a humorless lot . . . especially when their sacred groves are trampled by a pixie. Once, in an effort to evoke a less pontifical atmosphere within a convention of biologists, Odum suggested that bears didn't exactly "eat berries" but instead that berries "used bears" to get themselves moved and transplanted, or at least that the one view was no more sound than the other. The biologists, when they finally caught on, were not amused.

Students, on the other hand, tend to spark to this kind of headstand approach. Dr. Odum recently asked a classroom full of honors seminar students to consider the possibility that "perhaps the major oil companies are merely nature's way of organizing human beings into releasing the huge amounts of carbon that got locked up as fossil fuels millions of years ago." After a moment of stunned silence, laughter and lively discussion followed.

It would be too easy, and probably unfair as well, to blame the education system for making it so tough for economists today to perceive the connection between real energy and the total economy. There really was nothing wrong with their education at the time it was taking place. It is only today's economists, the last of a breed awkwardly looping over into a world where dwindling energy supplies are becoming a limiting factor to economic growth—it is only these "fossils in their own time" whose education has betrayed them.

And how could we have foreseen that? With a systems model that plotted energy reserves and energy flows and made use of the resource information and data that were being accumulated and applied within the narrow constraints of small studies. But the need wasn't present yet, and so neither was the systems process.

Today is a different matter. Education today not only can but MUST deal in total world pictures of a very real and specific kind. There must be a binding factor, and the perception of the world backdrop *must change inside people's heads,* just as it changed outside in the real world. If we don't make some drastic changes in the way we teach our children to perceive and evaluate what they perceive, we will find ourselves in the amoral position of parents buying their children first class tickets on the Titanic.

The study of energy sources and flows, always from the next system out, is an endlessly adaptive tool for the new world synthesis that is going on today. As a methodology, energetics serves to revitalize the usefulness of tons of data which languish in pigeonholes and collect shelf dust, having performed to the limit within the context of fragmented research. Like aerial photographs waiting to be pieced together into a photogrammetric map, these pieces of old research amount to a tremendous new resource when synthesized within the context of energy models.

Start a pre-schooler at the Sesame Street level with an understanding of the energese symbols—a rudimentary recognition of the work they represent, and you enhance his already existing ability to "think in process terms," in a way that today's captains of finance and industry find almost impossible. The economic and environmental shambles wew live in today is a negative feedback strongly pleading for a new world image.

Since this is a "growth conference," it seems appropriate to consider what many refer to as "the limits to growth." The word "growth" connotes good. And growth *is good.* Nobody challenges the right of a child to grow—or a flower, or a tree, or a dandelion, so long as it's on someone else's lawn. Weeds have their time and place in the history of field succession, and they are superbly adapted to do what is required in the way of energy-capture at their stage of the process game.

Energetics is based on the first two laws of thermodynamics—the conservation of energy and the law of entropy—and on A. J. Lotka's Principle of Maximizing Energy . . . which is simply to say that among competing systems, those will survive that are successful in capturing, storing, and maintaining within themselves for the longest time the flows of available energy. Since history is written by survivors, there is none to challenge this principle.

It should be fairly obvious that field ecologists have long been familiar with "no-growth" which its admirers are more apt to refer to as "steady state." No system of course, is absolutely steady or growthless. But when maximum energy capture and flow has been achieved, there is a new kind of growth that takes over. Ecologists, who know it well, have no fear of it; economists, who have never experienced it, are terrified of it.

The direction taken by process in steady-state is not the same as that taken during the exploding growth stage of systems development. How could one who has never studied ecology look at a field of weeds and see the genesis of a hardwood forest? I submit that our society has been living like a field of dandelions. When the power supply says "no more dandelions" we cringe. We shout NO. Down to the last living cell, life abhors death. But does an end to dandelions mean an end to process? Hardly! Change is a fact of life and the change from one stage of process to another can be traumatic for a dandelion but inspirational for a shrub.

E. F. Schumacher, a highly respected British economist, wrote a book last year titled *Small Is Beautiful* and subtitled "Economics As If People Mattered." In an introduction to the book, Theodore Roszak notes that Schumacher might just as well have said "small is free, efficient, creative, enjoyable, enduring. . . ." and in having said so, Roszak has defined what growth is in a steady-state society. To these adjectives might also be added "diverse, complex, miniaturized," and just about any other word you unconsciously equate with quality.

The time may not yet be here; there may be more power somewhere still to be captured and put to quick use. But if steady-state is not yet upon us, could it be Eden rather than Purgatory that is delayed?

Far from robbing us of our freedom, steady-state lifts from us the burden of expanding growth. No longer need we suffer the plastic indignity of toys that break and frustrate our children; of major appliances programmed for obsolescence in order to use up more materials, more energy, more time on the production line. With all easily concentrated sources of energy consumed and our remaining sources running out, it behooves us at last to plan for the kinds of structures that nature has demonstrated are suitable and survival-oriented . . . a diversity of structure within the system to make it resilient against shock; a smallness and complexity that gets the longest useful service out of each scintilla of captured energy; a fragile, tough delicacy that challenges the creativity of the artist and delights the sensibilities of all.

Instead of working frantically to maintain the exponential expansion we have come to equate with growth, might we not better face up to the psychological as well as environmental toll such expansion is exacting from the human and natural systems, and pledge our remaining supplies of reserve energy to effecting a transition to steady state?

We may at last be on the threshold of the most exciting "process" the earth and our species have ever know . . . growth in a new and higher quality sense.

Dennis Gabor sums up man's collective concern as "inventing the future," an endless exercise, haphazardly evolved. In his 1972 book *A God Within*, Rene Dubos deplores our mindless proliferation of energy in outlandish feats of growth and pleads instead for "a saner design." The energy crisis offers us a graceful "out" to continued insane growth; energetics offers us a framework for saner design; the Apocalypse offers us a version—nothing more. It is still up to mankind to invent his own future.

HAZARDOUS CARGO ON PASSENGER FLIGHTS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. HARRINGTON. Mr. Speaker, Massachusetts Public Interest Group has recently put out a leaflet graphically exposing the dangerous and almost callous manner in which hazardous cargo is treated on passenger flights. The leaflet carefully documents the inadequacy of FAA regulations, the failure to enforce even these regulations, the failure of shippers to pack hazardous goods carefully, and the total abandon in which hazardous goods are treated by the airlines. The senselessness of the way hazardous materials are treated on passenger flights was brought home by the testimony of a health and safety officer of the airline cargo handlers union who stated that ramp servicemen, pressured for time and having no idea of what represents safe packaging, frequently "kick, toss, drop or throw packages to the various areas in the cargo pit." The leaflet urged people to write to their Senators and Congressmen to make this situation known, and I would like to call it to the attention of my colleagues at this time.

The text follows:

INFORMATION ABOUT AN EXPLOSIVE PROBLEM . . . HAZARDOUS CARGO ON PASSENGER FLIGHTS

Few people are aware that the airlines routinely ship a wide variety of potentially deadly substances on passenger flights. Radioactive isotopes, chemicals, acids, live germ viruses and even explosives often fly a few feet beneath the seats of unsuspecting passengers. Sometimes even the crew isn't informed of what's on board. One captain was upset when he learned after a recent flight that 3200 pounds of armed tear gas grenades had been on the plane.

Accidents can and do happen, as the following examples show.

On December 31, 1971, Delta Airlines flight 925 carried two packages of radioactive materials and a plane full of people from New York to Houston. Days later, Delta learned that one of the shipments had spilled during the flight. By this time, 917 passengers had traveled on the contaminated jet. Radioactive particles had gotten in some peoples' hair, on their luggage, clothes and even skin.

Since radiation exposure increases the risk of genetic damage, cancer, leukemia, and other diseases, Delta set up new precautionary procedures for handling radioactive cargo. They wanted to be sure nothing similar would happen again.

The airline's precautions, however, were not enough. In April 1974, another leaky package of highly radioactive material accompanied unwary passengers on two Delta flights from Washington to Atlanta and then to Baton Rouge. This time, approximately 200 passengers and crew members were exposed to enormous doses of radiation, ranging up to 100 times more than the recommended maximum exposure limit for the general population during an entire year. The effects of this exposure may not be known for years or even decades.

The Federal Aviation Administration is the government agency responsible for airline safety. It's supposed to regulate what goes into cargo bins. But a 1974 FAA evaluation of its own hazardous materials program found that its regulations are largely ignored and violated, and that the agency's inspection and enforcement efforts are wholly ineffective. In spot-checks of 70 dangerous cargo shipments, the FAA evaluation team found 240 violations—over 3 separate violations per shipment.

The FAA tried to keep this devastating report secret, while its top officials insisted to Congress and concerned groups that there was no problem at all. Fortunately, Senator Vance Hartke obtained a copy of the report and released it during Congressional hearings on radioactive cargo.

Here's how two leading legislators have described the situation:

Rep. Jack Brooks, Chairman, House Subcommittee on Government Activities: "Our system of regulating the shipment of hazardous materials by air is totally out of control."

Senator Warren G. Magnuson, Chairman Senate Commerce Committee: "Where we have not yet been faced with a large number of fatalities and injuries from hazardous materials accidents, the potential for disaster is staggering."

How can this happen? In our opinion, the airlines, shippers, and the FAA must all share the blame.

First, the airlines do not monitor freight shipments. Almost anything that will fit through the door of the cargo compartment is accepted, as long as it is accompanied by a statement by the shipper that the package is safe and legal. Airline employees claim they aren't trained to spot illegal shipments. They must take the word of the shipper.

Surely, if the airlines can screen 200,000,000 passengers and their hand baggage each year to prevent them from bringing dangerous articles on board, they can find a way to monitor their cargo as well.

Secondly, the FAA is supposed to enforce all of these rules. But it has only a few full-time inspectors to keep track of what should, or should not, go into the cargo holds of our nation's 5,000,000 annual flights. And even these FAA inspectors complain that they cannot understand the complicated tariff regulations.

Finally, the shippers of hazardous materials often ignore the regulations completely. Recently, a group of airline pilots checked more than 1,000 shipments of hazardous cargo. They found nine out of ten shipments were either packed illegally or were so dangerous that they should not have been on airplanes at all.

Shippers know that the chances of getting caught with an illegal shipment are remote. Even if a violation is discovered, the FAA at most imposes only a small fine or a letter of reprimand.

We believe that until these dangerous shipments are banned from passenger flights, the passengers have a right to know of their presence and the risks they present. But where passengers are concerned, the airlines and the FAA feel that ignorance is bliss. Thus, the FAA has rejected an Aviation Consumer Action Project petition asking that passengers be notified when a flight carries hazardous cargo, claiming that the requirement would cause passengers "unwarranted apprehension." The FAA is afraid that people would refuse to fly if they knew what else was on board.

WHAT CAN YOU DO?

If you are concerned that your flight may be carrying dangerous cargo, you should telephone the airline's air freight office before you leave for the airport. Remember, airline employees are usually sensitive to passenger's concerns and should be cooperative about obtaining this information for you.

If you agree that hazardous cargo and passengers don't mix, we suggest that you make this known to your Senators and Congressman. You might also let the top officer of the FAA's parent organization know how you feel. He is Claude S. Brinegar, Secretary of Transportation, Washington, D.C. 20590.

JUST LIKE THEY TREAT YOUR LUGGAGE . . .

If you think that hazardous cargo somehow gets "tender loving care" while being loaded, read these excerpts from testimony presented to the Senate Commerce Committee on June 13, 1974, by a health and safety officer for the union which represents airline cargo handlers:

"A normal every-day assignment for a Ramp Serviceman would be to load the entire cargo pit of a standard sized aircraft, by himself, in less than 30 minutes. To accomplish this task it frequently becomes necessary to kick, toss, drop or throw packages to the various areas in the cargo pit. Ramp Servicemen have no idea of what materials are compatible, what represents proper and safe packaging . . . and even if they had total knowledge of all the hazardous materials, the time allowed them to load the cargo pit makes it virtually impossible in most cases to load it properly and safely."

SOUTH MIDDLESEX AREA COUNCIL URGES STRONGER SAFETY STANDARDS FOR CHILDREN'S CLOTHING

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. DRINAN. Mr. Speaker, accidental fires continue to cause an intolerable number of deaths and injuries among American children each year. The Federal Government has established safety standards for certain types of children's clothing, but those standards have not gone far enough. A concerned citizen's group in my district, the South Middlesex Area Council Office for Children, has approved a resolution urging the Consumer Product Safety Commission to promulgate flammability standards for additional categories of children's clothing. I urge my colleagues to consider this resolution and to join me in urging the Consumer Product Safety Commission to enact these necessary regulations as soon as possible.

The resolution follows:

RESOLUTION

By resolution: The South Middlesex Area Council Office for Children demands that immediate action be taken to establish a similar standard in effect for children's nightwear sizes 0 to 6x to be expanded to include children's daytime clothing, particularly girls' dresses in sizes 0 through 6x; and that a schedule be established to remove non-conforming clothing from retail stores.

By direction of the Executive Board.

JOSEPH SKINNION, *Secretary*.

MRS. FRANCES CONNOR HONORED BY AMERICAN LEGION AUXILIARY

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. MOLLOHAN. Mr. Speaker, the people of America have suffered an erosion of confidence in their National Government. We must firmly set our feet on the path to recovery. Therefore, it is reassuring to remind ourselves that the processes of Government are faithfully executed and supported by countless Federal employees whose honorable service far outweighs those ethical deviations which have brought us to our current state of despair.

As an example of this, I note the praise of Mrs. Frances Connor, Public Affairs Officer with the Department of Defense, by Mrs. Sue Jarrett, national president of the American Legion Auxiliary, at the organization's national convention in Hollywood, Fla.

Mrs. Connor has been associated with the Department of Defense since 1956. She provides experienced counsel and liaison between the Department and national organizations such as the American Gold Star Mothers, General Federation of Womens Clubs, Girl Scouts of the U.S.A., Daughters of the American Revolution, Veterans of Foreign Wars Auxiliary, League of Women Voters and dozens of other such organizations. She has served under eight Secretaries of Defense, during times of peace and conflict. It is quite clear that she is competent and able. What is more important, and especially encouraging in these troubled times, is that she has maintained a record of honesty, deceny, and good faith which has merited the praise and notice of one of our great patriotic organizations.

I am pleased to insert in this RECORD the remarks of Mrs. Mary Sue Jarrett, national president, American Legion Auxiliary, August 21, 1974, and the address to the convention by Mrs. Frances Connor of the Department of Defense.

REMARKS BY MRS. JARRETT

What a pleasure it is to welcome to this platform a firm friend of the American Legion Auxiliary, a woman who has achieved great stature in the Department of Defense.

Her invaluable assistance to our Women's Forum on National Security is well known to each of you, and I would be remiss in not expressing publicly our appreciation to her. She is an able and wise counsel to many of our national chairmen and to all our national presidents. Fran Connor, as she is known to all of us, comes to us as a representative of the Department of Defense as a speaker for this convention. She brings with her to this assignment the knowledge of her administrative and executive ability in a vital branch of Government. And she brings with her a glowing success of achievement as a woman.

I count it a pleasure to present to you to speak on the subject "You and the Future in Defense," Mrs. Frances Connor, Women's Branch Chief, Directorate for Community Relations, Office of the Assistant Secretary of Defense for Public Affairs.

REMARKS BY MRS. FRANCES N. CONNOR

Madame National President, Distinguished Officers, Guests, and Delegates: My thanks to Mary Sue for that warm introduction and welcome to this American Legion Auxiliary National Convention. Being with you is a happy and pleasurable opportunity for me. And your allowing some of your precious and limited convention time for our message is, I think, a great compliment to the Department of Defense.

I take it also as something of a reaffirmation of your belief in loyal service to the nation whenever it needs you, without regard to personal convenience at its least, and to the level of unlimited sacrifice at its greatest. Loyal service, as it has been given by your husbands, or other male relatives, and on which you base your association together in this patriotic organization. Loyal service that, in fact, created the American Legion, and has been the adhesive of its success. Loyal service—to God and Country—proven by the American Legion Auxiliary time and time again to be equally a women's right, without the need for a constitutional amendment.

At this national convention, your beloved President, Mary Sue Jarrett, has chosen to ask all of us to look at the future. This choice leads me to suggest that she is something of a prophet, or somehow instinctually gifted. She could not know, nor could we, some months or even weeks ago, that in this very time we would be witnessing a dramatic historically unparalleled, transition in the formation of a new administration for our national government.

Whether events leading to this transition provoked your outrage, or whether they have simply evoked your grief, it seems we must now do as President Mary Sue commands. We must look to the future. We are all a part of what it shall be. The 38th President of the United States of America, the Honorable Gerald R. Ford, taking the oath of office on August 9th, chose to repeat from Thomas Jefferson that "the people are the only sure reliance for the preservation of our liberty." As conservators of liberty, the Auxiliary's reputation is pre-eminent. The future calls to you to continue, by example and through leadership, to sustain this work, to the end that the true spirit of America will continue to prevail, and that the heritage of future Americans may be preserved intact.

Your Department of Defense, as you well know, has suffered its own "outrageous fortune" in the immediate past. Under great public pressure, it has persevered to fulfill its mission throughout the era of United States involvement in Vietnam. It has persevered in seeking solutions to problems reflected to the military community from social and behavioural patterns of society as a whole.

The problem of antagonism toward conscripted manpower;

The problem of drug abuse by young people;

The companion problems of discrimination and equal rights;

And most recently, the problem of inflation, or the affect of shrinking dollar purchasing power on the defense budget.

The Department of Defense has succeeded commendably, perhaps even superbly, in mastering at least some of these problems. And I am confident that it is a department of people determined to devise solutions to any and all problems, each in turn as it may occur.

And yet, many of these are not the direct mission of the Department of Defense. Its mission is to remain strong militarily, to be ready to defend our citizens and our shores from attack, or threat of attack, and through its strength, and through its readiness, to furnish the shield from which our diplomatic envoys can negotiate respected treaties of mutual defense—the object of such treaties being to ensure against the outbreak of hostilities. Hopefully, such a shield enables us to look forward to the future success of agreements reaching even more substantively toward world peace; agreements to limit arms, such as the SALT talks (strategic arms limitation talks), agreements even to reduce arms, the MBFR, or mutual and balanced force reduction negotiations.

It is no secret that in the past certain nations have shown themselves hostile to the worldwide interests of the United States, and have acquired military capabilities considered sufficiently threatening. Defense planning lives in the constant knowledge that the Soviet Union, at any time, could launch a nuclear attack on the United States itself, and that the People's Republic of China could well develop at least a modest capability for such an attack during the next ten years. Therefore, it is obvious that despite diplomatic achievements which cause us to rejoice, some relationship must exist between the capabilities of major potential adversaries and the defense posture of the United States. Indeed, it is fundamental that at all times we must have available a sufficiency of ready strategic offensive forces to retaliate against attack.

Secretary of Defense James R. Schlesinger has summed up strategic policy and defense management objectives in words I should like to quote for you: "When worldwide equilibrium and orderly change constitute basic U.S. objectives, our commitments and contingencies tell us where points of potential pressure exist, and where, for purposes of deterrence, specific balances of military power must be maintained. On that score, I believe that we must keep a visible strategic nuclear balance, contribute to a number of regional balances, and help to ensure the freedom of the seas that has been the long tradition of the United States."

While supporting the highly desired goal of international detente, our new Commander-in-Chief, Gerald Ford, clearly indicates the need for strength when he states, "We must insure that our good will is not misconstrued as lack of will."

Many of you here today had the good fortune, as did I, of hearing the President, last February at the Women's Forum on National Security in Washington, D.C., when, as Vice President, he listed four important ingredients to achieve and maintain peace. As we look forward to the future under his leadership, these bear reminder. He said, "First, we have to be sufficiently strong to win any military conflict. Second, we have to be convincing to any potential enemy that we have that strength. Third, the potential enemy has to believe that we will use that capability for the defense of our homeland and the security of freedom around the world. And fourth, we ourselves have to be committed to use our strength whenever necessary in our national interest."

Those four points—the words of our President—sum up both a present and future policy for the Department of Defense, a policy in agreement with the national policy points enunciated by Lt. General Daniel James, Jr., Principal Deputy Assistant Secretary of Defense for Public Affairs, when he appeared before you on Monday and stressed, strength, partnership, and willingness to negotiate.

But, as Mary Sue Jarrett has put it, what about you?

Well, when you get right down to it, without you it cannot happen. It is for you as Americans but it also derives from you. Government establishes policy. The people are its source, its reason, and its implement.

So I turn to the back cover of your convention program and I see a heading, "Auxiliary at a Glance." The Auxiliary at a glance? Not a chance! The view is wide, the perspective is broad the achievements are multiple, the results are enduring. And the record is monumental.

Girls State and Nation, a program of citizenship training for the generations coming along; surely a futures program. (And I am sure you know that our own First Lady of Defense, Rachel Schlesinger, wife of the Secretary of Defense, was a teen-age participant in the first Buckeye Girls State).

Education and scholarships, child welfare, junior activities—all futures programs.

Veterans Affairs and Rehabilitation—an ongoing concern, a remembering if you will of those who deserve the nation's gratitude. Surely, remembering must be a part of any future.

Foreign Relations, National Security, The Security Forums, all programs underscoring your alliance with national policy and your readiness to meet new challenges. Indisputably—futures programs.

Americanism— a red, white, and blue unembarrassed example that patriotism is a proud word. And where is the future without it?

Further, like all citizens everywhere, the defense budget is supported by your tax dollar. The Defense budget has been shrinking in terms of the total national budget but it remains an incomprehensibly large figure. Nevertheless, the FY 1975 Defense budget request of 87.7 billion dollars has receded to a new low of 27.2 percent of the total Federal budget and less than six percent of the total Gross National Product. A large budget? Seemingly yes, but for a large country with a large purpose. It must be realistically realized that the Defense budget is subject to higher costs of procuring more sophisticated weapons, higher manpower costs as the volunteer Armed Force requires a decent wage, and further that Defense purchasing is as subject to inflationary pressures as your and my personal shopping is.

You and the future in defense? The question answers itself. Accepting the adequate defense today is the essential guarantee of our country's future, it follows that we can only mutually fail or mutually succeed. Failure is not a customary American option.

In his "Song for Occupations," first published in the 1881 edition of Leaves of Grass, the great American poet, Walt Whitman, gives his observation of the citizen and his Government. It is worth sharing as you look ahead. He said,

"The sum of all known reverence I add up in you whoever you are,
The President is there in the White House for you,
It is not you who are here for him.
The Secretaries act in their bureaus for you, not you here for them,
The Congress convenes every twelfth-month for you,
Laws, courts, the forming of states, the charters of cities,
The going and coming of commerce and mails,
Are all for you."

Thank you. Blessings and good fortune to you all.

DEMOCRATS WELCOME BOB KAHN

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. STARK. Mr. Speaker, I would like to take this opportunity to welcome Mr. Robert Kahn as a new member of the Democratic Party. Mr. Kahn is an outstanding citizen, journalist, business adviser, and humanitarian. Mr. Kahn is one of the leading citizens of my district in California, and I am proud to welcome him to our great party.

Mr. Kahn and I have been protagonists, antagonists and, at all times, friends over the past 15 years, and I can attest that he is held in high regard by all who have known him—even those who have not necessarily agreed with him.

I should point out that I, too, at one time was a Republican; saw the light and switched to the Democratic Party. It is my feeling that the Democrats' principal and fundamental belief in the positive benefits that can be derived from government is the key philosophic advantage we hold over our colleagues across the aisle. I think it would be generally agreed that the other party has a basic mistrust of government and would tend to minimize it in all its aspects. This is easy to understand, Mr. Speaker, if our party had the likes of Nixon, Ford, Haldeman, Ehrlichman, and the others associated with the recent Watergate incident, we, too, might begin to lose trust in government.

I know Mr. Kahn changed his position in recent weeks due to President Ford's unwarranted pardon of Mr. Nixon. Under any circumstances, he is welcome.

His willingness to challenge tradition, his stated positions for opening up the political system, his work for equal participation and treatment by and for all makes him a welcome addition to the Democratic Party. I ask my colleagues to join with me in welcoming him to our ranks.

THE LAWYER'S PUBLIC RESPONSIBILITIES

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. UDALL. Mr. Speaker, the role of lawyers who serve in public institutions has undergone significant evolution in this century. The revelations of Watergate clearly teach that with a new role, the lawyer has assumed new responsibilities but the nature of these responsibilities is not well defined.

There are no easy mechanical answers to the hard questions facing a lawyer who attempts to serve the public effectively in the modern legal-political arena. In a recent address before the American Bar Association, Prof. Archibald Cox, an eminent student of the law and lawyers, called for a committment to,

> The worthy task of building up a new morale in the profession fitted to the dramatic changes which the past half-century have brought in law and government.

Professor Cox continued that:

> We should not mistake the character of the need. It will not be met by speeches such as mine, not be resolutions requiring formal study of the existing Canons and Disciplinary Rules. Disciplinary proceedings in appropriate cases may give proof of renewed willingness to pass ethical judgments, but they too are hardly fundamental. The summons is to the long, arduous and detailed work of developing the moral order and sense of long-range purposes that prevent abuse of power and build confidence in the legal and political system. Perhaps parts can be articulated in additional professional standards. Other parts, I am sure, must be left to the individual's conscience, but at least the nature of the problem be identified and its implications.

Mr. Speaker, Professor Cox has focused on a matter that deserves our earnest attention and I am therefore inserting the full text of his remarks in the RECORD:

THE LAWYER'S PUBLIC RESPONSIBILITIES

(Address by Archibald Cox, Williston Professor, Harvard Law School)

We meet awed by our sense that we may have witnessed a turning point in history. Clearly, it is a turning point of a sort; immediate political power has passed between men of different political philosophy and morality. Whether Watergate will mark a major turn in the story of man's greatest experiment in self-government depends upon two questions:

(1) Is the current of moral concern for the integrity and open-ness of the processes of government aroused by Watergate strong enough to force fundamental reexamination of attitudes and practices that have crept into public life over a long period?

(2) Have the professionals in our system of government the will and competence to focus the general moral concern upon the necessary particulars?

Lawyers are the dominant group among the professionals of government when engaged in private practice scarcely less than in occupying public positions. Whether we are willing to reexamine our own functions and able to articulate with some particularity a better sense of our own public responsibilities will therefore go far to determine whether the years of Watergate mark a brief spasm or the beginning of a renaissance in the quality of public life.

I

Our inherited professional tradition was epitomized by Justice Frankfurter in an informal gathering of Harvard Law School students near the end of his long, public career:

> The lawyer belongs to a system which, in the course of seven or eight centuries, has done mightily to bring about as much of civilization as we have today.
>
> It is the legal profession beyond any other calling that is concerned with those establishments, those processes, those criteria, those appeals to reason which have a dominant share in begetting a civilized society.

Putting it most simply, he was speaking of the profession's loyalty to the means by which men and women can live together in a maximum of freedom and equality, not by power but by what reason tells is just. In old Canon 32, entitled "The Lawyer's Duty in its Last Analysis," we used to speak of ourselves as "ministers of the law" obligated to render no service and give no advice "involving disloyalty to the law . . . or deception or betrayal of the public."

For almost two years the people have been scrutinizing lawyers and legal proceedings in the bright glare of newspaper and television coverage as the drama of Watergate and related scandals and investigations unfolded. The principal actors have nearly all been members of the Bar. The proceedings themselves cover a wide range: legislative hearings, the initial steps toward impeachment, criminal trials, and briefs, oral argument and decision in the Supreme Court.

Legal institutions earned high ratings under this scrutiny: the Supreme Court, the federal district court and the congressional committees. The rule of law prevailed. The drama made plain the predominance of lawyers in the places of power in American life. There were lawyer heroes as well as lawyer villains—not the least among the heroes the chairman of this Section, Bert Jenner, who proved once again that an honorable lawyer in public service will not mouth what partisans wish in disregard of his honest judgment upon the evidence and the law. Would the rough, over-all judgment of the public be that the profession lives by the tradition of which Justice Frankfurter spoke and that lawyers are thus, above all else, guardians of justice? I suspect that the prevailing public impression is more nearly expressed in a letter I received last winter:

"I submit to you, Professor Cox, that getting lawyers out of politics is much more important than deciding who pays in what fashion for campaigns to be hired on in government.

* * * * *

"A law professor told me recently that there are three basic characteristics of lawyers a law school education has done nothing to correct: (1) lawyers are generalists who really believe they know what is best for everybody; (2) lawyers are technicians who make no moral judgments, who are hired to hear a client's predicament and set to work figuring out the techniques needed to extricate the client from his bind; (3) lawyers going into government service carry with them their technical, extricating competence and strict devotion to each client's predicament, cannot conceive of themselves as serving 'all' those people who make up the 'public.' "

The contrast between this description and the proud heritage of which we boast exemplifies the narrow technocrat ambivalence of the lawyer's position, the often-conflicting nature of his professional duties. Getting the client out of his bind and helping him to achieve his objectives does not always serve the general public or build confidence in the law. The gap between the way in which we like to see ourselves and the way in which others often see us requires more sustained and wider study of where the balance should be struck between the conflicting duties of "hired gun" and "servant of the law."

Forty years ago Justice Stone called for the—closer association and cooperation of this and other schools of law with the Bar in the worthy task of building up a new morale in the profession, fitted to the new conditions under which it must do its work.

The call went largely unheeded—by the law schools, I am sure, and, I think, by the Bar. Today the call is repeated. We may dare to hope that the dominant atmosphere is different. But the place to begin, I think, is still with the inquiry posed by Justice Stone—with an examination of the changes in both the activities of lawyers and the nature of the legal system. For the Canons of Ethics and even the recent Disciplinary Rules, insofar as they deal with the lawyer's public responsibilities, seem to presuppose that his practice, functions and duties still center upon the trial and appellate courts.

II

Two major changes were emphasized by Justice Stone. One is the specialization of a lawyer's interests and clients. "No longer does his list of clients represent a cross section of society," Justice Stone observed, "No longer do his contacts make him the typical representative and interpreter of his community." The other is the intensified involvement of the modern practitioner in his client's affairs. As the bulk of legal practice shifted away from courtroom advocacy to counselling, lawyers were engaged less in extricating clients find their bind and drawn more deeply and more continuously in the planning and conduct of the pursuit of their clients' interests.

The segments of society now receiving able and dedicated legal representation from the profession as a whole now are far more numerous and far more diverse than 40 years ago, but, looking at lawyers and law firms individually, the specialization of clientele seems even greater. Most represent corporations, or labor unions, or personal injury claimants, or insurance companies, or civil rights organizations, or some other group. Even those who call themselves "public interest law firms" are plainly special pleaders for discrete points of view.

So long as the lawyer represented a cross-section of the community, he was freed from dependence upon a narrow set of interests and encouraged, if not required, to see the community whole and maintain his own relatively detached point of view. The inescapable consequence of the changes is closer economic and psychological association of each lawyer or law firm with some particular segment of the community. A degree of detachment and often true independence remains. Lawyers often raise their client's standards of conduct. Yet one must agree that under modern circumstances loyalty is often more easily given to the client's interests than to the people's interests or the law.

A third, more recent change is in the scope and functions of law, and in our view of the nature of the legal system. Disturbed by the commentary upon legal education that I quoted earlier, I posed the question to some younger faculty colleagues around the luncheon table: "What view of the legal profession do you suppose our students think we hold?" One replied, "Most of the students see legal careers as offering pretty good material comforts and social status while using their skill in an interesting way to pursue their clients' interests." I said, "But I asked what view the students think we members of faculty have of the profession. Does it include no sense of duty to the law?" The response was negative: "It might have been possible to speak of loyalty to the law," he said, "back in the past when law was viewed as a 'brooding omnipresence in the sky,' but not now that we see law more clearly as an expression and instrument of policy, and policy chiefly as a point of present equilibrium in the power of contending, selfish groups."

I disagree. I know too many teachers whose view of the lawyer's role is like mine, and I cannot believe that it does not come through to students, even though we discuss it all too infrequently. Still, my friend's observation suggests a number of important points.

The loss of mystical qualities makes it harder to revere the law. The broad scope and immense volume of purely regulatory laws, the variety of ways in which laws are made and changed, often by rather low-level agencies, the fluidity of even judge-made law, the lack of moral foundation for many regulatory laws all reduce the law's power to command obedience from the citizen and loyalty from the profession. Not even the most conscientious among us can feel that in any simple direct sense he is the guardian of Section 10,000.2, subparagraph (Z) of paragraph (GG) of departmental regulations.

A more sophisticated analysis of the nature, scope and reasons for a duty to the legal system is obviously required. I think the duty runs to process—to means more than to the immediate ends, for which we contend because it is the constraints upon means that secure freedom and civilize our pursuit of self-interest. For a time the process with which the Bar was concerned was chiefly judicial. Now it is nothing less than the fundamentals of self-government, as in the days of the American Revolution and the Founding of The Republic.

This leads me to a fourth important change in the lawyers activities. Advocacy is no longer confined to the court room or even to formal hearings before administrative agencies or congressional committees. Often he is charged with influencing policy and political decisions. Often he uses the organs that are supposed to influence or express public opinion in an effort to shape the writing of new law or a particular decision in some ways favorable to his client. He is lobbyist, politician, advertising man, and guide in public relations.

A number of puzzling questions are raised when a lawyer carries his client's case to the public, as he often must, either because the litigation is a matter of intense public interest or because the matter lies in a wholly or partially political forum.

(1) what is the duty of the lawyer for a putative witness, a possible target of investigation or an indicted defendant in dealing with the press in a situation of dramatic public interest such as Watergate or the Agnew affair? Is he free to reveal or help his client to reveal the progress of the investigation or bits of information, in either case appearing as "informed sources" or "sources close to the investigation"? What about giving out or permitting a client to give out all or part of the testimony one potential target is prepared to give involving a more prominent figure, if the prosecutor will extend immunity or accept a plea to a minor offense? I am not speaking of the careless or ill-considered slip or even the information pulled out by clever and aggressive reporters. The skillful manipulation of news stories may be of considerable value to a client who is in the public eye. Until an indictment is returned, it violates no rule of professional conduct except in the case of prosecutors. But are these really proper activities for guardians of a legal system ostensibly dedicated to due process of law? They are often as unfair to other individuals as the release of evidence by the prosecution. They bring neither respect for our system of justice nor honor to the Bar.

(2) Recently The New York Magazine published an article by Richard Reeves under the headline—

"The point about lawyers . . . is that they are free to commit outrages against common morality and sense behind hallowed and intricate shields, canons, and jargon."

Part of the complaint appeals to the moral layman's ancient question, "How can you defend a guilty man?" Part rests upon failure to understand that adequate representation in legal proceedings requires assurance that the lawyer will observe the confidentiality of communications that a client could wisely make only under pledge of secrecy. In large part, however, the article deals with lawyers' appearances outside the courtroom in the political or public relations forum. In this area Reeves is right to ask how far a lawyer is entitled to explain or justify the positions he advocates and the ways in which he supports them by citing the lawyer's duty to "represent his client zealously within the bounds of law," and "while serving as an advocate . . . [to] resolve in favor of his client doubts as to the bounds of law." Do we claim a privilege to judge ourselves and be judged in this public context by moral criteria and concepts of the public interest different from those applicable to other men? Should we make such a claim?

Within the courtroom the lawyer's duty to represent his client zealously within the bounds of law is usually compatible with his public responsibility for the administration of justice because the clash of dedicated advocates before an impartial judge and jury is the best way to develop the truth. The excesses invited by the system tend to be self-correcting. Each of the opponents is trained to hold the other in line. Misstatements, even exaggerations, of law or fact are quickly corrected; egregious misstatements carry the sanction of embarrassment and loss of confidence because the whole game is played out rather speedily with a small cast in a restricted forum.

Outside the courtroom the situation is quite different. Only one protagonist is immediately present. There is no trained judge to rein in excesses and focus the issues impartially. Nor can it be said, in my estimation, that any contribution is made to either the administration of justice of the democratic process by giving hired professionals an immunity from the judgments otherwise applicable to the conduct of public discourse.

(3) The converse question is whether the lawyer speaking for his client outside the courtroom is subject to any professional duties applicable akin to those applicable in a judicial proceeding. How far does the duty of candor and fairness apply? How is it affected by the circumstance that the presentation is often made ex parte? Is there danger that as the lawyer takes on the functions of the lobbyist, politician, and press agent, while claiming professionalism, he may in fact be accepting their mores and losing the ethical sensibilities of an independent calling? If there are no enforceable professional standards, to what level of discourse, as matter for the citizens, and the individual's conscience, should members of the profession aspire?

I add only one comment to the questions. Surely, the participation of lawyers in the public discourse in a professional capacity offers one of the greatest opportunities for improving the conduct of public affairs. For, in the end, the issue is whether government is to be conducted by secrecy, half-truths and other artifices of manipulation or is to reach for the self-rule through the reasoned persuasion to which our forbears aspired.

III

As the lawyer in private practice has a public responsibility not merely for the legal system centered upon the courts but for all the processes of a free, self-governing society, so does the responsibility rest upon the lawyer in public office—all the more clearly because of his greater opportunities and relative freedom from competing obligations.

Often the government lawyer himself speaks for the United States, either because the matter belongs in the Department of Justice or because the official nominally responsible is content to have the problem resolved wholly as a question of law. In either case the lawyer is free to follow the precept, "The United States wins its case every time justice is done in its courts." But when he seeks to influence the public, he will often find a conflict between the value to be put upon achieving some immediate major policy objective and the long range need for government by honest discussion if meaningful democracy is to survive.

Yet the question, who is your client, sometimes faces the lawyer in government, just as other civil servants must ask, whom do you serve. One recalls a dramatic moment in the Ballinger investigation: after Secretary Ballinger belligerently asserted his right to the loyal support of every man in his Department, Brandeis quietly asked—

"Well, now, did it ever occur to you, Mr. Secretary, that this supposed lack of loyalty, or, putting it another way, that the personal loyalty of one in public service to a superior or to an associate might involve disloyalty to 99,000,000 people?

"I will not argue that question," Ballinger replied.

Brandeis explained the point in his closing argument:

"With this great government building up, ever creating new functions, getting an ever-increasing number of employees who are attending to the people's business, the one thing we need is men in subordinate places who will think for themselves and who will think and act in full recognition of the obligations as a part of the governing body. . . . They cannot be worthy of the respect and admiration of the people unless they add to the virtue of obedience some other virtues—the virtues of manliness, of truth, of courage, of willingness to risk criticisms, of the willingness to risk the misunderstandings that so often done when people do the heroic thing."

Of course the government lawyer is not free to run off and conduct government business in defiance of his superiors. The questions are how he shall conceive his duty when he is free to act or at least to speak: when should he resign; or when should he resign and disclose. For me the worrisome figures in the Watergate story were not the major actors whose fault was great and whose weakness was apparent, but the relatively minor figures who made it possible for the major wrongs to continue by going along in silence, by cutting sharp verbal corners, or by otherwise emulating the Three Monkeys: "Hear No Evil, See No Evil, Speak No Evil." Often these men shaped their course out of a misguided sense of loyalty to an individual or an institution. I found myself worrying, "Would I have done better? I hope so, but in all honesty, I cannot be too sure?" The danger would be minimized if we could flush out and think about such conflicts before they arise even where no fixed code of conduct can be articulated.

The revelations flowing from Watergate illustrate still another problem of inconsistent loyalties in public office: the conflict between party loyalty and public responsibility in laying out a course of action. No one should have difficulty in perceiving that the FBI or IRS should not be used for political purposes, or that it will not do to pressure the SEC or NLRB to give favorable treatment to a large contributor. But the lines are not always so clear. Suppose that a lawyer representing the Widget manufacturers and also influential in the same political party, tells the Assistant Attorney-General in charge of the Antitrust Division that executives in the industry made generous contributions in the past election but that, although he will sincerely try to raise the money, he fears no large contributions will be forthcoming if the Assistant Attorney decides to press an antitrust case against the industry upon the new and debatable legal and economic theory recommended by the staff. Plainly, one should disregard the information but suppose that the projected action is one to break up General Motors; that the President points out that bringing the suit will send shock waves through industry, and that loss of business confidence may cause a downturn in the economy and possibly a recession? May either think of the effect upon a campaign for reelection? In proposing remedies for unconstitutional racial segregation in a city's schools may the Department of Justice properly take into account the reaction of different groups not only in the particular community, but throughout the nation? Is the effect upon elections to be considered or ignored?

The lines between law and policy and between policy and politics are often hazy, but surely conscious study might do much to separate the clear cases from the judgmental, to prepare the novitiate for the decisions he must face, and to clarify the implications for the long-run strength of the legal system and the processes of government.

Conscious attention also might identify and eliminate practices that tend to blur lines otherwise clear in principle. Few senior attorneys in the Department of Justice have not received calls from a Senator or Congressman expressing interest in the status of a case; or telling, with only a desire to be helpful, about his knowledge of the high repute of the opposing party; or arranging a conference for the opposing party and his attorneys. In 999 cases out of 1,000 the Department of Justice attorney handles the case—and the Senator or Congressman expects him to handle the case—exactly as if the call had not been made or the conference had not been held; part of the attorney's job is to have a bit of backbone and sophistication. But still. . . . But still. . . . I wonder. Are these only the courtesies that enable men to work together? Can the attorney be *sure* that he was not subconsciously affected by the telephone call, especially if it comes from the Chairman of the Judiciary Committee or an aide to the President? Does the constituent or contributor suppose that he has gotten nothing? Is confidence in the honor and integrity of the administration of justice really unaffected?

I fear that I may have seemed only to fall into the law professor's way of asking questions. But I have a point to establish. It is that unsolved and difficult moral and professional problems await attention as the opportunity is given by Watergate. And so I come back to Justice Stone's call for the law schools and organized Bar in the worthy task of building up a new morale in the profession fitted to the dramatic changes which the past half century have brought in law and government.

We should not mistake the character of the need. It will not be met by speeches such as mine, not by resolutions requiring formal study of the existing Canons and Disciplinary Rules. Disciplinary proceedings in appropriate cases may give proof of renewed willingness to pass ethical judgments, but they too are hardly fundamental. The summons is to the long, arduous and detailed work of developing the moral order and sense of long-range purposes that prevent abuse of power and build confidence in the legal and political system. Perhaps parts can be articulated in additional professional standards. Other parts, I am sure, must be left to the individuals conscience, but at least the nature of the problem be identified and its implications. On still other problems men of the nicest conscience will disagree. But surely, looking back over the descending spiral that led to Watergate, we should have learned that in our enormously complex society in which managerial and technocratic skills, including skills in legal technique, are at a premium, the moral precepts and sense of ultimate purposes necessary to preserve and renew "those establishments, those processes, those criteria, those appeals to reason which have a dominant share in begetting a civilized society" require more steadfast attention.

CABLE CAR MEDALS

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. JOHN L. BURTON. Mr. Speaker, last year marked the 100th anniversary of the invention of the cable car. San Francisco celebrated the cable car centennial in various ways. One of the unique elements of the celebration was the decision to secure congressional authorization for the U.S. Mint to strike a medal commemorating the cable car's first 100 years. Public Law 93–114, signed October 1, 1973, authorized the mint to strike 150,000 cable car medals. The medals will be sold, and the proceeds will be used to defray expenses connected with the National and San Francisco Bicentennial celebrations in 1976.

The city conducted a 4-month national competition to select the design which will appear on the medals.

The authorizing legislation set a time limit of December 31, 1974, for striking the cable car medals. At the time, that appeared to be a reasonable amount of time in which to accomplish the task. Now, however, it is apparent that the mint may have some problems striking the cable car medals within that time period, due principally to pressures to produce a number of Bicentennial medals and due also to the fact that the mint works on medals such as the cable car medal only on a "time available" basis.

The city has just submitted its first orders to the mint for 5,000 silver and 10,000 bronze medals. Later orders will be submitted until the 150,000 total is reached. Because it now appears likely, however, that the city's orders and the mint's production may not reach the total by the end of this year, an amendment to the authorizing statute is required. The city therefore requests, with the concurrence of the mint, that the time limit for producing the cable car medals be extended 2 years, through December 31, 1976.

I hope all my colleagues will join with me in support of this noncontroversial legislation.

I am enclosing for the RECORD copies of letters of support for this bill from the U.S. Mint and the city of San Francisco:

JULY 29, 1974.

Mrs. MARY T. BROOKS,
Director, Bureau of the Mint,
Washington, D.C.

DEAR MRS. BROOKS: The purpose of this letter is to solicit your concurrence in a request to the Congress of the United States for a one-year extension of the time limit established by Public Law 93-114 (October 1, 1973) within which the 150,000 Cable Car Commemorative Medals can be struck by the Mint.

In order to obtain the best design possible, a four month national design competition was held. As a result of this competition the medals have a truly outstanding appearance. You have now received orders for the first 7,000 Silver Medals and 10,000 Bronze Medals as well as for 100 of the 3" Medals to be struck at the Philadelphia Mint. At this time it is difficult to establish a firm ordering schedule for the remainder, although we should be able to move forward expeditiously.

We are aware that these medals are struck on a "time available" basis and that your production capacity is becoming increasingly occupied with work related to the nation's Bicentennial anniversary.

This combination of factors strongly suggests that an amendment of the authorizing statute should be sought.

May we please have your thoughts on this matter.

Sincerely,

JAMES A. LYONS, Jr.,
Washington Representative, City of San Francisco.

DEPARTMENT OF THE TREASURY,
Washington, D.C., August 8, 1974.

Mr. JAMES A. LYONS,
Washington, D.C.

DEAR MR. LYONS: In response to your letter of July 29th, concerning the production of the congressionally authorized Cable Car Commemorative Medals, it would be helpful for the Mint to have an extended period of time for producing these medals.

As you have pointed out the Mint must schedule the production of these medals on a "time available" basis. The Mint's production capacity is becoming increasingly occupied with work related to the nation's Bicentennial, and there has been a tremendous increase in circulating coin requirements for daily commerce of our country.

I do agree, therefore, that an extension of the December 31, 1974 deadline would help the Mint in meeting the continually increasing demands upon its coin and production facilities.

Sincerely,

MARY BROOKS,
Director of the Mint.

SEPTEMBER 6, 1974.

Hon. PHILLIP BURTON,
Member of Congress, Rayburn House Office Building, Washington, D.C.

DEAR PHIL: In support of San Francisco's request that legislation be approved extending for one year the striking of the Cable Car Centennial National Medal, I am pleased to forward a copy of a letter from Mary Brooks, Director of the Mint, endorsing the proposal.

Sincerely,

JOSEPH L. ALIOTO,
Mayor.

THE DEPARTMENT OF THE TREASURY,
Washington, D.C., August 26, 1974.

Hon. JOSEPH ALIOTO,
Mayor of San Francisco,
San Francisco, Calif.

DEAR MAYOR ALIOTO: In response to Mr. James A. Lyons letter of July 29th, concerning the production of the congressionally authorized Cable Car Commemorative Medals, it would be helpful for the Mint to have an extended period of time for producing these medals.

I do agree, therefore, that an extension of the December 31, 1974 deadline would help the Mint in meeting the continually increasing demands upon its coin and production facilities.

Sincerely,

MARY BROOKS,
Director of the Mint.

H.R. 16682

A bill to extend for two years the authorization for the striking of medals in commemoration of the one hundredth anniversary of the cable car in San Francisco

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of the first section of the Act entitled "An Act to authorize the striking of medals in commemoration of the one hundredth anniversary of the cable car in San Francisco" (Public Law 93-114), approved October 1, 1973, is amended by striking out "December 31, 1974" and inserting in lieu thereof "December 31, 1976".

ST. NICHOLAS GREEK ORTHODOX CHURCH OF YOUNGSTOWN, OHIO, CELEBRATES CONSECRATION

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. CARNEY of Ohio. Mr. Speaker, on Sunday, September 8, I had the pleasure and the privilege of attending the St. Nicholas Greek Orthodox Church consecration banquet. The principal celebrant for the occasion was His Eminence, the Most Reverend Iakovos, Archbishop of the Greek Orthodox Church in North and South America. In addition, the banquet was attended by His Excellency, the Most Reverend James W. Malone, Bishop of the Roman Catholic Diocese of Youngstown; His Grace, Bishop Geramisos, Titular Bishop of Abydos, Sixth Archdiocese District; leading clergymen of the Catholic, Protestant and Jewish faiths in the Youngstown area, and State and local government officials.

Mr. Speaker, I would like to take this opportunity to extend my sincere congratulations to Rev. George J. Kostan, Pastor of St. Nicholas Greek Orthodox Church, the officers and members of the parish council, and all the parishioners whose faith, dedication and sacrifices made the consecration of this beautiful new church possible.

Mr. Speaker, I insert in the RECORD at this time a story about the consecration of St. Nicholas Greek Orthodox Church which appeared in the Youngstown Vindicator, and the consecration banquet program, containing the names of the speakers, as well as the chairmen and members of the various committees whose hard work was responsible for making the banquet a great success.

GREEK ARCHBISHOP URGES CHURCH TO GET INVOLVED

The church needs to become more involved in the community to stem the tide of declining morality, Archbishop Iakovos, spiritual leader of Orthodox Greeks in the Archdiocese of North and South America, declared here Sunday.

The archbishop was the principal celebrant for the consecration of St. Nicholas Greek Orthodox Church, 220 N. Walnut St., Sunday. He participated in several activities of the church Saturday and Sunday.

During his formal address at the consecration banquet Sunday at the church, Archbishop Iakovos cited the declining morality of society and the need for the church to become more realistic and more involved in trying to stem the morality problem in the community.

He attacked society's double standard of justice, pinpointing President Gerald Ford's pardoning of Richard Nixon as an example.

OPPOSES LEGAL ABORTIONS

He lashed out against the legalization of abortion and spoke against the demeaning results of women's liberation which are against, he said, the laws of God and nature.

The archbishop took a strong stand against the United States continued aid to Turkey because of that country's aggressive acts in Cyprus.

Among the many speakers on the program was U.S. Rep. Charles Carney who reviewed his position on the Cyprus situation and said he expects a resolution he introduced that would prohibit further aid to Turkey to pass the House of Representatives this week.

Bishop James W. Malone of the Youngstown Catholic Diocese congratulated St. Nicholas parish for its members' individual and collective accomplishments and encouraged a heightening of the ecumenical attitude in the community.

Similar remarks were presented by the Rev. Richard Speicher, representing the Protestant community, and Stanley Engel, representing the Jewish community.

Bishop Geramisos of Pittsburgh, Bishop of the Sixth Diocese of which Youngstown is a part, spoke on the role of the church in contemporary society and brought greetings to the parish from the diocese.

Other speakers were Mrs. Bessie Mageros, president of the Ladies Society of the church who spoke on behalf of her organization, and the Rev. John Alexandrou of St. John's Greek Orthodox Church, who spoke on behalf of the Orthodox Clergymen's Association.

Numerous presentations were made to various honorees. Third Ward Councilman Emanuel Catsoules presented a proclamation from Mayor Jack Hunter declaring Sunday St. Nicholas Greek Orthodox Church Day to Gus Mavrigian, president of the parish.

State Rep. Harry Meshel read a congratulatory letter from Gov. John J. Gilligan and presented the church with an Ohio flag.

Mae Rapton of California, a former parishioner, and William Glaros, chairman of consecration committee, received plaques for their services to the church.

CONSECRATION BANQUET PROGRAMME

ANTHEMS

American-Hellenic-Hymn to St. Nicholas: Mary Demetri, Soprano, Diane Anastasiades, Accompanist, Dr. Nicholas Pappas, Baritone.

INVOCATION

His Eminence, Archbishop Iakovos, Primate of the Greek Orthodox Church of North & South America.

ENJOY YOUR DINNER—WELCOME

Mr. Gus Mavrigian, President, Parish Council of St. Nicholas Church.

Mr. William G. Glaros, Chairman, Executive Consecration Committee.

Senator Harry Meshel, Toastmaster.

GREETINGS

The Honorable Emanuel Catsoules, Representing the Honorable Jack C. Hunter, Mayor, City of Youngstown.

The Honorable Charles J. Carney, U.S. House of Representatives, 19th District.

Senator Harvey Meshel, Representing the Honorable John Gilligan, Governor, State of Ohio.

Mrs. Thomas (Bessie) Mageros, President, Philoptochos Society of St. Nicholas Church.

MUSICAL SELECTION

The Very Reverend Fr. George J. Hadjis, Former Pastor of St. Nicholas Church for 20 Years.

Dr. Sidney M. Berkowitz, Rabbi, Congregation Rodef Sholom.

Reverend Richard D. Speicher, Representing the Youngstown Council of Churches.

Reverend Fr. John Alexandrou, President, Youngstown Clergy Association.

REMARKS

His Excellency, the Most Reverend James W. Malone, Bishop of Roman Catholic Diocese of Youngstown.

His Grace, Bishop Gerasimos, Titular Bishop of Abydos, 6th Archdiocese District.

MUSICAL SELECTION

Reverend Fr. George J. Kostan, Pastor, St. Nicholas Greek Orthodox Church.

MAIN ADDRESS

His Eminence, Archbishop Iakovos, Primate of the Greek Orthodox Church of North & South America.

BENEDICTION

ST. NICHOLAS GREEK ORTHODOX CHURCH CONSECRATION COMMITTEE

HONORARY CO-CHAIRMEN

Rev. George J. Kostan, Parish Priest.
Emanuel Catsoules, 3rd Ward Councilman.
Gus Mavrigian, Council President.
Harry Meshel, State Senator.
Chairman: William G. Glaros.

Co-Chairpersons: Gregory Demetri, Mamie Courtis, Steve Niarhos, Bessie Mageros.

Executive Committee: Diane Anatasiades, Theodore Baxevandes, Mrs. Louis Cassimatis, Nicholas Deniakis, Sophia Eliades, Sophie Faras, Christine Gulgas, John Gulgas, Socrates Kolitsos, Chris Ladas, Sue Ladas, George Mays, Pauplnie Mazarakis, Charles Senanefes, Ernest Toskas, Pat Toskas, Dora Vasila.

COMMITTEES

Public Relations, Housing Welcome and Reception: Rev. Fr. George J. Kostan and Executive Committee Officers.

Greek Nite Glendi and Grand Ball: Socrates Kolitsos, Chairman, George Coutris, Larry Frangos, Charles Glinatsis.

Youth Meeting: Perry Chengelis, Michael Gulgas, Eli Kasapi, Louis Morris, John Gulgas, Amy Tunanidas.

Saturday Evening Reception: Bessie Mageros, President, and the Philoptochos Society.

Sunday Banquet: Stephen Niarhos, Chairman, Nicholas Deniakis, Co-Chairman, Gregory Demetri, George Floros, Gust Page, James Johnson, Mamie Coutris, Steve Coutris.

Album Advertising: George Mays, Chairman, Mamie Coutris, Sophia Eliades, Bessie Mageros, Sophie Faras.

Album Editors: Theodore Baxevandes and Gus Mavrigian, Editors, Rev. Fr. George Kostan.

Finance: Charles Senanefes, Treasurer.

Building and Beautification: Edward Mayorga, Chairman, Chris Dalambakis, Chris Ladas, Steve Fentules, Steve Niarhos.

Security and Parking: Chris Ladas, Chairman, Angelo Kissos, Spero Gulgas.

Photography: James Jickess.

Secretarial: Sue Ladas, Chairperson.

Phone Communication: Sophie Eliades, Mary Guglas.

Decoratives and Ushering: Charles Senanefes, Chairman, Nicholas Deniakis, Spero Gugas, Charles Guglas.

Chauffeur and Transportation: Michael Mays, Chairman, Dean Chengelis.

First Aid: Dr. Nicholas Pappas, Chairman.

Tickets: Michael Mays, Sophie Eliades, Socrates Kolitsos, Sue Ladas.

Decorations: Diane Anastasiades, Chairperson, Amy Tunanidas, Jim Chengelis and GOYA.

Fine Arts: Diane Anastasiades and Mary Demetri.

Floral Committee: Greg and Mary Demetri.

THE PARISH COUNCIL OFFICERS

Gus Mavrigian, President.
Charles Senanefes, Vice President.
Larry S. Frangos, Secretary.
Michael Mays, Financial Secretary.
William G. Giaros, Vice-President.
Charles Glinatsis, Treasurer.
Spero Gulgas, Ass't. Fin. Sec'y.

PARISH COUNCIL MEMBERS

Nicholas Deniakis, Andrew Dimitriou, Socrates Kolitsos, Chris Ladas, Edward Mayorga, Louis Morris, Stephen Niarhos.

PRUDENT USE OF HOLIDAY LIGHTS URGED BUT NO BAN THIS YEAR, SAWHILL ANNOUNCES

HON. DAN KUYKENDALL

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. KUYKENDALL. Mr. Speaker, I think the Members of the House will be pleased to note that the great American tradition of Christmas lighting will be revived this year. The Federal Energy Administration has announced that holiday lighting will not be singled out this year for voluntary or involuntary curtailment.

Federal Energy Administrator John C. Sawhill made the announcement, calling for "prudent" use of such lights.

I am pleased to insert a copy of Mr. Sawhill's statement at this point in the RECORD:

PRUDENT USE OF HOLIDAY LIGHTS URGED, BUT NO BAN THIS YEAR, SAWHILL ANNOUNCES

Federal Energy Administrator John C. Sawhill announced today that holiday lighting will not be singled out this year for voluntary or involuntary curtailment.

"Our slogan, 'Don't be Fuelish,' means be prudent—perhaps fewer Christmas lights indoors and out," Mr. Sawhill said. "Sound energy conservation practices must continue. We must all reduce commercial lighting, adjust heating and cooling thermostats, improve home and commercial building insulation, reduce our driving, and strictly observe the 55 miles-per-hour speed limit. If we do all of those things, we will save enough energy to permit the decorative lighting which means so much to so many Americans on our holidays."

Mr. Sawhill has released a brochure, "Tips for Energy Savers," including a suggestion to "Reduce or eliminate ornamental lights except on special holidays or festive occasions."

"Christmas is not only one of our most festive occasions," Mr. Sawhill said, "the holiday selling season also is recognized for its importance to the economy—locally and nationally—and this need not and should not detract from the religious event being observed. Certainly, decorative lighting, itself, can uplift the spirit and add to the enjoyment of the holidays in our homes, stores, streets, and neighborhoods.

"I suggest that we can have our holiday lights and save, too, by taking sensible and tasteful—but not wasteful—energy conservation measures. One way to do this is to use low-wattage "cooler" and midget lamps on Christmas trees and in other decorative lighting. They use considerably less electricity than larger bulbs. Another way to compensate for both outdoor and indoor holiday lighting is to turn off regular lights in the same room or area while decorative lamps are on. Prudence also is called for in the lighting of community trees and other outdoor displays. This constraint need not be anything more demanding than simply turning them off nightly at a reasonable hour (10 to 10:30 p.m., for example).

"All of these steps will reduce the energy consumed and save money as well. I commend them to you as worthy national objectives which also are in keeping with the spirit of the holidays."

INTEGRITY OF THE BALTIC STATES MUST BE MAINTAINED

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. ANNUNZIO. Mr. Speaker, as many Members of the House know by now, Australia and New Zealand recently gave de jure recognition to the incorporation of the Baltic States into the Soviet Union.

In 1940, the free and independent nations of Estonia, Latvia, and Lithuania were illegally and forcibly made a part of the U.S.S.R. by Stalin's Red Army. Now, 34 years later, Australia and New Zealand by their official actions have given their blessing to this brutal and rapacious act by accepting the Kremlin line that the Baltic States are part of the Soviet empire and forgetting the tradition of freedom in these heroic nations.

This is a deplorable and disheartening act on the part of our allies who should know better, because they are former colonies themselves. Our own Nation must never legitimize these illegal and barbaric conquests by Soviet imperialism.

Mr. Speaker, a statement on this tragic event from the Captive Nations Friends Committee follows:

STATEMENT FROM CAPTIVE NATIONS FRIENDS COMMITTEE

AUGUST 12, 1974.

To: The United States Government, Washington, D.C.
The U.S.S.R., Moscow, Russia.
Government House, Canberra, Australia.
Parliament House, Canberra, Australia.

TO ALL WORLD NEWS MEDIA

Be it known: United Nations General Assembly Resolution (2625) (XXV), October 24, 1970:

(1) Solemnly proclaims the following principles:

The principle that states shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations.

(b) The principle concerning the duty not to intervene in matters within the domestic jurisdiction of any state, in accordance with the Charter.

Therefore, the Australian government has taken upon itself to disregard the laws of human rights against the oppressed people by the Soviet Union and have proudly announced that the Australian government has officially recognized the incorporation of the state of Latvia, Lithuania, and Estonia in the Baltic Region by their Communist Allies.

Therefore, be it known that the ensuing total occupation of Latvian and Estonian territory by the Red army put an end to the independence of these countries. Two hundred thousand Soviet troops, reinforced by tanks and a strong air force, represented the might of the Communist aggressors.

The first Red tank columns appeared on June 17, 1940, the Soviet Army invaded the countries from two sides, crossing the frontier to the east, and from the south coming from Lithuania, which was occupied one day earlier, therefore, depriving these countries of all communication with the outside world. To defend her action the Soviet Union claims that the incorporation of the Baltic republics was based on the free will of the Baltic peoples, even assuming (contrary to fact) that the new parliament has been validly elected, it was incompetent to decide on the incorporation of these Baltic countries because:

The Soviet regime in the Baltic countries was neither legally established nor does it reflect the freely expressed wishes of the people since these nations have been deprived of their political independence by the illegal incorporation into the Soviet Union, their rights to independence and freedom must be restored.

Therefore, it seems the Australian government is about to become an added satelite state, perhaps for its own gainful purpose at the sacrifice of all the captive peoples of the world. To show the basis for this skepticism about the good intentions of the USSR, had signed with the Baltic countries to guarantee freedom, which have been broken by the USSR, without any provocation from Latvia, Estonia, and Lithuania.

The Soviet Union continues to insist that the Baltic people have expressed the desire to become a part of the Soviet Union. The opposition to the occupation of these countries by the USSR has been expressed by the people throughout the years by both active and passive resistance.

Estonia, Latvia, and Lithuania are currently enjoying those inalienable rights. It is in recognition of this that the United States, and NATO countries have refused to recognize the annexation of the Baltic countries by the Soviet Union. It must be strongly emphasized that the Baltic countries were an independent state and a member of the League of Nations, fulfilling all of its international commitments. The people have never voluntarily relinquished their independence, their right to live undisturbed in their independent country and their right to participate in world affairs.

Consequently, the Baltic States categorically oppose and will not consider as binding any treaties and agreements that will interfere with their inexorable quest to regain their lost freedom. It is our hope that all freedom loving people of the world will take heed and ignore the declaration by the Australian government that has chosen to cast aside human rights which is a God given right of every human being on this earth. To the government of Australia we only hope that a letter of this nature . . . will not have to be written on their behalf. For as sure there are the cries for freedom from all of the captive people still enslaved by communism.

In protest on behalf: of all of the people suffering under communism. . . . in the cause of freedom, we remain dedicated to human rights and freedom for all captive nations.

VIKTORS VIKSNINS,
Chairman, Captive Nations Committee.

Representatives:
Estonia: Alex Koepp.
Lithuania: Joe Beliunas.
Latvia: Ilmars Bergmanis, President, Baltic Information Bureau.

BILLS INTRODUCED

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. FINDLEY. Mr. Speaker, during the 93d Congress, I introduced 119 bills and resolutions. Many have received consideration by the House and several are now law. Below are listed those of major interest. Copies and explanations are available upon request.

BILLS AND RESOLUTIONS INTRODUCED

AGRICULTURE

H.R. 1749, to repeal the bread tax. Included in the Agriculture Act of 1973. Signed into law.

H.R. 2303, to eliminate price supports for tung nuts. Signed into law.

ANTI-INFLATION

H. Res. 17, to provide for federal budget reform. Similar bill signed into law.

H. Res. 906, disapproving pay increase for Congressmen.

CIVIL RIGHTS

H.R. 3964, to allow newsmen to refuse to disclose their sources of information.

H.R. 7596, to require that the CIA keep the Congress better informed.

CONGRESSIONAL

H. Res. 214, to authorize a marker in Statuary Hall for location of Abraham Lincoln's desk. Passed House.

H.R. 8878, to regulate Federal election campaign activities. Similar proposal passed House.

H.R. 15770, to provide that Chairman of Government Operations Committees be of opposite political party than the President.

H. Res. 1222, to provide for consideration of Congressional reform proposal.

CONSERVATION

H.R. 15879, to preserve additional lands under the National Wilderness Preservation System.

EDUCATION

H.R. 10572, providing a program to deter child abuse and neglect. Similar bill passed House.

ENERGY

H.R. 10087, to prohibit discrimination between petroleum marketers in the method of establishing prices for petroleum products. Passed Congress.

FOREIGN AFFAIRS

H.J. Res. 2, War Powers Resolution, to return war-making powers to the Congress. Signed into law.

H.J. Res. 338, authorizes national memorial grove of trees for those Americans who died in the Vietnam war. Included in MIA resolution which passed the House.

HEALTH

H.R. 2225, to provide adequate health care for all Americans.

H.R. 10234, to provide emergency medical services in each state. Signed into law.

HOLIDAYS

H.R. 5981, to change Memorial Day and Veterans Day to their original observance dates.

LABOR

H.R. 6392, to provide assistance to small employers in meeting OSHA regulations.

H.R. 10669, pension reform legislation. Similar bill signed into law.

MILITARY

H.R. 3622, to provide adjustment assistance to prisoner-of-war.

H.R. 6363, to provide double retirement credit for federal employees who were POWs or MIAs.

SENIOR CITIZENS

H.R. 13165, to provide tax counseling to the elderly.

H.R. 15734, to repeal the earnings limitation on social security benefits.

H.R. 15826, to terminate age discrimination in employment.

TAXES

H.R. 5793, to equalize federal tax for single persons.

H.R. 6027, to provide senior citizens credit against Federal income taxes for real estate taxes paid.

H.R. 14622, to reform and simplify the Income Tax Code.

TRANSPORTATION

H.R. 5506, to authorize reduced rate transportation for senior citizens and youth.

H.R. 10664, to eliminate mandatory seatbelt interlock equipment. Passed House.

VETERANS

H.R. 13817, to increase rates of compensation for disabled veterans. Enacted into law.

H.R. 14865, to extend deadline for making use of education allowances. Enacted into law.

GREAT HUMAN CHAIN

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1974

Mr. BROOMFIELD. Mr. Speaker, on July 22 Mr. O'Brien of Illinois read into the Record a letter from Mrs. Marietta R. Lazzo suggesting that on July 4, 1976 the people of the United States join hands along our Nation's highways to commemorate our 200th birthday.

I am proud to announce that the city of Pontiac, Mich., in my district has responded to Mrs. Lazzo's idea.

The City of Pontiac's Bicentennial Committee has agreed to recruit forces to create the first link in this human chain. Mr. Joseph Neussendorfer has informed me that on July 4, 1976, the people of Pontiac will join hands around Wide Track Drive, and will encourage other area communities to "hook up."

The prospect of this great human chain stretching across our country is certainly exciting and I would encourage communities across the country to follow the fine example set by the people of Pontiac.